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PROCEEDINGS AND DEBATES OF THE 102^{d} CONGRESS, SECOND SESSION

SENATE—*Friday, February 21, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate Chaplain, Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

There is no power but of God. The Powers that be are ordained of God. * * They are ministers of God for good.* * *.*—Romans 13.

Almighty God, Lord of History, Ruler of the nations, in this election year, brood over our land. Save political campaigns from being like warfare in which opponents are enemies to be destroyed; in which ideas are like missiles and words like nuclear warheads or firebombs or landmines. Awaken us to the truth that God is involved in government, that indifference to spiritual values threatens the foundation upon which our political system was built; that candidates and parties forget God at the peril of their own existence.

Dear God, remind the people that our government political system is based upon their sovereignty that their failure to vote is as serious as the failure of their Senators to vote. Deliver them from lame excuses for not voting. Ruler of history deliver us all from angry scapegoating and help us all take our mandate seriously.

Save us from a political champaign that degenerates into a destructive force that ravages the land it was intended to heal, leaving it divided, decimated, destroyed, rather than healed, and whole and strong.

In the name of Jesus incarnate love. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. The Senate will be in order.

Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Also under the order there will now be a period for the transaction of morning business, not to extend beyond the hour of 9:15 a.m., with Senators permitted to speak therein.

The Senator from Rhode Island [Mr. CHAFEE] is recognized to speak for up to 10 minutes.

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first I want to thank the Chair.

U.S. OLYMPIC HOCKEY TEAM

Mr. CHAFEE. Mr. President, 2 hours from now in Meribel, France, our country and particularly Rhode Island's eyes will be focused on a group of 20 young men, some of the finest in our Nation, and of course I am referring to the U.S. Olympic Hockey team.

Today at 11 o'clock, our time, they start the semifinal game against the Unified Team from the former Soviet Union. It is our hope that their Cinderella-like ride that this team had since going to France will continue toward the ultimate goal which is a gold medal.

Mr. President, this team is being led by two outstanding Rhode Islanders. The captain of the team is Clark Donatelli, and one of the stars on it is David Emma. Just a word about both.

Clark is an outstanding forward from North Providence, RI. He attended Moses Brown School in Providence and later Boston University. This is the second time he has been on an Olympic team. He was on the team 4 years ago. His leadership abilities have been acknowledged by his teammates when they elected him captain of this year's team.

David Emma is from Cranston, RI. He is a graduate of Bishop Hendricken High School in Warwick and later starred at Boston College. David was the 1991 recipient of the Hoby Baker Award. The Hoby Baker Award in hockey is similar to the Heisman Trophy in football. In other words, it is given to the outstanding college hockey player in the Nation.

Our State of Rhode Island is nationally recognized for its youth hockey program. And indeed, Mr. President, both of these young men came up through the youth hockey programs that we have.

So I am delighted that the entire world is now able to see the outstanding results of this program, which is made possible by the tireless efforts of volunteers, the volunteer coaches, and of course the parents who get up so early in the morning to see their children have ice time, and the sponsors as well.

Clark, David, and their dedicated teammates—and I want to pay tribute to the other members of this outstanding team—will carry the dreams of their childhood and the hopes and best wishes of all Americans onto the ice at Meribel, France, today.

They are a credit to their families, to their coaches, to their teachers, and to their friends—and I might say to their home States.

Their quest for the gold has been a wonderful sight to behold, Mr. President, and it has been a source of inspiration for all of us. We wish them well today.

I wish to thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

LEONARD HELTON AND THE ECONOMY

Mr. SANFORD. Mr. President, I wanted to call attention to the testimony of a fine North Carolinian, Mr. Leonard Helton, given before the House Ways and Means Committee on Thursday, February 6.

Mr. Helton is a North Carolina resident, and he spoke before the committee of his personal experiences in dealing with this recession that we are in, as well as the effects of the economy on others in the American work force.

Mr. Helton is a textile worker from Gaston County, NC. He has felt firsthand the repercussions of a sagging economy in the textile and the apparel business, and he knows what he is talking about. He was invited to come to Washington to tell his story to the U.S. Congress and he agreed to accept this invitation.

What Mr. Helton wanted was to take an active role in getting the economy back on track. He pointed out the flaws of our system as he saw them. He offered changes that he felt were needed. He talked to a great many people in his local community and had a sense of what people were thinking. And he eagerly anticipated questions and discussions with the members of the congressional committee that had invited him to present his views.

What he expected from Congress was a listening ear and a helping hand, and he got neither.

Mr. Helton devoted a great deal of time to the composition of his speech. It is a very good speech. It is a very good statement.

Mr. President, I ask unanimous consent that the speech be printed in full following my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SANFORD. He rode the train up here from Gastonia to Washington, and he waited for close to 4 hours before giving his testimony, sitting there waiting his time. One prominent person came in and was put ahead of him, which was all right with him. But when that person left, all of the members of the committee left. Only one Member of Congress was present to hear Mr. Helton's speech. When he was finished speaking, no one had anything to say to him. No questions were asked, no discussions were carried on, and no one addressed his concerns or asked him anything about his own experiences.

Well, you can understand that he left town discouraged, disgusted, and understandably, outraged. He took with him the distinct message that Congress does not care for the troubles of the average worker.

You and I know there were explanations—of course, there were—of why more people were not there, and that it came at the beginning of a recess and people were hurried. But the explanations in this case hardly seem satisfactory.

So I have submitted this copy of Mr. Leonard Helton's testimony in the RECORD in the hopes that each Member of the Congress will take time to read it and remember just who we are here to represent, and remember, as I learned long ago, the great wisdom resides in the people.

EXHIBIT 1

STATEMENT OF LEONARD LEE HELTON, SR., STANLEY, NC

Representatives: First I want to thank each of you for allowing me to come before you and tell how I feel about the economic impact on myself, my family, and coworkers.

As a textile and apparel worker for 25 years, I have seen how the textile and apparel industry has continued at a slow pace, whereby some weak textile plants have stood inactive due to slow movement of goods sold into the textile related markets. You, as congressional leaders and elected officials of the people, must do something now to alleviate this great economic problem effecting the average American worker.

We, the American work force, cannot maintain ourselves on a fixed financial budget. This is due to increased taxes and higher financial obligations that are occurring every year. We do not receive enough raises in our salaries to overcome the obstacles presently at hand. We are not assured from 1 week to the next how many hours we will work or how well our product will be sold into the American market.

You probably feel it's up to the individual employees to stand ground and do the best they can. In this regard, both employers and employees of the textile industry have been trying since 1985 to get a textile and apparel bill passed by the President. This bill has been vetoed three times by our President.

In 1985 we attempted to get the Textile and Apparel Trade Act (H.R. 1154) passed by the President. On October 4, 1988, we were 11 votes short of overriding the President's veto.

Again, in 1990, roughly 200 Members of Congress introduced the Textile, Apparel, and Footwear Trade Act of 1990 (H.R. 4496). Also, Senator Ernest Hollings (D-S.C.) introduced identical legislation (S. 2144) in the Senate. The Senate began considering the bill on Friday, July 13 and passed the bill on Tuesday, July 15 by a vote of 68 to 32. During the past 6 years, the Senate has passed similar legislation three times. The goal of the House and Senate bills is to put foreign textile and apparel imports on par with the current growth rate of the U.S. domestic textile industry. The bill would have established global import quotas for each category of textile and textile products using the 1989 level of imports as a starting position. The bill would have allowed a 1-percent increase in foreign imports per year, consistent with the current growth rate of the domestic textile market.

Also, in January 1991, there was a bill (H.R. 713). This was a bill introduced to amend the Tariff Act of 1930 to require that certain revenues attributable to tariffs levied on imports of textile machinery and parts thereof be applied to support research for the modernization of the American textile machinery industry.

Representatives, an economics professor from Belmont Abbey College, Mr. William Van Lear and I have drawn up a petition to enact job retraining and education programs in every major industry here in the United States.

The petition reads as follows:

"We believe that it can be financially and emotionally difficult for people who are unemployed or who work in declining industries to retrain, relocate and assume new jobs. Industries such as textiles, lumber, defense, steel, and coal are suffering and will continue to suffer economic hardships. Therefore, we advocate a Federal initiative, led by the Department of Labor in conjunction with Labor Departments in the States, to provide;

"(1) Grants and loans to families for retraining and education, and;

"(2) Easily accessed information for families on job availability and location.

"We propose that this program be financed by making the Federal income tax more flexible and from State income taxes."

May I inquire of you? How can an average worker purchase any "big ticket item" when he isn't assured of a steady income—this financial burden affects every American. * * * Less goods sold, less hours worked equals less basic income for the average worker. We are having a rough time of meeting our financial obligations.

This troublesome economic situation not only creates financial worries for the American worker, but it also translates into a stressful home environment. Please, be aware that economic stress effects every member of the family.

Pardon the expression, but we, the average worker, are "up to our ears" with increased taxes. If some action is not taken soon, we will see multitudes of American families go under.

Consider these figures on textile and apparel plant closings and jobs lost during the years 1989 through 1991. There were 67 plants closed and 72 thousand jobs lost over those three years. Of the 1.8 million textile workers nationwide, more than 300,000 are employed in North Carolina and 40,000 are employed in the tenth district of North Carolina alone.

I have been assured that in other related industries there are many plant closings and thousands of jobs lost during the past year alone. You may stipulate that these situations are due to modernization of plants and the technology in these plants. This may be true in a small way, but it comes full circle to the weak economic American market which continues to diminish.

An idea that would benefit the average American worker is to reduce taxation. To accomplish this, President Bush and elected officials, as yourselves, need to enact permanent reductions in Federal tax rates. Instead of a one-time year-end bonus, which is what the 300-dollar rebate plus would be, we need a permanent tax cut through reductions in income and Social Security tax rates. If their taxes were lowered on income, work would become rewarding and attractive, compared to welfare and leisure time.

Secondly, we need to lower taxes on investments. A cut in the capital gains tax would do a great deal to lay the foundation for future economic growth. Slashing the capital gains tax would encourage the kind of small business foundation that drives long-term economic growth. The large majority of new jobs in America are created by new and small businesses. The reward for the entrepreneur who initiates these companies is more often a capital gain rather than direct income. So reducing the capital gains tax will directly encourage entrepreneurs to begin new companies, thereby creating new jobs, and new products.

This would also help American industry to compete with overseas trade. Among the major industrial powers, the United States maximum rate of 33 percent of capital gains is one of the highest in the world. In Germany, South Korea, Taiwan and Hong Kong, the capital gains tax on investments held more than 1 year is zero. In Japan, the maximum rate is 1 percent of the sales price of 20 percent of the net gain.

Each time the capital gains tax has been reduced, revenues for the Federal Government have actually increased.

Representatives, I certainly hope that you, the committee, and our great President will do everything possible to alleviate this great economic challenge facing the average American worker.

May God's grace and blessing go with you in whatever decision you make.

Thank you.

Mr. SANFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been made, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, morning business is closed.

HIGHER EDUCATION AMENDMENTS

The PRESIDENT pro tempore. The Senate will now resume consideration of S. 1150, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1150) to reauthorize the Higher Education Act of 1965, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Specter/Shelby amendment No. 1691, to prohibit the Secretary of Veterans Affairs from furnishing, or from obligating funds available to the Department of Veterans Affairs to furnish, health care in Department of Veterans Affairs facilities under a rural health care sharing program to persons not eligible for such care under chapter 17 of title 38, United States Code.

Mr. HATFIELD. Mr. President, I would like to speak briefly on the Specter amendment to S. 1150. Although I am interested in the concept behind the rural health care initiative that has been proposed by Secretary Derwinski and Secretary Sullivan, I have some reservations about it being implemented without a thorough review by the Congress. I believe Federal facilities should be used to their maximum potential, particularly in times of great fiscal constraints. I am also concerned, coming from a rural State, about our ability to increase access to health care for those living in obscure areas. I do think, however, that we must be able to measure the impacts such changes will have on the many veterans across the country who need quality health care, before widespread implementation.

In my own State of Oregon, the Portland Veterans Medical Center [PVAMC] currently has sharing agreements with several community groups. Its neighbor, the Oregon Health Sciences University, is the focus of many such agreements. One of the programs shared by the two facilities allows the Portland Veterans Medical Center to perform the university's liver transplants and thus, enable the PVAMC to make this service available to veterans as well. If this sharing agreement was not in existence, liver transplants would not be available to veterans in Oregon.

It is my hope, Mr. President, that the Senate Veterans' Affairs Committee will hold hearings on this matter to evaluate its viability both within the veterans community and the health care community.

Mr. HATCH. Mr. President, I will support the amendment of my colleague from Pennsylvania because he makes the excellent point that not enough groundwork has been laid for this project. I understand the concerns that have been voiced by veterans organizations. Any action we take that directly affects the promises we have made to those who have served our country must be fully considered. I do not believe any of us in this body intend to break those promises.

However, Mr. President, the agreement between the Department of Veterans Affairs and the Department of Health and Human Services does represent a well-intentioned attempt on the part of the Bush administration to increase access to health care in rural areas.

I, for one, want to commend Secretary Sullivan and Secretary Derwinski for this innovation. It is time for some creative thinking when it comes to addressing the health care needs not just of veterans, but of all Americans. I hope the Congress will not make a habit out of stifling any idea that happens to originate in the executive branch.

The Senator from Pennsylvania made the suggestion yesterday that some hearings ought to be held on the concept of utilizing veterans facilities to help provide health care in underserved areas. I wholeheartedly endorse this idea, and I urge my colleagues on the Veterans' Affairs Committee to schedule such hearings. I hope that this amendment is not the end of this proposal. We cannot afford to ignore any ideas for better utilization of Federal health care resources.

Ms. MIKULSKI. Mr. President, I rise today in support of the amendment from the Senator from Pennsylvania. This amendment will halt any further movement of the Veterans' Administration to open its facilities to nonvets.

Mr. President, as chair of the Appropriations Subcommittee that funds the Veterans' Administration, I have worked very hard on veterans health care issues. These men and women who have fought for this country in foxholes around the world deserve the best we can provide them in health care services. And they should not have to wait in line behind anyone at a VA facility.

I have tried to make sure the Veterans' Administration focuses its efforts on quality health care. We have heard the horror stories of atrocious health care at some VA facilities, and that's why I was a major proponent of establishing a quality assurance program for every VA facility. We need to focus on more effective ways to serve our veterans and make sure each facility reaches the highest of standards.

Mr. President, I have heard from veterans throughout Maryland concerned about the precedent Secretary Derwinski's rural health initiative would set. I feel strongly that we owe them something for fighting for this country's freedom. I support the amendment of the Senator from Pennsylvania in making sure that we do not forget that commitment we have to make our veterans No. 1.

Mr. BIDEN. Mr. President, I rise to express my support for Senator SPECTER's amendment to prohibit the Department of Veterans Affairs from undertaking the rural health care initiative. As a cosponsor of Senator SHELBY's bill on this subject, I am concerned about the approach contained in the administration's initiative.

The rural health care initiative is a pilot project to allow nonveterans in certain rural areas to receive care at veterans hospitals. It was developed by the Department of Veterans Affairs and the Department of Health and Human Sevices—neither Congress nor the major veterans groups were consulted. Instead, we were advised only after the fact.

Under the rural health care initiative, the Department of Veterans Affairs would be reimbursed for any care given to a nonveteran, and Secretary Derwinski has indicated that the program would not displace any veteran seeking care.

Yet, veterans programs—most notably, the veterans health care system—were the target of significant cutbacks during the 1980's. Despite improvements over the last few years, veterans hospitals are still struggling to provide the quality health care we promised our veterans so long ago—and continue to promise our veterans today.

So, if some rural veterans facilities have the ability and resources to treat nonveterans, shouldn't we instead consider the possibility of reallocating some of those resources to veterans facilities that do need the help? If this Nation is going to continue to maintain a veterans health care system, then our priority should be to help all veterans within that system first.

Doctors, nurses, and equipment are desperately needed in many veterans hospitals. The veterans hospital in my State—at Elsmere—is in dire need of more nurses, more technicians, and more medical equipment. I simply do not believe that at this time we can treat nonveterans in veterans facilities without affecting the care of veterans.

Veterans organizations and VA officials in Delaware often tell me of the outstanding volunteer work taking place at veterans hospitals around the country. These volunteers are dedicated to helping and caring for those who served our country. Many of the volunteers are veterans and their spouses who have come to help their fellow veterans. Their contributions and their dedication are well-known. Because of professional personnel shortfalls, they have become—through both their time and their money—a supplement upon which the veteran patients have come to depend. They have been picking up the slack from a decade of neglect.

As the veteran population ages, the demands on veterans hospitals will only increase in the years ahead. I am concerned that we are relying too much on volunteers as a way to save money and that with increased demands, we will not be able to live up to the commitment we made to our veterans. In addition, I am concerned that if we weaken the veterans health care system today, the all important volunteer system may be undermined in the near future.

Mr. President, I recognize that the delivery of rural health care in this country needs to be dramatically improved. There is a tremendous shortage of health care personnel in many rural areas. The Congress and the administration need to work to improve health care services for rural Americans. Indeed, we need to improve the health care system for all Americans. But, it cannot be done—and should not be done—at the expense of our longstanding promise to America's veterans.

VOTE ON AMENDMENT NO. 1691

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to vote on amendment No. 1691 on which the yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON], would vote "aye."

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. CRAIG] is necessarily absent.

The PRESIDENT pro tempore. Are there any Senators in the Chamber who have not voted?

The result was announced—yeas 91, nays 3, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—91

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
D'Amato
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—3

Danforth
Moynihan
Simpson

NOT VOTING—6

Boren
Craig
Cranston
Dixon
Harkin
Kerrey

So the amendment (No. 1691) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina [Mr. SANFORD] is recognized to call up an amendment.

There will be order in the Senate. Let us have order, please. May we have order?

The Senator from North Carolina [Mr. SANFORD] is recognized to call up his amendment.

AMENDMENT NO. 1695

Mr. SANFORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 1695.

Mr. SANFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike all on p. 312, line 6 through p. 322, line 6 and insert:

"SEC. 495. STATE IDENTIFICATION PROCESS.

"(a) IN GENERAL.—Each State shall assist the Secretary to identify institutions of higher education within the State, which have engaged in practices that lead to misuse of federal student aid funds, including but not limited to—

"(1) inadequate procedures to protect students enrolled at institutions of higher education in the event of school closure;

"(2) inadequate maintenance of student or other records;

"(3) inadequate procedures for resolution and investigation of student complaints;

"(4) misleading or inappropriate advertising and promotion, or student recruitment;

"(5) facilities that fail to comply with relevant safety and health standards such as fire, building and sanitation codes;

"(6) failure to provide relevant information to students by institutions of higher education which may include—

"(A) information relating to market and job availability for students in professional and vocational programs;

"(B) information regarding courses which exceed standards for State licensure in specific occupations, where appropriate; and

"(C) information regarding course cancellation procedures and rights;

"(7) the inflation of credit or clock hours required for the completion of programs or where 600-hour courses are not appropriate in length;

"(8) occupational or vocational programs which are inadequate to permit students to meet State licensing requirements in the occupation for which training is provided;

"(9) the actions of any owner, shareholder, or person exercising control over the educational institution which may adversely affect eligibility for programs under this title; or

"(10) the absence of a fair and equitable refund policy to protect students as established in section 498.

"(b) STATE PROCEDURES.—

(1) In carrying out the purpose of this section, the State shall establish and publicize the availability of a process to permit students, faculty members and others to report complaints or instances of fraud and abuse;

"(2) The State shall notify the Secretary, in a timely manner, of any institution it has identified pursuant to this section. The Secretary shall take prompt, appropriate action based on such notification and report such action to the State; and

"(3) Each State shall designate, for purposes of this section, a single state entity or individual to be responsible for reporting information under this section to the Secretary.

"(c) In identifying institutions of higher education pursuant to this section, the State shall give priority to institutions that have:

"(1) A cohort default rate as defined in section 435(m) equal to or greater than 10 percent; and

"(A) more than two-thirds of an institution of higher education's total undergraduate students enrolled on a half-time or more basis receive assistance under this title (except subparts 4 and 6 of part A); or

"(B) two-thirds or more of an institution of higher education's education and general expenditures are derived from funds provided to students enrolled at such institution from the programs assisted under this title (except subparts 4 and 6 of Part A and section 428B);

"(2) A limitation, suspension, or termination action by the Secretary against an institution pursuant to section 487(c)(1)(D), 487(c)(1(E) or section 487(c)(2)(A) during the preceding 5 years; or

"(3) An audit funding during the 2 most recent of an institution of higher education's conduct of the programs assisted under this title that resulted in the repayment by such institution of amounts greater than 5 percent of the funds such institution received from the programs assisted under this title for any 1 year; or

"(4) A citation of an institution of higher education by the Secretary for failure to submit audits required by this title; or

"(5) A year-to-year fluctuation of more than 25 percent in the amounts received by students in Pell grants or loans made, insured or guaranteed under sections 428 and 428A, which are not accounted for by changes in such loan programs; or

"(6) A change of ownership of the institution of higher education that results in change of control, including—

"(A) the sale of such institution or the majority of its assets;

"(B) the transfer of the controlling interest of stock of such institution or its parent corporation;

"(C) the division of one or more such institutions into two or more institutions;

"(D) the transfer of the controlling interest of stock of such institution to its parent corporation; or

"(E) the transfer of the liabilities of such institution to its parent corporation.

"(7) Except with regard to any institution that is affiliated with a State system of higher education, participation in one or more of the programs established by this title for less than 5 years; or

"(8) any other institution which the State has reason to believe is engaged in fraudulent practice."

On page 322, line 7, strike "(h)" and insert "(d)".

On page 322, line 11, strike "standards required by".

On page 322, line 23, strike "$10,000,000" and insert "$20,000,000".

On page 335, strike lines 15 and 16 and insert "from States under Section 495".

On page 336, line 8-9 strike, "State agencies designated under section 495(c)" and insert "States".

On page 333, between lines 2 and 3, insert the following:

"(7) assure that the institution of higher education has a fair and equitable refund policy.

(b) FAIR AND EQUITABLE REFUND POLICY.—

"(1) IN GENERAL.—An institution's education refund policy shall be considered to be fair and equitable for purposes of this section if the policy provides for a refund that meets—

"(A) the requirements of applicable State law;

"(B) the specific refund requirements established by an institution's nationally recognized accrediting agency and approved by the Secretary; or

"(C) the pro rata refund requirement described in paragraph (2), except that this paragraph shall not apply to the institution's refund policy for any student whose date of withdrawal from the institution is after the halfway point (in time) in the period of enrollment for which the student has been charged.

"(2) PRO RATA REFUND.—As used in this section, the term 'pro rata refund' means a refund by the institution to a student attending such institution for the first time of not less than that portion of the tuition, fees, room and board, and other charges assessed the student by the institution equal to the portion of the period of enrollment for which the student has been charged that remains on the last day of attendance by the student.

"(3) REFUND CREDIT.—For purposes of this section, a refund first shall be credited against any part B loan assistance and second against any grant awarded a student under this title for the period of enrollment.

The PRESIDENT pro tempore. The Chair would state that there are 2 hours for debate on this amendment, to be equally controlled and divided.

The Senator from North Carolina.

The SANFORD. Mr. President, I am pleased to say that I think we will not need most of those 2 hours. Staff worked very diligently late last night in effect, to change direction on trying to cure a problem that needs curing, and I believe we have now come up with a very satisfactory solution.

Certainly, we need to do something about the abuse of student loans. There is not any question that some institutions have exploited students who were not prepared to learn; talked them into enrolling; gave them no education and a promise of a job; took the loan money and turned it into profits and then expected these people who were so betrayed to pay the loan back. There is no wonder that we have so many defaulted loans.

How do we get at that problem? How do we take these fly-by-nights, these exploiters of young people and get rid of them? And how do we do that without damaging the purpose of having a student loan program, or without creating additional unnecessary bureaucracy for the institutions that are performing responsibly?

I think it is important for us to remember a student loan program is always going to have a fairly high default rate for the very reason that many people who are loaned this money are at the margin.

It is important to remember that a student loan program is necessary because a great many of these loans would not be made by banks. A school, looking at 10 marginal students, can make a decision on the basis of a banker and say, "We cannot take any of you." Or they can make it on the basis of an educator and say, "It is our responsibility to help these marginal students get a hold on their lives." Of course the second route is the way we should go. Still, of those 10 marginal students admitted under those circumstances, perhaps 5 of them will not make it. That goes back, I might say, Mr. President, to our failure to pay proper attention to the child at the very beginning, the preschool education. And we know now that neglect of preschool preparation of children causes dropouts, causes inadequate preparation to go on for additional education. Indeed, you might say, our failure to invest adequately in preschool education causes a great deal of the student loan defaults.

So, I do not want to suggest that there is any way in the world to eliminate all of the defaults of people who do not quite make it and then never will have enough money to pay back the loan, but we can get the deadbeats out. We can get a handle on the people who have exploited students out of their educational aid, and that is what my amendment is designed to do.

The legislation as presented in the committee bill disturbed me for a number of reasons. I expressed those reasons last night, and suggested that we could get at the problem in a more direct and intelligent way.

We have now been able to work out the problems in the original bill, and we have done so in a way that will reduce bureaucracy and redtape and that will make the best use of limited resources. The new proposal will also stand the best chance of curbing fraud and abuse in the Student Financial Aid Program. I thank the members of the staff who eagerly cooperated to make this a more workable system of dealing with the problem.

So, Mr. President, I would be perfectly willing, now, to yield back all of my time and to ask the leaders if they care to accept this or if they would like to have a rollcall vote?

Mr. FORD. Mr. President, will the Senator yield me just 30 seconds?

Mr. SANFORD. Yes.

Mr. FORD. Mr. President, I cannot help but observe that this institution is a great mix. Here we have a former president of a great university that has stayed the course. He now has an amendment, I think, that is much better than the original amendment. He is putting his background and experience into this amendment. I want to compliment him for what he has done for the Senate today and for higher education and for those students who will be looking for a loan. I wanted that to be part of the record.

The PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. PELL. I thank the Senator from Kentucky for his words. I must say I agree with him. I think this proposal offered by Senator SANFORD is an excellent one. In fact, the agreement that has been arrived at is, I think, better than our original proposal.

Under the amendment offered by the Senator from North Carolina, the role of the State will be defined as that of a watchdog. We want the States to help the Secretary identify the fraudulent or misleading practices that may come to light. We do not want the States to act as a superapproval agency. We want them only to be the eyes and the ears of the Department of Education. This amendment accomplishes that and improves the bill. I know from the viewpoint of this side of the aisle I am pleased to accept it and hope we can do so without a rollcall vote.

The PRESIDENT pro tempore. The Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, we are pleased to accept it on this side of the aisle. I would just express my appreciation to the Senator from North Carolina. Senator SANFORD has really contributed a great deal to helping us come to a compromise, which, I think, is superior to the original proposal in the bill.

Many of us support State licensing. At the same time, we recognize it should be done in a constructive manner that will not become unduly intrusive. I think the Senator's amendment addresses that interest.

I would also particularly like to thank staff on both sides of the aisle, who worked very hard to develop language that is agreeable to all. This amendment is accepted on this side.

The PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, would the Senator from Rhode Island yield me 5 minutes?

Mr. PELL. I yield as much time as he desires to the Senator from Massachusetts.

The PRESIDENT pro tempore. The Senator from Kansas controls the time.

Mrs. KASSEBAUM. I will be happy to yield the time to the Senator from Massachusetts.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I, too, want to join in expressing the appreciation of all of us to Senator SANFORD. He, as has been pointed out, was a distinguished president of a great university and has had a wide range of experience in government at the State level, the Federal level, and also at the local level. Even though he has not been a member of our committee, we have benefited greatly from his knowledge and understanding in the areas of higher education, and elementary and secondary education. I think the input he has had in this particular aspect of the legislation is invaluable.

What we have recognized in this legislation, in an attempt to ensure the basic integrity of the Federal role in education, is, first of all, that there is a role for the Federal responsibility, and there is a role for the State, and there is also a private role. The private role is with regard to accreditation and the State role is with regard to licensing institutions. The Federal role is basically to govern eligibility for the individuals who will benefit from student aid programs.

We had attempted in the legislation to strengthen those three prongs in a way that was going to preserve the integrity of the program, because, as has been pointed out during the debate, if we are expending more and more resources in paying off defaults, that means less opportunity for young Americans to take advantage of the various educational programs that are included in this program. We are diverting scarce resources, taxpayers' money, in this way.

As the Senator pointed out, this is a balance. What will undermine the whole integrity of the framework is the fly-by-night kind of proprietary institutions which bilked the Federal Government out of resources and misused and abused young Americans who were attempting to acquire skills to be able to become productive members of the economy.

Our committee over a period of time has been trying to address that particular issue respecting the different roles of the different parties. We attempted to tighten up over a year ago in this measure, and we continue in this legislation to address this issue.

Senator NUNN and his investigative committee had a series of hearings on this issue, and this legislation reflects many of the recommendations of his committee. We have been very grateful to him. But I think Senator TERRY SANFORD has appropriately reviewed the composite of these various forces and factors and has been able to weigh them from a particular viewpoint which was very, very helpful and enormously valuable to us in shaping this legislation in this area, as in other areas.

So I want to thank the Senator for all of the time and the effort and the energy that he put into this proposal. I believe it is clearly superior to the way we were moving. It demonstrates again what I think all of us understand, which is the value of these kinds of exchanges and discussion. So we are very grateful to him, and I join with our colleagues and urge the Senate to accept this amendment.

The PRESIDENT pro tempore. Has the offerer of the amendment yielded his time back?

Mr. SANFORD. I yield my time back, Mr. President.

The PRESIDENT pro tempore. Is all time yielded back?

Mrs. KASSEBAUM. All time is yielded back on this side, Mr. President.

The PRESIDENT pro tempore. All time is yielded back. The question is on agreeing to the amendment by the Senator from North Carolina [Mr. SANFORD].

The amendment (No. 1695) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1696

(Purpose: To provide for reallocation of funds under part E of title IV of the Higher Education Act of 1965)

Mr. PELL. Mr. President, on behalf of the Senator from Arkansas [Mr. PRYOR] I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] for Mr. PRYOR, proposes an amendment numbered 1696.

Mr. PELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 225, between lines 11 and 12, insert the following:

SEC. . ALLOCATION OF FUNDS.

Subsection (j) of section 462 of the Act (20 U.S.C. 1087bb(j)) is amended to read as follows:

"(j) REALLOCATION OF EXCESS ALLOCATIONS.—

"(1) IN GENERAL.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate such excess to eligible institutions which were participants in the program in fiscal year 1985 but which did not receive an allocation under subsection (a), an amount equal to those institutions' excess eligible amounts as determined under paragraph (2) multiplied by the institution's default penalty, as determined under subsection (f), except that—

"(A) if the institution has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this subparagraph; and

"(B) except that the reallocation to an institution shall not exceed such institution's eligible amount (as determined under paragraph (3) of subsection (c)).

"(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) that institution's eligible amount (as determined under paragraph (3) of subsection (c)), divided by (ii) the sum of the eligible amounts of all institutions described in paragraph (1) (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

"(B) the amount required to be allocated to that institution under subsection (c) of section 462.

"(3) From the remainder of such excess, the Secretary shall reallocate the remainder, in accordance with regulations, to eligible institutions which did not return to the Secretary any portion of the sums allocated to such institution.".

Mr. PRYOR. Mr. President, I am pleased to be offering an amendment to the Higher Education Reauthorization Act which will address an inequity which I believe presently exists in the Perkins loan program. This inequity is depriving students of vitally needed financial aide funds at six higher education institutions in my State and at one or more institutions in every State in the Union. This amendment will not require the allocation of any additional Federal funds above what is already specified in the bill, it does not violate the Budget Enforcement Act of 1990, and it does not take money away from the amounts schools currently expect to receive under the Perkins program. My amendment is based on the simple premise that the guests at dinner shouldn't get a second helping until everyone at the table has gotten a first serving.

Currently, most post-secondary institutions have a Perkins revolving loan fund out of which they make loans to financially needy students. The moneys loaned out of the fund are collected by the school over a period of years after the student graduates, and then loaned out to other eligible students—thus the revolving nature of the program.

Under current law, the Federal Government makes a small annual supplement, or capital contribution, to the Perkins fund of most institutions, in an effort to replace moneys dissipated by defaults and other net losses. The formula used to allocate these Federal capital contributions contains a hold harmless, however, which bases the amount of the current contribution on the amount of the contribution received by the school for the 1985–86 school year. Schools which did not receive a contribution during that year, for whatever reason, have been unable to obtain a Federal capital contribution for the past several years.

As I indicated, in my State six institutions have been excluded from receiving a Federal capital contribution because of this hold harmless. One of these schools, Henderson State University, did not receive a Federal contribution in the 1985–86 school year because its enrollment was declining at the time, and the amount of money it was collecting from students repaying their Perkins loans was more than enough to cover the demands of new students seeking Perkins loans. As a matter of fact, Henderson eventually returned almost $1.5 million in excess Perkins loan funds to the Department of Education because loan repayments were more than covering new loan demand. Now, however, enrollment is on the rise at Henderson State and Perkins loan demand has increased, but the repayment of outstanding loans is insufficient to cover the new loan demand and the school is unable to get an additional Federal capital contribution because it did not receive one during the 1985–86 base year.

This amendment will correct the problem at Henderson and at the 300 odd institutions across the country which are in similar circumstances. This amendment does not eliminate the hold harmless, and it will not reduce the amount of the Federal capital contribution currently expected by needy institutions. Instead, the amendment takes Federal capital contributions which are currently returned to the Department of Education by schools which do not need them in a given year, and redistributes them on a priority basis to those schools which currently receive no allocation because they received none in the 1985–86 base year. Currently, the Secretary of Education requires schools which do not receive a contribution to compete for these returned funds on an equal footing with schools that have already received a Federal capital contribution.

Again, my amendment is based on a fairly simple principle of equity: Those schools which are excluded from receiving a Federal capital contribution in the initial distribution of funds ought to have an opportunity to receive a portion of returned excess funds before those schools which have already received a contribution get a second crack at the money. My amendment accomplishes this goal by distributing these returned funds to the excluded schools in proportion to their relative need and with a default factor figured in which effectively rewards low default schools with larger allocations. Any funds left over after the distribution to the excluded group of schools are available for distribution to those schools which did receive initial allocations.

Mr. President, I believe this is a very reasonable proposal for bringing some equity to the distribution of Perkins Federal capital contributions without upsetting our current system for distributing these moneys or depriving schools currently in the program of the contributions they expect.

Mr. PELL. Mr. President, this amendment has been agreed to on both sides. Accordingly, I urge its adoption, and I yield back any time that I have.

Mrs. KASSEBAUM. Mr. President, the amendment has been cleared on our side, and we support it.

The PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (No. 1696) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT—S. 2

Mr. PELL. Mr. President, I ask unanimous consent that the clerk be instructed to print additional copies of S. 2, the Neighborhood Schools Improvement Act as it was passed.

The PRESIDENT pro tempore. Is there objection? There is no objection. It is so ordered.

HIGHER EDUCATION AMENDMENTS

The Senate continued with the consideration of the bill.

Mrs. KASSEBAUM. Mr. President, I suggest the absence of a quorum for just a few moments before we go to final passage.

The PRESIDENT pro tempore. The point of no quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PELL. Mr. President, this bill that we are about to approve is excellent legislation. It continues the Federal commitment to educational opportunity and access in postsecondary education. It is a commitment unexcelled in any other nation in the world. We may sometimes fall short in fulfilling it, but there can be no doubt about our intentions. This bill is an important reaffirmation of that commitment, and it contains some remarkable achievements. Stronger student aid programs, more help for needy students, new help for hard-pressed middle-income families, a simplified application process, new and better programs for the teaching profession—these are but a few of the major achievements of this legislation.

But let me make something clear. While we have built what I believe is a strong and good foundation, we must add the full funding that will bring reality to the promises we have made. Money is the cement that will hold the bricks together and make what we have constructed sound and strong.

Before we conclude, however, I think it important that we acknowledge those who devoted extraordinary time and effort to putting this important bill together.

First, I want to thank the Senator from Massachusetts [Mr. KENNEDY] for his strong and immense help in getting this bill passed. Second, I want to thank Mark Sigurski, our legislative counsel. We are indebted to him for his hard work, his patience, and his ability to withstand our many demands. Third, I want to thank the staff of my colleagues on the Education Subcommittee and the full Labor and Human Resources Committee. In particular, I want to thank Susan Hattan and Lisa Ross from Senator KASSEBAUM's staff, Terry Hartle and Suzanne Ramos from Senator KENNEDY's staff, and Laurie Chivers from Senator HATCH's staff. They have all done well and we are in their debt.

I want to express my appreciation for the superior work done by David Evans owr staff director and by Jason Hendler, Michael Dannenberg, and Peter Gill of my staff on the Education Subcommittee. Without their efforts, this bill would not have become a reality. But most especially, I want to thank Sarah Flanagan, the professional staff member for postsecondary education on the subcommittee staff. Her knowledge of the student aid process has been indispensable, and her hard work, attention to detail, and persistence have been invaluable, and this attention to detail and persistence was still being demonstrated as of 3 o'clock this morning as she put together the Sanford compromise.

Fifth, I want to thank the administration. They have been players from the outset, and we have taken their recommendations seriously. Secretary Alexander, Assistant Secretary Carolyn Reid-Wallace, Assistant Secretary Bob Okun, and all the involved staff are to be commended.

Finally, I want to thank my colleagues on the subcommittee, the full committee and in the Senate as a whole. We continue with passage of this legislation the strong bipartisan consensus that has dominated education in the Senate since I first served on the subcommittee over 20 years ago. Without that consensus, that bipartisan approach, we would have been unable to fashion this legislation and to pass it in such an expeditious manner.

In this regard, I would like to pay tribute to my ranking minority Members through the years who have been building bricks as we move ahead: Senator Dominick, Senator Javits, Senator Stafford, and others.

The PRESIDENT pro tempore. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I am pleased that the Senate is taking final action on S. 1150. As I noted yesterday, I believe this is a strong piece of legislation. I would just like to add that I, too, believe that bipartisanship on the issue of education has served us well. We have had many hearings on the higher education reauthorization legislation. We have spent over a year putting this together, and I think that we have really worked hard to advance some goals that we all share. My particular appreciation to the chairman of the subcommittee, Senator PELL, as well as to Senators HATCH and KENNEDY for their efforts on behalf of this bill.

Much has already been said about the importance of this legislation. I would like to mention once again my appreciation for some of the same staff members that Senator PELL mentioned, because I think we all realize we could not put legislation like this together without the support of staff.

I would particularly like to, of course, thank my own staff, Susan Hattan, Lisa Ross, and Sondra Nickel. The full list of staff follows my remarks but Laurie Chivers and Corine Larson of Senator HATCH's staff and certainly David Evans, Sarah Flanagan, and Terry Hartle on the Democratic side have been of invaluable assistance.

I also appreciate the work and assistance provided by Secretary Lamar Alexander and staff of the Department of Education.

Finally, we all owe a special debt of gratitude to Mark Sigurski of the Office of Legislative Counsel, who has spent countless hours in the drafting of this legislation.

Staff contributing to S. 1150: Susan Hattan, Lisa Ross, and Sondra Nickel with Senator KASSEBAUM; Laurie Chivers and Corine Larson with Senator HATCH; David Evans, Sarah Flanagan, Jason Hendler, and Michael Dannenberg with Senator PELL; Terry Hartle, Suzanne Ramos, Rusty Barbour, and Dan Ivey-Soto with Senator KENNEDY; Sharon Soderstrom with Senator COATS; Doris Dixon with Senator COCHRAN; Pam Kruse with Senator JEFFORDS; Kent Talbert with Senator THURMOND; Rolf Lund with Senator DURENBERGER; Adele Robinson with Senator ADAMS; Ray Ramirez with Senator BINGAMAN; Joan Gilman and Suzanne Day with Senator DODD; Bev Schroeder with Senator HARKIN; Cheryl Birdsall with Senator METZENBAUM; Anita Harewood with Senator MIKULSKI; Bob Shireman and Brian Kennedy with Senator SIMON; and Mike Epstein with Senator WELLSTONE.

Finally, I also appreciate the work and assistance provided by Secretary Lamar Alexander and staff of the Department of Education.

As mentioned by Senator PELL, Mark Sigurski, in the Office of Legislative Counsel, has provided some invaluable assistance. I think we often forget that the details of the legislation can be extremely difficult and complicated, and to have to work under such pressure requires a great deal of patience and concentration.

Mr. President, I think we are ready to go to final passage.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Mississippi [Mr. COCHRAN] is recognized.

Mr. COCHRAN. Mr. President, I am convinced that one of our greatest national assets is our college and university system. People come from all over the world to study in American universities not only because they are accessible but because in many cases they are the best in the world. I am pleased to support this legislation because it will help guarantee even greater access in the years ahead to our institutions of higher learning.

This bill was developed over a period of months with bipartisan cooperation among members of the Committee on Labor and Human Resources. I commend Senator PELL and Senator KASSEBAUM, as well as Senators KENNEDY and HATCH, for the manner in which this bill was developed.

The committee has done important work on Federal higher education programs, making them more responsive to the challenge we face.

The assurance of access to postsecondary education, and the opportunities it provides, is the most important aspect of this legislation.

Grant aid has been increased for students most in need, by increasing Pell grant maximum awards, by making the Pell grant award formula more realistic in terms of the actual costs of attending an institution of higher education, by directing the supplemental grant to the lowest income students, and by authorizing a new scholarship for students from economically disadvantaged families. This scholarship will also provide these students with an incentive to excel academically because eligibility is dependent upon a student's having completed a rigorous core curriculum in high school.

Middle-income families are provided with greater access to student aid by eliminating farm and home equity for families with incomes below $50,000 from the calculation used to determine a student's eligibility for financial assistance. Another provision of this bill will extend eligibility for supplemental loans for students to dependent students, thus increasing the options for middle-income students and their families.

Increases in Pell grant maximums will mean that the poorest students will be required to borrow less to round out their financial aid package. Increases in annual borrowing limits for federally subsidized loans will particularly help middle-income students. Loan limits have also been increased in the unsubsidized loan programs for students with greater family resources.

I am pleased that the committee was able to simplify financial aid programs for students and families by creating one need analysis system for all grant and loan programs, by ensuring a free, common Federal application form, and by streamlining both the application and reapplication process for needy students.

We have improved outreach, early intervention, and support services for low-income and educationally disadvantaged students, so that more of those students can go to college and succeed there.

Mr. President, guaranteed student loan defaults are expected to reach an alltime high of $3.6 billion this year and pose a major threat to the stability and integrity of student aid in general. Serious questions have been raised about the program's effectiveness as the primary vehicle for federally supported student assistance.

With provisions in this bill, we have attempted to assure the integrity of the student aid programs. Steps have been taken to improve the standards for institutional participation in the programs.

Accrediting agencies, the States, and the Federal Government must all do a better job in assuring program quality and institutional capability.

We have also taken steps to reduce the number and costs of loan defaults. In addition to continuing and strengthening the default control provisions of the 1989 and 1990 budget reconciliation laws, we have included new provisions to strengthen further the incentives for all parties, lenders as well as schools, to reduce defaults and improve collections on defaulted loans.

Mr. President, as a member of the Appropriations Committee, I can speak firsthand to the frustration of having to devote precious resources to default costs, rather than to expanded aid to students.

The bill establishes much needed academies for teachers and school leaders to help them do a better job in the classroom.

Alternative certification demonstration grants are authorized to allow States to experiment with bringing teachers into the classroom that may have an expertise that makes them valuable but who have not been certified by traditional certification requirements.

Mr. President, I am pleased that provisions which would have triggered a veto on this bill were withdrawn. Support for education enjoys wide bipartisan support in Congress. This is a good bill and I urge the Senate to approve it.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Mr. President, I thank you very much.

May I ask one or two questions of the managers of the bill? I want to make sure that my understanding about certain aspects is correct. Is it accurate—let me put it another way. What additional budget authority does this bill propose? The figure I have is $56.9 billion.

Mrs. KASSEBAUM. That will be over 5 years.

Mr. HELMS. I understand. It is still $56.9 billion.

Mrs. KASSEBAUM. I think the cost is about $17 billion in the first year. I cannot tell you how much additional funds are involved, but it reflects, of course, the increase in student grants plus the additional authorizations which have always been higher than the appropriations. Because most of the bill is subject to appropriations, I cannot say accurately how much additional outlay it will involve.

Mr. HELMS. That leads to my next question. What would the proposed outlays be as proposed? My figure is $42.7 billion over a period of 5 years.

Mr. PELL. In direct spending, I understand there is a saving of $335 million in savings over the 5-year period.

Mr. HELMS. That is $335 million?

Mr. PELL. Million dollars. We are talking about millions, not billions.

Mr. HELMS. A million is a pittance around this place.

Mrs. KASSEBAUM. Mr. President, I just want to add that we now spend $11 billion in higher education. So, if one factors that out over 5 years, yes, that is the figure we have. So we are spending that now.

Mr. HELMS. I understand, but this bill still proposes additional spending in the $50-billion range.

Mr. President, a lot of things are painful to vote against around this place, but I think it was Davy Crockett, as a Member of the House of Representatives, who on one occasion pointed out to his colleagues that it was not their money they were spending; it was the people's money.

I will ask one further question. Is my understanding correct that the Federal debt is now approaching 4 trillion dollars?

Mr. PELL. I believe that is correct. I do not know for sure.

Mr. HELMS. The point is this, Mr. President, as of 2 days ago, February 19, the exact Federal debt, down to the penny, stood at $3,820,046,156,792.02. That debt represents the irresponsibility of the Congress of the United States for decades in spending the taxpayers' money far in excess of the Government's income.

This bill, which the Senate is about to approve overwhelmingly, proposes additional—additional—budget authority of $56.9 billion and additional outlays of $42.7 billion.

Mr. President, what are we doing to the American people when Congress engages in such reckless spending? What about the young people who in just a few years will inherit this economic nightmare? Does any other Senator share my dismay at the debt we are piling on the shoulders of Americans of all ages, and particularly the next generation of taxpayers?

The American taxpayers were forced to provide $286.02 billion during the past 12 months just to pay the interest on the existing national debt, to which this bill will add billions of dollars. According to my calculations, that comes to $5.5 billion every week—just to pay the interest alone.

I may be the only Senator voting against this bill today, but vote against it I must. And I shall continue to vote against such bloated proposals which will serve to run up the Federal debt even further.

It is the Congress of the United States that has created the economic crisis that is today on the minds of the American people. Politicians who like to point fingers should point to themselves.

I thank the Senator very much.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

Mr. BUMPERS. Will the Senator withhold?

Mr. PELL. Yes.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS] is recognized.

Mr. BUMPERS. Mr. President, I rise to discuss the teacher training provisions of the Higher Education Act reauthorization and to reiterate assurances I received last night from the Senator from Massachusetts and the Senator from Rhode Island about the operation of the State and national teacher academies. I received assurances that the teacher academies in S. 1150 would be open to teachers of all disciplines so that a math or science teacher could attend a seminar in the humanities, or a history teacher could attend an English seminar.

I strongly supported the National Teacher Act of 1990 and was disappointed when that bill died at the end of the 101st Congress. That legislation included provisions that reflected many of my ideas about the professional development and in-service training of classroom teachers, ideas expressed in the humanities excellence and teacher education bill which I have introduced every Congress since the 98th. In my view, the teacher education provisions of S. 1150 are even stronger than those in the National Teacher Act, and I heartily endorse it.

I first testified before the Subcommittee on Education, Humanities, and the Arts regarding my humanities excellence and education bill when Senator Stafford chaired the subcommittee, and since that time I have worked with the Senator from Rhode Island and the Senator from Massachusetts to advance the idea of a comprehensive program of professional development for classroom teachers.

I am convinced that the improvement of American schools depends on recruiting and retaining a strong corps of teachers and providing the current corps of teachers the opportunity to develop and improve their teaching skills. For the last several Congresses, I have introduced legislation which would establish a comprehensive program of summer seminars in the humanities. The program I propose is, quite frankly, an expanded and slightly modified version of the summer seminar program at the National Endowment for the Humanities.

The outstanding program administered by the NEH includes dozens of seminars each summer which serve hundreds of teachers. I fight every year to increase funding for that program, but it still remains only a fraction of the size it should be. If budget constraints were not so severe, American teachers should be able to take advantage of professional development opportunities each summer.

I propose an extensive program of summer seminars in the humanities, with an authorization which would allow at least one seminar in each State. While the subject matter of the seminars would be concentrated on the humanities, I propose that any teacher—whether a teacher of the humanities, math, science, or foreign languages—have the opportunity to attend these seminars.

I believe that, while we have begun to address the problems of math and science instruction, we have done little to improve instruction in the humanities. the indicators of this trend are many—our students perform poorly on history examinations, their reading and writing skills are weak, and their knowledge of our own political and cultural institutions is weak. And the committee report on S. 1150 indicates that the supply of humanities Ph.D.'s is dwindling. I would suggest that the limited number of young people interested in pursuing higher degrees in the humanities is a pipeline problem: Students receive inadequate or uninspired instruction in the humanities and are not interested in pursuing advanced training in those disciplines.

I am very pleased that S. 1150 includes a comprehensive program of State academies for teachers and school leaders, professional development academies, and national teacher academies. The professional development opportunities that will be provided by these academies are sorely needed, and I applaud the committee for including such a strong program in S. 1150. The teacher academies are not structured exactly like the seminars I propose in my legislation, but the intent and structure are very similar.

The teacher academies aim to improve subject matter skills for teachers in certain key areas: English, mathematics, science, history, geography, foreign languages, and civics and government. The bill specifically states that the States are to insure that 70 percent of the funds that are available for the teacher academies will be used for the enhancement of knowledge in the key academic subjects, and 20 percent of the funds will be used for enhancement of participant knowledge in areas not related to academic subjects. I certainly understand the committee's interest in improving subject matter skills and insuring that our history, science, mathematics, and other teachers are prepared to teach their subjects, but I also want to reiterate that teachers can attend seminars outside their discipline.

The bill gives the States, which will administer the State teacher academies, and the U.S. Department of Education, which will administer the national teacher academies, flexibility in choosing teachers to participate in the seminars. I received assurances from the Senator from Massachusetts and the Senator from Rhode Island that the bill intends that flexibility to allow math and science teachers, for example, to attend seminars in history, English, or civics and government. As they noted, there are real benefits to be gained from the cross-fertilization that occurs when teachers receive instruction outside their discipline and learn beside teachers of other disciplines.

S. 1150 includes a special provision allowing proposals for academies that would provide for training in two or more academic subjects at a single site. I would urge that cross-disciplinary training not only be allowed but that it be encouraged. This is one more way to improve humanities instruction and reach more teachers.

I hope this bill will move quickly through conference, and I will work to see that the Teacher Academy Program is funded in this fiscal year. It has been said several times during consideration of this legislation that we cannot afford to delay action on this bill, and I agree that our current teacher corps cannot be neglected any longer. Our schools, our children, and our future depend on them. I will work to see that the Teacher Academy Program is funded and I will monitor its administration to insure that enrollment in the seminars across disciplines is allowed.

Mr. President, I would like to take a few more minutes to comment on the other teacher training provisions of S. 1150 which are aimed at recruiting highly qualified individuals to teaching and training new teachers. I am particularly pleased that the Teacher Corps Program has been reinstituted.

The concept of providing scholarship assistance to teacher candidates in return for service in schools that have shortages of teachers or shortages in certain subject areas is a concept that has worked very well in other disciplines. For example, we have improved health care delivery in underserved areas through the national Health Service Corps, and the model will serve us well in the education area. Not only will teacher shortages be addressed, but teacher candidates will receive important teacher training through the Teacher Corps Program.

The committee has also been thoughtful in drafting provisions to improve the recruitment of minority teachers. It is wise to encourage the activities of local and State educational agencies, higher education institutions with substantial concentrations of minority students, and consortia of higher education institutions to improve minority teacher recruitment. The shortage of minority teachers must be addressed. The public school enrollment is almost one-third minority, yet the teaching force is only a 10th minority. There is a clear need for teachers who can serve as role models for young minority students, and this bill begins to address that need.

The teacher recruitment and training provisions are very important, and I am pleased that the committee has done such an outstanding job on that part of the bill. These provisions are particularly important because of estimates that about 2.5 million public and private school teachers may have to be hired in the 1990's.

Mr. President, I am pleased to lend my support to S. 1150 and I will work for funding and implementation of the teacher training programs.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, we have finished consideration of one of the most important pieces of legislation to come before Congress in this session. The Higher Education Reauthorization Act represents our investment in the future productivity of this Nation. This bill will provide millions of students with the financial support necessary to pursue a college education and achieve their greatest potential.

One of the central goals of this legislation was to increase access to higher education for all Americans. We have accomplished this by authorizing a long-overdue increase in the Pell Grant Program, the cornerstone of the Federal Student Aid Program and by raising limits on college loans. Both of these changes will help hard-working middle-income families keep up with the rising cost of tuition. With support from the Federal Government, these families will be able to realize their dream of providing a college education to their children.

Another key provision is the establishment of the ACCESS Program. This program focuses on helping disadvantaged students overcome obstacles to finishing high school and entering college. With the help of early invention programs and the promise of a scholarship, many needy youth who might otherwise drop out of school will now be able to pursue a college education. As the "I Have a Dream" initiative has proved so dramatically, students who know that a college education is within their reach financially are more likely to be motivated to finish high school and perform well.

Another key accomplishment of this legislation is the simplification of the student aid application process. By establishing a single needs formula and mandating a simplified single application form, we have taken much of the confusion out of the student aid application process. These changes, in combination with automatic eligibility for the neediest students, will make it much easier for students to obtain the financial aid they are entitled to receive.

Finally, we have made significant progress toward ending fraud and abuse in the Student Loan Program. We have tightened the approval process that schools must go through in order to gain entry into the Federal Student Aid Program and we have implemented several of the recommendations in Senator NUNN's excellent report on curbing fraud and abuse. These changes will help us guarantee that Federal funds are providing students with a beneficial education.

We are particularly pleased that we have been able to complete work on this monumental legislation in a bipartisan fashion in less than 1 day on the Senate floor. It is vitally important to all Americans that this reauthorization bill be completed and enacted into law at the earliest opportunity. As I stated yesterday, Senator BRADLEY, Senator BENTSEN, Senator SIMON, Senator DURENBERGER, and I have been working intensively over the last several days to put together an amendment to provide direct loans to students for higher education and we made great progress in reaching an accord on this important new direction for student loans. All of us are deeply committed to seeing a direct loan demonstration program enacted into law this year. At this point, however, it was not possible to obtain bipartisan agreement on a demonstration program and rather than delay final passage of the higher education bill we decided to seek to move the direct lending initiative on another vehicle at the earliest possible opportunity. Again I am very pleased that we have been able to move this bill so promptly.

Senator MITCHELL indicated yesterday he had expected this important measure to consume up to 4 days of floor time. The fact that we were able to take care of so many amendments by bipartisan agreement undoubtedly has resulted in a much stronger bill than if we had stayed on the floor dealing with contentious issues for 4 days.

The reauthorization of the Higher Education Act has given us the opportunity to greatly strengthen our current higher education system. By increasing the Pell grant, raising loan limits, and simplifying the application process, we have greatly expanded access to a college education for millions of American students. The student aid investment which we are making today will help our hard working families realize their dream of fully educating their children and helping them achieve their greatest potential. And this investment will be repaid many times over in the future productivity and competitiveness of this Nation.

Mr. President, at this point, I would like to thank the staffers who helped us reach this point: Senator PELL: David Evans, Sarah Flanagan, Michael Dannenberg, and Jason Hendler; Senator KASSEBAUM: Susan Hattan, Lisa Ross, and Sondra Nickel; Senator HATCH: Laurie Chivers and Corine Larson; Senator METZENBAUM: Cheryl Birdsall; Senator SIMON: Bob Shireman and Brian Kennedy; Senator HARKIN: Bev Schroeder; Senator ADAMS: Adele Robinson; Senator MIKULSKI: Anita Harewood; Senator BINGAMAN: Ray Ramirez; Senator WELLSTONE: Mike Epstein; Senator JEFFORDS: Pam Kruse; Senator DODD: Joan Gilman and Suzanne Day; Senator COATS: Sharon Soderstrom; Senator THURMOND: Kent Talbert; Senator DURENBERGER: Alexander Polinsky, Rolf Lund, and Annie Silberman; Senator COCHRAN: Doris Dixon; and from my own staff: Suzanne Ramos, Rusty Barbour, Terry Hartle, Joe Murray, Tom Clyde, Daniel Ivey-Soto, and Katherine Herrera.

I would also like to pay a special tribute to Mark Sigurski of the Legislative Counsel's Office. This huge bill—750 pages—and all the amendments were drafted by Mr. Sigurski. He worked with dispatch, demonstrated great technical skill and infallible patience. All of us are in his debt for a job well done.

AMENDMENT NO. 1697

Mr. PELL. Mr. President, I send to the desk a technical amendment which has been agreed to on both sides and ask it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 1697.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, strike line 17 through page 25, line 20, and insert:

"SEC. 126. STUDENT LITERACY CORPS PROGRAM.

"(a) IN GENERAL.—From the amount reserved pursuant to section 131(b) for any fiscal year, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to institutions of higher education for not more than 3 years to pay for the Federal share to carry out student literacy corps programs.

"(b) SPECIAL RULE.—An institution of higher education shall only receive 1 grant under this section in each fiscal year.

"(c) CONTINUATION OF LITERACY PROGRAM.—Grants under this section are renewable upon application by the institution of higher education in accordance with section 128.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of carrying out student literacy corps programs under this subpart shall be—

"(A) up to 100 percent for an initial grant to an institution of higher education; and

"(B) up to 75 percent for a grant renewed under subsection (c).

"(2) NONFEDERAL SHARE.—The non-Federal share of carrying out student literacy corps programs under this subpart may be paid from any non-Federal sources.

"SEC. 127. USES OF FUNDS.

"(a) IN GENERAL.—Funds made available under this subpart may be used for—

"(1) grants to institutions of higher education for—

"(A) the costs of participation of institutions of higher education in the student literacy corps program for which assistance is sought; and

"(B) stipends for student coordinators engaged in the student literacy corps program for which assistance is sought; and

"(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 129.

"(b) LIMITATION.—No grant award to an institution of higher education under this subpart shall exceed $100,000.

"(1) FIRST YEAR.—No institution of higher education may expend more than $50,000 of a grant made under this subpart in the first year in which the institution receives such a grant.

Mr. PELL. Mr. President, we urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 1697) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I would like to discuss an amendment with the distinguished Senator from Massachusetts regarding students who are enrolled in college on a part-time basis to help facilitate the President's goal of encouraging lifelong learning.

At the present time, students must be enrolled in postsecondary education on at least a half-time basis to participate in the Federal Student Aid Programs. This usually means that individuals must take at least two courses to be eligible for assistance. The administration has asked that we extend eligibility to students who study on less than a half-time basis. They note, correctly in my estimation, that the lack of financial resources makes it hard for some students who must attend college on a limited basis to meet tuition bills.

The request to extend eligibility to part-time students does have cost implications and that is a problem on this bill. I would like to ask my friend from Massachusetts if he would be willing to keep looking at this issue to see if we cannot find a way to address it.

Mr. KENNEDY. I appreciate the Senator's question. As the Senator knows, this bill extends Pell grant eligibility to students who study on less than a half-time basis. In addition, we have taken steps to ensure that part-time students receive a greater share of the funds distributed under the campus-based programs. The legislation does not expand eligibility in the Guaranteed Student Loan Program to these students as the administration has requested and it would be impossible for us to accommodate that request at present because, according to the Congressional Budget Office, our bill just meets the paygo provisions of the Budget Enforcement Act. If we adopt the administration's request, we will be in violation of the Budget Enforcement Act. As a result, I do not see how we can address the request at this time. We may, however, be able to address that issue during conference.

I have, however, met with Secretary Alexander about this issue and have assured him that I am deeply interested in this issue and would be happy to keep working on it with him. I might add that I am grateful for the Secretary's deep interest in this issue. As Senator HATCH knows, there has been a provision in the Pell Grant Program for aid to less than part-time students that has only been funded once in the last 6 years—largely because the Department of Education opposed the provision. I am grateful for Secretary Alexander's commitment to the needs of these students.

Mr. HATCH. I wish to thank the Senator for his comments. I will look forward to working with him and with the Secretary of Education to address this issue as this bill continues to move through the legislative process.

Mr. HATFIELD. Mr. President, the Senate-passed version of the current year appropriation bill for the Department of Education includes an amendment I authored that prevents the Department from initiating or continuing proceedings that would classify as correspondence study telecommunications delivered courses of instruction offered by accredited colleges and universities that lead to recognized degrees pending reauthorization of the Higher Education Act of 1965. I offered my amendment only after consulting with the staff of the Labor and Human Resources Subcommittee on Education, Arts and the Humanities.

I offered the amendment with encouragement from Portland Community College, the American Association of Community and Junior Colleges and America's Public Television Stations because I believe that telecommunications is a highly effective, efficient and economical way to deliver quality educational services. Students enrolled in such courses should be guaranteed access to full financial aid. Hundreds of accredited higher education institutions employ telecommunications to extend the reach of their campuses. Telecommunications delivery brings the institution to the student, particularly in sparsely populated rural and remote areas of the country, including portions of Oregon, but equally in urban areas as well. Joining in support of the amendment was an ad hoc national coalition of more than 70 colleges, universities, and associations.

Subsequent to my amendment, the House Labor and Education Committee reported its version of the higher education reauthorization bill. It includes language that clarifies that telecommunications delivered courses of instruction offered by accredited institutions and leading to a recognized degree is regular, not correspondence, instruction for the purpose of calculating financial aid eligibility. I support the House language but note that the bill reported by the Labor and Human Resources Committee does not include the same or similar language.

Mr. President, with this background I would like to engage in a colloquy with the chairman of the Labor and Human Resources Committee and the chairman of the Subcommittee on Education, Arts, and the Humanities.

Am I correct in my understanding that the committee and subcommittee chairmen believe that telecommunications delivered courses of instruction offered by accredited colleges and universities and leading to a recognized degree is regular instruction for financial aid purposes?

Mr. KENNEDY. The Senator from Oregon is correct. I have previously stated that students receiving such instruction are entitled to full financial aid. I have also stated that I would work to clarify the matter during reauthorization of the Higher Education Act. I reiterate my commitment today.

The Senator from Oregon is correct that S. 1150 does not include the House committee's provision. It is not incorporated because I believe it may not go far enough to protect the opportunities of students enrolled in institutions such as community colleges. Therefore, I want to assure my distinguished colleague that I will work closely with the chairman of the Education, Arts and the Humanities Subcommittee and with the chairman of the House Education and Labor Committee during conference to be sure that the final language leaves no doubt as to the intent of Congress that students enrolled in all courses accepted for credit by institutions such as community colleges are entitled to full financial aid.

Mr. PELL. Mr. President, I, too, would like to assure the distinguished Senator from Oregon of my commitment to guarantee that students enrolled in various types of courses of instruction that lead to recognized degrees are entitled to full financial aid. This is an important national policy issue. But it is particularly important to me since the Community College of Rhode Island uses telecommunications to extend its campus to the people of my State.

I will work closely in conference with the chairmen of the Labor and Human Resources Committee and the Education and Labor Committee to ensure that the final bill clarifies the instruction status of telecommunications instruction.

Mr. HATFIELD. I thank the distinguished Senator from Massachusetts and the distinguished Senator from Rhode Island for their statements and commitments. I would welcome the opportunity to assist them in guaranteeing that telecommunications based students receive full financial aid.

Ms. MIKULSKI. Mr. President, I rise today in strong support of the Higher Education Act.

Mr. President, this bill is a chance to win one of the first battles in the war for America's future. It is a brave and firm step forward toward helping working families send their kids to college. And, Mr. President, middle-class families deserve that help.

These are hard working people who are willing to do their part. But their part may be just too hard to do right now. The middle class has no more to give. They're tuition poor and they're mortgage poor.

Let's face it, when you are making a middle level income and you are paying college tuition for three kids, you're strapped. Far too often, middle-class parents do not qualify for financial aid. Right now, the Government punishes those parents for owning a home or saving money. That is not right.

Let us give help to those who practice self help. If you get there and save your money, you deserve a break.

Everyone in America should be able to get ahead based on their own hard work and ability. The Government should help that happen.

I am sure going to try my best to see that it does.

Mr. President, I introduced a bill in the last session called the Working Families Cost Relief Act to help these families achieve their dreams. The bill we are considering today goes a long way toward reaching that goal.

We have expanded access to financial aid for those middle class families who cannot afford to send their kids to the college of their choice.

We have increased Pell grant awards.

We have simplified the financial aid forms.

And we have made it easier to get aid for families who may have all their assets tied up in a home or farm.

Senator PELL, Senator KENNEDY, and others have worked hard to bring a bill to the floor that makes it a little easier for American families to help their children achieve their dreams. I am proud to be a part of that effort.

Mr. DASCHLE. Mr. President, passage of the Reauthorization of the Higher Education Act is a critical step in ensuring that all Americans have access to higher education, regardless of their background or income level. The central role of education in an increasingly competitive global economy is crystal clear. To be part of the workforce in the year 2000, Americans must set their educational sights high and utilize flexible and innovative means to reach their goals. In the workplace of the future, a large segment of our population will have to master the math, engineering, computer, and physics applications that only higher education can provide. We cannot allow income limitations to preclude a young person from realizing his or her potential.

S. 1150 represents the second legislative effort this body will undertake in as many months to address the educational crises facing our Nation. In January, the Senate approved S. 2, the Neighborhood Schools Improvement Act, comprehensive legislation that will foster radical change in our elementary and secondary schools and improve the education we provide to children nationwide. But S. 2 represents only the beginning in our efforts to build an education system that truly prepares our children for the future in a highly complex, technological society.

S. 1150 improves educational access for all Americans. This bill is absolutely necessary to redress the damage that a decade of attacks and underfunding by the Reagan and Bush administrations have inflicted on our students, their families, and our productivity as a nation.

This shortsighted failure to invest in better student aid, institutional support, and higher education programs, is nothing less than a blow to our national security. It is a problem that cannot be ignored and a trend that we can reverse through passage of this legislation. If we fail to do so, if we continue to undervalue the economic benefits of education and training for all citizens, what hope do we have for a strong, viable economy in the year 2000 and beyond?

As I have said many times before, it is time for a reinvestment in education today as we have invested in bombers, missile systems and aircraft carriers in the past. We must recognize that our supercomputers and satellites are empty without qualified graduates to guide them. We must recognize the importance of this legislation to our future productivity and viability as a nation.

Thus, I rise in strong support of S. 1150 and its long-overdue improvements in Federal support for higher education and expansions in student aid. The legislation we consider today will provide low- and middle-income families the educational assistance they were too often denied in the 1980's. There are many important provisions in S. 1150 that achieve this goal: the increase in Pell grant levels, the increased availability of grants and loans, the simplification of student aid, and the investment in the infrastructure of our colleges and universities. I will not address each here.

However, I would like to point out that this legislation is particularly important to farmers and families who may own a family or farm house, but have insufficient income to pay for their children's education. Because of equity calculations that include the farm or the house, these families have been shut out of both grant and loan programs that had been designed to include them in years past. S. 1150 exempts from those calculations a family's farm or principal residence for families with incomes under $50,000. This provision, in combination with others in the bill, will provide desperately needed student aid to a great number of deserving families in South Dakota and across the country. I am pleased to have cosponsored similar legislation in the past and look forward to enacting this measure in short order.

One provision I would like to express concern about is the title V program funding for State Academies for Educators, formerly known as the LEAD Program. S. 1150 contains an authorization level of only $132 million for this program, which has proven to be a very useful and important program in my State. The comparable House provision authorizes $400 million for what is essentially the same program. I have been advised of the committee's willingness to move toward the House figure for this program, and I would urge them at this time to consider accepting the House figure in total. I have heard more positive comments about this program than almost any other Federal higher education program we fund. Educators, administrators and teachers alike understand the value of this program, and it should be funded at a viable level.

In conclusion, Mr. President, I would like to congratulate the bill's sponsors for their hard work in bringing this bill to the floor, and I urge my colleagues to vote in favor of the legislation.

Mr. HATCH. Mr. President, I join in the remarks of the distinguished Senator from Massachusetts. This is an important bill. I want to personally pay tribute to the chairman and the ranking minority member of this subcommittee for the energetic and good work they have done on this bill. It has been very difficult to put together in a way that is acceptable to a vast majority of the Members of this body. So I am very happy with the cooperative effort of this body of consider this bill to resolve a variety of very, very tough issues. I think the speed with which we have passed this bill speaks well for the Education Subcommittee and its staff. It has been a bipartisan effort for the most part, as I think most our education bills have been, and it is one I think the administration can support.

We are also in an excellent position now as we move toward conference on this bill. That is important, too. It is a good bill and one that will benefit students all over the country, and certainly in my home State of Utah, while ensuring tax dollars are put to their best use.

Again I would like to thank Senators KASSEBAUM, KENNEDY, PELL, Secretary Alexander, and their staffs for their cooperation and leadership in this matter, and I personally would like to thank the members of my staff who have worked so long and diligently on this matter, and express to them how much I appreciate the long hours and the great efforts that they have made in helping to bring about this bill.

Mr. President, I think we are ready for final passage.

FREEDOM OF SPEECH ON COLLEGE CAMPUSES

Mr. CRAIG. Would the chairman yield to enter into a colloquy concerning the subject of freedom of speech on college campuses?

Mr. KENNEDY. I yield to the Senator from Idaho for that purpose.

Mr. CRAIG. As my colleague knows, I have introduced legislation aimed at preventing Federal education funds from being used to suppress student speech. I appreciated having the chairman's cooperation during the debate on S. 2, when the first half of my bill was accepted by the Senate as an amendment. That amendment expressed the sense of Congress in opposition to restrictions on student freedom of speech.

I had intended to offer the remaining portion of my bill—the enforcement section—as an amendment to the higher education reauthorization bill. However, it is my understanding that the committee has decided to hold a hearing on the subject of university codes of conduct or other similar restrictions on students. Is that true?

Mr. KENNEDY. The Senator is correct. Given the alarming number of incidents of racial and sexual harassment that have occurred over the past few years at our Nation's colleges and universities, the committee has decided to hold a hearing to examine the extent of the problem and various approaches these institutions have taken to combat offensive conduct.

The committee is particularly concerned that institutions of higher education be able to maintain an atmosphere which advances knowledge, assists in the search for truth, and fosters an environment conducive to teaching, learning, and reasoned discourse.

Mr. CRAIG. And is it true that the committee expects to hold this hearing before the end of the school year—that is, in April or May of this year, and allow the minority to name a fair portion of the witnesses?

Mr. KENNEDY. The Senator is correct.

Mr. CRAIG. I thank the chairman and commend him for pursuing this very troubling issue. Since information resulting from the hearing may suggest changes needed in my freedom of speech on campus bill, I think it would be premature for me to offer the enforcement section of the bill as an amendment at this time. I am withholding the amendment and look forward to working with the chairman and members of his committee toward this important and timely hearing.

DEFERMENTS FOR DENTAL RESIDENTS

Mr. THURMOND. I understand that S. 1150, the Higher Education Amendment of 1991 includes changes in deferments for medical residents.

Mr. KENNEDY. The Senator is correct.

Mr. THURMOND. Under current law and regulations, for purposes of obtaining a deferment during a residency, a distinction is made between dental residents on the one hand, and medical residents on the other. Dental residents who are classified by their institutions as students, can obtain an in-school deferment for certain title IV student loans during the length of their residency. The reasons for treating them as students are that many dental residents pay tuition during their residencies and receive little or no stipend.

In a recent sampling of 13 States, it was found that 70 percent of the dental residents either: First, pay tuition and receive no stipend; or second, pay tuition and receive a small stipend. Tuition averaged $10,000 per year for the 1990–91 academic year and the net stipend available to first year residents after payment of tuition averaged $8,291. Due to these costs and because dental residency training is not required for licensure in most States, only about 60 percent of graduating students do residency training. Most of the residency programs are 2 years or less in length.

Is it the Senator's understanding that S. 1150 does not change current law or regulations with regard to dental residents' eligibility for in-school deferments?

Mr. KENNEDY. The Senator is correct. No change concerning dental residents' eligibility for an in-school deferment under title IV student loan programs has been made.

Mr. THURMOND. I appreciate the Senator's clarification.

SHORT-TERM PROGRAMS

Mr. KOHL. Mr. President, I would like to take this opportunity to express my concerns regarding discontinuing Federal financial aid for short-term programs, such as truck driver training programs, beautician colleges, and so on. Throughout the process of reauthorizing the Higher Education Act, there has been a great deal of concern and interest placed on improving the Federal financial aid opportunities for lower and middle-income students and their families. I praise the chairman of the Education Subcommittee, Senator PELL, and the chair of the full Labor Committee, Senator KENNEDY, as well as the Senators from Kansas and Utah for their diligent work in this respect and for their work on the bill in total.

While I am appreciative of the lengths to which the committee has gone to extend financial aid to the lower and middle-income populations, I am concerned about excluding short-term programs. Mr. President, lower and middle-income students are exactly the populations served by short-term programs. Short-term programs serve at-risk students who need the help more than many of the students who attend longer programs. Short-term programs offer training and retraining for the unemployed and underemployed, thereby providing that person with an employable skill which translates into a paying job.

I realize that provisions to exclude short-term programs from Federal financial aid are meant to avoid the fraud and abuse that can occur in such programs. And that is an effort I endorse. However, I argue that we cannot and should not punish those who are providing needed services to needy populations just because of a few bad apples. In addition, most of the schools which are guilty of fraud and abuse of the financial aid system have already gone out of business and the few that remain will be put out of business by reforms already enacted.

Others argue that short-term programs generally have high default rates. While this may be true, Mr. President, I have found that the default rates of various technical colleges are equally high. This may suggest that the default rates are a result of the population these schools are serving rather than the schools. Also, I need to again point out that the existing reforms regarding excessive default rates, in addition to the more stringent measures in this bill will substantially address the issues of willful fraud and abuse. If a school has a default rate in excess of 25 percent, they are not eligible for Federal financial aid. Before we totally turn our backs on these types of programs, we ought to make sure that we have addressed the myriad of problems in the collection process itself and that States have enforced stringent licensing and regulatory requirements. If there is anything short of denying aid to students of these programs, I think that ought to be pursued.

Mr. President, I simply ask that this issue be more fully explored by the House of Representatives and the conference committee on this legislation. The reality is that we do need truck drivers and beauticians. We need clerical workers and travel agents, welders, and air-conditioning repairpersons. We need food service and hospitality personnel and airline technicians. Mr. President, I think we need to fund short-term programs in a manner that assures integrity and sound financial management, but also ensures access to these programs by low-income students. I look forward to working with my colleagues to strike that balance.

PARTNERSHIP FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

Mr. KOHL. Mr. President, I rise briefly to thank my colleagues for the partnership for economic development and urban community services provisions included in this bill.

The grants awarded through this program will enable institutions to become stronger partners in community planning and strategy implementation.

Particularly for those universities in inner city urban areas, crime has become a serious threat. Often it is a mirror of more enigmatic problems of poverty, unemployment, and substance abuse. Increasingly, colleges and universities are seeking to become part of the solution to those problems, offering their resources to the community in an effort to protect their mutual interests. This grant program will help them in that effort.

Last October, Jim Sankovtiz, vice president for governmental and community affairs at Marquette University testified before the House Committee on Banking, Finance, and Urban Affairs. His statement, which follows my remarks, speaks eloquently of the challenges facing college campuses in metropolitan areas.

Rev. Albert J. DiUlio, president of Marquette, has gone beyond the simplistic response of increasing campus security. He has sought not to build a wall around the university, but to tear down the walls within the community. He has gone out to the Milwaukee business and political communities, committed the university to millions of dollars in community rehabilitation and redevelopment and has been joined by several corporations in his quest.

The community partnership provisions in the higher education reauthorization provide an opportunity for Federal support of Marquette's efforts in Milwaukee. I want to thank my colleague from Oregon, Senator HATFIELD, for his vision and leadership in this regard. I look forward to working with him and others to secure this authorization and to vigorously pursue funding for the grant program.

I ask unanimous consent that Jim Sankovitz's testimony, a summary of the Marquette plan, as well as the texts of the Milwaukee Journal and Sentinel editorials and articles be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF JAMES L. SANKOVITZ, VICE PRESIDENT FOR GOVERNMENTAL AND COMMUNITY AFFAIRS, MARQUETTE UNIVERSITY, OCTOBER 28, 1991

Mr. Chairman and Members of the Subcommittee. My name is James L. Sankovitz, vice president for governmental and community affairs at Marquette University, in Milwaukee, WI. I appreciate very much your invitation to testify before you this morning on the topic of the future of this Nation's urban institutions of higher education. I am particularly pleased to participate with representatives of UAB, for which we have a great deal of respect and which we believe shares a mutual concern for the type of campus we jointly represent. Whether state supported or independently-sponsored, the collegiate campuses located in urban settings throughout this Nation face unusually complicated futures not because of their fundamental mission, but for reasons of location and metropolitan expectations.

Marquette's involvement in this hearing and in similar meetings and discussions the past several months is a direct result of our seeking Congressional attention for the future of campuses facing unusual challenges because of their physical environment and academic mission. A snapshot description of urban campuses would include, in most cases, fairly large to quite sizable enterprises carrying on a widely ranging variety of campus as well as community-related activities, providing services to a host of agencies and populations much more diverse than most collegiate campuses. At the same time, most of these institutions are surrounded by neighborhoods which not only relate to the business of metropolitan centers but also are physically much in decline. Marquette is located in a typical setting. It has some not well-defined boundaries that spill over into pockets of socially and economically needy people, the majority of whom need help because they are relatively poor, represent the very young or much older populations more so than do their suburban counterparts, and contain dense concentrations of minority citizens. It is a downtown campus.

It is in these typical settings that colleges and universities have come to be regarded as holding the potential to offer more social service and community interaction than do campuses located in more remote and stable environments. So, it comes as no surprise that campuses such as Alabama-Birmingham and Marquette often—and with increasing frequency—are called upon to focus more activity, resources and ambition on the surrounding reality. In precious few instances can this practice of higher education be described as an ivy-clad exercise. The fundamental mission of higher education of these campuses is every bit as much focused on teaching, scholarly investigation and institutional service as are other campuses not as intensely conscious of the surrounding community, but the urban campus routinely caters to the immediate and practical issues that dictate day-to-day life.

A quick way to illustrate this somewhat different mission is to cite a very positive factor. Most medical centers thrive in urban settings because a related good is adequate patient access. That is true for Alabama-Birmingham's medical activities as it is for Marquette's dental program, particularly as both operate extensive clinical programs.

However, while such outreach and natural relationships of campus to community have thrived in some education and health care delivery contexts, the same is not so abundantly true for other academic disciplines. Would the same be so for our sociologists, linguists, philosophers, physical scientists and the like—those teachers and students who, by the very nature of their pursuits, often educate or are educated in some isolation from what is happening just across the street from the campus boundary—many of the rigors of life might be addressed much more directly in the Academy's search for new knowledge and better applications.

We have known about the somewhat different conditions facing urban campuses for years and there has been substantial progress made in knitting campus potential to community needs. But the recent acceleration of decay and deterioration in our Nation's central cities prompts a very testy question. Where will the students of tomorrow elect to enroll?

Higher education has survived despite a spate of advice by well-meaning but often poorly-informed publications which annually proclaim what's the "best buy" or the "leading" or the "most stable" campus for next year's wave of new enrollees. Now, in place of the "which is best" advisements has come a different sort of counsel—what's the "safest" place?

The deterioration I mentioned as a common ingredient of the neighborhoods surrounding urban campuses often means, simply, crime infestation, drug culture, physical and financial collapse, and one set of people often preying on another set. Thus it is that urban campuses have had to create yet another service—police units, sometimes called public safety or security forces. This should not come as a surprise. After all, the collegiate campus once firmly rooted in teaching or research has, over time, come to also operate hotels, restaurants, banks, athletic facilities, consulting tanks, etc. Adding a police force isn't that much of a stretch once the pattern was established. And, students and their parents have come to expect security provisions just as much as well-equipped classrooms.

But, at what cost? Marquette employs about six dozen public safety personnel to look after the security of an 80 acre campus abutting downtown Milwaukee, at an annual operating cost of $1.5 million. That might strike some people as not a great deal of money to promise safety, especially in an annual operating budget of $135 million (which is small when compared to the scope of Alabama-Birmingham) but what would that amount buy in terms of traditional campus expenditures? About 25,000 new library books a year, or about 165 undergraduate tuitions at our present tuition rate of $9,000, or some 30 professional lines—hardly trifling for a tuition and gift-dependent campus. But, we have no alternative.

The passage last year of the Student-Right-to-Know and Campus Security Act now requires campuses to report crime. When you have a campus through which the City's downtown streets run and for which there are more nearby off-campus housing quarters than there are on campus, the crime statistics reporting systems are much more telling reports for the non-campus environment and neighborhoods than they are for the campus itself. But it is the campus that bears the brunt of defending the notoriety of incidents, especially when prospective enrollment is at stake.

Crime can happen anywhere. It was a tragic coincidence that a deranged serial murderer chose to exercise his lot close to the Marquette campus last summer, thus calling to unforgetting minds the five separate killings of Marquette students in off-campus incidents the previous six years. The Marquette campus is no less safe now than it was before that awful history, but the relationship of the University to the cruel consequences of life nearby will taint descriptions of Marquette for a long time.

These incidents have caused a reasonable longrange planning question. That is, can Marquette and the campuses like it continue to do business as usual, living side-by-side with some unattractive neighborhoods and still reach out into the community to share its educational mission with the community in general, or should it wall itself off from life?

Marquette, like a good number of other urban campuses nationwide, persists in the ambition that reaching out, sharing even more of its educational resources with the surrounding community, is the better course. We have our critics, though, who say our future is dictated by creating distance between campus and city.

There is already a goodly amount of campus/community involvement. Our students tutor youngsters in nearby schools. Our health science units daily obtain educational good from practice in clinics throughout the city. Internships provide valuable real life experience for students. Engineers create tot lots for neighborhoods and volunteer for Habitat for Humanity projects. For more intensive and lifelong experiences, students travel to Appalachia to lend healthy hands and in the intervening months collect and deliver food and clothing for daily assistance to needy neighbors.

These are not unusual examples. Most campuses operate at least some of these activities; perhaps not in as concentrated doses as might occur on the urban campus but they are there nonetheless.

The major point is, given the threatened and threatening circumstances of urban, central city neighborhoods, collegiate campuses will be asked to take on even more responsibilities in the future. And, at a time when the resources of even the most financially secure colleges and universities are stretched to the fullest, it will be much more difficult for most to do a great deal more.

What would we do if there were more resources? A few examples should suffice. We have a good legal clinic that serves the needs of citizens looking for help but can't afford regular legal advice. Put those students and faculty in neighborhood storefronts, rather than operate them on a campus that many individuals find confusing. Let the journalism students create neighborhood papers or have them turn their creativity toward local cable television opportunities to staff a neighborhood, dedicated channel. Attack the absentee landlord syndrome by creating new housing value and providing walk-to-work incentives that lead to new neighborhood investment. Put education faculty regularly and routinely in the neighborhood schools and create a regular flow of elementary, middle and high school students and teachers between the schools and the collegiate campuses. Build cogenerational housing so that one age group—old or young—doesn't suffer isolation, but builds understanding. Build better links between and among security forces and local police departments so that the much-bandied concept of "community-based policing" can have real experiment locales to perfect eradication of the "cops versus us" mentalities that sour many neighborhoods.

The list of possibilities is endless and each component is not necessarily a funding blockbuster.

These are the kinds of interactions which the federal government had in mind when the original Title XI language was added to the Higher Education Act more than a decade ago. But that became words only when the intent was not deemed sufficiently important to attract appropriations. The lack of funding for Title XI is nothing short of the adage—do as I say, not as I do.

Our message this morning is quite simple. Members of Congress are fully aware of the pressures mounting on central and inner cities and most Members want to do something about the situation before it becomes a crisis without solution. But, time is running and Members ought to consider that not only will urban neighborhoods fail completely if no substantial relief is provided, but the urban colleges and universities that are part and parcel of this evolution just may go the same way—at least those campuses which strive to be part of the solution and not place moats around them, to separate education from the realities of life.

The early drafts of the House reauthorization of the Higher Education Act have shifted the standalone Title XI ambitions into a new, comprehensive Title I, separating the campus/community ambitions into a set of objectives which appear to contain less ambitious expectations. It would be a shame if, when there finally is growing appreciation for the unusual characteristics of urban campuses, the Congress would send a message that less significant achievement is desired.

Perhaps the Higher Education Act alone is not the appropriate route to address the urban campus problems. Perhaps it will require a meshing of ambitions as between several federal agencies, not just Education. Perhaps a consolidation of effort, if not jurisdiction, as between Education, HUD, Banking and Urban Affairs and the various research agencies is the only reasonable way to get at this problem. If that's so, so be it. The federal government has not been lacking in solving problems when there is a concerted push to solve a problem. I am prejudiced, no question. But, in my mind the shrill cry of police sirens in our neighborhoods is no less a clarion cry than Sputnik's "beep beep" of the late fifties, and we all know how the nation rallied to that threat.

The mechanics should be no problem. The problem is this: Are the urban campuses worthy of concentrated attention and funding? Are they today's counterpart to the historic land grant initiative? Do they deserve the attention given similarly to the sea grant institution ambitions? Does the Congress realize that urban campuses hold a powerful promise for solutions to the inner city problems that beset metropolitan communities throughout the nation?

Critics of what Marquette has proposed are in ample supply. We have asked to become a demonstration project campus, to use $4 million of federal funding annually over five years to build a program of urban problem-solving using a collegiate campus as the central focus and the neighborhood and downtown as equal beneficiaries. We set the dollar goal high deliberately but in accordance with what we thought was needed to create an incentive which could be used to attract and leverage the partnerships of other entities, public and private.

More recently the criticism has turned toward the exclusivity of what we sought, some people thinking it would be unseemly for just one campus to have an opportunity to address what is a national problem. If that objection is an obstacle, consider doing the same at a variety of urban campus locations and make the experiment a truly national effort. If there are ways that campus and community can be knit beneficially in Milwaukee, why not try the same approaches in, say, Watts, Chicago, Birmingham, Boston, Morningside Heights or any other urban location that has at least one urban campus that is willing to join a network of collegiate ambitions to test the usefulness of amending their educational missions to address globally the local urban problems. But, make it a legitimate process. Gather together those colleges and universities with the ability and desire to mount special urban programs, judge what are the reputable methods of such concentrations of problem-solving and create the score card that Congress will demand as part of the price to undertake the effort. If something tried in Birmingham was a splendid success but flopped terribly in Milwaukee, why? If something tried in Boston attracted matching private support and didn't in Los Angeles, again, why? If the City of New Orleans benefited from the approach in which Providence failed, again, why?

Marquette is not only eager to make the urban issues as related to higher education a quest of its own, but it is just as eager to rally others—cities and campuses—to do the same. We do that knowing full well that there have been cities, campuses and associations of like communities and institutions that have labored long and hard to create just such a Congressional sensitivity, but with less than widespread success. Perhaps our major contribution is nothing more than a fresh voice. But we'd like one thing to be known—it's high time that the urban campus obtain justified respect for what it's about and for the magnitude of what remains to be done.

We appreciate very much your invitation to express these thoughts at this hearing and hope that you will accept our contention that the Congress should address urban education more forcefully in the future as a genuinely, national issue.

PORTRAIT: A CAMPUS BATTLES TO RID ITS NEIGHBORHOOD OF CRIME

(By Katherine S. Mangan)

The Rev. Albert J. DiUlio had been president of Marquette University for only a year when reports emerged that a serial killer living within a mile of the campus had confessed to murdering and dismembering 17 men.

As fear spread through Milwaukee, Father DiUlio was determined not to allow a siege mentality to take over the campus. The murders by Jeffrey L. Dahmer, like the off-campus killings of five Marquette students over the last six years, were to Father DiUlio tragic reminders of the need to reach out to the community, not to build more walls.

So instead of pouring more money into campus security, Father DiUlio forged ahead with his ambitious proposal, called the "Marquette Plan," to help rid the declining neighborhood of crime. "I do not think walling the campus is an appropriate response for a major university," Father DiUlio says. "It reinforces the concept of universities as ivory towers." Universities that reap the benefits of urban settings have a responsibility to help communities address their problems, he believes.

LEADING ROLE IN CRIME FIGHT

The Marquette Plan calls for the 127-year-old Jesuit university to play a leading role in combating some of the root causes of crime in Milwaukee. The university would work to stimulate economic growth, refurbish dilapidated housing, and offer a wide range of social services, including legal assistance, drug and alcohol counseling, and dropout-prevention programs. Zoning laws would be reassessed to encourage long-term residence by existing community members as well as by Marquette faculty and staff members.

Marquette officials have asked the federal government for $4 million a year for the next five years to make the plan a reality. Campus officials acknowledge that their budget request may encounter resistance, and they say they're ready to turn to private sources for funds if need be.

The Milwaukee Journal, in an editorial last spring, called the Marquette Plan a welcome change for a university that had been viewed as detached from the community. "Aloofness has been an unfortunate part of Marquette's image," the editorial stated. "Often a psychological moat seemed to circle the campus—an impression deepened three years ago by the callousness that the university appeared to display toward permanent residents of the downtown YMCA when MU took over the facility for student housing."

Urban universities will have a difficult time attracting students if they cannot offer reasonable assurances that their campuses are safe, says Father DiUlio. But such assurances, he says, aren't enough.

"I believe that rather than simply informing students about rising crime rates on and near their campuses, urban universities should utilize their significant academic, human, and financial resources, in partnership with their communities, to actually reduce those rates." Father DiUlio told members of Congress during a hearing in August. "The Marquette Plan will bring students, faculty, and staff together with members of our neighborhood community in a coordinated effort to address not only the issue of crime on and near our campus, but also the root causes of that crime."

While many urban institutions have taken steps to try to improve the neighborhoods around their campuses. Marquette's plan is one of the most for reaching. "It's a very ambitious and very impressive project," says Jim Harrison, president of the Association of Urban Universities. While other urban universities have launched community-development projects. "I don't know any others that are quite this ambitious," he adds.

SEAT ON POLICE PANEL

Father DiUlio's interest in reducing crime in Milwaukee promoted the city's mayor, John O. Norquest, to ask him to head a panel last summer to study relations between the city's police department and its citizens. The commission, which reported its findings last month, grew out of anger over the way the police had handled the Dahmer case. Before Mr. Dahmer was arrested, police responded to a complaint about a disturbance at his apartment but left the area after Mr. Dahmer told them that he and a young Laotian man were homosexual lovers. Mr. Dahmer has since admitted murdering the Laotian youth.

Many critics charged that the case was indicative of the police department's tendency to ignore or minimize crimes when the victims are members of minority groups.

Among other things, the panel urged police to treat all citizens with respect and dignity, regardless of their race or sexual preference. It also called on police to make more of an effort to get to know the neighborhoods they patrol. The commission reviewed thousands of pages of testimony and transcripts from public hearings and private meetings before issuing its findings.

Playing a key role on the panel reinforced Father DiUlio's philosophy that urban universities cannot seal themselves off. He says he hopes the Marquette Plan could serve as a national model for other urban institutions in that regard.

"The Marquette Plan says a lot about urban universities in America today," says Father DiUlio, "It's taking the best that both cities and universities have and putting them together to solve problems."

CAMPUS CIRCLE PROJECT

(1) What is the Campus Circle Project?

Campus Circle is a dynamic, comprehensive approach to meeting the challenges of our urban environment. In addition to the Marquette Neighborhood Partnership Plan, it seeks to provide:

Affordable Family Housing for neighborhood residents through rehabing existing housing and new construction

Walk-to-work and retirement housing for area employees

Off-campus student housing, both rehab and new

Acquisition, rehab and resale of properties which do not contribute to a positive neighborhood environment

Commercial development, both upgraded and new

(2) How will it work?

We will develop a Not-For-Profit corporation to use grants and low-interest, long-term loans for housing and other related activities. For example, the Not-For-Profit could act as a general partner in an affordable housing effort. Such an approach would allow the corporation to attract entities like Wisconsin Energy or Sinai-Samaritan to join Marquette.

We will also establish a For-Profit corporation to use seed capital and conventional financing for commercial development such as new businesses in our community.

(3) Will the Campus Circle Project use Marquette operating funds?

The monies to fund this project will not come from operational or annual budget funds. Designated reserve funds and other assets will provide the seed capital for the project.

(4) How much will the Campus Circle Project cost?

The Board of Trustees has authorized up to $9 million from Marquette's investment resources to fund this project. In addition, investments by other businesses in the area could be leveraged to total more than $100 million for housing and commercial development of the life of the Project.

(5) Is the Campus Circle Project part of the Sasaki Master Plan?

No, Sasaki deals with educational facilities, recreation and parking on and around the campus. This is a neighborhood initiative. There will, however, be a coordinated effort between Sasaki and Campus Circle.

(6) What's the difference between the Marquette Neighborhood Partnership Plan and Campus Circle?

The Marquette Neighborhood Partnership Plan is the $20 million federal initiative announced this part summer. It is part of the Campus Circle Project, but does not include the two additional elements of housing and commercial ventures which will be undertaken by the Not-For-Profit and For-Profit corporations.

(7) If MU does not receive the $20 million dollars from the federal government, will the University still go ahead with the Campus Circle Project?

We will proceed with the For-Profit and Not-For-Profit corporations to establish housing and commercial projects. However, The Marquette Plan is a significant component in our neighborhood's success.

(8) Is MU going to purchase more land and expand the campus?

The two corporations may acquire land to achieve their goals, but the land will not be used to expand the campus.

(9) What effect will this have on the continuing crime problems in the surrounding area?

The Campus Circle Project is a long-term effort to get at the root causes of crime. Short-term solutions are being worked on with the Milwaukee Police Department and the City. Other short-term efforts will be announced in the near future.

(10) What is the goal for completion and sequence of events?

This project will begin immediately and it will be an ongoing effort. Our first tasks are to continue the community discussions, initiate partnerships with area businesses, develop the two corporations and establish priority projects.

(11) Who is in charge of directing the project?

Marquette has engaged Patrick LeSage, a principal in the Mooney LeSage Group, Brookfield, to direct the Campus Circle Project. Pat has extensive experience in real estate and land development and in forming public/private partnerships for economic and community development.

(12) How will we know the status of the project?

Watch the Marquette Tribune and News & Views. We may also have special communiques to announce new developments.

(13) Has the Campus Circle Project been reviewed and approved by the Trustees of Marquette University?

The Board of Trustees reviewed the plan at their December 4th meeting and gave their approval to proceed with the Campus Circle Project.

(14) How has Marquette worked with the City of Milwaukee on the Campus Circle Project?

Input and support from the Mayor's office and City Departments has been invaluable during the development of the Campus Circle Project. A close working relationship has been established and will continue through implementation.

(15) What is the economic impact of Marquette University on the City of Milwaukee?

The annual impact of the University and its related activities on the local economy totals over $360 million. Marquette has 11,500 students and employs approximately 2,000.

[From the Milwaukee Journal, Nov. 14, 1991]

STAY THE COURSE ON MARQUETTE SAFETY

A brawl gets out of hand, and two Marquette University students lie in hospital beds with knife wounds. This incident is tragic—but it is no reason for panic over safety on and near the MU campus. University officials have already developed a far-sighted game plan for improving campus security; they must stay the course.

The immediate case doesn't fit the pattern that has caused concern at MU in recent years; the spillage of neighborhood crime onto student life. The brawl was between college students and could have broken out near off-campus housing just about anywhere. Alcohol appears to have played a leading role on both sides. In short, blame student misbehavior, not neighborhood ills.

Still, the episode has heightened concern about student safety. In partial response, Marquette is seeking a change in state law to certify its security department as a police force, with the power to carry guns and to make arrests. In light of increased dangers, the request ought to be honored.

The enhanced might of safety officers would entail additional responsibility on MU's part, however. To help deal with the low-income, culturally diverse neighborhood that borders the campus, sensitivity training would be in order. Also, MU must ensure that its safety force is sufficiently racially integrated.

The city, too, has a role to play—a fact it apparently recognizes. In a gesture of concern, Mayor John Norquist strolled through the Marquette area the other day with Father Albert DiUlio, MU's president. MU wants the boundary of the Police Department's 1st District moved west, so that the campus won't be so split between two districts—a sensible request that Police Chief Philip Arreola wisely intends to honor.

Marquette has already mapped out a plan for improved safety, combining nuts-and-bolts security measures with visionary effort, to improve the neighborhood. The university mustn't be spooked into abandoning that promising route to true security.

[From the Milwaukee Journal, Dec. 11, 1991]

MU, FIRMS TO JOIN FORCES IN IMPROVING NEIGHBORHOOD

(By Fran Bauer and Marilyn Marchione)

Marquette University officials were expected to announce Wednesday that they will join forces with several corporations to redevelop the campus neighborhood in an effort to make both the school and the area safer.

According to sources, a new redevelopment corporation will be formed by Marquette and its business partners, including Catholic Knights Insurance Co., SinaiSamaritan Medical Center, Wisconsin Bell and Wisconsin Electric Power Co.

The corporations and Marquette will invest an estimated $20 million to revitalize the area, according to the plan, sources said.

The new redevelopment corporation will buy and rehabilitate deteriorated housing surrounding the campus as well as some taverns that have become trouble spots for students. Once rehabilitated, the properties would be operated by a new property management firm.

The plan will be done in stages and will involve the Avenues West area, bounded by Interstate 43 and 94, N. 27th St. and W. Highland Ave.

The Marquette campus is bounded by N. 11th and N. 17th Sts. and W. Clybourn and W. Wells Sts., and is generally bisected by W. Wisconsin Ave.

As part of its long-range planning, Marquette has discussed the possibility of eventually closing W. Wisconsin Ave., through the campus and seeking ways to tie the campus more directly to downtown Milwaukee.

The plan is aimed at helping to unify the campus and address security concerns that have mushroomed as the area has grown more impoverished and crime-ridden. In the past six years, five Marquette students have been killed off campus.

"It's an exciting approach to solving a crime problem," said one businessman who was briefed on the plans.

"Rather than building walls around the campus," Marquette wants to reach out to make the entire area safer, said the businessman, who requested anonymity.

"All urban campuses in America have a crime problem, and Marquette is going to take dramatic steps" to address it in Milwaukee, the businessman said.

Patrick LeSage, a real estate and development expert, has been hired by the university to work on the project.

"They've done their homework," the businessman said.

TIE-IN WITH FACILITIES STUDY

The plans will dovetail with a facilities study by the university.

In October, a Massachusetts consultant hired by Marquette, Sasaki Associates Inc., told the university's Executive Senate that the campus needed a sense of unity and a center, rather than being comprised of a series of disjointed buildings throughout a number of city blocks in the sprawling campus.

The consultant's plan involved studying building security, green space, accessibility of facilities and ways of restoring a sense of being on a campus. The campus needs entry points that are more readily identifiable, the consultant said.

Much of the housing and commercial rehabilitation work will be done by the First Wisconsin Community Investment Corp., an arm of the First Wisconsin National Bank that was formed in 1986.

First Wisconsin is currently redeveloping the former St. Anthony's Family Hospital, at N. 27th and W. Wells Sts., into county medical health facilities and shops.

First Wisconsin's development arm has rehabilitated some housing in the neighborhood for the Good Samaritan campus of the medical center and also is to renovate apartments on W. Wells St., between N. 29th and N. 32nd Sts., as part of an extensive plan to improve the near West Side.

UNIVERSITY APPLIED FOR GRANT

Mayor John O. Norquist's staff would not comment on Marquette's plans.

City Engineer John Erickson said Wednesday that he was aware that Marquette was studying facilities plans but said he hadn't been shown the plans that the university was set to announce.

"I know in the past they've been interested in improving pedestrian access across Wisconsin Ave.," he said.

In July, Marquette applied for a $20 million, five-year federal grant to develop a project to reduce violent crime and improve the lives of residents near its campus. Congress has yet to act on the bill that would award the grant.

[From the Milwaukee Sentinal, Dec. 13, 1991]

OPENING DOORS: MARQUETTE BRINGS HOPE TO WEST SIDE

Like longtime homeowners who, faced with a neighborhood on the skids, invest time and resources in turning things around, Marquette University has launched an ambitious plan to improve the quality of life on the West Side.

Whether intentionally or not, Marquette has taken its cue from successful neighborhood associations, not only in Milwaukee but around the country.

One of the first things these groups do is to re-introduce residents to one another and convince them of their mutual interests.

As part of Marquette's plan to reduce crime, improve housing and develop new businesses in the neighborhood around the campus, university officials have already recruited corporations that have complexes or offices in the area.

They include Wisconsin Bell, Catholic Knights Insurance Society, Wisconsin Energy Corp. and Aurora Health Care, which operates Sinai Samaritan Medical Center.

By also reaching out to residents, schools and smaller businessmen with the promise of a better environment in which to live and work, Marquette is wisely putting into place the human infrastructure that will help guarantee success for what is being called the Campus Circle project.

As University President Father Albert J. DiUlio said, "We do not live in isolation."

Recognizing that talk is cheap, Marquette is opening its own checkbook, pledging $9 million in reserve and development funds to the project. The school also is seeking contributions from corporations and foundations, in addition to its previously-announced quest for $20 million in federal money to fight crime and other neighborhood problems.

Among other things, the Campus Circle plan calls for developing new neighborhood businesses and improving existing ones; building new homes and repairing existing buildings to provide affordable family housing; and buying, repairing and selling properties that hurt the neighborhood, such as those ubiquitous drug houses.

Marquette, obviously, has an important stake in this project on a sad but very personal level. Five Marquette students have been killed in separate off-campus incidents in the past six years.

To its credit, however, Marquette realizes the best way to make its streets safe again is not to double-bolt doors, but to throw them open to new and imaginative ideas.

[From the Milwaukee Journal, Dec. 15, 1991]

FINE PARTNERSHIP TO RESCUE MU'S NEIGHBORHOOD

Few problems are as debilitating as crime; yet Marquette University is refusing to succumb. Instead, that institution has been brilliantly devising strategies for fighting back. The latest is the formation of a partnership with nearby institutions for the sake of revitalizing the neighborhood and making it safer.

The consortium's plans include turning deteriorated housing and crime nests into more livable space, encouraging neighborhood-oriented businesses to move in, and marketing housing to employes and retirees of the partner institutions.

The partners—the Wisconsin Energy Corp., Wisconsin Bell, Catholic Knights Insurance Co., and SinaiSamaritan Medical Center, as well as MU—wisely realize they can't wall themselves off from their poor neighborhood. The better course is to put the institutions' resources to work to improve the area.

It's a refreshing attitude for Marquette, which in the past was too aloof from its surroundings, seeming to look to its neighborhood only for the sake of campus expansion. This estrangement can be blamed in part for the present state of affairs, with neighborhood crime spilling onto student life. But it's not too late for corrective action.

By bringing their own present and retired workers back into the area, the new partners can help make it what a close-to-downtown neighborhood ought to be: a vibrant mix of all sorts of people, from low-income to well-to-do.

True, the institutions aren't chiefly responsible for the poverty that's now wreaking so much havoc. Outside forces, including lack of jobs, are mostly to blame. Still, Marquette is showing how major institutions can counter those forces to improve a neighborhood and help themselves at the same time.

Mr. DURENBERGER. Mr. President, I rise as we conclude this debate to commend my distinguished colleagues who have assembled this bill over the last 2 years, the chairmen and ranking members of the Senate Labor Committee and its Subcommittee on Education.

We have had our differences on several of the important issues raised by this legislation. But, drafting this bill, and bringing it to the floor, has been a bipartisan endeavor. We are all indebted to our colleagues for the hours and hours of hard work that has brought us to this concluding point in the debate.

I also rise to reflect briefly on the significance of what we are doing this legislation, and to place on the record concerns I have about several important issues in higher education in this country that must remain the focus of our attention.

As I have stated many times before, I entered this debate with some deep seated biases, as one who grew up in a higher education community, as the son of two teachers, as the parent of four sons now in—or recently graduated from—college, as a private college trustee, as a member of the committee that drafted this bill, and as a Senator from a State that cares more about education than any other public service.

That interest is reflected in the very thoughtful input on this legislation I've received from thousands of Minnesotans over the past 15 months.

In hearings, forums, letters, and meetings all over the State, I've heard from both the consumers and the providers of higher education in my State. And much of what I say here today about both the value and shortcomings of this legislation, Mr. President, come from the Minnesotans I represent.

This is a highly complex subject as our chairman and ranking members know so well. They've produced a 600-page bill that does everything from expanding library technology grants to improving the quality of teacher training.

Of course, the complex subject of student financial aid is at the very core of this legislation. And, I don't think any one of us would claim to be an expert in all the nuances of the cost of attendance or expected family contribution of congressional needs analysis or many of the details and fine-print crammed into the 600-page bill we have before us.

What I do know is that this legislation represents two important realities.

First, it's never before been more important to get a high quality college education in America. Our lifetime incomes as individuals are measurably higher if we do. And, our productivity and output as a nation are absolutely dependent on the quality of education we all receive.

And, second, Mr. President, it's never before been more evident that Americans especially middle-income Americans are deeply worried that their kids won't be able to afford the same level and quality of education that many of us received, just one generation ago.

There's been a lot of talk this week—in this Chamber and in this town—about messages being send and received all across America.

One of those messages, Mr. President, is a deep-seated fear that college is again in danger of becoming the sole province of the totally subsidized poor and those few wealthy Americans who need no subsidies at all.

Just 2 months ago, a new national survey found the rising cost of higher education to be the third greatest fear of American families behind only crime and drugs and ahead of health care.

We're doing a number of things in this legislation to help address that fear. We need to, and are, increasing the maximum size and income eligibility limits for Pell grants. We need to, and are, increasing the maximum loan limits for the Stafford Program, and for other federally guaranteed student loan programs authorized by this legislation. We need to, and are, strengthening specially targeted programs aimed at low-income, at risk, and minority students. I support all those improvements in this legislation, Mr. President, and I wish fiscal realities would allow us to do more.

No one in this chamber can deny the need to place a higher priority on financing access to higher education for those who have suffered most from its rising cost.

I also appreciate the efforts of the managers of this legislation to improve the Stafford and other guaranteed student loan programs that are at the core of our Nation's commitment to higher education. I especially appreciate the efforts to make the current loan programs simpler, easier to administer, and less likely to result in default.

Having pointed out all those positive features of this legislation, Mr. President, I must admit that I am still disappointed that we are facing a 21st-century set of problems with a 1960's and 1970's set of student loan programs.

That's why, during the course of this debate, I had hoped to join with the chairman of our committee, with my distinguished colleagues from Illinois and New Jersey, to introduce an amendment offering new and better IDEA for paying for college.

Although we were not able to offer that amendment in the context of this reauthorization, I am confident that we will make significant strides in advancing the concept of income contingent direct loans through a different legislative vehicle within the next few weeks.

The amendment we are working on is based on legislation I first introduced last summer called IDEA, authored in the House of Representatives by Representative TOM PETRI from Wisconsin.

My distinguished colleague from Illinois and I then expanded on the IDEA proposed in legislation we introduced last fall. Our amendment sets up a new student loan program that has two essential features;

College loans available to students directly from the government, eliminating millions of dollars in administrative expense and red tape, and payments base on post-college income made through the IRS, potentially eliminating millions of dollars in defaults and vastly simplifying how loans get collected.

I realize these changes represent a radical departure from our current system of student loans. That's why our amendment would gradually make the IDEA loan program available, initially limiting participation to students attending a specific number of institution.

And that's why our amendment would leave in place our other current loan programs, also leaving a place the current in-school interest subsidies that lower and moderate income students now qualify for.

But, the concerns and realities about both cost and access that I mentioned just a moment ago, Mr. President, require that we do more than patch up our present programs.

To be blunt, Mr. President, I do not believe that the 21st century challenge we face in higher education can be met only by our current 1960's era system of student grants and loans: A system that's unnecessary bureaucratic and complex; a system that largely neglects the needs of middle-income students and their families; a system that spends billions of dollars a year on overhead and redtape; a system that's vulnerable to administrative and financial problems best documented by last year's collapse of the Higher Education Assistance Foundation [HEAF]; a system that's limiting institutional, career and family-related choices for a growing number of students, and a system that's burdening millions of students with inflexible loan payments and a growing level of debt that produced $3.9 billion in student loan defaults last year.

We can, and we must, do better. And, I'm looking forward to working with my colleagues in the Finance Committee to make sure we authorize and new direct income-contingent loan program in this session of Congress.

On a second issue I care deeply about, Mr. President, I am pleased, that we were able to reach agreement on my amendment to offer greater incentives and rewards for academic excellence, especially on the part of lower income students, through a merit-based $1,000 bonus scholarship for high achieving Pell grant recipients.

The $100 million authorization for excellence scholarships sends a strong signal to all Americans that we value outstanding academic achievement and we value sound preparation for college. I appreciate the chairman's willingness to accept my amendment, and I appreciate his commitment to not only expanding access to higher education for low-income students, but for also encouraging and rewarding academic excellence.

I'm also pleased, Mr. President, that we were able to reach agreement on the amendment I joined in cosponsoring with my colleague from Minnesota, Senator WELLSTONE. This amendment will protect the special case of 2-year medical programs in this country. Although there are not very many of these schools, the ones in existence provide a crucial service to the communities which their graduates serve.

One such program resides in Duluth, MN, at the Duluth campus of the University of Minnesota [UMD]. This unique medical school is making an exceptional effort to address the problem of the growing shortages of primary care doctors by specifically recruiting students who have demonstrated or expressed a special interest in family practice. The faculty at the Duluth campus is also carefully chosen for their emphasis on primary care. The 2-year program at UMD is designed as a preparatory program for students who will go on and finish medical school at the University of Minnesota.

Although the University of Minnesota also places an emphasis on rural and primary practice, students who attend the program at Duluth are even more likely to go into rural family medicine than their counterparts at the University of Minnesota; 56 percent of UMD students go into primary care medicine while 24.6 percent of University of Minnesota students eventually work in family practices. This compares to a national average of 7–8 percent of medical school students entering primary care. As these figures demonstrate, the 2-year program at Duluth is an invaluable source of primary care and rural practitioners in the State.

In the past, the Public health Service Act has supported this program and others like it. This year's reauthorization however, does not include money for these programs. The amendment at hand will reauthorize $316,203 for the continuation of this worthwhile program and others like it.

As a Minnesota representative, I am proud of the many valuable contributions my State has made to the medical community in general and especially to the problem of primary care shortages. Although Minnesota has large rural regions, many States can benefit from our unique efforts to attract and retain young primary care and rural doctors.

Finally, Mr. President, let me take a few moments to briefly discuss four important issues that I believe need to remain at the forefront of this Nation's higher education agenda, especially as we prepare to enter the 21st century. The first of those issues is making sure that we recognize and support the growing role of telecommunications technology in delivering college-level courses. That recognition is reflected, in part in the definition of correspondence schools included in the committee substitute that excludes otherwise eligible institutions that offer associate, bachelors and graduate degrees from eligibility prohibitions otherwise placed on correspondence schools. And, I wholeheartedly associate myself with the colloquy on this subject entered into by our distinguished colleagues from Massachusetts and Oregon regarding a commitment to support current House language on courses delivered via telecommunications technology when this legislation goes to conference.

Leading educators in my own State of Minnesota have convinced me that the delivery of higher education is rapidly changing. I experienced that trend myself last year through a teleconference on student financial aid I conducted with students and financial aid directors from a dozen different schools.

We need to make sure the Federal financial aid programs keep up with and don't discourage those changes. And, we need to be particularly aware of the potential that new forms of telecommunications technology have for maintaining and improving access to quality education in rural areas and for an increasingly diverse student population that is more likely to have competing demands on their time at home and at work.

I believe a good principle to follow in meeting that challenge would be that our job is to make sure that financial aid goes to eligible students, eligible programs and eligible institutions. Outcomes ought to be used in determining the eligibility of programs and institutions. And, if those outcomes are being met, the method by which courses are offered shouldn't matter.

Second, we must continue to monitor the rising cost of educating and training physicians in this country, and make sure that the loss of interest deferment for medical students included in this bill does not discourage bright young Americans from choosing a career in primary care or rural medicine.

Again, I appreciate the changes made in the committee substitute that allow forebearance on both principal and interest payments to continue through the entire length of a medical residency. And, I believe that allowing HEAF loans to be included in loan consolidation will make debt management and cash flow much less onerous for individuals making the transition from relatively low paying residencies to higher paying practices once those residencies are completed.

But, obviously the loss of interest deferment during the first 2 years of a medical residency remains a serious concern to medical students. And, I believe we need to carefully monitor the impact of the loss of that interest subsidy on our ability to attract bright students to medicine—our ability to attract low income and minority students to medical schools, and especially our ability to attract students willing to serve in lower paying parts of the medical profession including primary care and rural practice.

A third important concern to me, Mr. President, is to make sure that Federal policy encourages growing private-sector support for scholarships, especially through community-based initiatives like the Dollars for Scholars Program based in my own State of Minnesota.

I am not one to urge a major new Federal bureaucracy designed to encourage programs of this nature which are now raising thousands of dollars in scholarships for students in more than 100 Minnesota communities. But, I believe it would be a good investment for the U.S. Department of Education to include encouragement and promotion of programs like Dollars for Scholars as part of a larger effort to expand private-sector support for scholarships that assist categories of students now underrepresented in higher education.

One final issue, Mr. President, involves the need to place much greater emphasis on quality, outcomes, and accountability in higher education. We can, and we must, be placing a higher priority as a nation on assuring broad and equal access to colleges and to other forms of higher education. But, we must also pay much more attention to what we get from a college education as customers and consumers of a product that must be of ever increasing quality and ever higher value.

My interest in quality, outcomes, and accountability in higher education, Mr. President, stems partly from my work on income-contingent loan repayment and the IDEA loan proposal that Senator SIMON and I introduced last fall. And, my interest in quality, outcomes and accountability in higher education also stems partly from the experience I've had over the last 15 years in working to fundamentally change another important public service that's in serious trouble.

Like health care, the cost of higher education in America is partly a function of demand and it's partly a function of who's responsible for paying the bills.

And, one of the most serious concerns I've heard expressed about my IDEA proposal is that, if we make it easier and less painful to pay for higher education, we'll see even more rapid increases in the cost of higher education in the future.

All of us need to be worrying more about things like cost and quality and appropriate placement and outcomes in higher education.

We do need to make higher education more accessible for every American student. And, we do need to be accommodating the changing nature of the student population and the growing importance of getting an education beyond high school and then throughout life. But, I also don't think we can indefinitely sustain a system that pays as little attention to costs and quality and outcomes as does higher education in America in the 1990's. Those of us paying the bills, both as individuals and collectively as a society, need to be asking hard questions. How can or should institutions that are eligible for Federal student aid programs be held accountable?

And, what criteria should be used? Graduation rates? Job placement rates? Job satisfaction levels? Average incomes of graduates 5 or 10 years after they leave school? And, on the other end of a college education, what should be done to better prepare students for college before they enter? Where should responsibility for that job lie? Should there be tougher entrance requirements for college, especially if society as a whole will be paying a larger part of the bill? None of these questions are easy to answer. But, they do have to be asked. All of us—as parents, students, employers—need to be putting more of our individual and collective resources into higher education in the future.

But, we also must insist even with a better IDEA for paying for college that we're getting good value for every dollar that we put in. The Federal Government has a role to play in achieving that goal. We made a start in that direction through the sections of S. 1150 that require the Secretary of Education to propose new and tougher performance standards for higher education institutions as a condition of eligibility for Federal student aid.

I also believe it would be wise to require that information on how colleges compare in meeting those standards and improving their performance be made widely available to prospective students, parents, and employers. I intend to monitor this new assignment we have given the Secretary closely, Mr. President. And, look forward to being actively involved in reviewing and implementing his recommendations once they come back to the Congress for our approval.

In addition, Mr. President, I believe we can look to the States for good ideas on how to add more accountability to the customers of higher education be they students, parent, or employers. One outstanding example of State leadership in this field is represented in the work of a task force in Minnesota appointed by Gov. Arne Carlson and chaired by Connie Levi, a distinguished former majority leader in the Minnesota Legislature and now president of the Minneapolis Area Chamber of Commerce. The Levi Commission made serving and responding to customers one of its highest recommended goals for Minnesota's system of higher education. Mr. President, I ask unanimous consent that a summary of the Levi Commission's recommendations be printed in their entirety at the conclusion of my remarks.

Mr. President, let me conclude by again recognizing the outstanding contributions made by the managers of this important piece of legislation over the past 2 years. We have made an impressive start in advancing the important contributions of higher education in this country. We also have much more yet to do.

Thank you, Mr. President. I yield the floor.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

AT THE CROSSROADS: HIGHER EDUCATION IN MINNESOTA

(A Report of the Commission on Post-Secondary Education, January 1992)

EXECUTIVE SUMMARY

Six months ago, Governor Arne H. Carlson called together the Commission on Post-Secondary Education, chaired by Connie Levi. He charged the 20 commission members to review current resources, determine future needs and plan an integrated, efficient and effective system of post-secondary education. He further suggested that we look at issues of quality, accessibility and affordability.

To guide our thinking, we developed the following vision:

To be a world leader in high quality post-secondary education programs for the intellectual and economic advancement of the customer and all the citizens of Minnesota.

The Commission held eight meetings and members visited more than 70 campuses, where we talked to students, educators, policy makers and citizens.

Our Findings

Minnesota has a good post-secondary education system, one that has served us well in the past. But it needs significant changes if it is to continue to help us maintain our competitive advantage. This good system must become better.

Minnesota's economic survival depends on a well-educated work force, as does its quality of life.

In the future, higher education will be expected to better meet the needs of its customers with the same or fewer resources. To meet this challenge, the higher education system will need to contain costs and increase productivity.

Basic assumptions about the way higher education is structured, administered and delivered need to be re-examined. To live within its budget, higher education must focus its efforts and resources on its primary mission.

Our Recommendations

We have organized our recommendations into five areas: 1) Serving the Needs of the Customer, 2) Providing And Promoting Quality, 3) Redefining Access, 4) Leveraging Change through Funding and Other Policies and 5) Clarifying Missions and Creating Structures to Enhance Quality, Access and Customer Needs.

SERVING THE NEEDS OF THE CUSTOMER

Post-secondary education must focus on the needs of its customers, including students, employers and society as a whole. This is a revolutionary concept, because it implies that those who best know what is needed are not the providers, but the users of the products and services. Traditionally, administrators, faculty and others within the system have determined the needs. Looking at every function and process within higher education as being driven by the needs of its customers will profoundly change the way higher education defines and goes about its business.

We recommend

Each system and each campus should define its major internal and external customers, actively seek their input and design educational services and processes that meet their needs. Systems should report on these efforts to the 1993 Legislature.

The Governor should include, in his 1994–1995 biennial budget, funds to support a Minnesota Quality in Education Award similar to the national Malcolm Baldrige Award.

PROMOTING AND PROVIDING QUALITY

Quality should be determined by the customer and be stated in customer outcomes. It should not be defined by inputs, nor equated with additional dollars. Quality is not exclusivity—an open door institution can provide a quality education. Quality should be viewed not as a destination, but as a journey.

Definable outcomes should be used to measure progress. These outcomes should be based on world-class standards or benchmarks, focusing primarily on student knowledge and skills. Higher graduation rates, improved retention of students of color and higher rates of job placement are examples of possible state goals. Customer views and expectations can help to determine these goals.

We recommend

Each system, campus and program should develop quality indicators that are measurable, customer-defined and stated as outcomes. Each public system should develop the indicators by Fall 1993 and ways to assess their attainment by Fall 1994.

Development and implementation of these plans should be linked to future resource allocations. The Higher Education Coordinating Board (HECB) should review and comment on the indicators and plan for assessment and report to the Legislature before any incentive or performance funds are allocated.

Policy makers should articulate state goals for post-secondary education and direct the systems to find ways to measure and report progress toward them.

A sample of alumni and employers should be surveyed to assess the degree to which they are satisfied with the quality of their education. The survey should be designed by HECB, in cooperation with the systems. Survey results should be reported to the Governor, Legislature and the citizens of Minnesota biennially. This information also should be available to prospective students.

The HECB's program review process should require campuses to identify their customers and develop outcomes and indicators of attainment.

REDEFINING ACCESS

There are several kinds of access beyond geographic access. We also are concerned with psychological access; access to programs that meet the special needs of students, and logistical access to programs that meet the needs of the consumers and enable them to complete those programs as quickly as they are able. Financial access is also of concern. Cost-containment strategies are necessary if the dream of higher education is to remain within the economic reach of all Minnesotans.

We recommend

Financial access should be maintained with cost containment strategies, tuition levels and financial aid that will keep post-secondary education affordable for students and their parents.

Cultural access should be improved with policies and practices that help under-served populations feel at home and be successful.

Student choice should be maintained and expanded. Important options such as the private college system and reciprocity agreements with other states should be maintained. Additional choice through interstate telecommunications should be explored.

A telecommunications master plan that takes a regional approach should be developed. Planning should be coordinated by the HECB to expand and redefine geographic access through telecommunications, making efficient use of resources and coordinated planning.

Until a facilities utilization survey is completed, no new campuses or buildings should be constructed. As access is redefined, the need for additional bricks and mortar will diminish.

Campuses should remove barriers to timely completion of programs. An annual report on progress in this area should be made to students and policy makers.

LEVERAGING CHANGE THROUGH FUNDING AND OTHER POLICIES

The way resources are allocated sends a powerful message about what is valued and what will be awarded. If the goal is high-quality, accessible post-secondary education that meets the needs of the customer as efficiently as possible, then a funding formula should be devised to encourage those goals and outcomes. Other state and system policies also should encourage and reward quality and performance.

We recommend

The Governor should recommend and Legislature should allocate funds to conduct a policy audit to see if state policies are working.

The Task Force on Future Funding should develop a formula that is not based solely on enrollment. The formula should include performance and incentive funds that will reward quality outcomes and encourages innovation.

All systems should develop admission policies that encourages and reward preparation and achievement. We endorse the preparation standards developed by the University of Minnesota and the State University System as a first step. The two-year systems also should develop and publicize a set of preparation recommendations. Students meeting the preparation standards or recommendations should be granted a tuition reduction as an incentive for planning and working hard in high school.

Remedial or development education should be offered only at the two-year institutions. No college credit should be given for any remedial or development course. The cost of remedial education for recent high school graduates should not be paid with post-secondary funds. The K–12 system should provide the remediation or be charged for those costs.

Financial aid should have a component for performance as well as need, while recognizing the special needs of various groups of students. Some scholarships should be based upon academic performance or demonstrated improvement in performance.

High school graduation standards now being developed by the State Board of Education should be more rigorous than the current standards. The 80 percent of all high school graduates who will enroll in post-secondary education courses should graduate with the knowledge and skills needed to successfully complete college-level work.

Cooperative partnerships between K-12 and post-secondary education should be developed. HECB and the Department of Education should develop a plan and process to improve communication between all levels of education.

The HECB's Parent and 8th Grade Information Campaigns should continue so secondary students, their parents and the high schools understand both the academic and financial expectations and ways to achieve them.

CLARIFYING THE MISSIONS AND CREATING A STRUCTURE TO ENHANCE QUALITY, ACCESS AND MEETING THE CUSTOMER'S NEEDS

Mission: We cannot overstate the need for clear and clearly differentiated mission statements. Individual campuses should have mission statements that recognize the unique needs of the area served and the strengths of the campus within the overall mission of its system.

Campuses must know who their customers are and what needs they must meet. No campus can or should be expected to meet all the educational needs of the citizens of Minnesota.

We recommend

The directive of the 1991 Legislature requiring systems to eliminate programs not within their mission should be retained and enforced.

Campus mission statements should be developed that allow and encourage quality-driven niches of excellence within the overall mission of the system.

Structure: Like funding, structure is a means to the goals of quality ad access. It is not an end in itself. We think a structure should encourage innovation, meet customer needs and allow for decision-making at the lowest level possible while not losing sight of the state's needs.

We suggest dividing the state into higher education regions, similar to the economic development regions. Each region would have a combination of institutions from technical to baccalaureate, and students would be better served by a better-coordinated array of curricular offerings and services. Institutions could become more efficient by sharing staff and support services. Most important, unique quality-driven niches or centers of excellence could be created in each region, based upon the strengths of the campuses with the region, regional needs or needs identified by the state.

Governance for all public institutions except the University of Minnesota could shift to a central state authority. That body would have responsibility for making overall policy, selecting senior administrative staff, making resources allocations, collecting data and evaluating the quality outcomes.

The governing body must be committed to combining centralized governance with decentralized management. It must insist on setting high standards, but resist trying to standardize what institutions do. In an era of scarce resources, the governing board must assure that there are rewards for higher productivity.

We recommend

The HECB, in consultation with the Higher Education Advisory Council, should develop a plan to create post-secondary education districts throughout the state. Each region would have a Board of Advisors appointed to represent the needs and interests of the customers. A companion Board of Providers, composed of the heads of all campuses within the district, would be created to implement the regional delivery of services.

Mr. SIMPSON. Mr. President, I rise to express my support for S. 1150—the Higher Education Reauthorization Act. Enactment of this legislation makes obtaining a postsecondary education even more accessible to every American.

I was very pleased to see the Pell grant entitlement provisions and the direct lending proposal dropped with a bipartisan consensus from the bill. I had serious concerns about the provisions which would have turned the Pell Grant Program into an entitlement over the next 5 years. While I strongly support the current Pell Grant Program, we simply cannot afford to double the cost of this program at a time when our national economy is struggling.

We must seriously address the issue of entitlement programs in this country. We have seen mandatory entitlement programs grow from 23 percent under President Kennedy's budget to an all-time high of 64 percent. That's 64 percent of the Federal budget over which we have relinquished control. For 1993 alone, entitlements will cost us $766 billion—$980.6 billion including interest. Entitlement spending limits our options for addressing important national needs by decreasing the pool of discretionary spending. It is the responsibility of the Congress to halt that trend.

I also was concerned about the proposed demonstration project for direct Government lending to institutions of higher education. The initiative, as proposed, would have put the Government in direct competition with the private sector in order to serve a limited financial objective. The Internal Revenue Service would be put in control of both the distribution and collection of student grants, thereby destabilizing secondary banking markets. Why put an agency in control of dispersing funds when it cannot address its own inability to collect defaulted student loans?

I was pleased that the managers of the bill responsibly decided to have a full hearing in the Finance Committee in a few weeks, on the proposal. I believe this proposal will then receive the full attention and scrutiny it deserves.

I would like to thank my friends Senator KASSEBAUM and Senator KENNEDY for their cooperation and assistance in the adoption of my small States teaching initiative amendment. Both floor managers did an excellent job and I deeply respect and admire their efforts to advance the goals of education in the United States. The amendment authorized $5 million in direct funds to land-grant institutions in the 10 least populated States in order to develop model programs for educational excellence, teaching training, and educational reform. I am optimistic that the funding will provide needed assistance for the development of innovative teaching techniques and materials in small States which tend to have a very hard time recruiting top quality teachers.

Once again, I look forward to enactment of this legislation and I am encouraged that many Americans—both young and old—will benefit from the education programs included in the bill.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 1150, the Higher Education Reauthorization Act. I am pleased to be cosponsor of this legislation. This legislation provides financial help for both disadvantaged and middle class families so that they may send their children to college. It also seeks to simplify the existing, cumbersome application process and to crack down on student loan defaults that drain our student financial aid resources.

This legislation provides greater assistance to lower income families by increasing the size of Pell grants from $3,600 in 1993 to $4,800 in 1998. By providing these increases in Pell grants, more access will be provided to these students to college, many of whom will be the first in their families to attend college.

This bill also makes it easier for middle class families to send their children to college by increasing the availability of grants and loans to them. In recent years, it has been difficult for middle-class families to obtain assistance in sending their children to college. With staggering increases in tuitution costs, many middle-class students have been squeezed out of an affordable higher education. This legislation makes more middle-class families eligible for Pell grants, extends the supplemental loan program and eliminates home equity from the student assistance eligibility formula for those families who earn less than $50,000 per year. These changes will make more and more New Jersey families eligible for Federal financial assistance.

The legislation also simplifies the student assistance application process. It mandates a simplified application form for middle-class families and establishes one system to determine need for all Federal assistance programs. This will spare students and families the frustration of filling out multiple forms and need analyses that often make the student assistance application process confusing and burdensome.

Furthermore, this higher education legislation contains several provisions that are designed to crack down on student loan defaults. These provisions will ensure that defaults are kept to a minimum and the money saved is put into student assistance so that more and more children can attend college.

Finally, this bill contains an amendment that I offered that would establish a Commission to study increasing tuition costs and make recommendations on how these costs can be reduced. Recently, tuition has increased faster than the Consumer Price Index [CPI] and in some years even faster than health care. My amendment also establishes a parent/student right-to-know law that will require universities and colleges to disclose to prospective students how they spend their tuition dollar. It also sets up a resource sharing grant program to provide funds to colleges and universities to pool existing resources and avoid duplication in order to hold down the long-term cost of tuition.

Mr. President, this legislation will make Federal assistance available to many more New Jersey students and make college more affordable for the average American family. I urge my colleagues to support the legislation.

Mr. GRAHAM. Mr. President, I strongly support the bill we have just overwhelmingly approved.

Student financial aid, the keystone of the Higher Education Act, is among the best investments America makes in its people. Ensuring access to higher education for all segments of society helps equalize opportunities for all people to pursue and achieve the American dream.

It is directly in the national interest that our people be trained to meet the increasing demands of the global workplace. To retain our competitive edge, we need to have a highly educated American worker.

For these reasons, I am pleased that our financial aid programs are restructured by this legislation to expand access to assistance for a greater proportion of students who simply must have that help to attend college.

The bill also includes a provision which addresses the decisions students make on the other end of college, when they are struggling to determine how to pay off the debt they have accrued while getting their degrees.

Title XII of this bill includes an important demonstration project on loan forgiveness.

Section 1221 of this legislation will provide for cancellation of Stafford loans for individuals performing a variety of traditional service jobs.

For people considering—

Teaching in geographical and subject areas where teachers are lacking;

Performing community service for poverty-level wages; or

Working as nurses in the types of medical facilities which are experiencing shortages.

I expect this program offers a tremendous incentive to enter those fields.

The average student who takes a loan for college owes $7,200 by the time of graduation. This is only an average, and it is not atypical for a student to finish even a public education owing as much as two to three times that amount.

S. 1150 makes great strides toward returning the grant/loan balance to a more reasonable ratio. Nevertheless, debt burden will continue to be a major factor in the employment decisions made by our college graduates.

This demonstration project will allow us to study whether loan forgiveness indeed eases the pressure on indebted graduates to take high-paying jobs in order to pay off their loans.

Mr. President, there is another and equally important goal which we can further by providing loan forgiveness.

During fiscal year 1991, 5.3 million student loan accounts were in default for nonpayment. These accounts totalled $12.2 billion in Federal liability.

I am a firm believer in human integrity. I believe that students who are fortunate enough to receive a guaranteed student loan from the Federal Government are thankful for that opportunity and want to repay their debt. As we all know, however, many people are simply unable to meet their current financial obligations, much less make payments on acquired debts.

What we are providing here, Mr. President, is the chance for those people who are at the end of their financial rope to meet their obligations in another, perhaps more meaningful way.

I am speaking not of people whose financial situation precludes certain career choices, but of those who can choose to work off their debt by serving their country and their community in professions we have identified as critically needy.

The end effect may well be that people who had never thought about such careers may choose them after gaining this exposure. Regardless, I submit that everyone wins.

The students are released from their financial obligations with dignity and pride.

Important services are provided to those who desperately need them.

And the cost to the Federal Government is largely offset by the fact that many of these obligations would be written off anyway.

Mr. President, I am pleased that the Senate accepted my amendment to this demonstration project which requires the Secretary of Education to identify the reasons for which people who participate in this program choose to do so. I am interested to learn their motivations, and I am certain that we can work with the information we gather to target our efforts more effectively.

I commend the authors of S. 1150 for developing an excellent bill. I was pleased to vote for its passage today, and I look forward to enactment of this important legislation.

INDIANS INTO TEACHING—AMENDMENT NO. 1671

Mr. CONRAD. Mr. President, I rise today to offer an amendment that will help American Indians enter the teaching profession.

It is frequently difficult for educational institutions on Indian reservations to retain teachers. Reservations tend to be geographically isolated. And teachers frequently lack long-term ties to the local community. Consequently, more must be done to provide reservation schools and the kids who attend them with a stable teaching and learning environment.

My amendment accomplishes this goal in three ways. First, it provides institutional support to tribal community colleges and other tribally controlled educational institutions. The Conrad amendment authorizes the Secretary of Education, through the Office of Indian Education, to award grants for the purpose of providing upper division course work, transfer programs, articulation agreements with other accredited institutions, telecommunications programs or other mechanisms which directly support the training of American Indian teachers.

Second, my amendment provides student support grants to tribal colleges so that they may provide financial and programmatic assistance to those who wish to participate in their teaching programs.

Finally, my amendment authorizes scholarships for Indian students who wish to attend teaching programs at educational institutions off the reservation.

Students who receive financial assistance under the amendment are required to serve as teachers in an Indian community for 1 year for each year they receive financial assistance under the program.

This amendment meets a real need in Indian country. It provides important institutional support that will enable tribal colleges to expand their programs. And it will not only encourage Indian students to enter the teaching profession, but it will provide them with the financial means to do so and add to educational stability in Indian communities.

Mr. President, I am pleased to note that Senator McCAIN, the vice chairman of the Select Committee on Indian Affairs and Senator DASCHLE are cosponsors of my amendment.

I thank the Chair and yield the floor.

Mr. DECONCINI. Mr. President, I rise to thank the distinguished chairman of the Education Subcommittee, Mr. PELL, and the ranking member of the subcommittee, Mrs. KASSEBAUM for accepting three amendments which I proposed to the pending bill.

EXCLUSION OF RESTRICTED NATIVE AMERICAN-OWNED HOMES

The first amendment excludes the value of native American owned-homes which are located on Indian trust or other federally restricted lands as an asset for purposes of determining a native American student's eligibility for

Federal student aid programs. At the present time, nothing in the law allows the exclusion of the value of homes owned by native Americans which they cannot sell due to Federal restrictions against alienation of the home itself or the land upon which the home is situated.

This creates a problem for native American students seeking Federal student aid assistance. They must count homes from which they legally cannot realize an economic value as an asset and this makes them ineligible for Federal student aid. This has created an impediment to higher education opportunities for native American because they do not generally have the ability to pay for college costs out of their own pockets. My proposed amendment will remove this barrier and improve native American student access to higher education.

RECORDING OF HEARING PROCEEDINGS

The second amendment restores an institution's right to a hearing on the record, if the institution is willing to bear the costs of recording the hearing proceedings. S. 1150 eliminates the current provision in the law which requires on the record hearings for suspension, termination, or limitation proceedings. My amendment adds language which states that nothing in the act is to be construed to prohibit an institution from recording the hearing proceedings at its own costs by using any reasonable means available.

CLARIFICATION OF CASH RESERVES AND TUITION RECOVERY FUND REQUIREMENTS

The third amendment clarifies the bill's provisions which deal with the maintenance of cash reserves and tuition recovery fund programs. My language will make it clear that the Secretary shall exempt an institution from the cash reserve requirements if he determines that the institution is contributing to the tuition recovery fund in the State where it is located and authorized to operate. This clarification will ensure that institutions which are participating in State-administered tuition recovery fund programs are not also required to maintain individual cash reserves for the same purpose by the Secretary.

Mr. President, these amendments are critical to ensuring access by all segments of our communities to the Federal student aid programs. I appreciate the Education Subcommittee and the full committee's willingness to accept these important modifications to the bill. I thank the Senator from Rhode Island and the Senator from Kansas for their support and help.

Mr. McCAIN. Mr. President, I rise in strong support of S. 1150. This bill will surely be one of the most important pieces of legislation the Senate passes this year. By expanding and improving Federal programs that support America's postsecondary students and institutions, we will well serve the future vitality of our Nation.

The Reauthorization of the Higher Education Act offers the Senate a chance provide increased assistance to the neediest students at our colleges and universities, and to ensure that middle-income families have greater access to Federal financial aid programs as well. This bill admirably meets both of these objectives, and establishes a variety of new initiatives to improve the quality of education at America's public and private schools.

As one of the fastest growing States in the Nation, Federal financial aid programs are especially important to Arizona. My State currently has approximately 250,000 students in our colleges and universities, and this number is expected to increase by 33 percent by the end of this decade. In order to ensure that all the deserving students in Arizona and throughout the United States have access to the financial aid they need, I feel that preserving the resources and integrity of financial aid programs must remain a priority for this body.

One of the landmarks of S. 1150 is the significant boost it contains for Pell grants. These grants are the very foundation upon which needy students can pursue their goals in higher education. The maximum Pell grant that a student can receive is increased from $3,100 to $3,600, and increases it to $4,800 by 1998. The family income for Pell grant eligibility is raised to $40,000 under the bill.

The amount a student can borrow under the guaranteed Stafford loan program is increased by this legislation to $3,000 for first-year students; $3,500 for second-year students; and $5,500 for third- and fourth-year students. Graduate students will be able to borrow up to $9,000 per year under S. 1150.

In addition to expanding eligibility for Pell grants and increased loans, middle-income students could benefit from several other provisions of this bill. The SLS Loan Program will be opened to dependent students with a creditworthy cosigner. Families with incomes under $50,000 will no longer have the equity of their home or farm considered in their needs analysis for financial aid. Families in this income bracket who do not file an IRS Form 1040 will have all their assets excluded.

I am very pleased that S. 1150 directs the Secretary of Education to create a simplified financial aid application form and reapplication process. The often confusing complexity of the current application system is one of the most frequent complaints I heard from the many Arizona students who contacted me about this reauthorization.

This bill will directly help students in Arizona by reauthorizing the State Student Incentive Grants [SSIG] Program. The SSIG Program, which combines Federal and State funds to assist needy students, is of tremendous benefit to many lower income Arizona students. The same is true for the Perkins Loan, College Work Study, and SEOG programs, which have all been reauthorized.

The crucial mission of TRIO programs—to recruit and retain disadvantaged students into college—are fully recognized in this bill. TRIO programs are especially important to Hispanic and Native American students in my State, who continue to be underrepresented in our community colleges and universities. As passed by the Senate, S. 1150 expands and increases funding for TRIO programs such as Upward Bound, Talent Search, and Educational Opportunity Centers.

TRIO programs, in partnership with local schools and community organizations, can help increase the amount of minority young men and women who pursue a college education—and support their successful advancement toward a degree. Our Nation will be far stronger if Government, colleges, and local schools can work together to ensure that increasing numbers of disadvantaged children are focused on a steady path toward a college degree.

One of the most innovative new programs established in this legislation are State and National Teacher Academies. State academies for teachers would be designed to improve the knowledge and teaching skills of teachers, and National Teacher Academies will be established in core subject areas such as English, math, and science. Several other effective teacher support programs have been reauthorized, as well.

S. 1150 also addresses the serious problem of student loan defaults. As every Member of this body is aware, student defaults in the guaranteed loan programs totaled over $3.6 billion in 1991 alone. This is an alarming figure, and one that justifiably raises the ire of taxpayers and policymakers alike. At a time of skyrocketing Federal budget deficits, increasing financial pressures on low- and middle-income families, and urgent social needs—this massive hemorrhage of taxpayer dollars must end.

This bill will lower the threshold at which schools with excessive default rates can be dropped from student aid programs to 25 percent. S. 1150 adds to this new default ceiling with provisions to reduce defaults and ensure proper accountability among the schools and financial entities involved in student loan programs.

Mr. President, I think the Senate and all Americans can be heartened by the passage of this bill. Our colleges and universities are clearly the finest in the world, and S. 1150 will provide vital assistance to deserving students and quality educational institutions. In passing this legislation, the Congress and the American people must remain dedicated not only to emphasizing educational excellence, but also to seeking new ways to help students and strengthen our colleges, universities, and vocational schools.

If we succeed, we will reap the benefits of an enlightened citizenry and a vibrant, highly skilled work force for decades to come. On behalf of the students and families in Arizona who are dedicated to better themselves through education and training, I look forward to helping in this effort.

I will give my full support to the passage of this bill to reauthorize the Higher Education Act. I yield the floor.

Mr. DODD. Mr. President, I rise today to express my strong support for S. 1150, the Higher Education Amendments of 1991. Mr. President, I commend the work of the managers of this legislation, Senators PELL and KASSEBAUM, who have moved this bill along in such an expeditious and bipartisan fashion.

With last month's passage of the Neighborhood Schools Improvement Act, S. 2, and our consideration of the Higher Education amendments, the Senate has taken great strides forward in addressing the educational issues confronting today's students and their families. This measure builds on the foundation of support for elementary and secondary education, contained in S. 2, to improve higher education.

The hallmark of S. 1150 is access. Access to quality higher education for all Americans, including the middle class who have been crippled during the last decade with rising costs and stagnating incomes.

Increased Access to higher education will especially help these families who have been increasingly squeezed out of Federal student aid programs. Since 1981, families have watched tuition costs climb by as much as 100 percent, while the Federal share of available financial aid has dropped from 83 to 75 percent. Moreover, since the mid-1970's, the percent of Federal aid to students in the form of grants has dropped drastically from 76 percent to 29 percent as loans have replaced grants as the major source of student aid. The cornerstone of the Higher Education Act in 1965 was increased access to postsecondary education opportunities to every student—and with this legislation we restore this Federal commitment to all students and families across our Nation.

Access is enhanced with the expansion of the Pell grant, Stafford loan and SLS loan programs to benefit low- and middle-income students alike. The maximum Pell award will be increased by this legislation redressing the grant/loan imbalance which has developed over the last decade. Additionally, the maximum income of families eligible to receive Federal aid will be increased to include more middle-income families in these programs. Further, this measure includes a proposal, similar to one I offered in my Better Access to Student Aid Act, which eliminates the consideration of home and farm equity from the calculation of student need. Expected student contribution is also reduced from 70 percent to a more reasonable level.

Access is also increased through the simplification of the student aid application process. The current methodology requires the filing of two separate, complicated forms—one for Pell grants and another for Stafford loans—this intimidating process has served to discourage many eligible families from applying for much needed assistance. S. 1150 provides for one simpler form and truly needy families will be eligible to fill out a further simplified needs test.

This bill also addresses one of the most serious problems which has plagued Federal student assistance—guaranteed student loan defaults. The very existence of the loan programs has been threatened by the problem of defaults, not only have costs skyrocketed, but public confidence has been shaken. With Federal resources so scarce, we cannot allow the loss of even one Federal dollar to fraud and abuse. In this regard, this measure contains measures to strengthen program and institutional integrity with higher standards for participating institutions and increased penalties for fraud or abuse.

This bill also enhances the special role higher education has in meeting a related educational need—the training of teachers. This bill provides real incentives for the recruitment and retention of quality teachers in classrooms around our Nation. I am especially pleased that a provision is included in this section, which I sponsored, to authorize matching Federal funding for the National Board for Professional Teaching Standards to complete its critical research and development on methods of teacher assessment. Additionally, the bill addresses the shortage of teachers in the critical fields of math, science, and foreign language; it also establishes a program to recruit minority students into the teaching field to address the acute shortage of minority teachers in many communities across the Nation.

Finally, the bill addresses an area of critical importance to our Nation's competitiveness—the study of foreign languages and culture. Mr. President, last year there were more teachers of English in the former Soviet Union than there were students of the Russian language in the United States. In this regard, S. 1150 substantially strengthens the Federal commitment to foreign language study. It includes several of my initiatives providing funding for consortia based foreign study and for the development of much needed foreign language instructional materials. Additionally, this measure includes language to clarify the ability of students to apply Federal assistance to study abroad opportunities.

Mr. President, there are several issues which have not been addressed in this legislation. In particular, many expected to see the inclusion of a direct loan demonstration program in this legislation. The creation of a direct loan program is certainly an interesting idea, as it would make a new resource available to students. I do however have some serious concerns regarding the design and long-term impact of such a program and look forward to working with Senators PELL, KENNEDY, BRADLEY, and BENTSEN when it comes before the Senate within the next few weeks.

One measure, that I was most disappointed to see removed from the bill, was the Pell grant entitlement. This provision would have assured students and families of the Federal Government's commitment to higher education for all students who qualify. I hope that the day will soon come when we as a nation recognize that education is not an expense, it is an investment.

I fully believe, Mr. President, that with this legislation we begin to move in the right direction—resources available to students are increased, access is restored to middle-income families who were to a great extent cut out of these programs during the 1980's and program integrity is enhanced. S. 1150 renews the Federal Government's strong commitment to quality higher education. In this regard, I urge my colleagues to join me in voting for passage of this critical measure.

Mr. ROCKEFELLER. Mr. President, I rise today to draw attention to a problem currently facing students in my own State of West Virginia, and to alert my colleagues that other States may soon face similar concerns. To respond to this issue, I am grateful that the leadership on both sides has accepted my amendment calling for a thorough study of this issue.

Everyone is troubled about the issue of defaults.

We are all deeply worried by stories of fraud and abuse.

However, fraudulent schools exist. The horror stories prove they exist. These schools lure students with promises of quality education and new job opportunities, push students to take out guaranteed student loans without fully explaining the financial obligations attached, and then fail to follow through on their promises of quality training and education. Fraudulent schools leave students in the lurch. The students never receive the education promised, yet they incur thousands of dollars of debt.

This is unfair to the students.

I commend the leadership for the efforts made in this bill to address the problems of fraud and abuse in the student loan programs. I fully support the provisions to strengthen safeguards in the Higher Education Act to ensure that students are fully informed about their loan obligations. I agree that measures to strengthen the accreditation process are sorely needed. And I am confident that these reforms will dramatically reduce the problems of fraud and abuse in the Federal student financial aid programs.

But today, I rise to speak specifically about students who, under the current system, are caught in the middle.

Last summer, a West Virginia case involving student loans attracted national attention. The case, known as the Tipton case, involved about 2,000 students of a trade school in my State. The school recruited students, processed their loan applications with West Virginia banks, and then went bankrupt, leaving the students with GSL payments to make, and none of the promised training. Some of the students were midway through their courses when the school closed. They arrived for class one day to find the door padlocked.

The students never received the education promised, yet they were still responsible for their loans. Faced with the prospect of defaulting on their loans, the students filed a class-action suit, claiming that they had been misled by the school.

In a precedent-setting decision, the Federal judge called the defunct school's behavior unconscionable. I believe that we would all agree that the school victimized the students.

The decision went on to state that the students could sue under State or Federal law for protection from liability. Under consumer law in many States, including West Virginia, banks can be held liable if they are deemed as business partners to fraudulent companies.

In response to the Tipton case, West Virginia banks maintain that private lenders in the Federal GSL Program are not subject to legal action based on school misconduct. While the lenders are sympathetic to the plight of the students, they do not believe that they should be held liable for the loans. The case is under appeal.

Before going any further, I must state that I am not a judge and that I have no intention of passing judgment on this pending case. The Tipton decision must work its way through the judicial process, and my statement is not intended to cast judgment on what is already a complicated situation.

But I am concerned about the case's impact on the availability of GSL's in West Virginia and across the country.

Following the Tipton decision, West Virginia banks are fearful that they, rather than the Federal Government, will be responsible for the loans. If that happens, they warn, many banks will simply decide not to participate in the Federal Student Loan Program.

In fact, banks in my State are already starting to cut back on providing student loan services to avoid any future liability. According to a West Virginia newspaper, one bank had $41 million in outstanding student loans last year. This year, the same bank sold off all but $322,000 of the loans. Another bank once had a $20 million portfolio on student loans. Now they don't make GSL's. This trend drastically hurts access for all West Virginia students to much needed loans.

And this problem is not limited to West Virginia. The trend threatens to snowball across the country, as similar cases pending in California, Kentucky, New Jersey, and Texas develop. Given the Tipton ruling, we could see even more cases being filed.

Of course, a major concern is that the Tipton ruling will discourage banks across the country from participating in GSL's—cutting off access to student loans at a time when we need to encourage more Americans to invest in education. Clearly, Congress cannot sit by and allow student loans to disappear.

However, it is too early to predict the extent of Tipton's impact. Before developing an appropriate response, Congress needs more information on the case and its impact. With this goal in mind, I offer an amendment directing the Department of Education to conduct an indepth study of this issue and to report to Congress on their findings.

The amendment is simple. It requires the Secretary of Education to understake a study, in consultation with the Federal Trade Commission, on the following items:

Analysis of pending law;

Estimate of total borrowers filing for relief from loan repayment using fraud-based defenses;

Estimate of loan principal relieved annually through fraud-based defenses; and

Evaluation of the effects of the availability of a fraud-based defense on the accessibility of GSL's by geographical region.

The study will provide much needed information on the Tipton case and its impact on private lending institutions and students' access to GSL's. This case raises serious questions. To maintain our existing Federal student loan program, we must rely on the voluntary and active participation of banks across the country.

Access is essential, and we may need to take certain in the future to ensure that all eligible students have the opportunity to get a Federal financial aid, including guaranteed student loans. I believe that the study outlined by my amendment will help provide information needed on the critical issue.

Mr. DOMENICI. Mr. President, I am pleased the Senate has acted so quickly to reauthorize the Higher Education Act of 1965. I think we have truly put aside our differences and worked together in a bipartisan effort to get a good bill—and with good reason: Education is far too important a subject to quibble about. When we are continually bombarded with accounts of how our country is going to have a difficult time remaining competitive in a world market, it is imperative we do all we can to encourage our students to enter college where they can learn the skills they need to get a good job and compete in a world economy.

There are many provisions of this bill I am pleased with, because I believe they fulfill the greater objective of the HEA—expanding access to higher education for the many Americans who have found, more and more frequently, that the costs of attending college are getting out of their reach. Therefore, one of our primary challenges in this reauthorization was to develop different ways to improve the balance between grant and loan aid. Loans have begun to replace grant aid as a major source of student aid; consequently, many students incur considerable debt to attend college.

With the many changes to student loan programs, I think we have taken considerable steps to address this imbalance. We have, for example, increased the limit for Stafford loans to $3,000 for full-time, first-year college students, reaching a maximum of $5,500 for those who complete at least 2 years of school. We have eliminated home and farm equity for families with income levels below $50,000 per year when determining a student's financial need. And we have allowed dependent students to borrow under supplemental loans for students, regardless of income, if they can demonstrate they are creditworthy. These are all positive steps that will keep financial aid accessible to the middle class. I think we need to do what we can to make financial aid available to the students who require it, and not just to the very poor. Middle-income students often have had a very limited choice in financial aid programs. This bill expands those opportunities.

I often hear from students in New Mexico who express their frustration with the lengthy and often tedious application process for financial aid. We have addressed this issue as well by establishing a single model for determining eligibility for all student aid programs authorized under title IV of the bill. This new model relies on a simple needs test. S. 1150 also requires a simplification of the application process so that students receiving aid can apply for continued assistance without paying for a new application process.

This bill also reauthorizes a program that has proven to be a success in my home State of New Mexico—special programs for students from disadvantaged backgrounds, or TRIO. The TRIO programs encourage students from disadvantaged backgrounds to attend college and get their degrees. Countless numbers of New Mexican students have benefitted from this program—and I want to commend the educators of New Mexico who have worked so hard to make this program a success—so I am very pleased we have continued with this noteworthy program.

I am also pleased with title V of the bill, which focuses on recruitment, retention, and development of educators. Providing access to higher education for students means nothing if good teachers aren't in the classroom to teach them. Title V recognizes as well that some of the best educators are often those who may not have a teaching certificate, and therefore authorizes a program to help States establish alternative routes to certification of teachers and principals. This will allow those who have demonstrated a high level of competence in a chosen profession to pursue a career in the education field, where their expertise is sorely needed. I am a staunch supporter of alternative certification, and I am, therefore, pleased we are taking steps to initiate these programs.

Title V also creates a program to provide annual scholarships of up to $5,000 to meet educational expenses of prospective teachers. Because we cannot always find enough good people to teach on Indian reservations in New Mexico—and Senators AKAKA and MURKOWSKI had expressed similar concerns about getting teachers for Native Alaskans and Hawaiians—I am pleased the Senate has included my amendment that would give special consideration to students who express an intent to teach these underserved groups. And because of our concerns about our students finishing at or near the bottom in international math or science tests, we have also included my language to give special consideration to students who intend to teach math or science.

Senator BINGAMAN and I have also included a provision to encourage the expansion cooperative educational programs between State education agencies and private sector establishments involved in education between the United States and Mexico. Senator BINGAMAN and I both agree that our unique relationship with our neighboring countries can play an important role in improving education, and I am pleased our amendment was accepted.

Mr. President, this bill goes a long way toward restoring the buying power of Federal student loans, and ensuring that financial aid remains accessible to all Americans who require it. The reauthorization of the Higher Education Act reconfirms our commitment to providing educational opportunities to more and more students. It is an investment in our own future.

ACCESS SCHOLARSHIP PROGRAM

Mrs. KASSEBAUM. As I mentioned in my opening statement, I believe that an extremely important feature of this bill is its attempt to address the issue of adequate preparation for higher education. Your initiative with the Access Scholarship Program is certainly an important step in this direction.

I would like to raise a couple of questions with the Senator from Massachusetts regarding that program.

Mr. KENNEDY. By all means.

Mrs. KASSEBAUM. First of all, I would like to say that basing eligibility for an access scholarship on the completion of a rigorous academic curriculum in high school is an excellent way to encourage high expectations and achievement on the part of students. I find this approach preferable, say, to basing the extra awards on test scores. At the same time, I believe that we want to encourage students not only to take demanding course but also to perform well in them. Would the Senator not agree?

Mr. KENNEDY. Absolutely. As we look toward conference, I would be happy to work with the Senator from Kansas to develop some additional language that would clarify this point.

Mrs. KASSEBAUM. I thank the Senator and would raise one more point. As currently written, a student must take the rigorous curriculum in high school and must also participate in some type of early intervention program.

I certainly believe early intervention programs are important and would hope that they will continue to grow. At the same time, I can foresee any number of circumstances which might arise where a student simply would not be able to participate. That student might be one who takes challenging courses and excels in them, yet he or she would not be eligible for an access scholarship. It seems to me that such a student is at a double disadvantage—first, by being unable to participate in an early intervention program and, second, by being ineligible for a scholarship. Would the Senator be amenable to a proposal to eliminate the additional requirement for participation in an early intervention program?

Mr. KENNEDY. The linkage between the two was included in my proposal because I feel it is critical that we encourage both challenging course work and the development of early intervention programs. At the same time, I believe the Senator makes a very good point that students should not be harmed when, through no fault of their own, they are not able to be involved with a formal early intervention program. I would certainly be willing to consider a change that would decouple the two.

Mrs. KASSEBAUM. I thank the Senator and look forward to continuing to work with him on this important effort.

Mr. KERRY. Mr. President, I want to state my strong support for the provisions in S. 1150, the Higher Education Amendments of 1991, which pertain to expanding the number and enhancing the skills of those serving in the teaching profession.

As I stated during the debate on the Neighborhood Schools Improvement Act, many of us are troubled by the fact that the public schools are struggling with a teacher shortage. All too few of the individuals enrolled in our colleges and universities, especially the brightest and most gifted students, are electing teaching careers. Consequently, many elementary and secondary school students do not receive the benefit of instruction from new teachers who have specialized training. Likewise, many of our students are not exposed to instructors who can inspire students by their own example to enjoy the rewards of study in challenging disciplines. S. 1150 addresses the teacher shortage by incorporating and reauthorizing many of the provisions of the National Teacher Act of 1990 and including important new initiatives to attract individuals to the teaching profession.

The Teacher Corps Scholarship Program will provide an important incentive to individuals to enter the teaching profession. Scholarship funds for students participating in the program also will diminish the barrier that large educational loans have represented in prohibiting entry to the teaching profession. A 3-year scholarship signals to college students that the national commitment to expanding the number of teachers is real, and need only be matched by their commitment to serve the Nation's children in the classroom in order to improve our schools.

The teacher corps provisions of S. 1150 are also important in that program participants will be placed in schools with the greatest levels of need. Schools in communities struggling with poverty, crime, violence, and drugs ought to be havens, where young people are encouraged to strive for and attain high levels of achievement. The placement of highly trained and motivated teachers in such schools represents a continued commitment to our public schoolchildren to provide opportunities for educational advancement and personal development, regardless of their circumstances.

S. 1150 also recognizes the important contributions that are made to our schools by individuals already in the teaching profession by funding establishment of academies for teachers to upgrade their skills, and by creating a program to recruit paraprofessionals or school aides to become teachers. Individuals currently in teaching have a valuable base of knowledge and should be encouraged to sharpen those skills. Others employed in our schools as instructors or aides should receive credit for in-service experience and have opportunities to become teachers. Their commitment to educate children is evident and must be rewarded with assistance in furthering their education or in the acquisition of appropriate certifications for teaching in their States.

We know that parents and communities stand ready to improve their schools. The teacher corps provisions in S. 1150 offer important assistance to these efforts.

Before closing, I want to commend the Senate's Committee on Labor and Human Resources and its Subcommittee on Education for their work on the entire higher education bill, and in particular their chairmen, respectively: my colleague, the senior Senator from Massachusetts [Mr. KENNEDY] and the distinguished senior Senator from Rhode Island [Mr. PELL]. They and the members of the subcommittee and full committee have crafted an excellent bill. It recognizes that America can only maintain its enviable standard of living, and spread that standard more equitably among all citizens of the Nation, if we regain and maintain our competitiveness. And, Mr. President, we can only reach the objective if we have a literate and educated population. This bill makes great strides in our essential effort to achieve this goal. I am pleased to give it my strong support and to offer commendations to all who were involved in its development.

Mr. SIMON. Mr. President, before we move to final passage of the reauthorization of the Higher Education Act, I would like to thank my staff who spent a great deal of time on this bill: Bob Shireman, my chief education adviser, Brian Kennedy, the staff director of my subcommittee, and Alice Celio and Barbara King, who helped to field so many of the calls and letters on the issues in this bill. My press office has also been especially active and effective: my press secretary David Carle, his deputy Chris Ryan, and Marcy Saack, who tirelessly responded with faxes and packets when the media needed information.

All of the staff of my colleagues on the Labor and Human Resources Committee also deserve thanks for their hard work. I think the fact that we were able to finish this bill in less than 24 hours is a testament to their skill in addressing the various concerns that have been raised over the past several months, and over the past year.

I would also like to also give special thanks to Orlo Austin, the director of financial aid at the University of Illinois at Champaign-Urbana. Orlo worked in my subcommittee office during 4 months of administrative leave from the university, and he even contributed an additional month of his time when we needed more help. When he started, the committee was in the process of pulling together the staff recommendations on the reauthorization. Orlo really hit the ground running, analyzing proposals, asking the questions that forced the real policy issues to be addressed, and developing alternatives that could come only from someone with his experience in the financial aid field. This bill is better because of his generosity.

Finally, notably absent from the floor during this debate was Kim Wallace of the majority leader's staff. We knew that the higher education bill was likely to come up on the floor this week because Kim's wife, Robin Vink, was due to have their baby on March 1. Waiting until next week to bring the bill up would have meant that Kim might be called away. Well, as fate would have it, little Harrison James, 8 pounds, 7 ounces, conspired to keep Kim from the floor and was born on Wednesday night. I wish them all the best.

Mr. President, I yield the floor.

Mr. PELL. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany H.R. 2212, a bill respecting the extension of most-favored-nation trade treatment with the People's Republic of China, on Tuesday, February 25 at 10:30 a.m., and that the Senate proceed to vote on the adoption of the conference report at 4:30 p.m. on that day, with the Senate standing in recess for the two party conferences from 12:30 p.m. until 2:30 p.m., with the time under the control of the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, we will momentarily vote on the final passage of the higher education bill. There will be no further rollcall votes today. There will be no rollcall votes on Monday.

On Tuesday, in accordance with the agreement just obtained, we will begin at 10:30 a.m. on the China MFN bill, and the vote on that bill will occur at 4:30. There will be 4 hours of debate on that conference report, two in the morning and then two following the recess for the respective party conferences.

So the next rollcall vote will be Tuesday at 4:30 on the China MFN conference report.

I commend the chairman of the Foreign Relations Committee, Senator PELL, along with Senator KENNEDY and Senator KASSEBAUM for the extraordinary diligence with which the legislation that we are about to vote on has been dealt with here in the Senate.

Originally, when we determined to call this bill up, it was expected that the bill would take 3 days. It has been done in much less than that—really, about 1 full day, beginning yesterday afternoon and concluding this morning. For that, the managers deserve great credit.

This week, the Senate has enacted two major bills—the energy bill and the higher education bill—and I think that is a most productive week. As I indicated earlier, we will be back on Tuesday with the China MFN conference report, and on that day, I will state our intentions regarding the schedule for the rest of the week, following consultation with the distinguished Republican leader.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois, [Mr. DIXON], the Senator from Georgia [Mr. FOWLER], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY], are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON], would vote "aye."

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. CRAIG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 1, as follows:

{Rollcall Vote No. 30 Leg.}

YEAS—93

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman

Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—1

Helms

NOT VOTING—6

Boren
Craig
Dixon
Fowler
Harkin
Kerrey

So the bill (S. 1150), as amended, was passed.

S. 1150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—POSTSECONDARY IMPROVEMENT AND COMMUNITY SERVICE

Sec. 101. Fund for the improvement of postsecondary education.

TITLE II—ACADEMIC LIBRARIES AND INFORMATION SERVICES

Sec. 201. Amendment to title heading.
Sec. 202. Authorization of appropriations.
Sec. 203. Library experts.
Sec. 204. College library technology and cooperation grants.
Sec. 205. Library education, research, and development.
Sec. 206. Library education and human resource development.
Sec. 207. Research and demonstration.
Sec. 208. Improving access to research library resources.
Sec. 209. College library technology and cooperation grants.

TITLE III—INSTITUTIONAL AID

Sec. 301. Findings.
Sec. 302. Hispanic-serving institutions.
Sec. 303. Duration of grants.
Sec. 304. Grants to institutions.
Sec. 305. Minimum allotment.
Sec. 306. Professional or graduate institutions.
Sec. 307. Establishment of grants.
Sec. 308. Endowment challenge grants.
Sec. 309. Application for assistance.
Sec. 310. Waiver authority.
Sec. 311. Repealers.
Sec. 312. Assistance to institutions under other programs.
Sec. 313. Authorization of appropriations.

TITLE IV—STUDENT ASSISTANCE

Sec. 401. Program authority and method of distribution.
Sec. 402. Repealers.
Sec. 403. Authorization of appropriations.
Sec. 404. Amount and duration of grants.
Sec. 405. Agreements with institutions; selection of recipients.
Sec. 406. Allocation of funds.
Sec. 407. Grants to States for State student incentives.
Sec. 408. Applications for State student incentive grant program.
Sec. 409. Early intervention program.
Sec. 410. Special programs for students from disadvantaged backgrounds.
Sec. 411. Talent search.
Sec. 412. Upward bound.
Sec. 413. Student support services.
Sec. 414. Educational opportunity centers.
Sec. 415. Staff development activities.
Sec. 416. Evaluation for program improvement.
Sec. 416A. Advanced placement test fee payment program.
Sec. 417. Special programs for students whose families are engaged in migrant and seasonal farmwork.
Sec. 418. Scholarships authorized.
Sec. 419. Allocation among States.
Sec. 420. Selection of scholars.
Sec. 421. Stipends and scholarship conditions.
Sec. 422. Construction of needs provisions.
Sec. 423. Awards ceremony.
Sec. 424. Authorization of appropriations.
Sec. 425. Payments to institutions of higher education.
Sec. 426. Veterans education outreach program.
Sec. 427. Grants to students in attendance at institutions of higher education.
Sec. 428. Advances for reserve funds of State and nonprofit private loan insurance programs.
Sec. 428A. Eligible dislocated workers educational training demonstration program.
Sec. 429. Limitations on individual federally insured loans and on Federal loan insurance.
Sec. 430. Eligibility of student borrowers and terms of federally insured student loans.
Sec. 431. Applicable interest rates.
Sec. 432. Federal payments to reduce student interest costs.
Sec. 433. Supplemental loan for students.
Sec. 434. PLUS loans.
Sec. 435. Consolidation loans.
Sec. 436. Default reduction programs.
Sec. 437. Requirements for disbursement of student loans.
Sec. 438. Default rates.
Sec. 439. Reports to credit bureaus and institutions of higher education.
Sec. 440. Legal powers and responsibilities.
Sec. 441. Student loan information by eligible lenders.
Sec. 442. Definitions for student loan insurance program.
Sec. 443. Repayment by the Secretary of loans of bankrupt, deceased or disabled borrowers.
Sec. 444. Special allowances.
Sec. 445. Student loan marketing association.
Sec. 446. Authorization of appropriations.
Sec. 447. Allocation of funds.
Sec. 448. Grants for work-study programs.
Sec. 449. Job location and development programs.
Sec. 449A. Additional funds to conduct community service work-study programs.
Sec. 450. Work study for community service-learning on behalf of low income individuals and families.
Sec. 451. Work-learning program and student mentor pilot program.
Sec. 452. Income contingent direct loan demonstration program.
Sec. 453. Authorization of appropriations.
Sec. 454. Allocation of funds.
Sec. 455. Agreements with institutions of higher education.
Sec. 456. Student loan information by eligible institutions.
Sec. 457. Terms of loans.
Sec. 458. Cancellation of loans for certain public service.
Sec. 459. Distribution of assets from student loan funds.
Sec. 460. Student aid methodology.
Sec. 461. Amount of need.
Sec. 462. Cost of attendance.
Sec. 463. Family contribution.
Sec. 464. Student aid methodology; data elements.
Sec. 465. Expected family contribution for dependent students.
Sec. 466. Expected family contribution for independent students with dependents other than a spouse.
Sec. 467. Expected family contribution for single independent students or for married independent students without other dependents.
Sec. 468. Regulations; updated tables.
Sec. 469. Simplified needs test.
Sec. 470. Discretion of student financial aid officer.
Sec. 471. Disregard of student aid in other Federal programs.
Sec. 472. Definitions; general calculation rules.
Sec. 473. Definitions.
Sec. 474. Master calendar.
Sec. 475. Forms and regulations.
Sec. 476. Student eligibility.
Sec. 477. Information dissemination activities.
Sec. 478. National student loan data system.
Sec. 479. Simplification of the lending process for borrowers.
Sec. 480. Training in financial aid and student support services.
Sec. 481. Program participation agreements.
Sec. 481A. Hazing.
Sec. 482. Assignment of identification numbers.
Sec. 483. Transfer of allotments.
Sec. 484. Criminal penalties.
Sec. 485. Advisory committee on student financial assistance.
Sec. 486. General provisions.
Sec. 487. Institutional integrity program required.
Sec. 488. Repeal of certain provisions.

TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

Sec. 501. Educator recruitment, retention, and development.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

Sec. 601. Purpose.
Sec. 602. Graduate and undergraduate language and area studies.
Sec. 603. Language resource centers.
Sec. 604. Undergraduate international studies and foreign language programs.
Sec. 605. Research; studies; annual report.
Sec. 606. Periodicals and other research materials published outside the United States.
Sec. 607. Equitable distribution of funds.
Sec. 608. American overseas research centers.
Sec. 609. Authorization of appropriations for part A.
Sec. 610. Centers for international business education.
Sec. 611. Education and training programs.
Sec. 612. Authorization of appropriations for part B.
Sec. 613. Minority foreign service professional development program.
Sec. 614. Definitions.

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

Sec. 701. Repealers and redesignations.

Sec. 702. Prior rights and obligations.
Sec. 703. Improvement of academic and library facilities.
Sec. 704. Federal assistance in the form of loans.
Sec. 705. Apportionment priorities.
Sec. 706. Funding rules.
Sec. 707. Definitions.
Sec. 708. Historically Black college and university capital financing.
Sec. 709. Forgiveness of certain loans.

TITLE VIII—COOPERATIVE EDUCATION

Sec. 801. Cooperative education.

TITLE IX—GRADUATE PROGRAMS

Sec. 901. Graduate programs.

TITLE X—POSTSECONDARY IMPROVEMENT PROGRAMS

Sec. 1001. Postsecondary improvement programs.

TITLE XI—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

Sec. 1101. Urban community service.

TITLE XII—GENERAL PROVISIONS AND DEMONSTRATION PROGRAMS

Sec. 1201. Definitions.
Sec. 1202. Special criteria for high-risk institutions.
Sec. 1203. National Advisory Committee on Institutional Quality and Integrity.
Sec. 1204. Demonstration programs.

TITLE XIII—EDUCATION ADMINISTRATION

Sec. 1301. Studies.
Sec. 1302. National Commission on Independent Education.

TITLE XIV—AMENDMENTS TO OTHER LAWS

Sec. 1401. Higher education technical amendments.
Sec. 1402. General Education Provisions Act.
Sec. 1403. United States Institute of Peace.
Sec. 1404. Law enforcement unit records.
Sec. 1405. Repeal of national science scholars program.
Sec. 1406. Special projects for two-year schools.
Sec. 1407. National and Community Service Act of 1990.
Sec. 1408. Prohibition on certain uses of funding.
Sec. 1409. Vocational education and training.

TITLE XV—NATIONAL CENTER FOR THE WORKPLACE

Sec. 1501. Purpose; designation.
Sec. 1502. Establishment.
Sec. 1503. Use of funds.
Sec. 1504. Board of Advisors.
Sec. 1505. Gifts and donations.
Sec. 1506. Authorization.

TITLE XVI—INDIAN HIGHER EDUCATION PROGRAMS

PART A—TRIBALLY CONTROLLED COMMUNITY COLLEGES

Sec. 1601. Reauthorization of the Tribally Controlled Community Colleges Act.

PART B—HIGHER EDUCATION TRIBAL GRANT AUTHORIZATION ACT

Sec. 1611. Short title.
Sec. 1612. Findings.
Sec. 1613. Program authority.
Sec. 1614. Qualification for grants to tribes.
Sec. 1615. Allocation of grant funds.
Sec. 1616. Limitations on use of funds.
Sec. 1617. Administrative provisions.

PART C—CRITICAL NEEDS FOR TRIBAL DEVELOPMENT ACT

Sec. 1621. Short title.
Sec. 1622. Definitions.
Sec. 1623. Service conditions permitted.
Sec. 1624. Critical area service agreements.
Sec. 1625. General provisions.

PART D—INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT

Sec. 1631. Institute of American Indian Native Culture and Arts Development.

PART E—AMERICAN INDIAN POSTSECONDARY ECONOMIC DEVELOPMENT SCHOLARSHIP

Sec. 1641. American Indian Postsecondary Economic Development Scholarship.
Sec. 1642. Indian scholarships.
Sec. 1643. Scholarship conditions.
Sec. 1644. Report.
Sec. 1645. Authorization of appropriations.

PART F—AMERICAN INDIAN TEACHER TRAINING

Sec. 1651. American Indian teacher training.

TITLE XVII—NATIONAL COMMISSION ON THE COST OF HIGHER EDUCATION

Sec. 1701. Establishment of Commission.
Sec. 1702. Membership of Commission.
Sec. 1703. Functions of Commission.
Sec. 1704. Powers of Commission.
Sec. 1705. Expenses of Commission.
Sec. 1706. Termination of Commission.

TITLE XVIII—AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965

Sec. 1801. Disclosure of tuition, administrative costs, instructional costs and capital costs.
Sec. 1802. Program participation agreement requirements.

TITLE XIX—RESOURCE SHARING GRANTS

Sec. 1901. Resource sharing grants.

TITLE XX—COMMUNITY AND JUNIOR COLLEGES

Sec. 2001. Definition of community and junior college.
Sec. 2002. Liaison for community colleges.

TITLE XXI—MISCELLANEOUS

Sec. 2101. Prohibitions relating to the provision of certain health care under sharing program.

TITLE I—POSTSECONDARY IMPROVEMENT AND COMMUNITY SERVICE

SEC. 101. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

Title I of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") (20 U.S.C. 1001 et seq.) is amended to read as follows:

"TITLE I—POSTSECONDARY IMPROVEMENT AND COMMUNITY SERVICE

"PART A—INSTITUTIONAL ASSISTANCE

"Subpart 1—Fund for the Improvement of Postsecondary Education

"SEC. 111. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

"The Secretary is authorized to make grants to, or enter into contracts with, institutions of postsecondary education or combinations of such institutions and other public and private nonprofit institutions and agencies, to enable such institutions and combinations of such institutions to improve postsecondary education opportunities by—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

"SEC. 112. NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

"(a) ESTABLISHMENT.—There is established a National Board of the Fund for the Improvement of Postsecondary Education (hereafter in this subpart referred to as the 'Board'). The Board shall consist of 15 members appointed by the Secretary for overlapping 3-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for 6 consecutive years shall thereafter be ineligible for appointment to the Board during a 2-year period following the expiration of such sixth year.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Secretary shall designate one of the members of the Board as Chairman of the Board. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

"(2) APPOINTMENT OF DIRECTOR.—The Secretary shall appoint the Director of the Fund for the Improvement of Postsecondary Education (hereafter in this subpart referred to as the 'Director of the Fund').

"(c) DUTIES.—The Board shall—

"(1) advise the Secretary and the Director of the Fund on priorities for the improvement of postsecondary education and make such recommendations as the Board may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice; and

"(2) advise the Secretary and the Director of the Fund on the operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund.

"(d) INFORMATION AND ASSISTANCE.—The Director of the Fund shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

"SEC. 113. ADMINISTRATIVE TECHNICAL PROVISIONS.

"(a) TECHNICAL EMPLOYEES.—The Secretary may appoint, for terms not to exceed 3 years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than 5 technical employees to administer this subpart who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) PROCEDURES.—The Director of the Fund shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this subpart. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

"SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for the 6 succeeding fiscal years to carry out this subpart.

"Subpart 2—Innovative Programs at Institutions of Higher Education

"SEC. 115. PROGRAM AUTHORIZED.

"(a) GRANTS AUTHORIZED.—

"(1) GRANTS BY THE SECRETARY.—In any fiscal year in which the appropriations for this subpart are less than $10,000,000, the Secretary is authorized to award grants to State higher education agencies to pay the Federal share of the cost of the activities described in the application submitted pursuant to section 118.

"(2) STATE GRANT PROGRAM.—In any fiscal year in which the appropriations for this subpart equals or exceeds $10,000,000, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to State educational agencies from allocations under section 116 to enable such agencies to pay the Federal share of the cost of the activities described in the application submitted pursuant to section 118.

"(3) FEDERAL SHARE.—The Federal share shall be 50 percent.

"(4) COMPETITIVE BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis.

"(5) DEFINITIONS.—For the purposes of this subpart the term 'State higher education agency' means the officer or agency primarily responsible for the State supervision of higher education.

"(b) SPECIAL RULE.—In awarding grants under this subpart, the Secretary shall ensure the equitable participation of public and private institutions of higher education in the program assisted under this subpart.

"SEC. 116. ALLOCATION.

"Each State higher education agency shall be eligible to receive a grant pursuant to section 115(a)(2) in each fiscal year that bears the same ratio to—

"(1) 50 percent of the amount appropriated pursuant to section 119 as the population in the State served by such State higher education agency bears to the total population of all States served by all State higher education agencies; and

"(2) 50 percent of the amount appropriated pursuant to section 119 as the number of full-time equivalents of students in the State served by such State higher education agency bears to the total number of full-time equivalents of students in all States served by all State education agencies.

"SEC. 117. AUTHORIZED ACTIVITIES.

"Each State higher education agency receiving a grant under this subpart shall use such grant to fund innovative programs at institutions of higher education within the State.

"SEC. 118. APPLICATION.

"Each State higher education agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Such application shall describe the activities and services for which assistance is sought.

"SEC. 119. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"(b) LIMITATION.—No funds are authorized to be appropriated to carry out this subpart in any fiscal year unless the amount appropriated to carry out subpart 1 in such fiscal year equals or exceeds $20,000,000.

"PART B—COMMUNITY SERVICE PROGRAMS

"Subpart 1—Innovative Projects for Community Service

"SEC. 121. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to support innovative projects in order to encourage student participation in community service projects, including literacy projects.

"SEC. 122. INNOVATIVE PROJECTS FOR COMMUNITY SERVICE.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to and enter into contracts with institutions of higher education (including combinations of such institutions) and with such other public agencies and nonprofit private organizations as the Secretary deems necessary for innovative projects designed to carry out the purpose of this subpart.

"(2) PROJECTS.—The projects described in paragraph (1) may include—

"(A) supporting research regarding the effects of student community service organizations;

"(B) providing assistance to student organizations that work with community service organizations;

"(C) supporting linkages between youth corps as defined in section 101(30) of the National and Community Service Act of 1990 and higher education institutions; and

"(D) supporting innovative international student service programs.

"(b) APPLICATIONS.—No grant may be made and no contract may be entered into under this section unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(c) APPLICABLE PROCEDURES.—

"(1) PROCEDURES.—No application may be approved under subsection (b) unless the National Board of the Fund for Improvement of Postsecondary Education, under procedures established by the Director, approves the application.

"(2) SPECIAL RULE.—The provisions of section 113(b) shall apply to grants made under this subpart.

"(d) DEFINITION.—For the purpose of this subpart, the term 'community service' means planned, supervised services designed to improve the quality of life for community residents, particularly community residents with low income, or to assist in the solution of particular problems related to the needs of such residents. Such services may address problems related to illiteracy, education (including tutorial services), health and child care, vocational rehabilitation and training, social and legal services, transportation, housing, and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and any other problem specified by the Secretary.

"Subpart 2—Student Literacy Corps

"SEC. 125. PURPOSE.

"It is the purpose of this subpart to provide financial assistance to institutions of higher education to promote the development of literacy corps programs to be operated by institutions of higher education in public community agencies in the communities in which such institutions are located.

"SEC. 126. STUDENT LITERACY CORPS PROGRAM.

"(a) IN GENERAL.—From the amount reserved pursuant to section 131(b) for any fiscal year, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to institutions of higher education for not more than 3 years to pay for Federal share to carry out student literacy corps programs.

"(b) SPECIAL RULE.—An institution of higher education shall only receive 1 grant under this section in each fiscal year.

"(c) CONTINUATION OF LITERACY PROGRAM.—Grants under this section are renewable upon application by the institution of higher education in accordance with section 128.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of carrying out student literacy corps programs under this subpart shall be—

"(A) up to 100 percent for an initial grant to an institution of higher education; and

"(B) up to 75 percent for a grant renewed under subsection (c).

"(2) NONFEDERAL SHARE.—The non-Federal share of carrying out student literacy corps programs under this subpart may be paid from any non-Federal sources.

"SEC. 127. USES OF FUNDS.

"(a) IN GENERAL.—Funds made available under this subpart may be used for—

"(1) grants to institutions of higher education for—

"(A) the costs of participation of institutions of higher education in the student literacy corps program for which assistance is sought; and

"(B) stipends for student coordinators engaged in the student literacy corps program for which assistance is sought; and

"(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 129.

"(b) LIMITATION.—(1) No grant award to an institution of higher education under this subpart shall exceed $100,000.

"(2) FIRST YEAR.—No institution of higher education may expend more than $50,000 of a grant made under this subpart in the first year in which the institution receives such a grant.

"SEC. 128. APPLICATIONS.

"(a) APPLICATION REQUIRED.—Each institution of higher education desiring to receive a grant under this subpart shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) contain assurances that the institution will use the grant in accordance with section 127;

"(2) contain adequate assurances that—

"(A) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students in various academic departments such as social sciences, economics, and education with experience as tutors;

“(B) such individuals will be required, as a condition of receiving credit in such course, to perform, for each credit, not less than 2 hours a week of voluntary, uncompensated service during the academic term in a public community agency as a tutor in such agency's educational or literacy program;

“(C) such tutoring service will be supplementary to the existing instructional services, offered in a structured classroom setting, and furnished under the supervision of qualified personnel; and

“(D) the institution will locate such tutoring services in one or more public community agencies which serve educationally or economically disadvantaged individuals and will give priority in providing tutoring services to—

“(i) educationally disadvantaged students receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

“(ii) illiterate parents of educationally or economically disadvantaged elementary school students, with special emphasis on single-parent households;

“(3) demonstrate that the institution of higher education has participated, prior to applying for a grant under this subpart, in community service activities, including the conduct of a cooperative education program; and

“(4) contain such other assurances as the Secretary may reasonably require.

“(c) Waiver.—

“(1) In general.—The Secretary may, upon request of an institution of higher education which does not meet the requirements of paragraph (3) of subsection (b), grant a waiver of the requirement under such paragraph if the institution of higher education provides assurances that—

“(A) the institution of higher education has conducted another significant program which involves community outreach and service; or

“(B) its failure to engage in community service-related programs or activities prior to making application under this subpart will not impede the ability of the institution to engage in the outreach efforts necessary to carry out the requirements of this subpart.

“(2) Special rule.—An institution of higher education may apply for a waiver as part of the application described in subsection (b).

“(d) Reopening of Application Process.—The Secretary shall accept applications for assistance under this subpart for 90 days following the date of the enactment of this Act.

“SEC. 129. TECHNICAL ASSISTANCE AND COORDINATION CONTRACT.

“To the extent that funds are available pursuant to section 131, the Secretary may, directly or by way of grant, contract, or other arrangement—

“(1) provide technical assistance to grant recipients under this subpart;

“(2) collect and disseminate information with respect to programs assisted under this subpart; and

“(3) evaluate such programs and issue reports on the results of such evaluations.

“SEC. 130. DEFINITIONS.

“For the purpose of this subpart:

“(1) Institution of higher education.—The term ‘institution of higher education’, in the case of an institution of higher education with a branch campus, means, at the election of the institution—

“(A) a branch campus of the institution; or

“(B) the institution.

“(2) Public community agency.—The term ‘public community agency’ means an established community agency with an established program of instruction such as elementary and secondary schools, Head Start centers, prisons, agencies serving youth, and agencies serving individuals with disabilities, including disabled veterans.

“Subpart 3—Authorization of Appropriations

“SEC. 131. AUTHORIZATION OF APPROPRIATIONS.

“(a) In General.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for the 6 succeeding fiscal years to carry out this part.

“(b) Reservation.—The Secretary shall reserve at least 50 percent of the funds appropriated pursuant to the authority of subsection (a) to carry out subpart 2 of this part.

“Part C—Access and Equity to Education for All Americans Through Telecommunications

“SEC. 141. PROGRAM ESTABLISHED; AUTHORIZATION OF APPROPRIATIONS; ELIGIBILITY.

“(a) General Authority.—The Secretary is authorized to make grants to eligible partnerships to enable such partnerships to pay the Federal share of the cost of the activities described in the application submitted pursuant to section 142.

“(b) Authorizations of Appropriations.—

“(1) In general.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

“(2) Availability.—Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

“(c) Eligible Partnership.—For the purpose of this part the term ‘eligible partnership’ means a partnership which—

“(1) shall consist of—

“(A) a public broadcasting entity or a consortium thereof; and

“(B) an institution of higher education or a consortium thereof; and

“(2) may also include a State, a unit of local government, or a public or private nonprofit organization.

“(d) Federal Share.—The Federal share shall be 50 percent.

“SEC. 142. APPLICATION.

“(a) In General.—Each eligible partnership desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require.

“(b) Contents.—Each application submitted pursuant to paragraph (1) shall—

“(1) describe the education telecommunications activities or services to be assisted;

“(2) describe the administrative and management structure supporting such activities or services;

“(3) provide assurances that the financial interests of the United States in the telecommunications equipment, software and other facilities shall be protected for the useful life of such equipment, software or facilities;

“(4) describe the manner in which nontraditional postsecondary education students will benefit from the activities and services supported;

“(5) describe the manner in which special services, including captioned films, television, descriptive video and education media for individuals with disabilities, shall be supported; and

“(6) provide assurances that the eligible partnership will provide the non-Federal share of assistance under this part.

“(c) Approval of Applications.—

“(1) In general.—The Secretary shall, in approving applications under this part, give priority to applications which describe programs that—

“(A) include support for services to make captioned films, descriptive video and educational media available to individuals with disabilities who otherwise lack access to such educational materials;

“(B) will provide, directly or indirectly, activities or services to a significant number of postsecondary institutions;

“(C) improve access to accredited telecommunications coursework for individuals with disabilities otherwise denied such access;

“(D) will be available in a multistate area;

“(E) include evidence of significant support for the program from the business community; or

“(F) provides matching funds, in an amount which exceeds the required non-Federal share.

“(2) Equitable geographic distribution of assistance.—In approving applications under this part the Secretary shall ensure the equitable geographic distribution of grants awarded under this part.

“SEC. 143. AUTHORIZED ACTIVITIES.

“Grant funds awarded under this part shall be used for—

“(1) the acquisition of site equipment to provide the technical ability to receive diverse education services at schools, campuses, and work site locations;

“(2) satellite, fiberoptic and other distribution systems, and for local broadcast or other local distribution capability;

“(3) pre-service or in-service education and training for kindergarten through 4th grade teachers through interactive television conferencing;

“(4) preparation of telecommunications programs and software that support national, regional or statewide efforts to provide teaching and learning materials not otherwise available for local use; and

“(5) a loan service of captioned films, descriptive video and educational media in order to make such materials available, in accordance with regulations issued by the Secretary, in the United States for nonprofit purposes to individuals with disabilities, parents of individuals with disabilities, and other individuals directly involved in activities for the advancement of individuals with disabilities, including addressing problems of illiteracy among individuals with disabilities.

“SEC. 144. DEFINITIONS.

“For the purpose of this part—

“(1) the term ‘institution of higher education’ has the same meaning given to such term by section 481(a);

“(2) the term ‘public broadcasting entity’ has the same meaning given to such term by section 397(11) of the Communications Act of 1934; and

“(3) the term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands.

“SEC. 145. REPORT.

“(a) In General.—Each recipient of a grant under this part shall submit a report to the Secretary not later than 30 days after the conclusion of the grant period.

"(b) CONTENTS.—Each report described in subsection (a) shall include—

"(1) a description of activities and services assisted under this part;

"(2) a description of the population served by the program; and

"(3) an assessment of the ability of private sector entities participating in the eligible partnership to continue the support of the activities and services in the absence of Federal funding.

"(c) DISSEMINATION.—The Secretary shall select reports received under this subsection that are appropriate for dissemination to the education community and shall make such reports available through the National Diffusion Network.".

TITLE II—ACADEMIC LIBRARIES AND INFORMATION SERVICES

SEC. 201. AMENDMENT TO TITLE HEADING.

The heading for title II of the Act (20 U.S.C. 1021 et seq.) is amended by striking "LIBRARY AND INFORMATION TECHNOLOGY ENHANCEMENT" and inserting "LIBRARIES AND INFORMATION SERVICES".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 201 of the Act (20 U.S.C. 1021) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) college and university libraries in acquiring technological equipment and in conducting research in information technology in accordance with part A;";

(B) by amending paragraph (2) to read as follows:

"(2) in the education and training of persons in library and information science and to encourage research and development relating to improvement of libraries (including the promotion of economical and effective information delivery, cooperative efforts, and developmental projects) in accordance with part B;";

(C) in paragraph (3), by striking the semicolon and "and" and inserting a period; and

(D) by striking paragraph (4); and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "1987" and inserting "1993"; and

(ii) by striking "4 succeeding" and inserting "6 succeeding";

(B) in paragraph (2)—

(i) by striking "$5,000,000" and inserting "$7,500,000";

(ii) by striking "1987" and inserting "1993"; and

(iii) by striking "4 succeeding" and inserting "6 succeeding";

(C) in paragraph (3)—

(i) by striking "$10,000,000" and inserting "$15,000,000";

(ii) by striking "1987" and inserting "1993"; and

(iii) by striking "4 succeeding" and inserting "6 succeeding"; and

(D) by striking paragraphs (4) and (5).

SEC. 203. LIBRARY EXPERTS.

Title II of the Act is further amended by inserting after section 202 the following new section:

"SEC. 203. LIBRARY EXPERTS.

"The Secretary shall make every effort to ensure that programs under this title are administered by appropriate library experts.".

SEC. 204. COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS.

Part A of title II of the Act (20 U.S.C. 1029 et seq.) is amended to read as follows:

"PART A—COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS

"SEC. 211. COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS.

"(a) GRANTS AUTHORIZED.—The Secretary is authorized to make grants for technological equipment, networking, and other special purposes to—

"(1) institutions of higher education which demonstrate a need for special assistance for the planning, development, acquisition, maintenance, or upgrading of technological equipment necessary to organize, access or utilize material in electronic formats and to participate in networks for the accessing and sharing of library and information resources;

"(2) combinations of institutions of higher education which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment for the accessing and sharing of library and information resources;

"(3) other public and private nonprofit organizations which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve the services provided by such organizations to institutions of higher education; and

"(4) institutions of higher education conducting research or demonstration projects that improve information services to meet special national or regional needs by utilizing technology to enhance library or information services such as through the National Research and Education Network.

"(b) AWARD BASIS.—Grants under this section shall be awarded on a competitive basis.

"(c) AMOUNT.—

"(1) IN GENERAL.—The Secretary shall award grants under this section in an amount which is not less than $25,000.

"(2) SPECIAL RULE.—The Secretary shall award grants pursuant to paragraph (1) of subsection (a) in an amount which is not more than $50,000 for each institution of higher education.

"(d) PRIORITY.—In awarding grants pursuant to paragraph (1) of subsection (a), the Secretary shall give priority to institutions of higher education seeking assistance for projects which assist developing institutions of higher education in linking one or more institutions of higher education to resource sharing networks.

"(e) DURATION.—The Secretary shall award grants under this section for a period not to exceed 3 years.

"(f) APPLICATION.—

"(1) IN GENERAL.—Each institution of higher education or combination thereof desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENT.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought; and

"(B) contain assurances that the applicant will expend during the period for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant.

"(3) CRITERIA.—The Secretary shall prescribe criteria for the approval of applications submitted under this section.".

SEC. 205. LIBRARY EDUCATION, RESEARCH, AND DEVELOPMENT.

(a) AMENDMENT TO HEADING.—The heading for part B of title II of the Act (20 U.S.C. 1031 et seq.) is amended by striking "TRAINING" and inserting "EDUCATION".

(b) GRANTS AUTHORIZED.—Section 221 of the Act (20 U.S.C. 1031) is amended—

(1) by inserting "(a) IN GENERAL.—" before "From"; and

(2) by inserting at the end thereof the following new subsection:

"(b) CONSULTATION.—In awarding grants pursuant to this part, the Secretary shall consult with appropriate library and information science professional organizations to determine critical needs under section 222 and priorities for awarding grants under section 223.".

SEC. 206. LIBRARY EDUCATION AND HUMAN RESOURCE DEVELOPMENT.

(a) AMENDMENT TO HEADING.—The heading for section 222 of the Act is amended by striking "CAREER TRAINING" and inserting "EDUCATION AND HUMAN RESOURCE DEVELOPMENT".

(b) AMENDMENT TO TEXT.—Subsection (a) of section 222 of the Act (20 U.S.C. 1032(a)) is amended—

(1) in the first sentence thereof, by striking "librarianship" and inserting "library and information science, particularly in areas of critical needs such as recruitment and retention of minorities"; and

(2) in the second sentence thereof—

(A) by striking "training or";

(B) by inserting "or staff development" after "study"; and

(C) by striking "and others undergoing training" and inserting "who demonstrate need and are working toward a graduate degree".

SEC. 207. RESEARCH AND DEMONSTRATION.

Section 223 of the Act (20 U.S.C. 1033) is amended—

(1) by inserting "enter into" before "contracts"; and

(2) by striking "training in librarianship" and inserting "education in library and information science, enhancement of library services through effective and efficient use of new technology".

SEC. 208. IMPROVING ACCESS TO RESEARCH LIBRARY RESOURCES.

(a) ELIGIBILITY FOR ASSISTANCE.—Section 231 of the Act (20 U.S.C. 1041) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(b) AMENDMENT TO PART HEADING.—The heading for part C of title II of the Act (20 U.S.C. 1041 et seq.) is amended by striking "**STRENGTHENING**" and inserting "**IMPROVING ACCESS TO**".

SEC. 209. COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS.

Part D of title II of the Act (20 U.S.C. 1042) is repealed.

TITLE III—INSTITUTIONAL AID

SEC. 301. FINDINGS.

Subsection (a) of section 301 of the Act (20 U.S.C. 1051) is amended—

(1) in paragraph (1), by striking "in this era of declining enrollments and scarce resources" and inserting "serving high percentages of minority students and students from low-income backgrounds";

(2) in paragraph (2), by striking "recruitment activities,"; and

(3) by amending paragraph (5) to read as follows:

"(5) providing assistance to eligible institutions will enhance the role of such institutions in providing access and quality education to low-income and minority students;".

SEC. 302. HISPANIC-SERVING INSTITUTIONS.

(a) IN GENERAL.—Part A of title III of the Act (20 U.S.C. 1057 et seq.) is amended—

(1) by redesignating sections 313 and 314 as sections 314 and 315, respectively; and

(2) by inserting after section 313 the following new section:

"SEC. 313. HISPANIC-SERVING INSTITUTIONS.

"(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic and other low-income students.

"(b) DEFINITIONS.—For the purpose of this section—

"(1) the term 'Hispanic-serving institution' means an institution of higher education which—

"(A) has a full-time student undergraduate enrollment that is at least 25 percent Hispanic;

"(B) is duly accredited by an agency recognized for that purpose by the Secretary;

"(C) has been so accredited for 3 of its previous 5 years;

"(D) provides a 4-year program leading to a baccalaureate degree or a 2-year program leading to an associate's degree; and

"(E) is a public or nonprofit private institution of higher education;

"(F) is described in section 312(a), meets the requirements of paragraphs (1), (2) and (3) of section 312(b) and has an enrollment of needy students; and

"(G) provides assurances that—

"(i) not less than 50 percent of its Hispanic students be low-income individuals who are first generation college students; and

"(ii) another 25 percent of its Hispanic students be either low-income individuals or be first generation college students;

"(2) the term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree; and

"(3) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

"(c) AUTHORIZED ACTIVITIES.—

"(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Hispanic-serving institutions of higher education to assist such institutions to plan, develop, undertake, and carry out programs in any of the following areas:

"(A) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(B) Renovation and improvement in classroom, library, laboratory, and other instructional facilities.

"(C) Faculty salaries and support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

"(D) Curriculum development and academic instruction.

"(E) Purchase of library books, periodicals, microfilm, and other educational materials.

"(F) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

"(G) Joint use of facilities such as laboratories and libraries.

"(H) Academic tutoring and counseling programs.

"(I) Transfer centers to support the development or expansion of centers designed to increase the transfer rate of underrepresented students from 2-year to 4-year institutions, which may include joint admissions programs, shared advisement programs, and student transfer management information data systems.

"(J) Academic partnership coalitions, including partnerships among colleges, elementary and secondary schools, community-based organizations, parents, and low-income students.

"(K) Collaborative arrangements with nonprofit organizations or private sector business entities, in order to carry out the activities described in this subsection.

"(d) APPLICATION PROCESS.—

"(1) INSTITUTIONAL ELIGIBILITY.—Each Hispanic-serving institution desiring to receive assistance under this Act shall submit to the Secretary such enrollment data as may be necessary to demonstrate that it is a Hispanic-serving institution as defined in paragraph (1) of subsection (b), along with such other information and data as the Secretary may by regulation require.

"(2) APPLICATIONS.—Any institution which is determined by the Secretary to be a Hispanic-serving institution (on the basis of the information and data submitted under paragraph (1)) may submit an application for assistance under this section to the Secretary. Such application shall include—

"(A) a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic and other low-income students at the collegiate and pre-collegiate levels;

"(B) satisfactory evidence that such institution will, if provided with assistance, enter into a collaborative arrangement with at least one local educational agency to provide such agency with assistance in reducing Hispanic dropout rates, improving Hispanic rates of academic achievement, and increasing the rates at which Hispanic high school graduates enroll in higher education; and

"(C) such other information and assurance as the Secretary may require.

"(3) APPROVAL.—The Secretary shall approve any application which meets the requirements of paragraph (1) and shall not disapprove any application submitted under this section, or any modification thereof, without first affording such institution reasonable notice and opportunity for hearing.

"(e) SPECIAL RULE.—For the purposes of this section, no Hispanic-serving college or university which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Title III of the Act is further amended—

(1) by adding at the end of subsection (b) of section 352 the following new paragraph:

"(4) The Secretary shall waive the requirements set forth in section 312(b)(1)(B) in the case of an institution which qualifies for assistance under section 313."; and

(2) by adding at the end of subsection (a) of section 360 the following new paragraph:

"(5) There are authorized to be appropriated to carry out section 313, $45,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.".

SEC. 303. DURATION OF GRANTS.

Section 314 of the Act (as redesignated in section 302(a)(2)) is amended—

(1) in subsection (a), by striking "for—" and all that follows through the period at the end thereof and inserting "for 3, 4, or 5 years."; and

(2) by amending subsection (b) to read as follows:

"(b) LIMITATIONS.—In awarding grants under this part the Secretary shall give priority to applicants who are not already receiving a grant under this part.".

SEC. 304. GRANTS TO INSTITUTIONS.

Section 323 of the Act (20 U.S.C. 1062(a)) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting ", including purchase or rental of telecommunications technology equipment or services" after "facilities";

(B) in paragraph (5), by inserting ", including telecommunications program materials" after "materials"; and

(C) by inserting at the end thereof the following new paragraphs:

"(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

"(10) Establishing or enhancing a program of teacher education designed to qualify students to teach in a public elementary or secondary school in the State that shall include, as part of such program, preparation for teacher certification.

"(11) Other activities proposed in the application submitted pursuant to section 325 that—

"(A) contribute to carrying out the purposes of this part; and

"(B) are approved by the Secretary as part of the review and acceptance of such application."; and

(2) in subsection (b), by inserting at the end thereof the following new paragraph:

"(3) The Secretary shall not award a grant under this part for telecommunications technology equipment, facilities or services, if such equipment, facilities or services are available pursuant to section 396(k) of the Communications Act of 1934.".

SEC. 305. MINIMUM ALLOTMENT.

Paragraph (1) of section 324(d) of the Act (20 U.S.C. 1063(d)(1)) is amended by striking "$350,000" and inserting "$500,000".

SEC. 306. PROFESSIONAL OR GRADUATE INSTITUTIONS.

Section 326 of the Act (20 U.S.C. 1063b) is amended—

(1) by amending subsection (e) to read as follows:

"(e) ELIGIBILITY.—

"(1) IN GENERAL.—Independent professional or graduate institutions eligible for grants under subsection (a) include—

"(A) Morehouse School of Medicine;

"(B) Meharry Medical School;

"(C) Charles R. Drew Postgraduate Medical School;

"(D) Clark-Atlanta University;

"(E) Tuskegee University School of Veterinary Medicine;

"(F) Xavier University School of Pharmacy;

"(G) Southern University School of Law;

"(H) Texas Southern University School of Law or School of Pharmacy;

"(I) Florida A&M University School of Pharmaceutical Sciences;

"(J) North Carolina Central University School of Law; and

"(K) Morgan State University Graduate School.

"(2) SPECIAL RULE.—Graduate institutions that were awarded grants prior to October 1, 1992 shall continue to receive such grant payments, regardless of the eligibility of the graduate institutions described in subparagraphs (F) through (K), until such grant period has expired or September 30, 1993, whichever is later.

"(3) LIMITATION.—The Secretary shall not award more than 1 grant under this section in any fiscal year to any institution of higher education or university system."; and

(2) by adding at the end thereof the following new subsection:

"(f) FUNDING RULE.—If the amount of funds appropriated to carry out the provisions of this section does not exceed $12,000,000, then such amount as does not exceed $12,000,000 shall be available to make grants in accordance with the provisions of this section to the institutions described in subparagraphs (A) through (E) of subsection (e)(1).".

SEC. 307. ESTABLISHMENT OF GRANTS.

(a) REPEAL OF CHALLENGE GRANT PROGRAM.—

(1) REPEAL.—Section 331 of the Act (20 U.S.C. 1064) is repealed.

(2) REDESIGNATION.—Section 332 of the Act (20 U.S.C. 1065) is redesignated as section 331 of the Act.

(b) AMENDMENT TO HEADING.—The heading for part C of title III of the Act (20 U.S.C. 1064 et seq.) is amended by inserting "ENDOWMENT" before "CHALLENGE".

SEC. 308. ENDOWMENT CHALLENGE GRANTS.

Section 331 of the Act (20 U.S.C. 1065) (as redesignated in section 307(a)(2)) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "of higher education"; and

(B) in paragraph (2), by inserting at the end thereof the following new subparagraph:

"(D)(i) The term 'eligible institution' means an institution that is an—

"(I) eligible institution under part A or would be considered to be such an institution if section 312(b)(1)(C) referred to a postgraduate degree rather than a bachelor's degree;

"(II) institution eligible for assistance under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree; or

"(III) institution of higher education that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

"(ii) The Secretary may waive the requirements of subclauses (I) and (II) of clause (i) with respect to a postgraduate degree in the case of any institution otherwise eligible under clause (i) for an endowment challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.";

(2) in subsection (b)—

(A) in paragraph (1), by striking "of higher education";

(B) in paragraph (2)—

(i) by amending subparagraph (B) to read as follows:

"(B) The Secretary may make a grant under this part to an eligible institution under the following circumstances:

"(i) In any fiscal year in which the amount appropriated to carry out this part is less than $15,000,000, the institution—

"(I) may apply for a grant in an amount not exceeding $500,000; and

"(II) shall have deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant.

"(ii) In any fiscal year in which the amount appropriated to carry out this part is equal to or greater than $15,000,000 but less than $25,000,000, the institution—

"(I) may apply for a grant in an amount not exceeding $1,000,000; and

"(II) shall have deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant.

"(iii) In any fiscal year in which the amount appropriated to carry out this part is equal to or greater than $25,000,000, the institution may apply for a grant in an amount not to exceed $1,500,000 if such institution has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant."; and

(ii) in subparagraph (C)—

(I) by striking "of higher education";

(II) by striking "10" and inserting "5";

(III) by inserting "(i)" after the subparagraph designation; and

(IV) by adding at the end the following new clause:

"(ii) The provisions of clause (i) shall not apply to an eligible institution which received a grant under this section in an amount which is less than $1,000,000.";

(C) in paragraph (4)—

(i) by striking subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (A); and

(iii) in subparagraph (A) (as redesignated by clause (ii)) by inserting "endowment" before "challenge"; and

(D) by amending paragraph (5) to read as follows:

"(5) An endowment challenge grant awarded under this section to an eligible institution shall be in an amount which is not less than $50,000 in any fiscal year."; and

(3) by amending paragraph (1) of subsection (f) to read as follows:

"(1) give priority to an applicant that is receiving assistance under this part or has received a grant under part A or part B of this title within the 5 fiscal years preceding the fiscal year in which the applicant is applying for a grant under this section;".

SEC. 309. APPLICATION FOR ASSISTANCE.

Paragraph (7) of section 351(b) of the Act (20 U.S.C. 1066(b)(7)) is amended by—

(1) striking subparagraph (D); and

(2) redesignating subparagraphs (E) and (F), as subparagraphs (D) and (E), respectively.

SEC. 310. WAIVER AUTHORITY.

Subsection (a) of section 352 of the Act (20 U.S.C. 1067(a)) is amended in the matter preceding paragraph (1) by striking "shall" and inserting "may".

SEC. 311. REPEALERS.

Sections 355 and 359 of the Act (20 U.S.C. 1069a and 1069e) are each repealed.

SEC. 312. ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS.

Subsection (a) of section 356 of the Act (20 U.S.C. 1069b(a)) is amended by striking "shall" and inserting "may".

SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

Section 360 of the Act (20 U.S.C. 1069f) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "$120,000,000" and inserting "$125,000,000";

(ii) by striking "1987" and inserting "1993"; and

(iii) by striking "4 succeeding" and inserting 6 succeeding";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking "$100,000,000" and inserting "$125,000,000";

(II) by striking "1987" and inserting "1993"; and

(III) by striking "4 succeeding" and inserting "6 succeeding"; and

(ii) in subparagraph (B)—

(I) by striking "$5,000,000" and inserting "$20,000,000";

(II) by striking "1987" and inserting "1993"; and

(III) by striking "4 succeeding" and inserting 6 succeeding"; and

(C) in paragraph (3)—

(i) by striking "$20,000,000" and inserting "$40,000,000";

(ii) by striking "1987" and inserting "1993"; and

(iii) by striking "4 succeeding" and inserting 6 succeeding";

(2) by amending subsection (c) to read as follows:

"(c) RESERVATIONS.—If the amount appropriated under subsection (a)(1) for part A for any fiscal year beginning after September 30, 1986, equals or exceeds the amount appropriated for such part for fiscal year 1986, then the Secretary shall, for such fiscal year—

"(1) allocate 25 percent of the excess (above the amount appropriated for part A for fiscal year 1986) among eligible institutions with a very high percentage of students who are Black Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

"(2) allocate 75 percent of such excess among other eligible institutions."; and

(3) by adding at the end thereof the following new subsection:

"(e) ADDITIONAL RESERVATION.—The Secretary shall award at least 25 percent of the amount appropriated pursuant to the authority of paragraph (3) of subsection (a) in each fiscal year to historically black colleges and universities that meet the requirements of part C.".

TITLE IV—STUDENT ASSISTANCE

SEC. 401. PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.

Section 411 of the Act (20 U.S.C. 1070a) is amended—

(1) in paragraph (1) of subsection (a), by inserting "in accordance with subsection (g)" after "pay to each eligible institution";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) The purpose of this subpart is to provide a basic grant that as determined under paragraph (2) will meet the cost of attendance as set forth in section 472, but in no event shall such grant amount exceed the amount of the basic grant described in paragraph 2.";

(B) in subparagraph (A) of paragraph (2)—

(i) by striking "The amount" and inserting "Except as provided in paragraph (3), the amount";

(ii) by striking clauses (i) through (v) and inserting the following:

"(i) $3,600 for academic year 1993–1994,
"(ii) $3,800 for academic year 1994–1995,
"(iii) $4,000 for academic year 1995–1996,
"(iv) $4,200 for academic year 1996–1997,
"(v) $4,400 for academic year 1997–1998,
"(vi) $4,600 for academic year 1998–1999,
"(vii) $4,800 for academic year 1999–2000, "; and

(C) in the matter following clause (vii) (as added by clause (ii)), by inserting "(determined in accordance with part F)" after "expected family contribution"; and

(D) by amending paragraph (3) to read as follows:

"(3)(A) Except as provided in subparagraph (B), the amount of a basic grant to which a student is entitled under this subpart in any fiscal year—

"(i) in the case that the maximum basic grant amount allowable pursuant to the appropriate Appropriation Act is less than $3,600, equals a basic educational allowance of $2,300 plus a pro rata decrease in the amount the student would have received toward the cost of tuition if such maximum basic grant amount allowable pursuant to the appropriate Appropriation Act had been equal to $3,600;

"(ii) in the case that the maximum basic grant amount allowable pursuant to the appropriate Appropriation Act is $3,600, equals a basic allowance of $2,300, plus 25 percent of the cost of tuition (except that such cost shall not exceed $1,300);

"(iii) in the case that the maximum basic grant amount allowable pursuant to the appropriate Appropriation Act is greater than $3,600, equals the sum of—

"(I) a basic education allowance of $2,300, multiplied by the percentage by which such maximum basic grant amount for the fiscal year exceeds such maximum basic grant amount for the preceding fiscal year plus 100 percent, and

"(II) 25 percent of the cost of tuition;

"(iv) in the case of a student who has dependent care expenses (as defined in section 472(7)) or disability related expenses (as defined in section 472(8)), shall include an allowance of $3,000 in addition to the cost of tuition; and

"(v) in the case of an incarcerated student, shall be limited to the amount of tuition and fees assessed by the postsecondary institution for the course of study such student is pursuing and an allowance, as determined by the Secretary pursuant to regulations, for books and supplies associated with such course of study.

"(B) In no event shall the amount of a basic grant be—

"(i) less than $2,400 minus the expected family contribution; and

"(ii) exceed the amount of the basic grant described in paragraph (2).";

(E) in paragraph (4), by striking "section 411F" and inserting "section 472".

(F) in paragraph (5), by striking "$200" and inserting "$400, except that a student who is eligible for a basic grant that is equal to or greater than $200 but less than $400 shall be awarded a basic grant of $400";

(G) by amending paragraph (6) to read as follows—

"(6) No basic grant shall be awarded under this subpart in any fiscal year to any student who is attending on a less than half-time basis unless the expected family contribution for such student for such fiscal year is less than or equal to $200."; and

(H) by adding at the end the following new paragraphs:

"(8) EXCEPTION TO THE MAXIMUM PELL GRANT AWARD.—Notwithstanding any other provision of law, a student may receive 2 Pell grants during a single 12-month period, if the student—

"(A) is enrolled full-time in a program of study that is 3 years or longer at an eligible institution; and

"(B) completes course work toward completion of a bachelor's degree that exceeds the requirements for a full academic year as defined by the institution.

"(9) STUDY ABROAD.—Notwithstanding any other provision of this subpart, the Secretary shall allow the amount of the basic grant to be exceeded for students participating in a program of study abroad approved for credit by the institution at which the student is enrolled when the reasonable costs of such program are greater than the cost of attendance at the student's home institution, except that the amount of such basic grant in any fiscal year shall not exceed the grant level specified in the appropriate Appropriation Act for this subpart for such year. If the preceding sentence applies, the financial aid administrator at the home institution may use the budget of the study abroad program, rather than the home institution's budget, to determine the expected family contribution of the student.

"(10) INCARCERATED STUDENTS.—(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sum of the amount of tuition and fees normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release.

"(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988.";

(3) in subsection (c)—

(A) in subparagraph (A) of paragraph (1)—

(i) in clause (i)—

(I) by striking "5 academic years" and inserting "7 academic years"; and

(II) by striking "4 years or less;" and inserting "5 years;"

(ii) in clause (ii) by striking "more than"; and

(iii) by adding at the end the following new clauses:

"(iii) 4 academic years in the case of an undergraduate or certificate program normally requiring 2 years; or

"(iv) twice the length of time for a program in the case of an undergraduate or certificate program normally requiring less than 2 years to complete;"; and

(B) in paragraph (2), by adding at the end thereof the following new sentence: "Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the institution at which the student is enrolled."; and

(4) by adding at the end of subsection (d) the following new paragraph:

"(3) The Secretary shall make available a common reapplication form and process for students who have received a Pell Grant in the award year prior to the year for which such application is filed.".

SEC. 402. REPEALERS.

Sections 411A, 411B, 411C, 411D, 411E and 411F of the Act (20 U.S.C. 1070a–1 through 1070a–6) are each repealed.

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

Subsection (b) of section 413A of the Act (20 U.S.C. 1070b–1) is amended—

(1) by striking "$490,000,000" and inserting "$650,000,000";

(2) by striking "1987" and inserting "1993"; and

(3) by striking "4 succeeding" and inserting "6 succeeding".

SEC. 404. AMOUNT AND DURATION OF GRANTS.

Section 413B of the Act (20 U.S.C. 1070b–1 is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "From" and inserting "Except as provided in paragraph (3), from"; and

(ii) in subparagraph (A), by inserting "or in a program of study abroad that is approved for credit by the institution at which the student is enrolled" after "course of study at the institution"; and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) For students participating in study abroad programs, the institution shall consider all reasonable costs associated with such study abroad when determining student eligibility. The amount of grant to be awarded in such cases may exceed the maximum amount of $4,000 by as much as $400 if reasonable study abroad costs exceed the cost of attendance at the home institution by more than 20 percent."; and

(2) in paragraph (1) of subsection (b), by inserting ", and the first academic year of the first postbaccalaureate degree or the first year of graduate study (if the financial aid officer determines that the student has exceptional needs comparable to undergraduate students receiving such grants)," before "being pursued".

SEC. 405. AGREEMENTS WITH INSTITUTIONS; SELECTION OF RECIPIENTS.

Section 413C of the Act (20 U.S.C. 1070b–2) is amended—

(1) by amending paragraph (2) of subsection (a) to read as follows:

"(2) agrees that the Federal share of awards under this subpart will not exceed 75 percent of such awards, except that the Federal share may exceed such percentage if the Secretary determines that the non-Federal share would cause financial hardship at an eligible institution and that such institution serves a large number or percentage of low-income or minority students.";

(2) in subparagraph (A) of subsection (c)(2)—

(A) in clause (i), by striking the "and" after the comma;

(B) in clause (ii), by striking the period at the end thereof and inserting a comma; and

(C) by adding at the end the following new clauses:

"(iii) will, notwithstanding any other provision of this part, award supplemental grants to Pell grant recipients in an amount which is proportionate to the amount of the Pell grant received by such recipient in the academic year for which the determination is made, and

"(iv) will determine awards for supplemental grants without regard to the determination of a minimum student contribution, self-help amount or eligibility for assistance under other parts of this title except subpart 1 of part A."; and

(3) in subsection (d), by inserting "except that if the total financial need of all such students attending the institution exceeds 5 percent of such institution's allotment, then at least 5 percent of such allotment shall be made available to such students" before the period at the end thereof.

SEC. 406. ALLOCATION OF FUNDS.

Section 413D of the Act (20 U.S.C. 1070b–3) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

"(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate or transfer to a 4-year institution of higher education."; and

(2) in subparagraph (A) of subsection (d)(2), by inserting "subdivided by full-time and part-time status" before the semicolon.

SEC. 407. GRANTS TO STATES FOR STATE STUDENT INCENTIVES.

Section 415A of the Act (20 U.S.C. 1070c) is amended—

(1) by amending subsection (a) to read as follows:

"(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to—

"(1) make incentive grants available to States to assist States in providing grants to—

"(A) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

"(B) eligible students for campus-based community service work-study; and

"(2) make allotments to States to enable States to conduct early intervention programs described in section 415F."; and

(2) in subsection (b)—

(A) by striking "1987" and inserting "1993"; and

(B) by striking "4 succeeding" and inserting "6 succeeding".

SEC. 408. APPLICATIONS FOR STATE STUDENT INCENTIVE GRANT PROGRAM.

Subsection (b) of section 415C of the Act (20 U.S.C. 1070c-2(b)) is amended—

(1) in paragraph (2), by striking "$2,500" and inserting "$4,000"; and

(2) in paragraph (4), by inserting "except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State" before the semicolon.

SEC. 409. EARLY INTERVENTION PROGRAM.

Subpart 3 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070c et seq.) is amended by adding at the end thereof the following new section:

"SEC. 415F. EARLY INTERVENTION PROGRAM.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to make incentive grants to States to enable States to conduct early intervention programs that—

"(1) raise the awareness of eligible students about the advantages of obtaining a postsecondary education;

"(2) provide academic support and personal mentoring for prospective postsecondary students; and

"(3) provide eligible students with tuition assistance.

"(b) EARLY INTERVENTION PROGRAM ESTABLISHED.—

"(1) PROGRAM ESTABLISHED.—From amounts appropriated pursuant to the authority of subsection (f), the Secretary shall make allotments to States in accordance with paragraph (2) to pay the Federal share of the costs of the activities and services described in the plan submitted pursuant to subsection (d).

"(2) ALLOTMENT.—Except as provided in paragraph 3, for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amount appropriated pursuant to subsection (f) as the number of eligible students in such State bears to the total number of eligible students in all the States.

"(3) MINIMUM ALLOTMENT.—No State shall receive an allotment under paragraph (2) in any fiscal year which is less than $500,000.

"(4) REALLOTMENT.—The amount of any State's allotment under paragraph (2) or (3) for any fiscal year which the Secretary determines will not be required for such fiscal year for the early intervention program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such paragraphs for such year, but with such proportionate amount for any of such States being reduced to the extent such amount exceeds the sum the Secretary estimates such State needs and will be able to use in such year for carrying out the activities and services described in the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this paragraph during a year from funds appropriated pursuant to subsection (g) shall be deemed part of its allotment under such paragraphs for such year.

"(5) ALLOTMENT SUBJECT TO CONTINUING COMPLIANCE.—The Secretary shall make payments for early intervention programs only to States which continue to meet the requirements of subsection (c).

"(6) DEFINITIONS.—For the purpose of this section—

"(A) the term 'eligible institution' has the same meaning provided such term in section 435(a);

"(B) the term 'eligible student' shall include students eligible—

"(i) to be counted under section 1005(c) of the Elementary and Secondary Education Act of 1965;

"(ii) for assistance pursuant to the National School Lunch Act; or

"(iii) for assistance pursuant to part A of title IV of the Social Security Act (Aid to Families with Dependent Children); and

"(C) term 'tuition assistance' includes the costs of tuition, room and board, books, and required fees, if any.

"(c) USE OF ALLOTMENTS.—

"(1) IN GENERAL.—A State shall use payments received under this section to conduct an early intervention program that—

"(A) provides eligible students in any of the grades pre-school through 12 with a continuing system of mentoring and advising that—

"(i) is coordinated with the Federal and State community service initiatives;

"(ii) may include such support services as after school and summer tutoring, assistance in obtaining summer jobs, career mentoring and academic counseling; and

"(iii) may be provided by service providers such as community-based organizations, schools, eligible institutions, and public and private agencies, particularly institutions and agencies sponsoring programs authorized under subpart 4 of this part;

"(B) requires each student to enter into an agreement with the State under which the student agrees to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory academic progress as described in section 484(c), in exchange for receiving tuition assistance for a period of time to be established by each State;

"(C) establishes a plan for tuition assistance described in subparagraph (B) which may include contributions from Federal, State and private sources;

"(D) contains an incentive system to encourage greater collaboration between elementary and secondary schools, institutions of higher education, and any programs assisted under sections 417B and 417C in the State, through the creation of new linkage structures and programs;

"(E) provides financial aid counseling, including information on the opportunities for financial assistance pursuant to this title; and

"(F) contains an evaluation component that allows service providers to track eligible student progress during the period such students are participating in the program assisted under this section and which is consistent with the standards developed by the Secretary pursuant to paragraph (4).

"(2) ADDITIONAL REQUIREMENTS.—In carrying out the provisions of subparagraph (B) of paragraph (1), a State may include in the agreement such other requirements as the State determines necessary to meet the purposes of this section.

"(3) TUITION ASSISTANCE.—(A) In order to receive an allotment under this section each State shall ensure that tuition assistance provided pursuant to the provisions of paragraph (1)(B) is available to an eligible student for use at any eligible institution.

"(B) A State may consider students who have successfully participated in programs funded under subpart 4 of this part to have met the requirements of subsection (c)(1) (A) and (B).

"(C) Notwithstanding any other provision of law, tuition assistance provided under this section shall not be considered for the purpose of awarding Federal student financial aid, except that in no case shall the total amount of student financial assistance awarded to a student under this title exceed such student's total cost of attendance.

"(4) EVALUATION STANDARDS.—The Secretary shall prescribe standards for the evaluation described in paragraph (1)(E). Such standards shall—

"(A) provide for input from States and service providers; and

"(B) ensure that data protocols and procedures are consistent and uniform.

"(d) STATE PLAN.—

"(1) IN GENERAL.—Each State desiring an allotment under this section shall submit a State plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each State plan submitted pursuant to paragraph (1) shall—

"(A) describe the activities for which assistance under this section is sought; and

"(B) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this section.

"(3) APPROVAL.—The Secretary shall approve a State plan submitted pursuant to paragraph (1) within 6 months of receipt of the plan unless the plan fails to comply with the provisions of this section.

"(e) EVALUATION AND REPORT.—

"(1) EVALUATION.—Each State receiving an allotment under this section shall annually evaluate the early intervention program assisted under this section in accordance with the standards described in subsection (c)(4) and shall submit to the Secretary a copy of such evaluation.

"(2) REPORT.—The Secretary shall annually report to the Congress on the activities assisted under this section and the evaluations conducted pursuant to paragraph (1).

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $100,000,000 for fiscal year 1993 and such sums as may be necessary for the 6 succeeding fiscal years to carry out the provisions of this section.

"(2) Special rule.—No funds are authorized to be appropriated pursuant to the authority of paragraph (1) in any fiscal year unless the amount appropriated pursuant to the authority of section 415A to carry out this subpart equals or exceeds $63,500,000 in such fiscal year.".

SEC. 410. SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS.

Section 417A of the Act (20 U.S.C. 1070d) is amended—

(1) in subsection (a), by inserting "to motivate and prepare such students for doctoral programs," after "pursuing programs of postsecondary education,";

(2) in paragraph (1) of subsection (b), by inserting "combinations of such institutions, agencies or organizations," after "private agencies and organizations,";

(3) in subsection (c)—

(A) by striking "$205,000,000" and inserting "$500,000,000";

(B) by striking "1987" and inserting "1993"; and

(C) by striking "4 succeeding" and inserting "6 succeeding";

(4) by inserting at the end the following new subsections:

"(e) Outreach.—

"(1) In general.—The Secretary shall conduct outreach activities to ensure that entities eligible for assistance under this subpart submit applications proposing programs that serve geographic areas and eligible populations which have been underserved by the programs assisted under this subpart.

"(2) Notice and assistance.—In carrying out the provisions of paragraph (1), the Secretary shall—

"(A) notify the entities described in subsection (b) of the availability of assistance under this subsection not less than 120 days prior to the deadline for submission of applications under this subpart; and

"(B) provide assistance in the development of applications and programs assisted under this subpart.

"(3) Special rule.—The Secretary may contract with eligible entities to conduct the outreach activities described in this subsection.

"(f) Application Review Process.—

"(1) In general.—To the extent practicable, the Secretary shall ensure that readers of applications submitted under this subpart represent diverse backgrounds reflecting the populations served by programs assisted by this subpart.

"(2) Special rule.—The Secretary shall ensure that each application submitted under this subpart is read by at least 3 reviewers not employed by the Department of Education.

"(g) Documentation of Status as a Low-Income Individual.—Documentation of an individual's status pursuant to subsection (d)(2) shall be made—

"(1) in the case of an individual who is eighteen years of age or younger or a dependent student by providing the Secretary with a signed statement from the parent or legal guardian, verification from another governmental source, a signed financial aid application, a signed United States or Puerto Rican income tax return, or any other documentation the Secretary deems appropriate that documents that the individual is a low-income individual for purposes of this subpart; and

"(2) in the case of an individual who is age 18 or older or who is an independent student, by providing the Secretary with a signed statement from the individual, verification from another governmental source, a signed financial aid form, a signed United States or Puerto Rican income tax return, or any other documentation the Secretary deems appropriate that documents that a student is a low-income individual for purposes of this subpart.

"(h) Special Rules.—

"(1) Peer review process.—(A) Except as provided in subparagraph (B), the Secretary shall award grants and contracts under this subpart in the order of the scores received by the application for such grant or contract in the peer review process required under section 1210 and adjusted for prior experience in accordance with subsection (b)(2).

"(B) Special rule.—The Secretary is not required to provide assistance to a program otherwise eligible for assistance under this subpart pursuant to subparagraph (A), if the Secretary is in receipt of evidence indicating that such program has involved the fraudulent use of funds under this subpart.

"(2) Duration.—Grants or contracts made under this subpart shall be awarded for a period of 4 years, except that the Secretary may award such grants or contracts for not more than 5 years to support programs the Secretary considers exceptional.

"(3) Application status.—The Secretary shall inform each entity operating programs under this subpart regarding the status of their application for continued funding at least 8 months prior to the expiration of the grant or contract. The Secretary, in the case of an entity that is continuing to operate a successful program under this subpart, shall ensure that the start-up date for a new grant or contract for such program immediately follows the termination of preceding grant or contract so that no interruption of funding occurs for such successful reapplicants. The Secretary shall inform each entity requesting assistance under this subpart for a new program regarding the status of their application at least 8 months prior to the proposed startup date of such program.

"(4) Number of applications for grants and contracts.—The Secretary shall not limit the number of applications submitted by an entity under any program authorized under this subpart if the additional applications describe programs serving different populations or campuses.

"(5) Coordination with other programs for disadvantaged students.—The Secretary shall encourage coordination of programs assisted under this subpart with other programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding source of such programs. The Secretary shall not limit an entity's eligibility to receive funds under this subpart because such entity sponsors a program similar to the program to be assisted under this subpart, regardless of the funding source of such program. The Secretary shall not require a separate Director to administer a program funded under this subpart if the imposition of such requirement will hinder coordination among programs funded under this subpart or between programs funded under this subpart and similar programs funded through other sources.".

SEC. 411. TALENT SEARCH.

Section 417B of the Act (20 U.S.C. 1070d-1) is amended—

(1) by amending subsection (b) to read as follows:

"(b) Permissible Services.—Any talent search project assisted under this subpart may provide services such as—

"(1) academic advice and assistance in secondary school and college course selection;

"(2) assistance in completing college admission and financial aid applications;

"(3) assistance in preparing for college entrance examinations;

"(4) guidance on high school reentry or entry into a general equivalency diploma program (GED) or other alternative education programs for high school dropouts;

"(5) personal counseling;

"(6) tutorial services;

"(7) career counseling;

"(8) exposure to college campuses as well as cultural events, academic programs and other sites or activities not usually available to disadvantaged youth;

"(9) mentoring programs involving either elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

"(10) workshops and counseling for parents of students served."; and

(2) by amending paragraph (2) of subsection (c) to read as follows:

"(2) require that such participants be persons who have completed 5 years of elementary education or are at least 11 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person will defeat the purposes of this section or the purposes of section 417E;".

SEC. 412. UPWARD BOUND.

Section 417C of the Act (20 U.S.C. 1070d-1a) is amended—

(1) in subsection (b)—

(A) in paragraph (8), by striking "and" after the semicolon;

(B) by redesignating paragraph (9) as paragraph (10);

(C) by inserting after paragraph (8) the following new paragraph:

"(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and"; and

(D) in paragraph (10) (as redesignated in subparagraph (B)), by striking "(8)" and inserting "(9)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following, new subsection:

"(c) Special Required Services.—Any upward bound project assisted which has received funding under this subpart for 2 or more years shall include as part of the core curriculum in the next and succeeding years—

"(1) instruction in mathematics through precalculus;

"(2) a minimum of 1 laboratory science;

"(3) a minimum of 1 foreign language; and

"(4) instruction in composition and literature.".

SEC. 413. STUDENT SUPPORT SERVICES.

Section 417D of the Act (20 U.S.C. 1070d-1b) is amended—

(1) in subsection (a), by striking the period at the end thereof and inserting the following: "that shall be designed to—

"(1) increase college retention and graduation rates for students;

"(2) increase the transfer rates of students from 2-year to 4-year institutions; and

"(3) foster an institutional climate supportive of the success of low-income, first-generation and physically handicapped students.";

(2) in subsection (b)—

(A) in paragraph (8), by striking "and" after the semicolon;

(B) by redesignating paragraph (9) as paragraph (10);

(C) by inserting after paragraph (8) the following new paragraph:

"(9) mentoring programs involving faculty or upper class students, or a combination thereof; and"; and

(D) in paragraph (10) (as redesignated in subparagraph (B)) by striking "(8)" and inserting "(9)";

(3) in subsection (c)—

(A) in subparagraph (A) of paragraph (1), by striking "be physically handicapped" and insert "be individuals with disabilities"; and

(B) in paragraph (5), by striking "receive" and inserting "be offered"; and

(4) by striking subsection (d).

SEC. 414. EDUCATIONAL OPPORTUNITY CENTERS.

Subsection (b) of section 417E is amended to read as follows:

"(b) PERMISSIBLE SERVICES.—An educational opportunity center assisted under this subpart may provide services such as—

"(1) public information campaigns designed to inform the community regarding opportunities for postsecondary education and training;

"(2) academic advice and assistance in course selection;

"(3) assistance in completing college admission and financial aid applications;

"(4) assistance in preparing for college entrance examinations;

"(5) guidance on high school reentry or entry into a general equivalency diploma (GED) program or other alternative education programs for high school dropouts;

"(6) personal counseling;

"(7) tutorial services; and

"(8) career workshops and counseling.".

SEC. 415. STAFF DEVELOPMENT ACTIVITIES.

Section 417F of the Act (20 U.S.C. 1070d–1d) is amended by inserting after the second sentence the following new sentence: "Such training shall be offered annually for new directors of projects assisted under this subpart as well as annually on the following topics and other topics chosen by the Secretary:

"(1) Legislative and regulatory requirements for the operation of programs assisted under this subpart.

"(2) Assisting students in receiving adequate financial aid from programs assisted under this title and other programs.

"(3) The design and operation of model programs for projects assisted under this subpart.".

SEC. 416. EVALUATION FOR PROGRAM IMPROVEMENT.

Subpart 4 of part A of title IV of the Act (20 U.S.C. 1070d et seq.) is amended by adding at the end the following new sections:

"SEC. 417G. POSTBACCALAUREATE ACHIEVEMENT PROGRAM AUTHORITY.

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall carry out a program to be known as the 'Ronald E. McNair Postbaccalaureate Achievement Program' which shall be designed to motivate and prepare promising undergraduate students for doctoral study.

"(2) SPECIAL RULE.—The Secretary shall ensure that a significant number of projects assisted under this subsection provide students with summer research internships.

"(b) PERMISSIBLE SERVICES.—A postbaccalaureate achievement project assisted under this section may provide services such as—

"(1) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

"(2) summer internships;

"(3) seminars and other educational activities designed to prepare students for doctoral study;

"(4) tutoring;

"(5) academic counseling; and

"(6) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for postbaccalaureate achievement projects assisted under this section for any fiscal year, the Secretary shall require—

"(1) an assurance that not less than one-half of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first-generation college students;

"(2) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education;

"(3) an assurance that participants be enrolled in a degree program at an eligible institution in accordance with the provisions of section 487;

"(4) an assurance that participants in summer research internships have completed their sophomore year in postsecondary education; and

"(5) an assurance that summer internships, seminars and research activities assisted under this subpart are jointly developed, implemented and administered with the dean or other designated official of a related or cooperating graduate school, college or institution.

"(d) SELECTION CRITERIA.—In addition to such other selection criteria as the Secretary may prescribe by regulations, the Secretary, in making awards to institutions under this subsection, shall consider—

"(1) the quality of research and other scholarly activities in which students will be involved;

"(2) the level of faculty involvement in the project and the description of the research in which students will be involved; and

"(3) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this subsection.

"(e) MAXIMUM STIPENDS.—Students participating in research under a postbaccalaureate achievement project may receive an award that—

"(1) shall include a stipend not to exceed $2,400 per annum; and

"(2) may include the costs of summer tuition, summer room and board, and transportation to summer programs.

"(f) FUNDING.—From amounts appropriated pursuant to the authority of section 417A(c), the Secretary shall allocate funds for projects authorized by this section in an amount which is not less than $11,000,000 for each of the fiscal years 1993 through 1999.

"SEC. 417H. EVALUATION FOR PROJECT IMPROVEMENT.

"(a) IN GENERAL.—For the purpose of improving the operation of the programs and projects assisted under this subpart, the Secretary is authorized to make grants to and enter into contracts with institutions of higher education and other public and private institutions and organizations to evaluate the effectiveness of the various programs assisted under this subpart in meeting the purposes described in this subpart.

"(b) CONTENT.—The evaluations described in subsection (a) shall identify institutional, community and program practices particularly effective in increasing the access of low-income individuals and first-generation college students to postsecondary education, the preparation of such individuals and students for postsecondary education, and such individuals' and students' success in postsecondary education.

"(c) RESULTS.—In order to improve program effectiveness, the results of the ongoing evaluations described in subsection (a) shall be disseminated by the Secretary to similar programs assisted under this subpart as well as other individuals concerned with the postsecondary access and retention of low-income individuals and first-generation college students.".

SEC. 416A. ADVANCED PLACEMENT TEST FEE PAYMENT PROGRAM.

Subpart 4 of part A of title IV of the Act (20 U.S.C. 1070d et seq.) is amended by adding at the end thereof the following new section:

"SEC. 417I. ADVANCED PLACEMENT FEE PAYMENT PROGRAM.

"(a) PROGRAM ESTABLISHED.—The Secretary is authorized to make grants to States to enable the States to reimburse individuals to cover part or all of the cost of advance placement test fees, to low-income individuals who—

"(1) are enrolled in an advanced placement class; and

"(2) plan to take an advanced placement test.

"(b) INFORMATION DISSEMINATION.—The State education agency shall disseminate information on the availability of test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for grants the Secretary shall—

"(1) require that each such application contain a description of the advance placement test fees the State will pay on behalf of individual students;

"(2) require an assurance that any funds received under this section shall only be used to pay advanced placement test fees; and

"(3) contain such information as the Secretary may require to demonstrate that the State will ensure that the student is eligible for payments under this section, including the documentation required by section 417A(g).

"(d) SUPPLEMENTATION OF FUNDING.—Funds provided under this section shall be used to supplement and not supplant other Federal, State, and local funds available to assist low-income individuals in paying for advanced placement testing.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,600,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

"(g) DEFINITION.—As used in this section:

"(1) ADVANCED PLACEMENT TEST.—The term 'advanced placement test' includes only an advanced placement test approved by the Secretary for the purposes of this section.

"(2) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' has the meaning given the term in section 417A(d)(2).".

SEC. 417. SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK.

Section 418A of the Act (20 U.S.C. 1070d–2) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "17 years of age and over," and inserting "16 years of age and older, or are beyond the age of compulsory school attendance in the State in which such persons reside and are not enrolled in school,"; and

(B) in paragraph (4)—

(i) by inserting a comma after "concerning"; and

(ii) by inserting a comma after "obtaining";

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by inserting ", except as provided in paragraph (2), are limited to services that are necessary to assist migrant students in completing their first year of college, and" before "include";

(B) by amending paragraph (1) to read as follows:

"(1) outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated in programs under section 1201 of the Elementary and Secondary Education Act of 1965 or section 402 of the Job Training Partnership Act, and who meet the minimum qualifications for attendance at a college or university;";

(C) in paragraph (2), by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively;

(D) in paragraph (3), by redesignating subparagraphs (A) through (H) as clauses (i) through (viii), respectively;

(E) by redesignating paragraphs (1) through (6) (as amended in subparagraphs (B), (C) and (D)) as subparagraphs (A) through (F), respectively;

(F) by inserting the paragraph designation "(1)" after the subsection heading; and

(G) by adding at the end thereof the following new paragraph:

"(2) A recipient of a grant to operate a college assistance migrant program under this subpart shall provide followup services for migrant students after such students have completed their first year of college, and shall not use more than 10 percent of such grant for such followup services. Such followup services may include—

"(A) monitoring and reporting the academic progress of students who participated in the project during such student's first year of college and during such student's subsequent years in college; and

"(B) referring such students to on- or off-campus providers of counseling services, academic assistance, or financial aid.";

(3) in the heading for subsection (e), by striking "Three" and inserting "Five";

(4) in subsection (e), by striking "3-year" and inserting "5-year"; and

(5) in subsection (g)—

(A) in paragraph (1)—

(i) by striking "$7,000,000" and inserting "$15,000,000"; and

(ii) by striking "1987" and inserting "1993"; and

(B) in paragraph (2)—

(i) by striking "$2,000,000" and inserting "$5,000,000"; and

(ii) by striking "1987" and inserting "1993".

SEC. 418. SCHOLARSHIPS AUTHORIZED.

Subsection (b) of section 419C of the Act (20 U.S.C. 1070d-33(b)) is amended to read as follows:

"(b) PERIOD OF AWARD.—Scholarships under this section shall be awarded for a period of not more than 4 years for the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this title.".

SEC. 419. ALLOCATION AMONG STATES.

Section 419D of the Act (20 U.S.C. 1070d-34) is amended to read as follows:

"SEC. 419D. ALLOCATION AMONG STATES.

"(a) ALLOCATION FORMULA.—From the sums appropriated pursuant to the authority of section 419K for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 419E an amount equal to $1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b).

"(b) NUMBER OF SCHOLARSHIPS AVAILABLE.—The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

"(c) USE OF CENSUS DATA.—For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the United States Bureau of the Census.".

SEC. 420. SELECTION OF SCHOLARS.

Section 419G of the Act (20 U.S.C. 1070d-37) is amended—

(1) by amending subsection (b) to read as follows:

"(b) ADOPTION OF PROCEDURES.—The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities)."; and

(2) by adding at the end the following new subsection:

"(d) TIMING OF SELECTION.—The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.".

SEC. 421. STIPENDS AND SCHOLARSHIP CONDITIONS.

Subsection (a) of section 419H of the Act (20 U.S.C. 1070d-38(a)) is amended by inserting ", except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance" before the period.

SEC. 422. CONSTRUCTION OF NEEDS PROVISIONS.

Section 419J of the Act (20 U.S.C. 1070d-40) is amended by striking "Nothing" and inserting "Except as provided in section 471, nothing".

SEC. 423. AWARDS CEREMONY.

(a) REPEAL.—Section 419I of the Act (20 U.S.C. 1070d-39) is repealed.

(b) CONFORMING AMENDMENTS.—Section 419E of the Act (20 U.S.C. 1070d-35) is amended—

(1) in paragraph (3) by inserting "and" after the semicolon;

(2) in paragraph (4) by striking "at an awards ceremony in accordance with section 419I; and" and inserting a period; and

(3) by striking paragraph (5).

SEC. 424. AUTHORIZATION OF APPROPRIATIONS.

Section 419K of the Act (20 U.S.C. 1070d-41) is amended—

(1) by striking "$8,000,000" and inserting "$10,000,000";

(2) by striking "1987" and inserting "1993"; and

(3) by striking "4 succeeding" and inserting "6 succeeding".

SEC. 425. PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION.

Section 420 of the Act (20 U.S.C. 1070e) is repealed.

SEC. 426. VETERANS EDUCATION OUTREACH PROGRAM.

Subsection (a) of section 420A of the Act (20 U.S.C. 1070f(a)) is amended by striking "1987" and inserting "1993".

SEC. 427. GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION.

(a) ACCESS SCHOLARSHIPS.—Subpart 8 of part A of title IV of the Act (20 U.S.C. 1070f) is amended to read as follows:

"Subpart 8—Access Scholarships

"SEC. 420B. PURPOSE.

"It is the purpose of this subpart to award scholarships to encourage students to finish secondary school and obtain a college education, and to upgrade the course of study completed by our Nation's secondary school graduates.

"SEC. 420C. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $200,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this subpart, except that no amount is authorized to be appropriated to carry out the provisions of this subpart unless the amount appropriated in any fiscal year to carry out this part equals or exceeds the amount appropriated to carry out this part in the preceding fiscal year.

"SEC. 420D. SCHOLARSHIP PROGRAM.

"(a) IN GENERAL.—The Secretary is authorized to award scholarships to eligible students in accordance with the provisions of this subpart.

"(b) PERIOD OF AWARD.—Scholarships under this subpart shall be awarded for a period of four academic years, or in the case of a student who is enrolled in an undergraduate course of study that requires attendance for the full-time equivalent of five academic years, five academic years.

"(c) USE AT ANY INSTITUTION PERMITTED.—An eligible student awarded a scholarship under this subpart may use such scholarship stipend to attend any institution of higher education (as such term is defined in section 481(a)).

"SEC. 420E. STUDENT ELIGIBILITY.

"(a) STUDENT ELIGIBILITY.—For the purpose of this subpart the term 'eligible student' means an individual who—

"(1) has participated in an early intervention program assisted under section 415F or subpart 4;

"(2) is a graduate of a public or private secondary school or has the equivalent certificate of graduation as recognized by the State in which the eligible student resides;

"(3) not later than 3 years after such individual graduates or obtains an equivalent certificate, has been admitted for enrollment or is enrolled at an institution of higher education;

"(4) is eligible to receive a Pell Grant for the year in which the scholarship is awarded; and

"(5) has demonstrated academic achievement and preparation for postsecondary education by taking college preparatory level coursework in the following areas while in secondary school or the equivalent:

"(A) 4 years of English;

"(B) 3 years of science;

"(C) 3 years of mathematics;

"(D) either—

"(i) 3 years of history; or

"(ii) 2 years of history and 1 year of social studies; and

"(E) either—

"(i) 2 years of a foreign language; or

"(ii) 1 year of computer science and 1 year of a foreign language.

"(b) LIMITATION.—For the purpose of this subpart the term 'eligible student' does not include an individual who has been awarded an associate or baccalaureate degree.

"(c) WAIVERS.—

"(1) EARLY INTERVENTION PROGRAM PARTICIPATION.—The Secretary may waive the requirement described in paragraph (1) of subsection (a) in the first 3 academic years that scholarships are awarded under this subpart for any student who was unable to participate in an early intervention program assisted under section 415F or subpart 4 because such program was not available in the area in which such student resides.

"(2) LIMITED-ENGLISH PROFICIENT STUDENTS.—The Secretary may waive the requirement described in subparagraph (E) of paragraph (5) for any limited-English proficient student who is fluent in a language other than English and is participating in a program to teach such student the English language.

"SEC. 420F. EARLY INTERVENTION SCHOLARSHIP AGREEMENT.

"(a) IN GENERAL.—In order for a student to receive a scholarship under this subpart, the State educational agency serving the State in which such child resides shall have entered into an agreement with the Secretary.

"(b) CONTENTS.—Each agreement described in subsection (a) shall include provisions designed to ensure that—

"(1) all secondary school students in the State have equal and easy access to the coursework described in section 420E(a)(5);

"(2) the State educational agency has procedures in place to verify to the Secretary that students receiving a scholarship under this subpart have taken such coursework and that such coursework has been of a college preparatory level, including a requirement that all secondary schools in the State issue a certificate to each eligible student certifying that such student has completed the necessary coursework to qualify for a scholarship under this subpart;

"(3) the State educational agency has procedures in place to notify institutions of higher education of the availability of scholarships under this subpart, so that such institutions may award additional scholarships in concert with the scholarships received under this subpart; and

"(4) the State educational agency has procedures in place to inform junior high school students and their families about the value of postsecondary education, the availability of student aid to meet college expenses, and the availability of scholarships under this subpart for students who take demanding courses, with particular emphasis on activities designed to ensure that students from low- and moderate-income families have access to such information.

"(c) SPECIAL RULE.—The Secretary may allow a State to receive assistance under this subpart for students whose secondary schools do not offer the necessary coursework if such students take the required courses at another local secondary school or community college.

"SEC. 420G. STIPENDS AND SCHOLARSHIP CONDITIONS.

"(a) AMOUNT OF STIPEND.—

"(1) IN GENERAL.—Each eligible student awarded a scholarship under this subpart shall receive a stipend for each academic year of study for which the scholarship is awarded in an amount equal to $1,000.

"(2) PRO RATA REDUCTION.—If the amount appropriated pursuant to the authority of section 420C is insufficient to award stipends in accordance with paragraphs (1)(A) and (1)(B), then the Secretary shall make a pro rata reduction of the amount of stipends awarded pursuant to paragraphs (1)(A) and (1)(B).

"(b) PELL RECIPIENT STATUS AND SATISFACTORY ACADEMIC PROGRESS.—In order to continue eligibility for a scholarship under this subpart for the second year of postsecondary attendance, an eligible student shall maintain eligibility to receive a Pell Grant, including fulfilling the requirements for satisfactory academic progress as described in section 484(c).

"(c) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—Scholarships awarded under this subpart, in combination with the Pell Grant and other student financial assistance, may not exceed the student's cost of attendance, as defined in section 472.

"SEC. 420H. APPLICATION.

"Each eligible student desiring a scholarship under this subpart shall submit an application to the Secretary at such time, in such manner and containing such information as the Secretary may reasonably require.".

(b) GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION.—Part A of title IV of the Act (20 U.S.C. 1070 et seq.) is amended by adding at the end the following new subparts:

"Subpart 9—Minority Science and Engineering Improvement Programs

"CHAPTER 1—MINORITY SCIENCE IMPROVEMENT PROGRAM

"SEC. 420I. PURPOSE; AUTHORITY.

"(a) PURPOSE.—It is the purpose of this chapter to continue the authority of the Department to operate the Minority Institutions Science Improvement Program created under section 3(a)(1) of the National Science Foundation Act of 1950 and transferred to the Department by section 304(a)(1) of the Department of Education Organization Act of 1979.

"(b) AUTHORITY.—The Secretary shall, in accordance with the provisions of this chapter, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities in scientific and technological careers.

"SEC. 420J. GRANT RECIPIENT SELECTION.

"(a) ESTABLISHMENT OF CRITERIA.—Grants under this chapter shall be awarded on the basis of criteria established by the Secretary by regulations.

"(b) PRIORITIES TO BE GIVEN IN CRITERIA.—In establishing criteria under subsection (a), the Secretary shall give priority to applicants which have not previously received funding from the Minority Institutions Science Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

"(c) REQUIRED CRITERIA.—In establishing criteria under subsection (a), the Secretary may consider the following selection criteria in making grants:

"(1) plan of operation;

"(2) quality of key personnel;

"(3) budget and cost-effectiveness;

"(4) evaluation plan;

"(5) adequacy of resources;

"(6) identification of need for the project;

"(7) potential institutional impact of the project;

"(8) institutional commitment to the project;

"(9) expected outcomes; and

"(10) scientific and educational value of the proposed project.

"SEC. 420K. USE OF FUNDS.

"(a) TYPES OF GRANTS.—Funds appropriated to carry out this chapter may be made available as—

"(1) institutional grants (as defined in section 420T(6));

"(2) cooperative grants (as defined in section 420T(7));

"(3) design projects (as defined in section 420T(8)); or

"(4) special projects (as defined in section 420T(9)).

"(b) AUTHORIZED USES FOR EACH TYPE OF GRANT.—

"(1) IN GENERAL.—The authorized uses of funds made available as institutional grants include (but are not limited to)—

"(A) faculty development programs; or

"(B) development of curriculum materials.

"(2) COOPERATIVE GRANTS.—The authorized uses of funds made available as cooperative grants include (but are not limited to)—

"(A) assisting institutions in sharing facilities and personnel;

"(B) disseminating information about established programs in science and engineering;

"(C) supporting cooperative efforts to strengthen the institutions' science and engineering programs; or

"(D) carrying out a combination of any of the activities described in subparagraphs (A) through (C).

"(3) DESIGN PROJECTS.—(A) The authorized uses of funds made available as design projects include (but are not limited to)—

"(i) developing planning, management, and evaluation systems; or

"(ii) developing plans for initiating scientific research and for improving institutions' capabilities for such activities.

"(B) Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

"(4) SPECIAL PROJECTS.—The authorized uses of funds made available as special projects include (but are not limited to)—

"(A) advanced science seminars;

"(B) science faculty workshops and conferences;

"(C) faculty training to develop specific science research or education skills;

"(D) research in science education;

"(E) programs for visiting scientists;

"(F) preparation of films or audio-visual materials in science;

"(G) development of learning experiences in science beyond those normally available to minority undergraduate students;

"(H) development of pre-college enrichment activities in science; or

"(I) any other activities designed to address specific barriers to the entry of minorities into science.

"SEC. 420L. MULTIAGENCY STUDY OF MINORITY SCIENCE PROGRAMS.

"The Secretary, in cooperation with the heads of other departments and agencies that operate programs similar in purposes to the Minority Science Improvement Program which seek to increase minority participation and representation in scientific fields, shall submit a report to the President and Congress summarizing and evaluating such programs by January 1, 1996.

"CHAPTER 2—SCIENCE AND ENGINEERING ACCESS PROGRAMS

"SEC. 420M. MINORITY SUPPORT IN SCIENCE AND ENGINEERING PROGRAMS.

"The Secretary shall, in accordance with the provisions of this chapter, carry out a program of making grants to institutions of higher education that are designed to provide or improve support programs for minority students enrolled in science and engineering programs at institutions with a significant minority enrollment (at least 10 percent).

"SEC. 420N. SPECIAL SERVICE PROJECTS PROGRAM.

"The Secretary shall, in accordance with the provisions of this chapter, carry out a program of making grants to institutions of higher education that are designed to provide or improve support to accredited colleges and universities and professional scientific societies for a broad range of activities designed to eliminate or reduce specific barriers to the entry of minorities into science and technology.

"SEC. 420O. SUPPORTABLE ACTIVITIES.

"Funds appropriated for the purpose of this chapter may be made available for—

"(1) providing needed services to groups of minority institutions or providing training for scientists and engineers from eligible minority institutions;

"(2) providing needed services to groups of institutions serving significant numbers of minority students or providing training for scientists and engineers from such institutions to improve their ability to train minority students in science or engineering;

"(3) assisting minority institutions to improve the quality of preparation of their students for graduate work or careers in science, mathematics, and technology;

"(4) improving access of undergraduate students at minority institutions to careers in the sciences, mathematics, and engineering;

"(5) improving access of minority students to careers in the science, mathematics, and engineering;

"(6) improving access for pre-college minority students to careers in science, mathematics, and engineering through community outreach programs conducted through colleges and universities eligible for support through the Minority Science and Engineering Improvement Programs;

"(7) disseminating activities, information, and educational materials designed to address specific barriers to the entry of minorities into science and technology, and conducting activities and studies concerning the flow of underrepresented ethnic minorities into scientific careers;

"(8) supporting curriculum models to encourage minority student participation in research careers in science, mathematics, and technology; and

"(9) improving the capability of minority institutions for self-assessment, management, and evaluation of their science, mathematics, and engineering programs and dissemination of their results.

"CHAPTER 3—ADMINISTRATIVE AND GENERAL PROVISIONS

"SEC. 420P. ELIGIBILITY FOR GRANTS.

"Eligibility to receive grants under this subpart is limited to—

"(1) public and private nonprofit institutions that are minority institutions (as defined in section 420T(3));

"(2) nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which provide a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible minority institutions; and

"(3) for the purposes of section 420N, public and private nonprofit institutions that have at least 10 percent minority enrollment.

"SEC. 420Q. GRANT APPLICATION.

"(a) Submission and Contents of Applications.—An eligible applicant (as determined under section 420P) that desires to receive a grant under this subpart shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth—

"(1) a program of activities for carrying out one or more of the purposes described in section 420I(b) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes; and

"(2) such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) Approval Based on Likelihood of Progress.—The Secretary shall approve an application only if the Secretary determines that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this subpart.

"(c) Continuing Eligibility.—In order to remain eligible to receive financial assistance under this subpart in any fiscal year after the first fiscal year in which financial assistance under this subpart is received, a grant recipient shall demonstrate to the Secretary in the application submitted pursuant to this section that such recipient is making reasonable progress toward achieving the goals of the project for which assistance is sought.

"SEC. 420R. CROSS PROGRAM AND CROSS AGENCY COOPERATION.

"The Minority Science and Engineering Improvement Programs shall cooperate and consult with other programs within the Department and within Federal, State, and private agencies which carry out programs to improve the quality of science, mathematics, and engineering education.

"SEC. 420S. ADMINISTRATIVE PROVISIONS.

"(a) Technical Staff.—The Secretary shall appoint without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not less than 2 technical employees with appropriate scientific and educational background to administer the programs under this subpart who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) Procedurs for Grant Review.—The Secretary shall establish procedures for reviewing and evaluating grants and contracts made or entered into under such programs. Procedures for reviewing grant applications, based on the peer review system, or contracts for financial assistance under this subpart may not be subject to any review outside of officials responsible for the administration of the Minority Science and Engineering Improvement Programs.

"SEC. 420T. DEFINITIONS.

"For the purpose of this subpart:

"(1) Accredited.—The term 'accredited' means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

"(2) Minority.—The term 'minority' means American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group underrepresented in science and engineering.

"(3) Minority institution.—The term 'minority institution' means an institution of higher education whose enrollment of a single minority or a combination of minorities (as defined in paragraph (2)) exceeds 50 percent of the total enrollment. The Secretary shall verify this information from the data on enrollments in the higher education general information surveys (HEGIS) furnished by the institution to the Office for Civil Rights, Department of Education.

"(4) Science.—The term 'science' means, for the purpose of this program, the biological, engineering, mathematical, physical, and social sciences, and history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

"(5) Underrepresented in science and engineering.—The term 'underrepresented in science and engineering' means a minority group whose number of scientists and engineers per 10,000 population of that group is substantially below the comparable figure for scientists and engineers who are white and not of Hispanic origin.

"(6) Institutional grant.—The term 'institutional grant' means a grant that supports the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

"(7) Cooperative grant.—The term 'cooperative grant' means a grant that assists groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

"(8) Design projects.—The term 'design projects' means projects that assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

"(9) Special projects.—The term 'special projects' means—

"(A) a special project grant to a minority institution which supports activities that—

"(i) improve the quality of training in science and engineering at minority institutions; or

"(ii) enhance the minority institutions' general scientific research capabilities; or

"(B) a special project grant to any eligible applicant which supports activities that—

"(i) provide a needed service to a group of eligible minority institutions; or

"(ii) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

"SEC. 420U. AUTHORIZATION OF APPROPRIATIONS.

"(a) Authorizations.—There are authorized to be appropriated to carry out the purposes of this subpart, $7,500,000 for fiscal year 1993, and such sums as may be necessary for the 6 succeeding fiscal years.

"(b) Appropriation Limitation.—For any fiscal year, 50 percent of the funds under this subpart shall be allocated for the purpose of section 420I, 33.33 percent for the purpose of section 420M, and 16.67 percent for the purpose of section 420N.

"*Subpart 10—National Science Scholars Program*

"SEC. 420W. PURPOSE; APPROPRIATIONS AUTHORIZED.

"(a) Purpose.— It is the purpose of this subpart to—

"(1) establish a National Science Scholars Program to recognize student excellence and achievement in the physical, life, and computer sciences, mathematics, and engineering;

"(2) provide financial assistance to students under paragraph (1) to continue their postsecondary education in such fields of study at sustained high levels of performance;

"(3) contribute to strengthening the leadership of the United States in such fields;

"(4) strengthen the United States mathematics, science, and engineering base by offering opportunities to pursue postsecondary education in life, physical, and computer sciences, mathematics, and engineering;

"(5) encourage role models in scientific, mathematics, and engineering fields for young people;

"(6) strengthen the United States mathematics, scientific, and engineering potential by encouraging equal participation of women with men in mathematics, scientific, and engineering fields; and

"(7) attract talented students to teaching careers in mathematics and science in elementary and secondary schools.

"(b) Authorization of Appropriations.— There are authorized to be appropriated to the Department of Education $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years for awards to National Science Scholars.

"SEC. 420X. SCHOLARSHIPS AUTHORIZED.

"(a) Program Authority.—The Secretary is authorized, in accordance with the provisions of this subpart, to carry out a program of awarding scholarships to students for the study of the physical, life, or computer sciences, mathematics, or engineering, who—

"(1) are selected by the President;

"(2) have demonstrated outstanding academic achievement in the physical, life, or computer sciences, mathematics, or engineering; and

"(3) show promise of continued outstanding academic performance in such field of study.

"(b) Period of Awards.—

"(1) Period of initial award.—A student who satisfies the requirements of section 420Z(a) may receive a scholarship, for a period of 1 academic year, for the first year of undergraduate study at an institution of higher education.

"(2) Continuation awards.—A student who satisfies the requirements of section 420Z(b) may receive additional scholarships, each awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study. A student may receive additional scholarships for not more than 3 academic years of undergraduate study, except that, in the case of a student who is enrolled in an undergraduate course of study that requires attendance for 5 academic years, the student may receive additional scholarships for not more than 4 academic years of undergraduate study.

"(c) Use at Any Institution Permitted.— A student awarded a scholarship under this subpart may attend any institution of higher education as defined in section 1201(a).

"(d) National Science Scholars.—Students awarded scholarships under this subpart shall be known as 'National Science Scholars'.

"SEC. 420Y. SELECTION OF SCHOLARS.

"(a) Selection Criteria for Initial Awards.—

"(1) Selection criteria.—The Director of the National Science Foundation shall develop and submit to the Secretary proposed criteria to be used in the selection of National Science Scholars for initial year awards under section 420X(b)(1). Such criteria shall provide for the selection of such scholars on the basis of potential to complete successfully a postsecondary program in the physical, life, or computer sciences, mathematics, or engineering, and on the basis of motivation to pursue a career in such fields. In addition, consideration may be given to the financial need of the individual, and to promoting participation by minorities and individuals with disabilities. The Director shall determine the proposed criteria for measuring the potential and motivation of nominees.

"(2) Publication.—The Secretary and the Director shall agree to, and jointly publish in the Federal Register, appropriate selection criteria.

"(b) Selection Process for Initial Awards.—

"(1) Nominating committee.—Each State desiring to qualify its students for selection as a National Science Scholar shall establish a nominating committee. Such committee shall be appointed by the chief State school officer or by an existing grant agency or panel designated by such officer, and shall be approved by the Secretary. The nominating committee shall be a broad-based committee composed of educators, scientists, mathematicians, and engineers, who shall serve as volunteers without compensation.

"(2) Nominations.—The nominating committee in each State shall submit to the President the nominations of at least four individuals from each congressional district in the State, at least half of whom are female. Such selections shall be ranked in order of priority.

"(3) Selection.—The President, after consultation with the Secretary and the Director of the National Science Foundation, shall select two National Science Scholars for each academic year from each congressional district, at least one of whom shall be female.

"(4) Announcement and award of scholarships.—The selection process shall be completed, and the announcement of the selection of National Science Scholars shall be made by the President prior to January 1 of each fiscal year. The Secretary shall notify each Member of Congress of selections made from such Member's district and State before the public announcement by the President. Presentation of scholarships may be made in a public ceremony.

"(5) Congressional district.—For purposes of this subsection, the term 'congressional district' includes the part or all of a State (within the meaning of section 1201(b)) represented by a Member or Delegate of the House of Representatives, and includes the Commonwealth of the Northern Mariana Islands.

"(c) Continuation Awards.—The Secretary shall award additional scholarships under section 420X(b)(2) to recipients of initial awards under section 420X(b)(1) whom the Secretary determines meet the requirements of section 420Z(b).

"(d) Disbursal of Scholarship Proceeds.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this subpart to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student until the student is enrolled at an institution of higher education.

"(e) Special Rule.—The Director and the Secretary shall encourage the support and assistance of civic groups, the business community, professional associations, institutions of higher education, and others in providing scholarship assistance to National Science Scholarship finalists.

"SEC. 420Z. ELIGIBILITY OF SCHOLARS.

"(a) Requirements for Initial Award.— To be eligible to receive a scholarship under section 420X(b)(1), a student shall—

"(1) be scheduled to graduate from a public or private secondary school, or to obtain the equivalent of a certificate of graduation (as recognized by the State in which the student resides), during the school year in which the award is made;

"(2) be a citizen or national of the United States or the entities set forth in section 420Y(b)(5), or be an alien lawfully admitted to the United States for permanent residence;

"(3) have demonstrated outstanding academic achievement in secondary school in physical, life, or computer sciences, mathematics, or engineering;

"(4) have been accepted for enrollment at an institution of higher education as a full-time undergraduate student (as determined by the institution); and

"(5) have declared a major in one of the physical, life, or computer sciences, mathematics, or engineering, or provided a written statement to the State of the student's intent to major in one of these fields of study, if it is the policy of the institution at which the student has been accepted for enrollment that students not declare a major until a later point in their course of study.

"(b) Requirements for Continuation Awards.—A student who has received a scholarship under section 420X(b)(1) may receive a scholarship for a subsequent academic year of undergraduate education under section 420X(b)(2) if the student—

"(1) maintains a high level of academic achievement, as determined in accordance with the regulations of the Secretary;

"(2) continues to major in, or provides a statement to the State as described in subsection (a)(5) of the student's continuing intent to major in, one of the physical, life, or computer sciences, mathematics, or engineering; and

"(3) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

"(c) Waiver of Full-Time Attendance Requirement.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

"(d) Failure To Meet Eligibility Requirements.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this subpart shall be suspended in accordance with the regulations of the Secretary.

"(e) Reinstatement of Eligibility.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this subpart may be reinstated if the recipient seeks to reenter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

"(f) NOTIFICATION OF SECONDARY SCHOOLS.—The Secretary shall notify all public and private secondary schools and all institutions of higher education in each State annually of the availability of scholarships under this subpart.

"SEC. 420AA. SCHOLARSHIP AMOUNT.

"(a) AMOUNT OF AWARD.—Except as provided in subsections (b) and (c), the amount of a scholarship awarded under this subpart for any academic year shall be $5,000.

"(b) RELATION TO COST OF ATTENDANCE.—Notwithstanding subsection (a), the amount of a scholarship awarded under this subpart shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472. A scholarship awarded under this subpart shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

"(c) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—In the event that funds available in a fiscal year are insufficient to fully fund all awards under this subpart, the amount paid to each student shall be reduced proportionately.

"SEC. 420BB. SUMMER EMPLOYMENT OPPORTUNITIES FOR SCHOLARS.

"(a) PRIORITY FOR SUMMER EMPLOYMENT.—To the extent that they are otherwise qualified, students receiving scholarships under this subpart shall be given priority consideration for federally financed summer employment in federally funded research and development centers, that, to the maximum extent practicable, complements and reinforces the educational program of these students.

"(b) FEDERAL AGENCY COOPERATION.—Federal agencies shall cooperate fully with the Secretary and participate actively in providing appropriate summer employment opportunities for such students.

"(c) NOTIFICATION.—The Secretary shall notify other Federal agencies of the requirements of this section.

"Subpart 11—Special Child Care Services for Disadvantaged College Students

"SEC. 420CC. SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS.

"(a) PROGRAM AUTHORITY.—Funds appropriated pursuant to subsection (c) shall be used by the Secretary to make grants to institutions of higher education to provide special child care services to disadvantaged students.

"(b) APPLICATIONS.—Any institution wishing to receive a grant under this section shall submit an application to the Secretary. Such application shall include—

"(1) a description of the program to be established;

"(2) assurances by the applicant to the Secretary that—

"(A) not less than two-thirds of the participants in the program are low-income individuals;

"(B) the participants require the services to pursue successfully a program of education beyond high school;

"(C) the participants are enrolled at the institution which is the recipient of the grant;

"(D) all participants will receive sufficient assistance (under this subpart, other provisions of this title, or otherwise) to meet that student's full financial need for child care services related to such enrollment; and

"(E) the institution will meet such need of participants by providing child care through vouchers, contracted services, or direct provision of services; and

"(3) such information (and meet such conditions) as may be required by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purpose of this section, $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(d) DEFINITION.—For purposes of this subpart, the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using the criteria of poverty established by the Bureau of Census.

"Subpart 12—Training Grants for Community College and Small Business Consortia

"SEC. 420DD. FINDINGS.

"The Congress finds that—

"(1) small businesses provide most entry-level jobs in the United States but often lack the resources to provide needed worker education and training;

"(2) there is a growing mismatch between worker skills and workplace demands that has a greater impact on small businesses than on large businesses;

"(3) many employees of small businesses need both literacy and English-as-a-second language training, and skills training, in order to meet the needs of business;

"(4) joint education and training programs help share the risks of training, increase the number of the skilled workers available to small businesses, and allow more cost-effective development of training materials; and

"(5) many small businesses subcontract with large businesses that can provide valuable training advice to the small businesses.

"SEC. 420EE. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Small Business Administration and the Secretaries of Labor and Commerce, is authorized to make not more than 40 grants to community colleges participating in an eligible consortium to pay part or all of the costs of developing and providing training and retraining programs which meet the existing and changing needs of the eligible consortium's workers, especially nonsupervisory workers.

"(b) AMOUNT.—The Secretary shall not award a grant under this subpart in an amount which exceeds $500,000.

"(c) PROCEDURES AND CRITERIA.—The Secretary shall establish procedures and criteria for awarding grants under this subpart on a competitive merit basis.

"SEC. 420FF. ELIGIBLE CONSORTIUM.

"For the purpose of this subpart the term 'eligible consortium' means an accredited community college in consortium with two or more small businesses. The small businesses described in the preceding sentence shall—

"(1) be in the same industry;

"(2) use the same technology; and

"(3) have common educational needs.

"SEC. 420GG. APPLICATION.

"(a) IN GENERAL.—Each community college desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall describe—

"(1) the activities and services for which assistance is sought, which shall include technology training, basic skills training, or English-as-a-second language training;

"(2) the membership of the eligible consortium including, where applicable, a description of the large businesses that contract with the small businesses participating in the consortium and have training expertise to share with the small businesses;

"(3) the education and training needs of the eligible consortium; and

"(4) the source of the non-Federal share of costs of the training and retraining programs, including a description of any system of fees which may be used by the eligible consortium to support or partially support the training or retraining program.

"(c) APPROVAL.—The Secretary shall appoint a technical review panel to—

"(1) establish competitive selection criteria based on the contents of the application described in subsection (b);

"(2) select and approve applications under this subpart based on the selection criteria established pursuant to paragraph (1); and

"(3) make recommendations to the Secretary regarding the awarding of grants under this subpart.

"(d) PREFERENCE.—The panel described in subsection (c) shall give preference to applications that demonstrate a commitment to continue the training and retraining program after the termination of assistance provided under this subpart.

"(e) SPECIAL RULE.—The panel described in subsection (c) shall only approve applications under this subpart from eligible consortia which demonstrate the ability to provide effective training and retraining programs.

"SEC. 420HH. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and each of the 6 succeeding fiscal years to carry out the provisions of this subpart.

"Subpart 13—Olympic Scholarships

"SEC. 420II. OLYMPIC SCHOLARSHIPS.

"(a) SCHOLARSHIPS AUTHORIZED.—The Secretary shall award scholarships to each athlete who is training at the United States Olympic Education Center or a United States Olympic Training Center.

"(b) ELIGIBILITY.—The Secretary shall award scholarships under this part to both full-time and part-time students who are athletes described in subsection (a).

"(c) AMOUNT.—Except as provided in subsection (d), the Secretary shall award scholarships under this section in an amount sufficient to pay the cost to the athletes described in subsection (a) of tuition, room and board at an accredited institution of higher education.

"(d) PRO RATA REDUCTION.—If in any fiscal year in which the amount appropriated pursuant to the authority of subsection (f) is insufficient to award each athlete described in subsection (a) a scholarship under this section in the full amount described in subsection (c), then the Secretary shall make a pro rata reduction in the amount of each such scholarship awarded for such year.

"(e) APPLICATION.—Each athlete desiring a scholarship under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $6,000,000 for fiscal year 1993 and each of the 6 succeeding fiscal years.

"Subpart 14—Dwight D. Eisenhower Leadership Program

"SEC. 420JJ. SHORT TITLE.

"This subpart may be cited as the 'Dwight D. Eisenhower Leadership Development Act of 1992'.

"SEC. 420KK. ESTABLISHMENT OF THE PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a program to be known as the 'Dwight D. Eisenhower Leadership Development Program'.

"(b) SPECIAL RULE.—The program assisted under this subpart shall be established in conjunction with institutions of higher education which are specially prepared to undertake the development of new generations of leaders in the areas of national and international affairs.

"SEC. 420LL. FUNCTIONS OF THE PROGRAM.

"The functions of the program assisted under this subpart shall include—

"(1) stimulating and supporting the development of leadership skills among new generations of American college students;

"(2) directing a national program that identifies, recruits, inspires, and educates outstanding young men and women regarding leadership roles in a wide variety of fields in both the public and private sectors;

"(3) offering opportunities for young American leaders to benefit from internships in national and international organizations, with special attention being given to establishing such opportunities in developing countries;

"(4) identifying potential leaders from the developing democracies and supporting their study of leadership and democracy in the United States;

"(5) developing a prototype for understanding and teaching critical leadership skills to young Americans and encouraging institutions of higher education to establish similar leadership programs throughout the United States and abroad; and

"(6) stimulating the theoretical and practical study of leadership and leadership development to develop both a better understanding of leadership and improved methods to teach critical skills to young adults.

"SEC. 420MM. OPERATION OF THE PROGRAM BY A PRIVATE NONPROFIT ORGANIZATION.

"The Secretary is authorized to make grants to or enter into cooperative agreements, contracts, or leases with private nonprofit organizations to operate the program assisted under this subpart.

"SEC. 420NN. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1994 and 1995 to carry out this subpart.".

SEC. 428. ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS.

Section 422 of the Act (20 U.S.C. 1072) is amended—

(1) in paragraph (2) of subsection (a), by adding at the end the following new sentence: "Except as provided in section 428(c)(10)(C), such unencumbered non-Federal portion shall not be subject to recall, repayment or recovery by the Secretary."; and

(2) by adding at the end thereof the following new subsections:

"(e) CORRECTION FOR ERRORS UNDER REDUCTION OF EXCESS CASH RESERVES.—

"(1) IN GENERAL.—The Secretary shall pay any guaranty agency the amount of reimbursement of claims under section 428(c)(1), filed between September 1, 1988 and December 31, 1989, which were previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in section 422(e) as in effect on September 1, 1988) permitted at the end of 1986, if such maximum cash reserve was miscalculated because of erroneous financial information provided by such agency to the Secretary and if (A) such erroneous information is verified by an audited financial statement of the reserve fund, signed by a certified public accountant, and (B) such audited financial statement is provided to the Secretary prior to January 1, 1993.

"(2) AMOUNT.—The amount of reimbursement for claims shall be equal to the amount of reimbursement for claims withheld or canceled in order to be applied to such agency's obligation to eliminate excess cash reserves which exceeds the amount of that which would have been withheld or canceled if the maximum excess cash reserves had been accurately calculated.

"(f) REFUND OF CASH RESERVE PAYMENTS.—The Secretary shall, within 30 days after the date of enactment of this Act, pay the full amount of payments withheld or canceled under paragraph (3) of this subsection to any guaranty agency which—

"(1) was required to eliminate excess cash reserves, based on the maximum cash reserve (as described in section 422(e) as in effect on September 1, 1988) permitted at the end of 1986;

"(2) appealed the Secretary's demand that such agency should eliminate such excess cash reserves and received a waiver of a portion of the amount of such excess cash reserves to be eliminated;

"(3) had payments under section 428(c)(1) or section 428(f) previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in section 422(e) as in effect on September 1, 1988) permitted at the end of 1986; and

"(4) according to a Department of Education review that was completed and forwarded to such guaranty agency prior to January 1, 1992, is expected to become insolvent during or before 1996 and the payments withheld or canceled under paragraph (3) of this subsection are a factor in such agency's impending insolvency.".

SEC. 428A. ELIGIBLE DISLOCATED WORKERS EDUCATIONAL TRAINING DEMONSTRATION PROGRAM.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 9—Eligible Dislocated Workers Educational Training Demonstration Program

"SEC. 420C. PROGRAM ESTABLISHED.

"(a) PROGRAM ESTABLISHED.—

"(1) IN GENERAL.—The Secretary shall award grants to States to enable such States to pay the Federal share of establishing and operating eligible dislocated workers educational training demonstration programs in accordance with this section.

"(2) FEDERAL SHARE.—The Federal share shall be 50 percent.

"(3) AWARD BASIS.—The Secretary shall award grants under this section on the basis of the number of eligible dislocated workers in each State.

"(b) PROGRAM REQUIREMENTS.—Each State receiving a grant under this section shall use such grant funds to carry out an eligible dislocated workers educational training demonstration program that—

"(1) is designed to provide eligible dislocated workers with new skills through a variety of educational opportunities offered by institutions of higher education which are suited to such workers' goals, educational background, aptitude and skills;

"(2) leads to entry level job skills that assist an eligible dislocated worker to return to the work force;

"(3) only pays the cost of participating in such program which is not paid for by other Federal, State, or local grant programs; and

"(4) provides educational opportunities in programs that—

"(A) do not provide academic credit and which include academic skills improvement, job skills, and career and personal development; or

"(B) provide academic credit in one-year certificate granting programs or 2-year associate degree granting programs.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—An eligible dislocated worker is eligible to participate in a program assisted under this section if such eligible dislocated worker—

"(A) has applied for all Federal, State, and local grant assistance available to such eligible dislocated worker; and

"(B) is eligible for payments of unemployment compensation under Federal or State law.

"(2) SPECIAL RULE.—Notwithstanding any other provision of law, no individual shall be eligible to participate in a program assisted under this section if such individual—

"(A) completes such individual's education goal; or

"(B) returns to employment of at least 20 hours per week.

"(d) SPECIAL RULE.—The amount of an eligible dislocated worker's payments of unemployment insurance under Federal or State law shall not be increased or decreased as a result of assistance received under this section.

"(e) APPLICATION.—Each State desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(f) EVALUATION.—The Secretary shall evaluate the program assisted under this section every year.

"(g) DEFINITIONS.—For the purpose of this section—

"(1) the term 'eligible dislocated worker' has the same meaning given to such term by section 301(a) of the Job Training Partnership Act; and

"(2) the term 'public assistance' has the same meaning given to such term by section 4(20) of the Job Training Partnership Act.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums for each of the fiscal years thereafter.".

SEC. 429. LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE.

Subsection (a) of section 425 of the Act (20 U.S.C. 1075(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking clauses (i), (ii) and (iii) and inserting the following:

"(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

"(I) $3,000, if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(II) $2,250, if such student is carrying three-quarters of the normal full-time academic work load (as determined by the institution); or

"(III) $1,500, if such student is carrying at least one-half of the normal full-time academic work load (as determined by the institution);

"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the second year of undergraduate study—

"(I) $3,500 if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(II) $2,250, if such student is carrying at least three-quarters of the full-time academic work load (as determined by the institution); or

"(III) $1,750, if such student is carrying at least one-half of the normal full-time work load (as determined by the institution);

"(iii) in the case of a student at an eligible institution who has successfully completed such second year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $5,500, if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(II) $3,750, if such student is carrying at least three-quarters of the full-time academic work load (as determined by the institution); or

"(III) $2,500, if such student is carrying at least one-half of the full-time academic work load (as determined by the institution); or

"(iv) $9,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary), except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education or in programs of study abroad that are approved for credit by the institution at which such students are enrolled."; and

(B) by inserting at the end the following new subparagraph:

"(B)(i) The annual insurable limit per student described in subparagraph (A) shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

"(ii) The determination of the workload being carried by the student shall be made at the time the student's eligibility for the loan is certified, and shall not be affected by subsequent changes in the student's workload during the loan period."; and

(2) in subparagraph (A) of paragraph (2), by striking clauses (i) and (ii) and inserting the following:

"(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 428A or 428B; and

"(ii) $68,000, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 428A or 428B, except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive,

except that the aggregate insured unpaid principal amount for all loans insured under this part and part E made to any student minus any interest capitalized under section 428A(c) shall be any amount not to exceed a maximum of $52,000, in the case of any student who has not successfully completed a program of undergraduate education, and $115,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary and including any loans which are insured by the Secretary under this part and part E, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 428B.".

SEC. 430. ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS.

Subsection (a) of section 427 of the Act (20 U.S.C. 1077) is amended—

(1) in paragraph (2)—

(A) by amending subparagraph (A) to read as follows:

"(A) is made without security and without endorsement, except that prior to making a loan insurable by the Secretary under this part a lender may—

"(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who is an independent student for the award year for which assistance is being sought, and for which the lender shall not charge the applicant a fee; and

"(ii) require an applicant described in clause (i) who, in the judgment of the lender and in accordance with the regulations issued by the Secretary, has an adverse credit history, to obtain a credit worthy cosigner or endorser in order to obtain the loan, except that, for purposes of this clause, an insufficient or nonexistent credit history shall not be considered to be an adverse credit history;";

(B) by amending subparagraph (C) to read as follows:

"(C)(i) for loans made on or before June 30, 1993, provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(I) during which the borrower—

"(aa) is pursuing a full-time course of study as determined by an eligible institution;

"(bb) is pursuing at least a half-time course of study (as determined by such institution); or

"(cc) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program;

"(II) not in excess of 3 years during which the borrower is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

"(III) not in excess of 3 years during which the borrower is in service as a volunteer under the Peace Corps Act;

"(IV) not in excess of 3 years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

"(V) not in excess of 3 years during which the borrower is in service, comparable to the service referred to in subclauses (III) and (IV), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(VI) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public or nonprofit private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to paragraph (4) of this subsection;

"(VII) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training;

"(VIII) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

"(IX) not in excess of 24 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

"(X) not in excess of 6 months of parental leave; and

"(XI) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the work force and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938;

"(ii) for loans made to new borrowers on or after July 1, 1993, provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(I) during which the borrower—

"(aa) is pursuing at least a half-time course of study as determined by an eligible institution; or

"(bb) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary, except that no borrower shall be eligible for a deferment under this subclause, or loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program;

"(II) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

"(III) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled; and

"(IV) not in excess of 3 years during which the borrower is working full-time and is earning an amount which does not exceed the greater of—

"(aa) the minimum wage rate described in section 6 of the Fair Labor Standard Act of 1938; or

"(bb) an amount equal to 100 percent of the poverty line for a family of 2 as determined in accordance with section 673(2) of the Community Service Block Grant Act, and any such period shall not be included in determining the 10-year period described in subparagraph (B);";

(C) by striking "and" at the end of subparagraph (G);

(D) by redesignating subparagraph (H) as subparagraph (I); and

(E) by inserting after subparagraph (G) the following new subparagraph:

"(H) requires the lender (or the holder of the loan) to notify the borrower not later than 120 days after the borrower has left the eligible institution of the month in which the repayment period begins; and"; and

(2) in paragraph (3), by inserting ", and except further, that checks to students who are studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such students are enrolled may be endorsed pursuant to an authorized power-of-attorney" before the semicolon.

SEC. 431. APPLICABLE INTEREST RATES.

Section 427A of the Act (20 U.S.C. 1077a) is amended—

(1) in paragraph (4) of subsection (c)—

(A) in subparagraph (A)—

(i) by inserting "and before July 1, 1993" after "1987";

(ii) by striking "prior to such date"; and

(iii) by striking "under subparagraph (B)" and inserting "under subparagraph (C)";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) For any loan made pursuant to sections 428A or 428B to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1993, or any loan made pursuant to such sections prior to such date that is refinanced pursuant to sections 428A(d) or 428B(d), the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined under subparagraph (C), except that such rate shall not exceed 11 percent."; and

(D) in subparagraph (D) (as amended in subparagraph (B)), by striking "under subparagraph (B)" and inserting "under subparagraph (C)";

(2) in the heading for subsection (d), by inserting "and before July 1, 1993" after "1988";

(3) in the matter preceding paragraph (1) of subsection (d), by inserting "and ending before July 1, 1993" after "1988";

(4) in paragraph (1) of subsection (e), by inserting "made to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988 and ending before July 1, 1993" after "loan";

(5) by redesignating subsections (e), (f) and (g) as subsections (f), (g) and (h), respectively; and

(6) by inserting after subsection (d) the following new subsection:

"(e) Interest Rates for New Borrowers After July 1, 1993.—

"(1) In general.—Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to sections 428A, 428B and 428C) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1993, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

"(A) during the period beginning on the date of disbursement of the loan and ending 4 years after the commencement of repayment, the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined on the preceding June 1 and is equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.10 percent,

except that such rate shall not exceed 9 percent.

"(B) during the remainder of the repayment period, the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined on the preceding June 1 and is equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.10 percent,

except that such rate shall not exceed 11 percent.

"(2) Consultation.—The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.".

SEC. 432. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.

Section 428 of the Act (20 U.S.C. 1078) is amended—

(1) in paragraph (2) of subsection (a)—

(A) in subparagraph (A)—

(i) in subclause (III) of clause (i), by striking "and" at the end thereof;

(ii) in clause (ii), by striking the period at the end thereof and inserting a semicolon and "and"; and

(iii) by adding at the end thereof the following new clause:

"(iii) have provided to the lender at the time of application for a loan made, insured, or guaranteed under this part, the student's drivers license number, if any."; and

(B) in subparagraph (C)—

(i) by amending clause (i) to read as follows:

"(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 2 of part A, and parts C and E of this title, and any veterans' education benefits paid because of enrollment in a postsecondary education institution, including benefits received under chapters 2, 106 and 107 of title 10, United States Code, and chapters 30, 31, 32, 34 and 35 of title 38, United States Code."; and

(ii) by amending clause (ii) to read as follows:

"(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part F.".

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by amending subparagraph (A) to read as follows:

"(A) authorizes the insurance in any academic year or its equivalent of an amount not to exceed—

"(i) in the case of a student at an eligible institution (or in a program of study abroad approved for credit by the eligible institution at which such student is enrolled) who has not successfully completed the first year of a program of undergraduate education—

"(I) $3,000, if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(II) $2,250, if such student is carrying three-quarters of the normal full-time academic work load (as determined by the institution); or

"(III) $1,500, if such student is carrying at least one-half of the normal full-time academic work load (as determined by the institution);

"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the second year of undergraduate study—

"(I) $3,500 if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(II) $2,250, if such student is carrying at least three-quarters of the full-time academic work load (as determined by the institution); or

"(III) $1,750, if such student is carrying at least one-half of the normal full-time work load (as determined by the institution);

"(iii) in the case of a student at an eligible institution (or in a program of study abroad approved for credit by the eligible institution at which such student is enrolled) who has successfully completed such second year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $5,500, if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(II) $3,750, if such student is carrying at least three-quarters of the full-time academic work load (as determined by the institution); or

"(III) $2,500, if such student is carrying at least one-half of the full-time academic work load (as determined by the institution); and

"(iv) $9,000, in the case of a graduate or professional student (as defined in regulations of the Secretary), except that in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education,

except that the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit."; and

(ii) by amending subparagraph (B) to read as follows:

"(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall be any amount not to exceed—

"(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 428A or 428B; and

"(ii) $68,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary and including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 428A or 428B, except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;

except that the aggregate insured unpaid principal amount for all loans insured under this part and part E made to any student minus any interest capitalized under section 428A(c) shall be any amount not to exceed a maximum of $52,000, in the case of any student who has not successfully completed a program of undergraduate education, and $115,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary and including any loans which are insured by the Secretary under this part and part E, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 428B;";

(iii) in clause (ii) of subparagraph (D), by inserting "and subsection (c)(3) of this section" after "of this paragraph"; and

(iv) by amending subparagraph (M) to read as follows:

"(M)(i) for borrowers who have received loans made on or before June 30, 1993, provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(I) during which the borrower (aa) is pursuing a full-time course of study as determined by an eligible institution, (bb) is pursuing at least a half-time course of study (as determined by such institution), or (cc) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary, except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program;

"(II) not in excess of 3 years during which the borrower is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

"(III) not in excess of 3 years during which the borrower is in service as a volunteer under the Peace Corps Act;

"(IV) not in excess of 3 years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

"(V) not in excess of 3 years during which the borrower is in service, comparable to the service referred to in subclauses (III) and (IV), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(VI) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public or nonprofit private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to paragraph (4) of this subsection;

"(VII) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training;

"(VIII) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

"(IX) not in excess of 24 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

"(X) not in excess of 6 months of parental leave; and

"(XI) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the work force and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938;

"(ii) for loans made to new borrowers on or after July 1, 1993, provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(I) during which the borrower—

"(aa) is pursuing a course of study on at least a half-time basis as determined by an eligible institution; or

"(bb) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary, except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program;

"(II) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

"(III) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled; and

"(IV) not in excess of 3 years during which the borrower is working full-time and is earning an amount which does not exceed the greater of—

"(aa) the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

"(bb) an amount equal to 100 percent of the poverty line for a family of 2 as determined in accordance with section 673(2) of the Community Service Block Grant Act;";

(v) in subparagraph (N), by inserting "or may be endorsed pursuant to an authorized power-of-attorney" before the semicolon;

(vi) in subparagraph (U), by striking "and" at the end thereof;

(vii) by amending clause (i) of subparagraph (V) to read as follows:

"(V)(i) provide that, upon written request, a lender shall grant a borrower forbearance of principal and interest (or principal only at the option of the borrower) and renewable at 12-month intervals—

"(I) for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations of the Secretary set forth in writing by the parties to the loan, if the borrower's debt burden under this title equals or exceeds 20 percent of gross income; or

"(II) for a period equal to the length of time remaining in the borrower's medical or dental internship or residency program, on such terms as are otherwise consistent with the regulations of the Secretary and set forth in writing by the parties to the loan, if the borrower—

"(aa) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training; and

"(bb) provides that no administrative or other fee may be charged in connection with the granting of a forbearance under subclause (I), and that no adverse information regarding a borrower may be reported to a credit bureau organization solely because of the granting of a forbearance under such subclause."; and

(viii) by adding at the end the following new subparagraphs:

"(W) provides that prior to making a loan made, insured, or guaranteed under this part (other than a loan made in accordance with section 428C), a lender may—

"(i) obtain a credit report, from at least 1 national credit bureau organization, with respect to a loan applicant who is an independent student for the award year for which assistance is being sought, for which the lender shall not charge a fee; and

"(ii) require an applicant described in clause (i) who, in the judgment of the lender in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner or endorser in order to obtain the loan, except that, for purposes of this clause, an insufficient or nonexistent credit history shall not be considered to be an adverse credit history; and

"(X) provides that the agency shall implement all requirements of the Secretary for uniform claims and procedures.";

(B) in paragraph (2)—

(i) in subparagraph (C), by striking ", as the Secretary may reasonably require to carry out the Secretary's functions under this part," and inserting ", including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States,";

(ii) by striking "and" at the end of clause (ii) of subparagraph (D);

(iii) in subparagraph (E)—

(I) by inserting "(i)" after the subparagraph designation;

(II) by striking the period at the end thereof and inserting a semicolon and "and"; and

(III) by adding at the end the following new clause:

"(ii) provide that the lender (or the holder of the loan) shall notify the borrower not later than 120 days after the borrower has left the eligible institution of the month in which the repayment period begins."; and

(iv) inserting at the end thereof the following new subparagraph:

"(F) provide that the lender shall be required to notify promptly the borrower, the guaranty agency, and, upon the request of an institution of higher education, the guaranty agency shall be required to notify the last such institution the student attended prior to the beginning of repayment of any loan made under this part, of—

"(i) any sale or other transfer of the loan to another holder; and

"(ii) the address and telephone number by which contact may be made with such other holder concerning repayment of the loan,

except that this subparagraph shall only apply if the borrower is in the grace period described in section 427(a)(2)(B) or 428(b)(1)(E) or in repayment status and if such sale or transfer results in the student being required to make payments, or to direct other matters concerned with the loan, to a person other than the person to whom such payments were made or such matters were directed before such sale or transfer."; and

(C) by adding at the end the following new paragraph:

"(7) REPORTING REQUIREMENT.—All officers and directors, and those employees and consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State higher education agencies, and entities acting as secondary market, who are engaged in making decisions or providing advice as to the administration of any program or funds under this title or as to the eligibility of any entity or individual to participate under this title, shall report to the Secretary, in such manner and at such time as the Secretary shall require, on any financial interest which such individual may hold in any other entity participating in any program assisted under this title.";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking the period at the end thereof and inserting "or 45 days after the guaranty agency discharges such agency's insurance obligation on the loan, whichever is later."; and

(ii) by amending subparagraph (B) to read as follows:

"(B) Notwithstanding subparagraph (A)—

"(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the amount of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 90 percent of the amount of such excess;

"(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of the amount of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 80 percent of such excess; and

"(iii) if, with respect to the end of any fiscal year, a guaranty agency is being reimbursed at the level described in clause (i) or (ii), the initial reimbursement payments by the Secretary with respect to the beginning of the next succeeding fiscal year shall be calculated at such level until the Secretary determines, based on data submitted by the guaranty agency, that such guaranty agency meets the requirements of this subsection for reimbursement at a different level. Upon the Secretary's determination, the reimbursement payments by the Secretary shall be adjusted accordingly, including any underpayment or overpayment of the initial reimbursement payments.";

(B) in paragraph (2)—

(i) in subparagraph (D)—

(I) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(II) by inserting "(i)" after the subparagraph designation; and

(III) by inserting at the end the following new clauses:

"(ii) shall provide that a guaranty agency that receives reimbursement payment from the Secretary shall, at the Secretary's discretion, promptly and without administrative delay in accordance with clause (iii), assign to the Secretary the promissory note for the loan on which such payment has been made; and

"(iii) shall require that the Secretary use the discretion described in clause (ii) only after the Secretary has developed criteria to determine adequate collections efforts by guaranty agencies, and in no event shall the assignment of loans be required unless the Secretary explains in writing the reasons why a guaranty agency's collection efforts have not been adequate and how the Secretary's collection efforts will be superior; and";

(ii) by striking "and" at the end of subparagraph (F);

(iii) by redesignating subparagraph (G) as subparagraph (H); and

(iv) by inserting after subparagraph (F) the following new subparagraph:

"(G) shall prohibit the Secretary from making any reimbursement under this subsection to a guaranty agency when a default claim is based on an inability to locate the borrower, unless the guaranty agency, at the time of filing for reimbursement, demonstrates to the Secretary that diligent attempts have been made to locate the borrower through the use of all available skip-tracing techniques; and";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "(b)(1)(V)" and inserting "(b)(1)(V)(ii)"; and

(ii) by adding at the end of the matter following subparagraph (B) the following new sentence: "The Secretary shall permit lenders to exercise administrative forbearances that do not require the agreement of the borrower under conditions authorized by the Secretary, that shall include forbearances for borrowers who are delinquent at the time of the granting of an authorized period of deferment under section 428(b)(1)(M) or 427(a)(2)(C).";

(D) in paragraph (7)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "(1)(B)" and inserting "(1)(C)"; and

(II) in clause (i), by inserting "and ends before October 1, 1991" before the semicolon;

(ii) in subparagraph (B), by inserting "or (B)" after "(A)";

(iii) by redesignating subparagraph (B) (as amended in clause (ii)) as subparagraph (C); and

(iv) by inserting after subparagraph (A) the following new subparagraph:

"(B) Notwithstanding the provisions of paragraph (1)(C), the Secretary may pay a guaranty agency 100 percent of the amount expended by such agency in discharge of such agency's insurance obligation for any fiscal year which—

"(i) begins on or after October 1, 1991; and

"(ii) is the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) or is one of the 4 succeeding fiscal years."; and

(E) by adding at the end the following new paragraph:

"(10) GUARANTY AGENCY RESERVE LEVEL.—(A) Each guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall maintain a current minimum reserve level of at least .5 percent of the total amount of all outstanding loans guaranteed by such agency in every calendar quarter beginning with the calendar quarter that starts on January 1, 1993. The minimum reserve level shall increase to—

"(i) .7 percent of such total amount in every calendar quarter beginning with the calendar quarter that starts on January 1, 1994;

"(ii) .9 percent of such total amount in every calendar quarter beginning with the calendar quarter that starts on January 1, 1995; and

"(iii) 1.1 percent of such total amount in every calendar quarter beginning with the calendar quarter that starts on January 1, 1996.

"(B) The Secretary shall collect, on a quarterly basis, information from each guaranty agency having an agreement under this subsection to enable the Secretary to evaluate the financial solvency of each such agency. The information collected shall include the level of such agency's current reserves, cash disbursements and accounts receivable.

"(C) If any guaranty agency falls below the required minimum reserve level in any 2 consecutive calendar quarters, any guaranty agency's Federal reimbursement payments are reduced to 80 percent pursuant to section 428(c)(1)(B)(ii), or the Secretary determines that the administrative or financial condition of a guaranty agency jeopardizes such agency's continued ability to perform its responsibilities under its guaranty agreement, then the Secretary shall require the guaranty agency to submit and implement a management plan acceptable to the Secretary within 30 working days of any such event.

"(D) Each management plan described in subparagraph (C) shall include the means by which the guaranty agency shall improve its financial and administrative condition to the required level within 18 months.

"(E) The Secretary may terminate a guaranty agency's agreement in accordance with subparagraph (F) if—

"(i) a guaranty agency required to submit a management plan under this paragraph fails to submit a plan that is acceptable to the Secretary;

"(ii) the Secretary determines that a guaranty agency has failed to improve substantially its administrative and financial condition; or

"(iii) if the Secretary determines that the guaranty agency is in danger of financial collapse.

"(F) Except as provided in subparagraph (G), if a guaranty agency's agreement under this subsection is terminated in accordance with subparagraph (E), then the Secretary shall assume responsibility for all functions of the guaranty agency under the loan insurance program of such agency. In performing such functions the Secretary is authorized to:

"(i) Permit the transfer of guaranties to another guaranty agency.

"(ii) Revoke the reinsurance agreement of the guaranty agency at a specified date, so as to require the merger, consolidation or termination of the guaranty agency.

"(iii) Transfer guaranties to the Department for the purpose of payment of such claims and process such claims using the claims standards of the guaranty agency, if such standards are determined by the Secretary to be in compliance with this Act.

"(iv) Design and implement a plan to restore the guaranty agency's viability.

"(v) Take any other action the Secretary determines necessary to ensure the continued availability of loans made under this part to residents of the State or States in which the guaranty agency did business, the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and to avoid disruption of the student loan program.

"(G) The Secretary may not take any action under subparagraph (F) against any guaranty agency that is backed by the full faith and credit of the State where such guaranty agency is the primary guarantor.

"(H) The Secretary shall not take any action under subparagraph (F) without giving the guaranty agency notice and the opportunity for a hearing.";

(4) in subsection (f)—

(A) in paragraph (1)—

(i) in clause (i) of subparagraph (A), by striking "commercial" and inserting "eligible"; and

(ii) in subparagraph (B)—

(I) in the first sentence thereof, by striking "The total" and inserting "Except as provided in paragraph (3), the total"; and

(II) in the second sentence thereof, by striking "according to the provisions of this subparagraph" and inserting "according to the provisions of this subsection"; and

(B) by adding at the end the following new paragraph:

"(3) PROVISION OF FINANCIAL INFORMATION.—The Secretary is authorized to reduce or withhold payments under this subsection until the guaranty agency provides the information required under subsection (c)(2)(B).";

(5) in subsection (j), by adding at the end the following: "The guaranty agency shall develop rules and operating procedures for the lender of last resort program designed to ensure that—

"(A) the program establishes operating hours and means for application designed to facilitate application by students;

"(B) information about the availability of loans under the program is available to institutions of higher education in the State; and

"(C) appropriate steps are taken to ensure that borrowers receiving loans under the program are appropriately counseled on their loan obligation."; and

(6) in subsection (k)—

(A) by amending the heading for such subsection to read as follows:

"(k) EXCHANGE OF INFORMATION ON DEFAULTED BORROWERS.—";

(B) in paragraph (1), by striking ", upon the request of an eligible institution,"; and

(C) by adding at the end the following new paragraph:

"(3) BORROWER LOCATION INFORMATION.—Any information provided by the institution relating to borrower location shall be used by the guaranty agency in contacting the borrower for the purpose of encouraging loan repayment.".

SEC. 433. SUPPLEMENTAL LOAN FOR STUDENTS.

Section 428A of the Act (20 U.S.C. 1078–1) is amended—

(1) in the second sentence of paragraph (1) of subsection (a), by inserting "or if the financial aid administrator determines after such a review that the dependent student can demonstrate the ability to repay the loan (which may include obtaining a creditworthy cosigner)" before the period at the end thereof;

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) ANNUAL LIMIT.—Subject to paragraphs (3) and (4), the maximum amount a student may borrow in any academic year or its equivalent or in any period of 7 consecutive months, whichever is longer:

"(A) In the case of a student at an eligible institution who has not successfully completed the second year of a program of undergraduate education—

"(i) $4,000, if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(ii) $3,000, if such student is carrying three-quarters of the normal full-time academic work load (as determined by the institution); or

"(iii) $2,000, if such student is carrying one-half of the normal full-time academic work load (as determined by the institution).

"(B) In the case of a student at an eligible institution who has successfully completed such second year but who has not successfully completed the remainder of a program of undergraduate education—

"(i) $5,000, if such student is carrying at least the full-time academic work load (as determined by the institution);

"(ii) $3,750, if such student is carrying three-quarters of the full-time academic work load (as determined by the institution); or

"(iii) $2,500, if such student is carrying one-half of the full-time academic work load (as determined by the institution).

"(C) In the case of a graduate or professional student (as defined in regulations issued by the Secretary) at an eligible institution $15,000.

"(D) In the case of a student who has not successfully completed the first year of a program of undergraduate education and who is not enrolled in a program that is at least one academic year in length, but who is determined to be enrolled in a program whose length is at least ⅔ of an academic year, $2,500.".

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(D) by inserting after paragraph (1) the following new paragraphs:

"(2) SPECIAL RULE.—(A) Notwithstanding paragraphs (1), (3) and (4), in the case of a student who has not successfully completed the first year of a program of undergraduate education and who is not enrolled in a program that is at least 1 academic year in length as determined in accordance with regulations issued by the Secretary, the maximum amount a student may borrow in any academic year or its equivalent (as defined by regulations issued by the Secretary), or in any period of 7 consecutive months, whichever is longer, is—

"(i) $2,500 for a student who is determined, in accordance with such regulations, to be enrolled in a program whose length is at least two-thirds of an academic year;

"(ii) $1,500 for a student who is determined, in accordance with such regulations, to be enrolled in a program whose length is less than two-thirds, but at least one-half, of an academic year; and

"(iii) zero for a student who is determined, in accordance with such regulations, to be enrolled in a program whose length is less than one-half of an academic year.

"(B) The determination of the workload being carried by the student described in subparagraph (A) shall be made at the time the student's eligibility for the loan is certified, and shall not be affected by subsequent changes in the student's workload during the loan period.

"(3) AGGREGATE LIMIT.—The aggregate insured principal amount for insured loans made to any student under this section minus any interest capitalized under subsection (c) shall be an amount not to exceed—

"(A) $23,000, in the case of any student who has not successfully completed a program of undergraduate education; and

"(B) $30,000, in the case of any graduate or professional student, as such terms are defined by regulations issued by the Secretary, including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student;

except that the aggregate insured unpaid principal amount for all loans insured under this part and part E minus any interest capitalized under subsection (c) made to any student shall be any amount not to exceed a maximum of $52,000, in the case of any student who has not successfully completed a program of undergraduate education, and $115,000, in the case of any graduate or professional student, as such terms are defined in regulations issued by the Secretary, including any loans which are insured by the Secretary under this part or part E, or by a guaranty agency, made to such student before the student became a graduate or professional student."; and

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) COMMENCEMENT OF REPAYMENT.—(A) Except as provided in subparagraph (B), repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, or, if the loan is disbursed in multiple installments, not later than 60 days after the disbursement of the last such installment.

"(B) Loans made under this section may be subject to deferral pursuant to sections 427(a)(2)(C) and 428(b)(1)(M), and any loans which are deferred under section 427(a)(2)(C)(i) or 428(b)(1)(M)(i), may be subject, upon borrower request, to a single postdeferment grace period of 6 months.";

(B) in subparagraph (B) of paragraph (2), by striking "on a quarterly basis" and inserting "not more frequently than quarterly"; and

(C) by adding at the end the following new paragraph:

"(6) REPAYMENT PERIOD.—For purposes of calculating the 10-year repayment period under section 428(b)(1)(D), such period shall commence at the time the first payment is due from the borrower.".

SEC. 434. PLUS LOANS.

Section 428B of the Act (20 U.S.C. 1078–2) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "$4,000" and inserting "$6,000"; and

(B) in paragraph (2), by striking "$20,000" and inserting "$30,000"; and

(2) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral during any period during which the parent meets the conditions required for a deferral under section 427(a)(2)(C) or 428(b)(1)(M)."; and

(B) in subparagraph (B) of paragraph (2), by striking "on a quarterly basis" and inserting "not more frequently than quarterly".

SEC. 435. CONSOLIDATION LOANS.

Section 428C of the Act (20 U.S.C. 1078–3) is amended—

(1) in paragraph (3) of subsection (a)—

(A) in subparagraph (A), by striking all beginning with "loan—" through "(ii) is" and inserting "loan is";

(B) by amending subparagraph (B) to read as follows:

"(B)(i) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section, except—

"(I) with respect to eligible student loans received after the date of receipt of the consolidation loan; and

"(II) that loans received prior to the date of the consolidation loan may be added to the consolidation loan during the 180-day period following the making of the consolidation loan.

"(ii) Loans made under this section shall, to the extent used to discharge loans made under this title, be counted against applicable limitations on aggregate indebtedness contained in sections 425(a)(2), 428(b)(1)(B), 428A(b)(2), and 464(a)(2). Nothing in this subparagraph shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidated loans to receive, to maintain, or to make reports with respect to preexisting records relating to any eligible student loan (as defined under section 428C(a)(4)) discharged by a borrower in receiving a consolidation loan."; and

(C) by adding at the end the following new subparagraph:

"(C)(i) A married couple, each of whom has eligible student loans, may be treated as if such couple were an individual borrowing under subparagraphs (A) and (B) if such couple agrees to be held jointly and severally liable for the repayment of a consolidation loan, without regard to the amounts of the respective loan obligations that are to be consolidated, and without regard to any subsequent change that may occur in such couple's marital status.

"(ii) Only one spouse in a married couple applying for a consolidation loan under this subparagraph need meet any of the requirements of subsection (b) of this section, except that each spouse shall—

"(I) individually make the initial certification that no other application is pending in accordance with subsection (b)(1)(A); and

"(II) agree to notify the holder concerning any change of address in accordance with subsection (b)(4)."; and

(2) in subparagraph (A) of subsection (c)(2)—

(A) in clause (i), by striking "is equal to or greater than $5,000 but less than $7,500" and inserting "is less than $5,000"; and

(B) in clause (ii), by striking "$7,500" and inserting "$5,000".

SEC. 436. DEFAULT REDUCTION PROGRAMS.

Section 428F of the Act (20 U.S.C. 1078–6) is amended—

(1) by striking subsection (a);

(2) in subsection (b)—

(A) in subparagraph (A) of paragraph (1)—

(i) by striking "Upon" and inserting "Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon"; and

(ii) by adding at the end the following new sentence: "Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts referred to in this paragraph more than is reasonable and affordable based upon the borrower's total financial circumstances.";

(B) in paragraph (3), by inserting "or grants" after "loans";

(3) by redesignating subsection (b) (as amended in paragraph (2)) as subsection (a); and

(4) by adding at the end the following new subsections:

"(b) FULL-TIME LOAN SPECIALIST REQUIRED IN CERTAIN CASES.—Each eligible institution which—

"(1) has a default rate in excess of the national average default rate of all eligible institutions; or

"(2) has a principal amount of loans in default in excess of $1,000,000 for any fiscal year,

shall employ a full-time equivalent loan specialist to assist students at such eligible institution to avoid defaulting on loans made, insured, or guaranteed under this part.

"(c) SPECIAL RULE.—Each guaranty agency shall establish a program which allows a borrower with a defaulted loan or loans to renew their eligibility for all title IV student financial assistance (regardless of whether their defaulted loan has been sold to an eligible lender) upon the borrower's payment of 6 consecutive monthly payments. The guaranty agency shall not demand from a borrower as a monthly payment amount under this subsection more than is reasonable and affordable based upon the borrower's total financial circumstances.".

SEC. 437. REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS.

Section 428G of the Act (20 U.S.C. 1078–7) is amended—

(1) in paragraph (1) of subsection (b), by adding at the end thereof the following: "No institution shall impose a late fee, drop from enrollment or otherwise penalize any student solely because an installment of the proceeds of such student's loan under this part is being delayed pursuant to the provisions of this paragraph."; and

(2) by adding at the end thereof the following new subsection:

"(g) SALES PRIOR TO DISBURSEMENT PROHIBITED.—An eligible lender shall not sell a promissory note for any loan made, insured, or guaranteed under this part until all proceeds of such loan have been disbursed.".

SEC. 438. DEFAULT RATES.

Section 430 of the Act (20 U.S.C. 1080) is amended by adding at the end the following new subsection:

"(e) DEFAULT RATE BY LENDER AND GUARANTY AGENCY.—

"(1) IN GENERAL.—The Secretary shall annually publish a list indicating the annual default rate (determined in accordance with section 435(m)) for each lender and guaranty agency participating in the program assisted under this part and an average annual default rate for all institutions of higher education within each State.

"(2) REGULATIONS.—The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of an annual default rate through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

"(3) RATE ESTABLISHMENT AND CORRECTION.—

"(A) IN GENERAL.—The Secretary shall establish an annual default rate for lenders and guaranty agencies (determined in accordance with section 435(m)), except that the rate for lenders shall not reflect any loans issued in accordance with section 428(j). The Secretary shall allow institutions, lenders, and guaranty agencies the opportunity to correct such annual default rate information.

"(B) STUDY.—The Secretary shall study the feasibility of requiring the disclosure by institutions, lenders, and guaranty agencies of additional information that may affect the annual default rate, such as institutional type, State, students served by the organization, and accrediting body (where applicable).".

SEC. 439. REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION.

Subsection (f) of section 430A of the Act (20 U.S.C. 1080a(f)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting a comma and "or"; and

(3) by adding at the end the following new paragraph:

"(3) in the case of a borrower who reenters repayment after defaulting on a loan and subsequently goes into default on such loan, 7 years from the date the loan entered default such subsequent time.".

SEC. 440. LEGAL POWERS AND RESPONSIBILITIES.

Section 432 of the Act (20 U.S.C. 1082) is amended—

(1) in paragraph (3) of subsection (a), by striking "on the record";

(2) in subsection (g)—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking "on the record";

(B) by striking paragraphs (2), (3) and (4); and

(C) by redesignating paragraphs (5) and (6) as paragraphs (2) and (3), respectively;

(3) in subsection (h)—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking all beginning with "The Secretary" through "disqualification—" and inserting the following: "The Secretary shall impose any or all sanctions imposed by the guaranty agency on the participation of the lender in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of the imposition of such sanctions—";

(ii) in subparagraph (B), by striking "disqualification" each place such term appears and inserting "sanction";

(iii) by redesignating subparagraph (B) (as amended in clause (ii)) as subparagraph (C); and

(iv) by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(U) shall be limited to—

"(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

"(ii) a determination as to whether the guaranty agency complied with section 428(b)(1)(U) and any notice and hearing requirements specified in regulations prescribed under this part."; and

(B) in paragraph (3)—

(i) in the second sentence of subparagraph (A), by striking "The Secretary" through "disqualification—" and inserting the following: "The Secretary shall impose any or all sanctions imposed by the guaranty agency on the participation of the institution in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of the imposition of such sanctions—";

(ii) in subparagraph (B), by striking "disqualification" each place such term appears and inserting "sanction";

(iii) by redesignating subparagraph (B) (as amended in clause (ii)) as subparagraph (C); and

(iv) by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(T) shall be limited to—

"(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

"(ii) a determination as to whether the guaranty agency complied with section 428(b)(1)(T) and any notice and hearing requirements specified in regulations prescribed under this part."; and

(4) by inserting at the end the following new subsections:

"(k) PROGRAM OF ASSISTANCE FOR BORROWERS.—

"(1) IN GENERAL.—The Secretary shall undertake a program to encourage corporations and other private and public employers, including the Federal Government, to assist borrowers in repaying loans received under this title, including providing employers with options for payroll deduction of loan payments and offering loan repayment matching provisions as part of employee benefit packages.

"(2) PUBLICATION.—The Secretary shall publicize models for providing the repayment assistance described in paragraph (1) and each year select entities that deserve recognition, through means devised by the Secretary, for the development of innovative plans for providing such assistance to employees.

"(3) RECOMMENDATION.—Within 1 year after the date of enactment of the Higher Education Amendments of 1992, the Secretary shall recommend to the appropriate committees in the Senate and House of Representatives changes to the tax code or other statutes that could be made in order to further encourage such efforts.

"(l) UNIFORM ADMINISTRATIVE AND CLAIMS PROCEDURES.—

"(1) IN GENERAL.—The Secretary shall, in consultation with guaranty agencies and lenders, develop standardized forms and procedures regarding—

"(A) origination;

"(B) guaranty;

"(C) deferments;

"(D) forbearance;

"(E) servicing;

"(F) claims filing; and

"(G) cures.

"(2) SPECIAL RULES.—(A) The forms and procedures described in paragraph (1) shall include all aspects of the loan process as such process involves eligible lenders and guaranty agencies and shall be directed to minimize administrative costs and burdens (other than the costs and burdens involved in the transition to new forms and procedures) involved in exchanges of data to and from borrowers, schools, lenders, secondary markets, and the Department.

"(B) Nothing in this paragraph shall be construed to limit the development of electronic forms and procedures.".

SEC. 441. STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS.

Section 433 of the Act (20 U.S.C. 1083) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) through (13) as paragraphs (2) through (14), respectively;

(B) by inserting before paragraph (2) (as redesignated in subparagraph (A)) the following new paragraph:

"(1) a statement prominently and clearly displayed and in bold print that the borrower is receiving a loan that must be repaid;";

(C) in paragraph (13) (as redesignated in subparagraph (A)) by striking "and" after the semicolon;

(D) in paragraph (14) (as redesignated in subparagraph (A)) by striking the period and inserting a semicolon and "and"; and

(E) by inserting at the end thereof the following new paragraph:

"(15) a statement that the borrower's loan repayment obligation is separate and distinct from the school's obligation to the borrower and that a failure by the school to comply with any Federal, State, or local law shall not excuse any portion of the borrower's obligation to repay the loan.";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting after the first sentence thereof the following new sentence: "Any disclosure required by this subsection shall be made during the grace period described in section 427(a)(2)(B) or 428(b)(1)(E), if applicable."; and

(B) in paragraph (8), by inserting "except as provided in subsection (e)," before "the projected"; and

(3) by inserting at the end thereof the following new subsection:

"(e) SPECIAL DISCLOSURE RULES ON SLS LOANS AND PLUS LOANS.—Loans made under section 428A and 428B, if applicable, shall not be subject to the disclosure of projected monthly payment amounts required under subsection (b)(8), if the lender, in lieu of such disclosure, provides the borrower with sample projections of monthly repayment amounts assuming different levels of borrowing and interest accruals resulting from capitalization of interest while the borrower is in school. Such sample projections shall disclose the cost to the student of capitalizing—

"(1) principal and interest; and

"(2) interest only.".

SEC. 442. DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM.

(a) IN GENERAL.—Section 435 of the Act (20 U.S.C. 1085) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting "as defined in section 481(a)" before the semicolon;

(ii) in subparagraph (C), by striking "part," and inserting "part."; and

(iii) by striking the matter following subparagraph (C); and

(B) in subparagraph (B) of paragraph (3)—

(i) in clause (i), by striking "and" at the end thereof;

(ii) in clause (ii), by striking "any succeeding fiscal year." and inserting "fiscal year 1993; and"; and

(iii) by inserting at the end the following new clause:

"(iii) 25 percent for any succeeding fiscal year.";

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in paragraph (3), by striking "and" and the end thereof;

(B) by striking the period at the end of paragraph (4) and inserting a semicolon and "and"; and

(C) inserting before the matter following subparagraph (C) of paragraph (4) the following new paragraph:

"(5) offers to individuals receiving assistance under this title only programs that are eligible programs as described in section 481(f).";

(4) in subsection (f), by inserting "servicing and" before "collection practices"; and

(5) by amending subsection (m) to read as follows:

"(m) ANNUAL DEFAULT RATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'annual default rate' means, for any fiscal year in which 30 or more current and former students at the institution enter repayment on loans under section 428 or 428A received for attendance at the institution, the percentage of students and former students who enter repayment on such loans received for attendance at that institution in that fiscal year who default before the end of the following fiscal year. In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance, and, in calculating the annual default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the annual default rate. For any fiscal year in which less than 30 of the institution's current and former students enter repayment, the term 'annual default rate' means the average of the rate calculated under the preceding sentence for the 3 most recent fiscal years.

"(2) SPECIAL RULES.—(A) In the case of a student who has attended and borrowed at more than 1 school, the student (and such student's subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year.

"(B) A loan on which a payment is made by the school, such school's owner, agent, contractor, employee, or any other entity or individual affiliated with such school, in order to avoid default by the borrower, is considered as in default for purposes of this subsection.

"(C) Any loan which has been rehabilitated is not considered as in default for the purposes of this subsection.

"(D) For the purposes of this subsection, a loan made in accordance with section 428A shall not be considered to enter repayment until after the borrower has ceased to be enrolled in a course of study leading to a degree or certificate at an eligible institution on at least a half-time basis (as determined by the institution) and ceased to be in a period of deferment based on such enrollment. Each eligible lender of a loan made under section 428A shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this subsection, and the guaranty agency shall provide such information to the Secretary.".

(b) CONFORMING AMENDMENTS.—

(1) REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS.—Paragraph (2) of section 428A(a) of the Act (20 U.S.C. 1078–1(a)(2)) is amended by striking "cohort" each place such term appears and inserting "annual".

(2) DEFINITION.—Subparagraph (A) of section 435(a)(3) (20 U.S.C. 1085(a)(3)(A)) is amended—

(A) in the first sentence thereof, by striking "cohort" and inserting "annual"; and

(B) in clause (i) by striking "cohort" each place such term appears and inserting "annual".

SEC. 443. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED OR DISABLED BORROWERS.

Section 437 of the Act (20 U.S.C. 1087) is amended to read as follows:

"SEC. 437. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING CLOSED SCHOOLS OR BORROWERS FALSELY CERTIFIED AS ELIGIBLE TO BORROW.

"(a) IN GENERAL.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) dies, becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), or is temporarily or permanently relieved of his obligation to repay such loan according to the repayment schedule, through an action in bankruptcy, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

"(b) DISCHARGE.—

"(1) IN GENERAL.—If a student borrower who received a loan described in subparagraph (A) or (B) of section 428(a)(1) on or after January 1, 1986, is unable to complete the program in which the borrower is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was fraudulently certified by the eligible institution, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan and shall pursue any claim available to such borrower against the institution.

"(2) ASSIGNMENT.—A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution, its affiliates, and principals.

"(3) ELIGIBILITY FOR ADDITIONAL ASSISTANCE.—The period of a student's attendance at an institution at which the student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this title.

"(4) SPECIAL RULE.—A borrower whose loan has been discharged pursuant to this subsection shall not be precluded from receiving additional grants, loans, or work assistance under this title for which the borrower would be otherwise eligible, except that in no case shall this paragraph apply to any borrower whose loan has been discharged through an action in bankruptcy.

"(5) REPORTING.—The Secretary shall report to credit bureaus with respect to loans which have been discharged pursuant to this subsection.

"(c) REPAYMENT OF LOANS TO PARENTS.—If a student on whose behalf a parent has received a loan described in section 428B dies, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.".

SEC. 444. SPECIAL ALLOWANCES.

Section 438 of the Act (20 U.S.C. 1087-1) is amended—

(1) in paragraph (2) of subsection (b)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "and (D)" and inserting "(D), (E), and (F)"; and

(ii) in clause (iii), by striking "3.25" and inserting "3.10";

(B) in clause (i) of subparagraph (B), by striking "3.25" and inserting "3.10";

(C) in subparagraph (C)—

(i) by inserting "before July 1, 1993" after "made";

(ii) by inserting "(i)" before "In"; and

(iii) by adding at the end the following new clause:

"(ii) In the case of loans made on or after July 1, 1993 pursuant to section 428A or 428B for which the interest rate is determined under section 427A(c)(4), a special allowance shall not be paid unless the rate determined for any 12-month period under section 427A(c)(4)(B) exceeds 11 percent.";

(D) in clause (i) of subparagraph (D), by striking "3.25" and inserting "3.10"; and

(E) by adding at the end thereof the following new subparagraphs:

"(E) Notwithstanding any other provision of law, in the case of a holder of loans for which the annual default rate exceeds 25 percent, subparagraph (A)(iii) shall be applied by substituting '3 percent' for '3.10 percent'.

"(F) In the case of a lender who does not provide to the guaranty agency the information required under section 435(m)(2)(D), subparagraph (A)(iii) shall be applied by substituting '3 percent' for '3.10 percent'.";

(2) by adding at the end of subsection (c) the following new paragraphs:

"(6) SLS AND PLUS LOANS.—With respect to any loan made under section 428A or 428B on or after July 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.

"(7) DISTRIBUTION OF ORIGINATION FEES.—All origination fees collected by this section on loans authorized under section 428A or 428B shall be deposited in the fund authorized under section 431 of this part."; and

(3) in subparagraph (C) of subsection (d)(2), by striking "premium or".

SEC. 445. STUDENT LOAN MARKETING ASSOCIATION.

Section 439 of the Act (20 U.S.C. 1087-2) is amended—

(1) by amending subsection (c) to read as follows:

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—(A) The Association shall have a Board of Directors which shall consist of 21 persons, 7 of whom shall be appointed by the President and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f). Commencing with the annual shareholders meeting to be held in 1992—

"(i) 7 of the elected directors shall be affiliated with an eligible institution; and

"(ii) 7 of the elected directors shall be affiliated with an eligible lender.

"(B) The President shall designate 1 of the directors to serve as Chairman.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board of Directors which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board of Directors which becomes vacant after the annual election of the directors shall be filled by the Board of Directors, but only for the expired portion of the term.

"(3) AFFILIATED MEMBERS.—For the purpose of this subsection, the references to a director 'affiliated with an eligible institution' or a director 'affiliated with an eligible lender' means an individual who is, or within 5 years of election to the Board of Directors has been, an employee, officer, director, or similar official of—

"(A) an eligible institution or an eligible lender;

"(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

"(C) a State agency, authority instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

"(4) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board of Directors shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board of Directors shall, with the approval of the Board of Directors, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.";

(2) by striking out subparagraph (C) of subsection (d)(1) and inserting in lieu thereof the following new subparagraph:

"(C)(i) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, improvement or purchase (including the underlying property) of—

"(I) educational and training facilities;

"(II) housing for students and faculties;

"(III) academic, research, and library facilities, including the acquisition of library materials; and

"(IV) related equipment, instrumentation, and furnishings;

except that not more than 30 percent of the value of transactions entered into under this clause shall involve transactions solely of the type described in subclause (II);";

(3) by amending subsection (f) to read as follows:

"(f) STOCK OF THE ASSOCIATION.—

"(1) VOTING COMMON STOCK.—The Association shall have voting common stock having such par value as may be fixed by its Board of Directors from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors.

"(2) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any voting common stock issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(3) DIVIDENDS.—To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on voting common stock by the Board of Directors. Such dividends as may be declared by the Board of Directors shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(4) SINGLE CLASS OF VOTING COMMON STOCK.—As of the effective date of the Higher Education Amendments of 1992, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares."; and

(4) by adding at the end thereof the following new subsection:

"(r) SAFETY AND SOUNDNESS OF ASSOCIATION.—

"(1) REPORTS BY THE ASSOCIATION.—The Association shall promptly furnish to the Secretary copies of all—

"(A) periodic financial reports publicly distributed by the Association; and

"(B) reports concerning the Association that are received by the Association and prepared by nationally recognized statistical rating organizations.

"(2) AUDIT BY SECRETARY.—(A) The Secretary may—

"(i) appoint auditors to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing its financial safety and soundness;

"(ii) enter into contracts to obtain the services of such technical experts as the Secretary determines necessary and appropriate to provide technical assistance to any auditor appointed under subparagraph (A).

"(B) Each auditor appointed under paragraph (2)(A) shall conduct an audit of the Association to the extent requested by the Secretary and shall prepare and submit a report to the Secretary concerning the results of such audit. A copy of such report shall be furnished to the Association and the Secretary of Education on the date on which it is delivered to the Secretary.

"(3) MONITORING OF SAFETY AND SOUNDNESS.—The Secretary shall conduct such studies as may be necessary to monitor the financial safety and soundness of the Association. In the event that the Secretary determines that the financial safety and soundness of the Association is at risk, the Secretary shall inform the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives and the Secretary of Education of such determination and identify any corrective actions that should be taken to ensure the safety and soundness of the Association.

"(4) CAPITAL RESTORATION PLAN.—If after an audit it is determined that the capital ratio of the Association is less than 2 percent in any two consecutive calendar quarters, the Association shall, not later than 60 days after the date of such determination, submit to the Secretary a capital restoration plan (including a timetable for the implementation of such capital restoration plan of not more than 36 months) that the Association has determined will be adequate to cause the capital ratio of the Association to equal or exceed 2 percent.

"(5) ASSOCIATION CAPITAL RESTORATION PLAN.—(A) The Secretary shall consult with the Association with respect to any capital restoration plan submitted under paragraph (4) and shall approve or disapprove such capital restoration plan (or a modification thereof that is accepted by the Association) not later than 30 days after the date on which such capital restoration plan is first submitted to the Secretary, except that the Association and the Secretary may mutually agree to a longer period for the consideration of such capital restoration plan.

"(B) If the Secretary approves a capital restoration plan submitted under paragraph (4), the Association shall implement such capital restoration plan.

"(C) If the Secretary disapproves of a capital restoration plan submitted under paragraph (4), the Secretary shall, not later than the date on which the Secretary disapproves of such capital restoration plan through the provision of written notice to the Association or the date on which the 30 day consideration period referred to in subparagraph (A) (as such period may have been extended by mutual agreement) expires, whichever is earlier, submit the capital restoration plan of the Association, in the form most recently proposed by the Association, together with a report containing the reasons for the Secretary's disapproval of such capital restoration plan and an alternative capital restoration plan to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate and to the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives. A copy of such capital restoration plan and report shall simultaneously be transmitted to the Association and the Secretary of Education by the Secretary.

"(D) Upon receipt from the Secretary of a capital restoration plan and report under subparagraph (C), the Association shall proceed with diligence to implement such capital restoration plan. Not later than 30 days after the receipt of such capital restoration plan and report, the Association shall submit to the Chairman and ranking minority members referred to in subparagraph (C), a written response to such capital restoration plan and report setting out to the maximum extent feasible the nature and extent of the agreement or the disagreement of the Association with the Secretary with respect to the capital restoration plan submitted to the Secretary and any findings of the Secretary.

"(E) If the Secretary determines that the Association has failed to make a good faith effort to implement a capital restoration plan under this paragraph, the Association shall be prohibited from making advances on the security of, purchasing or repurchasing, selling or reselling, offering participations or pooled interests or otherwise dealing in student loans which are insured by the Secretary of Education under this part or by a guaranty agency. The Secretary shall notify the Secretary of Education within a reasonable period of time prior to imposing any such prohibition. The Association may, within 30 days after a determination by the Secretary under this subparagraph, file a petition with the United States Court of Appeals for the District of Columbia Circuit for review of such determination.

"(6) REVIEW BY CONGRESS.—Congress shall have 60 days after the date on which Congress receives material under this subsection from the Secretary of Education, the General Accounting Office or the Congressional Budget Office, to review such material. If Congress does not take statutory action with respect to any such material within such 60-day period, the capital restoration plan of the Secretary under paragraph (5)(C) shall take effect. If Congress is out of session when any such materials are received, such 60-day period shall begin on the first day of the next session of Congress.

"(7) CRITICAL CAPITAL STANDARD.—(A) If the capital ratio described in paragraph (4) is less than 1 percent at the end of the most recent calendar quarter of the Association and—

"(i) the Association has submitted a capital restoration plan to the Secretary pursuant to paragraph (4), the Association shall implement the most recently proposed capital restoration plan with such modifications (including a timetable for the implementation of such plan of not more than 60 months) as the Secretary determines are necessary to cause such capital ratio to equal or exceed 2 percent; or

"(ii) the Association has not submitted a capital restoration plan to the Secretary pursuant to paragraph (4), the Association shall, not later than 14 days after the determination of such capital ratio, submit a capital restoration plan (including a timetable for the implementation of such plan of not more than 60 months) to the Secretary that the Association determines is adequate to cause such capital ratio to equal or exceed 2 percent and proceed with diligence to implement such capital restoration plan with such modifications as the Secretary determines are necessary to cause such capital ratio to equal or exceed 2 percent.

"(B) Immediately upon a determination under clause (i) or (ii) of subparagraph (A) to implement a capital restoration plan, the Secretary shall submit the capital restoration plan to be implemented to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives and the Secretary of Education.

"(8) ADDITIONAL REPORTS.—(A) The Secretary shall submit a copy of the Association's capital restoration plan in the form most recently submitted by the Association, including modifications of such capital restoration plan that are proposed by the Secretary, to the Congressional Budget Office and the General Accounting Office on the date on which such capital restoration plan or modifications are submitted to or received from the Secretary.

"(B) Notwithstanding any other provision of law, the Congressional Budget Office and the General Accounting Office shall maintain the confidentiality of information received under subparagraph (A). If the Secretary does not approve a capital restoration plan as provided for in paragraph (5), or if a capital restoration plan is modified by the Secretary pursuant to paragraph (6)—

"(i) the Congressional Budget Office and the General Accounting Office shall each, not later than 30 days after the date on which the Secretary makes the submission to the Chairmen and ranking minority members as required in paragraphs (5) and (6), prepare and submit a report to such Chairmen and ranking members that—

"(I) analyzes the financial condition of the Association;

"(II) analyzes the capital restoration plan and reasons for its disapproval, as contained in the Secretary's submission made pursuant to paragraph (5), or the capital restoration plan proposed by the Association and the modifications made by the Secretary pursuant to paragraph (6);

"(III) analyzes the impact of the capital restoration plan and reasons for its disapproval, as contained in the Secretary's submission made pursuant to paragraph (5), or the impact of the capital restoration plan proposed by the Association and the modifications made by the Secretary pursuant to paragraph (7), and the impact of the recommendations made pursuant to clause (IV), on—

"(aa) the ability of the Association to fulfill its purpose and authorized activities as provided for in this section; and

"(bb) the operation of the student loan programs; and

"(IV) recommends steps that the Association should take to increase its capital ratio without impairing the ability of the Association to perform its purpose and authorized activities as provided for in this section; and

"(ii) the Secretary of Education shall review the Secretary's submission required under paragraph (5) or (7) and shall, not later than 30 days after the date of such submission, submit a report to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate and to the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives that—

"(I) describes any administrative or legislative provisions governing the student loan programs that contributed to the decline in the Association's capital ratio; and

"(II) recommend administrative and legislative changes in the student loan programs appropriate to maintain the orderly operation of such programs and to enable the Association to fulfill its purpose and authorized activities consistent with the capital ratio described in paragraph (4).

"(9) SAFE HARBOR.—The Association shall be considered to be in compliance with the capital ratios described in paragraphs (4) and (7) if the Association is rated in the highest or next highest full rating categories by two nationally recognized statistical rating organizations without regard to the Association's status as a federally chartered corporation.

"(10) CONFIDENTIALITY OF RELEVANT INFORMATION.—(A) For purposes of this subsection, the Secretary, the Secretary of Education, the Director of the Congressional Budget Office, and the Comptroller General shall determine and maintain the confidentiality of any book, record, or information made available by the Association under this subsection in a manner consistent with the level of confidentiality established for the material by the Association.

"(B) Section 552 of title 5, United States Code, shall not apply to the Department of the Treasury and the Department with respect to any book, record, or information made available and determined to be confidential under this subsection.

"(C) Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

"(i) by virtue of his or her employment or official position, he or she has possession of or access to any book, record, or information made available under and determined to be confidential under this section; and

"(ii) he or she discloses the material in any manner other than—

"(I) to any officer or employee of the Department of the Treasury; or

"(II) pursuant to the exception set forth in such section 1906 of such title.

"(D) Section 203 of the Congressional Budget Act of 1974, shall not apply to the Congressional Budget Office with respect to any book, record, or information made available under this subsection and determined by the Director of the Office to be confidential under subparagraph (A).

"(11) DEFINITIONS.—As used in this subsection:

"(A) The term 'capital ratio' means the ratio of total stockholders' equity, as determined under the Association's most recent quarterly consolidated balance sheet prepared in the ordinary course of its business, to the sum of—

"(i) the total assets of the Association, as determined under a balance sheet prepared in the ordinary course of its business; and

"(ii) 50 percent of the credit equivalent amount of the following off-balance sheet items of the Association as of the date of the preparation of such balance sheet:

"(I) all financial standby letters of credit and other irrevocable guarantees of the repayment of financial obligations of others; and

"(II) all interest rate contracts and exchange rate contracts, including interest exchange agreements, floor, cap and collar agreements and similar arrangements. For purposes of this subparagraph, the calculation of the credit equivalent amount of the items described in clause (ii), the netting of such items and eliminations for the purpose of avoidance of double-counting of such items shall be made in accordance with the measures for computing credit conversion factors for off-balance sheet items for capital maintenance purposes established for commercial banks from time to time by the Federal Reserve Board, but without regard to any risk-weighting provisions in such measures.

"(B) The term 'nationally recognized statistical rating organization' means any entity recognized as such by the Division of Market Regulation of the Securities and Exchange Commission for the purposes of net capital rules applicable to brokers.

"(C) The term 'Secretary' unless otherwise provided means the Secretary of the Treasury.".

SEC. 446. AUTHORIZATION OF APPROPRIATIONS.

Section 441 of the Act (40 U.S.C. 2751(b)) is amended—

(1) in subsection (a), by inserting ", and to encourage students receiving Federal student financial assistance to participate in community service activities that will benefit the Nation and engender in the students a sense of social responsibility and commitment to the community" before the period at the end thereof; and

(2) in subsection (b)—

(A) by striking "$656,000,000" and inserting "$700,000,000";

(B) by striking "1987" and inserting "1993"; and

(C) by striking "4 succeeding" and inserting "6 succeeding"; and

(3) by adding at the end the following new subsection:

"(c) DEFINITION.—For the purpose of this part the term 'community service' means work in which students perform meaningful and constructive service in public agencies, private nonprofit organizations, and situations where the application of human talent and dedication may help to meet human, educational, linguistic, and environmental community needs, especially such needs relating to poverty, including work in service opportunities or youth corps as defined in section 101 of the National and Community Service Act of 1990, and service in the agencies, institutions and activities designated in section 124(a) of the National and Community Service Act of 1990. Such term includes support services provided to students with disabilities.".

SEC. 447. ALLOCATION OF FUNDS.

Section 442 of the Act (42 U.S.C. 2752) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4)(A) Notwithstanding any other provision of this section, the Secretary shall allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

"(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate or transfer to a 4-year institution of higher education.";

(2) in subparagraph (A) of subsection (d)(2), by inserting "subdivided by full-time and part-time status" after "students"; and

(3) in subsection (e), by amending paragraph (2) to read as follows:

"(2) The Secretary shall reallot the amount available pursuant to paragraph (1) to eligible institutions for use in initiating, improving and expanding community service work-study programs.".

SEC. 448. GRANTS FOR WORK-STUDY PROGRAMS.

Subsection (b) of section 443 of the Act (42 U.S.C. 2753) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1), by inserting ", work in community service" after "itself";

(2) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A) in fiscal year 1994 and succeeding fiscal years, an institution shall use at least 10 percent of the total amount of funds granted to such institution under this section in any fiscal year to carry out a community service work-study program, and the calculation of either such 10 percent or such total amount of funds granted to such institution shall not take into consideration funds made available pursuant to section 443(e) or the fourth sentence of section 489(a);";

(3) in paragraph (3), by inserting ", and except further that if the financial need of such less than full-time students at any institution exceeds 5 percent of the total financial need of all students at such institution, then at least 5 percent of the grant shall be made available to such less than full-time students" before the semicolon at the end thereof;

(4) in paragraph (4)—

(A) by inserting "need-based" after "derived from any"; and

(B) by striking "$200" and inserting "$300";

(5) by amending paragraph (5) to read as follows:

"(5) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement shall not exceed 75 percent for academic year 1992–1993 and succeeding academic years, except that—

"(A) the Federal share may exceed such percentage if the Secretary determines that the non-Federal share would cause financial hardship at an eligible institution and that such institution serves a large number or percentage of low-income or minority students; and

"(B) when a student engaged in work in community service performs such work for a public agency or private nonprofit organization other than the eligible institution, the contribution of such agency or organization shall not exceed 10 percent of the compensation of the student, and the eligible institution in its discretion may count such contribution toward satisfaction of the non-Federal share of the compensation of the student;";

(6) in paragraph (8)—

(A) in subparagraph (A), by inserting ", except as required in subparagraph (A) of paragraph (2)" before the semicolon at the end thereof; and

(B) in subparagraph (C)—

(i) by striking ", as determined by the Secretary pursuant to regulations" and inserting "that are directly related to the student's education"; and

(ii) by striking "and" at the end of subparagraph (C);

(7) by redesignating paragraph (9) as paragraph (10); and

(8) by inserting after paragraph (8) the following new paragraph:

"(9) provide assurances that the institution will inform all eligible students of the opportunity to perform community service work-study, and will consult with local nonprofit, governmental, and community-based organizations to identify such opportunities; and".

SEC. 449. JOB LOCATION AND DEVELOPMENT PROGRAMS.

Section 446 of the Act (42 U.S.C. 2756) is amended—

(1) in subparagraph (B) of subsection (a)(1)—

(A) by striking "10 percent or $20,000" and inserting "15 percent or $40,000"; and

(B) by striking "local"; and

(2) by striking subsection (c).

SEC. 449A. ADDITIONAL FUNDS TO CONDUCT COMMUNITY SERVICE WORK-STUDY PROGRAMS.

(a) IN GENERAL.—Section 447 of the Act (42 U.S.C. 2756a) is amended—

(1) by striking subsections (a) and (b); and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "last sentence of section 489(a) to conduct that institution's program of community service learning" and inserting "fourth sentence of section 489(a) to conduct that institution's program of community service work-study";

(B) in paragraph (3), by inserting ", and programs assisted under the National and Community Service Act of 1990" after "nonprofit agencies"; and

(C) by striking "(c) USE OF OTHER FUNDS TO CONDUCT PROGRAM.—".

(b) AMENDMENT TO HEADING.—The heading for section 447 of the Act is amended to read as follows:

"ADDITIONAL FUNDS TO CONDUCT COMMUNITY SERVICE WORK-STUDY PROGRAMS".

(c) CONFORMING AMENDMENTS.—Subsection (a) of section 489 of the Act (20 U.S.C. 1096(a)) is amended—

(1) in the second sentence, by striking "(other than section 447)"; and

(2) in the third sentence, by striking "The payment" and inserting "Except as provided in the succeeding sentence, the payment";

(3) in the fourth sentence—

(A) by striking "447" and inserting "community service work-study described in section 443"; and

(B) by striking "expenditures during such fiscal year under such section" and inserting "payments during such fiscal year to compensate students participating in a community service work-study program conducted pursuant to such section".

SEC. 450. WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW INCOME INDIVIDUALS AND FAMILIES.

Paragraph (2) of section 447(b) of the Act (20 U.S.C. 2756a(b)(2)) is amended by inserting "to provide support services to students with disabilities," after "individuals,".

SEC. 451. WORK-LEARNING PROGRAM AND STUDENT MENTOR PILOT PROGRAM.

Part C of title IV of the Act (42 U.S.C. 2751 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 448. WORK-LEARNING PROGRAM.

"(a) PURPOSE.—It is the purpose of this section to recognize, encourage and promote the use of comprehensive work-learning programs as a valuable educational approach when such approach is an integral part of an institution of higher education's educational program and a part of a student financial plan which decreases reliance on grants and loans.

"(b) PROGRAM AUTHORIZED.—Notwithstanding any other provision of law, a work-college may use funds provided under this part to carry out the activities described in subsection (d) in accordance with the provisions of this section.

"(c) MATCH REQUIRED.—Funds made available to work-colleges pursuant to this section shall be matched on a dollar-for-dollar basis from non-Federal sources.

"(d) ACTIVITIES AUTHORIZED.—Funds made available under this section may be used for—

"(1) providing assistance to pay the educational expenses of qualified students through self-help payments or credits provided under a comprehensive work-learning program;

"(2) promotion of a comprehensive work-learning program as a tool of postsecondary education, financial self-help and community service-learning opportunities;

"(3) activities described in section 446 or 447; and

"(4) the administration, development and assessment of comprehensive work-learning programs, including—

"(A) community-based work-learning alternatives that expand opportunities for community service and career-related work; and

"(B) alternatives that develop sound citizenship, encourage student persistence, and make optimum use of assistance under this part.

"(e) DEFINITIONS.—For the purpose of this section—

"(1) the term 'work-college' means an eligible institution that—

"(A) has been a public or private nonprofit institution with a commitment to community service;

"(B) has operated a comprehensive work-learning program for at least 2 years;

"(C) requires all resident students who reside on campus to participate in a comprehensive work-learning program; and

"(D) provides students participating in the comprehensive work-learning program with the opportunity to contribute to their education and to the welfare of the community as a whole; and

"(2) the term 'comprehensive work-learning program' means a program that—

"(A) requires participation of all students residing on campus in order to enroll in and graduate from a work-college;

"(B) includes learning objectives, evaluation and a record of work performance as part of the student's college record;

"(C) provides programmatic leadership by work-college personnel at levels comparable to traditional academic programs;

"(D) recognizes the educational role of work-learning supervisors; and

"(E) includes consequences for nonperformance or failure in the comprehensive work-learning program similar to the consequences for failure in a regular academic program.

"SEC. 449. STUDENT MENTOR PILOT PROGRAM.

"(a) PURPOSE.—It is the purpose of this section to establish a pilot program to test the feasibility of using work-study funds to provide incentives to eligible youth attending institutions of higher education to encourage such students to engage in mentor activities for the benefit of such eligible youth who are at risk of dropping out of elementary or secondary school.

"(b) PROGRAM AUTHORIZED; AGREEMENTS.—

"(1) PROGRAM AUTHORIZED.—The Secretary is authorized to designate not less than 10 nor more than 100 institutions of higher education that may use a portion of their allocations under this part to establish a program in accordance with this section.

"(2) AGREEMENT.—In order to be eligible to participate in the program assisted under this part an institution of higher education shall enter into an agreement with the Secretary. Such agreement shall—

"(A) contain or be accompanied by such information and assurances as the Secretary may require by regulation;

"(B) specify the methods and rates of compensation of the mentors, which may include incentive bonuses based on the satisfactory academic progress of the eligible youth;

"(C) describe the methods to be used—

"(i) by the institution of higher education to identify and select suitable students to serve as mentors; and

"(ii) by elementary and secondary schools to identify and select eligible youth; and

"(D) provide that the eligible youth, such youth's teacher, and the mentor shall enter into an agreement that—

"(i) provides attainable goals for the eligible youth to pursue with the advice and assistance of the mentor; and

"(ii) identifies the stages at which progress toward such goals shall be evaluated.

"(c) USE OF FUNDS.—An institution of higher education with which the Secretary has an agreement under subsection (b)(2) may use funds provided under this part to pay students to engage in activities as mentors for an eligible youth to—

"(1) tutor the youth in subjects in which the youth is experiencing difficulty;

"(2) support the youth in educational and recreational activities;

"(3) counsel the youth on career and educational choices;

"(4) otherwise encourage the youth to stay in school, to develop the youth's aptitudes, and to follow the mentor student into a successful college and adult career; and

"(5) develop in the student a better self-awareness and a self-motivated desire to academically excel.

"(d) EVALUATION AND REPORTS.—Not later than 3 years after the enactment of this section, the Secretary shall submit to the Congress a report evaluating the program assisted under this section. Such report shall include such recommendations as the Secretary considers appropriate concerning such program, and may include proposals for legislative changes.

"(e) DEFINITIONS.—The term 'eligible youth' means an individual who is—

"(1) age 5 to 18, inclusive;

"(2) enrolled but failing to maintain satisfactory progress in an elementary or secondary school, as determined under the standards of such school; and

"(3) determined by a teacher or other qualified staff of such school to be likely to benefit from participation in the program assisted under this section.".

SEC. 452. INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROGRAM.

(a) REPEALER.—Part D of title IV of the Act (20 U.S.C. 1087a et seq.) is repealed.

(b) DISTRIBUTION OF ASSETS FROM FUND.—

(1) IN GENERAL.—After September 30, 1992, and not later than March 31, 1992, the capital balance of the student loan fund established under part D of title IV of the Higher Education Act of 1965 (as such Act was in effect on the date of enactment of this Act) shall be distributed by allowing institutions to transfer any remaining funds, including future collections and all other funds at the institution's discretion, to such institution's part E account, part C fund, or subpart 1 of part A fund under the terms and conditions of the appropriate program.

(2) CONVERSION OF EXISTING LOANS.—Institutions may, after July 1, 1992, convert all outstanding loans made under part D of title IV of the Higher Education Act of 1965 (as

such Act was in effect on such date) to part E loans, provided that such institution—

(A) notify the borrower of such conversion;

(B) obtain a signed part E promissory note from the borrower for the remaining amount outstanding; and

(C) provide the borrower in writing with a description of all terms and conditions of the new loan.

SEC. 453. AUTHORIZATION OF APPROPRIATIONS.

Section 461 of the Act (20 U.S.C. 1087aa) is amended—

(1) in subsection (a), by inserting "or while engaged in programs of study abroad approved for credit by such institutions" after "in such institutions"; and

(2) in paragraph (1) of subsection (b)—

(A) by striking "$268,000,000" and inserting "$200,000,000";

(B) by striking "1987" and inserting "1993"; and

(C) by striking "4 succeeding" and inserting "6 succeeding".

SEC. 454 ALLOCATION OF FUNDS.

(a) Subsection (e) of section 462 (20 U.S.C. 1087bb(e)) is amended—

(1) by striking "An" and inserting "(1) An"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary shall establish an appeals process by which the anticipated collections required in paragraph (1) may be waived for institutions with low default rates in the program assisted under this part.".

(b) Subsection (j) of section 462 of the Act (20 U.S.C. 1087bb(j)) is amended to read as follows:

"(j) Reallocation of Excess Allocations.—

"(1) In general.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate such excess to eligible institutions which were participants in the program in fiscal year 1985 but which did not receive an allocation under subsection (a), an amount equal to those institutions' excess eligible amounts as determined under paragraph (2) multiplied by the institution's default penalty, as determined under subsection (f), except that—

"(A) if the institution has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this subparagraph; and

"(B) except that the reallocation to an institution shall not exceed such institution's eligible amount (as determined under paragraph (3) of subsection (c)).

"(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) that institution's eligible amount (as determined under paragraph (3) of subsection (c)), divided by (ii) the sum of the eligible amounts of all institutions described in paragraph (1) (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

"(B) the amount required to be allocated to that institution under subsection (c) of section 462.

"(3) From the remainder of such excess, the Secretary shall reallocate the remainder, in accordance with regulations, to eligible institution which did not return to the Secretary any portion of the sums allocated to such institution.".

SEC. 455. AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION.

Section 463 of the Act (20 U.S.C. 1087cc) is amended—

(1) in subparagraph (B) of subsection (a)(2)—

(A) by striking "one-ninth" and inserting "15 percent in fiscal year 1993 and 25 percent in each of the succeeding fiscal years"; and

(B) by inserting "except that the Federal share may exceed such percentage if the Secretary determines that the non-Federal share would cause financial hardship at an eligible institution and that such institution serves a large number or percentage of low-income or minority students" before the semicolon at the end thereof;

(2) in subsection (c)—

(A) in subparagraph (B) of paragraph (3), by striking ", if that account has not been previously reported by any other holder of the note"; and

(B) by adding at the end the following new paragraph:

"(4) Disclosures to credit bureau organizations.—Each institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose to any credit bureau organization with which the Secretary has such an agreement—

"(A) the amount of loans made to any borrower under this part at the time of the disbursement of the loan; and

"(B) the information set forth in section 430A(a)."; and

(3) by adding at the end the following new subsections:

"(d) Limitation on Use of Interest Bearing Accounts.—In carrying out the provisions of subsection (a)(10), the Secretary may not require that any collection agency, collection attorney or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts.

"(e) Special Due Diligence Rule.—In carrying out the provisions of subsection (a)(5) relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.".

SEC. 456. STUDENT LOAN INFORMATION BY ELIGIBLE INSTITUTIONS.

Paragraph (11) of section 463A(a) of the Act (20 U.S.C. 1087cc(a)(11)) is amended by striking "including a statement that the default may be" and inserting "together with a statement that the disbursement of, and the default on, a loan under this part, shall be".

SEC. 457. TERMS OF LOANS.

Section 464 of the Act (20 U.S.C. 1087dd) is amended—

(1) in subsection (a)—

(A) by amending paragraph (2) to read as follows:

"(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

"(i) $3,000, in the case of a student who has not successfully completed a program of undergraduate education; or

"(ii) $5,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

"(B) The aggregate of loans for all years made by institutions of higher education from loan funds established pursuant to agreements made under this part shall not exceed—

"(i) $15,000, in the case of any student who has not successfully completed a program of undergraduate education; or

"(ii) $40,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary) and including any loans from such funds made to such student before the student became a graduate or professional student.";

(B) by inserting after paragraph (3) the following new paragraph:

"(4) In the case of a program of study abroad that is approved for credit by the home institution at which a student is enrolled and that has reasonable costs in excess of the home institution's budget, the aggregate of loans for all years for the student may exceed the totals described in subparagraphs (A) through (C) by 20 percent.";

(2) in subsection (b)—

(A) in paragraph (1), by striking "this title and who meets the requirements of section 484" and inserting "this title, who meets the requirements of section 484, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan"; and

(B) in paragraph (2), by inserting ", except that if the total financial need of all such less than full-time students at the institution exceeds 5 percent of the total financial need of all students at such institution, then at least 5 percent of such loans shall be made available to such less than full-time students" before the period at the end thereof;

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by amending subparagraph (C) to read as follows:

"(C)(i) for loans made before July 1, 1993, may provide, at the option of the institution and in accordance with regulations issued by the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than 1 year when such lower payment is necessary to avoid hardship to the borrower, but in no event shall the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph be extended;

"(ii) for loans made on or after July 1, 1993, may provide, at the option of the institution and in accordance with regulations issued by the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $40 per month, except that the institution may permit a borrower to pay less than $40 per month when such lower payment is necessary to avoid hardship to the borrower, but in no event shall the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph be extended; and

"(iii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;";

(ii) by amending subparagraph (D) to read as follows:

"(D) shall provide that the loan shall bear interest on the unpaid balance of the loan, at the rate of (i) 3 percent per year in the case of any loan made before July 1, 1981, (ii) 4 percent per year in the case of any loan made on or after July 1, 1981, (iii) 5 percent per year in the case of any loan made on or after October 1, 1981, or (iv) 5 percent per year for the first 4 years of repayment and 8 percent during the remainder of the repayment period in the case of any loan made on or after July 1, 1993, except that no interest shall accrue—

"(I) prior to the beginning date of repayment determined under subparagraph (A)(i); or

"(II) during any period in which repayment is suspended pursuant to paragraph (2);"; and

(iii) by amending subparagraph (E) to read as follows:

"(E) shall provide that the loan is made without security and without endorsement, except that an institution participating in the loan program under this part may—

"(i) prior to making any loan under this part, obtain a credit report from at least one national credit bureau organization with respect to a loan applicant who is an independent student as of July 1 of the award year for which assistance is being sought; and

"(ii) require an applicant described in clause (i) who, in the judgment of the institution in accordance with the regulations issued by the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, except that for purposes of this paragraph, an insufficient or nonexistent credit history shall not be considered to be an adverse credit history;"; and

(B) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period—

"(i) during which the borrower—

"(I) is pursuing a full-time course of study as determined by an eligible institution;

"(II) is pursuing at least a half-time course of study (as determined by such institution); or

"(III) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary, except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under section 428B or 428C), while serving in a medical internship or residency program;

"(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

"(iii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled; or

"(iv) not in excess of 3 years during which the borrower is working full-time and earning an amount which does not exceed the greater of—

"(I) the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

"(II) an amount equal to 100 percent of the poverty line for a family of 2 as defined in section 673(2) of the Community Service Block Grant Act.";

(4) by inserting at the end thereof the following new subsections:

"(e) FORBEARANCE.—The Secretary shall ensure that, upon written request, a lender shall grant a borrower forbearance of principal and interest or principle only, renewable at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations issued by the Secretary and agreed upon in writing by the parties to the loan, if—

"(1) the borrower's debt burden equals or exceeds 20 percent of such borrower's gross income; or

"(2) the institution determines that the borrower should qualify for forbearance for other reasons.

"(f) SPECIAL REPAYMENT AUTHORITY.—

"(1) IN GENERAL.—Subject to such restrictions as the Secretary may prescribe to protect the interest of the United States and in order to encourage repayment on loans made under this part which are in default, the Secretary may, pursuant to the agreement entered into under this part, authorize an institution of higher education to compromise on the repayment of such defaulted loans in accordance with paragraph (2).

"(2) LIMITATION.—(A) No compromise repayment of a defaulted loan described in paragraph (1) may be made unless the student borrower pays—

"(i) 90 percent of the loan made under this part;

"(ii) the interest due on such loan; and

"(iii) any collection fees due on such loan.

"(B) The compromise repayment described in subparagraph (A) shall be paid in a lump sum payment.".

SEC. 458. CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE.

Section 465 of the Act (20 U.S.C. 1087ff) is amended—

(1) by amending subparagraph (B) of subsection (a)(2) to read as follows:

"(B) as a full-time teacher of mathematics, science, foreign languages, special education, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;"; and

(2) by adding at the end the following new subsection:

"(c) SPECIAL RULES.—

"(1) LIST.—If the list of schools in which a teacher may perform service pursuant to subparagraph (A) of paragraph (2) of subsection (a) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

"(2) CONTINUING ELIGIBILITY.—Any teacher who performs service in a school which—

"(A) meets the requirements of subparagraph (A) of paragraph (2) of subsection (a) in any year; and

"(B) in a subsequent year fails to meet the requirements of such subparagraph,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to paragraph (1) of subsection (a) in such subsequent years.".

SEC. 459. DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS.

Section 466 of the Act (20 U.S.C. 1087ff) is amended—

(1) in subsection (b), by striking "1997" and inserting "2005".

(2) in subsection (c)—

(A) by striking "Upon" and inserting "(1) Upon";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by adding at the end the following new paragraph:

"(2) No finding that the liquid assets of a student loan fund established under this part exceed the amount required under paragraph (1) may be made prior to a date which is 2 years after the date on which the institution of higher education received the funds from such institution's allocation under section 462.".

SEC. 460. STUDENT AID METHODOLOGY.

(a) AMENDMENT TO HEADING.—The heading for part F of title IV of the Act (20 U.S.C. 1087kk et seq.) is amended to read as follows:

"PART F—STUDENT AID METHODOLOGY".

(b) CONFORMING AMENDMENTS.—

(1) PELL GRANTS.—Section 411(f) of the Act is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "eligibility index" and inserting "expected family contribution";

(ii) in subparagraph (A) by striking "eligibility index" and inserting "expected family contribution";

(iii) in subparagraph (B), by striking "eligibility index" and inserting "expected family contribution"; and

(iv) in subparagraph (D), by striking "eligibility index" and inserting "expected family contribution"; and

(B) in paragraph (3), by striking "eligibility index" and inserting "expected family contribution";

(2) ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.—Section 491 of the Act (20 U.S.C. 1098) is amended—

(A) in subparagraph (B) of subsection (a)(2), by striking "needs analysis," and inserting "student aid methodology";

(B) in paragraph (2) of subsection (c), by striking "needs analysis" and inserting "student aid methodology"; and

(C) in paragraph (1) of subsection (d), by striking "needs analysis under sections 411A through 411E and" and inserting "student aid methodology established under".

SEC. 461. AMOUNT OF NEED.

The text of section 471 of the Act (20 U.S.C. 1087kk) is amended to read as follows:

"Except as otherwise provided in subpart 1 or 3 of part A, the determination of need for financial assistance under this title for any student is equal to the cost of attendance of such student minus—

"(1) the expected family contribution of such student for the academic year for which the determination is made determined in accordance with this part;

"(2) except as otherwise provided in subpart 2 of part A, a student contribution equal to the greater of—

"(A) $900 for first-year dependent undergraduates or $1,100 for all other students, except that this subparagraph shall not apply to independent students with dependents other than a spouse; or

"(B) the student contribution determined in accordance with this part; and

"(3) the sum of all resources available to such student at the time of the award, including the amount of—

"(A) funds the student is entitled to receive from a Pell Grant, regardless of whether the student applies for such funds;

"(B) a waiver of tuition and fees;

"(C) a scholarship or grant, including a scholarship or grant received under subparts 2, 3, 6, 8, and 10 of this part or an athletic scholarship;

"(D) fellowship or assistantship assistance;

"(E) insurance benefits available to such student for such student's education, including any social security education benefits not included in computing expected family contribution;

"(F) except as otherwise provided in subpart 2 of part A, loans under part B;

"(G) long-term loans made by the institution (excluding loans made under part B); and

"(H) veterans' benefits, including benefits received under chapters 2, 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code.".

SEC. 462. COST OF ATTENDANCE.

(a) In General.—Section 472 of the Act (20 U.S.C. 1087ll) is amended—

(1) in the matter preceding paragraph (1) by inserting "(a) Definition of Cost of Attendance.—" before "For the purpose";

(2) in subsection (a) (as so designated by paragraph (1))—

(A) in the matter preceding paragraph (1) by striking "except for subpart 1 of part A and";

(B) in paragraph (6), by striking "in an academic program which normally includes a formal program of study abroad" and inserting "in a program of study abroad approved for credit by the student's home institution"; and

(C) in paragraph (8)—

(i) by striking "handicapped student" and inserting "student with a disability"; and

(ii) by inserting "personal assistance," after "services,";

(3) by adding at the end the following new subsection:

"(b) Definition of Personal Assistance.—As used in subsection (a), the term 'personal assistance' means assistance by a person to an individual with tasks that the individual would typically do if the individual did not have a disability and that are necessary to enable the individual with a disability to participate fully in postsecondary opportunities, including assisting the individual with major life activities."; and

(4) by amending paragraph (7) to read as follows:

"(7) for a student with one or more dependents, an allowance for the expenses actually incurred by the student for dependent care for each child, except that such allowance shall not exceed the reasonable cost in the community in which such student resides for the kind of care provided (as determined by the institution);".

SEC. 463. FAMILY CONTRIBUTION.

Section 473 of the Act (20 U.S.C. 1087nn) is amended by striking "subparts 1 and 3" and inserting "subpart 3".

SEC. 464. STUDENT AID METHODOLOGY; DATA ELEMENTS.

Section 474 of the Act (20 U.S.C. 1087nn) is amended to read as follows:

"SEC. 474. STUDENT AID METHODOLOGY; DATA ELEMENTS.

"(a) General Rule for Determination of Expected Family Contribution.—

"(1) In general.—The expected family contribution—

"(A) for a dependent student shall be determined in accordance with section 475;

"(B) for an independent student with dependents other than a spouse shall be determined in accordance with section 476; and

"(C) for a single independent student or a married independent student without dependents (other than a spouse) shall be determined in accordance with section 477.

"(2) The following data elements are considered in determining the expected family contribution:

"(A) The effective income of—

"(i) the student and the student's spouse; and

"(ii) in the case of a dependent student, the student's parents.

"(B) The number of family members in the household.

"(C) The number of family members in the household who meet the requirements of section 484(a)(1).

"(D) The assets of—

"(i) the student and the student's spouse; and

"(ii) in the case of a dependent student, the student's parents.

"(E) The marital status of the student.

"(F) The additional expenses incurred—

"(i) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed; or

"(ii) in the case of an independent student, when both the student and the student's spouse are employed or when the employed student qualifies as a surviving spouse or as a head of household under section 2 of the Internal Revenue Code of 1986.

"(b) Exclusion of Forced Sale Proceeds.—In the computation of expected family contribution for expected any academic year, there shall be excluded from such contribution any proceeds of a sale of farm or business assets of such family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation.".

SEC. 465. EXPECTED FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.

Section 475 of the Act (20 U.S.C. 1087oo) is amended to read as follows:

"SEC. 475. EXPECTED FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.

"(a) Computation of Expected Family Contribution.—For each dependent student, the expected family contribution is equal to the sum of—

"(1) the contribution from parents' income and assets, determined in accordance with subsection (b);

"(2) the contribution from student's income, determined in accordance with subsection (h); and

"(3) the contribution from student's assets, determined in accordance with subsection (i).

"(b) Contribution From Parents' Income and Assets.—The parents' contribution from income and assets is equal to—

"(1) the sum of—

"(A) the standard contribution from parents' income, determined in accordance with subsection (c); and

"(B) the contribution from parents' assets, determined in accordance with subsection (g); divided by:

"(2) the number of family members who meet the requirements of section 484(a)(1) during the award period for which assistance under this title is requested.

"(c) Standard Contribution From Parents' Income.—The standard contribution from parents' income is determined by—

"(1) calculating the sum of—

"(A) the effective family income determined in accordance with subsection (d); minus

"(B) the total offsets against income determined in accordance with subsection (e); and

"(2) assessing the result in accordance with subsection (f).

"(d) Determination of Effective Family Income.—The effective family income is equal to the annual adjusted family income minus the sum of—

"(1) the amount of United States income tax paid or payable by the parents in the tax year preceding the award year; and

"(2) an allowance for State and other taxes, as determined by multiplying the parents' total income by a percentage determined according to the following table:

"Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is— less than $15,000 the percentage is	$15,000 or more the percentage is
Alaska, Puerto Rico, Wyoming.	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands.	4	3
Florida, South Dakota, Tennessee, New Mexico.	5	4
North Dakota, Washington.	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia.	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky.	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico.	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island.	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

"(e) Total Offsets Against Income.—Total offsets against income are determined by deducting—

"(1) a family size offset as determined by the following table:

"Family Size Offsets

Family Members:	Amount:
1	$6,400
2	$8,000
3	$9,800
4	$12,500
5	$14,900
6 or more	$16,600, plus $2,000 for each member over 6.

"(2) an employment expense offset determined in accordance with section 480(b)(3).

"(f) Assessment of Discretionary Income.—

"(1) In general.—(A) The discretionary income that is assessed under this subsection is equal to—

"(i) the effective family income (as determined under subsection (d)); minus

"(ii) the total offsets to such income (as determined under subsection (e)).

"(B) If the discretionary income described in subparagraph (A) is a negative amount, the contribution from the parents' income is zero.

"(2) Standard contribution.—If such discretionary income is a positive amount, the standard contribution from discretionary income is determined in accordance with the following chart:

"Discretionary income:	Expected contribution:
$0 to $5,000	11% of discretionary income.
$5,001 to $10,000	$550, plus 13% of amount over $5,000.
$10,001 to $15,000	$1,200, plus 18% of amount over $10,000.
$15,001 and above	$2,100, plus 25% of amount over $15,000.

"(g) Contribution From Parents' Assets.—The standard contribution from parents' assets is determined in accordance with paragraphs (1) through (6) as follows:

"(1) Principal place of residence.—If the parental assets include a principal place of residence, deduct $30,000 from the net value of the principal place of residence, except that the net value of a principal place of residence shall be considered to be zero when the adjusted gross income of the parents is $50,000 or less. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(2) OTHER ASSETS.—If the parental assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of such other assets. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(3) FARM OR BUSINESS ASSETS.—If the parental assets include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both, except that the net value of farm assets shall be considered to be zero when the adjusted gross income of the parents is $50,000 or less. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(4) SPECIAL RULE.—If the sum of the farm and business deduction and the deductions in paragraphs (1) and (2) exceeds $100,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deductions shall be reduced by the amount that the sum exceeds $110,000 or $130,000, as the case may be.

"(5) EXPECTED CONTRIBUTION FROM PARENTAL ASSETS.—(A) The expected contribution from parental assets equals 5 percent of the total of the amounts obtained under paragraphs (1), (2), and (3).

"(B) If the calculation of effective family income required by subsection (d) produces a negative number, the expected contribution from parental assets, calculated under this paragraph, shall be reduced by the amount of that negative effective family income. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(6) SEPARATION OR DIVORCE.—(A) If the student's parents are separated or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

"(B) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income also is included in computing effective family income, the assets of that parent's spouse shall also be included.

"(h) CONTRIBUTION FROM STUDENT'S INCOME.—The contribution from student's income is determined by—

"(1) calculating the sum of—

"(A) the student's effective income, as determined in accordance with subsection (i); minus

"(B) the total offsets against income, as determined in accordance with subsection (j); and

"(2) assessing the results in accordance with subsection (k).

"(i) DETERMINATION OF STUDENT'S EFFECTIVE INCOME.—The effective income of the student is equal to—

"(1) the sum of—

"(A) the adjusted gross income of the student as reported to the Internal Revenue Service for the year immediately preceding the award year, or income earned from work, but not reported on a Federal income tax return, minus any excludable income (as defined in section 480(b)(4)); and

"(B) the total annual amount of untaxed income and benefits received by the student in the year immediately preceding the award year; minus

"(2) the amount of United States income tax paid or payable by the student in the tax year preceding the award year.

"(j) TOTAL OFFSETS AGAINST STUDENT'S INCOME.—Total offsets against student's income are—

"(1) a dependent student offset of $3,500; and

"(2) if the parental discretionary income (as determined under subsection (f)) is a negative amount, the amount, if any, by which the result of the subtraction performed under subsection (g)(5) is less than zero.

"(k) ASSESSMENT OF STUDENT'S INCOME.—

"(1) NEGATIVE AMOUNT.—If the student's effective income (as determined under subsection (i)) minus the total offsets (as determined under subsection (j)) is a negative amount, the contribution from student income is zero.

"(2) POSITIVE AMOUNT.—If the student's effective income is a positive amount, the contribution from such student's income is equal to 75 percent of such student's effective income, except that for a first-year undergraduate student who was not enrolled at least half-time in the previous academic year, the effective income shall be equal to 50 percent of such student's effective income.

"(l) DETERMINATION OF CONTRIBUTION FROM STUDENT'S ASSETS.—The contribution from the student's assets is equal to 33 percent of such student's net assets.".

SEC. 466. EXPECTED FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.

Section 476 of the Act (20 U.S.C. 1087pp) is amended to read as follows:

"SEC. 476. EXPECTED FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For independent students with dependents other than a spouse, the expected family contribution is equal to—

"(1) the sum of—

"(A) the standard contribution from student's (and spouse's) income determined in accordance with subsection (b); plus

"(B) the contribution from student's (and spouse's) assets determined in accordance with subsection (f); divided by

"(2) the number of family members who meet the requirements of section 484(a)(1) during the award period for which assistance under this title is requested.

"(b) COMPUTING THE STANDARD CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) INCOME.—The standard contribution from the student's (and spouse's) income is determined by—

"(1) calculating the sum of—

"(A) the effective family income determined in accordance with subsection (c); minus

"(B) the total offsets against income as determined in accordance with subsection (d); and

"(2) assessing the results in accordance with subsection (e).

"(c) DETERMINATION OF EFFECTIVE FAMILY INCOME.—The effective family income is equal to the annual adjusted family income minus the sum of—

"(1) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year; and

"(2) an allowance for State and other taxes as determined by multiplying the student's (and spouse's) total income by a percentage determined according to the following table:

"Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's (and spouse's) total income is—	
	less than $15,000 the percentage is	$15,000 or more the percentage is
Alaska, Puerto Rico, Wyoming.	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands.	4	3
Florida, South Dakota, Tennessee, New Mexico.	5	4
North Dakota, Washington.	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia.	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky.	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico.	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island.	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

"(d) TOTAL OFFSETS AGAINST INCOME.—Total offsets against income are—

"(1) a family size offset equal to the amount specified in the following table:

"Family Size Offsets

Family Members:	**Amount:**
2	$8,000
3	$9,800
4	$12,500
5	$14,900
6 or more	$16,600, plus $2,000 for each member over 6.

"(2) in the case of a married independent student when both the student and spouse were employed in the year for which income is reported, or in the case of a student who qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1986, an employment expense offset determined in accordance with section 480(b)(3)).

"(e) ASSESSMENT OF DISCRETIONARY INCOME.—

"(1) IN GENERAL.—

"(A) The discretionary income that is assessed under this subsection is equal to—

"(i) the effective family income (as determined under subsection (c)); minus

"(ii) the total offsets to such income (as determined under subsection (d)).

"(B) If the discretionary income described in subparagraph (A) is a negative amount, the contribution from the student's (and spouse's) income is zero.

"(2) STANDARD CONTRIBUTION.—If such discretionary income is a positive amount, the standard contribution from discretionary income is determined in accordance with the following chart:

"Discretionary income:	Expected contribution:
$0 to $5,000	11% of discretionary income.

"Discretionary income:	Expected contribution:
$5,001 to $10,000	$550, plus 13% of amount over $5,000.
$10,001 to $15,000	$1,200, plus 18% of amount over $10,000.
$15,001 and above	$2,100, plus 25% of amount over $15,000.

"(f) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—The standard contribution from student's (and spouse's) assets is determined in accordance with paragraphs (1) through (6) as follows:

"(1) PRINCIPAL PLACE OF RESIDENCE.—If the student's (and spouse's) assets include a principal place of residence, deduct $30,000 from the net value of the principal place of residence, except that the net value of a principal place of residence shall be considered to be zero when the adjusted gross income of the student (and spouse) is $50,000 or less. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(2) OTHER ASSETS.—If the student's (and spouse's) assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(3) FARM OR BUSINESS ASSETS.—If the student's (and spouse's) assets include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both, except that the net value of farm assets shall be considered to be zero when the adjusted gross income of the student (and spouse) is $50,000 or less. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(4) SPECIAL RULE.—If the sum of the farm and business deduction and the deductions in paragraphs (1) and (2) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that the sum exceeds $110,000, or $130,000, as the case may be.

"(5) EXPECTED CONTRIBUTION FROM STUDENT'S ASSETS.—(A) The expected contribution from student's (and spouse's) assets equals 5 percent of the total of the amounts obtained under paragraphs (1), (2), and (3).

"(B) If the assessment of discretionary income under subsection (c) produces a negative number, the expected contribution from student's (and spouse's) assets, calculated under this paragraph, shall be reduced by the amount of that negative effective family income. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(6) SEPARATED OR DIVORCED.—If the married independent student with dependents is separated or divorced, only assets of the independent student shall be considered.".

SEC. 467. EXPECTED FAMILY CONTRIBUTION FOR SINGLE INDEPENDENT STUDENTS OR FOR MARRIED INDEPENDENT STUDENTS WITHOUT OTHER DEPENDENTS.

Section 477 of the Act (20 U.S.C. 1087qq) is amended to read as follows:

"SEC. 477. EXPECTED FAMILY CONTRIBUTION FOR SINGLE INDEPENDENT STUDENTS OR FOR MARRIED INDEPENDENT STUDENTS WITHOUT OTHER DEPENDENTS.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For single independent students or married independent students without other dependents, the expected family contribution is equal to—

"(1) the sum of—

"(A) the standard contribution from student's (and spouse's) income determined in accordance with subsection (b); plus

"(B) the contribution from student's (and spouse's) assets determined in accordance with subsection (f); divided by

"(C) the number of family members who meet the requirements of section 484(a)(1) during the award period for which aid under this subpart is requested.

"(b) COMPUTING THE STANDARD CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) INCOME.—The standard contribution from the student's (and spouse's) income is determined by—

"(1) computing the sum of—

"(A) the effective family income in accordance with subsection (c); minus

"(B) the total offsets against income, as determined in accordance with subsection (d); and

"(2) assessing the results in accordance with subsection (e).

"(c) DETERMINATION OF EFFECTIVE FAMILY INCOME.—The effective family income is equal to the annual adjusted family income minus the sum of—

"(1) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year; and

"(2) an allowance for State and other taxes as determined by multiplying the student's (and spouse's) total income by a percentage determined according to the following table:

"Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's (and spouse's) total income is—	
	less than $15,000 the percentage is	$15,000 or more the percentage is
Alaska, Puerto Rico, Wyoming.	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands.	4	3
Florida, South Dakota, Tennessee, New Mexico.	5	4
North Dakota, Washington.	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia.	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky.	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico.	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island.	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

"(d) TOTAL OFFSETS AGAINST INCOME.—Total offsets against income are determined by deducting—

"(1) a family size offset as determined by the following table:

"Family Size Offsets

Family Members:	**Amount:**
1	$6,400
2	$8,000

"(2) in the case of a married independent student when both the student and spouse were employed in the year for which income is reported, or in the case of a student who qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1986, an employment expense offset determined in accordance with section 480(b)(3).

"(e) ASSESSMENT OF DISCRETIONARY INCOME.—

"(1) IN GENERAL.—(A) The discretionary income that is assessed under this subsection is equal to—

"(i) the effective family income (as determined under subsection (c)); minus

"(ii) the total offsets to such income (as determined under subsection (d)).

"(B) If the discretionary income described in subparagraph (A) is a negative amount, the contribution from the student's (and spouse's) income is zero.

"(2) STANDARD CONTRIBUTION.—If such discretionary income is a positive amount, the standard contribution from student's (and spouse's) income is equal to 75 percent of such discretionary income, except that for a first-year undergraduate student or a first-year graduate student, who was not enrolled at least half-time in the previous academic year and who was not in attendance at a secondary school, the standard contribution from a student's and spouse's income is equal to 50 percent of such student's discretionary income.

"(f) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—

"(1) INDEPENDENT STUDENT ASSET CONTRIBUTION.—The asset contribution amount of an independent student and the student's spouse is equal to 5 percent of the sum of the amounts computed under paragraphs (3) and (4), reduced by the amount, if any, by which effective family income as computed under subsection (c) is less than zero. If the result of such subtraction is a negative amount, the family asset contribution amount is zero.

"(2) FAMILY ASSET CONTRIBUTION.—The family asset contribution amount of a single independent student is equal to 33 percent of such student's net asset value, reduced by the amount, if any, by which effective family income as computed under subsection (c) is less than zero. If such value minus such amount is a negative amount, the family asset contribution amount is zero.

"(3) PRINCIPAL PLACE OF RESIDENCE.—If the asset of an independent student with a spouse include a principal place of residence, deduct $30,000 from the net value of the principal place of residence, except that the net value of a principal place of residence shall be considered to be zero when the adjusted gross income of the student (and spouse) is $50,000 or less. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(4) OTHER ASSETS.—(A) If the assets of an independent student with a spouse include assets other than a principal place of residence and other than a farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(B)(i) If the assets of an independent student with a spouse include a farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both, except that the net value of farm assets shall be considered to be zero when the adjusted gross income of the student (and spouse) is $50,000 or less. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(ii) If the sum of the farm and business deduction and the deductions in paragraphs (3) and (4)(A) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that such sum exceeds $110,000, or $130,000, as the case may be.".

SEC. 468. REGULATIONS; UPDATED TABLES.

The text of section 478 of the Act (20 U.S.C. 1087rr) is amended to read as follows:

"(a) Authority To Prescribe Regulations Restricted.—

"(1) In general.—Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this subpart except—

"(A) to prescribe updated tables under sections 475, 476 and 477; or

"(B) to propose modifications in the student aid methodology required by this subpart.

"(2) Special rule.—Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsection (b), or (B) proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 482. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 482 updated tables for the applicable award year that are prescribed in accordance with subsection (b) of this section.

"(b) Provision for Governing Updated Tables.—

"(1) Adjustments.—(A) Each of the amounts allowed as an offset for family size for dependent and independent students shall, for each academic year after academic year 1991–1992, be adjusted by the Secretary by increasing (or decreasing) the comparable amount for the preceding academic year by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, and rounded to the nearest $100.

"(B) The Secretary shall publish in the Federal Register a revised table for an offset for family size in accordance with section 482.

"(2) Revisions.—(A) The Secretary shall, for each academic year after academic year 1991–1992, publish in the Federal Register such revisions in offsets against income, asset determination, and assessment rates as are necessary to reflect the most recent and relevant data.

"(B) The Secretary shall publish in the Federal Register the revised determinations required by subparagraph (A) in accordance with section 482.".

SEC. 469. SIMPLIFIED NEEDS TEST.

Section 479 of the Act (20 U.S.C. 1087ss) is amended—

(1) in subsection (a)—

(A) by striking "The Secretary" and inserting "Except as provided in subsection (c), the Secretary";

(B) by striking "$15,000" and inserting "$50,000 (excluding a dependent student's income)";

(C) by striking "who file" and inserting "who file or are eligible to file"; and

(D) by inserting: "or who file or are eligible to file an income tax return pursuant to the tax code of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau, or who are not required to file pursuant to such tax code" after "1986".

(2) in subsection (b)—

(A) by striking "475(c)(2)" and inserting "475(d)(2)";

(B) by striking "477(b)(2)" and inserting "477(c)(2)"; and

(C) by striking "476(b)(2)" and inserting "476(c)(2)";

(3) by redesignating subsection (c) as subsection (d) and inserting a new subsection (c) to read as follows:

"(c) Special Treatment of AFDC/ADC Recipients.—The expected family contribution shall be zero for the purpose of awarding assistance under part A (other than under subpart 3 of part A), and parts B, C and E for any applicant receiving aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, or aid to dependent children."; and

(4) by amending subsection (d) (as redesignated in paragraph (3)) to read as follows:

"(d) Simplified Application Form.—

"(1) In general.—The Secretary shall develop and use an easily identifiable simplified application form as part of the common financial reporting form prescribed in section 483(a) for families described in this section to qualify for the use of a simplified student aid methodology and zero family contribution.

"(2) Reduced data requirements.—The simplified application form shall reflect the reduced data requirements described in subsections (b) and (c).".

SEC. 470. DISCRETION OF STUDENT FINANCIAL AID OFFICER.

Section 479A of the Act (20 U.S.C. 1087tt) is amended—

(1) in subsection (a)—

(A) by inserting after the second sentence thereof the following new sentence: "Furthermore, a financial aid administrator shall make necessary adjustments in accordance with subsection (c)."; and

(B) by adding at the end thereof the following new sentence: "No student or parent shall be charged a fee for collecting, processing, or delivering such supplementary information.";

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(C) by inserting at the end the following new paragraphs:

"(4) the administrator makes adjustments in the award level of a student with a disability so as to take into consideration the additional costs such student incurs as a result of such student's disability;

"(5) the administrator restores grant or work-study eligibility to a borrower whose liability on a loan received under this title has been discharged by the Secretary or canceled on account of permanent and total disability; or

"(6) In calculating the expected family contribution for any student in accordance with sections 474, 475, 476, and 477, the financial aid administrator excludes from such contribution or from calculation as an asset of such student, such student's spouse, or either parent of such student with whom such student maintains a residence, any value for a residence which is itself, or is located upon land restricted against alienation without the consent of the Federal Government or is held in trust by the United States or a federally recognized tribe for the benefit of an individual member or members of an Indian tribe or is held in trust by the United States for the benefit of an Indian tribe.".

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting the following new subsection (c) after subsection (b):

"(c) Special Adjustments.—A student financial aid administrator shall make a necessary adjustment described in subsection (a) under the following circumstances:

"(1) In the case of dislocated workers, as defined in section 480(a)(5))—

"(A) the administrator shall use the income for the year in which the determination is made (the award year) rather than the income reported in the preceding tax year; and

"(B) the administrator shall exclude the net value of investments and real estate, including the primary residence, in the calculation of the expected family contribution.

"(2) In the case of a displaced homemaker, as defined in section 480(a)(6)), the administrator shall exclude the net value of investments and real estate, including the primary residence, from the calculation of the expected family contribution.

"(3) In the case of unreimbursed medical or dental expenses, the administrator shall reduce available income by the amount of unreimbursed medical expenses in excess of 5 percent of total income in calculating the expected family contribution.

"(4) In the case of elementary and secondary tuition and fees, the administrator shall reduce available income by the unreimbursed tuition and fees paid by the parents for dependents which shall not exceed for each dependent the national average per pupil instructional cost published by the National Center for Educational Statistics using the most recent data available.".

SEC. 471. DISREGARD OF STUDENT AID IN OTHER FEDERAL PROGRAMS.

Section 479B of the Act (20 U.S.C. 1087uu–1) is amended to read as follows:

"SEC. 497B. DISREGARD OF STUDENT AID IN OTHER FEDERAL PROGRAMS.

"Notwithstanding any other provision of law, student financial assistance received under this title, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.".

SEC. 472. DEFINITIONS; GENERAL CALCULATION RULES.

Section 480 of the Act (20 U.S.C. 1087vv) is amended to read as follows:

"SEC. 480. DEFINITIONS; GENERAL CALCULATION RULES.

"(a) Definitions.—As used in this part (except subpart 3 of part A):

"(1) ASSETS.—The term 'assets' means cash on hand, including amounts in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

"(2) AWARD YEAR.—The term 'award year' is the period of time between July 1 of the first year and June 30 of the following year.

"(3) BUSINESS ASSETS.—The term 'business assets' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights and copyrights.

"(4) DEPENDENT.—The term 'dependent'—

"(A) when used with respect to a student and except as otherwise provided, means the student's spouse, the student's dependent children, and other persons who live with and receive more than one-half of their support from the student and will continue to receive more than one-half of their support from the student during the award year; and

"(B) when used with respect to a parent, means the parents of the student, the student, any of the student's dependent children, dependent children of the student's parents (including those children who are deemed to be dependent students when applying for aid under this title) and other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than one-half of their support from the parents during the award year.

"(5) DISLOCATED WORKER.—The term 'dislocated worker' means a worker identified pursuant to section 301(a) of the Job Training Partnership Act.

"(6) DISPLACED HOMEMAKER.—The term 'displaced homemaker' means an individual who—

"(A) has not worked in the labor force for a substantial number of years but has, and during those years, worked in the home providing unpaid services for family members;

"(B)(i) has been a dependent on public assistance or on the income of another family member but is no longer supported by that income, or

"(ii) is receiving public assistance on account of dependent children in the home; and

"(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(7) FARM ASSETS.—The term 'farm assets' means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"(8) INDEPENDENT.—The term 'independent', when used with respect to a student, means any individual who—

"(A) is 24 years of age or older by December 31 of the first calendar year of the award year;

"(B) is an orphan or ward of the court;

"(C) is a veteran of the Armed Forces of the United States;

"(D) is a graduate or professional student;

"(E) is married or has legal dependents; and

"(F) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

"(9) NET ASSETS.—The term 'net assets' means the current market value at the time of application of assets (as defined in paragraph (1)) minus the outstanding liabilities (indebtedness) against such assets.

"(10) SPECIAL TAXES AND REFERENCES.—(A) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as United States income taxes.

"(B) References in this subpart to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in subparagraph (A), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may provide by regulation.

"(11) UNTAXED INCOME AND BENEFITS.—The term 'untaxed income and benefits' means—

"(A) child support received;

"(B) welfare benefits, excluding aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

"(C) workman's compensation;

"(D) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

"(E) interest on tax-free bonds;

"(F) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(G) cash support or any money paid on the student's behalf;

"(H) the amount of earned income credit claimed for Federal income tax purposes;

"(I) untaxed portion of pensions;

"(J) credit for Federal tax on special fuels;

"(K) the amount of foreign income excluded for purposes of Federal income taxes;

"(L) untaxed social security benefits;

"(M) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(N) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.

"(b) GENERAL CALCULATION RULES.—

"(1) ANNUAL ADJUSTED FAMILY INCOME.—The term 'annual adjusted family income' means the sum received in the year immediately preceding the award year, by the student's parents (in the case of a dependent student), or by the student and, if applicable, the student's spouse (in the case of an independent student), except excludable income under paragraph (4) of this subsection, from the following sources and calculated as follows:

"(A) Adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1986.

"(B) Untaxed income and benefits, as defined in paragraph (a)(11).

"(C) Income for a student whose parents are divorced or separated determined as follows:

"(i) Include only the income of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

"(ii) If the criterion described in clause (i) does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

"(iii) If neither of the criteria described in clauses (i) or (ii) apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

"(D) Income in the case of the death of any parent is determined as follows:

"(i) If either of the parents have died, the student shall include only the income of the surviving parent.

"(ii) If both parents have died, the student shall not report any parental income.

"(E) If income in the case of a parent whose income is taken into account under subparagraph (C) of this paragraph, or a parent who is a widow or widower and whose income is taken into account under clause (i) of this subparagraph, has remarried, then the income of that parent's spouse shall be included in determining the student's annual adjusted family income only if—

"(i) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

"(ii) the student is not an independent student.

"(2) EFFECTIVE FAMILY INCOME.—The effective family income shall be determined on the basis of the annual adjusted family income minus the Federal taxes and imputed State and other taxes paid or payable for the year that adjusted gross income is used in the calculation of the student's expected family contribution.

"(3) EMPLOYMENT EXPENSE OFFSET.—(A) The employment expense offset is determined as follows:

"(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $2,100 or 35 percent of the earned income (income earned by work) of the parent with the lesser earned income.

"(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1986, such offset is equal to the lesser of $2,100 or 35 percent of the parent's earned income.

"(B) The employment expense offset in the case of an independent student with dependents or married independent student is determined as follows:

"(i) If both the student and the student's spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $2,100 or 35 percent of the earned income (income earned by work) of the spouse with the lesser earned income.

"(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1986, such offset is equal to the lesser of $2,100 or 35 percent of the student's earned income.

"(C) For any award year after award year 1987-1988, this paragraph shall be applied by increasing the dollar amount specified in subparagraphs (A) and (B) to reflect increases in the amount and percent of the Bureau of Labor Standards Budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-person worker versus one-worker family.

"(4) EXCLUDABLE INCOME.—(A) The term 'excludable income' means the income described in subparagraph (B) which shall be excluded for the purpose of determining 'annual adjusted family income' under paragraph (1).

"(B) For the purpose of determining adjusted family income exclude the following:

"(i) For a Native American student, the annual adjusted family income does not include any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Act commonly referred to as the Per Capita Act (25 U.S.C. 117b) or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) or any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) or the Maine Indians Claims Settlement Act (25 U.S.C. 1721 et seq.).

"(ii) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the effective family income.

"(iii) The annual adjusted family income does not include any student financial assistance (including any income earned from work under part C of this title) except veterans' or social security benefits set forth in paragraph (6) of this subsection.

"(5) FAMILY SIZE DETERMINATION.—(A) In determining family size in the case of a dependent student—

"(i) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

"(ii) if the parents are divorced or separated, family members include the parent whose income is included in computing the effective family income and that parent's dependents, including the student; and

"(iii) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining effective family income.

"(B) In determining family size in the case of an independent student with dependents—

"(i) family members include the student, the student's spouse, and the student's dependents; and

"(ii) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.".

SEC. 473. DEFINITIONS.

Section 481 of the Act (20 U.S.C. 1088) is amended—

(1) in paragraph (1) of subsection (a)—

(A) in the matter preceding subparagraph (A), by striking "subsection (e), for the purposes of this title, except subpart 6 of part A and part B," and inserting "subsection (e) and subparagraph (B), for the purposes of this title";

(B) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(C) by inserting "(A)" after "(1)";

(D) by inserting at the end thereof the following new subparagraph:

"(B) Any entity shall not be considered to be an institution of higher education pursuant to subparagraph (A), if such entity—

"(i) offers more than 50 percent of such entity's courses by correspondence;

"(ii) has a student enrollment in which more than 25 percent of the students are incarcerated;

"(iii) employs or uses commissioned salesmen in any phase of its operation; or

"(iv) has a student enrollment in which more than 50 percent of the students are admitted pursuant to section 484(d).";

(2) in paragraph (1) of subsection (b), by striking "not less than a 6-month program" and inserting "an eligible program";

(3) in paragraph (1) of subsection (c), by striking "not less than a 6-month program" and inserting "an eligible program"; and

(4) by amending subsection (d) to read as follows:

"(d) ACADEMIC YEAR.—For the purpose of this title, the term 'academic year' shall mean at least—

"(1) 900 clock hours;

"(2) 36 quarter credit hours; or

"(3) 24 semester or trimester credit hours."; and

(5) by adding at the end thereof the following new subsections:

"(f) ELIGIBLE PROGRAM.—For the purpose of this title the term 'eligible program' means a program of at least—

"(1) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—

"(A) provides educational training; and

"(B) admits students who have not completed the equivalent of an associate's degree; or

"(2) 300 clock hours of instruction, 8 semester hours, or 12 quarter hours, offered during a minimum of 10 weeks, in the case of—

"(A) undergraduate programs that require the equivalent of an associate degree for admissions; and

"(B) all graduate and professional programs.

"(g) PERSONAL ASSISTANCE.—The term 'personal assistance' means one person assisting another individual with tasks which such individual would typically do if such individual did not have a disability and which are necessary to enable the individual with a disability to participate fully in postsecondary opportunities, including assisting such individuals with major life activities.".

SEC. 474. MASTER CALENDAR.

Subsection (c) of section 482 of the Act (20 U.S.C. 489(c)) is amended by striking "the general administration of".

SEC. 475. FORMS AND REGULATIONS.

Section 483 of the Act (20 U.S.C. 1090) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting ", publish and distribute free of charge" after "shall prescribe";

(ii) by inserting ", to identify students for mandatory adjustments under section 479A(c)" before "and to determine the need";

(iii) by inserting after the first sentence thereof the following: "The Secretary shall print, distribute and process one such reporting form. The Secretary shall prescribe a common reapplication form and process, including an electronic reapplication process, for students who have completed the common financial reporting form in a prior year.";

(iv) by inserting "on at least a half-time basis" after "are enrolled or accepted for enrollment"; and

(v) by striking the period at the end of the paragraph and inserting a comma and the following: "except that such State data may not be combined with the required Federal data on the common form."; and

(B) in paragraph (2), by inserting after the first sentence thereof "The Secretary is authorized to use such contracts to assist States with collection of data required to award State grants.";

(C) by redesignating paragraphs (3), (4) and (5) as paragraphs (4), (5) and (7), respectively;

(D) by inserting the following new paragraph after paragraph (2):

"(3) As part of the procurement process for the 1993–1994 award year, and for all procurements thereafter pertaining to the contracts identified in paragraph (2) of this subsection, the Secretary shall require all entities competing for such contracts to—

"(A) use a common financial reporting form as prescribed in paragraph (1), which shall be clearly identified as the "Free Application for Federal Student Aid" and shall be clearly distinguished from the non-Federal portion of the form by means of a bold line, bold print, clear instructions, or other appropriate means;

"(B) use a common, simplified reapplication form as the Secretary shall prescribe in each award year; and

"(C) provide the estimated marginal cost of collecting and processing additional non-Federal data elements that may be used by States for the purpose of awarding State assistance."; and

(E) by inserting after paragraph (5) (as redesignated in subparagraph (C)) the following new paragraph:

"(6) No approved contractor shall enter into exclusive arrangements with guarantors, lenders, secondary markets, or institutions for the purpose of reselling or sharing of data collected for the multiple data entry process. All data collected under a contract issued by the Secretary pursuant to paragraph (2) for the multiple data entry process is the exclusive property of the Secretary and may not be transferred to a third party by an approved contractor without the Secretary's expressed written approval.";

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "the Secretary is authorized to enter into contracts with States, institutions of higher education and private organizations for the purpose of—" and inserting "the Secretary, as part of the contracts described in subsection (a)(2), shall—";

(B) in paragraph (1) by striking "developing" and inserting "develop and process";

(C) in paragraph (2)—

(i) by striking "distributing and processing" and inserting "distribute and process"; and

(ii) by inserting "and parents" after "students"; and

(D) in paragraph (3)—

(i) by striking "issuing" and inserting "issue"; and

(ii) by striking "index designed to estimate" and inserting "expected family contribution figure and an estimate of";

(3) by amending subsection (f) to read as follows:

"(f) NOTICE OF STUDENT AID RECEIPT.—

"(1) NOTICE.—Each student receiving assistance under this title shall receive notice of receipt of such assistance.

"(2) DISTRIBUTION.—The notice described in paragraph (1) shall be distributed by participating institutions without limit to format, except that the program name, including the 'Federal' designation, shall be specified on such notice.";

(4) by redesignating subsections (b), (c), (d), (e) and (f) (as amended in paragraphs (1), (2) and (3)) as subsections (c), (d), (e), (f) and (g), respectively;

(5) by inserting after subsection (a) the following new subsection:

"(b) Common Guaranteed Student Loan Application Form and Promissory Note.—

"(1) In general.—The Secretary, in cooperation with representatives of guaranty agencies, eligible lenders, and organizations involved in student financial assistance, shall prescribe a common application form and promissory note to be used for applying for loans under part B of this title.

"(2) Requirements.—The form prescribed by the Secretary shall, to the maximum extent practicable—

"(A) use plain English to facilitate understanding of loan terms and conditions by applicants;

"(B) be formatted to require the submission of the form directly by the applicant or the eligible institution in which the student is enrolled or has been accepted for enrollment and on which the applicant shall clearly indicate a choice of lender; and

"(C) permit application for any loan under part B other than loans under section 428C.

"(3) Draft form.—The Secretary shall circulate a draft of the form developed pursuant to this subsection not later than 180 days after the date of enactment of the Higher Education Amendments of 1992 and shall approve a form for use not later than 360 days after the date of such Act.

"(4) Special rule.—Nothing in this subsection shall be construed to limit the development of electronic forms and procedures."; and

(6) by adding at the end the following new subsections:

"(h) Common Deferment Form.—The Secretary, in cooperation with representatives of guaranty agencies, institutions of higher education, and lenders involved in loans made under part B of this title, shall prescribe a common deferment reporting form to be used for the processing of deferments of loans made under this title.

"(i) Special Rule.—Any financial aid application required to be made under this title shall include the name, signature, address, social security number, and organizational affiliation of the preparer of such financial aid application.".

SEC. 476. STUDENT ELIGIBILITY.

Section 484 of the Act (20 U.S.C. 1091) is amended—

(1) in paragraph (1) of subsection (a), by inserting "(including a program of study abroad approved for credit by the eligible institution at which such student is enrolled)" after "or other program";

(2) in subsection (b), by adding at the end the following new paragraph:

"(5) In order to be eligible to receive a loan made, insured or guaranteed under this title, a student may not be incarcerated.";

(3) in subsection (d), by striking "approved by the Secretary" and inserting "that meets such standards for development, administration, and scoring as the Secretary may prescribe in regulations";

(4) in subsection (g)—

(A) by inserting "fraudulently" before "borrowed" each place such term appears; and

(B) by adding at the end thereof the following: "If the institution determines that the student inadvertently borrowed amounts in excess of such annual or aggregate maximum loan limits, such institution shall allow the student to repay any amount borrowed in excess of such limits prior to certifying the student's eligibility for further assistance under this title.";

(5) by amending subsection (h) to read as follows:

"(h) Verification of Immigration Status.—

"(1) In general.—The Secretary shall implement a system under which the statements and supporting documentation, if required, of an individual declaring that such individual is in compliance with the requirements of subsection (a)(5) shall be verified prior to the individual's receipt of a grant, loan, or work assistance under this title.

"(2) Special rule.—The documents collected and maintained by an eligible institution in the admission of a student to the institution may be used by the student in lieu of the documents used to establish both employment authorization and identity under section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a) to verify eligibility to participate in work-study programs under part C of this title.

"(3) Verification mechanisms.—The Secretary is authorized to verify such statements and supporting documentation through a data match, using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.";

(6) by redesignating subsection (k) as subsection (m); and

(7) by inserting after subsection (j) the following new subsections:

"(k) Special Rule for Correspondence Courses.—A student shall not be eligible to receive a grant, loan or work assistance under this title for a correspondence course unless such course is part of a program leading to an associate, bachelor or graduate degree.

"(l) Courses Offered Through Telecommunications.—

"(1) Relation to correspondence courses.—A student enrolled in a course of instruction at an eligible institution of higher education that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by such institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of such courses.

"(2) Restriction or reductions of financial aid.—A student may have such student's eligibility to participate in a program under this title restricted or reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to such student.

"(3) Special rule.—For award years prior to the date of enactment of this subsection, the Secretary shall not take any compliance, disallowance, penalty, or other action against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this title if the institution demonstrates to the satisfaction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.

"(m) Students With a First Baccalaureate or Professional Degree.—Notwithstanding any other provision of this Act, a student otherwise eligible for assistance under parts B, C, and E of this title shall be eligible for such assistance even though such student has previously received a baccalaureate or professional degree.".

SEC. 477. INFORMATION DISSEMINATION ACTIVITIES.

Section 485 of the Act (20 U.S.C. 1092) is amended—

(1) in paragraph (1) of subsection (a)—

(A) by striking "and" at the end of subparagraph (K);

(B) by striking the period at the end of subparagraph (L) (as added by section 1 of Public Law 101-542) and inserting a semicolon;

(C) by redesignating subparagraph (L) (as added by section 201 of Public Law 101-610) as subparagraph (M);

(D) by striking the period at the end of subparagraph (M) (as redesignated in paragraph (3)) and inserting a semicolon and "and"; and

(E) by adding at the end thereof the following new subparagraph:

"(N) that enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment in the home institution for purposes of applying for Federal student financial assistance.";

(2) in subsection (b)—

(A) by amending the subsection heading for subsection (b) to read as follows: "Exit Counseling for Borrowers; Borrower Information.—";

(B) by striking "Each" and insert "(1) Each";

(C) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(D) by inserting at the end thereof the following new paragraph:

"(2) Student information.—(A) Each eligible institution shall require that the borrower of a loan made under part B or E submit to the institution, during the exit interview required by this subsection—

"(i) the borrower's expected permanent address after leaving the institution (regardless of the reason for leaving);

"(ii) the name and address of the borrower's expected employer after leaving the institution;

"(iii) the address of the borrower's next of kin; and

"(iv) any corrections in the institution's records relating the borrower's name, address, social security number, references, and driver's license number.

"(B) The institution shall, within 60 days after the interview, forward any corrected or completed information received from the borrower to the guaranty agency indicated on the borrower's student aid records.".

(3) in subsection (f), by adding at the end the following new paragraph:

"(7)(A) Each institution of higher education participating in any program under this title shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

"(i) such institution's campus sexual assault programs which shall be aimed at prevention of sex offenses; and

"(ii) the procedures followed once a sex offense has occurred.

"(B) The policy described in subparagraph (A) shall address the following areas:

"(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

"(ii) Procedures students should follow if a sex offense occurs, including who should be contacted and to whom the alleged offense should be reported.

"(iii) Procedures for on-campus disciplinary action in cases of alleged sexual assault which shall include—

"(I) a clear statement that the institution will impose sanctions on students and employees, and a description of those sanctions;

"(II) a clear statement that the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

"(III) a clear statement that both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

"(iv) Notification of victims of sexual assault of the applicable legal sanctions under Federal, State or local law for sexual assault.

"(v) Informing students of their options to notify proper law enforcement authorities, both on campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

"(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

"(vii) Notification of students of options for and available assistance in, if so requested by the victim, changing academic and living situations subsequent to an alleged sexual assault incident.

"(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.".

SEC. 478. NATIONAL STUDENT LOAN DATA SYSTEM.

Section 485B of the Act (20 U.S.C. 1093) is amended—

(1) in subsection (a)—

(A) by striking "and loans made under part E" and inserting "and loans made under part E, and for allowing electronic exchange of data between program participants and the system"; and

(B) by inserting after the first sentence thereof the following new sentence: "Such data system shall provide for monitoring enrollment, student status, and internship and residency information."; and

(2) by adding at the end the following new subsection:

"(e) STANDARDIZATION OF DATA REPORTING.—

"(1) IN GENERAL.—The Secretary shall promulgate standard regulations and procedures (including necessary rules and relevant definitions) that require all lenders and guaranty agencies to report information on all aspects of loans made under this part in uniform formats in order to permit the direct comparison of data submitted by individual lenders, servicers or guaranty agencies.

"(2) ACTIVITIES.—For the purpose of establishing standards under this section, the Secretary shall—

"(A) consult with guaranty agencies, lenders, institutions of higher education, and organizations representing the groups described in paragraph (1);

"(B) develop standards designed to be implemented by all guaranty agencies and lenders with minimum modifications to existing data processing hardware and software; and

"(C) publish the specifications selected to be used to encourage the automation of exchanges of information between all parties involved in loans under this part.

"(3) MODERN DATA PROCESSING.—The Secretary is authorized to use modern data processing to reduce the administrative expenses of operating the data system assisted under this section. Nothing in section 499C shall relieve processors of any or all obligations under this section.".

SEC. 479. SIMPLIFICATION OF THE LENDING PROCESS FOR BORROWERS.

Part G of title IV of the Act (20 U.S.C. 1088 et seq.) is amended by inserting after section 485B the following new section:

"SEC. 485C. SIMPLIFICATION OF THE LENDING PROCESS FOR BORROWERS.

"(a) ALL LIKE LOANS TREATED AS ONE.—To the extent practicable, and with the cooperation of the borrower, eligible lenders shall treat all loans made to a borrower under the same section of part B as one loan and shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment. Any deferments on one such loan will be considered a deferment on the total amount of all such loans. In the case of a default, the entire amount of all such loans shall be considered to be in default.

"(b) ONE LENDER, ONE GUARANTY AGENCY.—To the extent practicable, and with the cooperation of the borrower, the guaranty agency shall ensure that a borrower only have one lender, one holder, one guaranty agency, and one servicer with which to maintain contact.".

SEC. 480. TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES.

Section 486 of the Act (20 U.S.C. 1093) is amended to read as follows:

"SEC. 486. EARLY AWARENESS INFORMATION PROGRAM.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to enter into contracts with appropriate public agencies, nonprofit private organizations, and institutions of higher education to conduct an information program designed to broaden the early awareness of postsecondary educational opportunities by secondary school students and their parents, including publicizing—

"(1) the availability of Federal student assistance under this Act;

"(2) the importance of postsecondary education in long-term career planning; and

"(3) the need and necessity to complete a secondary education program successfully in order to meet the requirements for college.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this section.".

SEC. 481. PROGRAM PARTICIPATION AGREEMENTS.

(a) IN GENERAL.—Subsection (a) of section 487 of the Act (20 U.S.C. 1094(a)) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting before the period a comma and the following: "together with assurances that the institution will provide upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

"(A) the Secretary;

"(B) the appropriate State agency designated under section 495(c);

"(C) the appropriate guaranty agency; and

"(D) the appropriate accrediting agency or association"; and

(B) by adding at the end the following new paragraphs:

"(13) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this Act on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

"(14) In the case of any institution (other than a public nonprofit institution) participating in loan programs under this title for the first time such institution shall be allowed a total loan volume of no more than—

"(A) $1,000,000 for such institution's first year of participation; and

"(B) 150 percent of the previous year's total loan volume for such institution's second, third, and fourth years of participation, if such institution's performance complies with the minimum standards of the Secretary or the guaranty agency.

"(15) The institution shall use the same definition of 'academic year' for all purposes authorized by this title.

"(16) The institution shall develop a default management plan for approval by the Secretary as part of such institution's initial application for certification as an eligible institution and shall implement such plan for 2 years thereafter.

"(17) Any institution which changes ownership and any institution which changes its status as a parent or subordinate institution shall develop a default management plan for approval by the Secretary and implement such plan for 2 years after such institution's change of ownership or status.

"(18) The institution will provide assurances that the institution will cooperate whenever the Secretary, a guaranty agency, an accrediting agency or association and a State agency designated under section 495(c) need to share information relating to the eligibility of the institution to participate in the programs authorized by this title.

"(19) The institution will comply with such other provisions as the Secretary deems necessary to the sound administration of financial aid programs.";

(2) in paragraph (2) of subsection (b), by striking "on the record"; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in clause (i) of subparagraph (A), by striking "2 years" and inserting "year";

(ii) in subparagraph (B), by inserting ", including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution" before the semicolon at the end thereof;

(iii) in subparagraph (D), by striking "on the record";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "on the record"; and

(ii) in the matter preceding subclause (I) of subparagraph (B)(i), by striking "on the record";

(C) in paragraph (3) by inserting ", after consultation with each State agency designated under section 495(c)," after "shall publish"; and

(D) by adding at the end the following new paragraph:

"(4) The Secretary shall make readily available to appropriate guaranty agencies, eligible lenders, State agencies designated under section 495(c), and accrediting agencies or associations the results of the audits of eligible institutions conducted pursuant to paragraph (1)(A).".

(b) CONSTRUCTION.—Section 487 of the Act, as amended by subsection (a), is further amended by adding at the end the following:

"(e) CONSTRUCTION.—Nothing in the amendments made by the Higher Education Amendments of 1991 shall be construed to prohibit an institution from recording, at the cost of the institution, a hearing referred to in subsection (b)(2), subsection (c)(1)(D), or subparagraph (A) or (B)(i) of subsection (c)(2), of section 487 to create a record of the hearing. The Secretary shall allow the institution to use any reasonable means, including stenographers, of recording the hearing.".

SEC. 481A. HAZING.

Subsection (a) of section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by adding at the end the following new paragraph:

"(13)(A) The institution should adopt a policy that prohibits a member of a student organization operating on or near such institution for the purpose of participating in student activities of such institution, to intentionally commit an act of hazing or conspire to commit an act of hazing against a member, potential member, or person pledged to be a member of the organization as a condition of attaining membership in the organization or of attaining an office or other status within the organization.

"(B) For the purposes of this paragraph, the term 'act of hazing' means the subjection of a person to bodily danger or physical harm or a substantial likelihood of bodily danger or physical harm, or to require, encourage, authorize, or permit that a person be subject to—

"(i) total or substantial nudity of the person;

"(ii) compelled ingestion of any substance which, because of the nature, amount, or concentration of such substance, subjects the person to a substantial likelihood of physical harm;

"(iii) wearing or carrying of any obscene article by the person;

"(iv) a physical assault upon or offensive physical contact with the person;

"(v) participation by the person in a boxing match, an excessive number of calisthenics, or any other physical activity which involves a substantial likelihood of bodily danger or physical harm;

"(vi) transportation and intentional abandonment of the person;

"(vii) confinement of the person to unreasonably small, unventilated, unsanitary, or unlighted areas;

"(viii) intentional sleep deprivation; or

"(ix) assignment of pranks to be performed by the person which involve the violation of any Federal, State or local law, or which would subject the person or any other person to a substantial likelihood of bodily danger or physical harm.

"(C) This section shall not be construed to apply to legitimate curricular activities or activities of athletic teams of an institution of higher education.".

SEC. 482. ASSIGNMENT OF IDENTIFICATION NUMBERS.

Part G of title IV of the Act is further amended by inserting after section 487 the following new section:

"SEC. 487A. ASSIGNMENT OF IDENTIFICATION NUMBERS.

"The Secretary shall assign to each institution of higher education, lender and guaranty agency participating in a program assisted under this title an identification number to be used to identify each such entity's participation in any such program.".

SEC. 483. TRANSFER OF ALLOTMENTS.

Section 488 of the Act (20 U.S.C. 1095) is amended by striking "10 percent" and inserting "25 percent".

SEC. 484. CRIMINAL PENALTIES.

Section 490 of the Act (20 U.S.C. 1097) is amended to read as follows:

"(a) IN GENERAL.—Any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under this title or attempts to so embezzle, misapply, steal, obtain by fraud, false statement or forgery, or fail to refund any funds, assets, or property, shall be fined not more than $20,000 or imprisoned for not more than 5 years, or both, except if the amount so embezzled, misapplied, stolen, obtained by fraud, false statement, or forgery, or failed to be refunded does not exceed $200, then the fine shall not be more than $5,000 and imprisonment shall not exceed one year, or both.

"(b) ASSIGNMENT OF LOANS.—Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(c) INDUCEMENTS TO LEND OR ASSIGN.—

"(1) IN GENERAL.—Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B or attempts to make such unlawful payment as an inducement to make, or to acquire by assignment, a loan insured under such part shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(2) SPECIAL RULE.—Nothing in this section shall prohibit an institution of higher education or other party from participating in programs authorized under section 492 of this Act.

"(d) OBSTRUCTION OF JUSTICE.—Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title or attempts to so destroy or conceal with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $20,000 or imprisoned not more than 5 years, or both.

"(e) USE OF FUNDS RECEIVED.—All funds received by the Department as a result of penalties assessed by this section shall be deposited into the account for subpart 1 of part A of title IV, and allocated to students through the Pell Grant Program.".

SEC. 485. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

Section 491 of the Act (20 U.S.C. 1098) is amended—

(1) in subsection (d)—

(A) by striking "and" at the end of paragraph (6);

(B) by striking the period at the end of paragraph (7) and inserting a semicolon and "and"; and

(C) by adding at the end the following new paragraph—

"(8) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.";

(2) in paragraph (4) of subsection (h)—

(A) by striking "in accordance with" and inserting "without regard to"; and

(B) by inserting "and to set pay in accordance with such section" before the period at the end;

(3) in subsection (i), by striking "$500,000" and inserting "$750,000"; and

(4) by amending subsection (j) to read as follows:

"(j) SPECIAL ANALYSES AND ACTIVITIES.—The committee shall—

"(1) monitor and evaluate the program modifications resulting from the enactment of the Higher Education Amendments of 1992, especially as such amendments relate to the student aid methodology;

"(2) monitor and evaluate the implementation of a free common form and process for determining eligibility and awards for programs under this title as well as a simplified reapplication process;

"(3) assess the adequacy of current methods for disseminating information about programs under this title and recommend improvements, as appropriate, regarding early needs assessment and information for first-year high school students; and

"(4) assess the adequacy of methods of monitoring student debt burden.".

SEC. 486. GENERAL PROVISIONS.

(a) IN GENERAL.—Part G of title IV of the Act is further amended by adding at the end the following new sections:

"SEC. 492. INSTITUTIONAL AND LENDER SUPPORT FOR DEFAULT REDUCTION.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, institutions of higher education, lenders (including secondary markets), and loan servicers are authorized to enter into contracts and make payments to any party to provide for—

"(1) collection on loans made under this title supplementing the collection efforts required under applicable program regulations;

"(2) additional borrower counseling;

"(3) support for programs authorized under section 432(k) regarding incentives for employer repayment of such loans; and

"(4) any other activity the Secretary determines to be in furtherance of the goal of reducing defaults on loans made, insured, or guaranteed under this title.

"(b) SPECIAL RULE.—Contracts and payments made under this part shall reflect the actual cost of services provided or received, as documented according to rules issued by the Secretary.

"SEC. 493. STUDY ABROAD.

"Nothing in this Act shall be construed to limit or otherwise prohibit access to study abroad programs approved by the institutions at which a student is enrolled. Students who are otherwise eligible who are engaged in a program of study abroad approved for academic credit by the home institution at which such students are enrolled are eligible for assistance under this title. It is not necessary for such a study abroad program to be required as part of the student's degree program to qualify for such assistance.

"SEC. 494. ASSISTANCE FROM THE COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION.

"The Commissioner of the Social Security Administration, or the Commissioner's designee, is authorized to assist the Secretary in determining if borrowers of loans under the Robert T. Stafford Student Loan Program are using true and correct social security numbers when applying for such loans.

"SEC. 494A. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

"(a) MEETINGS.—

"(1) IN GENERAL.—The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations implementing the amendments made to subparts 1 and 4 of part A, part B and part G of this title by the Higher Education Amendments of 1992. Such meetings shall include individuals and representatives of the groups involved in student loan programs, such as students, institutions of higher education, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies.

"(2) Issues.—During such meetings, the Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of the amendments made to this title by the Higher Education Amendments of 1992. The Secretary shall take into account the information received at such meetings in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

"(b) Draft Regulations.—After holding regional meetings and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing the amendments made to this title by the Higher Education Amendments of 1992 and shall submit such regulations to a negotiated rulemaking process. The Secretary shall follow the guidance provided in sections 305.82-4 and 305.82-5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups participating in the regional meetings described in subsection (a)(1), and shall include both representatives of such groups from Washington, D.C., and industry participants. To the extent possible, the Secretary shall select individuals reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary within the 240-day period described in section 431(g) of the General Education Provisions Act.

"(c) Applicability of Federal Advisory Committee Act.—The Federal Advisory Act shall not apply to activities carried out under this section.

"(d) Authorization of Appropriations.—There are authorized to be appropriated in any fiscal year or made available from funds appropriated to carry out this part in any fiscal year such sums as may be necessary to carry out the provisions of this section.

"SEC. 494B. DATA BASE AND INFORMATION LINE.

"(a) In General.—From the amounts appropriated pursuant to the authority of subsection (b), the Secretary shall award a contract to establish and maintain—

"(1) a computerized database of all public and private student financial assistance programs, to be accessible to schools and libraries through either modems or toll-free telephone information lines; and

"(2) a toll-free telephone information line to provide individualized student financial assistance information to parents, students, and other individuals.

"(b) Authorization of Appropriations.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this section.".

(b) Conforming Amendment.—Paragraph (1) of section 432(a) of the Act (20 U.S.C. 1082(a)) is amended by inserting "pursuant to section 494A" after "regulations".

SEC. 487. INSTITUTIONAL INTEGRITY PROGRAM REQUIRED.

(a) General Rule.—Part G of title IV of the Act (as amended in section 483) is further amended—

(1) by inserting after the heading for part G the following:

"*Subpart 1—Miscellaneous General Provisions*"; and

(2) by adding after section 494 (as added by section 483) the following new subpart:

"*Subpart 2—Institutional Integrity*

"SEC. 495. STATE IDENTIFICATION PROCESS.

"(a) In General.—Each State shall assist the Secretary to identify institutions of higher education within the State, which have engaged in practices that lead to misuse of Federsl student aid funds, including but not limited to—

"(1) inadequate procedures to protect students enrolled at institutions of higher education in the event of school closure;

"(2) inadequate maintenance of student or other records;

"(3) inadequate procedures for resolution and investigation of student complaints;

"(4) misleading or inappropriate advertising and promotion, or student recruitment;

"(5) facilities that fail to comply with relevant safety and health standards such as fire, building and sanitation codes;

"(6) failure to provide relevant information to students by institutions of higher education which may include—

"(A) information relating to market and job availability for students in professional and vocational programs;

"(B) information regarding courses which exceed standards for State licensure in specific occupations, where appropriate; and

"(C) information regarding course cancellation procedures and rights;

"(7) the inflation of credit or clock hours required for the completion or programs or where 600-hour courses are not appropriate in length;

"(8) occupational or vocational programs which are inadequate to permit students to meet State licensing requirements in the occupation for which training is provided;

"(9) the actions of any owner, shareholder, or person exercising control over the educational institution which may adversely affect eligibility for programs under this title; or

"(10) the absence of a fair and equitable refund policy to protect students as established in section 498.

"(b) State Procedures.—

"(1) In carrying out the purpose of this section, the State shall establish and publicize the availability of a process to permit students, faculty members and others to report complaints or instances of fraud and abuse;

"(2) The State shall notify the Secretary, in a timely manner, of any institution it has identified pursuant to this section. The Secretary shall take prompt, appropriate action based on such notification and report such action to the State; and

"(3) Each State shall designate, for purposes of this section, a single State entity or individual to be responsible for reporting information under this section to the Secretary.

"(c) Priorities.—In identifying institutions of higher education pursuant to this section, the State shall give priority to institutions that have—

"(1) a cohort default rate as defined in section 435(m) equal to or greater than 10 percent; and

"(A) more than two-thirds of an institution of higher education's total undergraduate students enrolled on a half-time or more basis receive assistance under this title (except subparts 4 and 6 of part A); or

"(B) two-thirds or more of an institution of higher education's education and general expenditures are derived from funds provided to students enrolled at such institution from the programs assisted under this title (except subparts 4 and 6 of Part A and section 428B);

"(2) a limitation, suspension, or termination action by the Secretary against an institution pursuant to section 487(c)(1)(D), 487(C)(1)(E) or section 487(C)(2)(A) during the preceding 5 years; or

"(3) an audit finding during the two most recent audits of an institution of higher education's conduct of the programs assisted under this title that resulted in the repayment by such institution of amounts greater than 5 percent of the funds such institution received from the programs assisted under this title for any one year; or

"(4) a citation of an institution of higher education by the Secretary for failure to submit audits required by this title; or

"(5) a year-to-year fluctuation of more than 25 percent in the amounts received by students in Pell Grants or loans made, insured or guaranteed under sections 428 and 428A, which are not accounted for by changes in such loan programs; or

"(6) a change of ownership of the institution of higher education that results in a change of control, including—

"(A) the sale of such institution or the majority of its assets;

"(B) the transfer of the controlling interest of stock of such institution or its parent corporation;

"(C) the division of one or more such institutions into two or more institutions;

"(D) the transfer of the controlling interest of stock of such institution to its parent corporation; or

"(E) the transfer of the liabilities of such institution to its parent corporation; or

"(7) except with regard to any institution that is affiliated with a State system of higher education, participation in one or more of the programs established by this title for less than five years; or

"(8) any other institution which the State has reason to believe is engaged in fraudulent practice.

"(d) Grants.—

"(1) In general.—The Secretary is authorized to award grants to States to assist States in defraying the additional costs related to the development and implementation of this section.

"(2) Supplementation.—Grant funds under this subsection shall be used to supplement and not supplant any other funds available to a State to carry out the activities described in this section.

"(3) Application.—Each State desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(4) Authorization of appropriations.—There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subsection.

"SEC. 496. APPROVAL OF ACCREDITING AGENCY OR ASSOCIATION.

"(a) Standards Required.—No accrediting agency or association may be approved by the Secretary for the purposes of establishing institutional eligibility under this title, unless the agency or association meets the standards established by the Secretary pursuant to this section. The Secretary shall, after notice and opportunity for a hearing, establish the standards. The standards shall require that—

"(1) the accrediting agency or association, shall be a State, regional or national agency or association, and shall demonstrate the ability and the experience to operate as an accrediting agency or association within the State, region or nationally, as appropriate;

"(2) such agency or association—

"(A) has a voluntary membership of institutions of higher education and has as its principal purpose the accrediting of institutions of higher education;

"(B) is a State agency approved by the Secretary for the purpose described in subparagraph (A); or

"(C) is an agency or association that, for the purpose of determining eligibility for student assistance under this title, conducts accreditation of specialized educational programs within hospitals or clinics;

"(3) if such agency or association is an agency or association described in—

"(A) subparagraph (A) of paragraph (2), then such agency or association is separate and independent, both administratively and financially;

"(B) subparagraph (B) of paragraph (2), then such agency or association has been recognized by the Secretary on or before October 1, 1991; or

"(C) subparagraph (C) of paragraph (2) and such agency or association has been recognized by the Secretary on or before October 1, 1991, then the Secretary may waive the requirements for separate and independent, both administratively and financially, upon demonstration, that the existing relationship has not served to compromise the independence of its accreditation process;

"(4) such agency or association will apply standards of accreditation that ensure that the services, curricula, faculty, facilities, and fiscal resources of the institutions of higher education are of sufficient quality to ensure that each such institution can provide the education and training to be offered;

"(5) such agency or association will apply procedures throughout the accrediting process, including evaluation and withdrawal proceedings, that comply with due process including—

"(A) adequate specification of requirements and deficiencies at the institution of higher education being examined;

"(B) notice of an opportunity for a hearing to any such institution;

"(C) the right to appeal from any adverse action against any such institution; and

"(D) the right to representation by counsel for any such institution; and

"(6) such agency or association consistently applies and enforces standards of accreditation that ensure that the quality and content of studies offered by the institution of higher education may reasonably be expected to achieve the stated educational and operational objectives of the institution for the duration of the accreditation period.

"(b) Separate and Independent Defined.—For the purpose of paragraph (3) of subsection (a), the term 'separate and independent', as applied to agencies and associations described in subparagraph (A) of subsection (a)(2), means that—

"(1) the members of the accrediting agency or association are not elected or selected by the board or chief executive officer of any associated or affiliated trade association or membership organization;

"(2) among the membership of the board of the accrediting agency or association there shall be one public member (not a member of the related trade or membership organization) for each six members of the board, with a minimum of one such public member, and guidelines are established for such members to avoid conflict of interest;

"(3) dues to the accrediting agency or association are paid separately from any dues payment to the trade or membership organization; and

"(4) the budget of the accrediting agency or association is developed and determined by the accrediting agency or association without review or resort to consultation with any other entity or organization.

"(c) Operating Procedures Required.—No accrediting agency or association may be approved by the Secretary for the purpose of this title, unless the agency or association—

"(1) performs at regularly established intervals on-site inspections and reviews of institutions of higher education (at least one such visit at each institution that provides vocational education and training should be unannounced), with particular focus on educational quality and program effectiveness, and ensures that team members are well-trained and knowledgeable with respect to their responsibilities;

"(2) requires institutions of higher education subject to its jurisdiction which plan to establish a branch campus to submit a business plan, including projected revenues and expenditures, prior to opening the branch campus;

"(3) agrees to conduct within one year of the establishment of a new branch of an institution of higher education an on-site visit of that branch campus, and to conduct, within one year after a change of ownership of an institution of higher education, an on-site visit of that institution;

"(4) maintains and makes publicly available written materials regarding standards and procedures for accreditation, appeal procedures, and the accreditation status of each institution of higher education subject to its jurisdiction; and

"(5) discloses publicly whenever an institution of higher education subject to its jurisdiction is due for accreditation or reaccreditation.

"(d) Reporting Requirements.—No accrediting agency or association may be approved by the Secretary for the purpose of this title, unless the agency or association reports, within 30 days of—

"(1) any negative action with respect to the accreditation of an institution of higher education, including denial, suspension, or termination of such accreditation; and

"(2) the final results of any review of an institution of higher education together with the comments of the affected institution;

to the Secretary and to the agency designated under section 495 of the State in which the institution of higher education is located.

"(e) Initial Arbitration Rule.—Whenever the Secretary determines eligibility under section 481, the Secretary may not recognize the accreditation of any institution of higher education under either section, unless the institution of higher education agrees to submit any dispute involving the denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

"(f) Jurisdiction Provision.—Notwithstanding any other provision of law, any civil action brought by an institution of higher education seeking accreditation from, or accredited by, an accrediting agency or association approved by the Secretary for the purpose of this title, involving the denial, withdrawal or termination of accreditation of the institution of higher education shall be brought in the appropriate United States district court.

"SEC. 497. SPECIAL ACCREDITATION RULES.

"(a) New Accreditation Rule.—Whenever the Secretary determines eligibility under section 481, the Secretary may not recognize the accreditation of any eligible institution of higher education under either section if the institution of higher education is in the process of receiving a new institutional accreditation or changing its institutional accrediting agency or association, unless the eligible institution submits to the Secretary all materials relating to the prior institutional accreditation, including materials demonstrating reasonable cause for changing the institutional accrediting agency or association.

"(b) Dual Accreditation Rule.—Whenever the Secretary determines eligibility under section 481 the Secretary shall not recognize the accreditation of any eligible institution of higher education if the institution of higher education is accredited by more than one accrediting agency or association which accredits institutions, unless the institution of higher education submits to each such agency and association and to the Secretary the reasons for the accreditation by more than one such institutional accrediting agency or association.

"(c) Impact of Loss of Accreditation.—An institution may not be certified or recertified as an institution of higher education under section 481(a) if such institution has—

"(1) had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(2) withdrawn from institutional accreditation voluntarily under a show cause or suspension order during the preceding 24 months unless—

"(A) such institution has been restored by the same accrediting agency which has accredited it prior to the withdrawal, revocation, or termination; or

"(B) the institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.

"(d) Accreditation Orderly Procedure Rule.—

"(1) Suspension of Approval.—The Secretary is authorized to suspend the approval of an accrediting agency or association if the Secretary determines, after notice and opportunity for a hearing, that the accrediting agency or association has accredited an institution of higher education in violation of paragraph (2).

"(2) Violations.—Paragraph (1) applies if the institution of higher education seeks and receives accreditation from the accrediting agency or association during any period in which the institution is the subject of any interim action by another accrediting agency or association leading to the suspension, revocation, or termination of accreditation or the institution has been notified of the threatened loss of accreditation, and the due process procedures required by such suspension, revocation, termination, or threatened loss have not been completed.

"(e) Special Rule.—The standards and rules described in this section and section 496 only shall apply to an accrediting agency or association approved by the Secretary for the purpose of establishing institutional eligibility under this title. The Secretary may establish such standards as the Secretary deems appropriate for the recognition of an accrediting agency or association for other purposes.

"SEC. 498. ELIGIBILITY AND CERTIFICATION PROCEDURES.

"(a) General Authority.—In determining the legal authority to operate within a

State, the accreditation status, and the administrative capability and financial responsibility of an institution of higher education, the Secretary shall—

"(1) prepare and prescribe a single application form which—

"(A) requires sufficient information and documentation to ensure the requirements of eligibility, accreditation, and capability of the institution of higher education are met;

"(B) requires a specific description of the relationship of a main campus of an institution of higher education and all of its branches including a description of the student aid processing that is performed by the main campus and that which is performed at its branches;

"(C) requires a description of third party financial aid service providers of an institution of higher education, together with a copy of any contract with the institution of higher education and a financial aid service provider or loan servicer; and

"(D) requires such other information as the Secretary determines will assure that the requirements of this title with respect to eligibility, accreditation, administrative capability and financial responsibility will be met;

"(2) ensure prompt actions by the Department on the application required by this section and, a prompt on-site review of the institution of higher education by the Department prior to certification of initial eligibility;

"(3) provide for one year of provisional eligibility and certification of an institution of higher education for newly eligible institutions or institutions that undergo a change in ownership, except changes of ownership due to—

"(A) sale or transfer of less than 51 percent of the institution's corporate stock to existing stockholders, corporate employees, corporate officers or family members;

"(B) the death of an owner of an institution, when the owner's interest is sold or transferred to either a family member or a current stockholder of a corporation;

"(C) public offering of stock approved by the Securities and Exchange Commission; or

"(D) another cause determined by the Secretary to be a routine business practice;

"(4) provide for periodic renewal of eligibility and certification determination of institutions of higher education not less than every 5 years after the regulations implementing this section become effective including a review of the administrative capability and financial responsibility of the institution;

"(5)(A) establish requirements for the maintenance by an institution of higher education of sufficient cash reserves to ensure repayment of any required refunds; and

"(B) provide for a process under which the Secretary shall exempt an institution of higher education from the requirements described in subparagraph (A) if the Secretary determines that the institution—

"(i) is located in a State that has a tuition recovery fund such that the institution meets the requirements of subparagraph (A);

"(ii) contributes to the fund; and

"(iii) otherwise has legal authority to operate within the State; and

"(6) establish procedures and requirements relating to the financial and administrative capacities of institutions of higher education, including—

"(A) determination of sufficiency of operating funds;

"(B) establishment of minimum assets to liabilities ratios;

"(C) consideration of past performance of institutions or persons in control of such institutions with respect to student aid programs;

"(D) providing for independently audited financial reports; and

"(E) maintenance of records;

"(7) establish such other reasonable procedures as the Secretary determines will contribute to assuring that the institution of higher education will comply with administrative capability and financial responsibility standards required by this title; and

"(8) assure that the institution of higher education has a fair and equitable refund policy.

"(b) Fair and Equitable Refund Policy.—

"(1) In general.—An institution's education refund policy shall be considered to be fair and equitable for purposes of this section if the policy provides for a refund that meets—

"(A) the requirements of applicable State law;

"(B) the specific refund requirements established by an institution's nationally recognized accrediting agency and approved by the Secretary; or

"(C) the pro rata refund requirement described in paragraph (2), except that this paragraph shall not apply to the institution's refund policy for any student whose date of withdrawal from the institution is after the halfway point (in time) in the period of enrollment for which the student has been charged.

"(2) Pro rata refund.—As used in this section, the term 'pro rata refund' means a refund by the institution to a student attending such institution for the first time of not less than that portion of the tuition, fees, room and board, and other charges assessed the student by the institution equal to the portion of the period of enrollment for which the student has been charged that remains on the last day of attendance by the student.

"(3) Refund credit.—For purposes of this section, a refund first shall be credited against any Part B loan assistance and second against any grant awarded a student under this title for the period of enrollment.

"(c) Special Rule.—Notwithstanding the provisions of section 103(b) of the Department of Education Organization Act, the Secretary shall have the responsibility to examine and guard against hour inflation and to ensure that all 600-hour courses are appropriate in length to the instructions involved.

"(d) Continuing Eligibility Provisions.—Whenever the Secretary withdraws the approval of any accrediting agency of an institution of higher education which meets the requirements of accreditation, eligibility and certification on the day prior to such withdrawal the Secretary shall, notwithstanding the withdrawal, continue the eligibility of the institution of higher education to participate in the programs authorized by this title for a period not to exceed 18 months from the date of the withdrawal of approval.

"SEC. 499. PROGRAM REVIEW AND DATA.

"(a) General Authority.—In order to strengthen the administrative capability and financial responsibility provisions of this title, the Secretary—

"(1) shall provide for the conduct of program reviews on a systematic basis designed to include all institutions of higher education participating in programs authorized by this title;

"(2) is authorized to give priority for program review to institutions of higher education which are—

"(A) institutions with an annual default rate for loans under part B of this title in excess of 25 percent or which places such institutions in the highest 25 percent of such institutions;

"(B) institutions with a default rate in dollar volume for loans under part B of this title which places the institutions in the highest 25 percent of such institutions;

"(C) institutions with a significant fluctuation in Stafford Loan volume or Pell grant awards, or both, in the year for which the determination is made compared to the year prior to such year;

"(D) institutions reported to have deficiencies or financial aid problems as reported by the appropriate State agency designated under section 495(c) or by the appropriate accrediting agency or association; and

"(E) institutions with high annual dropout rates; and

"(3) shall establish and operate a central data base of information on institutional accreditation, eligibility, and certification including—

"(A) all information available to the Department;

"(B) all relevant information made available by the Secretary of Veterans Affairs;

"(C) all relevant information from accrediting agencies or associations;

"(D) all relevant information available from a guaranty agency; and

"(E) all relevant information available from States under section 495.

"(b) Special Administrative Rules.—

"(1) In carrying out paragraphs (1) and (2) of subsection (a), the Secretary shall establish guidelines designed to assure uniformity of practice in the conduct of program reviews of institutions of higher education.

"(2) The Secretary shall review the regulations of the Department and the application of such regulations to ensure the uniformity of interpretation and application of the regulations.

"(c) Data Collection Rules.—The Secretary shall develop and carry out a plan for the data collection responsibilities described in paragraph (3) of subsection (a). The Secretary shall make the information obtained under such paragraph (3) readily available to all institutions of higher education, guaranty agencies, States, and other organizations participating in the programs authorized by this title.

"(d) Definitions.—As used in this section—

"(1) the term 'annual default rate' has the same meaning given that term by section 435(m);

"(2) the term 'withdrawal of accreditation' means denying accreditation to an institution, during the process of review and self-study of the institution, previously accredited by an accrediting agency or association recognized by the Secretary;

"(3) the term 'denial of accreditation' means the refusal of an accrediting agency or association recognized by the Secretary to extend its accreditation to an applicant institution; and

"(4) the term 'termination of accreditation' means terminating the accreditation of an institution, following a show-cause hearing, for one or more violations of the accrediting agency's rules and regulations.

"SEC. 499A. RECOMMENDATIONS OF INSTITUTIONAL PERFORMANCE STANDARDS.

"(a) In General.—The Secretary shall, after consultation with institutions of higher education, guaranty agencies, educational associations representing postsecondary education, and other appropriate public agencies and nonprofit private organizations, develop and recommend to Congress the appropriate legislative language necessary to provide objective performance standards for the administration of programs authorized by this title.

"(b) CONTENTS OF STANDARDS.—The institutional performance standards described in subsection (a) shall be designed to address—

"(1) the success of the program at the institution of higher education including—

"(A) rates of program completion and of graduation, taking into account—

"(i) the average length of time it takes to complete a course of study at the institution;

"(ii) the selectivity of the admissions policy at the institution; and

"(iii) the variety of completion goals, including transfer to another institution of higher education, full-time employment, and military service;

"(B) rates of withdrawal at the institution;

"(C) rates of student employment, after graduation, in the chosen field of study or in a related field, and acceptance of graduates, where appropriate, into graduate or professional study;

"(D) rates of licensure of graduates, where appropriate;

"(E) an evaluation of the adequacy of student services; and

"(F) the adequacy of resources and procedures for informing prospective students of licensure requirements, if appropriate, and of projections for employment opportunities in the field for which the proposed training is designed.

"SEC. 499B. DEFINITIONS AND TRAINING.

"(a) DEFINITIONS.—As used in this subpart the term 'institution of higher education' has the same meaning given to such term by section 481(a).

"(b) TRAINING.—The Secretary shall provide training to personnel of the Department, including criminal investigative training, designed to improve the quality of financial and compliance audits and program reviews conducted under this title.

"SEC. 499C. AUTHORITY TO AWARD NEED BASED AID.

"(a) IN GENERAL.—Institutions of higher education may:

"(1) voluntarily agree with any other institution of higher education to award financial aid funds not covered by this Act to students attending those institutions only on the basis of demonstrated financial need for such assistance: *Provided*, That each institution of higher education shall apply its own standard of need which was adopted unilaterally and not in concert with any other institution of higher education;

"(2) voluntarily agree with any other institution of higher education to collect from students, from whom such data may be considered reasonable and relevant, in addition to the data elements for financial aid prescribed by the Secretary, other supplemental financial data elements for financial aid funds not covered by this Act: *Provided*, That the student's right to free processing under section 483 is not withheld and that such data will not affect eligibility or awards under this Act; and

"(3) unilaterally engage and consult with in good faith the same processors used by other institutions of higher education to collect and forward financial aid data on behalf of individual institutions: *Provided*, That the data forwarded to an institution relates only to applicants to that institution and the common processor does not disclose the identity of other institutions to which the applicant also applied, the standard of need adopted by those other institutions, or the financial aid or family contribution computed based on the standard of need adopted by those other institutions.

"(b) ANTITRUST LAWS.—Other than subsection (a)(1), nothing in subsection (a) shall affect the application of the antitrust laws to institutions of higher education or shall affect the prohibitions of the consent decree in United States V. Brown University et al., Civ. Action No. 91-3274 (E.D. Pa. 1991). No inference of unlawful contract, combination or conspiracy shall be drawn from the fact that institutions of higher education engage in the conduct authorized in subsection (a)(1).".

(b) TECHNICAL AMENDMENTS.—

(1) PART B DEFINITION.—Subsection (n) of section 435 of the Act (20 U.S.C. 1085(n)) is repealed.

(2) PART G DEFINITION.—Subsection (e) of section 481 of the Act (20 U.S.C. 1088(e)) is repealed.

SEC. 488. REPEAL OF CERTAIN PROVISIONS.

Sections 601, 602, 603, 604 and 606 of the Emergency Unemployment Compensation Act of 1991 are repealed.

TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

SEC. 501. EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT.

(a) IN GENERAL.—Title V of the Act (20 U.S.C. 1101 et seq.) is amended to read as follows:

"TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

"SEC. 501. STATEMENT OF PURPOSE.

"It is the purpose of this title to—

"(1) address the Nation's teacher shortage, particularly in areas where there are heavy concentrations of low-income students, by encouraging talented persons, including the individuals already employed as school paraprofessionals and individuals who have been employed in other areas of endeavor, to enter the teaching profession;

"(2) provide assistance for professional development activities enabling teachers, school administrators, and institutions of higher education to work collaboratively to improve educational performance through school reform and restructuring;

"(3) encourage academically qualified students to become teachers through scholarship assistance;

"(4) support the recruitment of underrepresented populations into teaching careers;

"(5) encourage the establishment and maintenance of programs that provide professional teacher preparation to individuals who are moving to careers in education from other occupations;

"(6) promote partnerships between institutions of higher education and local educational agencies for the purpose of promoting the simultaneous restructuring and renewal of elementary and secondary schools and college-based teacher education programs;

"(7) provide assistance to our Nation's teaching force for the continued improvement of their professional skills; and

"(8) improve the leadership and administrative skills of elementary and secondary school administrators.

"PART A—TEACHER TRAINING FOR NONTRADITIONAL STUDENTS

"Subpart 1—New Careers for Teachers

"SEC. 511. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to establish and operate new career programs to attract minority candidates, who are in school support or paraprofessional positions or in occupations other than teaching, to careers teaching in elementary and secondary schools.

"SEC. 512. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—

"(1) IN GENERAL.—The Secretary is authorized to pay the Federal share of making grants to eligible recipients to enable such eligible recipients to pay the costs of establishing and operating programs to attract minority candidates to teaching careers.

"(2) PERCENTAGE.—The Federal share shall be 50 percent.

"(3) NON-FEDERAL SHARE.—The non-Federal share of each grant awarded under this subpart may be in cash or in kind fairly evaluated, including planned equipment or services.

"(b) DURATION OF GRANT.—Each grant awarded under this subpart shall be for a period of 2 years and may be renewed for periods not to exceed 3 years.

"(c) COMPETITIVE BASIS.—The Secretary shall award grants under this subpart on a competitive basis.

"(d) SPECIAL CONSIDERATION.—In awarding grants under this subpart, the Secretary shall give special consideration to programs designed to identify, recruit, and certify—

"(1) speakers of non-English languages who have been trained as teachers in their home country; or

"(2) individuals already employed in a local educational agency.

"SEC. 513. ELIGIBLE RECIPIENT.

"As used in this subpart the term 'eligible recipient' means a consortium of—

"(1) an institution of higher education, and

"(2) one or more local educational agencies,

working in conjunction with the State educational agency, and the appropriate State or local teacher credentialing body.

"SEC. 514. APPLICATION.

"(a) IN GENERAL.—A grant under this subpart may be made only to an eligible recipient which submits an application to the Secretary containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) describe the activities and services for which assistance is sought;

"(2) set forth the number of expected participants in each program assisted under this subpart;

"(3) demonstrate steps on a career ladder leading to the position of fully credentialed teacher, ranging from nonskilled entry positions, extending through intermediate subprofessional functions, and terminating in full professional status as a certified teacher duly recognized by the appropriate State agency;

"(4) contain assurances that advancement within such career ladders would be based on merit, but that the opportunity for attainment of higher station is available to all;

"(5) demonstrate a plan for employing permanently individuals who have participated in the program at their new level of training, including individuals who terminate the program at a level below that of fully credentialed teacher;

"(6) demonstrate a plan for bringing a sizable portion of the educational program and coursework to the place of the participant's employment;

"(7) demonstrate a plan for providing academic credit for in-service training and other relevant experience as well as formal academic coursework;

"(8) provide for participation of individuals who have attained various levels of education, including individuals who have not completed high school, with special consideration for such participation given to individuals already serving within the school system;

"(9) provide assurances that the program assisted under this subpart will be available to individuals with disabilities; and

"(10) contain such other assurances as the Secretary may reasonably require.

"SEC. 515. USE OF FUNDS.

"(a) IN GENERAL.—Funds provided pursuant to this subpart may be used to—

"(1) pay tuition for participants in programs established under this subpart;

"(2) pay for the release time of participants in programs assisted under this subpart; and

"(3) provide stipends for child care to participants whose academic coursework takes place outside the normal workday.

"(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of any grant provided pursuant to this subpart may be used for administrative expenses.

"SEC. 515A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"Subpart 2—Minority Teacher Recruitment

"SEC. 516. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to pay the Federal share of making grants in accordance with the provisions of this subpart to carry out programs and activities designed to—

"(1) improve recruitment and training opportunities in education for minority individuals, including language minority individuals; and

"(2) increase the number of minority teachers, including language minority teachers, in elementary and secondary schools.

"(b) FEDERAL SHARE.—The Federal share shall be 50 percent.

"(c) NON-FEDERAL SHARE.—The non-Federal share of each grant awarded under this subpart may be in cash or in kind fairly evaluated, including planned equipment or services.

"SEC. 517. USE OF FUNDS.

"Funds provided pursuant to this subpart may be used—

"(1) by—

"(A) 1 or more local educational agencies,

"(B) a State educational agency or a State higher education agency,

"(C) 1 or more institutions of higher education, or

"(D) community-based organizations,

to identify students from minority backgrounds, including language minority backgrounds, interested in teaching in middle and secondary schools, and to provide such students with activities and services which support and encourage the pursuit of teaching as a career;

"(2) by 2- and 4-year institutions of higher education with large concentrations of minority students, including language minority students, to—

"(A) identify students who indicate an interest in entering the teaching profession, and provide such individuals with support programs such as—

"(i) scholarship funds to meet expenses;

"(ii) remedial and tutoring programs;

"(iii) counseling and support services;

"(iv) teaching related activities;

"(v) academic advice and guidance in course selection to prepare for teacher certification;

"(vi) test taking skills; and

"(vii) information and advice regarding eligibility for membership in the Teacher Corps established under part E, and other financial assistance programs;

"(B) establish or strengthen teacher training programs;

"(C) establish or enhance early identification/articulation partnership programs with high schools and community colleges; and

"(D) establish partnerships with graduate schools of education to foster and facilitate the movement of minority students into post-graduate studies; and

"(3) by 2- and 4-year institutions of higher education or consortia thereof, State educational agencies, or State higher education agencies, to—

"(A) establish programs and activities which foster and facilitate the movement of students interested in pursuing teaching careers from 2-year institutions to 4-year institutions, focusing particular attention on facilitating the transfer of academic credit; and

"(B) improve existing assessment practices that determine an individual's qualifications to become a teacher.

"SEC. 518. APPLICATION.

"(a) APPLICATION REQUIRED.—Each institution of higher education, State educational agency, State higher education agency, local educational agency, community based organization, or consortium thereof, desiring a grant pursuant to this subpart, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

"(1) describe the activities and services for which assistance is sought;

"(2) set forth the individuals to be served; and

"(3) contain such assurances as the Secretary may reasonably require.

"(b) STATE EDUCATIONAL AGENCY REVIEW.—Each application from a local educational agency for a grant under this subpart shall be forwarded to the appropriate State educational agency for review and comment if the State educational agency requests the opportunity for such review. The State educational agency must complete the review of such application and comment to the Secretary within 30 calendar days of receipt. Failure of the State educational agency to submit comments to the Secretary shall not prejudice such application.

"SEC. 519. ADMINISTRATIVE COSTS.

"Not more than 10 percent of any grant provided pursuant to this subpart may be used for administrative expenses.

"SEC. 520. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"PART B—SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS

"SEC. 521. PURPOSE.

"It is the purpose of this part to encourage partnerships between institutions of higher education and secondary schools serving low-income and disadvantaged urban and rural students, to support programs that—

"(1) improve the retention and graduation rates at such secondary schools;

"(2) improve the academic skills of public and private nonprofit secondary school students;

"(3) increase such students' opportunities to continue a program of education after secondary school; and

"(4) improve such students' prospects for employment after secondary school.

"SEC. 522. PARTNERSHIP AGREEMENT.

"(a) PARTNERSHIP AGREEMENT.—To be eligible for a grant under this part, an institution of higher education or a State higher education agency and a secondary school or a local educational agency shall enter into a written partnership agreement. A partnership may include businesses, labor organizations, professional associations, community-based organizations, public television stations or other educational telecommunications entities, or other private or public agencies or associations. All partners shall sign the agreement.

"(b) CONTENTS OF AGREEMENT.—The agreement shall include—

"(1) a listing of all participants in the partnership, including a designation of the official representatives of each entity participating in the partnership;

"(2) a description of the responsibilities of each participant in the partnership; and

"(3) a listing of the resources to be contributed by each participant in the partnership.

"SEC. 523. GRANTS.

"(a) DIVISION BETWEEN SCHOOL-YEAR AND SUMMER PROGRAMS.—From the funds appropriated to carry out this part pursuant to section 525, the Secretary shall reserve 65 percent of such funds to carry out programs operating during the regular school year and 35 percent of such funds to carry out programs operating during the summer.

"(b) AMOUNT AND USE OF GRANTS.—

"(1) AMOUNT.—The Secretary shall make grants under this part in amounts which are not less than $250,000 and not more than $1,000,000.

"(2) USE OF GRANT.—Grants under this part may be used by the partnership for programs that—

"(A) use college students to tutor secondary school students and improve their basic academic skills or to involve secondary school students in community service-learning projects;

"(B) are designed to improve the basic academic skills of secondary school students;

"(C) are designed to increase the understanding of specific subjects of secondary school students;

"(D) are designed to improve the opportunity to continue a program of education after graduation for secondary school students; and

"(E) are designed to increase the prospects for employment after graduation of secondary school students.

"(c) PREFERENCES.—In making grants under this part, the Secretary shall give a preference to—

"(1) programs which will serve predominantly low-income communities;

"(2) partnerships which will run programs during the regular school year and summer; and

"(3) programs which will serve educationally disadvantaged students; students with disabilities; potential dropouts; pregnant adolescents, and teenage parents; children of migratory agricultural workers or of migratory fishermen; or students whose native language is other than English.

"(d) DURATION.—Each grant awarded under this part may be awarded for a period not to exceed 3 years.

"(e) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this part in a manner that achieves equitable geographic distribution of such grants.

"SEC. 524. APPLICATION FOR GRANTS.

"(a) APPLICATION REQUIRED.—A partnership desiring to receive a grant under this part shall submit an application to the Secretary.

"(b) CONTENTS OF APPLICATION.—The application shall include—

"(1) the written and signed partnership agreement;

"(2) a listing of the public and private nonprofit secondary school or schools to be involved in the program;

"(3) a description of the activities and services for which assistance is sought;

"(4) a description of the programs to be developed and operated by the partnership; and

"(5) assurances to the Secretary that—

"(A) the partnership will establish a governing body including one representative of each participant in the partnership;

"(B) Federal funds will provide no more than 70 percent of the cost of the project in the first year, 60 percent of such costs in the second year, and 50 percent of such costs in the third year and any subsequent year;

"(C) a local educational agency receiving funds under this subpart shall not reduce its combined fiscal effort per student or its aggregate expenditure on education; and

"(D) a local educational agency receiving funds under this part shall use the Federal funds so as to supplement and, to the extent practical, increase the resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in the project, and in no case may funds be used to supplant such non-Federal funds; and

"(5) provide such information and meet such conditions as may be required by the Secretary.

"(c) SPECIAL RULE.—The non-Federal share of grants awarded under this part may be in cash or in kind fairly evaluated, including services, supplies or equipment.

"(d) WAIVER.—The Secretary may waive the matching requirement described in paragraph (5)(B) for any eligible partnership that demonstrates to the satisfaction of the Secretary a unique hardship that prevents compliance with such matching requirement.

"SEC. 525. PEER REVIEW.

"The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary shall consult with officials of the other Federal agencies and with non-Federal organizations to ensure that the panel membership shall be geographically balanced and be composed of representatives from public and private institutions of elementary, secondary, and higher education, labor, business, and State and local governments, who have expertise in community service or in education.

"SEC. 526. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this part.

"PART C—NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS

"SEC. 531. SHORT TITLE.

"This part may be cited as the 'National Board for Professional Teaching Standards Act of 1992'.

"SEC. 532. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the economic well-being and national security of the United States depend on efforts to strengthen the educational system to provide all children with an education which will ensure a well-educated work force;

"(2) improved teaching is central to the goal of ensuring a well-educated work force;

"(3) incentives to enhance the professionalism and status of teaching can be provided through the development and promulgation of voluntary standards of professional certification that are rigorous and unbiased, that complement and support State licensing practices and recognize the diversity of American society;

"(4) the National Board for Professional Teaching Standards, a private nonprofit organization, has been created to establish such voluntary standards, and a significant initial investment in research and development from non-Federal sources will be required to create such a system of professional certification; and

"(5) the Federal Government has played an active role in funding vital educational research and can continue to support this national effort by providing limited but essential support for critical research activities.

"(b) PURPOSE.—It is the purpose of this part to provide financial assistance to the National Board for Professional Teaching Standards to enable the Board to conduct independent research and development related to the establishment of national, voluntary professional standards and assessment methods for the public school teaching profession.

"SEC. 533. DEFINITIONS.

"(a) IN GENERAL.—For the purpose of this part—

"(1) the term 'Board' means the National Board for Professional Teaching Standards;

"(2) the term 'Committee' means the Fund for Improvement and Reform of Schools and Teaching Board established in section 3231 of the Fund for the Improvement and Reform of Schools and Teaching Act; and

"(3) the term 'Director' means the Director of the National Science Foundation.

"(b) SPECIAL RULE.—Nothing in this part shall be construed to infringe upon the practice or accreditation of home school or private school teaching.

"SEC. 534. PROGRAM AUTHORIZATION.

"(a) PROGRAM AUTHORIZED.—From sums appropriated pursuant to the authority of subsection (b) in any fiscal year, the Secretary is authorized and directed to provide financial assistance to the National Board for Professional Teaching Standards, in order to pay the Federal share of the costs of the activities described in section 536.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for the period beginning October 1, 1991, and ending September 30, 1995, to carry out the provisions of this part.

"(c) TERMS AND CONDITIONS.—(1) No financial assistance may be made available under this part except upon an application as required by section 537.

"(2) No financial assistance may be made available under this part unless the Secretary determines that—

"(A) the Board will comply with the provisions of this part;

"(B) the Board will use the Federal funds only for research and development activities in accordance with section 536, and such teacher assessment and certification procedures will be free from racial, cultural, gender or regional bias;

"(C) the Board—

"(i) will widely disseminate for review and comment announcements of specific research projects to be conducted with Federal funds, including a description of the goals and focus of the specific project involved and the specific merit review procedures and evaluation criteria to be used in the competitive award process; and

"(ii) will send such announcements to the Secretary, the Director, the National Research Council, and the educational research community;

"(D) will make arrangements with the Secretary to have the announcement described in subparagraph (C) published in the Federal Register (or such other publication deemed appropriate by the Secretary) and in publications of general circulation designed to disseminate such announcements widely to the educational research community;

"(E) the Board will, after offering any interested party an opportunity to make comment upon, and take exception to, the projects contained in the announcements described in subparagraph (C) for a 30-day period following publication, and after reconsidering any project on which comment is made or to which exception is taken, through the Secretary issue a request for proposals in the Federal Register (or such other publication deemed appropriate by the Secretary) containing any revised project information;

"(F) the Board will make awards of Federal funds competitively on the basis of merit, and, in the award process, the Board will select for such awards, to the extent practicable consistent with standards of excellence—

"(i) a broad range of institutions associated with educational research and development; and

"(ii) individuals who are broadly representative of the educational research and teaching communities with expertise in the specific area of research and development in question;

"(G) the Board will adopt audit practices customarily applied to nonprofit private organizations and will comply with the provisions of section 539(c);

"(H) the Board will not use Federal funds to meet the administrative and operating expenses of the Board;

"(I) the Board will submit an annual report to Congress in accordance with the provisions of section 539(a); and

"(J) the Board will, upon request, disseminate to States, local educational agencies, or other public educational entities the results of any research or research project produced with funds authorized by this part, upon the payment of the cost of reproducing the appropriate material.

"(d) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, funds appropriated to carry out the provisions of this part shall remain available for obligation and expenditure until the end of the second fiscal year succeeding the fiscal year for which the funds were appropriated.

"(2) LIMITATION.—No Federal funds shall be made available to the Board after September 30, 1995, except as authorized by paragraph (1) of this subsection.

"SEC. 535. CONSULTATION.

"The Board shall consult at least twice annually with the Committee on the design and execution of the overall research and development strategy of the Board, including procedures to assure compliance with the requirements of this part. The procedures shall include—

"(1) an outline of a specific research and development agenda and activities to be conducted with the Federal funds; and

"(2) provisions to ensure compliance with the open competition and merit review requirements of this part for proposals and projects assisted under this part.

"SEC. 536. AUTHORIZED ACTIVITIES.

"(a) In General.—Federal funds received under this part may be used only for research and development activities directly related to the development of teacher assessment and certification procedures for public elementary and secondary school teachers.

"(b) Priorities.—

"(1) In general.—The Board shall give priority to research and development activities in—

"(A) mathematics;

"(B) the sciences;

"(C) foreign languages; and

"(D) literacy, including the ability to read, write and analyze.

"(2) Special rule.—The Board shall give priority to research and development activities for the certification of public elementary and secondary school teachers and the need and ability of such teachers to teach special educational populations, including—

"(A) limited English proficient children;

"(B) gifted and talented children;

"(C) children with disabilities; and

"(D) economically and educationally disadvantaged children.

"SEC. 537. APPLICATION.

"(a) In General.—The Board shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) describe the activities for which assistance is sought; and

"(2) provide assurances that the non-Federal share of the cost of activities of the Board shall be paid from non-Federal sources, together with a description of the manner in which the Board will comply with the requirements of this paragraph.

"(b) Approval.—The Secretary shall approve an application submitted pursuant to subsection (a) unless such application fails to comply with the provisions of this part.

"SEC. 538. PAYMENTS; FEDERAL SHARE.

"(a) In General.—The Secretary shall pay to the Board the Federal share of the costs of the activities described in the application approved pursuant to section 537 for the period for which the application is approved under such section.

"(b) Amount of Federal Share.—The Federal share shall be 50 percent.

"SEC. 539. REPORTS AND AUDITING PROVISION.

"(a) National Board for Professional Teaching Standards Report.—

"(1) In general.—The Board shall submit an annual report to the appropriate committees of the Congress not later than June 30 of any fiscal year in which Federal funds are expended pursuant to this part. The Board shall disseminate the report for review and comment to the Secretary, the Director, the National Research Council, and the education research community. The report shall—

"(A) include a detailed financial statement and a report of the audit practices described in section 534(c)(2)(G);

"(B) include a description of the general procedure to assure compliance with the requirements of section 536; and

"(C) provide a comprehensive and detailed description of the Board's agenda, activities, and planned activities for the preceding and succeeding fiscal years, including—

"(i) the Board's overall research and development program and activities;

"(ii) the specific research and development projects and activities conducted with Federal funds during the preceding fiscal year, including—

"(I) a description of the goals and methodology of the project;

"(II) a description and assessment of the findings (or status and preliminary findings if the project is not yet complete);

"(III) a description of the competitive bidding process, the merit review procedures, and the evaluation criteria used to award project funds; and

"(IV) a description of the Board's plans for dissemination of the findings described in subclause (II);

"(iii) the specific research and development projects and activities planned to be conducted with Federal funds during the succeeding fiscal year, including the goals and methodologies to be used; and

"(iv) a listing of available publications of the Board, including publications related to policies, standards and general information, research reports, and commissioned papers of the Board.

"(2) First report.—The first annual report required by this subsection shall include a description of the Board's research and development agenda for the succeeding 5-year period. Such first report shall include, to the maximum extent practicable, a description of specific research and development projects and activities, and the goals and methodologies of such projects and activities.

"(b) Additional Reports.—The Secretary, the Director, and the National Research Council shall report to the appropriate committees of the Congress on the compliance of the Board with the requirements of this part not later than 30 days after the Board submits each annual report described in subsection (a).

"(c) Auditing Provision.—The Comptroller General of the United States, and any of his authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the Board, and to any recipient of funds from the Board, that are pertinent to the sums received and disbursed under this part.

"SEC. 540. CONSTRUCTION.

"Nothing in this part shall be construed to—

"(1) establish a preferred national curriculum or preferred teaching methodology for elementary and secondary school instruction;

"(2) infringe upon the rights and responsibilities of the States to license elementary and secondary school teachers;

"(3) provide an individual certified by the Board with a right of action against a State, local educational agency, or other public educational entity for any decisions related to hiring, promotion, retention or dismissal;

"(4) authorize the Secretary to exercise supervision or control over the research program, standards, assessment practices, administration, or staffing policies of the Board; and

"(5) authorize the Board to—

"(A) study, create, or promulgate separate standards applicable to home school or private school teachers;

"(B) take any action to require home school, private school, or public school teachers to participate in any program offered by the Board; or

"(C) take any action that infringes in any manner on the right of parents to direct the education of their children.

"SEC. 540A. VOLUNTARY PARTICIPATION.

"Notwithstanding any other provision of this part, voluntary participation in certification assessments by the Board shall be open to home school, private school, and public school teachers.

"PART D—TEACHER SCHOLARSHIPS AND FELLOWSHIPS

"Subpart 1—Paul Douglas Teacher Scholarships

"SEC. 541. PURPOSE; DESIGNATION.

"(a) Purpose.—It is the purpose of this subpart to make available, through grants to the States, scholarships to individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the preschool, elementary or secondary level.

"(b) Designation.—Scholarships awarded under this subpart shall be referred to as the 'Paul Douglas Teacher Scholarships'.

"SEC. 542. ALLOCATION AMONG STATES.

"(a) Per Capita Allocation.—From the sums appropriated for this subpart pursuant to section 550A for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the number of persons in that State bears to the number of persons in all States.

"(b) Use of Census Data.—For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the United States Census Bureau.

"SEC. 543. GRANT APPLICATIONS.

"(a) Submission of Applications.—The Secretary is authorized to make grants to States in accordance with the provisions of this subpart. In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 541 in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) Content of Applications.—The Secretary shall approve an application under this subpart only if the application—

"(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this subpart which satisfy the provisions of this subpart;

"(2) designates as the State agency responsible for administering the grants received under this part the State agency which administers the program under subpart 3 of part A of title IV (relating to State student incentive grants), the State agency with which the Secretary has an agreement under section 428(b), or another appropriate State agency approved by the Secretary;

"(3) describes the outreach effort the State agency intends to use to publicize the availability of Paul Douglas Scholarships to high school students in the State;

"(4) provides assurances that each recipient eligible under section 545(b) of this subpart who receives a Paul Douglas Scholarship shall enter into an agreement with the State agency under which the recipient shall—

"(A) within the 10-year period after completing the postsecondary education for which the Paul Douglas Scholarship was awarded, teach, for a period of not less than 2 years for each year for which assistance was received, in a public or private nonprofit preschool, elementary school, or secondary school in any State, or in a public or private nonprofit education program in any State, except that, in the case of individuals who teach in a shortage area established by the Secretary pursuant to section 428(b)(4), the requirements of this subparagraph shall be reduced by one-half;

“(B) provide the State agency evidence of compliance with section 546 as required by the State agency; and

“(C) repay all or part of a Paul Douglas Scholarship received under section 544 plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 547, in the event that the conditions of subparagraph (A) are not complied with, except as provided for in section 548;

“(5) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this subpart is provided and under which repayment may be required, including—

“(A) a description of the procedures required to be established under paragraph (6); and

“(B) a description of the appeals procedures required to be established under paragraph (7) under which a recipient may appeal a determination of noncompliance with any provision under this subpart;

“(6) provides for procedures under which a recipient of assistance received under this subpart who teaches for less than the period required under paragraph (4)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 547 and 548;

“(7) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this subpart; and

“(8) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds, ethnic and racial minority students, individuals with disabilities or other individuals historically underrepresented in teaching, or individuals who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students.

“(c) Selection Criteria and Procedures.—The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply of early childhood and elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

“(d) Priority Consideration.—The State shall give priority consideration in the selection of individuals to receive a scholarship under this subpart to individuals from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities who are underrepresented in the teaching profession or in the curricula areas in which they are preparing to teach.

“(e) Solicitation of Views on Selection Criteria and Procedures.—In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local educational agencies, private educational institutions, and other interested parties. Such views—

“(1) shall be solicited by means of—

“(A) written comments; and

“(B) publication of proposed selection criteria and procedures in final form for implementation; and

“(2) may be solicited by means of—

“(A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with training in specific academic disciplines, including early childhood education and development); or

“(B) such other methods as the State may determine to be appropriate to gather information on such needs.

“SEC. 544. AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE.

“(a) Limitations on Amount and Duration.—Subject to subsection (c), each Paul Douglas Scholar shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become a preschool, elementary or secondary teacher. No individual shall receive scholarship assistance for more than 4 years of postsecondary education, as determined by the State agency.

“(b) Consideration of Award in Other Programs.—Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for students assisted under title IV of this Act.

“(c) Assistance Not To Exceed Need.—Paul Douglas Scholarship assistance awarded by the statewide panel established pursuant to section 545 to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending. If the amount of the Paul Douglas Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, then the Paul Douglas Scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

“(d) Assistance Not To Exceed Cost of Attendance.—No individual shall receive an award under the Paul Douglas Scholarship established under this subpart, in any academic year, which exceeds the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending.

“SEC. 545. SELECTION OF PAUL DOUGLAS SCHOLARS.

“(a) Selection by Statewide Panels.—Paul Douglas Scholars shall be selected by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, including preschool teachers, and parents.

“(b) Eligibility for Selection; Selection Criteria and Procedures.—Selections of Paul Douglas Scholars shall be made from students who have graduated or who are graduating from high school and who rank in the top 10 percent of their graduating class. The State educational agency shall make applications available to public and private nonprofit high schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Paul Douglas Scholars. Such criteria may include the applicant's high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

“(c) Waiver.—The Secretary may waive the requirements of section 543(d) for not more than 25 percent of all individuals receiving a scholarship under this subpart.

“SEC. 546. SCHOLARSHIP CONDITIONS.

“Recipients of scholarship assistance under this subpart shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is—

“(1) enrolled as a full-time student in an accredited postsecondary institution;

“(2) pursuing a course of study leading to teacher certification; and

“(3) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

“SEC. 547. SCHOLARSHIP REPAYMENT PROVISIONS.

“Recipients found by the State agency to be in noncompliance with the agreement entered into under section 543(b)(4) of this subpart shall be required to repay a pro rata amount of the scholarship awards received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of title IV of this Act) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart.

“SEC. 548. EXCEPTIONS TO REPAYMENT PROVISIONS.

“(a) Deferral During Certain Periods.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 543(b)(4)(C) during any period in which the recipient—

“(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

“(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

“(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

“(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

“(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

“(6) is seeking and unable to find full-time employment as a teacher in a public or private nonprofit preschool, elementary or secondary school, or education program for a single period not to exceed 27 months; or

“(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

“(b) Forgiveness if Permanently Totally Disabled.—A recipient shall be excused from repayment of any scholarship assistance received under this subpart if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

“SEC. 549. FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW.

“(a) Disapproval Hearing Required.—The Secretary shall not finally disapprove any application for a State program submitted under section 543, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(b) SUSPENSION OF ELIGIBILITY.—Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State agency administering a State program approved under this subpart, finds—

"(1) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

"(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until the Secretary is satisfied that there is no longer any such failure to comply.

"(c) COURT REVIEW.—

"(1) IN GENERAL.—If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

"(2) FINDINGS.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) JURISDICTION.—The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 550. EVALUATION.

"(a) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent evaluation of recipients of scholarship assistance under this subpart, which shall summarize and evaluate the State activities assisted under this subpart and the performance of such recipients. The evaluation shall assess the impact of the scholarship program assisted under this subpart to determine whether such program has brought into teaching a significant number of highly able individuals who otherwise would not have entered teaching.

"(b) CONTENTS.—The evaluation described in subsection (a) shall include—

"(1) a description of the characteristics, including the educational preparation and achievement, of recipients of scholarship assistance under this subpart compared to similar students participating in teacher training who do not receive such scholarships;

"(2) the rate at which such recipients successfully complete academic training and go on to teaching careers in preschool, elementary, or secondary education, compared to such rate for similar individuals who do not receive scholarship assistance under this subpart;

"(3) the extent to which it is possible to determine objectively that the receipt of scholarship assistance under this subpart was the primary reason for an individual's choice of a teaching education and career;

"(4) the extent to which such recipients comply with the provisions of this subpart;

"(5) the length of time such recipients remain in teaching careers, compared to similar teachers who do not receive scholarships;

"(6) the barriers to the effectiveness of the program assisted under this subpart; and

"(7) the cost-effectiveness of such program in improving teacher quality and quantity.

"(c) EVALUATION REPORTS.—The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report on or before January 1, 1995.

"(d) FUNDING.—The Secretary shall reserve a total of not more than $1,000,000 from the amounts appropriated pursuant to the authority of section 550A in fiscal years 1993 through 1999 to carry out this section.

"SEC. 550A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $27,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"Subpart 2—Christa McAuliffe Career Teacher Corps

"SEC. 551. DECLARATION OF PURPOSE; DESIGNATION.

"(a) PURPOSE.—It is the purpose of this subpart to establish a national fellowship program for experienced teachers.

"(b) DESIGNATION.—

"(1) FELLOWSHIP.—A fellowship awarded under this subpart shall be known as a 'Christa McAuliffe Career Teacher Corps fellowship'.

"(2) MEMBERSHIP.—A recipient of a fellowship under this subpart shall be known as a 'Christa McAuliffe Career Teacher Corps member'.

"SEC. 552. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to make grants, in accordance with the provisions of this subpart, to State educational agencies to enable such State educational agencies to—

"(1) conduct Christa McAuliffe Career Teacher Corps activities; and

"(2) award fellowships to Christa McAuliffe Career Teacher Corps members in accordance with the provisions of this subpart.

"(b) AMOUNT OF GRANTS.—The amount awarded to each State educational agency pursuant to paragraph (1) of subsection (a) shall be an amount awarded on the basis of the school-age population in the State compared to the school-age population in all States, except that the Secretary may adjust the awards to ensure that such awards are of sufficient size to carry out the purposes of this subpart.

"(c) STATE ACTIVITIES.—Each State educational agency receiving a grant pursuant to subsection (a) shall use not more than 10 percent of such grant to carry out the State activities described in section 559.

"SEC. 553. CHRISTA MCAULIFFE CAREER TEACHER CORPS FELLOWSHIPS.

"(a) AWARD DISTRIBUTION AND AMOUNT.—

"(1) AWARD DISTRIBUTION.—Each State educational agency receiving a grant under this subpart shall use such funds to award Christa McAuliffe Career Teacher Corps fellowships to public and private school teachers who have been employed as teachers for 8 or more years to enable such teachers to engage in the activities described in subsection (b).

"(2) AMOUNT.—Fellowships shall be in an amount equal to the annual salary the individual would earn in such individual's current place of employment for the award period.

"(3) RATABLE REDUCTION.—If an individual receives a fellowship award for less than a school year, such fellowship shall be ratably reduced to equal the salary forgone.

"(4) DURATION.—Each Christa McAuliffe Career Teacher Corps member may not receive an award for 2 consecutive years.

"(5) REQUIREMENT.—Subject to the repayment provisions of section 556(b), each Christa McAuliffe Career Teacher Corps member shall be required to return to a teaching position in their current place of employment for at least 2 years following the fellowship award, except that such member may work in another State with a Christa McAuliffe Career Teacher Corps Program upon approval of both the sending and receiving State.

"(b) USE OF FELLOWSHIPS.—Each Christa McAuliffe Career Teacher Corps fellowship may be used for—

"(1) sabbaticals for study, research or academic improvement to—

"(A)(i) improve such teacher's knowledge base in an area of expertise; or

"(ii) learn a new area of expertise;

"(B) increase skills and professional ability; and

"(C) enhance the ability of teachers to work with special education populations, including—

"(i) gifted and talented children;

"(ii) limited-English proficient children;

"(iii) children with disabilities; and

"(iv) economically and educationally disadvantaged children;

"(2)(A) consultation with or assistance to other school districts or private school systems; or

"(B) development of special innovative programs for the purpose of improving—

"(i) in-service training for teachers and other school personnel; or

"(ii) student achievement; or

"(3) expanding or replicating model programs of staff development.

"SEC. 554. SELECTION OF CHRISTA MCAULIFFE CAREER TEACHER CORPS MEMBERS.

"(a) IN GENERAL.—Christa McAuliffe Career Teacher Corps members in each State shall be selected (in accordance with section 555) by a 7-member statewide panel appointed by the chief State school officer, or by an existing panel designated by the chief State school officer. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

"(b) SPECIAL RULE.—Each State educational agency may choose to administer the program assisted under this subpart through a pre-existing panel which is experienced in administering similar programs.

"SEC. 555. EVALUATION OF APPLICATIONS.

"(a) SUBMISSION TO AND REVIEW BY STATEWIDE PANEL.—An applicant for a Christa McAuliffe Career Teacher Corps fellowship shall submit a proposal for a project under section 553(b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such a proposal to the local educational agency for comment prior to submission to the statewide panel (appointed under section 554) for the State in which the teacher is employed. Each such application shall contain such information as such State educational agency may reasonably require.

"(b) Consultation and Consideration.—

"(1) In general.—In evaluating proposals, the statewide panel shall consult with the local educational agency, and shall consider—

"(A) evaluations during employment as a teacher;

"(B) demonstrated commitment to teaching in the future; and

"(C) intended activities during the award period;

"(2) Recommendations.—The statewide panel may request recommendations from teaching peers and the applicant's principal and superintendent on the quality of the proposal, the benefit of such proposal to education, and any other criteria for awarding fellowships as are considered appropriate by such statewide panel.

"(3) Selection.—Selection of members of the statewide panel shall be made in accordance with regulations prescribed by the Secretary.

"(c) Special Consideration.—The statewide panel shall give special consideration, in the selection of Christa McAuliffe Career Teacher Corps members, to individuals who intend to use an award period to improve or acquire skills—

"(1) in the subject areas of science or mathematics; or

"(2) in order to teach or provide related services to students with disabilities, limited English proficient students or preschool age students.

"(d) Public Announcement.—Announcement of fellowship awards shall be made in a public ceremony.

"SEC. 556. FELLOWSHIP AGREEMENT AND REPAYMENT PROVISIONS.

"(a) Agreement.—Each individual who receives a Christa McAuliffe Career Teacher Corps fellowship shall enter into a written agreement with the State educational agency. Each such agreement shall provide assurances that the Christa McAuliffe Career Teacher Corps member—

"(1) will spend up to a one-year award period during which the Christa McAuliffe Career Teacher Corps member is released from teaching responsibilities to participate in programs and activities allowed under section 553(b), approved pursuant to section 555 by the statewide panel;

"(2) shall be encouraged, subject to the approval of the local educational agency, during the 2 years following the award period through the Professional Development Academy, if one exists, to—

"(A)(i) participate in an induction program for new teachers by acting as a mentor to new Teacher Corps members under part E or other new teachers with the same substantive field of expertise as the Christa McAuliffe Career Teacher Corps member where practicable; or

"(ii) make some other contribution to the Teacher Corps programs conducted pursuant to part E; and

"(B) assist in the development of in-service training programs through the Professional Development Academy, if such school exists; and

"(3) shall be given the opportunity to participate in activities developed by the Secretary and the State educational agency through which the individual was selected as a Christa McAuliffe Career Teacher Corps member which are intended to foster communication among, and bring together, members of the Christa McAuliffe Career Teacher Corps.

"(b) Fellowship Repayment.—

"(1) In general.—Individuals found by the State educational agency to be in noncompliance with the agreement entered into under subsection (a) shall be required to repay to the State educational agency a pro rata amount of the Christa McAuliffe Career Teacher Corps fellowships received, plus interest at the highest rate applicable to loans under part B of title IV of this Act and, where applicable, reasonable collection fees.

"(2) Exception.—An individual shall not be considered to be in violation of the agreement entered into pursuant to subsection (a) during any period in which such individual meets the exception to repayment provisions set forth in section 548(a)(2), 548(a)(3) or 548(b) of this Act, or if the individual dies.

"(c) Waiver.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or repayment by an individual who received a Christa McAuliffe Career Teacher Corps fellowship whenever compliance by such individual is impossible or would involve extreme hardship to such individual, or if enforcement of such obligation with respect to such individual would be unconscionable.

"SEC. 557. SECRETARY'S RESPONSIBILITIES.

"The Secretary shall—

"(1) make awards to State educational agencies having applications approved under section 558; and

"(2) in cooperation with the State educational agency, conduct activities which foster communication among and bring together members of the Christa McAuliffe Career Teacher Corps including activities such as written communications, meetings, or training sessions.

"SEC. 558. STATE APPLICATION.

"(a) Application Required.—Each State educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) Contents.—Each application submitted pursuant to subsection (a) shall—

"(1) provide assurances that Christa McAuliffe Career Teacher Corps members will be released from teaching responsibilities for up to one school year without jeopardizing the rights such members would have had without participating in the program assisted under this subpart;

"(2) provide assurances that the State educational agency, or its designee, in cooperation with local educational agencies, shall maintain accurate records regarding the activities of Christa McAuliffe Career Teacher Corps members within the State to ensure that such members are meeting all conditions of the fellowships provided pursuant to this subpart, and shall notify the Secretary immediately upon a change in a Christa McAuliffe Career Teacher Corps member's status rendering such Christa McAuliffe Career Teacher Corps member in violation of the conditions of the fellowship; and

"(3) provide assurances that the State educational agency has consulted with local educational agencies in designing and developing the Christa McAuliffe Career Teacher Corps program.

"SEC. 559. STATE USE OF FUNDS.

"(a) In General.—Each State educational agency awarded a grant under this subpart may use such funds to—

"(1) establish, operate, and expand in-service programs and activities for Christa McAuliffe Career Teacher Corps members at the State and local levels, through Professional Development Academies if such entities exist, or other entities, to improve knowledge of subject matter, and to increase skills and professional ability, in coordination with local educational agencies;

"(2) award Christa McAuliffe Career Teacher Corps fellowships;

"(3) provide funds to statewide panels to administer programs in accordance with section 555;

"(4) award grants to local educational agencies to establish programs and activities described in paragraph (1) through professional development schools if such entities exist or other entities;

"(5) publicize the availability of fellowships pursuant to this subpart; and

"(6) ensure that each Christa McAuliffe Career Teacher Corps member understands the obligation to repay the fellowship in accordance with section 556(b).

"(b) Publication and Recruitment.—Each State educational agency receiving assistance under this subpart shall publicize the availability of Christa McAuliffe Career Teacher Corps fellowships in local educational agencies throughout the State, particularly in local educational agencies with minority enrollment in excess of the statewide average minority enrollment, and shall recruit minority teachers to participate in such program. Such publication shall contain a description of programs and activities available to Christa McAuliffe Career Teacher Corps members through Professional Development Academies if such entities exist, institutions of higher education or other approved entities.

"SEC. 560. EVALUATION.

"(a) In General.—

"(1) In general.—The Secretary shall conduct, by grant or contract, an independent evaluation of—

"(A) Christa McAuliffe Career Teacher Corps members; and

"(B) the impact of the activities undertaken by the Christa McAuliffe Career Teacher Corps members on teachers, teacher research, curricula, staff development, improvement of programs and improvement of student achievement.

"(2) Competitive basis.—The grant or contract described in paragraph (1) shall be awarded on a competitive basis.

"(b) Contents.—The evaluation shall—

"(1) include information on the nature of projects developed and implemented by Christa McAuliffe Career Teacher Corps members;

"(2) assess the measurable effects of such projects on the academic performance of the students served by such projects;

"(3) assess the effect of the fellowship program assisted under this subpart on the postfellowship experiences of Christa McAuliffe Career Teacher Corps members;

"(4) identify the barriers to such program's effectiveness;

"(5) assess the extent to which successful projects were disseminated and adopted by other teachers and schools without further Federal assistance; and

"(6) determine and explore ways to improve the cost-effectiveness of such program.

"(c) Evaluation Reports.—The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report on or before January 1, 1995.

"(d) Funding.—The Secretary shall reserve a total of not more than $1,000,000 from the amounts appropriated pursuant to the authority of section 560A in fiscal years 1993 through 1999 to carry out this section.

"SEC. 560A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $27,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"Subpart 3—Faculty Development Grants

"SEC. 567. TRAINING GRANTS.

"(a) Grants Authorized.—The Secretary is authorized to award grants to institutions of higher education to enable such institutions to—

"(1) develop model programs that provide training to secondary school faculty to prepare students with disabilities for postsecondary educational opportunities; and

"(2) establish programs of faculty development for faculty who teach in an institution of higher education to prepare such faculty for the enrollment of students with disabilities at such institution.

"(b) Use of Grants.—The grants described in subsection (a) may be used to—

"(1) provide scholarships, including stipends and allowances, to faculty described in paragraph (1) or (2) of subsection (a);

"(2) develop materials and inservice programs to assist such faculty in making the curriculum at an institution of higher education accessible to students with disabilities; and

"(3) provide funds to support the release of such faculty from teaching assignments for the purpose of educating such faculty regarding the needs of students with disabilities.

"(c) Special Rules.—The Secretary shall ensure that grants awarded under subsection (a)(1) are used for programs that are in compliance with State and professionally recognized standards for the training of special education personnel.

"(d) Application.—Each institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this subpart $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART E—TEACHER CORPS

"SEC. 561. TEACHER CORPS PROGRAM AUTHORIZED.

"(a) Grants by the Secretary.—In any fiscal year in which the appropriations for this part do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants, on a competitive basis, to State educational agencies to carry out Teacher Corps activities.

"(b) State Grant Program.—In any fiscal year in which the appropriations for this part equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants to State educational agencies from allocations under subsection (c) to carry out Teacher Corps activities.

"(c) Allocation.—Except as provided in subsection (a), each State educational agency shall be eligible to receive a grant under this part in each fiscal year that bears the same ratio to the amount appropriated under section 568 in that fiscal year as the school-age population of the State bears to the school-age population of all States.

"(d) Teacher Corps School.—For the purpose of this part the term 'Teacher Corps school' means a public elementary or secondary school identified by the State educational agency as having the highest levels of poverty and the lowest levels of student achievement based on a ranking of such elementary schools and secondary schools in the State according to the number of children living in poverty and the levels of student achievement. In carrying out the preceding sentence, the State educational agency shall identify and inform not more than 10 percent of such elementary schools and not more than 10 percent of such secondary schools in the State which have the highest levels of poverty and the lowest levels of student achievement.

"(e) Designation.—

"(1) Scholarship.—A scholarship awarded under this part shall be referred to as a 'Teacher Corps scholarship'.

"(2) Recipient.—A recipient of a scholarship under this part shall be referred to as a 'Teacher Corps member'.

"SEC. 562. USE OF FUNDS.

"(a) Secretary.—The Secretary shall use funds provided pursuant to this part to—

"(1) disseminate information nationally about the availability of scholarships under this part;

"(2) conduct activities, with the cooperation of the State and local educational agencies, which foster communication among, and bring together, members of the Teacher Corps, including activities such as written communications, meetings, or training sessions;

"(3) establish and conduct summer preservice orientation programs for Teacher Corps members about to begin teaching;

"(4) ensure that Teacher Corps members recognize the challenges of teaching in a Teacher Corps school;

"(5) inform Teacher Corps members of Teacher Corps schools and facilitate the hiring and placement of Teacher Corps members at Teacher Corps schools;

"(6) evaluate applications from and award grants to State educational agencies to enable such agencies to award Teacher Corps scholarships in accordance with the provisions of this part; and

"(7) collect scholarship repayments from individual Teacher Corps members, in accordance with the provisions of section 566.

"(b) State Educational Agency.—Each State educational agency receiving a grant under this part shall use such grant funds to—

"(1) evaluate applications for Teacher Corps membership and award scholarships to Teacher Corps members;

"(2) provide technical assistance to local educational agencies establishing and operating induction programs;

"(3) ensure that Teacher Corps members understand the obligation to repay the scholarships received under this part upon failure to comply with the conditions of the scholarship; and

"(4) ensure that Teacher Corps members are fulfilling the obligation to repay scholarships received under this part, and provide the Secretary with the names and addresses of Teacher Corps members who have not fulfilled such obligation.

"(c) Special Rule.—The Secretary may enter into contracts with or make grants to nonprofit educational organizations for—

"(1) recruiting members of the Teacher Corps;

"(2) establishing and conducting summer pre-service training programs; and

"(3) conducting activities that foster communications among and bring together members of the Teacher Corps.

"(d) Reservations.—Each State receiving a grant under this part may reserve—

"(1) 5 percent of such grant funds to provide technical assistance to local educational agencies and to pay administrative costs; and

"(2) 5 percent of such grant funds to provide for induction and mentoring programs.

"(e) Special Rule.—Each State educational agency receiving a grant under this part may enter into contracts with or award grants to nonprofit educational agencies to conduct the activities described in subsection (b).

"SEC. 563. TEACHER CORPS.

"(a) Selection.—The State educational agency shall select Teacher Corps members.

"(b) Criteria.—

"(1) In general.—The State educational agency shall establish criteria to select Teacher Corps members that are intended to—

"(A) attract highly qualified individuals to teaching; and

"(B) meet the needs of Teacher Corps schools in addressing teacher shortages.

"(2) Criteria.—The criteria described in paragraph (1) may include—

"(A) in the case of students or recent graduates, outstanding academic records, or in other cases, contributions which may be made by individuals working in other careers; and

"(B) a demonstrated commitment to teaching or professional experience in substantive fields of expertise in which the State is experiencing or expects to experience teacher shortages.

"(c) Special Consideration.—The State educational agency, in selecting Teacher Corps members, shall give special consideration to individuals who—

"(1) intend to teach or provide related services to students with disabilities;

"(2) intend to teach limited-English proficient students;

"(3) intend to teach preschool age children;

"(4) are from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities;

"(5) are members of populations that are underrepresented in the teaching profession or in the curricular areas in which such individuals are preparing to teach;

"(6) intends to teach in the areas of science or math; or

"(7) intends to teach on Indian reservations or in Alaska Native villages named or certified pursuant to section 3(c) of the Alaska Native Claims Settlement Act, Public Law 92-203, or in areas with high concentrations of Native Hawaiians.

"(d) Application.—Each individual desiring to participate in the program assisted under this part shall submit an application at such time, in such manner, and containing such information as the State educational agency may reasonably require.

"SEC. 564. STATE APPLICATION.

"In order to receive funds under this part, a State educational agency, in consultation with the Governor, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

"(1) describe how the State educational agency shall select Teacher Corps members;

"(2) identify Teacher Corps schools within the State, where Teacher Corps members shall be assigned, provided that not more than 10 percent of all public schools in the State may be designated Teacher Corps schools;

"(3) provide assurances that the State educational agency, in cooperation with local educational agencies, shall assist in employment placement within such State for Teacher Corps members in Teacher Corps schools;

"(4) provide assurances that the State educational agency, in cooperation with local educational agencies, shall ensure that Teacher Corps members are paid at rates comparable to other entry level teachers in the school district where the Teacher Corps member is assigned;

"(5) provide assurances that the local educational agencies in which the Teacher Corps members shall be placed shall establish or expand induction programs that assist Teacher Corps members in adjusting to the new school and community where such members shall teach, including working with a mentor teacher in the school building where the Teacher Corps members are placed; and

"(6) describe how the State educational agency shall monitor and report to the Secretary not less than annually on the operation of programs assisted under this part and on the compliance of individuals who receive Teacher Corps scholarships with the provisions of this part.

"SEC. 565. SCHOLARSHIPS.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—An individual is eligible to receive Teacher Corps scholarships for a maximum of 3 years during enrollment in any of the following programs of study, or a combination thereof:

"(A) a program of study leading to a baccalaureate degree;

"(B) a 1- or 2-year postbaccalaureate program of study leading to a master's or specialist degree or a teaching certificate; or

"(C) a 2-year program of study leading to an associate's degree in early childhood education or early childhood development, or a 1-year program of study leading to a child development associate credential.

"(2) SPECIAL RULES.—(A) An individual pursuing a program of study described in subparagraph (B) of paragraph (1) is eligible to receive a Teacher Corps scholarship during any of the first 3 years that such individual is employed as a teacher to defray the costs of pursuing such postbaccalaureate instruction.

"(B) An individual in possession of a bachelor's degree, who wishes to enter teaching from another profession, is eligible to receive a Teacher Corps scholarship to enable such individual to receive the instruction necessary to enter the teaching profession, as determined by the State in which the individual wishes to teach. Such instruction may be provided while the individual is employed as a provisional teacher.

"(b) LIMITATIONS ON AMOUNT AND DURATION.—Subject to subsection (d), each Teacher Corps member shall receive a $5,000 scholarship for each academic year of postsecondary education, except that no individual shall receive scholarship assistance for more than 3 years of postsecondary education (including postbaccalaureate), as determined by the Secretary.

"(c) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Each Teacher Corps scholarship awarded pursuant to this part shall be considered as student financial assistance in determining eligibility for student assistance under title IV.

"(d) ASSISTANCE NOT TO EXCEED NEED.—Each Teacher Corps scholarship, when added to assistance received under title IV, if any, shall not exceed the cost of attendance, as defined in section 472, at the institution the individual is attending. If the amount of the Teacher Corps scholarship and assistance received under title IV exceeds the cost of attendance, loans received under parts B, D, or E of such title shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

"(e) CONTINUED ELIGIBILITY.—Each individual who receives a Teacher Corps scholarship shall continue to receive such scholarship payments only during such periods that the State educational agency finds that such individual is—

"(1) enrolled as a full-time student in an accredited postsecondary institution; and

"(2) maintaining satisfactory progress defined under section 484.

"SEC. 566. SCHOLARSHIP CONDITIONS.

"(a) SCHOLARSHIP AGREEMENT.—Each individual receiving a scholarship under this part shall enter into a written agreement with the State educational agency which shall provide assurances that each such individual—

"(1) shall pursue a course of study which meets State requirements for teacher preparation;

"(2) has completed at least 2 years of undergraduate education at an institution of higher education;

"(3) shall maintain satisfactory academic progress and participate in teaching-related activities while in undergraduate or postbaccalaureate programs;

"(4) shall work as a teacher upon completion of such individual's education for 3 years in a Teacher Corps school, as identified by the State educational agency pursuant to section 561(d), except that Teacher Corps members may transfer to another such school within the State or in another State upon approval of the State educational agency;

"(5) in carrying out the obligation described in paragraph (4), shall meet the performance requirements of—

"(A) the school in which such individual teaches; and

"(B) the local educational agency exercising administrative control or direction of, or performing a service function for such school;

"(6) shall repay all or part of a Teacher Corps scholarship received under section 562(b) plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under subsection (b), in the event that the conditions of this subsection are not complied with, except as provided for in subsection (c);

"(7) at least during the first year of employment, shall participate in an induction program which includes working with a mentor teacher selected by the local educational agency in which the Teacher Corps member is employed and who, to the extent practicable, is teaching in the same subject as the Teacher Corps member; and

"(8) who is not enrolled in a program of study as set forth in section 565(a)(1)(C) shall obtain State teacher certification during the period of employment or as soon as possible as State law requires.

"(b) SCHOLARSHIP REPAYMENT.—

"(1) IN GENERAL.—Individuals found by the State educational agency to be in noncompliance with the agreement entered into under subsection (a) shall be required to repay to the Secretary a pro rata amount of the scholarship awards received, plus interest at the highest rate applicable to loans under part B of title IV and, where applicable, reasonable collection fees, in accordance with the provisions of paragraph (3).

"(2) EXCEPTIONS TO REPAYMENT.—An individual shall not be considered to be in violation of the agreement entered into pursuant to subsection (a) during any period in which such individual meets the exceptions to repayment provisions set forth in section 548(a)(2), 548(a)(3) or 548(b), or if the individual dies.

"(3) REPAYMENT PERCENTAGES.—Each individual found by the Secretary to be in noncompliance with the agreement entered into under subsection (a) shall be required to repay—

"(A) 100 percent of the total amount of scholarships awarded under this part if such individual does not teach pursuant to the agreement described in subsection (a) or teaches pursuant to such agreement for less than 1 year;

"(B) 67 percent of such amount if such individual teaches pursuant to such agreement for at least 1 year but less than 2 years; and

"(C) 34 percent of such amount if such individual teaches pursuant to such agreement for at least 2 years but less than 3 years.

"(4) INTEREST.—If a portion of scholarship is repaid under this subsection in any year, the entire amount of interest on such portion of such scholarship which accrues for such year shall be repaid.

"(5) USE OF REPAYMENTS.—Any repayments of scholarships made to the Secretary pursuant to the provisions of this section shall be used by the Secretary to make additional grants in accordance with the provisions of this part.

"(c) WAIVER.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or repayment by an individual who received a Teacher Corps scholarship whenever compliance by such individual is impossible or would involve extreme hardship to such individual.

"SEC. 567. PUBLICATION AND RECRUITMENT.

"(a) IN GENERAL.—The Secretary shall—

"(1) publicize the availability of, and procedure to apply for, Teacher Corps scholarships, particularly among students participating in teaching-related activities through summer teaching institutes, future teacher clubs, and other teaching-related activities, at institutions of higher education nationwide, particularly in institutions of higher education with large minority enrollments, historically black colleges and universities, secondary schools nationwide (especially such schools with minority enrollment in excess of the statewide average minority enrollment), and with—

"(A) individuals participating in programs assisted under subpart 4 of part A of title IV;

"(B) individuals leaving the armed services, the Peace Corps, VISTA, and programs funded under the National and Community Service Act of 1990;

"(C) community-based organizations working in minority education; and

"(D) other agencies and entities likely to attract individuals interested in entering teaching from another career;

"(2) recruit minority students to participate in the program assisted under this part; and

"(3) recruit students with outstanding academic records to participate in such program.

"(b) SPECIAL RULE.—The publications required under subsection (a) shall describe substantive fields of expertise and geographic areas experiencing teacher shortages within the Nation.

"SEC. 568. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $50,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of this part.

"PART F—STATE ACADEMIES FOR EDUCATORS

"SEC. 570. PURPOSES.

"It is the purpose of this part to establish State Academies for Educators that—

"(1) upgrade, enhance and renew teacher knowledge of subject matter in key academic subjects;

"(2) improve the training and performance of current and prospective school leaders in instructional leadership, school-based management, school reform strategies, and implementation of school-level accountability mechanisms;

"(3) improve teacher training by providing prospective and novice teachers an opportunity to work in school-based settings under the guidance of experienced mentor teachers; and

"(4) enhance the ability of teachers and administrators to work with parents or social service agencies, especially in localities with high concentrations of special education populations.

"Subpart 1—General Provisions

"SEC. 571. ALLOTMENT OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

"(a) Allotment of Funds.—

"(1) Reservation.—From the total amount appropriated pursuant to the authority of subsection (b) in each fiscal year, the Secretary may reserve an amount not to exceed two percent of such amount for evaluation and dissemination of activities assisted under subparts 2, 3, and 4 of this part.

"(2) Allotment.—From the funds appropriated pursuant to the authority of subsection (b) for each of subparts 2, 3, 4, and 5 of this part and not reserved pursuant to subsection (a), the Secretary shall allot to each State educational agency—

"(A) 50 percent of the funds available for each such subpart on the basis of the number of full-time equivalents of public school teachers in the State compared to the total number of full-time equivalents of public school teachers in all States;

"(B) 25 percent of the funds available for each such subpart on the basis of the amount the State receives under sections 1005 and 1006 of chapter 1 of title 1 of the Elementary and Secondary Education Act of 1965 compared to the total amount that all States receive under such sections; and

"(C) 25 percent of the funds available for each such subpart on the basis of the number of individuals in the State aged 5 through 17 compared to the number of all such individuals in all States.

"(b) Authorization of Appropriations.—

"(1) Subparts 2, 3, and 4.—There are authorized to be appropriated $132,000,000 for fiscal year 1993 and such sums as may be necessary for the 6 succeeding fiscal years to carry out subparts 2, 3, and 4 of this part, of which—

"(A) 50 percent of the amount appropriated in any fiscal year shall be available to carry out subpart 2;

"(B) 15 percent of such amount shall be available to carry out subpart 3; and

"(C) 35 percent of such amount shall be available to carry out subpart 4.

"(2) Subpart 5.—There are authorized to be appropriated $8,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of subpart 5.

"SEC. 572. PLAN.

"(a) In General.—Each State educational agency desiring assistance under this part shall prepare a plan, in consultation with the Governor, and submit such plan to the Secretary.

"(b) Contents.—Each plan submitted pursuant to subsection (a) shall contain—

"(1) a description of the Academies to be established under this part and the goals and objectives for each such Academy;

"(2) a description of how the Academies assisted under this part shall relate to the overall plan for the attainment of the National Education Goals by the State;

"(3) a description of the competitive process that shall be used to select applicants to operate the Academies assisted under this part, including the role of the Governor in making such selections;

"(4) an assurance that the Academies for Teachers shall provide instruction in the key academic subjects;

"(5) a description of how the State shall monitor the activities of the Academies assisted under this part;

"(6) a description of plans to conduct an independent evaluation, at least once every 2 years, of the impact of the Academies assisted under this part on participants;

"(7) a description of how the State shall meet the cost-sharing requirements of this part and an assurance that the State educational agency, or other State agency, shall provide the non-Federal share of funds required under this part for all 5 years in which an allotment under this part is received;

"(8) an assurance that the State shall continue to operate the Academies assisted under this part when Federal funds provided pursuant to this title are no longer available;

"(9) a description of the steps to be taken by the Academies assisted under this part to recruit individuals from minority groups, bilingual individuals, individuals with disabilities, and individuals from areas with high numbers or concentrations of disadvantaged students to participate in the activities of the Academies assisted under this part;

"(10) an assurance that Federal funds provided under this part shall not be used for construction of new facilities or substantial remodeling;

"(11) a description of how the activities assisted under this part shall be coordinated with other teacher training activities in the State;

"(12) identification of the State agency that shall administer the programs assisted under this part, if the State educational agency does not administer such programs;

"(13) an assurance that the State shall use an amount not to exceed 5 percent of all Federal funds received under this part for administrative purposes;

"(14) an assurance that programs offered by the Academies assisted under this part shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge;

"(15) an assurance that the Academies for Teachers shall provide activities designed to enhance the ability of teachers to work with special educational populations, including—

"(A) limited-English proficient children;

"(B) children with disabilities;

"(C) economically and educationally disadvantaged children; and

"(D) gifted and talented children; and

"(16) other assurances and information as the Secretary may reasonably require.

"SEC. 573. MULTISTATE OR REGIONAL PROJECTS.

"Each State receiving assistance under this part may combine resources with any other State to operate Academies assisted under this part on a multistate or regional basis.

"SEC. 574. PAYMENT RULES.

"(a) Duration.—The Secretary shall not make allotments to any State under section 571 for a period that exceeds 5 years.

"(b) Secretary's Review.—The Secretary shall only make the allotment described in section 571 to a State if the Secretary determines that—

"(1) the State educational agency is carrying out the activities described in the application submitted pursuant to section 572 and making reasonable progress in achieving the goals contained in such application;

"(2) each such Academy shows promise of continuing to meet such goals; and

"(3) the State educational agency is providing its share of the cost-sharing requirements.

"SEC. 575. DEFINITIONS.

"(a) Academy.—

"(1) In general.—Except as provided in paragraphs (2) and (3) and unless otherwise specified, the term 'Academy'—

"(A) as used in subpart 2, means a course of instruction and related activities to increase a teacher's knowledge of a specific subject area, a teacher's ability to impart such knowledge to students, and a teacher's ability to address any other issue described in section 579;

"(B) as used in subpart 3, means a course of instruction and related activities to increase a school leader's knowledge of the tools and techniques of school management and leadership, and such leader's ability to exercise such tools and techniques in the school setting, and may include a course of instruction for district-level school system leaders separately or in combination with school leaders and teachers; and

"(C) as used in subpart 4, means school-based teacher training operated as a partnership between one or more elementary or secondary schools and one or more institutions of higher education that provides prospective and novice teachers an opportunity to work under the guidance of master teachers and college faculty members.

"(2) School restructuring and team management.—The term 'Academy' may include a course of joint instruction for teachers and school leaders on the methods of school restructuring and school-based management.

"(3) Special rules.—The term 'Academy'—

"(A) does not mean a physical facility; and

"(B) does not require a separate location from another Academy or other training program.

"(b) Eligible Entity.—The term 'eligible entity'—

"(1) as used in subpart 2, means a local educational agency, an institution of higher education, a museum, a private nonprofit educational organization of demonstrated effectiveness, or a consortium of any 2 or more such entities;

"(2) as used in subpart 3, means a technical assistance center assisted under subpart 2 of part C of title V of this Act as such Act was in effect on the day before the date of enactment of the Higher Education Amendments of 1992, a local educational agency, an institution of higher education, a museum, a private nonprofit educational organization of demonstrated effectiveness, or a consortium of any 2 or more such entities; and

"(3) as used in subpart 4, means a partnership that includes one or more local educational agencies and one or more institutions of higher education.

"(c) Key Academic Subjects.—For purposes of subparts 1, 3, 4, and 5, the term 'key academic subjects' means English, mathematics, science, history, geography, foreign languages, and civics and government. For purposes of subpart 2, the term 'key academic subjects' means English, mathematics, science, history, geography, foreign languages, civics and government, and economics.

"(d) State.—For purposes of this part, the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau (until the Compact of Free Association is ratified).

"SEC. 575A. EVALUATION AND REPORT.

"(a) Report to Secretary.—Each State educational agency receiving an allotment under this part shall evaluate the work of each Academy that is located in the State and assisted under this part every 2 years including the impact of each Academy's programs on participants, and report the findings of such evaluation to the Secretary. The initial report shall be submitted 3 years after funds are first allotted to such State educational agency under section 571 and subsequent reports shall be submitted every 2 years thereafter. Such report shall also describe the characteristics of the participants and activities provided at each Academy assisted under this part.

"(b) Report to Congress.—The Secretary shall submit to the Congress a summary of the reports required under subsection (a). The initial summary shall be submitted 60 days after the due date of the first report described in subsection (a) and subsequent summaries shall be submitted every 2 years thereafter.

"Subpart 2—State Academies for Teachers

"SEC. 576. PURPOSE.

"It is the purpose of this subpart to improve elementary and secondary school teacher subject matter knowledge and teaching skills in each of the key academic subjects by establishing one or more Academies in the key academic subjects in every State.

"SEC. 577. APPLICATION REQUIRED.

"(a) In General.—Each eligible entity desiring to operate an Academy under this subpart shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State may reasonably require.

"(b) Contents.—Each application submitted pursuant to subsection (a) shall describe—

"(1) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches its goals;

"(2) the curriculum to be used or developed by the Academy;

"(3) steps to be taken to recruit teachers for the Academy's program, including outreach efforts to identify and attract—

"(A) minority group members;

"(B) individuals with disabilities;

"(C) individuals from areas with large numbers or concentrations of disadvantaged students; and

"(D) other teachers with the potential to serve as mentor teachers;

"(4) steps to be taken to ensure that faculty members teaching at the Academy shall be of exceptional ability and experience, including outreach efforts to identify and attract as faculty members—

"(A) minority group members;

"(B) individuals with disabilities; and

"(C) individuals from areas with large numbers or concentrations of disadvantaged students.

"(5) efforts to be undertaken to disseminate information about the Academy;

"(6) selection criteria to be used in identifying teachers to participate in the Academy;

"(7) steps to be taken to assure that the programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge; and

"(8) efforts to be undertaken to evaluate the impact of the Academy on participants.

"SEC. 578. USE OF ALLOTTED FUNDS.

"(a) Grants.—Each State educational agency receiving an allotment under this part shall use such allotment to award one or more competitive grants to eligible entities to enable such eligible entities to operate an Academy in accordance with the provisions of this subpart.

"(b) Costs.—Each eligible entity receiving a grant under this subpart shall use such funds to meet the operating costs of carrying out the activities described in section 579, which may include reasonable startup and initial operating costs, and stipends, travel, and living expenses for teachers who participate in the Academy's program if no other funds are available to pay such costs.

"SEC. 579. AUTHORIZED ACTIVITIES.

"Each eligible entity receiving a grant to operate an Academy under this subpart shall use such grant funds for—

"(1) enhancement of participants' knowledge in key academic subjects;

"(2) skills and strategies to improve academic achievement of students, especially students who are economically disadvantaged, are limited-English proficient, are drug- or alcohol-exposed, or have disabilities;

"(3) improved teaching and classroom management skills;

"(4) techniques for the integration of academic and vocational subject matter, including the application of such techniques in tech/prep education programs;

"(5) specialized training for teachers so that such teachers may counsel students about college opportunities, precollege requirements, the college admissions process, and financial aid opportunities; and

"(6) any other purpose described in the plan submitted pursuant to section 572 and approved by the Secretary.

"SEC. 580. COST-SHARING.

"Funds received under this subpart may be used to pay not more than 75 percent of the cost of operating an Academy in the first year an eligible entity receives a grant under this subpart, 65 percent of such cost in such second year, 55 percent of such cost in such third year, 45 percent of such cost in such fourth year, and 35 percent of such cost in such fifth year. The remaining share shall be provided from non-Federal sources, and may be in cash or in-kind contributions, fairly valued.

"SEC. 580A. SPECIAL RULES.

"(a) Uses of Funds.—

"(1) Key academic subjects.—At least 70 percent of funds received under this subpart shall be used for enhancement of participant knowledge in key academic subjects.

"(2) Other subjects.—At least 20 percent of the funds received under this subpart shall be used for enhancement of participant knowledge in areas not related to academic subjects.

"(b) Special Rule.—In awarding grants under this part the State educational agency may provide for training in 2 or more key academic subjects at a single site.

"SEC. 580B. SELECTION PANEL.

"(a) Establishment.—Each Academy established under this subpart shall establish a 10-member selection panel to select teachers to attend the National Teacher Academies established pursuant to part G.

"(b) Composition and Representation.—

"(1) Composition.—At least 50 percent of the membership of each selection panel shall be classroom teachers, selected in consultation with teacher organizations, if any, in the State.

"(2) Representation.—The composition of each selection panel shall be broadly representative of the elementary and secondary schools and the local educational agencies served by the Academy.

"(c) Function.—Each selection panel shall—

"(1) annually select the State delegations in accordance with section 595; and

"(2) involve the individuals selected pursuant to paragraph (1) in the operation of the Academy, if any, or other in-service training activities in the local educational agency in which such individuals teach.

"Subpart 3—State Academies for School Leaders

"SEC. 581. PURPOSE.

"It is the purpose of this subpart to improve the training and performance of school principals and other school leaders and to increase the number of persons who are highly trained to be principals and school leaders by establishing an Academy for current and prospective school leaders in every State.

"SEC. 582. APPLICATION REQUIRED.

"(a) In General.—Each eligible entity desiring to operate an Academy under this subpart shall submit an application to the State educational agency at such time, in such manner and accompanied by such information as the State may reasonably require.

"(b) Contents.—Each application submitted pursuant to subsection (a) shall describe—

"(1) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches its goals;

"(2) the curriculum to be used or developed by the Academy;

"(3) the steps to be taken to recruit school leaders for the Academy's program, including outreach efforts to identify and attract—

"(A) minority group members;

"(B) individuals with disabilities;

"(C) individuals from areas with large numbers or concentrations of disadvantaged students; and

"(D) other individuals with potential to become school leaders;

"(4) efforts to be taken to disseminate information about the Academy;

"(5) selection criteria to be used in identifying school leaders to participate in the Academy;

"(6) steps to be taken to assure that the programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge;

"(7) steps to be taken to assure the involvement of private sector managers and executives from businesses in the conduct of the Academy's programs; and

"(8) efforts to be undertaken to evaluate the impact of the Academy on participants.

"SEC. 583. USE OF ALLOTTED FUNDS.

"(a) Grants.—Each State educational agency receiving an allotment under this subpart shall use such allotment to award competitive grants to an eligible entity to enable such eligible entity to operate an Academy in accordance with the provisions of this subpart.

"(b) Costs.—Each eligible entity receiving funds under this subpart shall use such funds to meet the costs of carrying out the activities described in section 584, which may include reasonable startup and initial operating costs, and stipends, travel, and living expenses for participants in the Academy if no other funds are available to pay such costs.

"(c) LIMITATIONS.—

"(1) PARTICIPANTS.—At least 70 percent of the participants in an Academy shall be from the school building level.

"(2) SPECIAL RULE.—In awarding grants under this subpart, the State educational agency may provide for the location at the same site of Academies assisted under this subpart and Academies assisted under subpart 2.

"SEC. 584. AUTHORIZED ACTIVITIES.

"Each eligible entity receiving a grant to operate an Academy under this subpart shall use such grant funds for—

"(1) development and enhancement of participants' knowledge in instructional leadership, school-based management, shared decisionmaking, school improvement strategies and school-level accountability mechanisms;

"(2) identification and recruitment of candidates, including individuals who are minority, disabled, and bilingual, to be trained as school leaders;

"(3) conducting programs which provide for the involvement of private sector managers and executives from businesses;

"(4) specialized training for guidance counselors and principals so that such individuals may counsel students about college opportunities, precollege requirements, the college admissions process, and financial aid opportunities; and

"(5) any other purpose described in the plan submitted pursuant to section 572 and approved by the Secretary.

"SEC. 585. COST-SHARING.

"Funds received under this subpart may be used to pay not more than 75 percent of the cost of operating an Academy in the first year an eligible entity receives a grant under this subpart, 65 percent of such cost in such second year, 55 percent of such cost in such third year, 45 percent of such cost in such fourth year, and 35 percent of such cost in such fifth year. The remaining share shall be provided from non-Federal sources, and be in cash or in kind, fairly valued.

"Subpart 4—Professional Development Academies

"SEC. 586. PURPOSE.

"It is the purpose of this subpart to improve teacher and school leader training by establishing at least one school-based teacher training program in every State that provides prospective and novice teachers and school leaders the opportunity to work under the guidance of experienced mentors or master teachers and faculty members from institutions of higher education.

"SEC. 587. APPLICATION REQUIRED.

"(a) IN GENERAL.—Each eligible entity desiring to operate an Academy under this subpart shall submit an application to the State educational agency at such time, in such manner and accompanied by such information as the State educational agency may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall describe—

"(1) what schools within the local educational agency and what institutions of higher education shall participate in the partnership or otherwise participate in the program;

"(2) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches such goals;

"(3) the activities, services and programs to be offered by the Academy;

"(4) ways in which the professional development programs shall cover course content in key academic subjects, methods of instruction, and classroom and school-based management skills;

"(5) plans to involve prospective and novice teachers in the programs offered by the Academy, including outreach efforts to identify and attract—

"(A) minority group members;

"(B) individuals with disabilities; and

"(C) individuals from areas with large numbers or concentrations of disadvantaged students; and

"(6) efforts to be taken to disseminate information about the Academy.

"(c) ASSURANCES.—Each application submitted pursuant to subsection (a) shall contain assurances that—

"(1) professional development programs at the Academy shall be designed and conducted by faculty members from institutions of higher education and teachers from local schools of demonstrated excellence;

"(2) the activities, services and programs offered by the Academy shall be developed in consultation within the faculty of institutions of higher education and elementary and secondary schools;

"(3) participating faculty from institutions of higher education shall include faculty members who are experts in the key academic subjects; and

"(4) the activities, services and programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge.

"SEC. 588. USE OF ALLOTTED FUNDS.

"(a) GRANTS.—

"(1) IN GENERAL.—Each State educational agency receiving an allotment under this subpart shall use such allotment to award competitive grants to eligible entities to enable such eligible entities to operate an Academy in accordance with the provisions of this subpart.

"(2) COSTS.—Each eligible entity receiving a grant under this subpart shall use such funds to meet the operating costs of carrying out the activities described in section 589, which may include reasonable startup and initial operating costs, and stipends, travel, and living expenses for teachers who participate in the Academy's program if no other funds are available to pay such costs.

"(3) SPECIAL RULE.—The State educational agency may limit the amount of funds under this subpart that may be used for minor remodeling and the purchase of equipment.

"SEC. 589. AUTHORIZED ACTIVITIES.

"Each eligible entity receiving a grant to operate an Academy under this subpart shall use such grant funds for—

"(1) training and internship activities for prospective or novice teachers in a school setting under the guidance of master or mentor teachers and faculty from institutions of higher education, especially faculty who are experts in key academic subjects;

"(2) mentoring and induction activities for prospective and novice teachers, including such teachers seeking to enter teaching through alternative routes;

"(3) teaching skills and strategies to increase the ability of prospective, novice and experienced teachers to teach disadvantaged students, students with disabilities (including students with severe and multiple disabilities and students with lesser known or newly emerging disabilities), students who are limited-English proficient, and students from diverse cultural backgrounds;

"(4) programs to enhance teaching and classroom management skills of novice, prospective and experienced teachers including school-based management skills;

"(5) experimentation and research to improve teaching and learning conducted in the Academy by teachers and university faculty; and

"(6) any other purpose described in the plan submitted pursuant to section 572 and approved by the Secretary.

"SEC. 590. COST-SHARING.

"Funds received under this subpart may be used to pay not more than 75 percent of the cost of operating an Academy in the first 3 years an eligible entity receives a grant under this subpart and not more than 50 percent of such cost in such fourth and fifth years. The remaining share shall be provided from non-Federal sources, and may be in-kind, fairly valued.

"Subpart 5—Teacher Awards

"SEC. 590A. PURPOSE.

"It is the purpose of this subpart to recognize and honor outstanding teachers.

"SEC. 590B. TEACHER AWARDS.

"(a) AWARDS.—

"(1) IN GENERAL.—From the amount allotted to each State to carry out the provisions of this subpart, each State educational agency shall award grants in accordance with paragraph (2) to Academies assisted under subpart 2 to enable such Academies to carry out a program of providing cash awards and recognition to outstanding teachers in the academic subjects in which training is received at such Academies.

"(2) ALLOCATION OF FUNDS.—The State educational agency shall award grants under this subpart to each Academy assisted under subpart 2 in the State on the basis of the number of full-time equivalents of public school teachers attending each Academy assisted under subpart 2 in the State compared to the number of full-time equivalents of all public school teachers attending Academies in the State.

"(b) ELIGIBILITY.—Each of the Academies assisted under this part that receives a grant under subpart 2 shall only make teacher awards to full-time elementary or secondary school teachers in the State.

"(c) MAXIMUM AMOUNT.—Teacher awards under this subpart shall not exceed $5,000.

"SEC. 590C. NOMINATIONS AND AWARD CRITERIA.

"(a) NOMINATIONS.—Each of the Academies assisted under subpart 2 that receives a grant under this subpart shall select teacher award recipients from among individuals nominated by a local educational agency, public or private elementary or secondary school, teacher, association of teachers, parent, association of parents and teachers, business, business group, or student group.

"(b) AWARD CRITERIA.—

"(1) IN GENERAL.—Each of the Academies assisted under subpart 2 that receives a grant under this subpart shall select teacher award recipients on the basis of criteria developed by such Academies and approved by the State educational agency.

"(2) CRITERIA.—The criteria described in paragraph (1) may include—

"(A) educating disadvantaged children and children with disabilities;

"(B) educating gifted and talented children;

"(C) boosting student achievement in key academic subjects;

"(D) introducing a new curriculum in a core academic subject into a school or strengthening an established curriculum;

"(E) acting as a master teacher; and

"(F) other criteria as developed by the Academies and approved by the State educational agency.

"PART G—NATIONAL TEACHER ACADEMIES

"SEC. 591. PROGRAM ESTABLISHED.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible recipients to establish and operate National Teacher Academies.

"(b) SUBJECT AREAS AND STAFF.—

"(1) SUBJECT AREAS.—At least 1 but not more than 3 National Teacher Academies shall be established in each of the following subject areas commonly taught in elementary and secondary schools:

"(A) English.

"(B) Mathematics.

"(C) Science.

"(D) History.

"(E) Geography.

"(F) Civics and government.

"(G) Foreign languages.

"(2) STAFF.—Academy staff shall be selected from the most accomplished and prominent scholars in the relevant fields of study and in the methodologies which improve the skills of persons who teach in such fields of study.

"(c) DURATION OF GRANT.—Each grant to establish and operate a National Teacher Academy shall be for a period of 3 years, and is renewable.

"(d) COMPETITIVE GRANT AWARDS.—The Secretary shall award grants under this part on a competitive basis.

"SEC. 592. ELIGIBLE RECIPIENTS.

"(a) IN GENERAL.—For the purposes of this part, the term 'eligible recipient' means—

"(1) an institution of higher education;

"(2) a private nonprofit educational organization of demonstrated effectiveness; or

"(3) a combination of the institutions or organizations set forth in paragraphs (1) and (2) of this paragraph.

"(b) EXPERTISE REQUIREMENTS.—The Secretary shall only award grants to eligible recipients that have demonstrated expertise in the—

"(1) subject area of the National Teacher Academy to be established and operated; and

"(2) in-service training of teachers at the national, State, and local levels.

"SEC. 593. USE OF FUNDS.

"(a) IN GENERAL.—Funds provided pursuant to this part shall be used to—

"(1) provide in-service training programs for teachers and administrators, including—

"(A) programs which emphasize improving the teachers' knowledge in the particular subject area of the National Teacher Academy;

"(B) programs which integrate knowledge of subject matter with techniques for communicating that knowledge to students, including students who are disadvantaged, limited-English proficient, are drug- or alcohol-exposed, or who have disabilities;

"(C) the use of the most recent applied research findings concerning education and the classroom; and

"(D) integrating materials from different disciplines into classroom instruction, especially for elementary school teachers;

"(2) conduct at least one summer institute of at least 3 weeks duration each year for the State delegations described in section 595; and

"(3) provide support services to the State Academies for Teachers, including—

"(A) the establishment of a national network of individuals to assist in teacher education programs in State Academies for Teachers;

"(B) consulting assistance in the design and implementation of in-service teacher training programs; and

"(C) monthly newsletters or other methods of communicating useful information.

"(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of the amount of funds received under this part may be used by eligible recipients for administrative costs.

"SEC. 594. APPLICATION.

"(a) APPLICATION.—Each eligible recipient desiring a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the activities, services, and programs for which assistance is sought;

"(2) describe how at least 70 percent of the institute's time shall be devoted to basic course content relevant to the particular subject field and necessary for improving the quality of teaching in public and private elementary and secondary schools;

"(3) describe how not more than 30 percent of the National Teacher Academy's time shall be devoted to methods of instruction relevant to the particular subject field;

"(4) describe how the National Teacher Academy's activities will be coordinated with or administered cooperatively with institutes established by other Federal entities, such as the National Science Foundation and the National Endowment for the Humanities; and

"(5) provide such additional assurances or information as the Secretary may reasonably require.

"SEC. 595. STATE DELEGATIONS.

"(a) IN GENERAL.—Each selection panel established pursuant to section 580B shall select a State delegation to participate in each National Teacher Academy assisted under this part.

"(b) COMPOSITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each State delegation described in subsection (a) shall, at a minimum, be composed of—

"(A) 1 school administrator with authority to design and conduct in-service teacher training and academic programs; and

"(B) at least 5 teachers, of whom at least 2 shall be elementary school teachers.

"(2) SPECIAL RULE.—The State delegations for the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa and the Republic of Palau (until the Compact of Free Association is ratified) shall, at a minimum, be composed of—

"(A) 1 school administrator with authority to design and conduct in-service teacher training and academic programs; and

"(B) at least 3 teachers, of whom at least 1 shall be an elementary school teacher.

"(3) ADDITIONAL TEACHERS.—

"(A) Each State that has obtained the approval of the appropriate National Teacher Academy may send to such National Teacher Academy the number of additional teachers determined in accordance with subparagraph (B).

"(B) The appropriate National Teacher Academy shall determine the number of additional teachers to attend such National Teacher Academy on the basis of the number of full-time equivalent teachers in the State compared to such number in all States.

"(c) DUTIES.—Each State delegation shall—

"(1) attend the appropriate subject area summer institute at the appropriate National Teacher Academy; and

"(2) after participation in the National Teacher Academy assist in the development and operation of the appropriate Academy.

"SEC. 595A. SELECTION.

"Individuals participating in a National Teacher Academy shall be selected by the selection panel described in section 580B in accordance with the provisions of section 595.

"SEC. 595B. NATIONAL TEACHER ACADEMY EVALUATION.

"The Secretary shall evaluate the system of National Teacher Academies and the effects of such Academies on teachers every 2 years. The Secretary shall make available to the Congress and the public the results of such evaluation.

"SEC. 595C. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated $35,000,000 for fiscal year 1993 and such sums as may be necessary for the 6 succeeding fiscal years to carry out the provisions of part G, of which no more than $5,000,000 is authorized to be appropriated for each of the National Teacher Academy subject areas listed in section 591(b)(1).

"(b) SPECIAL RULE.—(1) If the amount appropriated pursuant to the authority of subsection (a) is less than $14,000,000, then not more than $2,000,000 shall be available for each National Teacher Academy subject area in the order in which such subject areas are listed in section 591(b)(1), until such funds are exhausted.

"(2) If the amount appropriated pursuant to the authority of subsection (a) is equal to or exceeds $14,000,000, then such funds shall be allocated equitably among each of the National Teacher Academy subject areas listed in section 591(b)(1).

"PART H—ALTERNATIVE ROUTES TO TEACHER AND PRINCIPAL CERTIFICATION AND LICENSURE

"SEC. 596. SHORT TITLE.

"This part may be cited as the 'Alternative Routes to Teacher and Principal Certification and Licensure Act of 1992'.

"SEC. 597. FINDINGS.

"The Congress finds that—

"(1) effective elementary and secondary schools require competent teachers and strong leadership;

"(2) school systems would benefit greatly by increasing the pool of qualified individuals from which to recruit teachers and principals;

"(3) many talented professionals who have demonstrated a high level of subject area competence outside the education profession may wish to pursue careers in education, but have not fulfilled the requirements to be certified or licensed as teachers or principals;

"(4) alternative routes can enable qualified individuals to fulfill State certification or licensure requirements and would allow school systems to utilize the expertise of such professionals and improve the pool of qualified individuals available to local educational agencies as teachers and principals; and

"(5) alternative routes to certification or licensure requirements that do not exclude qualified individuals from teaching solely because such individuals do not meet traditional certification or licensure requirements would allow school systems to take advantage of these professionals and improve the supply of well-qualified teachers and principals.

"SEC. 598. PURPOSE.

"It is the purpose of this part to improve the supply of well-qualified elementary and secondary school teachers and principals by encouraging and assisting States to develop and implement programs for alternative routes to teacher and principal certification or licensure requirements. Such programs shall place special emphasis on the participation of individuals who are members of minority groups.

"SEC. 599. DEFINITION.

"For purposes of this part, the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"SEC. 599A. ALLOTMENTS.

"(a) ALLOTMENTS.—

"(1) IN GENERAL.—From the amount appropriated to carry out this part, the Secretary shall allot to each State the lesser of either the amount the State applies for under section 599B or an amount that is proportional to the State's share of the total population of children ages five through seventeen in all the States (based on the most recent data available that is satisfactory to the Secretary).

"(2) REALLOTMENT.—If a State does not apply for its allotment, or the full amount of its allotment, under the preceding paragraph, the Secretary may reallot the excess funds to one or more other States that demonstrate, to the satisfaction of the Secretary, a current need for the funds.

"(b) SPECIAL RULE.—Notwithstanding section 412(b) of the General Education Provisions Act, funds awarded under this part shall remain available for obligation by a recipient for a period of two calendar years from the date of the grant.

"SEC. 599B. STATE APPLICATIONS.

"(a) IN GENERAL.—Any State desiring to receive an allotment under this part shall, through the State educational agency, submit an application at such time, in such manner, and containing such information, as the Secretary may reasonably require.

"(b) REQUIREMENTS.—Each application shall—

"(1) describe the programs, projects, and activities to be undertaken; and

"(2) contain such assurances as the Secretary considers necessary, including assurances that—

"(A) assistance provided to the State educational agency under this part will be used to supplement, and not to supplant, any State or local funds available for the development and implementation of programs to provide alternative routes to fulfilling teacher and principal certification or licensure requirements;

"(B) the State educational agency has, in developing and designing the application, consulted with—

"(i) representatives of local educational agencies, including superintendents and school board members (including representatives of such superintendents' and members' professional organizations where applicable);

"(ii) elementary and secondary school teachers and principals, including representatives of their professional organizations;

"(iii) parents; and

"(iv) other interested organizations and individuals; and

"(C) the State educational agency will submit to the Secretary, at such time as the Secretary may specify, a final report describing the activities carried out with assistance provided under this part and the results achieved.

"(c) GEPA PROVISIONS INAPPLICABLE.—Sections 435 and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to this part.

"SEC. 599C. USE OF FUNDS.

"(a) MANDATORY.—

"(1) IN GENERAL.—A State educational agency shall use assistance provided under this part to support programs, projects, or activities that develop and implement new, or expand and improve existing, programs that provide teacher and principal training to individuals who are moving to a career in education from another occupation through an alternative route to teacher or principal certification or licensure.

"(2) METHODS OF ASSISTANCE.—A State educational agency may carry out such programs, projects, or activities directly, through contracts, or through grants to local educational agencies, intermediate educational agencies, institutions of higher education, or consortia of such agencies.

"(b) PERMISSIVE.—Funds received under this part may be used for—

"(1) the design, development, implementation, and evaluation of programs that enable qualified professionals who have demonstrated a high level of subject area competence outside the education profession and are interested in entering the education profession to fulfill State certification or licensure requirements;

"(2) the establishment of administrative structures necessary for the development and implementation of programs to provide alternative routes to fulfilling State requirements for certification or licensure;

"(3) training of staff, including the development of appropriate support programs, such as mentor programs, for teachers and principals entering the school system through alternative routes to teacher and principal certification or licensure;

"(4) the development of recruitment strategies;

"(5) the development of reciprocity agreements between or among States for the certification or licensure of teachers and principals; and

"(6) other appropriate programs, projects, and activities designed to meet the objectives of this part.

"SEC. 599D. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $15,000,000 for fiscal year 1993 to carry out this part.

"PART I—MIDDLE SCHOOL TEACHING DEMONSTRATION PROGRAMS

"SEC. 599E. STATEMENT OF PURPOSE.

"It is the purpose of this part to provide financial assistance to institutions of higher education which offer teacher training or retraining programs to develop model programs with a specialized focus on teaching grades 6 through 9.

"SEC. 599F. DEFINITIONS.

"As used in this part—

"(1) The term 'developmentally appropriate' means a program that is appropriate for a child's age and all areas of an individual child's development, including educational, physical, emotional, social, cognitive, and communication.

"(2) The term 'middle school' means a school which enrolls students in at least two of the grades 6, 7, 8, and 9.

"SEC. 599G. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to make grants, on a competitive basis, to institutions of higher education to develop model programs with a specialized focus on teaching grades 6 through 9.

"(b) SPECIAL RULE.—(1) The Secretary shall ensure an equitable geographic distribution of grants awarded under this part.

"(2) The Secretary shall take into consideration equitable levels of funding for urban and rural areas in awarding grants under this part.

"(c) GRANT PERIOD.—Grants under this part may be awarded for a period not to exceed 3 years.

"(d) FUNDING LIMITATION.—Grants awarded under this part may not exceed $250,000 in the first year of funding.

"SEC. 599H. APPLICATION.

"(a) IN GENERAL.—Each institution of higher education desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall demonstrate that—

"(1) the applicant will establish and maintain a program of teacher training or retraining designed to offer specialized preparation for individuals teaching grades 6 through 9;

"(2) the applicant has designed a program of teacher training or retraining which includes—

"(A) a study of adolescent development (including cognitive, social, and emotional) with particular emphasis on early adolescent development;

"(B) a study of the influence of institutions such as schools, families, and peer groups in the socialization of adolescents;

"(C) information concerning the organization of schools for students in grades 6 through 9, with particular emphasis on developmentally appropriate school and classroom organization and practices;

"(D) training in at least 2 subject areas and related instructional strategies;

"(E) direct experience through internships in middle grade schools under the guidance of teachers who demonstrate exemplary classroom practices;

"(F) strategies for the prevention and detection of high risk behavior, particularly drug and alcohol abuse, and for the enhancement of self esteem among adolescents;

"(G) a study of effective methods and models of presenting substance abuse information and education to adolescent students; and

"(H) methods of encouraging parental and community involvement with middle schools; and

"(3) the program will be designed and operated with the active participation of classroom teachers and will include an in-service training component.

"SEC. 599I. REPORTS AND INFORMATION DISSEMINATION.

"Each institution of higher education receiving a grant under this part shall submit to the Secretary such reports and other information regarding programs conducted under this part as the Secretary deems necessary. The Secretary shall disseminate such information to other institutions of higher education, State educational agencies, and local educational agencies.

"SEC. 599J. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of this part.

"PART J—NATIONAL MIGRANT EDUCATION MINI-CORPS PROGRAM

"SEC. 599K. DEMONSTRATION PROGRAM ESTABLISHED.

"The Secretary is authorized to conduct a program to—

"(1) provide migrant students who are enrolled, or plan to enroll, in an institution of higher education, with advisement, training, and instructional services, to enable such students to be role models for migrant children, and to provide a link with the migrant community;

"(2) provide outreach and recruitment services to encourage migrant students who are enrolled in a teacher training program to be role models for migrant children;

"(3) provide support and instructional services to migrant students who are enrolled in an institution of higher education, to enable such students to provide direct instructional services to migrant children participating in programs under section 1201 of the Elementary and Secondary Education Act of 1965 during the regular or summer terms, including such services as—

"(A) lessons and provision of materials that are designated to meet the academic needs of migrant children in the classroom;

"(B) supplemental instruction to reinforce the basic skills and concepts provided by the teacher; and

"(C) instruction in other areas, including environmental or health education;

"(4) designate college coordinators at participating institutions to train, supervise and assign migrant students in cooperation with the operating State agency in which migrant children with special needs have been identified;

"(5) provide academic assistance, home visits, parental involvement, parent-student advisement services, and family advocacy;

"(6) provide that the instructional services for migrant children are to be coordinated with the overall education goals of the operating State educational agency; and

"(7) provide that migrant students who participate in the program assisted under this subpart for at least 10 but not more than 15 hours per week receive a stipend for such participation.

"SEC. 599L. EVALUATION.

"The Secretary shall, by January 1, 1996, evaluate the demonstration program assisted under this part and report the results of such evaluation to the appropriate committees of the Congress.

"SEC. 599M. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this part.

"PART K—FOREIGN LANGUAGE INSTRUCTION

"Subpart 1—Demonstration Grants for Critical Language and Area Studies

"SEC. 599N. DEMONSTRATION GRANTS FOR CRITICAL LANGUAGE AND AREA STUDIES.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized to make demonstration grants to eligible consortia to enable such eligible consortia to—

"(1) operate critical language and area studies programs;

"(2) develop and acquire educational equipment and materials; and

"(3) develop teacher training programs, texts, curriculum, and other activities designed to improve and expand the instruction of foreign languages at elementary and secondary schools across the Nation.

"(b) GRANT LIMITATION.—The Secretary shall not award a grant which exceeds $2,000,000 to an eligible consortium under this section in any fiscal year, but shall award grants of sufficient size, scope and quality for a program of comprehensive instruction of foreign languages.

"(c) SPECIAL RULES.—

"(1) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible consortia with demonstrated, proven effectiveness in the field of critical language and area studies and which have been in existence for at least 1 year prior to applying for a grant under this section.

"(2) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall take into consideration providing an equitable geographic distribution of such grants among the regions of the United States.

"(3) PROGRAM REQUIREMENT.—Each eligible consortium receiving a grant under this section shall include in the activities assisted pursuant to such grant, a study abroad or cultural exchange program.

"(d) ELIGIBLE CONSORTIUM.—

"(1) IN GENERAL.—For the purposes of this section, the term 'eligible consortium' means a cooperative effort between entities in one or more States that must include at least 4 schools, of which—

"(A) one shall be an institution of higher education;

"(B) one shall be a secondary school with experience in teaching critical languages;

"(C) one shall be a secondary school with experience in teaching critical languages and in which at least 25 percent of the students are eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(D) one shall be a secondary school in which at least 25 percent of the students are eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(2) NONPROFIT ORGANIZATIONS.—Each eligible consortium described in paragraph (1) may include a nonprofit organization to provide services not otherwise available from the entities described in paragraph (1).

"(e) ADMINISTRATION.—Each eligible consortium receiving a grant under this section may use not more than 10 percent of such grant for administrative expenses.

"(f) APPLICATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each eligible consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) SPECIAL RULE.—The State educational agency or State higher education agency responsible for the supervision of any one school participating in an eligible consortium may submit the application described in paragraph (1) on behalf of such eligible consortium.

"(g) DEFINITIONS.—For purposes of this section the term 'critical language' means each of the languages contained in the list of critical foreign languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Federal Register 149, 31413).

"Subpart 2—Development of Foreign Language and Culture Instructional Materials

"SEC. 599P. DEVELOPMENT OF FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS.

"(a) GRANTS AUTHORIZED.—The Secretary of Education is authorized to provide grants on a competitive basis to qualified State and local educational agencies, institutions of higher education, private nonprofit foreign language organizations, nonprofit education associations, or a consortium thereof, to enable such entity or entities to act as a resource center for—

"(1) coordinating the development of and disseminating foreign language and culture instructional material, including children's literature in foreign languages, videotapes and computer software, and teacher's instructional kits relating to international study; and

"(2) encouraging the expanded use of technology in teaching foreign languages and culture at the elementary school level and, when the needs of elementary schools have been met, at the secondary school level, with a particular emphasis on expanding the use of technology in teaching foreign languages and culture at elementary and secondary schools that have proportionally fewer resources available for teaching foreign languages and cultures, including schools in urban and rural areas.

"(b) COORDINATION.—In developing materials and technologies under this section, the Secretary shall, where appropriate, make use of materials and technologies developed under the Star Schools Assistance Program Act.

"Subpart 3—Authorization of Appropriations

"SEC. 599Q. AUTHORIZATION OF APPROPRIATIONS.

"(a) CRITICAL LANGUAGE AND AREA STUDIES.—There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of subpart 1.

"(b) FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS.—There are authorized to be appropriated $4,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of subpart 2.

"PART L—EARLY CHILDHOOD STAFF TRAINING AND PROFESSIONAL ENHANCEMENT

"SEC. 599R. SHORT TITLE.

"This part may be cited as the 'Early Childhood Staff Training and Professional Enhancement Grants Act'.

"SEC. 599S. FINDINGS.

"The Congress finds that—

"(1) 10,000,000 preschool children spend all or part of the day in out-of-home care;

"(2) specialized preparation of individuals who care for young children is a predictor of the ability to provide high quality experiences for such children;

"(3) due to projected increases of children in out-of-home care in the future, it is necessary to expand and improve the training and career growth of individuals who care for and educate young children;

"(4) the present delivery system of child care education and training is disjointed;

"(5) funding for such training is fragmented, sporadic, and distinguishes in-service training from degree or certificate programs; and

"(6) in order to expand and enhance the career development of individuals who care and educate young children, such individuals must have training options that promote career growth.

"SEC. 599T. PURPOSE.

"It is the purpose of this part to—

"(1) promote the national education goal that all children in America start school ready to learn, by ensuring the existence of sufficient numbers of well-trained early childhood development and care staff;

"(2) provide professional preparation and continued career training for early childhood development and care staff who work with children from birth through preschool, with an emphasis on infants and toddlers and children with special needs; and

"(3) create and implement effective, coordinated models of early childhood professional preparation and in-service training so that such preparation and training corresponds with a career ladder, based on a progression of staff roles, in the field of early childhood development and care.

"SEC. 599U. GRANTS AUTHORIZED.

"(a) In General.—The Secretary is authorized to award grants to States in accordance with the provisions of this part to enable such States to pay the costs of the activities described in the plan submitted pursuant to section 599X.

"(b) Competitive Basis.—Grants under this part shall be awarded on a competitive basis.

"(c) Duration.—Grants under this part shall be awarded for a period of 5 years.

"SEC. 599V. LEAD AGENCY.

"(a) Designation.—The chief executive officer of a State, in consultation with the State educational agency, desiring to receive a grant under this part shall designate an appropriate State agency, to act as the lead agency.

"(b) Duties.—The lead agency shall—

"(1) administer, directly or through other State agencies, the financial assistance received under this part by the State;

"(2) choose the members of the Advisory Committee that will develop the State plan to be submitted to the Secretary under section 599X;

"(3) in conjunction with the development of the State plan as required under paragraph (2), hold at least one hearing in the State to provide to the public an opportunity to comment on the provision of training and professional development described in the State plan; and

"(4) coordinate the provision of services under this part with other appropriate Federal, State and local programs.

"SEC. 599W. ADVISORY COMMITTEE.

"(a) Advisory Committee.—

"(1) In general.—In order to receive a grant under this part a State shall establish, through the lead agency described in section 599V, an Advisory Committee to develop the State plan described in section 599X.

"(2) Appointment.—In order to receive a grant under this part the lead agency shall appoint the members of the Advisory Committee in accordance with subsection (b).

"(b) Composition.—To the extent such entities exist within a State, each Advisory Committee established pursuant to subsection (a) shall consist of a representative of the following agencies, institutions, organizations, divisions, programs or departments in the State:

"(1) The lead State agency responsible for administering funds received under the Child Care Development and Block Grant Act.

"(2) Institutions of higher education, including community colleges and 2-year colleges.

"(3) An organization representing child care providers, including center-based care providers, and family day care providers.

"(4) An early childhood division of a State educational agency, and the State early childhood teacher certification agency, if such entities are different.

"(5) A child care licensing or regulating agency.

"(6) A local child care resource and referral agency.

"(7) A State Head Start association.

"(8) An organization with significant experience in training in the fields of early childhood development, early care and early education.

"(9) An organization representing parents of young children.

"(10) A State-funded preschool program.

"(11) A State employment and job training agency.

"(12) A State department of community development.

"(13) An early childhood development teacher and an early childhood development director.

"(14) An organization representing early childhood development and staff.

"SEC. 599X. STATE PLAN.

"(a) In General.—Each State desiring a grant under this part shall submit, through the lead agency, a plan to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. The Secretary shall consult with the Secretary of Health and Human Services regarding the contents of such plan.

"(b) Contents.—Each plan submitted pursuant to subsection (a) shall—

"(1) identify the lead agency as described in section 599V;

"(2) assess the training offerings and content of such offerings, amount of training required for an early childhood development staff license or certificate, compensation, recruitment and turnover of staff, and any coordination of training offerings and professional growth of early childhood development staff in the State;

"(3) describe the goals of the activities assisted under this part; and

"(4) describe how the State shall—

"(A) identify and maintain a career development path, based on a progression of roles for early childhood development staff, with each role articulated with training and different levels of responsibility and compensation, in such manner as will permit an individual to qualify for a more responsible role;

"(B) identify the core content for each staff role and assure that workshops, courses, seminars, and appropriate certificate and degree programs are available for each such staff role and career advancement;

"(C) ensure that trainers of early childhood development staff in the State are qualified;

"(D) describe the ways in which the State will coordinate training programs among institutions of higher education, including transfer of credits, and assure that in-service training offered in the State carries course credit accepted by an institution of higher education, community college or 2-year college in the State toward a certificate or degree program;

"(E) set forth the ways in which the State will pay the costs of any assessment, credentialing, certification, licensing, training offering, training inventory, increase in staff participation in training, or other services assisted by a grant under this part;

"(F) describe the ways in which the State plans to coordinate the various State and local agencies and organizations to maximize coordination of standards and requirements for certifications, licenses, and accreditations, including Head Start agencies, the State agency responsible for administering funds under the Child Development Associate Scholarship Act of 1985, the State agency responsible for administering funds received under the Child Care Development and Block Grant Act, and the State agency responsible for early childhood education and preschool programs;

"(G) describe the ways in which the State will compile and disseminate information on—

"(i) training offerings;

"(ii) requirements for admission into courses and programs;

"(iii) requirements for a license, certificate, credential, or degree to which such offerings may be applied;

"(iv) funding sources available for such activities; and

"(v) the cost of training offerings; and

"(H) describe the ways in which the State will use the funds received under this part and any other funds available to the State to carry out the activities described in the State plan.

"SEC. 599Y. EVALUATION AND REPORT.

"(a) Evaluation.—The Secretary, through grants, contracts or cooperative agreements, shall provide for continuing evaluation of activities assisted under this part to determine the effectiveness of such activities in achieving stated goals, and the impact of such activities on developing and coordinating training options and in developing and implementing a career ladder articulated with training.

"(b) Local Evaluation.—Each State receiving a grant under this part shall evaluate the activities assisted under this part to determine the effectiveness of such activities in achieving State goals, the impact of such activities on the establishment of a career ladder for early childhood development, the impact of such activities on families served if feasible, the number of individuals receiving a degree, license, or credential in early childhood development, and the impact of such activities on licensing or regulating requirements for individuals in the field of early childhood development. An interim evaluation shall be submitted to the Secretary not later than January 1, 1995, and a final report shall not be submitted later than June 30, 1997.

"(c) Information.—Each State receiving a grant under this part shall prepare and submit to the Secretary such information as the Secretary shall request in order to carry out the evaluation described in subsection (a).

"(d) Report.—No later than January 1988, the Secretary, in consultation with the Secretary of Health and Human Services, shall prepare and submit to the appropriate committees of Congress, each State agency responsible for administering funds received under the Child Care Development Block Grant Act, and each State educational agency, a report assessing the evaluations conducted pursuant to subsections (a) and (b), including an examination of the strengths and weaknesses of the design and operation of the activities assisted under this part and the effectiveness of such activities in achieving stated goals.

"SEC. 599Z. AUTHORIZATION.

"There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"PART M—CLASS SIZE DEMONSTRATION GRANT

"SEC. 599AA. PURPOSE.

"It is the purpose of this part to provide grants to local educational agencies to enable such agencies to determine the benefits in various school settings of reducing class size on the educational performance of students and on classroom management and organization.

"SEC. 599BB. PROGRAM AUTHORIZED.

"(a) Program Authorized.—

"(1) IN GENERAL.—The Secretary shall carry out a program of awarding grants, in accordance with the provisions of this part, to local educational agencies to pay the Federal share of the costs of conducting demonstration projects that demonstrate methods of reducing class size which may provide information meaningful to other State and local educational agencies.

"(2) FEDERAL SHARE.—The Federal share shall be 50 percent.

"(b) RESERVATION.—The Secretary may reserve not more than 5 percent of the amount appropriated pursuant to the authority of section 599FF in each fiscal year to carry out the evaluation activities described in section 599EE.

"(c) SELECTION CRITERIA.—The Secretary shall make grants to local educational agencies on the basis of—

"(1) the need and the ability of a local educational agency to reduce the class size of an elementary or secondary school served by such agency;

"(2) the ability of a local educational agency to furnish the non-Federal share of the costs of the demonstration project for which assistance is sought;

"(3) the ability of a local educational agency to continue the project for which assistance is sought after the termination of Federal financial assistance under this part; and

"(4) the degree to which a local educational agency demonstrates in the application submitted pursuant to section 599DD consultation in program implementation and design with parents, teachers, school administrators, and local teacher organizations, where applicable.

"(d) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to demonstration projects that involve at-risk students, including educationally or economically disadvantaged students, students with disabilities, limited-English proficient students, and young students.

"(e) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A local educational agency shall use the Federal funds received under this part to supplement and not supplant other Federal, State and local funds available to the local educational agency.

"SEC. 599CC. PROGRAM REQUIREMENTS.

"(a) ANNUAL COMPETITION.—In each fiscal year, the Secretary shall announce the factors to be examined in a demonstration project assisted under this part. Such factors may include—

"(1) the magnitude of the reduction in class size to be achieved;

"(2) the level of education and the subject areas in which the demonstration projects shall occur;

"(3) the form of the instructional strategy to be demonstrated; and

"(4) the duration of the project.

"(b) RANDOM TECHNIQUES AND APPROPRIATE COMPARISON GROUPS.—Demonstration projects assisted under this part shall be designed to utilize randomized techniques or appropriate comparison groups, where feasible.

"SEC. 599DD. APPLICATION.

"(a) IN GENERAL.—In order to receive a grant under this part a local educational agency shall submit an application to the Secretary that is responsive to the announcement described in section 599CC(a), at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) DURATION.—The Secretary shall encourage local educational agencies to submit applications under this part for a period of 3 years.

"(c) CONTENTS.—Each application submitted pursuant to subsection (a) shall include—

"(1) a description of the objectives to be attained with the financial assistance made available under this part and the manner in which such financial assistance shall be used to reduce class size;

"(2) a description of the steps to be taken to achieve target class sizes, including, where applicable, the acquisition of additional teaching personnel and classroom space;

"(3) a statement of the methods for the collection of data necessary for the evaluation of the impact of class size reduction programs on student achievement;

"(4) an assurance that the local educational agency shall pay from non-Federal sources the non-Federal share of the costs of the demonstration project for which assistance is sought; and

"(5) such additional assurances as the Secretary may reasonably require.

"(d) SUFFICIENT SIZE AND SCOPE REQUIRED.—The Secretary shall only award grants under this part to applicants having applications which describe projects of sufficient size and scope to contribute to carrying out the purposes of this part.

"SEC. 599EE. EVALUATION AND DISSEMINATION.

"(a) NATIONAL EVALUATION.—The Secretary shall conduct a national evaluation of the demonstration projects assisted under this part to determine the costs incurred in achieving the reduction in class size and the effects of the reductions on outcomes, such as student performance in the affected subjects or grades, attendance, discipline, classroom organization, management, and teacher satisfaction and retention.

"(b) COOPERATION.—Each local educational agency receiving a grant under this part shall cooperate in the national evaluation described in subsection (a) and shall provide such information to the Secretary as the Secretary may reasonably require.

"(c) REPORTS.—The Secretary shall report to the Congress on the results of the evaluation conducted pursuant to subsection (a).

"(d) DISSEMINATION.—The Secretary shall widely disseminate information about the results of the class size demonstration projects assisted under this part.

"SEC. 599FF. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this part.

"PART N—NATIONAL FOUNDATION FOR EXCELLENCE

"SEC. 599GG. SHORT TITLE.

"This part may be cited as the "National Foundation for Excellence Act".

"SEC. 599HH. FOUNDATION AUTHORIZED.

"There is established a National Foundation for Excellence (hereafter in this part referred to as the "Foundation").

"SEC. 599II. NATIONAL FOUNDATION FOR EXCELLENCE TRUST FUND.

"(a) ESTABLISHMENT.—There is hereby established within the Treasury of the United States a trust fund to be known as the National Foundation for Excellence Trust Fund (hereafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be appropriated to the Trust Fund pursuant to the authority of section 599PP.

"(b) TRUSTEE AND REPORT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall be the trustee of the Trust Fund, and shall submit an annual report to the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Ways and Means and Education and Labor of the House of Representatives regarding—

"(A) the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted; and

"(B) the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted.

"(2) PRINTING.—The report described in paragraph (1) shall be printed as a House document of the session of the Congress to which the report is made.

"(c) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Trust Fund as, in the Secretary's judgment, is not required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(A) on original issue at the issue price, or

"(B) by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(3) INTEREST AND PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(d) USE OF TRUST FUNDS.—

"(1) IN GENERAL.—(A) Amounts in the Trust Fund shall be available to the Foundation to enable the Foundation to award scholarships in accordance with the provisions of this part.

"(B) Amounts in the Trust Fund shall only be available to the Foundation after the Foundation has obtained the non-Federal share of the scholarships to be awarded.

"(2) SPECIAL RULE.—In fiscal year 1993 and succeeding fiscal years, amounts in the Trust Fund shall be available to the Secretary, in equal amounts, to carry out the provisions of subpart 1 of part D of title V, and part E of such title, respectively.

"SEC. 599JJ. NATIONAL FOUNDATION FOR EXCELLENCE BOARD.

"(a) IN GENERAL.—There is established a National Foundation for Excellence Board (hereafter in this part referred to as the "Board").

"(b) COMPOSITION.—The Board shall be composed of 20 members as follows:

"(1) 11 members appointed by the President, of which—

"(A) at least 4 such members shall have 10 years of experience in education; and

"(B) at least 2 of the members described in subparagraph (A) shall be classroom teachers;

"(2) 1 Member of the Senate appointed by the Majority Leader of the Senate;

"(3) 1 Member of the Senate appointed by the Minority Leader of the Senate;

"(4) 1 Member of the House of Representatives appointed by the Speaker of the House of Representatives;

"(5) 1 Member of the House of Representatives appointed by the Minority Leader of the House of Representatives;

"(6) 1 individual appointed by the Majority Leader of the Senate;

"(7) 1 individual appointed by the Minority Leader of the Senate;

"(8) 1 individual appointed by the Speaker of the House of Representatives;

"(9) 1 individual appointed by the Minority Leader of the House of Representatives; and

"(10) the Executive Director of the Foundation, who shall serve as an ex officio, nonvoting member of the Board.

"(c) FUNCTIONS.—The Board shall establish general policies with respect to the functions of the Foundation under this part, including—

"(1) guidelines for awarding scholarships to eligible individuals; and

"(2) procedures for the approval of applications submitted pursuant to section 599KK(h).

"(d) EXECUTIVE DIRECTOR.—

"(1) IN GENERAL.—The Executive Director of the Foundation shall be selected by the Board and shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

"(2) COMPENSATION.—The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule set forth in section 5332 of title 5 of the United States Code.

"(e) EXPENSES AND TRAVEL.—

"(1) EXPENSES.—Members of the Board shall be reimbursed for expenses incurred while engaged in the business of the Board.

"(2) TRAVEL.—Members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed in Government service.

"(f) AUTHORITY TO APPOINT COMMITTEES.—The Foundation may appoint committees to carry out the provisions of this part.

"SEC. 599KK. SCHOLARSHIPS.

"(a) IN GENERAL.—From amounts available pursuant to section 599II(d), the Foundation shall pay the Federal share of awarding scholarships to eligible individuals to enable such eligible individuals to pursue careers in teaching.

"(b) FEDERAL SHARE.—The Federal share shall be 50 percent.

"(c) ELIGIBLE INDIVIDUALS.—For the purposes of this part the term 'eligible individual' means an individual who—

"(1) has received, or is a finalist for, a Paul Douglas Scholarship or Teacher Corps Scholarship; or

"(2) shows exceptional talent in a particular field or as an overall student and who meets the eligibility requirements for either a Paul Douglas Scholarship or Teacher Corps Scholarship, as determined by the Foundation.

"(d) ELIGIBILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Foundation shall award scholarships under this part only to eligible individuals who are eligible to receive a Stafford loan.

"(2) SPECIAL RULE.—If in any fiscal year the Foundation has awarded scholarships to all applicants who are described in paragraph (1), then the Foundation may award scholarships to eligible individuals in such fiscal year on the basis of criteria established by the Foundation.

"(e) PRIORITY.—In awarding scholarships under this part among equally qualified eligible individuals, as determined by the Board, the Foundation shall give priority to eligible individuals from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities, who are underrepresented in the teaching professions or in the curricula areas in which such eligible individuals are preparing to teach.

"(f) GEOGRAPHIC DISTRIBUTION.—In awarding scholarships under this part the Foundation shall ensure an equitable geographic distribution of such scholarships.

"(g) DONATIONS; SPECIAL RULE.—

"(1) DONATIONS.—The Foundation is authorized to accept donations. Any donation received by the Foundation shall be used by the Foundation to award scholarships in accordance with the provisions of this part.

"(2) SPECIAL RULE.—The Foundation may use not more than one-third of any donation received by the Foundation pursuant to paragraph (1) to award scholarships to students in a State or locality specified by the donor.

"(h) APPLICATIONS.—Each eligible individual desiring a scholarship under this part shall submit an application to the Foundation at such time, in such manner and containing or accompanied by such information as the Foundation may reasonably require.

"SEC. 599LL. DURATION AND RELATION TO OTHER ASSISTANCE.

"(a) DURATION.—Scholarships awarded under this part shall be awarded for a maximum of 4 years of undergraduate study and 2 years of graduate study.

"(b) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Notwithstanding the provisions of title IV, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under such title.

"(c) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—Scholarship assistance awarded under this part to any eligible individual in any fiscal year, when added to scholarship assistance received under subpart 1 of part D of title V and part E of such title shall not exceed the cost of attendance, as defined in section 472, at the institution of higher education such individual is attending. If the amount of the scholarship assistance received under this part and subpart 1 of part D of title V, part E of such title and title IV exceeds such cost of attendance, the assistance received under subpart 1 of part D of title V, part E of such title and title IV shall be reduced by an amount equal to the amount by which the combined awards exceed such cost of attendance.

"SEC. 599MM. SCHOLARSHIP CONDITIONS.

"Each eligible individual receiving scholarship assistance under this part shall continue to receive such scholarship payments only during such period that the eligible individual is—

"(1) enrolled as a full-time student in an institution of higher education;

"(2) pursuing a course of study leading to teacher certification; and

"(3) maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

"SEC. 599NN. TEACHING COMMITMENT.

"(a) IN GENERAL.—Each eligible individual receiving a scholarship under this part who has entered into an agreement to teach pursuant to the provisions of section 543(b)(4) or 566(a)(4) shall incur no additional teaching commitment pursuant to a scholarship award received under this part.

"(b) SPECIAL RULE.—Each eligible individual who receives a scholarship under this part and who has not entered into an agreement to teach pursuant to the provisions of section 543(b)(4) or 566(a)(4) shall enter into an agreement with the Foundation. Each such agreement shall require that the eligible individual teach in an elementary or secondary school described in section 561(d) in accordance with the provisions of section 566(a)(4) which are not inconsistent with the provisions of this subsection for a period of at least 2 years and not more than 6 years, as determined by the Foundation.

"SEC. 599OO. SCHOLARSHIP REPAYMENT PROVISIONS.

"(a) REPAYMENT REQUIRED.—An eligible individual found by the Foundation to be in noncompliance with the agreement entered into under section 599NN(b) shall be required to repay to the Foundation a pro rata amount of the scholarship awards received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under title IV) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Foundation.

"(b) EXCEPTIONS TO REPAYMENT PROVISIONS.—An eligible individual shall not be considered to be in violation of the agreement entered into pursuant to section 599NN(b) during any period in which such individual meets the exception to repayment provisions set forth in section 548(a)(1), 548(a)(2), 548(a)(3), or 548(b), or if the individual dies.

"(c) USE OF REPAYMENTS.—Any repayments made to the Foundation pursuant to the provisions of this section shall be used by the Foundation to award additional scholarships in accordance with the provisions of this part.

"(d) WAIVER.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or repayment by an individual who received a scholarship under this part whenever compliance by such individual is impossible or would involve extreme hardship to such individual, or if enforcement of such obligation with respect to such individual would be unconscionable.

"SEC. 599PP. AUTHORIZATION OF APPROPRIATION.

"(a) IN GENERAL.—There are authorized to be appropriated $500,000 for fiscal year 1993 to carry out the provisions of this part.

"(b) SPECIAL RULE.—Section 414 of the General Education Provisions Act shall not apply to the provisions of this part.

"PART O—TRAINING IN EARLY CHILDHOOD EDUCATION AND VIOLENCE COUNSELING

"SEC. 599QQ. SHORT TITLE.

"This part may be cited as the 'Early Childhood Teacher Training and Violence Counseling Act'.

"SEC. 599RR. PROGRAM AUTHORIZED.

"The Secretary shall award grants to institutions of higher education to enable such institutions to establish innovative programs to recruit and train students for careers in—

"(1) early childhood development and care, or preschool programs; or

"(2) providing counseling to young children from birth to 6 years of age who have been affected by violence and to adults who work with such young children.

"SEC. 599SS. APPLICATION AND PLAN.

"(a) APPLICATION.—An institution of higher education desiring a grant under this part shall submit an application to the Secretary at such time, in such form and containing or accompanied by such information or assurances as the Secretary may require. Each such application shall—

"(1) describe the activities and services for which assistance is sought;

"(2) contain a plan in accordance with subsection (b);

"(3) demonstrate that such institution has the capacity to implement such plan; and

"(4) provide assurances that such plan was developed in consultation with agencies and organizations that will assist the institution in carrying out such plan.

"(b) Plan.—Each application described in subsection (a) shall contain a comprehensive plan for the recruitment, retention and training of students seeking careers in early childhood development or violence counseling. Such plan shall include a description of—

"(1) specific strategies for reaching students at secondary schools, community colleges, undergraduate institutions, or other agencies and institutions from which such students are to be drawn for participation in the program, including any partnerships with such institutions;

"(2) specific strategies for retaining such students in the program, such as summer sessions, internships, mentoring, and other activities;

"(3) methods that will be used to ensure that students trained pursuant to the plan will find employment in early childhood education, development and care, or violence counseling;

"(4) the goals, objectives, and timelines to be used in assessing the success of the plan and of the activities assisted under this part;

"(5) the curriculum and training leading to the degree or credential that prepares students for the careers described in the plan;

"(6) the special plans, if any, to assure that students trained pursuant to the plan will be prepared for serving in economically disadvantaged areas; and

"(7) sources of financial aid, to ensure that the training program offered pursuant to this part is available to all qualified students.

"SEC. 599TT. USE OF FUNDS.

"An institution of higher education may use funds provided under this part to engage in activities described in the application and plan submitted pursuant to section 599SS.

SEC. 599UU. SELECTION AND PRIORITIES.

"In evaluating the applications submitted under this part, the Secretary shall prescribe competitive criteria regarding such evaluation and shall give priority in granting funds to institutions that—

"(1) prepare students for work in economically disadvantaged areas;

"(2) plan to focus their recruitment, retention, and training efforts on disadvantaged students; and

"(3) have demonstrated effectiveness in providing the type of training for which the institution seeks assistance under this part.

"SEC. 599VV. DURATION AND AMOUNT.

"(a) Duration.—A grant under this part shall be awarded for a period of not less than 3 years nor more than 5 years.

"(b) Amount.—The total amount of the grant awarded under this part to any institution of higher education for any 1 year shall not be less than $500,000 nor more than $1,000,000.

"SEC. 599WW. REPORT.

"An institution of higher education receiving a grant under this part shall submit to the Secretary program reports and evaluations at such times and containing such information as the Secretary may require.

"SEC. 599XX. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this part.

"PART P—BORDER TEACHER TRAINING

"SEC. 599YY. COOPERATIVE BORDER TEACHER TRAINING.

"(a) Institutional Support.—

"(1) In general.—The Secretary of Education is authorized to award grants to higher education institutions for the purpose of expanding cooperative educational programs between State education agencies and offices, schools and school systems, postsecondary institutions, appropriate educational entities, and private sector establishments involved in education between the United States and the Republic of Mexico.

"(2) Use of grants.—Grants awarded under this subsection shall be for the purpose of providing bilateral teaching initiatives and programs that provide teacher training experiences between the educational communities of the United States and those of the Republic of Mexico and to enhance mutually beneficial educational activities involving researchers, scholars, faculty members, teachers, educational administrators, and other specialists to lecture, teach, conduct research, and develop cooperative programs.

"(b) Authorization of Appropriations.—There are authorized to be appropriated $2,000,000 for fiscal years 1993, 1994, 1995 and such sums as may be necessary for each fiscal year thereafter to carry out this part.

"PART Q—SMALL STATE TEACHING INITIATIVE

"SEC. 599ZZ. MODEL PROGRAMS AND EDUCATIONAL EXCELLENCE.

"(a)(1) Purpose.—It is the purpose of this section to provide sufficient funds to small States to develop model programs for educational excellence, teacher training and educational reform.

"(2) Program authorized.—The Secretary is authorized to make grants to land grant institutions for the purpose of enhancing and improving the quality of teacher education, training, and recruitment in the Nation's smallest States.

"(3) Institutional use of funds.—Eligible land grant institutions receiving funds under this section may use such funds for the development of innovative teaching techniques and materials, preservice and inservice training programs, renovation of training facilities and construction of model classrooms. Special consideration should be given to proposals that include the rehabilitation of historic education facilities.

"(b) Allotment of Funds.—The Secretary shall allot funds in equal portions among the eligible applicants.

"(c) Definitions.—

"(1) Small state.—For the purposes of this section the term "Small State" includes the several States whose population is in each case less than 1,108,500 as reported in the 1990 Census of Population and Housing.

"(2) Land grant institutions.—For the purposes of this section the term "land grant institution" refers to those institutions in each State now receiving benefits under the Act of August 30, 1890 (26 Stat. 417–419, as amended).

"(d) Application.—In general.—Any eligible institution which desires to receive an allotment under this section shall submit to the Secretary an application which—

"(1) certifies that the State educational agency has approved the plan and entered into a partnership for its implementation;

"(2) provides for a process of active discussion and consultation with an advisory committee convened by the State educational agency and the eligible institution;

"(3) describes how the institution will use the funding;

"(4) describes how the plan will be evaluated for dissemination.

"(e) Authorization of Appropriations.—For the purposes of this part there are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary in each of the six succeeding fiscal years.".

(b) Expiration Date.—Effective July 1, 1995, the Alternative Routes to Teacher and Principal Certification and Licensure Act of 1991 (as contained in part H of title V of the Higher Education Act of 1965) is repealed.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

SEC. 601. PURPOSE.

Subsection (b) of section 601 of the Act (20 U.S.C. 1121(b)) is amended by inserting "to develop a pool of international experts to meet national needs" after "fluency".

SEC. 602. GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA STUDIES.

Section 602 of the Act (20 U.S.C. 1122) is amended—

(1) in subsection (a)—

(A) in subparagraph (B) of paragraph (1), by inserting "a diverse network of" after "operating";

(B) in paragraph (2), by inserting ", the cost of establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the educational objectives of this section for the purpose of contributing to the teaching and research of the center or program" after "conduct research,"; and

(C) by inserting at the end thereof the following new paragraph:

"(4) The Secretary may make additional grants to centers described in paragraph (1)(A) for—

"(A) programs of linkage or outreach between foreign language, area studies, and other international fields and professional schools and colleges;

"(B) programs of linkage or outreach with two- and four-year colleges and universities;

"(C) programs of linkage or outreach with departments or agencies of State and Federal governments;

"(D) programs of linkage or outreach with the news media, business, professional, or trade associations; and

"(E) summer institutes in foreign area and other international fields designed to carry out the programs of linkage and outreach described in subparagraphs (A), (B), (C) and (D) of this paragraph."; and

(2) in subsection (b)—

(A) in paragraph (1), by amending subparagraph (B) to read as follows:

"(B) Students receiving stipends described in subparagraph (A) shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program."; and

(B) by amending paragraph (2) to read as follows:

"(2)(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions to enable such institutions or combinations of such institutions to pay stipends to students beginning with such students' third year of graduate training in any center or program approved by the Secretary under this part.

"(B) Students receiving stipends described in subparagraph (A) shall be individuals engaged in completing advanced degree requirements in foreign language, foreign area studies, or other international fields.

"(C) Stipends described in subparagraph (A) shall be used to complete degree requirements, such as predissertation level studies, preparation for dissertation research (including the study of less commonly taught languages), dissertation research abroad, and dissertation writing.

"(D) Students may receive stipends described in subparagraph (A) for a maximum of 4 years if such students make satisfactory progress towards completion of a degree program.".

SEC. 603. LANGUAGE RESOURCE CENTERS.

Subsection (a) of section 603 of the Act (20 U.S.C. 1123(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "operating language training centers" and inserting "operating a small number of national language resource and training centers";

(2) in paragraph (3), by striking "proficiency testing" and inserting "performance testing"; and

(3) in paragraph (4), by striking "proficiency tests" and inserting "performance tests.".

SEC. 604. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.

Section 604 of the Act (20 U.S.C. 1124) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "strengthen and";

(ii) by inserting immediately after the first sentence the following new sentence: "Such grants shall be awarded to institutions of higher education or combinations of such institutions seeking to create programs or curricula in area studies, foreign languages, and other international fields."; and

(iii) by striking "may be for projects" and inserting "may be used to pay not more than 50 percent of the costs of projects"; and

(B) by amending paragraph (6) to read as follows:

"(6) international education programs designed to develop or enhance linkages between two- and four-year institutions of higher education, or baccalaureate and postbaccalaureate programs or institutions; and";

(2) by amending subsection (b) to read as follows:

"(b) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions to enable such institutions or combinations of such institutions to—

"(A) strengthen programs of demonstrated excellence in area studies, foreign languages, and other international fields in order to ensure the self-sustaining maintenance and growth of such programs; and

"(B) enhance the capacity-building and dissemination functions of such programs.

"(2) USE OF GRANT FUNDS.—Grants awarded under this subsection may be used to pay not more than 50 percent of the cost of projects and activities which are an integral part of the programs described in paragraph (1), such as—

"(A) teaching, research, curriculum development, and other related activities;

"(B) strengthening undergraduate majors and minors directly related to the generation of international expertise;

"(C) developing new foreign language courses, especially in languages previously not taught at such institution or combination of such institutions, and improving the quality of existing foreign language programs;

"(D) expanding library and teaching resources;

"(E) establishing linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this subsection;

"(F) developing programs designed to integrate professional and technical education with area studies, foreign languages, and other international fields;

"(G) disseminating curricula materials and program designs to other educational institutions;

"(H) integrating on-campus undergraduate curriculum with study abroad and exchange programs;

"(I) training faculty and staff in area studies, foreign languages, and other international fields; and

"(J) conducting summer institutes in foreign area and other international fields to provide faculty and curriculum development, including the integration of professional and technical education with foreign area and other international studies, and to provide foreign area and other international knowledge or skills to government personnel or private sector professionals in international activities.

"(3) ADDITIONAL GRANTS.—

"(A) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education, combinations of such institutions, or nonprofit educational organizations in partnership with such institutions to expand and strengthen overseas educational opportunities for United States students.

"(B) USES.—The grants made under subparagraph (A) may be used to pay not more than 50 percent of the cost of—

"(i) developing study or internship abroad programs in locations in which such opportunities are not otherwise available or study or internship programs which serve students for which such opportunities are not otherwise available; and

"(ii) developing model programs to enrich or enhance the effectiveness of study abroad programs, including predeparture and post return orientation programs, integration of study abroad into the curriculum of the home institution, credit transfer, improved faculty involvement, cross-disciplinary programs, student selection and advising services, and academic advising.

"(4) CRITERIA.—The Secretary may establish criteria for evaluating programs assisted under this subsection and may require an annual report which evaluates the progress and performance of students in such program as a condition for the award of any grant under this subsection."; and

(3) by adding at the end thereof the following new subsection:

"(d) NON-FEDERAL SHARE.—The non-Federal share of the costs of programs assisted under this section may be provided in cash or with in-kind assistance. Such assistance may be composed of institutional and noninstitutional funds, including State and private contributions.".

SEC. 605. RESEARCH; STUDIES; ANNUAL REPORT.

Section 606 of the Act (20 U.S.C. 1125) is amended—

(1) in subsection (a), by striking paragraphs (1), (2), (3) and (4) and inserting the following:

"(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area and other international specialists in government, education, and the private sector;

"(2) studies and surveys to assess the utilization of graduates of programs supported under this title by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

"(3) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

"(4) research on more effective methods of providing instruction and achieving competency in foreign languages;

"(5) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists; and

"(6) the application of performance tests and standards across all areas of foreign language instruction and classroom use."; and

(2) in subsection (b), by striking "and publish" and inserting ", publish and announce".

SEC. 606. PERIODICALS AND OTHER RESEARCH MATERIALS PUBLISHED OUTSIDE THE UNITED STATES.

(a) AMENDMENT TO HEADING.—The heading for section 607 of the Act is amended by inserting "AND OTHER RESEARCH MATERIALS" after "PERIODICALS".

(b) AMENDMENT TO TEXT.—The text of section 607 of the Act (20 U.S.C. 1125a) is amended—

(1) in subsection (a)—

(A) by striking "609" and inserting "610A";

(B) by striking "1987" and inserting "1992"; and

(C) by striking "4 succeeding" and inserting "6 succeeding";

(2) in subsection (b)—

(A) by striking "subsection (a)" and inserting "section 610A";

(B) by amending paragraph (2) to read as follows:

"(2) to maintain in machine-readable form current bibliographic information on periodicals and other research materials thus acquired, and to enter such information into one or more of the widely available bibliographic data bases;"; and

(C) by amending paragraph (4) to read as follows:

"(4) to make such periodicals and other research materials widely available to researchers and scholars;"; and

(3) by inserting "and other research materials" after "periodicals" each place such term appears.

SEC. 607. EQUITABLE DISTRIBUTION OF FUNDS.

Subsection (a) of section 609 of the Act (20 U.S.C. 1126) is amended—

(1) by inserting "(1)" before "The"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall award grants under this part in such manner as to ensure that an appropriate portion of funds under this part as determined by the Secretary are used to support undergraduate education.".

SEC. 608. AMERICAN OVERSEAS RESEARCH CENTERS.

Part A of title VI of the Act (20 U.S.C. 1121 et seq.) is amended—

(1) by redesignating section 610 as section 610A; and

(2) by inserting after section 609 the following new section:

"SEC. 610. AMERICAN OVERSEAS RESEARCH CENTERS.

"(a) CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with any American Overseas Research Center (which is a consortium of institutions of higher education) (hereafter in this section referred to as a 'Center') to enable a Center to promote postgraduate research, exchanges and area studies.

"(b) USE OF GRANTS.—Grants and contracts made pursuant to this section may be used to pay all or a portion of the cost of establishing or operating a Center or program, including the cost of faculty and staff stipends and salaries, faculty, staff and student travel, the operation and maintenance of overseas facilities, the cost of teaching and research materials, the cost of acquisition, maintenance and preservation of library collections, the cost of bringing visiting scholars and faculty to a Center to teach or to conduct research, the cost of organizing and managing conferences and the cost of publication and dissemination of material for the scholarly and general public.

"(c) LIMITATION.—Grants and contracts awarded pursuant to this section shall be awarded only to Centers which are fully accredited members of the Council of American Overseas Research Centers, Smithsonian Institution.".

SEC. 609. AUTHORIZATION OF APPROPRIATIONS FOR PART A.

Section 610A of the Act (as redesignated in section 608(1)) is amended—

(1) by striking "$49,000,000" and inserting "$62,000,000";

(2) by striking "1987" and inserting "1993"; and

(3) by striking "4 succeeding" and inserting "6 succeeding".

SEC. 610. CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.

Subsection (c) of section 612 of the Act (20 U.S.C. 1130-1(c)) is amended—

(1) in subparagraph (C) of paragraph (1), by striking "including but not limited to," and inserting "such as"; and

(2) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(C) the establishment of linkages overseas with institutions of higher education and other organizations that contribute to the educational objectives of this section; and

"(D) summer institutes in international business, foreign area and other international studies designed to carry out the purposes of paragraph (1) of this subsection.".

SEC. 611. EDUCATION AND TRAINING PROGRAMS.

Subsection (b) of section 613 of the Act (20 U.S.C. 1130a(b)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(11) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this section; and

"(12) summer institutes in international business, foreign area and other international studies designed to carry out the purposes of this section.".

SEC. 612. AUTHORIZATION OF APPROPRIATIONS FOR PART B.

Section 614 of the Act (20 U.S.C. 1130b) is amended—

(1) in subsection (a)—

(A) by striking "$7,500,000" and inserting "$10,000,000";

(B) by striking "1988" and inserting "1993"; and

(C) by striking "4 succeeding" and inserting "6 succeeding"; and

(2) in subsection (b)—

(A) by striking "$5,000,000" and inserting "$6,000,000";

(B) by striking "1987" and inserting "1993"; and

(C) by striking "4 succeeding" and inserting "6 succeeding".

SEC. 613. MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM.

Title VI of the Act (20 U.S.C. 1121 et seq.) is amended—

(1) by redesignating part C as part E;

(2) by redesignating section 622 as section 641; and

(3) by inserting after section 614 the following new parts:

"PART C—MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM

"SEC. 621. MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM.

"(a) PROGRAM AUTHORIZED.—

"(1) GRANTS.—The Secretary is authorized to award grants to institutions of higher education or consortia thereof that have linkages with institutions operating international studies programs or with a national resource center and have a significant minority student enrollment and a demonstrated commitment to preparing students from underrepresented populations in the foreign service of the United States for entrance into such foreign service, to enable such institutions or consortia to carry out the activities described in section 622.

"(2) COMPETITIVE BASIS.—Grants made pursuant to paragraph (1) shall be awarded on a competitive basis.

"(3) DURATION.—Grants made pursuant to paragraph (1) shall be awarded for a period not to exceed 5 years.

"SEC. 622. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—An institution of higher education or consortium thereof shall use grant funds received under this part for activities that prepare students from underrepresented populations in the foreign service of the United States for entrance into such service. Such activities shall include—

"(1) junior year abroad study;

"(2) fellowships for graduate study;

"(3) internships;

"(4) intensive academic programs such as summer institutes; or

"(5) intensive language training.

"SEC. 623. APPLICATION.

"Each institution of higher education or consortium thereof desiring a grant under this part shall submit an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"SEC. 624. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this part.

"PART D—FULBRIGHT-HAYS EDUCATIONAL AND CULTURAL EXCHANGES

"SEC. 631. FULBRIGHT-HAYS EDUCATIONAL AND CULTURAL EXCHANGES.

"(a) PROGRAM AUTHORIZED.—The President is authorized to provide for promoting modern foreign language training and area studies in United States schools, colleges, and universities by supporting visits and study in foreign countries by teachers and prospective teachers or other persons who have demonstrable need for an international dimension in their education in such schools, colleges, and universities for the purpose of improving their skill in languages and their knowledge of the culture of the people of those countries, and by financing visits by teachers from those countries to the United States for the purpose of participating in foreign language training and area studies in United States schools, colleges, and universities, and promoting advanced research, exchanges, and area studies overseas by consortia of institutions of higher education.

"(b) COORDINATION.—The activities carried out under this part shall be coordinated with the jurisdiction and activities of the J. William Fulbright Foreign Scholarship Board, the Fulbright Commissions, the United States embassies, and any other foreign educational or cultural exchange activities carried out under the Mutual Educational and Cultural Exchange Act.

"(c) TRANSFER.—Any personnel, liabilities, contracts, real property, personal property, assets, and records, employed, held, or used primarily in connection with a function carried out pursuant to section 102(b)(6) of the Mutual Educational and Cultural Exchange Act not located at the Department of Education on the date of enactment of the Higher Education Act Amendments of 1992, shall be transferred to the Secretary. Any personnel so transferred shall be transferred without reduction in classification or compensation for one year after the transfer.

"(d) SPECIAL RULE.—All laws and regulations relating to section 102(b)(6) of the Mutual Educational and Cultural Exchange Act, insofar as such laws and regulations are appropriate and not inconsistent with the provisions of this part, remain in full force and effect and apply with respect to this part. All references in any other Federal law to section 102(b)(6) of the Mutual Educational and Cultural Exchange Act shall be deemed to refer to this part.

"(e) FUNDING.—Any funds appropriated to carry out section 102(b)(6) of the Mutual Educational and Cultural Exchange Act for fiscal year 1991 that are not expended or obligated on the date of enactment of the Higher Education Act Amendments of 1992 shall be paid to the Secretary within 10 days of such date. The Secretary shall be responsible for all obligations incurred under such section after such date.".

SEC. 614. DEFINITIONS.

Section 641 of the Act (as redesignated in section 613(2)) is amended by adding at the end the following new subsection:

"(c) All references to institutions of higher education in this title, unless the context otherwise requires, mean institutions of higher education which are licensed and accredited in the United States, and shall include United States institutions of higher education operating abroad that are licensed and accredited in the United States and which directly contribute to the international education of United States students and faculty in the areas of foreign language or area studies.".

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

SEC. 701. REPEALERS AND REDESIGNATIONS.

(a) IN GENERAL.—Title VII of the Act (20 U.S.C. 1132a et seq.) is amended—

(1) by repealing parts A, B, C, D, G, and J;

(2) by redesignating parts E, F, and H, as parts B, C, and E, respectively;

(3) by redesignating sections 751, 752, 753, 754, 755, 756, 757, 758, 759, and 760, as sections 721, 722, 723, 724, 725, 726, 727, 728, 729, and 730, respectively;

(4) by redesignating sections 761, 762, 763, and 764, as sections 731, 732, 733, and 735, respectively;

(5) be redesignating sections 781, 782 and 783 as sections 751, 752, and 753, respectively.

(b) CONFORMING AMENDMENTS.—

(1) STOCK.—Section 728 of the Act (as redesignated in subsection (a)(3)) is amended—

(A) in subsection (c), by striking "754" and inserting "724"; and

(B) in subsection (e)—

(i) by striking "755" and inserting "725"; and

(ii) by striking "756" and inserting "726";

(2) DEFINITIONS.—(A) Subsection (b) of section 730 of the Act (as redesignated in subsection (a)(3)) is amended by striking "752" and inserting "722".

(B) Section 735 of the Act (as redesignated in subsection (a)(5)) is amended—

(i) in subparagraph (B) of subsection (b)(3), by striking "761" and inserting "731"; and

(ii) in the matter following paragraph (5) of subsection (b), by striking "761" and inserting "731".

(C) Clause (ii) of section 752(6)(B) of the Act (as redesignated in subsection (a)(5)) is amended by inserting "(as such part C was in effect prior to the date of enactment of the Higher Education Amendments of 1992)" after "part C".

(3) SALE OF OBLIGATIONS.—Section 753 of the Act (as redesignated in subsection (a)(5)) is amended by striking "parts C and F" and inserting "part C".

(4) AMENDMENT TO HEADING.—The heading for part C (as redesignated in subsection (a)(2)) is amended to read as follows:

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC, HOUSING, AND OTHER EDUCATIONAL FACILITIES".

SEC. 702. PRIOR RIGHTS AND OBLIGATIONS.

Section 702 of the Act (20 U.S.C. 1132a-1) is amended to read as follows:

"SEC. 702. PRIOR RIGHTS AND OBLIGATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each of the 6 succeeding fiscal years to pay obligations incurred prior to 1987 under parts C and D of this title, as such parts were in effect before the effective date of the Higher Education Act Amendments of 1992.

"(b) LEGAL RESPONSIBILITIES.—All entities with continuing obligations incurred under parts A, B, C, and D of this title, as such parts were in effect before the effective date of the Higher Education Act Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Act Amendments of 1992.".

SEC. 703. IMPROVEMENT OF ACADEMIC AND LIBRARY FACILITIES.

Title VII of the Act is amended by inserting after section 702 the following new part:

"PART A—IMPROVEMENT OF ACADEMIC AND LIBRARY FACILITIES

"SEC. 711. SHORT TITLE.

"This part may be cited as the 'Higher Education Facilities Act of 1992'.

"SEC. 712. FINDINGS.

"The Congress finds that—

"(1) over the past 50 years institutions of higher education have expanded dramatically, while at the same time traditional sources of funding facilities maintenance and repair have declined and even disappeared in some instances;

"(2) in order to meet the rising cost of educating students, resulting mainly from inflation and the higher costs of research, many colleges and universities made the choice to defer renovations and improvements;

"(3) overall, the need for capital investment by institutions of higher education has been estimated to exceed $60,000,000,000;

"(4) the deterioration of facilities has caused valuable research experiments and programs to be postponed, delayed or canceled; and

"(5) the United States' competitive position within the world economy is vulnerable if the necessary research facilities are not available to provide advanced training in the fields of science and technology.

"SEC. 713. ALLOTMENT.

"(a) IN GENERAL.—From the amount appropriated pursuant to the authority of section 717 the Secretary shall allot to each State higher education agency with an approved application—

"(1) 50 percent of such funds on the basis of the population of the State compared to the population of all States; and

"(2) 50 percent of such funds on the basis of the number of students attending institutions of higher education within the State compared to the number of students attending institutions of higher education in all States.

"(b) STATE MATCHING REQUIREMENT.—

"(1) IN GENERAL.—In order to receive an allotment under subsection (a) each State higher education agency shall match, on a dollar for dollar basis, the amount of any allotment received pursuant to such subsection. Such matching funds may be provided by the State higher education agency or an eligible institution.

"(2) CASH REQUIREMENT.—Each State higher education agency receiving funds under this part shall only provide matching funds pursuant to paragraph (1) in cash.

"(c) REALLOTMENT.—Except as provided in subsection (d), any amount that the Secretary determines will not be available to a State higher education agency because such agency fails to comply with the provisions of this part or elects not to participate in the program assisted under this part shall be reallotted to other States in the same manner as the original allotments were made.

"(d) SPECIAL RULE.—

"(1) IN GENERAL.—If the Secretary determines that any eligible institution within a State receives a direct, noncompetitive award of Federal funds for facilities construction, renovation, improvement or repair, then such State shall have the amount of such funds subtracted from the amount of such State's allotment under this section. If the amount of such funds exceeds the State's allotment for any year, the amount by which such funds exceed the State's allotment for such year shall be subtracted from the State's allotment under this section in the subsequent year, or years if necessary.

"(2) SPECIAL REALLOTMENT.—The amount that a State is ineligible to receive by application of paragraph (1) shall be reallotted in the same manner as the original allotments were made among all States.

"SEC. 714. USE OF ALLOTMENT.

"(a) IN GENERAL.—From amounts received pursuant to section 713 each State higher education agency shall award grants, on a competitive basis, to eligible institutions within the State for—

"(1) the improvement, renovation, and repair of academic facilities;

"(2) the improvement and renovation of library facilities, the improvement (including acquisition) of library books and materials, and for interlibrary cooperation and communication;

"(3) broadcast, cable, and satellite interconnection equipment for use in postsecondary educational television and radio programming, including interactive technology and communications; and

"(4) the construction of academic and library facilities if the State determines such construction necessary.

"(b) LOCAL MATCHING REQUIREMENT.—In order to receive a grant under subsection (a) each eligible institution shall match, on a dollar for dollar basis, the amount of any grant received pursuant to such subsection. Such matching funds may be provided by the State higher education agency or the eligible institution.

"(c) PRIORITY.—In awarding grants pursuant to subsection (a) each State higher education agency shall give priority to eligible institutions within the State that serve large numbers or percentages of minority or disadvantaged students.

"(d) EQUITABLE PARTICIPATION.—In awarding grants pursuant to subsection (a) each State higher education agency shall ensure the equitable participation of both public and private eligible institutions within the State.

"(e) DURATION AND LIMITATION.—

"(1) DURATION.—Grants awarded pursuant to subsection (a)—

"(A) shall be awarded for a period which is at least 1 year but not more than 3-years in duration; and

"(B) are renewable.

"(2) LIMITATION.—No eligible institution shall receive more than 1 grant under this part in any 3-year period.

"(f) SUPPLEMENTATION.—Grants awarded pursuant to subsection (a) shall be used to supplement and not supplant other Federal, State, and local funds available for improvement of academic and library facilities.

"SEC. 715. APPLICATION.

"(a) STATE HIGHER EDUCATION AGENCY.—

"(1) APPLICATION.—Each State higher education agency desiring an allotment pursuant to section 713 shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application described in paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought;

"(B) contain assurances that the State higher education agency will comply with the matching requirement described in section 713(b);

"(C) contain a description and the amount of any direct, noncompetitive appropriation of funds for facilities construction, renovation, improvement or repair which the State provides to any eligible institution within the State; and

"(D) contain such other assurances as the Secretary determines necessary to ensure compliance with the provisions of this part.

"(b) ELIGIBLE INSTITUTION.—

"(1) APPLICATION.—Each eligible institution desiring a grant pursuant to section 714 shall submit an application to the State higher education agency at such time, in such manner and accompanied by such information as such agency may reasonably require.

"(2) CONTENTS.—Each application described in paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought;

"(B) contain assurances that the eligible institution will comply with the matching requirement described in section 714(b); and

"(C) contain such other assurances as the State higher education agency determines necessary to ensure compliance with the provisions of this part.

"SEC. 716. DEFINITIONS.

"For the purpose of this part the term 'eligible institution' means an institution of higher education, a museum, a nonprofit research and scientific institution, or a public telecommunications entity.

"SEC. 717. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $400,000,000 for fiscal year 1993 and each of the 6 succeeding fiscal years to carry out the provisions of this part.".

SEC. 704. FEDERAL ASSISTANCE IN THE FORM OF LOANS.

Section 731 of the Act (as redesignated in section 701(a)(4)) is amended—

(1) in subsection (a)—

(A) by striking "undergraduate postsecondary educational institutions" and inserting "institutions of higher education or higher education building agencies"; and

(B) by inserting "graduate and" before "undergraduate academic";

(2) in subsection (b), by striking "undergraduate postsecondary educational institution" and inserting "institution of higher education or higher education building agency";

(3) in the matter preceding paragraph (1) of subsection (c), by striking "undergraduate postsecondary educational institution" and inserting "institution of higher education or higher education building agency";

(4) by striking subsections (d), (e), and (f); and

(5) by adding the following new subsection after subsection (c):

"(d) MATCHING REQUIREMENT.—The Secretary shall not make a loan under this part unless the institution of higher education or higher education building agency receiving such loan provides from non-Federal sources at least 20 percent of the development cost of the project for which the loan is made.".

SEC. 705. APPORTIONMENT PRIORITIES.

Subsection (b) of section 733 of the Act (as redesignated in section 701(a)(4)) is amended—

(1) in paragraph (1), by inserting "graduate and" before "undergraduate"; and

(2) in paragraph (2), by inserting "graduate and" before "undergraduate" each place such term appears.

SEC. 706. FUNDING RULES.

Part C of title VII of the Act (as redesignated in section 701(a)(2)) is amended by adding after section 733 (as redesignated in section 701(a)(4)) the following new section:

"SEC. 734. FUNDING RULES.

"(a) USE OF FUNDS FROM TITLE IV OF THE HOUSING ACT OF 1950.—Funds obtained pursuant to section 401(d) of the Housing Act of 1950 shall be available for the purposes of carrying out this part. For such purposes, the total amount of notes and obligations which the Secretary may continue to issue and have outstanding for purchase by the Secretary of the Treasury shall not exceed the amount issued and outstanding under such section 401(d) as of September 30, 1985. Such notes and other obligations shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations issued to obtain funds for loan contracts entered into after the effective date of the Higher Education Act Amendments of 1986 shall bear interest at a rate determined by the Secretary of the Treasury which shall not be more than the average current yield on outstanding obligations of the United States of comparable maturities in the month preceding the month in which the contract for such loan is made. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this part and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this part. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(b) USE OF FUNDS.—Not less than 10 percent of the funds held by the Secretary under subsection (a) shall be made available for loans under this part for each fiscal year.

"(c) APPROPRIATION TO COVER NOTES AND OBLIGATIONS NOT COVERED BY LOAN REPAYMENT.—There are authorized to be appropriated to the Secretary $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years, together with principal and interest payments made by institutions of higher education or higher education building agencies assisted with loans made under this part (or under title IV of the Housing Act of 1950), for payment on notes and obligations issued by the Secretary under this part or such title.".

SEC. 707. DEFINITIONS.

Section 735 of the Act (as redesignated in section 701(a)(5)) is amended—

(1) in subsection (b), by amending the matter preceding paragraph (1) to read as follows:

"(b) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means—"; and

(2) by inserting at the end thereof the following new subsection:

"(g) GRADUATE ACADEMIC FACILITY.—The term 'graduate academic facility' means a facility at an institution of higher education that offers a program of study that—

"(1) has been in existence for at least 4 years prior to the date for which assistance under this part is sought; and

"(2) leads to a graduate degree.".

SEC. 708. HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING.

Title VII of the Act is further amended by adding before part E (as redesignated by section 701(a)(2)) the following new part:

"PART D—HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

"SEC. 741. FINDINGS.

"The Congress finds that—

"(1) a significant part of the Federal mission in education has been to attain equal opportunity in higher education for low-income, educationally disadvantaged Americans and African Americans;

"(2) the Nation's historically Black colleges and universities have played a prominent role in American history and have an unparalleled record of fostering the development of African American youth by recognizing their potential, enhancing their academic and technical skills, and honing their social and political skills through higher education;

"(3) the academic and residential facilities on the campuses of all historically Black colleges and universities have suffered from neglect, deferred maintenance and are in need of capital improvements in order to provide appropriate settings for learning and social development through higher education;

"(4) due to their small enrollments, limited endowments and other financial factors normally considered by lenders in construction financing, historically Black colleges and universities often lack access to the sources of funding necessary to undertake the necessary capital improvements through borrowing and bond financing;

"(5) despite their track record of longstanding and remarkable institutional longevity and viability, historically Black colleges and universities often lack the financial resources necessary to gain access to traditional sources of capital financing such as bank loans and bond financing; and

"(6) Federal assistance to facilitate low-cost capital basis for historically Black colleges and universities will enable such colleges and universities to continue and expand their educational mission and enhance their significant role in American higher education.

"SEC. 742. DEFINITIONS.

"For the purposes of this part—

"(1) The term 'eligible institution' means a 'part B institution' as that term is defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

"(2) The term 'loan' means a loan made to an eligible institution under the provisions of this part and pursuant to an agreement with the Secretary.

"(3) The term 'qualified bond' means any obligation issued by the designated bonding authority at the direction of the Secretary, the net proceeds of which are loaned to an eligible institution for the purposes described in section 743(b).

"(4) The term 'funding' means any payment under this part from the Secretary to the eligible institution or its assignee in fulfillment of the insurance obligations of the Secretary pursuant to an agreement under section 743.

"(5) The term 'capital project' means, subject to section 744(b) the repair, renovation, or, in exceptional circumstances replacement, of—

"(A) any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by colleges and universities for instructional or research purposes or for housing students, faculty, and staff;

"(B) instructional equipment, research instrumentation, and any capital equipment or fixture related to facilities described in subparagraph (A);

"(C) any other facility, equipment or fixture which is essential to the maintaining of accreditation of the member institution by a nationally recognized accrediting agency or association; and

"(D) any real property or interest therein underlying facilities described in subparagraph (A) or (C).

"(6) The term 'interest' includes accredited value or any other payment constituting interest on an obligation.

"(7) The term 'outstanding', when used with respect to bonds, shall not include bonds the payment of which shall have been provided for by the irrevocable deposit in trust of obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make payments on such bonds.

"(8) The term 'designated bonding authority' means the private, for-profit corporation selected by the Secretary pursuant to section 745(1) for the purpose of issuing taxable construction bonds in furtherance of the purposes of this part.

"SEC. 743. FEDERAL INSURANCE FOR BONDS.

"(a) GENERAL RULE.—Subject to the limitations in section 744, the Secretary is authorized to enter into insurance agreements to provide financial insurance to guarantee the full payment of principal and interest on qualified bonds upon the conditions set forth in subsections (b), (c) and (d).

"(b) RESPONSIBILITIES OF THE DESIGNATED BONDING AUTHORITY.—The Secretary may not enter into an insurance agreement described in subsection (a) unless the Secretary designates a qualified bonding authority in accordance with sections 745(1) and 746 and the designated bonding authority agrees in such agreement to—

"(1) use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into an escrow account for repayment of the bonds;

"(2) provide in each loan agreement with respect to a loan that not less than 95 percent of the proceeds of the loan will be used—

"(A) to finance the repair, renovation, and, in exceptional cases, replacement of a capital project; or

"(B) to refinance an obligation the proceeds of which were used to finance the repair, renovation, and, in exceptional cases, replacement of a capital project;

"(3)(A) charge such interest on loans, and provide for such a schedule of repayments of loans, as will, upon the timely repayment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and

"(B) require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due not less than 60 days prior to the date of the payment on the bonds for which such loan payment is expected to be needed;

"(4) prior to the making of any loan, provide for a credit review of the institution receiving the loan and assure the Secretary that, on the basis of such credit review, it is reasonable to anticipate that the institution receiving the loan will be able to repay the loan in a timely manner pursuant to the terms thereof;

"(5) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in a funding under the insurance agreement, the institution obligated on such loan shall repay the Secretary, upon terms to be determined by the Secretary, for such funding;

"(6) assign any loans to the Secretary, upon the demand of the Secretary, if a delinquency on such loan has required a funding under the insurance agreement;

"(7) in the event of a delinquency on a loan, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;

"(8) establish an escrow account—

"(A) into which each eligible institution shall deposit 20 percent of the proceeds of any loan made under this part; and

"(B) the balance of which—

"(i) shall be available to the Secretary to pay principal and interest on the bonds in the event of delinquency in loan repayment; and

"(ii) when all bonds under this part are retired or canceled, shall be divided among the eligible institutions making deposits into such account on the basis of the amount of each such institution's deposit;

"(9) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in amounts being withdrawn from the escrow account to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish such escrow account;

"(10) comply with the limitations set forth in section 744 of this part; and

"(11) make loans only to eligible institutions under this part in accordance with regulations prescribed by the Secretary to ensure that loans are fairly allocated among as many eligible institutions as possible, consistent with making loans of amounts that will permit capital projects of sufficient size and scope to significantly contribute to the educational program of the eligible institutions.

"(c) ADDITIONAL AGREEMENT PROVISIONS.—Any insurance agreement described in subsection (a) of this section shall provide as follows:

"(1) The payment of principal and interest on bonds shall be insured by the Secretary until such time as such bonds have been retired or canceled.

"(2) The Federal liability for delinquencies and default for bonds guaranteed under this part shall only become effective upon the exhaustion of all the funds held in the escrow account described in subsection (b)(8).

"(3) The Secretary shall create a letter of credit authorizing the Treasury Department to disburse funds to the designated bonding authority or its assignee.

"(4) The letter of credit shall be drawn upon in the amount determined by paragraph (5) of this subsection upon the certification of the designated bonding authority to the Secretary or the Secretary's designee that there is a delinquency on 1 or more loans and there are insufficient funds available from loan repayments and the escrow account to make a scheduled payment of principal and interest on the bonds.

"(5) Upon receipt by the Secretary or the Secretary's designee of the certification described in paragraph (4) of this subsection, the designated bonding authority may draw a funding under the letter of credit in an amount equal to—

"(A) the amount required to make the next scheduled payment of principal and interest on the bonds, less

"(B) the amount available to the designated bonding authority from loan repayments and the escrow account.

"(6) All fundings under the letter of credit shall be paid to the designated bonding authority within 2 business days following receipt of the certification described in paragraph (4).

"(d) FULL FAITH AND CREDIT PROVISIONS.—Subject to section 743(c)(1) the full faith and credit of the United States is pledged to the payment of all fundings which may be required to be paid under the provisions of this section.

"SEC. 744. LIMITATIONS ON FEDERAL INSURANCE FOR BONDS ISSUED BY THE DESIGNATED BONDING AUTHORITY.

"(a) LIMIT ON AMOUNT.—At no time shall the aggregate principal amount of outstanding bonds insured under this part together with any accrued unpaid interest thereon exceed $250,000,000, of which—

"(1) not more than $175,000,000 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

"(2) not more than $75,000,000 shall be used for loans to eligible institutions which are historically Black public colleges and universities.

"(b) LIMITATION ON CREDIT AUTHORITY.—The authority of the Secretary to issue letters of credit and insurance under this part is effective only to the extent provided in advance by appropriations Acts.

"(c) RELIGIOUS ACTIVITY PROHIBITION.—No loan may be made under this part for any educational program, activity or service related to sectarian instruction or religious worship or provided by a school or department of divinity or to an institution in which a substantial portion of its functions is subsumed in a religious mission.

"(d) DISCRIMINATION PROHIBITION.—No loan may be made to an institution under this part if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or handicapping condition; except that the prohibition with respect to religion shall not apply to an institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

"SEC. 745. AUTHORITY OF THE SECRETARY.

"In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary—

"(1) shall, within 120 days of enactment of the Higher Education Amendments of 1991, publish in the Federal Register a notice and request for proposals for any private for-profit organization or entity wishing to serve as the designated bonding authority under this part, which notice shall—

"(A) specify the time and manner for submission of proposals; and

"(B) specify any information, qualifications, criteria, or standards the Secretary determines to be necessary to evaluate the financial capacity and administrative capability of any applicant to carry out the responsibilities of the designated bonding authority under this part;

"(2) may sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this part without regard to the amount in controversy, and any action instituted under this section by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office;

"(3)(A) may foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has been assigned a loan pursuant to this part; and

"(B) in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, except that—

"(i) such action shall not preclude any other action by the Secretary to recover any deficiency in the amount of a loan assigned to the Secretary; and

"(ii) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(4) may sell, exchange, or lease real or personal property and securities or obligations; and

"(5) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this part will be achieved.

"SEC. 746. PROHIBITION.

"No institution that receives a loan under this part shall also receive a grant under part A of this title.".

SEC. 709. FORGIVENESS OF CERTAIN LOANS.

Part E of title VII of the Act (as redesignated in section 701(a)(2)) is amended—

(1) in section 741 (as redesignated in section 701(a)(5))—

(A) in subsection (a), by striking "part A or B" and inserting "part A"; and

(B) in subsection (b), by striking "part A or B" and inserting "part A"; and

(2) by adding at the end the following new section:

"SEC. 744. FORGIVENESS OF CERTAIN LOANS.

"(a) FORGIVENESS AUTHORIZED.—The Secretary may forgive the entire balance due, or any portion thereof, on any loan made under part C (as such part was in effect prior to the date of enactment of the Higher Education Amendments of 1992), part F (as such part was in effect prior to the date of enactment of the Higher Education Amendments of 1992), or the College Housing and Academic Facilities Loan program whenever the Secretary determines that—

"(1) the institution is current in its payments to the Department of Education or has entered into a moratorium agreement with the Secretary with respect to such payments; and

"(2) the outstanding indebtedness equals at least one-third the annual operating budget of the institution seeking forgiveness of its housing loan indebtedness and in the judgment of the Secretary the survival of the institution is threatened.

"(b) DEFINITION.—For the purpose of this section, the term 'institution' includes an institution of higher education and an undergraduate postsecondary educational institution.

"(c) APPLICATION.—Each institution requesting forgiveness of any loan under this section shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require.".

TITLE VIII—COOPERATIVE EDUCATION

SEC. 801. COOPERATIVE EDUCATION.

Title VIII of the Act (20 U.S.C. 1133 et seq.) is amended to read as follows:

"TITLE VIII—COOPERATIVE EDUCATION

"SEC. 801. STATEMENT OF PURPOSE; DEFINITION.

"(a) PURPOSE.—It is the purpose of this title to award grants to institutions of higher education or combinations of such institutions to encourage such institutions to develop and make available to as many of their students as possible work experience that will aid such students in future careers and will enable such students to support themselves financially while in school.

"(b) DEFINITION.—For the purpose of this title the term 'cooperative education' means the provision of alternating or parallel periods of academic study and public or private employment in order to give students work experiences related to their academic or occupational objectives and an opportunity to earn the funds necessary for continuing and completing their education.

"SEC. 802. AUTHORIZATION OF APPROPRIATIONS; RESERVATIONS.

"(a) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this title $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(b) RESERVATIONS.—Of the amounts appropriated in each fiscal year—

"(1) not less than 50 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions described in section 803(a)(1)(A) for cooperative education under section 803;

"(2) not less than 25 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions described in section 803(a)(1)(B) for cooperative education under section 803;

"(3) not to exceed 11 percent shall be available for demonstration projects under paragraph (1) of section 804(a);

"(4) not to exceed 11 percent shall be available for training and resource centers under paragraph (2) of section 804(a); and

"(5) not to exceed 3 percent shall be available for research under paragraph (3) of section 804(a).

"(c) AVAILABILITY OF APPROPRIATIONS.—Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this title.

"SEC. 803. GRANTS FOR COOPERATIVE EDUCATION.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized—

"(A) from the amount available under section 802(b)(1) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education or to combinations of such institutions that have not received a grant under this paragraph in the 10-year period preceding the date for which a grant under this section is requested to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions; and

"(B) from the amount available under section 802(b)(2) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education or to combinations of such institutions that—

"(i) are operating an existing cooperative education program as determined by the Secretary; or

"(ii) have received a grant under this title in the 5 preceding fiscal years,

to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions.

"(2) PROGRAM REQUIREMENT.—Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving students work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

"(3) AMOUNT OF GRANTS.—(A) The amount of each grant awarded pursuant to paragraph (1)(A) to any institution of higher education or combination of such institutions in any fiscal year shall not exceed $500,000.

"(B) The Secretary shall award grants in each fiscal year to each institution of higher education or combination of such institutions described in paragraph (1)(B) that has an application approved under subsection (b) in an amount which bears the same relation to the amount reserved pursuant to section 802(b)(2) in such fiscal year as the number of unduplicated students placed in cooperative education programs by such institution of higher education or combination of such institutions in the preceding fiscal year bears to the total number of all unduplicated students placed in such programs by all such institutions or combinations in such preceding year.

"(4) SPECIAL RULES.—(A) Notwithstanding any other provision of law, no institution of higher education or combination of such institutions shall receive a grant pursuant to paragraph (1)(B) in any fiscal year in an amount which exceeds 25 percent of such institution's or combination's cooperative education program's personnel and operating budget for the preceding fiscal year.

"(B) The Secretary shall not award grants pursuant to paragraphs (1)(A) and (1)(B) to the same institution of higher education or combination of such institutions in any one fiscal year.

"(b) APPLICATIONS.—(1) Except as provided in paragraph (2), each institution of higher education or combination of institutions desiring to receive a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

"(A) set forth the program or activities for which a grant is authorized under this section;

"(B) specify each portion of such program or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

"(C) provide that the applicant will expend during such fiscal year for the purpose of such program or activities not less than the amount expended for such purpose during the previous fiscal year;

"(D) describe the plans which the applicant will carry out to assure, and contain a formal statement of the institution's commitment which assures, that the applicant will continue the cooperative education program beyond the 5-year period of Federal assistance described in subsection (c)(1) at a level which is not less than the total amount expended for such program during the first year such program was assisted under this section;

"(E) provide that, in the case of an institution of higher education that provides a 2-year program which is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate or associate degree candidates and who carry at least one-half the normal full-time academic workload;

"(F) provide that the applicant will—

"(i) make such reports as may be essential to ensure that the applicant is complying with the provisions of this section, including the reports for the second and each succeeding fiscal year for which the applicant receives a grant data with respect to the impact of the cooperative education program in the previous fiscal year, including—

"(I) the number of unduplicated students enrolled in the cooperative education program;

"(II) the number of unduplicated students placed in cooperative education program jobs;

"(III) the number of employers who have hired cooperative education program students;

"(IV) the income for students derived from working in cooperative education program jobs; and

"(V) the increase or decrease in the number of students placed in cooperative education program jobs in each fiscal year compared to the previous fiscal year; and

"(ii) keep such records as are essential to ensure that the applicant is complying with the provisions of this title, including the notation of cooperative education program employment on the student's transcript;

"(G) describe the extent to which programs in the academic discipline for which the application is made have had a favorable reception by public and private sector employers;

"(H) describe the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit;

"(I) describe the plans that the applicant will carry out to evaluate the applicant's cooperative education program at the end of the grant period and to disseminate the results of such evaluation;

"(J) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(K) include such other information as is essential to carry out the provisions of this title.

"(2) Special consideration.—The Secretary shall give special consideration to applications from institutions of higher education or combinations thereof which demonstrate a commitment to serving special populations such as women, individuals with disabilities, and black, Mexican-American, Puerto Rican, Cuban, other Hispanic, American Indian, Alaska Native, Aleut, Native Hawaiian, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian students.

"(c) Duration of Grants; Federal Share.—

"(1) Duration of grants.—No individual institution of higher education may receive, individually or as a participant in a combination of such institutions—

"(A) a grant pursuant to subsection (a)(1)(A) for more than 5 fiscal years; or

"(B) a grant pursuant to subsection (a)(1)(B) for more than 5 fiscal years.

"(2) Federal share.—The Federal share of a grant under this section may not exceed—

"(A) 85 percent of the cost of carrying out the application in the first year the applicant receives a grant under this section;

"(B) 70 percent of such cost in the second such year;

"(C) 55 percent of such cost in the third such year;

"(D) 40 percent of such cost in the fourth such year; and

"(E) 25 percent of such cost in the fifth such year.

"(3) Special rule.—Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

"(d) Maintenance of Effort.—If the Secretary determines that a recipient of funds under this section has failed to maintain the fiscal effort described in subsection (b)(1)(C), then the Secretary may elect not to make grant payments under this section to such recipient. Pursuant to subsection (b)(1)(D), each recipient of funds under this section shall provide to the Secretary information documenting such recipient's maintenance of fiscal effort beyond the 5-year period of the grant as required by the Secretary through notification in the Federal Register.

"SEC. 804. DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH.

"(a) Authorization.—The Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts for—

"(1) the conduct of demonstration projects designed to demonstrate or determine the feasibility or value of innovative methods of cooperative education from the amounts available in each fiscal year under section 802(b)(3);

"(2) the conduct of training and resource centers designed to—

"(A) train personnel in the field of cooperative education;

"(B) improve materials used in cooperative education programs if such improvement is conducted in conjunction with other activities described in this paragraph;

"(C) furnish technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance;

"(D) encourage model cooperative education programs which furnish education and training in occupations in which there is a national need; and

"(E) support partnerships under which an institution carrying out a comprehensive cooperative education program joins with another institution of higher education in order to (i) assist the institution other than the comprehensive cooperative education institution to develop and expand an existing program of cooperative education, or (ii) establish and improve or expand comprehensive cooperative education programs,

from the amounts available in each fiscal year under section 802(b)(4); and

"(3) the conduct of research relating to cooperative education, from the amounts available in each fiscal year under section 802(b)(5).

"(b) Administrative Provision.—

"(1) In general.—To carry out this section, the Secretary may—

"(A) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

"(B) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

"(2) Limitation.—(A) The Secretary may not use more than 3 percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(A).

"(B) The Secretary may use not more than 3 percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(B).

"(c) Supplement Not Supplant.—A recipient of a grant or contract under this section may use the funds provided only so as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.".

TITLE IX—GRADUATE PROGRAMS

SEC. 901. GRADUATE PROGRAMS.

Title IX of the Act (20 U.S.C. 1134 et seq.) is amended to read as follows:

"TITLE IX—GRADUATE PROGRAMS

"SEC. 901. PURPOSE AND ADMINISTRATIVE PROVISIONS.

"(a) Purpose.—It is the purpose of this title to—

"(1) foster and support graduate and professional education for two distinct national needs;

"(2) provide incentives and support for United States citizens to complete doctoral degree programs leading to academic careers, especially women and students from underrepresented groups; and

"(3) provide support for students from underrepresented groups to complete masters and professional degree programs.

"(b) Administrative Provisions.—

"(1) Coordinated administration.—In carrying out the purposes of this title, the Secretary shall provide for coordinated administration and regulation of graduate programs under this title to ensure that the programs are carried out in a manner most compatible with academic practices.

"(2) Administrative and technical employees.—For purposes of carrying out this title, the Secretary shall appoint, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall be needed to assist in the administration of such part. Such employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"PART A—GRANTS TO ENCOURAGE PARTICIPATION IN GRADUATE EDUCATION

"Subpart 1—Patricia Roberts Harris Fellowships

"SEC. 911. STATEMENT OF PURPOSE; DESIGNATION OF AWARDS.

"(a) Purpose.—It is the purpose of this subpart to provide, through institutions of higher education, a program of grants to assist in making available the benefits of a postbaccalaureate education to graduate and professional students who demonstrate financial need.

"(b) Designation.—Each recipient of such an award under this subpart shall be known as a 'Patricia Roberts Harris Fellow'.

"SEC. 912. PROGRAM AUTHORIZED.

"(a) Grants by Secretary.—

"(1) In general.—The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this subpart.

"(2) Reservations.—The Secretary shall reserve—

"(A) 50 percent of the amount appropriated pursuant to section 914 to award grants to institutions of higher education to enable such institutions to make awards for masters and professional study; and

"(B) 50 percent of such amount to award grants to such institutions to enable such institutions to make awards for doctoral study.

"(b) Distribution and Amounts of Grants.—

"(1) Equitable distribution.—In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

"(2) SPECIAL RULE.—To the maximum extent practicable, the Secretary shall award at least 15 percent of the amount appropriated pursuant to the authority of section 914 to institutions of higher education operating programs for postbaccalaureate education leading to careers that serve the public interest.

"(3) REALLOTMENT.—Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this subpart, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this subpart.

"(c) APPLICATIONS.—Any eligible institution of higher education offering a program of postbaccalaureate study leading to a graduate or professional degree may apply for grants under this subpart. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Such application may be made on behalf of professional schools, academic departments, or similar organizational units within such institution meeting the requirements of this subsection, including interdisciplinary or interdepartmental programs.

"(d) SELECTION OF APPLICATIONS.—In making grants to institutions of higher education, the Secretary shall—

"(1) take into account present and projected needs for highly trained individuals in all areas of education beyond secondary school;

"(2) take into account present and projected needs for highly trained individuals in academic career fields of high national priority; and

"(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups which have been traditionally underrepresented in colleges and universities, but nothing contained in this paragraph shall be interpreted to require any institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

"(e) PRIORITIES FOR FELLOWSHIPS.—The Secretary shall assure that, in making grants under this subpart, awards are made to—

"(1) individuals who plan to pursue a career in public service; and

"(2) individuals from traditionally underrepresented groups, as determined by the Secretary, undertaking graduate or professional study.

"(f) INSTITUTIONAL PAYMENTS.—

"(1) IN GENERAL.—Beginning in fiscal year 1993, the Secretary shall (in addition to the award paid to each individual pursuant to a grant under this subpart) pay $8,000 to the institution of higher education at which such individual is pursuing a course of education.

"(2) ADJUSTMENT.—The Secretary shall adjust the payment made pursuant to paragraph (1) annually in accordance with inflation as determined by the Department of Labor's Consumer Price Index.

"(g) USE FOR RELIGIOUS PURPOSES PROHIBITED.—No fellowship shall be awarded under this subpart for study at a school or department of divinity.

"SEC. 913. AWARD OF FELLOWSHIPS.

"(a) AWARDS BASED ON NEED.—An institution of higher education receiving funds under this subpart shall make available to financially needy graduate and professional students an award determined by such institution of higher education, except that no award under this subpart may exceed $14,000 or the fellowship recipient's demonstrated level of need according to measurements of need as approved by the Secretary, whichever is less.

"(b) REQUIREMENTS FOR AWARDS.—

"(1) MASTER'S OR PROFESSIONAL DEGREE.—No student enrolled in graduate study leading to a master's or professional degree shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research (including acting as a teaching assistant or research assistant as may be required as a condition to award a degree), in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 2 years, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one 12-month period, in addition to the 2-year period for study or research set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this subpart. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient.

"(2) DOCTORAL DEGREE.—No student enrolled in graduate study leading to a doctoral degree shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to study, research (including acting as a teaching assistant or research assistant as may be required as a condition to award a degree), or dissertation work in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, consisting of not more than 2 years of support for study or research, and not more than 1 year of support for dissertation work provided that the student has attained satisfactory progress to the dissertation stage. The institution shall provide 2 years of support for each student, including at least 1 year of supervised teaching, following the 2 years of predissertation support under this subpart. The Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one 12-month period, in addition to the 2-year period for study or research set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this subpart. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient.

"SEC. 914. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"Subpart 2—Assistance for Training in the Legal Profession

"SEC. 921. PROGRAM AUTHORIZED.

"(a) GRANTS AND CONTRACTS.—The Secretary is authorized to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training for the legal profession.

"(b) USE OF FUNDS.—Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Secretary, all or part of the cost of—

"(1) selecting individuals from disadvantaged backgrounds for training for the legal profession;

"(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training;

"(3) providing counseling or other services designed to assist such individuals to complete successfully such training;

"(4) providing, for not more than 6 months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist such individuals to complete successfully such training for the legal profession;

"(5) paying such stipends (including allowances for travel and for dependents) as the Secretary may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Secretary; and

"(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in paragraphs (1) through (5).

"SEC. 922. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"Subpart 3—Law School Clinical Experience Programs

"SEC. 925. PROGRAM AUTHORIZATION.

"(a) GRANT AND CONTRACT PURPOSES.—The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 percent of the costs of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. Preference shall be given to those programs providing legal experience in the preparation and trial of actual cases, including administrative cases and the settlement of controversies outside the courtroom. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

"(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

"(2) office or house counsel problems; or

"(3) factual investigation, empirical research, or policy or legal analysis.

"(b) USE OF FUNDS.—Such costs may include necessary expenditures incurred for—

"(1) planning;

"(2) training of faculty members and salary for additional faculty members;

"(3) travel and per diem for faculty and students;

"(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

"(5) equipment and library resources;

"(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

"(7) such other items as are allowed pursuant to regulations issued by the Secretary.

"(c) LIMITATIONS ON AMOUNTS.—No law school may receive more than $100,000 in any fiscal year pursuant to this subpart, no part of which may be used to pay for indirect costs or charges.

"(d) DEFINITION.—For the purpose of this subpart, the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

"SEC. 926. APPLICATIONS.

"(a) REQUIREMENTS.—A grant or contract authorized by this subpart may be made by the Secretary upon application which—

"(1) is made at such time or times and contains such information as the Secretary may prescribe;

"(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subpart; and

"(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out functions under this subpart, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) DISTRIBUTION OF GRANTS AND CONTRACTS.—The Secretary shall allocate grants or contracts under this subpart in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purpose of this subpart.

"SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"PART B—GRANTS TO ENHANCE THE QUALITY AND DIVERSITY OF ACADEMIC FACULTY

"Subpart 1—Jacob K. Javits Fellows Program

"SEC. 931. AWARD OF JACOB K. JAVITS FELLOWSHIPS.

"(a) NUMBER AND TIMING OF AWARDS.—The Secretary is authorized to award fellowships in accordance with the provisions of this subpart for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.

"(b) DESIGNATION OF FELLOWS.—Students receiving awards under this subpart shall be known as 'Jacob K. Javits Fellows'.

"(c) INTERRUPTIONS OF STUDY.—The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program.

"SEC. 932. ALLOCATION OF FELLOWSHIPS.

"(a) FELLOWSHIP BOARD.—

"(1) APPOINTMENT.—The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board consisting of 9 individuals representative of both public and private institutions of higher education especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly knowledgeable about and have experience in doctoral education in arts, humanities, and social sciences.

"(2) DUTIES.—The Board shall—

"(A) establish general policies for the program established by this subpart and oversee its operation;

"(B) establish general criteria for the distribution of fellowships among eligible academic fields identified by the Board;

"(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of selecting fellows; and

"(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

"(3) CONSULTATIONS.—In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the Nationa Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institution, learned societies, and professional organizations.

"(4) TERM.—The term of office of each member of the Board shall be 4 years; except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

"(5) INITIAL MEETING; VACANCY.—The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until 1 year after the date of their appointment. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

"(6) QUORUM; ADDITIONAL MEETINGS.—(A) A majority of the members of the Board shall constitute a quorum.

"(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out its responsibilities.

"(7) COMPENSATION.—Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate of basic pay payable for level IV of the Executive Schedule, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(b) USE OF SELECTION PANELS.—The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Fellowship Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Fellowship Board.

"(c) FELLOWSHIP PORTABILITY.—Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

"SEC. 933. STIPENDS.

"(a) AWARD BY SECRETARY.—The Secretary shall pay to individuals awarded fellowships under this subpart such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed $14,000 or the fellow's demonstrated level of need according to measurements of need as approved by the Secretary.

"(b) INSTITUTIONAL PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education, for each individual awarded a fellowship for pursuing a course at such institution, $8,000 with respect to such awards made for the fiscal year ending September 30, 1993, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index, except that such amount charged to a fellowship recipient and collected from such recipient for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payment to the institution under this subsection.

"(2) SPECIAL RULE.—Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purposes specified under paragraph (1).

"SEC. 934. FELLOWSHIP CONDITIONS.

"(a) REQUIREMENTS FOR RECEIPT.—An individual awarded a fellowship under the provisions of this subpart shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that such individual is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

"(b) Reports From Recipients.—The Secretary is authorized to require reports containing such information in such form and to file at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this subpart. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

"SEC. 935. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $15,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"*Subpart 2—Graduate Assistance in Areas of National Need*

"SEC. 941. PURPOSE.

"In order to sustain and enhance the capacity for teaching and research in areas of national need, it is the purpose of the subpart to provide, through academic departments and programs of institutions of higher education, a fellowship program to assist graduate students of superior ability who demonstrate financial need.

"SEC. 942. GRANTS TO ACADEMIC DEPARTMENTS AND PROGRAMS OF INSTITUTIONS.

"(a) Grant Authority.—

"(1) In general.—The Secretary shall make grants to academic departments and programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree in order to enable such institutions to provide assistance to graduate students in accordance with this subpart.

"(2) Additional grants.—The Secretary may also make grants to such departments and programs and to other units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

"(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and is exempt from tax under section 501(a) of such Code;

"(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

"(C) is not a private foundation;

"(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

"(E) has necessary research resources not otherwise readily available in such institutions to such students.

"(b) Award and Duration of Grants.—

"(1) Awards.—The principal criterion for the allocation of awards shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in making such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

"(2) Duration.—The Secretary shall approve a grant recipient under this subpart for a 3-year period. From the sums appropriated under this subpart for any fiscal year, the Secretary shall not make a grant to any academic department or program of an institution of higher education of less than $100,000 or greater than $750,000 per fiscal year.

"(3) Reallotment.—Whenever the Secretary determines that an academic department or program of an institution of higher education is unable to use all of the amounts available to it under this subpart, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not needed to academic departments and programs of institutions which can use the grants authorized by this subpart.

"(c) Preference to Continuing Grant Recipients.—

"(1) In general.—The Secretary shall make new grant awards under this subpart only to the extent that each previous grant recipient has received continued funding in accordance with subsection (b)(2).

"(2) Ratable reduction.—To the extent that appropriations under this subpart are insufficient to comply with paragraph (1), available funds shall be distributed by ratably reducing the amounts required to be awarded by subsection (b)(2).

"SEC. 943. INSTITUTIONAL ELIGIBILITY.

"(a) Eligibility Criteria.—Any academic department or program of an institution of higher education that offers a program of postbaccalaureate study leading to a graduate degree in an area of national need (as designated under subsection (b)) may apply for a grant under this subpart. No department or program shall be eligible for a grant unless the program of postbaccalaureate study has been in existence for at least 4 years at the time of application for assistance under this subpart.

"(b) Designation of Areas of National Need.—After consultation with the National Science Foundation, the National Academy of Sciences, the National Endowments for the Arts and the Humanities, and other appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need. The Secretary shall designate such areas of national need on the basis of the projected need for faculty and scientists due to replacement demands and emerging fields. In making such designations, the Secretary shall take into account the extent to which the interest is compelling and the extent to which other Federal programs support postbaccalaureate study in the area concerned.

"SEC. 944. CRITERIA FOR APPLICATIONS.

"(a) Selection of Applications.—The Secretary shall make grants to academic departments and programs of institutions of higher education on the basis of applications submitted in accordance with subsection (b). Applications shall be ranked on program quality by geographically balanced review panels of nationally recognized scholars. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

"(b) Contents of Applications.—An academic department or program of an institution of higher education, in its application for a grant, shall—

"(1) describe the current academic program of the applicant for which the grant is sought;

"(2) provide assurances that the applicant will provide, from other non-Federal funds, for the purposes of the fellowship program under this subpart an amount equal to at least 25 percent of the amount of the grant received under this subpart;

"(3) set forth policies and procedures to assure that, in making fellowship awards under this subpart the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

"(4) set forth policies and procedures to assure that, in making fellowship awards under this subpart, the institution will make awards to individuals who—

"(A) have financial need, as determined under criteria developed by the institution;

"(B) have excellent academic records in their previous programs of study;

"(C) plan teaching or research careers; and

"(D) plan to pursue the highest possible degree available in their course of study;

"(5) set forth policies and procedures to ensure that Federal funds made available under this subpart for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this subpart and in no case to supplant those funds;

"(6) provide assurances that, in the event that funds made available to the academic department or program under this subpart are insufficient to provide the assistance due a student under the commitment entered into between the academic department or program and the student, the academic department or program will endeavor, from any funds available to it, to fulfill the commitment to the student;

"(7) provide that the applicant will comply with the limitations set forth in section 945;

"(8) provide assurances that the academic department will provide at least 1 year of supervised training in instruction for students, to be provided from non-Federal funds available to such department; and

"(9) include such other information as the Secretary may prescribe.

"SEC. 945. AWARDS TO GRADUATE STUDENTS.

"(a) Commitments to Graduate Students.—

"(1) In general.—An academic department or program of an institution of higher education shall make commitments to graduate students (including students pursuing a doctoral degree after having completed a master's degree program at an institution of higher education) at any point in their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years.

"(2) Special rule.—No such commitments shall be made to students under this subpart unless the academic department or program has determined adequate funds are available to fulfill the commitment either from funds received or anticipated under this subpart, or from institutional funds.

"(b) Amount of Stipends.—The size of the stipend awarded to students for an individual academic year shall be determined by the institution, except that no annual stipend award under this subpart may exceed $14,000 or the student's level of need according to measurements of need as approved by the Secretary, whichever is less.

"(c) Academic Progress Required.—Notwithstanding the provisions of subsection (a), no student shall receive an award—

"(1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, or

"(2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

"SEC. 946. ADDITIONAL ASSISTANCE FOR COST OF EDUCATION.

"(a) In General.—The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship at such institution, $8,000 with respect to such awards made for the fiscal year ending September 30, 1993, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index.

"(b) Use for Overhead Prohibited.—Funds made available pursuant to this subpart may not be used for the general operational overhead of the academic department or program.

"SEC. 947. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $35,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"Subpart 3—Dennis Chavez Fellowship Program

"SEC. 951. FELLOWSHIPS AUTHORIZED.

"(a) Program Authorized.—

"(1) In general.—The Secretary shall make multiyear grants to institutions of higher education or consortia of such institutions and nonprofit entities organized to carry out the purposes of this subpart, with a demonstrated record of enhancing the access of individuals from underrepresented groups to graduate education to enable such institutions to—

"(A) identify talented faculty from underrepresented groups who wish to continue in the higher education professorate and obtain a doctoral degree;

"(B) identify talented baccalaureate degree recipients from underrepresented groups who have financial need and who wish to obtain a doctoral degree and enter the higher education professorate; and

"(C) provide the individuals described in paragraphs (1) and (2) with a fellowship to assist such students in obtaining a doctoral degree.

"(2) Fellowships.—Each institution of higher education or consortium receiving a grant under this subpart shall award the fellowships described in paragraph (1)(C) in an amount equal to $10,000 or an amount based on the financial need of the recipient (determined by the institution in accordance with measurements of need approved by the Secretary), whichever is less.

"(b) Priority.—In making grants pursuant to subsection (a), the Secretary shall give priority to applications describing programs that—

"(1) provide a tuition waiver and an assistantship to each fellowship recipient;

"(2) provide a stipend to each fellowship recipient from resources other than the resources of the Federal Government;

"(3) emphasize courses of study leading to a doctoral degree in disciplines in which faculty from underrepresented groups are underrepresented; and

"(4) describe steps to ensure that a fellowship recipient will teach at an institution of higher education where minority undergraduate students are likely to benefit from the educational experience and academic achievements of the fellowship recipient.

"(c) Geographic Distribution.—In awarding grants pursuant to subsection (a), the Secretary shall ensure—

"(1) an equitable geographic distribution of such grants; and

"(2) that both public and private institutions of higher education are fairly represented among the grant recipients.

"(d) Special Rule.—

"(1) Equitable distribution.—Each institution of higher education or consortium receiving a grant under this subpart shall ensure that during the period of the grant there is an equitable distribution of fellowships under this subpart among underrepresented groups.

"(2) Construction.—Nothing in this section shall be interpreted to require any institution of higher education or consortium to grant preference or disparate treatment to the members of one group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this subpart, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

"(e) Definition.—For the purposes of this subpart, the term 'underrepresented group' means any group of individuals underrepresented in graduate education or the higher education professorate.

"SEC. 952. APPLICATION.

"(a) Application Required.—Each institution of higher education or consortium desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner and containing such information as the Secretary may by regulation reasonably require.

"(b) Contents.—Each application submitted pursuant to subsection (a) shall contain—

"(1) the institution of higher education's or consortium's plan for identifying and recruiting faculty and baccalaureate degree recipients who may participate in the program assisted under this subpart;

"(2) a description of the program or programs of doctoral study that the institution of higher education or consortium plans to offer in the institution's doctoral program;

"(3) the institution of higher education's or consortium's plan for using minority faculty and other faculty as advisors and academic resources in support of the program assisted under this subpart;

"(4) a description of other resources of the institution of higher education or consortium, including tuition waivers, assistantships or financial aid other than loans, that such institution or consortium shall make available to fellowship recipients; and

"(5) a description of the method such institution or consortium shall use to determine a student's financial need.

"SEC. 953. FELLOWSHIP AGREEMENT.

"Each recipient of a fellowship under this subpart shall enter into an agreement with the institution of higher education or consortium awarding such fellowship under which the fellowship recipient shall—

"(1) in the case of a fellowship recipient described in section 951(a)(1)(A), within a 5-year period after completing the doctoral degree for which the fellowship under this subpart was awarded, teach, for a period of not less than 2 years for each year for which financial assistance under this subpart was received, in a public or private nonprofit institution of higher education that has a significant minority enrollment;

"(2) in the case of a fellowship recipient described in section 951(a)(1)(B), within a 5-year period after completing the doctoral degree for which the fellowship under this subpart was awarded, teach, for a period of not less than 2 years for each year for which financial assistance under this subpart was received, in a public or private nonprofit institution of higher education;

"(3) agree to provide the Secretary with evidence of compliance with the provisions of paragraph (1) or (2); and

"(4) repay all or part of the fellowship received, plus interest, and if applicable reasonable collection fees, under regulations issued by the Secretary, in the event the conditions of paragraph (1) or (2) are not complied with, except as provided in section 955.

"SEC. 954. FELLOWSHIP REPAYMENT PROVISIONS.

"A recipient of a fellowship under this subpart found by the Secretary to be in noncompliance with the agreement entered into under section 953(1) or 953(2) shall be required to repay a pro rata amount of such fellowship assistance received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of title IV) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart.

"SEC. 955. EXCEPTIONS TO REPAYMENT PROVISIONS.

"(a) Deferral During Certain Periods.—A recipient of a fellowship under this subpart shall not be considered in violation of the agreement entered into pursuant to section 953 during any period in which the recipient—

"(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education;

"(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

"(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

"(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months with an institution of higher education that has a significant minority enrollment;

"(6) is engaged in full-time employment as a teacher in a public or private nonprofit preschool, elementary or secondary school, or a public or private nonprofit preschool education program; or

"(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

"(b) Forgiveness if Permanently Totally Disabled.—A recipient shall be excused from repayment of any fellowship assistance received under this subpart if the recipient becomes permanently totally disabled as established by the sworn affidavit of a qualified physician.

"SEC. 956. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.".

TITLE X—POSTSECONDARY IMPROVEMENT PROGRAMS

SEC. 1001. POSTSECONDARY IMPROVEMENT PROGRAMS.

Title X of the Act (20 U.S.C. 1135 et seq.) is repealed.

TITLE XI—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

SEC. 1101. URBAN COMMUNITY SERVICE.

Title XI of the Act (20 U.S.C. 1136 et seq.) is amended to read as follows:

"TITLE XI—URBAN COMMUNITY SERVICE

"SEC. 1101. FINDINGS.

"The Congress finds that—

"(1) the Nation's urban centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, crime, education, environmental concerns, planning and work force preparation;

"(2) there are, in the Nation's urban institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services toward the amelioration of the problems described in paragraph (1);

"(3) the skills, knowledge and experience in these eligible institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

"(4) the application of such skills, knowledge and experience is hindered by the limited funds available to redirect attention to solutions to such urban problems.

"SEC. 1102. PURPOSE.

"It is the purpose of this title to provide incentives to urban institutions to enable such institutions to devise and implement solutions to pressing and severe problems in their communities.

"SEC. 1103. APPLICATION FOR URBAN COMMUNITY SERVICE GRANTS.

"(a) APPLICATION.—

"(1) IN GENERAL.—An eligible institution seeking assistance under this title shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances as the Secretary may require by regulation.

"(2) CONTENTS.—The application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought; and

"(B) include documentation of the formation of a consortium that includes, in addition to the eligible institution, one or more of the following entities:

"(i) An urban school system.

"(ii) A local government.

"(iii) A business or other employer.

"(iv) A nonprofit institution.

"(3) WAIVER.—The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this title.

"(b) PRIORITY IN SELECTION OF APPLICATIONS.—The Secretary shall give priority to applications that propose to conduct joint projects supported by other local, State, and Federal programs.

"(c) SELECTION PROCEDURES.—The Secretary shall, by regulation, develop a formal procedure for the submission of applications under this title and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this title.

"SEC. 1104. ALLOWABLE ACTIVITIES.

"(a) IN GENERAL.—Funds made available under this title shall be used to design and implement programs to assist urban communities to address pressing and severe problems.

"(b) AUTHORIZED ACTIVITIES.—Activities conducted with funds made available under this title may include research on, or planning and implementation of, resource exchanges, technology transfers, technical training, the delivery of services, or technical assistance in the following areas:

"(1) Work force preparation.

"(2) Urban poverty and the alleviation of such poverty.

"(3) Health care, including delivery and access.

"(4) Underperforming school systems and students.

"(5) Problems faced by the elderly and individuals with disabilities in urban settings.

"(6) Problems faced by families and children.

"(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

"(8) Urban housing.

"(9) Urban infrastructure.

"(10) Economic development.

"(11) Urban environmental concerns.

"(12) Other problem areas which participants in the consortium described in section 1103(a)(2)(B) concur are of high priority in the urban area.

"(13)(A) Problems faced by individuals with disabilities regarding accessibility to institutions of higher education and other public and private community facilities.

"(B) Amelioration of existing attitudinal barriers that prevent full inclusion by individuals with disabilities with their community.

"SEC. 1105. PEER REVIEW.

"The Secretary shall designate a peer review panel to review applications submitted under this title and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary shall consult with officials of other Federal agencies and with non-Federal organizations to ensure that the panel membership shall be geographically balanced and be composed of representatives from public and private institutions of elementary, secondary, and higher education, labor, business, and State and local governments, who have expertise in urban community service or in education.

"SEC. 1106. DISBURSEMENT OF FUNDS.

"(a) LIMITATION ON AMOUNTS.—

"(1) DURATION.—Each grant awarded under this title may be awarded for a period not to exceed 3 years.

"(2) ANNUAL AMOUNT.—The Secretary shall not make a grant payment under this title which exceeds $500,000 in any 1 year.

"(b) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this title in a manner that achieves equitable geographic distribution of such grants.

"SEC. 1107. DESIGNATION OF URBAN GRANT INSTITUTIONS.

"The Secretary shall publish a list of the eligible institutions which are awarded grants under this title and shall designate these institutions of higher education as 'Urban Grant Institutions' for the duration of their grant award. The Secretary shall establish a national network of Urban Grant Institutions so that the results of individual projects achieved in one metropolitan area can then be generalized, disseminated, replicated and applied throughout the Nation.

"SEC. 1108. DEFINITIONS.

"As used in this title:

"(1) URBAN AREA.—The term 'urban area' means a metropolitan statistical area having a population of not less than 150,000; or, in any State which does not have metropolitan statistical area which has such a population, the entity of the State having an agreement or submitting an application under section 1203 may, or, if no such entity has an agreement, the Secretary shall designate one urban area for the purpose of this title.

"(2) ELIGIBLE INSTITUTION.—The term 'eligible institution' means a nonprofit institution of higher education, or a consortium of such institutions, any one of which meets all the requirements of this paragraph, which—

"(A) is located in an urban area;

"(B) draws a substantial portion of its undergraduate students from the urban area in which such institution is located, or from contiguous areas;

"(C) carries out programs to make postsecondary educational opportunities more accessible to residents of such urban area, or contiguous areas;

"(D) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas;

"(E) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

"(F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and the people of such areas.

"SEC. 1109. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of this title.".

TITLE XII—GENERAL PROVISIONS AND DEMONSTRATION PROGRAMS

SEC. 1201. DEFINITIONS.

Section 1201 of the Act (20 U.S.C. 1141) is amended by adding at the end the following new subsections:

"(i) DISABILITY.—The term 'disability' has the meaning given the term in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).

"(j) STATE HIGHER EDUCATION AGENCY.—The term 'State higher education agency' means the officer or agency primarily responsible for the State supervision of higher education.

"(k) SERVICE-LEARNING.—The term 'service-learning' has the same meaning given such term in section 101(22) of the National and Community Service Act of 1990.".

SEC. 1202. SPECIAL CRITERIA FOR HIGH-RISK INSTITUTIONS.

Section 1203 of the Higher Education Act of 1965 (20 U.S.C. 1143) is amended by adding at the end the following new subsection:

"(g) REVIEW OF INSTITUTIONS.—

"(1) IN GENERAL.—(A) The relevant State licensing authority shall establish standards for the review of and review the institutions of higher education under its jurisdiction in accordance with the criteria set forth in subparagraph (B). Only institutions of higher education which meet the criteria described in subparagraph (B) shall be subject to the requirements set forth in this subsection.

"(B) The criteria for the review of institutions of higher education are as follows:

"(i) An annual default rate as defined in section 435(m) equal to or greater than 25 percent for the most recent year in which data are available.

"(ii) A limitation, suspension, or termination act by the Secretary against an institution pursuant to this Act during the preceding 5 years.

"(iii) A change of ownership of the institution that results in a change of control of such institution.

"(iv) Participation in the Federal student aid programs for less than 5 years.

"(v) A substantial number of student complaints related to the management or conduct of programs assisted under this Act.

"(2) GENERAL LICENSING REQUIREMENTS.—An institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) shall—

"(A) be prohibited from using the terms 'approval', 'approved', 'approval to operate', 'approved to operate', 'licensed', or 'licensed to operate' or similar words without stating clearly that such term only means compliance with minimum licensing standards and not an endorsement or recommendation by the State or licensing authority;

"(B) be required to maintain records for all enrolled and graduated students and conduct a reasonable inquiry to determine whether students who complete a vocational education and training course of instruction offered at such institution obtain employment within 6 months of graduation from such course in the occupation for which such course prepared the students; and

"(C) be prohibited from opening branch or satellite campuses unless such branch or satellite campus first has been approved by the relevant State licensing authority as complying with the provisions of this section.

"(3) FINANCIAL AND FIDUCIARY RESPONSIBILITIES.—An institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) shall be required to meet such financial and fiduciary responsibilities as required by the relevant State licensing authority in the following areas:

"(A) Sufficiency of operating funds.

"(B) A specified percentage or ratio of current assets to current liabilities of at least 1:1, which—

"(i) shall not include as an asset unearned tuition, intangible assets, or Federal or State student financial assistance for future disbursements; and

"(ii) in the case of institutions of higher education which own and occupy their facilities (land and buildings) may include equity (the difference between book cost and mortgage owed) as a current asset.

"(C) A record of fiscal strength.

"(D) Independently audited financial reports.

"(E) Requirements that owners, directors, officers or persons in control of such an institution have never been found guilty in any criminal, civil, or administrative proceeding of violating any law regarding the obtaining, maintenance, or disbursement of Federal or State student financial aid funds.

"(F) The absence of unpaid financial liabilities involving the improper acquisition, expenditure, or refund of State or Federal student financial aid funds.

"(G) Maintenance of adequate records.

"(4) REQUIRED DISCLOSURE OF ENROLLMENT, RETENTION AND PLACEMENT DATA.—(A) The standards described in paragraph (1) shall require an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) to provide to the student before executing any enrollment contract the following:

"(i) A copy of the enrollment contract.

"(ii) If such institution makes any claim, express or implied about future salary, including a claim that the student may be able to repay a student loan from the salary obtained, such institution shall provide to the student the percentage of students who graduate from such institution and who earn salaries at or above the claimed level within 6 months of completing the course.

"(iii) Passage rates on required State licensing examinations if such institution represents that the course may lead to employment in a related occupation.

"(iv) If such institution has offered the course for less than 1 year, such institution shall stipulate that it is unable to state how many students graduate, how many students find jobs, or how much money one can earn after finishing the course in question.

"(B) Such standards shall require the information described in subparagraph (A) to be based on a reasonable inquiry and documented through specific student records.

"(C) Such standards shall prohibit such an institution of higher education that has been in operation for less than 1 year from making claims regarding the future salary of graduates of such institutions.

"(D) Such standards shall require that enrollment, course completion and placement data be submitted to the relevant State licensing authority, and that such data may continue to be submitted to such authority according to whatever requirements such authority sets forth.

"(E) Such standards shall require such an institution of higher education, upon executing an enrollment contract, to provide the student with a notice of rights relating to course cancellation, tuition and fee refunds, and information regarding how the student can obtain information from the licensing authority regarding complaints and problems concerning such institution.

"(F) Such standards shall require such an institution of higher education to file annually with the licensing authority the completion, placement, and examination passage rates for students attending such institution and financial information demonstrating compliance with financial requirements required in paragraph (3).

"(G) Such standards shall require such an institution of higher education to—

"(i) file annually with the relevant State licensing authority an audit and a report, including financial statements conducted by a licensed certified public accountant;

"(ii) retain and make available the work papers used for the audit described in clause (i) for a period of 5 years; and

"(iii) within 6 months of the submission of each audit described in clause (i), submit a copy of the audit report to the Secretary.

"(5) STATE LICENSING REQUIREMENTS.—Such standards shall require an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) and offers courses of instruction differing from the standards for State licensure in specific occupations to disclose the relevant State licensing authority's minimum licensure requirements and how the course differs from such requirements.

"(6) COURSE CANCELLATION POLICY.—(A) Such standards shall require an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) to provide students with a description of the right to cancel a course or series of courses within specific time periods and under specific conditions set forth by the relevant State licensing authority.

"(B) Such standards shall require that—

"(i) such an institution of higher education provide all students, during the first class, a cancellation form indicating the date of the agreement and the number of days in which the course can be canceled without penalty or obligations; and

"(ii) the form described in clause (i) specify the student's responsibilities regarding cancellation.

"(7) REFUND POLICY.—Such standards shall require an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) to provide students with a description of the right to withdraw from such institution at any time and receive a refund minus a reasonable registration fee not to exceed an amount set by the relevant State licensing authority.

"(8) CONTRACTS; REQUIRED DISCLOSURE.—Such standards shall require an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) to include in each of its enrollment contracts—

"(A) a general description of the course and equipment required of the student;

"(B) the total number of classes, hours, or lessons required for completion of the course;

"(C) the total payment obligation for such course, including all fees, charges, and expenses;

"(D) a statement regarding the specific amounts for which the student is responsible, which shall appear immediately above the student's signature; and

"(E) the total charge for each item of equipment, separately stated and not to exceed such item's fair market value.

"(9) PROHIBITION AGAINST ENROLLING STUDENTS IN THE MIDDLE OF A COURSE.—Such standards shall prohibit an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) from enrolling students in the middle of a course, suspending courses, or changing times or locations of such courses.

"(10) RECORDS ACCESS.—Such standards shall require—

"(A) an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) to maintain accurate records for at least 5 years showing the names and local addresses of students, the courses of instruction offered, and the names, addresses, and qualifications of faculty to the extent practicable; and

"(B) such an institution to make all such records available for immediate inspection by the relevant State licensing authority, the designated State guaranty agency, or the Secretary.

"(11) INSTRUCTION; INSTRUCTIONAL MATERIALS.—Such standards shall prohibit an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) from withholding instruction or materials from a student pending receipt of Federal or State student financial aid used to pay tuition.

"(12) PENALTIES; RECOVERY OF DAMAGES.—Such standards shall provide for penalties and recovery of damages as follows:

"(A) If an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) violates any provision of this section in connection with any enrollment contract, the contract shall be considered unenforceable and a total refund of all charges incurred by the student pursuant to the enrollment period is required.

"(B) If such institution violates any provision of this section, a student may bring an action for recovery of damages, equitable relief, and attorney's fees against such institution.

"(C) A civil penalty of not more than twice the damages sustained by the student described in subparagraph (B) may be assessed if a court of competent jurisdiction in an action brought by such student finds that the violation is substantial or was willfully committed.

"(D) All penalties and recovery of damages described in this paragraph must be commenced within 3 years of the discovery of the facts regarding such institution's violation.

"(13) APPLICABILITY OF STATE LAW.—Notwithstanding any other provision of law, the relevant State licensing authority shall have the authority to develop and implement standards to comply with Federal law pertaining to institutions of higher education within the State which meet the criteria described in subparagraph (B) of paragraph (1).

"(14) APPROVAL BY THE SECRETARY.—In order for institutions of higher education in a State to be eligible to participate in Federal student aid programs, the Secretary shall determine if standards adopted by the relevant State licensing authority are in compliance with the provisions of this section.

"(15) DEFINITIONS.—For the purposes of this section—

"(A) the term 'enrollment contract' means any contract, agreement, or other arrangement under which an individual agrees to attend, participate, or enroll in a course or program of study at an institution of higher education; and

"(B) the term 'relevant State licensing authority' means the State board, commission or agency designated by the appropriate State authority for the purpose of enforcing the licensing requirements described in this section.".

SEC. 1203. NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.

Section 1205 of the Act is amended to read as follows:

"SEC. 1205. COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.

"(a) ESTABLISHMENT.—There is established in the Department a Committee on Institutional Quality and Integrity (hereafter in this section referred to as the 'Committee') which shall be composed of 15 members appointed by the Secretary from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including accreditation of institutions of higher education, the process of eligibility and certification of such institutions under title IV of this Act, and the provision of financial aid under title IV of this Act. The Secretary may also appoint to the Committee representatives of the general public serving on the National Advisory Committee on Accreditation and Institutional Eligibility (as such Committee was in existence on the date of enactment of the Higher Education Amendments of 1992).

"(b) TERMS OF MEMBERS.—Terms of office of each member of the Committee shall be 3 years, except that—

"(1) of the members first appointed to the Committee the Secretary shall designate—

"(A) 5 such members to serve for a term of 1 year;

"(B) 5 such members to serve for a term of 2 years; and

"(C) 5 such members to serve for a term of 3 years; and

"(2) any member appointed to fill in a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

"(c) FUNCTIONS.—The Committee shall—

"(1) advise the Secretary with respect to establishment and enforcement of the standards of accrediting agencies or associations under section 493;

"(2) advise the Secretary with respect to the recognition of a specific accrediting agency or association;

"(3) advise the Secretary with respect to the preparation and publication of the list of nationally recognized accrediting agencies and associations;

"(4) advise the Secretary with respect to the eligibility and certification process for institutions of higher education under title IV of this Act, together with recommendations for improvements in such process;

"(5) advise the Secretary with respect to the functions of the Secretary under sections 492 (d), (e) and (f), relating to State institutional integrity standards;

"(6) advise the Secretary with respect to the relationship between—

"(A) accreditation of institutions of higher education and the certification and eligibility of such institutions; and

"(B) State licensing responsibilities with respect to such institutions; and

"(7) carry out such other advisory functions relating to accreditation and institutional eligibility as the Secretary may prescribe.

"(d) MEETING PROCEDURES.—The Committee shall meet not less than twice each year at the call of the Chairman. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

"(e) REPORT.—The Committee shall, not later than November 30 of each year, make an annual report through the Secretary to the Congress. The annual report shall contain—

"(1) a list of the members of the Committee and their addresses;

"(2) a list of the functions of the Committee;

"(3) a list of dates and places of each meeting during the preceding fiscal year; and

"(4) a summary of the activities, findings and recommendations made by the Committee during the preceding fiscal year.

"(f) DEFINITION.—As used in this section, the term 'institution of higher education' has the same meaning given that term by section 481(a).

"(g) TERMINATION.—Subject to section 448(b) of the General Education Provision Act, the National Advisory Committee on Accreditation and Institutional Eligibility shall continue to exist until September 30, 1998.".

SEC. 1204. DEMONSTRATION PROGRAMS.

Title XII of the Act (20 U.S.C. 1141 et seq.) is amended—

(1) by amending the heading for title XII to read as follows:

"TITLE XII—GENERAL PROVISIONS AND DEMONSTRATION PROGRAMS";

(2) by inserting before the heading for section 1201 the following:

"*Subpart 1—General Provisions*"; and

(3) by adding at the end the following new subpart:

"*Subpart 2—Demonstration Programs*

"SEC. 1221. LOAN FORGIVENESS FOR TEACHERS, INDIVIDUALS PERFORMING NATIONAL COMMUNITY SERVICE AND NURSES.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage individuals to—

"(1) enter the teaching and nursing profession; and

"(2) perform national and community service.

"(b) DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, from amounts appropriated to carry out the provisions of part B of title IV, the Secretary, in consultation with the Secretary of Health and Human Services, shall carry out a demonstration program of assuming the obligation to repay a Stafford loan (a loan made, insured or guaranteed under part B of title IV of the Higher Education Act of 1965) (excluding loans made under sections 428A, 428B, or 428C) for any new borrower after October 1, 1993, who—

"(A) is employed as a full-time teacher—

"(i) in a school which qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools; and

"(ii) of mathematics, science, foreign languages, special education, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

"(B) agrees in writing to volunteer for service under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973, or to perform comparable service as a full-time employee of an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, if the borrower does not receive compensation which exceeds the greater of—

"(i) the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

"(ii) an amount equal to 100 percent of the poverty line for a family of two (as defined in section 673(2) of the Community Services Block Grant Act); or

"(C) is employed full-time as a nurse in a public hospital, a rural health clinic, a migrant health center, an Indian Health Service, an Indian health center, a Native Hawaiian health center or in an acute care or long-term care facility.

"(2) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

"(c) LOAN REPAYMENT.—

"(1) IN GENERAL.—The Secretary shall assume the obligation to repay—

"(A) 15 percent of the total amount of Stafford loans incurred by the student borrower during such borrower's last 2 years of undergraduate education for the first or second academic year in which such borrower meets the requirements described in subsection (a);

"(B) 20 percent of such total amount for such third or fourth academic year; and

"(C) 30 percent of such total amount for such fifth academic year.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the refunding of any repayment of a Stafford loan.

"(3) INTEREST.—If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

"(4) SPECIAL RULE.—In the case where a student borrower who is not participating in loan repayment pursuant to this section returns to an institution of higher education after graduation from an institution of higher education for the purpose of obtaining a teaching certificate, the Secretary is authorized to assume the obligation to repay the total amount of Stafford loans incurred for a maximum of 2 academic years in returning to an institution of higher education for the purpose of obtaining a teaching certificate or additional certification. Such Stafford loans shall only be repaid for borrowers who qualify for loan repayment pursuant to the provisions of this section, and shall be repaid in accordance with the provisions of paragraph (1).

"(d) REPAYMENT OF ELIGIBILITY LENDERS.—The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of Stafford loans which are subject to repayment pursuant to this section for such year.

"(e) APPLICATION FOR REPAYMENT.—Each eligible individual desiring loan repayment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(f) DEFINITIONS.—For the purpose of this section the term 'eligible lender' has the same meaning given such term in section 435(d).

"(g) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent national evaluation of the impact of the program assisted under this part on the fields of teaching, nursing, and community service.

"(2) COMPETITIVE BASIS.—The grant or contract described in paragraph (1) shall be awarded on a competitive basis.

"(3) CONTENTS.—The evaluation described in this section shall—

"(A) assess whether the program assisted under this section has brought into teaching, nursing, and community service a significant number of highly capable individuals who otherwise would not have entered such fields;

"(B) assess whether a significant number of students perform the service described in subsection (b) or opt to repay the loans instead of remaining in the career for which such student received loan repayment under this section;

"(C) identify the barriers to the effectiveness of the program assisted under this section;

"(D) assess the cost-effectiveness of such program in improving teacher, nursing, and community service worker quality and quantity and the ways to improve the cost-effectiveness of such program; and

"(E) identify the reasons for which participants in the program have chosen to take part in such program; and

"(F) identify other areas of community service or employment which may serve as appropriate methods of loan repayment.

"(4) INTERIM EVALUATION REPORTS.—The Secretary shall prepare and submit to the President and the Congress such interim reports on the evaluation described in this section as the Secretary deems appropriate, and shall submit such a final report by January 1, 1999.

"(5) FUNDING.—The Secretary shall reserve a total of not more than $1,000,000 from the amount appropriated to carry out part B of title IV in fiscal years 1993 through 1999 to carry out this subsection.

"SEC. 1222. EXCEPTIONAL PERFORMANCE IN LOAN COLLECTION BY ELIGIBLE LENDERS AND LOAN SERVICERS DEMONSTRATION PROGRAM.

"(a) DEMONSTRATION PROGRAM AUTHORIZED.—The Secretary shall conduct a demonstration program, in accordance with the provisions of this section, designed to—

"(1) make a determination that certain eligible lenders and eligible servicers are eligible for designation of exceptional performance; and

"(2) reward such eligible lenders and eligible servicers by providing for guaranty agency payment of 100 percent of the unpaid principal and interest of all loans submitted for payment by such lender or servicer for the one-year period following receipt by such guaranty agency of the notification of designation under this section.

"(b) PROGRAM REQUIREMENT.—The program described in subsection (a) shall require—

"(1) the Secretary to—

"(A) determine that an eligible lender or a loan servicer has a compliance performance rating with respect to due diligence in the collection of student loans insured under part B of title IV for each year for which the determination is made which equals, or exceeds, 95 percent of all due diligence requirements with respect to such loans serviced during the period by the eligible lender, or loan servicer, and to designate the eligible lender or loan servicer, as the case may be, for exceptional performance; and

"(B) notify each appropriate guaranty agency of the eligible lenders and loan servicers designated under subparagraph (A);

"(2) a guaranty agency to pay each eligible lender or loan servicer designated under paragraph (1)(A) 100 percent of the unpaid principal and interest of all loans for which claims are submitted for payment by that eligible lender or loan servicer for the one-year period following the receipt by the guaranty agency of the notification of designation under such paragraph;

"(3) each eligible lender and loan servicer desiring a designation under paragraph (1)(A) to have a financial and compliance audit of the loan portfolio of such eligible lender or loan servicer, conducted annually, by a qualified independent organization or person in accordance with standards established by the Comptroller General and the Secretary which shall include a defined statistical sampling technique designed to measure the performance rating of the eligible lender or the loan servicer for the purpose of this paragraph;

"(4) each such eligible lender and loan servicer to submit the audit required by paragraph (3) to the Secretary and to each appropriate guaranty agency;

"(5) the Secretary to make the determination under paragraph (1)(A) based upon the audits submitted under paragraph (4) and submit the results of the determination to each appropriate guaranty agency;

"(6) a guaranty agency to review the Secretary's determination on the basis of the audit and other information in the possession of the guaranty agency and if the results of the audit are not persuasively rebutted by such other information, require the guaranty agency to inform the eligible lender or loan servicer that their application for designation as an exceptional eligible lender or loan servicer has been approved;

"(7) each such eligible lender and loan servicer to pay for all of the costs of the audits required by this subsection; and

"(8) designation as an exceptional eligible lender or loan servicer to be revoked by the guaranty agency upon 60 days' notice and an opportunity for a hearing before the guaranty agency upon a finding by the guaranty agency that the eligible lender or loan servicer has failed to maintain an overall level of regulatory compliance consistent with the audit submitted by the eligible lender or loan servicer under this subsection.

"(c) DEFINITIONS.—For the purpose of this section—

"(1) the term 'due diligence requirements' means the activities required to be performed by lenders on delinquent loans pursuant to regulations issued by the Secretary;

"(2) the term 'eligible loan' means a loan made, insured or guaranteed under part B of title IV;

"(3) the term 'loan servicer' means an entity servicing and collecting student loans which—

"(A) has substantial experience in servicing and collecting consumer loans or student loans;

"(B) has an independent financial audit conducted annually which is furnished to its clients;

"(C) has business systems which are capable of meeting the requirements of part B of title IV;

"(D) has adequate personnel who are knowledgeable about the student loan programs authorized by part B of title IV; and

"(E) does not have any owner, majority stockholder, director, or officer of the entity who has been convicted of a felony.

"(d) SPECIAL RULE.—Reimbursements of losses made by the Secretary on loans submitted for claim by an eligible lender or loan servicer designated for exceptional performance under this section shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, loan servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.

"SEC. 1223. NATIONAL STUDENT SAVINGS DEMONSTRATION PROGRAM.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to—

"(1) create a demonstration program to test the feasibility of establishing a national student savings program to encourage families to save for their children's college education and thereby reduce the loan indebtedness of college students; and

"(2) help determine the most effective means of achieving the activities described in paragraph (1).

"(b) DEMONSTRATION PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award a demonstration grant to not more than 5 States to enable each such State to conduct a student savings program in accordance with this section.

"(2) AMOUNT OF GRANT.—The amount of each grant awarded pursuant to paragraph (1) shall be computed on the basis of—

"(A) a Federal match in an amount equal to the initial State deposit into each account established pursuant to subsection (c)(2)(B), except that such Federal match shall not exceed $50 per child; multiplied by

"(B) the number of children participating in the program assisted under this part.

"(3) PRIORITY.—In awarding grants under this section the Secretary shall give priority to States proposing programs that establish accounts for a child prior to the age of compulsory school attendance in the State in which such child resides.

"(4) SPECIAL CONSIDERATION.—In awarding grants under this section the Secretary shall give special consideration to States—

"(A) that permit employers to use pretax income in making contributions to a child's account; and

"(B) that provide assurances that interest earned in accounts shall be exempt from State taxes.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the student savings program to be established and the number of children to be served;

"(B) contain assurances that an account shall be established for each child participating in the program assisted under this section and set forth the initial amount to be deposited into each such account by the State;

"(C) contain assurances that deposits into such account shall be invested in a responsible manner that provides a reasonable rate of return;

"(D) contain assurances that funds in the account shall only be used to pay the cost of attendance (as such term is defined in section 472) at any eligible institution (as such term is defined in section 435(a));

"(E) describe the amount of the Federal contribution requested for starting each child's account, which shall not exceed $50 per child participating in the program;

"(F) describe the age at which children in the State may establish such accounts;

"(G) indicate whether the program will be open to all children, regardless of family income, or only to disadvantaged children;

"(H) describe how additional deposits into each account from the State or other resources will be earned by a child for performance of community service, academic performance, or other activities or achievements;

"(I) contain assurances that contributions in an account shall be refundable to the contributor without interest if the child dies or is otherwise unable to attend college;

"(J) contain assurances that the State shall encourage individuals and organizations to make contributions to a child's account;

"(K) contain assurances that the State shall provide incentives to employers to make contributions to a child's account and participate in the program assisted under this section; and

"(L) contain assurances that if a child leaves the State in which such child has an account, then such child shall retain the right to make contributions to the account, except that the State shall not be required to make any additional deposits for the child's exemplary activities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this section.".

TITLE XIII—EDUCATION ADMINISTRATION

SEC. 1301. STUDIES.

Part A of title XIII of the Higher Education Amendments of 1986 (20 U.S.C. 1091) is amended—

(1) by redesignating section 1307 as section 1309; and

(2) by inserting after section 1306 the following new sections:

"SEC. 1307. STUDIES.

"(a) ROLE OF GUARANTY AGENCIES.—

"(1) STUDY.—The Secretary shall review the role of guaranty agencies within the Robert T. Stafford Student Loan Program by examining the administrative and financial operations of such agencies and the relationships between guaranty agencies and State governments.

"(2) REPORT.—The Secretary shall report to the Congress within 1 year of the date of enactment of this Act on the study described in subsection (a). Such report shall consider and make recommendations concerning the feasibility of—

"(A) increasing the role of guaranty agencies in oversight and licensing of proprietary trade schools under the Robert T. Stafford Student Loan Program;

"(B) strengthening Federal disincentives for high default rate portfolios;

"(C) consolidating guaranty agencies regionally or otherwise; and

"(D) eliminating the role of guaranty agencies within the Robert T. Stafford Student Loan Program.

"(b) STATUTORY PROTECTIONS.—The Secretary of Education shall report to the Congress within 180 days of the date of enactment of the Higher Education Amendments of 1992 on the advisability of statutorily protecting officials of accrediting agencies involved in the performance of legitimate Robert T. Stafford Student Loan Program activities.

"SEC. 1308. SATISFACTORY PROGRESS STUDY.

"(a) STUDY.—The Secretary shall conduct a study of the impact of fraud-based defenses on the Stafford Loan Program. Such study shall include—

"(1) an analysis of statutory, regulatory, and case law regarding the use of fraud-based defenses against repayment of Stafford loans;

"(2) an estimate of the total number of borrowers filing for relief from repayment of Stafford loans using a fraud-based defense and amount of such loan principal involved;

"(3) an estimate of Stafford loan principal relieved annually through fraud-based defenses;

"(4) an evaluation of the importance of a fraud-based defense to the protection of borrowers of Stafford loans; and

"(5) an evaluation of the effects of the availability of a fraud-based defense on the accessibility of Stafford loans by geographical area and by type of postsecondary institution.

"(b) DATE.—The study described in subsection (a) shall be completed not later than 18 months after the date of enactment of this Act.

"(c) REPORT.—

"(1) IN GENERAL.—The Secretary shall submit a report to the Congress on the study described in subsection (a) that makes specific recommendations for legislative options that may be needed to address the rights of borrowers with respect to the availability of fraud-based defenses under the Stafford Loan Program without jeopardizing the participation of lenders or the solvency of guaranty agencies required to maintain the integrity of such program.

"(2) DATE.—The report described in paragraph (1) shall be completed not later than 19 months after the date of enactment of this Act.".

SEC. 1302. NATIONAL COMMISSION ON INDEPENDENT EDUCATION.

Title XIII of the Higher Education Amendments of 1986 is amended by adding at the end the following new part:

"PART J—NATIONAL COMMISSION ON INDEPENDENT EDUCATION

"SEC. 1391. SHORT TITLE.

"This part may be cited as the 'National Independent Colleges and Universities Discovery Act'.

"SEC. 1392. FINDINGS.

"The Congress finds that—

"(1) the quality and scope of higher education in our Nation is without argument the finest in the world, and a distinguishing feature of our Nation's system of higher education is its strong and diverse nonprofit independent sector;

"(2) independent colleges and universities are as diverse as the Nation itself and include traditional liberal arts institutions, major research universities, church- and faith-related colleges, colleges and universities primarily attended by minorities, women's colleges, junior colleges, and schools of law, medicine, engineering, business and other professions;

"(3) the diversity of independent colleges and universities offers students a choice in the type of educational experience that will best serve such students' interests, needs and aspirations;

"(4) independent colleges and universities enroll 21 percent of all students in the United States, award 33 percent of all bachelor's degrees in the United States, 42 percent of all such master's degrees, 36 percent of all such doctoral degrees, and 59 percent of all such professional degrees;

"(5) a majority of all undergraduate students attending independent colleges and universities receive some form of financial assistance, and such independent colleges and universities provide such financial assistance from their own resources;

"(6) independent colleges and universities are deeply involved in hundreds of partnerships with elementary and secondary schools, and such partnerships are largely funded by such colleges and universities;

"(7) independent colleges and universities have been an extraordinary example of private-public partnerships, with such colleges and universities operating in the public interest to provide a public good;

"(8) less than 20 percent of the revenue of independent colleges and universities comes from governmental funds, most of which is in the form of Federal and State financial aid;

"(9) decreases in Federal and State support for student financial aid programs has placed at risk the option of choosing an independent college or university for an increasing number of students;

"(10) whereas at the turn of the twentieth century 80 percent of the students enrolled in higher education in the United States were enrolled in independent colleges and universities, such percentage has now declined to 21 percent, and further erosions place at risk the option of choosing an independent college or university for students and parents; and

"(11) the entire sector of independent colleges and universities and the important contributions such sector makes to our Nation is at risk and deserves national policy attention.

"SEC. 1393. PURPOSE.

"It is the purpose of this part to establish a National Commission on Independent Higher Education.

"SEC. 1394. NATIONAL COMMISSION ON INDEPENDENT HIGHER EDUCATION.

"(a) ESTABLISHMENT.—There is established as an independent agency in the executive branch a commission to be known as the National Commission on Independent Higher Education (hereafter in this Act referred to as the 'Commission').

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Commission shall be composed of 9 members, 3 of whom shall be appointed by the President, 3 of whom shall be appointed by the Speaker of the House of Representatives, and 3 of whom shall be appointed by the Majority Leader of the Senate.

"(2) EXPERTISE REQUIREMENT.—The members of the Commission shall consist of individuals with expertise and experience in independent higher education, including expertise in national tax policy, individuals with expertise in State higher education finance, individuals with expertise in Federal financial aid programs, individuals with expertise in issues of student and faculty diversity, and individuals with expertise in graduate education and research.

"(3) DATE.—The members of the Commission shall be appointed not later than 6 months after the date of enactment of this Act.

"(c) PERIOD OF APPOINTMENT; VACANCIES.—Members of the Commission shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(d) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(e) QUORUM.—Six of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

"(f) CHAIRMAN.—The Commission shall select a Chairman from among its members.

"SEC. 1395. DUTIES OF THE COMMISSION.

"The Commission shall—

"(1) develop a factual base for understanding the status of independent colleges and universities, their contributions to public priorities, and the effects of national higher education policies on the independent nonprofit sector;

"(2) review the issuance of Federal regulations regarding independent colleges and universities, and suggest means by which independent colleges and universities can be held accountable for use of public resources without inappropriate intrusion into institutional autonomy; and

"(3) address the relation between Federal and State policies on independent colleges and universities, particularly with respect to student access and choice, finance, institutional subsidies, and institutional accountability.

"SEC. 1396. REPORT AND RECOMMENDATIONS.

"(a) INTERIM REPORT.—The Commission shall submit an interim report to the President and the Congress on the Commission's activities and findings within 18 months of the date of enactment of this Act.

"(b) FINAL REPORT.—

"(1) IN GENERAL.—The Commission shall submit a final report to the President and the Congress on the Commission's activities and findings within 3 years of the date of enactment of this Act.

"(2) RECOMMENDATION.—The report described in paragraph (1) shall contain a recommendation regarding the establishment of a national policy on independent colleges and universities appropriate to meeting the Nation's higher educational goals in the twenty-first century.

"SEC. 1397. POWERS OF THE COMMISSION.

"(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this part.

"(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this part. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

"(c) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

"SEC. 1398. COMMISSION PERSONNEL MATTERS.

"(a) TRAVEL EXPENSES.—From amounts available to the Secretary of Education, the members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

"(b) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(c) STAFF.—

"(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and not more than 2 staff members to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

"(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and not more than 2 staff members without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and such staff may not exceed the rate payable for level 15 of the General Schedule classified under section 5107 of such title.

"SEC. 1399. TERMINATION OF THE COMMISSION.

"The Commission shall terminate 3 years after the date of enactment of this Act.".

TITLE XIV—AMENDMENTS TO OTHER LAWS

SEC. 1401. HIGHER EDUCATION TECHNICAL AMENDMENTS.

Subsection (c) of section 3 of the Higher Education Technical Amendments of 1992 (Public Law 102-26) is amended by striking "that are brought before November 15, 1992".

SEC. 1402. GENERAL EDUCATION PROVISIONS ACT.

The General Education Provisions Act (20 U.S.C. 1221 et seq.) is amended—

(1) in subsection (b) of section 453—

(A) in paragraph (1), by striking "State or local educational agency" each place such term appears and inserting "recipient";

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "State or local educational agency" and inserting "recipient"; and

(ii) in clause (i) of subparagraph (B), by striking "State or local educational agency" and inserting "recipient";

(C) in paragraph (4), by striking "State or local educational agency" and inserting "recipient";

(D) in paragraph (5)—

(i) in the matter preceding subparagraph (A), by striking "State or local educational agency" and inserting "recipient";

(ii) in subparagraph (B), by striking "State educational agency" and inserting "recipient"; and

(iii) in subparagraph (C), by striking "State or local educational agency" and inserting "recipient"; and

(E) in paragraph (6), by striking "State educational agencies" and inserting "recipients"; and

(2) in paragraph (2) of section 460, by inserting "(except programs authorized under subpart 4 of part A of title IV of the Higher Education Act of 1965)" after "1965".

SEC. 1403. UNITED STATES INSTITUTE OF PEACE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 1710 of the United States Institute of Peace Act (22 U.S.C. 4609(a)) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.".

(b) SPARK M. MATSUNAGA SCHOLARS PROGRAM.—Subsection (b) of section 1705 of the United States Institute of Peace Act (22 U.S.C. 4604(b)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting a semicolon and "and"; and

(3) by adding at the end the following new paragraph:

"(10) establish the Spark M. Matsunaga Scholars Program, which shall include the provision of scholarships and educational programs in international peace and conflict management and related fields for outstanding secondary school students and the provision of scholarships to outstanding undergraduate students, with program participants and recipients of such scholarships to be known as 'Spark M. Matsunaga Scholars'.".

(c) CONTRACTS AND PRIVATE GIFTS AND CONTRIBUTIONS.—Subsection (h) of section 1705 of the United States Institute of Peace Act (22 U.S.C. 4604(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The Institute and the legal entity described in section 1704(c) may not accept any gift, contribution or grant from a foreign government, any agency or instrumentality of such government, any international organization, or any corporation or other legal entity in which natural persons who are nationals of a foreign country own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity."; and

(2) in paragraph (3) by striking "individual." and inserting "individual, except such Institute or legal entity may accept such a gift or contribution to—

"(A) purchase, lease for purchase, or otherwise acquire, construct, improve, furnish, or maintain a suitable permanent headquarters, any related facility, or any site or sites for such facilities for the Institute and the legal entity described in section 1704(c); or

"(B) provide program-related hospitality, including such hospitality connected with the presentation of the Spark M. Matsunaga Medal of Peace.".

SEC. 1404. LAW ENFORCEMENT UNIT RECORDS.

(a) IN GENERAL.—Clause (ii) of section 438(a)(4)(B) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

SEC. 1405. REPEAL OF NATIONAL SCIENCE SCHOLARS PROGRAM.

Part A of title VI of the Excellence in Mathematics, Science and Engineering Education Act of 1990 (20 U.S.C. 5381 et seq.) is repealed.

SEC. 1406. SPECIAL PROJECTS FOR TWO-YEAR SCHOOLS.

Subsection (f) of section 788 of the Public Health Service Act (20 U.S.C. 295g-8(f)) is amended to read as follows:

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $316,203 for each of the fiscal years 1993, 1994, 1995, and 1996 to carry out subsection (a).".

SEC. 1407. NATIONAL AND COMMUNITY SERVICE ACT OF 1990.

SUBTITLE D POST-SERVICE BENEFITS.—Paragraph (1) of section 146(b) of the National and Community Service Act of 1990 is amended by striking "that is equal in value to $2,500 for each year of service that such participant provides to the program" and inserting "for each year of service that such participant provides to the program, which benefit shall be equal in value to $2,500 for each such year, and which benefit shall be adjusted to match any increases in the maximum Pell Grant as provided by the annual appropriation.

SEC. 1408. PROHIBITION ON CERTAIN USES OF FUNDING.

Part G of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3231 et seq.) is amended by inserting at the end the following new section:

"SEC. 5194. PROHIBITION ON CERTAIN USES OF FUNDING.

PROHIBITION.—None of the funds authorized to be appropriated by this title may be used by any recipient of funds under this title to pay for homosexual support or education services, or to promote or encourage, either directly or indirectly, intravenous drug abuse or homosexual, bi-sexual, or heterosexual sexual activity, whether pre-marital or extra-marital. No youth shall be deemed at risk of substance abuse solely on the basis of the youth's homosexuality.

SEC. 1409. VOCATIONAL EDUCATION AND TRAINING.

(a)(1) Since, substantial layoffs in the military and private sector have led to high unemployment rates;

(2) Since, community colleges and vocational education centers are reporting significant increases in the requests for post secondary vocational education and training;

(3) Since, the Economic Dislocation and Worker Adjustment Assistance Act established by Public Law 100-418 authorizes grants to States for job training activities in the event of mass layoffs, plant closing and high unemployment;

(4) Since, the Secretary of Labor has the authority to make such grants; and

(5) Since, funds appropriated by Congress for this purpose have not been depleted.

(b) Therefore, it is the sense of the Senate that the Secretary of Labor should move expeditiously to process applications for funds authorized by Public Law 100-418 for vocational education and training purposes.

TITLE XV—NATIONAL CENTER FOR THE WORKPLACE

SEC. 1501. PURPOSE; DESIGNATION.

It is the purpose of this title to address the problems created by the simultaneous convergence of broad economic, social, cultural, political, and technological changes in the workplace through a national center administered by the Department of Labor that will join together workplace experts from America's best institutions of higher education with experts from the public and private sectors to conduct research, share information, and propose remedies.

SEC. 1502. ESTABLISHMENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Labor is authorized to award a grant, on a competitive basis, to an eligible entity to enable such entity to establish the National Center for the Workplace (hereafter in this title referred to as the "Center").

(2) MATCHING FUNDS.—In order to receive the grant described in paragraph (1) an eligible entity shall provide matching funds from non-Federal sources equal to 25 percent of the funds received pursuant to such grant.

(b) DEFINITIONS.—For the purpose of this title the term "eligible entity" means a consortium of institutions of higher education that—

(1) represents a diversity of views on and an expertise in the field of employment policy; or

(2) is represented and coordinated by a host institution of higher education that meets the following criteria:

(A) Broad collective knowledge of and demonstrable experience in the wide range of employment and workplace issues.

(B) A faculty that represents a variety of viewpoints, demonstrates a nonpartisan approach to research and policy analysis in relevant workplace disciplines (labor economics, industrial relations, human resource management, sociology, psychology, and law) in a multidisciplinary approach to workplace issues.

(C) Established credibility and working relationships with employers, employees and government agencies.

SEC. 1503. USE OF FUNDS.

(a) CENTER ACTIVITIES.—Grant funds awarded under this title may be used to—

(1) establish and operate the Center;

(2) bring together major independent researchers, who represent a diversity of views in employment policy from the Center's member-institutions and are focused on the most significant workplace problems, with the aim of analysis and synthesis of employment policy implications and dissemination of findings; and

(3) support—

(A) the coordination and funding of research activities of the Center's member-institutions for collaborative collection and evaluation of data on changes and trends in the workplace and in the labor force;

(B) the analysis of the public policy implications of social and demographic changes in the United States as such changes relate to the workplace;

(C) the conduct of seminars for Federal and State policymakers on the Center's findings and foster continuous exchange of ideas and information;

(D) the conduct of a National Conference on employment policy not more frequently than once each year;

(E) the nonpartisan evaluation of the economic and social implications of national and international workplace and employment issues;

(F) the provision of ready access to the Center's collective expertise for policy officials in Federal and State governments and representatives of private and public sector organizations; and

(G) the development and administration of a national repository of information on key workplace issues that can be readily accessed by the public and private sector.

(b) FELLOWSHIPS.—Grant funds awarded under this title may also be used to provide graduate assistantships and fellowships at the Center to encourage graduate study of the field of employment policy and to encourage graduate research in areas that are seen as critical to national competitiveness.

SEC. 1504. BOARD OF ADVISORS.

(a) BOARD.—There shall be appointed a Board of Advisors to the Center that shall consist of representatives of the private and public sectors and of the member-institutions of the consortium. Two members of the Board shall be appointed by the Speaker of the House of Representatives, two members of the Board shall be appointed by the Minority Leader of the House of Representatives, two members of the Board shall be appointed by the President pro tempore of the Senate and two members of the Board shall be appointed by the Minority Leader of the Senate. In addition, the eligible entity awarded the grant under this title shall appoint two members to the Board.

(b) MEETINGS AND RESPONSIBILITIES.—The Board of Advisors shall meet from time to time, but no less than twice each year, to review and advise the Center with respect to all aspects of its program. The Board shall submit an annual report to the Secretary of Education and the Secretary of Labor on the Center's activities and accomplishments.

SEC. 1505. GIFTS AND DONATIONS.

The Center is authorized to receive money and other property donated, bequeathed, or devised to the Center with or without a condition of restriction, for the purpose of furthering the activities of the Center. All funds or property given, devised, or bequeathed shall be retained in a separate acount, and an accounting of those funds and property shall be included in the annual report of the Board of Advisors to the Secretary of Education and Secretary of Labor.

SEC. 1506. AUTHORIZATION.

(a) IN GENERAL.—There are authorized to be appropriated $2,500,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

(b) AVAILABILITY.—Funds appropriated pursuant to the authority of subsection (a) shall remain available until expended.

TITLE XVI—INDIAN HIGHER EDUCATION PROGRAMS

PART A—TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 1601. REAUTHORIZATION OF THE TRIBALLY CONTROLLED COMMUNITY COLLEGES ACT.

(a) GENERAL AUTHORIZATION.—Section 110(a) of the Tribally Controlled Community College Assistance Act of 1978 is amended to read as follows:

"APPROPRIATION AUTHORIZATION

"SEC. 110. (a)(1) There is authorized to be appropriated, for the purpose of carrying out section 105 $3,200,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(2) There is authorized to be appropriated for the purpose of carrying out section 107, $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(3) There is authorized to be appropriated for the purpose of carrying out sections 112(b) and 113, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(4) Funds appropriated pursuant to the authorizations under this section for the fiscal year 1993 and for each of the succeeding 6 fiscal years shall be transferred by the Secretary of the Treasury through the most expeditious method available, with each of the Tribally Controlled Community Colleges being designated as its own certifying agency.".

(b) ENDOWMENT GRANTS.—Section 306(a) of such Act is amended to read as follows:

"SEC. 306. (a) There are authorized to be appropriated to carry out the provisions of this title, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.".

(c) ECONOMIC DEVELOPMENT.—Section 403 of such Act is amended to read as follows:

"SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for grants under this title, $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.".

(d) NAVAJO COMMUNITY COLLEGES.—Section 5(a)(1) of the Navajo Community College Act is amended to read as follows:

"SEC. 5. (a)(1) For the purpose of making construction grants under this Act, there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.".

PART B—HIGHER EDUCATION TRIBAL GRANT AUTHORIZATION ACT

SEC. 1611. SHORT TITLE.

This part may be cited as the "Higher Education Tribal Grant Authorization Act".

SEC. 1612. FINDINGS.

The Congress finds that—

(1) there are increasing numbers of Indian students qualifying for postsecondary education, and there are increasing numbers desiring to go to postsecondary institutions;

(2) the needs of these students far outpace the resources available currently;

(3) Indian tribes have shown an increasing interest in administering programs serving these individuals and making decisions on these programs reflecting their determinations of the tribal and human needs;

(4) the contracting process under the Indian Self-Determination and Education Assistance Act has provided a mechanism for the majority of the tribes to assume control over this program from the Bureau of Indian Affairs;

(5) however, inherent limitations in the contracting philosophy and mechanism, coupled with cumbersome administrative procedures developed by the Bureau of Indian Affairs have effectively limited the efficiency and effectiveness of these programs;

(6) the provision of these services in the most effective and efficient form possible is necessary for tribes, the country, and the individuals to be served; and

(7) these services are part of the Federal Government's continuing trust responsibility to provide education services to American Indians and Alaska Natives.

SEC. 1613. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary shall, from the amounts appropriated for the purpose of supporting higher education grants for Indian students under the authority of the Act of November 2, 1921, popularly known as the Snyder Act (25 U.S.C. 13), make grants to Indian tribes in accordance with the requirements of this part to permit those tribes to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education.

(b) LIMITATION ON SECRETARY'S AUTHORITY.—The Secretary shall not place any restrictions on the use of funds provided to an Indian tribe under this part that is not expressly authorized by this part.

(c) EFFECT ON FEDERAL RESPONSIBILITIES.—The provisions of this part shall not affect any trust responsibilities of the Federal Government.

(d) NO TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this part may not be terminated, modified, suspended, or reduced only for the convenience of the administering agency.

SEC. 1614. QUALIFICATION FOR GRANTS TO TRIBES.

(a) CONTRACTING TRIBES.—Any Indian tribe that obtains funds for educational purposes similar to those authorized in this part pursuant to contract under the Indian Self-Determination and Education Assistance Act may qualify for a grant under this part by submitting to the Secretary a notice of intent to administer a student assistance program under section 1313. Such notice shall be effective for the fiscal year following the fiscal year in which it is submitted, except that if such notice is submitted during the last 90 days of a fiscal year such notice shall be effective the second fiscal year following the fiscal year in which it is submitted, unless the Secretary waives this limitation.

(b) NONCONTRACTING TRIBES.—Any Indian tribe that is not eligible to qualify for a grant under this part by filing a notice under subsection (a) may qualify for such a grant by filing an application for such a grant. Such application shall be submitted under guidelines for programs under the Indian Self-Determination and Education Assistance Act, as in effect on January 1, 1991, and shall be reviewed under the standards, practices, and procedures applicable to applications to contract under such Act as in effect on the date the application is received, except that—

(1) if the tribe is not notified that its application has been disapproved within 180 days after it is filed with the Secretary, the application shall be deemed to be approved;

(2) if the application is disapproved, the Secretary shall provide technical assistance to the tribe for purposes of correcting deficiencies in the application;

(3) the Secretary shall designate an office or official to receive such applications, and shall toll the 180-day period described in paragraph (1) from the date of receipt by such office or official; and

(4) applications shall be approved for the fiscal year following the fiscal year in which submitted, unless the Secretary waives the limitation of this paragraph.

(c) TERMINATION OF GRANTS.—

(1) CONTINUING ELIGIBILITY PRESUMED.—An Indian tribe which has qualified under subsection (a) or (b) for a grant under this part for any fiscal year shall continue to be eligible for such a grant for each succeeding fiscal year unless the Secretary revokes such eligibility for a cause described in paragraph (2).

(2) CAUSES FOR LOSS OF ELIGIBILITY.—The Secretary may revoke the eligibility of an Indian tribe for a grant under this part if such tribe—

(A) fails to submit to the Bureau an annual financial statement that reports revenues and expenditures determined by use of an accounting system, established by the tribe, that complies with generally accepted accounting principles;

(B) fails to submit to the Bureau an annual program description, stating the number of students served, and containing such information concerning such students, their educational programs and progress, and the financial assistance distributed to such students as the Secretary may require by regulation;

(C) fails to submit to the Secretary a biennial financial audit conducted in accordance with chapter 75 of title 31, United States Code; or

(D) fails, in an evaluation of its financial assistance program conducted by an impartial third party entity, to comply with standards under this part relating to (i) eligible students, programs, or institutions of higher education, (ii) satisfactory progress, or (iii) allowable administrative costs; as determined under contracts applicable to programs to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education administered by Indian tribes under the Indian Self-Determination and Education Assistance Act and in effect on January 20, 1991.

(3) PROCEDURES FOR REVOCATION OF ELIGIBILITY.—The Secretary shall not revoke the eligibility of an Indian tribe for a grant under this part except—

(A) after notice in writing to the tribe of the cause and opportunity to the tribe to correct;

(B) providing technical assistance to the tribe in making such corrections; and

(C) after hearings and appeals conducted under the same rules and regulations that apply to similar termination actions under the Indian Self-Determination and Education Assistance Act.

SEC. 1615. ALLOCATION OF GRANT FUNDS.

(a) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall continue to determine the amount of program funds to be received by each grantee under this part by the same method used for determining such distribution in fiscal year 1991 for tribally administered and Bureau-administered programs of grants to individual Indians to defray postsecondary expenses.

(2) ADMINISTRATIVE COSTS.—In addition to the amount determined under paragraph (1), a grantee which has exercised the option given in section 1314(a) to administer the program under a grant shall receive an amount for administrative costs determined pursuant to the method used by the grantee during the preceding contract period. All other grantees shall receive an amount for administrative costs determined pursuant to the regulations governing such determinations under the Indian Self-Determination and Education Assistance Act, as in effect at the time of application to grants being made.

(3) SINGLE GRANT; SEPARATE ACCOUNTS.—Each grantee shall receive only one grant during any fiscal year, which shall include both of the amounts under paragraphs (1) and (2). Each grantee shall maintain this grant in a separate account.

(b) USE OF FUNDS.—Funds provided by grants under this part shall be used—

(1) to make grants to individual Indian students to meet, on the basis of need, any edu-

cational expense of attendance in a post-secondary education program (as determined under the contracts applying to the post-secondary education program administered by tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93-638)), to the extent that such expense is not met from other sources or cannot be defrayed through the action of any State, Federal, or municipal Act, except that nothing in this subsection shall be interpreted as requiring any priority in consideration of resources; and

(2) costs of administering the program under this part, except that no more may be spent on administration of such program than is generated by the method for administrative cost computation specified in section 1315(a)(2).

SEC. 1616. LIMITATIONS ON USE OF FUNDS.

(a) Use for Religious Purposes.—None of the funds made available under this part may be used for study at any school or department of divinity or for any religious worship or sectarian activity.

(b) Interest on Funds.—No interest or other income on any funds made available under this part shall be used for any purpose other than those for which such funds may be used.

(c) Payments.—

(1) In general.—Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments—

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this part apply, and

(B) the second payment consisting of the remainder to which the grantee or contractor is entitled for the fiscal year to be made by no later than January 1 of the fiscal year.

(2) New grantees.—For any tribe for which no payment was made under this part in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

(d) Investment of Funds.—

(1) Treatment as tribal property.—Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(2) Investment requirements.—Funds provided under this part may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

(e) Recoveries.—For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

SEC. 1617. ADMINISTRATIVE PROVISIONS.

(a) Biennial Report.—The Secretary shall submit a biennial report to the Congress on the programs established under this part. Such report shall include—

(1) a description of significant administrative actions taken by the Secretary under this part;

(2) the number of grants made under the authority of this part;

(3) the number of applications denied for such grants and the reasons therefor;

(4) the remedial actions taken to enable applicants to be approved;

(5) the number of students served, by tribe;

(6) statistics on the academic pursuits of the students provided assistance under this part the average amount of assistance provided; and

(7) such additional information as the Secretary considered significant.

(b) Role of the Director.—Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

(c) Application of Indian Self-Determination and Education Assistance Act.—All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c et seq.), except those provisions pertaining to indirect costs and length of contract, shall apply to grants provided under this part.

(d) Regulations.—The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

(e) Retrocession.—Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession. The tribal governing body requesting the retrocession shall specify whether the retrocession shall be to a contract administered by the tribe, or a tribal entity, under the authority of the Indian Self-Determination Act or to a Bureau-administered program.

PART C—CRITICAL NEEDS FOR TRIBAL DEVELOPMENT ACT

SEC. 1621. SHORT TITLE.

This part may be cited as the "Critical Needs for Tribal Development Act".

SEC. 1622. DEFINITIONS.

As used in this part:

(1) The term "federally funded higher education assistance" means any grant assistance provided to an Indian student from funds made available for such purpose by contract or grant to an Indian tribe from amounts appropriated under the authority of the Act of November 2, 1921, popularly known as the Snyder Act (25 U.S.C. 13).

(2) The term "eligible Indian tribe or tribal organization" means any Indian tribe or tribal organization that qualifies to administer federally funded higher education assistance under a contract pursuant to the Indian Self-Determination and Education Assistance Act of 1975 or under a grant pursuant to the Higher Education Tribal Grant Authorization Act of 1991.

SEC. 1623. SERVICE CONDITIONS PERMITTED.

(a) In General.—An eligible Indian tribe or tribal organization may, in accordance with the requirements of this part, require any applicant for federally funded higher education assistance, as a condition of receipt of such assistance, to enter into a critical area service agreement in accordance with section 1324.

(b) Critical Area Designation.—Any eligible Indian tribe or tribal organization that intends to require critical area service agreements shall, by a formal action of the tribal council or its delegate, designate particular occupational areas as critical areas for the economic or human development needs of the tribe or its members. The tribe or organization shall notify the Secretary of the Interior in writing of such designated critical areas. Such designations shall be applicable to federally funded higher education assistance for any fiscal year following the fiscal year in which the designation is made until such designation is withdrawn by the tribe or organization by formal action. The tribe or organization shall notify the Secretary of the Interior in writing of any designations that are withdrawn.

SEC. 1624. CRITICAL AREA SERVICE AGREEMENTS.

(a) Terms of Agreements.—A critical area service agreement shall be an agreement between an Indian student who receives or who shall receive federally funded higher education assistance and an Indian tribe or tribal organization providing such assistance in which the student agrees—

(1) to undertake a course of study at an eligible institution (as that term is defined in section 435(a) of the Higher Education Act of 1965) in an area of critical need, as determined under section 1323, and to pursue that course of study to its completion; and

(2)(A) to perform, for each academic year for which the student receives federally funded higher education assistance under a critical area service agreement, one calendar year of service to the tribe or organization in an occupation that is in a critical area designated by the tribe pursuant to section 1322(b), commencing not later than 6 months after the student ceases to carry at an institution of higher education at least one-half the normal full-time academic work load as determined by the institution; or

(B) to repay such assistance to the Secretary, together with interest thereon at a rate prescribed by the Secretary by regulation, in monthly or quarterly installments over not more than 5 years.

(b) Service Limitations and Conditions.—The tribe or tribal organization shall agree that a student performing services under a critical area service agreement—

(1) shall be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work;

(2) may be treated as providing services to the tribe or organization if the student provides services for members of the tribe or organization that are approved by the tribe or organization and agreed to by the student even though such services are performed while the student is employed by a Federal, State, or local agency or instrumentality or

by a nonprofit or for-profit private institution or organization; and

(3) may obtain the benefits of a waiver or suspension in accordance with the requirements of subsection (c).

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—

(1) WAIVER.—An Indian tribe or tribal organization may, by formal action, waive the service agreement of an Indian student for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe or organization shall notify the Secretary in writing of any waiver granted under this subsection.

(2) SUSPENSION.—The obligation of a student to perform services under a critical area service agreement—

(A) shall be suspended for not more than 18 months if, at the request of the student, the tribe or organization determines that there are no employment opportunities available in any critical service area; and

(B) shall be suspended if the student ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available in any critical service area, the student's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe or organization annually, but may be continued indefinitely.

(d) PRO RATA REDUCTION FOR PARTIAL SERVICES.—The Secretary shall, by regulation, provide for the pro rata reduction of repayment obligations under subsection (a)(2) in the case of any student who partially completes the service obligation of that student under subsection (a)(1).

(e) CERTIFICATION OF SERVICE.—An Indian tribe or tribal organization receiving services under a critical area service agreement—

(1) shall establish procedures for monitoring and evaluating the provisions of this part, and provide a copy of such procedures to the Secretary and to each individual providing services under a critical area service agreement;

(2) shall annually certify to the Secretary the identities of the individuals performing service under such agreements; and

(3) shall annually certify to the Secretary the amount of service performed, and the amount remaining to be performed, by each such individual under such agreements.

SEC. 1625. GENERAL PROVISIONS.

(a) APPLICATION OF EXISTING PROCEDURES.—Except as provided in subsection (b), the requirements relating to student eligibility, needs analysis, and determination of eligibility for the program to be attended regularly incorporated by reference into contracts under the Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93-638) for tribal operation of higher education grant programs prior to January 1, 1991, shall apply.

(b) ADDITIONAL, EXCESS, AND INCREMENTAL COSTS.—The tribe or tribal organization may establish in writing, subject to the review of the Secretary, procedures for determining additional, excess, or inducement costs to be associated with grants for critical area service agreements.

PART D—INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT

SEC. 1631. INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) BOARD OF DIRECTORS.—Section 1505 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4412) is amended—

(1) in subsection (a)(1)(A)—

(A) by striking "The voting" and inserting "Subject to the provisions of subsection (i), the voting"; and

(B) by inserting before the period at the end thereof a comma and the following: "and diverse fields of expertise, including finance, law, fine arts, and higher education administration";

(2) by redesignating paragraph (3) of subsection (a) as paragraph (4);

(3) by inserting after paragraph (2) of such subsection the following new paragraph:

"(3) The President shall carry out the activities described in subparagraphs (B) and (C) of paragraph (2) through the Board. The Board may make recommendations based upon the nominations received, may make recommendations of its own, and may review and make comments to the President or the President's appointed staff on individuals being considered by the President for whom no nominations have been received."; and

(4) by striking subsection (i) and inserting the following:

"(i) APPOINTMENT EXCEPTION FOR CONTINUITY.—

"(1) In order to maintain the stability and continuity of the Board, the Board has the power to recommend the continuation of members on the Board pursuant to the provisions of this subsection. When the Board makes such a recommendation, the Chairman of the Board shall transmit the recommendation to the President no later than 75 days prior to the expiration of the term of the member.

"(2) If the President has not transmitted to the Senate a nomination to fill the position of a member covered by such a recommendation within 60 days from the date that the member's term expires, the member shall be deemed to have been reappointed for another full term to the Board, with all the appropriate rights and responsibilities.

"(3) This subsection shall not be construed to permit less than 7 members of the Board to be Indians. If an extension of a term under paragraph (2) would result in less than 7 members being Indians, the term of the member covered by paragraph (2) shall be deemed to expire 60 days after the date upon which it would have been deemed to expire without the operation of this subsection, except that the provisions of subsection (b)(4), relating to continuation of service pending replacement, shall continue to apply.".

(b) GENERAL POWERS OF BOARD.—Section 1507 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4414) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (3) through (13) as paragraphs (4) through (14), respectively;

(B) by striking paragraph (2) and inserting the following:

"(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contract without regard to section 3324 of title 31, United States Code;

"(3) any other provision of law to the contrary notwithstanding, to enter into joint development ventures with public or private commercial or noncommercial entities for development of facilities to meet the plan required under section 1519, if the ventures are related to and further the mission of the Institute;"; and

(C) by striking paragraph (13), as redesignated, and inserting the following:

"(13) to use any funds or property received by the Institute to carry out the purpose of this chapter, including the authority to designate on an annual basis a portion, not to exceed 10 percent, of the funds appropriated pursuant to section 1531 for investment, without regard to any other provision of law regarding investment or disposition of federally appropriated funds, on a short-term basis for the purpose of maximizing yield and liquidity of such funds; and"; and

(2) in subsection (c), by striking "may be expended" and inserting "shall be expended".

(c) STAFF OF INSTITUTE.—Section 1509(b)(2) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4416(b)(2)) is amended to read as follows:

"(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications and positions, to whom chapter 51 of title 5, United States Code applies.".

(d) FUNCTIONS OF INSTITUTE.—Section 1510(b) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4417(b)) is amended to read as follows:

"(b) ADMINISTRATIVE ENTITIES.—

"(1) The Board shall be responsible for establishing the policies and internal organization that relate to the control and monitoring of all subdivisions, administrative entities, and departments of the Institute.

"(2) The specific responsibilities of each subdivision, entity, and department of the Institute are solely within the discretion of the Board, or its designee.

"(3) The Board shall establish within the Institute—

"(A) a department for the study of culture and arts;

"(B) a department for research and exchange; and

"(C) a museum.

"(4) The Board shall establish the areas of competency for the departments created under paragraph (3), which may include arts and sciences, visual arts, performing arts, language, literature, museology, a learning resources center, programs of institutional support and development, research programs, fellowship programs, seminars, publications, scholar-in-residence programs and inter-institutional programs of cooperation at national and international levels.".

(e) INDIAN PREFERENCE.—Section 1511(a) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4418(a)) is amended by inserting immediately after the words "is authorized to" the words "develop a policy or policies for the Institute to".

(f) TRANSFER OF FUNCTIONS.—Section 1514 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4421) is amended—

(1) in subsection (b)(1), by striking "All personnel" and inserting "Subject to subsection (d), all personnel"; and

(2) in subsection (d)(2), by striking "monetary damage" and inserting "monetary damages".

(g) REPORTS.—Section 1515(b) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4422(b)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3).

(h) HEADQUARTERS.—Section 1516 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4423) is amended—

(1) by striking "The site of the Institute of American Indian Arts, at"; and

(2) by striking "the Secretary" and inserting "the Board".

(i) COMPLIANCE WITH OTHER ACTS.—Section 1517 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4424) is amended—

(1) by redesignating the text of subsection (c) as paragraph (1) of such subsection; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Institute shall not be subject to any provision of law requiring that non-Federal funds or other moneys be used in part to fund any grant, contract, cooperative agreement, or project as a condition to the application for, or receipt of, Federal assistance. This subsection shall not be construed to effect in a negative fashion the review, prioritization, or acceptance of any application or proposal for such a program, solicited or unsolicited.".

(j) ENDOWMENT PROGRAM.—Section 1518 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4425) is amended—

(1) in subsection (a)(3), by striking "the date of enactment of this Act" and inserting "November 29, 1990";

(2) in subsection (b)(4) after "any private", by inserting ", non-Federal governmental,"; and

(3) in subsection (c)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) Notwithstanding any other provision of law, any amounts deposited in a trust fund authorized under subsection (a) may be used to secure loans procured for the purposes of constructing or improving Institute facilities.".

(k) PROVISION OF FACILITIES.—Part A of title XV of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4401 et seq.) is amended by adding at the end the following new section:

"SEC. 1519. PROVISION OF FACILITIES.

"(a) PLAN.—

"(1) IN GENERAL.—Within 18 months after the date of enactment of this section, the Board shall prepare and transmit to the Congress a master plan on the short- and long-term facilities needs of the Institute.

"(2) CONTENTS OF PLAN.—The master plan shall include a prioritization of the Institute's needs and shall evaluate—

"(A) all facets of existing Institute programs, including support activities and programs and facilities;

"(B) the possible impact of the Institute's move to a new site;

"(C) the development and construction requirements, based on a growth plan approved by the Board, including items such as infrastructure and site analysis; and

"(D) development of a phased plan with architectural and engineering studies, cost projections, landscaping, and related studies which cover all facets of the Institute's programs and planned functions.

"(b) FUNDS TO ASSIST CONSTRUCTION.—

"(1) IN GENERAL.—From the general funds for the provision of facilities to Federal entities, the Administrator of General Services shall provide to the Institute funds to defray the expenses associated with constructing facilities included within the plan required under subsection (a), and shall enter into a long-term contract of not less than 20 years with the Institute to provide such funds.

"(2) AMOUNT OF ASSISTANCE.—Funds under this subsection shall be provided directly to the Institute by the Administrator of General Services in an amount equal to the total square footage encompassed within the plans required under subsection (a), divided by 3 and multiplied by the average cost of square footage for facilities of institutions of higher education in the region in which the Institute is located, or in the Santa Fe, New Mexico, area, whichever is greater.

"(3) OFFSET.—The amount of the payment under paragraph (2) shall be decreased by any sums specifically appropriated under authority of this Act to offset these funds.

"(4) COMMENCEMENT OF PAYMENTS.—Payments under this subsection shall begin in the fiscal year following the fiscal year in which the report required by subsection (a) is submitted.

"(5) ADMINISTRATIVE PROVISIONS.—

"(A) SEPARATE ACCOUNT.—The Institute shall keep such funds in a separate account, under such terms as may be agreed upon by the Institute and the Administrator of General Services, and shall use the principal and interest on such funds to defray expenses associated with providing facilities under the plan required pursuant to subsection (a).

"(B) EXPENDITURES.—Subject to subparagraph (A), any expenditures of the funds provided by this section shall be at the discretion of the Institute.

"(C) OVERSIGHT.—The Institute shall allow, to the extent practicable, the Administrator of General Services to audit and monitor the use of the funds provided by this section.".

PART E—AMERICAN INDIAN POSTSECONDARY ECONOMIC DEVELOPMENT SCHOLARSHIP

SEC. 1641. AMERICAN INDIAN POSTSECONDARY ECONOMIC DEVELOPMENT SCHOLARSHIP.

(a) PROGRAM AUTHORIZED.—The Secretary of Education through the Office of Indian Education is authorized to make grants, in accordance with the provisions of this part, to federally recognized Indian tribes which lack sufficient numbers of professionally trained tribal members to support established or ongoing economic development initiatives. Priority shall be given to tribes which are not served by federally funded postsecondary institutions. The purpose of such grants is to enable such tribes to make scholarships available to tribal members to assist such members to pursue courses of study leading to an undergraduate or postbaccalaureate degree in order to provide professionally trained tribal members to support such economic development initiatives on Indian reservations.

(b) DESIGNATION.—A scholarship awarded under this part shall be referred to as an "American Indian Post-Secondary Economic Development Scholarship" (hereafter referred to in this part as "scholarship").

SEC. 1642. INDIAN SCHOLARSHIPS.

(a) SELECTION.—Each Indian tribe receiving a grant pursuant to this part for the purpose of providing scholarships shall select tribal members eligible to receive such scholarships. In determining grant recipients the Office of Indian Education shall consider—

(1) geographic distribution of grants; and

(2) a tribal economic plan which demonstrates how individual recipients shall benefit the economic conditions of the tribe.

(b) CRITERIA.—Each Indian tribe, in consultation with the Secretary of Education, shall give preference to select, as those tribal members eligible to receive such scholarships, tribal members who have successfully completed at least 30 hours of postsecondary education and who are eligible for readmission to a postsecondary institution.

SEC. 1643. SCHOLARSHIP CONDITIONS.

(a) SCHOLARSHIP AGREEMENT.—Each tribal member receiving a scholarship under this part shall enter into an agreement, satisfactory to the Secretary of Education and the tribal government awarding such scholarship, under which such member agrees—

(1) to utilize the proceeds of such scholarship to pursue a course of study which meets the requirements of the State in which the educational institution is located for an undergraduate or postbaccalaureate degree;

(2) upon the acquisition of such degree, to work, one year for each year of financial assistance under this part, on the Indian reservation in employment related to the course of study pursued which will support economic development initiatives on such reservation; and

(3) to maintain satisfactory academic progress while in an undergraduate or postbaccalaureate program.

(b) REPAYMENTS.—Each tribal member found by the Secretary of Education to be in noncompliance with the agreement pursuant to subsection (a)(2) shall be required to repay—

(1) 100 percent of the total amount of scholarships awarded under this part if such tribal member does not work pursuant to such agreement; or

(2) a pro rata portion of the total amount of scholarships awarded under this part, as determined by the Secretary of Education, if such tribal member worked pursuant to such agreement but less than the time period required thereunder.

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—(1) An Indian tribe may, by formal action, waive the service agreement of a tribal member for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe shall notify the Secretary in writing of any waiver granted under this subsection.

(2) The obligation of a tribal member to perform services under this part—

(A) shall be suspended for not more than 18 months if, at the request of the tribal member, the tribe determines that there are no employment opportunities available in any applicable area; and

(B) shall be suspended if the tribal member ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available which fulfill the requirements of this part, the tribal member's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe annually, but may be continued indefinitely.

(d) DISCLAIMER.—No scholarship awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of the Higher Education Act of 1965.

(e) LIMITATION.—Any tribal member selected by an Indian tribe to receive a scholarship under this part shall be eligible to receive a $10,000 scholarship for each academic year of postsecondary education, except that no such member shall receive scholarship assistance under this part for more than 4 years of postsecondary education (including postbaccalaureate).

(f) COST OF ATTENDANCE.—Calculation of the cost of attendance for the tribal member shall include all costs as determined by the tribe for the purposes of fulfilling the policy of this part.

(g) ADDITIONAL REQUIREMENTS.—Any tribal member seeking a loan under this part shall apply for and accept the maximum financial aid available from other sources. However, for purposes of determining eligibility, loans provided under this program may not be considered in needs analysis under any other Federal law, and may not penalize tribal members in determining eligibility for other funds.

(h) APPLICATIONS FOR ASSISTANCE.—Any Indian tribe desiring a grant under this part shall submit an application to the Secretary of Education at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

(1) describe the shortages on the reservation of such Indian tribe of professionally trained tribal members necessary to support economic development initiatives on such reservation;

(2) provide assurances that the Indian tribe will assist in employment placement on the reservation of tribal members receiving scholarship assistance under this part; and

(3) provide assurances that any tribal member performing work pursuant to this part will be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work.

SEC. 1644. REPORT.

Each Indian tribe receiving a grant pursuant to this part shall annually report to the Secretary concerning the administration of such grant, including the identities of any individual receiving a scholarship pursuant to this part, and of any individual performing service pursuant to his or her commitment under this part.

SEC. 1645. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out the provisions of this part, there are authorized to be appropriated—

(1) $2,000,000 for fiscal year 1993;
(2) $4,100,000 for fiscal year 1994;
(3) $6,200,000 for fiscal year 1995;
(4) $8,300,000 for fiscal year 1996;
(5) $10,400,000 for fiscal year 1997;
(6) $12,500,000 for fiscal year 1998; and
(7) $14,600,000 for fiscal year 1999.

Part F—American Indian Teacher Training

SEC. 1651. AMERICAN INDIAN TEACHER TRAINING.

(a) INSTITUTIONAL SUPPORT.—

(1) IN GENERAL.—The Secretary of Education, through the Office of Indian Education, is authorized to award grants to tribally controlled postsecondary, vocational and technical institutions for the purpose of developing teacher training programs.

(2) USE OF GRANTS.—Grants awarded under this subsection shall be for the purpose of providing upper division course work, transfer programs, articulation agreements with other accredited institutions, telecommunications programs or other mechanisms which directly support the training of American Indian teachers.

(b) STUDENT SUPPORT GRANTS.—

(1) IN GENERAL.—The Secretary of Education, through the Office of Indian Education, is authorized to award grants to institutions that have developed teacher training programs under subsection (a) for the purpose of providing financial and programmatic support to American Indian students seeking to participate in such institutions' teacher training programs.

(2) USE OF GRANTS.—Colleges receiving grants under this section shall require recipients of grants under this subsection to serve as teachers in an Indian community for 1 year for each year of scholarship support received.

(3) ELIGIBILITY.—Students eligible to receive support grants shall include those who have completed at least 30 hours of postsecondary education.

(4) WORK REQUIREMENT.—Students who fail to satisfy the requirements of paragraph (2) shall be required to repay a pro rata portion of the total amount of scholarships awarded under this part if the student worked for less than the required time period described in such paragraph.

(c) SCHOLARSHIPS.—

(1) AUTHORITY.—The Secretary of Education, through the Office of Indian Education, is authorized to provide scholarship assistance to American Indian students who seek to become teachers and who—

(A) agree to serve as teachers in an Indian community for 1 year for each year of scholarship support received, and

(B) have completed at least 30 hours of postsecondary education.

(2) WORK REQUIREMENT.—Students who fail to satisfy the requirements of paragraph (1) shall be required to repay a pro rata portion of the total amount of scholarships awarded under this part if the student worked for less than the required time period described in paragraph (1)(B).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each fiscal year thereafter to carry out this part.

TITLE XVII—NATIONAL COMMISSION ON THE COST OF HIGHER EDUCATION

SEC. 1701. ESTABLISHMENT OF COMMISSION.

There is established a Commission to be known as the "National Commission on the Cost of Higher Education" (hereafter in this title referred to as the "Commission").

SEC. 1702. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be composed of 12 members as follows:

(1) Four citizens of the United States appointed by the President.

(2) Two Senators appointed by the Majority Leader of the Senate, of which—

(A) one shall be a member of the Committee on Labor and Human Resources of the Senate; and

(B) one shall be a member of the Committee on Appropriations of the Senate.

(3) Two Senators appointed by the Minority Leader of the Senate, of which—

(A) one shall be a member of the Committee on Labor and Human Resources of the Senate; and

(B) one shall be a member of the Committee on Appropriations of the Senate.

(4) Two Members of the House of Representatives appointed by the Speaker of the House of Representatives, of which—

(A) one shall be a member of the Committee on Education and Labor of the House of Representatives; and

(B) one shall be a member of the Committee on Appropriations of the House of Representatives.

(5) Two Members of the House of Representatives appointed by the Minority Leader of the House of Representatives, of which—

(A) one shall be a member of the Committee on Education and Labor of the House of Representatives; and

(B) one shall be a member of the Committee on Appropriations of the House of Representatives.

(b) ADDITIONAL QUALIFICATIONS.—

(1) PRESIDENTIAL APPOINTEES.—An individual appointed under subsection (a)(2) may not be an officer or an employee of the Executive Branch.

(2) CITIZENS.—Individuals who are not Members of the Congress and are appointed under paragraphs (3) through (6) of subsection (a) shall be individuals who—

(A) have extensive knowledge of higher education and its financing and who are leaders of the education community, distinguished academics, State or local government officials, students, parents of college students, members of the business community, or other individuals with distinctive qualifications or experience; and

(B) are not officers or employees of the United States.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The members of the Commission shall elect a Chairman and a Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson will assume the duties of the Chairperson.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) APPOINTMENTS.—All appointments under subsection (a) shall be made within 3 months after the date of enactment of this Act.

(f) VOTING.—Each member of the Commission shall be entitled to one vote, which shall be equal to the vote of every other member of the Commission.

(g) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(h) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

SEC. 1703. FUNCTIONS OF COMMISSION.

(a) SPECIFIC FINDINGS AND RECOMMENDATIONS.—The Commission shall study and make findings and specific recommendations regarding the following:

(1) The increase in tuition costs compared with other commodities and services as well as methods of reducing increased tuition costs.

(2) Trends in college and university administrative costs as well as other costs and means of reducing such increased costs.

(3) The development of a standardized annual report that colleges and universities shall distribute which details the administrative costs, instructional costs and capital costs of such colleges and universities in order to carry out section 1801.

(4) The extent to which Federal, State and local regulations contribute to increased tui-

tion costs and the increase in the cost of higher education.

(5) The establishment of a mechanism for a more timely and widespread distribution of data on tuition trends and other costs of operating colleges and universities.

(6) The extent to which the lack of student financial assistance programs has contributed to increased tuition costs.

(7) Other related topics determined to be appropriate by the Commission.

(b) FINAL REPORT.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall submit to the President and to the Congress not later than September 1, 1994, a report which shall contain a detailed statement of the findings and conclusions of the Commission, including the Commission's recommendations for administrative and legislative action that the Commission considers advisable.

(2) MAJORITY VOTE REQUIRED FOR RECOMMENDATIONS.—Any recommendation described in paragraph (1) shall be made by the Commission to the President and to the Congress only if such recommendation is adopted by a majority vote of the members of the Commission who are present and voting.

SEC. 1704. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this title, hold such hearings and sit and act as such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish the Commission's procedures and to govern the manner of the Commission's operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this title. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) FACILITIES AND SERVICES, PERSONNEL DETAIL AUTHORIZED.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out the Commission's duties under this title, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 1705(b).

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Commission, to such extent and in such amounts as are provided in appropriation Acts, may enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the Commission's duties under this title, subject to the limitation on total expenses set forth in section 1705(b).

(f) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 1705(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for level IV of the Executive Schedule under section 5332 of such title.

(g) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.) and shall be independent from the Executive Branch.

SEC. 1705. EXPENSES OF COMMISSION.

(a) IN GENERAL.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) LIMITATION.—The total expenses of the Commission shall not exceed $2,000,000.

(c) GAO AUDIT.—Prior to the termination of the Commission pursuant to section 1706, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include the Comptroller General's determination in an opinion to be included in the report of the Commission.

SEC. 1706. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 90 days after the date on which the Commission submits its report.

TITLE XVIII—AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965

SEC. 1801. DISCLOSURE OF TUITION, ADMINISTRATIVE COSTS, INSTRUCTIONAL COSTS AND CAPITAL COSTS.

(a) DISCLOSURE REQUIREMENTS.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end thereof the following new subsection:

"(g) DISCLOSURE OF PARENT/STUDENT RIGHT TO KNOW STATISTICS.—(1) Each eligible institution participating in any program under this Act shall collect information with respect to administrative costs, instructional costs and capital costs, and annually prepare, publish, and distribute, through appropriate publications or mailings, to all current students, and to any applicant for enrollment or upon request, members of the public, an annual report on such costs.

"(2) Upon the request of the Secretary, each institution participating in any program under this Act shall submit to the Secretary a copy of the report required to be made available under paragraph (1). The Secretary shall review such reports and shall report to the Committee on Education and Labor and the Committee on Appropriations of the House of Representatives, and the Committee on Labor and Human Resources and Committee on Appropriations of the Senate on the content of such reports.

"(3) The Secretary, after receiving recommendations from the Commission, shall solicit public comment and promulgate rules to implement this subsection.

"(4) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to tuition costs, administrative costs, instructional costs, and capital costs.".

SEC. 1802. PROGRAM PARTICIPATION AGREEMENT REQUIREMENTS.

(a) IN GENERAL.—Subsection (a) of section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by adding at the end thereof the following new paragraph:

"(13) The institution has complied with the disclosure requirements of section 485(g).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 90 days after the issuance of the regulations described in section 485(g)(3) of the Higher Educations Act of 1965.

TITLE XIX—RESOURCE SHARING GRANTS

SEC. 1901. RESOURCE SHARING GRANTS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to States, local governments, or consortia of universities and colleges to enable such States, local governments or consortia thereof to establish resource sharing plans that are designed to—

(A) prevent unnecessary duplication of existing resources;

(B) reduce the long-term cost of tuition at colleges and universities; and

(C) establish cost containment mechanisms for the costs described in subparagraph (A).

(2) GRANT DISTRIBUTION.—The Secretary shall award at least 5 grants pursuant to paragraph (1) to at least 5 different States or consortia thereof.

(b) USE OF FUNDS.—Funds shall be used to carry out the plans described in this section.

(c) APPLICATION.—Each State or consortium thereof desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(d) DEFINITIONS.—For the purpose of this section—

(1) the term "Secretary" means the Secretary of Education; and

(2) the term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years thereafter to carry out this section.

TITLE XX—COMMUNITY AND JUNIOR COLLEGES

SEC. 2001. DEFINITION OF COMMUNITY AND JUNIOR COLLEGE.

Section 104 of the Department of Education Organization Act (20 U.S.C. 3404) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new definition:

"(8) the term 'community and junior college' means an institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), that—

"(A) admits as regular students persons—

"(i) a majority of whom are beyond the age of compulsory school attendance in the State in which the institution is located; and

"(ii) who have the ability to benefit from the training offered by the institution; and

"(B)(i) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree; or

"(ii) offers a 2-year program—

"(I) in engineering, mathematics, or the physical or biological sciences; and

"(II) designed to prepare a student to work—

"(aa) as a technician; or

"(bb) as an entry-level professional in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.".

SEC. 2002. LIAISON FOR COMMUNITY COLLEGES.

(a) LIAISON.—Section 202 of the Department of Education Organization Act (20 U.S.C. 3412) is amended by adding at the end the following new subsection:

"(i)(1) There shall be in the Department a Liaison for Community and Junior Colleges, who shall be an officer of the Department appointed by the Secretary.

"(2) The Secretary shall appoint, no later than 6 months after the enactment of this Act, as the Liaison for Community and Junior Colleges a person who—

"(A) has attained an associate degree from a community or junior college; or

"(B) has been employed in a community or junior college setting for not less than 5 years.

"(3) The Liaison for Community and Junior Colleges shall—

"(A) serve as principal advisor to the Secretary on matters affecting community and junior colleges;

"(B) provide guidance to programs within the Department dealing with functions affecting community and junior colleges; and

"(C) work with the Federal Interagency Committee on Education to improve coordination of—

"(i) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

"(ii) collaborative business education partnerships; and

"(iii) education programs located in, and regarding, rural areas.".

(b) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

"Liaison for Community and Junior Colleges, Department of Education".

TITLE XXI—MISCELLANEOUS

SEC. 2101. PROHIBITIONS RELATING TO THE PROVISION OF CERTAIN HEALTH CARE UNDER SHARING PROGRAM.

(a) PROHIBITION.—Notwithstanding section 8153 of title 38, United States Code, or any other provision of law, the Secretary of Veterans Affairs may not furnish, and funds appropriated or otherwise made available to the Department of Veterans Affairs (including funds paid to the Department by the Department of Health and Human Services) may not be used by the Secretary to furnish, hospital care or medical services under the program referred to in subsection (b) to any person who is not eligible to be furnished such care or services under chapter 17 of title 38, United States Code.

(b) COVERED PROGRAM.—The prohibition referred to in subsection (a) applies to the demonstration project for the furnishing of health care in certain rural facilities of the Department entered into between the Secretary and the Secretary of Health and Human Services that is commonly known as the Rural Health Care Initiative.

Mr. PELL. Mr. President, I move to reconsider the vote.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. PELL. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Parliamentary inquiry. Are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. ADAMS. I would like to proceed in morning business.

The PRESIDING OFFICER (Mr. AKAKA). The Senator is recognized for the purpose.

THE CASE OF THE IRISH GIRL

Mr. ADAMS. Mr. President, this morning's Washington Post carried a deeply troubling editorial entitled "The Case of the Irish Girl."

Over the past several days, international attention has been drawn to the plight of a 14-year-old rape victim who is being denied the right to travel from the Republic of Ireland to obtain an abortion. This tragic situation has become the ultimate example of the injustice that can occur when any government chooses to interfere with the reproductive rights of women. It is a case that should give citizens of this Nation further reason to express vocal opposition to any further erosion of women's reproductive rights in our own legal system.

Abortion is illegal in the Republic of Ireland, but it is legal in England. When this young rape victim and her parents attempted to travel to England, and I want to emphasize this young rape victim and her parents attempted to travel to England, to secure a legal abortion as more than 4,000 other Irish women choose to do each year, they were denied the right to travel. She is now, in effect, a prisoner of conscience, held against her will, being forced to carry to term the result of a rape.

I have today expressed my deep concern about this violation of this young woman's basic human rights of Ambassador Gallagher, and I call upon my colleagues who share my sense of shock and dismay to do likewise.

Those of us who recognize the basic rights involved, and they are very basic rights, should join with the President of the Republic of Ireland, Mary Robinson, the new President, and other prominent Irish citizens, including Sinead O'Connor, in calling for a reversal of this outrageous decision.

Mr. President, I call upon the Supreme Court of Ireland to free this Irish girl and I ask unanimous consent that the Washington Post editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 21, 1992]

THE CASE OF THE IRISH GIRL

A tragic case that dramatizes the real issues at stake in the abortion debate has caused an uproar in Ireland. A 14-year-old girl who was allegedly raped by the father of her best friend has been prohibited by a court from leaving the country to get an abortion in Britain. Abortion has been banned by statute in Ireland since the middle of the last century, and that law was reinforced by constitutional amendment following a referendum in 1983. Nevertheless, until now authorities have turned a blind eye toward abortions obtained by Irish women abroad. It has been estimated that a minimum of 4,000 a year go to Britain for the procedure.

The current case is a personal nightmare for the girl and her family and a political nightmare for the newly installed Irish government. The facts compel great sympathy for the teenager, and the response has been international. Even at home, where voters had supported a ban on abortion by a two-to-one majority only nine years ago, there has been a shocked, even embarrassed reconsideration of the law. Both the judge who granted the injunction and the new prime minister Albert Reynolds, described the situation as "painful and distressing [having resulted] in tragedy and a great measure of human suffering." And in spite of the fact that the attorney general was the moving party in court, the government has offered the family assistance in appealing the decision to the Supreme Court. None of this, of course, can be of much immediate consolation to the child who is carrying a child.

The government has reason for concern on other fronts too. Installed only 48 hours before this case broke, Mr. Reynold's cabinet had already given signs it would move for the reconsideration of law and policy in the area of divorce and contraception. The former is now unavailable in Ireland, and access to the latter is restricted to married couples. Now it must grapple with the more difficult abortion question, which stirs fierce debate and may require a constitutional amendment. Further, the controversy will surely complicate matters for Ireland in the European Community, where challenges to this aspect of Irish law have already been brought before the European Court of Justice, whose rulings bind member nations. Finally, the case cannot help in the long-running struggle to unite Ireland, for it is exactly this kind of restriction, founded on deeply held religious and moral views, that reinforces the determination of Protestants to resist union.

In this country, abortion is usually debated in the abstract, in terms of women's rights, constitutional principles or theories about when life begins. But there is no escaping the concrete facts of what happens to individuals when all abortions are banned, as they were in most states until 1973. A 14-year-old Irish girl has brought that reality home.

Mr. ADAMS. Mr. President, this is a matter of grave conscience. It is also a matter where the parents, the President of the Republic and many people of conscience are joining to say, free this young woman; give her an opportunity in her life to proceed with basic dignity and protections that she should have. We want also these basic protections for women of the United States. I hope both will occur.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

HAITI

Mr. GRAHAM. Mr. President, 141 days have passed since military thugs in Haiti violently ousted Haiti's first freely elected democratic government. Today, the 142d day of military rule, the thugs are no closer to leaving the Presidential palace than when they shot their way into power on September 30. We have spent 4 fruitless months trying to negotiate their departure and a restoration of democracy. Our policy has failed.

Failure is producing resignation and a dangerous indecisiveness that threatens the democratic gains throughout this hemisphere.

Mr. President, we are at a crossroads. We have two choices. We can acquiesce and cut a face-saving deal that will leave the thugs in Port-au-Prince effectively in power. If we do, we will send the wrong signal to the hemisphere's would-be dictators that we are not serious about the protection of democracy.

A second alternative is to adopt a hard-hitting policy that we will restore legitimate civilian rule and signal civilian governments around the region that we care about their democratic futures. I fear that we are following the first path, the path of acquiescence and accommodation. We have already eased the embargo approved by the Organization of American States. We continue to pursue endless negotiation with the thugs who stole democracy from the Haitian people.

Mr. President, I ask unanimous consent that a February 24, 1992, Newsweek article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, Feb. 24, 1991]

HAITI: "WE COULD TURN OUR BACK"

Washington has returned thousands of refugees, eased its embargo—and all but abandoned the fight against the nasty little coup in the Caribbean.

"This coup must not and will not succeed." That was the vow Secretary of State James Baker made in October before a special meeting of the Organization of American States devoted to the crisis in Haiti. It came as the United States joined members of the OAS in a regional embargo aimed at reinstating. Haiti's first democratically elected president, Jean-Bertrand Aristide.

But four months later, the coup still stands. The military gang that took power on Sept. 29 remains in control; the sanctions have only hurt the Haitian poor, made life more difficult for the tiny middle class and enriched the even tinier oligarchy, with which the military runs the country like a plantation. And this month President Bush unilaterally eased the embargo. In effect, he all but threw up his hands. Haiti's provisional government has defiantly promoted the general whose removal is Aristide's main condition for a negotiated settlement. Meanwhile, America's forced repatriation of Haitian refugees has left Bush open to charges of racism and turned the Haitian masses against him. To them, it looks as though a two-bit army has stared down the world's greatest military power.

Bush can afford a policy failure in Haiti. It has little strategic significance and no powerful U.S. constituency. And Aristide is a problematic ally. He foolishly tried to take on the army, the oligarchy and the church all at once. His rhetoric at times even condoned violence. Just after the coup, Bush received Aristide in the Oval Office, but relations have since deteriorated. Last week Aristide accused Bush of abandoning the fight. Some policymakers now say that the United States should never have signed off on the OAS's insistence on restoring Aristide. Talk of military intervention has turned to speculation about walking away altogether. Says one diplomat: "We could turn our back on Haiti and let it fall into the abyss."

By electing Aristide, a priest who promised a fair division of the country's wealth, many Haitians hoped they could put an end to decades of rule by brutal and corrupt leaders. And as far as they were concerned, the United States shared responsibility for that legacy. It invaded Haiti in 1915 and stayed until 1934. It created the country's thuggish joint military and police force. For years it supported the notorious Francois (Papa Doc) Duvalier because he espoused anti-communism. Today, almost any Cuban who can reach Miami is granted political asylum. Yet Washington went to court to win a ruling classifying thousands of Haitians as economic, not political, refugees. Now the U.S. Coast Guard is sending back most of the Haitians who have fled to America since Aristide's ouster.

Haiti's oligarchs, who cheered the coup against the populist Aristide, feel vindicated. Bush's tepid support for Aristide has convinced them that America, Haiti's main trading partner, ultimately is on their side. During a beach party he hosted last week, an heir to one of Haiti's top families observed: "We know the golden rule: whoever has the gold rules." Whatever Haiti's political future, the wealthy seem sure that it won't include the wholesale empowerment Aristide promised his constituency. They also maintain that economic growth under a strong-arm government is better for the masses than redistribution of a shrinking pie. "We're doing it backwards," says the host. "Jobs, taxes, this is the beginning of democracy. One election doesn't make democracy."

But the Haitian rich pay few taxes, even though they rake in the lion's share of the nation's wealth (box). One reason they hated Aristide was that he forced them to pay up—and raised government spending in one of the stingiest countries of the world. Until 1986, some superrich businessmen enjoyed monopolies granted by Duvalier and his son, "Baby Doc." Those are gone, but the fortunes they created remain. The Brandts, the Mews, the Nadals, the Vorbes, the Madsens, the Behrmannas—Haiti's great families, almost all light-skinned mulattoes, live in luxury on the mountains overlooking Port-au-Prince's wretched slums. So do those who have made fortunes in smuggling.

Some members of the elite acknowledge that they have done nothing to improve conditions for the 90 percent of the population that is unschooled and barely fed. But others talk about the country's conditions with a kind of willful disbelief. "I ask myself, how much poverty is there, really, in the country?" said a dentist lolling poolside at the Pétionville Club. "You see a beggar and you might think he was poor, but he is taking the money he gets and practicing usury." Comments about police repression show similar callousness. One man compared the smell left after soldiers break up a demonstration to the aroma "after your wife sprays Flit in a room." Over shrimp brochette, another defends the coup, in spite of its violence. "Look, how are you going to do this?" he asks. "The people who did this meant business, man. It was ideological—like Pinochet—the free market versus whatever you want to call it."

LAID OFF

The U.S. response to the inequities in Haiti has been to try to create a middle class, the classic engine of economic and political progress. Much of that hope hinged on the "assembly sector," U.S.-financed factories that employed 40,000 workers. In its original form, the U.S. embargo blocked Haiti from exporting these products; strategists thought the new industrial class would line up against the coup. The assembly sector's leaders did call for the negotiated return of Aristide but never went further. Meanwhile, nearly 30,000 workers have been laid off. "The [bosses] disappointed us, didn't they," says one State Department official. Baker said easing the embargo may now save those jobs, but to others are doubtful, citing political instability and deteriorating infrastructure.

Some industrialists may simply have been too scared to fight the coup. Last month police broke in on René Théodore, the Communist candidate for prime minister who is supported by the United States and the OAS, as he was meeting with other politicians; they killed his bodyguard with a shot to the head. Last week, one U.S. and one British reporter went to the countryside to investigate reports of atrocities and were arrested. A local sheriff threatened to kill them, telling a colleague: "They know I burned the village; they know I killed people." A member of Parliament said he was stopped on the street and fired upon by men in civilian clothes; Théodore said his house was fired at. In winning its legal fight to repatriate the Haitian boat people, Washington argued, in effect, the Haitians may live in fear, but that doesn't entitle them to asylum. That may be so. But it remains to be seen how forgiving the military leaders will be of Haitians who supported Aristide and then fled when he was toppled. And while they wait to find out, many Haitians can only feel disappointed about a U.S. government that hailed democracy while it worked but seemed helpless to do anything when it came undone.

Mr. GRAHAM. Mr. President, this article records the sense of helplessness our ineffective policy has fostered in Haiti. We are being played for fools, and this is not the time for accommodation.

When I spoke in this Chamber on February 6, I urged the President to rally support for the use of force to restore Haiti's legitimate, democratically elected Government to power.

I was pleased to see the New York Times' editorial in favor of this proposal on February 19. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 19, 1992]

SAVE HAITI FROM ITS ARMY

Last September's coup in Haiti brought staggering consequences: more than 1,500 people murdered in the streets . . . tens of thousands fleeing in small boats to the U.S. and other neighboring lands . . . military conspirators emboldened throughout the hemisphere. These disasters derive from one narrow source, Haiti's brutish army, just 7,000 soldiers who terrorize a population of six million.

Haiti's neighbors, working through the Organization of American States, have tried to pressure army leaders. But their economic embargo has proved porous and their diplomatic proposals have been mocked. This month a blundering State Department eased some of the remaining pressure, inviting even greater contempt from Port-au-Prince.

To retrieve the situation, a more toughminded approach may be required: Send in armed O.A.S. peacekeepers to restore order and democracy.

Foreign intervention in political disputes is usually a bad idea. But in Haiti's case, it deserves serious consideration.

One reason outsiders can play a constructive role is that they would be supporting a basic choice already made by Haitians. A million and a half voters overwhelmingly elected Jean-Bertrand Aristide as President 14 months ago. By all accounts, he still commands majority support.

A significant and economically powerful minority, however, opposes President Aristide and fears what might happen if he returns. An O.A.S. force could reassure these people, essential to Haiti's economic functioning, that their rights will be protected from vengeful Aristide partisans.

The army might not politely step aside. But it could, being small, be pushed aside. Should the army resist, to protect its drug and other smuggling rackets, it would find little popular support.

The O.A.S. traditionally dislikes intervening anywhere because Latin American states fear setting precedents that could weaken their own sovereignty. Those fears would be eased if no U.S. troops took part. Most Latin governments now have an equally strong stake in avoiding a different precedent, a successful military coup. Events in Venezuela this month sent shudders through several presidential palaces.

As long as the Haitian army thwarts all attempts at diplomacy, it's hard to see any political remedy for Haiti's suffering. The first need seems increasingly clear: Neutralize the army's tyrannical power.

Mr. GRAHAM. Mr. President, the New York Times historically has counseled caution in situations of the type we now face in Haiti. We all share with our OAS allies a natural dislike for intervention. But I submit that intervention is the only way to restore democracy in Haiti. As the Times points out, an OAS peacekeeping force could reassure all sides, both supporters and opponents of President Aristide, that their safety will be provided and democracy restored.

In addition to military force, Mr. President, I urge the President to take these additional steps: First, we must make life as difficult for those now in power as we can. For example, if they have U.S. visas, we should cancel them. If they have assets in the United States, we should seize them. We should pressure our allies to do the same thing. Our Government is still collecting information on those in power. We need now to act on that information. We need to act now.

Second, we must continue to uphold our laws. That means that those seeking asylum receive fair and thorough hearings. If their return to Haiti would endanger them, they should be allowed to apply for asylum in this country.

Third, the OAS should establish an on-the-ground tracking system to assure the safety of those who are returned.

Four, the OAS should toughen those parts of the embargo in effect and to target violators.

The OAS should establish a multinational force that could be on standby for use in future situations such as we now face in Haiti.

Finally, the United States should continue to reform its International Military Education Training Program to reflect the need for a more civically oriented military geared to preserving democracy, not destroying it, particularly among the nations of Latin America and the Caribbean.

Mr. President, when it comes to Haiti, we are selling democracy short. We are settling for short-term palliatives when we should be making a long-term commitment to restoring democracy. We are making a serious mistake that could well undermine civilian democratic leadership in this region for years to come, and I urge the President to lead our OAS allies to renew their commitment to restoring democracy in Haiti.

Meanwhile, Mr. President, the Bush administration's inaction on restoring democracy to Haiti is having a serious impact here in the United States of America.

In fact, the administration's lack of a consistent policy during the refugee crisis has hurt everyone involved—the Haitians who have fled the country, State and local governments, particularly in my State of Florida and around the country, and the Federal Government itself. Up until about a week ago, the State of Florida was assured that all Haitians who were admitted to the United States for asylum processing would first be tested for excludable, contagious diseases, and would arrive in Miami with a work permit in hand.

Without any notification to the State, that policy was abruptly reversed.

After the Supreme Court ruled on repatriation, the administration has instituted a policy which I believe will have grave consequences.

Since February 11, all Haitians who are interdicted on the high seas have been interviewed by immigration officials on the Coast Guard cutters.

Those whom officials determine to have colorable asylum claims are then brought to Miami, not Guantanamo, without further processing. I underscore "without further processing."

Krome Processing Center in Miami, the destination for Haitians who are screened in, that is, found to have a colorable claim for political asylum, by immigration officials, is a temporary processing facility.

As recently as early January of this year, Mr. President, when I visited Krome, their medical facilities were limited. They were not providing, for instance, blood tests to determine if persons admitted for processing were HIV positive.

So far, approximately 220 of the Haitians who have been approved to apply for asylum in the United States have tested positive for the HIV virus. Like numbers have had syphilis and active tuberculosis.

Krome is not a hospital. It does not have the capability to quarantine large numbers of people with infectious diseases. In fact, Krome does not have the capability to serve as a processing center for a large number of people and still remain viable in the event of a much larger immigration emergency than the one we are facing today.

Justice Department officials confirmed to me their intention is to fill Krome to 33 percent beyond its capacity during this operation. That estimate is probably low.

I believe that we are shooting ourselves in the foot by rendering ourselves incapable to respond to a larger or separate refugee influx.

More importantly, filling Krome to emergency levels is further evidence that this current crisis is an immigration emergency. There is a $35 million fund available for emergencies like this, and I call upon the President and the Attorney General yet again to release this money to help pay the tremendous costs of this emergency.

While the Department of Justice has now stated that there would be full medical screenings provided once these persons are brought to Krome, there will still be the threat to the community of a release of these persons after they have completed their screenings or the threat to the community of an overcrowded, tense, and potentially explosive situation inside the Krome Detention Center itself.

Here is an example of another type of cost which should be covered by the immigration emergency fund. On February 5 and again on February 10, the Justice Department took an action which symbolizes the point I have been making about Federal immigration policy for the last 11 years, that the Federal Government outright refuses to live up to the financial responsibility that it alone has the power to set.

In these two instances, Mr. President, two Haitians at Guantanamo Bay had medical emergencies which required immediate and expert attention not available at the naval base. They were brought to Miami for treatment. Miami has among the best medical professionals in the world. I am proud and pleased that we were able to provide treatment for those two seriously ill individuals.

However, the responsibility for paying for that treatment lies squarely with the Immigration and Naturalization Service. Yet in one of the boldest examples of sidestepping their responsibility, INS paroled those people from their custody so that they would not be legally responsible for their care.

One man, who had an eye operation, was covered by Medicaid at a 55 percent Federal-45 percent State cost allocation. The State of Florida cannot and should not absorb these or similar costs in the future. These disturbing developments will continue to be exacerbated until we address the root cause of that crisis, the internal unrest in Haiti caused by the seizure of democracy by military thugs.

Mr. President, we have arrived at the moment of truth. We are at the Munich of the Caribbean in Haiti. We are going to make a decision as was made in the 1930's as to whether we are going to acquiesce and accommodate military dictatorship or we are going to stand for the basic principles of democracy, the principles of the right of the people to select their governmental leaders.

That is the challenge before the United States. That is the challenge before the democracies of this hemisphere. The stage for that challenge is Haiti. The time to act is now. Our failure to act will represent a deep shadow of uncertain democracy in this new hemisphere.

I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ECONOMY

Mr. WIRTH. Mr. President, much attention has been given in the last 6 months, justifiably, to the very sharp recession in which we find ourselves. In all of the discussions of the long-term economic strategy, almost no attention has been given to a very important set of issues related to our economy, related to our international trade position; and those are the issues of energy.

We have just completed an enormously important piece of legislation, the Senate energy bill, a reflection in part of the President's national energy strategy, a reflection in part of the Johnston-Wallop bill, a reflection in part of a great deal of work that came into the Congress from a variety of outside groups.

The importance of this piece of legislation for our economy cannot be understated. Energy is the lifeblood of this economy. We all take it for granted, unfortunately, and yet when it is threatened we react dramatically as we did in the Persian Gulf. We sent 500,000 young people to the Persian Gulf—not, I would suggest, to restore the legitimate government of Kuwait but because of our very deep concern about the interdiction and possible threat to energy supplies and that lifeblood to our economy.

I hope we learned a lesson from the Persian Gulf. And that is one of the reasons why we had such an overwhelming vote on the energy bill here earlier this week. We learned the lesson that we can no longer afford this enormous dependence on foreign oil. And we can no longer afford continually putting ourselves in the position of being dependent upon oil. We have to forge an independent strategy here at home, and that independent strategy must be one that weans us off of our dependence on oil, especially imported foreign oil.

I need not remind the occupant of the chair, who is very familiar with our situation, that more than 50 percent of our import problem, more than 50 percent of our balance of payments problem results from oil. We are importing an enormous amount of oil, almost 50 percent of our total usage in the country.

What do rational people do in that situation? They try to break into that cycle; reduce our dependence on foreign oil; increase our dependence on our own resources here at home. We have started to do that on this energy bill.

Earlier, I thanked Senator JOHNSTON and Senator WALLOP for their help on this, and Ensign Moore and Secretary Watkins, who pushed and pushed, as did Linda Stunns, from the Department of Energy, to get this to happen. We have come up with a construct that begins to move us in a direction of less dependence. We have done that at least in two very important ways, which I was very pleased to have spent a year trying to advance: First, alternatives to imported oil; and second, conservation and efficiency.

In the conservation and efficiency sections of the bill, we made major progress in a number of areas which are highly technical, as Chairman JOHNSTON pointed out, but incredibly important, ranging all the way from light bulbs: People assume that a light bulb is a light bulb. The lighting standards in that piece of legislation will allow us to save a great deal of energy.

Heating and air conditioning. It is obviously very important that those major uses of energy be as efficient as possible, and we have moved toward the basic setting of standards in that area which, long term, will be very important to our economy.

In other areas, extremely importnat are electric motors. We had, in the initial discussions of the bill, tremendous resistance to setting basic standards. Working with the industry groups over the last 6 months to a year, we have come up with an agreement on that major use of electricity. Most people do not think about electric motors, but they are extraordinarily consumptive of electricity and energy in our country. The standards we have set begin to bring down our use of energy there.

Building standards. We came to some agreements, and I hope that by the time we finish conference with the House of Representatives, we will have a broadly agreed upon set of standards relating to our housing stock, as we have in other areas.

Federal buildings. We have major incentive programs for individuals to save a great deal of energy and to make money doing so. I hope that that commitment gets reflected right here in our own backyard; that the Architect of the Capitol is as agressive as we have asked him to be, not only in this legislation, but in the previous Federal buildings legislation, and that he understands that we should be serious and set a model not only in our Capitol building here, but in all of the office buildings controlled by Congress.

We have a long way to go from our wasteful use of electricity here and wasteful use of energy. We can do a much better job, and I hope the Architect has received that message about the urgency to move out on this issue. We cannot say to the rest of the country, do one thing, and smugly not do that. That is one of the things that the American public is so angry about.

In that whole efficiency area, Al Stayman and Leslie Black of the Energy Committee were in there day in and day out, in very frustrating, long-term difficult negotiations with all of the industry groups on the outside and all of the groups on the inside. I thank them for their very, very good work on this front.

The other part of this bill that I think is truly a landmark, Mr. President, relates to natural gas. Yet, as we have this abundant fuel and are finding more and more of it, we are using less natural gas. As we know how dangerous our dependence is, we are using more and more imported oil. What an anomalous and exclusive situation to be in: Our abundant source, we are not using; our scarce source, which is expensive, we are using. That is not a very wise thing to do.

What we are doing in this bill is to try to sharply increase the demand for natural gas so that not only are we using a domestic resource, but we are backing out of that dangerous foreign resource. We have done that in a number of ways: The Public Utility Holding Company Act reform, that Senator JOHNSTON led the fight on—and I am glad we have made those changes; they were important to make. Alternative fuel vehicles, beginning with the Federal fleet and with overall fleet standards. Looking at increasing the use of natural gas as a vehicle fuel, my own Jeep Cherokee in Colorado is fueled with natural gas, as well as regular gasoline. It works perfectly fine. We have to do many more thousands, if not millions, and rapidly put up that increase in demand for using natural gas.

Natural gas is a winner for us in the United States. It is a domestic fuel, domestic meaning we are not as dependent on imported foreign oil. It is cheaper; less than half of the price, if you look at the overall composite price of oil. It is much, much cleaner than oil. It keeps the money right here at home.

So it is a win in so many ways for us to put a greater emphasis on natural gas, and that has begun in this piece of legislation, and I think begun in a very, very sound fashion.

I thank, on the committee, Sam Fowler and Don Santa, both of whom helped us a great deal in putting those complicated provisions together. They spent a great deal of time doing that, and I think very, very important steps are to be taken. These are difficult, technical, hidden issues. But as we talk about the economy, what we did on this bill—what we did relating to energy efficiency, relating to alternative fuels—is going to turn out, long term, probably to have been as important for our overall economic health as almost anything that we will do this year.

If we talk seriously about the needed investment strategy and changing our ways in this country, the investment strategy, investing in our own energy resources and bringing them to the American public, and doing that in a cheaper way, is going to pay off for every one of us. That is the kind of long-term investment strategy we have to continue to pursue in the United States.

Finally, I want to thank two members of my own staff, who have spent almost all of the last year working on these very difficult issues. Russ Shay and David Harwood have done a simply superb job, and I thank them as well.

Much maligned are staff members around the Hill. People talk about too many staff. People talk about people who are the imperial staff, and so on. The group I have referred to here, as well as Richard Grundy, and many members of the minority staff, who have worked on this bill, have been people who have spent all of these hours, stayed here day in and day out working on these arcane and very difficult and important issues. I thank them, as well.

Mr. President, finally, I want to include in the RECORD a very good piece written for USA Today on last Wednesday by T. Boone Pickens from Mesa Petroleum in Texas. Mr. Pickens has come to be known to many people through the merger and takeover activity of the 1980's. But beyond that, he has become a major leader in the battle for alternative fuel vehicles. He is the head of the Natural Gas Vehicle Coalition. He has really breathed a great deal of energy and new life into that issue. He has been very helpful on the outside. He wrote a good op-ed piece on curbing oil imports with natural gas.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From USA Today, Feb. 19, 1992]

CURB OIL IMPORTS WITH NATURAL GAS

The U.S. Senate currently has an opportunity to pass a comprehensive, aggressive and visionary energy bill which will lead this country on a course to greater energy independence.

Rarely does Congress have the chance to do so much to clean up our environment, create jobs and lessen our dependence on imported crude oil as it does with passage of the National Energy Strategy.

Our thirst for imported crude oil has increased by 60% in the past six years. Today we rely on foreign oil for nearly 50% of our energy needs. This staggering addiction is taking a heavy toll on the U.S. economy. We paid more than $55 billion to foreign oil producers in Iran, Saudi Arabia and elsewhere in 1990, well over half our $101 billion trade deficit.

Because transportation accounts for two-thirds of all U.S. oil use, we're paying a stiff environmental price as well.

The National Energy Strategy can and should be a vehicle for change, the springboard to right this economic and environmental wrong. There is an abundant, clean-burning, superior, domestic fuel: American natural gas.

In transportation, we must begin substituting clean domestic natural gas for dirty foreign crude oil.

First, natural gas is an abundant American fuel competing against a foreign fuel.

Second, natural gas is the cleanest burning of all fossil fuels, emitting 80%-93% less reactive hydrocarbons and 90% less carbon monoxide than conventional gasoline.

Third, greater use of natural gas will create new jobs and jump-start the U.S. economy by leading to a significant reduction in the U.S. trade deficit.

Fourth, natural gas won't cause an environmental disaster. During 1990, there were over 15,000 reported oil spills in the U.S.A. There weren't any natural gas spills.

Fifth, natural gas is cheaper, more efficient, and safer than gasoline, and reduces operating and maintenance costs significantly. You can go twice as far on $10 worth of natural gas as you can on gasoline.

Because of the environmental awakening across the U.S.A. and the enactment of the federal Clean Air Act, there are several alternative fuels competing for market share. Each has positives and negatives. But only natural gas both reduces our dependence on foreign oil and reduces pollution.

While I'm optimistic about the long-term future of natural gas, I'm concerned that we're depleting this premium domestic resource at bargain-basement prices.

Isn't it reasonable that U.S. producers receive as much for their energy as we pay Kuwait, Iran or Saudi Arabia?

On a British thermal unit-equivalency basis, 6,000 cubic feet of natural gas provides as much energy as one barrel of crude oil. That 6-1 ratio jumps to 8 to 1 when the cost of transporting natural gas is taken into consideration. A barrel of foreign crude oil selling for $20 should result in a price of $2.50 per thousand cubic feet of domestic natural gas.

Last summer, domestic gas producers received as low as $1 per thousand cubit feet. This is a 60% discount to foreign energy. Does the U.S. consumer really want to pay foreign energy producers more for their energy than for American energy?

To make energy security a reality, the federal government must lead the way and set examples. It can begin by converting 10,000 government cars to alternative fuels such as natural gas in 1993, 20,000 in 1994 and 30,000 in 1995.

It's time for action. The bottom line is this: What's wrong with converting to a domestic resource that is environmentally superior, creates jobs, reduces the trade deficit, and is cheaper and more efficient than the foreign alternative?

Mr. WIRTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAPPY BIRTHDAY, SENATOR KENNEDY

Mr. BYRD. Mr. President, most of our colleagues have had called to their attention the fact that tomorrow will be the birthday of one of our distinguished colleagues. Senator KENNEDY's birthday is on February 22. I have known Senator KENNEDY now for 30 years, and I found him to be a talented, imaginative, intelligent, and friendly individual, with an enviable ability to dream of new possibilities for the country and for other human beings. Certainly, those of us who have known

Senator KENNEDY and worked with him over these many years can attest to the fact he possesses all of these qualities.

We know him as a deeply patriotic American from a family of patriotic Americans. We know Senator KENNEDY as a hardworking, farsighted, and conscientious Senator, whose efforts here in the Senate have brought forth fruit for the benefit of all Americans, as well as for the citizens of the Commonwealth of Massachusetts.

I have sincerely appreciated his friendship, his comradeship, and his colleagueship, all of which I have enjoyed over these many years of working together with Senator KENNEDY in the Senate on many projects and programs and issues of concern to us mutually and of concern to the people of West Virginia and of Massachusetts. I look forward to working with Senator KENNEDY many years into the future.

I know that I speak for all of our colleagues and for millions of people across America and around the world in wishing Senator KENNEDY the most joyful and eventful of birthdays on tomorrow and many, many more birthdays in the years ahead.

TRIBUTE TO THE BILL OF RIGHTS

Mr. RUDMAN. Mr. President, our colleague, Senator BIDEN, was the keynote speaker on January 24, 1992, at the New Hampshire Bar Association's Annual Mid-Winter Meeting in Bedford, NH. Senator BIDEN gave an excellent speech in celebration of the bicentennial of the Bill of Rights, and his remarks received many commendations and compliments from the members of the bench and bar in attendance. In my view, the 200th anniversary of the ratification of the Bill of Rights has not received the attention it should, given the critical role those ten amendments to the Constitution have played in our Nation's development. I ask unanimous consent to include Senator BIDEN's speech in the RECORD as a permanent memorial of the New Hampshire Bar Association's year of celebration of the Bill of Rights.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE BILL OF RIGHTS: WHY HAS IT SUCCEEDED?

(Remarks by Senator Joseph R. Biden, Jr.)

Just a month ago—as our public life was dominated by talk of recession and the crisis in our health-care system, and our private lives were filled with final preparations for the holidays—a very important occasion passed by, largely unnoticed. Though we celebrated it hardly at all, it is, in fact, a landmark in the history of human freedom: the 200th anniversary of the ratification of the Bill of Rights.

Unlike the 1976 Bicentennial, for this anniversary, no tall ships sailed. There were no televised parades; few bands played and no floats rolled. No markets were shut down, and no shops were closed. It was, in short, simply another day in the life of America.

Yet nothing testifies more eloquently to the success of our Bill of Rights than the fact that millions of Americans passed its 200th anniversary going about their own business—laughing and loving; arguing and agreeing; buying and selling; praising and protesting—without having to give a moment's thought to the document that protects their right to do whatever it was that they were doing.

Notwithstanding that the Bill of Rights' birthday was observed unwittingly by most Americans, we lawyers have a special obligation to remember this anniversary and the great document it memorializes. And with all due respect, I suspect that we lawyers do not pay nearly as much attention as we should to the Constitution and the Bill of Rights, and to educating our fellow Americans about the critical importance of both. For it is both our privilege and our responsibility as lawyers to understand, defend and champion the system of legal rights and remedies that rests, ultimately, on the Bill of Rights. So I think it fitting that we pause and reflect on this anniversary, and it is my thoughts on this occasion that I would like to share with you this evening.

This celebration of our Bill of Rights—of the duration and stability of our system—comes at a time when nations all over the world are considering radical reforms of their own governments. Many of them are looking at our Bill of Rights as a model, and they are asking why it has succeeded so long and so well in this country. Why has our Bill of Rights played such a vital role in shaping our free society, while similar documents in other countries have been ignored or abused? Why has this charter—unlike any other document, in any other country, before or since—succeeded in protecting our freedom for two centuries while others have failed?

This is a question that is important not only to people who seek to emulate our success in other countries; it is also important to Americans, and especially to American lawyers. It is important, as we seek to understand what the Bill of Rights has meant to us; important, as we seek to give it definition for the century ahead.

Neither the question nor its answer is as simple as it may at first appear.

There are several answers commonly offered to explain the success of our Bill of Rights. Some have said that the Bill of Rights has triumphed because it protects critical, specific rights: freedom of speech and religion, the right to a fair trial, freedom of assembly, and so on. By selecting these specific freedoms for protection, it is said, the Bill of Rights has created the framework for our free society.

I disagree.

Yes, the freedoms specifically protected by the Bill of Rights are important—but the document's continuing success can not be explained by its selection of certain specific rights for protection. The old Soviet Bill of Rights claimed to protect more than 200 specific rights—but for three-quarters of a century, the Soviet people suffered under one of the most thoroughly totalitarian societies recorded in human history. No—no mere laundry list of rights is enough to build a free society like ours.

Others have said that the success of the Bill of Rights has derived from the very breadth of its wording; its sweeping phrases that have allowed for growth and expansion of its meaning over time—phrases like "due process of law" and "cruel and unusual punishment."

Again, I disagree.

Yes, the document's expansive phrasing has given it the potential for timelessness and adaptability, and that potential is certainly one of its most important qualities. But, again, other countries have devised expansively phrased bills of rights that, in the end, have failed to protect anything. The French Declaration of the Rights of Man of 1789, for example, broadly embraced such sweeping concepts as "dignity" and "equality"—but did nothing to prevent the bloody political persecution that began just months after it was issued.

Breadth of text alone is not enough to insure success, and neither is adaptability the answer, for some of the most important protections the Bill of Rights provides us are not the product of "growth," but are, in fact, rooted deeply and unchangeably in our history.

Finally, many have cited the genius of James Madison and his colleagues in the first Congress as the secret of the Bill of Rights' success. For example, their decision to incorporate the fundamental freedoms of speech and religion into the very first amendment is often pointed to as an act of great foresight.

But the fact is that when the Bill of Rights was drafted, what we now know as the First Amendment was actually the third amendment; two others that were not ratified by the states were listed before today's "first freedoms." So chance, more than genius, has determined the numbers by which our rights have come to be known. More seriously, the simple truth is that however ingenious our Founders were, something more than their ingenuity has kept this document alive for two centuries after their deaths.

As I see it, it is not the specification of certain rights, nor the broad sweep of its guarantees, nor even the wisdom of the Founders that explains why our Bill of Rights has endured. It is something even more fundamental.

In my view, the central reason why our Bill of Rights has succeeded, where similar documents have failed in other nations, is that our Bill of Rights enshrines a balance that lies at the very core of our American character: it sides with the protection of personal freedom over the power of government to intrude in our private lives, where the two conflict. The idea that our system should "tilt" toward individual rights, when those freedoms clash with governmental authority, is at the center of the Bill of Rights—and at the center of our hearts as a people.

We see this idea clearly at work in some of the specifics of the Bill of Rights: for example, in the Third Amendment's bar on quartering troops and the Fourth Amendment's ban on unreasonable searches and seizures. But to fully understand the scope of the Bill of Rights' protection of personal freedom, we must look at that document as a whole. We must see the ten amendments as one document—a document that enshrines our right to live our lives as we choose, with no governmental authority, petty or great, empowered to constrain us.

We must also consider what Judge Robert Bork called an "ink blot on the Constitution"—the critical Ninth Amendment, with its "instruction" that the Bill of Rights is not an exclusive catalogue of the liberties that we Americans reserve against intrusion by government.

Consider the most important freedoms we enjoy in this country: the right to choose our own spouse; to live wherever we please; to travel abroad and at home; to select our own careers, our own schooling; to decide whether we will or will not have children. These rights that have often been denied in other nations, and have sometimes been challenged here. These freedoms are not listed in the Bill of Rights, and yet it is impossible to imagine this as a free country, without such freedoms being Constitutionally guaranteed.

Indeed, what makes the Bill of Rights so dear to every person in this nation is their "certain knowledge" that these fundamental freedoms are protected from government interference, even though they are not spelled out in that document's text. These so-called "unenumerated rights" are fundamental to us, precisely because they suggest no limits on liberty. They form the essential character of our American democracy, and insure the continued vitality of our Bill of Rights.

Of course, some legal scholars dispute this view, and say, for example, that protecting unenumerated rights is at odds with the doctrine of "original intent." Nothing could be further from the truth: the notion of inalienable rights, enumerated or not, beyond the reach of government, is the essence of the original intent of our Founders.

When the Framers completed their work in Philadelphia, the document contained no bill of rights, and that omission was a deliberate act of the Convention. That was not because any of the delegates questioned the existence of natural, inalienable rights, but precisely because they presumed those rights to be unquestionable.

Still, the absence of a national bill of rights disturbed many Americans, and satisfying their reservations quickly became the price of ratification. As a result, James Madison, originally an opponent of a bill of rights, found himself on the floor of the House of Representatives during the first Congress, proposing the adoption of just such a document.

For Madison, a problem remained. He feared for the future of those rights not enumerated, since specifying some rights could create the presumption that no other rights existed—precisely the argument that scholars like Robert Bork continue to make today. This was, and is, no small question, and the whole history of our country as well as the character of our society turns upon the way it was resolved.

Madison's answer to this dilemma was considered so vital that it was placed in the Bill of Rights itself—in the Ninth Amendment—which insists that "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." Madison and a majority of the Congress believed those unenumerated rights were so real and their protection so crucial that the Bill of Rights would not have been adopted without this amendment.

Within this story, too, lies the secret of the success of our Bill of Rights. For, in the words of Justice Brandeis, the Constitution reserves to the people, "as against the government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized man." That "right to be let alone" protects individual liberty from threats that are decades old, but still loom on the horizon today.

The unenumerated freedoms enshrined in our Bill of Rights:

Prevent the government from making it a crime to teach foreign languages to children—as the state of Nebraska once did, during an earlier "America First" campaign;

Prevent the government from ordering the compulsory sterilization of petty thieves—as the state of Oklahoma once did, during an earlier phase in the "war on crime;"

And prevent the government from making it illegal for doctors to prescribe birth control for married couples—as did the state of Connecticut, during an earlier debate over the distribution of contraceptives.

Nowhere does the Constitution or the Bill of Rights "enumerate" the individual freedoms protected in these cases, but neither the American people nor the Supreme Court doubts that our Bill of Rights does, indeed, protect those rights and provide for our privacy.

The debate over such "unenumerated rights" formed the crux of my disagreement with Judge Bork, and was the reason I felt compelled to lead the fight in the Senate against this otherwise honorable, brilliant and decent man. Judge Bork believed that the danger to democracy from acknowledging unenumerated rights is greater than the danger to freedom posed by discarding them.

This is a view I vigorously reject. The demonstrated pattern among the Supreme Court's opinions—many written by Justices like Frankfurter, Harlan and Powell, who exemplify the conservative jurisprudential tradition of the 20th Century—finds a common ground upon which to articulate a right to privacy. Such a right must extend to certain carefully defined and narrowly drawn decisions about procreation, family structure and family relationships.

That is a view, I might add, that was shared by then-Judge David Souter in his confirmation hearings, and is the principal reason that—notwithstanding my disagreement with him on some questions of law—I was pleased and proud to support his confirmation to the Court. For Justice Souter recognized, unlike Judge Bork, that throughout our history, the tension between individual liberty and the demands of organized society—between rights and power—has been at the heart of our struggle to define our essence as a nation.

Fortunately, the prevailing tide of our history has run consistently at the flood toward liberty; we have built the essential character of our nation at the high-water marks of freedom. Our Bill of Rights, interpreted with the guidance found in the Ninth Amendment, is our best assurance that the tide of liberty will continue to flow, ever stronger, ever deeper and ever broader.

It is painfully ironic that as we reach this milestone for our Bill of Rights, and as that document is emerging as a model for new democracies around the world, its foundations are under a two-pronged attack—one political, one intellectual—here at home.

First, we, as lawyers, can not ignore the growing fashion of our political system—politicians "bashing" the very institution on which this nation depends to breath life into its rights day by day: the American legal system. Even as people all over the world seek to emulate the success of our legal system—our courts, our independent bars, our robust legal profession—and copy it for their own, many here in this country can see only its failings, and would cast it aside without giving thought to what might be thrown out with it.

Let us remind these political critics of our profession that the Framers considered the right to a lawyer—as well as the right to a jury, even in civil cases—so fundamental that these guarantees are explicitly protected in the text of the Bill of Rights. That is not to say our modern legal system is perfect: it has its faults, as we all know. But the overheated rhetoric we have been hearing from some national leaders goes well beyond reform to demagoguery; it is an attack on the traditional purposes of our legal institutions, and on the profession that keeps these institutions alive and functioning.

It is true that our civil justice system has become too expensive, and as a result, it deprives many Americans of their "day in court" and imposes enormous costs on our society and its businesses. That's why I proposed the Civil Justice Reform Act, signed into law last year and beginning to take effect right now.

Perhaps more reforms are still needed; if that is the case, let it be so. But let us never forget that there are many other nations that have created systems of "justice" that are "cheap" and "efficient"—and those are the very nations where people have risked their lives to discard their governments and replace them with a system of justice like our own. It is our system that is the model; our system, the one that the critics here have been denigrating; our system, that rests, at bottom, on our Bill of Rights.

In addition to these political attacks on our profession and our system, there are growing academic and intellectual attacks on the legal framework that has been built upon our Bill of Rights.

This onslaught comes from many quarters, and has many different objectives: from Judge Bork's call to curtail the protection of unenumerated rights, to the views of Chicago Professor Richard Epstein, who would radically transform the Bill of Rights into a document that primarily protects property rights, and not personal freedoms.

Unfortunately, we lawyers are not very well informed or very much engaged in the debate that is taking place for the heart and intellectual soul of our legal system. For too long, we have ignored the fact that these thinkers—distinguished, articulate men and women, who have their differences—share one common goal: a dramatic change in the way in way in which the Bill of Rights protects our individual liberties.

As we ponder these new ideas, let us never forget what is at stake here: not some academic exercise, nor a quest for debating points—but, in truth, nothing less than the meaning of our freedoms and our rights as Americans. And as this debate rages in our courts and our Congress, we as lawyers can not be casual observers or detached dilettantes. We must be outspoken advocates for the elaborate but delicate framework of rights that has been erected in this country over the past two centuries; that is the living heritage of those ten amendments ratified 200 years ago.

If we live up to our duties as a profession, then in the end, no matter the attacks on our system, it will endure. For this system draws upon the indomitable determination of Americans to be free, a drive that can not be denied.

And our system also rests on a Judeo-Christian tradition that has guided us for more than 5,000 years; a tradition that recognizes the fundamental right of all persons to shape their own destiny.

For the ideal of personal freedom was not, of course, conceived by the Framers of the Bill of Rights. It came to that document from the "self-evident" right, affirmed by the Declaration of Independence, to "life, liberty, and the pursuit of happiness." The Declaration in turn drew upon the great English common law; which in turn had been built upon Magna Carta; and so on and on, century before century, back to the dawn of our civilization.

It is a line that reaches all the way back to what is, in my mind, the most eloquent definition of human freedom, found in the Biblical book of Micah. A passage in the fourth chapter of that book still rings true in our ears, 27 centuries after it flowed from the pen of the poet:

> They shall sit every man under his vine and under his fig tree, and none shall make them afraid.

This promise of our faith, the most basic of human rights—that none shall violate the sanctuary of our own place; that none shall hinder our pursuit of a full, free and creative life; that none shall meddle with our families; that none shall dictate our faith—are the cornerstones of our civilization.

They are the gift of God. They precede the formation of government; and the purpose of our Constitution, above all else, is to secure them. This is the tradition that must continue to guide us as we enter our third century under the Bill of Rights.

We Americans have long demonstrated our ability to adapt to new social, economic and technological realities, without sacrificing the values and liberties our Nation was created to preserve and expand. If we accept uncritically what is being proposed in the way of limitations placed upon our personal freedoms, we will fundamentally change as a country.

Make no mistake about it: there is a serious debate raging within our profession, within the academic community, about changing the emphasis we place upon individual freedom, and about whether or not the Bill of Rights and the Constitution have as their essence the protection of that freedom. Those of us in the legal profession must become more aware of this Constitutional debate—and more involved in it—in order to insure that our children enjoy the same, fundamental, taken-for-granted, Godgiven, individual rights that we enjoy.

If we keep that tradition alive—if we continue to demand, above all else, that our Bill of Rights defend us against government intrusion into our private lives—then I believe, with Micah, that none shall prevail over us, and none shall make us afraid.

DR. ARNOLD E. SCHAEFER: WARRIOR AGAINST HUNGER

Mr. HOLLINGS. Mr. President, with the passing of Dr. Arnold Edward Schaefer earlier this week, the United States lost a truly distinguished physician and scientist, a top nutritionist who devoted the prime of his career to spotlighting the existence of hunger and malnutrition not just in the third world, but right here in the world's richest country.

It was Dr. Schaefer who headed up the authoritative National Nutrition Survey in the late 1960's, a 10-State study which produced evidence of a shockingly widespread hunger problem in the United States—especially in the South. It is a great shame that the newly inaugurated Nixon administration curtailed Dr. Schaefer's National Nutrition Survey in early 1969. They attempted to silence the brave messenger because his findings were a political embarrassment. But rather than be silenced, Dr. Schaefer left the Government and publicly aired the results of his study.

For some 20 years, Dr. Schaefer was the chief nutrition expert at the National Institutes of Health. In that capacity, he conducted nutrition surveys in 35 developing nations. In 1980, he moved to Omaha, NE, to become director of the Swanson Center for Nutrition. After retiring, he continued to work as volunteer nutrition consultant at the University of Nebraska, including service as nutrition advisor to the Cornhuskers football team.

I feel not just a personal loss at Dr. Schaefer's death, but a tremendous sense of gratitude for the many, many hours he spent tutoring me on the causes and consequences of hunger. My 1970 book, "The Case Against Hunger," benefited in countless ways from his insights and data. Dr. Schaefer was a remarkable man, and I will miss him greatly.

TRIBUTE TO DON BOLCE

Mr. DODD. Mr. President, I rise today to note with great regret the departure of an individual who has made a great deal of difference in the lives of many low-income children in this country. For the past 2 years, Don Bolce has been Director of Government Affairs for the National Head Start Association [NHSA]. During those years, which saw the passage of landmark Head Start legislation, Don has been an unfailing source of information about every aspect of Head Start. He has also been a wise counselor on policy directions for the program and a tireless advocate for children who begin life at a disadvantage. When you see such dedication to a program, Mr. President, it is not difficult to understand why Head Start is a success.

One reason Don is so effective is his deep understanding of the strengths and needs of Head Start families, an understanding that grew from his experience as a Head Start Director in California. When he joined NHSA, he brought with him knowledge not only of how a Head Start program actually works, but also of the importance of keeping our focus firmly on the children and families whom Head Start serves as we see develop policy.

In 1990, as chairman of the Subcommittee on Children, Family, Drugs, and Alcoholism, which oversees Head Start, I had the pleasure of working with Don on legislation I sponsored to reauthorize the program. In the early stages of the reauthorization process, we had a dream that we hardly dared express—a dream that every eligible child could have the chance to participate in Head Start. Don was an integral part of the effort that led to passage of legislation embodying that dream. The Augustus F. Hawkins Human Services Reauthorization Act, which became law on November 3, 1990, created for the first time a blueprint for every eligible child to participate by 1995.

Looking back on that time, the most remarkable thing to me is that the legislation passed the Senate twice by unanimous consent. That there could be practically no dissent in either body was due in large part to the efforts of Don and others to make Head Start's accomplishments known to the Congress. Don should be particularly proud of his work, because the end result holds the promise of a better life for millions of children—including 11,000 children in my own State of Connecticut who are shut out of Head Start for lack of funds.

Don is leaving NHSA, but not the Head Start community. Returning to California, he will be directing one of the Head Start transition projects created by the 1990 legislation to help Head Start children and their families as they move into elementary school. Don will be sorely missed by many people here in Washington who consider him a valued colleague. But the families and staff in the program he will be heading are very lucky indeed to have someone so caring and conscientious working with them. I wish Don and his family well in their new endeavors, and I sincerely hope that we can continue to work together to make Head Start an even better program.

TAXPAYER BILL OF RIGHTS 2

Mr. HATCH. Mr. President, I rise today to express my support of the legislation introduced by the Senator from Arkansas, the taxpayer bill of rights 2 [T2].

Mr. President, in 1988 Congress passed the taxpayer bill of rights. This landmark legislation was a good first step in holding the Internal Revenue Service accountable for its actions toward the taxpayers of this country. Many of the provisions contained in that legislation are making a measurable difference in the relationship between the Service and the taxpayer.

In 1988, however, we only took the first step in protecting the American taxpayer. We still have work to do. The system remains highly burdensome to taxpayers and too often, inequities occur in the tax administration process. I still receive numerous complaints from my constituents in Utah and others about the discourteous and sometimes abusive treatment they are receiving from the IRS.

The Internal Revenue Service affects the lives of more Americans than any other Government agency. We necessarily grant the IRS the power to know a great deal about our personal and business lives. Unfortunately, along with this power comes the opportunity for abuse. I believe that the vast majority of IRS employees are hardworking and dedicated public servants. However, there are occasions when some IRS agents appear to be looking at American taxpayers as their adversary, potential victim, or springboard for advancement within the Service.

Something must be done to ensure that the taxpayers are treated like the human beings with rights and responsibilities that they are.

The taxpayer bill of rights 2 will do just this. Without altering the power of the Service, T2 will curb these abuses by making the IRS more accountable for its actions and strengthening the ability of taxpayers to fight unreasonable actions against them.

By strengthening oversight and resolution practices within the IRS and the ability of the taxpayers to fight abusive and unfair treatment, this legislation will help to restore a sense of balance between the Internal Revenue Service and the taxpayer.

This legislation is not about diminishing the role of the IRS or its ability to collect taxes. It is about ensuring that fairness and respect are returned to the American tax system. T2 will provide innocent taxpayers with the assurance that they will be able to protect themselves from the mistakes or misdeeds of the IRS, thus restoring the sense of balance that needs to exist in a system based on voluntary compliance. This legislation will help bring taxpayer confidence and respect back to the U.S. tax system.

I urge my colleagues to help the taxpayers protect their rights and support this legislation.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I am advised that the majority leader would approve of my making the following request.

I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 11:54 a.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 1:58 p.m., when called to order by the Presiding Officer [Mr. KOHL].

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 500, Andrew H. Card, Jr., to be Secretary of Transportation and all nominations placed on the Secretary's desk in the Coast Guard.

I further ask unanimous consent that the Senate proceed to immediate consideration and that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, are as follows:

DEPARTMENT OF TRANSPORTATION

Andrew H. Card, Jr., of Massachusetts, to be Secretary of Transportation.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD

Coast Guard nominations beginning James M. Leitner, and ending Raymond W. Blowitski, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Coast Guard nominations beginning Daniel N. Wood, and ending Matthew L. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

STATEMENT ON THE NOMINATION OF ANDREW H. CARD, JR., TO BE SECRETARY OF TRANSPORTATION

Mr. THURMOND. Mr. President, I rise today in strong support of the nomination of Andrew H. Card, Jr., to be Secretary of Transportation.

Mr. Card is well-qualified to hold this demanding position. He received his engineering degree from the University of South Carolina where he was the recipient of a U.S. Navy ROTC scholarship. He received a congressional appointment to the U.S. Merchant Marine Academy which he attended for 1 year. Mr. Card also attended the Kennedy School of Government at Harvard University and subsequently as a guest lecturer at that institution.

After completion of his education, Andrew Card worked as a design, then a structural engineer in Massachusetts. He was elected to the Massachusetts House of Representatives in 1975 and he served in that body until 1983. While serving in the House, he was assistant Republican whip from 1977 until 1983.

In 1983, Mr. Card joined President Reagan as a Special Assistant for Intergovernmental Affairs. He remained at the White House until 1987 and returned there following President Bush's election, when he became Deputy to the Chief of Staff and then Deputy Chief of Staff.

Mr. Card has been involved in numerous civic activities, including the American Red Cross, United Cerebral Palsy, Rotary International, the Jaycees, and the Boy Scouts. He also served on the National Advisory Council for the University of South Carolina.

As we approach the 21st century, transportation will continue to be an important issue. I believe that Andrew Card is well equipped to handle the challenging position of Secretary of Transportation. He is committed to safety in all areas of transportation. He believes that the United States must rebuild its infrastructure so that transportation will function efficiently, thus increasing the Nation's competitiveness.

Mr. President, I commend President Bush for nominating Mr. Card. If confirmed by the Senate, as I am sure he will be, I have every confidence Mr. Card will serve honorably and capably as Secretary of Transportation.

STATEMENT OF SENATOR JOHN H. CHAFEE ON THE NOMINATION OF ANDREW H. CARD, JR., TO BE SECRETARY OF TRANSPORTATION

Mr. CHAFEE. Mr. President, I strongly support the President's choice of Andrew H. Card for the position of Secretary of Transportation.

As a fellow New Englander, I have known Andrew Card for many years. He comes to this job with excellent qualifications.

Mr. Card will bring to the Department of Transportation an engineering background with hands-on experience designing, building, and inspecting transportation projects. He has been tested as a State official serving effectively as a member of the Massachusetts Legislature. He also has had experience at the local level as a planner for the city of Holbrook, MA. His most recent responsibilities at the White House demonstrate his management skills.

Coming from New England, Mr. Card has first-hand knowledge of the importance of all the modes of transportation, the problems of congestion, and the necessity for improving air quality. Solving these problems will take the cooperation of all levels of government, and Andy's experience at the local, State, and Federal level will be very valuable.

The Committee on Environment and Public Works held an informational hearing with Mr. Card on February 19. I was pleased to hear Mr. Card state his commitment to carrying out the intent of the recently passed Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA].

This law marks the beginning of an exciting and challenging time in the field of transportation, and I believe Mr. Card is up to the challenge. He understands that the ISTEA signals a new era in transportation where highways will no longer solve all transportation problems, and I believe he will get this message out to all the constituencies of transportation.

Andrew Card understands what intermodal means and how important this concept is to the success of transportation. He developed a multi-modal strategy in a white paper he developed as a State legislator and candidate for Governor of the State of Massachusetts more than 10 years ago. It is obvious that he has spent a lot of time thinking about transportation issues, listening to experts, and talking with officials who deliver transportation services.

Mr. President, as I stated at the beginning, the President has made an excellent choice for the position of Secretary of Transportation. Andrew Card will be an outstanding Secretary of Transportation, and I look forward to working with him.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

NATIONAL ENERGY SECURITY ACT

The text of S. 2166, a bill to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes, as passed by the Senate on February 19, 1992, is as follows:

S. 2166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be referred to as the "National Energy Security Act of 1992".

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Sec. 19102. Amendment to title 11 of the United States Code.
Sec. 19103. Limits on participation by companies.
Sec. 19104. Emergency petroleum supply.
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Sec. 19109. Strategic diversification.
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TITLE I—FINDINGS AND PURPOSES

Subtitle A—Findings and Purposes

SEC. 1101. FINDINGS.—The Congress finds that—

(1) the achievement of energy security for the United States is essential to the health of the national economy and the maintenance of national security;

(2) as an energy-rich country that nonetheless depends on oil imports for an increasing share of oil use, United States energy security requires that the Nation reduce oil consumption, reduce oil imports, maximize domestic oil production, and particularly for transportation purposes, encourage use of energy sources other than oil;

(3) this can be accomplished with no significant adverse effect on the environment, and will stimulate economic growth, improve the competitiveness of United States industry in the global market, and reduce the possibility of global climate change; and

(4) the achievement of energy security for the United States will require that a longterm, comprehensive national energy policy be established and sustained.

SEC. 1102. PURPOSES.—The purposes of this Act are to—

(1) slow the Nation's increasing dependence on imported oil over the shortterm, and in the longterm significantly reduce that dependence;

(2) reduce the consumption of oil in the transportation sector, and encourage development and use of alternative energy sources, particularly for transportation;

(3) encourage development and deployment of renewable energy sources in the United States and on an international basis in lesser-developed countries;

(4) streamline the hydroelectric licensing process and encourage hydroelectric development at Federal dams;

(5) encourage more efficient use of energy throughout the economy, including improvements in the industrial, commercial and residential sectors, increasing energy efficiency in Federal energy management, and encouraging more efficient energy use by electric utilities;

(7) encourage the production and use of nuclear power by providing for the commercialization of advanced nuclear reactor technologies and improving the nuclear reactor licensing process;

(8) enhance the competitive position of the Federal uranium enrichment enterprise;

(9) encourage increased utilization of natural gas and other domestic energy resources to displace imported oil and meet domestic energy demand in a manner consistent with environmental values;

(10) encourage the development of domestic energy resources on the Outer Continental Shelf;

(11) establish priorities for Federal energy research, development, demonstration, and commercialization;

(12) encourage enhanced oil and gas recovery from known and producing domestic reserves;

(13) enhance the role of coal and clean coal technology in meeting the Nation's energy needs;

(14) foster competition in the electric utility industry;

(15) provide enhanced oil security protection through the Strategic Petroleum Reserve; and

(16) encourage the Federal Government to play a lead role in the widespread commercialization of alternative fuel vehicles.

Subtitle B—Climate Protection Goals, Least-Cost Energy Strategy, and Director of Climate Protection

SEC. 1201. CLIMATE PROTECTION GOALS AND POLICIES.—(a) GOALS.—The goals of this subtitle are to—

(1) investigate the feasibility and economic, energy, social, environmental and competitive implications of the stabilization of the generation of carbon dioxide and other greenhouse gases in the United States;

(2) assess the feasibility of further limiting, or reducing, the generation of carbon dioxide and other greenhouse gases not controlled by the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer;

(3) investigate the feasibility and economic, energy, social, and environmental implications of achieving a 20 percent reduction in the generation of carbon dioxide by the year 2005 as recommended by the 1988 Toronto Scientific World Conference on the Changing Atmosphere;

(4) investigate the feasibility and economic, energy, social, and environmental implications of stabilizing carbon dioxide emissions by the year 2005; and

(5) evaluate the potential social, economic, energy, and environmental implications of implementing the policies mentioned in paragraphs (1), (2), (3), and (4) in order to enable the United States to comply with any obligations under an international global climate change framework convention or agreement.

(b) POLICIES.—The least-cost energy strategy under section 1202 shall evaluate the economic, energy, social, environmental, technical, and competitive impacts of the implementation of policies to be considered in section 1201(a) that include, but are not limited to, policies that:

(1) implement standards for more efficient use of fossil fuels;

(2) increase the energy efficiency of existing technologies;

(3) encourage technologies, including clean coal technologies, that generate lower levels of carbon dioxide and other greenhouse gases;

(4) promote the use of renewable energy resources, including solar, geothermal, sustainable biomass, hydropower, and wind power;

(5) affect the development and consumption of energy and energy efficiency resources and electricity through tax policy;

(6) encourage investment in energy efficient equipment and technologies; and

(7) encourage the development of energy technologies, such as advanced nuclear fission and nuclear fusion, that produce energy without carbon dioxide and other greenhouse gases as a byproduct, and encourage the deployment of nuclear electric generating capacity.

(c) FRAMEWORK CONVENTION.—In order to promote international cooperation in addressing potential global climate change, it is the goal of the United States to establish by 1992, an international framework convention on global climate change through the activities of the Negotiating Committee for a Framework Convention of the United Nations International Environmental Program and the World Meteorological Organization and to secure the commitment of the community of nations to such convention.

SEC. 1202. LEAST-COST ENERGY STRATEGY.—(a) STRATEGY.—The first National Energy Policy Plan (the "Plan") under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) prepared and submitted by the President to Congress after the date of the enactment of this Act, and each subsequent such Plan, shall include a least-cost energy strategy prepared by the Secretary.

(b) PRIORITIES.—(1) The least-cost energy strategy shall identify Federal priorities for the encouragement of the use of energy and energy efficiency resources. In developing the least-cost energy strategy, the Secretary shall take into consideration the economic, energy, social, and environmental consequences of his choices. Such strategy shall be designed to achieve to the maximum extent practicable and at least-cost to the Nation—

(A) the energy production, utilization, and conservation objectives of the Plan;

(B) the stabilization and eventual reductions in the generation of carbon dioxide and other greenhouse gases mentioned in section 1201(a); and

(C) the energy efficiency, renewable energy, and oil reduction goals described in subtitle C.

(2) The least-cost energy strategy shall include—

(A) a comprehensive inventory of available energy and energy efficiency resources and their projected costs, taking into account all costs of production, transportation, and utilization of such resources, including—

(i) coal, clean coal technologies, coal seam methane, and underground coal gasification;

(ii) energy efficiency, including existing technologies for increased efficiency in production, transportation, and utilization of energy, and other technologies that are anticipated to be available through further research and development; and

(iii) other energy resources, such as renewable energy, solar energy, nuclear fission, fusion, geothermal, biomass, fuel cells, and hydropower.

(B) a proposed two-year program for assuring adequate supplies of energy and energy efficiency resources under paragraph (1), and an identification of actions that can be undertaken within existing Federal authority; and

(C) recommendations for any new Federal authority needed to achieve the purposes of this Act.

(c) SECRETARIAL CONSIDERATION.—(1) In developing the least-cost energy strategy, the Secretary shall give full consideration to:

(A) the relative costs of energy and energy efficiency resources based upon a comparison of the estimated system costs of other similarly reliable and available resources; and

(B) the economic, energy, social and environmental consequences resulting from the establishment of any particular order of Federal priority.

(2) System costs under paragraph (1) are all direct and quantifiable net costs for the resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(3) When comparing an energy efficiency resource to an energy resource, a higher priority shall be assigned to the energy efficiency resource whenever its estimated system cost is equal to the estimated system cost of the energy resource.

SEC. 1203. DIRECTOR OF CLIMATE PROTECTION.—(a) APPOINTMENT.—Within six months after the date of the enactment of this Act, the Secretary shall appoint within the Department, a Director of Climate Protection (the "Director"). The Director shall:

(1) in the absence of the Secretary, serve as the Secretary's representative for interagency and multilateral policy discussions of global climate change;

(2) monitor domestic and international policies for their effects on the generation of carbon dioxide and other greenhouse gases; and

(3) have the authority to participate in the planning activities of relevant Departmental programs.

(b) Beginning 18 months after the date of the enactment of this Act, and annually thereafter, the Director shall participate in the formulation of the least-cost energy strategy under section 1202, research and development priorities under section 13101, and the management plan under section 13102.

SEC. 1204. REPEAL.—Title III of the Energy Security Act (42 U.S.C. 7361, et. seq.) is hereby repealed.

SUBTITLE C—ENERGY GOALS

SEC. 1301. ENERGY GOALS.—(a) IN GENERAL.—In order to focus and sustain a national effort toward achieving national energy security in an environmentally responsible manner, the United States should pursue the national energy goals listed in subsection (b) (referred to in this subtitle as "energy goals").

(b) GOALS.—

(1) REDUCED OIL CONSUMPTION.—The oil consumption of the United States should be reduced from the 1990 level of approximately 40 percent of the total United States energy resource consumption to 39 percent by 1995, 37 percent by 2000, 35 percent by 2005, and 33 percent by 2010.

(2) REDUCED OIL IMPORTS.—The annual net oil imports of the United States should be limited to 50 percent or less of United States oil consumption.

(3) INCREASED ENERGY EFFICIENCY.—The energy efficiency of the United States should be increased to 10 percent over the 1990 levels by 1995, 20 percent over the 1990 levels by 2000, 30 percent over the 1990 levels by 2005, and 40 percent over the 1990 levels by 2010.

(4) INCREASED UTILIZATION OF RENEWABLE ENERGY.—The portion of the energy consumption represented by renewable energy sources should increase from the 1990 level of approximately 8 percent to 9 percent in 1995, 10 percent in 2000, 12 percent in 2005, and 14 percent in 2010.

SEC. 1302. REPORTS.—(a) INITIAL REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to Congress setting forth a plan for the achievement of the energy goals.

(2) CONTENTS.—In the report, the Secretary shall—

(A) make recommendations as to any additional statutory or budget authority that the Secretary determines is necessary to achieve the energy goals;

(B) describe the measures of energy efficiency that the Secretary has determined to be appropriate for each end use sector; and

(C) describe the plans developed by the Secretary for acquiring the necessary data to be used in determining the energy efficiency of each end use sector.

(b) PROGRESS REPORTS.—

(1) IN GENERAL.—Every 2 years after the initial report is submitted pursuant to subsection (a), the Secretary shall submit to Congress a report, separate from the National Energy Policy Plan submitted pursuant to section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), detailing the progress of the United States towards achieving the energy goals.

(2) CONTENTS.—In the report, the Secretary shall—

(A) analyze the progress towards meeting the energy goals, and, if an energy goal is not being met, identify barriers to the achievement of the goal; and

(B) make recommendations as to any change in statutory or budget authority that the Secretary determines is necessary for the timely achievement of the energy goals.

(c) ALTERNATE ENERGY GOALS.—If at any time the Secretary determines that achievement of the energy goals is impracticable, the Secretary shall, in the next report submitted pursuant to this section—

(1) state the reasons and provide an analysis for the determination; and

(2) propose alternate energy goals that the Secretary determines to be practicable.

TITLE II—DEFINITIONS

SEC. 2101. DEFINITIONS.—As used in this Act the term—

(a) "Secretary" means the Secretary of Energy, unless otherwise provided;

(b) "joint venture" means any agreement entered into under this Act by the Secretary with more than one or a consortium of non-Federal persons (including a joint venture under the National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.)) for cost-shared research, development, or demonstration of technologies, but does not include procurement contracts, grant agreements, or cooperative agreements as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code, and joint ventures authorized herein shall be conducted in accordance with the procedures and requirements of paragraphs (b)(1), (b)(2) and (b)(5) of section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218);

(c) "non-Federal person" has the same meaning as set forth in subsection (3) of section 3 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218); and

(d) "lesser-developed countries" shall include, but not be limited to, Eastern Europe and the Soviet Union.

TITLE IV—FLEETS AND ALTERNATIVE FUELS

Subtitle A—Alternative Fuel Fleets

SEC. 4101. DEFINITIONS.—For the purposes of this subtitle—

(1) "Administrator" means the Administrator of the General Services Administration;

(2) "alternative fuel" means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, ethanol, or other alcohol with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; electricity including electricity from solar energy; and any other fuel that is substantially nonpetroleum, including fuels other than alcohol that are derived from biological materials;

(3) "alternative fuel vehicle" means a motor vehicle that—

(A) operates solely on alternative fuel; or

(B) is a flexi-fueled vehicle;

(4) "comparable conventionally fueled vehicle" means a commercially available vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as

its fuel source and provides passenger capacity or payload capacity comparable or similar to an alternative fuel vehicle as determined by the Secretary;

(5) "diesel truck" means a truck that has a gross vehicle weight over 8,500 pounds and under 26,000 pounds and is powered by diesel fuel;

(6) "Federal agency" means any executive department, military department, government corporation, independent establishment, executive agency, the United States Postal Service, the Congress, and the courts of the United States;

(7) "fleet" means a number of motor vehicles that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by a Federal agency, State, or person. This term does not include—

(A) motor vehicles held for daily lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(D) law enforcement vehicles;

(E) emergency vehicles;

(F) military vehicles that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons;

(G) non-road vehicles, including farm and construction vehicles; or

(H) except for vehicles covered by section 4102 and section 4103, vehicles that under normal operations are garaged at a personal residence at night;

(8) "flexi-fueled vehicle" means a motor vehicle that can operate on alternative and non-alternative fuel;

(9) "motor vehicle" means—

(A) any four-wheel passenger automobile, as the term "passenger automobile" is defined in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2));

(B) any truck with a gross vehicle weight up to 26,000 pounds, including "light trucks," as defined in section 501(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(15)) and "diesel trucks" as defined in this section;

(C) and any bus designed to transport more than ten persons;

(10) "person" means—

(A) any individual, corporation, partnership, or association;

(B) any municipality or political subdivision of a State;

(11) "covered person" means a person that owns, operates, leases, or otherwise controls—

(A) a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled, and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of 250,000 or more;

(B) at least 50 motor vehicles within the United States; and

(C) for the purposes of section 4108, 4109, and 4110, a "covered person" shall include the Postmaster General.

(12) "State" means a State, any agency of a State (but not a municipality or political subdivision of a State), or the District of Columbia.

SEC. 4102. FEDERAL FLEETS.—(a) Purchase Requirements.—

(1) The Federal Government shall purchase, lease, or otherwise acquire at least—

(A) 5,000 alternative fuel vehicles in 1993;

(B) 7,500 alternative fuel vehicles in 1994; and

(C) 10,000 alternative fuel vehicles in 1995.

(2) When any Federal agency purchases, leases, or otherwise acquires vehicles for a Federal fleet, in the years specified in this paragraph, at least the following percentage of the vehicles purchased, leased, or otherwise acquired shall be alternative fuel vehicles in the respective years—

(A) in 1996, 25 percent;

(B) in 1997, 33 percent;

(C) in 1998, 50 percent;

(D) in 1999, 75 percent; and

(E) in 2000 and each year thereafter, 90 percent.

(b) PROGRAM CRITERIA.—The Secretary, the Administrator, in consultation with the head of each Federal agency, shall consider the following criteria in the procurement and placement of alternative fuel vehicles:

(1) the procurement plans of State and local governments and other public and private institutions;

(2) the current and future availability of refueling and repair facilities;

(3) the reduction in emissions of the Federal motor vehicle fleet;

(4) whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act of 1990;

(5) the needs of Federal, State, and local agencies; and

(6) the contribution to the reduction in the consumption of oil in the transportation sector.

(c) PROGRAM COORDINATION.—The Secretary shall work with the Administrator of General Services and the head of each Federal agency to plan effective coordination and cooperation by Federal agencies in the purchase, use, and refueling of alternative fuel vehicles acquired under this section or other provisions of law.

(d) REFUELING.—The Administrator of General Services, the Sergeant at Arms of the United States Senate, the Sergeant at Arms of the United States House of Representatives, and the Architect of the Capitol, shall, to the maximum extent practicable, arrange for the fueling of alternative fuel vehicles acquired under this section at commercial fueling facilities that are open to the public and offer alternative fuels for sale to the public. If publicly available fueling facilities are not convenient or accessible to the location of Federal alternative fuel vehicles purchased under this title, the Administrator is authorized to enter into commercial arrangements with commercial fueling operators for the purpose of fueling Federal alternative fuel vehicles.

(e) COST OF VEHICLES TO FEDERAL AGENCY.—Notwithstanding the provisions of section 211 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 491), the Administrator of General Services shall not include the incremental costs of alternative fuel vehicles in the amount to be reimbursed by Federal agencies if the Administrator determines that appropriations provided pursuant to this section are sufficient to provide for the incremental cost of such vehicles over the cost of comparable conventional vehicles.

(f) LIMITATIONS ON APPROPRIATIONS.—Funds appropriated pursuant to the authorization under this section shall be applicable only—

(1) to the portion of the cost of acquisition, maintenance, and operation of vehicles acquired under this paragraph which exceeds the cost of acquisition, maintenance, and operation of comparable conventional vehicles;

(2) to the portion of the costs of fuel storage and dispensing equipment attributable to such vehicles which exceeds the costs for such purposes required for conventional vehicles; and

(3) to the portion of the costs of acquisition of alternative fuel vehicles which represents a reduction in revenue from the disposal of such vehicles as compared to revenue resulting from the disposal of comparable conventional vehicles.

(g) VEHICLE COSTS.—The incremental cost of vehicles acquired under this section over the cost of comparable conventional vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

(h) ACQUISITION REQUIREMENT.—Federal agencies, to the extent practicable, shall obtain alternative fuel vehicles from original equipment manufacturers.

(i) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums as are appropriated for the Administrator of General Services pursuant to the authorization under this section shall be added to the General Supply Fund established in section 109 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756).

(j) EXEMPTION.—Notwithstanding any other provision of this subtitle, the Postmaster General shall be exempt from the requirements of section 4102(b), 4102(c), and 4102(g).

SEC. 4103. STATE FLEETS.—When any State that owns, operates, leases, or otherwise controls at least 50 motor vehicles purchases, leases, or otherwise acquires motor vehicles for use in a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of Census, with a 1980 population of 250,000 or more, the following percentage of the vehicles purchased, leased, or otherwise acquired for such fleet in the years specified shall be alternative fuel vehicles—

(1) in 1995, 10 percent;

(2) in 1996, 15 percent;

(3) in 1997, 25 percent;

(4) in 1998, 50 percent;

(5) in 1999, 75 percent; and

(6) in 2000 and each year thereafter, 90 percent.

SEC. 4104. PRIVATE AND MUNICIPAL FLEETS.—When any covered person that owns, operates, leases, or otherwise controls at least 50 motor vehicles purchases, leases, or otherwise acquires vehicles for a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of Census, with a 1980 population of 250,000 or more, the following percentage of the vehicles purchased, leased, or otherwise acquired for such fleet in the years specified shall be alternative fuel vehicles—

(1) in 1998, 30 percent;

(2) in 1999, 50 percent; and

(3) in 2000 and each year thereafter, 70 percent.

SEC. 4105. RULES OF GENERAL APPLICABILITY.—(a) TREATMENT OF FRACTIONS.—If the number of vehicles purchased, leased, or otherwise acquired by a Federal agency, State, or covered person in any year when multiplied by the percentage specified in section

4102, 4103, or 4104 contains a fraction, the number of vehicles required to be alternative fuel vehicles shall be increased to the next whole number.

(b) FUEL USE REQUIREMENT.—The vehicles purchased pursuant to section 4102, 4103, or 4104 shall be operated solely on alternative fuels except when operating in an area where the appropriate alternative fuel is unavailable.

(c) DIESEL TRUCKS.—Any Federal agency, State, or covered person that operates a fleet that is subject to the requirements of section 4102, 4103, or 4104, respectively, and contains one or more diesel trucks may purchase, lease, or otherwise acquire diesel trucks after 1994 in proportion (relative to the total number of motor vehicles) to the number of diesel trucks in the agency, State, or person's fleet that is subject to the requirements of section 4102, 4103, or 4104 on the date of enactment of this subtitle, notwithstanding such sections.

(d) DELAYED PURCHASE OPTION.—Any covered person subject to section 4104 may postpone the acquisition of alternative fuel vehicles required to be acquired in 1998 and 1999, but after 1999, such person may only acquire alternative fuel vehicles until such person acquires a cumulative number of such vehicles which exceeds 150 percent of the cumulative number of alternative fuel vehicle purchases that would have been needed to meet the 1998 and 1999 requirements of section 4104. Such acquisitions shall be in addition to any acquisition requirements under section 4104 for years after 1999.

SEC. 4106. EXEMPTIONS.—(a) VEHICLE AND FUEL AVAILABILITY.—The Secretary shall exempt any Federal agency, State, or covered person from the requirements of section 4102, 4103, or 4104, respectively, in whole or in part, if the Secretary determines that:

(1) alternative fuel vehicles meeting the requirements of such Federal agency, State, or person are not available for purchase, lease, or acquisition by other means; or

(2)(A) commercial alternative fuel refueling facilities are not available to the Federal agency, State, or person in the area in which the vehicles are operated; and

(B) providing an alternative fuel refueling facility for such agency, State, or person's alternative fuel vehicles would be economically impracticable.

(b) DURATION OF EXEMPTIONS.—An exemption granted by the Secretary under subsection (a) shall be for an initial period of no more than 12 months and shall be renewable for additional periods of no more than 12 months.

SEC. 4107. VEHICLE CONVERSIONS.—The requirements of sections 4103 and 4104 may be met through the conversion of existing or new gasoline or diesel-powered vehicles to alternative fuel vehicles. For purposes of such sections, the conversion of a vehicle to an alternative fuel vehicle shall be treated as the purchase of an alternative fuel vehicle. However, if alternative fuel vehicles are not available from original equipment manufacturers, nothing in this section shall be construed to require any Federal agency, State or covered person subject to the fleet vehicle acquisition requirements under this title to convert existing or new gasoline or diesel-powered vehicles to alternative fuels vehicles or to purchase converted vehicles.

SEC. 4108. CREDITS.—(a) IN GENERAL.—The Secretary shall allocate a credit to a State or covered person that is subject to the requirements of section 4103 or 4104, respectively, if that State or person purchases an alternative fuel vehicle in excess of the number that State or person is required to purchase under section 4103 or 4104 or purchases an alternative fuel vehicle before the date that State or person is required to purchase an alternative fuel vehicle under such section.

(b) ALLOCATION.—In allocating credits under subsection (a), the Secretary shall allocate one credit for each alternative fuel vehicle the State or covered person purchases that exceeds the number of alternative fuel vehicles that State or person is required to purchase under section 4103 or 4104 or that is purchased before the date that State or person is required to purchase an alternative fuel vehicle under such section. In the event that a vehicle is purchased before the date otherwise required, the Secretary shall allocate one credit per vehicle for each year the vehicle is purchased before the required date. The credit shall be allocated for the same type vehicle as the excess vehicle or earlier purchased vehicle.

(c) USE OF CREDITS.—At the request of a State or covered person allocated a credit under this section, the Secretary shall treat the credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by that State or person when determining whether that State or person has complied with this subtitle in the year designated. A credit may be counted toward compliance for only one year.

(d) TRANSFERABILITY.—A State or covered person allocated a credit under this section or to whom a credit is transferred under this section, may transfer freely the credit to another State or person who is required to comply with this subtitle. At the request of the State or person to whom a credit is transferred, the Secretary shall treat the transferred credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by the State or person to whom the credit is transferred when determining whether that State or person has complied with this subtitle in the year designated. A transferred credit may be counted toward compliance for only one year.

SEC. 4109. REPORTS.—The Secretary may require a Federal agency, State, or covered person to file with the Secretary the reports the Secretary determines necessary to implement this subtitle.

SEC. 4110. RESALE OF ALTERNATIVE FUEL VEHICLES.—(a) Not less than three years from the date of purchase, the Administrator may resell any alternative fuel passenger automobile purchased pursuant to this subtitle. For purposes of this subsection, a "passenger automobile" means any passenger automobile as defined in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2)).

(b) Not less than six years, or 60,000 miles from the date of purchase, the Administrator may resell any alternative fuel light truck purchased pursuant to this subtitle. For purposes of this subsection, a "light truck" means any light truck as defined in section 501(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(15)).

(c) The Administrator may resell or dispose of an alternative fuel passenger automobile or light truck at an earlier date if such vehicle is damaged in an accident, or if the Administrator determines selling such alternative fuel passenger automobile or light truck is in the best interests of the Federal alternative fuel vehicle program.

(d) The Administrator shall take all feasible steps to ensure that all alternative fuel vehicles sold under the provisions in (a) and (b) of this section shall remain alternative vehicles at time of sale.

SEC. 4111. FEDERAL AGENCY PROMOTION, EDUCATION, AND COORDINATION.—(a) PROMOTION AND EDUCATION.—The Administrator shall institute a program to promote programs and educate officials and employees of Federal agencies on the merits of alternative fuel vehicles. The Administrator shall provide and disseminate information to Federal agencies on the—

(1) location of refueling and maintenance facilities available to alternative fuel vehicles in the Federal fleet;

(2) range and performance capabilities of alternative fuel vehicles;

(3) State and local government and commercial alternative fuel vehicle programs;

(4) Federal alternative fuel vehicle purchases and placements;

(5) operation and maintenance of alternative fuel vehicles in accordance with the manufacturer's standards and recommendations; and

(6) incentive programs established pursuant to sections 4112 and 4113 of this Act.

(b) ASSISTANCE IN PROCUREMENT AND PLACEMENT.—The Administrator shall provide guidance, coordination and technical assistance to Federal agencies in the procurement and geographic location of alternative fuel vehicles purchased through the Administrator. The procurement and geographic location of such vehicles shall comply with the purchase requirements under section 4102 of this Act.

(c) INTERGOVERNMENTAL COORDINATION.—The Administrator shall identify other Federal, State, and local efforts to promote and use alternative fuel vehicles. To the maximum extend practicable, the Administrator shall coordinate Federal alternative fuel vehicle procurement, placement, refueling and maintenance programs with those at the State and local level.

(d) POSTAL SERVICE COORDINATION.—To the maximum extent practicable, the Postmaster General shall coordinate its alternative fuel vehicle procurement, placement, refueling, and maintenance programs with those at the Federal, State, and local level. The Postmaster General shall communicate, share, and disseminate, on a regular basis, information on such programs with the Secretary, the Administrator, and heads of appropriate Federal agencies.

(e) POSTAL SERVICE PROGRAM CRITERIA.—The Postmaster General shall consider the following criteria in the procurement and placement of alternative fuel vehicles:

(1) the procurement plans of State and local governments and other public and private institutions;

(2) the current and future availability of refueling and repair facilities;

(3) the reduction in emissions of the Postal fleet;

(4) whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act of 1990;

(5) the operational requirements of the Postal fleet;

(6) the contribution to the reduction in the consumption of oil in the transportation sector.

SEC. 4112. AGENCY INCENTIVES PROGRAM.—(a) REDUCTION IN RATES.—To encourage and promote use of alternative fuel vehicles in Federal agencies, the Administrator may offer a five percent reduction in fees charged to agencies for the lease of alternative fuel vehicles below those fees charged for the lease of comparable conventionally fueled vehicles.

(b) FEDERAL EMPLOYEE POOLING AND DRIVER PROGRAM.—Notwithstanding the provisions of section 1344(a) of title 31, United States Code, Federal agencies may authorize Federal employees to use alternative fuel vehicles from their residence to their place of employment for purposes of—

(1) Federal employee carpooling of not less than four Federal employees for each trip; and

(2) refueling and maintenance, if the Federal agency head, or the designee of the agency head, determines that such services are not convenient to the location of place of employment.

SEC. 4113. RECOGNITION AND INCENTIVE AWARDS PROGRAM.—(a) AWARDS PROGRAM.—The Administrator shall establish an annual cash awards program to recognize those employees of the General Services Administration and other Federal agencies who demonstrate the strongest commitment to the use of alternative fuels and fuel conservation in Federal motor vehicles.

(b) CRITERIA FOR GENERAL SERVICES ADMINISTRATION EMPLOYEES.—The Administrator shall provide annual cash awards of not more than $2,000 each to three General Services Administration employees who best demonstrate a commitment—

(1) to the success of the Federal alternative fuels vehicle program through—

(A) exemplary promotion of alternative fuel vehicle use within the General Services Administration and other Federal agencies;

(B) proper alternative fuel vehicle care and maintenance;

(C) coordination with Federal, State, and local efforts;

(D) innovative alternative fuel vehicle procurement, refueling and maintenance arrangements with commercial entities; and

(2) to fuel efficiency in Federal motor vehicle use through the promotion of such measures as increased use of fuel-efficient vehicles, carpooling, ride-sharing, regular maintenance and other conservation and awareness measures.

(c) LIMITATIONS ON AWARDS.—The three awards under paragraph (b) shall be awarded to three different employees each year. No employee may win a cash award in more than two consecutive years.

(d) AWARE TO REGIONAL GENERAL SERVICES ADMINISTRATION EMPLOYEES.—(1) In each standard Federal region where the General Services Administration operates alternative fuel vehicles, the Administrator shall offer two annual cash awards of not more than $1,000 to the regional General Services Administration employees who meet the criteria under paragraph (b).

(2) Employees who receive an award under subsection (b) may not receive an award under this section in the same fiscal year. No more than two awards shall be awarded under this subsection in each region in any fiscal year.

(e) AWARD TO FEDERAL AGENCY EMPLOYEES.—In each region where the General Services Administration operates alternative fuel vehicles, the Administrator shall provide one annual $2,000 cash award to the Federal employee (other than an employee of the General Services Administration) who demonstrates the greatest interest and commitment to alternative fuel vehicles by—

(1) making regular requests for alternative fuel vehicles for agency use;

(2) maintaining a high number of alternative fuel vehicles used relative to comparable conventionally fueled vehicles used;

(3) promoting alternative fuel vehicle use by agency personnel; and

(4) demonstrating care and attention to alternative fuel vehicles.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000 in fiscal year 1992, $35,000 in fiscal year 1993, and $45,000 in fiscal year 1994 to carry out the purposes of this section.

SEC. 4114. MEASUREMENT OF ALTERNATIVE FUEL USE.—The Administrator shall use such means as may be necessary to measure the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator.

SEC. 4115. INFORMATION COLLECTION.—The Secretary, in consultation with the Administrator, shall determine a representative sample of alternative fuel vehicles in the Federal fleet. Such a sample shall be sufficient to address at a minimum—

(1) the performance of such vehicles, including performance in cold weather and at high altitudes;

(2) the fuel economy, safety, and emissions of such vehicles; and

(3) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger vehicles and light duty trucks.

SEC. 4116. GENERAL SERVICES ADMINISTRATION REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator shall report to the Congress on the General Services Administration's alternative fuel vehicle program under this Act. The report shall contain information on—

(1) the number and type of alternative fuel vehicles procured;

(2) the location of alternative fuel vehicles by standard Federal region;

(3) the total number of alternative fuel vehicles used by each Federal agency;

(4) arrangements with commercial entities for refueling and maintenance of alternative fuel vehicles;

(5) future alternative fuel vehicle procurement and placement strategy;

(6) the difference in cost between the purchase, maintenance and operation of alternative fuel vehicles and the purchase, maintenance, and operation of comparable conventionally fueled vehicles;

(7) coordination among Federal, State and local governments for alternative fuel vehicle procurement and placement;

(8) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator as measured under section 4114;

(9) a description of the representative sample of alternative fuel vehicles as determined under section 4115; and

(10) award recipients under this subtitle.

SEC. 4117. UNITED STATES POSTAL SERVICE REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Postmaster General shall submit a report to the Congress on the Postal Service's alternative fuel vehicle program. The report shall contain information on—

(1) the total number and type of alternative fuel vehicles procured prior to the date of the enactment of this Act (first report only);

(2) the number and type of alternative fuel vehicles procured in the preceding year;

(3) the location of alternative fuel vehicles by region;

(4) arrangements with commercial entities for purposes of refueling and maintenance;

(5) future alternative fuel procurement and placement strategy;

(6) the difference in cost between the purchase, maintanance and operation of alternative fuel vehicles and the purchase, maintanance, and operation of comparable conventionally fueled vehicles;

(7) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Postmaster General;

(8) promotions and incentives to encourage the use of alternative fuels in flexi-fueled vehicles; and

(9) an assessment of the program's relative success and policy recommendations for strengthening the program.

SEC. 4118. ENFORCEMENT.—(a) CIVIL PENALTIES.—A State or covered person who violates a requirement or prohibition of section 4103 or 4104, respectively, or 4105(b) is subject to a civil penalty of not more than $2,500 per violation. Each month in which a violation occurs constitutes a separate violation, unless the violator establishes that the vehicle necessary to comply with this subtitle could not be purchased, leased, or otherwise acquired in that month. The first month of a violation of the yearly acquisition requirements of section 4103 or 4104 is the month in which a State or person purchases, leases, or otherwise acquires vehicles that result in noncompliance with the yearly alternative fuel vehicle purchase requirement under that section. Each month in which compliance has not been achieved after the first month is a separate violation.

(b) CIVIL ACTIONS.—The Secretary may request the Attorney General to commence a civil action for a permanent or temporary injunction or to assess and recover any civil penalty under subsection (a) of this section. An action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has his principal place of business. The court in which the action has been brought may restrain a violation, require compliance, assess a civil penalty, collect any noncompliance assessment and nonpayment penalty owed the United States, and award any other appropriate relief. In such an action, subpoenaes for witnesses who are required to attend a district court in any district may run into any other district.

(c) MITIGATION OF PENALTIES.—In the determining the amount of a penalty to be assessed under this section, the court shall take into consideration, in addition to other factors justice may require, the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

SEC. 4119. IMPLEMENTATION.—(a) REGULATIONS.—Within 180 days after the date of enactment of this subtitle the Secretary shall issue regulations to implement this subtitle. Such regulations shall include measures to ensure that Federal agencies, States, and covered persons comply with the requirements of sections 4102, 4103, and 4104, respectively, and the criteria by which the Secretary will determine whether to exempt agencies, States, and covered persons from such requirements under section 4105. The regulations governing compliance with sections 4102, 4103, and 4104 shall be developed in consultation with the Secretary of Commerce and shall require that the procurement practices of manufacturers of alternative fuel vehicles and diesel trucks that are purchased, leased, or otherwise acquired in order to meet the requirements of such sections do not discriminate against United States manufacturers of motor vehicle parts.

(b) DELEGATION TO STATES.—The Secretary may delegate the administration and enforcement of this subtitle within any State to the Governor of such State if—

(1) the Governor certifies that the State has a program to administer and enforce the subtitle; and

(2) the Secretary finds that the State program is in accordance with the requirements of the subtitle.

(c) FINANCIAL ASSISTANCE.—There is authorized to be appropriated not more than $20,000,000 to remain available until expended for purposes of providing financial assistance to States to which the Secretary delegates administration and enforcement of this subtitle.

(d) STATE INCENTIVES.—Within 18 months after the date of enactment of this title, the Governor of each State in which there is located a fleet subject to the alternative fuel vehicle purchase requirements of section 4103 or 4104, shall submit to the Secretary a report concerning the incentives for alternative fuel vehicles considered or approved by the State. Each State subject to the requirements of this section shall consider:

(1) allowing public utilities to include in rates costs associated with the development and installation of alternative fuel facilities to the extent that such inclusion would not create competitive disadvantages for other market participants;

(2) exempting alternative fuel vehicles that operate only on alternative fuel from high occupancy vehicle and other such highway vehicle restrictions;

(3) exempting alternative fuel vehicles from State highway taxes, road tolls, vehicle and fuel sales taxes, and other State taxes or charges otherwise applicable to motor vehicles; and

(4) providing alternative fuel vehicles special parking at public buildings, airports, and transportation facilities.

SEC. 4120. SCHOOL BUS FLEET FINANCIAL ASSISTANCE PROGRAM.—There is authorized to be appropriated to the Secretary not more than $10,000,000 for each of the fiscal years 1993, 1994, and 1995 to remain available until expended for purposes of providing financial assistance to any State, including any agency, municipality or political subdivision of a State or the District of Columbia, to meet incremental costs attributable to the use by school buses of alternative fuels, as that term is defined in section 4101(1) of this subtitle, including purchase and installation of alternative fuel refueling facilities to be used primarily for school bus refueling and conversion of school buses to make them capable of using only an alternative fuel (except that diesel school buses may be converted to run on a combination of diesel and natural gas): *Provided*, That any conversion using funds authorized by this section must comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990.

SUBTITLE B—Electric and Electric-Hybrid Vehicle Demonstration, Infrastructure, Development, and Conforming Amendments

PART A—ELECTRIC AND ELECTRIC-HYBRID VEHICLE DEMONSTRATION

SEC. 4201. SHORT TITLE.—This part may be cited as the "Electric and Electric-Hybrid Vehicle Demonstration Act".

SEC. 4202. DEFINITIONS.—For the purposes of this part, the term—

(1) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electric energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, that equipment necessary for the application or use of the non-electric source of power in such vehicles;

(2) "comparable conventionally-fueled vehicle" means a commercially available vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source and provides passenger capacity or payload capacity comparable or similar to an electric vehicle or electric hybrid vehicle, as determined by the Secretary;

(3) "discount payment" means that discount from the electric vehicle suggested retail price provided to the user of an electric vehicle or electric-hybrid vehicle as determined pursuant to section 4205 of this part;

(4) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electric current, including, photovoltaic arrays;

(5) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electrical source of power;

(6) "electric vehicle suggested retail price" or "electric-hybrid vehicle suggested retail price" means the price (including any additions to the price of such vehicle added as a result of delivery to the point of use of such vehicles) of an electric vehicle or electric-hybrid vehicle set forth in a cooperative agreement under section 4203(b), not adjusted to reflect any discount payment that may be available under this part;

(7) "eligible metropolitan area" means—

(A) any ozone non-attainment area classified under subpart 2 of part D of title I of the Clean Air Act, as amended, as Serious, Severe, or Extreme as of the date of enactment of this part;

(B) any carbon monoxide nonattainment area with a carbon monoxide design value at or above 16.0 parts per million based on data available as of the date of enactment of this part, but does not include carbon monoxide nonattainment areas in which mobile sources do not contribute significantly to carbon monoxide exceedences; or

(C) any other metropolitan statistical area with a 1980 population of 250,000 or more that has been designated by a proposer and the Secretary for a demonstration project under this part;

(8) "manufacturer" means a person or entity that produces an electric vehicle or electric-hybrid vehicle and is capable, if determined to be by the Secretary, of providing service and parts for such vehicle for a period of five years or more;

(9) "proposer" means a person or entity that submits a proposal to conduct a demonstration project under the program authorized by this part and may include a unit of State or local government;

(10) "retail price differential" means the difference between the comparable conventionally-fueled vehicle suggested retail price and the electric vehicle or electric-hybrid vehicle suggested retail price;

(11) "suggested retail price" means the price (including any additions to the price of such vehicle added as a result of delivery to the point of use of such vehicle) of a commercially available conventionally-fueled vehicle, as determined by the manufacturer's established retail price, not adjusted to reflect any reductions in such price discounts that may be available; and

(12) "user" means a person or entity that purchases or leases an electric vehicle or electric-hybrid vehicle, including fleet operators.

SEC. 4203. PROGRAM AND SOLICITATION.—(a) PROGRAM.—The Secretary shall conduct a program to demonstrate electric vehicles, electric-hybrid vehicles and the associated equipment of such vehicles, in consultation with the Electric and Hybrid Vehicle Program Site Operators, vehicle manufacturers, the electric utility industry, and such other persons as the Secretary deems appropriate. Such program shall be structured to evaluate the performance of such vehicles in field operation, including fleet operation, and evaluate the necessary supporting infrastructure for electric and electric-hybrid vehicle commercialization.

(b) SOLICITATION.—(1) Not later than one year after the date of enactment of this part, the Secretary shall solicit proposals to demonstrate electric vehicles, electric-hybrid vehicles or such vehicles and associated equipment in one or more eligible metropolitan areas.

(2) The solicitation shall require the proposer to include in the proposal a description of the proposal including the manufacturer or manufacturers of the electric or electric-hybrid vehicles; the intended users of the vehicles; the eligible metropolitan area or areas involved; the number of vehicles to be demonstrated and their type, characteristics, and life-cycle costs; the retail price differential; the proposed discount payment; the contributions of State or local governments and other persons to the demonstration project; the type of associated equipment to be demonstrated; and any other information the Secretary requires to make selections under section 4204. If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the electric vehicles, electric-hybrid vehicles or associated equipment.

(c) ADDITIONAL SOLICITATIONS.—The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out the purposes of this part.

SEC. 4204. SELECTION OF PROPOSALS.—(a) SELECTION.—(1) The Secretary, in consultation with the Secretary of Transportation, the Secretary of Commerce and the Administrator of the Environmental Protection Agency, may, not later than 120 days after receipt of proposals under section 4203, select at least one, but not more than ten, proposals for negotiation of cooperative agreements to receive financial assistance under section 4205.

(2) Any proposal selected for negotiation under paragraph (1) must satisfy the limitations set forth in section 4205(c).

(3) If the Secretary intends to enter into four or more cooperative agreements, at least one such cooperative agreement shall be for a demonstration project located in an eligible metropolitan area referred to in section 4202(7)(C) and which is not located in a nonattainment area referred to in sections 4202(7)(A) or (B).

(b) CONSIDERATION.—In selecting a proposal and in negotiating a cooperative agreement under this section, the Secretary shall consider—

(1) the ability of a proposer to undertake and complete the proposed demonstration project;

(2) the openness of a manufacturer's procurement practices to United States manufacturers of vehicle parts;

(3) the ability of a manufacturer, directly or indirectly, or in combination with the

proposer, to develop, assist in the demonstration of, manufacture, distribute, sell or lease and provide service for, including the ability to provide warranties and to assure the availability of all parts, those electric vehicles or electric-hybrid vehicles that are proposed to be included in the demonstration project;

(4) the geographic and climatic diversity of the eligible metropolitan area or areas in which the demonstration project is to be undertaken when compared with other proposals or other selected demonstration projects;

(5) the long-term technical and competitive viability of the electric and electric-hybrid vehicle, and the ability of the manufacturer of such vehicles to make and incorporate subsequent advancements, cost reductions, modifications, and technology improvements;

(6) the electric vehicle or electric-hybrid vehicle suggested retail price of the vehicles to be included in the demonstration project, the comparable conventionally-fueled vehicle suggested retail price, the proposed discount payment, and in the case of a demonstration project that includes a lease arrangement, the terms of such arrangement for the vehicle or associated equipment;

(7) the extent of involvement of State or local government and other persons in the demonstration project;

(8) whether the involvement of State or local government or other persons in the demonstration project (A) will permit a reduction of the Federal cost share per vehicle or (B) will otherwise be used to leverage the Federal contribution to be provided among a greater number of vehicles; and

(9) other criteria as the Secretary deems appropriate.

(c) CONDITIONS.—The Secretary shall include in any cooperative agreement under this section provisions intended to assure that—

(1) the vehicle or vehicles will be used primarily in the eligible metropolitan area or areas identified in the proposal and set forth in the final agreement made with the Secretary;

(2) the procurement practices of the manufacturer do not discriminate against United States manufacturers of vehicle parts;

(3) the number of vehicles to be included in the demonstration project shall be no less than 50 vehicles, except that the Secretary—

(A) may select and enter into a cooperative agreement for a demonstration project with fewer than 50 vehicles if the Secretary determines that selection of such a proposal will ensure that there is geographic or climatic diversity of the proposals selected and that an adequate demonstration to accelerate the development and use of vehicles can be undertaken with fewer than 50 vehicles; and

(B) may permit a group of such vehicles to be used in an area outside such eligible metropolitan area or areas identified in such proposal if the Secretary determines that such proposal would further the purposes of this part.

(4) as a part of the demonstration project, the proposer shall seek to obtain from the user or users of the vehicles and to provide to the manufacturer information regarding operation, maintenance, and useability of the vehicle for five years after purchase or during the lease period; and

(5) the proposer shall provide such information regarding operation, maintenance and use of vehicles as the Secretary may request during the period of the demonstration project.

(d) ADDITIONAL DEMONSTRATIONS.—The Secretary may enter into more than ten cooperative agreements under this section, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

SEC. 4205. DISCOUNT PAYMENTS TO USERS.—(a) CERTIFICATION.—The Secretary shall provide a discount payment to a proposer for reimbursement of the discount provided to the user, if the proposer certifies to the Secretary, in such form and in such manner and time as may be required by the Secretary, that—

(1) the electric vehicle or electric-hybrid vehicle has been purchased or leased by a user in accordance with the terms and conditions of the cooperative agreement referred to in section 4204; and

(2) the proposer has provided to the user a discount payment from the electric vehicle or electric-hybrid vehicle suggested retail price in accordance with the terms and conditions for the discount payment in the cooperative agreement under section 4204.

(b) PAYMENT.—Not later than 30 days after receipt from the proposer of certification that the Secretary determines satisfies subsection (a), the Secretary shall pay to the proposer the full amount of the discount payment.

(c)(1) RESTRICTIONS ON DISCOUNT PAYMENTS.—The discount payment shall be no greater than the retail price differential or the price of the comparable conventionally-fueled vehicle, whichever is the lesser.

(2) The actual purchase price of the vehicle, adjusted to reflect the discount payment and any additional reduction in the actual purchase price of the vehicle that may result from contributions to a purchase price reduction provided by other parties, may not be less than the manufacturer's suggested retail price of a comparable conventionally-fueled vehicle.

(3) The maximum Federal share of the discount payment that may be provided to reimburse a proposer for a discount payment provided to a user shall be no greater than $10,000 per electric vehicle or electric-hybrid vehicle.

(4) The aggregate discount payments paid to a proposer under this part may not exceed $3,000,000.

(d) LEASE AGREEMENTS.—For purposes of the discount payment, in the case of an electric vehicle or electric-hybrid vehicle included in a demonstration project that is the subject of a lease agreement, the Secretary shall provide a rebate in accordance with the terms of the cooperative agreement.

SEC. 4206. COST-SHARING.—(a) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreement under this part, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(b) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under subsection (a) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this part.

SEC. 4207. REPORTS TO CONGRESS.—The Secretary shall report annually to the Committee on Energy and Natural Resources of the United States Senate and the United States House of Representatives on the progress being made, through the cooperative agreements under this part, to accelerate the development and use of electric vehicles and electric-hybrid vehicles.

SEC. 4208. AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993 and 1994 such sums as may be necessary to carry out the purposes of this part, to remain available until expended.

PART B—ELECTRIC AND ELECTRIC-HYBRID VEHICLE INFRASTRUCTURE DEVELOPMENT

SEC. 4211. SHORT TITLE.—This part may be cited as the "Electric Vehicle and Electric-Hybrid Infrastructure Development Act".

SEC. 4212. DEFINITIONS.—For purposes of this part, the term—

(1) "infrastructure" includes, but is not limited to, those support and maintenance services and facilities, electricity delivery mechanisms and methods, treatment of investment in electric vehicles and associated equipment, consumer education programs, safety and health procedures, and battery availability, replacement, recycling and disposal, that may be required to enable electric utilities, automobile manufacturers and others, to support the operation, maintenance and utilization of electric vehicles, electric-hybrid vehicles, and associated equipment;

(2) "non-Federal person" means an entity not part of the Federal Government that is organized under the laws of the United States and located in the United States, the controlling interest (as defined by the Secretary) of which is held by United States nationals or permanent resident aliens, including—

(A) a for-profit business;

(B) a private foundation;

(C) a nonprofit organization such as a university;

(D) a trade or professional society; and

(E) a unit of State or local government.

(3) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electrical energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, the non-electric source of energy;

(4) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current; and

(5) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current but also relies on a non-electrical source of power.

SEC. 4213. DATA ACQUISITION TO SUPPORT INFRASTRUCTURE DEVELOPMENT AND MARKETS FOR USE OF ELECTRIC VEHICLES AND ELECTRIC-HYBRID VEHICLES.—(a) GENERAL.—Not later than 180 days after the date of enactment of this part, the Secretary, in consultation with appropriate State, regional and local authorities, shall establish a program for the collection and dissemination of information and data which would be useful to persons seeking to manufacture, sell, lease, own or operate electric vehicles and electric-hybrid vehicles. Such information and data—

(1) shall be sufficient to evaluate—

(A) the degree to which the availability of energy and fuel supplies may constrain the introduction of electric vehicles or electric-hybrid vehicles; and

(B) the electric vehicle or electric-hybrid vehicle trips made daily, miles driven per trip, projections as to the number of trips that could be accomplished in combination with mass transit so as to conserve energy; and

(2) may include other appropriate demographic and consumer preferences information necessary to make the evaluation under paragraph (1).

(b) CONSULTATION BY THE SECRETARY.—The Secretary shall consult with interested persons including, but not limited to, vehicle manufacturers, fleet operators, public utilities and State or local governmental entities, to determine the types of information and data to be collected and analyzed pursuant to the program authorized by subsection (a).

SEC. 4214. STATE INFRASTRUCTURE DEVELOPMENT PLANS.—(a) GUIDELINES.—(1) Within 180 days after the date of enactment of this part, the Secretary shall issue guidelines for use by States and local governmental entities to develop comprehensive infrastructure plans to support the deployment of electric vehicles and electric-hybrid vehicles. Such guidelines shall include sufficient information to help States to evaluate—

(A) the availability of the necessary infrastructure to provide electricity and other forms of energy in the quantities and at the locations required to support operation of electric vehicles or electric-hybrid vehicles;

(B) the development of electric vehicle and electric-hybrid vehicle incentives and implementation programs designed to accelerate the introduction and use of such vehicles; and

(C) such studies that may be conducted or information that may be acquired with respect to how the production, development, or use of electric vehicles and electric-hybrid vehicles are likely to affect the more efficient use of energy resources and thereby enhance national energy security.

(2) Such guidelines also shall address the development, modification, and implementation of State infrastructure plans and shall describe those program elements, as described in subsection (c) to be addressed in such plans.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—(1) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall offer the Governor of each State, within 120 days of the date of issuance of the guidelines under subsection (a), the opportunity to request technical and financial assistance under subsection (c) for the formulation of a comprehensive infrastructure plan for such State in conformance with the guidelines issued under subsection (a). Such request shall include a determination by the Governor that—

(A) electricity and other forms of energy are likely to be available in sufficient quantities to support the introduction of electric vehicles and electric-hybrid vehicles in such State; and

(B) the introduction of electric vehicles or electric-hybrid vehicles in such State is feasible.

(2)(A) If the Secretary is satisfied that the determination of a Governor under paragraph (1) is consistent with the purposes of this part, the Secretary shall offer the Governor of such State the opportunity to submit, within 180 days after submission of the determination under paragraph (1), a comprehensive infrastructure plan for approval under subsection (c)(2).

(B) Any plan developed under subparagraph (A) shall be developed in consultation with local governmental entities and shall include—

(i) the anticipated number and schedule for introduction of electric vehicles or electric-hybrid vehicles in such State;

(ii) provisions intended to ensure that electricity and other forms of energy will be available in sufficient quantities to support the anticipated quantities and schedule for introduction of electric vehicles or electric-hybrid vehicles;

(iii) provisions designed to assure the progress toward, and achievement of, the goal of introducing substantial numbers of electric vehicles and electric-hybrid vehicles in such State by the year 2001;

(iv) a detailed description of the requirements, including the estimated cost of implementation, of the infrastructure plan; and

(v) an assessment of whether accomplishing any of the goals in this subsection would require amendment to State law or regulation.

(c) TECHNICAL AND FINANCIAL ASSISTANCE.—(1) Upon request of the Governor of any State who has submitted the assessment and made the determination under subsection (b), the Secretary may provide to such State—

(A) information and technical assistance, including model State laws and proposed regulations relating to electric vehicles and electric-hybrid vehicles;

(B) financial assistance for the purpose of the development of such plan; and

(C) financial assistance for the purpose of the implementation of such plan as approved by the Secretary pursuant to this section.

(2) In determining whether to approve a State infrastructure plan submitted under subsection (b)(2), and in determining the amount of Federal financial assistance, if any, to be provided to any State under this section, the Secretary shall consider:

(A) energy and environmental-related impacts of introduction and use of electric vehicles or electric-hybrid vehicles included in the proposed infrastructure plan;

(B) the availability of electricity and other forms of energy required to support varying numbers of electric vehicles or electric-hybrid vehicles;

(C) the number of electric vehicles or electric-hybrid vehicles likely to be introduced by the year 2001 and the availability of electricity and other fuels resulting from successful implementation of the plan; and

(D) such other factors as the Secretary considers appropriate.

(d) REPORT.—The Secretary shall report annually to the Congress, and shall furnish copies of such report to the Governor of each State participating in the program, on the operation of the program under this part.

SEC. 4215. ELECTRIC UTILITY AND OTHER INDUSTRY INFRASTRUCTURE DEVELOPMENT PROJECTS.—(a) GENERAL.—The Secretary shall undertake cooperative agreements with one or more non-Federal persons, including fleet operators, to provide the infrastructure necessary to support the use of electric vehicles or electric-hybrid vehicles.

(b) SOLICITATION OF PROPOSALS.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals from non-Federal persons, including fleet operators, to carry out the purposes of this section.

(2) Within 180 days after proposals have been solicited, the Secretary shall select from among those proposals submitted under this section and thereafter enter into negotiations. If, after negotiation, the Secretary determines that a proposal meets the purposes of this section, he may enter into a cooperative agreement with the non-Federal person submitting such proposal.

(3) The Secretary shall undertake no more than five cooperative agreements under this section. The proposals to be selected by the Secretary shall, to the extent practicable, represent geographically and climatically diverse regions of the United States.

(4) The aggregate Federal financial assistance for each cooperative agreement under this part may not exceed $3,000,000.

(c) PROPOSALS.—The infrastructure proposals under this section may address—

(1) the addition to existing facilities of the capability to service electric or electric-hybrid vehicles, and to provide or service associated equipment, as well as the installation of charging facilities where such service might be required for the use and operation of electric vehicles or electric-hybrid vehicles;

(2) the feasibility of designing rate structures, rate levels, ratemaking procedures, billing systems and financing methods, related to investment by electric utilities in infrastructure capital-related expenditures and public information programs conducted by electric utilities regarding use of electricity, the conservation of electric energy and the use of electric vehicles or electric-hybrid vehicles;

(3) the development of associated safety and health procedures; and

(4) such other requirements as the Secretary considers necessary in order to address the infrastructure needed to support the development and use of energy storage technologies, including advanced batteries, and the demonstration of electric vehicles or electric-hybrid vehicles.

SEC. 4216. COST-SHARING.—(a) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreements under this part, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(b) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under subsection (a) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this part.

SEC. 4217. COMPLIANCE WITH EXISTING LAW.—Nothing in this part shall be deemed to convey to any person, partnership, corporation, or other entity, immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this part, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

SEC. 4218. AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993, and 1994, such sums as may be necessary to carry out the purposes of this part.

PART C—AMENDMENT TO THE ALTERNATIVE MOTOR FUELS ACT

SEC. 4221. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.—(a) Section 400AA(a) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6374 (a)(1)) is amended by striking out "or natural gas dual energy vehicles." and inserting in lieu thereof "natural gas dual energy vehicles, electric vehicles, or electric-hybrid vehicles.".

(b) Section 400AA(g) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6374 (g)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(7) the term 'natural gas' includes liquified petroleum gas, including propane;

"(8) the term 'electric vehicle' means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current; and

"(9) 'electric-hybrid vehicle' means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electrical source of power.".

(c) Section 400AA(i) of the Energy Policy and Conservation Act (42 U.S.C. 6374(i)) is amended by adding at the end thereof the following new paragraph:

"(3) For the purposes of this section, there is authorized to be appropriated for the fiscal years 1994, 1995, and 1996 such sums as may be necessary to carry out the provisions of this section.".

SEC. 4222. AMENDMENTS TO THE MOTOR VEHICLE INFORMATION AND COST SAVING ACT.—(a) Section 513(c) of the Motor Vehicle Information and Cost Savings Act (Pub. L. No. 92-513; 15 U.S.C. 2013(c)) is amended in the first sentence by inserting after "natural gas" each place it occurs the parenthetical "(including liquefied petroleum gas)".

(b) Section 513(d) of said Act (Pub. L. No. 92-513; 15 U.S.C. 2013(d)) is amended by inserting after "natural gas" the first time it occurs the following parenthetical, "(including liquefied petroleum gas)".

Subtitle C—Alternative Fuels

SEC. 4301. SHORT TITLE.—This subtitle may be cited as the "Replacement and Alternative Fuels Act of 1992".

SEC. 4302. FINDINGS.—The Congress finds and declares that—

(1) United States national security demands that we reduce our dependency on imported oil;

(2) domestic resources are available to substantially reduce our dependency on imported oil;

(3) the transportation sector, currently 95 percent dependent on oil, accounts for more than 60 percent of our national oil consumption;

(4) a comprehensive energy program, including the stimulation of the production and use of automobiles and off-road vehicles capable of using alternative fuels, is needed to reduce pollution as well as reduce our dependency on imported oil;

(5) such program should be designed to create a positive impact on the economy, our national trade balance, and our national budget; and

(6) such program should allow market forces, within appropriate environmental parameters, to affect the selection of replacement or alternative fuels.

SEC. 4303. PURPOSES.—The purposes of this subtitle are to—

(1) enhance energy security;

(2) reduce air pollution;

(3) improve our balance of trade;

(4) reduce the budget deficit;

(5) improve the marketability of alternative and flexible fuel vehicles; and

(6) improve the condition of the national economy through the enhancement of the replacement fuel industry and the creation of an alternative fuel industry.

SEC. 4304. DEFINITIONS.—For purposes of this subtitle—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alcohol" means methanol, ethanol, or other alcohol that are suitable for use by themselves or in combination with other fuels as a motor fuel;

(3) the term "conventional petroleum" means imported or domestic petroleum derived from oil wells, including stripper wells;

(4) the term "domestic" means derived from resources within the 50 States or the territories of the United States;

(5) the term "motor fuel" means any substance suitable as a fuel for a motor vehicle, as the term "motor vehicle" is defined in section 216(2) of the Clean Air Act (42 U.S.C. 7550(2));

(6) the term "alternative fuel" means a motor fuel not designed to be mixed with gasoline, including liquefied petroleum gas, natural gas, "neat" alcohol, hydrogen, coal-derived liquid fuels, electricity; and any other fuel that is substantially nonpetroleum, including fuels other than alcohol that are derived from biological materials;

(7) the term "replacement fuel" means a motor fuel capable of mixing with gasoline or diesel, including alcohol and ethers or products derived from alcohol;

(8) the term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (A); and

(9) the term "provider" means—

(A) any person engaged in the refining of crude oil to produce motor fuel;

(B) any importer of motor fuel;

(C) any person engaged in the transportation and sale of natural gas or liquefied petroleum gas for use as a motor fuel;

(D) any person engaged in the production of alcohol or hydrogen for sale and use as a motor fuel; and

(E) any utility engaged in the generation and sale to the public of electricity.

SEC. 4305. REPLACEMENT AND ALTERNATIVE FUEL PROGRAM.—(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to promote the development and use of domestically produced replacement and alternative fuels. Such program shall promote the replacement of conventional petroleum motor fuels with replacement and alternative fuels to the maximum extent practicable. Such program shall, to the extent practicable, seek to ensure the availability of those replacement and alternative fuels that will have the greatest impact in improving air quality in urban areas, along transportation corridors, and nationwide.

(b) DEVELOPMENT PLAN.—Under the program established under subsection (a), the Secretary, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of appropriate agencies, shall review appropriate information and—

(1) estimate the production capacity in the United States for replacement fuel and alternative fuel needed to implement the provisions of this subtitle;

(2) determine the technical and economic feasibility of producing in the United States sufficient replacement fuels and alternative fuels, by the calendar year 2010 to replace 30 per centum or more, on an energy equivalent basis, of the projected consumption of motor fuel in the United States for that year;

(3) assess the suitability and cost-effectiveness of raw materials, other than conventional petroleum, for the production in the United States of replacement and alternative fuels;

(4) assess the suitability and cost-effectiveness of the means and methods of developing and encouraging the production, distribution, and use of replacement and alternative fuels; and

(5) identify ways to encourage the development of reliable replacement fuel and alternative fuel industries in the United States, and the technical, economic, and institutional barriers to such development.

SEC. 4306. ALTERNATIVE FUEL DEMAND ESTIMATES.—(a) ANNUAL ESTIMATES.—Not later than October 1, 1994, and not later than October 1 of each year thereafter, the Secretary, in consultation with the Administrator and appropriate State and Federal officials, shall estimate—

(1) the number of each type of alternative fuel vehicles likely to be in use in the United States during the following calendar year;

(2) the probable geographic distribution of such vehicles; and

(3) the amount of each type of alternative fuel that is needed to fuel such number of vehicles.

(b) PROVIDER CERTIFICATIONS.—Not later than October 1, 1994, and not later than October 1 of each year thereafter, the Secretary shall require providers of domestic replacement and alternative fuels to certify to the Secretary the amount of each type of replacement and alternative fuel that such provider plans to produce.

SEC. 4307. VOLUNTARY SUPPLY COMMITMENTS.—The Secretary shall undertake to obtain commitments from providers of domestic replacement and alternative fuels to produce and offer for sale to the public sufficient amounts of domestic replacement and alternative fuels to meet the needs of vehicles requiring such fuels.

SEC. 4308. SECRETARIAL AUTHORITY.—(a) NOTIFICATION OF CONGRESS.—In the event that the Secretary determines under this subtitle that the amount of replacement and alternative fuels available in any area of the United States is insufficient to meet public demand and the Secretary is unable to obtain voluntary commitments under section 4307 to supply such demand, the Secretary shall provide written notice to Congress.

(b) SUBMITTAL OF PLAN.—Not later than thirty days after submitting notice under subsection (a), the Secretary shall submit a plan setting forth the actions the Secretary may take to require providers of motor fuels to make available to the public adequate domestic supplies of the replacement or alternative fuel of which there is a shortage. In developing any such plan, the Secretary shall consult with providers of motor fuels to consider alternative means of securing adequate supplies of such fuel and shall give providers an opportunity to comment on any specific proposed requirements to make such fuel available.

(c) IMPLEMENTATION OF PLAN.—The Secretary may implement a plan under subsection (b) sixty calendar days after it has been submitted to Congress in accordance with this section.

(d) PERSONS SUBJECT TO REQUIREMENT.—In exercising the authority under this section, the Secretary shall impose the requirement of providing the required amount of replacement or alternative fuel proportionately on all appropriate providers of motor fuels in a fair and equitable manner.

SEC. 4309. AUTHORIZATION.—There is authorized to be appropriated to the Secretary to carry out this subtitle not to exceed $10,000,000 for each of the fiscal years 1992 through 1996.

Subtitle D—Mass Transit and Training

SEC. 4401. MASS TRANSIT PROGRAM.—(a) COOPERATIVE AGREEMENTS AND JOINT VEN-

TURES.—(1) The Secretary, in consultation with the Administrator of the Urban Mass Transit Administration, may, consistent with this Act and the Alternative Motor Fuels Act of 1988 (Public Law 100-494), enter into cooperative agreements and joint ventures proposed by municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility, including safety of specific vehicle design, of using natural gas or other alternative fuels for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(b) COST-SHARE.—(1) The Secretary may not enter into any cooperative agreement or joint venture under subsection (a) with any municipal, county or regional transit authority unless such government entity agrees to provide at least 25 percent of the costs of such demonstration.

(2) The Secretary, at his discretion, may grant such priority under this section to any entity that demonstrates that the use of natural gas or other alternative fuels used for transportation would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 4402. TRAINING PROGRAM.—(a) PROGRAM.—The Secretary of Labor shall establish and carry out a training and certification program for technicians who are responsible for vehicle installation of equipment that converts gasoline or diesel-fueled vehicles to the capability to run on natural gas or other alternative fuels alone, or on natural gas or other alternative fuels and either diesel fuel or gasoline, and for the maintenance of such converted vehicles. Such training and certification programs shall provide these technicians with instruction on the correct installation procedures and techniques, adherence to specifications, vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these vehicle conversions.

(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, under this section, appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(c) CONSISTENCY.—The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494).

(d) AUTHORIZATION.—There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

TITLE V—RENEWABLE ENERGY

Subtitle A—CORECT AND COEECT

SEC. 5101. DUTIES OF CORECT AND COEECT.—Section 256 of Part B of Title II of the Energy Policy and Conservation Act (Public Law 94-163) is amended by striking subsection (d) and inserting the following in lieu thereof:

"(d)(1) DUTIES.—There shall be established two interagency working groups (hereafter in this subsection referred to as the Committee on Renewable Energy Commerce and Trade (CORECT) and the Committee on Energy Efficiency Commerce and Trade (COEECT)). These interagency working groups shall, in consultation with the representative industry groups and relevant agency heads, make recommendations to coordinate the actions and programs of the Federal Government to promote the export of domestic renewable energy and energy efficiency products and technologies, respectively. The Secretary of Energy shall chair each group. The heads of appropriate agencies may detail such personnel and may furnish such services to such working groups, with or without reimbursement, as may be necessary to carry out their functions and undertake other actions or activities, consistent with existing laws and regulation, as, in the judgement of the Secretary, may be necessary to achieve the purposes of this section.

"(2)(A) ADDITIONAL DUTIES OF CORECT.—CORECT, through its member agencies, shall promote the development and application in lesser-developed countries of renewable energy resource products and technologies that—

"(i) promote the use of hybrid fossil-renewable energy systems;

"(ii) reduce dependence on unreliable sources of energy by encouraging the use of sustainable biomass, windpower, small-scale hydropower, solar, geothermal and other renewable energy resource technologies; and

"(iii) foster rural and urban energy development and energy self-sufficiency through the use of reliable and cost-effective renewable energy resource technologies.

"(B) In addition, CORECT shall:

"(i) explore mechanisms for assisting domestic manufacturers, particularly small business manufacturers, of renewable energy resource technologies, to export their products and technologies;

"(ii) provide staffing to support the authority and responsibilities described in this section;

"(iii) provide technical and financial support for the establishment and sponsorship by United States' firms of training programs, workshops, and other educational programs on renewable energy technologies for representatives of lesser-developed countries and their firms; and

"(iv) augment budgets for the trade and development programs of the member agencies of the Council in order to support pre-feasibility or feasibility studies for projects that utilize renewable energy resource technologies.

"(3)(A) ADDITIONAL DUTIES OF COEECT.—COEECT, through its member agencies, shall promote the development and application in lesser-developed countries of energy efficiency resource products and technologies that—

"(i) reduce dependence on unreliable sources of energy by encouraging the use of energy efficiency resource products and technologies; and

"(ii) foster rural and urban energy development and energy self-sufficiency through the use of reliable and economical energy efficiency resource products and technologies including services.

"(B) In addition, COEECT shall:

"(i) explore mechanisms for assisting domestic manufacturers, particularly small business manufacturers, of energy efficiency resource products and technologies, to export their products and services; and

"(ii) provide staffing to support the authority and responsibilities described in this section.

"(4) TRAINING AND ASSISTANCE.—In furthering the purposes of this section, CORECT and COEECT shall, through their member agencies—

"(A) provide aggressive in-country technical training for local users and international development personnel;

"(B) provide financial and technical assistance to nonprofit institutions that support the export and marketing efforts of domestic renewable energy and energy efficiency service companies, and develop environmentally responsible renewable energy and energy efficiency projects in developing nations;

"(C) establish feasibility and loan guarantee programs to facilitate access to capital and credit;

"(D) provide assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States, and such other personnel as the Council deems appropriate, in order to provide information about renewable energy and energy efficiency products and technologies to foreign governments or other potential project sponsors;

"(E) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency resource technologies.

"(5) OUTREACH.—CORECT and COEECT, through their member agencies, may establish renewable energy and energy efficiency industry outreach offices in the Pacific Rim and in the Caribbean Basin for the purpose of providing information concerning renewable energy and energy efficiency products, technologies, and industries of the United States to territories, foreign governments, industries, and other entities.".

SEC. 5102. INFORMATION AND TECHNICAL PROGRAM.—Section 256(c)(2)(D) of part B of title II of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding after clause (ii) the following new clause:

"and

"(iii) information on the specific renewable energy and energy efficiency technology needs of lesser-developed countries, the technical and economic competitiveness of various renewable energy and energy efficiency resource products, processes and technologies, and the status of ongoing technology assistance programs shall be provided. Information from this program shall be made available to industry, Federal and multilateral lending agencies, non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary,

"(iv) expand training and information dissemination programs in cooperation and participation with industry using existing technology transfer programs for such sums that may be necessary in fiscal years 1993, 1994, 1995, and

"(v) assist existing renewable energy industry consortia and State energy offices to work cooperatively with existing technology transfer programs.".

SEC. 5103. COMPREHENSIVE ENERGY TECHNOLOGY EVALUATION.—Section 256 of part B of title II of the Energy Policy and Conservation Act (Public Law 94-163) is amended by striking subsections (g) and (h) and inserting in lieu thereof subsections (g) and (h) as follows:

"(g)(1) Not later than June 1, 1992, and biennially thereafter, the Secretary, in consultation with member agencies, shall prepare and submit to Congress a report evaluating the range of energy efficiency and renewable energy resource technologies available to meet the energy needs of lesser-developed countries. This report also shall provide information on the specific energy and energy conservation needs of lesser-developed countries, an inventory of United States products and technologies available to meet those needs, and an update on the status of ongoing bilateral and multilateral technology assistance and renewable energy and energy efficiency programs.

"(2) The report should also include an evaluation of current renewable energy and energy efficiency resource technology export efforts, their success in meeting program objectives, and recommendations for future programs that:

"(A) develop and promote sustainable use of indigenous renewable energy and energy efficiency resources and technologies in lesser-developed countries;

"(B) given the credit and capital restrictions for meeting energy demands in the lesser-developed countries, focus on technologies that are both appropriate and cost-effective;

"(C) assist lesser-developed countries in meeting their existing energy needs rather than creating new needs, in order to ensure immediate income-generating and timely use of the power generated;

"(D) work with local individuals to assure that programs and projects meet specific national and local energy resource needs;

"(E) use indigenous materials and associated hardware, wherever possible, in order to reduce costs and ensure project duplication;

"(F) provide examples of cost-effective systems and applications for in-country nongovernmental organizations and project technical personnel;

"(G) provide mechanisms for assisting United States manufacturers, particularly smaller manufacturers, of energy efficiency and renewable energy resource technologies, in exporting their goods and services;

"(H) expand technical and administrative training programs, as well as distribution of multilingual technical training manuals and related materials; and

"(I) examine the potential for using economic incentives, such as shared savings contracts, loan guarantees, and tax incentives, to promote technology transfer to lesser-developed countries.

"(h) AUTHORIZATION.—(1) There is authorized to be appropriated for purposes of carrying out the programs under sections (d) and (e) $10,000,000 for fiscal year 1992, including $2,000,000 to carry out the purposes of subparagraph (d)(2), and such sums as may be necessary for fiscal year 1993 and 1994 to carry out the purposes of this subtitle except for subparagraph (d)(4).

"(2) There is authorized to be appropriated to the Secretary for the purposes of subparagraph 256(d)(4), in addition to the amount specified in the previous sentence, $2,750,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994.".

SEC. 5104. CONFORMING AMENDMENT.—Section 203(a) of the Department of Energy Organization Act (Public Law 95-91; 42 U.S.C. 7133) is amended by adding a new paragraph (12) at the end thereof:

"(12) the export and promotion to lesser-developed countries of domestic energy resource technologies and products, including renewable energy, energy efficiency, and clean coal technologies, and the development of policies and programs designed to enhance the knowledge of foreign governments and companies, and relevant international lending institutions regarding domestic energy resource technologies and products.".

Subtitle B—Renewable Energy Initiatives

SEC. 5201. RENEWABLE ENERGY DEVELOPMENT, TECHNOLOGY EXPORT TRAINING, AND COMMERCIALIZATION.—(a) JOINT VENTURES FOR RENEWABLE ENERGY DEVELOPMENT FOR OIL DISPLACEMENT AND TECHNOLOGY EXPORT TRAINING.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended by adding new subsections (f), (g), and (h) as follows:

"(f) ADDITIONAL JOINT VENTURES FOR RENEWABLE ENERGY DEVELOPMENT FOR OIL DISPLACEMENT.—

"(1) OIL DISPLACEMENT BY BIOFUELS ENERGY SYSTEMS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of biofuels energy systems technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the development of biofuels energy systems for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(2) OIL DISPLACEMENT BY HIGH TEMPERATURE GEOTHERMAL ENERGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of high-temperature geothermal energy conversion technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the production of high-temperature geothermal energy for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(3) OIL DISPLACEMENT BY LOW-TEMPERATURE GEOTHERMAL ENERGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of low-temperature geothermal energy conversion technology in accordance with the provisions of this paragraph.

"(B) The purposes of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the production of low-temperature geothermal energy for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(4) OIL DISPLACEMENT BY SOLAR WATER HEATING.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of solar water heating technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for solar water heating for commercial application in institutional water heating and process heat uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(5) DIESEL FUEL OIL DISPLACEMENT BY PHOTOVOLTAIC AND WIND ENERGY SYSTEMS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of photovoltaic and wind energy systems in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for photovoltaic and wind energy systems for commercial application in electric power generation uses that have substantial prospects for displacing the consumption of diesel fuel oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(6) DIESEL FUEL OIL DISPLACEMENT BY DIRECT COMBUSTION OR GASIFICATION OF BIOMASS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of technologies for the direct combustion or gasification of biomass in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for direct combustion or gasification of biomass, including waste wood, for industrial process heat and electric power generation for commercial application in uses that have substantial prospects for displacing the consumption of diesel fuel oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(7) OIL DISPLACEMENT BY FUEL CELLS TECHNOLOGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the demonstration of fuel cells technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the production of electric energy from fuel cells in order to accelerate commercial application of fuel cells.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(g) RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY EXPORT TRAINING.—

"(1) The Secretary shall solicit proposals for and provide financial assistance to at least two joint ventures for the training of individuals from lesser-developed countries at a location or locations in the United States, at least one of which shall be in the operation and maintenance of renewable energy equipment and at least one of which shall be in the operation and maintenance of energy efficiency equipment, in accordance with the provisions of this subsection.

"(2) The purpose of joint ventures supported under this subsection shall be to train individuals, including engineers and other professionals, in the operation and maintenance of renewable energy and energy efficiency equipment manufactured in the United States, including equipment for water pumping and the production of electric power in remote areas, in order to enhance the prospects that such equipment can be used to displace the use of diesel fuel oil in developing countries.

"(3) There is authorized to be appropriated to the Secretary not to exceed $6,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this subsection.

"(h) UTILITY-SCALE PHOTOVOLTAIC JOINT VENTURES.—

"(1) The Secretary shall solicit proposals and provide financial assistance for at least one joint venture for a utility-scale photovoltaic project of at least ten megawatts.

"(2) In general, the goals of joint ventures under this subsection shall include—

"(A) the integration of photovoltaics in approaches to the transmission and delivery systems;

"(B) the development of cost-saving adjuncts to utility delivery such as sub-station upgrades, peak power, and large-scale voltage line augmentation; and

"(C) the incorporation of new photovoltaic innovations into standard utility rate-making practices.

"(3) Joint ventures supported under this subsection may include participants that are considered to be end-users of the technology such as rural electric cooperatives, public utilities, investor-owned utilities, and independent power producers.

"(4) In selecting joint ventures for support under this subsection, the Secretary shall consider giving preference to proposals for projects that would be located in States where State law would allow inclusion of the project in the rate base or would otherwise allow for favorable regulatory treatment or return on investment.

"(5) There is authorized to be appropriated to the Secretary not to exceed $9,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the purposes of this subsection.".

(b) Section 6(d)(1) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218) is amended as follows:

(1) after the semicolon by deleting the word "or"; and

(2) by inserting after paragraph (B) a new paragraph (C) as follows: "; or (C) there is insufficient Federal funding to adequately fund each of the joint venture technologies as required under subsection (b)(1),".

(c) CONFORMING AMENDMENTS.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218) is amended as follows:

(1) By replacing the phrase "subsection (c)" with the phrase "subsections (c), (f), (g) and (h)" in the first sentence of paragraph (b)(1).

(2) By substituting a new paragraph (4) of subsection (b) to read as follows:

"(4) DRAFT SOLICITATIONS AND PUBLIC COMMENT.—The Secretary shall issue a draft solicitation for joint ventures under subsection (c) by September 30, 1990 and a draft solicitation for joint ventures under subsections (f), (g), and (h) by September 30, 1992. After any such draft solicitation has been issued, the Secretary shall provide for a period of public comment before the issuance of a final solicitation.".

(3) By striking the phrase "subsection (c)" everywhere it appears in subsection (d) and replacing it with "subsections (c) or (f), (g), and (h)".

(4) By inserting after the word "shall" in paragraph (b)(5), the word "not".

(d) RENEWABLE ENERGY COMMERCIALIZATION.—The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218) is amended by adding at the end the following new section:

"SEC. 11. COMMERCIALIZATION.—"(a) DEFINITIONS.—For the purposes of this section the term—

"(1) 'qualified borrower' means an enterprise, that engages in the production and sale of electricity, thermal energy or other forms of energy using a renewable energy technology, or a manufacturer of renewable energy equipment who wishes to finance improvements in, or expansion of, facilities for the manufacture of renewable energy technologies;

"(2) 'renewable energy technology', with respect to a participant in any provision under this section, means any technology that produces, or uses as its principal energy source, biomass, geothermal, photovoltaic, wind, or solar thermal (including solar water heating, solar industrial process preheat, and solar industrial process heat); and

"(3) 'Federal share' means that portion of the interest on a loan financed by a private lender that is paid by the Federal Government, subject to subsection (b).

"(b) BUY DOWN AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall enter into agreements with private lenders to pay the Federal share of the interest on loans made to qualified borrowers for the purpose of financing the manufacture, construction or acquisition of equipment that principally utilizes a renewable energy technology. Buy down agreements entered into by the Secretary, may be implemented either directly through private lenders for Federal facilities or indirectly through an appropriate State energy office.

"(2) RESTRICTION.—Interest rate buy down agreements under this section shall not apply to projects where electricity is sold to electric utilities under section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95–617).

"(3) FEDERAL SHARE.—The Federal share of interest on a loan shall be determined by the Secretary on the basis of—

"(A) the need of the borrower for the assistance;

"(B) the degree to which financing of the project will assist in the regional diversification and commercialization of renewable energy resources in the United States; and

"(C) the achievement of the purposes and goals of this section.

"(4) LOAN TERMS.—The Secretary may enter into an agreement under paragraph (1) to pay the Federal share of interest on not less than ten separate loans that—

"(A)(i) have a principal amount of at least $250,000 and less than $1,000,000 and have a maturity of not less than fifteen years; or

"(ii) have a principal amount of at least $1,000,000, and have a maturity of not less than twenty years;

"(B) carry an interest rate no greater than five percent above the prime rate or at an interest rate that the Secretary determines to be reasonable; and

"(C) contain such other terms and conditions that the Secretary deems appropriate.

"(c) REPORT.—Not later than two years after the date of enactment of this section and annually thereafter, the Secretary shall report to Congress on the projects funded under this section and the progress being made toward accomplishing the goals and purposes of this section.

"(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.".

(e) ADDITIONAL DUTIES OF JOINT VENTURE ADVISORY COMMITTEE.—Section (b)(3) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218) is amended by adding a new subparagraph as follows:

"(C) Not later than 18 months after the date of the enactment of the National Energy Security Act of 1992, the Advisory Committee shall provide the Secretary with a report assessing the implementation of the joint venture program under this section including specific recommendations for improvements or changes to the program and solicitation process.".

(f) NATIONAL RENEWABLE ENERGY AND ENERGY EFFICIENCY MANAGEMENT PLAN.—Section 9(b) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218) is amended:

(A) in paragraph (1) by inserting "three-year" before "management plan"; and

(B) by deleting paragraph (5) and inserting the following new paragraphs (5) and (6) in lieu thereof:

"(5) In addition, the Plan shall—

"(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under sections 4, 5, and 6 of this Act;

"(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

"(C) establish milestones for setting forth specific technology transfer activities under each program area;

"(D) include annual and five-year cost estimates for individual programs under this Act; and

"(E) identify program areas for which funding levels have been changed from the previous year's Plan.

"(6) Within one year after the date of the enactment of this paragraph, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submittal of the President's annual budget submission to the Congress.".

SEC. 5202. REPORT ON WASTE MINIMIZATION TECHNOLOGIES IN INDUSTRY. (a) REPORT.—Within one year after the date of enactment of this Act, the Secretary shall provide to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report evaluating opportunities to minimize waste outputs from production processes in industries in the United States including activities of the United States Government.

(b) CONTENTS.—The report required by this section shall include—

(1) an assessment of the technologies available to increase productivity and simultaneously reduce the consumption of energy and material resources and the production of wastes;

(2) an assessment of the current use of such technologies by industry in the United States;

(3) the status of any such technologies currently being developed, together with projected timeframes for their commercial availability;

(4) the energy savings resulting from the use of such technologies;

(5) the environmental benefits of such technologies;

(6) the costs of such technologies;

(7) an evaluation of any existing Federal or State regulatory disincentives for the employment of such technologies; and

(8) an evaluation of any other barriers to the use of such technologies.

(c) CONSULTATION.—In preparing the report required by this section, the Secretary shall consult with the Administrator of the Environmental Protection Agency, any other Federal, State, or local official the Secretary deems necessary, representatives of appropriate industries, members of organizations formed to further the goals of environmental protection or energy efficiency, and other appropriate interested members of the public, as determined by the Secretary.

SEC. 5203. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.—Section 362(d) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6322(d)) is amended by redesignating paragraphs (12) and (13) as paragraphs (14) and (15), respectively, and adding new paragraphs (12) and (13) as follows:

"(12) support for pre-feasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;

"(13) programs to facilitate and encourage the voluntary use of renewable energy technologies for eligible participants in Department of Agriculture programs including the Rural Electrification Administration and the Farmers Home Administration;".

SEC. 5204. SPARK M. MATSUNAGA RENEWABLE ENERGY AND OCEAN TECHNOLOGY CENTER.—(a) FINDINGS.—The Congress finds that—

(1) the late Spark M. Matsunaga, United States Senator from Hawaii, was a longstanding champion of research and development of renewable energy, particularly wind and ocean energy, photovoltaics, and hydrogen fuels;

(2) it was Senator Matsunaga's vision that renewable energy could provide a sustained source of non-polluting energy and that such forms of alternative energy might ultimately be employed in the production of liquid hydrogen as a transportation fuel and energy storage medium available as an energy export;

(3) Senator Matsunaga also believed that research on other aspects of renewable energy and ocean resources, such as advanced materials, could be crucial to full development of energy storage and conversion systems; and

(4) Keahole Point, Hawaii is particularly well-suited as a site to conduct renewable energy and associated marine research.

(b) PURPOSE.—It is the purpose of this section to establish the facilities and equipment located at Keahole Point, Hawaii as a cooperative research and development facility, to be known as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center.

(c) ESTABLISHMENT.—The facilities and equipment located at Keahole Point, Hawaii are established as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center (referred to as the "Center").

(d) ADMINISTRATION.—(1) Not later than 180 days after the date of enactment of this section, the Secretary shall seek to enter into a cooperative agreement with a qualified research institution to administer the Center.

(2) For the purpose of paragraph (1), a qualified research institution is a research institution located in the State of Hawaii that has demonstrated competence and will be the lead organization in the State in renewable energy and ocean technologies.

(e) ACTIVITIES.—The Center may carry out research, development, and technology transfer activities on—

(1) solar and renewable energy;

(2) energy storage, including the production of hydrogen from renewable energy;

(3) materials applications related to energy and marine environments;

(4) other environmental and ocean resource concepts, including sea ranching and global climate change; and

(5) such other matters as the Secretary may direct.

(f) MATCHING FUNDS.—To be eligible for Federal funds under this section, the Center must provide funding in cash or in kind from non-Federal sources for each amount provided by the Secretary.

(g) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $3,000,000 for fiscal year 1992, $4,000,000 for fiscal year 1993, $5,000,000 for fiscal year 1994, and such sums as are necessary thereafter for the purposes of this section.

SEC. 5205. RENEWABLE ENERGY TECHNICAL ACHIEVEMENT AWARD.—(a) PROGRAM.—Within one year after the date of enactment of this Act, the Secretary, in consultation with the National Academy of Sciences, shall establish a program to reward outstanding achievement in each of the following technologies: solar thermal, photovoltaics, wind, biomass, geothermal, and such other renewable energy technologies as the Secretary deems appropriate.

(b) TECHNICAL ACHIEVEMENT MILESTONES.—The Secretary, in consultation with the National Academy of Sciences, shall establish a milestone for technical achievement for the year 2010 for each technology listed in subsection (a). The Secretary shall also establish criteria necessary to determine whether the technical achievement milestones have been met. Such criteria shall include:

(1) the cost of power delivered under each technology;

(2) the efficiency of each technology's energy conversion;

(3) the potential for large-scale commercial production; and

(4) such other criteria as the Secretary deems appropriate.

(c) AWARD.—The Secretary, in consultation with the National Academy of Sciences, shall award up to $5,000,000 in each renewable energy technology category to the first person who is a United States citizen and has been determined by the Secretary to have met the technical achievement milestones described under subsection (b).

(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this section.

SEC. 5206. RENEWABLE ENERGY RESEARCH.—(a) IN GENERAL.—Section 4 of the Renewable Energy and Energy Efficiency and Technology Competitiveness Act of 1989 (42 U.S.C. 12003) is amended—

(1) in subsection (a), by adding at the end of the subsection the following new paragraph:

"(5) RENEWABLE ENERGY RESEARCH PROGRAM.—In general, the goal of the Renewable Energy Research Program shall be to advance research and development concerning the production of ethanol. Research, development, and demonstration programs under the Renewable Energy Research Program shall include programs related to the following topics relating to the production of ethanol:

"(A) The conversion of corn fiber to ethanol.

"(B) The production of olefins (including isobutylene) from biomass.

"(C) The minimization of contamination to improve yields.

"(D) The recovery of enzymes and yeasts.

"(E) The improvement of distillation.

"(F) The use of membrane technology.

"(G) Value added uses of carbon dioxide.

"(H) Chemical production from corn components.

"(I) The minimization of by-products that foul processes and reduce ethanol yields.

"(J) Pretreatment processes."; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by inserting "the Renewable Energy Research Program" after "the Ocean Energy Systems Program"; and

(B) in paragraph (3)—

(i) by striking "and" at the end of subparagraph (B);

(ii) by striking the period at the end of subparagraph (C) and inserting "and"; and

(iii) by adding at the end of the paragraph the following new subparagraph:

"(D) not to exceed $50,000,000 shall be available for the Renewable Energy Research Program.".

(b) PROGRAM TRANSFER.—The Secretary is authorized to transfer such research, development, and demonstration programs from the Biofuels Energy Systems programs as are appropriate to the Renewable Energy Research Program established under subsection (a) of this section.

SEC. 5207. ESTABLISHMENT OF THE SOLAR ASSISTANCE FINANCING ENTITY.—(a) PROGRAM.—The Secretary of Housing and Urban Development shall hereby establish the "Solar Assistance Financing Entity" hereafter referred to as "SAFE". SAFE shall be based on the provisions in the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3603(a)).

(b) PURPOSE.—The purpose of SAFE shall be to assist in the financing of solar and renewable energy building technology applications through increased loan amortizations (from non-Federal sources) and joint ventures. Schools and hospitals shall be considered eligible for loans for purposes of this program.

(c) FUNDING.—Funding pursuant to this section shall be administered and distributed through one of the following agencies:

(1) State agencies, or divisions of State agencies, responsible for developing the State energy conservation plan pursuant to section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322);

(2) State government offices administered by the Department of Housing and Urban Development; or

(3) an Agency authorized to specifically carry out the purposes of this section.

(d) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Housing and Urban Development and the Secretary of Energy shall issue any regulations necessary to carry out the purposes of this section.

(e) APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated not to exceed $10,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and $10,000,000 for fiscal year 1995.

Subtitle C—Hydropower

SEC. 5301. STREAMLINING REGULATION UNDER THE FEDERAL POWER ACT.—The Federal Power Act, as amended (16 U.S.C. 791a et seq.) is further amended by inserting in section 4 ", and for the purposes of subsections

(h) and (i), the Commission shall" after "empowered" and inserting the following after subsection (g):

"(h) Establish procedures that, to the extent practicable, provide for the earliest identification and performance of all studies and analyses required to be performed in conjunction with an application for a license under this part.

"(i) Within one year after enactment of this subsection, enter into memoranda of understanding with each Secretary under whose supervision a reservation falls which provides for:

"(1) timely submission by the Secretary to the Commission of any proposed terms and conditions which are relevant to the Secretary's statutory responsibilities for the reservation with respect to the proposed project;

"(2) establishment and implementation of a process for resolution of disputes, if any, between the Commission and the Secretary concerning conditions proposed by the Secretary in connection with the licensing of a project; and

"(3) identification and implementation of measures to avoid duplication of effort, delay, and costs to all parties in connection with the licensing of a project.".

SEC. 5302. HYDROELECTRIC PROJECTS.—(a) MEMORANDA OF UNDERSTANDING.—The Commission and all relevant Federal agencies are directed to enter into memoranda of understanding which will establish procedures for a consolidated review to the fullest extent possible under the National Environmental Policy Act of 1969 of Federal actions affecting the authorization of hydroelectric projects subject to the jurisdiction of the Commission.

(b) THIRD PARTY CONTRACTING.—(1) Where environmental documents are prepared in connection with an application for a license under part 1 of the Federal Power Act, the Commission may permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant and chosen by the Commission from among a list of such individuals or companies determined by the Commission to be qualified to do such work, to prepare such environmental document. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(2) Where an environmental assessment is prepared in connection with an application for a license under part 1 of the Federal Power Act, the Commission may permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information foreseeably required by the Commission. The Commission may allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

SEC. 5303. IMPROVEMENT AT EXISTING FEDERAL FACILITIES.—(a) STUDIES OF OPPORTUNITIES FOR INCREASED HYDROELECTRIC GENERATION.—The Secretary, in consultation with the Secretary of the Interior and the Secretary of the Army, shall perform reconnaissance level studies of cost effective opportunities to increase hydropower production at existing federally-owned or operated water regulation, storage, and conveyance facilities. Such studies shall be completed within two years after the date of enactment of this Act and transmitted to the Committee on Energy and Natural Resources and the Committee on Environment and Public works of the United States Senate and to the United States House of Representatives. An individual study shall be prepared for each of the Nation's principal river basins. Each such study shall identify and describe with specificity the following matters:

(1) opportunities to improve the efficiency of hydroelectric generation at such facilities through, but not limited to, mechanical, structural, or operational changes;

(2) opportunities to improve the efficiency of the use of water supplied or regulated by Federal projects where such improvement could, in the absence of legal or administrative constraints, make additional water supplies available for hydroelectric generation or reduce project energy use;

(3) opportunities to create additional generating capacity at existing facilities through, but not limited to, the construction of additional generating units, the uprating of generators and turbines, and the construction of pumped storage facilities; and

(4) preliminary assessment of the costs and the economic and environmental consequences of such measures.

(b) EXCEPTION FOR PREVIOUS STUDIES.—In those cases where studies of the type required by this section have been prepared by any agency of the United States and published within the ten years prior to the date of enactment of this Act, the Secretary may choose not to perform new studies but incorporate the information developed by such studies into the study reports required by this section.

(c) AUTHORIZATION.—There is authorized to be appropriated in each of the fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.

SEC. 5304. WATER CONSERVATION AND ENERGY PRODUCTION.—(a) STUDIES.—The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388), and Acts supplementary thereto and amendatory thereof, is authorized and directed to conduct feasibility investigations of opportunities to increase the amount of hydroelectric energy available for marketing by the Secretary from Federal hydroelectric power generation facilities resulting from a reduction in the consumptive use of such power for Federal reclamation project purposes or as a result of an increase in the amount of water available for such generation because of water conservation efforts on Federal reclamation projects or a combination thereof. The Secretary of the Interior is further authorized and directed to conduct feasibility investigations of opportunities to mitigate damages to or enhance fish and wildlife as a result of increasing the amount of water available for such purposes because of water conservation efforts on Federal reclamation projects. Such feasibility investigations shall include, but not be limited to—

(1) an analysis of the technical, environmental, and economic feasibility of reducing the amount of water diverted upstream of such Federal hydroelectric power generation facilities by Federal reclamation projects;

(2) an estimate of the reduction, if any, of project power consumed as a result of the decreased amount of diversion;

(3) an estimate of the increase in the amount of electrical energy and related revenues which would result from the marketing of such power by the Secretary;

(4) an estimate of the fish and wildlife benefits which would result from the decreased or modified diversions;

(5) a finding by the Secretary of the Interior that the activities proposed in the feasibility study can be carried out in accordance with applicable Federal and State law, interstate compacts and the contractual obligations of the Secretary; and

(6) a finding by the affected Federal Power Marketing Administrator that the hydroelectric component of the proposed water conservation feature is cost-effective and that the affected Administrator is able to market the hydro-electric power expected to be generated.

(b) CONSULTATION.—In preparing feasibility studies pursuant to this section, the Secretary of the Interior shall consult with, and seek the recommendations of, affected State, local and Indian tribal interests, and shall provide for appropriate public comment.

(c) CONSTRUCTION.—Upon a finding of feasibility by the Secretary of the Interior, and agreement with the affected Power Marketing Administrator, and the expiration of ninety days during which the feasibility investigation related thereto has lain before the Congress, the Secretary of the Interior, acting pursuant to the Federal reclamation laws, is authorized to construct, operate and maintain the water conservation features described by and justified in the feasibility investigations prepared pursuant to subsection (a) of this section.

(d) FINANCING.—Revenues received by the respective Federal Power Marketing Administrators from the marketing of hydroelectric energy made available as a result of the water conservation activities undertaken pursuant to this section shall be disposed of by the respective Federal Power Marketing Administrators pursuant to applicable Federal power marketing law.

(e) AUTHORIZATION.—There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this section.

(f) Without further appropriation and without fiscal year limitation and notwithstanding subsections (b) and (d) of this section, the Secretary of the Interior is authorized to design, construct, operate and maintain water conservation features that the Secretary and the Administrator of the Bonneville Power Administration determine necessary or appropriate at Federal Reclamation projects in the Pacific Northwest Region as defined in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Public Law 96-501 (16 U.S.C. 839a(14)) pursuant to subsection (a), with any funds that the Administrator determines to make available to the Secretary for such purposes. The Secretary is authorized, without further appropriation, to accept and use such funds for such purposes: *Provided*, That, notwithstanding any other provision of law, no sequestration order, including a sequestration of discretionary spending, shall reduce expenditures from the Bonneville Power Administration Fund or reduce the expenditures of the Secretary from Fund transfers made pursuant to this section: *Provided further*, That any application of a sequestration order shall apply only to non-Bonneville Power Administration Fund transfers: *Provided further*, That this section shall not modify or affect the applicability of any provision of the Northwest Power Act. This provision shall be effective on October 1, 1993.

SEC. 5305. PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.—(a) GENERAL LICENSING AUTHORITY.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by striking "several States, or upon" and inserting "several States (except fresh waters in the State of Hawaii), or upon".

(b) MANDATORY LICENSING AUTHORITY.—Section 23(b) of the Federal Power Act (16 U.S.C. 817(b)) is amended by striking "United States, or upon" and inserting "United States (except fresh waters in the State of Hawaii), or upon".

SEC. 5306. CERTAIN PROJECTS IN THE STATE OF ALASKA.—The following projects located entirely within the State of Alaska are removed from jurisdiction of the Federal Energy Regulatory Commission and all applicable laws and regulations relating to such jurisdiction:

(1) a project located at Sitka, Alaska, with application numbered UL89-08-000; and

(2) a project located at Juneau, Alaska, with preliminary permit numbered 10681-000; and

(3) a project located near Nondalton, Alaska, with application numbered EL88-25-001.

SEC. 5307. EXTENSION OF TIME LIMITATIONS FOR CERTAIN PROJECTS IN ARKANSAS.—(a) AUTHORIZATION OF EXTENSIONS. Notwithstanding the time limitations of section 13 of the Federal Power Act, (16 U.S.C. 806) the Federal Energy Regulatory Commission upon the request of the licensee for FERC projects numbered 3033 and 3034 (and after reasonable notice) is authorized in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend—

(1) until August 10, 1994 the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999 the time required for completion of construction of such project; and

(2) until August 10, 1996 the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001 the time required for completion of construction of such project.

(b) TERMINATION OF AUTHORIZATION FOR EXTENSIONS.—The authorization for issuing extensions shall terminate three years after the date of enactment of this Act. The Commission to facilitate requests under this section may consolidate such requests.

SEC. 5308. FEDERAL PROJECTS IN THE PACIFIC NORTHWEST.—Without further appropriation and without fiscal year limitation, the Secretaries of the Interior and Army are authorized to design, construct, operate and maintain generation additions, improvements and replacements, at their respective Federal projects in the Pacific Northwest Region as defined in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Public Law 96-501 (16 U.S.C. 839a(14)), and to operate and maintain the respective Secretary's power facilities in the region that the respective Secretary determines necessary or appropriate and that the Bonneville Power Administrator subsequently determines necessary or appropriate, with any funds that the Administrator determines to make available to the respective Secretary for such purposes. Each Secretary is authorized, without further appropriation, to accept and use such funds for such purposes: *Provided*, That, notwithstanding any other provision of law, no sequestration order, including a sequestration of discretionary spending, shall reduce expenditures from the Bonneville Power Administration Fund or reduce the expenditures of the Secretary from Fund transfers made pursuant to this section: *Provided further*, That any application of a sequestration order shall apply only to non-Bonneville Power Administration Fund transfers: *Provided further*, That this section shall not modify or affect the applicability of any provision of the Northwest Power Act. This provision shall be effective on October 1, 1993.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Industrial, Commercial and Residential

SEC. 6101. BUILDING ENERGY EFFICIENCY CODES.—(a) ESTABLISHMENT OF CODES.—Title III of the Energy Conservation and Production Act (Pub. L. No. 94-385), as amended, is amended by—

(1) amending section 303 by—

(A) striking paragraph (9),

(B) renumbering the subsequent paragraphs, and

(C) adding at the end the following new paragraphs—

"(13) the term "Federal building energy code" means an energy consumption goal to be met without specification of the methods, materials, or equipment to be employed in achieving that goal, but including statements of the requirements, criteria, and evaluation methods to be used, and any necessary commentary.

"(14) The term "industry voluntary building energy code" means a building energy code developed and updated through an industry process, such as that used by the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; or other appropriate organizations."; and

(2) striking sections 304, 306, 308, 309, 310, and 311 and their captions and inserting the following in lieu thereof—

"FEDERAL BUILDING ENERGY CODE

"SEC. 304. (a) Within two years of enactment of the National Energy Security Act of 1992, the Secretary, after consulting with appropriate Federal agencies; the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; the National Association of Home Builders; the Illuminating Engineering Society; the American Institute of Architects; and the National Conference of States on Building Codes and Standards, shall issue by rule a Federal building energy code that assures the inclusion in Federal buildings of all energy efficiency measures that are technologically feasible and economically justified. This code shall become effective no earlier than six months and no later than two years after issued.

"(b) The Federal building energy code shall—

"(1) contain energy saving and renewable energy specifications that meet or exceed the energy saving and renewable energy specifications of the industry voluntary building energy codes and standards,

"(2) include a method of compliance that uses the same format as that used by the industry voluntary building energy codes and standards, and methods which will enhance and facilitate the use of renewable technologies, and

"(3) consider, in consultation with the Environmental Protection Agency and other Federal agencies, and where appropriate contain, measures to mitigate the levels of radon and other indoor air pollutants in cases where such pollutants may exist.

"(c) The Secretary shall identify and describe the basis for any substantive difference between the Federal building energy code and the industry voluntary building energy code.

"(d) The Secretary shall periodically, but no less than once every five years, review the Federal building energy code and shall, if significant energy savings would result, upgrade such code to include all new energy efficiency measures that are technologically feasible and economically justified.

"(e) Interim energy performance standards for new Federal residential and commercial buildings issued by the Secretary under this title as it existed before enactment of the National Energy Security Act of 1992 shall remain in effect until the head of a Federal agency required to adopt procedures under section 305(a) adopts those procedures.

"FEDERAL COMPLIANCE

"(f) the provisions of this section shall apply to the United States Congress.

"SEC. 305. (a) The head of each Federal agency and the Architect of the Capitol shall adopt procedures necessary to assure that new Federal residential or commercial buildings meet or exceed the Federal building energy code.

"(b) The head of a Federal agency may expend Federal funds for the construction of a new Federal building only if the building meets or exceeds the Federal building energy code.

"(c) The head of each Federal agency that guarantees a mortgage for constructing a new building shall adopt the procedures necessary to assure that the building meets or exceeds the Federal building energy code.

"SUPPORT FOR INDUSTRY VOLUNTARY BUILDING ENERGY CODE

"SEC. 306. (a) Within one year of the enactment of the National Energy Security Act of 1992, the Secretary, after consulting with appropriate Federal agencies; the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; the National Conference of States on Building Codes and Standards; and any other appropriate building codes and standards organization, shall support the upgrading of an industry voluntary building energy code for new residential and commercial buildings. The support shall include—

"(1) a compilation of data and other information regarding building energy efficiency codes in the possession of the Federal government, State and local governments, and industry organizations;

"(2) assistance in improving the technical basis for the energy code;

"(3) assistance in determining the cost-effectiveness and the technical feasibility of the energy efficiency measures included in the code;

"(4) assistance in identifying appropriate measures to mitigate the levels of radon and other indoor air pollutants; and

"(5) development of interim energy performance standards for new non-Federal residential buildings.

"(b) The Secretary, in consultation with the appropriate Federal agencies, shall periodically review the technical and economic basis of the industry voluntary building energy code. Based upon ongoing research activities and a review of appropriate industry energy standards, the Secretary shall—

"(1) recommend amendments to the industry voluntary building energy code including measures needed to mitigate the levels of radon and other indoor air pollutants in cases where such air pollutants may exist,

"(2) seek adoption of all technically feasible and economically justified energy efficiency measures, and

"(3) participate otherwise in any industry process for review and modification of the industry voluntary building energy code.

"ADOPTION INCENTIVES

"Sec. 307. (a) State Report.—Within two years of the enactment of the National Energy Security Act of 1992, each State shall submit a report to the Secretary on the type and status of, and compliance and enforcement procedures for building energy codes used within the State, including a list of the units of general purpose local government within the State that identifies which, if any, have adopted building energy codes.

"(b) Availability of Incentive Funding.—If the Secretary certifies that a state or any units of general purpose local government which have jurisdiction regarding energy building codes, has adopted building energy codes at least as stringent as those of the industry voluntary energy building codes, then the Secretary shall provide incentive funding to that State or such units of general purpose local government to fund activities to further promote the adoption and implementation of the industry voluntary energy building codes. Such incentive funds shall be allocated from funds made available under subsection (c), on the basis of the average number of residential housing starts within such State or unit of general purpose local government during the previous three years. The Secretary may use up to five percent of the funds made available under subsection (c) for administration of activities conducted pursuant to this section.

"(c) Authorization.—There are authorized to be appropriated such sums as may be necessary to provide incentive funding to the States pursuant to this section.

"TECHNICAL ASSISTANCE

"Sec. 308. The Secretary may provide technical assistance to States, units of general purpose local government, and other appropriate organizations to promote the adoption and implementation of the voluntary energy building codes or to otherwise promote the design and construction of energy efficient buildings.

"REPORTS

"Sec. 309. The Secretary, in consultation with the appropriate Federal agencies, shall report annually to Congress on activities conducted pursuant to this title including:

"(1) the recommendations made regarding the prevailing industry voluntary building energy code under section 304(c);

"(2) a State-by-State summary of progress made in the adoption and implementation of the voluntary energy building codes or more stringent codes; and

"(3) recommendations to Congress on opportunities to further promote energy efficiency and other purposes of this part.".

(b) Conforming Amendment.—The table of contents of the Energy Conservation and Production Act (Public Law 94-385) is amended by striking the items relating to sections 304, 306, 308, and 309, and inserting in lieu thereof the following—

"Sec. 304. Federal building energy code.
"Sec. 305. Federal compliance.
"Sec. 306. Support for industry voluntary building energy code.
"Sec. 307. Adoption incentives.
"Sec. 308. Technical Assistance.
"Sec. 309. Reports.".

Sec. 6102. Residential Energy Efficiency Ratings and Mortgages.—(a) Ratings.—Title II of the National Energy Conservation Policy Act (NECPA) (Public Law 96-619) is amended by adding a new part 6 as follows:

"Part 6—Residential Energy Efficiency Rating Guidelines

"SEC. 271. VOLUNTARY RATING GUIDELINES.

"(a) Within eighteen months of the date of enactment of the National Energy Security Act of 1992, the Secretary, in consultation with the Secretary of Housing and Urban Development and other appropriate institutions, shall, by rule, promulgate voluntary guidelines that may be used by State and local governments, utilities, builders and others, that would enable the assignment of an energy efficiency rating to residential buildings.

"(b) The voluntary guidelines under subsection (a) shall:

"(1) provide for a uniform rating scale of the efficiency with which any residential building uses energy on an annual basis;

"(2) provide that such rating shall take into account local climate conditions and construction practices, and does not discriminate among fuel types, except that both active and passive solar energy collected onsite shall be credited toward the energy efficiency rating of such building;

"(3) that such rating shall take into account the benefits of peak load shifting construction practices;

"(4) provide that all residential buildings can receive a rating at the time of sale;

"(5) provide that the rating is prominently communicated to potential buyers and renters; and

"(6) provide that the rating system is consistent with, and supportive of, the uniform plan for energy efficient mortgages developed pursuant to Section 946 of the Cranston-Gonzales National Affordable Housing Act (Pub. L. No. 101-625).

"SEC. 272. TECHNICAL ASSISTANCE.

"Within eighteen months after the date of the enactment of the National Energy Security Act of 1992, the Secretary shall establish a program to provide technical assistance to State and local organizations to encourage the adoption of residential energy efficiency rating systems based on the voluntary guidelines promulgated under this part.

"SEC. 273. AUTHORIZATION.

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.".

(b) Conforming Amendment.—The National Energy Conservation Policy Act (Public Law 95-619) is further amended by adding in the table of contents at the end of title II, the following items:

"Part 6—Residential Energy Efficiency Ratings

"Sec. 271. Rating guidelines.
"Sec. 272. Technical assistance.
"Sec. 273. Authorization.".

(c) Energy Efficiency Mortgages.—The Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625) is amended as follows:

(1) At the end of section 104 add the following new definition:

"(24) The term 'energy efficient mortgage' means a mortgage which provides financial incentives for the purchase of energy efficient homes, or which provides financial incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage."

(2) In section 946 make the following amendments:

(A) In subsection (a) strike the words "mortgage financing incentives for energy efficiency" and insert in lieu thereof "energy efficient mortgages";

(B) at the end of subsection (a) add the following new sentence:

"The plan shall be consistent with and mutually supportive of the Federal building energy code and the residential energy efficiency rating voluntary guidelines to be developed by the Secretary of Energy pursuant to the National Energy Security Act of 1992.".

(C) in subsection (b) after the word "include" add the words "but not be limited to";

(D) at the end of subsection (b) add the following new sentence:

"The Task Force shall determine whether a notification of the availability of energy efficient mortgages to potential home purchasers would promote energy efficiency in residential buildings, and if so, then the Task Force shall recommend appropriate notification guidelines, and member agencies are authorized to implement such guidelines.".

(d) Energy Efficient Mortgage Pilot Program.—

(1) In general.—The Secretary of Housing and Urban Development and the Secretary of Veterans Affairs shall, within six months after the date of enactment of this Act, jointly establish an energy efficient mortgage pilot program in five States, to promote the purchase of new and existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) Pilot program.—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) the lender shall originate an otherwise normal VA or FHA home loan;

(B) the mortgagor's income and credit record is found to be satisfactory and his base loan application is approved; and

(C) the cost of cost-effective energy efficiency improvements do not exceed five percent of the property value (not to exceed $8,000) or $4,000, whichever is greater.

(3) Additional.—When granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority to:

(A) permit the final loan amount to exceed the normal VA, FHA, loan limits by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, provided that the mortgagors request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) Promotion of pilot program.—The Secretary of Housing and Urban Development and the Secretary of Veterans' Affairs shall encourage participation in the energy efficient mortgage pilot program by:

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring all applicants for VA and FHA mortgages in those States participating under this pilot program to sign a statement stating that they have been informed of the program and understand the benefits of energy efficient mortgages.

(5) TRAINING PROGRAM.—Not later than nine months after the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the Secretary of Veterans' Affairs and the Secretary of Energy, shall establish and implement a program for training personnel at relevent lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

(6) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Housing and Urban Affairs and the Secretary of Veterans' Affairs shall prepare a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, as well as an assessment of the potential for expanding the pilot program nationwide.

(7) EXTENSION OF PROGRAM.—Not later than two years after the date of the implementation of the Energy Efficient Mortgage Pilot Program, the Secretary of Housing and Urban Development and the Secretary of Veterans' Affairs shall extend the pilot program nationwide unless the Secretary's can demonstrate to Congress that such an extension would not be practicable.

(8) DEFINITIONS.—As used in this subsection the term—

(A) "energy efficient mortgage" means a mortgage on a residential property that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan;

(B) "cost-effective" means those energy efficiency improvements to an attached or unattached single family residence that will produce an immediate and quantifiable positive cash flow and will result in monthly energy savings greater than the resulting increase in the monthly loan payment when 100 percent of the cost of improvements is added to the base loan;

(C) "base loan" means any FHA or VA loan that does not include the cost of cost-effective energy improvements; and

(D) "residential buildings" means any attached or unattached single family residence.

SEC. 6103. MANUFACTURED HOUSING ENERGY EFFICIENCY.—(a) AMENDMENTS TO CRANSTON-GONZALEZ.—Section 943 of the Cranston-Gonzalez National Affordable Housing Act, (Public Law 101–625), is amended by—

(1) striking the phrase "thermal insulation, energy efficiency" in subparagraph (d)(1)(D); and

(2) inserting a new subparagraph (E) as follows, and relettering the existing subparagraphs accordingly:

"(E) consult with the Secretary of Energy and make recommendations regarding additional or revised standards for thermal insulation and energy efficiency applicable to manufactured housing;".

(b) DUTIES OF THE SECRETARY.—The Secretary shall assess the energy performance of manufactured housing and make recommendations to the Commission established under section 943 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625) regarding thermal insulation and energy efficiency improvements applicable to manufactured housing which are technically feasible and economically justified. The Secretary shall also test the performance and determine the cost-effectiveness of manufactured housing constructed to the standards established under such section.

(c) ELIMINATION OF FEDERAL PREEMPTION.—Notwithstanding the provisions of section 943 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), if the Department of Housing and Urban Development has not issued, within one year of the date of enactment of this Act, regulations establishing thermal insulation and energy efficiency standards for manufactured housing promulgated (and effective before 1995) pursuant to section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) then States shall have the authorization to set such thermal insulation and energy efficiency standards for manufactured housing at levels at least as stringent as the thermal performance standards under ASHRAE 90–2.

SEC. 6104. IMPROVING EFFICIENCY IN ENERGY-INTENSIVE INDUSTRIES.—(a) SECRETARIAL ACTION.—The Secretary, acting in accordance with authority contained in the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (Public Law 93–577) and other applicable laws, shall—

(1) pursue a research and development program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) undertake joint ventures to encourage the commercialization of technologies developed under paragraph (1).

(b) JOINT VENTURES.—(1) The Secretary shall—

(A) conduct a competitive solicitation for proposals from specialized private firms and investors for such joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test, and demonstrate changes to industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so long as demonstration of energy efficiency improvements is the principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the research and development activities conducted under this section improve the quality and energy efficiency of industries or industrial processes;

(B) the regional distribution of the energy-intensive industries and industrial processes; and

(C) whether the proposed joint venture project would be located in the region which has the energy-intensive industry and industrial processes that would benefit from the project.

(c) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $5,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994, to carry out the purposes of this section.

SEC. 6105. REPORT.—The Secretary, in consultation with the Council of Economic Advisors, shall submit to the Congress within one year after the date of enactment of this Act, and every three years thereafter through the year 2004, a report setting forth energy efficiency policy options that would both decrease domestic oil consumption and overall domestic energy consumption by one, two, three, and four percent, per-year per-unit of GNP, through the year 2005, below the projected consumption for 2005. The Secretary shall evaluate, describe and rank these policy options according to their cost-effectiveness and their feasibility of implementation.

SEC. 6106. VOLUNTARY GUIDELINES FOR INDUSTRIAL PLANTS—(a) VOLUNTARY GUIDELINES FOR ENERGY EFFICIENCY AUDITING AND INSULATING.—Within one year after the date of enactment of this Act, the Secretary, after consultation with utilities, major industrial energy consumers and representatives of the insulation industry, shall establish voluntary guidelines for—

(1) the conduct of energy efficiency audits of industrial facilities to identify cost-effective opportunities to increase energy efficiency; and

(2) the installation of insulation to achieve cost-effective increases in energy efficiency in industrial facilities.

(b) EDUCATION AND TECHNICAL ASSISTANCE.—The Secretary shall conduct a program of education and technical assistance to promote the use of the voluntary guidelines established under subsection (a).

(c) ANNUAL REPORT.—The Secretary shall report annually to Congress on activities conducted pursuant to this section, including an evaluation of the effectiveness of these guidelines, and the responsiveness of the industrial sector to these guidelines.

(d) AUTHORIZATION.—There is authorized to be appropriated $750,000 annually to carry out the purposes of this section.

SEC. 6107. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of this Act, the Secretary shall, after consulting with the National Fenestration Rating Council, industry representatives, and other appropriate organizations, provide financial and technical assistance to support the voluntary development of a national window rating program to establish energy efficiency ratings for windows and window systems. Such program shall set forth information and specifications that will enable purchasers of windows or window systems to make more informed purchasing decisions based upon the potential cost and energy savings of alternative window products.

(b) SECRETARIAL ACTION.—If a voluntary national window rating program, consistent with the objectives of subsection (a), is not established within two years of the date of the enactment of this Act, then the Secretary shall, after consulting with the National Institute of Standards and Technology, develop, within one year, a rating program to establish energy efficiency ratings for windows and window systems under section 323 of the Energy Policy and Conservation Act (hereinafter in this title referred to as EPCA) (Public Law 94–163).

(c) Federal Trade Commission Rules.—The Federal Trade Commission (hereinafter in this section, the "Commission") shall prescribe labeling rules under section 324 of EPCA for the rating program established pursuant to either subsection (a) or (b) of this section, unless the Commission determines that labeling in accordance with subsections (a) or (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of window or window system (or class thereof).

(d) Covered Products.—For purposes of sections 323 and 324 of EPCA, windows and window systems shall be considered covered products under section 322 of such Act unless excluded by the Commission pursuant to subsection (c) of this section.

(e) Authorization.—There is authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Sec. 6108. Energy Efficiency Information.—(a) Data on Energy Efficiency.—Pursuant to section 52(a) of the Federal Energy Administration Act of 1974 (Public Law 93-275), and after consulting with State and Federal energy officials, representatives of energy-using classes and sectors, and representatives of energy policy public-interest or research organizations, the Administrator of the Energy Information Administration shall expand the scope and frequency of the data it collects and reports on energy use in the United States with the objective of significantly improving the ability to evaluate the effectiveness of the Nation's energy efficiency policies and programs. The Administrator shall take into account reporting burdens and the protection of proprietary information as required by law. In expanding the collection of such data to meet this objective, the Administrator shall consider—

(1) expanding data collection to include energy intensive sectors not presently covered in Energy Information Administration surveys;

(2) increasing the frequency with which the Energy Information Administration conducts end-use energy surveys among households, commercial buildings, and manufacturing;

(3) expanding the survey instruments to include questions regarding participation in government and utility conservation programs, the energy efficiency of existing stocks of equipment and structures, and recent changes in the technical efficiency and operating practices that affect energy use;

(4) expanding the time period for which fuel-use data is collected from individual survey respondents;

(5) expanding the sample sizes for fuel-use surveys in order to improve the accuracy of subgroups of energy users;

(6) expanding the scope and frequency of data collection on the energy efficiency and load-management programs, including the effects of building construction practices designed to obtain peak load shifting, operated by electric and gas utilities; and

(7) establishment of reporting requirements and voluntary energy efficiency improvement targets for energy intensive industries.

(b) Annual Report.—The Administrator shall report annually to Congress on the energy efficiency in classes and sectors of the economy and on any data resulting from this section.

(c) Report on Industrial Reporting and Voluntary Targets.—Not later than one year after the date of enactment of this Act the Administrator shall report to Congress on the conclusions of the Administrator's consideration of establishing reporting requirements and voluntary energy efficiency improvement targets pursuant to paragraph (a)(7) of this section, including an evaluation of the costs and benefits of such reporting requirements and voluntary energy efficiency improvement targets, and including recommendations by the Administrator on proposals or activities to improve energy efficiency in energy intensive industries.

Sec. 6109. Energy Efficiency Labeling for Luminaires.—(a) Development of Program.—Not later than one year after the date of enactment of this Act, and in consultation with the National Electric Manufacturers Association, industry representatives, and other appropriate organizations, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy efficiency rating and labeling program for luminaires. Such program shall set forth information and specifications that will enable purchasers of luminaires to make informed decisions among the energy efficiency and cost of alternative luminaires.

(b) Secretarial Action.—If a national energy efficiency rating and labeling program consistent with the objectives of subsection (a) is not voluntarily established within two years of the date of enactment of this Act, then the Secretary shall, in consultation with the National Institute of Standards and Technology, develop, within one year, a rating program for luminaires under section 323 of EPCA (Public Law 94-163).

(c) Federal Trade Commission Rules.—The Federal Trade Commission shall prescribe labeling rules under section 324 of EPCA for luminaires, except to the extent that the Commission determines that labeling in accordance with subsection (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of luminaire (or class thereof).

(d) Covered Products.—For purposes of sections 323 and 324 of EPCA, luminaires shall be considered covered products under section 322 of such Act (42 U.S.C. 6292) unless excluded by the Commission pursuant to subsection (c) of this section.

(e) Authorization.—There is authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Sec. 6110.—Commercial and Industrial Equipment Standards.—(a) Title III, part C, of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding the following new section 344A:

"Sec. 344a—(a) Definitions.—For the purposes of this section:

"(1) the term 'small commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water-source (not including ground water source), and electrically operated unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated below 135,000 Btu per hour (cooling capacity); and

"(2) the term 'large commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water-source (not including ground water source), and electrically operated unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

"(3) the term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.

"(4) the term 'packaged terminal air conditioner' means a wall sleeve and a separate unencased combination of heating and cooling assembles specified by the builder and intended for mounting through the wall. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability energy;

"(5) the term 'packaged terminal heat pump' means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and should have supplementary heating availability by builder's choice of energy;

"(6) the term 'warm air furnace' means a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it. For purposes of this section, the term warm air furnace includes combination warm air furnace/electric air conditioning units but excludes unit heaters, duct furnaces and units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a));

"(7) the term 'packaged boiler' means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections. For purposes of this section, the term packaged boiler excludes units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a));

"(8) the term 'storage water heater' means a waterheater that heats and stores water within the appliance at a thermostatically controlled temperature for delivery on demand. For purposes of this section, the term storage water heater excludes (a) units with an input rating of 4000 Btu per hour or more per gallon of stored water; and (b) units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a));

"(9) the term 'instantaneous water heater' means a water heater that has an input rating of at least 4000 Btu per hour per gallon of stored water. For purposes of this section, the term instantaneous water heater excludes units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)); and

"(10) the term 'unfired hot water storage tank' means a tank used to store water that is heated externally.

"(b) Initial Determinations.—The Secretary shall, within 12 months after the date of enactment of the National Energy Security Act of 1992, determine, with respect to utility distribution transformers; whether—

"(1) it is practicable to classify such products into types and to prescribe test procedures to measure energy use, energy efficiency, or estimated annual operating cost during a representative average use cycle or period of use which are not unduly burdensome to conduct; and

"(2) it is likely that energy efficiency standards would result in significant energy savings, without a reduction in performance, for those products which the Secretary has determined under paragraph (1) that it is practicable to classify and prescribe test procedures.

"(c) Test Procedures.—The Secretary shall, within 18 months after the date of enactment of the National Energy Security

Act of 1992, prescribe test procedures for those lamps, motors, small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks for which specific efficiency standards are established by this Act. In addition, the Secretary shall, within 18 months after the date of enactment of this Act, prescribe test procedures for those utility distribution transformers for which he has determined under subsection (b) that classification into types and testing procedures are practicable and that it is likely that energy efficiency standards would result in significant energy savings, without a reduction in performance. In establishing these test procedures, the Secretary shall use existing and generally accepted industry testing procedures when practicable and consistent with the objective of increasing energy efficiency to the extent technically feasible and economically justified. For small commercial package air conditioning and heating equipment and large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks for which the Secretary establishes test procedures pursuant to this section, such test procedures shall be consistent with those generally accepted industry testing procedures or rating procedures, if any, developed by the Air Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers as in effect on the date of the enactment of the National Energy Security Act of 1992. If such an industry test procedure or rating procedure for such small commercial package air conditioning and heating equipment or large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks is subsequently amended the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless he determines by rule published in the Federal Register, supported by clear and convincing evidence, that to do so would not meet the purposes and criteria of this section with respect to the product. If the Secretary issues a rule containing such a determination the rule may establish an amended test procedure for such product that meets the purposes and criteria of this section with respect to that product.

"(d) CLASSIFICATION AND STANDARDS.—(1) The Secretary, for those products for which test procedures have been prescribed under subsection (c), shall, within eighteen months thereafter:

"(A) determine types (or classes) for utility distribution transformers; and

"(B) develop energy conservation standards for each type (or class) of utility distribution transformers for which such standards would be technologically feasible and economically justified. Such standards shall become effective no less than eighteen months and no more than three years after development of such standards.

"(2) In establishing standards for utility distribution transformers, the Secretary shall use the criteria contained in sections 325 (l) and (m) of this Act.

"(3)(A) In establishing standards for utility distribution transformers, the Secretary shall first review existing and generally accepted industry voluntary energy efficiency standards for these products, if any, to determine whether the adoption of industry standards would be consistent with the objective of increasing energy efficiency to the extent technically feasible and economically justified. In which case, the Secretary shall adopt such industry standards.

"(B) For small package air conditioning and heating equipment, the Secretary shall establish such standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standards levels shall be as follows:

"(i) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 10.0 for products manufactured on or after January 1, 1994.

"(ii) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 9.7 for products manufactured on or after January 1, 1994.

"(iii) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 8.9 (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db)) for products manufactured on or after January 1, 1994.

"(iv) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 6.8 for products manufactured on or after January 1, 1994.

"(v) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 6.6 for products manufactured on or after January 1, 1994.

"(vi) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.0 (at a high temperature rating of 47 degrees F db) for products manufactured on or after January 1, 1994.

"(vii) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity) shall be 9.3 (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db), outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment) for products manufactured on or after January 1, 1994.

"(viii) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 10.5 (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db), outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment) for products manufactured on or after January 1, 1994.

"(ix) The minimum coefficient of performance of water-source heat pumps less than 135,000 Btu per hour (cooling capacity) shall be 3.8 (at a standard rating of 70 degrees Fahrenheit entering water) for products manufactured on or after January 1, 1994.

"(C) For large package air conditioning and heating equipment, the Secretary shall establish such standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1995. Such standard levels shall be as follows:

"(i) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 8.5 (at a standard rating of 95 degrees F db) for products manufactured on or after January 1, 1995.

"(ii) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 2.9 for products manufactured on or after January 1, 1995.

"(iii) The minimum energy efficiency ratio of water- and evaporatively-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 9.6 (according to ARI Standard 360-86) for products manufactured on or after January 1, 1995.

"(D) For packaged terminal air conditioners and packaged terminal heat pumps the Secretary shall establish standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standard levels shall be as follows:

"(i) The minimum energy efficiency ratio of packaged terminal air conditioners and packaged terminal heat pumps in the cooling mode shall be 10.0—(0.16 Capacity [in thousands of Btu per hour]) EER (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db), outdoor temperature) for products manufactured on or after January 1, 1994. If a unit has a capacity of less than 7000 Btu per hour, then 7000 Btu per hour shall be used in the calculation. If a unit has a capacity of greater than 15,000 Btu per hour, then 15,000 Btu per hour shall be used in the calculation.

"(ii) The minimum coefficient of performance of packaged terminal heat pumps in the heating mode shall be 1.3 + (0.16 the minimum cooling EER as specified in subparagraph (i) at a standard rating of 47 degrees Fahrenheit, dry bulb (F db)) for products manufactured on or after January 1, 1994.

"(E) For warm air furnaces and packaged boilers the Secretary shall establish standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standard levels shall be as follows:

"(i) The minimum thermal efficiency at the maximum rated capacity of gas-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 80 percent for products manufactured after January 1, 1994.

"(ii) The minimum thermal efficiency at the maximum rated capacity of oil-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 81 percent for products manufactured after January 1, 1994.

"(iii) The minimum combustion efficiency at the maximum rated capacity of gas-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 80 percent products manufactured after January 1, 1994.

"(iv) The minimum combustion efficiency at the maximum rated capacity of oil-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 83 percent for products manufactured after January 1, 1994.

"(F) For storage water heaters, instantaneous water heaters, and unfired water storage tanks the Secretary shall establish standards at the Standard levels set forth for such products in ASHRAE/IES Standard 90.1-1989 addendum b. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standard levels shall be as follows:

"(i) Except as provided in subparagraph (vii), the maximum standby loss, in percent per hour, of electric storage water heaters shall be 0.30 + (27/Measured Storage Volume [in gallons]) for products manufactured on or after January 1, 1994.

"(ii) Except as provided in subparagraph (vii), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of 155,000 Btu per hour or less shall be 1.30 + (114/Measured Storage Volume [in gallons]) for products manufactured on or after January 1, 1994. The minimum thermal efficiency of such units shall be 78 percent (at a 70 degree Fahrenheit water temperature difference).

"(iii) Except as provided in subparagraph (vii), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of more than 155,000 Btu per hour shall be 1.30 + (95/Measured Storage Volume [in gallons]) for products manufactured on or after January 1, 1994. The minimum thermal efficiency of such units shall be 78 percent (at a 70 degree Fahrenheit water temperature difference).

"(iv) The minimum thermal efficiency of instantaneous water heaters with a storage volume of less than 10 gallons shall be 80 percent (at a 70 degree Fahrenheit water temperature difference) for units manufactured on or after January 1, 1994.

"(v) Except as provided in subparagraph (vii), the minimum thermal efficiency of instantaneous water heaters with a storage volume of 10 gallons or more shall be 77 percent (at a 70 degree Fahrenheit water temperature difference) for units manufactured on or after January 1, 1994. The maximum standby loss, in percent/hour, of such units shall be 2.30 + (67/Measured Storage Volume [in gallons]).

"(vi) Except as provided in subparagraph (vii), the maximum heat loss of unfired hot water storage tanks shall be 6.5 Btu per hour per square foot of tank surface area (at an 80 degree Fahrenheit water-air temperature difference).

"(vii) Storage water heaters and hot water storage tanks having more than 140 gallons of storage capacity need not meet the standby loss or heat loss requirements specified in subparagraphs (i) through (iii) and subparagraphs (v) through (vi) if the tank surface area is thermally insulated to R-12.5 and if a standing pilot light is not used.

"(G) If ASHRAE/IES Standard 90.1 as in effect on the date of enactment of the National Energy Security Act of 1992 is subsequently amended with respect to any type or class of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioner, packaged terminal heat pump, warm-air furnace, packaged boiler, storage water heater, instantaneous water heater, or unfired hot water storage tank, then the Secretary shall establish an amended uniform national standard for that product type or class at the minimum level for each effective date specified in the amended ASHRAE/IES Standard 90.1 unless he determines by rule published in the Federal Register, supported by clear and convincing evidence, that adoption of a standard more stringent than the amended ASHRAE/IES Standard 90.1 for such product type of class would result in significant additional conservation of energy and is technologically feasible and economically justified. If the Secretary issues a rule containing such a determination, the rule shall establish an amended uniform national standard for such product type or class if establishment of such standard will result in significant additional conservation of energy and if the establishment of such standard is technologically feasible and economically justified. In determining whether a standard is economically justified, the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

"(i) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

"(ii) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products which are likely to result from the imposition of the standard;

"(iii) the total projected amount of energy savings likely to result directly from the imposition of the standard;

"(iv) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

"(v) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

"(vi) the need for national energy conservation; and

"(vii) other factors the Secretary considers relevant.

The Secretary may not prescribe any amended standard which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product. The Secretary may not prescribe an amended standard under this subparagraph (d)(3)(G) if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types (or classes). A standard as amended by the Secretary under this subsection shall become effective for products manufactured on or after a date which is—

"(I) two years after the effective date of the relevant standard in amended ASHRAE/IES Standard 90.1 for small commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, and

"(II) three years after the effective date of the relevant standard in amended ASHRAE/IES Standard 90.1 for large commercial package air conditioning and heating equipment,

except that an amended standard issued by the Secretary pursuant to a rule under this subparagraph (d)(3)(G) shall become effective for products manufactured on or after a date which is four years after the date the rule is published in the Federal Register.

"(H) The criteria specified in subparagraph (d)(3)(G) shall apply only to products listed in subparagraph (d)(3)(G).

"(4)(A) Standards prescribed or established under this subsection (d) shall, upon their effective date, preempt any State or local regulation concerning the energy efficiency or energy use of such products.

"(B) Notwithstanding subparagraph (a), a standard prescribed or established under this subsection (d) shall not preempt a standard for such a product in a building code for new construction if the standard in the building code does not require that the energy efficiency of such product exceed the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1: *Provided*, That such standard in the building code does not take effect prior to the effective date of amended ASHRAE/IES Standard 90.1.

"(C) Notwithstanding subparagraph (a), a standard prescribed or established under this subsection (d) shall not preempt the standards of the State of California for water-source heat pumps below 135,000 Btu per hour (cooling capacity) that become effective on January 1, 1993, which standards are set forth in table C-6 of the California Code of Regulations, title 24, part 2, chapter 2-53.

"(D) Notwithstanding subparagraph (a), a standard prescribed or established under this subsection (d) shall not preempt a State regulation which has been granted a waiver by the Secretary. The Secretary may grant a waiver pursuant to the terms, conditions, criteria, procedures and other requirements specified in section 327(d) of this Act.

"(5) Except as provided in subparagraphs (d)(3) (B) through (G), the Secretary shall periodically, but at least every five years, review and update any standards established pursuant to this section, and shall reevaluate whether standards are justified for those products for which standards were not adopted.

"(e) LABELING.—(1) The Federal Trade Commission shall, within twelve months after the date on which a test procedure is prescribed by the Secretary for a product (or class thereof) under subsection (c), prescribe a labeling rule for the product (or class thereof), except to the extent that, with respect to a product (or class thereof) the Commission determines that a labeling rule is not economically or technically feasible, would not result in significant energy savings and is not necessary for informational purposes.

"(2) If the Commission determines that labeling is not necessary under paragraph (1) and the Secretary prescribes standards under subsection (d), then the Commission, within twelve months after the date on which a standard is prescribed by the Secretary, shall prescribe a labeling rule designed solely to facilitate enforcement of the requirements of this section and other applicable provisions of law. A labeling rule for small commercial package air conditioning and heating equipment and large commercial package air conditioning and heating equipment shall be designed solely to facilitate enforcement of the regulations of this section and other applicable provisions of law.

"(3) In the case of products for which the Commission prescribes a labeling rule under paragraph (1) manufacturers and importers of such equipment shall establish efficiency ratings for each type of equipment in accordance with the applicable test procedures, and—

"(A) include the efficiency rating of the equipment on or near the permanent nameplate attached to each piece of equipment;

"(B) prominently display the efficiency rating of the equipment in new equipment catalogs used by the manufacturer or importer to advertise the equipment; and

"(C) such other markings as the Secretary may determine are needed solely to facilitate enforcement of the efficiency standards established under this Act.

In developing these labeling requirements for electric motors, the Commission shall take into consideration NEMA Standards Publication MG1-1987.

"(4) Effective 360 days after a test procedure rule applicable to any product is established under this subsection, no manufacturer, distributor, retailer, or private labeler may make any representation—

"(A) in writing (including any representation on a label), or

"(B) in any broadcast advertisement,

respecting the energy consumption of such equipment or cost of energy consumed by such equipment, unless such equipment has been tested in accordance with such test procedure and such representation fairly disclosed the results of such testing.

"(f) Requirement of Manufacturers.—For the purpose of requirements of this Act, manufacturers and private labelers are subject to the requirements of section 326 of this Act.

"(g) Enforcement.—After the date on which a manufacturer must provide a label for a product pursuant to subsection (e)—

"(1) each product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a) of this Act a new covered product to which a rule under section 324 of this Act applies; and

"(2) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product manufactured after this date which is not in conformity with the applicable energy conservation standard prescribed for the product (or class thereof) under subsection (d). For purposes of section 333 of this Act, this paragraph shall be considered to be a part of section 332 of this Act.

"(h)(1) Effective on the effective date of this Act, this section preempts any State regulation insofar as such State regulation provides at any time for the disclosure of information with respect to any measure of energy consumption of any covered product if—

"(A) such State regulation requires testing or the use of any measure of energy consumption or energy descriptor in any manner other than that provided under this section; or

"(B) such State regulation requires disclosure of information with respect to the energy use or energy efficiency of any product subject to this section other than information required under this section.

"(2) For purposes of this section, the term 'State regulation' means a law, regulation, or other requirement of a State or its political subdivisions.

"(i) Energy Efficiency Labeling for Commercial Office Equipment.—(1) Development of Program.—Not later than one year after the date of enactment of the National Energy Security Act of 1992, and after consulting with appropriate industry representatives, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy efficiency rating and labeling program including any necessary test procedures for commercial office equipment that is widely used and for which there is a potential for significant energy savings. The program shall set forth information and specifications that will enable purchasers of office equipment to make informed decisions about the energy efficiency and costs of alternative commercial office equipment.

"(2) Secretarial Action.—If a national energy efficiency rating and labeling program consistent with the objectives of paragraph (1) is not voluntarily established within two years of the date of enactment of this Act, then the Secretary shall, after consulting with the National Institute of Standards and Technology, prescribe, within one year, test procedures for such commercial office equipment under section 323 of this Act.

"(3) Federal Trade Commission Rules.—The Federal Trade Commission (hereinafter in this section, the 'Commission') shall prescribe labeling rules under section 324 of this Act for commercial office equipment, except to the extent that the Commission determines that labeling in accordance with subsection (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to commercial office equipment (or class thereof).

"(4) Covered Products.—For purposes of sections 323 and 324 of this Act, commercial office equipment shall be considered covered products under section 322 of this Act unless excluded by the Commission pursuant to subsection (c).

"(5) Authorization.—There is authorized to be appropriated to the Secretary such sums as are necessary to carry out the purposes of this section.

"(j) Study of Utility Distribution Transformers.—

"(1) Not later than eighteen months after the date of the enactment of the National Energy Security Act of 1992, the Secretary shall evaluate the practicability and cost-effectiveness and potential energy savings of replacing or upgrading existing utility distribution transformers during routine maintenance.

"(2) The Secretary shall report the findings of his evaluation to Congress with recommendations on how such energy savings, if any, could be achieved.".

(b) Section 340(2)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended by striking "(v) air conditioning equipment;" and "(xi) furnaces;" and by redesignating items (vi), (vii), (viii), (ix), (x), (xii), (xiii), and (xiv) therein as items (v), (vi), (vii), (viii), (ix), (x), (xi), and (xii), respectively.

Sec. 6111. Energy Efficiency of Showerheads.—(a) Statement of Purpose.—Section 2 of EPCA (Public Law 94-163) is amended by—

(1) striking "and" at the end of paragraph (6);

(2) striking the period at the end of paragraph (7) and inserting "; and"; and

(3) adding at the end thereof the following new paragraph:

"(8) to conserve energy and water by improving the water efficiency of showerheads.".

(b) Definitions.—Section 321(a) of EPCA (Public Law 94-163), is amended by adding at the end thereof the following new paragraph:

"(30) the term 'total water use' means the quantity of water directly used by a showerhead, determined in accordance with test procedures under section 323.".

(c) Coverage.—Section 322(a) of EPCA (Public Law 94-163), is amended by—

(1) redesignating paragraph (14) as paragraph (15); and

(2) inserting after paragraph (13) the following new paragraph:

"(14) Showerheads, except safety shower showerheads.".

(d) Test Procedures.—Section 323(b)(3) of EPCA is amended by striking "or estimated annual operating cost" and inserting "estimated annual operating cost, or, in the case of showerheads, total water use, in accordance with applicable American National Standards Institute (ANSI) flow rate standards".

(e) Labeling.—Section 324 of EPCA (Public Law 94-163), is amended—

(1) in subsection (a)(2) by adding at the end thereof the following new subparagraph:

"(C) The Commission shall prescribe labeling rules under this section applicable to the covered product specified in paragraph (14) of section 322(a), requiring that a label state whether the product meets the standards under section 325(i), in accordance with American National Standards Institute (ANSI) marking and labeling requirements.";

(2) in subsection (a)(3) by striking "paragraph (14)" and inserting "paragraph (15)";

(3) in subsection (b)(1)(B) by striking "paragraph (14)" and inserting "paragraph (15)";

(4) in subsection (b)(3) by striking "paragraph (14)" and inserting "paragraph (15)"; and

(5) in subsection (b)(5) by striking "paragraph (14)" and inserting "paragraph (15)".

(f) Standards.—Section 325 of EPCA (Public Law 94-163), is amended—

(1) by redesignating subsections (i), (j), (k), (l), (m), (n), (o), (p), and (q) as subsections (j), (k), (l), (m), (n), (o), (p), (q), and (r), respectively; and

(2) by inserting after subsection (h) the following new subsection:

"(i) Standards for Showerheads.—(1) For a showerhead manufactured on or after July 1, 1992, the standard shall be one that ensures the maintenance of public health and safety, allowing a maximum rate of water use of—

"(A) 2.5 gallons per minute, when measured at a flowing water pressure of 80 pounds per square inch; or

"(B) if before March 1, 1992, the American National Standards Institute (ANSI) publishes an amended standard for showerheads prescribing a maximum rate of water use that is less than the rate prescribed by the ANSI standard in effect on the date of enactment of the National Energy Security Act of 1992, the rate prescribed in the amended standard becomes effective.

"(2)(A) If, after July 1, 1992, ANSI publishes an amended standard different from that in effect pursuant to paragraph (1), the Secretary, not later than 180 days after publication of the amended standard, shall publish a notice of the amended standard, and, subject to subparagraph (B), the amended standard shall be in effect for showerheads manufactured on or after the date that is 90 days after the date of the notice.

"(B) The Secretary may not prescribe an amended standard that increases the maximum rate of water use of showerheads over the rate allowed by the standard established under paragraph (1), unless the Secretary determines that it is in the interest of public health and safety.

(g) EFFECT ON OTHER LAW.—Section 327 of EPCA (Public Law 94-163), is amended—

(1) in subsection (c)—

(A) by striking "or energy use of such covered product" and inserting "energy use or total water use of the covered product";

(B) by striking "or" at the end of paragraph (2);

(C) by striking the period at the end of paragraph (3) and inserting "; or"; and

(D) by adding at the end thereof the following new paragraph:

"(4) is a State, regional, or local regulation that establishes flow rate requirements for showerheads that was prescribed or enacted before June 15, 1991."; and

(2) by adding at the end thereof the following new subsection:

"(h) LABELING OF SHOWERHEADS.—No State, regional, or local regulation concerning the labeling of showerheads shall be effective on or after the date that the Commission prescribes a label for showerheads pursuant to section 324(a)(2)(C).".

SEC. 6112. VIBRATION TECHNOLOGY STUDY.—(a) The Secretary of Energy shall, in consultation with the appropriate industry representatives, conduct a study to assess the cost-effectiveness, technical performance, energy efficiency, and environmental impacts of active noise and vibration cancellation technologies that use fast adapting algorithms.

(b) In carrying out such study, the Secretary shall—

(1) estimate the potential for conserving energy and the economic and environmental benefits that may result from implementing active noise and vibration abatement technologies in demand-side management; and

(2) evaluate the cost effectiveness of active noise and vibration cancellation technologies as compared to other alternatives for reducing noise and vibration.

(c) The Secretary shall transmit to the Congress, within 12 months after the date of the enactment of this Act, a report containing the findings and conclusions of the study carried out under this subsection.

(d) The Secretary may, based on the findings and conclusions of such study, carry out at least one project designed to demonstrate the commercial application of active noise and vibration cancellation technologies using fast adapting algorithms in products or equipment with a significant potential for increased energy efficiency.

SEC. 6113. ENERGY CONSERVATION STANDARDS FOR COMMERCIAL AND INDUSTRIAL ELECTRIC MOTORS.—

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (2)(A)(iii), by striking out "as defined in section 321(a)(2)" and inserting in lieu thereof "to which standards are applicable under section 325";

(2) in paragraph (3) by striking "the" and inserting "The" in lieu thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(8)(A) Except as provided in subparagraph (B), the term 'electric motor' means any motor which is a general-purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association (NEMA), Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1-1987.

"(B) The term 'electric motor' does not include any motor excluded by the Secretary, by rule, as a result of a determination that standards for such motor would not result in significant energy savings or that efficiency standards for such motor would not be technically feasible or economically justified.

"(C) The term 'definite-purpose motor' means any motor designed in standard ratings with standard operating characteristics or mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

"(D) The term 'special-purpose motor' means any motor with special operating characteristics or special mechanical construction, or both, designed for a particular application and not falling within the definition of a general-purpose or definite-purpose motor.

"(E) The term 'open motor' means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the motor.

"(F) The term 'enclosed motor' means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed air-tight.

"(G) The term 'small electric motor' means a NEMA general-purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1-1987.

"(H) The term 'efficiency' means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

"(I) The term 'nominal efficiency' means the average efficiency of a large population of motors of duplicate design as determined in accordance with National Electrical Manufacturers Association Standards Publication MG1-1987.

"(9) The term 'NEMA' means the National Electrical Manufacturers Association.

"(10) The term 'IEEE' means Institute of Electrical and Electronics Engineers.

"(11) The term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.".

(b) TEST PROCEDURES.—Section 343 of such Act (42 U.S.C. 6314) is amended—

(1) by striking paragraph (a)(1) and inserting in lieu thereof the following:

"(a)(1) The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section.";

(2) by adding at the end of subsection (a), the following new paragraph:

"(4) With respect to electric motors that are manufactured after the end of the 24-month period beginning on the date of the enactment of this paragraph and to which standards are applicable under section 342, the Secretary shall prescribe test procedures that take into consideration NEMA Standards Publication MG1-1987 and IEEE Standard 112 Test Method B for motor efficiency."; and

(3) redesignate the first subsection 343(d) as 343(c).

(c) LABELING.—Section 344 of such Act (42 U.S.C. 6315) is amended by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (e), (f), (g), (h), (i) and (j) respectively, and by inserting a new subsection (d) as follows:

"(d) In the case of electric motors, within 12 months after the Secretary establishes test procedures (as required in section 343(a)), manufacturers and importers of covered motors shall establish efficiency ratings for each type of motor in accordance with the applicable test procedures, and—

"(1) include the efficiency rating of the equipment on the permanent nameplate attached to each piece of equipment.

"(2) prominently display the efficiency rating of the equipment in equipment catalogs and other materials used to market the equipment.

"(3) such other markings that the Secretary may determine are needed solely to facilitate enforcement of the efficiency standards established in section 342(a).

In developing these labeling requirements for electric motors, the Secretary shall take into consideration NEMA Standards Publication MG1-1987.".

(d) STANDARDS.—Section 342 of such Act (42 U.S.C. 6313) is amended to read as follows:

"STANDARDS

"SEC. 342. (a) ELECTRIC MOTORS.—(1) Except for definite-purpose motors, special-purpose motors, and those motors exempted by the Secretary under the provisions of paragraph (2) of this section, any general-purpose electric motor manufactured or imported (alone or as part of another piece of equipment) after the 60-month period beginning on the date of enactment of the Energy Efficiency Standards Act of 1992, or 84-month period in the case of general-purpose motors which require listing or certification by a nationally recognized safety testing laboratory, shall have a nominal full-load efficiency of not less than the following:

"Nominal Full-Load Efficiency

"Number of Poles	Open Motors			Enclosed Motors		
	6	4	2	6	4	2
Motor h.p.						
1	80.0	82.5		80.0	82.5	75.5
1.5	84.0	84.0	82.5	85.5	84.0	82.5
2	85.5	84.0	84.0	86.5	84.0	84.0
3	86.5	86.5	85.0	87.5	87.5	85.5
5	87.5	87.5	85.5	87.5	87.5	87.5
7.5	88.5	88.5	87.5	89.5	89.5	88.5
10	90.2	89.5	88.5	89.5	89.5	89.5
15	90.2	91.0	89.5	90.2	91.0	90.2
20	91.0	91.0	90.2	90.2	91.0	90.2
25	91.7	91.7	91.0	91.7	92.4	91.0
30	92.4	92.4	91.0	91.7	92.4	91.0
40	93.0	93.0	91.7	93.0	93.0	91.7
50	93.0	93.0	92.4	93.0	93.0	92.4
60	93.6	93.6	93.0	93.6	93.6	93.0
75	93.6	94.1	93.0	93.6	94.1	93.0
100	94.1	94.1	93.0	94.1	94.5	93.6
125	94.1	94.5	93.6	94.1	94.5	94.5
150	94.5	95.0	93.6	95.0	95.0	94.5
200	94.5	95.0	94.5	95.0	95.0	95.0

"(2)(A) The Secretary, may by rulemaking, exempt certain types or classes of motors from the standards specified in paragraph (b) of this section if the following apply—

"(i) efficiency standards for such motors would not result in significant energy savings because such motors either cannot be used in most general-purpose applications or are very unlikely to be used in most general-purpose applications; and

"(ii) efficiency standards for such motors would not be technically feasible or economically justified;

"(B) Within one year of the passage of this Act, motor manufacturers and importers shall petition the Secretary to request exemptions for motors that meet the criteria specified in paragraph (2)(A) of this section. Each request shall provide evidence that the motor meets the criteria for exemption.

"(C) Within two years of the passage of this Act, the Secretary shall rule on each request for exemption. In reaching his decision, the Secretary shall afford an opportunity for public comment.

"(D) For new motors developed after the date of enactment of this Act, manufacturers may petition the Secretary for exemptions from the standards established under this Act based on the criteria specified in paragraph (2)(A) of this section.

"(3)(A) The Secretary shall publish a final rule no later than the end of the 24-month period beginning on the effective date of the standards established under paragraph (1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors manufactured on or after a date which is 5 years after the effective date of the standards established under paragraph (1).

"(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is 5 years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.".

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT AND PREEMPTION.—Section 345 of such Act (42 U.S.C. 6316) is amended by—

(1) striking the designation "(a)";

(2) in the material preceding paragraph (1), by striking "sections 328" and inserting in lieu thereof ", the provisions of subsections (l) through (q) of section 325, and section 327";

(3) in paragraph (1) by—

(i) striking the words "and 324" and inserting in lieu thereof ", 324, and 325";

(ii) striking the words "343 and 344, respectively" and inserting in lieu thereof "343, 344, and 342, respectively";

(4) in paragraph (3), by striking the word "and" at the end thereof;

(5) in paragraph (4), by striking the period and inserting in lieu thereof a semicolon; and

(6) by adding after paragraph (4) the following new paragraphs (5) through (8):

"(5) As of the date of enactment of the National Energy Security Act of 1992, no State or its subdivisions may enact, prescribe, or revise efficiency standards for any equipment for which efficiency standards are established under this Act.

"(6) As of the date of enactment of the National Energy Security Act, no State or its subdivisions may enact, prescribe, or revise labeling requirements for any equipment for which labeling requirements are established under this Act.

"(7) Notwithstanding paragraphs (5) and (6) of this section, States and their subdivisions may adopt efficiency requirements for new construction provided that such requirements are identical to standards established under this Act.

"(8) With respect to electric motors, the Secretary shall establish a technical performance audit program to ensure compliance with the prescribed testing and labeling standards."; and

(7) by striking out the title and inserting in lieu thereof "Administration, Penalties, Enforcement, and Preemption".

(f) AUTHORIZATION FOR APPROPRIATIONS.—Section 346 is amended by striking the existing text and inserting in lieu thereof the following: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this part.".

SEC. 6114. ENERGY CONSERVATION STANDARDS FOR SMALL ELECTRIC MOTORS.—Title III, part C, of the Energy Policy and Conservation Act (42 U.S.C. 6310) is amended by adding the following new section 346, and renumbering section 346 as 347.

"SEC. 346. ENERGY CONSERVATION STANDARDS FOR SMALL ELECTRIC MOTORS.—

"(a) IN GENERAL.—(1)(A) The Secretary shall—

"(i) within 24 months after the date of the enactment of this Act, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy conservation standards would be technically feasible and economically justified, and would result in significant energy savings;

"(ii) within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to clause (i), prescribe energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under clause (i). Standards shall not apply to any small electric motor which is a component part of a product or equipment subject to the energy efficiency standards under this title; and

"(iii) any standard prescribed under (ii) of this Act shall apply to small electric motors manufactured, assembled or imported, 60 months after the date the final rule is published, or 84 months in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory.

"(B) For purposes of subparagraph (A):

"(i) the term 'energy conservation standard' means—

"(aa) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(bb) a design requirement for a product; and

"(ii) the term 'small electric motor' is defined under section 340(8) of the Energy Policy and Conservation Act (42 U.S.C. 6311), as amended.

"(2) In establishing any standard under this section, the Secretary shall use the criteria contained in section 325(l) of the Energy Policy and Conservation Act.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards for small electric motors are prescribed by the Secretary pursuant to paragraph (1)(A)(ii), prescribe labeling requirements for such electric motors.

"(b) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (a)(3), each manufacturer of the product shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(c) ENFORCEMENT.—(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (b)—

"(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies; and

"(B) it shall be unlawful for any manufacturer, importer or private labeler to distribute in commerce any new small electric motors for which an energy conservation standard is prescribed under subsection (a)(1)(A)(ii) which is not in conformity with the applicable labeling requirement and energy conservation standard.

"(2) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act.".

SEC. 6115. ENERGY CONSERVATION STANDARDS FOR CERTAIN LAMPS.—(a) DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended—

(1)(A) by striking the designation subsection "(a)"; and

(B) in the material following subparagraph (B), by striking out "ballasts distributed in commerce for personal or commercial use or consumption" and inserting in lieu thereof the following: "ballasts, general service fluorescent lamps, and incandescent reflector lamps distributed in commerce for personal or commercial use.";

(2) by adding at the end the following new paragraphs:

"(30)(A) Except as provided in subparagraph (E), the term 'fluorescent lamp' means a low pressure mercury electric discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

"(i) Any straight shaped rapid start lamp (commonly referred to as four foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

"(ii) Any U-shaped lamp (commonly referred to as two foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

"(iii) Any rapid start lamp (commonly referred to as eight foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1-1978 and related supplements.

"(iv) Any instant start lamp (commonly referred to as eight foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3-1978 (R1984) and related supplement ANSI C78.3a-1985.

"(B) the term 'general service fluorescent lamp' means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but excluding any lamp described in subsection (E) and any lamp designed and marketed for non-general lighting applications as follows—

"(i) fluorescent lamps designed to promote plant growth;

"(ii) fluorescent lamps specifically designed for cold-temperature installations;

"(iii) colored fluorescent lamps;

"(iv) impact-resistant fluorescent lamps;

"(v) reflectorized or aperture lamps;

"(vi) fluorescent lamps designed for use in reprographic equipment;

"(vii) lamps primarily designed to produce radiation in the ultra-violet region of the spectrum, and

"(viii) lamps with a color rendering index of 82 or greater.

"(C) Except as provided in subparagraph (E), the term 'incandescent lamp' means a lamp in which a light is produced by a filament heated to incandescence by an electric current, including only the following:

"(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

"(ii) Any lamp (commonly referred to as reflector lamp), which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, or similar bulb shapes (excluding 'ER' or 'BR') with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.75 inches, and is either—

"(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

"(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts; and

"(iii) any general service incandescent lamp (commonly referred to as a high- or higher wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

"(D) the term 'general service incandescent lamp' means incandescent lamps (other than miniature or photographic lamps) which can be used to satisfy the majority of lighting applications, but excluding any lamp described in subparagraph (E) and any lamp specifically designed for—

"(i) traffic signal or street light service;

"(ii) airway, airport, aircraft, or other aviation service;

"(iii) marine or marine signal service;

"(iv) photo, projection, sound reproduction, or film viewer service;

"(v) stage, studio, or television service;

"(vi) mill, saw mill, or other industrial process service;

"(vii) mine service;

"(viii) headlight, locomotive, street railway, or other transportation service;

"(ix) heating service;

"(x) code beacon, marine signal, lighthouse, reprographic, or other communication service;

"(xi) medical or dental service;

"(xii) microscope, map, microfilm, or other specialized equipment service;

"(xiii) swimming pool or other underwater service;

"(xiv) decorative or showcase service;

"(xv) producing colored light;

"(xvi) shatter resistance which has an external protective coating; or

"(xvii) appliance service.

"(E) The term 'lamp' does not include any lamp manufactured or assembled in the United States for export and use outside the United States, or any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or special characteristics not available in reasonably substitutable lamp types.

"(F) The term 'average lamp efficacy' means the lamp efficacy readings taken over a twelve-month period of manufacture with the readings averaged over that period.

"(G) The term 'base' means the portion of the lamp which connects with the socket described in ANSI C81.61-1990.

"(H) The term 'bulb shape' means the shape of the lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1-1980(R1984).

"(I) The term 'color rendering index' or 'CRI' means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

"(J) The term 'correlated color temperature' means the absolute temperature of a black body whose chromaticity most nearly resembles that of the light source.

"(K) The term 'IES' means the Illuminating Engineering Society of North America.

"(L) The term 'lamp efficacy' means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

"(M) The term 'lamp type' means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

"(N) The term 'lamp wattage' means the total electrical power consumed by the lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.

"(O) The terms 'life' and 'lifetime' mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures as described in the IES Lighting Handbook—Reference Volume.

"(P) The term 'lumen output' means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

"(Q) The term 'tungsten-halogen lamp' means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

"(R) The term 'manufacturer' means anyone who makes, assembles or imports any covered product.

"(S) The term 'medium base compact fluorescent' means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for general service incandescent lamps.

"(T) The term 'transition period' means the period of time between the enactment of the National Energy Security Act of 1992 and the date on which the standard shall take effect.".

(b) COVERAGE.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (15); and

(2) by inserting after paragraph (13) the following new paragraph:

"(14) General service fluorescent lamps and incandescent reflector lamps.".

(c) TEST PROCEDURES.—Section 323 of such Act (42 U.S.C. 6293) is amended by adding the following new paragraph at the end of subsection (b):

"(6) With respect to fluorescent lamps and incandescent lamps to which standards are applicable under subsection (i) of section 325, the Secretary shall prescribe test procedures, to be implemented by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.".

(d) LABELING.—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraph:

"(C) The Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Such rules shall provide that the labeling of any general service fluorescent lamps, medium base compact fluorescent lamps and general service incandescent lamp manufactured, assembled or imported after the 18-month period beginning on the date of the publication of such labeling rule will include conspicuously on the packaging of the lamp in a manner prescribed by the Commission under subsection (b), such information as the Commission deems necessary for the consumers to select the most energy efficient lamps to meet their requirements. Labeling information for incandescent lamps will be based upon performance when operated at 120 volts input, regardless of the rated lamp voltage.".

(2) in subsection (a)(3), by striking out "(14)" and inserting in lieu thereof "(15)";

(3) in paragraphs (1)(B), (3), and (5) of subsection (b), by striking out "(14)" and inserting in lieu thereof "(15)"; and

(4) in subsection (c)(7), by striking out "paragraph (13) of section 322" and inserting in lieu thereof "paragraphs (13) and (14) of section 322(a)".

(e) STANDARDS.—Section 325 of such Act (42 U.S.C. 6295) is amended—

(1) by redesignating clauses (i) through (q) as clauses (k) through (s); and

(2) by inserting after clause (h) the following:

"(i) GENERAL SERVICE FLUORESCENT AND INCANDESCENT REFLECTOR LAMPS.—(1) Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured, assembled or imported after the transition period for each category of lamps beginning on the date of the enactment of this subsection shall meet or exceed the following lamp efficacy and CRI standards. Beginning twelve months after the expiration of the transition period for each of the listed categories of lamps, no lamp in such category may be sold which does not meet or exceed the following lamp efficacy and color rendition index standards:

"FLUORESCENT LAMPS

"Lamp Type	Nominal Lamp Wattage	Minimum Average CRI	Minimum Average Lamp Efficacy (LPW)	Transition Period (months)
4 foot	>35W	69	75.0	36
Medium bi-pin	≤35W	45	75.0	36
2 foot	>35W	69	68.0	36
"U" shaped	≤35W	45	64.0	36
8 foot	65W	69	80.0	18
Slimline	≤65W	45	80.0	18
8 foot	>100W	69	80.0	18
High Output	≤100W	45	80.0	18

"INCANDESCENT REFLECTOR LAMPS

"Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Transition Period (months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

"(2) Not less than 36 months after the date of enactment of the National Energy Security Act of 1992, the Secretary shall initiate a rulemaking proceeding and shall publish a final rule no later than 54 months after this section is enacted to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if warranted, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(3) Not less than eight years after the date of enactment of the National Energy Security Act of 1992, the Secretary shall initiate a rulemaking proceeding and shall publish a final rule no later than nine and one-half years after this section is enacted to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if warranted, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(4) Twenty-four months after any labeling required by subsection (d) shall have taken effect, the Secretary shall initiate a rulemaking to determine if additional fluorescent and incandescent lamps should be subject to standards, and to publish, within 18 months of initiating such a rulemaking, a final rule including such standards, if warranted.

"(5) Any amendment prescribed under paragraph (4) shall apply only to products manufactured, assembled or imported after a date which is 36 months after the date the final rule is published.

"(6) In establishing or modifying any standard under this subsection, the Secretary shall use the criteria contained in section 325(n) of the Energy Policy and Conservation Act, as redesignated by the National Energy Security Act of 1992.

"(7) With regard to any lamp covered by this subsection or section 6113 of the National Energy Security Act of 1992, it shall be the responsibility of the Secretary to inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of any covered product of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

"Any other provision of Federal law or regulation to the contrary notwithstanding, the Secretary shall not be prohibited from modifying any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any covered product if such action is warranted as the result of other Federal action, such as but not limited to restrictions on materials or processes, which would have the effect of either increasing energy use or decreasing energy efficiency.

"(8) Concurrent with the effective date of lamp standards established pursuant to this subsection or section 6113 of the National Energy Security Act of 1992, a manufacturer shall file with the Secretary the report of the laboratory certifying compliance with the standard for each lamp. Such report shall include the lumen output and wattage consumption as an average of measurements taken over the preceding 12 month period.".

SEC. 6116. ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS.—Title III, part C, of the Energy Policy and Conservation Act (42 U.S.C. 6310) is amended by adding the following new section 346, and renumbering section 346 as 347.

"SEC. 346. ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS.—

"(a) IN GENERAL.—(1)(A) The Secretary of Energy shall—

"(i) within 18 months after the date of the enactment of this Act, prescribe testing requirements for those high-intensity discharge lamps for which the Secretary makes a determination that energy conservation standards would result in significant energy savings; and

"(ii) within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to clause (i), prescribe energy conservation standards for those high-intensity discharge lamps for which the Secretary prescribed testing requirements under clause (i); and

"(iii) any standard prescribed under clause (ii) shall apply to products manufactured, assembled or imported 36 months after the date on which the final rule is published.

"(B) For purposes of subparagraph (A), the term 'energy conservation standard' means—

"(i) a performance standard that prescribed a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(ii) a design requirement for a product.

"(2) In establishing any standard under this section, the Secretary shall use the criteria contained in section 325(n) of the Energy Policy and Conservation Act, as redesignated by the National Energy Security Act of 1992.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards are prescribed by the Secretary of Energy pursuant to paragraph (1)(A)(ii) for high-intensity discharge lamps, prescribe labeling requirements for such lamps.

"(b) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (a)(3), each manufacturer or importer of the product shall begin to label newly manufactured products with a label which meets, and is displayed in accordance with, the requirements of such rule.

"(c) ENFORCEMENT.—(1) After the date on which a manufacturer must begin to label newly manufactured products with a label for a product pursuant to subsection (b), each such product shall be considered, for purposes of paragraphs (1) and (2) of section 322(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies.

"(2) Twelve months after the date on which a manufacturer must begin to label newly manufactured products with a label for a product pursuant to subsection (b), it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new high intensity discharge lamps which is not in conformity with the applicable labeling requirement and energy conservation standard prescribed under subsection (a)(1)(A)(ii).

"(3) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act.".

SEC. 6117. REPORT ON THE POTENTIAL OF COOPERATIVE ADVANCED APPLIANCE DEVELOPMENT.—(1) Within 12 months after the date of enactment of this Act, the Secretary of Energy shall, in consultation with utilities and appliance manufacturers, prepare, and submit to Congress, a report on the potential for the development and commercialization of appliances which are substantially more efficient than required by Federal or State law.

(2) Such report shall identify candidate high-efficiency appliances which meet the following criteria:

(A) that the potential exists for substantial improvement in the appliance's energy efficiency, beyond the minimum established in Federal and State law;

(B) that there is the potential for significant energy savings at the national or regional level;

(C) that such appliances are likely to be cost-effective for consumers;

(D) that electric, water, or gas utilities are prepared to support and promote the commercialization of such appliances; and

(E) that manufacturers are unlikely to undertake development and commercialization of such appliances on their own, or development and production would be substantially accelerated by support to manufacturers.

(3) The plan shall also—

(A) describe the general actions the Secretary of Energy could take to coordinate and assist utilities and appliance manufacturers in developing and commercializing highly efficient appliances;

(B) describe specific proposals for Department of Energy assistance to utilities and appliance manufacturers to promote the development and commercialization of highly efficient appliances;

(C) identify methods by which Federal purchase of highly efficient appliances could assist in the development and commercialization of such appliances; and

(D) identify the funding levels needed to develop and implement a Federal program to assist in the development and commercialization of highly efficient appliances.

SUBTITLE B—FEDERAL ENERGY MANAGEMENT

SEC. 6201. DEFINITIONS.—For purposes of this subtitle—

(1) the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, any agency of the judicial branch of Government;

(2) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation and maintenance of energy systems in Federal facilities which may include more than one building;

(3) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of the fundamentals of building energy systems; building energy codes and applicable professional standards; energy accounting and analysis; life-cycle cost methodology; fuel supply and pricing; and instrumentation for energy surveys and audits; and

(4) the term "Task Force" means the Interagency Energy Management Task force established under section 547 of the National Energy Conservation Policy Act (42 U.S.C. 8257).

SEC. 6202. FEDERAL ENERGY COST ACCOUNTING AND MANAGEMENT.—(a) GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Office of Management and Budget, in cooperation with the Secretary, the General Services Administration, and the Department of Defense, shall establish guidelines to be employed by each Federal agency to assess accurate energy consumption for all buildings or facilities which the agency owns, operates, manages or leases, where the Government pays utilities separate from the lease and the Government operates the leased space. Such guidelines are to be used in reporting quarterly and annual energy consumption and energy cost figures as required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253). Each agency shall implement such guidelines no later than 120 days after their establishment. Each facility energy manager shall maintain energy consumption and energy cost records for review by the Inspector General, Congress and the general public.

(b) CONTENTS OF GUIDELINES.—Such guidelines shall include the establishment of a monitoring system to determine—

(1) which facilities are the most costly to operate when measured on an energy consumption per square foot basis or other relevant analytical basis;

(2) unusual or abnormal changes in energy consumption; and

(3) the accuracy of utility charges for electric and gas consumption.

(c) FEDERALLY LEASED SPACE ENERGY REPORTING REQUIREMENT.—Not later than December 31, 1992, and on each December 31 thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate and the House of Representatives on the estimated energy cost of leased buildings or space in which the Federal Government does not directly pay the utility bills.

(d) POSTAL SERVICE.—The United States Postal Service shall adopt regulations to ensure the reliable and accurate accounting of energy consumption costs for all buildings or facilities which it owns, leases, operates or manages. The regulations shall include establishing a monitoring system to determine which facilities are the most costly to operate; identify unusual or abnormal changes in energy consumption; and check the accuracy of utility charges for electricity and gas consumption.

SEC. 6203. FEDERAL ENERGY COST BUDGETING.—The President shall include in each budget submitted to the Congress under section 1105 of title 31, United States Code, a separate statement of the amount of appropriations requested, on an agency basis, for—

(1) energy costs to be incurred in operating and maintaining agency facilities; and

(2) compliance with the provisions of part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), the Energy Policy and Conservation Act, and applicable Executive orders, including Executive Orders No. 12003 and No. 12579.

SEC. 6204. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.—(a) AUDIT SURVEY.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.) as amended, and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E(a)(2) of the Inspector General Act Amendments of 1988 (Public Law 100-504) shall—

(1) identify agency compliance activities to meet the requirements of such section and any other matters relevant to implementing the goals of the National Energy Conservation Policy Act; and

(2) assess the accuracy and reliability of energy consumption and energy cost figures required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(b) PRESIDENTS COUNCIL ON INTEGRITY AND EFFICIENCY REPORT TO CONGRESS.—Not later than 150 days after the date of the enactment of this Act, the President's Council on Integrity and Efficiency shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives, on the review conducted by each Inspector General of each agency carried out under this section.

(c) INSPECTOR GENERAL REVIEW.—Each Inspector General established under section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is encouraged to conduct periodic reviews of agency compliance with the National Energy Conservation Policy Act, the provisions of this subtitle, and other laws relating to energy consumption. Such reviews shall not be inconsistent with the performance of the required duties of the Inspector General's office.

SEC. 6205. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.—(a) CONFERENCE WORKSHOPS.—The General Services Administration, in consultation with the Secretary and the Task Force, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy. The General Services Administration shall work and consult with other Federal agencies to plan for particular regional conferences. The General Services Administration shall invite State, local, and county public officials who have responsibilities for energy management or may have an interest in such conferences and shall seek the input of, and be responsive to, the views of such State, local and county officials in the planning and organization of such workshops.

(b) FOCUS OF WORKSHOPS.—Such workshops and conferences shall focus on the following, but may include other topics:

(1) developing strategies among Federal, State, and local governments to coordinate energy management policies and to maximize available intergovernmental energy management resources within the region;

(2) the design, construction, maintenance, and retrofitting of Federal facilities to incorporate energy efficient techniques;

(3) procurement and use of energy efficient products;

(4) alternative fuel vehicle procurement, placement, and usage;

(5) coordinated development with the private sector for the servicing, refueling, and maintenance of alternative fuel vehicles;

(6) dissemination of information on innovative programs, technologies, and methods which have proven successful in government; and

(7) technical assistance to design and incorporate effective energy management strategies.

(c) ESTABLISHMENT OF WORKSHOP TIMETABLE.—As a part of the first report to be submitted pursuant to section 6214 of this Act, the Administrator shall set forth the schedule for the Regional Energy Management Workshops. Not less than five workshops shall be held by September 30, 1993, and at least one such workshop shall be held in each of the 10 Federal regions every two years beginning on September 30, 1993.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $300,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purpose of this section.

Sec. 6206. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.—(a) PROCUREMENT.—The General Services Administration, in consultation with the Department of Defense and the Defense Logistics Agency, shall undertake a program to include energy efficient products on the Federal Supply Schedule and the New Item Introductory Schedule.

(b) IDENTIFICATION PROGRAM.—The General Services Administration, in consultation with the Department of Energy and the Defense Logistics Agency, shall implement a program to identify and designate on its respective Supply Schedules those energy efficient products which offer significant potential savings, as calculated using the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254), unless such life cycle cost information is not readily available.

(c) GUIDELINES.—The Office of Federal Procurement Policy, in consultation with the General Services Administration, the Department of Energy, and the Department of Defense, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Department of Defense and the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) UNITED STATES POSTAL SERVICE GUIDANCE.—The USPS shall undertake a program to identify and procure energy efficient products for use in its facilities. The USPS shall, to the maximum extent practicable, incorporate energy efficient information available on Federal Supply Schedules maintained by GSA and DLA to carry out the purpose of this section.

(e) REPORT TO CONGRESS.—As a part of the report to be submitted pursuant to section 6214 of this Act, the Administrator of General Services, in consultation with the Defense Logistics Agency and the Department of Energy, shall report on the progress, status, activities, and results of the programs under subsections (b) and (c) of this section. The report shall include, but not be limited to—

(1) the number, types, and functions of each new product under subsection (a) added to the Federal Supply Schedule and the New Item Introductory Schedule during the previous fiscal year, and the name of the product manufacturer;

(2) the number, types, and functions of each product identified under subsection (b), and efforts undertaken by the General Services Administration and the Defense Logistics Agency to encourage the acquisition and use of such products;

(3) the actions taken by the General Services Administration and the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products, and recommendations for legislative action, if necessary;

(4) whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j-2), have been added to the Federal Supply Schedule or New Item Introductory Schedule;

(5) an estimate of the potential cost savings to agencies and the Federal Government, taking into account the quantity of energy efficient products which could be utilized throughout the Government, that would be realized through implementation or installation of products identified in this section; and

(6) the actual quantity of such products acquired and an estimate of the energy savings achieved by the use of such products.

SEC. 6207. GENERAL SERVICES ADMINISTRATION FEDERAL BUILDINGS FUND.—Section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), is amended—

(1) in paragraph (1), by inserting "(to be known as the Federal Buildings Fund)" after "a fund"; and

(2) by adding at the end thereof the following new paragraphs:

"(7)(A) The Administrator is authorized to receive amounts from rebates or other cash incentives related to energy savings and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (D). Amounts deposited in the Federal Buildings Fund under this subparagraph shall be used to implement energy efficiency programs.

"(B) The Administrator may accept such goods or services, consistent with approved Federal energy management objectives, provided in lieu of any rebates or other cash incentives for energy savings under subparagraph (A).

"(C) In the administration of any real property for which the Administrator leases and pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in such real property.

"(D) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate for energy management improvement programs—

"(i) amounts received and deposited in the Federal Buildings Fund under subparagraph (A);

"(ii) goods and services received under subparagraph (B); and

"(iii) amounts the Administrator determines are not needed for other authorized projects and are otherwise available to implement energy efficiency programs.

"(8)(A) The Administrator is authorized to receive amounts from the sale of recycled materials and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (B).

"(B) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate amounts received and deposited in the Federal Buildings Fund under subparagraph (A) for programs which—

"(i) promote further source reduction and recycling programs; and

"(ii) encourage employees to participate in recycling programs by providing funding for child care, fitness, or other employee benefit programs.".

SEC. 6208. FEDERAL ENERGY MANAGEMENT TRAINING.—(a) ENERGY MANAGEMENT TRAINING.—(1) Each executive department described under section 101 of title 5, United States Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers as defined under section 6201(3). Such programs shall be managed—

(A) by the agency representative on the Task Force; or

(B) if an agency is not represented on the Task Force, by the designee of the head of the agency.

(2) Agencies shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study covering the areas described under section 6201(3) including, but not limited to courses offered by:

(A) a private or public educational institution;

(B) a Federal agency; or

(C) a professional association.

(b) AGENCY REPORT.—(1) Each agency listed in section 6208(a) shall, no later than 60 days following the enactment of this Act, report to the Task Force the following information:

(A) those individuals employed by the agency on the date of the passage of this Act who qualify as trained energy managers as defined under section 6201(3);

(B) the General Schedule (GS) or grade level at which each of these individuals are employed; and

(C) the facility or facilities for which these employees are responsible or otherwise stationed.

The Task Force shall provide a summary of these agency reports to the Committee on Governmental Affairs of the United States Senate and the Committee on Energy and Natural Resources of the United States Senate.

(c) REQUIREMENTS AT FEDERAL FACILITIES.—(1)(A) Not later than September 30, 1992, the departments and agencies described under subsection (a)(1) shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in section 6201(3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies described under subsection (a)(1) shall ensure that, no later than September 30, 1992, no fewer than two trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under subsection (c)(1)(B) shall not include those employees listed in the report in section 6208(b).

(2)(A) Not later than September 30, 1993, the departments and agencies described under subsection (a)(1) shall further upgrade their energy management capabilities by ensuring that no fewer than five trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under subsection (c)(2)(A) shall not include those employees listed in the report in section 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goals established in subsections (c)(1)(B) and (c)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(i) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(d) DEPARTMENT OF DEFENSE REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the Department of Defense shall upgrade its energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in section 6201(3); and

(3) increasing the overall number of trained energy managers within the Department.

(B) The Department shall insure that, no later than September 30, 1992, no fewer than twenty trained energy managers are employed by the Department.

(C) Federal employees designated for energy training and counted under subsection (d)(1)(B) shall not include those employees listed in the report in section 6208(b).

(2)(A) Not later than September 30, 1993, the Department shall further upgrade its energy management capabilities by ensuring that no fewer than forty trained energy managers are employed by the Department.

(B) Federal employees designated for energy training and counted under subsection (2)(A) shall not include those employees listed in the report in section 6208(b).

(3) The Department may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goal established in subsections (d)(1)(B) and (d)(2)(A). Trained energy managers shall focus their efforts on improving energy efficiency in the following facilities:

(i) Department facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the Secretary of Defense as having significant energy savings potential.

(e) SPECIFIED AGENCY REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the General Services Administration, the Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in section 6201(3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies identified in subsection (e)(1)(A) shall insure that, no later than September 30, 1992, no fewer than ten trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under subsection (e)(1)(B) shall not include those employees listed in the report section 6208(b).

(2)(A) Not later than September 30, 1993, the General Services Administration, Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall further upgrade their energy management capabilities by ensuring that no fewer than twenty trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under subsection (e)(2)(A) shall not include those employees listed in the report in section 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goals established in subsections (e)(1)(B) and (e)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(i) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(f) REPORTS OF AGENCIES.—Each agency shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each agency's report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

SEC. 6209. FEDERAL FACILITY ENERGY MANAGER RECOGNITION AND INCENTIVES AWARD

PROGRAM.—(a) ESTABLISHMENT.—The Secretary shall, in consultation with the Office of Personnel Management and the Task Force, establish a financial award program to reward outstanding facility energy managers in Federal agencies, including the United States Postal Service, and other individuals making outstanding contributions toward the reduction of energy consumption or costs in Federal facilities.

(b) SELECTION CRITERIA.—Not later than June 1, 1992, the Secretary shall issue procedures for implementing the conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors. Such criteria shall include—

(1) improved energy performance through increased energy efficiency;

(2) implementation of proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;

(3) effective training programs for facility energy managers, operators, and maintenance personnel;

(4) employee awareness programs;

(5) success in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;

(6) successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253); and

(7) success in the implementation of the guidelines under section 6202 of this Act.

(c) AWARD LIMIT.—No single award shall be greater than $2,500.

(d) REPORT.—Each year the Secretary shall publish and disseminate to Federal agencies, and to Congress as a part of the report required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258) a report to highlight and recognize the achievements of bonus award winners.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $250,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purposes of this section.

SEC. 6210. IDENTIFICATION AND ATTAINMENT OF AGENCY ENERGY REDUCTION AND MANAGEMENT GOALS.—Section 3 of the Federal Energy Management Improvement Act of 1988 (42 U.S.C. 8253 note; Public Law 100-615) is amended—

(1) in subsection (a)—

(A) by striking out "using funds appropriated to carry out this section," and inserting in lieu thereof "in consultation with the Task Force,";

(B) in paragraph (1) by striking out "and" after the semicolon;

(C) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(D) by adding at the end thereof the following new paragraph:

"(3) determining barriers which may prevent an agency's ability to comply with section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and other energy management goals.";

(2) in subsection (b)—

(A) in paragraph (1) by striking out "Congress, within 180 days after the date on which funds are appropriated to carry out this section," and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, and the House of Representatives, within 180 days after the date of the enactment of the National Energy Security Act of 1992,"; and

(B) by adding at the end thereof the following new paragraph:

"(4) For the purpose of this section, a representative sample shall include, where appropriate, the following types of Federal facility space:

"(A) Housing;

"(B) Storage;

"(C) Office;

"(D) Services;

"(E) Schools;

"(F) Research and Development;

"(G) Industrial;

"(H) Prisons; and

"(I) Hospitals.";

(3) in subsection (d)—

(A) by striking out "Congress" and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, the Committee on Energy and Commerce of the House of Representatives, the Committee on Government Operations of the House of Representatives,"; and

(B) by adding at the end thereof "The report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal by January 1, 2000 established under Executive Order No. 12759.".

SEC. 6211. UNITED STATES POSTAL SERVICE BUILDING ENERGY SURVEY AND REPORT.—(a) IN GENERAL.—The USPS shall conduct an energy survey, as defined in section 549(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the USPS in different areas of the country;

(2) making recommendations to the Postmaster General for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar USPS buildings; and

(3) determining barriers which may prevent USPS compliance with energy reduction goals, including Executive Orders No. 12003 and 12579.

(b) IMPLEMENTATION.—(1) The Postmaster General shall transmit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Post Office and Civil Service Committee, within 180 days of enactment of this Act, a plan for implementing this section.

(2) The Postmaster General shall designate buildings to be surveyed in the project so as to obtain a sample of Postal facilities of the types and in the climates that consume the major portion of the energy consumed by the Postal Service.

(3) For the purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of the Postal facility or the remaining term of a lease of a building leased by the Postal Service.

(c) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Postmaster General shall transmit a report of the findings and conclusions of the project to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on Post Office and Civil Service.

SEC. 6212. FEDERAL BUILDING ENERGY CONSUMPTION TARGETS.—Not later than two years after the date of the enactment of this Act, the Secretary shall consider, in consultation with the Administrator of General Services and the Task Force, establishing energy consumption targets for January 1, 2000, for each Federal agency to reduce energy consumption per square foot in Federal buildings based upon the information provided in the report under section 6210 of this Act. The United States Postal Service shall independently consider establishing its own energy consumption targets for January 1, 2000 based upon the information provided in the report under section 6211.

SEC. 6213. UTILITY INCENTIVE PROGRAMS.—(a) IN GENERAL.—Federal agencies are authorized and encouraged to participate in programs for energy conservation or the management of electricity demand conducted by gas or electric utilities and generally available to customers of such utilities.

(b) ACCEPTANCE OF FINANCIAL INCENTIVES.—Federal agencies may accept any financial incentive, generally available from any such utility, to adopt energy efficiency technologies and practices that the Secretary determines are cost effective for the Federal Government.

(c) NEGOTIATIONS.—Each Federal agency is encouraged to enter into negotiations with electric and gas utilities to design special demand management and conservation incentive programs to address the unique needs of facilities used by such agency.

(d) USE OF CERTAIN FUNDS.—(1) Fifty percent of funds from utility energy efficiency rebates shall, subject to appropriation, remain available for expenditure by the agency for additional energy efficiency measures which may include related employee incentive programs, particularly at those facilities at which energy savings were achieved.

(2)(A) Agencies shall maintain strict financial accounting and controls for savings realized and all expenditures made under this section.

(B) Records maintained under subparagraph (A) shall be made available for public inspection upon request.

SEC. 6214. REPORT BY GENERAL SERVICES ADMINISTRATION.—Not later than six months after the date of enactment of this Act, and on each December 31, at least six months thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives on the activities of the General Services Administration conducted pursuant to this subtitle. Such reports shall include, but not be limited to, the information requested under sections 6205(c) and 6206(d).

SEC. 6215. UNITED STATES POSTAL SERVICE ENERGY MANAGEMENT REPORT.—Not later than one year after the date of the enactment of this Act, and on each January 1 thereafter, the Postmaster General shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Post Office and Civil Service of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate on the Postal Service's building management program as it relates to energy efficiency. The report shall include, but not be limited to, the following:

(1) actions taken to reduce energy consumption;

(2) future plans to reduce energy consumption;

(3) an assessment of the success of the energy conservation program;

(4) energy costs incurred in operating and maintaining all postal facilities; and

(5) the status of the energy efficient procurement program established under section 6206(d).

Sec. 6216. Amendments to Part 3, Title V of NECPA.—Part 3 of title V of the National Energy Conservation Policy Act (NECPA) (Public Law 95-619), as amended, is further amended as follows:

(a) In section 543, (1) strike subsection (a) and insert the following new text in lieu thereof:

"(a) Energy Management Requirement for Federal Buildings.—(1) Not later than January 1, 2000, each Federal agency shall, to the maximum extent practicable, install in Federal buildings under the control of such agency in the United States, all energy conservation measures with payback periods of less than ten years as calculated using the methods and procedures developed pursuant to section 544. Federal agencies may participate in the Environmental Protection Agency's 'Green Lights' program for purposes of technical assistance in complying with the requirements of this section. Within two years after the date of enactment of the National Energy Security Act of 1991, each agency shall submit to the Secretary a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved.

"(2) An agency may exclude from the requirements of paragraph (1) any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, or the unique character of many facilities operated by the Departments of Defense and Energy. Each agency shall identify and list in each report made under section 548, the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the impracticability standards set forth herein, and may within 90 days after receipt of the findings, reverse a finding of impracticability, in which case the agency shall comply with the requirements of paragraph (1). This section shall not apply to an agency's facilities that generate or transmit electric energy, nor to the uranium enrichment facilities operated by the Department of Energy.";

(2) In subsection (b):

(A) after the words "subsection (a)," insert the following: "The Secretary of Energy shall consult with the Secretary of Defense and the Administrator of the General Services Administration in developing guidelines for the implementation of this Part, and";

(B) strike the phrase "Federal Energy Management Improvement Act of 1988," in paragraph (1) and insert in lieu thereof "National Energy Security Act of 1992, and submit to the Secretary of Energy";

(C) after the words "high priority projects;" insert the following: "and such plan shall include steps to take maximum advantage of contracts authorized under title VII of this Act (42 U.S.C. 8287 et seq.), financial incentives, and other services provided by utilities for efficiency investment and other forms of financing to reduce the direct costs to the government;";

(D) at the end of paragraph (2), strike the semicolon and insert the following: ", and update such surveys periodically, but not less than every three years;";

(E) replace paragraph (3) with the following new paragraph:

"(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;"; and

(F) insert a new paragraph (4) as follows, and renumber paragraph (4) as "(5)":

"(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544, and".

(b) In section 544—

(1) strike "National Bureau of Standards," in subsection (a) and insert in lieu thereof "National Institute of Standards and Technology,"; and

(2) strike all after the word "each", in paragraph (b)(2) and insert in lieu thereof: "agency shall, after January 1, 1994, fully consider the energy efficiency of all potential building space at the time of renewing or entering into a new lease. Further, all government leased space constructed after January 1, 1994, shall meet model Federal energy conservation performance standards for new commercial buildings promulgated pursuant to section 304 of the Energy Conservation and Production Act (Public Law 94-385).".

(c) In section 545 add after the word "measures" the following: "as needed to meet the requirements of section 543.".

(d) In section 548—

(1) strike the word "Each" in subsection (a) and insert in lieu thereof the following: "In addition to the plan required to be submitted to the Secretary pursuant to section 543(b)(1), each";

(2) insert the phrase "by April 2 of each year," after the word "annually" in subsection (b); and

(3) insert the words "by each agency", after the words "under this part" in subsection (b)(1).

(e) Renumber section 549 as section 551 and insert the following two new sections:

"SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.

"(a) Demonstration Program.—Not later than January 1, 1993, the Secretary, in cooperation with the Administrator of the General Services Administration, shall establish a demonstration program to install, in Federally owned facilities, energy efficiency technologies which the Secretary has determined are ready for commercial demonstration and which were developed by entities that have received or are receiving Federal financial assistance for energy conservation research and development.

"(b) Evaluation.—The Secretary and the Administrator shall evaluate the commercial viability of each type of energy efficiency technology so installed, including its technical feasibility, operational feasibility, and economic effectiveness. Installations of each technology shall include a sufficient number of applications to produce statistically reliable evaluation results based on the technologies' application in various climates and building situations.

"(c) Authorization.—There are authorized to be appropriated to carry out this section no more than $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995.

"SEC. 550. FEDERAL ENERGY EFFICIENCY PROJECTS FUNDING.

"(a) In General.—Not later than one year after the date of enactment of the National Energy Security Act of 1992, the Secretary shall establish guidelines for the transfer or loan of up to $1,000,000 per project to encourage any Federal agency to undertake energy efficiency projects in Federally owned facilities.

"(b) Project Selection.—The Secretary shall establish procedures for the receipt of proposals under this section. The Secretary shall consider the following factors in determining whether to provide funding under subsection (a):

"(1) the cost-effectiveness of the project;

"(2) the proportion of energy and cost savings anticipated to the Federal Government;

"(3) the amount of funding committed to the project by the agency requesting financial assistance;

"(4) the extent that a proposal leverages financing from other non-Federal sources; and

"(5) any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal Government.

"(c) Reports.—The Secretary shall report annually to Congress, in the supporting documents accompanying the President's budget, on the activities under this section. The report shall include the projects funded and the projected energy and cost savings from installed measures.

"(d) Authorization.—For purposes of this subsection, there is authorized to be appropriated, and to remain available until expended, not more than $200,000,000.".

(f) Technical and Conforming Amendment.—The table of contents for the National Energy Conservation Policy Act is amended to read as follows:

"Sec. 549. Demonstration of New Technology.
"Sec. 550. Federal Energy Efficiency Projects Funding.
"Sec. 551. Definitions.".

Sec. 6217. Congressional Office Building Energy Improvement Assessment.—The Architect of the Capitol shall undertake a study to determine the feasibility and costs associated with compliance with part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq), and Executive Orders No. 12003 and No. 12579 for all facilities under the Architect's jurisdiction, taking into account particular needs with respect to the security and physical operation of the legislative branch of the Government. The Architect shall report the results of such study to the appropriate committees of Congress.

Sec. 6218. Study of Federal Purchasing Power.—(a) Study.—The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency.

(b) Report.—The Secretary shall report to Congress on the results of the study within two years of the date of the enactment of this Act.

(c) Authorization.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Sec. 6219. Energy Management Goals for the United States Postal Service.—(a) Energy Performance Goal for Postal Facili-

TIES.—(1) Not later than January 1, 2000, the United States Postal Service shall, to the maximum extent practicable, install in all facilities under its control, energy conservation measures with payback periods of less than ten years as calculated using methods and procedures developed pursuant to section 544 of the National Energy Conservation Policy Act. Within two years after the date of enactment of the National Energy Security Act of 1992, the USPS shall submit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on the Post Office and Civil Service a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved.

(2) The USPS may exclude from the requirements of paragraph (1) any facility or collection of facilities, and the associated energy consumption and gross square footage, if the Postmaster General finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such facility or collection of facilities, the type and amount of energy consumed, or the technical feasibility of making the desired changes. The USPS shall identify and list in the report made under section 6215 the facilities designated by it for such exclusion. This section shall not apply to the USPS facilities that generate or transmit electric energy.

(b) IMPLEMENTATION STEPS—To achieve the goal established in subsection (a), the USPS shall—

(1) prepare or update, within 1 year after the date of the enactment of this Act, a plan describing how the USPS intends to meet such goal. The plan may be submitted as part of the report under section 6215. The plan shall include how the USPS will implement this part, designate personnel primarily responsible for achieving such goal, and identify high priority projects;

(2) perform energy surveys of USPS facilities and update such surveys periodically, but not less than every three years;

(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;

(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544 of the National Energy Conservation Policy Act; and

(5) ensure that the operation and maintenance procedures applied under this section are continued.

SEC. 6220. ENERGY PERFORMANCE CONTRACTS.—

(a) Title VIII of the National Energy Conservation Policy Act (Public Law 99-412) is amended by striking "TITLE VIII—SHARED ENERGY SAVINGS" and inserting in lieu thereof "TITLE VIII—ENERGY SAVINGS PERFORMANCE CONTRACTS".

(b) Section 801 of such Act (42 U.S.C. 8287) is amended by striking the word "may" the first place it appears and inserting "shall, to the extent parcticable," in lieu thereof; and by redesignating such section as subsection 801(a)(1) and adding the following new text:

"(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any government payments and performance guarantees. Such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

"(B) Aggregate annual payments by the government may not exceed the guaranteed energy savings during each contract year.

"(C) Federal agencies may incur obligations to finance a project provided guaranteed savings exceed the debt service requirements.

"(b) IMPLEMENTATION.—(1)(A) The Secretary, in consultation with the Secretary of Defense, the Administrator of the General Services Administration, and the Administrator of NASA, within 90 days after the date of the enactment of the National Energy Security Act of 1992, shall develop appropriate procedures and methods for use by Federal agencies to select energy savings service contractors that will achieve the intent of this section in a cost-effective manner. The procedures and methods used for the calculation of energy savings shall be based on sound engineering practices, consideration of relevant variables such as application utility rate schedules, and fuel and utility billing cycles.

"(B) Notwithstanding any other procurement laws and regulations, such procedures and methods shall apply to the selection by each Federal agency of a contractor to provide energy savings services.

"(C) The process developed pursuant to this section may constitute adequate price competition, no cost justification shall be required, and waiver of the cost pricing and cost accounting standards shall be permitted.

"(2) In carrying out paragraph (1), the Secretary may:

"(A) request statements of qualifications, including financial and performance information, from firms engaged in providing energy saving services;

"(B) designate from the statements received, with an update at least annually, those firms that are qualified to provide energy savings services;

"(C) select at least three firms from the list of qualified contractors to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project; and

"(D) select from such firms the most qualified firm to provide energy savings services pursuant to such energy savings contractual arrangement that the Secretary determines is fair and reasonable, taking into account—

"(i) the qualifications, prior experience and capabilities of a contractor to perform the proposed type of energy savings services; and

"(ii) the estimated value of the energy savings services to be rendered and the scope and nature of the project.

"(3) In carrying out paragraph (1), the Secretary also may provide for direct negotiations by Federal agencies for energy savings services with contractors that have been selected competitively and approved by any gas or electric utility serving the agency involved.

"(c) DEFINITION.—For the purpose of this title, the terms 'energy savings contract' or 'energy savings performance contract' means a contract which provides for the performance of services for the design, acquisition, installation, testing, operation and, where appropriate, maintenance and repair, of an identified energy savings measure. Such contracts may provide for appropriate software licensing agreements.

"(d) SUNSET AND REPORTING REQUIREMENTS.—

"(A) The authority to enter into new contracts under this provision shall cease to be effective three years from the date of enactment of this Act.

"(B) Beginning six months after the date of enactment of this Act, and every six months thereafter, for a period of three years from enactment of this Act, the General Accounting Office shall report on the implementation of this section. These reports shall include, but not be limited to, an assessment of the following issues:

"(i) the quality of the energy audits conducted for the Agencies;

"(ii) the government's ability to maximize energy savings;

"(iii) the total energy cost savings accrued by the agencies that have entered into such contracts;

"(iv) the total costs associated with entering into such contracts and having them performed;

"(v) a comparison of the total costs incurred by agencies under such contracts and the total costs incurred under similar contracts performed in the private sector;

"(vi) the number of firms selected as qualified firms under this section and their respective shares of awarded contracts;

"(vii) the number of firms engaged in similar activity in the private sector and their respective market shares;

"(viii) the number of applicant firms not selected as qualified firms under this section and the reason for their nonselection;

"(ix) the frequency with which agencies have utilized the services of government labs to perform any of the functions specified in this section.

"(C) Three years from enactment of this Act, the General Accounting Office shall provide a summary report on the efficacy of this section. In addition, the General Accounting Office shall provide recommendations for statutory or regulatory changes that may be necessary. In making such recommendations, the General Accounting Office shall consider whether the contracting procedures utilized under this section by agencies have been effective and whether continued use of those procedures, as opposed to the procedures provided by existing public contract law, is necessary for implementation of successful energy savings performance contracts.".

SEC. 6221. ENERGY EFFICIENT PRODUCTS.—Whenever the Federal Government establishes a new requirement or initiates a new procurement for the acquisition of electric lamps, electric ballasts, electric motors and/or refrigeration equipment, the Federal Government shall, where cost effective, give preference to the procurement of the most energy efficient products available to meet its needs. The General Services Administration shall keep a record of the quantity, country of manufacture, and cost of items purchased under this section. The Secretary of Energy shall estimate the quantity and cost of energy saved annually due to this section.

SEC. 6222. ENERGY ANALYSIS AND DIAGNOSTIC CENTERS PROGRAM.—(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Energy an Energy Analysis and Diagnostic Centers program designed to assist qualifying commercial and industrial facilities to conserve energy and reduce operating costs by applying efficient technologies to their operations and buildings and to provide opportunities for students to gain experience in the field of energy management.

(b) QUALIFYING COMMERCIAL AND INDUSTRIAL FACILITIES.—For purposes of this section, qualifying commercial and industrial facilities are those facilities that meet at least three of the following four criteria:

(1) 500 or fewer employees;

(2) gross sales of not more than $75,000,000 per year;

(3) total energy costs of not more than $1,750,000 per year;

(4) an absence of in-house energy expertise.

(c) ADMINISTRATION.—(1) Not later than six months after the date of enactment of this section, the Secretary shall seek to enter into a management agreement with an appropriate institution to administer the program.

(2) For purposes of this section, an appropriate institution is a nonprofit institution with demonstrable expertise in engineering, physical science, communications, business, and such other disciplines as appropriate and with expertise in industrial manufacturing including new process and product research and development.

(d) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Within 9 months after the date of enactment of this section, the administering institution shall, under the direction of the Secretary and through a competitive bidding process, select not less than twenty-five sites to be designated Energy Analysis and Diagnostic Centers. The sites shall be educational institutions such as universities, engineering and technical schools, and other institutions of higher learning with demonstrable capability to—

(A) perform energy audits for qualifying industrial facilities designed to assist such facilities to reduce their energy consumption and improve the efficiency of their energy usage;

(B) provide detailed reports to the qualifying industrial facility identifying energy conservation and efficiency opportunities; and

(C) provide such other service as the Secretary deems appropriate.

(e) DISSEMINATION OF INFORMATION.—Not less than every twelve months, the administering institutions shall synthesize from the reports of the Energy Analysis and Diagnostic Centers and make publicly available information concerning significant energy conservation opportunities: *Provided, however*, That all proprietary information shall be kept confidential.

SEC. 6223. ENERGY AUDIT TEAMS.—(a) ESTABLISHMENT.—The Secretary shall assemble from existing personnel with appropriate expertise, and with particular utilization of the national laboratories, and make available to all Federal agencies, one or more energy audit teams which shall be equipped with instruments and other advanced equipment needed to perform energy audits of Federal facilities. Particular attention shall be given to exploiting expertise and resources that are not generally available in the private sector.

(b) MONITORING PROGRAMS.—The Secretary shall also assist in establishing, at each site that has utilized an energy audit team, a program for monitoring the implementation of energy efficiency improvements based upon energy audit team recommendations, and for recording the operating history of such improvements.

SEC. 6224. GOVERNMENT CONTRACT INCENTIVES.—(a) ESTABLISHMENT OF CRITERIA.—Each agency, in consultation with the Federal Acquisition Regulations Council, shall establish criteria for the improvement of energy efficiency in Federal facilities operated by Federal Government contractors or subcontractors.

(b) UTILIZATION OF CRITERIA.—To encourage Federal contractors, and their subcontractors, which manage and operate federally-owned facilities, to adopt and utilize energy conservation measures designed to reduce energy costs in Government-owned and contractor-operated facilities and which are ultimately borne by the Federal Government. Each agency head shall utilize the criteria developed under subsection (a) in all cost-plus-award-fee contracts.

Subtitle C—Utilities

SEC. 6301. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES AND STUDY OF CERTAIN STATE RATEMAKING POLICIES.—(a) AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.—The Public Utility Regulatory Policies Act of 1978 (Public Law 95-617), as amended, is further amended by inserting the following new paragraph at the end of section 111:

"(7) ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES.—

"(A) The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources and other demand side management measures are at least as profitable, taking into account income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generating equipment: *Provided*, That such energy conservation, energy efficiency resources and other demand side management measures are appropriately monitored and evaluated.

"(B)(i) The rates allowed to be charged by a State-regulated electric utility shall be such that the utility is encouraged to make investments and expenditures for all cost-effective improvements in the energy efficiency of power generation, transmission and distribution.

"(ii) For purposes of meeting the standard provided in clause (i) of this subparagraph, each State regulatory authority shall consider the disincentives caused by existing ratemaking policies, as well as incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution technologies.

"(C)(i) Each State regulatory authority shall require each electric utility for which it has ratemaking authority to employ a planning and selection process for new energy resources that evaluates the full range of alternatives, including new power supplies, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

"(ii) All plans or filings before a State regulatory authority to meet the requirements of clause (i) of this subparagraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

"(iii) For purposes of clause (i) of this subparagraph, the term "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

"(D) For purposes of implementing the provisions of this paragraph, any reference contained in this title to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of the National Energy Security Act of 1992.".

(b) The Public Utility Regulatory Policies Act of 1978 is further amended by inserting the following new paragraph at the end of subsection 111(c):

"(3) If a State regulatory authority implements a standard established by subsection (d)(7), such authority shall (A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and (B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(c) REPORT.—Not later than two years after the date of enactment of this Act, the Secretary shall submit a report to the President and to the Congress containing—

(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities require or permit rates charged by an electric utility to reflect least-cost planning;

(2) an evaluation by the Secretary of whether, and to what extent, least-cost planning is likely to result in—

(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

(B) enhanced or reduced reliability of electric service; and

(C) increased or decreased dependence on particular energy resources; and

(3) an evaluation by the Secretary of whether, and to what extent, ratemaking methodologies implementing least-cost planning adequately take into account the impact of such measures on electric utilities' costs, operations, and rate of return on investment.

(4) an analysis by the Federal Trade Commission of the competitive impact of implementation of energy conservation, energy efficiency and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation or servicing of similar energy conservation, energy efficiency or other demand side management measures and whether any unfair, deceptive or predatory acts or practices exist, or are likely to exist, from implementation of such programs.

(d) DEFINITION.—For purposes of subsection (b), the term "least-cost planning" means any standard, regulation, practice, or policy by which a State regulatory authority considers, or requires a State regulated electric utility to consider or implement, a plan for action (including, but not limited to, the construction of or purchase of electric energy from new generation facilities and investment in or expenditures for conservation, energy efficiency resources, or other demand-side management measures) to be taken by a State regulated electric utility for purposes of providing adequate and reliable service to its electric customers with the incurrence of lowest costs by such utility and its customers.

SEC. 6302. CONSERVATION GRANTS TO STATE REGULATORY AUTHORITIES.—(a) CONSERVATION GRANTS.—The Secretary is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed $500,000 per authority, for purposes of encouraging the consideration of conservation, energy efficiency resources and other demand side management measures as a mechanism for modifying future electricity demand. Such grants may be utilized by a State regulatory authority to provide financial assistance to subgrantees of the Department of Energy's Weatherization Assistance Program to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine least-cost planning.

(b) PLAN.—A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section. Such actions—

(1) shall include procedures to facilitate the participation of subgrantees of the Department of Energy's Weatherization Assistance Program in proceedings of such regulatory authority to examine least-cost planning, and

(2) may include provision for utility coverage of the costs of such subgrantees participation in such proceedings.

(c) SECRETARIAL ACTION.—In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory authority—

(1) to consider implementation of the ratemaking standard established in section 111(d)(7) of the Public Utility Regulatory Policies Act of 1978; and

(2) to achieve the purposes of this section.

(d) RECORDKEEPING.—Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) RULES.—The Secretary may prescribe such rules as may be necessary or appropriate for carrying out the provisions of this section.

(f) DEFINITIONS.—For purposes of this section, the term "State regulatory authority" shall have the same meaning as defined in section 3 of the Public Utility Regulatory Policies Act of 1978.

(g) AUTHORIZATION.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 6303. INTEGRATED RESOURCE PLANNING BY CUSTOMERS OF POWER MARKETING ADMINISTRATIONS.—(a) IN GENERAL.—Within six months after the date of enactment of this Act, the Southwestern Power Administration and the Southeastern Power Administration (hereinafter PMAs) shall each initiate a proceeding for purposes of considering the adoption of a requirement that each long-term firm power service contract entered into or amended subsequent to one year from the date of enactment of this Act between a nonregulated electric utility and such PMA contain an article requiring such utility to develop and implement to the extent practicable an integrated resource planning program. For purposes of this section—

(1) A "long-term firm power service contract" shall mean any contract for the sale by a PMA of firm capacity, with or without energy, which is to be delivered over a period of more than one year;

(2) The term "non-regulated electric utility" shall have the same meaning as provided in section 3(9) of the Public Utility Regulatory Policies Act of 1978. In the case of a contract between a PMA and a joint action agency or similar entity, the term shall include the entity's distribution or user members; and

(3)(A) An "integrated resource planning program" shall be one under which a nonregulated utility engages in a planning and selection process for new energy resources that evaluates the full range of alternatives, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk, and shall treat demand and supply resources on a consistent and integrated basis.

(B) For purposes of this paragraph, the term "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(b) CONSIDERATIONS.—As part of a proceeding under subsection (a), each PMA shall consider a requirement that each contract article referred to in subsection (a) shall—

(1) require the nonregulated electric utility to establish an integrated resource planning program with specific goals;

(2) contain time schedules for meeting program goals and delineate actions to be taken in the event such goals are not met. Such actions may provide (A) for suspension of capacity and energy deliveries that would otherwise be supplied to the nonregulated electric utility under such contract, (B) for liquidated damages, and (C) for termination of such contract if compliance is not achieved within the period stated in such contract; and

(3) provide for review and modification of such program by the nonregulated utility every three years.

(c) PROCEDURES.—A proceeding under subsection (a) shall be conducted in accordance with the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553). Nothing in this section shall require a PMA to adopt either in whole or in part the requirements for contract articles described in subsections (a) and (b). To the extent that a PMA decides to adopt in whole or in part such requirements in a proceeding under subsection (a), it shall promulgate regulations implementing such requirements as part of the same proceeding.

(d) DETERMINATIONS.—If the Secretary determines that a PMA has conducted or is in the process of conducting, as of the date of enactment of this section, a proceeding that meets the requirements of this section, such PMA shall not be required to initiate a new proceeding, and the requirements of this section shall be deemed satisfied with respect to such PMA.

(e) EXCEPTION.—Nothing in this section shall authorize a PMA to require an article as described in subsection (b) of this section in a utility's long-term firm power services contract if any Federal agency requires such utility to prepare an integrated resource planning program.

SEC. 6304. TENNESSEE VALLEY AUTHORITY INTEGRATED RESOURCE PLANNING AND IMPLEMENTATION.—(a) IN GENERAL.—In the exercise of its functions the Tennessee Valley Authority shall employ an integrated resource planning program.

(b) DEFINITIONS.—For the purposes of this section the term: (1) "integrated resource planning program" shall be a program under which the Tennessee Valley Authority engages in a planning and selection process for new energy resources that evaluates the full range of existing and incremental resources, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis; and (2) "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(c) ASSISTANCE TO DISTRIBUTORS.—The Tennessee Valley Authority shall implement the provisions of this section in cooperation with its distributors and shall provide appropriate assistance to them. Such assistance may include publications, workshops, conferences, one-on-one assistance, equipment loans, technology-assessment studies, marketing studies, and other appropriate mechanisms to transfer information on energy-efficiency and renewable energy options and programs to customers.

(d) PUBLIC COMMENT.—Prior to the selection and addition of major new energy resources on the TVA system, TVA shall provide the public an opportunity for review and comment in the selection process.

Subtitle E—State, Local Insular, and Tribal Energy Assistance

SEC. 6501. INSULAR AREAS ENERGY ASSISTANCE PROGRAM.—(a) FINANCIAL ASSISTANCE.—(1) The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (Public Law 93-577), may grant financial assistance to Insular area governments or private sector persons working in cooperation with Insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the Insular areas on imported fuels and promote development in the Insular areas.

(2) Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, the affected local energy institutions.

(3) In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(A) whether the measure will reduce the relative dependence of the Insular area on imported fuels;

(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or are identified by the Secretary as consistent with the purpose of this section;

(D) whether the measure will contribute significantly to development or the quality of the environment in the Insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project.

(4) The Secretary shall require at least 20 per centum of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

(b) DEFINITIONS.—For the purpose of this section, the term—

(1) "Insular area government" means American Samoa government, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, Federated States of Micronesia, Government of Guam, Republic of the Marshall Islands, Republic of Palau, and United States Virgin Islands; and

(2) "1982 Territorial Energy Assessment" means the assessment prepared by the Department of Energy pursuant to the Omnibus Territorial Act. (Public Law 96-597, as amended).

SEC. 6502. STATE BUILDINGS ENERGY INCENTIVE FUND.—Title III, part D, of the Energy Policy and Conservation Act (Public Law 94-163) is amended as follows:

(a) Designate the existing text of subsection 365(f) as paragraph (1) and insert the following new paragraph (2):

"(2) In addition to the amounts authorized to be appropriated under paragraph (1), there is authorized to be appropriated such sums as may be necessary, to remain available until expended, to carry out the purposes of section 363(f)."; and

(b) at the end of section 363 add the following new subsection (f):

"(f) If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within the State, then beginning in fiscal year 1993, the Secretary may allocate funds appropriated pursuant to section 365(f)(2) to provide up to $1,000,000 to such State for deposit into a state revolving fund designed to finance energy efficiency improvements in State and local government buildings in such State. In making this determination the Secretary shall consider whether—

"(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, have adopted building codes at least as stringent as the industry voluntary building energy code as defined under title III of this Act;

"(2) such State has a program to finance energy efficiency improvement projects in State and local government facilities and buildings that includes a revolving fund to finance such projects; and

"(3) such State has raised funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions, sufficient to provide at least 75 percent of the total funds provided for deposit into such revolving fund.".

SEC. 6503. PRIVATE SECTOR INVESTMENTS IN LOW INCOME WEATHERIZATION.—Title IV of the Energy Conservation and Production Act (ECPA) (Public Law 94-385) is amended by adding the following new sections 414A and 414B:

"SEC. 414A. PRIVATE SECTOR INVESTMENTS.—(a) IN GENERAL.—The Secretary shall provide financial assistance to recipients of Federal financial assistance or financial assistance from States pursuant to sections 413 and 414 of this title to pay for the costs of the development and the initial implementation of partnerships, agreements or other arrangements with utilities, private sector interests or other institutions, pursuant to which financial assistance would be made available to make energy conservation improvements in low income housing. Financial assistance provided by the Secretary under this section may be used for the negotiation of partnerships, agreements and other arrangements; the presentation of arguments before State or local agencies; expert advice on the development of partnerships, agreements and other arrangements; or other activities reasonably associated with the development and initial implementation of such arrangements.

"(b) CONDITIONS.—Financial assistance provided under this section to institutions other than States shall, to the extent practicable, coincide with the timing of awards such institutions are receiving under sections 413 or 414 of this title. No less than 80 percent of the funds awarded under this section shall be provided to entities other than states. Recipients of assistance under this section shall have up to three years to carry out projects undertaken with such assistance.

"(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"SEC. 414B. TECHNICAL TRANSFER GRANTS.—(a) IN GENERAL.—The Secretary may provide financial assistance to recipients of Federal financial assistance or financial assistance from States pursuant to sections 413 and 414 of this title for the purpose of: evaluating technical and management measures which increase program and/or private entity performance in weatherizing low income housing; producing technical information for use by persons involved in weatherizing low income housing; exchanging information; and conducting training programs for persons involved in weatherizing low income housing. No less than 50 percent of the funds granted under this section shall be provided to entities other than states. Recipients of technical transfer grants may assign all or part of work under the grants to non-profit entities.

"(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 6504. TRAINING OF BUILDING DESIGNERS AND CONTRACTORS.—Section 362 of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding the following new paragraph at the end of subsection (d):

"(15) programs to provide training and education to building designers and contractors involved in building design or in the sale, installation and maintenance of energy systems and equipment. Such programs shall (A) enlist appropriate trade and professional organizations in the development and financing of this program; and (B) shall also include training workshops, practice manuals, and testing for each area of energy efficiency technology. Designers and contractors who have successfully completed a training course operated pursuant to this section shall be presented a certificate of completion at the end of such course.".

SEC. 6505. ENERGY EDUCATION AND TEACHER TRAINING.—Section 363 of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding the following new subsection:

"(f) ENERGY EDUCATION GRANTS.—(1) The Secretary shall provide competitive grants to supplement state program activities conducted pursuant to section 362(d)(4) to support projects designed to increase public awareness and understanding of energy issues, or to train educators to use existing energy related information for teaching purposes. The Federal contribution toward such projects may not exceed 75 percent of their total cost.

"(2) There is authorized to be appropriated such sums as may be necessary to implement the provisions of this section.".

SEC. 6506. TRIBAL GOVERNMENT ENERGY ASSISTANCE PROGRAM.—(a) FINANCIAL ASSISTANCE.—The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act (Public Law 93-577), may grant financial assistance to tribal governments, or private sector persons working in cooperation with tribal governments, to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy projects to include research and research facilities on tribal lands. Such grants may include the costs of technical assistance in resource assessment, feasibility analysis, technology transfer, and the resolution of other technical, financial or management issues identified by the applicants for such grants.

(b) CONDITIONS.—Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, local educational institutions and the affected local energy institutions.

(c) CONSIDERATIONS.—In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(1) the extent of involvement of local educational institutions and local energy institutions;

(2) the ease and costs of operation and maintenance of any project contemplated as a part of the project;

(3) whether the measure will contribute significantly to development or the quality of the environment of the affected tribal lands; and

(4) any other factors which the Secretary may determine to be relevant to a particular project.

(d) COST-SHARE.—With the exception of grants awarded for the purpose of feasibility studies and research programs, the Secretary shall require at least 20 percent of the costs of any project under this section to be provided from non-Federal sources, unless the grant recipient is a for-profit private sector institution, in which case the Secretary shall require at least 50 percent of the costs of any project to be provided from non-Federal sources.

(e) DEFINITION.—For the purposes of this section—

(1) The term "tribal government" shall include Native Alaskan governments.

(2) The term "private sector person" shall include a consortium of Universities coordinated through Northern Arizona University.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the development and implementation phase of the program established by this section.

SEC. 6507. STATE ENERGY CONSERVATION PLAN REQUIREMENT.—Section 362 (c)(5) of the

Energy Policy and Conservation Act (Public Law 94-163) is amended by striking the semicolon and the word "and" and inserting in lieu thereof the following: "and to turn such vehicle left from a one-way street onto a one-way street at a red stop light after stopping; and".

SEC. 6508. USE OF SOLAR THERMAL WATER HEATERS FOR LOW INCOME WEATHERIZATION.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)(E)) is amended by inserting a new clause as follows and relettering accordingly: "solar thermal water heaters".

SEC. 6509. BUILDING RETROFIT STANDARDS.—(a) Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by renumbering paragraph (13) as paragraph (14) and inserting before the "; and" in paragraph (12) a new paragraph (13) as follows:

"(13) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of the building;".

(b) Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) is amended by adding a new subsection (f) as follows:

"(f) Technical assistance pursuant to subsection (a) may include: (i) reports on experience with existing retrofit programs; and (ii) model State laws and proposed regulations relating to the development of building retrofit standards and regulations, including retrofit ordinances.".

SEC. 6510. USE OF WOOD-BURNING HEATING APPLIANCES FOR LOW INCOME WEATHERIZATION.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended by inserting the following new clause and relettering accordingly:

"( ) wood-heating appliances".

SEC. 6511. PROMOTING ENERGY RESOURCE DEVELOPMENT AND ENERGY VERTICAL INTEGRATION ON INDIAN RESERVATIONS.—(a) DEMONSTRATION PROGRAMS.—The Secretary of Energy, in conjunction with the Secretary of the Interior, shall establish and implement a demonstration program to assist Indian tribes that wish to achieve self-determination in the energy area and that wish to promote the development of a vertically integrated energy industry on their reservations, in order to increase development of the substantial energy resources located on Indian reservations. Said program shall include but not be limited to the following components:

(1) The Secretary shall provide development grants to tribal governments to assist them to establish the legal and governmental infrastructure and obtain the managerial and technical capability they need to develop the energy resources on their reservations by themselves or through 51 per centum or more tribally owned and controlled joint ventures. Each grant shall be for a period of three years.

(2) The Secretary shall provide matching grants, not to exceed 50 per centum of the project costs, for projects located on Indian reservations that promote the vertical integration of the energy resources on Indian reservations, including but not limited to—oil refineries, the generation of electricity, natural gas distribution, and innovative uses of coal.

(3) The Secretary shall provide technical assistance and such other assistance as is appropriate to tribes on energy resource development and on the vertical integration of reservations energy resources.

(b) AUTHORIZATIONS.—There is hereby authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of subsection (a)(1) and $10,000,000 for each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of subsection (a)(2).

Subtitle F—LIHEAP Options Pilot Program

SEC. 6601. SHORT TITLE.—This subtitle may be cited as the "Energy Options Study Act of 1992".

SEC. 6602. STUDY.—(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall conduct a study of the potential use of LIHEAP funds to purchase futures or options contracts for fuel through registered commodities brokers.

(1) The study shall examine any potential advantages of the use of such funds including—

(A) protection for Federal, State and local government entities which provide low-income fuel assistance from unanticipated surges in the price of fuel for residential use;

(B) more efficient use of such funds; and

(C) more fuel assistance for low-income persons without an increase in Federal expenditures.

(2) The study shall examine any potential disadvantages of the use of such funds including reduction in funds available for fuel assistance, and waste, fraud, or abuse.

(3) The study shall further examine—

(A) the extent to which new authority would be needed for the use of such funds;

(B) the extent to which the use of such funds would conflict with existing law governing the Federal budget;

(C) the extent to which the use of futures and options on futures could provide effective protection for consumer cooperatives (or any organization whose purpose is to purchase fuel in bulk for residential use) from unanticipated surges in the price of fuel; and

(D) how government entities and consumer cooperatives or other organizations referred to in subparagraph (C) of this section could be educated in the prudent use of futures and options on futures to maximize their purchasing effectiveness and protect themselves against unanticipated surges in the price of fuel for residential use.

(b) REPORT.—The Secretary, no later than 12 months after the date of enactment of this Act, shall transmit the study required in this section to the Committee on Labor and Human Resources of the United States Senate, the Committee on Energy and Natural Resources of the United States Senate, and the United States House of Representatives.

SEC. 6603. AUTHORITY FOR PILOT PROGRAMS.—(a) PILOT PROGRAM.—The Secretary, in consultation with the Secretary of Energy, may conduct a pilot program in cooperation with one or more governmental or tribal recipients of funds in which the recipient uses futures and options on futures in its fuel assistance program with the advice of the Secretary.

(b) EDUCATION.—The Secretary, in consultation with the Secretary of Energy, may conduct a pilot program to educate governmental entities and consumer cooperatives or other organizations referred to in subparagraph (a)(3)(C) of section 6602 of this subtitle on the prudent and effective use of futures and options on futures to increase their protection against unanticipated surges in the price of fuel and thereby increase the efficiency of their fuel purchase or assistance programs.

(c) AUTHORIZATION.—There is authorized to be appropriated for fiscal years 1992, 1993, and 1994, such sums as may be necessary to carry out the purposes of this section.

SEC. 6604. DEFINITIONS.—For purposes of this subtitle the terms—(1) "Secretary" means the Secretary of Health and Human Services.

(2) "LIHEAP funds" means funds appropriated under the Low-Income Energy Assistance Act of 1981 (Public Law 97-35; 42 U.S.C. 8621 et. seq.).

SEC. 6605. SUSTAINABLE ENERGY TRANSITION PILOT PROGRAM.—Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) is amended by adding at the end the following new section:

"SEC. 367. SUSTAINABLE ENERGY TRANSITION PILOT PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall provide financial and technical assistance to not more than four States, or regional consortia of States, to prepare State or regional sustainable energy transition strategies in accordance with subsection (b). If practicable, the Secretary shall require the submission of completed strategies not later than 2 years after the date of the award of any financial assistance under this section.

"(2) SELECTION.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations setting forth procedures and criteria for the selection of States and regional consortia that will participate in the sustainable energy transition pilot program established by this section.

"(B) CRITERIA.—In carrying out subparagraph (A), the Secretary—

"(i) may require such applications as the Secretary considers appropriate;

"(ii) shall consider the ability of each applicant to prepare a sustainable energy transition strategy; and

"(iii) shall attempt to obtain regional diversity among the selected applicants.

"(3) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall transmit a report detailing the Secretary's plan for conducting the pilot program to the on Energy and Natural Resources of the Senate and the House of Representatives.

"(4) SUPPORT BY THE SECRETARY.—The Secretary may provide financial and technical support for the formation of regional consortia and consultative bodies , as necessary to carry out the purposes of this section.

"(b) CONTENT GUIDELINES.—

(1) IN GENERAL.—Each sustainable energy transition strategy shall consist of a strategy under which the State or regional consortium shall—

"(A) propose policies to increase—

"(i) energy efficiency in the residential, commercial, industrial, and transportation sectors; and

"(ii) the proportion of energy supplied to these sectors from renewable sources; and

"(B) establish long-term (20-year) energy efficiency and renewable supply goals that seek to achieve the maximum technologically feasible energy efficiency and renewable energy production levels that are economically justified.

"(2) EVALUATION AND PROGRAM.—

"(A) EVALUATION.—Each sustainable energy transition strategy shall be based on a comprehensive evaluation that shall include—

"(i) an assessment of the baseline energy use within the State or region, categorized by energy consuming sector for the most recent year feasible;

"(ii) an assessment of the technical potential for improving energy efficiency and increasing the proportion of energy from renewable energy sources;

"(iii) an assessment of alternative plans for achieving the maximum potential for energy efficiency and renewable energy sources,

"(iv) an assessment of the existing barriers and incentives to improving energy efficiency and expanding renewable energy supply, including utility rates and other financial structures; and

"(v) an assessment of the social, economic, environmental, employment, and other impacts of the alternative plans examined.

"(B) PROGRAM.—Each sustainable energy transition strategy shall include the following:

"(i) A proposed program for achieving, or exceeding, the energy goals established, under paragraph (1)(B) and, over the 5-year period beginning 2 years after the date of the enactment of this section. In developing the program, the State or regional consortium shall specifically consider—

"(I) investments in locally available renewable energy supplies, energy efficiency and conservation, utility and transportation infrastructure, district heating and cooling, renewable energy and energy efficiency infrastructure, waste minimization, and recycling;

"(II) education and technical demonstration projects, public utility regulatory policies, transportation management and planning, education and training, and other programs that affect the development and adoption of energy technologies;

"(III) employment transition programs and policies for both individuals and communities affected by the transition to new energy sources, the depletion of fossil fuel resources, or other related economic changes; and

"(IV) other programs that the State or regional consortium considers appropriate to achieve the goals and purposes of this section.

"(ii) A proposal for evaluating the State's or regional consortium's progress towards achieving the goals of its sustainable energy transition strategy, including the quantitative measures of to be employed to evaluate the success and failure of specific programs and projects undertaken as part of the strategy.

"(3) CONSIDERATION OF COSTS.—In developing the sustainable energy transition strategy, the State or regional consortium shall evaluate, for the various technological options considered, their life cycle costs and the costs of compliance with environmental, public health, and other relevant laws and regulations considered likely to be imposed over the 20 years study period.

"(c) DEVELOPMENT AND SUBMISSION.—

"(1) IN GENERAL.—Except as otherwise provided in a regional consortium agreement, each sustainable energy transition strategy shall be developed and submitted by the State agency, or division of the agency, responsible for developing State energy conservation plans pursuant to section 364.

"(2) CITIZENS ENERGY COUNCILS.—Each State or regional consortium that prepares a sustainable energy transition strategy shall establish an advisory council to provide opportunities during the preparation of its strategy for participation by representatives of a wide range of social, economic, and community interests affected by the State's or regional consortium's sustainable energy transition strategy. Council members may receive financial assistance from the funds provided under this section only for travel and reasonable per diem expenses incurred in an official capacity.

"(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 6606. GRANTS TO STATES TO PROMOTE UTILITY INDUSTRIAL EFFICIENCY PROGRAMS.—(a) DEFINITIONS.—For the purpose of this section—

(1) the term "covered industry" means the food and food products industry, lumber and wood products industry, petroleum and coal products industry, and all other manufacturing specified in Standard Industrial Classification Codes 20 through 39 (or successor classification codes);

(2) the term "industrial audit" means—

(A) identification of opportunities in the production process (from the introduction of materials to final packaging of the product for shipping) for—

(i) improving energy efficiency;

(ii) reducing environmental waste; and

(iii) technological improvements designed to increase competitiveness and achieve cost-effective product quality enhancement;

(B) identification of opportunities for improving the energy efficiency of lighting, heating, ventilation, air conditioning, and building envelope systems operating outside of the production process; and

(C) the identification of opportunities for using renewable energy technology both in the production process and in the systems described in subparagraph (B);

(3) the term "Secretary" means the Secretary of Energy; and

(4) the term "Utility" means any person, State agency (including any municipality), or Federal agency, which sells electric or gas energy.

(b) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary may make grants to States which pursuant to State law, (A) require utilities to provide financial and technical assistance to covered industries; and (B) offer incentives to utilities for providing such assistance.

(2) ELIGIBILITY CRITERIA.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall establish eligibility criteria for grants awarded under subsection (a). Such criteria shall require a State applying for a grant to demonstrate that such State, by State legislation or regulation—

(A) requires utilities to provide to covered industries served—

(i) industrial energy audits; and

(ii) financial incentives for implementing energy efficiency improvements; and

(B) allows utilities providing such assistance to—

(i) recover the costs of providing industrial audits; and

(ii) receive a reasonable rate of return on financial incentives provided.

(3) USE OF FUNDS.—Grants made pursuant to this section shall be used by a State to—

(A) make available to covered industries, through appropriate institutions such as Universities, nonprofit organizations, State and local government entities, and technical centers, information on energy efficient technologies;

(B) establish programs to train individuals in industrial energy audits; and

(C) assist utilities in developing, testing, and evaluating energy efficiency programs and technologies for industrial customers.

(4) ALLOCATION OF FUNDS.—Grants made pursuant to this section shall be allocated each fiscal year among States meeting the criteria of subsection (b) who have submitted applications 60 days before the first day of such fiscal year. Such allocation shall be made in accordance with a formula to be prescribed by the Secretary based on each such State's share of value added in industry (as determined by the Census of Manufacturers) as a percentage of the value added by all such States.

(5) COORDINATION WITH ENERGY ANALYSIS AND DIAGNOSTIC CENTERS.—In carrying out the functions described in subsection (c), States shall, to the extent practicable, coordinate such functions with activities and programs conducted by the Energy Analysis and Design Centers of the Department of Energy.

(c) OTHER FEDERAL ASSISTANCE.—DIRECTORY.—The Secretary shall establish a nationwide directory of organizations experienced in emerging energy efficiency and waste reduction technologies. Such directory shall be made available to interested parties.

(d) REPORTS.—

(1) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Congress a report which—

(A) identifies barriers encountered in implementing the Act;

(B) makes recommendations for overcoming such barriers; and

(C) documents the results achieved as a result of the programs established and grants awarded pursuant to this Act.

(2) OTHER REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report which reviews any difficulties encountered by industry in implementing energy efficiency improvements recommended as a result of programs established pursuant to this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

Subtitle G—Consultative Commission on Western Hemisphere Energy and Environment

SEC. 6701. FINDINGS.—The Congress finds that—

SUBTITLE F—CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT

(1) there is growing mutual economic interdependence among the countries of North America and the Western Hemisphere;

(2) energy and environmental issues are intrinsically linked and must be considered together when formulating policy on the broader issue of sustainable economic development for each of these countries and for the Western Hemisphere as a whole;

(3) when developing their respective energy infrastructures, countries in the Western Hemisphere must account for existing and emerging environmental constraints, and do so in a way that results in sustainable long-term economic growth;

(4) the coordination of respective national energy and environmental policies of the governments of Canada, Mexico, Venezuela, the United States and, as appropriate, other countries in the Western Hemisphere could be substantially improved through regular consultation among these countries;

(5) the development, production and consumption of energy can affect environmental quality, and the environmental consequences of energy-related activities are not confined within national boundaries, but are regional and global in scope;

(6) Although the Western Hemisphere is richly endowed with indigenous energy resources, an insufficient energy supply would

severely constrain future opportunities for sustainable economic development and growth in each of these countries;

(7) the energy sectors of the economies of Canada, Mexico, Venezuela, the United States and other energy producing countries of the Western Hemisphere are interdependent;

(8) the energy markets of the United States are linked with those in other countries of the Western Hemisphere and the world.

SEC. 6702. CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT.—(a) DEFINITIONS.—For purposes of this subtitle—

(1) "Commission" means the Consultative Commission on Western Hemisphere Energy and Environment; and

(2) "participating governments" refers to the governments of Canda, Mexico, Venezuela, the United States of America, and, as deemed appropriate by the President, other Western Hemisphere countries.

(b) NEGOTIATIONS.—The President is authorized and directed to initiate negotiations with the participating governments for the establishment of a multinational Consultative Commission on Western Hemisphere Energy and Environment.

(c) OBJECTIVES OF NEGOTIATIONS.—In the course of the negotiations, the President is encouraged to meet the following purposes—

(1) the objectives of the Commission shall be—

(A) to evaluate from the viewpoint of North America and the Western Hemisphere as a whole, the energy and environmental situations, trends and policies of the countries of the participating governments necessary to support sustainable economic development;

(B) to recommend to the participating governments actions, policies and institutional arrangements that will enhance cooperation and policy coordination among their respective countries in the future development and use of indigenous energy resources and technologies, and in the future development and implementation of measures to protect the environment of the Western Hemisphere; and

(C) to recommend to the participating governments actions and policies that will enhance energy and environmental cooperation and coordination among the countries of the Western Hemisphere and the world;

(2) the Commission shall include representatives of—

(A) the respective energy and environmental ministries or departments of the participating governments;

(B) the parliamentary or legislative bodies with legislative responsibilities for energy and environmental matters;

(C) other governmental and non-governmental observers appointed by the heads of each participating government on the basis of their experience and expertise; and

(D) a small secretariat chosen by the participating governments for their expertise in the areas of energy and the environment; and

(3) the Commission's authority—

(A) shall terminate five years from the date of the agreement under which it was created; and

(B) may be extended for a five-year term at the expiration of the previous term by agreement of the participating governments.

(d) REPORT.—The President shall, within one year of the enactment of this legislation, report to the Congress on the progress toward the establishment of the Commission and achievement of the purposes of this section.

TITLE VIII—ADVANCED NUCLEAR REACTOR COMMERCIALIZATION

SEC. 8101. SHORT TITLE.—This title may be cited as the "Civilian Advanced Nuclear Reactor Commercialization Act of 1992.".

SEC. 8102. FINDINGS, PURPOSES, AND DEFINITIONS.—(a) FINDINGS.—Congress finds that—

(1) energy generated from nuclear fission now supplants the burning of fossil fuels in an economical fashion and contributes substantially to safe and reliable supplies of electricity while reducing the rate and scope of environmental pollution and reducing dependence on foreign energy sources; and

(2) it is in the national interest for the Federal Government to provide leadership in encouraging advanced nuclear reactor technologies so that such technologies may be adopted as needed.

(b) PURPOSES.—The purposes of this title are to—

(1) require the Secretary to carry out the Department's civilian nuclear programs in a way that will lead toward commercialization of advanced nuclear reactor technologies; and

(2) authorize such activities to ensure the timely availability of advanced nuclear reactor technologies, including technologies that utilize standardized designs or exhibit passive safety features.

(c) DEFINITIONS.—For purposes of this title, the term—

(1) "advanced nuclear reactor technologies" means—

(A) advanced light water reactors that may be commercially available in the near-term, including but not limited to mid-sized, passively-safe reactors, for the generation of commercial electric power from nuclear fission;

(B) other advanced nuclear reactor technologies that may require prototype demonstration prior to commercial availability in the mid- or long-term, including but not limited to high-temperature, gas-cooled reactors and liquid metal reactors, for the generation of commercial electric power from nuclear fission.

(2) "Commission" means the Nuclear Regulatory Commission;

(3) "Department" means the Department of Energy;

(4) "standardized design" means a design for a nuclear power plant that may be utilized for a multiple number of units or a multiple number of sites; and

(5) "certification" means approval by the Commission of a standardized design for a nuclear power plant.

SEC. 8103. PROGRAM, GOALS, AND PLAN.—(a) PROGRAM.—The Secretary shall carry out a comprehensive program in accordance with the provisions of this title to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost-effective in comparison to alternative sources of commercial electric power of comparable availability and reliability, including consideration of the impact on the rate and scope of global climate change;

(2) utilize modular construction techniques;

(3) facilitate design, licensing, construction, and operation of a nuclear power plant using a standardized design;

(4) exhibit enhanced safety features; and

(5) incorporate features that advance the objectives of the Nuclear Nonproliferation Act by discouraging diversion of fissile material for use in nuclear weapons.

(b) GOALS.—(1) The program authorized under subsection (a) shall be designed to accomplish the following goals—

(A) completion of necessary research and development and first-of-a-kind engineering on advanced light water reactor technologies that will support commercialization of these technologies by 1995;

(B) development and submission for certification by the Commission by 1995 of completed standardized designs for advanced light water reactor technologies that the Secretary determines exhibit some or all of the characteristics set forth in subsection (a);

(C) completion of necessary research and development on high-temperature gas-cooled reactor technology and liquid metal reactor technology that will support selection in 1996 of one or both of these two technologies, as appropriate, for prototype demonstration pursuant to section 8105; and

(D) commercialization of advanced reactor technologies capable of providing commercial electric power to a utility grid as soon as practicable but no later than the year 2010.

(2) The program authorized under subsection (a) shall be carried out to the maximum extent possible through cost-shared programs with the private sector.

(c) PROGRAM PLAN.—(1) Within ninety days after the date of enactment of this title, the Secretary shall prepare and submit to Congress a detailed five-year program plan to carry out the purposes of this title. The plan shall include schedule milestones, Federal funding requirements, and requirements for private sector cost-sharing necessary for meeting the goals of subsection (b).

(2) In preparing the plan, the Secretary shall take into consideration—

(A) the need for, and the potential for adoption in the future by electric utilities or other entities, of advanced nuclear reactor technologies that are available or under development for the generation of energy from nuclear fission;

(B) how the Federal Government, acting through the Secretary, can be effective in ensuring the availability of these advanced nuclear reactor technologies when they may be needed;

(C) how the Federal Government can work most effectively in cooperation with the private sector toward accomplishment of the goals laid out in subsection (b); and

(D) potential alternative funding sources for carrying out the purposes of this title.

(3) The plan under this section shall be updated annually, if necessary, to reflect any schedule slippage, funding shortfalls, or other circumstances that might impact the ability of the Secretary to fulfill the goals outlined in subsection (b).

(4) In preparing the plan required under this section, the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Commission and other interested parties.

SEC. 8104. COMMERCIALIZATION OF ADVANCED LIGHT WATER REACTOR TECHNOLOGY.—(a) CERTIFICATION OF DESIGNS.—In order to achieve the goal of certification of completed standardized designs by the Commission by 1995 as set forth in section 8103(b), the Secretary—

(1) shall conduct a program of technical and financial assistance to encourage the development and submission for certification of advanced light water reactor designs which, in the judgment of the Secretary, can be certified by the Commission by no later than the end of calendar year 1995;

(2) may enter into cooperative agreements with one or more private parties who agree to seek certification by the Commission of advanced light water reactor designs that further the purposes of section 8103(a); and

(3) may support through cost-shared agreements the engineering and research and development necessary to achieve certification of advanced light water reactor designs that further the purposes of section 8103(a).

(b) SECRETARY'S REPORT TO CONGRESS.—The Secretary shall transmit to Congress with its annual budget request a report describing progress in implementing this section and plans for the current and subsequent fiscal years.

(c) REPORT TO CONGRESS FROM THE COMMISSION.—The Commission shall transmit to Congress with its annual budget request a report describing progress in the certification of standardized advanced light water reactor designs, plans for the current and subsequent fiscal years, and resource requirements necessary to comply with the schedules established by the Commission.

SEC. 8105. PROTOTYPE DEMONSTRATION OF ADVANCED NUCLEAR REACTOR TECHNOLOGY.—(a) SOLICITATION OF PROPOSALS.—(1) Within three years after the date of enactment of this title, the Secretary shall solicit proposals to carry out the preliminary engineering design of one or more prototype advanced nuclear reactor technologies (other than an advanced light water reactor) necessary to support a decision on whether to recommend construction of a full-scale prototype demonstration utilizing such a technology to achieve the purposes of this title.

(2) The engineering design proposals under paragraph (1) shall be for prototype advanced nuclear reactors that—

(A) to the maximum extent practicable, exhibit the characteristics set forth in section 8103(a); and

(B) are of sufficient size to address the requirements for certification by the Commission of a completed standardized design for an advanced nuclear reactor technology.

(b) RECOMMENDATION.—(1) No later than January 31, 1996, the Secretary shall make a recommendation to Congress on whether to build one or more full-scale prototype demonstration reactors utilizing advanced nuclear technology developed by the Department under the program authorized by this title.

(2) Any recommendation to build a prototype demonstration reactor shall—

(A) specify a preferred technology or technologies;

(B) include detailed information on schedule milestones for licensing, construction, and operation; and

(C) estimate the funding requirements and specify the extent and nature of anticipated non-Federal support which shall be not less than 50 per centum of the costs of such demonstration.

(3) As part of the recommendation required under this section, the Secretary shall also submit to Congress any recommended changes in Federal statute or regulations that would improve the prospects of successful and timely licensing of any prototype demonstration reactor.

(c) SELECTION OF TECHNOLOGY.—Any technology selected by the Secretary for recommendation for prototype demonstration shall to the maximum extent possible exhibit the characteristics set forth in section 8103(a).

(d) OPPORTUNITY FOR PUBLIC COMMENT.—In developing the recommendation required under this section, the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Commission and other interested parties.

SEC. 8106. AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this title.

TITLE IX—NUCLEAR REACTOR LICENSING

SEC. 9101. SHORT TITLE.—This title may be cited as the "Nuclear Reactor Licensing Act of 1992".

SEC. 9102. COMBINED LICENSES.—Section 185 of the Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended by—

(1) adding "and Operating Licenses" after "Permits" in the catchline;

(2) adding a subsection designator "a." before "All"; and

(3) adding the following new subsection:

"b. After holding a public hearing under section 189 a. (1)(A) of this Act, the Commission shall issue to the applicant a combined construction and operating license if the application contains sufficient information to support the issuance of a combined license and the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. Following issuance of the combined license, the Commission shall ensure that the prescribed inspections, tests, and analyses are performed and, prior to operation of the facility, shall find that the prescribed acceptance criteria are met. Any finding made under this subsection shall not require a hearing except as provided in section 189 a. (1)(B).".

SEC. 9103. POST-CONSTRUCTION HEARINGS ON COMBINED LICENSES.—Section 189 a. (1) of the Atomic Energy Act of 1954 is amended by:

(1) adding a subparagraph designator "(A)" before "In" and

(2) adding the following new subparagraph:

"(B)(i) Not less than one hundred and eighty days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 185 b., the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within sixty days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

"(ii) A request for hearing under this subparagraph shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

"(iii) After receiving a request for a hearing under this subparagraph, the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' prima facie showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

"(iv) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under this subparagraph, and shall state its reasons therefor.

"(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within one hundred and eighty days of the publication of the notice provided by clause (i) or the anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).".

SEC. 9104. RULEMAKING.—The Nuclear Regulatory Commission shall propose regulations implementing this title within one year of the date of enactment of this Act.

SEC. 9105. AMENDMENT OF A COMBINED LICENSE PENDING A HEARING.—Section 189 a. (2) of the Atomic Energy Act of 1954 is amended by inserting "or any amendment to a combined construction and operating license" after "any amendment to an operating license" each time it occurs.

SEC. 9106. JUDICIAL REVIEW.—Section 189 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended by inserting "or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license" before "shall be subject to judicial review".

SEC. 9107. CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 is amended by amending the item relating to section 185 to read as follows:

"Sec. 185. Construction Permits and Operating Licenses.".

SEC. 9108. EFFECT ON PENDING PROCEEDINGS.—The provisions of this title apply to all proceedings involving a combined license for which an application was filed after May 8, 1991.

TITLE X—URANIUM

Subtitle A—Uranium Enrichment

SEC. 10101. SHORT TITLE—This subtitle may be cited as the "Uranium Enrichment Act of 1992."

SEC. 10102. DELETION OF SECTION 161 V.—Section 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 10103. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011–2296) is further amended by—

(a) inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY";

and

(b) adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilites that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes:

"a. to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"b. to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"c. to market and sell enriched uranium and uranium enrichment and related services to—

"(1) the Department for governmental purposes; and

"(2) qualified domestic and foreign persons;

"d. to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"e. to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long-term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"f. to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"g. to maintain a reliable and economical domestic source of enrichment services;

"h. to conduct its activities in a manner consistent with the health and safety of the public;

"i. to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"j. to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition; *Provided*, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to whollyowned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized; and

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the Judgment Appropriation (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute; Provided, That this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under Section 1601 of this title.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS.—

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts and the December 18, 1987 Settlement Agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided in section 1404, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR.—

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation; *Provided*, however, That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503 d., except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, United States Code;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least thirty days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506 c. and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—

"a. There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility.

"b. (1) The specific responsibilities of the Corporate Board shall be to:

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"c. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers and memoranda of, or in use by, the Corporation.

"d. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and the ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504 b. The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504 b. during their term of employment, regardless of any recommendation received or not received under this title.

"e. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"f. Upon expiration of the initial term, each Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"g. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"h. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"i. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in section 5314 of title 5, United States Code, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"j. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—

"a. Officers and employees of the Corporation shall be officers and employees of the United States.

"b. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code: *Provided*, That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503 d. and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"c. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (5 U.S.C. chapter 83, subchapter III) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (5 U.S.C. chapter 84). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"d. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"e. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"f. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"g. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided*, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: *Provided further*, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: *Provided*, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as "AVLIS", technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION.—

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States: *Provided*, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING.—

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: *Provided*, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: *Provided*, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING.—

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: *Provided, however*, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection a., amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505 a. at any time. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: *Provided*, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The costs of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS.—

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152 or 153 b.(1) of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b.(1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility under section 183 of title 35, United States Code with respect to secrecy orders imposed under section 181 of such title.

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b. (3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING.—

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection a. that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection b., the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection a. As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—

"a. In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed beginning in fiscal year 1997 to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all State and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities, and income are expressly exempted from taxation in any manner or form by any State, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

"b. Beginning in fiscal year 1997, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however*, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) Following the commencement of payments in fiscal year 1997, no payment made to any taxing authority for any period shall be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: *Provided*, That no payment shall be made to the extent that the tax would apply to a period prior to fiscal year 1997.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I.—

"a. Any references to the term 'Commission' or to the Department in sections 105 b., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230 and 232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of state, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS.—

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest. Nothing in this Act shall be considered to convey to any person other than the Corporation immunity from civil or criminal liability, or to create a defense to an action, under the antitrust laws.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1–7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12–27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8–9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of Section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT.—

"a. Three years after enactment of this title, the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection a., the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT.—

"a. ESTABLISHMENT OF FUND.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402 j., such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection b.(2).

"b. ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS.—

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

SEC. 10104. TREATMENT OF THE CORPORATION AS BEING PRIVATELY OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651–678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this subtitle, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 10105. MISCELLANEOUS PROVISIONS.—(a) AMENDMENT OF GOVERNMENT CORPORATIONS CONTROL ACT.—Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end the following: "(N) United States Enrichment Corporation.".

(b) OWNERSHIP OF ENRICHMENT PLANTS.—In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) TERMINATION OF AUTHORITY OF THE DEPARTMENT OF ENERGY.—In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) EXEMPTION FROM DEFENSE NUCLEAR FACILITIES SAFETY BOARD OVERSIGHT.—The Atomic Energy Act of 1954, as amended, is further amended in section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) EXEMPTION FROM GRAMM-RUDMAN-HOLLINGS ACT.—Subsection 905(g)(1) of Title 2, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

(f) REPEAL OF PROHIBITION ON CONSIDERATION OF PRIVATIZATION.—Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100–202, is repealed.

(g) AVLIS LICENSING.—The last sentence of section 11 v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(v)) is amended to read as follows: "Except with respect to the export of a uranium enrichment production facility or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.".

SEC. 10106. LIMITATION ON EXPENDITURES.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

SEC. 10107. SEVERABILITY.—If any provision of this subtitle, or the application of any provision to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this title, or the application of the same shall not be thereby affected.

SEC. 10108. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this subtitle shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this title; *Provided, however*, That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501 a. of the Atomic Energy Act of 1954, as amended by this title.

SEC. 10109. PAYMENT OF COST OF TRANSFER.—(a) PAYMENT SUBJECT TO APPROPRIATION.—Notwithstanding section 1401 j. of the Atomic Energy Act of 1954 as amended by section 10103 of this title, any expense incurred by the Secretary or the Corporation in the course of setting up the Corporation or transferring the property or assets of the Department to the Corporation shall be subject to appropriation.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to pay the costs of setting up the Corporation and transferring the property and assets of the Department to the Corporation under this title.

Subtitle B—Uranium

PART 1—SHORT TITLE, FINDINGS AND PURPOSE, DEFINITIONS

SEC. 10211. SHORT TITLE.—This subtitle may be cited as the "Uranium Security and Tailings Reclamation Act of 1992."

SEC. 10212. FINDINGS AND PURPOSE.—(a) FINDINGS.—The Congress finds for purposes of this subtitle that—

(1) the United States uranium industry has long been recognized as vital to United

States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 percent drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing Nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901–7942)—

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners or licensees of active uranium and thorium sites and the Federal Government have each benefitted from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and,

(8) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of parts 2 and 3 of this subtitle to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 10213. DEFINITIONS.—For purposes of this subtitle—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11e.(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation established under section 1202 of Title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

PART 2—URANIUM REVITALIZATION

SEC. 10221. VOLUNTARY OVERFEED PROGRAM.—(a) ESTABLISHMENT.—The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1992, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) FINANCIAL INCENTIVE.—The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) ADDITIONAL PARTICIPATION.—In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) USE OF DOMESTIC URANIUM.—An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this title or domestic uranium actually produced by a domestic uranium producer before the enactment of this title and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) IMPLEMENTATION.—Within ninety days of the date of enactment of this title, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery, reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 10222. NATIONAL STRATEGIC URANIUM RESERVE.—There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this title, use of the Reserve shall be restricted to military purposes and government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this title shall be restricted to military purposes.

SEC. 10223. RESPONSIBILITY FOR THE INDUSTRY.—(a) CONTINUING SECRETARIAL RESPONSIBILITY.—The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium: *Provided, however*, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of

Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to subsection (b).

(b) Encourage Export.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

Sec. 10224. Government Uranium Purchases.—(a) Use of Domestic Uranium.—After the date of enactment of this title, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: *Provided*, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this title.

(b) TVA Exemption.—Subsection (a) shall not apply to the Tennessee Valley Authority.

Sec. 10225. Secretary's Authority To Make Regulations.—The Secretary shall issue appropriate regulations to implement the purposes of this subtitle.

Part 3—Remedial Action for Active Processing Sites

Sec. 10231. Remedial Action Program.—(a) In General.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) Reimbursement.—(1) In General.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) Amount.—

(A) To individual active site uranium licensees.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 10232 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this subtitle and generated as an incident of sales to the United States.

(B) To all active site uranium licensees.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) To thorium licensees.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) Inflation escalation index.—The amounts in subparagraphs (A), (B) and (C) shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) Additional reimbursement.—*Provided however*, That (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 10233, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a prorated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

Sec. 10232. Regulations.—The Secretary shall issue regulations governing reimbursement under section 10231. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 10231.

Sec. 10233. Authorization.—There is authorized to be appropriated for purposes of this part not more than $300,000,000 increased annually as provided in section 10231 based upon an inflation index as determined by the Secretary.

Part 4—Import of Uranium, Enriched Uranium, and Uranium Enrichment Services

Sec. 10241. Findings and Purposes.—(a) Findings.—The Congress finds that—

(1) the domestic uranium industry and the economic viability of the Federal uranium enrichment enterprise may be threatened by exports of uranium and enriched uranium from non-market economy countries at prices which represent less than the cost of producing uranium or enriching uranium; and

(2) the national security and defense interests of the United States require that appropriate actions be taken to assure that the nuclear energy industry in the United States does not become unduly dependent on foreign sources of uranium or uranium enrichment services.

(b) Purposes.—The purposes of this part are to—

(1) determine whether any uranium or enriched uranium is being exported by nonmarket economy countries at prices which represent less than the cost of producing such commodities; and

(2) provide for appropriate actions to assure the viability of the domestic uranium industry and the Federal uranium enrichment enterprise in order to protect the national security and defense interests of the United States.

Sec. 10242. Definitions.—For purposes of this part, the term—

(1) "Administrator" means the Administrator of the Energy Information Administration;

(2) "Federal uranium enrichment enterprise" means the uranium enrichment activities of the Department of Energy or the United States Enrichment Corporation; and

(3) "utility regulatory authority" means any State agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer, except that for the purposes of this paragraph, the terms "electric utility", "State agency", "Federal agency", and "ratemaking authority" have the same meanings as the terms have under section 3 of the Public Utility Regulatory Policies Act of 1978.

Sec. 10243. United States International Trade Commission Investigation.—(a) Report.—(1) Within 120 days of his receipt from the United States International Trade Commission of its report under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) assessing the impact on the domestic uranium enrichment industry of imports into the United States of enriched and non-enriched uranium and uranium enrichment services from the Union of Soviet Socialist Republics, the People's Republic of China, and, as appropriate, other nonmarket economy countries, the President, or his designee, shall transmit to the Congress a report that includes—

(A) the views of the executive branch on the Commission's report; and

(B) what action, if any, the President plans to take in response to the Commission's report concerning the impact of transactions in enriched and non-enriched uranium and the provision of uranium enrichment services by the Union of Soviet Socialist Republics, the People's Republic of China, and, as appropriate, other nonmarket economy countries, on the domestic uranium enrichment industry, including but not limited to the status of any negotiations with such countries in regard to such transactions and provision of services.

(2) Should the President determine that no action by the executive branch is necessary in response to the Commission's report, his report to the Congress shall include a detailed statement of the reasons for such determination, including an explanation of why the absence of action by the executive branch will not adversely affect the economic well-being of the domestic uranium enrichment industry.

(b) Cooperation.—The Secretary, the Administrator, and the Secretary of Commerce shall cooperate fully with the United States International Trade Commission in its investigation under section 332(g).

Sec. 10244. Uranium Purchase Reports.—(a) Annual Reports.—By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) Congressional Access.—The information provided to the Secretary pursuant to this section shall be made available to the Committee on Energy and Natural Resources of the United States Senate and appropriate committees of the United States House of Representatives by March 1 of each year.

(c) Country of Origin.—For the purposes of this section, the term "country of origin" means,

(1) with respect to uranium, that country where the uranium was mined, or

(2) with respect to enriched uranium, that country where the uranium was mined and enriched; or

(3) with respect to enrichment services, that country where the enrichment services were performed.

Sec. 10245. Regulatory Treatment of Uranium Purchases.—(a) Encouragement.—

The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this part, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium, or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) REPORT.—Within one year of the date of enactment of this part, and annually thereafter, the Secretary shall report to Congress on his progress in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this part.

(c) DEFINITION OF NON-AFFILIATE.—As used in this section, a seller is "non-affiliated" if it does not control, and is not controlled by or under common control with the buyer.

SEC. 10246. UNITED STATES PURCHASE OF ENRICHED URANIUM.—(a) AUTHORIZATION.—Subject to the limitations of subsection (b), the Secretary or the United States Enrichment Corporation is authorized to purchase enriched uranium from other sources of enriched uranium at prices below the production costs of the Department of Energy or the Corporation, respectively, if such purchases are necessary to reduce productions costs and maintain competitive prices.

(b) USE OF URANIUM.—If enriched uranium purchased by the Secretary or the United States Enrichment Corporation is used to supply enrichment customers, any uranium provided by such customers to the Secretary or the United States Enrichment Corporation as feed material may only be used for rebuilding uranium inventory or for overfeeding purposes.

TITLE XI—NATURAL GAS

SEC. 11101. OPTIONAL CERTIFICATE PROCEDURES.—(a) CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.—Section 7 of the Natural Gas Act, (15 U.S.C. 717f) is amended—

(1) by adding a new subparagraph (c)(1)(G) as follows—

"(G) Upon application the Commission shall issue a certificate of public convenience and necessity for the construction, extension and operation of facilities for the transportation or sale of natural gas without requiring a hearing or further proof that the public convenience and necessity would be served by those facilities: *Provided*, That, subject to the provisions of subsection (k) of this section, the requirements of subsections (i) and (j) of this section are met. Such a certificate shall be non-exclusive and non-prejudicial to any other authorization under the Natural Gas Act or the Natural Gas Policy Act of 1978.";

(2) by adding the following three subsections after subsection (h)—

"(i) For the purposes of subparagraph (c)(1)(G) of this section—

"(1) The Commission shall issue a certificate of public convenience and necessity only if it finds that the construction, extension and operation of facilities shall not impair any certificate holder's ability to render adequate service to its customers, and only if, in addition to any other terms the Commission may attach, the following terms and conditions are attached to such certificate to satisfy the following requirements—

"(A) No costs or expenses incurred in relation to the construction, extension and operation of facilities, or the sale of such facilities, covered by a certificate issued pursuant to subparagraph (c)(1)(G) of this section may be included in the rates and charges of any other rate schedule filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(B) The holder of a certificate issued pursuant to subparagraph (c)(1)(G) of this section shall not be required to credit any revenues received in relation to providing service under such certificate, or the sale of facilities authorized under such certificate, when determining the rates and charges of any other rate schedule filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(C) Notwithstanding section 15(a) of this Act, the holder of a certificate issued under subparagraph (c)(1)(G) of this section shall not participate in any proceedings (other than those it may subsequently initiate) for the construction, extension or operation of facilities that would serve the same market served by the facilities authorized by the holder's certificate issued under subparagraph (c)(1)(G) of this section.

"(D) Under such rules and regulations as the Commission may prescribe, the holder of a certificate issued under subparagraph (c)(1)(G) of this section shall file with the Commission within such time and in such form as the Commission may prescribe, and shall keep open in convenient form and place for public inspection, copies of all agreements required to be filed with the Commission pursuant to subsection (j) of this section.

"(E) The holder of a certificate issued under subparagraph (c)(1)(G) of this section shall maintain a separate system of books, accounts and records for the facilities and services authorized under such certificate.

"(2) The Commission shall assure that all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation or sales service utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section are negotiated at arms length.

"(3) The Commission shall provide reasonable public notice of the application for the issuance of a certificate of public convenience and necessity pursuant to subparagraph (c)(1)(G) of this section.

"(j) For purposes of subparagraph (c)(1)(G) of this section—

"(1) Not later than sixty days prior to the commencement of transportation or sales service pursuant to a certificate issued under subparagraph (c)(1)(G) of this section, or at such time as the Commission may find necessary and reasonable, the certificate holder shall file with the Commission copies of all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation or sales service utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section. Subsequent to the commencement of transportation or sales service utilizing facilities operated under a certificate issued under subparagraph (c)(1)(G) of this section, the certificate holder shall file with the Commission not later than ten days prior to the initiation of any new service utilizing facilities authorized under such certificate a copy of any new or amended agreement entered into by the certificate holder and any person, including any affiliate of the certificate holder, contracting for transportation or sales service utilizing facilities authorized under such certificate. The Commission shall keep and make available for public inspection all agreements required to be filed with the Commission pursuant to this paragraph.

"(2) The rates, charges, classifications or practices for the transportation or sale of natural gas contained in the agreements filed with the Commission pursuant to paragraph (j)(1) of this section shall be presumed to be just and reasonable. If, however, the Commission, after a hearing held upon the petition of a person who has made a bona-fide offer to enter into a contract, or who has entered into a contract, for the transportation or sale of natural gas utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section, finds that the failure to provide a requested rate, charge, classification, or practice in connection with the requested transportation or sale of natural gas through facilities constructed, extended or operated under a certificate issued under subparagraph (c)(1)(G) of this section is unjust, unreasonable, unduly discriminatory or preferential, the Commission, considering all relevant factors, shall determine the rates, charges, classification or practices which are not unjust, unreasonable, unduly discriminatory or preferential to be observed and in force with respect to the transportation or sale of natural gas to be provided to the petitioner, and shall fix the same by order; *Provided*, That the Commission may not order the requested service to the extent that it finds that capacity is not available. Unless the Commission issues a final order on a petition filed pursuant to this paragraph within one hundred and twenty days after it is filed, such petition shall be deemed denied.

"(k) In any case where a certificate providing for construction or extension of facilities under subparagraph (c)(1)(G) of this section is opposed by a local distribution company on grounds that such certificate would result in the displacement of a sale or transportation service being provided by such local distribution company, the Commission shall promptly set the matter for a hearing on the record and shall decide by final order on rehearing issued within 90 days of the filing of such opposition whether such construction or extension of facilities pursuant to the certificate would displace a sale or transportation service being provided by such local distribution company. If the Commission finds that such construction or extension of facilities would result in the displacement of a sale or transportation service being provided by such local distribution company, the application for a certificate of public convenience and necessity filed pursuant to subparagraph (c)(1)(G) of this section shall, at the option of the applicant, be deemed filed for consideration pursuant to subparagraph (c)(1)(A) of this section. For purposes of this subsection, the term "local distribution company" shall have the same meaning as in section 2(17) of the Natural Gas Policy Act of 1978, and a holder of a service area determination under section 7(f) of this Act shall be considered a local distribution company."; and

(3) by adding at the end of subsection (b) the following: "This subsection does not apply to any facility or service certificated pursuant to subparagraph (c)(1)(G) of this section.".

(b) NON-APPLICABILITY OF NATURAL GAS ACT SECTION 4 PROCEDURES.—Section 4 of the

Natural Gas Act (15 U.S.C. 717c) is amended by adding the following after subsection (e)—

"(f) Subsections (c), (d) and (e) of this section do not apply to the transportation or sale of natural gas through facilities authorized by a certificate of public convenience and necessity issued under section 7(c)(1)(G) of this Act.".

(c) NON-APPLICABILITY OF NATURAL GAS ACT SECTION 5 PROCEDURES.—Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding the following after the period: "This subsection does not apply to any rate, charge, classification or practice by a natural-gas company in connection with the transportation or sale of natural gas through facilities authorized by a certificate issued under section 7(c)(1)(G) of this Act.".

SEC. 11102. TRANSPORTATION OF NATURAL GAS UNDER THE NGPA.—Section 311 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371) is amended by—

(a) striking "AUTHORIZATION OF CERTAIN SALES AND TRANSPORTATION " and inserting in lieu thereof "AUTHORIZATION OF CERTAIN SALES, TRANSPORTATION AND CONSTRUCTION";

(b) striking "Commission Approval of Transportation" and inserting in lieu thereof "Commission Approval of Transportation and Construction";

(c) striking paragraph (a)(1), and inserting in lieu thereof the following:

"(1) INTERSTATE PIPELINES.—

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of—

"(i) any intrastate pipeline,

"(ii) any local distribution company, or

"(iii) any other person including the interstate pipeline itself.

"(B) JUST AND REASONABLE RATES.—The rates and charges of any interstate pipeline with respect to any transportation authorized under subparagraph (A) shall be just and reasonable (within the meaning of the Natural Gas Act).

"(C) NONDISCRIMINATORY TRANSPORTATION.—Any transportation authorized under subparagraph (A) shall not be unjust, unreasonable, unduly discriminatory or preferential (within the meaning of the Natural Gas Act).

"(D) CONSTRUCTION.—Upon sixty days notification to the affected State commission, an interstate pipeline may construct facilities for transportation service provided under this subsection: *Provided*, That construction under this subsection shall not occur in the event such construction would result in the displacement of a sale or transportation service being provided by a local distribution company, unless such local distribution company consents thereto. In any case where such construction is opposed by a local distribution company on grounds that such construction would result in the displacement of a sale or transportation service being provided by such local distribution company, the Commission shall promptly set the matter for hearing on the record and shall decide by a final order on rehearing issued within ninety days of the filing of such opposition whether the construction would displace a sale or transportation service being provided by such local distribution company. If the Commission finds that such construction would result in the displacement of a sale or transportation service being provided by such local distribution company, the interstate pipeline may file an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act for authority to construct or extend such facilities. Activities authorized under this paragraph are not subject to State regulation. For purposes of this subparagraph, a holder of a service area determination under section 7(f) of the Natural Gas Act shall be considered a local distribution company." and by

(d) striking subparagraph (a)(2)(A), and inserting in lieu thereof the following:

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any intrastate pipeline to transport natural gas on behalf of—

"(i) any interstate pipeline,

"(ii) any local distribution company served by an interstate pipeline, or

"(iii) any other person, including the intrastate pipeline itself, in interstate commerce (within the meaning of the Natural Gas Act).".

SEC. 11103. NEPA COMPLIANCE.—(a) MEMORANDA OF UNDERSTANDING.—The Commission and all relevant Federal agencies are directed to enter into memoranda of understanding which will establish procedures for a consolidated review to the fullest extent possible under the National Environmental Policy Act of 1969 of Federal actions affecting the authorization of natural gas facilities subject to the jurisdiction of the Commission.

(b) ENVIRONMENTAL IMPACT STATEMENTS.—Where environmental documents are prepared in connection with applications for authority to construct, extend or operate facilities under the Natural Gas Act, the Commission may permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant and chosen by the Commission from among a list of such individuals or companies determined by the Commission to be qualified to do such work to prepare such environmental document. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(c) ENVIRONMENTAL ASSESSMENTS.—Where an environmental assessment is prepared in connection with applications for authority to construct, extend or operate facilities under this Act, the Commission may permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information forseeably required by the Commission. The Commission may allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(d) ENVIRONMENTAL REVIEW.—Any environmental review undertaken by the Commission pursuant to the National Environmental Policy Act of 1969, or by a project sponsor must include those facilities subject to the Natural Gas Act and Natural Gas Policy Act of 1978, but will not include any related nonjurisdictional facilities unless the Commission's control and responsibility over those facilities is sufficient to cause the private action to become a Federal action. To determine whether sufficient control and responsibility by the Commission exists, the following factors must be considered:

(1) whether the regulated activity comprises merely a link in a corridor-type project;

(2) the extent of the nonjurisdictional facilities in the immediate vicinity of the regulated activity;

(3) the extent to which the entire project will be within the jurisdiction of the Commission; and

(4) the extent of cumulative Federal control and responsibility.

(e) As a part of a required NEPA review of proposed facilities, at the beginning, FERC shall meet with the applicant, other affected Federal, State and local agencies, affected Indian Tribes, if any, and other interested persons to identify issues to be analyzed and when serving as the lead agency, FERC may allocate assignments, and establish time frames necessary for the preparation of an Environmental Impact Statement (EIS).

(f) COMMUNICATIONS WITH THE COMMISSION.—The Federal Energy Regulatory Commission, within twelve months of the date of enactment of this Act, shall amend its rules governing ex parte communications to clarify that the prohibitions contained in such rules do not apply to communications between the Commission's environmental advisory staff and other Federal and State agencies that are cooperating agencies for purposes of compliance with title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331-35): *Provided*, That an accurate public record of all such communications shall be kept and made available, and any party to the proceeding with respect to which such communication was made may respond in writing to such communication.

SEC. 11104. RATES AND CHARGES.—(a) NOTICE OF CHANGES.—The first and third sentences of section 4(d) of the Natural Gas Act (17 U.S.C. 717c(d)) are amended by striking "thirty days' notice" and inserting in lieu thereof "sixty days' notice".

(b) JOINT RATES.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following subsection after subsection (f), added by this title—

"(g) Under such rules and regulations as the Commission may prescribe to preclude anticompetitive conduct, natural-gas companies may jointly file with the Commission rates for the sequential transportation of natural gas through their facilities.".

(c) REPORTS TO CONGRESS.—

(1) REPORTS BY THE FERC.—Within six months of the date of enactment of this Act, the Federal Energy Regulatory Commission shall report to the Senate Committee on Energy and Natural Resources and the House of Representatives on the following—

(A) NATURAL GAS TRANSPORTATION.—The goals, objectives and results of the Commission's program for open access transportation of natural gas, the schedule for the program's complete implementation, and the Commission's criteria for—

(i) rate design reform;

(ii) comparability of service;

(iii) authorizing pipeline abandonment and defining pipeline service obligation; and

(iv) treatment of gas purchase contract buyout and buydown costs.

(B) PIPELINE MERCHANT FUNCTION.—The Commission's regulation under the Natural Gas Act (15 U.S.C. 717-17v) of interstate pipeline sale for resale activities (the merchant function) including—

(i) the implementation of gas inventory charges and the as-billed recovery of producer demand charges; and

(ii) the criteria for finding that market-based rates for interstate pipeline sales for resale can be deemed to be just and reasonable in circumstances where such sales are made in workably competitive markets, and given such a finding, the criteria for finding that profits and losses occasioned by such sales for resale should not be taken into account in setting the seller's rates for other services.

(C) NATURAL GAS RATEMAKING.—The Commission's criteria for establishing just and reasonable rates under section 4 of the Natural Gas Act—

(i) where the Commission finds that workable competition exists and comparable third-party transportation exists, including criteria for the establishment of market-based rates;

(ii) on a basis other than historical cost, including the criteria for incentive rates; and

(iii) to ensure that all throughout, under both long-term and short-term arrangements, is taken into account in the Commission's determination of used and useful plant for purposes of possible inclusion in rate base.

SEC. 11105. UTILIZATION OF RULEMAKING PROCEDURES.—The first sentence of section 403(c) of the Department of Energy Organization Act (42 U.S.C. 7173(c)) is amended to read as follows: "Any function described in section 402 of this Act which relates to the establishment of rates and charges under the Federal Power Act or to the establishment of rates and charges, the issuance of a certificate of public convenience and necessity, or the abandonment of facilities and services under the Natural Gas Act may be conducted by rulemaking procedures.".

SEC. 11106. REVIEW OF COMMISSION ORDERS.—(a) NATURAL GAS ACT AMENDMENTS.—

(1) REHEARING.—Section 19(a) of the Natural Gas Act (15 U.S.C. 717r(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 19(b) of the Natural Gas Act (15 U.S.C. 717r(b)) is amended by striking the first and second sentences and inserting the following in lieu thereof: "Any party to a proceeding under this act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the circuit court of appeals of the United States for any circuit wherein the natural gas company to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within thirty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(b) NATURAL GAS POLICY ACT AMENDMENTS.—

(1) REHEARING.—Section 506(a)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(a)(2)) is amended by striking "Unless the Commission acts upon such application for rehearing within thirty days after it is filed, such application shall be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 506(a)(4) of the Natural Gas Policy Act (15 U.S.C. 3416(a)(4)) is amended by striking the first three sentences and inserting the following in lieu thereof: "Any person who is a party to a proceeding under this Act aggrieved by any final order issued by the Commission in such proceeding may obtain review of such order in the United States Court of Appeals for any circuit in which the party to which such order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia circuit. Review shall be obtained by filing a written petition, requesting that such order be modified or set aside in whole or in part, in such Court of Appeals within 30 days after the final action of the Commission on the application for rehearing required under paragraph (2). The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(c) FEDERAL POWER ACT AMENDMENTS.—

(1) REHEARING.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 313(b) of the Federal Power Act (16 U.S.C. 825l(b)) is amended by striking the first and second sentences and inserting the following in lieu thereof: "Any party to a proceeding under this Act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the Circuit Court of Appeals of the United States for any circuit wherein the licensee or public utility to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within thirty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

SEC. 11107. LIMITED ANTITRUST RELIEF FOR INDEPENDENT GAS PRODUCER COOPERATIVES.—(a) DEFINITIONS.—For the purposes of this section, the term—

(1) "antitrust laws" shall mean the Federal laws defined in section 2(37) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301(37));

(2) "independent producer" means any person whose natural gas production does not exceed 6 million cubic feet per day: *Provided*, That any person who is an interstate pipeline, intrastate pipeline or local distribution company, as defined in sections 2 (15), (16), and (17) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 (15), (16), (17)), or who is an affiliate of such person, as defined in section 2(27) of the Natural Gas Policy Act of 1978, (15 U.S.C. 3301(27)), may not be considered an independent producer for the purposes of this section; and

(3) "independent producer cooperative" shall mean any group of independent producers formed and operated for the purpose of pooling natural gas to enable the cooperative members to bargain effectively for the sale of the natural gas to any person: *Provided*, That such group is not formed or operated for the purpose of raising prices.

(b) LIMITED ANTITRUST RELIEF.—In any civil action under the antitrust laws, the formation or operation of an independent producer cooperative shall be legal if the procompetitive effects outweigh the anticompetitive effects.

(c) SCOPE.—Nothing in this section shall be construed to make it unlawful for an operator or working interest owner of a well, lease, field, plant or producing unit to market, on behalf of other working interest and royalty owners, the natural gas produced from such well, lease, field, plant or producing unit.

SEC. 11108. VEHICULAR NATURAL GAS JURISDICTION.—(a) NATURAL GAS ACT AMENDMENTS.—

(1) Section 1 of the Natural Gas Act (15 U.S.C. 717) is amended to add the following after subsection (c)—

"(d) The provisions of this Act shall not apply to any person by reason of, or with respect to, any sale or transportation of Vehicular Natural Gas if such person is (i) not otherwise a natural-gas company, or (ii) primarily subject to regulation by a State commission, whether or not such State commission has, or is exercising, jurisdiction over the sale, sale for resale, or transportation of Vehicular Natural Gas.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended to add the following after subsection (9)—

"(10) 'Vehicular Natural Gas' means natural gas that is ultimately used as a fuel in a motor vehicle.".

(b) STATE LAWS AND REGULATIONS.—The transportation of natural gas in closed containers, or the sale of natural gas, by any person who is not otherwise a public utility to any person for use by such person as a fuel in a vehicle shall not be deemed to be a transportation or sale of natural gas within the meaning of any State law, regulation or order in effect prior to January 1, 1989. The provisions of this section shall not apply to any State law, regulation or order that protects the public safety.

(c) Non-Applicability of the Public Utility Holding Company Act of 1935.—

(1) A company shall not be considered to be a gas utility company under section 2(a)(4) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(4)) ("Act") solely because it owns or operates facilities used for the distribution at retail of vehicular natural gas.

(2) Notwithstanding section 11(b)(1) of the Act (15 U.S.C. 79k(b)(1)), a company registered under such Act solely by reason of direct or indirect ownership of voting securities of one or more gas utility companies, or any subsidiary of such company, may acquire or retain, in any geographic area, any interest in any company that is not a public utility company and which, as a primary business, is involved in the sale of vehicular natural gas or the manufacture, sale, installation, servicing, or financing of equipment related to the sale or consumption of vehicular natural gas.

(3) The sale or transportation of vehicular natural gas by a company, or any subsidiary of such company, shall not be taken into consideration in determining whether under section 3 of the Act (15 U.S.C. 79c) such company is exempt from registration.

(4) "Vehicular natural gas" means natural or manufactured gas that is ultimately used as a fuel in a motor vehicle.

Sec. 11109. Streamlined Certificate Procedures.—(a) Unopposed Applications.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by—

(1) redesignating subparagraph (B) as subparagraph (C); and

(2) inserting after subparagraph (A) the following new subparagraph:

"(B) In any case not described in the proviso of subparagraph (A), the Commission shall file notice in the Federal Register of the proposed certificate of public convenience and necessity as soon as the required information in connection therewith has been received by the Commission. If no party has filed a protest or objection in response to such notice within sixty days after publication of such notice, the certificate of public convenience and necessity shall be deemed to be issued: *Provided*, That notwithstanding the filing of a protest or objection a certificate shall be deemed issued if all protests and objections are withdrawn.".

(b) Expedited Procedure for Protests.—Within ninety days of the date of enactment of this Act, the Commission shall institute a rulemaking to establish a procedure for dealing expeditiously with protests which do not raise material issues of fact necessitating an evidentiary hearing.

(c) Certificate Not Required for Replacement Facilities.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end the following new subparagraph:

"(D) The term 'facilities' as used in this subsection shall exclude facilities which constitute the replacement or repair of existing facilities which have or will soon become physically deteriorated or obsolete to the extent that replacement is deemed advisable, provided (1) that such replacement or repair does not result in a reduction or abandonment of service by means of such facilities, (2) that such replacement or repair has substantially equivalent designed delivery capacity as the particular facilities being replaced or repaired, and (3) that the cost of such replacement or repair shall not exceed $20,000,000 per project, as adjusted pursuant to the Implicit Price Deflator for GNP. Nothing herein shall preclude a natural-gas company from repairing or replacing facilities as may be necessary to meet the requirements of the Natural Gas Pipeline Safety Act of 1968.".

(d) Conclusive Evidence of Need.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end thereof the following new subparagraph:

"(E) In such hearing under subparagraph (C), proof of binding contractual commitments by bona fide shippers for firm natural gas service to be rendered utilizing the facilities proposed to be constructed or extended shall be conclusive evidence of the need for such proposed service and facilities, and shall be sufficient to dismiss any claim of mutual exclusivity by another applicant.".

(e) Phased Certificate Procedures.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end thereof the following new subparagraph:

"(F) In such hearing under subparagraph (C), the Commission, where appropriate, may phase its consideration of issues raised in connection with the application and may issue an initial order containing preliminary findings with respect to such issues. Notwithstanding the preliminary findings in such initial order, the issuance of a certificate of public convenience and necessity will be subject to a final order based upon the complete record of the hearing under subparagraph (C).".

Sec. 11110. Gas Delivery Interconnection.—Section 7(a) of the Natural Gas Act (15 U.S.C. 717f(a)) is amended by—

(a) redesignating subsection (a) as paragraph (a)(1); and

(b) inserting at the end the following new paragraph—

"(2) Upon the petition of any person, the Commission by order may direct an interstate pipeline as defined in section (2)(15) of the Natural Gas Policy Act of 1978, for the sole purpose of receiving natural gas from the petitioner, to establish, at petitioner's expense, and upon such reasonable terms as the Commission may prescribe, physical connection of the interstate pipeline's transportation facilities with the petitioner's production or gathering facilities, the petitioner's intrastate pipeline as defined in section 2(16) of the Natural Gas Policy Act of 1978 (limited to the production area as defined by the Commission), or the petitioner's pipeline certificated pursuant to subparagraph (c)(1)(G) of this section (limited to the production area as defined by the Commission): *Provided*, That the Commission shall have no authority to compel the enlargement of transportation facilities for such purposes, or to compel an interstate pipeline to establish physical connection when to do so would impair its ability to render adequate service to its customers.".

Sec. 11111. Deregulation of Pipeline Sales of Natural Gas.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following after subsection (g), as added by this title—

"(h) After a hearing held upon the application of a natural-gas company, if the Commission finds that the natural-gas company provides transportation for natural gas owned by any other person comparable to the transportation provided by the natural-gas company for natural gas that it sells for resale and finds that the market that the natural-gas company is authorized to serve is competitive, the Commission may issue an order finding that the natural gas cost component of rates and charges made, demanded, or received by the natural-gas company for the sale for resale of natural gas are exempt from the jurisdiction of the Commission under this Act.".

Sec. 11112. Fuel Use Act Amendment.—Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 as amended (42 U.S.C. 8373) is amended by striking subsection (c) in its entirety.

TITLE XII—OUTER CONTINENTAL SHELF

Subtitle A—Coastal Communities Impact Assistance

Sec. 12101. Definitions.—For purposes of this subtitle only, the term—

(1) "coastline" has the same meaning that it has in the Submerged Lands Act (43 U.S.C. 1301 et seq.);

(2) "county" means a unit of general government constituting the local jurisdiction immediately below the level of State government. This term includes, but is not limited to, counties, parishes, villages and tribal governments which function in lieu of and are not within a county, and in Alaska, borough governments. If State law recognizes an entity of general government that functions in lieu of and is not within a county, the Secretary may recognize such other entities of general government as counties;

(3) "coastal State" means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea or the Gulf of Mexico;

(4) "distance" means minimum great circle distance, measured in statute miles;

(5) "leased tract" means a tract, leased under the Outer Continental Shelf Lands Act for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram;

(6) "new revenues" means monies received by the United States as royalties (including payments for royalty taken in kind and sold pursuant to section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353)), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act, but only from leased tracts from which such revenues are first received by the United States after the date of enactment of this Act;

(7) "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of "lands beneath navigable waters" as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)), and of which the subsoil and seabed are subject to the jurisdiction and control of the United States; and

(8) "Secretary" means the Secretary of the Interior or the Secretary's designee.

Sec. 12102. Impact Assistance Formula and Payments.—(a) There is established a fund in the Treasury of the United States, which shall be known as the "Coastal Communities Impact Assistance Fund" (hereinafter referred to in this section as "the fund").

(b) The Secretary of the Treasury shall invest excess monies in the fund, at the request of the Secretary, in public debt securities with maturities suitable to the needs of the fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(c) Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), amounts in the fund, together with interest earned from investment thereof, shall be paid at the direction of the Secretary as follows:

(1) The fund shall consist of amounts deposited in the fund from new revenues received beginning with October 1, 1992, representing the amounts determined to be allocable to eligible coastal States and eligible counties pursuant to the formula contained in this section.

(2) The Secretary shall determine the new revenues from any leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)), the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State (hereinafter referred to as an "eligible coastal State").

(3) The Secretary shall determine the allocable share of new revenues determined under paragraph (2) by multiplying such revenues by 12.5 percent.

(4) The Secretary shall determine the portion of the allocable share of new revenues attributable to each eligible coastal State (hereinafter referred to as the "eligible coastal State's attributable share") based on a fraction which is inversely proportional to the distance between the nearest point on the coastline of the eligible coastal State and the geographic center of the leased tract or portion of the leased tract (to the nearest whole mile). Further, the ratio of an eligible State's attirbutable share to any other eligible State's attributable share shall be equal to the inverse of the ratio of the distances between the geographic center of the leased tract or portion of the leased tract and the coastlines of the respective eligible coastal States. The sum of the eligible coastal States' attributable shares shall be equal to the allocable share of new revenues determined under paragraph (3).

(5) Subject to appropriation, the Secretary shall pay from the fund 50 percent of the eligible coastal States' attributable share, together with the portion of interest earned from investment of the fund which corresponds to that amount, to that State.

(6) Within 60 days of enactment of this Act, the governor of each eligible coastal State shall provide the Secretary with a list of all counties, as defined herein, that are to be considered for eligibility to receive impact assistance payments. This list must include all counties with borders along the State's coastline and may also include counties which are at the closest point no more than 60 miles from the State's coastline and which are certified by the Governor to have significant impacts from Outer Continental Shelf-related activities. For any such county that does not have a border along the coastline, the Governor shall designate a point on the coastline of the nearest county that does have a border along the coastline to serve as the former county's coastline for the purposes of this section. The governor of any eligible coastal State may modify this list whenever significant changes in Outer Continental Shelf activities require a change, but no more frequently than once each year.

(7) The Secretary shall determine, for each county within the eligible coastal State identified by the Governor according to paragraph (6) for which any part of the county's coastline lies within a distance of 200 miles of the geographic center of the leased tract or portion of the leased tract (hereinafter referred to as an "eligible county") 50 percent of the eligible coastal State's attributable share which is attributable to such county (hereinafter referred to as the "eligible county's attributable share") based on a fraction which is inversely proportional to the distance between the nearest point on the coastline of the eligible county and the geographic center of the leased tract or portion of the leased tract (to the nearest whole mile). Further, the ratio of any eligible county's attributable share to any other eligible county's attributable share shall be equal to the inverse of the ratio of the distances between the geographic center of the leased tract or portion of the leased tract and the coastlines of the respective eligible counties. The sum of the eligible counties' attributable shares for all eligible counties within each State shall be equal to 50 percent of the eligible coastal State's attributable share determined under paragraph (4).

(8) Subject to appropriation, the Secretary shall pay from the fund the eligible county's attributable share, together with the portion of interest earned from investment of the fund which corresponds to that amount, to that county.

(9) Payments to eligible coastal States and eligible counties under this section shall be made not later than December 31 of each year from new revenues received and interest earned thereon during the immediately preceding fiscal year, but not earlier than one year following the date of enactment of this Act.

(10) The remainder of new revenues and interest earned in the fund not paid to an eligible State or an eligible county under this section shall be disposed of according to the law otherwise applicable to receipts from leases on the Outer Continental Shelf.

(11) The total amount in the fund shall not exceed $300,000,000 during any fiscal year: *Provided*, That in the event that the total amount of revenues which would otherwise be deposited in the Fund exceed $300,000,000, the Secretary shall provide each eligible State and eligible county the same percentage of $300,000,000 as such State or county would have received had there not been a cap.

SEC. 12103. USES OF FUNDS.—Funds received pursuant to this subtitle shall be used by the eligible coastal States and eligible counties for—

(a) projects and activities that protect or enhance air quality, water quality, fish and wildlife, wetlands, or other coastal resources;

(b) other activities of such State or county, authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(c) administrative costs of complying with the provisions of this subtitle, including the costs associated with the audit required by section 12105.

SEC. 12104. OBLIGATIONS OF ELIGIBLE COUNTIES AND STATES.—(a) PROJECT SUBMISSION.—Prior to the receipt of funds pursuant to this subtitle for any fiscal year, an eligible county must submit to the Governor of the State in which it is located a plan setting forth the projects and activities for which the eligible county proposes to expend such funds. Such plan shall state the amounts proposed to be expended for each project or activity during the upcoming fiscal year.

(b) PROJECT APPROVAL.—Prior to the payment of funds pursuant to this subtitle to any eligible county for any fiscal year, the Governor must approve the plan submitted by the eligible county pursuant to subsection (a) and notify the Secretary of such approval. State approval of any such plan shall be consistent with any State wetlands plan, habitat plan, or environmental restoration plan in effect in such State and with all applicable State and Federal law. In the event that the Governor disapproves any such plan, the funds that would otherwise be paid to the eligible county shall be placed in escrow by the Secretary pending modification and approval of such plan, notwithstanding the provisions of section 12102(c)(10), at which time such funds together with interest thereon shall be paid to the eligible county.

(c) CERTIFICATION.—No later than 60 days after the end of the fiscal year, any eligible county receiving funds under this subtitle must certify to the Governor: (1) the amount of such funds expended by the county during the previous fiscal year; (2) the amounts expended on each project or activity; and (3) the status of each project or activity.

SEC. 12105. AUDIT.—(a) REQUIREMENT FOR AUDIT.—Under regulations promulgated by the Secretary, any coastal State that receives payments under section 12102 shall, for each fiscal year that it receives payments, provide that amounts received thereunder, including amounts paid to eligible counties of such State under section 12102, be subject to audit in accordance with chapter 75 of title 31, United States Code. The audit shall be submitted to the Secretary.

(b) CONTENTS OF AUDIT.—Each audit submitted by a State under subsection (a) shall—

(1) contain a statement of all amounts paid under section 12102 to such State for the fiscal year;

(2) include a statement of all amounts paid to eligible counties of such State pursuant to section 12102.

(c) PRELIMINARY DETERMINATION BY SECRETARY.—(1) After receiving a State's report under this section, the Secretary shall make a preliminary evaluation of each audit submitted pursuant to this section, and determine whether any portion of the amounts received has not been used as required by this subtitle. The Secretary shall publish notice of such determination in the Federal Register.

(2) If the Secretary determines under paragraph (1) that any portion of the amounts received under section 12102 has been misused, the Secretary may suspend, and place in escrow, an amount from any future payment due to the coastal State or eligible county charged with misusing the amounts under section 12102 which is equivalent to the amount misused, pending a final determination pursuant to subsection (d).

(d) FINAL DETERMINATION BY SECRETARY.—If the Secretary, after providing a State or eligible county with an opportunity for a hearing, makes a final determination that any portion of the amounts paid to such State or eligible county under section 12102 was not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the State or eligible county that misused the funds the reasons for the determination and the exact amount that was misused; and

(2) take appropriate action to recover an amount from the State or eligible county that misused the funds equal to that determined to have been misused, including the

withholding of such amount from that State or eligible county's future payment under section 12102 or of the amount which may have been suspended under subsection (c)(2). In no event shall funds be withheld from a State due to misuse of funds by an eligible county within such State, or from an eligible county in an instance where the State in which it is located has misused funds.

(e) DISPOSITION OF AMOUNTS WITHHELD.—(1) If no appeal of a final determination under subsection (d) is filed within 60 days following the notification described in subsection (d)(1), any amounts withheld or otherwise recovered by the Secretary under subsection (d)(2) shall be returned to the Coastal Communities Impact Assistance Fund.

(2) If an appeal of the final determination is filed within the 60-day period specified in paragraph (1), any amounts withheld by the Secretary shall be held in excrow until such time as a final determination is made of the appeal.

(3) In the event that amounts withheld under this section are subsequently paid to the State or eligible county from which they were withheld, such State or county shall also receive interest on such amounts.

SEC. 12106. REGULATIONS.—The Secretary may promulgate any necessary or appropriate regulations to implement this subtitle.

Subtitle B—Coastal Resources Enhancement Fund

SEC. 12201. DEFINITIONS.—For the purposes of this subtitle only, the following definitions apply:

(1) "Block Grant" means a Coastal Resources Enhancement Block Grant described in section 12203(a);

(2) "coastal State" means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea or the Gulf of Mexico, if such State has a coastal zone management program approved by the Secretary;

(3) "coastal zone management program approved by the Secretary"; means—

(A) a coastal zone management program that is approved by the Secretary under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); or

(B) a coastal zone management program that is being developed by a coastal State, with respect to which the Secretary determines (in no more than 2 fiscal years for which a Block Grant is awarded) that such State is making satisfactory progress toward the development of a program approvable by the Secretary under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

(4) "energy facilities" has the meaning given that term under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(5) "Enhancement Fund" means the Coastal Resources Enhancement Fund established pursuant to this subtitle;

(6) "leased tract" means a tract, leased under the Outer Continental Shelf Lands Act for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram;

(7) "local government" has the meaning given that term in section 304(11) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(11)) and, with respect to the State of Alaska, the term includes unincorporated communities, including Alaska Native Villages;

(8) "new revenues" means monies from any leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)), the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State and received by the United States as royalties (including payments for royalty taken in kind and sold pursuant to 43 U.S.C. 1353), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act, but only from leased tracts from which such revenues are first received by the United States after the date of enactment of this Act;

(9) "proportionately" means in the same ratio as Block Grants would be apportioned among the coastal States if only on the basis of the formula established under section 12203(d) of this subtitle; and

(10) "Secretary" means the Secretary of Commerce or the Secretary's designee.

SEC. 12202. ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a Fund to be known as the Coastal Resources Enhancement Fund composed of 4 percent of new revenues. The Enhancement Fund shall not exceed $100,000,000 during any fiscal year.

SEC. 12203. BLOCK GRANTS.—(a) BLOCK GRANTS TO STATES.—Subject to the provisions of this section, for fiscal year 1992 and for each subsequent fiscal year, the Secretary shall award to each coastal State a Coastal Resources Enhancement Block Grant from the monies paid into the Enhancement Fund. The Block Grant shall include the amounts separately paid by the Secretary to the local governments of such State under section 12205.

(b) ALLOCATION REPORT.—(1) No coastal State may receive a Block Grant for a fiscal year unless such State has submitted to the Secretary a report for such fiscal year that—

(A) specifies the proposed allocation by such State of the Block Grant among the activities specified in paragraphs (1) through (4) of section 12204;

(B) prescribes the allocation of the local government portion of the Block Grant to specified local governments, for separate payment by the Secretary as provided in section 12205; and

(C) describes each proposed activity receiving funds provided by the Block Grant and the amounts proposed to be expended for each activity.

(2) In order to be eligible for a Block Grant and before submitting the report required under paragraph (1), each coastal State shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on such report at a site in the State convenient for encouraging maximum public participation.

(c) STATE TRUST FUND.—No amount of a Block Grant shall be paid from the Enhancement Fund to a coastal State until the State has established a trust fund for the receipt of the portion of such Grant that is paid directly to the State.

(d) FORMULA.—The amount of each Block Grant awarded under subsection (a) shall be determined by the Secretary under a formula established by the Secretary which gives the following weighted consideration to each of the following criteria:

(1) A weight of 50 percent shall be given to the number, location, and impact of the energy facilities located within the coastal zone of each State during the fiscal year immediately preceding the fiscal year for which the grant is to be awarded;

(2) A weight of 25 percent shall be given on the basis of shoreline mileage; and

(3) A weight of 25 percent shall be given on the basis of coastal population.

(e) MINIMUM GRANT LEVELS.—(1) A coastal State shall receive not less than 1.62 percent of the total amount available for Block Grants under this section during any fiscal year.

(2) If, after the calculations required under subsection (d), any coastal State is to receive a Block Grant that is less than the minimum grant level established under paragraph (1), the Secretary shall increase such State's Block Grant to the minimum level. Amounts necessary to make such increases shall be derived by reducing proportionately the Block Grant of each State which, as determined under subsection (d), exceeds the minimum level under paragraph (1).

(f) MAXIMUM GRANT LEVELS.—If, after the calculations required under subsections (d) and (e), any coastal State would receive a Block Grant which is greater than 8 percent of the funds appropriated under this section, the Secretary shall reduce such State's Block Grant to 8 percent. The amounts resulting from such reduction shall be reallocated proportionately among States receiving less than 8 percent so such funds are more than the minimum grant levels under subsection (e).

(g) USE OF FUNDS.—As provided in advance by appropriation Acts, the Secretary shall use the total amount of any amounts deposited in the Enhancement Fund during each fiscal year to carry out the purposes of, and in accordance with, this section.

SEC. 12204. REQUIREMENTS ON THE USE OF BLOCK GRANTS.—(a) Block Grants awarded to a State under section 12203(a), including the portion separately distributed to such State's local governments under section 12205, shall be used only for one or more of the following activities:

(1) Amelioration of any adverse environmental impacts that result from the siting, construction, expansion, or operation of energy facilities;

(2) Administrative costs such State or a local government of such State incurs in the energy leasing and energy permitting process under any applicable law, including but not limited to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) and the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(3) Other activities of such State, or a local government of such State, authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(4) Projects and activities that protect or enhance air quality, water quality, fish and wildlife, wetlands, or other coastal resources.

SEC. 12205. LOCAL GOVERNMENTS.—(a) ALLOCATION.—The report submitted by each coastal State under section 12203(b) shall prescribe an allocation among its local governments of not less than one-third of each Block Grant proposed to be awarded to such State.

(b) SEPARATE DISTRIBUTION.—The portion of a State's Block Grant that the State prescribes for allocation to specific local governments shall be paid by the Secretary directly to each such local government.

SEC. 12206. AUDIT.—(a) REQUIREMENT FOR AUDIT.—Under regulations promulgated by the Secretary, any State awarded a Block Grant under section 12203(a) shall, for each fiscal year that it is awarded such Grant, provide that amounts received under such Grant, including amounts separately distributed to local governments of such State under section 12205, be subject to audit in accordance with chapter 75 of title 31, United States Code. The audit shall be submitted to the Secretary. The income derived for each fiscal year from such State's trust fund, as established under section 12203(c), shall be included in the audit required by this section.

(b) CONTENTS OF AUDIT.—Each audit submitted by a State under subsection (a) shall—

(1) contain a statement of all funds provided under the Block Grant received by such State for the fiscal year; and

(2) include a statement of all funds paid to the local governments of such State pursuant to section 12205.

(c) PRELIMINARY DETERMINATION BY SECRETARY.—(1) After receiving a State's audit under this section, the Secretary shall make a preliminary evaluation of each audit submitted pursuant to this section, and determine whether all or any part of the Block Grant has not been used as required by this subtitle. The Secretary shall publish notice of such determination in the Federal Register.

(2) If the Secretary determines under paragraph (1) that any portion of the Block Grant has been misused, the Secretary may suspend, and place in escrow, an amount from any future Block Grant which is equivalent to the amount misused, pending a final determination pursuant to subsection (d).

(d) FINAL DETERMINATION BY SECRETARY.—If the Secretary, after providing a State with an opportunity for a hearing, makes a final determination that all or any part of the Block Grant funds paid to such State or its local governments were not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the State the reasons for the determination and the amount of funds misused; and

(2) take appropriate action to recover an amount equal to that determined to have been misused, including the withholding of such amount from a State's future Block Grant or the amount which may have been suspended under subsection (c)(2).

(e) DISPOSITION OF WITHHELD FUNDS.—(1) If no appeal of a final determination under subsection (d) is filed within 60 days following the notification described in subsection (d)(1), any amounts withheld or otherwise recovered by the Secretary under subsection (d)(2) shall be returned to the Enhancement Fund.

(2) If an appeal of the final determination is filed within the 60-day period specified in paragraph (1), any funds withheld by the Secretary shall be held in escrow until such time as a final determination is made of the appeal.

(3) In the event that any amounts withheld under this section are subsequently paid to the State from whose Block Grant they were withheld, such State shall also receive interest on such amount.

SEC. 12207. RULES AND REGULATIONS.—Within 180 days after the date of enactment of this Act, the Secretary shall promulgate, after notice and opportunity for comment, such rules and regulations as may be necessary to carry out the provisions of this subtitle.

Subtitle C—Relationship To Other Law

SEC. 12301. RELATIONSHIP TO OTHER LAW.—The payment of funds pursuant to subtitles A and B of this title shall be in addition to any payments made to a State under any other provision of this Act or any other provision of law.

SEC. 12302. RELATIONSHIP TO OTHER FUNDS.—Nothing in subtitles A and B of this title shall reduce any amounts required to be credited to the Land and Water Conservation Fund, pursuant to the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 to 4601–11), or to the Historic Preservation Fund, pursuant to the Historic Preservation Act (16 U.S.C. 470h), from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. To the extent that the crediting of such amounts into the Land and Water Conservation Fund or the Historic Preservation Fund makes monies otherwise payable under subtitles A and B of this title unavailable, payments to the States and local governments pursuant to such subtitles shall be reduced on a pro rata basis.

Subtitle D—Prohibition of Leasing and Preleasing Activity

SEC. 12401. LEASING MORATORIA.—The Secretary of the Interior shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) until after January 1, 2000, in the following areas placed under restriction in the President's moratorium statement of June 26, 1990: The North Atlantic Planning Area and the Washington and Oregon Planning Area.

SEC. 12402. PROHIBITION OF LEASING AND PRELEASING ACTIVITY.—The Secretary shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), with respect to the area seaward from the State of California and the State of New Jersey until after January 1, 2000.

SEC. 12403. FLORIDA MORATORIUM.—The Secretary of the Interior shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) until after January 1, 2000, with respect to that area offshore Florida south of 26 degrees north latitude and east of 86 degrees west longitude placed under restriction in the President's moratorium statement of June 26, 1990.

SEC. 12404. BUYBACK OF CERTAIN LEASES.—Notwithstanding the provisions of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary of the Interior is authorized and directed, subject to the availability of funds appropriated for that purpose, to cancel and buyback leases issued under the Outer Continental Shelf Lands Act offshore Florida south of 26 degrees north latitude and east of 86 degrees west longitude, consistent with the provisions of this subsection. Any lease canceled pursuant to this provision shall require full compensation. Such compensation shall include all expenses incurred on the lease, with interest, including expenditures made prior to lease issuance unless the lessee proves that it is entitled to greater damages, including but not limited to, lost profits, or the Secretary proves that the lessee is entitled to lesser damages. Any other leases canceled pursuant to the Outer Continental Shelf Lands Act shall require compensation in accordance with that Act. The authorization contained in this subsection shall expire on December 31, 1993.

SEC. 12405. REPORT.—With respect to all leases issued under the Outer Continental Shelf Lands Act offshore Florida east of 86 degrees west longitude and south of 26 degrees north latitude, the Secretary of the Interior shall prepare a report analyzing the alternatives for exchanging such leases for any other land or interest in land, including submerged lands, owned by the United States as a means of providing compensation for the cancellation of such leases. Such report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the United States House of Representatives within one year after the date of enactment of this provision.

TITLE XIII—RESEARCH, DEVELOPMENT, DEMONSTRATION AND COMMERCIALIZATION ACTIVITIES

SEC. 13101. ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIALIZATION PRIORITIES.—The Secretary shall establish priorities for research, development, demonstration, and commercialization activities. These priorities shall include consideration of the following criteria—

(1) the potential to increase the Nation's energy independence and thus reduce reliance on imported oil;

(2) the projected cost-effectiveness of the energy or energy efficiency resource to be produced or saved, including an evaluation of the likelihood of the activities contributing to the achievement of commercialization of new energy technologies;

(3) the comparative environmental and public health impacts of the energy to be produced or saved by the specific activities;

(4) the national security impact of the energy produced or saved, including its projected contribution to the reduction of oil imports and to the diversity of the domestic energy resource mix;

(5) the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing or maintaining technological leadership in the area of energy and energy efficiency resource technologies, including, but not limited to, solar, fuel cells, fusion, superconductivity, nuclear fission, electric power, clean coal technologies, oil shale, oil and natural gas recovery and utilization, and hydrogen;

(6) the contribution of a given activity to fundamental scientific knowledge;

(7) the anticipated impact of the results of activities on targeted industries and industrial and manufacturing processes; and

(8) the contribution to United States competitiveness.

SEC. 13102. MANAGEMENT PLAN.—(a) PLAN PREPARATION.—The Secretary, in consultation with the Energy Advisory Board to the Secretary, shall prepare a management plan for the conduct of research, development, demonstration, and commercialization of energy technologies that is consistent with the purposes of this Act and guided by the priorities set forth in section 13101.

(b) PROPOSALS.—The management plan under subsection (a) shall contain proposals for—

(1) investigation of promising energy and energy efficiency resource technologies that have been identified as potentially significant future contributors to national energy security;

(2) development of contingency energy and energy efficiency resource technologies that have the potential to reduce energy supply vulnerability, and to minimize adverse impacts on the environment, the global climate, and the economy; and

(3) creation of opportunities for export of energy and energy efficiency resource technologies from the United States that can enhance the Nation's competitiveness;

(c) PLAN SUBMISSION.—Within one year after the date of enactment of this section, the Secretary shall submit the first management plan under this section to Congress. Thereafter, the Secretary shall submit a revised management plan biennially at the time of submittal of the President's annual budget submission to the Congress.

SEC. 13103. NATURAL GAS END-USE TECHNOLOGIES.—(a) PROGRAM.—The Secretary shall carry out a program to promote the development and commercialization of new and advanced natural gas utilization technologies including, but not limited to, the following areas—

(1) stationary source emissions control and efficiency improvements including combustion systems, industrial processes, natural gas heating and cooling, cogeneration, and cofiring natural gas with coal and waste fuels;

(2) natural gas storage including increased deliverability from existing gas storage facilities and new capabilities for storage near demand centers and on-site storage at major energy consuming facilities;

(3) transportation fuel alternatives and emissions controls including natural gas vehicle commercialization and infrastructure development (including home and commercial compressors for natural gas vehicles) and advanced engines and propulsion concepts; and

(4) electrochemical energy conversion including the commercialization of molten carbonate fuel cells and phosphoric acid fuel cells and the development of advanced natural gas-fired fuel cell technologies.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13104. NATURAL GAS SUPPLY ENHANCEMENT.—(a) PROGRAM.—The Secretary shall carry out a program of research, development and demonstration to increase the recoverable natural gas resource base including, but not limited to, the following areas—

(1) more intensive recovery of natural gas from discovered conventional resources;

(2) economic recovery of unconventional natural gas resources, including gas from tight sands, eastern shales, and gas from less permeable formations, coal-bed methane and geopressurized reservoirs;

(3) surface gasification of coal; and

(4) recovery of methane from biofuels including municipal solid waste.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13105. HIGH EFFICIENCY HEAT ENGINES.—(a) PROGRAM.—The Secretary shall carry out a program of research, development, demonstration, and commercialization on high efficiency heat engines, emphasizing advanced gas turbine cycles, and the incorporation of energy efficient materials in advanced gas turbine cycles for high efficiency electric and automotive power generation, such as—

(1) advanced combined cycle turbines;

(2) steam-injected gas turbines; and

(3) intercooled steam-injected gas turbines.

(b) JOINT VENTURES.—The Secretary may enter into joint ventures with appropriate parties to construct and demonstrate high efficiency heat engines.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13106. OIL SHALE RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—(1) The Secretary shall carry out a research and development program on oil shale that includes applied research on eastern oil shale, in cooperation with universities and the private sector, that may have the potential to decrease United States dependence on energy imports.

(2) As part of the program authorized in this section, the Secretary shall consider the potential benefits of including in that program applied research carried out in cooperation with universities and other private sector entities that are now engaged in research on eastern oil shale retorting and associated processes.

(b) COST-SHARING.—The program carried out under this section shall be cost-shared with universities and the private sector to the maximum extent possible.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13107. WESTERN OIL SHALE RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—The Secretary shall carry out a program of research on extracting oil from western oil shales that includes, if appropriate, establishment and utilization of at least one field testing center for the purpose of testing, evaluating, and developing improvements in oil shale technology at the field test level. In establishing such a center, the Secretary shall consider sites with existing oil shale mining and processing infrastructure and facilities.

(b) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13108. HIGH-TEMPERATURE SUPERCONDUCTING ELECTRIC POWER SYSTEM.—(a) PROGRAM.—The Secretary shall carry out a program of research, development, and demonstration of a high-temperature superconducting electric power system. Elements of the program shall include, but are not limited to, the following—

(1) the development of prototypes, where appropriate, of the major elements of a superconducting electric power system, such as motors, generators, transmission lines, transformers, and magnetic energy storage systems;

(2) development of prototypes based on high-temperature superconducting wire and refrigeration systems using cryocoolers or liquid cryogens such as nitrogen, with such prototype wires operating at temperatures between 20 degrees Kelvin and 77 degrees Kelvin (−423 degrees Fahrenheit and −320 degrees Fahrenheit), or higher if material developments permit; and

(3) development of prototypes that are of sufficient operational capabilities to demonstrate the technology application and facilitate dual-use application in both the civilian commercial sector and the defense sector.

(b) COOPERATIVE AGREEMENTS.—In order to carry out the programs under this section, the Secretary shall solicit proposals and may enter into cooperative agreements under this section. The Secretary is also encouraged to expedite government, industry, and university collaborative agreements under existing mechanisms at the Department of Energy, in coordination with other Federal agencies.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13109. RENEWABLE ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.—Section 4(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (Public Law 101-218) is amended by striking all after the first paragraph and inserting in lieu thereof the following:

"(1) such sums as may be necessary for fiscal year 1992;

"(2) such sums as may be necessary for fiscal year 1993; and

"(3) such sums as may be necessary for fiscal year 1994.

"Each of the President's annual budget requests submitted to Congress after the date of enactment of this Act shall include as separate line items each of the categories of renewable energy programs described in this subsection.".

Sec. 13110. Energy Efficiency Research and Development Programs.—Section 5 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (Public Law 101-218) is amended by striking all after the first paragraph and inserting in lieu thereof the following:

"(1) such sums as may be necessary for fiscal year 1992;

"(2) such sums as may be necessary for fiscal year 1993; and

"(3) such sums as may be necessary for fiscal year 1994.".

Sec. 13111. Natural Gas and Electric Heating and Cooling Technologies.—(a) Program.—(1) The Secretary shall expand the program of research, development, and demonstration for natural gas and electric heating and cooling technologies for residential and commercial buildings.

(2) The natural gas heating and cooling program shall increase research on thermally-activated heat pumps including absorption heat pumps and engine-driven heat pumps.

(3) The electric heating and cooling program shall increase research on—

(A) advanced heat pumps;

(B) thermal storage; and

(C) advanced electrically driven HVAC (heating, ventilating, and air conditioning) and refrigeration systems that utilize replacements for chlorofluorocarbons.

(b) Cost-Sharing.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(c) Authorization.—There is authorized to be appropriated not more than $15,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section in addition to current authorizations.

Sec. 13112. Fusion.—(a) Program.—The Secretary shall carry out a research, development, and demonstration program on fusion energy that is structured in a way that will lead to commercial demonstration of the technological feasibility of fusion energy for the production of electricity after the year 2010.

(b) Comprehensive Management Plan.—(1) Within 180 days after the date of enactment of this section, the Secretary shall prepare a comprehensive management plan for research, development, and demonstration of fusion energy, including milestones and schedules for technology development and estimates of budget and program management resource requirements.

(2) As part of the plan required under paragraph (1), the Secretary shall evaluate the status of international fusion programs and evaluate whether the Federal Government should make efforts to strengthen existing international cooperative agreements in fusion energy or enter into new cooperative agreements to accomplish the purposes of this section.

(3) The plan shall also evaluate to what extent university or private sector participation is appropriate or necessary in order to carry out the purposes of this section.

(c) Cost-Sharing.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) Authorization.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Sec. 13113. Electric Vehicle, Electric-Hybrid Vehicle, and Associated Equipment Research and Development.—(a) General.—The Secretary shall conduct, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901–5920), a research and development program on electric vehicles, electric-hybrid vehicles, and associated equipment. Such program shall be conducted in cooperation with the electric utility industry, the automobile industry, battery manufacturers, and such other persons as the Secretary considers appropriate.

(b) Cooperative Agreements.—The Secretary, consistent with the comprehensive plan under subsection (c), may enter into cooperative agreements to conduct research and development projects with industry in such areas of technology development as—

(1) high efficiency electric power trains, including advanced motors, motor controllers, and hybrid power trains for electric vehicle range improvement and light-weight body structures for electric vehicle weight reduction; and

(2) advanced batteries with high energy density and power density, and improved range or recharging cycles for a given unit weight for electric vehicle application.

(3) Hybrid power trains incorporating an electric motor and recyclable battery technology charged by an onboard liquid fuel engine, designed to significantly improve fuel economies while maintaining comparable acceleration characteristics.

(c) Comprehensive Plan.—(1) The Secretary shall prepare a comprehensive five-year program plan for carrying out the purposes of this section. Such program plan shall be updated annually for a period of not less than ten years after the date of enactment of this Act.

(2) The program plan under paragraph (1) shall be prepared in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Secretary of Commerce, the heads of other appropriate Federal agencies, representatives of the electric utility industry, electric vehicle and electric-hybrid vehicle manufacturers, the United States automobile industry, and such other persons as the Secretary deems appropriate.

(3) The comprehensive plan shall include—

(A) a prioritization of research areas critical to the commercialization of electric vehicles and electric-hybrid vehicles, including advanced battery technology and optimization of near-term technology;

(B) the program elements, management structure, and activities, including program responsibilities of individual agencies and departments;

(C) the program strategies, including technical milestones to be achieved toward specific goals during each fiscal year of the comprehensive plan for all major activities and projects;

(D) the estimated costs of individual program elements, including estimated costs for each of the fiscal years of the plan for each of the participating agencies or departments;

(E) a description of the methods of technology transfer;

(F) the proposed participation by non-Federal entities in the planning and implementation of the plan; and

(G) such other information as the Secretary deems appropriate.

(4) Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary shall transmit the comprehensive program plan to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such plan shall be updated annually as specified in subsection (c)(1).

(d) Solicitation of Proposals.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals for cooperative agreements for research and development under subsection (b).

(2) Thereafter, the Secretary may solicit additional proposals for cooperative agreements under subsection (b) if, in the judgment of the Secretary, such cooperative agreements could contribute to the development of electric vehicles or electric-hybrid vehicles and associated equipment.

(e) Cost-Sharing.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any cooperative agreement under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(f) Deployment.—(1) The Secretary shall conduct a program designed to accelerate deployment of advanced energy storage systems, including advanced battery technologies, for use with electric vehicles and electric-hybrid vehicles.

(2) In carrying out the program authorized by this subsection, the Secretary shall—

(A) undertake an inventory and assessment of advanced energy storage systems, including advanced battery technologies, electric vehicle technologies and electric-hybrid technologies and their commercial capability; and

(B) develop a Federal industry information exchange program to improve the deployment or use of such technologies. The information exchange program may consist of workshops, publications, conferences, and a data base for use by the public and private sectors.

(g) Domestic Parts Manufacturers.—In carrying out this section, the Secretary, in consultation with the Secretary of Commerce, shall issue regulations to ensure that the procurement practices of participating vehicle and associated equipment manufacturers do not discriminate against United States manufacturers of vehicle parts.

(h) Compliance with Existing Law.—Nothing in this section shall be deemed to convey to any person, partnership, corporation, or other entity immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this section, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

(i) Definitions.—For purposes of this section, the term—

(1) "advanced battery" means an electrochemical storage device, including fuel cells, and associated technology necessary to charge, discharge, recharge or regenerate such electro-chemical storage device, for use as a source of power for an electric vehicle, an electric-hybrid vehicle, and any other associated equipment of an electric vehicle;

(2) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electric energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, that equipment necessary for the application or use of the nonelectric source of power in such vehicles;

(3) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current; and

(4) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a nonelectrical source of power.

(j) Authorization.—There is authorized to be appropriated to the Secretary (in addition to any amounts made available pursuant to other law) for each of the fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.

Sec. 13114. Advanced Oil Recovery Research, Development and Demonstration.—(a) Program.—The Secretary shall carry out a national program of research, development and demonstration to increase the economic recoverability of domestic oil resources. Such program shall address both advanced secondary oil recovery and tertiary oil recovery and shall include but not be limited to the following areas—

(1) transfer of proven recovery technologies to producers and operators of wells that would otherwise be likely to be abandoned in the near term due to declining production;

(2) development, field testing, and transfer of recovery technologies to operators of wells in high priority reservoirs ranked primarily on the basis of oil recovery potential and risk of abandonment; and

(3) the identification and development of new recovery techniques.

(b) Cooperative Agreements.—The Secretary may enter into cooperative agreements with producers, service companies, and technical support organizations for field demonstration projects to be undertaken on a cost-shared basis under this section.

(c) Cost-Sharing—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) Authorization.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Sec. 13115. Tar Sands.—(a) Policy.—It is the policy of the United States to promote the development and production, by all means consistent with sound engineering and environmental practices, of deposits of tar sands.

(b) Definition.—The term "tar sand" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise; or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying.

(c) Study.—The Secretary, in consultation with the Secretary of the Interior, shall submit a study to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within one year from the date of enactment of this Act. Such study shall identify and evaluate the development potential of sources of tar sands in the United States. The study shall also identify and evaluate processes for extracting oil from the identified tar sands sources, including existing tar sands waste tailings, and evaluate the environmental benefits of, and the potential for co-production of minerals and metals from, such processes.

(d) Authorization.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the purposes of this section.

Sec. 13116. Telecommuting Study.—(a) Study.—The Secretary, in consultation with the Secretary of Transportation, shall conduct a study of the potential costs and benefits to the energy and transportation sectors of telecommuting. The study shall include—

(1) an estimation of the amount and type of reduction of commuting by form of transportation type and numbers of commuters;

(2) an estimation of the potential number of lives saved;

(3) an estimation of the reduction in environmental pollution, in consultation with the Environmental Protection Agency;

(4) an estimation of the amount and type of reduction of energy use and savings by form of transportation type; and

(5) an estimation of the social impact of widespread use of telecommuting.

(b) This study shall be completed no more than one hundred and eighty days after the date of enactment of this Act. A report, summarizing the results of the study, shall be transmitted to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no more than sixty days after completion of this study.

Sec. 13117. Study of Minimization of Nuclear Waste.—(a) Study.—The Secretary shall conduct a study of the potential for minimizing the volume and toxic lifetime of nuclear waste, including an analysis of viability of existing technologies for this purpose and an assessment of the extent of research and development required for new technologies.

(b) Authorization.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Sec. 13118.—Nuclear Waste Management Plan.—(a) Preparation and Submission of Report.—The Secretary, in consultation with the Nuclear Regulatory Commission and the Environmental Protection Agency, shall prepare and submit to Congress a report on whether current programs and plans for management of nuclear waste as mandated by the Nuclear Waste Policy Act of 1982 (Public Law 97-425; 42 U.S.C.10101 et seq.) are adequate for management of any additional volumes or categories of nuclear waste that might be generated by any new nuclear power plants that might be constructed and licensed after the date of enactment of this Act. The Secretary shall prepare this report for submission to the President and the Congress within a year after the date of enactment of this Act. The report shall examine any new relevant issues related to management of spent fuel and high-level nuclear waste that might be raised by the addition of new nuclear-generated electric capacity, including anticipated increased volumes of spent fuel or high-level waste, any need for additional interim storage capacity prior to final disposal, transportation of additional volumes of waste, and any need for additional repositories for deep geologic disposal.

(b) Opportunity for Public Comment.—In preparation of the report required under subsection (a), the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Nuclear Regulatory Commission, the Environmental Protection Agency, and other interested parties.

(c) Authorization.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Sec. 13119. Math and Science Education Program.—(a) Program.—The Secretary shall enter into contracts with existing qualified entities to conduct science and mathematics education programs that supplement the Special Programs for Students from Disadvantaged Backgrounds carried out by the Secretary of Education under sections 417A through 417F of Public Law 89-329, as amended (20 U.S.C. 1070d through 1070d-1d).

(b) Purpose.—(1) The purpose of the programs shall be to provide support to Federal, State, and private programs designed to promote the participation of low-income and first generation college students as defined in section 417A of Public Law 89-329, as amended (20 U.S.C. 1070d-d), in post-secondary science and mathematics education.

(2) Support activities may include—

(A) the development of educational materials;

(B) the training of teachers and counselors;

(C) the establishment of student internships;

(D) the development of seminars on mathematics and science;

(E) tutoring in mathematics and science;

(F) academic counseling;

(G) the development of opportunities for research; and

(H) such other activities that may promote the participation of low-income and first generation college students in post-secondary science and mathematics education.

(c) Support.—(1) In carrying out the purpose of this section, the entities may provide support under subsection (b)(2) to—

(A) low-income and first generation college students; and

(B) institutions of higher education, public and private agencies and organizations, and secondary and middle schools that principally benefit low-income students.

(2) The qualified entities shall, to the extent practicable, coordinate support activi-

ties under this section with the Secretary of Education and the Secretary.

(d) COOPERATION WITH QUALIFIED ENTITIES.—The Secretary shall cooperate with qualified entities and, to the extent practicable, make available to the entities such personnel, facilities, and other resources of the Department of Energy as may be necessary to carry out the duties of the entities.

(e) REPORT.—Not later than October 1 of each year, the entities shall report to the Secretary, the Secretary of Education, and the Congress on—

(1) progress made to promote the participation of low-income and first generation college students in post-secondary science and mathematics education by—

(A) the qualified entities;

(B) other mathematics and science education programs of the Department of Energy; and

(C) the Special Programs for Students from Disadvantaged Backgrounds of the Department of Education; and

(2) recommendations for such additional actions as may be needed to promote the participation of low-income students in post-secondary science and mathematics education.

(f) EFFECT ON EXISTING PROGRAMS.—The programs in this section shall supplement and be developed in cooperation with the current mathematics and science education programs of the Department of Energy and the Department of Education but shall not supplant them.

(g) DEFINITION.—For purposes of this section, the term "qualified entity" means a nonprofit corporation, association, or institution that has demonstrated special knowledge of, and experience with, the education of low-income and first generation college students and whose primary mission is the operation of national programs that focus on low-income students and provide training and other services to educators.

(h) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 13120. STATE, DEFINITION OF—Section 401 of the Nuclear Waste Policy Act of 1982 (Public Law 97-425) is amended by inserting "and" after "States,", inserting a period after "District of Columbia", and striking the remainder of the sentence.

SEC. 13121. NUCLEAR WASTE NEGOTIATOR.—Section 410 of the Nuclear Waste Policy Act of 1982 (Public Law 97-425) is amended by striking "5 years" and inserting "6 years".

SEC. 13122. ENERGY SUBSIDY STUDY.—(a) IN GENERAL.—The Secretary shall contract with the National Academy of Sciences to conduct a study of energy subsidies that—

(1) are in effect on the date of enactment of this Act; or

(2) have been in effect prior to the date of enactment of this Act.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Congress, the results of such study to be accompanied by recommendations for legislation, if any.

(c) CONTENTS.—

(1) IN GENERAL.—The study shall identify and quantify the direct and indirect subsidies and other legal and institutional factors that influence decisions in the marketplace concerning fuels and energy technologies.

(2) TOPICS FOR EXAMINATION.—The study shall examine—

(A) fuel and technology choices that are—

(i) available on the date of enactment of this Act; or

(ii) reasonably foreseeable on the date of enactment of this Act;

(B) production subsidies for the extraction of raw materials;

(C) subsidies encouraging investment in large capital projects;

(D) indemnification;

(E) fuel cycle subsidies, including waste disposal;

(F) government research and development support; and

(G) other relevant incentives and disincentives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 1993 and 1994.

SEC. 13123. MIDCONTINENT ENERGY RESEARCH CENTER.—(a) FINDING.—Congress finds that petroleum resources in the midcontinent region of the United States are very large but are being prematurely abandoned.

(b) PURPOSES.—The purposes of this section are to—

(1) improve the efficiency of petroleum recovery;

(2) increase ultimate petroleum recovery; and

(3) delay the abandonment of resources.

(c) ESTABLISHMENT.—The Secretary shall establish the Midcontinent Energy Research Center at the University of Kansas in Lawrence, Kansas, (referred to in this section as the "Center") to—

(1) conduct research in petroleum geology and engineering focused on improving the recovery of petroleum from existing fields and established plays in the upper midcontinent region of the United States; and

(2) ensure that the results of the research described in paragraph (1) are transferred to users.

(d) RESEARCH.—

(1) IN GENERAL.—In conducting research under this section, the Center shall, to the extent practicable, cooperate with agencies of the Federal Government, the States in the midcontinent region of the United States, and the affected industry.

(2) PROGRAMS.—Research programs conducted by the Center may include—

(A) data base development and transfer of technology;

(B) reservoir management;

(C) reservoir characterization;

(D) advanced recovery methods; and

(E) development of new technology.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 13124.—DOMESTIC OIL SUPPLY ENHANCEMENT.—(a) PROGRAM.—The Secretary shall carry out programs of research, development and demonstration to increase the recoverable crude oil resource base including, but not limited to, programs in the following areas—

(1) maintenance of the production of crude oil from stripper well property;

(2) enhanced recovery of crude oil from conventional resources; and

(3) economic recovery of unconventional domestic oil resources.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under subsections (a) (2) and (3), including cash, personal services, equipment, and other resources, to be provided from non-Federal sources.

(d) REDUCTION OF COSTS.—The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(f) DEFINITION.—For the purpose of this section, the term "stripper well property" means any well located in the United States which produces an average of 15 or less barrels of crude oil per production day.

TITLE XIV—COAL, COAL TECHNOLOGY AND ELECTRICITY

Subtitle A—Coal and Coal Technology

SEC. 14101. COAL RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) ESTABLISHMENT.—(1) The secretary, in consultation with the National Coal Council and other representatives of the public as the Secretary deems necessary, shall, in accordance with the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901–5920), conduct a research, development, and demonstration program within the Department of Energy for advanced coal-based technologies with the goals and objectives of—

(A) achieving the control of sulfur oxides, oxides of nitrogen, or air toxics at levels of proficiency greater than currently available commercial technology;

(B) achieving the cost competitive conversion of coal into energy forms usable in the transportation sector;

(C) demonstrating the conversion of coal to synthetic gaseous, liquid, and solid fuels; and

(D) demonstrating, in cooperation with other Federal and State agencies, the use of coal-derived fuels in mobile equipment, with opportunities for industrial cost-sharing participation.

(2) The coal technology development program shall also be designed to assure the timely development of cost-effective technologies or energy production processes or systems utilizing coal which achieve greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal and the control of emissions from the combustion of coal. Such program shall be designed to assure the availability for commercial use of such technologies by the year 2010. As part of such program, the Secretary shall consider the potential benefits of conducting additional solicitations pursuant to the Clean Coal Program established by Public Law 98-473 and is authorized to carry out such additional solicitations.

(b) REPORT.—Within two hundred and forty days after the date of enactment of this Act the Secretary shall transmit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which shall include—

(1) a detailed description of ongoing research and development activities regarding advanced coal-based technologies undertaken by the Department of Energy, other Federal or State government departments or

agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals of the program established by this section;

(3) recommendations, if any, regarding the manner in which the cost-sharing demonstrations conducted pursuant to the Clean Coal Program established by Public Law 98-473 might be modified and extended in order to assure the timely demonstrations of advanced coal-based technologies by the year 2010 and assure that the goals established by this section are achieved; and

(4) a detailed plan for conducting the research, development and demonstration program to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized; and

(B) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan.

(c) ANNUAL REPORT.—Within twelve months after submittal of the report described in subsection (b) of this section, and every twelve months thereafter for a period of five years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of the advanced coal-based technologies and the research, development, and demonstration activities undertaken to carry out the program required by this section.

(d) DEFINITION.—As used in this section, the term "advanced coal-based technologies" means, but is not limited to, the following—

(1) advanced integrated gasification combined cycle;

(2) pressurized fluidized bed combustion technology capable of achieving higher thermal conversion efficiency than can be achieved through ongoing demonstration projects;

(3) direct and indirect coal-fired turbines;

(4) coal refining processes, including coke production, capable of (A) efficiently producing or utilizing the energy contained in coal and coal byproducts, (B) upgrading gaseous, liquid and solid coal byproducts into products with higher economic value, and (C) utilizing the products and byproducts of such processes;

(5) magnetohydrodynamics;

(6) molten carbonate and solid oxide fuel cells;

(7) cofiring coal with non-coal fuels including natural gas;

(8) coal liquefaction processes; and

(9) other coal-based technologies or processes or systems that are capable of achieving thermal conversion efficiencies equal to or greater than fifty percent.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14102. NON-FUEL USE OF COAL.—(a) PLAN.—Not later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall submit to Congress a plan for research, development, and demonstration with respect to technologies for nonfuel use of coal, including—

(1) production of coke and other carbon products derived from coal;

(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;

(3) production of chemicals from coal-derived synthesis gas;

(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and

(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) JOINT VENTURES.—As part of the plan under subsection (a), the Secretary may propose specific joint ventures to accelerate the development and commercialization of technologies for nonfuel uses of coal.

(c) PLAN CONTENTS.—The plan under subsection (a) shall address and evaluate—

(1) the known and potential products and processes for the use of coal for products in the chemical, utility, fuel, steel, and carbon-based materials industries;

(2) the costs, benefits and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;

(3) the economics of the refining of coal and coal byproducts to produce nonfuel products;

(4) the economics of co-production of products from coal in conjunction with production of electric power, thermal energy, and fuel;

(5) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(6) the steps that can be taken by the public and private sectors to bring about commercialization of research results produced by the research program recommended; and

(7) the past development, current status, and future potential of coal products and processes associated with nonfuel use of coal.

(d) RESEARCH AND DEVELOPMENT.—The Secretary shall conduct a program of research and development under the plan under subsection (a).

(e) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance for a research project under this section to the extent the Secretary finds that such project—

(1) furthers achievement of the goals and purposes of this Act;

(2) offers promise for commercial application; and

(3) has a reasonable prospect of support in at least 50 percent of its direct costs from non-Federal funds.

(f) CONSULTATION.—In preparing the plan and carrying out research under this section, including evaluating the technical progress, feasibility, and most effective means for utilizing the results of research, the Secretary shall consult with the private sector.

(g) AUTHORIZATION.—There is authorized to be appropriated a total of $20,000,000 for fiscal years 1992 through 1994 to carry out the purposes of this section.

SEC. 14103. COAL REFINING PROGRAM.—(a) PROGRAM.—The Secretary, in consultation with the National Coal Council, shall, in accordance with the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901–5920), conduct a research, development, demonstration, and commercialization program for coal refining technologies, including technologies for refining high sulfur coals, low sulfur coals, sub-bituminous coals and lignites to produce clean-burning transportation fuels, or compliance boiler fuels, or both, fuel additives, lubricants, chemical feedstocks, and carbon-based manufactured products, either alone or along with electricity, more economically and efficiently than can be produced utilizing currently available commercial technology. The goals of the coal refining technology development program shall be designed to assure—

(1) the timely development of technologies, including direct and indirect liquefaction processes and other energy production processes or systems to produce coal-derived fuels and coproducts;

(2) the capability to produce a range of coal-derived transportation fuels, including oxygenated hydrocarbons, boiler fuels, turbine fuels, and coproducts, which can reduce dependence on imported oil by displacing conventional petroleum in the transportation sector and other sectors of the economy;

(3) reduction in the cost of producing such coal-derived fuels and coproducts;

(4) the control of emissions from the combustion of coal-derived fuels, and;

(5) the availability for commercial use of such technologies by the year 2000.

(b) REPORT AND PLAN.—Within one hundred and twenty days after the date of enactment of this Act the Secretary shall transmit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which shall include—

(1) a detailed description of ongoing research and development activities regarding coal refining technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a detailed plan for conducting the research, development, demonstration, and commercialization program to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized; and

(B) the technical milestones to be achieved with respect to each of the coal refining technologies included in the plan;

(c) DEMONSTRATION PROJECTS.—Within twelve months after the submittal of the report described in subsection (b) of this section, the Secretary shall solicit proposals from appropriate parties and may thereafter enter into agreements with such parties to undertake commercial scale demonstration projects of coal refining processes. In designing the solicitation under this subsection, and taking into consideration the goals of subsection (a) of this section, the Secretary shall—

(1) establish technology classes for the various coal refining processes;

(2) enter into agreements for the construction of not more than one project per technology class, but in no event less than two commercial scale projects for the program in total;

(3) require that each project has a reasonable prospect of commencing operation by January 1, 2000.

(d) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-

Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(e) Annual Report.—Within twelve months after the date of enactment of this Act, and every twelve months thereafter for a period of five years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of coal refining technologies and the research, development, demonstration, and commercialization activities undertaken to carry out the program required by this section.

(f) Authorization.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Sec. 14104. Underground Coal Gasification.—(a) Program.—The Secretary shall conduct a research, development, and demonstration program for underground coal gasification technology for in-situ conversion of coal to a cleaner burning, easily transportable gaseous fuel. The goal and objective of this program shall be to accelerate the development and commercialization of underground coal gasification. In carrying out this program, the Secretary shall give equal consideration to all ranks of coal.

(b) Demonstration Projects.—As part of the program authorized in subsection (a), the Secretary shall solicit proposals for at least one demonstration project of underground coal gasification technology and may provide financial assistance for any project that has a reasonable expectation to fulfill the goal and objective of subsection (a).

(c) Cost-Sharing.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) Authorization.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Sec. 14105. Low-Rank Coal Research and Development.—(a) Program.—The Secretary shall pursue a program of research and development with respect to the technologies needed to expand the use of low-rank coals which take into account the unique properties of lignites and sub-bituminous coals, including, but not limited to the following areas—

(1) high value-added carbon products;

(2) fuel cell applications;

(3) emissions control and combustion efficiencies;

(4) coal water fuels and underground coal gasification;

(5) distillates; and

(6) any other technologies which will assist in the development of niche markets for lignites and sub-bituminous coals.

(b) Implementation.—In carrying out this program, the Secretary shall enter into contracts, cooperative agreements and jointly sponsored research programs with, and provide grants to, qualified persons and use any other means deemed appropriate by the Secretary.

(c) Authorization.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Sec. 14106. Magnetohydrodynamics.—(a) Program.—The Secretary shall carry out a proof-of-concept program in magnetohydrodynamics. The purpose of this program shall be to prove the adequacy of the engineering and design information required to successfully design, construct, and operate an MHD retrofit plant based upon conceptual designs of a "MHD Retrofit System to a Coal Fired Generating Plant," which have been completed under Department of Energy contracts.

(b) Solicitation of Proposals.—In order to carry out the program authorized in subsection (a), the Secretary shall solicit proposals from the private sector and seek to enter into an agreement with appropriate parties.

(c) Cost-Sharing.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) Extension of Program.—The Secretary may extend if necessary the completion date for the proof-of-concept program to September 30, 1995.

(e) Authorization.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Sec. 14107. Coal Fired Locomotives.—(a) The Secretary shall conduct a research, development, and demonstration program for utilizing "ultra-clean coal-water slurry" in diesel locomotive engines. The program shall address, but not be limited to, the following—

(1) required engine retrofit technology;

(2) coal-fuel production technology;

(3) emission control requirements;

(4) the testing of low-Btu highly reactive fuels;

(5) fuel delivery and storage systems requirements; and

(6) other infrastructure required to support commercial deployment.

(b) Authorization.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Sec. 14108. Coal Exports.—(a) Plan.—Within one hundred and eighty days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, the Secretary of State, and the United States Trade Representative, shall submit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a plan for expanding the export of United States coal.

(b) Plan Contents.—Such plan shall include—

(1) identification of the location, size and projected growth in potential foreign markets for coal produced in the United States;

(2) identification by country of the existence of barriers to United States coal exports, including foreign coal production and utilization subsidies, tax treatment, labor practices, tariffs, quotas, and other nontariff barriers;

(3) recommendations and an action plan for addressing any such barriers;

(4) an evaluation of existing United States infrastructure, and any new infrastructure requirements within the United States to support an expansion of United States coal exports, including ports, vessels, rail lines, and any other supporting infrastructure; and

(5) identification of opportunities for blending United States coal exports with coal indigenous to the importing country to enhance energy efficiency and environmental performance.

(c) Authorization.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Sec. 14109. Clean Coal Technology Export Coordinating Council.—(a) Establishment.—There shall be established a Clean Coal Technology Export Coordinating Council (hereinafter "Council") which shall seek to facilitate and expand the export and use of clean coal technologies. The Council shall place a priority on the export and use of clean coal technologies in lesser-developed countries.

(b) Membership.—The Council shall consist of the Secretary, who shall serve as its chairperson, the Secretary of Commerce, the Secretary of State (including a designee from each of the Agency for International Development and the Trade and Development Program), the Administrator of the Environmental Protection Agency, the Secretary of the Treasury, the President and Chairman of the Export-Import Bank and the President and Chief Executive Officer of the Overseas Private Investment Corporation.

(c) Consultation.—In undertaking its responsibilities, the Council shall consult with representatives from the United States coal industry, the electric utility industry, manufacturers of equipment utilizing clean coal technology, members of organizations formed to further the goals of environmental protection or to promote the development and use of clean coal technologies, and other appropriate interested members of the public.

(d) Duties.—In furthering the purposes of this section, the Council shall, through the Department and other member agencies, exercise such authorities as may be available to it to—

(1) facilitate the establishment of technical training for the consideration, planning, construction and operation of clean coal technologies by local users and international development personnel;

(2) cause to be established within existing departments and agencies financial assistance programs, including grants, loan guarantees, and no interest and low-interest loans, to support pre-feasibility and feasibility studies for projects that will utilize clean coal technologies and loan guarantee programs, grants, and no interest and low-interest loans, designed to facilitate access to capital and credit in order to finance such clean coal technology projects;

(3) develop and execute programs, including the establishment of financial incen-

tives, to encourage and support private sector efforts to export clean coal technologies that are developed, manufactured or controlled by United States firms;

(4) encourage the training and understanding of clean coal technologies by representatives of foreign companies or countries intending to use coal or clean coal technologies by providing technical or financial support for training programs, workshops and other educational programs sponsored by United States firms;

(5) educate loan officers of the World Bank and other international lending institutions, commercial and energy attachés at embassies of the United States, and such other personnel as the Council deems appropriate, for the purposes of providing information about clean coal technologies to foreign governments or potential project sponsors of clean coal technologies;

(6) augment budgets for trade and development programs supported by member agencies of the Council for the purpose of supporting financially pre-feasibility or feasibility studies for projects that will utilize clean coal technologies;

(7) review ongoing clean coal technology projects and review and approve planned clean coal technology projects, which are sponsored abroad by any Federal Government agency to determine whether such projects are consistent with the overall goals and objectives of this section;

(8) coordinate the activities of the member agencies of the Council in order to assure that policies of the Council are implemented in a timely fashion; and

(9) undertake such other actions or activities, consistent with existing law and regulations, as may, in the judgment of the Secretary, be necessary to achieve the purposes of this section.

(e) DATA AND INFORMATION.—The Council shall be responsible for the development of a comprehensive data base and information dissemination system relating to the availability of clean coal technologies and an ongoing assessment of the potential need for such technologies particularly in lesser developed countries. The Council shall provide a country-by-country assessment of the potential for the use of clean coal technology. Such assessment shall include an analysis of the financing requirements to install such clean coal technology and whether such clean coal project is dependent upon foreign financial assistance, the availability of other fuel or energy resources that may be available to meet the energy requirements intended to be met by the clean coal technology, the priority of environmental considerations in the selection of the electric generating technology and the technical competence of those entities likely to be involved in the planning and operation of the electric generating facility. The Council shall make such information available to industry, Federal and international financing organizations, nongovernmental organizations, officials in countries where such clean coal technologies might be utilized and such others as the Council deems necessary. In developing this data base and ongoing assessment, the Council shall consult with the Committee on Renewable Energy Commerce and Trade.

(f) PLAN.—Within one hundred and eighty days after the Secretary submits the report to the Congress as required by section 409 of Public Law 101-549, the Council, in consultation with those persons referenced in subsection (c) of this section, shall provide to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a plan which details actions to be taken in order to address those recommendations and findings made in the report submitted pursuant to section 409 of Public Law 101-549. As a part of the plan required by this subsection, the Secretary shall specifically address the adequacy of financial assistance available from Federal departments and agencies and international financing organizations to aid in the financing of pre-feasibility and feasibility studies and projects that would utilize a clean coal technology in lesser developed countries.

(g) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14110. COAL FUEL MIXTURES.—Within one year following the date of enactment of this Act, the Secretary shall submit a report to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the status of technologies for combining coal with other materials, such as oil or water fuel mixtures. The report shall include—

(1) a technical and economic feasibility assessment of such technologies;

(2) projected developments in such technologies;

(3) an assessment of the market potential of such technologies, including the potential to displace imported crude oil and refined petroleum products;

(4) identification of barriers to commercialization of such technologies; and

(5) recommendations for addressing barriers to commercialization.

SEC. 14111. NATIONAL CLEARING HOUSE.—(a) ESTABLISHMENT OF CLEARING HOUSE.—(1) The Secretary shall establish a national clearing house for the exchange and dissemination of technical information on technology relating to coal and coal-derived fuels.

(2) In establishing a clearing house pursuant this section, the Secretary shall, among other things;

(A) collect information and data on technology relating to coal, and coal-derived fuels, which can be utilized to improve environmental quality and increase energy independence;

(B) disseminate to appropriate individuals, governmental departments, agencies, and instrumentalities, institutions of higher education, and other entities, information and data collected pursuant to this provision;

(C) maintain a complete library of technology publications and treatises relating to technology information and data collected pursuant to this provision;

(D) organize and conduct seminars for government officials, utilities, coal companies, and other entities or institutions relating to technology using coal and coal-derived fuels that will improve environmental quality and increase energy independence;

(E) gather information on research grants made for the purpose of improving or enhancing technology relating to the use of coal, and coal-derived fuels, which will improve environmental quality and increase energy independence;

(F) translate into English foreign research papers, articles, seminar proceedings, test results that affect, or could affect, clean coal use technology, and other documents;

(G) encourage, during the testing of technologies, the use of coal from a variety of domestic sources, and collect or develop, or both, complete listings of test results using coals from all sources;

(H) establish and maintain an index or compilation of research projects relating to clean coal technology carried out throughout the world; and

(I) conduct economic modeling for feasibility of projects.

(3) INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may select two institutions of higher education to manage and coordinate the clearing house activities. In selecting such institutions, one shall be located in a western coal producing State and one shall be located in an eastern coal producing State.

(b) GRANTS.—In carrying out the provisions of this section, the Secretary may enter into agreements with, and make grants to, the two institutions of higher education selected pursuant to paragraph (3) of subsection (a). Any such grant may be made at such time or times, in such amount, and subject to such terms and conditions as the Secretary may prescribe.

(c) COORDINATION WITH OTHER FEDERAL ENTITIES.—In carrying out the provisions of this section, the Secretary shall, from time to time, consult and coordinate his activities with other appropriate Federal departments, agencies and instrumentalities. All Federal departments, agencies, and instrumentalities shall cooperate to the fullest extent possible with the Secretary to enable him to carry out the provisions of this section.

(d) FUNDING FROM NON-FEDERAL SOURCES.—The Secretary may solicit and accept donations from non-Federal sources to assist in defraying expenses incurred in carrying out the provisions of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14112. STUDY OF UTILIZATION OF COAL COMBUSTION BYPRODUCTS.—(a) DEFINITIONS.—As used in this section, the term "coal combustion byproducts" means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials. When utilized as a product, as an ingredient thereof, or as a raw material, or when handled, transported or stockpiled for such utilization, these byproducts are considered product materials.

(b) FINDINGS.—With respect to utilization of coal combustion byproducts, the Congress makes the following findings:

(1) Coal combustion byproducts have commercial applications, including construction of bridges, highways, airports, dams, tunnels, buildings, reclamation projects, and numerous other technically proven commercial applications.

(2) The Environmental Protection Agency has reported to Congress that utilization of coal combustion byproducts has been done in an environmentally safe manner.

(3) The use of coal combustion byproducts in an environmentally safe manner is beneficial to society in the following respects—

(A) it conserves energy since these materials are byproducts of the combustion process, require no additional energy to produce, and thus conserve the energy necessary to extract and produce virgin materials;

(B) it conserves natural resources by substituting for virgin materials such as sand, gravel and soil;

(C) it lowers electricity costs to ratepayers by producing revenues from the sale of the byproducts and by avoiding disposal costs;

(D) it conserves land resources by avoiding the need for disposal facilities; and

(E) it provides superior quality construction materials at lower cost.

(4) The Federal and State governments are in a position to encourage the utilization of coal combustion byproducts.

(c) Study and Report to Congress.—(1) The Secretary shall conduct a detailed and comprehensive study on the institutional, legal and regulatory barriers to increased utilization of coal combustion byproducts by potential governmental and commercial users. Such study shall identify and investigate barriers found to exist at the Federal, State, or local level, that may have limited or may have the foreseeable effect of limiting the quantities of coal combustion byproducts that are utilized. In conducting this study, the Secretary shall consult with other departments and agencies of the Federal Government, appropriate State and local governments, and the private sector.

(2) Not later than twelve months after the date of enactment of this Act, the Secretary shall submit a report to Congress containing the results of the study required by paragraph (1) and the Secretary's recommendations for actions to be taken to increase the utilization of coal combustion byproducts. At a minimum, such report shall identify actions that would increase the utilization of coal combustion byproducts in (A) bridge and highway construction, (B) stabilizing wastes, and (C) procurement by departments and agencies of the Federal Government, by State and local governments, and in federally funded or federally subsidized procurement by the private sector.

Sec. 14113. Establishment of Data Base and Study of Coal Transportation Rates.—(a) Establishment of Data Base.—The Secretary shall establish a data base containing, to the maximum extent practicable, all transportation rates for rail, pipeline, truck, conveyor belt, barge and other modes of transporting domestic coal during the period January 1, 1988 through December 31, 1997. The confidentiality of contract rates shall be preserved and public access to the data base shall be provided under appropriate terms and conditions that protect the confidentiality of specific contract rates.

(b) Study of Coal Transportation Rates.—The Secretary shall study the rates and distribution patterns of domestic coal to determine the impact of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (Public Law 101-549) and other Federal policies on such rates and distribution patterns. The study shall consider, among other factors—

(1) the extent to which coal transportation rate increases occur as a result of the enactment of the Clean Air Act and other Federal policies;

(2) any increases or decreases in the revenue to variable cost ratios of railroad coal transportation rates during the period of the study and the percentage of the delivered price of coal to electric generating facilities that is attributable to coal transportation rates, during this period;

(3) any changes in the distribution patterns of coal among the various regions of the Nation during the study period; and

(4) any electricity rate increases or decreases in the various regions of the Nation during the period of study that are attributable to coal transportation costs.

(c) Reports to Congress.—The Secretary shall submit an interim report to Congress on January 1, 1993, and a final report to Congress, together with any recommendations, on January 1, 1995. The Secretary shall submit an additional report to Congress, with recommendations, on January 1, 1998. The Administrator of the Energy Information Administration and the Chairmen of the Federal Energy Regulatory Commission and the Interstate Commerce Commission shall cooperate fully with the Secretary in the development of the data base and studies authorized by this section.

Sec. 14114. Assistance to Small Coal Operators.—(a) Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended to read as follows:

"(c)(1) If the regulatory authority finds that the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application:

"(A) The determination of probable hydrologic consequences required by subsection (b)(11), including the engineering analyses and designs necessary for the determination.

"(B) The development of cross-section maps and plans required by subsection (b)(14).

"(C) The geologic drilling and statement of results of test borings and core samplings required by subsection (b)(15).

"(D) The collection of archaeological information required by subsection (b)(13) and any other archaeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.

"(E) Pre-blast surveys required by section 515(b)(15)(E).

"(F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act.

"(2) The Secretary shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection.".

(b) Reimbursement of Costs.—Section 507 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257) is amended by adding at the end thereof the following new subsection:

"(h) A coal operator that has received assistance pursuant to subsection (c) (1) or (2) shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.".

Subtitle B—Electricity

Sec. 14202. Excess Capacity Study.—The Secretary shall study and report to Congress by June 30, 1992, on any physical impediments to the transfer of excess electrical energy from regions of the country having surpluses to regions of the country having shortages and the reasons therefor.

Sec. 14203. Calculation of Avoided Cost.—Nothing in section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) requires a State regulatory authority or nonregulated electric utility to treat a cost reasonably identified to be incurred or to have been incurred in the construction or operation of a facility or a project which has been selected by the Department of Energy and provided Federal funding pursuant to the Clean Coal Program authorized by Public Law 98-473 as an incremental cost of alternative electric energy.

Sec. 14204. Clean Coal Technology Regulatory Incentives.—(a) Definition.—For purposes of this section, the term "clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or postcombustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of enactment of this title.

(b) Federal Rate Incentives.—(1) Within twenty-four months after enactment of this section, the Federal Energy Regulatory Commission shall complete a rulemaking to establish a demonstration program for regulatory incentives to promote the development of clean coal technologies and other innovative control technologies that limit power plant emissions. The regulatory incentives shall include—

(A) establishment of an incentive rate of return for clean coal or other innovative emission control technologies that recognizes their inherent risk; and

(B) allowance of a ten- to twenty-year amortization period to recover the capital costs of a clean coal or other innovative emission control technology.

(2) The Federal Energy Regulatory Commission demonstration program is subject to the following—

(A) the program initially will have a five-year life;

(B) the program will cover no more than four units in each technology class; and

(C) the technology classes eligible for the program should be reasonably likely to realize significant cost reductions when employed.

(3) At the end of the five-year demonstration program, the Federal Energy Regulatory Commission shall review the merits of the program and determine whether it should be extended or made permanent.

(c) FERC Preapproval of Prudence for Clean Coal Technology Costs.—The Federal Energy Regulatory Commission shall establish a process for negotiating with potential developers of clean coal technology or other innovative control technology projects to agree upon cost caps for future projects and preapproval of the prudency of expenses for those projects if the expenses fall within the agreed-upon cap.

(d) Priority for Units Located in States With Incentive Programs.—To the extent practicable, the Federal Energy Regulatory Commission shall, in the selection of units which will be provided incentive rate treatment under subsections (b) or (c), give priority to units located in states where—

(1) the State regulatory commission with jurisdiction over the retail rates of the utility seeking such incentive rate treatment has approved comparable incentives for inclusion in the utility's retail rates, or, if the utility makes no retail sales, where comparable retail rate treatment has been approved for other utilities which make retail sales in the State or States in which the wholesale customers of the utility seeking

such incentive rate treatment are located; and

(2) the State regulatory commission accords, to the extent relevant and within its jurisdiction, similar incentives to noninvestor-owned utilities on a basis no less favorable than that accorded to investor-owned utilities within its jurisdiction.

(e) ENCOURAGEMENT OF STATE INCENTIVE PROGRAMS.—(1) Because the use of clean coal technologies is in the Nation's interest, States, including their agencies and political subdivisions which regulate public utility rates and charges, are encouraged to provide additional incentives for their implementation. Those incentives may include, but are not limited to—

(A) preapproval of recovery of capital costs and other expenses, within reasonable bounds agreed upon before project construction;

(B) elimination of retroactive 'used and useful' reviews for clean coal technologies;

(C) rapid amortization of clean coal technology expenditures; and

(D) immediate recovery of a portion of clean coal technology expenses through a fuel adjustment clause or by some other method.

(2) REPORT OF THE SECRETARY.—(A) Within one year after the date of enactment of this Act, the Secretary shall report to Congress on his progress in encouraging State regulatory authorities to provide regulatory incentives to utilities to invest in clean coal technologies. Such report shall include detailed information on programs initiated by the Department of Energy to encourage such State action and shall describe any regulatory incentives that have been adopted by States as a result of actions taken by the Secretary.

(B) The report required under subparagraph (A) shall also include recommendations, if any, on further action that could be taken by the Department of Energy, other Federal agencies, or the Congress in order to encourage State regulatory authorities to provide regulatory incentives.

Subtitle C—Innovative Technology Transfer

SEC. 14301. INNOVATIVE CLEAN COAL AND RENEWABLE ENERGY TECHNOLOGY TRANSFER PROGRAM.—(a) IN GENERAL.—The Secretary shall, in consultation with the Clean Coal Technology Export Coordinating Council and the Committee on Renewable Energy Commerce and Trade, undertake a clean coal and renewable energy technology transfer program designed to encourage the utilization of United States technologies in commercial demonstration energy technology projects to be proposed by United States firms in host nations.

(b) PURPOSE.—The purpose of the energy technology transfer program under this section is to—

(1) reduce the United States balance of trade deficit through the export of United States energy technologies and technological expertise;

(2) retain jobs in the United States through the manufacturing of capital goods associated with new energy technology projects located in other nations;

(3) encourage the foreign commerce in, and use of, commercially available United States technologies in those nations that have determined a need to construct facilities to provide useful energy derived from coal or renewable energy resources;

(4) develop markets for United States technologies and, where appropriate, United States coal resources, to be utilized in meeting the energy and environmental requirements of other nations;

(5) better ensure that United States participation in energy-related projects in other nations includes—

(A) participation by United States firms; and

(B) utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs; and

(6) provide for the accelerated demonstration of United States technologies that will serve to introduce into other nations United States technologies that—

(A) use coal or renewable energy resources in a cost-effective and environmentally acceptable manner; and

(B) serve to ensure the introduction of United States firms and expertise in those nations.

(c) IDENTIFICATION.—(1) The Secretary shall—

(A) after consultation with the Clean Coal Technology Export Coordinating Council and the Committee on Renewable Energy Commerce and Trade regarding the data and information obtained by the Council pursuant to section 14109(e) of this title, identify energy technology projects that may be developed in host nations that would be candidates for the application of a clean coal technology or a renewable energy technology;

(B) consult with appropriate government officials of a host nation, and, as appropriate, with representatives of non-United States electric utilities or other non-United States entities, to determine the interest in and support for an energy technology project that is identified under subparagraph (A).

(2) Within 240 days after the date of enactment of this Act, and subsequently as appropriate, the Secretary shall publish in the Federal Register and the Commerce Business Daily a list specifying those clean coal technology or renewable energy technology projects identified under paragraph (A) which, in the judgment of the Secretary, there is a reasonable likelihood will be proposed under the authorities provided by this section.

(d) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Within 120 days after issuance of the list in subsection (c)(2), and subsequently as appropriate thereafter, the Secretary shall issue a request for proposals from United States firms for the design, construction, testing, and operation of the energy technology project or projects specified on such list which propose to utilize a United States technology. Such request for proposals shall enable the Secretary to accept proposals on a continuous basis after the initial publication of the request for proposals.

(2) Requests for proposals shall include the following requirements:

(A) Unless otherwise herein specified, the request for proposals shall be governed by the requirements and procedure set forth in RFP No. DE-PS01-90FE62271 Clean Coal Technology IV as administered by the Department of Energy.

(B) The host nation in which the project is to be located shall be a participant in the proposed project and shall agree to provide, in combination with any non-United States entity participant, directly or indirectly, at least 50 percent of the cost of the project or such greater amount as may be warranted by the financial circumstances of the host nation and any non-United States entity participant, as determined by the Secretary.

(C) The project shall utilize a United States energy technology and, where appropriate, United States coal resources, in meeting the applicable energy and environmental requirements of the host nation.

(D) The project shall be proposed by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(E) At least 50 percent of the cost of any equipment furnished in connection with an energy technology project authorized under this section shall be attributable to the components of such equipment manufactured in the United States. In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host nation shall not be considered a part of the cost of such United States component.

(e) SELECTION OF PROJECTS.—(1) The Secretary, in consultation with the Clean Coal Technology Export Coordinating Council or the Committee on Renewable Energy Commerce and Trade, may, not later than 120 days after receipt of proposals in response to the initial solicitation under subsection (d), select at least two proposals for negotiation of cooperative agreements under this section.

(2) In selecting a proposal and in negotiating a cooperative agreement under this section, the Secretary shall consider—

(A) the ability of the United States firm, in cooperation with the host nation, to undertake and complete the proposed commercial demonstration project;

(B) the degree to which the furnished equipment to be included in the energy technology project is manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host nation and in other nations;

(D) the extent of technical and financial involvement of the host nation in the commercial demonstration project;

(E) the extent to which the proposed energy technology project meets the objectives stated in subsection (b) of this section; and

(F) such other criteria as the Secretary deems appropriate.

(3) The Secretary, in consultation with appropriate Federal officials, may establish eligibility criteria for host nations.

(f) COST-SHARING.—(1) The Secretary may provide financial assistance to any energy technology project for which a cooperative agreement is entered into pursuant to this section. Such financial assistance may be in the form of grants, or no interest or low interest loans.

(2)(A) Any financial assistance under this subsection may not be greater than 50 percent of the total costs directly and specifically related to any energy technology project which is the subject of a cooperative agreement under this section.

(B) Any financial assistance provided under this section shall be repayable to the United States if, in the judgment of the Secretary, such repayment will not jeopardize the competitive position of the United States firm with respect to the energy technology utilized and technological expertise associated with the selected project.

(g) REPORTS TO CONGRESS.—The Secretary shall report annually to the Committee on Energy and Natural Resources of the Senate and the House of Representatives on the progress being made, through the cooperative agreements under this section, to introduce clean coal technologies and renewable energy technologies into other nations.

(h) DEFINITIONS.—For purposes of this section, the term—

(1) "host nation" means that foreign country which is—

(A) the participant in or the site of the proposed clean coal technology or renewable energy technology project and

(B) classified as either—

(i) a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(ii) a category II or category III country as classified under the guidelines of the export credit arrangement of the Organization for Economic Cooperation and Development followed by the Export-Import Bank of the United States.

(2) "United States firm" means—

(A) an individual possessing United States citizenship;

(B) a corporation incorporated under the laws of the United States; or

(C) a joint venture or partnership organized under the laws of the United States, each participant of which is an individual or corporation described in subparagraph (A) or (B).

(3) "United States energy technology" means—

(A) a clean coal technology or a renewable energy technology that is determined by the Secretary to be available for commercial use but not widely demonstrated in other than the United States;

(B) a technology which is either owned (50 percent or more) by a United States firm, licensed to a United States firm and owned by another United States firm, or in the public domain; and

(C) the intellectual property embodied in the process and in the furnished equipment being demonstrated.

SEC. 14302. CONVENTIONAL COAL TECHNOLOGY TRANSFER.—(a) If the Clean Coal Technology Export Coordinating Council determines that a United States conventional coal technology would constitute a substantial improvement in efficiency, costs, and environmental performance relative to the energy technology being used in a less developed country with significant indigenous coal resources, such technology shall, for purposes of sections 14109 and 14301, be considered a clean coal technology. In the case of combustion technologies, only the retrofit, repowering, or replacement of a conventional technology shall constitute a substantial improvement for purposes of this section.

(b) In carrying out this subtitle, the Council shall give highest priority to promoting the most environmentally sound and energy efficient technologies.

TITLE XV—PUBLIC UTILITY HOLDING COMPANY ACT REFORM

SEC. 15101. EXEMPT WHOLESALE GENERATORS.—(a) DEFINITIONS.—For purposes of this title, the term—

(1) "exempt wholesale generator" means any person who: (A) is engaged directly, or indirectly through one or more affiliates of such person, as defined under section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(11)(B)), exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale, but such term excludes an affiliate of a registered holding company which was in existence as of the date of enactment of this title, unless the Commission has consented to such affiliate being an exempt wholesale generator; and (B) provides notice to the Commission, in such form as the Commission may prescribe, that such person is an exempt wholesale generator;

(2) "eligible facility" means a facility, wheresoever located, used for the generation of electric energy exclusively for sale at wholesale, including inter-connecting transmission facilities necessary to effect such sale at wholesale, but shall exclude any facility for which consent is required under subsection (c) if such consent has not been obtained. For purposes of this definition, the term "facility" shall include a portion of a facility and shall include a facility the construction of which has not been commenced or completed;

(3) "sale of electric energy at wholesale" shall have the same meaning as provided in section 201(d) of the Federal Power Act, as amended (16 U.S.C. 824(d));

(4) "retail rates and charges" means rates and charges for the sale of electric energy directly to consumers;

(5) "Commission" means the Securities and Exchange Commission; and

(6) "the Act" means the Public Utility Holding Company Act of 1935, as amended (15 U.S.C. 79 et seq.).

(b) APPLICABILITY OF DEFINITIONS IN PUHCA.—All of the terms used in this title and defined in the Act shall have the same meanings as defined therein.

(c) STATE CONSENT FOR ELIGIBLE FACILITIES.—If a rate or charge for, or in connection with, the construction of a facility, or for electric energy produced by a facility (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge) was in effect under the laws of any State as of the date of enactment of this title, in order for the facility to be considered an eligible facility consent must be obtained from every State commission having jurisdiction over any such rate or charge: *Provided*, That in the case of such a rate or charge which is a rate or charge of an affiliate of a registered holding company: (1) consent with respect to the facility in question shall be required from every State commission having jurisdiction over the retail rates and charges of the affiliates of such registered holding company; and (2) the approval of the Commission under the Act shall not be required for the transfer of the facility to an exempt wholesale generator.

(d) EXEMPTION OF EWGS FROM PUHCA.—An exempt wholesale generator shall not be considered an electric utility company under section 2(a)(3) of the Act and, whether or not a subsidiary company, an affiliate, or an associate company of a holding company, shall be exempt from all provisions of the Act.

(e) OWNERSHIP OF EWGS BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of the Act, a holding company that is exempt under section 3 of the Act shall be permitted without condition or limitation under the Act to acquire and maintain an interest in the business of one or more exempt wholesale generators.

(f) OWNERSHIP OF EWGS BY REGISTERED HOLDING COMPANIES.—Notwithstanding any provision of the Act and the Commission's jurisdiction as provided under subsection (g) of this section, a registered holding company shall be permitted (without the need to apply for, or receive, approval from the Commission, and otherwise without condition under the Act), to acquire and hold the securities, or an interest in the business, of one or more exempt wholesale generators.

(g) FINANCING AND OTHER RELATIONSHIPS BETWEEN EWGS AND REGISTERED HOLDING COMPANIES.—The issuance of securities by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, the guarantee of securities of an exempt wholesale generator by a registered holding company, the entering into service, sales or construction contracts, and the creation or maintenance of any other relationship in addition to that described in subsection (f) between an exempt wholesale generator and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under the Act: *Provided*, That—

(1) section 11 of the Act shall not prohibit the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located), and such ownership by a registered holding company shall be deemed consistent with the operation of an integrated public utility system;

(2) the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located) shall be considered as reasonably incidental, or economically necessary or appropriate to the operations of an integrated public utility system;

(3) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, or (B) the guarantee of a security of an exempt wholesale generator by a registered holding company, the Commission shall not make a finding that such security is not reasonably adapted to the earning power of such company or to the security structure of such company and other companies in the same holding company system, or that the circumstances are such as to constitute the making of such guarantee an improper risk for such company, unless the Commission first finds that the issue or sale of such security, or the making of the guarantee, would have a substantial adverse impact on the financial integrity of the registered holding company system;

(4) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes other than the acquisition of an exempt wholesale generator, or (B) other transactions by such registered holding company or by its subsidiaries other than with respect to exempt wholesale generators, the Commission shall not consider the effect of the capitalization or earnings of any subsidiary which is an exempt wholesale generator upon the registered holding company system, unless the approval of the issue or sale or other transaction, together with the effect of such capitalization and earnings, would have a substantial adverse impact on the financial integrity of the registered holding company system; and

(5) the Commission shall make its decision under paragraph (3) to approve or disapprove the issue or sale of a security or the guarantee of a security within 120 days of the filing of a declaration concerning such issue, sale or guarantee.

SEC. 15102. OWNERSHIP OF EXEMPT WHOLESALE GENERATORS AND QUALIFYING FACILITIES.—The ownership by a person of one or more exempt wholesale generators shall not result in such person being considered as being primarily engaged in the generation or sale of electric power within the meaning of sections 3(17)(C)(ii) and 3(18)(B)(ii) of the Federal Power Act, as amended (16 U.S.C. 796 (17)(C)(ii) and 796(18)(B)(ii)).

Sec. 15103. Prevention of Stranded Investment.—The Federal Energy Regulatory Commission shall not approve a rate or charge for the sale of electric energy at wholesale by an exempt wholesale generator if such sale of electric energy would result in a State commission not permitting such purchaser to recover in retail rates and charges any portion of its capital investment in an electric generation facility:

(a) which facility was under construction as of the date of enactment of this section; or

(b) upon which portion such purchaser has previously been permitted to earn a rate of return in retail rates and charges subject to such State commission's jurisdiction.

Sec. 15104. Prevention of Sham Wholesale Transactions.—The Federal Energy Regulatory Commission shall not approve a rate or charge for the sale of electric energy at wholesale by an exempt wholesale generator if:

(a) such electric energy would be resold by the purchaser to any electric consumer; and

(b) the purchaser: (1) is not a municipal electric system, state power authority, electric power cooperative or a public utility under State law; or (2) would not utilize transmission or distribution facilities owned by such purchaser to deliver all such electric energy to such electric consumer.

Sec. 15105. Protection Against Abusive Affiliate Transactions; State Authorities; Federal Restriction; Reciprocal Arrangements Prohibited.—(a) In General.—An electric utility company may not enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator if the exempt wholesale generator is an affiliate or associate company of the electric utility company.

(b) State Authority To Exempt From Prohibition.—Notwithstanding subsection (a), an electric utility company may enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator that is an affiliate or associate company of the electric utility company if every State commission having jurisdiction over the retail rates of such electric utility company makes a specific determination in advance of the electric utility company entering into such contract that the transaction will benefit consumers, is in the public interest, and does not violate any State law (including where applicable, least cost planning).

(c) Sale Just and Reasonable.—A rate or charge for the sale of electric energy at wholesale in interstate commerce by an exempt wholesale generator shall not be considered just and reasonable within the meanings of sections 205 and 206 of the Federal Power Act if the rate or charge allows the exempt wholesale generator to receive any unfair advantage resulting from the fact that the purchaser of such electric energy is an affiliate or associate company of such exempt wholesale generator.

(d) Reciprocal Arrangements Prohibited.—Reciprocal arrangements among companies that are not affiliates or associate companies of each other that are entered into in order to avoid the provisions of this section are prohibited.

Sec. 15106. State Authority.—Section 209 of the Federal Power Act (16 U.S.C. 824h) is amended by adding at the end the following new subsection:

"(d)(1) Except as set forth in paragraph (2), nothing in this Act shall limit the authority of a State commission in accordance with State law to allow or disallow the inclusion of the costs of electric energy purchased at wholesale in retail rates subject to such State commission's jurisdiction: *Provided*, That the State commission shall have no authority to determine the reasonableness of the wholesale rate or charge (and the terms and conditions thereof): *Provided further*, That at the request of a utility which has been offered a sale of electric energy at wholesale from an exempt wholesale generator, any State commission with jurisdiction over the retail rates of such utility shall commit to allow or disallow recovery of costs attributable to the utility's proposed action with regard to the offer in advance of the effective date of the action, except that the State may include terms or conditions as a condition of cost recovery as it deems appropriate. The action of the State commission in allowing cost recovery or conditionally allowing cost recovery shall be binding (subject to the terms and conditions, if any of such cost recovery) for purposes of the inclusion of costs in retail rates, except that such commission shall not be bound to the extent there is new information which the State commission believes is relevant and material to such cost recovery.

"(2) An order by the Commission accepting or establishing as just and reasonable the terms of an agreement for the sale and purchase or interchange of electric energy among affiliates of a registered holding company shall preempt the authority of any State commission to determine the prudence of any purchase of electric energy pursuant to that agreement.

"(3) Paragraph (2) shall not apply to: (A) the purchase of electric energy at wholesale by an affiliate of a registered holding company from an exempt wholesale generator; or (B) the purchase of electric energy at wholesale by an affiliate of a registered holding company from a person other than an exempt wholesale generator when the economic substance of such purchase amounts to an indirect purchase of electric energy from an exempt wholesale generator. For purposes of this subsection (d), energy purchased by an affiliate of a registered holding company as a result of the operation of an integrated holding company shall not be deemed to be an indirect purchase of electric energy from an exempt wholesale generator.

"(4) For purposes of this subsection the term—

"(A) 'exempt wholesale generator' has the same meaning as provided in title XV of the National Energy Security Act of 1992;

"(B) 'affiliate' and 'registered holding company' have the same meanings as provided in the Public Utility Holding Company Act of 1935;

"(C) 'purchase of electric energy at wholesale' means a purchase of electric energy by any person for resale; and

"(D) 'retail rates' means rates and charges for the sale of electric energy to consumers.".

Sec. 15107. State Consideration of the Effects of Power Purchases on Utility Cost of Capital; Consideration of the Effects of Leveraged Capital Structures on the Reliability of Wholesale Power Sellers; and Consideration of Adequate Fuel Supplies.—The Public Utility Regulatory Policies Act of 1978 (Public Law 95-617), as amended, is further amended by inserting the following new paragraph at the end of section 111:

"(8) Consideration of the Effects of Wholesale Power Purchases on Utility Cost of Capital; Effects of Leveraged Capital Structures on the Reliability of Wholesale Power Sellers; and Assurance of Adequate Fuel Supplies.—

"(A) To the extent that a State regulatory authority requires or allows electric utilities for which it has ratemaking authority to consider the purchase of long-term wholesale power supplies as a means of meeting electric demand, such authority shall:

"(i) perform a general evaluation of (A) the potential for increases or decreases in the costs of capital for such utilities, and any resulting increases or decreases in the retail rates paid by electric consumers, that may result from purchases of long-term wholesale power supplies in lieu of the construction of new generation facilities by such utilities (B) the impact on consumers arising from the fact that the exempt wholesale generator will own the eligible facility at the end of the term of a power sales contract;

"(ii) perform a general evaluation of any negative or positive effects on the reliability of electric service provided by such utilities that may result from purchases of long term wholesale power supplies from sellers that have capital structures which employ proportionally greater amounts of debt than the capital structures of such utilities;

"(iii) hold a proceeding to consider whether the use by exempt wholesale generators (as defined in title XV of the National Energy Security Act of 1992) of capital structures employing less than 35 percent equity threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities;

"(iv) implement procedures for the advance approval or disapproval of the purchase of a particular long term wholesale power supply which procedures reflect the results of evaluations under clauses (i), (ii) and (iii) ; and

"(v) require as a condition for the approval of the purchase of a particular long term wholesale power supply that the seller provide reasonable assurance of its access to sources of fuel adequate to perform its obligations under the terms of the contract for the sale of such power supply.

"(B) For purposes of implementing the provisions of this paragraph, any reference contained in this title to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of the National Energy Security Act of 1992.

"(C) Notwithstanding any other provision of Federal law, nothing in this paragraph shall prevent a State regulatory authority from taking such action, including action with respect to the allowable capital structure of exempt wholesale generators, as such State regulatory authority may determine to be in the public interest as a result of performing evaluations under the standards of subparagraph (A).

"(D) Notwithstanding section 124 and paragraphs (1) and (2) of section 112(a), each State regulatory authority shall consider and make a determination concerning the standards of subparagraph (A) in accordance with the requirements of subsections (a) and (b) of this section, without regard to any proceedings commenced prior to the enactment of this paragraph.

"(E) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than one year after the date of enactment of this paragraph.".

SEC. 15108. STATE COMMISSION ACCESS TO BOOKS AND RECORDS; PUBLIC ACCESS TO RECORDS AND INFORMATION; DEFINITION.—(a) ACCESS TO BOOKS AND RECORDS.—Each affected State commission shall have continuing and periodic access to relevant financial and other records of the exempt wholesale generator and any electric utility company that is an affiliate or associate company of such exempt wholesale generator relevant to the exercise of such affected State commission's authority. The records to be provided hereunder shall be specified by the affected State commission and may include: (1) all books and records which the exempt wholesale generator would be required to furnish under State law if such company were an electric utility company making retail sales subject to the jurisdiction of such affected State commission; (2) all contracts to which the exempt wholesale generator is a party relating to the financing, construction or operation of eligible facilities used to produce electric energy sold or to be sold by such exempt wholesale generator; and (3) any other records or information of the exempt wholesale generator or any electric utility company that is an affiliate or associate company of such exempt wholesale generator that are relevant to the exercise of such affected State commission's authority. All records and information provided hereunder shall be open to public inspection, and shall be subject to subpoena and other process of law, to the same extent and in the same manner as comparable records and information of electric utility companies under applicable law: *Provided further*, That trade secrets and other sensitive commercial information shall be exempt from public disclosure or disclosure to potential competitors of such exempt wholesale generator by an affected State commission and shall not be provided to a State commission unless such commission has in place procedures for protecting the confidentiality of such information.

(b) AFFECTED STATE COMMISSION.—For purposes of this section, with respect to a particular exempt wholesale generator an "affected State commission" means any State commission:

(1) having authority over the retail rates of an electric utility company to which such exempt wholesale generator sells electric energy;

(2) having authority over the retail rates of an electric utility company which is an affiliate of such exempt wholesale generator; or

(3) having authority over the retail rates of an electric utility company which is an associate company of such exempt wholesale generator and which is a subsidiary company of a holding company that is exempt under section 3 of the Act.

(c) NONPREEMPTION.—Nothing in this section shall—

(1) preempt applicable State law concerning the provision of records and other information; or

(2) in any way limit rights to obtain records and other information under Federal law, contracts, or otherwise.

SEC. 15109. PUBLIC UTILITY HOLDING COMPANIES TO OWN INTERESTS IN COGENERATION FACILITIES.—That Public Law 99-186 (99 Stat. 1180, as amended by Public Law 99-553, 100 Stat. 3087), be amended to read as follows:

"SECTION 1. Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935, a company registered under said Act, or a subsidiary company of such registered company, may acquire or retain, in any geographic area, an interest in any qualifying cogeneration facilities and qualifying small power production facilities as defined pursuant to the Public Utility Regulatory Policies Act of 1978, and shall qualify for any exemption relating to the Public Utility Holding Company Act prescribed pursuant to section 210 of the Public Utility Regulatory Policies Act.

"SEC. 2. Nothing herein shall be construed to affect the applicability of section 3(17)(C) or section 3(18)(B) of the Federal Power Act or any provision of the Public Utility Holding Company Act, other than section 11(b)(1), to the acquisition or retention of any such interest by any such company.".

TITLE XVI—STRATEGIC PETROLEUM RESERVE

SEC. 16101. OIL SECURITY PROTECTION.—(a) Title I of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6201) is amended—

(1) in section 152, by striking "and part C" and inserting in lieu thereof ", part C, and part D" in the material preceding paragraph (1);

(2) by redesignating part D as part E;

(3) by redesignating section 181 as section 191; and

(4) by adding the following new part after part C:

"PART D—ADDITIONAL OIL SECURITY PROTECTION

"SHORT TITLE

"SEC. 181. This part may be cited as the 'Strategic Petroleum Reserve Enhancement Act of 1992'.

"PURPOSES

"SEC. 182. The purposes of this part are to—

"(1) complete, at the earliest practicable date, storage of seven hundred and fifty million barrels of petroleum products in the Strategic Petroleum Reserve;

"(2) facilitate progress, as rapidly as practicable, toward establishment of a one billion barrel Strategic Petroleum Reserve;

"(3) authorize establishment of a Defense Petroleum Inventory of at least ten million barrels of petroleum products;

"(4) initiate, at the earliest practicable date, the acquisition of petroleum product pursuant to section 171 of the Energy Policy and Conservation Act of 1990;

"(5) acquire by purchase, exchange, or other arrangement, from one or more foreign governments, petroleum products for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory; and

"(6) provide the President with broad and flexible authority to achieve these objectives.

"COMPLETION OF 750 MILLION BARREL RESERVE

"SEC. 183. (a) The President shall initiate such actions as are necessary to complete storage of seven hundred and fifty million barrels of petroleum products in the Strategic Petroleum Reserve at the earliest practicable time. Such actions may include the alternatives in section 185.

"ENLARGEMENT OF RESERVE BEYOND 750 MILLION BARRELS

"SEC. 184. The President shall initiate such actions as are necessary to enlarge the Strategic Petroleum Reserve to one billion barrels as rapidly as possible. Such actions may include—

"(1) either of the alternatives described in section 185; and

"(2) the contracting for petroleum products for storage in facilities not owned by the United States.

"ACQUISITION OF PETROLEUM PRODUCTS

"SEC. 185. (a) The President, acting through the Secretary of Energy, may—

"(1) acquire by purchase, exchange, or other arrangement, from one or more foreign governments, without the necessity for competitive procurement, petroleum products for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory; and

"(2) contract, without regard to sections 171(b)(2)(B) and 173 of the Energy Policy and Conservation Act (42 U.S.C. 6349(b)(2)(B)), or to the restrictions which Public Law 101-512 imposes on the leasing of crude oil, for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory of petroleum products owned by one or more foreign governments.

"(b) The Secretary may utilize such funds as are available in the SPR Petroleum Account to carry out the activities described in subsection (a), and may obligate and expend such funds to carry out those activities, in advance of the receipt of petroleum products.

"(c) For the purpose of this part, the term 'foreign government' means a foreign government, a foreign State-owned oil company, or an agent of either.

"(d)(1) If the President finds that declines in the production of oil from domestic resources pose a threat to national energy security, the President may direct the Secretary of Energy to acquire oil from domestic production of stripper well properties for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory. Except as provided in paragraph (d)(2), the Secretary may set such terms and conditions as he deems necessary for such acquisition.

"(2) Crude oil purchased by the Secretary pursuant to this section shall be by competitive bid. The price paid by the Secretary shall take into account the cost of production including costs of reservoir and well maintenance.

"(3) The President may also direct the Secretary of the Interior to take such actions as are within his power to provide incentives for conservation of the oil production from stripper wells located upon the public lands.

"(4) For the purpose of this section, the terms—

"(A) "domestic production" means any crude oil produced in the United States by any person; and

"(B) 'stripper well property' means any well located in the United States which produces an average of 15 or less barrels of crude oil per production day.".

(b) Part B of title I of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6215 et seq.) is amended by adding after section 167 the following new section:

"DEFENSE PETROLEUM INVENTORY

"SEC. 168. (a) Notwithstanding any other provision of this part, the Secretary may—

"(1) acquire or construct, operate and maintain storage and facilities associated with a Defense Petroleum Inventory of at least ten million barrels of crude oil to meet petroleum product requirements of the Department of Defense; and

"(2) acquire and store crude oil therein.

"(b)(1) The acquisition and storage of crude oil in the Defense Petroleum Inventory shall be in addition to any acquisition or storage of crude oil for the Strategic Petroleum Reserve required by any other law, and crude oil acquired and stored under this section shall not be counted as part of the Strategic Petroleum Reserve.

"(2) In carrying out the functions authorized by this section, the Secretary may exercise any authority available under this part.

"(c)(1) Notwithstanding any other provision of this part, upon the request of the Secretary of Defense, crude oil acquired for or dedicated by the Defense Petroleum Inventory shall be drawn down and distributed by the Secretary to, or on behalf of, the Department of Defense for use, sale, or exchange. Crude oil in the Defense Petroleum Inventory may be drawn down and distributed, used, sold, or exchanged, without regard to—

"(A) whether the crude oil has been commingled with petroleum products of the Strategic Petroleum Reserve;

"(B) the requirements of this part concerning drawdown of the Strategic Petroleum Reserve; or

"(C) otherwise applicable Federal contracting statutes and regulations.

"(2) The Secretary of Energy shall exercise the authority provided by this subsection in a manner which does not adversely affect drawdown of the Strategic Petroleum Reserve.

"(d) Upon the request of the Secretary of Defense, and subject to the availability of funds from the Department of Defense, the Secretary shall acquire and store in the Defense Petroleum Inventory crude oil to replace crude oil drawn down under subsection (c).

"(e) An amendment to the Strategic Petroleum Reserve Plan relating to the exercise of this authority shall not be required.

"(f) The Department of Defense shall reimburse the Secretary of Energy for—

"(1) all costs of acquiring and storing crude oil in the Defense Petroleum Inventory, including the cost of associated facilities construction;

"(2) drawdown and distribution services provided under this section, in amounts that the Secretary determines to be reasonable; and

"(3) all costs of acquiring crude oil for the Strategic Petroleum Reserve to replace crude oil drawn down and distributed under subsection (c).

"(g) Crude oil acquired for the Defense Petroleum Inventory under subsection (a) shall be transferred to the Strategic Petroleum Reserve, pursuant to subsection (f)(3), in reimbursement on a barrel-for-barrel basis for the cost of replacement petroleum products acquired for the Strategic Petroleum Reserve.".

(c) The table of contents of the Energy Policy and Conservation Act (Public Law 94-163) is amended—

(1) by inserting after the item for section 167 the following item:

"Sec. 168. Defense Petroleum Inventory.";

(2) by inserting at the end of the items for part C of Title I the following items:

"PART D—ADDITIONAL OIL SECURITY PROTECTION

"Sec. 181. Short title.
"Sec. 182. Purposes.
"Sec. 183. Completion of 750 million barrel reserve.
"Sec. 184. Enlargement of reserve beyond 750 million barrels.
"Sec. 185. Acquisition of petroleum products.";

(3) by redesignating Part D in the items for title I as part E; and

(4) by redesignating the item for section 181 as the item for section 191.

TITLE XVII—STRATOSPHERIC OZONE DEPLETION

SEC. 17101. FINDINGS.—The Senate finds that:

(1) The stratospheric ozone layer, which protects all living things from harmful ultraviolet radiation from the sun, has been severely depleted in many areas of the globe.

(2) Recent scientific data show that the ozone layer over densely populated areas of the United States and other countries in the northern midlatitudes has thinned twice as fast as had previously been measured and as had been projected by theoretical models and the depletion is persisting into the warmer months of the year, and has reached significant levels even in summer.

(3) Ozone depletion in the Southern Hemisphere is proceeding even more rapidly than in the Northern Hemisphere.

(4) The incidence of skin cancer and cataracts is expected to rise significantly and the human immune system may be suppressed due to increased exposure to ultraviolet radiation.

(5) Increased exposure to ultraviolet radiation threatens food crops and some wild plants, and interferes with the ability of phytoplankton, the microscopic organisms that are at the base of the oceanic food chain, to photosynthesize and to reproduce.

(6) The scientific evidence shows that chlorofluorocarbons, hydrochlorofluorocarbons, and other halogenated chemicals undergo reactions in the stratosphere that lead to the rapid destruction of the ozone layer.

(7) The Administrator of the Environmental Protection Agency is required under the Clean Air Act Amendments of 1990 to accelerate the scheduled phaseout of ozone-destroying substances if it is determined in the light of scientific evidence that a more stringent schedule is necessary to protect human health and the environment.

(8) The recent scientific findings make necessary a reappraisal of both domestic and international policy on the control of ozone-destroying chemicals.

SEC. 17102. SENSE OF THE SENATE.—It is the sense of the Senate that:

(1) The Administrator of the Environmental Protection Agency should accelerate the interim phaseout schedules and the final phaseout date of chlorofluorocarbons, carbon tetrachloride, methyl chloroform, and halons as required pursuant to section 606 of the Clean Air Act Amendments of 1990, and shall provide for complete phaseout as early as possible, taking into account section 604 of the Act.

(2) The Administrator of the Environmental Protection Agency should accelerate the interim phaseout schedule and the final phaseout date of those hydrochlorofluorocarbons that have relatively long atmospheric lifetimes or high ozone depletion potentials.

(3) The Administrator of the Environmental Protection Agency should prioritize efforts to issue regulations, as required pursuant to title VI of the Clean Air Act Amendments of 1990, providing for the recapture and recycling of ozone-destroying substances as used in appliances and motor vehicle air conditioners, and for the elimination of such substances as used in non-essential consumer products.

(4) The President of the United States should urge the Contracting Parties to the Montreal Protocol to accelerate the interim phaseout schedules and the final phaseout date of ozone-destroying chemicals currently covered by the Protocol.

(5) The President should urge the Contracting Parties to include hydrochlorofluorocarbons within the terms of the Montreal Protocol, and to provide for the most rapid phaseout of those hydrochlorofluorocarbons with relatively long atmospheric lifetimes, or high ozone depletion potentials.

(6) The President should urge the Contracting Parties to amend the Protocol to include recapture and recycling provisions and to prohibit the venting or releasing of ozone-destroying chemicals from refrigeration and air conditioning units into the atmosphere by date certain.

(7) The President should urge the Contracting Parties to accelerate the compliance of developing countries with the terms of the Montreal Protocol.

TITLE XVIII—INDIAN ENERGY RESOURCE DEVELOPMENT COMMISSION

SEC. 18101. SHORT TITLE.—This title may be cited as the "Indian Energy Resource Development Commission Act of 1992".

SEC. 18102. ESTABLISHMENT.—There is established the Indian Energy Resources Development Commission (hereafter in this title referred to as the "Commission").

SEC. 18103. MEMBERSHIP OF THE COMMISSION.—(a) MEMBERSHIP COMPOSITION.—The Commission shall consist of—

(1) 6 members appointed by the Secretary of the Interior from recommendations submitted by Indian tribal governments;

(2) 3 members appointed by the Secretary of the Interior from recommendations submitted by the Governors of States which have Indian reservations with energy resources;

(3) 9 members appointed by the Secretary of the Interior from private sector individuals with expertise in energy development, taxation of energy resources, or oil and gas royalty management administration, auditing and accounting;

(4) the Secretary of the Interior, or his designee; and

(5) the Secretary of Energy, or his designee.

(b) APPOINTMENTS.—Members of the Commission shall be appointed not later than 60 days following the date of enactment of this title.

(c) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(d) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission.

(e) QUORUM.—Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) ORGANIZATIONAL MEETING.—The Commission shall hold an organizational meeting to establish the rules and procedures of the Commission not later than 30 days after all members are first appointed to the Commission.

(g) COMPENSATION.—Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission not to exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(h) Travel.—While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

Sec. 18104. Commission Staff.—(a) Executive Director.—The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) Additional Personnel.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such appointments shall be made in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates not to exceed the rate prescribed for level GS-15 of the General Schedule under section 5108 of such title.

(c) Experts and Consultants.—Subject to such rules as may be issued by the Commission, the Chairperson may procure temporary and intermittent services of experts and consultants to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) Personnel Detail Authorized.—Upon request of the Chairperson, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title. Such detail shall be without interruption or loss of civil service status or privilege.

Sec. 18105. Duties of the Commission.—The Commission shall—

(1) identify barriers or obstacles to the development of energy resources on Indian lands, and make recommendations designed to foster the development of energy resources on Indian lands and promote economic development;

(2) develop proposals to address the dual taxation of the extraction of mineral resources on Indian lands;

(3) develop proposals for the promotion of vertical integration of the development of energy resources on Indian lands;

(4) make recommendations to improve the management, administration, accounting and auditing of royalties associated with the production of oil and gas on Indian lands; and

(5) develop proposals on taxation incentives to foster the development of energy resources on Indian lands including, but not limited to, investment tax credits and enterprise zone credits.

Sec. 18106. Powers of the Commission.—(a) Hearings.—For the purpose of carrying out this title, the Commission may hold hearings, take testimony, and receive evidence at such times and places as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) Administrative Provision.—Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) Information.—The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this title. Upon request of the Chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

Sec. 18107. Report.—The Commission shall prepare and transmit a report to the President, the Speaker of the House of Representatives, the Select Committee on Indian Affairs of the Senate, and the Committee on Energy and Natural Resources of the Senate within 12 months after funding for the operation of the Commission has been secured. The report shall contain the recommendations and proposals outlined in section 18105.

Sec. 18108. Definition of "Indian Lands".—For the purposes of this title, the term "Indian lands" means lands that are owned by an Indian tribe or Alaska Native corporation or held in trust by the United States for the benefit of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Sec. 18109. Authorization.—There are authorized to be appropriated such sums as may be necessary to carry out this title.

Sec. 18110. Termination.—The Commission shall terminate 30 days after submitting the final report required by section 18107.

TITLE XIX—GENERAL PROVISIONS

Sec. 19101. Support for United States Workers.—(a) Findings.—The Senate finds that—

(1) the United States worker is one of the most productive in the world;

(2) based on gross domestic product produced per employed person, the United States is rated number one in productivity compared to Canada, Japan, Korea, Germany, and Britain;

(3) according to a study (based on statistics from the Organization for Economic Cooperation and Development) during the mid-1980's, America produced almost twice as much as Japan for every man-hour worked;

(4) it was the hard work, dedication, and efficiency of United States workers that made the United States the number one industrial power in the world;

(5) the quality of United States products is one of the best in the world;

(6) the United States leads in many areas including computer software and hardware technology, pharmaceuticals, biotechnology, construction engineering, entertainment, agriculture, and energy and environmental control;

(7) the United States has been able to successfully export to other areas of the world;

(8) the trade deficit with Japan for 1991 is approximately $42 billion;

(9) United States and other foreign auto makers attempting to sell in Japan have less than 3 percent of the Japanese market;

(10) Japan's structural impediments, such as restrictive distribution system, exclusionary business practices, keiretsu relationships, regulatory system, land policy, and predatory pricing practices, prevent United States companies from fairly competing in Japan;

(11) Japan's tariffs and quotas on foreign agricultural goods restrict the import of United States agricultural products into Japan;

(12) Japan continues to violate United States copyright, patent, and trademark protection laws; and

(13) Japan continues to restrict foreign direct investment in certain industries, while the United States permits unrestricted foreign investment.

(b) Sense of the Senate.—It is the sense of the Senate that the Senate objects to—

(1) the comments made by Japan's Speaker of the House, Yoshio Sakurauchi, regarding American workers, and

(2) the statements made by Prime Minister Kiichi Miyazawa disparaging the American work ethic and undermining the commitment that was made with President Bush.

Sec. 19102. Amendment to Title 11 of the United States Code.—(a) Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) any interest of a debtor in or to liquid or gaseous hydrocarbons which the debtor has transferred or has agreed to transfer through or by a written farmout agreement, or any written agreement directly related thereto.

The trustees' rights, created in sections 365 and 544(a)(3), shall not operate to cancel or otherwise limit the effect of paragraph (3). For purposes of this subsection, the term 'farmout agreement' is a written agreement (A) in which the owner, of the rights to drill, produce or operate liquid or gaseous hydrocarbons on property agrees or is obligated to transfer or assign all or a portion of those rights to another party and (B) in which the other party, its agents or assignees, as consideration, agrees to perform drilling, reworking, recompleting, testing or other similar or related operations to develop or produce liquid or gaseous hydrocarbons on the property. In determining if a farmout agreement exists, the courts shall look to the custom and practices within the oil and gas industry for guidance. This subsection shall not operate to exclude from the debtor's estate the consideration which the debtor retains, receives, or will receive in exchange for transfering its interest in liquid or gaseous hydrocarbons.".

(b) Effective Date.—Except as provided in subsection (c), section 19102 shall take effect on the date of the enactment of this Act.

(c) Application of Amendment.—The amendment made by section 19102 shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

Sec. 19103. Limits on Participation by Companies.—A company shall be eligible to receive financial assistance under this Act only if—

(1) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(2) either—

(A) the company is a United States-owned company; or

(B) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

SEC. 19104. EMERGENCY PETROLEUM SUPPLY.—(a) SHORT TITLE.—This section may be cited as the "Emergency Petroleum Supply Act".

(b) REGIONAL PETROLEUM RESERVE.—Section 157(a) of the Energy Policy and Conservation Act (42 U.S.C. 6237(a)) is amended—

(1) by designating the first and second sentences as paragraph (1); and

(2) by adding at the end the following new paragraph:

"(2) For the purpose of carrying out this section—

"(A) any State that is an island shall be considered to be a separate Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations, as in effect on November 1, 1975;

"(B) determinations made with respect to Regions, other than States that are islands, shall be made as if the islands were not part of the Regions; and

"(C) with respect to determinations made for any State that is an island, the term 'refined petroleum product' shall have the same meaning as the term defined in section 3(3).".

(c) PURCHASES FROM THE STRATEGIC PETROLEUM RESERVE BY ENTITIES IN ELIGIBLE INSULAR AREAS.—Section 161 of such Act (42 U.S.C. 6241) is amended by adding at the end the following new subsection:

"(j)(1)(A) The provisions listed in subparagraph (B) shall apply with respect to each offering of a quantity of a petroleum product during a drawdown of the Strategic Petroleum Reserve.

"(B)(i)(I) Subject to subclause (II), a purchaser located in an eligible insular area, in addition to having the opportunity to submit a competitive bid, may submit (at the time bids are due) a binding offer to purchase a category of petroleum product specified in a notice of sale, and shall thereupon be obligated to purchase the petroleum product at a price equal to the average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering.

"(II) A binding offer made pursuant to subclause (I) shall be accompanied by a certification made by the Governor or other chief executive officer of the eligible insular area that the petroleum product is necessary to avert a critical supply shortage in the eligible insular area.

"(ii)(I) Subject to subclause (II), a vessel that arrives at a delivery line of the Strategic Petroleum Reserve to take on a petroleum product for delivery to a purchaser located in an eligible insular area shall be loaded ahead of other vessels waiting for delivery if the Governor or other chief executive officer of the eligible insular area has certified that delivery must be expedited in order to avert a critical supply shortage in the eligible insular area.

"(II) The Secretary may waive the priority loading requirement of subclause (I) with respect to a particular vessel waiting for delivery if the Secretary determines that the requirement is impracticable.

"(2)(A) In administering this subsection, and with regard to each offering, the Secretary shall—

"(i) impose the limitation listed in clause (i) or (ii) of subparagraph (B), whichever results in the purchase of the lesser quantity; and

"(ii) at the request of a purchaser, adjust upward, to the next whole-number increment of a full tanker load, the quantity to be sold to the purchaser if the quantity is less than 50 percent less than a whole-number increment of a full tanker load of a petroleum product.

"(B)(i) The Secretary shall limit the quantity that any one purchaser may purchase through a binding offer at any one offering to 1/12 of the total quantity of petroleum products that the purchaser imported during the previous year.

"(ii)(I) The Secretary shall limit the quantity that may be purchased through binding offers at any one offering to 3 percent of the offering.

"(II) If the Secretary imposes the limitation listed in subclause (I), the Secretary shall prorate the quantity among the purchasers who submitted binding offers.

"(3)(i) Except as provided in clause (ii), petroleum products purchased through binding offers pursuant to this subsection shall be delivered to the eligible insular area.

"(ii) Purchasers may enter into exchange or processing agreements that require delivery to other locations.

"(4) As used in this subsection:

"(A) The term 'eligible insular area' means the State of Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(B) The term 'offering' means a solicitation for bids—

"(i) that is to be submitted not later than any specified day for a quantity or quantities of a petroleum product from a delivery line of the Strategic Petroleum Reserve; and

"(ii) for a distribution with respect to which the President has made a finding pursuant to subsection (d).".

SEC. 19105. ALTERNATIVE MINIMUM TAX.—It is the sense of the Senate that the Senate Committee on Finance should review the impact of the alternative minimum tax on domestic oil and gas producers and domestic oil and gas production and take such action as may be appropriate to promote domestic production.

SEC. 19106. RADIATION EXPOSURE COMPENSATION.—Section 6 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by adding at the end the following new subsection:

"(1) JUDICIAL REVIEW.—An individual whose claim for compensation under this Act is denied may seek judicial review solely in a district court of the United States. The court shall review the denial on the administrative record and shall hold unlawful and set aside the denial if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

SEC. 19107. ALTERNATIVE TRANSPORTATION FUELS AND ELECTRIC VEHICLES.—(a)(1) The United States is the largest consumer of oil in the world, exhausting 17 million barrels of oil per day, a 14 percent increase since 1983.

(2) The United States domestic production is in decline, estimated to fall below nine million barrels of oil per day by 1995. Today, oil imports have risen to over 40 percent of consumption, exacerbating our Nation's negative balance of trade.

(3) The Persian Gulf War commands attention to the fact that over 25 percent of America's gross oil imports are shipped from the Persian Gulf, and this reliance is the achilles heel of our Nation's energy and economic security.

(4) In the United States, the transportation sector accounts for 63 percent of total oil consumption.

(5) The Office of Technology Assessment estimates that the United States could displace 555,000 barrels of oil per day in the transportation sector by utilizing alternative fuels like compressed natural gas, electric vehicles, traffic management systems, and by reducing the number of gas guzzling vehicles on the road.

(6) Natural gas is a clean burning, abundant, and inexpensive national resource that could displace oil consumption in 25 percent of the current fleet vehicle population over ten years, reducing imported oil by 240,000 barrels per day.

(7) The United States taxpayers have invested significant resources in the development of alternative transportation fuels, electric vehicles, and traffic technologies, at our Nation's laboratories, universities, and in private industry.

(8) Both American Government and industry have met great success in the utilization of existing natural gas and electric vehicle fleets.

(9) Encouraging government and industry to convert to the use of energy efficient, alternative transportation fleets complements our national goals of energy independence, clean air, reduced balance of trade, and technology transfer.

(10) The pace of improvement of clean and efficient alternative technologies is directly correlated to the level of investment in research and development.

(b) Therefore, the Senate finds that it is in the Nation's best interest to assist the market and accelerate the adoption of alternative non-oil transportation fuels, vehicles, and traffic management systems, and the Senate will readdress this position during consideration of the appropriate tax legislation.

SEC. 19108. NATIONAL SECURITY TAX SHIFT.—(a) FINDINGS.—The Senate finds that—

(1) Conservation must be at the heart of any effective long-term national energy strategy; and increasing the motor fuels tax would encourage Americans to purchase more fuel efficient vehicles, car pool, and use alternative forms of transportation.

(2) By encouraging conservation and the market for alternative fuels, increasing the motor fuels tax would reduce our reliance on imported oil, and would reduce the likelihood that American troops will need to be sent abroad to secure the free flow of oil.

(3) Increasing the motor fuels tax would reduce automobile pollution, and, in particular, would reduce the emission of carbon dioxide, a key "greenhouse" gas.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that as part of the Nation's Energy Strategy, the Senate Finance and House Ways and Means Committees should study the possibility of legislation to shift some amount of taxation from the income tax to the motor fuels tax to encourage conservation and alternative fuels: *Provided*, That: (1) the revenue generated by the increase in motor fuels tax is shifted to taxpayers in the form of income tax reductions so that the package is revenue-neutral, does not represent a net tax increase on the average American family, and is at least as progressive as the current tax code; (2) the tax shift does not become effective until the current recession is over; and (3) the tax shift is phased in gradually to allow consumers and industries to adjust.

SEC. 19109. STRATEGIC DIVERSIFICATION.—The Office of Barter within the United States Department of Commerce and the Interagency Group on Countertrade shall within six months from the date of enactment report to the President and the Congress on the feasibility of using barter, countertrade and other self-liquidating finance methods to facilitate the strategic diversification of United States oil imports through cooperation with the former Soviet Union in the development of their energy resources. The report shall consider among other relevant topics the feasibility of trading American grown food for Soviet produced oil, minerals or energy.

SEC. 19110. NRC FEES.—It is the sense of the Senate that—

(1) the provisions of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, section 6101) that require the Nuclear Regulatory Commission to recover essentially 100 percent of its budget authority through the imposition of fees may have caused an unfair burden to be imposed on certain NRC licensees; and

(2) the Nuclear Regulatory Commission should review its policy for assessment of fees and recommend to the Congress whether there is any need for changes in existing law to prevent the placement of an unfair burden on certain NRC licensees, in particular those that hold licenses to operate federally owned research reactors used primarily for educational training and academic research purposes.

MORNING BUSINESS

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2622. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "The President's National Urban Policy Report"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2623. A communication from the Chairman of the Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report of the Subcommittee for calendar year 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-2624. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, a report on its monetary policy; to the Committee on Banking, Housing, and Urban Affairs.

EC-2625. A communication from the Commandant of the United States Coast Guard, transmitting, pursuant to law, a report regarding a reexamination of the policies of the United States restricting use of certain ports of entry by ships and crewmembers thereof, of the former Union of Soviet Socialist Republics; to the Committee on Commerce, Science, and Transportation.

EC-2626. A communication from the Assistant Vice President of Government and Public Affaris, National Railroad Passenger Corporation, transmitting, pursuant to law, a copy of Amtrak's 1991 annual report, 1992 legislative report, report on employee salaries in excess of federal executive level I, and report on the performance of passenger routes operated during fiscal year 1991; to the Committee on Commerce, Science, and Transportation.

EC-2627. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals and Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2628. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2629. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2630. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2631. A communication from the Secretary of Energy, transmitting, pursuant to law, the thirteenth annual report on the automotive technology development program for fiscal year 1991; to the Committee on Energy and Natural Resources.

EC-2632. A communication from the Acting Assistant General Counsel, Department of Energy, transmitting, pursuant to law, a notice of meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2633. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Services, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2634. A communication from the Inspector General, Department of Energy, transmitting, pursuant to law, a final audit report entitled "Accounting for Fiscal Year 1990 Reimbursable Expenditures of Environmental Protection Agency Superfund Money, Bureau of Reclamation"; to the Committee on Energy and Natural Resources.

EC-2635. A communication from the Chairman of the Nuclear Regulatory Commission (Advisory Committee on Reactor Safeguards), transmitting, pursuant to law, a report on the Safety Research Program of the Nuclear Regulatory Program; to the Committee on Environment and Public Works.

EC-2636. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, a quarterly report on trade between the United States and China, the Soviet Union, Central and Eastern Europe, the Baltic nations, and other related countries; to the Committee on Environment and Public Works.

EC-2637. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the study of maternal infant health initiatives and the Medicaid Eligibility Quality Control program; to the Committee on Finance.

EC-2638. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on implementation of the Support for East European Democracy Act; to the Committee on Foreign Relations.

EC-2639. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements other than treaties entered into by the United States in the sixty day period prior to February 18, 1992; to the Committee on Foreign Relations.

EC-2640. A communication from the Inspector General, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the compliance with the requirements when awarding contracts, grants, loans and cooperative agreements; to the Committee on Governmental Affairs.

EC-2641. A communication from the Inspector General, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the evaluation of the agency's progress in establishing effective management controls and improving the accuracy of information provided to the Federal Procurement Data System on contracts for advisory and assistance services; to the Committee on Governmental Affairs.

EC-2642. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, a report of the Commission's implementation of the Government in the Sunshine Act during the calendar year 1991; to the Committee on Governmental Affairs.

EC-2643. A communication from the Postmaster General of the United States, transmitting, pursuant to law, a copy of the annual report of the Postmaster General for Fiscal Year 1991; to the Committee on Governmental Affairs.

EC-2644. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on federal agencies fully implementing a recommendation in connection with a bid protest; to the Committee on Governmental Affairs.

EC-2645. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a semiannual report of the Agency's Inspector General for the period April 1, 1991 through September 30, 1991, along with the required report of the Agency's Director on audit resolution and management; to the Committee on Governmental Affairs.

EC-2646. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a draft of proposed legislation to amend title 5, United States Code, to modify the retirement programs for Federal civilian employees, and for other purposes; to the Committee on Governmental Affairs.

EC-2647. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, a report of surplus real property transferred or leased for public health purposes in Fiscal Year 1991; to the Committee on Governmental Affairs.

EC-2648. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Notice of Final Priorities—Office of Indian Education: Planning, Pilot, and Demonstration Projects for

Indian Children; and Educational Personnel Development"; to the Select Committee on Indian Affairs.

EC-2649. A communication from the Marshal of the Court, Supreme Court of the United States, transmitting, pursuant to law, an annual report of the Marshal of the Supreme Court of the United States regarding administrative cost of carrying out certain duties; to the Committee on the Judiciary.

EC-2650. A communication from the Chief Administrative Officer of the Postal Rate Commission, transmitting, pursuant to law, an annual report of the Commission for 1991 on the Freedom of Information Act; to the Committee on the Judiciary.

EC-2651. A communication from the Chairman of the Internation Trade Commission, transmitting, pursuant to law, an annual report on the Commission's Activities under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2652. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, an annual report on its implementation of the Freedom of Information Act during calendar year 1991; to the Committee on the Judiciary.

EC-2653. A communication from the Chief Justice of the United States Supreme Court, transmitting, pursuant to law, a report of the proceedings of the Judicial Conference of the United States; to the Committee on the Judiciary.

EC-2654. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, an annual report on the status and accomplishments of the Transitional Living Program for Homeless Youth; to the Committee on Labor and Human Resources.

EC-2655. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, a report on alcohol and drug abuse prevention; to the Committee on Labor and Human Resources.

EC-2656. A communication from the Chairman of the Barry M. Goldwater Scholarship and Excellence in Education Foundation, transmitting, pursuant to law, an annual report of the activities of the Goldwater Foundation; to the Committee on Labor and Human Resources.

EC-2657. A communication from the Chairman of the Harry S Truman Scholarship Foundation, transmitting, pursuant to law, the annual report of the Foundation for fiscal year 1991; to the Committee on Labor and Human Resources.

EC-2658. A communication from the Secretary of Labor as Chairman of the Board of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the annual report of the Corporation for fiscal year 1991; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. D'AMATO:

S. 2247. A bill to amend the Department of Housing and Urban Development Act to prohibit the Secretary of Housing and Urban Development from making lump sum relocation assistance payments, except under certain circumstances; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DECONCINI:

S. 2248. A bill to guarantee comprehensive health care services to veterans and their families by ensuring entitlement and eligibility to a wide array of health care services, to make greater resources and funding available for the delivery of such services, and for other purposes; to the Committee on Veterans Affairs.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2249. A bill to amend the Federal Water Pollution Control Act to provide for improvement of the quality of Boston Harbor and adjacent waters; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KASTEN:

S. Res. 260. A concurrent resolution opposing the taxation of cash buildup in life insurance annuities; to the Committee on Finance.

By Mr. SEYMOUR (for himself and Mr. DECONCINI):

S. Con. Res. 93. A concurrent resolution expressing the sense of the Congress that proposed sales of offensive military weaponry to Arab countries should be withheld until such countries establish diplomatic relations with the State of Israel; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO:

S. 2247. A bill to amend the Department of Housing and Urban Development Act to prohibit the Secretary of Housing and Urban Development from making lump sum relocation assistance payments, except under certain circumstances; to the Committee on Banking, Housing, and Urban Affairs.

PROHIBITION OF CERTAIN LUMP SUM PAYMENTS

Mr. D'AMATO. Mr. President, today I am pleased to introduce legislation that will put an end to needless waste of Federal dollars. What I am talking about is the abuse of taxpayer dollars by tenants who receive Federal housing relocation assistance. Instead of using money to find new homes, some tenants are using Government dollars to buy everything from microwave ovens to illicit drugs.

My legislation is designed to end this Government rip-off by closing the loophole that allows such waste and limiting the use of Federal dollars to their intended purpose—to provide needed housing.

Under this legislation, which was drafted in consultation with Department of Housing and Urban Development Secretary Jack Kemp, lump sum relocation assistance payments would be prohibited for any displaced residential tenant except where necessary to cover moving expenses or a down payment on the purchase of a home.

Current law allows lump sum payments to individuals who are being displaced from Government housing, but these payments for relocation assistance should be limited to their original purpose only—and that is to cover the cost of moving and to find a suitable new home.

In no way will my legislation compromise the protection for displaced individuals, nor will it cut benefits, nor does it impede local control of the process. Relocated tenants will continue to receive their benefits in a fiscally responsible manner. It simply eliminates the opportunity for scarce Federal housing dollars to go for non-Federal housing purposes.

The need for this type of legislation is overwhelming. In 1987, 57 tenants of Mulberry Square housing complex received a total of $714,921 in relocation assistance because the structure was being torn down. On the surface, this was a perfect reason why we have a Federal relocation assistance program. But what happened is a classic example of Government gone wrong.

Lump sum payments as large as $27,984 were issued to Mulberry Square tenants with no strings attached. Tenants did not have to pay taxes on the cash payments. There was no oversight to ensure that this money was used for housing purposes and often no counseling to assist tenants with those decisions. As a result, the money was squandered. Tenants bought microwave ovens, Nintendo games, stereos, and television sets. One women spent $5,000—five thousand Federal dollars allocated to help find her a new home—for miscellaneous Christman gifts.

Another woman received $20,000, promptly skipped out on her landlord, and was arrested a month later on drug possession charges. She told the court she was too poor to provide her own attorney, so the court provided one—at taxpayer expense.

In addition, some of these tenants manipulated the rules and hired lawyers, again paid for at taxpayer expense, to squeeze the maximum amount out of the relocation assistance program. And now, some of them want to get back into federally subsidized housing.

Mulberry Square is a classic example of why people are fed up with the Federal Government. While the relocation assistance program has good intentions, it is high time that we close the loopholes and utilize the funding for this program for its original purpose.

It is inconceivable to think how many millions of dollars may have been lost nationwide under this lump sum payment option. This legislation will prevent these types of abuses, not only in New York but across the Nation.

Mr. President, I ask unanimous consent that the full text of the bill and an article from the Syracuse Herald Journal dated February 2, 1992, be included in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF LUMP SUM PAYMENTS.

The Department of Housing and Urban Development Act (42 U.S.C. 3531 et seq.) is amended by adding at the end the following new section:

"PROHIBITION OF LUMP SUM PAYMENTS

"SEC. 14. In providing relocation assistance in connection with any program administered by the Department of Housing and Urban Development, the Secretary may not make lump sum payments to any displaced residential tenant, except where necessary to cover—

"(1) moving expenses;

"(2) a down payment on the purchase of a replacement residence, including a condominium unit or membership in a cooperative housing association; or

"(3) any incidental expenses related to paragraph (1) or (2).".

[The Syracuse Herald Journal, Feb. 2, 1992]

One Legacy of Mulberry Square: On Welfare With $27,000 in Hand

(By Dan McGuire and Jon Craig)

Regina Poole cashed the check, put thousands of dollars into her pocket and walked out of a Syracuse bank.

"My legs were shaking," she remembers.

Back at her apartment in a dilapidated complex for the poor, her children watched as she yelled and threw the cash into the air. Green bills, given to her by the government, fell like rain that day in 1987.

"This is our money?" one of her children asked.

"Yeah," Poole said.

The children, too, threw the money to the ceiling.

"And then I said, 'We're all going shopping,'" Poole said.

They bought a Nintendo set, stereos, microwave ovens, two sets of living room furniture, paintings, appliances and closets-full of clothes. Poole spent "100 and something for pump-em-up sneakers" for her son. She bought her mother a microwave oven and a videocassette recorder. She put $100 in her mother's purse and told her to have fun.

No more Salvation Army clothes. No more Christmases with just a tree and a nice dinner. She spent $5,000 that Christmas.

She was given $27,984 because she had to move from the Mulberry Square housing complex, which was being torn down. The government gave $714,921 to 57 Mulberry tenants in 1987. They were free to spend the money any way they liked. They didn't have to pay taxes on it. They didn't have to get off welfare. Thirteen of the people are now waiting to get back into subsidized housing.

The law that made this happen is still on the books.

This is the story of how the government threw money away as it tried to fulfill its obligation to the poor, and how good intentions led to the expectation that government's deep pockets can always be tapped.

The recipients say they deserved the money because Mulberry was run-down and living there was difficult. In 1990, when Mayor Thomas Young speculated on tearing down the Hilltop housing project, many Hilltop tenants wondered, "Where's our Mulberry money?"

"This one was a wide-open door, a totally open barn door," said Fred Murphy, executive director of the Syracuse Housing Authority, which wrote the checks. "It's an extremely naive policy written by the feds. It shows the people who wrote it have no street smarts at all."

Some Mulberry tenants manipulated federal rules to try to get the most money possible. Some were helped by lawyers paid by the taxpayers.

This is about what happened to poor people who suddenly had thousands of dollars. Some are working. But many, like Poole, remain on welfare, and some want more government aid. Some used the money to buy houses or for an education. Some bought drugs. Some bought plenty of things which won't last.

The government made no attempt to advise the people how they could use the windfall to improve their lives or pull themselves permanently out of poverty.

Governments at most levels are rethinking how much money to give the poor. New Jersey has stopped paying more to welfare mothers who have more children. California trimmed across the board. Michigan stopped benefits to healthy, single people.

The poor flock to New York for some of the highest payments in the nation. State lawmakers are looking at reducing medical benefits and limiting payments to single people who can work.

Anti-poverty programs consume money faster than the rate of inflation. Although trillions of dollars have been spent, the poverty level has changed little. In 1965, at the start of the War on Poverty, 17.3 percent of the population was below the poverty line. In 1990, it was 13.5 percent.

The federal government in fiscal 1991 spent $284 billion fighting poverty, 21 percent of its budget, more than defense. President Bush says he wants reforms.

"Welfare was never meant to be a lifestyle," Bush said in his State of the Union speech Tuesday. "It was never meant to be a habit. It was never supposed to be passed on from generation to generation like a legacy."

One federal program will spend $17.6 billion this fiscal year to provide a rent subsidy to 4.4 million families. It's in addition to the shelter subsidy included in welfare payments.

The number of people who can receive the rental subsidy—worth about $4,000 a year—is limited. In Syracuse, about 4,900 families receive it and about the same number are waiting. A family of four must make less than about $18,000 to qualify. Through the Section 8 program or public housing, people spend 30 percent of their income in rent. The government pays the difference between their payment and a market rent.

Mulberry Square tenants were getting that subsidy. The complex opened in 1968—381 apartments jammed between South Townsend, South State, East Adams and East Taylor streets in downtown Syracuse. It was owned by private companies. Taxpayers paid for most of it.

Crime, shoddy maintenance, mismanagement, abusive tenants and their visitors and poor design turned the project to a shambles. In 1986, SHA bought it and planned to tear it down and put up fewer, better apartments.

Mulberry tenants had to move. Federal law said they had to be paid the difference between their current rent and their new rent multiplied by 48. That's enough to cover their new rent for four years. Murphy hoped people would buy homes and stabilize their lives.

Many rejected SHA's offers of money and apartments. Working with the Rev. Harvey Pinyoun of Plymouth Congregational Church downtown, tenant leaders held regular news conferences to castigate SHA. And with lawyers from Legal Services of Central New York—paid for by taxpayers—they fought SHA for more money.

SHA ended up paying out almost twice what it expected. It had received the money years earlier selling land to the federal government for Interstate 81.

Because of the payouts, SHA dropped its ideas for such things as playgrounds, better security and landscaping at Langston McKinney Manor, the 75-unit apartment complex that replaced Mulberry.

The checks were so large because the difference between what people were paying at Mulberry and what they needed for unsubsidized housing was so large. The Mulberry rent was small because it was subsidized and because Mulberry's managers, before the housing authority took over, allowed tenants to pay less than they should have. The rent that people needed outside Mulberry was determined by Elijah Huling, a Syracuse University associate law professor and Baldwinsville village justice who arbitrated the SHA-tenant disputes.

Huling said he arrived at the figures using government data and his own research. The law requires people receive a payment to rent housing equal to what they were leaving. Huling said he couldn't set payments according to his guess as to how people may spend the money.

Here are the stories of several families who received some of the biggest checks:

REGINA POOLE

Poole paid $69 a month for rent and utilities at Mulberry. When she had to move, SHA found her private apartments renting for $375 and $430. She wanted one for $700. Huling said Poole would need $652 a month for rent and utilities.

Poole's $27,984 was the most any Mulberry tenant received. She was the last to leave the complex.

"We deserved the money," she said. "We put up with the roaches, the mice, the light switches broken, the ceilings caved in, the snow coming in from the windows. Every superintendent they had running that place did a bad job. . . . We needed a good start to move someplace else."

Poole was sometimes on welfare at Mulberry, sometimes working at the Veterans Administration Medical Center in Syracuse or at the city school district. She broke her leg badly several years ago and was unable to work for a long time.

The Mulberry money helped with a payment on a mobile home north of Watertown. It's stuffed with the goods she bought—a television, a reel-to-reel tape, large stereo speakers. One of her living room sets is in storage. Poole lives in the mobile home with her fiance, a soldier at Fort Drum.

She said she doesn't want to marry him yet because she would lose her welfare check. She plans to move the mobile home to the Syracuse area next month, marry and get off welfare. She wants a job working with children or old people.

SARAH AND CLINTON HILL

The Hills used their $18,812 payment for a house at 160 Monticello Drive North in Syracuse's Valley neighborhood.

"It helped a great deal," said Clinton Hill. "No new car, no new clothes. We just paid some bills and came right in" to the house.

"Some people jumped to get the money and run. Some people just didn't stop and think and just used it up in the wrong way," he said. "They didn't have the counseling. They just took the money and blew it. A lot of them misused it. We don't have a penny of it now, but it got us started where we wanted to be."

He's a machinist at Crucible Specialty Metals. Sarah Hill is a typist in Onondaga County's Child Support Division of the Social Services Department.

"Getting that kind of money is scary if you never had that kind of money before," she said. "Some of them were afraid of it. They didn't want that kind of responsibility. They should have set up some kind of counseling or doled the money out in small increments."

TINA SUBER

She was Tina Kellam when she lived in Mulberry. Now she and her husband, Michael Suber, live in Rochester where Michael Suber works for Eastman Kodak Co.

Tina Suber received $9,744 to move out. Her mother, Beatrice, who also moved to Rochester, received $5,760. Tina's father-in-law, Eugene Suber, received $4,080.

"I've known people who really did worse since they moved out of there," she said. "I don't think it was handled too well. A lot of people didn't do right with the money. They just spent it and didn't think about the future."

But she said she spent it well.

"Mulberry Square helped him (Michael) get through (Syracuse University)," she said.

GLENDA COOPER

Herald American reporters couldn't find Cooper, now 38. Court records tell a story.

At Mulberry, Cooper paid $225 for a three-bedroom apartment, utilities included. SHA offered her an apartment costing $502 a month with utilities. She refused and signed a lease for an apartment costing $752 with utilities. Huling ruled she needed $652 a month. Under the formula, she was given a check for $20,496.

Cooper skipped out on her landlord, a judgment shows. She owes him $1,411. She then rented an apartment in Syracuse for $375 a month without utilities. She didn't pay two months' rent and was evicted. She moved to another Syracuse apartment costing $350 a month, skipped some payments and owes several hundred dollars.

Cooper received her windfall check in September 1987. In November 1987 she was arrested and charged with a felony and a misdemeanor count of drug possession. In April 1988, she was arrested and charged with three drug felonies involving a quarter-ounce of cocaine.

She pleaded guilty in both cases. She was sent to prison for two months, put on probation and required to stay off drugs, get drug counseling and look for a job.

Three times she was arrested for violating those rules. One probation report said she had not looked for a job, had not gone to drug counseling, skipped meetings with her supervisor and had not told her supervisor she had moved. As a result, she was jailed for a year.

She told courts she was too poor to afford a lawyer to defend her on the drug charges, so the government provided one. It cost the taxpayers $350.

ROSE LAWSON

Lawson used her $26,976 check to buy a house at 310 Brookfield Road in Mattydale. She receives Supplemental Security Income, a government program that provides money to the elderly and disabled.

"I know how to manage money," she said. "My mother taught us. She had six children, and we always ate well. I knew the money was not going to get away from me. If you get a house, the money stays there. If you hold it in your hand, you keep pinching and pinching and pinching and then there's nothing left."

She is raising her grandchildren there and wants them far from the projects.

"I can't watch them 24 hours," she said. "What I wanted to do was put them so far away they'd never go back. That's what the money was about, my kids. I did it for them. I wanted better for them."

Lawson is a former president of the Mulberry Square tenants association. She had urged the tenants to pool their money and start a business. They didn't.

"I just got sick of them," she said. "No one wanted to do anything."

During the conflict between SHA and tenants, the word was to find the most expensive apartments possible, she said. She said she found one for $650 to maximize her check.

"There was a lot that weren't thinking," she said. "They went out and got cheap apartments on the South Side."

Lawson was paying about $60 a month rent at Mulberry. When SHA wanted to increase it, she quit welfare and got a job as a home health aide. The low pay kept her rent down. She said she survived on food stamps, Medicaid and a "guardian angel."

Lawson said the Mulberry tenants deserve the payment and more.

"They took their homes away from them, and they shouldn't have," she said." "They should have fixed the project up, but they destroyed it."

PAULA ADAMS

She was given $21,216.

She lives in an apartment near a high-crime area in Syracuse's East Side. The screens are ripped from windows and a door. The house needs paint. Wood is rotted.

Inside is a stereo system with four-foot-high speakers, a large Magnavox television, a new-looking sofa and a four-foot-long aquarium. During an interview, she sipped from a coffee cup that said. "I'm only here 'til I win the Lottery."

She remains on welfare. And she's one of 14 former Mulberry tenants—whose checks totaled $192,144—on the waiting list to get back into subsidized housing. Also on the waiting list is Rena Ausby, a former Mulberry tenant leader who was the spokeswoman against SHA in 1987.

Last year, Adams collected $4,228 more than the housing authority. She had sued in 1988, claiming she was hurt when a closet door fell on her back in her Mulberry apartment in 1987. Now she wants more.

"I want to pull Syracuse Housing into court again," she said. "We need to reopen this thing . . . I said I needed more money."

By Mr. DECONCINI:

S. 2248. A bill to guarantee comprehensive health care services to veterans and their families by ensuring entitlement and eligibility to a wide array of health care services, to make greater resources and funding available for the delivery of such service, and for other purposes; to the Committee on Veterans' Affairs.

AMERICAN VETERANS' HEALTH CARE REFORM ACT

• Mr. DECONCINI. Mr. President, I rise today to introduce the American Veterans' Health Care Reform Act of 1992, the second of three bills of critical importance to our veteran community I will be introducing this month. The legislation I am introducing today at the request of the Disabled Americans Veterans will, I hope, expedite resolution of the most of the highly controversial issues surrounding the issue of health care eligibility. I applaud the Disabled American Veterans for the hard work they expended in drafting this comprehensive bill and look forward to working with them to restore sanity and fairness in eligibility determinations for veterans health care. This legislation would guarantee comprehensive health care services to veterans and their families by ensuring them entitlement and eligibility to a wide array of health care services and make greater resources and funding available for the delivery of these services.

As my colleagues have heard so forcefully from their constituents in recent months, health care in our Nation is in a state of severe crisis. In our country today, nearly 37 million Americans have no health care insurance and millions more are considered to be underinsured. For those fortunate enough to have health care coverage, the cost of this insurance is typically increasing at four to five times the annual rate of inflation. For many families, rising health care costs are creating severe financial problems and forcing them to choose between health care and food on their tables.

Perhaps no group has been affected more by this crisis than our Nation's veterans—those very same men and women whose names would appear on what President Bush called America's Rollcall of Honor during his recent State of Union Address. "It's a long rollcall," the President said, "all of the GI Joes and Janes, all the one's who fought faithfully for freedom, who hit the ground and sucked the dust and knew their share of horror."

Sadly, America's veterans continue to see their share of horror when it comes to getting timely, quality medical care from our Nation's Department of Veterans Affairs. Since fiscal year 1977, VA health care has been cut from 11.4 percent of the Federal budget to an estimated 6.4 percent in fiscal year 1992. Is this how a grateful nation should repay its debt to the men and women on America's rollcall of Honor? I, for one, don't think so.

It is apparent, Mr. President, that prior actions taken to improve VA health care delivery, to define eligibility criteria, to provide necessary funding, and to plan for the future have been isolated, shortsighted and inadequate. To rectify this situation and provide our Nation's veterans with a health care system befitting their sacrifices, I am pleased to introduce the American Veterans' Health Care Reform Act of 1992.

In proposing this significant legislation, I have attempted to consider the health care needs of veterans in context with the needs and imminent changes to America's health care system as a whole. A medical care system as large as the VA's cannot be separated from and, indeed, must be expected to contribute to, our Nation's total health care picture.

The centerpiece of this legislative proposal authorizes a core entitlement group consisting of service-connected disabled low-income and special-category veterans. This core group would be entitled to receive the full continuum of care provided by the VA health care system. Any veteran outside the core group would be eligible to receive care contingent upon their ability to offset costs through other Federal and private third-party reimbursements, direct payments, or purchased VA health benefit packages. This proposal also would require the VA to move from the traditional acute, disease model of care to a holistic approach, one that not only treats diseases and disabilities, but also focuses on health promotion and disease prevention.

Finally, Mr. President, this legislation calls for entitlement, nondiscriminatory congressional appropriations for the cost of care provided to the core eligible group. The amount of these funds would be strictly dependent upon how many veterans meet core group eligibility requirements and the cost of care provided to them. Administrative expenses, and the cost of care provided to the general eligibility group of veterans, would be discretionary and developed in consideration of the expected collections and reimbursements from Medicare, CHAMPUS, private insurance, VA buy-in benefits packages, and direct payments.

Mr. President, at the very least, I believe this legislation will serve to initiate meaningful debate on the direction that VA health care can and must take. Furthermore, I believe it represents a responsible plan of action to ensure that an independent VA will survive to serve the health care needs of veterans well into the 21st century. I also believe this legislation is compatible and will contribute significantly to the development of a sound national health care policy. For these reasons, I am introducing the Disabled American Veterans' "American Veterans' Health Care Reform Act of 1992" to guarantee comprehensive health care services to veterans and their families. I urge my colleagues to expedite its consideration.

Mr. President, I ask unanimous consent that the full text of my bill together with a section-by-section summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE TO ACT.

(a) SHORT TITLE.—This Act may be cited as the "American Veterans' Health Care Reform Act of 1992".

(b) REFERENCE TO ACT.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The health care system currently available to veterans through plans administered primarily by the Department of Veterans Affairs (hereinafter in this Act referred to as the "VA") makes a significant contribution to the health and welfare of veterans, despite years of inadequate funding for such system and the unique needs of the veteran population.

(2) Through advanced and specialized research and treatment, the veterans' health case system has greatly enhanced broader health care research and treatment of a range of illnesses, disabilities, and diseases affecting not only veterans, but the general population as well, including spinal cord injuries, post-traumatic stress disorders, blindness, and tuberculosis.

(3) A viable, cost-effective health care system for veterans must move away from the current provision of disjointed services and toward provision of a continuum of comprehensive health care.

(4) Necessary and realistic reforms are essential to guarantee improved veteran access to health care, systems restructuring, and enhanced quality of health care. The VA will be better prepared to carry out such reforms if allowed to collect, retain, and use funds in the VA Medical-Care Cost Recovery Fund for such purpose.

(5) Because of barriers resulting from statutory and administrative eligibility restrictions, demographics, the variable range of available health services, and inadequate funding, many eligible veterans are denied the adequate, comprehensive health care implicitly promised them in connection with their military service to our Nation.

(6) Demographic patterns indicate that, by the year 2010, the number of veterans 75 years of age and older will nearly triple, the type of health care services needed by veterans will have changed significantly, and substantial number of veterans will have migrated to the Sunbelt States. Consequently, health care resource planning and allocation must be responsive to these variables to ensure that access to such resources is concomitant with the health care needs of our veteran population.

(7) Given the health care needs of veterans and the cost of any health care system, it is reasonable public policy that entitled veterans receive necessary health care as an entitlement and that other veterans receive health care, on a discretionary basis, under terms and conditions that provide for payment or reimbursement for services rendered.

(8) Any comprehensive national health care proposal, including any national health insurance proposal, should address reforms in the veterans' health care system.

SEC. 3. ACCESS TO COMPREHENSIVE HEALTH CARE FOR VETERANS AND THEIR SURVIVORS AND DEPENDENTS.

(a) ENTITLEMENT OF CORE-ENTITLED VETERANS AND ELIGIBILITY OF OTHER VETERANS.—

(1) DEFINITION OF CORE-ENTITLED VETERAN.—Section 1701 is amended by adding at the end the following new paragraph:

"(9) The term 'core-entitled veteran' means any veteran described in section 1710(a)(1).".

(2) ENTITLEMENT TO HOSPITAL, NURSING HOME, AND DOMICILIARY CARE.—

(A) IN GENERAL.—Section 1710(a)(1) (relating to veteran eligibility for hospital, nursing home, and domiciliary care) is amended by adding after subparagraph (I) the following new sentence: "Any veteran described in this subsection is a 'core-entitled veteran' and shall be entitled, at the veteran's request, to all health care services described under this title.".

(B) CONFORMING AMENDMENT PROVIDING ENTITLEMENT.—Section 1710(a)(1) is further amended by striking "The Secretary shall furnish hospital care, and may furnish nursing home care," and inserting "The Secretary shall furnish hospital, nursing home, and domiciliary care,".

(3) CONTRACTS FOR CARE AT NON-DEPARTMENTAL FACILITIES; NURSING HOME AND ADULT DAY HEALTH CARE.—Paragraph (3) of section 1710(a) is amended to read as follows:

"(3) In addition to furnishing health care described in paragraphs (1) and (2) of this subsection through Department facilities, the Secretary shall, in the case of a core-entitled veteran, and may, in the case of any other veteran, furnish such hospital care in accordance with section 1703, and such nursing home care as authorized under section 1720.".

(4) OTHER CONTRACTS FOR CARE IN NON-DEPARTMENT FACILITIES.—Section 1703(a) is amended to read as follows:

"(a) When Department facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Secretary shall, in the case of a core-entitled veteran, and may, in the case of any other veteran, contract with non-Department facilities to provide hospital care, medical services, and dental services (as provided in sections 1710 and 1712).".

(5) ENTITLEMENT OF LOW INCOME VETERANS TO DOMICILIARY CARE.—Subsection (b)(1) of such section is amended by striking "may furnish" and inserting "shall furnish".

(6) ELIGIBILITY OF OTHER VETERANS TO DOMICILIARY CARE.—Subseciton (f)(1) of section 1710 is amended by inserting before the period the following: "or participates in a managed health care plan under section 1701A".

(7) ENTITLEMENT TO COLLATERAL HEALTH CARE SERVICES.—Section 1710(c) is amended—

(A) in the first sentence, by striking "may, within the limits of Department facilities:" and inserting "shall, in the case of a core-entitled veteran, and, in the case of any other veteran, may, within the limits of Department facilities,"; and

(B) in the second sentence, by striking "may furnish" and inserting "shall furnish".

(8) ENTITLEMENT TO COLLATERAL DENTAL CARE SERVICES.—The second sentence of section 1710(c) is amended to read as follows: "The Secretary shall, in the case of a core-entitled veteran, and may, in the case of any other veteran, furnish dental services and treatment, and related dental appliances,

under this subsection for a non-service connected dental condition or disability of a veteran.".

(9) ENTITLEMENT TO OUTPATIENT SERVICES.—

(A) Section 1712(a)(2) (relating to eligibility for outpatient services) is amended—

(i) in paragraph (2), by striking "medical services for a purpose" and all that follows through "of this subsection—" and inserting "such medical services as the Secretary determines are needed—";

(ii) in paragraph (3), by striking "may furnish" and inserting "shall furnish";

(iii) in paragraph (4), by striking "for a purpose described in paragraph (5) of this subsection"; and

(iv) by striking paragraph (5), and redesignating paragraph (6) as paragraph (5).

(B) Section 1712(f)(1) is amended by inserting before the period the following: "or participates in the managed health care plan under section 1710A".

(10) ENTITLEMENT TO OUTPATIENT DENTAL SERVICES.—Subsection (b) of section 1712 is amended to read as follows:

"(b)(1) Outpatient dental services and treatment, and related dental appliances, shall be furnished to any core-entitled veteran.

"(2) In the case of any other veteran, the Secretary may furnish such dental services and treatment, and related dental appliances, in accordance with subsection (f) or through the veteran's participation in the managed health care plan under section 1710A.".

(11) ENTITLEMENT TO READJUSTMENT COUNSELING AND RELATED MENTAL HEALTH SERVICES.—

(A) Section 1712A(a) is amended to read as follows:

"(a) Upon the request of any veteran who served in active duty, the Secretary shall furnish counseling to such veteran to assist such veteran with readjustment to civilian life.".

(B) Section 1712A(b)(1) is amended—

(i) in the first sentence, (I) by striking ", within the limits of Department facilities,"; and (II) by striking "under the conditions" and all that follows through the period and inserting a period; and

(ii) in the third sentence, by striking "only in accordance" and all that follows through the period and inserting "in accordance with this chapter.".

(12) USE OF SEEING EYE DOGS.—Section 1714(b) is amended to read as follows:

"(b)(1) The Secretary shall, in the case of a core-entitled veteran, provide—

"(A) seeing-eye or guide dogs trained for the aid of the blind, and travel and incidental expenses incurred (under the terms and conditions set forth in section III of this title) in travel to and from such veteran's home, and incurred by the veteran in becoming adjusted to such seeing eye and guide dogs; and

"(B) mechanical or electronic equipment for aiding the veteran in overcoming the handicap of blindness.

"(2) The Secretary may provide the dogs, equipment, and expenses described in paragraph (1), in the case of any other veteran, if the veteran agrees to pay a reasonable amount determined by the Secretary or participates in a managed health care plan under Section 1710A.".

(13) HOME HEALTH SERVICES, INVALID LIFTS AND OTHER DEVICES.—Section 1717 is amended—

(A) in subsections (a)(1), (2), and (3) by striking "may furnish" each place such term appears and inserting "shall, in the case of a core-entitled veteran, and may, in the case of any other veteran, furnish";

(B) in subsection (a)(2), by inserting "in the case of a non-core-entitled veteran" after "may not";

(C) in subsection (a)(2), by striking the second sentence; and

(D) by amending subsections (b) and (c) to read as follows:

"(b) The Secretary shall furnish, in the case of a core-entitled veteran, and may furnish, in the case of any other veteran who is receiving pension under chapter 15 of this title by reason of being in need of regular aid and attendance, an invalid lift, or any other type of therapeutic or rehabilitative device, as well as other medical equipment and supplies (excluding medicines) if medically necessary.

"(c) The Secretary shall furnish, in the case of a core-entitled veteran, and may furnish, in the case of any other veteran, devices for assisting in overcoming the handicaps of deafness (including telecaptioning television decoders) to any such veteran.".

(14) REPAIR OR REPLACEMENT OF CERTAIN PROSTHETIC APPLIANCES.—Section 1719 is amended to read as follows:

"§ 1719. Repair or replacement of certain prosthetic and other appliances

"(a) The Secretary shall, in the case of a core-entitled veteran, repair or replace any artificial limb, truss, brace, hearing aid, spectacles, or similar appliance (not including dental appliances) reasonably necessary to a veteran and belonging to such veteran.

"(b) The Secretary may, in the case of any other veteran, repair or replace any such limb, truss, brace, hearing aid, or appliance, if the veteran agrees to pay to the United States a reasonable price determined by the Secretary, or if the veteran participates in the managed health care plan under section 1710A.".

(15) ENTITLEMENT TO ADULT DAY HEALTH CARE EXTENDED BEYOND FY 1991.—Section 1720 is amended—

(A) in subsection (a)(1), by striking "may transfer" and inserting "shall transfer, in the case of a core-entitled veteran who requests such transfer, and may transfer, in the case of any other veteran who requests such transfer,";

(B) in subsection (a)(3), by striking "Nursing" and inserting "Except in the case of a core-entitled veteran, nursing"; and

(C) in amending subsection (f)(1)(A) to read as follows:

"(f)(1)(A) The Secretary is authorized to furnish adult day health care as provided for in this subsection. For the purpose only of authorizing the furnishing of such care and specifying the terms and conditions under which it may be furnished to veterans needing such care, reference to 'nursing home care' in subsections (a) through (d) of this section shall be deemed references to 'adult day health care'.".

(16) ENTITLEMENT TO ALCOHOL AND DRUG TREATMENT.—

(A) Section 1720A(a)(1) is amended by striking "may contract" and inserting "shall contract in the case of a core-entitled veteran, and may contract, in the case of any other veteran".

(B) Section 1720A is further amended by striking subsection (e) (relating to FY 1994 plan expiration).

(17) ENTITLEMENT TO RESPITE CARE.—

(A) Section 1720B(a) is amended to read as follows:

"(a) The Secretary shall furnish, in the case of a core-entitled veteran, and may furnish to any other veteran, respite care services.".

(B) Section 1720B is further amended by striking subsection (c) (relating to 1992 respite care termination).

(18) MEDICATION COPAYMENTS.—Section 1722A is amended—

(A) in subsection (a)(1), by striking the parenthetical matter and inserting "(other than a core-entitled veteran)"; and

(B) by striking subsection (c) (relating to termination of medication copayments).

(b) TECHNICAL AMENDMENTS REGARDING ENTITLEMENT OF CERTAIN VIETNAM ERA AND WORLD WAR II VETERANS.—Subsection (e) of such section is amended—

(1) in paragraph (1)(A), by striking "is eligible for hospital care and nursing home care" and inserting "is entitled to health care";

(2) in paragraph (1)(B), by striking "is eligible for" and inserting "is entitled to"; and

(3) by striking paragraph (3).

SEC. 4. PREVENTIVE HEALTH CARE.

(a) IN GENERAL.—Subchapter II of chapter 17 is amended by adding at the end the following new section:

"§ 1720D. Preventive health care services

"(a) The Secretary shall furnish preventive health care services to any core-entitled veteran (described in section 1710 (a)(1)) requesting such services. The Secretary may provide such services to any other veteran, if the veteran agrees to pay the United States a reasonable amount determined by the Secretary, or if the veteran participates in the managed health care plan under section 1710A.

"(b) For purposes of this section, the term 'preventive health care services' means a full range of screening, treatment, and education, including—

"(1) periodic medical and dental examinations;

"(2) patient health education (including nutrition education);

"(3) maintenance of drug use profiles, patient drug monitoring, and drug utilization education;

"(4) mental health preventive services;

"(5) substance abuse prevention measures;

"(6) immunizations against infectious diseases;

"(7) hypertension, and colo-rectal and prostate screening;

"(8) prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature;

"(9) genetic counseling concerning inheritance of genetically determined diseases;

"(10) smoking cessation assistance;

"(11) routine vision testing, glaucoma screening, and eye care services;

"(12) periodic reexamination of members of likely target populations (high-risk groups) for selected diseases, and for functional decline of sensory organs together with attendant appropriate remedial intervention; and

"(13) such other health care services as the Secretary determines are necessary to provide effective and economical preventive care services.

"(c) In carrying out this section, the Secretary shall emphasize the use of inter-disciplinary health care teams composed of various professional and para-professional personnel.".

(b) TABLE OF CONTENTS.—The table of contents for such chapter is amended accordingly.

SEC. 5. HEALTH SERVICES FOR NON-CORE ENTITLED VETERANS AND OTHER ELIGIBLE INDIVIDUALS.

(a) ESTABLISHMENT OF MANAGED HEALTH CARE PLAN.—Subchapter II of chapter 17 is amended by inserting after section 1710 the following new section:

"§ 1710A. Managed health care plan

"(a) The Secretary shall design, implement, and maintain a managed health care services plan to make a variety of health care service packages available to non-core entitled veterans and the survivors and dependents of any veteran. Such packages shall include varieties of health services described in this title. Services provided under such plan shall be offered on a for-pay basis in accordance with section 1710B.

"(b) The Secretary shall, by regulation, determine a range of premiums for such packages which are affordable to potential participants in the plan.".

(c) EFFECTIVE DATE.—The Secretary shall establish and implement the managed health care plan required under paragraph (1) within 2 years after the effective date of this Act.

(d) TABLE OF CONTENTS.—The table of contents for such chapter is amended accordingly.

(e) TECHNICAL AMENDMENT REGARDING ELIGIBILITY OF NON-CORE ENTITLED VETERANS TO MANAGED HEALTH CARE PLAN.—Subsection (f)(1) of section 1712 is amended by inserting before the period the following: "or the veteran is a participant in the managed health care plan established under section 1710A".

SEC. 6. PAYMENT FOR SERVICES.

(a) IN GENERAL.—Subchapter 17 is further amended by inserting after section 1710A (as added by section 5 of this Act) the following new section:

"§ 1710B. Payment by non-core veterans, and survivors and dependents

"Services provided under Section 1710A to a non-core veteran under any provision of this title, or to the survivors or and dependents of any veteran, may be paid for by direct payment from the participant to the Government, payment from a plan fund derived from premiums paid by participants, or reimbursement under Medicare, Medicaid, CHAMPUS, private health insurance, or any combination thereof. Fees shall be established at a rate no higher than necessary to recover costs of services provided.".

(b) TABLE OF CONTENTS.—The table of contents for such chapter is amended accordingly.

SEC. 7. APPROPRIATIONS; COST RECOVERY; AND SEQUESTRATION.

(a) APPROPRIATION.—

(1) ENTITLEMENT BENEFITS.—There are hereby appropriated, for each fiscal year beginning after September 30, 1992, to the extent and in such amounts as are provided in advance in appropriation Act, such sums as are necessary to provide benefits to which entitlement is established under this Act, including costs necessary to allow the VA to practice quality management and assurance functions. Such functions shall include functions related to peer review, utilization review, and practice standards and their administration and oversight.

(2) OTHER ADMINISTRATIVE EXPENSES.—There are hereby authorized to be appropriated, for any fiscal year beginning after September 30, 1992, such sums as may be necessary to cover administrative expenses (other than those specified in paragraph (1)) to carry out this Act. Such sums shall be separately accounted for and shall be stated in the documents accompanying the President's budget for each fiscal year.

(b) AUTHORIZATION FOR MEDICAID AND MEDICARE REIMBURSEMENTS.—Section 1729 (i)(1)(B) is amended by striking clauses (i) and (ii) and redesignating clauses (iii) and (iv), accordingly.

(c) COLLECTION AND RETENTION OF FUNDS.—

(1) IN GENERAL.—Section 1729(a) is amended by adding at the end the following new paragraph:

"(4)(A) The United States may collect or recover the reasonable cost of care or services provided to any non-core veteran, survivor, or dependent under this title from CHAMPUS, Medicaid, Medicare, or any other health insurance plan.".

(2) RETENTION AND USE OF FUNDS BY VA.—Section 1729(g)(4) is amended to read as follows:

"(4)(A) Notwithstanding any other provision of law, sums recovered or collected by the Secretary shall remain in the Fund and be available to the Secretary, to the extent and in such amounts as are provided in advance of appropriation Acts, for purposes of (i) providing benefits under this title; (ii) paying administrative and operational expenses associated with provision of such benefits; and (iii) to the extent remaining sums are available, further enhancing and modernizing the delivery of health services under this title.

"(B) The budget submitted by the President for each fiscal year may not take into account sums collected or recovered under this section in determining the budget requested for carrying out the activities of the Department.".

(d) EXEMPTION FROM SEQUESTRATION.—Health benefits to which veterans are entitled under chapter 17 (as amended by this Act) shall be exempt from reduction under any order issued under Part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 8. ANNUAL REPORTS.

(a) IN GENERAL.—Not later than January 15 of each fiscal year that begins after the effective date of the amendments made by this Act, the Secretary of Veterans Affairs shall submit, to the Committees on Veterans' Affairs of the Senate and of the House of Representatives, a report on the implementation and operation of the health care plans and reforms made effective by this Act. Each such report shall include the following:

(1) Information concerning the health care services provided under this Act, and detailed specification of the costs of furnishing such services, with comparisons between such costs and the costs which otherwise would have been incurred absent enactment of this Act.

(2) Demographic information regarding the veteran furnished services under this Act, including detailed descriptions regarding veterans' ages, service connections, geographic locations, prior access to and use of VA care and services, and financial needs.

(3) The Secretary's findings and conclusions concerning the effectiveness of the modifications promulgated by this Act, particularly regarding access and delivery of health care to veterans, the medical advantages of the care provided, and the cost-effectiveness of such care.

(4) Any plans for administrative action and any recommendations for legislative and regulatory action that the Secretary considers necessary to carry out this Act.

(b) PUBLIC COMMENTS.—In preparing such reports, the Secretary shall request, and take into account, comments provided by Congressionally-chartered veterans' organizations.

SEC. 9. EFFECTIVE DATE.

Except as otherwise provided, this Act (and the amendments made by this Act) shall take effect with respect to health care furnished on or after the first fiscal year beginning after the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF PROPOSED AMERICAN VETERANS' HEALTH CARE REFORM ACT OF 1992

Purpose: This is a bill to guarantee comprehensive health care services to veterans and their families by ensuring entitlement and eligibility to a wide of health care services, to make greater resources and funding available for the delivery of such services, and for other purposes.

SECTION 1. SHORT TITLE; REFERENCE TO ACT

Establishes that the legislation will be referred to as the "American Veterans' Health Care Reform Act of 1992." The bill would primarily amend Chapter 17 of Title 38 of the United States Code.

SECTION 2. FINDINGS

Recognizes eight basic findings relative to veterans' health care on which the Act is premised and/or which it is intended to remedy. These findings essentially focus on three areas of consideration:

1. Veterans should be afforded health care services by the VA because of their service to the Nation and the concomitant implicit guarantee that they will be able to access and receive that health care.

2. Not withstanding that promise, the veterans' health care system is inadequate to meet their needs. Services are restricted without appropriate consideration of medical need or currency and funding of the system is significantly deficient.

3. There is a need for reforms to the veterans' health care system that will fulfull the Nation's promise to them by providing comprehensive health care services that are attendant to the current and predicted demographic and geographic patterns of veterans. In establishing these reforms the valuable role of the veterans' health care system in national health care reform must be considered.

SECTION 3. ACCESS TO COMPREHENSIVE HEALTH CARE FOR VETERANS AND THEIR SURVIVORS AND DEPENDENTS

Categories of Veterans

Core-Entitled Veterans—including all service-connected veterans, certain low income veterans, former prisoners of war, and additional limited categories of veterans.

Other Eligible Veterans (Non-Core Entitled Veterans)—including all other veterans not part of the core-entitled category the care of whom is established as discretionary.

Access and Services

Core-entitled veterans shall be entitled to the full continuum of medically-necessary health care provided by/through the VA. This would include, without limitation: inpatient, outpatient, nursing home care (including adult day care), domiciliary care, home health services, respite care, collateral health care and dental care services, readjustment counseling, the provision of therapeutic and rehabilitative devices, seeing eye dogs, and the repair of prosthetic and other appliances, alcohol and drug treatment, and necessary medications.

Other non-core entitled veterans would be eligible for all services, at the discretion of the Secretary, without statutorily prescribed limitations, but with the ability to offset the cost of the care received.

Readjustment counseling services would be provided without regard to the period of active duty service.

SECTION 4. PREVENTIVE HEALTH CARE

Adds a new section formally establishing that preventive health care services would be among the services available to veterans. These services are essential to a comprehensive health care system and can be expected to substantially reduce the longer range costs of health care to veterans and improve their quality of life. Further, service-connected conditions (e.g., amputations), and life-style and genetic factors particularly prevalent among the veteran population (e.g., smoking rates, hypertension rates) suggest the need for these services to be readily available as an entitlement for the core-entitled veterans and contingent on ability to offset cost for non-core entitled veterans.

The full range of screening, treatment, and educational services would be available and most of these services are delineated in this section, including smoking cessation services, hypertension and colo-rectal and prostate screening, nutritional education, and immunizations.

SECTION 5. HEALTH SERVICES FOR NON-CORE ENTITLED VETERANS AND OTHER ELIGIBLE INDIVIDUALS

Adds a new section that would require the VA to put into continuing effect a managed care plan for the delivery of health care services to any non-core entitled veteran and to the survivors and dependents of any veteran. The plan would have to be in effect within 2 years of enactment of the legislation.

Provides that the VA offer various packages reflecting different combinations of services and ranges of premiums that are structured so as to be affordable to potential purchasers. In order to provide an opportunity to constituent groups to consider the degree of the "affordability" the Secretary would determine the premiums by regulation.

SECTION 6. PAYMENT FOR SERVICES

Adds a new section that prescribes the methods of payment that could be used to offset the costs of services to non-core entitled veterans and to survivors and dependents of any veteran.

Methods of payment would include:

Direct out-of-pocket payment;

Medicare reimbursement;

Medicare reimbursement;

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) reimbursement;

VA Managed Care Plan fund;

Private health insurance reimbursement;

Any combination of these.

SECTION 7. APPROPRIATIONS; COST RECOVERY; AND SEQUESTRATION

Establishes that funds for the provision of health care services to core-entitled veterans, inclusive of administrative costs associated with that care, would be appropriated as a non-discretionary entitlement exempt from sequestration, beginning in Fiscal Year 1993.

Further, provides that the mandatory, entitlement appropriation would take into account costs associated with quality management and assurance functions.

Administrative costs related to the non-mandatory services provided by VA to/for other than the core-entitled veterans would be separately appropriated and separately accounted for and stated in the President's budget requests.

Establishes the authority of VA to collect reimbursements from Medicare and Medicaid for the treatment of veterans, survivors, and dependents eligible under those programs.

Provides that the VA would have the authority to use any funds deposited in the Medical Care Cost Recovery Fund to provide health care benefits to eligible persons, to operate the VA health care system, and to enhance the quality of care and the delivery systems providing health care to veterans.

The President's budget requests for the VA would have to be developed without consideration of the collected/reimbursed amounts deposited into the Medical Care Cost Recovery Fund.

SECTION 8. ANNUAL REPORTS

Requires the VA to report to the House and Senate Veterans' Affairs Committees by January 15 of each fiscal year on the impact of the effected reforms. Specifically, the report would include:

Cost information and cost changes between the reformed system and the system of health care delivery prior to reforms;

Current and former information on the demographics of veterans, and of their access and use of the health care system;

Findings and conclusions as to effectiveness of reforms in terms of access, medical advantages, and cost;

Plans for legislative or regulatory actions necessary to the continued effectuation of the reforms.

Congressionally-chartered veterans' organizations would be given the opportunity to provide comments which the VA would consider and include in the reports.

SECTION 9. EFFECTIVE DATE

Provides for implementation of most reforms by the beginning of the first fiscal year occurring after enactment.•

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2249. A bill to amend the Federal Water Pollution Control Act to provide for improvement of the quality of Boston Harbor and adjacent waters; to the Committee on Environment and Public Works.

BOSTON HARBOR CLEANUP

Mr. KERRY. Mr. President, I rise today to introduce legislation designed to help further the Boston Harbor cleanup. This legislation which I am introducing with Senator KENNEDY will authorize a major new Federal funding commitment for the cleanup of Boston Harbor, one of America's dirtiest as well as historic coastal water bodies.

Every day, over 500 million gallons of sewage is discharged into the harbor resulting in one of the most serious coastal water quality problems in this country. This pollution is a major continuing threat to water activities such as fishing, swimming, and boating and to other uses that provide a boost to the Boston area's economy. It continues to devastate the health of marine life but most importantly the health of the citizens of the Boston area are at risk.

While discharge of sewage sludge was recently halted, continuing discharge of wastewater that has not received secondary treatment required by the Federal Clean Water Act remains a serious environmental problem. A recent report by the National Oceanic and Atmospheric Administration further substantiates the harbor's severe water quality problems.

But, if public health and user benefits of harbor cleanup are high, so are the costs. The total capital program of the Massachusetts Water Resources Authority [MWRA], which is charged with harbor cleanup, is $6.3 billion for both water supply and sewage treatment. Of that amount, $4.2 billion, in 1992 dollars, is for the wastewater capital program.

But, that is only part of the cost Boston area ratepayers will pay. While the total project cost will be $5.8 billion in inflated dollars by the time this project is finished, if the MWRA borrows this $5.8 billion in order to meet requirements of the Federal Clean Water Act as appears today to be its only option, it will cost Boston area ratepayers a staggering $15.3 billion, including debt service, to repay the debt over the next 30 years.

Mr. President, let me repeat these numbers: $4.2 billion at today's prices becomes $5.8 billion by the time this project is completed which becomes $15.3 billion when it is financed over the next 30 years. This is by far the most costly public works program in the history of New England.

MWRA has received $179 million in Federal grant funding since 1987. This means that over 95 percent of the wastewater capital program will be locally funded if no additional grant funding is provided by Congress.

I am pleased that the administration has recognized the need for Federal funding to assist the ratepayers of Massachusetts in meeting this massive federally mandated and federally supervised wastewater construction program for Boston Harbor. And, while I appreciate the $100 million requested in the President's budget, it just begins to scratch the surface.

Given the Federal mandate, given the history of 75 percent or 55 percent Federal matching grants for similar projects in the past in other localities across the Nation, given the extraordinary size and crushing rate burden associated with this project, it is only fair, reasonable, and just for the Federal Government to assume a significantly larger share of the financial burden than is currently expected.

MWRA area residents will continue to experience rate shock in undertaking this important environmental program. For instance, in fiscal year 1992, MWRA households will pay $168 for water and $297 for wastewater for a total of $465, an increase of 31 percent over the previous year. These ratepayers are expected to be subjected to an additional 25 percent increase in fiscal 1993 so they will be paying $177 for water and $408 for wastewater for a total of $585.

MWRA rates for fiscal year 1998 are projected to be $350 for water and $845 for wastewater for a total of $1,195, an average annual increase of 20 percent, perhaps the fastest growing rates in the country.

Rates for Boston residents alone already rank third highest in rates among the 25 largest metropolitan areas in the United States. Even with significantly increased Federal help they will remain the highest or among the highest in the country; without it, our families will have the unchallenged if dubious distinction of paying more for sewage disposal than anyone else in any major metropolitan area of the United States.

The public health and environmental benefits in achieving Federal sewage treatment requirements are obvious. In addition, as one of the largest public works projects in New England, it will have significant economic benefits to Boston and the region.

The project will provide nearly $3 billion to the Boston economy and nearly 1,500 construction jobs in the average year of construction. This is vitally important to an area hard hit by the current recession.

The project will also result in as much as $150 million in tax revenues to the Commonwealth. Upon completion, it will allow removal, or avoidance of, any development moratoria related to inadequate sewage treatment facilities.

The Boston Harbor wastewater construction project is underway and on schedule. Between July 1, 1992, and June 30, 1993, it is scheduled to spend $644 million on new sewage treatment facilities alone at the Deer Island site. This amount does not include other system improvements and maintenance.

The project is currently one of the largest public works projects in New England. Its economic impact in generating much needed employment is significant. Plans are ready and additional Federal funding could be put to use this year as an important element in the Nation's effort to expand employment opportunities.

In addition to grant funding, in December of last year, MWRA received $73.1 million in loans from the Commonwealth's State revolving fund established under title VI of the Clean Water Act. However, since MWRA's own revenue bonds have a high rating, the SRF loans are expected to provide only minimal relief to the authority's ratepayers.

The $179 million in grant funding provided to the MWRA project to date is only 3 percent of total project costs. The rest will be shouldered by local ratepayers.

As summarized by the MWRA, the importance of continued Federal grant funding is clear:

> For every $1 million MWRA receives in a grant, it avoids approximately $97,900 in annual debt service costs at the January 1990 interest rate of 7.7%, or a total of $2.9 million over the term of the borrowing. For every $1 million the Authority receives as a loan, it pays approximately $60,000 in annual debt service or a total of $1.2 million over the term of the borrowing. The net savings is $1.7 million on each $1 million issued.

Mr. President, what this means is that for every $100 million in Federal grant funding, $15 is provided to households each year in rate relief for a total of $450 over the 30-year term of MWRA bonds. The $1 billion that would be authorized by this bill, which I am introducing today, would mean $150 in savings to the average household each year for a total of $4,500 over the 30-year life of MWRA bonds.

The legislation introduced today would authorize the appropriation of $1 billion over 5 years for the construction of wastewater facilities serving MWRA and Boston area households comprised of nearly 2.6 million persons and 5,500 businesses and industries. These funds would be used by MWRA to meet federally mandated secondary treatment requirements under a schedule previously ordered by the U.S. district court.

Even in combination with the $179 million provided by Congress to date, this amount would bring the Federal share of the Boston Harbor project to approximately 20 percent of total costs, a far cry from the 75-percent Federal matching funds authorized for projects in the original Clean Water Act of 1972 or 55 percent for certain projects initiated after 1984.

Many other metropolitan areas in this country have complied with the Clean Water Act with the significant assistance of these higher levels of Federal grant funding previously available. It is only fair and reasonable for the Federal Government to recognize its responsibility and expand its commitment to the Boston Harbor project. This bill enables that to happen. In so doing, this commitment would assist in meeting this important Federal mandate while at the same time adding to the national effort needed to stimulate economic development and jobs. In the long run, this bill will save Massachusetts ratepayers thousands of dollars for each family—dollars that could be better used to educate their children and meet a score of other important family financial burdens, instead of going primarily to pay some wealthy bond buyers rent on their money.

Mr. President, it isn't every day that President Bush and the Massachusetts congressional delegation agree on a priority matter to the people of our State. However, the last two budgets submitted by the President have recognized the urgent environmental need and the clear Federal responsibility to assist in the cleanup of Boston Harbor. I applaud the President for his actions, but today urge him and my colleagues in Congress to recognize that what is really necessary and fair is a much more serious and a multiyear commitment to the cleanup of the historic Boston Harbor. We are not asking for the 75-percent Federal share of such costs that was provided for similar projects in the past, or even the 55-percent that was available for such projects at other times. No, Mr. President, we are simply asking that roughly 20 percent of this federally required, federally supervised cleanup be carried by the Federal Government, so that hard-pressed Massachusetts ratepayers will not be left to tote this extraordinary load by themselves.

Therefore, Mr. President, I hope that the Congress will provide expeditious and favorable consideration of this proposal, recognizing the costs and environmental benefits, as well as the need to generate new jobs in this time of economic hardship.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOSTON HARBOR.

Title V of the Federal Water Pollution Control Act of 1972, as amended, is amended—

(1) by redesignating section 519 as section 520; and

(2) by inserting after section 518 the following new section:

"BOSTON HARBOR AND ADJACENT WATERS"

"SEC. 519. (a) The Administrator shall establish a grant program to make grants to the State of Massachusetts for use by the Massachusetts Water Resources Authority for constructing wastewater treatment works for the areas served by the Massachusetts Water Resources Authority.

"(b) The Federal share of any construction projects described in subsection (a) of this section shall not exceed 75 percent of the cost of construction of the wastewater treatment work.

"(c)(1) For the purposes of carrying out the grant program under this section, there are authorized to be appropriated for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 an amount equal to $200,000,000.

"(2) The amounts described in paragraph (1) shall remain available until expended.

"(3) The amounts described in paragraph (1) shall be authorized to be appropriated in addition to any other amounts authorized to be appropriated under title II or IV of this Act.".

Mr. KENNEDY. Mr. President, it is a privilege for me to join with my colleague from Massachusetts, Senator KERRY, in cosponsoring legislation to provide continued and expanded Federal assistance for the cleanup of sewage discharged into Boston Harbor.

Increased Federal aid is vital to ease the crushing burden on ratepayers in Massachusetts. We must restore Boston Harbor for the sake of the environment, public health, and recreation, but we also have to recognize the economic pain that high rates are imposing on families in the Boston area, and provide a greater Federal contribution to the cleanup effort.

This important legislation addresses twin national objectives: environmental restoration and economic development. I urge its prompt consideration in this difficult economic time.

The water quality problems in Boston Harbor are well known. They garnered national attention when the President highlighted them during his last campaign. The Boston area is one of only a handful of metropolitan areas not yet meeting Federal sewage treatment requirements.

The cleanup effort is well underway now. The discharge of sewage sludge to the harbor was ended on December 24 of last year, marking an important milestone in the cleanup effort. But a great deal remains to be done to fulfill the requirements spelled out by Congress and by the Federal court order governing the cleanup project.

To date, the Federal Government has focused attention on the cleanup of the Harbor, but the resources have not been provided at levels comparable to what other cities recieved in the past 20 years.

The cost of the Boston Harbor cleanup will be enormous. The total capital program of the Massachusetts Water Resources Authority, the public agency charged with providing water supply and sewage treatment services to the 60 communities in the greater Boston area, is $7.3 billion for water supply and wastewater treatment including combined sewer overflows. The wastewater program alone is $4.2 billion in current dollars and $5.8 billion when inflation is considered. If MWRA must borrow this $5.8 billion, it will cost ratepayers $15.3 billion to repay the debt over the next 30 years.

Boston Harbor serves a regional population of over 2.6 million persons plus visitors to the Boston area. Approximately 5,500 businesses are also served by MWRA. The harbor and nearby bays are well known for commercial fishing and recreation. Massachusetts Bay has been recognized as an estuary of national significance and the adjacent Stellwagen Bank is expected to receive designation soon as a National Marine Sanctuary. Restoring Boston Harbor is essential to the preservation of these environmentally sensitive areas.

The cleanup will have important economic, as well as environmental benefits. A study of the project by Cambridge Systematics, Inc., for MWRA predicts that during the 1990's, the project will provide approximately $3 billion to the local Boston economy alone, or $2 for every $1 spent. Approximately 1,500 jobs will be created in the average construction year, and nearly $150 million will be realized in tax revenue by the Commonwealth.

Environmental protection offers one of the best opportunities to stimulate our economy and create jobs. In the economic stimulus legislation I introduced at the beginning of this session, $4.4 billion in additional funds would be provided for fiscal year 1992 for wastewater construction projects across the country under the Clean Water Act, and another $1.5 billion under the Farmers Home Administration water and wastewater programs. This is a small investment, considering the level of unmet wastewater treatment needs reported by the Environmental Protection Agency and groups such as the Association of State and Interstate Water Pollution Control Administrators.

In the Boston area, there is no doubt that additional Federal funds can be put to work immediately. MWRA now has plans ready that total $644 million for wastewater construction between July of this year and June 1993. Additional significant amounts will be spent in the 1993–94 time frame.

There is another important reason why this legislation should be approved. As it now stands, without any additional Federal funding. Boston area ratepayers will shoulder over 95 percent of the cost of meeting Federal Clean Water Act requirements.

As a result, water and sewer rates will continue to skyrocket in the coming decade. Rates for the average household in the Boston area in 1992 will be $168 for water and $297 for wastewater, for a total of $465, an increase of 31 percent over 1991. And these rates are expected to jump by an additional 25 percent in 1993.

By 1998, MRWA projects that the average household will pay $350 for water and $845 for wastewater, for a total of $1,195 in that year. We are talking about an average annual increase of nearly 20 percent and a total jump of 640 percent between 1986 and 1998. Other metropolitan areas are unlikely to have rate growth at anywhere near this level.

To date, the Boston Harbor project has received $179 million in Federal grants. I am pleased that the administration has recently seen the light, and has included funding for Boston Harbor in its fiscal year 1992 and fiscal year 1993 budget proposals, but the amounts are clearly insufficient.

The project has also received $73 million in a loan from the State Revolving Fund, financed under title VI of the Clean Water Act. This SRF loan, at a 1.8 percent interest rate, is likely to be a one-time occurrence, because it is significantly below market interest rates. No SRF can loan below-market rates for long and remain a revolving fund.

In addition, the amount of unmet wastewater construction needs throughout Massachusetts, is great, and the Commonwealth's fiscal circumstances prevent contributions above the minimum State match. Finally, MWRA's own bonds enjoy a higher rating than the Commonwealth's, and the State Revolving Fund. These combined factors mean that grant funding, not the SRF, is the primary source of real relief to ratepayers in the Boston area.

This legislation will authorize $1 billion in Federal funds under the Clean Water Act for Boston Harbor, to construct wastewater treatment facilities for sewage discharged by MWRA. The funds to be administered by the Environmental Protection Agency at a Federal share of not more than 75 percent will remain available until expended. This formulation parallels what Congress approved for Boston Harbor in 1987.

Most metropolitan areas received significant grants under a similar Federal/State match formula during the 1970's and early 1980's. At that time, Boston was determining the appropriate level of sewage treatment under the act's provisions on ocean discharges. Once this determination was made, MWRA began design and construction of the federally-mandated treatment facilities.

The $1 billion authorized by this bill, in addition to the $179 million already appropriated by Congress, represents approximately 20 percent of the wastewater project cost of $5.8 billion, adjusted for inflation. This amount is substantially less than the 75 percent funding enjoyed by other communities or even the 55 percent funding provided to projects initiated after 1984.

While this legislation will not put Boston on an equal footing with other cities, it is a reasonable response to the enormous rate increases that will face Boston families throughout this decade, as MWRA works to bring the harbor into compliance with Federal requirements.

I urge prompt and favorable consideration of this bill, in order to provide much-needed assistance to Boston area ratepayers, to create jobs, and to ensure that the clean up of Boston Harbor proceeds in a thorough and effective way.

ADDITIONAL COSPONSORS

S. 1150

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1150, a bill to reauthorize the Higher Education Act of 1965, and for other purposes.

S. 1261

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1357

At the request of Mr. BREAUX, the names of the Senator from Nevada [Mr. REID] and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1658

At the request of Mr. NICKLES, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1658, a bill to require the Secretary of Labor, with respect to contracts covering federally financed and assisted construction, and labor standards provisions applicable to nonconstruction contracts subject to the Contract Work Hours and Safety Standards Act, to ensure that helpers are treated equitably, and for other purposes.

S. 1842

At the request of Mr. DASCHLE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1842, a bill to amend title XIX of the Social Security Act to provide for Medicaid coverage of all certified nurse practitioners and clinical nurse specialists services.

S. 1989

At the request of Mr. ROCKEFELLER, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1989, a bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provision of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes.

S. 2091

At the request of Mr. DECONCINI, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2091, a bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti.

S. 2211

At the request of Mr. NICKLES, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2211, a bill to amend the Internal Revenue Code of 1986 to eliminate tax penalties that apply to oil and gas investments, and for other purposes.

S. 2239

At the request of Mr. PRYOR, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 2239, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

SENATE JOINT RESOLUTION 214

At the request of Mr. RIEGLE, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 214, a joint resolution to designate May 16, 1992, as "National Awareness Week for Life-Saving Techniques."

SENATE JOINT RESOLUTION 230

At the request of Mr. REID, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Indiana [Mr. COATS], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 230, a joint resolution providing for the issuance of a stamp to commemorate the Women's Army Corps.

SENATE JOINT RESOLUTION 233

At the request of Mr. BIDEN, the names of the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Connecticut [Mr. DODD], the Senator from Virginia [Mr. WARNER], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from New York [Mr. D'AMATO], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Joint Resolution 233, a joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week."

SENATE JOINT RESOLUTION 238

At the request of Mr. RIEGLE, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 238, a joint resolution designating the week beginning September 21, 1992, as "National Senior Softball Week."

SENATE JOINT RESOLUTION 241

At the request of Mr. SPECTER, the names of the Senator from California [Mr. CRANSTON] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 241, designating October 1992 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

AMENDMENT NO. 1691

At the request of Mr. BOREN his name was added as a cosponsor of amendment No. 1691 proposed to S. 1150, a bill to reauthorize the Higher Education Act of 1965, and for other purposes.

At the request of Mr. SPECTER the names of the Senator from Wisconsin [Mr. KASTEN] and the Senator from Florida [Mr. MACK] were added as cosponsors of amendment No. 1691 proposed to S. 1150, supra.

At the request of Mr. MITCHELL his name was added as a cosponsor of amendment No. 1691 proposed to S. 1150, supra.

SENATE CONCURRENT RESOLUTION 93—RELATIVE TO PROPOSED ARMS SALES TO ARAB COUNTRIES

Mr. SEYMOUR (for himself and Mr. DECONCINI) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 93

Whereas the United Nations Partition Plan of 1947 created national homelands in Palestine for both the Arab and Jewish residents of the region;

Whereas, although the State of Israel accepted this territorial division, a coalition of Arab states rejected the Partition Plan and initiated an armed conflict to eliminate the Jewish homeland;

Whereas the joint settlement ending the Arab-Israeli war of 1948 did not include formal recognition of the sovereignty of the State of Israel by any Arab government;

Whereas the Charter of the United Nations identifies the concept of sovereignty as a basic and inviolable right of all nations;

Whereas every government in the history of the State of Israel has adopted as a formal policy the willingness to negotiate all political and economic disagreements with any Arab party that recognizes unconditionally the sovereignty of the Jewish homeland; and

Whereas the failure of every Arab nation (other than Egypt) to recognize the sovereignty of Israel is a principle cause of the proliferation of offensive military weaponry and the absence of a comprehensive peace agreement in the Middle East: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) formal diplomatic recognition of the State of Israel by the Arab nations of the Middle East should occur without condition; and

(2) the President should withhold the submission to the Congress of any proposed sale of offensive military weaponry under section 36(b)(1) of the Arms Export Control Act (other than weaponry that may be required under emergency conditions) to any Arab nation of the Middle East until such nation establishes diplomatic relations with the State of Israel.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

• Mr. SEYMOUR. Mr. President, I rise this morning to submit a concurrent resolution on behalf of myself and Senator DECONCINI expressing the sense of the Congress that the President should withhold the sale of offensive military weaponry to Arab governments refusing to establish diplomatic relations with the State of Israel.

Recent developments such as the January 6 vote by the United Nations Security Council condemning the Shamir government for its plans to discipline 12 Palestinian agitators have obscured the reality that every Arab nation with the exception of one remains in a state of war with the Israeli people.

This grim factor—not the fate of the Palestinians or the Spartan Israeli settlements on the West Bank—poses the greatest obstacle to an enduring peace agreement in the Middle East.

Furthermore, during a time when the United States has repeatedly expressed its concern about the worldwide proliferation of offensive weapons, we cannot lose sight of the fact that the Arab world's refusal to accept the sovereignty of Israel stands as the major reason for the acquisition of long-range ballistic missiles by countries such as Libya, Syria, and Iraq.

If the President announces that he will refrain from initiating major arms sales to aggressive Arab powers, they might realize the futility of rejecting America's only democratic ally in the region.

Under these circumstances, the Israelis would have the opportunity to act upon their 40-year-old policy of negotiating all outstanding grievances with their neighbors if only the Arab States renounced their desire to destroy the Jewish homeland.

This resolution, therefore, gives all of the parties to the Arab-Israeli conflict an incentive for peace.

It takes the spotlight off the frequently hypocritical and one-sided actions of the United Nations and encourages diplomats from both sides to seriously address the deep-seated political conflicts that have haunted the Middle East for more than four decades.

During this time of hope generated by the ongoing regional peace negotiations, Congress could not make a more appropriate statement of policy than the one enunciated by this resolution. As a result, I urge the Senate to consider and adopt this vital measure at the earliest possible time.•

SENATE RESOLUTION 260—OPPOSING THE TAXATION OF CASH BUILDUP IN LIFE INSURANCE ANNUITIES

Mr. KASTEN submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 260

Whereas the U.S. savings rate is among the lowest in the industrialized world;

Whereas life insurance annuities are an important savings vehicle for Americans;

Whereas life insurance annuities are an important means of providing for retirement;

Whereas the proposed tax on annuities would result in the loss of substantial long-term capital investment;

Whereas a tax on the cash value of annuities would eliminate annuities as an attractive investment, saving, and retirement vehicle;

Whereas the proposed tax on annuities would harm the insurance industry, an important source of investment in the economy and a source of jobs for millions of Americans: Now, therefore, be it

Resolved, That the Congress shall oppose any attempt to increase taxes on life insurance annuities.

• Mr. KASTEN. Mr. President, I rise today to express my strong opposition to the administration's proposal to tax the cash buildup in life insurance annuities. I will aggressively oppose its inclusion in any tax or budget measure.

Taxing annuities in the manner proposed would result in the loss of substantial long-term capital investment. Life insurance annuities are an important program of saving and investment for Americans. Annuities provide retirement security and help to boost our Nation's low savings rate. It makes absolutely no sense that the Government would want to eliminate such an attractive and efficient private-sector insurance and retirement program. Hundreds of my constituents in Wisconsin have contacted me to express their dismay at this proposal.

The administration's proposal would harm American insurance companies, an industry that employs millions of Americans. Annuity sales are the source of substantial proportion of new business. The insurance industry is in turn, an important source of investment in the economy.

Americans want government to provide more incentives for saving, not less. It is indeed ironic that while the administration acknowledges the need for more tax favored saving opportunities, they have chosen to propose the elimination of life insurance annuities as an attractive investment.

I have authored a sense-of-the-Senate resolution expressing opposition to the proposed taxation of life insurance annuities. I invite my colleagues to join as cosponsors.•

AMENDMENTS SUBMITTED

HIGHER EDUCATION AMENDMENTS

SANFORD AMENDMENT NO. 1695

Mr. SANFORD proposed an amendment to the bill (S. 1150) to reauthorize the Higher Education Act of 1965, and for other purposes, as follows:

Strike all on page 312, line 6 through page 322, line 6 and insert:

"SEC. 495. STATE IDENTIFICATION PROCESS.

"(A) IN GENERAL.—Each State shall assist the Secretary to identify institutions of higher education within the State, which have engaged in practices that lead to misuse of Federal student aid funds, including but not limited to—

"(1) inadequate procedures to protect students enrolled at institutions of higher education in the event of school closure;

"(2) inadequate maintenance of student or other records;

"(3) inadequate procedures for resolution and investigation of student complaints;

"(4) misleading or inappropriate advertising and promotion, or student recruitment;

"(5) facilities that fail to comply with relevant safety and health standards such as fire, building and sanitation codes;

"(6) failure to provide relevant information to students by institutions of higher education which may include—

"(A) information relating to market and job availability for students in professional and vocational programs;

"(B) information regarding courses which exceed standards for State licensure in specific occupations, where appropriate; and

"(C) information regarding course cancellation procedures and rights;

"(7) the inflation of credit or clock hours required for the completion of programs or where 600-hour courses are not appropriate in length;

"(8) occupational or vocational programs which are inadequate to permit students to meet State licensing requirements in the occupation for which training is provided;

"(9) the actions of any owner, shareholder, or person exercising control over the educational institution which may adversely affect eligibility for programs under this title; or

"(10) the absence of a fair and equitable refund policy to protect students as established in Section 498.

"(b) STATE PROCEDURES.—

(1) In carrying out the purpose of this section, the State shall establish and publicize the availability of a process to permit students, faculty members and others to report complaints or instances of fraud and abuse;

"(2) The State shall notify the Secretary, in a timely manner, of any institution it has identified pursuant to this section. The Secretary shall take prompt, appropriate action based on such notification and report such action to the State; and

"(3) Each State shall designate, for purposes of this section, a single state entity or individual to be responsible for reporting information under this section to the Secretary.

"(c) In identifying institutions of higher education pursuant to this section, the State shall give priority to institutions that have:

"(1) a cohort default rate as defined in section 435(m) equal to or greater than 10 percent; and

"(A) more than two-thirds of an institution of higher education's total undergraduate students enrolled on a half-time or more basis receive assistance under this title (except subparts 4 and 6 of part A); and

"(B) two-thirds of more of an institution of higher education's education and general expenditures are derived from funds provided to students enrolled at such institution from the programs assisted under this title (except subparts 4 and 6 of part A and section 4288);

"(2) A limitation, suspension, or termination action by the Secretary against an institution pursuant to section 487(c)(1)(D), 487(c)(1)(E) or section 487(c)(2)(A) during the preceding 5 years; or

"(3) An audit finding during the two most recent audits of an institution of higher education's conduct of the programs assisted under this title that resulted in the repayment by such institution of amounts greater than 5 percent of the funds such institution received from the programs assisted under this title for any 1 year; or

"(4) A citation of an institution of higher education by the Secretary for failure to submit audits required by this title; or

"(5) A year-to-year fluctuation of more than 25 percent in the amounts received by students in Pell grants or loans made, insured or guaranteed under sections 428 and 428A, which are not accounted for by changes in such loan programs; or

"(6) A change of ownership of the institution of higher education that results in a change of control, including—

"(A) the sale of such institution or the majority of its assets;

"(B) the transfer of the controlling interest of stock of such institution or its parent corporation;

"(C) the division of one or more such institutions into two or more institutions;

"(D) the transfer of the controlling interest of stock of such institution to its parent corporation; or

"(E) the transfer of the liabilities of such institution to its parent corporation.

"(7) Except with regard to any institution that is affiliated with a State system of higher education, participation in one or more of the programs established by this title for less than 5 years; or

"(8) any other institution which the State has reason to believe is engaged in fraudulent practice."

On page 322, line 7, strike "(h)" and insert "(d)".

On page 322, line 11, strike "standards required by".

On page 322, line 23, strike "$10,000,000" and insert "$20,000,000".

On page 335, strike lines 15 and 16 and insert "from States under section 495".

On page 336, lines 8-9, strike "State agencies designated under section 495(c)" and insert "States".

On page 333, between lines 2 and 3, insert the following:

"(7) assure that the institutions of higher education has a fair and equitable refund policy.

"(b) FAIR AND EQUITABLE REFUND POLICY.—

"(1) IN GENERAL.—An institution's education refund policy shall be considered to be fair and equitable for purposes of this section if the policy provides for a refund that meets—

"(A) the requirements of applicable State law;

"(B) the specific refund requirements established by an institution's nationally recognized accrediting agency and approved by the Secretary; or

"(C) the pro rata refund requirement described in paragraph (2), except that this paragraph shall not apply to the institution's refund policy for any student whose date of withdrawal from the institution is after the halfway point (in time) in the period of enrollment for which the student has been charged.

"(2) PRO RATA REFUND.—As used in this section, the term 'pro rata refund' means a refund by the institution to a student attending such institution for the first time of not less than that portion of the tuition, fees, room and board, and other charges assessed the student by the institution equal to the portion of the period of enrollment for which the student has been charged that remains on the last day of attendance by the student.

"(3) REFUND CREDIT.—For purposes of this section, a refund first shall be credited against any part B loan assistance and second against any grant awarded a student under this title for the period of enrollment.

PRYOR AMENDMENT NO. 1696

Mr. PELL (for Mr. PRYOR) proposed an amendment to the bill S. 1150, supra, as follows:

On page 225, between lines 11 and 12, insert the following:

SEC. . ALLOCATION OF FUNDS.

Subsection (j) of section 462 of the Act (20 U.S.C. 1087bb(j)) is amended to read as follows:

"(j) REALLOCATION OF EXCESS ALLOCATIONS.—

"(1) IN GENERAL.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate such excess to eligible institutions which were participants in the program in fiscal year 1985 but which did not receive an allocation under subsection (a), an amount equal to those institutions' excess eligible amounts as determined under paragraph (2) multiplied by the institution's default penalty, as determined under subsection (f), except that—

"(A) if the institution has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this subparagraph; and

"(B) except that the reallocation to an institution shall not exceed such institution's eligible amount (as determined under paragraph (3) of subsection (c)).

"(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) that institution's eligible amount (as determined under paragraph (3) of subsection (c)), divided by (ii) the sum of the eligible amounts of all institutions described in paragraph (1) (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

"(B) the amount required to be allocated to that institution under subsection (c) of section 462.

"(3) From the remainder of such excess, the Secretary shall reallocate the remainder, in accordance with regulations, to eligible institution which did not return to the Secretary any portion of the sums allocated to such institution.".

PELL AMENDMENT NO. 1697

Mr. PELL proposed an amendment to the bill S. 1150, supra, as follows:

On page 24, strike line 17 through page 25, line 20, and insert:

"SEC. 126. STUDENT LITERACY CORPS PROGRAM.

"(a) IN GENERAL.—From the amount reserved pursuant to section 131(b) for any fiscal year, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to institutions of higher education for not more than 3 years to pay for the Federal share to carry out student literacy corps programs.

"(b) SPECIAL RULE.—An institution of higher education shall only receive 1 grant under this section in each fiscal year.

"(c) CONTINUATION OF LITERACY PROGRAM.—Grants under this section are renewable upon application by the institution of higher education in accordance with section 128.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of carrying out student literacy corps programs under this subpart shall be—

"(A) up to 100 percent for an initial grant to an institution of higher education; and

"(B) up to 75 percent for a grant renewed under subsection (c).

"(2) NONFEDERAL SHARE.—The non-Federal share of carrying out student literacy corps programs under this subpart may be paid from any non-Federal sources.

"SEC. 127. USES OF FUNDS.

"(a) IN GENERAL.—Funds made available under this subpart may be used for—

"(1) grants to institutions of higher education for—

"(A) the costs of participation of institutions of higher education in the student literacy corps program for which assistance is sought; and

"(B) stipends for student coordinators engaged in the student literacy corps program for which assistance is sought; and

"(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 129.

"(b) LIMITATION.—No grant award to an institution of higher education under this subpart shall exceed $100,000.

"(2) FIRST YEAR.—No institution of higher education may expend more than $50,000 of a grant made under this subpart in the first year in which the institution receives such a grant.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PRIVATE RETIREMENT PLANS AND OVERSIGHT OF THE INTERNAL REVENUE SERVICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Private Retirement Plans and Oversight of the Internal Revenue Service of the Committee on Finance be authorized to meet during the session of the Senate on February 21, 1992, at 9:30 a.m. to hold a hearing on the taxpayer bill of rights 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, February 21, at 10 a.m. to hold a hearing on the crisis in East Timor and United States policy toward Indonesia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Friday, February 21, at 9:30 a.m., for a hearing on the subject: fewer airlines, higher fares?

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SECTION-BY-SECTION ANALYSIS OF S. 543 AS REPORTED BY THE BANKING COMMITTEE

• Mr. RIEGLE. Mr. President, I ask to insert in the RECORD a section-by-section analysis of S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, as reported by the Banking Committee to the full Senate on October 1, 1991.

The section-by-section analysis follows:

TITLE I—BANK INSURANCE FUND RECAPITALIZATION

SECTION 101. FDIC BORROWING AUTHORITY

Section 101(a) amends and recodifies section 14 of the Federal Deposit Insurance Act (12 U.S.C. §1824) to increase the authority of the Federal Deposit Insurance Corporation ("FDIC") to borrow from the Treasury and the Federal Financing Bank ("FFB") to meet the liquidity needs of the Bank Insurance Fund ("BIF").

Section 101(b) amends the limitation on total outstanding FDIC obligations in section 15(c) of the Federal Deposit Insurance Act. 12 U.S.C. §1825(c). All borrowing under amended section 14 will be subject to the limitations of section 15(c).

A. Treasury loans

Section 101(a) amends section 14 of the Federal Deposit Insurance Act, which currently authorizes the FDIC to borrow from the Treasury such funds as the FDIC Board of Directors deems required for insurance purposes, not exceeding $5 billion.

1. Authority to borrow for insurance costs

Paragraph (1) of new section 14(a) generally authorizes the FDIC to borrow from the Treasury, and the Treasury to lend to the FDIC, in accordance with section 14 and subject to the limit on aggregate borrowing by the FDIC set forth in section 15(c).

2. Loan purposes

Paragraph (2) specifies the purposes for which the FDIC may borrow from the Treasury. Specifically, the FDIC may borrow only to cover (1) losses incurred by the FDIC in protecting depositors (including losses to the BIF or the SAIF), or (2) administrative costs associated with resolving FDIC-insured depository institutions.

3. Priority for repayment of loss borrowings

Paragraph (3) governs the priority in which the FDIC expends its income from premiums assessed on members of either deposit insurance fund.

Under paragraph (3)(A), the Corporation should use such income, first, to make any scheduled payments on borrowings from the Treasury on behalf of the fund; second, to provide for the fund's expected operating expenses and to cover new insurance losses to the fund as they occur; and last, to increase the fund's cash reserves.

Paragraph (3)(B) creates a limited exception to the priority order established in paragraph (3)(A). When the FDIC has borrowed from the Treasury on behalf of a fund, and the cash reserve balance of that fund exceeds $5 billion, subparagraph (B) requires the FDIC to use income from assessments on members of that fund, first, to make any scheduled payments on borrowings from the Treasury on behalf of the fund; second, to provide for the fund's expected operating expenses and to cover insurance losses to the fund as they occur; and last, to accelerate repayment of any Treasury borrowings.

4. Interim rule

Paragraph (4) prohibits the FDIC from reducing the deposit insurance assessment rates in effect on July 15, 1991, for members of any deposit insurance fund if (1) the FDIC has borrowed from the Treasury on behalf of the fund, or (2) the fund's reserve ratio remains below the designated reserve ratio. This prohibition will remain in effect until the risk-based deposit insurance assessment system in section 212 becomes effective. (New section 7(b)(2)(E)–(F), as added by section 212, will then serve a similar purpose.)

5. Terms

Paragraph (5) permits the Secretary of the Treasury to lend under section 14(a) only in accordance with a written agreement that (1) sets forth a schedule for repaying the loan over a period not exceeding 15 years from the date of the loan, and (2) provides that the loan shall bear interest at the current market yield (as of the date of the loan) on outstanding Treasury obligations of comparable maturities. The written agreement may include additional terms, as long as those terms are consistent with those required by paragraph (5).

Paragraph (5) permits the Secretary to lend under section 14(a) only if the Secretary has determined in writing that income to the deposit insurance fund on behalf of which the loan will be made will suffice to repay the loan in accordance with the agreement.

6. Limit on total borrowing for insurance costs

Paragraph (6) limits the FDIC's aggregate outstanding borrowings from the Treasury under section 14(a). The limit is $30 billion until the BIF's reserve ratio first equals or exceeds the designated reserve ratio for a complete semiannual assessment period. The limit then falls to $10 billion and remains at that level even if the BIF's reserve ratio again declines below the designated reserve ratio.

Of the FDIC's aggregate borrowings under section 14(a), no more than $5 billion may be on behalf of the SAIF.

7. Public debt status

Consistent with current law, paragraph (7) provides that loans and repayments under section 14(a) shall be treated as public debt transactions of the Federal Government.

8. Apportionment of liability

Consistent with current law, paragraph (8) apportions liability for any loan from the Treasury between the BIF and the SAIF in accordance with the amount of the loan used on behalf of each fund.

B. Federal financing bank loans

1. Authority to borrow for working capital

Paragraph (1) reenacts and amends portions of current section 14(b) of the Federal Deposit Insurance Act. Generally, it authorizes the FDIC (on behalf of either the BIF or the SAIF) to borrow from the Federal Financing Bank ("FFB"), and the FFB to lend to the FDIC, in accordance with section 14(b). The FFB may prescribe terms for such loans.

2. Purposes

Paragraph (2) permits the FDIC to borrow from the FFB only for two working capital purposes: first, to finance the acquisition, retention, maintenance, liquidation, disposal, or improvement of the assets of an FDIC-insured depository institution in the course of the FDIC's resolution and receivership activities; or second, to provide temporary liquidity to insured depository institutions to the extent otherwise authorized by statute.

3. Limitation on borrowing for working capital

Paragraph (3) limits the FDIC's borrowings from the FFB on behalf of the BIF to $45 billion.

4. Effect on other entities

Paragraph (4), which reenacts current law, indicates that section 14(b)—in specifying the FDIC's authority to borrow from the FFB—creates no negative implication about the borrowing authority of other entities.

C. Limitation on total outstanding obligations

1. Current law

Section 15(c) of the Federal Deposit Insurance Act currently limits the FDIC's total outstanding obligations. 12 U.S.C. §1825(c). Paragraph (5) of current section 15(c) forbids the FDIC to issue any obligation or guarantee on behalf of either deposit insurance fund if the fund's net worth would be less than 10 percent of assets after reduction for the cost of the obligation or guarantee. Current paragraph (6) allows the FDIC, with the prior approval of the Secretary of the Treasury, to issue or incur an additional $5 billion of liabilities in excess of the limitations in paragraph (5). To the extent the FDIC exercises its authority under section 15(c)(6), however, its borrowing authority under section 14(a) diminishes. Current paragraph (7) requires the FDIC to calculate the assets and net worth of the BIF and SAIF based on the most recent audits of those funds by the Comptroller General.

2. Revised limitation

Section 102(b) of the bill replaces paragraphs (5), (6), and (7) of current section 15(c) with new paragraphs (5) and (6).

a. Limitation on maximum amount of outstanding obligations

New paragraph (5) forbids the FDIC to issue any note or incur any liability if the FDIC's obligations on behalf of the BIF or SAIF would exceed the sum of that fund's cash balance, plus 90 percent of the estimated fair market value of its noncash assets, plus the aggregate amount of any loans outstanding under section 14(a). The new paragraph (5) further requires that the FDIC base its estimate of the fair market value of its noncash estimates on the GAO's most recent audit of FDIC.

b. Obligation defined

New paragraph (6) defines "obligations" of the FDIC for purposes of paragraph (5). The term includes any guarantee by the FDIC other than deposit guarantees, any extension of credit from the Treasury or the FFB to the FDIC under section 14, and any other note, bond, or contract for which the FDIC has a direct or contingent liability. In the case of a contingent liability, the amount subject to the borrowing limit should be the expected cost of the contingent liability (i.e., conceptually, the sum of the contingent liability's cost under the full range of possible future events, with each cost multiplied by the event's probability).

Taken together, amended section 15(c) and new section 14(b)(3) limit the FDIC's total borrowings from the FFB on behalf of the BIF to the lesser of $45 billion or the sum of the BIFs cash balance plus 90 percent of the estimated fair market value of the fund's noncash assets. Working capital borrowings will be repaid from the proceeds of sales by the FDIC of assets of failed institutions. Should sales proceeds prove insufficient for that purpose, the FDIC must recognize the shortfall as a loss to be subtracted from the fund's assets and, if necessary, funded through borrowings under section 14(a).

D. Conforming amendment

Section 101(c) section 3 of the Federal Deposit Insurance Act (12 U.S.C. §1813) to define "deposit insurance fund" as the Bank Insurance Fund or Savings Association Insurance Fund, as the case may be.

SECTION 102. RECAPITALIZING BANK INSURANCE FUND

This section amends section 7(b)(1)(C) of the Federal Deposit Insurance Act to provide a system for setting assessment rates for BIF members sufficient to repay borrowings by the FDIC under section 14(a) and return the BIF's reserve ratio to the designated reserve ratio.[1]

New section 7(b)(1)(C), which applies to the BIF alone, will remain in force until the risk-based deposit insurance assessment system in section 212 becomes effective, and will then be replaced by new section 7(b)(3) (as added by section 212), which will apply to both the BIF and the SAIF. The SAIF is treated differently than the BIF in order to preserve SAIF-related transition provisions enacted as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA").

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[1] Section 7(b)(1)(B) of the Federal Deposit Insurance Act establishes the "designated reserve ratio" of both the BIF and the SAIF as 1.25 percent of estimated insured deposits or such higher percentage of estimated insured deposits as the Board of Directors determines for that year to be justified by circumstances raising a significant risk of substantial future losses to the fund.

A. General rule

Clause (i) of new section 7(b)(1)(C) establishes the general rule that, when the BIF's reserve ratio equals or exceeds the designated reserve ratio, the FDIC Board should set assessment rates for BIF members so as to maintain the BIF's reserve ratio at the designated reserve ratio.

B. Special rules for recapitalizing undercapitalized funds

Clause (ii) establishes the standard for setting assessment rates for BIF members when the BIF's reserve ratio is less than the designated reserve ratio. In that event, the Board should set assessment rates so as either to rebuild the fund to the designated reserve ratio within one year, or to achieve an interim target reserve ratio under a recapitalization schedule promulgated by the FDIC.

C. Recapitalization schedules

If the BIF's reserve ratio is less than the designated reserve ratio, and the FDIC elects not to set an assessment rate for BIF members sufficient to achieve the designated reserve ratio within one year, the FDIC must promulgate—if it has not already promulgated—a recapitalization schedule for the BIF and the set the assessment rate for BIF members in accordance with that schedule. Clause (iii) requires that such a recapitalization schedule specify target reserve ratios for the BIF at semiannual intervals, culminating in a reserve ratio equal to the designated reserve ratio by the end of the period determined under the following clause.

D. Date for achieving designated ratio

Clause (iv) provides a mechanism for determining the date by which the BIF's reserve ratio must equal the designated reserve ratio in a recapitalization schedule promulgated under clause (iii). Subclause (I) limits the maximum permissible time period for rebuilding the BIF to 15 years. Subclause (II) provides a formula for calculating the maximum permissible time period that may yield a maximum period less than 15 years, depending on the extent of the shortfall in the BIF's reserves. The formula provides a maximum time period that increases directly with the extent of the shortfall. If the designated reserve ratio remains 1.25 percent, the formula will provide roughly 1 year for rebuilding the BIF for each 0.083 percent of insured deposit by which the BIF's actual reserve ratio falls short of the designated ratio.

E. Amending schedule

Clause (v) permits the FDIC to amend a recapitalization schedule promulgated under clause (iii) if the amendments do not extent the final deadline for rebuilding the BIF to the designated reserve ratio. Under clause (v), the FDIC could, for example, adjust interim target reserve ratios to avoid excessive burdens on the banking industry during a recession. Once the FDIC has promulgated a recapitalization schedule, however, the final deadline for achieving the designated reserve ratio will remain fixed unless the FDIC succeeds in extending the schedule under clauses (vi) and (vii).

F. Procedure for extending schedule

Clause (vi) sets forth the procedures the FDIC must follow to extend a recapitalization schedule. The FDIC must determine that maintaining assessments at levels sufficient to achieve the designated reserve ratio by the end of the schedule period would significantly increase losses to the fund or significantly impair the availability of credit. If the FDIC makes such a determination, it may submit a report to Congress setting forth a revised schedule and providing a detailed justification for the revision. The FDIC may not, however, implement the revised schedule unless Congress enacts a joint resolution of approval within 60 calendar days (excluding days on which either House of Congress is adjourned for more than 3 days to a date certain or is adjourned sine die) of receiving the FDIC's report.

G. Procedures for expedited congressional consideration

Clause (vii) specifies the wording of the joint resolution Congress must pass before the FDIC can implement a revised capitalization schedule, and sets forth procedures for expedited congressional consideration of such a joint resolution. When the FDIC submits a report to the Congress under clause (vi), a joint resolution allowing the FDIC to implement the proposed revised schedule contained in the report will be introduced by request in the House of Representatives and in the Senate. The appropriate House and Senate committees will then have 30 days in which to report the joint resolution. Any committee that fails to do so will be discharged from further consideration of the joint resolution. To expedite consideration of the joint resolution, it will be considered in the Senate in accordance with section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 (Pub. L. 94-329), which limits debate to 10 hours. In the House of Representatives it will be treated as highly privileged.

H. Special assessment to recover losses on foreign deposits

Clause (viii)(I) establishes a general rule requiring the FDIC to recover as soon as practicable through special assessments on foreign deposits any "payment with respect to foreign deposits." That term refers to the ratio of an institution's foreign deposits to its total liabilities, multiplied by the estimated total loss incurred by the deposit insurance fund with respect to the institution.

Clause (viii)(II) provides different rules for calculating the ratio of the institution's foreign deposits to total liabilities, depending on when the "payment with respect to foreign deposits" occurs. The distinguishing feature between the different rules is the time at which the amounts of foreign deposits and total liabilities are determined.

Before January 1, 1995, the ratio of the institution's foreign deposits to total liabilities shall be calculated based on either (1) the amounts of those deposits and liabilities on the date on which the FDIC appointed a receiver for the institution or initiated assistance under section 13(c) of the Federal Deposit Insurance Act, or (2) the average amounts of those deposits and liabilities between the date on which the institution was significantly undercapitalized and first received an advance from a Federal Reserve bank and the date on which the FDIC appointed a receiver for the institution or initiated assistance under section 13(c) of the Federal Deposit Insurance Act. Clause (viii)(II) directs the FDIC to choose whichever method of calculation yields the greater quotient.

After January 1, 1995, the ratio of the institution's foreign deposits to total liabilities shall be calculated from the amounts of such deposits and liabilities on the date on which the FDIC appointed a receiver for the institution or initiated assistance under section 13(c) of the Federal Deposit Insurance Act.

Clause (viii)(IV) defines "foreign deposit" as any deposit described in subparagraph (A) or (B) of section 3(l)(5) of the Federal Deposit Insurance Act.

SECTION 103. GAO AUDIT OF RECAPITALIZATION SCHEDULE

Section 17(d)(1) of the Federal Deposit Insurance Act requires the Comptroller General to audit annually the financial transactions of the FDIC, the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund in accordance with generally accepted government auditing standards. 12 U.S.C. §1827(d)(1). This section amends section 17(d)(1) to require the Comptroller General, as part of the annual audit, to audit the FDIC's compliance with any capitalization schedule promulgated under section 7(b)(1)(C) in effect at the time of the audit.

SECTION 104. EMERGENCY GUARANTEE

This section provides for the Secretary of the Treasury, upon written request by the State of Rhode Island or the Depositors Economic Protection Corporation (the "Corporation") established by that State, to guarantee the repayment of up to $180 million in borrowing by the Corporation. This will assist in the repayment of depositors at certain state-chartered banks and credit unions in receivership in Rhode Island that were not FDIC-insured.

The Secretary of the Treasury may guarantee borrowing by the Corporation only if the Director of the Office of Management and Budget determines that the guarantee has no net cost to the United States Government. The Secretary may guarantee only Corporation borrowing that occurs within 1 year after the date of enactment of this Act. The borrowing must mature within 10 years and must be scheduled to be repaid in equal installments of principal during the last 5 years of its repayment term.

No guarantee may be made unless the amount of the borrowing for which the guarantee is requested is fully secured by a grant by the Corporation to the United States of a first mortgage lien and prior perfected security interest in sufficient performing assets held by the Corporation and all proceeds from the sales of such assets. The appraised market value of such pledged collateral must be at least 2.5 times the principal amount of the borrowing at the time of the borrowing. The borrowing must also be secured by a pledge by the Corporation of any revenue from the Rhode Island sales tax dedicated to the Corporation, in excess of the amount necessary to pay principal and interest on any obligation issued by Rhode Island or the Corporation before the date of enactment to repay the depositors. Each proposed borrowing must receive the highest investment grade rating by a nationally recognized statistical rating organization before a guarantee can be made. In addition, all income received in a fiscal year by the Corporation from or attributable to assets pledged to the United States as collateral, in excess of the amount necessary to pay principal and interest on any borrowings guaranteed by the Secretary, must be deposited into a sinking fund dedicated to the repayment of guaranteed borrowings.

The Secretary will assess and collect from the Corporation a guarantee fee at least annually. The guarantee fee will be computed daily at a rate of at least one-half of one percent per year on the outstanding principal amount of borrowing guaranteed. All fees received by the Secretary shall be paid into the general fund of the Treasury.

The Secretary may establish additional terms and conditions for provision of a guarantee as he or she deems appropriate.

This section is subject to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Enforcement Act of 1990.

TITLE II—DEPOSIT INSURANCE REFORM

SECTION 201. FULL FAITH AND CREDIT

Section 201 provides that the full faith and credit of the United States stands behind deposit insurance under the Federal Deposit Insurance Act.

Previous legislation has declared "the sense of the Congress that it should reaffirm that deposits up to the statutorily prescribed amount in federally insured depository institutions are backed by the full faith and credit of the United States." Pub. L. No. 100-86, §901, 101 Stat. 552, 657 (1987); *accord*, H. Con. Res. 290, 96 Stat. 2639 (1982). Likewise, current law requires savings associations (and permits banks) to display a sign containing a "statement that insured deposits are backed by the full faith and credit of the United States Government." 12 U.S.C. §1828(a)(1)-(2). Section 201 is intended to avoid any possible ambiguity about the Government's obligation to insured depositors.

SECTION 202. IMPROVING CAPITAL STANDARDS

A. Periodic review of capital standards

Section 202(a) adds a new section 18(o) to the Federal Deposit Insurance Act, aimed at improving capital standards for FDIC-insured depository institutions. Section 18(o) requires each Federal banking agency, in consultation with the other Federal banking agencies, to review its capital standards for insured depository institutions biennially. Each agency must determine whether its capital standards require sufficient capital to facilitate prompt corrective action to prevent or minimize loss to the deposit insurance funds, consistent with section 37 of the Federal Deposit Insurance Act (as added by section 205).

B. Review of risk-based capital standards

Section 202(b) requires each Federal banking agency to revise its risk-based capital standards for insured depository institutions to ensure that those standards take adequate account of interest-rate risk, concentration of credit risk, and the risks of nontraditional activities. Each agency must promulgate final regulations to implement those revisions within 18 months after the bill becomes law, and must establish reasonable transition rules to facilitate compliance with the revised capital standards. The Federal banking agencies must discuss the development of comparable standards with members of the supervisory committee of the Bank for International Settlements (which developed the International Convergence of Capital Measurement and Capital Standards, commonly known as the Basel Accord).

C. Federal banking agencies defined

Section 202(c) adds a new section 3(z) to the Federal Deposit Insurance Act, defining "Federal banking agencies" as the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Reserve Board, and the Federal Deposit Insurance Corporation. This new definition complements section 3(q), which defines "appropriate Federal banking agency" by reference to the types of institutions each agency regulates.

SECTION 203. ACCOUNTING AND AUDITING REFORM

A. Accounting reform

Section 203(a) adds a new section 18(p) to the Federal Deposit Insurance Act, setting forth the objectives of accounting principles for FDIC-insured depository institutions and establishing a process for achieving those objectives.

1. Objectives

Paragraph (1) of new section 18(p) declares that accounting principles applicable to insured depository institutions should (1) result in financial statements and reports of condition that accurately reflect the economic condition of those institutions, and (2) facilitate effective supervision of insured depository institutions, including prompt corrective action to resolve troubled institutions' problems with no or minimal loss to the deposit insurance fund.

2. Improving accounting principles applicable to insured depository institutions

Paragraph (2) requires the Federal Financial Institutions Coordination Council (as reconstituted by section 441), in consultation with the Securities and Exchange Commission, to facilitate the development of accounting principles that meet the objectives set forth in paragraph (1). The phrasing of paragraph (2)—"facilitate the development"—anticipates that the Council will work closely with the Financial Accounting Standards Board. The optimal result would be for the Board to reform generally accepted accounting principles ("GAAP") so that they meet the objectives in paragraph (1).

3. Stringency

Paragraph (3) requires each Federal banking agency to prescribe accounting principles applicable to insured depository institutions no less conservative than GAAP. The agency may prescribe accounting principles more conservative than GAAP as appropriate to facilitate effective supervision of insured depository institutions, including prompt corrective action to resolve troubled institutions' problems at no or minimal loss to the deposit insurance fund.

B. Improvements in financial management

Section 203(b) adds a new section 36 to the Federal Deposit Insurance Act. New section 36 requires certain improvements in reporting by the management of insured depository institutions. These improvements are intended to facilitate the system of prompt corrective action established under section 205 by requiring the compilation and disclosure of reliable information concerning insured depository institutions' financial condition and management.

1. Annual report on financial condition and management

Subsection (a) of new section 36 generally requires all insured depository institutions to make an annual report on their financial condition and management. Subsection (j) sets forth the only exception, for small institutions.

a. Report required

Paragraph (1) of subsection (a) requires each insured depository institution to submit an annual report to the FDIC and the appropriate Federal banking agency (the institution's primary Federal regulator). A State-chartered institution must also submit the report to its State bank supervisor.

The report required by paragraph (1) must include several specific items. First, in accordance with subsection (b), the report must include the institution's financial statements and a report by the institution's management on internal controls and compliance with designated safety-and-soundness laws. Second, in accordance with subsections (c) and (d), the report must include an attestation and report by the institution's independent public accountant on both the institution's financial statements and the report by the institution's management on internal controls and compliance with safety-and-soundness laws. Finally, the report must include such other information as the FDIC and the institution's primary Federal regulator may require for assessing the institution's financial condition and management.

b. Report to be publicly available

Paragraph (2) requires that institutions and their regulators make the reports required under paragraph (1) available for inspection by the public.

2. Management's responsibility for financial statements and internal controls

Subsection (b) provides detail on those portions of the annual report required by subsection (a) that a depository institution must prepare. (Subsections (c) and (d) provide comparable detail on the portions to be prepared by the institution's independent public accountant.) Specifically, subsection (b) requires each depository institution to prepare both annual financial statements and a report on internal controls and compliance with safety-and-soundness laws.

a. Financial statements

Paragraph (1) of subsection (b) requires that the institution's annual financial statements be prepared in accordance with both generally accepted accounting principles and such other disclosure requirements as the FDIC or the institution's primary Federal banking regulator may prescribe. The reference to "such other disclosure requirements" includes requirements established by the FDIC or the institution's primary Federal banking regulator under new sections 7(a)(3) and 18(p) of the Federal Deposit Insurance Act (added by sections 225(a) and 203(a) of the bill).

b. Internal controls

Paragraph (2) requires that the institution's report on internal controls and compliance with safety-and soundness laws include two items. First, the report must include a statement of management's responsibility for preparing financial statements, establishing and maintaining an adequate internal control structure and procedures for financial reporting, and complying with designated safety-and-soundness laws. Second, the report must include an assessment, as of the end of the institution's most recent fiscal year, of both the effectiveness of the institution's internal control structure and procedures and the institution's compliance with designated safety-and-soundness laws. The report must be signed by the institution's chief executive officer and chief accounting or chief financial officer.

3. Internal control evaluation and reporting requirements for independent public accountants

Subsections (c) and (d) describe the responsibilities of each insured depository institution's independent public accountant in connection with the report required under subsection (a).

Subsection (c) describes the independent public accountant's responsibilities for the report required under subsection (b)(2). Specifically, each insured depository institution's independent public accountant must attest to, and report separately on, the assertions of the institution's management contained in the report. The attestation must accord with generally accepted standards for attestation engagements.

4. Annual independent audits of financial statements

Subsection (d) describes the independent public accountant's responsibilities for the annual financial statements required under subsection (b)(1). Specifically, paragraph (1) of subsection (d) requires the FDIC, in consultation with the other Federal banking agencies, to prescribe regulations requiring each insured depository institution to have its annual financial statements audited by an independent public accountant in accordance with generally accepted auditing standards.

Paragraph (2) describes the scope of the independent public accountant's audit of the institution's financial statements. The independent public accountant must determine and report on whether the institution's financial statements are presented fairly in accordance with generally accepted accounting principles and comply with such other disclosure requirements as the FDIC and the appropriate Federal banking agency may prescribe. Again, the reference to "other disclosure requirements" includes requirements prescribed under sections 7(a)(3) and 18(p) of the Federal Deposit Insurance Act.

Paragraph (3) of subsection (d) permits insured depository institutions that are subsidiaries of holding companies to comply with the requirement for an annual audit of their financial statements through a consolidated independent audit of the holding company.

5. Detecting and reporting violations of designated safety-and-soundness laws

Subsection (e) details the responsibilities of each insured depository institution's independent public accountant in connection with its audit of management's statements regarding its responsibility for complying with designated safety-and-soundness laws and management's assessment of the institution's compliance with those laws. Paragraph (1) of subsection (e) requires the accountant to apply procedures agreed upon by FDIC to determine objectively the extent to which each insured depository institution or depository institution holding company has complied with designated safety-and-soundness laws. The reference to "procedures agreed upon by the Corporation" indicates that the FDIC should be cognizant of the recommendations of the accounting profession and the Federal banking agencies in identifying appropriate procedures for determining the extent of compliance with designated safety-and-soundness laws. "Determine objectively," as used in paragraph (1), does not preclude the use of sampling procedures sufficient to provide a reasonable basis for attestation. The phrase "or depository institution holding company" accommodates subsection (j)'s provision for holding company reporting in the case of holding company subsidiaries.

Paragraph (2) of subsection (e) requires any attestation by an independent public accountant in connection with the audit of management statements on and assessments of compliance with designated safety-and-soundness laws to accord with generally accepted standards for attestation engagements.

6. Form and content of reports and auditing standards

Subsection (f) sets forth general rules concerning the form and content of reports by independent public accountants required under new section 36. In particular, the scope of such reports, and the procedure followed in preparing such reports, must satisfy generally accepted auditing standards ("GAAS") and other applicable standards recognized by the FDIC. The phrase "and other applicable standards" permit the FDIC to require the observance of auditing standards above and beyond GAAS standards as necessary to protect the deposit insurance funds. The conjunction "and" connotes that non-GAAS standards thus recognized should not replace or derogate from GAAS standards but, on the contrary, should complement and strengthen the application of GAAS standards. Subsection (f) further requires the FDIC to consult with the other Federal banking agencies in implementing subsection (f).

7. Improved accountability

Subsection (g) includes five measures intended to enhance the accountability of the management of an insured depository institution for internal control weakness, failure to comply with safety-and-soundness laws, and unsound financial condition.

a. Independent audit committee

Paragraph (1) of subsection (g) requires each insured depository institution to establish an audit committee consisting of independent members of the institution's board of directors.

Subparagraph (A) of paragraph (1) specifies certain criteria for independence: Members of the audit committee must be neither officers, nor employees, nor major shareholders of the institution. In addition, they must satisfy any additional requirements established by the FDIC. The language permitting the FDIC to impose additional requirements reflects the fact that factors other than employment by or ownership of an institution may compromise a director's independence from that institution. For example, a director's independence may be compromised by relying on the institution for financing his or her business interests, by ongoing contractual relationships with the institution, and by numerous other factors.

Subparagraph (B) details the duties of independent audit committees. Such committees shall be responsible for reviewing with the institution's management and the institution's independent public account the basis for reports issued and audits made under subsections (b)(2), (c), and (d). Independent audit committees should take care to fully understand the nature and extent of any weaknesses detected by the independent public accountant and work to ensure that the full board of directors and management of the institution identify and implement appropriate corrective measures. "Duties" in subparagraph (b) connotes a fiduciary obligation for the breach of which members of an audit committee may have civil liability.

Subparagraph (C) mandates certain additional characteristics for the audit committees of large insured depository institutions. Such audit committees must include members with expertise in banking or the management of related financial services; have discretion to retain independent legal counsel, at the institution's expense; and not include any large customers of the institution. Subparagraph (C) gives the FDIC discretion to define "large" with respect to both the size of the institutions falling within the scope of the subparagraph and the size of customer sufficient to merit disqualification from service on the audit committee. "Independent" legal counsel, in the context of the subparagraph, means legal counsel serving at the sole pleasure of the audit committee, over whose retention and payment neither the management, nor the officers, nor the full board of directors have any discretion whatever. Independent audit committees may from time to time require advice of counsel, for example, to evaluate the seriousness of weaknesses detected by the independent accountant or to review the adequacy of corrective measures adopted by the full board of directors or the management. The subparagraph does not authorize an independent audit committee or its members to retain legal counsel for purposes beyond the scope of the independent audit committee's responsibilities.

b. Review of quarterly reports of large insured depository institutions

Paragraph (2) of subsection (g) authorizes the FDIC to require an independent public accountant retained by a large insured depository institution to review the institution's quarterly financial reports. Subparagraph (A) of paragraph (2) sets forth the grant of authority to the FDIC. The FDIC has discretion to define "large" and to delineate the procedures according to which the accountant should conduct the review. As in subsection (e), the phrase "procedures agreed upon by the Corporation" reflects an expectation that the FDIC will be cognizant of the recommendations of the accounting profession and the Federal banking agencies in identifying appropriate procedures for determining the extent of compliance with designated safety-and-soundness laws.

Under subparagraph (B), when the FDIC exercises its authority under subparagraph (A), the insured depository institution's independent public accountant must report to the institution's independent audit committee on its review of the institution's quarterly financial reports. Subparagraph (B) makes the audit committee, in turn, responsible for providing copies of the independent public accountant's report to the FDIC, the institution's primary Federal banking regulator and, in the case of State institutions, the appropriate State bank supervisor.

Subparagraph (C) provides that reports by an independent public accountant under subparagraph (B) shall be made solely for the information and use of the insured depository institution, the FDIC, the institution's primary Federal banking regulator, and any appropriate State bank supervisor.

c. Qualifications of independent public accountants

Paragraph (3) establishes minimum standards for the qualification of independent public accountants to perform services under new section 36.

Subparagraph (A) of paragraph (3) prohibits any insured depository institution from retaining an independent public accountant to perform services required by new section 36 unless the accountant satisfies two criteria. First, the accountant must have agreed to provide, upon request, any working papers, policies, and procedures related to the accountant's performance of those services to the FDIC, the appropriate Federal banking agency for the institution, and in the case of State-chartered institutions, the appropriate State bank supervisor.

Second, the accountant must have received a peer review that meets guidelines acceptable to the FDIC. The accounting profession currently administers its own peer and quality review programs. Subparagraph (A) does not preclude the FDIC from relying upon the peer review programs of the profession if the

FDIC determines, upon review, that such programs provide an assurance of quality satisfactory to the FDIC. The phrase "guidelines acceptable to the FDIC" includes both the procedures for peer review and the outcome of those procedures.

Subparagraph (B) requires reports on peer reviews to be filed with the FDIC and made available by the FDIC for public inspection.

d. Enforcement actions

Paragraph (4) authorizes the FDIC or any appropriate Federal banking agency—upon a showing of good cause—to remove, suspend, or bar an independent public accountant from performing services under new section 36. Subparagraph (A) of paragraph (4) sets forth the general grant of authority, which is in addition to other enforcement powers of the FDIC and the Federal banking agencies. Subparagraph (B) requires the Federal banking agencies to jointly issue rules of practice to implement paragraph (4).

e. Notice if accountant's services terminate

Paragraph (5) requires any independent public accountant who ceases to perform services for an insured depository institution under new section 36 to promptly notify the FDIC. The paragraph authorizes the FDIC to prescribe rules for providing such notice.

8. Exchange of reports and information

Subsection (h) establishes requirements for the exchange of certain reports and information among insured depository institutions, their independent auditors, the appropriate Federal banking agencies, and the FDIC. "Independent auditor," as used in subsection (h), means an independent public accountant performing auditing services under new section 36.

a. Report to the independent auditor

Paragraph (1) of subsection (h) requires insured depository institutions to provide their auditors with certain information. In particular, institutions must provide their auditors with a copy of the institution's most recent report of condition, a copy of the institution's most recent report of examination, and a copy of each memorandum of understanding and written agreement in effect between the institution and its Federal or State regulator or supervisor. The institution must also provide its auditor with a report detailing enforcement actions initiated or taken against the institution by the appropriate Federal banking agency or the FDIC under certain provisions of section 8 of the Federal Deposit Insurance Act; in the case of State-chartered institutions, any actions initiated or taken under State law that are similar to actions that could be taken by the appropriate Federal banking agency or the FDIC under the same provisions of section 8; and any assessment of a civil money penalty under any other provision of Federal or State law against the institution or any institution-affiliated party.

b. Reports to banking agencies

Paragraph (2) requires depository institutions to provide certain information to their regulators and the FDIC. Subparagraph (A) of paragraph (2) requires each insured depository institution to provide a copy of each report from the institution's auditor, including any qualification to such a report and any management letter, within 15 days after receiving the report, qualification, or letter from the auditor.

Subparagraph (B) requires each insured depository institution to notify the FDIC, the appropriate Federal banking agency, and, in the case of State-chartered institutions, the appropriate State bank supervisor, whenever the institution's auditor resigns or is dismissed or the institution engages a new independent auditor. The notice must state the reasons for the change in auditor and be provided within 15 days after the change occurs. In implementing subparagraph (B), the FDIC and the Federal banking agencies should review the model from 8-K process developed by the Securities and Exchange Commission for a similar purpose and consider whether adopting the same process would satisfy subparagraph (B).

9. Requirements for insured subsidiaries of holding companies

Subsection (i) provides special rules for insured depository institutions that are subsidiaries of holding companies. The rules prescribe circumstances under which consolidated audits of the holding company will suffice in lieu of an audit of an insured depository institution. The rules set forth in subsection (i) do not apply to audits of financial statements under subsection (d). Under subsection (d)(3), audits of financial statements may in all instances be performed on a consolidated basis at the holding company level.

Specifically, subsection (i) permits a depository institution that is a subsidiary of a holding company to satisfy the requirements of new section 36 (other than requirements for an audit of its financial statements) if two conditions are met.

First, services and functions comparable to those required under section 36 must be provided at the holding company level. In general, this requirement will be satisfied if the holding company files an annual report containing the information required by subsection (a) (as further detailed in subsections (b) through (f); maintains an independent audit committee whose composition and responsibilities satisfy subsection (g); retains an independent public accountant qualified in accordance with subsection (g)(3) to provide services required by section 36; and reports to the FDIC, appropriate Federal and State regulatory authorities, and the independent auditor in accordance with the requirements of subsection (h).

Second, the depository institution must satisfy an asset size requirement. An institution satisfies this requirement if it had total assets of less than $5 billion as of the beginning of its fiscal year, or if it had total assets of more than $5 billion and less than $9 billion as of the beginning of its fiscal year together with a CAMEL rating of 1 or 2 (or an equivalent rating under a comparable rating system) from the FDIC or the institution's primary Federal banking regulator on the institution's most recent examination. An insured depository institution whose total assets exceed $9 billion as of the start of its fiscal year may not satisfy section 36 at the holding company level.

10. Exemption for small depository institutions.

Subsection (j) completely exempts certain small depository institutions from new section 36. To qualify for the exemption, an institution's total assets at the beginning of its fiscal year must not exceed the greater of $150 million or such higher amount as the FDIC may prescribe by regulation.

11. Designated safety-and-soundness laws defined

Subsection (k) defines "designated safety-and-soundness laws," as used in new section 36, to mean statutes and regulations relating to safety and soundness as designated by the FDIC or the appropriate Federal banking agency. In designating safety-and-soundness laws to fall within the scope of section 36, the FDIC and the appropriate Federal banking agencies should take cognizance of the requirement of subsection (e)(1) that the extent of compliance with such laws be susceptible to objective determination by an independent public accountant.

C. Effective date

Section 203(c) makes new section 36 effective for a given insured depository institution at the start of the institution's first fiscal year beginning after December 31, 1992.

SECTION 204. ANNUAL EXAMINATIONS

Section 204(a) adds a new section 10(d) to the Federal Deposit Insurance Act, generally requiring annual on-site examinations of all FDIC-insured depository institutions.

A. In general

Paragraph (1) of new section 10(d) requires the appropriate Federal banking agency to conduct a full-scope, on-site examination of each insured depository institution at least once every 12 months. Paragraph (2) specifies that a full-scope, on-site examination by the FDIC satisfies the annual examination requirement. Under paragraph (3), the appropriate Federal banking agency may, in alternate years, accept a State supervisor's examination of a depository institution chartered by that State. The Federal banking agency must be satisfied that the State examination is as rigorous and thorough as the agency's own examinations.

B. 18-month rule for certain small institutions

Under paragraph (4), a well-capitalized institution with total assets of less than $100 million may be examined once every 18 months—instead of annually—if (1) when the institution was most recently examined, its management and its composite condition both received the highest possible rating (i.e., a rating of 1, or "outstanding," on the 5-point CAMEL rating system currently in use); and (2) the institution has not undergone a change in control during the preceding 12 months. The appropriate Federal banking agency should not allow 18 months to elapse between examinations of an institution if the agency has reason to believe that the institution is not well-capitalized or well-managed.

C. Limits on scope of annual examination requirement

Paragraph (5) exempts from the annual examination requirement (1) any institution for which the FDIC is conservator and (2) any bridge bank of which no one other than the FDIC owns any voting securities.

Paragraph (6) provides that the "full-scope, on-site examination" required by new section 10(d) does not include a consumer compliance examination as defined in section 41(b) of the Federal Deposit Insurance Act (as added by section 523).

D. Effective date; transition rule

Section 204(b) makes new section 10(d) effective one year after the bill becomes law.

Section 204(c) provides a transition period between the effective date and December 31, 1993, during which full-scope, on-site examinations are generally required only every 18 months, rather than every 12 months. But the 12-month rule applies to any institution that (1) when most recently examined, received a less-than-satisfactory rating (i.e., a composite rating of 3, 4, or 5 under the CAMEL system); or (2) underwent a change in control during the preceding 12 months.

SECTION 205. PROMPT CORRECTIVE ACTION

Section 205(a) adds a new section 37 to the Federal Deposit Insurance Act, establishing a system of prompt corrective action to resolve the problems of FDIC-insured depository institutions.

A. Resolving problems to protect deposit insurance funds

The overriding purpose of new section 37 is to resolve the problems of insured depository institutions with no loss or minimal loss to the deposit insurance fund and, when loss cannot be avoided, at the least possible long-term loss to the fund. Each Federal banking agency is to carry out that purpose by taking prompt corrective action to resolve the problems of insured depository institutions.

B. Definitions

Subsection (b) of new section 37 defines various terms used in section 37, with paragraph (1) defining capital categories and paragraph (2) defining other terms.

1. Capital categories

Section 37 classifies insured depository institutions into five capital categories, set forth in subsection (b)(1): (1) well-capitalized; (2) adequately capitalized; (3) undercapitalized; (4) significantly undercapitalized; and (5) critically undercapitalized.

These categories relate an institution's capital to the "required minimum level" for each "relevant capital measure." Subsection (c)(1) generally provides for two "relevant capital measures": a "leverage limit," which relates to an institution's capital to its total assets; and a "risk-based capital requirement," which relates an institution's capital to its risk-adjusted assets. (The appropriate Federal banking agencies have some discretion to revoke these relevant capital measures or prescribe additional measures, as discussed below in connection with subsection (c)(1).) For each relevant capital measure, the appropriate Federal banking agency must set the "required minimum level"—the minimum acceptable level.

Under subsection (b)(1), a "well capitalized" institution has capital significantly exceeding the required minimum level for each relevant capital measure. An "adequately capitalized" institution meets the required minimum level for each relevant capital measure. An institution is "undercapitalized" if it fails to meet the required minimum level for any relevant capital measure, and "significantly undercapitalized" if it is significantly below the required minimum level for any such measure. An institution is "critically undercapitalized" if it fails to meet any critical capital level specified under subsection (c)(3)(A). (As discussed in connection with that subsection, the appropriate Federal banking agency must set a critical capital level for the leverage limit and may set additional critical capital levels.)

The five capital categories, by their terms, overlap to some extent. All institutions are either adequately capitalized or undercapitalized. A well-capitalized institution is also adequately capitalized because it meets the required minimum level for each relevant capital measure. A significantly undercapitalized institution is also undercapitalized because it fails to meet the required minimum level for at least one relevant capital measure.

This overlap makes policy sense—and simplifies the drafting of section 37—because the safeguards applicable to undercapitalized institutions are also intended for significantly undercapitalized and critically undercapitalized institutions, and the safeguards applicable to significantly undercapitalized institutions are also intended for critically undercapitalized institutions.

2. Other definitions

Subsection (b)(2) defines other terms used in section 37: "average," "capital distribution," "capital restoration plan," "company," "compensation," "relevant capital measure," "required minimum level," "senior executive officer," and "subordinated debt."

a. Average

To improve accuracy and impede manipulation, some provisions of section 37 measure compliance on average during a period, rather than on a single date. (For example, subsection (3)(2) governs increases in an undercapitalized institution's average total assets from one quarter to another.) Subparagraph (A) of subsection (b)(2) generally defines the "average" of an accounting item (such as total assets or tangible equity) during a given period as the sum of that item at the close of business on each business day during that period divided by the number of business days in that period—thus providing for daily averaging. The appropriate Federal banking agency may, however, permit weekly averaging by any institution with total assets of less than $300 million that normally files call reports reflecting weekly (rather than daily) averages of accounting items.

b. Capital distribution

Subparagraph (B) defines "capital distribution" broadly as any transaction that falls into any of the following categories: (1) a distribution of cash or other property by an insured depository institution or company to its owners made on account of that ownership (with two exceptions discussed below); (2) a payment by the institution or company to repurchase, redeem, retire, or otherwise acquire any of its shares or other ownership interests (including an extension of credit to finance an affiliate's acquisition of those shares); or (3) a transaction that the appropriate Federal banking agency determines to be in substance a distribution of capital to the owners of the institution or company.

The first category of transactions includes two exceptions: for a dividend consisting only of shares of the institution or company (e.g., a stock dividend), or rights to purchase such shares; and for a payment on the deposits of a mutual or cooperative institution—to the extent that the appropriate Federal banking agency determines that it is not a distribution.

c. Company

Under subparagraph (D), "company" has the same meaning as in section 2 of the Bank Holding Company Act of 1956, which generally defines that term to mean "any corporation, partnership, business trust, association, or similar organization," includes certain other trusts, and excludes certain government-controlled corporations. 12 U.S.C. §1841(b).

d. Compensation

Subparagraph (E) broadly defines "compensation" as including any payment of money or provision of anything else of value in consideration of employment.

e. Senior executive officer

Under subparagraph (H), "senior executive officer" in section 37 has the same meaning as "executive officer" in section 22(h) of the Federal Reserve Act. 12 U.S.C. §375b. In recodifying section 22(h), section 216(a) of the bill defines that term to mean any person who participates or has authority to participate in major policymaking functions of a bank or company.

f. Subordinated debt

Subparagraph (I) defines "subordinated debt" as debt subordinated to the claims of general creditors.

C. Capital standards

Subsection (c) contains several rules relating to capital standards for insured depository institutions.

1. Relevant capital measures

Paragraph (1)(A) of subsection (c) requires the capital standards prescribed by each appropriate Federal banking agency to include a leverage limit and a risk-based capital requirement. Under paragraph (1)(B), the agency may rescind such a capital measure of the agency determines that the capital measure is no longer an appropriate means for carrying out the purpose of section 37, and all other Federal banking agencies concur in that determination. The agency may also establish (or rescind) additional relevant capital measures to carry out the purpose of section 37.

2. Capital categories generally

Paragraph (2) requires each Federal banking agency to prescribe regulations specifying, for each relevant capital measure, the levels at which an insured depository institution is well-capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized. In the case of adequately capitalized institutions, those levels are synonymous with the required minimum levels.

3. Critical Capital

Paragraph (3) requires each Federal banking agency to prescribe regulations specifying a ratio of tangible equity to total assets at which an insured depository institution is critically undercapitalized. The level is to be high enough so that the problems of insured depository institutions can be resolved with no loss or minimal loss to the deposit insurance fund by carrying out subsection (h) when the institution's capital falls below that level—but not less than 2 percent of total assets nor more than 65 percent of the required minimum level of capital under the leverage limit. The agency needs the FDIC's concurrence to specify a level lower than that specified by the FDIC for State nonmember banks.

The agency has discretion to specify a critical capital level for other relevant capital measures (such as the risk-based capital requirement).

D. Provisions applicable to all institutions

Subsection (d) prohibits an insured depository institution from making a capital distribution—or paying a management fee to any person having control of the institution—if the institution would be undercapitalized after making the distribution or payment.

E. Provisions applicable to undercapitalized institutions

Subsection (e) contains safeguards on undercapitalized institutions.

1. Monitoring required

Paragraph (1) of subsection (e) requires the appropriate Federal banking agency to (1) closely monitor the condition of any undercapitalized insured depository institution; (2) closely monitor the institution's compliance with any capital restoration plan, and with any restrictions and requirements imposed by section 37 or by regulators under section 37; and (3) periodically review whether the plan, restrictions, and requirements are achieving the purpose of section 37.

2. Capital restoration plan required

Subparagraph (A) of paragraph (2) requires an undercapitalized institution to submit an acceptable capital restoration plan to the appropriate Federal banking agency.

a. Contents of plan; criteria for accepting plan

Under subparagraph (B), the capital restoration plan must specify (1) the steps the institution will take to become adequately capitalized; (2) the levels of capital to be attained during each year in which the plan is in effect; (3) how the institution will comply with the restrictions and requirements in effect under section 37 when the plan is accepted; and (4) the types and levels of activities in which the institution will engage. The plan must also contain any other information that the agency may require.

Under subparagraph (C), the agency cannot accept a capital restoration plan unless the agency determines that the plan (1) complies with subparagraph (B); (2) is based on realistic assumptions, and is likely to succeed in restoring the institution's capital; and (3) and would not appreciably increase the risks to which the institution is exposed (including credit risk, interest-rate risk, and other types of risk). A plan is not acceptable, moreover, unless each company having control of the institution (a) has guaranteed that the institution will comply with the plan until the institution has been adequately capitalized on average during each of four consecutive calendar quarters, and (b) has provided appropriate assurances of performance. The guarantee requirement is intended to induce the parent company to decide promptly whether to recapitalize the institution, sell it, or stand behind it until it recovers.

b. Guarantee liability limited

Subparagraph (E) limits liability under the guarantee requirement. The aggregate liability of all companies having control of the institution is limited to 5 percent of the institution's total assets at the time the institution became undercapitalized.

Subparagraph (E) is a negative restatement of subparagraphs (A) and (C)(ii): if a company does not have control of an undercapitalized institution, it need not guarantee or otherwise be liable on the institution's capital restoration plan; and only an insured depository institution must submit a capital restoration plan.

c. Deadlines for submission and review of plan

Subparagraph (D) requires the appropriate Federal banking agency to set forth deadlines by regulation for the submission and review of capital restoration plans. The deadlines must give insured depository institutions reasonable time to submit such plans, and require the agency to act on such plans expeditiously. The deadlines must generally require an institution to submit a plan within 30 days after receiving the plan. The 30-day standard is a general guideline, rather than an inflexible rule: the regulation may, as appropriate, prescribe longer periods for particular types of cases and provide for case-by-case extensions.

3. Asset growth restricted

Paragraph (3) restricts an undercapitalized institution's asset growth. Such an institution may not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless three conditions are satisfied: (1) the appropriate Federal banking agency has accepted the institution's capital restoration plan; (2) the increase in total assets is consistent with that plan; and (3) the institution's ratio of tangible equity to assets increases during the calendar quarter at a rate sufficient to enable the institution to become adequately capitalized within a reasonable time.

4. Prior approval required for acquisitions, branching, and new lines of business

Under paragraph (4), an undercapitalized institution generally cannot acquire any interest in any company or institution, establish or acquire any additional branch, or engage in any new line of business unless (1) the appropriate Federal banking agency has approved the institution's capital restoration plan; (2) the institution is implementing the plan; and (3) the agency determines the proposed action is consistent with and will further the achievement of the plan.

Exceptions can be made only if the FDIC's Board of Directors determines, by a vote of three-fourths of its members, that the proposed action will further the purpose of section 37. This narrow exception procedure is intended for cases in which an acquisition, additional branch, or new line of business will significantly aid in maintaining the value—and thus facilitating the acquisition or recapitalization—of an institution that cannot satisfy the general rule.

5. Discretionary safeguards

Subsection (f)(2) authorizes the appropriate Federal banking agency to apply various safeguards to a significantly undercapitalized institution. Subsection (e)(5) permits the agency to apply such safeguards to an undercapitalized institution if the agency determines that the safeguards are necessary to carry out the purpose of section 37.

F. Provisions applicable to significantly undercapitalized institutions

1. In general

Subsection (f) applies to (1) any significantly undercapitalized insured depository institution, and (2) any undercapitalized insured depository institution that fails to submit an acceptable capital restoration plan by the deadline established under subsection (e)(2)(D) or materially fails to implement a plan accepted by the appropriate Federal banking agency.

2. Specific actions authorized

Paragraph (2) of subsection (f) authorizes the appropriate Federal banking agency to apply the following safeguards to such an institution, and requires the agency to apply to least one of those safeguards:

a. Requiring sale of shares or obligations

Under subparagraph (A) of paragraph (2), the agency may require the institution to sell enough shares or obligations of the institution so that the institution will be adequately capitalized after the sale. The agency may also specify that the instruments in question be voting shares. Subparagraph (A) thus enables the agency to overcome the reluctance of the institution's management to dilute the interests of existing shareholders (and possibly weaken its own position) by issuing new shares. It also facilitates a market test of the institution's viability: ascertaining whether investors—offered a sufficient stake in the institution—believe that curing the institution's capital deficiency makes economic sense.

b. Restricting transactions with affiliates

Under subparagraph (B), the agency may restrict the institution's transactions with affiliates (1) by denying the institution the exemption in section 23A(d)(1) of the Federal Reserve Act for transactions with certain commonly controlled banks (as explained below), and (2) by further restricting the institution's transactions with affiliates.

Section 23A generally restricts an institution's transactions with any one affiliate to 10 percent of the institution's capital, and restricts the institution's transactions with all affiliates to 20 percent of the institution's capital. 12 U.S.C. §§371c(a)(1), 1468(a)(1), 1828(j)(1). Section 23A also generally requires an institution's extensions of credit to affiliates to be fully secured by acceptable collateral, and prohibits a member bank from purchasing a low-quality asset from an affiliate. *Id.* §371c(a)(3), (c)(2). Section 23A(d)(1) exempts from the percentage-of-capital restrictions, collateral requirement, and low-quality-asset prohibiting any transaction between the institution and a bank if (1) the bank controls at least 80 percent of the institution's voting shares; (2) the institution controls at least 80 percent of the bank's voting shares; or (3) another company controls at least 80 percent of each institution's voting shares. *Id* §371c(d)(1). To reduce the potential for troubled institutions to abuse this exemption, subparagraph (B) authorizes the agency to deny the exemption to a significantly undercapitalized institution—and impose further restrictions on the institution's transactions with affiliates.

c. Restricting interest rates paid

Under subparagraph (C), the agency may restrict the interest rates the institution pays on deposits to the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the institution is located, as determined by the agency. Subparagraph (C) does not, however, authorize the agency to restrict interest rates paid on existing time deposits (e.g., certificates of deposit that cannot be withdrawn before a specified date) that have not been renewed or renegotiated.

d. Restricting asset growth

Subparagraph (D) authorizes the agency to restrict the institution's asset growth more stringently than subsection (e)(3)—the general rule restricting asset growth by undercapitalized institutions—or may require the institution to reduce its total assets.

e. Restricting activities

Subparagraph (E) authorizes the agency to require the institution or any of its subsidiaries to alter, reduce, or terminate any activity that the agency determines poses excessive risk to the institution.

f. Improving management

Under subparagraph (F), the agency may (1) order a new election for the institution's board of directors; (2) require the institution to dismiss from office any director or senior executive officer who had held office for more than 180 days immediately before the institution became undercapitalized; or (3) require the institution to employ qualified senior executive officers—and specify that they be acceptable to the agency.

The dismissal authority enables the agency to oust directors and senior executive officers whose continued service would not materially strengthen the institution's ability to overcome its problems. Such a dismissal is not a removal under section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. §1818(e)), and thus does not bar other insured depository institutions from employing the dismissed director or officer.

g. Requiring change of auditor

Under subparagraph (G), the agency may require the institution to retain a new independent auditor. The agency should not, however, exercise this authority so as to create disincentives for auditors to be vigilant in uncovering problems and calling for the recognition of losses.

h. Requiring prior approval for capital distributions by bank holding company

Under subparagraph (H), the agency may forbid any bank holding company having control of the institution to make any capital distribution without the prior approval of the Federal Reserve Board.

i. Requiring divestiture

Under subparagraph (I), the agency may (1) require the institution to divest itself of or liquidate any subsidiary if the agency determines that the subsidiary (a) is in danger of becoming insolvent and poses a significant risk to the institution, or (b) is likely to cause a significant dissipation of the institution's assets or earnings; (2) require any company controlling the institution to divest itself of or liquidate any affiliate (other than an insured depository institution) if the appropriate Federal banking agency for that company determines that the affiliate (a) is in danger of becoming insolvent and poses a significant risk to the institution, or (b) is likely to cause a significant dissipation of the institution's assets or earnings; or (3) require any company controlling the institution to divest itself of the institution if the appropriate Federal banking agency for that company determines that divestiture would improve the institution's financial condition and future prospects.

j. Requiring other action

Under subparagraph (J), the agency may require the institution to take any other action that the agency determines will better carry out the purpose of section 37 than any of the *other* safeguards authorized under paragraph (2).

3. Presumption in favor of certain actions

Paragraph (3) requires the appropriate Federal banking agency to apply each of the following safeguards unless the agency determines that the safeguard in question would not further the purpose of section 37: (1) requiring the institution to sell enough shares or obligations so that the institution will be adequately capitalized after the sale; (2) denying the institution the exemption in section 23A(d)(1) of the Federal Reserve Act for transactions with certain commonly controlled banks; and (3) restricting the interest rates the institution pays on deposits to the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the institution is located. These safeguards—authorized under subparagraphs (A)(i), (B)(i), and (C) of paragraph (2)—are discussed above in connection with paragraph (2).

4. Senior executive officers' compensation restricted

Under paragraph (4), the institution cannot—without the prior written approval of the appropriate Federal banking agency—pay any bonus to a senior executive officer, or provide compensation to such an officer at a rate exceeding the officer's average rate of compensation (excluding bonuses, stock options, and profit-sharing) during the year preceding the calendar month in which the institution became undercapitalized. Moreover, any institution that has not submitted an acceptable capital restoration plan is categorically prohibited from paying any bonus or increased compensation to a senior executive officer.

5. Discretion to impose certain additional restrictions

Subsection (i) requires the appropriate Federal banking agency to restrict the activities of a critically undercapitalized institution. Subsection (f)(5) permits the agency to apply to a significantly undercapitalized institution (or an undercapitalized institution that fails to submit and implement a capital restoration plan) any restriction prescribed by regulation under subsection (i) if the agency determines that the restriction is necessary to carry out the purpose of section 37.

G. More stringent treatment based on other supervisory criteria

Subsection (g) authorizes the appropriate Federal banking agency to take action against an insured depository institution based on *noncapital* (as well as capital) criteria. Specifically, the agency may treat the institution as if it were in the next lower capital category if the agency (1) determines that the institution is in an unsafe or unsound condition; or (2) under new section 8(b)(8) of the Federal Deposit Insurance Act, deems the institution to be engaging in an unsafe or unsound practice. New section 8(b)(8) (added by section 205(c) of the bill) authorizes the agency to deem the institution to be engaging in an unsafe or unsound practice if the institution has received a less-than-satisfactory rating for asset quality, management, earnings, or liquidity in the institution's most recent report of examination (i.e., a rating of 3, 4, or 5 under the CAMEL system), and has not corrected the deficiency.

Thus if the institution is well-capitalized, the agency may reclassify it as adequately capitalized. If the institution is adequately capitalized, the agency may apply any of the safeguards in subsection (d) and (e), namely: restricting the institution's capital distributions and management fees; requiring the institution to submit an acceptable plan to correct the problem; restricting the institution's asset growth; requiring prior approval for acquisitions, branching, new lines of business; and—to the extent necessary to carry out the purpose of section 37—applying one or more of subsection (f)(2)'s safeguards on significantly undercapitalized institutions. If the institution is undercapitalized, the agency may apply the safeguards in subsections (d), (e), and (f)(2).

The agency must provide notice and an opportunity for hearing before determining that the institution is in an unsafe or unsound condition or is engaging in an unsafe or unsound practice, but not before taking further action under subsection (g).

Any plan required under subsection (g) must specify the steps the institution will take to correct the unsafe or unsound condition or practice. The deadlines and procedures for submission and review of plans required by the agency under subsection (g) will parallel those under subsection (e)(2) for capital restoration plans, and the agency may treat failure to submit and implement a required plan as a failure to submit and implement a capital restoration plan. An undercapitalized institution may combine the plan with a capital restoration plan.

H. Provisions applicable to critically undercapitalized institutions

Subsection (h) governs critically undercapitalized insured depository institutions.

1. Activities restricted

Paragraph (1) of subsection (h) requires any critically undercapitalized institution to comply with restrictions prescribed by the appropriate Federal banking agency under subsection (i).

2. Payments on subordinated debt prohibited

Beginning 30 days after an institution becomes critically undercapitalized, paragraph (2) generally prohibits the institution from making any payment of principal or interest on the institution's subordinated debt. This prohibition affects the payment—but not the accrual—of interest; unpaid interest may continue to accrue under the terms of the debt to the extent otherwise permitted by law. A transition rule exempts from the prohibition until July 15, 1996, any subordinated debt outstanding on July 15, 1991, and not extended or otherwise renegotiated after that date.

The FDIC may make an exception to the prohibition for an institution if (1) the FDIC determines that the exception would further the purpose of section 37, and (2) the appropriate Federal banking agency has made the determination and taken the action required under paragraph (3)(A)(ii) (which, as discussed below, governs alternatives to appointing a conservator or receiver for a critically undercapitalized institution).

3. Conservatorship, receivership, or other action required

a. In general

Subparagraph (A) of paragraph (3) requires the appropriate Federal banking agency, within 30 days after an institution becomes critically undercapitalized, to take one of the following three steps: (1) appoint a receiver for the institution; (2) with the FDIC's concurrence, appoint a conservator for the institution; or (3) take such other action as the agency—with the FDIC's concurrence—determines would better achieve the purpose of section 37 than appointing a conservator or receiver, after documenting why the action would better achieve that purpose.

b. Review of other action

Under subparagraph (B), if a conservator or receiver is not appointed for the institution, the agency must review its action under subparagraph (A)(ii) at least every 90 days and determine (with the FDIC's concurrence) whether that action better achieves the purpose of section 37 than the appointment of a conservator or receiver.

c. Appointment of receiver required if other action fails to restore capital

Subparagraph (C) requires the appointment of a receiver for an institution that persistently remains critically undercapitalized unless the institution meets certain criteria of viability. Specifically, if the institution is critically undercapitalized on average during the calendar quarter beginning 270 days after the institution became critically undercapitalized, the appropriate Federal banking agency must appoint a receiver for the institution unless the institution meets a four-part test: (1) on average during the calendar quarter in question, the institution's tangible equity is at least 80 percent of that required to meet the critical capital level for the leverage limit; (2) the institution had significant operating earnings during that quarter and the preceding quarter; (3) the institution has made significant progress in correcting other deficiencies; and (4) the Corporation determines that appointing a receiver would not further the purpose of section 37.

An institution does not become critically undercapitalized until new section 37 becomes effective, which under section 205(f) of the bill occurs 270 days after enactment.

I. Restricting activities of critically undercapitalized institutions

Subsection (i) requires each appropriate Federal banking agency to impose whatever restrictions on critically undercapitalized insured depository institutions are needed to carry out the purpose of section 37. The agency may impose these restrictions by regulation or order. The intent is that the agency, by regulation or order, impose restrictions (comparable to those in a stringent supervisory order or agreement) to minimize the potential for loss to the deposit insurance fund. The agency must, at a minimum, prohibit a critically undercapitalized institution from doing any of the following without the agency's prior written approval: (1) entering into any material transaction other than in the usual course of business; (2) extending credit for any highly leveraged transaction; (3) amending the institution's charter or bylaws, except as required by statute, regulation, or order; (4) making any material change in accounting methods; (5) engaging in any covered transaction, as defined in section 23A(b) of the Federal Reserve Act; (6) paying excessive compensation or bonuses; (7) paying interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds. These minimum requirements are not intended to be exhaustive; the agency is responsible for taking other appropriate steps to control the risks presented by the institution.

Restrictions imposed by order under subsection (i) may be enforced under section 18(i) of the Federal Deposit Insurance Act. 12 U.S.C. §1828(i).

J. Certain Government-controlled institutions exempted

Subsection (j) exempts certain Government-controlled insured depository institutions from the provisions of section 37 governing undercapitalized, significantly undercapitalized, and critically undercapitalized institutions—other than the restriction on asset growth by undercapitalized institutions. The exemption covers (1) any institution for which the FDIC or the Resolution Trust Corporation is conservator; and (2) any bridge bank of which the FDIC owns all the voting securities. The subsection does not refer to institutions for which the FDIC or RTC is receiver because such institutions are not "insured depository institutions," and thus are not covered by the provisions in question.

K. Review required when deposit insurance fund incurs material loss

Effective July 1, 1993, subsection (k) requires a review whenever an insured depository institution causes a material loss to the Bank Insurance Fund or Savings Association Insurance Fund. The inspector general of the appropriate Federal banking agency must make a written report to the agency regarding the agency's supervision of the institution, ascertaining why the institution's problems resulted in a material loss to the fund and making recommendations for preventing such losses in the future. The inspector general must provide the report to the Comptroller General of the United States, the FDIC, and any appropriate State banking supervisor, and (upon request) to any member of Congress. The report is due six months after the loss is incurred.

Under subsection (k), the insurance fund incurs a loss if the FDIC is appointed receiver of an institution and it becomes apparent that the present value of the insurance fund's outlays will exceed the present value of receivership dividends or other payments on claims held by the FDIC. The insurance fund also incurs a loss if the FDIC provides open-bank assistance to the institution and (1) repayment of the assistance within two years is not substantially certain, or (2) the institution ceases to repay the assistance in accordance with its terms.

A loss is generally material if it exceeds the greater of $25 million or 2 percent of the institution's total assets when the FDIC initiated assistance or was appointed receiver. However, a higher threshold of materiality applies until July 1, 1997: initially, 7 percent of the institution's assets; then diminishing year by year until that date.

The agency must disclose the report upon request under the Freedom of Information Act. 5 U.S.C. §552. The agency cannot use that Act's exemption for memoranda or letters to withhold any portion of the report, nor can the agency use the exemptions for commercial or financial information or examination reports to withhold information about the institution. But the agency need not disclose the name of any customer of the institution (other than an institution-affiliated party, as defined in section 3(u) of the Federal Deposit Insurance Act), or information from which such a person's identity could reasonably be ascertained.

The General Accounting Office must annually review the inspector general's reports (verifying the accuracy of at least one report) and recommend improvements in the supervision of insured depository institutions.

L. Implementation

Subsection (*l*) requires each Federal banking agency to prescribe such regulations (in consultation with the other Federal banking agencies) and take such other actions as are necessary to carry out section 37.

Subsection (*l*) also requires any determination (or concurrence) by a Federal banking agency under section 37 to be in writing.

M. Other authority not affected

Subsection (m) specifies that section 37 does not limit any authority of a Federal banking agency or a State to take action more stringent than, or otherwise supplementing, that required under section 37. But such authority can in no way be used to derogate from any provision of section 37.

N. Judicial review

Subsection (n) governs judicial review of agency action under section 37.

Paragraph (1) of subsection (n) permits a "person aggrieved" by an action of an appropriate Federal banking agency under section 37 to obtain review of that action by filing a petition—within 10 days after receiving notice of the agency action—in the United States Court of Appeals for the District of Columbia Circuit or the United States court of appeals for the circuit containing the home office of the insured depository institution whose condition is the basis for the agency action.

Under paragraph (2), "person aggrieved" means the institution or controlling company against which the agency has taken action under section 37, and any company having control of that institution or company. "Person aggrieved" also includes a person dismissed under subsection (f)(2)(F)(ii), which authorizes the agency to require a significantly undercapitalized institution to dismiss certain directors or senior executive officers.

Paragraph (3) allows agency action under section 37 to be modified, terminated, or set aside only if the court finds on the record on which the agency acted that the action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. But subsection (n) does not restrict judicial review of an order appointing a conservator or receiver: a person aggrieved may pursue such review *if* it is otherwise available.

Paragraph (4) requires the courts of appeals to expedite the review of petitions under subsection (n).

Paragraph (5) specifies that proceedings for judicial review under subsection (n) do not stay any action taken by the agency, and that no court has jurisdiction to stay, enjoin, or otherwise delay such action taken under section 37. Under paragraph (6), no court has jurisdiction over agency action under section 37 except as provided in subsection (n).

O. Transition rules for savings associations

1. RTC's role does not diminish care required of OTS

Various provisions of section 37 refer to avoiding or minimizing loss to a "deposit insurance fund," which section 3(y) of the Federal Deposit Insurance Act (added by section 101(c) of the bill) defines as the Bank Insurance Fund or the Savings Association Insurance Fund, as the case may be. Yet the Resolution Trust Corporation—rather than SAIF—bears any loss involved in resolving an institution formerly insured by the Federal Savings and Loan Insurance Corporation, for which a conservator or receiver is appointed before August 9, 1992. 12 U.S.C. §1441a(b)(3)(A). To avoid any implication of a lower standard of care for such an institution, subsection (o)(1) requires each Federal banking agency to exercise the same care in implementing section 37 as if SAIF, rather than the RTC, bore the cost of resolving such institutions' problems.

2. New capital plan not required for certain savings associations

Section 5(t) of the Home Owners' Loan Act, enacted in 1989, requires an undercapitalized savings association to submit a capital restoration plan and establishes transition rules for becoming adequately capitalized by July 1, 1994. 12 U.S.C. §1464(t). The standards for an acceptable capital restoration plan are more stringent under section 37(e)(2) than under section 5(t). To avoid requiring new plans for savings associations already implementing approved 5(t) plans, subsection (o)(2) of section 37 exempts such institutions from the plan requirement of subsection (e)(2), as well as from subsection (f), which provides sanctions for institutions failing to submit and implement plans under subsection (e)(2). The exemption applies to any savings association meeting the following three-part test: (1) before the bill becomes law, the savings association submitted a plan satisfying section 5(t)(6)(A)(ii), and the Director of the Office of Thrift Supervision accepted the plan; (2) the plan remains in effect; and (3) the savings association remains in compliance with the plan. The exemption expires July 1, 1994—the end of section 5(t)'s transition periods.

P. Deadline for regulations

Section 205(b) requires each Federal banking agency to issue regulations under new section 37, after notice and opportunity for comment, within 240 days after the bill becomes law. These regulations will take effect within 270 days after the bill becomes law.

Q. Other amendments to the Federal Deposit Insurance Act

1. Enforcement action based on unsatisfactory asset quality, management, earnings, or liquidity

Section 205(c)(1) adds a new section 8(b)(8) to the Federal Deposit Insurance Act, authorizing the appropriate Federal banking agency to deem an insured depository institution to be engaging in an unsafe or unsound practice if the institution has received a less-than-satisfactory rating for asset quality, management, earnings, or liquidity in the institution's most recent report of examination, and has not corrected the deficiency. Section 8(b)(8) is discussed above in connection with new section 37(g) (added by section 205(a)).

2. Conforming amendments relating to Federal banking agencies' enforcement authority

Section 205(c)(2) amends section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. §1818(i)) to provide for judicial enforcement of new section 37 of that Act, and authorize civil money penalties for violating section 37.

R. Section 5(t)(7) of the Home Owners' Loan Act

Section 5(t)(7) of the Home Owners' Loan Act limits the sanctions the Director of the Office of Thrift Supervision may impose on certain savings associations that do not comply with capital standards prescribed under section 5(t)(1) of that Act. 12 U.S.C. §1464(t)(7). As new section 37 of the Federal Deposit Insurance Act applies in accordance with its terms—and is not restricted by section 5(t)(7)—section 205(d) of the bill clarifies that section 5(t)(7) only limits the Director's authority under the Home Owners' Loan Act.

S. Transition rule regarding current directors and senior executive officers

Section 205(e) provides transition rules for implementing two provisions of new section 37(f) of the Federal Deposit Insurance Act, applicable to significantly undercapitalized insured depository institutions and undercapitalized institutions that fail to submit and implement capital restoration plans. Under new section 37(f)(2)(F)(ii), the appropriate Federal banking agency may require such an institution to dismiss from office certain directors or senior executive officers. Section 37(f)(4) restricts such an institution from paying bonuses to or increasing the compensation of its senior executive officers.

Under section 205(e), these two provisions do not apply to any senior executive officer who accepted employment in his or her current position on or before the date the bill became law and whose employment contract has not been renewed or renegotiated after that date or (while the bill was pending) to evade either provision. Section 37(f)(2)(F)(ii) likewise does not apply to any director whose current term began on or before the date the bill became law and has not been extended after that date or to evade that provision.

T. Effective date

Section 205(f) makes the amendments made by section 205 take effect 270 days after the bill becomes law.

SECTION 206. STANDARDS FOR SAFETY AND SOUNDNESS

Section 206 adds a new section 38 to the Federal Deposit Insurance Act, requiring the Federal banking agencies to establish operational, managerial, asset quality, earnings, and stock valuation standards for all FDIC-insured depository institutions. These standards complement the capital and noncapital tripwires of new section 37 (added by section 205). The goal is to identify and resolve problems in their incipiency, or prevent them from arising in the first place.

A Operational and managerial standards

Subsection (a) of new section 38 requires each appropriate Federal banking agency to prescribe standards for insured depository institutions and depository institution holding companies relating to (1) internal controls, information systems, and internal audit systems, in accordance with new section 36 (added by section 203(b)); (2) loan documentation; (3) credit underwriting; (4) interest-rate exposure; and (5) asset growth. The agency must also prescribe such other operational and managerial standards as the agency determines to be appropriate.

B. Asset quality, earnings, and stock valuation standards

Subsection (b) requires each agency to prescribe standards for insured depository institutions and depository institution holding companies specifying (1) a maximum ratio of classified (i.e., problem) assets to capital; (2) a minimum earnings level sufficient to absorb losses without impairing capital; and (3) a minimum ratio of market value to book value for publicly traded shares of the institution or company. The agency must also prescribe such other standards relating to asset quality, earnings, and valuation as the agency determines to be appropriate.

C. Failure to meet standards

1. Plan required

Under subsection (d)(1), if the appropriate Federal banking agency determines that an insured depository institution or depository institution holding company fails to meet any standard prescribed under subsection (a) or (b), the agency must require the institution or company to submit an acceptable plan for correcting the deficiency. The plan must specify the steps the institution or company will take to correct the deficiency. If the institution is undercapitalized, the plan may be part of a capital restoration plan.

Subsection (d)(1)(C), like new section 37(e)(2) (governing capital restoration plans), requires the agency to establish deadlines by regulation for the submission and review of plans. The deadlines must give institutions and companies reasonable time to submit plans, and require the agency to act on plans expeditiously. The deadlines must generally require plan to be submitted within 30 days after the agency determines that an institution or company fails to meet a standard prescribed under subsection (a) or (b) and require the agency to act on a plan within 30 days after receiving the plan.

2. Order required if institution fails to submit or implement plan

If an insured depository institution or depository institution holding company fails to submit a timely and acceptable plan, or fails in any material respect to implement a plan accepted by the agency, subsection (d)(2) requires the agency to issue an order requiring the institution or company to correct the deficiency. The order may also (1) restrict asset growth by the institution or company, or prohibit such growth altogether; (2) require the institution or company to increase its ratio of tangible equity to assets; (3) restrict the interest rates the institution pays (or the company's subsidiary institutions pay) on deposits to the prevailing rates of interest on deposits of comparable amounts and maturities in the region; or (4) require the institution to take any other action that the agency determines will better carry out the purpose of section 37 than any of the first three actions.

3. Restrictions mandatory for certain institutions

Subsection (d)(3) requires the agency to take at least one of those first three actions if (1) the agency determines that the institution fails to meet any standard specifically required by subsection (a) or (b); (2) the institution has not corrected the deficiency; and (3) either (a) commenced operations or underwent a change in control during the preceding two years, or (b) underwent extraordinary growth, as defined by the agency, during the preceding 18 months. Such action is mandatory only for failing to meet a standard specifically required by subsection (a) or (b) (e.g., for loan documentation)—as distinguished from standards prescribed only because the agency determines them to be appropriate.

D. Regulations required; effective date

The agency must prescribe standards under subsections (a) and (b) by regulations. Regulations under section 38 must be promulgated by March 1, 1993.

Section 38 becomes effective on the earlier of July 1, 1993, or the date on which those regulations become effective.

SECTION 207. CONSERVATORSHIP AND RECEIVERSHIP AMENDMENTS TO FACILITATE PROMPT CORRECTIVE ACTION

Section 207 facilitates appointing the FDIC as conservator or receiver to carry out the system of prompt corrective action in section 205. Section 207 also makes the grounds for appointing a conservator or receiver generally consistent for all FDIC-insured depository institutions, whether banks or savings associations, federally chartered or State chartered.

A. Current law

Section 11(c)(5) of the Federal Deposit Insurance Act sets forth the grounds for appointing the FDIC as conservator or receiver of an insured State depository institution. 12 U.S.C. §1821(c)(5). These grounds (simplified in the interest of brevity) currently include (1) having liabilities that exceed assets; (2) substantially dissipating assets or earnings by violating the law or engaging an unsafe or unsound practice; (3) being in an unsafe or unsound condition; (4) willfully violating a cease-and-desist order; (5) concealing or withholding records; (6) likely inability to satisfy liabilities in the normal course of business; (7) substantially depleting capital without a reasonable prospect for replenishing it; and (8) violating a statute or regulation, or engaging in an unsafe or unsound practice that is likely to weaken the institution.

Section 203(a) of the Bank Conservation Act authorizes the Comptroller of the Currency to appoint a conservator for a national bank on grounds generally parallel those in section 11(c)(5) of the Federal Deposit Insurance Act. 12 U.S.C. §203(a). An 1876 statute authorizes the Comptroller to appoint a receiver for a national bank if, *inter alia*, the bank is insolvent. *Id.* §191.

Under section 5(d)(2) of the Home Owners' Loan Act, the Director of the Office of Thrift Supervision may appoint a conservator or receiver for an insured savings association on grounds generally parallel those in section 11(c)(5). 12 U.S.C. §1464(d)(2)(A)-(C). But the Director may appoint a conservator or receiver for a State savings association only (1) with the appropriate State supervisor's written consent, or (2) after 30 days written notice to that supervisor. *Id.* §1464(d)(2)(D).

Although the Director may appoint a conservator or receiver for a State savings association, the FDIC and the Federal Reserve Board currently cannot make such an appointment for the State banks they regulate—no matter how urgent the grounds—nor does the FDIC as deposit insurer have any independent authority to do so.

C. Additional grounds for appointing conservator or receiver

Section 207(a) amends section 11(c)(5) of the Federal Deposit Insurance Act, adding new grounds for the appointment of a conservator or receiver to facilitate prompt corrective action and promote consistency in the treatment of different types of insured depository institutions, and making minor revisions of phrasing in the interest of clarity.

1. Promoting consistent standards for all insured depository institutions

New section 11(c)(5) applies to all insured depository institutions—thus providing consistent standards for appointing conservators and receivers. New subparagraphs (A) through (H) generally correspond to current subparagraphs (A) through (H).

New section 11(c)(5) also contain four subparagraphs not in the current section. New subparagraphs (I) and (J) reflect the law currently applicable to national banks and Federal savings associations. Section 203(c) of the Bank Conservation Act allows a conservator to be appointed for a national bank if (1) the bank consents to the appointment through its board of directors or shareholders; or (2) the FDIC terminates the bank's deposit insurance. 12 U.S.C. §203(c). Section 5(d)(2)(B) of the Home Owners' Loan Act sets forth similar grounds for appointing a conservator or receiver for a Federal savings association. *Id.* §1464(d)(2)(B). Subparagraphs (I) and (J) incorporate these grounds into section 11(c)(5).

2. Facilitating prompt corrective action

New subparagraphs (K) and (L) of section 11(c)(5) relate to prompt corrective action under new section 37. Under subparagraph (K), a conservator or receiver may be appointed for an undercapitalized institution that (1) has no reasonable prospect of becoming adequately capitalized; (2) fails to become adequately capitalized after the appropriate Federal banking agency has required the institution to recapitalize by selling shares or obligations; (3) fails to submit a timely and acceptable capital restoration plan; or (4) materially fails to implement a capital restoration plan. Subparagraph (L) authorizes appointment of a conservator or receiver for an institution that is critically undercapitalized or otherwise has substantially insufficient capital. The reference to "substantially insufficient capital" is drawn from current subparagraph (C).

C. Conforming amendments to promote consistent standards

By making new section 11(c)(5) apply to all insured depository institutions, section 207(a) renders redundant the parallel lists of grounds for appointing conservators and receivers in the Bank Conservation Act and Homeowner's Loan Act. Accordingly, section 205(c)-(d) replaces those lists with simple cross-references to section 11(c)(5).

Section 205(b) replaces the 1876 receivership statute's reference to insolvency with a similar cross-reference to section 11(c)(5), thus considerably broadening the Comptroller's authority to appoint receivers for national banks.

D. Appropriate federal banking agency's authority over insured state depository institutions

Section 205(e) adds a new paragraph (9) to section 11(c) of the Federal Deposit Insurance Act, authorizing the appropriate Federal banking agency to appoint the FDIC as sole conservator or receiver of any insured State bank or savings association if a two-part test is satisfied. First, one of the grounds for appointing a conservator or receiver under new subparagraphs (K) and (L) of section 11(c)(5) must apply. (Those grounds are discussed above in connection with section 207(a).) Second, the appointment must be necessary to carry out the purpose of new section 37—namely, to resolve the institution's problems with no loss or minimal loss to the deposit insurance fund, and to minimize any loss incurred.

The agency's board or head cannot delegate authority to appoint a conservator or receiver under new section 11(c)(9), nor can the agency exercise that authority without first consulting with the appropriate State supervisor. Moreover, under new section 11(c)(11)—also added by section 205(e)—the agency may use that authority to appoint a conservator (as opposed to a receiver) only (1) with the FDIC's consent, or (2) after giving the FDIC 48 hours notice of the intended appointment.

The main effect of new section 11(c)(9) is to give the appropriate Federal banking agency for a State bank limited authority to place the bank in conservatorship or receivership. The Director of the Office of Thrift Supervision—although also able to use section 11(c)(9)—would have broader authority under section 11(c)(5).

Section 205(f) makes a conforming amendment to section 11 of the Federal Reserve Act (12 U.S.C. §248), authorizing the Federal Reserve Board to appoint a conservator or receiver for a State member bank to the extent provider under section (c)(9).

E. FDIC's independent authority to appoint conservator or receiver

Section 205(e) adds a new section 11(c)(10) to the Federal Deposit Insurance Act, authorizing the FDIC's Board of Directors to appoint the FDIC as sole conservator or receiver of any insured depository institution if a two-part test is satisfied. First, one of the grounds for appointing a conservator or receiver under new section 11(c)(5) must apply. Second, the appointment must be necessary to reduce the risk that the deposit insurance fund would incur a loss or to reduce any such expected loss. The Board of Directors cannot delegate authority to appoint a conservator or receiver under section 11(c)(10), nor can the FDIC exercise that authority without first consulting with the appropriate Federal banking agency and the State supervisor (if any).

F. Other conservatorship and receivership reforms

Section 205(e) also adds new paragraphs (12) and (13) to section 11(c) of the Federal Deposit Insurance Act.

1. Directors of institution not liable for acquiescing in appointment of conservator or receiver

Under new section 11(c)(12), an insured depository institution's shareholders or creditors cannot hold the institution's directors liable for acquiescing in or consenting in good faith to the appointment of the FDIC or the RTC as conservator or receiver for the institution.

2. Additional powers of FDIC as conservator or receiver of State depository institution

A majority of the States have statutes giving depositors preference over other unsecured creditors in recovering on their claims against a failed or failing depository institution. These laws benefit the FDIC when it pays the claims of insured depositors and succeeds to their rights as creditors. New section 11(c)(13) is based on current section 11(c)(9), and enables the FDIC, as conservator or receiver for a State depository institution, to apply any depositor preference statute of the chartering State.

G. Effective date

Section 205(g) makes the amendments made by section 207 effective 270 days after the bill becomes law.

SECTION 208. BACK-UP ENFORCEMENT AUTHORITY OF FDIC

FIRREA gave the FDIC back-up enforcement authority over insured savings associations by adding section 8(t) to the Federal Deposit Insurance Act. (12 U.S.C. §1818(t). Section 208 amends section 8(t) to extend that authority to insured banks.

A. Recommendation; FDIC's authority to act

Under new section 8(t), the FDIC recommends that the appropriate Federal banking agency take an enforcement action against an insured depository institution or an institution-affiliated party. The other agency then has 60 days to take the recommended action or provide an acceptable plan for responding to the FDIC's concerns. If it fails to do so within that time, the FDIC may take the enforcement action itself if the FDIC's Board of Directors determines that (1) the institution is in an unsafe or unsound condition; (2) the institution is engaging in unsafe and unsound practices, and the recommended enforcement action would prevent the institution from continuing such practices; or (3) the institution's conduct or threatened conduct (including any acts or omissions) poses a risk of loss to the deposit insurance fund or may prejudice the interests of the institution's depositors.

B. Exigent circumstances

The FDIC's Board of Directors may, in exigent circumstances, dispense with the 60-day period after notifying the appropriate Federal banking agency. The FDIC and the other Federal banking agencies shall, by agreement, identify those exigent circumstances.

C. FDIC's powers; institution's duties

When the FDIC exercises its back-up enforcement authority, it has the same powers over the insured depository institution as the appropriate Federal banking agency, and the institution has the same duties to the Corporation as it has to the other agency.

D. Reporting requests for enforcement action

When a regional office or bank of a Federal banking agency requests a formal investigation of or civil enforcement action against an institution, it must also submit the request to the FDIC. Each Federal banking agency must report semiannually to the FDIC on the status of all such requests, including its reasons for approving or denying the requests.

SECTION 209. CAPITAL MAINTENANCE COMMITMENTS

Section 209 adds a new section 18(q) to the Federal Deposit Insurance Act. New section 18(q) provides that a commitment made to a Federal banking agency to maintain the capital of an FDIC-insured depository institution may be enforced under the Federal Deposit Insurance Act. The authority to enforce such a capital maintenance commitment is in addition to any other authority of the Federal banking agencies.

New section 18(q) does not apply retroactively, and does not carry any implication—any positive or negative—about current authority to enforce a capital maintenance commitment. The section is intended to clarify the law prospectively.

SECTION 210. PASS-THROUGH INSURANCE COVERAGE

Section 210 restricts certain forms of pass-through deposit insurance coverage.

A. Restricting certain pass-through insurance coverage

Section 210(a) makes technical and conforming amendments to section 3(m) of the Federal Deposit Insurance Act. 12 U.S.C. §1813(m)

B. Insurance of deposits

Section 210(b) amends section 11 of the Federal Deposit Insurance Act in several respects.

1. Insurance of deposits

Section 210(b)(1) amends section 11(a)(1) to restate that the Corporation shall insure the deposits in all insured depository institutions in accordance with the Federal Deposit Insurance Act, and provides that the net amount of any depositor's insured deposits at any insured depository institution shall be $100,000.

Section 210(b)(2) adds two new paragraphs to section 11(a). The new paragraphs clarify the eligibility of certain types of deposits and trusts for pass-through deposit insurance.

a. Pass-through insurance restricted to interest in tax-qualified retirement plans and certain irrevocable trusts

i. In general.—Subparagraph (A) of new section 11(a)(8) of the Federal Deposit Insurance Act establishes a general rule prohibiting deposit insurance on a pass-through, or pro-rata, basis except as specifically permitted in clauses (i) through (iv).

Clause (i) of subparagraph (A) permits the FDIC to insure deposits by three specific types of tax-qualified retirement plans on a pass-through basis, if they meet certain conditions. The three types of plans that may receive pass-through deposit insurance are: (1) plans meeting the requirements of section 401(a) of the Internal Revenue Code of 1986 that include a trust exempt from tax under section 501(a) of that Code; (2) plans meeting the requirements of section 403(b)(9) of the Internal Revenue Code of 1986 that include a trust exempt from tax under section 501(a) of that Code; and plans meeting the requirements of section 457 of the Internal Revenue Code of 1986. 26 U.S.C. §401(a), §403(b)(9), §457, §501(a). To qualify for pass-through deposit insurance, such a plan must have been eligible to receive deposit insurance coverage as of July 15, 1991, and the deposit must not arise under a so-called bank investment contract ("BIC")—i.e., a contract between an insured depository institution and an employee benefit plan that expressly permits benefit-responsive withdrawals or transfers. The phrase "eligible to receive," in this context, means that a given plan, or a plan substantially similar to a given plan, either was receiving pass-through deposit insurance coverage on July 15, 1991, or could have received pass-through coverage on that date by making an appropriate deposit in an insured depository institution.

A plan that receives pass-through insurance coverage under clause (i) is insured with respect to each plan participant in an amount equal to the lesser of the present value of the participant's vested accrued benefit or $100,000.

Clause (ii) of subparagraph (A) permits the FDIC to provide pass-through deposit insurance coverage for deposits of irrevocable trusts established pursuant to statute or written trust agreement, other than tax-qualified retirement plans or irrevocable trusts described in clause (i). Such deposits may be insured on a pass-through basis with respect to each known beneficiary of the trust whose interest in the trust is noncontingent in an amount equal to the lesser of the present value of the beneficiary's noncontingent interest or $100,000.

Clause (iii) of subparagraph (A) provides pass-through deposit insurance coverage for custodial accounts held on deposit at an insured depository institution if three conditions are satisfied. First, the principal or beneficiary of the account must not control where the funds are deposited. Second, the account must not be maintained for investment purposes. Finally, the account must not be maintained principally for the purpose of increasing insurance coverage. Custodial funds eligible for pass-through insurance coverage under clause (iii) may be insured in an amount up to $100,000 for each principal or beneficiary.

Clause (iv) of subparagraph (A) provides pass-through deposit insurance coverage for custodial accounts maintained by a deposit broker at an insured depository institution. Such accounts may receive deposit insurance coverage in an amount up to $100,000 for each principal or beneficiary represented in each capacity in which the principal or beneficiary places the deposit through the deposit broker.

ii. Special rules.—Subparagraph (B) of new section 11(a)(8) of the Federal Deposit Insurance Act provides aggregation rules for determining the net amount of insurance coverage for participants, principals, and beneficiaries of accounts insured on a pass-through basis. Specifically, subparagraph (B) requires deposits receiving pass-through deposit insurance coverage under clauses (i), (iii), and (iv) of subparagraph (A) to be disregarded in determining the net amount of any person's deposit insurance. "Net amount," in this context, means the deposit insurance liability of the FDIC to the person in the event of the failure of a depository institution at which the person maintains an insured deposit. Thus, for example, if a person maintained a deposit at an insured depository institution as an individual, and also participated in a plan receiving pass-through deposit insurance coverage under clause (i) of subparagraph (A) that maintained a deposit at the same depository institution, the amount of that person's interest in the plan would not be aggregated with the amount of the person's deposit in his or her own capacity in determining the FDIC's net deposit insurance liability to the person in the event of the depository institution's failure. Subparagraph (B) further requires that interests in deposits by certain irrevocable trusts described in clause (ii) of subparagraph (A) be taken into account in determining the net amount due to any beneficiary of such a trust.

iii. Definitions.—Subparagraph (C) of new section 11(a)(8) of the Federal Deposit Insurance Act defines important terms used in new paragraph (8).

The term "benefit-responsive withdrawals or transfer" means a withdrawal or transfer of funds deposited by an employee benefit plan at an insured depository institution that satisfies two conditions. First, the withdrawal or transfer must occur during a period for which the institution has guaranteed by contract to pay the plan one or more rates of interest. Second, the withdrawal or transfer must be made either to pay benefits provided by an employee benefit plan, or to permit a plan participant or beneficiary to redirect the investment of his or her account balance without substantial penalty or adjustment.

The term "employee benefit plan" has the same meaning as in section 3(3) of the Employee Retirement Income Security Act of 1974 and includes any plan described in section 401(d) of the Internal Revenue Code of 1986.

b. Restrictions on pass-through insurance for deposits of trusts.

New paragraph (9) of section 11(a) of the Federal Deposit Insurance Act creates certain exceptions to paragraph (8)(a)(ii). The purpose of these exceptions is to prevent expansion of the Federal government's deposit insurance liabilities through commercial exploitation of the (8)(a)(ii) exception to the general prohibition on pass-through deposit insurance coverage. Under paragraph (9), a deposit otherwise qualifying for pass-through deposit insurance coverage under paragraph (8)(a)(ii) is nonetheless ineligible if any of four conditions obtain. Specifically, the deposit may not be insured on a pass-through basis if the trustee or organizer of the trust solicits persons to transfer funds into the trust; if interests in the trust are sold to beneficiaries; if there are more than 10 settlors or grantors of the trust; or if other circumstances prescribed by the FDIC's Board of Directors exist.

C. Conforming amendment

Section 210(c) makes a conforming amendment to section 7(i) of the Federal Deposit Insurance Act.

D. Effective date

Under section 210(d), the amendments made by section 210 generally take effect on January 1, 1993. For time deposits made before July 15, 1991, however, those amendments take effect upon the stated maturity of the time deposit.

SECTION 211. BROKERED DEPOSITS

Section 211 restricts some insured depository institutions' eligibility to accept deposits from deposit brokers and imposes recordkeeping and notice requirements on deposit brokers.

A. In general

Current section 29 of the Federal Deposit Insurance Act generally permits any institution that meets its minimum capital requirements to accept brokered deposits without restriction. 12 U.S.C. §1831f. Any institution that does not meet its minimum capital requirements may accept brokered deposits if the FDIC waives the application of the general restriction to that institution.

1. Institutions eligible to accept brokered deposits without restriction

Section 211(a)(1) restricts the class of insured depository that may accept brokered deposits without restriction by replacing "troubled institution" in current section 29(a) with "insured depository institution that is not well-capitalized and does not have a CAMEL rating of 1 or 2." In this context, "well-capitalized" has the same meaning as in section 37(b)(1)(A) of the Federal Deposit Insurance Act (added by section 205 of the bill).

In effect, section 211(a)(1) significantly narrows the class of institutions that may accept brokered deposits without restriction under section 29. Whereas current section 29(a) permits any institution meeting its minimum capital requirements to accept brokered deposits without restriction, new section 29(a) would permit an institution to accept brokered deposits only if (1) its capital significantly exceeds required minimum levels and (2) it has a CAMEL rating of 1 or 2.

2. Institutions eligible to accept brokered deposits upon FDIC waiver

Section 211(a)(2) restricts the class of depository institutions that may accept brokered deposits upon the FDIC's waiver of the general restriction in section 29(a). Specifically, section 211(a)(2) amends section 29(c) to permit the FDIC to waive the general rule only for adequately capitalized institutions. In this context, "adequately capitalized" has the same meaning as in section 37(b)(2)(B) of the Federal Deposit Insurance Act (added by section 205). In effect, section 211(a)(2) eliminates the FDIC's current authority to permit, by waiver, the acceptance of brokered deposits by undercapitalized institutions.

Paragraph (2) also allows waivers granted by the FDIC to adequately capitalized institutions to be effective for up to 90 days. This restriction affects the period during which an institution receiving such a waiver may accept brokered deposits, not the maturity of such deposits.

Finally, paragraph (2) *provides that* any application for renewal of a waiver for a successive 90-day period shall be deemed granted unless the FDIC denies the application within 15 days after receiving it. This presumption does not apply to the FDIC's review of an institution's initial application for a waiver, nor does it apply to an institution's application for a waiver to take effect beginning on a date before which no waiver was in effect, even if the institution has previously received such a waiver.

3. Acceptance of brokered deposits by institutions in conservatorship

Section 211(a)(3) amends section 29(d) to limit the FDIC's authority to waive restrictions on acceptance of brokered deposits by institutions that are in conservatorship. Current law permits the FDIC to waive restrictions on brokered deposits by institutions in conservatorship upon determining that acceptance of such deposits would not be an unsafe or unsound practice and is either (1) necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business, *or* (2) consistent with the conservator's fiduciary duty to minimize the institution's losses. 12 U.S.C. § 1831f(d).

New section 29(d) requires the FDIC to make a three-part determination before allowing an institution in conservatorship to accept brokered deposits. As under current law, the FDIC must determine that acceptance of such deposits would not be an unsafe or unsound practice. The FDIC must also determine that acceptance of such deposits is necessary to enable the institution to meet its depositors' demands or pay its obligations in the ordinary course of business *and* is consistent with the conservator's fiduciary duty to minimize the institution's losses.

Paragraph (3) further restricts the FDIC's authority to permit acceptance of brokered deposits by institutions in conservatorship by prohibiting such institutions from accepting brokered deposits under any circumstance more than 90 days after the date on which the institution entered conservatorship.

4. Restrictions on interest rates payable on brokered deposits

Paragraph (4) redesignates subsections (e) through (g) of current section 29 of the Federal Deposit Insurance Act as sections (f) through (h), respectively, and inserts a new subsection (e). The new subsection restricts the interest rates payable on brokered deposits by institutions that the FDIC permits to accept brokered deposits under subsection (c) or (d) of new section 29.

Specifically, new section 29(e) prohibits an institution accepting brokered deposits under subsection (c) or (d) from paying a rate significantly exceeding either (1) the rate paid on deposits of similar maturity in the institution's normal market area for deposits accepted in the institution's normal market area, or (2) for deposits accepted outside the institution's normal market area, the national rate paid on deposits of comparable maturity, as determined by the FDIC.

Subsection 29(e) does not define the term "significantly exceeds." Generally, with respect to deposits accepted in the institution's normal market area, the FDIC should carefully scrutinize a rate that is more than 105 percent of the rate paid on deposits of similar maturity in that market. With respect to deposits accepted outside the institution's normal market area, the FDIC should carefully scrutinize any rate that exceeds 105 percent of the rate payable on U.S. Treasury obligations of comparable maturity.

5. FDIC's authority to impose additional restrictions

Current section 29(e) permits the FDIC to impose additional restrictions on the acceptance of brokered deposits by "troubled institutions"—i.e., institutions that do not satisfy applicable minimum capital requirements. Section 211(a)(5) broadens the FDIC's authority to impose such restrictions by striking "troubled" from section 29(f) (as redesignated by paragraph (4)), thus authorizing the FDIC to impose by regulation or order such additional restrictions on *any* insured depository institution's acceptance of brokered deposits as the FDIC determines appropriate.

6. Conforming amendment

Section 211(a)(6) strikes the current definition of "troubled institution." Because section 29 no longer uses the term, the definition is no longer needed.

B. Notification and recordkeeping

Section 211(b) adds a new section 29A to the Federal Deposit Insurance Act, establishing certain notification and recordkeeping requirements for deposit brokers.

1. Notification

a. In general

Section 29A(a)(1) establishes a general rule prohibiting a deposit broker from soliciting or placing any deposit with an insured depository institution without first giving the FDIC written notice that it is a deposit broker.

b. Termination of deposit broker status

Paragraph (2) of section 29A(a) requires any deposit broker who ceases to broker deposits to give the FDIC written notice that it is no longer brokering deposits.

c. Form and content

Paragraph (3) of section 29A(a) authorizes the FDIC to prescribe the form and content of the notices required by paragraphs (1) and (2).

2. Records

Subsection (b) of new section 29A authorizes the FDIC to prescribe regulations requiring each deposit broker who has filed a notice under new section 29A(a)(1) to maintain separate records showing the total amounts and maturities of the deposits placed by the broker at each insured depository institution during specified time periods. The subsection authorizes the FDIC to prescribe the format of such records, the period for which such records must be preserved, and the time period within which a deposit broker must furnish copies of such records to the FDIC upon the FDIC's request.

3. Periodic reports

New section 29A(c)(1) authorizes the FDIC to prescribe regulations requiring each deposit broker that files a notice under section 29A(a)(1) to file with the FDIC separate quarterly reports describing the total amounts and maturities of the deposits placed by the broker at each depository institution during the quarter. The FDIC's regulations must specify the form and content of the reports.

Paragraph (2) of subsection (c) further authorizes the FDIC to designate another entity as its agent for the purpose of receiving and maintaining any reports required under paragraph (1). The FDIC may, through its agent, collect a fee from each deposit broker filing such reports sufficient to defray the FDIC's cost of retaining the agent. Any fees thus assessed should reflect each deposit broker's proportionate amount of the total amount of insured deposits placed by all deposit brokers during the quarter.

C. Deposit solicitation restricted

Section 211(c) adds a new section 29(h) to the Federal Deposit Insurance Act. New section 29(h) restricts money desk operations by undercapitalized institutions.

Specifically, new section 29(h) prohibits an undercapitalized depository institution from soliciting deposits by offering rates of interest significantly higher than the prevailing rates of interest on insured deposits in the institution's normal market area or, if the institution is soliciting deposits outside its normal market area, in the market area in which the institution is soliciting deposits. The term "significantly higher," as used in section 29(h), has the same meaning as the term "significantly exceed" used elsewhere in new section 29. "Undercapitalized" has the same meaning as in section 37(b)(1)(C) of the Federal Deposit Insurance Act (added by section 205).

D. Deadline for regulations

Section 211(d) requires the FDIC to promulgate regulations to carry out the amendments made by subsections (a), (b), and (c) within 150 days after the bill becomes law. The regulations thus promulgated must take effect within 180 days after the bill becomes law. In the case of a time deposit made before July 15, 1991, however, the regulations take effect upon the stated maturity of the deposit.

SECTION 212. RISK-BASED ASSESSMENTS

Section 212 requires the FDIC to establish a system of risk-based deposit insurance assessments and sets forth procedures for setting assessment levels and administering the assessment system.

A. Risk-based assessment system

Section 212(a) amends and recodifies section 7(b) of the Federal Deposit Insurance Act, as amended by section 102 of the bill.

1. Risk-based assessment system

a. Risk-based assessment system required

Subparagraph (A) of new section 7(b)(1) requires the FDIC's Board of Directors to establish a risk-based assessment system for insured depository institutions.

b. Private reinsurance authorized

Subparagraph (B) authorizes the FDIC to incorporate private reinsurance in its risk-based assessment system. Specifically, paragraph (1)(B) authorizes the FDIC to obtain private reinsurance covering no more than 10 percent of any loss incurred by the FDIC with respect to an insured depository institution, and base that institution's semiannual assessment in whole or in part on the cost of the reinsurance.

c. Risk-based assessment system defined

Subparagraph (C) defines "risk-based assessment system" for purposes of paragraph (1). A risk-based assessment system is a system for calculating a depository institution's semiannual assessment that is based on three factors: first, the probability that the institution will cause a loss to the deposit insurance fund; second, the likely amount of any such loss; and third, the insurance fund's revenue needs.

In assessing the probability that a particular institution will cause a loss to the deposit insurance fund, subparagraph (C) directs the FDIC to consider three categories of risk. First, risks attributable to different categories and concentrations of assets. Second, risks attributable to different categories and concentrations of liabilities, including risks attributable to both insured and uninsured liabilities, on and off the balance sheet of the institution. Third, risks attributable to any other factors the FDIC determines are relevant to assessing the probability that the institution will cause a loss to the deposit insurance fund.

d. Separate assessment systems

Subparagraph (D) permits the FDIC's Board of Directors to establish separate risk-based assessment systems for large and small members of each deposit insurance fund.

e. Foreign deposits

Subparagraph (E) directs the FDIC, in establishing the risk-assessment system required by paragraph (1), to take into account the special assessment procedure for foreign deposits established under paragraph (6).

2. Setting assessments

Paragraph (2) of new section 7(b) details procedures for the FDIC to follow in determining the semiannual deposit insurance assessments to be paid by each member of each deposit insurance fund.

a. Achieving and maintaining designated reserve ratio

Clause (i) of paragraph (2)(A) sets forth the standard to be observed by the FDIC's Board of Directors in determining the total amount of revenue to be raised through semiannual assessments on behalf of a deposit insurance fund. This determination may, in turn, be reflected in each fund member's semiannual assessment under paragraph (1)(C)(iii).

Specifically, paragraph (2)(A)(i) establishes two different standards for assessing premiums depending on the condition of the deposit insurance fund. If the fund's reserve ratio equals or exceeds the designated reserve ratio, subclause (I) directs the Board to impose assessments sufficient in the aggregate to maintain the fund at the designated reserve ratio. If the fund's reserve ratio is below the designated reserve ratio, subclause (II) directs the Board to impose assessments sufficient in the aggregate to restore the fund to the designated reserve ratio in accordance with the system set forth in paragraph (3).

Clause (ii) of paragraph (2)(A) specifies the factors the Board may take into account in determining the aggregate amount of revenue to be raised through semiannual assessments on members of a fund: (1) the expected operating expenses of the fund; (2) the fund's case resolution expenditures and income; (3) the effect of assessments on members' earnings and capital; and (4) any other factors the Board may deem appropriate. In considering the effect of assessments on members' earnings and capital, the Board should particularly consider whether a proposed assessment level would have a sufficiently negative impact on the financial well-being of fund members so as to increase the fund's expected resolution expenses within the foreseeable future.

Clause (iii) of paragraph (2)(A) requires the semiannual assessment for each member of a deposit insurance fund to be at least $1,000, irrespective of the risk-based system established under paragraph (1).

Clause (iv) of paragraph (2)(A) consolidates and recodifies provisions of current section 7(b)(1)(B). Paragraph (2)(A)(iv) requires the designated reserve ratio of each fund to be 1.25 percent of estimated insured deposits or such higher ratio as the FDIC's Board of Directors determines is justified by circumstances raising a significant risk of substantial future losses to the fund.

b. Independent treatment of funds

Subparagraph (B) of paragraph (2) authorizes the FDIC to establish the semiannual assessments and designated reserve ratio for each fund separately from the assessments and reserve ratio of any other fund. Thus, subparagraph (B) permits, for example, the designated reserve ratio of the Bank Insurance Fund to differ from the designated reserve ratio of the Savings Association Insurance Fund, and members of the different funds to be assessed independently.

c. Notice of assessments

Subparagraph (C) requires the FDIC to notify each insured depository institution of that institution's semiannual assessment at least 60 days before the beginning of each semiannual period.

d. Priority of Financing Corporation and Funding Corporation assessments

Under subparagraph (D), amounts assessed against members of the Savings Association Insurance Fund by the Financing Corporation and the Resolution Funding Corporation under section 21 and 21B of the Federal Home Loan Bank Act must—notwithstanding any other provision of paragraph (2)—be subtracted from the amounts authorized to be assessed by the FDIC under paragraph (2).

e. Minimum assessment

Subparagraph (E) of paragraph (2) requires the FDIC to design the risk-based assessment system for each deposit insurance fund so as to ensure that, if the FDIC has outstanding borrowings on behalf of a deposit insurance fund under section 14 of the Federal Deposit Insurance Act, the total amount of assessment income raised by the FDIC through semiannual assessments on members of that fund does not fall below the amount that would have been raised under the deposit insurance system and deposit insurance assessment rates in effect under section 7(b) on July 15, 1991.

f. Transition rule for Savings Association Insurance Fund

Subparagraph (F) provides a transition rule for members of the Savings Association Insurance Fund. FIRREA established a system for capitalizing the Savings Association Insurance Fund. The purpose of subparagraph (F) is to bring members of the Savings Association Insurance Fund into the risk-based assessment system while leaving intact the system for capitalizing that fund established by FIRREA. Under subparagraph (F), identical standards for establishing aggregate assessment income will apply to both funds after December 31, 1997.

g. Special rule until the insurance funds achieve the designated reserve ratio

Subparagraph (G) authorizes the FDIC to set a floor on the maximum assessment on insured depository institutions under the risk-based assessment system established by paragraph (1). If the FDIC elects to exercise this authority, the floor shall be not less than 10 basis points above the average assessment on insured depository institutions under that system.

3. Special rule for recapitalizing undercapitalized funds

Paragraph (3) of new section 7(b) of the Federal Deposit Insurance Act reenacts and recodifies with minor amendments the special rule for recapitalizing undercapitalized funds set forth in section 102 of the bill. The differences between the rule as stated in section 102 and as stated in paragraph (3) make the special rule applicable to members of the Savings Association Insurance Fund (the rule stated in section 102 applied only to members of the Bank Insurance Fund) after the transition period set forth in paragraph (2)(F).

4. Semiannual period defined

Paragraph (4) recodifies current section 7(b)(2)(B). Paragraph (4) defines "semiannual period" as a 6-month period from January 1 through June 30, or from July 1 through December 31, of the same calendar year.

5. Records to be maintained

Paragraph (5) recodifies statutory text drawn from current section 7(b)(6), with amendments conforming that text to the risk-based deposit insurance system established under new section 7(b)(1). Paragraph (5) requires each insured depository institution to maintain for at least five years all records the FDIC may require for verifying the correctness of the institution's semiannual assessments. If a dispute exists between the FDIC and the institution over the amount of any assessment, the institution must retain such records until the dispute is conclusively resolved.

6. Special assessment to recover losses on foreign deposits

Paragraph (6) reenacts and recodifies without amendment section 7(b)(1)(C)(viii) of the Federal Deposit Insurance Act, as enacted by section 102 of the bill.

B. Certified statements and payment procedures

Subsection (b) of section 212 amends section 7(c) of the Federal Deposit Insurance Act. Current section 7(c) of the Federal Deposit Insurance Act sets forth procedures according to which insured depository institutions must certify to the FDIC the accuracy of the information upon which their semiannual deposit insurance assessments are based. Subsection (b) makes appropriate amendments to those procedures in light of the transition to a risk-based deposit insurance assessment system.

1. Certified statements required

Paragraph (1)(A) of new section 7(c) requires each insured depository institution to file with the FDIC a certified statement containing such information as the FDIC may require in order to determine the institution's semiannual assessment.

Paragraph (1)(B) of new section 7(c) specifies the form in which the certification required by paragraph (1) must be made. Specifically, clause (i) of paragraph (B) requires that the certification be in such form and set forth such supporting information as the

FDIC's Board of Directors may prescribe. Clause (ii) directs that the president of the depository institution or another officer designated by the institution's board of directors or trustees must certify, to the best of his or her information and belief, that the certification submitted under paragraph (1) is true, correct, complete and in accordance with the Federal Deposit Insurance Act and regulations issued thereunder.

2. Payments required

Paragraph (2) of new section 7(c) requires each insured depository institution to pay to the FDIC the semiannual assessment imposed under new section 7(b). The FDIC's Board of Directors must prescribe by regulation the manner of such payments and the time or times at which institutions must make such payments.

3. Newly insured institutions

Paragraph (3) permits the FDIC to waive the requirements of paragraphs (1) and (2) for the semiannual period in which a depository institution becomes an insured depository institution.

C. Regulations

Section 212(c) authorizes the FDIC to promulgate regulations implementing the risk-based assessment system required under new section 7(b). The FDIC must publish notice of proposed regulations in the Federal Register by December 31, 1992, must provide a comment period of at least 120 days, and must promulgate final regulations by July 1, 1993.

D. General authority for the FDIC to prescribe regulations and definitions

Section 212(d) adds a new section 10(f) to the Federal Deposit Insurance Act. New section 10(f) specifically authorizes the FDIC to prescribe regulations and define terms by regulation as necessary to carry out that Act.

E. Conforming amendments

Section 212(e) makes conforming amendments to various provisions of the Federal Deposit Insurance Act as appropriate in light of amendments to that Act contained in preceding subsections of section 212.

Section 212(e)(1) amends section 5(d)(3)(B) by deleting the term "average assessment base" and substituting in lieu thereof the term "deposits" and deleting clauses (i) and (ii) of subparagraph (B). Section 5(d)(3) sets forth rules for apportioning assessments on institutions resulting from the merger of a BIF-insured institution with a SAIF-insured institution. The amendments to subparagraph (B) delete references to the assessment base and assessment rate made obsolete by the transition to the risk-based system.

Section 212(e)(2) strikes certain language from section 7(a)(5), thus eliminating restrictions on the categories of time and savings deposits to be considered by the FDIC in computing deposit insurance assessments.

Section 212(e)(3) replaces current section 7(d) with a new section 7(d) recodifying current section 7(b)(9). The deleted text, providing for assessment credits to insured depository institutions when deposit insurance fund reserve ratios exceed designated reserve ratios, is obsolete in light of the standards for establishing assessments set forth in new section 7(b)(2)(A)(i). Under section 7(b)(2)(A)(i), funds that, under current section 7(d), would have been rebated to insured depository institutions through assessment credits will now be rebated through reduced assessments.

Section 212(e)(4) amends section 8(q) by changing a reference to "assessments upon" deposits to "assessments with respect to" deposits. The reference to "assessments upon" deposits represents obsolete terminology in light of the change to a risk-based assessment system.

F. Transition to new assessment system

Section 212(f) authorizes the FDIC to promulgate regulations governing the transition from the current assessment system to the risk-based assessment system.

G. Effective date of amendments

Under section 212(g), the amendments made by section 212 become effective on the earlier of January 1, 1994, or the date on which final regulations promulgated by the FDIC under section 212(c) become effective.

SECTION 213. RISK-BASED REINSURANCE

A. Risk-based reinsurance pilot program

Subsection (a) of section 213 creates a pilot program to explore the feasibility of using private reinsurance as a basis for pricing risk-based deposit insurance.

1. Establishment

Paragraph (1) of subsection (a) directs the FDIC to establish a pilot program to assess the viability of using reinsurance to assist the FDIC in setting risk-based assessment rates for deposit insurance.

2. Program description

Paragraph (2) describes the pilot program. Under the pilot program, the FDIC must obtain reinsurance from eligible reinsurers for up to 10 percent of the insured risks posed to the FDIC—i.e., the Bank Insurance Fund—by banks participating in the pilot program.

3. Program participation

Paragraph (3) describes how participants in the pilot program will be chosen. Under paragraph (3), the FDIC must select up to 50 bank holding companies with aggregate assets of at least $1 billion to participate in the pilot program. The FDIC may set additional criteria for participation as it deems appropriate.

4. Eligible reinsurers

Paragraph (4) sets forth eligibility criteria for reinsurers in the pilot program. To be eligible, a reinsurer must meet appropriate criteria prescribed by the FDIC, including capital standards that enure the reinsurer's ability to pay claims if called upon to do so. The reinsurers must offer terms reflecting risk-based pricing. A reinsurer may be an affiliate of a bank holding company or a savings and loan holding company but may not offer reinsurance coverage for an affiliated institution.

5. Reinsurance assessments

Paragraph (5) describes how reinsurance premiums will be paid under the reinsurance pilot program. Under paragraph (5), the FDIC shall be solely responsible for paying reinsurance charges to participating reinsurers from each bank's overall premium assessment.

6. Annual report to Congress

Paragraph (6) requires the FDIC to report annually to Congress on the progress of the pilot program.

7. Corporation's discretion to implement national reinsurance system

Paragraph (7) permits the FDIC's Board of Directors to institute a nationwide reinsurance system upon termination of the pilot program if the FDIC can make four determinations. Each determination must be reported in writing to the Congress. Any national reinsurance system adopted by the FDIC must accord with the requirements of new section 7A of the Federal Deposit Insurance Act (added by section 213(b) of the bill).

Subparagraphs (A) through (D) set forth the four determinations the FDIC must make before establishing a risk-based assessment system based on private reinsurance under section 7A.

Subparagraph (A) requires the FDIC to determine that a reinsurance system would be viable for insured institutions. "Viable," in this context, means that such a system could be successfully implemented without excessive costs to the insured institutions that would participate in the system.

Subparagraph (B) requires the FDIC to determine that assessment rates under a reinsurance system can be at least as effective in measuring the relative risks to the insurance funds—particularly the risks posed by profitable institutions that meet applicable capital standards—posed by the institutions such a system would cover as any risk-based assessment system that could be established under section 7(b) of the Federal Deposit Insurance Act (as amended by section 212 of the bill). In effect, this test requires that the national reinsurance system authorized by section 213(a)(7) be at least equal in quality to the best risk-based system authorized by section 212.

Subparagraph (C) requires the FDIC to determine that it can measure and monitor adequately the financial health of reinsurers. Adequate measurement and monitoring, in this context, is a degree of measurement and monitoring reasonably likely to avoid the imposition of costs on a deposit insurance fund by virtue of the failure of a participating reinsurer to meet its reinsurance obligations or the failure of a participating reinsurer, because of misplaced incentives arising from a precarious financial position, to price its reinsurance accurately, with resultant mispricing by and heightened risk to the deposit insurance fund.

Finally, subparagraph (D) requires the FDIC to determine that implementation of a national reinsurance system is in the public interest. In contrast to the first determination, which focuses on the effect of such a system on the well-being of participating insured depository institutions, this determination focuses on how such a system would affect the safety and soundness of the deposit insurance system, the contingent liabilities of America's taxpayers, and the vitality of the national economy.

8. Implementation date; duration

Paragraph (8) requires the FDIC to implement the pilot program *not later than* the effective date of the risk-based assessment system established under section 7(b) of the Federal Deposit Insurance Act (as amended by section 212 of the bill). The pilot program must terminate 3 years after that date.

B. Risk-based reinsurance of large institutions

1. In general

Section 213(b)(1) adds a new section 7A to the Federal Deposit Insurance Act. New section 7A establishes statutory requirements for any national reinsurance system adopted by the FDIC under section 213(a)(7).

a. Purpose

Section 7A(a) describes the purpose of new section 7A. That purpose is to establish a risk-based deposit insurance assessment system in which private reinsurance of a portion of the risk to the deposit insurance fund, not exceeding 10 percent, is used to price deposit insurance for large banks and savings associations.

b. Covered institutions

Subsection (b) defines "covered institution" as institutions to which the reinsurance based system will apply. Specifically, covered institutions are depository institutions with total assets of over $1 billion on December 31, 1991; and depository institutions owned by a bank or savings and loan holding company with assets of over $1 billion on that date.

c. Risk-based assessments

Subsection (c)(2) provides a mechanism for establishing deposit insurance assessment during the transition period to universal reliance on private reinsurance for all covered institutions. During the transition period, each covered institution must pay an assessment equal to the assessment required under section 7(b) (as amended by section 212 of the bill), or an assessment determined by scaling up the premium established by a reinsurance agreement entered into under section 7A(g) and applying that scaled-up rate to the institution's average assessment base. Subsection (c) directs the FDIC to assess whichever of these two premiums, in its judgment, best reflects the risk the covered institution poses to the deposit insurance fund, subject to adjustments authorized by section 7A(d). "Scaling up," as used in subsection (c), means assessing a total deposit insurance premium that stands in the same proportion to the total risk posed by the failure of the institution as the reinsurance premium stands with respect to the percentage of risk reinsured.

Subsection (c)(2) provides a mechanism for setting risk-based assessments after the transition period ends. The transition period will end when the FDIC determines that a sufficient number of covered institutions have obtained reinsurance agreements and that the risk-based premium based on scaling up the assessments charged under a reinsurance agreement, subject to adjustments allowed under section 7A(d), provides risk assessments that differentiate between banks on the basis of risk at least as effectively as is possible under a risk-based system established pursuant to new section 7(b).

Once the FDIC makes these determinations, all covered institutions (except as provided in subsection (e)(1)) must pay deposit insurance assessments determined by scaling up the premium rate established under a reinsurance agreement entered into under subsection (g) and adjusting the rate in accordance with subsection (d). A covered institution that fails to obtain a reinsurance agreement under subsection (g) in a timely manner must pay an assessment determined under subsection (j)(1).

d. Bank Insurance Fund adjustments

Subsection (d) allows the FDIC to adjust the assessment rates of each institution upward or downward as necessary to ensure that the aggregate amount of assessment income to the FDIC suffices to maintain the deposit insurance fund at or above the reserve ratio required by section 7(b)(1)(B), or to restore the deposit insurance fund to the designated reserve ratio within a reasonable period of time.

e. Phase-in schedule and amount of reinsurance

Paragraph (1) of subsection (e) requires the FDIC to establish and publish a timetable to ensure that all qualified institutions have obtained reinsurance by the end of the phase-in period. The timetable must require some eligible institutions to obtain reinsurance within 1 year after the end of the reinsurance pilot program, if the FDIC recommends establishing a reinsurance system, and all qualifying institutions to obtain reinsurance contracts over a 5 to 10 year period, unless the FDIC determines that a different period would be in the public interest. The timetable should allow for the development of a competitive reinsurance market. The FDIC must give each institution at least 1 year's notice before requiring it to obtain reinsurance.

Paragraph (2) requires the FDIC to set a uniform reinsurance level between 3 and 10 percent of each covered institution's insured deposits.

Paragraph (3) specifies that the level of reinsurance coverage set under paragraph (2) must ensure that the assessment rates charged by the reinsurers can be accurately scaled up to reflect the total risk of failure presented by each institution. The level must also ensure there is enough reinsurance capacity available to support a competitive market.

Paragraph (4) requires the FDIC to phase-in reinsurance of the full reinsurance level established under paragraph (2). Reinsurers must provide the level of reinsurance established by the FDIC within 5 years after the phase in period begins. The FDIC must establish interim reinsurance levels during the 5-year transition period. If there has been a substantial change in an institution's circumstances hindering the institution from complying with the phase-in schedule, or if an institution cannot obtain reinsurance due to lack of market availability, the FDIC may permit variations from the phase-in schedules.

f. Eligible reinsurers and reinsurance contracts

Subsection (f) sets forth criteria delimiting eligibility to provide reinsurance under a national reinsurance program. Paragraph (1) defines the term "eligible reinsurer." To be an eligible reinsurer, an insurer must satisfy three criteria. First, the insurer must meet appropriate criteria prescribed by the FDIC for the qualification of reinsurers. These criteria must include capitalization requirements that, in the FDIC's judgment, ensure the reinsurer's ability to pay claims when called upon to do so. Second, the insurer must offer reinsurance terms that reflect a risk-based approach to pricing. Third, the insurer must meet any other criteria determined appropriate by the FDIC for the protection of the insurance funds and the public interest.

Paragraph (2) permits affiliates of bank holding companies or savings association holding companies to be eligible reinsurers. However, an eligible reinsurer may not offer reinsurance to an affiliated bank or savings association.

Paragraph (3) authorizes the FDIC to establish general terms and conditions for reinsurance contracts and requires the FDIC to approve all reinsurance agreements negotiated under subsection (g).

g. Reinsurance agreements

Subsection (g) describes the parameters of the reinsurance agreements to be negotiated between covered institutions and eligible reinsurers. Such agreements must establish both the price of reinsurance for the portion of the insured risk covered by the reinsurer and the reinsurer's rights to review documents maintained by the covered institution in order to assess risk and determine the price. An eligible reinsurer may also negotiate to provide insurance coverage for deposits that are not federally insured at any bank or savings association, even if such a depository institution is not a covered institution within the meaning of section 7A.

h. Reinsurance requirements

Subsection (h)(1) permits the FDIC to suspend the requirement that qualifying institutions obtain reinsurance for periods of 6 months if it finds a substantial shortage of private sector reinsurance capacity or if in the public interest because of a significant period of financial stress. During each six month period, the statutory risk-based assessment system shall apply. The FDIC shall report to the Senate and House Banking Committees each time it issues such a suspension.

Subsection (h)(2) requires that insurance premiums be assessed in accordance with the risk based section established under section 7(b) (as amended by section 212 of the bill), if the FDIC finds that the premium based on a reinsurance agreement is significantly less than would be charged under the section 7(b) system and the FDIC believes the premium based on the reinsurance agreement does not accurately reflect the insured risks of the institution. If the FDIC makes a subsequent finding that the original finding and belief no longer obtain, it must restore the premium based on the reinsurance agreement. The FDIC must give the institution and its reinsurer an opportunity to comment at least 30 days before changing the assessment from the premium based on the reinsurance agreement.

i. Premiums

Subsection (i) sets forth the mechanism for payment of reinsurance premiums under section 7A. Under subsection (i), covered institutions will pay all insurance premiums directly to the FDIC. The FDIC will then forward the reinsurance premium to the reinsurer. Subsection (i) requires the FDIC to establish a schedule for payments to reinsurers of premiums negotiated between reinsurers and covered institutions. The schedule must require covered institutions to promptly pay the FDIC, and the FDIC to promptly pay the reinsurers, any premium increase that occur during the term of the reinsurance agreement.

j. Failure to obtain reinsurance

Subsection (j) sets forth the consequences for a covered institution's failure to obtain reinsurance otherwise required by section 7A.

Under subsection (j)(1), if an institution fails to obtain or renew reinsurance coverage, the FDIC must assess the institution either (1) a premium 8 basis points higher than the institution would be required to pay under the risk-based system established pursuant to new section 7(b); or (2) a premium based on the highest rate assessed any reinsured institution with the same CAMEL rating, adjusted for the size of the noncomplying institution. Subsection (j)(1) requires the FDIC to choose whichever of the two alternative premiums results in the highest assessment for the noncomplying institution.

Paragraph (j)(2) requires the FDIC to conduct an immediate full-scope examination of any covered institution failing to obtain reinsurance in accordance with the requirements of section 7A and make any appropriate adjustments of the institution's CAMEL rating.

Paragraph (3) of subsection (j) forbids the FDIC to provide deposit insurance to any institution unable to obtain reinsurance for more than 2 consecutive years.

k. Effective date

Subsection (k) makes section 7A effective on the date the FDIC reports to Congress that it is prepared to begin implementing a national reinsurance system.

2. Amendments to the Bank Holding Company Act

Section 213(b)(2) amends section 4(c) of the Bank Holding Company Act by inserting a new paragraph (9) and appropriately redesignating succeeding paragraphs of current section 4(c). The new paragraph (9) adds to the list of activities permitted for bank holding companies under section 4(c) the ownership of shares of any company whose activities are limited solely to providing reinsurance in accordance with the requirements of section 7A of the Federal Deposit Insurance Act.

SECTION 214. REAL ESTATE LENDING STANDARDS

1. Uniform regulations required

Section 214 adds a new section 18(u) to the Federal Deposit Insurance Act, requiring the Federal banking agencies to adopt uniform regulations for real-estate lending. The objective is to restrain imprudent lending and make regulatory standards more clear and certain.

The Federal banking agencies' regulations must prescribe standards for extensions of credit (1) secured by liens on interests in real estate, or (2) made to finance the construction of a building or other improvements to real estate. In prescribing those standards, the agencies must consider the risk such extensions of credit pose to the deposit insurance fund, the need for safe and sound operation of insured depository institutions, and the availability of credit. The agencies may differentiate among types of loans as required by Federal statute and as may be warranted based on the condition of the institution making the loan and the risk such loans pose to the deposit insurance fund. The agencies must adopt uniform regulations within 9 months after the bill becomes law, and those regulations will become effective within 15 months after the bill becomes law. The regulations will continue in effect except to the extent that the agencies, acting in concert, adopt uniform amendments.

2. Back-up statutory loan-to-value restrictions

If the Federal banking agencies failed to adopt uniform regulations within 9 months after the bill becomes law, statutory loan-to-value restrictions would become effective 15 months after the bill becomes law. These restrictions would prohibit an insured depository institution from extending credit secured by real property if the extension of credit would exceed the specified percentage of the property's appraised value: 95 percent, if the extension of credit is to finance the purchase of, or refinance outstanding indebtedness on, property improved by a completed one- to four-family dwelling; 80 percent, if the property is improved by at least one completed structures, but the structure or the extension of credit fail to qualify under the 95-percent rule; 70 percent, if the property is improved but has no completed structure; and 65 percent, if the property is undeveloped (unless the extension of credit is to an active farming operation and secured by agricultural land). The agencies should prescribe regulations to clarify, and prevent evasions of, these restrictions.

The restrictions do not apply to any extension of credit on which the principal and interest are insured or guaranteed by a Federal agency, a federally related entity, or a State or local housing finance agency.

A Federal banking agency may loosen a restriction that is unreasonable and limits safe and sound extensions of credit, and tighten a restriction that does not sufficiently curtail unsafe or unsound practices.

3. Conforming amendment to the Federal Reserve Act

Section 24(a) of the Federal Reserve Act allows national banks to extend credit secured by real estate subject to such restrictions and requirements as the Comptroller of the Currency may prescribe. 12 U.S.C. §371(a). Section 214(b) amends section 24(a) to require that such extensions of credit also comply with new section 18(u) of the Federal Deposit Insurance Act.

SECTION 215. RESTRICTING RISKY BANK ACTIVITIES

Section 215(a) adds a new section 24 to the Federal Deposit Insurance Act, relating to the activities of FDIC-insured banks. Section 24 has four key provisions: (1) authority for the FDIC to restrict any activity of any insured bank that poses a significant risk of loss to the deposit insurance fund; (2) a general rule limiting State-authorized activities that are not permissible for a national bank; (3) a prohibition on making equity investments not permissible for a national bank; and (4) a prohibition on investing in corporate debt securities not of investment grade.

A. FDIC's authority to restrict Risky activities of any bank

Subsection (a) of new section 24 authorizes the FDIC (1) to restrict any activity of an insured bank that poses a significant risk of loss to the deposit insurance fund; (2) require that activities not prohibited under section 24 be conducted through a subsidiary, including a separately capitalized subsidiary; and (3) impose such other restrictions and requirements as the FDIC determines to be necessary to prevent a significant risk of loss to the deposit insurance fund. "Significant risk" relates not to the relative or absolute size of potential losses to the insurance fund if the institution engages in an activity, but to the likelihood that permitting the institution to conduct the activity may result in any loss to the fund. The FDIC's authority to "restrict" an activity includes authority to prohibit the activity. Subsection (a) applies to any insured bank, whether national or State.

B. General safeguards on State-authorized powers exceeding the powers of a national bank

1. In general

Effective two years after the bill becomes law, subsection (b)(1) generally prohibits an insured State bank from engaging, directly or indirectly, as principal in any activity not permissible for a national bank unless a two-part test is satisfied. First, the State bank must be adequately capitalized, as defined in new section 37 of the Federal Deposit Insurance Act (added by section 205). Second, the FDIC must have determined, by regulation or order, that engaging in the activity (1) would pose no significant risk of loss to the deposit insurance fund; and (2) would be consistent with the purposes of the Federal Deposit Insurance Act. Subsection (b)(1) applies to any activity in which a bank acts as principal—i.e., not as its customer's agent.

2. Exception for well-capitalized banks

Subsection (b)(2) exempts from subsection (b)(1) a State bank that is well-capitalized as defined in new section 37 of the Federal Deposit Insurance Act (added by section 205 of the bill)—i.e., has capital significantly exceeding the required minimum level for each relevant capital measure. Such a bank may—insofar as new section 24(b) is concerned—engage as principal in an activity not permissible for a national bank if the bank has filed a notice with the FDIC describing the activity, and the FDIC has not disapproved the activity within 90 days. The standard for disapproval is that engaging in the activity would (1) pose a significant risk of loss to the deposit insurance fund, or would be inconsistent with the purposes of the Federal Deposit Insurance Act. Failure to disapprove a notice does not constitute a determination that the activity in question poses no significant risk or is consistent with the purposes of the Act, nor does it preclude the FDIC from later prohibiting or restricting the activity under subsection (a).

3. Exception for subsidiaries

Subsection (b)(3) states a rule for subsidiaries of State banks parallel to the general rule under subsection (b)(1). Thus such a subsidiary may engage in an activity not permissible for a national bank if its parent bank is adequately capitalized, and the FDIC has determined that engaging in the activity in a bank or subsidiary would pose no significant risk of loss to the deposit insurance fund and would be consistent with the purposes of the Federal Deposit Insurance Act.

C. Equity investments by State banks

1. In general

Effective two years after the bill becomes law, subsection (c)(1) prohibits an insured State bank from directly or indirectly acquiring or retaining any equity investment of a type or in an amount not permissible for a national bank.

2. Exceptions

Subsection (c)(2) makes exceptions to the categorical prohibition of subsection (c)(1) for community development investments by subsidiaries, investments through separately capitalized subsidiaries, and certain investments related to risk-retention and savings bank life insurance. These activities must still comply with other applicable law, including subsection (b).

a. Community development investments by subsidiaries

Subparagraph (A) of subsection (c)(2) applies to shares of a subsidiary engaged primarily in the promotion of community welfare (such as the economic rehabilitation and development of low-income areas by providing housing, services, or jobs for residents). This exception is drawn from section 225.25(b)(6) of the Federal Reserve Board's regulation Y. 12 C.F.R. §225.25(b)(6).

b. Investments through separately capitalized subsidiaries

Subparagraph (B) applies to equity investments through a separately capitalized subsidiary—i.e., where the parent bank has deducted from its capital all of its investments in and extensions of credit to the subsidiary. The bank must be adequately capitalized after the capital deduction to satisfy subsection (b)(1)(A)—the general rule requiring a State bank to be adequately capitalized before engaging as principal in activities not permissible for a national bank.

c. Risk retention

Subparagraph (C) applies to ownership of up to 10 percent of a corporation that engages only in providing directors', trustees', and officers' liability insurance coverage, or bankers' blanket bond group insurance coverage for insured depository institutions, or reinsuring such policies.

d. Savings bank life insurance

Subparagraph (D) applies to shares of a savings bank life insurance company, if the State bank is chartered in Connecticut, Massachusetts, or New York.

3. Transition rule

Under subsection (c)(3), equity investments impermissible under subsection (c) must be divested as quickly as can be prudently done, and in any event by August 1, 1996.

D. Corporate debt securities not of investment grade

Subsection (d) prohibits an insured bank from directly or indirectly acquiring any corporate debt security not of investment grade, as defined in section 28(d)(4) of the Federal Deposit Insurance Act (which governs such investments by insured savings associations). Any bank retaining such a security shall account for it as if it were held for sale, which under generally accepted accounting principles means that the bank must carry the security on its books at the lower of cost or current market value.

E. Other authority not affected

New section 24 does not limit any authority of a Federal banking agency or a State to impose more stringent restrictions.

F. Effective date

Section 215(b) makes new section 24 of the Federal Deposit Insurance Act effective when the bill becomes law—except for subsections (b) and (c), which will become effective 2 years thereafter.

G. Transition rule for investments in corporate equity securities

1. In general

Section 215(c) provides for gradually phasing out investments in corporate equity securities and securities indexes from the portfolios of insured State banks and their subsidiaries.

During the two years between the date the bill becomes law and the effective date of new section 24(c), a bank or subsidiary may acquire or retain corporate equity securities to the extent permitted by State law on May 14, 1991. During each of the three years following that effective date, each bank and subsidiary must reduce by at least one-third the otherwise-impermissible corporate equity securities that it held on that effective date. The cost of securities may be used (instead of current market value) in calculating compliance with the one-third requirement.

Section 215(c) also permits a State bank to acquire or retain investments in publicly traded indexes of corporate equity securities to the extent permitted by State law on May 14, 1991, during the seven years after the bill becomes law.

2. Study and report required

Section 215(c) requires the Comptroller General to study and report on investments in corporate equity securities by insured State banks and their subsidiaries, including the extent to which such banks and subsidiaries have invested in those securities, the risks and returns on such investments, their contribution to profitability, the extent to which States limit the types and amounts of such investments, and whether such investments are consistent with the purposes of Federal deposit insurance.

SECTION 216. SAFEGUARDS AGAINST INSIDER ABUSE

Section 22(h) of the Federal Reserve Act restricts insider lending by banks that are members of the Federal Reserve System—i.e., national banks and State member banks. 12 U.S.C. §375b. Through section 11(b)(1) of the Home Owners' Loan Act and section 18(j)(2) of the Federal Deposit Insurance Act, section 22(h) applies to all other FDIC-insured depository institutions. 12 U.S.C. §§ 1468(b)(1) (savings associations), 1828(j)(2) (State nonmember banks).

Under section 22(h), a member bank may extend credit to one of its executive officers, directors, or principal shareholders—or to any related interest of such a person (e.g., a company controlled by that person)—only if the extension of credit (1) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with outsiders; and (2) does not involve more than the normal risk of repayment or have other unfavorable features. Extensions of credit require the prior approval of the bank's board of directors if they would exceed a threshold set by the appropriate Federal banking agency (e.g, a specified dollar amount or percentage of the bank's capital).

A bank's extensions of credit to an executive officer or principal shareholder and such a person's related interests cannot exceed the limit on loans by a national bank to a single borrower—generally 15 percent of the bank's capital. 12 U.S.C. §84(a)(1). Nor can the bank pay an overdraft of an executive officer or director except through a written, preauthorized funds transfer or line of credit.

Section 216 of the bill recodifies and strengthens section 22(h), as well as strengthening related statutes.

A. Recodification of current law restricting extensions of credit to insiders

Section 216(a) recodifies current section 22(h) in the interest of clarity, drawing on the current statutory language and the Federal Reserve Board's regulation O. 12 C.F.R. pt. 215.

In the recodification, "[Reserved]" is a placeholder for new material to be added by subsequent subsections of section 216.

B. Requiring depository institutions to follow normal credit underwriting procedures when extending credit to insiders

Section 216(b) allows member banks to extend credit to an executive officer, director, or principal shareholder (or a related interest of such a person), only if the bank has followed credit underwriting procedures at least as stringent as those applicable to comparable transactions by the bank with outsiders.

C. Applying to directors the limit on loans to one borrower

Section 22(h) currently applies the national-bank limit on loans to one borrower to executive officers and principal shareholders, but not to directors. Section 216(c) extends the limit to directors.

D. Limiting depository institution's aggregate extensions of credit to insiders

Section 22(h) does not currently limit a member bank's aggregate extensions of credit to insiders. It limits only the amount of credit the bank may extend to a particular executive officer, director, or principal shareholder (and such a person's related interests).

Section 216(d) generally prohibits a member bank's aggregate extensions of credit to all executive officers, directors, and principal shareholders (and their related interests) from exceeding the bank's capital. The Federal Reserve Board may prescribe a more stringent limit. The Board may also make exceptions for banks with less than $100 million in deposits if the Board determines that the exceptions are important to avoid constricting the availability of credit in small communities or to attract directors to such banks—but in no case can a bank's aggregate extensions of credit to all such insiders be more than twice the bank's capital.

E. Prohibiting insiders from accepting unauthorized extensions of credit

Section 22(h) prohibits a member bank from making an unauthorized extension of credit to an insider, but does not currently prohibit the insider from receiving such an extension of credit. Section 216(e) prohibits an executive officer, director, or principal shareholder of a bank from knowingly receiving from the bank (or knowingly permitting any of that person's related interests to receive) any extension of credit not authorized under section 22(h).

F. Applying uniform rules to all companies controlling depository institutions

If a member bank is a subsidiary of a bank holding company, section 22(h) currently treats any executive officer, director, or principal shareholder of the parent bank holding company—or any other subsidiary of that bank holding company—as an executive officer, director, or principal shareholder (as the case may be) of the member bank. Section 216(f) extends this rule to any company having control of the member bank, even if that company is not a "bank holding company" for purposes of the Bank Holding Company Act.

G. Applying safeguards to insider transactions with depository institution's subsidiaries

Section 216(g) applies section 22(h) to subsidiaries of member banks—thus preventing banks from using their subsidiaries as conduits for extensions of credit prohibited under section 22(h).

H. Applying uniform rules to all principal shareholders

Section 22(h) generally defines as a principal shareholder any person who owns, controls, or has the power to vote more than 10 percent of any class of the member bank's voting securities, but makes the threshold 18 percent (rather than 10 percent) if the bank is "located in" a city, town, or village with a population of less than 30,000. Section 216(h) eliminates that exception, and thus establishes a uniform 10-percent rule.

I. Limiting savings associations' extensions of credit to executive officers

Section 22(g) of the Federal Reserve Act requires the appropriate Federal banking agencies to limit member banks' extensions of credit to their executive officers—and the agencies have imposed limits considerably lower than the national-bank limit on loans to one borrower applicable under section 22(h). 12 U.S.C. §375a; 12 C.F.R. §§31.2, 215.5. Section 22(g) does not currently apply to savings associations or State nonmember banks. Section 216(i) applies section 22(g) to insured savings associations (and section 216(k) applies it to insured State nonmember banks).

J. Preventing savings associations from making preferential extensions of credit through correspondent institutions

Section 106(b)(2)(A) of the Bank Holding Company Act Amendments of 1970 prohibits banks from extending credit on preferential terms to an executive officer, director, or principal shareholder of a correspondent bank. 12 U.S.C. §1972(2)(A). Section 216(j) applies this prohibition to savings associations by broadening the definition of "bank" in section 106(b)(2)(H)(i) to include a savings association. Thus neither a bank nor a savings association may make preferential extensions of credit to an executive officer, director, or principal shareholder of a correspondent bank or savings association.

K. Limiting State nonmember bank's extensions of credit to executive officers; clarifying the prohibition on preferential extensions of credit to insiders

Section 18(j) of the Federal Deposit Insurance Act currently applies sections 22(h), 23A, and 23B of the Federal Reserve Act to insured State nonmember banks, but not section 22(g) (discussed above in connection with section 216(i)). Section 216(k) applies section 22(g) to insured State nonmember banks. It also rephrases section 18(j) to clarify it and eliminate several drafting problems in the current provision. Section 18(j) currently contains a sketchy paraphrase of section 22(h) that does not mention the prohibition on preferential lending to insiders. The evident intent of Congress was nonetheless to make section 22(h) fully applicable, and the FDIC has so construed section 18(j). See 47 Fed. Reg. 47,002 (1982). Section 216(k) avoids the problem by eliminating the paraphrase (and with it much needless verbiage) and simply incorporating section 22(h) by reference.

L. Effective date

Section 216(l) makes section 216's amendments effective on the earlier of (1) 150 days after the bill becomes law, or (2) the date on which the Federal Reserve Board's final regulations under section 216(m) become effective.

M. Regulations

Section 216(m) generally requires the Federal Reserve Board to promulgate final regulations within 120 days after the bill becomes law to implement the amendments made by section 216. But in the case of subsections (i) and (k), the implementing regulations must be promulgated by the Director of the Office of Thrift Supervision and the FDIC.

N. Existing transactions not affected

Section 216(n) specifies that the amendments made by section 216 do not affect the validity of any extension of credit or other transaction lawfully entered into before those amendments became effective.

SECTION 217. PROTECTING DEPOSITORY INSTITUTIONS FROM ABUSIVE TRANSACTIONS WITH AFFILIATES

A. Background

Section 23A of the Federal Reserve Act restricts transactions between a member bank and its affiliates. 12 U.S.C. §371c. Although section 23A refers only to "member banks," it applies to all FDIC-insured depository institutions. Id. §§ 1468(a)(1) (savings associations), 1828(j)(1) (State nonmember banks).

Section 23A permits a member bank and its subsidiaries to engage in a "covered transaction" with an affiliate only if (1) the aggregate amount of covered transactions with that affiliate will not exceed 10 percent of the bank's capital, and (2) the aggregate amount of covered transactions with all affiliates will not exceed 20 percent of the bank's capital. 12 U.S.C. §371c(a)(1). A bank or subsidiary engages in a "covered transaction" with an affiliate by extending credit to the affiliate, purchasing assets from the affiliate, purchasing or investing in securities issued by the affiliate, accepting such securities as collateral for an extension of credit, or issuing a guarantee, acceptance, or letter of credit on behalf of the affiliate. Id. §371c(b)(7).

Section 23A generally prohibits a member bank from purchasing a low-quality asset from an affiliate, and requires a member bank's transactions with affiliates to be consistent with safe and sound banking practices. 12 U.S.C. §371c(a)(3)-(4).

Section 217 of the bill amends section 23A to require prior notice of large covered transactions, broaden the definitions of "affiliate" and "covered transaction," strengthen the requirement that covered transactions be fully secured, and narrow certain exemptions.

B. Prior notice of major transactions with affiliates

Section 217(a)(2) requires a bank holding company to give five days notice to the Federal Reserve Board and the appropriate Federal banking agency before allowing a subsidiary insured depository institution to engage in any covered transaction exceeding 5 percent of the institution's capital.

C. Broadening definition of affiliate

Section 23A currently defines a member bank's "affiliates" as including any company that controls or is under common control with the bank; any bank controlled by the bank; any company sponsored and advised by the bank or any of its affiliates; any investment company for which the bank or any of its affiliates is investment adviser. Excluded from section 23A's definition of "affiliate" are, *inter alia*, any nonbank subsidiary of the bank (although the Federal Reserve Board has discretion to reclassify such a subsidiary as an affiliate), and any company engaged solely in holding the bank's premises, conducting a safe-deposit business, or holding U.S. Government and agency securities. 12 U.S.C. §371c(b)(1)-(2).

1. Investment adviser or commodity trading adviser

Section 217(a)(3) broadens the definition of "affiliate" to include a commodity pool for which the member bank or any affiliate acts as commodity trading adviser, and any company engaged in substantially the same activities as an investment company or commodity pool for which the bank or any affiliate performs activities substantially similar to those of an investment adviser or commodity trading adviser.

2. Subsidiary

Section 217(a)(4) narrows the exclusion of a bank's subsidiaries from the definition of "affiliate"—allowing a subsidiary to qualify for the exclusion only if the bank owns at least 80 percent of the subsidiary's voting stock.

D. Broadening definition of covered transaction

Section 217(a)(6) broadens the definition of a member bank's "covered transactions" to include three new classes of transactions: (1) assuming any liability of an affiliate, whether directly or by letting the affiliate be transferred to the member bank; (2) enhancing the marketability of securities underwritten by an affiliate, as described below; and (3) entering into any other financial arrangement that the Federal Reserve Board, by regulation, determines to be equivalent to any transaction specifically listed in the definition of "covered transaction."

The second new class of transactions involves enhancing the marketability of securities underwritten by an affiliate (e.g., by extending credit or issuing a guarantee or other facility to the issuer), except to the extent permitted under new section 10(f)(2)(C) of the Bank Holding Act (added by section 715 of the bill). Section 10(f)(2)(C) gives the Federal Reserve Board discretion, within narrow limits, to permit such credit-enhancement of securities underwritten by a securities affiliate. But to the extent that section 10(f)(2)(C) does not permit such transactions (e.g., because they exceed maximum amount permissible or involve securities underwritten by a non-securities affiliate), the transactions are covered transactions.

E. Strengthening collateral requirement for covered transactions

Section 23A currently requires that a member bank's extensions of credit to an affiliate be fully secured "at the time of the transaction" by acceptable collateral, and specifies that securities issued by an affiliate are not acceptable collateral. 12 U.S.C. §371c(c) (1), (4). Section 217(a)(7) deletes "at the time of the transaction" to clarify that extensions of credit must be fully secured by adequate collateral at all times. Section 217(a)(8) provides that securities issued by the member bank are not acceptable collateral.

F. Narrowing definition of trust company

Section 23A currently defines "bank" to include a trust company. 12 U.S.C. §371c(b)(5). This definition can, under certain circumstances, exempt a member bank's transactions with an affiliated trust company from section 23A's percentage-of-capital restrictions, collateral requirement, and prohibition against purchasing low-quality assets. See id. §371c(d)(1). To reduce the potential for abuse of that exemption, section 217(a)(5) allows only a trust company principally engaged in deposit-taking or lending to qualify as a "bank."

G. Narrowing exemption for purchasing affiliated companies' securities

Section 23A's percentage-of-capital restrictions, collateral requirements, and low-quality asset prohibition do not currently apply to purchasing securities issued by a company solely engaged in holding or operating property for a bank, conducting a safe deposit business, performing services for a bank or bank holding company, or liquidating assets acquired from a bank or bank holding company. 12 U.S.C. §371c(d)(5); see id. §1843(c)(1). Section 217(a)(9) specifies that the company in question must provide such services only to affiliated member banks.

H. Section 23B of the Federal Reserve Act

Section 23B(b)(1)(B) of the Federal Reserve Act prohibits a member bank or any subsidiary from knowingly purchasing or otherwise acquiring any security during the existence of any underwriting or selling syndicate of which any affiliate of the bank is a member, and section 715(e) of the bill makes the prohibition apply for 30 days after the syndicate ends. Section 23B(b)(2) makes an exception to section 23B(b)(1)(B) "if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof." Section 217(b) of the bill amends section 23B(b)(1)(B) to clarify that the directors in question cannot be officers, directors, or employees of the affiliate.

SECTION 218. INTERBANK LIABILITIES

Section 218 adds a new section 23 to the Federal Reserve Act, aimed at reducing the systemic risks posed by the failure or near-failure of a large depository institution.

A. Purpose

Subsection (a) of new section 23 states the purpose of the section: to limit the risks that the failure of a large depository institution, whether or not FDIC-insured, would pose to FDIC-insured depository institutions.

B. Aggregate limits on insured depository institutions' exposure to other depository institutions

Subsection (b) requires the Federal Reserve Board to prescribe standards (by regulation or order) that have the effect of limiting the risks posed by an insured depository institution's "exposure" to any other depository institution.

The concern is with exposure to any depository institution—whether or not the institution is FDIC-insured—including any "depository institution" as defined in section 19(b)(1) of the Federal Reserve Act, any Edge or agreement corporation, and any foreign bank.

C. Exposure defined

Subsection (c)(1) broadly defines an insured depository institution's "exposure" to another depository institution as (1) all extensions of credit to the other depository institution, regardless of name or description, including (a) all deposits at the other depository institution, (b) all purchases of securities or other assets from the other depository institution subject to an agreement to repurchase, and (c) all guarantees, acceptances, or letters of credit (including endorsements or standby letters of credit) on behalf of the other depository institution; (2) all purchases of or investments in securities issued by the other depository institution; (3) all securities issued by the other depository institution accepted as collateral for an extension of credit to any person; and (4) all similar transactions that the Board by regulation determines to be "exposure" for purposes of section 23.

Subsection (c)(2) permits the Board to exempt transactions from the definition of "exposure" if it finds the exemptions to be in the public interest and consistent with the purpose of section 23. Exemptions may be by regulation or order.

Subsection (c)(3) provides an anti-evasion rule parallel to that in sections 23A(a)(2) and 23B(a)(3) of the Federal Reserve Act: a transaction is considered to be with another depository institution (and thus possible "exposure" to that institution) to the extent that the proceeds are used for the benefit of, or transferred to, that other depository institution. See 12 U.S.C. §§371c(a)(2), 371c-1(a)(3).

D. Rulemaking authority; enforcement

Subsection (e) authorizes the Board to issue such regulations and orders as may be necessary to administer and carry out the purpose of section 23. The appropriate Federal banking agency will enforce compliance with the Board's regulations.

E. Effective date; transition rules

Under section 218(c), new section 23A becomes effective one year after the bill becomes law.

Section 218(b) requires the Board to prescribe reasonable transition rules to facilitate compliance with new section 23—so as to provide a smooth, orderly transition to full compliance.

SECTION 219. REDUCING RISK TO PAYMENT SYSTEM

Section 219 is intended to ensure the enforceability of netting contracts. Such a contract provides for comparing a party's right to receive payments from another party with its obligation to make payments to that party, with each party then being required to pay or entitled to receive (as the case may be) only the difference between the two:

"Thus, in a bilateral netting contract—i.e., a netting contract involving only two parties—one party makes a single, net payment to the other party. In a multilateral netting contract—i.e., a netting contract involving a number of parties—each party in a net debtor position makes a single payment and each party in a net creditor position receives a single payment."

Testimony by Oliver Ireland, Associate General Counsel, Board of Governors of the Federal Reserve System, Before the Committee on Agriculture, United States House of Representatives, Sept. 11, 1991.

Netting reduces the systemic risk posed by the failure of a large financial institution. By treating the underlying transactions as final—and leaving only the net payment outstanding—netting sharply curtails uncertainty about transactions with a failed institution. Without netting, the institution's receiver or bankruptcy trustee might seek to unwind transactions involving billions of dollars: reversing any payments by the institution but treating payments to the institution as final. Such unwinding could severely disrupt the payment system and endanger the other parties to those transactions. These risks have been an argument for treating some institutions as too big to fail.

Netting reduces systemic risk not only by lessening uncertainty but by minimizing other parties' exposure to the failed institution:

"Because individual net payments are far smaller than the gross value of the payment obligations to be settled among the parties, the effect of the failure of one of the parties in a net debtor position to settle its payment obligation is far smaller than the effect of unwinding all of the underlying transactions. Further, the amount of any failed net payment can often be covered by margin or other collateral requirements, or by coinsurance or other arrangements to insure that underlying transactions are settled with the minimum of systemic risk to the financial markets."

Id.

Accordingly, section 219 upholds bilateral netting between financial institutions and multilateral netting among members of a clearing organization, and bars judicial or other interference with netting contracts.

A. Findings and purpose

Section 219(a) recognizes that netting is efficient, reduces systemic risk, and must be legally binding even if a participating institution fails.

B. Bilateral netting

Section 219(b) provides for netting the covered contractual payment obligations and covered contractual payment entitlements of any two financial institutions under any applicable netting contract. A financial institution's only obligation to make payment to another institution with respect to covered contractual payment obligations arising under a single netting contract is the institution's net obligation under that contract to the other institution. No obligation to pay exists if there is no net obligation. Similarly, a financial institution's only right to receive payment from another institution with respect to covered contractual payment entitlements arising under a single netting contract is the institution's net entitlement under that contract from the other institution. No right to receive payment exists if there is no net entitlement. Any net entitlement of a failed financial institution shall be paid to the institution under the applicable netting contract.

C. Clearing organization netting

If a clearing organization has an applicable netting contract, subsection (c) provides for netting, under the contract, a member's covered contractual payment obligations to all other members with the member's covered contractual payment entitlements from all other members. A member's only obligation to make payment to another member with respect to covered contractual payment obligations arising under a single netting contract is the member's net obligation under that contract. Similarly, a member's only right to receive payments from another member with respect to covered contractual payment entitlements arising under a single netting contract is the member's net entitlement under that contract. Any net entitlement of a failed member shall be paid to the member under the applicable netting contract. A failed member has no recognizable claim against any other member for any amount based on covered contractual payment entitlements other than its net entitlement.

D. Preemption

Section 219(d) prevents any stay, injunction, avoidance, moratorium, similar proceeding or order (judicial, administrative, or other)—or any provision of Federal or State law—from limiting or delaying application of the netting provisions of an otherwise-enforceable netting contract, whether between two institutions under section 219(b) or within a clearing organization under section 219(c).

E. Definitions

Section 219(e) defines various terms used in section 219. "Clearing organization" is a clearinghouse, clearing association, clearing corporation, or similar organization that (1) provides clearing, netting, or settlement services for its members, and (2) is registered as a clearing agency under the Securities Exchange Act, performs clearing functions for a contract market designated under the Commodities Exchange Act, or in which all members are financial institutions or other clearing organizations.

"Covered contractual payment entitlement" means an entitlement of a financial institution or member of a clearing organization to receive a payment from another institution or member subject to a netting contract. "Covered contractual payment obligation" means an obligation of a financial institution or member of a clearing organization to make payment to another institution or member subject to a netting contract.

"Netting contract" means an agreement, including the rules of a clearing organization, between two or more financial institutions or members that provides for netting present or future payment obligations or payment entitlements among the parties. It includes the rules of a clearing organization, but excludes any agreement precluded by Federal banking, securities, or commodities statutes or regulations. For example, the Commodity Exchange Act precludes setting off a futures commission merchant's proprietary obligations against its customer obligations. Federal "commodities laws" include, in addition to the Commodity Exchange Act and the regulations prescribed under that Act, the provisions of the Bankruptcy Code specific to commodity brokers and commodity interests subject to the Commodity Exchange Act. *E.g.*, 11 U.S.C. §763 (deeming a member of a clearing organization to hold its proprietary accounts in a separate capacity from its customer's accounts).

F. Other payment systems not affected

Section 219(f) specifies that section 219 does not affect the enforceability of a netting arrangement of any payment system not subject to section 219.

SECTION 220. LEAST-COST RESOLUTION

Section 20 adds a new section 13(*l*) to the Federal Deposit Insurance Act, permitting the FDIC to draw on a deposit insurance fund's resources (other than for examination, supervision, and administration) only to satisfy the FDIC's obligations to an insured depository institution's depositors at the least-possible long-term cost to the insurance fund. New section 13(*l*) also guides the FDIC in determining least cost; provides a systemic-risk exception; avoids unintended amendment by implication; and requires expedited settlement of uninsured claims.

A. Least-cost resolution required

Paragraph (1) of new section 13(*l*) prohibits the FDIC from directly or indirectly taking certain actions with respect to any insured depository institution except to satisfy the FDIC's obligations to that institution's insured depositors at the least possible long-term cost to the deposit insurance fund. This rule applies to (1) taking any action under certain provisions of the Federal Deposit Insurance Act—section 11(f)(1) (paying insured deposits), (i)(3) (net worth certificates), (m) (new bank), or (n) (bridge bank), or section 13(c) (general assistance authority) or (k) (emergency acquisition); (2) expending any money from a deposit insurance fund, other than to pay for examination, supervision, and administration costs; and (3) assuming or guaranteeing any liability. The rule is thus intended to apply to every means by which the FDIC might use the resources of a deposit insurance fund to protect an insured depository institution's uninsured deposits or nondeposit liabilities.

In referring to "least-possible long-term cost" to the deposit insurance fund, paragraph (1) calls for the FDIC to evaluate the particular transaction, together with its likely future effects. For example, if an unhealthy institution offers the most favorable terms for a failing institution, the FDIC must consider the risk that the prospective acquirer would later fail and cause a loss to the insurance fund. If a failing institution is in a saturated market, the FDIC must consider the effect of consolidating—or failing to consolidate—the institution with another market participant on the likelihood that competing institutions would fail and cause a loss to the insurance fund.

B. Determining least-costly approach

Paragraph (2) establishes several rules relating to determining how to satisfy the FDIC's obligations to an institution's insured depositors at the least possible long-term cost to the deposit insurance fund. The FDIC must evaluate alternatives on a present-value basis, using a realistic discount rate; document that evaluation; and retain the documentation for at least five years. The FDIC can consider how the transaction would affect economic conditions or financial stability only insofar as the effects would result in quantifiable costs to the deposit insurance fund. Requiring a realistic discount rate is intended to avoid manipulation of the result through failure to discount or use of an excessively high or low discount rate. The quantifiable-cost requirement regarding economic conditions and financial stability is intended to prevent unfocused thinking about such issues from distorting the determination of least cost, and force systemic-risk determinations into paragraph (3). The overall objective is the most accurate possible comparison of resolution alternatives.

Paragraph (5) requires the FDIC to disclose the documentation for its cost analysis upon request under the Freedom of Information Act. 5 U.S.C. §552. The FDIC cannot use that Act's exemption for memoranda or letters to withhold any portion of those documents, nor can the FDIC use the exemptions for commercial or financial information or examination reports to withhold information about the institution. But the FDIC need not disclose the name of any customer of the institution (other than an institution-affiliated party), or information from which such a person's identity could reasonably be ascertained.

C. Systemic risk

1. Emergency advances by the Treasury

Paragraph (3)(A) provides a narrow exception to least-cost resolution for those rare instances in which an institution's failure could threaten the entire financial system. The exception requires the concurrence of the Federal Reserve Board and the Secretary of the Treasury, in consultation with the President. The Federal Reserve Board must first make a written recommendation to the Secretary of the Treasury, supported by two-thirds of the Board's members, explaining how (1) the FDIC's compliance with least-cost resolution in the case of a specific, named institution would have serious adverse effects on economic conditions or financial stability, and (2) an advance from the Treasury under paragraph (3)(A) ("emergency advance") would avoid or mitigate those adverse effects. The Secretary must then—in consultation with the President—make a written determination to the same effect: (1) that the FDIC's compliance with least-cost resolution in the case of that institution would have serious adverse effects on economic conditions or financial stability, and (2) that an emergency advance would avoid or mitigate those adverse effects. The Secretary may then advance to the FDIC the amount necessary to avoid or mitigate those adverse effects.

2. Repayment of advances

Paragraph (3)(C) requires the FDIC to repay emergency advances expeditiously from special assessments on the members of the deposit insurance fund of which the institution is a member. The special assessments will apply to each member's average total assets, minus (1) the member's average total tangible equity; (2) the member's average total subordinated debt; and (3) the member's average total foreign deposits. Under paragraph (3)(D), emergency advances bear interest at a rate to be determined by the Secretary of the Treasury.

3. Documentation required; GAO review

Paragraph (3)(E) requires the Secretary of the Treasury to document any determination under paragraph (3)(A); and retain the documentation for review under paragraph (3)(F).

Paragraph (3)(F) requires the Comptroller General of the United States to review and report to Congress on any determination under paragraph (3)(A), including the basis for the determination; the purpose for which the advance was used; and the likely effect of the determination and advance on the incentives and conduct of insured depository institutions and uninsured depositors. The report is intended to facilitate proper oversight and accountability.

4. Notice to Congress

Paragraph (3)(G) requires the Secretary of the Treasury to give prompt written notice of any determination under paragraph (3)(A) to the Senate and House Banking Committees, describing the basis for the determination.

5. Emergency requirement

Under paragraph (3)(H), Congress and the President are deemed to have designated any emergency advance under paragraph (3)(A) as emergency requirements.

D. Rule of construction against amendment by implication

Under paragraph (4), no provision of law may be construed as permitting the FDIC to do anything prohibited by paragraph (1) or (2), unless the provision of law expressly amends section 13(*l*). The policy expressed in paragraphs (1) and (2) is a strong one—intended to limit and channel agency discretion—and should not be undercut by creative interpretation. Paragraph (4) is intended to foreclose any argument that Congress amended paragraphs (1) and (2) by implication—when in fact Congress intended nothing of the sort.

E. Claims settlement procedures

Paragraph (6) requires the FDIC, in consultation with the other Federal banking agencies, to establish procedures for resolving the claims of uninsured depositors and nondepositor creditors against a depository institution for which the FDIC has been appointed receiver. Those procedures are to (1) ensure that insured depositors will have access to all insured funds as expeditiously as possible; (2) give uninsured depositors and nondepositor creditors early access to up to 90 percent of the value of that portion of their claims that the FDIC determines is supported by the institution's assets; (3) maintain the safety and effectiveness of the payment system; and (4) protect the stability of the deposit insurance system.

SECTION 221. EARLY RESOLUTION

Section 221 expresses the sense of the Senate stating that the Federal banking agencies should facilitate early resolution of troubled FDIC-insured institutions under section 13(c) of the Federal Deposit Insurance Act (generally known as "open-bank assistance") whenever feasible if—but only if—early resolution would have the least possible long-term cost to the deposit insurance fund, consistent with section 13(*l*) of the Federal Deposit Insurance Act (as added by section 220). Thus early resolution must fully comply with section 13(*l*), and section 221 is not intended as a guide for interpreting section 13(*l*).

Section 221 contemplates that any resolution transaction observe eight general principles. First, the transaction should be negotiated competitively. In determining how broadly to seek bids, the agencies should weigh the potential benefits of additional bids against the potential costs of delay attendant on obtaining such bids. Second, any insured depository institution created or assisted in the transaction (the "resulting institution") and any institution acquiring the troubled institution should be adequately capitalized. Third, the transaction should involve substantial private investment. Fourth, the transaction should involve consolidating the troubled institution with a healthy insured depository institution to the maximum extent consistent with least-cost resolution. Fifth, preexisting owners and debtholders of any troubled institution or its holding company should make substantial concessions. Sixth, the resulting institution's directors and senior management should be qualified to perform their duties, and should not include individuals substantially responsible for the troubled institution's problems. Seventh, the transaction should give the FDIC an opportunity to participate in the success of the resulting institution (e.g., in any dividends or appreciation). Finally, the transaction should, insofar as practical, be structured so that new investors share risk with the FDIC, and the FDIC (a) does not acquire a significant proportion of the troubled institution's problem assets, (b) succeeds to the interests of the troubled institution's preexisting owners and debtholders in proportion to the assistance it provides, and (c) limits the duration and amount of that assistance.

Two years after the bill becomes law, the FDIC must submit a report to Congress analyzing the effect of early resolution on the insurance funds.

SECTION 222. FEDERAL RESERVE DISCOUNT WINDOW ADVANCES

1. In general

Section 10(b) of the Federal Reserve Act currently authorizes any Federal Reserve bank to make advances to any member bank on its time or demand notes having maturities of not more than four months that are secured to the satisfaction of the Federal Reserve bank. 12 U.S.C. §347b. Section 222 redesignates section 10(b) as section 10B, and amends it to establish a general rule that a Federal Reserve bank may not have advances to an undercapitalized depository institution outstanding for more than 60 days in any 120-day period. If the appropriate Federal banking agency or the Chairman of the Federal Reserve Board certifies in writing to the Federal Reserve bank that the institution is "viable," the limitation will not apply for the subsequent 60-day period—or for additional 60-day periods, as long as the Federal Reserve bank receives a written certificate for each period. An institution is "viable" if the appropriate Federal banking agency or Federal Reserve Board determines that the institution has capital exceeding the critical capital level and is not expected to become critically undercapitalized or be placed in conservatorship or receivership.

If an institution lacks a certificate of viability, a Federal Reserve bank may make advances to it for more than 60 days in any 120-day period only under the rules applicable to critically undercapitalized institutions.

2. Critically undercapitalized institutions

If a Federal Reserve bank has advances outstanding to an institution 5 days after the institution becomes critically undercapitalized, or makes new advances after that 5-day period, the Federal Reserve Board must bear a portion of any loss exceeding the loss that the FDIC would have incurred had it liquidated the institution as of the end of that period. The Board's liability is limited to the lesser of (1) the loss the Federal Reserve would have realized had its new advances been unsecured, and (2) the interest it received on the new advances made after the 5-day period.

The Board must report to Congress within 6 months any liability it incurs for excess costs as a result of advances and the reasons for them. For each institution that caused such liabilities, the report should include the date, amount and duration of each discount window advance during the previous year. The report must include the timing and size of the inflows and outflows of foreign deposits, other uninsured deposits, insured deposits, and non-deposit liabilities.

Under section 222(d), the amendments made by section 222(a) will become effective two years after the bill becomes law.

3. Board's examination authority

Section 222(b) amends section 11 of the Federal Reserve Act to authorize the Federal Reserve Board to examine any depository institution in connection with any advance to or discount of any instrument for the institution or any request for an advance or discount.

SECTION 223. CROSS-GUARANTEE LIABILITY

A. Current law

Under section 5(e) of the Federal Deposit Insurance Act, an FDIC-insured depository institution is liable to the FDIC for any loss the FDIC incurs if a "commonly controlled" FDIC-insured depository institution (for simplicity, the "failed institution") fails or receives emergency FDIC assistance. 12 U.S.C. §1815(e)(1)(A). This liability is commonly known as "cross-guarantee liability." Institutions are "commonly controlled" if they are controlled by the same depository institution holding company, or if one institution controls the other.

Section 223 amends section 5(e) to extend limited cross-guarantee liability to companies having control of a failed institution and subsidiaries of an insured depository institution, preclude cross-guarantee liability from receiving priority in bankruptcy as a capital-maintenance commitment, and reinforce safeguards against evasion.

B. Subsidiaries and controlling companies liable

1. In general

Section 223(a)(2) broadens cross-guarantee liability to include any company controlling an insured depository institution and any subsidiary of an insured depository institution.

2. Limits on liability

Section 223(a)(3) limits the aggregate cross-guarantee liability of all controlling companies to 5 percent of the failed institution's total assets at the time of failure or assistance. (But, as under current law, there is no limit on the liability of a controlling company that is itself an insured depository institution or a subsidiary of such an institution.)

Section 223(a)(3) also specifies that only the following entities are directly or indirectly liable under section 5(e): (1) any company controlling the failed institution; (2) any commonly controlled depository institution; (3) any subsidiary of such an institution.

C. Liability not capital maintenance commitment under Bankruptcy Code

Section 223(a)(3) precludes cross-guarantee liability from being deemed a capital-maintenance commitment for purposes of the Bankruptcy Code.

D. Anti-evasion rule

Section 223(a)(3) also creates a rebuttable presumption that if any company controlling a failed institution transferred assets (directly or indirectly) to an affiliate (other than an insured depository institution) during the year before the failed institution failed or received assistance, the transfer was an attempt to evade cross-guarantee liability, and is invalid. The controlling company may rebut the presumption by showing that the transfer would have satisfied section 23B of the Federal Reserve Act, which sets forth standards for arm's-length dealing. 12 U.S.C. §371c-1.

E. Conforming amendments

Section 223(b) conforms various provisions of section 5(e) with the amendments made by section 223(a).

F. Existing liability not affected

Section 223(c) specifies that section 223 does not affect any liability to the FDIC under section 5(e) as in effect on the day before the bill becomes law.

SECTION 224. GRANTING DEPOSIT INSURANCE

Section 4(b) of the Federal Deposit Insurance Act currently grants deposit insurance automatically to a national bank that is, or to a State or national bank that becomes, a member of the Federal Reserve System—if the bank is engaged in the business of receiving deposits (and, in the case of a national bank, is authorized to conduct the business of banking). 12 U.S.C. §1814(b). The appropriate Federal banking agency certifies to the FDIC that the bank meets the requirements of section 4(b) and that the agency has considered the criteria for receiving deposit insurance enumerated in section 6 of the Federal Deposit Insurance Act: the institution's financial history and condition, capital adequacy, earnings prospects, and management; the risk the institution poses to the deposit insurance fund; the convenience and needs of the community; and whether the institution's powers are consistent with the purposes of the Federal Deposit Insurance Act. Id. §1816.

By contrast, section 5(a) of the Federal Deposit Insurance Act requires a Federal savings association to file an application with the FDIC. The savings association must also obtain a certificate from the Director of the Office of Thrift Supervision, as under section 4(b), but the savings association does not receive deposit insurance if the FDIC's Board of Directors (by a three-fourths vote of members other than the Director) denies the application. In reviewing the certificate and application, the Board of Directors must consider all but the last two factors in section 6. 12 U.S.C. §1815(a)(2), (4)-(7). An interim Federal savings association that will not open for business—but is merely a vehicle for a merger, consolidation, or the like—receives deposit insurance automatically, without applying to the FDIC. Id. §1815(a)(3).

Section 224 of the bill makes the rules for national and State member banks under section 4(b) parallel to those for Federal savings associations under section 5(a). Thus such a bank must file an application with the FDIC, as well as obtain a certificate from the appropriate Federal banking agency. The bank does not receive insurance if the FDIC's Board of Directors denies by a vote of at least three members. The Board of Directors must consider all of the factors in section 6 other than convenience and needs, including whether the bank's powers are consistent with the purposes of the Federal Deposit Insurance Act. An interim national bank that will not open for business receives insurance automatically.

SECTION 225. DISCLOSURE BY INSURED DEPOSITORY INSTITUTIONS AND THE FEDERAL BANKING AGENCIES

Section 225 provides for improved disclosure by FDIC-insured depository institutions and the Federal banking agencies.

A. Reports of financial condition by insured depository institutions

1. Improving call reports

Section 7(a)(3) of the Federal Deposit Insurance Act currently requires each insured depository institution to file a quarterly report of condition with the appropriate Federal banking agency. 12 U.S.C. §1817(a)(3). Reports of condition are commonly known as "call reports." Section 225(a) requires call reports from banks with total assets of more than $1 billion to contain, to the extent feasible, estimates of the aggregate market value of assets and liabilities, the resulting estimated net worth, and the supporting data and assumptions used in preparing those estimates. Those reports must also contain disaggregated reports of assets, including participation in highly-leveraged transactions, holdings of noninvestment grade securities, commercial and industrial loans by sector, and other assets as specified by the appropriate Federal banking agency. The intent is to provide more detailed and more meaningful information than current call reports.

Concurrently with the quarterly report, each insured institution must submit a report listing any holder of more than 5 percent of the institution's equity securities and the maximum amount of securities held by each such holder during the preceding quarter. The report must also describe any activities of the institution and its subsidiaries not permissible for national banks, with data on the magnitude of each such activity.

Each appropriate Federal banking agency must issue final regulations requiring insured institutions to submit quarterly reports containing the additional information effective for the quarter ended March 31, 1993.

2. Expediting release of call-report data

Section 225(a) is also intended to ensure that the Federal banking agencies process call reports—and make call report data available—promptly. Each agency must make call report data available to the public upon request under the Freedom of Information Act. Call report data should, in any event, be made available within 75 days after the reporting date. ("Reporting date" refers not to the date on which reports are due but to the date as of which institutions must report their condition—e.g., December 31, in the case of a report for the last quarter of the calendar year.) After the 75-day deadline, the agency must respond to requests for call-report information within 5 business days (rather than the usual 10), and extensions are not permissible.

3. Disclosure guidelines

Section 225(b) requires the Federal Financial Institutions Coordination Council, in consultation with the Securities and Exchange Commission, to facilitate the development of disclosure guidelines to carry out the expanded disclosure requirements provided by section 225(a).

B. Reports by Federal banking agencies

Section 225(c) requires each Federal banking agency to submit an annual report to Congress. The report—covering institutions for which the agency is the primary Federal regulator—must (1) estimate the number and aggregate assets of institutions likely to fail during the following two years, the costs to the insurance funds of such failures, and supporting data and estimates; (2) discuss the conduct of activities not permitted for national banks or for bank holding companies; (3) list cease-and-desist orders, supervisory agreements, and capital restoration plans entered into during the year, analyzing the extent of compliance; and (4) provide the number and aggregate assets of insured institutions that are critically undercapitalized, significantly undercapitalized, adequately capitalized, and well-capitalized.

C. Insurance fund reports

Section 17(a)(1) of the Federal Deposit Insurance Act currently requires the FDIC to submit an annual report of its operations and activities, including information about the Bank Insurance Fund, Savings Association Insurance Fund, and FSLIC Resolution Fund. 12 U.S.C. §1827(a)(1).

Section 225(d) requires the FDIC's annual report to include four additional classes of information. First, information pertaining to insured depository institutions that failed during the preceding year (including institutions receiving open-bank assistance), including (1) each institution's name and total assets, and the actual or estimated cost of resolution or assistance; (2) the State in which each failed institution was located, whether the institution was State-chartered or federally chartered, and—in the case of a State bank—whether the institution was a member of the Federal Reserve System; (3) a breakdown of the number and aggregate assets of all failed institutions by region, charter, and Federal Reserve membership, and (4) a description of failed institution's concentrations of liabilities and assets, including a breakdown by charter. Second, the number and aggregate assets of institutions on the problem institution list, by charter and Federal Reserve membership. Third, an estimate of the number and aggregate assets of institutions likely to be included on the problem institution list in the following two years, broken down by charter and Federal Reserve membership, along with supporting data and assumptions. Fourth, the estimated resolution and assistance costs likely to be incurred in the following two years. The report must explain the data and assumptions used in developing required estimates.

D. Review by General Accounting Office and Congressional Budget Office

Section 225(e) adds a new section 39 to the Federal Deposit Insurance Act.

1. Reviewing agencies' estimates

New section 39(a) requires the Comptroller General and the Congressional Budget Office to review (1) the appropriate Federal banking agencies' estimates of the number and aggregate assets of insured depository institutions likely to fail during the next two years, and the likely costs to the deposit insurance funds; and (2) the FDIC's two-year estimates of the number and aggregate assets of institutions likely to be included on the problem institution list, and the costs of resolution or assistance.

2. Confidential access to information

The Agency Audit Act ensures the Comptroller General's access to information held by the Federal banking agencies and penalizes unauthorized disclosure of information by GAO employees.

To facilitate the review required by subsection (a) of new section 39, subsection (b) applies similar rules to the Congressional Budget Office ("CBO"). Each Federal banking agency must, upon request, provide the Director of the CBO with the agency's internal rating system, each institution's rating, and a list of the institutions the agency believes may fail (or otherwise require assistance or resolution) in the foreseeable future.

New section 39(c) protects any such information by applying to the CBO the safeguards against disclosure applicable to GAO employees under section 714 (c) and (d) of title 31, United States Code. Moreover, section 225(e)(2) provides criminal penalties for any CBO employee who discloses such information.

Section 225(e)(3) requires the Comptroller General to review the Federal banking agencies' oversight of insured depository institutions to determine whether the information ascertained through call reports reasonably reflects the condition of such institutions. The Comptroller General must include the results of that review—and any recommendations for improving call reports—in the report on each annual audit of the FDIC. The report must also contain an audit of the agency estimates reviewed under new section 39(a).

E. Thrift call reports

Section 5(v)(2) of the Home Owners' Loan Act generally requires the Director of the Office of Thrift Supervision to make savings associations' call reports available to the public upon request, but gives the Director some discretion to withhold information. 12 U.S.C. §1464(v). Section 225(f) amends section 5(v)(2) to eliminate the Director's discretion to withhold information.

F. Annual audit of FDIC

Section 17(d) of the Federal Deposit Insurance Act currently requires the Comptroller General to audit annually the financial transactions of the FDIC, Bank Insurance Fund, Savings Association Insurance Fund, and FSLIC Resolution Fund. 12 U.S.C. §1827(d). Section 17(e) requires the General Accounting Office to audit the FDIC's financial transactions at least once every three years. Section 17(f) requires the Comptroller General to make a report on each audit to Congress within six and one-half months after the end of the last year covered by such audit. Section 17(g) authorizes Comptroller General (with the FDIC's concurrence) to retain certified public accounting firms for temporary periods or for special purposes.

Section 225(g) amends section 17 by deleting sections 17(d) through 17(f). New section 17(e) requires that an annual audit of the financial transactions of the Bank Insurance Fund, Savings Association Insurance Fund, and FSLIC Resolution Fund be conducted—and reports on such audits issued—in accordance with sections 9105 and 9106 of title 31, United States Code. That audit must include an audit of the FDIC's compliance with any insurance fund recapitalization schedule then in effect. Under new section 17(f), a copy of the audit report must be provided to the House and Senate Banking Committees at the same time it is provided to the FDIC.

G. RTC audit costs

Section 21A(k)(1)(A) of the Federal Home Loan Bank Act generally provides for the Comptroller General to audit the Resolution Trust Corporation's financial statements annually. 12 U.S.C. §1441(k)(1)(A). Section 225(i) amends section 21A(k)(1)(A) to require the RTC to reimburse the Comptroller General for the full cost of any audit conducted. The Comptroller General must deposit any reimbursement received in the Treasury as miscellaneous receipts.

H. Resolution funding corporation audit

Section 21B(i)(2)(C) of the Federal Home Loan Bank Act requires the RTC Oversight Board to make an annual report on the Resolution Funding Corporation's operations, activities, and expenditures, which must include the results of an annual audit by the Comptroller General. 12 U.S.C. §1441b(i)(2)(C). Section 225(j) amends section 21B(i)(2)(C) to permit an independent external auditor to conduct that audit.

SECTION 226. CONSENT TO BE BOUND BY FEDERAL DEPOSIT INSURANCE ACT

Section 226 codifies the well-established rule that insured depository institutions—by becoming or remaining insured under the Federal Deposit Insurance Act—consent to be bound by that Act and other Federal statutes relating to the safety and soundness of insured depository institutions. Section 226 is intended to make explicit that depository institutions cannot accept the benefits of Federal insurance while rejecting the safeguards Congress has enacted to protect the insurance funds.

SECTION 227. DISCLOSURE BY UNINSURED DEPOSITORY INSTITUTIONS

A. In general

Section 227(a) adds a new section 40 to the Federal Deposit Insurance Act, requiring any depository institution whose deposits are not insured by the FDIC or the National Credit Union Share Insurance Fund ("uninsured depository institution") to make certain disclosures to its customers. Such an institution must include in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument a conspicuous notice that the institution is not federally insured and that the Federal Government does not guarantee that the customer will be able to get back any money if the institution fails. The institution must include in all advertising and at each place where it normally receives deposits a conspicuous notice that the institution is not federally insured. The institution may receive a customer's deposits only if the customer has signed an acknowledgment of risk stating that the customer has been warned that the institution is not federally insured, and understands that the Federal Government does not guarantee the customer will get back any of his or her money if the institution fails.

B. Manner and content of disclosure

The FDIC must, by regulation or order, prescribe the manner and content of the required disclosure. The goal is to ensure that an uninsured depository institution's current and prospective customers actually *understand* the risks involved in foregoing Federal deposit insurance. Thus, if many of the institution's customers speak a language other than English and are not proficient in English, the institution must provide disclosure in the other language. The relevant standard is effective comprehension by the members of the institution's actual customer base—not by some hypothetical reasonable person.

C. Exceptions for institutions not receiving retail deposits

The FDIC may, by regulation or order, exempt from the disclosure requirements any institution that does not receive initial deposits of less than $100,000 in the United States from United States citizens or residents other than in connection with transmitting money.

D. Application to unlicensed depository institutions

New section 40 is intended to apply to all uninsured depository institutions, whether licensed or unlicensed. It encompasses any bank, savings association, or credit union. See 12 U.S.C. §§3(c)(1), 461(b)(1)(A)(iv). It also applies to any entity that the FDIC determines is engaged in the business of receiving deposits and could reasonably be mistaken for a depository institution.

E. Enforcement authority

The FDIC may enforce compliance with section 40 under section 8 of the Federal Deposit Insurance Act as if the institution were an insured State nonmember bank.

Section 227(c) gives the National Credit Union Administration concurrent authority to enforce compliance by an uninsured credit union with new section 40 of the Federal Deposit Insurance Act and the FDIC's implementing regulations.

F. Conforming amendment

New section 40 supersedes—and section 227(b) repeals—section 28(h) of the Federal Deposit Insurance Act, which currently requires an uninsured savings association to disclose that the savings association's deposits are not federally insured.

G. Effective date

Under section 227(d), the amendments made by section 227 become effective 120 days after the bill becomes law.

SECTION 228. UNINSURED WHOLESALE BANKS

A. Voluntary termination of insured status by certain institutions

Section 228(a) adds a new section 8A to the Federal Deposit Insurance Act. This new section allows an insured State bank or national bank to terminate voluntarily its insured status if it provides written notice of its intent to the FDIC and its depositors at least 6 months before the effective date of such termination. The notice to the FDIC will be in the form required by the FDIC. The notice to depositors shall be at each depositor's last address and in such manner as the FDIC finds necessary and appropriate.

The option to terminate insured status is not available to insured savings associations, insured foreign branches, or entities excluded from the definition of "bank" under the Bank Holding Company Act of 1956. An institution that voluntarily terminates its insured status may not accept any deposits unless it becomes an uninsured State member bank and will not receive insurance of any of its deposits. The FDIC shall prescribe an exit fee for institutions voluntarily terminating their insured status sufficient to account for their pro rata share of contingent and other liabilities of the insurance fund.

Deposits that were insured on the effective date of the termination of insurance shall continue to be insured, less all subsequent withdrawals, for a period between 6 months and two years in the FDIC's discretion. No additions to those deposits and no new deposits will be insured. No early withdrawal penalties will be charged on insured deposits with a term exceeding the transition period determined by the FDIC.

During this transition period, the institution will continue to pay insurance assessments as if it were an insured institution. It will continue to be subject to the FDIC's authority and the FDIC will have the same powers and rights with respect to it as with respect to an insured institution.

An institution that terminates its insured status will not hold itself out as having insured deposits. It may advertise the temporary insurance of existing deposits if it states with equal prominence that additions to deposits and new deposits are not insured. Any certificate of deposit or other security issued by the institution after the termination of insurance must be accompanied by a conspicuous notice that it is not insured.

B. Bank Holding Company Act amendments

Section 228(b) adds a new section 4(j) to the Bank Holding Company Act. New section 4(j) allows a bank holding company that owns only uninsured State member banks to acquire and retain shares of securities firms, of firms whose activities are closely related to banking under section 4(c)(8), or of firms whose activities are of a financial nature and appropriate for such a bank holding company as determined by the Federal Reserve Board. This exemption is not available to a bank holding company until all the deposits of its subsidiary institution cease to be insured in accordance with the transition period. No such acquisition may be made unless the company has provided the Federal Reserve Board with at least 60 days prior written notice and the Board does not disapprove of the acquisition during that period. The Board may extend the disapproval period by up to 90 additional days in a case involving an activity for which it has not yet made a determination. A bank holding company that owns only uninsured State member banks may also acquire or hold shares of firms described in the other paragraphs of section 4(c). The Federal Reserve Board must approve or review any such acquisition or holding of shares, as applicable.

An uninsured State member bank may not be affiliated with a bank other than an uninsured State member bank or with a savings association. It may not be affiliated with entities excluded from the definition of "bank" under the Bank Holding Company Act. It further may not be affiliated with any institution that accepts initial deposits of $100,000 or less, unless such deposits are accepted on an incidental basis, are not insured, and do not represent more than 5 percent of the institution's total deposits.

C. Exemptions for noninsured banks and their affiliates

The McFadden Act currently governs branching by national banks. 12 U.S.C. §36(h). Section 228(c)(1) excludes banks that have voluntarily terminated their insured status from the provisions of the McFadden Act effective upon termination.

Section 228(c)(2) exempts banks that have voluntarily terminated their insured status from section 32 of the Glass-Steagall Act, which prohibits a member bank and a securities firm from sharing officers, directors or employees. 12 U.S.C. §78.

Section 3(e) of the Bank Holding Company Act currently requires all banks that are holding companies and all subsidiary banks to be insured. Section 228(c)(3) exempts uninsured State member banks that are owned by holding companies that own only uninsured State member banks.

D. Uninsured State member banks

Section 228(d) adds a new section 9B to the Federal Reserve Act. The new section authorizes State banks to apply to the Federal Reserve Board to become uninsured State member banks. No bank may become an uninsured State member bank unless the Board has approved an application under such rules as it may prescribe and the bank has met all the requirements for termination of deposit insurance.

Uninsured State member banks shall be subject to the Federal Reserve Act to the same extent as insured State member banks, except that an uninsured State member bank may terminate its membership only with the prior written approval of the Board on terms and conditions that the Board determines are appropriate. Uninsured State member banks will generally be treated as insured State member banks for the purposes of the prompt corrective action system of section 37 of the Federal Deposit Insurance Act (added by section 205 of the bill). The provisions applicable to well-capitalized institutions will not apply to uninsured State member banks. In place of the provisions regarding receivership of institutions, the Federal Reserve Board is authorized or required, as the case may be, to terminate the institution's Federal Reserve membership. Where required, the Board may place the bank into conservatorship and terminate its membership.

The Board will exercise all powers assigned in section 37 to the appropriate Federal banking agency or the FDIC. The enforcement authority applicable to insured State member banks will apply in the same manner to uninsured State member banks. The International Lending Supervision Act and the Bank Merger Act will also apply to uninsured State member banks in the same manner as to insured State member banks.

No uninsured State bank shall receive initial deposits of $100,000 or less, other than on an incidental basis and where such deposits do not represent more than 5 percent of its total deposits. No deposits held by such a bank will be insured. The Federal Reserve Board shall prescribe regulations so that each depositor is notified that deposits at such a bank are not insured.

The Federal Reserve Board will adopt capital requirements for uninsured State member banks. The capital levels will be sufficiently higher than for insured State member banks to account for their uninsured status and to provide for the safe and sound operation of the institution without undue risk to persons engaging in transactions with that institution. The relevant capital measures described in new section 37 of the Federal Deposit Insurance Act will be the relevant capital measures for uninsured State member banks, except that the Federal Reserve Board may specify different relevant capital measures as it deems appropriate. The minimum ratio of tangible equity to total assets shall not be less than 150 percent of the corresponding ratio for insured State member banks. The Board shall establish by regulation the levels at which an uninsured State member bank is adequately capitalized, undercapitalized, and significantly undercapitalized. The critical capital level for uninsured State member banks shall not be less than 150 percent of the corresponding ratio for insured State member banks.

Each uninsured State member bank will maintain a non-interest bearing deposit with its Federal Reserve bank in an amount determined by the Board, in addition to its reserve, clearing balance and liquidity requirements. The Board may prescribe a special higher discount rate for uninsured State member banks. The Board may limit the bank's transactions with affiliates; prescribe special clearing balance requirements; limit the banks' availability of credit and frequency of borrowing from the Federal Reserve bank; and limit the use of payment or payment-related services from any Federal Reserve bank. The Board may impose any additional requirements as it deems necessary to promote the safety and soundness of the uninsured State member bank or to protect other persons engaged in transactions with that bank.

The Board may exempt any uninsured State member bank from any provision applicable to an insured State member bank. The exemption may not be inconsistent with the safety and soundness of the uninsured State member bank and the protection of other persons engaged in transactions with that bank. Section 9B does not limit the Board's authority over member banks or create any obligation for any Federal Reserve bank to make or extend any advance or discount to any member bank.

The Board may appoint a conservator for an uninsured State member bank to the same extent as the appropriate Federal banking agency may for a national bank under section 203 of the Bank Conservation Act.

SECTION 229. STUDY OF CORE BANKING

Section 229 creates a Congressional Commission on Core Banking. The Commission will review all major policy issues regarding core banking to assist Congress in evaluating the potential effect of such proposals.

The Commission will consist of 9 members, 5 appointed by the Speaker of the House and 4 by the Majority Leader of the Senate. The Commission will include one representative each from the Department of the Treasury, the Federal Reserve Board, and the FDIC; one representative of insured depository institutions; one representative of consumer and public interest groups; three independent banking experts; and one representative of the private sector, who will serve as chairman.

The Commission will evaluate the potential effect of core banking proposals on the health and profitability of banks; limiting the scope of deposit insurance; the Bank Insurance Fund; credit availability; risk-taking; flow of funds through banks, lending and loan losses, and deposit and loan spreads; industry consolidation; and institution size. Core banking proposals to be examined include limits on the interest rates that may be paid on deposits, loan-to-one-borrower restrictions more stringent than current law, net exposure limits, and changes to the bank holding company structure necessary to implement core banking.

Within one year after the bill becomes law, the Commission must submit a report to Congress and the President with recommendations on core banking proposals.

SECTION 230. PRIORITY OF CLAIMS

Section 230(a) adds a new section 11(s) to the Federal Deposit Insurance Act, giving certain claims by the FDIC priority over claims by an insured depository institution's depositors, creditors, and shareholders.

New section 11(s) applies in proceedings brought by the FDIC to any claim by the FDIC against any person employed by or providing services to an insured depository institution (including a director, officer, employee, agent, attorney, accountant, or appraiser), if the FDIC acquired the claim under section 11, 12, or 13 of the Federal Deposit Insurance Act. Section 11(s) gives such a claim priority over any claim against the same person by a depositor, creditor, or shareholder of the institution (other than a claim by another Federal agency or the Federal Government).

If the FDIC receives written notice that a depositor, creditor, or shareholder of the institution has asserted a claim in such a proceeding, it will lose its priority unless it files a statement with the court within 180 days after receiving notice (or 180 days after acquiring its claim, if it acquires its claim after receiving the notice) that it intends to pursue its claim. To preserve its priority the FDIC must then diligently pursue its claim and file suit within one year after receiving notice (or acquiring its claim). At the FDIC's request, the court shall extend the time in which the FDIC may file suit unless the court finds that the extension would result in prejudice to another claimant's ability to prove his or her claim that would outweigh the harm to the Government resulting from denial of the extension.

The FDIC's priority extends to both prosecuting the suit and executing any resulting judgment. The FDIC will not have a priority as to an asset adjudicated to the unavailable to satisfy any subsequent judgment.

Section 230 does not affect claims commenced before the bill becomes law.

TITLE III—INTERSTATE BANKING AND BRANCHING

SECTION 301. INTERSTATE BANKING

A. In general

Section 3(d) of the Bank Holding Company Act, commonly known as the Douglas Amendment, currently allows the States to limit a bank holding company's authority to acquire subsidiary banks in more than one State. 12 U.S.C. §1842(d). Under the Douglas Amendment, the Federal Reserve Board may allow a bank holding company to acquire a bank outside the State in which the operations of the bank holding company's banking subsidiaries are principally conducted only if permitted by statute of the other State. Nearly all States currently permit some form of interstate banking: 34 States permit full nationwide interstate banking while an additional 14 States allow banks from States in their particular region to establish subsidiaries.

Section 301(a) amends section 3(d) to add a new section 3(d)(2) phasing out the application of the Douglas Amendment over two years. Beginning one year after the bill becomes law, a bank holding company that is adequately capitalized and adequately managed, or a subsidiary, may acquire any voting shares of or all of the assets of a bank in any State. Beginning two years after the bill becomes law, a bank holding company that is adequately capitalized and adequately managed, or a subsidiary, may charter and acquire any voting shares of or all of the assets of a new subsidiary bank in any State. "Adequately capitalized" has the same meaning as in new section 37 of the Federal Deposit Insurance Act (as added by section 205 of the bill). For purposes of section 3(d), a bank that does not open for business and is chartered solely for the purpose of acquiring all or substantially all of the assets of an existing bank is not a "new" bank.

Section 301(a) further adds a new section 3(d)(3) to impose certain concentration limits on a bank holding company's ability to acquire existing banks located in a State other than the State where its banking subsidiaries' operations are principally conducted. A bank holding company may not acquire an existing bank in another State if the bank holding company controls or after the acquisition would control 10 percent of the assets of the nation's insured depository institutions as determined by the Federal Reserve Board. A bank holding company also may not acquire an existing bank in another State if the bank holding company controls or after the acquisition would control 30 percent or more of the deposits of the insured depository institutions in the State of the bank to be acquired as determined by the Federal Reserve Board. This latter provision may be waived by the State. Federal antitrust laws and State antitrust laws that do not discriminate against out-of-State bank holding companies would continue to apply to any such acquisition. The concentration limits apply only to the acquisition, and not to the establishment, of an out-of-State bank by a bank holding company. "Insured depository institution" has the same meaning as in the Federal Deposit Insurance Act.

B. Conversion of banks to branches

Section 301(b) further amends section 3 of the Bank Holding Company Act to add a new section 3(h). New section 3(h) allows an adequately capitalized bank holding company owning subsidiary banks in more than one State to merge or consolidate those banks on or after June 1, 1993, except that a bank may not be or remain so merged if it is located in a State that has prohibited out-of-State banks from establishing and acquiring branches in that State. An undercapitalized bank holding company may merge or consolidate banks in any State as part of an approved capital restoration plan under new section 37 of the Federal Deposit Insurance

Act. The capital restoration plan must include at least one element in addition to the merger or consolidation.

Intrastate branching provisions of State law will continue to apply. A national bank may not operate branches at locations in a State unless a national bank having its main office in that State could operate branches at those locations. Similarly, a State bank may not operate branches at locations in a State unless a State bank having its main office in that State could operate branches at those locations.

SECTION 302. INTERSTATE BRANCHING BY NATIONAL BANKS

A. In general

Section 5155 of the Revised Statutes, known as the McFadden Act, currently allows national banks, with the approval of the Comptroller of the Currency, to establish branches only within the State in which it is situated and then only to the extent the given state allows its own banks to branch. 12 U.S.C. §36. Section 302 amends Section 5155 to include a new section 5155(d). New section 5155(d)(1) provides that, three years after the bill becomes law, the Comptroller of the Currency may allow an adequately capitalized and adequately managed national bank to establish or acquire a branch outside the State in which its main office is located. As under current law, the bank must apply to the Comptroller for approval before establishing or acquiring such a branch. In considering such an application the Comptroller must weigh the bank's rating under the Community Reinvestment Act of 1977 and its compliance with State community reinvestment laws as determined by State officials. State laws regarding intrastate branching, consumer protection, fair lending and community reinvestment will apply to the new branch as if it were a branch of a bank chartered by that State unless such State law is preempted by Federal law on the same subject. Such State law will be enforced with respect to branches of national banks by the Comptroller of the Currency.

The tax laws of the host State will apply and be enforced by that State as if the branch were a national bank located in that State. However, the authority for a bank to branch interstate does not provide a basis for nor affect the authority of a State where a branch is located to tax the income or capital of any State or national bank or its affiliate located in or chartered by any other State. The State and its political subdivisions are free to impose nondiscriminatory franchise taxes or other nonproperty taxes on any such branch. The State may also require a national bank with its main office in another State that seeks to establish a branch within the State to comply with filing requirements similar to those imposed on a corporation incorporated in another State that seeks to conduct business in the State.

B. State election to prohibit interstate branching

New section 5155(d)(2) allows a State to prohibit out-of-State banks from establishing or acquiring branches. During the period beginning on January 1, 1990 and ending 3 years after the bill becomes law, a State may pass a law expressly prohibiting all out-of-State banks from establishing or acquiring branches located in that State. The law must apply equally to national and State banks. A national bank that has its main office in a State that enacts such a prohibition may not acquire or establish a branch in another State.

C. State election to permit interstate branching

New section 5155(d)(3) allows States to permit interstate branching prior to the expiration of the 3 year phase-in period provided by new section 5155(d)(1). If a State expressly permits interstate branching by all out-of-state national and State banks, a national bank may acquire or establish a branch in that State. In addition, if during the 3 year transition period a State permits interstate branching, it may limit such branching for 5 years after enactment to the acquisition and conversion of existing banks to branches, or the acquisition of existing branches, while prohibiting establishment of new branches. A State that enacts such a law may require that a copy of the application for approval filed with the Comptroller of the Currency be timely filed with the State banking authority. Prior to approving such an application, the Comptroller of the Currency will consider any comments of the State regulator that are timely provided. The State may also impose other conditions on an incoming branch if the conditions do not discriminate against out-of-State banks or bank holding companies. Such conditions may not be imposed if they are preempted by Federal law on the same subject.

A State that originally elected to prohibit interstate branching may subsequently enact a law permitting interstate branching by all out-of-state national and State banks.

D. Concentration limits

New section 5155(d)(4) imposes the same concentration limits on a national bank's ability to acquire branches as are imposed on a bank holding company's ability to acquire existing banks. A national bank may not acquire an existing branch in a State other than the State where its head office is located if the bank controls or after the acquisition would control 10 percent of the assets of the nation's insured depository institutions, as determined by the Federal Reserve Board. A national bank also may not acquire an existing branch in another State if the bank controls or after the acquisition would control 30 percent or more of the deposits of the insured depository institutions in the State of the branch to be acquired, as determined by the Federal Reserve Board. This latter provision may be waived by the State. Federal antitrust laws and State antitrust laws that do not discriminate against out-of-State banks or bank holding companies also would continue to apply to any such acquisition. The concentration limits apply only to the acquisition, and not to the establishment, of an out-of-State branch by a national bank. "Insured depository institution" has the same meaning as in the Federal Deposit Insurance Act.

SECTION 303. INTERSTATE BRANCHING BY STATE BANKS

A. In general

Section 303 amends section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. §1828(d)) to include new sections 18(d)(3) through 18(d)(9). New section 18(d)(3) provides that, three years after the bill becomes law, an adequately capitalized and adequately managed FDIC-insured State bank may establish or acquire a branch outside the State in which the bank is chartered if the laws of its chartering State and the State into which it wishes to branch permit. The laws of the State where the new branch is located regarding intrastate branching, consumer protection, fair lending and community reinvestment will apply to the new branch as if it were a branch of a bank chartered by that State.

The tax laws of the host State will apply and be enforced by that State as if the branch were a bank chartered by that State. However, the authority for a bank to branch interstate does not provide a basis for nor affect the authority of a State where a branch is located to tax the income or capital of any State or national bank or its affiliate located in or chartered by any other State. The state and its political subdivisions are free to impose nondiscriminatory franchise taxes or other nonproperty taxes on any such branch. An out-of-state branch established by an insured State bank may not conduct any activity that is not permitted to banks chartered by the host State. The State may also require the out-of-state bank to comply with filing requirements similar to those imposed on a corporation incorporated in another State that seeks to conduct business in the State. Each State remains free to supervise, regulate and examine the banks it charters and to establish branching restrictions for the banks it charters.

B. State election to prohibit interstate branching

New section 18(d)(5) allows a State to prohibit out-of-state banks from establishing or acquiring branches in that State. During the period beginning on January 1, 1990 and ending 3 years after the bill becomes law, a state may pass a law expressly prohibiting all out-of-state banks from establishing or acquiring branches located in that State. The law must apply equally to national and State banks. A State bank that is chartered by a State that enacts such a prohibition may not acquire or establish a branch in another State.

C. State election to permit interstate branching

New section 18(d)(6) allows States to permit interstate branching prior to the expiration of the 3 year phase-in period provided by new section 18(d)(3). If a State expressly permits interstate branching by all national and State banks, an out-of-state bank may acquire or establish a branch in that State. In addition, if during the 3 year transition period a State permits interstate branching, it may limit such branching for 5 years after the bill becomes law to the acquisition and conversion of existing banks to branches or the acquisition of existing branches while preventing establishment of new branches. A State may require that a copy of an application to open a branch in that State be timely filed with its State banking authority. Prior to approving the application, the banking authority of the chartering State and the appropriate Federal banking agency will consider any timely comments of the banking authority of the State in which the branch is to be located. The State may also impose other conditions on an incoming branch that do not discriminate against out-of-state banks or bank holding companies. Such conditions may not be imposed if they are preempted by Federal law on the same subject. A State that originally elected to prohibit interstate branching may subsequently enact a law permitting interstate branching by all national and State banks.

D. Concentration limits

New section 18(d)(7) imposes the same concentration limits on a State bank's ability to acquire existing branches as are imposed on a bank holding company's ability to acquire existing banks and on a national bank's ability to acquire existing branches. A State bank may not acquire a branch in another State if the bank controls or after the acquisition would control 10 percent of the assets of the nation's insured depository institutions as determined by the Federal Reserve Board. A State bank also may not acquire an existing branch in another State if the bank controls or after the acquisition would control 30 percent or more of the deposits of the insured depository institutions in the State of the branch to be acquired as determined by the Federal Reserve Board. This latter provision may be waived by the State. Federal antitrust laws and State antitrust laws that do not discriminate against out-of-State banks or bank holding companies would continue to apply to any such acquisition. The concentration limits apply only to the acquisition, and not to the establishment, of an out-of-state branch by a State bank.

E. Coordination of examination authority

New section 18(d)(8) allows a State bank supervisor to examine a branch established in that State by an out-of-state bank to determine compliance with that State's laws, including regarding banking, taxation, community reinvestment, fair lending, consumer protection and permissible activities. The State bank supervisor also may examine the branch to ensure that its activities are consistent with sound banking principles and do not pose a serious risk to the safety and sound operation of the branch. If the State banking supervisor determines there is a violation of State law concerning the activities being conducted by the branch or that the branch is not being operated safely and soundly, the regulator may take the same regulatory actions as would be permitted if the branch were a branch of a bank chartered by that State.

State bank authorities are authorized to enter into cooperative agreements to facilitate State regulatory supervision of State banks. These agreements may relate to coordination of and joint participation in bank examinations. Each appropriate Federal banking agency remains free to examine any bank or branch of a bank over which it has jurisdiction. The appropriate Federal banking authority will not defer to examinations of out-of-state branches by State regulators if the State regulators have failed to enter into a cooperative agreement or if the agreement does not adequately protect the Federal insurance funds.

SECTION 304. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES

Section 807 of the Community Reinvestment Act of 1977 ("CRA") requires the appropriate Federal banking agency to prepare, upon conclusion of each examination of an insured depository institution, a written evaluation of the institution's record of meeting the credit needs of its community, including low- and moderate-income neighborhoods. 12 U.S.C. §2906. Section 304 amends section 807 to add a new section 807(d) pertaining to institutions with branches in more than one State. New section 807(d) requires the appropriate Federal banking agency to prepare separate written evaluations of the entire institution's record of performance and of its record of performance in each State in which it has branches. The institution-wide evaluation would contain: (1) the agency's conclusions regarding the depository institution's overall performance under each CRA assessment factor; (2) the facts and data supporting such conclusions; and (3) the depository institution's overall CRA rating. The State-wide evaluation would contain such information except that the agency's conclusions, disclosure and ratings would be tailored to the individual State under discussion.

If the institution has branches in two or more States within a multistate metropolitan area, the appropriate Federal agency may prepare a separate written evaluation of the institution's record of performance within such metropolitan area and adjust the scope of the State-by-State reports accordingly. For example, in the case of an institution with branches in Pittsburgh, Harrisburg, Philadelphia, and Wilmington the agency would have the discretion to prepare: (1) separate Pennsylvania and Delaware evaluations or (2) one evaluation for Pennsylvania (covering Pittsburgh and Harrisburg) and one evaluation for the Philadelphia-Wilmington metropolitan area.

The written evaluation of an institution's record of performance in a State must present separate information for each metropolitan area in which the institution maintains one or more branches and for the remaining nonmetropolitan area of the State if the institution has one or more branches there. The evaluation must specifically present the agency's conclusions regarding a depository institution's performance under each CRA assessment factor for the metropolitan area or nonmetropolitan area in question and the facts and data supporting such conclusions. This direction would apply to institutions that have interstate branches as well as those that operate solely within one State. Section 807(b)(1) would be amended to cover the latter situation.

For purposes of section 807, "metropolitan area" includes any primary metropolitan statistical area, metropolitan statistical area or consolidated metropolitan statistical area as defined by the Office of Management and Budget with a population of 250,000 or more. Under the example given above, an overall evaluation for Pennsylvania must present separate information for Philadelphia and Pittsburgh. The Federal banking agencies are also authorized to identify other areas as "metropolitan areas." The agencies should, at a minimum, identify each State's major urban population center as a "metropolitan area"—regardless of whether such center has a population of 250,000 or more. Metropolitan statistical areas like Billings, Montana, and Bismarck, North Dakota would qualify.

SECTION 305. BRANCHING BY FOREIGN BANKS

A. In general

Section 5(a) of the International Banking Act currently governs the ability of a foreign bank to engage in interstate banking and branching outside of its "home state." 12 U.S.C. §3103(a). (The "home state" of a foreign bank with branches, agencies or subsidiaries in more than one State is whichever of such States is designated by the foreign bank or by the Federal Reserve Board.) Section 5(a) permits a foreign bank to establish and operate a Federal branch outside of its home state only if the State in which the branch is to be operated expressly permits such operation and the foreign bank undertakes to accept only such deposits as are incidental to carrying out transactions in other countries. Section 5(a) further permits a foreign bank to establish and operate a State branch outside of its home state only if approved by the bank regulator of the State in which it is to be operated and if it undertakes to accept only such deposits as are incidental to carrying out transactions in other countries. Similar restrictions apply to the operation of Federal and State agencies by a foreign bank outside its home state. A foreign bank's acquisition of a bank outside of its home state is subject to the Douglas Amendment as if it were a bank holding company.

Section 305(a) amends section 5(a) to permit a foreign bank, with the approval of the Federal Reserve Board and the Comptroller of the Currency, to establish and operate a Federal branch or agency in any State outside its home state to the same extent permitted a national bank under section 5155 of the Revised Statutes, as amended by section 302 above. Subject to the approval of the Federal Reserve Board and the appropriate State regulatory authority, a foreign bank may establish and operate a state branch or agency to the same extent permitted a state bank under section 18(d) of the Federal Deposit Insurance Act, as amended by section 303 above.

In approving an application, the Federal Reserve Board and the Comptroller of the Currency must apply the standards for establishment of a foreign bank office in the United States under section 7(e) of the International Banking Act (12 U.S.C. §3105), as amended by section 602 of the bill. The agencies may not approve an application unless the foreign bank's worldwide financial resources, including capital level, are equivalent to those required for a domestic bank seeking to branch interstate. (In the case of the first branching application by a foreign bank, the agencies must consult with the Secretary of the Treasury regarding capital equivalency.) Such capital equivalency determinations shall be based upon the joint guidelines published by the Federal Reserve Board and Secretary of the Treasury pursuant to section 621 of the bill. Either the Federal Reserve Board or the Comptroller of the Currency may require that the foreign bank establish an adequately capitalized banking subsidiary in the United States as a condition for approving an interstate branching application by a foreign bank if it determines that the bank's adherence to the equivalent capital requirement in its worldwide operations cannot be verified. This authority is not meant to authorize interstate expansion for weakly capitalized foreign banks, but rather is intended to hold foreign banks to the same capital standards required of domestic banks that wish to pursue interstate expansion.

B. Treatment of U.S. banking subsidiaries

Section 305(b) amends section 5 of the International Banking Act to add a new section 5(d). New section 5(d) permits a foreign bank with a domestic subsidiary to establish Federal and State branches and agencies to the extent permitted under section 5155(d) of the Revised Statutes and section 18(d) of the Federal Deposit Insurance Act.

C. Deposit insurance requirement

Section 6 of the International Banking Act currently governs the insurance of deposits at branches of foreign banks. 12 U.S.C. §3104. Under section 6 a foreign bank with several branches may designate one branch to accept retail deposits and then must pay insurance premiums only on deposits taken in that branch rather than on all deposits taken in this country. Section 6 generally requires a Federal or State branch of a foreign bank that receives deposits of less than $100,000 to be an insured branch or that it be determined not to be engaged in domestic retail deposit activities.

Section 305(c) amends section 6 by adding a new section 6(c). New section 6(c) provides that if any branch of a foreign bank maintains retail deposit accounts with balances of less than $100,000, then all branches of that foreign bank must pay insurance premiums on deposits taken in such branches. Any foreign bank that has an insured branch must establish a domestic banking subsidiary to conduct all of its insured deposit taking activities. In effect, section 6(c) requires foreign banks that wish to take retail deposits (less than $100,000) to do so only through subsidiary banks incorporated in this country. The requirement is designed to protect depositors and the insurance fund. If the branch was established before the bill becomes law, the requirement that the branch become an insured bank subsidiary of the foreign bank shall apply one year after the date of enactment.

D. Home state of foreign bank

Section 5(c) of the International Banking Act provides that the "home state" of a foreign bank having branches, agencies, subsidiary commercial lending companies, or subsidiary banks in more than one State is whichever of such States is so determined by election of the foreign bank. In default of an election by the foreign bank, the Federal Reserve Board determines the home state of the foreign bank. 12 U.S.C. §3103(c). Section 305(d) amends section 5(c) to add that the home state of a foreign bank that has branches, agencies, subsidiary commercial lending companies, or subsidiary banks in only one State is that State.

SECTION 306. STATE TAX COMPLIANCE

Section 5240 of the Revised Statutes prohibits a national bank from being subject to visitorial powers except as authorized by Federal law. 12 U.S.C. §484. Authorized State auditors and examiners may review the records of a national bank at reasonable times and upon reasonable notice to ensure compliance with State laws regarding unclaimed property. Section 306 amends section 5240 to add a new section 5240(c). New section 5240(c) permits authorized State auditors and examiners to, on behalf of State tax agencies, review the records of a federally-chartered financial institution at reasonable times to determine compliance with the tax laws of a State or its political subdivisions.

SECTION 307. USE OF NAMES IN HOST STATE

Section 307(a) amends section 3 of the Bank Holding Company Act (12 U.S.C. §1842) to add a new section 3(i). New section 3(i) requires a bank holding company that acquires or establishes a bank in a State outside the State in which the operations of the bank holding company's banking subsidiaries are principally conducted to provide the Federal Reserve Board with the name or names under which the bank will operate in that State. A bank holding company may not operate a bank in that State if the proposed name of the bank is identical or deceptively similar to a name being used by an existing bank in that State or is likely to confuse or deceive the public. If a bank holding company uses such a name, the Federal Reserve Board upon application shall revoke permission of the bank holding company to operate a bank in that State. These provisions do not preclude any adversely affected person from pursuing any available legal or administrative remedies.

Section 307(b) further adds parallel new provisions to section 5155(d) of the Revised Statutes (12 U.S.C. §36(d)), and section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. §1828(d)), as amended by sections 302 and 303, governing branches of national banks and State banks respectively. A national bank seeking to acquire or establish a branch in a State other than where it has its main office must provide the Comptroller of the Currency with the name under which the branch will operate. A State bank seeking to acquire or establish a bank in a State other than where it is chartered must provide the appropriate State regulatory authority with the name under which the branch will operate. A national or State bank may not operate a branch in another State if the proposed name of the branch is identical or deceptively similar to a name being used by an existing bank or bank holding company in that State or is likely to confuse or deceive the public. If a national bank uses such a name, the Comptroller of the Currency upon application shall revoke permission of the bank to operate a branch in that State. If a State bank uses such a name, the appropriate state regulatory authority upon application may revoke permission of the bank to operate a branch in that State. These provisions do not preclude any adversely affected person from pursuing any available legal or administrative remedies.

TITLE IV—REGULATORY RESTRUCTURING

Subtitle A—Restructuring Board of Directors of FDIC

SECTION 401. RESTRUCTURING THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION

Under section 2(a)(1) of the Federal Deposit Insurance Act, the Board of Directors of the Federal Deposit Insurance Corporation ("FDIC") consists of the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and three members appointed by the President with the advice and consent of the Senate. 12 U.S.C. §1812(a)(1). Original subtitles A and B of title IV of the committee print would have combined the Office of the Comptroller of the Currency and the Office of Thrift Supervision into a newly created independent Federal Banking Commission. Section 401, as it originally appeared in the committee print, made a conforming change in the composition of the FDIC Board of Directors, replacing the Comptroller of the Currency and the Director of the Office of Thrift Supervision with the Chairman of the Federal Banking Commission, and adding the Chairman of the Federal Reserve Board. During markup, the Committee adopted an amendment deleting original subtitles A and B of title IV. Section 401 accordingly amends section 2(a)(1) to provide that the FDIC Board of Directors consists of three Presidential appointees and the Chairman of the Federal Reserve Board, and reserves for further action by the Senate the position held under the committee print by the Chairman of the Federal Banking Commission.

The six-year terms of the three appointed members will be staggered, with a vacancy occurring every two years. Of the first members of the FDIC Board of Directors to be appointed after the bill becomes law, one shall be appointed for a term to expire on February 28, 1993, one shall be appointed for a term to expire on February 28, 1995, and one shall be appointed for a term to expire on February 28, 1997, as designated by the President at the time of the appointment.

Subtitle B—Depository Institutions Coordination

SECTION 411. IMPROVING COORDINATION AMONG FEDERAL BANKING AGENCIES

The Federal Financial Institutions Examination Council Act of 1978 established the Federal Financial Institutions Examination Council ("FFIEC"). 12 U.S.C. §3301 et seq. FFIEC currently consists of the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the FDIC Board of Directors, the Chairman of the National Credit Union Administration, and a member of the Federal Reserve Board designated by the Chairman of that Board. FFIEC is directed to "prescribe uniform principles and standards for the Federal examination of financial institutions" by the various Federal banking agencies and "to promote uniformity in the supervision of these financial institutions." FFIEC's actions should "promote consistency in such examination and to insure progressive and vigilant supervision."

Section 411(a) replaces sections 1001 through 1006 of the FFIEC Act with the Federal Financial Institutions Coordination Council Act of 1991. New section 1001 sets forth the title of the Act. New section 1002 requires the Federal Financial Institutions Coordination Council (the "Council") to establish uniform supervisory and examination policies, procedures, and report forms for the Federal examination and supervision of depository institutions by the Federal banking agencies and to ensure consistent and vigilant examination and supervision. New section 1003 defines the terms "appropriate Federal banking agency," "Council," "Federal banking agencies," "depository institution," and "depository institution organization."

A. Composition

As described above, original subtitles A and B of title IV would have created a new independent Federal Banking Commission. New section 1004(a), as it originally appeared in the committee print, would have established the composition of the new Council as the Chairman of the Federal Banking Commission, the Chairman of the Federal Reserve Board, and the Chairperson of the FDIC. During markup, the Committee adopted an amendment deleting original subtitles A and B. The Committee did not adopt any amendments to this subtitle. Accordingly, under new section 1004(a), the new Council consists of the Chairperson of the FDIC Board of Directors and the Chairman of the Federal Reserve Board; the position held by the Federal Banking Commission under the committee print is reserved for further Senate action.

The members of the Council shall select the first Chairman of the Council. The chairmanship will then rotate among the members of the Council, each serving two-year terms. Actions taken and reports filed by the Council shall be approved by a majority vote of its members. Each member of the Council shall serve without compensation but shall be entitled to reimbursement of reasonable expenses. New section 1005 requires each Federal banking agency to bear an equal share of the Council's costs and expenses.

B. Functions

New section 1006 sets forth the functions of the Council. The Council shall establish uniform policies and procedures to be used by the Federal banking agencies as minimum standards in the examination of depository institutions and coordinate supervisory policies and procedures among those agencies. The Council shall ensure that by January 1, 1993 a coordinated supervisory effort is made with regard to a depository institution under the jurisdiction of more than one Federal banking agency. The Council shall ensure that interstate activities and branches are subject to the same level of supervision as intrastate activities and branches.

The Council shall establish uniform reporting systems and procedures to be used by Federal banking agencies by January 1, 1993. The Council will seek to reduce duplicative and unnecessary reporting and filing requirements for depository institutions. Each Federal banking agency will remain free to research and develop new supervisory methods and tools and to test such innovations.

Section 411(b) provides for additional powers of the Council. New section 1012 requires the Council, in consultation with the Federal banking agencies, to develop a training program for bank examiners hired by those agencies. Examiners hired by those agencies after January 1, 1993 must complete the training program established by the Council. The Council may allow previous work or education experience to substitute for the training program for examiners who have demonstrated thorough knowledge of the program's content. The Federal banking agencies are free to develop and carry out supplemental training programs appropriate to each agency's regulatory needs. Employees of the National Credit Union Administration, the Federal Housing Finance Board, and State financial institution supervisory agencies may enroll in the training program; their employers will reimburse the Council for the cost of the training.

New section 1013 requires each Federal banking agency, in consultation with the Council, to establish examination improvement programs. Each agency's examination improvement program will review the organization of the agency's examination staff and the number, training and career paths of examiners of depository institutions. The programs will make improvements in the organization and training and increase, to the extent necessary, the number of examiners to ensure frequent, objective, and thorough examinations of depository institutions.

New section 1014 instructs each Federal banking agency to establish a schedule of examinations for each depository institution for which it is the appropriate Federal banking agency. Each will notify the other agencies with examination responsibility for that institution of the schedule. The agencies will consult with one another and attempt to arrive at a mutually acceptable schedule. Each agency will coordinate examination of each depository institution for which it is the appropriate Federal banking agency with the other Federal banking agencies having examination responsibilities for the institution. The appropriate Federal banking agency shall notify the State banking supervisory agency, if any, of examinations and invite its participation in the coordinated examination. The agencies may form joint examination teams consisting of at least one examiner from each agency.

Each Federal banking agency may conduct an examination of any depository institution under its authority at any time without coordination with other agencies if it has reason to believe the condition of the institution may be deteriorating, the institution has engaged in an unsafe or unsound practice, has violated or the institution or an affiliated party has or is about to violate a law, regulation, final cease and desist order, or written condition or agreement between the depository institution and the agency.

New section 1015 directs the Council to publish an annual report discussing its establishment of uniform policies and procedures for the examination and supervision of depository institutions, including efforts to develop consolidated supervision for depository institution organizations.

Subtitle C—Bank Securities Registration

SECTION 421. BANK-ISSUED SECURITIES

Section 3(a)(2) of the Securities Act of 1933 currently exempts from the registration provisions of that Act, but not its antifraud provisions, any security issued by any bank. Section 3(a)(2) further exempts any securities guaranteed by any bank. The Securities and Exchange Commission has interpreted section 3(a)(2) to mean that securities backed by bank letters of credit need not be registered. Section 421 amends section 3(a)(2) to delete the exemption for bank-issued and bank-guaranteed securities.

Under section 2(1) of the Securities Act, a bank's letter of credit guaranteeing a security is a separate security. Although section 421 removes the exemption for securities issued by the bank even if backed by a letter of credit, the letter of credit itself will continue to be exempt from registration under new section 3(d) of the Securities Act, added by section 424 of the bill.

SECTION 422. SAVINGS ASSOCIATION-ISSUED SECURITIES

Similarly to section 3(a)(2), section 3(a)(5) of the Securities Act of 1933 currently exempts from the registration provisions of that Act, but not its antifraud provisions, any securities issued by savings associations. Section 422 amends section 3(a)(5) to delete the general exemption for savings association-issued securities. Section 422 adds to section 3(a)(5) an exemption for securities issued by a State or Federal savings association in connection with a conversion from the mutual stock form of ownership under section 5 of the Home Owners' Loan Act. Section 424 of the bill adds to the Securities Act a new section 3(d) containing a list of exempt deposit instruments issued by savings associations.

Section 3(a)(5) continues the current exemption from registration for securities issued by farmers' cooperatives exempt from tax under section 521 of the Internal Revenue Code of 1986, corporations described in section 501(c)16 and exempt from tax under section 501(a) of the Code, and corporations described in section 501(c)2 of the Code, exempt from tax under section 501(a) of the Code, and organized solely to hold title to property, collect income from property, and turn over income from the property to one of the foregoing types of entities.

SECTION 423. EXEMPTION FOR SECURITIES IN CERTAIN CORPORATE TRANSACTIONS

Section 3(a)(9) of the Securities Act of 1933 currently exempts from the registration provisions of that Act, but not its antifraud provisions, any securities exchanged by an issuer with its existing security holders exclusively where no commission or other renumeration is paid or given for soliciting the exchange. Section 423 amends section 3(a)(9) to add an exemption from the registration requirements of the Act for certain securities issued or exchanged in the reorganization of a corporation, including a bank, into a holding company.

Section 423 contains conditions to ensure that the exemption is not used to transfer corporate control or substantially alter the proportional interests of security holders without complying with the disclosure provisions of the Securities Act. Section 423 requires that, as part of the reorganization, the security holders exchange their securities of the corporation for securities of a newly-formed holding company with no significant assets other than the securities of the corporation and its subsidiaries. The security holders must receive securities representing the same proportional share or debt interests in the holding company as they held in the corporation prior to the transaction. The rights and interests of the security holders in the holding company must be substantially the same as those in the corporation prior to the transaction. Finally, the holding company must have substantially the same assets and liabilities as the corporation had prior to the transaction.

SECTION 424. TREATMENT OF CERTAIN BANK AND SAVINGS ASSOCIATION INSTRUMENTS

Section 424 adds a new subsection (d) to section 3 of the Securities Act of 1933. 15 U.S.C. §77c. New subsection 3(d) lists instruments that will be exempt from the registration provisions of the Act but will continue to be subject to the antifraud provisions in section 17 of the Act. The listed instruments are (1) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank or savings association; (2) a share account issued by an FDIC-insured savings association; (3) a banker's acceptance; (4) a letter of credit issued by a bank or savings association; and (5) a debit account at a bank or savings account arising from a credit card or similar arrangement. Participations in these instruments other than direct obligations of a bank or savings association are not exempted.

New subsection 3(d) defines "deposit" as the unpaid balance of money or its equivalent received or held by a bank or savings association in the course of business for which it has given or is obligated to give credit to a commercial, checking, savings, time or thrift account; which is evidenced by a certificate of deposit, check or draft, letter of credit, traveler's check, or any similar instrument on which a bank or savings association is liable; which consists of nonpooled assets of individual trust funds received or held by a bank or savings association; which is received or held by a bank or savings association for a specific noninvestment purpose, including escrow funds, funds held as security for any obligation due the bank or savings association, and withheld taxes; or which is insured by the FDIC, is subject to the deposit reserve requirements of the Federal Reserve Board, or is regulated as a deposit by a Federal banking agency.

SECTION 425. SECURITIES EXCHANGE ACT ADMINISTRATION TRANSFER

Section 12(i) of the Securities Exchange Act of 1934 makes the Federal agencies that regulate banks and savings associations responsible for administering and enforcing sections 12, 13, 14 (a), (c), (d), and (f), and 16 of the Act with respect to the institutions under their jurisdiction. Section 12 requires registration of securities traded on national exchanges or issued by certain issuers. Section 13 requires filing of periodic and other reports concerning these securities and their issuers and filing of disclosure statements by certain beneficial owners and issuers that repurchase their securities. Sections 14 (a), (c) and (f) impose disclosure and other requirements for solicitations of proxies with respect to these securities. Section 14(d) imposes disclosure and other requirements regarding tender offers. Section 16 requires filings regarding certain acquisitions and sales of equity securities by officers, directors and principal shareholders.

Section 425 repeals section 12(i), thereby transferring administration and enforcement of these provisions with respect to banks and savings associations from the Federal banking agencies to the Securities and Exchange Commission.

SECTION 426. TRUST INDENTURE ACT TECHNICAL AMENDMENT

Section 304(a)(4)(A) of the Trust Indenture Act of 1939 currently exempts from that Act any securities exempted by section 3(a) of the Securities Act of 1933. Section 426 amends section 304(a)(4)(A) so that securities exempt from the Securities Act under new section 3(d) are also exempt from the Trust Indenture Act.

SECTION 427. TECHNICAL AMENDMENT

Section 12 of the Securities Act of 1933 imposes certain civil liabilities on any person who offers or sells a security by means of prospectus or oral communication which contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements not misleading, if the person knew or should have known of such untruth or omission. Securities exempted by section 3(a)(2) of the Act are currently exempt from section 12. Section 427 amends section 12 to include securities exempted by new subsection 3(d) within the securities exempt from section 12.

SECTION 428. EFFECTIVE DATE

Section 428 provides that this subtitle will become effective 270 days after the bill becomes law.

TITLE V—CONSUMER PROTECTION

Subtitle A—Truth in Savings and Investments

SECTION 501. SHORT TITLE

Section 501 designates this subtitle as the "Truth in Savings and Investments Act."

SECTION 502. FINDINGS AND PURPOSE

Section 502 finds that the ability of consumers to make informed decisions among savings and investment options would be enhanced and competition among depository institutions and investment companies would be increased if there were uniformity in the calculation and disclosure of the yields and the basic terms and conditions of savings accounts and investment accounts. It is the purpose of this subtitle to require standardization of the method of calculating yields and clear and uniform disclosure of the key costs of such accounts and investments so consumers may make meaningful comparisons among the competing claims of depository institutions and investment companies.

SECTION 503. DEFINITIONS

Section 503 provides definitions of the terms "account," "annual percentage yield," "Board," "depository institution," "interest" and "multiple rate account." "Account" is defined as an account offered by a depository institution other than for a business purpose to one or more individuals or to an unincorporated nonbusiness association.

SECTION 504. DISCLOSURE OF YIELDS AND TERMS OF ACCOUNTS

A. In general

Section 504 prohibits depository institutions and other entities from including misleading information in any advertisement, announcement, or solicitation. The institution or other entity may disclose only the annual percentage yield on an account and not any other specific rate of interest payable on amounts held in such an account. The purpose of section 504 is to ensure that depository institutions disclose only one standardized figure so that consumers will know that the higher advertised figure will always produce the greater return. This will eliminate the present confusion that results from the advertising of interest figures based on different forms of calculation.

B. Information required to be disclosed if annual percentage yield is used

Section 504(b) provides for the disclosure of the most significant terms and conditions in any advertisement, announcement or solicitation which includes a reference to an annual percentage yield. Among the terms that must be disclosed to the extent applicable are: the period such yield is in effect; all minimum account balance and time requirements which must be met to earn the yield; the minimum amount of any required initial deposit if greater than the minimum balance; a statement that regular fees or other conditions could reduce the yield; and a statement that a penalty shall be imposed for early withdrawal.

C. Broadcast and electronic media and outdoor advertising exception

Section 504(c) provides for more limited disclosure requirements for broadcast and electronic media and certain other advertising. If the Federal Reserve Board finds that disclosure in such advertising of minimum initial balances or statements that regular fees or conditions could reduce the yield would be unnecessarily burdensome; the Board may exempt such advertising from those disclosures.

D. Misleading descriptions of free or no-cost accounts prohibited

Section 504(d) prohibits depository institutions from making any advertisement, announcement or solicitation describing an account as "free" or "no-cost" if certain conditions apply to the account. The institution may not describe an account as "free" or "no-cost" if a minimum balance must be maintained, the number of transactions is limited or any regular service or transaction fee is imposed.

SECTION 505. ACCOUNT SCHEDULE

A. In general

Section 505 requires each depository institution to maintain a schedule of fees, charges, yields, and terms and conditions applicable to each class of accounts offered by a depository institution. The schedule for each class may be in the form of separate schedules or one comprehensive document. The Federal Reserve Board will specify which fees, charges, yields, and terms and conditions must be included in a schedule.

B. Information on fees and charges

The schedule with respect to any account shall contain: a description of all fees, periodic service charges, and penalties which may be charged or assessed against the account or account holder; the amount of such fees, charges, or penalties (or the method by which such amounts will be calculated); the conditions under which such amounts will be assessed; all minimum balance requirements that affect fees, charges and penalties, including a clear description of how each such minimum balance is calculated; and any minimum amount required with respect to the initial deposit in order to open an account.

C. Information on yields

The schedule shall also include: any annual percentage yield; the period during which any such yield will be in effect; any annual rate of simple interest; the frequency with which the interest will be compounded and credited; any minimum balance which must be maintained to earn the stated rates and yields and a clear description of how such minimum balance is calculated; a description of any minimum time requirement necessary to obtain the disclosed yields; a statement, if applicable, that any accrued interest that has not been credited to an account at the time of a withdrawal or closing will not be paid by the depository institution nor credited to the account by reason of such withdrawal or closing; and any provisions relating to the nonpayment of interest, including any charge or penalty for early withdrawal.

D. Other information

The schedule shall include any such other disclosures as the Federal Reserve Board may determine to be necessary to allow consumers to understand and compare accounts. These may include frequency of interest rate adjustments, account restrictions, and renewal policies. Schedules shall be written in plain language and be presented in a readily understandable format.

SECTION 506. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS

Section 506 requires the Federal Reserve Board to issue any necessary regulations to modify for certain accounts the disclosure requirements under this subtitle. The Federal Reserve Board may issue modified disclosure requirements for accounts for which annual percentage yield is based on a rate of interest guaranteed for less than one year; for variable rate accounts; for accounts that do not guarantee a stated rate; and for multiple rate accounts.

SECTION 507. DISTRIBUTION OF SCHEDULES

A. In general

Section 507 provides that, beginning six months after publication of final regulations, a copy of the schedule shall be made available to any person upon request. At that time the schedule shall also be provided to any potential customer before an account is opened or a service rendered.

B. Notice to current account holders

Section 507(b) provides that current account holders must be given notice of their right to request a schedule. For any account in which the depository institution delivers a statement quarterly or more frequently, the institution shall include with any regularly scheduled mailing a statement of the account holder's right. This statement must be posted or delivered within six months after publication of final regulations.

C. Distribution in case of certain initial deposits

If a depositor is not physically present at the depository institution when his initial deposit is accepted, and the schedule has not been furnished previously to such depositor, the institution shall mail the schedule to the depositor not later than 10 days after the initial deposit.

D. Distribution of notice of certain changes

Section 507(d) requires depository institutions to provide information to all its account holders of a change in any term or condition required to be disclosed in the schedule that may reduce the yield or adversely affect the account holder. This information shall be mailed to account holders at least 30 days before the change takes effect. Section 507(d) does not require notice of changes in annual percentage yields of variable rate accounts.

E. Distribution in case of accounts established by more than one individual or by a group

If an account is established by more than one individual or for a person other than the individual, distribution requirements are met if distribution is made to one of the persons who opened the account or to a representative of the person on whose behalf such account was established.

SECTION 508. PERIODIC STATEMENTS

Section 508 requires depository institutions to make certain clear and conspicuous disclosures to each account holder with each periodic statement. Institutions using the average daily balance method must disclose the average daily balance, the applicable interest rate, the number of days to which each rate applies, the amount of interest earned and any fees or charges imposed. Institutions using the day of deposit to day of withdrawal method must disclose the applicable annual percentage yield, the amount of interest earned, and any fees or charges imposed. This information will enable account holders to understand on a periodic basis how their accounts are performing. It does not, however, require depository institutions to provide periodic statements if they are not presently providing them.

SECTION 509. PAYMENT OF INTEREST

A. Determination of balance on which interest is calculated

Section 509(a) requires depository institutions to calculate interest on the principal balance in an interest-bearing account by using either the average daily balance method, or the day of deposit to day of withdrawal method, as defined by the Federal Reserve Board. These two methods are permitted because they produce highly similar, if not identical, results in the vast majority of cases. It is important for interest to be calculated on nearly identical balances so that consumers can determine which account will produce the best return. Section 509(a) will prohibit the use of all other methods, including the low balance method, which produces far lower yields than the other two balance calculation methods for the same annual percentage yield.

B. Date by which interest must accrue

Depository institution accounts subject to this subtitle will begin to credit interest no later than the time the institution receives provisional credit for the deposit, which typically is within one to two days of the date of deposit.

C. Special rule for credit unions

Section 509(a) does not apply to certain accounts at credit unions. Section 509(a) does not apply if the credit union calculates the accrual of interest or dividends by a method other than the average daily balance or day of deposit to day of withdrawal method with respect to all funds, including cash, deposited in such accounts, and provides notice of their interest payment policy to their account holders.

D. Calculated on full amount of principal

Section 509(d) requires that the amount of interest accruing on an interest bearing account shall be calculated on the full amount of the principal in the account for the stated calculation period at the stated rates. The section is intended to prohibit use of the "investable balance" method whereby institutions pay interest on less than the full amount of the deposit.

E. No particular method of compounding interest required

Section 509(e) should not be construed as prohibiting or requiring the use of any particular method of compounding or crediting interest.

SECTION 510. REGULATIONS

A. In general

Section 510 requires the Board to prescribe regulations to carry out the provisions of this subtitle. The regulations may contain any exceptions for any class of accounts which the Board determines to be necessary or proper to carry out the purposes of this subtitle, to prevent circumvention or evasion of the requirements of this subtitle, or to facilitate compliance with the requirements of this subtitle. It is not intended to permit the Board to override the specific provisions of any section of the subtitle.

B. Model forms and clauses

The Federal Reserve Board must publish model forms and clauses for disclosure to facilitate compliance with this subtitle. While a depository institution would not be required to use any model such form or clause, proper use of model forms and clauses would be deemed to be compliance with the disclosure provisions of this subtitle.

SECTION 511. ADMINISTRATIVE ENFORCEMENT

Section 511 provides for administrative enforcement by the relevant depository institution agencies. The agencies may exercise any legal authority they already possess to enforce compliance with this subtitle. Each agency retains the authority to make rules regarding its own procedures for enforcing compliance with this subtitle.

SECTION 512. CIVIL LIABILITY

A. Civil liability

Section 512 sets forth a penalty structure based on the Truth in Lending Act, with minor modifications, for an institution that fails to comply with any of this subtitle's requirements or any regulations. In the case of an individual action by an account holder, any entity that fails to comply shall be liable for not less than $100 nor more than $1000, in addition to actual damages. In the case of a class action, the total recovery shall not be more than 1 percent of the net worth of the depository institution involved up to a maximum of $500,000, in addition to actual damages. In any successful action, the institution must also pay the costs of the action and reasonable attorney's fees as determined by the court.

B. Class action awards

In setting awards in class actions under section 512, courts must consider the amount of any actual damages awarded, the frequency, persistence and willfulness of the failures of compliance, the number of people affected, and the institution's resources.

C. Bona fide errors

The institution will not be liable for a violation of this subtitle if it demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error. Examples of bona fide errors include clerical, calculation and printing errors.

D. Jurisdiction

An action under section 512 may be brought in any United States district court within one year after the violation.

E. Reliance on board rulings

The institution will not be liable for any act or omission made in good faith in conformity with any Federal Reserve Board rule, regulation or interpretation or with Board approval. The institution will not be liable even if the rule, regulation, interpretation or approval is later amended, rescinded, or determined to be invalid.

F. Notification of adjustment for errors

The institution will not be liable for a failure to comply if it notifies the account holder of the failure and corrects the failure within 60 days of discovering the failure and before the account holder has instituted an action or given written notice of the failure. The institution must make any adjustments necessary to ensure that account holders will not be liable for any fee or charge in excess of that disclosed or not actually disclosed. The institution also must make any adjustments necessary to ensure that interest in accounts will accrue at the annual percentage yield and under the conditions actually disclosed.

G. Multiple interests in one account

A depository institution will have the same liability for a failure to comply with respect to an account held by more than one person as to an account held by an individual. The court must determine how the amount of any liability should be distributed among persons holding one account.

H. Continuing failure to disclose

The continuing failure of an institution to make a required disclosure with respect to a particular account shall generally be treated as a single violation for purposes of determining the institution's liability. A continuing failure to make a required disclosure after a judgment has been rendered in favor of the account holder in connection with such failure will be treated as a subsequent violation for determining liability.

SECTION 513. CREDIT UNIONS

Section 513 exempts credit unions from direct application of the regulations prescribed by the Federal Reserve Board under this subtitle. Within 90 days of the effective date of any regulation prescribed by the Federal Reserve Board, the NCUA shall promulgate a "substantially similar" regulation. The regulation promulgated by the NCUA shall take into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts. The section is intended to give the NCUA discretion to accommodate the unique structure of credit unions, so long as the regulations are substantially similar to those prescribed by the Board.

SECTION 514. REVIEW OF DISCLOSURE REQUIREMENTS FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES

Section 514 adds new Section 66 to the Investment Company Act of 1940 to require the SEC to consult with the Board to review the regulations prescribed under this subtitle, the Securities Act of 1933 and the Investment Company Act of 1940. The agencies will determine if such regulations are providing consumers with the ability to compare effectively savings and investment options.

SECTION 515. EFFECT ON STATE LAW

The provisions of this subtitle do not supersede any state laws relating to the disclosure of yields payable or terms for accounts to the extent such state laws require the disclosure of such yields or terms for accounts, except to the extent those laws are inconsistent with the provision of this subtitle. A similar rule applies with respect to state laws relating to the determination of the balance on which interest is calculated.

SECTION 516. EFFECTIVE DATE OF REGULATIONS

Section 516 requires the Federal Reserve Board to issue regulations in final form within nine months after the date of enactment of this subtitle. The regulations shall take effect not later than six months after publication in final form.

Subtitle B—Fair Lending Enforcement

SECTION 521. SHORT TITLE

Section 521 provides that the short title of the bill is the "Fair Lending Enforcement Act of 1990."

SECTION 522. APPRAISALS

Section 522 amends section 701 of the Equal Credit Opportunity Act to require lenders promptly to provide a loan applicant with a copy of the appraisal report used in connection with applicant's application for a loan secured by residential real estate. The appraisal report is the complete appraisal report signed by the appraiser; it includes all information submitted to the lender by the appraiser for the purpose of determining the value of the residential real estate.

The applicant must request the appraisal in writing within a reasonable period of time of the loan application. What constitutes a reasonable time would depend on a balancing of factors, such as how long lenders routinely maintain loan files with how long a loan applicant might need to identify and act upon suspected discrimination. The lender is required to provide the appraisal report whether or not the loan applicant has been granted a mortgage loan. The lender may require the applicant to pay for the appraisal.

SECTION 523. CONSUMER COMPLIANCE PROGRAMS

Section 523 adds new section 41 to the Federal Deposit Insurance Act and new section 130 to the Federal Credit Union Act to require each Federal depository institution regulatory agency to establish separate consumer compliance programs with specially trained consumer compliance examiners. The head of the program must report directly to the head of the agency.

Consumer compliance examinations are examinations of depository institutions to determine the extent of their compliance with fair lending and all other applicable consumer protection laws. Such examinations could also include selected other public interest compliance responsibilities. Banks and thrifts must be examined for compliance with the Community Reinvestment Act, but credit unions are not subject to this law. Consumer compliance examinations must be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. Consumer compliance examiners must be specialists in consumer compliance and must have received specialized training in this area. Such examiners, however, may have received training in safety and soundness examination techniques as well.

Such consumer compliance examinations are required to be conducted at least every two years or as frequently as regular on-site safety and soundness examinations, whichever is less frequent. Special safety and soundness examinations, which are conducted because of heightened concern over the financial condition of a depository institution, and brief on-site visitations would not be considered a "regular" examination for purposes of tolling a required consumer compliance examination. Consumer compliance examinations may be conducted at a different time from safety and soundness examinations. The regulatory agencies may send only one examiner to small depository institutions to conduct both consumer compliance and safety and soundness examinations, but this examiner must have a thorough understanding of the consumer laws and compliance examination procedures.

New section 41 also allows bank and savings and loan holding companies to request the appropriate regulatory agency to do a special consumer compliance examination. The regulatory agencies, however, are not required to perform such examinations.

Each regulatory agency may consider the size of the institution and the complexity of the consumer examination issues presented in allocating personnel within their consumer compliance programs. Since credit unions tend to be smaller than national banks, have less sophisticated portfolios and are not subject to the Community Reinvestment Act, the Federal banking agencies may need to devote more examiners to consumer compliance than will the NCUA. The unique structure and mission of credit unions may also indicate less of a need for consumer compliance examinations.

The head of the consumer compliance program will be responsible for, among other things, developing procedures for consumer compliance examinations, training and supervision or oversight of consumer compliance examiners, responding to consumer complaints, and causing agency personnel to undertake supervisory actions or initiate enforcement proceedings. The head of this program is also responsible for developing career paths for consumer compliance examiners so that examiners who receive this specialized training and conduct these examinations will be treated comparably to examiners who only conduct safety and soundness examinations.

Implementation of the consumer compliance programs must be completed by January 1, 1993. Each consumer compliance program must prepare an annual report describing its activities. This report must be transmitted to Congress or included in the agency's annual report to Congress.

SECTION 524. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT

Pattern or Practice. Section 524(a) amends section 706(g) of ECOA to require the OCC, Federal Reserve, FDIC, OTS, and NCUA to refer suspected pattern and practice cases of violations of the Equal Credit Opportunity Act (ECOA) to the Justice Department. The section is intended to mandate referrals of substantive rather than technical violations. For example, referrals would be required when: (1) the creditor denies loans for which the applicant is otherwise qualified because it discounted part-time income in determining the applicant's creditworthiness, even when that income is shown to be reliable; (2) the creditor denies loans or changes the terms or conditions of loans through the use of more restrictive credit criteria for minorities or women; (3) the creditor discourages applications from minority applicants by making exceptions from established lending criteria for white applicants but not for minority applicants similarly situated. Referrals would not be required when: (1) the creditor fails to complete processing of applications within 30 days, as required by regulation, if there is no indication that loans are denied or discouraged on a prohibited basis, or that the delays have a particular impact on members of protected categories in such a way as to discourage them from applying for credit; (2) the creditor fails to complete, or to complete properly, adverse action notices as required by regulation; (3) the creditor improperly obtains spousal signatures, where there is no evidence that applicants are denied, or discouraged from applying for, or are given changed terms or conditions on, loans on a prohibited basis by the implementation of this policy; and (4) the creditor fails to obtain monitoring data for mortgage loans, as required, if there is no evidence that applications were discouraged or denied or changed on an illegal basis because of the failure.

Further, section 524(a) is not intended to strip these regulatory agencies of their enforcement powers and responsibilities; the agencies should cause depository institutions to change any discriminatory policies identified. Referral of a case does not relieve the regulatory agency of enforcement responsibility; instead, referral provides the Justice Department with the opportunity to intervene or to direct a case. Justice Department action would be most appropriate in egregious cases of discrimination, cases in which the regulatory agencies have not sought proper compensation for victims of discrimination, and cases in which a closer examination by those with greater civil right expertise would be desirable.

In contrast to suspected pattern and practice cases, section 524(a) authorizes, but does not require, the regulatory agencies to refer suspected individual cases of discrimination to the Justice Department. Current ECOA law provides that agencies may refer, cases to the Justice Department "if unable to obtain compliance."

Damages. Section 524(b) amends section 706(h) of ECOA to clarify that the Justice Department may seek actual and punitive damages in any civil action it brings. Although the ECOA statute provides that the Attorney General may bring a civil action "for such relief as may be appropriate, including injunctive relief," the court in *United States* v. *Beneficial Corp.*, 462 F. Supp. 682 (D. N.J. 1980), affirmed without opinion, 673 F. 2d (3d Cir. 1981), held that section 706(h) of ECOA, "authorizes the Attorney General to seek a wide range of equitable remedies, but not legal money damages . . ." (462 F. Supp. at 688). Section 524(b) changes this rule. Punitive damage awards sought by the Justice Department would be subject to the statutory limits provided for in section 706(b) of ECOA.

Individual Cases. Section 524(c) amends section 706 of ECOA to require the OCC, Federal Reserve, FDIC, OTS, and NCUA to refer suspected individual cases of mortgage discrimination, i.e. violations of ECOA which also are violations of the Fair Housing Act (FHA), to HUD if not referred to the Justice Department. In such a situation the agency also must notify the loan applicant that remedies may be available under the FHA.

Like section 524(a), section 524(b) is intended to mandate referrals of substantive rather than technical violations and is not intended to strip these regulatory agencies of their enforcement powers. The agencies still should cause depository institutions to change any discriminatory policies identified. Referral of a case does not relieve the regulatory agency of enforcement responsibility; instead, referral provides HUD with the opportunity to intervene or to direct a case. HUD action would be most appropriate in egregious cases of discrimination, cases in which the regulatory agencies have not sought proper compensation for victims of discrimination, and cases in which a closer examination by those with greater civil rights expertise would be desirable.

SECTION 525. HOME MORTGAGE DISCLOSURE ACT

Section 5 amends section 309 of the Home Mortgage Disclosure Act (HMDA) by narrowing the type of institutions exempt from the statute for having $10,000,000 or less in assets. The Federal Reserve, in consultation with HUD, is authorized to establish a new exemption for "other lending institutions," which are not banks, thrifts, or credit unions. The new exemption would exempt these lending institutions or mortgage bankers who are comparably small within their industry to banks and thrifts of $10,000,000 or less in assets within the banking and thrift industry.

Subtitle C—Basic Financial Services Accounts

SECTION 531. SHORT TITLE

Section 531 designates this subtitle as the "Financial Services Access Act of 1991."

SECTION 532. BASIC FINANCIAL SERVICES ACCOUNTS REQUIRED

Section 532(a) requires each depository institution to offer a basic financial services account providing basic transaction services or government check cashing services. A consumer may choose either service but is not entitled to receive both services.

Section 532(b) provides that the terms of a basic financial services account may not require any other relationship between the consumer and the depository institution. (Section 537 provides an exception for credit unions.) The institution may not discriminate against low income persons on the basis of race, color, national origin, sex, age, marital status, receipt of public assistance, source of income, employment status, or access to credit in providing the basic financial services account. The institution may not restrict the holder of a basic financial services account to nonteller services such as automated teller machines.

Under section 532(c), an institution need not provide a basic financial services account to any consumer who has a deposit account or government check cashing relationship with the institution or any other depository institution. A depository institution may require individuals to self certify that their household income is less than $20,000 to qualify for basic banking and check cashing services.

A depository institution that on the subtitle's effective date already offers basic transaction services comparable to or more favorable than those required by the subtitle is exempt under section 532(d) from the basic transaction services requirements. The exemption applies so long as the institution continues to offer those services or improved services. The institution must notify the appropriate Federal regulatory agency of any changes in its services that cause a failure to comply with the basic transaction services requirements. Section 532(e) similarly exempts depository institutions offering government check cashing services comparable to or more favorable than those required by the subtitle from the subtitle's government check cashing services requirements. The institution must notify the appropriate Federal regulatory agency of any changes in its services that cause a failure to comply with the government check cashing services requirements.

SECTION 533. ACCOUNT APPLICATIONS

Section 533 requires the Federal Reserve Board to develop an application form to be used by depository institutions in offering basic financial services accounts. The form must be available at all depository institution offices that are staffed by the institution's employees, take deposits and open new accounts. Among the information the Federal Reserve Board requires on the form shall be the name, address, date of birth, handwritten signature, the identification number of the applicant, and self certification by the applicant that the household income of the applicant is less than $20,000.

An applicant for a basic financial services account may be required to present identification with a signature and photograph. The applicant may be required to state in writing whether he has, or has applied for, any other basic transaction services or government check cashing services. The applicant must be provided with a copy of the completed application within 15 days after filing demonstrating that it has been received.

Under section 533(f), a depository institution may reject an application if it has reason to believe the applicant has committed or attempted fraud against a depository institution or has made an intentional material misrepresentation. The institution shall provide the applicant with timely written notification of the reasons for rejecting the application and maintain for at least one year a file regarding the rejection. The Federal Reserve Board shall develop a notice of rejection form for use by institutions.

Under section 533(g), an institution may impose a 15-day waiting period between the date of the application and the provision of basic transaction or government check cashing services. If an institution issues an identification card to an approved applicant, it may assess a reasonable charge for replacing lost or stolen cards.

SECTION 534. BASIC TRANSACTION SERVICES REQUIREMENTS

Section 534(a) establishes the requirements of a basic transaction services account. Such an account must not have a minimum initial deposit or establishment fee. Any minimum balance requirement can be no more than $25. The account must permit checks or other instruments to be drawn on the account to make payments to third parties. It must further permit at least 10 withdrawals per month, including withdrawals by check. The only allowable fees are a monthly maintenance fee that does not exceed the demonstrable costs of providing the account plus profit of up to 10% of costs, a reasonable cost-based fee for check printing, and a reasonable cost-based fee for transactions in excess of the 10 withdrawals per month. The account holder must receive either a detailed periodic statement of transactions or a passbook in which the institution enters all transactions. The account must allow for direct deposit at the consumer's option. The institution may initiate direct deposit if the consumer does not object; the institution must first notify the consumer of the initiation of direct deposit and of his right to decline direct deposit.

The institution need not provide a basic transaction services account to an individual who maintains an average daily balance of over $1000. The institution need not pay interest on funds deposited in the account. The institution may offer a cost-based discount to consumers using direct deposit or automated teller machines. The institution may close the account if three overdrafts or returned checks occur with respect to an account in a six-month period or if the consumer engages in fraudulent activity.

Section 534(b) requires the Federal Reserve Board to conduct cost analysis studies of depository institutions. Depository institutions will self certify that their fees are cost based plus a ten percent profit.

SECTION 535. GOVERNMENT CHECK CASHING SERVICES REQUIREMENTS

Section 535(a) establishes the requirements of a government check cashing services account. Such an account must allow the account holder to cash government checks issued to him up to $1500. The account must not have an establishment fee or any monthly service charge. The only allowable fees are a check cashing fee that does not exceed the demonstrable costs of providing the service plus profit of up to 10% of costs. The account holder may select three of the depository institution's offices that are staffed by the institution's employees, take deposits and open new accounts at which to cash checks if the institution has at least three such offices. Before cashing any government check, the institution may require the consumer to present an identification card issued by the institution, another form of identification with a photograph, and his account number.

Section 535(b) requires the Federal Reserve Board to conduct cost analysis studies of depository institutions. Depository institutions will self certify that their fees are cost based plus a ten percent profit.

SECTION 536. INFORMATION ON ACCOUNTS

Section 536 requires depository institutions to prepare and display written materials informing consumers of the availability of basic financial services accounts. The materials must explain the features of basic transaction and government check cashing services, state that further information is available upon request, and disclose the consumer's right to complain about the institution's noncompliance with the subtitle. An institution must provide a written summary describing its basic transaction and government check cashing services to any individual upon request.

SECTION 537. SPECIAL RULES FOR CREDIT UNIONS

Section 537 limits the extent to which credit unions must provide basic financial services accounts. Section 537(a) provides that community and private-employment based credit unions that offer share draft accounts or cash share drafts for their members must offer basic transaction and government check cashing services to their members, subject to the provisions of the subtitle. Section 537(b) provides that government-sponsored credit unions that offer share draft accounts or cash share drafts for their members must provide basic transaction and government check cashing services to their members, subject to the provisions of the subtitle.

SECTION 538. SPECIAL RULES FOR CERTAIN DEPOSITORY INSTITUTIONS

Section 538 provides that an institution that does not maintain deposit accounts for customers in the ordinary course of its business is not required to provide basic transaction services. An institution that does not cash checks for customers in the ordinary course of its business is not required to provide government check cashing services.

SECTION 539. PREVENTION OF FRAUD LOSSES

A depository institution may petition the Federal Reserve Board to suspend the requirement that it provide government check cashing services. The Board may grant such petition if it determines that the institution is experiencing an unacceptable level of losses due to check-related fraud. The Board further may suspend any government check cashing services requirement for any class of checks if the Board determines that depository institutions are experiencing an unacceptable level of losses due to check-related fraud with respect to such class of checks or there is reason to believe such class of checks is being used in a scheme to defraud. If the Board suspends the check cashing services requirement for an institution or class of checks, it shall within 10 days submit to the House and Senate Banking Committees a report explaining the reasoning for its decision and the evidence it considered.

Under section 539(d), an institution need not cash a government check if the institution has reason to believe the check is fraudulent, fraudulently presented, altered or forged; the identification card presented is altered or forged; the individual presenting the check is misrepresenting his identity; or the check will not be honored by the check-issuing governmental authority.

SECTION 540. ADMINISTRATIVE ENFORCEMENT

The appropriate Federal banking agencies, Federal Reserve Board, FDIC Board of Directors and NCUA Board shall enforce compliance with the subtitle by the institutions for which they are the primary Federal regulatory agencies. Each agency may exercise any authority conferred on the agency by law in enforcing compliance with the subtitle. However, no administrative monetary penalty or fine shall be imposed in enforcing this subtitle.

Section 540(d) directs the Secretary of the Treasury to develop a complaint form for use by consumers in reporting possible violations of the subtitle. A Federal regulatory agency receiving such a complaint shall investigate as it deems necessary. The agency shall not consider any complaints alleging wrongful denial of an application for a basic financial services account filed more than one year after the denial. If a complaint is verified by an investigation, the agency shall take proper enforcement steps and provide the results in writing to the complainant and the depository institution.

SECTION 541. CIVIL LIABILITY

No private cause of action for damages, whether an individual action or a class action, is created by the subtitle.

SECTION 542. DEFINITIONS

Section 542 defines the terms "Board," "consumer," "depository institution," "Federal depository institution," "government check," "government check cashing relationship," "state," and "transaction account." "Consumer" is defined as a natural person. "Government check" is defined as any check issued by the United States or an agency thereof; by any state or agency thereof if presented for cashing within that state; or by any unit of local government or agency thereof if presented for cashing within that unit of local government. A state-issued payment warrant or a check issued by a local government special purpose district or unit is not a "government check" for purposes of the subtitle.

SECTION 543. STUDY AND REPORT ON INCIDENCE OF FRAUD IN CONNECTION WITH GOVERNMENT CHECK CASHING

Section 543 requires the Federal Reserve Board, one year after enactment of the subtitle, to conduct a study of the check cashing services provided pursuant to the subtitle. The study will determine whether any losses due to fraud in connection with providing such services are causing the costs incurred by depository institutions to exceed revenues from the service fees collected. Within eighteen months after enactment of the subtitle, the Board must submit to Congress its findings and conclusions, together with any recommendations for legislative or administrative action.

SECTION 544. STUDY AND REPORT ON THE STAGGERING OF FEDERAL RECURRING PAYMENTS

Currently all Social Security and other recurring Federal benefit and payroll payments occur on the 1st and 15th days of the month. Section 544 requires the Secretary of the Treasury to conduct a study of the feasibility of staggering such recurring Federal payments. Within six months after enactment of the subtitle, the Secretary must transmit to Congress a report of the results of the study, together with any recommendations for legislative or administrative action.

SECTION 545. STUDY AND REPORT ON UTILIZING THE UNITED STATES POSTAL SERVICE AS A PROVIDER OF GOVERNMENT CHECK CASHING SERVICES

Section 545 requires the Comptroller General to conduct a study of current practices of check cashing outlets. Within one year after enactment of the subtitle, the Comptroller General must report to Congress regarding the results of the study, any potential need for Federal or state regulation of check cashing services, and any recommendations for legislative or administrative action for enhancing the access of low-income consumers to government check cashing services through the United States Postal Service.

SECTION 546. STUDY AND REPORT ON DIRECT DEPOSIT PROGRAM FOR FEDERAL RECURRING PAYMENTS

Section 546 requires the Comptroller General to conduct a study to assess the benefits and costs to the Federal government of making government payments by direct deposit as compared to paper checks. Within six months after enactment of the subtitle, the Comptroller General must transmit to Congress a report of the results of the study, together with any recommendations for legislative or administrative action.

SECTION 547. GOVERNMENT RETURN OF ELECTRONIC PAYMENTS

Section 3712(a) of title 31, United States Code currently allows the Secretary of the Treasury to reclaim the amount of a Treasury check paid over a forged or unauthorized endorsement from the presenting bank or any other endorser that has breached its guarantee of endorsement. The Secretary must reclaim the payment within one year of the date of payment. Section 547 extends this authority to allow the Secretary to reclaim a government benefit paid by electronic funds transfer that has been acquired by an unauthorized party. For payments made on or after January 1, 1985, the Secretary must reclaim the payment within six months of the date of payment.

SECTION 548. EFFECTIVE DATE

Sections 543 through 546 of this subtitle shall take effect 90 days after publication of the studies required in section 534(b) and 535(b). In no case shall this subtitle take effect later than 9 months after the date of enactment. The remaining sections of this subtitle shall take effect 180 days after enactment of the subtitle.

Subtitle D—Miscellaneous

SECTION 551. HOME EQUITY CONSUMER PROTECTION ACT AMENDMENT

Section 551 amends section 127A(a)(2)(A) of the Truth in Lending Act to require the lenders to provide as part of the disclosure given with an application form the specific margin that applies to the lender's home equity plan. 15 U.S.C. § 1637a(a)(2)(A). New section 127A(a)(2)(A) permits creditors to offer multiple margins. For example, the lender may tie the amount of the margin to specific features of the plan, such as the size of the credit line or whether the consumer pays closing costs for the plan. In such circumstances, in addition to stating the different margins, the lender must specify the amount of the credit line to which the margin is tied, or clearly set forth and describe the feature to which the margin is tied. While more than one margin may be disclosed, lenders could not merely state a range of possible margins.

New section 127A(a)(2)(A) does not require lenders to provide multiple payment or other examples for each margin offered. However, such payment or other examples as are already required by law and regulation must reflect a specific margin being offered that is commonly chosen by consumers. The Committee expects the Board to disclose clearly and conspicuously the specific margin used in multiple payment and other examples.

SECTION 552. DIRECTIVE TO RELIEVE REGULATORY BURDEN

Section 522 will require regulators to reduce any regulatory burden imposed on banks by consumer laws including the Community Reinvestment Act of 1977, the Expedited Funds Availability Act, the Electronic Funds Transfer Act, the Home Mortgage Disclosure Act of 1975, the Real Estate Settlement Procedures Act of 1974, the Right to Financial Privacy Act of 1978, the Equal Credit Opportunity Act, and the National Flood Insurance Act of 1968. Regulators must identify innovative arrangements that can help banks comply with the Community Reinvestment Act and other consumer laws. Regulators will be required to submit a report to Congress on the actions taken to comply with this directive not later than one year following enactment.

SECTION 553. EXPEDITED FUNDS AVAILABILITY ACT

Section 553 will amend the Expedited Funds Availability Act as it concerns availability of cash and other next-day deposits, nonproprietary ATM deposits, safeguard exceptions, and loss allocation.

A. Availability of cash and other next-day deposits

Section 603(a) of the Expedited Funds Availability Act (dealing with next business day availability for certain deposits) will be amended to require that cash, state and local government checks, and cashier's, certified, teller's, and depository checks must be made available for withdrawal on the next business day after the business day of deposit, regardless of whether the deposits were made with tellers or at proprietary automated teller machines ("ATMs").

In shortening the availability rules for cash and certain checks deposited at ATMs, the Committee recognizes that some ATMs are located in remote areas which are difficult to service on a daily basis. In order to avoid discouraging depository institutions from establishing remote ATMs, section 553(a) authorizes the Federal Reserve Board to allow an extra day in making available funds deposited in those ATMs which are difficult to service on a daily basis. Deposits made at ATMs on the premises of a depository institution will be expected to be made available for withdrawal under the general next-day rule.

B. Nonproprietary ATM deposits

Section 553(b) amends section 603(e) of the Expedited Funds Availability Act, regarding deposits at nonproprietary ATMs. It postpones until September 1, 1994 the effective date of the permanent rules for deposits at nonproprietary ATMs. Section 553(b) also reduces the availability period for funds deposited at nonproprietary ATMs from seven to five days so that deposits at nonproprietary ATMs will have the same availability as non local checks deposited with tellers or proprietary ATMs under the permanent schedule.

C. Safeguard exceptions for next-day checks and notice requirements

Section 553(c) amends section 604 of the Expedited Funds Availability Act. First, it expands the scope of the "safeguard" exception holds to include deposits of all "next-day" checks, such as government checks and depository checks. Section 553(c) applies the large or redeposited checks exception and the repeated overdrafts exception provided for in section 604(b), the reasonable cause exception provided in the section 604(c), and the emergency conditions exception provided for in section 604(d) to next-day checks covered in section 603(a)(2).

Second, section 553(c) grants the Federal Reserve Board some flexibility in tailoring the requirements for exception hold notices to the exception invoked. It allows the Federal Reserve Board to issue regulations so that account holders repeatedly depositing large dollar amounts or redepositing checks would receive a single notice rather than notices at the time of each deposit. Also, for repeatedly overdrawn accounts, a single notice could be provided at the time the exception was first invoked so long as the notice describes the special schedules applicable to the account and the time period for which they apply.

D. Loss allocation

Section 553(d) amends section 611(f) of the Expedited Funds Availability Act to clarify the Federal Reserve Board's ability to allocate liability for losses in the check collection process among depository institutions as well as among other participants in the payments system, such as states and their political subdivisions. Section 553(d) eliminates the ambiguity in current law by allowing the Federal Reserve Board to impose on or allocate among such entities the risks of loss and liability in connection with any aspect of the payments system, including the payment of checks. Liability under these provisions would then be enforced in the appropriate courts.

The amount of liability in cases against states or their subdivisions is limited to the damages provided for in the Expedited Funds Availability Act. Section 553(d) does not allow against states or their subdivisions punitive damages or the special class action awards that may be awarded against depository institutions under sections 611(a) and (b).

SECTION 554. TRUTH IN LENDING ACT

Section 554 amends the Truth in Lending Act to permit high income borrowers—those earning more than $200,000 annually or that have assets in excess of $1 million—to waive their right to information mandated under the Act. This waiver will only be permitted after full disclosure to the consumer.

SECTION 555. HOME OWNERSHIP AMENDMENTS

Section 555 eliminates a requirement of the Real Estate Settlement Procedures Act that lenders provide potential borrowers with a booklet which describes and explains all the costs associated with settlement if a mortgage application is denied within three days of submission. Section 555 also clarifies the Federal Reserve's current interpretation of the Competitive Equality Banking Act of 1987 that only consumer—not commercial—loans are subject to adjustable rate mortgage (ARM) cap limitations.

SECTION 556. DISCUSSION OF LENDING DATA

Section 556 requires regulators to disclose the statistical lending data used in assessing an institution's Community Reinvestment Act performance. This should bring regulatory performance into compliance with changes to the Community Reinvestment Act mandated under FIRREA.

SECTION 557. GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING

Section 557 requires the Comptroller General to examine the existing requirements that govern the collection and reporting of deposit and lending data by financial institutions and determine the extent to which such requirements need to be modified to reflect the shift to interstate branching.

SECTION 558. GAO STUDY ON COMMUNITY LENDING

Section 558 requires the Comptroller General to conduct a study on the impediments to sound lending in low- and moderate-income neighborhoods and inner cities. The study shall be submitted to Congress not later than one year after enactment.

TITLE VI—FOREIGN BANK SUPERVISION AND REGULATION

Subtitle A—Foreign Bank Supervision Act

SECTION 601. SHORT TITLE

Section 601 designates subtitle A of title VI as the "Foreign Bank Supervision Act of 1991."

SECTION 602. REGULATION OF FOREIGN BANK OPERATIONS

A. Establishment and termination of foreign bank offices in the United States

Section 602(a) amends section 7 of the International Banking Act of 1978 (12 U.S.C. §3105) to add new sections 7(e) through 7(i). New section 7(e) requires prior approval of the Federal Reserve Board before a foreign bank may establish a Federal or State branch or agency or acquire ownership or control of a commercial lending company in the United States. (The term "office" will be used to refer to these differing types of banking operations.) In acting on an application by a foreign bank to establish an office, the Federal Reserve Board may not make the size of the foreign bank the sole determinative factor. The Board may take into account the needs of the community to be served, the length of operation of the foreign bank in its home country, and its relative size in its home country.

To approve a foreign bank's application to establish an office in the United States, the Federal Reserve Board must determine that the foreign bank engages directly in banking outside the United States, is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country, and has furnished the information the Board needs to assess the application adequately.

In reviewing applications under new section 7(e), the Federal Reserve Board may also consider (1) whether the appropriate authorities in the foreign bank's home country have consented to the proposed establishment of an office in the United States; (2) the financial and managerial resources of the foreign bank, including its experience and capacity to engage in international banking and the competence, experience and integrity of its officers, directors and principal shareholders; (3) whether the foreign bank has provided adequate assurances to the Federal Reserve Board that it will make available such information on its operations and activities as the Board deems necessary to determine and enforce compliance with the International Banking Act, the Bank Holding Company Act, and other applicable Federal banking statutes; and (4) whether the foreign bank and its United States affiliates are in compliance with applicable United States law.

The Federal Reserve Board may impose such conditions on its approval as it deems necessary consistent with these standards. In considering whether to approve the establishment of or terminate an office of a foreign bank, the Federal Reserve will request and consider any views of the appropriate State banking agency or the Comptroller of the Currency.

New section 7(f) allows the Federal Reserve to order a foreign bank to terminate any Federal or State branch, agency or commercial lending company subsidiary in the United States. To terminate a foreign bank's office, the Federal Reserve must find that the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country. Alternatively, the Board must find reasonable cause to believe that the foreign bank or an affiliate has committed a violation of law or engaged in an unsafe or unsound practice in the United States and that as a result of such violation or practice the continued operation of the office in the United States would not be consistent with the public interest or the purposes of the International Banking Act, the Bank Holding Company Act, or the Financial Institutions Supervisory Act of 1966. In making findings under new section 7(f), the Federal Reserve shall not make the size of the foreign bank the sole determinative factor. The Federal Reserve may take into account the needs of the community to be served, the length of operation of the foreign bank in its home country, and its relative size in its home country.

The Federal Reserve must first give notice and opportunity for hearing and notice to the Office of the Comptroller of the Currency or any appropriate State supervisory agency. If, however, the Federal Reserve Board determines that expeditious action is necessary in order to protect the public interest, it may close an office of a foreign bank without providing an opportunity for a hearing.

A termination order shall become effective within 120 days of its issuance unless the Federal Reserve Board directs otherwise. Federal and State law govern procedures for closure or dissolution of terminated foreign bank offices or subsidiaries.

The Federal Reserve Board may apply for enforcement of any effective and outstanding termination order to any United States district court within a jurisdiction in which the foreign bank has an office or subsidiary. Such court shall have jurisdiction and power to require compliance with such an order.

A foreign bank against which the Federal Reserve Board has issued an order regarding the establishment or termination of an office may obtain review of that order in the United States Court of Appeals for the circuit where the office is located or in the United States Court of Appeals for the District of Columbia Circuit. That court will have exclusive jurisdiction over the issuance, enforcement, review, modification, suspension or termination of such an order. The foreign bank must file a petition within 30 days after the Federal Reserve Board enters its order. The clerk of the Court of Appeals must transmit a copy of the petition to the Board, which must then file in court the record made before it. The Court of Appeals may affirm, modify or set aside the Federal Reserve Board's order and may require the agency to take such action as the court deems proper. In any such judicial proceeding the Federal Reserve Board's factual findings shall be conclusive if supported by substantial evidence.

Effective one year after enactment, a State branch or agency of a foreign bank may not engage in any type of activity that is not permissible for a Federal branch of a foreign bank unless the Federal Reserve Board has determined that such activity is consistent with sound banking practices. In the case of an insured branch, the FDIC must also determine that the activity would pose no significant risk to the deposit insurance fund. The Federal Reserve Board and the appropriate State supervisory authority remain free to impose more stringent restrictions on the powers of State branches and agencies of foreign banks.

B. Standards for approval of Federal branches and agencies

Section 4(a) of the International Banking Act requires a foreign bank seeking to establish a Federal branch or agency to obtain the approval of the Comptroller of the Currency. 12 U.S.C. §3102(a). Section 602(b) amends section 4(a) to include the Federal Reserve Board in the approval process with the Comptroller. It also requires that such approval be consistent with any condition imposed by the Federal Reserve Board under new section 7(e)(1).

C. Standards for approval of additional Federal branches and agencies

Section 4(h) of the International Banking Act requires a foreign bank with a Federal branch or agency seeking to establish additional branches or agencies in the same state to obtain the approval of the Comptroller of the Currency. 12 U.S.C. §3102(h). Section 602(c) amends section 4(h) to require the Comptroller to provide the Federal Reserve Board with notice and an opportunity to comment on any application to establish an additional Federal branch or agency. As described above, the approval of the Federal Reserve Board is required before a foreign bank may open any Federal branch or agency.

D. Disapproval for failure to agree to provide necessary information

Section 3(c) of the Bank Holding Company Act sets forth procedures to be followed and factors to be considered by the Federal Reserve Board in approving the acquisition of bank shares or assets by bank holding companies. 12 U.S.C. §1842(c). Section 602(d) amends section 3(c) to include additional factors for the Board's consideration. The Federal Reserve Board should disapprove any application to acquire a United States bank unless the foreign company or companies give adequate assurances to the Federal Reserve Board that the Board will have access to information on the operations and activities of the company or companies and any affiliates the Federal Reserve Board deems necessary to determine and enforce compliance with the Bank Holding Company Act. This requirement applies to applications by both foreign banking organizations and domestic bank holding companies. In the case of an application by a foreign bank, the Federal Reserve should also disapprove the application if the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country.

E. Conforming amendments

Section 602(e) makes certain conforming amendments to the definitions section of the International Banking Act. "Affiliate" is given the same meaning as in the Bank Holding Company Act. "Representative office" means any office of a foreign bank in any State that is not a Federal branch or agency, State branch or agency, or a subsidiary of a foreign bank.

SECTION 603. CONDUCT AND COORDINATION OF EXAMINATIONS

Section 7(c) of the International Banking Act authorizes the Federal Reserve Board to examine each branch or agency of a foreign bank and each commercial lending company or bank controlled by a foreign bank. The cost of any such examination shall be paid by the foreign bank. 12 U.S.C. §3105(b). The Federal Reserve Board must defer to the other regulators "insofar as possible" in exercising its examination authority. Each State branch or agency of a foreign bank is subject to the same reporting requirements as a State member bank. Each Federal branch and agency is subject to the same reporting requirements as a member bank.

Section 603(a) amends section 7(c) to remove the requirement that the Federal Reserve Board defer to other regulators in exercising its examination authority. Instead, the Federal Reserve may examine any office or affiliate of a foreign bank or bank controlled by a foreign bank conducting business in the United States. The cost of such examinations shall be paid by such foreign bank or entity. The Federal Reserve Board must coordinate examinations with the Office of the Comptroller of the Currency, the FDIC, and appropriate State supervisory authorities. The Federal Reserve Board may request, when it deems appropriate, that the appropriate Federal and State bank regulators conduct simultaneous examinations of all offices of a foreign bank and its affiliates operating in the United States.

Each branch or agency of a foreign bank must receive an on-site examination at least once every 12 months by the Federal Reserve Board, the Comptroller of the Currency, the FDIC, or the appropriate State supervisory authority. In connection with that examination the Federal Reserve Board will review the worldwide capital level of the foreign bank to determine whether its financial resources, including the capital level, are equivalent to those required of a domestic bank holding company engaging in the activities that the foreign bank conducts in the United States. The Federal Reserve Board must consult with the Secretary of the Treasury before determining that a foreign bank meets the capital equivalency requirement. If the Federal Reserve Board finds that a foreign bank does not have the required level of capital to engage in securities activities, its branch or agency will be treated under section 10(d) of the Bank Holding Company Act (added by section 715 of the bill) in the same manner as an insured institution that becomes undercapitalized; that is, its securities activities will be restricted. If the Federal Reserve finds that a foreign bank does not have the required capital to engage in interstate banking, it must review the foreign bank's United States operations to determine whether the continued operation of the foreign bank's branches, agencies or commercial lending company subsidiaries would not be consistent with the public interest or the purposes of the International Banking Act, the Bank Holding Company Act, and the Financial Institutions Supervisory Act.

The Federal Reserve Board may require the foreign bank to increase capital or improve management. If those requirements can be adequately verified only if the foreign bank's banking activities are carried out in a domestic banking subsidiary, the Federal Reserve Board may require the foreign bank to conduct all its banking activities in the United States through such a subsidiary.

Section 4(b) of the International Banking Act subjects a Federal branch or agency of a foreign bank to such rules, regulations and orders as the Comptroller of the Currency considers appropriate. 12 U.S.C. §3102(b). Section 603(b) amends section 4(b) to require the Comptroller to coordinate examinations of Federal branches and agencies with examinations conducted by the Federal Reserve Board. To the extent possible, the Comptroller of the Currency will participate in any simultaneous examination of the United States operations of a foreign bank requested by the Federal Reserve Board.

Section 10(b)(2) of the Federal Deposit Insurance Act authorizes the FDIC to examine any insured State branch of a foreign bank or State branch of a foreign bank that files an application to become insured. 12 U.S.C. §1820(b)(2). Section 603(c) amends section 10(b)(2) to require the FDIC to coordinate examinations of insured state branches of foreign banks with examinations conducted by the Federal Reserve Board. To the extent possible, the FDIC will participate in any simultaneous examination of the United States operations of a foreign bank requested by the Federal Reserve Board.

SECTION 604. SUPERVISION FOREIGN BANKS' REPRESENTATIVE OFFICES

Section 10 of the International Banking Act requires a foreign bank that maintains an office other than a branch or agency to register with the Secretary of the Treasury. 12 U.S.C. §3107. These facilities are commonly referred to as representative offices. Section 604 amends section 10 to require a foreign bank to obtain prior approval of the Federal Reserve Board before establishing a representative office. In acting on such an application, the Federal Reserve Board must take into account whether the foreign bank engages directly in banking outside the United States, is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country, and whether the foreign bank has furnished the information the Board needs to assess the application adequately. The Federal Reserve Board may impose any additional requirements necessary to carry out the purposes of the Act. Section 604 also gives the Federal Reserve Board discretionary authority to examine representative offices.

The Federal Reserve Board may terminate the activities of a representative office of a foreign bank on the basis of the same standards, procedures and requirements as apply to the termination of a foreign bank's branch, agency or commercial lending company. The termination is subject to the same judicial review as the termination of a foreign bank's branch, agency or commercial lending company.

Section 604 does not alter the current prohibition against establishing representative offices of a foreign bank in any State in contravention of State law.

SECTION 605. REPORTING STOCK LOANS

Section 7(j)(9) of the Federal Deposit Insurance Act requires the president of an insured depository institution that makes a loan secured by 25 percent or more of the outstanding voting stock of an insured depository institution to report the loan to the appropriate Federal banking agency for the bank whose stock secures the loan. 12 U.S.C. §1817(j)(9). No report need be made where the borrower has been the owner of record of the stock for one year or more or where the stock is of a newly organized bank prior to its opening.

Section 605 amends section 7(j)(9) to require any financial institution and its affiliates that have credit outstanding to any person or group of persons secured or to be secured by shares of an insured depository institution to file a consolidated report with the appropriate Federal banking agency for the insured institution if, in the aggregate, such extensions of credit are secured or to be secured by 25 percent or more of any class of shares of the same insured institution. "Financial institution" is defined as any insured depository institution and any foreign bank that is subject to the Bank Holding Company Act by virtue of section 8(a) of the International Banking Act. "Credit outstanding" is defined as any loan or extension of credit; the issuance of a guarantee, acceptance, or letter of credit (including an endorsement or standby letter of credit) and any other type of transaction that provides credit or financing to a person or group of persons. "Group of persons" includes any number of persons that the financial institution reasonably believes are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured institution at approximately the same time under substantially the same terms; or that have made or propose to make a joint filing under section 13 of the Securities Exchange Act regarding ownership of shares of the same insured institution.

Any shares of the insured institution held by the financial institution or any of its affiliates as principal shall be counted toward the 25 percent level of the reporting requirement. The financial institution must file a consolidated report in writing within 30 days of the time that the financial institution or any of its affiliates believes that the 25 percent level has been met or exceeded. The report must disclose the number and percentage of shares securing each relevant extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any of its affiliates. The financial institution must file a copy of the report with its appropriate Federal banking agency. Each such agency may require additional information necessary to carry out its responsibilities.

A financial institution and its affiliates are not required to report a transaction if the person or group of persons disclosed the amount borrowed and the security interest to the appropriate Federal banking agency of the insured institution in connection with a notice filed under section 7(j), an application filed under the Bank Holding Company Act or the Savings and Loan Holding Company Act, or any other formal application filed with the appropriate Federal banking agency. This includes applications for deposit insurance, for membership in the Federal Reserve System, or for a national bank charter.

A financial institution and its affiliates need not report a transaction involving a person or group of persons that has been the owner or owners of record of the stock for at least one year or where the stock is of a newly chartered bank prior to its opening.

SECTION 606. COOPERATION WITH FOREIGN SUPERVISORS

Section 606 adds a new section 15 to the International Banking Act. New section 15 permits the Federal Reserve Board, the FDIC, and the Office of the Comptroller of the Currency to disclose information obtained in exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority. The agency must determine that such disclosure is necessary or appropriate and would not prejudice the interests of the United States. Prior to any such disclosure, the United States agency must obtain the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.

The Federal Reserve Board, the FDIC and the Office of the Comptroller of the Currency shall not be compelled to disclose information obtained from a foreign bank supervisor if the foreign supervisor has in good faith determined and represented that public disclosure would violate the laws applicable to that supervisor, and the United States agency obtains such information pursuant to an authorized procedure in connection with the administration or enforcement of the banking laws or pursuant to a memorandum of understanding. However, new section 15 does not authorize the Federal Reserve Board, FDIC or the Office of the Comptroller of the Currency to withhold information from Congress or to prevent such agency from complying with an order of a United States court in an action commenced by the United States or such agency.

SECTION 607. PENALTIES

Section 607 adds a new section 16 to the International Banking Act. New section 16 allows the appropriate Federal banking agencies to assess civil penalties for violations of the International Banking Act in a manner consistent with the Bank Holding Act applying civil penalties to bank holding companies. New section 16 requires any foreign bank or branch, agency, office or subsidiary of a foreign bank that violates any provision of the International Banking Act or a regulation or order issued pursuant to the Act to pay a civil penalty of up to $25,000 for each day the violation continues. Any penalty imposed may be assessed and collected by the appropriate Federal banking agency by written notice. If a hearing is not requested, the assessment shall constitute a final and unappealable order. The appropriate Federal banking agency may modify any penalty it may assess or has assessed. In determining the amount of penalty the agency shall consider the size and good faith of the foreign bank, the gravity of the violation, the history of previous violations, and such other matters as justice may require. If the foreign bank fails to pay an assessment after a penalty has become final, the agency may recover the amount assessed by action in the appropriate United States district court. The validity and appropriateness of the penalty shall not be subject to review in such an action. All penalties collected shall be deposited into the Treasury.

If the foreign bank, branch, agency, office, subsidiary or other person against whom a penalty is assessed requests a hearing within 20 days after the issuance of the notice of assessment, the foreign bank or other person will be afforded an agency hearing. The hearing will be conducted in accordance with section 8(h) of the Federal Deposit Insurance Act.

For purposes of new section 16, the term "violate" includes taking any action, alone or with others, that causes, brings about, participates in, counsels, or aids or abets a violation. The appropriate Federal banking agency shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

The resignation, termination of employment or participation, or separation of an institution-affiliated party of a foreign bank, branch, agency, office or subsidiary shall not affect the authority of the appropriate Federal banking agency to issue a notice or seek penalties against any such party under new section 16 if notice is served within 6 years after the party ceases to be affiliated with the foreign bank.

New section 16(c) provides for three tiers of civil penalties for a failure by a foreign bank, branch, agency, other office, or subsidiary to make reports as required by the International Banking Act or regulations promulgated thereunder. These civil penalty provisions parallel those in the Bank Holding Company Act for failure to make reports under that Act. The first tier applies to any foreign bank, branch, agency, office or subsidiary maintaining procedures reasonably adapted to avoid any inadvertent error that nonetheless unintentionally and as a result of such error fails to submit required reports or information within the period of time specified, that submits any false or misleading report or information, or that inadvertently transmits a report that is minimally late. Such an entity shall be fined up to $2,000 for each day the failure continues or the false or misleading information is not corrected. The foreign bank bears the burden of proving that an error was inadvertent or that a report was inadvertently transmitted or published late.

The second tier requires any foreign bank, branch, agency, office or subsidiary that fails to submit required reports or information within the time period specified or submits any false or misleading report or information to be fined up to $20,000 for each day the failure continues or the false or misleading information is not corrected.

The third tier provides that if any company knowingly or with reckless disregard for the accuracy of any required report or information publishes any false or misleading report or information, the appropriate Federal banking agency may in its discretion assess a penalty up to $1 million or 1 percent of the total assets of the foreign bank, branch, agency, office or subsidiary, whichever is less, for each day the failure continues or the false or misleading information is not corrected.

Any penalty imposed shall be assessed and collected by the appropriate Federal banking agency in the same manner as for violations of the International Banking Act and the assessment shall be subject to those provisions. If the foreign bank, branch, agency, office, subsidiary or other person against whom a penalty is assessed requests a hearing within 20 days after the issuance of the notice of assessment, the foreign bank or other person will be afforded an agency hearing. The hearing will be conducted in accordance with section 8(h) of the Federal Deposit Insurance Act.

SECTION 608. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS

Section 13(b) of the International Banking Act authorizes any appropriate Federal banking agency to enforce compliance with the Act under section 8 of the Federal Deposit Insurance Act. 12 U.S.C. §3108(b). Section 608 amends section 13(b) to provide that the Federal Reserve Board, the FDIC and the Comptroller of the Currency and any designated representative, including any person designated to conduct a hearing under the Act, may administer oaths and affirmations, take depositions, and issue, revoke, quash or modify subpoenas and subpoenas duces tecum. The Federal Reserve Board, the FDIC and the Comptroller of the Currency shall have the authority to issue appropriate rules and regulations to effectuate the purposes of section 13(b). Attendance of witnesses and production of documents may be required by subpoena or subpoena duces tecum from any place subject to the jurisdiction of the United States at any designated place where a proceeding is conducted. Any party to proceedings under the International Banking Act may apply to the United States District Court for the District of Columbia or for the district in which the proceeding is conducted or where the witness resides or conducts business for enforcement of any subpoena or subpoena duces tecum. Such courts are given jurisdiction to enforce compliance with such subpoenas.

Subpoenaed witnesses will be paid the same fees and mileage as are paid to witnesses in the United States district courts. Any service required may be made by registered mail or in another manner reasonably calculated to give actual notice. A party that succeeds in having an agency order modified or set aside may be awarded reasonable expenses and attorneys' fees as the court deems just and proper. Any person who willfully fails or refuses to testify or to produce documents in obedience to an agency subpoena shall be guilty of a misdemeanor. Upon conviction, such person shall be subject to a fine up to $10,000 for each day that such failure or refusal continues, or to imprisonment up to 1 year, or both.

SECTION 609. PENALTIES FOR FAILURE TO COMPLY WITH AGENCY SUBPOENA

Section 5(f) of the Bank Holding Company Act provides penalties that makes a person who fails to comply with a subpoena of the Federal Reserve Board subject to a fine up to $1000, or to imprisonment up to 1 year, or both. 12 U.S.C. §1844(f). Section 8(n) of the Federal Deposit Insurance Act contains a parallel penalty for a person who fails to comply with a subpoena of an appropriate Federal banking agency. Section 609 amends section 5(f) and section 8(n) to increase the fine to up to $10,000 for each day that failure or refusal to comply with such subpoenas continues. This makes the penalties for failure to comply with agency subpoenas consistent among the International Banking Act, the Bank Holding Company Act, and the Federal Deposit Insurance Act.

SECTION 610. CLARIFYING MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT

Section 610 amends section 3(c) of the Bank Holding Company Act, as amended by section 602, to clarify that in considering an application for approval of a bank acquisition, the Federal Reserve Board shall consider the competence, experience, and integrity of the officers, directors and principal shareholders of a bank or bank holding company when considering the managerial resources of that bank or bank holding company. 12 U.S.C. §1842(c).

SECTION 611. AUTHORITY OF FEDERAL BANKING AGENCIES TO ENFORCE CONSUMER STATUTES

Section 304 of the Home Mortgage Disclosure Act requires national banks to disclose information regarding mortgage loans to the appropriate Federal banking agency. 12 U.S.C. §2803(h). Section 304(h) requires the Federal Reserve Board, in cooperation with the other appropriate Federal banking regulators, to develop regulations prescribing the format for such disclosures and the method for their submission. Section 611 extends section 304(h)'s disclosure to Federal branches and Federal agencies of foreign banks and specifies that the other appropriate regulator for drafting regulations for Federal branches and agencies is the Comptroller of the Currency. The Federal Reserve Board and the FDIC must develop such regulations for insured State branches of foreign banks.

Section 305(b) of the Home Mortgage Disclosure Act (12 U.S.C. §2804(b)), section 108(a) of the Truth in Lending Act (15 U.S.C. §1607(a)), section 621(b) of the Fair Credit Reporting Act (15 U.S.C. §1681s(b)), section 704(a) of the Equal Credit Opportunity Act (15 U.S.C. §1691c(a)), section 814(b) of the Fair Debt Collection Practices Act (15 U.S.C. §1692l(b)), section 917(a) of the Electronic Fund Transfer Act (15 U.S.C. §1693o(a)), section 18(f) of the Federal Trade Commission Act (15 U.S.C. §57a(f)), and section 610(a) of the Expedited Funds Availability Act (12 U.S.C. §4009(a)) authorize the appropriate Federal banking agencies to enforce compliance with those statutes by national banks, other Federal Reserve System member banks, FDIC-insured banks and savings associations, mutual savings banks, credit unions, and other lending institutions.

Section 611 makes parallel amendments to those sections regarding enforcement of those statutes. The Comptroller of the Currency will enforce compliance by Federal branches and Federal agencies of foreign banks. The FDIC will enforce compliance by insured State branches of foreign banks. The Federal Reserve Board will enforce compliance by commercial lending companies owned or controlled by foreign banks and by branches and agencies of foreign banks other than Federal branches, Federal agencies, and insured State branches. As the Federal Reserve Board currently has regulatory and supervisory authority with respect to the international banking entities known as Edge and Agreement corporations, section 611 provides the Board with examination and enforcement authority over those entities for purposes of the consumer statutes.

SECTION 612. CRIMINAL PENALTY FOR VIOLATING THE INTERNATIONAL BANKING ACT OF 1978

Section 612 amends the International Banking Act to add a new section 17. New section 17 requires whoever knowingly violates any provision of the International Banking Act or any regulation issued thereunder with the intent to deceive, to gain financially, or to cause financial gain or loss to any person to be fined up to $1 million for each day a violation continues, or imprisoned up to 5 years, or both.

Subtitle B—Regulation of Foreign Banks and Subsidiaries Seeking Expanded Securities Powers

SECTION 621. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978

A. Treatment of foreign banks as holding companies

Section 8(a) of the International Banking Act of 1978 provides that a foreign bank that maintains a branch or agency in the United States or controls a commercial lending company organized under State law, or a company that owns or controls such a bank, is subject to the Bank Holding Company Act. 12 U.S.C. §3106(a). Section 10 of the Bank Holding Company Act, as amended by section 715 of the bill, requires a bank holding company to apply to the Federal Reserve Board for permission to acquire a securities affiliate. Section 621(a) amends section 8(a) to permit a foreign bank to own or acquire a securities affiliate subject to Federal Reserve Board approval. The Federal Reserve Board shall disapprove such an application by a foreign bank or company that owns or controls a foreign bank unless the Board can determine that the financial resources of the foreign bank or company, including the capital level, are equivalent to those required of a domestic bank holding company permitted to engage in securities activities. In addition, the Federal Reserve Board must take into account differences in domestic and foreign accounting standards and assure that competitive equivalence between domestic and foreign banks is maintained.

The Federal Reserve Board must consult with the Secretary of the Treasury regarding the capital equivalency of the foreign bank or company in making such a determination. The Federal Reserve Board and the Treasury Secretary must publish jointly their analysis of capital standards and their guidelines for making these capital equivalency determinations.

Ensuring that foreign banks adhere to the same capital standards as U.S. banks is a complex task, given differences in national capital standards and accounting practices. There may be cases in which the Federal Reserve believes, but cannot verify, that a foreign bank is well managed and meets the equivalent capital required of an American bank engaging in securities activities. Section 715 of the bill therefore authorizes the Federal Reserve to permit such a foreign bank to engage in securities activities subject to the requirement that it adopt a holding company structure and conduct in its U.S. banking activities in domestic banking subsidiaries of such a holding company. This provision is not intended to allow undercapitalized foreign institutions to engage in expanded powers. It is a discretionary authority designed for foreign institutions whose worldwide capital cannot be verified, but in whose management and solvency U.S. regulators have confidence.

As a condition for approving the creation of such a securities subsidiary the Federal Reserve Board may require the foreign bank or its controlling parent to limit its participation in the U.S. banking market to direct or indirect subsidiaries of a single bank holding company. In effect, the Federal Reserve Board may condition access to securities activities by prohibiting the foreign bank (or its parent) from branching into the U.S. banking market. Activities authorized by section 2(h) or section 4(c)(9) of the Bank Holding Company Act (activities conducted by a foreign company the greater part of whose business is conducted outside the United States) need not be conducted by the bank holding company.

A foreign bank and any securities affiliate of a foreign bank shall be subject to section 10(f) of the Bank Holding Company Act, as added by section 715 of the bill, in the same manner and to the same extent as a domestic insured depository institution and its securities affiliate.

B. Authority to terminate grandfathered status

Section 8(c)(1) of the International Banking Act extends "grandfather" protection to certain nonbanking activities of foreign banks in the United States. 12 U.S.C. §3106(c)(1). A foreign bank may retain ownership or control of any voting shares of any domestically-controlled affiliate engaged since July 26, 1978 in underwriting, distributing, or dealing in securities if the affiliate was covered in 1978 by an application to engage in nonbanking activities. Additionally, the Federal Reserve Board has since approved applications by foreign banks to engage in securities activities through affiliates. Section 621(b) requires the Federal Reserve Board to terminate such protection for any affiliate of a foreign bank engaged in underwriting, distributing or dealing in securities when such activities are authorized for bank holding companies in the United States. Foreign banks wishing to continue exercising securities powers must meet the capital equivalency requirements or establish domestic banking subsidiaries.

C. Guidelines on equivalence of foreign bank capital

Section 621(c) amends section 7 of the International Banking Act (12 U.S.C. §3105) to add a new section 7(e). New section 7(e) requires the Federal Reserve Board and the Secretary of the Treasury to publish a report within 180 days after the bill becomes law, analyzing the capital standards contained in the framework for measurement of capital adequacy established by the Basle Committee on Banking Supervision, foreign regulatory capital standards applicable to foreign banks conducting banking operations in the United States, and the relationship of the Basle and foreign standards to risk-based capital and leverage requirements for United States banks. The report must also establish guidelines for the adjustments to be used by the Federal Reserve Board in converting data on the capital of foreign banks to the equivalent risk-based capital and leverage requirements for United States banks in order to make determinations of whether a foreign bank's capital level is equivalent to that required of United States banks for purposes of sections 5(a), 7(c) and 8(a) of the International Banking Act. The report must be submitted to the House and Senate Banking Committees. The report must be updated annually to explain any change in the analysis of capital standards and resulting changes in the guidelines.

SECTION 622. STUDY ON SUBSIDIARY REQUIREMENTS FOR FOREIGN BANKS

Section 622 requires the Secretary of the Treasury to conduct a study of whether foreign banks should be required to conduct banking operations in the United States through subsidiaries rather than branches. The Secretary will conduct the study in consultation with the Federal Reserve Board, the FDIC, the Comptroller of the Currency and the Attorney General. In conducting the study, the Secretary must take into account the following considerations: differences in accounting and regulatory practices abroad and the difficulty of assuring that a foreign bank meets United States capital and management standards and is adequately supervised; the implications for the deposit insurance system; competitive equity; national treatment of foreign financial institutions; the need to prohibit money laundering and illegal payments; safety and soundness; the implications for international negotiations for liberalized trade in financial services; and the implications for determining tax liability of foreign banks.

The Secretary must transmit the results of this study to the House and Senate Banking Committees within one year after the bill becomes law. The report shall include any additional or dissenting views of participating agencies. If the participants expressing such views conclude that changes in law or policy are needed, they shall submit legislative proposals to Congress within 30 days of the submission of the report. If the participants agree that foreign banks should be required to conduct their United States activities through domestic banking subsidiaries, the Federal Reserve Board may implement the requirement by regulation.

Subtitle C—Fair Trade in Financial Services

SECTION 631. SHORT TITLE

Section 631 designates subtitle C of title VI as the "Fair Trade in Financial Services Act of 1991."

SECTION 632. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES

Section 632 adds a new section 18 to the International Banking Act of 1978, establishing a framework of negotiations, reports, and discretionary sanctions designed to help end discrimination against U.S. banks and bank holding companies that operate or seek to operate abroad. New section 18(a) states the purpose of new section 18 is to encourage foreign countries to accord national treatment to U.S. banks and bank holding companies that operate or seek to operate in those countries and thus to help end discrimination against U.S. banks and bank holding companies.

New section 18(b) requires the Secretary of the Treasury to report to Congress by December 1, 1992 and biennially thereafter (1) on the identity of each foreign country that, according to the most recent national treatment study, does not accord national treatment to U.S. banks and bank holding companies, and with respect to which no determination under new section 18(d)(1) is in effect; (2) on why the Secretary has not made (or has rescinded) such a determination; and (3) describing the results of any negotiations conducted pursuant to new section 18(c).

A. Negotiations required

New section 18(c) requires the Secretary of the Treasury to initiate negotiations with any foreign country if: (1) according to the Treasury Department's most recent national treatment study, that country significantly fails to accord U.S. banks and bank holding companies national treatment; and (2) the Secretary has not made (or has rescinded) a determination under new section 18(d)(1) with respect to that country. The objective of the negotiations is to ensure that the foreign country accords national treatment to U.S. banks and bank holding companies. However, the Secretary need not initiate such negotiations if the Secretary (1) determines that they would be fruitless or would impair national economic interests, and (2) gives written notice of that determination to the chairman and ranking minority member of the Senate and House Banking Committees.

B. Discretionary sanctions

The Secretary of the Treasury may under new section 18(d) publish in the Federal Register a determination that a foreign country does not accord U.S. banks and bank holding companies national treatment. A Federal banking agency may then consider that determination in evaluating an application or notice filed by persons of that country and may, in consultation with the Secretary of the Treasury, deny applications and disapprove notices filed by persons of that country. Nothing in new section 18 requires a Federal banking agency to consult with the Secretary of the Treasury about issues other than those relating to the exercise of the agency's discretion under that section.

New section 18(d) authorizes the Federal banking agencies to deny applications and disapprove notices notwithstanding any inconsistent statute, regulation, treaty, or international agreement. The only exception is for international agreements covered by new section 18(h)(1). The phrase "notwithstanding any other provision of law," which appeared in some antecedents of this section such as section 909 of S. 1886 (100th Congress), was omitted from new section 18(d)(1) as unnecessary. Thus, for example, applications may be denied and notices disapproved notwithstanding treaty provisions that accord persons of the foreign country in question "national treatment," "most-favored-nation treatment," or both.

New section 18(d) applies to any application requiring the approval of a Federal banking agency, including an application to acquire shares of a bank or bank holding company; to effect a bank merger; to establish a branch, agency, or commercial lending company; to engage in a nonbanking activity; to establish an Edge Act or Agreement corporation; or to obtain Federal deposit insurance. New section 18(d) likewise applies to any notice that is subject to disapproval by a Federal banking agency, such as a notice under the Change in Bank Control Act, and to any transaction covered by new section 18(e).

The Secretary of the Treasury must review annually any determination in effect and decide whether that determination should be rescinded. The objective is to avoid having a determination remain in effect when the reasons for the determination no longer exist.

If a Federal banking agency denied an application and the Secretary of the Treasury subsequently rescinded the determination on which the denial was based, the rescission would not grant the application, but would clear the way for a new application.

C. Preventing existing entities from being used to evade this section

1. General rule.

New section 18(e) creates a review procedure designed to prevent an existing bank, branch, agency, commercial lending company, or other affiliated entity from being used to evade sanctions under new section 18. If such an entity is a person of a country that the Secretary of the Treasury has determined does not accord national treatment to U.S. banks and bank holding companies, that entity generally may not, without prior approval under new section 18(e): (1) commence any line of business in which it was not engaged as of the date on which the Secretary's determination was published in the Federal Register; or (2) conduct business from any location at which it did not conduct business as of that date.

The prior-approval requirement does not apply to acquiring interests in companies that do not operate in the United States, because it applies only to commencing new lines of business and conducting business from new locations "in the United States."

The term "line of business" is drawn from and intended to have the same meaning as in section 225.145(c) of title 12, Code of Federal Regulations. Thus, the following are discrete lines of business: accepting demand deposits; accepting nondemand deposits that the depositor may withdraw by check or similar means for payment to third parties (e.g., NOW accounts); accepting savings deposits; commercial lending; consumer mortgage lending; consumer credit card lending; other consumer lending; trust activities; discount securities brokerage; full-service securities brokerage; investment advisory services; and foreign exchange transaction services.

New section 18(e) creates a review procedure for certain transactions without specifying how a Federal banking agency should exercise its discretion with respect to those transactions.

2. Exemption for transactions under section 2(h)(2).

New section 18(e)(2) specifically exempts transactions under section 2(h)(2) of the Bank Holding Company Act from the prior-approval requirement. Section 2(h)(2) permits a foreign bank or bank holding company principally engaged in banking outside the United States to acquire shares of a foreign company (the "investor company") also principally engaged in business outside the United States. It also permits the investor company to acquire shares of any company engaged in the same general line of business as the investor company or a related line of business. New section 18(e)(2) prevents section 2(h)(2) from being used to hold shares of a company that engages in or holds more than 5 percent of any class of voting securities of a company engaged in any banking, securities, insurance, or other financial activities in the United States. Thus, because section 2(h)(2) cannot be used to conduct financial services, it does not raise those concerns about national treatment in financial services to which the title is directed.

3. State-supervised entities.

If the entity in question is an uninsured State bank, an uninsured State branch, a State agency, or a commercial lending company and the State requires that entity to obtain the prior approval of the State bank supervisor before commencing the new line of business or doing business from the new location in question, and no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before commencing that activity or doing business from that location, then the State bank supervisor must consult with the appropriate Federal banking agency regarding the application. In all other cases the entity in question must obtain the prior approval of the appropriate Federal banking agency.

If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide a copy of the application record. For 45 days after receiving the record, the appropriate Federal banking agency may, after consultation with the State bank supervisor, consider the Secretary of the Treasury's determination among the factors the agency considers in evaluating the application. The agency may, in consultation with the Secretary of the Treasury, issue an order disapproving the activity based upon the Secretary's determination. The agency may extend the period for disapproval by up to 45 days. The Secretary shall inform State bank supervisors of any determination. The effect is thus to coordinate the Federal review process with State prior-approval procedures in cases where there is currently no Federal prior-approval requirement.

4. Effect on other law.

New section 18(e) does not affect the operation of any otherwise applicable requirement of Federal law. It does not in any way limit a Federal banking agency's express or implicit authority to prevent evasions under other provisions of law.

D. National treatment defined

New subsection 18(f) defines "national treatment." A foreign country accords "national treatment" to U.S. banks and bank holding companies if it offers them the same competitive opportunities in that country (including effective market access) as are available there to that country's domestic banks and bank holding companies.

The reference to "effective market access" is intended to emphasize that national treatment must be de facto as well as de jure. Mere equality in the letter of the law will not suffice.

This Committee originated that phrase to encapsulate the guiding principle of the International Banking Act of 1978: national treatment to ensure equality of competitive opportunity. The Committee's use of "national treatment" to encompass that concept is consistent with the opening paragraph of the Treasury Department's original national treatment study, which stated that the International Banking Act's guiding principle was "to provide 'national treatment' for foreign banks, i.e., to accord foreign banks equality of competitive opportunity with their domestic counterparts in the U.S." *Report to Congress on Foreign Government Treatment of U.S. Commercial Banking Organizations* vii (1979) (italics in original). Indeed, "the same competitive opportunities" is itself a paraphrase of "equality of competitive opportunity." Thus the Committee, quoting from the Treasury's original study, described "national treatment" as follows:

"[N]ational treatment 'afford(s) foreign banks equality of competitive opportunity vis-a-vis domestic institutions in similar circumstances.' It 'entails a pragmatic impact- or effects-oriented test for assessing the overall legal and regulatory climate affecting foreign banks in a given country. The test is met if foreign banks are allowed to compete on essentially equal terms with domestic institutions in the host country, even if some specific regulations or requirements applied to foreign banks differ from those affecting domestic banks.'"

S. Rep. No. 85, 100th Cong., 1st Sess. 42(1987).

The conference committee on the Omnibus Trade and Competitiveness Act of 1988 took the same approach in discussing section 3502(b): "In the Conferees' view, a country accords national treatment to U.S. companies only if it accords them the same competitive opportunities as it accords to its domestic companies. National treatment requires a pragmatic, effect oriented test for assuring that the same competitive opportunities exist." H. Rep. No. 576, 100th Cong., 2d Sess. 855 (1988).

The definition applies both to a U.S. banking organization's initial entry into a foreign country (sometimes referred to as its "establishment" there) and to its subsequent treatment in that country.

E. Person of a foreign country defined

New section 18(g) broadly defines a person of a foreign country as any person that (1) is organized under the laws of that country; (2) has its principal place of business in that country; (3) if an individual, is a citizen of or is domiciled in that country; or (4) is directly or indirectly controlled by any of the foregoing.

F. Exercise of discretion

1. International agreements.

The Secretary of the Treasury and the Federal banking agencies, in exercising their discretion under new section 18, must act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by Congress. Thus, for example, new subsection 18(h)(1) covers the U.S.-Canada Free Trade Agreement and would cover any multilateral agreement governing financial services developed in the Uruguay Round of GATT negotiations, entered into by the President, and approved and implemented by Congress. Conversely, it would not apply to treaties of friendship, commerce, and navigation, even if such treaties have some provisions dealing with financial services.

2. Factors to consider.

The Federal banking agencies, in exercising their discretion with respect to an entity that is a foreign person already operating in the United States, must consider: (1) the foreign country's record of according national treatment to U.S. banks and bank holding companies; and (2) whether that country would permit U.S. banks and bank holding companies already operating in that country to expand their activities there even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies.

The Federal banking agencies have discretion to differentiate further between entities already operating in the United States and proposed new entrants, insofar as such differentiation is consistent with achieving the purposes of new section 18.

SECTION 633. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS

Section 633 adds a new section 36 to the Securities Exchange Act of 1934, creating a framework for securities brokers and dealers parallel to that for banks and bank holding companies under section 632 of the bill.

New section 36(a) states the purpose of new section 36 is to encourage foreign countries to accord national treatment to U.S. brokers and dealers that operate or seek to operate in those countries and thus to help end discrimination against U.S. brokers and dealers.

New section 36(b) requires the Secretary of the Treasury to report to Congress by December 1, 1992 and biennially thereafter (1) on the identity of each foreign country that, according to the most recent national treatment study, does not accord national treatment to U.S. brokers and dealers, and with respect to which no determination under new section 18(d)(1) is in effect; (2) on why the Secretary has not made (or has rescinded) such a determination; and (3) describing the results of any negotiations conducted pursuant to new section 36(c).

A. Negotiations required

New section 36(c) requires the Secretary of the Treasury to initiate negotiations with any foreign country if: (1) according to the Treasury Department's most recent national treatment study, that country significantly fails to accord U.S. brokers and dealers national treatment; and (2) the Secretary has not made (or has rescinded) a determination under new section 36(d)(1) with respect to that country. The objective of the negotiations is to ensure that the foreign country accords national treatment to U.S. brokers and dealers. However, the Secretary need not initiate such negotiations if the Secretary (1) determines that they would be fruitless or would impair national economic interests, and (2) gives written notice of that determination to the chairman and ranking minority member of the Senate Banking Committee and the House Energy and Commerce Committee.

B. Discretionary sanctions

The Secretary of the Treasury may under new section 36(d) publish in the Federal Register a determination that a foreign country does not accord U.S. brokers and dealers national treatment. The Securities and Exchange Commission may then consider that determination in evaluating an application or notice filed by a person of that country and may, in consultation with the Secretary of the Treasury, deny applications for registration as a broker or dealer filed by a person of that country, and prohibit any person of that country from acquiring control of a registered broker or dealer. The SEC is not required to consult with the Secretary of the Treasury about issues other than those relating to the exercise of the SEC's discretion under that paragraph.

If the Secretary has published a determination with respect to a given country, no person of that country may acquire control of any registered broker or dealer unless the SEC has been given 60 days notice of the proposed acquisition and has not prohibited the acquisition. The SEC may extend the notice period during which an acquisition may be prohibited for an additional 180 days.

New section 36(d) authorizes the SEC to deny applications and disapprove notices notwithstanding any inconsistent statute, regulation, treaty, or international agreement. The only exception is for international agreements covered by new section 36(g)(1). The phrase "notwithstanding any other provision of law," which appeared in some antecedents of this section, was omitted from subparagraph (D) as unnecessary. Thus, for example, applications may be denied and notices disapproved notwithstanding treaty provisions according persons of the foreign country in question "national treatment," "most favored nation treatment," or both.

New section 36(d) requires the Secretary of the Treasury to review annually any determination in effect and decide whether that determination should be rescinded. The objective is to avoid having a determination remain in effect when the reasons for the determination no longer exist.

C. National treatment defined

New subsection 36(e) defines "national treatment." A foreign country accords "national treatment" to U.S. brokers and dealers if it offers them the same competitive opportunities in that country (including effective market access) as are available there to that country's domestic brokers and dealers. This standard is discussed above in connection with section 632 of the bill.

D. Person of a foreign country defined

New subsection 36(f) broadly defines a person of a foreign country as any person that (1) is organized under the laws of that country; (2) has its principal place of business in that country; (3) if any individual, is domiciled in or a citizen of that country; or (4) is directly or indirectly controlled by any of the foregoing.

E. Exercise of discretion

1. International agreements.

The Secretary of the Treasury and the SEC, in exercising their discretion under new section 36, must act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by Congress. Thus, for example, new section 36(g)(1) covers the U.S.-Canada Free Trade Agreement and would cover any multilateral agreement governing financial services developed in the Uruguay Round of GATT negotiations, entered into by the President, and approved and implemented by Congress. Conversely, new section 36(g)(1) would not apply to treaties of friendship, commerce, and navigation, even if such treaties have some provisions dealing with financial services.

2. Factors to consider.

The SEC in exercising its discretion with respect to an entity that is a foreign person already operating in the United States, must consider: (1) the foreign country's record of according national treatment to U.S. brokers or dealers and (2) whether that country would permit U.S. brokers or dealers already operating in that country to expand their activities there even if that country determined that the United States did not accord national treatment to that country's brokers or dealers. Other appropriate factors may also be considered.

The SEC may further differentiate between entities already operating in the United States and proposed new entrants, insofar as such differentiation is consistent with achieving the purposes of new section 36.

SECTION 634. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

Section 634 adds a new section 233 to the Investment Advisers Act of 1940, creating a framework for investment advisers parallel to that for banks and bank holding companies under section 632 and securities brokers and dealers under section 633 of the bill.

New section 223(a) states the purpose of new section 223 is to encourage foreign countries to accord national treatment to U.S. investment advisers that operate or seek to operate in those countries and thus to help end discrimination against U.S. investment advisers.

New section 223(b) requires the Secretary of the Treasury to report to Congress by December 1, 1992 and biennially thereafter (1) on the identity of each foreign country that, according to the most recent national treatment study, does not accord national treatment to U.S. investment advisers, and with respect to which no determination under new section 223(d) is in effect; (2) on why the Secretary has not made (or has rescinded) such a determination; and (3) describing the results of any negotiations conducted pursuant to new section 223(c).

A. Negotiations required

New section 223(c) requires the Secretary of the Treasury to initiate negotiations with any foreign country if: (1) according to the Treasury Department's most recent national treatment study, that country significantly fails to accord U.S. investment advisers national treatment; and (2) the Secretary has not made (or has rescinded) a determination under new section 223(d) with respect to that country. The objective of the negotiations is to ensure that the foreign country accords national treatment to U.S. investment advisers. However, the Secretary need not initiate such negotiations if the Secretary (1) determines that they would be fruitless or would impair national economic interests, and (2) gives written notice of that determination to the chairman and ranking minority member of the Senate Banking Committee and the House Energy and Commerce Committee.

B. Discretionary sanctions

The Secretary of the Treasury may under new section 223(d) publish in the Federal Register a determination that a foreign country does not accord U.S. investment advisers national treatment. The Securities and Exchange Commission may then consider that determination in evaluating an application or notice filed by persons of that country and may, in consultation with the Secretary of the Treasury, deny applications and disapprove notices filed by persons of that country. New section 223(d) applies to any application requiring the approval of the Commission, and any notice that is subject to disapproval by the Commission. Nothing in new section 223 requires the SEC to consult with the Secretary of the Treasury about issues other than those relating to the exercise of the SEC's discretion under this section.

If the Secretary has published a determination with respect to a given country, no person of that country may acquire control of any registered investment adviser unless the SEC has been given 60 days notice of the proposed acquisition and has not prohibited the acquisition. The SEC may extend the notice period during which an acquisition may be prohibited for an additional 180 days.

New section 223(d) authorizes the SEC to deny applications and disapprove notices notwithstanding any inconsistent statute, regulation, treaty, or international agreement. The only exception is for international agreements covered by new section 223(g)(1). The phrase "notwithstanding any other provision of law," which appeared in some antecedents of this title, was omitted from new section 223(d) as unnecessary. Thus, for example, applications may be denied and notices disapproved notwithstanding treaty provisions according persons of the foreign country in question "national treatment," "most-favored-nation treatment," or both.

New section 223(d) also requires the Secretary of the Treasury to review annually any determination in effect and decide whether that determination should be rescinded. The objective is to avoid having a determination remain in effect when the reasons for the determination no longer exist.

C. National treatment defined

New section 223(e) defines "national treatment." A foreign country accords "national treatment" to U.S. investment advisers if it offers them the same competitive opportunities in that country (including effective market access) as are available there to that country's domestic investment advisers. This standard is discussed above in connection with section 632 of the bill.

D. Person of a foreign country defined

New section 223(f) broadly defines a person of a foreign country as any person that (1) is organized under the laws of that country; (2) has its principal place of business in that country; (3) if an individual, is a citizen of or is domiciled in that country; or (4) is directly or indirectly controlled by any of the foregoing.

E. Exercise of discretion

1. International agreements.

The Secretary of the Treasury and the SEC, in exercising their discretion under new section 223, must act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by Congress. Thus, for example, new section 223(g) covers the U.S.-Canada Free Trade Agreement and would cover any multilateral agreement governing financial services developed in the Uruguay Round of GATT negotiations, entered into by the President, and approved and implemented by Congress. Conversely, new subsection 223(g) would not apply to treaties of friendship, commerce, and navigation, even if such treaties have some provisions dealing with financial services.

2. Factors to consider.

The SEC, in exercising its discretion with respect to an entity that is a foreign person already operating in the United States, must consider: (1) the foreign country's record of according national treatment to U.S. investment advisers; and (2) whether that country would permit U.S. investment advisers already operating in that country to expand their activities there even if that country determined that the United States did not accord national treatment to that country's investment advisers.

The SEC may further differentiate between entities already operating in the United States and proposed new entrants, insofar as such differentiation is consistent with achieving the purposes of new section 223.

SECTION 635. INVESTIGATION AND REPORT ON FINANCIAL INTERDEPENDENCE

Section 635 adds a new section 3605 to subtitle G of title III of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. §5341 et seq.). New section 3605 requires the Secretary of the Treasury to determine the extent of the interdependence of the financial services sectors of the United States and foreign countries whose financial services institutions provide financial services in the U.S.

or whose persons own substantial interests in U.S. financial institutions. The Secretary must consult and coordinate with the SEC, the Federal Reserve Board, the appropriate Federal banking agencies, the CFTC, and any other Federal agency or department designated by the Secretary. The Secretary shall also determine the economic, strategic, and other consequences of that interdependence for the United States.

Within 2 years after the bill becomes law, the Secretary shall report the results of the investigation. The report must describe the activities and estimate the scope of financial service activities conducted by U.S. financial services institutions in foreign markets and by foreign financial services institutions in the United States. The report shall estimate the number of jobs created by both activities and the additional jobs and revenues that would be created if foreign countries offered U.S. institutions the same competitive opportunities as are available to their domestic institutions. The report shall describe the extent to which foreign institutions discriminate against U.S. persons and the extent to which foreign institutions purchase or facilitate the marketing from the United States of government and private debt and private equity. The report shall describe how the interdependence of financial services sectors affects the autonomy of U.S. monetary policy. It will also describe the extent to which U.S. companies rely on financing by foreign financial services institutions and the consequences of such reliance, as well as the extent to which foreign institutions favor their own manufacturers in purchasing high technology products.

"Financial services institution" is defined to include a broker, dealer, underwriter, clearing agency, information processor, investment company, investment manager, indenture trustee, depository institution and depository institution holding company.

SECTION 636. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS

Section 636 makes conforming amendments to three sections of current law.

A. Quadrennial reports on foreign treatment of U.S. financial institutions

Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 requires the Secretary of the Treasury to report at least every four years on the extent to which foreign countries deny national treatment to U.S. banking and securities organizations. 22 U.S.C. §5352. Section 636(a) adds a definition of national treatment consistent with that adopted in sections 632 through 634 of the bill: "a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities."

B. Negotiations to provide fair trade in financial services

Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 directs the President or his designee to conduct discussions with foreign governments aimed at "ensuring that United States banking organizations and securities companies have access to foreign markets and receive national treatment in those markets." 22 U.S.C. §5353(a)(1). For consistency with sections 632 through 634 of the bill, section 636(b) specifies that access must be "effective."

C. Primary dealers in Government debt instruments

Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 generally prohibits the Federal Reserve System from designating as a primary dealer in U.S. Government securities (or continuing any existing designation of) any person of a foreign country that "does not accord to United States companies the same competitive opportunities in the underwriting and distribution of government debt securities issued by such country as such country accords to domestic companies of such country." 22 U.S.C. §5342. For consistency with sections 632 through 634 of the bill, section 636(c) specifies that "the same competitive opportunities" include "effective market access." In addition, section 636(c) makes two technical changes in phrasing. Section 636(c) affects only the definition of national treatment. It does not alter current law—including the exemptions from and exceptions to section 3502(b)(1)—in any other respect.

TITLE VII—BANK POWERS AND AFFILIATIONS

Subtitle A—Securities Activities

SECTION 701. SHORT TITLE

Section 701 designates title VII as the "Proxmire Financial Modernization Act of 1991."

SECTION 711. ANTI-AFFILIATION PROVISION OF GLASS–STEAGALL ACT REPEALED

Section 711 repeals section 20 and amends section 32 of the Banking Act of 1933. (Sections 16, 20, 21, and 32 of that Act are commonly known as the Glass-Steagall Act.)

Section 20 prohibits any bank that is a member of the Federal Reserve System from affiliating with any company that is "engaged principally in the issue, flotation, underwriting, public sale, or distribution" of securities. 12 U.S.C. §377. Section 711(a) repeals section 20. Section 717 replaces section 20 with a new restriction on securities affiliations of FDIC-insured banks.

Section 32 prohibits any officer, director, or employee of a company "primarily engaged in the issue, flotation, underwriting, public sale, or distribution" of securities from serving simultaneously as an officer, director, or employee of any member bank, except as allowed by the Federal Reserve Board. 12 U.S.C. §78. Section 711(b) makes an exception to section 32 allowing an officer, director, or employee of a "securities affiliate" to serve simultaneously as an officer, director, or employee of a member bank. Section 713 defines "securities affiliate," and section 715(a) adds a new section 10(f)(5) to the Bank Holding Company Act of 1956, restricting a director or senior executive officer of a securities affiliate from serving simultaneously as a director or senior executive officer of any affiliated FDIC-insured depository institution.

SECTION 712. BANK HOLDING COMPANIES AUTHORIZED TO HAVE SECURITIES AFFILIATES

Section 4(a) of the Bank Holding Company Act generally prohibits a bank holding company from owning or controlling voting shares of any company that is not a bank or engaged in certain activities closely related to banking. 12 U.S.C. §1843(a). Section 712 adds a new section 4(c)(15), permitting a bank holding company to own or control shares of a "securities affiliate."

SECTION 713. SECURITIES AFFILIATE DEFINED

Section 713 adds a definition of "securities affiliate" to the Bank Holding Company Act. A "securities affiliate" must (1) be a subsidiary of a bank holding company; (2) not be an FDIC-insured depository institution or a subsidiary of such an institution; (3) engage in the United States in one or more of the securities activities authorized for securities affiliates by new section 10(a)(1)-(2) of the Bank Holding Company Act (added by section 715); and (4) be registered under the Securities Exchange Act of 1934 as a broker or dealer, government securities broker or dealer, or municipal securities dealer. Moreover, the Federal Reserve Board must have approved the bank holding company's acquisition or retention of the company in question.

The requirement that a securities affiliate engage in securities activities "in the United States" does not preclude a securities affiliate from operating abroad.

SECTION 714. INSURED DEPOSITORY INSTITUTION DEFINED

Section 714 adds a definition of "insured depository institution" to the Bank Holding Company Act, incorporating by reference the definition in section 3 of the Federal Deposit Insurance Act. Thus "insured depository institution" covers all FDIC-insured banks and savings associations. 12 U.S.C. §1813(c)(2).

SECTION. 715. ESTABLISHMENT AND OPERATIONS OF SECURITIES AFFILIATES

Section 715 adds a new section 10 to the Bank Holding Company Act to establish a new framework for affiliations between banks and securities firms. New section 10 replaces obsolete section 10 of the Bank Holding Company Act, which amended the Internal Revenue Code.

A. Activities permissible for securities affiliates

Subsection (a) of new section 10 permits a securities affiliate to engage in a broad range of securities activities, as well as certain other activities.

1. Securities activities

Under paragraph (1) of subsection (a), a securities affiliate may engage in securities activities permissible for brokers or dealers registered under the Securities Exchange Act of 1934, including underwriting or dealing in securities of any type. Under paragraph (2), a securities affiliate may engage in securities activities permissible for investment advisers registered under the Investment Advisers Act of 1940, including sponsoring, organizing, controlling, managing, and acting as investment adviser to an investment company.

2. Other activities

Paragraph (3) permits a securities affiliate to engage in, or acquire the shares of a company engaged in, other activities permissible under section 4(c) of the Bank Holding Company Act, such as leasing, mortgage banking, management consulting, financial counseling, selling money orders, or dealing in precious metals. To qualify under paragraph (3), the activity or shares must satisfy a two-part test. First, some provision of section 4(c) permits bank holding companies generally to engage in that activity or acquire those shares. Second, either (1) that provision permits the bank holding company to engage in that activity or acquire those shares without the Board's approval, or (2) the Board permits the bank holding company to engage in that activity or acquire those shares through the securities affiliate.

Paragraph (3) is intended to avoid imposing needless constraints on how bank holding companies structure their nonbanking operations. However, paragraph (3) does not authorize a bank holding company to use a deposit-taking institution as a vehicle for underwriting ineligible securities. This paragraph (3) cannot be used to circumvent section 21 of the Glass-Steagall Act, which prohibits a company that underwrites ineligible securities from accepting deposits. 12 U.S.C. §378(a)(1).

B. Acquiring interest in securities affiliate

Subsection (b) sets forth the standards and procedures applicable to a bank holding company that seeks to acquire shares—or all or substantially all of the assets—of a securities affiliate.

1. Board's approval required

Under paragraph (1) of subsection (b), a bank holding company cannot directly or indirectly acquire or retain shares of a securities affiliate—or all or substantially all of the assets of a securities affiliate—without the Federal Reserve Board's prior approval. The prior approval requirement also applies to acquiring all or substantially all of the assets of a company that would meet the definition of a securities affiliate under new section 2(n) of the Bank Holding Company Act (added by section 713) if the Board permitted the bank holding company to acquire that company.

2. Criteria for approval

Under paragraph (2), the Board cannot approve an application to acquire or retain shares (or all or substantially all of the assets) of a securities affiliate unless the Board determines that the proposed transaction satisfies criteria relating to capital, managerial resources, internal controls, effect on affiliates, concentration of resources, and public benefits—set forth in subparagraphs (A) through (F). The Board's determination that these criteria are satisfied must be made after notice and an opportunity for hearing.

a. Capital

Under subparagraph (A), each of the bank holding company's subsidiary insured depository institutions must be well-capitalized. The bank holding company itself must be adequately capitalized, both before and after the proposed acquisition.

Subsection (k)(1) defines "well capitalized" and "adequately capitalized." A bank is well-capitalized if its capital significantly exceeds the required minimum level for each relevant capital measure, as specified under new section 37(b)(1) of the Federal Deposit Insurance Act (added by section 205). A bank holding company is adequately capitalized if it meets the required minimum level for each relevant capital measure.

b. Managerial resources

Under subparagraph (B) of subsection (b)(2), the bank holding company and each of its subsidiary insured depository institutions must be well-managed, and have been well-managed for at least 12 months. The bank holding company must also have the managerial resources to conduct the securities affiliate's proposed securities activities safely and soundly.

To qualify as "well-managed," an institution or company must, when most recently examined, have received a management rating of 1 under the 5-point CAMEL system (or the equivalent under a comparable system). Moreover, the rating must not have subsequently been downgraded such that it was less than 1 during the 12-month period preceding the Board's action.

c. Internal controls

Subparagraph (C) requires the bank holding company to have established adequate policies and procedures to manage financial and operational risks and provide reasonable assurance of compliance with section 10.

d. No detrimental effect on bank holding company or its insured depository institution subsidiaries

Under subparagraph (D), the acquisition must not adversely affect the safety and soundness of the bank holding company or any of its subsidiary insured depository institutions.

e. Concentration of resources

Subparagraph (E) prohibits the acquisition from resulting, directly or indirectly, in an affiliation between a bank holding company with total assets of more than $35 billion and an investment banking organization with total assets of more than $15 billion. The assets of at least one of the two parties to the acquisition must be below the applicable dollar limitation both at the time of the acquisition and on average during each of the eight calendar quarters preceding the application. If this test is met, asset growth occurring after the acquisition has been lawfully consummated does not require any divestiture. The $35 billion and $15 billion limitations are to be adjusted annually after December 31, 1991 for inflation occurring after that date.

An acquisition results in an "affiliation" for purposes of subparagraph (E) if it causes the parties to become "affiliates" under section 2(k) of the Bank Holding Company Act. 12 U.S.C. §1841(k).

f. Public benefit

Subparagraph (F) applies a net-public-benefits test parallel to that in section 4(c)(8) of the Bank Holding Company Act. 12 U.S.C. §1843(c)(8). The bank holding company's acquisition and operation of the securities affiliate must reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

3. 91-day deadline

Under paragraph (3), an application is deemed approved if the Board fails to act on the application within 91 days after receiving the complete record of the application.

C. Additional investment in securities affiliate

If a bank holding company has already acquired control of the securities affiliate under subsection (b)(1), subsection (c) restricts additional investment in the securities affiliate if the investment is considered capital for purposes of any capital requirement imposed on the securities affiliate under the Securities Exchange Act of 1934. See generally 15 U.S.C. §78o(c)(3). This includes an investment in the form of preferred stock, nonvoting common stock, convertible debt, or subordinated debt considered capital for purposes of such a capital requirement.

1. Prior notice required

Paragraph (1) of subsection (c) prohibits the bank holding company from directly or indirectly making any such additional investment unless the bank holding company has given the Federal Reserve Board prior written notice of the proposed investment, and either (1) the Board issues a written statement of its intent not to disapprove the notice; or (2) the Board does not disapprove the notice within 30 days after the notice is filed. The notice requirement does not apply to individual extensions of credit under a revolving credit agreement previously approved by the Board under paragraph (1).

2. 3-day rule for certain bank holding companies

Paragraph (2) generally shortens the 30-day deadline to 3 business days if the bank holding company would be adequately capitalized after making the investment, and each of the bank holding company's subsidiary insured depository institutions would be well-capitalized. The Board may extend the 3-day deadline, but not past 30 days after the notice was filed.

3. Criteria for disapproving notice

Under paragraph (3), the Board may disapprove a notice of additional investment if any insured depository institution affiliate of the securities affiliate is undercapitalized, or if the Board determines that the bank holding company would be undercapitalized after making the investment or that the investment would be otherwise unsafe or unsound.

D. Provisions applicable if affiliated insured depository institution ceases to be well-capitalized

Subsection (d) imposes sanctions on a bank holding company with a securities affiliate if any of the bank holding company's subsidiary insured depository institutions is not well-capitalized.

1. Certain securities activities restricted unless affiliated institutions are well-capitalized

If any affiliated insured depository institution has ceased to be well-capitalized for more than 60 days, paragraph (1)(B) of subsection (d) generally prohibits the securities affiliate from agreeing to underwrite any securities other than (1) eligible securities that section 5136(b)-(c) of the Revised Statutes (as amended by section 716) expressly authorizes a national bank to underwrite; (2) securities backed by or representing interests in notes, drafts, acceptances, loans, leases, receivables, other obligations, or pools of any such obligations; or (3) securities issued by an open-end investment company registered under the Investment Company Act of 1940.

The Federal Reserve Board has discretion to make limited exceptions to paragraph (1)(B). The Board may permit the securities affiliate to underwrite other securities for up to one year after the affiliated insured depository institution affiliate ceased to be well-capitalized if the institution submits a capital restoration plan to the appropriate Federal banking agency and the agency accepts the plan. Such a plan must specify the steps the institution will take to become well-capitalized and contain such other information as the agency may require. The Board may also obtain from the institution or holding company such information as the Board may need to determine whether to make the exception.

2. Divestiture

Paragraph (2) requires the bank holding company to divest itself of the securities affiliate if any of the bank holding company's subsidiary insured depository institutions has been undercapitalized for more than two years. The Board may extend the deadline for divestiture for up to one year if (1) the appropriate Federal banking agency has accepted the undercapitalized institution's capital restoration plan under section 37(e) of the Federal Deposit Insurance Act (added by section 205), and (2) the Board determines that (a) the bank holding company has attempted in good faith to sell the securities affiliate at a realistic price, and (b) the securities affiliate poses no significant risk to any affiliated insured depository institution.

E. Securities affiliate excluded in determining whether bank holding company is adequately capitalized

Paragraph (1) of subsection (e) requires that a securities affiliate be separately capitalized—i.e., that the bank holding company's investment in the securities be deducted from the bank holding company's capital in calculating compliance with bank holding company capital standards. Thus the bank holding company's investment in the securities affiliate must come from capital over and above what the bank holding company needs to meet its own capital standards. The separate capitalization requirement promotes the safety and soundness of the bank holding company and its subsidiary insured depository institutions.

Specifically, paragraph (1) provides two special rules for determining whether a bank holding company is adequately capitalized. First, the bank holding company's capital and total assets must each be reduced by the amount of (1) the bank holding company's equity investment in any securities affiliate, and (2) any extensions of credit by the bank holding company to any securities affiliate that are considered capital for purposes of any capital requirement imposed on the securities affiliate under the Securities Exchange Act of 1934. Thus each dollar the bank holding company contributes to the securities affiliate's capital results in a one-dollar reduction in the holding company's capital. Second, the securities affiliate's assets and liabilities must not be consolidated with those of the bank holding company.

The special rules of paragraph (1) apply in determining whether a bank holding company meets regulatory capital requirements; they do not affect the bank holding company's disclosure of its financial condition to investors and others.

Those special rules are intended only for securities activities. They are not intended to exempt nonsecurities activities conducted through a securities affiliate from normal capital requirements. Such an exemption would create an artificial incentive to transfer those activities into a securities affiliate. Accordingly, paragraph (2) provides that the special rules of paragraph (1) do not apply to the extent that the Board determines by order that the securities affiliate is engaged in nonsecurities activities.

F. Safeguards relating to securities affiliates

Subsection (f) imposes a series of restrictions and requirements on securities affiliates, their parent bank holding companies, and affiliated insured depository institutions and their subsidiaries. These safeguards are in addition to any restrictions and requirements imposed by other provisions of law.

Under paragraph (11) of subsection (f), the restrictions on a securities affiliate bind any subsidiary of the securities affiliate, and the restrictions on an insured depository institution generally bind any subsidiary of that institution. Moreover, paragraph (14) applies subsection (f) to *any* insured depository institution affiliated with a company engaged in underwriting or dealing in ineligible securities.

1. Extensions of credit and asset purchases restricted

Paragraph (1) restricts transactions between an insured depository institution and an affiliated securities affiliate.

a. In general

Subparagraph (A) of paragraph (1) generally prohibits the insured depository institution from, directly or indirectly, (1) extending credit in any manner to the securities affiliate; (2) issuing a guarantee, acceptance, or letter of credit, including an endorsement or a standby letter of credit, for the benefit of the securities affiliate; or (3) purchasing for its own account financial assets of the securities affiliate.

Subparagraph (A) permits the Federal Reserve Board to make exceptions to the prohibition on purchasing financial assets of the securities affiliate, but only for purchasing—at current market value—(1) securities issued or fully guaranteed by the United States Government or its agencies; or (2) securities that the securities affiliate has been marking to market daily, and that are rated investment grade by at least one nationally recognized statistical rating organization unaffiliated with the insured depository institution or the issuer of the securities. "Current market value" must be determined from reliable and continuously available price quotations, and the Board may allow such asset purchases only to the extent that such quotations are available. See generally 12 U.S.C. §84(a)(2) (loan-to-one-borrower rule for national banks referring to "readily marketable collateral having a market value, . . . determined by reliable and continuously available price quotations").

The restrictions in subparagraph (A) are in addition to any other applicable restrictions, such as sections 23A and 23B of the Federal Reserve Act.

b. Exception for clearing securities

Banks regularly clear transactions (i.e., administer transfers and payments) involving a full range of government and other securities for securities firms, including affiliated firms. Clearing securities transactions in the ordinary course of business necessarily involves an extension of credit by the clearing institution to the securities firm involved. During any trading day, for example, the clearing institution pays for securities bought by the securities firm. The amount paid out at any given time may exceed the amount the institution has received for securities sold, thus temporarily overdrawing the securities firm's clearing account at the institution. These temporary overdrafts are secured by the securities being cleared.

Subparagraph (B) permits an insured depository institution to clear securities for an affiliated securities affiliate by making a narrowly defined exception to subparagraph (A)'s prohibition on extending credit to a securities affiliate. For the exception to apply, five conditions must be satisfied. First, the insured depository institution must be well-capitalized. Second, the extension of credit must be made to acquire or sell securities, and be incidental to clearing transactions in those securities through that institution. Third, both the principal of and the interest on the extension of credit must be fully secured by those securities.

Fourth, the securities must be (1) issued or fully guaranteed by the United States Government or its agencies, or (2) such other securities as the Board may permit. Except in the case of U.S. Government or agency securities, the Board must require whatever additional security or other assurance of performance as may be necessary to prevent such transactions from posing any appreciable risk to the institution.

Fifth, the extension of credit must be for repayment on the same calendar day or—to the extent permitted by the Board—on the next calendar day. A next-day extension of credit (if permitted by the Board) must, at a minimum, meet a three-part test: (1) the securities cannot, in the ordinary course of business, be cleared on the calendar day on which the extension of credit was made; (2) the extension of credit must be for repayment on the calendar day following the day on which the extension of credit was made; and (3) all extensions of credit made under the next-day exception, when aggregated with all other covered transactions of the institution and all affiliated securities affiliates, must not exceed 10 percent of the institution's capital stock and surplus. Under subsection (k)(2)-(3), "covered transaction" and "capital stock and surplus" have the same meaning as in section 23A of the Federal Reserve Act.

c. Other exceptions

Subparagraph (C) permits the Board to make additional exceptions to subparagraph (A) under three conditions. First, the insured depository must be well-capitalized. Second, the transaction must be fully secured in accordance with section 23A(c) of the Federal Reserve Act. Third, the aggregate amount of covered transactions of the institution and all affiliated securities affiliates—excluding purchases of U.S. Government and agency securities, and extensions of credit for same-day securities clearing—must not exceed 5 percent of the institution's capital stock and surplus.

2. Credit enhancement restricted

a. In general

Subparagraph (A) of paragraph (2) generally prohibits an insured depository institution affiliated with a securities affiliate from directly or indirectly extending credit—or issuing or entering into a standby letter of credit, asset purchase agreement, indemnity, guarantee, insurance, or other facility—for the purpose of enhancing the marketability of securities underwritten by the securities affiliate.

b. Exception

Subparagraph (B) permits the Federal Reserve Board to make exceptions under three conditions. First, the insured depository institution must be well-capitalized. Second, the amount of the extension of credit, standby letter of credit, asset purchase agreement, indemnity, guarantee, insurance, or other facility (for simplicity, the "facility") provided by the institution must not exceed the greater of 25 percent of the total amount of the facility, or the amount of the facility provided by any one unaffiliated lender. The affiliate must have the same rights and duties (including the same priority) as all other providers of the facility. Third, the aggregate amount the institution has provided in all outstanding facilities to enhance the marketability of securities underwritten by the affiliated securities affiliates must not exceed 40 percent of the institution's capital stock and surplus. In calculating compliance with the 40-percent limit, the relevant "amount" is the institution's proportional share of the contingent liability represented by the facility. But certain eligible securities receive half-weight in calculating compliance with the 40-percent limit: if section 5136(b)-(c) of the Revised Statutes expressly authorizes a national bank to underwrite or deal in the securities, only half of the institution's proportional share of the facility counts towards the limit.

3. Prohibition on financing purchase of security being underwritten

a. In general

Subparagraph (A) of paragraph (3) generally prohibits a bank holding company or any of its subsidiaries other than a securities affiliate from knowingly extending or arranging for the extension of credit, directly or indirectly, secured by or for the purpose of purchasing any security being underwritten by a securities affiliate of the bank holding company. The prohibition applies to any security that is—or during the past 30 days has been—the subject of a distribution in which such a securities affiliate participates as an underwriter or member of a selling group. The prohibition applies by its terms to any subsidiary of a securities affiliate. Thus an extension of credit falling within subparagraph (A) may be made only by a securities affiliate itself, subject to the investor-protection and margin regulations applicable to brokers or dealers generally.

An insured depository institution or other entity need not prohibit its customers from using proceeds of an overdraft line of credit on a NOW account, credit-card cash advance, or other general-purpose retail line of credit (as distinguished from, e.g., a line of credit on a margin account) to purchase securities being underwritten by the securities affiliate. Such an extension of credit is not "knowingly" made "for the purpose of purchasing" such securities.

b. Exceptions

Subparagraph (B) authorizes the Federal Reserve Board to make exceptions to subparagraph (A). The exceptions are of four types. First, the Board may permit the bank holding company or any of its subsidiaries—other than an insured depository institution or its subsidiaries—to extend credit if the bank holding company is adequately capitalized and each of the bank holding company's subsidiary insured depository institutions is well-capitalized. Second, the Board may permit an insured depository institution or subsidiary of such an institution to extend credit if the securities affiliate is not a principal underwriter of the security in question or a principal member of the selling group, and if in the aggregate all of the bank holding company's securities affiliates have less than a 15-percent interest in the distribution. Thus the first and second possible exceptions apply to any security, and vary according to which entity would make the extension of credit.

The third and fourth possible exceptions cover only specific types of securities, but the Board could apply those exceptions to a bank holding company or any of its subsidiaries, including insured depository institutions. The third exception applies to eligible securities that section 5136(b)–(c) of the Revised Statutes expressly authorizes a national bank to underwrite or deal in. The fourth exception applies to extensions of credit secured by securities of a registered open-end investment company.

4. Restriction on extending credit to make payments on securities

a. In general

Subparagraph (A) of paragraph (4) generally prohibits any insured depository institution affiliated with a securities affiliate from, directly or indirectly, extending credit to an issuer of securities underwritten by the securities affiliate for the purpose of paying the principal of those securities or interest or dividends on those securities. This prohibition does not apply to an extension of credit for a documented purpose other than paying principal, interest, or dividends, if the timing, maturity, and other terms of the credit, taken as a whole, are substantially different from those of the underwritten securities. "Timing" means the timing of the extension of credit compared to the timing of principal, interest, or dividend payments on the securities.

b. Exceptions

Subparagraph (B) permits the Federal Reserve Board to make exceptions to subparagraph (A) if the insured depository institution is well-capitalized, and either (1) section 5136(b)–(c) of the Revised Statutes expressly authorizes a national bank to underwrite and deal in those securities, or (2) the amount of credit extended by the institution does not exceed the greater of 25 percent of the total extension of credit or the amount of credit extended by any one unaffiliated lender.

5. Director and senior executive officer interlocks restricted

a. In general

Subparagraph (A) of paragraph (5) generally prohibits any director or senior executive officer of a securities affiliate from serving simultaneously as a director or senior executive officer of any affiliated insured depository institution.

"Senior executive officer" has the same meaning as "executive officer" under section 22(h) of the Federal Reserve Act (amended by section 216 of the bill). Thus "senior executive officer" means a person with an official title (e.g., president) who participates or has authority to participate in major policymaking functions of the institution or securities affiliate. The term does not include persons who may exercise a certain measure of discretion in performing their duties, but who do not participate in determining major policies of the entity in question, and whose decisions are limited by policy standards fixed by the entity's senior management. Thus, for example, the term does not include a manager or assistant manager of a bank branch unless that person participates, or is authorized to participate, in major policymaking functions of the bank.

b. Exception for small bank holding companies

Subparagraph (B) permits a director or senior executive officer of a securities affiliate to serve simultaneously as a director or senior executive officer of an affiliated insured depository institution if the aggregate assets of that institution and all affiliated insured depository institutions do not exceed $500 million. The $500-million limitation will be adjusted annually for inflation occurring after December 31, 1991.

c. Board's authority to make exceptions

Subparagraph (C) authorizes the Federal Reserve Board to make exceptions to the general prohibition against director and officer interlocks, by regulation or order. In determining whether to make such exceptions, the Board must consider the size of the bank holding companies, insured depository institutions, and securities affiliates involved, any burdens that may be imposed by the general prohibition, the safety and soundness of the insured depository institutions and securities affiliates, and other appropriate factors, including unfair competition in securities activities or the improper exchange of nonpublic customer information. The Board cannot allow more than half of an insured depository institution's directors to be directors or senior executive officers of the securities affiliate, or more than half of the securities affiliate's directors to be directors or senior executive officers of the insured depository institution.

6. Disclosure required

Paragraph (6) requires a securities affiliate to make a conspicuous written disclosure to each of its customers that securities sold, offered, or recommended by the securities affiliate are not deposits, are not insured by the FDIC, are not guaranteed by an affiliated insured depository institution, and are not otherwise an obligation of an insured depository institution (unless such is the case). This disclosure shall be pursuant to regulations prescribed by the Securities and Exchange Commission. The SEC may prescribe the frequency and manner, including the specific language, of the disclosures. The Commission may, for example, require longer disclosures when an account is opened and periodic shorter disclosures thereafter. Any language prescribed by the Commission or otherwise used by securities affiliates should be easily understandable to the customers of securities affiliates.

7. Investment advice restricted

Paragraph (7) prohibits any insured depository institution subsidiary of a bank holding company from expressing any opinion on the value of, or the advisability of purchasing or selling, securities underwritten or dealt in by a securities affiliate of that bank holding company unless the insured depository institution discloses to the customer that the securities affiliate is underwriting or dealing in the securities.

8. Improper disclosure of confidential customer information prohibited

Paragraph (8) generally prohibits the disclosure of nonpublic information about a customer without the customer's consent. An insured depository institution subsidiary of a bank holding company may not disclose such information to a securities affiliate of that bank holding company. Nor may a securities affiliate disclose such information to any affiliated insured depository institution or subsidiary of such an institution. "Nonpublic customer information" generally includes an evaluation of the creditworthiness of an issuer or other customer. The term does not include (1) a customer's name and address, unless the customer has specified otherwise; (2) information obtainable from unaffiliated credit bureaus or similar companies in the ordinary course of business; or (3) information customarily provided to unaffiliated credit bureaus or similar companies in the ordinary course of business by insured depository institutions not affiliated with securities affiliates, or broker-dealers not affiliated with insured depository institutions.

Paragraph (8) does not affect other laws governing the use of nonpublic information, such as the prohibitions on insider trading. Thus, for example, a customer's consent under paragraph (8) does not legitimize an otherwise impermissible use of nonpublic customer information in purchasing or selling securities.

9. Underwriting securities representing obligations originated by affiliate restricted

Paragraph (9) prohibits a securities affiliate from underwriting securities secured by or representing an interest in mortgages or other obligations originated or purchased by an affiliated insured depository institution or subsidiary of such an institution, unless those securities either (1) are rated by at least one unaffiliated, nationally recognized statistical rating organization; or (2) are issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association, or represent interests in such securities.

The rating requirement ensures that the investing public will have the benefit of an impartial expert's evaluation of any such securities underwritten by the securities affiliate. The rating requirement does not apply to securities issued or guaranteed by the three Government-sponsored mortgage financing agencies. Each agency has standards for evaluating mortgages underlying any securities it issues or guarantees, and is responsible for paying the principal and interest on the securities regardless of how the mortgages perform. This gives investors protection at least equivalent to that of a rating by a rating organization.

The Federal Reserve Board may make exceptions to the rating requirement.

Paragraph (9) does not prohibit a securities affiliate from dealing in unrated asset-related securities. Because dealing involves trading in securities that are already in the hands of investors and for which there is a secondary market and a market price, the rating requirement is unnecessary.

10. Reciprocal arrangements prohibited

Paragraph (10) prohibits evasion of subsection (f) or other Federal law through reciprocal arrangements between bank holding companies. Specifically, no bank holding company or any of its subsidiaries may enter into any agreement, understanding, or other arrangement under which one bank holding company or subsidiary agrees to engage in a transaction with, or on behalf of, another bank holding company or subsidiary, in exchange for the agreement of the second bank holding company or any of its subsidiaries to engage in any transaction with, or on behalf of, the first bank holding company or any of its subsidiaries—for the purpose of evading any requirement or restriction of Federal law on transactions between, or for the benefit of, affiliates of bank holding companies.

11. Safeguards apply to certain subsidiaries

Subparagraph (A) of paragraph (11) prohibits any subsidiary of a securities affiliate from doing anything that subsection (f) prohibits the securities affiliate from doing.

Subparagraph (B) generally prohibits any subsidiary of an insured depository institution from doing anything that subsection (f) prohibits the insured depository institution from doing. There is an exception for a subsidiary engaged in securities activities only outside the United States: except as otherwise provided by the Federal Reserve Board, subparagraph (B) does not subject such a subsidiary to those prohibitions.

12. Additional restrictions

Paragraph (12) requires the Federal Reserve Board to prescribe such additional restrictions and requirements as may be necessary or appropriate to avoid any significant risk to insured depository institutions, protect customers, prevent insured depository institutions from subsidizing securities affiliates, and avoid conflicts of interest or other abuses. The Board may act by regulation or order.

13. Exceptions

Paragraph (13) limits the Federal Reserve Board's authority to make exceptions under subsection (f). In exercising any authority to make exceptions to subsection (f)—other than for director and officer interlocks under paragraph (5)—the Board must act only by regulation or order, and only after notice and opportunity for comment. These requirements facilitate proper public scrutiny of the Board's decision, and ensure that review under the Administrative Procedures Act will be available. The Board must also avoid any significant risk to insured depository institutions, protect customers, prevent insured depository institutions from subsidizing securities affiliates, and avoid conflicts of interest or other abuses.

14. Application to all insured depository institutions

Paragraph (14) applies subsection (f) to any insured depository institution affiliated with a company engaged in underwriting or dealing in any security other than certain eligible securities, as well as to that company. Whenever an insured depository institution has such an affiliation, subsection (f) applies in the same manner and to the same extent as if the affiliated company were a securities affiliate, and any company having control of the institution were a bank holding company. Subsection (f) does not apply if the affiliated company underwrites or deals only in securities that section 5136(b)-(c) expressly authorizes national banks to underwrite or deal in.

15. Compliance programs required

Paragraph (15) requires each appropriate Federal banking agency to establish a program for enforcing compliance with subsection (f) by entities under its supervision, and responding to any complaints from customers about inappropriate cross-marketing of securities products or inadequate disclosure. The Securities and Exchange Commission must establish a parallel program for securities affiliates. These programs are intended as additional safeguards against abuse—a speedy and inexpensive supplement to the regulatory, judicial, and other remedies already available to customers.

G. Activities not permissible for affiliated depository institutions

Subsection (g) restricts securities underwriting and dealing by insured depository institutions affiliated with a securities affiliate. Effective one year after a bank holding company acquires control of a securities affiliate, the bank holding company must cause its subsidiary insured depository institutions and their subsidiaries to cease engaging in the United States in certain securities activities. The activities in question are (1) underwriting securities backed by or representing interests in notes, drafts, acceptances, loans, leases, receivables, other obligations, or pools of any such obligations, originated or purchased by the insured depository institution or its affiliates; and (2) underwriting or dealing in any other securities, except to the extent that section 5136(b)-(c) of the Revised Statutes expressly authorizes a national bank to underwrite or deal in those securities. Subsection (g) will force the bank holding company to transfer any such activities to the securities affiliate.

Other provisions of the bill also restrict the securities activities of a bank affiliated with a securities affiliate, and thus promote the transfer of activities to the securities affiliate. Sections 731 and 732 limit the bank's exemption from registration as a broker or dealer. Section 716(b)(3) restricts a national bank's underwriting, dealing in, and brokerage of municipal securities and commercial paper.

H. Approval of securities activities under section 4(c)(8) restricted

Subsection (h) is intended to prevent section 4(c)(8) of the Bank Holding Company Act from being used to circumvent new section 10. Subsection (h) generally requires the Federal Reserve Board to deny any application by a bank holding company—under any provision of section 4(c)—to engage in, or acquire the shares of a company engaged in, underwriting or dealing in securities. There are two exceptions to this general prohibition. The first is for underwriting or dealing in securities that section 5136(b)-(c) expressly authorizes a national bank to underwrite or deal in. The second is for applications under section 4(c)(13), which permits a bank holding company to control shares of a company that does no business in the United States except as an incident to its international or foreign business. 12 U.S.C. §1843(c)(13). As used in subsection (h), "application" includes any formal request for expanded authority or diminished restrictions, whether by regulation, order, letter, or otherwise.

I. Bankers' banks

A banker's bank is a bank owned by other depository institutions, directly or through a bankers' bank holding company, and organized to engage exclusively in providing services to other depository institutions. *See, e.g.*, 12 U.S.C. §27(b)(1). A banker's bank holding company is a company that controls a bankers' bank and is itself controlled by depository institutions. The shares of a banker's bank holding company are usually owned by more than 20 depository institutions. As those depository institutions do not individually control the bankers' bank holding company, it could be argued that they would not be affiliates of any securities affiliate of the bankers' bank holding company, and thus would not be subject to the firewall or other provisions of new section 10.

Subsection (i) applies a special rule to any shareholder of or participant in a bankers' bank holding company if the shareholder or participant and its affiliates, in the aggregate, control more than 5 percent of any class of the bankers' bank holding company's voting shares. Subsection (i) treats each such shareholder or participant, and each subsidiary of such a shareholder or participant, as if it were a subsidiary of the bankers' bank holding company. Thus each such shareholder, participant, or affiliate will be treated as an affiliate of the securities affiliate for purposes of new section 10. Thus, for example, a depository institution controlling 10 percent of the voting shares of a bankers' bank holding company may extend credit to any securities affiliate of the bankers' bank holding company only to the extent permitted under subsection (f)(1).

"Shareholder" includes a holder of common stock, preferred stock, or convertible debt. "Participant" refers to a depository institution that, although not holding shares of the bankers' bank holding company, has an interest in the company's success, such as through a joint venture. A director of a bankers' bank holding company who must hold shares of the company to qualify as a director is not a "shareholder" of the company for purposes of subsection (i).

J. No limitation on other authority or duties

Subsection (j) specifies that nothing in new section 10 limits any authority of an appropriate Federal banking agency or the Securities and Exchange Commission to impose restrictions or requirements more stringent than those in section 10. Nor does anything in new section 10 limit any disclosure or registration requirements under the securities laws.

K. Definitions

Subsection (k) defines various terms used in new section 10.

1. Capital categories

Paragraph (1) of subsection (k) defines terms relating to the capitalization of insured depository institutions and bank holding companies. Under subparagraph (A), "well-capitalized," "adequately capitalized," and "undercapitalized" have the same meaning as in section 37(b)(1) of the Federal Deposit Insurance Act (added by section 205 of the bill).

Under subparagraph (B), a bank holding company is "adequately capitalized" if it meets the required minimum level for each relevant capital measure established by the Federal Reserve Board for bank holding companies, and "undercapitalized" if it fails to meet the required minimum level for any such relevant capital measure.

2. Capital stock and surplus; covered transaction

Paragraph (2) gives "capital stock and surplus" the same meaning as in section 23A of the Federal Reserve Act.

Paragraph (3) generally incorporates the definition of "covered transaction" in section 23A(b)(7) of the Federal Reserve Act, but requires that any exemptions the Federal Reserve Board has granted under section 23A(e) be disregarded. 12 U.S.C. §371c(b)(7), (g). Thus the Board's authority to make exceptions to section 23A cannot be used to undercut provisions of new section 10(f)(1) that refer to "covered transactions": i.e., subparagraph (B)(iii)(II)(cc), relating to overnight clearing of securities; and subparagraph (C)(ii), relating to other exceptions to the general prohibition against extensions of credit, guarantees, and asset purchases.

3. Dealing

Under paragraph (4), "dealing" and "deal in" mean acting as a "dealer" as defined in section 3(a)(5) of the Securities Exchange Act of 1934 (amended by section 732 of the bill), but do not include purchasing or selling securities solely for the account of another person.

4. Foreign banks

Paragraph (6) deems a branch or agency of a foreign bank, or a commercial lending company controlled by a foreign bank, to be a "bank."

5. Security

Subparagraph (A) of paragraph (7) generally incorporates the definition of "security" in section 3(a)(10) of the Securities Exchange Act of 1934. 15 U.S.C. §78c(a)(10).

Subparagraph (B) specifies that "security" does not include any of the following: (1) a contract of insurance; (2) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a depository institution; (3) a share account issued by a savings association if the account is insured by the FDIC; (4) a banker's acceptance; (5) a letter of credit issued by a depository institution; or (6) a debit account at a depository institution arising from a credit card or similar arrangement.

Under subparagraph (C), the Federal Reserve Board may, by regulation, exempt from the definition of "security" a banking product that national banks have traditionally and customarily originated or handled if the exemption is consistent with the purposes of new section 10. This limited exemptive authority is provided in case a traditional banking product (such as loan participations or mortgage notes) were at some future time determined to be a security under section 3(a)(10). The reference to "loan participations or mortgage notes" illustrates the types of instruments covered by the Board's exemptive authority. It is not intended to imply that those instruments are "securities" under section 3(a)(10), or to affect in any way judicial determinations that those instruments are not "securities" under section 3(a)(10).

6. Underwriting

Under paragraph (8), "underwriting" generally means acting as an "underwriter" as defined in section 2(11) of the Securities Act of 1933 (15 U.S.C. §77(b)(11)), but does not include effecting sales exclusively to accredited investors as part of a primary offering of securities by an issuer, not involving a public offering, under section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the Securities and Exchange Commission's regulations. "Accredited investors" must qualify under section 2 of the Securities Act and the Commission's regulations.

L. Transition rule regarding exemptions to section 10(f)

Section 715(b) limits the Federal Reserve Board's authority to make exceptions to new section 10(f) of the Bank Holding Company Act (added by section 715(a). The Board may not make exceptions under the following provisions of section 10(f) sooner than one year after the bill becomes law: paragraph (1)(A)(iii)(II), relating to purchasing investment-grade, marked-to-market securities from a securities affiliate for an insured depository institution's own account); paragraph (2)(B), relating to credit enhancement for securities underwritten by a securities affiliate; paragraph (3)(B), relating to financing the purchase of securities being underwritten by a securities affiliate; and paragraph (9)(B), relating to underwriting securities secured by or representing an interest in certain obligations originated by affiliated insured depository institutions. The Board may not make exceptions under section 10(f)(1)(B)(iii)(II), relating to extending credit overnight to clear securities sooner than three years after the bill becomes law.

M. Transition rule for securities affiliates approved under section 4(c)(8)

Acting under section 4(c)(8) of the Bank Holding Company Act, the Federal Reserve Board has authorized bank holding companies to engage through nonbank subsidiaries in a wide range of underwriting and dealing activities not permissible for national banks. Section 715(c) requires a bank holding company to convert such a subsidiary into (or transfer those activities to) a securities affiliate approved under new section 10 of the Bank Holding Company Act (added by section 715(a)). The conversion generally must occur within 18 months after the bill becomes law. The Board may, for good cause shown, extend the 18-month deadline for up to 18 additional months. If a bank holding company files an application under new section 10(b) within 180 days after the bill becomes law, the initial 18-month period does not begin to elapse until 180 days after the Board acts on the application.

N. Conforming amendment regarding conditional approval of applications

Section 4(a)(2) of the Bank Holding Company Act authorizes the Federal Reserve Board to impose conditions (i.e., restrictions or requirements) on any activities permitted under section 4(c)(8) of that Act. 12 U.S.C. §1843(a)(2). Section 715(d) of the bill amends section 4(a)(2) to give the Board the same authority to impose conditions under new section 10 (added by section 715(a)) as under section 4(c)(8). Consistent with section 712, section 715(d) also specifies that a bank holding company may own voting shares of a securities affiliate.

O. Amendment to the Federal Reserve Act

Section 23B(b)(1)(B) of the Federal Reserve Act currently prohibits a member bank or any of its subsidiaries from knowingly acquiring any security "during the existence of any underwriting or selling syndicate" if any affiliate of the bank is a principal underwriter of the security. 12 U.S.C. §371c-1(b)(1)(B). Section 715(e) amends section 23B(b)(1)(B) to make the prohibition continue for 30 days after the underwriting or selling syndicate terminates.

P. Exemption from section 305(b) of the Federal Power Act

Section 305(b) of the Federal Power Act generally prohibits a person from serving simultaneously as an officer or director of a public utility and an officer or director of "any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility." 16 U.S.C. §825d(b). Section 715(f) makes an exception permitting an officer or director of a public utility to serve simultaneously as an officer or director of a securities affiliate permitted by new section 10 of the Bank Holding Company Act (added by subsection (a)) or a depository institution permitted by section 5136(b) of the Revised Statutes (as amended by section 716) to underwrite or participate in marketing securities (including commercial paper) of a public utility, so long as the securities affiliate or institution does not actually underwrite or participate in marketing securities of the particular public utility for which the person serves or proposes to serve as an officer or director.

SECTION 716. BANK SECURITIES AND INVESTMENT ACTIVITIES

Section 5136 of the Revised Statutes sets forth the corporate powers of national banks. 12 U.S.C. §24.

A. Restatement and reorganization of section 5136

Section 5136 is over one hundred years old and has been amended many times during its history, rendering it extremely convoluted. Section 716(a) recodifies section 5136, conforming its format to the rest of the banking laws.

The restatement and reorganization of section 5136 in section 716(a) makes no substantive change in the existing law and is not intended to alter, replace, or supersede any of the Office of the Comptroller of the Currency's regulations, orders, or interpretations of section 5136. Consequently, the restatement does not affect any court decisions based on a provision in, an interpretation of, or a regulation or an order issued pursuant to section 5136. The intent of the restatement in section 716(a) is strictly to make section 5136 easier to read and comprehend.

B. Commercial paper

Section 716(b) amends recodified section 5136 to make several substantive changes in national bank securities powers. Section 716(b)(1) authorizes a national bank to purchase, sell, and underwrite commercial paper of a type not ordinarily purchased by the general public that is exempt from registration requirements under section 3(a)(3) of the Securities Act. This authority builds upon, and is an extension of, national banks' current authority to discount, buy, and sell commercial paper as part of the business of banking.

C. Information processing and clearing functions

Section 716(b)(1) also authorizes a national bank to distribute or publish on a current and continuing basis information regarding securities transactions or quotations and perform clearing functions, to the extent allowed by section 3(a)(22)(A) or 3(a)(23)(B)(iii) of the Securities Exchange Act.

D. Eligible securities activities

Statutes other than section 5136 currently authorize a national bank to underwrite and deal in various securities of the Federal Agricultural Mortgage Corporation, the Financing Corporation, and the Resolution

Funding Corporation. 12 U.S.C. §§ 1441a(e)(6), 1441b(f)(6), 2279aa-12(c)(1). Section 716(b)(2) incorporates this authority into section 5136(d)(2).

E. Securities powers restricted

Section 716(b)(4) precludes a national bank that has been affiliated with a securities affiliate for more than one year from purchasing or selling (as principal or agent), or underwriting, municipal securities or commercial paper.

F. Technical and conforming amendments

Section 716(c) conforms cross-references to section 5136 in other statutes to the recodification made by section 716(a)

SECTION 717. SECURITIES AFFILIATIONS OF FDIC-INSURED BANKS

Section 717(a) adds a new section 18(s) to the Federal Deposit Insurance Act, restricting affiliations between FDIC-insured banks and securities firms.

A. In general

Paragraph (1) of new section 18(s) generally prohibits any insured bank from being an affiliate of any company that, directly or indirectly, acts in the United States as an underwriter or dealer of any security. There are two exceptions. The first permits affiliation with a securities affiliate under new section 10 of the Bank Holding Company Act (added by section 715). The second permits affiliation with a company that confines its underwriting and dealing to securities that section 5136(b)-(c) of the Revised Statutes expressly authorizes a national bank to underwrite or deal in.

B. Exception for certain limited purpose banks

Paragraph (2) exempts three types of insured banks from the general prohibition in paragraph (1): trust company banks, as defined in section 2(c)(2)(D) of the Bank Holding Company Act; credit card banks, as defined in section 2(c)(2)(F); and industrial banks, as defined in 2(c)(2)(H). 12 U.S.C. §1841(c)(2). Thus these banks are free to form new affiliations with companies engaged in underwriting or dealing in securities.

C. Grandfather provision

Paragraph (3) permits an affiliation that existed on July 15, 1991, to continue notwithstanding paragraph (1). Paragraph (3) also permits an insured bank that has such an affiliation to form new affiliations with companies engaged in underwriting or dealing in securities.

D. Transition rule

Under paragraph (4), an affiliation not grandfathered under paragraph (3) may continue for two years after the bill becomes law.

E. Definitions

Paragraph (5) defines various terms used in new section 18(s).

1. Company

Subparagraph (B) incorporates the definition of "company" in section 2(b) of the Bank Holding Company Act. 12 U.S.C. §1841(b).

2. Dealer

Subparagraph (C) incorporates the definition of "dealer" in section 3(a)(5) of the Securities Exchange Act of 1934. 15 U.S.C. §78c(a)(5).

3. Security

The definition of "security" in subparagraph (D) parallels that in new section 10(k)(7) of the Bank Holding Company Act (added by section 715). Clause (i) of subparagraph (D) generally incorporates the definition of "security" in section 3(a)(10) of the Securities Exchange Act of 1934. 15 U.S.C. §78c(a)(10).

Clause (ii) specifies that "security" does not include any of the following: (1) a contract of insurance; (2) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a depository institution; (3) a share account issued by a savings association if the account is insured by the FDIC; (4) a banker's acceptance; (5) a letter of credit issued by a depository institution; or (6) a debit account at a depository institution arising from a credit card or similar arrangement.

Under clause (iii), the Federal Reserve Board may, by regulation, exempt from the definition of "security" a banking product that national banks have traditionally and customarily originated or handled (such as loan participations or mortgage notes) if the exemption is consistent with the purposes of new section 18(s). As discussed above in connection with new section 10(k)(7), this limited exemptive authority is provided in case a traditional banking product were at some future time determined to be a security under section 3(a)(10), and does not imply that such products are "securities" under that section.

4. Underwriter

Subparagraph (E) incorporates the definition of "underwriter" in section 2(11) of the Securities Act of 1933. 15 U.S.C. §77(b)(11).

F. Conforming amendments

Section 18(j)(4) of the Federal Deposit Insurance Act authorizes civil money penalties against insured State nonmember banks that violate certain statutes, including section 20 of the Banking Act of 1933. 12 U.S.C. §1828(j)(4). As section 711(a) has repealed section 20 and section 717(a) has replaced section 20 with new section 18(s), section 717(b)(1) replaces the reference to section 20 in section 18(j)(4)(A) with a reference to new section 18(s).

Section 717(b)(2) repeals obsolete section 18(j)(3) of the Federal Deposit Insurance Act.

SECTION 718. EFFECT ON STATE LAWS PROHIBITING THE AFFILIATION OF BANKS AND SECURITIES COMPANIES

Section 7 of the Bank Holding Company Act currently provides that the Act does not restrict the States' authority over companies, banks, bank holding companies, and subsidiaries of those entities. 12 U.S.C. §1846. Section 718 makes a limited exception to that rule by providing that a State may not prohibit an affiliation between a bank or bank holding company and a securities affiliate solely because the securities affiliate is engaged in securities activities permissible under new section 10(f)(1)-(2) of the Bank Holding Company Act (added by section 715).

SECTION 719. DIVERSIFIED FINANCIAL HOLDING COMPANIES

Section 719 creates a new category of bank holding companies, "diversified financial holding companies."

A. In general

Section 719(a) adds a new section 4(k) to the Bank Holding Company Act, permitting a diversified financial holding company to continue to engage in certain financial activities not otherwise permissible for a bank holding company, or to acquire or retain shares of a company engaged in such activities. The activities in question are (1) insurance underwriting activities, (2) insurance agency activities, and (3) any other activities that the Federal Reserve Board has determined to be financial after notice and opportunity for hearing. The diversified financial holding company must have been lawfully engaging in those activities, directly or through a subsidiary, as of July 1, 1991.

B. Restrictions on joint marketing

Section 4(k) also imposes restrictions on joint marketing by a diversified financial holding company's subsidiary banks. Such a bank may not offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under section 4(c)(8) or new section 10 of the Bank Holding Company Act. Nor may the bank permit its products or services to be offered or marketed in connection with an affiliate's products or services, unless (1) the Federal Reserve Board has determined by regulation that bank holding companies may provide such products and services under section 4(c)(8) or section 10; or (2) those products or services of the bank were offered or marketed in the same manner as of March 5, 1987.

The joint marketing restrictions are intended to minimize the unfair advantage that diversified financial holding companies might otherwise have over other bank holding companies.

C. Diversified Financial Holding Company Defined

Section 719(b) adds a definition of "diversified financial holding company" to section 2 of the Bank Holding Company Act. Under the definition, a diversified financial holding company is a bank holding company that meets a five-part test. First, the company must engage only in activities that permissible for bank holding companies generally under section 4 of the Bank Holding Company Act, or financial activities permissible under new section 4(k).

Second, the company must have devoted 80 percent or more of its consolidated assets, on average during the preceding calendar year, to activities permissible under one or more of four specific provisions of the Bank Holding Company Act: section 4(c)(8), relating to activities determined by the Federal Reserve Board to be closely related to banking; section 4(c)13, relating to international or foreign activities; section 4(c)(14), relating to export trading companies; and new section 10, relating to securities activities. (An activity is permissible under a given provision only if it is conducted in compliance with any restriction or requirement imposed by or pursuant to that provision.) Assets of an insured depository institution or its subsidiaries cannot be used to satisfy the 80-percent test. Insurance activities permissible under section 4(c)(13) but not permissible under section 4(c)(8) may only be used to satisfy 10 percentage points of the 80-percent test.

Third, the company's subsidiary insured depository institutions and their subsidiaries must together, on average during the preceding calendar year, have constituted 20 percent or less of the company's consolidated assets.

Fourth, the company's subsidiary depository institutions (whether insured or uninsured, domestic or foreign) and any subsidiaries of those institutions, must together, on average during the preceding calendar year, have constituted 40 percent or less of the company's consolidated assets. "Depository institutions" includes, for example, Edge corporations that accept deposits; it excludes entities that do not accept deposits, even if those entities have legal authority to accept deposits.

Fifth, the company must file with the Federal Reserve Board a written notice of its intent to be treated as a diversified financial services company.

SECTION 720. EFFECTIVE DATE

Under section 720, the amendments made by subtitle A become effective 90 days after the bill becomes law.

Subtitle B—Brokers and Dealers

SECTION 731. DEFINITION OF BROKER

Section 3(a)(4) of the Securities Exchange Act of 1934 (the "Exchange Act") currently excludes banks from its definition of "broker." 15 U.S.C. §78o(a)(4). As a result, bank securities activities are exempt from all but the anti-fraud provisions of the Exchange Act.

A. In general

Section 731 amends the Exchange Act's definition of "broker" to include banks under certain specific circumstances and subject to certain specific exemptions. A bank will not be considered a broker unless the bank (1) "publicly solicits" brokerage business, or (2) receives "incentive compensation" for brokerage business. A bank that does either will be subject to broker-dealer registration and regulation under the Exchange Act unless its brokerage activities fall within one of the nine exceptions described below. "Publicly solicits" is to be broadly interpreted, and includes not only general advertisements or public telephone solicitation but also systematic solicitation of existing customers through such items as materials included with account statements. "Incentive compensation" is the payment of commissions or similar remuneration based on effecting transactions in securities. "Incentive compensation" does not include fees calculated on a basis unrelated to or unconnected with effecting transactions in securities, such as an annual administration charge, an hourly charge for fiduciary consulting services, or fees calculated as a percentage of assets under management.

B. Exemptions

New section 3(a)(4)(C) includes nine specific exemptions that allow a bank to continue engaging in certain brokerage activities directly in the bank without being deemed a "broker" under the Exchange Act. A bank qualifying for one or more of these exemptions may remain subject to SEC regulation for some purposes. The exemptions are not grants of authority and do not affect any restrictions applicable under Federal banking laws. They should not be used to draw inferences about the Federal banking laws, including the provisions added by title VII–A.

1. Networking

A bank will not be deemed a "broker" because of transactions in connection with a "networking" arrangement, in which the bank contracts with a registered broker-dealer, whether or not affiliated with the bank, to provide brokerage services on the bank's premises on a fully disclosed basis. Bank employees who perform other than clerical or ministerial functions in connection with the transactions or who receive incentive compensation must qualify and be regulated as securities registered representatives.

2. Trust activities

A bank will not be deemed a "broker" because of transactions effected in the course of trust activities, including securities safekeeping, self-directed individual retirement accounts, and managed agency accounts, unless the bank (1) receives incentive compensation for such activities or (2) publicly solicits brokerage business other than by advertising such activities in conjunction with advertising other trust activities.

3. Certain securities

A bank will not be deemed a "broker" because of transactions in certain specified securities: "exempted securities" under the Exchange Act, such as United States Government securities, but excluding municipal securities; commercial paper; bankers' acceptances; and commercial bills.

4. Municipal securities

A bank that does not have a securities affiliate under new section 10 of the Bank Holding Company Act will not be deemed a "broker" because of transactions in municipal securities. A bank that does have such a securities affiliate may engage in transactions in municipal securities for one year after the affiliation without being deemed a "broker." After one year, the bank would no longer receive the exemption. Thus, if the bank otherwise fell within the definition of "broker," it would have to register as a broker or transfer its municipal securities brokerage activities to the securities affiliate.

5. Employee and shareholder benefit accounts

A bank will not be deemed a "broker" because of transactions for employee or shareholder benefit accounts. Such accounts include bonus, profit-sharing, pension, retirement, thrift, savings, incentive, stock purchase, stock ownership, stock appreciation, stock option, dividend reinvestment, or similar plans.

6. Money market sweep accounts

A bank will not be deemed a "broker" because of transactions that invest or reinvest depositors' funds in money market accounts.

7. Affiliate transactions

A bank will not be deemed a "broker" because of transactions for the account of any affiliate, as that term is defined in section 2 of the Bank Holding Company Act.

8. Private placements

A bank that does not have a securities affiliate under new section 10 of the Bank Holding Company Act will not be deemed a "broker" because of selling securities exclusively to accredited investors (as defined in section 3 of the Securities Act) as part of a primary offering of securities by an issuer not involving a public offering. A bank that does have a securities affiliate may engage in such private placements of securities for one year after the affiliation without being deemed a "broker"; the bank's exemption would then cease. As a result, if the bank otherwise fell within the definition of "broker," it would have to register as a broker or transfer its private placement activities to the securities affiliate.

9. Fewer than 1,000 transactions

A bank will not be deemed a "broker" if it limits its brokerage activities that do not meet the other eight exemptions to fewer than 1,000 transactions per year. This exemption applies only if the bank is not affiliated with a separate registered broker-dealer.

10. Banks subject to section 15(e)

Section 731 excludes from the definition of "broker" banks subject to section 15(e) of the Exchange Act and to any restrictions and requirements the SEC deems appropriate.

SECTION 732. DEFINITION OF DEALER

A. In general

Section 732 is a complementary amendment to the definition of "dealer" in section 3(a)(5) of the Exchange Act. 15 U.S.C. §78c(a)(4). Like the current definition of "broker," the current definition of "dealer" in the Exchange Act specifically excludes banks. Section 732 includes banks within the general definition of dealer ("any person engaged in the business of buying and selling securities for his own account through a broker or otherwise"), but creates four specific exemptions for banks that are similar to the "broker" exemptions. Like the "broker" exemptions, the "dealer" exemptions are not grants of authority and do not affect any restrictions applicable under Federal banking laws. They should not be used to draw inferences about the Federal banking laws, including the provisions added by title VII–A.

B. Exemptions

1. Certain securities

A bank will not be deemed a "dealer" because of transactions in certain specified securities: "exempted securities" under the Exchange Act, such as United States Government securities, but excluding municipal securities; commercial paper; bankers' acceptances; and commercial bills.

2. Municipal securities

A bank that does not have a securities affiliate under new section 10 of the Bank Holding Company Act will not be deemed a "dealer" because of transactions in municipal securities. A bank that does have such a securities affiliate may engage in transactions in municipal securities for one year after the affiliation without being deemed a "dealer"; the bank's exemption would then cease. As a result, if the bank otherwise fell within the definition of "dealer," it would have to register as a dealer or transfer its municipal securities dealing activities to the securities affiliate.

3. Trust activities

A bank will not be deemed a "dealer" because it buys and sells securities for investment purposes for the bank or for accounts for which the bank acts as a trustee or fiduciary.

4. Securitization

A bank that does not have a securities affiliate under new section 10 of the Bank Holding Company Act will not be deemed a "dealer" because it engages in issuing or selling securities backed by or representing an interest in obligations originated or purchased by the bank, its affiliates, or its subsidiaries, if the underlying obligations are not third-party securities. A bank that does have such a securities affiliate may engage in such activities for one year after the affiliation without being deemed a "dealer"; the bank's exemption would then cease. As a result, if the bank otherwise fell within the definition of "dealer," it would have to register as a dealer or transfer these activities to the securities affiliate.

Section 732 preserves the existing distinction between dealer activities and non-dealer principal transactions, including bank investment and trading portfolio transactions for its own account or as a trustee or fiduciary, as reflected in current SEC interpretive positions.

SECTION 733. POWER TO EXEMPT FROM THE DEFINITIONS OF BROKER AND DEALER

Section 732 adds a new section 3(e) to the Exchange Act, authorizing the SEC to exempt by regulation or order any person or class of persons from the definition of "broker" or "dealer" if the SEC finds that the exemption is consistent with the public interest, the protection of investors, and the purposes of the Exchange Act.

SECTION 734. EFFECTIVE DATE

Under section 734, the amendments made by subtitle B become effective 270 days after the bill becomes law.

Subtitle C—Bank Investment Company Activities

SECTION 741. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANK

Section 741 amends the Investment Company Act of 1940 to give the Securities and Exchange Commission rulemaking authority over certain situations involving banks affiliated with management investment companies (mutual funds and closed-end investment companies) and unit investment trusts.

Section 741(a) amends section 17(f) of the Investment Company Act (15 U.S.C. §80a-17(f)) to clarify and strengthen the SEC's authority to adopt regulations governing how banks may serve as custodians of affiliated management investment companies. A registered investment company is permitted to place its assets with a bank that is an affiliated person, promoter, organizer, sponsor, or principal underwriter for such a company only in accordance with regulations or orders that the SEC may adopt after written consultation with the appropriate Federal banking agency.

Section 26(a) of the Investment Company Act currently prohibits a principal underwriter or depositor of a unit investment trust from selling securities issued by the trust unless the trust, by appropriate agreement, designates as trustee a bank meeting certain qualifications. 15 U.S.C. §80a-26(a)(1). Section 741(b) amends section 26(f) to allow a unit investment trust to designate an affiliated bank as trustee only in accordance with regulations or orders that the SEC may adopt after written consultation with the appropriate Federal banking agency.

This section also amends section 36(a) of the Investment Company Act to permit the SEC to bring a civil action alleging breach of fiduciary duty involving personal misconduct against a person who acts as custodian for a registered investment company. The SEC may already bring such actions against persons acting as officers, directors, investment advisers or depositors of an investment company and against principal underwriters of an open-end company or unit investment trust.

SECTION 742. AFFILIATED TRANSACTIONS

Section 10(f) of the Investment Company Act currently prohibits a registered investment company from purchasing any security (except a security of which it is the issuer) during the existence of any underwriting or selling syndicate if a principal underwriter of the security is an officer, director, member of an advisory board, investment adviser, or employee of the investment company or affiliate of such a party (unless the investment company is itself acting as a principal underwriter). 15 U.S.C. §80a-10(f). Section 742(a) amends section 10(f) to further prohibit an investment company from knowingly acquiring a security during an underwriting if the proceeds of the security will be used to retire an indebtedness owed to an affiliated person of the investment company. Section 742(b) specifies that for purposes of section 10(f), a person that is under common control with an investment adviser shall be deemed to be an affiliated person of the investment company advised by that adviser.

SECTION 743. BORROWING FROM AN AFFILIATED BANK

Section 18(f) of the Investment Company Act currently restricts the ability of a registered open-end investment company (mutual fund) to issue a class of "senior security" and to borrow from a bank. 15 U.S.C. §80a-18(f). Section 743 adds a new section 18(f)(3), prohibiting a mutual fund from from borrowing from a bank if that bank or any affiliated person of that bank is an affiliated person, promoter, organizer, or sponsor of or principal underwriter for that mutual fund, except pursuant to such regulations as the SEC determines to be in the public interest and consistent with the protection of investors.

SECTION 744. INDEPENDENT DIRECTORS

Section 2(a)(19)(A)(v) of the Investment Company Act currently defines "interested person" of an investment company to include any registered broker or dealer and any affiliated person of such broker or dealer. 15 U.S.C. §80a-(a)(19)(A)(v). Section 744 amends section 2(a)(19)(a)(v) to include in the definition of "interested person" any person or any affiliate of a person that during the preceding six-month period acts as custodian or transfer agent or effects portfolio transactions for, engages in principal transactions with, or loans money to an investment company or any other investment company having the same investment adviser, principal underwriter, sponsor or promoter.

Under new section 2(a)(19)(a)(v), officers, directors or employees of a bank or other financial services provider that effects transactions in government or municipal securities for an investment company without registering as a broker-dealer would become "interested persons" of that investment company. While such persons would not be prevented from serving as directors of that investment company, they would be considered "interested persons" for purposes of the required percentage of independent directors of the investment company. The amendment is effective one year after the bill becomes law.

Section 10(c) of the Investment Company Act currently prohibits a registered investment company from having a majority of its board of directors consist of individuals who are officers, directors, or employees of any one bank. 15 U.S.C. §80a-10(c). Section 744(b) amends section 10(c) to extend this prohibition to any one bank and its subsidiaries, any one bank holding company and its affiliates and subsidiaries. This eliminates the potential to circumvent the legislative intent of section 10(c) by a bank operating under a multiple bank holding company structure.

SECTION 745. ADDITIONAL SEC DISCLOSURE AUTHORITY

Section 745 amends section 35(a) of the Investment Company Act to prohibit a registered investment company or a person selling any security issued by a registered investment company from representing or implying that the company or its security is guaranteed, sponsored, recommended or approved by the United States or its agencies; insured by the FDIC; or guaranteed by or otherwise an obligation of any insured institution. The SEC must require persons who issue or sell securities of an investment company and have specified relationships with a bank or bank holding company to make certain disclosures prominently. Such a person is required to disclose that the security is not insured by the FDIC, is not guaranteed by an affiliated bank or insured institution, and is not otherwise an obligation of such a bank or institution. This provision is similar to the requirements placed on securities affiliates under new section 10(f)(6) of the Bank Holding Company Act.

The SEC must consult with the appropriate Federal banking agencies before adopting such regulations. Section 745 is not intended to affect the SEC's authority to require disclosure under other provisions of the Federal securities laws.

Section 35(d) of the Investment Company Act currently prohibits a registered investment company from adopting as part of its name any words that the SEC determines to be deceptive or misleading. Section 745(b) amends section 35(d) to further prohibit a registered investment company that has an insured depository institution or its affiliate as an affiliated person, promoter, or principal underwriter from adopting as part of the name, title, or logo of the registered investment company or of any securities of which it is the issuer any word or design that is the same as, similar to, or a variation of the name, title, or logo of that insured institution or its affiliate.

The SEC may exempt an investment company from new section 35(d) only if it finds the exemption is consistent with the public interest, the protection of investors, and the purposes of the Investment Company Act.

SECTION 746. DEFINITION OF BROKER UNDER THE INVESTMENT COMPANY ACT OF 1940

Section 746 amends the definition of "broker" in section 2(a)(6) of the Investment Company Act to reflect section 731's amended definition of that term in the Securities Exchange Act. The amended definition continues to exclude any person, including a bank, that would be deemed a "broker" solely because such person is an underwriter for one or more investment companies.

SECTION 747. DEFINITION OF DEALER UNDER THE INVESTMENT COMPANY ACT OF 1940

Section 747 similarly amends the definition of "dealer" in section 2(a)(11) of the Investment Company Act to reflect section 732's amended definition of that term in the Securities Exchange Act. The amended definition continues to exclude insurance companies and investment companies.

SECTION 748. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES

Section 202(a)(11) of the Investment Advisers Act currently excludes a bank or a bank holding company that serves as an investment adviser to a registered investment company from the Act's definition of "investment adviser." 15 U.S.C. §80b-2(a)(11). Section 748(a) amends section 202(a)(11) to remove this exclusion. A bank may establish a separate subsidiary or affiliate in order to register as an investment adviser. A bank is also permitted to establish a "separately identifiable department or division" to act as an investment adviser, in which case only the department or division and not the bank or bank holding company would be required to register. The SEC would have the same regulatory authority over such a bank department or division as it has over other investment advisers.

Section 748(b) amends section 202(a)(25) to include a definition of "separately identifiable department or division" of a bank. A "separately identifiable department or division" is a unit that is under the direct supervision of an officer designated by the bank's board of directors to conduct the investment adviser activities and supervise all bank employees engaged in such activities. The records of the unit relating to investment adviser activities must be separately maintained or extractable to permit independent enforcement of the Investment Advisers Act.

SECTION 749. DEFINITION OF BROKER UNDER THE INVESTMENT ADVISERS ACT OF 1940

Section 749 amends the definition of "broker" in section 202(a)(3) of the Investment Advisers Act (15 U.S.C. §80b-2(a)(3)) to reflect section 731's amended definition of that term in the Securities Exchange Act. The amended definition continues to exclude any person, including a bank, that would be deemed a "broker" solely because such person is an underwriter for one or more investment companies.

SECTION 750. DEFINITION OF DEALER UNDER THE INVESTMENT ADVISERS ACT OF 1940

Section 750 similarly amends the definition of "dealer" in section 2(a)(7) of the Investment Advisers Act (15 U.S.C. §80b-2(a)(7)) to reflect section 732's amended definition of that term in the Securities Exchange Act. The amended definition continues to exclude insurance companies and investment companies.

SECTION 751. INTERAGENCY NOTIFICATION AND CONSULTATION

Section 751 adds a new section 210A to the Investment Advisers Act. New section 210A requires the SEC to notify the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) before initiating any examination, investigation, or enforcement proceeding against any bank holding company, bank, or department or division of a bank that is a registered investment adviser. If the SEC determines that the protection of investors requires its immediate action and prior notice is not practical under the circumstances, the SEC may take action and notify the appropriate Federal banking agency as promptly as possible after taking action. In addition, the SEC and the appropriate Federal banking agency must share the results of any examination of any bank holding company, bank, or department or division of a bank that is a registered investment adviser.

The notification and sharing requirements will diminish the possibility of redundant or duplicative regulation. This is advisable in view of the comprehensive examination and supervision authority that the banking agencies have over bank investment advisory activities, and the many State and Federal fiduciary protections currently applicable to bank investment advisory functions. The notification and sharing requirements are not intended to limit the SEC's discretion to conduct examinations or investigations or to institute enforcement actions. Those requirements are also not intended to require SEC notification and consultation regarding bank activities that do not require registration under the Investment Advisers Act.

SECTION 752. TREATMENT OF BANK COMMON TRUST FUNDS

Section 3(c)(3) of the Investment Company Act currently exempts bank common trust funds from the definition of investment companies under the Investment Company Act. 15 U.S.C. §80b-3(c)(3). Such funds must be maintained by a bank exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank as trustee, executor, administrator, or guardian. Section 752(c) amends section 3(c)(3) to impose further requirements on a common trust fund before it is considered exempt from the definition of investment company. The fund must be employed by the bank solely as an aid to the administration of trusts, estates or other accounts maintained for a fiduciary purpose. Shares in the fund may not be advertised or offered for sale to the public except in connection with the ordinary advertising of the bank's fiduciary services.

Section 3(a)(2) of the Securities Act currently exempts any interest or participation in a bank common trust fund from the Securities Act. 15 U.S.C. §78c(a)(2). Section 752(a) amends section 3(a)(2) to provide that the common trust fund must be excluded from the amended definition of "investment company" under section 3(c)(3) of the Investment Company Act. Similarly, section 3(a)(12)(A)(iii) of the Securities Exchange Act currently includes any interest or participation in a bank common trust fund in the definition of "exempted security" under the Securities Exchange Act. Id. § 78c(a)(12)(A)(iii). Section 752(b) amends section 3(a)(12)(A)(iii) to require that the common trust fund must be excluded from the amended definition of "investment company" under section 3(c)(3).

Section 752(d) expresses the sense of the Congress that the public interest would be served by enacting legislation to amend the Internal Revenue Code to provide that any transfer of all or substantially all of the assets of a bank common trust fund to a registered investment company as a result of a merger, conversion, reorganization or similar transaction shall not result in a gain or loss to the participants in the common trust fund.

SECTION 753. SEC STUDY AND REPORT ON BANK AND INSURANCE POOLED INVESTMENT VEHICLES

Section 753 directs the Securities and Exchange Commission, in consultation with the Secretary of Labor and the Comptroller of the Currency, to review the appropriate treatment of bank collective investment funds and separate accounts under the securities laws and the Employee Retirement Income Security Act and the appropriate treatment of common trust funds under the securities laws. No later than six months after the bill becomes law, the SEC must submit to Congress a final report containing findings, conclusions and any recommendations for administrative or legislative action.

SECTION 754. INVESTMENT ADVISERS PROHIBITED FROM HAVING CONTROLLING INTEREST IN REGISTERED INVESTMENT COMPANY

Section 754 adds a new section 15(g) to the Investment Company Act. New section 15(g) allows an investment adviser of a registered investment company, or an affiliated person of the adviser, that holds shares of the investment company in a trustee or fiduciary capacity to own a controlling interest in that investment company only if one of three conditions is met. First, the investment adviser may pass the power to vote the investment company's shares through to beneficial shareholders, any fiduciary who is not an affiliated person of the investment adviser or its affiliated persons, or any person authorized to receive statements and information with respect to the trust who is not an affiliated person of the investment adviser or of its affiliated persons. Second, the investment adviser must either vote the shares in the same proportion as shares held by all other shareholders. Finally, the investment adviser must comply with such rules, regulations and orders as the SEC may prescribe for the protection of investors.

The prohibition in new section 15(g) does not apply to investment companies consisting solely of assets of (1) a common trust fund described in section 3(c)(3) of the Investment Company Act, (2) any employee's stock bonus, pension, or profit-sharing trust qualifying under section 401 of the Internal Revenue Code, (3) any governmental plan described in section 3(a)(2)(C) of the Securities Act, or (4) any collective trust fund maintained by a bank consisting solely of assets of such trusts or governmental plans.

SECTION 755. PURCHASE OF INVESTMENT COMPANY SECURITIES AS FIDUCIARY

Section 755(a) adds a new section 17(f) to the Investment Company Act. New section 17(f) imposes a disclosure requirement on the purchase by an investment adviser and an affiliated person of an investment adviser, promoter, organizer, sponsor of or principal underwriter for a registered investment company in its capacity as fiduciary for a beneficiary of securities issued by the investment company. The affiliated person may purchase the securities only if the beneficiary has received such disclosure as the SEC has prescribed. The SEC is directed to formulate the manner, form and content of the disclosure as it determines to be in the public interest and necessary for the protection of investors.

Section 755(b) requires the appropriate Federal banking agency to examine purchases by an insured institution's trust department or division of securities of an affiliated investment company, or an investment company that is an affiliated person of an affiliated person of the institution, to ensure compliance with applicable trust law.

SECTION 756. CONFORMING CHANGE IN DEFINITION

Section 756 amends the definition of "bank" in section 2(a)(5) of the Investment Company Act by replacing the reference to "a banking organization organized under the laws of the United States" with a reference to "a depository institution" as defined in the Federal Deposit Insurance Act.

SECTION 757. EFFECTIVE DATE

Under section 757, the amendments made by subtitle C become effective 270 days after the bill becomes law, except that section 753 becomes effective immediately, and section 744(a) becomes effective one year after enactment.

Subtitle D—Depositor Protection and Anti-Fraud

SECTION 761. SHORT TITLE

Section 761 designates subtitle D as the "Depositor Protection and Anti-Fraud Act of 1991."

SECTION 762. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FDIC-INSURED DEPOSITORY INSTITUTIONS

Section 762 adds a new section 15(f) to the Securities Exchange Act of 1934. New section 15(f)(1) imposes certain prohibitions on the sale or offer for sale of any equity in or debt of an insured depository institution or its affiliates. The institution may not permit such sale or offer for sale in any of its domestic branches that accept insured deposits or in its head office, if it accepts insured deposits and is located in the United States. New section 15(f)(2) specifies that the prohibitions in section 15(f)(1) do not apply to a deposit, a negotiable instrument sold in the course of business such as a traveler's check or a cashier's check, an interest in a registered investment company, a sale of instruments in large dollar amounts to a sophisticated investor, or a sale of instruments in connection with an approved conversion of a depository institution from mutual to stock ownership.

The Securities and Exchange Commission may issue an exemption from the prohibitions of section 15(f)(1) if it finds that the exemption is in the public interest, the purchasers would not be likely to confuse the equity or debt with an insured deposit, and the sales of equity or debt would be subject to the sales practice rules of a self-regulatory organization.

The Securities and Exchange Commission must within 180 days after the bill becomes law issue final regulations to carry out new section 15(f). New section 15(f) will take effect immediately upon the issue of the final regulations but in no event later than 270 days after the bill becomes law.

SECTION 763. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FEDERALLY INSURED CREDIT UNIONS

Section 763 adds a new section 205(j) to the Federal Credit Union Act, similar to the new section 15(f) added to the Exchange Act. New section 205(j)(1) imposes on federally insured credit unions certain prohibitions on the sale or offer for sale of any debt of a credit union or its affiliates. The credit union may not permit such sale or offer for sale in any of its domestic branches that accept insured shares or in its head office, if it accepts shares and is located in the United States. New section 205(j)(2) specifies that the prohibitions in section 205(j)(1) do not apply to an insured share in a credit union, a negotiable instrument sold in the course of business such as a traveler's check or cashier's check, an interest in a registered investment company, or a sale of instruments in large dollar amounts to a sophisticated investor.

The National Credit Union Administration may issue an exemption from the prohibitions if it finds that the exemption is in the public interest, the purchasers would not be likely to confuse the debt with an insured deposit, the insured deposit would be on terms no less favorable for credit union shareholders than for other persons, the seller determines whether the instrument is appropriate for the purchaser, no registered broker or dealer receives a commission in connection with the sale greater than for a comparable sale of like kind or similar principal amount, and the credit union, its affiliates and their employees did not receive a commission in connection with the sale greater than is typical for the industry or than a registered broker or dealer could have received.

The National Credit Union Administration is required to report annually to the House and Senate Banking Committees on any differences between its regulations and those adopted by the Securities and Exchange Commission under new section 15(f) and the reasons for any such differences. New section 205(j) specifically does not supersede or limit the jurisdiction of the Securities and Exchange Commission.

The National Credit Union Administration must within 180 days after the bill becomes law issue final regulations to carry out new section 205(j). New section 205(j) will take effect immediately upon the issue of the final regulations but in no event later than 270 days after the bill becomes law.

Subtitle E—Insurance Activities

SECTION 771. INSURANCE AGENCY ACTIVITIES OF NATIONAL BANKS

Section 4 of the Bank Holding Company Act generally prohibits bank holding companies from acquiring or retaining the shares of any company other than a bank or bank holding company. Section 4 also prohibits a bank holding company from engaging in activities other than banking and managing banks. Section 4(c)(8), however, permits a bank holding company to acquire shares of a company engaging in activities that are so closely related to banking or managing banks as to be incidental to banking. The Garn-St Germain Depository Institutions Act of 1982 amended section 4(c)(8) to specify that providing insurance as a principal, agent, or broker was not closely related to banking or managing banks unless the insurance was provided pursuant to seven listed exceptions. States have been free to accord banks chartered under their laws greater insurance powers.

Section 771 conforms the insurance agency powers of national banks to the insurance agency powers that State banks enjoy under State law. In general, a national bank may solicit and sell insurance and collect premiums from residents of and individuals employed in any State where it has a branch to the extent that the State allows its own banks to engage in such insurance agency activities. Section 771(b) tightens the "town of 5,000 exception" enacted by the Garn-St Germain Act. In any town of 5,000 people or less in which it has a branch, a national bank may solicit and sell insurance to and collect premiums from residents of and individuals employed in that town and other such towns in that State. In selling insurance under this exception, a national bank may not assume or guarantee payment of premiums on policies issued through the bank's agency or guarantee the truth of any statement made by an assured in filing an application.

For purposes of section 771, "residents" of a State includes companies incorporated in, licensed to do business in, and having an office in that State.

Section 771 takes effect 120 days after the bill becomes law.

SECTION 77. INSURANCE UNDERWRITING IN BANK RESTRICTED

Section 772 adds a new subsection (f) to section 24 of the Federal Deposit Insurance Act (added by section 215). New section 24(f) generally prohibits insured State banks from underwriting insurance (providing insurance as a principal) except to the extent permissible for a national bank. A grandfather provision applies to a State bank that was providing insurance as a principal on July 15, 1991. Such a bank may continue to provide insurance of the same type to residents of and individuals employed in the State in which the bank is chartered. Such a bank may also continue to provide insurance of the same type to any customers whom it has insured continuously since they resided in or were employed in the State.

For purposes of new section 24(f), "residents" of a State includes companies incorporated in, licensed to do business in, and having an office in that State.

New section 24(f) becomes effective 90 days after the bill becomes law. State banks may continue for one year any activity prohibited by new section 24(f) that they were lawfully engaged in as of the date of enactment.

A grandfather provision also applies to banks providing title insurance. An insured State bank that was underwriting insurance through a subsidiary as of July 1, 1991, may continue to underwrite title insurance through a subsidiary if the bank was required to be empowered to provide title insurance as a condition of its initial chartering under State law.

SECTION 773. CUSTOMER PROTECTION

Section 773 prohibits a bank holding company or its affiliates or subsidiaries from using any confidential customer information without that customer's prior written consent to engage in any insurance activity. "Confidential customer information" is information proprietary to a bank and includes an evaluation of creditworthiness, the amount of money held on deposit, the amount of any loans outstanding and the details of any insurance policy but does not include the customer's name and address.

Section 773 also tightens the restrictions on requiring bank customers to purchase more than one service from a bank. Section 773(b) prohibits a bank holding company or its affiliates or subsidiaries from requiring as a condition for providing or renewing any product or service that a customer purchase insurance through a particular insurer or agent. A bank holding company or its affiliates or subsidiaries also may not solicit the purchase of any insurance required under the terms of a proposed loan or extension of credit before a customer has received a written commitment with respect to such loan or extension of credit. A bank holding company or its affiliates may place insurance on any real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or extension of credit.

SECTION 774. INTERSTATE INSURANCE AGENCY ACTIVITIES

Section 774 adds a new section 4(j) to the Bank Holding Company Act. The new section prohibits a subsidiary bank of a bank holding company, or a subsidiary of that bank, from selling insurance as an agent in a State other than its chartering State unless the statute laws of that State expressly authorize such activity. A bank holding company may continue to sell insurance as an agent beyond the borders of the State in which the subsidiary bank is chartered so long as that coverage is of the same type as it was lawfully selling as agent on June 1, 1991. Such sales are subject to State regulation and control.

TITLE VIII—THRIFT-TO-BANK CONVERSIONS

SECTION 801. SHORT TITLE

Section 801 designates title VIII as the "Thrift-to-Bank Conversion Act of 1991."

SECTION 802. STREAMLINING CONVERSION PROCEDURES

A. Amendment to National Bank Act

Section 5154 of the Revised Statutes currently authorizes State banks to become national banks. 12 U.S.C. §35. A State bank converting into a national bank must have unimpaired capital sufficient for a national bank. The conversion must be approved by holders of 51 percent of the bank's capital stock and by the Comptroller of the Currency and must not be in contravention of State law. The directors of the converting State bank may continue to be directors of the national bank until others are elected or appointed in accordance with applicable Federal law. A majority of the directors may execute the articles of association and organization certificate. The certificate must declare that owners of 51 percent of the State bank's capital stock authorized the directors to convert the institution into a national bank and to execute the certificate.

A majority of directors may take all other steps necessary to complete the State bank's conversion into a national bank. The shares of the converting institution may continue to be for the same amount as before the conversion. The Comptroller of the Currency shall give the converting depository institution a certificate of compliance once the provisions of the statute have been met. When the converting institution has the certificate, it shall have the same powers and privileges and be subject to the same duties and regulations as an institution originally organized as a national bank. The Comptroller, in his discretion, may permit a converting State bank to retain and carry such of its assets as do not conform to the legal requirements of assets acquired and held by a national bank. The Comptroller will determine the carrying value of such assets. Once an institution has converted to a national bank, it must include the word "national" in its name.

B. Amendment to the Home Owners' Loan Act

Section 5(i) of the Home Owners' Loan Act permits Federal savings associations to convert into State savings associations or State savings banks and State savings associations to convert into Federal savings associations. 12 U.S.C. §1464(i). Section 802 amends section 5(i) to authorize Federal and State savings associations to convert directly to national banks and State banks.

1. Conversion of Federal or State savings association to national bank

New section 5(i)(4) governs the conversion of a Federal or State savings association into a national bank. The conversion must comply with all the provisions of new section 5154 discussed above. Such a conversion must be approved by the owners of at least 51 percent of the institution's capital stock or, for a mutually-held institution, by at least 51 percent of the outstanding votes. The conversion is effective upon compliance with all provisions of the Home Owners' Loan Act and section 5154 and the issuance of a certificate of authority by the appropriate Federal banking agency.

The appropriate Federal banking agency may prescribe rules or regulations for a Federal or State savings association that converts into a national bank, including a requirement that the resulting national bank assume and maintain any liquidation account obligations of the converting institution.

A Federal or State savings association converting into a national bank must obtain the approval of the Comptroller of the Currency as prescribed by new section 5154. For a mutual savings association, the Office of Thrift Supervision must specifically approve the conversion of the institution into a national bank with a stock form of ownership. A State savings association converting into a national bank must satisfy all applicable provisions of the law of the State where its home office is located.

2. Conversion of Federal savings association to State bank

New section 5(i)(5) provides for the conversion of Federal savings associations to State banks. A Federal savings association may convert into a bank chartered by the State in which its home office is located if that State's law permits the conversion. Such a conversion must be approved by the institution's members or stockholders as specified by the law of that State. The conversion is effective upon compliance with the Home Owners' Loan Act and issuance of a new charter by the State.

The appropriate State regulator may prescribe rules or regulations for a Federal savings association that converts into a State bank, including a requirement that the resulting bank assume and maintain any liquidation account obligations of the converting institution.

A Federal savings association converting into a State bank generally must obtain the approval only of the appropriate State regulatory authority. For a Federal mutual savings association, the appropriate Federal banking agency must approve that portion of the conversion changing the institution to a stock form of ownership.

3. Conversions by State savings associations to State banks

A State savings association seeking to convert to a State bank need obtain the approval only of the appropriate State regulatory authority of the State in which its home office is located. For a State mutual savings association, the appropriate Federal banking agency must specifically approve that portion of the conversion changing the institution to a stock form of ownership.

SECTION 803. RETENTION OF EXISTING IN-STATE BRANCHES BY SAVINGS ASSOCIATIONS THAT CONVERT TO NATIONAL BANKS

Section 5155(b) of the Revised Statutes permits a State bank that converts to a national bank to retain any branch that might be established as a new branch of the resulting national bank and is approved by the Comptroller of the Currency, that was a branch of a bank on February 25, 1927, or that is approved by the Comptroller for continued operation. 12 U.S.C. §36(b).

Section 803 adds new section 5155(b)(2)-(3). New section 5155(b)(2) permits a Federal or State savings association that converts to a national bank to retain and operate any branch located in the same State as its main office provided the branch had been lawfully and continuously operated by the savings association for two years prior to the conversion. New section 5155(b)(3) provides that if the savings association was a subsidiary of a bank holding company prior to the conversion, the resulting national bank may not retain and operate any branch not otherwise permitted for a national bank. Future branching by the national bank will be subject to the statutory restrictions on national bank branching.

SECTION 804. NO RECAPTURE OF THRIFT RESERVES ON CONVERSION

Under current law, savings associations that qualify as "domestic building and loan associations" (that is, maintain at least 60 percent of their assets in mortgages and mortgage-related investments) receive more favorable tax treatment in computing their bad debt deductions than do commercial banks. A savings association converting to a commercial bank must change its accounting for bad debt deductions, even if it maintains its prior level of housing-related assets, because it has changed its type of charter. This causes a recapture into income of the balance of the existing bad debt reserve and a resulting tax liability for the institution.

Section 804 expresses the sense of the Congress that it would be in the public interest to provide that when a thrift institution converts to a commercial bank, there will be no recapture of the former thrift's bad debt reserves so long as the asset composition of the converted institution continues to meet the requirements of a "domestic building and loan association." The Secretary of the Treasury is directed to submit appropriate draft legislative language to the Senate Finance Committee and House Ways and Means Committee not later than 90 days after the bill becomes law.

TITLE IX—FINANCIAL INSTITUTIONS ENFORCEMENT IMPROVEMENTS ACT

Subtitle A—Termination of Charters, Insurance, and Offices

SECTION 901. SHORT TITLE

Section 901 designates subtitle A of title IX as the "Financial Institutions Enforcement Improvements Act."

SECTION 911. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES

Section 911 contains three parallel provisions. Section 911(a) applies to national banks, section 911(b) to Federal savings associations, and section 911(c) to Federal credit unions. These sections respectively add a new section 5239(c) to the National Bank Act, a new section 5(w) to the Home Owners' Loan Act, and a new section 131 to the Federal Credit Union Act to provide for the following changes.

If a federally insured, federally chartered institution is convicted of money laundering—engaging in a financial transaction involving money or property known to be derived from criminal activity (18 U.S.C. §§ 1956, 1957)—the Attorney General must notify the appropriate Federal banking agency of the conviction. After receiving that notice, the regulator must issue to the institution a notice of intention to terminate the institution's charter. The regulator must then hold a pre-termination hearing.

If a federally insured, federally chartered institution is convicted of an offense under 31 U.S. Code section 5322—records and reports on monetary instruments transactions and structuring violations—the Attorney General must notify the appropriate regulator of the conviction. The regulator may schedule a pre-termination hearing, but is not required to do so. If the regulator decides to schedule a hearing, the regulator must issue a notice to the institution of the hearing and the regulator's intention to terminate the institution's charter.

The regulator has discretion to revoke the institution's charter after considering certain factors: (a) the degree to which senior management officials knew of or were involved in the solicitation of illegally derived funds or the money laundering violation; (b) whether the interest of the local community in adequate depository and credit services would be threatened by revocation of the institution's charter; (c) whether the institution cooperated fully with law enforcement authorities; (d) whether there will be any losses to the deposit insurance funds or the Resolution Trust Corporation; and (e) whether the institution maintained a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures, adequately monitored its employees' activities, and promptly reported suspected violations to law enforcement authorities. The current statutory provisions governing hearings by bank, thrift and credit union regulators will apply to termination hearings held under section 911.

The purchaser of or successor to the interests of an institution that has been convicted of a money laundering or reporting requirement offense is not subject to the charter revocation section if the successor acquired the interest in good faith and not as a means of evading the statute.

The legislation defines "senior management officials" as individuals who have major supervisory control within an institution, including members of the board of directors and individuals who own or control 10% or more of the outstanding voting stock of the institution. If the institution is a Federal branch of a foreign institution, the term "senior management officials" means individuals who exercise major supervisory control within any branch of the institution in the United States. The regulators must specify which officials of depository institutions will be treated as senior management officials for purposes of the bill.

SECTION 912. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OF CASH TRANSACTION REPORTING OFFENSES

Section 912 contains two parallel provisions. Section 912(a) applies to federally insured State depository institutions, including State banks and savings associations and State branches of foreign institutions. Section 912(b) applies to federally insured State credit unions. These sections respectively add a new section 8(v) to the Federal Deposit Insurance Act and a new section 206(t) to the Federal Credit Union Act to provide for the following changes.

If a federally insured, State-chartered institution is convicted of money laundering—engaging in a monetary transaction involving money or property known to be derived from criminal activity (18 U.S.C. §§ 1956, 1957)—the Attorney General must notify the insurer (the FDIC or the National Credit Union Administration) of the conviction. After receiving that notice, the insurer must issue to the institution a notice of intention to terminate the institution's insurance. The insurer must then hold a pre-termination hearing. The insurer must transmit a copy of any notice to the appropriate State supervisory agency.

If a federally insured, State-chartered institution is convicted of an offense under 31 U.S. Code section 5322—records and reports on monetary instruments transactions and structuring violations—the Attorney General must notify the FDIC or NCUA of the conviction. The insurer may schedule a pre-termination hearing, but is not required to do so. If the insurer decides to schedule a hearing, the insurer must issue a notice to the institution of the hearing and the insurer's intention to terminate the institution's insurance. The insurer must transmit a copy of any notice to the appropriate State supervisory agency.

In both cases, the insurer has discretion to terminate the institution's insured status after considering the same factors contained in section 911. If the insurer decides to terminate the institution's insured status, the insurer must notify the the appropriate State supervisory agency (and the Office of the Comptroller of the Currency and the Office of Thrift Supervision as appropriate) at least 10 days before the effective date of the termination and publish a notice. Deposits in a State bank or savings association at the time of the termination remain insured for six months to two years, at the FDIC's discretion. Shares in a credit union at the time of the termination remain insured for one year.

Section 912 contains similar successor liability provisions and definition of "senior management officials" as section 911.

SECTION 913. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS

Section 913 contains two parallel provisions. Section 913(a) applies to FDIC-insured institutions. Section 913(b) applies to credit unions. These sections respectively amend sections 8(e)(2) and 8(g)(1) of the Federal Deposit Insurance Act and sections 206(g)(2) and 206(i)(1) of the Federal Credit Union Act to provide for the following changes.

When the appropriate Federal supervisory agency determines that an institution-affiliated party such as a bank employee, consultant or independent contractor (including attorneys, accountants and appraisers) violated any provision of 31 U.S. Code section 5322 (records and reports on monetary instruments transactions and structuring violations), and the violation was not inadvertent or unintentional, the agency may remove that party from office. When the agency determines that an officer or director of an insured depository institution knew an institution-affiliated party violated the money laundering provisions (18 U.S.C. §§ 1956, 1957) or the reporting requirements (31 U.S.C. §5322), or the officer or director violated the Depository Institution Management Interlocks Act, the agency may remove that officer or director from office. With respect to an officer or director who knew of an affiliated party's violation, the agency shall consider whether the officer or director took appropriate steps to stop or prevent recurrence of the violation.

If an institution-affiliated party is charged with a crime involving dishonesty or breach of trust punishable by imprisonment for more than one year, with a criminal violation of the money laundering provisions (18 U.S.C. §1956, 18 U.S.C. §1957), or a violation of the reporting requirements (31 U.S.C. §5322), the appropriate Federal banking agency may suspend the party or prohibit his or her further involvement with the institution. The agency may take this action if the party's continued service may pose a threat to depositors' interests or public confidence. Written notice must be given to the party and the depository institution. Such a suspension or prohibition will remain in effect until the charge is disposed of or until terminated by the agency.

If an institution affiliated party is convicted of a crime involving dishonesty or breach of trust punishable by imprisonment for more than one year, the agency may suspend the party or prohibit his or her further involvement with the institution if his or her continued service may pose a threat to depositors' interests or public confidence. If the party is convicted of money laundering or a violation of the reporting requirements, the agency must issue an order removing that party from office or prohibiting his or her further participation in the affairs of the institution without the consent of the agency. Written notice must be given to the party and the depository institution.

SECTION 914. UNAUTHORIZED PARTICIPATION

Section 914 amends section 19(a)(1) of the Federal Deposit Insurance Act to provide that a party convicted of money laundering is automatically barred from participation in the industry unless he or she has the written consent of the FDIC.

SECTION 915. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTION REPORTS

Section 915 amends section 5319 of title 31, United States Code, to allow Federal agencies to share information contained in reports filed under the Bank Secrecy Act with State financial institution supervisory agencies. The Secretary of the Treasury may require reports on the use of such information by State financial institution supervisory agencies for other than supervisory purposes.

SECTION 916. RESTRICTIONS ON STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES

Section 916 amends section 7(d) of the International Banking Act of 1978. New section 7(d) provides that if the Federal Reserve Board finds or receives written notice from the Attorney General that any State agency, State branch that is not an insured branch, State commercial lending subsidiary, foreign bank operating such an agency, branch or subsidiary, or director or senior executive officer of such an agency, branch, subsidiary or foreign bank has been convicted of an offense under 18 U.S. Code sections 1956, 1957 or 1960 or 31 U.S. Code section 5322, the Federal Reserve Board must issue a notice to the agency, branch or subsidiary of the Boards's intention to commence a termination proceeding. "Senior executive officer" has the same meaning as in the Federal Deposit Insurance Act.

Subtitle B—Nonbank Financial Institutions and General Provisions

SECTION 921. IDENTIFICATION OF FINANCIAL INSTITUTIONS

Section 921 adds a new section 5237 to title 31 of the U.S. Code. New section 5327 directs the Secretary of the Treasury by January 1, 1992 to issue regulations requiring depository institutions to identify their customers that are "financial institutions," defined in 31 U.S. Code section 5312 to include unregistered brokers and dealers, currency changers, check cashers, money transmitters and others, that hold accounts with the depository institutions. Depository institutions must report information about such customers as required by the Secretary of the Treasury. The Secretary will then provide these reports to State regulators for supervisory purposes. Section 921 also adds a new paragraph (7)(A) to 31 U.S. Code section 5321, providing for a civil penalty for willful violation of new section 5327. The civil penalty imposed may not exceed $10,000 for each day a report is not filed or an inaccurate report is on file with the Secretary.

SECTION 922. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES

Section 922 adds a new section 1960 to title 18 of the U.S. Code. New section 1960 makes conducting or owning an illegal money transmitting business a Federal felony. An "illegal money transmitting business" is defined as a money transmitting business that affects interstate or foreign commerce and is knowingly operating in a State without an appropriate State license where such operation is punishable under State law as a misdemeanor or a felony. "Money transmitting" includes transferring funds on behalf of the public within the United States and abroad by wire, check, draft, facsimile or courier. Conducting an illegal money transmitting business is made punishable by fines, imprisonment up to five years, or both. Any property, including money, used in violation of new section 1960 is subject to seizure and forfeiture to the United States.

SECTION 923. COMPLIANCE PROCEDURES

Section 923 amends section 5318(a)(2) of title 31, United States Code, to give the Secretary of the Treasury authority to issue regulations to guard against money laundering. Section 923 anticipates "know-your-customer" regulations requiring institutions to institute programs designed to verify the legitimate nature of a customer's business and to ensure that account activity is commensurate with that business.

SECTION 924. NONDISCLOSURE OF ORDERS

Section 5326 of title 31, United States Code, permits the Treasury Department to issue an order requiring financial institutions in a particular geographical area temporarily to report currency transactions under $10,000. (Normally, reports are required only for currency transactions over $10,000). Section 924 amends section 5326 to prohibit financial institutions and their officers, directors, employees and agents from disclosing the existence or terms of such an order to any person, except as prescribed by the Secretary of the Treasury.

SECTION 925. IMPROVED RECORDKEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS

Section 21(b) of the Federal Deposit Insurance Act authorizes the Secretary of the Treasury to prescribe regulations regarding maintenance of records by insured depository institutions if useful in criminal, tax, or regulatory investigations or proceedings. 12 U.S.C. §1829(b). Section 925 amends section 21(b) to require the Secretary of the Treasury and the Federal Reserve Board, in consultation with State banking regulators, jointly to issue final regulations, before October 1, 1991, to require depository institutions, money transmitters, check cashers, and businesses that issue or redeem instruments such as money orders and traveler's checks to keep records of international transactions involving direct transfers of funds that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. In devising these regulations the Secretary and the Federal Reserve Board will consider the usefulness of the records in criminal, tax, or regulatory proceedings and the effect of the required recordkeeping on the cost and efficiency of the payments system. Records required to be maintained shall be submitted to the Treasury Department on request.

SECTION 926. USE OF CERTAIN RECORDS

Section 1112(f) of the Right to Financial Privacy Act of 1978 permits a government agency to transfer a financial institution's customer records to the Attorney General without notice to the customer. 12 U.S.C. §3412(f). Section 926 amends section 1112(f) to allow a government agency to transfer the customer's financial records to the Treasury Department for criminal investigative or prosecutive purposes relating to money laundering. The transferring agency must certify in writing that the records may be relevant to a violation of Federal criminal law. When the investigation or prosecution is complete, the records must be returned to the transferring agency.

SECTION 927. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAM

Section 927 adds a new section 5318(g) to title 31, United States Code. New section 5318(g) authorizes the Secretary of the Treasury to require financial institutions to report suspicious transactions relevant to possible violations of law. The financial institution may not notify any person involved in a transaction that a transaction has been reported.

Section 927 further adds a new section 5318(h). New section 5318(h) authorizes the Secretary to require financial institutions to adopt anti-money laundering programs, which would include development of internal controls, designation of a compliance officer, ongoing employee training and an independent audit. The Secretary may promulgate minimum standards for such programs. Any such standards should be comparable to the corresponding regulations applicable to depository institutions.

SECTION 928. REPORT ON CURRENCY CHANGES

Section 928 directs the Treasury Department, in consultation with the Justice Department and the Drug Enforcement Administration, to analyze and report to the House and Senate Banking Committees on proposals to change the size, denomination or color of U.S. currency. The report must also review a proposal to require U.S. currency circulating outside the United States to be a different color than currency circulating in the United States. The report must be submitted within ninety days after the bill becomes law.

SECTION 929. REPORT ON BANK PROSECUTIONS

Section 929 requires the Attorney General, after obtaining views from all interested agencies, to determine whether compliance with the money laundering and reporting statutes (18 U.S.C. §§1956, 1957, 31 U.S.C. §5322) would be enhanced and reporting of suspicious activities by financial institutions encouraged by the issuance of guidelines for the prosecution of financial institutions under these statutes. The guidelines would list factors to be considered when determining whether to pursue prosecutions against financial institutions. The report must be submitted to Congress no later than six months after the bill becomes law.

SECTION 930. ANTI-MONEY LAUNDERING TRAINING TEAM

Section 930(a) requires the Secretary of the Treasury to establish a team of experts to assist foreign governments in developing and expanding their capabilities for investigating and prosecuting violations of money laundering. Section 930(b) authorizes up to $1,000,000 for this purpose.

SECTION 931. MONEY LAUNDERING REPORTING REQUIREMENTS FOR TREASURY AND OTHER AGENCIES

Section 931 requires the President to report annually to Congress on bilateral and multilateral efforts to ensure that countries adopt comprehensive measures against money laundering and cooperate in narcotics money laundering investigations, prosecutions and related forfeiture actions. This report will be submitted with the report required under section 481(e) of the Foreign Assistance Act of 1961. The report will include information on bilateral and multilateral initiatives pursued by the Departments of State, Justice and the Treasury and by other Federal agencies to achieve the anti-money laundering objectives. The report will further include information on relevant bilateral agreements and on actions of international organizations and groups. It will include information on the countries that have ratified the UN Convention on Illicit Traffic in Narcotic Drugs and Other Psychotropic Substances and on measures adopted to implement various money laundering provisions.

The report must also include information on the extent to which each major drug producing and drug transit country has adequate mechanisms to exchange financial records in narcotics money laundering and has adopted laws to prevent and detect narcotics-related money laundering. The report also will include details of significant instances of non-cooperation with the United States in narcotics money laundering and narcotics-related cases. It will include a summary of initiatives taken by the United States or any international organization with respect to a country based on the country's record on narcotics money laundering matters.

The report should be in sufficient detail to assure Congress that agencies are pursuing a common strategy to achieve international cooperation against money laundering, including a summary of United States objectives on a country-by-country basis. The report should also detail that the agencies have agreed upon approaches and responsibilities for implementation of the strategy, including negotiations to achieve treaties and agreements.

TITLE X—ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION

SECTION 1001. SHORT TITLE

Section 1001 designates title X as the "Asset Conservation and Deposit Insurance Protection Act of 1991."

SECTION 1002. AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT

Section 1002(a) adds a new section 42 to the Federal Deposit Insurance Act.

A. Liability limitations

New section 42(a) limits the liability of FDIC-insured depository institutions under any Federal law, such as the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") or the Resource Conservation and Recovery Act, that imposes strict liability for environmental releases. The limitation covers liability relating to: (1) property acquired through foreclosure; (2) property held in a fiduciary capacity; (3) property leased to another pursuant to a lease agreement that is functionally equivalent to an extension of credit; or (4) property that is otherwise subject to the financial control or oversight of the institution pursuant to the terms of an extension of credit.

Title X does not impose liability on any party. Moreover, by expressly limiting the liability of certain parties under specified conditions, Title X rejects any inference that other parties are liable. For example, the fiduciary provisions of title X, by their terms, only apply to insured depository institutions. No implication is intended that non-depository institution fiduciaries would be liable under any strict liability environmental statutes.

The term "property" includes real, personal, and mixed property. The term "property acquired through foreclosure" includes the acquisition of property held as collateral for an extension of credit, through formal or informal means, so long as the depository institution or lender seeks to sell or otherwise divest the property at the earliest practical, commercially reasonable time, and on commercially reasonable terms, taking into account market conditions and legal requirements. *See, e.g.*, U.S.C. §9-504(3).

Property acquired through foreclosure also includes property repossessed or returned to a lessor at the termination of a lease term, or following the breach of a lease agreement.

New section 42(a)(2) provides a limitation on liability under Federal law for mortgage lenders (companies other than depository institutions that are engaged in the business of making mortgage loans to others or that insure or guarantee mortgage loans) with respect to property acquired through foreclosure and property subject to their financial control or oversight. The term "mortgage lender" is defined to include certain Government-sponsored enterprises that are required to make a secondary market in mortgage loans.

The liability of innocent depository institutions and mortgage lenders under these provisions will generally be limited to the "actual benefit" conferred on the institution or lender by a removal, remedial, response or other corrective action, so long as such action is taken pursuant to and consistent with the requirements of applicable Federal law, such as CERCLA or the Resource Conservation and Recovery Act.

New section 42(a)(3) delineates certain safe harbors. Depository institutions or mortgage lenders are protected from liability that might otherwise be alleged on the basis of having engaged in one or more of the activities described in these safe harbors. The safe harbors are not requirements. The failure to engage in any of the activities described as a safe harbor does not affect protections otherwise afforded by the title.

The safe harbors are: (1) holding a security interest or abandoning or relinquishing (in the case of personal property) a security interest prior to foreclosure; (2) having the unexercised capacity to influence operations at or on property in which the party has a security interest; (3) including in the extension of credit terms or conditions relating to the borrower's compliance with environmental laws; (4) monitoring or enforcing the terms and conditions of the extension of credit; (5) monitoring or undertaking one or more inspections of the property; (6) requiring the borrower to clean up the property prior to or during the term of the extension of credit; (7) providing financial or other advice or counseling in an effort to mitigate, prevent or cure default or diminution in the value of the property; (8) restructuring, renegotiating or otherwise altering the terms and conditions of the extension of credit; (9) acquiring the property through foreclosure; (10) exercising other remedies at law or in equity that might be available for the borrower's breach of any term or condition of the extension of credit.

B. Actual benefit

New section 42(b) provides that the actual benefit conferred on an institution or lender is equal to the net gain, if any, realized by such party as a result of the required corrective action. In no case may the actual benefit realized exceed the fair market value of the property following the required cleanup. Further, a reduction in actual or potential liability is not considered to be an actual benefit realized. Rather, the "actual benefit realized" is the net increased market value of the property, realized by the institution or lender upon its sale or other disposition, and attributable to the action of others in conducting a legally mandated removal, remedial response or corrective action taken in accordance with Federal law.

C. Exclusions

New section 42(c) provides that the protections afforded by title X do not apply to a depository institution or mortgage lender that directly caused the release of the hazardous substance that gave rise to the liability.

These protections also do not apply to any party that, following the foreclosure action, failed to exercise due care to protect the public health and safety with respect to identified releases of hazardous substances that form the basis for the liability. This is intended to ensure the continuation of prudent behavior by the lender after the foreclosure, while continuing to afford protection for the creditor for potentially catastrophic liability. In this context, "due care" refers to the actions that a reasonably prudent person would take in order to prevent an immediate and actual threat to the public health and safety.

Finally, the bill's benefits are not provided to a depository institution or mortgage lender that actively directs or conducts business operations that result in a release or threatened release of a hazardous substance that forms the basis for liability. The intent of this provision is to make clear that, if the institution or lender is so intimately involved in directing business operations resulting in the release giving rise to the liability that it becomes, in effect, an operator of the business, it should be subject to the same liability rules as other operators. However, the release giving rise to the liability must occur during the period that the institution or lender is, in effect, operating the business. Thus, for example, if the lender temporarily takes over the operations of a business post-foreclosure in order to maintain its value pending sale to a third party, this exclusion will not apply unless the release occurred during the period in which the lender was actively directing the operations that resulted in the release. If the release occurred pre-foreclosure, the protections against liability would still apply.

D. Governmental entities

New section 42(d) provides certain Federal banking and lending agencies with limited immunity from liability under Federal, State, or local law that imposes strict liability for environmental releases. The protections apply to enumerated Federal banking and lending entities, such as the FDIC, Federal Reserve Board, Office of the Comptroller of the Currency, Office of Thrift Supervision, National Credit Union Administration, Small Business Administration, and Resolution Trust Corporation, whether these governmental entities are acting in a conservatorship, receivership or corporate capacity, or through employees or agents.

The immunity only applies to property (or a right or interest therein) acquired: (1) in connection with the exercise of receivership or conservatorship functions; (2) in connection with the provision of loans or other assistance; and (3) in connection with property received in civil and criminal proceedings. It does not apply to property held or owned by any Governmental entity in a proprietary capacity, such as an agency office building or computer center.

New section 42(d)(2) provides that, as with depository institutions and mortgage lenders, the protections afforded by title X do not apply if the Governmental entity caused the environmental release that forms the basis for the liability, or if it failed to exercise due care to protect the public health and safety with respect to identified releases of hazardous substances. The explanation of what is meant by "due care" with respect to depository institutions and mortgage lenders applies equally with respect to Governmental entities.

New section 42(d)(3) provides that the immunity given these Governmental entities may be transferred to the next subsequent purchaser of the property from the Government, provided that this purchaser was not previously involved in the pollution, and is not related to any person previously involved with the pollution. In addition, the subsequent purchaser must also exercise due care to protect the public health and safety with respect to identified releases of hazardous substances that give rise to a removal, remedial, response, or other corrective action. Again, the previous explanation of what is meant by this "due care" standard is equally applicable here. The expectation is that the subsequent purchaser will be required to commit to cleaning up the property as a condition of the purchase.

New section 42(d)(4) provides that Federal banking and lending agencies may take actions in response to an emergency without liability, unless the agency is grossly negligent. This is the same protection that currently applies under CERCLA for State agencies.

E. Lien exemptions and exemptions from covenants

New sections 42(e) and (f) provide waivers from certain lien and covenant requirements found in current law that may adversely affect the ability of the Government to sell property.

F. Environmental assessments

New section 42(g) provides that the Federal banking agencies and the Department of Housing and Urban Development must, after consulting with the EPA, promulgate regulations that require insured depository institutions and mortgage lenders to develop and implement adequate procedures to evaluate actual and potential environmental risks associated with collateral or leased property prior to making an extension of credit. These regulations may provide for different types of environmental assessments in order to account for different levels of risk that may be posed by different classes of collateral or leased property. Thus, for example, a very thorough assessment might be appropriate before an institution makes a loan secured by a chemical plant, while a minimal checklist might be sufficient when a loan is secured by a grocery store or for certain other financing. Similarly, the agencies might find that a minimal or even no environmental assessment might be appropriate for residential properties if those properties are not located in areas of known or suspected environmental risk.

G. Definitions

New section 42(h) provides definition for title X. The term "extension of credit" includes a lease that is functionally equivalent to a secured loan, whereby the lessor expects to realize a return of its full investment in the leased property and does not, during the lease term, control the daily operation or maintenance of such property, as under 12 C.F.R. Part 23; 12 C.F.R. §225.25(b)(5).

An "extension of credit" also includes the making or renewal of any loan, a granting of a line of credit or extending credit in any manner, such as an advance by means of an overdraft or the issuance of a standby letter of credit. See, e.g. 12 C.F.R. §215.3.

H. Savings clause

New section 42(i) clarifies that these provisions impose no liability upon any party. Rather, title X circumscribes liabilities that might be imposed under other provisions of law. Thus, if there is no liability that could be independently established under other law, failure to qualify for the protection of title X will not give rise to any liability.

I. Effective date

Section 1002(b) provides that the amendments made by title X become effective upon the date of enactment, except that it shall not affect any administrative or judicial claim that has been formally filed as of that date.

TITLE XI—MISCELLANEOUS

Subtitle A—Presidential Insurance Commission

SECTION 1101. SHORT TITLE

Section 1101 designates title XI as the "Presidential Insurance Commission Act of 1991."

SECTION 1102. FINDINGS

Section 1102 contains various findings by Congress. The property/casualty, life insurance, health insurance and reinsurance industries play a major and vital role in capital formation and lending in the United States economy. At the end of 1989, property/casualty, life and health insurers combined controlled nearly $1.8 trillion of assets in the United States. This represented nearly 18 percent of the financial assets of all non-governmental intermediaries in the United States. Insurers controlled sizable amounts of various important assets, including 50.7 percent of all United States held corporate and foreign bonds; 13.8 percent of all United States Treasury securities, 12.2 percent of mortgages, and 14.7 percent of corporate equities.

Congress finds that a Presidential commission should be established to assess the condition of the insurance industry, to make recommendations to improve the industry's financial health and competitiveness, and to assure the availability of insurance to consumers at competitive prices.

SECTION 1103. ESTABLISHMENT

Section 1103 establishes a Presidential Commission on Insurance (the "Insurance Commission").

SECTION 1104. DUTIES OF THE COMMISSION

The Insurance Commission shall assess the condition of the property/casualty, life insurance, health insurance and reinsurance industries. The Insurance Commission shall consider the present and projected long-term financial health of those industries; the adequacy of assured payout to policyholders, including the need for any Federal role in assuring insurer solvency; the appropriateness of the extent of solvency protection provided to policyholders; the impact of changes in the State and Federal liability systems on insurer solvency; the effect of the McCarran-Ferguson Act and State regulation on consumer protection including pricing, product development and industry solvency; and the appropriateness of the present allocation of Federal and State responsibilities in regulating insurance and the underlying liability systems.

The Insurance Commission will recommend any necessary legislative and regulatory changes that will improve the domestic and international financial health and competitiveness of the industries and thereby assure consumers of the availability of adequate coverage and the best range of products and competitive prices.

SECTION 1105. MEMBERSHIP AND COMPOSITION

The Insurance Commission shall be composed of 15 members, including the Secretaries of the Treasury, Transportation and Commerce; the Attorney General; the Chairman of the Federal Trade Commission; and 10 members to be appointed by the President from the private sector and having expertise in insurance, financial services, antitrust and liability law, at least one of whom has expertise in state regulation of insurance and at least 2 of whom have expertise in consumer issues. The President will select one of his appointees to serve as Chairperson of the Commission. The Secretaries, the Attorney General and the Chairman of the FTC may select designees to serve in their places. The Secretary of the Treasury must consult with the Chairman of the Federal Reserve Board, the Chairperson of the FDIC, and the Chairman of the SEC with respect to all matters under their jurisdictions that are considered by the Insurance Commission.

No member or officer of Congress, the Executive Branch, or any State government may be a member. Each member shall be appointed for the life of the Insurance Commission; a vacancy will be filled in the same manner as the original appointment.

Presidential appointments to the Insurance Commission shall be compensated at a rate equal to the annual rate for GS-18 of the General Schedule. Each member shall receive travel expenses.

The Insurance Commission shall meet at the call of the Chairperson or a majority of its members. A majority of the members shall constitute a quorum, although a lesser number may hold hearings. All recommendations and reports of the Insurance Commission must be approved by a majority vote of a quorum.

SECTION 1106. POWERS OF THE COMMISSION

The Insurance Commission may hold hearings, take testimony and receive evidence as it considers appropriate. The Insurance Commission may administer oaths to witnesses appearing before it. The Insurance Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence at any designated place of hearing within the United States. Subpoenaed witnesses will be paid the same fees and travel mileage as witnesses in the Federal courts. The Insurance Commission will not be liable for any other expenses incurred in connection with the production of evidence.

If a person refuses to obey a subpoena, the Insurance Commission may apply to a United States district court for an order requiring a witness's appearance or the production of evidence. The application may be made within the judicial district where the hearing is conducted or where the person is found, resides or transacts business. Failure to obey the order of the court may be punished as contempt.

Subpoenas of the Insurance Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure. Process of a court to which application is made may be served in the judicial district where the person resides or is found.

Information obtained that is deemed confidential or with reference to which a request for confidential treatment has been made by the person furnishing the information shall be exempt from disclosure under section 552 of Title 5, United States Code. Such information shall not be disclosed unless the Insurance Commission determines that withholding the information is contrary to the national interest.

The Insurance Commission may obtain information necessary to carry out its duties directly from any department or agency of the United States. Upon the request of the Chairperson of the Insurance Commission, the head of that department or agency will furnish the information. The Insurance Commission may use the mails under the same condition as other United States agencies and is entitled to administrative support services from the General Services Administration on a reimbursable basis.

SECTION 1107. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS

The Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate. The Insurance Commission staff may be appointed without regard to the competitive service provisions of the United States Code and may be paid without regard to classification and General Schedule pay rates, except that an individual staff member may not be paid in excess of the annual rate of basic pay for GS-18 of the General Schedule.

The Chairperson may procure temporary and intermittent services for the Insurance Commission at rates for individuals not to exceed the annual rate of basic pay for GS-18 of the General Schedule. The Chairperson may request the head of any Federal department or agency to detail any personnel of that department or agency to the Insurance Commission on a reimbursable basis.

SECTION 1108. REPORT

The Insurance Commission must submit to the President and Congress a final report containing a detailed statement of its findings, together with any recommendations for legislation or administrative action, no later than January 31, 1993.

SECTION 1109. TERMINATION

The Insurance Commission will terminate within 60 days following the submission of its final report.

SECTION 1110. AUTHORIZATION OF APPROPRIATIONS

The sum of $3 million is authorized to carry out the purposes of this subtitle.

Subtitle B—General Provisions

SECTION 1121. CREDIT UNIONS

A. Full faith and credit

Section 1121(a) amends the Federal Credit Union Act to specify that the full faith and credit of the United States is pledged to pay accounts insured under the Act.

B. Investment in other financial institutions

Section 107(7)(G) of the Federal Credit Union Act authorizes a Federal credit union to invest its funds in shares or deposits of any central credit union in which such investments are specifically authorized by its board of directors. 12 U.S.C. §1757(7)(G). Section 1121(b)(1) eliminates section 107(7)(G) effective one year after the bill becomes law.

Section 107(8) of the Federal Credit Union Act currently authorizes a Federal credit union to make deposits in national banks; in state banks, trust companies and mutual savings banks operating under the laws of the state in which the credit union does business; and in FDIC insured institutions. 12 U.S.C. §1757(8). Federal credit unions and Department of Defense credit unions operating offices on American military installations in foreign countries and trust territories may also maintain demand deposits in correspondent banks located in those places subject to regulations issued by the National Credit Union Administrations ("NCUA"). Section 1121(b)(2) amends section 107(8) to prohibit Federal credit unions from making deposits in State-chartered institutions unless those institutions are insured by the FDIC.

Section 120(a) of the National Credit Union Act authorizes the NCUA Board of Directors to prescribe rules and regulations for the administration of the Act. 12 U.S.C. §1766(a). Section 120(a) subjects any central credit union chartered by the NCUA to such rules, regulations, and orders as the Board deems appropriate and shall be vested with the same rights, privileges and restrictions as apply to all Federal credit unions. Section 1121(b)(3) amends section 120(a) to provide that corporate credit unions, as defined by the NCUA, shall be subject to such rules, regulations and orders as the Board deems appropriate and shall be vested with the same rights, privileges and restrictions as apply to all Federal credit unions. They therefore must be federally-insured. The NCUA is directed to establish limits on loans to one borrower by a corporate credit union and minimum capital requirements for corporate credit unions.

C. Strengthening National Credit Union Share Insurance Fund

Section 1121(c) makes a number of amendments to section 202 of the National Credit Union Act (12 U.S.C. §1782). Section 202(c)(1)(A) requires each insured credit union to maintain with the National Credit Union Share Insurance Fund a deposit equal to 1 percent of the credit union's insured shares. Section 202(c)(1)(A)(ii) allows the NCUA in its discretion to authorize insured credit unions initially to fund the 1 percent deposit over a period of time in excess of one year if necessary to avoid adverse effects. Section 1121(c) eliminates section 202(c)(1)(A)(ii).

Section 202(c)(2) currently requires each insured credit union to pay an insurance premium charge of one-twelfth of one percent of the total amount of its insured shares at the close of the preceding insurance year. Section 1121(c) amends section 202(c)(2) to provide, effective July 1, 1992, that at such times as the NCUA prescribes, up to twice a year, each insured credit union shall pay an insurance premium charge. The insurance premium charge shall be the same percentage of insured shares for all insured credit unions. The premium may not exceed one-twelfth of one percent of insured shares except by unanimous vote of the NCUA Board of Directors. If the equity level of the Share Insurance Fund is less than 1.2 percent of insured shares, the NCUA must assess a premium necessary to restore the Fund to and maintain it at the 1.2 percent level. If the equity level of the Share Insurance Fund is 1.2 percent of insured shares or greater, the NCUA may assess a premium only by unanimous vote and in an amount not exceeding one-twelfth of 1 percent of insured shares. The NCUA may assess a premium only if the equity level of the Share Insurance Fund is below 1.3 percent of the aggregate amount of the insured shares in all insured credit unions and the premium does not exceed the amount necessary to restore the Share Insurance Fund to the 1.3 percent level.

Section 202(c)(3) of the Federal Credit Union Act currently requires the NCUA to effect a pro rata distribution to insured credit unions of an amount sufficient to reduce the equity in the Share Insurance Fund to its normal operating level when, at the end of an insurance year, any loans to the Fund by the Federal government and interest on those loans have been repaid and the equity of the Fund exceeds the normal operating level. Section 1121(c) amends section 202(c)(3) to require the NCUA to effect a pro rata distribution to insured credit unions of the maximum possible amount that does not reduce the Share Insurance Fund below its normal operating level when, at the end of an insurance year, any loans to the Fund by the Federal government and interest on those loans have been repaid and the Fund exceeds its normal operating level.

Section 202(h)(2) of the Federal Credit Union Act currently defines the "normal operating level" of the Share Insurance Fund as 1.3 percent of insured shares in all insured credit unions or such lower level as the NCUA may determine. Section 1121(c) amends section 202(h)(2) to define the Fund's "normal operating level" as an amount of Fund equity established by the NCUA equal to at least 1.2 percent of insured shares and up to 1.5 percent of insured shares. Section 1121(c) further adds definitions of "available assets level" and "equity level" of the Share Insurance Fund. "Available assets level" is the sum of the Fund's cash and unencumbered investments minus direct liabilities and contingent liabilities for which no provision for losses has been made, stated as a percentage of insured shares. "Equity level" is the Fund's capitalization, including the 1 percent capitalization deposit by insured credit unions and the Fund's retained earnings balance, stated as a percentage of insured shares.

D. Minimum capital requirement

Section 116(a) of the Federal Credit Union Act requires each insured credit union in operation for more than 4 years and having assets of at least $500,000 to set aside a percentage of gross income until its regular reserve equals 6 percent of total outstanding loans and risk assets. 12 U.S.C. §1762(a). Such a credit union must set aside 10 percent of gross income until its reserve equals 4 percent of outstanding loans and risk assets and then 5 percent of gross income until the reserve reaches the 6 percent level. Effective January 1, 1993, section 1121(d) requires such a credit union to set aside 3.5 percent of gross income until the reserve reaches 7 percent of total outstanding loans and risk assets.

Section 1121(d) further adds a new section 116(a)(4) providing that a credit union in existence for more than 5 years with reserves and undivided earnings less than a minimum capital level established by the NCUA shall be subject to a formal written supervisory agreement with the NCUA. The agreement shall include an operating plan for the credit union to reach the minimum capital level within a period established by the NCUA. In establishing minimum capital levels, the NCUA shall consider the differences among credit unions and will give recently formed credit unions a reasonable time to build capital through retained earnings.

E. Loan to one borrower limit

Section 107(5)(A) of the Federal Credit Union Act requires loans by a Federal credit union to be approved by the institution's credit committee or a loan officer. 12 U.S.C. §1757(5)(A). It further limits loans by the institution to any one member to an aggregate amount of 10 percent of the credit union's unimpaired capital and surplus. Effective 180 days after enactment, section 1121(e) amends section 107(5) to provide that loans by a credit union to any one member may not in the aggregate exceed the greater of $100,000, 20 percent of the credit union's reserves and undivided earnings, or 1.5 percent of the credit union's assets. The NCUA may establish other limits for certain credit unions or classes of loans consistent with protecting the Share Insurance Fund. Credit unions of which the membership consists substantially of farmers or fishermen may make loans of up to 3 percent of their assets for farming and fishing purposes to persons deriving their livelihood primarily from farming or fishing. Any loan on which the United States, its agencies or any state has fully guaranteed the principal and interest shall not count toward the loan to one borrower limitation. For any other loan guaranteed by the United States, its agencies or any state, one-half of the portion guaranteed shall not count toward the loan to one borrower limitations.

F. Authority to authorize NCUA board to place federally insured, State-chartered credit unions into liquidation

Section 207(a)(1) of the Federal Credit Union Act directs the NCUA to close a federally-chartered, federally-insured credit union and appoint itself liquidating agent upon a finding that the institution is bankrupt or insolvent. 12 U.S.C. §1787(a)(1). Section 1121(f) amends section 207(a)(1) to authorize the NCUA to appoint itself liquidating agent for a federally-insured, State-chartered credit union if it determines the institution is insolvent or bankrupt. The NCUA shall have the same power and duties over liquidations of State credit unions as over liquidations of Federal credit unions. Except as described below, the NCUA may not close a State credit union without the written approval of the State official having jurisdiction over the institution that the grounds specified for the action exist. If such approval has not been received within 30 days of receipt by the State that the NCUA has determined that such grounds exist and the NCUA has responded in writing to any written reasons of the State for withholding approval, the NCUA may by unanimous vote proceed without State approval.

G. Central liquidity facility

Section 307(a) of the Federal Credit Union Act authorizes the NCUA to prescribe the manner in which the general business of the NCUA Central Liquidity Facility is conducted. 12 U.S.C. §1795f(a). Section 307(a)(4)(A) authorizes the NCUA to borrow from any source on behalf of the Central Liquidity Facility up to 12 times the capital stock and surplus of the Facility. Section 1121(g) amends section 307(a)(4)(A) to permit the NCUA to borrow up to 2 times the capital stock and surplus of the Facility.

Section 307(a)(16) authorizes the NCUA to advance funds on behalf of the Facility on a fully secured basis to a State credit union or deposit insurance corporation. Such an advance may not exceed 12 months in maturity, shall be reloaned at an interest rate not exceeding that imposed by the Facility, and shall not be renewable. Section 1121(g) eliminates section 307(a)(16).

H. Strengthening removal and prohibition authority

Section 206(g)(1) of the Federal Credit Union Act currently authorizes the NCUA to serve a written notice of its intention to remove an institution-affiliated party from office or to prohibit his or her further participation in the affairs of an insured credit union. 12 U.S.C. §1786(g)(1). The NCUA must first determine that the party has violated a law or regulation, a final cease-and desist order, a condition imposed by the NCUA in writing, or any written agreement between the credit union and the NCUA; has engaged or participated in an unsafe or unsound practice in connection with an insured credit union or business institution; or has committed or engaged in a breach of fiduciary duty. Second, the NCUA must determine that by reason of such violation, practice or breach the insured credit union or business institution has suffered or will probably suffer financial loss or other damage; the interests of the credit union's members have been or could be prejudiced; or the party has received financial gain or other benefit by reason of the violation, practice or breach. Third, the NCUA must determine that the violation, practice or breach involves dishonesty by the party or demonstrates unfitness to serve as a director or officer of or to participate in the affairs of the credit union.

Section 112(h) amends section 206(g)(1). Before issuing a notice of its intention to remove a party, the NCUA must make the same determination regarding the party's violation, practice or breach as required by current law. However, the NCUA need not make determinations under both the second and third prongs of the current test. The NCUA must determine *either* that by reason of the violation, practice or breach the credit union or business institution suffered or is likely to suffer financial loss of other damage that may have a significant effect on the financial condition of the credit union; the interests of the credit union's members have been or could be prejudiced in a manner that may have a significant effect on the financial condition of the credit union; or the party has received financial gain from such violation, practice or breach; *or* that the violation, practice or breach involves personal dishonesty or a willful or continuous disregard for the safety or soundness of the insured credit union or business institutions.

I. Repeal of authority to borrow from farm credit banks

Section 107(9) of the Federal Credit Union Act authorizes a Federal credit union to borrow from any source in accordance with regulations prescribed by the NCUA up to 50 percent of its paid-in and unimpaired capital and surplus. 12 U.S.C. §1757(9). A federal credit union further may discount with or sell to any Federal intermediate credit bank any eligible obligations up to the amount of its paid-in and unimpaired capital. Section 1121(i) eliminates this latter authority.

SECTION 1122. STRENGTHENING FEDERAL BANKING AGENCIES' AUTHORITY TO REMOVE PERSONS GUILTY OF MISCONDUCT

Section 8(e)(1) of the Federal Deposit Insurance Act requires each appropriate Federal banking agency to serve a written notice of its intention to remove an institution-affiliated party from office or to prohibit his or her further participation in the affairs of an insured depository institution. 12 U.S.C. §1818(e)(1). The appropriate Federal banking agency must first determine that the party has violated a law or regulation, a final cease-and desist order, a condition imposed by the agency in writing, or any written agreement between the insured institution and the agency; has engaged or participated in an unsafe or unsound practice in connection with an insured depository institution or business institution; or has committed or engaged in a breach of fiduciary duty. Second, the appropriate Federal banking agency must determine that by reason of such violation, practice or breach the insured institution or business institution has suffered or will probably suffer financial loss or other damage; the interests of the insured institution's depositors have been or could be prejudiced; or the party has received financial gain or other benefit by reason of the violation, practice or breach. Third, the appropriate Federal banking agency must determine that the violation, practice or breach involves dishonesty by the party or demonstrates unfitness to serve as a director or officer of or to participate in the affairs of the insured institution.

Section 1122 amends section 8(e)(1). Before issuing a notice of its intention to remove a party, the appropriate Federal banking agency must make the same determination regarding the party's violation, practice or breach as required by current law. However, the agency need not make determinations under both the second and third prongs of the current test. The appropriate Federal banking agency must determine *either* that by reason of the violation, practice or breach the insured depository institution or business institution suffered or is likely to suffer financial loss or other damage that may have a significant effect on the financial condition of the insured institution; the interests of the insured institution's depositors have been or could be prejudiced in a manner that may have a significant effect on the financial condition of the credit union; or the party has received financial gain from such violation, practice or breach; *or* that the violation, practice or breach involves personal dishonesty or a willful or continuous disregard for the safety or soundness of the insured institution or business institution.

SECTION 1123. EMERGENCY LIQUIDITY

Section 13 of the Federal Reserve Act authorizes any Federal Reserve Bank to discount notes, drafts and bills of exchange arising out of actual commercial transactions for any of its member banks. (12 U.S.C. §343). This is the mechanism by which member banks borrow funds from the Federal Reserve system at a discounted rate. Notes, drafts or bills covering investments in or issued for the purpose of trading in stocks, bonds or other securities are not eligible for discount.

Section 13 further authorizes the Federal Reserve Board, in unusual and exigent circumstances and upon an affirmative vote of at least five Governors, to authorize any Federal Reserve Bank to discount notes, drafts and bills of exchange of the kinds and maturities made eligible for discount for member banks for any individual, partnership or corporation. The notes, drafts or bills must be secured to the satisfaction of the Federal Reserve Bank. The individual, partnership or corporation must demonstrate its inability to secure adequate credit from other banking institutions. While apparently not used since the 1930's, section 13 allows the Federal Reserve to serve as "lender of last resort" for borrowers other than member banks.

Section 1123 amends section 13 to allow the Federal Reserve Board to authorize a Federal Reserve Bank to discount any notes, drafts and bills of exchange for any individual, partnership or corporation; the instruments need no longer be of the kinds and maturities made eligible for discount for member banks. Stocks, bonds and other investment securities will thus be eligible for discount. The notes, drafts and bills must still be secured to the satisfaction of the Federal Reserve Bank and the individual, partnership or corporation must still demonstrate its inability to secure adequate credit elsewhere. Section 13 therefore allows access to liquidity to be made directly available to a securities dealer to help preserve market liquidity in unusual and exigent circumstances that might disrupt the financial system and markets.

SECTION 1124. DISCLOSURE OF SECURITIES INVESTOR PROTECTION ACT COVERAGE

Section 1124 amends section 15 of the Securities and Exchange Act of 1934 to add a new section 15(i). 15 U.S.C. §78o. New section 15(i)(1) renders it unlawful for any broker, dealer or person associated with a broker or dealer (other than a natural person) to participate in effecting, to purport to effect, to induce or to attempt to induce a securities transaction by any customer except in accordance with new section 15(i) and the regulations prescribed by the SEC thereunder.

New section 15(i)(2) directs the SEC to promulgate rules requiring that securities brokers, dealers and persons associated with a broker or dealer (other than a natural person) disclose certain facts to their clients. Such persons must disclose membership status in the Securities Investor Protection Corporation ("SIPC"). They must also provide a general description, prescribed by SIPC, of the operation of the Securities Investor Protection Act ("SIPA"), the method and extent of customer protection provided under SIPA, the transactions that are not protected under SIPA, and a statement that SIPA does not protect against a decline in the market value of securities. A person other than a natural person associated with a broker-dealer that is not a SIPC member must obtain the customer's signature acknowledging receipt of the required disclosure.

These disclosures must be provided and signatures (where required) obtained in connection with establishing a new account by a customer with a broker-dealer or an associate. Where a customer account is already established, the SEC must require the firm to comply with the new regulations within 6 months after the rules go into effect. New section 15(i) requires the SEC to define the term "customer" for the purpose of the section, and specifies that the definition shall not include brokers, dealers, municipal securities dealers, or other persons that the SEC must exclude to carry out the intent of the section. New section 15(i) also gives the SEC authority to make exemptions from the section, in order to address the problems noted without placing an unnecessary burden on the industry.

SECTION 1125. HIRING AND COMPENSATION AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION

Section 4(b) of the Securities Exchange Act authorizes the SEC to appoint and fix the compensation of such officers, attorneys, examiners and other experts as are necessary for carrying out its functions. 15 U.S.C. §78d(b). Section 4(b) further authorizes the SEC to appoint and compensate such other officers and employees as are necessary in the execution of its functions subject to the civil service laws.

Section 1125(a) amends section 4(b) to authorize the SEC to appoint and fix the compensation of all employees of the SEC. The SEC may set rates of pay without regard to the civil service laws. The SEC may provide additional compensation and benefits to SEC employees if the same type of benefits or compensation are or could be provided by a Federal bank regulatory agency (the Federal Reserve Board, the FDIC, the OCC, the OTS, and the NCUA). The SEC shall seek to maintain comparability with the Federal bank regulatory agencies in setting and adjusting benefits for SEC employees.

Section 1125(b) makes conforming changes to section 3132(a)(1) and section 5373 of Title 5, United States Code.

SECTION 1126. TIME LIMITATION ON PRIVATE RIGHTS OF ACTION UNDER THE SECURITIES EXCHANGE ACT OF 1934

Section 1126 amends the Securities Exchange Act to add a new section 36. New section 36 requires, except as otherwise provided by the Securities Exchange Act, any private right of action arising from a violation of the Securities Exchange Act to be brought by the earlier of 5 years after the date on which the violation occurred or 2 years after the violation was discovered. New section 36 shall apply to all proceedings pending on or commenced after June 19, 1991. Except as otherwise provided by the Securities Exchange Act, any private civil action that was dismissed on or after June 19, 1991 which would have been timely filed under the laws applicable in the jurisdiction on June 19, 1991 and under new section 36 may be refiled up to 60 days after the bill becomes law.

SECTION 1127. CONVERSIONS DURING MORATORIUM

Section 5(d)(2) of the Federal Deposit Insurance Act, as amended by FIRREA, established a five-year moratorium beginning August 5, 1989 on conversion transactions by FDIC-insured institutions. 12 U.S.C. §1815 (d)(2). "Conversion transactions" are defined to include an institution's change of status from Bank Insurance Fund membership to Savings Association Insurance Fund membership and vice versa and the merger or consolidation of a Bank Insurance Fund member with a Savings Association Insurance Fund member. Section 5(d)(2)(C) allows the FDIC to approve a conversion during the moratorium if the transaction affects an insubstantial portion of the total deposits of each institution participating in the transaction; if the conversion occurs in connection with the acquisition of a Savings Association Insurance Fund member in default or in danger of default and the FDIC determines with the RTC's concurrence that the estimated financial benefits to the Savings Association Insurance Fund or RTC equal or exceed the FDIC's estimate of the loss of assessment income; or if the conversion occurs in connection with the acquisition of a Bank Insurance Fund member in default or in danger of default and the FDIC determines that the estimated financial benefits to the Bank Insurance Fund exceed the FDIC's estimate of the loss of assessment income.

Section 1127 amends section 5(d)(2)(C) to allow the FDIC to approve a merger of a Bank Insurance Fund member with a Savings Association Insurance Fund member, the assumption of any liability by a Bank Insurance Fund member to pay any deposits of a Savings Association Insurance Fund member or vice versa, or the transfer of assets from a Bank Insurance Fund member to a Savings Association Insurance Fund member or vice versa in consideration of the assumption of liabilities for any portion of the institution's deposits. The resulting or assuming bank or savings association agrees to make pro rata insurance premium payments to both the Bank Insurance Fund and the Savings Association Insurance Fund at the applicable assessment rates. Each insurance fund will assess the percentage of the combined deposits assessable by each fund at the time of the conversion transaction. Any losses arising from any failure of the combined institution will be apportioned between the insurance funds using the same percentage. Section 1127 further amends section 5(d)(2)(e) to provide that an institution participating in such a conversion transaction need not pay exit and entrance fees to the insurance funds.

SECTION 1128. QUALIFIED THRIFT LENDER TEST

Section 10(m) of the Home Owners' Loan Act, enacted by FIRREA, establishes a "qualified thrift lender test" intended to measure a thrift institution's involvement in financing housing. 12 U.S.C. §1467a(m). From August 9, 1990 to July 1, 1991, the qualified thrift lender test required that a savings association's qualified thrift investments equal or exceed 60 percent of the savings association's portfolio assets. "Qualified thrift investments" include the aggregate amount of loans, equity investments, or securities held by the savings association or its subsidiaries that are related to residential real estate or manufactured housing. "Portfolio assets" include the total assets of a savings association less goodwill and other intangible assets, the value of property used by the institution to conduct its business, and liquid assets up to 10 percent of total assets. Effective July 1, 1991, the qualified thrift lender test has required that a savings association's qualified thrift investments equal or exceed 70 percent of its portfolio assets.

Section 1128(a) reduces the test from 70 percent to 65 percent of portfolio assets. Section 1128(b) increases the amount of liquid assets that may be excluded from portfolio assets from 10 percent of total assets to 20 percent of total assets.

Section 10(m) includes loans for personal, family, household, or education purposes as qualified thrift assets in an amount up to 5 percent of the savings association's portfolio assets. Section 1128(c) increases the amount of such consumer loans that may qualify as thrift assets from 5 percent to 10 percent of the institution's portfolio assets.

Section 10(m) includes as qualified thrift assets, without limit, all loans held by the savings association that were made to purchase, refinance, construct, improve, or repair residential or manufactured housing; all home-equity loans; all mortgage-backed securities; and all existing or new obligations of the FDIC, the FSLIC, the FSLIC Resolution Fund, and the RTC. Section 1128(d) amends section 10(m) to include all shares of stock issued by a Federal home loan bank as qualified thrift assets so long as the same assets are not counted more than once in determining the amount of a savings association's qualified thrift assets.

Section 10(m) generally requires savings associations to calculate their qualified thrift investments on a daily or weekly average. Section 1128(e) adds a new section 10(m)(8) allowing savings associations with total assets of less than $1 billion to calculate their qualified thrift investments based on monthly averages.

SECTION 1129. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS

Section 5(c)(2)(D) of the Home Owners' Loan Act, as amended by FIRREA, limits a Federal savings association's loans for personal, family or household purposes and investments in commercial paper and corporate debt securities to 30 percent of its assets. 12 U.S.C. §1464(c)(2)(D). Section 1129 amends section 5(c)(2)(D) to raise this limit to 35 percent of a Federal savings association's assets.

SECTION 1130. NONCONTROLLING INVESTMENTS IN BANKS AND BANK HOLDING COMPANIES BY CERTAIN INVESTMENT FUNDS

Section 1130(a) amends section 2 of the Bank Holding Company Act to add definitions of "qualified investor" and "limited advisor." (12 U.S.C. §1841). "Qualified investor" is defined as an investment company (whether or not registered under the Investment Company Act), investment partnership, endowment, pension fund, or any other company determined by the Federal Reserve Board to be engaged principally in investing. A qualified investor may not be controlled by any company other than a qualified investor or a limited advisor. A "limited advisor" is a company that has been determined by the Federal Reserve Board to be engaged principally in investing and providing investment advice; acts as advisor to a qualified investor in connection with an investment in a bank or bank holding company; does not own or control for its own account 10 percent or more of any class of voting shares of the bank or bank holding company; does not have power to vote in any capacity 25 percent or more of the voting shares of the bank or bank holding company; does not have an economic interest in 25 percent or more of the profits of the bank or bank holding company or of the profits due to a qualified investor; does not have any director, officer or employee in common with or representative serving in such capacity at the bank or bank holding company; does not advise the bank or bank holding company regarding any management or policy decision, whether or not on behalf of a qualified investor; and does not have, and is not affiliated with a company that has, any significant business relationship with the bank.

Section 2(a) of the Bank Holding Company Act prohibits any company from taking any action that causes it to become a bank holding company without the prior approval of the Federal Reserve Board. Section 1130(b) amends section 2(a) to add new sections 2(a)(G) and 2(a)(H). New section 2(a)(G) provides that no qualified investor is a bank holding company solely by virtue of its ownership or control of voting shares of a bank or bank holding company if it owns, controls or has power to vote less than 25 percent of the shares of any class of voting securities of the bank or bank holding company and less than 25 percent of its total equity; remains a passive investor in the bank or bank holding company and does not participate in the management or operations of the bank; does not have and is not affiliated with any company that has a significant business relationship with the bank or bank holding company; and does not have any director, officer or employee in common with or representative serving in such capacity at the bank or bank holding company, except that a qualified investor that owns less than 15 percent of the voting shares of a bank or bank holding company may have no more than one representative serving as a director.

New section 2(a)(H) provides that no company is a bank holding company solely by virtue of its role as advisor to a qualified investor if it remains a limited advisor with respect to the investment and the qualified investor or investors do not own, control or have power to vote 25 percent or more of any class of voting shares of the same bank or bank holding company or 25 percent or more of its total equity. If the qualified investor or investors seek to own, control or have power to vote 25 percent or more of any class of voting shares of the same bank or bank holding company or 25 percent or more of its total equity, the limited advisor will not be a bank holding company if each qualified investor retains the right to vote and dispose of his shares in the bank or bank holding company; the limited advisor does not communicate in any way with the management or other shareholders of the bank or bank holding company regarding management or policies; the limited advisor does not provide any advice to the qualified investors following the acquisition of shares regarding management or policies of the bank or bank holding company; and does not own, control or have power to vote 5 percent or more of any class of voting securities of the bank, bank holding company, or any qualified investor. A limited advisor will be deemed a bank holding company if the Federal Reserve Board determines, after notice and a hearing, that the limited advisor or any investor advised by the limited advisor exercises a controlling influence over the management or policies of a bank or bank holding company.

SECTION 1131. LIMITING LIABILITY FOR FOREIGN DEPOSITS

Section 1131(a) amends section 25 of the Federal Reserve Act (12 U.S.C. § 601) to add a new section 25(11). New section 25(11) provides that a member bank is not required to repay any deposit made at the foreign branch of the bank if the branch cannot repay the deposit because of an act of war, insurrection or civil strife or an action by a foreign government in the country where the branch is located unless the bank has expressly agreed in writing to repay the deposit under those circumstances.

Section 1131(b) amends section 18 of the Federal Deposit Insurance Act (12 U.S.C. §1828) to add new section 18(t). New section 18(t) applies new section 25(11) to all nonmember insured banks.

Section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. §1813(l)(5)) currently excludes from the definition of "deposit" any obligation of a bank or savings association payable only at an office of the institution located outside the United States. Section 1131(b) amends section 3(l)(5) to exclude from the definition of "deposit" any obligation of a depository institution carried on the books and records of an office of such institution located outside the United States unless such obligation would be a deposit if it were payable at an office located within the United States and the contract evidencing the obligation expressly provides for payment at an office located within the United States.

The amendments made by section 1131 do not affect any claim arising out of actions taken by a foreign government before the bill becomes law.

SECTION 1132. CERTAIN WRONGFULLY WITHDRAWN DEPOSITS TREATED AS INSURED DEPOSITS

Section 1132 amends section 3 of the Federal Deposit Insurance Act (12 U.S.C. §1813) to add a new section 3(m)(3). New section 3(m)(3) requires the FDIC, as conservator or receiver of an institution, to treat any deposit wrongfully or fraudulently withdrawn by a person other than the depositor without the depositor's knowledge or consent as an "insured deposit" if the withdrawal was permitted by the negligence or misconduct of the institution or its employees. The depositor must have sought recovery from the perpetrator of the wrongful withdrawal and must have been able to receive relief from the institution before its acquisition by the FDIC.

New section 3(m)(3) shall apply to any wrongful or fraudulent withdrawal of deposits occurring after January 1, 1987.

Section 21A of the Home Owners' Loan Act establishes the powers of the Resolution Trust Corporation ("RTC") and the Oversight Board. (12 U.S.C. §1441a). Section 1133 amends section 21A to add a new section 21A(q). New section 21A(q) requires any person obligated to provide services to an insured depository institution at the time the RTC is appointed conservator or receiver to continue providing those services to any person to whom the RTC has transferred the right to receive those services. A person obligated to provide services may refuse to provide those services to a transferee if the transferee fails to comply with any material term or condition of the original obligation. New section 21A(9) does not limit the RTC's authority as conservator or receiver.

SECTION 1134. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS

Section 1134 requires the Attorney General, in consultation with the Secretary of the Treasury, the Federal Reserve Board, and other appropriate banking regulatory agencies, to study the effect of amending the Right to Financial Privacy Act to allow reimbursement to financial institutions for providing financial records on corporations and other entities not currently covered under section 115(a) of that Act. The study shall include analysis of the effect of allowing licensed nondepository transmitters of funds to be reimbursed to the same extent as financial institutions. The Attorney General must submit a report on this study to Congress within 180 days after the bill becomes law.

SECTION 1135. REMOVING COST LIMITATION ON CONSTRUCTION OF FEDERAL RESERVE BANK BRANCH BUILDINGS

Section 10 of the Federal Reserve Act effectively limits construction costs for all Federal Reserve Bank branches to $140 million. 12 U.S.C. §522. Section 10 prohibits a Federal Reserve Bank from entering into any contract for the erection of any bank branch building if the cost of the building itself is in excess of $250,000. This limitation does not apply so long as the aggregate of all costs for Federal Reserve Bank branches incurred with the approval of the Federal Reserve Board after July 30, 1947 does not exceed $140 million. Section 1135 amends section 10 to remove the cost limitation. New section 10 prohibits a Federal Reserve Bank from entering into any contract for the erection of any building without the prior approval of the Federal Reserve Board.

SECTION 1136. $1 COINS

Section 5112(b) of Title 31, United States Code, currently provides for the minting of dollar coins of the same color and composition as the half dollar, quarter and dime coins. Section 1136 amends section 5112(b) to provide for minting new $1 coins that are golden in color and have tactile features to aid the visually handicapped to differentiate the $1 coin from other coins. The new $1 coin will have similar metallic anticounterfeiting properties as current coins. The obverse side of the new $1 coin will have a design symbolizing the 500th anniversary of Christopher Columbus's exploration of the New World.

The new $1 coins must be placed into circulation within 18 months after the bill becomes law. Seigniorage resulting from production of the new $1 coins will be used first to offset the reverse seigniorage resulting from the destruction of Susan B. Anthony $1 coins in Government storage and next to retire the national debt.

SECTION 1137. PURCHASED MORTGAGE SERVICING RIGHTS

Section 5(t)(4) of the Home Owners' Loan Act, as amended by FIRREA, allows a savings association to include 90 percent of the fair market value of readily marketable purchased mortgage servicing rights in calculating leverage, risk-based and tangible capital. 12 U.S.C. §1464(t)(4). Section 5(t)(4) further allows the FDIC to prescribe a maximum percentage of the tangible capital requirement that can be satisfied by including purchased mortgage servicing rights in the calculation. Section 1137 allows each Federal banking agency, notwithstanding section 5(t)(4), to prescribe for insured institutions for which it is the appropriate Federal banking regulator a maximum percentage of tangible capital, risk-based capital and leverage limit that may be satisfied by including purchased mortgage servicing rights in the calculation. As currently, the purchased mortgage service rights must be readily marketable and may not be valued at 90 percent of fair market value.•

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending exceeds the budget resolution by $6.4 billion in budget authority and by $5.9 billion in outlays. Current level is $3.0 billion above the revenue target in 1992 and $3.5 billion above the revenue target over the 5 years, 1992–96.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $354.1 billion, $2.9 billion above the maximum deficit amount for 1992 of $351.2 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 19, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1992 and is current through February 18. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated February 3, 1992, the Congress has cleared and the President has signed the Emergency Unemployment Compensation Extension (P.L. 102–244) and the American Technology Preeminence Act (P.L. 102–245). These actions changed the estimates of budget authority, outlays and revenues.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., AS OF FEB. 18, 1992

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level [1]	Current level +/− resolution
On-budget:			
Budget authority	1,270.6	1,277.0	+6.4
Outlays	1,201.6	1,207.5	+5.9
Revenues:			
1992	850.4	853.4	+3.0
1992–96	4,832.0	4,835.5	+3.5
Maximum deficit amount	351.2	354.1	+2.9
Debt subject to limit	3,982.2	3,706.6	−275.6
Off-budget:			
Social Security outlays:			
1992	246.8	246.8	....
1992–96	1,331.5	1,331.5	....
Social Security revenues:			
1992	318.8	318.8	....
1992–96	1,830.3	1,830.3	....

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS FEB. 18, 1992

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues	....	....	853,364
Permanents and other spending legislation	....	....	....
Appropriation legislation	686,331	703,643	....
Continuing resolution authority	13,992	5,454	....
Mandatory adjustments[1]	(1,041)	1,105	....
Offsetting receipts	(232,542)	(232,542)	....
Total previously enacted	1,274,306	1,204,844	853,364

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS FEB. 18, 1992—Continued

	Budget authority	Outlays	Revenues
ENACTED THIS SESSION			
Emergency unemployment compensation extension (Public Law 102–244)	2,706	2,706	
American technology preeminence (Public Law 102–245)			(2)
Total current level	1,277,012	1,207,550	853,364
Total budget resolution	1,270,612	1,201,600	850,400
Amount remaining:			
Over budget resolution	6,400	5,950	2,964
Under budget resolution			

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the concurrent resoluiton on the budget. (H. Con. Res. 121).

[2] Less than $500,000.•

COMMEMORATING BLACK HISTORY MONTH

• Mr. McCAIN. Mr. President, as you know, February is Black History Month, which our Nation has devoted to honoring the achievements of African-Americans and their culture in our Nation. The origins of this celebration can be traced back to Carter G. Woodson, a noted historian and author. In 1926, Woodson, who is considered by many to be the father of black history, began setting aside a week each February to honor the achievements of African-Americans.

Several of my colleagues have addressed this body earlier this month to extoll the accomplishments of African-Americans in their States'. Last year, I joined my colleagues by discussing the rich history of African-Americans in my home State of Arizona. This year, however, I feel that I cannot speak of the accomplishments of the past. As we move into the 1990's, I feel that it would be more appropriate to use this opportunity to stress the importance of economic advancement in the African-American community.

The economic disparity between African-Americans and the rest of America is appalling. In 1988 the Census Bureau reported that the median black family income was $19,329. While the median family income of white families that year was $33,915, a $14,586 disparity. Unfortunately, this gap has been widening since 1978, and it shows no sign of narrowing in the near future. When we examine per capita income between African-Americans and whites, we see the same disparity. In 1988, the average African-American worker only earned 60 cents for every dollar that white workers earned.

While racism still exists and is an obvious contributor to many of the problems affecting the African-American community we must not ignore the role of other significant factors. Our attention must turn to encouraging economic self-sufficiency.

It is not difficult to see the correlation between economic conditions and other social problems which disproportionately affect the African-American community. We must face the problems of teen pregnancy, increasing high school dropout rates, and illiteracy as well as many of the other ills affecting the community.

In 1990, a study of African-American males and the criminal justice system revealed some startling information. On any given day, almost 1 in 4, of African-American males in the age group 20 to 29 is either in prison, on probation, or on parole. For white males in the same age group only 1 in 16 or 6.2 percent were under the control of the criminal justice system. The study also points out that the total number of young African-American males in the criminal justice system, 609,690, is greater than the total number of African-American men, 436,000, in higher education. It is obvious to me, that this crisis requires the Nation's urgent attention.

While our society has made great strides in the past 30 years, the economic conditions of many African-Americans in our Nation have not changed. The subject of economic empowerment is by no means a new topic of debate. People who have opposed making this a priority have dismissed this as merely a Republican smoke screen to hide from a strong civil rights program. Nothing could be farther from the truth. Throughout history many African-Americans have stressed the importance of economic advancement—Booker T. Washington, Marcus Garvey, and Adam Clayton Powell to name just a few. Claims that this is Republican politicking dishonors these people and deprives them of their rightful place in history.

Indeed, the full inclusion of African-Americans in our Nation's economy is one of the most important issues on our Nation's unfinished civil rights agenda. It is crucial to the African-American community as well as our Nation. By the year 2000, 4 out of 5 people entering the job market are expected to be minorities or women. African-Americans are a vital resource which our Nation must utilize if we are to continue our role as an economic superpower.

Mr. President, increasing our attention to the economic problems facing the African-American community is an important topic of debate today in the African-American community. Arguments have been made that the civil rights community in the past has not made as great an effort to improve the economic condition of African-Americans as it has in its fight against racism.

This week, William Raspberry, a well known and respected columnist, wrote an article regarding Benjamin Hooks and his retirement from the NAACP at the end of this year. I, like many of my colleagues will be saddened to see him leave. However, Mr. Raspberry points out that this is an excellent opportunity for the NAACP to take on a new direction.

Mr. Raspberry writes: "Our civil rights generals are fighting the last war, demanding that Government create and fund the programs we need, that the courts protect our interests, and that white America get religion, even while we are losing our own." Mr. Raspberry goes on to urge the NAACP to begin focusing more of its resources on economic development.

Mr. President, I ask that the rest of Mr. Raspberry's article appear in the RECORD after my statement.

We must continue to be vigilant in our fight against racism, but it is time that we put forth the same level of commitment toward economic empowerment.

It is important that we realize that the fate of our Nation is linked to the plight of African-Americans and other minorities in our society. Unless we accept this and come together as a nation to correct these problems, the conditions of African-Americans will continue to worsen, and our Nation will be the poorer for our failure.

Through the efforts of the civil rights community, this Nation came to fully understand its Declaration of Independence: That all men are created equal under God. For a long time in our Nation's history these words rang hollow for many of our citizens. We are at the doorway of a new era in our Nation's history. Let us be wise enough to summon the will to advance through it.

The article follows:

NAACP: TIME FOR A CHANGE

(By William Raspberry)

Benjamin L. Hooks is stepping down at the end of the year, and the National Association for the Advancement of Colored People will have to find a new executive director.

But first (if I may be so presumptuous), it needs to find a new *direction*.

That's not meant to be unkind. Both Hooks and the organization he has headed for 15 years have been vital to the cause of justice for black America. But the problems we face today are not the problems on which Hooks and his generation built their expertise. Things are different—due in no small way to the work of Hooks and his predecessors in office.

Twenty or 25 years ago a black person who got into trouble with a racist police officer, or who was denied a merited job or promotion, or who was barred from a "white" club or restaurant, would automatically call the local NAACP office—to launch an investigation, to consider the possibility of a lawsuit or just to have someone bring pressure on local elected officials.

Thanks to the success of the civil rights movement—in voting rights and in government and in private employment—the phone call is likelier now to go to a black (or racially sensitive) city official, police executive or journalist.

That's one change. Here's another: For Hook's generation, the major threat to black progress was racism: police brutality, school segregation, housing discrimination, race-based job denial. All these things still happen, but mostly here and there, now and then. The big threat to our progress—to our *survival*—is now more internal than external, and mostly beyond the reach of legislation and court decrees.

Our children, particularly those with the bad luck to be born to poor parents, are too likely to become school dropouts, adolescent parents, drug peddlers or users, or criminals. The leading cause of death of young black men is not the Klan but young black men themselves. Our neighborhoods are terrorized not by white-sheeted nightriders but by drive-by gunmen who look like our own children.

And here's the point: Our civil rights generals are still fighting the last war—demanding that government create and fund the programs we need, that the courts protect our interests and that white America get religion, even while we're losing our own.

Our problems fester within our community, but our focus remains outside, on those who no longer see much justice in our demands. As the Rev. Buster Soaries of Trenton once put it, "We are still telling old Pharaoh to 'let my people go,' when what we need are leaders with the courage to say, 'My people; Let *Pharaoh* go.' "

By announcing in February his intention to retire at the end of the year, Ben Hooks has given black America's flagship organization the opportunity to set new priorities, to chart a new course.

And what might the new directions be? For me, the answer is easy: Our children and our economic development. We are losing our children—our legacy and our future—and the pressing need is to rescue them and put them to useful work. It isn't necessary that Hooks' successor be someone who's figured out precisely how to accomplish that rescue. The fact is that Hooks and his predecessors took such good care of the organization's image and reputation that it would take only an invitation from the NAACP to assemble the best minds in black America to work out a rescue and economic development plan.

And not just black America. Top-flight sociologists, economists and psychologists of all colors would say yes to such an invitation. Major universities—historically black or not—would join in undertaking the necessary research. Philanthropists or philanthropic foundations would help with the funding if money turned out to be the critical barrier to what must be done. Not even a conservative administration could look the other way.

But the effort has to begin with us—with the NAACP, the Urban League, the Congressional Black Caucus and the dozens of smaller, local organizations, most of which already are doing at least some of the work I'm describing.

My notion is that the NAACP has the opportunity to make this black America's primary focus. We don't need to abandon the efforts to reduce racism (or at least to ameliorate its effects). We don't have to ignore discrimination in the corporate board room or on the ghetto street.

We simply need to focus first on the things that will make the most difference.●

ORDER FOR RECORD TO REMAIN OPEN UNTIL 2:30 P.M.

Mr. MITCHELL. I ask unanimous consent that the RECORD remain open today until 2:30 p.m. for the introduction of statements and legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 219, the Cooperative Research Act Extension.

Mr. DOLE. Mr. President, I am not in a position to grant that request at this time. Maybe at a later date I can do that. I will object.

The PRESIDING OFFICER. Objection is heard.

NATIONAL COOPERATIVE RESEARCH ACT OF 1991

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I move to proceed to Calendar No. 219, S. 479, the National Cooperative Research Act Extension of 1991.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to the consideration of S. 479, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States:

Patrick Leahy, Max Baucus, Joe Biden, Kent Conrad, George Mitchell, Wendell Ford, Brock Adams, Dale Bumpers, Don Riegle, Terry Sanford, Timothy E. Wirth, Richard Bryan, J.J. Exon, Barbara A. Mikulski, Claiborne Pell, John Glenn, Fritz Hollings, Strom Thurmond, Herb Kohl.

ORDER OF PROCEDURE FOR TUESDAY, FEBRUARY 25, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that on Tuesday, February 25, immediately upon the disposition of the conference report on H.R. 2212, there be 1 hour for debate on the motion to invoke cloture on the motion to proceed to S. 479, with the time equally divided and controlled in the usual form; that when the time is used or yielded back, without intervening action or debate, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to S. 479, with the mandatory quorum under rule XXII waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, FEBRUARY 25, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., on Tuesday, February 25; that following the prayer the Journal of the proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day; and that there be a period for morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak as indicated: Senator SASSER for up to 15 minutes and Senator SIMPSON or his designee for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Senator SIMPSON be recognized to address the Senate for 10 minutes and that upon the completion of his remarks the Senate stand in recess as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes Senator SIMPSON.

Mr. SIMPSON. Mr. President, I thank the majority leader for his courtesies.

RURAL HEALTH CARE INITIATIVE

Mr. SIMPSON. Mr. President, let me just state that we had a very interesting vote today on an issue with regard to the Veterans' Administration rural health care initiative.

Because last night we only had a brief amount of time to discuss the amendment concerning the rural health care initiative, I wanted to come to the floor today, since I was one of 3 hardy souls who voted against that measure, to discuss why I did not vote in favor of the amendment, and what I would like to see done to remedy the situation, and to clarify some comments I made yesterday regarding the rural health care initiative in view of some remarks subsequently made by my very good friend Senator JOHN MCCAIN. He is a truly remarkable veteran, and a man for whom I have great admiration and respect. He certainly speaks for the veterans on so many issues, and does a beautiful job with the prisoner of war/MIA issue, as only he could with his personal background and the awesome situation that he was placed in when he was a prisoner of war.

But the rural health care initiative has many, many valid points and a great deal of merit, and that somehow got lost in all that emotion. I was very disappointed to see it become hostage to election-year politics at the hands of the ever-powerful, what I call, "professional fundraising veterans' organizations."

I will say that I, too, was initially very concerned that this initiative would start a precedent for "non-vet" health care at VA hospitals. But, once I studied the initiative very carefully and its limited nature, I found that there is just no reasonable cause to believe it would harm veterans in any way. Yet that is the cry that went out through the land, heavily, very heavily.

And as a matter of fact, I found there are already in existence some 600 Veterans' Administration sharing programs with other agencies that total about $550 million. Please hear that. That is already being done. This authority is presently granted to the Secretary of Veterans Affairs under title 38 of the U.S. Code, and he uses it, and uses it well.

This initiative—if it were allowed to proceed—would have very likely even expanded veterans' services and health care by allowing veterans to be seen by a non-VA physician at a federally funded primary clinic where there are no VA facilities located. Surely, there is definitely merit in that, I think, any veteran would admit.

Please understand what I am saying. The rural health care initiative that we rejected by a huge vote—only three supporters—would have allowed veterans to be seen by non-VA physicians where there currently exist no VA hospitals. That is the case in the Salem, VA, test site. What is wrong with that? That would expand veterans' access to health care—not limit it.

I am very saddened because I especially believe that the Tuskegee, AL, project site had a considerable amount of merit. This VA medical center is the only acute care medical center within a 30-mile radius, and this was the only proposal that involved the primary use of the VA center itself.

The occupancy rate of that VA medical center is under 84 percent and there are an average of 15 inpatient and 30 outpatients which are seen on a daily basis. There are more than adequate beds to care for all veterans who seek care as well as the small number of poor, and often minority, nonveterans.

There is an area whose population consist largely of poor, black Americans. The VA is the only hospital in the county. All veterans would have received priority care over non-veterans. And the VA would not have had to pay a nickel for the care of the non-veterans—not a nickel. All of it would have been paid by Health and Human Services.

So through this pilot project we could have helped less fortunate, minority Americans while still serving—on a full priority, first come first serve basis—our deserving veterans. That is why I voted against the amendment that effectively killed the rural health care initiative.

These veterans service organizations will one day realize that VA hospitals will have to be utilized in some similar manner in order to remain a mainstay in our society. This initiative would have protected and solidified those same underused VA hospitals in the VA health care system.

Without a sufficient bed level, without appropriate occupancy rates, many underused VA hospitals will now lose support. And that is a simple fact. The staffs are there. We are not going to allow that to continue in the budget crunch. And we give our veterans $32.5 billion this year. There are 27 million of us.

I am very proud to be a veteran, proud to be a lifetime member of the VFW and the American Legion, and also a member of Amvets and to have received their highest award, the Silver Helmet Award.

Let me tell you that this is an engine driven by some of the executive director types and not by the grassroots veteran. Because if a grassroots veteran knew that his or her organization was simply trying to ignore poor and minority people in America in two test sites, they would be embarrassed and they ought to be very embarrassed.

Secretary Derwinski and Secretary Louis Sullivan have presented us with an extremely valid initiative that would have supported these underused VA hospitals as well as lending support to poor, rural, white and black Americans.

Urging the termination of the rural health care initiative was extremely shortsighted. We did not even bother to allow the limited pilot project a chance to demonstrate its merits. We canceled it without knowing what benefits would come from the program.

In the short term, these same fundraising veterans can claim a victory over the Secretary of Veterans Affairs. They will. They will chortle about that. They wanted his head, and the way they sought to go about it was unbecoming to witness.

In the long term, an opportunity to see the result of the emergence of good policy and compassion and caring to veterans and to a few poor, rural black and white nonveterans, might well be lost for good.

I believe their efforts to "take on Secretary Derwinski" will prove to be a grave mistake. It is the same headhunting that has been going on by some of these groups for a long, long time. It is wholly counterproductive, and very crude to watch.

The rural health care initiative would have benefited poor rural black Americans. Poor rural white Americans would have benefited as well. The American veterans would have benefited. The Departments of Veterans Affairs and Health and Human Services would have benefited as well.

So in the future I will work closely and try to work diligently with the Veterans Department; Secretary Sullivan at HHS; my colleagues, Senator SPECTER, Senator SHELBY, Senator MCCAIN, and others; as well as the veterans organization groups, to study the avenues to implement administratively a sharing agreement at the Tuskegee, AL site.

In other words, I am giving notice that I intend to do my part in trying to salvage at least some aspect of this much-maligned, wholly distorted—and yet very worthy initiative. That can be done at Tuskegee. We will pursue that. I want my colleagues to join in that and at least enter the debate.

Then let me conclude my remarks about the VFW, and the rural health care initiative. I did not state yesterday that veterans in general were greedy. What I did say is that "professional fundraising veterans" demonstrated "pure, unadulterated greed" regarding the rural health care initiative. In order to raise money they have not told their members the whole truth about the rural health care initiative. Their failure to do so, or their failure to even try to understand the initiative, coupled with their flagrant abuse of and disrespect for Secretary Ed Derwinski, is not consistent with what I believe are the high standards that individual members of organizations like the VFW stand for. I have been a member for over 30 years and I have never been more embarrassed at their antics.

Senator MCCAIN is correct. There is a widespread perception that the rural health care initiative is bad policy. It is only a perception because the professional fundraising veterans have not told the truth or allowed all the facts to reach the grassroots veterans. And Secretary Derwinski did indeed communicate and negotiate in good faith with the veterans' service organizations prior to signing on to the rural health care initiative. That is why there are only two test sites and not five as Secretary Derwinski had initially proposed. He compromised on that issue when the veterans' organizations requested a limited pilot project.

This is not a question of the eligibility of veterans to be treated at VA hospitals. It is a question of helping poor rural Americans, people less fortunate than most veterans.

This is the only country on the face of the Earth that is so generous with entitlements and benefits to nonservice connected veterans. Congress continues to mandate entitlements that we have no way of paying for. Then we revoke those same entitlements once we realize we have no way of paying for them. I do not blame veterans for being mad as hell. I blame Congress. We pass these entitlements and we know there is no way to pay for them. But there is not a person on this floor who will vote against a veterans' issue.

So I do believe the majority of veterans are good, honorable, decent men and women, but I surely take exception to some of the shrill rhetoric that interest groups are fond of using to excite their members, offer to try to insure an increase in membership so that they can fend off an "ignorant" and "heartless" Congress. What drivel. That is a poor way to do business. And I have watched it for many, many years. It is disgusting.

Thank you, Mr. President.

RECESS UNTIL TUESDAY, FEBRUARY 25, 1992, AT 10 A.M.

The PRESIDING OFFICER (Mr. ROBB). Under the previous order, the Senate now stands in recess until 10 a.m. on Tuesday, February 25, 1992.

Thereupon, the Senate, at 2:14 p.m., recessed until Tuesday, February 25, 1992, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 21, 1992:

DEPARTMENT OF TRANSPORTATION

ANDREW H. CARD, JR., OF MASSACHUSETTS, TO BE SECRETARY OF TRANSPORTATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING JAMES M. LEITNER, AND ENDING RAYMOND W. BLOWITSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 22, 1992.

COAST GUARD NOMINATIONS BEGINNING DANIEL N. WOOD, AND ENDING MATTHEW L. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 22, 1992.

HOUSE OF REPRESENTATIVES—*Monday, February 24, 1992*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us in all our ways, O God, to look upon others with the respect and honor that is due every person. We admit our disagreements and conflicts, our disputes and quarrels, and yet we acknowledge You as the Creator and Judge of the whole human family, a family bound together by Your gift of life and Your sustaining spirit. May the spirit of tolerance mark our voices and the spirit of understanding touch our actions so we will see others as companions on the road of life. May Your blessing, gracious God, be with us all this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will recognize the gentleman from Mississippi [Mr. MONTGOMERY] to lead us in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

HAIL TO AMERICA'S FEMALE OLYMPIANS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, 2 weeks of Olympic competition ended yesterday. While the United States performance was not what we would have loved it to be—we did not win all the medals—we certainly won a representative share. I think all of us should take note of the fact that 9 of the 11 medals the United States won, and all 5 of the gold medals which the United States won, were won by our American women.

I think that goes back to a lot of things, including the wonderful training techniques that coaches have developed today, the great nutritional techniques, and new equipment.

But I think it also goes back to some of the legislation passed in this body and the other body on title IX and some of the efforts that we have made to make sure that Federal money is spent equally on men and women athletes in the various programs that are sanctioned at the college level.

Mr. Speaker, certainly we want to give tribute to our Olympic women and to all of the young Bonnie Blairs and Kristi Yamaguchis who watched these Olympics and will be our Olympians in future years.

I think it is also important for us to note that this Congress and this Nation played a role in these achievements.

PERMISSION TO PRINT PROGRAM AND REMARKS OF MEMBERS AT WREATH-LAYING CEREMONY FOR OBSERVANCE OF GEORGE WASHINGTON'S BIRTHDAY

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the program and the remarks of the two Members representing the House of Representatives, the gentleman from Virginia [Mr. MORAN] and the gentleman from Virginia [Mr. BATEMAN], at the wreath-laying ceremony at the Washington Monument for the observance of George Washington's birthday on Friday, February 21, 1992, be inserted in today's CONGRESSIONAL RECORD.

The SPEAKER pro tempore (Mr. VENTO). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The text of the program and speeches are as follows:

PRESIDENT GEORGE WASHINGTON, 260TH BIRTHDAY OBSERVANCE, FEBRUARY 21, 1992, 11 A.M., WASHINGTON MONUMENT, WASHINGTON, DC

"The name of American * * * must always exalt the just pride of Patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same Religeon, Manners, Habits and Political Principles. You have in a common cause fought and triumphed together. The independence and liberty you possess are the work of joint councils, and joint efforts; of common dangers, sufferings and successes."—FAREWELL ADDRESS.

"* * * the Propitious smiles of Heaven, can never be expected on a nation that disregards the eternal rules of order and right, which Heaven itself has ordained."—FIRST INAUGURAL ADDRESS.

"Knowledge is in every country the surest basis of public happiness, contributing inestimably to the security of a free constitution. * * *"—FIRST ANNUAL ADDRESS TO CONGRESS.

PROGRAM

Opening: Arnold Goldstein, Superintendent, National Capital Parks-Central, National Park Service.

Presentation of the Colors: Joint Armed Services Color Guard, Military District of Washington.

"The National Anthem": U.S. Air Force Band, Chief Master Sgt. Alan Sine, Director.

Welcome by the Master of Ceremonies: Arnold Goldstein, Superintendent, National Capital Parks-Central, National Park Service.

Remarks: Honorable Russell E. Train, First Vice President, Washington National Monument Society.

Robert G. Stanton, Regional Director, National Capital Region, National Park Service.

Honorable Herbert H. Bateman, U.S. House of Representatives, 1st District, Virginia.

Honorable James P. Moran, U.S. House of Representatives, 8th District, Virginia.

Musical Selection: Stevens Elementary School Glee Club and Bell Ringers.

Presentation of Wreaths:

Wreath of the U.S. House of Representatives: Honorable Herbert H. Bateman, Honorable James P. Moran.

Wreath of the Washington National Monument Society: Honorable Russell E. Train.

Wreath of the National Park Service: Regional Director Robert G. Stanton.

Taps and Retiring of the Colors: Military District of Washington.

The National Park Service and the Washington National Monument Society would like to acknowledge special thanks to the Military District of Washington, the United States Air Force Band, and to the students and faculty of Stevens Elementary School for contributing to the success of this program.

SPEECH OF REPRESENTATIVE JAMES P. MORAN, CELEBRATING THE BIRTHDAY OF GEORGE WASHINGTON, FEBRUARY 21, 1992

Today we are gathered to celebrate the birthday of George Washington, the founder of our Country. We celebrate this occasion at one of many monuments throughout our Nation memorializing the spirit and courage of the first President of the United States. We stand here today at this memorial—the tallest monument in our city that serves daily as a quidepost and reference point to how important Washington was to our country and to all Americans.

I am especially proud to be able to speak at this gathering as the Congressman representing the 8th district of Virginia, where, just southeast of here, George Washington's home, Mount Vernon, is located. And, like all Virginians, I am proud that Washington served in Virginia's House of Burgesses and lived here all of his life.

When I think of George Washington, I think of a man with exceptional principles, backbone, and vision. A man so well loved by his countrymen that some thought of anointing him King, but who steadfastly refused to accept any such title in the best interests of democracy.

One need not wonder what our Nation might be like today if George Washington

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

had been a different kind of man. What if he had not had the courage to serve as commander of the Continental armies in our Revolutionary War and lead the fight against the British from the first stirrings of rebellion in 1776 to the victorious meeting at Yorktown in 1781. He steadfastly maintained his conviction that fighting for your beliefs does sometimes necessitate waging battles against those who want to limit your freedom.

Knowing that he had done his part to secure independence from British rule, Washington should have been content with this service and retire to his home at Mount Vernon, but he could not turn his back on the needs of his countrymen. They called upon him next to help craft the most important document in our nation, the Constitution. Washington came to the meetings with the firm belief that, "* * * the mass of citizens in these United States mean well, and I firmly believe they will always act well whenever they can obtain a right understanding of matters."

After the final votes had been taken at the Second Constitutional Convention, it was the unanimous opinion that Washington was the only man capable of filling the role of President. Though at first he was opposed to this suggestion he quickly saw the importance of his ascension to the Presidency and resigned himself to the will of his colleagues and assumed the office of President.

Washington carefully molded the role of the Presidency during his two terms—setting the precedent for the functions of the Chief Executive and interpreting the balance of powers shared with the judicial and legislative branches of government.

After two terms, Washington stepped down as President and left the office open for a democratically elected successor. In Washington's farewell address he said, "* * * the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation, and so prudent a use of this blessing, as will acquire to them the glory of recommending it to the applause, the affection and adoption of every nation which is yet a stranger to it." We have come to thank George Washington today for his selfless service for the betterment of our country which set an example for all Americans to follow. Thanks to George Washington all Americans can truly recommend the adoption of such democratic principles by all Nations—and hope that they are privileged to find such selfless, visionary leaders to make that democracy work.

George Washington Wreath-Laying Ceremony Remarks, Representative Herbert H. Bateman, First District of Virginia, February 21, 1992

I am privileged to have this opportunity to speak here today in honor of a fellow Virginian and our first President. For more than two centuries, his dedication to the principles upon which our country was founded has served as an inspiration to all of us. George Washington's character and dedication America validates his being referred to as the "father of our country." No one was more important to our winning our independence from Great Britain or to the creation of America.

George Washington's early experiences taught him many lessons that he would later draw upon as commander of our Revolutionary War army, and as our post war leader. His experience as a young surveyor taught him the significance of patience and exactitude and reinforced his love of the land.

In 1753, at the age of just 21, George Washington was sent as an emissary to the Ohio River Valley to deliver an ultimatum to the French warning them not to encroach upon English territory. During this mission, Washington was shot at by Indians, nearly drowned, and exposed to extreme cold and hunger. This experience demonstrates his perseverance, which was to serve him well in the years to come.

In the fall of 1755, Washington was appointed by Governor Robert Dinwiddie as commander in chief of the Virginia militia. The responsibility of defending some 300 miles of rugged frontier taught him the importance of strong leadership and statesmanship. The primitive conditions of the then frontier and the conduct of warfare against the Indians gave him the opportunity to conduct difficult military operations over large and rugged terrain, a lesson well used during the Revolution. His resolve and dedication to duty made him successful in defending the inhabitants of the frontier of Virginia that reached to the Ohio River.

By the 1770s, relations between the colonies and Great Britain had become extremely strained. British abuses of the colonists affronted George Washington's sense of dignity and strengthened his belief in self-determination. He came to envision a land united in self-governance. He saw moral righteousness in the American struggle for liberty and dedicated himself to helping his fellow countrymen realize their dream.

Although cautious in his approach, Washington was firm in his support of the colonists' resistance to British political and economic repression. He represented Virginia in the First and Second Continental Congresses, and Washington was so well respected that he was unanimously elected as commander of the Continental Army.

In the long struggle of the Revolution, George Washington's successful command of a poorly equipped and often demoralized army was fueled by the inspiration and hope he was able to instill in his men. Washington's commanding presence and personal stability fortified the courage of the nation. He was able to manage seemingly impossible situations with a poise that seemed like ease. His genuine concern for his men won their steadfast devotion. Indeed, the respect he was accorded both as a person and as a leader was critical to the success of the Revolution.

George Washington briefly retired after the Revolution to Mount Vernon where he was the country's pre-eminent farmer, but was drawn back into national service when it became apparent that in the interest of the nation, he must assume a leading role in transforming the Articles of Confederation. Washington had great hopes for the new nation. He felt that it should be pre-eminent in the world and a model for other nations. He believed this could only be attained through a union stronger than the Confederation.

George Washington said that the purpose of the new Constitution was to "establish good order and government and to render the nation happy at home and respected abroad." He strongly felt that the people should govern themselves. He said he was sure the "citizens of the United States mean well, and * * * I firmly believe they will always act well."

Washington felt that the people must be inspired by a sacred regard for public justice. And most importantly, he felt that Americans must be united in a common national interest and maintain their dedication to the preservation of liberty.

Our nation today remains symbol of the spirit of George Washington. It is fitting today that we pay tribute to him at this beloved site and rededicate ourselves to the vision of our nation that is our great inheritance from the father of our country.

We must maintain George Washington's faith and pride in our nation. We must follow his example and remain committed to freedom and democracy. As John Adams said, "his example will teach wisdom and virtue to magistrates, citizens, and men, not only in the present age, but in future generations, as long as our history shall be read." The memory of George Washington will be kept as long as humankind treasures liberty under law.

LUXURY TAX

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, more figures have been released this morning which again underscore what a tremendous failure the so-called luxury tax has been. Let me share a couple of those statistics with you.

This study reveals the luxury tax actually costs the Federal Government millions of dollars in revenue; $7.6 million to be exact. Worse yet, the tax also costs thousands of working Americans their jobs. In fact more than 9,000 middle-class American workers lost their jobs because of this so-called tax on the rich.

One economist calls the tax a very shortsighted kind of tax because it ignores the second round effect of taxation—increased unemployment.

Congress aimed its tax gun at the rich, and shot itself in the foot and working men and women in the back.

Any economic growth package that does not include a full repeal of this tax is a failure. A failure to do what is economically sound for this country and a failure to protect the jobs of thousands of Americans.

THE SOCIAL SECURITY EARNINGS TEST

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, why does the Government encourage people not to work? Why does the Government penalize people for working? Why does the Government tell experienced and productive citizens not to use their skills and abilities?

These are just a sample of the many questions I hear from my constituents regarding the Social Security earnings test.

Mr. Speaker, the Social Security earnings test is a policy that defies common sense. Our country suffers from the worst recession in recent history which is having a severe impact on our Nation's older citizens. In light of our Nation's economic condition, the earnings limit is grossly unfair and illogical. The income restriction not only denies some of our most productive citizens the opportunity to help support themselves, but also prevents them from contributing to our economy and recovery. For example, seniors are finding it increasingly difficult to pay their personal health care costs. Consequently, the Government is required to increase spending at a time when budgetary restraint must be a priority. Clearly, the ability of seniors to earn an income after retirement is vital to their well-being and to our Nation.

People are living longer and leading very active lives far beyond retirement. For older Americans the opportunity to remain active participants in society is much greater today than it has ever been. Older Americans must be permitted to enjoy the lives they desire and to which they are capable.

Mr. Speaker, the issue may be difficult to understand, but the answer to the questions I mentioned earlier is simple—let us eliminate the earnings test.

OVERWHELMING EVIDENCE DEBUNKS OCTOBER SURPRISE MYTH

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. LIVINGSTON. Mr. Speaker, another hand grenade has been dropped on the Democrats' October Surprise debacle. The counterculture Village Voice has published an extensive review of the conspiracy theory and its sources.

Proponents of the October Surprise theory might have been overjoyed that the liberal Village Voice would add to the allegations against the 1980 Reagan campaign. Unfortunately for the conspiracy minded, the Village Voice has joined Newsweek and the New Republican thoroughly refuting Gary Sick's provocative claims.

The Voice article states,

> Based on a review of exclusive documentation it appears that none of Sick's key informants had any original knowledge of the October Surprise counterplot.

Only by swapping rumors and tacking with the latest ones, a process that the Voice has traced in detail, were they able to create an impression that they knew of this event firsthand.

The article also states,

> The picture that finally emerged from the investigation was one of a self-perpetuating fraud.

Mr. Speaker, due to the overwhelming evidence debunking the October Surprise myth, you owe it to the American people to call off this partisan witch hunt. I call on the Democratic leadership to apologize to Presidents Reagan and Bush for this political hatchet job.

Mr. Speaker, I include for the RECORD the entire article.

[From the Village Voice, Feb. 25, 1992]

OCTOBER SURMISE

(By Frank Snepp)

Former Carter aide Gary Sick says, in his recent book October Surprise, that the many sources he relied on for his searing indictment of Reagan campaign tactics in 1980—an indictment that accuses the GOP campaign staff of sabotaging Jimmy Carter's Iran hostage negotiatons—all spoke independently with no common script. That's why he believed them, he maintains.

"As time went on and the number and diversity of sources increased," he writes, "the likelihood of a concerted, organized disinformation campaign dwindled." But in an exhaustive examination of the origins of the Surprise story, the Voice has discovered that Sick's assumption is wrong.

All his principal sources harken back to a group of Israeli and European arms merchants who dealt regularly with one another throughout the 1980s and early '90s, first in shipping arms to Iran, then in shipping the October Surprise story to reporters. Several members of this group got caught in a U.S. Customs sting in 1986, which left them with an incentive to pay back the Republicans and George Bush.

Based on a review of exclusive documentation it appears that none of Sick's key informants had any original knowledge of the October Surprise counterplot, an alleged Reagan campaign attempt in 1980 to head off a preelection release of the 52 American hostages then being held in Tehran. Only by swapping rumors and tacking with the latest ones—a process that the Voice has traced in detail—were they able to create an impression that they knew of this event firsthand.

By 1988 Martin Kilian, a journalist for the German magazine Der Spiegel, was keeping many of these sources supplied with information they needed for this charade. He devoted countless hours to trading tips with them, though his journal has published only two October Surprise stories in three years. At times Kilian seems to have been unaware that he was contributing to distortions. But records of his phone conversations with one source, Richard Brenneke, indicate that he also knew that some of his contacts couldn't toe a straight line.

Even the most doubtful of these sources he passed on to Sick, who credits Kilian for having encouraged him to pursue the October Surprise story. In late 1988, writes Sick, "Kilian began calling me at my home in Manhattan after each new interview or whenever he picked up some nugget of information from the small network of individuals who continued to delve into the elusive story." It was a pattern Kilian would follow with others.

So pervasive was his influence and so tightly knit the group of sources and journalists who fed off him and one another that the truth about the scandal may be lost to the confusion they generated.

The Voice investigation was based in part on nearly 8000 pages of phone records and diary notes compiled by Brenneke to support his own October Surprise claims. Brenneke's onetime researcher, Peggy Adler Robohm, initially thought that he'd picked up his knowledge firsthand. But last June, after examining his files, she wrote a warning letter to his literacy agent. "Much of this material seems to come from Martin Kilian," she said. Later she let the Voice examine a small set of phone records and credit card receipts that debunked Brenneke's claim that he'd participated in October Surprise negotiations in Paris. After the Voice published a story based on this material last September, Robohm contacted Representative Lee Hamilton, chair of the House's October Surprise staff, and began preparing to help with an official investigation of Brenneke's files. When Hamilton brushed her off with a form letter, she again contacted the Voice, this time offering the entire Brenneke archive.

To verify the substance of Brenneke's files, the Voice checked with Kilian and others quoted in the files to see if they had said what Brenneke reported. (The taped conversations spoke for themselves.) In every instance, these principals recalled the statements or conduct attributed to them.

The picture that finally emerged from the investigation was one of a self-perpetuating fraud. Reporters with preconceptions about October Surprise had often suspended skepticism in deference to helpful sources. Sick himself ignored or overlooked inconvenient details. As early as 1989, he also became involved in the first of two movie deals that committed him prematurely to an unverified conspiracy theory.

ROOTS OF OCTOBER SURPRISE

For all the many permutations of the October Surprise story, Congress told it first, and most convincingly, eight years ago. A subcommittee under Democrat Representative Don Albosta was charged in 1983 with unraveling "Briefing-gate," the theft of President Carter's briefing book during the 1980 campaign. A yearlong investigation confirmed the larceny and also produced evidence of a more sinister kind of campaign espionage.

According to the Albosta report, 120 "foreign policy consultants" working for Reagan in 1980 had monitored military bases, heisted secrets, and leaked disinformation, all in an effort to anticipate and head off a preelection hostage release. Even if nothing more had been uncovered, that should have been enough to scorch the reputations of ranking Reaganites, for it was clear from Albosta's findings that the effort had been deliberately disruptive and directed from the top, by campaign boss William Casey and several aides, including Richard Allen and Robert Gray.

It was Gray, the committee discovered, who had brainstormed a PR strategy aimed at screwing up Carter's last-minute bargaining. "If we leak to news sources our knowledge of the Carter planned events," ran one Gray memo, "we can get the press [to] say Carter is politicizing the issue." In fact, the leak campaign did much more, prompting misleading press reports of concessions and breakthroughs that doubtless confused the Iranians—at the very moment Carter was edging toward a deal. The reverberations in Tehran may not have been the ultimate cause of the breakdown of Carter's initiative. But there is no doubt that this was the Republicans' objective. "If there is a moral truth to the October Surprise scandal," declared one ex-Carterite, "the most important revelations reside in the Albosta report itself."

But like many other scandals, this one quickly lapped over the boundaries of fact and even righteous supposition. The earliest proponents of a Republicans-did-it conspiracy theory were in fact searching for something else. As the election neared, Lyndon Larouche's right-wing journals launched an attack on Carter, claiming that he'd gone soft on pro-Khomeini "terrorists" in the United States.

The focus of their pamphleteering was Iranian exile Cyrus Hashemi, who they said was running terrorist money through a bank he owned. They also concocted a supporting cabal, incongruously made up of Zbigniew Brzezinski and Henry Kissinger, which they said was out to pit Khomeini against communism in the gulf. All this might have been laughable except that, in fingering Hashemi, they'd inadvertently found a key to Carter's hostage strategy. According to FBI surveillance reports recently released under the Freedom of Information Act, Hashemi was even then conducting overtures to Iran for Carter.

The delicacy of Hashemi's position naturally made him publicity-shy, so he sued LaRouche and his aides for libel in September 1980. That didn't quiet them, though, and after the election they zapped Kissinger again, arguing that he'd secretly bargained with the Iranian parliament to head off a hostage release. In December, one of their publications surfaced what is surely the first articulation of the October Surprise counterplot. "It appears, they wrote, "that a pattern of cooperation between the Khomeini people and circles nominally in Reagan's camp began six to eight weeks ago, at the height of President Carter's efforts to secure an arms-for-hostages deal with Teheran."

Over the next three years, the Larouchies dogged the scandal and bayed at each new indication that Israel, a favorite bugbear of theirs, was slipping arms to Iran. Meanwhile, Cyrus' brother, Jamshid, approached LaRouche's organization in a bid to settle the libel suit quietly (the court finally dismissed it). In early 1983 he told LaRouche researcher Ed Spannaus that it wasn't Carter who'd nuzzled up to him and his brother in 1980, but the Republicans. "Jamshid told me," recalls Spannaus, "that Cyrus was in fact much closer to the Reagan-Bush administration than to the Carter people."

Later, in mid July, Time magazine published an investigative piece linking Jamshid to Iran arms smuggling. Again Spannaus was summoned. This time, he says, Jamshid leveled about his Carter connection, acknowledging "that he had personally spent about six months flying back and forth between the USA, London and Madrid as a courier for messages between the U.S. and Iran." Jamshid also got cagey about the Republicans. Though Spannaus' recollections are hazy on this point, he clearly recalls Jamshid telling him that Cyrus was being protected by "the highest levels" of the Reagan administration.

According to one published version of this conversation, Jamshid also mentioned the GOP's October Surprise plot, though without claiming to have been a part of it. In another account, which has likewise appeared in a LaRouche publication, Jamshid refused to be explicit. In both stories, Spannaus claims to have asked: "Was Casey involved in the hostage negotiations?" To which Jamshid replied, "I wouldn't tell you if I knew."

Even given Spannaus' impression, it seems that as early as 1983 Jamshid was beginning to confide in LaRouche's propagandists. Some of his remarks have checked out. According to the recently released FBI surveillance reports, Cyrus Hashemi did help the White House with its hostage negotiations in 1980, even as he was arranging illegal arms sales to Iran, and Gary Sick acknowledges in his recent book that Cyrus brokered a secret meeting between a Carter representative and Iranian officials in Madrid in early July 1980.

Citing Jamshid as his source, Sick also argues that the Hashemis did similar duty for William Casey and other Reagan campaigners in 1980, providing them hostage information and a "backchannel" to Iran that enabled them to outflank Carter. Noting in the censored FBI surveillance files bears out this charge, and Jamshid clearly missed an opportunity to tell the story himself in his earliest known public statement on the hostage issue. That itself raises a question about his credibility. For if he wouldn't clearly implicate Casey, then why believe him when he does so now?

By 1985 the integrity of both Cyrus and Jamshid Hashemi was in tatters. Cyrus had turned Customs informant to avoid prosecution on gun-smuggling charges, Jamshid was hiding out abroad for the same reason, and William Casey's CIA, evaluating their potential as middlemen in a new hostage venture, turned them down flat. According to one contemporaneous CIA assessment, obtained through FOIA, Cyrus was deemed "only slightly less sleazy than his notorious brother Jamshid who is con artist par excellence and is a candidate for the scam of the month championship." Another CIA report, dated June 14, 1985, indicates that Director Casey himself vetoed any cooperation with Cyrus. "The point was," ran the report, "he [Casey] did not want the agency involved in the Hashemi brothers' problems with the Department of Justice."

Ten months later, Cyrus redeemed himself slightly by helping to nab an Israeli arms ring that included, coincidentally, many who later preached the October Surprise. His own glory, however, was short-lived. In July 1986, he died under mysterious circumstances in London and Jamshid hunkered down to nourish his own vision of the Surprise, the one he eventually fobbed off on Sick and ABC's Nightline.

The Larouchies, meanwhile, shared their own research with others, and some of it turned up as footnotes in the first October Surprise book, by Barbara Honegger. The scandal had taken its first captives.

Another initial fillip to the story came from news of early Irsaeli-Iran arms deals. Beginning in mid 1981, when the London Sunday Times reported the downing of a mysterious "Argentine" cargo plane en route from Tehran, the prospect of an Israeli arms pipeline to Iran prompted only evasiveness in Washington. But Israeli leaders themselves were more candid, hinting that they had Washington's sanction despite the U.S. embargo.

Then came the Time report in 1983 that set Jamshid so much on edge. In a concurrent Time memo, which the Voice has obtained, the anonymous sources quoted in the article are named. "Prime source on this is Admiral Inman," the memo states, referring to Bobby Inman," who'd just resigned as the CIA's deputy director.

The weighing in of such an authority inevitably strengthened speculation that Israel was feeding the Ayatollah's war machine. But it was not until Gary Sick published All Fall Down in 1985, a book about Carter's Iran policies, that the Israeli shenanigans were tied back to the hostage crisis of 1980. Sick wrote that Carter had discovered, in the midst of his secret bargaining, that Israel was treating Khomeini to military spare parts. Sick did not, in this initial foray, suggest any Republican complicity, but the very hint of such an Israeli end run was enough to set wheels turning.

FIRST GLIMPSES OF THE DAISY CHAIN

The loop was closed during the Iran-contra investigations of 1987, which proved, among other things, that a Republican was capable of conspiring in the Israel-Iran arms shuttle. Granted, the deals exposed long postdated 1980. But one aroused suspicion often begets another, and even before Congress had completed its Iran-contra probe, a network of conspiracy fetishists was beginning to take shape.

Initially, the most ardent accusers were Iranian exiles. In April 1987, the former chief of the shah's secret police, Manzur Rafizadeh, took the first swipe, accusing the CIA of having persuaded Iran's foreign minister in November 1980 to hold off a hostage release until Reagan took office.

Rafizadeh had been in exile at the time, so his charge, leveled in a memoir, was second-guessing. But later that year exiled Iranian president Abol Hassan Bani-Sadr pumped life into the story. In a New York Times interview, he said that two ex-rivals of his, the ayatollahs Beheshti and Rafsanjani, had broken off negotiations with Carter in October 1980 because of an overture by unnamed Republicans in Paris. He also linked subsequent Israeli arms deliveries to this event. It was the first time anyone had pulled all these threads together.

The Miami Herald, meanwhile, put faces to the conspirators, reporting that a mysterious Iranian had approached Richard Allen and Robert McFarlane in Washington a month before the 1980 election and offered to broker a hostage deal beneficial to Reagan. Allen acknowledged the overture and said he'd rebuffed it, but admitted that he'd failed to tell the Carter White House about it. Senate majority leader Robert Byrd cried foul, and the House Judiciary Committee started digging.

The initiative soon fizzled, however, along with the Iran-contra investigation itself, and by late 1987 the October Surprise "lobby" had shriveled to a claque of political Ishmaels best personified by an ex-Reagan staffer Barbara Honegger.

Honegger, a trenchworker for the GOP campaign in 1980, had bailed out of a Justice Department job three years later to protest the administration's handling of women's issues. Denounced as a "munchkin" by the White House for taking her gripes public, she promptly retaliated by handing the Albosta committee some real dirt. In October 1980, she testified, she had overheard a Reagan aide boasting that "Dick [Allen] cut a deal" to ward off Carter's much-feared October Surprise. The committee skirted her recollections in its final report, and Honegger was left to disclose them on a Larry King radio show in December 1986.

What cinched her suspicions about the scandal, she later told Bani-Sadr, was his New York Times interview. In talking with him about it by phone in August 1988, she did not mention his own shortcomings as a witness—though based on a transcript of their conversation, which the Voice has reviewed, she recognized them. She is heard in the exchange discussing scandal-related gossip that she'd fed Bani-Sadr to jog his memory, and he is heard debating the truth of his own previous statements. When she reminds him of his claim that Reagan campaign aides met with Iranian counterparts in Paris in October 1980 to discuss the hostage crisis, he replies: "I am not sure. I have said it is possible." When she asks if he knows the names of the Reagan participants, he says simply, "No," and then proceeds to emphasize that it's all secondhand—"information from Iran sent to me."

Honegger would later tout Bani-Sadr as a source for her own October Surprise theories, demonstrating a remarkable ability to filter out what she didn't want to hear. (Honegger refused to return calls about this story.)

Not that she was the only offender. In fall 1988, Playboy magazine published an October Surprise story that skirted the reliability of another source, Iranian American arms merchant Hushang Lavi. By Playboy's account, Lavi had courted the John Anderson campaign, offering to open contacts with Iran in order to deny the president a hostage breakthrough. The implication was that Lavi had played into the hands of Republicans out to delay a release.

But in fact Lavi had said something quite different. According to a transcript of the interview that the Voice has examined, Lavi, when asked "about a deal between the Reagan campaign and Khomeini," had replied: "I am not aware of that. I do not know." Jonathan Silvers, the interviewer, had then asked: "Do you personally believe that Reagan officials negotiated to delay the release of the hostages?" Lavi replied: "I don't believe so, sir."

None of this crept into the Playboy story itself, which was written by Silvers and ex-Yippie Abbie Hoffman, or into Honegger's approving statements about the article. Lavi would survive to become a primary source for accusations against the Reagan campaign, including Gary Sick's.

HONEGGER, BRENNEKE, AND MARTIN KILIAN

On August 25, 1988, the October Surprise story got its first big airing at a Washington news conference sponsored by an anti-CIA watchdog group. The feature attraction was Honegger. Unfurling a copy of the Playboy article, she quoted Bani-Sadr as placing Bush at an October 1980 plotter's meeting in Paris and Manzur Rafizadeh, the ex-Savak chief, as including Donald Gregg in Bush's Paris entourage. (It was the first time anybody had so clearly linked Gregg, who in 1980 had been a Carter official, to Reagan's supposed machinations.)

Again citing Bani-Sadr, she fixed the negotiations at Paris's Hotel Raphael and listed the Iranians present as "representatives of Rafsanjani and Behesti." She then dropped a bombshell, announcing that arms dealer Cyrus Hashemi and the CIA's Casey had been involved. Her source, she said, was someone she would only refer to as "Mr. X."

As events would prove, this new secret sharer was Portland businessman Richard Brenneke.

A word about his background: Documents from his files show that throughout the mid '80s Brenneke courted a bunch of would-be weapons dealers, including Ari Ben-Menashe, who has emerged as an equally omniscient October Surprise expert. According to business and other records, Brenneke's contact with this group traced back to late 1984, when he began traveling to Europe as an apprentice arms broker for the Farnham-Ottokar Trust, a baroque outfit registered in the Channel Islands. In early summer 1985, during one such junket, he was introduced to an American arms merchant in France, John Delarocque, and, through him, became aware of Ari Ben-Menashe.

Soon afterward, on July 29, Brenneke wrote to one Nick Davies in London, proposing a weapons deal. Later he received an MCI telex from the same man. Since such documents are difficult to fabricate, the telex seems to link Brenneke definitively to Davies, who is described in Seymour Hersh's recent book, The Sampson Option, as an Israeli intelligence agent and Ben-Menashe's partner in a London-based arms company. Thus, by mid 1985, Brenneke appears to have been increasingly moving in conspiratorial circles.

Based on Brenneke's diaries, Ben-Menashe and Davies were much on his mind when he met Delarocque in St. Tropez the following September to discuss an Iran arms deal known as the "Demavand Project." His notes of their conversation are speckled with references to "Nick" and "Arie" (initially misspelled with an E).

Brenneke comes across in these pages as a novice at the arms game. But soon afterward he experienced an instant greening. On September 24, during a stopover in Seattle, he was rousted by U.S. Customs agents and relieved of his notebooks. Thereafter, according to other documentation, he became a low-grade Customs informant, and also began sending notes to the Pentagon and even the White House designed to distance himself from Demavand.

In early 1986, in one such note, Brenneke mentioned a secret White House decision permitting covert arms sales to Iran. How he got this tip-off to the Iran-contra scandal isn't known. But over the next few weeks, even as he continued playing up to his arms-dealing friends, U.S. Customs set up a sting against them. It was sprung in mid April. Delarocque eluded arrest, Brenneke later claimed, only because of a warning call from him, and Ben-Menashe recalled a similar alert from Delarocque. Nine others, however, were arrested, including three Israelis.

Spearheading the sting was a bona fide inside informant, Cyrus Hashemi, the very man whom brother Jamshid and other October Surprise buffs would place in the vanguard of Reagan's 1980 schemes.

Over the next year, Brenneke stayed in touch with Delarocque and, according to personal notes, shared his own phone records with the FBI. He also cultivated the press, finally leaking a story on Demavand to a New York Times reporter in early 1987. The resulting notoriety enabled him to strike a book deal with the reporter, and by August he'd lined up another collaborator, Will Northrop, an American-born Israeli rolled up in the Demavand sting, who was now living in Oklahoma City awaiting trial.

Looking to make money fast, Brenneke drew up a plan to insure a bestseller. "The primary method of doing this," he wrote, "is to bring new information to the press. The information must create interest and controversy." Under "People," he listed himself, Northrop, Delarocque, and—"Ari Ben-Menashe."

It is apparent from Brenneke's diaries that he and Northrop were never sure of Ben-Menashe's or Delarocque's bona fides. After speculating that the two might be Mossad agents, they settled on a less flattering conclusion. "John [has] no connection with Mossad," Brenneke wrote after a phone conversation with Northrop in late 1987. "John is known only as an independent with no sponsorship. He is not trusted by Israel . . . Ari is not known at all. They believe he is only an arms dealer."

Nowhere in his diary notes from this period does Brenneke quote Ben-Menashe or Delarocque on the October Surprise. The only relevant marginalia he immediately picked up from his Demavand buddies was a miscue—from Northrop. On May 26, 1988, Brenneke jotted a Northrop phone message: "Oct. 80 Bush in Paris meeting with Bani-Sadr." If either had been acquainted with the evolving October Surprise story, they would have realized how absurd this was. No one had ever suggested that Bani-Sadr himself was in on the Paris meetings.

If Brenneke initially knew little of October Surprise, however, he did possess information that would ultimately be woven into that tapestry like an integral thread, and in July 1988 he unspooled it. Two former Customs informants, Gary Howard and Ron Tucker, had sued the government to recover expenses they'd racked up in an abortive sting operation in the early 1980s. Part of their argument was that the government itself had crippled the project to protect an early Iran arms deal never reported to Congress. Brenneke, ever determined to legitimize Demavand, decided to offer testimony. His sworn statement marked his first attempt to write himself into the October Surprise scenario.

He told Howard and Tucker's lawyers that, as a contact CIA employee and sometimes Mossad agent, he'd flown 12 cargo flights to Iran between 1980 and 1982 as part of a joint U.S.-French operation. Included, he said, were spare parts for the Iranian air force drawn from NATO stores. For corroboration, Brenneke cited Delarocque, and despite having privately pegged him as an "independent," described him here as an agent of the French, U.S., Israeli, and Iranian governments.

The testimony, so clearly a hodgepodge of half-truths, might have dropped into obscurity except for Howard and Tucker themselves, who in pressing their suit soon became October Surprise devotees. What made the testimony all the more noteworthy, moreover, was the way it seemed to dovetail with earlier reports of Israeli arms deliveries to Iran. Brenneke himself was never involved in any of these flights (his credit card receipts show that he was in Portland, Oregon, on many of the dates when he said he'd made deliveries). But his "confirmation" of such a pipeline—first mentioned by Bani-Sadr—was enough to set conspiracy theorists buzzing. After all, how could you have a secret 1980 deal between Iran and the Reagan campaign without a payoff? From now on, Brenneke was to be a player in the daisy chain.

It wasn't an easy fit, though. By the summer of 1988, he was on the outs with the liberal establishment in Washington, a sounding board for October Surprise rumors. Earlier in the year, he had won a $4000-a-month job at Washington's Center for Development Policy by publicly accusing Vice-President Bush of running an Israeli-backed drugs-for-arms operation in Central America. Most recently, though, a Senate investigator named Jack Blum had soured on him because of his inability to document his charges, and on July 31, soon after his statement in the Howard-Tucker case, Brenneke's boss at the liberal think tank suspended him for failing to put Bush in the hot seat, as he'd promised.

Brenneke was desperate, and might now have hauled himself back to Portland, had not Barbara Honegger fortuitously materialized from the wings. She was preparing for her news conference, and needed a bit more than Bani-Sadr had given her. On August 22, she approached Brenneke and asked his help.

As she later admitted in her own book, she virtually scripted the discussion. She handed Brenneke a list of possible Paris conspirators, including Bush and Gregg, and asked him to confirm it. After striking one name (Honegger herself had put a question mark beside it) and promising to ask around about Bush's presence, Brenneke numbly suggested that there might have been two meetings in Paris, not one. His own record of the conversation reveals how bewildered he was: "Honegger meeting notes: Thesis: Reagan-Bush campaign conspired to delay the hostage release until after the November 1979 election . . . Howard Hughes was somehow involved . . ."

Honegger would later claim that during this first interview Brenneke wrote Casey and Cyrus Hashemi into the Surprise scenario, as well as Frenchmen Robert Benes. Brenneke's own notes, however, tell a different story. "Was Cyrus Hashemi present?" he asked himself. "If so, which Iranians and Americans was he representing?"

Notwithstanding Brenneke's ignorance, Honegger hailed him at her news conference as a breakthrough source and offered to broker introductions to "Mr. X." Among those who jumped at the invitation was the man who would become Gary Sick's closest collaborator—Martin Kilian, Washington correspondent for the Germany newsweekly Der Spiegel.

Born in Germany and trained as a historian at the University of Georgia, the 41-year-old Kilian had been at his present post for little over a year. But his discovery of the October Surprise story immediately hyped it, focusing the resources of a major international magazine on what had been a quirky sidebar.

Why Kilian became interested in the scandal is easily understood, since many of its principals operated in Der Spiegel's backyard. But how he covered it would add to its complexity, for he was always ready to swap rumors and sources with anyone. He told the Voice that he favored this "non-competitive" approach because the October Surprise was too complicated for any journalist to cover alone. Perhaps so. But for Brenneke and the other charlatans who were now orbiting the story, the ever-generous Kilian was a dream come true.

Asked if it was okay to trade information with such sources, Kilian told the Voice last Friday, "On a subject like this one, absolutely, because it makes it possible to see contradictions."

The afternoon of Honegger's press conference, Kilian drew up a confidentiality agreement for "Mr. X," promising not to reveal his identity. A week later, after Der Spiegel published a story parroting Honegger's theories, she encouraged a new source, a mysterious fellow named Oswald LeWinter who preferred to be called "Razine," to contact the reporter. On September 7, Kilian took Razine's revelations to Brenneke, and soon afterward identified Brenneke to Razine. Suddenly, thanks to Kilian, there wasn't a virgin in the house.

For Honegger and Brenneke, what Razine provided was mortar with which to bind up their stories. What Razine got was a chance to play Scaramouche, for never in his initial contacts with them or Kilian did he show his face, preferring instead to communicate by phone. Gary Sick, who later embraced Razine/LeWinter as a primary source, describes him in his book as a "genius, [an] erratic man" who knew novelist Saul Bellow and played the intelligence field, working for both U.S. and Israeli spy services. Based on Brenneke's files, Kilian suspected that Razine had also once been arrested for impersonating a U.S. serviceman. Nowhere does this point appear in Sick's book, though there is reference to a drug bust against Razine.

Initially Kilian seemed dubious of his new source, and informed Brenneke (according to the latter's notes) that Razine sounded like a LaRouchie. Razine himself told Honegger paradoxically that he was out to "protect" Israel, and both she and Kilian discovered that he sympathized with Edwin Wilson, the ex-CIA agent who'd been jailed for outfitting terrorists, yet none of this apparently put anybody off. Kilian assured Brenneke that he knew a journalist who would vouch for Razine. Brenneke, for his part, remained disinclined to look a gift horse in the mouth.

The story Razine told (through Kilian to Brenneke and by phone to Honegger) put Casey, Bush, and Gregg in Paris in October 1980, and expanded the attendance list to include Hashemi Rafsanjani on the Iranian side, and Robert Benes, the very Frenchman Brenneke had named. Because of Kilian's impulse to share everything he knew, it is impossible to tell from the available documentation whether Benes sprang spontaneously from Razine's memory. But from now on, Benes would be an October Surprise staple (to be cited indirectly in Sick's book).

To judge from Brenneke's files, Razine wasted no time proving his worth. He embellished Brenneke's dual-meeting theory by positing three Paris conspirators' meetings, all at the Hotel Raphael. He also said that Bush and Casey had shown up with a $40 million wire transfer to tide the Iranians over until Reagan's inauguration. As Brenneke recalled, he and Razine agreed, after fencing politely—through Kilian—that Bank Lambert had handled the transfer, not Bank Leu as Razine had first reported.

How Razine had come to know all this never rang clear, since he kept changing his story. He initially told Honegger and Kilian that he'd read of the Casey-Gregg machinations in a report by Benes filed at CIA headquarters in November 1980 by the chief of French intelligence. Later, by Honegger's own account, he said he'd picked up the report from a "friendly foreign intelligence service." It was a minor correction. Still somebody should have wondered.

Nor was this the only time Razine's memory shifted. Besides changing Leu to Lambert, he altered the Iranian lineup at the Paris meetings, initially including an arms procurement officer named Jalal el-Din Farsi—only to replace him later with two others. Honegger and Kilian relayed these "adjustments" to Brenneke. But nowhere in his notes does he reflect concern on their part about the source's fickleness. Instead, Kilian and Honegger continued to peddle Razine like a miracle health cure.

Brenneke, too, found uses for Razine, immediately parlaying him into added job security for himself. Shortly after first learning about Razine, he alerted his still touchy boss at the Center for Development Policy that Kilian wanted him to help exploit this new source. "[Der Spiegel] has asked me to utilize my contacts to help obtain further information and corroboration," he told his superior by memo. The following morning, in a "Revised Proposal," he asked to be allowed to assist Kilian with a story about 1980 arms sales. In closing he offered a more provocative thought: "Help Der Spiegel develop proof of Bush-Iranian meetings in 1980 aimed at delaying the release of the Embassy hostages."

That cinched it. As Brenneke recorded in another note, he was immediately assured that he could keep his job through October.

THE EYEWITNESS STEPS FORWARD

Having gained this reprieve, Brenneke acted quickly to build insurance into it, seizing on an idea that boosted his value as an "October Surprise expert." How it came to him remains obscure. What can be documented is that on September 10, three days after first interviewing Razine, Kilian told Brenneke that the new source had identified him as a participant in the October 1980 Paris meetings. In a taped memo recorded soon afterward, Brenneke paraphrased Kilian as saying: "[Razine] knows me [Brenneke] and . . . knew that the Paris meeting that I was at was the [Hotel] Florida . . ."

So astonishing was this fillip to Brenneke's story—and so sensational, if true—Kilian might have been forgiven if he'd tried to cop it as an exclusive for his own magazine. But he didn't. Instead, he handed it off to a competitor, Robert Parry, then of Newsweek.

According to court documents, Kilian also assisted Brenneke a few days later in gaining an even loftier soapbox. The opening came when the brother of Colorado representative Patricia Schroeder—a Denver lawyer named Mike Scott—began looking for help with a tough case. His client Heinrich Rupp, a self-described ex-CIA pilot, was facing sentencing for bank fraud and had begun mumbling about a Reagan frame-up aimed at discrediting him and others who'd allegedly witnessed some mysterious events in 1980. All Scott needed for a leniency plea was some supportive information. As he later explained to the judge Kilian and Parry helped him "get in contact with Mr. Brenneke and aided us in bringing this information to the court."

In fact, Brenneke needed no introduction to Rupp. His own phone records show that he'd called Rupp's Denver number a year before, and Rupp conceded, in a private interview with Scott (a record of which the Voice has obtained), that he knew of the offshore trust that had employed Brenneke as an arms dealer. The odor of collusion thus hangs over this sudden and mutually beneficial Brenneke-Rupp reunion, whoever brokered it.

The story that Rupp later told reporters put both him and Brenneke in the midst of the action in October 1980. He would claim that he'd flown Casey to Paris on October 18 and that he'd seen Bush at the airport there. He'd also include Brenneke among the Paris conspirators.

These "recollections," however, did not spring forth full-blown. On September 22, the day before Brenneke showed up in Denver to testify on Rupp's behalf, Scott interviewed his client and—based on notes from the lawyer's files—discovered that Rupp knew little about the October Surprise. When asked how he knew of Bush's flight to Paris, Rupp replied, "Sloganism"—hearsay to the effect that "we've got the whole government on board." When asked if he'd recognized anybody on his own flight, he said, "Might recognize faces. No names." And when pressed to tell his story in court, he begged off, insisting that he'd have to defer to Brenneke since he, Rupp, was sworn to official secrecy. It was the perfect prelude to a setup. Yet Scott encouraged his client to tell his story, saying that if he didn't, Brenneke would.

Brenneke did much more than that. In a closed hearing the following day, he not only seconded Rupp's allegations but embroidered his own. He said that he'd attended at least one Paris meeting at the behest of a CIA officer named "Bob Kerritt" and had helped to purchase arms to pay off the Iranians for delaying a hostage release. Insisting that French intermediaries had brokered these transactions, he identified Robert Benes as one involved.

He also tried to turn Razine and Kilian into character witnesses for himself. Claiming to have been recently contacted by the CIA, Brenneke testified that he'd been advised that a "retired" CIA officer would approach a foreign journalist to verify what he was saying. He then mentioned Kilian and

Parry and said that both had recently been contacted by a CIA retiree (Razine).

Once Brenneke's statement was released several days later, Kilian must have experienced a twinge. Obviously, this wasn't how things had happened at all. Asked about his reaction, Kilian said last Friday, "I was flabbergasted. I still don't know today what he meant—I thought there would be somebody else who would contact reporters. I asked [Brenneke], 'What did you mean by that?' He didn't want to talk about it."

Later, in a TV interview, Rupp squared his own "recollections" with Brenneke's, explicitly adding Casey to his passenger list. He also said that five other unnamed VIPs had been aboard the BAC-111 he'd supposedly flown to Paris on October 18, 1980. All this jarred with what he'd told Scott just before the hearing. Yet Scott continued to vouch for Rupp's and Brenneke's credibilities in public.

He had help. Shortly after the hearing, Razine informed Honegger that Rupp had been Casey's "favorite pilot" and that Brenneke's CIA handler, Bob Kerritt, was "close to Gregg." Kilian in turn did something that would bolster Brenneke's own ability to script the facts. On September 26, he dipped into Der Spiegel's coffers and hauled Brenneke off to Paris to help interview other sources. Gone forever was any hope of keeping the waters pure.

Brenneke's diary of the three-day junket records meetings with Robert Benes and another Frenchman, Nicholas Ignatiew, as well as a phone call to Razine. Later Gary Sick would claim that sources like these had no connection with one another. But judging from Brenneke's files and other evidence, the three individuals whom he and Kilian contacted in Paris not only knew one another but shared ties to other October Surprise "regulars." In effect Brenneke had ushered Kilian into his own circle of rogues.

The ringleader, it appears, was Ignatiew, a Frenchman of supposedly noble Russian ancestry. Four Brenneke memos show that he and Ignatiew had been discussing weapons deals since mid 1986 and bandying about such names as John Delarocque of Demavand project and Benes. According to one of Brenneke's notes, Benes had met Ignatiew "in service" and had good "access" to "east bloc" weaponry.

What Brenneke had long sought from Ignatiew was a piece of his action. For years the Frenchman had been trying to purchase a captured Soviet T-72 tank from Iran and other brokers, and Brenneke had wanted to be cut in. Nor was he the only one. In his book, Sick describes the same deal and says that Razine once worked on it with an Iranian expatriate named Ahmed Heidari, who likewise became an October Surprise source for him. Sick says nothing of Brenneke's involvement or Ignatiew's (which he didn't know about), but his description of Razine's pursuit of the T-72 leaves little doubt that they were all on the same raft.

Another name in the Surprise lineup that traces back to the tank venture is Hamid Naqashan. Sick describes Naqashan as an Iranian procurement officer who knew of Casey's efforts to delay a hostage release. Sick doesn't mention—again he apparently doesn't know—that Naqashan was also tied up with Brenneke and Ignatiew. A July 1986 document in Brenneke's files indicates that he and Ignatiew were then in contact with Naqashan about the tank deal. More provocatively, another Brenneke memo from the same period mentions "Bob Keret," a suspected CIA agent, who was said to have spoiled an earlier sale. Is this the same "Kerritt" Brenneke served up as his October Surprise case officer?

Had Sick known of all the linkages, he might have realized that an obscure tank deal told a lot about the genesis of the October Surprise story. Ignatiew, Brenneke, Benes, Razine, Naqashan, Heidari, even Will Northrop—all had been part of the T-72 bidding, and all would emerge as October Surprise gurus. A coincidence? Not likely. The tank deal—plus Demavand—seems to have forged a number of links in the daisy chain.

Significantly, though, Brenneke and Kilian came away from Paris largely empty-handed. Ignatiew and Benes had proved especially uninformative. If these men were October Surprise experts, they didn't reveal it first time out.

Nor even the second time. After returning home, Brenneke stayed in touch with the two Frenchmen, and tapes of his phone conversations with them (which have been reviewed by the Voice) confirm how ill-informed they were. On October 13, for instance, Brenneke called Ignatiew to say that Kilian might be willing to offer Benes money to sharpen his memory about the October Surprise (in fact it was an exaggeration). Ignatiew was incredulous. "If I had been a journalist that evening [in Paris]," he exclaimed, "I would, I think, have understood that Robert knows more or less nothing." He then betrayed his own ignorance by asking if Benes had been present at meetings with Casey in October 1980. "Oh, yeah, yeah, yeah," Brenneke replied, "but not for the whole time." He also reminded Ignatiew that Bene's command of English was not sufficient for complicated discussions.

Ignatiew asked Brenneke if he wanted Benes to tell the truth. "I haven't decided," Brenneke responded.

A few minutes later Brenneke called Benes himself and, using pidgin English, explained that certain "people" were saying that he knew of Bush's role in the 1980 Paris meetings and would pay him to confirm it. "For what?" Benes replied, surprised. "I don't know Mr. Bush."

"They think you understand," said Brenneke. Benes shot back: "I don't understand."

No sooner had Brenneke hung up than he called a Boston Globe reporter to keep the pot boiling. "Robert is willing to talk," he said disingenuously, adding that Ignatiew was likewise aware of Benes's role in October Surprise. "Nicholas still works for the French government," he assured the reporter. "And he just flatly admitted that he was well aware of these things."

It was all pure baloney, a smarmy effort by Brenneke to pump up two sources who obviously knew nothing. This time, it didn't work. On October 23, the Boston Globe reported that Benes was ignorant of any Paris meetings.

On top of this, once Brenneke's testimony at the Rupp hearing became public, Senate staffer Jack Blum promptly caught him out in a lie. Brenneke had testified that he'd once told Blum's subcommittee under oath about October Surprise. That, Blum advised the Justice Department, was simply not true. Though Brenneke corrected his claim, a grand jury began investigating, and in May 1989 he would up facing a perjury indictment for falsely portraying himself as a CIA contractor and for having lied about the Bush trip to Paris.

Did the indictment cost him any friends? On the contrary, Kilian and Rupp's lawyer, Mike Scott, who later represented Brenneke, immediately rallied the troops. Kilian told Honegger that Brenneke had identified Gregg as a "notetaker" in Paris and had "talked constantly" with Hushang Lavi. Honegger threw the weight of her scholarship behind Brenneke's case by finally publishing her book, and Will Northrop, Brenneke's Demavand buddy, provided a sworn statement that bolstered his friend's claims of Israeli shipments to Iran in the wake of the October Surprise meetings.

As it turned out, the statement was merely a distillation of news clips, and even the leftist Nation magazine trashed Honegger's book. But nothing seemed to discourage Kilian. Over the next few months, he grasped the torch and ran with it, pulling together a plethora of sources and demisources that kept Brenneke and the October Surprise story alive. Once Brenneke tried to graph Kilian's network, jotting a primitive wiring chart that connected the journalist to sources stretching from South Africa to Texas. It was an exaggeration perhaps. But the fact is, Kilian did have his contacts.

Start, for instance, with the ever-adaptable Hushang Lavi and Swiss journalist Frank Garbeley, and follow the dancing line to Israeli ex-agent Ahran Moshell and Roy Furmark and Richard Allen, and you have just the beginnings of Kilian's daisy chain. Loop into it a German TV freelancer named Jurgen Roth and Gary Sick, plus Razine and Northrop, and you begin to spy the entire Modigliani. Not a pretty picture.

Others crept into it over time. Gary Howard, the ex-Customs informant who was suing the government, provided back-ground on Gunther Russbacher, and acquaintance of Honegger's who claimed (falsely) to know of Brenneke's adventures.

Anybody else with such credentials might have prompted some caution. But so taken was Kilian with this source that all other considerations, including detachment, dropped away. When Stoffberg was extradited to New York for arms trafficking last year, Kilian helped find him a lawyer (the same one who represented Ben-Menashe). And when Congress began nosing around the Surprise scandal, Kilian's research helped convince House investigator R. Spencer Oliver that Stoffberg was too valuable a witness to be left in jail. On the strength of Oliver's testimonial, a judge later reduced Stoffberg's prison sentence. Needless to say, Stoffberg emerged from his cell ready to champion Kilian's views.

Kilian's firmest ally, however, was freelance journalist Jurgen Roth, who, according to Brenneke's files, routinely swapped rumors and sources with him. In mid 1989, Roth helped produce a German TV documentary that resuscitated the October Surprise scandal and several of its more dubious promoters. Bani-Sadr came across in the program as an authority on the very events that had eluded him earlier, and Hushang Lavi emerged for the first time as a self-described "participant" in the final Paris negotiations—a far cry from the know-nothing role he'd assigned himself in his earlier Playboy interview.

By far, Roth's most provocative on-camera source was an Israeli named Ahran Moshell, who claimed to be an ex-Mossad agent. Shortly after Roth interviewed him, Kilian sent Brenneke, a transcript and declared that here, finally, was firsthand proof of Bush's complicity in October Surprise. His enthusiasm seemed justified. Moshell had placed himself at a conspirators' meeting with Bush in October 1980 and seemed to know secrets no one else did. At one point, for instance, he remarked cryptically that the same deal offered to Reagan had been offered to Carter. "Even Gary Sick didn't know this," Brenneke noted excitedly in a computer memo.

"Kilian is having Sick check a biography Razine gave Jurgen Roth," Brenneke noted in a December memo. Later, Kilian told him that Sick had talked to former Casey aide George Cave, "who would not deny knowledge of the hostage deal," and to Iran-contra figure Richard Secord, "who claims he knows nothing." He also briefed Brenneke on Sick's conversations with Hushang Lavi and with another of Jurgen Roth's sources, weapons dealer William Herrmann.

As Sick later noted in his book, Herrmann claimed to have learned of the GOP hostage deal from Iranian procurement officer Ahmed Naqashan. What Sick didn't know was that this was the same Naqashan who had worked with Ignatiew and Brenneke on the Soviet tank deal in the mid 1980's. No link in the daisy chain was thus untainted.

Nor did Sick seem to realize that the Herrmann-Naqashan story had undergone revision by the time he heard it. Earlier, according to Honegger, Herrmann had told her that Naqashan had actually placed himself in Pairs with Bush and Casey in October 1980. With Sick, however, Herrmann glossed over this point. He also apparently neglected to mention—for Sick omits these details in his book—that he, Herrmann, had been jailed in Britain as a counterfeiter in 1986 and had tried to win extradition to the U.S. by casting himself to Congress as an Iran-contra expert, very much like Brenneke.

Sick would later deny debt to Brenneke, claiming that he'd listened but remained skeptical. But Brenneke's own files suggest otherwise. They show that in 1989, through Kilian and Brenneke's other allies, Sick's own perceptions began to harden. Two years before, Barbara Honegger had found Sick to be unwilling to go much beyond what he'd written in his earlier book "All Fall Down." There, he'd complained circumspectly of Israeli interference, including illicit arms shipments to Iran, at the height of Carter's hostage negotiations. But by mid 1989, Sick was prepared to jump hard in the direction Kilian and Brenneke pointed.

That is apparent from an interview he gave to Jurgen Roth at the time, laying out the "circumstantial evidence" of a Republican end run in 1980. "There were meetings late in October in Paris," Sick declared. "We knew that arms deliveries went from Israel to Iran at the same time . . . We know that the Iranians were changing their negotiating strategies." Expect for a hard cover, this was essentially the book Sick would write two years later.

In late 1989, Sick became involved in a more ambitious film project. A friend of Kilian's, a researcher named David Marks, persuaded producer Oliver Stone and Orion Pictures to option Sick's All Fall Down as well as Brenneke's own story and consulting services. The commissioned script focused on their October Surprise allegations and featured them as "characters." Though the film has yet to be made, Sick reportedly reviewed one version of the script and offered suggestions—a contribution that, like the Roth interview, belies his current claim (first expressed in a New York Times op-ed piece last April) that he arrived at his conspiracy theories only recently. According to Marks, Kilian also provided "substantive" advice, though without a consultant's fee.

Sick told the Voice that he didn't like the script, but admitted that he stayed with the project anyway. When asked what he'd been paid, he declared, "It's nobody's business."

If Kilian helped turn Sick into a believer, he turned himself into something more, an ex officio member of Brenneke's defense team. He once wrote a letter to chief attorney Rich Muller, counseling him on how to question Richard Allen should he become a witness. And Brenneke's records indicate that Kilian provided tips on other potenial witnesses, a chronology of Casey's whereabouts in October 1980, and a suggestion of how to undercut Donald Gregg's claim that he was at a beach in Delaware on the very day others would have him in Paris with Bush.

In a computer note keyed to his point, Brenneke reminds himself to check Gregg's 1980 vacation schedule and then quotes Kilian as saying that weather reports for October 19 and 20, 1980, were "overcast, approximately 55 degrees." It was this issue—the beach weather in Delaware—that would finally trip Gregg up.

Kilian's willingness to play lawyer may have been quickened by an affinity for chief attorney Rich Muller, who was as much an October Surprise enthusiast as he. A longtime friend of Brenneke's, Muller once joked to an acquaintance that he'd taken the Brenneke case so he couldn't be called as a witness. That quip told a lot.

Back in the mid '80s, as a reserve Marine colonel, Muller (by his own account) had helped Brenneke negotiate the shoals of Demavand and had kept Pentagon counterintelligence specialists informed. In late 1985, as Brenneke's overseas contacts expanded, Muller used information from them to pinpoint a pro-Israeli leaker inside the White House itself. Later, when Honegger approached "Mr. X" for help with the October Surprise, Muller again played Brenneke's silent partner, briefing him on the drawdown of NATO weapons stocks—supposedly a symptom of illicit shipments to Iran. For anyone nursing paranoia, Muller was a prize in himself.

Less appealing, though, was his co-counsel, Mike Scott. "Mike the puppet master," Brenneke jotted after a conversation with Kilian, and from Brenneke's own standpoint, there was something to worry about here. For one thing, he wondered, "To what exent is Mike Scott using his trial for political motives?"—after which, in the same computer note, he added the name of Scott's sister, Colorado representative Patricia Schroeder.

According to other memos, Renneke also considered Scott a leaky faucet and feared that he was slipping trial information to Parry and other journalists, particularly after Kilian told him of a tip he'd picked up from Scott.

There was something else about the lawyer that also prompted worry, a little-boy quality that mocked the solemn business he was about. Visitors to his office were startled to discover that he kept a rabbit in an adjoining room, and even more troubling was his fascination for James Bondish antics, particularly the use of childish and absurdly misleading code names for potential witnesses. In a computer list attached to Scott's letterhead, for instance, Gregg was identified as "Q in WH," translated elsewhere in the document as "Queer in White House."

The thing that turned nuisance to liability, however, was Scott's inability to deliver on Rupp. As Brenneke noted in a memo just before his own trial, Scott has "no idea whether Harry will talk or tell the truth if he does."

With Rupp such a question mark, the weight of Brenneke's defense briefly shifted to another weak reed, the mysterious Razine. "We all know why we need him," Brenneke wrote to his lawyers at one point, and indeed they did know. For by now Razine had gone the way of most other October Surprise sources, writing himself directly into the 1980 Paris meetings. This gratuitous shift in status from secondhand source to eyewitness should have given somebody pause, for the guest list for the final October Surprise bash was fast reaching Biblical proportions. But even Kilian, Razine's closest monitor, seemed incapable of counting him out. "Martin is convinced that R's knowledge of 1980 is real time knowledge," Brenneke wrote in late November, "not something he learned after the fact."

Having invested his trust so completely, Kilian soon took the next logical step, asking Razine to testify for Brenneke—"as [a] moral obligation." Razine, however, was not about to get trapped. In late November Kilian told Brenneke that their last best hope was wavering, that Razine was worried about Israeli reprisals and the loss of a "CIA pension." Even worse, said Kilian, questions were beginning to crop up about Razine's past—about his whereabouts from 1969 to 1980, about the fact that his intelligence background was nowhere mentioned in court records of a 1984 drug bust against him. Suddenly Razine didn't look like a sure thing at all.

As they say in the pulps, however, help was on the way. Within the next few days, Kilian told Brenneke that Nicholas Ignatiew was ready to pinch-hit for Razine. According to a Brenneke memo, Kilian explained that "Nicholas on camera places Bush in Paris 9/20 [sic] and probably later in Zurich." It is not known whether Brenneke snickered when he heard this. This was the same Nicholas Ignatiew whom he had coached by phone months before, and who'd then known zero about the October Surprise.

Suddenly in a flush again, Kilian and Brenneke conferred on January 3 to sort out the bidding. Everything seemed upbeat. "Very important discussion today with Martin Kilian," Brenneke tapped into his computer. "Write Rich Muller and Mike Scott re this." What Brenneke outlined was the October Surprise gospel according to Kilian, a goulash of suspended doubts that put Casey, McFarlane, Pentagon official Fred Ikle, and Bush at one conspirators' meeting in Paris and Casey at several others with provision (thanks to Moshell) for a Bush side trip to Luxembourg. Sadegh Tabatabai and Ahmed Khomeini had supposedly represented the Iranians, with an unidentified Swiss and a Jordanian also attending. "Every one of Martin's sources agreed independently on [this scenario]," Brenneke wrote.

He then listed those sources: Bill Herrmann ("second hand because he got his information from Naqashan"); "unidentified source ("probably from London"); Dirk Stoffberg ("second hand, through Iranian government officials . . . and South African intelligence"); Ignatiew ("unknown how Nicholas got his information"); Rozine ("unknown whether first or second hand sources"); Moshell ("first-hand source. States he was there and was an eyewitness").

As a footnote, Brenneke credited Sick's contributions and noted (the single caveat) that Moshell was suddenly unsure of his dates. He also jotted a suggestion from Kilian that neatly accommodated all the new dates and locales being tossed around. "We need to show that the October 19/20 meeting I was at was part of a series of meetings," he wrote. "As an isolated incident it makes no sense. It only makes sense in [the] context of [the] structure of an ongoing deal."

Superficially, this suggestion seemed a reasonable attempt to adjust to fresh data. But there was also something mischievous about it, for deliberately or not, Kilian had just handed Brenneke's supporters new license to improvise.

They wasted no time. A few days later, according to a Brenneke note, the hitherto cautious Northrop advised Kilian that he knew of "two series of meetings" prior to the Paris sessions—one round in Frankfurt in September and another in Geneva and Frankfurt in mid October. A week later Razine picked up the thread, placing Bush in Paris on September 5 through 8.

This sudden embellishment of Razine's story again prompted hopes that he might testify. But according to Brenneke's notes, he protested to Kilian and Jurgen Roth that he was now cornered by American agents in Europe and unable to depart and that their own phones—and Brenneke's—were tapped. It was such a blatant resort to stall tactics that it's something anyone took him seriously. In fact, he'd said too much, inadvertently giving Brenneke's lawyers something to go on.

In March they acted, calling on the court to dismiss the case against Brenneke because of the "intimidation" of Razine. Kilian, Roth, and Rico Carisch all provided supporting statements, and Brenneke swore he'd known Razine for "more than 10" years—which must have surprised Kilian, since he had reason to believe the two had been introduced nearly two years before.

As it happened, it was't Brenneke but Razine himself who got caught out. On March 23 an FBI agent in Bonn called Razine, then filed a report to Washington. According to the document, Razine—identified as "Oswald LaWinter"—had admitted "that he does not personally know subject Brenneke" and "would do him more harm than good" if he testified. As for the alleged intimidation, the report continued, "he attributes the origin of that information to a 'couple of hot shot journalists' for whom he decided to make life difficult. As LaWinter explained, he gave them numerous false leads.

OCTOBER SURPRISE IN COURT

The witness list for Brenneke's nine-day perjury trial did not include Razine or any other October Surprise "expert" except Northrop, who testified that he had seen Brenneke in Europe sometime in September 1980. According to lawyer Muller, Hushang Lavi was rejected because of his inconsistencies. Rafizadeh declined to testify unless reimbursed. Brenneke had long ago dismissed Honegger as a "ding-a-ling" and Sick stayed away for reasons of political hygiene. He explained to Northrop that for the sake of his own credibility, he had to remain "purer than Caesar's wife," eschewing any overt contact with "spook tapes."

As for the defendant's own credibility, at least one of his lawyers seemed doubtful. Just before the trial, as Brenneke noted in his files, Mike Scott complained to him that "everything checked out except my [Brenneke's] personal data."

With so little to go on, the defense's case boiled down to innocence by inference. The two ex-Customs informants, Howard and Tucker, for whom Brenneke had testified, reciprocated by offering speculative testimony about his alleged CIA connections, and one other witness—myself—was subpoenaed to certify that ABC News, for whom I then worked, had never retracted any Brenneke story. Since Brenneke and I had never discussed October Surprise at all, my testimony was irrelevant to whether or not the scandal had happened.

Taking that stand himself, Brenneke swore that he'd not only attended a Paris session with Don Gregg on October 19, 1980, but had been told of Bush's presence. The government countered with testimony from Gregg and two Secret Service agents who allegedly had been with Bush throughout the disputed period. Inexplicably, however, the agents forgot to bring supporting records, and a retired TV weatherman from Portland obliterated Gregg's alibi by insisting that a photograph supposedly taken of him at a Delaware beach on the pivotal weekend showed inapplicable weather conditions. It was the very tack Kilian had discussed with Brenneke weeks before.

Not once did prosecutor Thomas O'Rourke ask Brenneke for credit card receipts that might have established his whereabouts that weekend. Nor did he manage to discredit Brenneke's weatherman (in fact conditions along the Delaware shore were variable on Sunday, October 19). Brenneke's own lawyers, by contrast, never missed a beat. On May 4 the jury handed down a not-guilty verdict on all counts, thus enabling Brenneke to walk away claiming that the October Surprise story had survived the government's best shot.

The verdict immediately kicked the daisy chain into overdrive. Reporter Bob Parry, who by his own account had been lukewarm about the October Surprise story, spent the next 10 months investigating it for PBS. Sick, assisted by Parry and Kilian, finished researching a book on it, and Brenneke began a new one of his own. His earlier book deal had collapsed after coauthor Stuart Diamond had complained of his inability to produce documentation. (Brenneke had promptly declared bankruptcy and pocketed his share of the $137,000 advance). But shortly after, the trial researcher Peggy Adler Robohm offered Brenneke her services, and he began his work anew.

All along the daisy chain, meanwhile, others whose credibility had become linked to his urged him to keep laying in insurance. "You have the way to create media investigations," Northrop told him, "by simply telling a journalist or two something that happened, i.e., The Surprise." Brenneke complied.

One of the most useful insurance policies he copped for himself involved a strange case of purloined computer software. Shortly before his trial, Brenneke scrawled a cryptic note to himself—"Iran Contra Mike Rechonashudo [sic]." A few weeks later, on May 17, he got a related call from Bill Hamilton, owner of a small computer company named Inslaw. Hamilton told him that back in the mid 1980s, the Justice Department had extorted some sophisticated software from Inslaw and then let it slip to Earl Brian, a confidante of both Reagan and Edwin Meese. The source for this story, said Hamilton, was Michael Riconosciuto, a technical wizard who is now doing time on drug charges. Riconosciuto had allegedly worked with Brian on a contra project. "Formerly helped contras with Reagan group," Brenneke jotted in a memo of the conversation.

Whether Brenneke discussed October Surprise with Hamilton is not apparent from the memo. But the following day Riconosciuto wrote himself prominently into the scandal. In a three-way phone conversation with Hamilton and Jeff Steinberg of Larouche's organization, which had been sniffing around the Inslaw case and advising its principals, Riconosciuto said that he'd helped transfer $42 million to Iran as part of the October Surprise deal. He also claimed that Brian, who has repeatedly denied wrongdoing, had gotten the pirated software as a bonus for his work on the project.

Within the next week both Honegger and Kilian called Brenneke to say that here was new proof for his story, and over the next several months Brenneke continued to talk with Hamilton, and with freelance reporter Danny Casolaro, who was researching the Inslaw case. By fall 1990, according to Brenneke's files, Riconosciuto's "role" in October Surprise had greatly expanded. Hamilton informed Brenneke on October 19 that Riconosciuto "has told him Earl Bryant [sic] went to Iran in 1980 with Mike to deliver hostage delay payoff." Soon afterward Kilian advised Brenneke that "Riconosciuto says he saw me [Brenneke] in Paris October 1980."

The daisy chain went bonkers, hailing the Inslaw case as a new wedge into October Surprise, particularly after Ari Ben-Menashe and another burgeoning source, Richard Babayan, provided supporting affidavits to Hamilton. Their statements dealt only with Brian's alleged role in the software theft, not October Surprise. But no one seemed to notice. And after reporter Casolaro died mysteriously in August 1991, the word went out all along the daisy chain that a deadly cover-up was in the works. Ben-Menashe's notoriety increased, and Gary Sick embraced Babayan, who'd been convicted of fraud in Florida, as an authority on part of the October Surprise. The fact that Babayan and Ben-Menashe shared a business connection in Chile—a fact made clear in their affidavits—raised no apparent concern about collusion. And once again, Brenneke's version of the truth gained new luster.

KILIAN SEALS THE DEAL

Throughout all this Martin Kilian, the journalist who'd done so much to make Brenneke what he was, continued to midwife everybody else's baby. Not until August 1991 did Der Spiegel publish a story based on his October Surprise reporting—the first in three years. But Brenneke, Sick, and Bob Parry all continued to draw on his handouts. Sick would credit Kilian with having briefed him regularly on a variety of October Surprise sources, and, based on Brenneke's own notes, Kilian did the same for him.

Shortly before Brenneke's trial, for instance, Kilian uncovered evidence that seemed to place a businessman, the late John Shaheen, in the middle of the 1980 dealings as an intermediary between Cyrus Hashemi and Casey, who'd worked with Shaheen during World War II. On September 7, according to Brenneke's files, Kilian shared the Shaheen tip with him, and according to Sick's book, the same information was passed to him. That of course was typical of Kilian. While keeping his own byline off controversial information, he always seemed willing to let others try to make it fly.

Typically, too, Kilian remained true to even the worst of the bad apples. Despite the questions surrounding Razine, he continued to tout his virtues to Brenneke, telling him in August that "Razine was part of clean-up crew" that had covered the conspirators' tracks in Paris.

Equally generous was Kilian's attitude toward Harry Rupp, whose credibility had likewise nose-dived. "Harry's dates still messed up," Kilian warned just before Brenneke's trial. Yet, come the following November, Kilian was still pushing Rupp as a source. "Harry now says he did National [airport] to Paris non stop with Bush, Gregg, and one or two others," Kilian told Brenneke. Later Bob Parry sat Rupp down for a PBS interview and discovered that the pilot had suddenly remembered an even earlier Surprise episode—a series of meetings supposedly held in Madrid as a prelude to the Paris negotiations. That should have sounded alarms all along the daisy chain. It didn't. Gary Sick would later cite the Rupp interview as a prime reason for believing the Madrid meetings had happened.

As noted above, it was Kilian who had first glimpsed the "need" for earlier negotiating sessions. But only after Ben-Menashe and Jamshid Hashemi, Cyrus's brother, picked up on the Madrid theme in mid 1990 did this multimeeting theory of the conspiracy catch fire. Afterward, Sick and Parry became believers, and Brenneke began rewriting his book outline to place himself in every meeting anyone could think of.

"My major contribution to the story from a research point of view," Sick told the Voice, "was the Madrid meetings." As Sick recalls in his book, Jamshid boasted to him of having firsthand knowledge of these meetings. Jamshid claimed that in mid 1980 he and Cyrus had twice arranged for Casey to meet secretly in Madrid with the Ayatollah Mehdi Karrubi. During the first session in late July, he said, Casey had suggested that arms might be sent to Iran through a "third country" if the hostages were released as a "gift" to a fledgling Reagan administration. Two weeks later, by Jamshid's account, Casey had returned to Madrid to firm up the arrangement, and the Israelis had then secretly dispatched $150 million in arms and spare parts to Iran, with Cyrus brokering the deal for a commission. The October sessions in Paris were icing on the cake.

When Ben-Menashe was asked about all this, he "confirmed" it, saying that he'd read about the Madrid sessions in Israeli intelligence reports. Later, reporters for ABC's Nightline discovered a hotel ledger that seemingly established Cyrus and Jamshid's presence in Madrid at the appropriate moment. They also found that Casey had been abroad at the time and that someone named "Robert Gray" had been registered in the Hashemis' hotel. Since that was the name of Casey's campaign deputy in 1980—the same Robert Gray who had written some of the most aggressive GOP strategy papers on the hostage issue—the glove seemed to fit perfectly.

And yet, there were holes in it. For one thing, as Jamshid had long ago intimated to LaRouche researchers, Madrid had been a way station in Carter's hostage negotiations in 1980. So there was ample room for confusion. In addition, as Nightline reported, much of Casey's three-day European junket in late July had been given over to a London conference. Though he could have darted off to Madrid and back, conference records admitted only a silverlike window of opportunity.

More troubling still were problems with the sources themselves, particularly Jamshid, whose memory seemed infinitely elastic. At one point, for instance, he told Sick that he'd been present for the Madrid negotiations but not the Paris ones, while in an interview with Kilian he glossed over Madrid and refused to specify whether he'd been in Paris. Anyone bothering to research, moreover, would have discovered that Jamshid had been unwilling to affirm to LaRouche interviewers only a few years before that Casey was involved.

Nor did the particulars of the Madrid deal square with what was known of the Hashemis' opportunism. In 1984 a grand jury indicted Cyrus for petty arms smuggling to Iran, including transactions during the very period when he was supposedly brokering the $150 million October Surprise shipment. Would Cyrus have bothered with such penny-ante stuff if he'd really been involved in such a bonanza? Simple logic says no.

Adding to the skeptic's brief are the FBI surveillance reports mentioned previously. Based on wiretaps of Cyrus Hashemi's business phones in late 1980, they indicate that this key "conspirator" was in New York on October 20, a date frequently associated with the Paris meetings. They also show that Cyrus took orders from Iranian, not Republican, agents in arranging subsequent weapons deliveries to Iran. Even more provocative is the newly revealed role of the Carter administration in his activities. Whereas conspiracy buffs like Jamshid and Sick argue that Cyrus helped the Republicans stave off a hostage release by smuggling arms to Iran, the wiretaps show that administration officials acquiesced in his weapons deals because of his importance to their own hostage bargaining. If the Republicans encouraged Cyrus in these ventures, weren't they then only mimicking the administration?

In late 1990 Kilian began to have his own doubts about the Hashemi story, and, according to Brenneke's files, complained that Jamshid might be an agent for Customs or even the CIA. Other sources also began to wear badly. In April 1991, In These Times published comments from Ben-Menashe that diverged from what he'd told Sick and others. The discrepancy involved that Washington get-together (reported so long ago) between Reagan campaigner Richard Allen and an Iranian emissary in early October 1980. Ben-Menashe said he'd accompanied Hushang Lavi to the meeting. But for Sick he spun a different tale, claiming that his companion was not Lavi at all, but a professor from Tehran University (an inconsistency that Sick noted). Lavi himself clouded things further by insisting that he'd handled the meeting alone—this from a man who nearly four years before had denied knowing anything about the plot.

By mid 1991, the Surprise story was beginning to fray, partly because of mounting evidence that Bush couldn't have been in Paris during the crucial period of October 19 and 20, 1980. Kilian has told the Voice that he broke with Ben-Menashe over this issue. In May he also wrote Brenneke off after discovering that a letter "certifying" Brenneke's CIA recruitment had been forged.

If Kilian was beginning to have doubts, however, he was slow to tumble to the implications. Almost better than anyone else, he knew that the daisy chain was not divisible, that the bursting of one link affected the whole. He knew that Ben-Menashe had indirect links to Brenneke and that Ignatiew and Razine's credibility hinged on Brenneke's. He also knew that Lavi, Jamshid Hashemi, and Ben-Menashe were part of a skein that could not hold if any one of them proved untrue. Yet, Der Spiegel's August 1990 story on the scandal merely recycled much of what Kilian had gotten from these sources, particularly Jamshid.

"If I had known that Jamshid was linked to Brenneke it would have raised a couple of questions," Kilian said. "I didn't think Jamshid was linked to Brenneke. I didn't think Herrman or Ben-Menashe were linked to Brenneke. I didn't think that those sources that I used had any ties." When appraised that Jamshid knew Will Northrop, he said, "I didn't think they knew each other."

SICK'S RECYCLING MACHINE

Kilian's ability to censor out what he didn't want to hear clearly influenced Sick, whose recent book is a study in selective reporting. Time and again the author shaves facts that prejudice his sources or pet theories. He only barely touches on Cyrus Hashemi's complicating role as a Carter hostage negotiator, and overlooks Carter's hands-off treatment of Hashemi's illicit arms deals with Iran. (Sick would have us believe that it was solely the Reagan campaign, in collusion with the Israelis, that nurtured these deals and thus undercut Carter.)

Similarly, it is only from Honegger's book that we learn of gunrunner William Herrmann's conviction as a counterfeiter. Sick likewise ignores Razine's boast to the FBI about peddling false leads, the inability of Jamshid Hashemi and Hushang Lavi to stick to a consistent story about whether they took part in the Paris and Madrid sessions, and Ben-Menashe's failure to pass a polygraph test administered by ABC News shortly before Sick's publication date.

In interviews Sick has argued that a source's propensity for lying shouldn't discredit everything he says. But he fails to acknowledge that some of his sources stood to gain, even to the point of easing a prison sentence, by lying about the Surprise.

Though Sick may not have appreciated how interconnected his sources were, he surely knew that Kilian—the man he credits in his postscript as a "kindred spirit"—had flitted among many of them like a pollen bee. His book bristles with borrowings from Kilian's interviews, and where Kilian proves wanting, Sick substitutes gleanings from other reporters.

"Let's get it clear here," Sick said last Friday. "There was no conspiracy here. I was talking to Martin Kilian, I was talking to Bob Parry, I was talking to Craig Unger, anybody who worked on the story. And as we made a breakthrough in one place * * * [and] when we asked where Casey is, some people went out to interview Meese. Nobody was telling anyone what to do. This was a voluntary group of people working on the story which I regard as almost the best of investigative journalism."

Indeed, the most remarkable thing about Sick's book is its derivative character. Only five of the 14 primary sources he cites for the Paris and Madrid meetings did he interview himself, thus casting doubt on his ability to judge the credibility of the lot. With few exceptions, moreover, his source list duplicates the one that Honegger used for her book two years before and that Kilian expanded with Brenneke's help. To be fair, Sick might well consider sharing with them the half-million dollars he's reportedly been promised in a second movie deal, for they provided the needed research.

The proof is in his page notes. Consider, for example, the sources he says vouched for the Madrid meetings. Besides Jamshid Hashemi and Ben-Menashe, he cites Brenneke's dubious friend Harry Rupp and Richard Babayan, the convicted defrauder whom the Inslaw documents link to Ben-Menashe. He also includes an Iranian exile who learned of the meetings only secondhand from the Hashemis, and a convicted weapons dealer, Arif Durrani, who has told the Voice that he knows nothing about any October Surprise meeting.

The same paucity of firsthand information is evident in Sick's account of the Paris sessions. Again, Ben-Menashe and the oblivious Durrani are identified as primary sources, but here Sick also relies upon Brenneke, Razine, Lavi, and Brenneke's newly tutored friend, Ignatiew. Two unnamed sources are mentioned; quite possibly they are the self-styled Israeli agent Ahran Moshell and Brennecke's pal Benes.

In addition, Sick cites Kilian as the source for speculation about the role played by Casey's friend Shaheen. He also slips weapons dealer William Herrmann into the mix, though he is careful to point out that Herrmann only learned of the October Surprise from Iranian procurement officer Nagashan. What he doesn't know, of course, is that Brenneke and his buddy Ignatiew opened lines to Naqashan in mid 1986. Nor does Sick seem aware that another of his principal sources, Iranian exile Ahmed Heidari, was involved in a business venture (the attempted tank purchase) that included Ignatiew and Brenneke, as well as Razine.

"Most of these men did not know one another," Sick writes of his sources. "The chance that [they] are telling their versions of the truth is much higher than the chance that they are all lying in concert."

Clearly, he has it wrong. Far from being disconnected, most of his sources spring from a group of international arms merchants and wannabes who got stung by U.S. Customs and by an undercover informant named Cyrus Hashemi in April 1986. To rule out collusion among them requires considerable charity, particularly since the October Surprise story indicts one member of the White House crowd—George Bush—who they felt had caught them out. What's more, since Brenneke's records show that none of his contacts had any original knowledge of the October Surprise, the real likelihood is that they improvised.

But if Sick misses this point, he also seems oblivious to the simple dictates of candor. Last September, the Voice exposed Brenneke as a fraud after discovering that his 1980 credit card receipts placed him nowhere near the Paris or Madrid sessions that he claimed to have witnessed first-hand. Had this evidence surfaced at his perjury trial in 1990, his defense would have collapsed. So would the credibility of at least five others—Razine, Riconosciuto, Rupp, Russbacher, and Northrop—who all claimed to have seen Brenneke in Europe in the fall of 1980. Yet Sick suggests in his book that Brenneke's whereabouts had no bearing on the accuracy of his charges.

Where Brenneke was, he says, "was not an issue in the trial. Brenneke had been accused of falsely stating that William Casey, Donald Gregg and possibly George Bush were in Paris on that particular weekend. * * * Although this case received virtually no attention in the national media, it marked the first and only time that the U.S. Government had systematically and authoritatively attempted to refute the allegations of an October Surprise * * * To my surprise and to the surprise of almost everyone who followed the trial closely, the failed."

With this kind of intellectual flexibility, the daisy chain should long outlive the earnest souls and pretenders who created it.

The Lineup—Earnest Souls and Pretenders: The Makers of the October Surprise

Gary Sick—in researching his October Surprise book interviewed only half of the sources he cites for crucial conspirators' meetings and often relied on hearsay from journalist Martin Kilian and others. While acknowledging the unreliability of some of his sources, Sick nonetheless built them into the scaffolding of his conspiracy theory, thus erecting an edifice of compounded error. In 1989 Sick became involved in a movie deal with Brenneke and producer Oliver Stone that gave the former NSC aide a financial stake in a theory he had only begun to research. Sick said the fact that he made movie deals and how much money they earned him were "totally irrelevant to the truth" of the October Surprise story.

Cyrus Hasehemi—allegedly the Reagan campaign's secret emissary to Khomeini in 1980, simultaneously pursued private Iran arms deals of his own, with the acquiescence of the Carter administration. If, as Sick and others claim, such under-the-table trade caused the ayatollahs to stall a hostage release, then Carter's own hands-off policy toward Hashemi may have been as much to blame as any GOP counterplot.

Jamshid Hashemi—one of the few key sources Sick interviewed himself, gave a different October Surprise story to extremist Lyndon Larouche's aides in 1983, leaving unclear if Reagan campaign chief William Casey was involved in earlier machinations to delay a hostage release. Jamshid has also equivocated about his own role, denying to Sick that he participated in a Paris plotters' meeting in 1980, while refusing to clarify this issue with Kilian.

Abol Hassan Bani-Sadr—Iran's exiled president, denied to Barbara Honegger in 1988 that he had any firsthand knowledge of the October Surprise conspiracy. Later, after feeding him background to improve his memory, she cited him as a prime source for her own conspiracy theories.

Hushang Lavi—U.S.-Iranian arms dealer told a Playboy interviewer four years ago that he knew nothing of a Reagan campaign effort in October 1980 to block a pre-election hostage release. The Playboy story itself—one of the first on the October Surprise—shortchanged this admission. Recently, Lavi has placed himself at the center of the October Surprise and become a prime source for Gary Sick.

Oswald LeWinter—also known as "Mr. Razine," the most creative October Surprise source, corroborated Brenneke, serviced both Sick and Honegger's research, and has tested Kilian's skepticism and found it wanting. Even though Kilian knew of self-serving changes in Razine's story and of an FBI report linking Razine to "false leads," the journalist has continued to quote him to others, and even urged him to testify "as a moral obligation" at Brenneke's perjury trial.

Ari Ben-Menashe—allegedly an ex-Israeli intelligence agent, shared friends and business interests with Brenneke in the mid 1980s. Sick has relied on Ben-Menashe and another business associate of his to buttress his own October Surprise theories, even while claiming in his book "most of these men did not know each other . . ."

William Herrmann, Hamid Nagashan, Ahmed Heidari, Nicholas Ignatiew—all prominent October Surprise sources, came together in various weapons deals in the mid 1980s in which Brenneke played a peripheral role. Sick discounts collusion among them, again in the belief that they share no common ground.

Martin Kilian—Washington correspondent for Der Spiegel and Sick's closest collaborator, has nurtured October Surprise sources, even dubious ones, by trading information with them and other journalists. His own magazine has devoted only two stories to the scandal in three and a half years.

David Marks—Kilian's close friend, helping bring Sick and Brenneke together for an Oliver Stone movie project in 1989 that was to dramatize both men's conspiracy allegations by turning both into "characters," much like ex-New Orleans district attorney Jim Garrison in Stone's current film, JFK. Marks, who was rejected as a prospective investigator for Congress's October Surprise probe because of his "partisanship," is currently helping with a PBS Frontline "investigation" of Sick's allegations.

THE 50TH ANNIVERSARY OF VOICE OF AMERICA

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, today marks the 50th anniversary of the Voice of America, a voice of truth that has resonated around the world for a period beginning 79 days after the entry of the United States into World War II to the crumbling of the Iron Curtain and the blossoming of freedom for millions of oppressed people.

We must hope that the future actions of this body will allow the Voice of America to continue to be the foundation for a voice of truth, a voice of ideals, a voice of human rights, a voice of freedom, a voice of economic growth to improve the quality of life for all people, a voice of peace, and that the Voice of America continues to be a beacon light that shines as an example of goodness to all people.

□1210

CONGRATULATIONS TO THE U.S. NATIONAL WOMEN'S SOCCER TEAM

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, on February 6 we commemorated "National Women and Girls in Sports Day" and in keeping with that special day, I want to bring to my colleagues' attention the tremendous achievement of the U.S. Women's Soccer Team in winning the world championship title last November 30 defeating Norway 2-1, in the games played in China.

President Bush honored the squad recently when they met with him at the White House. It was a well deserved honor. These women are great role models for today's young people participating in high schools and ever-expanding soccer leagues around our Nation. And worldwide, they are tremendous examples of the great American competitive sports spirit.

I am especially pleased to share this tremendous achievement with my colleagues because one of the members of the U.S. Women's Soccer Team is my constituent, Wendy Gebauer, of Reston, VA, a forward on the squad and a member of the U.S. Women's team since 1987. Wendy graduated in 1988 from the University of North Carolina-Chapel Hill, where she finished as the seventh all-time leading goal scorer, playing for U.S. National Women's Team coach Anson Dorrance. AT UNC she was a member of three NCAA championship teams for the Tar Heels and a two-time second-team All-American in 1987 and 1988.

With the U.S. Women's Soccer Team's world title, we now have an event that is more than just an average soccer story. It was U.S. soccer's shining moment—a unique performance without equal in American soccer history. I was pleased to be a cosponsor of Congresswoman SNOWE's resolution which the House passed to commemorate "National Women and Girls in Sports Day." It is a fitting time on which to make special note of our country's first international soccer championship on any level.

This commemoration might also be a good time to promote the inclusion of women's soccer as a gold medal sport at the 1996 Olympics, which this Nation will host in Atlanta. It was dismaying to read recent news reports that women's soccer may be pushed back to the year 2000 Olympics. I am sure the many thousands of soccer players and fans in northern Virginia and around the country would agree that women's soccer should get its opportunity to compete in 1996. Women's soccer competition in the Atlanta Games would provide a continuing opportunity to encourage more participation in girls' soccer by promoting the U.S. women's national team and improving youth programs in our States. I hope my colleagues will join in recognizing the world champion U.S. Women's Soccer Team and in promoting a women's soccer gold medal in 1996.

COMMUNICATION FROM HON. LINDSAY THOMAS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. LINDSAY THOMAS, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 20, 1992.

Hon. THOMAS S. FOLEY,
The Speaker of the House of Representatives, H-204, The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the Ware County Superior Court in the State of Georgia.

After consultation with the General Counsel to the Clerk, I will make the determinations required by the Rule.

Sincerely,

LINDSAY THOMAS,
Member of Congress.

"HIGH POLITICAL THEATER"—OR LOW POLITICAL FARCE?

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, our good friend, the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois, Mr. DAN ROSTENKOWSKI, was on ABC's "Good Morning America" this morning. And he told Charlie Gibson that what we are going through on the competing economic growth packages is "high political theater."

Now, the chairman makes a very valid point. The Democrats have put on flop after flop in their quest for the White House, receiving terrible reviews from the American people. So now they have come up with their new musical melodrama, "The Phantom of the Tax Cut."

Their script is full of political cliches. The music is discordant. The current star, charismatic Paul Tsongas, wants a total rewrite, and, as usual, there is no public rush to the box office.

Who could believe a script that asks us to believe that economic salvation is gained by doling out 4 bits a day to each member of a family of four?

I have often wondered what critics meant when they referred to "the theater of the absurd." Now we know. It is the Democrats in pursuit of an economic policy.

The Democratic "Phantom of the Tax Cut" ought to close out of town, Mr. Speaker. It is not high political theater. It is low political farce, getting less funny every moment.

COMMITTEE ON RULES ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS TO H.R. 3844, HAITIAN REFUGEE PROTECTION ACT OF 1992

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, the Committee on Rules is planning on meeting on Tuesday, February 25, 1992, on H.R. 3844, the Haitian Refugee Protection Act of 1992. In order to provide for an orderly process in the consideration of this matter, the Committee on Rules is requesting that Members submit 55 copies of their amendments to the bill, together with a brief explanation of the amendment, to the committee office at H-312, the Capitol, by 12 p.m., Tuesday, February 25, 1992.

Copies of the text of the bill are available at the Judiciary Committee at 2138 Rayburn and at the Office of Legislative Counsel. In considering the submitted amendments, the Committee on Rules will understand if the amendments are not drafted in proper form due to the lack of availability of the reported bill. Again, the committee would urge Members to submit any amendments to the Committee on Rules at the earliest possible time but in no case later than 12 p.m. on February 25, 1992.

THE CASE OF IRAQ AND THE EXPORT-IMPORT BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, this special order is another in a series of special orders related to the Banking Committee's investigation of the Atlanta branch of the Banca Nazionale del Lavoro [BNL]. Today I will show how the State Department continually pressured the Export-Import Bank to approve loans to Iraq despite the fact that Iraq was not creditworthy.

BNL was the second largest bank participant in the Eximbank program for Iraq. Eximbank insured 51 BNL financed transactions which aggregated $47 million in value.

Over the years, top levels of the administration, including President Bush, repeatedly intervened with the Eximbank in order to assist Iraq. During the entire United States-Iraq relationship, the State Department and other agencies pressured the Eximbank to disregard its charter in order to provide credit assistance to Iraq.

The policy toward Iraq is by far the most tragic foreign policy episode of the Bush and Reagan administrations. Whether that policy was to use Iraq to stop Iran, or later, to eject Saddam Hussein, or to bring about regional stability—it is a policy that ended in war and the loss of many precious lives—and with no long-term goal achieved—yet it remains a story that is largely untold.

The Iraqi invasion of Kuwait had a financial cost to the United States taxpayer because Iraq has now defaulted on $2 billion in loans guaranteed by the Agriculture Department and the Export-Import Bank on letters of credit to Iraq financed through the agency Banca Nazionale del Lavora in Atlanta.

The following will illustrate how the Export-Import Bank was cajoled into granting credit for Iraq even though the financial experts at the bank repeatedly warned that extensions of credit to Iraq did not offer a reasonable assurance of repayment. In fact, Iraq later defaulted on its Eximbank commitments.

INTRODUCTION

On June 15, 1990, Assistant Secretary of State John Kelly explained in congressional testimony the latest goals of the administration policy toward Iraq. There were: First, maintaining the supply of oil from Iraq: second, maintaining stability in the entire Gulf and its oil supply; third, ensuring Iraq's moderation in the Middle East peace process; fourth, preventing the proliferation of missiles and nuclear, chemical, biological, weapons, and fifth, promoting the improvement of Iraq's human rights record.

□ 1220

The most important event early in United States-Iraq relations was the Reagan administration's removal of Iraq from the list of nations supporting terrorism in 1982. By removing Iraq from this list, the administration granted Saddam Hussein instant access to United States agriculture assistance and opened the door for Iraqi participation in Eximbank programs as well as making sophisticated United States technology available to the Iraqi military.

Starting in 1983 Iraq exploited its newfound status by using CCC backed credit to purchase $365 million in United States supposedly agriculture products. By 1990 the amount of United States Government guaranteed sales of supposedly agriculture products to Iraq had grown to over $1 billion annually.

This policy not only fed the people of Iraq, which is fine and well, but it fed the armies that Mr. Saddam Hussein had been raising and had enabled him to wage war and prepare for additional war, and it helped to keep him in power.

It also assisted U.S. agricultural producers who were down on their luck due to the farm crisis experienced during the first half of the 1980's. The U.S. was not alone in pursuing this policy.

A lot of the credits that were funneled in the name of the agency in Atlanta, B&L, actually went through, roughly speaking, a syndication process, the Morgan Bank in Pennsylvania, which in turn went through multiple other banks in Germany, France, and other countries. But the total exposure by the time of the invasion in Kuwait in August of 1990 of Iraq to 10 major Western creditors was over $12 billion.

While Iraq's removal from the terrorist list instantly opened the door for the sale of Government guaranteed agricultural exports to Iraq, the ability to utilize Eximbank programs was more difficult.

The Eximbank relationship with Iraq, which began in 1984, has a long and checkered history. Eximbank opened up for business not long after President Reagan removed Iraq from the list of nations supporting terrorism. There was no relationship prior to that time because the Eximbank charter prohibited the Bank for dealing with terrorist nations.

The Export-Import Bank Act states that all transactions supported by the Bank shall and I quote from the charter, "* * * in the judgment of the Board of Directors, offer reasonable assurances of repayment. * * *" But during the 1980's Iraq rarely, if ever truly met this criteria. It took interventions and constant pressure, often from high level State Department policymakers and even President Bush, to permit Iraq to utilize Eximbank programs.

Both the administration and Iraq saw the Eximbank program as vital to their interests. For the United States, it promoted United States technology sales, and supposedly added stability to the region by permitting the administration to use the program to modify the actions of Iraq.

For Iraq, an Eximbank program would allow access to United States high technology goods, but most importantly, it would send a signal to other nations that the strongest country in the world, the United States, considered Iraq creditworthy. That would have the effect of opening up new sources of credit which in turn could be used by Iraq to sustain itself during the tough economic times brought on by its war with Iran.

Under the Eximbank program, American exporters were insured against the risk of nonpayment by Iraqi purchasers under a short-term facility—that means that the guarantee was usually good for only 1 year. From the inception of the program in 1984 until March 1986 when Iraq was suspended from the program, Iraq used the program to buy United States agricultural products, pesticides, small motors for air-conditioners, medical supplies, oil equipment, and heavy machinery. The Iraqi military also utilized the Eximbank program by purchasing 250 armored ambulances and portable communications equipment.

While most of the transactions were relatively small, the largest transaction approved by Eximbank was the Aqaba oil pipeline project. Eximbank guaranteed $484 million of the $1 billion project led by the giant firm Bechtel. For unknown reasons this project was never consummated, but later in this presentation I will reveal that this was the first time then Vice President Bush intervened at the Eximbank to win approval for an Iraqi project.

In March 1986, Eximbank suspended Iraq from its programs because of continual payment problems. This suspension was effective until the Exim Board of Directors reopened for business with Iraq in July 1987. From July 1987 to August 2, 1990, the Kuwaiti invasion, Eximbank provided financial assistance for 187 United States export transactions totaling $267 million.

The chronology of the Eximbank decisions to finance the Aqaba pipeline are extremely interesting and at the same time, in retrospect, quite troubling.

On March 16, 1983, the Secretary of the Department of State, George Shultz, received a memo explaining the Eximbank position regarding Iraq. The same memo read, and I quote:

> Eximbank is discouraging the new inquiries from U.S. exporters regarding Iraq because of the war's effect on Iraq's economy.

This decision was based upon the Export-Import Bank Act requirement that there be a "reasonable assurance of repayment."

Over the next 7 years the State Department and the White House would pressure the Eximbank repeatedly to gain access to guaranteed financing for Iraqi projects.

The most prominent of these projects was an Iraqi oil pipeline with an outlet at the Red Sea Port of Aqaba, Jordan. This contract alone was worth $1 billion for its contractor, Bechtel, the California engineering conglomerate. Secretary of State George Shultz and Bechtel had a longstanding business relationship. As a matter of fact, Secretary Shultz came from Bechtel, and he came back from Bechtel. He worked at Bechtel prior to becoming Secretary of State and, as I say and repeat, he went back immediately upon leaving the State Department.

Other high officials in the Reagan administration involved in this project including President Bush, the current Deputy Secretary of State, Lawrence Eagleburger, former Attorney General Ed Meese, former NSC Director Robert McFarlane, and former CIA Director William Casey. At various times, every one of them contacted the Eximbank to obtain financing for the Aqaba pipeline project. These officials all had one thing in common—they saw Eximbank financing as crucial to United States-Iraq relations.

To illustrate that point consider the following:

A December 21, 1983, telex from the U.S. interest section in Baghdad to the Secretary of State says:

> We should give serious thought to offering Eximbank credits. * * * New U.S. credits in combination with our CCC credits would demonstrate U.S. confidence in the Iraqi economy.

In a December 22, 1983, memo to Mr. Lawrence Eagleburger, the State Department's Richard W. Murphy says:

> The U.S./Iraq political relationship could be advanced by Exim financing which has previously not been possible for political reasons. * * * Viewed in combination with CCC credits already granted Iraq, an Exim gesture would go far to show our support for Iraq in a practical, neutral context. * * *

In a letter to William M. Draper III, then Chairman of Eximbank, Lawrence Eagleburger states:

> I would like to bring to your attention the important role Exim can play in furthering long range political and economic interests of the United States by being receptive to financing American sales to and projects in Iraq. From the political standpoint, Exim financing would show U.S. interest in the Iraqi economy in a practical, neutral context. This evidence of our interest in increasing commercial relations also will bring political benefits.

□ 1230

Mr. Speaker, at this time I would like to say that some documents that I have accumulated in support of what I am saying, instead of interspersing them I will offer them at the end of this special order today for the RECORD.

These documents reveal that in 1983 then Under Secretary of State for Political Affairs, Lawrence Eagleburger wrote to Export-Import Bank Chairman Draper urging the Export-Import Bank to open its program to Iraq, as I have just stated.

In 1989, Mr. Eagleburger wrote the Treasury Department to express his support for the $1 billion CCC Program for Iraq. Remember, that $1 billion is guaranteed by the taxpayers. They are going to have to shell that out.

Previously, I had reported that Mr. Eagleburger was the Director of the Yugoslavian LBS Bank just prior to his confirmation as Deputy Secretary of State. I have already brought this out on two occasions. I offered the documentation.

Mr. Eagleburger was instrumental in getting LBS established in the United States. I wonder where that bank is now, the Yugoslavian.

I also reported that B&L was instrumental in getting LBS established in the United States in that B&L was the largest source of funds for LBS, the Yugoslavian Bank, and this comes back to what I said awhile ago.

Something I will say now parenthetically by way of explanation. When we talk about these foreign entities, banking entities doing business in the United States, there seems to be no perception even among our monetary leaders that we are not dealing like we do with an American banking system, a private system. Almost every one of these banks are government owned. The B&L, for instance, is literally owned by the Italian Government. Therefore, the Yugoslavian Bank from which Mr. Eagleburger was on its Board and intervening in the United States in behalf to help to get set up, dovetailing with the fact that its financial nexus or background would be the B&L, a foreign-based entity owned by another government.

These are facts that are not factored in. The reason we are going into this, and have for over 1½ years, is that it has everything to do with the fact that in our country we are the only country of any consequence of any industrial size that does not have any kind of regulatory protection that will protect the public interest.

We know we have over $800 billion of this kind of money in this country. What we do not know is who knows where it is going and how it is handled and how it is leveraged. Only a small chunk of that is highly leveragable from drug money laundering to such things as the procurement of sophisticated weaponry and technology for other countries that today may be off that list, but tomorrow, who knows, as in the case of Iraq.

Previously I had reported that this B&L was instrumental in this financing, because as I said a little bit earlier, these banks anymore than in the case of Iran and the hostages, at the bottom of all that is banking. Everything that happens around the world and ever has happened, at the bottom of it is financing or banking. Just as in the cause of the Shah where one of our big banks in the United States had a $10 billion exposure, and that is what the hostage taking was all about. What people do not recognize is when the hostages were released, the same day that President Reagan took his oath of office on January 20, 1979, an official at the Federal Reserve Bank in New York pressed a button and released about $3 billion in London to Iran and then they released the hostages. So all of that is at this point in the background. It is not directly connected, other than the fact that it is the pattern that has existed and against which activity that would be contrary to our national policy is possible to happen without any regulatory oversight on our part. Neither the Federal Reserve Board nor these agency banks which are chartered by the States, the Atlanta Agency of the Banca Nationale is a Georgia State-chartered institution.

Now, how in the world, as they found out in the stinkeroo that resulted from these deals, can that State be equipped to adequately monitor and oversee that entity? If the Federal Reserve Board cannot do it in the case of the parent bank in New York, how in the world can a State regulatory commission do it?

So this is why we amended the law. I had been advocating changes in the international banking law, which incidentally we first passed in 1978 as a result of the hearings that I caused to bring about in San Antonio, TX. There was not any law then. In 1978 we got a little law, but never adequate. We had some amendments that strengthened it. My contention is that they are inadequate, yes, and this is why we are going into it, because we have a legislative purpose. We are not bringing out details in order that we can intentionally or with any kind of planned approach try to reveal somebody's embarrassment. We are here to show the sorry role and the breakdown that our regulatory system has been undergoing for decades in our country.

After the war, after 1945, this whole thing changed. We were no longer the still pretty much provincial country we were.

And at this point there is such a tremendous exposure to the national interest that it behooves us to keep talking about it. It is not making any news stories. The newspapers have not picked up on this at any time, and we are not doing it for that reason. We are not issuing releases. We have had newspapers that have picked up months later because of some independent discovery they made somewhere, somehow, but which actually is repetitious to what we have been placing in the RECORD for my colleagues to have for more than 1½ years.

Another fact I have previously revealed was that B&L was a client of Kissinger Associates during the time when Mr. Eagleburger and Mr. Scowcroft, who is now the National Security Adviser, were directors of Kissinger Associates.

The beauty of this game is that these fellows can wear all kinds of hats and then they can come and wield all kinds of power. Then they can go back and pick up that other hat that they had temporarily not used.

Now, they are not elected. People have no control over them, only through the President.

What would happen if we were to have anything like that happen on a congressional level? Man, you would be hearing the biggest ruckus ever.

What has not been revealed to date is the following: Mr. Eagleburger who was an active participant in United States policy toward Iran was involved in handling of the B&L scandal at the State Department in 1989 to 1990. The committee has also learned that B&L provided millions in credit to a firm called the Impex Overseas Corp. in New York. Impex, also a Yugoslavian firm, was instrumental in getting the Yugo automobile into the United States. Mr. Eagleburger was also a key figure in the introduction of the Yugo into the United States. He is also a board member of the Yugo Bank. So now he makes policy. He is the Deputy Secretary of State. He is not a lowly assistant somewhere down the line.

As National Security Director, Mr. Scowcroft is instrumental in carrying out United States policy toward Iraq, of course.

I had reported earlier that Henry Kissinger was on the International Advisory Board of B&L in Rome.

A new revelation regarding Mr. Scowcroft is that while working under Mr. Kissinger and Kissinger Associates, Mr. Scowcroft twice briefed the B&L International Advisory Board for a fee. This Board meets in Rome.

☐ 1240

Mr. Kissinger also derived a fee. Every time he sat and met, he would get no less than $10,000. So, it was not a pro bono thing. He was an adviser of the Italian Government-owned bank, not a private bank like we are accustomed to seeing in the United States.

BNL loaned over $4 billion in loans to Iraq, $2 billion to the secret Iraqi military procurement network. Also, BNL was by far the largest bank participant in United States credit programs for Iraq, financing over a billion dollars in the United States export guarantees to Iraq.

In fact, it was because of the BNL scandal that the United States withheld $5 million in CCC credit for Iraq in 1990.

The BNL scandal also brought about the cutting off of the prime source of funding to the Iraqi procurement network.

Now, how did I come across this? That is very interesting.

About 2 years ago, a little better than 2 years ago, I believe it was, in the Wall Street Journal, I picked up a little, small item saying that $2 billion worth of letters of credit had been issued through an Atlanta bank to Iraq.

Well, one thing that caught my attention was $2 billion? A bank in Atlanta? What was this all about?

So, it took a long time before I could find out what it was and that it was a branch and what not. In the meanwhile other things happened unknown to me that were focusing on the fact that a scandal was brewing, that there had been a lot of cheating, lying, conniving, and cooking of the books at this agency.

And the question was: Did the bank headquarters in New York or in Rome know? To this day they have an investigating committee of the senate, that is the Italian senate in Rome, Chairman Carta.

It is funny how things work out in life. I did not have the slightest notion that there were questions beginning to be raised about some of the mysterious goings-on as far as the bookkeeping was concerned with that agency.

But in the meanwhile the Italian Government has also been very concerned and started, about that time, because the Italian taxpayers were also exposed to about 2 billion dollars' worth on these letters of credit.

So, when we finally did go into it, it was an election year, 2 years ago, and we had the first hearing. Unfortunately, and understandably, it was right on the eve of the election and we could not get much interest, but we had the first hearing.

It was very important because we found out that the Justice Department, the Attorney General, Mr. Thornburgh was very, very incensed that we would dare have hearings on this matter. I could not believe it until he sent me a letter. First, he wanted to meet with me privately. I said, "No, I don't do that." I never did. I am not the committee. I am just the chairman of the committee.

So, if we have any kind of business like that, it is going to be discussed as a matter of policy with the membership of the committee.

Mr. Speaker, I yield to the gentleman from Kansas.

Mr. SLATTERY. I thank the gentleman for yielding, and I want to rise today to say that I really deeply appreciate the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs, taking the time that he has today to attempt to inform the American public about what I see as a very serious problem.

Mr. Speaker, I would observe that the newspapers across this country just this weekend carried headlines raising questions about what President Bush and his administration were doing in the days and months preceding the Iraqi invasion of Kuwait.

The Kansas City Star, the paper that I read coming back from my district this weekend, carried a front-page story outlining a very, very troubling record of what I would have to call appeasement.

I would just observe that I think it is important for the appropriate committees of this Congress and for the appropriate press groups around the country to really ask some very important, fundamental questions: Who was really advancing this policy of appeasement with Iraq prior to the war? Who were these people? Was it President Bush? Was it then-Vice President Bush in years past? Was it other aides in the White House? Or was it all of the above?

These stories raise questions about other agencies of the Government resisting attempts, apparently coming from the White House, to extend billions of dollars in credit to Iraq. As far as I am concerned, this is a record that is very troubling.

You know, I would observe to the gentleman from Texas that the President and the team around him like to view themselves as experts in the area of foreign policy. Well, when one reads the press accounts of their record prior to the Kuwaiti invasion, it raises questions about just exactly how much did they know. Where was the CIA? Why could not the CIA tell them what was going on with Saddam Hussein?

Just last night, the television program "60 Minutes" ran a very, very revealing and troubling review of Saddam Hussein's treatment of the Kurds.

It just seems to me that the intelligence community should have been able to provide our President with this kind of information.

Mr. GONZALEZ. The CIA, let me say, our records show—and the gentleman is a member of the Committee on Banking, Finance and Urban Affairs—and he will recall that in fact, I think, he joined us and we voted, all of us, for almost 100 subpoenas for documents. We have not been able to get all of them. The Federal Reserve Board itself, for instance, kind of stonewalled us, and the State Department.

But we had subpoenaed the documents that actually there was no reason why they would not be public and certainly they should be available to the Committee on Banking of the U.S. House of Representatives. But the fact remains that we are in the process of repeating the error, believe it or not, this time in the case of Iran. There is good reason and some evidence to show that here lately we have been sort of helping Iran to obtain quite a heavy procurement of armament and weaponry.

What is the purpose? What does Iran want it for? That is a good question.

But at this time what I have seen, that which I have seen in the newspapers, has been pretty much tracking what we have been bringing out, particularly within the last year.

We placed in the record, showing clearly that the Export-Import Bank had been pressured. The CIA did do its job, but it was neutralized by higher orders.

Mr. Speaker, I yield further to the gentleman.

Mr. SLATTERY. I just think the gentleman should be commended for bringing this whole matter to the attention of the American public and our colleagues here on the floor of the House. As far as I am concerned, there are some very fundamental questions that have been raised by the gentleman and also raised by press accounts all across the country.

□ 1250

These questions need to be answered, and I think that the President of the United States needs to explain to the people of this country what he was doing prior to the Iraqi invasion of Kuwait, why he was so committed to this policy of trying to appease Saddam Hussein, and that is about the only word that I can think of to accurately describe this policy, and, if the gentleman recalls, even a few days prior to the Iraqi invasion of Kuwait we had a vote here on the floor of the House to extend the export enhancement program to Iraq, and the administration's position just a few days prior to the invasion was we did not dare offend Saddam Hussein, for goodness sakes, and this was a man who was committing atrocities against the Kurds and his own people, and apparently the CIA had knowledge of this.

I just think there are some very basic and important questions here that demands answers, so I commend the gentleman from Texas [Mr. GONZALEZ] for bringing this issue to the floor of the House, and I just hope that the appropriate committees seize this issue, bring before them the officials in this Government that had knowledge of these policies. I would like to know who was promoting these policies that were dead wrong, and I would like to know who was opposing these policies in the administration at the time. I think the American public has a right to know that basic information.

I commend the gentleman from Texas [Mr. GONZALEZ] for his interest in this.

Mr. GONZALEZ. Mr. Speaker, I deeply appreciate the gentleman from Kansas [Mr. SLATTERY] who is a very distinguished member of the Committee on Banking, Finance and Urban Affairs. He has not been on it too long, but, by golly, he came on board as if he was a long-time veteran of the Committee on Banking, Finance and Urban Affairs, and I deeply appreciate this.

Let me say in all fairness that the subcommittee that our distinguished colleague, the gentleman from North Carolina [Mr. ROSE], heads has and had been looking into the agricultural, the credit commity, aspect of the extension of the letters of credit, and I think they did not have an easy time getting information and documentation either. And as far as the CIA is concerned, as my colleagues know, we voted subpoenas directed to the CIA to see if they would provide us with some documents. They have been cooperative to a certain extent, but we have not bothered. We did coordinate with the Intelligence Committee, but I do know that our records show that in some of the meetings in which they had interagencies, including the CIA, discussing the Export-Import Bank guarantees, the CIA was present. They did indicate their chief financial officer, as I said a while ago, was saying it is not creditworthy, and what I am doing, and I will say this a little bit later, I am asking the GAO to look into that and find if this evidence does not show that the Export-Import Bank violated its charter because their charter mandates that they not provide credit unless there is a very, very positive assurance that the ability to repay is there, and they knew it was not.

Mr. SLATTERY. Well, again I thank the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], for his interest, and I look forward to working with him as we try to find some answers to some very important questions that the American public has a fundamental right to, especially during this election year when this President is going to be asking the American public to send him back to the White House based in large part on his performance in the area of foreign affairs.

I would just observe, when we learn more about how we got into this mess in Iraq, there may be a lot of people in this country that conclude, as I have concluded, that some of these people do not know as much about foreign affairs as they would like for the American people to think, and again I thank the gentleman.

Mr. GONZALEZ. Mr. Speaker, I say to the gentleman, "We're going to need your help, Mr. SLATTERY, and I really appreciate your very kind words."

What happened, as a result of the questions that began to arise soon after there were some very serious problems arising because of an Ohio plant that was being used as part of the Iraqi network, and then showing where some of the money, based on the extension of the letters of credit, had been diverted for the procurement of such things as that somewhat publicized giant gun, the inventor of which was assassinated in Belgium in the midst of its almost, if not actually, delivery to Iraq. Well, the funding came through these devious mechanisms, or network we call it, that actually originated in America.

Well, one thing that those mutterings and those suspicions did do was to cut off the prime source of funding, but that funding was going on, as the gentlemen from Kansas [Mr. SLATTERY] brought out, right up to the eve of the invasion of Kuwait on August 2, and earlier I read the memorandum from this official Kelly in which even as late as June he was urging the procurement for Iraq. There is no doubt that Mr. Eagleburger and Mr. Scowcroft continued to work on the United States policy toward Iraq despite their past ties to BNL.

This seems to me that, if we reached a point in our country where we have to have conflict of interest spelled out, and this is what I have said about all the code of ethics and what not: I do not care what laws we write. The Constitution says we have to be 25 years of age at least in order to offer our candidacy for the U.S. House of Representatives. If we have to wait after we are 25 to come up here and learn what is ethical and what is not, it is too late. I do not know of any code that is not going to be evaded by those that want to. But it seems to me in this case where we have high policymakers, the case where we have men on August 3 sending an expeditionary force at the time of a quarter of a million Americans, and without the Congress even raising a whimper—now I am on record—I wrote our leaders. I even urged that they call the Congress into session to consider that matter in August 1990. But of course, as my colleagues know, why look upon myself as being a big, earthshaking official, but I do think that there are basic principles involved in this case, the Constitution, where the Congress has a constitutional duty incumbent upon it.

I have always said, and I say it now, and I will always say it despite whatever is done: In the case of conflict of interest, my goodness, if we have the highest policymakers suddenly deciding to tell the President that he has got to go to war over a country that just before they took that office they were working for an outfit promoting the very, very ability and help that this country had to have in order to do what they were declaring war about, it seems to me the least they could do would be to say, "Mr. President, despite our willingness and our ability, we want to advise you that we think you ought to get advice for other quarters at this point in the privity of your confidence with other distinguished Americans. But we think that at this point, no matter what decision would be made, it would be colored by the very fact that we gained profit just a few years ago from our dealings and stimulating dealings with this country now that suddenly is an enemy country."

But that does not happen nowadays. It used to be we would have men in our offices that, even if they disagreed with the President, not any conflict of interest, but just said, "I just can't go along with this policy," and they would quit; they would resign. They still do it in Europe and in Britain. Ministers still quit because they do not agree with the prime ministers or whoever.

So, anyway, that is just a little aside that makes me wonder. I do know that we have the ample evidence here that, regardless of the importance of the Export-Import Bank, that all these officials, including then-Vice President Bush, were urging that the Bank go into, the evidence clearly showed at the time, and all the leading financial individuals in Exim, were to the effect that Iraq was not creditworthy.

☐ 1300

To illustrate that point consider the following:

A February 21, 1984, Eximbank country risk analysis states:

> In the staff's opinion, due to both unsatisfactory country economic conditions and the possibility of physical damage to new projects due to the ongoing war, there would not be reasonable assurance of repayment for any medium-term and long-term transactions. * * *

A November 28, 1984, telex from Baghdad to the Secretary of State said:

> From a look at estimates of Iraqi economic statistics one would have to conclude that the Iraqi economy has suffered a serious decline.

On April 15, 1984, Eximbank denied a request to support exports totaling $159 million to Iraq. Eximbank reasoned that the transaction did not meet the legislative requirement of reasonable assurance of repayment.

But the Eximbank decision to limit its exposure to Iraq for practical and legal reasons was not welcomed at the State Department.

A March 8, 1984 telex from Baghdad to the Secretary of State says:

> Exim's apparent decision against financing major projects in Iraq has the potential to critically affect vital United States interests.

A March 25, 1984, telex from Secretary of State to Baghdad states:

> Exim is not approving medium and long term credits to Iraq because of doubts regarding repayments prospects. We have urged Exim to reconsider this policy in general. * * * We are seeking directly and through the NSC to ensure that [one] decision does not prejudice future consideration of credits for the pipeline.

Given the Eximbank's reticent position regarding Iraq, the State Department raised the stakes by getting then Vice President Bush involved in the project.

The Vice President's staff asked the State Department to prepare a background paper for a phone call to Eximbank Board Chairman William Draper concerning Exim financing of the pipeline.

The memo states:

> Given the importance of these projects to our overall policies in the region, Deputy Secretary Dam is calling (Eximbank Chairman) Mr. Draper to reiterate our foreign policy interests. * * * We understand that National Security Advisor McFarlane may also call Draper. A call by the Vice President would be particularly useful in confirming the Administration support for these projects. * * *

One of the talking points prepared for the Vice President's call states:

> Eximbank could play a crucial role in our efforts in the region. Early and favorable action on applications would be clear and very welcome evidence of U.S. commitment to these objectives.

Clearly, the highest levels of the administration placed tremendous importance on the Aqaba pipeline project. On June 19, 1984, the Eximbank's Board met and not surprisingly approved a preliminary commitment of $484 million for the Aqaba pipeline for Bechtel. As a side note, the report read:

> Under normal peaceful circumstances, this project would not be economically viable.

Can you imagine that? Under normal circumstances this project would not be viable. Oh, but it involves Bechtel. But Bechtel, as President Eisenhower said, is a mighty component of this great industrial defense complex, which in effect has been determining policy for our country, and particularly in the last two administrations.

So wherein is the public protected? If the Congress abjectly sits by and says, "Well, we can't bother too much with it; after all, this is private enterprise." Let me remind my colleagues, Hitler had private enterprise until the day he died in that bunker in Germany. He did not have free enterprise, but he had private enterprise.

So let us talk clear from here on out, my colleagues. Because what is at stake at this time, and this is just a small little, little, little bit of the overall complexity of the crisis that our country is perilously hanging on the precipice. At stake is everything. At stake is our economic and financial freedom. Not just the leadership, but the freedom of our country and our children and grandchildren, as well as what is involved inextricably, the vaunted American standard of living.

This is what is at stake. We are much closer to the brink and the precipice than wants to be acknowledged. If people in power are afraid to tell the truth to the people because it is not that they feel acceptable, let me disabuse their minds. The people I know and I met, from one end of the country to the other, want the truth. If they know the truth they can judge the unpalatability and the unpopularity of the political issue. But they are going to be above all grateful for being informed and know the truth, so that they can determine their basic duties as freeborn American citizens, still with some vestige of our processes involved, but which, I fear, unless we work at it, are not self-perpetuating and will not be ensured for our posterity.

But if informed, and only on the basis of information, can that citizen participating in his fundamental duty exercise judgment and function, as the Constitution says we should, properly and knowledgeably.

This was not the last time the State Department would recruit Vice President Bush to assist Iraq with the Eximbank.

CHRONOLOGY OF THE 1987 DECISION TO RE-OPEN FOR BUSINESS IN IRAQ

At this time I would like to place in the RECORD a February 26, 1987, memo that contains talking points and background for Vice President George Bush's phone call to Eximbank Chairman John Bohn. The memo was prepared by the State Department and it was related to the State Department's desire to give Iraqi Ambassador Nizar Hamdoon the news that the United States would make hundreds of millions of dollars of credit available via the Eximbank.

In short, the memo reveals that the State Department suggested that the Vice President call Eximbank's Chairman in order to urge him and his colleagues on the Eximbank Board to give favorable consideration to Iraq's request for an additional $200 million in short-term credit. The memo was also intended to point out the advantages for United States policy of a quick Exim decision to resume short-term insurance coverage to Iraq.

On May 15, 1987, in a surprise move, and against the advice of the Eximbank professional staff, the Eximbank Board of Directors reversed its policy and approved a new $200,000,000 short-term credit program for Iraq.

This is credit that has not been made good and for which under our laws and responsibilities the taxpayer must end up paying for.

Could it be that a call from the Vice President could sway the Eximbank Board into reversing its policy on Iraq? Given the very severe doubts about Iraq's financial condition it is hard to draw any other conclusion. In order to better understand the Board's decision, I will provide ample evidence that Iraq's precarious financial condition indicated that it did not offer a reasonable assurance of repayment as called for in the Eximbank charter.

For 18 months prior to the Board approving the new $200-million credit program, Iraq was suspended from Eximbank programs for constant arrearage. At one time during this period Iraqi arrearage reached over 60 percent of its outstanding commitments with the Eximbank.

Several times during 1986 and 1987, the country risk analysis section of the Eximbank made the determination that Iraq did not offer a reasonable assurance of repayment. The strongest analysis came in a May 5, 1987, memo to the Board. I would like to place that memo in the RECORD along with the other documents.

The memo, sent to the Board on May 5, 1987, states:

> Eximbank should remain off-cover for all programs concerning Iraq.

There could be no mistaking the facts—Iraq was not creditworthy and that fact did not change between May 5 and May 15.

Another example, is an April 17, 1987 analysis of Iraq's creditworthiness. This analysis asserts that "* * * there would not be sufficient, Iraqi, earnings to meet all principal repayments until 1990" and that, "Iraq's creditors will reschedule debt payments for the foreseeable future."

□1310

That reminds me of what happened after World War I. As a matter of fact, I brought this out years ago in special orders. I would bring this up. Nobody would listen, but they are on the record. How right after the war and by the time we got to the famous Hoover moratorium on the payment of reparations from Germany to the Allies and the Allies' moratorium on the payment of their debts to us, which were never collected, but these countries like Germany and Japan, the Imperial Government of Japan.

In 1921, it floated, I forget how many millions, about 20 million, which at that time was a lot of money in that kind of dollar at that time. Twenty million in 1921 would be like several billion today or more.

What they did, they floated Japanese Imperial Government bonds in the Wall Street stock market. Germany did the same thing. They borrowed.

Now, the banks at that time in our country could borrow from the Federal Reserve at about 5 percent. So where did they put all that money they were getting from the Fed? They were not loaning it out any more than they are today. They were putting it in the stock market where they would get yields of 12 percent. Pretty good. There was a 7 percent spread.

But what happened was that then as now, it was a highly speculative and controlled manipulation.

So the Japanese Imperial bonds, like these repayment schedules, they were to mature in 20 years in 1941. Well, that is when they bombed Pearl Harbor. So we have learned nothing. We are like the old Bourbon Kings. Even though we are a democracy, we are no different. We learned nothing and we forget nothing.

Right now, as I said earlier to the gentleman from Kansas [Mr. SLATTERY], we are in the process of repeating the mistake not with Iraq again this time but with Iran. We will bring out some documentation.

Fortunately, I do not think it involves any of our entities that have jurisdictional potential for us on the Committee on Banking, Finance and Urban Affairs.

That some analysis goes on to say:

> Eight of the 12 major (countries) were "off-cover" for medium- and long-term business in Iraq and six were "off-cover" for short-term business. Most member countries reported delinquencies.

In fact, by January 1, 1987, just months before the Board's decision, Iraq had defaulted on a total of $240 million in loans to various major Western governments. Delinquent loans increased from $70 million at yearend 1985 to $730 million at yearend 1986.

Not surprisingly, in the months following the Board's approval, Iraq again became delinquent on its previous exposure to Eximbank. On top of that, in a July 2, 1987 memo to the Exim Board, it was revealed that the Treasury Department had concerns over Iraqi creditworthiness.

Now comes the Treasury. Remember, we heard the State Department intervening, the Vice President. Now we have the Treasury.

The State Department recruited others besides Vice President Bush to help it sway the Eximbank Board. A communication from Ambassador Newton to the Secretary of State says:

> We know you are doing all you can on this and assume appropriate economic offices have been mobilized to help get Exim to resume cover.

As another example consider an April 28, 1987 cable from the Secretary of State Shultz to the United States Ambassador in Iraq, in which the Secretary states:

> It may be that arguments from State, Commerce, and Agriculture and elsewhere have made themselves felt.

Remember, this is our Secretary of State, but he also could be the Secretary for Bechtel.

The strategy of getting Vice President Bush involved in the Eximbank issue paid off handsomely. Reflecting upon the Eximbank Board meeting where the Iraq credits were discussed in detail, agency documents remark:

> The Exim staff presented an economic forecast in keeping with their recommendation against extending new credit to Iraq. However, Eximbank Board members asked a number of questions which seemed to imply an interest in doing business in Iraq. * * * several key Board members, including Eximbank President Bohn were leaning in the direction of granting the $200 million for Iraq.

The State Department had won the war to get Eximbank coverage for Iraq. On May 17, 1987 Ambassador Newton stated that Eximbank's decision:

> Contained the best economic news we have received in a long time. Despite the limitations * * * Exim's decision will help us politically and help American business develop its foothold in the Iraqi market.

The State Department's actions in 1987 were not an isolated incident. The days between the 1987 Board decision and the Iraqi invasion of Kuwait produced much of the same for the Eximbank-Iraq relationship. While Iraq's financial position did not change materially during this period, the State Department continued to pressure the Eximbank to extend its program with Iraq. This strong support for Iraq occurred despite Iraq's use of poison gas to exterminate thousands of Kurdish people and extensive evidence that Saddam Hussein had stepped up efforts to build weapons of mass destruction.

Working to change the Eximbank policy on Iraq in 1987 was not the last time the State Department worked with Mr. Bush to permit Iraq to continue utilizing Eximbank programs.

THE EXIMBANK WAIVER

On January 17, 1990, President Bush issued a determination waiving the legislative prohibition on Eximbank financing for Iraq. Just 2 months earlier, Congress had passed sanctions legislation specifically singling out Iraq for its atrocious human rights record.

The State Department was working on the Iraqi waiver even before the Congress passed the legislation on November 21, 1989. At the time the atrocious Iraqi human rights record was well known, but what was kept for most of the Congress was the degree to which Iraq was building up its military arsenal even though its war with Iran had long ago ended.

At the time of the sanctions debate the State Department had extensive knowledge of Iraq's efforts to develop additional chemical, biological, and nuclear weapons along with the missiles to deliver those weapons. In addition, the State Department was aware that Iraq had a secret military procurement network operating in Europe and even in the United States. Had the Congress been fully informed about these issues, the waiver authority probably would not have been made available to the President.

At this time I would like to place in the RECORD a memorandum prepared by the State Department that illustrates their thinking about Iraq sanctions. The memo continues to express the sentiment that the State Department could use the $200 million Eximbank program as an incentive for moderating Saddam Hussein's behavior. Obviously, that thinking was flawed.

GAO REPORT

At this time I would like to say that I will write to Comptroller General Charles Bowsher requesting that GAO investigate whether or not the Eximbank Board's decision to reopen for business in Iraq was in violation of its charter. There appears to be ample evidence to indicate that despite repeated warnings that extensions of credit to Iraq did not offer reasonable assurance of repayment, the Eximbank Board approved the Iraqi program anyway.

During the 1980's Iraq rarely, if ever, truly met the reasonable assurance of repayment criteria. In retrospect, it took constant pressure from the State Department and interventions from high level Reagan and Bush policy makers to get Eximbank to permit Iraq to utilize its programs to achieve policy objectives that were shifting, muddled, and ultimately that worked against our own national interest.

Mr. Speaker, I include for the RECORD the materials to which I referred.

U.S. DEPARTMENT OF STATE,
Washington, DC, December 22, 1983.

To: P—Mr. Eagleburger.
From: NEA—Richard W. Murphy for
Subject: Exim Bank Financing for Iraq.

ISSUE

Whether to sign a letter to Exim President Draper recommending that Exim approve financing for Iraq.

ESSENTIAL FACTORS

Exim currently opposes loans to Iraq because it considers that loans to Iraq lack a reasonable expectation of repayment. Exim points to Iraq's recent rescheduling of commercial contract payments, large transfers from Gulf governments, decreased oil production and the drop in Iraqi reserves to support its view. In addition, Exim is concerned about the threat of war damage.

Exim has virtually no exposure in Iraq because, until recently, Exim was precluded from doing business with Iraq in light of that country's involvement with terrorists.

Recent analysis of Iraq's economic situation indicates that the crisis situation which prevailed during the early part of 1983 has been alleviated somewhat through imposition of an austerity program which included cutbacks in development projects and major cuts in imports. As a consequence, Iraq's estimated net foreign assets for 1983 are $11 billion although the current account balance is—$9 billion for the year. In addition, Iraq has been successful in obtaining supplier credits and deferred payments for ongoing projects. Current payments on these debts are being met. If present policies and external financing are sustained, the current account should be roughly in balance, but further rescheduling is a possibility.

Iraq's financial condition will remain dependent on petroleum export earnings and aid from the Gulf states. Iraq is determined to achieve alternative outlets for its petroleum exports in addition to the pipeline through Turkey (capacity 750,000 b/d). Iraq expects to increase its oil export capacity through Turkey to just over 1 million b/d in the spring of 1984 with a possible additional 50% increase in exports by the end of 1984. Cash transfers from the Gulf states to Iraq, at least $30 billion since the start of the war, have been and will continue to be important to Iraq. For the Gulf States, there appears to be no alternative to a continuation of this aid flow because of their dependence upon Iraq to resist export of the Iranian revolution.

There is the possibility, on the political side, that internal frustrations resulting from economic deprivation and a seemingly endless war may produce problems for the government. On the military front, Iraq has suffered limited setbacks on the northern front. It is uncertain how long the status quo can be maintained by Iraq in its confrontation with a much more populous Iran as long as Iran exports three times as much oil as Iraq.

DISCUSSION

The U.S./Iraq political relationship could be advanced by Exim financing which had previously not been possible for political reasons. Exim financing would benefit U.S. manufacturers and workers and could serve marginally to bolster the Iraq economy by freeing resources for use elsewhere in the country. Most importantly, Exim financing would signal our belief in the future viability of the Iraqi economy and secure a U.S. foothold in a potentially large export market. Viewed in combination with CCC credits already granted Iraq, an Exim gesture would go far to show our support for Iraq in a practical, neutral context. This would be especially important in the absence of other substantial U.S. gestures, to ease the military pressures of the war, and would provide some incentive for Iraq to comply with our urgings that it show restraint in widening the war.

Although Iraq's economy is confronted with significant problems, we are guardedly optimistic regarding Iraq's ability to manage these problems through 1984.

RECOMMENDATION

That you sign the letter attached at Tab 1 recommending that Exim consider financing for Iraq. Our Interests Section endorses this recommendation. (Baghdad 3134 attached).

U.S. DEPARTMENT OF STATE,
Washington, DC, December 24, 1983.

Hon. WILLIAM H. DRAPER III,
President and Chairman, Export-Import Bank of the United States, Washington, DC.

DEAR BILL: I would like to bring to your attention the important role EXIM can play in furthering long range political and economic interests of the United States by being receptive to financing American sales to and projects in Iraq.

I understand that there were legal constraints on EXIM financing for sales to Iraq arising from Iraq's links to international terrorists. Recently, the President of Iraq announced the termination of all assistance to the principal terrorist group of concern, among others. Iraq then expelled this group and its leader. The terrorism issue, therefore, should no longer be an impediment to EXIM financing for U.S. sales to Iraq.

Although we cannot know when the heavy burden of war will be lifted from the Iraqi economy, the threat of economic crisis has receded. A strict austerity program, supplier credits, foreign government project financing, and continued financial assistance from the Gulf states should continue to sustain the oil export capacity by 30% to one million b/d in the spring of 1984, and has plans well advanced for an additional 50% increase in its oil exports by the end of 1984.

From the political standpoint, EXIM financing would show U.S. interest in the Iraqi economy in practical, neutral context. It could provide some incentive for Iraq to comply with our urgings that it show restraint in the war. This evidence of our interest in increasing commercial relations also will bring political benefits, as well as balance-of-trade and employment benefits to our economy.

Sincerely,

LAWRENCE S. EAGLEBURGER.

U.S. DEPARTMENT OF STATE,
Washington, DC, February 26, 1987.

MEMORANDUM FOR MR. DONALD P. GREGG, THE WHITE HOUSE

Subject: The Vice President's March 2 Meeting with Iraqi Ambassador Nizar Hamdoon.

The Department forwards herewith additional background material which may be useful for the Vice President's March 2 meeting with Iraqi Ambassador Hamdoon. This material, supplementing the memorandum of February 14 on the same subject, covers issues which Hamdoon may raise during the meeting.

Since Hamdoon is planning to introduce the issue of Exim credit insurance for Iraq, the Department strongly recommends that, before meeting with Hamdoon, the Vice President telephone Exim Chairman Bohn to discuss the issue. We believe the Vice President should emphasize to Bohn the advantages for U.S. regional policy of resuming short-term credit insurance for Iraq. Recommended talking points for that call to Chairman Bohn are attached.

MELVYN LEVITSKY,
Executive Secretary.

MEETING WITH IRAQ AMBASSADOR NIZAR HAMDOON, MARCH 2, 1987

(Issues to be Raised (if Introduced by Hamdoon))

1. EXPORT-IMPORT BANK CREDIT INSURANCE FOR IRAQ

In September 1985 Exim offered Iraq a Continuing Guarantee Agreement (CGA), which would have supplemented the short-term credit already available to Iraq with $50 million in medium-term credit insurance. The Iraqis unceremoniously turned down Exim's offer of a CGA, professing to be insulted by the small amount of money called for in the agreement.

Shortly thereafter, the plunge in oil prices seriously set back Iraq's financial situation. During 1986 the Iraqis missed payments on loans from several Western governments, as well as on letters of credit to suppliers from a number of countries.

Among the unpaid L/Cs in 1986 were several insured by Exim. Under those circumstances, Exim stepped back from its offer of a CGA for medium-term credits, and stopped approving short-term credit insurance for Iraq as well.

In the fall of 1986, Iraq's Rafidain Bank began singling out Exim-insured L/Cs for repayment, and we understand that Rafidain has now paid all overdue L/Cs insured by Exim. Moreover, by means of improved internal procedures and bilateral debt rescheduling arrangements with creditors in third countries, the Iraqis have begun to regain some measure of control over their financial situation. Their short-term financial situation is still difficult, but—with their great long-term potential based on vast oil reserves—they should be able to manage in the short term, with an eye to reconstruction when the war winds down.

Considering Iraq's success in continuing the latest Iranian offensive, its clear policy decision to give preference to Exim-insured debts, and its long-term potential, we believe that Exim should give favorable consideration to resuming short-term credit insurance for Iraq. The Exim Board plans to meet soon to decide the issue.

We recommend that, before meeting with Hamdoon, you telephone Exim Chairman Bohn to point out the advantages for U.S. policy of a quick Exim decision to resume short-term insurance cover to Iraq. As appropriate, you could then review the results of your call to Bohn during your conversation with Hamdoon.

2. LICENSING FOR HIGH-TECH U.S. EXPORTS TO IRAQ

Commerce licenses for some high-tech U.S. exports to Iraq have been held up for extended periods because of DOD concerns, putatively about the risk of diversion to the Soviet bloc. From the Iraq perspective, the long delays appear to be capricious. We agree with that assessment.

Licensing procedures are under interagency review at present, and we may be able to give the Iraqis and other interested trading partners more complete guidance soon. In the meantime, we can point to progress on a few specific cases: After extensive discussions with State and DOD, Commerce has issued long-pending licenses for two high-priority scientific projects, including one at the Iraqi Space and Astronomical Research Center.

TALKING POINTS FOR THE VICE PRESIDENT'S CALL TO JOHN BOHN (EXIM CREDIT INSURANCE FOR IRAQ)

EXIM CREDITS FOR IRAQ

Iraqi Ambassador Hamdoon is calling on me soon, and I expect him to raise the issue of short-term Exim credit insurance for Iraq. I would like to be as responsive as possible.

I understand that the Iraqis have resolved some outstanding arrearages to Exim, and that the Exim Board will decide soon whether to resume short-term credit insurance for Iraq. I urge you and your colleagues on the Board to give that favorable consideration.

As you know, there are major U.S. policy considerations at work on this issue. Iraq has apparently contained the latest Iranian offensive, and we are taking advantage of that to try to put some life into peace efforts. Exim's support for continued trade with Iraq would be a powerful, timely signal—both to Iraq and to the Gulf Arab states—of U.S. interest in stability in the Gulf.

Although in the near term Iraq will continue to face financial stress because of the war, Iraq's prospects for the medium- to long-term are good, considering the country's vast oil reserves. Now is the time to begin building a solid trade relationship with Iraq for the future.

U.S. DEPARTMENT OF STATE,
Washington, DC, November 8, 1989.

To: The Acting Secretary.

Subject: Letter to Treasury Deputy Secretary Robson on a CCC Program for Iraq.

In our conversation earlier today, Department of the Treasury Deputy Secretary John Robson asked that you send him a letter outlining the policy reasons for which State strongly backed USDA's proposal for a full, billion-dollar program of Commodity Credit Corporation (CCC) credit guarantees, with safeguards, for Iraq. Attached is a letter for your signature that outlines those policy considerations. It essentially follows the talking points provided for your telephone conversation with Mr. Robson.

RECOMMENDATION

That you sign the attached letter to Deputy Secretary Robson.

Attachment—Proposed letter to Deputy Secretary Robson.

U.S. DEPARTMENT OF STATE,
Washington, DC, November 8, 1989.

Hon. JOHN E. ROBSON,
Deputy Secretary of the Treasury, Washington, DC.

DEAR JOHN: Further to our discussion, on foreign policy grounds we support the Department of Agriculture's proposal for a full, billion-dollar program of Commodity Credit Corporation GSM-102 export credit guarantees in FY 90, with adequate safeguards, for Iraq.

In addition to the near-term benefits for agricultural sales, the CCC program is important to our efforts to improve and expand our relationship with Iraq, as ordered by the President in NDS-26. Iraq is a major power in a part of the world which is of vital importance to the United States. Our ability to influence Iraqi behavior in areas from Lebanon to the Middle East peace process to missile proliferation is enhanced by expanded trade. Also, to realize Iraq's enormous potential as a market for U.S. goods and services, we must not permit our displacement as a major trading partner.

With regard to the real concerns which arise from the investigation into the operations of the Atlanta branch of the Banco Nationale de Lavoro, we have received from the Government of Iraq a pledge of cooperation. Our intention is to hold Iraq to this commitment and to work with the Department of Agriculture to ensure that the problems with the program in the past are fully resolved in a new program. The safeguards proposed by USDA, including disbursement of the CCC guarantees in tranches, buttress the program and merit our backing.

I appreciate your support in this connection.

Sincerely,

LAWRENCE S. EAGLEBURGER,
Acting Secretary.

MYTHOLOGY ABOUT IRAQ

Myth #1: Iraq is one of the largest markets for U.S. exports in the developing world.

Reality: The myth of the Iraqi market is based on two or three years of huge imports around 1980. The Iraqi market was not among the largest before that, nor is it now. Iraq in 1987 was the 28th largest importer (of civilian goods) among non-OECD countries. An end to the war alone does not imply a financial bonanza for Iraq. The conditions existing in 1981—simultaneous 4 mb/d production and $30 per barrel oil—will not return. Any dramatic increase in imports depends on the uncertain prospect of substantially higher oil revenues and the willingness of creditors (such as Exim) to finance the creation of a larger Iraqi market.

Myth #2: Because of its vast oil reserves, Iraq must be a highly creditworthy country.

Reality: Large oil reserves do not imply high oil revenues. Oil revenues depend on oil export capacity and oil prices. In spite of valiant efforts to boost oil export capacity, Iraq's oil revenues remain at half their level of the early 1980s. Neither oil export capacity, nor oil prices, are guaranteed to work in Iraq's favor in the future.

Myth #3: Iraq is perfectly willing to repay creditors; it just does not have the ability to repay right now.

Reality: Because its debt has a short maturity structure, Iraq cannot pay all its debt service. Moreover, Iraq has an attitude problem regarding foreign debt. Iraq only fully repays creditors who offer large new loans. If creditors don't offer new loans, Iraq simply fails to pay, and demands bilateral rescheduling arrangements involving oil barter. This strategy permits Iraq to secure project financing, as well as pure BOP assistance.

Myth #4: Iraq hit rock-bottom in 1986; since then, Iraq's finances have already gotten a lot better.

Reality: The oil price collapse (and Iranian military victories) of 1986 took the Iraqis by surprise; for a time, they weren't even answering communications from creditors. Today, they are better organized, but within an Iraqi context. Iraq has become more sophisticated in its calls for bilateral reschedulings, and in its cultivation of potential creditors (such as Exim).

Myth #5: Iraq's financial problems are temporary; when the next oil pipeline opens up, things will get better.

Reality: Pipeline capacity has more than tripled since 1984, without significant effect on total oil revenues. Weak oil prices, caused in part by Iraq's larger output, offset volume increases. In the long run, oil revenues will depend on Iraq's ability to influence OPEC decisionmaking, to the detriment of moderates like Saudi Arabia. Iraqi attempts to increase oil export volumes may lead to lower world oil prices and thus dampen Iraq's own oil revenues.

Myth #6: The end of the war with Iran, and thus of Iraq's financial problems, is just around the corner.

Reality: The "cease-fire" does not guarantee an effective peace accord. Even if the war with Iran should formally "end", Iraq is not likely to ignore the continuing threats posed by Iran and the Kurds, and will not drastically reduce military spending. Furthermore, Iraq will undertake a costly reconstruction, at the expense of debt repayment. To sustain the benefits of playing one creditor off the next, Iraq will avoid a multilateral Paris Club rescheduling, and continue to use default as a device to secure continued financial assistance.

Myth #7: Closer ties between the U.S. and Iraq will ensure Exim repayment, even if other creditors are not being paid.

Reality: Relations between Iraq and the U.S. are not guaranteed to be warm, because the principal U.S. interest in the region is not in supporting Iraq's objectives (a peace settlement which favors Iraqi border claims, and an end to the Kurdish threat), but in ending the Gulf War. Even if the U.S. offered political and material support to Baghdad, Exim repayment is still not guaranteed. Iraq does not fully repay countries (such as France, Italy, Japan, or Turkey) which have been important to Iraq's military or economic effort, because Iraq believes these creditors have already received a paycheck in the form of greater access to the Iraqi market. Iraq will view Exim credits as something the U.S. does in its own self-interest, not in Iraq's.

Myth #9: Iraq pays CCC; the Iraqis believe we're all one government so they'll repay us, too.

Reality: Iraq pays CCC, and two other export credit agencies, because they have been offering consecutively larger programs of new medium-term credit. Nizar Hamdoon and other sophisticated observers of the American scene know that Exim and CCC do not speak with the same voice. If Exim becomes a "favored creditor", it is only because Baghdad believes that we too will eventually commit to larger and larger programs of long-term credit.

Myth #10: Iraq is no less creditworthy than other heavily-indebted countries where Eximbank is open.

Reality: Creditworthiness has two components, ability and willingness. In the long run, Iraq may have greater ability to repay than many countries. However, Iraq has demonstrated a clear unwillingness to adopt normal debtor-creditor relations. Iraq is more aptly compared to Peru (which pays when it wants to), than to Yugoslavia (which makes a valiant effort) or Argentina (which at least pays lip service to the IMF and the Paris Club).

IRAQ COUNTRY REVIEW UPDATE

(October 10, 1989, Eximbank Country Review)

Since our April and June 1989 Country Reviews, Iraq's ability and willingness to repay foreign obligations appears not to have changed appreciably. Unable to service all of it debts, Iraq only pays creditors who it believes are willing to increase their exposure continuously. Recent events confirm this analysis.

ECGD—once Iraq's "most favored" creditor—has suspended its $600 million 1989 protocol because of major arrearages. Iraq was to repay over $400 million in 1989, but permitted arrears because ECGD refused to consider a large increase in its program.

Because of arrears this year, CCC's $1 billion program has occasionally been suspended. Iraq permits arrears to CCC in spite of the program's size and attractive terms. Because of their concerns about Iraqi financial behavior, the Fed and Treasury want CCC to scale back this program.

Other export credit agencies—COFACE, MITI, and SACE—are off-cover or suspended for medium- and long-term credits. Only HERMES has a medium-term program, but it is smaller than Exim's short-term program. Like Exim, most agencies now operate only on a revolving basis—providing cover only as Iraq makes payments.

The BNL incident—which may have involved criminal behavior by both BNL and Iraqi officials—raises additional doubts about the nature of Iraq's financial behavior. Iraq does not wish to repay already-disbursed L/Cs unless disbursements are made on promised L/Cs, even those issued illegally.

In spite of growing international pressure, Iraq continues to refuse to undertake a multilateral rescheduling exercise through the Paris Club. Paris Club reschedulings would force Iraq to treat creditors equally, and would require international scrutiny of Iraq's economic situation and priorities. U.S. policy requires multilateral reschedulings (see attached NAC policy).

The BNL incident has revealed the extent of Iraqi efforts to attract Western financial support for Iraq's military industrialization program. Iraq is pursuing technologically advanced, import-substituting, dual civilian-military industrialization, possibly in violation of Western export restrictions.

Iraq's oil revenues cannot cover Iraq's ambitious industrialization plans. Even before the recent completion of a second Saudi pipeline, Iraq had ample pipeline capacity; however, its OPEC quota permits no room for additional oil exports. Any Iraqi attempt at overproduction risks retaliation by other OPEC members and a revenue-offsetting price collapse.

Iraq continues to cajole export agencies through offers of lucrative contracts to exporters, friendly visits, and promises of favored creditor status.

MEMORANDUM TO THE BOARD OF DIRECTORS,
MAY 4, 1987

COUNTRY LIMITATION SCHEDULE RECOMMENDATION: IRAQ

Background and Country Summary

Eximbank has been "Off Cover" for all transactions since March 1986 when it ended FCIA insurance coverage under letters of credit from Bank Rafidain and the Central Bank of Iraq because Bank Rafidain became delinquent. At the highest point these arrears amounted to just over $5 million. Some claims were paid. Commencing in late 1986, the Iraqi Government made payments on the delinquencies and brought the payments current by February 18, 1987. Rafidain's letters of credit became over due again on March 17, 1987, but subsequent payments of $1.9 million brought the account current on April 13, 1987. A payment due April 21, 1987 was made on time; the next payment is due May 14, 1987.

The Board conducted an interagency review of Iraq on April 24, 1987. The discussion indicated that, for the first time, it now appears possible for Iran to win the 7-year old war. Over the shortterm, the current situation, chiefly a stalemate with Iran making periodic probes and occasional advances, is likely to continue. But over the medium-term, a slow wearing-down of Iraq's defenses and morale could result in an Iranian victory. No predictions were given concerning the future of the existing Government in Iraq or what could be expected in the post-war period.

Economic conditions in the country have steadily worsened since the start of the war. Foreign exchange reserves are essentially exhausted. Payments on external debt have been rescheduled bilaterally each year since 1983. Berne Union members report payment delays have increased from $70 million as of December 31, 1985 to $730 million as of December 31, 1986; unrecovered claims increased from $238 million as of September 30, 1986 to $314 million as of December 31, 1986. Eight of the major Berne Union members are Off Cover for medium-term transactions and six are also Off Cover for short-term as well. All members have tight restrictions or reduced cover if they are open.

Our balance-of-payments projections, even under the optimistic assumption that Iraq would export more than 3 million barrels of oil per day after 1989, indicate that Iraq will be unable to service scheduled debt repayments over the next 5 years and will require continuing reschedulings. This forecast and a detailed economic analysis are attached.

Eximbank Exposure

Eximbank current exposure in Iraq, all short-term, is $4.3 million with maturities falling due under letters of credit through December 12, 1987.

Recommendation

Eximbank should remain Off Cover for all programs concerning Iraq.

Prepared by: Charles Hammond, Financial Economist, Country Risk Analysis.
Approved by: Thomas A. Forbord, Vice President for County Risk Analysis.

EXPORT-IMPORT BANK OF THE UNITED STATES, COUNTRY RISK ANALYSIS DIVISION, JANUARY 23, 1989

ALERT REPORT—IRAQI PAYMENTS SITUATION FURTHER DETERIORATES

Iraq's payments situation has further deteriorated, according to recent reports from Embassy Baghdad, the CIA, and others.

ECGD of the United Kingdom, once Iraq's paramount "favored creditor", suspended all cover in December after two months of significant (and clearly non-technical) arrearages. So far, the suspension has not resulted in any catch-up payments by Baghdad.

The French Finance Ministry has been approached to reschedule interest payments falling due on already twice rescheduled debts. The French recently conducted a poll of export credit agencies to explore methods of negotiating payment from the Iraqis. However, COFACE is very nearly at the point of saying "enough is enough", and going off cover even for short-term credit.

Other creditors—EFIC of Australia (previously a favored creditor), EDC of Canada, HERMES of West Germany, OeKB of Austria, and Japan's Marubeni, Mitsubishi, and Sumitomo trading houses—also report significant new arrearages under previous bilateral rescheduling agreements.

As for the U.S., payments under Eximbank's short term insurance facility are now current, after technical arrearages early last fall. Payments due CCC are also current, after a more recent arrearage (which brought a short suspension of CCC cover). No doubt, the Iraqis anticipate that Eximbank will approve a large medium-term program in early 1989 (assuming an improvement in the political climate), and do not want to spoil the atmosphere, even through technical arrearages.

With export credit agencies off cover for medium-term projection-related credit, Iraq has approached commercial banks and investment banks. Banks are reportedly considering extending credits secured by Iraqi oil export receipts placed in overseas escrow accounts (*a la* the new Venezuelan debt package). The banks are fully aware of Iraq's severe payments problems vis-a-vis official creditors, and will seek concrete legal mechanisms to ensure that they become Iraq's new favored creditors.

Iraq's payments problems—related to its low, uncertain oil revenues—are likely to continue. In the heady days following the cease-fire, Iraq was convinced that oil prices would immediately rise to $18 per barrel, and boasted of plans for renewed exports of 4 million barrels per day. Since then, reality has set in. Oil prices plunged to $11–12 per barrel, forcing Baghdad to come to terms with its fellow OPEC members and accept an output quota of 2.6 million barrels per day. Plans to rebuild the destroyed Gulf oil terminals—a prerequisite to significantly higher oil output—have been suspended.

MOST-FAVORED-NATION STATUS FOR CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 60 minutes.

Ms. PELOSI. Mr. Speaker, I just wanted to come to the floor to talk about a landmark vote that the Congress of the United States is facing, and that is the vote to condition the renewal of most-favored-nation status to China on condition of improvement of human rights, trade practices and weapons nonproliferation. The Senate tomorrow will have an opportunity to vote on this legislation.

The reason I rushed to the floor this afternoon to talk about this is because the administration on Friday, as Members are aware, lifted the sanctions on the sale of satellite and computer technology to China. They based this relaxing, lifting of sanctions, on China's word that they would abide and sign the Missile Control Technology Regime.

This is a blow to the reformers in China because once again, without much evidence, the administration has sided with the hardline regime in China.

This spring Li Peng, the current Premier and China's preeminent hardliner, the man who ordered the massacre of Tiananmen Square in June 1989, will face a Party Congress which is rumored to be antagonistic to his hardline economic and political policies. Li's vulnerability signifies a deeper debate within the ruling circle of Chinese leaders over what path to take in the aftermath of the Tiananmen Square crackdown and negative world reaction to it.

The U.S. Senate is about to take a landmark vote. When Senators vote on legislation to condition the removal of China's most-favored-nation status on improvement in human rights, trade, and weapons nonproliferation, as I mentioned earlier. They will have an opportunity to strengthen the reformers within the Chinese Government at a time when the succession is increasingly under question.

It is a landmark time, Mr. Speaker, because as we have heard people say from time to time, why all the fuss about what is going on in China? These people are very old. They will die and then everything will be OK.

□ 1320

Perhaps if the succession vote proceeds to the reformers right now, the premier is a hardliner, and as he moves around the world, with the reaction which the United States gives to his policies, he is strengthened in China.

In May 1990, China's Communist Party General Secretary Chan Su Man said that the West's reaction to Tiananmen Square was much ado about nothing. Can you imagine that? Not only did he say that, he said it was an old Chinese proverb.

Since that statement the Chinese Government has ignored repeated congressional and administration requests for the release of political prisoners. To be sure, the Chinese Government has dribbled out a prisoner or two whenever it needed to curry Western favor. For every prisoner released, however, the Chinese Government has subjected another to trail and sentencing. There has also been no overall reduction in the level of political repression in China since June 1989.

At the same time, China has enjoyed increasing benefits from its trade relationship with the United States. China's trade surplus with United States is growing annually and has totaled nearly $30 billion since the Tiananmen

Square massacre. This year alone it is $12.5 billion for 1991. Those figures were just released. It is a large and growing trade deficit.

Given the tremendous potential that trade with the United States offers it is likely that the Chinese Government will make some concessions in order to preserve its MFN status. This situation gives the United States leverage, but we must use that leverage.

Against the backdrop of the leadership succession, the upcoming Senate vote on whether to condition the further extension of MFN trade status for China takes on major significance. A strong Senate vote would bolster the argument of reformers within the Chinese Government that weapons sales to the Middle East and political repression at home have become too costly in terms of economic relations with the United States.

Conversely, a weak partisan Senate vote would reassure Li Peng and other hardliners that China's policies of the past 2½ years have not significantly affected China's international relationships.

Given the current regime sales of advanced weapon technology to countries such as Iran, any United States policy statement that encourages this hardliner appeal would jeopardize global security. For despite its calculated assurances to American diplomats about adherence to international weapons nonproliferation treaties, there is evidence that the Chinese Government is continuing to fuel a dangerous arms race among developing countries that could have devastating implications for United States policy in the Middle East and elsewhere.

It is not coincidental that Li has just returned home from a Western trip designed to bolster his lagging image. He had also sought publicly to portray himself in a more reformist light. Despite his recent calls for economic reforms, however, Li continues to be associated with the political crackdown and economic tightening that he orchestrated after June 1989, and which continues today.

Unfortunately, the President's January 31st meeting in New York with Li Peng may bolster Li's position in the succession. For while the administration tried to downplay the significance of the meeting, the Chinese premier undoubtedly benefited domestically from this having a private discussion with the leader of the free world.

Cloaked in his newly acquired respectability, Li Peng will augment his appeal for a continuation of his hardline policies by stressing his acceptance by the world community and his fitness as an international statesman.

The Senate will therefore send an important message at a critical time to the people of China. Senators will have an opportunity to set American ground rules for trade with China, a trade relationship that benefits China far more.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. VENTO). The Chair will remind the Member that the remarks in debate may not include characterizations of Senate action or inaction or adjurations to Senate actions.

The gentlewoman I think should talk about future Senate actions. These are the rules of the House and I know the gentlewoman has tried to subscribe to that. I would just remind the other Members and the gentlewoman of the rules.

Ms. PELOSI. Mr. Speaker, all that I am saying about the Senate also applies to the House on our override vote should the President veto the legislation.

A trade relationship that benefits China far more than it benefits the United States. Each of us, whether in our vote in the House of Representatives, or whatever body we serve in the Congress, has an opportunity to answer to history for our vote. Each of us has to decide whether to contribute to reform or to bolster the current policies of repression and weapons proliferation. Each of us will have to weigh the political price of voting against the administration if the administration chooses to veto this legislation, and weighing that against our own obligation to discourage another generation of political tyranny and international recklessness.

The China vote in the House and in the Senate and the President's signature or veto is really a vote about America. Let us hope that principle has not yet been overtaken by policies and that bravery and the love of freedom have not become mere slogans.

I say this particularly, as I said, Mr. President, in my opening remarks, in light of the administration's lifting of the sanctions on sale of satellite and computer technology to China. And as I say, this all should be taken in light of the succession.

There are two things that the United States has that China needs desperately and will do almost anything to get. One is hard currency, and the Chinese have been very successful in their unfair trade practices to achieve enormous trade surpluses with the United States, $6 billion in 1989, $9 billion in 1990, $12.5 billion in 1991, a large and growing deficit, second only to our trade deficit with Japan, and growing, as I said.

So the results in hard currency, which gives this regime a certain independence that they have, this hard currency makes them strong.

The other thing we have that they want and need desperately is technology. In the district I represent, San Francisco is a destination point for many trade delegations from China. It is a very popular destination, not only because of geography but also because of our proximity to Silicon Valley and Lawrence Livermore Lab, which are important sites for visits of these trade delegations.

It is for this reason precisely that this administration's action is so questionable. China sees its future tied to its acquiring and utilizing advanced, sophisticated technology. For one thing, it will enable them to upgrade their weapons arsenal and increase their West weapons export program, again gaining for them more hard currency added to their hard currency from their trade surplus with the United States. Again, we directly and indirectly are strengthening this hardline regime who can do whatever they want because they have the hard currency to back them up.

So while we know of pending sales and rumors of sales to the Middle East, sales to Iran, to Syria, to Libya, we know of transfer of technology to Algeria, potential missile sales to Pakistan, one would have to wonder why the administration saw fit in the dark of night on Friday, after everyone was gone, to issue a press release at the State Department, not in the President's name, and I do not blame him for disassociating himself with the action and not being proud of it, to lift the sanction.

It is a very dangerous action. It supports the hardliners in terms of the succession. It supports the hardliners in terms of what comes next in terms of nuclear proliferation. It supports the hardliners in their repression at home.

But let us say for a moment that the Members would support the administration's action. If in fact the administration takes China at its word and China is worthy of that confidence, then that argues even more strongly for passage of the MFN legislation in both Houses, and a signature by the President, and if not an override in both Houses, because if China indeed is worthy of the confidence the administration has placed in it, it will have no trouble meeting the conditions of the legislation before the Congress of the United States at this time.

□ 1330

Again, as I say, it is at this critical time in Chinese history in preparation for this spring's party conference. So I appeal to my colleagues and the entire Congress and to the President of the United States to make a judgment about this legislation and hold it up to this standard that it makes the world safer by conditioning renewal of MFN on nonproliferation of missiles and other technology, that is, makes the trade fairer by conditioning MFN on improvement in our trade relationship by being fairer to American workers, by having China abide by our trade treaties and makes the political climate freer by saying to the regime in

Beijing that MFN which is special for the United States to give to a centralized economy will be granted if those prisoners who were arrested in the events surrounding the Tiananmen Square massacre are released.

Freer, fairer, safer, that is what the future is about. That is what this legislation is about. We will all have to answer for this vote. I do not think it will be good enough to say, I voted with the President on it. We all have to have the reasons why we would not want to support a reasonable achievable doable legislation when we have the opportunity to do so.

With that, Mr. Speaker, I yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DORGAN of North Dakota, for 60 minutes, today.

Mr. BRUCE, for 5 minutes, on February 25.

Mr. HOAGLAND, for 30 minutes, on February 25.

Mr. LIPINSKI, for 60 minutes each day, on February 25 and 26.

Mrs. COLLINS of Illinois, for 60 minutes each day, on March 3 and 4.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. PELOSI, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WOLF) and to include extraneous matter:)

Mr. GUNDERSON.

Mr. GREEN of New York.

Mr. GINGRICH.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. PENNY.

Mr. REED.

Mr. MAZZOLI.

Mr. VENTO.

Mr. FALEOMAVAEGA in four instances.

Mr. FASCELL in three instances.

Mr. HAMILTON.

Mr. BORSKI in two instances.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3866. An act to provide for the designation of the Flower Garden Banks National Marine Sanctuary.

ADJOURNMENT

Ms. PELOSI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 31 minutes p.m.), the House adjourned until tomorrow, Tuesday, February 25, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2848. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting the text of an agreement in which the American Institute in Taiwan is a party, pursuant to 22 U.S.C. 3311(a); to the Committee on Foreign Affairs.

2849. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, transmitting a report on its activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2850. A letter from the Director, ACTION Agency, transmitting a report on its activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2851. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a report on its activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2852. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during calendar year 1991, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2853. A letter from the President, James Madison Memorial Fellowship Foundation, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1991, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2854. A letter from the Chief Administrative Officer, Postal Rate Commission, transmitting a report on its activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2855. A letter from the Secretary, Postal Rate Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1991, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2856. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2857. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2858. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2859. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2860. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2861. A letter from the President and CEO, Little League Baseball, Inc., transmitting the organization's annual report for the fiscal year ending September 30, 1991, pursuant to 36 U.S.C. 1084(b); to the Committee on the Judiciary.

2862. A letter from the Chairman, Merit Systems Protection Board, transmitting the 13th annual report on the activities of the Board during fiscal year 1991, pursuant to 5 U.S.C. 1209(b); to the Committee on Post Office and Civil Service.

2863. A letter from the Secretary, Department of Commerce, transmitting the 1991 annual report of the Visiting Committee on Advanced Technology of the National Institute of Standards and Technology, pursuant to Public Law 100-418, section 5131(b) (102 Stat. 1443); to the Committee on Science, Space, and Technology.

2864. A letter from the Secretary of Labor, transmitting the 17th annual report of the Pension Benefit Guaranty Corporation covering fiscal year 1991, which includes the Corporation's financial statements as of September 30, 1991, pursuant to 29 U.S.C. 1308; jointly, to the Committees on Education and Labor and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted February 21, 1992]

Mr. ASPIN: Committee on Armed Services. H.R. 1558. A bill to amend the Panama Canal Act of 1979 to provide for a Chairman of the Board of the Panama Canal Commission, and for other purposes; with amendments (Rept. 102-428, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

[Submitted February 24, 1992]

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3519. A bill to authorize the establishment of the Steamtown National Historic Site; with an amendment (Rept. 102-434). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARMEY (for himself, Mr. DeLay, Mr. Dannemeyer, Mr. Rohrabacher, and Mr. Crane):

H.R. 4288. A bill to repeal the part IV of title III of the Communications Act of 1934, relating to assistance for public telecommunications; to the Committee on Energy and Commerce.

By Mr. FALEOMAVAEGA:

H.R. 4289. A bill to amend the Agricultural Act of 1949 to make American Samoa eligible for emergency livestock feed assistance; to the Committee on Agriculture.

H.R. 4290. A bill to amend section 325 of the Immigration and Nationality Act to provide that residence within the outlying possessions of the United States shall be counted as residence within a State or district of service for purposes of the residency requirement for naturalization; to the Committee on the Judiciary.

By Mr. FOGLIETTA:

H.R. 4291. A bill to amend the Shipping Act of 1984 to establish requirements for the approval by the Federal Maritime Commission of conference agreement amendments that terminate service to a port, to ensure consideration of the public interest with respect to those agreements and amendments, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. LEACH:

H.R. 4292. A bill to provide for 50,000 additional immigrant visas for certain nations of the previous Soviet Union who are involved in nuclear weapons research, development, or production or who have other advanced scientific or technical knowledge that could be useful to enterprises in the United States; to the Committee on the Judiciary.

By Mr. LOWERY of California:

H.R. 4293. A bill to provide an extension of time for the payment of Federal income tax on the nonexcluded portion of the combat pay of members of the Armed Forces of the United States serving in the Persian Gulf conflict; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. Shuster and Mr. Atkins.

H.R. 371: Mr. Skeen.

H.R. 430: Mr. Saxton.

H.R. 710: Mr. Peterson of Minnesota and Mr. Inhofe.

H.R. 815: Mr. Richardson.

H.R. 843: Mr. Kolter.

H.R. 967: Ms. Kaptur.

H.R. 1124: Mr. Spence, Mr. Payne of New Jersey, Mr. Dymally, Mr. Manton, Mr. Murphy, and Mr. Poshard.

H.R. 1156: Mr. Roemer.

H.R. 1161: Mr. Savage.

H.R. 1288: Ms. Kaptur and Mr. Flake.

H.R. 1414: Mr. Ewing and Mr. Allen.

H.R. 1456: Mrs. Meyers of Kansas.

H.R. 1497: Mr. Goss.

H.R. 1820: Mr. Hoagland and Mr. Frank of Massachusetts.

H.R. 1987: Mr. Applegate, Mr. Miller of California, Mr. Lowery of California, Mr. Vento, Mr. Weiss, Mr. Stark, Mr. Waxman, Mr. Wilson, Mr. Gordon, Mr. Annunzio, Mr. Flake, Mr. Levine of California, Mr. Foglietta, Mr. Rahall, and Mr. Pastor.

H.R. 2410: Mr. Armey, Mr. Goss, and Mr. Duncan.

H.R. 2565: Mr. Wolpe, Mrs. Lowey of New York, Mr. Moran, Mr. Flake, Mr. Olin, and Mr. Scheuer.

H.R. 2569: Mr. Zimmer.

H.R. 2595: Mr. Santorum.

H.R. 2879: Mr. Poshard and Mr. Lightfoot.

H.R. 3051: Mr. Feighan and Mr. Frost.

H.R. 3071: Mr. Gallegly, Mr. Thomas of Georgia, and Mr. James.

H.R. 3137: Mr. Berman and Mr. Santorum.

H.R. 3217: Mr. Santorum.

H.R. 3373: Mr. Kostmayer, Mr. Lehman of Florida, and Mr. Feighan.

H.R. 3542: Mr. Sabo, Mr. Peterson of Minnesota, and Mr. Foglietta.

H.R. 3553: Mr. Faleomavaega.

H.R. 3612: Mr. Panetta, Mr. Atkins, and Mr. Bonior.

H.R. 3636: Mr. Skaggs, Mr. Jones of Georgia, and Mr. McMillen of Maryland.

H.R. 3844: Mrs. Unsoeld, Mr. Blackwell, Mr. Costello, Mr. Solarz, Mrs. Kennelly, and Mr. Abercrombie.

H.R. 3850: Mr. Harris, Mr. Owens of Utah, Mr. Pickett, Mr. Chandler, Mr. Lowery of California, Mr. Quillen, Mr. Stump, Mr. Wylie, Mr. Carper, Mr. Jenkins, Mr. LaRocco, and Mr. McCloskey.

H.R. 3857: Mr. Jones of North Carolina.

H.R. 3861: Mr. Frost and Mr. Vento.

H.R. 3887: Mr. Johnson of South Dakota.

H.R. 3943: Mr. Houghton, Mr. Ramstad, and Mr. Spratt.

H.R. 3989: Ms. Slaughter, Mr. Frost, Mr. Mazzoli, Mr. Mfume, Mr. Levin of Michigan, and Mrs. Lowey of New York.

H.R. 3990: Mrs. Schroeder, Mr. Atkins, and Mr. Foglietta.

H.R. 3992: Ms. Slaughter, Mr. Frost, Mr. Mazzoli, Mr. Mfume, Mr. Levin of Michigan, and Mrs. Lowey of New York.

H.R. 4050: Mr. Upton.

H.R. 4058: Mr. Marlenee and Mr. Herger.

H.R. 4073: Mrs. Patterson, Mr. Olin, and Mrs. Kennelly.

H.R. 4089: Mr. Spence, Mr. Berman, Mr. Ray, Mr. Brewster, Mrs. Boxer, Mr. DeFazio, and Mr. Lagomarsino.

H.R. 4172: Mr. Jones of North Carolina.

H.R. 4175: Mrs. Mink, Mr. Alexander, Mr. Coleman of Texas, Mr. Frank of Massachusetts, Mr. McNulty, Mr. Murphy, Mr. Roybal, Mr. Dymally, Mr. Bustamante, Mr. Jones of North Carolina, Mr. Manton, Mr. Mazzoli, Mr. Olver, Mr. Blackwell, Mr. Payne of New Jersey, Mr. Towns, and Mr. Lehman of Florida.

H.R. 4194: Mr. Camp, Mr. Hunter, Mr. Wilson, Mr. Annunzio, Mr. Murtha, Ms. Kaptur, Mr. Hall of Ohio, Mr. Kildee, and Mr. Poshard.

H.R. 4202: Mr. Riggs and Mr. McMillan of North Carolina.

H.R. 4206: Mr. Guarini and Mr. Davis.

H.R. 4220: Mr. Jacobs, Ms. Kaptur, Mr. Porter Mr. Applegate, and Mr. Kildee.

H.R. 4229: Mr. Mrazek.

H.R. 4277: Mr. Penny, Mrs. Unsoeld, Mr. de Lugo, Mr. Traxler, Mrs. Mink, Mr. Volkmer, and Mr. DeFazio.

H.J. Res. 240: Mr. Ravenel and Mr. Sensenbrenner.

H.J. Res. 334: Mr. Franks of Connecticut.

H.J. Res. 411: Mr. Smith of Iowa, Mr. Martinez, Mr. Kanjorski, Mr. Hughes, and Mr. Murphy.

H. Con. Res. 92: Mr. Riggs.

H. Con. Res. 180: Mr. Traficant, Mrs. Lowey of New York, Mr. Fazio, Mr. Pease, Mr. Atkins, and Mr. Lantos.

H. Con. Res. 224: Mr. Atkins.

H. Con. Res. 232: Mr. Gilman.

H. Con. Res. 246: Mr. Lantos, Mr. Boucher, Mrs. Collins of Illinois, Mr. Ray, Mr. Yates, and Mr. McHugh.

H. Con. Res. 256: Mr. Mfume, Mr. Annunzio, Mr. Rose, Mr. Borski, Mr. Shays, Mr. Manton, Mrs. Schroeder, Ms. Pelosi, Mr. Costello, Mr. Traficant, and Mr. Levine of California.

H. Res. 272: Mr. Frost, Mr. McMillen of Maryland, Mr. McNulty, Mr. Erdreich, Mr. Martinez, Mr. Skeen, Mr. Bilirakis, and Mr. Walsh.

H. Res. 359: Mr. Berman, Mr. LaFalce, Mr. Skeen, Mr. Jones of North Carolina, Mr. Horton, Mr. Cardin, Mr. Paxon, and Mr. Walsh.

EXTENSIONS OF REMARKS

TIMES OF THE AMERICAS TURNS 35

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. FASCELL. Mr. Speaker, I would like to bring to the attention of our colleagues the occasion of the 35th anniversary of the publication of the Times of the Americas.

Begun originally as the Times of Havana in February 1957, this excellent English-language weekly newspaper has provided thorough, intelligent, and unbiased coverage of Cuba and Latin America. I know many of our colleagues rely on it as part of their own decisionmaking process on issues affecting the Western Hemisphere.

The cofounders of the paper, brothers Clarence and Carl Moore, saw the paper through the turmoil of the Cuban revolution, moved to Miami briefly, and then settled down in Washington to continue publishing. Carl passed away some years ago, but Clarence continues to produce what has become, for him, a labor of love.

I would like to bring to the attention of our colleagues two items that appear in the February 5 edition describing the history of the paper and offer my congratulations to Clarence W. Moore on this great occasion.

A SPECIAL CELEBRATION

(By Clarence W. Moore)

Thirty-five years ago this week (or on Feb. 4, 1957, to be precise), the first edition of The Times of Havana appeared on the streets of Cuba's capital city. Its headline read "Saud says Arabs will OK Ike's plan" and the story began: "The plan to use U.S. arms if necessary to prevent Communist penetration of the Middle East would be agreed to by other Arab leaders."

Editorially, it declared that "we will aim to present the news accurately. Intelligently, we hope. Entertainingly at times. But always accurately." The first Easy Chair noted that The Times intended to "muddle along in the middle of the road with no point to prove, no slant, no preconceived notions of policy." And a boxed aside read: "Why is it that Democrats and Republicans always talk about cutting taxes when they are out and change their tune when they are in?"

Its premise was that most English-language newspapers in Latin America were aimed solely at the American expatriate colonies. The Times started out with the idea that it would also reach out to all English-speaking Cubans. Readership grew rapidly and after only two years it had purchased machinery to become a daily when Fidel Castro interrupted the process.

In the fall of 1960, with Fidel Castro in power, the paper was honored by the Inter-American Press Association for its "courageous stand in defiance of the Castro dictatorship."

A sidelight: On July 4, 1960, well into the Castro regime, it published a 76-page issue with Uncle Sam on the front cover in red, white and blue. Our sales force reported that many U.S. companies refused to advertise fearing that to do so would anger Cuban authorities. Its last edition appeared in November, 1960, when its print shop, cluttered with a Goss Flatbed press and rows of linotypes (those were "hot lead" days), was surrounded by gun-carrying militia, and its editor, the late Carl E. Moore, was jailed for several days.

After only a short vacuum it appeared in Miami as The Times of Havana (Caribbean Edition), often only four pages and with an erratic publishing schedule.

In those lean years it opened and operated a Spanish-language bookstore in downtown Miami.

Its back half was an art gallery, and its highly publicized show of Cuban caricaturists earned a full page in The New York Times Magazine, and was picked up by the U.S. government and toured South America.

In the spring of 1966 it became The Times of the Americas, "the only English-language paper in the world entirely dedicated to news of Latin America."

That is a claim it still holds.

[From the Times of the Americas, Feb. 5, 1992]

TIMES OF THE AMERICAS TURNS 35

(By Henry Goethals)

The first office of The Times of Havana, precursor of Times of the Americas, was a small corner room in a print shop at the corner of Luz and Compostela Streets in the heart of Old Havana.

Four antique wooden desks holding battered typewriters lined one wall. A secretary sat in the corner, handling billing and circulation. Neon lights hanging from the high ceiling provided faint illumination. Linotype machines whirred and wheezed in the next room.

A fan in one corner stirred the sluggish, tropical air. There was no air conditioning.

As The Times was getting underway, a revolutionary named Fidel Castro—virtually ignored by people in Havana and believed dead by many—was hiding out in the Sierra Maestra mountains of eastern Cuba, attempting to regroup his small invasion force decimated by attack from the Cuban armed forces.

The first issue of the new newspaper, dated Feb. 4, 1957, signalled the start of a brief but exciting experiment in English-language journalism at a moment of revolutionary fervor and change in Cuba.

During its short 44-month life in Cuba, The Times blossomed as a valuable source of world, U.S. and Cuban news, serving a wide range of English-speaking Cubans and businesses as well as members of Cuba's extensive American colony and tourists.

The 24-page tabloid quickly became the most widely read English-language publication in Cuba as well as a scrappy defender of press freedom under the government of President Fulgencio Batista and—briefly, as it turned out—under the revolutionary Castro regime which followed.

It was honored by the Inter-American Press Association as one of two Cuban newspapers that did not accept subsidies from the Batista government.

And in 1961, it was the last independent Cuban newspaper operating on the island before being shut down by Castro's police.

The Times of Havana was founded by Clarence W. Moore, a native of Michigan, and his brother, the late Carl Moore. Both had spent years in the U.S. foreign service. At the time of the paper's founding, Clarence Moore was a partner in law firms in Havana and Miami, Florida.

Editor of the newspaper for much of its life in Cuba and responsible for its wide coverage and witty style was Milton Guss, a highly skilled journalist from Omaha, Nebraska, who later worked as an editor on The Miami Herald, the Washington Daily News and the Pacific Stars and Stripes.

In late 1957, the newspaper moved to its own editorial plant in a building which had formerly housed the Cuban magazine Bohemia at Galeano and Trocadero streets in midtown Havana.

It was published on a Goss Press imported from the United States, the copy set by linotypes operated by Cuban typographers. Biweekly at the start, it expanded in 1958 to a thrice-weekly schedule.

By 1959, with the triumph of Castro, The Times gained increased notoriety.

Carlos Todd, a Cuban contributor, pinpointed Castro's steady march toward total economic and political control and repression in a series of incisive columns before being forced into exile in 1960.

In November of that year, the Castro police seized The Times plant and briefly jailed its editor Carl Moore. The paper resumed publication in Miami in 1961 and moved to Washington in 1966, expanding its coverage to include all of the Americas.

Today, thirty-five years later, The Times continues publishing as Times of the Americas, a twice-monthly newspaper dedicated exclusively to news about Latin America and the Caribbean.

It has served as a prime source of information for hundreds of Latin Americanists in the United States and has helped train scores of journalists, many of whom continue to make Latin America their main sphere of interest and activity.

Purchased from Clarence Moore in late 1990 by Florida businessman Paul Pope, the newspaper is currently produced in an office overlooking Farragut Square in downtown Washington, D.C., using a modern desktop-publishing system. Its circulation is now concentrated in the United States, but expanding steadily in Puerto Rico and Canada, as well as in Latin America and the Caribbean, with readers scattered in Europe, Africa and Asia.

Jon Basil Utley, a former associate editor of The Times and now a commentator for the Voice of America, observed that The Times has made a major contribution to journalism and to inter-American understanding.

In 1967, on the occasion of the 10th anniversary of the newspaper, Vice President Hubert H. Humphrey, an ardent supporter of U.S.-Latin American understanding, wrote to publisher Clarence Moore:

"I know that in its early years in Havana . . . your paper demonstrated a rare and

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

courageous determination under the most difficult circumstances.

"It is a tribute to you and to your staff that your paper has not only survived confiscation by a regime that fears the free word, but has increased its scope as its first decade comes to a close."

The newspaper's continued success and longevity emphasize the words of the late John O'Rourke, then editor of The Washington Daily News, who wrote in the early 1960s:

"The Times of Havana is proof of the old saying that nothing is harder to start than a good newspaper and nothing is harder to kill."

[From the Times of Americas, Feb. 5, 1992]

VIOLENCE ESCALATES ON EVE OF PEACE TALKS

BOGOTA.—Colombian guerrillas have stepped up their attacks in recent days and threatened to kill a former minister if the Colombian army does not halt its attacks in the northern part of the country.

The renewed guerrilla activity has sharply increased the level of violence in the country less than 10 days before the start of a second round of peace negotiations between the government of President Cesar Gaviria and the Simon Bolivar Guerrilla Coordinating Group scheduled for Feb. 10.

Guerrillas of the National Liberation Army (ELN), one of Colombia's two remaining large rebel factions, released businessman Juan Arvalo Jan. 30 with a message for the government stating that they will not be responsible for the life of Argelino Duran, a former minister, if the army continues its operations in the northern part of the country.

The kidnapping of the 72-year-old Duran, a popular political figure, has caused outrage in Colombia and led to a growing demand that the government effect his release.

The guerrilla ultimatum follows a period of escalating violence in which airlifted army units are reportedly pursuing a large guerrilla column through a dense jungle area some 280 miles north of Bogota.

In recent days both sides have traded blows and inflicted casualties. On Jan. 29, army units counterattacked and killed 15 members of a guerrilla column which had raided an encampment of Construccion de Obras de Ingenieria, a French-Argentine consortium, in Antioquia.

Earlier, on Jan. 26, ELN guerrillas killed at least 11 soldiers and wounded seven others in two ambushes in Casabe and Valdivia, located some 180 miles north of Bogota.

The government announced, meanwhile, that peace talks are scheduled to resume in Caracas Feb. 10. Originally planned for Feb. 1, the talks were postponed largely to permit leaders of both groups to reach the Venezuela capital.

Meanwhile, the designation by the ELN of Nicolas Rodriguez and Francisco Galan, the number two and number three leaders, respectively, of the guerrilla group, as its representatives at the Caracas talks was taken here as in indication that the guerrilla command was considering resuming the peace negotiations in earnest.

The Gaviria government, in turn, has designated Horacio Serpa, a former interior minister, as its representative in Caracas. The designation of Serpa, an ideological member of the left wing of the ruling Liberal Party, was well received by the guerrilla command.

Started initially in June of last year, the peace talks were broken off in November as the two sides failed to agree on terms for a ceasefire.

ROBERT FOWLER, HONORED PRINCIPAL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Robert Fowler, who has been honored by the Dade County public school system as being one of its best administrators. He was one of seven candidates chosen to compete for an award.

As principal of the North Miami Beach High School, Mr. Fowler encourages students to get involved in community service, such as distributing food for the poor and programs dealing with abused children. He was recently featured in the Miami Herald for this extraordinary dedication and commitment to education. The article, "NMB Principal Believes in Kids," by Grace Lim, reveals why he is so admired by students and colleagues. The article follows:

The principal of North Miami Beach High School likens himself to a mayor of a small city of 2,700.

Robert Fowler knows in his school, as in any city, there are good and bad elements. But to him, the good that comes from his students and staff the greatly outweighs the bad.

"A principal is really only a coordinator of the efforts of the employees," and said. "I can sit here and have all kinds of wonderful ideas, but where the rubber meets the road is out there. It's the teachers, the kids and the community who make it all work."

Fowler encourages students to participate in community service. Every month up to 60 students help distribute food to the poor and elderly at the North Miami Beach food distribution center. Other students have started their own community service organizations, including programs that help abused children and kids with terminal illnesses.

As a way to bolster school pride, Fowler began weekly announcement citing the academic and extracurricular achievements of the students and staff. Every nine weeks, he sends a newsletter to parents about their children's good works.

"Kids generally are good," he said. "And we, in the society, don't do enough to tell them that."

Mr. Speaker, I commend Robert Fowler for his outstanding achievements as teacher and administrator. His devotion to education is an inspiration to all teachers and principals in Dade County and around the Nation.

TRIBUTE TO THE PARENTS UNION FOR PUBLIC SCHOOLS

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. BORSKI. Mr. Speaker, I rise today in recognition of the 20th anniversary of the founding of the Parents Union for Public Schools.

The Parents Union for Public Schools in Philadelphia is made up of parents united to work for better public schools. It is an independent, voluntary, citywide, and multiracial organization of, by, and for parents of public school children.

In the fall of 1972 a group of parents from all parts of Philadelphia bonded together in response to a 3-month school strike. This group of parents became Parents Union. In the two decades since its founding, the Parents Union has made an outstanding contribution to the community.

The primary purpose of Parents Union is to secure a quality education for the students of Philadelphia's public school system. The union has grown from a completely volunteer organization to a current staff of parent organizers, special education advocates, and board members, all of whom are public school parents. As an independent organization funded by private grants and donations, the Parents Union is able to tackle a broad range of issues affecting our public school system.

Parents Union helps individual parents and students by supplying information and assistance about the school system and school issues, providing parent advocates to help solve school disputes, informing parents of their rights, and serving as an educational resource to parents.

Because of the willingness of the parents of Philadelphia school children to devote so much time and so many resources to the community, the Parents Union has become a tremendous positive force for the enhancement of the Philadelphia school system. For that, Mr. Speaker, I would like to salute the Parents Union for Public Schools in Philadelphia.

THE INCLUSION OF AMERICAN SAMOA IN THE EMERGENCY LIVESTOCK FEED ASSISTANCE PROGRAM

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, today I am introducing legislation to amend the Agricultural Act of 1949 to make American Samoa eligible for emergency livestock feed assistance. This program will provide critically needed emergency feed assistance for the preservation and maintenance of livestock in American Samoa in the event of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster.

Mr. Speaker, this is yet another example of a vital program extended to all 50 States, Puerto Rico, the Virgin Islands, and Guam, but not American Samoa. I believe this may have been an oversight when the other three insular areas were added to this program in 1988 legislation.

American Samoa is in one of the most weather-turbulent areas of the world. Within the last 2 years, Samoa was devastated by two hurricanes with winds in excess of 150 miles per hour. The most recent of the two, Hurricane Val, struck the islands of Samoa for 4 days in December last year and destroyed 95 percent of subsistence crops and approximately 60 percent of housing units.

The farmers in Samoa were not covered under any agricultural emergency programs until last month when the U.S. Department of Agriculture included the Territory in the Crop Loss Assistance Program. However, the livestock, dairy, and poultry farmers still remain without assistance from the Federal Government and private resources.

I believe this legislation will help relieve the critical need for emergency assistance faced by Samoa's livestock, dairy, and poultry farmers in the wake of disasters such as Hurricane Val.

Mr. Speaker, I urge my colleagues to pass this bill during this Congress.

FAT-FREE FRANK

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. GINGRICH. Mr. Speaker, I would like to insert for the RECORD the following Wall Street Journal editorial. I urge the Committee on House Administration to report H.R. 4104 by Mr. Thomas to the floor for consideration immediately.

FAT-FREE FRANK

One of the reasons for the public's cynicism about Congress is that when Members try to reform the institution, their efforts often turn out to be a sham. Take the issue of franking, the practice by which Members carpet-bomb constituents with taxpayer-funded propaganda hyping their accomplishments. In 1990, the public outcry over franking forced the House to place a formal limit on the amount of mail a Member could send out. But the limit still allows a wide variety of abuses.

Roll Call, the Capitol Hill newspaper, reports that in just two days last month more than 58 million newsletters and notices were mailed by House Members. That's enough to reach more than half the mailboxes in the nation.

But some Members aren't satisfied with just mailing to their current constituents. Dozens of Members are taking advantage of a loophole in the House Rules to mail to people outside their districts. Because the nation's congressional districts are being redrawn this year, Members are allowed to send mass mailings to areas that may be added to their district for the November election and to counties that border their current district. The excuse is that a Member should be able to "introduce" himself to potential constituents. The practical effect is to discourage challengers from filing against incumbents, and to make it more difficult for those brave challengers who do run to win.

Rep. Bill Thomas of California has introduced legislation to level the political playing field a bit by closing such franking loopholes. He says the potential for abuse is mind-boggling. Because he represents a corner of Los Angeles County, Rep. Thomas could send mail to residents of all the adjoining counties—a big advantage if he ran for statewide office. "I could mail to two-thirds of the state's residents, if I could afford it," he says.

Even traditional defenders of congressional perks, such as Brookings Institution scholar Thomas Mann, can't justify this latest abuse of power. Rep. Thomas has more than 50 cosponsors for his franking-reform bill, including such brave Democrats as Barney Frank of Massachusetts and Anthony Beilenson of California. The Democratic leadership is embarrassed by the franking abuses, but is quietly moving to sidetrack the Thomas reforms by attaching it to the legislative appropriations bill. That bill is unlikely to be approved until September, by which time Members will have completed all the out-of-district mailings their hearts desire.

Such flimflammery has proved too much for Roll Call's editorialists, who normally make the best case possible for Congress's outrageous behavior. They noted that the Thomas reforms may have no practical limit on franking until the next time districts are redrawn—in the year 2002. Roll Call warned that "If Congress proceeds on its current path, perhaps term limits will have chased everyone now in the House from office anyway." At the very least.

THE DEAFENING SOUND OF SILENCE: THE LACK OF RESPONSIBLE CRITICISM OF PATRICK BUCHANAN'S RACISM AND ANTI-SEMITISM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. LANTOS. Mr. Speaker, while the outcome of Tuesday's Presidential primary was clearly more of a vote against George Bush than a vote for Patrick Buchanan, it is extremely troubling that a man with as clear a history of ethnic, racial and religious intolerance as Patrick Buchanan is seen as a credible candidate for the highest office in the land.

Unfortunately, Mr. Buchanan's record of intolerance and xenophobia has not been the subject of sufficient attention by political leaders or the national media. I suspect that when his often shocking and defamatory views are given the attention they deserve, he, and his candidacy, will be judged harshly by the American people.

The truth of the matter is that Patrick Buchanan represents an ugly past in American politics. His narrowminded vision for America and his divisive, negative tactics pose a great threat to the future of this Nation. He must not be underestimated.

The New York Times columnist A.M. Rosenthal has written an excellent article on the disturbing phenomenon of Patrick Buchanan. Most importantly, he argues that people who should know better have indirectly helped his cause—Mr. Buchanan's campaign has thrived because his intolerable rhetoric has been met with deafening silence and apparent indifference.

Mr. Speaker, I ask that Mr. Rosenthal's article be printed in today's RECORD and that my colleagues give it the thoughtful and serious attention it deserves.

[From the New York Times, Feb. 14, 1992]

ON MY MIND: VICTORY FOR BUCHANAN

(By A.M. Rosenthal)

Patrick Buchanan already has achieved a remarkable victory in the New Hampshire primary. It will stand no matter what the vote spread.

He could not have done it alone. He had the help of American journalists and politicians.

Still, it cannot be taken away from Mr. Buchanan that he not only has introduced anti-Semitism into the mainstream of American politics, but has made it acceptable, respectable enough to ignore—and potentially profitable.

In New Hampshire, the press paid only fleeting attention to his anti-Semitism. That was better than President Bush and the Democrats, who paid none.

Political bigots everywhere will correctly draw the lessons. And they had better be learned by all people who consider Mr. Buchanan just one more politician, all politicians who failed to condemn his cracks about Jews and "Zulus" and those journalists who ran from confrontation with their good old pal. They had better learn damned quick before they hear the bell tolling too close to their ears.

Mr. Buchanan now has earned close attention as a political propagandist. For years he will be using his new prominence, and his regular TV appearances and column to recast American conservatism in his particular mixture of populism and religious and racial divisiveness. If he succeeds, it will change the texture of American life.

But he is just as important as a vivid example of the increasing social and political acceptability of racism and bigotry in the intellectual and political life of the country.

For years now it has been there to see and smell—in anti-Semitic speeches at campus rallies, in college ads denying the Holocaust, in violently bigoted pop and rap lyrics sold to millions and clear except to music critics who left their brains in the piano stool, in TV air time given to skinheads to vilify blacks.

And now we come to the point where a Presidential candidate's record of carefully crafted insults is hardly even discussed during the campaign.

The responsibility for this phenomenon does not rest simply on the bigots—what else did we expect? It rests on blacks who participate in or ignore anti-Semitism, on whites who get all upset when blacks get even a few of the special, essential breaks in life that they themselves always enjoyed.

It rests on those journalistic friends—and TV partners—of Mr. Buchanan who tell us he really is a charming fellow even if he talks a little too bluntly. It rests on people like William Buckley, who agree now that Mr. Buchanan did after all say anti-Semitic things but then tell us they would vote for him in New Hampshire as a message to Mr. Bush. What message? Anti-Semitism is less offensive than raising taxes?

With a few staunch exceptions, Washington columnists and commentators looked straight at Mr. Buchanan's statements and innuendos—looked, and ran. They stayed friends and admirers right through his trashing of Holocaust truth, through his irritation of Catholic-Jewish sensibilities, through his cracks about how Congress was Israeli-occupied territory and Democrats the poodles of the Israeli lobby. These Washington experts needed no translation: the Israeli lobby gets its money and votes not from Jerusalem but from American Jews legally and morally supporting a cause close to them.

The cesspool was plumbed when Mr. Buchanan said in August 1990 that only the Israeli Defense Ministry and its "amen corner" in the U.S. were beating the war drums. That was a lie—a lie, and as plain a piece of deliberate evil as ever uttered on TV. It meant watch out, the Jews are trying to drag your children into war for foreign purposes. From the Beltway, came the sound of silence.

Top politicians matched journalists in courage. Mr. Bush never suggests, heavens no, that Mr. Buchanan's anti-Semitism might be at least one reason to vote against him.

And not one of the five candidates of the other party thought Mr. Buchanan's anti-Semitism an issue worth mentioning. These people—they are Democrats?

So the victory is Mr. Buchanan's, the respectable, acceptable, charming Buchanan's. What's more, he has refused to withdraw, retract or soften his anti-Semitic insults. Please note. This man is keeping his powder dry.

CONGRESSIONAL DELAYS COST $500 MILLION

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. GRADISON. Mr. Speaker, we all know that, by refusing to provide the necessary appropriations, Congress has repeatedly delayed the Resolution Trust Corporation's efforts to resolve failed savings and loans. On April 1 of this year, the RTC will once again have to cease its operations unless Congress acts before then to extend its spending authority. Unfortunately, many Members of Congress remain unaware of the costs of these delays. Last month, Senator DOMENICI and I asked the RTC to document the magnitude of these costs and to forecast how they would grow if Congress once again fails to act in a timely manner. The RTC's response shows that past delays have already cost the taxpayer between $400 and $500 million. Unless Congress provides more funding by mid-March, these losses will begin growing again by $2 to $3 million per day. The letter from Senator DOMENICI and myself, as well as the RTC's response, are printed below.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON THE BUDGET,
Washington, DC, January 17, 1992.

Mr. Albert V. Casey, *Chairman,*
Resolution Trust Corporation, Washington, DC.

DEAR CHAIRMAN CASEY: We are writing to request an analysis of the costs of congressional delays in providing the Resolution Trust Corporation with sufficient appropriations to carry out its responsibilities.

As you know, Congress has chosen to fund RTC with current, definite appropriations rather than providing it with permanent, indefinite authority, which we would prefer. Periodically, RTC has exhausted its funding authority, forcing it to delay the pace of resolutions while awaiting action by Congress. Supporters of further funding, including ourselves, have argued that such action is unavoidable and that delays only act to increase the eventual cost of resolving failed savings and loans.

Congress first delayed RTC funding in the fall of 1990. Full funding was not provided until the spring of 1991. Estimates of the cost of delay reached hundreds of millions of dollars. More recently, Congress delayed funding for RTC during the fall of 1991. At the time, there were reports that the cost of delay was $8 million per day. These numbers have been widely quoted but, to the best of our knowledge, no detailed justification for them exists. In our view, the lack of documentation on this point undercuts the case for further funding because many in Congress have chosen to ignore what they perceive to be unsubstantiated claims.

Last November, Congress provided RTC with an additional $25 billion in loss authority. This authority expires on April 1, 1992. Unless Congress acts to provide additional funds before then, RTC will once again experience delays in its operations. We understand that the April 1, 1992 funding deadline may already be adding to RTC costs by limiting its resolution activity to those institutions which can be closed by that date. The size of such losses might be reduced if Congress had a better understanding of the costs of such delay.

It would therefore be helpful if RTC provided Congress with a careful analysis of the causes and magnitude of such delays. This analysis should focus on those costs that are due solely to Congressional inaction and should provide information on both the reasons for and the magnitude of past costs. To the extent possible, specific examples of additional costs should be provided. Finally, we would like to know by what date Congress must provide further funding to avoid such losses in the future.

We expect that much of the analysis requested in this letter has already been performed by your staff. We would therefore hope that it could be collected and presented by February 15 to give Congress sufficient time to act on it. Please advise us if this date is not attainable.

Sincerely,

PETE DOMENICI,
Ranking Republican,
Senate Budget Committee.
BILL GRADISON,
Ranking Republican,
House Budget Committee.

RESOLUTION TRUST CORPORATION,
Washington, DC, February 20, 1992.

HON. WILLIS D. GRADISON, Jr.,
Ranking Minority Member, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. GRADISON: Thank you for your co-signed letter asking for further explanation of the cost to the American taxpayer of delaying funding for the Resolution Trust Corporation.

Since the fall of 1990, the RTC has had to postpone almost two quarters of resolution activity due to inadequate funding. We estimate that, in the aggregate, the cost of this delay was $400 million to $500 million. Last November, Congress provided the RTC with $25 billion in loss funds, but the availability of these funds expires on April 1, 1992. If Congress does not provide the RTC with additional loss funds by mid-March 1992—when the RTC would normally begin marketing institutions for resolution during the second quarter of the calendar year—losses due to inadequate funding will once again begin to mount up.

We estimate that a one-quarter delay would result in unrecoverable costs of approximately $200 to $250 million, while two quarters of consecutive delay would result in unrecoverable costs of approximately $600 to $900 million. The cost of two quarters of consecutive delay is more than twice the cost of one quarter's delay because the longer the period of delay, the longer it takes to catch up. These estimates exclude nonquantifiable factors such as the deterioration of franchise values of institutions that remain longer in conservatorship than would otherwise be necessary, and their adverse competitive effects on marginally solvent institutions. Enclosed is a more detailed explanation of these costs prepared by my staff.

As the enclosed analysis indicates, delaying the resolution process, even for only a short period of time, is quite costly. I urge you to provide the RTC with sufficient appropriations to carry out its mission by no later than mid-March so that unnecessary costs do not begin to mount. Additional funds will eventually have to be appropriated in order to fulfill the government's obligation to insured depositors. Delay only worsens the situation and in no way serves any purpose.

I appreciate your interest and look forward to working with you. If you have any questions, please let me know.

Sincerely,

ALBERT V. CASEY,
President and CEO.

RTC STAFF ANALYSIS

Delay in the resolution process is costly because some, although not all, of the operating expenses of conservatorships are lowered or eliminated at resolution. In particular, before an institution is closed, its negative net worth and assets are funded at the institution's cost of funds. After resolution, negative net worth and remaining assets are funded at a government cost of funds. While downsizing during conservatorship and high cost funds replacement serve to lower a conservatorship's cost of funds, they cannot completely eliminate the government cost of funds advantage.

The cost of funds differential between conservatorships and 1-year Treasury borrowings at yearend 1991 was approximately 180 basis points. Compared to historical differences, this is a high differential. The reason for this high differential is that short-term interest rates dropped rapidly toward the end of 1991 while deposits repriced much more slowly. However, even during the third quarter of calendar year 1991, when interest rates did not decline as rapidly as they declined during the fourth quarter, the differential was approximately 115 basis points. Assuming a 115-basis-point differential, that approximately 20 percent of a conservatorship's liabilities can be replaced with lower cost funds, and that the replaced funds cost an average of 150 basis points above the institution's average cost of funds, resolution lowers funding cost by approximately 50 basis points.

In addition to lowering funding costs, resolution eliminates noninterest expenses associated with gathering liabilities such as branch employee salaries, marketing, etc. According to Functional Cost Analysis data, compiled by the Federal Reserve Board, noninterest expenses associated with gathering liabilities at thrifts comes to approximately 1.15 percent of assets.

Combining the Government's cost of funds advantage with the noninterest expenses that are eliminated at resolution yields a quarterly cost of delay of .38 percent of assets, or $3.8 million for each quarter that the resolution of a billion dollars of assets is delayed.

Based on the information the RTC currently has from the Office of Thrift Supervision regarding this 1992 caseload, if the RTC were to receive uninterrupted loss funding, it would resolve institutions with assets of approximately $33 billion, $45 billion, and $27 billion, respectively, during the last three quarters of calendar year 1992. If funding were delayed one quarter, the resolution of institutions scheduled to be closed during the second quarter of the calendar year—institutions holding approximately $33 billion in assets—would be delayed. However, the RTC could not flood the market and make up the entire $33 billion in delayed resolutions in one quarter.

Rather, since $45 billion of resolutions are already anticipated for the third calendar quarter, it might make up one-third, or $11 billion, in the third quarter of the calendar year, and the remaining $22 billion in the fourth quarter. Under such circumstances, the one quarter delay in funding would cause $11 billion in assets to be delayed one quarter and $22 billion to be delayed two quarters. At a cost of $3.8 million for each quarter that the resolution of $1 billion of assets is delayed, this translates into a cost of delay of slightly over $200 million. If, for some reason—perhaps because the actual caseload during the last quarter of calendar year 1992 turns out to be higher than currently anticipated—the $33 billion in delayed resolutions is spread out evenly over three quarters, the total cost of delay would come to approximately $250 million.

If funding were delayed two quarters, the RTC would have fallen behind by $88 billion in resolutions by the time funding is authorized. Depending on the RTC's caseload during calendar year 1993, it is likely to take two to four quarters to completely make up for such a delay. At a cost of $3.8 million for each quarter that the resolution of $1 billion of assets is delayed, this would translate to a total cost of delay of $600 million to $900 million.

A TRIBUTE TO FIVE SNAPPER CREEK FAMILIES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to congratulate five Snapper Creek families who have won $1,000 in the Junior League of Miami's good neighbors contest. Maria de Pablo, Marlene Miles, Donna Russo, Frances del Pino, and Dulce and Benjamin Martinez are anxious to use their winnings to build a playground for the many children that live in their Snapper Creek neighborhood. In a Miami Herald article entitled "Parents Win $1,000 for a Playground," Manny Garcia reports on the five Snapper Creek families' ambitions of winning the Junior League's contest:

Tired of not having a nearby playground for their children, five Snapper Creek families decided to do something about it last year. They entered a contest to win $1,000 to build a small playground. They won last week.

"I had no idea we were going to win," said Maria de Pablo, who lives in the 10800 block of Snapper Creek Drive. "I was very excited. There's a lot of kids out here, but there's nothing for the little ones to do."

De Pablo and her group are among seven entrants that each won $1,000 in the Junior League of Miami's Good Neighbors Contest.

Contest chairwoman Elaine Mijalis said winners were picked based on their project's ability to solve a problem in the community.

The Snapper Creek group submitted a plan to build a small playground along the banks of the Snapper Creek canal. The canal bank currently has a bike path and exercise course. The closest parks for children are Indian Hammocks Park and Tropical Park, both several miles away.

"It was a well thought out program," said Mijalis. "It was truly a grass roots effort."

Mijalis said community leaders also were impressed by the group's diverse ethnic and national mix, which include Haitian, Jamaican and Hispanic couples.

Neighbor Marlene Miles started the effort last fall when she saw the contest advertised in The Herald's Neighbors section.

She and de Pablo came up with the park idea, then got support from neighbors Donna Russo, Frances del Pino and Dulce and Benjamin Martinez. De Pablo mailed off the proposal and forgot about it until Mijalis called last week.

De Pablo, however, said the project has run into a snag since the announcement.

State law requires the playground to have a handicapped entrance. The group also needs to fence the playground, which they did not include in the budget.

DePablo, the mother of two boys, said she remains optimistic and hopes the county or somebody else will help out. Said Miles, who has three children: "The children are very excited. All they want is the monkey bars."

Mr. Speaker, I am pleased to bring to my colleagues' attention a few of my constituents who are actively working to make south Florida a more pleasant place for children. Congratulations on a job well done to Maria de Pablo, Marlene Miles, Donna Russo, Frances del Pino, and Dulce and Benjamin Martinez.

THE 50TH ANNIVERSARY OF THE VOICE OF AMERICA

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. FASCELL. Mr. Speaker, this is an amazing time to be celebrating the 50th anniversary of the Voice of America—a time when the most unlikely governments are celebrating the Voice. Who would have thought several years ago that Mikhail Gorbachev would salute VOA? Who would have predicted that Boris Yeltsin would call on the VOA to disseminate his words during a coup attempt? At age 50, the Voice is in its prime and can only improve with age and experience. You have received the thanks of nations now attempting to embrace democracy. I thank you for giving me the opportunity to add my thanks and my congratulations.

It wasn't so long ago that VOA was jammed overseas and that some officials and media in our own country questioned the expenditure of public funds on what they call propaganda. Today the jamming has virtually ceased and the clamor appears to be for more broadcasting of every kind. You have proven the worth of a U.S. Government broadcasting service. You are survivors of the ebbs and flows of public opinion, and victors in the cold war. It is my pleasure to congratulate all of you—journalists, engineers, and managers—for bringing VOA the acclaim it has received during such a time of transition in the world.

Let me also say that your Director, Ambassador Henry Catto, is the man to have at the helm of USIA as we navigate the waters of whither U.S. Government international broadcasting in the months ahead. I extend my warmest congratulations to you Mr. Director, and to Mr. Untermeyer as you kick off the next 50 years.

I have been asked to address how I see the VOA today and in the future. Well, VOA has always been somewhat of an enigma. It is asked to perform functions that may sometimes seem contradictory. On the one hand, VOA is the policy voice of the United States. On the other hand, it broadcasts accurate and objective news and information around the world. Given the VOA's charter, to articulate U.S. policy and to serve as an accurate, objective, and comprehensive source of news, there is ample potential for tension where VOA's diplomatic and journalistic mandates collide.

If VOA is to continue on its course of broadcasting more targeted news to certain areas of the world, then it must maintain an atmosphere of journalistic freedom in spite of these tensions. This is where strong leadership of the Agency and of the Voice are necessary to set and defend the standards of independence and professional journalism. This is the point on which the future structure of U.S. Government broadcasting will rest. Surrogacy may not be the magic word in formulating our future policies, but truth is. VOA has the flexibility in this charter to deliver some of the same goods as surrogate radio. But the question is whether the diplomats and journalists can make it work and whether the administration and the Congress can deliver the resources to make it work.

I don't have to tell you that VOA is already changing to meet the demands of the next 50 years. There is broad support in the Committee on Foreign Affairs for a Voice that targets a portion of its news and information to the region or country to which it is broadcasting. There is also support for the role of VOA as educator—not only in English language training, but in the rudiments of free enterprise and democracy to those governments entering the community of democratic nations and trying to establish viable economic systems in the world economy. The information age is also an education age. Without training, individuals will not be able to adapt and adjust to rapidly changing societies.

In performing its role as a builder of democracy, VOA can move closer to its place in a truly integrated public diplomacy policy that helps to accomplish foreign policy goals. Such expanded functions will demand the greater participation of USIA in the policymaking process, through the National Security Council.

Today the Voice of America is a symbol of a United States that did not shy away from its prominent place in the world. It is an example of our commitment to the free flow of information and a recognition that the United States should take the lead in delivering that basic human right. VOA proclaims our engagement in the world rather than a retreat into isolation. I am a firm believer that VOA is an instrument that can continue to figure prominently in our vision of a more peaceful world.

This country needs an official voice that can anticipate the repercussion around the world of changes in U.S. policy and ensure that these policies are properly explained. At a time when many new nations are looking to the United States for guidance, VOA is a symbol of the values that we cherish.

I have always believed that the United States should broadcast to our friends as well as to countries whose governments hold U.S. policies in contempt or who attempt to control information flows. The future Voice should be a global system, broadcasting to successor generations in Europe, and reaching audiences in other parts of the world where our signal is weak or nonexistent. But a global broadcasting system will face a competitive environment from other government and private broadcasters. Competition will require us to understand and serve the needs and interests of particular audiences in various regions of the world.

My immediate concern for the future of U.S. government broadcasting is that decisions not be made by the budget knife, but be the result of long-term policy analysis. We must set a high priority for communications in our foreign policy budget, and not pit these moneys against refugee assistance or post openings in the Commonwealth of Independent States. And if we don't have the funds at this moment to make the Voice of America into the expanded, global service we want it to be, the Congress and the administration must work together to divine the structure and broadcasting priorities of U.S. Government broadcasting in a manner that will allow the radio or radios to evolve to meet the needs of our foreign policy.

As the question of programming and delivery systems is debated, we must also debate technology issues. To be sure, we cannot at this time afford redundant broadcast facilities. VOA and RFE/RL have shared broadcasting facilities with good effect. VOA has also moved to new frequencies in areas where shortwave audiences were declining. But as a government, we need to set a logical framework for global U.S. Government broadcasting as we evolve into new technologies in different regions of the world. Our first priority for the future of U.S. Government broadcasting should be to build a modern network to broadcast clearly and effectively, no matter what our ultimate message may be.

I don't have a crystal ball that forecasts the future of VOA, surrogate services, or the birth of a Radio Free China. My crystal ball can't even tell you how the birds will migrate over the Israeli relay station. What is clear is that America still needs the Voice.

I am sure that all of you at the Voice have received birthday greetings in more than the 44 languages in which VOA broadcasts. These greetings testify that the world still needs the Voice. VOA has made many friends for the United States around the world since its beginnings in the days after Pearl Harbor. Let me congratulate all of you on this anniversary representing 50 years of service to the U.S. Government and to the world, for surviving the vicissitudes of politics and Federal budgets, and for building a fine institution that represents the ideals of this country overseas.

BIOGRAPHIES OF CHIEF POWHATAN AND POCAHONTAS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years.

In support of the Year of the American Indian, and as part of my on-going series this year, I am providing for the consideration of my colleagues a short biography of Chief Powhatan and his daughter Pocahontas. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

POWHATAN AND POCAHONTAS

When English settlers founded Jamestown Colony in 1607, all of what is now Tidewater Virginia was occupied by a confederacy of Algonquin Indian tribes headed by a powerful chief known as Powhatan (his proper name was Wahunsonacock). Although Chief Powhatan could easily have destroyed the entire young colony, he and his people were generally friendly during the pioneers' first difficult years.

Capt. John Smith, the English colony's leader, described Powhatan as a tall, dignified man in his 60's, with a grim suspicious face and a reputation for cruelty to anyone who got in his way.

But Powhatan had a very soft heart for his "dearest daughter," Pocahontas, a girl of about 13 at the time of the English arrival.

Many legends have grown up around Pocahontas. One of the most famous of these tells that when John Smith, having intruded too far on Indian territory, was captured and about to be beheaded at Powhatan's order, Pocahontas saved his life by throwing herself over his body. Then, the story continues, Powhatan, yielding to Pocahontas' pleas, pardoned the English leader and sent him back to Jamestown in peace.

In 1609, making a diplomatic effort to maintain the Indians' good will, the English settlers crowned Chief Powhatan king of the territory. Much pomp and ceremony went along with the crowning, but, according to Captain Smith, it was not a complete success. Powhatan was more interested in the gifts which went along with the event than in the crown itself, and was reluctant to bow his head even long enough for the crown to be placed upon it.

Indian-white relations became less friendly after John Smith's return to England, and promises were broken on both sides. The English intruded upon Indian lands, and the resentful Powhatans captured settlers and made off with colonists' belongings. There were several years of minor warfare.

In 1613, taking advantage of Powhatan's great love for his daughter, the English decoyed Pocahontas onto a British ship which lay at anchor in the Potomac, and carried her off to Jamestown. With so valuable a hostage, the settlers were able to arrange ransom terms: English prisoners and goods were returned, and Pocahontas was restored to her father.

But while she was living among the English at Jamestown, Pocahontas had met John Rolfe, "an honest gentleman and of good behaviour," as records of the time describe him. The two fell in love. After Pocahontas had been converted to Christianity and baptized under the name of "the Lady Rebecca," she and Rolfe were married.

The match was much to the benefit of English colonists, for Powhatan kept peace with them until his death in 1618.

In 1616, Mr. and Mrs. Rolfe and several other Indians accompanied Jamestown Governor Thomas Dale to England, where Pocahontas was received as a princess. She lived happily there until, at about 22, she died of smallpox. Her only son, Thomas Rolfe, returned as a young man to the home of his mother, and later founded one of America's most distinguished families—the Randolphs of Virginia. Several remnant groups, representative of the historic Powhatan Confederacy, are found today in Virginia. Of these, the Pamunkey and Mattaponi are best known.

DAY OF RECOGNITION OF PHILIPPINE WORLD WAR II VETERANS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. BENNETT. Mr. Speaker, I introduced a joint resolution to designate April 9, 1992, as a Day of Recognition of Philippine World War II Veterans and I encourage Members of Congress to join me in this.

I had the privilege of serving in the 33d Infantry Division in the Philippines in World War II; and after our capture of Baguio, the summer capital of the Philippines, I was privileged as a guerrilla to fight in the northern Luzon mountains for the freedom of our ally, the Philippines. So, it is with a feeling of nostalgia and great love for the Philippine people and their great country that I introduce this resolution today. I would not be alive today if it had not been for the Philippine guerrillas I fought alongside in those days now long distant past.

The resolution I have introduced is as follows:

H.J. RES. —

Whereas, upon the outbreak of war between the United States and Japan in World War II, 110,000 members of the organized military forces of the Government of the Commonwealth of the Philippines who had been called into the service of the United States Armed Forces by order of President Roosevelt dated July 26, 1941, were committed to battle, along with United States personnel, against the Imperial Japanese forces that invaded the Philippines on December 8, 1941;

Whereas April 9, 1992, and May 6, 1992, mark the 50th anniversaries of the fall of Bataan and Corregidor, respectively, to Imperial Japanese forces;

Whereas the Filipino and United States defenders of the Philippines engaged Japanese forces from the breaches of the Philippine islands to the last defense of Bataan and Corregidor in a grueling battle lasting 150 days;

Whereas that defense compelled Japan to divert thousands of additional troops to the Philippines;

Whereas the enormous sacrifices of the defenders in the battles of Bataan and Corregidor provided the United States and its Allies with valuable time to prepare their armed forces for a counteroffensive campaign against Japan;

Whereas, in that defense, the members of the Filipino forces and their United States counterparts struggled against difficult odds and desperate circumstances and faced, with indomitable spirit, fortitude, and loyalty to America, powerful Imperial Japanese forces;

Whereas members of the Filipino forces acquitted themselves nobly during the Bataan death march, during their internment in death camps, and throughout 3 years of resistance against Japanese occupation of the Philippines; and

Whereas the United States recognizes the sacrifice, loyalty, and valuable contribution of the Filipino World War II veterans to the causes of peace, freedom, and human dignity: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF DAY.

(a) DESIGNATION.—The President is authorized and urged to designate April 9, 1992, the 50th anniversary of the fall of Bataan, as the "Day of Recognition of Filipino War Veterans".

(b) PRESENTATION OF RESOLUTION.—It is the sense of Congress that a copy of this resolution be presented to Filipino veterans and the Filipino people in Manila on April 9, 1992, during the observance of the 50th anniversary of the fall of Bataan, as an expression of goodwill and a reaffirmation of the continuing regard of the United States and the American people for a lasting Filipino-American friendship.

UNITED STATES DISCUSSIONS WITH EGYPT ON THE POSSIBLE PURCHASE OF SUBMARINES FROM THE UNITED STATES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. HAMILTON. Mr. Speaker, on January 7, 1992, I wrote to the Department of Defense with questions regarding the October 1991 visit to the United States of Egyptian Defense Minister Tantawi. On February 6 I received a reply from the Department of Defense. I would like to bring the correspondence to the attention of my colleagues, and the text follows:

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, January 7, 1992.

Hon. RICHARD H. CHENEY,
Secretary of Defense, The Department of Defense, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: Subsequent to a hearing last November with the Department of State on the Middle East, it was suggested that I contact you with questions regarding the October 1991 visit to the United States of Egyptian Defense Minister Tantawi.

I would like to know what were the key issues on Minister Tantawi's agenda and what was discussed during his visit. I would also like to know the following: Did the Defense Minister make an official request for the purchase of two diesel electric submarines? Is Egypt seeking U.S. permission to purchase the hull sections for these two submarines from Germany and then have them outfitted in the U.S. using U.S. FMF assistance? What is your position on these matters? Is there currently a prohibition against providing the U.S. funding for the manufacture of any submarine for export? Have there been any exceptions to this policy in recent years?

I appreciate your consideration of these general and specific questions and look forward to an early reply.

With best regards,
Sincerely,
LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

THE ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, February 6, 1992.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Secretary Cheney received your inquiry related to the recent visit to the United States by General Mohammed Hussein Tantawi, Egyptian Minister of Defense. He asked that I respond to the important questions raised in your letter.

The key issues discussed during General Tantawi's visit included regional security arrangements, the situation in Iraq, Middle East arms control, potential threats to regional security, joint exercises and training, and purchases of military equipment from the U.S.

General Tantawi did not make an official request for the purchase of two diesel-powered submarines during this visit. Although Egyptians have informed us that they wish to utilize FMF credits to the maximum extent possible for a diesel submarine purchase, they have not provided an authoritative statement on where or how they wish to have the submarines built and how they wish to pay for them. We are aware, however, that the Egyptian Government has requested proposals for construction of conventional submarines from shipyards in the United States, France, the United Kingdom, and possibly other countries.

Since the Egyptians have not submitted a Letter of Request, the Department of Defense has not taken a final position on this issue. We have expressed concern to our Egyptian friends about the use of FMF credits for such a purchase (Egyptian credits are fully committed for several years to come) and about possible construction of submarines in the U.S.

There is no legal prohibition against providing U.S. Government funds for the manufacture of submarines in the U.S. for export. It should be noted, however, that the only submarines ever transferred to a foreign state have been surplus older U.S. conventional submarines.

The U.S. Navy is opposed to manufacturing submarines in the United States for export because of the possibility of technology transfer that could undercut our vital advantage in undersea warfare. In the past, the Secretary of Defense has supported the Navy. There have been no exceptions to this policy.

I hope we have answered your questions. We will keep in touch with your staff if anything develops on this issue of diesel submarines.

Sincerely,
JAMES R. LILLEY.

SUPPORT FOR H.R. 2492

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. BORSKI. Mr. Speaker, I rise in support of H.R. 2492, to repeal the tax on unemployment compensation.

Congress must right a wrong that took place 6 years ago when we approved a provision of the 1986 Tax Act and agreed to fully tax a person's unemployment compensation.

There could be no better time than the present to correct our mistake. The Nation is in the depths of a serious recession and to tax people who are the victims of this crisis is simply cruel and inhumane.

In my own city of Philadelphia I see hundreds of hard-working people whose lifestyles screeched to a halt when the recession cost them their jobs.

They bought houses and cars based on steady incomes and now have much smaller unemployment checks to pay their bills.

Just 2 weeks ago I spoke with many of these people when I announced I would cosponsor H.R. 2492. Hearing their frustration and sense of betrayal was all that I need to understand that taxing unemployment compensation must stop immediately.

Congress must show unemployed Americans we are here to pick them up, not punch them down.

I ask that my colleagues join me as a cosponsor of H.R. 2492 and that we move quickly to repeal the tax on unemployment compensation.

DADE EDUCATOR RECEIVES NFL TEACHER OF THE YEAR AWARD

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Miriam Williams, the 1991 recipient of the National Football League's Teacher of the Year Award. As a teacher at Miami Palmetto Middle School, Ms. Williams met Derrick Thomas, currently a linebacker for the Kansas City Chiefs, 13 years ago. It was he who nominated his middle school teacher, Ms. Williams, for the honor.

When Ms. Williams recalls her first encounter with Mr. Thomas, she notes that the relationship did not begin well. In fact, it ended up with a suspension for Mr. Thomas. However, this incident encouraged her to work with Mr. Thomas in order to help him. Eventually, her efforts paid off, and she helped Mr. Thomas build academic self esteem by assisting him with his reading skills. Ms. Williams' dedication did not end there. When it came time for Mr. Thomas to pursue a college career, Ms. Williams aided him in his decision to attend the University of Alabama.

Today, Ms. Williams still teaches at Miami Palmetto Middle School. Her former student Thomas has proceeded on to play professional football. In addition, Mr. Thomas and his praises for Ms. Williams helped to inspire the creation of the National Football League [NFL] Teacher of the Year Award. When NFL Commissioner Paul Tagliabue heard Thomas speak highly of his grade school mentor, he began talk of the program. Response from the players since then has been incredible, according to NFL spokeswoman JoJo Rein.

For her dedication and hard work, Ms. Williams will receive from the National Football League a $5,000 grant for use at her school, and a free trip to the Pro Bowl game in Hawaii. Her school will also be the recipient of a $10,000 scholarship, funded by the NFL, to be given in the names of both Ms. Williams and Mr. Thomas. In addition, I would like to commend the leadership of Principal Sidney Clark for making Palmetto Middle School a place where learning can happen, and where talented students like young Thomas are not overlooked.

INCLUSION OF AMERICAN SAMOA IN THE EMERGENCY LIVESTOCK FEED ASSISTANCE PROGRAM

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, today I am introducing legislation to amend the Agricultural Act of 1949 to make American Samoa eligible for emergency livestock feed assistance. This program will provide critically needed emergency feed assistance for the preservation and maintenance of livestock in American Samoa in the event of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster.

Mr. Speaker, this is yet another example of a vital program extended to all 50 States, Puerto Rico, the Virgin Islands, and Guam, but not American Samoa. I believe this may have been an oversight when the other three insular areas were added to this program in 1988 legislation.

American Samoa is in one of the most weather-turbulent areas of the world. Within the last 2 years, Samoa was devastated by two hurricanes with winds in the excess of 150 miles per hour. The most recent of the two, Hurricane Val, struck the islands of Samoa for 4 days in December last year and destroyed 95 percent of subsistence crops and approximately 60 percent of housing units.

The farmers in Samoa were not covered under any agricultural emergency programs until last month, when the U.S. Department of Agriculture included the territory in the Crop Loss Assistance Program. However, the livestock, dairy, and poultry farmers still remain without assistance from the Federal Government and private resources.

I believe this legislation will help relieve the critical need for emergency assistance faced by Samoa's livestock, dairy, and poultry farmers in the wake of disasters such as Hurricane Val.

Mr. Speaker, I urge my colleagues to pass this bill during this Congress.

H.R. 4289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY OF AMERICAN SAMOA FOR EMERGENCY LIVESTOCK FEED ASSISTANCE.

Section 602(3) of the Agricultural Act of 1949 (7 U.S.C. 1471(3)) is amended by inserting "American Samoa," after "the Virgin Islands,".

IN REMEMBRANCE OF GEN. JAMES H. POLK

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to honor the memory of four-star Gen. James H. Polk, a constituent of mine and, more importantly, a friend. General Polk was United States forces commander in Berlin during the cold war and commander-in-chief of the United States Army in Europe from 1966 to 1971, when he retired.

General Polk began his military career at Fort Bliss, TX, after graduating from the U.S. Military Academy at West Point in 1933. He was the last senior Army officer to serve in the horse cavalry. Additionally, General Polk was a former commander of the 3d Armored Cavalry Regiment, now located at Fort Bliss.

In 1945, General Polk was honored for gallantry by Gen. George S. Patton during the march across Nazi-occupied Europe. When he was promoted to brigadier general in 1956, he was pinned with two of General Patton's stars which had been given to him by General Patton's widow. He received the Croix de Guerre and the Legion of Honor from France for helping liberate the country from the Nazi occupation.

As assistant 3d Cavalry commander in Europe, General Polk spearheaded General Patton's 3d Army advances through France, Germany, and into Czechoslovakia.

General Polk followed a family legacy by joining the army. His great-uncle, Leonidas K. Polk, was an Episcopal bishop and West Point graduate who served as a Confederate general in the Civil War. His father, Army Col. Harding Polk, was a roommate of General Patton at Virginia Military Institute and West Point. And his brother, Thomas Polk, commanded a submarine in the October 1962 arms blockade of Cuba.

I first met General Polk in July 1967 when he was the keynote speaker for the graduation of the armored officer course, a course his son Jamie and I completed at that time. Prior to that first meeting General Polk was an inspiration to me. After, he became a great friend.

Mr. Speaker, I ask that today my colleagues join me in wishing godspeed to Gen. James J. Polk, a good friend to me, the residents of the 16th Congressional District of Texas, and all the citizens of the United States. I would also like to thank God for providing us with General Polk's military leadership and thank his family for sharing him with us for those many years.

STRENGTHENING THE ELECTIONS PROCESS IN ROMANIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. HOYER. Mr. Speaker, on February 9, 1992, the people of Romania went to the polls to elect local councilors and mayors in the first free local elections in over 40 years. A member of the Helsinki Commission staff traveled to Romania in January as part of a pre-election survey mission and returned this month as an accredited election observer.

The pre-election assessment prepared by the staff of the Helsinki Commission identified areas of significant improvement relative to the national elections of May 1990, in particular a more tolerant campaign atmosphere, more equal access to mass media, and the decision to allow domestic election observers. There were, however, a number of areas of concern. These included the lack of standard, detailed guidelines and procedures for election officials, the substantial technical role played by incumbent [appointed] officials, procedures for military and student voting, and the decentralized complaint process.

I recently received a response to the Commission's report from Doru V. Ursu and Mircea T. Vaida, Secretaries of State at the Romanian Department of State for Local Public Administration. They assured me that our recommendations and findings, as well as those of other observers, will be considered carefully in view of preparations for the general elections currently slated for May. They also informed me that a copy of the Helsinki Commission report will be submitted to the Romanian parliament for proper consideration during the drafting of the general election law, and that the Government will take into account recommendations regarding the areas within its competence, as it prepares for the organization of the upcoming general elections.

I am encouraged by the tone of this response, and I commend my Romanian colleagues for their intent to strengthen the process prior to the upcoming elections. The problems witnessed and concerns raised regarding the local elections were serious but not insurmountable. In particular, the provision of clearcut rules and procedures for election officials could help reduce inconsistencies and confusion. In addition, strengthening the interpretive and enforcement authority of the Central Election Commission could permit deeper and more public investigation of complaints and thus enhance confidence in the system.

With the general elections so near at hand, I urge the Romanian authorities to work closely with the political parties and parliament to establish consensus on anticipated electoral reforms. In this regard, I have learned of an elections roundtable in early March, at which time such negotiations might begin. I hope that a broad range of democratic political forces will support and participate in this process.

Finally, I would like to note the important role domestic observers played in the local elections. On February 9, more than 5,000 domestic observers representing a variety of nongovernmental organizations joined the international observers at the polling sites. Some of these organizations had also sponsored civic education programs during the campaign period. As recognized in the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, the presence of domestic observers can enhance the electoral process. I hope they will be encouraged and supported in the upcoming elections and any future contests.

The Helsinki Commission will continue to follow events in Romania with great interest and concern, and will do all it can to support the Romanian people in their efforts to build a democratic society.

HELPING REPUBLICS DISARM

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Ms. PELOSI. Mr. Speaker, on February 5, the San Francisco Examiner published an oped by our esteemed colleagues, Representatives FASCELL and BROOMFIELD entitled "Helping Republics Disarm." This cogent piece articulates the importance of the United States assisting the Commonwealth of Independent States in the physical act of disarmament. Disarmament in today's changing world is not only a matter of treaties, but also a matter of technical assistance. The United States has disarmament technology and expertise which, if shared with the former Republics of the Soviet Union, will make the world a safer place. I commend this article to the attention of my colleagues and urge them to give it thoughtful consideration.

[From the San Francisco Examiner, Feb. 5, 1992]

HELPING REPUBLICS DISARM

(By Dante Fascell and Wm. Broomfield)

Not many people know it, but the United States has quietly and efficiently gone about the business of destroying its nuclear and chemical stockpile over the last several years. About 20 percent of the job is already complete.

We know how to destroy these weapons safely. What we need to do now is make sure the former Soviet Union, the Commonwealth of Independent States, destroys its weapons—about 27,000 nuclear weapons and some 40,000 tons of chemical stocks. We should help the commonwealth with the job.

We need to share the technology that a House Foreign Affairs staff study says has allowed the United to disarm 10,000 nuclear and 100,000 chemical weapons in a safe and environmentally sound manner.

The window of opportunity is open and Congress has approved $400 million for this purpose. We should get on with it before that window slams shut.

Four steps need to be taken without delay:

1. We need an inventory of the republics' nuclear and chemical weapons. That means we need exact data on their quantity, quality, design and location. We also need an honest assessment from the commonwealth of exactly how much disarmament know-how they possess and how much we must supply.

2. We should press the commonwealth to join in forming both nuclear and chemical weapons disarmament commissions. These joint groups should be able to identify areas of common concern, pinpoint problems and arrive at solutions agreeable to both sides. Experts could be exchanged.

3. As other countries join with us in coordinating aid to the commonwealth, they should seriously consider establishing a billion-dollar disarmament fund to add to the $400 million the United States has already committed.

4. The United States has specially designed trucks and rail cars for transporting nuclear weapons to disarmament sites safely and securely. We should consider loaning these vehicles to the commonwealth to help jumpstart its disarmament program.

The inventory, disarmament commissions, technical exchanges and transportation aid would be prudent and inexpensive first steps to disarmament.

Disarming offers significant business opportunities for American industry. Conversion from defense enterprise to disarmament enterprise by companies such as Raytheon, General Atomics and Waste Management is approaching a gross private sector income of $10 billion. Much of the technology used here is applicable in the former Soviet Union, where even greater opportunities await U.S. businesses.

The United States has taken the disarmament leadership position and our ante is on the table. That leadership is important and we in Congress can be proud of our efforts to initiate the process last fall. Add that to Secretary of State James Baker's leadership this month in convening an international conference on aid to the commonwealth, and you've got a winning American team.

Disarmament is not a giveaway to the commonwealth. It is a program that enhances America's own interests by keeping the commonwealth's weapons of mass destruction out of the wrong hands.

A SALUTE TO THE NATIONAL VISITING NURSE ASSOCIATIONS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. MAZZOLI. Mr. Speaker, this past week we observed National Visiting Nurse Associations Week to recognize and commend the vital role these local organizations play in our Nation's health care delivery system.

In my own hometown, the Visiting Nurse Association [VNA] of Louisville is embarking on its 102d year of exemplary service to our community. Actually, VNA of Louisville serves a much broader geographic area that we call "Kentuckiana" which is comprised of about 13 counties along the Ohio River in Kentucky and southern Indiana.

The VNA of Louisville makes more than 600 daily home visits, providing a range of nursing, rehabilitation, dietician, social work, personal care, pediatric and mental health services. It is no surprise that from this long history of commitment, and with the support of many dedicated volunteers, the Visiting Nurse Association of Louisville has become one of the largest and most comprehensive associations in the country.

I was particularly pleased and proud to read in the recent issue of Caring, a publication of the National Association of Home Care, of the leadership role which the Visiting Nurse Association of Louisville has assumed in the treatment of Alzheimer's disease patients.

We are all too familiar with this devastating disease which afflicts nearly 4 million Americans and their families, and imposes upon the families of Alzheimer's victims heavy financial burdens and the mental and emotional torment of seeing a loved one deteriorate into total dependence.

Recently, there have been encouraging developments in research and diagnostic studies of Alzheimer's disease. And I am hopeful that Congress will continue to regard these efforts with the highest priority and support leading toward improved treatment and a cure.

It is in this realm that the VNA's 18 mental health staff nurses have made a significant contribution in annually caring for over 800 patients, a third of whom are affected by some level of Alzheimer's symptoms. For most American families, home-based health care services provide a more cost-efficient and preferable alternative to institutionalized care.

The visiting nurse is ideally suited to this situation as both a teacher and a friend—as someone who dispenses both knowledge and compassion in behalf of their patients. It is difficult to place a value on the counsel and emotional reenforcement provided to a family caregiver by a home visit from someone skilled in coping with this trauma.

Mr. Speaker, I was pleased to be a cosponsor of the legislation, House Joint Resolution 212, to commemorate the occasion of National Visiting Nurse Associations Week. And, I salute the Visiting Nurse Association of Louisville for their enduring commitment to the people of Louisville and Jefferson County and Kentuckiana. I know that my comments echo the deep sense of appreciation felt among my colleagues in paying tribute to the members of all the visiting nurse associations across America for their outstanding service.

TURMOIL IN NAGORNO-KARABAGH

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. TORRICELLI. Mr. Speaker, I would like to address an issue of great concern to me and the many Armenian-Americans living in the United States: The turmoil in Nagorno-Karabagh.

The people of Armenia have long endured hardship and human suffering. Between 1915–23, 1.5 million Armenians died in a brutal genocide campaign waged by the Ottoman Turks. After this massacre, the State of Armenia was carved up and the region of Nagorno-Karabagh was entrusted to Azerbaijani rule. Today, ethnic Armenians are still struggling for their liberties under the domination of Azerbaijan.

Soviet state repression and Azerbaijani dominance have kept the ethnic Armenians in Nagorno-Karabagh from objecting to their political predicament. The people of Nagorno-Karabagh liken their domination by Azerbaijan to their suppression by the Turks. For some

70 years, they have endured in silent protest, maintaining their culture, their religion, and their language while the Azerbaijanis have tried to chip away at their resolve.

The Gorbachev regime in the 1980's heralded a new era in the Soviet Union where ethnic expression and independence movements flourished. In 1988, the Nagorno-Karabagh State Soviet seized the opportunity and voted for secession from Azerbaijan. The Government of Azerbaijan rejected the vote and sent troops to the region to stifle the secessionist movement. Since then, hundreds of people have been killed and a half million have been displaced as Armenians fight for independence from Azerbaijani control.

The Armenian people in Nagorno-Karabagh will never assimilate into the Azerbaijani state. They constitute some 80 percent of the populace, observe a different culture and speak a different language than their Azerbaijani rulers. They continue to practice Christianity in a predominately Muslim state. Resentment between the people run deep.

The people of Nagorno-Karabagh must be allowed the freedom of self determination. We are in the midst of an epoch of ethnic liberation, of new political, religious, and cultural expression. The Armenians in Nagorno-Karabagh cannot be excluded from this process.

For 6 months, Yugoslavia was torn apart by a bloody and brutal war between the Serb and Croatian states. The root of the conflict was ethnic and it was avoidable. If world attention had been focused on this issue at the outset, thousands of lives may have been saved and widespread destruction avoided. We cannot repeat the same mistakes we made in our policy toward Yugoslavia.

I support Secretary of State Baker's recent trip to the region to highlight the conflict in Nagorno-Karabagh. It is imperative that the United States lend its support to the conference on security and cooperation in Europe and the United Nations to resolve this dispute. Moreover, I call on the Bush administration to withhold full diplomatic relations with Azerbaijan pending their commitment to a peaceful settlement in the region.

I call on my congressional colleagues to take a firm stance on this issue and pressure the administration to work to resolve this conflict expeditiously.

H.R. 4197—TO EXPAND THE SBA LOAN GUARANTEE PROGRAM

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. GUNDERSON. Mr. Speaker, it will take increased small business activity to lead the Nation out of the recession. America's small businesses employ 60 percent of the work force and produce 38 percent of the Nation's gross national product.

Unfortunately, small businesses eager to increase their activity, and looking for capital, are being held back. The credit crunch created by banks unwilling to lend money is a large part of the problem.

To help, I introduced legislation with Representative IRELAND (H.R. 4197) to increase the amount of capital available for loan by the Small Business Administration. Demand for loans from the SBA Loan Guarantee Program is up 23 percent over last year.

Let me relate the importance of this program to my own home State, and to my own congressional district. Last year alone, the Loan Guarantee Program provided over $184 million for Wisconsin businesses, creating 2,796 new jobs. One hundred and fifty-six of those new jobs were in western Wisconsin, created through just 41 loans totaling nearly $18 million. The loans, which of course are paid back to the Government, generated $41 million in tax revenues.

More loans were approved in Wisconsin than in any other State in the Midwest region. The per capita rate of SBA lending also is among the highest in the Nation, while loan delinquency rates are the lowest in the Midwest region.

In Eau Claire, our largest city, the SBA made loans to 17 small businesses. Combined, these businesses employ 368 workers—20 more than last year.

In La Crosse County, our largest, just 4 loans created 27 additional jobs, bringing to a total of 118 jobs provided by the loan recipients.

Other loans were made as follows:

Barron County: 4 loans; $430,000; creating 4 new jobs.

Crawford County: 2 loans; $1.77million; creating 19 jobs.

Dunn County: 1 loan; $831,000; creating 4 jobs.

Eau Claire County: 17 loans; $3.8 million; creating 20 jobs.

Grant County: 1 loan; $95,000; no new jobs.

Jackson County: 2 loans; $930,000; no new jobs.

La Crosse County: 4 loans; $5 million; creating 27 jobs.

Pierce County: 1 loan; $455,000; no new jobs.

Polk County: 2 loans; $2.5 million; creating 16 jobs.

St. Croix Falls: 6 loans; $1.7 million; creating 66 jobs.

Trempealeau County: 1 loan; $190,000; no new jobs.

This represents a good start. However, there are still too many small businesses that need help. They have solid business plans for startup ventures and expansion, but are not getting enough help from local lenders.

Just last week, I was contacted by three such small business owners in my district. In one case, a business owner seeking to expand her trucking-transport business in Eau Claire, WI was turned down for a $30,000 loan by a local bank, despite the fact that the bank is holding $500,000 of her money. She wants to hire four new drivers—doubling her staff—and has delivery orders backlogged. The bank refuses to take the risk on her business, even though she has been in business for 10 years.

In another case, six banks in Eau Claire, refused to lend $30,000 to a light manufacturing business. The owner wants to compete with the only other U.S. manufacturer of a lid and rack system for light trucks. Despite the fact that she has a solid business plan, a state-of-the-art manufacturing design, committed additional funding from the city's Business Incubation Center, and orders already lined up, the banks consider her proposal too speculative. With such pessimism, even the best small businesses won't be able to pull through this recession.

By expanding the SBA loan program, the credit crunch problem should subside. Under the program, the SBA covers 90 percent of a bank's risk for each guaranteed loan. In the above cases, local banks would risk just $3,000 on each loan.

As important, SBA loans often free up other community-based loans for additional funding. For example, the city of Eau Claire, WI has established a $600,000 fund to assist business development in the community. Businesses may get up to 30 percent of their desired loan amounts from the fund after securing funding elsewhere first.

The recession will end only when communities and local leaders combine resources to assist area small businesses. Until then, they will continue to be held back from doing what they do best—putting Americans to work. In my view, it is critical that we increase the funding levels for the SBA Loan Guarantee Program to match demand. I appreciate the willingness of this committee to help meet that demand.

THE HILLEL FOUNDATION AT THE STATE UNIVERSITY OF NEW YORK AT STONY BROOK CELEBRATES ITS 25TH YEAR

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. HOCHBRUECKNER. Mr. Speaker, I would like to take this moment to recognize the B'nai B'rith Hillel Foundation at the State University of New York [SUNY] at Stony Brook as it celebrates its 25th anniversary.

Hillel has served the needs of the Jewish community on the Stony Brook campus by providing religious, educational, cultural, and social programming as well as counseling, guidance, and religious leadership. Throughout the past 25 years, Jewish communal organizations, particularly B'nai B'rith International, United Jewish Appeal-Federation of Greater New York, and Friends of Hillel at Stony Brook have provided invaluable support and financial resources.

Perhaps Hillel's greatest accomplishment has been its ability to provide a Jewish home for Stony Brook students who are away from their families. This critical support has enabled students to develop and grow into active members and leaders of the community.

Mr. Speaker, I ask my colleagues to join with me in congratulating the B'nai B'rith Hillel Foundation and SUNY at Stony Brook on their 25th anniversary.

INTRODUCTION OF LEGISLATION REGARDING RESIDENCY REQUIREMENTS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to introduce a bill which will remove the 3-month U.S. residency requirement placed on U.S. nationals born in American Samoa who desire to apply for U.S. citizenship.

Mr. Speaker, American Samoa is in an anomalous position: It is the only U.S. territory in which persons born are not U.S. citizens. American Samoa has a system of compulsory education as does the United States, and the English language and American history are mandatory subjects for study. With our current system of government and emphasis on American education, it seems unfair and unreasonable to me for American Samoa-born U.S. nationals to have to move to the United States and establish residency for 3 months before they can apply to become U.S. citizens. This is an unnecessary burden on American Samoans, and I hope my colleagues will pass this bill during this Congress.

H.R. 4290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESIDENCE WITHIN AN OUTLYING POSSESSION AS RESIDENCE WITHIN A STATE OR DISTRICT OF THE SERVICE.

Section 325 of the Immigration and Nationality Act (8 U.S.C. 1436) is amended by inserting ", and within a State or district of the Service in the United States," after "presence within the United States".

TRIBUTE TO THE LATE R.W. BRICKEN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. SKELTON. Mr. Speaker, today I pay tribute to an outstanding Missourian, Richard Woodson Bricken, who passed away recently at the age of 85. His contributions to the State of Missouri and his community will be well remembered.

Born in Carrollton, MO, Richard Bricken later moved to Waverly where he owned and edited the Waverly Times from 1941 to 1974. Mr. Bricken also owned the R.W. Bricken Real Estate & Insurance Agency from 1946 to 1991. In 1961, he was the president of the Central Missouri Board of Realtors.

Mr. Bricken, who was an Army veteran of World War II, kept continued links with the veterans through his active participation as a member of the Veterans of Foreign Wars in Carrollton, MO, and was a founding member of the Waverly post of the American Legion. He was also named an honorary colonel by former governors James T. Blair, Jr., John M. Dalton, and Warren E. Hearnes.

Richard Bricken is survived by his wife Pan. He will be missed not only by his many friends, but by the community he served for so many years.

THE INTRODUCTION OF THE McKINNEY HOMELESS ASSISTANCE REAUTHORIZATION ACT OF 1992

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. VENTO. Mr. Speaker, I am introducing the reauthorization of the Stewart B. McKinney Homeless Assistance Amendments Act of 1992, H.R. 4300.

Almost 10 years ago, when I first initiated national policy on homeless legislation, most of us hoped that we could effectively address and resolve the challenges presented by homelessness. I had thought that by now we could have moved beyond the McKinney Act. Unfortunately, homelessness persists—a tragic consequence of the excesses of the 1980's and a precursor of the 1990's, the human deficit left behind by the misplaced priorities of the last decade.

The national phenomenon of homelessness continues to grow and change. In the 1991 U.S. Conference of Mayors annual survey of hunger and homelessness, it was found that requests for emergency food assistance rose an average of 26 percent and emergency shelter requests increased by an average of 13 percent. Underfunded and overcrowded facilities in most cities turned away some 17 percent of the people seeking food and 15 percent of those seeking shelter. Requests for emergency shelter by homeless families with children increased by an estimated average of 17 percent.

Across the survey cities, half of the homeless population is estimated to be 50 percent single men; 35 percent families with children; 12 percent single women; and 3 percent unaccompanied youth. An estimated 29 percent of the homeless population in the survey cities is considered mentally ill, 40 percent have substance abuse problems, and 7 percent have AIDS or HIV related illnesses. An average of 18 percent is employed full- or part-time and 23 percent are veterans.

This grim picture of the homeless is unlikely to change in the near future. The economy is in a weakened state. The national economic recession, a structural economic phenomena, has exacerbated unemployment, stifled consumer demand and has done little to enhance housing affordability. Further, as recovery proceeds, we will see renewed pressures on home prices and rents.

Because we have an imperfect social welfare system and housing policies, we have to continue to fill the gaps in the safety net with the McKinney Homeless Assistance Act.

The new 1992 McKinney reauthorization proposal would authorize nearly $1.5 billion for each of the next 3 years. It would extend existing programs providing housing, food, and essential services, such as job training, education, and health care, with increased authorization levels to reflect the increasing costs faced by programs that are up and running and to reflect the ongoing and increasing needs of homeless Americans.

The act also contains several new programs—including a program to specifically address rural homelessness, a demonstration grant for the expansion of advocates and benefits service programs, an expansion of the homeless veterans job training programs, revised disposition of properties for the homeless or homeless advocates at the Farmers' Home Administration and the Department of Veterans Affairs, and a new component to provide for residential substance abuse treatment and prevention for homeless persons.

Congress, in conjunction with local and State governments, and the integral network of nonprofits and service organizations, has and must continue to respond to the homeless through existing mainstream programs and through the many unique programs that make up the McKinney Homeless Assistance Act. We need to continue coordination between Federal, and State and local governments in order to generate effective programs and to maximize the funds. While there is no magic formula and there is no money tree, together we can and we must reverse the trend and bring new hope to those Americans tragically affected by homelessness.

Mr. Speaker, I hope all my colleagues will join me, and the 41 other Members who are original cosponsors of the bill, in supporting comprehensive McKinney legislation—paving the way to enact this much needed reauthorization of Federal homeless assistance programs.

Following my statement is a section-by-section of the bill as introduced.

SECTION-BY-SECTION OF THE McKINNEY HOMELESS ASSISTANCE REAUTHORIZATION ACT OF 1992

TITLE I

Provides for general budgetary compliance with the concurrent resolution of the budget. Makes technical corrections to the table of contents.

TITLE II

Extends the Interagency Council on the Homeless, which serves as a central coordination, evaluation and information-sharing agency for all homeless assistance programs through October 1, 1995. Authorizes $1,360,000 for fiscal year 1993 and such sums as necessary through 1995.

TITLE III

Authorizes $160,000,000 for the FEMA Emergency Food and Shelter Program, which provides food, shelter, and support services to meet the immediate needs of the homeless, for fiscal year 1993 and such sums as necessary through 1995.

TITLE IV

Requires the inclusion of homeless information in comprehensive housing affordable strategies (CHAS) of National Affordable Housing Act.

Authorizes $145,000,000 for the Emergency Shelter Grants Program, which provides funding for the conversion or rehabilitation of buildings for use as emergency shelters and for homeless prevention activities for fiscal year 1993 and such sums as necessary through 1995.

Authorizes $210,000,000 for Supportive Housing, which provides assistance in development of transitional and permanent housing for fiscal year 1993 and such sums as necessary through 1995. Specifies the eligibility of small commercial office space for conversion to supportive housing.

Authorizes $35,000,000 for Supplemental Assistance for the Homeless, a program that provides funding to assist facilities and provide support services for the homeless, for fiscal year 1993 and such sums as necessary through 1995.

Increases the budget authority available for Section 8 Single Room Occupancy (SRO) Dwellings to $110,000,000 for fiscal year 1993 and such sums as necessary through 1995. The SRO program provides rental assistance for single rooms for homeless individuals.

Authorizes $77,000,000; $39,060,000; and $175,560,000 respectively for Shelter Plus Care programs (Section 8 SRO; 202 housing, and Rental Assistance) for fiscal year 1993 and such sums as necessary through 1995.

Requires evaluations of homeless assistance programs through surveys of homeless clients. Extends McKinney programs without block granting certain housing assistance through October 1, 1995. Disallows the use of 1990 Census data gathered on S night for the allocation of federal homeless assistance.

Authorizes a new property disposition program for the FmHA single family disposition targeting no less than ten percent of eligible properties for lease or purchase for the homeless.

Authorizes $40,000,000 for a new rural homelessness grant program to target emergency, prevention and permanent housing assistance to rural areas for fiscal year 1993 and such sums as necessary through 1995.

TITLE V

Authorizes $84,000,000 for categorical grants for Primary Health Services and Substance Abuse Services for the homeless for fiscal year 1995. This categorical grant provides discretionary funding for primary health care services.

Authorizes $75,000,000 for a new residential substance abuse treatment and prevention program for the homeless for each of the fiscal years 1993 through 1995.

Authorizes $79,000,000 for the PATH mental health block grant for 1995. This block grant program provides funding for numerous services, including substance abuse and mental health treatment, rehabilitation services, other outreach or case management services and a structure for coordinating housing services.

Authorizes $12,000,000 for Mental Health Services for Homeless Individuals with Chronic Mental Illness for fiscal years 1994 and 1995. This program provides discretionary funding for primary care services, drug and alcohol abuse treatment, mental health treatment, housing for the mentally ill homeless, and other outreach or case management services.

TITLE VI

Authorizes $14,500,000 for Adult Education for the Homeless, which provides assistance for literacy training and remedial skills for homeless adults, for fiscal years 1994 & 1995.

Authorizes $55,000,000 for the Education for Homeless Children and Youth grants, which provide funding for the development and implementation of education programs for homeless youth, for fiscal years 1994 and 1995.

Extends Job Training for the Homeless programs and authorizes $20,000,000 for the job training programs, including counseling, job search skills, training, and remedial education for fiscal years 1993 through 1995. Of these funds, $10,000,000 is targeted for homeless veterans reintegration projects.

Authorizes $55,000,000 for the Emergency Community Services Homeless Grant program for fiscal years 1994 and 1995. This program provides grants to expand programs to the homeless and to assist those at risk of becoming homeless.

Authorizes $55,000,000 for Family Support Centers for fiscal years 1993 through 1995. This program coordinates services designed to prevent homelessness among families at risk.

TITLE VII

Authorizes $34,750,000 for the Medical Care of Veterans for fiscal years 1993 through 1995. These funds are available for providing domiciliary care for homeless veterans and for the provision of treatment or rehabilitation services for mentally ill homeless veterans.

Authorizes a new property disposition program for the Department of Veterans Affairs single family disposition targeting no less than ten percent of eligible properties for lease or purchase for the homeless.

TITLE VIII

Authorizes $40,000,000 for a new National Homeless Advocate Demonstration Grant Program for fiscal years 1993 through 1995. This new program would provide funding through the states for advocacy services, including representative payees and guardians, for the homeless.

ALL TITLES

To the extent practicable, all McKinney Act programs will provide for consultation, representation, and employment of homeless or formerly homeless persons to or by the programs.

THE AIDS CRISIS: WE CAN WAIT NO LONGER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. RANGEL. Mr. Speaker, once again I rise to call the attention of my colleagues to the unfolding AIDS crisis, an epidemic so threatening that it is soon expected to surpass all other diseases in lost human lives.

I recommend you all to the recently published report in the New York Times, "Accelerating, Nation's AIDS Count Hits 200,000." As the article states:

> The nation's AIDS epidemic has reached another grim milestone: 200,000 reported cases, with the second 100,000 coming four times as quickly as the first.

And the United States is expected to reach the next 100,000 cases even more quickly, in less than 2 years.

These numbers tell a tragic tale. While the nation slept, while our politicians and our clergy and our educators dragged their feet and deliberately looked the other way, AIDS began its race through our lives.

And it has not slowed yet, nor will it soon. According to the President's National Commission on AIDS:

> Disproportionately and increasingly the epidemic has attacked segments of society already at a disadvantage—communities of color, women and men grappling with poverty and drug use, and adolescents who have not been effectively warned of this new risk to their futures.

In New York, we know these faces all too well. New York City has an estimated 200,000 intravenous drug users, roughly half of whom are HIV positive. More than 80 percent of all female cases and 88 percent of all pediatric AIDS cases are black or Hispanic. Indeed, AIDS is the leading cause of death in New York City among all men aged 30–49 and all women aged 20–39.

Yet despite its epic proportions—despite the rapid spread of AIDS into our schools, our churches, and our homes, despite the crushing impact the disease has on delivery of health care to our communities, despite the 133,232 American lives already lost—we are still not getting the job done.

As the National Commission on AIDS stated, "Our nation's leaders have not done well."

President Bush, to be sure, has not done well. He has made only one speech—only a single speech out of thousands—on AIDS. He has consistently undercut congressional efforts to fund AIDS research and health care. His administration has impeded efforts to establish reasonable and responsible public policy by introducing obscuring and peripheral issues, like mandatory testing and immigration barriers.

Worst of all, so many people remain indifferent. Americans must learn that AIDS will not wait for them.

We must become more humane and compassionate in our treatment of AIDS patients. We must become willing to commit more funds to research. We must ensure that medical treatment is available to those that need it.

Above all, we must break the silence on AIDS.

As the New York Times columnist A.M. Rosenthal recently wrote:

> Silence has a loud voice. It shouts, "Nothing important is happening, don't worry." So when something important is going on, silence is a lie.

Let us be silent no more. Let us wait no longer.

ACCELERATING, NATION'S AIDS COUNT HITS 200,000

ATLANTA, January.—The nation's AIDS epidemic has reach another grim milestone: 200,000 reported cases, with the second 100,000 coming four times as quickly as the first.

The Federal Centers for Disease Control reported today that the nation now has 206,392 cases of people whose immune systems have been severely weakened by the disease, with 133,232 deaths. It was August 1989, eight years into the epidemic, when the 100,000th AIDS case was reported; the next 100,000 cases surfaced in just 26 months, the agency said.

The cumulative total "emphasizes the rapidly increasing magnitude of the H.I.V. epidemic," the agency said in its report.

If current trends continue, the next 100,000 cases should come even faster as the epidemic spreads, said Dr. Larry Slutsker, an AIDS epidemiologist at the agency.

"The AIDS cases we're seeing now are a reflection of H.I.V. infections that occurred years ago," he noted.

A CHANGING PROFILE

The second 100,000 cases differed from the first 100,000 in these ways:

Seven percent of the newer AIDS cases were traced to heterosexual transmission—still a minority but an increase compared with the first 100,000, 5 percent of which were heterosexual cases. More than 11,000 heterosexual AIDS cases have now been reported. Scientists at the disease-control centers expect that count to double by 1995, Dr. Slusker said.

Twelve percent of the second 100,000 AIDS cases occurred in women, compared with 9 percent of the first 100,000.

Thirty-one percent of the second 100,000 patients were black, compared with 27 percent earlier. Seventeen percent of the patients were Hispanic, compared with 15 percent earlier.

Fifty-five percent of the later cases occurred in gay or bisexual men not using injectable drugs, down from 61 percent earlier.

Twenty-four percent of the later cases occurred among heterosexual drug abusers, compared with 20 percent earlier.

The number of AIDS cases in the United States is expected to reach 300,000 in less than two years. The C.D.C. has proposed broadening its definition of an AIDS case, a move that could add another 160,000 people infected with the human immunodeficiency virus to the list of those with the disease.

If the new definition is approved, the health agency hopes to send it to state and local health officials for use this spring.

SUPPORT FOR HIGH-VALUE AGRICULTURAL EXPORTS

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. PENNY. Mr. Speaker, today Representative TOM COLEMAN of Missouri and I were joined by 12 of our colleagues in introducing the "Expansion of Processed and High-Value Agricultural Exports and Employment Opportunities Act of 1992."

There are numerous economic benefits to be gained by adding value to raw agricultural commodities before exporting them. Those benefits include increased tax revenues, multiplied economic activity, rural economic development, and jobs for rural Americans. It is also likely that improving our effectiveness in exporting high-value agricultural products [HVP's] will give the United States additional leverage with the European Community at the crucial GATT negotiations.

I have long been interested in increasing U.S. exports of agricultural HVP's. These products, such as meats and poultry, vegetable oil, cheese, butter, and dry milk, flour, and fruits and vegetables, currently make up less than 10 percent of all commercially assisted U.S. agricultural exports. It is important to note that over the last decade, while the European Community increased its share of HVP world trade to 41 percent through a variety of policies and mechanisms, the U.S. share of that market has stagnated at only about 9 percent. This occurred during a period when world demand for agricultural HVP's increased by more than 50 percent.

During the development of the 1990 farm bill, several of my Agriculture Committee colleagues and I included a provision urging the U.S. Department of Agriculture to set 25 percent as a goal for U.S. HVP world market share. We are woefully short of that goal and I am not aware that the USDA has a plan in place to improve our efforts in this area.

For that reason, Representative COLEMAN of Missouri and I worked closely with agricultural exporters, food processing companies, labor organizations, and commodity groups to develop this legislation. By increasing our share of the HVP market to 15 percent by targeting a larger share of our export efforts to HVP's, we can create more than a million new jobs and increase our GNP by up to $100 billion without affecting traditional exports of bulk agricultural commodities.

Let's redirect a small part of our agricultural export efforts and reap big gains for the U.S. economy and the American work force by passing the Expansion of Processed and High-Value Agricultural Exports and Employment Opportunities Act of 1992.

HOUSE POST OFFICE SITUATION

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. ROBERTS. Mr. Speaker, I rise to help clarify statements made on February 5 during the debate of House resolution to investigate the House post office.

Throughout the floor debate on House Resolution 340, several points were raised in an effort to determine which House committees, officials, staff, and others were aware of the events surrounding a U.S. Postal Inspector Service review of the House operation. The primary concern surrounding the September 27, 1991, report was that the minority leadership and committees of jurisdiction were not alerted to its existence.

During a briefing requested by Minority Leader BOB MICHEL with the U.S. postal inspectors on January 29, 1992, about the report, the minority was told that the House Post Office and Civil Service Subcommittee on Postal Operations, Chaired by the Hon. FRANK MCCLOSKEY, had been provided information surrounding the report. This statement lead the minority to believe that the subcommittee had not informed members of the situation earlier.

I have now been provided a copy of U.S. Postal Service receipt showing that a copy of this report was sent on January 28 at the request of Chairman MCCLOSKEY'S staff to the subcommittee—this action happened on the same day of the first Washington Times report on the House post office. As well, I have been assured by Chairman MCCLOSKEY that that date was the first time his staff was made aware of the report.

I have not been able to confirm when this or other committees, staffs, officials, or others were informed of the U.S. Postal Service inspectors activities.

Mr. Speaker, it seems this situation illustrates the continuing confusion surrounding the entire affair. Chairman MCCLOSKEY was kept in the dark despite his subcommittee's jurisdiction. He also is a victim of certain individuals working outside the official committee structure. These individuals have done a disservice to Chairman MCCLOSKEY and to the Congress.

TRIBUTE TO BOBBY "BLUE" BLAND

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. FORD of Tennessee. Mr. Speaker, I rise today to salute the great vocal artist Bobby "Blue" Bland, who this month was inducted into the Rock and Roll Hall of Fame.

Mr. Bland, who makes his home in my district—Memphis—is truly one of the fathers of modern soul singing. In his more than 40 years in show business, he has become a living legend, recording and touring across this country and internationally.

Mr. Bland is known for his classy, stylish performances sung in a distinctive bluesy baritone voice over brassy orchestrations. His grainy vocal style draws on gospel and blues, which are at the core of Memphis music.

Robert Calvin Bland was born on January 27, 1930, in Rosemark, TN. In 1944, he and his family moved to Memphis, where he joined a gospel ensemble, the Miniatures. He later met the great blues performer B.B. King, and he joined the Beale Streeters, an informal group of Memphis blues musicians. In 1954 he landed his first recording contract with Duke Records.

Mr. Bland has had an extensive and successful career with a string of hits including "I Pity the Fool," "Turn on Your Lovelight," "Call on Me," "Ain't No Love You Can Do," "Ain't Nothing Too Bad," and "Rocking in the Same Boat."

In 1989, Mr. Bland received a Grammy nomination for best male contemporary blues artist. And on January 15, 1992, Mr. Bland received an honor deeply desired but seldom received by many artists—the induction into the Rock and Roll Hall of Fame.

Mr. Speaker, it is truly a pleasure to recognize the many accomplishments and artistic contributions of Bobby "Blue" Bland. I ask my colleagues to join me in congratulating him on his membership in the hall of fame and in wishing him many years of continued success.

TRIBUTE TO YUNGMAN LEE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 24, 1992

Mr. GREEN of New York. Mr. Speaker, I rise today to recognize a distinguished New Yorker, Yungman Lee, who is being honored tonight in my district for dedicating 20 years of service to the Chinatown community in New York City. Mr. Lee recently was appointed the first deputy superintendent of banks for the State of New York Banking Department.

Yungman Lee's résumé displays an exemplary list of civic activities. He is the former chairman of the board of directors and the former program director of Community Health Education at the Chinatown Health Clinic in New York City where he maintains his membership on the board. Additionally, Yungman

Lee is a member of the community board at Bellevue Hospital and also a member of the board of directors at the Forest Hills Settlement House.

Mr. Lee not only is extremely active in the community, but he also has proven his expertise in economic issues. He is the commissioner of the New York City Tax Commission, a former associate at Shearman & Sterling, Esqs., and also a graduate of New York University's School of Law.

I am pleased to take this opportunity to congratulate Mr. Lee upon his recent appointment and commend him for the leadership role he plays within our community.

Although my legislative schedule in Washington will prevent me from attending tonight's farewell dinner in Mr. Lee's honor, I should like to send my best to Mr. Lee and the friends of Yungman Lee for a successful event.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, February 25, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 26

9:30 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on S. 2169, making supplemental appropriations for fiscal year 1992 for programs that will provide near-term improvements in the nation's transportation infrastructure and long-term benefits to those systems and to the productivity of the United States economy.

SD-138

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to review NASA's proposal to restructure their Earth Observing System program (EOS), which is designed to conduct long-term measurements of the Earth's environmental systems.

SR-253

Energy and Natural Resources

Business meeting, to consider the Views and Estimates Report for fiscal year 1993 of the portions of the Federal budget under the committee's jurisdiction.

SD-366

Governmental Affairs

To hold hearings on the integrity and effectiveness of the Offices of Inspectors General.

SD-342

Rules and Administration

To hold hearings on S.J. Res. 221, providing for the appointment of Hanna Holborn Gray as a citizen regent of the Smithsonian Institution, S. 1598, to authorize the Board of Regents of the Smithsonian Institution to acquire land for watershed protection at the Smithsonian Environmental Research Center, and S. 1682, to authorize the Board of Regents of the Smithsonian Institution to acquire an Administrative Service Center.

SR-301

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to consider the nominations of Alan Greenspan, of New York, to be Chairman and a Member of the Board of Governors of the Federal Reserve System, Lawrence U. Costiglio, of New York, Daniel F. Evans Jr., of Indiana, Marilyn R. Seymann, of Arizona, and William C. Perkins, of Wisconsin, each to be a Director of the Federal Housing Finance Board, J. Carter Beese Jr., of Maryland, to be a Member of the Securities and Exchange Commission, and Frank G. Zarb, of New York, to be a Director of the Securities Investor Protection Corporation.

SD-538

Judiciary

Constitution Subcommittee

To hold hearings on S. 2236, to revise the Voting Rights Act of 1965 to modify and extend the bilingual voting provisions of the Act.

SR-385

Labor and Human Resources

To hold hearings to review the Department of Labor's regulatory policy.

SD-430

10:30 a.m.

Rules and Administration

Business meeting, to consider pending calendar business.

SR-301

2:00 p.m.

Armed Services

To hold hearings on the impact of the defense builddown (decrease in defense spending) on the United States industrial base.

SD-192

2:30 p.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on proposed legislation to authorize funds for AMTRAK.

SR-253

Select on Indian Affairs

Business meeting, to mark up S. 1602, to ratify a compact between the Assiniboine and Sioux Indian Tribes of the Fort Peck Reservation and the State of Montana; to be followed by an oversight hearing on the President's proposed budget request for fiscal year 1993 for Indian programs.

SR-485

FEBRUARY 27

9:15 a.m.

Joint Economic

Technology and National Security Subcommittee

To hold hearings to examine international competition in the commercial aircraft industry.

SD-628

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to examine current trends in money laundering.

SD-342

Veterans' Affairs

To hold hearings on proposed budget requests for fiscal year 1993 for veterans programs.

SR-418

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Transportation and related agencies.

SD-138

Commerce, Science, and Transportation

To hold hearings on indicators of global warming and solar variability.

SR-253

Environment and Public Works

To hold hearings on the President's proposed budget request for fiscal year 1993 for the Environmental Protection Agency.

SD-406

Finance

Business meeting, to mark up proposed legislation to encourage economic growth and recovery.

SD-215

Foreign Relations

To resume hearings to examine strategic nuclear reduction in a post-cold war world, focusing on national security issues.

SD-419

Judiciary

Business meeting, to consider pending calendar business.

SR-325

10:30 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the semi-annual review of the Resolution Trust Corporation.

SD-538

1:30 p.m.

Appropriations

Defense Subcommittee

To hold closed hearings on proposed budget estimates for fiscal year 1993 for global defense programs.

SD-116

2:00 p.m.

Armed Services

To hold hearings on managing the defense builddown (decrease in defense spending).

SH-216

2:30 p.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the American Battle Monuments Commission, the Selective Service System, and Army Cemeterial Expenses.

SD-138

Select on Indian Affairs

To continue hearings on the President's proposed budget request for fiscal year 1993 for Indian programs.

SR-485

FEBRUARY 28

9:30 a.m.

Commerce, Science, and Transportation
Communications Subcommittee

To hold hearings on S. 1200, to establish a new national goal that by the year 2015 the U.S. has established an advanced, interactive, interoperable, broadband communications system nationwide.

SR-253

10:00 a.m.

Foreign Relations

To resume hearings to examine the strategic nuclear reduction in a post-cold war world.

SD-419

MARCH 3

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of Foreign Wars.

345 Cannon Building

Special on Aging

To hold hearings to examine the effects of fuel assistance and housing reductions on the elderly.

SD-628

10:00 a.m.

Appropriations
Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Agricultural Research Service, the Cooperative State Research Service, and the Extension Service.

SD-138

2:30 p.m.

Appropriations
Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for foreign assistance, focusing on multilateral development banks.

SD-138

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1755, to reform the concessions policies of the National Park Service.

SD-366

MARCH 4

2:00 p.m.

Armed Services

To hold hearings on proposed legislation authorizing funds for fiscal year 1993 for the Department of Defense and the future year defense plan, focusing on the unified commands military strategy and operational requirements.

SR-222

MARCH 5

9:30 a.m.

Armed Services

To continue hearings on proposed legislation authorizing funds for fiscal year 1993 for the Department of Defense and the future year defense plan, focusing on the unified commands military strategy and operational requirements.

SR-222

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, the Blinded Veterans of America, WWI Veterans, Military Order of the Purple Heart, Association of the United States Army, Retired Officers Association, and Vietnam Veterans of America.

345 Cannon Building

10:00 a.m.

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of State.

S-146, Capitol

Appropriations
Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Interstate Commerce Commission, and the Office of Inspector General.

SD-138

2:00 p.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Consumer Product Safety Commission, the Office of Consumer Affairs, and the Consumer Information Center.

SD-116

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee

To resume hearings on S. 1755, to reform the concessions policies of the National Park Service.

SD-366

MARCH 6

9:30 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee

To hold hearings on the alternative uses of agricultural commodities, focusing on impediments to commercialization.

SR-332

MARCH 17

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee

To hold hearings to examine an overview of NASA's budget for fiscal year 1993.

SR-253

10:00 a.m.

Appropriations
Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD-138

MARCH 18

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee

To hold hearings to examine NASA's space station and launch issues.

SR-253

Select on Indian Affairs

To resume oversight hearings on the implementation of the Indian Gaming Regulatory Act (IGRA).

SH-216

MARCH 19

9:30 a.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Science Foundation, and the Office of Science Technology Policy.

SD-124

10:00 a.m.

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Justice.

S-146, Capitol

Appropriations
Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Highway Administration, Department of Transportation.

SD-138

MARCH 20

10:00 a.m.

Appropriations
Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Farmers Home Administration, the Federal Crop Insurance Corporation, the Rural Electrification Administration, and the Rural Development Administration.

SD-138

MARCH 25

9:30 a.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Neighborhood Reinvestment Corporation, and the National Credit Union Administration.

SD-116

Select on Indian Affairs

To hold hearings on S. 1752, to provide for the development, enhancement, and recognition of Indian tribal courts.

SR-485

10:00 a.m.

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Communications Commission, and the Securities and Exchange Commission.

S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration, and the Research and Special Programs Administration, both of the Department of Transportation.
SD–138

MARCH 26

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Environmental Protection Agency, and the Council on Environmental Quality.
SD–G50

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 664, to require that health warnings be included in alcoholic beverage advertisements.
SR–253

MARCH 27

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Animal and Plant Inspection Service, the Food Safety and Inspection Service, and the Agricultural Marketing Service.
SD–138

APRIL 1

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation to authorize funds for programs of the Indian Health Care Improvement Act.
SR–485

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Commerce.
S–146, Capitol

APRIL 2

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation.
SD–116

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Transportation Safety Board.
SD–138

APRIL 3

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Agricultural Stabilization and Conservation Service, the Foreign Agricultural Service, the General Sales Manager, and the Soil Conservation Service.
SD–138

APRIL 7

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.
SD–138

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.
S–146, Capitol

APRIL 8

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETs, American Ex-POWs, Jewish War Veterans, Non-Commissioned Officers Association, National Association for Uniformed Services, and Society of Military Widows.
SD–106

APRIL 9

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Aeronautics and Space Administration.
SD–G50

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Oceanic and Atmospheric Administration, and the Small Business Administration.
S–146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for Amtrak, and the Federal Railroad Administration, Department of Transportation.
SD–138

APRIL 29

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Information Agency, and the Board for International Broadcasting.
S–146, Capitol

APRIL 30

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development.
SD–G50

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Transit Agency, and the Washington Metropolitan Area Transit Authority.
SD–138

MAY 7

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Veterans Affairs, and the Court of Veterans Affairs.
SD–124

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Coast Guard, Department of Transportation.
SD–138

MAY 14

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Emergency Management Agency.
SD–124

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Aviation Administration, Department of Transportation.
SD–138

MAY 21

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Community Service, and the Points of Light Foundation.
SD–116

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the General Accounting Office.
SD–138

MAY 22

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the De-

partment of Housing and Urban Development and certain related agencies.

SD-138

SENATE—*Tuesday, February 25, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Reverend Dr. Richard C. Halverson, the Senate Chaplain. Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *when they knew God, they glorified him not as God, neither were thankful; but became vain in their imaginations, and their foolish heart was darkened. Professing themselves to be wise, they became fools* * * *.—Romans 1:21,22.

Eternal God, perfect in justice, righteousness, love, and mercy, help us to comprehend the terrible cost of indifference to God in our culture. Open our minds to understand that without a spiritual/moral base—without a reference to transcendent reality—the human race, like water, seeks its lowest level; that diversity is replaced by fragmentation and anarchy; that the law of the jungle prevails: Take care of No. 1, no matter what happens to others. Get all you can while the getting is good. Kill or be killed.

We were reminded recently by words from four Presidents—George Washington, Abraham Lincoln, Woodrow Wilson, Franklin Delano Roosevelt—that spiritual awakening is essential to national renewal. As our leaders struggle with local, national, and global crises in these unpredictable days, awaken them to this basic need.

We pray in the name of Jesus who is the Way, the Truth, and the Life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal has been approved and the time for the two leaders reserved?

The PRESIDENT pro tempore. That is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning there will be a period for morning business extending until 10:30 a.m., during which a number of Senators will be recognized to address the Senate for specified time limits. Once the period for morning business closes at 10:30 this morning, the Senate will proceed to the consideration of the conference report accompanying H.R. 2212, the China most-favored-nation bill. Immediately upon disposition of that conference report, there will be 1 hour for debate on the motion to invoke cloture on the motion to proceed to S. 479, the National Cooperatives Research Act extension with a vote to occur on the cloture motion when the time is used or yielded back.

It is my hope that should cloture be invoked on the motion to proceed to S. 479, that the Senate will shortly thereafter be in a position to proceed to consideration of that measure.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2212

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time today from 10:30 a.m. until 12:30 p.m. for debate on the conference report on H.R. 2212, the most favored nation for China legislation, be equally divided between myself and the Republican leader or our designees; that the time from 2:30 p.m. until 4 p.m. be controlled under the same conditions; and that during that time, from 2:30 p.m. until 4 p.m., the Senate meet in closed session in the old Senate Chamber; that the Senate resume open session in this Chamber at 4:10 p.m. and that the time between then and 4:45 p.m. be under the control of the two leaders; and that the vote on the adoption of the conference report occur without any intervening action or debate at 4:45 p.m. today.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection. That will be the order.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, accordingly, Senators should be aware that debate on the China most-favored-nation conference report will begin in this Chamber at 10:30 and continue in this Chamber until 12:30. We will then recess for the party conferences until 2:30. At 2:30, the Senate will reconvene in a closed session in the old Senate Chamber. That will continue from 2:30 until 4 p.m. At 4:10 p.m., the Senate will return to open session in this Chamber for a concluding 35 minutes of debate and a vote will occur at 4:45 p.m. As soon as that vote is completed, we will then proceed to 1 hour of debate on a motion to invoke cloture on the motion to proceed to S. 479 and that vote will occur after that 1 hour of debate is used or yielded back.

So there will be two record votes today, one on the China most-favored-nation conference report and one on the motion to invoke cloture on the motion to proceed to the National Cooperatives Research Act extension.

Mr. President, I thank my colleagues. I thank the Chair, and I yield the floor.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein. Under the order, Mr. SASSER is recognized to speak up to 15 minutes.

Mr. METZENBAUM. Mr. President, I ask my colleague if he will be willing to yield, not imposing on his time, 5 minutes.

Mr. SASSER. Mr. President, I will be pleased to yield 5 minutes.

The PRESIDENT pro tempore. The Senator from Ohio [Mr. METZENBAUM] is recognized for 5 minutes.

THE NATIONAL ENDOWMENT FOR THE ARTS

Mr. METZENBAUM. Mr. President, I rise to express my concern and dismay about the latest round of attacks on the National Endowment for the Arts.

As my colleagues know, John Frohnmayer, the Endowment Chairman, was given the political boot the other day, offering the far rightwing a new forum to describe in excruciating detail the moral decline of Western civilization. You can bet that the level of debate on the confirmation of the next Endowment nominee will rise no higher than that which we have witnessed here on the floor so often recently. You can also bet that there will be shocking and embarrassing photos passed around freely, and that the Senate will be mired in sensationalism and we will all be the object of ridicule.

I regret that this will come to pass, Mr. President, as much as I regret Mr. Frohnmayer's political execution. John Frohnmayer is a decent and caring man, who has demonstrated a genuine love of the arts, as well as a thoughtful approach to the job he faced.

I certainly did not agree with every decision he made, but I respected his

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

fairness and his independence. He was in nobody's pocket—he had detractors on his left and his right—which probably meant he was the best person for the job.

Make no mistake, however, Mr. President, it was the forces on the right that brought Mr. Frohnmayer down. Nothing short of a commitment to censorship will satisfy some in this debate.

For almost 3 years now, the Endowment has struggled to survive while embroiled in constant turmoil. The remnants of the moral majority have successfully targeted a few minor grants and have thrust them into the spotlight, drawing worldwide attention to objects and acts which they purport to abhor.

If not for these crusaders against the NEA, those works—which we all agree were distasteful—would have faded into avant-garde obscurity. Instead, they have received reviews that are a press agent's dream.

It is clear from the events of last week that these cynical efforts to politicize the arts and close down the endowment are intensifying.

And it would be a cultural tragedy, Mr. President, if we were to allow a few outrageous awards to be the weapon which delivers a death blow to the agency which supports thousands of artists and projects which benefit our society. Of course mistakes may have been made. Of course it is arguable as to whether some of these grants deserve public funding.

But a couple dozen bad decisions should not negate the good works supported by the 80,000 or 90,000 grants that have been funded by the NEA.

Mr. President, it is time to let it get back to the important work it does so well. Let the NEA do the job that the American people are proud of. Let the NEA encourage and support artists, promoting excellence, and making the arts accessible to an ever wider audience. It is time to resist those who would shrink our cultural horizons through censorship and a return to the tactics of the McCarthy era. As John Frohnmayer said in his farewell statement, it is time to work for "the growth and enrichment of our society—for quality art, for less hate and for a generosity of spirit that allows us to live with our differences in real community."

I hope that in nominating a successor to Mr. Frohnmayer, President Bush will look past the partisan politics of this issue, and consider the ways in which the arts can bring us together, and not the ways in which they can be used to divide us. I will be watching carefully for his decision.

Let me add one additional and final word, Mr. President. On the Sunday programs I was listening to three of the most respected commentators in this country, three for whom I have the highest regard, and I must say that it was with a keen sense of disappointment I heard each of them say maybe it was time to terminate the funding for the National Endowment for the Arts. This Senator disagrees. I support continued funding. I support the National Endowment for the Arts.

In conclusion, Mr. President, I express to my colleague from Tennessee my appreciation for his being so gracious.

Mr. SASSER. I thank the Senator from Ohio.

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. SASSER] is recognized for 15 minutes.

Mr. SASSER. I thank the Chair.

(The remarks of Mr. SASSER pertaining to the introduction of S. 2250 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MACK addressed the Chair.

The PRESIDENT pro tempore. The Senator from Florida [Mr. MACK].

EXTENSION OF MORNING BUSINESS

Mr. MACK. Mr. President, due to the hour, I ask unanimous consent that morning business be extended, and that I may address the Senate as in morning business for a period not to exceed 5 minutes.

The PRESIDENT pro tempore. Is there objection?

Hearing no objection, the Senator is recognized for 5 minutes as in morning business. Morning business is extended for 5 minutes.

ASKING FOR RESIGNATION OF SECRETARY BRADY

Mr. MACK. Mr. President, during this past weekend, I was in the State of Florida holding some hearings with respect to the economy, real estate, and the credit crunch. Those hearings were held in an environment where the unemployment rate has risen to 8.7 percent. I have been told that 25 percent of all of the construction workers who are unemployed in our country reside in the State of Florida. Banks are not providing adequate levels of credit. In fact, the statistics that I have looked at indicate that, from September 1990 to September 1991, there has been almost a 20-percent decline in commercial and industrial loans.

People are losing their businesses; people are losing their jobs; people are hurting. And for the first time in my 10 years in both the House and in the Senate, I have heard people say that they are considering suicide.

Here are some of the comments that were made at the hearing: Everette Huskey of Huskey Realty said that "the country is destroying entrepreneurship." Brant Donaldson of Burkett's Auto Parts in Fort Myers said, "Banks have abandoned their roles as anchors of their community in a singular search for profits." Bronson Thayer of First Florida Bank and President of Florida Bankers' Association said, "There is no leeway. Banks have lost much of their flexibility to work with troubled lenders."

Robert Suarez of Suarez Housing Corporation, said, "The credit crunch is still doing well and fine. It is still with us."

The President's chief Cabinet member responsible for economic policy is the Secretary of the Treasury. It is clear to me that the President has received bad advice from the Secretary. The economic team has failed.

I might add, Mr. President, it was only about a year ago that we were being told not to worry, the economy is recovering; everything will be just fine. And now we are hearing those same false assurances again. Well, the message from my State is loud and clear: The recovery is not happening; it is getting worse, and it is time for a change.

So, Mr. President, I have written a letter to the President of the United States today, and I have asked him to request the resignation of Secretary Brady. I would like to read the letter that I have sent to the President.

> DEAR MR. PRESIDENT: The message of the New Hampshire primary one week ago was clear. Americans are hurting. They want fundamental change and they want it now.
>
> I was in Florida this past weekend and the message is the same. My constituents are in pain. They are looking to Washington for swift action to get our economy moving again.
>
> Your proposals to reduce the capital gains tax rate, modify passive loss rules and bolster real estate values are all steps in the right direction. But more is needed. And that is to install new leadership in your Administration's principal economic policy post—the Secretary of the Treasury.
>
> You have been given bad advice on the economy. It's worse than you have been told. That fault rests on the shoulders of your economic advisors and the head of that team is Secretary Brady. Mr. President, the time has come to ask for Secretary Brady's resignation.
>
> This personnel change would be the clearest way for you to demonstrate that you have heard the message of the American people. I'm convinced that new leadership at the Treasury would be good for the country, good for my state and good for your presidency.
>
> Sincerely,
>
> CONNIE MACK.

I yield the floor.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,823,909,309,474.57, as of the close of business on Friday, February 21, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

RESULTS OF JUDICIARY COMMITTEE HEARINGS IN PENNSYLVANIA ON UNFAIR TRADE PRACTICES

Mr. SPECTER. Mr. President, I seek recognition today for the purpose of reporting back to my Senate colleagues the results of the Judiciary committee field hearings I recently conducted in my State during January of this year. It is important that my colleagues be so informed because the effects of unfair trade practices, next to the state of our economy, is a principle concern of my constituents and, I suspect, most Americans. In fact, in the numerous town meetings and open houses that I conducted during the November 25–January 20 recess, the recurrent concern expressed by my constituents was unfair foreign trade practices and their adverse effect on jobs in Pennsylvania.

Last month I conducted four field hearings across the State of Pennsylvania, in Philadelphia, Pittsburgh, Harrisburg, and Allentown, on the general subject of unfair foreign trade practices and their effect on jobs, and the particular subject of my bill, S. 986, which would provide a private right of action for customs fraud violations. The participants included business and labor leaders representing every major industry group in the State. They were asked to prepare testimony on how their businesses have been affected by unfair foreign trade practices and to suggest strategies for redressing these problems.

As a result of these hearings, I am further convinced that my private right to action legislation, which I will be expanding today, is very much needed. I believe we need to act now to provide a deterrent to persistent unfair trade practices that are threatening the loss of U.S. jobs.

I want to make clear from the outset that the purpose of these hearings was not to bash our trading partners about protectionist trade policies that treat American exports unfairly. I do not believe this is in our Nation's best interest. To the contrary, it was my intention to use these hearings to focus on initiatives designed to promote fair trade and its most basic tenet—the concept of reciprocity. As a basic observation, however, I would like to note almost every one of the witnesses was able to reference specific foreign trade practices which adversely impacted their business activities.

The direct consequence of unfair foreign trade practices is loss of U.S. jobs and an increase in the trade deficit. These factors in turn make it more difficult to reign in the Federal budget deficit. The trade deficit increased from $28 billion in 1981 to more than $108 billion in 1990. Our current trade deficit of $60 billion was reduced largely because of the declining value of the dollar during this recessionary period.

We should not be lured into believing the underlying causes of the $100 billion trade deficits have been cured. Those causes, the wide range of unfair trade practices facing our domestic producers, persist unchanged today, and there is great likelihood we will quickly return to the $100 billion level as the recession abates and consumer demand increases. The point is we must take action now to forestall a greater loss of U.S. jobs and help our business leaders combat the unfair trade practices which compromise their ability to compete on a level basis.

I will proceed with my specific findings according to the following categories:

I. Fair Trade in the Current Global Economy.

II. Priority Issues Preventing Fair Trade.

III. Recommendations.

I. FAIR TRADE IN THE CURRENT GLOBAL ECONOMY

Mr. President, senior management of companies and labor leaders within Pennsylvania industries testified repeatedly during the course of these field hearings that they are concentrating their efforts on making themselves more competitive in the global economy. These efforts run the gamut from reinvestment in new plant technology by steel companies such as USX, Bethlehem, Allegheny Ludlum, Lukens, and Carpenter Technology, to efforts by small food producers to compete against imitation products coming from Eastern Europe and South America.

Virtually every company executive who appeared during our hearings reiterated a dominant common theme: In order to achieve growth they must expand, and most plan to achieve more than 50 percent of their revenues from international markets by the year 2000. In order for them to succeed, however, existing laws and agreements must be enforced to ensure equitable trade practices and open access to all global markets.

Mr. President, as each day passes, we are losing more American jobs and revenue to our unfairly advantaged competitors. On January 29, Bethlehem Steel, which testified in the person of Mr. Hank Barnette at the hearings in Allentown on January 29, 1992, announced that it would exit the bar, rod, and wire business which it operates out of its facilities in Johnstown, Pennsylvania. They cited unfair trade as one of the principal reasons for leaving the business. As this tragic event demonstrates, negative alternatives to free trade are already too commonplace in our Nation.

II. PRIORITY ISSUES PREVENTING FAIR TRADE

Mr. President, the businesses represented in these hearings formed a comprehensive cross-section of our industrial base. Their problems in the face of unfair foreign trade practices are wide-ranging. Following is a summary list of observations made by witnesses at the hearings regarding unfair trade practices.

1. FOREIGN GOVERNMENT SUBSIDIES

The most prevalent of unfair trade practices may be the subsidization of foreign industries to foster greater penetration into U.S. markets by bidding at artificially lower prices. The practice is rampant, and coupled with the preference of many foreign governments to procure goods from their internal suppliers, the results pose significant barriers to free trade for U.S. companies. Examples of such practices are numerous, so I will mention only those which are most illustrative of the damages being inflicted by subsidies:

STEEL

U.S. steel industry jobs have been decimated in the past decade due largely to unfair trade practices coupled with the recessionary impact of the economy. According to data provided by USX, the number of U.S. jobs has diminished from 391,000 in 1981 to less than 165,000 today. The people of Pennsylvania alone have suffered losses of almost 100,000 steel jobs since 1981.

Mr. Charles Corry, chairman of the board of USX, provided the committee with some clear data reflecting trends in the U.S. steel industry. In 1960, steel imports of 3.4 million tons accounted for 4.7 percent of our market. At this time the United States Steel Corp. employed 225,000 employees. In 1970, steel imports had moved to 13 million tons and the company's employment had dropped to 201,000. By 1980 imports had grown to 17 million tons, or 15.2 percent, and employment dropped to 149,000. Today, following extensive plant closings, employment is down to less than 50,000.

The job losses over the years have occurred while the U.S. steel producers have lowered man-hours-per-ton from 11 to 3. Mr. Corry cited the fundamental underlying cause as unfair trade practices, where foreign governments heavily subsidize their steel producers by providing low- or no-cost loans and further subsidies to upgrade plants.

An example of such subsidization was provided by Mr. William Van Sant, chairman and CEO of Lukens Inc., at our trade hearings in Philadelphia. He described practices by the French Government to provide $463 million from the state-owned Credit Lyonnais Bank for a 30-percent stake in Usinor Sacilor, a government-controlled steel producer in France and one of Western Europe's largest steelmakers. This subsidy was of special concern to Lukens because Usinor is the parent firm of Creusot Loire and Dillenger, a competitor in the global steel plate market.

Mr. Richard Simmons, chairman of the board of the Allegheny Ludlum Corp., a specialty steel producer, shared Mr. Corry's concern with foreign subsidization and was also troubled by our current laws which he regarded as insufficient to address these unfair trade practices:

> * * * import relief measures granted pursuant to trade laws are always prospective in nature; that is to say, they are available only after substantial damage has been caused.

He added that, currently, American companies have no way of recovering financial damages resulting from dumping and subsidy violations. Mr. William Pendleton, director of corporate affairs, Carpenter Technologies, also proposed private right of action as a remedy. He said:

> U.S. trade laws * * * have been effective in the past and will continue to be needed in the future. Carpenter * * * strongly supports the passage of legislation which would provide a private right of action for companies injured as a result of dumping and subsidization.

While the people of Pennsylvania and the Nation have suffered tremendously, we should be proud of their efforts in trying to achieve competitive status in the face of unabated foreign government subsidies to foreign producers. The U.S. steel industry has invested more than $12 billion to modernize plants and develop more efficient methods of producing steel. While 55 percent of the steel jobs have been lost and capacity trimmed by 30 percent, the quality ratings of our steel products have increased by more than 40 percent. The results are both startling and a tribute to the efforts of the steel companies. The United States may now consider itself the low-cost provider of many forms of steel and ranks among the highest in terms of quality ratings.

The foregoing efforts should result in the United States holding a dominant position as an international exporter of steel. To the contrary, however, the United States must reluctantly rely on voluntary restraint agreements because our foreign trading partners have yet to agree to a new Miltilateral Steel Agreement [MSA]. The intransigence of our trading partners persists because they are still reluctant to significantly reduce or eliminate their government subsidies. Parenthetically, Mr. President, I believe that the steel VRA's currently scheduled to expire next month should be extended by President Bush until an MSA is in place, which I am calling for in a separate bill.

COAL

The coal industry, like the steel industry, has been experiencing its share of trade-related problems. Mr. Stephen Young of the CONSOL Group, the Nation's largest coal exporter and largest coal enterprise in terms of revenue, in his testimony in Pittsburgh identified some problems affecting the competitiveness of his industry. He explained that as a result of inaccurate projections made about coal demand during the oil shortages of the seventies, coal on the international market is now in surplus, and thus is selling for a fraction of its original cost. To make matters worse, the U.S. coal industry must bear costs associated with production and marketing not shared by its foreign competitors.

In addition, foreign government support of domestic industries further weaken the competitiveness of American-produced coal. It appears that Germany and Canada, among others, guarantee markets for their domestic coal industries, thus limiting American coal export opportunities. Finally, Mr. Young indicated that while he appreciated the past efforts of the President and certain Members of Congress on behalf of the coal industry to promote American exports, he said that presently there is no concerted effort to increase coal exports.

LABOR

We cannot fully address the impact of trade barriers without a full consideration of their impact on our most valued asset—American workers. It is at the individual human level that the real damage is done. Jobs are lost, lives and families are shattered, and our standard of living erodes. Mr. President, each day we read about the next 2,000 or 10,000 people who will be the victims of downsizing as our companies take every possible action to enhance their competitiveness in the face of rising trade barriers.

In just the past few weeks we have heard General Motors and Bethlehem Steel announce layoffs which will affect 80,000 workers. In his testimony in Pittsburgh, Mr. Kenneth Enborg of General Motors stated that the lack of adequate legal protection for industrial design affects the competitiveness of the auto industry because it encourages the influx of limitation design copies entering our country. This influx of goods contributes to our trade imbalance and results in a loss of U.S. manufacturing jobs. He stated:

> In the automotive industry, design piracy by offshore manufactures is a growing problem that is costing the industry hundreds of millions of dollars and harming automotive workers and their customers.

Mr. John Sheehan of the United Steelworkers of America reported that real wages of average workers are lower than they were 10 to 15 years ago. He adds that:

> Employment in the steel industry has been steadily declining. According to the American Iron and Steel Institute, its reporting companies have announced a 12.2 percent decrease in jobs in November of this year as compared with jobs in November of this year as compared with jobs in November 1990. The industry has been operating in the low 70 percent of capacity utilization throughout the year. The impact upon production and maintenance workers resulted in the decline of about 286,000 jobs in 1981 to 119,000 in 1990.

AGRICULTURE

Pennsylvania's agriculture suffers continued and acute financial distress as a direct result of foreign market subsidization. Mr. Keith Eckel, president of the Pennsylvania Farmers Association, testified before the committee that European Community [EC] export subsidies often exceed 100 percent of the international market price. The EC due to subsidy support, has moved from being a net importer of dairy goods to a net exporter, which supplies approximately 50 percent of worldwide dairy products.

Mr. President, the dairy industry is Pennsylvania's major agricultural industry, in addition to being an enduring symbol of U.S. agriculture. While farmers have made great strides in addressing oversupply problems, foreign producers are dominating the globe due to government subsidies. Currently, we are allowing the European Community to virtually rob U.S. dairy farmers of their ability to market dairy products abroad.

Tom May, vice president of CEMAC Foods Corp., testified at the Allentown hearing about the tremendous damage to the dairy industry resulting from duty-free imports under the generalized system of preferences. In our zeal to provide aid to emerging Eastern European democracies, we are opening the door on a duty-free basis not only to those countries, but also to all countries on the GSP list, at the expense of the U.S. dairy farmer.

The importer of Goya cheese from Hungary submitted a petition under the GSP to allow Goya to enter this country duty-free in addition to the quota-free status it currently enjoys. As a generic cheese product, Goya displaces American-produced Parmesan cheese pound for pound. At its current duty rate of 25 percent, Goya already enters this country at a price below what it would cost to produce domestic cheese. Elimination of the duty would cause a tremendous increase of imports and devastate the domestic dairy industry.

While we strive to assist the Eastern European democracies, we should not allocate funds at the direct expense of our heartland industries, which are already suffering at the hands of unfair trade practices.

SHIPBUILDING AND SEA TRANSPORT

The Philadelphia Navy Shipyard is the last such facility in the Delaware

River vicinity, a region which used to employ 150,000 persons in 31 such facilities. While the decline in defense needs is a primary factor, the following comments are restricted to the commercial sector. According to testimony by Mr. Bob Gorgone, business manager for the Philadelphia Naval Shipyard, whereas in 1980 there were 69 hulls under construction in the United States, in 1992 there is only 1. This is an industry which has worked diligently to offer very competitive labor rates and is now being victimized by foreign government subsidies. The following examples were provided by Mr. Gorgone:

A subsidy of nearly 30 percent was awarded by the Spanish Government to build a ferry for Morocco. In addition, a 30-year 2-percent loan was made with a 10-year grace period.

In Norway a 35-percent subsidy was provided for construction of a ferry.

With foreign shipyards taking away most of the commercial work, our private shipyards are forced to compete for the repair of Navy ships because it is the only work left. Foreign subsidization, coupled with excessive U.S. regulations, is quickly removing the United States from the shipbuilding and sea transport industries. Mr. President, the shipbuilding industry stands as a vivid example of how the United States is becoming an endangered species in industries where we were once the world leader.

AIRCRAFT MANUFACTURING

The Boeing Co.'s vice president, John F. Hayden, described for the committee how subsidies are beginning to erode our hard-earned competitive advantage in the aircraft manufacturing industry. The Governments of France, Germany, the U.K., and Spain have provided heavy subsidies to the consortium Airbus Industries to develop a robust product line of commercial aircraft without the investment restrictions normally required of a company which must remain profitable. To enable Airbus to capture a market share, those Governments have contributed an estimated $26 billion in subsidies.

According to Mr. Hayden,

> The most significant external threat facing Boeing today is what we view as unfair trade practices being employed by European governments in support of our principal foreign competitor—Airbus Industries.

Mr. Hayden's concerns are readily apparent as Airbus' global market share of commercial aircraft construction has risen to 30 percent.

If our domestic aircraft manufacturers are to continue to be competitive, the U.S. Government, in the case of Airbus, must find a way to level the playing field so that our companies will not have to compete against the combined strength of four European governments.

The same concerns were voiced clearly by the United Auto Workers Union Local No. 1069 in the person of Anthony Forte, president, who also appeared before the Judiciary Committee. Mr. Forte testified that,

> During the last 20 years Airbus has incurred losses that would have bankrupted the U.S. airline producers, while at the same time increasing its market share dramatically. Labor and industry believe that this market penetration is largely a result of unfair trade practices by Airbus, and that we must deal with these practices through action under GATT.

TEXTILES

Long a key contributor to our Nation's economic strength, the textile industry is now being ravaged by the consequences of unfair foreign trade practices. Textile manufacturers employ 28,000 workers in Pennsylvania and 670,000 nationwide. When combined with the apparel industry, textile workers number almost 2 million and contribute $50 billion to our GDP.

Carlos Moore, executive vice president of the American Textile Manufacturers Institute, gave testimony concerning the extensive damage experienced by textile manufacturers from unfair trade practices. Trade in textiles for 20 years has been governed by the Multifiber Arrangement [MFA], largely because GATT was inadequate to fully address the industry's inequities. Quotas were used as a means of controlling the flooding of our markets by low-cost goods produced cheaply through use of substandard labor practices, many of which are illegal in the United States.

While the MFA has shown moderate success, industry violations persist. Imports of textiles and clothing into the United States increased from 4 billion square meters in 1980 to over 12 billion in 1991. As a result, domestic employment has declined from 2.4 to 1.8 million, with industry employment in Pennsylvania declining by an even larger proportion. In 1980, Pennsylvania employed 168,000 textile and apparel workers; by 1990, the number shrank by 41 percent to 99,000.

Much of the problem can be attributed to continued violations of trade laws coupled with poor implementation of the MFA. Violations include such practices as the use of prison labor in China and subsidies in Pakistan where yarn is often sold at less than the value of raw cotton. While the current state of the industry is poor, it may grow worse if current GATT agreements to allow India, Pakistan, and Indonesia to double their access go forward. The inequity is compounded by the fact these nations' markets remain closed to U.S. exports.

HIGH TECHNOLOGY AND DEFENSE-RELATED INDUSTRIES

Mr. President, another problem continually encountered in the export area is the subsidies given by foreign governments to their industries through low-cost financing and absorption of research and development costs associated with the product.

Subsidization by foreign governments of critical high technology industries has put American manufacturers of sophisticated products at a competitive disadvantage in biding for projects internationally. Mr. Palle Christensen of Aydin Corp., a high technology firm which manufactures sophisticated electronics equipment and systems, reported a problem with competing in the international market because of these subsidies. He explained:

> Just last summer, we were second in price in an air defense NATO project. Aydin was again bested by Thomson CSF of France. Aydin's price was approximately $68 million, and Thomson won the program for $50 million. The big difference in the price was the software, a substantial portion of an air defense system. The French company's bid included only $1 million for its software costs, with the obvious conclusion that the French Government will subsidize the real cost to help Thomson develop the software for this system for future exports to other countries.

2. INTELLECTUAL PROPERTY AND PATENT PROTECTION

A second common and particularly damaging trade barrier is the lack of intellectual property protection to U.S. companies abroad. While we may need to improve our own laws regarding patent design protection, the major problem is the loss of revenue, jobs, and research and development incentives which result from the pirating of U.S. patents. The absence of adequate protections has far-reaching consequences across our auto, steel, pharmaceutical, and high-technology industries.

Our companies are investing billions of dollars on research and design initiatives to deliver leading-edge products into foreign markets which are then copied, resold locally, and crafted into imitation forms and sold back in the United States as equal quality. The net impact is loss of U.S. revenue, loss of U.S. jobs, and inferior quality components adapted to U.S.-made goods.

AUTOMOBILE MANUFACTURING

Kenneth Enborg, chief trademark and copyright counsel for General Motors Corp., advised the committee that over $1 billion in annual revenue is lost of offshore manufacturers who export automobile parts which are copies of U.S. patented products. Bethlehem Steel estimates that the total market for crash parts alone, exterior sheet metal replacement parts, represents 200,000 to 250,000 tons of steel annually, valued at $9 billion.

Automobile and truck production contributes more than $200 billion annually to our gross domestic product [GDP] according to the Bureau of Economic Analysis. According to Mr. Enborg, in recent years the U.S. manufacturers have invested more than $22 billion to modernize many of the more than 300 assembly and parts manufacturing facilities located in 35 States and 200 cities nationwide. The vehicle and equipment manufacturing segments alone employ more than 800,000 people.

Mr. Enborg testified further that our economic difficulties, coupled with unfair foreign trade barriers, have caused the industry's unemployment level to soar to more than 9 percent. While foreign manufacturers continue to penetrate our domestic market, U.S. market share has fallen 10 percent in just the last 5 years. Foreign penetration has been a major factor in the loss of more than 200,000 domestic jobs, or one in five, since 1970. Put purely in the context of trade, the industry represents 60 percent of our trade imbalance.

PHARMACEUTICALS

For the pharmaceutical industry, Asian countries present the most significant intellectual property abuses. Specifically China, India, Thailand and in North America, Canada, have notably deficient intellectual property laws. Other nations of the Western Hemisphere, including Brazil, Colombia, Peru, Ecuador, Venezuela, and Bolivia has also failed to enact adequate legislation. Harvey Bale, senior vice president of the Pharmaceutical Manufacturers Association, told the committee that the International Trade Commission and USTR estimated that in 1991 the worldwide losses to PMA member companies from patent piracy amounted to $5 billion.

Michael Campbell, managing director of the Pennsylvania Technology Council [PTC], echoed the pharmaceutical industry concerns over intellectual property and patent abuses at the Pittsburgh field hearing. The PTC represents over 2,200 high technology firms. While the United States leads the world in many technologies, according to the National Academy of Engineering, Japan was the only country to have a higher rate of high technology exports—at a difference of 400 percent.

An issue which frustrates American firms is the Japanese patent approval process which may take foreign importers up to 10 years to complete, while Japanese firms are put on an expedited track. Mr. Campbell noted further that the developing countries pose a still greater threat to U.S. entities regarding intellectual property and patent protection.

Randy Thurman, executive vice president of Rhone-Poulenc Rorer Pharmaceuticals, also testified before the committee in Allentown. Rhone is one of the world's top 10 pharmaceutical companies with its headquarters in Collegeville, PA. While the U.S. pharmaceutical industry still clings to a small $1 billion trade surplus, it is besieged with intellectual property theft from foreign nations.

Mr. Thurman calculates that the industry loses more than $5 billion per year due to lack of patent protection and billions more in the time and money invested through R&D to bring products to market which are subsequently pirated by foreign firms. The industry retains a surplus due largely to its significant investment in R&D, an amount exceeding $16 billion per year.

Clearly, Mr. President, the lack of adequate intellectual property protection is a major obstacle to free trade for our Nation's businesses.

3. UNFAIR BID CERTIFICATION PRACTICES

Calgon Carbon Corp. in Pittsburgh is the world's largest seller of activated carbon purifying systems. Calgon has operated in Japan since 1970 under partnership with the Mitsui Toatsu Chemical Co. Even though Calgon has worked closely with the Government of Japan, they have been unsuccessful in procuring effective certification to bid on government contracts. Despite a superior product and diligent compliance with bid specifications, Calgon was put in a Catch-22 situation when advised that it failed to meet 2 of more than 100 bid requirements—the two requirements were that firms operate independently in Japan and pay Japanese corporate taxes. Calgon Carbon did neither.

Calgon is but one small example of the many unfair trade barriers created through exclusive bidding requirements in many foreign countries. Paul Lego, chairman of Westinghouse Corp. also testified regarding unfair trade practices in government procurements. European Community Federal, State, and local government nondefense procurement totals over $500 billion per annum. According to Mr. Lego:

> For 30 years we and other U.S. firms have faced a virtually closed market in Europe for power generation plants, transport equipment, and telecommunications. These three categories make up about 50 percent of the EC procurement market. The EC has recently liberalized procurement of these items among themselves but has reserved the right to reject foreign bids which have less than 50 percent EC content.

Unfair trade practices in the bid certification process are widespread across many Asian and European markets. Every business which testified at these hearings presented examples of just how deeply such practices cut into their ability to sell to overseas markets.

Mr. President, my foregoing comments cover a wide range of unfair trade practices, including government-to-industry subsidies, the lack of intellectual property protection, and the closed markets created by blatantly unfair bidding schemes. All of these unfair practices combine to thwart U.S. business efforts abroad.

The problem is compounded by the sense of concern in Congress regarding the GATT negotiations. I believe we all agree that GATT needs to conclude without any weakening in our current trade laws. In order to provide immediate relief to unfair trade practices, we may have many options, and I believe the following recommendation will provide immediate improvement without the need to institute extensive protectionist legislation.

III. RECOMMENDATION

Mr. President, on April 25, 1991, I introduced S. 986, a bill to provide a private right of action for customs fraud violations. At that time, I had indicated that notwithstanding my efforts since 1981 to enact private right of action legislation for dumping, subsidies, and customs fraud violations, I would limit my private right of action legislative efforts to customs fraud violations because, in part, it was not as sweeping. However, as a result of the Judiciary field hearings and the many open houses and town meetings I have conducted, I am more convinced that broader private right of action legislation is very much needed. Accordingly, I am expanding S. 986 to include a private right of action for dumping and subsidies violations.

Industry suffers the dual dilemma of competing against foreign protectionist legislation and having no forum to pursue their grievances other than the executive branch. Hank Barnette, senior vice president and general counsel of Bethlehem Steel, provides a greater level of support for this legislation which is typical throughout committee testimony.

Mr. Barnette is very familiar with the broad range of our trade issues and was appointed by President Bush to serve on his Advisory Committee on Trade Policy and Negotiations. He appeared before the Judiciary Committee to echo the support he voiced for private right of action legislation when appearing first in 1985. Mr. Barnette says:

> I said then, and am equally convinced today, the current prospective antidumping remedies provide an inadequate deterrent to dumping. We know that to be a fact. In our industry the practice of dumping has continued unabated for nearly 20 years and it is rampant today. The establishment of an effective private right of action against dumping in the United States Federal Courts would provide a much-needed remedy.

I am convinced the current process for industry to redress such unfair practices is less than optimal and operates itself as a barrier to trade.

Mr. President, this is not to slight in any way the herculean efforts of Ambassador Carla Hills and her staff at USTR. I believe she has achieved significant advances in curbing unfair trade practices. However, I believe the USTR will benefit from the additional leverage that a private right of action law will lend to her future negotiations. As I have noted on several occasions, Mr. President, there is nothing like the vigor of private plaintiffs when it comes to the enforcement of our trade laws.

In summary, Mr. President, the Commonwealth of Pennsylvania represents a cross-section of the Nation's highest revenue-generating industries. From autos, to steel, the pharmaceuticals, to high technology, and to transportation, Pennsylvania business supports this legislation.

I ask my colleagues to join me now in supporting this legislation to provide some immediate relief to the unfair trade practices which constrain our industry.

We are all familiar with the $1 trillion trade deficit we have incurred over the past decade and the additional impact of our currently stalled economy. We should also, however, be proud of the many improvements made by our industrial base over the past decade. Our corporations invested capital, the quality of our products has risen dramatically—but our people have suffered significant job losses while our corporations have tried to become more lean and competitive. Clearly, our business sector and each and every American has participated in and borne the burden of improving our competitive position.

Even these significant advances, however, are insufficient to truly compete in the face of illegal trade practices such as dumping, subsidies, and customs fraud. Like many international governments, it is now time for us to step in and take decisive action to enhance the competitive position of our industrial base.

Failure to move in this direction leaves our industries to do battle without the basic equipment provided by most every government in the world. I, therefore, urge my colleagues to join in supporting the private right of action legislation that I will be introducing shortly.

THE FOOLISH "BOAT TAX": A BAD IDEA WHOSE TIME SHOULD NEVER HAVE COME

Mr. HELMS. Mr. President, on October 27, 1990, the Senate did a great disservice to the U.S. economy and the American people when it passed, 54–45, the Omnibus Budget Reconciliation Act of 1990.

In this bill, among a host of other unwise and damaging tax increases, was a 10-percent luxury excise tax levied against boats and yachts costing over $100,000.

This Chamber resounded with gleeful assertion to the effect that Congress was really socking it to the rich guys with this one.

Now, take a look at the impact of this luxury tax. Sixteen months later it is obvious—and should have been 16 months ago—that not only has the tax hurt working-class Americans far more than the wealthy, but it is costing the Federal Government more than it is bringing in.

Mr. President, a report prepared by the Joint Economic Committee in July of 1991, titled "The Cost of Tax Related Job Loss Versus Projected Revenue Gain from Luxury Taxes in Fiscal 1991," describes the inherently flawed methodology used by Federal revenue estimators who fail to take into account all the effects of a proposed tax increase when estimating how much revenue will accrue to the Treasury as a result of its passage.

The committee's analysis concluded that the luxury tax on boats would result in the elimination of at least 7,600 boat manufacturing and retail jobs in 1991. However, officials in the boat manufacturing industry tell me that the loss is far worse, ranging between 20,000 and 25,000 jobs. The committee also found that the combined cost of the revenue lost and the increased outlays from this unemployment is $18.4 million, exceeding the $3 million revenue gain anticipated by the committee by a margin of better than 6 to 1.

Mr. President, North Carolina is one of the Nation's 10 largest boatbuilding States. It is home to some of the country's largest boatbuilding industries, including Hatteras Yachts in High Point, Davis Yacht in Wanchese and Carver Boat Co. in Rocky Point, not to mention hundreds of small businesses that serve the boatbuilders with products such as diesel engines, wood, wiring, paint, and fiberglass.

Obviously, many citizens of North Carolina are waiting for Congress to repeal the luxury tax on boats, I am confident that they are not alone. For a change, Congress has an opportunity to do something good for the economy, for the boating industry, and for the American people. It is time for Congress to admit its mistake and repeal the luxury tax on boats.

Mr. President, I ask that an article in the January 31 edition of the Raleigh News and Observer be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NC BOAT INDUSTRY BANKING ON REPEAL OF LUXURY LEVY

(By Jim Barnett)

As part of his legislative package to buoy the economy, President Bush is expected to ask Congress to repeal a luxury tax that sank large-boat sales when it took effect Jan. 1, 1991.

Industry officials say the tax has cost 25,000 U.S. jobs. In North Carolina—one of the nation's 10 biggest boat-building states—employment in boat factories has been cut from its peak of 5,200 people in mid-1988 to 2,200 people in mid-1991.

Bush didn't mention the tax in his speech, but manufacturers hope it will be repealed by the president's March 20 deadline. Winter is the industry's peak sales season, and one of the industry's biggest annual shows opens in Miami next month.

"If in fact it happens, it will certainly mean some almost immediate sales . . . and the ability to rehire some people and build some more boats," said Charles M. Kauth, senior vice president in charge of the High Point-based Hatteras Yachts division of Genmar Industries Inc.

"The moment that it is [repealed], we'll be firing off some rockets," he said.

The federal boat tax requires buyers to pay 10 percent of the purchase price above $100,000, and typically applies to boats longer than 18 feet. A cruiser with a $400,000 sticker price, for example, carries a luxury tax of $30,000.

The tax has cost so many jobs because big boats usually are custom-made, requiring lots of manual labor. Smaller boats are made on assembly lines and require less individual attention.

Cheri Jacobus, a spokesman for the National Marine Manufacturers Association, said it is possible that a repeal will restore the industry's work force to its pretax size. But it's too late for some of the companies that employed them.

"We do have some companies that are down and gone forever," she said by telephone from the association's Washington office.

THE ISRAELI LOAN GUARANTEE PROGRAM

Mr. CHAFEE. Mr. President, I would like to comment briefly on the issue of the $10 billion of housing and infrastructure loan guarantees that Israel has requested from the United States. Yesterday, before the House Appropriations Committee, Secretary of State James Baker enunciated the American policy of linking the granting of loan guarantees to the cessation of construction of new housing in the Israeli occupied territories of the West Bank and Gaza Strip. I believe this to be a rational and prudent approach by Mr. Baker. The American Government has consistently held that unilateral settlement construction is counterproductive to the Middle East peace process.

In yesterday's Washington Post, the Israeli Ambassador to the United States, Zalman Shoval, is quoted as saying that as a result of the American position "the dilemma right now of Israel is to take a decision * * * between the safety of our compatriots in the Commonwealth of Independent States now and the safety of our country tomorrow." This statement seems to reflect a line of reasoning that is currently popular in Israel that a new settlement construction freeze is akin to accepting the ultimate abandonment of the occupied territories.

This reflects a misconception that needs to be set aside once and for all so that our discussions on loan guarantees can proceed on a factual basis. The fact is that a new settlement construction freeze is not the equivalent of a return of the occupied territories. The United States has never called directly for Israel to abandon this land. Instead, each and every American administration has called for the adherence to U.N. Resolution 242. This resolution does contemplate the eventual return of territory but only as a result of direct, face-to-face talks between Israel and its Arab neighbors. Indeed, just such direct negotiations resumed here in Washington yesterday morning.

It is our hope and determination that these negotiations succeed, and that is what makes it so important that new settlement construction stop. Peace will not come to this troubled area of the world unless the various parties are able to negotiate an agreement. New settlement construction makes it increasingly difficult to negotiate on the future of the occupied territories. The United States is not asking Israel to choose between the safety of commonwealth immigrants and its own survival. All Secretary Baker is asking is that the Israeli Government give the peace negotiations a chance to flourish and ultimately succeed. I think he should be commended for this effort.

MOST-FAVORED-NATION TREATMENT TO THE PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 2212 and ask for its immediate consideration.

The PRESIDENT pro tempore. The report will be stated.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 26, 1991.)

The PRESIDENT pro tempore. Who yields time?

Mr. BENTSEN. Mr. President, I yield to the majority leader for 5 minutes.

The PRESIDENT pro tempore. The majority leader is recognized for 5 minutes.

Mr. MITCHELL. Mr. President, since the massacre in Tiananmen Square in 1989, the world has continued to do business as usual with China. There is a common international interest in human rights, in limiting the proliferation of weapons, and in regional stability. Those common interests should make all nations more serious about the disregard in which China holds those values. But it is apparent that trade relations have taken priority.

Sadly, no nation has done more to make China's behavior appear respectable than the United States. By sending official delegations to meet with the Communist Chinese leaders, by failing to seriously restrict relations in the wake of the Tiananmen Square massacre, by continuing a policy of seeking negotiations at every turn, despite Communist Chinese actions, instead of asserting our own policy goals, the administration has given the Chinese no incentive to modify what has been a very successful policy from the standpoint of the Communist Chinese Government.

The President has repeatedly said that to do otherwise would be to isolate China and, thus, lose all opportunity to influence Chinese policy. That view has had the support of only a minority of the Congress. But that minority has been unable to block legislation setting forth more clear-cut criteria for our relations with China. Today, 2½ years after the massacre, it is time to review again whether or not the administration's policy has been successful.

I believe it has not succeeded. It has failed. It is time for a stronger policy.

This month, on the very day that the President met with the Chinese Premier, Li Peng, the President's own State Department issued its annual human rights report. What the President's own State Department said about human rights in China is a standing reproach to the administration's current policy toward China.

The State Department report documented that arbitrary arrests are occurring, even though documented evidence of such arrests is not available. But it said, and I now quote the State Department, that there are "credible estimates * * * that hundreds of thousands of people" have been arbitrarily arrested.

Mr. President and Members of the Senate, it is evident from even the most cursory review of the State Department report that nothing has changed from the Tiananmen Square massacre to this day with respect to human rights in China.

The Communist leaders of China hold their power through a vast security apparatus which uses torture, arrests, detention, and brutality to remain in power. The Communist Chinese Government clings to power by silencing all opposition; by imposing its will by force. Chinese human rights policies deserve condemnation and sanction, not business as usual.

China's record on trade is not much better. The President defends the relationship with China on trade as being too important to jeopardize. But enforcing American laws on trade does not jeopardize relations. It is the attempt to subvert our laws in which the Chinese are engaging that places the relationship at risk, not our insistence on enforcing our laws.

Our trade deficit with China today is our second largest, after the trade deficit with Japan.

The President freely denounces the trade deficit with Japan, but has never expressed even mild concern about the deficit with China.

China has become the eighth largest source of imported goods to the United States. Since the mideighties, we have built up a trade deficit of over $30 billion with the China aggregate, and it is increasing rapidly.

Mr. President, one study estimates that if the products purchased in China were instead manufactured in the United States, 175,000 American jobs would be created.

The trade relationship with China is important to us, but it is even more important to China. It is precisely in such relationships that our Government has some leverage over the policy goals we wish to pursue. The President has tried to use our leverage with Japan. He should do so with China.

In the wake of the dissolution of the Soviet Union and the former Soviet Empire in Eastern Europe, the most serious threats to world peace have become regional ones. Recent developments in proliferation are particularly troubling.

Press reports on Friday indicate that despite the verbal assurances made by China to Secretary of State Baker last November, China may have long-term contracts to sell as much as $1 billion of missile and nuclear-related technology to Iran, Iraq, Libya, Syria, and Pakistan.

The President has made it a top priority in shaping the security outlook for the new world order to prevent the proliferation of nuclear, chemical, biological, and ballistic missile technologies. That is an appropriate security goal, and I commend the President for setting that goal out. It has the support of all Americans. But a goal cannot be reached if you pursue a policy that has the opposite effect, and that is what has happened with the administration's continued tolerance of Chinese arms and technology sales.

I urge my colleagues to take these factors into account as they consider this legislation.

The administration's policy has now had more than 2 years to achieve its stated goals, and has not done so. It is clearly a demonstrable failure. I believe it is time to change that policy.

Mr. President, I thank the distinguished chairman for his courtesy.

The PRESIDENT pro tempore. The Senator from Texas [Mr. BENTSEN].

CONFERENCE AGREEMENT ON CHINA MOST-FAVORED-NATION BILL

Mr. BENTSEN. Mr. President, I certainly share the views of the distinguished majority leader.

It was last fall, shortly before Congress adjourned, that the House and the Senate conferees reached an agreement on legislation that defines the terms for granting most-favored-nation treatment to the People's Republic of China. The House passed the conference agreement by an overwhelming majority. The vote was 409 to 21.

That vote showed one thing: That there is a clear consensus concerning the priorities in our relationship with China. The conferees took the House and Senate bills, and from them they drew the key elements to define the objectives of our China policy in the 1990's.

First, China has to improve its record on human rights. The conference agreement requires that China account for citizens arrested as a result of their participation in the Tiananmen Square incident in June of 1989; and to release them now. That is a minimum step that must be taken by China to restore its international reputation.

The bill also calls for China to make significant progress on a wide range of basic human rights—for example, by ending religious persecution, by allowing free assembly and freedom for the press, and by ending torture and inhumane prison conditions.

The fact is that until China stops the brutal repression of its own people, it is just not going to be welcomed back into the hearts of American citizens. While repression in China today may not be seen in the nightly news as it was in 1989, it certainly continues. China's leaders must understand that we are fully aware of that, and that we are going to continue to press China to treat its own people with the dignity that they deserve.

Second, of course, China has to open up its markets to American exporters. The bill requires that China make significant progress in providing American exporters with fair access to its markets, stopping the unfair trade practices, and protecting our intellectual property rights. The bill also puts some teeth into our laws against the importation of prison-made goods by setting civil penalties of up to $1 million for violations of those laws against those who import those thing into this country.

And third, China must stop contributing to the proliferation of dangerous weapons systems into the most volatile areas of the world. The bill requires China to make significant progress in adopting a national policy that adheres to international standards aimed at preventing weapons systems proliferation, such as the missile technology control regime. Specifically, the bill makes clear that China does not meet this test if it transfers the M-9 or M-11 missiles or missile launchers, or nuclear technology or equipment, to Syria or Iran.

With this bill, Congress spells out a message to the Chinese leadership which I think this administration has just failed to send. If China wants to continue current trade relations with the United States, the number one customer in the entire world; if it wants to be an accepted member of the international community, a member in good standing, then it has to change its direction on human rights, on trade, and on weapons proliferation.

Let me address the trade issue in particular. When two countries exchange most-favored-nation treatment, that means that both countries expect to benefit. It has to be to their mutual benefit, or it just does not work properly. But look at what has happened since we granted China most-favored-nation status. Before 1980, Chinese exports to us amounted to less than $1 billion a year. Last year, China shipped nearly $19 billion worth of goods to the United States.

That would be all right; we would not quarrel about that if we were talking about fair trade practices. But if we are talking about enormous subsidies to exports; if we are talking about dumping their products far below their own costs; if we have government-managed trade rather than using the standards of commercial markets; that is when we have problems.

Just look at our own record of exports in that same period. We have gone from $2 billion in 1979 to approximately $6 billion today; that is less than one-third of what China is exporting to us.

In 1990 we saw our exports to China go down. I cannot think of another major market around the world where we saw that happen. They recovered somewhat in 1991. But the fact is that trade with China is adding nearly $13 billion to our trade deficit today. It is the fastest growing deficit we have with any other nation. Since we began considering this bill last year, China has moved past Taiwan, right up into second place behind Japan, in our trade deficit ranks.

Remember all of the talk in the past, in the early eighties, about the huge market in China, and of the great potential that we had for American business? Well, that market is still there, but the potential has not even begun to be realized.

Look at South China and see what is happening there, where they are really developing their exports. American businessmen have gone over and established their plants and their factories there to ship the products out.

What is the problem for us? Well, it is all of the roadblocks that China puts up to the products coming from here into China. Over the last 3 years, China has tightened central control over foreign trade to be certain it works to China's advantage. They use all sorts of tools to limit imports into China: For example, tariffs as high as 200 percent, and import licenses on nearly half of their trade. What do import licenses mean? That means they can manipulate trade in the bureaucracy. You are never quite sure what you are going to be able to send into the country. You also have out-and-out bans against imports of 80 types of products you cannot send there at all.

China also uses a whole variety of trade barriers that are more subtle, but equally effective. For example, it does not publish its trade directives. How does an American exporter know what he is up against? China imposes high quality standards on foreign goods and then requires elaborate testing and certification to make sure those standards are met, standards that we are not putting on their products coming here.

I remember the example of this in the auto sector. If you want to export autos to China, you have to provide two free cars as samples to the Chinese Government, pay $40,000 for their testing, and then foot the bill for Chinese inspectors to come to this country to inspect the factory. None of this, of course, applies to a Chinese-made car.

The bottom line is this: If you are an exporter trying to sell a product to China that China makes for itself, the deck is stacked against you. And their docks will be stacked with your products and they will not move off the docks.

At the same time, China has placed a high priority on increasing its exports and it has an arsenal of tools in that area as well. The United States Trade Representative [USTR] reports that at least 90 percent of China's exports receive some form of Government support. It comes in a variety of forms—for example, lower tax rates, preferential credit rates, and exemptions from import duties on things they need as components. You also have parallel exchange rates which give Chinese exporters a 50- to 70-precent premium over the official rate. That is pretty tough competition. I do not care how many hours the American workers work or how many wage concessions they make in trying to meet that competition, an enormous advantage is given by the export terms of China.

Than I read about the way that China tries to get around our quotas on textiles and apparel—shipping through countries like Lebanon, Honduras, Panama, and Macao. Yet China already, even under the quota system, is our largest supplier of textile products, just in those they ship under their own label.

But despite this kind of widespread bad behavior, we see this administration deciding to take a new approach in its handling of antidumping cases against China, an approach that appears to me to be letting the Chinese exporter off the hook when it comes to dumping and selling products below cost in this country. Serious questions are being raised as to whether this new approach is consistent with the laws that Congress passed in the Trade Act of 1988. It is incomprehensible to me why this administration would be stretching the law at this point to give China a better deal when they have a $13 billion trade surplus with us. China is surely not giving the American exporter a better deal.

After months of talk about China's trade barriers, the administration finally initiated a section 301 case last October against these unfair practices. By law, that case does not have to conclude until next October. But there is no excuse for letting the investigation go on that long. We know what the problems are with China and China knows what it needs to do to settle the dispute.

The section 301 tool can work. That is why we strengthened it in the 1988 Trade Act. China has a bad habit of stealing the markets of American exporters by taking their intellectual property rights unlawfully. By using section 301, the United States Trade Representative got China to the table and we now have an agreement that should end this kind of piracy. I certainly welcome that new agreement, and I will be watching to see how closely they comply with it.

As for the remaining section 301 cases, I am calling on the administration today to conclude its investigation by June when the President must decide whether to extend China's MFN status another year. Frankly, I hope they move faster. The President gave us a March 20 deadline, as I recall, on the tax bill. I would like to see him move faster on trade with China in the MFN agreement. That is more than enough time for us to determine whether China is prepared to open its markets to our exporters, as we have opened up ours to them.

China talks a lot about wanting to join the General Agreement on Tariffs and Trade [GATT]. Under the 1988 Trade Act, the administration cannot grant China the benefits of GATT until China agrees to operate its state-trading companies consistent with commercial considerations, so they figure profit and loss under a commercial approach. If they do not get such an agreement, then the administration needs congressional approval before granting China any GATT benefits.

Now, as long as China makes government-driven rather than market-driven decisions in international trade, and as long as China treats United States companies unfairly by protecting its markets while preying upon ours, I do not see any reason to let China into the GATT.

I do not think this administration has gotten the message across to the Chinese leadership that there is a price to pay for its policies of repression, of protectionism, and of indiscriminate arms sales. It is time for the Congress to send that message loudly and firmly. I urge my colleagues to join me in voting for this conference report.

Mr. President, I reserve the remainder of our time.

Mr. PACKWOOD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. Mr. President, I yield 12 minutes to the Senator from Montana.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BAUCUS] is recognized for 12 minutes.

Mr. BAUCUS. Mr. President, I rise in opposition to the conference report on H.R. 2212.

As most of us are keenly aware, over the last three years, United States relations with China have been the subject of intense congressional debate. China's unfair trade practices, its sales of dangerous weapons, and its violations of basic human rights add up to a reprehensible record.

Quite understandably, many of my colleagues have sought sanctions against China.

ENDS AND MEANS

In my mind, it is unfortunate that the debate on United States policy toward China in recent years has centered on whether or not we should extend most-favored-nation [MFN] trading status to China.

The heated debate over whether or not MFN status is the appropriate tool for addressing our concerns with China obscures a broad consensus on the larger issue.

The administration, the business community, and some in Congress—including myself, strongly oppose using MFN status as the tool to push for reform in China.

We oppose conditioning or withdrawing MFN because it would be exactly the wrong approach. Instead of encouraging reform in China, withdrawal of MFN would break the growing business ties between China and the United States, devastate United States export industries, and push China further into the hands of hardline Marxists. A unilateral cutoff of MFN would hurt the United States far more than it would hurt China—especially since no other nation would follow the United States example.

But the debate over MFN is a debate over means, not over ends.

In fact, there is a consensus in the Congress, in the administration, and in the Nation as a whole that China's behavior is intolerable and that the United States must be a force for reform. The disagreement is about how we best achieve this goal, not over whether it is worth achieving.

A NEW CONSENSUS

One of the positive results of last year's congressional debate over extending MFN is the emergence of the foundations of a new, consensus policy toward China.

Last July, in a letter to myself and other Senators, President Bush articulated a comprehensive new United States policy for addressing United States concerns with China. I ask unanimous consent that a copy of that letter and a follow up report from the administration appear in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, July 19, 1991.

Hon. MAX S. BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: I appreciated receiving your views on the importance of renewing China's most-favored-nation (MFN) trade status while also seeking to achieve progress with the Chinese on issues of vital concern to the American people. We clearly share the same goals. We want to see China return to the path of reform, show greater respect for human rights, adhere to international norms on weapons sales, and practice fair trade. China should contribute to international stability and not detract from it.

You rightly note that withdrawing MFN would hurt not only Americans but also the people of Hong Kong and the millions in China who are working for progressive change. Continuing MFN is essential to protect American consumers and exporters, and to support the economic forces that have been driving reform in China for more than a decade. It is no accident that the process of reform accelerated with the increase in foreign businesses operating in that nation. Those who would end political and economic reform in China have the most to gain if MFN were withdrawn. It is the economic forces pressing for the loosening of state control and increased personal freedom that would suffer the most. Other losers would be the thousands of American workers and farmers who together produced in 1990 almost $5 billion in exports to China.

Since we started the process of normalizing contacts with China in the 1970s, there has been strong bipartisan support for the U.S.-China relationship. Building on the three U.S.-China communiques, U.S. interaction with the government and people of China has produced demonstrable progress. That interaction must continue despite the recent severe setbacks. Nevertheless, I support the view that strong measures are needed to address our concerns in China and have not hesitated to use them in a targeted fashion. To underscore our deep dismay about human rights violations, I have kept in place a number of sanctions since the Tiananmen Square crackdown which have affected arms sales, high-level contacts, U.S. economic programs and U.S. support for multilateral development bank lending to China.

The U.S. is currently the only nation maintaining its Tiananmen sanctions and refusing to normalize relations until China makes substantial progress on human rights. For example, while all our allies and other World Bank members have supported virtually all of the last sixteen World Bank loans to China, we have declined to support seven because the loans would not serve basic human needs.

At the London Summit, we raised China's human rights practices with our G-7 allies and encouraged them to continue to stress to China's leaders, as we have repeatedly, the importance that democratic governments attach to human rights. We made clear that the U.S. will continue its policy of supporting only those multilateral development loans for China that serve basic human needs (BHN), and our view that any non-BHN lending to China help to promote market-oriented economic reform.

To advance our nonproliferation objectives, I recently authorized a number of steps aimed at engaging the Chinese on their weapons transfer policies and making clear our dissatisfaction with transfers that contribute to regional instability. The Under Secretary of State for International Security Affairs recently traveled to Beijing for a detailed discussion of nonproliferation issues, including our specific concerns about Chinese exports. He pressed for China's adherence to the Nuclear Nonproliferation Treaty and the Missile Technology Control Regime, actions I called for in my commencement speech at Yale University on May 27. We are pleased with the constructive role China played in the July 8-9 Middle East arms control talks in Paris. The Chinese endorsed all the key objectives of my Middle East arms control initiative (such as efforts to freeze and ultimately eliminate surface-to-surface missiles and block the production and acquisition of nuclear useable material). The Chinese also agreed to work rapidly in follow-on meetings to flesh out the broad agreements reached in Paris.

At the same time, I have also taken measures to emphasize to China that the U.S. is concerned about reports of destabilizing missile-related transfers. In April, I rejected requests for licenses to export satellite components for a Chinese communications project because of the involvement of Chinese companies in unacceptable missile equipment transfers. Just recently, I approved trade sanctions against two Chinese companies for that same reason. In addition, I directed that no further licenses of high-speed computers and no further exports of satellites to China be authorized until our concerns that China adhere to accepted international nonproliferation standards are satisfactorily addressed. The U.S. will be coordinating with other countries in order that these measures not be undercut. Our experience has demonstrated that such consultations will lead to effective, multilateral technology transfer restrictions.

I have also instructed U.S. agencies to press vigorously our concerns about Chinese unfair trading practices. In April, I directed the U.S. Trade Representative to identify China as a priority foreign country under the Special 301 provisions of the Trade Act for failing to protect U.S. intellectual property rights. If China does not make real progress during the 301 investigation, trade action will follow. Beyond intellectual property protection, my Administration has invited senior Chinese trade officials to Washington in August for continuation of consultations begun in June regarding access for U.S. products to the Chinese market. If these talks fail to produce Chinese commitments to take substantial measures to improve market access, the Administration will self-initiate further action under Section 301 of our trade laws.

We are strictly enforcing the terms of our textile, agreement which China and have already made charges against China's quota because of illegal textile shipments through third countries totalling approximately $85 million so far. Following consultations in July, we expect to make additional charges. If China does not exert effective control over these illegal shipments, we are prepared to take additional action against China.

Charges that China exports goods produced with prison labor are a matter of serious concern. The Customs Service is investigating these charges. In addition, we have obtained a firm high-level commitment to prevent the sale of prison labor products to the United States. We will continue to monitor China's behavior in this area closely and will strictly enforce relevant legislation concerning prison labor exports. In particular, I am ordering the following additional measures: The Department of State will seek to negotiate a memorandum of understanding with China on procedures for the prompt investigation of allegations that specific imports from China were produced by prison labor. Pending negotiation of this agreement, the U.S. Customs Service will deny entry to products imported from China when there is reasonable indication that the products were made by prison labor. The denial will continue until the Chinese Government or the Chinese exporter provides credible evidence that the products were not produced by prison labor.

I am also instructing the U.S. Customs Service to identify an office to receive information on prison labor exports and establish procedure for the prompt investigation of reports of prison labor exports from interested parties. Additional customs officials will be directed to identify prison labor exports and aid in uncovering illegal textile transhipments.

Although it is not directly related to China's MFN status, I share your interest in Taiwan's accession to the GATT. As a major trading economy, Taiwan can make an important contribution to the global trade system through responsible GATT participation. The U.S. has a firm position of supporting the accession of Taiwan on terms acceptable to GATT contracting parties. The United States will begin to work actively with other contracting parties to resolve in a favorable manner the issues relating to Taiwan's GATT accession. Because China, our tenth largest trading partner, could also make an important contribution to the global trading system, I will seek to have the Chinese Government take steps on trade reform so that China's GATT application can advance and its trade practices can be brought under GATT disciplines through the Working Party formed for China in 1987. U.S. support for Taiwan's accession to GATT as a customs territory should in no way be interpreted as a departure from the long-standing policy of five administrations which acknowledges the Chinese position that there is only one China, and that Taiwan is part of China.

In sum, therefore, I am prepared to address the concerns you and your colleagues have identified, and I am doing so. But discontinuing MFN, or attaching conditions to its renewal, would cause serious harm to American interests and would render futile pursuit of the initiatives I have outlined, which are discussed in greater detail in the attachments. Working together, I believe we will best protect America's interests by remaining engaged with China and the Chinese people.

Sincerely,

GEORGE BUSH.

P.S. At the recently concluded G–7 Summit in London, the leaders of these Western Democracies all urged renewal of MFN.

THE WHITE HOUSE,
Washington, November 5, 1991.

Hon. MAX S. BAUCUS,
U.S. Senate,
Washington, DC.

DEAR MAX: I appreciated receiving your views on the importance of following through on the issues we addressed in our last exchange of letters regarding the People's Republic of China. It is clear that we continue to agree that the best way to make progress is for the Administration and Congress to continue to work together.

We need to be firm with the Chinese about our expectations, and, at the same time, encourage them to take positive steps. There has been some positive movement since my last letter to you, but we all should recognize that forward movement very likely will be incremental and could well be complicated by setbacks along the way. Nonetheless, I am determined that U.S. policy encourage China to move in a positive direction.

We are taking strong, yet measured, action against the Chinese, including in the areas you mentioned—market access, apparel imports, and prison labor. We are also working actively with GATT contracting parties to resolve issues of Taiwan's GATT accession. The details of these actions are attached.

There is no question that MFN is the wrong tool to bring about change in China. I think we both are in complete agreement on that. I think we also agree that a strong China policy that vigorously addresses our concerns while continuing to engage China gives us the best hope for encouraging reforms while protecting our own national interests.

I welcome your support and look forward to continuing to work together to bring about positive change in China.

Sincerely,

George Bush.

MARKET ACCESS

U.S. trade agencies were instructed last July to press vigorously our concerns about unfair Chinese trade practices with the Chinese government. In talks with PRC Vice Minister Tong Zhiguang August 20–23, the U.S. outlined for the Chinese a series of tangible steps that would begin the process of dismantling trade barriers. Because the Chinese were unable to respond definitively to these proposals before the end of our August discussions, a September 30 deadline was set for an official response. Every consideration was given to the Chinese response received September 30, but after U.S. trade agencies determined that it did not meet the requirement that China make commitments to take substantial measures to improve market access, the U.S. Trade Representative self-initiated a Section 301 investigation.

Four principal market barriers will be investigated, including selected sector-specific and product-specific import prohibitions, import licensing requirements, and technical barriers to trade as well as failure to publish laws and regulations pertaining to restrictions on imports. Under the 1974 Trade Act, as amended, the investigation of Chinese practices normally must be concluded within twelve months. If it is determined at the end of that investigation that the barriers under review burden or restrict U.S. commerce in an unreasonable or discriminatory fashion, the U.S. has the right to impose retaliatory trade action against China.

APPAREL IMPORTS AND PRISON LABOR

The Customs Service's unprecedented action associated with apparel imports demonstrates the Administration's determination to enforce federal laws applicable to the import of Chinese goods. Moreover, this action is testament to the Administration's resolve to implement the commitments in the President's July 19 letter to Senator Baucus to use the instruments available to enforce the law and to pursue U.S. policy objectives with the Chinese. Vigorous action to protect American interests and uphold the law in these cases will continue to be taken.

The U.S. has serious concerns about the export of Chinese goods produced with prison labor. The Department of State and the U.S. Customs Service have been actively pursuing steps to prevent importation of Chinese prison labor products. On September 23 a Chinese commitment was received to negotiate an understanding on procedures for the prompt investigation of allegations that specific imports from China were produced by prison labor. The U.S. will press for a rapid conclusion to those negotiations.

The Chinese issued an official statement October 10 reiterating the national prohibition on export of prison made products.

If Chinese prison labor products have entered the U.S., it has been through a network of middlemen, including trading companies in China and abroad, that makes it difficult to trace such shipments. Cooperation of authorities in the PRC and with U.S. business people is needed to eliminate any such exports at their source. In an effort to reach out to new sources of assistance and information in achieving this objective, the Commissioner of the Customs Service held a public hearing on November 1, 1991 in Washington in order to expand awareness of the problem in the trade community and among the public.

At the same time, the U.S. will continue to do its utmost to prevent the entry of any prison labor product from China. The U.S. Customs Service has undertaken a range of short- and medium-term measures to block the entry into the U.S. of Chinese prison labor products. In his July 19 letter to Senator Baucus, the President noted the U.S. would prevent entry of products from China when there is a reasonable indication that such products were produced by prison labor. The Customs Service issued orders on October 4 to detain any shipments of certain Chinese merchandise (wrenches and steel pipe) that are believed to be produced by prison labor in China. We take our obligations in this matter seriously.

TAIWAN'S GATT APPLICATION

The Administration is working actively with other GATT contracting parties to resolve the issues relating to Taiwan's GATT accession. It has been made clear in discussions with other governments that the United States supports Taiwan's accession to GATT as a customs territory and that we want GATT contracting parties to resolve this matter favorably. This position in no way implies a change in the long-standing U.S. policy that acknowledges the Chinese position that there is only one China and that Taiwan is a part of China.

ACHIEVEMENTS OF THE PRESIDENT'S ENGAGEMENT STRATEGY, FEBRUARY 1992

HUMAN RIGHTS—MODEST PROGRESS

Our human rights dialogue has yielded modest results, with much more to be done;

China has given us a name-by-name response on our prisoners list; we are seeking more information;[1]

Some dissident relatives and dissidents have received exit permits; others have not. We are holding the Chinese feet to the fire on their assurance to the Secretary that all those without criminal proceedings pending would be allowed to leave;[1]

China has published regulations banning the export of products of prison labor and is negotiating with us an MOU providing for investigation of charges that the Chinese are exporting such products to us;[1]

Tibet has seen a gradual lessening of tensions and a reopening of tourism there;

China has acknowledged the legitimacy of a human rights dialogue and named a counterpart for regular consultations with us; and[1]

We are using this exports dialogue to push for further reform.

NON-PROLIFERATION—THE CHINESE ARE MOVING FORWARD

Agreed in writing to observe Missile Technology Control Regime (MTCR) guidelines and parameters;[1]

Are on track to accede to the Nuclear Non-Proliferation Treaty by April;[1]

Participating in the President's Middle East Arms Control Initiative and supporting the South Asian nonproliferation regime;[1]

Supported the placement of IAEA safeguards on the nuclear reactor that China is building in Algeria;[1]

Supported the UN consensus on elimination of Iraqi weapons of mass destruction.[1]

TRADE—CHINESE ADDRESSING OUR CONCERNS

Agreed in January to improve significantly protection of U.S. patents, copyrights, and computer software;[1]

Averted possible imposition of sanctions by the Federal Maritime Commission by agreeing to allow U.S. shipping companies to establish branch offices in China and to engage in normal business activities;[1]

U.S. exports to China increased by about 30 percent in 1991;

China was the fastest growing Asian market for U.S. exports last year;

A third round of negotiations, under our Section 301 investigation of Chinese market barriers, is being held February 24-26.[1]

GLOBAL/REGIONAL ISSUES—CHINA SHARES COMMON GROUND WITH THE UNITED STATES

Cooperated with efforts to find a comprehensive political solution in Cambodia—Chinese support, particularly with respect to containing the Khmer Rouge, is very important;[1]

Supported separate UN seats for South and North Korea, opposed North Korea's effort to develop nuclear weapons, and shares our objective of reducing tension on the Korean peninsula;[1]

Supported the international consensus during the Gulf crisis, including sanctions enforcement;

As a permanent member of the UN Security Council and with more than one billion people, China is key to our international pursuit of proliferation of weapons of mass destruction issues, arms sales transparency agreements, and for continued cooperation on regional issues.

Mr. BAUCUS. The essence of this policy is that the United States will pursue carefully tailored policy tools to win reform in China. At the same time, the United States will continue MFN in order to nurture vital commercial ties with China. This policy is often referred to as "constructive engagement."

With this new policy in place for nearly 6 months and the Senate once again moving toward a vote on China's MFN status, it is appropriate to examine the results on three key issues: First, trade; second, weapons and nuclear proliferation; and third, human rights.

INTERNATIONAL TRADE

Under the guise of an austerity campaign launched in 1988, China became the most protectionist nation in the world. China allowed—in fact, sanctioned—piracy of United States intellectual property, particularly pharmaceuticals and computer software. This piracy cost the United States close to $1 billion per year in lost export opportunities.

But the piracy of intellectual property is only the tip of the iceberg. China has imposed a web of new trade barriers, including import bans, import licenses, quotas, and discriminatory testing requirements, to exclude the exports of the United States and other nations.

Not surprisingly, the United States bilateral trade deficit with China ballooned. In 1991, our trade deficit with China reached $12 billion—exceeded only by the United States deficit with Japan.

In last July's letter, the Bush administration articulated a new trade policy toward China. The central premise of this policy is that if China expected continued access to the United States market for its exports of toys and apparel, it must open its market to United States exports. Two separate unfair trade actions were launched—one on intellectual property piracy and one on trade barriers generally.

The case on intellectual property was successfully resolved a few weeks ago. After the United States threatened to block some Chinese exports to the United States unless the piracy ceased, China agreed to sweeping new patent and copyright protections. The new agreement protects U.S. films, computer software, drugs, agrichemicals, and other products.

Though we must carefully monitor implementation of this agreement before judging its results, all U.S. intellectual property industries have hailed the agreement as a major breakthrough. The agreement is concrete evidence that the United States can win reforms in China if it pursues carefully targeted policies, rather than conditioning or cutting off MFN.

But much work remains to be done in the trade area. The broader unfair trade action on Chinese trade barriers has still not been resolved. The case was formally launched last October. Under United States trade law, the administration has a full year to resolve the case before it is obliged to retaliate against Chinese exports to the United States.

But I see no reason to wait that long. We have been negotiating with the Chinese over these trade barriers for many months. If an agreement is not reached by late this spring, the President should retaliate against Chinese exports to the United States.

On a related issue, the administration has promised to stop allowing

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[1] Denotes actions taken since July 1991.

China to dictate United States policy toward Taiwan. In particular, the administration pledged to strongly support Taiwan's application to join the General Agreement on Tariffs and Trade, a step that is clearly in the best interest of both the United States and Taiwan.

The administration has been working behind the scenes to prepare the way for Taiwan's application. But it is time to now launch a much more public effort. China cannot be allowed to dictate United States policy toward Taiwan.

I ask unanimous consent that a letter from United States Trade Representative Carla Hills detailing our trade policy toward China appear in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, January 30, 1992.
Hon. MAX S. BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: With debate over China's Most-Favored-Nation (MFN) trade status once again about to begin in the Senate, I want to stress in the strongest possible terms the President's and my continuing commitment to maintaining unconditional MFN for China. I would like to bring you up to date on several fronts where the Administration has made progress with the Chinese as outlined in the commitment that the President made in his letter of last July 19.

MFN now underpins a U.S.-China trade relationship that exceeds $23 billion in two-way trade, with a substantial and growing market for U.S. aircraft, wheat, fertilizer, cotton, and wood products among others. Trade with China has led to the creation of thousands of jobs for U.S. workers and farmers, and, it has helped to underwrite the current prosperity of Hong Kong.

We nonetheless continue our efforts to resolve the serious trade problems that we have with China. As instructed by the President last July, U.S. trade agencies, including USTR, have taken vigorous measures to rectify those problems. At the direction of the President, I ordered the initiation of a Special 301 and investigation into China's intellectual property rights practices and a Section 301 investigation into the denial of access for U.S. exports to Chinese markets. The Administration has also taken vigorous action with regard to Chinese textile transshipments.

These policy measures have begun to bear fruit. We concluded an agreement with China on January 17 that will considerably improve protection for copyrights, patents, trade secrets and other U.S. intellectual property. In the process, the Chinese have agreed to join two major international conventions for the protection of intellectual property and to make significant changes in their laws and regulations to implement the stipulations both of these conventions and of our bilateral agreement.

As you know, because of this agreement, the two leading industry associations, PMA and IIPA, both came out strongly in support of renewal of unconditional MFN.

In the current 301 investigation into market access questions, we are also pressing China to make significant structural changes in its still highly protectionist trade regime and to eliminate market barriers to U.S. exports. In this regard, we have asked the Chinese to bring their trade regime up to international standards as expressed by the principles and stipulations of the General Agreement on Tariffs and Trade (GATT). Although our talks with China on market access issues have just hit full stride, we have made some initial progress in beginning the process of reducing prohibitively high tariffs, import licensing requirements, and in improving transparency.

The Customs Service has increased greatly its investigation into suspected illegal Chinese textile transshipments. Moreover, recent raids on importers of Chinese textiles in the United States should provide an additional deterrent to fraud. Substantial charges have been made against China's textile quotas, and the Chinese have been informed that additional countermeasures may be necessary.

The Administration is continuing to work with our trading partners to resolve the issues associated with Taiwan's accession to the GATT. I believe that Taiwan's accession to the GATT will make an important contribution to the global trading system and continue to support it. At the same time, it is clear that China's entry into the GATT would also be of benefit to the international trade community. It is also clear, however, that before China can accede to the GATT as a contracting party, China must demonstrate that it has complied with GATT requirements.

I urge you to continue to support unconditional MFN for China. As always, I look forward to working with you in our efforts to encourage China to improve its foreign trade regime and to become a full member of the international trade community in good standing.

Sincerely,

CARLA A. HILLS.

WEAPONS AND NUCLEAR PROLIFERATION

Mr. BAUCUS. For several years, the entire civilized world has shuddered at reports that China was selling dangerous nuclear and missile technologies into unstable regions.

Reports of Chinese sales of long-range missiles to Syria and Pakistan and nuclear technology to Iran raised the specter of nuclear conflict in the Middle East. The Western World demanded that China observe international accords limiting such sales.

In particular, the United States pressed China to sign the Nuclear Non-Proliferation Treaty [NPT]—which regulates sales of nuclear materials—and to abide by the Missile Technology Control Regime [MTCR]—which regulates sales of missiles.

As a result of pressure from the United States and other Western nations, China has agreed to sign the NPT and to abide by the MTCR.

Just a few weeks ago, China finally provided the United States with a letter that formally committed China to abide by the MTCR. After studying the letter, the State Department is convinced that it does block further exports of Chinese missiles. And, in response, the United States lifted sanctions imposed on China for previous missile sales.

But the administration has committed to carefully review China's actions to ensure that China lives up to its written promise. And, if violations are found in the future, trade sanctions can be reimposed or increased.

We should keep in mind, however, that on this issue and others removing MFN would be counterproductive.

If China is unable to sell its goods in the United States market, it will look for ways to earn hard currency. One of the most obvious options would be selling even more weapons to eager buyers around the world. Cutting off MFN would also effectively eliminate United States influence in China. The net result, is likely to be more sales of dangerous missile technology, not less.

Further, we must keep in mind that even our closest allies, such as Germany and France, have occasionally sold dangerous weapons and materials into the Middle East. Remember, Iraq's nuclear weapons effort was possible largely because of technologies materials purchased from German and French companies. Yet, no one has suggested denying France or Germany MFN treatment. No one has made that suggestion because it is understood that MFN is the minimum trade treatment we extend to all of our trading partners, not some special benefit we extend only to our closest allies.

Chinese weapons sales are better addressed through diplomacy and targeted sanctions. Firing off the MFN blunderbuss would only set back our efforts to curb Chinese sales of weapons and nuclear material.

HUMAN RIGHTS

I am disappointed with the progress that China has made on human rights. We all remember the horrible images of the massacre in Tiananmen Square.

The administration agreed last July to continue sanctions and employ its diplomatic leverage to win freedom for China's political prisoners, including those from Tiananmen Square.

In the last few months—thanks largely to U.S. pressure—we have seen the release of a few political prisoners and a rough accounting of the fate of most political prisoners.

Hopefully, this is a sign that progress is being made. But make no mistake about it, China has a very long way to go.

Until China releases the prisoners of Tiananmen Square, ties with the United States will remain strained. Western business will likely remain hesitant to invest heavily in China and Hong Kong until China greatly improves its human rights record.

The only way for China to put the tragedy of Tiananmen behind it is to release all the Tiananmen prisoners.

The United States must continue to put diplomatic pressure on China toward that end. This pressure should include continued opposition to multilateral lending to China.

In blatant violation of United States law, China has also exported goods made by prison labor—including political prisoners—to the United States.

Morally, the United States cannot allow itself to in any way support China's system of political oppression.

Last summer, the President agreed to step up efforts to block Chinese exports of goods made with prison labor.

These efforts have borne fruit. The Custom's Service has seized exports apparel, tools, tea, diesel engines, and a number of other products suspected of being made with prison labor. It has also set up an office to investigate claims that imported goods may be made with prison labor. The United States is also seeking to negotiate an agreement with China to end all exports of prison labor goods and allow the United States to make inspections in China to enforce the agreement.

Here again, more remains to be done. But we are making progress. Hopefully, we can soon be assured that the United States consumer is not being made an unwitting accomplish to China's system of political oppression.

MFN IS THE WRONG TOOL

But the conference report we have before us today ignores the progress that has been made and takes a large step in the wrong direction.

Simply put, MFN is the wrong tool to make progress with China.

Though it is hailed as a compromise, this legislation still imposes some 17 conditions on extensions of MFN for China. The 17 conditions are all aimed at laudable goals. I personally support the objective behind every condition.

But the simple fact is that China is still ruled by a totalitarian government that is not willing to make sweeping changes simply because we demand it. Unfortunately, China's totalitarian rulers seem to see release of political prisoners as endangering their hold on power. And they would prefer to lose MFN status rather than relinquish control of China.

And if the United States retaliates by cutting off China's MFN status, United States exporters and proreform forces in China will be devastated.

The effect of cutting of MFN will be to impose Smoot-Hawley tariffs on China's exports. China will almost certainly retaliate by cutting off billions of dollars in United States exports of wheat, fertilizer, and aircraft—putting thousands of Americans out of work.

Worse yet, cutting off MFN will break the vital tie between the United States business community and entrepreneurs in southern China. With these business ties come contact with Western ideas like freedom, democracy, and human rights.

It is no wonder, as was reported in Newsweek recently, that southern China is the hotbed of reform in China. As a number of leading Chinese dissidents have argued, breaking this tie would be a severe blow to proreform forces in China.

In essence, conditioning or cutting off MFN might make us feel good, but it certainly would not do good.

I ask unanimous consent that the Newsweek article just referenced and a recent article from the New York Times appear in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Newsweek, Feb. 17, 1992]

CHINA'S RENEGADE PROVINCE

(By Frank Gibney, Jr.)

In downtown Guangzhou (Canton) recently, highschool students clapped dutifully at the unexpected arrival of a foreign visitor. Then their history teacher pointed to the lesson of the day, written on the blackboard: Why China Chose the Socialist Road. They giggled. Nowhere in China does old-time propaganda sound more stale than in go-go Guangdong. Students in this southern province are choosing a different road. They aim to be managers of joint ventures with foreign investors. Their favorite singer is Michael Jackson. Their favorite TV shows are American dramas and the news from nearby capitalist Hong Kong. And their choice for biggest event of 1991: "The end of the Soviet Union . . . and 70 years of communism there," in the words of one 16-year-old. "It's very difficult to teach socialism these days," sighed their political studies teacher.

And how. Ever since Deng Xiaoping launched China's market-oriented reforms in 1979, Guangdong has always stretched the outer limits. The economy is growing faster than nearly any other in the world—27.2 percent in 1991. The 1989 Tiananmen Square crackdown has hardly slowed the boom; Deng himself, on a recent two-week tour of Guangdong, called the region "Asia's fifth tiger." But can he cage it? Economic miracles have a way of disobeying politicians. From Hong Kong and Taiwan, pop novels and freewheeling newspapers slip easily over Guangdong's porous borders. Guangdong's leaders, confronted with Beijing's intransigence, know better than to dream of outright independence. But the pace of Guangdong's economic change may be enough to whirl it out of Beijing's orbit.

Guangdong has always had a special relationship with the world outside China. Emigration gave the province a foothold in dozens of countries; one town, Taishan, has only 96,000 residents—and 1 million relatives overseas. The tightest ties are with Hong Kong, most of whose residents are former refugees from Guangdong and still speak the same Cantonese dialect. That makes Hong Kong the easiest—and most dangerous—source of independent information. Beijing authorities have tried to impose a ban on antennas that can pick up Hong Kong television, but to no avail. To Beijing's dismay, jamming television signals during the spirited Hong Kong elections last year also didn't work: freelance electronics experts from the People's Liberation Army offered antijamming services to anyone who could pay.

And in Guangdong, people can pay. More than 2 million residents work in foreign joint ventures, making small fortunes by Chinese standards. Evidence of Guangdong's fast-lane corporate culture is everywhere at hand. The parking lot at the Aide Electric Rice Cooker plant overflows with Mercedes-Benz cars. Managers in the executive dining room toast their clients with glasses of pricey Courvoisier. The company recently shelled out $150,000 for a new discotheque for its workers, replete with a state-of-the-art Japanese sound system and strobe lighting. These flamboyant private businesses have left the public sector far behind; state enterprises now account for just over one third of Guangdong's economy.

State ideology, too, is becoming irrelevant. "the party is here, but we really don't notice them," says Li Hongkai, manager of a Japanese motorcycle retailer. Some Communist Party branches have caved in to practicality: they hold management-training courses rather than drilling their members on Marx and Mao. One municipal party committee recently went so far as to hold its biannual convention in capitalist Hong Kong. Guangdong's politicians bristle at the notion of tighter political control from Beijing. "What have they invested here?" asks Zeng Guangcan, deputy director of the province's economic-reform commission. "We pay for our railroads, our highways, our power plants." A planner for a state company puts the point even more bluntly: "they have no right to tell us what to do."

WILD APPLAUSE

Yet Guangdong politicians know they have to move carefully. Nobody breathes a word about formally renouncing communism or declaring independence from Beijing. But neither do they hesitate to stand up for Guangdong's rights. Ye Xuanping, the province's powerful former governor and one of China's few truly popular politicians, has managed to keep Beijing at arm's length. In September 1990, when Prime Minister Li Peng announced a plan to recentralize fiscal control over the provinces, Ye stood up and boldly denounced the notion. The other governors applauded wildly. Last year Beijing finally succeeded in kicking Ye upstairs to a post in the central government. But he still spends most of his time in Guangdong, and under his protection the province continues to enjoy unusual political leeway. Many of China's democratic reformers took refuge in Guangdong after the crackdown in Tiananmen Square.

Beijing's worry is that upstarts in Guangdong will encourage others. The interior regions of China used to resent Guangdong's privileges; out of spite, Hunan province prevented Guangdong's trucks from transporting coal and grain over its borders. These days the provinces are converts. "We're all heading to Guangdong to learn from them," says one provincial representative who operates out of Hong Kong. Foreign companies such as Procter & Gamble and Avon are using Guangdong as a springboard to China's billion-strong consumer market. And Guangdong, in turn, is exporting to its poorer brothers. "Guangdong is beginning its own investment push into China," says one economist for a state-run company. "This will be one of the biggest economic trends in the '90s." That smacks of real capitalism—and even looser reins. Deng clearly meant his tour of Guangdong last month as a signal to his lieutenants to speed up the pace of economic reform, but he won't let Guangdong do everything it want to do. He's still capable of restraining Asia's fifth tiger—but maybe not forever.

[From the New York Times, Feb. 24, 1992]

CHINA IS SOFTENING ITS ECONOMIC LINE

(By Nicholas D. Kristof)

BEIJING, February 23.—In a strong sign of shifting political winds in China, the official press is abruptly attacking the hard-line attitudes it espoused for the last two years and has started instead to call on the nation to emphasize economic growth and even adopt useful elements of capitalism.

The pirouette was reflected in a front page essay in today's editions of People's Daily, which in the past carried mostly dour warnings against Western subversion. Today's article, headlined "Opening up to the world and using capitalism," was the boldest in a monthlong flurry of signals that change-minded leaders may be gaining the upper hand over ideologues.

DENG'S INFLUENCE CITED

"All of modern Chinese history has demonstrated that China can travel only the socialist road, not the capitalist road," the article began. "At the same time, recent world history shows us that economically backward nations—especially those with long histories of feudalism—must correctly use capitalism, rather than rejecting it out of hand. Only by critically absorbing those elements of Western culture that are useful to us, rather than disdaining them, can we prosper and flourish."

The wave of recent editorials apparently reflects a push by Deng Xiaoping, the 87-year-old paramount leader, for China to devote more energy to becoming prosperous and less to remaining ideologically pure. The Politburo is believed to have confirmed this moderate line, and the new articles are a signal that the hard-liners are losing control even over the newspapers that they have dominated for more than two years.

Still, political fashions in China often change quickly, and it is unclear whether the recent articles reflect a major and irreversible trend to speed up economic liberalization. Even if economic growth is back at the top of the agenda, there is no hint that the regime will release political prisoners of tolerate challenges from Tibetan separatists or underground Catholic priests or disgruntled university students.

Calls for ideological vigilance and tributes to model Communists generally filled the front pages in the two and a half years after the June 1989 crackdown on the Tiananmen democracy movement. The crackdown, in which the army killed hundreds of protesters and wounded thousands more, was accompanied by the rise of hard-line leaders who installed their lieutenants as editors of the major newspapers.

The People's Daily article appears days before the United States Senate's vote, scheduled for Tuesday, on renewing most-favored-nation trade status for China. The Administration is urging the Senate to renew the favorable tariff treatment, continuing President Bush's policy of trying to change China's behavior on human rights, arms sales to the third world and other issues by contact rather by confrontation and punishment.

NO SHIFT ON RIGHTS SEEN

While there is no evidence of any major change by China on human right, on economic topics there is no doubt that a switch has taken place. The People's Daily article published today called for tolerating a measure of capitalism in the Chinese economy, and gave a ringing endorsement of stock markets and other practices associated with the West.

On Saturday, People's Daily carried a front-page editorial calling on the nation to focus more attention on economic development—and, by implication, give less attention to the Marist ideology that the same newspaper has emphasized since the rise of the hardliners in June 1989.

Also on Saturday, the official Guangming Daily filled most of the top two-third of the front page with a call to "liberate our thinking, deepen reform, open the door more widely." It was a dizzying change in emphasis for a newspaper that just last month carried a front-page appeal for universities to select students more on the basis of loyalty to Communism.

Mr. Deng began the new drive for reform with a trip last month to the southern Chinese special economic zone of Shenzhen. Mr. Deng called for more rapid change and went out of his way to praise Shenzhen, which is a symbol of economic experimentation and has shown spectacular increases in prosperity but also in prostitution and drug abuse.

The tide shifted apparently in part because Mr. Deng and other leaders determined that the best way for China to avoid the fate of the Soviet Union is to make people richer, and in part because other octogenarians who take a harder line are too feeble to fight back.

Today's article in People's Daily carried the byline Fang Sheng, which is almost certainly a pen name of an individual or a group of people in the central leadership. The fact that it was published on a Sunday—when almost no one reads in newspaper, which is delivered to offices and factories rather than homes—suggests that a Politburo member may have ordered the top editors to publish it but that they did their best to insure that as few readers as possible would notice it.

"Using capitalism includes developing an appropriate capitalist economy within our country; as a useful supplement to the socialist economy," the article said. "As our country is in only the preliminary stage of socialism, it is impossible to wipe out capitalism completely, and some exploitation will linger for a long while. So the important thing is to improve our guidance of these phenomena, and direct them onto a course where policy allows them."

Many elements of today's long article had appeared previously in one place or another, but they had not been combined with such force or clarity. The tone throughout sounded like a rebuke to the hardliners.

In particular, the article indicated that most Communists now acknowledge the need to use foreign capital and technology.

"On other matters, it seems that there are still some differences," the newspaper said, in a clear reference to hard-liners who are wary of capitalist influences. The article added that instead of fearing contacts with the West, China should expand exchanges "to enrich our culture."

"In the past we took the tortuous path of sealing oursevles off from the world and refusing to use capitalism.," the essay declared, in a reference to the Maoist, era. "Leftist errors and other factors were behind this, but they have nothing to do with socialism. On the contrary, in principle socialism means an open system and a reform-oriented economy."

A People's Daily editor said by telephone that the essay today was not an editorial or a commentary, but simply an "article." He said he did not know the identity of the author.

Wu Guoguang, a former People's Daily editorial/writer now studying at Princeton University, said he could recall only one other case in the last 15 years in which the newspaper carried a front-page commentary with a byline that was a pen-name. The other one was arranged by Mr. Deng's family and published last year, and Mr. Wu said an essay like today's would have to have the approval of a top leader.

A Western diplomat suggested that the growing number of reform-minded editorials reflect the new line following a Politburo meeting that is believed to have been held about a week ago.

"But at the same time," the diplomat added, "it's only words."

CONCLUSION

Mr. BAUCUS. I hope that the letter that the President sent to Congress in July outlining a new policy can provide the basis for a strong consensus on China policy.

Advocates of employing MFN to address our concerns with China have done us all a service by drawing attention to China policy. Senator MITCHELL, in particular, deserves praise.

But I fear the continuing debate gives Chinese leaders the mistaken impression that there is support in the United States for China and its policies. There is no support for China's current policies. The only debate is over means, not ends. As I said at the outset, there is a consensus that China's behavior must change.

Unfortunately, the debate on MFN for China may further obscure the underlying consensus.

Barring some dramatic change, the outcome of this instead of further debating MFN.

That policy should include continuing to engage China through trade. At the same time, we should vigorously use all appropriate policy tools to demand reform in China.

I yield the floor.

Mr. BENTSEN. Mr. President, I yield 12 minutes to the distinguished Senator from Delaware.

The PRESIDENT pro tempore. The Senator from Delaware [Mr. BIDEN] is recognized for 12 minutes.

Mr. BIDEN. Mr. President, I am going to address myself solely to the weapons proliferation section of the bill. The chairman of the Finance Committee knows a great deal more about the other provisions, and maybe even this one, than the Senator from Delaware does. I spent a great deal of time on this one provision, and I would very much like to suggest I strongly support the bill's other stipulations concerning human rights and trade but Chinese proliferation practices have been a matter of my special concern for some time now.

I would also like to thank the majority leader for agreeing to convene a secret session of the Senate this afternoon. I understand that is an unusual process, and I appreciate him considering my request.

This morning, I will outline my arguments concerning the importance of what I will call the Mitchell-Biden provision in the bill, the provision on weapons proliferation. This afternoon, I will buttress that argument with specific intelligence information, and I hope my friend from Montana will be there and others who have a keen interest in this subject and I believe with every fiber in my being, that this is a debate not about the ends but about the means. I would like to discuss some of the intelligence means, if you will, in the secret session which I acknowledge is unusual but it is the only forum that I know that can assure that all Members are aware of everything I am aware of and they can draw their own conclusion.

Once that case has been heard in secret session, I believe that there will be few Senators, if any, who will find it possible in logic or I suspect in good conscience to oppose the weapons provisions. Nor having heard the case do I think it will be possible for any Senator to understand how the Bush administration can logically oppose such a provision. These provisions do no more than lock in the pledges to which the Senator from Montana and others have already spoken, pledges that Beijing has now formally made to the United States, pledges on the basis of which the administration acted last Friday, with my support—not that they needed it—with my support to lift sanctions against certain Chinese companies.

In effect, the contract has been sealed, Mr. President. But later today, Senators will understand more fully that without the provision in this bill that I am referring to, there is a real likelihood that dangerous Chinese proliferation practices, practices directly contrary to United States interests, will resume.

I think it is no exaggeration to say, Mr. President, that it would be the height of irresponsibility to ignore the case that will be made later today. Moreover, I assure my colleagues that over time it will not be possible to ignore that case. Today will mark the point beyond which there can be no excuse on the part of any in this Chamber for ignorance of the sobering facts of Chinese proliferation practices in the past and intelligence estimates of the past, the present and the future.

Let met reiterate, Mr. President: Today will mark the point from which the Senate will know the point beyond which only negligence of information—or negligence of its probable consequences—could possibly explain passivity on this issue.

The case, Mr. President, is straightforward. It concerns the proliferation of modern, medium-range ballistic missiles to two of the most dangerous and volatile countries in the Middle East.

Just how lethal the particular weapons in question may be, how they could tip the balance in the Middle East, and how they could eventually threaten American lives can be discussed in open session later this afternoon.

But let there be no mistake this morning; we are dealing here not with an abstract problem. Our subject is weapons of a capability far greater than any Scud missile ever possessed by Saddam Hussein. Our subject is weapons which, if transferred, would pose a direct and discernable threat to the vital interests of the United States, the vital security interests of this country.

Mr. President, it is clear that China's leaders see the missile business as an important source of hard currency. Because they do, we know that only strong pressure from the West will inhibit the Chinese from making these sales. Such pressures must be designed to force China's leaders to engage in a cost-benefit analysis, and to see that China's interests will suffer if they do not cease and desist and abide by their agreement.

The Mitchell bill forces Chinese leaders to choose between a weapons market that can be denominated in the hundreds of millions of dollars and the American consumer market in which China enjoys a $15 billion annual surplus.

By forcing China's leaders to make that choice, this bill provides the leverage necessary to stop future arms sales that can imperil not only American allies but also American troops.

Mr. President, in recent years, the international community has undertaken several efforts to stem the proliferation of weapons of mass destruction. The Nuclear Nonproliferation Treaty has been strengthened by increasing membership, which has helped to limit dangers on the demand side, and the so-called nuclear suppliers group has been formed to ensure restraint on the supply side of nuclear technology.

Meanwhile, the Missile Technology Control Regime has intensified restraints against the spread of potent delivery systems.

Finally, Mr. President, the so-called Australia group has worked to limit the availability of technology necessary for the production of chemical and biological weapons.

I applaud all of these efforts. Indeed, Mr. President, I wish we were doing more. I have, for example, on this floor evidenced my severe disappointment that the administration has done only the minimum possible in response to the congressional mandate enacted a year ago, that we seek to create a multilateral arms supplier regime that would limit the transfer of highly lethal conventional weapons to the Middle East.

But that is a discussion for another day. What we are considering today is the opportunity and the imperative of acting to stop a clearly identifiable and immediate threat. We have a problem of major proportions, Mr. President, which I will lay out in stark detail in the secret session this afternoon. Fortunately, though, we have a sufficiently potent solution to meet the problem, and our task is simply to apply the solution.

After years of resistance, China has finally agreed to sign the NPT and has pledged to join the major Western powers and also Russia and the other commonwealth States in abiding by the Missile Technology Control Regime.

The problem is that, by the evidence of experience and the evidence of current intelligence data, which we will discuss this afternoon, the Chinese will not live up to those regimes unless they know that a violation will entail serious consequences.

The Mitchell bill embodies policies that are both flexible and strong. It would not—I emphasize, it would not—upon enactment require termination of China's MFN status, and it is flexible enough to allow MFN extension this coming June if the President certifies China's "overall significant progress" on proliferation has been made. If China abides by its recent pledges, that certification can be certainly made.

At the same time, the Mitchell bill requires a definite MFN cutoff if China sells fully manufactured missiles—or nuclear weapons technology—to Syria or Iran. It thereby provides a powerful deterrent against any temptation by China's leaders to proceed with such extremely dangerous transfers.

Just how strong that temptation is, Mr. President, and just how effective congressional pressure has proven to be are matters for discussion in secret session this afternoon.

For now let me specifically reiterate the terms of the Mitchell-Biden provision. Under it, the President can extend MFN in June 1992 if two conditions have been met:

First, China must not have transferred M series missiles or nuclear weapons technology to Syria and Iran, and thus far China has not.

Second, the President must certify that China has made "overall significant progress" in curbing weapons proliferation. Although China's recent sales of nuclear and missile technology are troublesome, and we will discuss that this afternoon, China's pledges to abide by MTCR and NPT represent progress. If China fulfills its pledge, the President can make this certification.

In sum, on weapons proliferation, the Mitchell-Biden provision is far from draconian, as some would have us say, and clearly is no blunderbuss because all we are asking them to do is abide by what they have already promised to do. If they do that, MFN is secure.

On the contrary, it simply provides the leverage that should be sufficient to convince the Chinese to live up to their pledges and without which the Chinese can be expected to consider violating their pledges in spirit if not in letter, and I will speak to that this afternoon as well.

In the realm of dangerous weapons proliferation, enactment of this bill will have one of two consequences. The likely consequence is that it will serve to induce China's compliance with international standards, at a time when proliferation in the Middle East could be perilous in the extreme. In the alternative, China will pay an onerous and well-warranted price.

Mr. President, Beijing's leaders have made a formal pledge to the Bush administration. As to this date, nothing in the Mitchell-Biden provision requires a cutoff of MFN. If China upholds its pledge, nothing in this provision will interfere with China's MFN trade status.

Surely, if China breaks that pledge, even the Bush administration, despite all its fondness for quiet diplomacy, would be prepared to respond to such a blatant irresponsibility.

I, therefore, Mr. President, urge my colleagues understand that this provision does no more than lock in, by stipulating a clear and unwavering sanction, the pledges that China has already made to this administration.

We have heard much about the new world order, Mr. President. The Senate today can take a constructive step to help ensure that we do not let another genie out of the bottle that could help destroy the new world order before we have even begun to explore its full potential.

This is not a time for Senate acquiescence but a time for Senate action to ensure that the pledge from Beijing, a pledge that bears vitally on U.S. security interests, is adhered to with the full rigor of a solemn obligation. Let us do no less.

This afternoon, Mr. President, I strongly urge my colleagues to come and listen to the detail and make their own judgment about the intelligence data.

I thank the Chair. I thank the chairman.

Mr. PACKWOOD. Mr. President, I yield 5 minutes to the Senator from Alaska.

The PRESIDENT pro tempore. The Senator from Alaska [Mr. MURKOWSKI] is recognized for 5 minutes.

Mr. MURKOWSKI. I thank the Chair. I thank my colleague.

ISOLATION OR CONTACT?

Mr. President, this is the third year in which I have come to the Senate floor to debate United States relations with China, in the context of the tragic events of June 1989 in Tiananmen Square. The question that we—as legislators—have been debating for these 3 years is whether it is in the best interest of the United States to turn our backs and isolate China until she changes her ways, or to maintain our contacts in order to promote the reforms and freedoms we think are missing in China.

Mr. President, the advocates of the bill before us, the United States-China Relations Act of 1991, must believe that isolation is the way to achieve our goals. I think that is indeed unfortunate. Although they say that H.R. 2212 will grant most-favored-nation status to China, they know that conditional MFN is the same as denying MFN. The Chinese have stated publically that they will not only refuse to accept conditional MFN, but they will also retaliate immediately.

Isolation is not the way to force change in the People's Republic of China. The only way to make the hardline Communist leaders in Beijing reform, is to keep up the pressure on them through contact, trade, tough negotiations, and targetted sanctions. I know this, the President knows this, and the Senate must show that it too knows this by defeating this bill.

Mr. President, the old guard China is watching the reforms in the Soviet Union. If they are successful, then they themselves, in China, will have to reform. But if we isolate China, they will dig in even deeper. We will have to wait for a new opportunity.

Mr. President, the question is how long.

Mr. President, every Member of Congress is rightfully concerned with China's record on human rights abuses, unfair trade practices, and weapons proliferation issues.

No one is more concerned about these issues than I. As vice chairman of the Intelligence Committee, and ranking minority member on the East Asian Subcommittee of Foreign Relations, I am committed to seeing these issues addressed. And so is the administration. That is why over the past 3 years they have implemented a series of targeted sanctions that directly address the problem we face with China. These sanctions have produced results in the areas of human rights, trade and proliferation. More remains to be done, but it is clear that pressure and engagement are paying off.

REASONS TO ENGAGE

The loss of MFN, which this bill would cause, will seriously affect American business interests. In 1991 alone, the United States exported over $6 billion worth of goods to China, and this is a growing market. Thanks to tough negotiations led by the U.S.T.R., China is improving its record on violations of copyright laws, intellectual property rights, and market access. But taking away MFN will lead to retaliation and increased tariffs. This will cost American business and American consumers.

But it will not faintly hurt China. No other nation is considering revoking MFN for China, so our important export market will just shift to our competitors. It will shift to Japan. In times of large trade deficits, we do not need to lose another market. More importantly, how will the United States use this to pressure to change China?

We also know that the loss of MFN will hurt the very people we are trying to assist in China, those who believe in the power of the free market, a decentralized economy, and interaction with the outside world. As many as 200,000 reform minded Chinese could easily lose their jobs and livelihood if MFN is revoked.

Loss of MFN will do irreparable damage to the economy of Hong Kong. The people of Hong Kong are already reeling from the fact that they will return to China in 1997. As the largest single investor in Hong Kong, other than China, the United States must do everything in its power to provide a stable and prosperous society in Hong Kong.

WEAPONS PROLIFERATION

All of these are good reasons to continue our relationship with China. But none of them are as compelling to me as the issue of missile proliferation.

I share the deep concern of other Senators regarding China's practice of selling weapons of mass destruction to any country willing to pay. There is no excusing the record—it shows Chinese sales of missiles, chemical and biological weapons, and nuclear technology to some of the most irresponsible and dangerous regimes in the world.

I agree with those who believe this is the most serious single issue straining United States-Chinese relations. As bad as some of China's behavior has been, it does not directly threaten United States national interests and security; directly, that is. But missile and nuclear sales to renegade governments certainly do. This is not simply China's business, it is our business and it is the world's business.

Consequently it is this issue that should be the focus of our concern in considering whether to continue MFN status for China.

I am pleased that the administration has made a major effort in exactly this direction. Both Secretary Baker and the President focussed on this issue in recent meetings with the Chinese. I believe they have achieved a breakthrough. China has publically made two pathbreaking commitments: First, to sign the Nuclear Nonproliferation Treaty by April; and second, to accept the terms of the Missile Technology Control Regime. This is real and significant.

The administration has achieved results and now the Senate should act to put those results in concrete by approving MFN without conditions. If the Senate fails to do so, China will have no reason or excuse to restrain its proliferation behavior.

Understandably, there will be many in this Chamber who are skeptical regarding Chinese good faith in fulfilling these new commitments. I share these suspicions—but we cannot test China's intentions by rejecting MFN. As vice chairman of the Intelligence Committee, I pledge to you that I will monitor China's compliance with the NPT and the MTCR very closely. If I detect a pattern of violations I will be the first to come to the floor and demand our policy toward China be reconsidered.

CONCLUSION

Ending most-favored-nation status for China would—most importantly—reduce our ability to influence change in China.

China is not a nice country. It is the largest, the most powerful remaining Communist nation in the world. With the downfall of communism in Eastern Europe and the Soviet Union, America must seek a similar change of government in China. The most recent news coming from Beijing shows that China realizes just what a tough spot it is in. It is beginning to promote economic reform and end its hardline policies of the past 3 years. We must do all in our power to make sure these changes come about. And we must do it through example, interaction, and tough policies. Passage of this bill will only promote isolation.

Thank you, and I yield the floor.

Mr. MOYNIHAN. Mr. President, I yield 6 minutes to the distinguished Senator from Ohio.

The PRESIDENT pro tempore. The Senator from Ohio [Mr. METZENBAUM] is recognized for 6 minutes.

Mr. METZENBAUM. Thank you, Mr. President.

I thank my good friend.

Mr. President, I rise in strong support of the conference report on MFN conditions for China.

I see this issue before the Senate again is like waking from a recurring nightmare. Over and over, we pass legislation intended to express United States outrage at China's human rights record.

Yet, over and over, President Bush calls in his political chips and sends out his top lobbyists to defeat these initiatives.

First, it was the Chinese students bill, which would have given student refugees from the Tiananmen Square crackdown a safe haven here in the United States.

The President thought that extending Chinese students' visas in the United States would insult the Chinese leadership. The students' families and friends were being jailed and killed back in China, but in Washington, President Bush was more concerned about insulting the Beijing politburo.

More recently, the President leveled his guns on the legislation before us today, legislation which conditions renewal of China's most-favored-nation trading status on progress in its relations with the United States.

Trade is an important issue for the Chinese. China is running a multi-billion-dollar trade surplus with the United States.

How much of that trade is in goods manufactured by slave labor? How much from prison camp labor?

President Bush does not seem to care. And so this MFN bill, like the Chinese students bill, has faced fierce Presidential opposition every step of the way.

Mr. President, State Department staffers reportedly joke that the desk officer for China is President Bush himself. The President is a former United States Ambassador to China and he has asked us to trust his expertise. Since the Tiananmen crackdown, he has asked for our confidence and our patience because progress in China "would be forthcoming."

Congress and the American people were loath to sit back in the face of a massacre, but our President counselled patience—progress was coming he said. That was in 1989. This is 1992, and progress is tough to find.

Mr. President, what has happened since Tiananmen Square? Let us look at the facts:

National Security Adviser Brent Scowcroft was seen toasting Chinese leaders a short time after the crackdown. This was the progress Bush predicted?

Later, China stonewalled our trade negotiators on access to Chinese markets and protection of United States copyrights. What does this mean? Put simply the Chinese have flooded the United States with cheap, forced-labor products at favorable tariff rates, while closing their own domestic market to the United States. Similarly, the Chinese enjoy making use of inventions under foreign patents, but do not feel any need to pay for this use. For nearly 2 years since the crackdown, the Chinese have not budged on these issues. Is this the progress President Bush promised?

In the wake of the Persian Gulf war, shipments of Chinese-made weapons—including missiles—have made their way to a range of Middle East governments. Curbing the Middle East arms race and restoring stability to the region is one of America's highest foreign policy priorities. Yet China seems to be taking any and all bids for rearming the region.

Are these Chinese arms shipments part of the progress Bush assured?

In the years since the Tiananmen crackdown, Chinese leaders have been seen around the world indignantly protesting that human rights in China is strictly a matter for the Chinese.

A matter for which Chinese? For the Chinese people? Clearly not.

While democracy gallops forward around the world, China is taking great leaps backward into the political stone age.

Does President Bush see any progress in this Chinese arrogance?

Mr. President, the Prime Minister of China, Li Peng, offered the best answer yet to those asking about progress in China. Sitting at the first U.N. Security Council summit in over a generation, Prime Minister Li denounced human rights criticisms—while President Bush sat across the Council table from him. Li stated, in effect, that the world should mind its own business. This, from the man who personally directed the Tienanmen massacre.

What was President Bush's response to this hypocrisy? Bush rewarded Li with a private meeting.

The leader of the free, post-cold-war world sat down for a chat with the leader of the last remaining "evil empire."

Mr. President, where is the progress President Bush promised on China? Where was the progress at the United Nations? Where is the progress on arms control? Where is the progress on trade?

And most importantly, where is the progress Bush has promised on human rights? Human rights from a government that is responsible for one-fourth of the world's population.

Mr. President, the Senate failed to garner a veto-proof margin when it voted on this legislation last July 23. That vote was a stain on the record of this institution. The fact that a veto is promised for this legislation is a stain on the Bush administration's foreign policy.

Before us today is a watered-down version of the original China MFN legislation. The conference report before the Senate is, in effect, a second chance for this institution to raise its voice for human rights in the People's Republic of China.

Mr. President, this human rights bill has been trimmed and slimed in order to pass the Senate of the United States. It is a shame that tough human rights legislation cannot pass the Senate intact. but this seems to be the fact of the matter today.

Mr. President, there has been no progress in China. President Bush's policy has failed.

If we are the last remaining superpower in the world, the leader of the new world order, then it is time we stand up and take the lead on China.

Mr. PACKWOOD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. I yield myself 15 minutes.

The PRESIDENT pro tempore. The Senator is recognized for 15 minutes.

Mr. PACKWOOD. Mr. President, let us try to put this debate in perspective, if we can, as to what most-favored-nation status is, because it sounds like we are giving China a preferred status that very few other countries have.

As a matter of fact, most-favored-nation status has been granted by the United States to almost every country in the world. If it were not to be granted to China, it would be an exception to the rule, rather than making China unique in receiving it.

Most-favored-nation trading status means simply this: You will treat each nation as favorably as you treat any other nation. If we allow cars to be imported into the United States with a 2½-percent tariff, then no matter where they come from, if that country has most-favored-nation status, they will come in on a 2½-percent tariff. That is basically what it means.

What is the history of it? After World War II, we extended most-favored-nation status to most of the world. Then with the Communist takeover in Eastern Europe, and the development of the Iron Curtain, we said it will not be extended to Communist countries. And that status continued for the better part of a quarter of a century.

Then in the mid-1970's, we passed the Jackson-Vanik amendment. Under Jackson-Vanik even Communist countries can get most-favored-nation status if they will allow free emigration. We did not condition it on observance of human rights. We did not condition it upon weapon sales abroad, not do we do it for any other nations in the world. We said: If you will let your people out, even if you are Communist, then you can get most-favored-nation status.

So now again, let us understand the situation. All of the countries initially got it. And we said Communist countries cannot have it. And then we said Communist countries can have it if they will allow free emigration. But the President, each year, would have to certify that they were allowing the free emigration. If Congress did not like the certification, they could disapprove, it, and they would not get it. But then, if the President vetoed our disapproval, they would get it. That is the background of most-favored-nation status.

Under that, we gave the most-favored-nation status to some of the most repressive dictatorships in Latin America: Chile, under the generals; Argentina; Brazil, countries whose records of civil rights in those times were as abusive as any in the world.

We, today, even though we have trade embargoes, grant the most-favored-nation status to Syria, Iran, Iraq, Libya—bastions of democracy, all. And these are countries that are involved in the buying or the selling of weapons—selling, if they have them; buying them, if they do not.

So to say we are going to hold China to a do-you-sell-weapons standard or a human rights standard, and not hold other countries in the world to the same standard, in my mind, begs the question.

For years, MFN status was not extended to the Soviet Union, and has not been yet, because the Soviets never approved the trade agreement. The Soviets are now seemingly allowing free emigration. China also allows free emigration. China's problem is not that her people cannot get out; the world will not take them in. They use up their quota in the United States every year as to how many Chinese we let in. They have free emigration.

If we want to enter into a debate about changing the standards of most favored nation, that is a fair debate. Whether or not we should change it ad hoc for one country, because we are mad at the country, is another matter.

I do not think we should change the standard for just one country. But if we are going to change it so that it includes violations of human liberties, so that it includes weapons sales, then we will be lucky if a quarter of the countries in the world are on the most-favored-nation list.

If countries are going to have to have sort of our Bill of Rights, sort of our free speech, sort of our trial by jury, sort of our self-incrimination privileges, or they do not get most-favored-nation status, then you could write out, I think, every country in Africa. There may be an exception, but not one I can think of now.

You could write out all of the Middle East, except Israel. You could write out, more or less, part of the countries, part of the time in Asia, depending upon the phase of the moon they are in. Sometimes they are democratic; sometimes not.

You would probably include in the most-favored-nation status most of Western Europe. Whether or not you would include all of the countries of Eastern Europe—some already have it, even when they were Communist—would be problematical. Certainly, we would not have it extended to very many nations.

Let us consider the two arguments raised against China. One is weapons proliferation. Yet, we have publicly known for years that China was selling arms and ballistic missiles to Iran, Iraq, Saudi Arabia, and Pakistan.

For example, on April 4, 1988, the Washington Post reported the sale of intermediate-range ballistic missiles to Saudi Arabia from China. In addition, the article stated:

> The Chinese have made their biggest sales to Iran and Iraq, and recently became the largest arms supplier to Iran.

This is the Washington Post in 1988. A month later, the Washington Post on May 14, 1988, reported on the extent of Chinese arms sales to Third World countries. The article reported that between 1980 and 1987, China signed $11.2 billion worth of arms agreements with the Third World, with almost 75 percent of this figure going to Iran and Iraq alone.

Mr. President, I have a number of these articles, and I ask unanimous consent they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 4, 1988]

CHINA BOOSTS ARMS SALES IN MIDEAST

(By Daniel Southerland)

China's sale of intermediate-rang ballistic missiles to Saudi Arabia is only one of a growing series of arms sales that earns Beijing much-valued foreign exchange and political influence, underscoring what diplomats believe is its position as at least the fifth-largest weapons supplier to the Middle East.

Only nine years ago, China was a minor actor in the divided, oil-rich region, selling less than 1 percent of all the weapons pouring into the region. Today, the Chinese sell arms to a number of antagonistic nations, such as Iran and Iraq, without seeming to lose favor in any one of them.

"They probably look more benign than either the Soviets or the Americans," said a western diplomat. "I suspect the Chinese are going to get away with this in a way that the superpowers never could."

China's military budget has declined in relative terms because the country is putting most of its funds into economic development. Instructed to pay for much of its own modernization, the military has engaged some of the country's best brains and well-connected sons in its drive to earn foreign exchange by selling weapons abroad.

Western diplomats who have studied the issue say that when it comes to deciding who is allowed to buy Chinese weapons, a key factor in most cases is whether the buyer can pay for the weapons.

According to one estimate, weapons sales represented 8 percent of China's total export earnings in 1986. Overseas arms sales totaled at least $2 billion in 1986, with most of that derived from Middle East sales.

But as a western diplomat pointed out, dollars are not Beijing's sole determinant for sales. "China is also seeking long-term influence and recognition as a major player."

China's Communist Party chief Zhao Ziyang and other Chinese leaders have stressed repeatedly that "China will never get involved in the superpowers' arms race."

This may be true when it comes to nuclear weapons, but China has entered the race to sell conventional weapons with a vengeance.

China is still far from being in the same class with the world's top arms salesmen—the Americans, Soviets, French, and Britons. But China competes well in poor nations because it can offer durable, easy-to-use arms at much lower prices than those charged for sophisticated western weapons.

According to experts, the Chinese have made their biggest sales to Iran and Iraq, and recently became the largest arms suppliers to Iran. They have sold weapons to Libya, and at one time, even made a short-lived deal with Lt. Col. Oliver L. North, the fired National Security Council aide, to send weapons to the contra forces in Nicaragua.

The Far Eastern Economic Review, a Hong Kong-based magazine, reported that North negotiated the deal in late 1984 at a meeting with a Chinese defense attache in Washington. The Chinese later reversed themselves and cut off the contra aid after deciding to befriend the Sandinista government, a diplomat said.

Chinese spokesmen have denied selling Silkworm missiles to Iran or small arms to the contras, but in both cases, diplomats say they have conclusive evidence of the deals.

Under the late Chairman Mao Tse-tung, China sought political influence among developing countries by donating arms rather than selling them. But once Beijing launched its economic development drive following Mao's death, the country became more concerned with earning hard cash.

Western experts are still uncertain, however, as to where all the money from the weapons sales goes. They do know that some of it is used to purchase western technology for the Chinese armed services.

In the Middle East, the turning point for Chinese arms sales came in the summer of 1979 when President Anwar Sadat disclosed that Egypt was buying 50 jet fighters from the Chinese. The Egyptians subsequently purchased Chinese missiles, patrol boats, and submarines. Egypt eventually developed a strong military relationship with the United States, and became less dependent on Chinese arms.

But the Chinese found new opportunities with the outbreak of the Iran-Iraq war in 1980 and made their first sale of tanks, artillery and small arms to Iraq in 1981.

By the mid-1980s, China had developed half a dozen corporations that now compete aggressively with each other for overseas arms sales. Western experts believe that the most successful of these is Poly Technologies Inc., a subsidiary of CITIC, China's largest and most independent investment organization.

Some sources believe that it was deeply involved in arranging the sale of Silkworm missiles to Iran. Its present is Hu Ping, the son-in-law of senior leader Deng Xiaoping. Hu is said to work closely with He Pengfei, who is director of the equipment department of the People's Liberation Army and son of the late marshal He Long, one of China's foremost generals.

The two form part of an informal network of politically well-connected executives who give added clout to China's overseas arms sales drive to at least 30 nations.

Western experts say Latin America may become the new frontier for Chinese arms salesmen. Beijing has been trying to break into this market for several years and has had initial successes in Chile, experts say.

A European arms dealer said that in the coming years, the Chinese are likely to expand their sales of naval equipment, including frigates, which are much larger ships than what the Chinese normally sell.

The same dealer said the Chinese have succeeded in selling their low-cost fighter planes to a number of developing countries, cutting into the American and West European share of that market.

"For the price of one American F16, they can buy maybe eight or ten Chinese F7s," he said.

At the same time, several of the experts say the Chinese sometimes fail to provide adequate after-sales services, including maintenance, spare parts, and pilot training.

Despite such difficulties, some western experts believe the Chinese can buy more influence and good will through arms sales than the superpowers, partly because the Chinese appear to be less threatening. Contact with the Chinese could lessen the dependence on the superpowers by some countries in the Middle East.

As Francois Heisbourg, director of the International Institute for Strategic Studies, pointed out in a recent article published in the International Herald Tribune, "it is easier for China to make diplomatic incursions in a region like the Middle East, where it has no declared enemies, than in its own backyard . . ."

The Chinese have long been driven by a desire to minimize Soviet involvement in the Middle East.

One of China's foreign policy weaknesses, however, has been a lack of diplomatic relations with Israel. The Chinese cannot be full partners in prospective Middle East peace negotiations without more contact with Israel, some diplomats say.

[From the Washington Post, May 12, 1988]

U.S. PLANS TO SELL F18S TO KUWAIT; PURCHASE WOULD BE FIRST BY AN ARAB COUNTRY

(By David B. Ottaway)

The Reagan administration is planning to sell Kuwait the Navy's newest and hottest aircraft, the F18 fighter-bomber, which has never been sold to an Arab or other Third World nation, according to Defense and State department sources.

Assistant Secretary of State Richard W. Murphy disclosed Tuesday during testimony before a House Foreign Affairs subcommittee that Kuwait had notified the administration, apparently that day, of its desire to purchase the advanced aircraft.

U.S. officials said Kuwait wants to buy 40 F18s and that the administration will notify Congress soon of its intention to proceed with the sale.

Murphy indicated Tuesday that the administration had warned Congress of the possibility that Kuwait might seek F18s rather than the less sophisticated but versatile F16s, which the United States is selling to Bahrain, another Arab Persian Gulf state.

The F18 sale, if not blocked by Congress, would mark a new stage in the increasingly close U.S.-Kuwaiti security relationship since the administration decided last year to commit naval forces to protect from Iranian attack 11 Kuwaiti tankers placed under the U.S. flag.

The F18, made by the McDonnell Douglas Co., has been sold only to Canada, Australia and Spain, according to Robert J. O'Brien, the firm's director of communications here.

O'Brien said Kuwait had considered the General Dynamics F16, the F18 and "at least one European airplane" before deciding on the F18. One reason that the Kuwaitis may have preferred the F18, he said, is that it is a two-engine, rather than single-engine, plane.

Another reason for the Kuwaiti choice, according to Defense and State department sources, is that Kuwait has two squadrons of aging A4 Skyhawks, a plane also used by the U.S. Navy. "The F18 is compatible with their existing system and training," a State Department official said. "It's an issue of compatibility."

The F18 has a combat radius of more than 500 nautical miles, which would allow it to fly from Kuwait almost to the Strait of Hormuz at the other end of the Persian Gulf and to strike deep into Iranian territory, if necessary. Kuwaiti tankers and territory repeatedly have come under Iranian missile attack since the Iran-Iraq war began in 1980, but Kuwait has never struck back.

The "fly-away" cost of a single F18 sold to the Navy is $17 million, making the Kuwaiti deal worth at least $680 million. If pilot training, maintenance and accompanying weapons are included, as they are expected to be in this case, the price would be considerably higher, according to O'Brien.

O'Brien said Kuwait wants to purchase the aircraft under the U.S. Foreign Military Sales Program, which means that the Pentagon would manage the whole contract.

Meanwhile, a Congressional Research Service study of Third World arms transfers became available yesterday and disclosed for the first time U.S. estimates of China's extensive arms sales to Iran and Iraq.

Between 1980 and 1987, it said, China signed nearly $8.2 billion worth of agreements with the combatants, 74 percent of its $11.1 billion in sales to all Third World countries.

The report, compiled by national defense specialist Richard F. Grimmett and calculated in terms of current dollars, said that, from 1980 through 1983, China signed $3.6 billion worth of arms agreements with Iraq alone, 61 percent of its total $5.9 billion with all Third World nations.

During the same period, it sold Iran arms valued at $505 million, bringing sales accords with the two belligerents to 69 percent of the total.

In the 1984–87 period, however, when the value of China's total Third World arms sales was put at $5.2 billion, more than $2.5 billion, or 49 percent, went to Iran alone. Iraq still accounted for $1.5 billion, or 30 percent of China's total arms transfers, in that period.

The Soviet Union was Iraq's leading arms supplier, however, signing agreements worth $18.5 billion from 1980 to 1987 and making actual deliveries to the Iraqis worth nearly $20.3 billion.

China's percentage of total arms transfers to Iran and Iraq during this period was only 13 percent, compared with 31 percent for Western European nations.

[From the New York Times, June 11, 1987]

MAJOR DEALS CITED IN CHINA-IRAN ARMS

(By Edward A. Gargan)

European and Asian diplomats here have provided new evidence that China, despite its denials, has sold substantial numbers of weapons to Iran, including missiles, jet fighters and field artillery.

Chinese officials, who consistently assert that Beijing is neutral in the Iran-Iraq war and that it does not sell weapons to either side, repeated the denials again today.

"Those reports are sheer fabrication," said Li Jinhua, a spokeswoman for the Foreign Ministry. "The Chinese Government maintains strict neutrality in the Iran-Iraq war and is making efforts to urge Iran and Iraq to put an end to the war."

United States officials have said China has provided Iran with the Silkworm missile, a surface-to-surface weapon that can strike oil tankers and warships in the Persian Gulf. Frank C. Carlucci, President Reagan's national security adviser, said on Saturday that the United States did not believe China's statements denying it had sold missiles to Iran. [But Howard H. Baker Jr., the White House chief of staff, said in Venice on Wednesday that he accepted Beijing's denials. Later, a White House official said Mr. Baker had been mistaken in his comments.] Kuwaiti Request Being Studied At the same time, the Chinese Foreign Ministry acknowledged that Kuwait had asked China to consider allowing Kuwaiti tankers to be registered under the Chinese flag. The ministry said the request was being studied.

The United States plans to place half of Kuwait's 22-tanker oil fleet under protection of the American flag.

Many diplomats here say China has sold up to $2 billion in arms to Iran over the last two years. A Kuwaiti newspaper report quoted in a Hong Kong newspaper, as well as two diplomats here, said China had received oil in exchange for the arms.

Among the arms China is thought to have sold Iran are Chinese-made field guns, Chinese versions of the Soviet MIG–19 and MIG–21 fighters and Chinese-manufactured T–59 tanks, also a copy of a Soviet design. Information on those arms was provided by one diplomat but could not be confirmed by others.

Much of the evidence cited by diplomats here is fragmentary, but the diplomats say there is no longer any doubt that large qualities of Chinese arms have been shipped to Iran, with much going through third countries.

Last year, an Asian diplomat said, a shipment of Chinese weapons was sent to Iran through North Korea. A second shipment, the diplomat said, was moved through Hong Kong. Another Asian diplomat, who often travels to Pyongyang, said today that North Korea was a common conduit for arms shipments to Iran.

Chinese officials, according to American diplomats, have maintained that they had nothing to do with selling arms to Iran, but that North Korea had done so on its own. This assertion, however, has been rejected by Washington.

ISSUE RAISED BY ARAB LEAGUE

Last month, a seven-member delegation of foreign ministers from Arab League nations visited Beijing and raised the issue of Chinese arms sales to Iran with Chinese officials at every level, according to an Asian diplomat.

Several Western European businessmen in Beijing said China had offered to trade oil in exchange for their products rather than make a straightforward cash purchase. An American oil executive here said today: "It's Iranian oil. That's what they're using."

Asian and European diplomats said China could use Iranian oil in trade arrangements only if it had more oil from its arms sales than it needed.

According to an Asian diplomat, China's interest in selling arms to Iran has far less to do with financial gain than with strategic interests. China, the diplomat said, wants to use Iran as a counterweight to the Soviet Union and to Soviet influence in Afghanistan.

Iran's Foreign Minister, Ali Akbar Velayati, is to visit Beijing on Friday after a visit to North Korea.

[From the New York Times, July 25, 1987]

CHINA MAY ABSTAIN IN IRAN VOTE IN U.N.

(By Edward A. Gargan)

China will probably not block an effort by the United Nations Security Council to impose an arms embargo on Iran, but it will continue to provide to provide military support to the Iranians nonetheless, according to Western diplomats here.

Two diplomats here said China would probably abstain from any vote on an arms ban. The United States has said it is likely to present a resolution within two months to impose an arms embargo on either side in the Iran-Iraq war that does not accept a cease-fire. Iran has already rejected a truce. It is widely believed among Western diplomats here that China has supplied Iran with large numbers of weapons, including anti-ship Silkworm missiles, and will continue to do so regardless of what the Security Council decides.

China insists routinely that it has not sold weapons or missiles to Iran or Iraq.

U.N. TRUCE CALL ON MONDAY

Two weeks ago, Vernon A. Walters, the United States representative to the United Nations, was in Beijing to discuss the Security Council resolution calling for an end to the Iran-Iraq conflict, and he expressed optimism then that China would support that Council action. A resolution calling for an end to the seven-year war was unanimously adopted Monday.

An American diplomat who is familiar with Mr. Walter's discussions with Chinese officials said the question of Iran's refusal to abide by a Security Council resolution had not been discussed. "There have been no discussions as to what will happen if the Iranians do not accept the resolution," the diplomat said.

But the diplomat said there was no reason to believe that the Chinese would block further Council action. "Personally, I don't see China as being obstructionist," the diplomat said.

At the same time, the diplomat said China had indicated it wanted to give the United Nations Secretary General, Javier Perez de Cuellar, "adequate time" for mediation and for carrying out the first Council resolution before expressing a view on an arms embargo on either Iran or Iraq.

'TOO EARLY TO SAY'

Among European diplomats, several views were expressed in recent days. One diplomat said "it is still too early to say" what action China would take if Iran rejected the United Nations move.

But a second Western European diplomat, who discussed the issue with other diplomats this week, said it was likely that China would abstain from any vote in the Council calling for a ban on arms sales to Iran.

According to this diplomat, China believes that the Security Council may properly call for peace in the Persian Gulf but that it should not inject itself actively into the conflict by voting an arms embargo.

Nonetheless, a senior Latin American diplomat who discussed the matter this week with his colleagues said that while there was uncertainty over how China would react to a second Council action, "the Chinese need to appear supportive of the U.N. initiative."

There have been only the briefest reports in the Chinese press on the Council vote or on developments in the gulf, and there have been no commentaries elaborating on the Chinese position on the Council action.

BEIJING'S VIEW NOT GIVEN

The English-language service of the New China News Agency has reported the United Nations vote and has issued several reports on the re-registering of Kuwaiti oil tankers and the role of United States warships in escorting them, but it has pointedly not mentioned Beijing's views on the situation. Indeed, in a long dispatch filed from the United Nations, the news agency quoted the views of all members of the Council except China.

In recent weeks, a photocopied price list of Chinese armaments has circulated in the capital. A Middle East diplomat said he had been given the list, which he said represented very competitive prices for basic armaments.

Among the items on the list are a 107-millimeter rocket launcher for $21,000, an SAM–7 missile for $40,000 and a T–59 tank for $250,000. Also included are machine guns, MIG–21 fighter aircraft and steel helmets.

[From the New York Times, Aug. 8, 1987]

UNITED STATES TO SEEK ARMS EMBARGO AGAINST IRAN THROUGH THE UNITED NATIONS

(By Elaine Sciolino)

The United States has begun new consultations on a resolution at the United Nations Security Council that would seek to impose an arms embargo on Iran for its continuation of the war with Iraq, State Department officials said today.

Also at the United Nations, Iran's chief delegate Said Rajaie-Khorassani, said that he had told Secretary General Javier Perez de Cuellar that he still had no instructions on whether Iran would accept a previous United Nations resolution, passed last month, demanding an immediate cease-fire in the Persian Gulf conflict.

The United States began formal consultations with other Security Council members this week, and it has begun drafting language for a resolution that would impose a global arms embargo on either party in the war that refused to accept a cease-fire.

Since Iran has refused to accept a cease-fire unless President Saddam Hussein of Iraq is overthrown, the embargo, which has little chance of passing, would affect only Iran.

According to United States intelligence officials, Iran has bought weapons valued at $1 billion so far this year and may have acquired as many as 100 Chinese-manufactured Silkworm anti-ship missiles.

NEW ESCORT OPERATION

Meanwhile, Pentagon officials said the American naval escort of three more Kuwaiti tankers would begin in the next few days, even before the arrival of minesweeping helicopters and other protective forces in the gulf.

Initially, the United States was to have delayed the new escort until after Iran completed naval maneuvers near the strait of Hormuz and until after the arrival of eight minesweeping helicopters, in about five more days, Pentagon officials said. They gave no reason to account for the start of the new escort operations without the added minesweeping protection.

Within the next several weeks, the United States will have about 24 naval vessels and more than 15,000 American military personnel in the gulf and in the Indian Ocean, the largest deployment in the region since the early days of the Iranian revolution of 1979.

Later, Administration officials said, the battleship Iowa will sail to the Arabian Sea to relieve the battleship Missouri, with both ships being on station there briefly toward the end of the year. The Iowa, now in port in Norfolk, Va., will spend about three months in the Mediterranean before going to the Arabian Sea. The Missouri is to arrive in the region later this month.

Despite the increased American naval presence, Secretary of State George P. Shultz told a Senate appropriations subcommittee today that the United States has no intention of being drawn into the Iran-Iraq war. He also said that the Administration does not intend to invoke the 1973 War Powers Act to justify its gulf policy.

SHULTZ DEFENDS GULF POLICY

Mr. Schultz defended the policy of putting Kuwait tankers under American naval protection, saying it was intended to guarantee the free flow of oil to the West and "to make sure that states that are friendly to us are not intimidated by Iran."

His testimony came as 114 members of Congress were completing preparations on a lawsuit seeking to invoke the War Powers Act, which limits a President's authority in sending American military personnel into situations of "imminent hostilities."

The United States, which has taken the lead in the United Nation's effort to bring about a cessation of hostilities in the gulf, appears to be losing patience with Iran's failure to respond to the cease-fire proposal.

Mr. Perez de Cuellar, who was asked by the Security Council to mediate between the two sides, has been unsuccessful in arranging a meeting with Iran to discuss a cease-fire. A meeting scheduled two weeks ago in Geneva between the Secretary General and Iran's Foreign Minister, Ali Akbar Velayati, was canceled by Iran.

WE HAVE TO BE PREPARED

"We hope we won't have to use this measure, but have to be prepared just in case," a State Department official said of the initiative to impose an arms embargo.

It is highly unlikely that China, and perhaps the Soviet Union, will agree to such a sanction. China is Iran's largest arms supplier, and its arms industry is an important source of hard currency.

In the first seven months of this year, China sold about $400 million of arms to Iran, according to United States intelligence officials. In addition to the Silkworm missiles, China has delivered multiple rocket launchers, artillery pieces and anti-aircraft missiles this year.

The officials said there is some evidence, however, that China may be reducing its arms sales to Iran because of American pressure and widespread publicity.

DANGEROUS WATERS

As for the Soviet Union, Foreign Minister Eduard A. Shevardnadze said in Geneva today that it was premature to discuss sanctions.

"Let's not run ahead of events," Mr. Shevardnadze said at a news briefing. "As far as the sanctions are concerned, let's see how the mission of the Secretary General, Mr. Perez de Cuellar, comes out."

Mr. Shevardnadze said that the gulf waters were growing more dangerous every day and called for the withdrawal of foreign warships, notably those of the United States.

"We have to work to remove the military presence," he said. "I have in mind the naval units of the great powers, including the United States."

PROPOSAL BY ITALY

Baghdad has said it will accept a total cease-fire if Teheran does. It has rejected any partial cease-fire that might include hostilities in the gulf, but not the land war. In response to pressure by the United States, Iraq has temporarily stopped attacking ships in the Persian Gulf.

Also today, Italy asked the Security Council to consider an initiative to clear mines from the gulf, according to an official statement issued after a Cabinet meeting in Rome.

The Security Council will informally meet to discuss the proposal early next week. But the idea is unlikely to win much support, especially from the United States, because any United Nations initiative would have to include the Soviet Union. The United States would like to avoid a further Soviet presence in the gulf.

Administration officials hope that a plan for joint European action to help clear the gulf of mines will emerge from the discussions, especially since a large percentage of the oil supplies of western Europe and Japan are imported from the Persian Gulf.

Foreign Affairs; China and Arms Sales

(By Flora Lewis)

China's sale of medium-range missiles to Saudi Arabia touched off a furor, evidently to Beijing's surprise. The official explanations are resentfully defensive.

They run along two lines. One is, "Why should anybody have the right to say who can sell and who can buy weapons? The U.S., France, Italy, Britain and Sweden sell weapons all around the Middle East. Why should China be excluded?"

The second argument, in the words of Vice Foreign Minister Qi Huai Yuan, who is responsible for Middle East affairs, is that the sale was "welcomed by Arab states" and "contributes to regional stability." He said that critics have "ulterior motives" in "not understanding China's policy." The missiles, called East Wind 3 by the Chinese and CSS–2 by Americans, were produced as nuclear launchers, the first intermediate-range missiles designed and made entirely by the Chinese. Their range is 2,500 to 3,000 kilometers, a big arc.

They are liquid-fueled, hard to prepare for use and poor on accuracy. U.S. Experts say that without nuclear warheads, the missiles aren't reliable against military targets and are virtually obsolete. The Chinese say they serve only as a deterrent for the Saudis, against possible attacks from Iran.

But all the more because of inaccuracy they are terror weapons. With heavy conventional explosives, or possibly with chemical agents, they could devastate cities. They are an escalation of arms technology in a bellicose, unstable region and could provide another turn in the spiraling Middle East arms race.

The Chinese argue that the range is not greater than that of planes provided by the U.S. to Saudi Arabia and Israel. Of course, there is no real defense against missiles, while air defenses are well developed.

Despite its principle of sovereign freedom in arms sales, China has extracted three key commitments from the Saudis. They are: no right of resale, only retaliatory use and no nuclear warheads, which China says it would never provide. But somebody else might one day.

Chinese officials say the Saudis are "responsible and moderate," and wouldn't break these undertakings. Still, nobody can guarantee this will hold indefinitely, in all circumstances. So the sale provokes serious questions about how such decisions are made here, and China's political criteria.

A major element is clearly money. China's military has been put in a tight budget squeeze. It comes last in the goal of "four modernizations" and yet, like the Soviet military production complex, it operates with great autonomy. Only military enterprises can keep all the foreign exchange they earn. Others have to remit half or more to the central Government. The military has made several billion dollars on arms sales, three-quarters to Middle East states, according to Western estimates.

Yet money is not the only point. Saudi Arabia is one of the few countries with diplomatic relations with Taiwan, not Beijing, and China would like to influence a switch. Also, China came to realize that the sale of its Silkworm missiles and other arms to Iran upset the Arabs. It apparently thought a better balance in its relations with Arab states could be restored by providing missiles to the Saudis.

China wants presence in the Middle East as a matter of status. Mr. Qi said that China has "no special interests in the region, but a big country should take a stand on these important questions," a fairly candid admission that power prestige for its own sake is important.

Though he denied it on the record, there is evidence that the Foreign Ministry was not much involved in the sale, initiated by the Saudi Ambassador to Washington, Prince Bandar bin Sultan, who arranged it here in deepest secrecy in 1985. The U.S., to its annoyance, learned about it only recently.

The worrisome conclusion is that the Chinese military simply failed to consider broader political, destabilizing consequences. There is subtle evidence that in the future the Foreign Ministry will be more seriously consulted.

That isn't good enough, given the hazards. China has reached a capacity to tip the balance in dangerous areas. Since it is determined to be considered a major power, it must be drawn into international consultations on responsibilities and results of arms escalation in dangerous regions.

Mr. Qi forcefully rejected that idea on grounds of unlimited national sovereignty. But China's interests would also be touched if conflict spreads. It wants to enter the world economy and world politics. It must accept that the role it seeks to play affects the partners it needs, and take account.

[From the New York Times, Dec. 13, 1989]

Bush Is Right on China

(By Michel Oksenberg)

As a centrist Democrat who advocates policies that advance our national values and our national interest, I am troubled by the eagerness of many fellow Democrats to score debating points off President Bush's China policy.

The President is accused of being a wimp, this time for dispatching his national security adviser, Brent Scowcroft, and Under Secretary of State Lawrence Eagleberger, to Beijing to "kowtow" before the Chinese.

In reality, President Bush's sending of the Scowcroft mission was an act of courageous leadership that his critics on other days claim he never exhibits.

The President decided to endure the predictable condemnations from the left and right. Further, he knew that dialogue at high levels in Beijing rarely leads to public agreements and that the results come out slowly. In the meantime, critics will point to the absence of immediate gains to prove the exercise was futile.

The principal reason that George Bush has given for Mr. Scowcroft's trip is persuasive: to maintain official contact with the leadership that is slipping into a position of dangerous isolation.

Governments throughout the world, including our own, appropriately and immediately responded to the brutality and callousness of China's leaders last June by condemning the gross violation of human rights, by ceasing high-level contacts and applying an array of costly economic sanctions that mostly still remain in effect. Foreign investment, scientific exchanges and tourism have all dropped precipitously.

The cumulative impact of these justifiable measures is taking hold. They have placed the hard-bitten and stubborn leaders in Beijing in a bind. But the measures also are creating a siege mentality.

It seems prudent in this context to do exactly what George Bush has done: To probe and to ascertain whether the pressure is inducing any flexibility and to discourage Deng Xiaoping and his associates from sinking into the totally isolationist and antiforeign posture that has all too often characterized China in this century.

While the events in China since June 1 are deeply abhorrent to us, the situation could easily become worse: even more oppression at home and a troublesome and recalcitrant China abroad. That is what the Administration is attempting to prevent, recognizing that additional pressure and continued absence of dialogue only increase the danger.

The continued tranquility and prosperity of East Asia depends upon China's constructive engagement in the region. In Indochina, Beijing has an indispensable role in influencing the Khmer Rouge and in forging a viable coalition government to bring peace to Cambodia.

China's arms sales policies obviously concern the U.S., especially in the Middle East. As China's foreign currency reserves drop, it is important to obtain renewed assurances that revenue shortfalls will not be remedied through weapons sales.

Finally, as the Soviet-American relationship undergoes fundamental change, it is important that both Washington and Moscow—not just Moscow through its improved channels with Beijing—inform the top leaders of China of what transpired in Malta. The burden is now on Beijing to help the Administration. Rather than directing fire at George Bush, bipartisan pressure should now be exerted on Beijing for what measures it now will undertake to halt continued deterioration in China-American relations.

Beijing should be urged to grant amnesty to demonstrators, acknowledge that the events of June were a tragedy, release an even incomplete list of the names of those killed in June, diminish the pointed criticisms of foreign ideas and influence and halt the oppressive climate that now pervades many universities and research institutes. These measures would begin to alleviate the quiet anger among the populace and make Beijing a somewhat more comfortable place for foreigners.

To signal an interest in joining President Bush's effort to keep the relationship alive, the Chinese could also take such steps as stopping the jamming of the Voice of America, allowing the dissident physicist Fang Lizhi and his wife to go abroad, resuming the Fulbright program and renewing negotiations over establishing a Peace Corps presence.

Unfortunately, since the June tragedy, Democrats have been swift to criticize but have offered no plausible alternative to the President's China policy. Instead, they have tended to indulge in the rhetoric of moral indignation, to treat the Chinese leaders as pariahs in world affairs and to advocate sanctions that our Asian allies are unlikely to sustain and that will therefore separate us from them on a key issue.

Not a single leading Democrat has seen fit to go to China to express his or her views directly. We have a right to expect more from a party that properly condemned the Reagan Administration for failing to have adequate contact with top Soviet leaders during his first five years in office, while Democrats boldly paraded to Moscow to plead the cause of human rights directly to Soviet leaders.

The result is that China policy has again become a partisan issue, as it was in the 1950's and 1960's. The President and moderate Republicans are defending a constructive relationship with the most populous nation on earth, while Democrats are drifting toward what appears to be a willingness to risk isolating China's Government and to court its animosity. This is bad politics and an abdication of statesmanship.

The American people are unlikely to support for long a policy that treats the leaders of China as the enemy and isolates them in world affairs. In terms of statesmanship, the U.S. tried to isolate China for 20 years, following the 1949 revolution. Its efforts ended in failure.

A centrist policy demands both condemnation for China's human rights violations and an unequivocal and repeated acknowledgment that we continue to share many interests with Beijing, repulsive as its deeds of June and thereafter are. And high-level consultations with the leaders in Beijing realistically are a necessary part of the process of making sure these principles and interests are served.

[From the New York Times, June 21, 1990]

ARMS SALES TO THIRD WORLD SAID TO DECLINE SHARPLY

(By Robert Pear)

Arms sales to the Third World decreased sharply last year as the United States, the Soviet Union, China, France and Britain found fewer buyers for their weapons, the Congressional Research Service reported today.

Over all, sales declined 24 percent, to $29.3 billion, the lowest level since 1983, the agency said. Arms sales to the third world totaled $38.4 billion in 1988.

The report shows a substantial decline in the value of weapons purchased over the last few years by 7 of the top 10 customers in the Third World, including Libya, Syria and Iraq.

The study lists three possible reasons for the changes: a "scaling back of regional conflicts," the heavy debt burden on third world countries and the fact that many nations are still "absorbing the weaponry they bought in the late 1970's and early 1980's."

WHERE IS THE MARKET?

The report, based on a wide range of classified intelligence data, suggests that United States arms manufacturers will have great difficulty using foreign sales to make up for cutbacks in military procurement at home, because the worldwide market is shrinking as the cold war winds down.

"Even oil-rich nations in the Third World have made more selective purchases in recent years as oil revenues have declined, and they have sought various concessions from suppliers," said the author of the study, Richard F. Grimmett, a defense specialist at the Congressional Research Service, an arm of the Library of Congress. "Where is the market for arms suppliers? If the cold war continues to wind down, you will see increasing competition over a very much reduced pie."

The trend is indicated by the fact that the United States delivered 179 supersonic combat aircraft to the Third World in the period from 1986 through 1989, compared with 321 in the previous four years. American deliveries of tanks and self-propelled guns dropped to 596, from 2,253.

Soviet arms sales to the Third World fell 21 percent last year, to $11.2 billion, while American arms sales declined 14 percent, to $7.7 billion, the report said. Chinese sales fell 52 percent, to $1.1 billion, the British arms sales were down 36 percent, to $3.2 billion.

BIG DROP IN FRENCH SALES

France, the third biggest supplier of arms to the developing world in the last decade, "suffered a massive decline" in the value of its arms sales, the study said. France signed contracts worth $300 million last year, down 90 percent from the $3.1 billion recorded in 1988.

Three months ago Administration officials said the United States and the Soviet Union were increasing foreign arms sales to their friends and allies in advance of agreements to reduce conventional forces in Europe. But those plans did not affect the 1989 data. Arms sales to members of the North Atlantic Treaty Organization and the Warsaw Pact would not affect the statistics in any event because the Third World, as defined in the study, excludes members of the two alliances.

China's arms sales to the Third World have declined steadily over three years, from $4.7 billion in 1987 to $2.3 billion in 1988 and $1.1 billion last year, the report said. Nevertheless, China has clearly established itself as a major supplier. In the period from 1986 through 1989, the total value of its sales to the third world exceeded the total for Britain, France or West Germany.

China is the main supplier of arms to Iran. The value of its arms deliveries to Iran has risen sharply in recent years, to $2.7 billion in 1986-89 from $570 million in 1982-85. The Soviet Union is the main supplier to Iraq. Soviet shipments to Baghdad declined, to $10.7 billion in 1986-89 from $11.4 billion in the previous four years.

SAUDI ARABIA THE TOP BUYER

Saudi Arabia topped the list of buyers last year, receiving $4.9 billion worth of arms deliveries, while Afghanistan ranked second, with $3.8 billion of deliveries, mainly from the Soviet Union.

Over the last eight years, "Saudi Arabia and Iraq have been, by a wide margin, the top two Third World arms recipients, receiving deliveries valued at $46.7 billion and $45.7 billion, respectively," the report said.

The Congressional Research Service reported a huge increase in arms deliveries to Afghanistan, from $2.5 billion in 1982-85 to $9.1 billion in 1986-89. The weapons have enabled the Kabul Government to hold off guerrillas armed by the United States.

SALES TO LIBYA FALL

Analyzing trends over the last decade, the report observed that arms deliveries to Libya fell 62 percent, from $9.1 billion in 1982-85 to $3.5 billion in 1986-89. Deliveries to Syria fell 44 percent, to $5.5 billion from $9.9 billion. And arms shipments to Iraq declined 35 percent, to $18 billion from $27.7 billion. The Soviet Union is the principal supplier to all three countries.

Patrick L. Clawson, the author of a recent monograph on Syria, said that the Soviet Union had urged Syria to abandon its goal of "strategic parity" with Israel and had become less willing to extend credit to Syria for the purchase of Soviet weapons.

Copies of the report can be obtained from the Library of Congress, Congressional Research Service, Washington, D.C. 20540.

[From the Washington Post, Aug. 5, 1990]

U.S. ENVOY SENT TO CHINA FOR TALKS ON GULF

(By Lena H. Sun)

The State Department's top expert on Asia, Assistant Secretary of State Richard Solomon, arrived here today to discuss the Iraqi invasion of Kuwait and other issues.

Solomon, who flew from Moscow where he had been traveling with Secretary of State James A. Baker III, is the highest-ranking U.S. official to visit China since the controversial secret mission last December by national security adviser Brent Scowcroft.

A spokesman for the U.S. Embassy here said Solomon is briefing Chinese Foreign Ministry officials on the Middle East situation as well as on the recent U.S. decision to drop diplomatic recognition of the Chinese-backed guerrilla alliance fighting the government in Cambodia.

Officials said the visit was in keeping with the joint call by Baker and Soviet Foreign Minister Eduard Shevardnadze for a worldwide arms embargo and other sanctions against Iraq to bring about a withdrawal of Iraqi forces from Kuwait.

Solomon met today with Foreign Ministry officials and is scheduled to have at least one more meeting Sunday before flying to Tokyo and Seoul. U.S. officials declined to comment on the substance of the talks.

It is unclear how much influence China has in the Persian Gulf region. As a member of the U.N. Security Council, Beijing has a diplomatic role, and in recent years has become one of the region's major arms sellers, supplying arms to both Iran and Iraq during their eight-year war.

Chinese sales to Iraq have consisted mostly of small arms and fighters. But because

China recently established diplomatic ties with Saudi Arabia, and Saudi King Fahd has accepted China's invitation to visit, some Western observers said Beijing may be more inclined to restrain its arms sales to Iraq.

However, the official New China News Agency said later that Foreign Minister Qian Qichen had indicated that China will not join the United States and other countries in placing sanctions on Iraq.

Qian also has said Beijing was willing to play a role in maintaining peace in the Middle East.

U.S. officials said Solomon's trip did not violate the U.S. ban on high-level exchanges with China. The ban was among sanctions imposed by the Bush administration after China's crackdown on democracy demonstrators in June 1989.

[From the Washington Post, Nov. 4, 1990]

Chinese Foreign Minister Will Visit Middle East; Beijing Using Gulf Crisis to End Isolation

(By Lena H. Sun)

BEIJING, November 3, 1990.—China is sending its foreign minister to the Persian Gulf next week as part of an attempt to portray itself as a force for peace and to show it is still a major player in world affairs, diplomats and Chinese sources said.

Foreign Minister Qian Qichen plans to visit Iraq, Saudi Arabia, Egypt and Jordan on Tuesday "for an exchange of views" with Arab leaders, the official New China News Agency reported today.

As one of the five permanent members of the U.N. Security Council, China's support has been important to the United States in its efforts to enforce sanctions against Iraq for its Aug. 2 invasion of Kuwait. Beijing, by supporting the Security Council resolutions, has been able to use the gulf crisis to break down the political isolation imposed by the West after last year's Chinese army crackdown on demonstrators demanding democracy.

At the same time, China has been careful to distance itself from the other members of the Security Council, most notably the United States, on the use of military measures to enforce sanctions against Iraq. The Chinese have consistently called for a peaceful solution in the gulf and, until recently, had coupled that with opposition to "big-power military involvement," referring to the U.S. and other foreign deployments in the region.

According to one Western diplomat, China has been identified by the Iraqis as "the weak link" among the five permanent members of the Security Council. The four other permanent members are the United States, the Soviet Union, Britain and France.

Chinese officials are reportedly concerned about the prospect of hostilities, but it is not clear what Beijing's position would be if war were to break out in the gulf.

In an indication of Beijing's position, one authoritative Chinese official told some Western diplomats recently that while China would "lament the outbreak of war, China will vote with the majority of the United Nations," according to one Western diplomat.

Another analyst put it more bluntly, saying, "It doesn't matter if [the Chinese] don't dance too pretty, as long as they dance."

This week, as if to remind the West of Beijing's support for the U.N. measures against Iraq, a Foreign Ministry spokeswoman said China had lost $2 billion in trade, transportation, airline and other receipts by complying with the sanctions. She did not say how the figures were calculated or how much of the losses could be attributed to a decline in arms sales. China had long been a major arms supplier to Iraq.

Those losses do not include Iraqi debts to China for earlier imports of Chinese goods and labor. Beijing has evacuated several thousand of its citizens, mostly construction workers, from Kuwait, but several thousand Chinese laborers are still in Iraq. The spokeswoman declined in give details of the debt, but the total is believed to be about $4 billion, "with a big chunk of that in arms sales," one Western diplomat said.

"China wants to explain that she voted for the resolutions with all the big powers but that it was not easy because it also costs China, "another Western diplomat said. One purpose of Qian's trip may be to seek financial help from Saudi Arabia for the costs China has shouldered as a result of the sanctions, another analyst said.

But China's desire to be readmitted to the big-power club appears to be the major motivation behind Qian's trip to the Middle East, one Chinese source said. "If China is able to make any headway [toward a negotiated settlement], then the other big powers will owe China, and China may be able to get some more rewards," such as the lifting of all Western sanctions against it, he said.

Several diplomats, however, discounted the ability of China to mediate in the gulf. Qian "will say all the right things, but I think it's all part of a move to lessen China's isolation," said one analyst.

China has less to lose than some industrialized countries if war breaks out in the gulf, some analysts said. As a net oil exporter, it is much less dependent on oil from the Middle East than Japan or the United States. The relatively low base of its economy makes China more resilient in the face of an international recession than the higher-performing U.S. economy, for example.

In trade, it will be easier for the Chinese to find other markets for their major exports, such as textiles and footwear, "because even in a recession, people still need to buy shoes and clothes, and they may well go for the cheaper clothes from China," said a Western diplomat.

[From the New York Times, June 10, 1991]

China Said To Plan New Arms Sales; United States Is Concerned

(By Nicholas D. Kristof)

BEIJING, June 8.—Western diplomats and experts are concerned by indications that China is seeking to increase its share of the world market for missiles.

The Chinese military, the experts say, may begin shipments of two new kinds of missiles to Syria and Pakistan, and perhaps to other countries as well. The new missiles, which are said to be more accurate than the Soviet-designed Scuds used by Iraq in the Persian Gulf war, are thought to be at the end of the development stage and could be deployed soon.

Short of money and therefore eager to sell weapons, China, the experts say, may be on a collision course with Western nations that say they want to slow the international arms race.

With the decline of the Soviet Union and Eastern Europe as arms merchants, China, in the view of some, is emerging to fill the void.

WHAT OF UNITED STATES AND SOVIET SALES?

For its part, China points out that it sells far fewer weapons than either the United States or the Soviet Union. If Washington can sell arms to the Middle East, it asks, why can't Beijing?

Still, China's weapons sales are becoming a growing source of friction with the United States, and a factor in the debate about whether to cut off China's most-favored-nation trade benefits. In a sign of American concern, Reginald Bartholomew, the Under Secretary of State for Security Assistance, is scheduled to visit Beijing June 17 to 19 to discuss weapons proliferation.

Apparently intending to ease the friction and improve its image, China has reportedly accepted an invitation from President Bush to attend a July conference of major powers to discuss limits on arms sales to the Middle East.

CHINA, BUSINESS AS USUAL

But whether China will agree to do more than talk may depend on the outcome of disagreements between China's Foreign Ministry, which would like to curtail proliferation to improve the nation's image, and the army, which wants to raise funds through the sale of weapons, and regards the Foreign Ministry as weak-kneed.

Diplomats and experts say that the new international interest in China's arms sales reflects changes not so much in China as in the rest of the world. For most of the last decade, the Chinese Army eagerly pursued arms deals, but now there is far less sympathy for China than before. In addition, the United States and other Western nations are talking about curtailing the arms race in the Middle East and elsewhere, and China could upset such plans.

"They are doing things that they've been doing all along, but we have a lower level of tolerance than we did a few years ago," said a Western diplomat in Beijing. "In addition, what they were doing all along now seems to be coming to fruition in a number of cases."

What is coming to fruition appears to be the development of the M-9 and M-11 missiles, and plans to sell them to Syria, Pakistan and probably other nations as well.

The missiles apparently have not been delivered so far, but launchers for the M-11 have been spotted in Pakistan and diplomats expect that the missiles themselves will follow. The M-11 is said to have a range of about 180 miles and can carry a nuclear warhead.

PAKISTAN AND NUCLEAR ARMS

Pakistan is widely believed to be close to achieving a nuclear bomb. If Pakistan were able to build a nuclear device in the form of a warhead for the M-11 missile, it would be able to launch a nuclear strike that India could not easily defend against.

The Western diplomat said he doubted that China could be prevented from transferring the M-11 missiles to Pakistan, but that there was a somewhat better chance of preventing shipments of the M-9 to Syria. The M-9 is thought to have a range of about 375 miles, and so would be able to hit targets throughout Israel.

There have been some indications that China struck a deal several years ago to sell M-9's to Syria, and the missile may have been developed in part with Syrian financing.

When the national security adviser, Brent Scowcroft, visited Beijing in December 1989, he received pledges that China would not sell medium-range missiles to the Middle East, and that "at the present time, China is not planning any sales of the M-9 missile to Syria." These days, Beijing is no longer repeating that "at the present time" it will not sell the M-9, and the promise not to sell medium-range missiles may not be useful because of the way Beijing defines medium range.

A QUESTION OF DEFINITION

The Missile Technology Control Regime, an agreement that China has not joined, defines medium-range missiles as those that go about 188 miles. But a Chinese military encyclopedia defines a medium-range missile as one that can travel 625 miles. If that is the definition that it is using, its promise not to sell medium-range missiles would cover neither the M–9 nor the M–11.

Diplomats are also concerned about China's capacity to transfer nuclear technology, and there was concern recently when China was found to be building a nuclear reactor in Algeria that experts suspected might be used to produce plutonium for nuclear weapons. China and Algeria responded by saying that the reactor was intended only for research, and Algeria has now indicated that it will allow international inspections, alleviating much of the concern.

China is also widely believed to have assisted Pakistan with its nuclear program, although there is no firm public evidence to confirm allegations that Beijing provided Pakistan with a design for a bomb. There is also evidence that some Chinese provided India with "heavy water" for its nuclear program, but this may have been an unauthorized profit-making venture that did not have the central Government's approval.

[From the Washington Post, June 11, 1991]

UNITED STATES TO PRESS CHINA TO HALT MISSILE SALES; DEALS WITH SYRIA AND PAKISTAN OPPOSED

(By R. Jeffrey Smith)

Amid mounting evidence of China's continuing efforts to sell ballistic missiles, the Bush administration plans to press Beijing again next week to abide by an international agreement barring exports of missile technology, according to senior U.S. officials.

The principal U.S. aim is to halt planned Chinese missile sales to Pakistan and Syria. Both deals are now believed by U.S. intelligence experts to be nearing completion, despite repeated pledges by China that it would restrain missile exports and cancel the Syrian sale, the officials said.

U.S. government analysts said that the Syrian and Pakistani missile deals represent the culmination of a decade-long strategy by Chinese military officials and the kin of senior leaders to earn large sums in foreign currency through the export of conventional arms and ballistic missiles to Third World states, particularly those unable to obtain similar weapons from the United States and the Soviet Union.

China has previously rebuffed U.S. requests to adhere to the guidelines of the Missile Technology Control Regime (MTCR), which was signed by most major Western weapons suppliers in the 1980s and it intended to slow the spread of missiles capable of carrying nuclear warheads.

But China's trading privileges with the United States may now be at stake if Beijing does not soon restrain its arms sales. Although President Bush has recommended renewing China's most-favored-nation trading status this summer without conditions, Senate Democratic leaders plan to introduce legislation that would condition renewal on Beijing's adherence to the arms accord within six months.

Officials said that Undersecretary of State Reginald Bartholomew, who is scheduled to meet with Chinese leaders in Beijing beginning Sunday, will press the Chinese to adhere to an MTCR formula that generally prohibits exports of medium-range ballistic missiles, the officials said.

With the Soviet Union's decision last year to follow the MTCR guidelines, China became the principal missile exporter to remain outside the accord. In recent months, senior Chinese leaders such as Foreign Minister Qian Qichen have rebuffed it as a tool of Western pressure and said that only the nations that participated in its creation should be expected to adhere, U.S. officials said.

At U.S. urging, China has nonetheless pledged publicly to exercise restraint in missile sales and indicated it would not export medium-range missiles to the Middle East. But it has never told Washington exactly what missiles it considers to fall within this constraint.

The two Chinese missiles that have aroused the Bush administration's concern are the M–9 and the M–11, which U.S. government analysts say are being developed entirely for export markets with financial assistance from the two primary intended customers—Syria and Pakistan. Military officials from these two countries have been seen at various times at the sites where the missiles are being developed and tested, a U.S. official said.

"China has never deployed that kind of missile system" in its own arsenal and has no military doctrine that would govern domestic employment, one analyst said.

A recent acceleration in Chinese missile flight tests caused U.S. intelligence experts to conclude that development of the missiles was nearing completion, according to several sources. This conclusion was bolstered by the sighting in Pakistan earlier this spring of mobile launchers for the M–11, an analyst said.

Senior Chinese officials assured White House national security adviser Brent Scowcroft during a 1989 visit to Beijing that the M–9 missile would not be sold to Syria, and officials say that a formal intelligence community estimate completed last December concluded that the deal was off.

But several senior U.S. government experts, noting that the missile's development has continued, said in recent interviews that they now believe the deal remains intact, and information supporting this has recently been obtained by military officials from allied countries.

Officials said that intelligence experts in the United States and in Israel, which closely monitors Syrian weapons purchases, have estimated the M–9's range at 360–370 miles, well above the 186-mile-range cutoff imposed by the MTCR guidelines. They said that if the missile is delivered within the next year, as many experts believe likely, it would give Syria its first capability to hit military targets throughout the Middle East with considerable accuracy and reliability.

Sen. Joseph R. Biden Jr. (D-Del.), a leader of Senate efforts to halt the M–9 missile sale, last week called it "the single most destabilizing potential development in the region." Biden has drafted legislation that would withdraw China's most-favored-nation trade status if the Syrian or Pakistani missile deal goes through.

Some Chinese officials have publicly claimed that the M–11 falls outside the MTCR guidelines because it cannot fly more than 186 miles. But an M–11 sales brochure published by the Chinese Precision Machinery Import and Export Co. states that the 31-foot-long missile is capable of carrying an 800-kilogram warhead up to 180 miles, placing it above the MTCR cutoff for warheads of that size.

The brochure, which was provided to The Washington Post by a source who declined to be named, also describes the missile's warhead capability as "explosive-fragmentation, demolition and antipersonnel."

U.S. government analysts said the M–9 and M–11 missile deals are only the most recent examples of a weapons export strategy crafted by Chinese leader Deng Xiaoping in the early 1980's. The aim of the strategy was to match the success of major Western nations in earning huge profits from sales to Middle East nations. A major impetus was an estimated 30 percent drop in China's defense budget during this period, which created a shortage of cash for modernization.

[From the New York Times, July 6, 1991]

TO CURB CHINA'S ARMS TRADE

Despite pledges to curb sales of advanced arms, China now confirms it has begun delivering new missiles to Pakistan. And it's about to ship others to Syria. Understandably, the news fuels Congressional fervor to deny China trade privileges. A Democratic-sponsored bill would cancel China's most-favored-nation trade status for making such sales.

But economic sanctions have failed to restrain Chinese arms merchants in the past. A new strategy combining carrot and stick might be worth a try—provided the Bush Administration is willing to curb its own arms sales.

In a depressing ritual, the U.S. gets assurances from China that it won't sell advanced arms and then learns that it has. The gap between word and deed stems from internal divisions in China. The assurances that arms won't be sold come from the Foreign and Defense Ministries, as a timely article in International Security by John W. Lewis, Hua Di and Xue Litai at Stanford's Center for International Security and Arms Control explains. But the sales are made by an army commission that has considerable autonomy and substantial inducement to sell as much as it can.

As China's leader, Deng Xiaoping, accelerated modernization in the 1980's, the commission became China's engine for technological development. It's as if the U.S. Army Corps of Engineers ran the Manhattan Project, NASA, the National Science Foundation and Silicon Valley combined.

At the same time Mr. Deng slashed the military budget. That led the commission to promote sales in order to raise revenues and import advanced technology. Administrators of its two main arms export firms, who stand to profit personally from sales, have family ties to China's leaders.

One of those firms signed a contract in 1988 to sell medium-range M–9 missiles to Syria and has received some proceeds, but has yet to deliver any missiles. And it sent "a very small number" of shorter-range M–11 missiles to Pakistan.

The deals can still be killed. But discriminating against China's trade with the U.S. might spur its arms sales. And sanctions, by denying contact and technology, come down hardest on the modernizers who back liberalization and opposed the Tiananmen crackdown. A threat of sanctions may be more effective than their actual imposition.

A different strategy is worth a try—cooperating with China in arms suppliers' groups while holding out a threat of trade sanctions by the U.S., Japan and other nations that want the missile sales cubed. Beijing has now told Washington it may join the 16-nation Missile Technology Control Regime, which seeks to halt the spread of medium-range missiles. And the world's five leading arms suppliers, China included will meet soon in Paris to draw up guidelines for Mideast arms sales. China can be pressed in these forums to curb it sales—but is not likely to comply unless the Bush Administration shows some sales restraint of its own.

Congress could facilitate that by renewing most-favored-nation status for one year, requiring Mr. Bush to report within the year on China's arms sales practices and imposing its own temporary moratorium on U.S. sales by year's end if Mr. Bush fails to exercise restraint.

[From the New York Times, Jan. 31, 1992]

CHINA SAID TO SELL PARTS FOR MISSILES

(By Elaine Sciolino with Eric Schmitt)

American intelligence reports indicate that China is continuing to sell missile technology to Syria and Pakistan despite statements by Chinese leaders that they are willing to curb missile exports, according to senior Administration officials.

Beijing has recently delivered to Syria about 30 tons of chemicals needed to make a solid-fuel missile and plans to deliver an additional 60 tons in March or April, said the officials, who added that the amount was enough to make a "significant" number of intermediate-range missiles.

It has also delivered to Pakistan guidance units that could be used to control the flight of M-11 ballistic missiles, they added.

The issue is important because the United States is ready to lift the sanctions on the sale of American satellite parts and high-speed computers that were imposed last spring after the United States learned that China had secretly delivered launchers for M-11 missiles to Pakistan.

President Bush, who favors removal of the sanctions, will raise the issue of China's proliferation practices when he meets at the United Nations on Friday with China's Prime Minister, Li Peng. Leading lawmakers and human rights organizations have sharply criticized the meeting, the first between the leaders since Chinese troops crushed the democracy movement in China in June 1989.

During the visit of Secretary of State James A. Baker 3d to Beijing in November, Chinese officials said they would abide by the provisions of a 1987 international agreement restricting the export of missiles and missile technology, but only if the Administration lifted the sanctions.

The Administration has made the issue of nonproliferation a linchpin of its post-cold-war foreign policy, and is especially eager to halt the transfer of nuclear, chemical and biological weapons and ballistic missiles to the developing world.

The President's plan to meet with Mr. Li reflects Mr. Bush's firm belief that the best way to moderate China's behavior is through dialogue, a strategy that has been criticized even inside the Administration.

"There was great controversy about whether the President should even meet Li Peng," a senior Administration official said. "It raised the whole debate about how best to bring the Chinese along—by stiff-arming them or by coaxing them when they make a few moves in the right direction."

Administration officials have played down the significance of Friday's meeting, describing it as a short encounter and as a "courtesy" to the Chinese, who requested it.

When asked at a briefing today whether an announcement to lift sanctions was imminent, a State Department spokesman, Joe Snyder, said that once the two Governments completed the agreement reached during Mr. Baker's meeting in November, "the Administration plans to take the steps necessary to lift the June 1991 sanctions."

"We have no set timetable for lifting the sanctions," he said.

DIVISIONS IN ADMINISTRATION

There are deep divisions in the Administration over the wisdom of lifting the sanctions. Many intelligence officials and some senior Pentagon officials oppose any easing of restrictions, while the White House is clearly in favor of such a move.

The State Department notified Congress in a letter in mid-December that it intends to lift the sanctions. But resistance by Chinese leaders to an American demand that they put their oral promise to Mr. Baker in writing has contributed to a delay, Administration officials said.

Some non-proliferation experts in the Administration are convinced that the recent sales to Syria and Pakistan would constitute clear violations of the agreement, known as the Missile Technology Control Regime, which was devised by the United States and other powers to limit the supply of ballistic missiles to the developing world.

But other officials use a broader interpretation, saying it is nearly impossible to determine whether the transfer of certain technology that might have dual uses is a violation.

The suspicion felt toward China in some quarters of the Administration was reflected in remarks by Defense Secretary Dick Cheney after a speech in Wisconsin this week. Mr. Cheney said that his "prime concern" with regard to China was proliferation.

"They have in the past, on occasion, been less than scrupulous in their concern for maintaining control over that technology," he said.

CHINA'S POLICY "WORRISOME"

Similarly, in testimony before the Senate Armed Services Committee last week, Lieut. Gen. James R. Clapper, Jr., Director of the Defense Intelligence Agency, called Chinese arms sales and proliferation policies "worrisome," adding, "China is currently assisting many of the nations that we estimate will acquire a ballistic missile capability by the end of the decade."

China has vigorously denied selling entire missiles or warheads to Syria, Pakistan or any other country in the Middle East or Southwest Asia. Indeed, American officials say there is no proof Beijing has shipped such weapons.

Many American officials and independent non-proliferation experts have expressed growing concern, however, that China is circumventing the spirit of missile-control agreements by selling missile components. Such transfers are significant because developing countries can assemble the parts and, in some cases, market the technology themselves.

"These transfers would help both Syria and Pakistan develop a manufacturing capability for their own missiles and would even allow them to proliferate missiles to other countries," said Gary Milhollin, director of the Wisconsin Project on Nuclear Arms Control, a private group. "It happens at the very time that China is promising to change its behavior."

LIMITATIONS TO GUIDELINES

A senior Pentagon official acknowledged the limitations of the missile control guidelines, saying they were "a way to keep a lid on things, but not strictly control" proliferation.

American intelligence reports over the last few years have also shown that China has discussed with Iranian officials the possible sale of M-9 missiles.

Launchers and M-11 training missiles were delivered to Pakistan last year, despite Beijing's pledges not to sell medium-range missiles in the Middle East and Southwest Asia. The Chinese view the M-11, which is said to have a range of about 180 miles and can carry a nuclear warhead, as a short-range missile, although the United States considers it a medium-range missile covered by the missile technology agreement.

Mr. PACKWOOD. Therefore, Mr. President, we have publicly known about these sales for a good many years. We granted the most-favored-nation status to China in 1980, and we have continued it every year to date. We never even had a vote in the Congress on China's most-favored-nation status until 1990. We did not have a vote in this Chamber until 1991.

What is it that has changed? When we granted China most-favored-nation status all of those years, when we knew they were selling weapons and selling them to Iran and Iraq and we continued to grant the status, we cannot use the argument of weapons proliferation as the reason for now saying no to most-favored-nation status.

As a matter of fact, China's record of arms sales to the Third World countries may improve. Last Friday, the administration obtained formal guarantees from the Chinese Government to adhere to the missile technology control regime [MTCR]. The MTCR was formed in 1987 to limit the export of missiles and missile technology. The administration was able to obtain this guarantee, though not through the revocation of most-favored-nation status but through an open dialog with the Chinese Government.

In August 1991, China announced it would sign the Nuclear Nonproliferation Treaty. Only 2 months earlier—only 2 months earlier—France, another holdout to the treaty, had agreed to sign.

It should be our policy to continue to press the Chinese on limiting arms sales to Third World countries. But denying them—or conditioning—most-favored-nation status simply takes us out of the game.

Now let us go to human rights. I will not bother to put in the record article upon article from any of the organizations that monitor civil liberties and civil rights around the world about China, from the fifties, sixties, seventies, and eighties onward.

China was abominable. China was one of the worst abusers of civil liberties, although it is hard to tell whether they were any worse then Iraq, Iran, Syria, and Libya are now. Or perhaps Indonesia that has just killed hundreds of people in East Timor. But there is no question that we have known throughout the years that China abused civil liberties.

Some have argued "that we should not trade with the People's Republic of China or other Communist countries because their political systems are oppressive and because they do not place the same value on human freedoms that we do." And the argument goes that, "by trading with them and giving them the 'benefits' of the American economic system, we endorse their system and enable it to flourish. This logic presumes that American goods, American products, and American technology are so overwhelmingly superior that other nations of the world have no place else to shop. Perhaps there was a time or when the United States held such a commending position in world trade. But if it were ever true, it is manifestly not true today."

That is not to say, Mr. President, that we must ignore the harsh realities of life under such systems or close our eyes to the violations of human rights. To the contrary, our international policy on human rights is sound and we should pursue it vigorously. But we must so in ways that will realistically help us achieve our goals. To not encourage trade, which is one of the most fundamental relationships between nations, is to surrender a tool, a line of communication, for presenting American ideals. We should use diplomatic tools of public condemnation and foreign aid to pressure violators of human rights. Trade penalties, such as trade embargoes, should be opposed because trade is not a gift, and America, needs the business.

What has changed in terms of human rights was Tiananmen Square, but changed only in the sense, Mr. President, that we saw it publicly on television in the United States for the first time. The State Department reports, however, that the years before Tiananmen Square are replete with abuses of civil liberty in China.

We did not see anything new in China. We did not discover anything in looking at the television that we did not know was happening in China. But we saw it. Is that going to be the reason that we change and now deny China most-favored-nation status, that we saw it? If so, Mr. President, I can tell you what is going to happen. Not only are we going to hurt ourselves economically, we are not going to make it possible for any American news crew to get in any of these countries that violate civil liberties for fear that perhaps some revolt or some uprising of the people is going to be shown on television and seen in America and they will be denied most-favored-nation status or other rights. I emphasize again, we knew it, this Senate knew it, the House of Representatives knew it, the administration knew it. They knew it from the Eisenhower administration onward. I hope we are not reaching the standard where we say, well, we have now seen it on television and it is real. We did not believe it when we read all the reports.

Let me move over now to the argument of international trade. The argument is used that China has a $12 billion trade surplus and that ought to be a factor when considering most-favored-nation status. If that is the case, we certainly should be considering Japan's most-favored-nation status. We have a trade surplus of $40 billion, and that is the lowest it has been in a number of years.

People say that China's market access barriers are a factor in the equation, and we should not extend them most-favored-nation status because they have a closed market or semiclosed market. In that case, we ought to look very closely at Brazil or India. These two markets are closed, or more closed, to us than the Chinese market.

No, Mr. President, on any basis that we have used before, we did not deny most-favored-nation status to China, not because they were selling weapons. We knew it. Not because they were violating human rights. We knew it. Not because their markets are more closed than some. We knew it, although, I emphasize, not as closed as others.

I will emphasize again, it is a fair argument as to whether or not we want to extend to the world, the human rights violators, weapons sales handlers, and say, if you do this, no most-favored-nation status. In that case, France will probably lose it. France sells the advanced combat plane Mirage to Iran. France, you may recall, was the country that was building the atomic bomb plant in Iraq that Israel bombed in 1981. France was building it in violation of then existing agreements. And when it was bombed, they never said a word because they knew they had their hand caught in the cookie jar. There was no debate when France was selling the materials to Iraq to make bombs.

I yield myself 5 additional minutes.

The PRESIDENT pro tempore. The Senator yields himself 5 additional minutes.

Mr. PACKWOOD. When France was selling material to Iraq to make atomic bombs and building the plant to make them, we knew it. There was no discussion of revoking their most-favored-nation status.

But I can give you additional emphatic reasons, as one representing the State of Oregon, that this bill should be opposed. As others have argued so correctly this "will seriously injure our consumers, our exporters, and, most importantly, Oregon workers. Normal trade relations with China will translate into dollars and cents and paychecks for workers and be a substantial economic and political benefit to the United States." "Trade with China means more exports, more jobs, and more income for Oregonians." China is one of Oregon's largest export markets. In 1990, Oregon exported over $90 billion in goods to China, including grains, forest products, and animal oils. Will they be in jeopardy if the most-favored-nation status is revoked or conditioned? You bet they will. There is no question that the Chinese will retaliate against the United States and particularly Oregon, if most-favored-nation status is conditioned or revoked.

Take agriculture, for example. Since 1989, the United States sold approximated $2.2 billion of agricultural products to China. A good portion of those exports come out of Oregon. There is not a single farm group in the United States that believes it will be able to maintain the market share in China if most-favored-nation status is revoked or conditioned. All agree that Australia, the European Community, and Canada will step in and fill the Chinese market.

Since 1988, the United States has exported over $810 million of forest products to China, and today the forest products industry is reeling in Oregon. To take away the China market from us would further injure this critical Oregon industry that needs exports to remain competitive.

If anyone, thinks, in addition, that there is a debate about trade relations with China going on in any other industrialized country, they are dead wrong—not in Tokyo, not in Canberra, not in London, not in Paris, not in Bonn. They are not talking about getting rid of any favorable-trade status they have with China. They are licking their chops waiting for us to say, "Oh, no, we won't deal with China as much," and they will be there to pick up the pieces right away, despite their arms sales, despite their human rights violations.

So, I will say in conclusion, Mr. President, if we want to adopt a new standard for the most-favored-nation status, that is a fair debate, but then let us extend it to every country in this world that violates human liberties as China does. Let us extend it to every nation in this world that exports weapons in violation of what we consider good policy. That is a fair debate. But to single out China will be to our detriment, not China's.

I thank the Chair.

Mr. MOYNIHAN. Mr. President, may I congratulate the very able Senator from Oregon on the compelling argument he makes. We have other views, but that we express them in no way indicates any lack of respect for the case he has made—and not the least about the general condition of human rights around the world.

Mr. PACKWOOD. I thank the Senator.

Mr. MITCHELL. Mr. President, will the Senator yield to permit me to make a unanimous consent?

Mr. PACKWOOD. I yield.

Mr. MITCHELL. Mr. President, if I might have the attention of Senators, there have been so many requests for speaking that I have suggested, and apparently it is acceptable to the Senator's colleagues, that we extend the time until 1 o'clock, equally divided, to give more Senators the opportunity to address the Senate.

EXTENSION OF TIME FOR DEBATE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for debate this morning now scheduled to end at 12:30 p.m. be extended until 1 p.m. with the additional half-hour to be equally divided in the same form as the previous time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleague.

Mr. PACKWOOD. I thank the Chair and leader for extending the time to 1 o'clock.

The PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. Mr. President, the very able Senator from Illinois has 5 minutes, and I regret we have only 5 minutes in the long list of speakers. I am happy to yield 5 minutes.

The PRESIDENT pro tempore. The Senator from Illinois [Mr. DIXON] is yielded 5 minutes.

Mr. DIXON. Mr. President, I thank the distinguished Senator from New York.

Mr. President, I rise in support of the conference report to H.R. 2212, the United States-China Act of 1991.

The time has come for the Senate to act. We must pass a bill that sends a message to all the people of China.

To those heroic people risking their lives for human rights we must say: We will always remember your struggle for freedom.

To the torturers who killed their dreams we must say: We will never forget.

A vote for this bill is a vote to uphold those values we as a Nation holds dear. To vote against it is to condone the bloodshed, forget about the political prisoners and slave labor, and turn a blind eye to the nuclear proliferation policies of the People's Republic of China. We cannot continue such a short-sighted policy.

This legislation sets forth very clear, reasonable policy goals. We are not asking for the Moon, Mr. President. We are giving the People's Republic of China every opportunity to show marked improvement in its human rights slave labor, and nuclear nonproliferation practices. We are holding China to the same standard we apply to many other countries.

Those of us who support H.R. 2212 are trying to affect change through a carrot and stick approach. Such an approach has worked in other countries around the world, most recently in El Salvador. What the administration would have us do in this instance is give the Chinese the carrot, and beat Congress with the stick. Whose side is the administration on?

I was an original cosponsor of the majority leader's companion legislation, and congratulate him on his leadership on this issue. He, as well as many of us in the Senate, have been trying to rein in the inhuman, illegal practices of the People's Republic of China Government for some time.

The 1989 massacre in Tiananmen Square vividly portrayed a country whose rulers would go to any length to silence dissent. A number of us, this Senator included, introduced legislation after the massacre to protect Chinese students in this country, who would have faced reprisals at home for their prodemocracy activities here. The administration opposed protecting prodemocracy students, for fear of the reaction of Communist leaders.

The administration tried to have it both ways on that one. The President vetoed the legislation, claiming to be able to provide the same protection through Executive order. Partly on the basis of that argument, the Senate fell one vote short of standing on the side of democracy.

The President initially failed to follow through on his promise. Only when this Senator and others in the Senate as well as the House made the President's failure to issue the Executive order public, did he in fact provide the necessary protection. Again, the President was slow to act for fear of upsetting the Communist leaders in Beijing.

Now the President opposes our efforts to conditionally renew most-favored-nation trade status for the People's Republic of China.

The People's Republic of China has run tanks over unarmed, peace-seeking students and workers, denied the existence of political prisoners, lied about slave labor practices, winked at international nonnuclear proliferation treaties, and steadfastly refused to consider improving its sorry record of human rights abuses.

And this administration wants to reward such behavior with an extension of our most-favored-nation trade status? Mr. President, with what could the administration possibly reward the Beijing government if they ever actually cooperated on anything? Mr. President, we have a clear choice today: Do we remember those fighting for democracy in China and take action on their behalf or do we forget all they have suffered in their struggle for the rights we take for granted? I will vote to remember.

I thank my colleagues.

The PRESIDING OFFICER (Mr. KERRY). Who yields time?

Mr. MOYNIHAN. Mr. President, the Senator from Ohio has 5 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I have supported MFN in the past because I thought it was important to keep the trade lines of the world open, trade throughout the world open. I still hope we can do that. But there has been a lot of new information over this past year that I want to address in just a moment.

I think we need to remember what this legislation is. All it requires in the weapons area is that the President certify there has been "significant progress"—those are the words—significant progress in the area of nonproliferation, this specifically covers nuclear and other weapons of mass destruction.

Although the bill also addresses human rights and other issues, I did just want to take a moment to talk about the area of nonproliferation because it is so important, because the way this whole thing has developed puts a new light on the MFN issue even from last year.

The horrors of nuclear war we do not need to try to recount for everybody in this Chamber. Many of us have been through combat in the past, many of the Members of this body, in World War II, Korea, and Vietnam. We cannot imagine how unthinkable the horror would be if we ever got into a nuclear war. So we worked very hard and I have worked ever since I have been in the Senate for the past 17½ years, almost now, to try and control the nuclear spread around the world. It resulted in my authoring, in 1978, the Nuclear Nonproliferation Act; and following through, encouraging other nations to join the Nonproliferation Treaty and put their facilities under the international atomic energy safeguards.

So I come to this with a long background of following what has happened in the nuclear nonproliferation field for many years in the Senate. And what has happened over the past couple of years I think is of note as we consider this particular piece of legislation.

Through all these years we have tried to get the nuclear suppliers to not send out the specialized equipment that only a few nations make. Nuclear know-how is basically easy to come by. You can hire a Soviet scientist these days. I guess that is the current vogue in the papers anyway. You can hire a scientist, but you cannot make nuclear weapons without that specialized equipment. You cannot make it without the equipment.

There are only a handful of nations in the world that make the kinds of equipment that can be used to make nuclear weapons. If they just did not ship that material out, then we would not have the nuclear proliferation problem we have today.

So what happens? Well the French used to ship a lot out. They stopped that policy in 1976. We are still living with some of their earlier business activities. The Germans shipped some out because they had a requirement in their Constitution that made it difficult to prohibit their businesses from doing business around the world. They had changed some of that law recently, though not adequately enough. Our own Nation here has been very delinquent in this. We have not enforced our own laws, quite often in my view, particularly with regard to Pakistan. But all these nations are now sensitized by the fact, with the wind down of the cold war, we now have to be careful we do not have proliferation from other quarters.

What have we seen in the last year? We have seen that the one nation that has been expanding its nuclear proliferation potential to other nations around this world has been China.

We will have a classified session this afternoon in which I hope to go into much more detail on this.

But just from press reports—these are all press reports now—the PRC has been cooperating recently with Iran, we see in the papers, with Syria, with Pakistan—we have known that one for a long time, with Pakistan.

They have sold long-range missiles, the CSS-2, to the Saudi Arabian Government; rumors of other shady deals with Algeria, Libya and others;

Now does it take a military genius to see what is going on, with where those nations are and where they are located with regard to Israel and that whole Asian subcontinent? I do not think it takes much to see that.

We have heard talk in the past, coming from these regions, about the Arab nations and the Islamic nations having an Islamic bomb. And where is this Chinese cooperation going? It is going directly into those regions that we have been most concerned about, and we have tried to regulate, the trade in that area for a number of years.

Mr. GLENN. Might I have another minute?

Mr. MOYNIHAN. Another minute to the Senator from Ohio; 2 minutes.

Mr. GLENN. That would be fine. I thank the Senator.

Just as we feel we are about to get this under control the new big proliferator that sends out not only technology but the equipment, too, turns out to be the People's Republic of China.

Now I hope, I hope very much that the President finds some information where he can say OK, progress is being made, significant progress. But it cannot just be said that the Chinese once again mouth the words that they are not proliferators, when they know better. They are not even hiding the fact they are proliferators. In fact they are also advertising for many nations that maybe want to seek weapons of mass destruction.

Very regrettably, unless something changes and the President can show significant progress in this area of nonproliferation, I do not see that we have any option but to deny China most-favored-nation status. I do not want to see that happen. I really do not. I have voted in favor of MFN before and I will vote in favor of MFN again if we can be assured that China is changing its policies so they are not the new proliferator of weapons of mass destruction all over the world.

So, Mr. President, I sincerely support this legislation. But regrettably I must say, because I am sorry, because over the past year or so this knowledge about China, what they are doing in this spread of weapons of mass destruction, has come into the knowledge of the international community.

I will be addressing this during our closed session this afternoon.

Mr. President, a good case can be made that some of the most outrageous Chinese activity in the field of proliferation occurred precisely during the period when United States economic and technological ties were the strongest.

Let me give a recounting of some testimony by the Director of Central Intelligence, Robert Gates, before my Governmental Affairs Committee just a little over 2 months ago, on January 15. He said:

> China and North Korea may sell other countries longer-range missiles and the technology to produce them. Countries with special weapons that succeed in buying these missiles will further expand and accelerate the special weapons arms race already under way in the Middle East and South Asia.
>
> Tehran's principal sources of special weapons since the Iran-Iraq war have been North Korea for long-range Scuds, and China for battlefield missiles, cruise missiles, and nuclear-related technologies.
>
> China * * * is supplying [Iran with] a miniature neutron source reactor and an electromagnetic isotope separator. This equipment has legitimate peaceful uses, but Iranian public statements that it should have nuclear weapons suggest otherwise.
>
> In the nuclear area, Damascus is negotiating with China for a reactor [and] appears to be seeking [missile-related] assistance from China and Western firms for an improved capability with CW or BW warheads.
>
> As for the prospect China might join the NPT, Mr. Gates said, "Despite its accession to the NPT, we remain concerned that Beijing could claim existing contracts are grandfathered, and therefore exempt, from IAEA safeguards."

President Reagan, 7 years ago, when he sent the agreement for nuclear cooperation with China to the Congress said "we can expect that China's policy of not assisting a nonnuclear weapons state to acquire nuclear explosives will be implemented in a manner consistent with the basic non-proliferation practices common to the United States and other suppliers."

We are still waiting to have those expectations met.

One other point I would like to make. It takes a buyer as well as a seller. What about these nations that have been reported in the press as having been cooperating with China in acquiring missiles—such as Iran, Syria, Pakistan, and Algeria? If we are serious, why do we not rally world indignation against those who are buying—with the U.N. action, with MFN cancellations against them and so on? I think we just cannot take on just the sellers. We also have to take action against the buyers.

Mr. President, the United States has many legitimate reasons to seek influence over China's foreign and domestic policies. Suffering under the effects of the current economic recession, companies throughout America could well benefit from greater access to China's vast market. Americans also want China to adopt a more democratic political system and a free-market economy. Progress in these directions serves the national ideals and self-interests of both countries.

American families, however, also sent thousands of young men and women to serve in the recent war in the Persian Gulf. Not long ago, these troops were faced with the prospect that nuclear, chemical, or biological weapons might be used against them; 1 night, an Iraqi missile killed 28 soldiers, including 3 women, and wounded 89. Literally overnight, that dreaded word, "proliferation," became converted from an abstraction that troubled a few specialists into a serious threat recognized by virtually all Americans.

Yesterday, it was in the Middle East; tomorrow, devastating wars involving key U.S. interests could occur in East Asia and South Asia, or again in the Middle East, jeopardizing the lives of millions. Meanwhile, high-technology terrorism threatens to bring the horror of these weapons even to American citizens in their homes and workplaces. To the extent that China is contributing to such threats, we must not only voice our concerns, but be prepared to take the tough actions needed to defend our interests.

The readiness of Americans to resume close relations with China should depend not on the words, assurances, or nonbinding policy statements coming from Beijing or Washington. It must instead depend on deeds, actions, and tangible evidence that progress is being made in realizing all of our important policy objectives. Experience, not hope, must be our principal guide as we chart the future course of our relations not just with China, but with all nations that threaten international security.

By all indications, however, the current debate over the renewal of China's most-favored-nation trade status demonstrates that the road ahead will not be an easy one. In counterpoint to bipartisan congressional concerns about expansive administration claims of Presidential authority to regulate the Nation's foreign commerce, an authority granted to Congress under the Constitution, the President charged on May 27, 1991, that it is not moral for Congress to mandate human rights or nonproliferation conditions as terms for renewing China's most-favored-nation status.

The time has come to evaluate China's nonproliferation record not must in the context of the narrow most-favored-nation issue, but also in terms of some broader implications for United States foreign policy in the new world order.

THE QUESTION OF LINKAGE

I believe that America's renewal of China's most-favored-nation trade privileges should be linked to concrete progress on human rights and nonproliferation issues. I make no apologies for this position and I do not believe it brings honor to the office of the Presidency to characterize such views as immoral.

The administration points to many alleged costs of this approach. We will lose export markets which will only be snatched up by other western competitors and Japan. We will lose our ability to give China an open society. We will hurt segments of Chinese society—such as in China's southern coastal provinces and Hong Kong—that are adopting free-market principles. We will lose leverage needed to discourage China from nuclear and other forms of weapons proliferations. We must, in short, use free commerce as a vehicle both for creative change inside China and to restrain China's external behavior.

In response, I would argue that the administration's current policy toward China is replete with half-truths, contradictions, and wishful thinking.

U.S. POLICY ON SANCTIONS

While condemning legislatively mandated sanctions and trade conditions as immoral, the White House has repeatedly heralded its past denials of satellite parts, supercomputers, munitions, and various forms of multilateral aid to China as evidence of the administration's commitment to nonproliferation. We must recall, however, that a White House factsheet released on June 16, 1991, said nothing about any embargo of high performance computers to China—the release said only that such exports "will occur only after extensive review to ensure that the proposed sale poses no threat to national security." The addition of supercomputers to this list is particularly interesting, given the White House's announcement in December 1990 that these sophisticated dual-use machines would be approved not only for export to China, but also to Brazil and India. At the time, none of these nations was a party to the Nuclear Nonproliferation Treaty, and all of them continue to merit close international scrutiny today.

But what of the high-technology sanctions that the administration has reluctantly imposed in the past? Were these sanctions not also immoral? What about the alleged benefits from free trade in these commodities? Were we not throwing away our ability to use the leverage we would allegedly have gained from approving such exports?

The answers to these questions may well be contained in press reports that appeared late last week indicating that the administration has lifted its computer and satellite sanctions against China. Other sanctions against the two Chinese companies involved in missile proliferation will evidently also be lifted. The lifting of the missile sanctions seems particularly difficult to justify, even in the face of renewed Chinese assurances that it will not promote missile proliferation.

The United States response to China's recent export of M–11 missile technology to Pakistan was truly a case of too little, too late. The Washington Post reported on April 6, 1991, that United States officials believe that China sent Pakistan "a number of launch vehicles for Chinese-made M–11 ballistic missiles." On June 12, 1991, Secretary of State Baker testified before the Senate Foreign Relations Committee that China would face potentially profound consequences if it provided the M–11 missile to Pakistan or the M–9 to Syria. Fifteen days later, the Chinese Ambassador to the United States stated at the National Press Club that "Yes, I said we have sold some conventional weapons to Pakistan, including a tiny amount of short-range tactical missiles * * * I think here you call it M–11." And citing Bush administration officials as sources, the Washington Times claimed on July 2, 1991, that "a Chinese ship carrying Chinese-made M–9 missiles was being tracked to Cyprus from a factory in China * * * destined for Syria."

I do not know if any M–9 missiles were ever sent to Syria—or if any may yet be sent in the future—but I find such reports especially disturbing in the context of China's longstanding pattern of promoting missile proliferation around the world. Chinese leaders have evidently concluded, perhaps with good reason, that when we threaten tough sanctions, we just do not mean what we say.

I also find it ironic that the White House would point to the sanctions that were imposed against two Chinese trading firms as an indicator of its commitment to halting missile proliferation, especially given the vigor with which the administration opposed the congressional legislation creating those sanctions in 1990. Those sanctions, by the way, are limited only to a prohibition on exports of United States missile technology and on United States Government contracts with the two Chinese enterprises.

THE BURDEN OF SANCTIONS

On the broader issue of who in China will bear the burden of expanded trade sanctions, it is true that if the President ultimately determines that China is still engaging in egregious human rights abuses and promoting proliferation, sanctions may well impose some costs on friends of the free market and open society in China, but let us examine those costs.

Why does the Chinese leadership, including the old-line party bosses, military chiefs, trading companies, and family networks in the Chinese military-industrial complex, want continued easy access to United States money, markets, and possible military assets? Obviously, because such goods help to shore up their position at home; U.S. trade helps to confer power and legitimacy upon precisely those government officials who are responsible both for practicing dictatorship at home and proliferation abroad. To argue that the loss of free trade with the United States would only have impacts on the advocates of the open society and free market in China is absurd. Besides, if the administration's fervent belief that any rupture in United States-Chinese trading relations would be quickly made up by an influx of companies and capital from other Western, pro-free-market nations and Japan, then the net impact on China's free-market sector may not be as severe as the administration claims.

I also doubt that the United States is not without some influence over those other Western nations to ensure that whatever cooperation follows does not contribute either to proliferation or further human rights abuses in China. Perhaps one of the best instruments available to the United States is publicity: If other nations wish to promote dictatorial practices and proliferation by China, they are free to do so, but at the risk not only of jeopardizing friendly relations with the United States but of humiliating international exposure of such cooperation. America must tell the world where it stands on these issues.

But our concern about the effect of sanctions inside China should not lead us to neglect some harsh economic realities we face here at home as we pursue business as usual with China. In the first 11 months of 1991, the United States sold about $5.7 billion in exports to China, while the United States bought over three times that amount from China.

There is, moreover, not just economic benefit from trade with China. What about the United States exporters who have seen their patents and copyrights abused by unscrupulous Chinese entrepreneurs? What about United States manufacturers of retail merchandise who have been put out of business by the influx of cheap Chinese imports? What about China's sales of goods produced by convict labor and continued charges of dumping in the United States and other nations? America's economic gain from unfettered trade with China may not be as self-apparent as the administration would like Congress to believe.

If, in the worst case, China eventually loses its United States most-favored-nation privileges, United States exporters should ask their Government: What are you doing to find alternative markets for United States goods? There is no law of nature that compels United States exporters to sell only to China. Indeed, it hardly seems supportive of United States interests for the administration to bemoan the loss of export income if Congress and the American people insist on some fundamental human rights and nonproliferation conditions on United States-Chinese trade. For United States policy to be credible, Chinese leaders must receive the sober message that if improvements are not made, the United States both can and will "simply take its business elsewhere." Surely the United States has interests in cultivating expanded trade with Pacific rim nations, Eastern Europe, the newly independent nations of the former Soviet Union, the rapidly growing economies in Latin America, our friends in the Middle East and with the civilian market of the world's largest democracy, India. It hardly serves United States security interests to harp on the alleged burdens that would be borne by the American consumer as a result of a conditional most-favored-nation approval, such posturing only plays into the hands of the Chinese leadership and undercuts United States nonproliferation diplomacy.

Is our economy in such straits that it has now become hostage to the China market; must our foreign policy now be driven by fears about what it will mean for the United States consumer price index for the Congress to put a human rights condition on trade with China? The answer is not a partisan matter; as Abraham Lincoln once wrote, "Republicans * * * are for both the man and the dollar; but in cases of conflict, the man before the dollar."

Once again, if China's leaders accepted the administration's claim that trade and technology are America's secret weapons to undermine Chinese society, revolutionize the political system, and transform the economy, why are they so enthusiastically welcoming a closer relationship? The answer is that these leaders have evidently concluded that they will personally gain from renewed commercial ties with the West, if they thought that they would not be able to manage the undesirable side effects from this trade, they would not have sought it in the first place.

PROBLEMS IN BUYING COMPLIANCE

Not too long ago, this administration was arguing that increased trade would also advance the causes of human rights, democracy, a free economy, and nonproliferation in Iraq. Similar claims were made about the provision of billions of economic and military aid to Pakistan to alleviate Pakistan's alleged security fears and thereby halt its nuclear weapons program. The Reagan administration similarly tried a policy of constructive engagement with the apartheid regime of South Africa. We got burned in Iraq and Pakistan; our policy on South Africa was unproductive and a national embarrassment. We should expect no less from a sanctions-free policy toward China.

If trade, capital and technology were truly useful as instruments of Chinese restraint in the field of weapons proliferation, why then is there so little to show by way of success in the years since President Nixon's historic trip to China in 1972? Prior to 1972, China had not to my knowledge ever transferred nuclear-capable missiles to other nations nor, according to many reliable reports, passed a nuclear weapon design to any other nation. Chinese nuclear and missile scientists were not turning up in sensitive foreign military facilities with the frequency they are appearing now. A good case could be made that the most outrageous Chinese activities in the field of proliferation occurred precisely during the period when United States economic and technological ties were strongest.

Yet whenever this issue comes up at recent congressional hearings, the subject is immediately avoided by administration witnesses and reserved for classified briefings; the general public, seeking some facts on these proliferation issues, finds only the word, "[deleted]," in printed copies of congressional hearings. The President's Annual Report to Congress on nonproliferation contains nothing on these issues, indeed, if it were not for the few items that appear in the media, the public would be kept completely in the dark. In this respect at least, the Soviet Union is not the only nation that could benefit from a little glasnost.

"OPEN DOOR" FOR PROLIFERATION?

The administration at times seems to imply that China's evolution toward a freer market will even help induce restraint in China's international behavior. I simply cannot fathom what the relationship is between the extent of capitalism in China's domestic market and progress on halting proliferation. A free market in China may even encourage an open door in reverse, involving the laissez faire international export of dangerous technologies and military hardware, many of which would have been produced with improved capabilities thanks to imports of Western knowhow and materials.

Encouraging China to have a freer market and promoting human rights in China are important goals of United States policy, but let us not for a minute believe that progress on these fronts will necessarily make China any less willing or able to export weapons of mass destruction or the means to produce them.

A few years ago, the administration argued that Pakistan's recent democratic and economic reforms would tighten the reins on Pakistan's nuclear program; yet a recent Gallup poll reports that 87 percent of respondents in Pakistan want the bomb, and in true representative fashion, their government appears to be willing to respond to this public demand. It appears that a nation's likelihood to engage in proliferation is less a function of the form of government or economy of the exporting nation than or international politics and strategic interest. China will stop engaging in proliferation when it recognizes that it stands to gain nothing and to lose a lot from such behavior. There is just no easy substitute for tough confrontation of China on a political and strategic level.

Finally, if trade is so important as an instrument of leverage, why does the administration not apply this logic to United States relations with North Korea, Cuba, Vietnam, and Libya? Should not these nations also have open societies and free-market economies? Do we not want leverage to restrain various international activities of these nations as well?

MOST FAVORED NATION AND THE NEW WORLD ORDER

The seriousness of the most-favored-nation issue goes far beyond the narrow bilateral relationship between the United States and China. There are more fundamental questions at stake here concerning broader interests of American foreign policy.

First, what is the value of a foreign policy consensus?

This debate over China's most-favored-nation status involves a classic conflict concerning the separation of powers. There is little partisanship on Capitol Hill when it comes to the basic goals of advancing human rights and halting the global proliferation of weapons of mass destruction; there is conflict, however, both between and within the branches as to how best to achieve these goals.

Such conflicts are not new, but in a thermonuclear age undergoing revolutionary political transformations at national, regional, and global levels simultaneously, it is perhaps more important that ever for "politics to stop at the water's edge" and for the country to unite behind a foreign policy that represents the consensus of the Nation. The unity of the American people in revulsion to the events at Tiananmen and to China's irresponsible peddling of arms and dangerous military technology in the Middle East and South Asia, however, is now under assault by an administration that refuses to acknowledge the failure of past policy approaches. Our policy now appears to be driven by, in Washington Irving's memorable words, the "almighty dollar."

A strong foreign policy has a strong foundation of support at home—the administration's efforts to construct a foreign policy based on a simple ability to sustain Presidential vetoes seems destined not only to ensure divisiveness at home but to foster the perception of U.S. weakness from abroad. U.S. foreign policy is dangerously close to being "all sail and no anchor," a fragile basis indeed for a new world order.

My second question asks, is free trade sufficient for peace?

The Yankee merchant ship *Empress of China* docked for the first time in Canton Harbor in 1784. Sixty years later, China granted the United States MFN status. Missionaries came with a determination to transform Chinese society spiritually just as the traders sought to transform it materially; as one U.S. diplomat put it in 1900, "We are a moral as well as material force. We are a civilizing as well as an exploiting agency." (John Barret, North American Review, August 1900). While the bountiful dream of the China market grew in the public imagination, especially after the economic depression of 1893, diplomats also came to see China as an arena for strategic competition between Russian, Japanese, European, and American interests. The United States unilaterally sent its famous open door diplomatic notes in 1899 and 1900 both to defend America's trade interests and to protect China's territorial integrity. The press at that time hailed the opening of "the greatest of world markets," a market "of enormous possibilities" with "400 million customers." The United States acquired Hawaii, the Philippines, and dug a canal through Panama, all largely intended to open further the path to the China market.

President Theodore Roosevelt was primarily interested in preserving a stable balance of power in East Asia: Japan would balance Russia and the United States would pursue its interests through cordial diplomacy, with appropriate shows of force. However, Roosevelt's Secretary of War, William Howard Taft, was especially enthusiastic about the China market: In a speech in 1908 he predicted that "should China progress industrially, you can be sure that * * * the wealth of that country will be showered upon us. * * * " When President Taft, a Yale graduate, came to office a year later, he made it clear that United States interests in China would be given a priority unsurpassed by any previous administration. The use of the machinery of the foreign policy establishment to promote trade and investment in China was soon to be labeled "Dollar Diplomacy," a practice that has been carried on in various forms to the present day. In 1910, Taft's Secretary of State, Philander C. Knox, stated that the application of dollar diplomacy in China was "a high moral duty."

Unfortunately, both the open door and dollar diplomacy produced unsatisfactory results, both for U.S. business and strategic interests. The East Asian balance of power was altered to Japan's benefit as Japan continued to pursue its special interest in Manchuria; even the large United States houses were able to find more lucrative investments in Japan and other countries. China, meanwhile, was in the midst of revolutionary turmoil: A bloody Boxer Rebellion in 1900 and a full-scale revolution in 1911 led to a long period of reconstruction and development.

President Harding's inaugural address in March 1921 heralded "an era of good feeling to mark the birth of a new order." In terms of foreign policy, the "new order" would rest on the proposition that "ties of trade bind nations in closest intimacy and none may receive except as he gives." A month earlier, he stated, "I would rather have indissoluble ties of righteous trade promote international friendship than all the compacts ever written in the world." (New York Times, February 26, 1921.)

Herbert Hoover, both as Secretary of Commerce under Calvin Coolidge and as President, also sought to promote trade with China but not at the cost of engaging in any political commitments. Hoover was a strong believer in unconditional MFN clauses in commercial treaties—the United States customarily used only conditional MFN clauses until the mid-1920's—as was the administration of Franklin Roosevelt. Having worked earlier in China as an engineer, Hoover believed he had a personal appreciation for the commercial and strategic value of China. Yet when Japan invaded China in the early 1930's, the United States imposed no sanctions and announced only that it would not recognize any territory acquired by conquest, the so-called Stimson doctrine. Hoover saw no need for economic sanctions against Japan; in his words, the United States "should not go around alone sticking pins in tigers." In frustration over United States hostility to economic sanctions against the Japanese invasion of Manchuria, a Chinese observer described the Stimson doctrine as having the "head of a dragon and the tail of a rat."

The policies of Harding, Coolidge, and Hoover toward the new Soviet Government were largely the same: Trade and commerce were seen as the best way to promote United States interests abroad. Similarly, trade was seen by these administrators and by the Roosevelt administration as a means to influence Mussolini; when Italy invaded Abyssinia in 1935 and used chemical weapons, the United States agreed to an embargo on arms sales to all belligerents but continued to sell oil to Italy, its most precious import commodity. Trade was also seen in the 1930's as one way to influence Hitler; in 1937, Thomas J. Watson of IBM told the International Chamber of Commerce in Berlin that there would be "World Peace through World Trade." After the war was underway, Senator Harry Truman and his colleagues on a special committee investigated the extensive role of United States companies in arranging secret production agreements with German firms concerning the production of chemicals, rubber, and aviation fuel.

President Roosevelt's policy for curbing Japanese expansionism also relied heavily on moral exhortation and the avoidance of economic sanctions; his Secretary of State, Cordell Hull, was a strong believer in free trade as a basis of world peace. In 1933 he stated that "restoration of fair, friendly and normal trade relations among nations at present would not only avoid serious economic, military and political differences between countries in the future, but would go far toward composing those now existing." (New York Times, April 30, 1933). A year later, he stated, "Friendly , orderly international trade * * * is not only indispensable to the domestic prosperity of most countries; it is also one of the greatest educators, civilizers, and peacemakers." (New York Times, November 2, 1934). Building on this conviction, Hull strongly opposed the embargo on United States exports of oil to Japan until shortly before Pearl Harbor. He also rejected the advice of the United States Ambassador to Austria, George Messersmith, who urged that "economic pressure and practical isolation" be applied to Hitler's Germany. Messersmith opposed economic appeasement of Germany, saying in a letter in 1934 that "anything which we might do now would only tend to prop up the regime and lengthen its hold upon Germany."

Roosevelt himself, however, at least on one occasion acknowledged the weaknesses of economic instruments in America's policies toward China: "Dollar Diplomacy," he wrote in Foreign Affairs—July 1928—"as adopted by President Taft and Secretary Knox placed money leadership ahead of moral leadership in the Far East."

By the mid-1930's, the United States had abandoned one of the key objectives of the open door policy, protection of the territorial integrity of China, and eventually learned the hard lesson that while free trade offered many benefits, it was clearly an inadequate means to solve the world's political problems. The lesson here is that free trade has limited purchasing power when it comes to buying another nation's adherence to fundamental international norms, especially when that nation sees a strategic advantage in violating those norms.

In the cold war years, the United States broke its free trade tradition and organized a multilateral embargo on all sensitive trade with the U.S.S.R., China, and their client states.

Although this embargo surely did not prevent the Soviets from acquiring sophisticated weapons, the National Academy of Sciences has recently acknowledged that the embargo "caused them to rely on less sophisticated technological approaches, and it has forced them to invest enormous resources in military-related research and development that might otherwise have been dedicated to civilian purposes." (Finding Common Ground, 1991.) In short, U.S. Presidents from both parties in the postwar period concluded that the security costs exceeded the potential economic gain that would result from free trade with the Soviet bloc. That conclusion was adjusted only after substantial political and economic changes occurred in Eastern Europe and the Soviet Union, which nevertheless still does not have MFN status, changes which have been throttled by the ruling Chinese leadership.

Yet on May 24, 1990, Assistant Secretary of State Richard H. Solomon testified at a joint hearing of two House Foreign Affairs subcommittees that "we must avoid the temptation to be excessively punitive [with China]." Shifting from an emphasis on sanctions to one on trade, Solomon testified on June 6, 1990, before a Senate Foreign Relation Committee subcommittee that "We should not underestimate the power of international commerce as a force for change." True, but when viewed in light of the hard experiences of Taft, Hoover, Hull, Roosevelt, and more recently, when appraised relative to the $1.5 billion in dual-use goods that the United States licensed for export to Iraq over the last 6 years, neither should we overestimate the power of commerce to produce changes that advance key United States national security and foreign policy objectives.

Let us keep in mind, whenever we hear the slogan of "streamlining the export control process," that accomplishing this objective may cost us another war down the road, a war in which our adversaries will be using weapons of mass destruction built from goods that were made in the United States.

My third key question is: How will America demonstrate its leadership in the new world order?

On May 22, 1991, Under Secretary of State Robert Kimmitt testified before the House Foreign Affairs Committee that in meetings at the White House in April and May 1990, before the Iraqi invasion of Kuwait but well after Iraq had violated its commitments under the Geneva protocol by using chemical weapons in the Iran/Iraq war, tested a satellite launch vehicle, committed human rights atrocities, and broke its obligations under the Nuclear Nonproliferation Treaty, that only then had the United States explored new export controls to be employed against Iraq. Moreover, Kimmitt stated that a NSC meeting on this issue only decided to study the matter, since adoption of any new controls would have to be on a "multilateral basis."

Similarly, Assistant Secretary of State John Kelly testified before the Senate Foreign Relations Committee on June 15, 1990—shortly before Iraq invaded Kuwait—that United States economic sanctions against Iraq would only "deny U.S. exporters the ability to compete with foreign exporters [to Iraq]."

Senator Nancy Kassebaum, my Republican colleague from Kansas, answered Secretary Kelly by saying that even if our allies would not immediately join us in imposing sanctions against Iraq's human rights record, "it makes me weep to think that we are not doing more to call this to the world's attention, that we are sort of standing by and just saying, 'Well, we are trying through diplomatic channels' * * *. I think we have to be prepared to stand up and be counted."

Are we so driven to improve U.S. "competitiveness" that we are willing to pay any price for that goal? Do we truly want a trade balance that rests on the backs of our soldiers who will be sent into battle tomorrow because of what we are exporting today?

If one element of the new world order will be that the United States must no longer show leadership in great international initiatives against breaches of international security or crimes against humanity, then our Nation will have taken a giant leap, not into the 21st century, but back to the 1920's and 1930's when similar logic contributed to the death of the League of Nations and the rise of international anarchy. What is needed now is not a retreat to Harding's "era of good feelings" but a leap to a new "era of good sense."

THE UNITED STATES/CHINA NUCLEAR COOPERATION AGREEMENT

I cannot conclude my statement today without reference to the Reagan administration's negotiation 7 years ago of a new agreement for nuclear cooperation with China. In his letter transmitting that agreement to Congress, President Reagan stated that "* * * we can expect that China's policy of not assisting a nonnuclear weapon state to acquire nuclear explosives will be implemented in a manner consistent with the basic nonproliferation practices common to the United States and other suppliers."

As was often the case with nuclear agreements submitted during the Reagan administration, the same old themes were trotted out by the bureaucracy on behalf of this dubious agreement. Secretary of Energy, John Herrington, testified before the House Foreign Affairs Committee on July 31, 1985, that the agreement would "offer significant opportunities for U.S. industry to participate in what may well be a multibillion dollar market * * * the benefits, in terms of new jobs for our citizens and favorable effects on our foreign trade balances, are very clear." Pressing the economic theme, Herrington testified that "We need to get into this market. We need to be a player in it for leadership, for the survival of our own industry, and also for the information flow and cooperation agreements and relations that we can develop in this area."

With respect to security implications, Herrington added that the agreement "is a great step forward in promoting a stronger international nuclear nonproliferation regime [and that] the PRC has clearly indicated that it shares our concerns about any nuclear weapons proliferation."

Kenneth Adelman, as Director of the Arms Control and Disarmament Agency, similarly testified that the agreement with the Chinese "helps ensure that they are part of the nonproliferation solution, rather than part of the problem."

Yet buried away in the public hearing documents relating to the agreement was a single, ominous sentence in a censored letter to the President from the acting Chairman of the Nuclear Regulatory Commission saying, "We have concerns, however, regarding the adequacy of certain assurances provided by the PRC." (Letter of July 19, 1985.)

Indeed, because of China's notorious record of trafficking in unsafeguarded nuclear technology and materials—including covert dealings with Argentina, Pakistan, and even South Africa—I authored a joint resolution setting forth some specific nonproliferation criteria that would have to be met by China before United States licenses could be granted under the agreement. In particular, the President must first certify that certain basic nonproliferation standards had been met by China, including the following: that China not be actively assisting other nations to acquire nuclear weapons or relevant sensitive technology, that arrangements are in place that would be effective in ensuring that United States technology would only be used for peaceful purposes, and that the President must submit to Congress "a report detailing the history and current developments in the nonproliferation policies and practices of the People's Republic of China."

As of February 1992, Congress has still not received the necessary certifications, not a surprising development considering China's continued collaboration on secret nuclear projects in Pakistan, nuclear cooperation with Iran and Iraq, and clandestine international sales of heavy water and other controlled dual-use goods. I am indeed proud to say that Congress deserves the credit for having placed the Nation's security concerns ahead of the bountiful—and it turns out illusory—profits that would allegedly have come from nuclear sales to China. In taking this step, Congress was only following a tradition well summarized by president Gerald Ford, when he stated on October 28, 1976, that America "must be sure that all nations recognize that the U.S. believes that non proliferation objectives must take precedence over economic and energy benefits if a choice must be made. The goal is to prevent proliferation, not simply to deplore it."

THE CHALLENGES AHEAD

Mr. President, the demands of the new world order will require all nations to show greater sensitivity to the collective threats posed by the global spread of weapons of mass destruction. Nonproliferation initiatives—both of the unilateral and multilateral variety—will have to get higher priority than they have received in the past. Our initiatives must not be limited to rhetorical flourishes and closed-door diplomacy. They must be deeply rooted in our national experience.

After looking over the recent record of United States policies with respect to Pakistan, Iraq, and China, I think the time has come for a serious review of the organization of our whole foreign policy establishment: Why is our system so resistant to learning from the errors of the past? Why does our machinery of government so stubbornly refuse to learn from its experiences, especially in the face of information indicating that our actions are not only ineffectual and inadequate, but may in some cases be contrary to long-term U.S. national security interests?

When China or any other nation says it is advancing the cause of human rights and nonproliferation, yet our evidence tells us otherwise, we should believe what we see, not what we hear, and adjust our policies accordingly.

When special interests press forward with notions of bountiful profits and commercial solutions to these most fundamentally political of problems, we should recall our past experience from practicing such remedies in similar situations, and ensure that long-term national and global interests take precedence over the interests of the few.

We must learn from our past if we wish to build for the future. Let us show the world where human rights and nonproliferation issues stand on America's ranking of priorities. Let us show this determination by voting now on the right terms for resuming China's trade benefits. Let us lead the way to a new world order based not on the pursuit of profits, but the achievement of peace, prosperity, and justice for all.

I yield the floor. I thank my distinguished colleague for yielding me the 7 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I yield 5 minutes to the distinguished chairman of the Committee on Foreign Relations, there being no Member from the other side seeking recognition.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, today I rise in support of the conference report to H.R. 2212, the United States-China Act of 1991. This bill prohibits the President from requesting most-favored-nation [MFN] status for China for the year beginning on July 3, 1992, unless he reports significant improvement in Chinese trade, human rights, and weapons proliferation behavior.

The time has long passed for the United States and the rest of the free world to draw the line around China's pernicious acts. The longer we excuse China from behaving according to international standards, the more dangerous the world becomes for us all.

Some will suggest that conditioning MFN will have no effect on China. But, so far, Chinese granting of MFN has not significantly improved Chinese behavior. In human rights, the Chinese tell us to mind our business. They will be held only to Chinese standards, not to international norms they committed themselves to in numerous United Nations covenants.

In trade we are running more than a $12 billion deficit with China. Yet China reportedly continues to steal American trade secrets, everything from toasters to high tech.

In 1985 the Reagan administration informed Congress that "China has now declared its opposition to proliferation and taken concrete steps toward global nonproliferation norms and practices." China agreed with that pleasing assessment: in October 1985 China's vice premier said that China "does not practice nuclear proliferation." That was the same year that China reportedly agreed to train Iranian nuclear engineers.

In January 1990, Iran and China signed a 10-year agreement for scientific cooperation and the transfer of military technology. The same year China agreed to supply Iran a micro-nuclear reactor. In September 1990 journalists revealed that a Chinese company had sold Iraq 7 tons of lithium hydride used in the manufacture of nuclear weapons and missile fuel in violation of the U.N. embargo. Last year China reportedly secretly aided Algeria develop a 15-megawatt nuclear reactor.

A State Department spokesman last year said that "the Chinese have stated that they will * * * act 'prudently and responsibly' with respect to missile exports worldwide." Perhaps, but Syria is reported to have received equipment associated with M-9 intermediate range missiles from China. On June 27, 1991, China's ambassador to the United States admitted that China has sent M-11 missiles to Pakistan.

On Friday the President announced he was lifting high technology sanctions against China because China has finally agreed to comply with Missile Technology Control Regime restrictions. The President is basing his decision on a letter received on February 1 from the Chinese Foreign Minister. Secretary Baker testified before the Foreign Relations Committee on February 5 that the letter was "a clear step in the right direction." That letter has yet to be released. We do not know how big a step that commitment was.

What we need are specific and reliable assurances from China. No more promises. This conference report contains specific actions that China should take not because China should improve its relations with the United States, but because China must improve its relations with the world.

This afternoon the Senate will meet in secret session to consider the implications of these dangerous Chinese actions on world stability. I urge all of my colleagues to attend. This is not a partisan issue. No responsible American should hide his or her head in the sand when this information is presented for their consideration.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I remarked earlier on the cogency of the points made by my friend of these many years, the once and future chairman of the Committee on Finance. This trade matter of course comes from the Committee on Finance.

He makes the point that the issue of human rights is one which certainly is a principle of American foreign policy and has been for a very long while, really since the Atlantic Charter that was agreed to by President Roosevelt and Prime Minister Churchill in their meeting off Newfoundland in 1942.

It goes further back to Woodrow Wilson's 14 points. It has been part of our view in the world for a very long time. And it is a view that has changed with circumstances.

John Quincy Adams was once quoted as saying that the United States is "a friend of liberty the world over. It is the defender, however, only of its own." But that time, I think, has passed. Still, to make it a uniform condition of our relations with other countries that they have a Bill of Rights and abide by it, is to put us out of touch with three-quarters of the nations of the world.

Not as many as it would have done. Freedom House studies show an extraordinary increase in democracy and human rights freedoms. Nor have we been particularly consistent. We still do not have most-favored-nation relations with the former Soviet Union, now made up of nations which, certainly by any previous standards, look democratic to us.

Certainly the Gulag is emptied out. Look around for the nation that keeps the largest proportion of the nation behind bars, you have to look to ourselves at this point. The last political prisoners have disappeared in the Soviet Union, or so we think—they have not disappeared, rather, they have reappeared to be interviewed by the New York Times.

Still, there are two questions. There is a prior question, are we under any obligation to give most-favored-nation treatment? And I would say to my friend from Oregon that that is a presumption that you are encumbered with if you are a member of the General Agreement on Tariffs and Trade as regards any other member of the GATT—you give each other MFN treatment. The People's Republic of China is not a member of GATT.

There is another matter which I would like us to consider with great seriousness, and that is that in May of last year, the U.S. Senate gave its advice and consent to the ratification of International Labor Convention 105.

Mr. President, I ask unanimous consent that my remarks before the Senate at that time be printed in the RECORD at the conclusion of my remarks today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. That is the convention against trading in products made by prison labor or any form of forced labor. It is the convention on forced labor.

It was a special moment for this Senator. The proposal to ratify the ILO convention on forced labor was sent to the Senate by President Kennedy. I was then assistant Secretary of Labor and I helped draft the proposal. It was the first substantive ILO convention we had ever proposed be ratified.

The International Labor Organization was a creation of the Treaty of Versailles, particularly a concern of Woodrow Wilson. It was carried out, facilitated at the first meeting here in Washington of the Pan American Union by Franklin D. Roosevelt, assistant Secretary of the Navy.

This body was frozen, stalemated by the debate over the ratification of the Treaty of Versailles. The ILO arrived in town for the first meeting of the League organization. There was nowhere to go, nobody to look after it. And Franklin D. Roosevelt emptied out the Navy Department offices, the old temporary buildings on the Mall and took care of them. And he took care that the first thing he did as President was to join the ILO. We have never really wanted to go near the actual substantive provisions adopted by the International Labor Conference. But finally we did. It took us a quarter century—it took us more—it took us almost 30 years to respond to President Kennedy's proposal, but we did.

We gave our advice and consent to ratification on May 14 last year. The instrument of ratification was deposited on September 25. And it will become effective on September 25 of this year.

Mr. President, here are products of prison labor, sold in international trade by the Chinese. You can buy these: socks with a panda with the word "boxing" and a little boxer; this fellow is playing golf, whatever.

Representative WOLF was in Beijing Prison No. 1, and not recognizing him as a Member of the House of Representatives, they thought he was a buyer. They started showing him the goods for sale.

They have stopped that. We have ratified that treaty at long last. Surely we ought to indicate that we mean it, that we intend to help enforce this international labor standard.

One other thing, Mr. President. We speak of human rights violations and we can properly say that, well, you go around the world, there are continents you could not get into with that criteria. The Senator from Oregon has used the nice term about those countries which, depending on the phase of the political moon, come in and out of some respectable standards of that kind.

But there is one large event which the Chinese stand guilty of in the most brazen and unapologetic and brutal manner, and that is the invasion and conquest of Tibet, and what is now the ongoing genocide in that region of China. They have not merely conquered Tibet; they have set about the destruction of the Tibetan people and the resettlement. Contrary to all the rules of international law, the Geneva Conventions, they are settling Tibet with Han population. They are doing, as far as we know, brutal things with regards to reproduction, births of Tibetan women. It is far away. There are no television cameras. No one hears the cries, the screams. But there has not been since the Second World War any equivalent excepting in Cambodia where it was basically an internal matter.

This provision, the law we deal with, speaks of China's abuses in Tibet. Late last year Congress also spoke of China's illegal control of Tibet, stating that Tibet's true representatives are the Dalai Lama and the Tibetan Government in exile as recognized by the Tibetan people.

There is not now anyplace in the world, anywhere on Earth, as brazen, illegal, or brutal a conquest and subjugation of another country, another culture, another religion, and the subsequent effort to destroy that culture, destroy that religion. That is, in the end, what nations are. The fundamental obligation in international law is not to do what the People's Republic of China has done, and it is to that, not in the least, that this measure is addressed.

EXHIBIT 1

[From the CONGRESSIONAL RECORD, May 14, 1991]

Mr. MOYNIHAN. Mr. President, I rise to thank the chairman of the Committee on Foreign Relations, the distinguished ranking member, and all those involved in a matter that may not be widely noticed but is of epic importance.

For the first time in our 66 years of membership in the International Labor Organization, we are going to ratify a substantive treaty, one of the five key human rights conventions of the ILO, which has meant so much to this century.

I would like particularly to note that it was 27 years ago that President Kennedy proposed that we do this in a message to the Congress. I was then Assistant Secretary of Labor. We were so pleased that finally we were resuming this relationship with the ILO with its great purposes that President Wilson so very much associated himself with.

Mr. President, I ask unanimous consent that President Kennedy's message and that of his Secretary of State Dean Rusk, and Secretary of Labor W. Willard Wirtz be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1963 PRESIDENTIAL MESSAGE SUBMITTING CONVENTION 105 TO THE SENATE

THE WHITE HOUSE, *July 22, 1963.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention Concerning the Abolition of Forced Labor (convention No. 105), adopted by the International Labor Conference at its 40th session, Geneva, June 25, 1957.

I transmit also, for the information of the Senate, the report of the Secretary of State concerning the convention, together with the copy enclosed therewith of a letter from the Secretary of Labor.

JOHN F. KENNEDY.

(Enclosures: (1) Report of the Secretary of State, with enclosed background statement and copy of letter; (2) certified copy of ILO convention No. 105.)

THE WHITE HOUSE, *July 22, 1963.*

DEPARTMENT OF STATE,
July 18, 1963.

The PRESIDENT,
The White House:

I have the honor to lay before the President, with a view to its transmission to the Senate for the advice and consent of that body to ratification, if the President approve thereof, a certified copy of the Convention Concerning the Abolition of Forced Labor (convention No. 105) adopted by the International Labor Conference at its 40th session, Geneva, June 25, 1957.

In accordance with article 4 thereof, the convention entered into force on January 17, 1959. At the present time 60 of the 108 members of the International Labor Organization, not including the United States, have deposited instruments of ratification to the convention.

There is enclosed a background statement on the development of this convention over a period of nearly 10 years.

The convention as adopted consists of a preamble and 10 articles, the substantive provisions being contained in the first 2 articles.

Article 1 provides that each ratifying member undertake to suppress and not to make use of any form of forced or compulsory labor (a) as a means of political coercion or education or a punishment for holding or expressing political views or views ideologically opposed to the established political, social, or economic system; (b) as a method of mobilizing and using labor for purposes of economic development; (c) as a means of labor discipline; (d) as a punishment for having participated in strikes; and (e) as a means of racial, social, national, or religious discrimination.

Article 2 provides that each ratifying member undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labor as specified in article 1.

Formal ratifications are to be communicated to the Director General of the International Labor Organization (art. 3). The convention is binding only on those members which have registered ratifications with the Director General, and the convention enters into force 12 months after the date on which the ratifications of two members have been registered (art. 4). Thereafter it enters into force for any member 12 months after the date of registration of its ratification (art. 4).

The convention may be denounced by any member or party thereto after 10 years have elapsed from the date it first enters into force, by a communication addressed to the Director General; such denunciation shall take effect 1 year from the date it is registered by the Director General (art. 5). Any party which has not, within a year following the expiration of that 10-year period, exercised the right of denunciation, will continue to be bound for another 10-year period and, thereafter, by a communication to the Director General, may denounce the convention at the expiration of any period of 10 years (art. 5).

The Director General shall notify all members of the Organization of the registration of ratifications and denunciations and of the entry into force of the convention (art. 6), and shall register the convention with the United Nations in accordance with article 102 of the United Nations Charter (art. 7).

Article 8 provides for consideration of a revision of the convention. Article 9 provides that, if the Conference adopts a new convention revising this convention in whole or in part, then, unless the new convention otherwise provides, ratification by a member of the new convention shall involve immediate denunciation of this convention notwithstanding the provisions of article 5. Article 10 states that the English and French versions of the conventions are equally authoritative.

Pursuant to article 19, paragraph 7(b), of the Constitution of the International Labor Organization, the convention was transmitted to both Houses of Congress on February 9, 1959 (H. Doc. 78, 86th Cong., 1st sess.). At that time the interested departments of the Government were inclined to the view that the ban on forced labor as a punishment for having participated in strikes raised problems of a technical legal character with regard to areas of State regulation.

However, after an extensive additional review of the convention and the technical legal problems involved, the interested departments of the Government have expressed their coordinated view (see the enclosed copy of a letter dated February 15, 1963, from the Secretary of Labor) that the subject matter of convention No. 105 is wholly within the Federal competence under the 13th amendment to the Constitution of the United States, that there is neither Federal nor State power validly to impose forced labor as a punishment for a legal strike, and that, with regard to illegal strike activities, any such punishment would only come about "as punishment for crime whereof the party shall have been duly convicted." The 13th amendment to the Constitution reads in part:

"Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

Accordingly, and in accordance with article 19, paragraph 7(a), of the Constitution of the International Labor Organization, the convention is submitted herewith for transmission to the Senate for advice and consent to ratification.

Respectfully submitted.

DEAN RUSK.

Enclosures: (1) Background statement; (2) copy of letter of February 15, 1963, from the Secretary of Labor; (3) certified copy of convention No. 105.

BACKGROUND STATEMENT REGARDING THE DEVELOPMENT OF CONVENTION NO. 105

The adoption of the convention by the International Labor Conference in 1957 was the result of long and earnest consideration of the problem of forced labor. In 1947 the Economic and Social Council of the United Nations received a letter from the American Federation of Labor urging an investigation concerning forced labor and the consideration of action to abolish it. The Council adopted a resolution on March 7, 1949, which, among other things, invited the International Labor Organization "to give further consideration to the problem of forced labour and its nature and extent in the light of all possible information." This resolution came before the Governing Body of the Organization at its 109th session (June 1949). The Governing Body stated its view that there should be an impartial inquiry into the nature and extent of forced labor and the treatment accorded to such persons.

On March 19, 1951, the Economic and Social Council adopted a resolution in paragraph 1 of which it is stated:

"1. Decides to invite the International Labour Organization to co-operate with the Council in the earliest possible establishment of an ad hoc committee on forced labour of not more than five independent members, qualified by their competence and impartiality, to be appointed jointly by the Secretary General of the United Nations and the Director General of the International Labour Office with the following terms of reference:

"(a) To study the nature and extent of the problem raised by the existence in the world of systems of forced or "corrective" labour which are employed as a means of political coercion or punishment for holding or expressing political views and which are on such a scale as to constitute an important element in the economy of a given country, by examining the texts of laws and regulations and their application in the light of the principles referred to above and if the committee thinks fit by taking additional evidence into consideration;

"(b) To report the results of its studies and progress thereon to the Council and to the Governing Body of the International Labour Office."

The report of the ad hoc committee, adopted on May 27, 1953, was submitted to the United Nations and the International Labor Organization. The General Assembly of the United Nations adopted in 1953 a resolution in which it invited "the Economic and Social Council and the International Labour Organization, as a matter of urgency, to give early consideration to the report of the Ad Hoc Committee on Forced Labour."

The Economic and Social Council, at its 17th session in 1954, considered the report and adopted a resolution in which the International Labor Organization was invited to continue its consideration of the question.

During the 1956 Conference (39th session) of the International Labor Organization the Committee on Forced Labor submitted its report as a basis for discussion regarding the preparation of a new international instrument concerning forced labor. The Committee's report recommended that a convention was the most appropriate form of instrument and set forth certain proposals to be used as a basis for draft articles for the abolition of forced labor. The conclusions of the Committee were examined by the Conference and a resolution was adopted on June 28, 1956, approving the Committee report, and in particular approving as general conclusions, with a view to the consultation of governments, proposals for a convention relating to forced labor. The subject was placed on the agenda of the next general session with a view to a final decision on a convention concerning forced labor.

At the 40th session of the International Labor Conference (1957) the Committee on Forced Labor considered the draft of an international instrument concerning forced labor. The Committee submitted a draft convention to the General Conference with a report dated June 19, 1957, and the General Conference adopted the draft convention on June 21, 1957. The U.S. delegations actively participated in the discussions regarding the draft convention, which was adopted by a vote of 240 to 0 with 1 abstention. The U.S. Government and workers' delegates voted in favor; the U.S. employees' delegate abstained on the basis of the form of the instrument.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, DC, February 15, 1963.

Hon. DEAN RUSK,
Secretary of State, Washington, DC.

DEAR MR. SECRETARY: This letter will express to you the revised coordinated view of the interested departments and agencies of the executive branch with respect to the Convention (No. 105) Concerning the Abolition of Forced Labor, adopted at the 40th session of the International Labor Conference at Geneva, Switzerland, June 25, 1937. The previous coordinated view of these departments and agencies on this instrument was expressed in a letter to the then Secretary of State, the Honorable John Foster Dulles, from Secretary of Labor James P. Mitchell, dated December 15, 1958, and forwarded by the Department of State to the House of Representatives and the Senate on February 9, 1959. (H. Doc. 78, 86th Cong., 1st sess.).

The Convention requires that each ratifying member undertake to suppress and not to make use of any form of forced or compulsory labor for the following purposes: As a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social, or economic system; as a method of mobilizing and using labor for purposes of economic development; as a means of labor discipline; as a punishment for having participated in strikes; and as a means of racial, social, national, or religious discrimination. It further requires that each ratifying member undertake to take effective measures to secure the immediate and complete abolition of the specified forced or compulsory labor.

The Convention was adopted by a vote of 240 to none, with 1 abstention. The U.S. Government and workers' delegate voted in favor; the U.S. employees' delegate abstained on the basis of the form of the instrument.

In the letter of December 15, 1958, the position was taken that article 19 paragraph 7(b) of the ILO Constitution was applicable to convention No. 105 and that its ratification was not deemed appropriate. Concern was expressed that the ban on forced labor as a punishment for having participated in strikes raises problems of a technical legal character with regard to areas of State regulation.

In view of the continuing importance of this subject in international relations and the leading role which the United States has and must continue to play in the United Nations and in the International Labor Organization on the subject of forced labor, a review has been made of the extent of the inhibitions upon ratification involved in such technical legal problems.

The revised coordinated view that the convention is appropriate for ratification has been reached after such study by the Department of Commerce, the Department of Justice, the Department of the Interior, the Department of the Navy, and the Department of Labor, each of which expressed its views to the extent which it considered appropriate. Representatives of the Department of State were consulted in connection with the formulation of this view.

As stated in the letter of December 15, 1958, "for some 90 years forced labor has been prohibited in the United States by amendment to the U.S. Constitution." In Dennis v. United States, 341 U.S. 494 (1951), upholding convictions for conspiracy to organize a group which teaches and advocates violent overthrow of the Government and conspiring to teach and advocate the duty and necessity of overthrow of the Government by force and violence, the important and careful distinction is made between this kind of activity and "the free discussion of political theories" and "the traditional rights of Americans to discuss and evaluate ideas without fear of governmental sanction" (341 U.S. 502–503). Just as there is neither Federal nor State power validity to impose forced labor as a punishment for holding and discussing political views in a lawful manner, by reason of the Federal Constitution, there is neither Federal nor State power validity to impose forced labor as a punishment for a legal strike. Even with regard to illegal strike activities, any such punishment would only come about "as punishment for crime whereof the party shall have been duly convicted."

The United States, as a member of the ILO, has assumed the obligations set forth in article 19 of the ILO Constitution. It is our view, after further study of the matter, that the subject matter of ILO convention No. 105 is wholly within the Federal competence under the 13th amendment and that paragraph 7(a) of article 19 is applicable to it. Under these provisions the Federal Government is obligated to bring the convention before the authority or authorities within whose competence the matter lies for the enactment of legislation or other action and to report the action taken.

Accordingly, it is recommended that the President of the Senate and the Speaker of the House of Representatives be advised of this revised coordinated view of the executive branch with respect to ILO convention No. 105. It is further recommended that this instrument be transmitted to the Senate with a view to receiving advice and consent as to its ratification. Inasmuch as U.S. law and practice is in conformity with its provisions, no enactment of legislation is required in its ratification.

Yours sincerely,

W. WILLARD WIRTZ,
Secretary of Labor.

Mr. MOYNIHAN. Mr. President, I yield the floor.

Mr. President, the distinguished senior Senator from California would like to speak. May I offer 5 minutes, that being our unit of time at this point? If he needs more and their is no further requests, why, he shall have more.

Mr. CRANSTON. I may need a couple more minutes.

I thank the Senator very much.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mr. CRANSTON. Mr. President, I rise to express my full support for the conference report on the United States-China Act of 1991. This legislation is the key to correcting a bumbling U.S. policy toward a government that continues to threaten world stability and refuses to recognize basic standards of human rights for its people.

Since the administration refuses to use China's trade balance as a pressure point for reform, Congress itself must do so. Our colleagues in the House of Representatives have done their share by passing this conference report by an overwhelming, veto-proof majority.

Mr. President, this reconciliation bill requires China to do no more than it already has agreed to do in its written commitment to abide by the standards of the missile technology control regime. The legislation would ensure that if China fails to abide by its commitment, then it would not receive the trade privileges that have brought it a $15 billion trade surplus. This is a sound approach given that United States news reports indicate—and there are other indications—that China has contracts to sell missile and nuclear-related technology to Iran, Syria, and Pakistan, even after providing written assurances that it would not do so.

The administration continues to argue that restricting trade would limit its ability to encourage reform. It believes that a policy of constructive engagement yields results, such as China's recent written commitment to adhere to missile technology control regime guidelines.

However, the fact is that China has repeatedly broken nuclear nonproliferation pledges in the past:

At the White House in 1984, China's Premier pledged not to "help other countries to develop nuclear weapons."

In July 1985, the Reagan administration told Congress that "China has now declared its opposition to proliferation and taken concrete steps toward global nonproliferations norms and practices."

In October 1985, China's Vice-Premier said China "does not practice nuclear proliferation."

In September 1988, China's Foreign Minister told former Secretary of Defense Frank Carlucci that "It is totally unnecessary to worry about China's exports of military products."

In April 1991, a Department of State spokesman said "The Chinese have stated that they will act prudently and responsibly with respect to missile exports worldwide."

Despite all these pledges made over many years, the Chinese have sold ballistic missiles and launchers to Pakistan, and have contracts to sell nuclear-related material to others. And they have engaged in other like practices.

By passing this legislation, Congress would send an unequivocal signal that the United States will not tolerate China's lethal weapons trade.

The legislation also requires China to abide by the principles it agreed to by signing the Universal Declaration of Human Rights.

The Bush administration itself has said that China's human rights record is insufficient. "China's human rights practices remained repressive, falling far short of internationally accepted norms," according to the Department of State's annual human rights report. The Bush administration report confirms: "the use of torture and degrading treatment of persons detained and imprisoned"; "severe restrictions on freedom of assembly, expression, and the press were maintained"; "serious human rights abuses continued, including persistent abuses in Tibet"; "restrictions on religious practice outside officially recognized and government-controlled religious organizations"; "imprisonment in China generally entails compulsory labor." All of that from the Bush administration.

Solid evidence on China's slave labor export industry was revealed this past year. I held hearings on this issue as chairman of the East Asian and Pacific Affairs Subcommittee. According to testimony by the United States Customs Service, goods suspected of being made by forced labor in China were reaching the United States.

Talks between the United States and China on the issue of Chinese prison labor exports have stalled. China's negotiators have refused to accede to international inspection of suspected prison sites. Any memorandum of understanding reached between the United States and China on this issue will be meaningless unless independent international inspections are included.

This conference report requires improvements in basic human rights including the release of all those detained or sentenced for their participation in the 1989 pro-democracy demonstrations.

The legislation calls for significant progress in the additional human rights areas where China's record falls so short.

The United States must maintain its leadership in promoting universal human rights. Other countries are beginning to turn a blind eye to China's repression—but we must not close our eyes.

The Chinese leadership has promised to stop violating our intellectual property rights but have yet to provide a timetable for enforcement. Other serious barriers continue to block United States access to China's enormous markets. The conference report also addressed the improvements needed in China's trade practices in order for it to continue to reap the benefits of preferential tariff treatment.

Mr. President, this week marks the 20th anniversary of the Shanghai Communique, the pronouncement which has shaped contemporary Sino-American relations. We began this dialogue in order to discuss issues of mutual concern. But since those inaugural talks, China disregarded United States concern over weapons proliferation, human rights, and unfair trade practices.

We must reevaluate our approach to China. China's intransigence on issues of importance to the United States indicates that stricter measures are needed to make our position clear.

We will not tolerate China's greedy sale of weapons of mass destruction to unreliable nations.

We will not accept the persecution of peaceful pro-democracy activists as a simple incident.

We will not stand by and let American businesses be locked out of markets while ours remain wide open.

Mr. President, I urge my colleagues to stand with me and the other cosponsors of this important piece of legislation. The time for Congress to correct United States policy toward China is overdue. The time for us to act is now.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I yield 5 minutes to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I want to express my opposition to the conference report on H.R. 2212. I oppose this conference report despite the good faith views held by its proponents. There is not one of us in this fine body who is not deeply concerned about human rights violations in the People's Republic of China. We are gravely concerned about missile and nuclear proliferation by the PRC.

Those concerns are very real. We all have them, and it would be disturbing if the administration were not taking steps to deal with them in the most aggressive manner.

I agree with the administration that our responsibilities are best met when our Nation can help direct the course of change by maintaining dialog, communication with, and influence upon the People's Republic of China.

My decision to oppose this conference report comes down to one very simple concern: how do we maintain our influence over the practices of a country with one-fifth of the worlds population once we have withdrawn a trade status which we give to 162 other countries on the face of the Earth?

I think it has been said in the debate very well by the Senator from Oregon [Mr. PACKWOOD] that this is not some cherished thing. This is something we give to countries that we do not agree with on much of anything. Syria, sometimes. Libya, certainly all of the time. Iran most of the time. And so it is not something we hold very dear. It is something that we do with many other countries with whom we do not agree in any way or in any way with their government.

How do you deal with the real issues of the day on the planet Earth such as the environment, such as ozone depletion, global warming, population control, nuclear proliferation, and then leave out one-fifth of the world's people in the discussion? It has no ring of sense to it whatsoever, even though we all want to do a number on it.

Let us get that very clear. That is what we want to do. How do you talk about these things on planet Earth when you leave out a government that represents one-fifth of the world's population?

We first gave them this status in 1979. It is not some all-encompassing thing. It is a nondiscriminatory rather than a favorable treatment. It is economic policy and not foreign policy, and we are getting it confused. The filter system is breaking down as to what we want to do here.

We have done a lot of this type of thing in the past, unilateral actions, for instance the grain embargo. We end up shooting ourselves and American exporters and consumers right in the foot. The greatest injury has always been to our own national competitiveness. That is what we always find. It is always the same.

I believe that only with the renewal of MFN to China can we best serve the cause of freedom and human rights in China. This is not the stick to be used in China in any disagreement over that nation's human rights policies. Retaliation is a certainty—and all it would accomplish would be a removal of a positive American influence in that nation.

That is how the young people in Tiananmen Square got interested, because of the American influence. That is how they will remain interested. Other countries would only move in if we leave, if we step out, and indeed they are moving in to fill the gap.

Most importantly—and I will conclude, within my limited time—others wish to speak—this is going to inflict some very serious injury on our friends in Hong Kong and in Guangzhou Province, once known in the West as Canton, where many of the democratic reformers in China work and live and from where they spread their message. This booming area, the Pearl River delta, now boasts the fastest-growing economy on Earth. The area's average annual growth rate of 15 percent is unmatched by Japan, South Korea, Taiwan and Asia's other tigers in similar development stages.

That little province in southern China amounted to 5 percent of the total industrial output and 10 percent of exports with the People's Republic of China in 1990. Today it produces a disproportionate share of the worlds toys, shoes, clothing and other industrial goods. And most importantly to our own economy, Western companies use the areas as a gateway for getting consumer goods into China.

We cannot undermine the stability of this area by pulling the economic rug out from under Hong Kong and Southern China.

This is one of those steps that we would like to take because of political pressure and urging and feel good. But when we leave out one-fifth of the world's population from deliberations of critical nature to the world and its people, I think that is a grave mistake.

Most importantly, we cannot forget this manner in which capitalist and democratic values of Hong Kong are penetrating the area's consciousness. There is an old adage, "There are few easy successes, even for those who do everything right." Hong Kong and Guangzho Province have done everything right on the road to democracy. Revoking MFN would injure these forces for reform by threatening their stability and prosperity in the few years prior to 1997 when Beijing will assume control of Hong Kong.

Let us look at positive steps that have been taken in the United States-People's Republic of China relationship. The administration has maintained a continuing dialog with Chinese officials on human rights. High level visits have been authorized in order that U.S. officials could personally, face to face, outline the threat human rights abuses pose to our bilateral relationship. General Scowcroft, Deputy Secretary of State Eagleburger, Assistant Secretary Schifter, Under Secretary Kimmitt, and most recently Secretary of State James Baker have actively participated in this important dialog to stress the need for reform in China. Most of those detained after the Tiananmen tragedy have been released and missing political activists and their families' whereabouts have been accounted for.

Another very real achievement was the recent confirmation by Chinese officials to adhere to the Missile Technology Control Regime [MTCR] guidelines and parameters. That confirmation came in exchange for the lifting of sanctions on two Chinese companies—which was announced last week. The sanctions had been put in place to encourage the Chinese to engage in nonproliferation discussions. They prohibited U.S. importation of missile technology transfer systems and U.S. export licensing of satellites and high-speed computers.

Currently, there is a debate as to whether or not the recent transfers of components by China to Syria, Iran, and Pakistan are of the missile component category I or the dual-use category II. All transfers to date have not been determined by the administration to be in violation of MTCR limits. The transferred items were deemed, at best, dual-use—the end uses of the sold items were not ascertained.

Chinese acceptance of nonproliferation principles will not be accomplished in isolation. The administration is keeping a close eye on the situation and is ready to impose sanctions if true missile sales do take place. Constructive nonproliferation negotiations can only occur if we maintain dialog. Denying MFN will eliminate that vehicle for dialog and we will lose what little influence we have to persuade the Chinese to limit missile and nuclear technology sales.

I am also very aware of the trade deficit that exists with China—$2 billion in 1987, increasing to an estimated level of $17.4 billion in 1991. It is serious. The trade deficit must be dealt with immediately. I do not argue with that one whit. Yet tying the trade imbalance to the renewal of MFN is not the answer. Are we saying that we do not have other bad trading partners? I can think of one which has a $50 billion imbalance with us. We deal honestly with other countries where we have trade deficits in an effort to try to reduce those figures. That is what I think we must do here.

My fine State of Wyoming would be greatly impacted by revoking MFN status. In 1990, $790,000 in agricultural products were exported to China, down from a high of $1.3 million in 1989. Over $1 million of Wyoming produced chemicals have been exported annually to China for the last 3 years. Other Wyoming exports include livestock, fish products, lumber, textiles, and many others, totalled $4.8 billion in 1990.

I am not going to put this question solely on the basis of parochial economic gain. I am instead going to put it on the simple basis: How do you affect change in the People's Republic of China? I think that anything constructive can only occur with dialog. Denying a 1-year extension of MFN would only undercut our long-term objectives. Denying MFN would only serve to repress the Chinese people further and reverse the modernizing trends that are still nourishing the prodemocracy forces. Let us not forget that American involvement in China helped to produce the major social and economic changes behind the Tiananmen Square demonstrations. Despite the tragic and brutal results of the demonstrations, greater U.S. interaction will lead ultimately to greater influence and peace and stability.

We must accept the fact that we cannot solve the world's problems by simply using ostracism, isolation, and intransigence. I believe that if we take that approach only, without taking the concrete positive steps that make progress possible, we will fail in our efforts to advance American ideals.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, this has been a good debate. I do not have anybody else on our side that I know of who wants to talk on this. I would be happy to yield some time to Senator MOYNIHAN if he wants to make comments.

Mr. MOYNIHAN. Mr. President, I believe the distinguished Presiding Officer would like to speak. Could he have 5 minutes?

Mr. PACKWOOD. He could have 5 minutes. I ask this, as I realize he is speaking I believe in support of the conference report, that if some people on our side come who want to speak for it, I will need some time.

Mr. MOYNIHAN. We will stay here until everybody has spoken.

Mr. DECONCINI. Would the Senator yield me 5 minutes on those conditions?

Mr. PACKWOOD. I will, as long as I know who wants to speak for the conference report. As I understand the allocation of the time, the time we have when we come back is equally divided so that my yielding any time now does not come off of that time.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator is correct.

Mr. PACKWOOD. With that, I am happy to yield 5 minutes.

Mr. DECONCINI. Mr. President, I am pleased to join with the majority leader and many of my colleagues here today in urging the Senate to pass overwhelmingly the conference report conditioning most-favored-nation status for the People's Republic of China.

As you know, the centerpiece of U.S. foreign policy has historically been the pursuit of democracy and protection of human rights around the entire globe. We can be proud of that policy.

Yet, President Bush has asked us to ignore the very underpinnings of that foreign policy. President Bush has asked this Congress to unconditionally extend most-favored-nation status to China, a country that is responsible for nuclear weapons proliferation, slave labor, unfair trade practices, and deplorable human rights records that would make Saddam Hussein look good.

During the cold war, Congress and the President spoke with one voice, a loud and condemning voice, against the Soviet Union for such practices that are now commonplace in the People's Republic of China. Now the President wants this Nation to send a message to China that such practices are acceptable. In view of the past and current Chinese actions, this Senator finds the unconditional granting of most-favored-nation status to the People's Republic of China almost obscene. No; it is obscene that we should have such a change in foreign policy by sleight of hand.

In August of last year, at Yale University, President Bush said:

> MFN is a means to bring the influence of the outside world to bear on China

What has the civilized world received from China in the past 2 years in return for extending MFN? Not much, I tell anyone here. First, there is the officially reported population of 160,000 prisoners who never received the benefit of a trial, who are performing slave labor. It is estimated that forced labor may be in the millions, even 20 million people; we do not know.

The State Department acknowledges that China's human rights violations "remained repressive, falling far short of internationally accepted norms."

The Chinese Supreme People's Procuratorate concluded in a report dated April 1991 that there were nearly 500 cases of confessions extracted through the use of torture; 500 cases—that we have been able to surely identify by the People's Republic's own admission—through the use of torture. Former detainees have reported that the Government subjected them to cattle prods, electrodes, prolonged periods of solitary confinement, and beatings, in order to get a confession, thus creating exceedingly harsh conditions in Chinese prisons.

Also, the People's Republic of China illegally occupies the country of Tibet. China has reportedly executed 1 million Tibetans in its continued policy of genocide. Where is the voice of the United States condemning these policies? When the recipient of the Nobel Peace Prize, the Dalai Lama, addressed Congress last year, he confirmed these atrocities against a peaceful, independent people. These people are being denied the most basic of human rights: Freedom of the press; freedom of speech; freedom of conscience; and most importantly, freedom of religion, while Chinese troops occupy their country.

How can any country employing such practices even be a candidate for MFN?

This debate, however, is not only about immoral human rights practices.

In times of economic hardship, how can the United States afford to extend most-favored-nation status to a nation with inequitable trade practices such as China? Our trade deficit with China has risen steadily since the Tiananmen Square massacre. In 1989, the trade deficit sat at $6.3 billion. In 1990, it grew 67 percent, to $10.5 billion; and the estimate for 1991 is approximately a $15 billion deficit. And while our trade deficit with China grew, our exports to that country shrank 17 percent between 1989 and 1990.

All you have to do is go to the local hardware store in your neighborhood, and you will see what the Chinese are exporting here. You cannot buy a pair of pliers that is not made in China anymore. I have literally tried to do that. That is not in the best interest of the United States, not to mention the U.S. plier business.

To its credit, China has taken certain steps to clean up its woeful record in the area of protection of United States intellectual properties. In the past, United States businesses suffered as a result of China's unfair trade practices. The problems were so bad that the Bush administration could not ignore them any longer. In May 1991 United States Trade Representative Carla Hills initiated an investigation of China's intellectual property rights practices under the special 301 provisions of our trade laws.

On January 16, 1992, Ms. Hills announced that the People's Republic of China had committed to protect United States intellectual property, including computer software, sound recordings, and agri-chemicals and pharmaceuticals in a signed agreement. Carla Hills called me personally to inform me of this action and I congratulate her for her persistence. Unfortunately for all of us, the Chinese waited until the 11th hour—until the deadline for the beginning of United States retaliation—to conclude this agreement. I would remind my colleagues, changes in Chinese behavior only occurred as a result of firm United States pressure.

Nor is China's record as a partner of the United States in building a more stable, peaceful, post-cold-war era a strong one. China, while not vetoing any of the United Nations Security Council's resolutions, did nothing to contribute to helping the Persian Gulf allies put down Saddam Hussein's aggression in the Middle East. Instead, China has been busy making the world a more violent and less stable place. China has reportedly provided Pakistan—a country with which United States ended foreign and economic aid because of its nuclear weapons program—with a complete design of a tested nuclear weapons, and with enough enriched uranium to build two atomic bombs. Apparently, China has also sold Pakistan the M-11 missile, which is capable of delivering a nuclear weapon approximately 185 miles. China also helped Pakistan develop its first nuclear-capable missile.

Prior to the Persian Gulf war, China sold Iraq 30 Silkworm antiship missiles and helped boost Iraq's nuclear weapons program by assisting the Iraqis to produce nuclear fuel. In fairness to the President, however, the Chinese have not played favorities.

China has also assisted both of Iraq and Pakistan's historic rivals—India and Iran. Both nations have received substantial assistance from China in their efforts to develop both nuclear and conventional weapon systems. India has been sold over 130 tons of the heavy water, which can be used to produce plutonium for nuclear weapons. China has trained Iranian nuclear technicians and helped them develop short-range missiles. In addition, China has reportedly sold Iran 30 Silkworm antiship missiles.

To this Senator, it appears that the stronger George Bush pushes for MFN status for the People's Republic of China the more convinced the aging leadership in Beijing becomes that they will not have to change their current prepressive and destabilizing behavior. Indeed, the only time China makes any positive changes is when pressure from the United States and other nations forces it to. Faced with the prospects of stiff sanctions during Congress' MFN debate in 1990, the PRC released 200 prisoners incarcerated for nonviolent demonstrations. It later allowed physicist Fang Li-zhi to leave China for the West. You will recall that Dr. Fang had to take refuge in our Embassy because he faced persecution and severe punishment—perhaps even death—from the Chinese as a result of his prodemocracy stance. Ultimately this act was to our Nation's immense advantage because, since his departure from China, Dr. Fang has accepted a professorship in the physics department at the University of Arizona in Tucson.

Similarly, last year, as this debate approached, two peace leaders were also released from Chinese detention. These actions are not coincidental.'' Indeed, they clearly demonstrate to this Senator that China is vulnerable to sanctions and will only be convinced of the need to cease its current tyranny through appropriate, measured actions taken on the part of the United States.

I urge my colleagues to push for a China that can join the family of civilized nations. I urge this action not just to protect jobs for Americans, not just to lower our trade deficit, and not just to help the people in the Third World who have only known war and personal loss. I also urge this action for the people of China who have earned the right to live in dignity and freedom. This may be an economic battle, but it is also a moral one.

I urge my colleagues to support the conference report.

Mr. PACKWOOD. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished Senator from Oregon for his willingness to yield some time.

Mr. President, when this issue first came up last summer, I think for a lot of us it was not an automatic decision; it was not a quick and easy choice to set up an equation that would somehow automatically lead to a cutoff of the relationship with China.

I think the debate is, perhaps, in view of the changes that have been made in this legislation and what it now represents, inappropriately defined as an automatic cutoff. It is not automatic. The choice is really up to China. What we have here, I think, at a minimum, are the requirements that one could put in place to force some kind of activity.

I personally feel there is not any question, as opponents of the legislation have pointed out, that we do derive some significant benefits from MFN. Americans have obviously invested a great deal in China, mostly in the south, where economic reforms and a free market system have begun to take hold.

We export $5 billion worth of goods to China, which obviously means something to our businesses. Yes, there might be an upset—and there will be if there were to be a cutoff—in the relationships in Hong Kong, and so forth. And, yes, there is an argument to be made that everything we can do to expose China to democratic values, and goods, and ways of doing business is a help.

And there is always an element of risk in this choice that we might make, that unilateral sanctions could conceivably backfire, and therefore trigger some xenophobic reaction that would make concessions on key issues more difficult. All of that is a possibility.

That possibility has to be weighed against the current reality. The reality is that there is both a moral and practical imperative that demands that the United States Senate exercise a judgment to attach reasonable conditions that only ask of China that it make real on its continued promises to behave according to the standards of international behavior.

That is all that is asked here; nothing more. It is not automatic. There does not have to be a severance of relationships. The choice is whether or not China wishes to make good on the words it has uttered to date it wants somehow to have a better standard of behavior in the world today.

When you balance those things in this legislation which allow the President to make a judgment as to whether or not significant progress is being made, the President really is being dealt all of the cards with respect to this legislation.

So this is marginal, I really feel. For those of us who have balanced the other considerations with respect to continuing the relationship, I think it is important to note that. It seems to me that we also ought to take note from what has happened in Eastern Europe and in the former Soviet Union; that if we have learned anything in these past 10 or 15 years, or perhaps all the years of the cold war, it is that what we choose to do in the United States with our policy and our words does count.

It makes a difference. I think our vote here in the Senate on this issue ought to count. It is clear that for countless people in numerous countries now who are trying to be democratic, they were inspired by the positions that we took.

It is appropriate for us to have two demands here. One, that those people who were arrested for demonstrating in support of democracy, those 1,000 people detained during the events of 1989 and sent to reeducation camps where they remain today, ought to be accounted for; and, two, the only other ironclad agreement requested in this bill is that China refrain from selling long-range ballistic missile launchers or other nuclear weapons—weapons-related materials—to Syria and Iran. They say they are doing that. The bill takes them at face value.

Really, you come back to one requirement, one requirement, on which the condition of MFN stands, and that is the accounting for political prisoners, the accounting for those people detained in Tiananmen Square. If the United States of America and the Senate cannot make that requirement of China, which has been ignored for so many years in terms of standards of behavior and decency, then we do not deserve to be advocating the kind of things we advocate so early but are unwilling to back up in terms of actions and policies.

Mr. President, I understand the basic position of the President, which is that we will have more leverage if we do not do this. But nothing in the last years has shown there is any leverage at all, that any behavior has changed. It is time for us to force that kind of change.

I yield the floor.

Mr. KENNEDY. Mr. President, I ask unanimous consent to be able to proceed briefly on the most-favored-nation issue.

Mr. PACKWOOD. On most favored nation?

Mr. KENNEDY. Yes.

Mr. PACKWOOD. We have 8 minutes remaining. I am happy to yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I give my strong support to this measure to condition President Bush's renewal of most-favored-nation trading status for the People's Republic of China.

Since the bloody Tiananmen Square massacre in June 1989, the Chinese Government has time and again demonstrated its unwillingness to adopt democratic reforms or moderate its brutal policies.

President Bush has consistently adopted a double standard with respect to human rights, free trade, and arms control—a lenient standard for China and a strict standard for the rest of the world.

It is time for the United States to abandon this policy and take a more active role in supporting prodemocracy forces and the long-suffering Chinese and Tibetan people.

Following the Tiananmen Square massacre, President Bush imposed significant sanctions against the Chinese Government.

Since that time, however, the administration has gradually weakened these sanctions, even though the Government of China has continued its repressive policies.

Since the Tiananmen Square massacre, the Chinese Government has detained 30,000 prodemocracy advocates, executed an undisclosed number of individuals, and sentenced more than 800 persons to prison.

In addition, Chinese troops continue to occupy Tibet illegally. Under orders from Beijing, the army has extended its brutal repression of the Tibetan people and expanded policies designed to destroy Tibetan culture.

America must play a more effective role with respect to the Chinese Government's human rights practices. Conditioning MFN upon an improvement in China's human rights policies will demonstrate the more serious commitment that America ought to make.

Another purpose of granting MFN trading status is to promote free trade—a goal which we all share. Yet, while our trade benefits flow to China, China has shut its gates to our products and continues to use prisoners as slave labor to lower the price of exports.

On the issue of arms sales, American intelligence reports indicate that China is continuing to sell missile technology to Syria, Iran, and Pakistan, and nuclear technology to Iran, despite assurances by Chinese leaders that they would curb such exports.

American trade policies should not be used to support the repressive policies of the Chinese Government.

The Goddess of Democracy, the symbol of the pro-democracy movement, was modeled upon American values of freedom and equal justice.

If America is to retain leadership in the cause of democracy around the world, we must act in a manner consistent with these values and resist policies that accept repression.

I urge the Senate to support this timely and important measure.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I yield 5 minutes to the Senator New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, it is with genuine regret that I rise to ask unanimous consent that there be printed in the RECORD an article that has just come to hand from the London Observer of this weekend, which is entitled "China Escapes From Pariah Pit."

China has been hauled back from the United Nations human rights pariah pit, in which it would have been condemned on the issue of Tibet, by the efforts of the United States Government to prevent the U.N. Commission on Human Rights from condemning Chinese behavior in Tibet.

This is a painful thing to record. It happened last week. It says here: "It is understood in Geneva that the last-minute American resolution was entirely for internal political purposes."

The Americans have led the way in enabling Peking to escape this disgrace. I regret this. I cannot attest to its truth. I can attest to the quality of the journal in which it appeared.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the London Observer, Feb. 23, 1992]

CHINA ESCAPES FROM PARIAH PIT

(By Jonathan Mirsky)

China has been hauled back from the United Nations' human rights pariah pit, in which it would have joined Iraq and Burma, by a consortium of western countries reluctant to hurt Peking's pride on this issue of Tibet.

Hours of intensive manoeuvring late last week at the Geneva meeting of the UN Commission on Human Rights resulted in the emasculation of a resolution that would not only have condemned Chinese behaviour in Tibet, but would have cast a shadow over Peking's claims to sovereignty in the region. The condemnation—China's first from a non-governmental body in 25 years—will remain, but China's claim to sovereignty over Tibet remains unchallenged.

It is understood that the US, Britain and Italy led the struggle to take the focus off Tibet as a separate entity. The resolution will no longer be called "Situation in Tibet'; it is likely to become 'Tibet-China'.

But the core of the alteration lies deeper. The original draft referred to the 'distinct cultural, religious and national identity of the Tibetan people'. This has been altered to '. . . and ethnic identity of the Tibetans'.

The words 'national' and 'people' are revered concepts in UN circles and often imply the right to self-determination—which is explicitly referred to in the UN General Assembly's 1961 and 1965 resolutions on Tibet.

At a stroke, a gigantic loss of face for Peking has been averted, together with a blow at one of its most sensitive points; genuine Tibetan autonomy.

The Americans have led the way in enabling Peking to escape this disgrace. Late last week the US delegation to the commission suddenly proposed a sweeping resolution criticising China's entire human rights record, to be substituted for the Tibet-only resolution.

It is understood in Geneva that the last-minute American resolution was entirely for internal political purposes. By being seen to attack Peking, and include some mention of Tibet, the White House believe it would persuade Congress not to vote against renewing China's Most Favoured Nation trading status, which is close to President Bush's heart. It is expected that a majority in the commission will support a resolution with the title 'Tibet-China', which will satisfy many governments and offend none.

Lodi Gyari, the special envoy to the UN for the Dalai Lama, Tibet's spiritual and temporal leader, who is pressing the commission to stick to the Tibet resolution, pleaded with the commission to oppose any resolution that avoided Tibet's separate status and strengthened China's hand in the region.

But despite what Amnesty International and other organizations have disclosed about Chinese depredations in Tibet, and despite Tiananmen, Bush regards China's leaders as his friends.

Britain, despite its remarks about 'the situation in Tibet', worries about Hong Kong. Italy has been offered lucrative contracts for the development of Shanghai. No government wants a China headed for a Soviet-style break-up.

Mr. PACKWOOD. Mr. President, I believe the order is to stand in recess at 1 o'clock; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. PACKWOOD. I yield the remainder of time to the Senator from Massachusetts, who, I believe, has another matter and then the Senate will stand in recess when he concludes.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Massachusetts is recognized.

Mr. KENNEDY. I thank the Chair.

(The remarks of Mr. KENNEDY pertaining to the introduction of S. 2255 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGES OF THE FLOOR

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the following staff be permitted to be present during the closed session of the Senate from 2:30 p.m. until 4 p.m. today.

Rich Arenberg, Al Lehn, Bob Bell, Rick Finn, Pat Tucker, Brian Dailey, George Tenet, Don Mitchell, Fred Ward, James Wolfe, Marvin Ott, Jennifer Sims, Art Grant, Richard Kessler, James Rubin, Dave Sullivan, Bill Triplett, Ken Myers, and Steve Cortese.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

RECESS UNTIL 2:30 P.M. AND CLOSED SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:30 p.m., at which time the Senate will reconvene in closed session.

Thereupon, the Senate, at 1:02 p.m., recessed under the previous order and reconvened in closed session; whereupon, at the conclusion of the closed session, the Senate reassembled in open session, under the previous order, at 4:10 p.m. when called to order by the Presiding Officer [Mr. LIEBERMAN].

MOST FAVORED NATION TREATMENT TO THE PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, the time until 4:45 p.m. is equally divided and controlled between the two leaders. The Chair recognizes the majority leader.

Mr. MITCHELL. I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON].

Mr. GORTON. I thank the distinguished majority leader.

Mr. President, I start by agreeing to the sentiments expressed a few moments ago by the distinguished Senator from Wyoming [Mr. SIMPSON] in wishing debates in open session could be as earnest and to the point as were debates in closed session. Wishing we would have more such sessions as that, we would do better on the floor.

Nevertheless, I think the course of the debate during the day shows that the two sides of this debate agree on a common goal. That common goal is to change the actions, the attitudes, and the policies of the People's Republic of China in three respects: With respect to the proliferation of weapons of mass destruction; with respect to human rights for the people of China itself, including racial minorities within China; and with respect to trade practices of the People's Republic.

The argument on behalf of the administration, Mr. President, was, I think, somewhat better 2 years ago than it is today. It is a valid argument, that by retaining most-favored-nation treatment, by not threatening its immediate withdrawal we might do better in each of these three areas through careful and incremental negotiations.

But during the course of that 2 years, Mr. President, we have had modest, at best, progress with respect to the proliferation of weapons of mass destruction. We have had only the tiniest advances in human rights, a few people released from jail and from prison sentences, but others put in. And, Mr. President, I submit that we have moved backwards on trade relationships with China, backward from a trade deficit of $3.5 billion in 1988 to one of over $12 billion in 1991. During that period of time, exports from the People's Republic of China to the United States have more than doubled while imports by the People's Republic of China of our goods have gone up by a bare 10 percent.

Therefore, Mr. President, it is my view that the idea that the passage of this bill will automatically result in the termination of most-favored-nation treatment for the People's Republic of China and it becoming an outlaw nation is naive and primitive to say the very least; that the People's Republic of China will do absolutely nothing, meet no conditions whatsoever to save an $18 billion or more a year export trade with the United States, an export trade which it cannot substitute another recipient for, whatever it can do with respect to imports, seems to me to be highly pessimistic at the very least and naive at the most.

It is my view that the People's Republic of China will do a great deal to retain that trade relationship. And it is the view of this Senator that the most important thing that it can do is to agree to be at least equally open to goods produced in the United States as it wants this market to be for the People's Republic of China's own goods.

Mr. President, I think we are faced with a fundamental problem. Do we bet on the present 85-year-old gerontocracy which rules China in a highly oppressive fashion at the present time, or do we bet on the future?

There are two other events of the world which have taken place in the past 2 years and there was a bet on whoever was in power. I believe our relationship in all three of these areas will be better when the next generation takes over, and the next generation is more likely to take over more rapidly if we do not pop up and encourage the very politics conducted at present. If we do, we give lip service to it. I am in favor of the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield 4 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. CHAFEE], is recognized for 4 minutes.

Mr. CHAFEE. Mr. President, we are here today once again to decide the fate of United States-Chinese relations. We will also decide on what approach we will take to bring about democratic reforms in China and responsible behavior by the Government there.

At the outset, I think we ought to make clear what we are talking about today, or more precisely what we are not talking about. First, we are not talking about whether China has acted irresponsibly in the past, because they have. We all agree that China has failed with respect to the human rights of its citizens. We all agree that in the past China has failed to protect American intellectual property, for example. We can even agree that China has acted improperly or irresponsibly anyway in exporting missile and nuclear technology.

Second, what we are not talking about today is the granting of some special privilege status. If there is anything that is a misnomer, it is the words most favored nation. The truth in labeling law ought to get that expression. It is not the most favored nation. What it means is treating China just like we treat every other nation in the world with the exception of four or five. If we made a list of those nations that we think are bad it is Iraq, Iran, Libya, Pakistan to some degree. All of those nations enjoy most-favored-nation treatment.

So what we are saying to China is we are not going to let you be in that same category if this conference report should be approved. In fact, the only nations that do not enjoy most favored nations, listen to these, Cuba, Vietnam, Laos, Albania, North Korea, and Romania; nations with which we have virtually no economic, social, political, or any other ties whatsoever. So we are not talking about some special status that we are giving China.

What this debate is all about, it seems to me, is how can we best bring about progress within China. There is a certain group here that says cut them off; just end all relationships until they do what we want them to do.

We are talking about a Nation that has a history longer than ours, far longer than ours; a Nation that is an incredibly proud Nation; a Nation that has indeed enjoyed isolationism through much of its history.

Anybody who has ever read Marco Polo can understand what the isolation in China is like. When World War II was over, did China come and join the family of nations? Not at all. They went again into isolation, and so that great wall we are all familiar with was resistant to all outsiders.

Mr. President, I thoroughly believe that the way to bring China back into the family of nations to the degree we would like, where we would like them to respect the individual rights of it citizens, where we would like to see a free press, where we would like to see right of assemblage, where we would like to see the end of shipment of proliferating weapons, the way to do that is to keep up contact with that nation.

Mr. President, the way to do that is to keep these lines open. Under the legislation that is before us today, there is no way in the world that China is going to meet all those requirements.

So, Mr. President, I feel very strongly that the conference report should be turned down and that we continue as we have in the past granting China most-favored-nation treatment.

The PRESIDING OFFICER. Who yield time?

Mr. MITCHELL. Mr. President, I yield 3 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS].

Mr. HELMS. I thank the distinguished majority leader.

Mr. President, let it be clear the question before us is whether there will be an extension of MFN to Communist China without any conditions—or whether the President will be required by law to take human rights, trade and arms sales into consideration—and whether we will make a permanent change in the law to take the profit out of slave labor. That is what the conference report proposes and I support its adoption.

Mr. President, Catholic Bishop Paul Shi died for his faith last November while in the custody of the Communist Chinese police. It is not known, as the Catholic News Service reported in December, whether Bishop Shi was beaten to death but it is known that the Communist political elite, which controls the mainland of China, so fears the word of God that they feel they must imprison and murder religious leaders.

Violent conduct of this nature calls for a very strong rebuke by the free world, if for no other reason than to let the Chinese patriots who yearn for freedom know that we care.

Our major leverage is economic, the 19 billion dollars' worth of Communist Chinese exports into the United States. Without most-favored-nation trading status, those exports could decline precipitously, putting enormous pressure on the Communist regime in Beijing.

In late 1991, the House of Representatives had the chance to vote to bring MFN with Communist China to an end—and they did by a bare majority. The resolution of disapproval currently is pending before the Senate, but the decision has been made to not bring it up to give the Senate the same opportunity to vote on it. I regret that decision.

The legislation before us—the conference report granting MFN to Communist China with conditions—is not my choice. I would far prefer to have a straight-up-or-down vote on MFN for Communist China, yes or no, in which case my vote would be a resounding no.

No to 40 years of crimes against the Chinese people, including deaths and imprisonments for religious beliefs.

No to unrelenting unfair trade practices against American workers and companies.

No to arms sales to antidemocratic regimes in the Middle East.

But a yes-or-no choice is not an option available to the Senate. The question before us is whether the President may extend MFN unconditionally—or whether Congress will insist that the President take into account basic requirements of human rights, trade and our national security.

Mr. President, the conference report is divided into two parts—MFN conditions regarding human rights, unfair trade practices, arms sales—and a separate provision on convict-made goods in other words, slave labor.

With regard to human rights, before MFN can be extended in June, the conference report before us requires the Communist Chinese Government to pledge to cease its gross violations of internationally recognized human rights—not much to ask of a Permanent Member of the U.N. Security Council.

As for unfair trade practices, before MFN can again be extended, the Communist Chinese Government must demonstrate a good faith beginning to eradicate a system of trade abuses which has led to a $13 billion deficit with Communist China and unemployment among American workers, particularly in the textile industry.

As for arms sales, before MFN can again be extended, the Communist Chinese must begin to conform to international agreements on proliferation and are forbidden certain specific arms sales to Syria and Iran.

Section 5 of the conference report merits careful and special attention because it is not an MFN issue. It makes a permanent change in American law, thereby creating a system of escalating civil penalties against importers who know, or have reason to know, that the products they are importing are produced, in whole or in part, with and by slave labor. It is not limited to Communist Chinese products. The purpose is to put an end to this evil by making it unprofitable.

Mr. President, I am confident that most Senators were shocked, as was I, by the slave labor report on the CBS television's "Sixty Minutes" last September. Who can forget the sight of the judo chop going up and down as the Hong Kong manager explained to Harry Wu that prisoners are beaten if their output fails to meet quality standards?

I have described slave labor as a great evil—and it assuredly is. It is an offense against human beings who are forced to labor against their will for no pay. And it is an offense against American workers who must compete against it.

A prohibition against the import of slave labor goods has been American law for almost a century but it has not been enforced. Congress is obliged, in my view, to provide a new tool for the Customs Service to eliminate this practice and to implement section 5's escalating series of penalties, up to $1,000,000 for multiple offenses. That will mark a giant step toward eliminating slave labor.

Mr. President, the State Department yesterday issued a background paper stating that Communist China had made "modest progress" on human rights issues. Modest, indeed.

Mr. President, I have just received Associated Press and Reuters stories dated today, Peking time, saying that the Communist Chinese courts have sentenced seven Chinese patriots to multiyear prison terms for promoting the cause of liberty on the Mainland of China. Most were young students, one was a newspaper editor.

The Reuters story stated that one student was not even given a chance to speak and was led out of the court 10 minutes after the verdict was read. That sounds like something out of "Alice and Wonderland"—verdict first, trial second, only there wasn't a real trial that we would recognize.

Mr. President, the Communist Chinese did not have to announce the verdicts today. They know we will be voting conditions on MFN and they wanted to send us a little message. And that message in the following: So long as the Communists are in charge, Chinese patriots risk a one-way trip to prison and the slave labor camps.

It is time, indeed past time, for us to send them a message.

I thank the Chair.

I yield the floor.

Mr. DOLE. Mr. President, I yield 3 minutes to the distinguished Senator from Kentucky [Mr. McCONNELL].

The PRESIDING OFFICER. The Senator from Kentucky [Mr. McCONNELL] is recognized for 3 minutes.

Mr. McCONNELL. Mr. President, I rise today to strongly endorse an unconditional renewal of most-favored-nation trading status for the People's Republic of China.

To my colleagues who are considering supporting this conference report, let me say that I understand the desire to express outrage with Government officials in China. Beijing's behavior since June 4, 1989, has been outrageous and out of step with global events. While the rest of the world moves toward freedom and democracy, China continues to suppress human rights, ignore international efforts to control arms sales, pursue machiavellian trade policies, and generally represent the worst elements of the old world order.

I share the frustration and the desire to bring about change in China. However, Mr. President, this conference report is the wrong approach. Reform in China will occur in direct correlation with economic growth. And economic growth will occur in direct correlation with the willingness of industrialized countries to actively engage in commerce with China.

One need look no further than southern China to see the connection. Guangdong Province is a reformist stronghold over which Beijing has historically been unable to gain control. It is not coincidental that Guangdong shares a border and enjoys close commercial and social ties with Hong Kong, the world's bastion of capitalism.

Hong Kong's role in the economic and political reform of southern China is undeniable. Hong Kong not only provides jobs and capital to the region, it exports western ideals. The colony is currently implementing a system of direct elections and, by 1997, when Hong Kong reverts to Chinese sovereignty, it will be the only place in China with any democracy.

I do not deny, Mr. President, that voting for this conference report will make us all feel good. However, in the likely event that this bill results in the withdrawal of China's MFN status, it will also punish all the people of China for the actions of a few octogenarians in Beijing. It will further isolate China and limit our influence there. We will snuff out the hopeful flame of free market growth in southern and coastal China. It will damage the booming economies—and struggling democracies—in Hong Kong and Taiwan. In short, it will hand the hardliners in Beijing exactly what they so desperately want: Control over the social and economic systems in these progressive regions.

Mr. President, we all abhor China's behavior and we all want to see political change in that Nation. The best way to show our dissatisfaction is to support what the leaders of Beijing fear most: Capitalism and economic growth.

The Senate Foreign Relations Committee will soon consider legislation I have introduced which, if passed, will put the United States firmly on record as supporting continued economic growth in the region. The United States-Hong Kong Policy Act lays out for the first time a United States policy toward Hong Kong. It strongly supports the economic, social, and political autonomy China promised Hong Kong after 1997 in the joint declaration. It will broaden and deepen United States bilateral relations with Hong Kong prior to the 1997 reversion and ease concerns in the region with China's post-1997 treatment of Hong Kong. In short, it will enhance economic stability in the region.

I urge my colleagues who have the true interests of the Chinese people in mind to take a close look at the United States-Hong Kong Policy Act of 1997. I believe they will find it a sound approach to furthering the internal change we all want to see in China.

Mr. President, the issue is really not complicated. The question is how do we best encourage the right kind of reform in the People's Republic of China?

Some of the right things are happening, certainly in Hong Kong, certainly in Guangdong capitalism is raging. Terminating MFN would simply hurt those inside the People's Republic of China and in Hong Kong who are currently engaging in capitalism.

Mr. President, I am not particularly comfortable being put in a position to appear in any way to condone the actions of the Chinese leadership and that is not what this debate today is about. None of us condone that.

I might say to those on this side of the aisle who are a little squeamish about supporting the President on this issue, there is another way to send China a message.

I introduced recently the Hong Kong Policy Act of 1997. It has 16 cosponsors including the chairman of the Foreign Relations Committee, Senator PELL, Democrats and Republicans, Senator SIMON and others. What it says, Mr. President, is that the United States takes the joint declaration between the United Kingdom and the People's Republic of China signed in 1984 to mean what it says, and in the JD, the joint declaration, it was clear that Hong Kong was to have its own external relations with the rest of the world in a number of different categories.

So I would suggest to my colleagues who are here today that a way to send a message to China, if that is in fact what we would like to do, is to support the Hong Kong Policy Act. I think it will be reported from the Foreign Relations Committee soon. It is a way of saying to the people of Hong Kong we take the joint resolution to mean what it said, and that we will support Hong Kong, have our own separate policy with Hong Kong, which is allowed under the joint declaration between the People's Republic of China and the United Kingdom signed in 1984.

So I would encourage Members of the Senate to take a look at the Hong Kong Policy Act, consponsed by Senator SIMON of Illinois as my principal cosponsor, and consider that as a way of taking the appropriate kind of action in this particular environment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. The Senate Republican leader has 10 minutes 35 seconds remaining.

Mr. DOLE. Mr. President, I am pleased that the Senate is nearing a vote on this important issue. Since the distinguished majority leader first announced his intention to move the conference report expeditiously, we have been urging him on a daily base to do so and I think the time has come—the vote will come at 4:45.

Certainly the Senate has a central role to play in the process of evaluating a nation's eligibility for MFN. I was struck by the statement of the Senator from Rhode Island—one we seem to forget around here—who does presently have MFN status? What does it mean to the average person? And he noted the countries that do not have it.

I assume at least two of those, maybe Albania and Romania, will have it soon. So it is time that we met our responsibility and voted our convictions on MFN for China.

I have known that during the delay here, there has been probably a change of some votes but I think in the final analysis, President Bush's policy will be sustained when the veto of the conference report comes back. I think maybe we have been waiting for some new crackdown on human rights or some Chinese cheating on trade or some new arms trend first that might endanger American security interests and that would give some a chance to blame George Bush and ask us to repudiate his policies, which I think are principled and constructive.

I do not know whether we want to isolate 1.1 billion people or not, slam the door and say, "We are not going to talk to you; we are not going to try to influence your policy; we are just going to close the door." That is a shortsighted view in the view of this Senator. Had we taken that view with the Soviet Union, when we had our difficulty with the Soviet Union on human rights and trade and proliferation, I am not certain where we would be today.

Maybe time will tell where we will end up with the People's Republic of China. But those who have been waiting have been waiting in vain. I think it has been in vain because nothing has happened. I think the President's position will be sustained and I think the policies in China are working.

So I would just say in the time I have let us keep our eye on the ball.

What are our goals in China? I think they are pretty clear.

No. 1 is to advance the cause of human rights.

No. 2 is to encourage more responsible Chinese arms proliferation policies.

No. 3 is to force the Chinese to abandon unfair trade practices and expand mutually beneficial economic relations.

And I think, finally, it is to make certain that China continues on the course of responsible and cooperative policies on international issues.

There is not much dispute about these goals. Everybody will say these are the goals. They pretty much represent a laundry list for each of us.

There should not be much dispute about the test we are going to apply to our policies.

Do our policies advance the goals I have just cited, the four goals I have just pointed out? That is the test—not do they reelect or defeat George Bush or do they make good fodder for the political stump?

Do they work? That is the first test. And George Bush's policies are working.

Would other policies work better? That is the second test. History, logic, and empirical evidence suggest strongly that the Bush policies are working a lot better than the policies of isolation and this so-called feel good policy that some seem to have, the feel good retribution urged by some.

Let us look at the goal on a one-on-one analysis.

Human rights. We are a long way from where we want to be, no doubt about it; a long way from where the Chinese should be, no doubt about it. But we have seen some modest progress, and we still do have the kind of relationship that gives us, the United States Government, the opportunity at every level to press the Chinese on these issues.

We presented the Chinese a list of political detainees and demanded a name-by-name report on their status, and the Chinese have complied. We urge release of all detainees and specified some particularly egregious cases, and some have been released. The Chinese have assured us that they will issue exist visas without regard to political criteria. As a result, some noted dissidents have been permitted to leave—though the Chinese are still far short of fulfilling this promise.

We have been properly outraged by evidence of the use, an abuse, of prison labor—and at long last the Chinese have published regulations banning the export of the products of prison labor. We are now negotiating a memorandum of understanding to permit American investigations of prison labor allegations.

We have strongly criticized Chinese repression in Tibet—and we are now seeing a lessening of tensions there.

And where, by contrast, would we be if last year we had cut off MFN? Does anyone here really want to make the case that more political prisoners would be free, that we would be closer to solving the prison labor problem, or that we would be further along on any of these issues if we had not had MFN? Nobody is going to make that case. We cannot make that case.

Mr. President, there is absolutely no evidence—none—none in history, none in contemporary analysis—that suggests we would be better off on human rights without MFN.

No. 2, proliferation. What of Chinese arms proliferation policies? I am not going to try to kid anyone—those policies have been pretty bad. Many of us were just in a closed session where we had a full debate of those policies. Others have had the same information in other ways.

But when we are confronted with bad policies, in an area as crucial as this, what should we do? Lambast the Chinese, and tell them we want nothing more to do with them? That is the approach of some.

Or, do we do what President Bush and this administration have done? Do we aggressively engage the Chinese on these issues? Do we demand an accounting for the intelligence we have? And do we use every means at our disposal to get the Chinese to bring their policies in line with responsible standards?

Are the Bush policies on proliferation working? The test is not: Are the Chinese 100 percent clean. That is not a fair or realistic test. Germany is not 100 percent clean. France is not 100 percent clean. None of the European allies are 100 percent clean.

And the United States of America is not 100 percent clean. That is why we have to spend money and personnel and time monitoring the export of our own countries.

The fair test is: Are the Bush policies producing results? Is China on the right track—if not yet near the finish line?

This weekend, the Chinese have announced their accession to the so-called MTCR. I ask unanimous consent to include in the RECORD the text of both our Government's statement and the Chinese statement on this development.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHINA: LIFTING OF MISSILE SANCTIONS

The U.S. Administration intends to lift specific sanctions imposed on China last June because of transactions by two Chinese companies involving missile technology covered by the Missile Technology Control Regime (MTCR) Guidelines. As a result, we expect China to announced its adherence to the guidelines and parameters of the MTCR.

Our action comes following receipt of a letter on February 1 from PRC Foreign Minister Qian Qichen in response to a letter from Secretary Baker. This letter confirmed that China will abide by the MTCR Guidelines and parameters, as agreed in Beijing last November during the Secretary's trip.

China's written commitment to abide by the MTCR Guidelines and parameters is an important step forward in securing Chinese support for ballistic missile nonproliferation. The MTCR Guidelines are the key multinational effort to limit ballistic missile proliferation.

This in no way means we will slacken our efforts to monitor either missile transfers worldwide, or Chinese missile and missile technology export practices. Transfers of missile technology covered by MTCR Guidelines will continue to be subject to sanction in accordance with U.S. law.

THE EMBASSY OF THE
PEOPLE'S REPUBLIC OF CHINA,
Washington, DC, February 22, 1992.

REMARKS BY FOREIGN MINISTRY SPOKESMAN ON THE ANNOUNCEMENT BY U.S. GOVERNMENT OF ITS INTENTION TO LIFT THE 3 SANCTIONS AGAINST CHINA

We have taken note of the announcement by the U.S. government on 21 February of its intention to lift the 3 sanctions against China in effect since last June.

China has always pursued a prudent and responsible policy towards its arms transfer and observed the following three principles: first, these transfers should contribute to the capabilities of the countries concerned for legitimate self-defense, second, they must not undermine peace, security and stability of the regions involved and, third, arms trade should not be used as an instrument of interfere in the internal affairs of other countries. Upon the effective lifting of the above three sanctions by the U.S. government, China will act in accordance with the existing Missile Technology Control Regime guidelines and parameters in its export of missile and missile technology.

We hope to see that all the points of agreement and understanding reached by the foreign ministers of the two countries on 17 November last year will be implemented in their entirely as soon as possible so as to help the improvement and development of Sino-U.S. relations.

Mr. DOLE. Mr. President, this is something we have been after for months and months—and is one of the most important steps forward on the road toward achieving responsible Chinese policies. It does not mean we have achieved our goals. It does mean we have agreed with the Chinese on the criteria to evaluate their policies, and have a big new stick to pressure them to live up to their own word.

The other day, Deputy Secretary Eagleburger likened this development to Soviet accession to the Helsinki accords. At the time, some saw Helsinki as a meaningless gesture in semantics, and Soviet accession as merely another case of Soviet bad faith. In fact, though, Soviet agreement to Helsinki set in train a process which, over time, helped force the Soviets to confront their abuses, and gradually improve their record.

That is what we have in MTCR. Not a panacea—but the engagement of China in a process in which we can aggressively pursue our clear goals; and in which the Chinese have just forfeited a lot of the "wiggle room" they have used so effectively over the years to continue to sell arms they should not sell, to buyers they should not deal with.

And again, Mr. President: What is the alternative? If we had deep six'ed MFN last year, would the Chinese have agreed to MTCR this week? You be the judge. Obviously it would not have.

No. 3, trade and economic issues. It is in the trade and economic area where the record is most clear and compelling. President Bush has promised this Congress and the American people that he would pursue our trade grievances very aggressively—and he has delivered on that promise.

Most notably, after citing China for apparent intellectual property rights violations last year, we reached agreement with the PRC in January to substantially strengthen their protection of such rights. And, as the Senate knows, we are also actively and aggressively pursuing negotiations with Beijing following the announcement last October of a section 301 investigation of Chinese trade barriers.

But this question of economic relations goes far beyond trade, and it boils down to this fundamental question: If we deny MFN to China, who are we really hurting—the Chinese Government? The Chinese people? The forces of modernization and reform in China? The people of Hong Kong? The people of the United States of America?

There is no doubt that, after a period of backsliding, the Chinese are again on the road to economic reform. I would commend to the attention of all Senators an excellent article, making that very point, from the Wall Street Journal. I ask unanimous consent to include in the RECORD the text of that article.

There being no objection, the material was ordered to be printed in the Record, as follows:

CHINA IS SOFTENING ITS ECONOMIC LINE

(By Nicholas D. Kristof)

BEIJING, February 23.—In a strong sign of shifting political winds in China, the official press is abruptly attacking the hard-line attitudes it espoused for the last two years and has started instead to call on the nation to emphasize economic growth and even adopt useful elements of capitalism.

The pirouette was reflected in a front-page essay in today's editions of People's Daily, which in the past carried mostly dour warnings against Western subversion. Today's article, headlined "Opening up to the world and using capitalism," was the boldest in a monthlong flurry of signals that change-minded leaders may be gaining the upper hand over ideologues.

DENG'S INFLUENCE CITED

"All of modern Chinese history has demonstrated that China can travel only the socialist road, not the capitalist road," the article began. "At the same time, recent world history shows us that economically backward nations—especially those with long histories of feudalism—must correctly use capitalism, rather than rejecting it out of hand. Only by critically absorbing those elements of Western culture that are useful to us, rather than disdaining them, can we prosper and flourish."

The wave of recent editorials apparently reflects a push by Deng Xiaoping, the 87-year-old paramount leader, for China has devoted more energy to becoming prosperous and less to remaining ideologically pure. The Politburo is believed to have confirmed this moderate line, and the new articles are a signal that the hard-liners are losing control even over the newspapers that they have dominated for more than two years.

Still, political fashions in China often change quickly, and it is unclear whether the recent articles reflect a major and irreversible trend to speed up economic liberalization. Even if economic growth is back at the top of the agenda, there is no hint that the regime will release political prisoners or tolerate challenges from Tibetan separatists or underground Catholic priests or disgruntled university students.

Calls for ideological vigilance and tributes to model Communists generally filled the front pages in the two and a half years after the June 1989 crackdown on the Tiananmen democracy movement. The crackdown, in which the army killed hundreds of protesters and wounded thousands more, was accompanied by the rise of hard-line leaders who installed their lieutenants as editors of the major newspapers.

The People's Daily article appears days before the United States Senate's vote, scheduled for Tuesday, on renewing most-favored-nation trade status for China. The Administration is urging the Senate to renew the favorable tariff treatment, continuing President Bush's policy of trying to change China's behavior on human rights, arms sales to the third world and other issues by contract rather by confrontation and punishment.

NO SHIFT ON RIGHTS SEEN

While there is no evidence of any major change by China on human rights, on economic topics there is no doubt that a switch has taken place. The People's Daily article published today called for tolerating a measure of capitalism in the Chinese economy, and gave a ringing endorsement of stock markets and other practices associated with the West.

On Saturday, People's Daily carried a front-page editorial calling on the nation to focus more attention on economic development—and, by implication, give less attention to the Marxist ideology that the same newspaper has emphasized since the rise of the hardliners in June 1989.

Also on Saturday, the official Guangming Daily filled most of the top two-thirds of the front page with a call to "liberate our thinking, deepen reform, open the door more widely." It was a dizzying change in emphasis for a newspaper that just last month carried a front-page appeal for universities to select students more of loyalty to Communism.

Mr. Deng began the new drive for reform with a trip last month to the southern Chinese special economic zone of Shenzhen. Mr. Deng called for more rapid change and went out of his way to praise Shenzhen, which is a symbol of economic experimentation and has shown spectacular increases in prosperity but also in prostitution and drug abuse.

The tide shifted apparently in part because Mr. Deng and other leaders determined that the best way for China to avoid the fate of the Soviet union is to make people richer, and in part because other octogenarians who take a harder line are too feeble to fight back.

Today's article in People's Daily carried the byline Fang Sheng, which is almost certainly a pen name of an individual or a group of people in the central leadership. The fact that it was published on a Sunday—when almost no one reads the newspaper, which is delivered to offices and factories rather than homes—suggests that a Politburo member may have ordered the top editors to publish it but that they did their best to insure that as few readers as possible would notice it.

"Using capitalism includes developing an appropriate capitalist economy within our country, as a useful supplement to the socialist economy," the article said. "As our country is in only the preliminary stage of socialism, it is impossible to wipe out capitalism completely, and some exploitation will linger for a long while. So the important thing is to improve our guidance of these phenomena, and direct them onto a course where policy allows them."

Many elements of today's long article had appeared previously in one place or another, but they had not been combined with such force or clarity. The tone throughout sounded like a rebuke to the hard-liners.

In particular, the article indicated that most Communists now acknowledge the need to use foreign capital and technology.

"On other matters, it seems that there are still some differences," the newspaper said, in a clear reference to hard-liners who are wary of capitalist influences. The article added that instead of fearing contacts with the West, China should expand exchanges "to enrich our culture."

"In the past we took the tortuous path of sealing ourselves off from the world and refusing to use capitalism," the essay declared, in a reference to the Maoist era. "Leftist errors and other factors were behind this, but they have nothing to do with socialism. On the contrary, in the principle socialism means an open system and a reform-oriented economy."

A People's Daily editor said by telephone that the essay today was not an editorial or a commentary, but simply an "article." He said he did not know the identity of the author.

Wu Guoguang, a former People's Daily editorial writer now studying at Princeton University, said he could recall only one other case in the last 15 years in which the newspaper carried a front-page commentary with a byline that was a pen-name. The other one was arranged by Mr. Deng's family and published last year, and Mr. Wu said an essay like today's would have to have the approval of a top leader.

A Western diplomat suggested that the growing number of reform-minded editorials reflect the new line following a Politburo meeting that is believed to have been held about a week ago.

"But at the same time," the diplomat added, "it's only words."

Mr. DOLE. So China is on the right track. It is clearly in our interest to keep China on that track.

Will denying MFN help do that? The answer, to me at least, is clear. Engaging in mutually beneficial trade relations bolsters the forces of modernization and free market reform in China. Denying MFN will cut those forces off at the knees.

I would certainly add that it also helps many people in this country. I would certainly include the people of Hong Kong. I would include the farmers of America, and the businessmen of America.

And I would certainly include among those who would be most hurt the entrepreneurs and workers of the most open, progressive part of China—southern China—where United States economic activity, investment, and trade, is concentrated.

I would include the people of Hong Kong, which all of us hope will be a strong, free market enclave within China following its incorporation in 1997. Hong Kong is already reeling from the prospects of integration. And Hong Kong—which relies very, very heavily on Western trade with China, much of which is routed through Hong Kong—would sustain a possibly fatal blow if we turned our backs on China economically.

But there is somebody far more important to me—and to all of us—who would be hurt if we end MFN for China: The American people.

It is very ironic that, in this partisan time, when so many are attacking George Bush for his alleged preoccupation with foreign policy and his alleged failure to concentrate on America's economic problems—it is ironic that at this very moment there is this "drumbeat" for the Senate to turn its back on America's exporters, farmers, businessmen, workers, and consumers—to turn its back on all of them, so that we can make some essentially meaningless, feel-good gesture of retribution against China.

We are currently exporting $6 billion in goods and services to China annually. One group estimates that represents about 100,000 jobs.

Do you know how much we would export next year, if we terminate MFN? How about zero, or near zero.

Do you know how many will be out of work? How about—100,000—or a good chunk of that, if that estimate is correct.

Mr. President, I ask unanimous consent to include in the RECORD the executive summary of a report prepared by a very reputable organization called the "International Business and Economic Research Corp." It ought to be must reading for every Senator—and for every constituent of every Senator who votes for this conference report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the International Business and Economic Research Corp.]

THE COSTS TO THE UNITED STATES ECONOMY THAT WOULD RESULT FROM REMOVAL OF CHINA'S MOST-FAVORED-NATION TRADE STATUS

EXECUTIVE SUMMARY

Removal of China's most favored nation status would cause great harm to U.S. consumers, businesses and workers. U.S. consumers would pay as much as $10 billion annually as a result of higher prices on a wide range of goods in the U.S. market. In addition, as a result of the likely Chinese retaliation against U.S. exports, 100,000 jobs in U.S. firms exporting to China would be at risk, as would U.S. exports of nearly $5 billion and U.S. investments in China estimated at approximately $4 billion.

I. REMOVAL OF CHINA'S MFN STATUS WOULD COST UNITED STATES CONSUMERS AS MUCH AS $10 BILLION

If China lost MFN status, the duty paid cost of most Chinese goods in the U.S. would increase in the range of 10.0 to 70.0 percent, with most of the increases exceeding 20.0 percent. Should this occur, imports of nearly all items from China would be reduced or entirely eliminated and U.S. consumers would then have to pay as much as $10 billion for the remaining imports from China which would be assessed extremely high non-MFN tariffs as well as higher prices from other suppliers whose products would replace Chinese imports.

As specific examples of cost increases, the duty-paid price of silk blend and other vegetable fiber sweaters from China would increase from $117.12 to $176.78 per dozen and tariffs on toys would increase from 6.8 to 70.0 percent.

A specialized economic model was used to analyze how trade would be affected and the subsequent costs to consumers should China lose MFN. The model, known as CADIC, was developed by the U.S. International Trade Commission and is used to analyze the effect of changes in price on trade in particular products. In this case, the model was used to calculate the shift in demand away from China to other sources resulting from the increased price of imports from China. Data on those products, which constitute the largest share of the value of U.S. imports from China, was provided as input to the model. Output from the model was extrapolated to include all U.S. imports from China and cost increases as products move through the U.S. distribution system. Based on these calculations, consumer costs would increase between $6.9 and 9.9 billion due to the combination of a shift to higher priced sources of supply and higher prices for the remaining imports from China. It is important to note that the calculated consumer costs would have even been higher if we had not factored in the assumption that 25 percent of the cost increases would be absorbed by the exporter and/or importer and not passed along to the consumer.

To relate this cost directly to the U.S. economy, $10 billion equates to an average of $109 per year on each of the 92 million U.S. households. From another perspective, $10 billion equals the total 1990 budget of states such as Connecticut and Minnesota and exceeds the combined total spent by Idaho, Montana, Utah and Wyoming in 1990.

II. 100,000 UNITED STATES JOBS ARE AT RISK SHOULD CHINA LOSE MFN STATUS

Should China lose MFN and retaliate by restricting imports from the United States, approximately 100,000 U.S. jobs would be at risk. This figure is based on U.S. exports to China of $5 billion coupled with a U.S. Department of Commerce preliminary estimate that an average of 19,100 U.S. jobs are created for each billion dollars of exports.

The Commerce Department employment estimate included direct employment in the export industry as well as all of the upstream and downstream production and services necessary for the production and export of finished products. On average, for each job directly generated by exports, two more are indirectly created.

It is difficult to predict how many of the estimated 100,000 U.S. jobs created by exports to China would be lost. In all likelihood, job loss would vary in terms of time frame and product. However, the Chinese have given clear evidence that they will retaliate against U.S. exports. For example, China's grain purchases from the United States fell from 5 million tons in 1973/1974 to nothing in 1976 and 1977 reflecting China's dissatisfaction with the slow pace of American moves to normalize political relations with China.

Export losses can even be expected on commercial aircraft despite the assumption that continuity in terms of aircraft types, training, spare parts, etc. would favor ongoing purchases of U.S. airplanes.

Thus, with China's clear readiness to retaliate against U.S. exports, combined with the availability of competitive substitutes from other countries, it is safe to say that a high proportion of the 100,000 U.S. jobs associated with exports to China would be lost.

III. U.S. EXPORTS TO CHINA WOULD DROP SHOULD CHINA LOSE MFN STATUS

China's leaders have stated clearly that there would be retaliation against U.S. exports should China lose MFN status, and U.S. exports amounting to approximately $5 billion would be vulnerable. While U.S. exports to China declined in 1990, they have increased by 18.1 percent during the first six months of 1991 compared to the same period in the prior year, and it is expected that China's rapidly growing needs for raw materials and technology will offer significant export development opportunities in both the long and short term.

Looking at the list of major exports to China, it is apparent that several sectors of the U.S. economy could be hurt should exports to China be curtailed. In particular, the U.S. aircraft industry's share of China's aircraft market, estimated at $10-15 billion over the next 10 years, could be seriously compromised should China lose MFN status.

Major U.S. Exports to China, 1990—in million dollars

Commodity:	*Value*
Aircraft and parts	$749
Fertilizer	544
Wheat	497
Chemicals	345
Cotton	277
Wood in the rough	171
Parts for machinery	114
Automatic data processing machines	113
Machines having individual functions	97
Artificial filament tow	88
Turbojets, turbopropellers and other gas turbines	88
Uncoated kraft paper and paperboard	73
Copper ores and concentrates	50
Electric generating sets and rotary converters	44
Oscilloscopes, spectrum analyzers, and so forth	42
Total, this list	3,292
Total U.S. exports to China	4,775

Should the United States' exports to China be curtailed, U.S. products and services will be replaced by those of competing countries. As a result, the United States' competitive position throughout Asia will be weakened as the scale of operations of other countries in that region will increase.

IV. POTENTIAL LOSS TO U.S. INVESTORS SHOULD CHINA LOSE MFN STATUS

It is estimated that direct investment by U.S. firms in China amounts to approximately $4 billion, representing 1,000 or more individual projects. Revoking China's MFN status would jeopardize the invested capital as well as the future earning potential of these investments.

Withdrawal of MFN would also intensify the existing difficulties faced by U.S. firms' joint ventures in China. Following removal of MFN, China might impede or completely frustrate operations of these firms by restricting access to imported inputs and by increasing existing bureaucratic controls over these operations. In addition, U.S. firms which produce in China for the U.S. market would be unable to export products to the U.S. due to the assessment of extraordinarily high non-MFN tariffs.

Although U.S. investments benefit China, there can be little doubt that they could become targets of Chinese retaliation should MFN status be removed. China's ambassador to the United States, speaking of U.S. investment in China, threatened, "Put any conditions on extending most favored nation treatment for China and that economic progress may well end."

Meanwhile, Hong Kong, Japan, Taiwan and Western Europe are markedly expanding their presence in China through direct investment and provision of credit. Removal of MFN by the United States could undo 10 years of development by U.S. firms in China and severely restrict the ability of many U.S. firms to compete in a global marketplace by leaving the China market open to America's aggressive, international competitors.

V. CHINA'S CURRENT TRADE STATUS IS NOT "MOST FAVORED" AS IT IS THE SAME ACCORDED TO ALL BUT A HANDFUL OF COUNTRIES

The United States has two sets of tariff rates. The lower of the two is correctly termed "General" but is also referred to as most-favored-nation or "MFN." I from over 200 countries and territories are assessed at the General or MFN duty rates. In contrast, only eight countries are not now accorded General tariff status and are not under consideration to receive General tariff status in the near future. Imports from these eight countries[1] face "Column 2" tariff rates which mainly range from two to ten times higher than General rates.

To illustrate the huge difference between General and Column 2 tariffs, 1990 imports from China of $15.12 billion were assessed General tariffs of $1.23 billion, an average duty rate of 8.13 percent. If the same imports were assessed Column 2 rates, $6.73 billion in tariffs would have been assessed, an average duty of 44.5 percent.

While China is accorded the same General tariff rates as nearly all other countries, it is disadvantaged compared to most developing countries which are able to export a wide range of products to the United States duty-free under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBI). China is ineligible for these programs which provide significant cost advantages to China's competitors on a wide range of products.

Mr. DOLE. Mr. President, our voters have to understand what this vote is really all about—on the Main Streets, and in the factories, and on the farms of America. It is about dollars and cents; about jobs.

It is about getting out of this recession, or remaining mired in it.

We have heard the speeches about how important it is to send this high moral message, by denying MFN. And I can already hear the speeches from these same Senators 6 months, or a year from now—if they have their way. The speeches then will be: Why do we still have so many unemployed? Why have consumer prices gone up? Why have exports gone down?

Their answer will be: George Bush. But the real answer, the truth, will be because they have opted for a policy of cutting off our nose to spite our face; they have carefully aimed their bullet of retribution, not at China, but at our own feet.

Mr. President, I ask to include in the RECORD the texts of several letters chosen at random from many I have received, documenting the impact of a cutoff of MFN for China on a number of American industries and companies.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONAGRA, INC.,
Washington, DC., February 21, 1992.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR: I am writing to urge you to again support the extension of the China Most Favored Nation (MFN) Status. Your vote last July was very helpful. I hope you will again oppose efforts to attach conditions to this extension by voting against the conference report on H.R. 2212.

We, as you, are concerned about violations of human rights, as well as other issues in China. Surely, however, we have learned from developments in Russia and Eastern Europe that isolating countries does not create change. Closer economic and social ties may create change.

China represents a very important market for U.S. agricultural products. This market would surely be lost if our country was to take the unilateral action of denying MFN treatment to China.

I hope you will again weigh the benefits to agriculture from Chinese trade and retain current MFN treatment for China. Thank you.

Best Wishes,

PAUL A. KORODY.

NATIONAL ASSOCIATION
OF WHEAT GROWERS,
Washington, DC, November 26, 1991.

Hon. BOB DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: China is the largest wheat market in the world. It is also the number one customer for U.S. wheat. In fact, the United States has been an active exporter of wheat to the People's Republic of China since relations were normalized in the 1970's. The value of annual wheat export sales to China have ranged between $500 million and $1.2 billion in recent years. Barring any disruption to current trade flows and buying patterns, we firmly believe that China will remain one of our top customers through the end of the century.

Therefore, we strongly oppose the imposition of additional conditions on China's future most-favored nation trading status. We believe that the mere imposition of conditions will result in the complete revocation of China's trade status with the U.S. and China's retaliation against imports of U.S. products, including wheat.

In terms of the statutory criteria of the Jackson-Vanik amendment to the 1974 Trade Act, China is eligible for continued MFN based on the emigration standard. In FY1990, 16,751 mainland Chinese received U.S. immigration visas. U.S. immigration limits, not Chinese travel restrictions, prevented the emigration of even larger numbers of Chinese citizens.

MFN treatment among countries has been a basic element of international trade for centuries. Its underlying principle is that each country may extend to another treatment in trade that is no less favorable than that accorded to a "most-favored" nation. It is not a privilege reserved for countries in the good graces of the United States. It is inappropriate for the United States to use MFN to address our problems with China's piracy of international intellectual property; its proliferation of advanced missiles and nuclear technology to unstable governments; its barriers to market access; and its growing trade surplus. We do not use MFN as a lever with other countries. Instead, these matters can be resolved through the specific tailored implementations of existing human rights, trade, and arms proliferation legislation—without unduly endangering vital U.S. interests.

The Administration has already taken steps to pressure China into modifying its behavior. Some examples include: the United States' continuation of the Tiananmen sanctions until the Chinese improve their human rights situation, the Customs Service crackdowns on shipments of goods alleged to be produced with prison labor, and the initiation of a Section 301 investigation into Chinese barriers to market access.

The National Association of Wheat Growers supports these measures and encourages the President to use whatever existing authority he deems necessary to promote U.S. democratic ideals in the People's Republic of China. The experience of history demonstrates that our only means to positively influence Chinese is through dialogue. Moreover, our personal experience with the Soviet grain embargo underscores the futility of unilateral trade sanctions. We have never fully regained our status as a reliable supplier to the USSR, the world's second largest wheat importing country.

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[1] Afghanistan, Albania, Cambodia, Cuba, Laos, North Korea, Romania and Vietnam.

In your role as conferee, we respectfully urge you to consider carefully what America's wheat farmers have at stake in the unconditional extension of MFN to China. China is our best market. It is certainly one that we cannot afford to lose.

Sincerely,

RON RIVINIUS,
President.

WHEAT EXPORTS BY VALUE BY STATE

[In millions of dollars]

	Fiscal year—		
	1988	1989	1990
Alabama	8.00	28.30	13.00
Arizona	21.60	21.90	15.40
Arkansas	52.40	186.90	103.60
California	118.40	149.10	131.90
Colorado	259.30	259.00	167.20
Georgia	21.70	70.90	44.00
Idaho	226.90	357.30	276.40
Illinois	86.70	222.30	207.80
Indiana	53.00	115.40	101.90
Iowa	2.70	3.90	8.30
Kansas	905.40	1,024.60	590.30
Kentucky	25.20	67.60	45.20
Louisiana	8.20	36.50	221.50
Michigan	50.40	125.00	105.00
Minnesota	179.50	252.30	153.80
Mississippi	19.20	68.20	30.00
Missouri	57.70	250.20	172.00
Montana	341.80	221.30	278.00
Nebraska	231.00	228.40	153.40
North Carolina	27.50	79.10	42.00
North Dakota	539.50	435.80	316.60
Ohio	75.10	151.60	123.10
Oklahoma	348.90	548.10	426.50
Oregon	153.40	270.50	183.00
South Dakota	239.60	148.10	165.10
Texas	264.30	284.90	163.40
Virginia	14.70	34.30	24.80
Washington	322.30	621.40	354.40
Wyoming	20.80	15.60	12.50
United States	4,675.10	6,278.40	4,430.30

MAST INDUSTRIES, INC.,
Andover, MA, February 3, 1992.

Hon. BOB DOLE,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DOLE: I am writing to urge you to vote "no" on the conference report on H.R. 2212, "The United States-China Act."

H.R. 2212 would attach onerous conditions to the President's 1992 determination to extend most-favored nation status (MFN) to the People's Republic of China for an additional year. China is an important supplier of apparel products to Mast Industries, a subsidiary of The Limited, Inc. The Limited operates 4,022 speciality stores and employs over 75,000 associates nationwide. If H.R. 2212 were enacted, it would be impossible to replace apparel supplied by China, especially given the brief time remaining before the June MFN determination. Without MFN, American consumers would face higher prices for basic necessities, and retail jobs would be lost.

China is also a growing market for U.S. exports. H.R. 2212 jeopardizes billions of dollars worth of U.S. exports to China, and the tens of thousands of jobs which depend on that trade. Since no other nation is considering terminating China's MFN, H.R. 2212 would allow America's economic competitors to profit at the expense of American businesses and workers.

The recent successful negotiations between the United States and China on intellectual property rights demonstrate that it is possible to resolve disputes with China through constructive engagement. However, H.R. 2212 would remove U.S. leverage to influence China's trade, human rights and international arms sales practices.

H.R. 2212 would result in a loss of U.S. jobs and would reduce U.S. influence over China. Therefore, I respectfully request you to vote "no" on H.R. 2212.

Sincerely,

MARTIN TRUST.

WILSONS,
THE LEATHER EXPERTS.
February 5, 1992.

Hon. BOB DOLE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: On behalf of Wilsons, a major importer and retailer of leather apparel, I am writing to express this company's strong opposition to H.R. 2212, which would impose additional conditions on the 1992 renewal of China's most-favored-nation (MFN) trading status. I urge you to vote against this bill, as reported by the Conference Committee, when it comes up for consideration on the Senate floor.

Imposing conditions on renewal of China's MFN status is tantamount to revocation of the U.S.-China trade relationship. Revocation of MFN status would not promote progress by the Chinese in any of the areas of concern to the Congress, including trade, human rights and nuclear non-proliferation. Instead, it would preclude further dialogue with the Chinese Government and seriously hurt U.S. businesses and U.S. consumers, who have benefitted greatly from the development of trade ties over the past decade.

Wilsons, which has 550 stores in Middle-America malls throughout the U.S. and employs more than 8,000 people, would be especially impacted if Chinese products become subject to non-MFN duty rates. Our customers come from low to middle-income households, the mainstay of the American population. They are extremely price conscious. To meet their demands for affordable quality merchandise, almost half of our leather apparel is now sourced in China. The tariff on these products would rise form 6 percent to 35 percent if China's MFN status were revoked, making our goods too expensive to be marketable, particularly in today's tough retail environment. Wilsons would have to substantially cutback inventories and jobs. Even more jobs would be lost among the suppliers and service industries with whom Wilsons deals, from the farmers who are the source for the leather used to produce the Chinese-made garments to the shipping lines and truckers on whom we depend for deliveries to our stores.

Wilsons urges you to support maintenance of normal trade relations with the Chinese, which already this year has resulted in a significant agreement by the Chinese to provide protection to U.S. intellectual property rights and is providing the basis for further negotiations to open China's market. While more progress needs to be made in matters such as human rights and weapons non-proliferation, no progress is possible if trade relations are severed. Please vote against H.R. 2212.

Sincerely,

JOEL WALKER,
President.

INTERNATIONAL POLICIES

Mr. DOLE. Finally, Mr. President, there is the whole question of China's international policies. For years, the People's Republic of China was a renegade nation. More recently, in large part because of a successful policy of engagement by successive administrations—Democrat and Republican—China has been brought more and more into the community of responsible nations on international and regional issues.

The question for us is: Do we want China to stay there, to join with us on issues like the Persian Gulf war; to help out on increasingly dangerous issues like the situation on the Korean peninsula; to go further down the road toward responsible arms proliferation policies, or do we want to return to the shopworn, failed policies of isolation and retribution?

Does history suggest that we do better with China that we encourage more responsible and cooperative Chinese policies, across the board, by engaging in an active diplomacy and by aggressively pursuing mutually beneficial economic relations, or by picking up our marbles and going home?

That is the real question before us. It is the real standard by which we ought to make up our minds.

I have made up my mind. I think the President is right, and the proponents of this conference report are dead wrong.

I hope that the Senate will join me in affirming that we will continue down the course the President has set, so that even in this election year, we can set aside partisanship and posturing, and go about the business of advancing America's overall interest.

So it seems to me, Mr. President, for all the reasons I have stated that we ought to vote down the conference report.

It will pass, probably, by a substantial vote. The President will then veto the conference report. And when it comes back to the Senate we should sustain the President's veto. We will have another chance to visit this in July.

Mr. MITCHELL. Mr. President, I yield 1 minute to the Senator from Nebraska.

Mr. EXON. Mr. President, when this measure was last before the body, this Senator supported the President's position. A week ago, I read the chilling report from the CIA. I attended the closed briefing today in the Senate.

It seems to me that this is a time when we have to send some kind of a signal. Certainly, the President, if this measure becomes law as written, has a right to simply notify us that things are all right, and by that certification he can go ahead as he wishes.

I simply say that a year and a half ago had we been debating this on Iraq, we would have had the same arguments.

Mr. MITCHELL. Mr. President, today the U.S. Senate has an opportunity to correct our Nation's failed policy toward China.

The purpose of the legislation is to assure that Chinese promises on trade and weapons proliferation and Chinese practice with regard to human rights and elementary individual liberties are more effectively monitored by the United States than they have been.

Let me begin by saying that most of the arguments in opposition to the conference report have been against legislation that is not before the Senate.

This legislation does not cut off relations with China. It does not terminate our relationship. It does not isolate China. It continues most-favored-nation status with China, but simply says, taking the goals which the President himself has expressed for our relationship, they must move toward those goals; they must accomplish progress, or they will then lose most-favored-nation status. The choice is China's.

Since the massacre at Tiananmen Square in 1989, the Communist tyrants of China have thumbed their noses at the world. They gambled that the nations of the world will continue to do business as usual with China regardless of how they treat their own citizens; regardless of how China behaves in Southeast Asia; regardless of how many people they kill in Tibet; regardless of how they disregard weapons proliferations agreements; regardless of how they violate international trade law.

And, sad to say, Mr. President, the gamble by the Communist tyrants has paid off. Most of the nations of the free world today treat China as though its practices and policies had earned it an honorable place in the community of nations.

And sadly—tragically for Americans—no nation has done more to make China's behavior appear respectable than has the United States.

A month after the massacre, when the blood was still there on the stones of Tiananmen Square, the President sent a delegation of high United States officials on a secret visit to China.

In December 1989, another high level visit produced the spectacle of American officials toasting the leaders of China, the very men who had just before that ordered the massacre at Tiananmen Square.

No wonder the Chinese leaders were so confident in their calculation that the world would soon forget the sight of Chinese army tanks crushing unarmed Chinese civilians.

From that first furtive visit in the aftermath of the massacre to his meeting with the Chinese Premier this month, President Bush has pursued his policy with China on the grounds that it would change China's behavior. But it has not changed China's behavior. The policy has not worked for America. The policy has worked for China. It has shown the world that there is no price to be paid by the worst dictatorship for the most outrageous treatment of its own people.

That outcome discredits the American standard of human rights. It undercuts international efforts to pursue nonproliferation. This month, on the very day that he met with the Chinese Premier, the President's own State Department issued its annual human rights report. The President's own State Department reported that there are credible estimates that hundreds of thousands of people have been arbitrarily arrested in China. It is evidence that nothing has changed in China from the day of the Tiananmen massacre to this day, because the Communist leaders of China hold their power through a vast security apparatus which uses torture, arrest, detention, and brutality to remain in power.

The Chinese people face arbitrary arrest and detention at any time without any charge. Torture is common. The use of cattle prods, electrodes, solitary confinement, beatings, and shackles against male and female prisoners is confirmed by the President's own State Department.

The Chinese Government clings to power by silencing all opposition. Opponents are sent to prison camps, labor camps, and reeducation camps. Religious repression continues. Catholics, Protestants, and Buddhists are all subject to intimidation and arrest, because they practice their religion.

More than 160,000 persons, not sentenced by any court, are in reeducation labor camps. Some of the products of those camps are exported to the United States, in violation of U.S. laws against the importation of the products of forced labor.

Labor camp inmates forced to work the coal mines reportedly do so in conditions of danger that rival the old Soviet gulag. Some of these people are denied the right to return to their native villages or cities, condemning them to internal exile in the most remote parts of the country.

The Chinese cultural genocide against Tibet continues. Mr. President, there has not been much said about that. I would like to say something about Tibet. Since 1959, when China crushed a revolt in Tibet, there has been harsh repression against the Tibetan people. Six thousand Tibetan monasteries have been emptied of their monks and destroyed by the Chinese. The faith that is at the heart of Tibetan life is under constant attack.

We know only of 400 persons detained in the 1989 crackdown following Tiananmen. We know by name only a few who have died in custody—such as Lhakpa Tsering, who the authorities say had a ruptured appendix, and died in prison in December 1990. But we can say, with little doubt, that what we know is just the tip of the iceberg.

The Chinese occupation of Tibet has led to an estimated 1 million people killed. One million deaths have been estimated. And we are being asked here today to ignore the Chinese killing of these Tibetans, to look the other way. We Americans cannot morally look the other way. What the Chinese Government is doing in Tibet is cultural genocide. How can any American overlook that? That steady brutalization of a people and the eradication of its religious faith, a way of life that is 1,200 years old, continues to this very moment. The Department of State cites frequent credible reports from Tibetan refugees of torture and mistreatment in penal institutions in Tibet.

In every respect, the Communist Government of China imposes its will by force on a helpless people.

The ugly reality of Chinese human rights abuses deserves condemnation by this Senate, not encouragement by voting to continue business as usual.

Unfortunately, the policy of engagement has failed when measured against human rights goals. It has also failed to produce a mutually beneficial trading relationship.

The Chinese record on trade remains abysmal. Despite free access to American markets for Chinese products, American producers do not enjoy equal free access to American markets. We have racked up a $30 billion trade deficit with China, most of it since the massacre in Tiananmen Square.

Only under continued congressional pressure did the administration require the U.S. Customs Service to begin enforcing U.S. law against the products of forced labor. Not until October last year did the Chinese begin to take action to prevent such export attempts.

The President defends the trade relationship with China as being too important to jeopardize. But enforcing U.S. trade laws does not jeopardize trade relations. It is the attempt by the Chinese to subvert our laws that places the relationship at risk.

Our trade deficit with China today is our second largest after our trade with Japan.

The President freely denounces the trade deficit with Japan. Yet whatever trade practices Japan may employ, no one has ever claimed that it exports the products of forced labor. Japan is a democracy. China is not. Japan does not violate its citizens' human rights. China does. Yet the President has never expressed even mild concern about the trade deficit with China.

And it is a big deficit. In 1988 it was $3.5 billion. In 1989, it increased to $6.2 billion. In 1990, it soared to $10.5 billion. In 1991—a year of recession for the United States—the trade deficit with China was still growing, at $12.7 billion, and growing fast.

Indeed, during that year of recession, imports from China soared by 20 percent, to a total of $19 billion. Under President Bush, China has become the eighth largest source of imported goods to the United States.

The makeup of China's export to us consists of labor intensive product: almost $3.5 billion in apparel; over $3 billion in toys and similar products; almost $1.5 billion in footwear, and over $1 billion in consumer electronics.

One study has estimated that if the products purchased from China were instead manufactured in the United States, 175,000 jobs directly could be created. Estimates that each billion dollars of trade deficit costs 20,000 jobs in total may mean that the $12 billion-plus trade imbalance with China may be costing American workers and communities as many as a quarter of a million jobs.

The trade relationship is important to us—but it is even more important to China. It is precisely in such relationships that our Government can have some leverage over the policy goals we wish to pursue.

President Bush showed little hesitation in using that kind of leverage with Japan. He should also use it with China.

His failure to do so is unfortunate given the behavior of China in the international community.

In the wake of the dissolution of the Soviet Union and the former Soviet empire in Eastern Europe, the most serious threats to world peace have become regional ones.

China today leads the movement in Asia to strengthen nonelected authoritarian governments while seeking economic growth to sustain them in power.

Chinese relations with Vietnam and North Korea have grown closer; China is a major arms supplier to the junta ruling Myanmar, formerly Burma, and Thailand, where a military coup dislodged an elected government a year ago. Chinese patronage of the murderous Khmer Rouge in the Cambodian peace negotiations preserved the influence of this group.

These are not the actions of a government interested in regional stability. They are the policies of a government determined to exert control over smaller neighbors and preserve totalitarian and tyrannical regimes as a means of solidifying its own power.

But it is the recent developments on weapons proliferation which are particularly troubling.

Press reports on Friday indicate that despite the verbal assurances made by China to Secretary of State Baker last November, China may have long-term contracts to sell as much as a billion dollars of missile and nuclear-related technology to Iran, Iraq, Libya, Syria, and Pakistan.

Yet on the very same day, the administration lifted export sanctions on the sale of United States high-speed computers and satellite parts which were imposed in June, when a secret sale of missile parts launchers to Pakistan was revealed.

Export sanctions were lifted, we were told, because China sent a letter pledging adherence to the missile proliferation regime to which it verbally agreed in November. The contents of that letter and the scope of that pledge are not public information. But the press report is not reassuring.

A United States Government official said the letter was "not as explicit as we would have liked" about the planned sale of M-9 and M-11 missiles to Syria and Pakistan.

"We got enough in the letter to make us believe, those sales are covered," is how the official described it.

The whole record of the administration's relations with China is one of United States beliefs about Chinese intentions which prove misplaced.

Yet once again, on the basis of a less-than-explicit promise from China, the administration has acted in a way that benefits China.

No other nation can expect United States action in return for a vague promise, particularly when its promises have been broken in the past. Repeated verbal commitments by China to adhere to international agreements to restrict the arms trade have been abandoned.

This year already, the New York Times reported that China is continuing to sell missile technology to Syria and Pakistan.

The news story reported that guidance units for M-11 missiles were sold to Pakistan, and 30 tons of chemicals to produce solid fuel for rockets were sold to Syria. It was reported that the Chinese have plans to deliver an additional 60 tons of chemicals to Syria this spring.

The widely dispersed ownership of medium-range missiles will enable regional despots to threaten their neighbors.

The administration has repeatedly claimed that its top priority in shaping the security outlook for the new world order will be to prevent the proliferation of nuclear, chemical, biological, and ballistic missile technologies.

That is an appropriate security goal and one that has the support of all Americans. But a goal cannot be reached by policies that have the opposite effect. Yet that has been the case with the administration's tolerance of Chinese arms and technology sales for the past several years.

CIA Director Gates told Congress in mid-January that Iran's rearmament is proceeding with the purchase from China of battlefield missiles, cruise missiles, and nuclear technology.

In January, the Director of the Defense Intelligence Agency said that China "is currently assisting many of the nations that we estimate will acquire a ballistic missile capability by the end of the decade."

The policy of placating the Communist Chinese leadership in order to encourage the regime to become a more responsible member of the world community is a failure. Even Defense Secretary Cheney admits that the Chinese "have in the past * * * been less than scrupulous in their concern for maintaining control over that technology."

The administration's policy is not producing changes in Chinese behavior, either with respect to human rights inside China and Tibet or with respect to weapons proliferation outside China.

Instead it is making the Chinese Government secure in the knowledge that as long as it has a special friend in the White House, China need not worry about American public opinion or American trade relations.

That is not a policy that is in the best interests of the United States of America. It is a policy that serves the interests of the Communist Government of China.

I hope my colleagues take those factors into account as they consider the legislation before us. The President's policy has now had more than 2 years to achieve its stated goals. It has failed.

It is time to change that policy.

Mr. GRAHAM. Mr. President, when the Senate approved its version of the China MFN legislation last year, it included an amendment of mine that would have withheld MFN status unless China reduced its subsidized trade with Cuba.

I very much regret that the conference bill we are voting on today does not include that provision.

Mr. President, there are many good reasons for voting for this bill. China has a miserable human rights record, which has been well documented during this debate. They continue to export arms to volatile regions of the world. And they cheat on their U.S. trade quotas.

This bill appropriately addresses those concerns. What it does not address is the question of the blossoming relationship between the hard-liners in Beijing and Fidel Castro, the last dictator in Latin America.

At a time when Castro is weaker than ever, is it in our interest to subsidize his economy by strengthening his Chinese trading partners?

Cuba is increasingly isolated. And yet China is one of the few countries in the world today that is forging closer economic, political, and cultural ties with the Castro government.

Perhaps their shared view toward human rights have brought China and Cuba together. Cuba refused to condemn China for the Tiananmen Square massacre and China refuses to support United Nations sanctioned efforts to investigate human rights violations in Cuba.

It is ironic that as we debate this bill, U.N. Representatives are meeting in Geneva to discuss the human rights violations in both countries.

Whatever the reason, these two hardline regimes are daily strengthening their fraternal socialist ties, much to the regret, no doubt, of their own citizens.

Trade between China and Cuba has grown dramatically since 1987. Bilateral trade in 1990 was $458 million, a threefold increase over the $150 million worth of trade conducted in 1987.

Last year, even though China had a record sugar harvest, the Chinese imported 892,000 tons from Cuba in barter trade while cutting purchases from other sources.

China is the second largest purchaser of Cuban sugar behind the Soviet Union. By the end of 1988, China was Cuba's third largest supplier of consumer goods.

In fact, China allows Cuba to run a trade surplus. In the first quarter of 1989, Cuba sold China 67 percent more than what it purchased.

In April 1990 China gave Cuba a 10-year interest-free loan for an undisclosed amount.

And in May that same year, China agreed to construct Cuba's first factory to make electric motors.

At the beginning of 1991 both countries signed a 5-year trade agreement.

Mr. President, this is a relationship that is strong and growing stronger.

Indeed, officials of both countries say trade and economic cooperation will increase in the future. Castro claims Cuba has much to learn from China's experiences in building socialism. No doubt.

Perhaps he can get some hints on how to handle dissidents—although I am not sure he has much to learn in this area. He has just embarked on a new crackdown on Cuban dissidents.

Mr. President, Castro's economic ties with China are valuable. But he is benefiting even more by making it appear that Cuba is developing a special relationship with China, thereby giving lie to claims of Cuban isolation.

There should be no doubt about Cuba's isolation. Portugal's socialist leader, Mario Soares, calls Castro "a dinosaur; that is to say, a prehistoric animal on the path to extinction."

In perhaps the deepest dig of all, Spanish Prime Minister Felipe Gonzalez, another socialist, has called on Latin leaders to "regulate guerrilla adventures to the tales of the imaginative novelist that this continent has in such great supply."

Mr. President, Castro continues to wreck a lot of lives. Now he is doing it with China's help.

We continue to pressure the states of the former Soviet Union to cut their ties with Cuba. We should do the same with China.

I am very disappointed that the conferees failed to include this amendment in the final bill. I can only hope that the next time we have an opportunity to further isolate Cuba, we will not squander it.

Mrs. KASSEBAUM. Mr. President, we return again today to the issue of whether to withdraw China's MFN status. While I remain deeply troubled by the human rights condition in China and by the questions raised about China's proliferation and trade policies, I continue to firmly believe that MFN status is not the means to resolve these problems. And that is what today's debate is again about—means not ends.

There is no one here in this Chamber or in the administration who does not want to end the trauma of political detainees and their families in China. There is no one here in this Chamber or in the administration who does not want to end proliferation of weapons of mass destruction. And there is no one here or in the administration who does not want to forcefully address China's trade practices.

The debate continues to be whether targeted sanctions and diplomacy are a better means to achieve these goals than bluntly cutting off MFN and isolating China. Isolation and what would, in effect, be a cutoff of trade, have proven in the past to be disastrous for reform in China. The harshest period of Maoist rule occurred during a time of China's isolation. It was the opening of relations with the West and the beginning of trade which served as a springboard for China's economic reform.

I continue to believe today that diplomatic exchanges on the issue of human rights and continued economic contacts with the entrepreneurs, who are the major force for change, remain the most effective ways to get our message across. These are the most effective ways to keep the door open for reform.

While I am disappointed in the amount of progress made on the human rights issue, nevertheless, some progress has been made. Our continued pressure on the issue has resulted in an accounting of political prisoners and has led to the release of others. And, while China has publicly proclaimed that human rights is no one's business but their own, they have acknowledged the legitimacy of the human rights dialog and have named a counterpart for regular consultations with us.

Much more needs to be done. The message the Chinese should and must receive from this debate is that relations will not return to business as usual until their human rights practices substantially improve. Whether or not MFN is withdrawn, targeted sanctions will remain in place, diplomatic pressure will continue, and private investment and contacts will continue to remain limited due to the uncertainty in that country. We are all concerned and we all demand progress.

The same remains true on the issues of proliferation and trade. Once again, I fundamentally disagree with the supporters of this bill that a cutoff of MFN is the way to resolve our concerns. While questions remain about China's proliferation policies, our continued pressure has yielded several important points of progress. China has recently agreed to observe the Missile Technology Control Regime [MTCR] and is on track to accede to the Nonproliferation Treaty by April.

We must ensure that they abide by these new standards. If they don't, I firmly believe that targeted sanctions against the companies and related government contacts are far more effective in ensuring compliance than a broad sweeping cutoff of MFN. A cutoff of MFN does not send as clear a message, or does it allow us to respond in a timely and targeted manner to improved conditions. Furthermore, as several of my colleagues have already pointed out, a cutoff of MFN has not been a standard for our proliferation concerns with any other nation, including our allies France and Germany.

I would make similar arguments about our trade concerns. In these cases, I believe the President's initiation of two section 301 investigations is far more useful to resolving these problems than a cutoff of MFN. Such a cutoff would hurt American workers and American trade, as well as hurting the Chinese. Last year, China was the fastest growing Asian market for United States exports. Our exports to China accounts for 120,000 United States jobs. This makes it incumbent upon us to be certain that the means will certainly achieve the ends.

I do not have that confidence. For the reasons I have just stated, I believe we will only be worse off in terms of our efforts to effect change on human rights, proliferation and trade with a cutoff of MFN at this time. While I share the concerns of the supporters to this bill, I firmly believe that isolating China with a cutoff of MFN will only hamper progress rather than achieve it.

Mr. KENNEDY. Mr. President, I give my strong support to this measure to condition President Bush's renewal of most-favored-nation trading status for the Peoples' Republic of China on improvements in that country's practices regarding human rights, trade, and arms control.

Since the bloody Tiananmen Square massacre in June 1989, the Chinese Government has time and again demonstrated its unwillingness to adopt democratic reforms or moderate its brutal policies.

The Beijing regime continues to pursue a path of violent dictatorship, blatant disregard for human rights, and ruthless repression. Unfair Chinese trading practices have opened a trade deficit of over $13 billion a year between our countries. Despite repeated assurances that it would halt the sale of missiles and nuclear technology, China continues to sell weapons of mass destruction indiscriminately throughout the world.

President Bush has consistently adopted a double standard with respect to human rights, free trade, and arms control—a lenient standard for China and a strict standard for the rest of the world.

The administration's course of appeasement is a failed policy which has served only to strengthen Beijing hardliners at the expense of individual freedoms and world peace. It is time for the United States to abandon this policy and take a more active role in supporting prodemocracy forces and the long-suffering Chinese and Tibetan people.

Following the Tiananmen Square massacre, President Bush imposed significant sanctions against the Chinese Government—including a prohibition on high-level contacts, trade restrictions, economic sanctions, and the suspension of military and nuclear cooperation. Since that time, however, the administration has gradually weakened the sanctions, even though the Government of China has continued its repressive policies.

In fact, within weeks of the Tiananmen Square massacre, President Bush began to waive sanctions, including bans on high-level contacts, the export of satellites, the sale of aircraft, and the prohibition on United States support for international loans to China. He also vetoed congressional sanctions regarding OPIC, trade assistance, munitions, satellites, nuclear cooperation, and the extension of student visas.

By sending Secretary of State Baker to Beijing in November, President Bush helped to restore international legitimacy to the Chinese regime and undermine the courageous forces of democracy still struggling for a new China.

Moreover, by personally meeting with Premier Li Peng, the harsh architect of the Tiananmen Square massacre, at the United Nations last month, President Bush strengthened the hand of hardliners in Beijing. Li Peng's propaganda machine has publicized that meeting as proof that the United States is pursuing normal relations with China.

Rather than moderating Chinese behavior, the administration's conciliatory gestures have been met with further crackdowns by the Chinese Government.

Chinese authorities were even less willing to reduce their repressive policies in 1991 than they were in 1990. In 1990, the authorities announced the release of 881 prodemocracy activists. In 1991, there were no large-scale releases of prisoners. To the contrary, the year began with the largest number of dissident trials in China since the summer of 1989.

Time and again the President has offered incentives to encourage the Chinese leadership to pursue the path of reform and moderation. Time and again the Chinese leadership has rejected these approaches. By once again renewing China's MFN status unconditionally, the White House would only fortify what the State Department itself has labeled a "repressive" and "authoritarian one-party state."

According to the 1992 State Department human rights report, the Chinese Government maintains a security apparatus which employs torture, arbitrary arrest, and detention. The report emphasizes that in 1991 the regime's "human rights practices remained repressive, falling far short of internationally accepted norms."

Since the Tiananmen Square massacre, the Chinese Government has detained 30,000 prodemocracy advocates, executed an undisclosed number of individuals, sentenced more than 800 persons to prison, and brought new charges against individuals who supported the democracy movement.

Repression has also reached far beyond those involved in efforts to promote democracy. Thousands of prisoners across China and Tibet perform forced labor for the Chinese Government, and many of the goods they produce are sold to Western markets. The use of torture in these prisons became so widespread last year that the Deputy Chief Procurator reported that in three months his department investigated 2,900 cases of extorting confessions by torture. Nearly 500 of these cases resulted in death or serious injury.

Religious activities were further curtailed in 1991, marked by a new round of repression against Catholic priests and participants in informal Protestant house congregations. An internal government directive ordered a severe crackdown on all religious groups, authorizing security forces "to attack the use of religion * * * and to firmly resist the infiltration of foreign religious inimical forces."

In addition, Chinese troops continue to occupy Tibet illegally. Under orders from Beijing, the army has extended its brutal repression of the Tibetan people and expanded policies designed to destroy Tibetan culture.

Of the 360 Tibetans who have been detained for political offenses since 1987, 240 are still in custody. Reports of torture and abuses of the Tibetans are common. Last March, when former U.S. Ambassador James Lilley visited Drapachi prison, he was not allowed to speak with any of the inmates. Moreover, Tibetan prisoners who attempted to hand him a petition were severely punished.

The administration's hollow China policy is clearly sending the Chinese Government the wrong message. The Beijing regime is convinced that it can get away with the suppression of human rights and democracy movements, because the United States will respond with only token gestures of disapproval.

At his meeting with President Bush, Li Peng was so confident in the unwillingness of the United States to impose sanctions that he categorically rejected the President's requests regarding human rights.

America must play a more effective role with respect to the Chinese Government's human rights practices. Li Peng's claim that human rights are an internal affair do not exempt Beijing from its obligations to uphold universal human rights standards.

In the wake of Li Peng's visit to the West, it is essential that the United States deliver this message in the most effective manner possible. Conditioning MFN upon an improvement in China's human rights policies will demonstrate the more serious commitment that America ought to make.

Another purpose of granting MFN trading status is to promote free trade—a goal which we all share. Yet, while our trade benefits flow to China, China has shut its gates to our products.

Unfair trade barriers limiting foreign access to Chinese markets continue to drive up the United States trade deficit to China. In 1991, despite promises by government officials that China would open its market to United States goods, China's annual trade surplus rose to $13 billion. Today, China's trade advantage over the United States ranks third, behind only Japan and Taiwan.

Moreover, China continues to use prisoners as slave labor to lower the price of exports. Although Beijing denies this practice, official documents obtained last year by the human rights organization Asia Watch call for intensified prison labor production, targeted especially at United States, German, and Japanese markets.

The United States should not grant MFN status to a trading partner which refuses to buy U.S. goods and which exports products made by slave labor.

On the issue of arms sales, American intelligence reports indicate that China is continuing to sell missile technology to Syria, Iran, and Pakistan, and nuclear technology to Iran, despite assurances by Chinese leaders that they would curb such exports.

Beijing has recently delivered to Syria about 30 tons of chemicals needed to make a solid-fuel missile, and plans to deliver an additional 60 tons in March or April—enough to make a significant number of intermediate range missiles. It has also delivered M-11 ballistic missiles to Pakistan, along with guidance units to control their flight.

The transfer of this technology is particularly troublesome, because the administration has already notified Congress of its intention to lift sanctions on the sale of American satellite parts and high-speed computers to China.

According to Arab press reports, China will make M-9 and M-11 missiles in Iran, and transfer nuclear technology to Iran, as part of the 10-year military technology transfer agreement between Beijing and Teheran. In addition, the Chinese are constructing a nuclear facility in Algeria. Experts believe that it will be capable of producing five atomic bombs a year when it begins production.

Li Peng's regime has repeatedly lied to the Bush administration about arms sales, without paying any penalty. The Chinese Defense Ministry, which holds absolute power over such sales, is confident that President Bush will not impose a serious penalty. Accordingly, the Ministry has ignored commitments contrary to the interests which profit from China's global arms trade.

These arms sales demonstrate the failure of United States policy, and underscore the importance of tying MFN status to China's willingness to make a genuine commitment to arms control.

The bill before us today conditions the continuation of MFN status on improvements by China in each of these areas—human rights, trade, and arms sales. It prohibits the renewal of China's MFN status in June 1992, unless President Bush certifies that the Government of China has: First, accounted for and released citizens detained, accused, or sentenced because of their participation in prodemocracy activities; and second, refrained from transferring M-9 and M-11 missiles to Syria or Iran.

In addition, it requires the President to certify that China has made "overall significant progress" on a number of human rights, trade, and weapons proliferation issues.

With respect to human rights, the bill requires progress in preventing internationally recognized human rights violations in China and Tibet, including an end to religious persecution and the removal of restrictions on freedom of assembly, the press, and Voice of America broadcasts; terminating the export of prison-made goods; ending the intimidation of Chinese students in the United States; and allowing human rights groups to monitor prisons and trials.

With respect to trade, the bill requires progress in the removal of barriers against imports of U.S. goods; the cessation of unfair trade practices; and the protection of U.S. intellectual property rights.

With respect to weapons proliferation, the bill requires progress in adherence to the standards and guidelines of the Missile Technology Control Regime, the Nuclear Suppliers Group, and the Australia Group on chemical and biological arms proliferation, and steps to ensure that China does not transfer nuclear technology to nonnuclear weapons states.

These are the minimum acceptable conditions which China should be required to meet in order to retain its MFN status.

In opposing this legislation, the administration is relinquishing one of our few effective tools in the effort to encourage the Chinese leadership to moderate its policies. The administration's unwillingness to take a strong stand against the Chinese Government is a clear signal to Beijing that human rights atrocities, unfair trade barriers, and nuclear proliferation can continue, and will not receive serious opposition from the United States.

American trade policies should not be used to support the repressive policies of the Chinese Government. An unconditioned renewal of China's MFN status would make a mockery of the lives lost at Tiananmen Square and the suffering of political prisoners. It would be viewed by democratic forces in China and around the world as signifying America's acquiescence in further repression.

The Goddess of Democracy, the symbol of the prodemocracy movement, was modeled upon American values of freedom and equal justice. If America is to retain leadership in the cause of democracy around the world, we must act in a manner consistent with these values and resist policies that accept repression.

The conditions imposed by this legislation are realistic and reasonable. I urge the Senate to support this timely and important measure.

Mr. DASCHLE. Mr. President, our decision to grant a nation most-favored-nation [MFN] trading status should be based on whether the nation is committed to fair trade with the United States. It makes no sense to open our market to the other country, if the other country will not open its market to us. If you open your door to someone, you expect them to open their door to you. If you open your door, and the other person breaks your rules, you probably would condition the next invitation. You would want some commitments that the other person would respect your rights and property before you let him in again.

That's what this legislation will do. It tells the People's Republic of China what it must do to enjoy the benefits of the United States market. The bill sends a message that China must open its door to us, if it wants us to open our door. It calls on the Chinese Government to observe certain international standards of conduct against the spread of weapons and for human rights.

This legislation does not cut off MFN for China. The President can seek renewal of MFN in June, and MFN will be renewed, if China has met three reasonable conditions:

First, it has accounted for and released citizens who have been imprisoned or penalized for stating their political beliefs:

Second, it is not selling missiles to Syria and Iran; and

Third, it is making progress toward meeting international commitments against the spread of weapons.

Congress is considering several proposals relating to MFN for China. On one extreme are those who want to grant MFN permanently without conditions; on the other extreme are those who want to revoke MFN immediately. I have discussed the issue of renewing China's MFN status with many South Dakotans over the past few months. By overwhelming margins, they want the United States to take a middle ground approach—to renew MFN for China, but to make the Chinese Government aware of our serious concerns over its unfair trade practices, human rights abuses and missile sales. The American people want the United States Government to insist on trading relationships that are fair, but China has not been fair with the United States.

As important as the human rights concerns are, MFN is a trade tool. Ultimately, the decision whether or not to renew MFN comes down to whether such a move is in our trade interest. Has the MFN beneficiary traded fairly with the United States? China has not.

The Chinese Government has been abusing the privilege of MFN status. China exports products to us that have been manufactured by prison labor. China ignores United States laws protecting patents and copyrights, in effect, stealing from American producers. China has erected countless tariffs and other barriers to United States trade.

As a result of these protectionist measures and other unfair practices, our trade deficit with China increased by 67 percent last year to $10.4 billion. Our deficit with China is now second only to Japan. In 1990, China's exports to the United States increased by 27 percent, while our exports to China decreased by 17 percent.

It appears that China is learning from Japan. China has seen how President Bush gives in to Japan, how we fail to enforce our trade agreements, how we look the other way when nations break their commitments.

China is making a mockery of its trade relationship with the United States. The Chinese Government is practicing a form of international economic extortion. It threatens us with retaliation if we withdraw MFN, while the Chinese Government thumbs its nose at us if we demand that it live up to its obligations. The United States is strong enough to stand up for its interests and principles.

Some people are concerned that any action the United States takes to fight unfair trade practices will result in a Chinese decision to cut off United States agricultural exports. I take these concerns very seriously. We must not mix food policy with foreign policy. In this competitive world we must be ready to sell to whomever will buy our agricultural products. Because I want to see our agricultural exports to China continue, I believe we must be tough and demand fair treatment.

It is in the long-term interest of our trading relationship with China, and in the long-term interest of preserving our agricultural exports, that we bargain from a position of strength and insist that China respect fair trade. If we fail to take strong action now to counter China's trade violations, we make our agriculture exports vulnerable to being cut off at any time for any reason. We must not give in to threats from other countries.

It is wrong to assume that indefinite, unconditional extension of China's MFN status is the only means of making United States agricultural sales to China. MFN is not necessary to sell grain to China. There is no reason to link grain purchases to MFN. That the Chinese would do so is extortion. The United States should not give in to such coercion.

The Chinese will buy grain from the nation offering the best price. We have available various programs to make sales at competitive prices. The former Soviet Union did not have MFN status, but we found ways to sell more agricultural products to the Soviets than we have sold to the Chinese. Sales to China dropped last year, despite China's unconditional MFN status. The following is a comparison of agricultural exports to the former U.S.S.R. and to China. It shows how sales to the former Soviet Union exceeded sales to China.

U.S. AGRICULTURAL EXPORTS BY VALUE

[Dollars in millions]

	1987	1988	1989	1990	1991
U.S.S.R	659.1	1,939.6	3,298.8	2,984	1,758
China	234.8	612.6	1,496.1	907	668

U.S. WHEAT EXPORTS BY VALUE

[Dollars in millions]

	1987	1988	1989	1990	1991
U.S.S.R	325.1	822.5	819.7	550	194
China	64.7	524.1	1,225.4	544	330

Mr. President, our agricultural producers need the Chinese market. To maintain this market for years to come, we must build a trading relationship based on mutual respect. We must insist on fair trade. If other countries think we are weak, if they think when we are pushed on trade matters we will give in, we will always be at the mercy of other countries. The markets that are open today may be closed tomorrow. We must set our policies based on our principles and interests, and not on what will least offend other countries.

For these reasons, Mr. President, I support the conference report.

Mr. SANFORD. Mr. President, in considering this debate over the unconditional extension of most-favored-nation [MFN] trading status to China, I note that, for the most part, the scenery has not changed much since the last time we argued the merits of continuing China's MFN status. China remains deficient in respect for human rights, a violator of efforts to curb arms proliferation, a disrespecter of intellectual property rights, and an overall unfair trading partner.

On the other hand, there is change, and my constituents have let me know that they are feeling it. Chinese textile and apparel exports the United States are rising dramatically and the Chinese are erecting huge barriers to United States goods. Mr. President, the textile workers in my State are suffering as this administration preachers one set of standards but is willing to live by another.

I believe that H.R. 2212 to condition MFN on progress in the areas of human rights, weapons proliferation, and trade is a reasonable and fair standard. It is the least we should do in response to China's persistent unfair behavior.

China has become the second largest deficit trading partner of the United States behind Japan. In real terms, that means that the American people are absorbing more Chinese goods and exporting fewer goods than to any other country except Japan.

The textile industry stands to lose at virtually every negotiating table these days. The Dunkel text, offered in December at the Uruguay round, further jeopardizes the health of the textile industry and the United States-Mexico Free-Trade Agreement will undermine what remains of North Carolina's dwindling industry. How then, can we permit a non-GATT member with an infamous track record to benefit so heavily from our trade policy? I think that we must approach this debate over MFN status in the larger context of its overall impact on U.S. industry and economic health.

It is my position that China, as a non-GATT member, should not reap the benefits of the GATT agreement until it complies with international trade law: that is no more forced labor, no more dumping, no more transshipment and the protection of intellectual property rights. Consistent with that position is that we should require China to comply with international trade law to enjoy MFN status.

The American Textile Manufacturers Institute [ATMI] estimates that the elimination of textile and apparel quotas proposed in the Uruguay round could cut United States production by 60 percent and eliminate a total of 1.4 million American jobs in 10 years. The early phaseout period for the Multifiber Arrangement [MFA] will especially help Asian countries who ignore safety standards, enjoy huge government subsidies and keep their markets tightly closed.

Statistics show that East Asia will capture whatever markets Mexico would have gained under NAFTA if the MFA is phased out in 10 years. The projected increase in quotas for East Asia in the Dunkel text is 2 billion square meters which is two and a half times Mexico's projected quota increase under the NAFTA. This demonstrates the severe situation that our textile and apparel industries are facing. China, as the source of much of this unfair competition, should not be rewarded for its behavior with unconditional MFN status.

Many have noted that MFN may be a misnomer and that, in fact, it merely denotes a normal trading relationship. At the very least, though, MFN is by nature intended to be reciprocal. While our markets have become increasingly open to Chinese imports—14 percent of our total imports are Chinese textiles and apparel—China's worldwide import restrictions have turned its 1988 deficit of $7.7 billion into a 1990 $11.1 billion surplus.

Partially responsible for China's extremely low cost of labor is its use of forced and prison labor. China has simultaneously denied that products made by prison labor have been exported to the United States and pledged to take steps against companies who may be engaged in the illegal activity. How can our industry which pays an average in North Carolina of $9.74 compete with Chinese which pays an average of $.37 per hour?

Additionally, China engages in widespread transshipment. In order to circumvent the bilaterally negotiated textile quotas, China gets textiles and apparel into this country by shipping through other countries and attaching false country-of-origin labels. Transshipment undercuts the domestic industry and violates the integrity of the quota system. In 1990, China admitted that many textile and apparel products had entered the United States mislabeled. The United States adjusted the quotas and asked the Chinese to do better. Transshipment continues virtually unabated. In fact, a senior customs officer estimated that more than 2 billion dollars' worth of textiles and apparel entered the United States fraudulently in 1990.

China's violations of United States and international trade law would be less consequential if this administration and its predecessor had done its job of enforcement of the law. Our trade laws are rarely inadequate in themselves, but they suffer from an endemic lack of compliance by those they are directed to effect. The administration has blatantly not been aggressive about enforcement and that has given other countries such as China the impression that we are not serious about protecting our industries and our workers. All too many of our top trade negotiators occupy this critical position under the guise of working for the American people but are really just thinking ahead about the lucrative job opportunities lobbying for foreign governments or representing importers when they leave the trade office.

In his book "Agents of Influence," Pat Choate enumerates examples of the revolving door which passes top State and Defense Department officials from U.S. Government service into the service of foreign governments' interests. Between 1973–90, half of those who served in the United States Trade Representatives' office later went to work for Japan. This is Washington, DC, at it worst, earning the infamous reputation of turning its back on the American worker and overall economic competitiveness.

Conditioning MFN will encourage China to consider the loss of its biggest market and the tremendous amount of capital equipment and technology it receives from the United States. As well, it will strengthen the political and economic reformers.

I understand the intention of the administration to maintain a trading relationship with China. I agree that trading relationships inherently have more influence that stiff-arming but if our influence is never exerted to foster compliance by the Chinese to international trade law, what good is it to our textile workers?

Mr. President, I encourage my colleagues to think clearly about the headlines that have dominated newspapers across this country in the past year indicated the ill health of our economy, our manufacturing base and our trade deficit and vote in the interest of the American worker and industry to make China as accountable to international law as all other nations.

Mr. ADAMS. Mr. President, we have heard much recently about China's trade and economic activities: a landmark intellectual property agreement has been signed, Chinese leader Deng Xiaoping has publicly begun to push for increased economic reform, and market access talks are proceeding somewhat ahead of schedule.

We have also heard much about China's political activities. And it seems to be politics as usual. The meeting between President Bush and Premier Li Peng was not the diplomatic breakthrough that some had hoped. Once again, China refused to discuss human rights, terming the Government's treatment of its citizens an internal affair. Assurances made to Secretary of State Baker in November that any citizen not charged with any crime would be free to leave China have proven hollow.

Lastly, we have heard much about the transfer of Chinese missiles and missile technology to the Middle East and South Asia. While I remain hopeful that China's pledges to adhere to the Missile Technology Control Regime and to ratify the Nuclear Nonproliferation Treaty in the future will be carried out, I believe that the area of nonproliferation is too important to leave to trust. The United States should monitor Chinese transfers carefully and should insist on concrete demonstrations that China is living up to its promises.

All of these factors must play a role in our deliberation over this conference report. I am pleased with the progress that appears to have been made in the trade area. Trade with China is an important part of Washington State's economic health. Indeed, Washington trades more with China than any other State in the country.

I also believe, however, that the threat of losing most-favored-nation status is what is driving the current reform mood. And I believe that in this post-cold-war era the United States must increasingly stand for its principles in trade and foreign policy.

MFN is the strongest policy tool we have to promote nonproliferation and respect for human rights in China. It is also one of the few policy tools that the Chinese understand. If the Chinese leadership is true to its word, then the conditions are attainable and MFN is not jeopardized. If, on the other hand, the leadership has no intentions of fulfilling its promises then the conditions are all the more important.

The administration has argued that unconditional MFN gives the Chinese Government an incentive to remain engaged with the West on issues such as nonproliferation, protection of human rights, and trade policy. MFN cannot be an incentive, however, if it is simply taken for granted by the Chinese. It can only function as an incentive if the Chinese understand that they can preserve preferential tariff treatment only through specific behavior. And that their trade preferences can be taken away.

It is important for the United States and China to remain engaged—and our trade relationship is arguably the most important part of that relationship—but the relationship cannot remain static. It must reflect the changing international environment. The broad range of United States interests and values are best served by communicating United States policy forcefully and by impressing upon the Chinese leadership that its actions, both internal and external, have repercussions in the international system and in its relationship with the United States.

For all of these reasons, I will support the conference report on H.R. 2212, the United States-China Act of 1991.

Mr. DURENBERGER. Mr. President, I rise in opposition to H.R. 2212, the conference report conditioning most-favored-nation [MFN] trade status for China. Although much improved over the bill passed by the Senate last summer, this conference report remains flawed in its basic approach to this issue.

Twice last summer, I spoke in this Chamber against measures to restrict MFN for China. I concluded then, and I remain convinced now, that it is in our Nation's best economic and geopolitical interests to maintain normal trading relations with China. Further, I believe continuing MFN will improve the economic and political conditions for the people of China.

Mr. President, I wish to emphasize that neither the President of the United States nor this Senator believes that extending unconditioned MFN can be interpreted as condoning China's human rights practices, its irresponsible weapons proliferation policies, or its various troublesome trade practices.

Objectively, the United States is at the forefront of nations across the globe in condemning these Chinese actions and going further than anyone else in imposing sanctions and other restrictions on our dealings with China.

Nevertheless, Mr. President, as I noted over the summer, the critics of United States policy want us to go still further, risking setting the clock back on Sino-American relations 20-plus years, to a time when we actively sought to isolate China. We and China have come a long way since that time, to each side's mutual advantage. It is difficult for this Senator to imagine what benefits would derive to our country from a return to policies of isolating China.

During the several debates in the Senate last summer, I urged my colleagues to consider not only the likelihood that conditioning MFN would fail to achieve the desired objectives in China, but that it would profoundly damage United States economic and political interests. True, China runs a huge trade surplus with the United States, but let no one interpret that to mean that we only buy from China and sell nothing.

Let the critics recall that they are risking more than $5 billion in U.S. exports, including wheat, $511 million; aerospace, $749 million; computers and electrical machinery, $860 million; fertilizer, $544 million; cotton, $259 million; wood products, $281 million; and other significant exports. Not only would the critics sacrifice these substantial United States exports for precious little in exchange, they would also abandon the market to our European and Japanese competitors, who stand poised to fully exploit market openings.

Minnesota farmers and businesses would be among the big losers if the United States restricts MFN. For the wheat farmers of our State, a $27 million market will disappear, only to reappear on the ledger sheets of our competitors. For Cargill, 3M, Control Data, Eaton, Honeywell, MTS, Thermoking, ConAgra, North Star Steel, Medtronic, Crown Iron Works, and others in Minnesota, restricting MFN means the wholesale transfer of export business to European and Japanese competitors.

Mr. President, in June and July, I urged my colleagues to consider a very powerful lesson from our past experience. That lesson is that unilaterally using trade as a foreign policy weapon only hurts the American exporter and consumer. Other countries will always step in to fill the void left by our unilateral withdrawal from a market. This is precisely what happened with the failed United States embargo against the Soviet Union in 1979.

More recent experience has also taught us that the corollary to this reality is also true. That is, that economic and trade policy can be a meaningful foreign policy tool only when applied multilaterally, in concert with the world's other trading partners. United Nations economic and trade sanctions against Iraq have had meaning only because the world acted in unison.

I ask my colleagues again, will Japan follow our lead in restricting trade with China? Will France or Germany? Will Australia or Brazil? No, Mr. President, of course not. Their farmers and businesses will simply step in and take the business that we unilaterally sacrifice.

Mr. President, I want to emphasize yet again my stern opposition and criticism of China's human rights practices, its weapons proliferation policies, and various of its own trade restrictions. No one, least of all this Senator, condones this conduct. Strictly conditioning and ultimately revoking MFN on a unilateral basis simply will not have the desired impact in China. It will punish those we are most interested in trying to help—the economic and political reformers who are attempting to move China's command economy to a free market, and ultimately, to a free society.

We must also consider the progress that has been made thus far. The Secretary of State's visit has begun an important discussion, akin to that with the Soviet Union in 1983 and 1984. We have seen a new intellectual property rights agreement that goes a ways to demonstrate the beginning of good faith in bilateral trade and investment. In recent days, China has agreed to join the United States and other countries in an important missile technology control regime. This is a long road, but we should not ignore the progress the administration has made. In my view, we owe Secretary Baker a debt of gratitude.

Mr. President, China's human rights practices concern me deeply. I have listened and learned from the argument in favor of conditioning MFN with so-called achievable objectives, particularly in the human rights area. Members of my staff met at length today with Chinese student leaders in Minnesota. I have discussed that meeting with my staff and read the materials that the student leaders provided. At the appropriate place, I will ask unanimous consent that their letter to me be included in the RECORD.

The students make a strong and compelling case, but after carefully considering their arguments and the debate here in the Senate, nothing has changed my basic belief that it is fundamentally inappropriate for the United States, acting alone, to start and stop trade with other countries because of disputes over human rights matters. If we applied these same standards to any number of our other trading partners, we would be unilaterally restricting trade all over the Third World.

Last summer, I quoted at length from the publications of respected international human rights organizations regarding the records of various trading partners. No one is calling for revoking normal trade relations with Indonesia or Kenya, Mexico or Brazil, Turkey, South Korea, or India. Acting alone, the United States cannot, regrettably, change the behavior of the rest of the world. The forum for addressing these issues is not through trade, but through vigorous diplomatic efforts.

In this regard, Mr. President, I call on President Bush and Secretary Baker to keep the pressure on China to improve their various policies and practices that we and other responsible members of the international community rightly find so objectionable. Clearly, more needs to be done to persuade China to respect internationally accepted norms of behavior in areas such as human rights and weapons proliferation.

But MFN is the wrong tool for the job. It is a blunt instrument that holds little promise for achieving otherwise laudable objectives. Effectively revoking MFN will only kick the legs out from under the negotiating table at which we address our very real and serious problems with China. That might give some of us a degree of short-term satisfaction, but precious little long-term gain.

Mr. President, I urge my colleagues to take the long-term view and defeat this conference report.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I received today from a group of Chinese student leaders in Minnesota. Thank you, I yield the floor.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE NATIONAL COMMITTEE ON CHINESE STUDENT AFFAIRS, INDEPENDENT FEDERATION OF CHINESE STUDENTS AND SCHOLARS,
Eagan, MN, February 24, 1992.

Hon. DAVE DURENBERGER,
Minneapolis, MN.

DEAR SENATOR DURENBERGER: We, the undersigned, are writing to you to convey our deepest support for the Conference Report on HR 2212 attaching human rights conditions on to renewal of MFN trade status for China. We want you to vote yes on the conference report.

As we understand, HR 2212 streamlines conditions for China's retention of most-favored-nation trading status, requiring Beijing to (1) release and be accountable for people imprisoned from the 1989 Tiananmen massacre, (2) stop selling missiles to Iran and Syria and (3) show "overall significant progress" on other human rights, weapons proliferation and trade issues. We understand that the intent of the bill is not to revoke China's MFN trading status, but to use MFN as a toll to pressure China to improve its human rights record and to force the Chinese Government to fulfill its obligations as a member of the international community. So the issue here is not whether we should give China the trading status. But rather under what conditions should we trade with China.

We realize that an argument has been made that too restrictive conditions to MFN might push the Chinese Government into isolation and the loss of MFN would inflict hardship and remove the modernizing stimulus that MFN provides to reform entrepreneurs. But the conditions on the conference report are not too restrictive. They have been much reduced and modified from what was there before. The prospect of American trade—$15 billion hard-currency profit—ought to give the Chinese Government incentive to pay the price in meeting these conditions. The conditions proposed in HR 2212 are within the Chinese Government's reach.

In fact, the China has started making "progress" in many areas since this legislative proposal gained momentum. Agreement on intellectual property rights have been reached between the U.S. and China. We have reasons to believe that progress can also be made in the areas of human rights and political freedom in China with or without the will of the government.

Outside help is needed to foster the improvement on human rights and political freedom in China. We believe that the reforming forces within the Chinese Government will sooner or later overcome the hardliners in overturning the verdict on what happened in Tiananmen Square in the spring of 1989. With your YES vote on HR 2212, this day may come sooner rather than later.

The United States Congress has a special role to play in encouraging greater freedom in China. Chinese Premier Li Peng's recent visit to New York strengthened the hard-liners in their bid for power in the succession struggle now taking place in China. Congress alone can now demonstrate U.S. commitment to the rule of law and human rights for all China to see. You can help, by voting yes on HR 2212, keep the spark of hope for freedom alive in the hearts of our countryman.

During the past year, China has suffered through a deteriorating human rights situation. Arrests have continued and prisoners are being tortured and ill-treated. The Chinese regime remains committed to breaking the back of the democracy movement. The State Department's recently released annual human rights report depicts the cruel circumstances under which Chinese citizens are living.

We, who are temporarily living outside China, have very few alternatives for remedies for China's human rights situation. We strongly appeal to you to vote YES on the bill. Your vote will means so much for those of us who are struggling for a better and more democratic China.

Thank you very much for your consideration

Signed,

YING Q. JI,
Chairman.

Mr. MCCAIN. Mr. President, the conditions which the conference report to H.R. 2212 would place on most-favored-nation trading status for China are not as numerous nor as severe as the legislation which the Senate considered last year. These modified conditions coupled with the fact that China's policies on a whole host of issues that concern us make this legislation a more attractive vehicle for the Senate to employ as a means to express our opposition, indeed, our outrage over China's irresponsible proliferation policies, inhumane human rights policies, and grossly unfair trade policies.

China's aging leadership remains a bulwark for tyranny at this moment when democratic values are ascendant almost everywhere in the world. As I said in last year's debate, China's leaders thought they had a choice between tyranny and disorder. They chose tyranny now, they will get disorder later.

Similarly, in a choice between world stability and hard currency, China has frequently chosen the latter and has aggravated the most dangerous and destabilizing problem of the post-cold-war world—the proliferation of weapons of mass destruction and the means to deliver them.

Last, China has persisted in exploiting the United States fidelity to the principles of free trade by conducting trade policies which are neither free nor fair.

For all of these reasons, Mr. President, the U.S. Congress is properly seeking a vehicle to impress upon the Chinese our opposition to their policies and our intention to compel the termination of those policies.

The argument again comes down to whether conditioning MFN status will, in fact, help us convince the Chinese of the error of their ways or whether it will encourage a hardening of their positions.

Mr. President, at this moment I do not know the answer to that question.

The administration claims to have made limited progress in some of the most troubling questions about China's policies. The Chinese have agreed in writing to observe the Missile Technology Control Regime guidelines, and they are moving to accede to the Nuclear Nonproliferation Treaty by April.

The Chinese, when confronted by an investigation under the Super 301 provisions of the Trade Act, have significantly improved protection of the United States intellectual property rights. But the fact remains that we continue to endure an enormous trade deficit with China which, in this instance, indicates a continuation of unfair Chinese trade policies even though China is the fastest growing market for United States goods in Asia.

On human rights, the improvement in Beijing's record is so marginal that it does not merit our recognition. If the past is any guide, China's leaders will never risk any weakening of their authority by liberalizing their politically repressive policies. However, there is merit to the argument that cutting off trading relationships with Chinese entrepreneurs, particularly in the south of China, will undermine the strongest force for political and economic reforms in China, and greatly lengthen the Chinese leadership's hold on power.

The administration argues that by conditioning MFN now, we will trigger a reaction in Beijing that will reverse what little progress we have made toward modifying Beijing's despicable behavior. Frankly, I do not know if that would indeed be the consequence of our action. But I am prepared to act on the side of caution this time, and vote against conditions.

Mr. President, we will soon see whether the policy of engagement with China will produce further progress on all the questions we have discussed today. I, for one, want to see manifestations of Chinese reasonableness immediately.

If by June China's leaders have not made significant progress in respecting the God-given rights of their people; if China has not strictly observed the Missile Technology Control Regime and signed the Nuclear Nonproliferation Treaty; if China has not ceased taking advantage of America's faith in free trade; if progress in just one of these areas is lacking, then I think the time has come for the Congress to take the risk of denying MFN status.

Until June, Mr. President, when we will revisit this issue, I am prepared to accept the administration's counsel for caution. If we are not successful by then, however, I am prepared to take much graver measures to hasten the day when China's admission into the community of free, democratic, and responsible nations is no longer blocked by the paranoia and cynicism of a group of inhumane old men.

Mr. DODD. Mr. President, I rise today to express my strong support for the conference report before us today. And I want to commend the majority leader for his persistent dedication to this important issue. In the face of strong opposition from the administration at every step of the way, he has set before us today a solid piece of legislation that I believe deserves our support.

Mr. President, it has been 7 months since the Senate voted 55 to 44 to condition most-favored-nation status for China. And it has been nearly 3 years since the infamous decision by the Chinese Government to crush the prodemocracy movement, then encamped in Beijing's Tiananmen Square.

Over the past 20 months, there has been little to suggest that the leaders of China are prepared to mend their ways. The rulers of China have demonstrated to us time and time again that they have no interest in adhering to international standards of justice, fairness, and decency.

In fact, most of the evidence is to the contrary. Despite continued strides in economic liberalization and free market ideology, when it comes to the subject of political rights the leaders of China have withdrawn behind a great wall of oppression. In the process, they have cut off their nation, and their people, from the light of the free world.

The message, Mr. President, from those who rule the most populous nation on this planet, has been unequivocal: We are certainly willing to engage the West and to get our hands on all the material benefits we can, but we are really not interested in playing by anybody's rules except our own.

The Chinese approach to internationally accepted human rights standards makes the message very clear. Chinese violations continue to include torture, prolonged detention, forced labor, abduction, and summary executions.

On another front, consider the Chinese approach to trade relations. Until signing an agreement on intellectual property rights last month, the Chinese for years thumbed their nose at the concept of fair access to the Chinese market and denied protection of United States patents and copyrights. These and other unfair trade practices have contributed to a United States-China trade deficit estimated at nearly $13 billion per year.

Finally, Mr. President, there is the issue of missile proliferation. Over the years, the Chinese have become the nuclear Kmart for the Third World, selling missile and weapons capabilities to just about anybody.

Unfortunately, Mr. President, despite the clear signal being sent to us from Beijing, the Bush administration still does not seem to have gotten the message. The Bush administration continues to believe that the Chinese will abide by our concerns and the concerns of the international community, if only we will be their friends.

Translated loosely, Mr. President, that means one thing: The Chinese are taking advantage of us, and the administration is letting them get away with it.

The events of the past few months provide one example. On November 17, after a visit to China, Secretary Baker reported that the Chinese had agreed to abide by the guidelines of the Missile Technology Control Regime. Just 2 months later, we found out that the Chinese have contracts to sell missile- and nuclear-related technology to Iran, Syria, and Pakistan.

The response of the administration to this incident frankly baffles me, Mr. President. Last Friday, the administration lifted sanctions—lifted them, Mr. President—against two Chinese companies involved in earlier arms sales to Pakistan.

In my view, Mr. President, the administration's policy on China is going in reverse. And that is why Congress, which is charged by the Constitution with the responsibility to regulate commerce, has a responsibility to act today.

The conference report before us today is not the same as the bill we passed last summer. At the insistence of the administration, it has been made less restrictive and more flexible. But its basic principle remains unchanged: If the Chinese want another year under most-favored-nation status, they have to earn it.

They have to show significant progress on meeting international standards on human rights, including those pertaining to prison labor, restrictions on the press, and religious freedom. They have to demonstrate that their commitment to the protection of intellectual property rights has been fulfilled. And they must take steps to control their missile proliferation with the Third World.

Mr. President, on January 31, Chinese Premier Li Peng met with President Bush at the United Nations summit last month. During that meeting—a meeting, I might add, that I and a number of other Members of this body opposed—Mr. Li made one thing very clear. He said he viewed any outside effort to improve human rights in China as an interference in China's sovereignty.

Well, Mr. President, if that is the standard to be used, then frankly I think Congress should step up and plead guilty. If China's sovereignty means exploiting their workers and using that labor to unfairly compete against United States products, we will gladly interfere. If China's sovereignty means the persecution of religious groups and the press, we have a right to interfere.

When China's sovereignty means arming the Third World with nuclear weapons and missile capability, we have an obligation to interfere.

I hope we will do the right thing and vote in favor of this conference report.

Mr. JEFFORDS. Mr. President, in my deliberations over whether to place conditions on MFN to China, I have weighed carefully the many facets of this decision. There are several points on which I think we all can agree: China must improve its record on human rights and political freedoms; China must stop selling missiles and start cooperating in international efforts to curb weapons proliferation; China must go forward with economic reform, must cease export of goods manufactured by prisoners, and must engage in fair trade. Communism is an anachronism. The question now before us is how the United States can most effectively pursue its objectives and also preserve the interests of United States businesses whose well-being is tied to trade opportunities with China.

In looking at China's behavior since our last debate on MFN, one can only conclude that the record is mixed. If it were otherwise, with either substantial progress or backtracking by China, a vote today would be much easier.

An area of particular concern to me is weapons sales and proliferation. Here, as in other parts of the United States agenda with China, some progress has been made, but not enough. On the one hand, China has broken with its past and given verbal commitments to sign the Nuclear Nonproliferation Treaty [NPT] and adhere to the Missile Technology Control Regime [MTCR]. China also attended the NPT review conference in September 1991 as an observer, and has joined the five-nation Conference on Middle East Arms Control.

On the other hand, China has not yet adhered to either the NPT or the MTCR treaty. Similarly, China's record on arms sales is worrisome. Concern has been raised over PRC sales to Syria, Iran, Pakistan, and Burma. China has sold missiles to Middle Eastern countries which could be used to transport chemical or nuclear material. We must keep a careful eye on China to see whether its word is good on MTCR or whether it continues its past practices with regard to missile sales.

Just as there has been some progress with China on missile proliferation, there has also been progress on trade. Since last summer's consideration of MFN, the administration initiated a Special 301 investigation of China's practices on intellectual property rights, a 301 investigation into the denial of access for United States exports to Chinese markets, and steps to stop textile transshipments.

In January, the United States signed an agreement with China on protection of intellectual property rights. This is significant because China until now has sanctioned piracy of United States intellectual property, particularly of pharmaceuticals and computer software. As for market access, much work remains to be done. Despite progress reducing tariffs and import licensing requirements, China remains a highly protectionist trader. As we fight for greater access to China's market, we must also ensure that China's export practices are aboveboard. In that regard, the U.S. Customs Service must continue its vigilance in blocking illegal transshipments of textiles. China cannot get away with this attempt to circumvent its textile quota.

In the last year, the administration has used the instruments available to it to improve the trade situation with China. Nothing, however, would help United States business more than major change in China. United States business opportunities will grow when China resumes economic reform and takes steps such as laws protecting private property. Those who support conditioned MFN argue that that will strengthen the reformers and speed economic development. Those who oppose placing conditions on MFN argue the contrary. All agree that the private sector is a primary engine for reform in China. Once again, we come down to having identical goals but different views on how best to accomplish these goals.

As we debate how best to influence China, we must consider the current political situation there. Nothing is more disturbing to me than China's continuing human rights violations, refusal to release Tiananmen Square prisoners and denial of political freedoms to its people. Pressure from outside China has had, at best, minimal effect on China's leaders. China is still ruled largely by its original, now aged, Communists. A succession is imminent. Economic prosperity can undermine the control of hardliners and bring pressure to bear for political change; however, it also can have the opposite effect by mitigating dissatisfaction with the regime. The lesson hardliners have taken from the Soviet Union is that prosperity is the best way to hold onto power, and granting political freedom the surest way to lose it. This is the backdrop for the party congress scheduled later this year, which could be pivotal in the battle between reformers and Communists for succession.

The question turns again to what effect our vote on MFN has on China's internal political, human rights and economic situation. The frank answer is that the effect is minimal.

We know that we don't like what we see in China. Yet, we know that there has been some progress in the last year, particularly on proliferation and trade issues. After much deliberation, I have decided to vote with the President. China has long been recalcitrant and difficult to influence. Nonetheless, the administration has made inroads in areas of key importance to the United States. This progress—though far from satisfactory in scope, is significant when compared to China's past behavior. I believe that the best way to influence China is to stay the course. But let there be no misunderstanding: America and the Congress will not wait forever for change. If China reneges on its promises with regard to trade or proliferation, or fails to make any progress on human rights in the next year, I would have a very tough time voting for unconditioned MFN in the future.

Mr. WOFFORD. Mr. President, last summer, when this body first debated the question of renewing most-favored-nation status for China, I was amazed by the administration's vehement opposition to attaching any conditions whatsoever to such renewal. China, after all, routinely engages in abusive trade practices, irresponsibly exports nuclear and other weapons technologies to unreliable countries in the Middle East and elsewhere, and systematically represses proponents of democracy, free speech, and human rights.

Nothing has happened in the intervening months to change my view or to strengthen the arguments of those who wish to see an unconditional renewal of China's most-favored-nation status. In fact, quite the opposite has occurred. The collapse of the Soviet Union in August rendered the China card, the notion that we need to support China as a balance to the Soviet Union, obsolete. Our economy has worsened and unemployment increased, showing more clearly the effects of disadvantageous trade relations on America's workers. New evidence of Chinese weapons proliferation has surfaced. And the Chinese Government has not let up on its relentless human rights violations both within China itself and in Tibet. Only today, the Chinese Government sentenced another seven participants in the Tiananmen Square prodemocracy demonstrations to lengthy prison terms.

What has been the administration's reaction to these changes? To lift more sanctions against China and renew its fight against attaching conditions to MFN. By habit or inertia, President Bush has failed to respond to the new international situation brought on by the collapse of the Soviet Union and to the economic realities facing the United States. In doing so, he puts American jobs and American principles at risk.

President Bush has stated that most-favored-nation status gives the Chinese Government the incentive to take into account United States interests. I have seen no evidence of that kind of openness and accommodation by the Chinese in either trade or human rights policy. And I have seen no evidence that China has kept its promises to review its policies regarding proliferation of nuclear and missile technologies.

Instead of seeing progress toward fair trade, we have watched as China's trade surplus with the United States hit $12.7 billion last year, up from $10 billion in 1990. China continues to evade textile quotas, with devastating effect on America's textile and garment workers, and floods our markets with prison-made goods while refusing to allow American companies access to their markets.

Instead of hearing of improved conditions in China, I have read reports by the United Nations Human Rights Commission, Amnesty International, Asia Watch and even the State Department's own country reports that document with heartbreaking clarity the terrible human rights abuses perpetrated by the Chinese government on its own citizens and on those of Tibet. In January of this year, a staff delegation travelled to India and interviewed Tibetan refugees recently arrived from their country. They told of inhumane prison conditions, torture and forced labor; of religious persecution and denial of education and employment opportunities to those who do not embrace the policies of their Chinese occupiers; of stringent restrictions on travel and free speech; and of coercive sterilizations and abortions through which, along with massive population transfers, the Chinese seek to make Tibetans a minority in their own country.

The conditions imposed by H.R. 2212 are not as strong as I would like. They are, however, the very least that we should do. To grant nondiscriminatory trade status to a nation so indiscriminate in flouting international norms of fair trade, human rights and arms proliferation is simply bad policy. By attaching conditions we will show the Chinese Government that we are serious about reform. We are serious about defending American competitiveness and American jobs. We are serious about promoting democracy and human rights throughout the world, including China and its client states such as Burma and North Korea. We are serious about curbing nuclear and weapons proliferation.

China has enjoyed unconditional most-favored status for long enough. Despite the administration's assertions to the contrary, we have learned from experience that coddling China's leaders has not, and will not, compel them to change their ways. And while we have no guarantee that these conditions will cause a shift in their domestic and international policies, at the very least we will have demonstrated that the American Congress and the American people are committed to promoting fair trade and human rights, and to curbing nuclear and weapons proliferation.

Mr. RIEGLE. Mr. President, I join with Majority Leader MITCHELL and Chairman BENTSEN in supporting the conference report on the United States-China Act of 1991. I hope this important legislation will be passed by the Senate by a margin that sends a message to the Chinese—and to the President of the United States that the United States Congress is serious about this important trading relationship and concerned about the direction it has taken over the last 2 years.

The United States-China relationship has been plagued with unfair trade practices and unacceptable human rights and arms control disagreements and violations. Some of these problem areas have been identified and negotiated by the U.S. Trade Representative and other U.S. Government agencies. However, numerous issues still need to be resolved.

I believe that efforts mandated under this legislation will help restore a sense of fairness to the United States-China relationship. Setting forth responsible and sensible conditions will promote and encourage proper international behavior by the Chinese Government. Without the conditions included in this legislation, the Chinese Government has no incentive to improve its policies, or its treatment of United States companies and products.

Given the overall trade and economic problems our country is facing, we cannot afford to continue the status quo U.S. policy of rewarding our trading partners who maintain unfair barriers to U.S. products. We've made this tragic mistake with Japan, which has cost thousands of American jobs and $460 billion in valuable United States capital.

Some of the same warning signs that we witnessed with Japan are present on the China horizon. Our trade deficit with China is increasing dramatically. The 1990 U.S. trade deficit of $10.4 billion represented a 67-percent increase from the previous year. We are also seeing inadequate intellectual property rights protection, and persistent nontariff and tariff administrative controls in the Chinese market.

I look forward to reports by the administration beyond initial efforts by the USTR in negotiating an agreement to eliminate copying in the Chinese market of United States products. Here again, I hope that we do not proceed down the road of status quo according to U.S. trade policy history.

We need to aggressively monitor the success of such an accord. Anything less than full implementation and enforcement by the Chinese Government of international standards and conventions on patents, copyrights, and trade-secret protections is unacceptable.

Virtually unlimited and equitable access to U.S. markets, especially under the most-favored-nation [MFN] regime, is a privilege, not a right of any of our trading partners. It comes with reciprocal responsibilities for our trading partners. Where reciprocity and equity are absent in our trading relationships, it is appropriate that conditions like those set out in the United States-China Act of 1991 be adopted and enacted.

Mr. WELLSTONE. Mr. President, I rise in support of the conference report on this important legislation to impose conditions on continued most-favored-nation status for China. I supported the majority leader's earlier legislation to require the President to terminate MFN status for China 180 days after enactment unless China had fulfilled various criteria in the areas of human rights, trade, weapons proliferation, and forced labor. Congressional votes on this issue in the Senate last July and in the House last November sent powerful signals to the Government of China on the broad bipartisan consensus on this issue developed during the last year. Today we can send an even more powerful signal by passing this legislation and putting the Chinese Government on notice: the United States will not tolerate persistent, egregious human rights abuses by its trading partners.

I remain deeply troubled by the administration's willingness to overlook China's major violations of internationally recognized standards of human rights and its failure to observe the international nonproliferation regimes. I believe the administration's policy of maintaining cordial relations with the Government of China is unwise, and joined 20 of my Senate colleagues in a recent letter urging the President to reject Chinese Premier Li Peng's request for a meeting in New York 3 weeks ago.

Almost 3 years after the brutal massacre in Tiananmen Square in June 1989, with continued repression against supporters of the democracy movement in China and in occupied Tibet, Congress must finally act decisively to demonstrate that unrelenting repression of basic human rights will not be condoned among our trading partners.

This conference report would prohibit a one-year renewal of MFN status in June of this year unless the President certifies that China has accounted for and released its citizens detained, accused or sentenced due to activities related to the Tiananmen Square massacre. The original Senate version would have also conditioned MFN renewal on several provisions regarding arms control, human rights, trade, the status of Hong Kong, and suspension of China's forced sterilization program. Many of these provisions were weakened at the urging of the administration to require simply that the President certify to the Congress that China is making "overall significant progress" in each area.

The provisions requiring Presidential certification of progress toward, for example, ending religious persecution in China and Tibet, halting intimidation of Chinese students in the United States, allowing human rights groups to monitor trials and prisons, removing unfair trade barriers to United States goods, protecting United States copyrights and intellectual property, adhering to international arms control regimes, and reforming other areas are thus not as strong as I had hoped. The destabilizing effect of the arms sales, including: First, the sale of nuclear-capable M-11 missiles, and their mobile launchers, to Pakistan; second, the sale of technology to Algeria which could be used to develop nuclear-grade materials; and third, China's provision to Iraq of materials used in the production of nerve gas and missile fuel, all fly in the face of China's claims regarding nonproliferation. While I am disappointed we were not able to maintain the tougher sanctions in the House-Senate conference committee, I am hopeful that these changes will provide a veto-proof majority for this legislation. I will support the conference report, and urge my colleagues on the appropriate committees of jurisdiction to continue to monitor closely enforcement of its provisions by the Bush administration, over whose stubborn objections the measure will hopefully be enacted.

I know that for many farmers who could be affected by a slow-down in grain exports to China, especially those from farm States like Minnesota, legislation to suspend MFN status to China remains a two-edged sword. China is a major United States agricultural export market, although its rank fluctuates widely from year to year. For example, in 1986, it ranked 60th; the next year, it ranked 17th. According to the Congressional Research Service [CRS], in 1989 China was the eighth largest foreign market for United States agricultural exports, purchasing more than $1.4 billion worth of products. In 1990, China ranked 11th among United States foreign agricultural markets, importing about 800 million dollars' worth of agricultural products. China has participated in both the Export Enhancement Program and the Targeted Assistance Program in recent years. While it has been eligible to participate in U.S. export credit guarantee programs (GSM-102 and GSM-103), it has not yet done so.

But I believe it is wrong to assume that American farmers oppose automatically conditioning MFN status on human rights and other reforms. Conditioning trade benefits on basic human rights is important to American farmers, in spite of the potential short-term burdens those conditions may impose. I urge my colleagues not to sell farmers short on their support of human rights worldwide.

Agricultural trade with China must remain a serious factor as we seek to develop a coherent trade policy, and as we link United States trade policy to overall foreign and human rights policy. I know the burdens that China could impose upon United States—including Minnesota—wheat farmers by retaliating against our refusal to condone China's appalling record on human rights, labor rights, unfair trade practices and arms exports. The worst-case scenario, which assumes a complete cutoff by China of wheat imports from the United States, would likely entail negative economic consequences for our State. I am hopeful that such a scenario can be avoided.

Let me reiterate my position. I do not favor using food as a weapon, and I do not favor grain embargoes as a general tool of foreign policy. Declining to extend MFN status to China, however, is neither of those. MFN status is a benefit that can and should be revoked if circumstances warrant. China's longstanding abuses warrant such a revocation. I am hopeful that the measures required by this conference report will result in positive movement on the part of China, not unjustified retaliation.

More than a year after the Bush administration renewed MFN status to China claiming that the policy would promote human rights, the State Department's own recently published Country Reports on Human Rights Practices for 1991 observes that "China's human rights practices remained repressive, falling far short of internationally accepted norms." Unwarranted detention, indiscriminate sentencing, and brutal torture of members of China's pro-democracy movement and others continues unabated. In addition, China continues to refuse to participate as a full and responsible party in international efforts to control the proliferation of sophisticated military technology and weapons, including biological, nuclear and chemical technologies. The United States must finally insist upon real changes in these practices before again renewing MFN status to China.

In this exceptional case, where the Government of China has consistently ignored international calls for reform, I believe that we should use legitimate trade-policy tools to prompt significant reforms in human rights, unfair trade practices, and weapons proliferation. I urge my colleagues to underscore the importance of upholding internationally recognized standards on these issues by supporting this conference report. I urge my colleagues to signal to the Chinese leadership that MFN is a benefit they can no longer take for granted. I urge my colleagues to vote not only for this conference report, but to vote to over-ride the President's anticipated veto should it come to the Senate floor.

Retention of preferential trade advantages under MFN status is critically important to the Chinese Government. The United States should insist on real and substantial reforms in these areas before renewing unrestricted MFN status. If the U.S. Congress must lead the way on this issue over the objections of President Bush, as it has on so many others, so be it. A foreign policy which fosters peace, democracy, respect for human rights and fair trade must continue to be our goal.

The PRESIDING OFFICER. All time allocated has expired. The question is on agreeing to the conference report on H.R. 2212.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY] would each vote "aye."

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—59

Adams
Akaka
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Byrd
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Heflin
Helms
Hollings
Inouye
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Smith
Specter
Wallop
Wellstone
Wirth
Wofford

NAYS—39

Baucus
Bond
Brown
Burdick
Burns
Chafee
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Gramm
Grassley
Hatch
Hatfield
Jeffords
Johnston
Kassebaum
Kasten
Lugar
McCain
McConnell
Murkowski
Nickles
Packwood
Roth
Rudman
Seymour
Shelby
Simpson
Stevens
Symms
Thurmond
Warner

NOT VOTING—2

Harkin
Kerrey

So the conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SEYMOUR. Mr. President, earlier in today's session of the Senate, I voted against the conference report on the United States-China Act of 1991 outlining a series of political, military, and economic conditions on the President's ability to continue most-favored-nation [MFN] trading status for the People's Republic of China.

Although the conference report does not impose the uncompromising conditions on the extension of MFN status to China that the original House and Senate bills on this matter contained, it still requires the President to make impossible and impractical certifications on Chinese political and trade practices for which he has already imposed more appropriate penalties. In addition, any condition attached to this unique bilateral benefit, as I stated in a speech to this body last summer, would needlessly jeopardize the growing free market institutions and infant democratic reform movement in China as well as hundreds of thousands of jobs in the United States.

The Senate, therefore, finds itself in the same basic position today as it did when it adopted a more restrictive MFN bill 7 months ago. Indeed, the conference report endorses the same fundamental barriers to continued MFN treatment that the earlier pieces of legislation prescribed: an accounting by Beijing for all political prisoners arrested as a result of the 1989 Tiananmen Square massacre; a formal statement reasserting China's adherence to its treaty with Great Britain on the disposition of Hong Kong; the cessation of a variety of trade practices deemed unfair to the United States; a moratorium on all international missile sales by the Chinese military; and the sanctioning of United States-sponsored radio broadcasts into Tibet.

It is true that the conference report requires the President to determine that the Chinese have "made overall significant progress" in each of these areas by June 3, 1992, rather than certify that the People's Republic of China had achieved full and indisputable compliance with the conditions—as the original bills on this issue demanded. But this formula would make a mockery of otherwise noble policy goals. The Chinese have not made any significant progress in the realm of political liberalization during the more than 10 years that the United States offered MFN status to the People's Republic of China. Yet earlier today, the Senate passed a conference report requiring "significant progress" by the leadership in Beijing toward establishing a pluralistic society within 3 months before China could receive a normal trading relationship with the United States for another year.

As the managers of the conference report know, this type of progress is impossible. But they still persisted with the charade of imposing conditions on China's MFN status at the expense of making the United States appear absurdly weak in its ability to influence the pace of democratic reform by repressive governments while possibly sabotaging the ability of several American export industries to compete in Asian markets. China's Stalinist rulers will not become angels inside of 3 months. In the meantime, the denial of MFN treatment will only harm both the productive and the pluralistic forces in China and deal another unwelcome blow to one of the most competitive segments of the American economy.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time consumed under the quorum call be charged equally against both sides under the previous order with respect to the forthcoming cloture vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent for 5 minutes to speak as in morning business. And that the time will keep running.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RESPONSE TO TELLER PIECE

Mr. GRASSLEY. Mr. President, I rise today to respond to a recent op-ed piece by Teller that appeared in the New York Times regarding a bill that I have cosponsored S. 1521, the Pornography Victims Compensation Act. As you may know, Teller is a showman and a magician. In his op-ed piece, he has again practiced sleight of hand and persuasion through illusion.

The Pornography Victims Compensation Act, which enjoys bipartisan support, is designed to help victims of sex crimes—the majority of whom are women—obtain redress in court from those who produce, sell, or distribute the material that caused the crime: obscenity and child pornography. It is well established under our constitution that obscenity and child pornography are entitled to no first amendment protection. So, the supporters of the bill will create no death knell for creativity or any other first amendment activity.

A plaintiff who seeks to recover would have a high burden of proof. She would have to show that she was a victim of a forcible sexual crime, that the material was obscenity or child pornography, that the defendant should have reasonably foreseen that the material would create an unreasonable risk of that crime, and that the material was a substantial cause of the crime against the victim.

The purpose of the bill is to punish criminals—commercial producers, distributors, and exhibitors of obscenity and child pornography—whose acts have resulted in rape, to provide compensation to their victims. It is narrowly defined and narrowly confined to those categories of sexually explicit materials that the Supreme Court has held are wholly outside the protection of the first amendment. It has nothing to do with depictions of crime in nonobscene movies. No one who has read the bill could reasonably conclude otherwise.

Obscenity and child pornography are not fiction or bad ideas. They are not created by those gifted with imagination. No one has the freedom to engage in production and distribution of obscenity or child pornography. The only people from whom compensation could be obtained under this bill already face criminal liability for their connection with obscenity or child pornography. Criminal liability for these activities does not violate the first amendment either directly or through a chilling effect on speech. The same is true for this bill's civil cause of action against those whose illegal depictions are criminally imitated.

Similarly, the bill does not reduce the individual responsibility of rapists for their crimes. Rapists would still face the severe criminal penalties that now exist. What it does is end the exemption for liability that everyone else now faces: Responsibility for their own actions that foreseeably lead others to commit rape. For instance, as Teller's show business colleague Connie Francis knows, if a hotel owner creates a situation in which another's commission of a rape is foreseeable, the hotel owner is liable not for the rapist's action, but for his own. Why should hotel owners and operators of legitimate businesses be subjected to this liability but not purveyors of obscenity and child pornography?

Rape has increased in this country in recent years at a rate far greater than the overall crime rate.

In July 1991, the Judiciary Committee heard expert testimony from a district attorney who reported a 25-percent decrease in sexual violence after his office shut down adult bookstores and theaters, while the State as a whole experienced a sharp increase in rape. A California woman told us that as a child she had been repeatedly forced to perform sexual acts portrayed in the obscene magazines her father saw, causing her extreme physical and emotional injury. When combined with scientific studies, it is inappropriate to compare this kind of testimony connecting obscenity with sexual violence to stick pins in voodoo dolls, as the oped piece said.

Mr. President, in closing, I want to say the Pornography Victims Compensation Act presents the opportunity to strengthen the effect of our criminal laws against obscenity and child pornography and to compensate victims of brutal crimes that carry with them long-term, severe effects.

It does so in a narrow fashion that avoids censorship or inhibiting the creation of any materials protected by the first amendment.

Mr. President, I suggest the absence of a quorum and ask that it be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION—MOTION TO PROCEED

CLOTURE MOTION

Mr. KOHL. Mr. President, I ask to speak in support of S. 479 and that my time be charged to Mr. LEAHY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, I rise in strong support of the motion to proceed on S. 479, a simple, effective, and straightforward bill to enhance American competitiveness. And I rise against any misguided attempts by the administration to gut the provision in S. 479 which tells foreign companies doing business in the United States that if you want a break from the American antitrust laws, you have to make a commitment to the American economy.

Let me tell you why.

As we know, during the past decade American firms have come up against unprecedented foreign competition, and the sad truth is that in many key areas we have lost ground.

Of course, the antitrust laws are not the cause of America's competitiveness problems. That has more to do with savings rates, capital investment levels, unfair trading practices, and our preoccupation with short-term financial results over long-term goals.

But foreign antitrust statutes are far more tolerant of cooperative business activities than U.S. laws. Indeed, according to many American businessmen, the mere threat that the antitrust jackhammer will come down on a joint venture sometimes prevents it from forming in the first place.

The measure we are considering today is modest but helpful response to these problems. In short, it would ensure our ability to compete more effectively in the global marketplace while remaining true to the principles embodied in our antitrust laws. Senators LEAHY and THURMOND deserve special praise for being among the first to call for such legislation.

Nevertheless, Mr. President, our job is not only to encourage American competitiveness, but also to enhance American industry and create American jobs. That is why Chairman BIDEN and I added an amendment in committee to require that—in order to benefit from the way that this measure relaxes the antitrust laws—the principal facilities for the joint venture must be in the United States and the parties involved must make a substantial commitment to the American economy. In other words, we would not limit who sits at the table; we would simply require that the table itself be set in the United States.

Mr. President, I was hoping the administration would understand that we should use our antitrust laws as both a sword and as a shield against unfair competition from abroad. After all, just last weekend Attorney General Barr said he wants to change the Justice Department's antitrust policy so it could go after Japanese cartels that restrict American exports. His proposal makes good sense, and I applaud the Attorney General for this initiative.

But though one part of the administration may see the light, the other part apparently remains in darkness. First, the Vice President's office said it would fight the Attorney General "to the end" on his "get tough" policy with Japan. And now others in the administration have suggested that the Biden-Kohl amendment would "send the wrong signal" to our trading partners.

In fact, nothing could be further from the truth: we would "send the wrong signals" to our trading partners if we failed to use our antitrust laws as a lever to open foreign markets and to protect our workers at home.

Mr. President, if this bill is left intact, I have no doubt that it will make a valuable contribution to our economy and to our prosperity. That is why I hope my colleagues will support this motion to proceed and oppose any weakening amendments.

Mr. GRASSLEY. Mr. President, I am please to be a cosponsor of S. 479, the

National Cooperative Research Act extension. This bill promotes research and development, and it represents a real effort to give American businesses some encouragement in their quest to sustain a technological edge in the marketplace.

In 1984 we enacted this law to allow companies to work together to jointly research and develop new technology. The firms have been required to notify the Department of Justice and the Federal Trade Commission of their cooperative efforts. The notification acts as a shield from treble damage antitrust liability.

The Department of Justice has found this law to be very successful. Some 230 notices of joint ventures have been filed with the Department. Fears what this law would foster anticompetitive activities have not been realized.

This bill takes the next step, by allowing for certain joint productions. After all, research and development are important building blocks, but making a product is the best way to ensure our place in the world's markets, as well as jobs for American workers.

The bill would apply the same standards to joint productions, as have been applied to joint research and development projects. It clarifies the applicability of the rule of reason standard, and it provides for the registration of joint production ventures with the Department of Justice and the FTC. The registration will protect the joint ventures from treble damage liability under the antitrust laws.

Such protection is necessary in order to give American research and development efforts a level playing field in a world where no other country has antitrust enforcement as stringent as ours. While American companies accused of illegal collusion are often exposed to millions of dollars in damages, the maximum fine under the Japanese antimonopoly law is $40,000. I plan to introduce legislation soon to help promote antitrust enforcement in other countries. In the meantime, I think it is appropriate to eliminate the threat of treble damages for joint production efforts that are crucial to our national competitiveness.

The President has supported the concept this bill embraces—encouraging companies to pool their resources to advance technology and America's competitive edge. But some have tried to use this as a vehicle for protectionism. Those efforts would undermine the good purposes of this bill.

We've worked out a compromise with this bill—a delicate balance. This bill should not upset trade relations, nor should it interfere with international obligations.

I urge the adoption of this bill—to advance our competitive edge; to promote jobs; and to improve technology and our quality of life.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Wisconsin [Mr. KOHL], suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I am not certain who is managing the bill in the opposition; but regardless of that, I yield myself such time as I may need to speak in opposition to this legislation.

Mr. President, I rise in opposition to the National Cooperative Research Act Extension of 1991. I am a realist, and there is a strong body of support for this bill, but it should not be. As a matter of fact, I do not believe there is any organized opposition to this bill, but that does not make it right.

This is not a new subject for me. This is an extension of the national Cooperative Research Act Extension of 1984, which this bill seeks to amend. I was very much involved with the passage of that bill. I spent many hours negotiating the language of that bill, which is now law, and which makes it possible for research endeavors to be joined on a cooperative basis.

The 1984 Act actually provides lenient antitrust treatment for research and development joint ventures. I believe that is warranted in order to encourage research and development.

At the time I sponsored the original bill, however, I made clear in my reservation that the extension of the protection of the Act beyond research and development would require great scrutiny. There is a difference between joint research efforts and joint production efforts. In one instance, you are talking about a small group of people involved in trying to put their mental capacity together. You talk about joint production efforts. It is a far more extensive kind of combination.

The bill that we are considering today extends protection to the next step in the process of bringing a product to market; that is, the production effort. I oppose the bill because I think it is a bad idea to offer lenient antitrust treatment for production joint ventures.

Ironically, the administration, which has long supported the weakening of our antitrust laws, now has problems with this legislation.

It is my understanding that, as we meet here at this very moment, the administration and those involved in handling the bill are attempting to work out their differences. But whether they do or they do not, this is still a bad piece of legislation.

The administration objects to the provisions which favor Americans businesses over foreigners. That is probably the only good part about the bill. These provisions, added by Senators BIDEN and KOHL, would limit the application of the bill to production joint ventures with principal facilities located in the United States, and in which each party to the joint venture makes a substantial commitment to the U.S. economy.

How that language comes out after the negotiations are concluded I have no way of determining because, as I already indicated, it is my understanding they are in negotiations at this very moment.

I opposed this bill long before those provisions were added, and regardless of what those negotiations produce, I still oppose the bill. I oppose the bill because it is: First, unnecessary; second, it will not improve America's competitiveness, and third, it will undermine the laws that promote and protect competition.

Current law does not chill potential joint ventures. There are numerous examples to which we can point to very large joint ventures being proposed and moving forward successfully. Look at the Toyota-GM joint venture, or the IMB-Apple joint venture. These are some of the biggest companies in their respective markets.

Clearly, joint ventures have not been chilled by the antitrust laws. Furthermore, the fact is that Government or private suits against joint ventures are extremely rare.

The bill has been sold as critical to our international competitiveness. Supposedly, the U.S. antitrust laws are preventing U.S. businesses from forming joint ventures necessary to successfully compete in world markets. I do not buy those arguments. I think they are invalid. I do not believe they comport to the facts.

Weakening the antitrust laws will not improve American productivity or make America more competitive. Strong antitrust laws promote strong competition. The antitrust laws are not to blame for our failures in world markets. Anyone who would argue that we have been too aggressive against antitrust violators during the last decade must have been under a rock during the Reagan administration. Could it not be precisely because we were too lax in our enforcement of our antitrust laws during the Reagan administration that we now find ourselves at a competitive disadvantage?

Prof. Michael Porter—who teaches at Harvard Business School; a world-renowned consultant for leading companies all over the world; on the front cover of Fortune magazine as one of the leading business consultants in America; a person who served in the President's Commission on Industrial Competitiveness—presented excellent testimony to my subcommittee on this bill. He testified that competition, not cooperation, produces strong combatants in world markets.

We will have no success in other markets if we are not successful at home in pushing our companies to be more competitive, not less; to be more innovative, not less; to be more aggressive, not less.

I hope no one in this body thinks that detrebling damages for antitrust violations is a model for how we should treat our antitrust laws. I think it sends a terrible signal to American business that the Congress will weaken the antitrust laws when pushed to do so under the guise of international competitiveness.

It also sends a terrible signal to the rest of the world. From the European Community to Canada, to Eastern Europe to South America, I see countries looking to the American model of strong antitrust laws as they try to build new, vibrant economic systems.

In fact, enforcement authorities in the European Community have been far more aggressive than our own in pursing antitrust violators. A fine of $55 million was recently levied against a European cartel. That fine is five times larger than any fine ever assessed in the United States.

What kind of message does it send that we now want to weaken our antitrust laws? Clearly, this bill is going in the wrong direction.

In spite of my opposition to this bill, I would like to thank the sponsors for working with me to limit how broadly the bill will be applied. I appreciate the sponsors accepting two amendments I offered during committee consideration, and the other one I have worked with them on—now that the bill has come to the floor.

Although these amendments improve the bill, I do not believe they fix the fundamental, underlying concern that I have that this bill is unnecessary and will hurt American competitiveness.

I continue to oppose the bill. I will vote against it, as I did in the committee. I have no particularly strong views with respect to the matter of cloture when we go to vote on the bill. I do not expect there will be many votes against it. I hope that there will be a majority.

But I do not expect that to be the fact, because there has been a very, very organized lobby of business organizations and corporations lobbying for passage of this bill.

To the best of my knowledge, I know of no organized opposition. That does not make it right. That just means that some people have good lobbyists and some people perhaps are indifferent to what is going on on the floor of the U.S. Senate, and maybe are not in a position to hire those lobbyists, if they were so inclined. Suffice it to say, this is a bad bill. I wish it would be defeated. I am not certain that it will be, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, we should know that S. 479 is a jobs bill. Let us not have any question about that. It will take the shackles off companies that have been unable to go all out in an increasingly cutthroat battle against foreign competition.

Those of us who are supporting this as a bipartisan group are trying to bring S. 479 to the floor. It is going to give a green light to companies to enter into joint production ventures without having to risk unnecessary antitrust prosecution. Similar legislation was enacted in 1984. We limited it to research and development. This extends it to joint production.

It is a bill that was needed when Senator THURMOND and I first introduced it in 1989. It is needed even more today, with an economy on the ropes and jobs disappearing every day. Some say the end of the recession is just around the corner, but we have been hearing that for over a year. It is not. We are facing some very, very difficult problems. American firms are coming under increased pressure from past technological innovation and development abroad. We have to level the playing field.

All we are saying is if we have to compete against the Pacific Rim, if we have to compete against Japan, and if we have to compete against Europe we ought to be allowed to do the same thing that they do. We ought to be able to do joint production, the same way we do joint research and development.

For the life of me, I understand there are a couple people holding this up on the request of the administration. I would think, facing the worst recession I believe in my lifetime, the administration would want a jobs bill to go forward. And for them to hold it up and say, "well, we want to study it," for God's sake, how long do we have to study the fact that we are in a recession? How long do we have to study the fact that we need jobs?

They have had the language of section 7 of this bill to consider and debate since before the Judiciary Committee marked the bill up last July. They did not even start to talk about it until last week. No wonder we are in a recession. Everybody thinks that it is somebody else's job. That is easy for people to say who get a paycheck every week. It is not easy for the people to say who are out of work in my State, or in Pennsylvania, or any other State.

So I wish we could have avoided this cloture vote with a time agreement.

The 1984 Antitrust Research and Development Act recognized the major financial commitment involved in high-tech innovation. That act encouraged American firms to share the cost and risk of R&D projects by clarifying antitrust laws regarding combined research ventures. That act has been a success. Companies have filed over 230 notifications for joint research and development ventures involving everything from chipmaking and steelmaking processes to superconductors. Many argue that the 1984 act was critical to the formation of Sematech, the industry-government research consortium whose mission is to restore U.S. world leadership in semiconductor manufacturing technology.

The 1984 act, however, is not enough. It does not address the issue of joint manufacturing ventures and it is precisely in manufacturing that the United States faces its gravest competitive challenges.

Indeed, when it comes to basic research and science, the United States continues to lead the world. We are the great innovators, making scientific breakthroughs and inventing new products in our universities and laboratories. But when it comes to commercializing our innovations we are continually out maneuvered by well-planned, well-financed, foreign competition. We may invent products like VCR's, memory chips, industrial robots, and liquid crystal displays, but the Japanese and others do the manufacturing, taking the jobs and the profits. No matter how much our service sector grows, we have to recognize that manufacturing has been and will continue to be the necessary anchor for healthy economic growth.

Will our joint production bill help? Yes. The new technologies that create jobs and income often require enormous investment. The cost for a state-of-the-art semiconductor manufacturing facility is now half a billion dollars. While Japanese firms that are part of powerful keiretsu organized around giant banks may have access to that kind of capital, most United States firms do not. Moreover, among our competitors in places like Japan, Europe, and Korea, governments do not hesitate to encourage cooperative efforts in cutting-edge technologies such as semiconductors, superconductivity, x-ray lithography, or artificial intelligence.

What this legislation would do is eliminate the antitrust uncertainty that now surrounds joint production ventures. Companies would know that only unreasonable, anticompetitive ventures could be challenged and that only actual damages could be assessed. And they would understand that the Federal Government stands four-square behind the proposition that cooperative ventures have a vital role to play in our economic future.

Mr. President, the White House has challenged Congress to act quickly on a plan for economic recovery. This bill will help restore our high-tech competitive position—and bring manufacturing jobs back to America. Let us make it the first shot across the bow for economic recovery.

The legislation has broad bipartisan support. It was reported out of the Judiciary Committee last July by a vote of 13 to 1. I urge my colleagues to vote for cloture so we can debate and pass this important legislation.

The PRESIDING OFFICER. The Senator from Vermont is advised that the time under the agreement has expired.

Mr. LEAHY. Let us go to the cloture vote.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to the consideration of S. 479, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States:

Patrick Leahy, Max Baucus, Joe Biden, Kent Conrad, George Mitchell, Wendell Ford, Brock Adams, Dale Bumpers, Don Riegle, Terry Sanford, Timothy E. Wirth, Richard Bryan, J.J. Exon, Barbara A. Mikulski, Claiborne Pell, John Glenn, Fritz Hollings, Strom Thurmond, Herb Kohl.

CALL OF THE ROLL

The PRESIDING OFFICER. Under the previous order, the call of the roll is waived.

VOTE

The PRESIDING OFFICER. By unanimous consent, the question is, Is it the sense of the Senate that debate on the motion to proceed to S. 479, the National Cooperative Research Act Extension of 1991 shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 32 Leg.]

YEAS—98

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—0

NOT VOTING—2

Harkin
Kerrey

The PRESIDING OFFICER. On this vote, the yeas are 98; the nays are zero. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 219, S. 479, the National Cooperative Research Act Extension of 1991, at 1 p.m. tomorrow, Wednesday, February 26.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I wish to thank the distinguished majority leader for his help in bringing this up. As one of the chief cosponsors, it is something that I have been working to get considered for a long time. I realize there is still a way to go. But I would point out there is very strong support, strong bipartisan support.

Senator THURMOND is the other chief cosponsor. We have Republicans and Democrats across the political spectrum on this bill. It is designed to get people back to work. It is designed to allow the United States to be competitive as we go into the next century, to do the kind of things that our main competitors, Europe, the Pacific Basin, and Japan, are doing. I also wish to thank Senators BIDEN and BROWN, who are two of the main sponsors of S. 479.

So I hope all Senators will help get this bill passed quickly without extraneous material.

Again, I wish to thank the distinguished majority leader for bringing up this cloture matter and allowing us to go forward.

Mr. MITCHELL. Mr. President, I thank my colleague, and I look forward to prompt consideration of the measure tomorrow.

I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

COMMENDING CALIFORNIA'S OLYMPIANS

Mr. SEYMOUR. Mr. President, as the world's finest athletes return home from Albertville, France, I rise today to salute seven Californians whose performances in these Olympic games have filled us all with a great deal of pride.

These 1992 winter Olympic games were indeed an historic event. For the first time in four decades, the games were truly a worldwide festival of sport rather than a political struggle between antagonistic ideologies. We witnessed the awesome athletic power of one unified team from Germany and reveled in the new found freedom of the athletes from the former Soviet bloc. We cannot help but give pause to consider the uncertain future of the members of the unified team from the former Soviet Union, but we all hope it is as fruitful and promising as their individual achievements were in Albertville.

The performances given by our team certainly provided the entire nation with many moments of exhilaration and poignancy. Perhaps the finest aspect of athletic competition of this magnitude is that we are able to share in the lives of these athletes as they experience their moment of supreme accomplishment. The overall level of achievement by the American athletes was truly exemplary. The total number of medals won by American athletes almost doubled the output at the 1988 winter games at Calgary, and nearly eclipsed the all-time record of 12 medals won by Americans in 1932 and 1980, both in Lake Placid, NY.

Among this group of outstanding young Americans, I would like to single out the performances of seven Californians who repeatedly represented themselves, their families, and their country in a distinguished and dignified manner. In each of their events, they thrilled us all, demonstrating a vast array of skills ranging from the grace and beauty of figure skating to the raw speed and power of the luge.

Most people expect Californians to excel at surfboards and sunbathing.

However Bill Taveres and Bonny Warner demonstrated the diversity of talent that comes from California in what may be an un-California event: the luge. Though the luge is an event unfamiliar to most Americans, all who witnessed these courageous individuals careening down an icy tract on a sled at speeds approaching 60 miles per hour cannot help but stand in awe of them. In recent years, American lugers have made great strides in improving their standing in world competitions, and, with individuals like Bonny and Bill serving as the backbone of our team, continued future success is undoubtedly on the horizon.

Natasha Kuchiki, Todd Sand, and Scott Wedland are competitors in arguably the most graceful and beautiful event in the games, pairs figure skating. These three skaters, with their respective partners, showed an extraordinary amount of teamwork and dexterity in performing their intricate routines.

Christopher Bowman demonstrates that skating is also athleticism and star-quality showmanship. In finishing a strong fourth, Christopher certainly lived up to his nickname "Bowman the Showman." In true Hollywood fashion, he rallied back from his original program to bring the capacity crowd to its feet by performing easily one of the strongest freeskates of the competition.

And finally, it is with great pride that I pay tribute to Californian Kristi Yamaguchi. Her gold medal performance in the marquee event of the entire Olympic competition was a triumph of American achievement in Albertville. In winning the gold, Kristi has returned the United States to its position of prominence in the wondrous sport of women's figure skating. She has captured the crown jewel of figure skating, and certainly the hearts of all Americans.

With the next winter games in Lillehammer, Norway only 2 years away, many of these same athletes will again have the opportunity to represent the United States in Olympic competition. Judging by the strength of these performances, as well as the overall depth of athletes training in our USOC facilities, America will once again present a formidable team in Lilihammer in 1994. We look forward to living and witnessing the Olympic spirit of competition and the drive to excellence that brings the world together in peace and friendship.

UNANIMOUS CONSENT AGREEMENT

JOINT REFERRAL OF THE NOMINATION OF A MILITARY OFFICER TO BE DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that during the 102d Congress, any nomination of a military officer to be the Deputy Director of Central Intelligence that includes a nomination that the officer, while so serving, shall have the rank of lieutenant general, vice admiral, general, or admiral, as the case may be, shall be referred jointly to the Committee on Armed Service and the Senate Select Committee on Intelligence; and that when the Senate considers this matter, separate votes occur on the nomination to be Deputy Director of Central Intelligence and the nomination to have a particular military rank while serving in the position of Deputy Director of Central Intelligence.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, it is my understanding that the President soon may nominate a military officer to serve as the Deputy Director of Central Intelligence, and that the officer also will be nominated to have a 3- or 4-star rank while so serving. Such a nomination would involve the jurisdictional interests of both the Armed Services Committee and the Senate Select Committee on Intelligence. These committees have agreed that any such nomination should be treated in the same manner as the nomination of Adm. Bobby Inman to be the Deputy Director in 1981. At that time, the nomination was referred jointly to the Committee on Armed Services and the Senate Select Committee on Intelligence. After both committees reported the nomination, the Senate voted separately on the nomination of Admiral Inman to have the military rank of admiral while serving as the Deputy Director of Central Intelligence, and on the nomination of Admiral Inman to serve as the Deputy Director of Central Intelligence.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of January 3, 1991, the Secretary of the Senate, on February 21, 1992, during the recess of the Senate, received a message from the President of the United States transmitting a nomination.

(The nomination received on February 21, 1992, is printed in today's RECORD at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON ALASKA'S MINERAL RESOURCES—MESSAGE FROM THE PRESIDENT—PM 110

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

I transmit herewith the 1991 Annual Report on Alaska's Mineral Resources, pursuant to section 1011 of the Alaska National Interest Lands Conservation Act (Public Law 96–487; 16 U.S.C. 3151). This report, containing pertinent public information relating to minerals in Alaska, was gathered by the U.S. Geological Survey, the Bureau of Mines, and other Federal agencies. This report is significant because of the importance of the mineral and energy resources of Alaska to the future well-being of the Nation.

GEORGE BUSH.

THE WHITE HOUSE, *February 25, 1992.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 4:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 355. An act to provide emergency drought relief to the Reclamation States, and for other purposes;

H.R. 476. An act to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes;

H.R. 543. An act to establish the Manzanar National Historic Site in the State of California, and for other purposes; and

H.R. 3866. An act to provide for the designation of the Flower Garden Banks National Marine Sanctuary.

The enrolled bills were subsequently signed by President pro tempore [Mr. BYRD].

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2659. A communication from the Comptroller General of the United States, transmitting, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, a report entitled "Budget Issues: Compliance Report required by the Budget Enforcement Act of 1990"; referred jointly to the Committee on Appropriations, and to the Committee on the Budget.

EC-2660. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 37 and title 10, United States Code, to prohibit transporters from asserting liens on personal property of members of the armed forces while it is being transported at Government expense; to the Committee on Armed Services.

EC-2661. A communication from the Assistant Secretary of Defense (Force Management and Personnel), transmitting, pursuant to law, a report regarding the Department's Fiscal Year 1993 manpower request; to the Committee on Armed Services.

EC-2662. A communication from the Secretary of Energy, transmitting, pursuant to law, an annual report concerning the activities of Department of Energy with regard to recommendations received from the Defense Nuclear Facilities Safety Board for calendar year 1991; to the Committee on Armed Services.

EC-2663. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a Presidential Determination No. 92-11 relating to Export-Import Bank authority to operate in Estonia, Latvia, and Lithuania; to the Committee on Banking, Housing and Urban Affairs.

EC-2664. A communication from the Secretary of the Department of Housing and Urban Development, transmitting, pursuant to law, a report listing and describing the various research activities, studies, testing and demonstration programs relating to the mission of the Department that were completed during Fiscal Year 1991 or underway at the end of the fiscal year; to the Committee on Banking, Housing and Urban Affairs.

EC-2665. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-2666. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-2667. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, a report on information regarding the new Section 37 of the Consumer Product Safety Act; to the Committee on Commerce, Science and Transportation.

EC-2668. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "Annual Energy Outlook 1992"; to the Committee on Energy and Natural Resources.

EC-2669. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting a draft of proposed legislation to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1993 and for other purposes; to the Committee on Environment and Public Works.

EC-2670. A communication from the Chairman of the Cultural Property Advisory Committee, United States Information Agency, transmitting, pursuant to law, a report recommending that the United States extend the emergency import ban on pre-Hispanic artifacts of El Salvador's Cara Sucia Archaeological Region for an additional three years; to the Committee on Finance.

EC-2671. A communication from the United States Trade Representative, Executive Office of the President, transmitting, a draft of proposed legislation to authorize appropriations for fiscal years 1993 and 1994 for the Office of the United States Trade Representative; to the Committee on Finance.

EC-2672. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, an annual report on the operation of the Enterprise for the Americas Facility for fiscal year 1991; to the Committee on Foreign Relations.

EC-2673. A communication from the Acting Director of the United States Information Agency, transmitting, pursuant to law, a follow-up report entitled "Report on Presidential Advisory Commission Recommendations"; to the Committee on Foreign Relations.

EC-2674. A communication from the Chairman, Vice-Chairman, and Member of the United States Merit Systems Protection Board, transmitting, pursuant to law, the annual report reviewing significant activities of the Board during Fiscal Year 1991; to the Committee on Governmental Affairs.

EC-2675. A communication from the Co-chairman of the Department of Education, transmitting, pursuant to law, the final report of the Task Force entitled "Indian Nations at Risk: An Educational Strategy for Action"; to the Select Committee on Indian Affairs.

EC-2676. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report on a proposed settlement to resolve the problem of damages caused by high ground water to lands of the Pueblo de Cochiti; to the Select Committee on Indian Affairs.

EC-2677. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation to amend the Voting Rights Act of 1965 to extend the minority language provision, and for other purposes; to the Committee on the Judiciary.

EC-2678. A communication from the Attorney General of the United States, transmitting, pursuant to law, a notice of a delay in the effective date the notice-related provisions contained in subsections of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-2679. A communication from the Executive Secretary of the National Security Council, transmitting, pursuant to law, the annual Freedom of Information Act report of the Council for the period January 1, 1991, through December 31, 1991; to the Committee on the Judiciary.

EC-2680. A communication from the Secretary of Education, transmitting, pursuant to law, copies of the final reports from the Department of Education advisory committees; to the Committee on Labor and Human Resources.

EC-2681. A communication from the Chairman of the National Center for Education Statistics, Office of Educational Research and Improvement, Department of Education, transmitting, pursuant to law, a report on the quality of the Department's policy-relevant education indicators produced by the National Center for Education Statistics for fiscal year 1991; to the Committee on Labor and Human Resources.

EC-2682. A communication from the Chairman of the Intergovernmental Advisory Council on Education, Department of Education, transmitting, pursuant to law, a report on the Council's policy findings and recommendations; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 1942. A bill to provide for procedures for the review of Federal department and agency regulations, and for other purposes (Rept. No. 102-256).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SASSER (for himself, Mr. BYRD, Mr. MITCHELL, Mr. BENTSEN, Mr. SIMON, Mr. SARBANES, Mr. FORD, Mr. BIDEN, Mr. BUMPERS, Mr. BURDICK, Mr. CRANSTON, Mr. JOHNSTON, Mr. KENNEDY, Mr. LEAHY, Mr. PELL, Mr. RIEGLE, Mr. LAUTENBERG, Mr. SANFORD, Mr. WIRTH, Mr. FOWLER, Mr. CONRAD, Mr. DECONCINI, Mr. HARKIN, Mr. REID, Mr. ADAMS, Mr. KERREY, Mr. AKAKA, Mr. BREAUX, Mr. DASCHLE, Mr. DIXON, Mr. KERRY, Mr. KOHL, Mr. METZENBAUM, Mr. PRYOR, Mr. ROCKEFELLER, Mr. WELLSTONE, Mr. WOFFORD, Mr. HATFIELD, Mr. BAUCUS, Mr. BRADLEY, Mr. BRYAN, Mr. GRAHAM, Ms. MIKULSKI, and Mr. MOYNIHAN):

S. 2250. A bill to allow rational choice between defense and domestic discretionary spending; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977.

By Mr. JOHNSTON:

S. 2251. A bill to suspend temporarily the duty on 2-Hydroxy-4-Methoxy Benzophenone Sulfonic Acid; to the Committee on Finance.

S. 2252. A bill to suspend temporarily the duty on a-Isopropyl-a (N-methyl-N-homoveratryl)-g-aminopropyl-3, 4-Dimethoxyphenyl-acetonitril-hydrochloride; to the Committee on Finance.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 2253. A bill to designate the building located at 20 South Montgomery in Trenton, New Jersey, as the "Arthur J. Holland United States Post Office Building."; to the Committee on Governmental Affairs.

By Mr. MCCAIN (for himself, Mr. INOUYE, and Mr. DOMENICI):

S. 2254. A bill to provide tax incentives for businesses locating on Indian reservations, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. BRADLEY, Mr. SIMON, Mr. DURENBERGER, Mr. BINGAMAN, and Mr. FOWLER):

S. 2255. A bill to amend part D of title IV of the Higher Education Act of 1965 to provide for income dependent education assistance; to the Committee on Labor and Human Resources.

By Mr. SIMPSON (for himself, Mr. METZENBAUM, and Mr. LIEBERMAN):

S. 2256. A bill to amend the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", enacted July 5, 1946 (commonly known as the Lanham Act), to require certain disclosures relating to materially altered films; to the Committee on the Judiciary.

By Mr. BENTSEN (for himself and Mr. ROCKEFELLER):

S. 2257. A bill to amend the Social Security Act to extend the terms of service of the members of the National Commission on Children, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MITCHELL (for Mr. KERREY (for himself, Mr. KENNEDY, and Mr. DASCHLE)):

S. 2258. A bill to establish an Education Capital Fund to assist local systemic reform initiatives, and for other purposes; to the Committee on Finance.

By Mr. BOREN (for himself, Mr. NICKLES, and Mr. WALLOP):

S. 2259. A bill to amend the Internal Revenue Code of 1986 to provide incentives for energy development, and for other purposes; to the Committee on Finance.

By Mr. BROWN (for himself and Mr. WIRTH):

S. 2260. A bill to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal in Colorado to the Secretary of the Interior for the purpose of establishing a national wildlife refuge, and for other purposes; to the Committee on Armed Services.

By Mr. COCHRAN:

S.J. Res. 260. A joint resolution designating the week of October 18, 1992, through October 24, 1992, as "National School Bus Safety Week"; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. AKAKA, Mr. GRAHAM, and Mr. INOUYE):

S.J. Res. 261. A joint resolution to designate April 9, 1992, as a "Day of Filipino World War II Veterans"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRASSLEY:

S. Res. 261. A resolution to amend rule XXIV of the Standing Rules of the Senate to limit the length of service of Senators on congressional committees; to the Committee on Rules and Administration.

By Mr. DODD:

S. Con. Res. 94. A concurrent resolution urging the Government of the United Kingdom to address continuing human rights violations in Northern Ireland and to seek the initiation of talks among the parties to the conflict in Northern Ireland; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SASSER (for himself, Mr. BYRD, Mr. MITCHELL, Mr. BENTSEN, Mr. SIMON, Mr. SARBANES, Mr. FORD, Mr. BIDEN, Mr. BUMPERS, Mr. BURDICK, Mr. CRANSTON, Mr. JOHNSTON, Mr. KENNEDY, Mr. LEAHY, Mr. PELL, Mr. RIEGLE, Mr. LAUTENBERG, Mr. SANFORD, Mr. WIRTH, Mr. FOWLER, Mr. CONRAD, Mr. DECONCINI, Mr. HARKIN, Mr. REID, Mr. ADAMS, Mr. KERREY, Mr. AKAKA, Mr. BREAUX, Mr. DASCHLE, Mr. DIXON, Mr. KERRY, Mr. KOHL, Mr. METZENBAUM, Mr. PRYOR, Mr. ROCKEFELLER, Mr. WELLSTONE, Mr. WOFFORD Mr. HATFIELD, Mr. BAUCUS, Mr. BRADLEY, Mr. BRYAN, Mr. GRAHAM, Mr. MIKULSKI, and Mr. MOYNIHAN):

S. 2250. A bill to allow rational choice between defense and domestic discretionary spending; pursuant to the order of April 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

APPROPRIATIONS CATEGORY REFORM ACT

Mr. SASSER. Mr. President, I rise today to introduce a measure that some may consider technical in nature, although I would submit its effect on the prosperity of our Nation will be anything but technical over the next few years.

It is a fundamental measure which will allow this country to build again. It will change our budget agreement to allow transfers between defense spending on the one hand and domestic spending on the other.

In doing so, it will allow this Nation to finally and tangibly begin to realize the rewards of peace.

The cold war is over, and as the President said in his State of the Union Address: "By the grace of God, we won."

Mr. President, I am positive that God's grace was in the equation, but I also know that we won because the American people were willing to make sacrifices over 45 years that no other peoples of this world were willing to make. We won with the blood and with the treasure of two generations. We won after consistently setting aside for military expenditures in far greater proportions of our national wealth and gross domestic product than did any of our fellow nations in the free world.

We won, because we fought two major wars, and we carried the burden of the long twilight struggle for almost half a century.

For the past 2 years, we have witnessed the crumbling of the Soviet bloc. It is no more. It is quarreling within. The people of the old Soviet Union grew weary of their own forced deprivation. The economic structure, the power of the old Soviet Union collapsed. A case can be made that it collapsed in the name of paying for a massive military machine that the economy simply could not support. The people would not tolerate the deprivation to fuel that military machine any longer.

Meanwhile, our economic competitors have waxed wealthy and prosperous under the luxury of the defense umbrella furnished by the people of the United States. So the lesson is not difficult. It is there for all who wish to see.

We need a measured but decisive conversion to peacetime economic strength. We must act forcefully. This Nation cannot afford to wait any longer. In the 1980's, Japan invested 6 percent of its gross domestic product in building its infrastructure. In the same period, over the Reagan-Bush years, the United States invested .03 percent in its infrastructure. That is .03 percent compared to the Japanese investment of 6 percent on roads, bridges, rail beds, wastewater treatment plants—all of the things that are necessary for a modern productive economy and society.

In other words, the Japanese invested a 19-times larger share of their national economy over the 1980's in infrastructure than we did right here in the United States.

The distinguished President pro tempore of the Senate, sitting in the Chair today, appeared before the Senate Budget Committee on February 5, and in an eloquent and highly informative statement, and in testimony that I found dramatic and compelling, as did my colleagues on the committee, said the following:

> This Nation cannot expect to be able to compete in the coming decades if we fall further and further behind in our public investments versus other nations.

I say to my colleagues it is time to heed the wisdom of the President pro tempore in that regard.

So today, I am introducing legislation that will adjust one small portion of our 5-year budget agreement. It would simply bring down the wall that prevents transfers between defense spending on the one hand and domestic spending on the other. The bill would allow Congress to pay for needed investments in the country and in our own people with reductions in military spending in fiscal year 1993.

It should be clear to all of us that the caps established by our budget agreement would force a $7 billion shortfall in funding for domestic priorities in 1993. Under the present arrangement, that shortfall could not be made up by defense spending. We could not even use the $5 billion in military savings that the President proposes to fill this hole in the urgent domestic needs of our country.

I say to my colleagues, I have been a staunch defender of the budget summit agreement. Three times last year: on January 31, on May 9, and again on September 19, I urged my fellow Senators to turn down opportunities to unravel the budget summit agreement. Twice: on April 25 and again on September 10, I raised a point of order against amendments that would have violated the budget summit agreement. So I am not proposing today that we unravel that agreement.

To my colleagues who are concerned with deficit reduction, let me say that I stand by the pay-as-you-go procedure that says we cannot increase entitlements or we cannot cut taxes without either paying for them or declaring an emergency.

The legislation I am introducing today will not increase the deficit by one penny. It will not expand the size of appropriated spending in the budget. We are merely talking about allowing shifts between military spending and domestic spending categories.

In this time of recession—and make no mistake, this is a very severe recession; it has gone on now for 19 months, the longest recession since the Second World War; indeed, the longest recession since the Great Depression of the early 1930's—in this time of recession our country needs more than ever to make investments right here at home.

The legislation I am introducing would not prejudice that decision. My bill would not create more spending. It simply would allow this body, the elected representatives of the American people, to conduct a legitimate debate over how to invest the peace dividend, a debate that would not be colored by the requirements of a supermajority.

I add that this measure might not be as urgent if the administration, of its own accord, had seized the promise of this moment—if it had proposed a military budget that responds to what is coming in the future rather than what is passing away.

But sadly, the administration has not done that.

The administration's defense proposal is advertised to yield $50 billion in savings. On closer examination, we find that $6 to $7 billion of that $50 billion is in a 1992 rescission package. So when we look to the future, the go-forward savings package actually amounts to only $44 billion in budget authority over 5 years. That translates to about $27 billion outlays over 5 years—about $4 billion in fiscal year 1993.

Compare that, if you will, to the $1.4 trillion the administration proposes to spend over the next 5 years on the military and you can see that these savings pale to insignificance when compared to the military spending that is proposed. This administration—let me repeat—proposes to reduce military spending by $27 billion in outlays over the next 5 years while spending in the same period of time over $1.4 trillion for the military.

They are giving us a schedule that would reduce Pentagon spending by about 4 percent a year. They were proposing to reduce it by 3 percent a year before the collapse of the old Soviet Union. So the reward for peace is a modest silver, indeed.

The President's proposed build-down would end in 1997 with a defense budget of $251 billion in constant 1993 dollars. Compare that to 1979 when the Pentagon spent $246 billion in constant 1993 dollars.

So what we are being asked to approve is a defense budget in constant dollars that will be higher in 1997 than it was in 1979. Those are in constant dollars, I tell my colleagues.

Bear in mind that in 1979 the Carter administration had already embarked on a defense buildup, increasing defense spending by 3 percent a year in real dollars already over a period of 2 years, if memory serves me correctly. And bear in mind that in 1979 the evil empire was intact, and the massive military machine of the old Soviet Union and the Warsaw Pact occupied a substantial portion of the face of the Earth and the oceans of this globe.

So, what we are seeing is 7 years after the fall of the Berlin Wall, 5 years after the disintegration of the Soviet Union, we will be spending more in real terms than we did at the beginning of the accelerated military buildup.

Recall that at the foundation of our current military planning was the so-called base force concept which was developed in 1990.

Let us contrast for the moment the world as it was in 1990 and the strategic realities of today.

Slightly over a year and a half later when the Pentagon included 12 carrier battle groups and 448 combatant ships in our so-called base force, the Soviet Navy was extraordinarily large with 240 surface warships operating daily in every international body of water in the world.

Today, the entire Soviet fleet is in port or drydocked. There is no fuel to run the vessels. There is no morale among the Soviet Navy or the old Soviet Navy. They do not even know who owns the ships. Russia and the Ukraine are fighting over the so-called Black Sea Fleet.

When the Pentagon set our current base force structure, Soviet missile factories were running full bore. I remember our colleagues getting on the floor and saying they are still building SS-21's. They were turning out the largest, most destructive missiles of the world, missiles like the SS-18 in 1990. But today the SS-18 factory in the Ukraine is busy hammering rocket booster shells into trolley buses.

So that is the state of our former enemy. That is the deterioration in military terms that has occurred just in the past year and a half.

Nevertheless, this administration has staked out a defense number that is really still at cold war levels. And the President says, "This deep, no deeper."

I think we ought to recognize the consequences of that inflexible, and I say unrealistic, position. If it, indeed, is as low as we can go, we are putting a very low ceiling indeed on the kind of investment we can make in our own country and in our own people.

If the peace dividend is really as negligible as that suggests, the administration is essentially telling us we are not going to have the kinds of roads and bridges that they have in Japan and Germany or France. We are not going to have the new schools we need in the United States of America. We are going to continue the decline in education vis-a-vis the other industrialized and advanced nations of the world.

We are not going to repair our infrastructure. We are not going to rebuild. We are not going to realize the things that peace promises, the things for which the American people sacrificed for almost a half a century.

Mr. President, today on behalf of the distinguished President pro tempore of the United States Senate, on behalf of the majority leader, on behalf of the distinguished chairman of the Senate Finance Committee, Mr. BENTSEN, on behalf of the Senator from Illinois, Mr. SIMON, on behalf of the chairman of the Joint Economic Committee, Mr. SARBANES of Maryland, on behalf of a total of 37 Senators today, I send the bill to the desk and ask for its appropriate referral and ask unanimous consent that the bill—and a section-by-section analysis of the bill—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Appropriations Category Reform Act of 1992".

SEC. 2. AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

Section 601(a)(2)(C) of the Congressional Budget Act of 1974 is amended to read as follows:

"(C) with respect to fiscal year 1993—

"(i) for the international category, $21,499,000,000 in new budget authority and $20,010,000,000 in outlays; and

"(ii) for the national category, $493,570,000,000 in new budget authority and $521,259,000,000 in outlays,".

SEC. 3. AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1958.

The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 250(c)(4)(A) by striking "1991, 1992, and 1993," and inserting "1991 and 1992,";

(2) in section 250(c)(4)—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph (B);

"(B) For fiscal year 1993—

"(i) the international category, as defined in subparagraph (A) of this paragraph; and

"(ii) the national category, which shall consist of all discretionary appropriations other than those in the international category."; and

(3) in section 251(b)(2)(F), by striking "1991, 1992, of 1993" and inserting "1991 of 1992, and not to exceed $5,000,000,000 in the national

category or $1,500,000,000 in the international category in fiscal year 1993,".

SECTION-BY-SECTION ANALYSIS

CURRENT LAW

The Budget Enforcement Act amended section 601 of the Congressional Budget Act to create a series of caps to reduce appropriations. Section 601 sets forth caps on both budget authority and outlays. For fiscal years 1991, 1992, and 1993, the law sets forth caps on three categories: defense, international, and domestic. The law sets forth caps on only the total of all appropriations for 1994 and 1995. Whereas in prior years, the budget resolution gave the Appropriations Committee an overall allocation of budget authority and outlays, for fiscal years 1992 and 1993, six more numbers (budget authority and outlays for each of three caps) constrain appropriations.

If Congress and the President enact appropriations that exceed any of these six caps, section 251 of Gramm-Rudman-Hollings requires the President to order a sequester in only the category that appropriations breached. The Office of Management and Budget must estimate the cost of any appropriations bill within 5 days after its enactment, and that estimate controls the process. The sequester's timing depends on when the spending occurs: For regular appropriations bills enacted before Congress adjourns to end a session, the sequester occurs 15 days after the end of session. For spring supplemental appropriations bills (that is, any enacted after starting a new session but before July 1), the sequester occurs 15 days after enactment of the bill. Finally, for supplemental appropriations enacted after June 30, the law lowers the target for the next year. Consequently, either appropriations bills for the next fiscal year spend at the lower level, or a sequester occurs 15 days after the end of session under the first rule.

Points of order also enforce the caps in budget resolutions and appropriations bills in the Senate. These points of order require 60 Senators to waive.

The law provides for several adjustments to the caps. Some adjustments simply provide technical consistency. Some adjustments reflect policy decisions made at the summit. Some adjustments make provision for estimating differences between the Office of Management and Budget and the Congressional Budget Office; the law calls these "allowances." Finally, the caps adjust for what the President and the Congress both agree to designate as "emergencies."

THE PROPOSED CHANGE

Section 1 states the short title of the bill: "The Appropriations Category Reform Act of 1992."

Section 2 amends section 601 of the Congressional Budget Act to collapse the defense and domestic caps for 1993 into one cap, relabelled the "national" cap. The legislation proposes to set the cap equal to the sum of the two existing caps. The proposed amounts—$493.570 billion in budget authority and $521.259 billion in outlays—correspond exactly to the sum of the two caps under existing law, as adjusted by the President in his budget (on pages 5 and 6 of part Four of the February 18 supplement to the budget).

Section 3 makes conforming changes to Gramm-Rudman-Hollings. Two conforming changes bring the definition of "category" into line with the proposed change in the number of caps for fiscal year 1993. The remaining conforming change makes clear that the special outlay allowance provided under current law will continue to be available. The proposal ensures that the amended law will make available exactly the same amount of money in the aggregate (both in budget authority and in outlays) as would the existing law.

The bill does not set new levels for defense and domestic spending. It merely would allow the Senate to debate shifts between the defense and domestic categories unhindered by a point of order requiring 60 votes to waive. The bill does not increase discretionary spending. Congress would be just as free to reduce the deficit as under existing law. Finally, the bill does not address the pay-as-you-go requirements for entitlements and taxes. All the features of existing law would continue for those fiscal decisions.

Mr. BENTSEN. Mr. President, I want to congratulate the distinguished chairman of the Budget Committee. What he is doing is dealing with reality. When we set out that budget agreement in 1990, there were two great superpowers, and a real chance of enormous military confrontation. Now there is only one, and we are it.

Our real competition, as we look at this next decade, is much more likely to be an economic competition and confrontation rather than a military one. This is living up to reality and trying to do those things we need to do to make this country more productive, and to preserve and enlarge the infrastructure of the country. I congratulate Senator SASSER for it.

Mr. SIMON. Mr. President, I am pleased to be an original cosponsor of legislation which the chairman of the Budget Committee, Senator SASSER, is introducing today, which would make changes in the Budget Enforcement Act, to allow transfers from defense to domestic spending.

There are a number of important issues which the Budget Committee and the Congress will have to address early this year, in order to make decisions about our Nation's economic well-being for years to come. We will need to work hard to develop consensus on divisive issues, like tax cuts, spending priorities, and the best way to help the economy out of recession. It won't be easy to reach an agreement, but it's absolutely imperative that we do. The most pressing issue facing us today is how to develop a strategy that can restore our economic preeminence and assure a better standard of living for our children, while responding to the urgent domestic needs our country faces after more than a decade of neglect. In order to address our country's long-term economic health, and in order to respond to a new world order, I believe we must change the 1990 budget agreement, to restore to Congress its traditional role of setting our Nation's budget priorities.

The 1990 budget summit agreement restricted the ability of Congress to make basic decisions about our Nation's spending priorities. The overall spending levels which govern our budget decisions today were agreed upon in October 1990. Those priorities did not make sense in 1990, and they make even less sense today.

The 1990 budget summit agreement created three distinct discretionary spending categories—domestic, defense, and international. A spending cap was placed on each of these categories through fiscal year 1993. Current law requires a 60-vote supermajority to reallocate outlays and budget authority from one category to another through fiscal year 1993. And if a 60-vote supermajority is obtained, an across-the-board sequester automatically occurs in the category which is increased.

It is time for Congress to make changes in the 1990 budget agreement for the coming fiscal year, to allow transfers from defense to the domestic spending category without the threat of an automatic sequester.

Even before the 1990 summit agreement became law, I worked to change the "firewalls" which separate domestic discretionary spending into three categories. I had serious concerns about the changes that Congress agreed to concerning discretionary spending in the budget summit agreement. On October 18, 1990, the night the Senate passed its version of the 1990 budget reconciliation bill, I, along with my colleague from New Jersey, Senator BRADLEY, offered an amendment, which was adopted, to delete the requirement for a 60-vote majority in order to transfer spending among the three categories. Unfortunately, my amendment was taken out in the House-Senate conference on that legislation. Early in 1991 I introduced legislation, S. 644, to make those same changes in the Budget Enforcement Act. I finally believe it is time for the Congress to enact similar legislation.

It is also time for Congress to recognize that we must set new priorities for our country. One of those priorities must be to get the Federal deficit under control. In fiscal year 1993, our Nation will spend almost $316 billion in gross interest on the public debt. Interest on the debt will surpass what we spend for our national defense for the first time in our history. Our Nation is spending more on its past than on its future.

Another of our priorities for this year must be to direct more resources for our domestic needs. Our cities and rural areas are deteriorating, and the recession is forcing cities and States to make drastic cutbacks in education, housing, health care, and aid to the needy.

We need a strategy for a high-wage economy that will restore our overall economic competitiveness, and improve the standard of living for all our citizens, not just the wealthy. This strategy must include significant new investments in education, job training, and infrastructure.

We should be investing significantly more resources in education programs—from beginning to end. Dollars spent on early childhood education are dollars well spent. We have made significant progress in expanding Head Start, but we are still only serving about 40 percent of the eligible population. Every $1 spent on early childhood education saves the Government $4.75 for later special education, welfare, and criminal justice costs. We need to make the commitment that Head Start will be able to serve all eligible 3-, 4-, and 5-year-olds by 1994. In addition, the buying power of the Pell grant has been cut almost in half over the past decade, and now the administration is proposing to cut 400,000 students out of the program. We need to expand grant aid to students, to ensure equal opportunity for those from lower and middle income families.

We should also take a look at the GI bill. The GI bill was originally conceived as a gift to veterans, but it turned out to be a tremendous investment in our future. If you take the old GI bill and index it for inflation, it would be worth over $8,100 today. Yet the maximum Pell grant is only $2,400.

As we approach the next century, the only way to ensure well-paying, quality jobs is to have the world's best-educated and best-trained work force and the best infrastructure base for companies to work within. We must make America a place where international businesses want to invest and hire people and where domestic companies will remain.

We can begin to achieve these two goals by cutting defense spending beyond the levels proposed in the President's fiscal year 1993 budget. Some of my colleagues on the Senate Budget Committee will remember my perseverance last year in offering amendments to the fiscal year 1992 budget resolution to reduce the 050 Defense Function, and to use most of the savings to reduce the deficit. I offered four amendments in this committee last year to reduce defense spending by 10, 5, 2, and 1 percent. I also offered two amendments to reduce defense spending when the fiscal year 1992 budget resolution was debated by the full Senate. Last year, my efforts to reduce the deficit and to reduce defense spending were unsuccessful. We simply must do better this year.

I was disappointed with the President's fiscal year 1993 budget. The President announced in his State of the Union Message that the cold war is over. But his budget for fiscal year 1993 does not reflect this reality. In the area of national defense, this budget only begins the long-overdue process of restructuring our military forces. Substantial savings can be made, but only if we acknowledge the reality of a collapsed Soviet Union and a radically reduced threat to our national security. We still have challenges, and there remain threats, but a new age has clearly dawned. The administration's budget simply does not reflect this new age. We can do much, much better than a nominal cut of 3 percent in fiscal years 1992 and 1993.

When World War II ended, the defense budget declined dramatically. That made good sense. Now let's compare what we did then with today. Last year, before the cold war officially ended with the collapse of the coup plotters in August 1991, the Pentagon proposed fiscal year 1997 defense spending at $11.5 billion more than the fiscal year 1992 level, 4 percent higher. But now that the cold war is officially and indisputably over, the President is still planning nominal growth, with the new fiscal year 1997 level $6.8 billion more than the fiscal year 1992 level—2.3 percent higher. We are still talking about defense budgets in the range of $285 to $290 billion.

I see no reason why we can't cut more out of defense in fiscal year 1993. A budget authority level of about $268 billion, about $13 billion below the request, is a prudent motion reflecting the new realities in international affairs.

The $50 billion in budget authority cuts trumpeted by the administration—only $27.4 billion in outlays—over the 5-year period are cuts from the adjusted baseline. Let's not kid ourselves: we will not make much of an impact in controlling the deficit under the Bush budget. It's a case of one unrealistic plan—this current proposal—building on a previously unrealistic plan—the 1991 proposal.

Our conventional force posture is still overwhelmingly geared to fight a massive Soviet tank onslaught in Western Europe—yet the number of Soviet ground force divisions will be slashed by two-thirds or more during this decade. And the President's response is to offer us the same level of reductions in United States forces in Europe as planned before the Soviet Union disintegrated.

Even more incredible, the cuts in military personnel to a level of 1.6 million on active duty are the same in both the before and after budgets. This ought to be called the zero percent solution. Surely with the collapse of the U.S.S.R. and the Warsaw Pact, we can reduce well below this sacrosanct figure of 1.6 million. Reducing by another 300,000 troops in this 5-year period will save another $50 billion. In my view, we can safely cut personnel much further than the President proposes.

Let's look at some specifics. We are buying 4 new B-2 bombers this year, at a cost of another $4 billion, plus another $1 billion from fiscal year 1992 that is currently fenced for a fifth bomber, bringing the total buy to 20. Why not end the program at 15, as Senators PAT LEAHY and JIM SASSER and many of us have been urging, instead of the new Bush level of 20? How much extra capability do we get with five additional bombers?

SDI is getting a 30-percent increase, even though the Soviet long-range missile threat is rapidly dwindling. If SDI gets the requested amount this year, it will have received more than a 70 percent hike in just 2 years. If we are really concerned about the proliferation of missiles and weapons of mass destruction, then let's take some money from SDI and spend it on the International Atomic Energy Agency, to aggressively enforce and police the nonproliferation regime.

Finally, there are numerous areas where we ought to look for defense savings that we're not looking at today. Why are we spending close to $900 million in fiscal year 1993 for a new nuclear-powered aircraft carrier—the CVN-76—when most observers acknowledge we'll be paring back the number of carriers in the fleet? Why are we buying 21 new D-5 submarine-launched ballistic missiles—168 new strategic nuclear warheads—at a cost of $1 billion when the President has proposed to cut the number of submarine missile warheads by one-third? Why are we spending about $7.5 billion for nuclear weapons research and development, of which nearly $500 million will go toward nuclear weapons testing? Why not seize the moment to negotiate a Comprehensive Test Ban Treaty with the world's nuclear powers?

In September of last year, after the failed coup in the former Soviet Union, I wrote to President Bush, calling on him to reverse the nuclear arms race and to take advantage of a momentous opportunity to reorder our Nation's budget priorities. At that time, I called for a new budget summit between the Bush administration and Congress. In September of last year, the Senate passed a Sense of the Senate resolution which stated that the President and the leadership in Congress needed to consider establishing new priorities, in light of the events in the Soviet Union.

And again, today, we consider the same issue. Can our Nation continue to spend $281 billion for the defense of our Nation from an outside enemy, while our country decays from within?

I urge my colleagues to carefully consider these issues. It's imperative that we make changes in the 1990 budget summit agreement that would allow us to consider the need to cut defense spending beyond the President's fiscal year 1993 budget request, in order to reallocate the savings to important domestic needs, including a reduction in the Federal budget deficit. These policies would improve the long-term economic prospects for our country, and assure a better future for our children. I believe this is the very least we ought to do.

Mr. SARBANES. Mr. President, I am pleased to join the distinguished chairman of the Budget Committee, Senator JIM SASSER, in introducing legislation to bring down the Budget Enforcement Act's wall which rigidly separates and isolates domestic and defense spending categories, thereby artificially limiting the debate on national priorities.

On January 3, 1992, Senator SASSER and I put forward a comprehensive program for recovery and growth. To improve economic growth over the longer term, we called for a fundamental rearrangement of budget priorities to emphasize investment in America. We believe it is possible to shift substantial resources from the military budget to fund a Marshall plan for America: public investment directed at programs that expand our country's capacity to produce and compete in the future, including infrastructure, education, worker training, and research and development. Potential reductions in military spending are anticipated to be large enough to fund not only new investments in America but also to reduce the Federal deficit. Deficit reduction, combined with new public investments, will provide a potent stimulus to investment in the private sector.

During the 1980's, national priorities shifted dramatically. Military spending increased sharply, as did interest payments on the debt used to finance these expenditures. As a result of this shift, important areas of public investment were neglected. The Joint Economic Committee issued repeated warnings that this trend would have grave implications for our Nation's future, and today some of the consequences are apparent. By even the most optimistic projections, the 1990's will be a decade of slow economic growth.

Meanwhile, our major trading partners, with whom we compete, have invested a higher percentage of GDP than we do in public investment, and have enjoyed higher rates of productivity growth, which is the key to rising wages. While approximately 2 percent of GDP is devoted to public investment in the United States, Japan is investing close to 6 percent of GDP, and Germany almost 3 percent. Since our future standard of living depends critically on the public investments we make today, this gap must be narrowed and closed.

Dramatic changes in the international scene make this change of course in economic policy possible. The perceived threat from the Soviet Union, for example, is significantly less today than it was when the budget agreement was crafted. Earlier this month, President Bush and President Yeltsin went to Camp David and declared that the cold war was over. Discussions with our former foe now focus more on markets than missiles.

While a strong military is still essential, the security challenge we face today is significantly different than the one we faced when the Budget Enforcement Act was passed. Economic diplomacy and economic security issues are playing an increasingly important role in the post-cold war environment. The legislation we are introducing today is a critical first step in recognizing this changing environment and addressing our economic security needs.

A change of course in economic policy is urgently needed, and this legislation is the first step in achieving that change. I once again want to recognize the work of Senator SASSER on this important matter, and I look forward to working with him to reinvigorate our national economy.

Mr. ADAMS. Mr. President, I am pleased to be a cosponsor of Senator SASSER'S legislation to bring down the budget wall between defense and domestic spending in fiscal year 1993. The Budget Enforcement Act has worked to curb discretionary spending. But it has also bound us to the separate caps on defense, international, and domestic spending in addition to overall spending targets.

The economic and security environment facing the United States has changed completely since the Budget Enforcement Act was concluded. The Soviet Union has dissolved and in its place we find struggling democracies eager for our friendship and advice.

Here at home, four decades of cold war vigilance have left our economy unprepared for the challenges and increased competition of the 21st century. Because of the policies of the Reagan and Bush administrations, we now have some 16 million Americans unemployed or underemployed. The United States spent $12 trillion to win the cold war. Conversion of our defense industry to commercial purposes is essential if the United States is to maintain its position in the global economy of the 21st century.

Keeping the walls between defense and domestic spending in this environment would not just be irrational. It would be downright unfair to our workers and dangerous to our economic health.

I have voted several times recently to break the budget agreement so that we may reevaluate our budget priorities given the new domestic and international realities. We cannot turn our backs on the pressing need to reduce the budget deficit. But neither can we turn our backs on the real needs of our citizens.

The peace dividend is real and can provide a one-time boost to our economy and to our deficit reduction aims. But only if we shift our defense savings to meet domestic needs.

I commend Senator SASSER for taking this long-overdue step and look forward to working with him and with my colleagues in this Chamber to put the peace dividend to its most effective use.

Mr. LAUTENBERG. Mr. President, I am pleased to join as a cosponsor of this important legislation to revise the budget agreement to allow shifts of funds from defense programs to domestic initiatives.

I want to commend the distinguished chairman of the Budget Committee, Senator SASSER, for his leadership in this area. Also, I should acknowledge the work of Senator SIMON, who introduced a similar bill last year, S. 644, which I also have cosponsored.

Mr. President, I opposed the budget agreement in 1990 in part because it tied Congress' hands for 3 years, and would lead to excessive and wasteful defense spending. I was in the minority at the time. But by now it's clear that the agreement is obsolete. By blocking funding shifts between defense and domestic programs, the agreement is freezing into place the misplaced priorities of an earlier era.

Mr. President, the world was a very different place in 1990. While dramatic change was already well underway in the Soviet Union, many in the United States still feared that country, and still thought in cold war terms. Today, of course, the Soviet Union doesn't even exist. The cold war is in our past.

Yet, Mr. President, while the world around us has changed so dramatically, our budget priorities remain in a time warp. We are still spending close to $300 billion a year on defense. We still spend billions defending our European allies from a threat that most believe no longer exists. And we still are committed to a range of weapons programs that serve no useful purpose.

Meanwhile, Mr. President, our needs here at home are greater than ever. Our economy is in the longest recession since the Great Depression. Unemployment is over 7 percent. And ordinary middle-class Americans are finding it increasingly hard to pay their bills, send their kids to college, and keep their heads above water.

Mr. President, a primary reason why our economy is having trouble is that, for years, we have underinvested in our future. While our competitors have invested substantial sums in their infrastructure, and the education and training of their people, we have not. And we'll be paying the price of that neglect for decades to come.

Mr. President, we need to focus on America's needs and America's future. That's going to require us to fundamentally reshape our priorities. More specifically, it's going to require us to spend considerably less on the defense of our allies and on outdated weapons systems. And considerably more on initiatives, like infrastructure and education, that will yield long-term dividends.

Unfortunately, this kind of fundamental shift in priorities is inconsistent with the budget agreement. If allowed to stand, that agreement will lead to continued excesses and waste in the Pentagon budget, and continued underinvestment in the economic foundation of our Nation.

Mr. President, if America is going to give our children a better future, we are going to have to make some dramatic changes. Breaking down the wall between defense and domestic programs is an important and necessary first step. I again commend Senator SASSER for his leadership, and urge my colleagues to support the bill.

Mr. AKAKA. Mr. President, it is a privilege for me to join with the chairman of the Senate Budget Committee, Senator SASSER, the President pro tempore, Senator BYRD, and nearly 40 of my colleagues in cosponsoring legislation that will allow Congress to respond to the needs of the American people.

The bill that has been introduced today will tear down the barriers imposed by the Budget Enforcement Act of 1990 that separate the three categories of discretionary spending—defense, international and domestic. Enactment of this measure will allow us to turn our attention to the pressing domestic issues facing us today.

The debate before us is one of choices. Choices that will affect generations to come. Choices that will enable our children and grandchildren to compete in the global marketplace of the 21st century.

Since the end of World War II, the people of the United States have committed much-needed resources to bringing peace to our fellow citizens of the world. With the demise of the Soviet Union, the rewards for these sacrifices must now be brought home to the American people.

I have listened to the people of Hawaii who have said they want leadership in Washington—people who tell me through their letters and phone calls that what they need is responsible action by Congress to deal with the economic problems at hand; to ease the suffering of their fellow Americans and reduce the Federal deficit so that their children will prosper.

Mr. President, I believe we must stick with the budget agreement of 1990 if we are to deal effectively with the recession and the deficit. What we are introducing today does not weaken the budget agreement nor place our economic recovery at risk. Rather, the legislation would take the savings from cuts in defense spending to pay for vital domestic problems like education, breast cancer screening, job training, housing assistance, infrastructure and R&D.

We can no longer afford the deep cuts in domestic programs inflicted over the past 10 years. Too many of these essential programs are seriously underfunded and continue to be so under the President's fiscal 1993 budget proposal.

Mr. President, the buzzword of the 1990's is competitiveness; an issue that impacts squarely on our country's ability to retain its leadership position among nations. To be competitive, Mr. President, requires commitment to the well-being of all our citizens, not the privileged few. Over the last four decades, the United States has been the preeminent world power and beacon of freedom. We need to redirect the beam of hope back toward America.

I believe that our Nation has the responsibility to provide moral and economic leadership to the citizens of this great country. We cannot do so without bringing down the walls that divide the spending categories agreed to in the Budget Act.

We now face urgent domestic needs brought on by the longest recession since the great Depression of the 1930's. The needs of our citizenry are no less compelling than the need to maintain a strong national defense. The legislation introduced today neither creates more spending nor increases the deficit. What it does, however, is to allow us to invest the peace dividend realized by the end of the cold war in the future of America.

I would like to note that I have voted to waive the budget agreement on only a few occasions in order to enact programs like the extension of unemployment benefits for the millions of jobless Americans. I have also sought to shift unobligated defense spending to domestic programs—a move that parallels the bill we introduce today. My resolve to stay within the 1990 budget agreement is firm, as is my commitment to invest in the health, education and welfare of those Americans most in need during this time of shifting of world priorities.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 2253. A bill to designate the building located at 20 South Montgomery in Trenton, New Jersey, as the "Authur J. Holland United States Post Office Building"; to the Committee on Environment and Public Works.

ARTHUR J. HOLLAND UNITED STATES POST OFFICE BUILDING

• Mr. LAUTENBERG. Mr. President, I rise today, along with my colleague Senator BRADLEY, to introduce legislation to designate the new post office in downtown Trenton, NJ, for Arthur J. Holland. The late Arthur J. Holland served the city of Trenton with distinction as mayor for the better part of 30 years: from 1959 until 1966, and again from 1970 until his death in 1989. In that capacity he not only earned a reputation among his fellow Trentonians for honesty and fairness in government, but also became an outspoken advocate on behalf of the Nation's cities, for which his fellow mayors elected him president of the U.S Conference of Mayors.

Mayor Arthur J. Holland's record of exemplary public service makes him quite deserving of an honor reserved for so few Americans. Mayor Holland's terms in office were distinguished by both his dedication to the calming of urban strife, and his firm commitment to civil rights. His leadership was essential to the organization of the Urban Mayor's Association, which has become a locus for urban tax reform, the promotion of civil rights, and the resolution of the problems which plague our cities.

Arthur Holland's accomplishments on the national level, though impressive and far-reaching, did not distract the Trenton mayor from his dedication to the people who elected him, and the State he loved. Mayor Holland stood strong in his promotion of the rights of New Jersey's municipalities and the rights of New Jersey's urban citizenry.

I hope my colleagues will join me in expressing gratitude to Mayor Arthur J. Holland by passing this legislation which would name the United States Post Office in Trenton after him.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION

The building located at 20 South Montgomery in Trenton, New Jersey, is designated as the "Arthur J. Holland United States Post Office Building."

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Arthur J. Holland United States Post Office Building."•

• Mr. BRADLEY. Mr. President, I rise today with my colleague Senator LAUTENBERG to dedicate a building located in Trenton, NJ, as the "Arthur J. Holland United States Post Office Building."

As the leader of the city of Trenton for the better part of 30 years, Major Holland earned a reputation for honesty and fairness. His deep commitment to resolving the urban problems that plagued his city won him the admiration of the people he served, and his firm dedication to the civil rights movement earned him the respect of his colleagues, who elected him vice president, president, and chairman of the U.S. Conference of Mayors.

When it came to urban issues, Mayor Holland never backed down from a fight. In fact, he spent the better part of his career in the heart of the urban battleground defending the rights of his city and ensuring that his constituents were never overlooked. Because of his willingness to stand up for the rights of cities everywhere, citizens residing in urban setting throughout the

Nation owe Mayor Holland a debt of gratitude. I am pleased that Mayor Holland's efforts are being recognized through the dedication of a Trenton Post Office in his name.•

By Mr. McCAIN (for himself, Mr. INOUYE, and Mr. DOMENICI):

S. 2254. A bill to provide tax incentives for businesses locating on Indian reservations, and for other purposes; to the Committee on Finance.

INDIAN EMPLOYMENT AND INVESTMENT ACT

• Mr. McCAIN. Mr. President, for the past few months the Navajo Nation has been examining various tax incentives as a means of providing Indian tribes with an additional economic tool to aid them in strengthening their reservation economies. As a result, the Navajo Nation is proposing that an investment tax credit and an Indian employment credit that are specifically targeted to Indian reservations be included in the national economic growth package now being developed in the Finance Committee.

I rise today on behalf of myself, Senator INOUYE and Senator DOMENICI to introduce the Navajo Nation's proposal as the Indian Employment and Investment Act of 1992. In concept, the bill is substantially the same as legislation that Senator INOUYE and I have previously sponsored. I wish to commend president Zah, vice president Plummer, and members of their staff for their leadership in putting together this economic growth package for Indian tribes.

Mr. President, under the leadership of Chairman INOUYE, one of the highest priorities of the Select Committee on Indian Affairs has been to encourage the development of Indian reservation economies. Establishing this as a priority was not a difficult choice to make. Chairman INOUYE and I have traveled extensively throughout Indian country and have become all too familiar with the unacceptable social and economic conditions that characterize the majority of Indian reservations.

It is for this reason that we believe that the enactment of this legislation is an urgent necessity for Indian tribes. For too long tribes have suffered from economies unable to provide jobs and sources of income for their members. The time is long overdue for Congress to take action to stimulate the development of viable economies on Indian reservations.

The litany of social problems on many reservations is depressingly familiar. I will simply recite a few of the basic statistics. The unemployment rate on reservations is typically in the range of 40 to 50 percent and on some of the poorer reservations reaches 80 to 90 percent. The lack of jobs and economic opportunity on reservations is a major contributor to the high levels of alcoholism, high suicide rates, sense of helplessness and other deep social problems that afflict all too many tribes. The conditions on reservations often more closely resemble a Third World undeveloped nation than the mainstream economy and society of the United States.

As we all know, the reason the Congress is currently developing an economic growth package is due to our concern that the national unemployment rate is too high. Yet for many Indian tribes, 7.1 percent unemployment would be a godsend. As Senator INOUYE has stated on another occasion:

> The unemployment rate on the majority of Indian reservations is simply incomprehensible to the average American. During the heights of the Great Depression in the 1930's, unemployment averaged 25 to 30%. In 1989 the average rate in Indian country is 52%!

It is unconscionable for the Congress to allow these conditions to fester within the borders of this Nation. Moreover, we can not in good conscience call the final product a national economic growth package unless we include Indian reservations—perhaps the most disadvantaged and depressed areas of our country—as full and equal partners in the final package. There is simply no longer any alternative to taking the strong actions necessary to assist Indian tribes in improving the quality of life of their people.

I know that some in the Congress have been frustrated that earlier efforts to improve reservation conditions have not been as successful as we might have liked. But that is no excuse for inaction today. Indeed, we have not only failed to intensify our efforts but spending by the Federal Government for Indian programs fell sharply in real terms over the past 15 years. One of the largest dropoffs was precisely in the area we are discussing today, economic development. In constant 1990 dollars, BIA spending for economic development fell from $144 million in 1977 to only $36 million in 1990—a drop in real terms of 75 percent.

Senator INOUYE and I believe for several reasons that a strategy of tax incentives such as this legislation proposes is the most effective way that the Federal Government can act to stimulate reservation economic development. Tax incentives do not depend for their effectiveness on the actions of Federal bureaucracies that are often slow moving and unimaginative. The incentives are usable only by viable businesses that expect to earn some profits and hence to have tax obligations against which credits and deductions can be used to diminish their tax obligations. The Federal Government therefore does not spend anything until a real business is created on a reservation and there exist real jobs and real income generated for the benefit of reservation residents. Unlike direct spending programs, if there is no benefit, there is also no cost.

Similarly, there is a minimum of Federal spending required for studies, planning, impact analyses and all the other ways in which substantial Federal funds can be exhausted and yet no businesses, no jobs, and no real economic development are yet in sight. In all too many cases in the past, the real economic impact of direct Federal spending programs has been limited to the planning and other jobs connected to the Federal spending itself. This of course disappears, once the Federal spending is gone. No long term viable economy results. Certainly not one that can be self-sustaining.

The Federal Government has sometimes tried to direct investment into one or another specific area of business activity on reservations—tourism, for example, was a big favorite for a while. By and large, these efforts have not been successful. I believe it is better to establish some general incentives to encourage the private sector to locate on Indian reservations and then to leave it to individual, business, and tribal initiative to determine how these tax incentives will actually be put to use.

Others have come to similar conclusions. In 1985 the Office of the Secretary of the Interior convened a task force of Departmental and BIA professionals to examine ways of stimulating greater economic development on reservations. The result of this effort, "The Report of the Task Force on Indian Economic Development," recommended the enactment of legislation providing for the creation of enterprise zones on Indian reservations. The task force recommended making available tax incentives in these zones, including an employee wage and training tax credit, an investment tax credit and a full exemption from corporate taxes for income earned in the zone.

Over the years there have been a series of studies finding that the application of tax incentives to Indian reservations held much promise. In 1981, the Bureau of Indian Affairs commissioned a study by the Charles Trimble Company, which was eventually published as "Applicability of Enterprise Zones to American Indian Reservations." The study concluded that, if other preconditions were also met, enterprise zones could play a major role in stimulating economic development on reservations. More recently, a 1988 study also funded by the BIA, "American Indian Enterprise Zones: Summary of Past Initiatives and a Look to the Future," and a 1990 study sponsored by the Native American Rights Fund, "Doing Business: An Evaluation of Policy Alternatives to Encourage Private Enterprise on Indian Reservations," also found significant potential in tax incentives and other zone approaches. The special geographic, economic and other circumstances of Indian reservations require that any tax incentives be specifically tailored for Indian reservations. The remoteness of many reservations, the lack of a skilled work force, and other economic disadvantages require that a particularly strong set of tax incentives be offered in order to succeed in attracting businesses to these reservations.

The Indian Employment and Investment Act of 1992 provides for an investment tax credit and an Indian employment credit. The Indian employment credit would apply to any businesses locating on an Indian reservation while the investment tax credit would apply only on those reservations which have an unemployment rate exceeding the national average by at least 300 percent. An analysis of the legislation being introduced today was issued on February 19, 1992. The study entitled: "Investment and Employment Tax Credits for American Indian Reservations: An Analysis of Benefits and Costs," prepared by Mr. William L. Stringer, president of Economic and Financial Consultants, for the George Washington University Center for Native American Studies and Indian Policy Development, found, in part, that: "* * * because of conditions unique to Indian country, [a] carefully targeted package of tax incentives for all reservation based investments and employers would have a significant impact on Tribal economies and employment, and would do so at negligible cost to the Federal Treasury."

Mr. President, the time for action is now. As President Zah stated in his testimony on this issue: "Indeed, helping the American Indians to help themselves is neither a Democratic issue nor a Republican issue; it's not a conservative policy or a liberal policy; it's not even a "special interest" issue. Rather, it is a "human" issue that must, and deserves to be, addressed from a national perspective on a bipartisan basis, and with a real sense of urgency warranted by the deplorable conditions existing in Indian country—conditions which truly are a national disgrace."

I urge all members of the Finance Committee and the rest of my colleagues to take President Zah's words to heart, and to carefully consider the Indian Employment and Investment Act of 1992 for inclusion into the national economic growth package. The act will not solve all the problems on Indian reservations, but it does offer an important new economic tool for those tribes and businesses willing and able to take advantage of it.

Mr. President, I ask unanimous consent that a copy of the testimonies of President Peterson Zah, Vice President Marshall Plummer, the study entitled: "Investment and Employment Tax Credits for American Indian Reservations: An Analysis of Benefits and Costs" and the Indian Employment and Investment Act of 1992 be inserted into the CONGRESSIONAL RECORD immediately following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF MARSHALL PLUMMER, VICE-PRESIDENT OF THE NAVAJO NATION

My name is Marshall Plummer, and I am the elected Vice-President of the Navajo Nation, the country's largest Indian tribe. I testify today in support of the Navajo Nation's proposals for federal tax incentives to help address the unconscionable levels of unemployment and poverty that exist in Indian country throughout this nation.

At the outset, I wish to convey to you, Mr. Chairman, and Members of the Committee, the sincere appreciation of our President, Peterson Zah, for this opportunity to appear before the Committee—as well as his frustration that he was unable to be here to testify himself. Unavoidably, today's hearing conflicted with President Zah's long-scheduled meeting in Nevada with Secretary of the Interior Lujan and others concerning water rights issues of critical importance to the Navajo people. Please be assured, however, that the issues about which I testify today are equally important to the Navajo Nation, as economic development is one of the highest priorities of our Administration. President Zah's prepared statement is attached, and I would request that it be considered as part of the testimony that I deliver here today.

I also want to express our great appreciation to Senator DeConcini, a good friend of the Navajo and of all Indians, for his personal efforts that led to this opportunity to testify on issues of urgent import for Indian country. Finally, I want to acknowledge and thank Chairman Daniel Inouye, Co-Chairman John McCain and other Members of the Select Committee on Indian Affairs, including Senator Daschle, who also sits on this Committee. The tax incentives proposed by the Navajo Nation have their genesis in past legislative proposals from the Select Committee on Indian Affairs that have enjoyed support from both sides of the aisle.

CONDITIONS IN INDIAN COUNTRY

I come before this Committee to attempt—with all the persuasive powers at my disposal—to convey the following message: that while there are many Americans who are hurting during these economic hard times, no single segment of our society is hurting worse than the American Indian. The conditions of poverty that persist throughout Indian country are unspeakable, and the levels of unemployment are staggering.

As Chairman Inouye reported during his Committee's 1989 hearings on Indian economic development:

The unemployment rate on the majority of Indian reservations is simply incomprehensible to the average American. During the height of the so-called Great Depression in the 1930's, unemployment averaged 25 to 30%. In 1989 the average rate in Indian country is 52%!

Just last July, Chairman Inouye explained in hearings before House Ways and Means that "[o]ne thing links almost all of these [Indian] groups: alarming rates of unemployment that range from an average of 56% to a high of 97%; a lack of economic infrastructure, and all of the associated problems that plague any chronically-depressed community."

The result is that here, within the borders of the United States of America, most reservation Indians live under conditions far worse than exist in many of the Third World countries to which our Government provides substantial foreign aid. Under circumstances in which Indians lack many of the items that other Americans take for granted, meaningful action by the Congress that can attract investment and jobs to Indian country will also address basic questions of human dignity.

NAVAJO NATION TAX INCENTIVES PROPOSAL

New approaches are urgently needed to promote the type of economic development on our reservations that can better the lives of our people.

The Navajo believe—as do many other Indian leaders who have advised us of their support—that an appropriate new approach to this problem is through federal fiscal policy. In particular, the Navajo urge that the Congress put into place federal tax incentives that can help induce private sector investors to consider the potential for job-creating opportunities in Indian country.

The Navajo Nation has previously submitted to the Committee its proposal for two related tax incentives that complement certain national strategies now under discussion to revive the overall U.S. economy.

First, the Navajo Nation proposes an investment tax credit ("ITC") targeted to Indian country. This so-called "Indian reservation credit" is geared specifically to reservations where Indian unemployment levels are unconscionable—the credit being limited in its applicability to reservations having an unemployment rate exceeding the national average by at least 300%.

The Indian reservation credit would offer a higher percentage credit for investment in Indian country than would otherwise be available under a nationwide ITC. This differential is absolutely essential in order to help mitigate unique problems endemic to investing in Indian country—particularly the lack of infrastructure—which are not commonly shared by other depressed areas. Without such a differential, an ITC (or any other tax incentive, for that matter) would essentially be useless for reservation economic development. This is so because Indian country—both historically and at the present time—does not compete on a level playing field with even the most economically distressed non-Indian areas, due to "double taxation" by the states, infrastructure deficiencies and related problems.

Second, the Navajo Nation proposes an Indian employment credit aimed at increasing employment of Indians on reservations. A 10% credit to the employer would apply to qualified wages and qualified health insurance costs paid to an Indian. An added incentive—a significantly higher credit—would be available to reservation employers having a workforce with at least 85% Indians. The credit, which focuses on job creation, would be allowed only for the first seven years of an Indian's employment.

These complementary investment and employment credits would be available directly to the private sector employer, and do not entail the establishment of a new governmental bureaucracy. Even more importantly, these programs only cost the Federal government if they work. In that event, increased Federal revenues from increased employment—along with the anticipated decrease in public assistance payments—should render these proposals, at worst, revenue neutral.

CONCLUSION

The Navajo Nation recognizes the extraordinary difficult task facing this Committee as it weighs various proposals and attempts to fashion broad-ranging national policies that can help to revive the United States economy. On the other hand, I respectfully ask the Committee to recognize the seriousness of the unemployment problem in Indian country, and the urgency with which it must be addressed.

This year's tax bill provides Congress a unique and timely opportunity to move along a different path to promote Indian country economic development. That path—federal tax incentives—lies within this Committee's jurisdiction. In this, the Congressionally-designated "Year of the American Indian" (P.L. No. 102–188), I urge the Committee to incorporate within its revenue package these modest—but extremely important—tax incentives, so that American Indians are not once again left behind, or left out altogether.

As President Zah has stated:

> Helping American Indians to help themselves is neither a Democratic issue nor a Republican issue; it's not a conservative policy or a liberal policy; it's not even a "special interest" issue. Rather, it is a "human" issue that must, and deserves to be, addressed from a national perspective on a bipartisan basis, and with a real sense of urgency warranted by the deplorable conditions existing in Indian country—conditions which truly are a national disgrace.

I thank the Committee for its consideration of these issues that are so important to Indian country, and I strongly urge the Committee to adopt the Navajo Nation tax incentives proposal. These incentives will help level the playing field by providing tribal governments and Indian country business planners with additional tools to compete for the private sector investment and jobs that are so critical to the well-being of our people.

STATEMENT OF PETERSON ZAH, PRESIDENT OF THE NAVAJO NATION

My name is Peterson Zah, and I am the elected president of the Navajo Nation, the country's largest Indian tribe. The Navajo thank you, Mr. Chairman, and Members of the Committee, for this opportunity to testify at these important hearings. I also want to express our great appreciation to Senator DeConcini for his personal efforts on our behalf that led to this opportunity to present testimony on an issue of critical importance to all of Indian country. In addition, I want to acknowledge and thank Chairman Inouye, Co-Chairman McCain and the Members of the Select Committee on Indian Affairs for their traditional support and encouragement, including their tireless efforts over the years to promote Indian country economic development. The Navajo proposals which I discuss below draw heavily upon various legislative initiatives that were introduced in the past by those two distinguished Members, and that enjoyed strong bipartisan support among the Members of Senate Select.

INTRODUCTION

The Navajo reservation is the largest in the United States; along with Tribal fee and other non-trust lands. Navajo country covers almost 28,500 square miles within the States of Arizona, New Mexico and Utah. This land area is nearly the size of New England.

However, the current economic downturn in New England pales in comparison to economic conditions prevalent in the Navajo Nation and throughout Indian country. For example, the Navajo unemployment rate ranges from 38% to 50%, depending on the season. Even worse conditions exist elsewhere in Indian country throughout the United States. As Chairman Daniel K. Inouye reported during the Senate Select Committee's 1989 hearings on Indian economic development:

> The unemployment rate on the majority of Indian reservations is simply incomprehensible to the average American. During the height of the so-called Great Depression in the 1930's, unemployment averaged 25 to 30%. In 1989 the average rate in Indian country is 52%!

Just last July, Senator Inouye explained in hearings before the House Committee on Ways and Means Subcommittee on Select Revenue Measures that "[o]ne thing links almost all of these [Indian] groups: Alarming rates of unemployment that range from an average of 56% to a high of 97%; a lack of economic infrastructure, and all of the associated problems that plague any chronically-depressed community."

Surely during these economic hard times in America there are many people who are hurting—but just as surely, there is no single segment of our society that is hurting worse than the American Indian.

This Congress just over two months ago, designated 1992 the "Year of the American Indian" (P.L. No. 102–188). This Committee has the opportunity to help make good on that commitment in a way that can begin to address the "incomprehensible" unemployment levels throughout Indian country.

DISINCENTIVES TO INVESTMENT IN INDIAN COUNTRY

One of the highest priorities of my Administration is economic development. The Navajo Nation has a large workforce, rich natural resources and a sophisticated, three-branch government. However, there are a variety of obstacles—endemic to investing on reservations—that have prevented the Navajo economy and other Indian country economies from getting their fair share of the business and jobs in this country.

First and foremost is the lack of infrastructure. For example, we have only 2000 miles of paved roads on the reservation itself. In contrast, West Virginia, which is roughly the same size as the Navajo reservation, has approximately 18,000 miles of paved roads. Many of the dirt roads on which our people heavily depend are simply impassible when the weather is bad. Even something so basic as telephone service is lacking in Indian country; over half of all reservation Indian households lack basic telephone service.

Another disincentive to economic development is the growing problem of "double taxation," wherein States increasingly are assessing taxes on non-Indian business activities permitted by, and occurring wholly on, Indian lands. As I explained to House Ways and Means last July:

> The double taxation interferes with our ability to encourage economic activity and to develop effective revenue generating tax programs.
>
> We find it especially hard to attract business to the reservation unless we make concessions that nearly defeat the purpose of wanting to attract business to the reservation in the first place.

These infrastructure deficiencies and other problems lead to the same result nationwide—Indians do not compete on a level playing field with even the most economically distressed non-Indian areas and, as a result, are typically left behind, or left out altogether, from economic development opportunities. To help level that playing field, and to provide tribal governments and Indian country business planners with additional tools to compete, the Navajo Nation believes that new approaches must be tried.

NAVAJO NATION TAX INCENTIVES PROPOSAL

In particular, the Navajo urge that federal fiscal policy recognize the need to provide the private sector with incentives for investing in job-creating ventures in Indian country. The Navajo Nation believes that federal tax incentives are the mechanism for such a new approach, and that this year's tax bill is the perfect vehicle.

There are many reasons why tax incentives make sense. For example, in those same Ways and Means hearings last July, Senator Inouye was joined by Senator John McCain, Co-Chairman of the Select Committee on Indian Affairs, who explained:

> I believe for several reasons that a strategy of tax incentives * * * is the most effective way that the federal government can act to stimulate reservation economic development. Tax incentives do not depend for their effectiveness on the actions of federal bureaucracies that are often slow moving and unimaginative. The incentives are usable only by viable businesses that expect to earn some profits and hence to have tax obligations against which credits and deductions can be used to diminish their tax obligations. The federal government therefore does not spend anything until a real business is created on a reservation and there exist real jobs and real income generated for the benefit of reservation residents. Unlike direct spending programs, if there is no benefit, there is also no cost.

In other words, tax incentives of the type that the Navajo propose only cost the Federal government if they work, in which case they will be inducing the type of economic activity necessary to attack the deplorable unemployment situation in Indian country.

First, the Navajo Nation proposes an investment tax credit ("ITC") targeted to Indian country. This so-called "Indian reservation credit" is geared specifically to reservations where Indian unemployment levels are unconscionable—the credit being limited in its applicability to reservations having an unemployment rate exceeding the national average by at least 300%.

The Indian reservation credit offers a higher percentage credit for investment in Indian country than would otherwise be available under a nationwide ITC, should one be adopted. No matter what type of tax strategy is ultimately adopted, this type of differential for Indian country is absolutely essential in order to help mitigate those unique problems associated with investing in Indian country—particularly the lack of infrastructure—which are not commonly shared by other economically depressed areas. Without such a differential, an ITC (or, for that matter, any other tax incentive that might be made applicable to both Indian and non-Indian lands) would essentially be useless for reservation economic development. This is so because Indian country—both historically Americans take for granted, meaningful measures to help bring investment and jobs to Indian country also address basic questions of human dignity.

Indeed, helping American Indians to help themselves is neither a Democratic issue nor a Republican issue; it's not a conservative policy or a liberal policy; it's not even a "special interest" issue. Rather, it is a "human" issue that must, and deserves to be, addressed from a national perspective on a bipartisan basis, and with a real sense of urgency warranted by the deplorable conditions existing in Indian country—conditions which truly are a national disgrace.

I thank the Committee for its consideration, and I respectfully urge that the Committee include in the revenue package now under review the modest—but extremely important—tax incentives proposed by the Navajo Nation to promote economic development and jobs for all of Indian country.

INVESTMENT AND EMPLOYMENT TAX CREDITS FOR AMERICAN INDIAN RESERVATIONS: AN ANALYSIS OF BENEFITS AND COSTS

(Prepared for the National Indian Policy Center, the George Washington University)

(Prepared by William L. Stringer, Economic and Financial Consultants)

William L. Stringer is President of Economic and Financial Consultants, a Washington, D.C. based public policy consulting firm. He attended the University of Kansas for his undergraduate education and Oklahoma State University for graduate work and since then, has taught economics and finance at various universities. He served as Chief Economist of the United States Budget Committee and as Assistant to the Chairman of the Federal Home Loan Bank Board. Subsequently, he was Deputy Treasurer and Acting Treasurer of the State of New Jersey. He was Partner and Senior Vice President of the American Capital Group, a public finance advisory firm operating out of Philadelphia and was Vice President of Chambers Associates, a Washington, D.C. based public policy consulting firm. He presently is on the graduate faculty of the Fels Center for Government at the University of Pennsylvania in Philadelphia and provides independent private consulting in matters relating to economics and finance from his office in Washington, D.C.

(The George Washington University Center for Native American Studies and Indian Policy Development. The National Indian Policy Center Planning Office was established by congressional initiative and authorized by Public Law 101–301. The legislation, supported by a number of tribal leaders, provided for a Policy Center planning office to be located at George Washington University in Washington, D.C. The Policy Center is undertaking a year-long consultation with American Indian and Alaska Native governments and individuals to develop the purpose, structure and function of a research and analysis institution of social, economic and legal policy development on Native issues. The ultimate goal of the consultation process is to develop a final report on the feasibility study that will serve as a framework for federal authorizing legislation in the 102nd Congress.

(The National Indian Policy Planning Office operates under the direction of a Planning Committee comprised of nationally prominent tribal leaders and representatives of major Indian organizations. Recommendations and support are not limited to Native government and national organizations; individuals are also invited to participate in the development of the Center.)

"In Indian country, developing reservation economies is viewed as the path to developing self-sufficiency, decreasing the dependency that is so destructive of reservation societies, and improving the overall quality of life on reservation, thereby preserving Indian societies and cultures."[1]

Purpose: For a number of years, Congress and public interest groups have considered the provision of a number of tax incentives targeted to Indian reservations and reservation enterprises. It is the view of many experts, political leaders and tribal leaders that such tax incentives can attract industry and capital, expand existing industry, and make reservation enterprises vital and permanent employers within Indian country. Indian advocates in the Congress and tribal representatives have repeatedly attempted to secure such provisions. Congress has responded with numerous Federal payment and support programs but has failed to provide the type of incentive which would promote self-sufficient enterprise growth.

The 1992 Economic Stimulus Initiative, currently under consideration by the U.S. Congress, provides a unique and unprecedented opportunity to enact an Indian Investment Tax Credit and Indian Employment Tax Credit. Such a program of investment and employment incentives is an essential ingredient needed to solve the chronic economic problems of Reservation Indians. Although the Navajo Tribe has been primarily responsible for initiating consideration of the Tax Credits, they are policies which would benefit every Indian Tribe throughout the country, including those Tribes (primarily in Oklahoma) who depend upon enterprises established on Indian Trust properties.

This brief research and background paper was assembled to provide analytical support for the Indian Tax Credit initiatives. The paper, first, illustrates the overwhelming need for policy action and provides evidence that a broad macroeconomic stimulus package without programs specifically targeted to the Indian Reservation economy will do little to improve their economic plight. Second, the paper provides what data is available to assess the costs and benefits of the two tax credits. The credits will not be applicable in every investment and employment circumstance on reservations or trust lands. Nevertheless, because of conditions unique to Indian country, carefully targeted package of tax incentives for all reservation based investments and employers would have a significant impact on Tribal economies and employment, and would do so at negligible cost to the Federal Treasury.

THE POOR LIVING CONDITIONS OF AMERICAN INDIANS ARE CLOSELY TIED TO THE UNEMPLOYMENT PROBLEMS.

For as long as the statistics have been gathered, unemployment rates among American Indians has been staggering. If one also considers the degree of discouraged workers and the fact that Indian unemployment reflects the status of families' primary wage earner, the devastating social impact can be more fully appreciated.

The 1980 Census indicated that 14 percent of Indian reservation households had incomes under $2,500—three times the proportion of all U.S. households. Forty five percent of reservation Indians lived in households with incomes below the poverty level. One quarter of reservation households were receiving food stamps and one of every seven Indian households were receiving some other form of public assistance.[2] It was also reported by the 1980 Census that 21 percent of reservation Indian households had no indoor toilet facilities; 16 percent did not have electricity; and 54 percent did not have central heating. The cycle of poverty has its roots both in the extent of unemployment on reservations and trust lands as well as in the types of employment that are available.

In 1989, a year in which the average unemployment rate among all Americans was 5 percent, the unemployment rate among American Indians was 40 percent. The unemployment rates on thirteen reservations sampled by the Bureau of Indian Affairs using the definition of employment defined by the Bureau of Labor Statistics of the US Department of Labor (over age 16 and actively in the labor force) are shown in Table 1:[3]

TABLE I.—*Reservation Unemployment Rates 1989*

	Percent
White Mountain Apache	11
Cochiti Pueblo	10
Salish and Kootenai (Flathead)	20
Northern Cheyenne	48
Muckleshoot	50
Lummi	46
Mescalero Apache	52
San Carlos Apache	51
Yakima	61
Oglala Sioux (Pine Ridge)	61
Hualapai	45
Crow	67
Rosebud Sioux	90
All Reservation Indians	40
United States (all races)	5

It should be emphasized that these numbers use the BLS definition of unemployment. Only those individuals who indicate that they have been looking for work within the most recent four weeks are counted as unemployed. A more useful definition might be to estimate all Indians presently working as a proportion of those who might wish to work. Such estimates would include the so-called "discouraged worker". Estimates of Indian unemployment using this technique would be significantly higher. In 1989, the Select Committee on Indian Affairs indicated that Indian unemployment was 52 percent of the potential workforce.

Unemployment on reservations (using the BLS definition) is understated even more than the total US unemployment number. A 1987 survey in Oklahoma revealed that the labor force participation rate for Indians 16 years of age and older was 55.7 percent. The current participation rate for all Americans of working age is 66.1 percent. Even so, the proportion had increased from the 36.3 percent that had participated in the labor force in 1960. Less than half, 41.5 percent of all Indian females were in the labor force, while for Indian males the figure was 61.0 percent. Comparable figures for all Americans of working age today is 57.6 percent and 75.3 percent for women and men respectively.

THE UNEMPLOYMENT PROBLEM CANNOT BE CURED BY STANDARD ECONOMIC STIMULUS POLICIES

Although the economic downturn has exacerbated the already abysmal employment relating to Native Americans, the problem is a structural one and not a problem which will be cured when the U.S. economy rebounds. This is because economic growth and recovery affects pockets of unemployment differently.

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[1] Red Willow Institute, *Applicability of Federal Tax Incentives to American Indian Reservations*, Foreword to a report prepared for the National Indian Policy Center, Washington, D.C., June 21, 1991, p. iv.

[2] US Department of the Interior, "Report of the Task Force on Indian Economic Development," Washington, D.C., 1986. Cornell, Stephen and Joseph P. Kalt, "Pathways from Poverty: Economic Development and Institution-Building on American Indian Reservations", Malcolm Wiener Center for Social Policy at Harvard University, Cambridge, Massachusetts, December, 1989, Snipp, C. Matthew, *American Indians; The First of This Land*, Russell Sage, New York, 1989.

[3] Cornell, Stephen and Joseph P. Kalt, "Pathways from Poverty: Economic Development and Institution-Building on American Indian Reservations", Malcolm Wiener Center for Social Policy at Harvard University, Cambridge, Massachusetts, December, 1989, p. 5.

Historically since 1966, a 3 percent closing of the "gap" between potential and actual real Gross National Product has been accompanied by a 1 percentage point decrease in the rate of unemployment. This relationship has held, more or less, until the unemployment rate has reached about 4% (so-called "full employment"). This rule of thumb, named "Okun's law" after Nobel prize-winning economist Arthur Okun, has held for the economy in total but has not been consistent among segments within the economy. Estimates are provided in Table II below for various components of the labor force:

TABLE II.—*Responsiveness of Unemployment to Economic Growth*

[Reduction in gap required to reduce segment's unemployment rate 1 percentage point [4]]

Workforce segment:	Percent
	Percent
Married males	2.20
Females	2.94
Nonwhite	4.80
Teenage	5.56
Teenage males	6.02
Teenage females	4.54
Teenage nonwhite	10.10
American Indian	19.90

[4] Data for all segments except American Indian are from quarterly data reported by the Bureau of Labor Statistics 1966–1991. American Indian data, using the BLS definition is from data supplied by the Bureau of Indian Affairs for the years 1976–1991.

These results clearly indicate that an acceleration of economic growth through stimulative fiscal and monetary policies alone is not sufficient to reduce the unemployment rate to desirable levels among some labor force segments, most certainly the American Indian segment.

OTHER FEDERAL PROGRAMS MUST CONTINUE AND EXPAND, BUT THEY AIM AT OTHER GOALS

To reduce economic suffering, other federal programs must continue, but to permanently reduce overall unemployment they will have to be supplemented with policies designed specifically to enhance capital investment and targeted employment. Existing governmental sources of capital support are reduced due to the need for matching capital, competition from other more established businesses and the small size of the programs relative to need. Furthermore, the speed with which the grants, loans and payments can be implemented is relatively slow and has little impact on cyclical problems. The SBA loan program and the Department of Commerce Loan Guarantees for Business Development have been greatly curtailed in recent years. Bureau of Indian Affairs programs, such as the Business Enterprise Development Program, constitute a minute portion of need.

Amounts budgeted as contract authority for Indian related economic development programs (or those programs which might be construed as directly contributing to development of Indian businesses) are provided in Table III, on the following page. These programs are valuable. Over time, they should be more carefully targeted and expanded. But, they prepare the worker, provide guidance to the Indian businessman, and directly employ without enhancing the basic return to capital that would enhance Indian enterprise and make it, eventually, self-supporting.

The type of employment engendered by Federal spending has not been the type that jump-starts economic development generally. "Perhaps more revealing of the economic problems of reservations is the structure of the employment that does exist. Most reservation economies are heavily dependent on the 'transfer' economy, i.e., tribal or federal governmental transfer or other public-assistance programs. This can be distinguished from employment in productive enterprises (private and public) which add output to tribal economies. According to the 1980 Census, 59% of all reservation employment was in the transfer economy in 1979, compared to approximately 17% for the U.S. as a whole."[5]

TABLE III.—FEDERAL PROGRAM TO PROMOTE INDIAN ENTERPRISES [6]

	Fiscal year—	
	1990	1991
Department of the Interior:		
Bureau of Indian Affairs:		
Economic development and employment programs	14,096,000	14,595,000
Technical assistance to Indian enterprise	0	796,000
Indian business development grants	6,907,259	6,905,000
Indian credit program		
Direct loans	11,130,875	8,700,000
New loans guaranteed	59,132,555	44,370,000
Bureau of Reclamation: Loans program	67,000	0
Other programs: Indian arts and crafts development	912,000	925,000
Department of Health and Human Services: Jobs program	2,991,550	6,263,000
Department of Labor: Native American employment and training	58,200,000	59,600,000
Department of Commerce:		
Economic Development Administration	2,694,000	2,835,900
Minority business development—American Indian	1,495,000	1,495,000
Department of Transportation: Indian Reservation Roads	78,600,000	80,000,000
Small Business Administration: Contract awards	263,208,282	278,304,350

[6] Table III is extracted from Stringer, William L., "The Economic Impact of Tribal Tax and Expenditure Programs in the State of Oklahoma", a paper prepared for the George Washington University Center for Native American Studies and Indian Policy Development in conjunction with the Oklahoma Indian Affairs Commission and Charles W. Blackwell, January, 1992.

INDIAN BUSINESSES HAVE TRADITIONALLY BEEN IN LOW-WAGE, LOW CAPITAL INDUSTRIES

It has only been in recent years that Tribal businesses have begun to move into areas requiring greater capital investment. A 1987 survey in Oklahoma concluded that:[7]

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[5] Cornell, Stephen and Joseph P. Kalt, "Pathways from Poverty: Economic Development and Institution-Building on American Indian Reservations", Malcolm Wiener Center for Social Policy at Harvard University, Cambridge, Massachusetts, December, 1989, p. 7. They, in turn, cite A. David Lester, "Transitions in Tribal-Federal Relations, 1989–1993", Council of Energy Resource Tribes, unpublished, 1988.

[7] See Abudu Green, Margaret, K.W. Olson, I.M. Hayden and K.J. Selland; *Report on the Economic Impact of American Indians in the State of Oklahoma;* Prepared by the Southwest Center for Human Relations Studies at the University of Oklahoma; May 1987.

The concentration of Indian-owned firms was in the construction industry (36 percent compared to 9 percent for all Oklahoma businesses). Furthermore, the concentration of Indian-owned business in the business and repair service and in the professional and related service sectors was almost twice as high as the concentration of non-Indian owned businesses in the state.

Measured by the number of employees per firm, Indian-owned firms were significantly larger than all Oklahoma firms in the areas of agriculture, forestry and fisheries and construction. These areas constituted nearly 75 percent of an Indian employment. Indian employment was significantly smaller in the areas of mining, transportation, communications, public utilities and retail trade—those areas which require greater proportions of capital to labor.

"Construction and manufacturing account for 77.9 percent of all gross sales of Indian-owned businesses. Wholesale trade accounted for 12.9 percent and all other business sectors accounted for only 9.3 percent of the total gross sales by Indian-owned businesses. By the same token, payroll as a percent of sales was significantly less for Indian-owned firms than for all firms in Oklahoma in construction, manufacturing and wholesale trade. This would suggest either that labor is used less than capital (which is not borne out by other evidence) or that there are lower wages in Indian-owned businesses than in non-Indian owned businesses in the same sectors."

Table IV, derived from data developed by the U.S. Census Bureau for the 1982 Survey of Minority-Owned Business Enterprises: Asian Americans, American Indians, and Others provides insight into the types of businesses presently Indian-owned:

TABLE IV

Industrial activity	Indian firms with paid employees			Indian firms without paid employees		All Indian firms		
	Number of firms	Average number employees	Average gross sales	Number of firms	Average gross sales	Number of firms	Percent of total	Average gross sales
Agricultural, services, forestry, and fishing	731.8	93,932	2,745	6,058	2,818	19	8,332	
Mining	12	3.2	395,667	60	59,967	72	0.5	115,917
Construction	274	3.3	201,701	1,552	18,541	1,826	12	46,025
Manufacturing	68	19.9	1,095,456	246	13,862	314	2	248,092
Transportation and public utilities	79	2.9	221,165	500	28,144	579	4	54,480
Wholesale trade	29	4.5	628,105	61	39,180	80	0.5	179,050
Retail trade	445	3.5	248,501	2,657	20,639	3,102	21	53,327
Finance, insurance, and real estate	27	2.2	185,667	280	9,039	307	2	24,573
Selected services	382	6.6	223,636	3,897	13,630	4,279	29	32,378
Other industries	84	1.7	164,440	1,381	16,860	1,465	10	25,322
Total all industries	1,462	4.9	$279,081	13,382	$17,840	14,843	100	$43,570

Source: United States Census Bureau; 1982 survey of Minority-Owned Business Enterprises: Asian Americans, American Indians, and Others.

INVESTMENT AND TAX CREDITS WOULD TEND TO AUGMENT CAPITAL AND REDUCE UNEMPLOYMENT

In previous work, three general problem areas have been identified as roadblocks in the path to achieving sustained growth of employment opportunities on Indian Reservations and Trust lands: control management and capital.[8] Although no single policy will resolve any one of three problems, it is clear that a targeted package of policies must be created specifically for the unique set of problems facing American Indians.

Two types of tax credit are proposed for investment and employment on Indian Reservations and Trust lands. A capital or labor tax credit effectively lowers the after tax cost of capital or labor in a targeted type of investment, employment or geographic area. By decreasing capital or labor costs, the flow of capital to the targeted area is encouraged.

The proposed Indian Investment Tax Credit (ITC), the so-called "Indian Reservation Credit", is targeted to Indian country, and specifically to reservations or sites near Trust lands, where Indian unemployment levels are at least three times the national average. This would presently include most reservations and trust lands. The provisions allows a tax credit (deduction in full from pre-credit tax liability) of a stated percentage of qualified investment placed in service during the taxable year. The credit is 25 percent of the investment in reservation personal property (in association with a trade or business—and not real property), 33⅓ percent of new reservation construction property and 33⅓ percent of reservation infrastructure investment.

The proposed Indian Employment Tax Credit (ETC) would be available to employers on reservations or trust lands. The credit would equal 10 percent of the wages paid (including certain health care costs) during the taxable year and 30 percent in cases where the employer has at least 85 percent Indian employees. The employer would be eligible for the credit for up to and including seven years of employment of the same employee.

The Investment Tax Credit should be viewed as a somewhat longer run policy to alter the structure of Indian owned businesses and to alter the nature and extent of structural unemployment on Reservations. The Employment Tax Credit, on the other hand, should be viewed as a policy which would have more immediate impact on reducing Tribal unemployment rates. Either tax credit can be viewed as in incentive to hire or invest both in the sense that it reduces the effective tax rate to the recipient employer and increases the rate of return on investment in capital or labor. The ITC is, of course, enhanced by more accelerated asset depreciation although its impact on the effective tax rate, given the same percentage of application, is much greater.[9] A simple example will suffice to illustrate the basic concept:

"If a piece of machinery or infrastructure requires a one-time payment of $9,000 at the beginning of a year, and provides a cash flow of $1,300 for each of the next ten years (the useful life of the equipment), then the pretax rate of return on that investment is 7.31 percent. Of course the after-rate of return would be less, because the income stream produced by the investment would be reduced by the annual tax rate times the incremental annual increase in revenue caused by the investment (less any depreciation allowance). If the going rate of interest on the money used for the investment were 8 percent annually, then the investment in the equipment would not be made. If, however, a 33⅓ investment tax credit were allowed in the first year then the pre-tax return on investment would grow to 15.49 percent, because $3,000 (⅓ of $9,000) would be recaptured as a tax credit at the end of the first tax year. Again, the after-tax rate of return would be reduced by the tax liability (less the depreciation allowance) on the income flow occasioned by the investment. By analogous reasoning, the Employment Tax Credit will enhance the return to the employer of hiring additional units of Indian labor."

Because of the concentration of Tribal employment in labor intensive, low wage industries:

(1) Tribal employment is particularly susceptible to cyclical downturns in the economy. Thus, any policy which would shift Tribal industry to greater capital intensity would reduce cyclic volatility.

(2) The Employment Tax Credit would have an immediate impact on employment levels. The industries affected have relatively large employment and income multipliers which would tend to cause tax expenditure increases and reductions in entitlement payments beyond what they would otherwise be.

By using the U.S. average capital to labor ratio in the industries with concentrations of Indian workers, one can estimate that the at least six and one half billion of investment would have to be induced to employ the unemployed Indian workers for the duration of their working years—about $36,600 per unemployed Reservation Indian worker. Applying the prevailing capital to income ratio to the income gap between Indians and the general population, it would require an investment of about twelve billion, or about $67,600 per unemployed American Indian. "Tangible real capital owned by Indians, plant, equipment, and inventories would have to increase that much from its current level to get Indian incomes and jobs up to national standards."[10] The proposed Indian targeted ITC and ETC would have nowhere near the required impact, but it would be a significant step.

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[8] See, for example, the testimony of Ronald L. Trosper before the Select Committee on Indian Affairs, United States Senate, Washington, D.C., April 9, 1987, U.S. Government Printing Office, Document 75-649, 1987, p. 78. Trosper cites findings of Task Force Seven of the American Indian Policy Review Commission.

[9] See, for example, Congressional Budget Office, Revising the Corporate Income Tax, Congress of the United States, Washington, D.C., May, 1985, pp. 89-91

[10] The technique follows that of Ronald L. Trosper before the Select Committee on Indian Affairs, United States Senate, Washington, D.C., April 9, 1987, U.S. Government Printing Office, Document 75-649, 1987, pp. 87-88. In this instance, Trosper cities a 1986 Compendium published by the Select Committee on Indian Affairs of the United States Senate.

THE NATURE OF INDIAN BUSINESSES, THE REDUCTION OF ENTITLEMENT PAYMENTS TO TRIBAL MEMBERS AND ECONOMIC MULTIPLIER EFFECTS, MAKE THE COST OF THE CREDITS MINIMAL AND, PERHAPS, NEGATIVE

Because of (1) the structural nature of Tribal unemployment, (2) the fact that Tribal businesses generally operate in geographically isolated areas, and (3) because potential employment would occur in companies with little excess capacity Tribal unemployment would uniquely benefit from either an investment tax credit, an employment tax credit, or both. And, because of these factors, the cost to the U.S. is minimal or even negative.

Direct Costs of the Employment Tax Credit: The 1990 Census counted 1,957,191 American Indians in all 50 states. If seventy five percent of those are over age 16, and 55 percent of these were in the labor force, then a 40 percent unemployment rate would imply that 322,937 Indian workers were unemployed. If 55 percent of these unemployed workers would otherwise depend on employment on reservations or trust land, then 177,615 Indian workers stand to directly benefit from the two tax credits.

If all 177,615 were hired as a result of the proposed Indian Employment Tax Credit at an average wage rate of $8.00 per hour; and one half of those employed were employed by firms having employment of at least 85% Native Americans; then the immediate revenue loss—without accounting for reduced entitlement payments and unemployment compensation, taxes levied against the wage earner, additional taxes garnered as a result of enhanced output and various multiplier effects—the cost of the U.S. Treasury would be in the nature of $591.2 million.

Of course, one would not expect anywhere near full employment of the unemployed Indian worker as a result of the ETC. For one reason, manufacturing firms located on Indian Reservations, the largest employer (as can be seen from Table IV) do not pay Federal taxes and, therefore, could not avail themselves of the credit. At the same time, there would be no additional costs to the Treasury for manufacturing firms. Under the same assumptions, with 10 percent participation, as seems reasonable, the Treasury direct loss would be $59 million. Indirect benefits would be marginally higher wages and sustained employment within permanently viable firms.

Direct Costs of the Investment Tax Credit: In 1990, expenditures by tribally owned and Indian owned businesses in the State of Oklahoma (having 12.8 percent of the total U.S. Native American population) were estimated to be $565 million (wages, investment in property, equipment and wages).[11] If fifteen percent of that spending were on investment in ITC qualifying personal property, construction property, and infrastructure; and, if Tribes in the other 49 states spent similar amounts in proportion to their population; then total qualifying Indian investment in 1990 would have been about $659.9 million.

Even if every dime were applied as a 33⅓ percent credit—without accounting for reduced entitlement compensation, taxes levied against the equipment supplier, additional taxes garnered as a result of enhanced output and various multiplier effects—the tax loss would be $217 million. In reality, because of the nature of Indian and tribally owned businesses and the general economic condition of the tribal economy, the immediate, first round, loss would be considerably less.

Direct Entitlement Program and Tax Offset: Whereas the credits have a duration of one year in the case of the ITC, or seven years in the case of the ETC, the flow back to the Treasury of reduced entitlement payments, unemployment compensation, and tax revenue would continue over the useful life of the equipment, or the employment period of the worker. The repayment flow to the Treasury can, thus, compensate the Treasury many times over for the original investment. An accurate assessment would require a calculation of the present value of costs to the Treasury (one year in the case of the ITC and seven years in the case of the ETC) less the present value of all entitlement and increments to tax payments over the lifetime of the worker.

In testimony before the Select Committee on Indian Affairs of the United States Senate, Ronald Trosper outlined the calculus which gives rise to the above conclusion:[12]

"In 1986 the Interior Department's Task Force on Indian Economic Development collected data on the costs of AFDC, Food Stamps, commodities, and general assistance on a state-by-state basis, using the actual rules in practice. They also examined income tax payments under the prevailing tax rates. They computed that an investment of $10,000,000 which created jobs for 300 unemployed heads of households would lead to a combination of tax receipts and welfare savings for the federal government and for states that would amount to approximately $1,769,000 per year. On an investment of ten million dollars, that gives an accounting rate of return of 17.6 percent per year. The economic rate of return would be higher, because there would be increased profit and wage income as well."

The following example illustrates the reflows associated with employment of an otherwise unemployed Tribal household.

"A family of 2 unemployed adults with 2 children annually receives approximately $3,500 in Native American General Assistance and $3,500 in food stamps, and may, additionally, pay $1,000 per year for subsidized housing. If one parent obtains a job providing effective compensation of $8.00 per hour, after-tax annual income would be $14,900. But the Federal government no longer pays to the family nearly $7,000 in benefits. In addition, the housing rent can justifiably increase to about $4,000. Thus the $16,640 of pre-tax income is reduced $7,000 by the elimination of entitlement payments, $3,000 for housing payments, and about $2,800 of income tax and FICA taxes."

In the above example, which is typical of many Reservation Indians, the worker exchanges an effective $10,000 welfare income for a $14,900 working income—but the federal government increases its tax revenue and reduces its out-of-pocket expenses for this year and, presumably, for each subsequent year by an amount of $12,800. If the inducement were the Indian Employment Tax Credit, then the Treasury tax-credit revenue loss, at most (the 30 percent category), was $4,499 for return of $12,800 for each year of work.[13]

Indirect Multiplier Offsets: The net stimulus to the local economy would be equal to the difference between the government payments prior to employment and the worker's income after employment—$4,900 in the above example. This stimulus, in turn, would be spent a number of times over, giving rise to a certain "multiplier effects". To the extent that business activity were simply moved from a non-Reservation place of business to a Reservation business, the overall macroeconomic impact would be negated. However, the isolated nature of Indian business and the closed nature of the businesses causes the substitution to be much less likely.

The Bureau of Economic Analysis of the US Department of Commerce has estimated the multipliers for each industrial category for each of the fifty states. Although a complete multiplier analysis is beyond the scope of this paper, an additional $4,900 earned by each of 177,615 unemployed, Reservation-oriented, Tribal members, using an earnings multiplier of about .75 (in line with estimates of the Department of Commerce model) would enhance the Federal Treasury by about $117.5 million.

SUMMARY AND CONCLUSIONS.

This brief report, aimed at supporting the Indian Tax Credit initiative of the Navajo in conjunction with Congressional examination of the Tax Stimulus Initiative, has underscored the pressing need for tax policies designed to stimulate growth of Reservation and Trust land enterprises. Deepening of capital intensity through the Indian Investment Tax Credit is a technique to foster both short and longer term growth. Employment of Native Americans, suffering from unemployment rates averaging 40 percent of the work force, would benefit in a much shorter time frame from enactment of an Indian Employment Tax Credit. Both credits are needed to counter the bleak short and long term outlook for American Indian employment. Standard fiscal and monetary policies to stimulate overall U.S. economic growth will have little effect on the employment and living conditions of American Indians unless they include programs which are targeted to the benefit of the American Indian.

Six to twelve billion dollars of capital investment would be needed to eliminate all unemployed Native Americans. On average, 40 percent of the Indian workforce is unemployed and a far greater number is underemployed and have dropped out of the labor force.

Existing Federal programs are meager compared to the level of need and, although useful to meet other goals, and not geared to making Indian businesses self sustaining generators of employment opportunity. This paper identified 13 Federal programs designed to assist Tribal enterprise, but none provide the type of sustained support inherent in a Tax Credit policy.

Tribal employment is particularly susceptible to cyclical downturns in the economy. Thus, any policy which would shift Tribal industry to greater capital intensity would reduce cyclic volatility. The Employment Tax Credit would have an immediate impact on employment levels.

Even if the Employment Tax Credit were used to hire every unemployed and qualifying Native American, the one-year direct costs to the U.S. Treasury would be only $591.2 million—$3,328 per unemployed American Indian. At best (given the history of the targeted employment tax credit enacted in 1978) the employment credit could be used to employee 10 percent of the eligible population, meaning that the cost to the Treasury (prior to accounting for offsets) would be $59 million.

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[11] See Stringer, William L., "The Economic Impact of Tribal Tax and Expenditure Programs in the State of Oklahoma," a paper prepared by the George Washington University Center for Native American Studies and Indian Policy Development in conjunction with the Oklahoma Indian Affairs Commission and Charles W. Blackwell, January, 1992.

[12] Ronald L. Trosper before the Select Committee on Indian Affairs, United States Senate, Washington, D.C., April 9, 1987, U.S. Government Printing Office, Document 75-649, 1987, pp. 87-89.

[13] This example is updated from an example provided by Eric Rice in Hearings before the Select Committee on Indian Affairs of the United States Senate, May 1, 1990, "Indian Economic Development: Indian Employment Opportunity Acts of 1989; and the Supreme Court's Decision in Cotton Petroleum Corp. v. New Mexico", Government Printing Office, Washington, D.C., 1990, p. 90.

Even if all investment made by Tribes or Indian owned business was eligible for the Investment Tax Credit the loss to the U.S. Treasury would be about $217 million. Because many investment opportunities on Indian Reservation cannot use the Investment Tax Credit, and because of overriding economic considerations, it is more likely that 15 percent or less of the potential tax expenditure would be drawn upon. This would mean a cost of the Treasury (prior to accounting for offsets) of about $32.6 million.

The revenue loss would be more than made up for by reduced General Assistance payments, reduced Food stamps, increased rental payments for subsidized housing, increased income tax payments and increased FICA payments. For a household of two nonworking parents with two children there is a reduction in the U.S. Budget deficit of $12,800 (to net against the $3,328 paid under the Employment Tax Credit, for example). Multiplier effects would add an additional $117.5 million to the U.S. Treasury. And, most importantly, these amounts would accrue year after year, whereas the costs are for one year, in the case of the Investment Tax Credit, or for seven years, in the case of the Employment Tax Credit.

By Mr. KENNEDY (for himself, Mr. BRADLEY, Mr. SIMON, Mr. DURENBERGER, Mr. BINGAMAN, and Mr. FOWLER):

S. 2255. A bill to amend part D of title IV of the Higher Education Act of 1965 to provide for income dependent education assistance; to the Committee on Labor and Human Resources.

INCOME DEPENDENT EDUCATION ASSISTANCE

Mr. KENNEDY. Mr. President, today, on behalf of Senators BRADLEY, SIMON, DURENBERGER, BINGAMAN, FOWLER, and myself, I am introducing legislation to enable college students to obtain an additional form of assistance to pay for their education.

The legislation is based on the principle of student loans that would be obtained directly from the Federal Government, and that would be repaid through the tax system in reasonable amounts over the course of the student's future working career. The idea is not new, but it is receiving new interest because of the high cost of college education.

As far back as 1954, Milton Friedman noted that such a plan would help students obtain the resources needed to invest in their future and develop their full potential.

In the 1970's, in a far-reaching proposal that gave new momentum to the concept, President John Silber of Boston University called for the establishment of a Federal revolving loan fund, called the tuition advance fund, which would combine direct Federal lending to students with income-contingent repayment. Under this proposal, borrowers would repay, depending upon their economic success after they left college.

Working with Dr. Silber, I introduced this idea as Senate legislation in 1978. A year later, Republican Senator Henry Bellmon of Oklahoma and I introduced a direct student loan program with some impressive support—including Senators Howard Baker, THAD COCHRAN, JOHN DANFORTH, PETE DOMENICI, JESSE HELMS, NANCY KASSEBAUM, JIM MCCLURE, and ALAN SIMPSON. So, if everybody still feels the same way, we ought to be able to enact this idea into law.

Our 1979 legislation focused attention on the promise of direct lending. At the time, we chose to go the route of guaranteed student loans. But the growing problems and costs of that program have generated new interest in the direct loan approach.

In the past year, several bills have been introduced in both the House and the Senate to establish a direct student loan program, and it now seems to be an idea whose time has come.

There are excellent reasons to move in this direction. First, according to estimates from the General Accounting Office and the Department of Education, a direct loan program will save substantial amounts over the current program.

Second, there is greater ease for both the borrower and the Government.

A direct loan program will have fewer middlemen and be easier to manage than the existing loan program. A direct loan program will be simpler for students and their families, and may well be much simpler for the Federal Government.

Third, income-sensitive repayment through the Internal Revenue Service will both streamline the repayment process for borrowers and allow graduates to choose employment after college without fear of being financially over-burdened if they choose lower income employment. Finally, by collecting through the Internal Revenue Service, we are likely to reduce loan defaults.

But just as there are reasons to move in this direction, there are reasons to move with care. Despite its many problems, the current guaranteed student loan program serves millions of students a year and makes it possible for them to obtain a college education that might otherwise be beyond their reach.

In addition, a direct loan program will require the Department of Education to assume a number of new administrative functions that it is not currently performing. Despite improvements under Secretary Alexander, the Department remains a thinly staffed agency with questionable ability to undertake major new administrative responsibilities, let alone perform its current responsibilities adequately.

Because this is an idea that needs to be tested, we propose a pilot direct loan program to gauge its benefits while being able to measure the Government's capacity to administer it. The potential benefits of direct lending with income-sensitive repayment are too great to ignore. The two most important criteria in considering this initiative are: Is it better for students, and is it cheaper for the Federal Government?

To both questions, the answer is yes and it is time for us to move ahead on this important and promising idea.

Over the past few weeks, I have met with other Senators who have expressed strong interest in this issue.

We have designed the pilot initiative that we are introducing today, in order to test the direct loan approach, with students repaying their loans through the Internal Revenue Service after they leave college.

Under our plan, a diverse group of 300 schools will be chosen by the Secretary of Education to participate in self-reliance loans—a supplemental loan program in addition to the current Pell grants and guaranteed student loans.

Schools will borrow the money from the Federal Government and make loans to their students. Any student at a participating school will be eligible for a loan. Students can receive up to $5,000 a year, with a total borrowing limit of $30,000. The money will be lent to students at an interest rate equal to the 52-week-rate on Treasury bills plus 2 percent. If the plan were in force today, students could borrow money at about 8 percent.

The loans will be repaid through the Internal Revenue Service by increased withholding. Before leaving college, borrowers will be given a choice of repayment options developed by the Secretary of Education and the Commissioner of Internal Revenue. Borrowers will continue to make repayments until the loan is repaid. After 25 years, any further indebtedness would be canceled.

The proposal includes important protection for borrowers. Before they receive a self-reliance loan, students must first apply for Pell grants and Stafford loans. To prevent students from borrowing too much, borrowers cannot receive more than the cost of attendance and borrow no more from all the Federal loan programs than the total borrowing limits specified in the Higher Education Act approved by the Senate last week. To protect borrowers with low incomes, no repayments will be due in any year when a borrower owes no tax liability to the Federal Government.

This plan is intended to test the viability of the direct loan approach. If the idea works, I am certain that Congress will want to expand it to more schools and more students. If the test does not succeed, the program will be terminated.

But I do not expect the initiative to fail. There is growing support for this concept. I understand that the Finance Committee will consider this proposal when it marks up the tax bill, and I look forward to early action on this measure.

At a time when tuition costs have been rising much more rapidly than family incomes, it is especially important that we do all we can to make college education more affordable and accessible to every young American. No investment is more important for the Nation's future.

I wish to pay particular tribute to Senator BRADLEY of New Jersey, who has been one of the really important forces in the Senate in a variety of different education areas, and certainly on the direct loan program; and particularly to my colleagues, Senators SIMON and DURENBERGER.

We introduced the legislation in 1978. At that time it was introduced as the Kennedy-Bellmon proposal, and also introduced in the House of Representatives under Senator SIMON who has followed this issue very closely over the years. Senator DURENBERGER has been very active in shaping and formulating this legislation. We have worked very closely together, the members of the Finance Committee, our committee, and the Education Committee.

It is not without its challenges. Some of the issues, I think, have been worked out in a satisfactory way. This is going to be an evolving and continuing development over a period of time.

I hope that our colleagues will have a chance to review the legislation in the very near future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCOME DEPENDENT EDUCATION ASSISTANCE.

(a) IN GENERAL.—Part D of title IV of the Higher Education Act (20 U.S.C. 1087 et seq.) is amended to read as follows:

"PART D—INCOME DEPENDENT EDUCATION ASSISTANCE

"SEC. 451. PURPOSE.

"It is the purpose of this part to establish a direct loan program for eligible students enrolled in institutions of higher education with income contingent repayment of such loans occurring through the Secretary of the Treasury.

"SEC. 452. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to carry out a program that—

"(1) makes loans to eligible students at institutions of higher education to enable such students to study at such institutions; and

"(2) establishes an account for each borrower of such a loan, and collects repayments on such loans, in accordance with section 59B of the Internal Revenue Code of 1986.

"(b) DESIGNATION.—

"(1) PROGRAM.—The program assisted under this part shall be known as the 'income dependent education assistance program'.

"(2) LOANS.—Loans made under this part shall be known as 'self-reliance loans'.

"(c) PAYMENTS.—

"(1) PAYMENT AUTHORITY.—The Secretary shall make payments to a participating institution on the basis of the estimated borrowing needs (provided to the Secretary by such institution) of the students at such institution pursuant to guidelines developed by the Secretary.

"(2) INITIAL PAYMENTS.—The Secretary shall make initial payments under this part in a similar manner to the procedure for distribution of Pell Grants under paragraphs (1) and (2) of section 411(a).

"(d) RELATION TO OTHER FEDERAL PROGRAMS.—A participating institution shall continue to be eligible to participate in all other programs assisted under this title.

"SEC. 453. ELIGIBILITY.

"(a) STUDENT ELIGIBILITY.—

"(1) IN GENERAL.—All eligible students enrolled at a participating institution are eligible to receive self-reliance loans without regard to financial need.

"(2) CONTRACTUAL RIGHT.—An eligible student at a participating institution shall be deemed to have a contractual right against the United States to receive a self-reliance loan.

"(b) NEEDS TEST FOR STUDENTS.—Notwithstanding any other provision of law, an eligible student shall not receive a self-reliance loan in any fiscal year unless such student's eligibility for assistance under section 428 and subpart 1 of part A has been assessed.

"(c) SELECTION OF INSTITUTIONS FOR PARTICIPATION.—

"(1) IN GENERAL.—From among institutions of higher education that have submitted applications under this part and are eligible to participate in part B loan programs, the Secretary shall select institutions of higher education for participation in the income dependent education assistance program.

"(2) SELECTION OF DIVERSE SCHOOLS.—The Secretary shall select institutions of higher education for participation in the income dependent education assistance program in a manner so as to represent a cross-section of institutions of higher education by educational sector, length of academic program, default experience, annual loan volume, highest degree offered, enrollment size, and geographic location.

"(3) INITIAL SELECTION OF INSTITUTIONS.—The Secretary shall select not more than 300 institutions of higher education for participation in the income dependent education assistance program not later than May 1, 1993, except that the Secretary shall select institutions such that the projected volume of new student borrowing under this part does not exceed $450,000,000 in fiscal year 1994, $550,000,000 in fiscal year 1995, $650,000,000 in fiscal year 1996 and $900,000,000 in fiscal year 1997.

"(4) EXPANSION OF THE PROGRAM.—(A) Beginning on August 1, 1997, the Secretary shall permit all institutions of higher education that, in the opinion of the Secretary, have the administrative and fiscal capacity to administer a self-reliance loan program, if—

"(i) the Congress does not act before such date to terminate or modify such program; and

"(ii) the Congress takes the affirmative step to approve the expansion of the income dependent education assistance program by providing sufficient resources to offset the cost of the income dependent education assistance program.

"(B) The Secretary shall publish criteria to govern institutional eligibility for the income dependent education assistance program not later than September 1, 1995.

"SEC. 454. APPLICATION AND AGREEMENT.

"(a) APPLICATION.—Each institution of higher education desiring to participate in the income dependent education assistance program shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(b) AGREEMENT REQUIRED.—Each institution of higher education chosen by the Secretary to participate in the income dependent education assistance program shall enter into an agreement with the Secretary for the receipt of funds under this part. Such agreement shall provide for the establishment of a self-reliance loan program at such institution under which such institution agrees to—

"(1) originate self-reliance loans to students, follow procedures specified by the Secretary in disbursing such loans, accept liability stemming from mismanagement of such loans, submit annual audit information, and participate in evaluations conducted by the Secretary or organizations chosen by the Secretary;

"(2) provide the Secretary at least once each month, with a list of self-reliance loan recipients and promptly notify the Secretary of changes in the enrollment status of any such loan recipient;

"(3) comply with the provisions of part B relating to loan origination, disclosure, and other matters which the Secretary determines are not inconsistent with the provisions of this part;

"(4) transfer the promissory note and other evidence of such loan as specified by the Secretary to the Secretary or the Secretary's agent within 30 days after the origination of such loan;

"(5) comply with the reporting requirements established by the Secretary;

"(6) ensure that the note or the evidence of indebtedness on the such loans shall be the property of the Secretary and that the institution will act as the agent of the Secretary for the purpose of making such loans;

"(7) counsel borrowers with regard to repayment options for self-reliance loans at the time that the borrower leaves the institution of higher education; and

"(8) contain such additional information, terms and conditions as the Secretary may prescribe to protect the fiscal interests of the United States and to ensure effective administration of the self-reliance loan program.

"SEC. 455. TERMS OF SELF-RELIANCE LOANS.

"(a) BORROWING LIMITS.—

"(1) ANNUAL LIMIT.—A student may receive a self-reliance loan in each fiscal year which does not exceed—

"(A) $5,000 in the case of an undergraduate student; and

"(B) $15,000 in the case of a graduate student.

"(2) MAXIMUM BORROWING LIMIT.—(A) The maximum amount of self-reliance loans—

"(i) an undergraduate student may borrow is $25,000; and

"(ii) a graduate student may borrow is $30,000.

"(B) The maximum amount of self-reliance loans a student may borrow shall not exceed $30,000.

"(C) The maximum amount of loans a student may borrow under this part and parts B and E shall not exceed the applicable limitations on aggregate indebtedness contained in section 428(b)(1)(B), except that, for a student determined to be independent for purposes of section 428A, the maximum amount of loans such student may borrow under this part and parts B and E shall be increased by the amount borrowed under this part not to exceed $10,000.

"(3) Cost of attendance.—(A) No student shall receive a self-reliance loan in any fiscal year in an amount which exceeds such student's cost of attendance for such year.

"(B) The amount of financial assistance a student receives under this part in any fiscal year, when combined with student financial assistance received under other parts of this title for such fiscal year, shall not exceed such student's cost of attendance for such fiscal year.

"(b) Interest Rate.—

"(1) In general.—The interest rate on self-reliance loans shall be established at the time that the loan is made and shall be equal to the interest rate on 52-week Treasury bills plus an additional 2 percentage points.

"(2) Timing and frequency.—The Secretary shall establish the interest rate for self-reliance loans at the same time and with the same frequency as the Secretary establishes interest rates for the Supplement Loans for Students program described in section 428A.

"SEC. 456. REPAYMENT PROVISIONS.

"(a) In General.—A self-reliance loan shall be repayed through the income tax collection system in accordance with section 59B of the Internal Revenue Code of 1986.

"(b) Repayment Terms.—

"(1) In general.—A borrower of a self-reliance loan or loans shall repay such loan or loans by devoting to repayment 7 percent of such borrower's adjusted gross income, except that the Secretary shall allow a borrower the option of devoting to repayment—

"(A) 3, 5, or 7 percent of such borrower's adjusted gross income in the case of a borrower who enters repayment with low indebtedness under this part, as determined by the Secretary; and

"(B) 5 or 7 percent of such borrower's adjusted gross income in the case of a borrower who enters repayment with moderate indebtedness under this part, as determined by the Secretary.

"(2) Secretary's determination of indebtedness levels.—The Secretary shall make the determination of low indebtedness and moderate indebtedness described in subparagraphs (A) and (B) of paragraph (1) in a manner such that the average borrower described in each such subparagraph is projected to repay self-reliance loans over a similar number of years as the average borrower with high indebtedness described in the matter preceding subparagraph (A) of paragraph (1).

"(3) Repayment status.—A borrower is in repayment status for any taxable year unless—

"(A) such borrower was, during at least 7 months of such year, a student enrolled in an institution of higher education on at least a half-time basis; or

"(B) such taxable year was the first year in which the borrower was such a student and the borrower was such a student during the last 3 months of such taxable year.

"(4) Length of repayment.—Repayment of a self-reliance loan shall continue until such loan has been repaid or for 25 years after the borrower ceases to be enrolled in an institution of higher education on at least a half-time basis, whichever occurs first.

"(5) Special rule.—No repayment of a self-reliance loan shall be due in any year in which the borrower is not required to file a tax return under the Internal Revenue Code of 1986.

"(6) Determination of adjusted gross income.—

"(A) In general.—For purposes of this subsection, the term 'adjusted gross income' has the meaning given to such term by section 62 of the Internal Revenue Code of 1986.

"(B) Married individuals.—A borrower who marries an individual who has not received a self-reliance loan shall make repayments on the basis of the greater of—

"(i) one-half of the adjusted gross income shown on such borrower's joint income tax return; or

"(ii) the individual borrower's adjusted gross income.

"(c) Deferral of Interest.—A borrower, at the borrower's discretion, may defer payment of interest on a self-reliance loan while the borrower attends an institution of higher education on at least a half-time basis.

"(d) Prepayments.—A borrower may prepay all or part of a self-reliance loan to the Secretary without a penalty.

"(e) Cancellation for Death and Disability.—The Secretary shall discharge the liability to repay a self-reliance loan in the event of death or total permanent disability of a borrower.

"(f) Rules Relating to Bankruptcy.—

"(1) In general.—A self-reliance loan shall not be dischargeable in a case under title 11 of the United States Code.

"(2) Certain amounts may be postponed.—If any individual receives a discharge in a case under title 11 of the United States Code, then the Secretary may postpone any amount of the portion of the liability of such individual on any self-reliance loan which is attributable to amounts required to be paid on such loan for periods preceding the date of such discharge.

"SEC. 457. RESPONSIBILITIES OF THE SECRETARY.

"(a) Terms and Conditions.—The Secretary shall promulgate the terms and conditions of a self-reliance loan not otherwise specified in this part.

"(b) Enforcement.—The Secretary shall have the same authority to limit, suspend or terminate an institution of higher education's ability to participate in the income dependent education assistance program as the Secretary has to terminate an institution of higher education's participation under a part B loan program. The Secretary may specify by regulation additional criteria the Secretary shall use to monitor the performance of participating institutions.

"(c) Central Data System.—The Secretary shall develop and administer a central data system for use in administering self-reliance loans. Such data system shall—

"(1) permit borrowers to secure information on their accounts;

"(2) on at least an annual basis, provide each self-reliance borrower with a statement of account balance and information on prepayment options; and

"(3) permit the processing of borrower payments received, including the generation of confirmations to borrowers.

"(d) Statements.—

"(1) In general.—The Secretary shall, not later than January 1 of each year, certify to the Secretary of the Treasury for each borrower in repayment status on such date an amount equal to the sum of the total principal amount of loans made to such borrower plus any accrued interest minus the sum of any amounts collected from such borrower. A copy of such certification with respect to a borrower shall be sent by the Commissioner of the Internal Revenue Service to such borrower.

"(2) Special rule.—Any borrower who receives a notice of certification under paragraph (1) and who believes such notice contains an error of statement or omission, or asserts a debt for which the borrower is not obligated or to which the borrower desires to raise a defense or excuse, shall file an objection thereto with the Secretary within 60 days after receipt of such notice. The Secretary shall, within 30 days of receipt of such an objection, affirm, adjust, or withdraw such certification and send notice thereof to the borrower and to the Secretary of the Treasury. Such decision shall be reviewable by an appropriate district court of the United States as a final agency decision.

"(e) Standard Forms and Data Formats.—The Secretary shall develop standard forms and data formats for use by institutions of higher education and borrowers regarding self-reliance loans.

"(f) Implementation Report.—The Secretary, in consultation with the Secretary of the Treasury, not later than 1 year after the date of enactment of this part, shall provide a report to the Congress describing the implementation of the income dependent education assistance program, especially the steps taken to implement the loan repayment provisions described in section 456, and identifying problems that require legislative action.

"(g) Annual Report.—The Secretary, beginning January 1, 1995, shall provide an annual report to the Congress evaluating the implementation and administration of the income dependent education assistance program and identifying problems that require legislative action.

"(h) Evaluation.—Not later than January 1, 1997, the Secretary, in consultation with the Secretary of the Treasury, shall make a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate evaluating the income dependent education assistance program. Such report shall—

"(1) analyze the administrative burden and cost imposed on the Department of Education and any other agency of the Federal Government by the income dependent education assistance program;

"(2) analyze the administrative capacity of the Department of Education and any other agency of the Federal Government to operate a self-reliance loan program at all institutions of higher education;

"(3) analyze the administrative and financial obstacles that may preclude all institutions of higher education from operating a self-reliance loan program and make recommendations for corrective action;

"(4) analyze the complexity of the income dependent education assistance program for institutions of higher education and students in comparison with the complexity of part B loan programs for institutions and students participating in loan programs under part B;

"(5) determine whether borrowers are better informed about their loan obligation under this part compared to other part B loan programs;

"(6) analyze the impact of the income dependent education assistance program on repayments, delinquencies and defaults;

"(7) make any recommendations for legislative action that may be needed to facilitate the implementation of the income dependent education assistance program to all eligible institutions of higher education;

"(8) publish the cost of tuition and the cost of attendance at each participating institution and analyze changes in such costs compared to such changes occurring in institutions of higher education that do not participate in the income-dependent education assistance program;

"(9) analyze the ability of the Department of Education to serve students in accordance with the income dependent education assistance program; and

"(10) analyze the effect of borrowing under the income dependent education assistance program on part B loan programs, including the effect on—

"(A) the socioeconomic status of students participating in part B loan programs;

"(B) the lenders, guarantee agencies and secondary markets participating in part B loan programs; and

"(C) the rate of defaults in part B loan programs.

"(i) OVERSIGHT RESPONSIBILITY AND DELEGATION.—The Secretary shall be responsible for all oversight of participating institutions.

"SEC. 458. DEFINITIONS.

"For purposes of this title—

"(1) the term 'cost of attendance' has the same meaning given to such term by section 472;

"(2) the term 'eligible student' means a student who is a United States citizen and has attained the age of 17 but not the age of 51;

"(3) the term 'institution of higher education' means an institution of higher education (as such term is defined in section 481(a)) which has demonstrated the administrative and fiscal capacity to carry out the provisions of this part; and

"(4) the term 'participating institution' means an institution of higher education having an agreement with the Secretary pursuant to section 454(b).".

SEC. 2. COLLECTION OF LOANS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—EDUCATIONAL LOAN REPAYMENT TAX

"Sec. 59B. Educational loan repayment tax.

"SEC. 59B. EDUCATIONAL LOAN REPAYMENT TAX.

"(a) IN GENERAL.—The Secretary of the Treasury shall enter into an agreement with the Secretary of Education to provide for the collection of repayments of self-reliance loans due pursuant to part D of title IV of the Higher Education Act of 1965.

(b) DETERMINATION OF TAX.—In the case of an individual who receives a certification from the Secretary of Education under section 457(d) of the Higher Education Act of 1965, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to the repayment percentage (as certified by the Secretary of Education) of the taxpayer's adjusted gross income for the taxable year.".

(c) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part VIII. Educational loan repayment tax.".

• Mr. BRADLEY. Mr. President, a year ago, I began working on self scholarships because I believe there is a fundamental connection between a college education and optimism about the future that our national interest will not allow us to ignore. I am very proud to join Senators KENNEDY, SIMON and DURENBERGER in introducing this bill, which is another step in the long effort to build the foundation for a better future.

This isn't a country where college is reserved for those of a certain elite class of people. This isn't a country where we make choices early in a child's life of whether or not they are collegiate material. This isn't a country where only those from certain families get into certain schools.

This is America, where the only limit to how successful any individual can be is their own ability. A college education is a symbol of getting ahead, doing better than your parents or grandparents ever hoped to, and laying the groundwork for your children to do better than you did. That's what a college education has symbolized throughout American history—the definition of American optimism.

Now, for the first time, my New Jersey constituents don't believe their children will have a higher standard of living than they do. My constituents are working longer hours and earning less, and when they think about the future, some of them feel more fear than optimism. The cause of that fear is, put simply, a lack of money.

ney, shouldn't limit the opportunity to share that optimism—but it always has, and it's doing so now more than ever. The cost of the college education is going up faster than incomes—fact. The amount of Federal aid for college tuition is not keeping pace with those who need it—another fact. Students aren't going to college—not because they aren't smart, or haven't worked hard, or don't have the motivation to make it—but because they don't have the money. Fact.

Self-reliance loans are a basic American idea—if you want to bet on yourself that you can work hard and come out ahead, we'll give you the opportunity to succeed. You get the opportunity, and in return we get a more productive society, and you put back into America what this country gave you—the means to realize the dream. It's that simple. It's cheaper to the Government than a guaranteed student loan, and unlike a grant it's available to everyone.

When I first came up with this idea nearly a year ago, I knew it was an uphill battle. Reauthorization for higher education was moving through the committee with several new initiatives included, and my proposal was considered revolutionary. But the more I talked to my colleagues and to people in New Jersey, the more I was convinced that self-reliance was a principle we needed sooner rather than later.

In the past month, I've spent a lot of time discussing the concept of direct loans with the distinguished chairman of this committee, the distinguished chairman of the Finance Committee, and other colleagues who are anxious to provide more opportunities to college students. I'm pleased that our joint efforts have produced progress and consensus on how to go forward. I intend to carry this agreement forward into the Finance Committee's consideration of an economic growth package later this week and hope that process will also be successful.

Let me just say a few words about the compromise that we are introducing today, Mr. Chairman. With your helpful suggestions and ideas from Senators SIMON and PELL, I believe we have improved on the basic structure of the self-reliance scholarship bill. The basic principles are the same: Every student in America, regardless of family income, would be able to get up to $30,000 for higher education simply by agreeing to pay back a small percentage of income after graduation just like a voluntary tax.

We have modified the repayment scheme slightly, so that instead of repaying a fixed percentage of your income for a fixed period of time, most borrowers would repay their loans until they had paid back what they took out plus interest at a very low rate. There is no risk of adverse selection, or the program being more attractive to low earners than to high earners. Students will still be able to make their own choices of the percent of income they want to repay. The process will be simple.

Students will have a chance to get the education that's best for them and then make the career decision that's best for them, without having their choices dictated by an unmanageable loan burden. A student who wants to be a social worker, a teacher, or explore a career in the arts can do so, because the self-reliance loan payments will be a manageable, fixed percentage of income. And a student who does well financially right from the start can finish off paying a loan quickly, before taking on the costs of raising a family.

It is very important to me that self-reliance loans would be a complete supplement to the current system, as I originally proposed. Every student should have a new option to pay for college. Some will be middle-class students who aren't eligible for any other aid. Some will be students who are eligible for some Pell grants or Stafford loans, but need more to fill the gap between aid and the cost of attending the best school they can get into. Others are nontraditional students, for example, a mother returning to the work force at age 38 after raising children, who realizes she needs more education to get a better job. Traditional means-tested financial aid programs aren't designed for that student.

Every student needs a new option to pay for college. It should be universal—that is, everyone should be eligible; and it should be income-contingent—that is, everyone's repayment should be a manageable percentage of income. I look forward to working with you further as we move this idea along with Chairman BENTSEN's support and Senator DURENBERGER's help in the Finance Committee, and later on the Senate floor. If we can make this difference for Americans of all ages trying to attend college, I believe young people will put more confidence in both our economic future and our Government.●

● Mr. SIMON. Mr. President, I join my colleague from Massachusetts, the distinguished chairman of the Labor and Human Resources Committee, in introducing this proposal to provide students with the option of receiving direct student loans for which the payments are income-sensitive and collected through the income tax system. I also want to commend my colleagues Senators BRADLEY and DURENBERGER for their leadership in the Finance Committee on this issue.

It is fitting that this idea will be proposed as part of the economic recovery package. The most important thing we can do to improve our productivity is to invest in our human resources. Anyone who doesn't believe that student aid can help the economy should look at the old G.I. bill. It was conceived of as a gift to veterans of World War II, nothing more. But it turned out to be a tremendous investment in our own prosperity. If you were to take that old G.I. bill and add inflation, it would be worth today more than $8,100. And that was a grant. It is unfortunate that the Higher Education Act reauthorization bill we passed last Friday did not include a Pell grant entitlement. But the fact that grant aid has diminished makes it that much more important that we provide students with a better loan program.

Mr. President, the proposal we are introducing today moves toward two important changes in now we provide Federal student loans: First, providing the capital directly, instead of through banks, and second, making payments income-sensitive and collecting them through the income tax system. While these two concepts are combined in this proposal, the issues that they raise are best addressed separately.

DIRECT LENDING

Mr. President, in the current guaranteed student loan program, the Federal Government is essentially a cosigner of each loan, taking virtually full responsibility for repaying the loan if the borrower defaults. At the same time that the Federal Government takes nearly all the risk, we guarantee the lender a profit by assuring a retail rate of interest on the loan. In contrast, with direct lending the Government borrows the funds at wholesale rates, saving a considerable amount of money which can be used to reduce costs to the student.

The U.S. General Accounting Office and the Congressional Budget Office agree that we could save a billion dollars, or maybe more, by shifting to a system of direct lending instead of paying subsidies to the banks, Sallie Mae, and other middle players. It would be irresponsible of us as policy-makers not to explore this option thoroughly—because if we can save money, we can use those savings to provide more aid to more students. Let me address a number of issues that have been raised about direct lending.

The Federal deficit and the Federal debt. Direct lending does not increase the Federal deficit. In fact, since we can save money that currently goes to banks and Sallie Mae, it can reduce the Federal deficit. Direct lending does increase the Federal Government's total borrowing for a number of years until the payback of loans offsets that borrowing. But the effect on the Government's financial well-being is the same whether the loan is direct or guaranteed, because a guarantee is still a liability. Whether we "cosign" and subsidize the loan at a high interest rate, or make it directly at a lower interest rate, we still pay for any defaults.

Can the Education Department run a direct loan program? At the hearing on my S. 1845 last October, David Kearns made it clear that the Department could run a direct loan program. I must emphasize that there is nothing revolutionary about direct assistance to students, through schools, from the Federal Government. That is how the Pell Grant Program and the other campus-based programs operate; it is not a mystery. It may be legitimate to ask whether the Department could oversee the collection of loans by servicers, as the House bill proposes. But our proposal uses the IRS, so this is not a problem. And the proposal that we are talking about today is only 300 schools in the first few years, so any problems can be worked out.

Can schools handle direct lending? The GAO study concluded that direct lending would simplify paperwork for schools. There is no question that schools would perform different functions under direct lending than they do under the current programs, and we do need to make sure that financial aid professionals are provided with any training or other assistance that they need. Again, by establishing a parallel program, and starting with just a few hundred schools, we can ensure a more smooth transition into the program.

How does direct lending help students? There is little disagreement about the potential of direct lending to improve service to students. In its comprehensive evaluation of guaranteed and direct lending, the National Association of Student Financial Aid Administrators [NASFAA] rated the "student service" aspects of direct lending much more favorably than the complex, error-prone guarantee system. Later witnesses can speak to this issue better than I can.

It is important to remember also that direct lending can save students money because we can pass along the savings. For example, the interest rate on IDEA/Self-Reliance is the 52-week treasury bill rate plus 2 percentage points, instead of an added 3.25 percentage points in the SLS program. Also, while the Senate version of the Higher Education Act reauthorization places a fee on SLS loans to make it available to more students, there is no fee on an IDEA/Self-Reliance loan. These may sound like minor differences, but they make a huge difference to students. For example, a student who needs a total of $10,000 over 4 years—$2,500 a year—would leave school owing nearly $1,500 more under SLS than under IDEA, because of higher interest and fees. A student borrowing $22,000 over 5 years would owe more than $3,500 more under SLS than IDEA.

INCOME-SENSITIVE REPAYMENT

While there are benefits to direct lending alone, using the income tax system for collection has the additional advantages of providing for more efficient collection, reducing default costs, and making it possible for payments to be sensitive to the borrower's income. The many benefits of this approach are spelled out in a recent letter to higher education leaders signed by 20 college and university presidents led by Father Byron who is here today, and Myles Brand at the University of Oregon. I ask unanimous consent that a copy of the letter be printed in the RECORD at this point.

There being no objection, the letter ordered to be printed in the RECORD, as follows:

A CALL-TO-ACTION TO HIGHER EDUCATION LEADERS FEBRUARY 1992

DEAR COLLEAGUE: A recent Washington Post poll ranking Americans' 50 greatest worries put financing higher education third. We are pleased to see national awareness of a problem all too familiar to those of us who must grapple with its consequences daily on our campuses.

We anguish over stitching together tighter and tighter budgets. We are wrestling with tuition increases, cross-subsidizing more and more students, and generally struggling to keep our institutions afloat in order to keep offering the services that define our mission. We have a big problem on our hands and it is not going to be washed away by a flood of new state of federal dollars. It demands new thinking.

One solution is to make better use of dollars we already have. We are supporting a new federal student loan alternative that would do just that, and we urge you to join us.

This alternative approach—direct student loans with universal eligibility and income-sensitive repayments—has been around for a long time, but only now has it become feasible. Very simply, it is just far more efficient than current programs. Therefore, it can provide a better loan program for students and schools, while at the same time saving large amount of money that can pay for increased grants, or for even better loan terms.

Currently, several major student loan bills are on the table in Congress that incorporate various aspects of this approach. Their sponsors are working together toward a consensus on the issue, and any law enacted in this area is likely to have the following characteristics:

Universal Eligibility: Loans available to all students regardless of their parents' income. The absence of any needs test greatly simplifies administration for schools, and it provides needed relief for hard-pressed middle income families.

Direct Lending: Funds come directly from the federal government. Neither students nor schools need deal with banks, guarantors, or secondary markets.

Income Dependence: Repayment is sensitive to the student's income after graduation, and operates through the income tax system—a far more effective and fair system than current collection efforts.

Choice: Major existing programs would remain, and the new program would draw business away from them through decisions of individuals schools and students that the income dependent alternative was more attractive.

Attractive Terms: Good enough so this alternative will be a rational choice for most or many students (otherwise it will fail in the marketplace and disappear).

Simplicity: With no needs test, no banks or guarantee agencies to deal with, and IRS collection, the program will be much simpler for everyone, including schools. Claims to the contrary, which you may have heard from people with a vested interest in current programs, are simply not true. All schools will have to do is advise students, provide lists of recipients to the federal government, obtain signatures on promissory notes, and provide information on repayment to borrowers.

Huge Savings: This change could save $1 billion to $2 billion per year, depending on the details of the bill. You might ask how this is possible. The answer is that the savings come from a lower cost of capital (because of the direct lending), simpler administration, and the virtual elimination of defaults. There is neither reason to default (because payment is related to income), nor opportunity to default (because payments are income taxes). Those who would default under current programs because of low income would owe little or nothing for that year under the income dependent alternative, but would come back into repayment easily later on if their incomes rose (as most do).

In short, income dependent loans offer numerous advantages both for students and schools. All students get a convenient, affordable, and supremely flexible option that accommodates life changes and decisions such as periods of child raising, public service employment, spells of unemployment and the like. Schools can help address the growing problem of middle class student access to higher education with a program that is very simple to administer, and the savings can be used to increase grants or improve loan terms.

If we were designing student aid from scratch, we'd never come up with the current array of programs. We'd much more likely come up with something like the alternative approach just described. And now we have an unprecedented opportunity to do just that. If we miss this chance, we may not have another for a generation.

It is crucial for us to demonstrate support for this major reform. Please call or send a letter of support to your federal representatives and senators. This is important. And let the major associations to which your school belongs know of your support, as well.

Thank you very much for your attention and interest.

Myles Brand, President, University of Oregon, Eugene, OR.
Judith E.N. Albino, President, University of Colorado, Boulder, CO.
Neil S. Bucklew, President, West Virginia University, Morgantown, WV.
Leslie C. Duly, President, Bemidji State University, Bemidji, MN.
William E. Hamm, President, Waldorf College, Forest City, IA.
James C. Hunt, Chancellor, University of Tennessee, Memphis, TN.
William Byran, S.J., President, The Catholic University of America, Washington, D.C.
Carl Christian Andersen, President, Lake-Sumter Community College, Leesburg, FL.
Dominick P. DePaola, President & Dean, Baylor College of Dentistry, Dallas, TX.
John V. Griffith, President, Arkansas College, Batesville AR.
Neil D. Humphrey, President, Youngstown State University, Youngstown, OH.
John H. Jacobson, President, Hope College, Holland, MI.
Larry Keirns, Director, Northwest Kansas Area Vocational, Technical School, Goodland, KS.
William R. Nester, Chancellor, University of Nebraska at Kearney, Kearney, NE.
William R. Stott, Jr., President, Ripon College, Ripon, WI.
Paul S. Tipton, S.J., President, Association of Jesuit Colleges, and Universities.
Roy B. Mason, President, Eastern Wyoming College, Torrington, WY.
J. Michael Orenduff, President, University of Maine at Farmington, Farmington, ME.
John Silber, President, Boston University, Boston, MA.
James S. Walker, President, Jamestown College, Jamestown, ND.

Mr. SIMON. Mr. President, we are in the midst of a national recession that, among many other things, is severely testing our present student aid structure and all of its flaws in ways that make these differences that much clearer and more dramatic. Right now, across this Nation, thousands of young adults, assaulted by the effects of the recession, are confronting the choice of making the monthly payment to the bank on a student loan, or going into default to use that money to pay the mortgage and keep the family home. And who will pick up the tab if the choice is to default? The taxpayers will.

There is a better way, a plan that would prevent this dilemma, prevent these damaged credit records, prevent these defaults, prevent the cost to the taxpayer, and give borrowers a reprieve when they need it. Income-sensitive loan repayment is that better way.

Because even if we can significantly expand grant aid—which I hope we do—there will still be a huge demand for loans, and some students will still be saddled with large debt burdens, particularly at the graduate school level. That is why we must do everything possible to ensure that money in the student loan system is not wasted on middle players and bureaucracy, and we must do what we can to minimize the negative consequences of student debt burden.

Student loan debt creates a number of problems. First, many youth and adults decide against going to college, because they are afraid they might fail, and they won't be able to pay off their loans. With an income-related program, that fear is reduced. During a period of unemployment or low wages, the required payments are reduced automatically.

Second, too many students don't do what they want to do with their lives, because of the loan payments they need to make. This might be a scientist who wants to be a high school teacher, but works for industry instead. Or a doctor who enters a high-paying specialty instead of working in an innercity health clinic. Debt burdens skew these career decisions.

Finally, large debt burdens postpone dreams. I know a couple in southern Illinois who are paying more than $800 a month in student loan payments. They would like to buy a home, but they simply can't afford to. Income-contingent payments would help to make their debt more manageable.

Income-sensitive payments and IRS collection also help us to address the default problem. A large part of the current problem is that people go through a low-income period, default, and then never pickup where they left off. By reducing the required payment based on income, borrowers can go in and out of the system without trying to figure out who owns their loans. Also, for those people who do have money, having the IRS as the collection agency will make it much more difficult for them to avoid paying.

It is clearer today than it has ever been that we need a strategy to regain the high-wage economy our Nation once took for granted. And in any equation, education and job training must be the key elements of that strategy. A better student loan program would expand educational opportunity and invest more in our people. Opening postsecondary education to all who seek it is, in the end, not so much a gift to them as it is a gift to ourselves.

Mr. President, when Senator DURENBERGER and I introduced our version of an income-contingent loan program several months ago, S. 1845, we received many positive comments from college officials about the concept. I ask unanimous consent that a sample of those comments be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEEDBACK—S. 1845

Salem College, Winston-Salem, N.C.—Julianne Still Thrift, president: "You are right on target in your concern about students' ability to finance their college and to avoid unmanageable debt. * * * three of every four students enrolled in our continuing education program are first-generation college students. They are often working while they are in school, and many are supporting families."

Westchester Community College, Valhalla, N.Y.—Joseph N. Hankin, president: "Let me congratulate you on an inspired amendment. Making student loans an entitlement available to all regardless of income is an excellent idea. It provides assistance to the forgotten middle class without reducing aid for those most in need. Making repayment of loans part of the annual income tax will alleviate a "large percentage of defaults, thus saving more funds for the program."

Saint Peter's College, Jersey City, N.J.—Thomas C. Scott, director, student financial aid: "We applaud this creative approach and favor such attempts to improve program accountability which will simplify loan programs for educational institutions, while eliminating confusion for students and parents in the application process."

Mid-State Technical College, Wisconsin Rapids, Wisc.-M.H. Schneeberg, district director: "Your (plan) * * * has been enthusiastically received. * * * The concept of involving the IRS with student financial aid is especially pleasing."

Peace College, Raleigh, N.C.—Garrett Briggs, president: "As president of a small, liberal arts college for women, I would like to offer my support for your IDEA Credit Program. * * * The assistance you are recommending will be of tremendous benefit to these middle income families. * * * While your proposal may impact those who make money off the current loan programs, this fact should not be a major concern to members of Congress."

National College, Rapid City, S.D.—Robert D. Buckingham, chairman: "This legislation is in the best interests of the nation, its colleges and universities, and most important its students. It is regrettable present legislation is so complicated and many times unfair to students. * * * (IDEA Credit is) a courageous step in fiscal responsibility on the part of students and taxpayers."

Briarwood College, Southington, Conn.—Dr. John J. LeConche, president: "Being a veteran of World War II, I am reminded that your proposal, IDEA Credit, will give to millions of Americans the same opportunity to acquire a college education as did the G.I. Bill of Rights. Without the G.I. Bill of Rights, Senator, I could not have gone to college. If opportunity, attitude, and persistence are the hallmarks of success in America, then the opposition should realize that in the long run they will make more money from people who graduate from college than from people who are unable to attend college because they could not afford it. It is incumbent, therefore, upon the opposition to think of America first; and if they do, I believe that more money will fill their coffers from an educated population in a very few years."

Delaware Technical & Community College, Dover, Del.-Linda C. Jolly, vice president and campus director, Terry Campus: "(IDEA Credit would be) a welcome relief from the present system which is too often bogged down in a quagmire of federal regulations. * * * (It) would provide assistance to those 'middle class' students who are presently ineligible for aid. * * * I am genuinely pleased to see a proposal that offers a viable solution, rather than mere rhetoric, to a serious and longstanding problem."

Berkeley Colleges, N.J./N.Y.—Robert V. Maher, vice president: "* * * a workable and worthwhile proposal. * * * Your IDEA eliminates the needs test, increases the borrowing level, and introduces the concept of direct lending. The cost savings can be enormous."

Howard Community llege, Columbia, Md.—Dwight A. Burrill, president: "IDEA Credit simplifies the student loan program without placing more burden on the institutions."

Association of Jesuit Colleges and Universities: "(The Association) strongly and warmly supports (The Financial Aid for All Students Act). * * * We agree with your rationale for the program—both for the levels of borrowing and its openness to all."

United States Student Association: "A direct loan program would save the federal government $1.4 billion in subsidies, simplify the student loan application, delivery and repayment process, and eliminate origination fees and insurance premiums."

Fort Hays State University, Hays, Kan.—James Dawson, vice president, student affairs: "(IDEA Credit) is very creative and provides good insight into the many problems we are experiencing in financial assistance * * * our system is burdened with excessive paperwork and bureaucratic regulations. This is one of the first proposals I have seen which radically alters the system and it appears to me to be very favorable both to students and to university administrators."

Castle College, Windham, N.H.—Sr. Sheila Garvey, president: "(IDEA Credit is) exactly what is needed in order to adequately provide equal opportunity for higher education for all of our students. The middle class is virtually being eliminated from federal student aid programs. Eliminating the so-called middlemen, basing payments on income and using the income tax system to collect student loans is the least expensive and most practical solution to the student default issue. * * * I support your proposal 100 percent."

Tarleton State University, Stephenville, Texas-Dennis P. McCabe, president: "I support your efforts to establish IDEA Credit."

Youngstown State University—Neil D. Humphrey, president: "IDEA Credit is a concept whose time is overdue. Such a program provides much needed assistance to the working poor and lower-middle class workers who are in increasing numbers finding access to federal student financial aid closed. Many parents of our students, hard-working taxpayers, simply cannot accumulate enough discretionary income to help send their children to college."

Bowie State University, Bowie, Md.—James E. Lyons Sr., president: "This would be extremely important to Bowie State University students as 50 percent of our population receive financial aid and would benefit from the increase in Pell Grant funding and the other 50 percent could benefit from the various loan provisions and the Excellence Scholarships. In addition, the support to the state early intervention programs would be invaluable."

University of Colorado—Judith E.N. Albino, president: "I am concerned that a multimillion dollar secondary 'industry' has grown up around the current GSL program, the profits of which come from the pockets of students and which never find their way back to the financial aid market as reinvestments for future generations of students."

University of Detroit-Mercy—Maureen A. Fay, O.P., president: "(IDEA Credit is) * * * a genuine effort to get the largest percentage of aid into the hands of the students who are most in need of financial assistance."

Mount Marty College, Yankton, S.D.—Jacquelyn Ernster, president: "the use of the income tax system as the collection device will serve to reduce loan defaults which are a source of serious adverse public reaction to these programs. * * * I support this initiative and believe it will be a partial solution to the current crisis in post-secondary education."

Stockton State College, Pomona, N.J.—Vera King Farris, president: "I was extremely encouraged and excited to learn of your proposal. * * * It is unrealistic to continue to constrict our future generations with loans that may outweigh their earning power given their chosen professions."

Lee College, Baytown, Texas—Charles Ed Moak, dean of students, and Barbara Watkins, financial aid director: "(IDEA would) place more financial support directly with students and at the same time remove the colleges and universities from an uncontrollable predicament in the event of student default."

Portland State University, Portland, Ore.—Judith A Ramaley, President: "It is clear that the existing program needs rethinking. Each year it becomes more expensive, and each year the average debt loan of the student increases."

Webber College, Babson Park, Fla.—Rex R. Yentes, president: "I firmly endorse the IDEA Credit program."

Universidad del Turabo, Gurabo, Puerto Rico—Claudio R. Prieto chancellor: "I support your IDEA proposal wholeheartedly. The IDEA proposal is an especially appealing one. It's procedural simplicity, its fairness in allocating aid, and its revenue-neutral trait make it the best idea in town."

Arkansas College, Batesville, Ark.—John V. Griffith, president: "It is my feeling that the Idea Credit Program will extend access to quality higher education to a broad spectrum of our population, and, at the same time, cut down on the large volume of administrative work required to oversee the current financial aid program."

Florida Southern College, Lakeland, Fla.—Robert A. Davis, president: "I especially approve direct awarding to the educational institution, since this should provide a reduction in the number of parties involved, thereby giving much needed relief from the complicated processing work load required by the current Guaranteed Student Loan program."

San Jacinto College Central, Pasadena, Texas—Dr. Monte Blue, president: "We are particularly pleased to know that progress is being made in the financial aid field to simplify paperwork for schools, improve program accountability, and save dollars."

Introspect Youth Services, Chicago—Bernard M. Clay, executive director: "* * * cost has now become the principal barrier to a post-secondary education. Not since the Middle Income Student Assistance Act of 1980 has focus been given to working families who want to assist their children with their higher education. * * * we have witnessed severe need which exists among students from middle income families."

Stillman College, Tuscaloosa, Ala.—Cordell Wynn, president: "I am favorably impressed by the overall proposal. I recommend, however, a higher increase to the Pell Grant in excess of the $600 proposed. It would be helpful to have a maximum Pell Grant of $4,500 to reduce the amount students would need to borrow under the IDEA Credit program. * * * It appears the IDEA Credit Program will reduce some of the work which colleges now perform under the Guaranteed Student Loan and will assist in reducing the default rate."

Kansai Gaidai-Hawaii College, Honolulu—Andrew Dykstra, provost: "(IDEA Credit) has many advantages over the current clumsy and burdening system. I am for any method that reduces the involvement of the banks and other beneficiaries who benefit from our taxes."

Waldorf College, Forest City, Iowa—William E. Hamm, president: "* * * it is an excellent proposal and a long-overdue response to the higher education financing crisis we're facing. * * * I have been associated with the admission and financial aid process of Lutheran-related liberal arts colleges and universities * * * for more than 25 years. I have long been frustrated by the tedious process of trying to politically arrive at a fair assessment of family income and ability to provide for education, and the distinctly unfair practice of non-need based subsidies given to students who choose public education. While your proposal does not solve all of the problems, it does allow a means of student access to the college or university of the student's choice."

Rust College, Holly Springs, Miss.—W.A. McMillan, president: "* * * I have had an opportunity to talk with many of my colleagues who served as presidents of our colleges and universities. All are indeed excited about your proposal. * * * I have not seen a proposal thus far that would do more to expand access to higher education for all students. * * *"

Eastern Shore Community College, Melfa, Va.—John C. Fiege, president: "* * * your proposal will eliminate these problems for colleges, save taxpayers' money, be more efficient, and place the burden of collection on the IRS. Most important, however, your bill will provide greater access to more students through an excellent means for administering financial aid funds."

College of the Sequoias, Visalia, Calif.—Robert A. Lombardi, superintendent/president: "The method of collection seems so sensible and obvious that I have often wondered why it was not employed."

Barry University, Miami Shores, Fla.—Sister Jeanne O'Laughlin, president: "Private institutions such as Barry University see many students from middle income families unable to enroll, or continue enrollment because they are not eligible for need-based financial aid, and cannot bear the expenses of a private 4-year university without any assistance at all. * * * IDEA Credit would mean greater accessibility for those who need it most. * * * Eliminating these "middlemen" will mean that the savings could be redirected to other educational programs that desperately need funding. Direct loan programs would also be easier to manage and administer because schools would have more control, as we currently do with the Title IV campus-based programs. Ultimately, students will benefit from an improved and streamlined financial aid delivery system."

Cloud County Community College, Concordia, Kan.—James P. Ihrig, president: "Our people have had the opportunity to review this program and believe that it is a good program. We will support it and are hopeful that it can be implemented."

University of Nebraska at Kearney—Leonard Skov, vice chancellor: "We enthusiastically support this proposal. It will address at least two of the significant financial aid concerns of today's university students. The traditional financial aid programs that place a great deal of weight on the balance sheet of the family definitely work to the disadvantage of university students coming from rural families. In many cases, there may be a relatively attractive balance sheet, but very little current income to apply to university costs and yet the student is not eligible for traditional financial aid. The second concern addressed by IDEA Credit is the opportunity for support for graduate students. As a campus of 10,000 students, with approximately 2,500 of those graduate students, we observe major problems among our graduate students as they are now currently forced to either work part time and go to school part time or to seek private loans or other sources of support. We are also enthusiastic about the $1,000 Excellence Scholarship program. We would much prefer to offer incentives to students to assist in their decisions to pursue a rigorous high school curriculum than to attempt to achieve that same objective through applications of admissions standards.* * *"

New Hampshire College, Manchester—Richard A. Gustafson, president: "The proposal as presented is simple, sound and secure.* * * I urge you to move forward with your plan with our enthusiastic support."

Saint Louis University Parks College, Cahokia, Ill.—Peggy Baty, associate vice president and dean: "The IDEA Credit program appears to be a sound one and would certainly ease the burden of the cost of a higher education for young people today. Your plan would provide greater accessibility to college but still require the individual to pay his own debt."

Eastern Mennonite College & Seminary, Harrisonburg, Va.—Joseph L. Lapp, president: "I like what I see * * * many average Americans need assistance in financing higher education. The cost of education at most private colleges such as Eastern Mennonite is escalating even as we maintain an efficient program of excellence. (IDEA Credit is) * * * a creative way of expanding financial assistance to students and families without increasing the federal deficit."

Indiana University East, Richmond—Larry D. Baker, vice chancellor for student services: "I strongly support the Financial Aid for All Students Act. I especially agree with the concept of collecting repayment via the IRS. But as you work for adoption of the bill, there is one option that I would encourage you to consider. Include a provision for parents to assume portions of the debt and for them to begin repayment immediately via the IRS. Because the program offers funds to any student, regardless of family income, it makes little difference who assume responsibility for loan repayment."

Wentworth Institute of Technology, Boston—John F. Van Domelen, president: "The most gratifying part of your program is that it would reduce much of the mindless and numbing bureaucracy institutions and students must cope with under the current financial aid schemes and those being proposed. Our institution would, as I am sure would all others, shift more dollars to financial aid for our students if we did not have to hire armies of administrators to meet ever escalating federal regulations, requirements and administrative procedures."

Arapahoe Community College, Littleton, Colo.—James F. Weber, president: "Although administrative responsibility for the program would remain with the college, our ability to control disbursements would be vastly improved as would overall accountability for the operation of the program."

Jamestown College, Jamestown, N.D.—James S. Walker, president: "We at Jamestown College heartily endorse your proposal * * * we are (especially) enthusiastic about the income-dependent emphasis on funding and repayment by means of increased income taxes. Definitely this is a fairer and more cost-effective approach than current programs."

College of the Siskiyous, Weed, Calif.—Eugene Schumacher, superintendent/president: "* * * the personnel in our student financial aid office * * * were more than enthusiastic; they feel it is, without question, the best plan they have ever seen and would undoubtedly be of significant benefit to countless students here at the college."

Guilford College, Greensboro, N.C.—William R. Rogers, president: "The proposed use of an IDEA Credit for students throughout their college experience with a payback system calibrated to income after graduation and collected through the IRS makes eminent good sense. The program seems fair, simple to administer, and extremely helpful to students of all backgrounds * * * the bankers may not be quite as happy with this scheme, but certainly it is students who would benefit."

San Francisco Art Institute—William O. Barrett, president: "I endorse the IDEA plan and sincerely hope it passes the Senate soon. We need to make more money available to students, while cutting costs and paperwork. This plan does that."

Elgin Community College, Elgin, Ill.—Paul R. Heath, president: "In general, I am supportive of IDEA, as it provides a fair and equitable borrowing system for ALL students and effectively provides a reasonable payback system through IRS * * * I need to think through the 'paper' impact on our institution."

Jefferson Community College, Watertown, N.Y.—Charles A. Brox Jr., director of financial aid: "I have been a financial aid officer for the past 27 years in a community college in upstate New York. My years of experience have shown the abuses, the frustration, and the very cumbersome financial aid regulations that thrust the program out of any manageable mode. I have studied your concept, I support it and I wish you the best of luck."

Boone, N.C.—Annette Wilson: "As a 37-year-old African-American mother of two, searching for funds for graduate schools is a full time job in itself. My husband completed his doctoral studies * * * two years ago. We both feel teaching at the university level can help better prepare our public school teachers to educate the vastly growing minority population. I feel (IDEA Credit) * * * is a positive endeavor to promote an increase in goal-oriented educated minority citizens."

University of Health Services/The Chicago Medical School—Myron Winick, president; Theodore Booden, acting dean; Velkayudhan Nair, dean, School of Graduate and postdoctoral studies; Cynthia Adams, dean, school of related Health Sciences: "The problem of debt among students in the health sciences has reached staggering proportions. Many medical students graduate with debts between $75,000 and $100,000. The need to repay these debts very soon after finishing medical school is leading many graduates away from primary care careers and into higher paying subspeciality careers. Your bill will go a long way in reducing these student debts. We believe the bill is well conceived and highly appropriate and, therefore, we strongly support its passage."

University of California, San Francisco—Emelie H.S. Osborn, associate dean, student affairs: "There is no doubt that the amount of debt is one of the key factors in medical student speciality choice which is driving many talented students away from primary care. * * * This is an important step toward improving the accessibility of higher education for all students."

Southern Illinois University—James M. Brown, chancellor: "I join many others in the higher education community in supporting a Pell Grant entitlement program. An entitlement program would help strengthen our commitment to provide a college education to all qualified students, regardless of their families' ability to pay. Further, I support your proposal to increase assistance to students from low income families, and your inclusion for eligibility in the Pell Grant program of students from moderate income families." Lawrence A. Juhlin, associate vice president for student affairs: "I want to express my strong support for IDEA Credit. * * * I am deeply gratified to see congressional action moving in the direction you are proposing."

Oklahoma State University—Gary Garoffolo, assistant director, office of student financial aid: "Direct lending * * * would simplify the process for students. There are few student borrowers today who truly understand or appreciate the Guaranteed Student Loan program in its current form. As we all know, there are a number of players in this game which leads to confusion and even alienation on the part of some borrowers. I believe that if the process is simplified loan repayments should increase, and default rates, which are a concern of both members of Congress and the financial aid community, should decrease. In addition, direct lending would provide an opportunity for timely error resolution. * * * At Oklahoma State University we expend a tremendous number of man-hours in making adjustments and assisting students after the fact. * * * The argument that institutions would not be able to administer such a loan program is lost on me. I believe that such a program can be administered effectively by institutions of all types and sizes, particularly if a system utilizing current Pell procedures is put in place to provide the necessary funding to schools and subsequently students. This would be a system with which Title IV eligible schools are already familiar. * * * I truly believe there is inherent in such a program cost savings to the taxpayers of the United States. * * * Quite frankly, if this type of program were to be put in place at no projected cost savings to the taxpayers I would still support such a measure based on the positive effects it would have for students and institutions."

Albany Medical College/Albany Medical Center, Albany, NY.—Anthony P. Tartaglia, dean: "The loan processing would be simplified for the financial aid office of our medical school. * * * I wholeheartedly support your program and urge you to move forward."

National Association of Independent Colleges and Universities—Richard F. Rosser, president: "* * * how to finance education for their kids * * * indeed is the nightmare of most Americans. Your proposal contains much of the good thinking that we have seen in earlier direct loan proposals. * * * We do have a concern, however, about the loss of the in-school interest subsidy. We would prefer that some of the savings that you now allocate to Pell Grants and early intervention would be used to cover in-school interest."

Eastern Wyoming College, Torrington, Wyo.—Kathy Moriarty, director of financial aid: "I * * * add my voice to the chorus of those who support the concept of direct lending and the critical need for additional grants for students. In particular, I am writing in support of the Simon-Durenberger proposal. I am deeply concerned about the tremendous need we see here at my college as a result of our changing student demographics. I am sure that we are not alone in the ranks of community colleges who are serving extremely large numbers of poor single parents, and unemployed and underemployed people. * * * Clearly, it is time for a major change. I believe that direct lending, and particularly direct lending as proposed by Simon-Durenberger, will be a much cleaner and smarter program. * * * There is a great need for income sensitive repayments. * * * Research has shown that the majority of defaults occur not because people choose to default but because they are simply unable to repay their loan at a given time. It is extremely difficult for a single parent with several small children to earn enough after one or two years of a community college education to support herself and her children, pay child care costs and make student loan payments. The Simon-Durenberger proposal would enable such a student to begin repayments when she has achieved sufficient earning power to realistically make those payments. * * * It is often a bureaucratic nightmare for students and institutions to obtain information on outstanding loans. In my opinion, the IRS would be much more effective in the area of collections than the tangle of lenders, guarantors and collection agencies and secondary markets presently in place. * * * Under the present system there is almost no way to control abuse. If and when abuse is discovered, it may be several years down the road. A direct draw-down of funds would make it immediately visible to the Department of Education if institutions were abusing the system."

Sangamon State University, Springfield, Ill.—Naomi B. Lynn, president: "I believe that your bill is preferable to the House legislation in this area and that it represents the best we are likely to get during the current session."

North Carolina Agricultural and Technical State University, Greensboro—Edward B. Fort, chancellor: "The IDEA Credit program, increased funding for the Pell Grant Program and the Excellence Scholarships program all represent the type of action needed to guarantee an educated America in the 21st Century."

University of Maine at Farmington—J. Michael Orenduff, president: "* * * I am acutely aware of the many flaws in our current array of student loans. Your proposal offers a simple, comprehensive, affordable and reasonable alternative."

Arizona State University—Lattie F. Coor, president: "It is clear that this new direction is a critical element to our nation's success in the future. Our current array of student financial aid program is clearly inadequate to meet the present demand, let alone the future financial demands of bright but needy students."

Kilian Community College, Sioux Falls, S.D.—Ron MacDonald, president: "(IDEA Credit) is the most meaningful action for increasing access to college for non-traditional students since the original G.I. Bill."

University of Chicago—Arthur M. Sussman, general counsel and vice-president for administration: "The concept of direct loans is of interest to The University of Chicago, first and foremost because of advantages it may have for many of our students. Over the years, the present program has become more complex for students, especially the application process. In addition, as you point out, students who wish to enter fields that are less well-paid may be deterred from doing so if they need loans to complete their training. The repayment plan you propose would ameliorate that difficulty."

University of Tennessee, Memphis—James C. Hunt, chancellor: "IDEA Credit is a splendid concept. The need is desperate for many students who simply are priced out of the market and are unable to achieve basic and advanced higher educational experiences * * * we often see health professional students in dentistry, medicine, pharmacy and graduate school students in the basic sciences run up enormous debts in the process of obtaining their pre- and post-doctoral education and training. Some of our dental and medical students have debts far in excess of $50,000 at the time of obtaining their doctoral degrees. When monies are available for loans, the hassle factor is very, very considerable, and living expenses are seldom adequate at best. The IDEA Credit Program will simply greatly the administrative process and should enormously diminish the cost."

Eastern Iowa Community College District, Davenport—John T. Blong, chancellor: "Your proposal addressed these concerns without increasing the paperwork our institution must handle, an accomplished feat. From a college perspective, key points in your proposal are that the plan will not increase the budget (and may actually result in saving federal funds) and will simplify the paperwork for colleges. We cannot continue to let students graduate from college with a staggering debt which they can only hope to repay with high-paying jobs. Your proposal restores incentives for students to enter lower-paying professions which have direct social applications and benefits. This will help rekindle the spirit that made us a caring country idolized throughout the world * * * Thank you for your understanding of what our students truly face."

Quinebaurg Valley Community College, Danielson, Conn.—Robert E. Miller, president: "Please record this as a hearty endorsement for the Financial Aid for All Students Act. I favor this approach to loan distributions that would provide more support to more students with less bureaucratic control and expense. Banks and loan guaranty agencies constitute a barrier to students, especially those who tend to be less sophisticated about accessing resources that will enable them to attend college."

Oklahoma Baptist University, Shawnee, Okla.—Bob R. Agree, president: "The IDEA Credit program has merit. It would help the middle income family more than any other direct loan idea I have seen * * * Your proposal seems to incorporate the best of several efforts that we've seen."

Eastern New Mexico University, Roswell—Loyd R. Hughes, provost: "Please consider this a letter of support * * * Any change which will open up the financial aid system to move middle class students while at the same time increase the amount of aid to the neediest students, spread the paycheck period over a longer period of time (depending on income), simplify the system and also save money seems almost too good to be true."

State of Connecticut Board of Governors for Higher Education, Mattatuck Community College—Richard L. Sanders, president: "I believe the entire proposal will do much to simplify a process which is very difficult for individuals to understand, both inside and outside of higher education. I vigorously support it. * * *"

The Boston Conservatory—William A. Seymour, president; James T. Bynum, director of financial aid: "The IDEA Credit program would be especially important to our graduates. They are teachers and performers in the arts, and their income potential is generally limited during the first few years following their separation from the Conservatory. A deferred repayment program based on income and collected through the tax system would make it possible for more and varied students to have access to a professional arts education."

New Community College of Baltimore—Myrtle E.B. Dorsey, vice president, student affairs: "It is reassuring to see that you understand the problems that face students and parents in pursing a college education. Your amendment cuts right through the red tape and gets to a major problem parents and students face: where to find funds. Often for low-income students, bureaucracy intimidates them and even discourages many from thinking about the possibility of access to higher education. Generations suffer when all citizens cannot avail themselves of higher education opportunities. * * * lenders will be very much against this proposal because they profit from these programs. I am concerned that the banking lobbyists may work to defeat this amendment. I think many citizens would be surprised to see how much money is spent to subsidize banks by the current student loan program."

University of Hartford, Hartford, Conn.—Dr. Timothy B. Brown, special assistance to the president: "I strongly support (IDEA Credit). * * * it is clear to me that our diverse system of higher education which includes a mix of excellent public and private institutions will survive and grow only with increased public involvement and support. Accountability, however, is of paramount importance if the public is going to support increased aid for higher education. It must be made absolutely clear to a skeptical public that higher education is, in fact, a public good and that funds for student aid are actually being used in a cost-effective manner to provide all sorts of benefits for the community and the nation."

Colorado Northwestern Community College, Rangely, Colo.—Aubrey Holderness, president: "(IDEA Credit) simplifies access of fund support for all students, better assures accessibility of higher education/vocational education opportunities for all students, assures better program and institutional accountability to which we are committed, simplifies process and paperwork for schools, and provides substantive administrative and operational savings."

Denton Texas—Pat Thomas: "As a single woman struggling to work full time and complete a graduate program, I have been frustrated to find that my income, while barely covering my living expenses, is 'too high' for me to qualify for student loans. As a result, I am financing my graduate education largely with consumer credit cards—hardly the most cost-effective way, but I find it is my only option. Your program would certainly help me and many others in graduate and undergraduate programs."

Montgomery, Ill.—Mary Williams: "We are such a family (that would benefit under IDEA Credit). My husband is approaching retirement age and our youngest child just started college this fall. We don't feel like taking out big loans ourselves when we can see a reduced income when we are still trying to pay them off. Our son has a good scholarship. * * * But it still leaves a lot of expenses to be covered through other means. Having raised six children we have not saved tons of money to put number six through college. He is a high achiever and we want him to take advantage of his opportunities. I see more direct loans to students as an advantage to people like us. This is not a 'hardship' story, but I think we are a good example of the families that would be helped by the ideas you have proposed."

Mount Mary College, Milwaukee—Sister Ruth Hollenbach, president: "We fully support your efforts not only for the increased assistance that many students need but also the improvements in delivery and collections of these loans. At Mount Mary College we consider excellence to be our oldest tradition. The Excellence Scholarship program will encourage students to work hard to develop their talents and abilities."

Lafayette College, Easton, Penn.—Robert Rotberg, president: "* * * I strongly support your proposed amendment to the Higher Education Act. An IDEA Credit program of loans to deserving students, repaid out of later taxed earnings, make abundant sense to me as an educator and as a taxpayer."

Palm Beach Community College, Lake Worth, Fla.—Melvin Haynes Jr., vice president of student services: "* * * we wholeheartedly endorse (IDEA Credit). The program assists in meeting the increasing need for our people to have affordable access to higher educational opportunities by providing credit to students in a much more efficient manner than does our present student loan program."

Norwich University, Northfield, VT.—W. Russell Todd, president: "I support the concept contained in IDEA Credit. * * * It is also encouraging to see, under your proposal, that America's middle-class families will once again be eligible for student aid."

Amherst College, Amherst, Mass.—Joe Paul Case, dean of financial aid: "Amherst College supports IDEA Credit. * * * From our perspective, direct lending simplifies the loan process for students, streamlines colleges' paperwork and administrative details, delivers funds more promptly to students and their institutions, and is very likely to produce substantial savings for taxpayers. Bypassing the multitude of lending institutions and guaranty agencies that a college with a student body drawn from across the nation must deal with is especially attractive to us."

Coalition for Democratic Values—("New Program for a High-Wage, High-Productivity Economy.") The current system of the federal government providing costly guarantees to private banks and secondary market organizations must be replaced by a simpler and cheaper program of direct government lending. And the current system of repayment must be changed to one that is based on the individuals' income after graduation * * * (to) re-open the doors of higher education to hundreds of thousands of young people, allow them greater choice in both their education and their occupations after school, and allow them to manage their debt in a rational way."

• Mr. DURENBERGER. Mr. President, I'm pleased to join my distinguished colleagues from Massachusetts, Illinois, and New Jersey in introducing legislation authorizing creation of a new pilot income contingent direct loan program.

This legislation is based on a proposal I first introduced last summer called IDEA, a proposal that was originally authored in the House of Representatives by my mentor on this issue, Congressman TOM PETRI from Wisconsin.

Senator SIMON and I expanded on the IDEA proposal in legislation we introduced last fall that used savings from IDEA to help finance an expansion in the Pell Grant Program and a new merit-based Excellence Scholarship Program.

I'm also pleased that the proposal we are introducing today also incorporates elements of similar legislation introduced by Senator BRADLEY earlier last summer.

Mr. President, these various bills all differ in their details. But, they all authorize a new student loan program that has two essential features:

First, college loans that are available to students directly from the Government—eliminating millions of dollars in administrative expense and red tape; and

Second, loan payments that are based on post-college income and that are made through the IRS—eliminating millions of dollars in defaults and vastly simplifying how loans get collected.

All the charts and graphs and calculations needed to explain and analyze the IDEA program can be boiled down to those two central features, those two sets of advantages, and those two calculations of savings.

Mr. President, a big part of my sensitivity to the rising cost of going to college stems from my own experience as a parent and the experiences of my constituents who also have sons or daughters who are in, or about to enter, college.

Just 2 months ago, a new national survey found the rising cost of college to be our third biggest worry as families in America—right behind crime and drugs and—surprising to me, at least—ahead of health care.

Millions of middle income American families are clearly worried that going to college is something that could again become the sole province of the unsubsidized rich and the totally subsidized poor.

And, millions of American families are clearly worried that their kids won't have the same opportunities that we had to go to college—just one generation ago.

Mr. President, I also see the fears and doubts that are facing middle income American families every day in my mailbag.

As one Minneapolis couple wrote me recently, "Even though our combined incomes are about $60,000, we find it hard as middle class citizens to pay college expenses and support a family. We are too poor to be rich and too rich to be poor."

One big reason for this frustration lies with the rising cost of going to college. From 1980 to 1987, inflation adjusted tuition rose five times faster than the rate of the median family income.

And, just 3 months ago, the papers were again reporting the College Board's annual report on average tuition and fees at public and private universities.

Inflation was 3 or 4 percent last year. But, tuition and fees were up 12 percent at public 4-year institutions and up 13 percent at 2-year public universities, the fastest growing sector of higher education.

All of this is happening at a time when incomes are leveling off, and home equity—the traditional savings bank that many of us drew on to finance our kids' educations—may even be declining in value.

What scares me the most about this trend is that it threatens to price middle income Americans out of higher education at the same time economic realities are demanding an even better educated work force.

That fear threatens the dream today's students have of getting a college education. And, that dream becomes a scary nightmare if we project current trends in the cost of higher education out into the future.

One constituent of mine recently wrote that he had priced out the cost of sending his three children to college—hoping to give them the same high quality education that had cost him and his family about $12,000 just 20 years ago.

His children are now ages 12, 9, and 3. And, by the time they complete college, the total cost of their education is projected to be between $200,000 and $400,000 depending on whether they attend public or private colleges.

That's an average of $67,000 for a public college education and $133,000 for private college—a tenfold increase in what it cost to send my Minnesota constituent to college just one generation ago.

A prudent parent would start saving for that kind of expense right now.

But, my constituent calculated that he and his wife would have to be saving more than $14,000 a year if their three children were going to public colleges and almost $30,000 a year to cover tuition and other expenses at private colleges—for each of the next 15 years.

Mr. President, that 21st century challenge cannot be met by our 1960's-era system of student grants and loans.

A system that's unnecessarily bureaucratic and complex.

A system that largely neglects the needs of middle income students and their families;

A system that spends billions of dollars a year on overhead and red tape;

A system that's vulnerable to administrative and financial problems best documented by last year's collapse of the Higher Education Assistance Foundation [HEAF];

A system that's limiting institutional, career and family-related choices for a growing number of students; and

A system that's burdening millions of students with inflexible loan payments and a growing level of debt that produced $3.9 billion in student loan default last year.

In the 5 years beginning in 1987, Federal student loan defaults have cost the taxpayers $11.5 billion.

More than 40 cents of every dollar we now spend on the Federal student loan program goes to pay off defaulted loans.

And, many of the thousands of borrowers in default are now stuck with a burden and a barrier to getting and sustaining a good start in life.

I ran into one of those borrowers recently in Duluth—a reporter for one of the local radio stations who defaulted on his student loan a few years ago while in a low paying job.

Today, because of that black mark on his credit rating, he and his wife can't get a loan for their first home.

My mailbag is full of similar sad stories including one Robbinsdale couple—both in default, but both now having the incomes and future earning potential to eventually pay off their loans.

But, because they are in default, their loans are now in the hands of a collection agency which is demanding payments they can't make.

"We would like to make regular payments," this couple wrote to me recently. "But, we feel our efforts are denied by the creditors insisting on unrealistic expectations."

The inflexibility of the current system is especially hard on very low-income individuals who may have failed the first time around in getting a college education and defaulted on their student loans.

As one advocate for many of these low income defaulted borrowers wrote recently:

"Most of these clients pursued education in good faith, hoping that school would result in a career and a better life. Their circumstances derailed their plans, but when we see them, they remain poor, unemployed, on assistance, and stuck."

"Perhaps most damaging is exclusion from additional financial aid. Thus, they find that the one door to self-sufficiency—education—is closed and locked."

That kind of indictment of the current student aid system requires more than tinkering and fine-tuning.

What we need is a fundamentally different way to both easing the burdens of rising cost and of insuring each of us against the uncertainties of incomes that often rise and fall throughout life.

My colleagues and I had hoped that we could have taken a bigger step toward reaching that goal in this year's higher education reauthorization. And, I realize we still have a great deal of work to do in the Finance Committee to make this program a reality.

But, the legislation we're introducing today represents a good start on the kind of fundamental reform in the financing of higher education I believe we need.

The new student loan program we have proposed is a fair, simple, efficient way of assuring financial access to higher education for thousands of middle income Americans who don't now qualify for a federally guaranteed student loan, and for many other students who have exhausted their loan limits under other programs.

Most importantly, the IDEA program offers flexibility in avoiding needless defaults for graduates when their incomes rise and fall because of changes in the economy, career choices, illness, or family obligations.

IDEA offers individuals in occupations with relatively low salaries, like teachers and social workers, the opportunity to pay off their loans without the unfair burden than now can discourage a public service career.

IDEA could be a low-cost solution to the concerns all of us have heard from medical students during the higher ed reauthorization about the loss of deferred interest during long and relatively low-paying residencies.

And, IDEA offers the potential to eliminate inefficiencies and flaws in the current student loan program—saving millions of dollars now going for overhead and red tape—saving millions of dollars now going to pay defaulted student loans.

Before I close, Mr. President, I would like to briefly address the concerns that have been raised about the impact a direct loan program like IDEA might have on banks, guarantee agencies and other third parties in the current system.

There are many legitimate concerns to be raised about the mechanics of income contingent direct loans. And, great care will be needed in crafting the details of a plan that is financially feasible to both borrowers and the Government.

But, let me state as clearly as I can Mr. President, I do not believe that the interests of third parties should be the overriding consideration in what we do.

The purpose of the Federal Student Loan Program, is to help provide financial access to higher education, not to offer a guaranteed source of income for banks. If students, institutions, and taxpayers can be better served by a different way of doing things, then I say "why not?"

I say that despite the firestorm of protest that emerged from many of those who now act as intermediaries in the student loan system last fall Senator SIMON and I introduced the IDEA proposal.

As I looked around the hearing room when IDEA was first on the Labor Committee's agenda, I saw a room packed with lobbyists determined to protect a Government guaranteed profit center for those who now issue loans, provide secondary markets, and do the collecting of those loans that are paid on time and those loans that go into default.

I would remind those interested parties that the legislation we are introducing today does not eliminate any existing programs or the role of those who administer them.

If, in the future, students and their colleges prefer the IDEA program—and if those choices reduce demand for existing programs—then the marketplace will have spoken.

Mr. President, I realize IDEA is a far-reaching proposal. It confronts powerful special interests. It challenges deep-seated ideology.

But, the system of student loans we have now, will not adequately serve Americans into the 21st century. The system we have now must be fundamentally changed.

To bring that process of change, the IDEA program offers a solid commitment to ensuring access to higher education for all Americans. I urge its support and I look forward to working with my colleagues on both the Finance and Labor Committees to make that commitment a reality.●

Mr. SIMPSON (for himself, Mr. METZENBAUM, and Mr. LIEBERMAN):

S. 2256. A bill to amend the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes, enacted July 5, 1946 (commonly known as the Lanham act), to require certain disclosures relating to materially altered films.

FILM DISCLOSURE ACT OF 1992

Mr. SIMPSON. Mr. President, I rise today—along with Senator METZENBAUM and Senator LIEBERMAN—to introduce the Film Disclosure Act of 1992.

This legislation would recognize the interest we all have in preserving the integrity of one of the most uniquely American of art forms—the motion picture. I personally recoil at the thought of colorizing such classics as "Casablanca" or "The Maltese Falcon." These films were intended to be shown in black-and-white by their creators.

Perhaps the most vivid example of an inappropriately altered film is the colorization of "Lost Horizon." That film was necessarily filmed in black-and-white because the mythical paradise in which it is set—Shangri-La—is formed by the author's and the audience's imagination. It is up to the viewer of "Lost Horizon" to "fill in the blanks" when visualizing that paradise.

I strongly believe that film audiences should know whether they are watching an original—or significantly different—version of the film in front of them. I also believe that film audiences should know whether the film's artistic authors object to the changes that have been made to the movie.

However, I also believe that any legislation that addresses film alteration must recognize the realities of the international market. The motion picture industry ranks second in producing a positive cash-flow in the U.S. balance of trade. While protecting the artistic integrity of motion pictures, I believe it is also essential that Congress do nothing to impede or harm the financial arrangements by which motion pictures are made and distributed.

The object of this legislation is to ensure that the artistic authors of motion pictures—principal directors, screenwriters and cinematographers—maybe able to inform the viewing public about any significant changes that are made to their work by studios or by television stations. The bill requires that labels be affixed to all films that are exhibited in a "materially altered" form. The label would contain two parts: First, the nature of the alterations would be described, and second, the objection, if any, of the principal artistic authors to the alterations would be clearly stated.

This bill does not prohibit the exhibition of materially altered films. Nor does the bill allow the principal artistic authors to have their names stricken from the altered versions of the film. The bill is truth in packaging proposal, nothing more. It simply gives the consumers of films vital information on: First, the changes that have been made to the film, and second, the objection of the film's author to those changes, if such an objection exists. I might add that film authors in many European countries have much more extensive rights to object to significant alterations of their work than this bill would provide.

Here are the types of alterations—made by people other than the artistic authors—that this bill would require to be labeled: First, colorization; second, panning and scanning—changing the film's image to fit wider movies onto the narrower television screen; third, lexiconning—altering the sound track; fourth, time compression or expansion—speeding up or slowing down a film; and fifth, editing—removal of material or insertion of new material.

These alterations occur with surprising frequency. It is my personal belief that many of these alterations pass unnoticed by a viewing public which might wish to see the original version intended by the artist. I also believe that these alterations discourage some artistic authors of films from making innovative films in the future.

However, let me emphasize again that this bill does not prevent alterations. It does not prevent copyright owners from changing the movie when it is distributed into the secondary markets—such as television or video stores. The bill simply will provide consumers with information on the alterations that are made to the film. Thus, this bill in no way impedes the workings of the market place for movies: It merely allows consumers of films to make the most informed choice possible when making their market-place decision about what films to watch.

A similar bill (H.R. 3051) has been introduced in the House by Congressman BOB MRAZEK and cosponsored by Congressman JOHN BRYANT. This bill differs from H.R. 3051 in the following areas:

First, it exempts film advertising from the labeling requirement;

Second, it changes the wording of the labels to ensure that the labels are factual, and not derogatory in any manner;

Third, it derives the remedies for a violation from the Lanham Trademark Act, not the Copyright Act;

Fourth, it establishes clear time limitations in the process of determining whether the artistic author objects to the alterations, to ensure that timely release of films into the secondary markets is not impeded;

Fifth, it prevents a film author from receiving more than $1 as consideration for waiving his or her right to object to a material alteration, to ensure that directors, screenwriters and cinematographers do not use this new right simply as leverage in contract negotiations with studios; and

Sixth, it clarifies that once a distributor of a materially altered film has contacted the authors of a film to determine whether there is an objection to the alteration, no subsequent commercial users of the film need to contact the film's authors—unless that user makes additional alterations.

Mr. President, it is my intention to work with the motion picture industry to ensure that this bill's intrusions into the industry's financial arrangements are reasonable and minimal. However, I believe that this bill is asking a small price for a large benefit—information about the artistic integrity of a film.

Mr. President, a little more knowledge never hurt anybody. That is all this bill provides: More knowledge to the consumer about the original artist's intent when a film is publicly shown. I commend this bill to my colleagues, and ask for their support.

I ask unanimous consent that a copy of the bill, a detailed summary of the legislation, and a statement by Senator METZENBAUM be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2256

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Film Disclosure Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) motion pictures are an American art form that uniquely captures and preserves our national and cultural heritage;

(2) the integrity of a motion picture is compromised and diminished when the motion picture is sold, leased, or exhibited in a materially altered form;

(3) the public is misled when motion pictures are sold, leased, or exhibited in a materially altered form;

(4) the public has a right to know whether a motion picture which is being sold, leased, or exhibited has been materially altered;

(5) the reputation of the artistic author of a motion picture may be harmed when the original work is sold, leased, or exhibited in a materially altered form;

(6) the artistic authors of a motion picture must have the right to indicate their objections to any material alterations made to their work because otherwise the motion picture misrepresents their work;

(7) the practice of materially altering motion pictures can result in the discouragement of artistic creation in the motion picture field; and

(8) the Government has an interest in the encouragement of artistic creation through protection of an artistic author's reputation.

SEC. 3. AMENDMENT TO THE LANHAM ACT.

Section 43 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946, commonly known as the Lanham Act (15 U.S.C. 1125), is amended by adding at the end thereof the following:

"(c)(1)(A) Each public exhibition of a materially altered motion picture, and each copy of a materially altered motion picture offered to the public through sale or lease (including its film packaging), shall include a label which clearly and conspicuously discloses the following:

"(i) That the film has been materially altered from the form in which it was first released to the public.

"(ii) The nature of that alteration.

"(iii) The fact of objection, if any, by the artistic authors of the motion picture to any such alteration.

"(B) Any distributor or network that proposes to exploit a materially altered film in the manner set forth in subparagraph (A) shall—

"(i) make a good faith effort to notify in writing and by registered mail and in a reasonable amount of time prior to such exploitation those individuals described in paragraph (5)(B);

"(ii) determine the objections of any individual so notified to any specific material alteration of the motion picture;

"(iii) determine the objection of any individual so notified by the questionnaire set forth in paragraph (9) to any type of future material alterations which are in addition to those specifically proposed for the motion picture to be exploited;

"(iv) include or affix the label required under subparagraph (A) prior to the public performance of a materially altered motion picture already in distribution or the initial distribution of a materially altered motion picture to any exhibitor or retail provider of motion pictures intended for home use; and

"(v) in the event of affirmative objections by the artistic author to any future material alterations, include or affix such objections to any copy of a motion picture distributed or transmitted to any exhibitor or retail provider.

"(C) Whenever a distributor or network exploits a motion picture which has already been materially altered, such distributor or network shall not be required to satisfy the obligations set forth in subparagraph (B) (i), (ii), and (iii), if—

"(i) such distributor or network does not further materially alter such motion picture; and

"(ii) such motion picture was materially altered by another distributor or network that complied fully with all of the obligations set forth in subparagraph (B).

"(D)(i) The requirement of a good faith effort under subparagraph (B)(i) is satisfied if a distributor or network that has not previously been notified by each individual in paragraph (5)(B)—

"(I) requests in writing the name and address of each such individual from the appropriate Professional Guild Registry, indicating a response date of no earlier than 30 days following the date of the request, by which the appropriate professional guild must respond; and

"(II) upon receipt of such information from the appropriate professional guild within the time specified in the request, notifies each such individual reasonably in advance of the date upon which the motion picture is to be released into any secondary market.

"(ii) The notice to the artistic author shall contain a specific date, no earlier than 30 days following the date of such notice, by which the individual so notified shall respond in accordance with subparagraph (B)(ii). Failure of the artistic author or the appropriate professional guild to respond within the time period specified shall relieve the distributor or network of all liability under subparagraph (B) (except for clause (iv) of such subparagraph);

"(E) The obligations of an exhibitor shall be limited to—

"(i) broadcasting, cablecasting, exhibiting or distributing all labels required under this section in their entirety as included with or distributed by the network or distributor of the motion picture; and

"(ii) including or affixing a label as described in paragraphs (6) and (8) on a materially altered motion picture as required under paragraph (1)(A) for any material alterations performed by the exhibitor to which the individuals described in paragraph (5)(B) have objected through the questionnaire procedure described in paragraph (1)(B)(iii).

"(F)(i) The provisions of this paragraph shall apply with respect to motion pictures intended for home use through either retail purchase or rental, except no requirement imposed under this paragraph shall apply to a motion picture which has been packaged for distribution to retail providers before the effective date of this section.

"(ii) The obligations of a retail provider of motion pictures intended for home use shall be limited to including or distributing all labels required under this section in their entirety as affixed or included by a distributor or network.

"(G) There shall be no consideration in excess of one dollar given in exchange for an artistic author's waiver of any objection or waiver of the right to object under this subsection.

"(2)(A) Any artistic author of a motion picture publicly exhibited or offered to the public through sale or lease within the United States who believes he is or is likely to be damaged by a violation of this subsection may obtain appropriate relief with respect to any violation of this paragraph without regard to the nationality or domicile of the artistic author.

"(B)(i) In any action under subparagraph (A), the court shall have power to grant injunctions, according to the principles of equity and upon such terms as the court may deem reasonable, to prevent the violation of any right of an artistic author. Any such injunction may include a provision directing the defendant to file with the court and serve on the plaintiff within thirty days after the service on the defendant of such injunction, or such extended period as the court may direct, a report in writing under oath setting forth in detail the manner and form in which the defendant has complied with the injunction. Any such injunction granted upon hearing, after notice to the defendant, by any district court of the United States—

"(I) may be served on the parties against whom such injunction is granted anywhere in the United States where they may be found; and

"(II) shall be operative and may be enforced by proceedings to punish for contempt, or otherwise, by the court by which such injunction was granted, or by any other United States district court in whose jurisdiction the defendant may be found.

"(ii) When a violation of any right of an artistic author shall have been established in any civil action arising under this section, the plaintiff shall be entitled to the remedies provided under section 35(a).

"(iii) In any action under subparagraph (A), the court may order that all film packaging of a materially altered motion picture (including film packages of motion pictures intended for home use through either retail purchase or rental) that is the subject of the violation shall be delivered up and destroyed.

"(C) No action shall be maintained under this subsection unless it is commenced within 1 year after the claim accrues.

"(3) Any disclosure requirements imposed under the common law or statutes of any State respecting the material alteration of theatrical motion pictures are preempted.

"(4) To facilitate location of a potentially aggrieved party, each individual identified in paragraph (5)(B) may notify the copyright owner of the motion picture or, as appropriate, one or more of the organizations maintaining a Professional Guild Registry. These organizations may maintain a current registry of persons so notifying them and may make available such information in their possession to facilitate the location of any individual so registered for purposes of paragraph (1)(B). No cause of action shall accrue against any of the professional guilds listed in such section for failure to create or maintain a Professional Guild Registry or for any failure to provide information pursuant to paragraph (1)(B)(i).

"(5) As used in this subsection:

"(A) The term 'film' or 'motion picture' means a theatrical motion picture after its publication.

"(B) The term 'artistic author' means—

"(i) the principal director, principal screenwriter, and, to the extent a theatrical motion picture is colorized or its photographic images materially altered, the principal cinematographer of the film; or

"(ii) in the event that an individual listed in clause (i) is deceased or incapacitated, the heir or heirs of that individual.

"(C) The term 'to colorize' or 'colorization' means to add color, by whatever means, to a published version of a theatrical motion picture originally made in black and white.

"(D) The term 'distributor' means any person, vendor, or syndicator who engages in the wholesale distribution of motion pictures to any exhibitor, network, retail provider or other person who publicly performs motion pictures by means of any technology, except such term shall not include laboratories or other providers of technical services to the motion picture, video or television industry.

"(E) The term 'heir' means any person to whom a right passes by bequest or by the applicable laws of intestate succession.

"(F) The term 'lexiconning' means to alter the sound track to conform the speed of the vocal or musical portion of a theatrical motion picture which has been the subject of time compression or expansion.

"(G) The term 'exhibitor' means any local broadcast station, cable system, airline or motion picture theatre or other person that publicly performs a motion picture by means of any technology.

"(H) The term 'material alteration' means any change, with the exception of changes excluded by this subparagraph, made to a motion picture after its publication. Material alteration includes, but is not limited to, the processes of colorization, lexiconning, time compression or expansion, panning and scanning and editing (purposeful or accidental removal of existing material or insertion of new material). Material alteration does not include insertions for commercial breaks or public service announcements, editing to comply with the requirements of the Federal Communications Commission (in this subsection referred to as the 'FCC'), transfer of film to videotape or any other secondary media now in existence or developed hereafter, preparation of a motion picture for foreign distribution (subtitling and editing limited to those alterations made under foreign standards which are no more stringent than existing FCC standards) or legitimate film preservation activities (the primary purpose of which is the restoration of the motion picture to its original version).

"(I) The term 'network' means any person who distributes motion pictures to broadcasting stations or cable systems on a regional or national basis for public performance on an interconnected basis.

"(J) The term 'panning and scanning' means the process by which a motion picture, composed for viewing on theatre screens, is adapted for viewing on television screens by modification of the aspect ratio (ratio of width to height) of the motion picture and the selection, by someone other than the motion picture's principal director, of some portion of the entire picture for viewing.

"(K) The term 'Professional Guild Registry' means a list of names and addresses of persons readily available from the files of (i) in the case of directors, the Directors Guild of America (DGA); (ii) in the case of screenwriters, the Writers Guild of America–West (WGA–W) and the Writers Guild of America–East (WGA–E); and in the case of cinematographers, the International Photographers Guild (IPG), and the American Society of Cinematographers (ASC).

"(L) The term 'publication', with respect to a motion picture, means the first paid public exhibition of the work following previews, trial runs and festivals.

"(M) The term 'retail provider' means the proprietor of a retail outlet that sells or leases motion pictures for home use.

"(N) The term 'secondary media' means any medium, including but not limited to video cassette or video disc, other than television broadcast or theatrical release, now in existence or hereafter developed, by which motion pictures are sold, leased, or distributed to the public.

"(O) The term 'syndicator' means any person who distributes a motion picture to a broadcast television station, cable television system, or any other means of distribution by which programming is delivered to television viewers.

"(P) The term 'motion picture' means a motion picture of 60 minutes duration or greater, intended for exhibition, public performance, public sale or lease. Such term does not include episodic television programs of less than 60 minutes duration (exclusive of commercials), motion pictures prepared for private, commercial or industrial purposes, and advertisements.

"(Q) The terms 'time compression' and 'time expansion' mean to alter the speed of a theatrical motion picture or a portion thereof with the result of shortening or lengthening the running time of the work in order to fit the picture into a television schedule, airline schedule, or secondary media length.

"(R) The term 'vendor' means the wholesaler or packager of a motion picture which is intended for wholesale distribution to retail providers.

"(6)(A) A label for a materially altered version of a theatrical motion picture intended for public performance or home use shall consist of a panel card immediately preceding and adjacent to the commencement of the motion picture, which bears one or more of the following statements, as appropriate, in legible type and displayed on a conspicuous and readable basis:

'THIS FILM IS NOT THE VERSION ORIGINALLY RELEASED. ______ mins. and ______ secs. have been cut [or, if appropriate, added]. The [insert, if appropriate: heirs of the] director, ______________, and [insert, if appropriate: the heirs of the] screenwriter, ______________, object because this alteration changes the narrative and/or characterization. It has (also) been panned and scanned. The director and [insert, if appropriate: the heirs of the] cinematographer, ______________, object because this alteration removes visual information and changes the composition of the images. It has (also) been colorized. Colors have been added by computer to the original black and white images. The director and cinematographer object to this alteration because it eliminates the black and white photography and changes the photographic images of the actors. It has (also) been electronically speeded up (or slowed down). The director objects because this alteration changes the pace of the performances.'

"(B) A label for a motion picture that has been materially altered in a manner not described by any of the label elements set forth in subparagraph (A) shall contain a statement similar in form and substance to those set forth in subparagraph (A) which accurately describes the material alteration and the objection of the artistic author.

"(7) A label for a motion picture which has been materially altered in multiple ways, or of which an individual served as more than one artistic author, including the principal director and principal screenwriter, need only state the name of the artistic author once, in the first objection of the artistic author so listed. In addition, a label for a motion picture which has been materially altered in multiple ways needs only state once, at the beginning of the label: THIS FILM IS NOT THE VERSION ORIGINALLY RELEASED.

"(8) A label for a film package of a materially altered motion picture shall consist of—

"(A) an area of a rectangle on the front of the package which bears, as appropriate, one or more of the statements listed in paragraph (6) in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package; and

"(B) an area of a rectangle on the side of the package which bears, as appropriate, one or more of the statements listed in paragraph (6) in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

"(9) The questionnaire required under paragraph (1)(B)(iii) shall consist of the following statement and related questions:

'In order to conform [insert name of motion picture], of which you are an "artistic author" (or the heir thereto), to ancillary media such as television, airline exhibition, video cassettes, video discs, or any other media hereafter developed, do you object to:

'(a) Editing (purposeful or accidental deletion or addition of program material)?

Yes________ No________

'(b) Time compression/time expansion/lexiconning?

Yes________ No________

'(c) Panning and scanning?

Yes________ No________

'(d) Colorization, if the motion picture was originally made in black and white?

Yes________ No________

'(e) If the artistic author of the motion picture listed above is deceased or incapacitated, are you the heir of the artistic author?

Yes________ No________ '".

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendment made by this Act shall take effect on the date of enactment of this Act.

(b) SPECIAL RULE.—Paragraphs (1) and (2) of section 43(c) of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (commonly known as the Lanham Act) (as added by section 3 of this Act) shall take effect 180 days after the date of the enactment of this Act.

Mr. METZENBAUM. I am pleased to introduce along with Senators SIMPSON and LIEBERMAN the Film Disclosure Act of 1992. Film is certainly one of the preeminent American art forms. American movies have changed the way we view ourselves, and the way we view the rest of humanity. They've made us laugh, made us cry, and made us think. Little more can be asked of a work of art.

Sadly, the integrity and authenticity of American films receive less protection in this country than in other parts of the world. Classic American films, works of art, are looked upon by their owners as products which can be altered or distorted without the consent or input of their artistic creators.

When the great director John Huston saw the colorized version of his masterpiece, "The Maltese Falcon," he considered it to be an act of defacement and mutilation. "The Maltese Falcon," he said, was "not to be conceived in any other way than black and white." Colorization ruined the tone, atmosphere, and visual force of his film, and yet the colorized version continued to be represented as his work. His name continued to be associated with a product that was nothing more than computerized forgery of his work. The public was misled, and the integrity of his artistic vision was harmed.

Imagine the reaction if a dealer in art prints altered a painting by Monet, Renoir, or some other impressionist because he thought the work of impressionist painters was too blurry or had too many dots. At the very least, we would want the public to know that those prints were not versions of the paintings as originally created by Monet or Renoir.

Or imagine the reaction if a publisher decided that the way to get more people to read Shakespeare would be to update all that 16th century Elizabethan English into 20th-century jargon. At the very least, we would want the public to know that any such work is not the original Shakespeare.

Modern technology has offered us wonderful new tools to aid in movie making. It also has offered much in the way of post production mischief making. Crayon-colored imitations of classic American works of art can be palmed off as the real thing. Scenes can be altered or added, shots can be changed or cut, and the dimensions and perspective of the film can be distorted, all without the consent of the artistic authors or the knowledge of the public.

The movie business is obviously big business. But the best American films are more than just products or commodities. They are works of art. And if they are going to be changed or altered at the whim of a studio marketing executive, the public at least should be told that there is an original version which conforms to the artistic vision of its creators.

When a motion picture is colorized or otherwise materially altered, what viewers see is no longer the product of the artistic vision and technical skills of the film's director and cinematographer. Rather, what they see is the product of a computer or a machine.

In the interest of full and fair disclosure, and in the interest of promoting the integrity and authenticity of American films, the public at least should be told that a materially altered film is not the original work created by its artistic authors.

The legislation being introduced today is simple. It simply requires that the public be told that the film has been altered, and that the artistic authors of the film be granted an opportunity to inform the public that they object to the alterations.

This bill does not forbid the colorization or material alteration of any film, and it will not delay the release of motion pictures into secondary markets such as videocassettes and television. Ted Turner now voluntarily labels the films which he colorizes, and there has been no adverse impact on sales or rentals.

We have tried to craft a bill based upon a simple principle: When a film is materially altered without the consent of its artistic authors, the public should be told and the creators ought to have the chance to register their objections. We are open to any suggestions about how to implement this basic principle, and are ready and willing to work with the studios or any other party interested in the legislation.

FILM DISCLOSURE ACT OF 1992 DETAILED SUMMARY

REQUIREMENTS

All materially altered films must be labelled.

The bill only requires the labeling of materially altered films.

The bill does not prevent materially altered films from being exhibited in their altered form.

The bill does not allow the artistic authors to have their names removed from the altered film.

Label shall consist of: (1) description of material alteration, and (2) objection, if any, of film's principal authors to the alteration.

"Descriptions of material alteration" are factual only; they may not be derogatory or express opinion about the artistic merits of the alteration.

"Objection of film's principal authors" may only be asserted by: principal director, principal screenwriter, or principal cinematographer (if film's visual images are materially altered).

"Material alteration" includes: colorization of black and white films, time compression or expansion (speeding up or slowing down a film), panning and scanning (changing the movie's dimension and perspective to fit a wide-screen movie into the TV's dimensions), or lexiconning (alteration of a film's soundtrack).

"Material alteration" does not include: panning and scanning performed by the principal director, insertions of commercial messages or public service announcements for television, television editing to comply with Federal Communications Commission rules (i.e., editing to remove obscene material from TV broadcasts), or legitimate film preservation or restoration activities.

PROCESS FOR DETERMINING OBJECTION OF FILM'S ARTISTIC AUTHORS

Person or entity which materially alters the film must contact the professional guild representing the film's artistic authors.

Professional guild must contact artistic authors, to determine whether there would be objection to the material alteration proposed.

If professional guild or artistic authors do not respond within time periods described below, then altered film may be released with a label describing only the nature of the material alteration.

TIME LIMITS

Director's, Screenwriter's, or Cinematographer's guild must provide film studio (or other material alterer) with name and address of film authors within 30 days of request.

Film author must respond with objection, if any, to material alteration, within 30 days of notification.

PERSONS OR ENTITIES COVERED

Any person who materially alters a film and then acts as a wholesale distributor of the altered version must comply with both the notification and labeling requirements.

Film studios and television networks are examples of the above.

Any person who exhibits a materially altered film must affix and display the label required by this bill.

Independent television stations and cable systems are examples of the above.

Persons and films not covered: retail video outlets (they need only display the label affixed by the entity that altered the film), films distributed at the retail outlet level before 180 days after the date of enactment of this bill.

FILM INTERESTS COVERED

Only materially altered films and the packaging of such films must contain labels.

Film advertising and promotional materials are not covered by this bill.

REMEDIES

Trademark Act remedies are available against persons violating the labeling requirements: injunctions (against further distribution of the non-labelled film), damages to the film authors, costs of the litigation brought by the injured film author, and recall of non-labelled films released onto the market.

WAIVER OF RIGHTS

Film authors may not receive more than $1 as consideration for their agreement to waive the right to object to a film studio materially altering their film.

This requirement ensures that a film's authors do not use the rights created by this bill simply as leverage to receive a larger compensation from the studio or other entity which employs them.

By Mr. BENTSEN (for himself and Mr. ROCKEFELLER):

S. 2257. A bill to amend the Social Security Act to extend the terms of service of the members of the National Commission on Children, and for other purposes; to the Committee on Labor and Human Resources.

TERMS OF SERVICE OF MEMBERS OF THE NATIONAL COMMISSION ON CHILDREN

• Mr. BENTSEN. Mr. President, today I am introducing legislation, cosponsored by Senator ROCKEFELLER, that will extend the appointment of the members of the National Commission on Children. The extension is provided to give the Commission the time to finish the work of fully disseminating the valuable information gathered during their intensive, 2½-year study.

In 1987, I authored legislation to establish this Commission because I believe it was time for our country to develop a bipartisan strategy to address the needs of our children. Children don't vote. Study after study has shown that, compared to other age cohorts, they are the poorest group in our society. But our future rests with them, and our Nation must act to meet the needs of our children and their families.

The Commission has worked diligently to research the issues facing today's families. I joined the chairman of the Commission, Senator ROCKEFELLER, and other Commission members for a visit to San Antonio, TX, in November 1989 to learn more about the importance of early childhood development and school readiness. This was just one of many site visits across the country in which Commission members spoke with children, parents, teachers, health care professionals, and others who work daily to meet the needs of American children and their families.

Despite the complexity of the issues involved and the wide range of views represented by Commission members, last June the National Commission on Children unanimously adopted a strong report that outlines ways our Nation can address the needs of children and families. This bold report offers a useful outline, but the Commission still has important work to do in disseminating its valuable data and findings to the American public.

Mr. President, the legislation I am introducing today simply extends the appointments of commissioners through December 31, 1992, so that they can follow through completely on their mandate. No additional funding would be necessary, as the funds needed to support the continuing operation of the Commission have already been provided by the fiscal year 1992 Labor-HHS appropriation enacted last year.

The Commission has made a major contribution to public awareness and to the debate about the needs of America's children and families. Our bill will make the technical changes needed to ensure that the Commission will continue to the end of this year and complete the official work that is needed to fulfill its mandate. It is my hope that the Commission's spirit of bipartisan consensus and commitment to children will encourage the administration, the Congress, and the people of America to work together to address the many issues important to our children.

Mr. President, I ask unanimous consent that the text of S. 2257 be inserted in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL COMMISSION ON CHILDREN.

(a) AMENDMENT TO SOCIAL SECURITY ACT.—Section 1139(e)(1)(A) of the Social Security Act (42 U.S.C. 1320b–9(e)(1)(A)) is amended by striking out "for terms ending on March 31, 1991" and inserting in lieu thereof "for terms ending on December 31, 1992".

(b) AUTHORITY.—Notwithstanding any other provision of law, the National Commission on Children shall terminate on December 31, 1992. The Commission shall retain the authority provided to such Commission on the date of enactment of section 1139 of the Social Security Act (42 U.S.C. 1320b–9) until December 31, 1992. The Executive Director and staff of such Commission shall have a reasonable period of time, not to extend beyond March 31, 1993, to conduct those activities that have been determined by the Chairman of the Commission to be required to close down the operations of the Commission.•

• Mr. ROCKEFELLER. Mr. President, I am proud to cosponsor Senator BENTSEN'S bill to extend the appointments of the members of the National Commission on Children.

Senator BENTSEN has been an extraordinary advocate for children and families. His vision in establishing the Commission has enabled us to thoroughly research the problems facing children and develop a bipartisan report on ways to address the needs of families. I am truly proud of our efforts, and believe that the consensus that emerged in our final report will provide the foundation we need to push forward on a bold agenda for children.

Our final report was published in June 1990, but the Commission still has work to do in order to complete its original mandate to assess the status of children, and move forward on proposals to address their needs through public- and private-sector programs.

In this final phase, the Commission has five basic objectives. First, I am committed to increase public consciousness of the problems facing American children and families and society's shared responsibility for solving them. Next, the Commission is developing a bold plan to inform public- and private-sector decisionmakers at all levels.

Our third step will be to translate the Commission's recommendations into specific strategic steps for implementation at the Federal, State, and community level. Next, it will be essential to build a strong base of support in all sectors of society for taking necessary steps to improve the health and well-being of our Nation's children. Finally, the Commission will also monitor progress.

In order to take advantage of the strong bipartisan recommendations and publish our additional research, the Commission needs to continue its work this year.

I am grateful for Senator BENTSEN'S original leadership in establishing the Commission and his continued support for its mission.•

By Mr. MITCHELL (for Mr. KERREY, for himself, Mr. KENNEDY, and Mr. DASCHLE):

S. 2258. A bill to establish an Education Capital Fund to assist local systematic reform initiatives, and for other purposes; to the Committee on Finance.

EDUCATION CAPITAL FUND ACT OF 1992

• Mr. KERREY. Mr. President, today, I am introducing the Education Capital Fund Act of 1992. This legislation creates a new Federal partner in education, one that is willing and able to work directly with schools and school districts that are committed to undertaking systemic reform. I ask unanimous consent that a summary and the full text of the legislation be printed following my prepared remarks.

This legislation harnesses the ideas and energies of local educators, parents, students, community, and business leaders to restructure our Nation's educational system. Although our schools face difficulties, we should not lose sight of the fact that throughout the country there are tremendously successful experiments already occurring. We need to encourage and support these promising reforms because their success will trigger a revolution in our schools so that our children will have the skills necessary to compete in the coming century.

This legislation creates a venture capital corporation for America's schools. Its five-person Board of Directors will seek out opportunities to leverage a Federal investment in local initiatives. The Board will normally provide up to 75 percent of the assistance directly to local entities.

A local school or school district would enter into a 3- to 10-year performance-based contract with the Board, which would link annual payments to the entity's progress in carrying out the terms of the contract, including increasing student achievement.

The Board would also be authorized to enter into contracts with up to five States who are willing to commit to a statewide systemic reform initiative.

The Education Capital Fund Board would be an independent agency composed of two education experts, including one who is active at the local level, two business leaders involved in educational reform, and the Secretary of Education. The Board would administer a $1 billion dedicated trust fund raised through a modest 0.15-percent increase in the corporate tax rate. The tax will be eliminated once the fund reaches $1 billion. The Board will use the interest on the fund to invest in our schools.

There are three guiding principles to this proposal:

First, successful reform comes from below. School reform will only succeed if it originates at the local level and has a base of support and leadership to sustain it over time. Top-down directives simply will not work. Federal or State bureaucracies are not flexible enough to respond to the needs of our country's 83,000 public schools. We need to abandon our reliance on the top-down factory-style model of education that has dominated public education for the last century. We need to unleash the knowledge, experience, and commitment of local teachers, parents, students, community, and business leaders. We need to recognize that teachers, if given a greater role in decisionmaking, will help transform how our children are taught and how our children learn. We need to reconnect the family and the school. The current gulf between the school and the family is simply too great. Education has been structured for the needs of bureaucrats, not for the needs of the child. The time has come to reclaim education for the child, the family, and democracy.

Second, there is no single blueprint for successful reform. Even though Federal and State Government have often exercised enormous influence in education, the primary educational political unit in our country has been the local school board. These 16,000 boards reflect the diversity and richness of their local schools. Each locality has its particular strengths and weaknesses. There is no one particular solution to restructuring our schools. There are many good ideas, but the particular combination of measures will need to respond to the specific local problems and will need to draw on the strengths of that community.

The most outstanding practitioner of this approach is Dr. Ted Sizer, founder of the Coalition of Essential Schools and professor at Brown University. Dr. Sizer writes:

> No two good schools are ever quite alike. No good school is exactly the same from one year to the next. Good schools sensitively reflect their communities, both the students and teachers with the school building, and the wider neighborhood it serves. A good school respectfully accommodates the best of its neighborhood, not abjectly—playing whatever tune any particular special interest group might demand—but sensibly, balancing the claims of national values with those of the immediate community.
>
> A good school is the special creation of its own faculty—its teachers, counselors, and administrators. These are its "permanent" folk. A school has character if its key faculty—its Senators—feel collective responsibility for it, take its standards and its style seriously and protect its reputation."

My plan seeks to provide venture capital to communities that are willing to challenge themselves and commit themselves to working over the long term to improve their schools, and in time, their communities.

Third, in order to be successful, reform must be systemic. Incrementalism, ad hoc, and uncoordinated are apt terms to describe most of the reforms that have been tried out on our schools. All too often we have became bogged down in a "project mentality" without giving enough thought to the limits of the structures within which our schools operate. Edward Fiske, in writing about the failure of the reforms kicked off by "A Nation of Risk," comments that:

> The reforms inspired by "A Nation at Risk" contained no new ideas! They called for more of the same: more core academic courses, more standardized tests, a longer school year, more money for teachers. By the end of the 1980's it was evident that the existing system of public education had been pushed to its limits and that more of the same would not make any difference.

Reform only has a chance of succeeding if our strategy is a coordinated effort that seeks to undermine the structural barriers that impede the recasting of our public education system to better address the needs of life in the 21st century.

This reform will need to be systemic reform. My thinking on this matter has been influenced by the work of David Hornbeck, who developed a series of components that are needed to provoke the type of systemic change I believe is necessary to reform our educational system. Systemic reform must be committed to a number of beliefs or assumptions:

All students can learn at significantly higher levels;

The goals of a school apply to all students;

Teaching and learning should be personalized to the maximum feasible extent;

Education must be performance- or outcome-based;

Assessment strategies must be as strong and rich as the outcomes;

School staff must have a major role in decisionmaking;

Major emphasis on staff development is essential;

A high-quality pre-kindergarten program is essential;

The needs of the whole child must be considered and addressed;

Technology can play a meaningful role in raising student and teacher productivity.

Merely adjusting one element will not work. Real change will only occur once we address this broad range of components.

The impetus for this legislation comes from my conversations with parents, students, teachers, administrators, counselors, probation officers, and others who have expressed a sense of urgency about children and their future. I have heard their words and this legislation begins to address their concerns. It allows the local community to formulate their ideas into a plan and offers a Federal partner that will help them realize their goals.

The Education Capital Fund will enable us to respond quickly and efficiently to the desires and needs of parents, teachers, and community leaders who are working at the local level to fashion specific educational programs for their children.

The commitment and know-how is there. I have met remarkable individuals working in the most trying circumstances who are succeeding despite the system. I want to harness their optimism and wisdom to bring about a revolution in education. We cannot be afraid to challenge our orthodoxies. We will need to challenge entrenched interests and bureaucracies. We will need to bring an experimental attitude and we will need to demand quality and performance from every school and every student.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Education Capital Fund Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in light of the economic challenges in the coming decades, it is vital that the United States take far-reaching steps to rethink and redesign its educational system;

(2) numerous measures have been suggested to strengthen and improve the educational system;

(3) the scope of the problems confronting the 16,000 school districts and 83,000 public schools within the United States precludes any single solution;

(4) because of the fundamental importance of local participation to the success of educational reform undertakings, any redesign initiative must encourage, reward, and sustain local initiatives;

(5) school reform efforts will only be successful if students, parents, and business and community leaders work together with teachers and school administrators in order to improve education;

(6) the success of a school reform depends on the reform being a systemic reform;

(7) any systemic reform effort should be committed to a number of assumptions or beliefs, including assumptions and beliefs that—

(A) all students can learn at significantly higher levels;

(B) the goals of a school apply to all students;

(C) teaching and learning should be personalized to the maximum feasible extent;

(D) education must be performance- or outcome-based;

(E) assessment strategies must be as strong and rich as the outcomes;

(F) school staff must have a major role in decision-making;

(G) major emphasis on staff development is essential;

(H) a high-quality pre-kindergarten program is essential;

(I) the needs of the whole child need to be considered and addressed; and

(K) technology can play a meaningful role in raising student and teacher productivity;

(8) because education is a national concern, the Federal Government should be a leading

catalyst in encouraging State and local community efforts to strengthen and improve the education of our children;

(9) in order for the Federal Government to become a successful partner in local reform efforts, the Federal Government must redefine the traditional means of providing educational assistance; and

(10) in order for the Federal Government to respond to the needs of local reform efforts, it is vital that the Federal Government—

(A) provide assistance through a flexible mechanism that ensures accountability; and

(B) possess the means to contract directly with local school entities.

(b) PURPOSES.—The purposes of this Act are to—

(1) establish an Education Capital Fund;

(2) provide significant Federal assistance through the Fund to local educational agencies, consortia of the agencies, and nonprofit organizations as an impetus for systemic educational reforms based within the local community;

(3) provide significant Federal assistance to up to five States that agree to undertake a statewide systemic education initiative; and

(4) contract directly with the States, agencies, consortia, and organizations through the Fund to—

(A) develop and implement systemic reform initiatives that focus on efforts to redesign schools so that the schools meet the needs of all children; and

(B) establish changes and alignment of sets of policies that address critical issues facing education, including access, accountability, governance, curriculum, instruction, technology, assessment, finance, and resource development.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) BOARD.—The term "Board" means the Education Capital Fund Board established in section 4(a).

(2) FUND.—The term "Fund" means the Education Capital Fund established in section 9511 of the Internal Revenue Code of 1986, as added by section 15.

(3) SYSTEMIC REFORM INITIATIVE.—The term "systemic reform initiative" means one of a range of measures, including initiatives described in section 6(b), that are based on the assumptions and beliefs described in subparagraphs (A) through (K) of section 2(a)(7).

SEC. 4. EDUCATION CAPITAL FUND BOARD.

(a) IN GENERAL.—There is established as an independent agency an Education Capital Fund Board.

(b) COMPOSITION.—The Board shall be composed of—

(1) the Secretary of Education; and

(2) four members, no more than two of whom shall be from the same political party, appointed by the President with the advice and consent of the Senate, including—

(A) two individuals with experience with systemic reform initiatives, selected from among—

(i) individuals with experience in venture capital investment; or

(ii) prominent corporate officials;

(B) one individual with widely recognized experience in the field of education; and

(C) one individual selected from among local teachers, local school district officials, or other local education officials.

(c) VACANCIES.—The President shall fill any vacancy in the membership of the Board in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(d) TERM.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the President shall appoint each appointed member of the Board for a term of 3 years.

(2) ORIGINAL MEMBERS.—The President shall appoint two of the members first appointed to the Board for a term of 3 years, and two for a term of 4 years. The President shall have discretion to determine which positions shall be filled for each term.

(3) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(4) REAPPOINTMENT.—The President may reappoint an appointed member of the Board for a second term in the same manner as the original appointment.

(e) PRESIDENT AND VICE PRESIDENT.—The Board shall select a President and a Vice President from among the members of the Board.

(f) COMPENSATION.—Members of the Board, with the exception of the Secretary of Education, shall be compensated at a level comparable to level II of the Executive Schedule, in accordance with section 5313 of title 5, United States Code.

SEC. 5. STAFF OF BOARD.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Board shall appoint an Executive Director. No individual may serve as Executive Director for more than 8 years. The Executive Director shall serve at the pleasure of the Board.

(2) RESPONSIBILITIES.—The Director shall—

(A) advise the Board about developments in education that merit the attention of the Board;

(B) identify promising systemic reform initiatives;

(C) consult with the Board on priorities for providing funding for systemic reform initiatives;

(D) design an application process for entities seeking funding for the initiatives;

(E) establish a referral network, as described in section 9, to provide technical assistance to entities;

(F) monitor initiatives that receive funding under this Act, and administer reviews of the initiatives, under section 10;

(G) disseminate the results of the reviews;

(H) prepare annual reports to Congress under section 13; and

(I) coordinate the work of the Fund.

(b) CHIEF FINANCIAL OFFICER.—

(1) APPOINTMENT.—The Board shall appoint a Chief Financial Officer for a 6-year term. The Chief Financial Officer shall serve at the pleasure of the Board.

(2) RESPONSIBILITIES.—The Chief Financial Officer shall oversee all financial transactions involving the Fund and ensure the continued financial viability of the Fund.

(c) GENERAL COUNSEL.—

(1) APPOINTMENT.—The Board shall appoint a General Counsel for a 6-year term. The General Counsel shall serve at the pleasure of the Board.

(2) RESPONSIBILITIES.—The General Counsel shall serve as the legal advisor of the Board.

(d) STAFF.—The Board shall employ such staff as the Board may determine necessary to administer the Fund.

(e) APPLICABILITY OF CIVIL SERVICE PROVISIONS.—The Executive Director, Chief Financial Officer, General Counsel, and staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and be compensated without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no individual may receive pay in excess of the annual rate of basic pay payable for level V of the Executive Schedule, in accordance with section 5316 of title V, United States Code.

(f) ADVISORY BOARD.—

(1) APPOINTMENT.—The Board shall establish an Advisory Board, which shall serve on a part-time basis. Members shall be appointed by the Board and serve at the pleasure of the Board. The Advisory Panel shall be composed of seven members, at least three of whom shall be selected from among local teachers, local school district officials, or other individuals active in systemic reform initiatives at the local and State level.

(2) RESPONSIBILITIES.—The Advisory Board shall work with the Board and Executive Director to identify essential components of successful schools, school districts, and systemic reform initiatives, and on the basis of the identification process establish annual funding priorities for the Board.

SEC. 6. SYSTEMIC REFORM INITIATIVE CONTRACTS.

(a) ESTABLISHMENT.—The Board may enter into contracts with eligible entities to pay for the Federal share of the costs of carrying out systemic reform initiatives.

(b) USE OF FUNDS.—Eligible entities may use funds awarded under subsection (a) for the planning, implementation, expansion, or replication of systemic reform initiatives, that include among the components of the initiatives—

(1) school-based management and shared decisionmaking reforms;

(2)(A) programs that increase parent and community involvement in the schools; and

(B) other activities designed to enhance parental encouragement of student learning;

(3) coordinated efforts and partnerships with business, institutions of higher education, and other entities;

(4) programs to train teachers, principals, school board members, parents, and other individuals involved in a redesigning program;

(5) efforts to improve, reform, and strengthen curricula, especially efforts to—

(A) enhance critical thinking skills; and

(B) coordinate services across grade levels;

(6) programs of cooperative learning;

(7) models of alternative student assignment to schools and within schools;

(8) efforts to acquire and improve access to education technology, including distance learning technologies;

(9) programs of interactive learning through technology;

(10) programs to establish satellite learning centers;

(11) efforts to recruit and retain qualified teachers, including—

(A) programs designed to enhance the professional status and satisfaction of teachers;

(B) alternative routes to certification for qualified individuals from business, the military, and other fields;

(C) efforts to recruit and retain teachers in critical shortage areas, including early childhood teachers, mathematics and science teachers, and special education and bilingual teachers;

(D) incentives for teachers to work in inner-city schools; and

(E) in-service training programs;

(12) programs that decrease dropout rates;

(13) programs that assist at-risk children;

(14) efforts to ensure the readiness of all children for school, including—

(A) full workday, full calendar-year comprehensive early childhood development programs;

(B) parenting classes and parent involvement activities; and

(C) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

(15) innovative summer programs to assist at-risk students;

(16) developmental education programs;

(17) efforts to improve problem-solving and higher-order thinking skills of students;

(18) tutoring, mentoring, and other activities to improve academic achievement of students directly;

(19) programs to serve homeless children, children affected by a desegregation plan, immigrants, migrants, or other highly mobile populations, even if such children do not attend a school assisted under this section; and

(20) programs that focus on school to work transition and prepare students for entry into the job force.

(c) BASIS FOR CONTRACTS.—

(1) COMPETITIVE BASIS.—The Board shall enter into contracts under subsection (a) on a competitive basis.

(2) CONSIDERATIONS.—In entering into contracts to fund systemic reform initiatives under subsection (a), the Board shall consider—

(A) the need for the proposed initiatives;

(B) the plan of operation and plan for evaluation of the initiatives;

(C) the educational value, budget, cost effectiveness, proposed impact, and expected outcomes of the initiatives; and

(D) the potential transferability of the initiatives to other settings.

(3) PRIORITY.—In entering into contracts under subsection (a), the Board shall enter into contracts that focus on systemic reform initiatives to redesign schools and shall give priority to proposals that—

(A) address critical issues facing education, including access, accountability, governance, curriculum, instruction, technology, assessment, finance, and resource development, including the preparation, certification and renewal of staff;

(B) benefit students or schools with below average academic performances;

(C) benefit schools or local education agencies serving a large number of disadvantaged students;

(D) help ensure a broad geographic distribution of initiatives that receive funding, including initiatives in rural, urban, and suburban settings;

(E) have demonstrated a broad-based community support for the proposed reforms and have the potential to become models of education redesigning; and

(F) are consistent with the priorities of the Fund, as established by the Board.

(4) DURATION.—The Board may enter into contracts under subsection (a) for periods of from 3 to 10 years.

(d) APPLICATION.—To be eligible to obtain funding under this section, an entity shall submit an application to the Board at such time, in such manner, and including such information as the Board may require. At a minimum, each application shall contain—

(1) a proposal containing a description of the systemic reform initiative to be funded under this section;

(2) a detailed description of the identified problems that are to be addressed by the proposal;

(3) a plan of operation, including a description of the measures the entity proposes to undertake in order to address the problems;

(4) a plan for evaluation of the initiative, including a description of the statistical indicators and other criteria to be used to evaluate the progress in addressing the problems, with an emphasis on authentic assessment of student achievement;

(5) a detailed budget for each year of proposed funding;

(6) information demonstrating that the applicant has established a partnership with teachers and parents, and has consulted with teachers and parents in developing the proposal;

(7) a description of the measures the local governing entity, school agency, or private sector will undertake to successfully complete the initiative and fulfill a local commitment to the proposal;

(8) information demonstrating coordination with local health and social service agencies, if applicable;

(9) information demonstrating the degree of community support for the proposal;

(10) information demonstrating private sector involvement in the initiative;

(11) a description of the ways in which the plan will improve opportunities for student success and will result in enhanced student achievement;

(12) an assurance that the eligible entity has a long-term, indepth commitment to the proposal;

(13) an assurance that the applicant is willing to streamline its administrative structure in order to cultivate an experimental setting for the educational reform; and

(14) an assurance, which may consist of a commitment to raise funds, that the applicant will obtain the non-Federal share of the costs of carrying out the initiative.

(e) CONTRACTS.—

(1) NEGOTIATION.—The Board shall negotiate any contracts described in subsection (a) on the basis of the information contained in the applications of the entities.

(2) CONTENTS.—Any contract entered into under subsection (a) shall specify—

(A) a description of the measures the entity proposes to undertake to carry out a systemic reform initiative;

(B) a description of the measures to be used to evaluate the progress made by the initiative;

(C) the objective criteria to be met each year of the funding term;

(D) the consequences should those criteria not be attained;

(E) a bonus system should the progress achieved by the entity exceed the criteria; and

(F) a detailed budget for each year of proposed funding.

(3) RENEGOTIATION.—The Board may renegotiate contracts entered into under subsection (a).

(f) ELIGIBLE ENTITY.—Entities eligible to enter into a contract under this section shall include—

(1) a local educational agency, as defined in section 1201(g) of the Higher Education Act of 1965 (20 U.S.C. 1141(g));

(2) a consortium of such local educational agencies;

(3)(A) such a local educational agency, on behalf of a particular school within such local educational agency; or

(B) a consortium of such local educational agencies, on behalf of a consortia of particular schools in such local educational agencies; or

(4)(A) a nonprofit partnership between such a local educational agency and a local college or university;

(B) an area-wide collaborative partnership involving a private sector business that enters into an agreement with such a local educational agency; or

(C) a consortium of local or county health and social service agencies in conjunction with a local educational agency or other entity described in paragraph (1), (2), or (3) or subparagraph (A) or (B).

(g) INFORMATION.—The Board shall widely disseminate information about funding of systemic reform initiatives.

(h) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the costs of carrying out systemic reform initiatives under this section shall be up to 75 percent.

(2) INCREASES.—The Board may increase the Federal share on a specific contract if the Board determines that the eligible entity involved in the contract is especially deserving of assistance and is unable to pay for the non-Federal share of the costs of carrying out the initiative funded under the contract.

(i) NON-FEDERAL SHARE.—The non-Federal share of the costs of carrying out systemic reform initiatives under this section shall consist of a cash contribution.

(j) ADMINISTRATIVE COSTS.—An eligible entity may use for administrative costs not more than 5 percent of funds awarded under subsection (a) for a fiscal year.

(k) APPLICATION TO OTHER FUNDING DECISIONS.—

(1) FEDERAL FUNDING DECISIONS.—In making Federal funding decisions for other programs, the head of a Federal agency shall not take into consideration funding under this section, except to the extent that an entity seeks additional funding for a systemic reform initiative that receives funding under this section.

(2) STATE FUNDING DECISIONS.—In order for an entity in a State to be eligible to receive funds under this section, the State shall not make funding decisions that take into consideration funding under this section, except to the extent that an entity seeks additional funding for an systemic reform initiative that receives funding under this section.

SEC. 7. STATE SYSTEMIC REFORM INITIATIVE CONTRACTS.

(a) USE OF FUNDS.—The Board may enter into contracts with five States in order to pay for the Federal share of—

(1) developing and implementing systemic reform initiatives that focus on systemic efforts to redesign schools so that the schools meet the needs of all children; and

(2) establishing changes and alignment of sets of policies that address critical issues facing education, including access, accountability, governance, curriculum, instruction, technology, assessment, finance, and resource development.

(b) BASIS FOR CONTRACTS.—

(1) COMPETITIVE BASIS.—The Board shall enter into the contracts under subsection (a) on a competitive basis.

(2) CONSIDERATIONS.—In entering into the contracts under subsection (a), the Board shall consider the factors described in section 6(c)(2).

(3) PRIORITY.—In entering into contracts under subsection (a), the Board shall enter into contracts that focus on systemic reform initiatives to redesign schools and shall give priority to proposals described in section 6(c)(3).

(4) DURATION.—The Board may enter into contracts under subsection (a) for periods of from 3 to 10 years.

(5) AMOUNT.—The Board is authorized to enter into contracts for up to $50,000,000 for each of the five States.

(c) APPLICATION.—To be eligible to obtain funding under this section, the Governor of a State, in consultation with the top education and social service officials, shall submit an application to the Board at such time, in such manner, and including such information as the Board may require. At a minimum, each State application shall contain—

(1) a proposal containing a description of the systemic reform initiative to be funded under this section;

(2) a detailed description of the identified problems that are to be addressed by the proposal;

(3) a description of measurable objectives to be achieved by the initiative in education, health, social services, and employment;

(4) a plan for evaluation of the initiative, including a description of the statistical indicators and other criteria to be used to evaluate the progress in addressing the problems, with an emphasis on authentic assessment of student achievement;

(5) a detailed budget for each year of proposed funding;

(6) information demonstrating that the State will equalize the educational funding of the State and that the Federal funding provided by the Fund will be equalized;

(7) a description of the measures that the State government will undertake to ensure that there will be a broad level of community support for, and involvement with, the initiative by individuals involved in education, including parents, teachers, administrators, and business and community leaders.

(8) a description of the way in which the initiative will improve opportunities for student success and will result in enhanced student achievement;

(9) a description of specific steps that the State will undertake to streamline the administrative structure of the State in order to cultivate an experimental setting for the educational reform;

(10) a description of the way in which education, health, social services and employment delivery systems would be structurally connected to the initiative; and

(11) a description of measures to ensure accountability, which measures shall include a system of rewards and penalties for outcomes.

(d) CONTRACTS.—

(1) NEGOTIATION.—The Board shall negotiate and enter into contracts described in subsection (a) on the basis of the information contained in the applications of the States.

(2) CONTENTS.—A contract entered into under subsection (a) shall specify—

(A) the methods by which the State plans to carry out the initiative;

(B) the objective criteria to be met each year of the funding term for the initiative;

(C) the consequences if the criteria are not attained; and

(D) a bonus system if the progress achieved by the State exceeds the criteria.

(3) RENEGOTIATION.—The Board may renegotiate contracts entered into under subsection (a).

(e) FEDERAL SHARE.—The Federal share of the costs of carrying out systemic reform initiatives under this section shall be 50 percent.

SEC. 8. NONDISCRIMINATION.

(a) IN GENERAL.—Any funding provided under a contract entered into under this Act shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

(b) NONDISCRIMINATION.—Any individual with responsibility for the administration of a systemic reform initiative that receives funding under this Act shall not discriminate in the selection of participants to the initiative on the basis of race, religion, color, national origin, sex, age, disability, or political affiliation.

SEC. 9. TECHNICAL ASSISTANCE REFERRAL NETWORK.

(a) NETWORK.—The Board shall cooperate with regional educational laboratories or other appropriate entities to establish a technical assistance referral network to assist entities in planning, developing, and implementing proposals for systemic reform initiatives funded under this Act.

(b) MEMBERSHIP.—The Board shall ensure that the technical assistance referral network described in subsection (a) includes members of the business and education communities.

SEC. 10. REVIEW AND MONITORING PROCEDURES.

(a) REVIEW AND MONITORING.—The Board shall establish procedures for reviewing and monitoring contracts entered into under this Act. The procedures may not include any review by persons other than the Board.

(b) CONTACT.—The staff of the Board shall have quarterly contact with each entity that enters into a contract with the Board under the Act.

(c) ENFORCEMENT.—The Board shall promulgate regulations permitting the suspension of assistance to any entity that—

(1) fails to comply with the procedures for reviewing and monitoring contracts under subsection (a); or

(2) fails to comply with the conditions of the contract established—

(A) in section 6(e), in the case of a contract entered into under section 6; or

(B) in section 7(d), in the case of a contract entered into under section 7.

SEC. 11. EVALUATION AND DISSEMINATION.

(a) EVALUATION.—The Board shall establish procedures for ongoing evaluation of systemic reform initiatives funded under this Act. The Board may enter into contracts with outside entities, including the Regional Education Laboratories, to conduct the evaluation. Not more than 2 percent of the funds made available under section 9511(c)(1)(B) of the Internal Revenue Code of 1986 shall be available to carry out the evaluation.

(b) DISSEMINATION.—The Board shall establish and carry out procedures to ensure that ideas that are developed, tested, and proved by the initiatives as tools to improve the educational system of the Nation are widely disseminated and made available to entities interested in strengthening the educational system.

SEC. 12. ANNUAL REPORT.

Each entity that enters into a contract under section 6 or 7 shall annually prepare and submit a report on the systemic reform initiatives carried out under the contract to the President of the Board in such manner and containing such information as the President by regulation requires. At a minimum, the report shall contain—

(1) a description of the measures undertaken by the entity during the year;

(2) a description of the extent to which the initiatives attained—

(A) in the case of initiatives carried out under contracts described in section 6, the objective criteria described in section 6(e)(2)(C); and

(B) in the case of initiatives carried out under contracts described in section 7, the objective criteria described in section 7(d)(2)(B);

(3) a description of the measures the entity is proposing to undertake in order to qualify for additional funding, if the entity has not met the requirements of the contract; and

(4) if applicable, a description of the manner in which the entity incorporated recommended changes suggested by the Board during the previous review.

SEC. 13. REPORT TO CONGRESS.

The Board shall annually prepare and submit to the appropriate committees of Congress a report that contains a description of the systemic reform initiatives funded under this Act. At a minimum, the report shall contain—

(1) information on the number of applications to conduct initiatives that are received and reviewed, and the disposition of applications;

(2) information on the financial standing of the Fund, indicating initiatives financed and an overall view of projected commitments made during the year in which the report is submitted and in previous years;

(3) information on the proposed annual administrative budget of the Board for the following year;

(4) an evaluation of the progress and direction of the Fund; and

(5) recommendations for legislative reform regarding the operation of the Fund.

SEC. 14. REGULATIONS AND POLICIES.

(a) REGULATIONS.—The Board shall establish such regulations as may be necessary to carry out this Act.

(b) POLICIES.—The Board shall establish policies to carry out this Act, including the establishment of priorities to be used in the selection of entities to develop and evaluate systemic reform initiatives. The Board shall annually make available to the public the funding priorities of the Board.

SEC. 15. EDUCATION CAPITAL FUND.

(a) ESTABLISHMENT.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. EDUCATION CAPITAL FUND.

"(a) CREATION OF FUND.—There is established in the Treasury of the United States a fund to be known as the Education Capital Fund (referred to in this section as the 'Fund'), consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

"(b) TRANSFERS TO FUND.—There are appropriated to the Fund amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by section 16 of the Education Capital Fund Act of 1992.

"(c) EXPENDITURES.—

"(1) PURPOSES.—Amounts in the Fund shall be available, to the extent provided in appropriation Acts, for the purposes of—

"(A) making expenditures under section 6 or 7 of the Education Capital Fund Act of 1992; and

"(B) paying for the administrative expenses of the Education Capital Fund Board (referred to in this section as the 'Board'), established in section 4 of the Education Capital Fund Act of 1992.

"(2) PAYMENTS BASED ON ESTIMATES.—Payments under paragraph (1) shall be made on the basis of estimates by the President of the Board. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(3) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the funds made available under paragraph (1) shall be available for the purposes described in subparagraph (B) of the paragraph.".

(b) CONFORMING AMENDMENT.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended in the table of sections by adding at the end the following new item:

"Sec. 9511. Education Capital Fund Board.".

SEC. 16. INCREASE IN CORPORATE TAX RATE.

(a) IN GENERAL.—Subsection (b) of section 11 of the Internal Revenue Code of 1986 (relating to tax imposed on corporations) is amended by striking "34 percent" each place it appears and inserting "34.15 percent".

(b) CONFORMING AMENDMENTS.—

(1) Section 852(b)(3)(D)(iii) of such Code is amended by striking "66 percent" and inserting "65.85 percent".

(2) Section 1201(a) of such Code is amended by striking "34 percent" each place it appears and inserting "34.15 percent".

(3) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "34.15 percent".

(4) Section 7518(g)(6)(A) of such Code and section 607(h)(6)(A) of the Merchant Marine Act, 1936 are each amended by striking "34 percent" and inserting "34.15 percent".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) NO TAX INCREASE IF UNOBLIGATED BALANCE IN FUND EXCEEDS $1,000,000,000.—If on December 31 of any year (referred to in this paragraph as the "determination date")—

(A) the unobligated balance in the Education Capital Fund exceeds $1,000,000,000, and

(B) the Secretary of the Treasury, after consultation with the Secretary of Education, determines that the unobligated balance in the Education Capital Fund will exceed $1,000,000,000 on December 31 of the year following the determination date if the increase in the corporate tax rate under the amendments made by this section is not effective, then the amendments made by this section shall not apply to taxable years beginning after the determination date.

SUMMARY OF EDUCATION CAPITAL FUND ACT OF 1992

Establish an Education Capital Fund with an accompanying independent five member board composed of business and education leaders. Education Capital Fund Board oversees the distribution on federal money under this Act and establishes funding policy and regulations.

The Board will act as a venture capital partnership. It will make 3–10 year grants available to local entities. The federal share will be up to 75 percent of the project's cost. The specific percent of federal assistance will be decided by the board. The local share should be raised from either public or private sources. The local share can be a commitment to raise a certain amount annually.

Local entities interested in applying for funding will be required to demonstrate broad teacher, parent, student and community, especially private sector support, for their proposed reform. The applicant will be required to describe fully measures to be undertaken, indicate how the plan will improve opportunities for student success, describe what measures should be used to determine whether progress is being made at the classroom level in order to qualify for continued funding, and provide a detailed budget.

Funding will be available for a full range of activities on the basis of the negotiated contract between the Board and the local entity.

The Board will undertake careful evaluations of funded programs in order to guarantee the program's effectiveness and financial viability. The Board will work to make the results of their assessments available to the educational and business community.

The Federal Education Capital Fund would be a dedicated trust fund holding approximately $1 billion. The money will be raised by a corporate surcharge tax of approximately .15 percent over a three year period. Once the money has been raised the board will use the interest generated from the fund to support local projects.

The legislation also provides for funding up to five state systemic initiatives.●

By Mr. BOREN (for himself, Mr. NICKLES, and Mr. WALLOP):

S. 2259. A bill to amend the Internal Revenue Code of 1986 to provide incentives for energy development, and for other purposes; to the Committee on Finance.

ENERGY DEVELOPMENT TAX INCENTIVE ACT

● Mr. BOREN. Mr. President, too many people here in Washington and throughout the country fail to understand how critical it is to our national security to have a healthy oil and gas industry. This lack of awareness is illustrated by the fact that we still import almost half of our Nation's crude oil even after the gulf war, an event that so dramatically highlighted the importance of energy independence.

One of the primary reasons that we have fallen into this trap of overreliance on foreign energy is that our tax policies have penalized, rather than encouraged, domestic independent producers over the last decade. Independent producers are critical to our Nation's oil and gas supplies; they drill 85 percent of the wells and produce 80 percent of the gas and 40 percent of the oil in the country. Today this industry is in a crisis. Since the so-called Tax Reform Act of 1986 was passed, crude oil production in the United States has declined more than 1.7 million barrels per day. 317,000 jobs have been lost in the last decade. And the rig count stands at 653, down from 4,530 10 years ago. This count is the lowest in recorded history.

We simply cannot afford to continue such misguided tax policies that do so much harm to both our economy and our national security. Today, Senator NICKLES and I present a comprehensive program to help the independent oil and gas industry begin to recover from the effects of a punitive tax system and a sluggish economy. The Energy Development Tax Incentive Act of 1992 is a multifaceted program, designed to solve economic and security concerns.

The Energy Development Tax Incentive Act [EDTIA] first provides independent oil and gas producers relief from onerous provisions of the alternative minimum tax system. Many experts point to the AMT as a primary cause of the industry's decline because it treats unfavorably one of the principal business expenditures of the industry—intangible drilling costs—and because it penalizes the capital recovery system unique to the minerals extraction industry—percentage depletion.

Both these items are ordinary and necessary business expenses that are instrumental to the development of oil and gas resources. From an economic standpoint, IDC's are most comparable to research and development costs. Like research and development expenses, IDC's are incurred before a capital asset is known to exist. These costs include survey costs, amounts paid to negotiate and finalize drilling contracts, costs to prepare the drill site, costs of transporting and setting up the rigs, and costs of cementing casing in place. These crucial and unavoidable costs—which may never be recovered—can amount to as much as 80 percent of the total costs incurred in developing a well.

Percentage depletion recognizes that oil and gas producers must discover their capital assets by investing funds that are totally at risk in the hope of finding an asset that may or may not exist. Percentage depletion recognizes that the economic profit from successful wells must compensate for economic losses from dry holes and marginal wells that do not recover their investment. It also acknowledges that oil and gas properties are wasting assets with no residual value; as oil or gas is produced, the value of the asset decreases with each passing day.

Thus, both types of expenses are legitimate and necessary, given the unique nature of the oil and gas industry. Moreover, they both correspond to ordinary business expenses that are deductible for every other business, whether it pays regular corporate tax or the AMT. Our proposal would completely eliminate IDC's and percentage depletion as tax preference items for independent producers paying the AMT. To eliminate the risk that our proposal could result in a taxpayer zeroing out its tax liability—thereby undermining the goal of the AMT to ensure that all taxpayers pay their fair share—this legislation provides that a taxpayer cannot offset more than 90 percent of AMT liability through claiming these deductions.

The AMT portion of the act also repeals as a preference investment in environmental improvement assets. These capital assets are used for the reduction of pollutants into the environment, the minimization of solid waste, waste conversion or recycling, the reduction of environmental hazards, compliance with environmental requirements, prevention or control of unplanned releases of pollutants, and the manufacture, distribution, and sale of alternate fuels. The oil and gas industry is concerned about the effect of drilling and production on the environment, and it invests significantly in environmental improvement assets. This legislation ensures that such capital investment, when combined with the economic position of the industry, will not propel independent producers into the alternative minimum tax.

Second, the EDTIA allows independents to take an exploration and development tax credit for new domestic wells discovered and drilled. This credit is equal to the sum of 20 percent of qualified investment expenses up to $1,000,000 and 10 percent of such expenses over $1,000,000. This credit can be applied against either regular corporate liability or the alternative minimum tax liability. Such a provision is vital to ensure that all independents, many of whom are paying AMT during these recessionary times, can take advantage of the exploration incentive.

The third initiative contained in the legislation is designed to increase the profitability of stripper wells. The EDTIA increases the allowance for percentage depletion on these marginal wells from 15 percent to 27.5 percent; it therefore increases the period of time during which the wells profitably can produce oil and gas. The plan also raises from $21 to $28 the price that triggers the ability to take the allowance.

Fourth, we propose an expansion of the section 43 credit for enhanced oil recovery so that the credit can be taken for horizontal drilling and advanced secondary recovery techniques. This credit will be equal to 15 percent of the taxpayer's advanced secondary recovery costs. Advanced secondary recovery is recovery directed at producing unrecovered mobile oil that remains in the reservoir at the conclusion of conventional production due to reservoir heterogeneity and unfavorable mobility differences between oil and water. Both secondary recovery techniques and horizontal drilling must be encouraged to increase the amount of oil and gas produced by such enhanced methods.

The final provisions of the bill are designed to decrease the country's dependence on foreign oil and to encourage the use of alternative fuels that are less harmful to our environment. The first set of these provisions are similar to those contained in the bill I introduced in 1991 with Senator ROCKEFELLER and others, the Alternative Fuels Incentive Act. Alternative fuels, such as compressed natural gas, liquid natural gas, and electricity, are increasingly seen as important tools to help clean up the air and to diversify our supply of vital energy. But to allow alternative fuels to meet these expectations, the Federal Government must encourage their development through tax incentives. This legislation provides such encouragement.

The EDTIA provides a tax deduction for retrofitting or purchasing alternative fuel vehicles. These incentives are available to businesses, State and local governments, and other consumers. Our proposals also provides tax incentives for the installation of fueling equipment for alternative fuels at service stations and other appropriate locations.

Finally, the bill includes an imported oil security fee, a proposal I have made in four consecutive Congresses. I remain amazed that although our domestic production of oil has fallen to levels lower than 1977 levels, and although imports of crude oil and refined products continue to rise, this country has failed to come to grips with the threats inherent in its dependence on foreign oil. In addition, the lack of stability in oil prices through the mid-1980's has resulted in 25 percent less drilling than would have occurred had prices been perceived as stable.

Senator NICKLES and I offer a meaningful solution to this alarming problem. The EDTIA would impose an excise tax on all foreign oil brought into the United States that is priced below $25 a barrel. Currently, the price of crude oil in the international market hovers at approximately $18. The $25 figure in our proposal will act as a floor price for crude oil in the United States. No longer will domestic producers have to worry whether a foreign producer intends to flood the world with cheap oil. This floor mechanism will bring needed stability to our domestic industry. This in turn will promote the vital goal of a secure energy supply. Moreover, by increasing the price of oil, the Government will encourage the production of alternative fuels that are less detrimental to the environment.

Mr. President, the independent oil and natural gas industry is fast approaching the point of no return. Either we act now to reverse the devastation caused by a combination of the misguided tax changes in 1986 and the disastrous economic climate, or we will face the future without vibrant independent oil and gas producers and with increasing dependence on unstable sources of foreign oil.•

• Mr. NICKLES. Mr. President, today Senator BOREN and I are introducing a bill designed to remove some of the current tax impediments to domestic production of oil and gas. This bill, if enacted, will give our domestic producers the needed incentives to continue producing from marginal wells and stimulate additional domestic production. Such action is needed now if the domestic oil and gas industry is to survive.

Currently, our country only has 653 active operating rigs, the lowest level since such records were started in the 1940's. In addition, natural gas spot prices are around 84 cents in Oklahoma. Economically, this is killing producers and in many cases wasting precious natural resources.

Since the Persian Gulf war, we have heard increased rhetoric that the United States needs to become less dependent on foreign oil imports. But the fact of the matter is, too many in Washington refuse to enact effective and needed policies to make the goal of domestic oil independence a reality.

Since coming to the Senate, I have continually fought to get unnecessarily burdensome laws, which were passed primarily during the Carter administration and which regulated and penalized the oil and gas industry, off of the books. Fortunately, we have seen the repeal of the Fuel Use Act and the Windfall Profits Tax enacted as a part of that misguided policy.

However, our battles are far from over. Provisions in the 1986 tax reform package reflected on the mistakes of the Carter years, giving those in the energy industry even more headaches and obstacles to overcome with regard to exploration and production of domestic oil and gas resources.

That is why I have introduced a bill to change one such 1986 provision, the alternative minimum tax [AMT]. The legislation eliminates intangible drilling costs and percentage depletion as preference items in order to promote economic growth and tax fairness. I am pleased that Senator BOREN has joined me in this effort.

Since AMT penalties were imposed in 1986, exploration and development drilling has plummeted. Since that time, the industry has lost an average of 32,000 jobs every year, closed almost 400 drilling companies, and shut down 1,120 drilling rigs.

Current law stunts economic growth in the domestic oil and natural gas sector of the economy because it hurts capital-intensive business by denying full use of their ordinary and usual business expenses; penalizes investment in domestic oil and natural gas exploration and development; acts as a cap on drilling investments; and contributes to the decline in the U.S. crude oil production and the loss of more than 300,000 jobs in the domestic oil and gas industry since 1981.

Furthermore, current law unfairly taxes and burdens the oil and gas industry because only the principal business expenditures of domestic oil and natural gas exploration and development, intangible drilling costs, and the long-standing capital recovery system specific to the minerals extraction industry—percentage depletion—are singled out and penalized under the alternative minimum tax.

By eliminating the AMT penalties imposed on the ordinary and necessary business expenses of oil and natural gas producers, deductions that are already provided for in the tax code are simply being allowed to be used. Furthermore, AMT relief levels the playing field for oil and gas producers.

Since introducing legislation to provide AMT relief in January 1991, I have continued my fight to alleviate this burden. On February 6, Senator BOREN and I introduced another bill which would eliminate IDC's and percentage depletion as preference items under the AMT. Also, on February 7, the Senate passed an amendment I authored directing the Senate Committee on Finance to consider AMT relief. And today, Senator BOREN and I are introducing further legislation to provide AMT relief as well as several other provisions to aid our ailing oil and gas industry.

The bill we are introducing today provides several additional incentives to encourage development and production of domestic resources. Specifically, this legislation calls for an oil and gas exploration and development credit. It provides for a 20-percent credit for the first $1,000,000 of annual exploration and development costs, and a 10 percent credit for annual exploration and development costs in excess of $1,000,000 which can be applied against both the regular and AMT liability.

This bill also would increase the percentage depletion for stripper wells. It provides that the maximum available percentage depletion rate on marginal oil and gas wells—15 barrels day or less—will be 27.5 percent. The depletion rate on these marginal wells will be scaled down to the current 15 percent rate as oil prices fall from $28 to $15 a barrel. It also provides that the current 100 percent net income limitation on the percentage depletion deduction be repealed for oil and gas properties.

In addition to the items mentioned above, this bill provides that the current 15 percent enhanced oil recovery tax credit be expanded to apply to the advanced secondary recovery costs of independent producers. It includes reservoir characterization and horizontal drilling in the definition of advanced secondary recovery.

The bill also contains two provisions designed to help promote the use of environmentally clean fuels, particularly natural gas, and to encourage environmental improvements. One provision provides that the depreciation adjustments under AMT will not apply to environmental improvement assets. The second provision provides deductions relating to vehicles which use clean-burning fuels. This provision gives a deduction ranging from $2,000 for cars to $50,000 for trucks and buses which use clean-burning fuels and a maximum annual deduction of $75,000 for the cost of clean-burning motor vehicle refueling property. Clean-burning fuels include natural gas, liquefied natural gas, propane and electricity. The deduction is available for both regular tax and AMT purposes.

Finally, the bill proposes a floor price on imported crude oil or refined petroleum products. It provides for a variable import fee on crude oil equal to the excess of $25 over the per barrel price of crude oil and a similar variable import fee on refined petroleum products equal to the excess of $28 over the per barrel price of crude oil.

These tax changes are vitally important to the health and survival of our domestic producers. It is my hope that Congress will enact these changes as part of our economic recovery package by March 20.•

• Mr. WALLOP. Mr. President, Today, I join with my colleagues from Oklahoma, Senators BOREN and NICKLES, in introducing legislation to reform the Federal Tax Code to encourage domestic energy production. Just last week, the Senate approved the National Energy Security Act of 1992, the first comprehensive energy policy to be passed by the Senate since I have served in this body. That legislation was developed by the Senate Energy Committee, on which I am the ranking Republican.

One criticism of our bill is that it does little to promote domestic production of oil and gas. whenever I have asked critics what more we could do, they have responded that we should change the Tax Code. As much as I would like to oblige their request, the Energy Committee does not have any jurisdiction over tax issues. Furthermore, under the Constitution, revenue measures must originate in the House of Representatives. Thus, it is impossible for us to reach into tax issues as part of the National Energy Security Act. I did join with Senator JOHNSTON, the chairman of the Energy Committee, in a letter to the chairman and ranking Republican on the Finance Committee outlining recommended changes in tax policy to promote our energy security. I would ask that a copy of this letter be included at the conclusion of my remarks.

The obvious solution to this procedural obstacle, to this missing piece of our energy puzzle, is to introduce a tax reform bill. The legislation we are sponsoring today is one of the missing pieces. We have crafted a bill with eight sections that modify tax policy to remove provisions which retard production and to establish new incentives for domestic energy development.

There are two obstacles to expanding domestic production. One is the price of oil. The price level is at one of the lowest real levels in 40 years. This is, in part, a response to market forces, but also to the oligopsony world of oil created by OPEC. Our solution is an oil import fee which reduces the influence of the market manipulators. However, I realize that many regions of the country are overly dependent on foreign oil, and a fee will not pass this year.

The second obstacle is one of the most absurd tax provisions to ever be enacted by Congress, the Alternative Minimum Tax. As anyone who attempts the incredibly risky business of oil exploration can affirm, the 1986 tax bill, which created the AMT, has been a disaster for our domestic energy producing industry. By including the percentage depletion and the intangible drilling costs as income items in the AMT, we create a confiscatory tax burden for the oil independents. In my own State of Wyoming, nearly 400 independents have closed shop in the last few years. Their demise is in part due to the alternative minimum tax. I think this whole provision should be repealed. But, I will settle for changing the treatment of depletion and drilling costs. That provision is included in our proposal.

I said our tax bill is one of the two missing pieces in the energy puzzle. To complete the picture, we must also allow exploration in ANWR. We do not address that issue in this bill—that debate will occur on another day. I do agree with my cosponsors that the bill we are introducing today is a major step in promoting domestic energy production, in ensuring our energy security. I would expect that many provisions in our bill will be included in the economic growth package to be soon debated in the Senate. I would urge my colleagues to support these reforms.

Mr. President, I ask unanimous consent that supporting materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, DC., July 22 1991.

Hon. LLOYD BENTSEN,
Chairman,
Hon. BOB PACKWOOD,
Ranking Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATORS BENTSEN AND PACKWOOD: On June 5, the Senate Committee on Energy and Natural Resources reported S. 1220, the National Energy Security Act of 1991. This is comprehensive legislation which we believe can serve as a foundation for a national energy policy for the United States in the 1990's.

S. 1220 addresses many aspects of energy policy. However, in addition to the matters covered by the bill, energy tax measures play a fundamental role in directing national energy policy.

During the course of the Committee's consideration of S. 1220, we became aware of several energy tax initiatives that would complement its provisions. The attached document sets forth our recommendations with respect to these initiatives and indicates how they complement S. 1220.

We recognize that given the jurisdiction and expertise of the Committee on Finance, you are in the best position to evaluate the benefits and costs of their initiatives. We also recognize that you must operate within the constraints of the budget agreement. We hope that our views will be of assistance to your Committee in dealing with these important issues.

Sincerely,

J. BENNETT JOHNSTON,
Chairman.
MALCOLM WALLOP,
Ranking Member.

ENERGY TAX INITIATIVES

OIL IMPORT FEE

S. 1220, the National Energy Security Act of 1991, is intended to reduce United States dependence on imported oil and to provide for the energy security of the country. During 1990, the United States imported nearly 8 million barrels of oil per day. This amounted to almost 47 percent of domestic delivered. Prior to Iraq's invasion of Kuwait, 50 percent of these imports came from OPEC nations, with 25 percent coming from the Persian Gulf. At the same time, our domestic production declined in 1990 to its lowest level in almost 30 years.

An objective of S. 1220 is to reduce oil imports. This can be achieved by maintenance of a reasonable floor price for oil which would provide an important incentive to stimulate the exploration and development of our domestic resource. For this reason, we recommend enactment of the following:

Variable Oil Import Fees (S. 215)

An oil import fee is collected when the international price for crude oil falls below $20/barrel and the international price of refined petroleum product, petrochemical feedstock, or petrochemical derivative falls below $22.50 per barrel equivalent. The amount of the oil import fee would be the difference between $20 and the international price of crude oil or the difference between $22.50 and the international price of refined petroleum product, petrochemical feedstock, or petrochemical derivative.

ENERGY EFFICIENCY AND RENEWABLE ENERGY

S. 1220 contains extensive provisions to reduce the rate of growth in energy consumption through the use of energy efficiency. Included among these are measures to improve energy efficiency in the industrial, commercial, and residential sectors, to improve federal energy management, and to increase energy efficiency in the utility sector.

S. 1220 also includes several important measures to encourage the development and deployment of renewable energy resources in the United States and on an international scale in lesser-developed countries. These provisions include joint ventures for the demonstration of renewable energy technologies such as biofuels, geothermal, wind, fuel cells and utility-scale photovoltaics, as well as expansion of the interagency working group that promotes the export of renewable energy and energy efficiency products and technologies. In addition, S. 1220 contains a provision granting authority to the Department of Energy to "buy-down" or subsidize interest rates on private bank loans in order to leverage long-term financing for the solar, biomass, and wind industries.

The objective of these provisions is to recognize the critical role that changes in patterns of energy use can serve in a national energy policy. The following tax initiatives would complement the energy efficiency and renewable energy provisions of S. 1120:

Exclusion for Public Utility Subsidies for Energy Conservation Measures

Exclude from gross income of utility customers the value of any rebates, financial assistance, or service provided by a utility for the purchase, installation, or maintenance of an energy conservation measure. Utilities are in the best position to identify cost effective energy conservation measures and to provide the appropriate benefit to encourage their customers to purchase and install those measures. The unique position of utilities to promote energy efficiency should be accorded strong Federal support through tax incentives.

Extension of the Business Energy Tax Credit

Extend the business energy tax credit for five years, and provide that investments in qualified solar energy and geothermal property would be permitted to offset both the regular tax and the alternative minimum tax of a corporation. Under current law, a general business credit equal to 10 percent of the qualified cost for certain investments in solar energy or geothermal property is available. Failure to extend this tax credit may result in the displacement of United States solar technologies by foreign competitors who have taken advantage of tax and other market incentives in their own countries to make inroads in United States markets.

Tax Credit for Production of Electricity From Renewable Resources

Tax credits for production of electricity from qualified renewable energy technologies should be continued in order to encourage investment in renewable energy production. This is not to suggest that tax incentives should be so large that they distort the market for energy. Rather such tax incentives compensate investors for their investment risk in renewable energy production. Production tax credits are an effective means for encouraging the development and utilization of renewable energy as well as reducing the use of fossil fuels to generate electric power.

TRANSPORTATION

The transportation sector uses 63 percent of the petroleum consumed in the United States. S. 1220 contains many provisions pertaining to reducing the use of oil in the transportation sector through greater energy efficiency and the use of alternative fuels. Among these are provisions pertaining to Corporate Average Fuel Economy, an extensive alternative fuel fleets program, an electric and electric hybrid vehicle demonstration program, an alternative fuels program, and provisions relating to mass transit and training. We recommend consideration of the following tax measures to complement the provisions in S. 1220:

Exclusions and Deductions Relating to Employer-Provided Transportation and Employee Parking

Provide an exclusion for the value of employer-provided transportation between an employee's home and work that is provided in a commuter highway vehicle. Provide an exclusion for an employer-provided transit pass for mass transit facilities.

Prohibit an employer for deducting employer-provided parking costs unless the employer provides parking subsidies pursuant to arrangement under which employee may elect, in lieu of parking, to receive a cash payment or equivalent transportation subsidy.

Limit the existing exclusion from an employee's taxable income for the value of employer-provided parking where space is rented from a third party.

Taxes and Rebates To Encourage Fuel-Efficient Automobiles

Provide for higher taxes for "gas guzzlers". Provide for a tax or rebate on every motor vehicle sold depending on whether its fuel economy is below or above the average for its vehicle class. However, any such proposal should avoid disproportionate impacts on domestic auto makers, and should minimize the opportunities for "gaming" (e.g., by attempting to change the class to which a vehicle is assigned). In addition, adequate lead time should be given so that auto makers have some opportunity to avoid the penalties.

Tax Deductions and Federal Payments for Clean-Burning Motor Vehicle Property

Provide higher tax deductions for alternative fuel vehicles and related refueling facilities. Provide payments from the Federal government to states and localities to share the cost of alternative fuel vehicles and related refueling facilities. Such tax revisions and payments could be viewed as a form of cost-sharing. It may be desirable for society as a whole to bear part of the cost that private companies, states, and localities would incur as a result of Federal mandates requiring alternative fuel use.

Alternative Fuel Vehicle Demonstration Projects

Permit the Federal Highway Trust Fund monies now available for mass transit to be used by municipal governments to purchase alternative fuel vehicles and to subsidize alternative fuel demonstration projects by commercial as well as local government fleet operators.

OIL & GAS PRODUCTION INCENTIVES

Certain provisions of S. 1220 are directed toward enhancing the supply of domestically-produced energy and, in particular, oil and gas. Among these are provisions to allow oil and gas exploration, production, and development in the Arctic National Wildlife Refuge, to encourage enhanced oil and gas recovery from known and producing domestic reserves, and to facilitate the delivery of domestic natural gas supplies in the marketplace.

Several oil and gas production incentives could be provided for in the Internal Revenue Code which would further the objective of increasing domestic oil and gas supply. We encourage the Finance Committee to consider the full range of these production incentives. Among the most important of these are:

Removal of Intangible Drilling Costs (IDC's) and Percentage Depletion From the Alternative Minimum Tax and Corporate Preference Reductions

Allow a deduction for IDC's and percentage depletion for purposes of calculating the alternative minimum tax.

Crude Oil Production Credit for Maintaining Economically Marginal Wells

Allow a tax credit for maintaining or increasing production from marginal wells.

Nonconventional Source Fuels Credit Allowed To Offset Alternative Minimum Tax Liability and Extended

Allow the section 29 credit for nonconventional fuels to offset the alternative minimum tax and extend the section 29 credit.

Repeal of Revenue Ruling 77–176

Repeal IRS ruling which holds that under certain circumstances an assignment of a working interest in leasehold acreage in exchange for an obligation to drill for oil and gas results in taxable income to the driller. The ruling currently discourages the use of joint arrangements to explore for oil and gas.

Additional Items

The Committee may also want to consider additional items, including: allowing early accrual of expenses related to removal of offshore oil and gas production facilities, restoration of full expensing of IDC's; and current expensing of geological and geophysical costs.

RESEARCH

S. 1220 contains extensive provisions designed to promote research, development, demonstration, and commercialization of energy and energy technologies. We recommend consideration of the following tax initiative to complement these provisions in S. 1220:

Permanent Extension of the Research Credit

Permanently extend the tax credit for research and experimentation expenses which otherwise expires on December 31, 1991, at least with respect to energy and energy technologies.●

By Mr. COCHRAN:

S.J. Res. 260. Joint resolution designating the week of October 18, 1992, through October 24, 1992, as "National School Bus Safety Week"; to the Committee on the Judiciary.

NATIONAL SCHOOLBUS SAFETY WEEK

● Mr. COCHRAN. Mr. President, today I am introducing a joint resolution to designate the week of October 18, 1992, through October 24, 1992, as "National School Bus Safety Week."

The safe transportation of our children to and from their academic institutions is of the utmost importance. Each day, over 22,000,000 students ride schoolbuses to school, sporting events, and on field trips. There is a sense of security that all parents feel when they load their children onto those yellow buses; and with good reason, as schoolbuses have the lowest accident rate of any of the public transportation systems in our Nation.

Mr. President, the school transportation industry deserves to be commended for its outstanding performance. A week of national recognition for schoolbus safety will raise public awareness and encourage parents and children to appreciate the safety rules that foster an effective transportation system. Respect for safety and compliance with the rules are important to ensure the continued success of the school transportation industry.

It is also appropriate to call the Nation's attention to the schoolbus drivers of America. This resolution expresses respect and gratitude to schoolbus drivers for the great responsibility they assume in caring for our children during their routes. They are true professionals and merit our recognition and thanks.

Mr. President, I urge my colleagues to join me in support of this joint resolution.●

By Mr. CRANSTON (for himself, Mr. AKAKA, Mr. GRAHAM, and Mr. INOUYE):

S.J. Res. 261. Joint resolution to designate April 9, 1992, as a "Day of Recognition of Filipino World War II Veterans"; to the Committee on the Judiciary.

DAY OF RECOGNITION OF FILIPINO WORLD WAR II VETERANS

● Mr. CRANSTON. Mr. President, I have today introduced Senate Joint Resolution 261 to commemorate the service of Filipino veterans of World War II who, 50 years ago today, were fighting side-by-side with American soldiers in a valiant effort to defend the Philippines against the invading Japanese Imperial Forces. I am very pleased that committee members DANIEL K. AKAKA and BOB GRAHAM and Senator DANIEL K. INOUYE have joined me in offering this resolution, which would authorize and urge the President to proclaim April 9, 1992, the 50th Anniversary of the Fall of Bataan, as a Day of Recognition of Filipino World War II Veterans.

Mr. President, just over two months ago, on December 7, our Nation observed the 50th anniversary of the Japanese attack on Pearl Harbor. That unprovoked, massive surprise attack on the American fleet, which is properly remembered as one of the most significant events in our history, profoundly shocked the American people and caused the United States to enter World War II. The ceremonies at Pearl Harbor last December, attended by the President, the Secretary of Defense, and several of our Senate colleagues, refreshed our national recollection of the immensity of those events and provided an opportunity to honor the great sacrifices, bravery, and gallantry of the millions of American service members who, along with our allies during the following 4 years throughout the Pacific, Asia, and Europe, fought and won a great victory for our Nation, and for the principles of freedom and democracy.

The resolution we are offering today would pay tribute to the Filipino veterans of World War II who, along with American soldiers and sailors, fought under the command of General MacArthur in a valiant defense of the Philippines, in active resistance to the Japanese occupation, and in the recapture of the Philippines.

Mr. President, almost immediately after the attack on Pearl Harbor, Japanese forces attacked the Philippines, then an American territory moving towards full independence under the terms of the Philippine Independence Act of 1934. According to information provided by the United States Army Center of Military History, the combined regular United States and Filipino military forces in the Philippines at the time of the Japanese attack totaled over 155,000 troops. The majority, approximately 110,000, of those soldiers were members of the Philippine Commonwealth Army, which, on July 26, 1941, President Roosevelt, by Executive order authorized under the Philippine Independence Act of 1934, had called into the service of the United States Armed Forces. The United States Army presence in the Philippines consisted of approximately 19,000 American soldiers and nearly 12,000 Philippine Scouts, who were part of the regular United States Army. In addition, approximately 3,000 United States Navy shore-based personnel and 1,600 United States marines, who had been deployed from Shanghai in November 1941, were serving in the Philippines. These troops constituted the U.S. Army Forces in the Far East, which had been established in July 1941 under the command of General MacArthur, who had been recalled to active duty to assume that post.

The destruction of the American fleet at Pearl Harbor eliminated the ability of the United States to support the defenders of the Philippines. Yet despite their isolation, and the contrasting ease with which the Japanese were able to direct resources to support their invading forces, the Filipino and American forces waged a ferocious defense for 6 months. When the Philippines finally fell in June, four months after the Japanese commanders had expected to complete the campaign, 20,000 Philippine Army troops had been killed in action and approximately 24,000 Filipinos had been wounded.

Mr. President, the official United States Army history of the fall of the Philippines, prepared in 1953 by Louis Morton of the Office of the Chief of Military History, offers the following perspective on the efforts of the courageous defenders:

> Though the Japanese had won an important victory, the American and Filipino troops had not given their lives and their freedom in vain. For six months they had kept alive resistance in the Philippines, exacting heavy casualties from the enemy and immobilizing his forces. Not until Imperial General Headquarters, which had relegated the Philippines to a secondary place in the Japanese plan of conquest, had committed more men and planes than it had ever intended to the struggle was the campaign brought to an end. During the six months required to accomplish this task, the American and Filipino troops had retained their tenacious hold on Manila Bay and denied its use to the enemy. This was their mission and it had been accomplished.

Shortly before General Wainwright—who in March 1942 had assumed command of the United States forces in the Philippines when General MacArthur departed for Australia—surrendered to the Japanese, President Roosevelt wrote to him and noted the importance of the defender's efforts:

> In every camp and on every naval vessel, soldiers, sailors, and marines are inspired by the gallant struggle of their comrades in the Philippines. The workmen in our shipyards and munitions plants redouble their efforts because of your example. You and your devoted followers have become the living symbol of our war aims and the guarantee of victory.

Mr. President, the sacrifices made by the Filipino and American soldiers in the Philippines during World War II still serve as a bright symbol of the great cost of freedom. The Filipino veterans of World War II who fought and died along with their American counterparts in defending United States territory that was soon to become their nation are most deserving of our remembrance and recognition for their sacrifices, loyalty, and contribution to the causes of peace, freedom, and human dignity. I am very pleased to offer this resolution and urge all of my colleagues to support its enactment.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 261

Whereas, upon the outbreak of war between the United States and Japan in World War II, 110,000 members of the organized military forces of the Government of the Commonwealth of the Philippines who had been called into the service of the United States Armed Forces by order of President Roosevelt dated July 26, 1941, were committed to battle, along with United States personnel, against the Imperial Japanese forces that invaded the Philippines on December 8, 1941;

Whereas April 9, 1992, and May 6, 1992, mark the 50th anniversaries of the fall of Bataan and Corregidor, respectively, to Imperial Japanese forces;

Whereas the Filipino and United States defenders of the Philippines engaged Japanese forces from the beaches of the Philippine islands to the last defense of Bataan and Corregidor in a grueling battle lasting 150 days;

Whereas that defense compelled Japan to divert thousands of additional troops to the Philippines;

Whereas the enormous sacrifices of the defenders in the battles of Bataan and Corregidor provided the United States and its Allies with valuable time to prepare their armed forces for a counteroffensive campaign against Japan;

Whereas, in that defense, the members of the Filipino forces and their United States counterparts struggled against difficult odds and desperate circumstances and faced, with indomitable spirit, fortitude, and loyalty to America, powerful Imperial Japanese forces;

Whereas members of the Filipino forces acquitted themselves nobly during the Bataan death march, during their internment in death camps, and throughout 3 years of resistance against Japanese occupation of the Philippines; and

Whereas the United States recognizes the sacrifice, loyalty, and valuable contribution of the Filipino World War II veterans to the cause of peace, freedom, and human dignity: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1992, the 50th anniversary of the fall of Bataan, is designated as the "Day of Recognition of Filipino War Veterans", and the President is authorized and urged (1) to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities, and (2) to present a copy of this resolution to Filipino veterans and the Filipino people in Manila on April 9, 1992, during the observance of the 50th anniversary of the fall of Bataan, as an expression of goodwill and a reaffirmation of the continuing regard of the United States and the American people for a lasting Filipino-American friendship.•

• Mr. AKAKA. Mr. President, I am pleased to join Senators CRANSTON, INOUYE, and GRAHAM in introducing legislation to designate April 9, 1992, which marks the semicentenary of the Fall of Bataan, as a "Day of Recognition of Filipino World War II Veterans."

This resolution commemorates the heroic service of the approximately 110,000 members of the organized Filipino military forces, principally members of the Philippine Commonwealth Army, who were called into the service of the United States by President Roosevelt against the military forces of Imperial Japan. The resolution also honors the efforts of the 12,000 Filipinos—the so-called Old Philippine Scouts—who were in the service of the United States Armed Forces prior to the Roosevelt order of July 26, 1941. Together, their activities played an important role in the overall Allied war effort against Japan, by diverting key Japanese military resources to the Philippine theater of operations and giving the Allies valuable months to prepare a concerted counteroffensive against the Japanese war machine.

Mr. President, the United States has recognized the efforts of our Filipino allies in a number of ways. Pursuant to a postwar act of Congress, the 110,000 Filipinos called into service by Roosevelt are eligible for limited veterans benefits, such as pensions, life insurance, burial benefits, and disability compensation, payable at half the rate of U.S. veterans. The established 12,000 Old Philippine Scouts who were in United States service previous to that order are considered official United States veterans, and thus eligible for full veterans benefits. And, recently, the Immigration Act of 1990. Thanks principally to the efforts of my senior colleague from Hawaii, Senator INOUYE, Congress waived the residency requirement for Filipino World War II veterans applying for United States citizenship.

This legislation will continue Congress's tradition of formalizing the sense of gratitude and friendship we feel toward the people of the Philippines for their contributions to the Allied cause during the Second World War. By extension, this resolution also celebrates one of the fruits of our joint victory against Japan nearly 47 years ago, namely the evolution of the Philippines into a sovereign democracy.

Mr. President, I also have a secondary motive in supporting this measure. It is my hope that adoption of this legislation will help set the stage for Congress eventually to extend full veterans benefits to the 110,000 Philippine soldiers who were called into the United States service by President Roosevelt. In everything but name, these individuals are veterans: they fought for the same government, they faced the same dangers, they put their lives on the line for the same cause as other members of the U.S. Armed Forces. Senator INOUYE in this body and Representatives GILMAN and DYMALLY in the House have introduced legislation to grant these brave, overlooked individuals full veterans status. My colleagues should view the resolution we are introducing today as a stepping stone toward implementing these important measures.

Thank you, Mr. President. I urge my colleagues to support this important resolution.•

By Mr. BROWN (for himself and Mr. WIRTH):

S. 2260. A bill to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal in Colorado to the Secretary of the Interior for the purpose of establishing a national wildlife refuge, and for other purposes; to the Committee on Armed Services.

ROCKY MOUNTAIN ARSENAL NATIONAL WILDLIFE REFUGE ACT

• Mr. BROWN. Mr. President, today I rise to introduce a bill to establish one of the Nation's largest wildlife refuges, located in an urban area, in the country. The Colorado Metropolitan Wildlife Refuge Act of 1992 would transfer jurisdiction of the Rocky Mountain Arsenal in Colorado to the Department of the Interior for the establishment of a national wildlife refuge. The arsenal, located less than 10 miles from downtown Denver, will provide over 16,000 acres of open space in a metropolitan area.

I originally introduced a similar bill in July of 1991. Since that time, however, the House Armed Services Committee has approved an amendment in the nature of a substitute to H.R. 1435, the House version of my bill, which incorporates a compromise reached by Representatives ALLARD and SCHROEDER. Subsequently, I am introducing this revised version of S. 1460 in the Senate and would like to move forward with this bill in place of the original text of S. 1460.

This compromise, I believe, addresses most, if not all, the concerns raised by both the Senate Armed Services and Environment and Public Works Committees last year when I suggested adding S. 1460 as an amendment to the fiscal year 1991 Defense authorization bill.

In particular, staff on the Armed Services Committee were concerned that a transfer of the property from the Department of the Army to the Secretary of the Interior before the completion of the cleanup of the site would complicate both the cleanup and liability questions surrounding the site. The compromise now sets the transfer of the site upon completion of the cleanup.

In addition, the advisory panel to which the Environment and Public Works Committee staff objected has been eliminated and the liability language responds to concerns raised by staff as well. It is my hope that we can begin action in the Senate as soon as possible.

Mr. President, Rocky Mountain Arsenal was established in 1942, and was used by the Army to manufacture and dispose of chemical weapons, such as nerve gas. The Army also leased a section of the arsenal grounds to a private company to manufacture pesticides.

The arsenal, which has been placed on Superfund's national priority list, is considered one of the most toxic pieces of land in the world. It is the No. 1 cleanup priority for the entire Department of Defense Environmental Restoration Program.

Mr. President, this legislation will benefit the region for generations to come by providing visitors an experience no other major metropolitan area in the Nation can duplicate. The arsenal serves as a habitat island, a largely undeveloped 27 square mile urban area sanctuary for mule and white tail deer, bald eagles, hawks, geese, rabbits, pheasants, coyotes, prairie dogs, and other species. It is now a prime wintering ground for the endangered bald eagle with up to 40 eagles using a communal roost on the arsenal from about November through February.

There are few, if any, other places in the United States where such large concentrations of threatened, endangered, and important wildlife are located so close to a major metropolitan area. This gathering of wildlife in a small area affords one of the best opportunities in the world for people to watch the interactions various species. The close proximity of wildlife and wildlife habitat to a major urban area provides uncommon opportunities for people to observe, study, and enjoy rare and important wildlife which otherwise would be more difficult to view and study.

We have a terrific opportunity to turn a site which has plagued the neighboring communities with the specter of nerve gas production for decade into an asset and I urge Congress to act quickly on this measure.●

ADDITIONAL COSPONSORS

S. 88

At the request of Mr. DURENBERGER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for health insurance costs for self-employed individuals.

S. 284

At the request of Mr. LIEBERMAN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 311

At the request of Mr. ROTH, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 311, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 703

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 703, a bill to amend the Harmonized Tariff Schedule of the United States to correct the tariff rate inversion on certain iron and steel pipe and tube products.

S. 765

At the request of Mr. BREAUX, the names of the Senator from Indiana [Mr. COATS] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer Social Security taxes on cash tips.

S. 873

At the request of Mr. BOREN, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 873, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of interest income and rental expense in connection with safe harbor leases involving rural electric cooperatives.

S. 879

At the request of Mr. DASCHLE, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 879, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members.

S. 1088

At the request of Mr. KENNEDY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1088, a bill to amend the Public Health Service Act to establish a center for tobacco products, to inform the public concerning the hazards of tobacco use, to provide for disclosure of additives to such products, and to require that information be provided concerning such products to the public, and for other purposes.

S. 1102

At the request of Mr. MOYNIHAN, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1102, a bill to amend title XVIII of the Social Security Act to provide coverage of qualified mental health professionals services furnished in community mental health centers.

S. 1314

At the request of Mr. BOREN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1314, a bill to amend the Internal Revenue Code of 1986 to provide for fair treatment of small property and casualty insurance companies.

S. 1357

At the request of Mr. BREAUX, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Michigan [Mr. RIEGLE], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1381

At the request of Mr. GRAHAM, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1381, a bill to amend chapter 71 of title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with disability compensation.

S. 1446

At the request of Mr. KERREY, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1446, a bill to provide for an equitable and universal national health care program administered by the States, and for other purposes.

S. 1463

At the request of Mr. BREAUX, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1463, a bill to amend the Federal Water Pollution Control Act to establish a comprehensive program for conserving and managing wetlands in the United States, and for other purposes.

S. 1476

At the request of Mr. DANFORTH, the names of the Senator from Michigan [Mr. LEVIN], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 1476, a bill to recognize the organization known as the Shepherd's Centers of America, Incorporated.

S. 1521

At the request of Mr. MCCONNELL, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1521, a bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material.

S. 1578

At the request of Mr. THURMOND, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 1677

At the request of Mr. DASCHLE, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1677, a bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the medicaid program, and for other purposes.

S. 1681

At the request of Mr. SEYMOUR, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1681, a bill to amend title II of the Social Security Act to make it clear that States and local governments may not tax social security benefits.

S. 1698

At the request of Mr. SARBANES, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 1698, a bill to establish a National Fallen Firefighters Foundation.

S. 1731

At the request of Mr. MCCONNELL, the names of the Senator from Tennessee [Mr. GORE] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 1731, a bill to establish the policy of the United States with respect to Hong Kong after July 1, 1997, and for other purposes.

S. 1732

At the request of Mr. DASCHLE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1732, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of leased employees, and for other purposes.

S. 1842

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1842, a bill to amend title XIX of the Social Security Act to provide for medicaid coverage of all certified nurse practitioners and clinical nurse specialists services.

S. 1851

At the request of Mr. ROCKEFELLER, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1851, a bill to provide for a Management Corps that would provide the expertise of United States businesses to the Republics of the Soviet Union and the Baltic States.

S. 1866

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 1872

At the request of Mr. BENTSEN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1872, a bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes.

S. 1989

At the request of Mr. ROCKEFELLER, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 1989, a bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provision of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes.

S. 2080

At the request of Mr. LEVIN, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 2080, a bill to clarify the application of Federal preemption of State and local laws, and for other purposes.

S. 2118

At the request of Mr. DECONCINI, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2118, a bill to create a Department of the Treasury Forfeiture Fund.

S. 2159

At the request of Mr. BOREN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 2159, a bill to amend the Internal Revenue Code of 1986 to stimulate economic growth and long-term competitiveness in the United States by providing middle-income tax relief and by stimulating capital investment, and for other purposes.

S. 2160

At the request of Mr. GRASSLEY, the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2160, a bill to amend the Internal Revenue Code of 1986 to allow taxpayers to elect a deduction or credit for interest on certain educational loans.

S. 2167

At the request of Mr. SEYMOUR, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2167, a bill to restrict trade and other relations with the Republic of Azerbaijan.

S. 2197

At the request of Mr. GRAHAM, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 2197, a bill to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people.

S. 2232

At the request of Ms. MIKULSKI, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2232, a bill to make available to consumers certain information regarding automobiles.

S. 2236

At the request of Mr. SIMON, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 2236, a bill to amend the Voting Rights Act of 1965 to modify and extend the bilingual voting provisions of the Act.

S. 2239

At the request of Mr. PRYOR, the names of the Senator from Maryland [Mr. SARBANES], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 2239, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 2246

At the request of Mr. KENNEDY, the names of the Senator from Wisconsin [Mr. KOHL], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 2246, a bill to suspend the forcible repatriation of Haitian nationals fleeing after the coup d'etat in Haiti until certain conditions are met.

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 210

At the request of Mrs. KASSEBAUM, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Rhode Island [Mr. PELL], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Joint Resolution 210, a joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day."

SENATE JOINT RESOLUTION 214

At the request of Mr. RIEGLE, the names of the Senator from Texas [Mr. BENTSEN], the Senator from South Carolina [Mr. THURMOND], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 214, a joint resolution to designate May 16, 1992, as "National Awareness Week for Life-Saving Techniques."

SENATE JOINT RESOLUTION 218

At the request of Mr. MITCHELL, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from South Carolina [Mr. THURMOND], the Senator from Hawaii [Mr. INOUYE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 218, a joint resolution designating the calendar year 1993 as the "Year of American Craft: A Celebration of the Creative Work of the Hand."

SENATE JOINT RESOLUTION 230

At the request of Mr. REID, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Joint Resolution 230, a joint resolution providing for the issuance of a stamp to commemorate the Women's Army Corps.

SENATE JOINT RESOLUTION 233

At the request of Mr. BIDEN, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Virginia [Mr. ROBB], the Senator from Ohio [Mr. GLENN], the Senator from Massachusetts [Mr. KERRY], the Senator from Indiana [Mr. LUGAR], the Senator from Florida [Mr. MACK], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 233, a joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week."

SENATE JOINT RESOLUTION 239

At the request of Mr. PACKWOOD, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from West Virginia [Mr. BYRD], the Senator from North Dakota [Mr. CONRAD], the Senator from Nebraska [Mr. EXON], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Nevada [Mr. REID], the Senator from Alabama [Mr. SHELBY], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Georgia [Mr. NUNN], the Senator from Kentucky [Mr. FORD], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Indiana [Mr. COATS], the Senator from Maine [Mr. COHEN], the Senator from South Dakota [Mr. DASCHLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Vermont [Mr. JEFFORDS], the Senator from California [Mr. SEYMOUR], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Wyoming [Mr. WALLOP], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 239, a joint resolution designating February 6, 1992, as "National Women and Girls in Sports Day."

SENATE JOINT RESOLUTION 241

At the request of Mr. SPECTER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Joint Resolution 241, designating October 1992 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 243

At the request of Mr. KASTEN, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 243, a joint resolution to designate the period commencing March 8, 1992 and ending on March 14, 1992, as "Deaf Awareness Week."

SENATE JOINT RESOLUTION 246

At the request of Mr. LIEBERMAN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of Senate Joint Resolution 246, a joint resolution to designate April 15, 1992, as "National Recycling Day."

SENATE JOINT RESOLUTION 247

At the request of Mr. DOLE, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from New York [Mr. MOYNIHAN], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 247, a joint resolution designating June 11, 1992, as "National Alcoholism and Drug Abuse Counselors Day."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 254

At the request of Mr. MOYNIHAN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Texas [Mr. BENTSEN], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Louisiana [Mr. BREAUX], the Senator from Arkansas [Mr. BUMPERS], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mr. DOLE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Vermont [Mr. LEAHY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Rhode Island [Mr. PELL], the Senator from Arkansas [Mr. PRYOR], the Senator from North Carolina [Mr. SANFORD], the Senator from California [Mr. SEYMOUR], the Senator from South Carolina [Mr. THURMOND], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 254, a joint resolution commending the New York Stock Exchange on the occasion of its bicentennial.

At the request of Mr. D'AMATO, the names of the Senator from Florida [Mr. MACK], the Senator from Oregon [Mr. HATFIELD], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 254, supra.

SENATE JOINT RESOLUTION 255

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 255, a joint resolution to designate September 13, 1992 as "Commodore Barry Day."

SENATE JOINT RESOLUTION 257

At the request of Mr. LAUTENBERG, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Joint Resolution 257, a joint resolution to designate the month of June 1992, as "National Scleroderma Awareness."

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. KERRY, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Concurrent Resolution 89, a concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

SENATE RESOLUTION 246

At the request of Mr. DOLE, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Resolution 246, a resolution on the recognition of Croatia and Slovenia.

SENATE RESOLUTION 249

At the request of Mr. D'AMATO, the names of the Senator from Tennessee [Mr. GORE], the Senator from North Dakota [Mr. CONRAD], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Resolution 249, a resolution expressing the sense of the Senate that the United States should seek a final and conclusive account of the whereabouts and definitive fate of Raoul Wallenberg.

SENATE CONCURRENT RESOLUTION 94—RELATIVE TO HUMAN RIGHTS VIOLATIONS IN NORTHERN IRELAND

Mr. DODD submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 94

Whereas the list of human rights abuses involving important elements of the British Government is lengthy and well documented, as evidenced by recent reports from the Norwegian Helsinki Committee, Amnesty International and the Helsinki Watch Committee;

Whereas the legal safeguards against such abuses of human rights are often inadequate;

Whereas while it is recognized that killings by the Irish Republican Army and Loyalist paramilitary forces outnumber those by the British security forces, of the more than 300 killings by security forces since 1969, many of which were against unarmed civilians, only 21 resulted in murder charges, and only two in convictions;

Whereas investigations of police abuses have been internal and have not been available to the public, including the victims and their families;

Whereas evidence persists that security forces, acting in concert with the British Government, have on more than one occasion sought to cover up reports of certain violations;

Whereas an investigation by Deputy Chief Constable John Stalker revealed the existence of an elaborate coverup in a case involving an elite antiterrorist squad of the royal Ulster Constabulary in the killing of six Catholic youths which included falsification of testimony, obstruction of the coroner's investigation and the destruction of critical evidence;

Whereas British authorities undertook a lengthy campaign to discredit Stalker and his recommendations were ignored;

Whereas there has been a long standing and warm alliance between the United States and the United Kingdom which has been a source of stability and comfort to many Americans, especially during this time of rapidly shifting international alliances;

Whereas the political and judicial principles which guide our Nation today, including safeguards painstakingly hewn from the British Magna Carta, urgently compel us to speak out against inequity and abuse no matter where in the world they occur;

Whereas the stubborn and irrepressible American commitment to fairness and decency does not distinguish between friend and enemy, criminal or prosecutor, and the American covenant of democracy commits the United States to protest any wrongdoing and confront any injustice;

Whereas it is clear that the turmoil and bloodshed in Northern Ireland will not come to an end until the British authorities, including the military and security forces, are prepared to protect and defend the human rights of all the citizens of Northern Ireland; and

Whereas as an ally and a friend, the United States has a unique opportunity to insist that the United Kingdom adhere to recognized standards of justice and decency in Northern Ireland and, as a leading power in the world community, the United States has a special responsibility to do so: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should urge the Government of the United Kingdom to address the continuing human rights violations in Northern Ireland and should seek the initiation of talks, under appropriate international supervision, among all parties involved in the conflict in Northern Ireland in an effort to find a lasting and equitable solution.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

SENATE RESOLUTION NO. 261—RELATING TO SENATORIAL COMMITTEE SERVICE

Mr. GRASSLEY submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 261

Resolved,

SECTION 1. LIMITATION ON LENGTH OF SERVICE ON CONGRESSIONAL COMMITTEES.

Rule XXIV of the Standing Rules of the Senate is amended by adding at the end the following new paragraph:

"5. (a) For the purposes of this paragraph, the term 'committee' includes a standing committee, select committee, and any other committee of the Senate and a joint committee of the Senate and the House of Representatives.

"(b) A Senator who has completed service as a member of a committee for 4 consecutive full Congresses may not be appointed to serve as a member of that committee until the beginning of the third Congress following the completion of the Senator's fourth term of service as a member of the committee.

"(c) To the extent possible, at least one-half of the Members of the majority party and one-half of the Members of the minority party that are appointed to serve on a committee during a Congress shall be Senators who served on that committee during the preceding Congress.

"(d) It shall not be in order to consider a resolution or take any other action that appoints Senators to serve on a committee in violation of this rule or any other rule of the Senate.".

SEC. 2. PHASING IN.

(a) SERVICE PRIOR TO THE 103D CONGRESS.—Service by a Senator as a member, chairman, or vice chairman of a committee of the Senate or of a joint committee of the Senate and the House of Representatives prior to the beginning of the 103d Congress shall not be counted for the purposes of paragraph 5 of rule XXIV of the Standing Rules of the Senate, as added by section 1.

(b) ESTABLISHMENT OF REGULAR ROTATION OF MEMBERSHIP.—To the extent practicable, no more than three-fourths of the Senators appointed to a committee for the 104th Congress shall be Senators who served on that committee for the 103d Congress.

(2) To the extent practicable, no more than three-fourths of the Senators appointed to a committee for the 105th Congress shall be Senators who served on that committee for the 103d or 104th Congress.

(3) To the extent practicable, no more than three-fourths of the Senators appointed to a committee for the 106th Congress shall be Senators who served on that committee for the 103d, 104th, or 105th Congress.

(4) To the extent practicable, no more than three-fourths of the Senators appointed to a committee for the 107th Congress shall be Senators who served on that committee for the 103d, 104th, 105th, or 106th Congress.

Mr. GRASSLEY. Mr. President, I rise to submit an important measure for the Senate's consideration. The resolution I propose today will amend the rules of the Senate to limit the length of time that Senators may serve on committees.

Mr. President, the Congress has never been held in such low esteem. Congress has been berated, beaten up, and blasted. The people are upset with Congress for exempting itself from various laws, for raising its salaries in the dead of night, for allowing drug deals in the House Post Office, and for many other inexcusable actions.

Congress is beginning to get the message that it needs to change its ways. Last year, the Senate began to take steps to provide its employees real remedies for violation of the civil rights laws. This was a step forward for this institution, but the job is hardly begun. We need to consider all worthy proposals that will improve the functioning of Congress and enhance public confidence in their democratic institutions. Although we finally did pass congressional coverage for civil rights violations, we have mainly responded to the public's alarm for change by pressing the snooze button.

One of the major causes for the inability of Congress to legislate properly, and for the public disgust with this body, is what political scientists for many years have called "iron triangles."

This is how scholars of the congressional process view the iron triangle.

These are interlocking groups that seize control of—and virtually gain a hammerlock on—the policy and budgetary agenda at the expense of the general public. It works like this: A Federal agency is given responsibility for a particular area. A congressional committee is given oversight responsibility over that agency. And special interest groups whose members are directly affected by the actions of the agency and the committee also play a role.

The special interest groups lobby committee members, many of whom they have known for years, and whom they have supported for years. The committee uses oversight hearings to make the agency be responsive to the special interest groups' desires. Satisfying those desires is a key means by which the member gains political support. And the agency makes its policy decisions with a watchful eye on the congressional committee.

Its future funding will depend in large part on how well it reacts to committee directives. The net result is that the special interest groups have a strong hand over what the congressional committee and agency do. In the absence of the iron triangle, Members would consider a broader range of interests in their legislative duties.

Whether or not Members of this body agree with the political scientists' point of view it is a fact that the description enhances the cynicism of our citizens toward Congress.

So, if the Senate rules required committee members to rotate committee assignments, the iron triangle situation would be less common. Special interest groups could not concentrate on a few Members to pressure because committee composition would change. Agencies would therefore be less beholden to a congressional agenda that in reality is set by pressure groups.

I believe that committee rotation would also help to gain control over Federal spending.

Today, many Members seek committee assignments where they can influence policy areas of particular importance to their home States. In this way, they can steer funding to their constituents. If Members had to rotate their service, it would be harder for Senators to shift pork barrel spending to their States.

By moving to different committees, Members would gain expertise in many different areas of policy, rather than only a few. This would allow Members to approach problems with insights from other areas that they can share in a variety of assignments. And by having knowledge regarding a larger number of public policy areas, Senators will become better legislators. There will not be a loss of specialized expertise. A Member knows little more about a committee's domain after 20 years on a committee than he or she knew after 10.

Under my proposal, Senators could serve up to 8 years on any committee. They would then have to serve on another committee. However, they would be eligible to return to the original committee after 4 years. Rotation would be phased in so as to preserve a level of continuity and expertise among committee members. Committee rotation has worked well on a number of assignments, such as the Intelligence Committee, and I believe would function well for all committees.

The fact is, Mr. President, that the people are rebelling. They want to throw the rascals out. And they have reason to be upset. In response to their justified exasperation, many citizens have decided that they favor term limitations on Members of Congress.

I encourage my colleagues to consider this measure as a means of addressing many of the concerns that proponents of term limits have raised. The iron triangle is one of the main reasons why Members can entrench themselves in Congress. This resolution will go a long way to reducing that problem and, I believe, achieve through internal reform what many citizens now unhappily believe can be attained only by limiting congressional terms.

Mr. President, I hope that hearings can soon be held on this important and worthwhile proposal.

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

Mr. PRYOR. Mr. President, I would like to announce for the public that the Special Committee on Aging has scheduled a hearing entitled, "Elderly Left Out in the Cold?: Effects of Fuel Assistance and Housing Cuts on Senior Citizens."

The hearing will take place on Tuesday, March 3, 1992, beginning at 9:30 a.m. in room 628 in the Dirksen Senate Office Building in Washington, DC.

For further information, please contact Portia Mittelman, staff director at (202) 224-5364.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry, will hold a hearing on the School Lunch Program, Tuesday, March 3, 1992, at 9:30 a.m., in SR-332.

For further information please contact Ed Barron or Andy Fish of the committee staff at 224-2035.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, February 26, 1992, beginning at 2 p.m., in 485 Russell Senate Office Building, on S. 1602, the Fort Peck Indian Tribes Montana Compact Act of 1991, and for other purposes, and S. 2245, to authorize funds for the implementation of the settlement agreement reached between the Pueblo of Cochiti and the U.S. Army Corps of Engineers under the authority of Public Law 100-202, to be followed immediately by an oversight hearing on the President's budget for fiscal year 1993 for Indian programs.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding an oversight hearing on Thursday, February 27, 1992, beginning at 2:30 p.m., in 485 Russell Senate Office Building, continuation on the President's budget for fiscal year 1993 for Indian programs.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 25, at 10 a.m. to hold a hearing on "Strategic Nuclear Reduction in a Post-Cold-War World: National Security Issues."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban be authorized to meet during the session of the Senate Tuesday, February 25, 1992, at 10 a.m. to conduct a hearing on "The Federal Reserve's First Monetary Policy Report for 1992."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing with the House Veterans' Affairs Committee to hear the legislative presentation by the Disabled American Veterans. The hearing will be held on February 25, 1992, at 9:30 a.m. in the room 345 of the Cannon Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests and the Subcommittee on Mineral Resources, Development and Production of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., February 25, 1992, to receive testimony on H.R. 3359, a bill to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1027), and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, February 25, 1992, at 2:30 p.m., to receive testimony on inventory management in the Department of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Tuesday, February 25, at 9:30 a.m., for a hearing on the subject of: Impacts of Nuclear Disarmament on Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, February 25, 1992, at 10 a.m., for a hearing on "Income Dependent Educational Assistance and Self-Reliance Loans."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMENDING POLICE CHIEF JERRY ZOHNER

• Mr. BRYAN. Mr. President, I rise today to commend one of Nevada's outstanding public servants on the event of his retirement. On February 28, Police Chief Jerry Zohner will retire from the North Las Vegas Police Department after 35 years of dedicated service. After joining the department in 1956, he was promoted to sergeant in 1962, lieutenant in 1971, captain in 1978 and chief in March, 1987.

Our Nation's police forces are under incredible pressures, face constant demands and are often placed in life-threatening situations. Throughout his 35 years of service, Chief Zohner has proved that he was well up to all the tasks demanded of him, and he has performed his job with bravery and diligence.

In 1968, Chief Zohner was awarded the Silver Medal of Honor for his courage when he rescued two fellow officers who were being held hostage by a gun-man. The chief risked his life by making himself a target and allowing the two officers to escape safely. North Las Vegas Mayor William Taylor awarded him the medal for "devotion to duty, devotion to fellow officers and bravery." During the incident, Chief Zohner suffered gunshot wounds to his lung and hip.

Not only has Chief Zohner been dedicated to the police force but he and his wife Marie are valuable members of the community and active in their church. As Assistant Police Chief Ron Lusch put it, Chief Zohner's "heart lies with the city of North Las Vegas and the North Las Vegas Police Department."

North Las Vegas will miss having Jerry Zohner as their police chief. However, he leaves behind a valuable legacy of hard work and dedication that is sure to benefit the police force in the years to come.

On February 28, friends, family and colleagues will celebrate Jerry's retirement at a luncheon. I am disappointed that I will be unable to attend but I would like to extend to Jerry my thanks for his work over the years and my best wishes for his retirement years ahead.•

TRIBUTE TO LIZ McINTYRE

• Mr. SMITH. Mr. President, I rise today to congratulate Liz McIntyre of Lyme, NH, for her outstanding sixth place finish in women's freestyle skiing at the 1992 winter Olympics in Albertville, France. This is a tremendous accomplishment for Liz and everyone in the Granite State is very proud of her.

As you know, the Olympics represents the pinnacle of success in an athlete's career. I know Liz has trained long and hard to place so highly in this international competition. The people of New Hampshire have been watching Liz and all of the other American athletes with great enthusiasm.

Liz, age 26, is the daughter of Ross and Jean McIntyre of Lyme, NH. She is a 1983 graduate of Hanover High School and graduated from Dartmouth College in 1987. As the youngest of three children, Liz started skiing at the Dartmouth Ski Way at the age of 4.

After attending the Lyme School, Liz began competing in freestyle skiing as a junior at Hanover High School. Liz is a member of the U.S. freestyle ski team and has participated in national competition five times. After the Olympics, Liz will compete in Japan and Austria before going on to this year's nationals in Colorado in April.

We admire Liz's dedication and skill to her sport that has made her such a champion. Freestyle skiing has no set course and no poles. The skier goes down a steep, bumpy course and performs two aerial maneuvers throughout the course. The skier is judged on time, technique, and aerial moves such as the "spread eagle."

During the 1992 Olympics in Albertville, 24 women competed in the preliminary run on February 12. Liz finished fourth with the fastest time of all the women. The following day, the top eight finishers raced and Liz finished in sixth place. Four Americans finished among the top 24.

Again, New Hampshire is very proud of Liz McIntyre and her sixth place finish in Albertville. She has been a great ambassador from new Hampshire and we proudly look forward to her return to the Granite State.•

CONGRESSIONAL CALL TO CONSCIENCE

• Mr. DECONCINI. Mr. President, despite the dramatic moves toward democracy and the demise of the Soviet empire into independent states, we are still not rid of all of the vestiges of the past. One such vestige, one that has nearly been forgotten by many, is the still outstanding refusenik cases in the former Soviet Union. Unfortunately, this relic remains an irritant at a time when we are forging relations with the newly independent states, all of whom, except Georgia are now members of the Conference on Security and Cooperation in Europe.

We recognize the efforts of many of these states to institutionalize democratic reforms, including human rights, and realize that the transition is by no means an easy one. Nevertheless, we cannot ignore that fact that, though far fewer in number, individuals continue to be denied their right to leave, in violation of the Helsinki accords and other CSCE documents.

Mr. President, These emigration cases involve individuals in several of the former Soviet republics, principally in Russia. As cochairman of the Helsinki Commission I, along with Chairman STENY H. HOYER, have transmitted our concerns to the leaders of Russia, Ukraine, Belarus, and Moldova, requesting that they resolve the remaining refusenik cases in keeping with their stated intent to abide by CSCE provisions. The list that we forwarded to the Russian Government includes the case of Alexander Solomadin of Moscow. Alexander has been in refusal for over 10 years because his father will not give permission for Alexander to Emigrate. As a result, Alexander's application sits at OVIR, but is not even being considered.

Regrettably, we have seen little progress in Russia in resolving their outstanding, and, in some instances, longstanding refusenik cases. The Government of Ukraine has made some headway, favorably resolving to date 17 of the 26 cases on the United States Government's representation list, although some of the remainder continue to be denied due to state security reasons.

Mr. President, with the fall of the totalitarian system of the past, I can conceive of no reason why people such as Alexander Solomadin and his family continue to be in refusal. I strongly urge the Governments of the newly independent states, especially Russia, to allow the hundreds of individuals still in refusal their right to leave without further delay.•

REGARDING THE DEPARTMENT OF LABOR'S GLASS CEILING INITIATIVE

• Mr. HATFIELD. Mr. President, I would like to take a moment to commend and lend my support to the Secretary of Labor, Lynn Martin, in her effort to encourage America's industry to provide equal career advancement opportunities to minorities and women. The Secretary has made it a priority to shatter the so-called glass ceiling.

A report, entitled "Workforce 2000," which was produced by the Department of Labor in 1987, showed that minorities and women have made some important gains in entering the work force. In fact, during the past 25 years, shifting demographics and the practice of equal employment opportunity and affirmative action have resulted in greater participation of women and minorities in the work force. Although minorities and women have made important gains at the entry level of employment and into the first levels of management, there are still some serious barriers which have hindered these groups from reaching upper level management positions.

The Department of Labor has defined the "glass ceiling" as an artificial barrier based on organizational and attitudinal bias that prevents qualified individuals from advancing upward in their place of employment into management-level positions. Unfortunately, existing employment networks as well as recruiting techniques have all to often hindered qualified minorities and women from achieving executive status. These disturbing facts effectively eliminate over one-half of our work force from top leadership positions. Furthermore, our economy suffers because potential new leaders and new sources of creativity are rarely given the chance to help segments of American industry compete successfully in today's global market.

Through my examination of this issue, I have come to the conclusion that Oregon can serve as a model for the country to look to for providing women a suitable environment for career advancement into higher levels of their profession. Although Oregon is not the utopia for working women, I believe that it has made positive steps forward in this arena. For example, Oregon has a higher percentage of women in politics as well as a higher percentage of women running businesses than the national average. A recent article illustrated Oregon's track record in this area. I ask that "Climbing to the Top," be printed in the RECORD following my remarks.

The article follows:

CLIMBING TO THE TOP

(By Gary Eisler)

If women were in predominant leadership roles in government, business, culture and interpersonal relations, what would the world be like?

There is no better laboratory in the country (and perhaps the world) to test that idea than here in Oregon.

A number of highly visible professional women have turned Oregon into a special place. To borrow an expression from the vestige of Marxism, a quantitative accumulation has resulted in a qualitative change—water has turned to steam, the "old boy" network may be joined by an "old girl" network.

Oregon is not paradise for working women yet, but it is as close as they are likely to find today. The state attracts ambitious women the way a flower draws bees. The high quality of the natural and urban environments, the small scale of society, the egalitarian character of the political system and the open nature of the culture create for women an all but irresistible allure. In these conditions women can find their potential, not just in fancy titles, but in the arts, sports, relationships and human growth. What's more, they can call the shots as leaders.

Professional women are drawn here because of an active network of women leaders. When Oregon was courting Judith Ramaley for the presidency of Portland State University, women's status was a key consideration.

"As I met people, I found a surprising number of women in senior leadership positions, playing significant roles in society," said Ramaley, who was executive vice chancellor at the University of Kansas. "One of the factors I considered in deciding whether to accept the presidency was the climate for women in leadership. Will anyone listen to me? Take my message seriously? I didn't want the fact that I am a woman to get in the way of my message."

Women in high places also open the doors for other women. Before she made the decision to reduce the number of state boards and commissions, Gov. Barbara Roberts had appointed 98 women, or 49 percent, to the 200 openings onto panels that oversee state activities. She also encourages her managers to hire more women, and has expanded the appointment of women to judgeships and as justices of the peace. Five of her 12 judicial appointments to date have been women.

This is not to say life is perfect here. Daily responsibilities overwhelm most working women, who must juggle work inside and outside of the home. Oregon-born professional women seemingly do not enjoy the fast-track corporate life as much as those recruited from elsewhere, and many of those mobile outsiders either have adult children or no children. Also, sexual harassment remains a constant and continuing problem.

Such bastions of male dominance as the Arlington Club and the Waverley Country Club have only recently admitted women as members. (Judith Hofer, president and CEO of Meier & Frank, recalls a time when she had to ask a male friend who was a member of the Waverley Club to be her host so she could entertain her senior executives there.)

But the glass ceiling has not yet been shattered. Unequal pay and unequal representation at the top levels of corporations and professions remain frustrating, and women still are not well-represented as attorneys, physicians and certified public accountants.

"I don't expect the glass ceiling to exist for long," said Don Frisbee, chairman of PacifiCorp, Oregon's largest corporation. "It's just a matter of time. The glass ceiling is not permanent in any sense of the word. Women are on their way up, and there is nothing to stop them permanently."

If there was anything to stop US West's Marsha Congdon or Portland General Electric's Kay Stepp, it didn't deter them for long. They are at the forefront of women's progress in the state's major corporations.

Congdon, who was with US West in Denver, was appointed Oregon vice president and chief executive officer of the telephone company in 1987.

Two years later, Stepp was named president and chief operating officer of PGE, the first woman to run a major investor-owned utility in the country.

Their corporations are both among the state's top 10 employers, with US West accounting for 4,200 jobs in Oregon. Together, Congdon and Stepp make Portland unique in the country—with two major utilities/employers run by women.

However, most professional women, impatient with the pace of advancement in major corporations, have found self-employment a faster route to success.

Fully 38 percent of Oregon's businesses are run by women—compared with 30 percent nationally. Oregon women generate a larger portion of their state's total revenue than women do anywhere else, said Diane McClelland, co-founder of The Foundation For Women Owned Business. Women-owned businesses contributed 19.4 percent, or $4.2 billion, of Oregon's revenues, she said. Some of the more successful businesses include Barbara Sue Seal of Portland real estate fame, Wilma Cronin of Cronin & Caplan real estate and Carolyn Chambers of Chambers Communications in Eugene.

Indeed, women constitute the fastest-growing segment of Oregon's small business, said Jill Hall, owner of J.H. Hall Marketing Communications, a public-relations consulting firm. "Owning their own business means women don't have to worry about the glass ceiling—they can dance on top of it with their own ambition," she said.

Congdon added, "Today, nobody thinks it's particularly strange that women run major corporations. But 10 years ago you wouldn't have expected a woman governor. The fact that Barbara Roberts is a women wasn't an issue. That's the important, amazing leap."

Roberts is one of only three women governors in the nation (the others are Ann Richards of Texas and Joan Finney of Kansas).

Among the state's top women officials, Roberts is a popular name—owing to the governor's husband, Sen. Frank Roberts.

His daughter, Mary Wendy Roberts, is Oregon's commissioner of labor. Her mother, Betty Roberts, is a former state Supreme Court justice.

Mary Wendy Roberts is expected to run for secretary of state, the position Barbara Roberts held before she became governor. The secretary of state is next in line of succession, and if Mary Wendy Roberts is elected, she would become Governor Roberts, should the present Governor Roberts leave office prematurely.

Another top woman politician, Superintendent of Public Instruction Norma Paulus, is herself a former secretary of state and candidate for governor.

At the urban level, Rena Cusma is executive officer of Metro, the regional council that represents the interests of the three counties in the Portland metropolitan area.

Portland has had two woman mayors. Dorothy McCollough Lee (1948–1952) and Connie McCready (1979–1980). Now former House Speaker Vera Katz may become the third one. If Katz succeeds—she is ahead in the polls—Oregon would be the only state where the reins of political power at the state and major urban areas are in women's hands.

Oregon in the early '80s had more women legislators than any other state. Today, women make up 18 percent of state legislators across the country, but are almost one-fourth of the Oregon Legislature.

It is partly women's political activity that helped create the climate that has made Oregon attractive to women today. In the early 1980s, Redbook magazine rated Portland the No. 1 city in legislation favorable to women. The magazine considered such issues as no-fault divorce, abortion rights, rape laws, displaced homemakers assistance and pregnancy leave.

Oregon was the first state to protect a woman's right to an abortion, three years before the U.S. Supreme Court Roe vs. Wade decision in 1973. It was also in Oregon that marital rape first became a public issue in 1979. Oregon was also among the ratifying states for women's suffrage in 1912 and the unratified Equal Rights Amendment in 1973.

"I've found no place where there are that many significant women in public leadership roles who shape the way people think, what people pay attention to, what they work on, spend their energy on," PSU's Ramaley said. "Women help shape the agenda here."

Sandra Suran, president of The Suran Group, a Portland consulting firm, has studied the question thoroughly and said she knows of no other place where all the elements come together for women the way they do in Oregon.

"It's easier to break into the structure and establish your position here," said Suran, who moved to Portland from Southern California when she was 18. "Things are more open here. If you're not part of the long-term network, you can still become a credible person. People are open to new ideas. This entrepreneurial spirit attracts women because they approach things differently."

Oregon's relatively small population also makes it easier for women to rise to the top. "People have a greater opportunity to perform at a fairly high level here than their counterparts from other states," she said. "Oregon retains its small-town atmosphere."

Bob Ames, vice chairman of First Interstate Bank of Oregon, agrees. "We decry our scale, but there is an advantage to being downscale. Governor Roberts could not have had a conversation with Oregon if it were much bigger."

The political structure that shares power with its citizens may also be a factor, said Joan O'Neill, a partner in the law firm of Dunn, Carney, Allen, Higgins & Tongue, and one of Portland's best litigators. She was a nun for 20 years and was dean of students at Marylhurst College before becoming a lawyer.

"Our system empowers the people with the initiative and the referendum," she explained. "The system fosters outsiders. We are a grass-roots, pavement-pounding people. We don't have a patronage system where you have to belong to the machine. Oregon is a populist place."

Oregon's relative isolation from the mainstream is another benefit. "The power brokers of the world—who tend to be mostly men—don't reside here," O'Neill said.

People who are attracted to Oregon come for reasons in addition to money. If women's rights are taken seriously here, perhaps it's because Oregonians believe it's the right thing to do.

"It's part of Oregon's historic social conscience," Ames noted. "We have always been ahead of the pack," he said, citing Oregon's leading reputation for environmental causes.

Adds Bob Pamplin Jr. of the R.P. Pamplin Corp., "Portland has carved out a maverick, independent, individualistic niche in the world. It's not liberal or conservative, but independent," and for that reason is willing to give opportunities to some who would not have them otherwise.

History has also played a part in advancing women in Oregon. World War II broke women out of old patterns and attitudes—especially here. Portland drew thousands of women to work in the shipyards while the men were away at war. For many, it was the first taste of a living wage and independence.

That transformation has continued in Oregon to women's relationship to men today. In rural Oregon's uncertain economy, women in the past have had to rely on themselves because they could not be assured their men would have work. During the worst of the recession of the early 1980s, at the time of worst trouble, 37 percent of the businesses started here were by women,"said Suran. "When their husbands were out of work, women with no education in rural areas started businesses to keep their families going."

Portland is a place where women explore their athletic and artistic potential. The Portland Marathon, for example, draws more women participants (29 percent) than any other marathon in the world. The Portland Symphony Orchestra—with 43 women and 44 men—has the largest number of women and the highest proportion of women of 10 comparable operations.

If women in Oregon succeed at tasks usually associated with men, their most important contributions may come through qualities most often associated with women, such as communication and relationships.

Stepp said: "The higher up the ladder you go, interpersonal skills become more important. More important than giving orders is listening, speaking and writing to get work done through other people—which is what you do in top management. There is nothing I can do by myself. I depend on others to get the results to make the company successful."

Taiwan-born Y. Sherry Sheng, the 40-year-old who runs the Metro Washington Park Zoo, encourages every zoo employee to participate in planning, which is why her first move was to spend two hours a day meeting and interviewing each of the zoo's 100 employees.

According to Keyser, the governor's key aide, "It may be stereotypic to say it, but to some extent women are more relationship-oriented." She said Roberts' relational ability "has been key in getting people on board. She is terrific one-on-one. You feel like you're the only one in the room. She really connects and connects quickly."

Can women's touted qualities of communication, compassion and consensus achieve what has not been achieved before?

Certainly we all will be affected by the agenda set by women. Tops on Roberts' list of priorities, for example, are liveable communities, health care, housing and education.

Women's legislators here and elsewhere are generally more sympathetic about women's rights, health care and children/family issues than are men.

As women set Oregon's agenda, they will focus the state's power and resources on topics important to them. As they gain success, the face of leadership will change. It's not that women will exclude in the past. But unless they learn to follow women leaders, men may find themselves out of the picture.

An example is a group photograph in Salem. Education chief Paulus is pictured with the leaders of the education committees of both houses of the Oregon Legislature—Sen. Shirley Gold, D-Portland, and Rep. Carolyn Oakley, R-Albany. When an educational reform bill was passed in the last session—sponsored by Katz—all of the principals involved in the new legislation, including the governor, gathered for a group portrait.

Everyone in the photo was a woman.•

AUDIT OF ANTI-SEMITIC INCIDENTS

• Mr. SIMON. Mr. President, I rise today to bring to your attention the continuing efforts of the Anti-Defamation League of B'nai B'rith [ADL]. For the past 13 years, the ADL has compiled data about anti-Jewish attacks, harassment, and vandalism, in their "Audit of Anti-Semitic Incidents." I commend their work to expose and combat hate crimes and would like to share with you some of their findings. Their efforts in collecting this information and in developing education projects have played a critical role both in drawing public attention to this problem and in beginning to work toward a solution.

Unfortunately, the ADL's 1991 survey indicates that the number and severity of anti-Semitic hate crimes has worsened nationwide. There were 1,879 incidents nationwide reported to the ADL, the highest number ever recorded and 11 percent more than what was reported in 1990. Reports came from 42 States, the District of Columbia and the Virgin Islands.

Incidents of harassment, threats, and assaults totaled 950, a 25 percent increase from 1990, and more than triple the number that occurred in 1986. What is especially disconcerting is the increase of assaults against Jewish individuals. From 1979 to 1989, the number of reported assaults averaged just over 20 per year. In 1991, however, there were 59 reported cases of physical attack and even one murder.

Also, in 1991, the incidence of politically related anti-Semitic acts increased as the United States went to war in the Persian Gulf. in 1 month, there were 52 acts of hate mail, threats, and vandalism. A California country club, patronized by Jews, received a phone threat: "Kill Every Jew.* * * On Behalf of Iraqi People." As the ADL points out, this was not more political criticism, but acts of hatred.

Sadly, acts of hatred were also evident on our Nation's campuses. In 1991, there were 101 anti-Semitic incidents reported at 60 colleges. One of the more disturbing incidents occurred at Ball State University, in Indiana. Student actors were preparing to perform a play about the Holocaust, In an effort to understand the stigma Jews experienced in the ghettos of World War II Germany, the young actors were asked by their instructor to wear yellow Stars of David. Several students reported incidents of anti-Semitism in response to the star. While waiting at a bus stop, a driver screamed anti-Semitic obscenities at one student. Another student actress reported that, in one of her other classes, a fellow student refused to participate in a class dialog with her because of the star she wore.

While the ADL's audit makes a great contribution to increasing public awareness of anti-Semitic violence, there are other minority communities in our country who are also victims of hate crimes. In 1990, in response to these crimes, Congress passed the Hate Crimes Statistic Act, legislation I sponsored, along with Senator HATCH. By requiring the Department of Justice to collect data on crimes motivated by hatred based on race, religion, ethnicity, or sexual orientation, the act will give us a broader picture of hate crimes in our society.

On January 1, 1991, the Federal Bureau of Investigation officially began to implement the act. I was pleased to hear from Attorney General Barr, during his November 1991 confirmation hearings before the Senate Judiciary Committee, that the Department of Justice hopes to release its first preliminary report on the collected statistics some time soon. I urge the FBI to continue its good work and look forward to their results.

In closing, I again want to commend the ADL for its outstanding work. Not only does their data collection help to educate others, but working with communities, the ADL has helped to develop preventive measures. Hopefully, their educational efforts and their work with communities will aid in eliminating acts of hate crime violence.

I ask that the Anti-Defamation League's audit be printed in the RECORD.

The audit follows:

1991 AUDIT OF ANTI SEMITIC INCIDENTS

FOREWORD: THE SHOCK OF 1991: AN ANTI-SEMITIC RIOT

In 1991, for the first time in recent memory, a mob's cries of "Kill the Jew" echoed on an American street. The awful threat embodied in those words was soon realized: Yankel Rosenbaum, a 29-year-old Jewish scholar, was stabbed by a group of young rioters during unrest in Brooklyn's Crown Heights on the night of August 19, following the tragic accidental death of a black child in an automobile mishap. Rosenbaum died later in a local hospital.

The Crown Heights outburst, with its dozens of assaults and acts of vandalism, was the most dramatic and disturbing eruption of anti-Semitic violence in America in many years. These attacks were among the most noteworthy of the anti-Semitic incidents reported to ADL during 1991—the fifth straight year of increased anti-Jewish acts nationwide.

INTRODUCTION

There were 1,879 anti-Semitic incidents reported to the Anti-Defamation League during 1991. Reports from 42 states, the District of Columbia and the Virgin Islands resulted in the highest overall total of incidents ever recorded in the thirteen year history of the annual audit.

The 1991 total surpasses last year's 1,685 such incidents by more than 11%. The 1,879 incidents include a small but still troubling rise in 1990's total in the vandalism category—929 in 1991 from 927 in 1990, the 2nd highest number yet recorded. But in addition, the category of anti-Semitic harassment, threats, and assaults soared to the highest level ever reported. There were 950 such incidents in 1991—a 25% increase over the 758 noted in those categories in 1990. For the first time in the history of the ADL Audit, these more personalized incidents—in which Jewish individuals were menaced by mail or phone threats, verbal abuse or physical attack—surpassed the total of incidents in the vandalism category.

The most disturbing area of increase occurred in the category of assault against Jewish individuals. In 1991 there were 60 reported cases of physical attack, including one murder: that of a young Jewish scholar in Brooklyn's Crown Heights—a heinous act that could well be called the first lynching of a Jew in the United States since that of Leo Frank in 1915.

The past year also saw the greatest number of serious crimes yet reported. There were 49 vandalism episodes of arson, bombing and cemetery desecration, a 29% jump over the previous high of 38 noted in both 1990 and 1989.

Anti-Jewish incidents on U.S. college campuses rose again to their highest levels ever, continuing an alarming trend that has been manifest for the last four years. Acts of politically related anti-Semitism—coming largely during Operation Desert Storm in January and February—also multiplied.

On a positive note, Skinhead-related anti-Semitic incidents are down significantly, although still of concern. Effective law enforcement action at the federal, state and local levels against violent neo-Nazi Skinhead activity has sent a firm and clear message to such gangs that their criminal behavior will not be tolerated.

Serious crimes of vandalism

In 1991 there were 12 incidents of arson, 8 of attempted arson, 6 bombings, one attempted bombing and 22 cemetery desecrations—a combined total of 49 particularly serious vandalism incidents—representing the highest total ever reported in this sub-category.

In the first months of 1991 there was a rash of arson events in California which were directed at Jewish institutions. A Thousand Oaks synagogue was targeted three times and a nearby Ventura synagogue reported four attempted-arson attacks during the same period. In January, a North Hollywood synagogue had been fire-bombed and further north a fire was set at a San Francisco synagogue after a failed attempted arson ten days earlier.

In Brooklyn, New York, two Yeshivas suffered extensive damage as a result of arson attacks, one in May and another in July.

Arsonists also targeted Jewish-owned private property in 1991. In Knoxville, TN, a Jewish-owned business was set afire. A local Skinhead gang is believed to be responsible for that crime and other related vandalism directed at the owner and his property. In New Jersey, arson was reported at a Jewish-owned home in Haddonfield, in August. In November, in Jupiter, FL, the lawn of a Jewish homeowner was torched. In December, on Oak Park, Michigan the shrubs of a rabbi's home were set on fire; in July, in Holmesburg, PA, two acts of attempted arson were reported at the commercial property of a Jewish individual.

Bombing incidents were reported in four states during 1991. In Boca Raton, FL, a smoke bomb was thrown at congregants as they entered a synagogue. During the services shots were fired through the window. Two separate bombings of Jewish-owned automobiles were reported in Philadelphia, PA, on the same day in January. Both vehicles had Jewish religious articles displayed on their dashboards. Also in January, in San Francisco, a Jewish senior citizens home was bombed. In Beverly Hills, in June, a device with "explosive capability" was found in a public playground along with anti-Semitic leaflets. It was disarmed. In Colorado, in June, a Jewish homeowner reported that twice her property was bombed.

During 1991, a total of 22 cemetery desecrations were reported. There were four each in New York, Louisiana and Mississippi. There were three in New Jersey, two in Colorado and Massachusetts and one each in Maryland, Ohio and Minnesota.

Harassment, threats and assault

In 1991 there were 950 incidents of harassment, threat and assault directed at Jewish individuals and their institutions. It is the first time in the history of the annual Audit that the total in this category surpasses that of the vandalism incidents. While all incident totals have been arising steadily since 1986, harassment, threats and assaults have leapt dramatically in the last four years. From 1987 to 1988 a 41-percent increase was reported, followed by a 28-percent increase in 1989, and then a 29-percent increase in 1990. The 1991 increase is 25-percent. Thus, in the last 5 years all such incidents nearly tripled (193-percent).

The most disturbing aspect of this year's record totals are the unprecedented reports of physical assaults perpetrated against Jewish individuals. There have been sixty such incidents including one murder—during the Crown Heights outburst—which in turn triggered at least two dozen other reported assaults during the tense days which followed that event. Between 1979 and 1989 the yearly total of anti-Semitic assaults averaged just over twenty. In 1990 the total rose to 30. In 1991 that figure doubled.

The murder of Yankel Rosenbaum by a mob in Crown Heights was by far the most serious act of anti-Semitic assault in 1991.

Another significant development: In what is probably the most notable damage award ever in an anti-Semitic harassment case, a Chicago (IL) jury on March 27, 1991 returned a $1.8 million verdict against a Chicago woman and her adult son in a lawsuit arising out of their harassment of their next door neighbor, a Jewish woman, and her family. This is the largest known judgment to date in a lawsuit brought under Illinois' Ethnic Intimidation Statute (now called Hate Crime Statute).

The lawsuit against Lucille Olsen and her adult son, Neil Olsen, alleged that the Olsens had conducted a campaign of harassment against Sherry Del Dotto, her husband Larry Del Dotto, and their daughter. The Olsens' conduct included repeated anti-Jewish statements, white supremacists slogans, threats of physical violence, and a pattern of harassing conduct which occurred during 1984 and 1985 when the Del Dottos and Olsens were next door neighbors.

Sherry Del Dotto sought the assistance of the Anti-Defamation League in 1985. Suit was filed in August, 1985 and the Del Dottos were granted injunctive relief, designed to prevent further acts of harassment. The case came to trial on March 20, 1991 on issues of liability and damages. After a six-day trial the jury returned verdicts totalling $1.8 million against the Olsens.

What accounts for the surge in reported incidents of anti-Semitic harassment, threat and assault?

ADL has noted with deep concern the erosion of longstanding barriers against the expression of anti-Semitism. In the worlds of politics, culture, and education Jew-baiting, anti-Semitic scapegoating and conspiracy accusations have become not only more common, but more casually tolerated and rationalized. Such ideas, and the words that express them, have consequences.

The vastly increased level of harassment and assault incidents in recent years, including 1991, may signal a change in the tactics of many individuals wishing to express anti-Jewish hostility. It would appear that there is a new willingness by those inclined toward anti-Semitism to engage in direct, provocative confrontation with Jews, a kind of "in-your-face" intimidation, reflective of that erosion of the taboo against such open bigotry.

Many observers have noted a decline in civility in American life, a coarsening of both public and private discourse, with a corresponding rise in many people's willingness to employ and tolerate ethnic slurs, stereotyped insults and other forms of hateful speech. It is difficult, if not impossible, to measure this perceived phenomenon, but nowhere is it reflected more clearly or disturbingly than in the proliferation of bigotry and violence in the lyrics of some of the best-selling popular music of the day. Taboos have fallen—but are standards of taste and mutual respect, especially in those areas closest to today's youth, crumbling too?

Vandalism: Most active States

Despite a continued high level of anti-Semitic vandalism incidents nationally, several traditionally most-active states experienced slight decreases. For example, for the second straight year, New Jersey reported a modest decline. California, which saw a significant rise in 1990, also reported a small but welcome decline. And in Florida, which reported a slight drop in 1990, such episodes were down significantly. Maryland, which had risen sharply in the previous year, showed an encouraging decrease in 1991.

On the other hand, New York's total surged, after dropping in 1990, due largely to the Crown Heights outburst. Michigan also showed an increase after a 1990 decrease. And Massachusetts remained at its 1990 total, which was a slight drop from 1989.

The most active states were as follows: (see Appendix B for complete figures).

In 1991, New York led all states with 254 (up 68) reported vandalism incidents followed by California 124 (down 5) and New Jersey with 102 (down 5).

Next are Massachusetts with 68 (no change), Pennsylvania with 49 (up 5), Florida with 43 (down 22), Maryland with 41 (down 15), Illinois with 27 (down 6), Texas with 24 (up 19), Connecticut with 21 (up 5) followed by Michigan with 20 (up 4) and Colorado with 17 (down 18) and Ohio also with 17 (down 6).

In the next group, Georgia reported 14 (up 5), Louisiana 13 (up 8). Next were New Mexico with 11 (down 4), Virginia with 9 (down 6) followed by Minnesota with 8 (down 19) and Tennessee with 6 (up 2).

Nineteen remaining states each reported five or fewer incidents.

1991 vandalism: Geographic breakdowns

Ten Northeastern states plus the District of Columbia combined for a total of 549 incidents—59 percent of the national total. Last year there were 493 incidents reported in that region—53 percent. New York in 1991 had 254; followed by New Jersey, 102; Massachusetts, 68; Pennsylvania, 49; Maryland, 41; Connecticut, 21; New Hampshire 4; Maine and the District of Columbia each with 3, and two each in Delaware and Rhode Island.

In the West, seven states reported a total of 162 incidents—17 percent of the national total. California reported 124; Colorado, 17; New Mexico, 11; Washington, 4; Arizona, 3; Oregon, 2; and Utah 1.

In the South twelve states reported a total of 131 vandalism incidents—14 percent of the total. They are Florida, 43; Texas, 24; Georgia 14; Louisiana 13; Virginia, 9; Tennessee, 6; South Carolina, 5; Alabama, Mississippi and North Carolina each with 4; Arkansas, 3 and Kentucky 2. In addition, there was also one vandalism reported in St. Croix in the Virgin Islands.

Nine Mid-Western states accounted for 86 incidents—9 percent of the national total. Those states are: Illinois, 27; Michigan, 20; Ohio 17; Minnesota, 8; Wisconsin, 5; Missouri and Iowa each with 3; Indiana, 2; and Nebraska, 1.

Campus incidents

Anti-Semitic acts on American college campuses in 1991 remained at the disturbingly high level of 1990—though the dramatic trend of increase (72%) over the previous three years may have leveled off. There were 101 anti-Semitic incidents reported at 60 college campuses. Twenty-three of those campuses experienced more than one occurrence of anti-Semitic activity. In 1990 there were 95 incidents at 57 campuses with 11 experiencing multiple anti-Semitic episodes.

Recent ADL audits have reported on the increasing anti-Semitic incidents directed at individual Jewish students as well as places of Jewish activity on campus including Hillels, fraternity/sorority houses and dorms and offices of Jewish students and professors.

See Appendix D for a listing of 1991 Campus Incidents.

Among the many campus incidents of concern were the following:

On the campus of Cal State Northridge, in the Los Angeles area, a Sukkah erected by members of the Hillel Jewish Student Center was defaced with swastikas and anti-Semitic writing. (The Sukkah is a temporary ceremonial hut built to celebrate the Jewish harvest holiday of Sukkot.) The September 1991 incident was reported to the dean's office and to the campus police, as well as to the Anti-Defamation league and to the press. No suspects have been found.

Fifty-two mezuzas were stolen early Sunday morning, November 17, 1991, from the doorposts of dormitory rooms at Barnard College of Columbia University in New York City. The New York Police Department's bias unit and campus security office conducted an investigation. Barnard also stepped up security in the residence halls. However, the culprits have not been found.

In a positive outgrowth of the incident, many non-Jewish students at Barnard expressed solidarity with the victims of the vandalism. And the college president called a meeting to discuss student concerns about the theft, calling it "a very serious offense" and "an act of bias that is deeply disturbing."

And in one of the year's most unusual but distressing displays of prejudice, a group of student actors preparing for a dramatic production on the Holocaust became targets of anti-Semitic abuse. Judy Yordon, a professor of theater at Indiana's Ball State University, instructed the mostly non-Jewish cast of The Ghetto to wear yellow Stars of David to better understand the stigma Jews experienced under the Nazi regime. This exercise in sensitivity, however, provoked unexpected hostility toward the students.

Cast Member Matthew Socey wrote in the Ball State Daily News that while waiting at a bus stop, he saw a man roll down his car window to yell, "* * * Kike" at him. Other cast members attested that they had received neo-Nazi and Holocaust-denial literature. English instructor John Pea experienced the most dangerous response to the yellow star when, according to Socey, a driver motioned for him to cross the street, then gunned his car forward. (Mr. Pea apparently escaped injury.) African-American student actress Debbie Thomas encountered one student who pointedly refused to participate in a required class dialogue with her because of the star. "I've never experienced racism that was so blatant as that," Thomas said.

Although these displays of prejudice and contempt revealed a latent anti-Semitism, the community's response was overwhelmingly favorable toward the actors and the production itself. Over 2,000 people including a group of Holocaust survivors attended five sold-out performances of the play. Ball State Professor Susan Weintrob also affirmed that events surrounding the performance had sensitized the public at large to the persistence of anti-Semitism.

A troubling atmosphere on campus

In addition to the many acts of vandalism and other overt instances of campus anti-Semitism recorded in the ADL Audit, other developments—subtler but ominous—have contributed to a sense of unease and concern for Jewish students at many American institutions of higher learning.

Holocaust Denial on the Campus: Re-Cycling the Big Lie

Increasingly over the past few years, certain extremist activists and "intellectuals" have sought to exploit the academic tradition of open inquiry to promote their agendas of bigotry, intimidation, and historical distortion. For the Jewish community, no issue on college campuses is more sensitive in this regard than "Holocaust revisionism"—the doctrine which denies the facts of the Holocaust and contends that the Nazi genocide was a Zionist fabrication used to gain sympathy for Jewish causes.

Recent activity by advocates of this myth has contributed to an atmosphere in which students who defend the veracity of the Holocaust are accused of censoring thought and debate. In fact, Holocaust "revisionism" corrupts free inquiry by masking a deeper ideology of anti-Semitism.

Holocaust denial still has virtually no foothold in established university circles. Although a Northwestern University engineering and computer science professor, Dr. Arthur R. Butz, is the author of an early "revisionist" book titled *The Hoax of the Twentieth Century*, most of this literature is produced by individuals with questionable academic credentials and no qualification in history whatsoever. Yet, efforts to promote this lie have intensified.

For example, the most prominent recent distributor of the materials is Bradley R. Smith. He has edited the newsletter of the Institute for Historical Review, which is closely tied to the best-financed and most active anti-Semitic propaganda organization in the country, Liberty Lobby. Smith has been promoting Holocaust "revisionism" on college campuses by taking out full-page advertisements on the subject in student newspapers.

These ads state that Jews were merely confined by the Nazis to special work camps because of their influential role "behind international communism." Disputing the figure of 6 million deaths, these ads claim that typhus was the principal cause of death among camp inmates, and that gas chambers were "life-saving" fumigation chambers to delouse clothing and prevent disease. Although many campus newspapers, including those at Harvard, Brown, Yale, the University of Texas at Austin, the University of California at Berkeley, the University of Pennsylvania, and the off-campus, conservative *Dartmouth Review*, have refused to print the ad, others—including those at Duke and the University of Michigan have felt compelled to publish it in the interests of free speech. The Duke history department issued a statement urging recognition of the difference between interpreting history and denying it altogether.

In fact, the constitutional right of extremists to express offensive propaganda places college newspapers under no obligation to accept such ads. As one editor who rejected the Smith ad, Steven M. Markowitz of the University of California at Berkeley, told *The New York Times*, his paper's editorial policy forbade "racist, sexist or violence-inciting advertisements." Moreover, advertisements which dispute historically documented facts undermine the journalistic obligation to the truth—one of the values free speech is supposed to protect. Will ads be published which deny the internment of Japanese Americans, the enslavement of Blacks, or the Stalinist gulag? For now, it is only the fact of the Jews' mass murder that is being placed in the deceptive context of "open debate."

Taking Holocaust-denial onto college campuses is consistent with other efforts to mainstream the hate movement. Having failed to influence American society through violence and intimidation, right-wing extremists now further their agendas by distorting legitimate concerns into vehicles for bigotry, and mask their anti-Semitism through the code words "revisionism" and "historical review."

Given the horrifying legacy of bigotry, there is an additional grim irony in that Holocaust "revisionism" is being expressed by some radical figures on campus. Typically, these activists have masked Holocaust-denial rhetoric as part of a critique of Zionism, as one of member of the Islamic Movement of North America demonstrated: "The triangle of power finds the Americans at the top, but they're controlled by the Zionists below. The Americans do not control their own society. . . . There is no bigger terrorist nation in the world than the United States of America. They make Nazi Germany's terror look like nothing." Perhaps even more outrageous is the accusation offered by the anti-Semitic Pan-African revolutionary Kwame

Ture (who has told campus audiences that "the only good Zionist is a dead Zionist") in a 1990 speech at the University of Minnesota: ". . . the Zionists joined with the Nazis in murdering Jews, so they would flee to Palestine."

Campus Anti-Semitism/Anti-Zionism: "Political Correctness"

Today, in addition to traditional bigotry, Jewish students bear the brunt of highly-organized anti-Zionist campaigns, reflecting a discomforting reality: being pro-Israel, it seems, is not politically correct.

Jewish students face a double challenge not encountered by most other campus minorities. First, as this Audit illustrates, they experience traditional anti-Semitism. But the combination of domestic anti-Semitism and international anti-Zionism can result in unrelenting tension for Jewish students, faculty and administrators.

At some campuses, absurd and offensive distortions of the concepts of "diversity" and "multi-culturalism" have left Jewish students feeling vulnerable and isolated.

A typical illustration: At the University of Washington at Seattle, a proposed compulsory requirement for Humanities and Social Science credits included Ethnic Studies courses. But various arguments were advanced within a student-faculty task force opposing the appropriateness of including Jews as a minority worthy of such study. This, despite the obvious minority status of America Jews and the long history of that virulent form of racism called anti-Semitism.

In short, it seems that many advocates of the laudable concepts of curriculum diversity and multicultural sensitivity do not recognize anti-Semitism as a form of racism.

An unfortunate corollary is the tendency toward rationalizing the prejudices of "people of color," by claiming that racism is defined by the exercise of power over others; since, the slippery logic goes, racial minorities are not "empowered," they are simply not capable of being racist. Thus, anti-Semitism is excused, or even justified.

So, while Jews have excelled in academe and are fully accepted as students, faculty and administrators, at the same time the misuse of "political correctness" by some campus groups often delegitimizes Jewish values and concerns.

Anti-Zionist sentiment in the form of extreme and uninformed hostility to Israel and its supporters has caused consternation for Jewish students on many campuses. During last year's Persian Gulf War, anti-war sentiment was often mixed with anti-Zionist rhetoric. Moreover, some radicals within Black or Arab student groups have expressed anti-Semitism in the guise of anti-Zionism. A blatant example was a January 1991 editorial titled "What Is Zionism?" in the student newspaper at Morehouse College in Atlanta. The editorial stated in part:

"Zionism is a well organized and financed international conspiracy which controls the economic and political life of the United States and Europe; using this strangle-hold to steal and colonize the land of Palestinian people. It utilizes terror and murder to achieve its goal * * *."

Anti-Semitism of Extremists and Demagogues on College Campuses

Stridently anti-Semitic speakers including Louis Farrakhan, Kwame Ture, rap music figure "Professor" Griff, and Professor Leonard Jeffries, have become popular with Black student unions around the country.

Openly anti-Semitic representatives of the Nation of Islam are also accorded warm campus receptions including Conrad Muhammad, who spoke at Emory University last year, and Dr. Khalid Abdul Muhammad, who addressed the Columbia Black Students Union at Columbia University in the fall of 1990. (Muhammad referred to Columbia as "Columbia Jewniversity" in "Jew York City.") Another anti-Semitic speaker making the rounds on campus was Abdul Alim Musa, a member of the Islamic Movement of North America. During his appearance at the University of Washington on May 23, 1991 which was co-sponsored by the Black Student Union and the Muslim Student Association, Musa stated that U.S. policy was "controlled by an influential Jewish community, determined to keep minorities repressed and powerless."

At Southern Connecticut State University in 1991, Griff devoted twenty minutes of his lecture to an anti-Semitic diatribe, including the accusation that Jewish doctors injected black babies with AIDS.

There have been other disturbing indications of anti-Semitism by campus black activists as well.

A conflict arose at UCLA in February of 1991 over an anti-Semitic article that was published in *Nommo*, the Black student newspaper. The article was a defense of the content and display of the notorious anti-Semitic tracts *The Protocols of the Learned Elders of Zion and The International Jew* at a local function in Los Angeles in October of 1990. The author of the article wrote approvingly that the *Protocols* "present information which some believe confirms the theory that so-called Jews have plotted to control the world economically." When a meeting was arranged between UCLA's Jewish Student Union (which has filed a grievance with the school's communications board) and the staff of *Nommo*, the two Jewish representatives of the Jewish Student Union were jeered and mocked by members of the *Nommo* staff and members of the African Student Union. *Nommo* refused to acknowledge that the article was anti-Semitic.

In May, 1991 *Nommo* published anti-Semitic remarks by Darlene Webb, one of its editors, and a letter to the editor that urged hatred toward Jews. Entertainment Editor Webb's farewell statement was specifically directed at the Jewish news magazine *Ha'Am* and its staff. "Silly rabbits," she wrote, "they think I don't like them because they're Jewish. That's ridiculous. I don't like the majority of them because they're typical cave-dwelling . . . white, zionist (sic) * * * *."

The case of Prof. Leonard Jeffries, chairman of the Black Studies Department of the City College of New York, presents another kind of campus concern: anti-Semitism and racism by a faculty member, rather than from student groups. In addition to his infamous off-campus speech in July 1991 which was laced with anti-Semitic conspiracy accusations, Jeffries has promoted in his classes a bizarre theory of Blacks' racial superiority based on their higher level of the skin pigment melanin. Thus, Jeffries and his supporters carry Afro-centrism to an absurd and perverse extreme.

These anti-Semitic developments illustrate the disturbing fact that many Black student leaders and representatives—in effect, a significant portion of the future leadership of the Black community—repeatedly invite and enthusiastically support speakers who are well-known for their Jew baiting. These student leaders thus offer a respectable platform for anti-Semitic prejudice and ignorance—while generating tension among Jewish students who feel that they are "under siege."

1991 skinhead incidents

Neo-Nazi gangs known as "Skinheads" continue to perpetrate anti-Semitic and other racist crimes in 1991. For the second year in a row the number of "Skinhead" anti-Semitic incidents has dropped. This year there were 62 such incidents reported in 16 states compared to 87 in 21 states the previous year. The high mark year for Skinhead incidents was 1989 when 116 were reported in 24 states.

Still the Skinheads' message of hate, their menacing posture and their violent nature are troubling to all concerned Americans: blacks, Jews, Hispanics, immigrant minorities and gays continue to be targeted by Skinhead-gang members for brutal assault, threats and vandalism.[1]

Of the 1991 Skinhead-related incidents, 36 were vandalism, including an arson of a Jewish-owned business, and 26 were either harassment or threats directed at Jewish individuals and their institutions.

Police in Pennsylvania and in Connecticut made arrests of four Skinheads in connection with two of the incidents.

Law enforcement authorities in areas where Skinheads visibility is most prominent believe that dozens of additional vandalism incidents—particularly at public urban sites—are most likely the work of Skinheads, but do not contain a specific identifiable Skinhead "signature" such as the name of a gang or certain symbols.

Arrests

During 1991 in 14 states there were 52 individuals arrested in connection with 41 of all reported incidents. Of those arrested, twenty-five—48%—were 21 years of age or older. It is the highest percentage ever noted for that age group. Only once, since 1979, did the percentage for that age group exceed 20% (22% in 1987).

In 1990 110 individuals were reported arrested in 17 states in connection with 59 incidents.

A look at some noteworthy incidents

The following examples illustrate the considerable new coverage, community response and ADL counteraction which stemmed from several anti-Semitic incidents in 1991:

Brooklyn, NY

A hateful rampage engulfed the Lubavitch Hasidic community of Crown Heights in Brooklyn in August. It was the most dramatic and disturbing anti-Semitic outburst seen in the United States in many years. Tragically, it included the murder of a 29-year-old Orthodox Jewish scholar from Australia, Yankel Rosenbaum, who was attacked by a mob of young blacks shouting "Kill the Jew."

Following an accident on August 19 in which a car in the Lubavitch grand rabbi's entourage jumped the curb and slammed into two children, killing one, Gavin Cato, and critically injuring the other, his cousin Angela Cato, many young blacks surged through the streets over the next three days chanting "Arrest the Jews" and "Heil Hitler" attacking Hasidic Jews, smashing property and burning cars. Yankel Rosenbaum was walking along a street when the mob attacked him. Several demagogic speakers added to the hateful atmosphere, feeding the emotional flames with anti-Semitic scapegoating and rumors. New York City Mayor David Dinkins described the killing as a racial murder and a "lynching." One of

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[1] See also ADL Special Report, "Neo-Nazi Skinheads: A 1990 Status Report," and other ADL materials on this subject.

Rosenbaum's attackers was arrested and charged with murder.

The Crown Heights Emergency Committee is an ad hoc group formed in the first days of the disorders in the Brooklyn community. It includes representatives of all major institutions of the community—i.e., schools, synagogues, service agencies, and representatives of the Jewish Community Council as well as local residents.

The following is a representative sampling of the more than 100 incidents of personal assault, harassment and property damage report to the Emergency Committee during the 3 day period of rioting August 19-21, 1991. It should be noted that the additional incidents took place sporadically over many weeks following the initial disturbances. In addition, many of these incidents were not reported to the New York Police Department for a variety of reasons—among them the fact that many of the victims were fearful of leaving their homes during a sustained period of serious violence.

Also, many incidents involving anti-Semitic expression may not have involved criminal activity, so that such incidents were not officially recorded as bias-related crimes.

During the August rioting, a total of 23 Jewish individuals suffered some serious bodily injury.

Two men received serious slash wounds, requiring stitches, caused by thrown bottles;

Another man beaten by a crowd of youths suffered a broken collarbone and a concussion;

A child, burned in a street fire, was hospitalized for his injuries and remains in treatment for psychological trauma;

Another individual was pulled from his car and beaten, another car was surrounded by a mob which smashed the windshield with a concrete block, injuring one passenger.

Another individual was severely slashed in the face with a broken bottle, requiring reconstructive surgery.

Among the property damage claims recorded by the Crown Heights Emergency Committee were the following:

On two occasions, bullets have been fired into a local synagogue;

Virtually every Jewish home on President Street in Crown Heights, as well as a synagogue there, suffered many broken windows.

Numerous car windows were smashed, and several cars were burned and destroyed. A van belonging to a Yeshiva was burned, and its windows broken. Several cars were defaced with swastikas.

Several new, as yet unoccupied, condominium buildings suffered arson damage estimated at over $60,000.

A swastika was painted on the door of a Jewish family's apartment. Beyond these overt acts of violence, the Crown Heights Jewish community suffered harassment in the form of a sign set up on a street corner reading "The Jew Is The Devil," and a nearby loudspeaker broadcasting viciously anti-Semitic speeches for several days and nights running.

Finally, amid this chaotic and violent atmosphere, a Jewish resident of Crown Heights named Brocha Estrin, a Holocaust survivor from Russia, jumped to her death from her third floor apartment on President Street. According to a leader of the Crown Heights Jewish community, her suicide "was a direct result of fear placed on her by strangers outside of the community using Nazi tactics."

Los Angeles, CA

One firebombing, four arsons and four attempted arsons at three different synagogues in the Los Angeles area angered and frightened Jewish residents. The arsons occurred between January and April.

The January arson caused $250,000 in damage to the synagogue and charred every room except one. ADL participated in a press conference held by the rabbi and issued a statement condemning the act. Additionally, the Los Angeles office along with the Jewish federation cosponsored a conference on Security for Religious Institutions. The Los Angeles City Council and the County Board of supervisors offered rewards totalling $35,000 for the arrest of those responsible for the firebombing. A rally was held outside the burned-out synagogue attended by 200 Christians and Jews from throughout Southern California to denounce hate. One Christian minister said: "If you touch one synagogue, you touch every Christian church in America." The local media covered the arson, the press conference, the security conference and the rally.

As noted, this arson was followed by a series of arsons and attempted arson in other areas of Los Angeles. ADL had held another security conference in Ventura County just prior to an arson there, which gave the temple administrators the necessary tools for dealing with vandalism and for handling the media. Also ADL contacted all the local synagogues and alerted them to possible copycat incidents, and the local police to increase patrols at all local synagogues. The arsons and attempted arson were also covered fully by the media. In late April, authorities apprehended someone they suspected of involvement in at least some of the arsons.

Boca Raton, FL

Between the 15th of May and the end of July, Orthodox Jewish congregants of two Boca Raton synagogues were the victims of vandalism, smoke bombs, drive-by shootings, BB gun shootings, verbal assaults and harassment.

ADL worked with local police to get them to respond and to take the incidents seriously and to be aware of and sensitive to the anti-Semitism. ADL consulted with the rabbis and synagogue leadership and security guards were employed. ADL also was able to get regular security patrols by the police and the private Boca Del Mar Development security increased for the protection of the rabbis and congregants. Several of the incidents were covered in the local press.

Dayton, OH

In November, two synagogues in Dayton were desecrated with spray-painted swastikas and the word "Jude" on the steps of one of the synagogues. Community and religious leaders including representatives from the Muslim community united in support of the Jewish community to denounce the desecrations which occurred on the 53rd anniversary of Kristallnacht. ADL was at the press conference and in contact with the Dayton police to offer assistance. Additionally ADL and the Jewish Federation posted a $1,000 reward for the arrest and conviction of those responsible for the vandalism.

The local media covered the vandalism and the press conference. The Greater Dayton Christian Council offered to help defray the expenses of cleaning up the synagogues on behalf of the Christian community.

Knoxville, TN

A group of Skinheads harassed and threatened, as well as physically attacked, a local store, its employees and its Jewish owner. Anti-Semitic materials have appeared on a bulletin board in the store, a rock has been hurled through the store window with a note—embellished with a swastika—that said "Don't let Jew bastards run the country," anti-Semitic graffiti was painted on the store's front door and a molotov cocktail was thrown which burned the store's carpet and caused other minor damage.

ADL worked with both the police and store's owner providing information on local Skinheads, urging protection for the store and its owner, and also helping the victim to deal with the effects of these hate crimes. Following the arson, the incidents ceased.

Johnson, VT

In the spring of 1991 ADL was informed that an official at Johnson State College in Vermont was made the target of an ongoing campaign of anti-Semitic harassment which included threats and letter of intimidation over a six month period. This official had fired someone for using anti-Semitic epithets against a Jewish woman an campus and for pushing her against a wall. Someone who had read about the ongoing anti-Semitic campaign against the college dean called ADL.

Over the ensuing months, the ADL office was in touch with a Vermont state representative, the Chancellor of the entire Vermont state college system as well as the president of Johnson State College to stop the harassment against the dean and to get anti-prejudice program up and running on all the Vermont campuses.

Unfortunately the perpetrator(s) were never apprehended; the victim left the Johnson State campus to pursue a Ph.D. Through the efforts of the Chancellor, ADL has been invited to address the presidents of all the Vermont state colleges/universities on responses to hate crimes, training police to properly investigate and pursue perpetrators on campuses, and the status of racism and anti-Semitism on American campuses today. ADL has also shared information about our Campus of Difference program with the Chancellor, as well.

A resurgence of politically related incidents

There were 52 anti-Semitic incidents linked by their perpetrators to the Persian Gulf war committed in 14 states across the country from the start of Operation Desert Storm on January 16 through February 14. Another 28 such incidents were reported over the next few months, for a total of 80. Hate mailings and threats included swastikas and statements such as "Death to Jews," "All Jews will burn and die in hell," and "Keep checking for those letter bombs."

At least 20 Jewish institutions received phone and/or mail threats. One California country club frequented by Jews received a phone threat that said: "Kill Every Jew . . . On Behalf of Iraqi people."

Seven cars on a Pennsylvania street were painted with the words: "Death to Israel" and "Saddam Rules." Another incident at Rutgers University in New Jersey showed a missile aimed at a Jewish star with the statement, "Now Jews should die."

One Jewish-owned business in New Jersey received the following phone threat: "Jew Bastard . . . I hope Hussein burns Israel." These incidents represented a continuation of the pattern of Persian Gulf-related anti-Semitic incidents that began soon after the Iraqi invasion of Kuwait in August 1990. ADL noted 25 such episodes in the second half of 1990, as the crisis heated up.

It should be noted that such politically related acts of anti-Jewish animus cannot be considered mere expressions of political criticism. Rather, the violence and bigotry of the incidents cited place them beyond the bounds of legitimate debate. And while the Gulf crisis may be over, the danger of renewed political anti-Semitism in a presidential election year overcast with economic dark clouds will require continuing vigilance.

CONCLUSION

ADL's 1991 Audit findings represent the fifth consecutive year of significant increases in reported anti-Jewish acts. In the vandalism category (where the 1991 total was slightly ahead of that of 1990) the last five years have seen a jump of over one third. Acts of assault, threat and harassment (which soared by 25 percent in 1991) over the same period have increased by nearly 200 percent.

One of the major factors noted in recent years showed continued signs of increase in 1991—the rise of anti-Jewish incidents reported on college campuses. While the rate of increase slowed in 1991, these acts have doubled over the past 4 years. At the same time, another important factor again declined—namely, anti-Semitic acts by neo-Nazi Skinheads. To be sure, the violent crimes of such gangs remain a matter of serious concern; law enforcement agencies, both local and federal, have paid greater attention to this problem in recent years.

In 1991, the most serious forms of anti-Semitic vandalism—bombings, arson, and cemetery desecrations—continued to rise even beyond the high level of 1990. Such serious types of violence had also risen sharply in 1988 and 1989.

In addition, 1991 saw a significant rise in direct assaults against Jews; the year's total of 60 doubled that of 1990.

Another factor that had virtually disappeared in 1989 after leaping to prominence in 1988—i.e., anti-Semitic acts linked by their perpetrators to events in the Middle East—again came to wide attention in 1990. Then, in 1991, the Persian Gulf War brought with it a significant number of anti-Semitic acts, largely in the form of hate mail to Jewish organizations, blaming them and the Jewish community for the war or making other hostile statements. Such politically-related anti-Semitism calls for especially intensive monitoring—especially in the election year of 1992, with some candidates ready to scapegoat the Jewish community or engage in Israel-bashing.

Many observers have noted the possible correlation between, on the one hand, a perceived decline in civility, a coarsening of public expression and popular culture, in American society and, on the other, the dramatic rise in bias crime, particularly in the area of personal harassment, which the 1991 Audit figures reflect. This, combined with the pressure associated with a deteriorating American economy during the past year, may well have contributed to the new record-setting levels of anti-Jewish acts.

Yet numbers in themselves cannot tell the whole story. It should be remembered that behind each of the incidents noted here is an individual victim, a family, a community, targeted for intimidation—indeed, a form of terrorism. The lasting pain of scars, emotional as well as physical, inflicted by crimes of hate must not be underestimated.

The nationwide increase in anti-Semitic acts demands an ever more forceful response through those means available to official authorities and community leaders in a democratic society: firm enforcement of appropriate laws, regular and creative educational programming against prejudice, and enhanced public awareness of the nature and dimension of the hate crime phenomenon. ADL's active monitoring efforts, its "A World of Difference" project and its other counteraction and educational programs—including the publication of this Audit report—are geared toward those goals.

Despite the year's troubling statistics, the overall picture retains some positive features. Forty-six states and the District of Columbia now have statutes dealing with hate crimes, many patterned after ADL model legislation. Numerous states and localities are working to improve communication between community groups and law enforcement authorities, while such officials, increasingly sensitized, are developing better reporting and investigative procedures on bias crimes. The new federal Hate Crime Statistics Act has begun operation. Today, public officials, educational administrators and community leaders are responding more frequently to hate-motivated incidents with sympathy and solidarity toward victims, and a determination to reject and overcome the affront to decency and threat to pluralism presented by acts of gross or violent prejudice.

ADL's Counteraction Program: I

ADL has developed and supported a combination of preventive and counteraction measures over the past twelve years to enable the Jewish and other communities to protect themselves against vandalism and other forms of bias crimes, and to respond effectively should they occur. Major elements of this broad-ranging program are detailed here.

Conferences on Security and Bias Crime

In cooperation with law enforcement authorities, educational and other religious and ethnic organizations, ADL offices on both the local and national levels have carried out programs of public education, emphasizing the need for effective security at houses of worship and other community-based institutions.

In November, ADL in cooperation with the League for Human Rights of B'nai B'rith in Canada, convened the first comprehensive "Conference on Anti-Semitism Around the World." It brought together scholars, journalists, religious and community leaders from the U.S., Canada, Israel, South America, the U.S.S.R., Germany, Poland, and Romania to assess the phenomenon of anti-Semitism in a rapidly changing world. The diverse reports and discussions illustrated that there are common anti-semitic threads as well as distinctive differences in countries around the world.

Following Abraham H. Foxman's keynote address, the conferences heard assessments from columnist Richard Cohen (Washington Post) and Professor Julius Lester (University of Massachusetts, Amherst) on anti-Semitism among Black Americans, its root causes, manifestations and ways of dealing with the problem. Research scholars Gary Tobin (Brandeis University) and Leonard Dinnerstein (University of Arizona) addressed the issues, of how to define and analyze attitudes of the public toward Jews; the special characteristics of anti-Semitism in Canada were examined; a number of scholars led by Rumanian Chief Rabbi Moshe Rosen discussed anti-Semitism in a post-communist Eastern Europe and Soviet Union; and former New York Mayor Edward I. Koch presented the closing speech, "Fighting Anti-Semitism: Where Do We Go From Here." Koch urged that anti-Semites be publicly identified and that "good people everywhere must join the battle to make anti-Semitism unacceptable."

Around the U.S. throughout 1991, ADL-sponsored security and bias-crime conferences on anti-Semitism, security, hate crimes training and extremists have brought together all community elements—institutional leaders, clergy, educators, parents and law enforcement officials—to discuss bias-oriented attacks, and to grapple with the how-to's of stronger security measures. The conferences have also focused on the very difficult questions having to do with the whys of anti-Semitism and racism. ADL—both regionally and nationally—participated in various grass roots anti-bias activities such as the Northwest Coalition against Malicious Harassment, Inc. and the Stockton (New Jersey) State College Human Relations Coalition.

During 1991, ADL regional offices have organized, co-sponsored or participated in more than 40 such meetings, covering the following states: Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Maine (Maine saw its first-ever hate crimes conference held in Portland during May), Massachusetts, Michigan, Minnesota, New York, New Jersey, Ohio, Pennsylvania, Texas and Washington, D.C.

In addition to involvement in these security conferences, ADL staff members have been invited to brief law enforcement officials, at the local, state and federal levels on hate groups, bias crime legislation and other security-related topics throughout the year. For example, ADL's Charles Wittenstein (Southern civil rights coordinator) made a presentation on hate groups and hate crimes at the National Organization of Black Law Enforcement Executives (NOBLE) Georgia chapter meeting. Jodi Goodman (Houston regional office), along with ADL lay leaders made six presentations on hate crimes and who commits them, what the officers' roles are and what the laws are to six police cadet seminars during the year for the Houston police department. Dick Lobenthal (Detroit regional office) lectured the Midwest Gang Investigators Association annual conference on extremist groups.

By coordinating police and local institutional leadership, ADL seminars, conferences and training have established greater community awareness of practical bias-crime prevention measures, stronger support among cooperating agencies and heightened sensitivity by public officials for the citizens they serve. They have also helped community members to understand how important it is to report bias crimes whenever they occur.

Hate Crimes Statistics Act

As part of its overall hate crime countaction effort, ADL has played a leading role in the implementation of the federal Hate Crime Statistics Act. Under the Act, signed into law in April, 1990, the Department of Justice is required to collect data on crimes which "manifest prejudice based on race, religion, sexual orientation, or ethnicity." The Act also requires the Attorney General to publish an annual summary of the findings.

In the year since the data collection mandate was given to the FBI and its Uniform Crime Reporting Section, considerable progress has been made toward effective national implementation of the Act. Working closely with UCR professionals, ADL provided input and expertise. The FBI developed implementing guidelines and a training manual on the Act, documents which have not been distributed to over 16,000 law enforcement agencies around the country.

In early April, ADL represented other human relations organizations which had helped to shape the Bureau's HCSA outreach and education efforts at a press conference announcing the FBI's implementation program. In the Fall, the Bureau began a series of training seminars for state and local law enforcement officials. As we go to print, the FBI has trained over 1000 representatives from law enforcement agencies in almost all of the 315 cities and counties in the U.S. with a population of more than 100,000. ADL resources on hate groups and hate crimes are referred to in the FBI training materials and the League's 17-minute police training video—produced in cooperation with the New Jersey Department of Law and Public Safety—has been highlighted at many of the FBI seminars and at other law enforcement conferences.

Training sessions have featured presentations on the utility of the data from law enforcement officers from areas where hate crime data already are being collected, discussions on the nature of prejudice and the special impact of bias-motivated criminal activity, as well as appearances by human relations groups, including ADL, to describe their expertise in analyzing and responding to hate crime.

In addition to the FBI conferences, in the past year ADL professionals have participated in panel discussion on hate crimes at a number of meetings of national law enforcement groups, including those sponsored by the International Association of Chiefs of Police, the National Sheriffs Association, the National Association of Black Law Enforcement Executives, the Justice Research and Statistics Association, the Police Executive Research Forum, the International Association of Directors of Law Enforcement Standards and Training, and the Federal Law Enforcement Training Center.

ADL hate-crime police-training video

The accuracy and uniformity of bias-crime data collected will only be as good as the "reporters." Thus, effective training for police officials on how to identify, report, and respond to hate crimes will be critical to ensure the success of the important new initiative represented by HCSA.

To help meet this need, ADL has produced a new law enforcement training film on hate crimes, in association with the New Jersey Department of Law and Public Safety. This seventeen-minute video is designed to be shown at police training academies and to individual law enforcement agencies across the country.

The film portrays actual incidents of criminal activity motivated by prejudice. It dramatically illustrates the impact of this type of crime on the victim and the victim's community. Most importantly, the film concisely outlines appropriate law enforcement response—by showing how to identify hate crimes and how to deal with the victim's trauma, and by underlining the importance of treating the criminal action seriously. The film has been endorsed by the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the Fraternal Order of Police, and the Police Foundation. Former Attorney General Richard Thornburgh wrote the Foreword for the twenty-four page discussion manual for trainers that accompanies the film.

Security handbook

In 1991 ADL published a convenient pocket size security pamphlet which was based on its 1986 practical counteraction tool: *Security For Community Institutions*. Both the pamphlet and the handbook (first issued in 1984) continue to be widely distributed across the United States. They aim at preventing—and coping with—destructive violence against persons and property, particularly that motivated by religious or racial prejudice. Prepared in cooperation with the Crime Prevention Section of the New York City Policy Department, the handbook and the new pamphlet are based on ADL's experience in monitoring and countering anti-Jewish vandalism and other crimes directed at Jews and Jewish-owned property. They reflect the knowledge gained by the League in working closely with law enforcement agencies and in co-sponsoring security conferences and workshops. The ADL security handbook has received endorsement from local and federal law enforcement officials.

Both the handbook and the security pamphlet detail security measures and procedures for community institutions; suggest proper reaction when incidents occur; provide information on security programs carried out by the New York City Police Department's Crime Prevention Section and its Bias Incident Investigating Unit. The handbook provides additional material such as a model form for reporting incidents to local police departments, as well as the text of model state statute developed by ADL as a tool to assist law enforcement agencies in dealing with the problem of vandalism against religious and ethnic institutions. Both the pamphlet and the security handbook have been shared with churches, ethnic organizations other community groups which are also vulnerable to bias crimes.

Education

The Campus and the Workplace

In 1989, ADL announced the creation of the Mildred and Samuel Levine Institute for College Campus Affairs Programming to combat bias incidents and expressions of all forms of prejudice on campuses. The Institute's first event that November was a national conference on campus prejudice held at the University of Pennsylvania. And the Institute published "Combatting Bigotry on Campus: The Problem and Strategies for Counteraction," a report distributed during the conference. The Institute followed up by also publishing the conference's proceedings.

During 1991 the Mildred and Samuel Levine Institute sponsored a National Teleconference for Jewish students on the Persian Gulf War in February, and an October 1991 conference in Los Angeles called Dealing with Diversity on Campus: Tools for Jewish Students.

During 1990, ADL expanded its efforts against prejudice by adding two new programs: "A Campus of Difference" and "A Workplace of Difference." Both projects are modeled after ADL's seven-year-old educational and media program, "A World of Difference," which trains educators in K-12 in 25 regions across America to combat prejudice by increasing students' awareness of cultural and ethnic diversity and helping them learn to value it. When corporate and academic communities wanted information and guidance in dealing with growing racial, religious and ethnic tensions they were experiencing, ADL created the new programs to respond to those needs.

"A Campus of Difference" has been offered at over 45 campuses across the country including Columbia, NYU Law School, Mt. St. Vincent's College, the University of Texas, Sarah Lawrence College, Syracuse University, Yale University, Morrisville College, SUNY Oneonta, and Occidental College. Also, a video called "Facing the Difference: Living Together On Campus," which features college students talking about the problems they have faced in a highly diverse college environment, is now being disseminated widely.

AT&T, Security Pacific Corporation, the New York City Commission on Human Rights, Security Pacific Banks, NA, Southeast Banks, and Bellcore are among those businesses and agencies which have availed themselves of the new model programming of "A Workplace of Difference." Full-day workshops allow participants in both programs to interact and openly discuss issues of diversity, prejudice and discrimination.

Meeting the diversity awareness needs of our nation's law enforcement agencies presented a new training challenge to ADL, leading to the creation of a special training program specifically aimed at law enforcement professionals. The program has been offered at the National FBI academy, the Houston Police Department, the Little Rock Police Department, the Albany Police Department, and other law enforcement agencies.

During 1991 ADL coordinated all of its educational efforts to combat prejudice under one umbrella forming the A World of Difference Institute. In addition to ADL's ongoing programs a number of new initiatives will be taken. Through intensive training programs the Institute will assist educators in their efforts to combat prejudice and to value diversity.

In the Schools

The nation's schools must be included in any program designed to address the problem of bigotry. Confronting and eliminating prejudice should be an educational priority at all levels of education—school systems, individual schools, administrators, teachers, and professional education organizations.

ADL disseminates an extensive catalogue of print and audiovisual materials for schools. Included are books, curricula, and videos on prejudice reduction, multicultural education, the Holocaust, and ways of strengthening our democratic society. This catalogue of materials is utilized by more than 100,000 teachers, administrators, and curriculum developers.

Some examples: On the elementary level—a handbook "Teacher They Called Me A—!" has 69 classroom activities on such topics as Race and Ethnicity, Religion, Differences in Life Styles, Discrimination Against the Disabled, and the Influence of Gender on How Children Are Treated.

On the secondary level of classroom activity manual, "Being Fair and Being Free," teaches students the evils of prejudice in their own lives, in other countries, and in other times.

A large variety of excellent videos such as "Behind the Mask," "Names Can Really Hurt Us," and "Shadows Between Friends" show elementary and/or high school students facing prejudiced behaviors and learning about the evils of prejudice.

An updated series of 12 "Sports Posters" features famous athletes declaring: "If You Really Believe in America, Prejudice is Foul Play."

ADL, the National Urban League, and the League of United Latin American Citizens (LULAC) have formed a coalition to improve education. A major goal for this coalition is to work with schools to help them develop programs that teach the importance of intergroup respect and understanding within our democratic, pluralistic society. The coalition has produced two full-color posters that indicate their educational priorities. One features a "Report Card For Better

Schools." The other presents a multicultural group of children and explains: "Learning and Playing Together Today; Living and Working Together Tomorrow." These posters are available for purchase.

In cooperation with the National PTA, ADL has prepared and the National PTA has distributed a pamphlet entitled "What To Teach Your Child About Prejudice and Discrimination." In clear and direct language the pamphlet assists parents and teachers in telling youngsters how to treat others with respect and how to deal with prejudice directed against themselves.

ADL, together with the New York State Department of Education has developed a pamphlet for high school students, "Hate Can Hurt, Let's Stop Prejudice." The pamphlet has been widely utilized to initiate discussions among youngsters on how to deal with prejudiced behaviors.

To meet the threat of anti-Semitism, the ADL has produced two educational videos with discussion guides, plus three pamphlets under the overall title "Confronting Anti-Semitism." The two videos, "A How-To for Jewish Youth" and "A Family Awareness Project" simulate various scenarios such as anti-Jewish "jokes" and comments, and school policies that conflict with religious observances.

The pamphlets "Guidelines for Jewish Parents" and "Guidelines for the Jewish Community" help parents to aid young victims of hate, and Jewish communities in confronting modern anti-Semitism. The third pamphlet in the series offers "Guidelines for the Christian Community" on facing anti-Semitism.

This multimedia program is designed for schools, religious organizations, and community groups.

THE 1991 ADL AUDIT OF ANTI-SEMITIC VANDALISM AND OTHER INCIDENTS

State	1991 total	Change		Vandalism locations			Serious crimes				Cem. des.	Harassments, threats and assaults				
		1990	1991	INST	PVT	PUB	ARS	ATT	BMB	ATT		Targets		1991 total	Change	
												INST	IND		1990	1991
New York	254	186	+68	51	147	56	3	0	0	0	4	34	157	191	110	+81
California	124	129	−5	33	58	33	5	5	1	1	0	40	82	122	91	+31
New Jersey	102	107	−5	12	33	57	1	1	0	0	3	18	75	93	55	+38
Massachusetts	68	68	0	8	15	45	0	0	0	0	2	19	50	69	66	+3
Pennsylvania	49	44	+5	9	13	27	0	2	2	0	0	4	22	26	22	+4
Florida	43	65	−22	20	11	12	1	0	1	0	0	13	35	48	60	−12
Maryland	41	56	−15	4	19	18	0	0	0	0	1	8	29	37	56	−19
Illinois	27	33	−6	8	9	10	0	0	0	0	0	20	26	46	39	+7
Texas	24	5	+19	5	9	10	0	0	0	0	0	10	11	21	21	0
Connecticut	21	16	+5	1	4	16	0	0	0	0	0	3	23	26	23	+3
Michigan	20	16	+4	7	9	4	1	0	0	0	0	8	16	24	25	−1
Colorado	17	35	−18	5	9	3	0	0	2	0	2	3	18	21	28	−7
Ohio	17	23	−6	10	2	5	0	0	0	0	1	25	22	47	32	+15
Georgia	14	9	+5	4	4	6	0	0	0	0	0	3	20	23	13	+10
Louisiana	13	5	+8	11	1	1	0	0	0	0	4	18	0	18	6	+12
New Mexico	11	15	−4	2	1	8	0	0	0	0	0	8	9	17	9	+8
Virginia	9	15	−6	2	6	1	0	0	0	0	0	0	10	10	8	+2
Minnesota	8	17	−9	3	1	4	0	0	0	0	1	12	9	21	21	0
Tennessee	6	4	+2	2	3	1	1	0	0	0	0	0	1	1	1	0
South Carolina	5	0	+5	4	1	0	0	0	0	0	0	0	0	0	0	0
Wisconsin	5	23	−18	3	1	1	0	0	0	0	0	1	0	1	4	−3
Alabama	4	2	+2	3	0	1	0	0	0	0	0	3	0	3	2	+1
Mississippi	4	2	+2	4	0	0	0	0	0	0	4	0	0	0	0	0
New Hampshire	4	5	−1	3	0	1	0	0	0	0	0	0	2	2	3	−1
North Carolina	4	1	+3	3	1	0	0	0	0	0	0	0	4	4	5	−1
Washington	4	4	0	3	0	1	0	0	0	0	0	8	12	20	12	+8
Arizona	3	11	−8	1	0	2	0	0	0	0	0	6	0	6	8	−2
Arkansas	3	0	+3	2	0	1	0	0	0	0	0	0	0	0	1	−1
District of Columbia	3	6	−3	0	1	2	0	0	0	0	0	0	5	5	8	−3
Missouri	3	2	+1	1	2	0	0	0	0	0	0	0	3	3	1	+2
Iowa	3	0	+3	0	3	0	0	0	0	0	0	0	2	2	0	+2
Maine	3	3	0	2	1	0	0	0	0	0	0	1	5	6	1	+5
Delaware	2	2	0	1	1	0	0	0	0	0	0	0	0	0	0	0
Indiana	2	2	0	0	2	0	0	0	0	0	0	7	5	12	7	+5
Kentucky	2	2	0	1	0	1	0	0	0	0	0	0	3	3	1	+2
Oregon	2	6	−4	1	1	0	0	0	0	0	0	2	2	4	12	−8
Rhode Island	2	0	+2	2	0	0	0	0	0	0	0	0	0	0	0	0
Nebraska	1	2	−1	0	1	0	0	0	0	0	0	6	3	9	3	+6
Utah	1	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Virgin Islands	1	0	+1	1	0	0	0	0	0	0	0	0	0	0	0	0
Alaska	0	1	−1	0	0	0	0	0	0	0	0	0	2	2	1	+1
Kansas	0	1	−1	0	0	0	0	0	0	0	0	0	1	1	0	+1
Nevada	0	0	0	0	0	0	0	0	0	0	0	1	0	1	1	0
Vermont	0	0	0	0	0	0	0	0	0	0	0	0	5	5	0	+5
Hawaii [1]	0	1	−1	0	0	0	0	0	0	0	0	0	0	0	0	0
Idaho [1]	0	2	0	0	0	0	0	0	0	0	0	0	0	0	2	0
Montana [1]	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0
1991 total	929	927	+2	233	369	327	12	8	6	1	22	281	669	950	758	+192

[1] For comparison to 1990 figures.

LISTING OF COLLEGE CAMPUSES REPORTING ANTI-SEMITIC INCIDENTS

California May 27, 1991, Claremont College Hillel, phone threat.

California August 1991, Claremont College Hillel, phone threat.

California September 1991, Cal. State-Northridge Hillel, vandalism.

California September 12, 1991, San Francisco City College, vandalism.

Colorado February 11, 1991, Univ. of Colorado-Boulder, vandalism.

Colorado November 20, 1991, Univ. of Colorado-Boulder Hillel, phone threat.

Connecticut February 6, 1991, Trinity College-Hartford, harassment.

Connecticut February 22, 1991, Southern Conn. Univ. New Haven, harassment.

Connecticut August 10, 1991, Yale Univ.-New Haven, 3-vandalism—1 harassment.

Connecticut September 11, 1991, Wesleyan Univ.-Middletown, 5-vandalism—1 harassment.

Connecticut October 9, 1991, Univ. of Hartford, vandalism.

Florida April 16, 1991, Florida Atlantic Univ., vandalism.

Florida October 17, 1991, Univ. South Florida-Tampa, vandalism.

Florida November 4, 1991, Univ. of Miami Hillel, phone threat.

Georgia January 1991, Univ. of Georgia-Athens, harassment.

Georgia January 30, 1991, Morehouse College-Atlanta, harassment.

Georgia March 23, 1991, Emory Univ.-Atlanta, vandalism.

Illinois February 6, 1991, Northwestern Univ.-Chicago Hillel, phone harassment.

Illinois May 29, 1991, Spertus College-Chicago, harassment.

Illinois June 10, 1991, Governors State Univ.-Univ. Park, harassment.

Illinois September 1991, Northwestern Univ., harassment.

Illinois November 21, 1991, Univ. of Illinois-Champaign Hillel, vandalism.

Indiana January 24, 1991, Univ. of Indiana-Bloomingham Hillel, harassment.

Indiana July 1991, U. Indiana-Bloomington Jewish frats, 2-vandalism.

Indiana October 1991, Ball State Univ.-Muncie, 3 harassment.

Iowa August 1991, Univ. of Iowa-Iowa City, vandalism.

Iowa October 30, 1991, Grinnel College-Grinnel, vandalism.

Kansas May 10, 1991 Wichita State Univ., harassment.

Maryland January 15, 1991, Univ. of Maryland-College Park, harassment.

Maryland February 4, 1991, Frostburg State Univ., 1-vandalism 1-harassment.

Maryland May 17, 1991, Baltimore Culinary College, harassment.

Maryland June 2, 1991, Univ. of Maryland-College Park, vandalism.

Maine January 1991, Wheaton College-Attleboro, vandalism.

Maine February 1991, Brandeis University-Boston, harassment.

Maine March 3-6, 1991, Harvard Univ.-Boston, 5-vandalism.

Maine November 11, 1991, Smith College-Northampton, vandalism.

Maine November 1991, Wellesley College, 2-vandalism.

Michigan, May, 1991, Oakland Univ. Rochester, vandalism.

Michigan, November, 1991, Univ. of Michigan-Ann Arbor, harassment.

Minnesota, February 4, 1991, Univ. of Minnesota-Minneapolis, harassment.

Minnesota, June 15, 1991, Univ. of Minnesota-Minneapolis, vandalism.

Minnesota, October 15, 1991, Univ. of Minnesota-Minn. Hillel, harassment.

New Jersey, January 10, 1991, Rutgers Univ.-New Brunswick, 3-vandalism.

New Jersey, May 14, 1991, Rutgers Univ.-Livingston, vandalism.

New Jersey, May, 1991, Rutgers Univ.-Busch, 3-vandalism.

New Jersey, February 5, 1991, Monmouth College, harassment.

New Jersey, October, 1991, William Patterson College, 2-vandalism.

New Mexico, January 3, 1991, Univ. of New Mexico-Albuquerque, 1-harassment 1-vandalism.

New Mexico, January 29, 1991, St. Johns College-Santa Fe, harassment.

New York, July, 1991, Brooklyn College, harassment.

New York, October 30, 1991, Queens College, harassment.

New York, September 11, 1991, Cornell Univ.-Ithaca, 2-harassment.

New York, November 17, 1991, Barnard College-NYC, vandalism.

North Carolina, November, 1991, Duke University, harassment.

North Carolina, November 25, 1991, Guilford College-Ashville, vandalism.

Ohio, August 30, 1991, Ohio State Univ.-Columbus Hillel, harassment.

Ohio, December, 1991, Ohio State Univ.-Columbus, assault.

Ohio, October 6, 1991, Univ. of Cincinnati Hillel, 2-vandalism.

Ohio, December 5, 1991, Ohio Wesleyan-Delaware, harassment.

Pennsylvania, February, 1991, Univ. of Pittsburgh, 2-vandalism.

Pennsylvania, September 9, 1991, Univ. of Pennsylvania, vandalism.

Pennsylvania, October 13, 1991, Penn State Univ., vandalism.

Pennsylvania, November 16, 1991, Keystone Jr. College-La Plume, vandalism.

Tennessee, July 4, 1991, Univ. of Tennessee-Knoxville Hillel, vandalism.

Tennessee, October, 1991, Univ. of Tennessee-Knoxville, 1-vandalism 1-harassment.

Texas, November 27, 1991, Univ. of Texas-Austin, assault.

Texas, December, 1991, Univ. of Texas-Austin, vandalism.

Vermont, March 5, 1991, Johnson State College-Johnson, 5-harassment.

Washington, January 31, 1991, Central Univ. Washington-Ellensburg, harassment.

Wisconsin, February 12, 1991, Univ. of Wisconsin-Milwaukee, vandalism.•

TRIBUTE TO DWIGHT E. HEFFELBOWER

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to an outstanding Kentucky businessman who has worked in the defense industry for more than 42 years. Dwight E. Heffelbower is now the chairman and CEO of the Lexington-based Mason & Hanger-Silas Mason Co., Inc. This engineering services firm is one of the Nation's largest defense contractors.

Dwight Heffelbower began his career in 1949 at the Silas Mason Co., Inc. as a draftsman on a company contract at the Iowa Ordnance Plant in Burlington, IA. He soon worked his way up to junior engineer, then chief process engineer, and eventually to plant manager in 1963. During the 10 years he held that post, employment rose from 2,000 to 8,000 due to the buildup for the Vietnam War. Mr. Heffelbower became vice president of defense activities at Mason & Hanger in 1973 and moved to the Lexington headquarters. He took over as president and CEO in 1986, and since January of this year, he has served as chairman and CEO.

In his current position, Mr. Heffelbower is faced with the task of ensuring that Mason & Hanger continues to be successful in a post-cold war era. He claims that the biggest challenge facing the company is diverting away from Department of Defense work because conventional ammunition production is decreasing. In addition to its defense work, Mason & Hanger does extensive security work, an area which will likely expand as ammunition production decreases. One of the company's six subsidiaries is also developing a fiber optics and intelligence and detection system, a state-of-the-art security and monitoring system. The same company is studying and marketing a plasma energy system to transform solid, hazardous and medical waste into environmentally sound byproducts.

Over the years, Dwight Heffelbower has proven himself to be a capable, hard-working and honest businessman. He has worked his way up in one of the Nation's most rapidly changing industries. There is no doubt that Mason & Hanger-Silas Mason Co., Inc., will continue to enjoy tremendous success under the proven leadership of Dwight Heffelbower. Mr. President, please insert the following article from the Lexington Herald-Leader into the RECORD.

The article follows:

[From the Lexington (KY) Herald-Leader, Feb. 24, 1992]

CAREER REFLECTS WAYS ARMS INDUSTRY EVOLVED—DWIGHT E. HEFFELBOWER ROSE TO CHAIRMANSHIP OF MASON & HANGER

(By Liz Caras Petros)

Times were tough in 1949 when Dwight E. Heffelbower got his engineering degree and hit the job market. But at the Silas Mason Co. Inc., Heffelbower found a perfect match.

"They were hiring and I was looking," he recalled.

Although Heffelbower knew nothing about the company when he began work, he had a plan.

"I thought I would go there for a couple of years and get some experience," he said.

That was more than 42 years ago. Heffelbower is still with the company. And he's still learning.

The Lexington-based engineering services firm, now called Mason & Hanger-Silas Mason Co. Inc., is one of the country's largest defense contractors. So it has adapted its work to the changing military climate. Heffelbower's career mirrors those changes.

Heffelbower first worked as a draftsman on the company contract at the Iowa Ordnance Plant in Burlington, Iowa. The contract, with the Atomic Energy Commission, was for the construction and operation of the first plant that made high explosives components for atomic weapons and assembled them.

Heffelbower was plant manager from 1963 to 1973, during the buildup for the Vietnam War when employment rose from 2,000 to 8,000 and production began of 50 to 60 ammunition items at the same time.

In 1973, Heffelbower became vice president-defense activities for the company and moved to the Lexington headquarters. Since January, he has served as chairman and chief executive officer.

Mason & Hanger has a rich history as a U.S. defense contractor—a history that includes dealing with sensitive and dangerous materials.

Heffelbower, 66, is used to that. As a young engineer, he regularly handled explosives no one knew anything about. He considers himself lucky.

"We didn't know about all these things that are bad now," he says. "I think back at the things that we did fool with then and look at the EPA's list and I say we should never have touched it."

Mason & Hanger continues its involvement with U.S. defense-related activities.

It operates the nuclear weapons plant Pantex near Amarillo, Texas, where it develops and produces explosives for nuclear weapons and assembles, disassembles, modifies, tests and performs surveillance on America's nuclear stockpile.

Mason & Hanger also does extensive security work. Its forces guard Pantex, the Iowa and Mississippi Army ammunition plants, Los Alamos National Laboratory in New Mexico, and NASA's Johnson Space Center in Houston and the Langley Research Center in Virginia.

In the coming years, Mason & Hanger will be working to ensure that its prosperity continues, regardless of any U.S. disarmament. President Bush, in his recent State of the Union address, set some of those programs in motion.

"Out biggest challenge is to divert away from the Department of Defense work," Heffelbower said. "Conventional ammunition obviously is going down in volume."

That means expanding its security work to include other commercial projects. One of its six subsidiaries, Mason & Hanger National, is now developing a Fiber Optics Intelligence and Detection System, a state-of-the-art undetectable security and monitoring system.

The same company is studying and marketing a plasma energy system that uses plasma, or ionized gas, to transform solid, hazardous and medical wastes into environmentally sound byproducts.

The company is testing the process under which a plasma torch, which Heffelbower defined as "lightning controlled," melts materials with temperatures of between 3,000 and 5,000 degrees.

"It will liquefy them," he said. "Then when you tap the liquid it will solidify into essentially a glass. That's the way that we can get rid of some very difficult things."

Not only are those materials safe for landfills, but they also can be used in building materials, such as roadways.

The company has an experimental torch set up in Huntsville, Ala., and is in the process of designing one for a group of hospitals in California.

Heffelbower will continue to shepherd the company's goals from headquarters in Lexington, despite perpetual rumors that the firm will move closer to some of its facilities.

The company employs 5,000 people worldwide, 25 people at headquarters on Harrodsburg Road.

"There's no reason to move," Heffelbower said. "There are better transportation hubs to get into, but there are not very many better places to live than Lexington."

Good transportation is important, because Heffelbower is often traveling to the company's facilities across the country. But when he is at home, he spends time with his wife, Darlene, and their three granddaughters who live in Lexington.

His son, Darl, is manager of the Iowa Army Ammunition Plant, a post Heffelbower held 30 years ago.

But don't assume Darl is following in his father's footsteps.

"He's not that good," quipped Heffelbower. And every chance he gets, Heffelbower reminds Darl that his son took over the plant at age 40—four years later than his father did.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Charles H. Riemenschneider, a member of the staff of Senator LEAHY, to participate in a program in New Zealand, sponsored by the New Zealand Government, from February 7–16, 1992.

The committee has determined that participation by Dr. Riemenschneider in this program, at the expense of the New Zealand Government, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Jay C. Ghazal, a member of the staff of Senator PELL, to participate in a program in the United Arab Emirates, sponsored by the United Arab Emirates, from January 6–13, 1992.

The committee determined that participation by Mr. Ghazal in this program, at the expense of the United Arab Emirates, was in the interest of the Senate and the United States.●

LBCS TEACHER WINS PRESTIGIOUS AWARD

● Mr. D'AMATO. Mr. President, I rise today to congratulate Mrs. Veronica Danca who has been a teacher with the Long Beach Catholic schools for 13 years. Mrs. Danca is a shining star in the educational community who has dedicated her life to educating our young people. Mrs. Danca's many contributions were recognized when she was selected to be the recipient of the prestigious Better Beginnings Award by the New York State Department of Education.

Mrs. Veronica Danca will be receiving the Better Beginnings Award for her outstanding work with young students and her leading role in organizing and directing Long Beach Catholic school's kindergarten and prekindergarten programs. The Better Beginnings Award was created for those dedicated individuals who have committed themselves to creating better beginnings for schoolchildren in New York State. That is to say, the award is given to individuals who have exhibited a firm commitment to improving pupil's early educational experience.

Mrs. Danca is a long time Long Beach resident who will be receiving her award this month at Long Beach Catholic School in the view of the students, parents, community members, colleagues, and school administrators. I join with here family, friends, and well-wishers in praising her for her achievements. I would also like to extend my best wishes to Mrs. Veronica Danca for success in all her future endeavors. For Mrs. Danca represents the best of New York and I salute her.●

CAPE VERDIANS

● Mr. LIEBERMAN. Mr. President, I would like to call to the attention of my colleagues an important article from the Hartford Courant on the contributions that have been made by Cape Verdians to American society. Although Cape Verde is one of the poorest countries in the world, its peoples have played a major role in New England. The first wave of Cape Verdian immigration to this country occurred in the later part of the 19th century, when men came to work in New Bedford, MA, on whaling ships or in cranberry bogs. More came to my State, Connecticut, to build the Bulkeley Bridge around 1900. They have a driving force in the State's economy ever since then.

I want to pay a particular tribute to State treasurer Frank Borges. Frank arrived in this country at the age of eight, knowing no English. He pulled his way up and has gone on to be one of the most eminent political leaders in our State. His stewardship has been particularly welcome during Connecticut's tough economic times.

Mr. President, I ask that the following article be placed in the RECORD.

The article follows:

[From the Hartford Courant, Dec. 22, 1991]

CAPE VERDIANS WORKED HARD FOR SUCCESSES

(By Tom Condon)

A few years ago, I was at the same party as State Treasurer Francisco L. "Frank" Borges. I overhead some guy who'd never seen Borges before ask why someone with an Hispanic-sounding name looked like an African-American.

The boyishly handsome Borges hears this all the time. His ethic heritage is actually a mix of Portuguese and African cultures and a host of others, that come together in a group of islands off the west coast of Africa called Cape Verde.

Cape Verder, independent since 1975, is one of the poorest countries in the world, ravaged by drought and hunger. Yet the small Cape Verdian community here is one of the great success stories in Connecticut and southern New England.

Along with Borges, other Capes Verdians you may have heard of include Hartford Deputy School Superintendent Charles Senteio, prominent lawyers Joseph Moniz and John Rose, state Public Works Commissioner Bruce Morris, former Mental Health Commissioner, Dr. Audrey Worrell, former Corrections Commissioner Raymond, Lopes, Bridgeport's pro basketball star Charles Smith, Norwalk-born jazz pianist Horace Silver, baseball all-star Davey Lopes (whose sister is married to Hartford School Superintendent T. Josiha Haig) and many others.

If your ancestors came from poor islands such as Ireland, Sicily or others, the story sounds familiar. Cape Verdians had little work and almost no schooling when the islands were a Portuguese colony. So work and education became obsessions. When the families got to this country, the father took any job he could find and saw that the kids went to school and earned a better life.

Borges and Senteio's fathers were both laborers with almost no formal education. The five Borges kids are college graduates and three are lawyers. The five Senteio kids are college graduates and three have advanced degrees.

Senteio recalls once not wanting to do his homework. His father handed him a shovel.

"If you won't use your pencil," he said, "you use this pencil." Charlie opted for the one with the eraser.

Borges came to this country at the age of 8, speaking no English, only Criuolo, the island's language. The first years of school were exceedingly difficult, but there was no question he'd succeed. His father had him at the kitchen table doing homework every night.

The 10 volcanic islands that sit 400 miles off Dakar, Senegal, were uninhabited when the Portuguese sailors found them in 1500s. They became a way station in the slave trade, eventually home to sick or escaped slaves, who built homes high in the mountains to avoid recapture. A penal colony was established on Cape Verde, which drew criminals and political dissidents of all stripe from many European countries.

The result, said Moniz, is a people of every hue and color who are very clannish and family oriented. Even in this country, "we all know each other," said Borges.

The first major immigration to this country was in the latter part of the 19th century when men came to New Bedford, Mass., either to work on whaling ships or in cranberry bogs.

Many moved to Rhode Island to become longshoremen. More came to Connecticut at the turn of the century to build the Bulkeley Bridge. There are about 350,000 Cape Verdians in the islands and as many living in this country, most still in southern New England.

Moniz estimates that 15 percent to 20 percent of the island's economy comes from money American Cape Verdians send back to the islands.

Now that second- and third-generation Cape Verdians have made it, they'd like to nudge the U.S. to do something for their homeland. Cape Verde has never gotten much U.S. aid. Part of the reason, Borges thinks, is that most Cape Verdians work so hard they have little time for politicking.

Borges thinks it's time to convince Congress that the island's willing workers and key trade location make it an ideal site for development. They have the ear of Sen. Joseph Lieberman on this. Borges and Moniz are on the committee welcoming the country's prime minister to the U.S. next month.

But to really make themselves felt, someone—perhaps Borges—is going to have to get elected to Congress. And with Connecticut's Portuguese community and emerging Latino and African-American voting populations, Cape Verdian isn't a bad thing to be.•

NATIONAL FREE PAPER WEEK

• Mr. D'AMATO. Mr. President, I rise today to salute our Nation's free-community paper publishers for their continued contributions to the growth and success of local and State economies through their publications. Our free-community paper publishers form a strong and ever-growing industry that provides comprehensive buying information to millions of homes across the country each week. Celebrating the important role free community papers have played in providing information, news, and community support to their readers, I am proud to announce the seventh annual celebration of National Free Paper Week, March 15 through 21, 1992.

Free community papers blanket the country each week with more than 10 million door-to-door circulation across the country. Their contribution to the growth and success of local and State economies is immeasurable. By proclaiming National Free Paper Week, we all have the opportunity to give our free community paper publishers and their staffs the recognition that they deserve for their efforts.

I salute all those associated with the free community paper industry and urge my colleagues to support this fine industry by engaging in festivities honoring this essential industry.

Please accept my gratitude for all of your past efforts and I wish you continued success in the future. I am sure the week of March 15 will be filled with much jubilation.•

RURAL HEALTH CARE INITIATIVE

• Mr. KASTEN. Mr. President, I rise today to express my enthusiastic support for the Specter-Shelby amendment which was adopted last week as part of S. 1150, the higher education reauthorization bill. This amendment would specifically prohibit the implementation of the VA-HHS program known as the rural health care initiative.

The rural health care initiative is a joint venture by the Department of Veterans Affairs and the Department of Health and Human Services. This program would allow certain rural VA hospitals to serve nonveterans. VA hospitals participating in this program would admit and treat nonveteran patients.

While the Senate is looking at ways to improve the quality and delivery of veterans' health care, it is imperative that we do not lose ground in the process. I strongly believe that allowing VA hospitals to serve nonveterans would overburden the veterans' health care system. It is unconscionable to open up VA hospitals to nonveterans at a time when we allow eligible veterans needing care to be turned away.

Mr. President, the veterans health care system is being carefully scrutinized and its inability to serve all eligible veterans is being reviewed. It is essential that we do not imperil the future of the VA health care system by unnecessarily burdening it with outside demands. This amendment removes this threat by eliminating both the authorization and appropriation.

I am a cosponsor of both Senator SHELBY'S and Senator SPECTER'S bills to prevent implementation of the rural health care initiative, and I am pleased to support their bipartisan effort in the form of this amendment.•

SENATE JOINT RESOLUTION 255—DESIGNATING COMMODORE JOHN BARRY DAY

• Mr. D'AMATO. Mr. President, I ask that the text of Senate Joint Resolution 255 to designate September 13, 1992, as "Commodore John Barry Day," be printed in the CONGRESSIONAL RECORD.

The text of Senate Joint Resolution 255 follows:

S.J. RES. 255

Whereas John Barry, an immigrant from County Wexford, Ireland, volunteered his services to the Continental Navy and was commissioned as captain on October 10, 1775;

Whereas during the War for Independence Captain John Barry achieved the first victory for the Continental Navy while in command of the ship "LEXINGTON" by capturing the British ship "EDWARD", organized General George Washington's crossing of the Delaware River which led to the victory at Trenton in 1776, transported gold from France to America while in command of the ship "ALLIANCE", and achieved the last victory of the war for the Continental Navy, while in command of "ALLIANCE" by defeating the British ship "HMS SYBILLE";

Whereas during the War for Independence Captain John Barry rejected British General Lord Howe's offer to desert the Continental Navy and join the British Navy stating: "Not the value and command of the whole British fleet can lure me from the cause of my country";

Whereas after the War for Independence the United States Congress recognized John Barry as the premier American naval hero of that war;

Whereas in 1787 Captain John Barry organized the compulsory attendance of members of the Constitutional Convention in Philadelphia, thus ensuring the quorum necessary to adopt the Constitution and recommend it to the States for ratification;

Whereas on June 14, 1794, pursuant to "Commission No. 1", President Washington commissioned John Barry as Commodore in the new United States Navy;

Whereas Commodore John Barry helped to build and lead the new United States Navy which included his command of the U.S.S. UNITED STATES and U.S.S. CONSTITUTION (Old Ironsides);

Whereas in 1991 President Bush proclaimed September 13, the date of John Barry's birth, as "Commodore John Barry Day";

Whereas designating a day to commemorate Commodore John Barry would be important to United States Navy veterans, Irish-Americans, and to all the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 13, 1992, is designated as "Commodore John Barry Day," and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.•

ADL STUDY

• Mr. LIEBERMAN. Mr. President, Senator HATCH, Senator GRAHAM, and I would like to call to the attention of our colleagues a recent study by the Anti-Defamation League of B'nai B'rith on anti-Semitism in Eastern Europe. Prof. Deborah Lipstadt, the author of the study, points out that anti-Semitism is still a serious problem. In some cases, it has become worse with the emergence of ethnic conflicts and economic pressures. The search for scapegoats is always a danger under such circumstances, and we commend the national leaders in Eastern Europe who have spoken out about this problem.

I commend the ADL for commissioning this study. The ADL has always played an important role in fighting prejudice in any form in our country and abroad. This study is part of that fine tradition. I ask that it be placed in the RECORD.

The study follows:

[ADL International Report, Europe, Dec. 1991]

ANTI-SEMITISM IN EASTERN EUROPE: OLD WINE IN NEW BOTTLES

(By the Anti-Defamation League of B'nai B'rith)

INTRODUCTION

Anti-Semitism Under the Communists: There is a long history of anti-Semitism in Eastern Europe. After World War II, anti-Semitism was directly linked to a specific Communist policy of eliminating the infrastructure of Jewish life. Jewish, along with many other religious institutions, faced numerous government-enacted obstacles. They found it difficult if not impossible to attract younger members of the community because celebrating one's Jewish identity was considered a hostile and anti-Communist act. Contact with Israel and with Jewish cultural and religious institutions worldwide was proscribed. Virulent attacks on Israel and on Jews were often voiced by government bureaucracies. Judaism and Israel were linked as negative entities.

Jewish history suffered under the Communists as well. The Holocaust was an attempt by the Germans to annihilate the Jews. For all intents and purposes it succeeded in Eastern Europe. Under the Communists, it no longer was a "war against the Jews," but was presented as a terrible act of aggression by the Fascists against the Communists. It is not surprising that few non-Jews who came of age in the post-war era in these countries understood either the dramatic effect World War II had on Jewish life or why Jews remain so sensitive to any manifestation of anti-Semitism.

The treatment of the Jews by the Communist regimes must, of course, be analyzed within the context of the treatment of other religious and ethnic minorities. Under Communism, the pressure for assimilation was intense. The differences, both religious and ethnic, between the different groups—Jews as well as others—were ignored, hidden, or actively suppressed by government bureaucracies. Because Marxist-Leninist theory denied the legitimacy of ethnographic differences, these distinctions were simply declared to be non-existent.

However significant the impact of Communist policy on anti-Semitism, one cannot ignore the long prior history of anti-Semitism in these countries. This history has been well documented and historically analyzed. It has social, economic, political and religious roots. Under the Communists, it was not allowed open expression. One saw little anti-Semitism graffiti or read few openly anti-Semitism articles in newspapers unless they were government authorized. But this animus was never eradicated. The speed and ease with which it emerged after the fall of Communism is indicative of the fact that it had long festered under the surface.

Anti-Semitism After Communism: Much of contemporary anti-Semitism can be attributed to the socio-economic dislocation that has emerged since the demise of Communism. The often caustic debates over democracy, nationalism and the role of an opposition have added fuel to the fire and fostered the increase expression of anti-Semitism. But the entire issue would not have come to the surface had it not existed as an undercurrent suppressed by the previous regime.

Now that Communism had been eliminated, Jewish life has improved dramatically. It is ironic, however, that because of the more open expression of anti-Semitism, Jews in many Eastern European countries feel less secure. Many of the existing formal and bureaucratic obstacles which had prevented the free development of the Jewish community have been removed. Jewish schools, camps, youth groups, seminaries, and university-level Jewish studies programs have been established. Communal institutions which existed under the Communists in a limited and precarious fashion are flourishing. This is an exciting and positive development and has prompted some to project the possibility of a reconstruction of Jewish life in Eastern Europe.

But at the same time, popular anti-Semitism has now percolated to the surface. Anti-Semitic graffiti, articles, religious homilies, political slogans and vandalism have appeared in virtually all the countries discussed in this report. The sale of traditional anti-Semitic material, including the well-known forgery, the "Protocols of the Elders of Zion," has been reported.

This anti-Semitism is not a new sentiment. In many respects, it is the same as before but now, instead of emanating from official government circles, it is coming from other sources. On some levels, it is more frightening to Jews. It is far less predictable and sometimes more openly virulent. Before, one could attribute it to a hated government policy. Now it seems to be coming from one's neighbor. Moreover, it harks back to an age-old teaching: "The Jews are the cause of all our problems."

Equating Jews With Communism: In many of these countries, Jews are held responsible for the miseries suffered under Communism. Because of the anti-Semitism Jews endured at the hands of the Nazis, there were Jews in each of these countries who embraced Communism after World War II. Proportionately, far more non-Jews associated with the party, but this fact seems to be lost on the anti-Semites. The association of these individual Jews with Communism has resulted in a popular sentiment: "The Jews are responsible for the terrors of Communism." Because post-war generations have not been taught about the specific horrors suffered by the Jews at the hands of the Nazis, they often fail to understand why Communism seemed a welcome alternative to many Jews.

Moreover, because a tradition of anti-Semitism had conditioned the populace to see Jews as a unified entity, i.e. the Jews, they fail to differentiate between the actions of individual Jews and the fate of the Jewish community as a whole. This ingrained prejudice makes it rational to argue that because some Jews supported Communism, all Jews are responsible.

Anti-Semitism Without Jews: It is ironic that this has become such a significant issue in an area which is essentially devoid of Jews. The Jewish population of these countries is small. [It is infinitesimal compared to the pre-war population.] In many cases it is composed primarily of elderly retired Jews, many of whom are supported by philanthropy. Richard Schifter, U.S. Assistant Secretary of State for Human Rights and Humanitarian Affairs, commented in June 1991 in Bucharest that "only a negligible proportion of the population of the countries in this region is Jewish. But that * * * has not put an end of anti-Semitism in this part of the world." The prevalence of anti-Semitism in an area in which there are so few Jews is yet another indication of the irrational and prejudicial nature of this sentiment.

CATEGORIES OF ANTI-SEMITISM

The anti-Semitism which has emerged can be divided into a number of different categories.

Nationalist Anti-Semitism: Much of the anti-Semitism evident in recent months is directly related to the emergence of a new and sometimes malicious form of nationalism. Within a number of Eastern European countries different ethnic/national groups are vying for political autonomy. In those countries where there are a multiplicity of minority groups, this form of anti-Semitism has been particularly potent. Some of those involved in these struggles have used explicit anti-Semitism as a political tool. This has been particularly evident in Slovakia, Romania and Hungary.

In other instances, politicians have relied on more implicit expressions of anti-Semitism. They have publicly claimed that they have "pure blood" or have made a point of stressing that neither they nor any of their family members has any "Jewish roots." This tactic has been utilized by national leaders, members of the opposition and politicians engaged in election campaigns.

In depicting Jews as "other," as inherently "cruel," and as consciously working to thwart the desires of the majority population, they have drawn upon a long standing anti-Semitic stereotype. They have "demonized" the Jew. Even in countries where there are virtually no Jews this tactic has been employed. It sets up a familiar enemy upon whom a whole array of woes can be blamed.

The essential question is what kind of national identity will be forged, particularly in countries with a multitude of ethnic/national groups. Will it be narrowly defined or will it be more pluralistic?

Entrepreneurial Anti-Semitism: Another form of anti-Semitism which has been evident in a number of the countries we reviewed can be described as economic, competitive or entrepreneurial anti-Semitism. The change to a free market economy has caused severe economic dislocation in much of Eastern Europe. Moreover, ambivalent feelings exist among the population towards those who have achieved or seemed poised to achieve economic success due to new market opportunities. In certain areas, entrepreneurs, both Jews and non-Jews, have been condemned by the same people who called for an end to the Communist economic system. Anti-Semitic canards with economic overtones have been used. This kind of anti-Semitism builds upon traditional imagery which has long accused Jews of "money lending" and "usury."

Populist ["Peasant"] Anti-Semitism: (Though we call this "peasant" anti-Semitism, it seems to be as prevalent in the city as in the agricultural areas.) This form of deeply seated anti-Semitism exists among the general populace. It is rooted in both national and religious stimuli. It has been described as a form of "mob" anti-Semitism. It sees the Jews as the source of a broad range of problems. The Jew becomes the "mythical" enemy upon whom much can be blamed. It often exists among those with absolutely no contact with Jews but who are nonetheless convinced that their personal troubles as well as those of their country are the fault of "the Jews." This kind of anti-Semitism is easily stimulated by religious and national sentiments. This sentiment might be most responsive to a sustained educational campaign by religious and educational institutions. Parish priests and classroom teachers could do much to eradicate it.

THE FIGHT AGAINST ANTI-SEMITISM

A number of positive steps have been taken to counter the emergence of anti-Semitism. We briefly list below the prototypes of these actions and which, if properly sustained, could have a meritorious impact.

Condemnation by Political Leaders: Political leaders in many of the countries in Eastern European have spoken out forcefully against this prejudice. Some have primarily done so in their meetings with Jewish or Israeli representatives. While representatives of the Jewish community have appreciated these sentiments they have sometimes wondered if they are being expressed solely for their benefit.

There is a self-serving reason for the countries of this region to fight this prejudice. They realize, as one observer recently commented, that "anti-Semitism is bad manners" and makes them suspect in European circles. "People with bad manners will not be invited to sit at the table." [The New York Times, December 9, 1990.] Eastern Europeans are aware that anti-Semitism may well jeopardize the aid and trade agreements they wish to make with [Western] European countries.

Some political leaders, e.g. Czechoslovakia's President Havel, have not hesitated to condemn anti-Semitism as soon as it manifested itself. They have done so publicly and unequivocally to their own media as well as foreign journalists. This is the response that is likely to have a positive impact on the fight against anti-Semitism, for it is not the victims or their children who need to hear the condemnation; it is the perpetrators and their heirs who must hear it. Because this is such a deeply seated prejudice, they must hear it more than once.

Action by Political Leaders: In certain cases, verbal condemnation must be accompanied by action. Such a step was taken by Poland's President Walesa when he established a Presidential Commission on Anti-Semitism. This type of response, if it receives sustained support from the highest political levels, can be important. Otherwise, it will be relegated to the category of prestigious but meaningless actions, designed to placate foreign opinion.

Condemnation by Church Leaders: In a few notable instances, church leaders have individually and collectively condemned anti-Semitism as antithetical to Christian principles. The most effective example of this is the Polish Episcopate's letter of January 1991. But such steps can only be effective if they are transmitted to the grass roots of the community. If cardinals and archbishops condemn, then parish priests must also speak out and educate about the evil of anti-Semitism.

Education: Though there has been some discussion, no broad-based programs to educate about anti-Semitism have been established. A few individual efforts have been made. Since the younger generations have such a murky sense of the Holocaust, this is one area which must be included in any education program.

ABSENCE OF A DEMOCRATIC TRADITION

The emergence of post-Communist anti-Semitism has been exacerbated by the absence of democratic tradition. Even those who fought for the overthrow of despotic regimes are often unwilling to tolerate a political opposition. They find it difficult to countenance the fact that now that they have attained power there are those who continue to speak out against them. They have no familiarity with this aspect of the democratic system. Consequently, they will engage in tactics designed to delegitimize the opposition. One way of doing so is to accuse your opponent of being supported by Jews or "Jewish interest," but it is not only those in a position of power who have utilized these tactics. In a number of cases those in the opposition have used anti-Semitic canards to undermine elected officials.

When one hears anti-Semitic voices in Prague, Bratislava, Budapest, Bucharest, Warsaw or a myriad of cities, towns and villages, it must be understood that these are voices which are not only expressing hostility towards Jews but also towards the basic notion of European democracy. Adam Michnik, one of Poland's leading journalists, has analyzed this problem in Poland. His observations can, in fact, be applied to virtually all of the countries in the region.

"Anti-Semitism has become a code and a common language for people who are dreaming of a nationally pure and politically disciplined state—a state without people who are "different" and without a free opposition. * * * When anti-Semitic opinions are express[ed]. Jews are not the issue. * * * The question is whether there will or will not be * * * democracy."

Though the situation in each of these countries may differ in its details, the general profile is the same. There is an urgent need for government officials consistently to speak out against anti-Semitism. They must speak out in their own country, to their own media and not just when they visit Jewish leaders on trips abroad.

Educational programs to teach non-Jews about the insidious impact of anti-Semitism must be established. These steps must be seen to have a significance that goes beyond the Jewish population. It must be understood that, if anti-Semitism is allowed to flourish, there is serious doubt whether democracy will flourish. The two cannot long co-exist.

The fight against anti-Semitism is a critical part of the struggle for a democratic future. Only when those in positions of political, religious, and economic power recognize that these two struggles are intimately connected is there any chance that this age-old hatred can be eradicated and that democracy will be secure.

POLAND

There have been a number of anti-Semitic incidents in Poland during the past two years, including a September 1991 attack on the Warsaw Synagogue. But far more disturbing has been the appearance of anti-Semitism in political and religious circles. At the same time, there have been a number of very positive developments which, if emulated by other countries, could significantly ameliorate the problem.

During the Polish presidential campaign, Lech Walesa was severely criticized for using anti-Semitism for political purposes. He accused two leading members of Prime Minister Mazowiecki's campaign team of "hiding their Jewish origins." He also called on voters to support him because "I am a full-blooded Pole with documents going back to his ancestors to prove it." His rallies consistently attracted anti-Semites who yelled slogans such as "Jews to the gas." To the consternation of many Poles, Jews and non-Jews alike, Walesa never disavowed them.

Before the run-off election, Walesa admitted that he had been wrong to identify himself as a "full-blooded Pole." Subsequently he announced that a Warsaw Ghetto museum would be established near the Umschlagplatz, the square from which Jews were transported to the death camps. During his visit to the United States in March 1991, he met with various Jewish groups and spoke at a ceremony at the site of the United States Holocaust Memorial Museum. He repeatedly distanced himself from the anti-Semitic remarks he made during the presidential campaign. He acknowledged that he had blundered. "I stumbled on this. I crashed into anti-Semitism. * * * Twice I gave clumsy answers." He also denounced the resurgence of anti-Semitism in Poland.

His disavowals and condemnation were welcome but not new. He had often made these types of statements in meeting with Western Jewish leaders. Of far greater importance was his decision, announced shortly before his departure for the United States, that he planned to create a "permanent task force" to combat anti-Semitism. The council's tasks are to design educational programs for Polish youth which stress the close links between Poles and Jews; to submit to the Ministry of Education and the church proposals which promote better understanding between Poles and Jews; to react to incidents of anti-Semitism and to examine any problems that might arise between Poles and Jews. The Under-Secretary of State in the President's Chancellery was cited in "Gazeta Wyborcza" as explaining that "the council [was] an institutional expression of the President's commitment" to not "allow anti-Semitism to increase."

The council's inaugural statement stressed the interconnections between Poles and Jews. "With no other people have Poles been so strongly linked as with Jews. No other people helped so much to create our economic life, culture, literature and art." If the council continues to have the support of the President and is allowed to become a true policy-making body, it may well be in a position to take concrete steps to reverse the spread of anti-Semitism in Poland.

Other major developments took place in the religious sphere. In August 1984, a group of about a dozen nuns from the Order of Discalced Carmelites moved into the Theatergebäude at the site of Auschwitz I. They had obtained permission from Polish authorities and church officials but never had any dialogue about this move with members of the Jewish community, inside or outside Poland. Though Jewish and Catholic leaders agreed in February 1987 that the Auschwitz convent would become part of a new center of information, education, meeting and prayer . . . outside the area of Auschwitz-Birkenau camps, and that there would "be no permanent Catholic place of worship on the site of Auschwitz and Birkenau camps," two years passed and the convent did not more. In July 1989, Rabbi Avraham Weiss and a small group of demonstrators protested outside the convent. They were ejected by Polish workers.

In August 1989, at the shrine of the Black Madonna, Poland's holiest icon, Polish primate Cardinal Glemp issued a homily in which he accused Jews of "getting peasants drunk," "breeding Communism," and warned them not to speak to Poles "from a position of a people raised above all others." He also accused the demonstrators of intending to kill the nuns at the Auschwitz convent. He stated that "Jewish power lies in the mass media" and that the media are at the disposal of the Jews. His statements, which drew on traditional anti-Semitic imagery, deeply disturbed Jews and non-Jews in and outside Poland. Prominent non-Polish church leaders denounced Cardinal Glemp's anti-Semitic accusations. In September 1989, Sister Maria Teresa, the superior of the Auschwitz convent, is reported in a widely-cited interview to have stated that the Carmelites "are not moving a single inch."

The negative impact of the Cardinal's statements was followed by the issuance on January 20, 1991 of a letter by the Polish Episcopate strongly condemning anti-Semitism. The letter was interpreted as a sign that the Catholic Church in Poland had decided to oppose anti-Semitism. It was particularly encouraging because it came from the highest levels of the Catholic Church, and was signed by all the cardinals, archbishops and bishops at the 244th Plenary Conference of the Polish Episcopate. It was mandated by them to be read in all churches and chapels at Mass on January 20, 1991. Finally, and most importantly, the Episcopate's letter acknowledged the "greatness and variety of links between the Church, Mosaic religion and the Jewish nation." It noted that with "no other religion does the Church remain in such close relationship, nor does the Church find itself bound to any other nation so intimately." In addition, it conceded that, though many Poles rescued Jews during the Holocaust, "there were those who remained indifferent to this inconceivable tragedy." It "deplore[d] especially the action of some Catholics who contributed in any way to the death of Jews." On behalf of those Christians who "could have helped but did not," it asked "forgiveness of our Jewish brothers and sisters." It described anti-Semitism as "incompatible with the spirit of the Gospel." It described Poland as a "common Fatherland for Poles and Jews for ages."

It remains to be seen to what extent this letter will be followed up at the parish level and catechesis. Only if it filters down to local and community levels—to those with continuous and sustained contact with the population—will it have significant impact.

In 1991, immediately prior to his visit to the United States, Cardinal Glemp condemned anti-Semitism as "evil and . . . contrary to the spirit of the Gospel." He also retracted his accusation that Jewish demonstrators at the Carmelite convent intended to harm the Carmelite Sisters. "I understand seven members of the Jewish community who disturbed the peace of Carmelite Sisters in July 1989, to which I reacted in my homily on August 26, 1989, did not intend to kill the Sisters or to destroy the convent." He did not, however, retract any of the other accusations he made in his homily nor did he condemn anti-Semitism in Poland.

But these positive actions on the Church's part have been thrown into question by the emergence of a chauvinistic anti-Semitic electoral alliance which appears to be supported and encouraged by segments of the Church. This alliance was reported by the left wing liberal "Polityka."

"Invitations was sent out by the Church authorities for a conference to create a Christian electoral pact—the suggestion coming originally from the Christian Citizens Movement, the Christian National Union and representatives of parish and deanery communities."

According to the report, the Christian Citizens' Movement and the Christian National Union, both of which are regarded as anti-Semitic, have allied themselves with parish and deanery communities, the grass roots elements of the Catholic Church. In contrast, the Centre Citizens' Coalition, a combination of the Centre Alliance and the Citizens' Committees of Solidarity has distanced itself from the anti-Semitic Christian National Union and other similar groups.

One of the political parties known to have engaged in anti-Semitic accusations is the National Party. Its paper has accused Jews of being responsible for the troubles which have afflicted Poland.

But more disturbing than the actions of political parties, which have limited followings, are public opinion polls revealing how deeply rooted are anti-Semitic feelings in Poland. Surveys have found that 40 percent of Poles said they were unwilling to have Jews live near them. Similar studies were conducted in Czechoslovakia and Hungary where the response was 23 percent and 17 percent, respectively.

In April 1991, a poll taken in Poland revealed that one Pole in three believes that "the influence of people they believe to be Jewish is too great" in Poland. According to the survey, five percent admitted to being "extremely anti-Semitic," 10 percent were "strongly anti-Semitic," and 16 percent claimed to be "moderately or slightly anti-Semitic." The results are interpreted by the polling institute (CBOS) as "evidence of the existence of strong negative stereotypes," unrelated to the facts. An earlier poll taken before the presidential election in October 1990 revealed that 22 percent of Poles believed that "Jews are the ones with the greatest influence on the Mazowiecki government." The most strongly anti-Semitic statements were made by agricultural and industrial workers who typically had not advanced past grade school. There was no difference between city and country dwellers.

ROMANIA

Since the coup of December 1989, there has been a steady rise in anti-Semitism in Romania. A Romanian journalist recently observed that "everyone * * * feel[s] in danger now for political or ethnic reasons. Xenophobia and anti-Semitism are no longer under control." Anti-Semitic articles have regularly appeared in a number of newspapers. The charge is frequently made that Jews brought Communism to Romania and that the government is "overwhelmingly Jewish." Commemorations of the Holocaust have been marred by demonstrators. In certain towns, the celebrations of Jewish holidays have been cancelled because of fears of anti-Semitic attacks. Cemeteries and synagogues have been vandalized.

There are approximately 17,000 Jews in Romania, which has a total population of 23 million. Most of them are elderly. Fewer than one thousand are under the age of 30. "It's anti-Semitism without Jews," observed Petru Cluj, a journalist with Romania Libera, the nation's most prominent independent newspaper.

The tabloid press has produced numerous anti-Semitic stories, some of which have blamed Jews for the hardships Romania is enduring as its economy falters. The weekly newspaper Europa regularly publishes anti-Semitic articles including an attack against Israel Ambassador Zvi Mazel. Articles by its publisher, Ilie Neascsu, frequently contain citations of classic French, English, and German anti-Semitic literature. The paper published an article in May 1991 claiming that Jews "were occupying the majority of decision-making functions" in the government.

Another newspaper, Romani Mare, with a circulation of a half million, also published numerous anti-Semitic articles. In an article on the "Jewish problem" in April 1991, the editor wrote that he had nothing against Jews as long as they "leave this country alone." He complained that they held too many "key jobs" and that parliament and the Government were "full of Jews." The paper claimed that "While there are 20,000 Jews in Romania, 5,000 of them are in the country's leadership * * * the heads of TV and radio are all Jews, and in Parliament, it rains Jewish by the bucket. It's not their fault—domination has been their style since the dawn of time—but can't they let us breath a little, instead of trampling on us as they have been doing since 1947?" It also accused the Jews of "trying to disintegrate" the country. In subsequent articles, the expulsion of all Gypsies was also demanded.

Though the Government has condemned Europa's anti-Semitism, two of its principal ministers recently sent the publisher letters thanking him for giving ten percent of the weekly profits to the Defense and Interior Ministries. The letters were published in the paper. U.S. Assistant Secretary of State Richard Schifter described anti-Semitism as having "been injected into the political dialogue" in Romania in the "form of attacks on prominent personalities based on the ethnicity of their ancestors."

In July 1991, a visit to Romania by Jews from abroad, including Nobel Prize winner Elie Wiesel, to mark the 50th anniversary of anti-Jewish pogroms was marred by anti-Semitic outbursts. In addition, Romania's chief Rabbi Moshe Rosen has had death threats made against him.

On a visit to Israel, President Ion Iliescu disassociated himself from the outbursts of anti-Semitism. Both Iliescu and former Prime Minister Petre Roman have condemned many of the expressions of this hatred. But Iliescu has engaged in a strange kind of symmetry. In addition to attacking those who have engaged in anti-Semitism, he has attacked those who have condemned the anti-Semites. He has accused them of exaggerating the situation and sullying the reputation of Romania.

The tragedy of this development is exacerbated by the history of Romania's recent treatment of Jews. It was the one Eastern European country which never broke relations with Israel. Moreover, most of its 400,000 Jews were allowed to make "aliyah." In addition, Bucharest has served as a transit point for Soviet Jews in the process of immigrating to Israel.

The problem of anti-Semitism was aggravated in April 1991 when Marshal Ion Antonescu, the anti-Semitic dictator under whom Romania joined Hitler's invasion of the Soviet Union, was honored by the Romanian Parliament in a minute of silent tribute. Not one member of Parliament publicly opposed the motion honoring Antonescu, though a few did refuse to vote for it.

Mr. Iliescu has condemned Antonescu's rule, and the Government of Prime Minister Petre Roman denounced the resurgence of anti-Semitism. Nonetheless, in the weeks before and after the 45th anniversary of Antonescu's execution, newspapers and weeklies, including those which support the Government, published long articles praising Antonescu as a great patriot. Even when Mr. Iliescu disassociated himself from the tributes and condemned the praise for the former Hitler ally, most Romanian papers ignored his statements.

Despite this, his actions won the praise of Romanian and foreign diplomats, who saw his forceful and public position as a demonstration of "exceptional political courage in taking a stand against the broadening stream of assertive nationalism." In addition to Mr. Iliescu's condemnations, denunciations of anti-Semitism have been issued by Bogdan Baltazar, the government spokesman.

The manifestation of anti-Semitism in Romania can be traced, in part, to economic troubles, the political uncertainties caused by a weak government, and a population angry about the slow pace of reform. The profound social, economic, and political problems plaguing this country have proved to be a prime breeding ground for Jew hatred. There are dozens of political and ethnic groups who share no common ideology or culture. An ideology which attacks those who are "other," e.g. Jews, is one of the few things that unites the disparate groups. One cannot, of course, build a healthy democratic system which is solely predicated on the hatred of another group.

HUNGARY

Hungary is unique in that it has a much larger Jewish population than any of the other Eastern European countries. There are approximately 80,000 Jews in the country. There has been a resurgence in Jewish life since the fall of Communism. A wide range of Jewish activities take place on a regular basis, many of them held under the umbrella of the Association for Jewish Culture. The nation's first official memorial to Holocaust victims was recently dedicated. The synagogue is filled on major religious holidays. In addition to Jewish religious schools, a Jewish secular school which emphasizes tradition, history, and culture—as opposed to religion—has opened during the past year.

But anti-Semitism has also emerged. In the spring of 1990, during the national elections some leaders of the Democratic Forum, an anti-Communist political party, played upon Hungarian anti-Semitism. In a radio broadcast, Istvan Csurka, a prominent writer and a member of the Forum executive, urged Hungarians to "wake up." He warned them that a "dwarfish minority" was robbing Hungarians of their national culture and symbols and called Jews "rootless cosmopolitans." Other well-known Democratic Forum members have engaged in similar tactics. Though the leadership of the party has distanced itself, it has not condemned them. A prominent Hungarian sociologist acknowledges that the Forum, while not an anti-Semitic party, did "deliberately play the ethnic nationalism card of 'us' versus 'the strangers' during the campaign. And they won."

Szent Korona is the publication of the Christian National Union—Hungarian National Party and the National Federation of Hungarians. It publishes vehemently anti-Semitic articles which have described Jews as "cruel" and accused them of "occupying . . . leading position[s]."

Hungary's President Arpad Goncz has condemned anti-Semitism. During a visit to Israel, he announced that this country would "do everything to ensure that Jews . . . are able to feel at home, live in peace, security and dignified honor."

Though there have been various manifestations of anti-Semitism, there also have been positive signs. A poll, conducted in May 1991, found that while 12 percent of the population had negative views of Jews, 67 percent had favorable views. In addition, in April 1991, an Interparliamentary Council against antisemitism was formed. Many of the country's leading writers and intellectuals haves spoken out against anti-Semitism in a timely and forthright fashion.

About ten percent of Hungary's population belongs to designated minorities. They are entitled to certain privileges including special schools financed by the government. Some within the Jewish community would like the Jews to apply for this special status. Others object because it would be acknowledging what the anti-Semites have been claiming: Jews are "other." It would also deny the fact that the vast majority of Hungary's Jews are culturally Hungarian and do not consider themselves a national minority.

It is ironic that there has been such a resurgence of anti-Semitism in Hungary since so many Hungarians live outside of Hungary, where they are often denied schooling in their language and other cultural rights.

CZECHOSLOVAKIA

Anti-Semitism in Czechoslovakia as a whole has been peripheral to political developments. Jewish leaders have described it as "marginal" but it has not been totally absent. It has been particularly visible among Slovakian separatists. The Slovak National Party, a group with anti-Semitic overtones, won several seats in the Slovak National Council and the Federal Assembly. In March 1991, a crowd of approximately 7,000 Slovakian protestors at a rally chanted anti-Semitic, anti-Czech slogans and waved portraits of Nazi war criminal Josef Tiso. They also physically assaulted President Havel. During the rally, recordings of Tiso's speeches were broadcast. This is part of an effort to whitewash his role and that of Slovakia during World War II.

The occasion for the protest was the 52nd anniversary of the founding of the Nazi puppet state of Slovakia on March 14, 1939. Havel warned against nostalgia for an event that brought war and misery. This was not the first time President Havel had spoken out in a direct fashion to condemn anti-Semitism. Frantisek Miklosko, chairman of the Slovak National Council, who accompanied Havel on his visit, apologized for the behavior of the crowd.

Slovakian separatists have organized daily meetings and rallies in Bratislava in support of Slovakian independence. At such rallies, leaflets charging a Zionist conspiracy have been distributed.

In April, demonstrators protesting the resignation of Prime Minister Vladimir Machier complained that the political changes in Slovakia were the work of "Czechs, Hungarians and Jews." Demonstrators carried posters with vicious anti-Semitic statements.

In contrast to Slovakia, there have been very few, if any, expressions of anti-Semitism in Bohemia and Moravia.

As in other Eastern European countries, the racial/ethnic conflict in Czechoslovakia does not involve only Jews. Czechs and Gypsies have also been attacked. Skinheads have been using slogans such as "Gypsies to the Gas Chambers." Many of these groups are fiercely anti-foreign. They direct their animus also against Vietnamese and Cuban foreign workers. Currently, Jews are usually not the target of their violence.

Surveys of public attitudes towards Jews, Israel and the Holocaust in Czechoslovakia, Hungary and Poland demonstrate that 23 percent of Czechs and 34 percent of Slovaks preferred that Jews not live in their neighborhoods. Those who are disappointed by the pace of reform or the dislocation that accompanies the switch from a controlled to a market economy have looked for a scapegoat and found it in the Gypsies and Jews.

SUMMARY

In an area where anti-Semitism has been endemic for centuries, the 45-year experience with Communism has done little to change feelings about Jews.

Perhaps the most remarkable fact is that the virtual absence of Jews in most European countries, as a result of the Holocaust, has had so little impact on these feelings. Not only does there seem to be little understanding, even interest, concerning the genocide of the Jews. It's as if it hadn't happened. And anti-Semitism without Jews raises new questions about the persistence of age-old patterns of prejudice.

As Europe grows together, first in the West and eventually "from the Atlantic to the Urals," and as more people seem to see the trend, the importance of dealing with the old-new anti-Semitism becomes all the more critical. The unified Europe of the coming decades will be a new and exciting, not just as old frontiers and enmities diminish or fall, but also as old and destructive patterns of thinking about neighbors within countries are abandoned.•

STATE TAX ON RETIREMENT INCOME OF NONRESIDENTS, PROHIBITION

• Mr. D'AMATO. Mr. President, I rise today in support of S. 267 which calls for the limitation on State taxation of pension or retirement income. The problem addressed by this bill is taxation without representation, or more commonly known to you and I as State source income tax.

My State, New York, is one of the few States with this ridiculous tax. Men and women who have worked for years to save for their retirement, all the while paying local, State, and Federal income tax, are having at least some of their retirement income taxed by the State. The problem here is that many of these people no longer live in New York. I wish New Yorkers never left our great State, therefore making no one eligible for this tax and I did not have to stand here today and talk about it, but this unfortunately is not the case. People do move out of the State and for New York or any other State to tax these people's pensions after they have moved is simply unfair.

Mr. President, why should these people pay taxes to another State when they no longer receive the services and benefits these moneys are being used for? Not only will they not be able to use the roads, bridges, tunnels, or State parks, but they can't even vote in that State. They do not have the opportunity to choose their representatives in the State which is so eager to take their money. This sounds very familiar to the problem faced by our forefathers just before the American Revolution. This time the King of England is replaced by the State governments which have this tax.

I support this legislation for one reason—the State source tax is not fair. I urge the other Members of the Senate to join with me and become a cosponsor of this bill.•

A CLEAR CHOICE: OBSERVE THE ARTIFICIAL BUDGET AGREEMENT OR EMBARK ON AN INVESTMENT-LED RECOVERY

• Mr. WELLSTONE. Mr. President, I rise in support of legislation introduced today by Budget Committee Chairman SASSER on behalf of over 40 Senators, including myself, who believe it is long past time to take down the walls between defense and domestic expenditures in the 1990 budget agreement. Two weeks ago, I introduced an amendment, along with Senator WIRTH, which would have put the Senate on record urging that these walls be taken down. I believe it is long past time to draft legislation to provide short-term recession relief and long-term stimulus for economic growth. This bill will enable us to do that.

At first glance, this may appear to be a technical bill. But its passage, coupled with comprehensive economic recovery legislation, would have huge political and economic implications for all Americans. This is where we engage the fundamental debate over how to invest the peace dividend—a debate which should no longer be held captive to the artificial and unreasonable spending caps, timetables, or supermajority requirements of the budget agreement. This debate is made much more urgent by the weight of the deep and prolonged recession under which our people struggle, and by the administration's stubborn refusal to take advantage of the genuinely new post-cold-war opportunity to restructure and reprioritize Federal spending. Instead, in the wake of these changes, the Bush administration has claimed to be proposing $50 billion in defense cuts for the next 5 years. When examined closely, the true savings from even that modest proposal are going to be about $44 billion in budget authority and $27 billion in actual outlays over 5 years. Only $27 billion in actual defense savings over 5 years—and only $4 billion next year. Compare that to the over $1.4 trillion the administration plans to spend on defense over the next 5 years.

Before the collapse of the former Soviet Union, the Department of Defense had planned to reduce its budget by about 3 percent in inflation-adjusted terms to conform to the 1990 budget agreement caps. With the world completely transformed militarily and politically, President Bush has now made the momentous decision to increase that percentage by one point, to about 4 percent a year. Is this the best we can do? Of course not. In the face of a crumbling Soviet military machine, and economic troubles here at home, we can—and should—cut our defense budget by at least half over the next 5 years. But we must also consider the effect of such cuts on the families of workers in defense-related industries, and on military families. Any large-scale defense build-down must take into consideration the effects of such cuts on working people, and must include adequate funding for Federal programs to address the economic dislocation caused by such a build-down. I am firmly committed to such economic conversion, and to programs designed to address the economic dislocation which would likely ensue from these defense cuts.

Mr. President, this bill will not increase the Federal deficit by one penny. It will merely allow us to restructure our spending priorities in light of new post-cold-war realities, shifting military spending for programs now obsolete to domestic spending for roads, bridges, airports, job training, education, and health care. In this time of deep and prolonged recession that continues to buffet American workers, we can rush urgent aid to those in need and put our economy back on the road to economic recovery with this legislation and the economic investment it allows.

In the next decade, the real battles will be economic, not military. In a post-cold-war world, we must seize this opportunity to reinvest in our people, in our economy. This legislation is the first critical step in that process. Coupled with a major Federal program of economic investment in human capital and infrastructure, it will allow us to free ourselves from now irrelevant spending caps and timetables and invest in the American people. I urge my colleagues to support this legislation, and I urge Chairman SASSER to bring it to the Senate floor quickly so that we can address directly the urgent and growing needs of Americans in this painful recession.●

RESOLUTION ON GENERALIZED SYSTEM OF PREFERENCES

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of the Senate resolution introduced by the Senator from Minnesota [Mr. DURENBERGER]. This resolution calls upon the President of the United States to ensure that the generalized system of preferences [GSP] trade program is no longer used to fulfill foreign policy needs at the expense of the American dairy, wine, mushroom, and other industries.

This resolution calls on the President to terminate the current GSP proceedings for products considered and rejected in the 1990 GSP annual review; to reinstate his GSP determinations of May 3, 1991; and to reauthorize the GSP program without the discretion to waive the 3-year waiting period.

Mr. President, I am concerned that New York farmers and businesses will be harmed by the July 12, 1991, White House decision to consider, as part of the trade enhancement initiative for Central and Eastern European countries, a new generalized system of preferences. As part of this initiative, previously rejected GSP petitions involving these countries will be reviewed.

After full consideration by the Trade Policy Review Group [TPRG], the President on May 3, 1991, rejected petitions for inclusion on the GSP list of Goya cheese, prepared or preserved mushrooms, grape wine and screws and bolts of iron or steel. On August 8, 1991, only 97 days after the President's rejection, the Trade Policy Staff Committee announced that it would reconsider these articles.

This decision is extraordinary since the regulations normally require a 3-year waiting period before reconsideration of the same articles. This waiting period provides some assurance to domestic industries that the GSP system will not be abused.

While I support democratic reform and the emergence of a market economy in the former Communist regimes, I do not believe that these reforms should be placed on the backs of already hard-pressed American farmers and agribusinesses.

Since these items are not covered by quotas, they could be imported in large quantities in direct competition with our domestic products. The granting of duty-free status under GSP for these products would automatically extend the number of countries on the GSP list to 130.

Mr. President, because I am concerned about the re-review process and its impact on the wine, cheese, dairy industry, and other businesses in New York and the rest of the country, I will support this bill and I ask my colleagues to join me as cosponsors.●

TEACHERS CAN'T BE PROXY PARENTS

● Mr. DURENBERGER. Mr. President, I want to take this opportunity to offer my congratulations to Washington Post columnist William Raspberry for reminding us of the important facts regarding education reform. In a recent column, entitled "Teachers Can't Be Proxy Parents," Bill set forth some fundamentals that we must consider in the debate over education in America:

First, we cannot agree on the answers for needed reforms in cost driven public service systems unless we agree on what the questions are.

Second, our Nation's public education system still does one thing very well—educate—teach.

Third, until and unless we stop using our public education system to do what public health and social service systems should be doing, we cannot get back on track.

Fourth, parenting skills should be taught, rather than learned.

As we search for new policy approaches for children in America, the Caplan-Choy-Whitmore research that Bill refers to should be studied very seriously. The conclusion of that study is that in finding reasons for academic success, "family is the critical influence." We need to face this fundamental fact when we set out to respond to the modern problems of children, families, and schools.

Mr. President, I ask that Bill Raspberry's column be reprinted in the RECORD.

The column follows:

TEACHERS CAN'T BE PROXY PARENTS

(By William Raspberry)

There's a simple truth about schools that you won't find in any of those studies on school reform, school restructuring or educational choice. You won't find it in the reports detailing how poorly our children are doing in comparison with the children of Taiwan or Denmark or in the critiques of those studies.

I know only two places where you can find it: in your own head, where the knowledge has laid for as long as you can remember, and in the February issue of Scientific American magazine, where three researchers say it almost in passing.

Here it is: America's schools—unre- structured and unreformed—are doing a pretty good job of teaching children who come to school ready for learning.

Now if you and I know that, why is it that the people in charge of educational policy have such difficulty figuring it out? The reason, I suspect, is that, as with so many other policy matters, we tend to go searching for answers before we reach agreement on what the questions are.

For some of those who seek to influence school policy, the question may be how to eliminate the problems of race and caste in our society or how to raise the test scores of black and Hispanic children from poor families. For others, it may be how to get all of our children more interested in math, science, and English, or how to get smarter teachers into our classrooms. For still others, it may involve better preparation for entry-level jobs after high school, or improved college-prep courses or greater encouragement for girls.

With so many questions, it is not surprising that the only thing we can agree on is that something is wrong and needs to be fixed.

There's truth in that, but there is also truth in what you vaguely suspect and what teachers know beyond doubt: Much of what we talk about in our discussions of school failure has little to do with what happens at school and a great deal to do with what happens (or fails to happen) at home. For the youngsters who come to school ready for learning, the schools are working pretty well.

Nathan Caplan, Marcella H. Choy and John Whitmore, all of the University of Michigan, set out to explore reasons for the academic success of the children of Indochinese boat people in American schools. Their article is worth the effort to find it (their principal conclusion is that family is the critical influence: the value parents place on education, the sacrifices they are wiling to make—and to demand—for it, the direct involvement of parents in their children's school work).

But their research into the academic success *in American schools* of these refugee children leads them to a secondary conclusion: that "the American school sysem—despite widespread criticism—has retained its capacity to teach, as it has shown with these refugees. We believe that the view of our schools as failing to educate stems from the unrealistic demand that the educational system deal with urgent social service needs."

You know that, too. Even if you hadn't heard it from your children's teachers (which you probably have), you'd know it anyway: The more you require schools to feed children, protect them from drugs and violence, look after their health and coach them in safe sex, the less time and energy the teachers will have left for academics.

Say the authors: "The primary role of teachers has become that of parent by proxy; they are expected to transform the attitude and behavior of children, many of whom come to school ill-prepared to learn."

They do not dismiss the importance of the social services schools are called upon to deliver; they simply insist that we separate teaching from social services and at least consider whether it's reasonable to try to do both at school.

One social service that needs to become a matter of routine is that of teaching parents of young children how to get them ready for school learning. I'm talking about parenting classes conducted in recreation centers and church basements for those who already are parents, and I'm talking about classroom parenting courses for junior-high and high school students. Yes, mandatory—and for boys and girls. Most of them will sooner or later be parents, so they may as well learn something about being good parents.

That one innovation, widely instituted, might do more to improve school outcomes than all the reform/restructuring/choice recommendations that occupy so much of the educational debate.

That's not to say that the schools don't need improvement—perhaps even reform—only that there are some things that have to be done at home.

But you knew that.•

OUTSTANDING COMMUNITY PATROL

• Mr. D'AMATO. Mr. President, the success of any great service or program idea is dependent on those who are responsible for carrying them out. It is the great fortune of the Woodside area of Queens to have Patrolman Erwin Bustos on the beat looking out for the welfare of his community.

Patrolman Bustos provides a very visible patrol and is credited with being both responsive and communicative by the YOU Block Association. In the short time that Patrolman Bustos has been on the beat with the community patrol unit, he has won over the trust of residents, merchants, and the local block association. He responds quickly, follows up thoroughly, takes appropriate action, and communicates the results promptly. The results that Patrolman Bustos achieves instills great confidence by the community.

Patrolman Bustos is to be commended for his vigilence, availability, and willingness to assist and serve his community. It is the dedication and determination of individuals, such as Erwin Bustos, that make our streets safer and our world a little better. I wish to thank Patrolman Bustos for doing such a fine job. Efforts such as those provided by Patrolman Bustos make for resoundingly successful programs such as CPU, [Community Patrol Unit].•

THE ENERGY BILL

• Mr. WOFFORD. Mr. President, I am pleased that the Senate has moved to pass comprehensive national energy legislation early in this session of Congress. Ever since the first oil crisis nearly 20 years ago, I have considered it a national scandal that this Nation has not taken effective action to end our dependence on foreign energy sources. This legislation through its balance of increased conservation, increased energy efficiency and the rational development of our own resources can be an important first step toward energy independence. I commend the chairman of the Committee on Energy and Natural Resources, Senator JOHNSTON, for his tireless work in bringing S. 2166 to the Senate floor and securing its passage.

Energy independence begins with energy conservation. This legislation provides the framework for increased conservation starting with the energy practices of the Federal Government. Under S. 2166 the Federal Government will set an example in energy conservation by creating increased efficiencies in lighting, heating, ventilation, airconditioning, as well as through the increased use of alternative fuel vehicles.

The legislation also emphasizes increased energy efficiency. The Federal mortgage pilot programs will create more energy efficient homes from the ground up. The bill allows small businesses to participate in installing and servicing energy efficient equipment as the Nation begins to modernize and upgrade its homes, office buildings, and factories. What is more, the Department of Energy will play an active role in developing energy efficient standards and guidelines for industrial and residential use.

The bill also makes the Federal Government a leader in the development of cleaner energy alternatives. For my State of Pennsylvania the clean coal provisions in title XIV are especially important in developing a variety of energy sources and uses based in the United States. Coal is the Nation's most abundant energy resource. Technological developments during the last two decades have shown that coal can be used cleanly in a variety of ways. This legislation furthers the development of clean coal technology in both fuel and nonfuel use. It also encourages the development and export of American clean coal technologies.

Mr. President, this legislation also promotes the use of alternative fuels. The incentives and programs contained in S. 2166 to use a variety of fuels in industry and in motor vehicles will aid in cutting our dependence of foreign energy sources. By the year 2000, the Nation could well see over 4 million alternative fuel vehicles on America's roads. The alternative fuels programs in S. 2166 will drive new fuel technologies, create job opportunities in new and emerging industries, reduce America's dependence on foreign energy sources, and promote increased environmental protection.

This legislation also extends energy research and development efforts in a number of areas using both the resources of the Federal Government as well as private industry.

Beyond the coal research initiatives, S. 2166 places a high priority on the development of natural gas fuels, end-use technologies, and supply enhancement. These efforts will increase the effective use of natural gas, an abundant American energy source. Increased research will create a new generation of high efficiency heat engines as well as natural gas and electric heating and cooling technologies. These new technologies will, from their inception, have energy conservation and efficiency inherent in their design.

Finally, Mr. President, energy independence can become a reality not just a fleeting goal over coming decades. The programs in S. 2166 are bold, forward-thinking initiatives that rely on American energy sources and innovation. Energy security is intertwined with our national and economic security. This legislation provides the groundwork for the expansion of that security well into the next century, a benefit for all Americans.●

ORDER OF BUSINESS

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 12 noon on Wednesday, February 26; that, following the prayer, the Journal of the proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day; and that there be a period for morning business not to extend beyond 1 p.m. with Senators permitted to speak therein: With Senator GORTON recognized for up to 5 minutes, Senators REID and LEAHY for up to 10 minutes each, Senator LEVIN for up to 15 minutes, and Senator HOLLINGS for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 12 NOON TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 6:52 p.m., recessed until tomorrow, Wednesday, February 26, 1992, at 12 noon.

NOMINATIONS

Executive nomination received by the Secretary of the Senate after the recess of the Senate on February 21, 1992, under authority of the order of the Senate of January 3, 1992:

CENTRAL INTELLIGENCE

VICE ADM. WILLIAM O. STUDEMAN, U.S. NAVY, TO BE DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE, AND TO HAVE THE RANK OF ADMIRAL WHILE SO SERVING.

Executive nominations received by the Senate on February 25, 1992:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

WILLIAM BAILEY, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1996, VICE HELEN FRANKENTHALER, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY, WITHOUT SPECIFICATION OF BRANCH COMPONENT, AND IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED IN ACCORDANCE WITH ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION OF THE UNITED STATES. THIS APPOINTMENT IS VICE EXISTING APPOINTMENT AS A BRIGADIER GENERAL OF THE ARMY NURSE CORPS.

To be permanent brigadier general

BRIG. GEN. CLARA L. ADAMS-ENDER, [redacted] U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING PERSONS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be colonel

STEVEN A. TASK [redacted]

MEDICAL CORPS

To be lieutenant colonel

DAVID A. CROSS [redacted]

THE FOLLOWING REGULAR OFFICER FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE.

LINE

To be lieutenant colonel

OLIS L. LEWIS, JR. [redacted]

THE FOLLOWING PERSONS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE.

RETIRED RESERVE—JAG

To be lieutenant colonel

BERT R. REED, JR. [redacted]

LINE

To be lieutenant colonel

JOSEPH A. AHNEW [redacted]
ROBERT E. ANDREWS [redacted]
JACK E. BERLIN [redacted]
WILLIAM R. MOOR [redacted]

THE FOLLOWING OFFICER FOR RESERVE OF THE AIR FORCE NONEXTENDED ACTIVE DUTY PROMOTION, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 8376, TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

To be lieutenant colonel

PAUL G. ECHOLS [redacted]

THE FOLLOWING OFFICERS FOR RESERVE OF THE AIR FORCE NONEXTENDED ACTIVE DUTY PROMOTION, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 1552, TITLE 10, UNITED STATES CODE.

LINE

To be lieutenant colonel

ROBERT W. ANDERSON [redacted]
DAVID M. DECKMAN [redacted]

HOUSE OF REPRESENTATIVES—*Tuesday, February 25, 1992*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, give us the gift of hope for the opportunities for today and a faith for the concerns of tomorrow. May Your good grace, that is new every morning, be with each person as they face the decisions that affect their lives and the lives of those they love. We are grateful that we are surrounded by those who support us and give us strength, whose love and affection fills the heart with joy, but above all, we give You thanks for Your peace and hope that passes all human understanding. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will recognize the gentleman from North Carolina [Mr. BALLENGER] to lead us in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PRESIDENT DECIDES TO EMULATE POLICIES OF PATRICK BUCHANAN

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, I appreciate this opportunity to address the House as we start what I think will be a momentous week. It is clear that this is a week in which we are going to attempt to debate the economic future of this country as we consider the President's proposals for economic revitalization.

However, we should also do it with an eye toward reality. This is not really that debate. It is a political debate, generated by the President's own problems within his own party.

The reality is that we are not really here to discuss in a bipartisan manner the direction this country should take to regenerate itself. Rather, we are here to serve as a whipping boy for the failure of the administration's policies over the last 3 years.

The President, when he lost that primary in New Hampshire, had two choices: He could reach to our side of the aisle for cooperation and conciliation, or he could attempt to become what his opponent is. He has chosen that, and as long as Pat Buchanan is in the primary process, Pat Buchanan's policies, unfortunately, will unfortunately govern this Nation, and this Nation will suffer as a consequence.

FINALLY LIBERALS ASK FOR TAX CUTS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, it would now appear that many Members across the aisle finally realize that tax cuts are a necessary function of our national economic recovery. It is generally agreed that tax cuts are indeed essential to promote economic growth and provide much needed tax relief for working families. Without a tax cut for the working families of this country, the economy is surely due to fall into an even more severe tailspin.

Any Member who wishes to hold fast to the 1990 budget summit agreement and to the flawed economic models put out by the democratically controlled Congress is only promoting future economic disaster. As was predicted by some of us, the tax increases had a damaging impact on economic growth. Estimated tax revenues have indeed proven to be lower, not higher, by up to $130 billion over the next 5 years. Budget deficits have become bigger—not smaller—doubling from an estimated 5-year cumulative deficit of about $527 billion to more than $1 trillion.

The United States must abandon the 1990 budget deal; it's a bad idea, with little to offer in terms of economic recovery. Additionally, today is the 24th day until the March 20 Presidential deadline for enacting his budget proposal.

Yes, it is true that budget deficits are bad, but plummeting economic growth and family income along with increased unemployment are surely worse.

TRUTH IS STRANGER THAN FICTION

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, when I was sitting here in the House Chamber several weeks ago, listening to President Bush deliver his State of the Union Message, I looked up at the rostrum and a funny thing happened. I didn't see George Bush. All I could see was Dana Carvey, the fellow who portrays him on Saturday Night Live.

What we had standing here before us was a caricature of the President. Sure enough, President Bush said he supported a middle-class tax cut but the caricature was saying, "Don't believe me."

And you know what? I didn't believe him. And lo and behold, less than 2 weeks later, President Bush walked away from the middle-class tax cut that he advocated during the State of the Union.

This week we have a clear choice. We can vote for the middle-class tax cut, which is in the Democratic version of the tax bill, or we can vote against the middle class and with the President of the United States. It is that simple.

Once again, truth is stranger than fiction.

A $93 BILLION TAX INCREASE

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, later this week, we will vote on different versions of economic growth packages.

Despite all the similarities in the initiatives, don't be misled. The Democrat alternative proposes $93 billion in permanent tax increases over the next 6 years. In contrast, the President's plan does not raise taxes by $1.

Furthermore, the President has already warned the Democrat leadership that he will veto their $93 billion tax increase alternative if it reaches his desk. Why anyone in this Chamber would want to be on record as having supported a $93 billion tax increase bill, only to have it fail down the road, is a mystery to me.

Perhaps the proponents of the Democrat alternative have lost sight of the goal. Or perhaps they are nearsighted with vision which only reaches to 1600 Pennsylvania Avenue.

□This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ACTION MUST BE STARTED ON A TAX FAIRNESS, ECONOMIC REVITALIZATION PROGRAM

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the General Motors announcement of yesterday demonstrates very clearly that economic ills stalk this land. General Motors lost $4.5 billion in 1991, will have to close 21 manufacturing facilities by the mid-1990's to hope to regain profitability, and will have halved by 1995 its salaried and hourly work force.

Just over the weekend back home the Courier Journal ran a poll which suggested that 81 percent of Kentuckians felt that the national economy was unhealthy, and that they would have a worse personal financial condition 1 year from today than they have today.

Mr. Speaker, people are demanding action. This week the House should pass the Democratic version of the tax plan, even though imperfect, to get the ball rolling so that we can go to conference with the other body and produce an even more effective tax fairness and economic growth package that will in fact put people back to work again.

The people will have very little patience with either the President of the United States or with the Congress unless we take action starting this week.

MOVING EXPENSE DEDUCTION

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, the Democrat's tax bill has precious little in the way of job creation proposals, in fact it even has a proposal to increase taxes on a big group of people taking new jobs.

Right now if you move to begin work at a new place and the move satisfies a 35-mile test, the moving expenses are deductible. Ways and Means Committee Democrats offset tax breaks for narrow constituencies by voting several times to increase the mileage test. By the time they finished, the test had gone to 75 miles. The Democrats will be taking $500 million from people finding new employment. I guess that is the Democrats' idea of a jobs bill.

☐ 1210

THE RESULTS OF REPUBLICAN POLICIES

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, let me read to you from the Philadelphia Inquirer back in October 1991 in an article they did.

> Caught between the lawmakers in Washington and the dealmakers on Wall Street have been millions of American workers forced to move from jobs that once paid $15 an hour into jobs that now paid $7 or less. If, that is, they aren't already the victims of mass layoffs, production halts, shuttered factories and owners who enrich themselves by doing that damage and then walking away.
>
> As a result, the already rich are richer than ever; there has been an explosion in overnight new rich; life for the working class is deteriorating, and those at the bottom are trapped.
>
> And for the first time in this century, members of a generation entering adulthood will find it impossible to achieve a better life style than their parents.

This happened in the 1980's. This happened because of the Republican policies and some of the failures of this body.

We have a chance in the next few days to reverse that, to forget about all the economists, to forget about all of the people that have given us advice and do what we know is right.

As Democrats, we know it and we hope the Republicans will join us. Give back this country to the middle class. Promote job growth. Promote a fairer Tax Code. Promote the things that made this economy great.

That is what is in this tax bill that the Democrats are promoting, and that is what will benefit the country.

I urge my colleagues to vote for doing what is right, what we think is right for a change.

DEMOCRAT ALTERNATIVES TRANSLATE INTO HIGHER TAXES

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, make no mistake about it. A vote for the Democrat alternative is an open invitation to higher tax rates in the near future.

The Democrat alternative provides a temporary, 2-year tax credit for many workers. But what happens after those 2 years. Will Congress let individual tax relief expire? Unlikely, most would say.

If the tax credits are made permanent, then additional tax increases will be needed. The Joint Committee on Taxation estimates that if the break points on the 35-percent bracket are adjusted to make the tax credits permanent, the new tax thresholds would begin at $64,000 of taxable income for couples, and $38,400 of taxable income for singles. Those thresholds for the 35-percent tax rate are below the break points for the current law 31-percent rate.

The Democrats' temporary feel-good plan only promises that tax increases on larger and larger portions of the middle class are just around the corner.

A CALL FOR SUPPORT OF THE DEMOCRATIC SUBSTITUTE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, for more than a year, we have stood here and promised working, middle-class Americans some relief from taxes—relief from the treatment they received during the 1980's and relief from the pain of a recession now in its second year.

Now is the time to make good on our pledge. If we don't pass a bill this week, it won't get done. The people I talk to in shopping malls, in grocery stores, and on the streets in my district want Congress to act now, but they don't believe we will. They are used to the rhetoric, and they expect inaction.

There is so much to be gained by passing this bill. It will provide real tax relief and incentives for economic growth. But more than that, it will restore the faith of the middle class in our ability to understand their concerns and respond to their problems. It will keep our promise to restore equity to the tax system; and it will show that our concern is deep enough that we can set politics aside.

Discussion and debate are important, but they only carry us so far. The measure of our success lies in the action we take to relieve the suffering of those who look to us for help. Now, more than ever, the sources of their support are limited. The middle class will surely get no relief from the White House. The President has turned his back on them. They can only look to Congress.

The country is waiting. We have everything to gain by passing this bill, and the trust of the American people to lose if we do not. Support the Democratic substitute.

THE 97-PERCENT BUDGET SEQUESTER

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, a vote for the Democratic leadership tax bill is also a vote to cut Medicare and effectively eliminate the programs held hostage in the paygo sequester system.

How? Because the fiscal 1992-93 revenue loss in the Democratic plan is so large it requires a 97-percent across-the-board cut for the Commodity Credit Corporation, AFDC work programs, veterans education benefits, the social services block grant, and others.

While the tax bill purportedly delivers fairness to the disadvantaged with one hand, it takes away low- and middle-income benefits with the other machete swinging fist. Medicare and student loans have limited protection, but provider payments will be cut by $3.8 billion and student loan interest rates increased.

You will not see this fairness issue on any charts from the other side.

We know the bill has a provision to nullify the budget agreement. If the financial markets thought Congress was abandoning all budget discipline, the increase in interest rates alone would choke any economic recovery. The budget waiver alone means the bill will be vetoed.

So, the Democratic leadership should face up to the truth—their bill can either be unfair or unfinanced.

ISRAELI LOAN GUARANTEES

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, yesterday the Secretary of State finally dropped the other shoe and announced that the administration would establish a direct linkage between the provision of loan guarantees for Israel and cessation of settlement activities on the West Bank and in Gaza.

This is a total reversal of the policy that the President himself enunciated last summer, when, asked whether the loan guarantees should be linked to settlement activity, he said, "I don't think it ought to be a quid pro quo."

It is pathetic how quickly this administration forgets the recent past.

One year ago, the Israelis were absorbing Scud missile attacks, sitting on their hands at the urging of the American Government, to preserve the allied coalition versus Saddam Hussein.

At the same time, the Jordanians had leaped into Saddam Hussein's arms, were breaking the U.N. embargo and supplying his country with desperately needed materials, and cheering his Scud attacks on Israeli civilians and American servicemen in Saudi Arabia.

How can we forget that?

But now, the Secretary of State says Israel won't get the full loan guarantees—which are vital to the absorption of Soviet Jewish refugees and which will cost us nothing—if she doesn't totally freeze settlement activity. And yet, he makes a "plea for Jordan assistance"—real taxpayer dollars in aid for Jordan.

Where are the conditions linking such aid to Jordan's ending the Arab boycott, its state of war with Israel, and its flouting of the U.N. trade sanctions on Iraq?

Frankly, Mr. Speaker, I am getting tired of our administration turning a blind eye to these obstacles to peace on the Arab side while obsessing on Israeli settlement activity.

Such an unfair, tilted policy promises to cripple the peace process. It is sending a perfectly clear message to the Arab parties—that we're keeping two sets of books and they don't have to negotiate, compromise, or make any concessions to Israel, because America will deliver Israel hogtied and powerless to them.

SUPPORT THE REPUBLICAN PLAN, H.R. 4200

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, the single most important task before this Congress is to get the economy moving. To that end, tomorrow we will be considering on the House floor two competing plans. The Republican plan, H.R. 4200, is a lean, mean 95-page jobs bill. It provides targeted incentives: targeted to encourage investment in machinery and equipment now so we will be a stronger, more competitive Nation in the future; targeted to encourage people to invest in housing now so we will build stronger communities for the future. These are the kind of targeted incentives that can get the economy moving because they incentivize the right kind of buying with ripple effects. Furthermore they are the two most important proposals that our hearings in December before the Committee on Ways and Means said could turn the economy around.

In contrast, the Democrats bill is 629 pages, a grandiose proposal that increases the deficit by many billions of dollars. It is exactly the kind of bill that we were warned over and over again in our December hearings would slow the economy and cost jobs. People in Connecticut are desperate. They cannot stand a slowing of the economy and losing yet more jobs.

ANNOUNCEMENT OF RETIREMENT OF THE HONORABLE WILLIAM LEHMAN

(Mr. LEHMAN of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN of Florida. Mr. Speaker, the country-western star Kenny Rogers has a song about a poker player that says:

> You have to know when to hold them; you have to know when to fold them; you have to know when to walk away and know when to run.

Mr. Speaker, one also has to know when not to run.

As Calvin Coolidge said in the 1920's when urged to run for another term, he simply said, "I do not choose to run."

Mr. Speaker, I do not choose to run in 1992 for reelection. I do this with my own free will and without pressure, without concern about reapportionments, without concern about opposition.

Up to this very moment, I had not made up my mind on this matter. In fact, I was determined to run for reelection. But there comes a kind of a revelation, a self-realization that I cannot meet the standards that I set for myself in how I wanted to perform in this body. I am no longer sufficiently capable. I no longer have the aggressiveness and physical ability to do the job, to meet my own standards.

And that is why I decided not to seek reelection.

□ 1220

This is a very physical job to operate in this body. I do not have the physical capacity that I used to have.

I want to ask forgiveness of my family, my staff, and my supporters, because I have not told anyone about this decision until this very moment. I really feel badly about the way I am doing this, but it is the only way I could do it. This is a hard decision. It is the only one I can make at this time.

I guess one way to look at it is for 10 years in this body, as I managed the appropriations bills for the Department of Transportation and related agencies, I have heard in the committee and in the subcommittees and on the House floor "Good job, Mr. Chairman; good job, Mr. Chairman." I love that statement better than anything in the world, but 2 years from now I do not want that same statement made, not out of sincerity but out of sympathy. I could not handle that. That is why I am making this decision at this moment.

It has been a wonderful experience. I have the choice to run or not to run. Either way it was a bad decision, so I am trying to settle for the best I can.

I want to thank everyone here, the staffs and all the Members, especially members on the subcommittee, for all they have done for me during all these years. My own staff and the staff on the subcommittee and throughout this body have been wonderful.

I feel bad about my supporters in Florida and elsewhere, because I have not intentionally misled them. I truly was running flat-out for reelection.

I make this speech with reluctance and a great deal of sadness. I hope I find some peace and tranquility after the rest of this year. I am going to be here for awhile yet, and I will do the best I can. I'm sure that will be good enough for the rest of this year. Thank you very much.

A SOUND ENVIRONMENTAL POLICY NEEDED FOR OUR OCEANS

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, today the House will consider H.R. 2152, a bill aimed at ending driftnet fishing in international waters.

The needless carnage inflicted by a 30-mile long drift net is an unnerving sight. Alongside thousands of food fish, there hang the ensnared, drowned bodies of air-breathing animals: sea birds, rare sea turtles, and dolphins.

These animals have no commercial value. Their slaughter is a cruel waste, and an abuse of the ocean, which belongs to everyone.

Driftnet fishing represents the indiscriminate and uncontrolled misuse of a commercial natural resource. Fish are an important food source, but they should not be harvested without regard for the survival of the rest of the creatures in the ocean.

The ocean and the animals in it belong to all of us, and we all have a responsibility to protect those resources while using them. All nations should do this. But they do not.

So we must take the lead, and bring sound environmental policy to our oceans, while penalizing countries foolish enough to ignore this critical need.

CONGRESS DEBATES AID FOR THE MIDDLE EAST WHILE AMERICA'S MIDWEST SUFFERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, once again while Congress debates more money for the Middle East, the Midwest keeps getting kicked right in the teeth. General Motors announced they will lay off 15,000 American workers. Who is kidding who around here? It is not the quality of the cars, it is not the work ethics, the bottom line is the Constitution says Congress shall regulate commerce with foreign nations. The truth is that does not happen. Congress regulates American business but allows low wage unregulated foreign nations, even Communist nations, to have an advantage, taking our jobs and our dollars.

Wake up, before it hits everybody. It is evident the leading growth industry in America is narcotics. I plan to challenge constitutionally America's trade and tax policies because I firmly believe after seven years this body and the White House will do nothing about American jobs and American competitiveness. This is nothing more than a charade on the American people.

HOME BUYERS TAX CREDITS

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, well, it seems as though the Democrat leadership is catching on. After one committee caucus and two trips back to the drawing board, the Democrat alternative is looking more like what the President proposed nearly a month ago. Simply put, the Democrat alternative contains six of the seven economic growth proposals contained in the President's plan.

Regretfully, however, the Democrat alternative drops one of the most popular features of the President's bill—the provision which would give first-time home buyers at $5,000 tax credit. It's surprising that the Democrat leadership does not want to help individuals and couples realize their dreams of home ownership. But then again, had the Democrat alternative adopted the President's homebuyer's credit, their economic plan would look just like the President's.

Let us see if the proponents of the Democrat plan can explain to their constituents that it was a matter of pride, or better yet, is it not time that we all stopped playing games and started working together to put Americans back to work?

RECOGNITION OF THE EFFORTS OF THE AMERICAN RED CROSS IN PENSACOLA, FL

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, I rise today to recognize the celebration of the 75th anniversary of the American Red Cross at Pensacola Naval Air Station in my district in northwest Florida, the chapter in the city of Pensacola.

From 1917 to today, from World War I to Operation Desert Storm, Red Cross professionals and local volunteers have provided comfort and assistance in time of natural and personal disaster and a helping hand and heart during times of national need.

Pensacola NAS is also home to the second oldest organized Red Cross volunteer group in America. In the early 1930's, women of northwest Florida lent their time to the Pensacola Naval Hospital. And today men and women in the Red Cross volunteer program augment hospital staff in any way that is needed.

President Bush has said that "from now on in America, any definition of a successful life must include serving others."

Mr. Speaker, the tireless volunteers of the American Red Cross in Pensacola, FL have known that credo for three generations. The men and women, volunteers and staff have been illuminating points of light for 75 years. My congratulations to all of them.

WHAT IS BAD FOR U.S. AUTOMOBILE COMPANIES IS ALSO BAD FOR THE U.S.A.

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, yesterday General Motors announced record losses. In that respect it joined Chrysler and Ford. In this case what is bad for General Motors and Chrysler and Ford is indeed bad for the USA.

The Members will recall that some years ago when we strongly encouraged, to use the term loosely, Japan to impose various restraints on the export of their automobiles to the United States, the first response of the American auto industry was to raise prices.

□ 1230

Instead of using that opportunity to capture market, they raised prices, and they failed to respond adequately to what much of the American public wanted in a quality, fuel-efficient automobile.

Several Japanese automobile companies have announced their intention to raise their auto prices so as to preserve their profit margins. And what was the response of at least two of the Big Three in the American automobile industry? No, it wasn't to hold their prices steady and recapture a larger share of the American market; it was to likewise raise prices and miss another opportunity. This Member implores the Big Three to rethink this matter.

Mr. Speaker, the American auto industry is too important to this Nation to ignore despite the fact that they may be inviting that kind of treatment. Therefore, this Member is willing to set aside his antiprotectionist sentiments and give some protection to the American auto industry to help them to recover their profitability and strength if they meet certain conditions: First, executives making over $1½ million a year in salary and benefits must cut them by at least one-half; second, labor must agree to freeze their wages and benefits; third, management and labor must work cooperatively in the auto industry; fourth, the Big Three must not raise their unit prices, but instead understand that this is the time to hold their prices to increase their market share and overall profitability. In short, they must take advantage of this opportunity to sell more cars.

With agreement to those kinds of conditions, yes, we ought to help the American auto industry in its hour of need and preserve a crucial foundation sector in the American manufacturing industry.

ENACT FREEDOM OF CHOICE BILL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, for anyone who wonders what America is going to be like when Roe versus Wade is rolled back by the Supreme Court, I ask them to look across the North Atlantic and look at Ireland. What a tragedy we see there when a very young girl has been impregnated by the father of one of her friends and yet the Government has ordered her to have the baby.

The Government gets its choice. The parents do not get their choice. The young girl does not get her choice. The Government wins. The Government says, "We control your life."

If that is what you like, that is where we are headed. I certainly hope this body does everything it can to enact the freedom of choice bill in the United States so we keep Roe versus Wade the law of the land rather than revert to the chaos we now see in Ireland where the Government steps into family homes and makes those decisions for individuals.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Before the gentleman proceeds, the Chair would advise our guests, who we are happy to have with us, that they are to refrain from taking part in any of the actions on the floor of the House, showing their approval or disapproval thereof.

CAMPUS SEXUAL ASSAULT VICTIMS' BILL OF RIGHTS ACT

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, last May I introduced H.R. 2363, the Campus Sexual Assault Victims' Bill of Rights Act. As of today, this measure has received the strong bipartisan support of 176 cosponsors.

This legislation is of vital importance to the thousands of women who are raped on our college and university campuses each year. Mr. Speaker, campus rape victims deserve to be informed of their legal rights. And whether the rape victim chooses to pursue the matter through campus proceedings or the court system, campus officials should provide them reasonable assistance in exercising their rights.

Mr. Speaker, knowing that one in four college women will be the victim of rape or attempted rape during her college career, Congress must take strong action to ensure victims their rights.

Last week, the Senate—without opposition—passed an amendment to the Higher Education Reauthorization Act which is based on the Campus Sexual Assault Victims' Bill of Rights Act.

Mr. Speaker, let us bring the higher education reauthorization bill to the floor as soon as possible so that we can join the Senate in taking this much needed action to protect campus sexual assault victims.

INTRODUCTION OF RESOLUTION COMMEMORATING VETERANS OF THE PACIFIC WAR FROM THE PHILIPPINES

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, last night a very good TV program dealt with Yorktown. I do not know how many people have thought about it, but more French soldiers died at Yorktown than American soldiers.

Yesterday I introduced a resolution to commemorate the veterans of the Pacific war from the Philippines who were on our side in that activity. I hope Members of Congress will join with me in commemorating the fine deeds of the Filipinos in helping us to bring about peace in the world at that time.

Mr. Speaker, that is the reason why I am on the floor today.

TRIBUTE TO HONORABLE WILLIAM LEHMAN

We have just heard from the lips of a very fine American statesman the fact that he is not going to run next time because of his health.

BILL LEHMAN is one of the most outstanding Members of Congress. He has made a great record, and we are all very deeply obligated, the whole country is deeply obligated, to him for the things he made possible for our country. It is with great regret that I see him retiring.

He certainly has earned the accolades of all Americans.

THE DEMOCRATS' TAX BILL AND THE CREDIT MARKETS

(Mr. GRADISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRADISON. Mr. Speaker, tomorrow we are going to consider tax proposals to stimulate the economy. It would be regrettable indeed if the Democrats' bill, H.R. 4287, were to pass. While the focus will be on the tax aspects of this bill, it is essential that we not overlook its fiscal impact, specifically the damage it could do to our struggling economy.

Section 2 of the Democrats' bill would blow up the Budget Enforcement Act by directing OMB to ignore any change in budget authority, outlays, or receipts resulting from this piece of legislation. By even considering H.R. 4287, we are sending precisely the wrong signal to the credit markets. The Democrats' bill will increase Federal borrowing by $30 billion over the next 2 years. No wonder we have already seen in recent days a disconcerting rise in long- and short-term interest rates, which is just what we do not need for the recovery. I appeal to my colleagues not to lose sight of the objective which is to strengthen, not weaken, the economy. The only sound answer is a no vote on the Democrats' plan.

PROVIDE A REAL TAX BREAK FOR MIDDLE-INCOME AND WORKING PEOPLE

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, the working people of America are crying out for tax justice, but their pleas, unfortunately, appear to be falling upon the deaf ears of the Democratic and Republican leadership.

Study after study has shown that during the last decade the rich have become much richer, while middle-income and working people have seen a decline in their standard of living. And yet, the tax policies of the last 15 years have given huge tax breaks to the rich, while working people and the middle class are now paying significantly more in Federal, State, and local taxes.

Mr. Speaker, the tax proposals being offered by both the Democratic and Republican leadership are grossly inadequate. It is beyond comprehension that both parties, the Republicans more than the Democrats, but both parties nonetheless, still continue to provide more and more tax breaks for the rich—including significant reductions in the capital gains tax—70 percent of whose benefits would go to the wealthiest 4 percent of our population, those who earn a $100,000 a year or more.

Mr. Speaker, let us have the courage to take on the big money interests and finally ask those people to start paying their fair share of taxes—and with those proceeds, in a deficit-neutral manner, let us provide a real tax break for middle-income and working people—far more than is currently on the table.

DEFENSE ENVIRONMENTAL INITIATIVE

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, the Office of Technology Assessment today released a report stating that the United States will likely lose as many as 2.5 million defense-related jobs over the next 10 years. Assuming the large cuts now planned for defense spending, OTA estimates that defense employment will decline by about 250,000 jobs per year.

As the OTA report notes, it is difficult to replace the well-paid jobs that defense manufacturing provides or to replace the military as the Nation's premier equal opportunity employer in any case, but this challenge could be even more difficult in a recession.

The workers who support our defense are some of the most talented individuals in this Nation. Our challenge is to create new job opportunities for all Americans—and to ensure that the talents of these professionals do not go to waste.

The administration has requested an unprecedented $3.7 billion for DOD environmental cleanup. Yet, studies show that there are not enough qualified people to do cleanup. I will soon be introducing a bill to make scholarships and loans available to train workers for DOD environmental cleanup, and am working on a more comprehensive effort to direct defense workers into this growing field. I look forward to the support of the House on this defense initiative with such great promise for the civilian and military world.

DEMOCRATS FIDDLE WHILE COUNTRY BURNS

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, Nero fiddled while Rome burned.

I might say that the leadership in this House on the Democrat side is continuing to fiddle while we do not solve the problems of unemployment in this country. We saw massive layoffs in the news today with General Motors closing down many of its plants. I see the gentleman from Michigan who is probably going to address this issue after I finish. Yet we have a Ways and Means Committee which met only 3 hours to consider a growth plan and the growth plan is coming back now in all kinds of bits and pieces.

We have a Democrat plan which is going to be offered supposedly tomorrow if they can pull it together with enough votes in order to try to advance it on the Democrat side that is claimed to be an economic growth package, but does nothing to stimulate the economy of this country.

It is time that we stopped talking about raising taxes during a recession and talk about creating jobs, talk about capital development, the things that create jobs in this country, and it is time that the Democrats and the Republicans work together in getting a package that will pass. There are good items in both packages that should come out in a unified package, and this House and this Congress should speak with one voice with the President and say that we are for the creation of jobs.

Mr. Speaker, let us get to work.

THE FIASCO OF THE ADMINISTRATION'S ECONOMIC ISSUES

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, in the past few days we have seen another fiasco with the administration of economic issues. The U.S. Attorney General announces his intention to use U.S. antitrust laws to fight cartel practices of foreign companies that exclude or limit sales of U.S. goods overseas or here in the United States, and immediately word comes that other forces within the administration, led by the Vice President, will fight such use of antitrust laws.

This disarray is symptomatic. Who is in charge, in the administration, of economic issues one asks? The answer is no one.

There is no single cause for the crisis in the U.S. auto industry, for GM's shattering announcement of plant closings yesterday, but one thing is clear. As the U.S. auto industry has worked to improve its product, the Reagan and Bush administrations have failed to improve their performance to help American companies have a fighting chance to survive and thrive.

There is no coherent American economic or trade policy and other countries have filled the vacuum with carefully designed policies and practices of their own.

When one hand in the U.S. Government does not know what the other is doing, American businesses are forced to function with one hand tied behind their backs and the innocent suffer, as was true yesterday for thousands and thousands of GM workers.

REPUTATION OF CONGRESS AT ALL-TIME LOW

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, the reputation of the Congress is at an all-time low in the eyes of American people. I suspect after this week that reputation is going to be even lower, and frankly, it should be, because the President asked the Congress to work with him in a bipartisan manner to achieve an economic recovery program by March 20. This Congress began those hearings last December and ought to have no problem meeting that deadline in a bipartisan fashion.

Unfortunately, we are not only failing to work together in a bipartisan mode, but we also have made the decision that once again we are going to repeat the mistake of the budget summit agreement of 1990 which created most of the problems economically that we face today.

People should recall that we raised, going into the recession under that budget agreement, $144 billion in new taxes over 5 years. Unfortunately, because we raised taxes in a recession, in fiscal year 1992 alone the projected deficit is now going to be $130 billion higher than that agreement of only 14 months ago.

When, Mr. Speaker, will we learn?

THE PRESIDENT'S ATTACK ON CONGRESS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, yesterday the President of the United States spoke to a group of business people, and I guess to no one's great surprise, attacked the Congress. This is no surprise to anyone I am sure in an election year while the President is under attack from within his own party, that he would turn against the Democrats in Congress.

It is unfortunate that this climate is in place as we begin the debate on the economic recovery plan for this Nation.

I sense in the district that I represent that no one is out there cheering for the Democrats to win or cheering for the Republicans to win. They are cheering for the American workers, the American families to win in this debate. They could not give two darns as to whether anyone is going to capitalize on this politically.

The plan that the Democrats will offer tomorrow is an attempt to make some concessions to the President's point of view. The President wanted to repeal the luxury taxes on certain items. We agreed to that repeal. The President wanted capital gains benefits. We agreed to it, at least partially, to help families, farmers, and small businesses.

The things that we insist on as Democrats, though, as part of this plan are to have the wealthiest people in this country pay their fair share. Why is it so repugnant to this administration to have millionaires pay a little extra in taxes so that working families could help to pay their own bills?

I hope we can come together now in a bipartisan fashion. This Democratic alternative is an effort to do just that.

THE QUADRENNIAL DEMOCRATIC PARTY ACT OF MADNESS

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, this week we will witness the quadrennial Democratic Party act of madness. For 20 years every Presidential year the Democrats have moved to the left: George McGovern, Jimmy Carter; by 1980, Walter Mondale who promised to raise taxes and promptly crashed, losing all but one State, his own; and Michael Dukakis, who admitted by October that he really was a liberal.

Now what do we see? It is a Presidential year. The House Democrats are going to bring in a massive tax increase bill, a bill that has such a big tax increase that their front runner, Paul Tsongas, would veto it, and yet somehow they are going to muscle enough votes to pass a bill which will be a tax increase, which will cut Medicare and cut other entitlements, which will force a sequester.

And I said, every 4 years they seem to do it to themselves again. Once again the Party of the left is engaged in its quadrennial dance of self-destruction, but it is bad for America. The President asked for a tax cut. We ought to pass tax cuts.

The President asked for a bill that creates jobs. We ought to pass a bill that he can sign that would create jobs.

It hurts unemployed Americans to play the kind of partisan games the Democrats will be playing this week.

I think it is very unfortunate for America, and the American people, and I frankly would rather have a Democratic Party that was more rational about economics and willing to work on a bipartisan basis on a tax cut instead of a partisan tax increase bill.

CAN WE TRUST CHINA?

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, President Bush is going to accept China's word that they will not send any more missiles to the Middle East. Now, this is the same Communist country that kills their own people for doing what Americans do every day, and that is to go out and speak freely as I am doing now and to assemble freely without fear from soldiers.

I ask you, can you trust a country like that? With friends like that, you do not need enemies.

But what does China get for all this? Well, George Bush is going to send them American high technology. That is right, folks. There go more American jobs.

I hope he does not get any more agreements going for him, particularly with our enemies, because we cannot afford any more of his benevolence.

IN SUPPORT OF THE PRESIDENT'S GROWTH PACKAGE

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I am the ranking Republican on the Rules Committee. We have been for the last 2 hours marking up the so-called Economic Growth Package up in the Rules Committee.

Mr. Speaker, I tell you, I have become so disillusioned because I hear so much talk about whose side are we on. It is just too bad that we cannot be on everybody's side, be on America's side, because that is really what we need today.

In other words, America's side is everybody's jobs, not just somebody's jobs. So why do we have to be on somebody's side?

Right now the President has asked us for an economic growth package that would stimulate the economy.

□ 1250

And that is what we ought to be doing. Instead of that, we are going back to the Rules Committee in a couple of hours and finish up marking up this rule in committee. We will bring a bill on the floor that the President is guaranteed he will veto, and even a front-running Presidential Democrat nominee has said he would veto if he were the President. What kind of credibility could that bill have? Yet the American people are out there waiting for this Congress to act to do something. I think it is wrong. When are we going to get together to do what is right? It is no wonder the people want term limitation for Members of Congress—and so do I.

COMMUNICATION FROM THE HONORABLE BOB MICHEL, REPUBLICAN LEADER

The SPEAKER pro tempore (Mr. MAZZOLI) laid before the House the following communication from the Honorable BOB MICHEL, Republican leader:

HOUSE OF REPRESENTATIVES,
Washington, DC, December 26, 1991.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 141(a)(C) of Public Law 101-649, I hereby appoint the following two individuals from private life to serve as members of the Commission on Legal Immigration Reform:

Mr. Harold W. Ezell, 5000 Birch Street, Suite 4800, Newport Beach, California 92660.

Mr. Robert Charles Hill, 14507 Briarwood Terrace, Rockville, Maryland 20853.

Sincerely,

BOB MICHEL,
Republican Leader.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3490) to protect the public interest and the future development of interstate pay-per-call technology by providing for the regulation and oversight of the applications and growth of the pay-per-call industry, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Telephone Disclosure and Dispute Resolution Act".

(b) FINDINGS.—The Congress finds the following:

(1) The use of pay-per-call services, most commonly through the use of 900 numbers, has grown exponentially in the past few years. This payment mechanism is convenient to consumers, cost-effective to vendors, and profitable to communications common carriers.

(2) The interstate nature of the pay-per-call industry means that its activities are beyond the reach of individual States and therefore requires Federal regulatory treatment to protect the public interest.

(3) The lack of nationally uniform regulatory guidelines has led to confusion for consumers, industry, and regulatory agencies as to the rights of callers and the oversight responsibilities of regulatory authorities, and has allowed some pay-per-call businesses to engage in practices which abuse the rights of callers.

(4) Because the consumer most often incurs a financial obligation as soon as a pay-per-call transaction is initiated, the accuracy and descriptiveness of vendor advertisements become crucial in avoiding consumer abuse. The obligation for accuracy should include price-per-call and duration-of-call information, odds disclosure for lotteries, games, and sweepstakes, and obligations for obtaining parental consent from callers under 18.

(5) The continued growth of the legitimate pay-per-call industry is dependent upon consumer confidence that unfair and deceptive behavior will be effectively curtailed and that consumers will have adequate rights of redress.

(6) Vendors of telephone-billed goods and services must also feel confident in their rights and obligations for resolving billing disputes if they are to use this new marketplace for the sale of products of more than nominal value.

(7) Many applications employing audiotext technology such as lotteries, games, and sweepstakes, sometimes erroneously have informed consumers that they must utilize audiotext services to claim or win a prize, or have not adequately informed consumers of

the right to participate in the same applications through other forms of entry.

(8) Some interstate audiotext services have offered programs aimed at children, inducing them to call such services without their parents' permission.

(9) Consequently, Congress should enact legislation that will offer consumers and vendors necessary protections and help facilitate the growth of a robust and competitive pay-per-call marketplace.

TITLE I—AUDIOTEXT INDUSTRY OBLIGATIONS AND CONSUMER RIGHTS

SEC. 101. AMENDMENT TO COMMUNICATIONS ACT OF 1934.

Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"SEC. 228. REGULATION OF AUDIOTEXT SERVICES.

"(a) PURPOSE.—It is the purpose of this section—

"(1) to put into effect a system of national regulation and review that will oversee the audiotext business;

"(2) to give the Commission authority to prescribe regulations and enforcement procedures and conduct oversight to afford reasonable protection to consumers and to assure that violations of this Act do not occur.

"(b) AUTHORITY FOR REGULATIONS.—

"(1) IN GENERAL.—The Commission shall, within 270 days after the date of enactment of this section, complete a rulemaking proceeding to establish a system for oversight and regulation of audiotext services in order to provide for the protection of consumers and providers in accordance with this Act and other applicable Federal statutes and regulations. The Commission's final rules shall—

"(A) include measures that provide a consumer of audiotext services with adequate and clear descriptions of the rights of the caller;

"(B) define the obligations of common carriers with respect to the provision of the audiotext services;

"(C) include requirements on such carriers to protect against abusive practices by providers of audiotext services;

"(D) prohibit customers from being disconnected from local exchange services for refusal to pay for audiotext services; and

"(E) identify procedures by which common carriers and providers of audiotext services may take affirmative steps to protect against nonpayment of legitimate charges.

"(2) MINIMUM STANDARDS FOR PROVIDERS OF AUDIOTEXT SERVICES.—The regulations required by paragraph (1) shall prohibit any common carrier from offering audiotext services of any provider of such services who fails—

"(A) to include in each audiotext message an introductory disclosure message that (i) describes the service being provided, (ii) specifies clearly and at a reasonably understandable volume the total cost or the cost per minute and any other fees for that service, and for any other audiotext service to which the caller may be transferred, (iii) informs the caller of the option to hang up at the end of the introductory message without incurring any charge, and (iv) informs the caller that parental consent is required for calls made by children;

"(B) to disable any bypass mechanism which allows frequent callers to avoid listening to the disclosure message described in subparagraph (A) after the institution of any price increase and for a period of time sufficient to give such frequent callers adequate and sufficient notice of the price change;

"(C) to stop the assessment of time-based charges immediately upon disconnection by the caller;

"(D) to include an appropriate and clear signal, at intervals determined by the Commission, where technically feasible, during live interactive group programs, to alert callers to the passage of time, and explain this signal in the disclosure required by subparagraph (A) for such programs, except that the requirements of this subparagraph do not apply to programs for which the caller is required to preregister or presubscribe; and

"(E) to comply with such additional standards as the Commission may prescribe to prevent abusive practices.

"(3) COMMON CARRIER OBLIGATIONS.—The regulations required by paragraph (1) shall require that any common carriers offering audiotext services shall—

"(A) require, pursuant to contract or tariff, that a provider of audiotext services comply with the regulations issued pursuant to paragraph (2), and terminate, in accordance with procedures specified in such regulations, the offering of an audiotext service of a provider if such service is not provided in compliance with such regulations;

"(B) ensure that a caller is not billed—

"(i) with respect to audiotext services provided in violation of the regulations issued pursuant to paragraph (2); or

"(ii) under such other circumstances as the Commission determines necessary in order to protect callers from abusive practices;

"(C) establish a local or a toll-free telephone number to answer questions and provide information on callers' rights and obligations with regard to their use of audiotext services and to provide to callers the name and mailing address of any provider of audiotext services offered by the common carrier;

"(D) within 60 days after the issuance of final regulations pursuant to paragraph (1), provide, either directly or through contract with any local exchange carrier that provides billing or collection services to the common carrier, to all of such common carrier's telephone subscribers, to all new subscribers, and to all subscribers requesting service at a new location, a disclosure statement that—

"(i) sets forth in clear, standard English, or other languages as specified by regulation, all rights and obligations held by the subscriber and the carrier with respect to the use and payment for audiotext services;

"(ii) describes any nonpayment option prescribed by the Commission under subparagraph (B) and the applicable blocking option; and

"(iii) provides an explanation of live interactive programming;

"(E) ensures that charges for audiotext services are stated separately on the bill from the sections relating to local and long distance telephone charges and that such statement includes the toll-free telephone number specified in subparagraph (C);

"(F) notify in writing the State regulatory commission of any State within which the carrier intends to offer audiotext services of such intention, which notification shall include a description of the service to be provided to telephone users within that State as well as a list of the carrier's policies and procedures;

"(G) subsequently make available to the State regulatory commission, upon request, a list of audiotext telephone numbers accessible by callers within that State through such carrier, which list shall include the name, business address, and business telephone number of the audiotext provider; and

"(H) obtain from any provider of audiotext services that solicits charitable contributions proof of the tax exempt status of any person or organization for which contributions are solicited.

"(4) BLOCKING REQUIREMENTS.—The regulations required by paragraph (1) shall require that any local exchange carrier carrying audiotext services shall offer callers the option of blocking access to all audiotext services from their telephone, whenever technologically feasible. Such regulation may permit the costs of such blocking to be recovered by contract or tariff, but such costs may not be recovered from local or long distance ratepayers. Such option shall be offered at no charge to the caller for a reasonable and appropriate period (established by the Commission in such regulations) after (A) the effective date of such regulation, (B) an initial connection, or (C) subscription for any new telephone line.

"(5) EXEMPTIONS FROM INTRODUCTORY MESSAGE REQUIREMENTS.—The regulations prescribed by the Commission pursuant to paragraph (2)(A) may exempt from the requirements of such paragraph—

"(A) calls from frequent callers or regular subscribers using a bypass mechanism to avoid listening to the disclosure message required by such regulations; or

"(B) audiotext services provided at nominal charges, as defined by the Commission in such regulations.

"(6) CONSUMER REFUND REQUIREMENTS.—The regulations required by paragraph (1) shall establish procedures, consistent with the provisions of titles II and III of the Telephone Disclosure and Dispute Resolution Act, to ensure that carriers offering audiotext services and other parties provide appropriate refunds to callers who have been billed for audiotext services pursuant to programs that have been found to have violated this subsection or such regulations or any other Federal, State, or local consumer protection law.

"(7) RECOMMENDATIONS ON DATA PAY-PER-CALL.—The Commission, within one year after the date of enactment of this section, shall submit to the Congress the Commission's recommendations with respect to the extension of regulations under this section to services that provide, for a per call charge, data services that are not audiotext services.

"(c) EFFECT ON OTHER LAW.—

"(1) NO PREEMPTION OF ELECTION LAW.—Nothing in this section shall relieve any information provider, common carrier, local exchange carrier, or any other person from the obligation to comply with Federal, State, and local election laws and regulations.

"(2) CONSUMER PROTECTION LAWS.—Nothing in this section shall relieve any provider of audiotext services, common carrier, local exchange carrier, or any other person from the obligation to comply with Federal, State, or local laws relating to consumer protection or unfair trade.

"(3) GAMBLING LAWS.—Nothing in this section shall preclude any State from enforcing its statutes and regulations with regard to lotteries, wagering, betting, and other gambling activities.

"(4) STATE AUTHORITY.—Nothing in this section shall preclude any State from enacting and enforcing additional and complementary oversight and regulatory systems or procedures, or both, so long as such systems and procedures do not significantly impede the enforcement of this section or other Federal statutes.

"(5) LIABILITY.—No cause of action may be brought in any court or administrative agency against any common carrier or any of its affiliates on account of any act of the carrier or affiliate, and which the carrier or affiliate shows to be in good faith, to terminate any audiotext service in order to comply with the regulations prescribed under subsection (b).

"(d) DEFINITIONS.—For purposes of this section—

"(1) The term 'audiotext services' means any service—

"(A) in which any person provides, through interstate telecommunications—

"(i) audio information or audio entertainment produced or packaged by such person; or

"(ii) access to simultaneous voice conversation services;

"(B) for which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

"(C) the charge for which is billed and collected by a common carrier or local exchange carrier.

Such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate or any service the charge for which is tariffed.

"(2) A common carrier 'offers audiotext services' by transmitting an audiotext service through interstate communications. A local exchange carrier shall not be considered to 'offer audiotext services' if the local exchange carrier only provides exchange access services or billing services, or both, to a common carrier in connection with the common carrier's offering of audiotext services.".

SEC. 102. TECHNICAL AMENDMENT.

Section 3(c) of the Telephone Consumer Protection Act of 1991 is amended by striking "section 228" and inserting "section 227".

TITLE II—USE OF THE 900 TELEPHONE NUMBER

SEC. 201. REGULATIONS.

(a) IN GENERAL.—

(1) The Federal Trade Commission shall prescribe rules, as described in this subsection, for any advertisement for services or products procured through the use of a telephone number with a 900 service access code or any other access code under which liability for the service or product provided attaches to the telephone bill of the individual calling such number. Such rules shall require that the person offering such services or products—

(A) clearly and conspicuously disclose in any advertising the cost of the use of such telephone number, including the rate per minute and, if applicable, for the duration of the call,

(B) in the case of an advertisement which offers a prize or award or a service or product at no cost or for a reduced cost, clearly and conspicuously disclose the odds of being able to receive such prize, award, service, or product at no cost or reduced cost, or, if such odds are not calculable in advance, disclose the factors determining such odds,

(C) in the case of individuals under the age of 18 using such telephone number, clearly and conspicuously state, where appropriate, in any advertising that such individual must have the consent of such individual's parent or legal guardian for the use of such telephone number, and

(D) be prohibited from using advertisements that emit electronic tones which can automatically dial a pay-per-call telephone number.

(2) The Commission shall by rule require a common carrier that provides telephone services to a vendor who uses the telephone number described in paragraph (1) to make available to the Commission any records and financial information maintained by such carrier relating to the arrangements (other than for the provision of local exchange service) between such carrier and vendor.

(3) A rule issued under paragraph (1) or (2) shall be treated as a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) RULEMAKING.—The Commission shall prescribe the rules under subsection (a) within 270 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(c) ENFORCEMENT.—Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices. Notwithstanding section 5(a)(2) of such Act (15 U.S.C. 45(a)(2)), communications common carriers shall be subject to the jurisdiction of the Commission for purposes of this Act.

SEC. 202. ACTIONS BY STATES.

(a) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule of the Commission under section 201(a)(1), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such telemarketing, to enforce compliance with such rule of the Commission, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The State shall serve prior written notice of any civil action under subsection (a) upon the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission shall have the right (1) to intervene in such action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under section 201, no State may, during the pendency of such action instituted by the Commission, institute a civil action under subsection (a) against any defendant named in the Commission's complaint for acts or omissions alleged in the complaint for violation of any rule as alleged in the Commission's complaint.

(e) ACTIONS BY OTHER STATE OFFICIALS.—

(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State for protection of consumers and who are designated by the Commission to bring an action under subsection (a) against persons that the Commission has determined have or are engaged in a pattern or practice of telemarketing which violates a rule of the Commission under section 201.

SEC. 203. ADMINISTRATION AND APPLICABILITY OF TITLE.

(a) IN GENERAL.—Except as otherwise provided in section 202, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Consequently, no activity which is outside the jurisdiction of that Act shall be affected by this Act, except for purposes of this title.

(b) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 201 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person who violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

SEC. 204. DEFINITIONS.

For purposes of this title:

(1) The term "attorney general" means the chief legal officer of a State.

(2) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(3) The term "Commission" means the Federal Trade Commission.

TITLE III—TELEPHONE SERVICES BILLING AND COLLECTION

SEC. 301. CORRECTION OF BILLING ERRORS.

(a) INITIATION OF BILLING REVIEW.—A customer may initiate a billing review under this section with respect to a telephone-billed purchase by sending, within 30 days after receipt of a billing statement from a billing carrier that contains a charge for such telephone-billed purchase, a written notice to that billing carrier in which the customer—

(1) sets forth or otherwise enables the billing carrier to identify the name of the customer and the phone number to which the charge was billed;

(2) indicates the customer's belief that the statement contains a billing error that relates to a telephone-billed purchase and the amount of such billing error; and

(3) sets forth the reasons for the customer's belief (to the extent applicable) that the statement contains a billing error.

(b) RESPONSE TO CUSTOMER NOTICE.—

(1) RESPONSE BY BILLING CARRIER.—A billing carrier that receives a notice from any customer under subsection (a) shall—

(A) if the billing error is described in section 308(6) (D), (E), or (F) or otherwise relates to the calculation of amounts due, be deemed to be a providing carrier for purposes of paragraph (2) of this subsection; or

(B) transmit such notice within 15 days to the providing carrier for the telephone-billed purchase to which the alleged billing error relates.

(2) RESPONSE BY PROVIDING CARRIER.—A providing carrier that receives from any customer a notice that meets the requirements of subsection (a) shall, unless the customer has, after giving such written notice and before the expiration of the time limits herein specified, agreed that the statement was correct—

(A) not later than 30 days after the receipt of the notice, unless the action required in subparagraph (B) is taken within such 30-day period, send a written acknowledgement thereof to the customer, which acknowledgement shall include the name, mailing address, and business telephone number of the vendor that is the subject of the notice, and

(B) not later than two complete billing cycles of the billing carrier (in no event later than 90 days) after the receipt of the notice and prior to taking any action to collect the amount, or any part thereof, indicated by the customer under subsection (a)(2) either—

(i) make appropriate corrections in the account of the customer, including the crediting of any related charges on amounts erroneously billed, and transmit to billing carrier and the customer a notification of such corrections and the providing carrier's explanation of any change in the amount indicated by the customer under subsection (a)(2) and, if any such change is made and the customer so requests, copies of documentary evidence of the customer's indebtedness; or

(ii) send a written explanation or clarification to the customer, after having conducted an investigation (including, where appropriate, contact with the vendor), setting forth to the extent applicable the reasons why the providing carrier believes the account of the customer was correctly shown in the statement and, upon request of the customer, provide copies of documentary evidence of the customer's indebtedness.

(3) INVESTIGATIONS CONCERNING DELIVERY OF TELEPHONE-BILLED PURCHASES.—In the case of a billing error where the customer alleges that the billing statement reflects goods or services not delivered to the customer in accordance with the stated terms of the transaction, a providing carrier may not construe such amount to be correctly shown unless the providing carrier investigates, with reasonable diligence, whether such goods or services were actually delivered or otherwise sent to the customer and provides the customer with a written statement of the results of such investigation.

(4) TERMINATION OF PROVIDING CARRIER RESPONSIBILITY.—After complying with the provisions of this subsection with respect to an alleged billing error, a providing carrier has no further responsibility under this section if the customer continues to make substantially the same allegation with respect to such error.

(5) PERMITTED ACTIONS BY BILLING CARRIERS.—Nothing in this title shall prohibit a billing carrier from removing a charge from a customer's billing statement upon receipt of a billing inquiry from the customer if the billing carrier—

(A) informs the appropriate providing carrier that the charge has been removed;

(B) informs the customer that removal of the charge does not limit customer liability for that charge if the vendor or providing carrier or its agent elects to pursue collection of the charge; and

(C) informs the customer that, to assure the protection of the customer's rights under this title, the customer must send a written notice in accordance with subsection (a).

(c) COLLECTION ACTIONS.—

(1) DEFINITION.—For the purposes of subsection (b)(2)(B) of this section, "action to collect the amount, or any part thereof, indicated by the customer under subsection (a)(2)" does not include the sending of statements of account, which may include late charges on amounts in dispute, to the customer following written notice from the customer as specified under subsection (a), if—

(A) the customer's account is not restricted or closed because of the failure of the customer to pay the amount indicated under subsection (a)(2), and

(B) the billing carrier indicates to the customer that the payment of such amount is not required pending the providing carrier's compliance with this section.

(2) NO EFFECT ON AMOUNTS NOT SUBJECT TO REVIEW.—Nothing in this section shall be construed to prohibit any action by a vendor, providing carrier, or billing carrier to collect any amount which has not been indicated by the customer under subsection (a)(2) to contain a billing error.

(d) FORFEITURE OF RIGHTS.—Any billing carrier or providing carrier who fails to comply with the requirements of this section or section 302 forfeits any right to collect from the customer the amount indicated by the customer under subsection (a)(2) of this section, and any late charges thereon.

SEC. 302. REGULATION OF REPORTS.

(a) ADVERSE REPORTS PROHIBITED.—After receiving a notice from a customer as provided in section 301, a vendor, billing carrier, providing carrier, or its agent may not directly or indirectly threaten to report to any person adversely on the customer's credit rating or credit standing because of the customer's failure to pay the amount indicated by the customer under section 301(a)(2), and such amount may not be reported as delinquent to any third party until the billing carrier or providing carrier has met the requirements of section 301 and has allowed the customer 20 days thereafter to make payment.

(b) REPORTS DURING CONTINUATION OF DISPUTE.—If a billing carrier or providing carrier receives a further written notice from a customer that an amount is still in dispute within the time allowed for payment under subsection (a) of this section, a vendor, billing carrier, or providing carrier or its agent may not report to any third party that the account of the customer is in arrears because the customer has failed to pay an amount indicated under section 301(a)(2), unless the vendor, billing carrier, providing carrier, or its agent also reports that the amount is in dispute and, at the same time, notifies the customer of the name and address of each party to whom the vendor, billing carrier, providing carrier, or its agent is reporting information concerning the arrearage.

(c) REPORTS OF RESOLUTIONS.—A vendor, billing carrier, providing carrier, or its agent shall report any subsequent resolution of any matter reported pursuant to subsection (b) to the parties to whom such matter was initially reported.

SEC. 303. PROMPT NOTIFICATION OF CREDIT.

With respect to any telephone-billed purchase where the vendor is a person other than the billing carrier, and where the vendor accepts or allows a forgiveness of a debit for the telephone-billed purchase, the vendor shall promptly transmit to the billing carrier a credit statement with respect thereto and the billing carrier shall credit the account of the customer for the amount of the purchase.

SEC. 304. RIGHTS OF CUSTOMERS.

A billing carrier or providing carrier who seeks to collect charges for a telephone-billed purchase from a customer for a vendor shall be subject to all claims (other than tort claims) and defenses arising out of any telephone-billed purchase in which the customer's telephone billing account is used as a method for collection, if the customer has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the purchase from the vendor or providing carrier. In no event shall the billing carrier be liable for any amount greater than the amount billed to the customer for the purchase.

SEC. 305. RELATION TO STATE LAWS.

(a) STATE LAW APPLICABLE UNLESS INCONSISTENT.—This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with, the laws of any State with respect to telephone billing practices, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Commission is authorized to determine whether such inconsistencies exist. The Commission may not determine that any State law is inconsistent with any provision of this chapter if the Commission determines that such law gives greater protection to the consumer.

(b) REGULATORY EXEMPTIONS.—The Commission shall by regulation exempt from the requirements of this title any class of telephone-billed purchase transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this chapter or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement.

SEC. 306. ENFORCEMENT.

The Commission shall enforce the requirements of this title. For the purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All the functions and powers of the Federal Trade Commission under that Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in that Act. The Commission may prescribe such regulations as are necessary or appropriate to implement the provisions of this title.

SEC. 307. STUDY OF NEED FOR ADDITIONAL REMEDIES.

(a) STUDY REQUIRED.—The Commission shall conduct an ongoing study of the need to develop and implement additional provisions to prevent evasions of the requirements of this title, through the use of alternative billing or other procedures, that undermine the rights provided to customers under this title. In examining such additional provisions, the Commission shall consider the extent to which such additional provisions may be implemented under the Commission's rulemaking authority pursuant to section 306.

(b) REPORTS REQUIRED.—The Commission shall submit to the Congress, not later than 18 months after the date of enactment of this Act, a report on the results (as of the end of such period) of the study required by subsection (a), and shall submit such additional reports to the Congress as are merited by later findings of such study. Such reports shall include such recommendations for legislation as the Commission considers necessary to carry out the purposes of this title.

SEC. 308. DEFINITIONS.

As used in this title—

(1) The term "providing carrier" means a local exchange or interexchange common carrier providing telephone services (other than local exchange services) to a vendor for a telephone-billed purchase that is the subject of a billing error complaint.

(2) The term "billing carrier" means a local exchange or interexchange common carrier that transmits to a customer a statement of charges for a telephone-billed purchase.

(3) The term "vendor" means any person who, through the use of the telephone, offers goods or services for a telephone-billed purchase.

(4) The term "customer" means any person who acquires or attempts to acquire goods or services in a telephone-billed purchase.

(5) The term "telephone-billed purchase" means any goods or services (including information services) acquired through the use of the telephone, any part of the charges for which are compiled and transmitted through the use of billing services provided by a local exchange or interexchange common carrier, except that such term does not include—

(A) local exchange telephone services or interexchange telephone services or any service that the Federal Communications Commission determines, by rule—

(i) is closely related to the provision of local exchange telephone services or interexchange telephone services; and

(ii) is subject to billing dispute resolution procedures required by Federal or State statute or regulation; or

(B) the purchase of goods or services which is otherwise subject to billing dispute resolution procedures required by Federal statute or regulation.

(6) A "billing error" consists of any of the following:

(A) A reflection on a billing statement from a billing carrier of a telephone-billed purchase which was not made by the customer or, if made, was not in the amount reflected on such statement.

(B) A reflection on a billing statement of a telephone-billed purchase for which the customer requests additional clarification, including documentary evidence thereof.

(C) A reflection on a billing statement of a telephone-billed purchase that was not accepted by the customer or not provided to the customer in accordance with the stated terms of the transaction.

(D) The billing carrier's failure to reflect properly on a billing statement a payment made by the customer or a credit issued to the customer with respect to a telephone-billed purchase.

(E) A computation error or similar error of an accounting nature of the billing carrier on a statement.

(F) Failure to transmit the billing statement to the last address of the customer which has been disclosed to the billing carrier, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.

(G) Any other error described in regulations prescribed by the Commission pursuant to section 553 of title 5, United States Code.

(7) The term "Commission" means the Federal Trade Commission.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join my colleagues, Mr. MARKEY, chairman of the Telecommunications and Finance Subcommittee, Mr. RITTER, the ranking minority member of the Transportation and Hazardous Materials Subcommittee, and Mr. RINALDO, the ranking minority member on the Telecommunications Subcommittee in bringing this legislation to the floor of the House.

We have all seen the ads on television, playing to viewer's emotions, to call a number immediately if they are lonely, bored, or want to get instant credit. What you don't see or hear very clearly is how much the call or service will cost. This legislation will force those that provide 900-number services to state cost information in both advertisements and during the call itself.

The pay-per-call industry offers consumers a convenient, instantaneous method for purchasing goods and services. It has also offered some fly-by-night opportunists a convenient method for deceiving and stealing from consumers through the use of a payment system tied to the consumer's local telephone bill.

The two subcommittees of the Energy and Commerce Committee have worked together in a very productive manner and have crafted legislation that brings in focus the authority of both the Federal Trade Commission and the Federal Communications Commission to better protect consumers from deceptive pay-per-call operators. And in turn, the two subcommittees have benefited from the very good working relationship between the FTC and the FCC.

Specifically, title I of H.R. 3490 directs the Federal Communications Commission to complete a rulemaking to ensure that consumers will have adequate information about charges they entail when they make a 900-number call. This FCC rulemaking will also define the obligations of telephone common carriers to protect their consumers from abusive practices by information providers. And this FCC rule will prohibit the disconnection of basic telephone service for failure to pay a disputed 900-number charge.

Title II directs the Federal Trade Commission to prescribe rules for any advertisement of 900-number services or products. Such rules will include requirements for the clear and conspicuous disclosure of the cost of such calls, odds disclosure for contests and promotions, parental consent warnings for advertisements targeted to children, and the prohibition of the use of electronic tones that would automatically dial a pay-per-call telephone number.

The legislation also addresses a key missing component in the existing payment mechanism for 900-numbers, and that is a formal dispute resolution procedure such as that used in adjudicating customer complaints in the credit card markets. After the breakup of AT&T, the current telephone payment mechanism was developed for channeling telephone charges from interexchange carriers to the consumer's telephone bill. This telephone billing system did not envision the successful application and widespread growth of the technology used in the 900-number pay-per-call industry. Title III provides for telephone service billing and collection procedures—patterned on those used for credit cards and to be administered by the FTC—to resolve disputes by customers for pay-per-call transactions.

Mr. Speaker, the continued growth of the legitimate pay-per-call industry is dependent upon consumer confidence. First, unfair and deceptive behavior must be effectively curtailed. And second, consumers must have adequate rights of redress when they have legitimate complaints about 900-number charges on their telephone bill. And vendors of telephone-billed goods and services must also feel confident in their rights and obligations for resolving billing disputes if they are to use this new telephonic marketplace for the sale of products of more than nominal value.

This is progressive legislation in the best sense of the word. While it will help clean up the current problems in the pay-per-call industry, it is not meant to be punitive. This legislation recognizes the real and potential public benefits of the 900-number marketplace. But until both consumers and sellers have a confidence that deceptive behavior will not be tolerated, it will never achieve the potential that it might have. This legislation should go a long way to ensuring consumer rights and restoring public confidence in the electronic marketplace.

I urge the House to adopt this important consumer legislation.

Mr. Speaker, I simply would like to add that I have heard frequently from my constituent that they think Congress spends too much time fighting along partisan battles with one another. That, of course, is the kind of activity that is most likely to draw the attention of the media; it is more colorful, it is more interesting.

But it is fairly typical in this institution that, in fact, the public business is done on a bipartisan basis. This particular legislation, I think, shows the degree of cooperation possible and, frankly, typical in Government. Not only has there been cooperation between Republicans and Democrats, there has been cooperation between two committees with different pieces of jurisdiction, and, even more importantly, there has been cooperation between two independent agencies of Government who have crossed jurisdictions.

So, this legislation we bring before you today is an example of how Congress and governmental agencies can and do work together, and that in itself should not be overlooked.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to join me in supporting H.R. 3490, the Telephone Disclosure and Dispute Resolution Act. This bill addresses the problems associated with the rapid growth of the 900 services industry. The bill seeks solutions to those problems without restricting the growth and future viability of a service many consumers consider valuable and worthwhile.

Nonetheless, instances of abuse within the industry are on the rise, and the record compiled by the Subcommittee on Telecommunications and Finance amply demonstrates the need for some statutory standards and guidelines as the industry continues to grow.

H.R. 3490 takes a reasoned balanced approach to addressing problems in the 900 services industry. It affords consumers the necessary protections without imposing regulatory roadblocks to this relatively new service.

Title I of the bill, which was reported by the Subcommittee on Telecommunications and Finance, would require the FCC to adopt regulations that would ensure that the 900 service provider includes a preamble to each call that identifies the name and other important information about the provider, the nature of the service, and the cost of the call; 900 service providers also would be required to notify the caller that prior to incurring any charge, he or she may disconnect the call; 900 service providers would also have to use the type of equipment that stops billing once the caller hangs up.

In addition, the bill requires telephone companies to provide free blocking to customers, list 900 service charges in a separate portion of a consumer's phone bill, and establish a toll-free number for customers to ascertain their rights and obligations concerning 900 services.

Additionally, the bill would exempt prescribed and preregistered calls from the beeptone requirement that reminds callers of the passage of time. The bill would also exempt from the preamble requirement calls that cost up to $3. Finally, local exchange carriers that do not provide 900 services would be exempt from the consumer refund provisions and the FCC's reporting requirements.

Title II of the bill, which was reported by the Subcommittee on Transportation and Hazardous Materials, addresses the issue of advertisements of 900 services. In essence, title II would protect consumers from abusive advertising practices by 900 service providers. The FTC would be empowered to ensure that 900 services accurately disclose the cost of the service. In the case of lotteries or contents, 900 service providers must also accurately disclose, to the degree possible, the odds of winning.

In addition, State attorneys general would be permitted to pursue grievances in Federal district court. Title II would also establish a dispute resolution mechanism to allow the consumer to preserve his or her rights and obtain information on the provider for the purpose of pursuing a complaint. Finally, while the bill requires the provider to disclose prices for 900 services, the bill does not disturb longstanding practices, such as that of the yellow pages industry, of not accepting price advertising.

Mr. Speaker, as a sponsor of H.R. 3490, I would like to commend my colleagues Messrs. MARKEY, SWIFT, and RITTER—the other original sponsors of this measure—for working together on this important issue and devising a practical legislative solution to this problem. The Telecommunications and Transportation Subcommittees worked cooperatively, and in bipartisan fashion, in establishing a regulatory framework that not only seeks to put a stop to abuses but also provides consumers with a framework for seeking redress in the event of abuse. I would also like to thank the full committee chairman, Mr. DINGELL, and the ranking Republican member, Mr. LENT, for their work on and support of this bill.

Again, Mr. Speaker, I strongly urge my colleagues to support this comprehensive legislation.

□ 1300

Mr. SWIFT. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. MARKEY], the chairman of the Subcommittee on Telecommunications and Finance.

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Washington [Mr. SWIFT] very much, and I congratulate the gentleman for his work and his subcommittee's work in constructing the portions of this legislation which fell under his subcommittee's jurisdiction. The bill, as well, has components which fell under the Subcommittee on Telecommunications and Finance, and, as a result, coordination was necessary, and, working with the full committee chairman, the gentleman from Michigan [Mr. DINGELL], we were able to bring a product out here today. Of course, without the assistance, cooperation, and working relationship which we have with the gentleman from New Jersey [Mr. RINALDO] and the gentleman from Pennsylvania [Mr. RITTER] this would not be possible, and up at the full committee level with the gentleman from New York [Mr. LENT] we were able to put together a piece of legislation which we present to the House today for its approval.

Mr. Speaker, I rise in strong support of this legislation. I think it is long overdue. This is a burgeoning marketplace which now has created a mind-boggling number of new services which are available to people in our country. It ranges all the way from sports statistics and stock quotes all the way down to offerings like gab lines, and horoscopes, and just about an infinite number of services, if anyone is interested in it. However, as is the case with many new industries, the growth of audiotext services has been accompanied by an increasingly large number of unscrupulous pay-per-call providers who reach into the homes of the United States to peddle fraudulent services to unsuspecting customers.

Unfortunately, peddlers of fraudulent 900 number services have cast a pall on the audiotext industry as a whole. Legitimate providers have suffered from practices that have undermined consumer confidence and stunted the growth of the once burgeoning industry. In addition to consumers, telephone companies have demonstrated considerable concern over this industry, so much so that one major carrier has announced that it will discontinue all 900 number offerings because there is inadequate regulation governing the industry. Because of these concerns, legitimate audiotext businesses are penalized by the actions of a few providers while the 900 number hucksters themselves continue to go unpunished.

Mr. Speaker, this legislation is meant to remedy that problem so that we can punish the hucksters while allowing the legitimate business people to move forward with providing these services to Americans. H.R. 3490 requires the FCC and the FTC to work in tandem to craft clear, constructive guidelines to govern offerings of 900 number services. Reporting and disclosure requirements will ensure that consumers know exactly what they will get for their money, before they incur any charge for the call. In addition, the legislation will guarantee that consumers will not have their phones disconnected for nonpayment of 900 number bills. H.R. 3490 also will give consumers the option of blocking their lines from all outgoing calls to 900 number services, and equally important, will require children under the age of 18 to obtain parental consent before calling an advertised number.

The bill also includes a technical amendment that would correct a drafting error in the reference to a section in the law signed by the President regulating autodialers. This change has been cleared by both sides.

We think that this is a very good piece of legislation. It is one we have been able to put together on a bipartisan basis.

I want to specifically thank the gentleman from Tennessee [Mr. GORDON] for his work on this legislation, bringing it to our attention, and I recommend this legislation to the full House.

Mr. SWIFT. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. MARKEY] 2½ additional minutes in order for him to be able to enter into a colloquy with the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentlewoman from New York.

Mrs. LOWEY of New York. Mr. Speaker, I thank the gentleman from Washington [Mr. SWIFT] and the gentleman from Massachusetts [Mr. MARKEY], as well as the ranking minority members, the gentleman from Pennsylvania [Mr. RITTER] and the gentleman from New Jersey [Mr. RINALDO], for their work on this bill, and I would like to enter into a colloquy with Chairman MARKEY regarding a perfecting amendment that I hope can be incorporated into the final bill.

The 900 telephone line industry has brought numerous services into the homes of Americans via the telephone. Many of these services have been beneficial to Americans, however, these services have gone unregulated, allowing a few operations which are nothing more than frauds and ripoffs. It is well past time for remedial action.

H.R. 3490 is designed to address such problems by requiring the Federal Communications Commission and the Federal Trade Commission to regulate and oversee the activities of the 1-900 pay-per-call industry.

The amendment I suggested to the committee responds to a complaint from one of my constituents, who spent 5 minutes on the phone at $1 per minute trying to get information about Medicare for her mother-in-law from a private company which did everything it could to create the impression that it was run by the Federal Government.

I would like to suggest that 900 lines be subject to the same sensible restrictions as mail. Thus, I drafted an amendment, modeled on our deceptive mailing practices law, that requires that 900 lines that imitate Government programs or services contain a message in their audiotext specifying that their services are not approved or endorsed by the Federal Government and are not being made by an agency of the Federal Government. I also suggest that advertisements of 900 services includes similar language.

This is an important step, to protect Americans from being unknowing victims of such scams. While the 900 industry may be beneficial in many instances, we must prevent unscrupulous companies from profiting by deceiving consumers.

□ 1310

This problem was brought to my attention after the committee had marked up H.R. 3490, but I am anxious to work with the chairman to find a way to include my suggestion in the final bill. I would like to know if I have your support in this report.

Mr. MARKEY. We have discussed the very valid points made by the gentle lady from New York, and you can be certain that we will continue to work with you to see that your suggested language is included in the final bill.

Mrs. LOWEY of New York. I thank the chairmen and ranking members for working with me on this. I urge all of my colleagues to support this legislation, and I look forward to its swift implementation with my perfecting amendment.

Mr. RINALDO. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, as the ranking member of the Transportation Subcommittee and a senior member of the Telecommunications Subcommittee, I have worked closely with my colleagues on the Energy and Commerce Committee to fashion this important legislation. I want to commend both of the subcommittee chairmen, the gentleman from Washington and the gentleman from Massachusetts, as well as the ranking member of the Telecommunications Subcommittee, the gentleman from New Jersey, for their diligent efforts on this bill.

Protecting the American consumer is a goal we all share on both sides of the aisle, and I want to note the excellent spirit of cooperation shown by all members on our committee in moving this legislation forward.

H.R. 3490 is legislation that will protect the American consumer and the integrity of legitimate American businesses. The 900 number industry has grown fantastically in the last several years—from less than 250 companies in 1988 to over 14,000 in 1990. The industry's revenues hit the $1 billion mark in 1990, and are projected to reach $1.7 billion by the end of 1992.

This is a growing, high-technology industry which should be regarded as a contributor to economic growth and to the competitiveness of our economy. But both the industry itself and its customers are threatened by a few unscrupulous operators who engage in fraudulent or deceptive practices. H.R. 3490 is meant to stop these predators in their tracks.

The legislation takes a comprehensive approach to consumer protection in the 900 field by joining the forces of the Federal Communications Commission and the Federal Trade Commission. The FCC is to address such matters as cost disclosure at the beginning of a 900 call, the option of free blocking of 900 services, separate listing of 900 charges in telephone bills, and the availability of a toll-free consumer information number for telephone customers.

The FTC, on the other hand, is to employ its expertise in fighting deceptive advertising practices. The FTC will promulgate rules requiring disclosure of key information in all advertising of 900 services—such as cost disclosure. The FTC rules will also prohibit such outrageous practices as evasion of parental consent for children who use 900 numbers, and the reprehensible practice of broadcasting ads directed at children which actually dial the 900 number by emitting electronic dialing tones when the unknowing child places the phone receiver up against the TV screen.

Both the FTC and State attorneys general will be empowered to seek injunctions and otherwise enforce the Federal rules. In addition, the FTC will oversee the implementation of a system of billing dispute resolution for 900 charges that is analogous to the system already administered by the FTC for credit card billing matters. The implementation of such a system, however, will not in any way prevent responsible carriers and providers from continuing or initiating their highly successful on-the-spot system for resolving billing disputes immediately over the telephone.

By taking this comprehensive, multidisciplinary approach and combing the legislative efforts of our Telecommunications Subcommittee, with FCC jurisdiction, and our Transportation and Hazardous Materials Subcommittee, with FTC jurisdiction, we have fashioned a balanced, proconsumer bill.

But we also have been careful to consult the telecommunications industry for its own perspective and expertise. In this way, we have sought to protect the interests of legitimate businesses who are harmed as much as consumers by the unscrupulous conduct of a few in this new industry.

This is the kind of bipartisan proconsumer, procompetitiveness legislation that I am proud to be associated with. I urge its prompt approval.

Mr. SWIFT. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I want to take this opportunity to express my strong support for this bill and to commend Chairman SWIFT, Chairman MARKEY, Chairman DINGELL, ranking members RINALDO, RITTER, and our colleague, BART GORDON, for their leadership on this important consumer issue.

A number of my constituents have complained about the shock that they experienced when they opened their phone bills. For instance, I received a call from a lady in Tuscaloosa, AL, whose 12-year-old son ran up a $3,000 phone bill in 1 month after he had seen a 900 number ad on TV. I received a similar letter from a pastor of a small rural church in my district. The church had been billed for several hundred dollars' worth of 900 number calls made from the phone in the church's office. All of these situations were preventable with the per line call blocking contained in H.R. 3490.

While the FCC has begun to take steps in the right direction of regulating the calls themselves, I am especially pleased with the provisions in this bill which protect a consumer's credit record from being blotted when these 900 number charges are disputed. This bill also makes certain that the local phone company cannot cut off essential telephone service because of outstanding 900 number bills.

The Alabama Public Service Commission has been very active in advocating introductory messages which clearly state the costs of these calls up front. H.R. 3490 contains just such a mandate. Full disclosure of all are necessary to insure that a consumer is making an informed choice.

While there are many legitimate uses of this technology, there are also many operators abusing the opportunity that this innovative use of our telecommunications network presents. H.R. 3490 is a measured response to these abuses which will protect consumers without discouraging further developments of this new industry.

I urge my colleagues to vote for this bill.

Mr. SWIFT. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER] for the purpose of engaging in a colloquy.

Mr. SCHUMER. Mr. Speaker, I thank the chairman and the gentleman from Pennsylvania [Mr. RITTER] for their leadership on this bill.

Is it the gentleman's understanding that, under section 201(a)(1)(A) of the bill, the Federal Trade Commission's rules on 900 numbers must include a requirement for clear and conspicuous cost disclosure in all advertising of 900-type services?

Mr. SWIFT. If the gentleman will yield, yes, that is my clear understanding.

Mr. SCHUMER. As to print advertising in particular, does this directive to the FTC to establish clear and conspicuous cost disclosure requirements empower the FTC to address the question of type sizes; that is, whether the cost figures are sufficiently large in a print advertisement to constitute clear and conspicuous disclosure?

Mr. SWIFT. The gentleman is entirely correct in his understanding. Indeed, there have been numerous instances in the past in which the FTC, in its role of prosecuting deceptive advertising practices, has included mandatory type-size requirements as part of its orders and consent decrees. Under H.R. 3490, the FTC would have those same powers in its 900 number rulemaking, in the context of the record created in the rulemaking itself.

Mr. SCHUMER. Is it also true that in past FTC orders, such as in the matter of Outdoor World Corp., the Commission has barred companies from advertising products or services—including prizes, awards, gifts, bonuses, or premiums—"without disclosing fully, in type of equal size to that used to identify such good or service and immediately following each good or service thus represented, any cost that the consumer must pay to receive such good or service."

Mr. SWIFT. The gentleman is correct.

Mr. SCHUMER. I thank the gentleman for confirming and clarifying this important aspect of the legislation.

I yield to the gentleman from Pennsylvania [Mr. RITTER] and thank him for his help and understanding in this matter.

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Mr. RITTER. Mr. Speaker, I want to commend the gentleman from New York for his interest and his work on this issue in clarifying these very important matters, and I concur with the responses of the gentleman from Washington [Mr. SWIFT], my chairman.

Mr. SCHUMER. Mr. Speaker, I thank the gentleman from Pennsylvania and the gentleman from Washington for their help in this matter.

Mr. SWIFT. Mr. Speaker, the gentleman from Tennessee [Mr. GORDON] has provided an enormous amount of leadership on this issue. He originally brought this issue to the attention of the House and the legislation before us today contains many of the ideas and suggestions of the gentleman from Tennessee.

Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. Mr. Speaker, I wish to give my strong support to the Telephone Disclosure and Dispute Resolution Act, which contains the consumer protections for 900 number users that I believe are essential, and many of which I proposed in the previous Congress and again last year.

Chairman SWIFT deserves praise for his work in crafting this excellent bill and for bringing it to the floor today. I also want to praise Chairman ED MARKEY of the Telecommunications Subcommittee for his leadership in moving 900 number legislation forward in his subcommittee.

Finally, I wish to thank full committee Chairman JOHN DINGELL and his staff for moving this bill forward and bringing about the cleanup of the 900 business.

Mr. Speaker, this will be one of the most important pieces of consumer legislation Congress will pass this year. It will save consumers millions of dollars and bring the weight of the law down on the 1-900 fast-buck operators who prey on the young, the lonely, and those in economic trouble.

Almost 2 years ago, I began working to bring to light the way fraud and ripoffs were beginning to dominate the 1-900 industry.

Horror stories of people losing hundreds, even thousands of dollars to con artists abounded. Consumers had no confidence that 900 numbers were a good deal.

Irresponsible businesses set up across State lines to frustrate State law enforcement efforts. The Federal agencies were overwhelmed and not equipped to deal with this new technology.

Since then, we have made much progress. In October 1990, Representative MARKEY, after holding a hearing on my original legislation, asked the Federal Communications Commission to begin studying possible rules for the industry.

Early last year, I introduced a second 900 bill, H.R. 328. Representatives MARKEY and SWIFT, working with Chairman DINGELL, built on that legislation to craft the excellent bill before us today.

The 900 industry has responded to the congressional attention and started to clean up its act. The FCC, the FTC, and the Postal Service have gotten involved.

However, without this legislation, it would be too easy for the scam artists to slip back into the picture. Our intent and our message must be clear.

Unfortunately, there always are going to be some hucksters running scams. But this legislation gives consumers the basic tools they need to inform and protect themselves.

H.R. 3490 is a fair, commonsense approach that does not put an unreasonable burden on the information industry. Legitimate businesses do not mind telling their customers what they are buying and how much it is going to cost.

Many fine companies and entrepreneurs who considered entering the 1-900 industry turned away because they did not want to be associated with the unsavory characters who found a home in 1-900 numbers. Consumer confidence fell and the 1-900 industry's growth explosion began to fizzle.

This legislation gives industry and consumers alike a chance for a new start. Today, we can make it clear that the crooks are not welcome in the 1–900 industry. We can give consumers and both Federal and State law enforcement authorities the tools they need to go after those who insist on trying to make a fast buck by fraud.

This legislation and its predecessors have drawn strong bipartisan support. I urge my colleagues to cast their votes for consumers and support H.R. 3490.

Mr. BLACKWELL. Mr. Speaker, I am pleased to rise in this noble Chamber to offer my support of H.R. 3490, the Telephone Disclosure and Dispute Resolution Act.

I unequivocally support this much needed legislation as in an attempt to regulate the telecommunications industry, a level of protection is being provided for consumers against unscrupulous companies who promote the use of the 900 service.

No question, I know of many parents who can readily relate horror stories about abuses that they have suffered as a result of the 900 service. Most youth fail to realize the seriousness of picking up the telephone and calling the 900 numbers of which they are bombarded on a daily basis. For the most part, they fail to notice the fine print that spells trouble to their parents' pocketbooks.

The advertisements intermittently flash across the television screen or are blurted out on a frequent basis over the radio. The truth of the matter is that there is no way to shield our children from this type of advertisement; therefore, we have no choice but to place some type of regulation that will serve to minimize its influence and deter its use.

The successful passage of H.R. 3490 is the very least that we can do to express our support for those parents who have become shocked, frustrated, and rendered defenseless after having learned that the amount of their telephone bill has tripled as a result of a youth or teenage family member's abuse of the 900 Service. We must pass H.R. 3490 because we as Members of Congress are aware that residing in every congressional district, there are those residents whose only means of communication rests with the use of the telephone.

I ask my colleagues to join me in supporting this much needed legislation.

Mr. LENT. Mr. Speaker, I rise in support of H.R. 3490, the Telephone Disclosure and Dispute Resolution Act, and I urge my colleagues to join me in supporting the bill.

Hearings held by both the Subcommittee on Telecommunications and Finance and the Subcommittee on Transportation and Hazardous Materials developed thorough records on the state of the 900 services industry. The subcommittees have found that while most of the providers offer a valuable and worthwhile product at a fair price, some bad actors are thriving in this market by misleading the American consumer. This bill is intended to address those abuses. It not only gives consumers increased protection but also provides them the means for redressing any abuses.

In crafting this bill, we recognized the importance of preserving the viability of the industry. Toward that end, I would like to clarify that in requesting the Federal Trade Commission to enact rules requiring the disclosure of prices for 900 services, our intent is to prevent the abuse of consumers. It is not our intent to disrupt or otherwise burden the ongoing operations of media which are currently providing excellent service to consumers.

In the case of a medium such as yellow pages, which has a longstanding prohibition against accepting price advertising, our intent in passing this bill is not to require the Federal Trade Commission to invalidate that process. Instead, we expect the Federal Trade Commission to determine which rules fully protect consumers without disrupting such longstanding practices.

Mr. Speaker, I would like to thank Mr. MARKEY and Mr. SWIFT, chairmen of the Telecommunications and Finance Subcommittee and the Transportation and Hazardous Materials Subcommittee respectively, as well as Mr. RINALDO and Mr. RITTER, ranking Republican members of the same subcommittees. Each of them worked hard in crafting this bipartisan legislation.

Mr. Speaker, I again urge my colleagues to join me in supporting the bill.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today in support of H.R. 3490, a bill designed to protect the consumer, the American family, from fraudulent telephone services.

Pay-per-call telephone services began as vehicles to provide families with a convenient and efficient means of obtaining goods and services. However, these 1–900 numbers have also become vehicles for consumer fraud. Our families today are already struggling through economic hard times, they don't need to be slapped in the face with unclear, unfair, and unwarranted charges.

Provisions especially targeted to help the family include an introductory message to be played describing the total cost of the call and all other related fees. Most importantly, H.R. 3490 would require the message to state that parental consent is required for calls made by children under 18. Families would be back in control and better able to decide what services they want to receive.

Mr. Speaker, the American family needs and deserves this bill. It is time to end the helplessness many families feel when they encounter fraudulent practices which result in costly and offensive calls. Let's put American families back in control of their lives. Let's pass this bill.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 3490, as amended.

The question was taken.

Mr. GORDON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

TRANSFER OF AIRCRAFT CARRIER U.S.S. "LEXINGTON" TO THE CITY OF CORPUS CHRISTI, TX

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4113) to permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier, U.S.S. *Lexington*, to the city of Corpus Christi, TX, for use as a naval museum and memorial, as amended.

The Clerk read as follows:

H.R. 4113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF WAITING PERIOD FOR TRANSFER OF U.S.S. LEXINGTON

Clause (2) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer by the Secretary of the Navy under section 7308(a) of such title of the obsolete training aircraft carrier U.S.S. Lexington (AVT–16) to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorial.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. BENNETT] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. BATEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on February 18, 1992, the Secretary of the Navy notified the Congress of his intent to transfer the obsolete aircraft carrier *Lexington* to the Corpus Christi Area Convention and Visitors Bureau. Under existing law the Secretary of the Navy has authority to transfer the *Lexington* to a not-for-profit corporation, such as the Corpus Christi Area Convention and Visitors Bureau, after notification to the Congress and expiration of a 60-day waiting period. However in this instance, Corpus Christi is ready and desirous of receiving the vessel now. Further, the vessel is ready for transfer, having already been moved by the Navy from Pensacola, FL—its last homeport—to a temporary storage location.

The bill would waive the otherwise applicable 60-day waiting period and allow an immediate transfer of the ship by the Secretary of the Navy.

Mr. Speaker, I urge that the House pass H.R. 4113.

Mr. Speaker, I reserve the balance of my time.

Mr. BATEMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with my chairman and rise in support of H.R. 4113, legislation to waive the 60-day review period for the transfer of the U.S.S. *Lexington*.

When the Navy announced the decommissioning and retirement of the *Lexington*, the training carrier, in 1991, several communities launched efforts to have the ship transferred to their respective areas for use as a naval museum and memorial.

The bid proposals from Mobile, AL, Quincy, MA, and Corpus Christi, TX, were fully evaluated by the Secretary of the Navy before he announced that Corpus Christi would become the new home of the *Lexington*.

The *Lexington*, known as the Blue Ghost, enjoyed a lengthy and auspicious career in the Navy, serving the United States since World War II. I can think of no better way to end her 48-year career than as a museum and memorial to the courageous sailors who have served aboard her, and the many pilots and crews who have trained aboard her.

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Mr. BENNETT. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I rise today in support of Congressman ORTIZ'S legislation (H.R. 4113) and to recognize the accomplishments of the U.S.S. *Lexington*. Since 1962, the *Lexington* has operated out of her homeport, Pensacola, FL, as well as Corpus Christi and New Orleans. Today, this body will vote to transfer the *Lexington* from my district in Pensacola, FL, to Corpus Christi, TX, where it will be used as a naval museum and memorial.

During World War II, the "Lady Lex" was hit extremely hard by Japan's Navy, not only once, but three times. Each time, Japan believed the Lex was destroyed. Each time, she quickly healed her wounds and went back into battle. Her ability to keep fighting, even after these blistering assaults, proved her worthy of Japan's new nickname for her, the "Blue Ghost."

After the Lex's brilliant stint during World War II, she was involved with the 7th Fleet off of Taiwan in 1958, and was on standby for the Laotian crisis of 1959, and served as an attack carrier during the Cuban missile crisis in 1963.

After the Cuban missile crisis, she sailed back to Pensacola to serve as an aviation training carrier. This important new role allowed her to train new student aviators and maintain the high state of flight training for active duty and reserve naval forces. In fact, her decks have trained the Navy and Marine pilots who fought to preserve the peace in conflicts from the Vietnam war to the Persian Gulf war.

While it is sad to see this noble and venerable lady leave the port at Pensacola after 30 years, I am pleased that her new mission will be an important reminder of the conflicts this country has fought to keep the mantle of freedom. I want to commend and congratulate my good friend, Congressman SOLOMON ORTIZ, for his years of dedicated work on home porting and to him and Corpus Christi for landing the Lady Lex.

Mr. BATEMAN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I rise in support of this bill to waive the congressional review period to permit the earlier transfer of the aircraft carrier U.S.S. *Lexington* to the Corpus Christi area Convention and Visitors Bureau.

I should point out that Alabama's congressional delegation fought against the Texas delegation in an effort to obtain the *Lexington* for the U.S.S. *Alabama* Battleship Memorial Park in Alabama. Quincy, MA, also applied to the Secretary of the Navy for donation of the *Lex*, and I must say that its delegation also went to bat for Quincy. It was an intense competition and each applicant did an excellent job in promoting its case. Navy Secretary Lawrence Garrett told me this was one of the most difficult decisions he had made.

But, in the final analysis, Corpus Christi won the competition and the prize—the *Lexington*. I take my hat off to the people of Corpus Christi and, especially, to the gentleman from Texas [Mr. ORTIZ]. I sincerely hope that the *Lexington* museum and memorial will be a tremendous success and that it will have a positive economic impact on the area.

Mr. Speaker, donations such as this ordinarily require a 60-day congressional review. I think it is appropriate to waive that review period so that Corpus Christi may begin necessary work on the *Lexington* and facilities to berth it and get the museum operational as quickly as possible. There is no protest of the award on the part of my constituents in Alabama and I know of no other reasonable objections to a timely transfer.

The *Lexington* would have been a tremendous boost and asset to the people of Alabama. It could have graced our park, such as the U.S.S. *Alabama* does now, and it would have been an added attraction to the beautiful azaleas and to the magnificent magnolias and to the wonderful people of south Alabama, to add to the other attractions to bring tourism as well as history, naval history especially, to south Alabama.

But we fought, we fought the best battle we possibly could. We were outfought and outmanned by the Texas delegation. My hat is off to them, and we wish the people of Corpus Christi and the State of Texas the best of everything, and our sincere cooperation and congratulations for a job well done.

Mr. BENNETT. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas, Mr. SOLOMON ORTIZ, the author of this legislation.

Mr. ORTIZ. Mr. Speaker, I thank the gentleman from Florida for yielding time to me.

Mr. Speaker, I thank my good friend and colleague, the gentleman from Virginia [Mr. BATEMAN], the gentleman from Florida [Mr. HUTTO], and the gentleman from Alabama [Mr. CALLAHAN], for their support.

Mr. Speaker, my bill quite simply allows the immediate transfer of the U.S.S. *Lexington* to the Corpus Christi area Convention and Visitors Bureau for use as a naval museum and memorial.

It waives the 60-day congressional review period in order to allow the citizens of Corpus Christi to complete the actions necessary to get the museum up and running in time for the summer tourist season.

At this point, if all goes well, the U.S.S. *Lexington* should open as a museum in July.

As many of you know, the retirement of the aircraft carrier, the U.S.S. *Lexington*, brought requests from several cities across the Nation to obtain the use of the ship as a museum.

This inadvertently led last year to a competition among Mobile, AL, Corpus Christi, TX, and Quincy, MA, for the retiring historic carrier.

As a result, the Navy began a very lengthy review process of the applications from all three cities, requiring several rounds of detailed responses from all applicants.

The congressional delegations representing all three of the involved localities worked very hard to promote the proposals from their area.

In the end, on January 9, the Secretary of the Navy announced that he had selected Corpus Christi as the city to become the new home of the U.S.S. *Lexington*.

The Secretary of the Navy evaluated all three proposals on the technical and financial merits as well as a combined review.

The Corpus Christi proposal outscored the other two cities in all three categories.

In compliance with language passed in last year's Defense appropriations bill, the Secretary of the Navy prepared a very lengthy and detailed report outlining the basis for his decision.

It is clear from the report that the decision was fair and that the ship should be transferred to Corpus Christi.

The citizens of Corpus Christi have raised over $1.5 million in pledges and the city council has agreed to offer $3 million in city bonds to pay for the acquisition of the *Lexington*.

The people are ready to go and are eagerly awaiting the action of Congress to speed up the transfer process so that thousands of tourists can have the opportunity to visit the museum this summer.

In closing, I would like to thank Chairman BENNETT of the Seapower Subcommittee and Chairman ASPIN of the full Armed Services Committees, as well as the staff, for their hard work on the bill.

I am particularly grateful for their assistance and cooperation in bringing this legislation to the floor for a vote in such a speedy manner.

Passage of this bill is extremely important to the people from my congressional district and urge my colleagues to join me in supporting the expedited transfer of the U.S.S. *Lexington*.

The Secretary of Navy chose the Corpus Christi site after a review of the technical and financial merits of each proposal as well as a cumulative evaluation.

The citizens of Corpus Christi raised over $1.5 million in pledges and the city council has agreed to offer $3 million in bonds to pay for the initial acquisition and conversion of the *Lexington* into a museum.

The waiver of the 60-day review period is necessary in order to allow the *Lexington* to be up and running as a museum in time for the summer tourist season. Otherwise, the museum would open after the summer is over.

The conversion of the ship is both costly and time consuming. The site must be dredged and prepared for mooring. Utilities must be constructed, the pier prepared, and environmental type activity has to be conducted. In addition, the ship must be fitted with exhibits and prepared to handle the expected influx of visitors.

The ship would transfer after 60 days anyway unless Congress passed a resolution forbidding it. This is very routine and just speeds up the process.

Mr. BATEMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BENNETT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HARRIS). The question is on the motion offered by the gentleman from Florida [Mr. BENNETT] that the House suspend the rules and pass the bill, H.R. 4113, as amended.

The question was taken.

Mr. BENNETT. Mr. Speaker, On that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

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U.N. INTERNATIONAL DRIFTNET FISHERY CONSERVATION PROGRAM EFFECTIVENESS

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2152) to enhance the effectiveness of the U.N. international driftnet fishery conservation program, as amended.

The Clerk read as follows:

H.R. 2152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 10 days after the date of the enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of countries that conduct, or do not prohibit their nationals from conducting, large-scale driftnet fishing beyond the exclusive economic zone of any country.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for; and

(B) deny entry to any place in the United States and to the navigable waters of the United States to;

any large-scale driftnet fishing vessel that is registered under the law of a country included in a list published under paragraph (1).

(3) NOTIFICATION OF COUNTRY.—Before the publication of a list of countries under paragraph (1), the Secretary of State shall notify each country included in that list regarding—

(A) the effect of that publication on port privileges of vessels of the country under paragraph (2); and

(B) any sanctions that may be imposed on that country if nationals or vessels of that country continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any country after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than December 31, 1992, the Secretary of Commerce shall—

(i) identify each country the nationals or vessels of which conduct large-scale driftnet fishing beyond the exclusive economic zone of any country; and

(ii) notify the President and that country of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—Whenever at any time after December 31, 1992, the Secretary of Commerce has reason to believe that the nationals or vessels of any country are conducting large-scale driftnet fishing beyond the exclusive economic zone of any country, the Secretary of Commerce shall—

(i) identify that country; and

(ii) notify the President and that country of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a country is identified under paragraph (1)(B), the President shall enter into consultations with the government of that country for the purpose of obtaining an agreement that will affect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that country beyond the exclusive economic zone of any country.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a country under paragraph (1)(A); or

(ii) if the consultations with the government of a country under paragraph (2) are not satisfactorily concluded within 90 days;

shall direct the Secretary of the Treasury to prohibit the importation into the United States of shellfish, fish and fish products, and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that country.

(B) IMPLEMENTATION OF PROHIBITION.—The Secretary of the Treasury shall implement an import prohibition directed under subparagraph (A) by no later than the date that is 30 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any prohibition under subparagraph (A), the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a country under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that country to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any country; or

(ii) that country has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a country.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction established under section 101 with respect to a country shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that the country has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any country.

SEC. 103. DEFINITIONS.

For purposes of this title:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a country, whether or not taken by fishing vessels of that country or packed, processed, or otherwise prepared for export in that country or the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing

vessel" means any vessel which is used for, equipped to be used for, or of the type which is normally used for—

(A) large-scale driftnet fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products" and inserting "products";

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting "Products"; and

(5) in subsection (h)—

(A) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.";

(B) in paragraph (3) by inserting ", including marine mammals" after "protect the living resources of the sea";

(C) by striking paragraph (4);

(D) by redesignating paragraph (5) as paragraph (4);

(E) by striking paragraphs (6) and (7); and

(F) by adding at the end the following new paragraphs:

"(5) The term 'International fishery conservation program' means any ban, restriction, regulation, or other measure in effect pursuant to a bilateral or multilateral agreement which is in force with respect to the United States, the purpose of which is to conserve or protect the living resources of the sea, including marine mammals.

"(6) The term 'taking' as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

SEC. 202. ENFORCEMENT AGREEMENT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861) in order to increase the effectiveness of enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS OF AGREEMENT.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing potential locations of vessels that are in violation of domestic laws and international agreements designed to conserve and manage the living marine resources of the United States;

(2) requirements for the use of surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in the carrying out of multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) reform articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include other Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

The SPEAKER pro tempore (Mr. HARRIS). Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I am pleased to bring before my colleagues legislation that will ensure that deadly large-scale driftnets will never again be used to ravage the oceans of this planet.

Large-scale driftnet fishing threatens the seas with overfishing and depletion of many species of fish, birds, marine mammals, and other wildlife. These destructive nets—ranging up to 40 miles long—hang in the water like walls of death, drifting with the tides and killing everything that comes in contact with them.

In the 1980's this Nation witnessed a tremendous proliferation in the use of large-scale driftnets by foreign fishermen in the North Pacific Ocean. In just 1 year in the North Pacific alone, over 2 million miles of driftnets were deployed—that is enough net to encircle the earth 80 times. Many of us could only imagine the incredible damage being done to our sea birds, whales, and our important salmon resources. But we were told by foreign governments not to worry because this method of fishing was no more harmful than any other.

Well, Mr. Speaker, I didn't believe them. Our fishermen—who were experiencing reduced salmon catches—knew better, and the environmental community was working hard to obtain more evidence of the devastating nature of these nets. We all agreed that driftnets were too destructive to allow in our oceans and that strong action was needed. In response to the massive buildup of foreign driftnet vessels, DON YOUNG and I authorized the Driftnet Impact Monitoring, Assessment, and Control Act of 1987. The goal of that law was simple, to obtain enough scientifically reliable data to shut down the fishery. The enactment of this law marked the official start of our 5-year legislative battle to end the use of large-scale driftnets.

As a result of the 1987 law, our Government placed observers on foreign driftnet fishing vessels. The reports we receive from those observers were nothing less than shocking. Tens of thousands of marine mammals, turtles, seabirds, and salmon of U.S. origin were being killed and discarded each year by foreign driftnet fishermen. By 1990, we finally had the scientific data necessary to prove that this method of fishing was devastating to the marine environment and must not be allowed to continue.

The war against large-scale driftnets spread from Congress, to the executive branch, to our environmental and fishing communities, and to the United Nations. In 1989, the U.N. General Assembly passed the first of several resolutions concerning the elimination of large-scale driftnet fishing. This past December, over 30 countries joined the United States in sponsoring Resolution 46-215, calling for a global moratorium on all large-scale driftnet fishing by December 31, 1992.

H.R. 2152 is intended to bolster the efforts of the United Nations to ensure that all nations comply with the required moratorium. Specifically, the bill:

Denies U.S. port privileges to any foreign driftnet fishing vessel. It is already illegal for U.S. fishermen to use large-scale driftnets;

Requires the President to embargo all shellfish, fish, and fish products and sport fishing equipment from countries that do not comply with the U.N. deadline;

Authorizes the President to use his discretionary embargo authority under the Pelly amendment against those countries that continue to ignore the U.N. deadline;

Strengthens the Pelly amendment by expanding the President's discretionary embargo authority to include any product imported from an offending nation;

Requires the Coast Guard and the Departments of Commerce and Defense to enter into a agreement to increase the effectiveness of enforcement of domestic and international fishery laws; and

Urges the President—when undertaking multilateral trade negotiations—to address environmental concerns.

Mr. Speaker, our committee began this fight more than 5 years ago; today we have a chance to end it. Chairman ROSTENKOWSKI and his colleagues on the Ways and Means Committee have been very supportive of our efforts to end the use of large-scale driftnets. For the first time ever, we are mandating in legislation trade sanctions against those countries that violate an international fisheries conservation agreement. And just as significantly, this bill strengthens the Pelly amendment by increasing the President's negotiating leverage in both international fisheries and wildlife negotiations.

H.R. 2152 is proof that when we all work together, great things can be accomplished. On behalf of our fishermen, the environmental community, and all the cosponsors of this bill, I urge my colleagues to support this very important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this important measure and urge its adoption.

Mr. Speaker, this bill is the result of decades of work by our fishing industry to stop one of the most environmentally destructive activities ever invented. For years, hundreds of vessels from foreign nations have been setting driftnets on the high seas and destroying our marine resources. In some years, our fishermen in Alaska have seen their catches reduced to almost zero because the seas have been swept clean by the driftnet fleet.

Finally, after decades of inaction, President Bush's administration has led the charge at the United Nations to bring this fishery to a halt. At the urging of the United States, the United Nations has called for a global ban on large-scale high seas driftnets and, as of the end of this year, all major driftnetting nations have agreed to this ban. While the environmental movement may call this a victory, I want to point out that it is our fishermen in Alaska who led the way to stop driftnetting.

Mr. Speaker, we hear a lot in this Congress about jobs. This is an American jobs bill. When the driftnet fleet steals our salmon, jobs are lost—fishermen lose their vessels, processing workers are laid off, and support industries suffer, not just in Alaska, but nationwide. If you support American workers, you should support this bill.

Mr. Speaker, I want to call the attention of the House to particular provisions of this bill.

Section 101(a) denies port privileges to driftnet fishing vessels that wish to enter U.S. ports. This denial is to be made in accordance with recognized principles of international law. A list of the driftnetting nations whose driftnet fishing vessels will be denied our port privileges is to be published no later than 10 days after the date of enactment of this act. It is the intent of our committee that the denial of port privileges shall take place as soon as the Secretary of State notifies each country that is included on the list. We expect the Secretary of State to notify countries immediately so that this sanction can be put into effect.

Section 101(b) imposes sanctions on the importation of fish, fish products, and sport fishing gear from countries that continue to engage in driftnetting on December 31, 1992. This sanction is effective immediately. If a country has vessels that are engaged in the driftnet fishery after that date, a provision is made to allow time for consultations with that country so that the driftnet fishery can be halted. We expect the administration to pay strict attention to the timeframe specified in the bill and not to delay in engaging in consultations or imposing sanctions if they are necessary.

Title II expands the Pelly amendment to the Fishermen's Protective Act of 1967 by giving the President the authority to embargo any product from a nation which is diminishing the effectiveness of an international fish or wildlife conservation program. We expect the President to use this authority broadly. In other words, if a nation is certified under the Pelly amendment and the President decides to impose sanctions, those sanctions are not to be limited to like products, such as imposing sanctions on imported fish products for violation of an international fisheries agreement.

Title II also requires the Coast Guard, the Department of Commerce, and the Secretary of Defense to enter into an agreement to use the capabilities of the three agencies to increase the effectiveness of enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States. We have noted in the past that the three agencies have sometimes been reluctant to work with each other. The committee expects a full cooperative working arrangement among these three agencies. In other words, the committee expects all agencies in the executive branch to take a positive, active role in carrying out the provisions of this bill.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI], the distinguished chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of H.R. 2152. The purpose of H.R. 2152 is to enhance the effectiveness of U.N. Resolution No. 46-215 and to bring an end to the practice of large-scale driftnet fishing on the high seas. H.R. 2152 would do so by broadening the import sanctions applicable under United States law to countries whose nationals or vessels engage in large-scale driftnet fishing on or after December 31, 1992.

It is our hope that these import sanctions will never have to be used because all countries have indicated that they intend to comply with U.N. Resolution 46-215. That resolution requires countries to cease driftnet fishing on the high seas no later than December 31, 1992.

In the event that import sanctions are ever warranted, the bill sets forth procedures for applying them that generally follow customary procedures under U.S. trade law.

Mr. Speaker, I am pleased to report that the provisions of this bill have been worked out in close consultation between the Committee on Merchant Marine and Fisheries and the Committee on Ways and Means. As such, the bill comes to the floor today with broad bipartisan support from both committees. It reflects a clear recognition in the Congress of the importance of coordinating carefully our national policy with respect to the environment and our national policy with respect to international trade.

H.R. 2152 is an excellent example of how to produce legislation that meets the objectives of, and takes into account the concerns of, both the environmental community and the international trade community.

For these reasons, Mr. Speaker, I urge my colleagues to join me in supporting passage of this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding me this time.

I wanted to commend the chairman of the Committee on Merchant Marine and Fisheries and the gentleman from Alaska, the distinguished gentlemen who have brought this legislation to the floor, but I think it is also important to recognize that the real teeth in making this an effective piece of legislation are provided by legislative provisions in the resolution following within the jurisdiction of the Committee on Ways and Means. Their ability to write legislation to bring down trade sanctions upon violating countries is crucial to make effective congressional concerns about driftnet fishing. So I commend the chairman, the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], and other members of that committee.

The subject of this legislation, driftnet fishing, has been addressed by a subcommittee of the Committee on

Foreign Affairs. The distinguished gentleman from Pennsylvania [Mr. YATRON], and its chairman, and this Member who served as the ranking member, among others on the subcommittee have been concerned about this subject, have held hearings on this subject, and moved legislation on it.

Mr. Speaker, this matter first came to this Member's attention through my position as ranking member of the subcommittee of the Foreign Affairs Committee that has jurisdiction over international environmental policy. I was particularly disturbed by the practices of the Japanese fishing industry. And while the Japanese had at one time given lipservice to the international effort to eliminate driftnet fishing, their actions have suggested otherwise. Indeed, Japan is now claiming that the scientific data does not support the driftnet ban and, therefore, a driftnet moratorium should not be imposed.

But permit me to explore Japanese driftnet practices in more detail, Mr. Speaker.

Japan's use of driftnets causes as much, if not more, damage as its egregious and well-documented whaling practices. Driftnets are plastic filament fishing nets, up to 50 miles long and about 30 feet deep, that are dropped into the ocean, allowed to drift overnight, and pulled up in the morning to harvest the catch. Environmentalists call them walls of death because the nets kill not only the targeted marketable fish, but also everything else with which the nets come into contact—fish, whales, turtles, dolphins, birds, et cetera. This wanton, useless killing is quite literally strip mining of the oceans.

The Japanese have maintained a driftnet fleet in the North Pacific Ocean for over 30 years, mainly intended for harvesting squid. The statistics are gruesome. In the last 6 months of 1989, 32 Japanese fishing boats, or less than 4 percent of the North Pacific driftnet fleet, caught 3 million squid. In the process, they also accidentally killed 58,100 blue sharks, 914 dolphins, 141 porpoises, 52 fur seals, 25 puffins, 22 marine turtles, 539 albatrosses, 8,536 shearwaters, and 17 storm petrels. The driftnet fleets of Japan, Taiwan, and the Republic of Korea employ 40,000 miles of driftnets each night in the North Pacific alone, or 2 million miles of nets each season.

In 1981, Japan instituted a limited entry management system to regulate where in the North Pacific driftnets are allowed and when they may be used, but incredible damage occurs despite these regulations. In December 1987, Congress passed the Driftnet Impact Monitoring, Assessment, and Control Act requiring negotiations with the governments of the principle driftnet fishing nations—Japan, Taiwan, and the Republic of Korea—to develop cooperative scientific monitoring, assessment, and enforcement agreements on driftnet fishing. As a result of these negotiations, transmitters have been placed on some Japanese boats to allow satellites to follow the location of the vessels, and United States monitors have been allowed onboard some vessels operating outside of authorized fishing areas. However, the number of transmitters, observers, and other monitoring programs remains insufficient to accurately measure and analyze the activities of Japan's large driftnet fleets, and the monitoring agreements affect only the Japanese fleets in the North Pacific Ocean. Driftnet fishing in the South Pacific is just as destructive—environmentalists say that the large-scale driftnet fishing in the South Pacific could put the populations of albacore tuna, dolphins, whales, sea birds, and sea turtles at risk.

A recent development in Japan's driftnet fishing operations involves the violation of a Soviet-Japanese fisheries treaty. This treaty controls where and when Japan can fish in the North Pacific Ocean, limits the annual catch that Japan can take from these waters, and requires Japan to pay the U.S.S.R. an annual fisheries cooperation fee. Recently, Soviet patrol boats stopped a fleet of 12 North Korean driftnet boats operating in these restricted waters, only to discover that they were in fact Japanese boats. Apparently, a Japanese fishing company arranged with the North Korean's to lease Japanese boats and market the catch, reflagging the ships as North Korean. This would allow Japan to get around the quotas set by the Soviets, which have been significantly decreased over the last few years. It is not known whether the Japanese Government was aware of this deal, so we do not know whether the Government or private industry is to blame.

International concern for the environment has increased dramatically in recent years, including concern for the marine environment. In July 1989, the South Pacific Forum, an association of South Pacific nations, issued the Tarawa Declaration condemning the use of driftnets. According to the forum, the use of driftnets is "not consistent with international legal requirements in relations to rights and obligations of high seas fisheries conservation and environmental principles," and Japan and Taiwan are guilty of "indiscriminate, irresponsible, and destructive driftnet fishing." Last December, the United Nations passed a resolution calling for a ban on driftnet fishing in the South Pacific by June 30, 1991, and in the rest of the world by June 30, 1992, and the International Whaling Commission has passed a resolution in support of this U.N. resolution.

We in the Congress could pass resolutions deploring driftnet fishing until we are blue in the face without great effect. However, it is apparently only legislation like this, which begins to make it hurt when the nations practice this egregious kind of conduct which is so damaging to the fisheries industry and to the sea life of the world, that will cause offending nations and their fishing fleets to stop this driftnet fishing. So I commend the Merchant Marine and Ways and Means Committees for their effort and urge adoption of the resolution.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I am happy to yield to the gentleman from California.

□ 1350

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding to me.

I want to join in commending the gentleman from Alaska [Mr. YOUNG] and the others who brought this legislation before us, but I also want to commend the gentleman from Nebraska [Mr. BEREUTER] for his role in this important problem. The gentleman has described it exactly as it is. Driftnets are really hurting the sea life of the world; it needs to be stopped. This legislation will finally put some real teeth into our efforts.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for his past expressed concern and for his kind comments.

Mr. STUDDS. Mr. Speaker, I apologize for failing to commend individually every member of the Committee on Ways and Means. That was incorporated in my statement. They are duly commended.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise today in support of H.R. 2152, a bill to enhance the effectiveness of the U.N. International Driftnet Fishery Conservation Program.

For several years, the United States has endeavored to protect marine mammals and threatened and endangered species from large-scale destruction such as that caused by driftnets. In 1990, the enactment of the Magnuson fishery management conservation reauthorization implemented a ban on the use of driftnets in the U.S. 200 mile exclusive economic zone and a prohibition of the use of such nets by U.S. fishing fleets anywhere in the world. It also prohibited the importation into the United States of certain fish or fish products caught with these nets.

In late 1989, the United Nations passed a resolution calling for the ban on large-scale driftnet fishing on the high seas by June 30, 1992. In December 1991, the U.N. resolution was strengthened and the ban deadline pushed back to December 31, 1992.

The time has come to ensure compliance with the international moratorium by all nations. For too many years, driftnetters have been allowed to fish the seas, decimating populations of marine mammals, sea birds, sea turtles, and nontarget fish populations, in addition to seriously overfishing target species. Lost or discarded driftnets roam the seas unabated causing widespread destruction of marine life.

H.R. 2152 encourages full implementation of the U.N. resolution to end large-scale driftnet fishing on the high seas by prohibiting fishing vessels of nations that engage in driftnet fishing from entering U.S. ports, and imposing certain import sanctions against countries whose vessels violate the moratorium. The bill also expands the authority of the President to impose import restrictions on any product of a nation which conducts fishery practices or engages in trade that diminish the effectiveness of international programs for fishery conservation or the protection of endangered or threatened species.

I strongly support H.R. 2152 and am pleased that the legislation includes language to notify nations of impending United States action when countries are in violation of the driftnet moratorium.

This legislation expresses the sense of Congress that we, as a nation, must do our part to end large-scale driftnet fishing and preserve our important marine life and I urge my colleagues support for its passage.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I rise in strong support of H.R. 2152, which strengthens U.S. efforts to end the practice of driftnet fishing. I have long supported this measure as vital to protecting U.S. fisheries off the coast of the United States.

Ending driftnet fishing will have beneficial effects not only on the high seas, but in areas such as my landlocked rural northern California district as well. Overfishing of species such as salmon, which return inland to spawn, often has unintended side effects. It can trigger Endangered Species Act protections which have serious consequences on communities located hundreds of miles from the coast.

I regret that we did not take this step years ago. If we had, it may very well have prevented a serious problem affecting my district.

The winter run of chinook salmon, which spawns in the Sacramento River, has varied in number between 1,500 and 3,000 fish in recent years. Last year, however, it has dwindled to an estimated 200 fish. As a result, extraordinary measures are being taken to protect the remaining fish, including the drawdown of several major reservoirs, such as Whiskeytown Lake.

This action is wreaking havoc on the surrounding communities, threatening their access to domestic water supplies, and devastating the local economy.

Driftnets such as we are trying to eliminate here today have had a major impact on the chinook salmon. We must take steps such as enacting H.R. 2152 if we are going to successfully prevent these types of environmental and economic disasters from occurring again. I urge the adoption of this vitally needed legislation.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I congratulate the chairman and the committee for bringing this legislation to the floor. It is certainly much-needed legislation. The need for it illustrates the fact that people through sheer greed can be unthoughtful of those around them in the world.

Also, it protects the environment in a way which needs to be protected.

This legislation is very much overdue. I appreciate the activity of the committee in bringing it to the floor.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Washington [Mrs. UNSOELD].

Mr. YOUNG of Alaska. Mr. Speaker, I yield an additional 3 minutes to the gentlewoman from Washington.

The SPEAKER pro tempore. The gentlewoman from Washington [Mrs. UNSOELD] is recognized for a total of 5 minutes.

Mrs. UNSOELD. Mr. Speaker, I would like to begin by thanking the chairman and the ranking member of our Fisheries Subcommittee for their leadership and the opportunity to work with them in bringing this bill to the floor today.

I want to begin by thanking the chairman and ranking member of our Fisheries Subcommittee for their leadership and for the opportunity to work with them in bringing this bill to the floor today. During the past 3 years we have brought several pieces of driftnet legislation before this body. We initiated the bill establishing the U.S. policy of securing a global ban on this fishing practice, and we repeatedly sent the message to our negotiators that they must seek nothing less.

H.R. 2152 builds upon these past efforts and is the most comprehensive and strongest step yet to ensure an end to large-scale driftnet fishing. It lets these driftnetting nations know that if they insist on plundering the world's marine resources, we will deny port privileges to their ships and ban imports of their fish, fish products, and sportfishing equipment.

This bill also strengthens current driftnet enforcement efforts by requiring the Department of Defense to supplement the Coast Guard's limited surveillance resources. These provisions are similar to H.R. 2920, a bill I introduced last summer to crack down on pirate vessels that blatantly ignore national laws and international agreements.

Enforcement of these measures, however, must be more than a U.S. effort. We need a worldwide commitment to ensure that our marine resources are not depleted, and sustainable harvests are ensured for future generations. This is why I am introducing a resolution that calls upon our negotiators to seek international monitoring and enforcement agreements to ensure effective implementation of a global ban on large-scale driftnets. I hope we can act on this proposal—perhaps even including it in H.R. 2152—at a later date.

Mr. Speaker, H.R. 2152 includes two additional provisions that, while not directly related to large-scale driftnet fishing, reflect the same American frustration with the unwillingness of some nations to meet their obligation to conserve the fish and wildlife resources of our planet.

The first is based on a bill introduced by the distinguished gentleman from Alaska [Mr. YOUNG] to expand the President's embargo authority against nations that violate international agreements aimed at protecting our natural resources.

The second is based on a bill I introduced in response to a recent decision by a panel of GATT to restrict the use of trade sanctions to protect international resources.

The GATT decision, which was based on a United States embargo of tuna from Mexico, is troubling because it means that no country may have any law to protect the environment, or a species, outside its own geographic territory.

The implications of this ruling are enormous. It jeopardizes international programs to ensure rational management of migratory fisheries, compliance with an international whaling moratorium, and the international agreement to end large-scale driftnet fishing.

H.R. 2151 responds to these concerns by calling upon U.S. negotiators to address environmental issues during trade negotiations, and to develop trade policies that make GATT more responsive to national and international environmental concerns.

Strengthening our driftnet laws, expanding the President's embargo authority under the Pelly amendment, and reforming GATT are important steps toward environmentally sustainable management of the world's living resources. Unfortunately, the administration continues to oppose this bill based upon the strong driftnet language. I remind my colleagues that this is not the first time the administration has blindly opposed our legislation to end large-scale driftnet fishing. We have cast aside shortsighted administration objections before. I urge us to do so again.

□ 1400

Again, Mr. Speaker, I want to thank the chairman, without whose help we would never have pushed this legislation and this world policy to this point, and also thank the ranking members of our Committee on Merchant Marine and Fisheries for their leadership in this area.

I also want to thank the gentleman from Illinois, Chairman ROSTENKOWSKI, and the gentleman from Florida [Mr. GIBBONS], for their roles in bringing the bill to the floor today.

It is a strong bill. It will ensure an end to the terribly wasteful and destructive practice of large-scale driftnet fishing and improve the international management of our living marine resources. Again, I urge its adoption.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I commend the gentlewoman from Washington [Mrs. UNSOELD] for her very active leadership in this area.

Mr. Speaker, I yield 3 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, first, I would like to commend Chairman STUDDS, Chairman GIBBONS, Chairman ROSTENKOWSKI, the gentleman from Alaska [Mr. YOUNG] and many other Members for once again, bringing the spectre of driftnet fishing to the forefront of public awareness.

As a Pacific Islander, I am acutely aware of the dangers posed by driftnet fishing.

To illustrate the extent of driftnet activity that occurs in the high seas, for example in 1990—according to a report from a meeting held in British Columbia between the United States, Japan, and Canada—approximately 106 million targeted squid were caught and that an estimated 41 million other forms of marine life and mammals from over 100 species were killed as bycatch. This bycatch included 39 million other fish species, 700,000 sharks, 270,000 sea birds, 141,000 salmon, 24,000 marine mammals, and 406 sea turtles.

When these numbers, which represent only 1 year's data for a high seas driftnet fishery in one region are considered globally and over a number of years, the destructive and wasteful nature of this indiscriminate fishing method simply cannot be denied.

Some scientists have noted that the rate of nontarget species bycatch may even be higher, since many animals drop out of the 30-40 kilometer long driftnets as the nets are hauled in.

The U.N. General Assembly was right to call the world's attention to this important global problem by adopting resolutions 44-225 and 45-197.

The largescale driftnet fishing countries have had ample opportunity in the 3 years since the 1989 resolution to prepare to end this indiscriminate and wasteful fishing method by June 30, of this year.

In October 1989, I introduced House Concurrent Resolution 214 to support regional efforts to end driftnet fishing in the South Pacific. I honestly believe this and other legislation passed by the Congress helped formulate a decision by Japan, Taiwan, and Korea to comply with U.N. Resolution 44-225 and withdraw their driftnet vessels from the South Pacific.

Mr. Speaker, some will argue that this legislation violates certain provisions of the GATT and constitutes an illegal barrier to trade.

In August 1991, a secret three-person dispute resolution panel of the GATT declared that "no country may have any law to protect the environment or a species outside of its own geographic territory."

In my opinion, this type of irresponsible reasoning will lead to massive destruction of the Earth's dwindling resources and the environment.

Mr. Speaker, the Congress must not yield its responsibility on environmental policy to satisfy the needs of those who take no responsibility for conserving the world's food resources.

It is now technologically possible to destroy a majority of the fish and wildlife stocks on the high seas—I ask my colleagues to "take another giant step for mankind," and support H.R. 2152—it is not too late to save us from ourselves.

Mr. STUDDS. Mr. Speaker, I yield myself 1 more minute.

Mr. Speaker, if there is anyone who has gone uncommended, at this point who deserve it, I think it is probably the fishermen of the State of Alaska, who first called this to our attention with the observation of netmarks on the salmon returning to spawn in the rivers of Alaska. They were the ones, I think, who sounded the alarm bell to their distinguished Representative, their distinguished and determined Representative, the gentleman from Alaska [Mr. YOUNG] and brought it to our attention.

Those are U.S. resources obviously being intercepted on the high seas. It really is, I think, fitting that this debate ended with a tribute to the fishermen of Alaska, who first brought that to the attention of Congressman YOUNG and to the rest of this institution.

Finally, Mr. Speaker, let me just say that no one deserves commendation more than the distinguished gentleman from Alaska [Mr. YOUNG]. He has been an eloquent and tireless voice on behalf of those fishermen. We all owe him a debt. This is one of those areas where once again with some humility I can say on behalf of the gentleman from Alaska and myself that your humble and loyal Committee on Merchant Marine and Fisheries have brought to this floor a bill that has genuine bipartisan support and that is important to an awful lot of people and that matters and that will really accomplish something.

So, again, Mr. Speaker, I commend the gentleman. I commend the members of both committees.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman from Massachusetts, the chairman of the subcommittee. I will duplicate what the gentleman from Massachusetts said, that this bill is long overdue and that the gentleman has met the charge of the chairman. And now we have it through Ways and Means, with the gentleman from Illinois [Mr. ROSTENKOWSKI], the gentlewoman from Washington [Mrs. UNSOELD]. Those people worked very hard, and I am glad that today we will pass this legislation.

I again compliment the gentleman.

Mr. REED. Mr. Speaker, I rise today in support of H.R. 2152, legislation to enhance the effectiveness of the U.N. international driftnet fishery conservation program. I would like to thank Chairman STUDDS, Mr. YOUNG, and other members of the committee for their attention and commitment to this issue. I was able to work closely with Chairman STUDDS in the drafting of this bill and I am pleased to be an original cosponsor.

I am pleased that this bill has received such wide support in Congress, and I believe that it will give some teeth to the U.S. driftnetting policy. At this time, it is still profitable for foreign countries to engage in driftnetting. Much to my dismay, it has been said that driftnet activity has been increasing in areas across the globe such as the People's Republic of China, France, Ireland, Taiwan, and Korea.

H.R. 2152 would correct this problem by imposing economic sanctions and denying port privileges to countries that engage in driftnetting, as well as by requiring the State, Commerce, and Defense Departments to use their resources to enforce the U.N. driftnet ban.

There are no known driftnet fisheries that do not incidentally take marine mammals in the net as well. The National Marine Fisheries Service recently released data that showed that a mere 10 percent of Japanese driftnets caught more than 81,000 blue sharks, 30,000 sea birds, 1,700 whales and dolphins, and more than 10,000 salmon and steelhead. I believe that Congress must discontinue the importation of tuna from these nations as a demonstration of our disapproval of their inhumane treatment of marine wildlife.

I urge my colleagues to continue their support of this legislation and vote to pass H.R. 2152.

Mrs. LOWEY of New York. Mr. Speaker, I rise today in strong support of H.R. 2152, legislation to impose tough sanctions of nations which fail to abide by international restrictions of the use of large-scale driftnets.

I want to congratulate the chairman of the subcommittee on Fisheries and Wildlife Conservation and the Environment, Mr. STUDDS, for his leadership in moving this important piece of legislation. I also want to commend the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, for his expeditious work in advancing this legislation.

This measure would deny entry into U.S. ports to vessels from nations which continue to use large-scale driftnets in violation of an international moratorium. Further, if these countries do not adhere to the U.N.-imposed deadline of December 31, 1992, to end this destructive fishing practice, fish, fish products, and sport fishing equipment from those countries will be denied access to U.S. markets. If 6 months after this deadline countries continue driftnetting, the President is given the authority to expand the embargo to any product from that nation.

This is tough legislation—some may say too tough—but the time for ignoring the environmental atrocities of some of our trading partners must come to an end. This legislation sends the clear signal that the United States will exercise its right to enforce its domestic environmental laws and support international efforts to stop environmental destruction.

The international community has taken steps to stop the senseless slaughter of marine mammals caused by the use of large-scale driftnets. Certain nations, however, are not prepared to abide by the U.N. resolution and insist on continuing this heinous practice. For the sake of our environment, and the economic welfare of nations which are observing the ban in good faith, we must be ready to respond with sanctions. This bill does that.

In this era of global economic interdependence, trade has the promise of strengthening cooperation between nations on a whole range of issues, including environmental protection. Given the ominous findings of late about the pace of global degradation of our air, water, land, and biological resources, environmental cooperation must become a top priority in our trade negotiations. I am very pleased that the bill brought to the floor contains language, which several of my colleagues and I sponsored in committee, to direct the administration to work for our environmental and economic interests in all trade negotiations.

This measure directs the U.S. Trade Representative to press environmental concerns during all trade negotiations and to work for changes in the international trade regime to stress environmental concerns and to ensure that the end result is a strengthening, not weakening, of environmental protections. In the past, U.S. negotiators have not emphasized environmental protection in international trade talks. This has allowed companies operating in nations with minimal environmental protections to enjoy a competitive advantage over firms operating in the United States, and permitted other nations to continue practices that threaten our global environment. The international system, the General Agreement on Tariffs and Trade [GATT], allows negotiators to virtually ignore environmental issues. The word "environment" does not appear once in the text of the GATT's authorizing document. It is high time that that changes.

Americans should be proud that we have one of the most advanced environmental protection programs in the world, but those standards should not cost us jobs. It's time for the administration to stand up for the environment and U.S. workers and demand that our trading partners impose strong environmental protections within their borders. We can preserve our environmental laws and strengthen the economy, but only if our trade representatives make protecting the environment and U.S. jobs a priority.

Under the current system, nations can harm the environment, exploit their workers, and undercut the U.S. economy—all under the guise of free trade. This legislation requires the U.S. Trade Representative to fight for fair trade that will prevent countries from damaging the environment and siphoning off U.S. jobs.

I urge my colleagues to support this legislation.

Mr. AUCOIN. Mr. Speaker, I rise in strong support of H.R. 2152, a bill to enforce the total ban on open-sea driftnet fishing. I want to thank Chairmen JONES, STUDDS, and ROSTENKOWSKI for their work in bringing this bill to the floor. Many of our colleagues have worked hard on this issue, but I must especially commend Representative UNSOELD for her tireless efforts to end this devastating practice that has threatened marine mammals, birds, and fish in the Pacific.

There can be no doubt that our efforts in this body are largely responsible for the complete termination of driftnet fishing that is scheduled to take place by the end of this year.

We woke up the State Department on this issue. We convinced them to adopt a firm negotiating position. This led to Japan's concessions and culminated in the latest U.N. General Assembly resolution, which was adopted late last year. Without our efforts, this progress would not have been possible.

But if we won the driftnet war, we must now enforce the driftnet peace. This bill provides many of the tools we need to achieve this goal.

Successful enforcement also depends on our making sure that the Coast Guard and other Federal agencies have the resources to carry out their responsibilities.

For many years, I've worked to increase the Coast Guard budget during the appropriations process. This year, I intend to press for adequate support of the Coast Guard's driftnet enforcement activities as well as its many other responsibilities.

There is a broader lesson in the driftnetting issue. For too long, our efforts to protect the marine environment where frustrated as other nations argued that driftnetting was good economics.

That was never true. Driftnetting is bad economics because it makes effective resource management impossible.

That's why I'm pleased that H.R. 2152 calls for the careful coordination of trade policy with environmental concerns.

It's time to recognize that the global environment must have a place in our consideration of trade and other issues. We cannot afford to ignore environmental abuses in other lands, for they touch us all. Most certainly, we cannot allow environmental destruction to proceed in the name of open trading practices.

I strongly support passage of H.R. 2152. I hope it will be followed by many more constructive efforts to protect the environment of this planet.

Mr. PANETTA. Mr. Speaker, I rise today in strong support of the driftnet fishing sanctions legislation. This legislation represents part of the legislation I introduced last November to ensure a more stable economic market for sockeye salmon.

Specifically, the legislation would prohibit the fishing vessels of nations that engage in large-scale driftnet fishing from entering U.S. ports, and impose import sanctions against countries whose vessels continue to use large-scale driftnets on the high seas after December 31, 1992—the U.N. deadline for all nations to end such fishing.

The measure also would expand the authority of the President to impose import restrictions on any product of a nation which conducts fishery practices, or engages in trade, that diminish the effectiveness of international programs for fishery conservation or the protection of endangered or threatened species.

Currently, the salmon market is substantially impacted by large-scale driftnet fishing. Every summer, fishermen from my district and many others go to Alaska to fish for sockeye salmon in Bristol Bay. Prior to the Alaskan fishing season, fishermen from various countries are using large-scale driftnets on the high seas to catch U.S. sockeye salmon illegally. When salmon is caught on the high seas and subsequently sold on the black market, the price of our fishermen's salmon inevitably decreases. Consequently, our fishermen are receiving a ridiculously low price for their salmon catch. This past season the fishermen just broke even. This legislation will help put an end to this extremely unfair market.

Additionally, this legislation addresses the devastating effect that large-scale driftnet fishing has on the environment. Thousands of sea birds and endangered sea turtles, and hundreds of thousands of marine mammals, including whales and dolphins, are caught and killed in the large-scale driftnets. This legislation will put a vitally necessary halt to this environmental destruction.

Today we have the opportunity to show our strong support for putting an end to large-scale driftnet fishing and its deleterious effects. I urge you to support this legislation and, by doing so, support our fishermen, fair trade, and the environment.

Mrs. MINK. Mr. Speaker, I rise today to urge my colleagues to join me in attacking the horrendous scourge of driftnet fishing by supporting H.R. 2152. This farsighted legislation will strengthen the U.N. moratorium against driftnetting, and it will signal to the world that the United States is prepared to take a leading role in protecting the environment.

Let there be no doubt about the destructiveness of driftnet fishing. A report released last summer by the National Marine Fisheries Service documents that thousands of animals are killed in large-scale driftnets each year. Observers monitored only 10 percent of the Japanese driftnetting fleet last year and found that those nets alone caught 81,000 blue sharks, 30,000 sea birds, 1,700 whales and dolphins, and almost 10,000 salmon and steelhead. That's just 10 percent of the Japanese fleet, and Japan is only one of many countries now driftnetting.

It is no wonder so many fish and other marine animals are swept up by these nets. Drift nets are up to 60 feet in depth and stretch for more than 30 miles—about the distance between here and Dulles Airport. They are literally walls of death. And the amount of net that is laid is extraordinary. The driftnet fleet in the North Pacific—about 1,200 vessels—casts more than 25,000 miles of net each summer night—enough net if laid end to end to wrap around the Earth's Equator.

Much is made, and rightly so, of the threat that driftnets pose to endangered species such as dolphins and sea turtles. But driftnets also threaten the balance, and the very existence, of our ocean ecosystems. With estimates that the world's oceans can only produce a total of 100 million tons of fish a year, and with present estimates suggesting that only about 85 million tons are now being produced, the indiscriminate destruction wrought by driftnets could play a part in an irreversible decline in marine life.

As a Representative of the island State of Hawaii, I fully appreciate the harm that can be done by these massive and destructive nets. Our tradition in the islands is to respect the ocean, take only what we need and can use, and leave the rest for another day. Preserving our most precious sources of life and sustenance on land and sea is a heritage too often forgotten by modern societies. Driftnet fishing is one of the most devastating examples of this.

The international community recognizes the problems posed by large-scale pelagic driftnet fishing on the high seas. In December 1989, the United States cosponsored Resolution 44–225 that was adopted by consensus by the General Assembly [UNGA], as was reaffirmation Resolution 45–197 a year later. UNGA Resolution 44–225 calls for an end to the use of large-scale pelagic driftnets on the high seas by June 30, 1992, unless jointly agreed conservation and management regimes can be put in place to prevent the unacceptable impacts posed by this fishing method on the marine environment.

But the U.N. moratorium is not enough. Despite indications that Ireland, Taiwan, and Great Britain intend to prohibit their fishermen from high seas driftnet fishing after the United Nations deadline, recent violations of existing agreements by Taiwan and the Republic of Korea and the reemergence of Chinese driftnet vessels in the North Pacific fishery has led many to question whether the United Nations moratorium will be fully implemented. That these violations came after the announcements of all of these nations that driftnet fishing would be halted doesn't help.

In fact, Japan has confirmed these doubts indicating that it intends to continue this practice after the United Nations deadline. On September 27, 1991, the Government of Japan filed a position paper with the United Nations challenging the moratorium called for in Resolution No. 44–225. They claimed at that time that the scientific data does not support the driftnet ban and, therefore, according to the language in the resolution, the moratorium should not be imposed. Although this prompted the United Nations to issue its reaffirmation resolution calling upon all nations to implement the moratorium without exception, it is now clear that the resolution may be fought, and may be ignored.

H.R. 2152 will enhance the effectiveness of the U.N. moratorium by denying port privileges to any nation that engages in driftnet fishing. It will also allow the President to impose sanctions on certain imported goods of those countries. This will send a signal to the rest of the world that the United States is prepared to use the power of its markets to enforce measures that seek to protect endangered species and our environmental resources.

But this crucial legislation goes further. It declares it to be the policy of Congress that environmental issues should be addressed during all international trade negotiations. And it directs the President, acting through the office of the U.S. Trade Representative, to pursue changes to the General Agreement on Tariffs and Trade [GATT] that would result in consideration of, and conformation to, the domestic environmental laws of the contracting parties to the GATT.

H.R. 2152 would also direct the President to seek to secure a working party on trade and the environment within the GATT as soon as possible. This working party would establish procedures to include environmental issues in ongoing and future GATT negotiations. Finally, it would direct the President to take an active role in developing national and global trade policies which make the GATT more responsive to environmental concerns, and to involve Federal agencies with environmental expertise in all trade negotiations.

H.R. 2152 is farsighted legislation that will signal to the world that the United States is prepared to take a leading role in confronting our environmental crises. And it will make it clear that we are prepared to back up U.N. regulations with our markets and our Government. I urge my colleagues to join me in supporting this important bill. Vote yes on H.R. 2152.

Mr. DOWNEY. Mr. Speaker, I rise today in support of H.R. 2152, the U.S. International Driftnet Fishery Conservation Program. I urge my colleagues in the House of Representatives to support this legislation which will significantly enhance the effectiveness of the U.N. international driftnet fishing ban.

It is imperative that the United States support strong international and domestic enforcement of environmental laws. Large-scale driftnets, which often exceed 30 miles in length, entangle virtually everything with which they come into contact. For the past several years we have worked in the United Nations and in other international bodies to reduce driftnet fishing operations. Unfortunately, the practice has not been eliminated. Hundreds of thousands of fish, dolphins, whales, turtles, and sea birds have been killed.

In 1987 the Driftnet Impact Monitoring, Assessment, and Control Act was passed. This was intended to monitor, assess, and reduce the adverse impacts of large-scale driftnets. The year 1989 saw the inception of the Wellington Convention, or the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific. The convention prohibited fishermen of member nations, including more than 20 South Pacific nations, the United States, and France, from using large-scale driftnets in their operations and encouraged the same practice in other countries. In addition, the convention set July 1, 1991, as the date for the elimination of this fishing practice in the South Pacific.

The United Nations addressed this problem when it adopted resolutions in 1989 and 1991 which recognized international efforts to stop large-scale driftnet fishing. Resolution No. 46–215 established a moratorium on all large scale driftnet fishing on the high seas effective December 31, 1992. The United States supported this recommendation and other attempts to discourage driftnet fishing by enacting the fishery conservation amendments in 1991.

However, some countries have already indicated that they will continue to use large-scale driftnets even after the U.N. deadline. With H.R. 2152, we have before us today an opportunity to address the issue and enhance the effectiveness of the United Nations resolution by broadening the import sanctions applicable under United States law to countries which engage in this type of fishing.

Specifically, this legislation provides for the implementation of U.S. sanctions and denial of port privileges for countries whose vessels continue to engage in large-scale driftnet fishing. Perhaps an even more important provision of the bill establishes Congress' policy that environmental issues should be addressed during all international trade negotiations.

It is imperative that international trade agreements not interfere with our environmental laws. H.R. 2152 codifies these goals and gives us some recourse against those nations which refuse to comply with the ban against large-scale driftnet fishing. I hope you will join me in supporting this proposal.

Mr. Speaker, when I visit students, schools, and constituents in the Second Congressional District of New York, one issue which invariably arises is the matter of driftnet fishing and the horrible toll it extracts on dolphins and other marine life. We must put a stop to this practice.

Mrs. MORELLA. Mr. Speaker, I rise to speak in support of H.R. 2152, a bill that would impose certain sanctions against countries whose fishing vessels engage in large-scale driftnet fishing on the high seas after December 31, 1992. The bill's purpose is to discourage nations from continuing large-scale driftnet fishing on the open seas and to increase the effectiveness of the U.N. International Driftnet Fishery Conservation Program.

H.R. 2152 would impose sanctions against countries whose fishing vessels continue to use large-scale driftnets on the high seas after December 31, 1992—the U.N. deadline for all nations to end this method of fishing. It would prohibit these nations' ships from entering U.S. ports and expand the President's authority to impose import restrictions on any products of any nation that engages in driftnet fishing. It would also ban all fish, shellfish, and sport fishing equipment from offending nations. The Departments of State, Commerce, and Treasury would coordinate their notification of offending countries prior to the periodic publication of a list of countries or citizens who are engaged in large-scale driftnet fishing and who will be denied entry to U.S. ports.

This bill also expresses the sense of Congress that to assist in coordinating U.S. trade policy with U.S. environmental policy, the President, in expediting multilateral, bilateral, and regional trade negotiations, should address environmental issues related to negotiations; reform the International General Agreement on Tariffs and Trade [GATT] to include consideration of international environmental treaties and national environmental laws; create a GATT working party on trade and environment; work to make GATT more responsive to national and international environmental concerns; and include other Federal agencies with environmental expertise in U.S. trade negotiations.

Drift net fishing throughout the world threatens the viability of marine species and ecosystems for entire regions. Large-scale net or combinations of nets indiscriminately kill hundreds of thousands of marine mammals such as dolphins and whales, endangered sea turtles, sea birds, and millions of nontarget fish.

The Fifth Annual General Assembly of Global Legislators for a Balanced Environment—of which I am a member and which includes members of the European Parliament, the Japanese Diet, the Commonwealth of Independent States, and the United States Congress—recently approved a policy to promote the implementation of the United Nations resolution which calls for a global moratorium on driftnet fishing.

I call on my colleagues to vote for H.R. 2152. It will put the United States on record in support of sanctions against those countries who continue large-scale driftnet fishing on the open seas. It will express the resolve of the U.S. Congress to end the unintentional damage to our environment that this practice causes, and it will signal the importance the U.S. Congress attaches to addressing environmental issues in the context of trade negotiations.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HARRIS). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2152, as amended.

The question was taken.

Mr. STUDDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

STEAMTOWN NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3519) to authorize the establishment of the Steamtown National Historic Site, as amended.

The Clerk read as follows:

H.R. 3519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—STEAMTOWN NATIONAL HISTORIC SITE

SEC. 101. ESTABLISHMENT.

(a) In order to preserve and interpret certain elements of railroading, especially steam-operated railroads during the period of 1850 to 1950, there is hereby established the Steamtown National Historic Site (hereinafter in this title referred to as the "historic site"). The purposes of the historic site shall include interpretation of the evolution of railroads and their impact on the development of this nation, including technological, economic, social, and political effects and the relationship of railroads to industrialization.

(b) The historic site shall consist of the lands and interests in lands within the area generally depicted on the map entitled "Boundary Map, Steamtown National Historic Site", numbered STTO-80,000A, and dated November 1991. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. No revisions may be made in the boundary of the historic site, except by Act of Congress.

(c) Sections 1 through 5 of the Steamtown National Historic Site Act of 1986 (Public Law 90-591; 100 Stat. 3341-248-249) are hereby repealed.

SEC. 102. ADMINISTRATION.

The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall administer the historic site in accordnace with this title and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to Establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4). On or before September 30, 1993, the Secretary shall prepare and submit to the Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a new comprehensive general management plan for the historic site. The plan shall be consistent with this title, with section 12 of the Act of August 18, 1970 (16 U.S.C. 1a-1 through 1a-7) and with other applicable provisions of law.

SEC. 103. ACQUISITION OF LAND.

(a) The Secretary may acquire lands or interests in land within the boundaries of the historic site only by donation or by purchase with donated funds.

(b) The Secretary may not acquire any lands or interests in lands for purposes of the historic site unless such lands are not contaminated with hazardous substances which will require removal or remedial action at the expense of the United States. Any funds of the National Park Service expended, prior to the date of the enactment of this Act, on removal or remedial action with respect to any contamination of lands within the boundaries of historic site shall be fully reimbursed before the Secretary may accept title to any lands for purposes of the historic site. Any such reimbursement shall be credited to miscellaneous receipts in the Treasury. After the full amount of such reimbursement has been credited to miscellaneous receipts, funds expended prior to the date of enactment of this Act by the National Park Service for which such reimbursement was made shall not be treated as amounts expended by the National Park Service for development for purposes of applying the limitation on appropriations for development set forth in section 106.

SEC 104. PARK SERVICE ACTIVITIES.

(a) The Secretary shall take such actions as necessary and appropriate to administer the historic site, to maintain and preserve the facilities at the historic site, to interpret the resources of the site and their history to the public, and to provide essential services to the public at the historic site.

(b) The Secretary shall preserve the collection of railroad equipment, including locomotives and rolling stock, which is present at the historic site as of the date of enactment of this Act. The Secretary may also preserve such equipment and essential machinery as is necessary for the maintenance of the lomomotives and rolling stock. A maximum of 3 steam locomotives and one diesel locomotive may be restored, but only 2 steam locomotives and one diesel locomotive may be operational at any time. The Secretary may not reconstruct or construct new yard equipment or other historic structures or objects. No Federal funds may be expended to provide access between the historic site and any structure that is privately owned and operated for profit. The Secretary may exchange or purchase appropriate examples of locomotives and rolling stock to enhance the site's collection if the total number of such equipment does not increase and if all such actions are consistent with the general management plan for the historic site. The Secretary shall, to the extent practicable, seek donations and assistance from volunteers and other cost-sharing methods to restore the locomotives and rolling stock.

(c) The Secretary shall preserve the artifact collection and archival materials located at the site.

(d) To the extent that it furthers public understanding, and provided that appropriate interpretation is provided, the Secretary may provide a regular excursion from Scranton, Pennsylvania, to Moscow, Pennsylvania. For purposes of such excursions, the Secretary may provide essential visitor services at Moscow, Pennsylvania. The Secretary may not expend funds of the National Park Service for the restoration or maintenance of tracks, bridges or tunnels located outside the historic site, except that the Secretary may use funds appropriated prior to November 15, 1991 for restoration of tracks and bridges between the historic site and Moscow, Pennsylvania, pursuant to the cooperative agreement to be entered into between the Secretary and the owner of such tracks and bridges permitting the National Park Service to use such tracks and bridges for excursions authorized under this section. The Secretary may pay customary and appropriate track usage fees and may also provide 4 other excursions annually if no such excursion is longer than 50 miles one way.

(e) User fees charged for any rail excursion undertaken shall be established at a level such that a minumum of 75 percent of the costs of maintenance, personnel and equipment for the excursion shall be covered by revenues from the user permit.

(f) The Secretary may assist the owner of Bridge 60 and Bridge 60 Wye with track and switch rehabilitation to facilitate activities associated with the historic site.

(g) The Secretary may enter into cooperative agreements with appropriate authorities for law enforcement and for purposes of controlling rail traffic through the historic site.

SEC. 105. ADVISORY COMMITTEE.

(a) here is hereby established the Steamtown National Historic Site Advisory Committee (hereinafter in this title referred to as the "advisory committee") to provide professional expertise in railroad management and history and advice to the Secretary in the development and operations of the historic site. The advisory committee shall be composed of 11 members appointed by the Secretary to serve for terms of 3 years. The advisory committee shall include 2 experts in the operation of historic railways, 2 experts in the operation of commercial railways, 2 historians of technology, and 2 historians of social history, and 3 members of the general public. Any member of the advisory committee appointed for a definite term may serve after the expiration of his or her term until his successor is appointed. The advisory committee shall designate one of its members as Chairperson.

(b) The Secretary, or his or her designee, shall from time to time, but at least semiannually, meet and consult with the advisory committee on matters relating to the management and development of the site.

(c) The advisory committee shall meet at least 3 times annually.

(d) Members of the advisory committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this title on vouchers signed by the Chairperson.

(e) The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776), are hereby waived with respect to this advisory committee.

(f) The advisory committee shall terminate on the date 10 years after the enactment of this Act.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title, but not to exceed a total of $58,000,000 for development, reduced by all amounts appropriated for development since October 1, 1987. No Federal funds may be expended at the site for purposes other than those specified in section 104 and in section 105(d).

TITLE II—DELAWARE WATER GAP NATIONAL RECREATION AREA

SEC. 201. BOUNDARIES.

Section 2(a) of the Act of September 1, 1965 (79 Stat. 612; 16 U.S.C. 460o–1(a)) establishing the Delaware Water Gap National Recreation Area is amended by striking "as generally depicted on the drawing entitled 'Proposed Tocks Island National Recreation Area' dated and numbered September 1962, NRA–TI–7100, which drawing is on file" and inserting "as generally depicted on the map entitled 'Delaware Water Gap National Recreation Area' dated November 1991 and numbered DWGNRA–620/80,900A' which shall be on file".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on H.R. 3519.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3519, introduced by Congressman JOE MCDADE, establishes Steamtown National Historic Site in Scranton, PA. The House acted on the initial authorization in 1986 but the Senate did not act; rather the Steamtown unit first received authorization in 1986 through provisions that were inserted in the fiscal year 1987 Interior Appropriations Act. Since that time there has been considerable attention given to Steamtown in the press, almost all of it negative.

The National Park Service has already spent $39 million on Steamtown with another $13 million appropriated for fiscal year 1992 putting total spending at over 2½ times the $20 million amount authorized for the site in the initial law.

Few people are neutral about Steamtown—most either love it or hate it. For Steamtown proponents, the site offers a unique educational experience in a historic setting. Steamtown opponents have decried its costs and argue that the locomotives and railcars, collected in Vermont and moved to Scranton, PA, lack integrity and significance.

Besides the scope and cost of the site, I have had serious concerns about the management of Steamtown. Considerable amounts of Federal funds have been spent on lands and interests in lands the National Park Service doesn't own. The National Park Service paid for cleaning up hazardous wastes on non-federally owned lands, raising serious issues of policy and liability. The National Park Service has been attempting to develop many of the railroad train excursions, raising questions whether the National Park Service is getting into the railroad tourism business in a major and inappropriate manner. Plans for the site have undergone little or no critical internal review. I am not pleased that the Delaware Water Gap National Recreation Area in an action that appeared to be done in concert with the Steamtown operation expanded its boundary by 28 miles without any action by the authorizing committee, much less agreement.

Looking where we stand today, I believe Steamtown should continue as a National Historic Site but believe that future development and operation of the site should be consistent with Congressional and National Park Service policies and practices. Hopefully both advocates and opponents can agree today on such a format.

Unfortunately, all too common the view of Steamtown is as typified in a letter I received from Mr. Michael Boland, president of the Downtown Scranton Business Association. Mr. Boland in opposing the Interior Committee's effort to place limitations on Steamtown because, and I quote, "Without the full development of the park as now planned it cannot hope to become a fully operating railroad museum capable of attracting tourists, who in turn will have a positive effect on our economy."

Mr. Speaker, the National Park System has a unique mission: To preserve and interpret nationally significant places of our heritage. While doing so the actions certainly assist local economies, but that should never be the primary purpose of national park units. Mr. Boland's letter illustrates my concern that Steamtown National Historic Site is less viewed as a national park unit than as an economic redevelopment package. Economic redevelopment should be the responsibility of such agencies suited to that purpose and mission, not of the National Park Service which has another—and unique mission.

Mr. Speaker, the Committee on Interior and Insular Affairs has considered the Steamtown matter carefully, including having a GAO review done of the site. The committee has reported legislation to put this runaway steam engine back on the right track, with a law that provides both vision and parameters for Steamtown National Historic Site. In doing so, the committee has reined in what is widely perceived as a runaway project and scaled back both the development and operation of the site. As amended, the National Park Service is directed to preserve and interpret American railroading from 1850 to 1950. The site's boundary has been reduced by eliminating nonessential lands. The bill as amended directs that lands contaminated with hazardous substances be cleaned up before the National Park Service can accept title and requires reimbursement for the cleanup that the National Park Service has already done. The National Park Service may provide one regular train excursion to Moscow, PA. The amended bill establishes an advisory committee to provide some professional guidance in the park's operation, and authorizes a total of $58 million for development rather than the $73 million that has been proposed. Finally, the legislation deletes the 28 miles of rail line extending from the Delaware Water Gap National Recreational Area.

Mr. Speaker, as my statement has indicated, Steamtown has been a very controversial matter. The committee has addressed this issue in a fair and reasonable way and has provided the House with what I believe is a balanced approach to the future development and operation of what has been a controversial site. I know this has not been easy for Representative MCDADE who has been an enthusiastic and forceful supporter of the project. We have finally worked together on this matter and I appreciate the cooperation he has displayed. This has not been a simple matter but one that will have positive results, for the Steamtown unit.

Mr. Speaker, I support H.R. 3519, as amended, and recommend its adoption by the House.

□ 1410

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3519, a bill to establish Steamtown National Historic Site as a unit of the National Park System. This park has been extensively scrutinized during the nearly 6 years since its establishment and has been criticized both inside and outside the Park Service as an area not worthy of inclusion in the park system. At the outset of my statement, I would like to commend the chairman of the National Parks and Public Lands Subcommittee for taking the initiative to bring this controversial project before the committee so that we could address these issues and develop appropriate authorizing legislation.

To those persons who would argue that Steamtown does not belong as a unit of the park system, I would simply suggest they consider the role that railroading, and steam railroading in particular, had in the development of this country. Can there be any doubt that a park system which has areas dedicated to such obscure topics as Maine Acadian Culture, the American Impressionist Painter Movement, Houses and Forts which are fabrications based on scant historic information and not even constructed in their historic location, and even fossil insects should also tell the story of railroading in America?

Some persons probably want to argue that Steamtown is not the best site which could have been chosen to reflect American railroading and that additional study should have preceded its designation. The fact is that new parks are currently added to the system on a piecemeal and opportunity basis, behind the driving force of a local constituency, or sometimes even a single individual. Every new park area should be thoroughly studied prior to designation. Unfortunately, neither Congress or the administration seems to be patient enough to wait for thorough study prior to rushing out to support the latest park expansion proposal. In fact, over half of the 115 areas added to the park system in the last 20 years have been added without benefit of any formal study. I must point out that unlike many new parks, which are objected to by the administration, Steamtown was enthusiastically endorsed by the former Park Service director. However, I would certainly agree with those who argue that the generic process for designating units of the park system needs vast improvement.

The one other issue which is raised by this legislation is the enormous cost associated with designating industrial sites as units of the park system. At a reconstructed mill village in Massachusetts, the combined governmental expenditures at all levels have exceeded $175 million in the last 15 years. In the southwest corner of Pennsylvania, the NPS has spent tens of millions of dollars in preserving steel industry sites in the last few years. We must begin to develop a national policy on how to address these potentially costly sites which reflect an important part of our cultural heritage.

I would like to recognize the efforts to Mr. McDADE during development of this legislation. Mr. McDADE has truly been the driving force behind the Steamtown project and he is to be commended for his efforts to support development of this park. Through his efforts, the total Federal cost of this project has been substantially reduced, through millions of dollars worth of donations of land, property and services. This project is just one of many undertakings by Mr. McDADE, who has been a long-time supporter of the Park Service. His dedication to NPS goals through his efforts on the Appropriations Committee are to be commended.

I appreciate the spirit of compromise which Mr. McDADE has brought into the development of this bill. He has agreed to numerous changes to his original bill, many of which were necessary to place reason limits on future Federal expenditures. I must say that there is some language in this bill which reflects excessive congressional micromanagement and which does not belong in any piece of legislation. While I would agree that concerns have surfaced during committee consideration of this matter regarding the manner in which this site was developed, those problems are best dealt with at the agency policy level, not in an authorizing statute, I would hope that the Senate would agree with this sentiment and make the appropriate changes.

Mr. Speaker, the bill before us is a good one and reflects a lot of hard work on behalf of the chairman, Mr. McDADE, and other committee members and I join with the administration in commending it to my colleagues.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. McDADE].

Mr. McDADE. Mr. Speaker, I rise in support of H.R. 3519, a bill to authorize the establishment of the Steamtown National Historic Site.

I appreciate the efforts of my colleagues BRUCE VENTO, chairman of the Subcommittee on National Parks and Public Lands, and the ranking Republican, BOB LAGOMARSINO, in drafting this legislation and bringing it to the floor.

I want to point out that the authorization of Steamtown has broad, bipartisan support. The legislation was overwhelmingly supported in both the subcommittee and full Interior Committee.

This bill, like the original authorization of Steamtown in 1986, was the subject of public hearings. The Director of the National Park Service spoke at congressional hearings in strong support of the creation of Steamtown. In October of this year, the Park Service testified in support of continued funding to complete development of this historic site.

The legislation before us is the product of compromise. Many of the provisions are unnecessarily restrictive in my view, but I also believe the bill is a fair and honest effort to address some of the concerns raised by the chairman. The legislation cuts back projected spending and caps appropriations, but it will allow completion of the complex.

Steamtown is well on the way to becoming the Nation's finest operating railroad museum, one which is both historically significant and easily accessible to millions of Americans. Development of this historic site will be 85 percent completed with funds appropriated in the fiscal year 1992 Interior appropriations bill. I urge my colleagues to support H.R. 3519 so that this historic project can be completed for the education and enjoyment of future generations.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TORRES). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3519, as amended.

The questions was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HAPPY BIRTHDAY, JOELLE HALL

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute.)

Mr. YOUNG of Alaska. Mr. Speaker, it is rare that we have an opportunity to address this House floor in recognition of someone of great honor and stead for the House, especially on this side, and today I would like to wish happy birthday to Joelle Hall and say that we wish she will have many, many more years of great health and honor, and we do appreciate her efforts on this side of the aisle.

THE EUROPEAN COMMUNITY VERSUS THE WORLD

(Mr. BEREUTER asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore. Without objection, the gentleman from Nebraska is recognized for 1 minute.

There was no objection.

Mr. BEREUTER Mr. Speaker, I would like to share with my colleagues a few comments about the Uruguay round of GATT negotiations.

Mr. Speaker, I think there is a substantial degree of misunderstanding about the U.S. position on concluding the round vis-a-vis the European Community, those 12 countries of Western Europe. What is it really all about? The major controversy blocking an overall agreement in the Uruguay round is a dispute over agriculture, primarily over agricultural subsidies, and there is some view that it is the United States versus the EC on this subject. Indeed it is not. It is the EC against the rest of the world.

Mr. Speaker, the developing countries, which in many cases are one- and two-commodity exporters, are really very much impacted, in a negative sense, by the extraordinarily high subsidies, especially export subsidies, of the European Community. Many developing countries, like Australia and New Zealand, are likewise greatly damaged by European subsidies and by American subsidies that are used to counteract the European subsidies, and these developing and developed countries simply are not going to agree to the 13 or 14 other areas of reform in the GATT process unless the Europeans dramatically reduce their subsidy programs that impact their agricultural production and agricultural exports. For example, they are not going to agree to bringing services under the GATT umbrella for the first time or to a variety of anticounterfeiting or patent infringement reforms which are a part of the Uruguay round proposal unless they have some relief from the extraordinarily high subsidies of the European Community. After all, it is the developed countries like most of the EC countries, Japan, and the United States that have the most to gain from bringing services under the GATT umbrella and expanding the export markets for many of the more sophisticated manufactured products.

So, Mr. Speaker, it is the United States that simply carries the argument that the Cairns group of developed and developing countries also have as their great concern, as do many other developing countries across the world. And it is really the EC that is blocking this extraordinary trade breakthrough that we could see across the whole world if we simply had a successful conclusion of the Uruguay round.

So, this Member would hope that this group of countries called the European Community, which is not a solid bloc on this issue, would come to their senses. And this Member would hope in particular that the politicians in France, and in Ireland, and, yes, too, in Germany, because of the situation in Bavaria, would come to their senses and realize how much is hanging in the balance simply because of the lack of an agreement in the agriculture area. It is the EC position on its trade distorting agricultural practices which can, if changed, result in the successful completion of the Uruguay round.

Mr. Speaker, I thank my colleagues for their attention to these remarks about this important trade issue.

TRIBUTE TO BILL LEHMAN

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

The SPEAKER pro tempore. Without objection, the gentleman from Illinois is recognized for 1 minute.

There was no objection.

Mr. DURBIN. Mr. Speaker, it has been my honor to serve in this House of Representatives for 10 years and my good fortune to have served with some of the giants of this institution: Tip O'Neill of Massachusetts, Silvio Conte of Massachusetts, Claude Pepper of Florida.

Today in the well of this House of Representatives the gentleman from Florida [Mr. LEHMAN] stepped forward to announce that he was going to retire. It came as a surprise to many of us. We will really miss BILL LEHMAN. He is an extraordinary individual. For those who have not known of him or his service, I say, "It is unfortunate that you've not had that opportunity."

Mr. Speaker, several years ago BILL was diagnosed with cancer, but he fought back from that cancer to come back to this House of Representatives and to be a very effective Member.

☐ 1420

Just last year, as fate would have it, he was felled with a stroke. Many people at that point in their lives might have given up, but not BILL LEHMAN. I see him regularly working with physical therapists and others to make sure he is back on his feet serving his people. But today he said that he did not feel he could continue to meet his own standard of physical performance and excellence and he was going to retire from this institution.

We will miss him. BILL LEHMAN is a gentle man. He works very effectively because he is bipartisan and he is gentle and he is honest.

The people in Florida, I am sure, take for granted many of their elected officials, but I can tell them that BILL LEHMAN has served them well as a Congressman from south Florida. Beyond that, he has served this Nation well, and he certainly becomes one of the giants of this institution for many decades to come.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I yield to my colleague, the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I want to commend the gentleman for paying tribute to BILL LEHMAN, who has certainly been an outstanding Representative of the people of Florida.

I have know BILL for many years. We came in about the same time. He is certainly an inspiration to all of us. Despite all of his hardships and obstacles that he has overcome by way of health, he has gone on to do commendable work in this institution. I am sure that all of my colleagues join in that complimentary message that the gentleman has delivered on the floor.

Mr. DURBIN. Mr. Speaker, I thank my Republican colleague, the gentleman from New York. I think his remarks indicate the bipartisan support that BILL LEHMAN has contributed to this institution.

TRIBUTE TO HON. WILLIAM LEHMAN UPON THE ANNOUNCEMENT OF HIS RETIREMENT FROM CONGRESS

(Mr. EDWARDS of California asked and was given permission to address the House for one minute.)

Mr. EDWARDS of California. Mr. Speaker, I learned with great regret a few moments ago about the retirement of Congressman BILL LEHMAN of Florida, and believe me, it was a great shock because BILL LEHMAN has not only been and is a dear personal friend but he has given magnificent service to this Congress and to the people of Florida and indeed the people of the United States.

I do not suppose, Mr. Speaker, that anybody knows more about transportation than BILL LEHMAN personally and as chairman of the subcommittee of the Appropriations Committee handling transportation. BILL has been a friend of those who are trying to do something about getting us out of automobiles and into cheaper and more efficient transportation. I think he has done more along that line than anybody else. I know that the people of California are extremely grateful, and I know that the gentleman in the chair is, too, because he has made massive contributions to transportation in his part of the State.

But more than that, and perhaps more importantly, he is a true friend of all of us. He has a wonderful wife, and he is a great family man. He and I and the late Ben Rosenthal and Bob Kastenmeier and SONNY MONTGOMERY always played a game of tennis whenever we had a chance, and we would meet in the gym for paddle ball, too. Unfortunately, Bob Kastenmeier is no longer here, and neither is Ben Rosenthal. Abner Mikva is still at the Court, and he is another close friend of BILL LEHMAN'S.

I think that all of us who know BILL LEHMAN know that even though BILL thinks he cannot come back and he thinks he ought to give up his career at this time, he is an indomitable soul and the people of America and of Florida still have not heard the last of him.

Mr. Speaker, I yield to the gentleman from Florida [Mr. FASCELL], dean of the Florida delegation.

Mr. FASCELL. Mr. Speaker, I thank the gentleman very much for yielding.

Let me just simply add my words here to this shocking announcement by my dear friend. I had absolutely no idea he was retiring. We have been across the hall from each other for many, many years and have worked together for many years, so it was a real shock.

I agree with the distinguished gentleman from California when he says that very few Members of this House have the kind of tenacity and courage that BILL LEHMAN brought to his position as a public servant here and as chairman of a difficult and important subcommittee, the Subcommittee on Transportation of the Appropriations Committee.

Certainly all of us will miss him because BILL called the shots the way he saw them, and he is a remarkable person. In very many ways, with the depth of his education, his ability, and his keen sense of the political field, as well as all of his efforts with regard to legislation here in this body, I found him to be a great source of strength just in conversations on a daily basis as we met each other going to and from our offices and commenting on the activities of the day. That is certainly something I shall miss.

In a more direct way, let me say this as far as our area is concerned: BILL has been an outstanding public servant, not only because he tended to his duties but particularly with respect to the application of transportation. It has been a difficult job, but he managed to do that in a very strong way for us. I know that the people of Florida will certainly miss him, and the people of Dade County will certainly miss him because he has made a tremendous contribution for all of us.

I still cannot get over the surprise, frankly. I wish him well. I know that he has a lot of things to do. He is a great writer and a great reader. He has so many things on his mind that he wants to accomplish, and I am sure he will do them all. I cannot do anything but wish him and his wife and family all the best.

Mr. Speaker, I thank the distinguished gentleman for yielding to me.

Mr. EDWARDS of California. Mr. Speaker, I thank the dean of the Florida delegation for his enormous contribution to this dialogue about our good friend, BILL LEHMAN. I believe he will still be around. Anybody who has been as active in public service as BILL LEHMAN and who loves this Congress like he does and gets along with all of us as he does will not be able to stay away, and if he does stay away, we are going to have to send an airplane down to get him and bring him back because he is someone we need very badly.

Mr. Speaker, it really has been a great shock to all of us to hear this announcement today.

CONGRATULATING PEOPLE OF LITHUANIA FOR THEIR SUCCESSFUL PEACEFUL REVOLUTION

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 239) congratulating the people of Lithuania for their successful peaceful revolution and their continuing commitment to the ideals of democracy.

The Clerk read as follows:

H. CON. RES. 239

Whereas on February 16, 1918, a gathering of 200 Lithuanian delegates first proclaimed that their country was independent and that their government would be based on democratic principles, and for this reason February 16 is considered to be Lithuania's independence day;

Whereas the people of Lithuania endured a 51-year foreign rule which began as a result of the infamous Nazi-Soviet Pact of 1939;

Whereas the people of Lithuania courageously resisted the imposed communist dictatorship and cultural repression of this 51-year rule;

Whereas the people of Lithuania were able to mobilize and implement a nonviolent movement for social and political change which came to be known as "Sajudis";

Whereas the people of Lithuania supported and secured the right of a free press in Lithuania during the waning days of foreign rule;

Whereas on February 24, 1990, Sajudis, the peoples' movement, promoted through citizen action a peaceful transition to independence and democracy by fully participating in the first democratic election in Lithuania in more than half a century;

Whereas on March 11, 1990, the newly elected Lithuanian parliament, fulfilling its mandate from the people of Lithuania, declared the restoration of Lithuania's independence and the establishment of a democratic state;

Whereas the people of Lithuania and the civil servants of the government of Lithuania persevered in the building of democratic and independent institutions under conditions of economic blockade and armed assaults for over 17 months;

Whereas in January 1991, 10 months after the elected Lithuanian parliament restored independence, the people and government of Lithuania withstood a bloody assault against their democratic institutions by foreign troops; and

Whereas Lithuania's successful restoration of democracy and independence is remarkable for its use of nonviolent resistance to an oppressive regime: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) congratulates the people of Lithuania for their courage and perseverance in using peaceful means to regain their independence;

(2) pledges its support for the people of Lithuania as they establish and strengthen democratic institutions of government and a free market economy; and

(3) congratulates the people of Lithuania as they celebrate their well-deserved independence day on February 16, 1992.

The SPEAKER pro tempore. (Mr. TORRES). Pursuant to the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have moved to suspend the rules and pass House Concurrent Resolution 239, a resolution congratulating the people of Lithuania for their successful peaceful revolution and their continuing commitment to the ideals of democracy. The Committee on Foreign Affairs completed action on this resolution on February 19.

The resolution: Congratulates the people of Lithuania for their courage and perseverance in using peaceful means to regain their independence; pledges support for the people of Lithuania as they establish and strengthen democratic institutions and a free market economy; and congratulates the people of Lithuania as they celebrate their well-deserved independence day.

I want to commend the gentleman from Illinois [Mr. RUSSO] for his leadership in introducing this resolution.

I also want to commend Chairman FASCELL and Mr. BROOMFIELD for their strong support and their willingness to move this resolution expeditiously.

I urge adoption of the resolution.

□ 1430

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Sunday, February 16, 1992, marked the 74th anniversary of the independent nation of Lithuania. For the first time in decades, independence day in Lithuania could be celebrated openly, without fear of retribution.

This moment did not come easily for Lithuania. That small Baltic nation, along with Estonia and Latvia, endured over 40 years of occupation by a Communist oppressor. However, the long night of Soviet repression has ended.

As we witness the dawn of a new Lithuania, it is important to remember the steep price that nation was forced to pay. The economy is ruined, the environment damaged, and generations of Lithuanians suffered the physical and psychological abuses of communism. And none of us can rest easy while the troops of the Soviet empire remain stationed on Lithuania territory.

I have had the pleasure of working closely with the Lithuania-American community over a period of years toward the goal of independence. I think it is important to recognize their persistence and endurance in pursuit of freedom for Lithuania.

I would also like to give credit to the Lithuania Legation located here in Washington, DC. This outpost kept alive the hope of a free Lithuania throughout the period of Soviet occupation.

It is rare to see a journey of courage and determination such as that experienced by Lithuania through its fall into oppression and the rise to freedom. As important as our support was during the moment of deepest despair in Lithuania, it is far more important that we remain committed to helping confront the challenges of rebuilding that nation.

I urge my colleagues to support this resolution.

Mr. HAMILTON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I do not come to this topic with impartiality. As the gentleman from Michigan [Mr. BROOMFIELD] and the gentleman from Indiana [Mr. HAMILTON] know, my mother was born in Lithuania. I am a first generation American, and I am very proud of this tiny country, its courage and tenacity, and the success it has experienced because of its courage.

I want to commend my colleague from Chicago, IL [Mr. RUSSO], who introduced the underlying resolution which leads us to this debate today.

About 12 years ago I first visited Lithuania, and I saw it in the worst of times, under the dominance of Communist rule from Moscow. The people of Lithuania had lived under this burden for decades. I can recall the suppression of the basic freedoms which we enjoy in the United States.

I attended a Mass in Vilnius, the capital of Lithuania, at 6 a.m. on a Sunday morning and found the church packed, primarily by families with small children who came out in the darkness of the morning in the hope that the Communist officials would not detect the fact that they were keeping the hope of religious freedom alive.

I know at that same time that those representatives of the Catholic Church and the Jewish religion in Lithuania were denied the opportunity to practice their faith openly, and, if they did, they ran the risk that they would, of course, be blackballed by the Communist Party for any advancement. But they did keep their faith alive.

Two years ago the Speaker of the House asked me to head a delegation as I went back to Lithuania for the second time and as they had their first free election in almost half a century.

Mr. Speaker, I cannot tell you the celebration and jubilation in this small country that they would have their own election and elect their own representatives.

During the course of that visit, we visited with the Cardinal in Kaunas, Lithuania, Cardinal Sladkevicius. He is about 5 feet 2 inches and is perhaps 70 years old. He had a smile on his face and a twinkle in his eye, and he spoke English very well. He had just spent almost two decades under house arrest by the Communists. They kept him in the rural part of Lithuania. They would not let him come back to his cathedral in Kaunas.

Now he was back. With a smile on his face, he called me over to the side and said, "Congressman, you know, the Kremlin and Moscow are afraid of Lithuania."

When you thought about that statement on its face, it was incredible. How could the mighty Soviet machinery, the mighty Soviet Army, be afraid of 3 million people with no army, no navy, no air force, no nuclear weapons? And yet they were.

He pointed with pride to the fact that the Kaunas Cathedral was now being restored for religious services, and the same was true in Vilnius. Cathedrals decimated by the Communists and made into museums of atheism, were being restored, as was the hope and faith of the people of Lithuania.

Then, a year ago, Lithuania had a chance to announce its independence, but not without pressure from the Soviet Union. The dying gasp of the Kremlin and the Communists inflicted on that tiny nation, and Latvia and Estonia as well, were unspeakable crimes, innocent people killed in the streets, an embargo on the necessities of life, tanks rolling through the streets, the cobblestone streets of Vilnius and Riga.

The Soviets were trying one last time to stop Lithuanian independence. Blood was shed. Innocent people died.

But the Lithuanians never quit. They looked to us as a model and an inspiration. We should be humbled by that, that people continue to look to the West and the United States for that purpose.

I am glad that we have stepped forward and recognized them as the independent nation they are. But the fight is not over. Lithuania won independence one other time this century and lost it to the Nazis and the Communists. We do not want them to lose it again.

All of the Soviet troops must be removed from Lithuania. We must make certain that any humanitarian aid or technical assistance from the United States is shared with the Baltic nations. We must make sure that we have a close link with Lithuania and the other Baltic nations so that their dream of liberty and freedom which they have seen come true will endure forever.

Mr. BROOMFIELD. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for House Concurrent Resolution 239 and I join my colleagues in commending the distinguished gentleman from Illinois [Mr. RUSSO], as well as the distinguished chairman and ranking member of our Foreign Affairs Committee, Messrs. FASCELL and BROOMFIELD, for their outstanding, expeditious work on this measure.

We join in congratulating the people of Lithuania for their successful and peaceful revolution and their continuing commitment to the ideals of democracy.

On February 16, 1918, a gathering of 200 Lithuanian delegates first proclaimed their independence and that their Government would be based on sound democratic principles. For 51 years that dream went unrequited. As a result of the infamous Nazi-Soviet Pact of 1939, the people of Lithuania were forced to courageously resist the Communist-imposed dictatorship and cultural repression of 51 years of Soviet rule.

Despite the dark days of Communist rule, the people of Lithuania were able to mobilize and implement a nonviolent movement for social and political reform which became known as the Sajudis. On February 24, 1990, Sajudis promoted, through citizen action, a peaceful transition to independence and democracy by fully participating in the first democratic election in Lithuania in more than 50 years.

Mr. Speaker, on March 11, 1990, the newly elected Lithuanian Parliament declared the restoration of independence and the establishment of a democratic state. Since that time, Lithuania has experienced the tumult of a bloody assault by foreign troops. Lithuania's successful restoration of stability and democracy is extraordinary.

Accordingly, I invite my colleagues to join in congratulating the people of Lithuania, for their courage and their commitments to those ideals we Americans hold so dear: democracy, freedom, and the pursuit of independence and national identity. I urge the unanimous adoption of this measure.

☐ 1440

MR. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member is pleased to rise in support of House Concurrent Resolution 239. For those who have long supported the legitimate Lithuanian aspiration of. true self-determination, this is a long time in coming. It was 74 years ago that Lithuanians proclaimed an independent government that would be based on democratic principles. The intervening years have seen Lithuanian's losing its freedom because of the infamous Molotov-Ribbentrof Nazi tyranny, and Soviet occupation. Now, as the proud people of Lithuania once again rediscover democracy, it is altogether appropriate that this body extends its congratulations on regaining its independence.

Returns your thoughts to the events of last year, when the notorious black berets sought to topple the Lithuanian Government. Desperate to put down dissent, the Red army and the KGB struck hard in January 1991. They sought to take over Government buildings, police stations, and television stations. The Lithuanian people took to the street and stopped the Soviet paratroopers in their tracks—but at a heavy cost. Fourteen Lithuanians died on the night of January 13, 1991, and over 500 were seriously injured. This body should not forget these brave individuals as we commemorate Lithuanian independence. If it wasn't for their courage and sacrifice, we may not be commemorating Lithuanian independence today.

Throughout Lithuania's darkest days, the United States remained the strongest supporter of its determination. This Nation never recognized the legitimacy of the forced annexation of Lithuania, Latvia and Estonia by the Soviet Union. And, as important as our support was during the years of deep despair, it is just as important that we remain committed in confronting the challenge of rebuilding that nation.

We all look forward to continuing close and even enhanced relations with the free people of Lithuania. This Member would close his remarks by simply adding his personal congratulations to those contained within this resolution and urge adoption of House Concurrent Resolution 239 by a unanimous vote.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of this resolution to congratulate the people of Lithuania for their successful, peaceful revolution. For the first time in over 50 years, the yellow, green, and red tricolor flies over a free Lithuania. The Lithuanian people have emerged from their imprisonment and now can join the community of free people.

We celebrate February 16 as Lithuanian Independence Day. On that day in 1918, 200 delegates proclaimed Lithuania's independence from the disintegrating Russian Empire, which had conquered the country in 1795.

But Lithuania's freedom lasted a mere 22 years. They were occupied and repressed first by the Nazis and then the Soviets. The dark hand of totalitarianism, clothed both in black and in red, closed over the country as the 1930's moved into the 1940's. Nazi Germany occupied the city of Klaipeda and renamed it Memel in 1939, and the Soviet Union, per the Molotov-von Ribbentrop Pact, conquered the rest of the country in 1940, and immediately started murdering and deporting Lithuania's political, business, educational, religious, and social leaders. Nazi invasion in 1941 brought more horrors, and Soviet liberation in 1944 just brought more vicious repression. Lithuanian guerrillas continued armed resistance to Soviet occupation into the 1950's.

Although armed resistance proved hopeless, Lithuanians never gave up the struggle to free their nation. Despite the Soviet Government's ban on Lithuanian culture, religion, and language, Lithuanians refused to give in. They kept teaching their children about their heritage, and kept striving for their independence. Finally they achieved their aspirations, but not without one last incident of Communist repression. After Lithuania voted for its independence and peacefully insisted the Soviet Union accept the principle of self-determination, the Black Berets of the MVD brutally murdered 14 innocent people in January 1991. Yet now, there is not only an American Embassy in Vilnius, but a Russian one as well.

The praise for these dramatic events must go primarily to the people of Lithuania, who bore the brunt of the struggle and the suffering. Still, the Lithuanian-American community deserves its share of the credit as well, for keeping the issue alive in America, to ensure the plight of Lithuania would not be forgotten. They made sure that the Lithuanian people knew their pleas were heard, and that they did not suffer in silence. Now that Lithuania has been freed, the next essential task is to help it rebuild its economy, shattered by Communist subjugation. I strongly support the technical assistance Lithuania and the other Baltic nations need to establish truly free markets and democratic nations.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, I would like to join my colleagues in congratulating not only the people of Lithuania but the people of Lithuanian extraction in America and throughout the world on this anniversary of their independence, on this recognition of the anniversary of their independence.

I have been to Lithuania more than once, the first time at the invitation of a man who would soon become its President. Sajudis was then a rump movement operating marginally legally, if not illegally, to defeat communism not just in Lithuania but in fact throughout the Baltics and by extension within the empire itself.

It is easy now that the Berlin Wall has fallen, now that Poland and the rest of Eastern Europe have all become free, now that the Soviet Empire itself has all crumbled, to think that this achievement was inevitable. It was not. Lithuania and Lithuanians never faltered in their desire for freedom. They put up with a great deal that frankly even we in America were not helping them with enough. It was the American ideal that kept them going.

During my visit to Lithuania, having seen the results of Communist brutality, of the tanks rolling on the streets, of Mr. Gorbachev himself, whose Oman troops were committing the most extreme atrocities against democracy, I am surprised, frankly that they were able to stick with it.

America has been with Lithuania since 1939, since before that, but certainly since the Hitler-Stalin pact. America has stood shoulder to shoulder with the people of Lithuania. We never recognized their forcible incorporation into the Soviet empire.

Frankly, while some of us were encouraging America to move even beyond that position to early recognition, big power politics played a role. And as a result of big power politics, America did not recognize Lithuania's independence certainly as early as the people in Lithuania did. I think we have a great deal to learn about American ideals and, therefore, I conclude by thanking the people of Lithuania for what they have told us about what it means to be Americans.

Mr. BROOMFIELD. Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. RUSSO], who is the chief sponsor of the concurrent resolution.

Mr. RUSSO. Mr. Speaker, it is with great pleasure that I rise in support of House Concurrent Resolution 239, a measure I introduced to congratulate the people of Lithuania on their newfound freedom.

I want to take this opportunity to thank my good friend, the gentleman from Indiana for moving the matter swiftly through the subcommittee, and the chairman of the committee, the gentleman from Florida [Mr. FASCELL] for likewise moving it through the full committee.

For years the Lithuanian people have remained steadfast in their determination to see their children free. The Soviet Union desperately tried to extinguish not only Lithuania's sense of nationality, but its culture, its religion, and its commitment to democratic ideals and a free market economy. Last year after years of foreign domination, however, the Lithuanian people declared themselves a free and independent nation. For their strength and commitment to many of the freedoms our great Nation was founded on, they deserve our admiration and praise.

It is one thing never to have known freedom; it is quite another to have known freedom and lost it. For too long the Republic of Lithuania has understood this enigma all too well. The Soviet Union tried to force Lithuania to the brink of cultural, ecological, and spiritual catastrophe—persecuting Lithuanian individuals for their religious convictions, ordering Lithuanian farmers to surrender their private farms in favor of collective farming practices, and forcing the Lithuanian people to accept the benefits of communism.

Throughout the years of persecution, Lithuania never ceded its belief in self-rule freedom. The Soviet Union tried everything to dissuade Lithuania from its commitment to democracy, including an 18-month economic blockade on the small republic and forcing the Lithuanian people to live under wartime conditions of rationing.

When Mr. Gorbachev announced his policy of perestroika, the Lithuanian people were among the first to exercise their new privileges. Independent political groups sprouted up and the heavy hand of communism was pried a little bit looser. Although last year the Soviets usurped control of the Lithuanian TV and radio tower, killed 13 people demonstrating against Soviet occupation, and forced the conscription of those Lithuanians not willing to serve in the Red army. Despite 50 years of subservience to Soviet will, however, Lithuania retained its national feelings and knew it wanted out. Heroically, Lithuania had the courage not only to say so, but to do so. Lithuania never lost sight of its ethnic self.

The resolution before us today commends the people of Lithuania for their courageous resistance to the imposed Communist dictatorship and their ability to mobilize and implement a nonviolent movement for social and political change which came to be known as Sajudis. This people's movement promoted, through citizen action, a peaceful transition to independence and democracy. On March 11, 1990, the newly elected Lithuanian Parliament fulfilled the mandate of its people and declared the restoration of Lithuania's independence and establishing an independent state.

The people of Lithuania and the civil servants of the Government of Lithuania persevered in the building of democratic and independent institutions under conditions of economic blockade and armed assaults for many months. The people and Government of Lithuania withstood a bloody assault against their democratic institutions by foreign troops. Given this history, Lithuania's successful restoration of democracy and independence is remarkable for its use of nonviolent resistance to an oppressive regime.

This resolution pledges the United States Congress' support for Lithuania as they establish and strengthen democratic institutions of government and a free market economy. Passage of this resolution is the least that the United States Congress can do to express our support for the Lithuania people's struggles and determination to live under their own free will. On behalf of the United States Congress, congratulations Lithuania.

□ 1450

Mr. BROOMFIELD. Mr. Speaker, I yield the balance of the time on this side to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I have just returned from a 4-day trip to Moscow, and in the midst of the snowstorms and the rioting in the streets on Sunday by Communists carrying the hammer and sickle attempting to break through police barricades to demonstrate on Defense of the Motherland Day on Red Square and being stopped by police with truncheons, and meeting with the head of the KGB and trying to ask him to be forthcoming on information about American POW's left behind at World War II, Vietnam, and yes, Korea also, and asking him about the files of all the spies in Great Britain and the United States over the years, meeting Mr. Gorbachev on the roof of the big palace building inside the Kremlin, where he forced Mr. Yeltsin not to come to a military reception after defense of the motherland banquet and musical celebration in that big palace, a lot of thoughts go through one's mind.

When I shook Mr. Gorbachev's hand, I observed that he was much shorter than we had built him up to be in this country, both literally and politically, and I thought about that scene in Lithuania where he argued with the man in the street across the hood of a car. He said to this Lithuanian citizen, "We are stuck with one another. Don't you understand that?" I remembered thinking at the time, "No, you may think that you are stuck with Lithuania, but Lithuania does not want to be stuck with you, Moscow, the Kremlin, or communism." Lithuania, Latvia, and Estonia prevailed a decade or two before most of us who consider ourselves optimists thought they would.

It was not all sunshine and light, and it was not always upbeat for the Baltic States in this Chamber or in the Senate.

I remember just about a year ago Jack Germond, an otherwise pretty reasonable columnist and a commentator of Democrat persuasion, saying:

> If only the right wing would stop making a scene about these three little Baltic nations. They don't matter.

Within a year before that, George McGovern, former Senator, standard bearer of the Democratic Party, in 1972 said:

> Why don't we stop haranguing about the Baltic nations and east European countries? These people have the governments they want, and who in blazes are we,

and this is McGovern, these are his actual words,

> who are we to tell them they should not be allowed to select communism.

I remember after Ed Derwinski, one of our former colleagues who is now the distinguished Secretary of Veterans Affairs, put in the Baltic resolution year after year in this House, and when he finally was gerrymandered out of his seat in 1982 I picked up that torch and would put in the Baltic nations resolution, how many times did I read in the dominant liberal media press and hear it demeaned on television and on the networks that the term "captive nations" was demeaning to Moscow, the Kremlin, and to the Communist government, and that we should stop making a scene over the Baltic nations, should stop referring to them as captive nations, and it went on and on like that until in spite of the dominant liberal media culture in this country, communism began to collapse so rapidly before our eyes that everybody tried to get on the bandwagon and pretend that somehow, somewhere in their lives they also had been an anti-Communist.

It was not that way in my first 10 years in this House, from 1976 to 1986. We were considered in some quarters a little kooky if we were talking about freedom for Estonia, Latvia, and Lithuania. I visited all the legations in this town, two of them right up 16th Street from the White House, the one for Estonia up in New York, when I first got here 15 years ago to say why do we still recognize these countries, yet when it came time to recognize them for real as entities, as nations, my own administration dragged its feet.

It was not a proud moment for me to see one of my hero Presidents standing next to Brian Mulroney, the Prime Minister of Canada, saying, "We today recognize the three Baltic nations" and to have my side say, "We want to wait a little bit longer. The State Department feels the timing is not right."

No, now that they are free, now that we talk abut this incredible courage of these people, now that we recognize the horrible death of 13 innocent people, 14, on that night of January 13, 1991, now everybody wants to get onto the bandwagon.

I have a good memory, as good as anybody in this Chamber or the Senate, and as long as I am around I am going to remember that there was ridicule, scorn, and derision for those of us that tried to keep the torch of freedom alive for the Baltic States and all the other nations, and for the Soviet Union's dissolution itself.

There are a lot of people who never lifted a pinkie in their lives that serve in this Chamber and the other. As a matter of fact, some of them befriended the Ortega brothers, have spoken up for Castro, and have delayed this collapse of communism.

Somebody, I guess it is I, has to be a bad person and say, "Where the hell were you when we needed you, when we were speaking up for these countries, when we were proud to stand in the well of the House and the Senate and call ourselves anti-communist? Where were you when you were licking the boots of the liberal columnists who were ridiculing conservatives in this country and saying 'Leave these people alone, they have got the kind of government they want?' "

I looked at that chaos in the Soviet Union Friday and Saturday and Sunday and Monday morning when we left and thought, "How are we ever going to be able to help these people as long as there are still die-hard Communists inside that country still trying to tear it apart? It is a long, long way before those people will have a free parliament, as we have here and in the other Western European nations, and it is going to require a lot of good will on our part, and yes, some of our Treasury and probably some lives still to be lost."

This Congressman remembers when anticommunism, and still is with some liberal columnists, was considered a stupid, if not an ugly, thing to do.

I look back to those votes on captive nations and people on the other side of the aisle saying, "Why are you such a dinosaur? Why are you putting these things forward? Why do we not let this thing rest?" That impulse toward centrist government, whether it is in Belgrade or in Moscow itself, is still there, not only in the State Department, not only in the majority party, but yes, a few weakening voices in my party.

Freedom is indivisible anywhere in this world, and the great English poet of the 1600's, John Donne, said it best:

> No man is an island unto himself, but rather a peninsula, a part of the whole. Every man's death in the cause of freedom diminishes me, because I am every man's brother.

I paraphrase him weakly there in the end, but those words of John Donne should have been the battle cry, the clarion call of the other body and this body throughout all of these years, but it was not.

I sat there and looked at the head of the KGB, Mr. Primakov, and I said, "Yevgeny Primakov, give us the records on Alger Hiss, on the Rosenbergs, on all of these prisoners that have disappeared."

□ 1500

"You tell us what happened to Raoul Wallenberg. Give us back again the files of Lee Harvey Oswald," as this hateful movie "JFK" makes the rounds teaching young Americans that President Kennedy was killed by the Army, the Navy, the Air Force, the CIA, the FBI, and the Dallas police force. "Give us all these records before you ask us for money."

There is a lot of history to be written, and it is fitting and proper that we do this for Lithuania, for all of the free countries that are seeking freedom today, but let us not forget it was a hard-fought fight and some or our worst resistance came from our brothers and sisters right in this Chamber and in the other one.

Mr. FASCELL. Mr. Speaker, I rise today to support House Concurrent Resolution 239, congratulating the people of Lithuania for their successful, peaceful revolution and their continuing commitment to the ideals of democracy. This bill was adopted unanimously by the Committee on Foreign Affairs on February 19, and by the Subcommittee on Europe and the Middle East in November 1991. I would like to thank Representative MARTY RUSSO for his excellent work in the formulation of this important and timely piece of legislation and Representative LEE HAMILTON for his expeditious consideration of the bill in subcommittee.

Mr. Speaker, consideration of this bill comes at a pivotal and historic moment in the history of the Lithuanian people. On February 16, 1992, Lithuania celebrated its independence day, the first such celebration since the Lithuanian people achieved their much deserved and long awaited independence from the former Soviet Union in 1991. For 51 years Lithuania, together with Latvia and Estonia, has endured control from Moscow. For 51 years, the Lithuanian and other Baltic peoples courageously resisted the imposed rule of the Soviet State. In 1990, the new democratically elected Government of Lithuania declared the restoration of Lithuanian independence and subsequently in January 1991, the people and Government of Lithuania withstood a bloody assault against their new democracy and independence by Soviet forces unsuccessfully trying to turn back the clock.

House Concurrent Resolution 239, congratulates the people of Lithuania for their courageous, tenacious and ultimately successful and peaceful resolution, and for their continuing commitment to the ideals of democracy. Through the adoption of this bill, the United States Congress pledges its support for the people of Lithuania as they establish and strengthen democratic institutions and a free-market economy.

I strongly urge my colleagues to give their full support to this timely and important bill.

Mr. CARDIN. Mr. Speaker, I rise today in strong support of House Concurrent Resolution 239. The time has come for the House of Representatives to go on record congratulating the people of Lithuania for the success of their peaceful revolution and their continuing commitment to democracy.

On February 16, 1918, the people of Lithuania declared themselves to be the Independent Democratic Republic of Lithuania—an independent nation with all of the rights and privileges accorded every other independent nation. Unfortunately, their independence was short-lived. During World War II, the Soviet Union forcibly annexed Lithuania and her Baltic neighbors of Latvia and Estonia. The Soviets, in their zeal to integrate the Lithuanian people, began to systematically erase the unique culture, politics, language, and religion of the Lithuanian people.

Little more than a year ago, I was in Lithuania and saw democracy under siege firsthand. In Vilnius, the Lithuanian Parliament was surrounded by concrete and metal barricades, sandbags were stacked inside; and supporters of independence held a constant vigil outside. In my meetings with Lithuanian President Vytautas Landsbergis and Prime Minister Gedyminas Vagnoris, I was impressed by their commitment to a free, independent, and democratic Lithuania.

For 51 years, the United States worked to help secure freedom and independence for Lithuania. As Americans, it was difficult to comprehend the sense of joy and satisfaction felt by the Lithuanian people upon the success of their long struggle for independence.

As we congratulate the people of Lithuania for their courage in the face of tremendous adversity, we must also reaffirm our commitment to support and assist them in their struggle to fulfill their dream. If they are to be successful in establishing democracy and a free market economy, Lithuania must feel secure in the continuing support of the United States and the world community.

Mr. HOYER. Mr. Speaker, I rise in support of House Concurrent Resolution 239, a resolution congratulating the people of Lithuania for their successful peaceful revolution and their continuing commitment to the ideals of democracy. I commend my friend and respected colleague, Representative RUSSO for introducing this timely resolution, as it was only a few days ago, on February 16, that Lithuanians could celebrate, for the first time in over five decades, their national independence day in a free Lithuania.

The tragedy and triumph of the Lithuanian people in the face of the Communist Leviathan that kept them enchained for so many years is testimony to the strength, persistence, and faith of a people determined to throw off, by peaceful means, those who would repress them by force.

The cost, of course, has been high. Even, last year, the year of the Paris Charter, adopted by the Conference on Security and Cooperation in Europe at the CSCE summit in 1990, the death toll for Lithuanians involved in the struggle for freedom was at least nineteen persons. And we will probably never know how many brave Lithuanians were killed by Stalin's NKVD or died in the murderous gulag.

As Chairman of the Helsinki Commission, I have had occasion to follow closely Lithuania's odyssey to freedom over the last 5 years. In 1986, on the eve of the opening of the Vienna CSCE followup meeting, I held a press conference in Vienna to commemorate the 10th anniversary of the founding of the Lithuanian Helsinki Monitoring Group, several of whose members were in labor camps or exile at that time. Over the next 3 years, the Helsinki Commission held several congressional hearings on the issue of human rights and the independence movements in Lithuania and her Baltic neighbors, Latvia and Estonia. We were privileged to hear the testimony of former Lithuanian political prisoner Vytautas Skuotas, and of the then-Chargé d'Affaires Stasys Lozoraitis, now Ambassador of Lithuania here in Washington. Later we would welcome representatives of the freely elected Lithuanian Government, such as Vice-President Bronius Kuzmickas and then-Prime Minister Kazimiera Prunskiene, and of course, President Landsbergis himself in May 1991.

In February 1991, following the brutal onslaught by Soviet forces on civilians at the

Vilnius television tower, I led a commission delegation to Lithuania, to visit the embattled Parliament building where Landsbergis was holed up. We also went to the television tower where there were fresh flowers on the makeshift shrines to the fallen victims and the candles still burned. While the grief at that time was almost palpable, I think all of us on that delegation were very much aware that, as had been said in another context, "this would not stand." Somehow we sensed, even in the dark shadow of Soviet armor, that the people of Lithuania would persevere in their peaceful struggle, not for revenge but for justice.

And persevere they did. When the Helsinki Commission returned to Vilnius in September 1991, Lithuania had finally secured its freedom and had gained recognition by the international community. When we descended into the basement of the abandoned KGB building, we were greeted by Balys Gajauskas, now a Lithuanian legislator in charge of investigating the KGB's crimes, one of the Lithuanian Helsinki Monitors whose cases we had raised in Vienna 5 years earlier.

With its independence still in place, Lithuania now faces great challenges. The dark tread of the tyrant remains long after he has passed on. The Lithuanian economy is suffering from Moscow's deliberate policy of overcentralization. Issues of property ownership remain unsettled. Nationality complaints have been raised. The former Soviet Army, now CIS Army under the control of Russia, is still on Lithuanian soil.

But if the past is any indication of what we can expect for the future, then we know the people of Lithuania will meet the challenge, as they proceed with establishing and strengthening their democratic institutions of government and a free market economy, in a spirit of tolerance and a system governed by rule of law.

And so I want to again thank Mr. RUSSO for bringing this important resolution to the House floor. The United States Congress hereby congratulates all of the Lithuanian people and their Government for their present remarkable achievements and pledges its support for their future endeavors.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today to urge my colleagues' support for House Concurrent Resolution 239, a bill which commends the people of Lithuania for their peaceful revolution and their continuing commitment to the ideals of democracy and a free market.

I want to thank my Illinois colleague, Congressman MARTY RUSSO, for his leadership in sponsoring this historic legislation.

Lithuania displayed courage as they led Eastern bloc countries of the former Soviet Union in declaring their own independence in 1990. There are those in my Chicago district who remember when Lithuania was last a free nation—in 1940—when the Soviet Union forcibly annexed Lithuania as a result of a 1939 pact between Hitler and Stalin.

Fifty years later, despite attacks on their country by Soviet forces, Lithuania has persevered and today we can celebrate their independence.

Again, Mr. Speaker, I urge my colleagues' support in passing House Concurrent Resolution 239 and commend Lithuania for their courageous stand which, I believe, contributed greatly to the fall of communism in all of Eastern Europe.

Mr. HOAGLAND. Mr. Speaker, today, as we consider House Concurrent Resolution 239, a bill to commend Lithuanian democracy, I am reminded of John F. Kennedy, who once said, "The most powerful single force in the world * * * is man's eternal desire to be free and independent." Two weeks ago, in Albertville, France, Lithuanians showed the fruits of their quest for freedom to the rest of the world. For the first time in almost 50 years, Lithuanian athletes walked under the Lithuanian flag in the opening ceremonies of the winter Olympic games. It is indeed gratifying that Lithuanians are now fighting for medals instead of fighting against tyranny. Although they did not win any medals during the winter games, I know they won the hearts of Americans who have watched for so many years, the struggle for Lithuanians to be free. Watching this event brought back memories of the historic events that took place over the past year in Lithuania and the former Soviet Union.

This 74th anniversary of Lithuanian independence is a special one for everyone who has fought for the end of Soviet rule. That longheld wish, in 1991, finally came true. Over the last year, the Lithuanian people have braved Soviet military raids and occupation, the killing of fellow citizens, and a failed Soviet coup attempt that massed Soviet troops in and around the country. Through all of this, they have persevered, voting overwhelmingly for independence from Soviet rule and establishing their own government and gaining the recognition of the United States Government, the United Nations, and the newly formed Commonwealth of Independent States.

The most rewarding event as an American and a Member of Congress representing Lithuanian-Americans, was this country's establishment of diplomatic relations with Lithuania on September 2, 1991. Some here in Congress and down Pennsylvania Avenue may think our job is finished. We have helped put pressure on the Soviet Union to release Lithuania from its strangling grip and now we can turn our efforts to their domestic needs. As hundreds of Lithuanian-Americans in my hometown of Omaha told me last week, we cannot turn our backs on the rest of the world at so crucial a time. After championing Baltic independence for 50 years, the United States must give moral, diplomatic, and technical help to these struggling democracies and emerging free-market economies.

As the Nation whose form of government so many others emulate, America must not close its eyes and or turn its back to the thousands of Lithuanians who look to us for guidance and help. Now that independence has been secured, we must help Lithuania maintain it. The fight for Lithuanian autonomy is not over. Military units of the former Soviet Army are still stationed in Lithuania. Russian President Yeltsin has made a commitment to all the Baltic Republics and the United States that he will withdraw the troops. But that has not yet happened.

Our Government must continue to support the ongoing efforts to normalize relations between all the new Baltic Republics and their former occupiers. In this way, and only this way, can Lithuania grow economically and politically. Not only that but we must work for stability and prosperity in the entire region by providing technical assistance to help the governments formerly under Soviet rule create market-oriented economies and systems of government that protect individual freedom and the common good.

Mr. Speaker, I commend all my colleagues that have supported Lithuanian independence in the past and urge them to continue to support freedom in that country so that future generations of Lithuanians can carry their flag in the Olympic games. I am pleased to vote "yes" today for this bill commending the Lithuanian people.

Mr. LEVIN of Michigan. Mr. Speaker, I rise today to voice support for House Concurrent Resolution 239, which congratulates the people of Lithuania for their successful peaceful revolution and their continuing commitment to the ideals of democracy. I only wish the resolution had recognized the efforts of those in other countries of the former Soviet Union who served in the cause of freedom.

For nearly 50 years, the peoples of Lithuania, Estonia, and Latvia struggled against their Communist masters to preserve their culture and restore their independence. The United States supported those aspirations, refusing to recognize the annexation of the Baltics by the Soviet Union.

Two years ago, the people of Lithuania took a courageous stand. They overwhelmingly supported Sajudis, the opposition party supporting independence, and rejected the Soviet-controlled parliament. They elected a new president, Vytautus Landsbergis, who vowed to regain for Lithuania the independence she had lost. The peoples of Estonia and Latvia soon followed suit and the struggle for freedom was joined.

With the collapse of the entire Soviet Union 6 months ago, it is easy to forget the tremendous courage and accomplishments of the Baltic peoples, and of those in other parts of the Soviet Union, such as the Ukraine. They stood resolutely but peacefully against a Soviet Government that threatened to crush their independence movements. When Soviet tanks rolled by the Lithuanian Parliament building and took the radio tower, the Parliament simply continued its work on establishing a new government.

Mr. Speaker, it is also easy to forget the difficult situation the peoples of the former Soviet Union now face. From Lithuania to the Ukraine to Russia, they are struggling against bitter odds to establish market economies and preserve their fledgling democracies.

Mr. Speaker, after standing with the Baltic peoples in their fight for freedom, we must not forget them or the newly freed peoples of the former Soviet Union at this critical juncture.

My visit to the Baltics and Russia in early September, and a subsequent meeting with President Landsbergis in Southfield, MI, convinced me that technical assistance and the development of trade between our countries offers the best hope for lasting change. That's why I introduced legislation to establish commercial export centers in the Baltics and the former Soviet Union, and I will continue to press at every opportunity for greater trade and contact between our peoples.

Mr. Speaker, I commend the sponsors of this resolution for their efforts in highlighting the achievements of the people of Lithuania. Now I hope we will move on to the truly important task of cementing our bonds, commercial and cultural, in a way that benefits the American people and those in the Baltics and the former Soviet Union alike.

Mr. FEIGHAN. Mr. Speaker, on February 16, the people of Lithuania celebrated the 74th anniversary of their independence. When we look back at those 74 years, we see a tale of relentless struggle of a spirited and determined people to maintain their hard won independence for future generations of Lithuanians.

When 200 Lithuanian delegates first proclaimed their country's independence on February 16, 1918, they knew that the independence of such a tiny, democratic nation, surrounded by powerful autocratic states, would be severely tested.

The ignominious Hitler-Stalin pact of 1939, followed by the Soviet invasion a year later, sealed the fate of the Lithuanians for the next 51 years. But to the dismay and surprise of their Soviet oppressors, the Lithuanians would not stop their struggle. They would not allow their separate identity to be melted into the cruel Soviet system.

Instead, they courageously persevered through the hard times and resisted their oppressors. Most importantly, they continued to pass their culture, their identity and their hope for independence on to their children.

With the advent of glasnost, the Lithuanian people could mobilize and implement a nonviolent movement for social and political change which came to be know as Sajudis.

Finally, in February 1990, Sajudis held the first democratic election in Lithuania in over 50 years. The following month, the Parliament declared the restoration of Lithuanian independence.

What followed however, was Moscow's last ditch attempt to suppress Lithaunian independence. After months of economic blockade and other Moscow-imposed hardships, including armed assaults and outright murder, the Lithuanians and their democratic institutions persevered.

The resolution before us today congratulates the people of Lithuania for their courage and perseverance in using peaceful means to regain their independence. In it, we pledge our support for the people of Lithuania as they establish and strengthen democratic institutions of government and a free market economy. Finally, we congratulate the people of Lithuania as they celebrate their well-deserved independence day on February 16, 1992.

House Concurrent Resolution 239 is deserving of the unanimous support of the U.S. Congress. I urge all my colleagues to vote for this resolution.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of House Concurrent Resolution 239 in which the Congress, behalf of the American people, congratulates the people of Lithuania for their courage and perseverance in using peaceful means to regain their independence.

Our Nation and this Congress have steadfastly supported the people of Lithuania throughout their quest to restore freedom and democracy and this resolution pledges our continuing support as they establish and strengthen democratic institutions of government and a free market economy.

In recognition of Lithuanian Independence Day earlier this month, Vice President Dan Quayle traveled to Vilnius to pay tribute to President Landsbergis and all the courageous people of Lithuania, Latvia, and Estonia who kept the flame of freedom burning in the Baltic States.

Before a crowd of thousands of cheering Lithuanian's who turned out in snow-covered Independence Square, the Vice President led a celebration of the collapse of Communist rule, and pledged the continued unwavering friendship and support of the American people. As one who has drawn tremendous strength from the freedom-loving character of the Lithuanian people, and stood by them throughout their quest for independence, I commend the Vice President for drawing the world's attention to this important independence celebration.

Mr. Speaker, following my remarks, I would like to include for my colleagues the text of the Vice President's speech to the joyous Lithuanians in Independence Square, so that we all may continue to be reminded of the value freedom holds, especially in those oppressed lands, and so that we might be inspired to continue to be the guardian of democracy throughout the world.

In approving this resolution today, we celebrate the new found freedom of the people of Lithuanian, Latvia, and Estonia and reaffirm our long-standing commitment to the Baltic people that we will stand by them as their allies and partners in maintaining peace and democracy in the region.

REMARKS BY THE VICE PRESIDENT TO THE PEOPLE OF LITHUANIA, FEBRUARY 7, 1992

President Landsbergis, Honorable deputies, and friends: Sveikinu Laisva Lietuva! (I greet free Lithuania!) I bring you special greetings from President George Bush and your friends, the people of the United States of America.

Let me begin by paying a special tribute to President Landsbergis, a true champion of freedom. For many years, he helped keep alive the hopes of you, his countrymen. He never gave up. He inspired a nation, and in so doing, inspired the world. And so today, I am deeply honored to be standing next to President Landsbergis in a free and independent Lithuania.

In the middle of this century, darkness fell upon the peoples of Estonia, Latvia, and Lithuania. Millions suffered at the hand of an oppressive empire. Tens of thousands were martyred, brutalized, and torn from family and homeland. There was tragedy and despair. But the people of Lithuania never gave up hope—the hope of freedom. For, in the words of the Psalmist, "Weeping may endure for a night, but joy cometh in the morning."

The long night has ended. Morning has broken, and there is joy: Estonia is free. Latvia is free. Lithuania is free. Long live freedom!

Over the course of five decades, you showed courage and moral strength * * * that no oppressor could overcome. Your resolve never weakened. Your hearts were never dominated. And your spirits were never defeated. After every injustice * * * every injury * * * every indignity * * * the spirit of your people would always reappear as boldly, and as proudly, as the Hill of Crosses.

My country, America, was born in a revolution of independence, and our people have always had profound faith. This heritage makes Americans feel a special kinship with the Estonian, Latvian, and Lithuanian peoples. We have viewed with admiration your unshakable devotion to almighty God. And when your lifted your voice for freedom, you lifted the hearts of America—for you affirmed a great truth spoken by one of our founding fathers, Thomas Jefferson: "The God who gave us life gave us liberty."

For more than 50 years, we stood by you. American refused to recognize the Soviet occupation. The battle cry of freedom was sounded in march of 1990, when Lithuania reasserted its independence. The struggle intensified on January 12, 1991, where—at that television tower—your brave patriots gave their lives in the cause of independence. A short time ago I stood at the television tower and presented a wreath of remembrance from the American people. The events at your tower of bravery happened before a watching world, and the scene inspired others to fight as never before in the struggle of good against evil.

Now my friends, you are part of a new Europe—whole and free, and blessed with great opportunity. And let us remember that the world of tomorrow belongs to those who embrace democratic institutions and free markets. The great question of our time is settled: Freedom lives. Communism is dead. And the Russian soldiers are going home.

It is a privilege to stand at this place, on this day, with so many who made history. You changed a nation and helped change the world. I pledge to you the unwavering friendship of the American people in the months and years ahead. May God go with you, and may He always bless your dear, native land, Lithuania, the home of a free people.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TORRES). The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 239.

The question was taken.

Mr. RUSSO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 239, the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

HONORING THOSE WHO HAVE LOST THEIR LIVES FIGHTING DRUG-RELATED CRIME AND VIOLENCE

Mr. FEIGHAN. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 414) to honor, on the eve of the second drug summit, the hundreds of South Americans and North Americans who have lost their lives while defending their nations and the world community from the threat of drug trafficking and drug-related crime and violence as amended.

The Clerk read as follows:

H.J. RES. 414

Whereas the Cartagena Summit, in which the leaders of the United States, Colombia, Bolivia, and Peru participated 2 years ago, resulted in progress toward the participants' common goal of stopping the cocaine trade;

Whereas cooperation between the United States and other countries on such diverse issues as control of precursor chemicals, port control, aerial interdiction, and investigation and prosecution of money laundering is necessary for an effective strategy on reducing the drug supply;

Whereas the Presidents of Colombia, Bolivia, Peru, Ecuador, Venezuela, and Mexico, will be hosted by President Bush and will meet on February 26 and 27, 1992, in San Antonio, Texas, to discuss increased cooperation in the hemispheric campaign to eliminate illicit growth of drug crops, drug processing, drug trafficking, street level drug distribution, and drug consumption;

Whereas drug traffickers throughout the Americas have used violent means to facilitate the production and sale of illicit drugs;

Whereas law enforcement officers, military personnel, journalists, and judges have been killed in the line of duty by drug traffickers because of their courageous, selfless, and patriotic efforts to oppose the illegal and immoral terrorism or intimidation of drug traffickers in South and North America;

Whereas the greatest tribute to those who have given their lives in the war against drugs is to complete the job they have begun by defeating the international scourge of drugs which still threatens the lives of millions of people around the world;

Whereas drug abuse and drug-related crime remain among the gravest social ills confronting the United States;

Whereas significant progress has been made in reducing overall drug use, especially drug use among young people, as shown by such diverse statistical sources as the National Household Survey, the Drug Abuse Warning Network, and the High School Senior Survey;

Whereas much work remains to be done to reduce the number of addicted drug users, especially drug users addicted to cocaine; and

Whereas, under the President's National Drug Control Strategy, interrupting the flow of cocaine into the United States is essential to reducing cocaine use: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) the President should build upon the success of the Cartagena Summit and use the upcoming San Antonio Submit—

(A) to reaffirm the mutual commitment of the participating countries to halting the international cocaine trade;

(B) to continue assisting the Andean Strategy nations in their efforts to curtail cocaine production;

(C) to encourage cooperation among the participating countries in dismantling drug trafficking cartels and arresting and incarcerating major traffickers;

(D) to strengthen the legitimate economies of the Andean Strategy nations through trade incentives and other assistance; and

(E) to motivate the participating countries, all of which are victims of drug use, to reduce consumption of illicit drugs within their borders, and thus remove the incentives for the existence of the drug trade; and

(2) the honored dead in the war against drugs deserve the recognition and appreciation of all the nations for their ultimate sacrifice.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. FEIGHAN] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 414 and I want to commend the sponsor, Mr. COUGHLIN, and the chairman of the Select Committee on Narcotics, the gentleman from New York [Mr. RANGEL], as well as the gentleman from Texas [Mr. SMITH], for their initiative in bringing this before the House and bringing it in such a timely fashion.

I also want to commend our chairman of the Foreign Affairs Committee, Mr. FASCELL, for moving the resolution in expeditious fashion so that we could pass the bill in advance of the convening of the antidrug submit.

Mr. Speaker, the resolution is a call to all Americans to take time to remember the supreme sacrifice made by all the victims of the international campaign against drugs. It honors the hundreds of North and South Americans who have lost their lives while defending their nations in the fight against illegal drugs.

As President Bush meets with the Presidents of Colombia, Bolivia, Peru, Ecuador, and Mexico, it is altogether fitting that we honor the foot soldiers in the war on drugs. We honor people like Enrique Camarena, the slain United States drug enforcement agent, Senator Luis Carlos Galan, a Colombian Presidential candidate, and hundreds of police officers, judges and journalists who have paid the dearest price as a result of their uncompromising stance against the drug trade.

We look forward to the Presidential submit as an opportunity to rededicate ourselves to this mission, to refocus our efforts, and to reinforce the commitment of each nation in this hemisphere, none of which is immune to the effects of this scourge.

As the resolution points out, there is no better way to honor those who have fallen in the drug war than by committing ourselves to completing the job at hand. That means beating back the worldwide demand for drugs. It means confronting the drug cartels and dismantling their trafficking organizations. And it means providing economic opportunities and fighting the poverty that make people turn to the drug trade for money and to drug use to escape their circumstances.

I ask my colleagues to support the resolution and I commend the sponsors for their efforts.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am in favor of House Joint Resolution 414 as an important expression of congressional support on the eve of the San Antonio drug summit. The Foreign Affairs Committee marked up the resolution this morning, uniting the efforts of Congressman LARRY COUGHLIN and Congressman LAMAR SMITH.

Before commenting on the resolution itself, I would like to take a moment to offer tribute to Congressman COUGHLIN who just announced he would be retiring after the 102d Congress. His leadership and tireless work on all the issues relating to narcotics control will be sorely missed.

LARRY COUGHLIN was first elected to Congress in 1968. For almost a quarter of a century LARRY has faithfully represented the greater Philadelphia area. Only 11 Republicans—myself included—have served longer in this body.

LARRY COUGHLIN's distinguished record of public service includes his footprints on many issues: Arms control, opposition to Government waste, support for mass transit, and many more.

The issue for which LARRY COUGHLIN is best known, however, is the issue that brings us to the floor today: Fighting the spread of illegal drugs. As ranking Republican member of the Select Committee on Narcotics Abuse and Control, no member has had a stronger or more effective voice in the war on drugs.

LARRY has devoted countless hours to the issue and his leadership and experience will not be easily filled. I wish LARRY COUGHLIN continued success in whatever pursuits he may choose to follow, but I am sure I express the regret felt by many when I say the House of Representatives will miss his presence.

Beginning tomorrow in San Antonio, TX, President Bush will host a drug summit with six Presidents representing our international partners in the fight against illegal drug trafficking. This summit will represent another step forward in our international efforts to fight drug trafficking and all its associated evils. The drug summit also illustrates the increasing cooperation and attention we are receiving from our Latin American neighbors in this fight.

House Joint Resolution 414 also recognizes the terrible price paid by the foot soldiers in the war on drugs. Throughout our hemisphere, many have paid with their lives in trying to stem the flood of narcotics into the United States. Hundreds of policemen, soldiers, judges and journalists have been brutally murdered by drug traffickers. Those slain range from New York City police officers to Colombian judges to Mexican policemen. Mr. Speaker, these men and women are the unsung heroes of the war on drugs.

I am pleased the Foreign Affairs Committee was able to act so rapidly on this resolution and am sure I am joined by my colleagues in wishing President Bush and his team the best for the San Antonio summit.

I urge my colleagues to support the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FEIGHAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL], the very distinguished chairman of the Select Committee on Narcotics Abuse and Control.

Mr. RANGEL. Mr. Speaker, let me join with the previous speakers in support of House Joint Resolution 414.

My friend, the gentleman from Pennsylvania [Mr. COUGHLIN], the gentleman from New York [Mr. GILMAN], and the gentleman from Texas [Mr. SMITH], and I agree that this is the appropriate time for us to give support to our President and the Presidents from Peru, Bolivia, from Colombia, Mexico, Venezuela, and Ecuador, as they come together as world leaders to try to find some solution to the international problem of fighting drug trafficking from all over the world.

As we in the United States, those of us in the Congress and in public office, have to attend so many funerals of those in law enforcement who have fallen victim to drug traffickers and those engaged in criminal activities, we sometimes forget that we have friends and allies overseas who are in the countries that are producing the drugs that, against overwhelming odds, are prepared to go out, undermanned and underarmed against the drug lords and drug traffickers.

I remember when the gentleman from New York [Mr. GILMAN] and I were in Colombia talking with the widows and the families that were left behind as a result of the national Colombian police chief being slain. I remember how we looked at a building that had its innards taken out by a tank as the drug lords had the arrogance to go and to destroy the records that were in what would be the equivalent of our Supreme Court and how we paused and looked at it with heavy hearts and seeing how many judges had lost their lives as the result of so many people in the United States consuming the very cocaine that these people were trying to protect ourselves from ourselves.

So it is altogether fitting and proper, while we are frustrated and wishing that we had more success, that we not forget those people who made the ultimate sacrifice in North America or South America or Central America and that they, too, have to go down as heroes for the courage that they have had to stand up against overwhelming odds.

□ 1510

I do hope that sometime, somewhere, we in the United States and in Europe will be able to convey upon those people who are engaged in the recreational use of drugs or those who are addicted to drugs unknowing, that it is their habits and their consumption that causes the production that finds so many lives being lost.

I congratulate the members of the Foreign Affairs Committee and the leadership that they have provided to give us a chance in this small way to speak out for the people of these United States and of civilized society in general, in thanking those people and the families of those people left behind and sharing their loss and their sorrow and hoping one day that no further lives have to be lost because the war would have been won.

Mr. Speaker, I rise in strong support of House Joint Resolution 414, honoring those international heroes who have made the ultimate sacrifice in the war on drugs, and encouraging the President to work with the participants at the San Antonio summit toward stopping the trade in illicit drugs. I commend my distinguished colleague, the ranking Republican of the Select Narcotics Committee, Mr. LARRY COUGHLIN, as well as the gentleman from Texas, Mr. LAMAR SMITH, for introducing the measures that have been combined in this resolution.

We are on the eve of a historic meeting of the heads of state from Boliva, Colombia, Ecuador, Mexico, Peru, the United States, and Venezuela. The purpose of this summit meeting is to further hemispheric cooperation in the international control of narcotics production, trafficking, and consumption. This meeting will build upon the broad framework of cooperation in the control of precursor chemicals, alternative economic development, enhanced trade of legal goods, drug interdiction, and demand reduction, as established at the Cartagena summit in 1990.

I am pleased that seven heads of state have raised this issue to such a high priority level that they have agreed to 2 days of meetings in San Antonio, TX. This level of priority is most important, especially to those who have been waging this war all along.

Throughout the hemisphere, courageous men and women have openly and fearlessly fought drug production, drug trafficking, and drug abuse. They have risked their lives in order to make their communities and nations more safe and healthy for generations to come. Many of those who have been at the forefront of this war, both in the United States and throughout Latin America, have made the ultimate sacrifice at the hands of ruthless and greedy drug criminals.

The brave men and women came from all walks of life, and from all cultural, ethnic, and economic backgrounds. From courageous law enforcement officers to honest journalists to concerned community leaders, these good people were slain for their work, their honesty, their dedication, and their integrity.

Mr. Speaker, to honor the memory of those who have given their lives to end the tremendous suffering caused by international drug trafficking and drug abuse, we must continue their mission. We must not allow their deaths to have been in vain. Their friends and families who mourn their loss need to know that the struggle of their lost loved ones continues; their cause is still very much alive.

Mr. Speaker, I have to admit that we are a long way from winning this war. Every day hundreds of thousands of people still abuse illegal substances, and every day there are still drug related deaths. Those whose lives have been touched by this tragedy understand all too well the importance of this fight against drugs.

I urge my colleagues to take this opportunity to renew our commitment to combatting the drug trade from its inception in the coca, opium, and cannabis fields to its devastation among the young people of this hemisphere.

Let us never forget those brave men and women whose lives were ruthlessly taken because they dared to do the right thing. We owe them our deepest respect and our undying gratitude.

I strongly urge my colleagues to support this important resolution. Thank you, Mr. Speaker, and many thanks again to the authors of this resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York [Mr. GILMAN], who I should mention is not only a long-time member of the narcotics task force, but he has devoted many, many hours to this issue and we are very proud to have him on our Foreign Affairs Committee.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his kind remarks and for yielding this time to me.

Mr. Speaker, I am pleased to rise in support of this measure, House Joint Resolution 414, a measure honoring the courageous men and women of North and South America who have made the supreme sacrifice in our war on drugs, and to do it a few days before the San Antonio Summit Conference on Narcotics. I commend the gentleman from Pennsylvania [Mr. COUGHLIN], the ranking member of our Select Committee on Narcotics; our distinguished chairman of our Select Committee on Narcotics, Mr. RANGEL, whose eloquent words just preceded my rising on this measure; and the gentleman from Texas [Mr. SMITH] for bringing this resolution to the floor in this timely manner.

Over 1,500 drug law enforcement officers have died in the line of duty in the United States over the past 10 years. That number is shocking. Each Member of Congress is painfully familiar with such incidents in their own districts.

On the afternoon of March 5, 1990, one of my constituents, New York State police officer Joseph T. Aversa, was gunned down while trying to purchase two kilos of cocaine in an undercover operation in Manhattan's Lower East Side.

Officer Aversa, age 31, had been a member of the New York State Police since March 1984, proudly serving with State Police Troop F in Middletown, NY.

In October 1989, Officer Aversa's outstanding service was recognized by his promotion to investigator. It was in that capacity that he began work as an undercover narcotics officer with the State's Drug Enforcement Task Force.

An apparent buy-and-bust operation went amiss when an undercover officer was led into an ambush in a New York City housing project.

Joseph Aversa bravely ran to the aid of his fellow officer only to be met with deadly gunfire.

As we reflect on the tragic loss of Investigator Aversa, we cannot help being outraged by the ruthless acts of violence committed daily by the drug dealers of our cities and in communities throughout the world.

Each and every day, we are losing more and more of our young people to drugs.

Officer Aversa's family and community have suffered a great loss. All nations have suffered tremendous losses due to illicit narcotics. Officer Aversa was one of a select few law enforcement officers who care so much for their fellow man that they made the ultimate sacrifice.

The public outcry to these inhuman acts should be loud and resolute. As we remember Joseph Aversa, and the life he devoted to our protection, let us become more determined to do our part to fight drugs and crime. We should not have to lose proud, young men and women to corrupt, ruthless, murderous criminals.

The United States is spending billions of dollars every year just to manage the addicts we have today, to say nothing about the billions we spend on enforcement and interdiction efforts. However, one nation alone cannot hope to prevail against the enormous tide of drugs being produced and smuggled across international borders. In order to address the drug war fully, a regional approach, organized at the highest levels of government, is imperative.

President Bush deserves great credit for his role in organizing the forthcoming second drug summit in San Antonio TX, this week where the Presidents of Colombia, Bolivia, Peru, Ecuador, Venezuela, and Mexico will meet to discuss the illegal narcotics situation and work toward developing further regional cooperation in our war against drugs.

The violence of the drug trade is the greatest threat to our free society, and the grip of the suppliers is getting tighter. Last year we heard about the marriage of Colombian cocaine kingpins and the Italian Mafia. Only through the cooperation of all the nations concerned can we hope to effectively combat this threat.

Mr. Speaker, I urge my colleagues to support this important measure, and support our President as he works with the Presidents of our neighboring nations to build cooperation in our fight against drugs.

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. SMITH], a cosponsor of this legislation.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman for yielding this time to me.

The timing of this resolution is especially important since tomorrow President Bush will be in my hometown of San Antonio for an international summit on a threat to all citizens of the world—drug dealing.

The drug crisis is real.

This week the leaders of Bolivia, Colombia, Ecuador, Mexico, Peru, and Venezuela will meet with President Bush in San Antonio to coordinate the counternarcotics initiatives by our countries.

The drug summit will be effective as part of the ongoing efforts by the United States to curtail the stream of drugs into our country.

This resolution supports the drug-fighting goals of the drug summit and honors those who have lost their lives in the war on drugs.

This resolution will encourage cooperation among the summit countries for the purpose of dismantling the drug trafficking cartels and arresting major traffickers.

We must address the multinational nature of the drug problem in order to curb the supply of cocaine and other illegal narcotics that is smuggled into the United States.

One-third of the total quantity of illicit drugs that enters the United States is transshipped through Mexico into Texas.

While the administration has increased resources at the border, much of the border remains isolated, creating an open invitation for smugglers.

Investigators intercept only about 10 percent of the drugs entering this country.

This makes cooperation with Mexico and the Andean nations essential to stanching the flow of drugs into our country.

It is clear that we are fighting a two-front drug war.

On one front, the assault against casual drug use has gone very well.

Since 1985, we have reduced the total number of drug users from 23 million to about 12 million.

On another front, the difficult work remains—addressing the hardcore drug problem.

To do this, we need to better target our treatment dollars, our education dollars, and our money for community partnership programs.

We must make sure we are getting it to the people who need it.

To help in this regard, I urge Congress to pass the administration's drug legislation and to fund fully the President's drug budget for this year.

We also should keep pressure on our Andean allies to reduce the supply of drugs leaving their countries.

And that is why we are here today, to support the President as he meets with his Latin American counterparts in San Antonio this week.

I urge my colleagues to support this resolution and the goals of the drug summit.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, on the eve of the second hemispheric drug summit, it is appropriate that we pause to honor those who have given their lives in the international war against drugs. As the chilling numbers make clear, the use of the word war in this context is not hyperbole. Indeed, the numbers are at once staggering and sobering.

During the course of the past 5 years, Federal, State, and local law enforcement agencies in North, Central, and South America have lost approximately 3,000 men and women in the war on drugs. Colombia alone has lost 1,951 law enforcement agents in the last 5 years, on top of the 72 judges murdered since 1982. These heroic individuals made the ultimate sacrifice so that their countrymen and the citizens of allied nations might live free of the plague of illicit narcotics.

These casualties make clear that this battle for freedom is as real as the epic battle against global communism from which we so recently emerged victorious. And victory in this war will require similar resolve.

At this time, it is important that we commend the determination and the courage of the citizens of the Americas in prosecuting this war. No one has sacrificed more than the law enforcement officers, military personnel, justice officials, elected officials, and others who have placed their lives on the line in the defense of international law and domestic order.

And as this resolution declares, those who have fallen, and their families, deserve our profound gratitude, our solemn respect, and our earnest prayers.

Mr. Speaker, I received a letter from the Colombian Ambassador concerning tomorrow's drug summit and Colombia's efforts in the drug war.

I include the letter, as follows:

EMBAJADA DE COLOMBIA,
Washington, DC, February 20, 1992.

Hon. MICHAEL G. OXLEY,
Representative, U.S. House of Representatives, Narcotics Abuse and Control, Washington, DC.

DEAR REPRESENTATIVE OXLEY: On February 26–27, President Cesar Gaviria will join President Bush and the leaders of Mexico, Venezuela, Peru, Bolivia, and Ecuador in San

Antonio, Texas to discuss increased international cooperation in the war against drugs. This Summit will follow-up on the work begun at the Cartagena Summit meeting hosted by Colombia in February 1990. As we approach the San Antonio Summit, I thought this an appropriate time to review the progress of the last two years and outline the task that remains ahead.

This Summit takes place at a critical time in the war against drug trafficking. For the past several years, the Colombia government has been engaged in a bloody struggle against some of the most dangerous, violent criminals in the world. Many of our country's "best and brightest" have died on the front lines of this war—presidential candidates, judges, policemen, military officers, journalists and thousands of ordinary citizens.

Yet since the Cartagena Summit, there have been important victories in the drug war. Colombia's law enforcement efforts resulted in a record level of cocaine interdiction in 1991—77 tons of cocaine, 13 tons of cocaine base and 167 tons of imported coca leaves were seized by Colombian authorities last year. In addition, 293 cocaine processing laboratories and 90 airstrips used by drug traffickers were destroyed. The leaders of the Medellin cartel, once the most feared and violent drug traffickers, are now dead or in jail. With help from the United States, new initiatives have been launched to attack the cartels at their financial nerve centers by disrupting international money laundering networks; recent actions in Cali are an example of these efforts. Finally, through reforms enacted under our new constitution, we are strengthening judicial mechanisms to better enable us to bring drug criminals to justice, including the protection of judges and witnesses and improved confidentiality of evidence.

But despite these efforts, there is still much to do. The flow of cocaine has not stopped. Faced with increasing pressure within Colombia, the drug lords have moved and expanded elsewhere. That is why an expanded group of Latin American leaders will meet in San Antonio to formulate a global strategy to curb drug trafficking—from the harvesting of coca leaves, to destroying laboratories, shutting down transportation and distribution networks and stopping buyers and dealers on the streets of America and Europe.

No matter how many drug traffickers we arrest and bring to justice, the production and distribution of narcotics will continue so long as the demand for these drugs exists in the United States and other countries. The battle against the drug cartels cannot and will not be won solely in the United States or in Colombia. Other countries must now join the battle with a heightened sense of commitment of resources and national will.

President Gaviria will reaffirm Colombia's commitment to this struggle at the San Antonio Summit. Colombia will also suggest renewed areas of cooperation with the United States and our Andean neighbors in all areas of fighting drug traffickers—stopping the flow of precursor chemicals used to process cocaine, controlling the flow of arms and weapons to the drug cartels and curbing international money laundering of drug monies. Of particular importance is the need to strengthen law enforcement and judicial cooperation—including improved information, intelligence and evidence sharing—among the Summit participants.

Our goal is clear. It is nothing less than to rid ourselves of a dangerous force that is perhaps the single greatest threat to the social fabric of both our countries.

Sincerely,

JAIME GARCIA-PARRA,
Ambassador.

Mr. COUGHLIN. Mr. Speaker, I rise to ask my colleagues to vote in favor of House Joint Resolution 414, which honors the thousands of South Americans and North Americans who have lost their lives while defending their nations and the world community from the threat of drug trafficking and drug-related crime and violence.

Tomorrow, February 26, President Bush will host the Presidents of Colombia, Bolivia, Peru, Ecuador, Venezuela, and Mexico at the second drug summit in San Antonio, TX. The objective of the summit is to find ways to increase the effectiveness of the hemispheric campaign to combat drug trafficking and abuse.

It was my hope in drafting this resolution to send a very clear message to our allies in Latin America in the war against drugs that their sacrifices in this struggle are understood and appreciated by the people of the United States. Just as our communities have seen dedicated law enforcement officers shot down in the line of duty because of drug-related crime and violence, our Latin American allies have had hundreds of their law enforcement personnel, judicial officials and even journalists murdered by powerful trafficking organizations. House Joint Resolution 414 acknowledges these sacrifices and honors those who have given their lives in this struggle.

I would like to express my deep appreciation to the members of the Foreign Affairs Committee, especially Chairman FASCELL, ranking Republican BROOMFIELD, and the leadership of the Western Hemisphere Subcommittee, Congressmen TORRICELLI and LAGOMARSINO for bringing up this legislation so quickly. My thanks also to the original cosponsors of this legislation, the chairman of the House Select Narcotics Committee, CHARLIE RANGEL, and Congressman, BEN GILMAN, cochairman of the International Narcotics Task Force. I also want to thank LAMAR SMITH for his contribution to this resolution.

There are a lot of statistics which we talk about in the war against drugs. Those who have died serving their country in the war against drugs must be remembered more than as mere numbers, but as heroes in the international war against drugs. Colombia, in particular, has paid a heavy price. In the last year alone they lost 747 members of their national police in counternarcotics activities. In honoring these international heroes we rededicate ourselves to finishing the job they have begun.

In the words of President Abraham Lincoln, in reference to another great struggle, it is the responsibility of all to be "dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain."

I hope my colleagues will join me in voting in favor of House Joint Resolution 414.

Mr. RANGEL. Mr. Speaker, I rise in strong support of House Joint Resolution 414, honoring those international heroes who have made the ultimate sacrifice in the war on drugs, and encouraging the President to work with the participants at the San Antonio summit toward stopping the trade in illicit drugs. I commend my distinguished colleague, the ranking Republican of the Select Narcotics Committee, Mr. LARRY COUGHLIN, as well as the gentleman from Texas, Mr. LAMAR SMITH, for introducing the measures that have been combined in this resolution.

We are on the eve of an historic meeting of the heads of State from Bolivia, Colombia, Ecuador, Mexico, Peru, the United States, and Venezuela. The purpose of this summit meeting is to further hemispheric cooperation in the international control of narcotics production, trafficking and consumption. This meeting will build upon the broad framework of cooperation in the control of precursor chemicals, alternative economic development, enhanced trade of legal goods, drug interdiction, and demand reduction, as established at the Cartagena summit in 1990.

I am pleased that seven heads of state have raised this issue to such a high priority level that they have agreed to 2 days of meetings in San Antonio, TX. This level of priority is most important, especially to those who have been waging this war all along.

Throughout the hemisphere, courageous men and women have openly and fearlessly fought drug production, drug trafficking and drug abuse. They have risked their lives in order to make their communities and nations more safe and healthy for generations to come. Many of those who have been at the forefront of this war, both in the United States and throughout Latin America, have made the ultimate sacrifice at the hands of ruthless and greedy drug criminals.

These brave men and women came from all walks of life, and from all cultural, ethnic and economic backgrounds. From courageous law enforcement officers of honest journalists to concerned community leaders, these good people were slain for their work, their honesty, their dedication and their integrity.

Mr. Speaker, to honor the memory of those who have given their lives to end the tremendous suffering caused by international drug trafficking and drug abuse, we must continue their mission. We must not allow their deaths to have been in vain. Their friends and families who mourn their loss need to know that the struggle of their lost loved ones continues; their cause is still very much alive.

Mr. Speaker, I have to admit that we are a long way from winning this war. Every day hundreds of thousands of people still abuse illegal substances, and every day there are still drug-related deaths. Those whose lives have been touched by this tragedy understand all too well the importance of this fight against drugs.

I urge my colleagues to take this opportunity to renew our commitment to combatting the drug trade from its inception in the coca, opium and cannabis fields to its devastation among the young people of this hemisphere.

Let us never forget those brave men and women whose lives were ruthlessly taken because they dared to do the right thing. We owe them our deepest respect and our undying gratitude.

I strongly urge my colleagues to support this important resolution. Thank you, Mr. Speaker, and many thanks again to the authors of this resolution.

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Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FEIGHAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Ohio [Mr. FEIGHAN] that the House suspend the rules and pass the joint resolution, House Joint Resolution 414, as amended.

The question was taken.

Mr. FEIGHAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed today in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 3490, by the yeas and nays;

H.R. 4113, by the yeas and nays;

H.R. 2152, by the yeas and nays;

House Concurrent Resolution 239, by the yeas and nays; and

House Joint Resolution 414, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3490, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 3490, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 381, nays 31, not voting 22, as follows:

[Roll No. 17]

YEAS—381

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NAYS—31

Archer
Ballenger
Barrett
Boehner
Burton
Coble
Cox (CA)
DeLay
Dornan (CA)
Dreier
Ewing
Goss
Gradison
Grandy
Hancock
Houghton
Hyde
Ireland
Kolbe
Lewis (FL)
Nichols
Nussle
Penny
Porter
Riggs
Sensenbrenner
Stump
Taylor (NC)
Vucanovich
Walker
Zeliff

NOT VOTING—22

Anthony
Bentley
Coleman (TX)
Collins (IL)
Crane
Cunningham
Dannemeyer
Dickinson
Engel
Kolter
Levine (CA)
Lowery (CA)
Mavroules
Miller (WA)
Mrazek
Murtha
Roth
Serrano
Vander Jagt
Washington
Whitten
Wyden

□ 1545

Mr. SENSENBRENNER and Mr. LEWIS of Florida changed their vote from "yea" to "nay."

Mr. DOOLITTLE, Mrs. BYRON, Mr. FIELDS, and Mr. LIVINGSTON changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1579) to provide for regulation and oversight of the development and application of the telephone technology known as pay-per-call, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "900 Services Consumer Protection Act of 1991".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The pay-per-call telecommunications industry has grown into a national, billion-dollar industry as a result of recent technological innovations.

(2) Many pay-per-call businesses provide valuable information, increase consumer choices, and stimulate innovative and responsive services that benefit the public.

(3) Some interstate pay-per-call businesses, however, are engaging in practices which are misleading to the consumer, harmful to the public interest, and/or contrary to accepted standards of business practices.

(4) The improper activities of those businesses damage the reputation of the entire pay-per-call industry, causing harm to the many reputable businesses that are serving the public in an honest and honorable fashion.

(5) Many of the harmful practices of the pay-per-call industry are currently beyond the reach of regulatory agencies and existing legislation.

(6) The nationwide, interstate scope of pay-per-call services makes it impossible for the individual States to regulate these businesses within their individual borders.

(7) Therefore, Congress should enact legislation that provides for the proper and orderly regulation of the pay-per-call industry in order to protect the public interest and allow for the continued growth of pay-per-call businesses.

SEC. 3. PURPOSE.

It is the purpose of this Act—

(1) to put into effect a system of regulation and review of the pay-per-call business; and

(2) to give the Federal Communications Commission and the Federal Trade Commission authority to prescribe regulations, adopt enforcement procedures, and conduct oversight concerning the pay-per-call industry, to give State attorneys general authority to enforce Federal laws and regulations concerning that industry, to afford reasonable protection to consumers, and to assure that violations of Federal law do not occur.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) The term "pay-per-call service" means any information service, provided by telephone, which receives payment, directly or indirectly, from each person who calls that service by telephone, except that such term shall not include information services for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service. The Federal Communications Commission shall, by regulation, specify in greater detail the kinds of information services that are included within such term and the criteria for determining whether a valid presubscription or comparable arrangement is created, consistent with the purposes of this Act.

(2) The term "common carrier" has the meaning given that term under section 3(h) of the Communications Act of 1934 (47 U.S.C. 153(h)).

(3) The term "information service" does not include any regulated communication service provided by a common carrier.

(4) The term "provider of a pay-per-call service" does not include a common carrier when its sole action with respect to a pay-per-call service is—

(A) to carry such service over its network; or

(B) to bill and collect for such service.

(5) The term "caller" means a person using a pay-per-call service.

(6) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

SEC. 5. FCC AND FTC REGULATIONS ON PAY-PER-CALL SERVICES.

(a) RULEMAKING PROCEEDINGS.—The Federal Communications Commission and Federal Trade Commission shall, within 120 days after the date of enactment of this Act, initiate coordinated rulemaking proceedings to establish a consistent system for oversight and regulation of pay-per-call services in order to provide for the protection of consumers in accordance with this Act, and other applicable Federal statutes and regulations. The final rules or regulations issued pursuant to such proceedings shall be effective within 1 year after the date of enactment of this Act.

(b) MINIMUM STANDARDS FOR PAY-PER-CALL SERVICES.—The rules or regulations issued by the Federal Trade Commission under subsection (a) shall require that a pay-per-call service—

(1) shall include an introductory disclosure message that describes the service being provided and the maximum charge per minute or per call and other charges, and informs the caller that charges for the call will begin at the end of the introductory message;

(2) shall enable the caller to hang up before the end of the introductory message without incurring any charge whatsoever;

(3) shall, after the institution of any increase in charges for the service, disable any bypass mechanism which allows repeat callers to avoid listening to the complete introductory disclosure message required under paragraph (1), for a period of time sufficient to give such repeat callers adequate and sufficient notice of the increase;

(4) shall not be aimed at children under the age of 12, unless such service is a bona fide educational service; and

(5) shall prohibit the use of a toll-free telephone number from which a caller will be automatically connected to an access number for a pay-per-call service.

(c) COMMON CARRIER OBLIGATIONS.—The rules or regulations issued by the Federal Communications Commission under subsection (a) shall include the following requirements for common carriers:

(1) A common carrier which contracts with a provider of a pay-per-call service shall make readily available on request—

(A) a list of the access numbers for each of the pay-per-call services it carries;

(B) a short description of each such service;

(C) a statement of the maximum charges per call or per minute, and any other charge, for each such service;

(D) a statement of its name, business address, and business telephone; and

(E) such other information as the Federal Communications Commission considers necessary for the enforcement of this Act and other applicable Federal statutes and regulations.

(2) A common carrier shall not disconnect a subscriber's local exchange telephone service, or long distance telephone service, because of nonpayment of charges for any pay-per-call service.

(3) A common carrier that provides local exchange service shall—

(A) offer telephone subscribers (where technically and economically feasible) the option of blocking access from their telephone number to all, or to certain specific, prefixes used by pay-per-call services, which option—

(i) shall be offered at no charge (I) to all subscribers for a period of 60 days after the issuance of the rules or regulations under subsection (a), and (II) to any subscriber who subscribes to a new telephone number prior to and for a period of 60 days after the time the new telephone number is effective; and

(ii) shall otherwise be offered at a reasonable fee as established by the appropriate State regulatory commission; and

(B) offer telephone subscribers (where the Federal Communications Commission determines it is technically and economically feasible), in combination with the blocking option described under subparagraph (A), the option of presubscribing to or blocking only specific pay-per-call services for a reasonable one-time charge.

(4) A common carrier that engages in billing and collection of charges for pay-per-call services shall—

(A) give telephone subscribers the option of cancelling charges for pay-per-call services in instances of unauthorized use or misunderstanding of such charges at the time of use, subject to guidelines prescribed by the Federal Communications Commission to prevent subscribers from abusing that option;

(B) send, to every person subscribing to a new telephone number and, within 60 days after the issuance of such rules or regulations, to all telephone subscribers, and at least annually thereafter, a disclosure statement that—

(i) sets forth all rights and obligations held by the subscriber and the carrier with respect to the use and payment for pay-per-call services; and

(ii) describes the applicable blocking options required under paragraph (3) (A) and (B);

(C) in any billing to telephone subscribers that includes charges for any pay-per-call service, display any charges for pay-per-call services in a part of the subscriber's bill that is identified as not being related to local and long distance telephone charges; and for each charge so displayed, specify the type of service, the amount of the charge, and the date, time, and duration of the call;

(D) in instances when such carriers contract for the collection and distribution of charges by any provider of pay-per-call services that solicits charitable contributions, shall obtain from that provider proof of the tax exempt status of any person or organization for which contributions are solicited;

(E) have the right to recover such carrier's costs of complying with subparagraphs (A), (B), and (C) from the provider of pay-per-call services for which such carrier conducts billing and collection;

(F) stop the assessment of time-based charges upon disconnection by the caller; and

(G) require that pay-per-call services be offered only via the use of certain telephone number prefixes.

(d) ADVERTISING RESTRICTIONS.—The rules or regulations issued by the Federal Trade Commission under subsection (a) shall—

(1) require that any provider of a pay-per-call service shall include, in any advertisement for a pay-per-call service a disclosure stating the maximum charge per call or per minute for calling the advertised number and such other information as the Federal Trade Commission shall consider necessary;

(2) require that, whenever the number to be called is shown in television and print

media advertisements, the provider of a pay-per-call service shall ensure that the charges for the call are clear and conspicuous and displayed for the same duration as that number is displayed;

(3) prohibit any person from advertising on any radio station, television broadcast station, or community antenna television station by means of an advertisement that emits electronic tones which can automatically dial an access number for a pay-per-call service;

(4) require that any telephone message soliciting calls to a pay-per-call service specify clearly, and at the audible volume of the solicitation, the maximum charge per call or per minute and other charges for such a call; and

(5) prohibit any person from advertising a toll-free telephone number from which a caller can or will be automatically connected to an access number for a pay-per-call service.

(e) MATTERS FOR FCC AND FTC CONSIDERATION.—(1) In conducting a proceeding under subsection (a), the Federal Communications shall consider requiring by rule or regulation that—

(A) a pay-per-call service—

(i) automatically disconnect a call after one full cycle of program; and/or

(ii) automatically disconnect interactive programs if no activity occurs within a reasonable, specified time period; and

(B)(i) a pay-per-call service providing a live interactive group program shall include a beep tone or other appropriate and clear signal during the program so that callers will be alerted to the passage of time; and

(ii) such tone or other signal shall be explained in the disclosure statement required under subsection (c)(4)(B).

(2) In conducting a proceeding under subsection (a), the Federal Trade Commission shall consider requiring by rule or regulation that a pay-per-call service for which there is a nominal per-call charge shall be exempt from the requirements of subsection (b).

(f) EFFECT ON DIAL-A-PORN PROHIBITIONS.—Nothing in this section shall affect the provisions of section 223 of the Communications Act of 1934 (47 U.S.C. 223).

(g) APPLICABILITY OF PENALTIES TO COMMON CARRIERS.—No common carrier shall be liable for a criminal or civil sanction or penalty under this Act solely because it provided transmission or billing and collection services for a pay-per-call service that violated a rule or regulation issued or prescribed under this Act.

SEC. 6. FEDERAL AGENCY ENFORCEMENT.

(a) FEDERAL COMMUNICATIONS COMMISSION.—Any violation of the regulations issued by the Federal Communications Commission under section 5 of this Act shall be treated as a violation of the rules and regulations under the Communications Act of 1934 and therefore shall be subject to the provisions of title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.), including—

(1) criminal penalties for willful and knowing violation of Commission rules, regulations, conditions, and restrictions, consisting of a fine of not to exceed $500 for each day in which an offense occurs; and

(2) forfeiture penalties for the willful or repeated failure to comply with statutory provisions or Commission rules, regulations, or orders—

(A) of not to exceed $100,000 for each violation or each day of a continuing violation by a common carrier subject to title II of the Communications Act of 1934, or by an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission; and

(B) of not to exceed $10,000 for each violation or each day of a continuing violation by a person that is not such a common carrier or applicant.

(b) FEDERAL TRADE COMMISSION.—Any violation of any rule prescribed by the Federal Trade Commission under section 5 of this Act shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices and therefore shall be subject to any remedy or penalty applicable to any violation thereof. The Federal Trade Commission shall prevent any person from violating a rule, regulation, or order of the Federal Trade Commission under this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

SEC. 7. ACTIONS BY STATE ATTORNEYS GENERAL.

(a) AUTHORITY OF ATTORNEYS GENERAL.—Whenever the attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any provider of a pay-per-call service has engaged or is engaged in acts which violate any rule or regulation of the Federal Trade Commission under this Act, the State may bring a civil action on behalf of its residents to enjoin such acts, to enforce compliance with any rule or regulation of the Federal Trade Commission under this Act, to obtain damages on behalf of its residents, or to obtain such further and other relief as the court may deem appropriate.

(b) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section against a provider of a pay-per-call service to enforce any liability or duty created by any rule or regulation of the Federal Trade Commission under this Act, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule or regulation of the Federal Trade Commission under this Act, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule or regulation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) FTC RIGHTS.—The State shall serve prior written notice of any such civil action upon the Federal Trade Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Federal Trade Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) VENUE.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this section, nothing in this Act shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.

(g) LIMITATION.—Whenever the Federal Trade Commission has instituted a civil action for violation of any rule or regulation under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(h) DEFINITION.—As used in this section, the term "attorney general" means the chief legal officer of a State.

SEC. 8. STUDY OF THE USE OF CALLERS' TELEPHONE NUMBERS.

(a) STUDY.—The Federal Trade Commission shall conduct a study of the acquisition and use, by providers of pay-per-call services, of callers' telephone numbers to generate, compile, and sell or lease lists of such numbers. Such study shall investigate the extent to which such numbers are obtained with or without the knowledge or consent of the caller and shall identify methods by which callers could be given the opportunity to grant or withhold that consent.

(b) REPORT.—The Federal Trade Commission shall, within 1 year after the date of enactment of this Act, submit to the Congress and the Commission a report on the results of the study required by subsection (a). To the extent that the study identifies any abuses in the acquisition and use, by providers of pay-per-call services, of callers' telephone numbers, such report shall include recommendations for administrative or legislative changes to prevent such abuses.

MOTION OFFERED BY MR. SWIFT

Mr. SWIFT. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SWIFT moves to strike all after the enacting clause of the Senate bill, S. 1579, and to insert in lieu thereof the provisions of H.R. 3490, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read a third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to protect the public interest and the future development of interstate pay-per-call technology by providing for the regulation and oversight of the applications and growth of the pay-per-call industry, and for other purposes.''

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3490) was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

TRANSFER OF THE AIRCRAFT CARRIER U.S.S. "LEXINGTON" TO THE CITY OF CORPUS CHRISTI, TX

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4113, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. BENNETT] that the House suspend the rules and pass the bill, H.R. 4113, as amended, on which the yeas and nays are ordered.

The Chair will remind the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 20, as follows:

[Roll No. 18]

YEAS—414

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—20

Anthony
Bentley
Coleman (TX)
Collins (IL)
Crane
Cunningham
Dannemeyer
Dickinson
Engel
Kolter
Levine (CA)
Lowery (CA)
Mavroules
Miller (WA)
Murtha
Roth
Vander Jagt
Washington
Whitten
Wyden

☐ 1555

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier U.S.S. *Lexington* to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorial.''.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCATHRAN, one of his secretaries.

U.N. INTERNATIONAL DRIFTNET FISHERY CONSERVATION PROGRAM EFFECTIVENESS

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and passing the bill, H.R. 2152, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2152, as amended, on which the yeas and nays are ordered.

The Chair will announce that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 0, answered "present" 1, not voting 21, as follows:

[Roll No. 19]

YEAS—412

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder

Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

ANSWERED "PRESENT"—1

Obey

NOT VOTING—21

Anthony
Bentley
Coleman (TX)
Collins (IL)
Crane
Cunningham
Dannemeyer
Dickinson
Engel
Frank (MA)
Kolter
Levine (CA)
Lowery (CA)
Mavroules
Miller (WA)
Murtha
Roth
Vander Jagt
Washington
Whitten
Wyden

□ 1605

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONGRATULATING PEOPLE OF LITHUANIA FOR THEIR SUCCESSFUL PEACEFUL REVOLUTION

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 239.

The Clerk read the Title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 239, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 23, as follows:

[Roll No. 20]

YEAS—411

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland

Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Williams
Wilson
Wise
Wolf
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—23

Anthony
Bentley
Coleman (TX)
Collins (IL)
Crane
Cunningham
Dannemeyer
Dickinson
Engel
Kolter
Levine (CA)
Lowery (CA)
Miller (WA)
Mrazek
Murtha
Rangel
Roth
Vander Jagt
Washington
Wheat
Whitten
Wolpe
Wyden

☐ 1613

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING THOSE WHO LOST THEIR LIVES FIGHTING DRUG-RELATED CRIME AND VIOLENCE

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and passing the joint resolution, House Joint Resolution 414, as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. FEIGHAN] that the House suspend the rules and pass the joint resolution, House Joint Resolution 414, as amended on which the yeas and nays are ordered.

The Chair will remind Members this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 410, nays 0, not voting 24, as follows:

[Roll No. 21]

YEAS—410

Abercrombie
Ackerman
Alexander
Allard
Allen
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—24

Anderson
Anthony
Bentley
Coleman (TX)
Collins (IL)
Crane
Cunningham
Dannemeyer
Dickinson
Engel
Kolter
Lent
Levine (CA)
Lowery (CA)
Miller (WA)
Mrazek
Murtha
Roth
Taylor (NC)
Vander Jagt
Washington
Waters
Whitten
Wyden

☐ 1620

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the joint resolution was amended so as to read: "Joint Resolution regarding the San Antonio drug summit."

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WYDEN. Mr. Speaker, due to pressing business in my district, I was unable to be present for votes. Had I been present, I would have voted "aye" on H.R. 3490 and "aye" on H.R. 2152. I respectfully request that I be announced for both those bills.

PERSONAL EXPLANATION

Mr. TAYLOR of North Carolina. Mr. Speaker, on House Joint Resolution 414, rollcall No. 21, I was recorded as not voting. I was in the House and turned in an "aye" card.

PERSONAL EXPLANATION

Mr. ROTH. Mr. Speaker, due to travel scheduling, I was unable to vote on rollcall votes 17, 18, 19, 20, and 21. If I would have been able to attend, I would have voted "yea" on each of the measures.

PERSONAL EXPLANATION

Mr. ANTHONY. Mr. Speaker, I returned to my district to attend the funeral of a close family friend. Because of my sudden departure, I was unable to vote on H.R. 3490, H.R. 4113, H.R. 2152, House Concurrent Resolution 239, and House Joint Resolution 414. If I had been present, I would have voted in favor of each bill.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE THE BILL S. 884, DRIFTNET MORATORIUM ENFORCEMENT ACT OF 1991

Mr. ROSTENKOWSKI. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution (H. Res. 373) returning to the Senate the bill S. 884 and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. MAZZOLI). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 373

Resolved, That the bill of the Senate (S. 884) to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing, in the opinion of this House, contravenes the 1st clause of the 7th section of the 1st article of the Constitution of the United States and is an infringement of the privileges of this House and that such a bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore. The resolution constitutes a question of the privileges of the House.

The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution returns the bill S. 884 to the Senate because it contravenes the constitutional requirement that revenue measures originate in the House of Representatives.

S. 884, the Driftnet Moratorium Enforcement Act of 1991, requires the President to impose economic sanctions against countries that fail to eliminate largescale driftnet fishing. Foremost among the sanctions provisions are those which impose a ban on certain imports into the United States from countries which continue to engage in driftnet fishing on the high seas after a certain date. These changes in our tariff laws constitute a revenue measure in the constitutional sense, because they would have a direct effect on customs revenues.

While the House, by adopting this resolution, will preserve its prerogative to originate revenue matters, I want to make it clear to all Members that our action in no way constitutes a rejection of the Senate bill on its merits. Indeed, the House has passed its own bill, H.R. 2152, which also provides for economic sanctions, including import sanctions, against countries which engage in largescale driftnet fishing on the high seas on or after December 31, 1992. This bill will provide effective enforcement authority for U.N. Resolution 46-215, which forbids the use of such type of fishing as of December 31, 1992, and was agreed to by all nations last December.

Thus, Mr. Speaker, our action today returning S. 884 to the Senate is intended solely to protect the constitutional prerogatives of the House of Representatives. It makes it clear to the Senate that the appropriate procedure for dealing with tariff matters that affect revenues is for the House to act first on a revenue bill and for the Senate to add its amendments to it and then seek a conference.

I urge all Members to protect the prerogatives of the House, agree to this resolution, and return S. 884 to the Senate.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. VOLKMER). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER

Mr. LIPINSKI. Mr. Speaker, I ask unanimous consent that I be permitted to vacate my 60-minute special order on today's calendar and in lieu thereof, I request a 5-minute special order for today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 194

Mrs. LLOYD. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of House Resolution 194.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Tennessee?

There was no objection.

THE 1991 ANNUAL REPORT ON ALASKA'S MINERAL RESOURCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interior and Insular Affairs.

To the Congress of the United States:

I transmit herewith the 1991 Annual Report on Alaska's Mineral Resources, pursuant to section 1011 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 16 U.S.C. 3151). This report, containing pertinent public information relating to minerals in Alaska, was gathered by the U.S. Geological Survey, the Bureau of Mines, and other Federal agencies. This report is significant because of the importance of the mineral and energy resources of Alaska to the future well-being of the Nation.

GEORGE BUSH.

THE WHITE HOUSE, *February 25, 1992.*

□ 1630

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 194

Mr. CHAPMAN. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of House Resolution 194.

The SPEAKER pro tempore (Mr. VOLKMER). Is there objection to the request of the gentleman from Texas?

There was no objection.

ASK TOUGH QUESTIONS ABOUT AID TO IRAQ

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, there have been a lot of questions about exactly what this administration's policy was toward Iraq prior to their invasion of Kuwait.

This weekend the Los Angeles Times broke a story I find very alarming. It has been spread on the newspaper pages across this country, and the story that I have with me is one carried in the Topeka Capital Journal. The headline reads "Bush Aided Iraq's Buildup," and the other headline is "Bush Used Top-Secret Plan To Aid Iraq's Buildup."

I call my colleagues' attention to this story because it contains some very, very important information. The information is corroboration of the rumors that we heard, and that is, according to secret documents, apparently this President was attempting to help Iraq prior to their invasion of Kuwait in many ways.

□ 1240

In fact, according to this story there are members of his own administration that strongly advised him against continuing to make loans to Iraq when we had information that the proceeds from these loans were being diverted to buy arms.

What in the world was going on in the corridors of this administration?

Mr. Speaker, I suggest that it is time for us to ask some tough questions of the President and get to the bottom of this and find the truth. This is something the American public has a fundamental right to know.

Mr. Speaker, I include the following article from the Topeka Capital Journal of February 23, 1992:

[From the Topeka Capital-Journal, Feb. 23, 1992]

BUSH AIDED IRAQ'S BUILDUP

(By Douglas Frantz and Murray Waas)

WASHINGTON.—In the fall of 1989, when Iraq's invasion of Kuwait was only nine months away and Saddam Hussein was desperate for money to buy arms, President Bush signed a top-secret National Security Decision directive ordering closer ties with Baghdad and opening the way for $1 billion in new aid, according to classified documents and interviews.

The $1 billion commitment, in the form of loan guarantees for the purchase of U.S. farm commodities, enabled Saddam to buy needed foodstuffs on credit and to spend his scarce reserves of hard currency on the massive arms buildup that brought war to the Persian Gulf.

Getting new aid from Washington was critical for Iraq in the waning months of 1989 and the early months of 1990 because international bankers had cut off virtually all loans to Baghdad. They were alarmed it was falling behind in repaying its debts but continuing to pour millions of dollars into arms purchases, even though the Iran-Iraq War had ended in the summer of 1988.

In addition to clearing the way for new financial aid, senior Bush aides as late as the spring of 1990 overrode concern among other government officials and insisted that Saddam continue to be allowed to buy so-called "dual use" technology—advanced equipment that could be used for both civilian and military purposes. The Iraqis were given continued access to such equipment, despite emerging evidence that they were working on nuclear arms and other weapons of mass destruction.

"Iraq is not to be singled out," National Security Council official Richard Haas declared at a high-level meeting in April 1990, according to participants' notes, when the Department of Commerce proposed curbing Iraqi purchases of militarily sensitive technology.

Evoking Bush's personal authority, Robert Kimmitt, undersecretary of state for political affairs, added: "The president doesn't want to single out Iraq."

And the pressure in 1989 and 1990 to give Saddam financial assistance and maintain his access to sophisticated U.S. technology weren't isolated incidents.

Rather, as classified documents obtained by the Los Angeles Times show, they reflected a long-secret pattern of personal efforts by Bush—both as president and as vice president—to support and placate the Iraqi dictator. Repeatedly, when serious objections to helping Saddam arose within the government, Bush and aides following his directives intervened to suppress the resistance.

In the case of the $1 billion in commodity loan guarantees, for instance, senior Bush aides, armed with the presidential order—NSD 26—insisted the credits be approved despite objections by officials in three government agencies.

These officials warned that aid was being diverted to buy weapons in violation of American law, that the loans wouldn't be repaid and that earlier assistance efforts were plagued by financial irregularities.

Bush's involvement began in the early 1980s as part of the so-called "tilt" toward Iraq initiated by then-President Reagan to prop up Saddam in his war with Iran. Saddam's survival was seen as vital to U.S. efforts to contain the spread of Islamic fundamentalism and thwart Iran's bid for dominance in the Middle East.

Many in the American government, including Bush and Reagan, also hoped U.S. aid would gradually cause Saddam to moderate his ways and even play a positive role in the Middle East peace process.

But classified records show Bush's efforts on Saddam's behalf continued well beyond the end of the Iran-Iraq War and persisted in the face of increasingly widespread warnings from inside the American government that the overall policy had become misdirected.

Moreover, it appears that instead of merely keeping Saddam afloat as a counterweight to Iran, the U.S. aid program helped him become a dangerous military power in his own right, able to threaten the very U.S. interests that the program originally was designed to protect.

Clearly, U.S. aid didn't lead Saddam to become a force for peace in the volatile region. In the spring of 1990, as senior Bush administration officials worked to give him more financial aid, the Iraqi leader bragged that Iraq possessed chemical weapons and threatened to "burn half of Israel."

What drove Bush to champion the Iraqi cause so ardently and so long isn't clear. But some evidence suggests it may have been a case of single-minded pursuit of a policy after its original purpose had been overtaken by events—and a failure to understand Saddam's true nature.

Much of the blame for failing to perceive Saddam's expansionist ambitions and the dangers of building him up has fallen on mid-level officials and on agencies such as the Department of Commerce, which approved the sale to Iraq of $1.5 billion worth of American technology, and the Department of Agriculture, which authorized a total of $5 billion in loan guarantees.

However, classified documents from several agencies and interviews over the last two months demonstrate it was foreign-policy initiatives from the White House and State Department that guided relations with Iraq from the early 1980s to the eve of the Persian Gulf War—and that Bush and officials working under him played a prominent role in those initiatives.

For example:

In 1987, Vice President Bush successfully pressed the federal Export-Import Bank to provide hundreds of millions of dollars in aid for Iraq, the documents show, despite staff objections that the loans weren't likely to be repaid as required by law.

After Bush became president in 1989, documents show senior officials in his administration lobbied the bank and the Department of Agriculture to finance billions in new Iraqi projects.

After Bush signed NSD 26 in October 1989, Secretary of State James A. Baker III personally intervened with Secretary of Agriculture Clayton Yeutter to drop Agriculture's opposition to the $1 billion in food credits. Yeutter, now a senior White House official, agreed and the first half of the $1 billion was made available to Iraq in early 1990.

As late as July 1990, one month before Iraqi troops stormed into Kuwait City, officials at the National Security Council and the State Department were pushing to deliver the second installment of the $1 billion in loan guarantees, despite the looming crisis in the region and evidence Iraq had used the aid illegally to help finance a secret arms procurement network.

A Department of Agriculture official cautioned in a February 1990 internal memo that, when all the facts were known about loan guarantees to Iraq, the program could be viewed as another "HUD or savings-and-loan scandal."

Of the $5 billion in economic aid over an eight-year period, American taxpayers have now been stuck for $2 billion in defaulted loans.

INTRODUCTION OF LEGISLATION TO PROTECT AMERICAN COAL JOBS AND CREATE AMERICAN CONSTRUCTION WORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. BRUCE] is recognized for 5 minutes.

Mr. BRUCE. Mr. Speaker—today, I am introducing, along with my colleague Congressman ANDY JACOBS, an important member of the Ways and Means Committee, legislation that will help protect American coal jobs and create American construction work. In the coming days, weeks, and months, this Congress will labor to find ways to jump-start the nation's trouble economy. I urge my colleagues, on both sides of the aisle, to support my proposal as a practical, cost effective method of strengthening our economy.

NATIONAL ECONOMIC CONDITIONS

I do not need to tell Members of this body the desperate situation our Nation is in. There are 8.9 million American without a job and the current recession is the longest in the United States since the Great Depression. The American people need and want action from this Congress and the administration. I applaud members of the Ways and Means Committee and others who have worked tirelessly to come up with a comprehensive growth proposal.

COAL INDUSTRY CONDITIONS

Though there are provisions of the different growth packages that I support, I feel that the plans under consideration are lacking a basic formula for economic stimulus. I am particularly disappointed in the apparent lack of concern about protecting existing jobs, especially those employed in coal mines across the United States. Regions of the country dependent on coal mining, such as southern Illinois, are currently experiencing some of the highest unemployment rates and the worst economic hardships in the Nation. My bill would provide a tangible incentive for utilities to speed up their environmental compliance plans, which would have a direct, positive effect on the rate of job creation for large-scale construction workers, and the rate of job retention among American coal miners.

EXPLANATION OF BILL

My bill would modernize and expand the definition of environmental property and make available accelerated or straight line depreciation using a 5-year life. Under present law, 5-year straight line amortization is only available under limited conditions and only includes a narrow view of environmental property. This measure would also adjust the alternative minimum tax requirement to account for the unique problems faced by installers of pollution control equipment.

PROMOTING U.S. COMPETITIVENESS

This legislation would also put U.S. companies on a level playing field with other industrialized nations. Countries such as Japan and Germany understand that the cost of installing, maintaining, and operating antipollution devices and structures are often enormous. Countries of the world have responded to the cost of pollution control equipment by offering businesses valuable and reasonable tax incentives. By far the most common tax provision offered by our international competitors is the same type offered in my bill—accelerated depreciation. There is little disagreement that U.S. companies need to become more competitive and more aggressive in the international marketplace. I have complete confidence that the American worker can manufacture product or provide a service as well as anyone in the world. But should not placed upon American workers and companies Government mandates that will be difficult to overcome. They deserve our cooperation and assistance in conforming to the laws and regulations that Congress has instituted.

ENVIRONMENTAL PROGRESS

In addition to job creation and preservation, this legislation will encourage environmental progress. Existing cost recovery rules applicable to environmental property are antiquated and out of step with current environmental regulations. This proposal will encourage businesses to invest capital in property that results in a cleaner environment.

If we are serious about getting this economy running again, then we must start by making a commitment as a congress to the jobs we have in place. I urge my colleagues to support this bill and give American workers an opportunity to make a living.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF DEPRECIATION RULES RELATING TO CERTAIN ENVIRONMENTAL PROPERTY.

(a) GENERAL RULE.—Section 168(e)(3)(B) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi) and inserting ", and", and by adding after clause (vi) the following new clause:

"(vii) any environmental property."

(b) ENVIRONMENTAL PROPERTY.—Section 168(i) of such Code is amended by adding at the end thereof the following new paragraph:

"(14) ENVIRONMENTAL PROPERTY.—The term 'environmental property' means a new identifiable item of property—

"(A) which is used in connection with a plant or other property in operation before January 1, 1991, to prevent, abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing or preventing the creation or emission of pollutants (including dust), contaminants, wastes, or heat, and property which monitors the creation or emission of pollutants (including dust), contaminants, wastes, or heat,

"(B) which does not significantly—

"(i) increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

"(ii) alter the nature of the manufacturing or production process or facility,

"(C) which is not a building or its structural components, other than a building which is exclusively a facility described in subparagraph (A), and

"(D) the original use of which begins with the taxpayer, or, in the case of the first lessor, an item of property which is sold and leased back to the person with respect to which the original use began within 90 days of the date originally placed in service."

(c) ALTERNATIVE DEPRECIATION SYSTEM.—Paragraph (3) of section 168(g) of such Code is amended by adding at the end thereof the following new subparagraph:

"(F) ENVIRONMENTAL PROPERTY.—In the case of environmental property (other than property described in subparagraph (A) or (D) of paragraph (1)), the recovery period used for purposes of paragraph (2) shall be 5 years."

(d) ALTERNATIVE MINIMUM TAX.—

(1) Paragraph (1)(B) of section 56(a) of such Code is amended by inserting before the period "or in paragraph (14) of section 168(i)".

(2) Paragraph (4)(A)(v) of section 56(g) of such Code is amended by inserting "or in paragraph (14) of section 168(i)" after "section 168(f)".

(e) REPEAL OF SECTION 169.—

(1) Section 169 of such Code is hereby repealed.

(2) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 169.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1991, in taxable years ending after such date.

TENTH ANNIVERSARY OF ILLINOIS VETERANS LEADERSHIP PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to the Illinois Vietnam Veterans Leadership Program [IVVLP] and the many Vietnam veterans it has served.

The IVVLP was founded 10 years ago as a comprehensive veterans employment service. Since its creation, the organization has assisted hundreds of veterans in Chicago and throughout Illinois to find gainful employment. The IVVLP's contributions are visible throughout the community.

Through the IVVLP's work, the Chicago Vietnam Memorial Fountain in Hearld Square was constructed and dedicated by business leaders and officials of the city of Chicago. In addition, the Vietnam Veterans Act was passed by the Illinois State Legislature to fund seven community-based, State-wide veterans organizations which have placed over 27,000 veterans.

The IVVLP is also concerned with education. Through the development and publication of "A Look Inside the War," the IVVLP seeks to present junior high and high school students with a broader view of the Vietnam conflict than that of a textbook. This supplemental reading guide conveys the experiences of those who fought in Vietnam to schoolchildren throughout Illinois.

Finally, the IVVLP has developed a pro bono legal service for veterans which has contributed over $125,000 of free legal services. In doing so, the IVVLP has assisted those in need with cases ranging from child custody to home foreclosures.

I believe the Illinois Vietnam Veterans Leadership Program is a model for groups throughout the Nation to emulate. Mr. Speaker, I urge my colleagues to join me in commending the IVVLP on its 10th anniversary and to join me in recognizing its work in veterans employment services, education, and public service. I look forward to celebrating many more anniversaries of this fine organization in the years to come.

THE INCREASINGLY IMPORTANT ROLE OF FORAGE CROPS IN AMERICAN AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. JONTZ] is recognized for 5 minutes.

Mr. JONTZ. Mr. Speaker, forage crops are an increasingly important agricultural resource on both private and public lands in the United States. According to the National Academy of Sciences, approximately 25 percent—550 million acres—of the land in the United States is classified as cropland and pastureland. These lands provide most of the food that our Nation produces, including forage and feedgrains for domestic livestock, and most natural fibers—cotton and wool—as well. Rangelands cover another 20 percent—400 million acres—of the Nation's land area. They provide food for livestock and habitat for diverse populations of birds, fish, and other wildlife.

Forage resources on both pasture and range lands have traditionally played a vital role in U.S. livestock production, particularly beef cattle and sheep, and they will play an even more important role in these industries in the future, because of the need to achieve greater resource conservation and lower production costs. The dairy industry is a part of this trend as well.

Agricultural research and policy professionals now recognize that environmental, ecological, and human health benefits are obtainable from sustainable livestock grazing systems. Under these systems, livestock grazing in itself is recognized as food for land use management on pasture and range lands, with improved livestock product quality and production efficiency as auxiliary benefits.

In addition to the traditional uses of forages to provide livestock weight gain, the cultivation of forage resources—grasses, legumes, grass-legume mixtures, and grass-legume-small grain mixtures—is increasingly important for meeting goals of soil conservation, water quality protection, and promoting soil fertility and pest control with reduced chemical use. To promote greater chemical adoption of these crops, Congress enacted the Integrated Farm Management Program option [IFM] as part of the 1990 Farm Act.

Mr. Speaker, the 1992 signup period for this program started on February 10 and will run until April 17. It is my hope that farmers who participate in the farm program will strongly consider enrolling in this program for the economic and environmental benefits it offers, and for the added benefit of assisting them to meet conservation compliance requirements by 1995.

The IFM allows producers to convert 20 percent or more of their acreage base to resource-conserving forage crops. The program gives the producer flexibility to adopt sustainable practices, because neither the acreage base nor deficiency payments are diminished. Some of the acreage placed in the IFM Program is eligible for haying and grazing, thus adding economic value to the IFM system.

Under related integrated resource management research provisions in the 1990 Farm Act, the Secretary of Agriculture is directed to assist livestock producers by conducting on-farm research to develop site-specific resource management practices that improve production and financial efficiency, environmental stability, and food safety. Pasture and range-based forage systems, if properly managed, may offer livestock producers lower cost methods of production; improved herd health maintenance; more humane animal care practices; improved conservation of soil, water, and forage resources; and a leaner meat product.

On the public lands, there is increasing public awareness about the condition of forage resources, not only because they are the primary sustaining factor underlying domestic livestock production on those lands but also because of concern about maintaining biological diversity in plant and wildlife species, promoting water quality, and protecting riparian areas from degradation.

An increasing number of ranchers, other users of public lands, and environmentalists are seeking to improve land stewardship methods on the public lands in order to promote greater forage growth and forage diversity, increased overall biodiversity of plant and animal species, and to achieve environmental quality. This often involves joint management of contiguous tracts of private and public lands which form one ranching or farming unit.

Researchers are gathering data which concludes that the grazing management practice known as rotational grazing can significantly increase forage utilization by livestock and stimulate forage regrowth on both private and public pasture and rangeland areas—thus contributing to the creation of a more sustainable livestock grazing system.

Researchers at land grant universities and at private research facilities are currently determining a greater range of alternative uses for forage resources, including the production of renewable biofuels such as ethanol. The requirements of the Clean Air Act which go into effect this year have increased demand for cleaner, blended gasolines, such as ethanol, and ethanol can be produced from grasses and legumes as well as from corn.

Despite the above benefits of forage crops to U.S. agricultural and environmental goals, under present U.S. policies forage resources are not being utilized to their full economic and conservation capacity for the benefit of livestock producers, other agricultural crop producers, and for conferring environmental benefits upon the general public. More specifically, due to lack of adequate research and policy development, forage resources are managed less productively and efficiently than other major crops, such as the Agricultural Stabilization and Conservation Service [ASCS] price-support program crops—wheat, feedgrains, rice, and cotton.

I believe that it is in the best interests of U.S. agricultural producers and the general public that forage crops be produced in an integrated manner which enhances the production of other, traditional agricultural crops—such as livestock and ASCS program crops—while also promoting resource conservation on both private and public lands.

We should give full recognition to forage crops as a resource whose cultivation and use are valued equally to those of other crops grown by U.S. agricultural producers under USDA price-support programs. To this end, a policy of integrated management of forage crop resources should be established as a foremost objective of agricultural public policy in the United States.

Mr. Speaker, it is my hope that agricultural producers in the farm program will utilize the economic and environmental benefits of forage crops by enrolling in the IFM Program, and even further, that producers on farms and ranches look for additional opportunities to develop other similar land stewardship practices which involve forage crops on private and public lands.

□ 1640

THE DEMOCRATS' TAX PACKAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. I thank the Speaker.

Mr. Speaker and colleagues, 2 years ago we were having some economic difficulties and some revenue difficulties, and, rather than cutting spending, we had what was called a budget summit agreement. The Democrats in the House and the administration got together and they had a series of meetings, very highly publicized meetings, and during that period of time they reached an agreement on what should be done about the tax situation and the economic situation in this country.

Over the past decade the amount of tax revenues coming into the Treasury of the United States have gone from $500 billion a year to $1.1 trillion. We more than doubled the tax revenues, but we were still deeply behind the eight-ball as far as spending was concerned.

The problem was not that we did not have enough money; the problem was we were spending too much. What was the answer they came up with 2 years ago? To raise America's taxes by $181 billion over a 5-year period, the largest tax increase in history. That is what the Democrat Party wanted to do. They held the Republican administration's feet to the fire, and ultimately they were successful. They said that would solve our deficit problems. It was not a spending problem, as far as they were concerned, just that we did not have enough money. Never mind that we had more than doubled the tax revenue over the last decade.

They said we needed more money.

So, they raised America's taxes $181 billion. They said that that would reduce the deficit down to $200 billion a year and we would have a downward mode to a balanced budget in about 5 or 6 years.

What happened? They raised taxes by $181 billion, and instead of the deficit going down, it went up. We have the largest deficit in U.S. history last year, $400 billion-plus, following on the heels of the largest increase of taxes in America's history.

What does that tell us? It tells us when you take money out of America's pockets, they cannot spend it; if they cannot spend it, they cannot buy products; if they cannot buy products, then you do not produce the products; and if you do not produce the products, you start laying people off, unemployment goes up, and for each 1 percent of unemployment if costs the taxpayers of this country and the treasury $42 billion—that is, for each 1 percent.

So, raising taxes is not the answer. But that is what they did instead of cutting spending.

So, now we come to the Democrat proposal, which we are going to be talking about later this week. We will be voting on it on Thursday.

What do they want to do to solve the problems? They want to raise America's taxes again, by $93 billion. They say it is a tax shift, but the fact of the matter is they are taking $93 billion out of some taxpayers' pockets that they will not be able to buy products with, and it is going to exacerbate, not solve, the economic problems facing this Nation.

What are they going to do in return for that? They are going to give a tax break to the middle-income families that is going to amount to one candy bar a day, 50 to 60 cents a day. A $93 billion tax increase, and a candy bar in exchange for it.

And they wonder why we have economic problems.

I want to tell you just a few things before I yield to some of my colleagues. The Council of Economic Advisers estimates that the plan that we are proposing on this side of the aisle will create 500,000 new jobs over the next few years. The plan that they are proposing will cost us, will cost America, at least 100,000 jobs. They did not learn anything 2 years ago. They raised our taxes by $181 billion. We have got more unemployment than we have had before. We have more economic problems than we had before. The deficit is $400 billion. What do they want to do? Raise taxes again.

The problem is not that we do not have enough revenues; we are just spending too much.

So I would just like to say to my colleagues, "You are on the wrong track again," my Democratic colleagues, "you are on the wrong track again."

The way to get the economy moving is to have tax incentives, to get Government off the backs of the private sector in this country, to lower taxes, if anything, not to raise taxes; and to stimulate economic growth.

Cut the capital gains tax. They say that is a tax break for the rich. The fact of the matter is about 70 percent of the people in this country would benefit from a capital gains tax cut. It would stimulate more investment in the private sector, and when you invest in the private sector for capital improvements, more machinery and equipment, you create more jobs. More jobs means more taxpayers. More taxpayers means more tax revenue. You reduce the deficit and you get the economy moving.

When Ronald Reagan led the charge to cut the top tax rate 70 to 28 percent, that catapulted this country into an economic recovery the likes of which we have never seen. We created 21 million jobs over a 7-year period, 21 million new jobs. That is why we had more money coming into the Treasury, because we cut taxes, we put money in people's pockets, there was more capital investment, more people buying products, more products produced and you had to have more workers to produce the products. So, we had more employees paying more taxes, less welfare, and less expenses, and hence we had economic progress.

Now they are doing the wrong things; they did it 2 years ago and they want to exacerbate the situation by doing it again.

We must not allow that to happen.

We are already in a recession, and the way to get out of it is not to tax Americans more, it is to tax them less.

Mr. Speaker, I yield to my colleague, the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I really appreciate the gentleman from Indiana taking this special order, because I think it is very important to start today the education of the American people on who is running this Congress and what is coming out of this House and the other body in terms of a deceit, if you will, on the American people. I have heard time and time again the Democrat leadership talking about, "We are going to give tax relief to the middle class, that the middle class were those who suffered the most in the Reagan years, and we have got to return taxes to the middle class." I have no problem with that. But if you look at their package, if you look at how they structured this package—and, by the way, I might point out to the gentleman from Indiana that we do not really know what is in the package because, once again, we are going to be asked to come down to this floor and to debate a very complicated piece of legislation without having really seen it until we get down to the floor. Sometimes we do not even see it then. It is more of a trust-me type of mode.

But what we are talking about here is the latest information that we have on the Democrats' package that they are going to bring to the floor.

☐ 1650

So, some of our figures may be a little off, but the story is still the same. That is a sham on the American people. This will not cause any growth, as the gentleman from Indiana [Mr. BURTON] has pointed out. In fact, it will do just the opposite.

Be forewarned. The American people should be forewarned that this is only the beginning of the increase of their own taxes, and we will get into how that happens in a minute as we describe this package. It has no semblance whatsoever to good economic philosophy, to free-market philosophy, to the strong philosophy on economics that this country was built on. It has no rhyme or reason. It is just a hodgepodge of different special interest gifts versus a total political bent in how they take their approach.

For instance, most people have heard that the Democrats are going to give them a $2 to $400 tax cut, but that is only temporary for 2 years, whereby the increase in taxes is permanent. They are going to raise the top rate of income taxes to 35 percent permanently.

Now what are they going to do with that money after 2 years? In fact, if we analyze this package, this package costs the Federal Government $30 billion in the first 3 years, and because of that this will force one of three options: An OMB sequester, which means an across-the-board cut, or a declaration that the Democrat tax plan has caused a national emergency, thereby waiving the budget agreement, allowing spending to continue and deficits to rise, or it will bust the budget agreement to increase that spending and also increasing the deficit.

We all understand what is going on here. This is a bait-and-switch. The Democrats need more money for their spending habits, and they have figured out a way to do that, by raising income taxes on the rich, soon to be followed, because they will have to pay for these higher deficits by other taxes, and they will not be able to raise more taxes on the rich.

So, who is next? The next bracket. Within 2 or 3 years they will be right back wanting to raise taxes on the middle-income Americans, and that is not supposition. That is history; that has always been history. When we have gotten the tax rates low, then they start creeping up a little bit, and always they creep up on the rich first, and then, soon to follow because they still want to spend money, soon to follow they raise taxes on middle incomes and lower incomes, and we end up with the kinds of tax rates that we saw in the 1970's.

Believe me, this is the beginning of increasing taxes on all Americans, and they do such silly things. For instance, they eliminate the deductibility of compensation for corporate executives in excess of $1 million, yet they put a 10-percent surtax on all those that make over $1 million. Now I do not understand this. They are going to be penalized for paying an executive over $1 million, and so then most companies will try to hide that kind of compensation through benefits and other means, and they are going to put a surtax of 10 percent on all those over $1 million. It just does not make a whole lot of sense. Who is going to pay that millionaire's surtax if we prevent million-dollar salaries?

And it also provides a 2-year extension of the temporary phaseout of the itemized deduction and personal exemptions for high-income taxpayers. The original date was extended from 1995 to 1997, and this is the crux:

They say they are raising taxes on the rich. Now granted, average Americans do not make $85,000, but I content that what they are doing is they are raising taxes on the American dream.

Consider the young man or woman that comes from a low-income or middle- to low-income family, that that family works hard, scrimps and saves, that young man or woman works hard to put themselves through school trying to realize the American dream of being successful, living better than their parents, and their parents wanting their children to live better than they, so they make sure that they go through college, maybe go through higher education beyond college, like maybe they get a master's, or maybe they go to law school, or maybe they become CPA or a doctor. Yet what we are telling these young people is, "The more successful you get, the more the government is going to confiscate from you."

Mr. Speaker, that is the kind of attitude that the Democrats of this House have when it comes to the American dream: "The more you make, the more you're going to pay." We are going to tax and penalize those people that are productive, that are out there creating jobs, and it has no, absolutely no—they have absolutely no concept of what drives this engine of our economy.

What drives it, Mr. Speaker, are people that dream about a future, that want to participate in the future. They want to go to school, better themselves, become a successful, productive American citizen. Yet we have no faith in that, or they do not have any faith in that in this House, and what they want to do is they want to tax that American dream. I think it is pitiful. I think this is a crazy package.

Mr. Speaker, I think the American people are going to realize that the Democrats are totally out of touch with what is real in this country, what drives this economic engine of this country, and they have totally lost it.

So, I just think that, as we get into analyzing this package during the hour of this special order, I think the American people are going to start to realize that this is a sham, and this is nothing more than a way of raising taxes so that they can spend more money.

Mr. BURTON of Indiana. Mr. Speaker, I am happy to yield to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I think each and every one of us has been home for the Christmas break since Thanksgiving and has talked to various and sundry people all over the area, and I represent the most heavily industrialized district in the United States, and, when I sat down and talked with people there, they do not want a candy bar a day, they do not want a $400 tax cut. They would like to see something building for the future, the idea of new job creation and so forth.

I just was thinking of that $93 billion tax that they are talking about, or whatever the amount of money was. If that money were allowed to be spent by business and industry in buying equipment, think of the jobs it would create.

In my own company back home we are currently talking about buying a printing press, and the basic idea is we would like to be able to buy a printing press, but we are not sure whether we can afford it right now. But if some assistance came from the Federal Government, we could place an order for a printing press made in Wisconsin. Immediately they are going to pick up all kinds of jobs up there, and, when that printing press comes back to North Carolina, we are going to create 600 more jobs. That is the way to create for the future, not raising taxes and promising all kinds of crazy things like, "Well, the government is going to save you. Don't worry. We'll take care of you. We've got the big money. We're going to take care of everything."

Mr. Speaker, the people really want us to plan for the future, and we have not done that, and, as the gentleman from Texas [Mr. DELAY] said, and I think I have used this case over and over again, when Reagan put in his tax cuts in 1982 and things started moving, he created additional income, increase in income tax, every year, and I think it averaged about $80 billion a year, that we added more income than we had the year before. But what happened? Say we have to have half of that to take care of Social Security increases, and veterans benefits increases and so forth. That leaves us $40 billion left, $40 billion. He has 6 more years in office. Six times 40 is $240 billion. That balances the budget. It should have balanced the budget, but what happened? Congress comes along and spent every bit of it and more.

Mr. BURTON of Indiana. Way more.

Mr. BALLENGER. There is no way to trust anybody in this place. I have said that over and over again, and I think we all agree that a tax increase to give more money to Congress is actually creating a situation where they are going to spend it all on some other crazy ideas they have got instead of creating new jobs. It is sick.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from North Carolina [Mr. BALLENGER]. I think the analogy a lot of people give is: Giving Congress more taxes is like pouring gasoline on a fire.

Mr. Speaker, I am happy to yield to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I appreciate the opportunity to stand with my colleagues and comment on the proposal before us, which is the Democrat tax package that will be coming up here in the next day or two.

□ 1700

I have an interesting analysis prepared by the National Center for Policy Analysis that really I think tells the true story. Let me just quote from this.

It says:

> The economic plan devised by the Democrat leadership in the House of Representatives would lead to a net loss, a net loss of more than 100,000 jobs over the next six years, and prolong the current recession, according to the National Center for Policy Analysis. By contrast, the Republican plan would create almost 600,000 jobs.

Mr. Speaker, I think the people of this country are tired of all the posturing and all the empty rhetoric that we hear coming out of the other side. Let us face it, this recession was brought on beginning in 1986, when the liberal Democrats in the Congress insisted that the 1986 Tax Reform Act be revenue-neutral. That meant we had to make a bunch of changes in the tax laws that were negative to real estate that began to push us into the recession, that started slowing the economic growth down.

Then when the Democrats in the Congress forced their position on President Bush in 1990 and gave us the budget summit agreement and we enacted the luxury tax, which we all said would put people out of work and which, in fact, did put people out of work, we all said that when that agreement was struck and the taxes were raised, the largest single-year tax increase, as far as I understand, in U.S. history, we all understood that that would take us and push us right off the cliff into recession, and that is exactly what happened.

Now we are supposed to suspend our beliefs once again and indulge in the fiction that this plan being put forth by the Democratic leadership is going to result in anything positive for the economy of this country?

I think the National Center for Policy Analysis made it pretty clear what the impact of this disastrous plan is going to be, and the thing that strikes me, Mr. Speaker, is that we have the power, the people in this Chamber and the other body have the power to make a great difference in the lives of the American people.

By the policies that we enact, we could lift everybody up, make the economy grow faster, give people jobs, opportunities. We have that within our grasp, and it strikes me as criminal that we do not exercise correctly that tremendous lawmaking power that the people of this country have vested in us.

It is quite obvious that what we need right now for this country are measures that bring jobs and economic growth.

I would like to say a word about the middle-class tax relief. I strongly believe that the middle class is overtaxed and they desperately need tax relief. They do not need a dollar a day in tax relief. They need far more than that.

It seems to me it is incumbent upon us as Members of the House of Representatives to enact a package of economic growth and job creation that will lift this economy out of the recession and will get us going so that we are strong, so that we can then enact the real middle-class tax relief that is needed, and is it ever so desperately needed.

The taxation, I believe, is destroying the American family. It has gone from the point in 1948 with an average family of four with a median income where that family paid 2 percent of its total income to the Federal Government in taxes, to the point today where that same family of four with a median income pays 24 percent of its total income to the Federal Government in taxes of all kinds, a twelvefold increase.

Mr. Speaker, this is hurting America. For the long term we need to make some significant changes that will bring real middle-class tax relief. But for now we ought to create jobs and stimulate the economy so we can get strong again and do the real job that must be accomplished.

Let me just point out one thing in this bad package. You have heard already testimony that we are going to get like a 2-year temporary tax cut for the middle class, financed by a permanent tax increase, hiking the rates. It is interesting to see what would have to be accomplished by the Democrat leadership if they were going to make permanent, as may think they will try to do, this middle-class tax relief, so-called middle-class tax relief.

Analysts have performed the studies and have found that if the Democrats want to make their 2-year tax credit permanent, then they would have to increase the tax rate on individuals with incomes of more than $35,000 per year and couples earning more than $70,000 per year. Mr. Speaker, if they think that those people constitute the rich for whom taxes can be raised, then they are as out of touch as their worst critics have been suggesting.

These people are the middle class. They are the people who ought to be paying less taxes, not more, as our Democrat colleagues are proposing, and we should reject out of hand this terrible package that is going to be proposed which will do nothing to create jobs but which indeed, as this analysis from the National Center for Policy Analysis has concluded, will cost 100,000 jobs over the next 6 years. This is a disaster and should be rejected.

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleague, the gentleman from California. I appreciated very much his comments.

I see my colleague, the gentleman from Texas [Mr. ARMEY] is here.

Mr. ARMEY. Mr. Speaker, would the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, tomorrow we are going to have a very large debate in this body over what policy proposals might best help the American economy overcome its current doldrums. It is going to be surprising when we realize all the different ways in which the Government of the United States imposes taxes on the American people, and therefore, all the different ways in which the Government of this country might reduce taxes on the American people, that so much of the debate is going to be around the question of increasing or decreasing cuts in the tax on capital gains.

One has to wonder why this should be the centerpiece of such a debate. Let me see if I can help to understand it.

There is a body of noneconomic thought afoot in the country today that suggests that there is somehow or another a conflict between workers on the job and the machines with which they work over a fair share of the Nation's output.

The fact of the matter is, anybody that has actually been involved in a job on a production line producing a real product, and not ensconced in some ivory tower or somehow or other held aloof from the real process of production in the real economy, carried out by real people in their real jobs in the real world, knows that in fact it is the combination of the machine and the laborer, the skills of the machine and the science and engineering knowledge built into the machine, called technology, in conjunction with the skills of the worker, that actually produces a product and generates what we want more of these days, increased productivity.

So in fact if we are going to increase productivity and thereby increase chances for working Americans to have greater salaries from greater output, we have to have an increase in capital investment through which the new technology is applied, and that capital and labor come together and join in this production process and thereby give the Nation its product or goods and services that make our lives well.

It is very difficult for us to approach the problem of economic expansion, then, without trying to find ways to increase investment in real capital. It is their view that the benefits of increased investment in real capital and therefore the increased product of real capital in the working place go only to the owners of the capital. But we know better.

The fact is that 90 percent of the direct benefits from the utilization of capital and production, and the investment in capital, accrue to the workers. Without that capital investment these workers would not have a job.

That is illustrated to me by a working man on a production line in a plant in my district who was showing me the new machine that he was working with. This was a skilled machinist, a very long-term employee of the company, very excited about the new machine that he had to work with, who pointed out the increased output he gets every hour and every day because he has got this new machine, and how that has led to his raise because he was generating greater output. He was very fond of the machine.

□ 1710

I asked the gentleman what this machine cost if you were going to buy it? He said that this machine cost over $1 million. Then he turned to me and said, "You know, Congressman, if I worked to the best of my ability all my life and saved every dime I could save from taking care of my family, there is no way in my lifetime I could get together enough money to buy that machine."

It is those savers and investors across the country that made that machine available and made his increased output per hour, per day, greater, and allowed his salary to go up. That is the way capital and labor work together.

Now, what we have seen is that when you decrease the cost to people who invest of taxes on earnings from that investment, they tend to invest more. When they invest more, more workers have more machines with greater technology with which to work. Their product goes up, GNP goes up, their incomes go up, they get their raises, and they pay more taxes.

We have seen when you increase the cost to investors by raising taxes, telling them that you will get less of a reward by making that investment, they invest less. Therefore, fewer machines are put in place, fewer jobs are created, fewer raises are earned. Because less technology is increased, productivity goes down. That is the historical record.

So the extent to which this Nation accumulates capital through investment becomes a key to whether or not the Nation grows in its economy, or declines. It is extremely important that we measure this accurately.

Let me get to the debate. In this debate tomorrow those people who believe capital and labor compete with each other for relative "fair shares" are going to argue that when you decrease the cost of capital by cutting the capital gains tax it is not fair to the workers, as they did in 1989 when we had this issue before us in the Bill Archer-Congressman Jenkins proposal. Then they will say it is just a tax break for the rich.

Well, it turns out that the owners of capital that get the 10-percent benefit that do not go to the workers who work along with the capital are 69 percent either retired Americans or working Americans who own capital in their retirement program.

To give you an example, in the State of Texas, my home state, the State

Teachers Retirement Program is held 100 percent in capital instruments in the private sector of the economy. That would be General Motors stock, Ford Motor bonds, AT&T stock. And to the extent that that capital is made more productive and more valuable and that stock benefits, their retirement program goes up.

Thirty-one percent of the capital then is owned by individuals. I guess a fair estimate might be that half of those individuals, say 15 percent, let's say 16 to 17 percent, might be people with super normal incomes. Let us say 20 percent.

So what this side that is hostile to increasing the benefits of capital investment to the American people are suggesting is the American people are so full of greed and envy and jealousy and spite that they are willing in order to punish that 20 percent of the recipients of 10 percent of the benefits of capital investment so much that they are willing to take the benefits away from the 90 percent who are the primary beneficiaries.

They misjudge the character of the American people. They misjudge the sense of the American people. They have demonstrated they do not know how to measure the earnings of capital.

I am going to finish with this point, and this is a point I want to emphasize. This debate will rest tomorrow on the evaluation of the real impact of capital spending on the American economy, on the wages of the American workers, and on the tax receipts of the U.S. Treasury, by the Congressional Budget Office.

This is an official scoring agency of the Congress that is totally under the control of the Democrat majority of Congress. This is not a nonpartisan or bipartisan economic analytical group. It is a very partisan Democrat-controlled agency of the U.S. Congress called the Congressional Budget Office.

Every single employee of this organization is hired, promoted, given raises, and fired by the Democrat majority in Congress. I will guarantee you these hard-working men and women in the CBO, as we call it, know darned good and well who butters their bread and who can unbutter their bread.

They have given us forecasts. In the great debate in 1989 over the Archer-Jenkins proposal they projected that in 1990, there would be $254 billion worth of capital gains earnings in the United States. How they made that projection, we do not know. We have found one way you can duplicate that projection. You can take the patterns of earnings that we experienced from 1978 to 1979, demonstrate that trendline to a fourth grader with a color crayon, and if the fourth grader can draw a straight line from there, they can come to that number.

So I would suggest to you that the Congressional Budget Office in 1990 was no more accurate than would have been a fourth grader with a color crayon.

Now, what really happened? Incidentally, they argued then that if in fact you cut the capital gains tax by 2 percent, that all you would have to do is take 2 percent times $254 billion and you would find out how much is a tax break to the rich. Because in their estimation, only rich people own capital. Never mind the 69 percent of the ownership that is in the hands of retired American citizens or working men and women in their retirement fund, like the Texas teachers. Only rich fat cats in their understanding own capital. So they said this would be an unfair thing to do for the rich.

Now, what really happened in 1990? Real capital gains earnings realizations in 1990 were $120 billion. They had an error of $134 billion. That is to say the Congressional Budget Office was more than 100-percent wrong in just telling what would be the total earnings in a given year, let alone what would be the impact to the economy, on the lives of working men and women, on the lives of retired American citizens, on the Treasury from tax receipts, on the productivity of the Nation.

They could not even guess within a 100-percent margin of error what would be the level of capital gains earnings a year away from where they were already. In fact, during 1989 when the debate was taking place, during the time the experience was happening around them, they were guessing that total capital gains earnings were going to be $225 billion. Total capital gains earnings in that year was about $125 billion. So they were $100 billion off.

Looking at the world in which they were trying to live and saying what is happening in this world, they were $134 billion off saying what is going to happen by the end of next year.

These people coming down here tomorrow who are going to tell you that it is not productive for the American working men and women's opportunity to have a better job, to have a job, to have taxable income with which to get a tax reduction, or retired people to have a better retirement program, for the Treasury to have more money rather than less money, are going to rely on the estimates and scoring practices of the Congressional Budget Office, which is more than 100-percent wrong.

Incidentally, let me say that last year when I discovered this $134 billion error I called it to the attention of the Congressional Budget Office. They told me, "Oh, yeah, we had seen our error and we corrected it in technical corrections."

Mr. BURTON of Indiana. A $134 billion technical correction?

Mr. ARMEY. I do not know how things are in your home, but if I have a $134 billion error in my checkbook, I do not call that a technical correction. I call that a disaster. I think if General Motors had a $134 billion error in their checkbook, they would call that a disaster.

☐ 1720

They said, "We corrected it." In fact, they had not corrected it. In fact, they covered it up. In fact, they continued making the error.

We are talking about whether or not we can make responsible public policy like what must be made as responsible personal or corporate or business policy by real people in the real world, and what this tells me is that if I have a business and I hire an accounting firm to project my sales, to project my earnings or to project what will be the change in sales earnings if I raise my price or lower my price and that accounting error makes over a 100-percent error, I either find the error and fire the accounting firm or I go out of business. If I do not find the error and correct the error, I go out of business. That is what happens in the private sector.

If one makes errors and one does not find them and correct them, one goes broke.

What we are seeing here, given the increased, get this, increased congressional appropriations for the Congressional Budget Office during the time these errors were being made, they have demonstrated that in government, if you make an over 100-percent error and you do not admit to the error, even when somebody else finds it for you and you do not correct the error, you go into a budget cycle with more money.

So we have a Congress that is appropriating to this agency more tax dollars to make more bad business analyses where they cannot even get within 100 percent of the truth. And I do not know how one can get that bad. One cannot get that bad by accident, I will guarantee. A 4-year-old with a colored crayon could do that by accident.

And they have the audacity to come down here tomorrow in this debate and cite the so-called analysis of the Congressional Budget Office. I have to tell my colleagues, I would be embarrassed.

I for one am probably a little more inclined to offer as testimony the prognosis of my 4-year-old nephew with his color crayon. I think I would have a better chance of getting somewhere close to the mark. That is the kind of intellectual gantry we are going to see behind this debate tomorrow that says capital gains tax reductions are not fair to working men who in fact get 90 percent of the benefits of increased output, increased investment, increased productive capacity, and increased productivity which they can then share with the working women on those same production lines.

Mr. BURTON of Indiana. Mr. Speaker, I thank Professor Archer, and I hope tomorrow when the Democrats start quoting CBO, the gentleman will be down here to set them straight.

Mr. ARMEY. I might mention that the gentleman from Texas [Mr. ARCHER] thanks you, too.

Mr. BURTON of Indiana. Mr. Speaker, I yield to the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Speaker, the gentleman from Texas [Mr. ARMEY] brought up some interesting propositions there. I think it just points out the fact that the Democrats have been pushing us to the wall here, trying to make truth out of lies. I cannot believe that they would, as the gentleman from California [Mr. DOOLITTLE] points out, not want to change that luxury tax which in effect everyone knows costs the country dollars in revenue, costs the country jobs, somewhere 30,000 or more.

It is not the big guy that the gentleman from Texas [Mr. ARMEY] was talking about that gets hurt. It is the little guy that loses his job when those businesses close down. It is America giving away their industry to somebody else because we do not want it here, because we want to tax it and overtax it.

In this bill tomorrow the Democrats are going to try to tax you, raise your taxes by $93.5 billion over 6 years. And we know what that is going to do. That is going to increase the deficit even more.

What happened this year? Every time an appropriations bill went through this House, we increased our deficit by an infinite amount, and it added up to somewhere near $400 billion. Now we are talking about $30 billion more in the next year by raising taxes.

Come on, Americans. We know better than that. The National Center for Policy Analysis has said that if we reduce taxes on savings or other personal income, we will, for every $1 billion reduction, put $25 billion into the economy in the form of support and business and jobs.

In addition to that, about $11 billion will come back to the U.S. Government in other forms of revenue, which means that if we reduce taxes instead of raising them, we are going to not only stimulate the economy, stimulate jobs, but return a revenue increase after only about 6 months of operation.

That is what I call stimulating the economy. What the Democrats are doing is stimulating death.

This country is ready to turn around. The people of this country are ready to go to work and to try to say, "No more jobs is crazy." Their so-called middle-income tax relief does not provide relief for Americans. It does not even give retired Americans a break. They are still living on interest. They are living on a fixed income, and we are saying they are too old to get the advantage of any tax break. They are not part of America any more.

I do not think our retired Americans feel that way. I think they feel just as much as American as you and I, and they deserve that tax relief just as you and I.

Also we keep seeing and talking about cutting our military. In some conversations that I have had with some of the defense officials, it appears to me that when we cut our military, I am not sure we get the bonus that we are talking about. We are putting people back into the economy. We are taking away jobs in a decreasing economy. So how does that help this Nation? And yet we have got the Democrats calling for us to reduce the military, not just by what the administration wants but by another 50 percent.

And what that says is we want to put more out of work people out in our economy. This is a great time to do that. Let us put them out there and then 5 years from now take those savings and put them back into social programs, not reduce our budget which is what we are supposed to try to be doing.

You and I have to balance our check book. This Government, it is time we started balancing our check book. It is time we put this petty partisan politics aside and started thinking about America first. I wish that we could get the Democrat Party to come to us, work with us and help form an economic development plan that will work for America.

We had one, and they have torn it apart.

It does not even include the administration's $5,000 tax credit for first-time home buyers. So what are we doing? We are giving another bad signal. We are telling new Americans out there, "You cannot buy a house because you cannot afford it, and we are not going to help you get it."

I am not sure that anything we are doing right now is helping America save. The savings in America have gone from somewhere around 7 or 8 percent of the personal income, gross income, down to something around 4½ percent. And do my colleagues know what they are in our biggest competitors' countries, Germany and Japan? They are up around 17 to 18 percent or double or triple what ours is, which means that when we do have a recession, we have nothing to fall back on.

Does the gentleman from Texas [Mr. DELAY] know why in the world would Americans not want to save? Because the Democrats want to tax them to death. There is a tax on our savings. There is no incentive to save, and here we are with a bill that they are going to try to pass tomorrow that does not want to give us capital gains to stimulate the economy.

It only gives temporary tax cuts, but permanent tax increases, raising taxes, again as I said, to $93 billion.

It violates the budget agreement, really, by letting us go into debt the way we are. So what have they done? They have gone back on their word, have they not?

I think that is gross. I really think that we owe it to the American people.

I thank the gentleman from Indiana [Mr. BURTON] for giving me the opportunity to straighten this thing out.

□ 1730

Mr. BURTON of Indiana. I thank the gentleman for his very salient points he has made.

In addition, BILL GRADISON on the Ways and Means Committee sent a letter around today which indicated that this will trigger the sequester of $30 billion. So this is going to cause all kinds of chaos, this Democrat plan. And I think we need to come down here tomorrow in force and point out all of the deficiencies in it as we debate it.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding.

There is floating around here a letter, which I cannot find about the sequester the gentleman talked about, about automatic cuts, and, I believe on Medicare and on farmers programs. On the one hand the Democrats I think are telling the American people, "We are here to help you," and on the other hand they are trying to pass a plan that has automatic cuts in it for those particular programs.

But that leads to some other things that I think are very important to bring up before we run out of time and to point out how ridiculous this plan is was not only the idea of class warfare, pitting higher income against middle-class income, but it is sort of a very deceitful way that they are doing things. I mentioned earlier about raising tax bracket is going to be permanent, while the tax relief is going to be temporary. Let me show how it will force the tax bracket to be increased for middle income Americans, because what happens here is they raise the current 31-percent tax bracket to 35 percent on individuals making $85,000 and couples making $185,000 to pay for the tax relief of $200 to $400 per family. That tax relief is only for 2 years.

Here we come into the third year. Do you really believe that the people that control this House are going to let that tax relief phase out and not extend it like they extend everything else around here? A lot of the things we do are on a temporary basis, and we just keep extending them, because once you create a constituency for tax relief, it is not going to go away. If they extend that tax cut that in their bill is set to expire in 1994, which by the way is an election year, if the Democrats wish to continue that tax cut, which will be popular in that election year, they will have to lower the threshold for the rich tax bracket to individuals making $40,000 and couples making $75,000.

Mr. BURTON of Indiana. If I might inquire of the gentleman, what he is saying is that the $85,000 wage earner that is going to get the 35-percent tax rate will now be a $40,000 wage earner in order to meet the financial requirements to give that tax break to the so-called middle-income people?

Mr. DELAY. Or for a couple that makes $75,000. That is what I am talking about. They want to tax the American dream.

There are some other things in this bill that I think people are going to find very interesting. No Member of this House better vote for this bill that has a real estate market in their district that is in decline, because what they do is they require slower depreciation of real estate, which will further depress real estate prices, which puts more pressure on S&L's and banks, by the way, and that is the last thing that we need in a declining real estate and banking market.

What is really interesting about this is how they give to one and take away from the other. They tax the employee that has been laid off. So all these automobile employees that worked for GM and are going to be laid off, what they do is they very cleverly stick in there where right now we have a key deduction, a tax here that has to move at least 35 miles to qualify for a moving expense deduction, what they do is they raise that test to 75 miles. So if you lose your job, you will have to move 75 miles to get that little bit of tax relief on moving. Any economist will tell you that it is dumb to raise taxes on job-related moves during a recession or during times of high unemployment.

There is another alternative in there, and I will quickly end and get through some of these. The Democrat alternative provides a maximum tax credit of $400 on a joint return for a typical family of four. This amounts, as we have pointed out, to 27 cents per person per day. Furthermore, it is available only for 1992 and 1993. In 1994, an election year, they will extend that so that it drops the bracket, and that cannot be emphasized enough. It drops the income by which you have to pay 35 percent.

But also they have that temporary tax credit applying only to wages subject to Social Security taxes. So Americans who work for State and local governments or who do not participate in Social Security or are subject to Social Security tax, they get none of this middle-class temporary tax cut. And retired people living on fixed incomes, they get no tax relief either.

And unlike the President's personal exemption increase proposal, the Democrat tax credit provides no benefit for children. A family with several children will get no more tax relief than a couple with no children. Indeed, what they do, because we give a tax break for day care, and people that stay home or choose to stay home and take care of their kids will get no tax relief in comparison to those who choose to work, both parents working outside the home and putting their kids into day care. So they are choosing between different kinds of Americans, and I think that is just disgusting.

Also, and I will finish with this, on small business, no Member of this House ought to vote for the Democrat package that is interested in small business relief, because what they do is they tax productive small businesses. Prior to last year taxpayers could meet their estimated tax obligations by paying 100 percent of what they paid last year, or 90 percent of the current tax liability. In other words, trying to estimate their tax liability, they not only want to conform with the laws of the land, but they want to avoid a pretty hefty tax penalty for not making sure that they have estimated their taxes properly and given the Government its money up front, before they really deserve it. But at least they had it at 100 percent of last year's taxes. You could pay that or 90 percent of the current year's tax liability. The Democrat package would take that 100-percent safe harbor away and make it 115 percent. So the President is changing the withholding tables to put more cash in people's hands and the Democrats are doing just the opposite by forcing cautious taxpayers to overpay their taxes. It is not good enough for the Government to get their taxes up front, now they want 115 percent of their taxes up front. So they are penalizing the honest Americans that are trying to do the best they can in estimating their taxes.

I think this thing is so full of these kinds of things and the American people are not stupid. I think the Democrats feel that the American people are stupid because they throw them a few crumbs expecting to buy off their support when in fact what they are doing is they are absolutely jeopardizing their jobs by jeopardizing the economy of this country.

Mr. BURTON of Indiana. I just want to say to the chairman of the Republican Study Committee that I really appreciate all of the research he has done on this and his contribution.

Mr. Speaker, I would like to end up tonight with our Republican floor leader, the gentleman from Georgia [Mr. GINGRICH]. I think he has come down to participate in our special order. He has been very active in trying to combat the terrible package that the Democrats are presenting to the Congress, I think tomorrow.

Mr. GINGRICH. Mr. Speaker, I appreciate my colleague yielding to me. I want to thank him for hosting this special order to lay out the choice that the American people will face.

I just want to repeat something I said earlier in a 1-minute speech today, and that is that the Democratic Party seems to have a passion every 4 years for returning to the left. For 20 years now, starting with McGovern, and then Carter, and Mondale, and then Dukakis, we see this sort of leftward scurry for higher taxes and a bigger welfare state. And when we look at what the House Democrats are bringing to the floor this week, it is astonishing that they would have taken the President's State of the Union speech and his appeal for tax cuts and turned it into tax increases, that they could have taken the President's appeal in the State of the Union to create jobs and turned it into a program which the National Center for Policy Analysis estimates would kill 100,000 jobs. It is astonishing to me that in their passion for a larger welfare state, and in their passion for more tax money in the kind of economy we have right now, in the middle of a recession, that they could come in here with a massive tax increase proposal.

□ 1740

I think it is going to be very interesting to see how many of the more independent-minded Democrats are whipped into line by the machine and how many decide that they just cannot vote for a tax increase in the middle of a recession and that they feel compelled to vote no this week on the Democratic tax increase.

So I appreciate my colleague and my other friends coming over and discussing this. I hope in a few minutes to put a framework of thinking about economic growth into the RECORD.

I will just close by noting that you now have a Democratic tax-increase bill which their frontrunner, Paul Tsongas, has indicated he would veto. Now, when you write a bill so bad that not only would George Bush veto it, but the Democratic frontrunner would veto it, I would hope an awful lot of independent-minded Democrats would think twice before they would get dragged into voting for this kind of a tax increase.

I very much want to thank my friend, the gentleman from Indiana, for hosting this and giving us a chance to discuss the Democratic tax bill.

Mr. BURTON of Indiana. I thank the Republican floor leader.

I see I am about out of time, so let me just end up by hitting a few of the highlights of the Democrats' proposal that is going to really put this economy into an even worse tailspin.

Their tax proposal would cost 100,000 jobs. The Republican tax proposal would create 500,000 to 600,000 jobs. There is a net switch of between 600,000 and 700,000 jobs; 500,000 to 600,000 new jobs created by the Republican proposal, 100,000 jobs lost with the Democrat proposal. They want to raise

America's taxes again by $93 billion followed on the heels of a $181 billion tax increase just 2 years ago that put us into this economic tailspin we are in today.

The fact of the matter is that we do not need more taxes in this country. We need less taxes. We do not need more Government regulation. We need less regulation.

If you let the free-enterprise system work its will, if you turn the free-enterprise advocates loose, if you let the small businessman do his job without Government interference and more taxes, we will create more jobs.

When Ronald Reagan lowered taxes from 70 percent to 28 percent, the tax rate, we created 21 million new jobs over a 5- to 6-year period, and that brought in more than $600 billion in new tax revenues.

So what we need to do is cut taxes, not increase them. Their answer is to always tax and tax and spend and spend, and we cannot tolerate that anymore.

DEMOCRATIC TAX INCREASE KILLING JOBS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I am going to talk this evening about the Democratic tax increase killing jobs, and I think it is a magnificent example of the power of ideology over reality that in the middle of a recession the House Democratic leadership would decide that they had to bring in a class-warfare tax increase, an ideological bill, rather than cooperate with President Bush in developing a tax-cut, job-creating bill.

Let me make very clear, every American has an interest in this economy in passing a tax-cut program that would create new jobs. Every American has an interest in this recession in trying to find a way to put people back to work.

Let me give you a very practical example: The average new job at $25,000 gross income provides $346 in increased revenues to Medicare; that is taxes paid toward the Medicare fund; $1,050 toward Social Security; and $2,914 in income tax to the Federal Government. So every time we create a new job at the average salary in America, the Federal Government gains $4,827 in tax revenue for Social Security and the General Treasury, and by taking that person off of unemployment and taking them off of welfare, we save the Government the money it is currently spending. So the net effect on the deficit of having any one person go from unemployment and potentially food stamps and welfare to having an average job, the net change in the deficit is over $10,000.

So if you have a program which, as the President's chief economic adviser suggested, would create 500,000 new jobs, and that is the estimate of Dr. Michael Boskin, the head of the Council of Economic Advisers, 500,000 new jobs, each of them changing the deficit by a factor of $10,000, becomes a $5 billion shift immediately in the deficit. It means that the Government is creating $2.5 billion in additional revenue this year, and that that goes on every year, and that it is saving money on the spending side, because people are not at that point having to be on food stamps and welfare and unemployment.

In addition, I would say that the Congress could get its act together and put the country ahead of the party and actually pass a bipartisan tax-cut job-creation plan that the President could sign, and I think that that would stimulate confidence among consumers. They would go back out and buy cars and buy houses and make the kinds of investments that create jobs. And I think you would see another 2 or 3 million jobs created by the multiplier effect as consumer confidence went up and people went back and developed an opportunity to create new jobs.

We are at a real crossroads. The President of the United States came here, President Bush, in January and spoke in this Chamber at a State of the Union Address, and he asked the Democratic leadership to work with him in passing a tax-cut, job-creation program, a program designed for the free market, for the private sector, a program that recognizes what we are learning from Russia, Ukraine, Poland, Hungary, and Czechoslovakia, and that is that big centralized bureaucratic welfare state governments simply do not work. They do not create jobs. They do not create wealth. They do not increase the standard of living.

So if we are going to stimulate the private sector, the business communities, small-business entrepreneurs, create an environment to create jobs, the President wanted to pass a tax-cut program that would encourage people, a $5,000 tax credit for first-time home buyer to give them a real incentive to go out and get involved in the community and buy that very first home.

The use of the individual retirement account, the IRA, allowing people to take the money out and use it to buy a home, again, creates a sense of community and recognizing that building homes is the biggest single stimulator to get out of the recession, because when you build a home, you not only pay for the carpenter and the plumber and electrician, you also pay to buy the wood. You pay to buy the parts. You pay to buy the washer, the drier, and the refrigerator and the curtains and the furniture, and so that homebuilding is the most powerful multiplier of job creation in the economy.

The President's program has a very powerful stimulus to create home buying and to create homebuilding.

We could go a stage further. The President was also suggesting that we cut the capital gains tax. Now, the capital gains tax matters, because it is a tax on job creation. All we are suggesting is that there are about $400 billion in private money locked up today in stocks and bonds and funds and small businesses and savings accounts, people who will not liberate that money because the tax is too high, and we believe, and experts believe, that if we were to open up a tax incentive and encourage people to go out and to invest and to create new jobs, to shift their money out of old businesses to new businesses, to shift their money out of old investments to new investments, we believe it would create a tremendous improvement.

Now, let me give you a nonpartisan analysis. The National Center for Policy Analysis issued the following press release today:

> Study: Democratic economic plan would cost jobs, make the recession deeper. The economic plan devised by the Democratic leadership in the House of Representatives would lead to a net loss of more than 100,000 jobs over the next 6 years and prolong the current recession, according to the National Center for Policy Analysis. By contrast, the Republican plan would create almost 600,000 jobs.
>
> The House is expected to begin debate on both plans on Wednesday.
>
> "The difference is striking," said MCPA President John Goodman, "the Republic plan creates jobs. The Democratic plan destroys them. The higher taxes on investment income in the Democratic plan would discourage investment and more than offset the positive effects of new tax incentives the Democrats propose for capital gains and investment in equipment." Republicans in the House of Representatives are proposing a fast-track version of President Bush's economic plan. Key elements include a reduction in the maximum capital gains tax rates from 28 percent to 15.4 percent and liberalized depreciation rules for business investment in new equipment.

□ 1750

> The Democratic plan also calls for cutting capital gains taxes (through inflation indexing) and adopts the Republican proposal for investment in equipment, but the Democratic plan also includes a tax credit for workers, worth $400, a higher tax bracket for higher income families, an increase to 35 percent from 31 percent, and an additional surtax of 10 percent on income above a million dollars.

The millionaire surtax may be good politics, but it is bad economics,

Goodman said:

> Almost all the investment income in excess of a million dollars is investment income. The Democratic plan would impose an additional 14 percent tax on wealthy investors and encourage them to buy tax-exempt bonds rather than make job-creating investments.

The NCPA analysis was conducted by Gary and Aldona Robbins, two economists formerly with the U.S. Treasury Department. According to the Center's analysis, over the next 6 years the Republican proposal would create 593,000 jobs, while the Democratic proposal would lead to a loss of 103,000 jobs. The Republican proposal would increase the Nation's output of goods and services by $476 billion through 1997, while the Democratic proposal would actually do a loss of $69 billion in output.

The Republican proposal would be self-financing. Greater output would create new revenue which offsets the revenue loss from tax cuts by 1997, while the Democratic plan would increase the Federal Government's 6-year deficit by $53 billion. "The biggest difference in the two plans is the effect on investment * * * said Goodman. "The Republican plan rewards investors, while Democrats punish them."

According to the NCPA analysis, the Republican plan would increase investment spending by almost $200 billion a year.

By contrast, the Democrats tax on high-income investors would more than offset the stimulus provided by capital gains indexing. As a result, the Democratic plan would decrease investment by about $40 billion a year through 1995. "In order to create jobs and stimulate the economy, we must have more investment," said Goodman. "The Democratic leadership has lost sight of that fact."

The NCPA's formal forecast really outlines it. That is the end of my quoting from them in terms of a general thing, but let me cite the difference. They suggest that cumulatively the difference would be 617,000 jobs created by the end of the decade by the Republican plan and 24,000 jobs killed by the end of the decade, but the peak destruction would be 103,000 jobs killed by 1997.

Now, the reason is very direct and very simple. Imagine that we came on the floor and said, look, we have two proposals. One proposal would lead private citizens to invest an extra $240 billion a year, private money, not raising taxes, not having a government bureaucracy do it, not having Washington do it, not having Harvard professors do it, private money, privately saved, and privately invested to create jobs.

On the one hand you have a Republican program, which President Bush supports, which would create $240 billion in additional investment, and by the way, by doing that, that new proposal would lead to 617,000 new jobs in the private sector, permanent jobs, tax-paying jobs, creative jobs, productive jobs.

On the other hand let us say you had a program that would have $240 billion less in annual investment, and instead of creating 617,000 new jobs at its peak, it would actually kill 100,000 jobs.

Now, you can appreciate why if you are a Democratic national political strategist and your only hope for being in the White House in 1993 was to make the recession deeper, you might be attracted to a plan which according to the National Center for Policy Analysis kills 21,000 jobs in 1992, kills 62,000 jobs in 1993, lowers the gross national product or the gross domestic product by $3 billion this year, by $8½ billion next year and peaks in 1995 with a reduction in gross national product of $19 billion.

Now, you might say to yourself, well, I understand if I were a Democratic political strategist why surely for party political purposes I would like to deepen that recession, keep it going longer, and in fact put the country in a position where the country is in such pain by November that they vote Democrat; but if you are an American citizen who wants a job, if you are a business who wants more customers, if you are a citizen who thinks about your country's long-range health, if you are a grandparent worried about your grandchildren coming on the job market, if you are a parent worrying about your child coming on the job market, if you are a young person out there today looking for a new job, there is a pretty big difference between the Republican plan which ultimately creates 617,000 new jobs and the Democratic plan which at its peak kills 100,000 jobs.

Let me point out that is a gap of over 700,000 jobs between the two plans.

Now, what are 700,000 jobs worth? Well, I had one of my staff develop a relatively simple analysis which suggests that the Republican plan over the decade will increase revenue for the Government by $17 billion in additional income from taxes because more people are at work and more people are out there creating new jobs and creating new opportunities. But let me carry it a step further.

Why, you might ask, is there such a huge gap between on the one hand the National Center for Policy Analysis and the White House Council of Economic Advisers, both of which estimate very large increases in jobs? The President estimates at least 500,000 new jobs. The National Center for Policy analysis concludes 617,000 new jobs.

And the Democratic plan, which by the way, the Institute for Research on the Economics of Taxation [IRET] says the Democratic plan is "a threat to growth."

Why is there such a big difference then between that and what you might get from say the Congressional Budget Office or the Joint Committee on Taxation? I think the reason is fairly simple and fairly direct. The Joint Committee on Taxation or the Joint Tax Committee essentially has a socialist model. It is an astonishing model. I really fully came to appreciate this when Senator PACKWOOD, the ranking Republican on the Senate Finance Committee in 1989, asked the Joint Committee on Taxation how much money could be raised if we simply confiscated all the money above $200,000 a year. They said if you earn any money above $200,000 a year, we will take up all of it.

He wrote them a letter and he said please estimate how much would you get.

Now, imagine if you will, all of you who watched Paul Tsongas on the New Hampshire primary night when he said, "No goose, no eggs. No job creators, no jobs. You can't be pro-jobs and hate job creators. You can't be pro-jobs and engage in class warfare."

This is the Democratic front runner, Paul Tsongas. This is not a conservative. This is not George Bush or DAN QUAYLE. This is a former liberal Democratic Senator from Massachusetts who has worked in the private sector, and like Boris Yeltsin and like Mikhail Gorbachev has come to the conclusion that socialism and the welfare state do not work.

What did the joint committee say in answer to Senator PACKWOOD's question? They said that they would raise $104 billion the first year by confiscating all the wealth above $200,000. They would raise $204 billion the second year. They would raise $232 billion the third year, $263 billion the fourth year, and $299 billion the last year.

And Senator PACKWOOD called the joint committee back and he said, "Wait a minute. You mean to tell me that even at a 100-percent tax rate, you think we will be getting these increased quantities of money?"

At that point, the Joint Committee on Taxes sent back a letter and said they do not take into account any kind of human response. In other words, all of us know that if we raise taxes dramatically on the Jay Rockefellers and the Teddy Kennedys and the other wealthy millionaires in America that they are going to go out and find tax shelters. They are going to find municipal tax free bonds. They are going to find some way to avoid the taxation. We know that, and we know as commonsense people that if taxes go up dramatically, people will do less of what is being taxed. We know that in the real world, because we do it ourselves. We know that if you had 100 percent taxation, you would have an astonishing amount of cash transactions. You would have an amazing number of people who say, "I will build you a house for half price if you pay me in cash. I will sell you a new car for half price if you pay me in cash," because they would want to avoid the taxes. So we know in the real world of real human beings that when you have a 100-percent tax rate, you in fact are discouraging the behavior.

□ 1800

Yet the Joint Tax Committee assumes that nobody will be smart enough to figure out that if they engage in 100 percent taxation they might as well not work.

Now, Ronald Reagan knew this. Why did he know it? Because in World War II we went to a 93-percent tax on earned income. He had friends who were movie stars who would make one movie a year. They would get into the 93-percent bracket, and they would stop. They would go fishing for the rest of the year or they would go to play golf or they would go skiing. But they would not work when 93 cents out of every dollar was being taken by the Government.

But that is how Ronald Reagan personally, in the real world, learned the practical impact of high taxes.

Now, what do we come to? Once again, having forgotten every lesson of the Jimmy Carter years—and remember, under President Carter we got to 13-percent inflation, 23-percent interest rates. The economy was disintegrating and headed into the deepest recession since World War II. And the country woke up and said,

> Whoa, let's cut taxes, let's cut spending, let's slow down the welfare state, let's cut out redtape and regulations, let's give business a chance to create jobs.

What have we seen for the last 3 years? We have seen that our friends in the Democratic Party, with the unusual exception of Paul Tsongas, have not learned anything. The House Democratic leadership is right back at the same old welfare-state stand with the same old welfare-state tax increase.

The House Democratic leadership is going to come in this week and ask its members to walk the plank, to vote for a program that will kill 100,000 jobs, that will actually increase the deficit.

By the way, when you increase the deficit, the Government borrows the money. When the Government borrows the money, interest rates go up. Guess what happens? There is a second round of killing jobs. First, the Democrats kill jobs by raising taxes, and then they kill jobs by having a bigger deficit, which raises the interest rates, which further kills jobs, because, as you all know, when interest rates go up, people do not buy homes, people do not buy cars, people do not do the things you ought to do in order to create jobs.

Now what we are faced with is a core intellectual argument about the nature of reality. Some of us believe, with Boris Yeltsin, Mikhail Gorbachev, Lech Walesa, Vaclev Havel, with all the people who have given up on communism and socialism, we believe that the only effective way to create lots of permanent jobs is to stimulate private savings, stimulate private investment, private job creation, private business; to have thousands of new small businesses, to encourage people to go out and open up new businesses, to hire people to create the kind of private sector that is true permanent job creation.

Our friends on the left believe that you cannot risk doing that, that if you actually feed the goose, it will run off and do bad things; that you have to get golden eggs from a dead goose, and they are prepared to starve the goose with tax increases even if it kills the economy.

I think it is a very simple choice. What the American people have to decide is: Do you want higher taxes? Do you trust the Congress enough that you want it to have more money? Do you like Capitol Hill enough that you want it to spend more? Do you want it to do the things you read about, about the Congress and the Capitol, to make you feel that they ought to have more of your take-home pay? Or do you want us to cut spending in Washington, cut taxes? Would you rather have the Congress buy marble floors for elevators, $5,000 a piece; or would you rather have us buy $200 carpets so you have $4,800 at home to buy a new carpet for your living room? Do you want the Congress to spend more and more money on pork barrel, or do you want us to cut taxes so you can have the money at home so you can buy things for your family and your neighborhood, and give to your church or synagogue, or the charity in which you believe?

So, you have a very fundamental choice. It is not complicated at all. On the one hand you have a Democratic Party, the party of McGovern, Carter, Mondale, and Dukakis, which in the House is still committed to a welfare-state program of massive tax increases. On the other hand you have one Democrat running for President, Paul Tsongas, and the Republicans, led by President Bush, who believe you need to cut taxes to create jobs, who believe that you need to be serious about what you are doing and you have got to find real incentives and you have got to move ahead toward real opportunities.

Now, I believe it is important for us to have this focus because I believe people need to look at real jobs. We are never going to compete with Germany or Japan by starving our factories. We are never going to have workers who are productive as they need to be by blocking the purchase of new equipment. We are never going to create the jobs for our children and grandchildren by taxing the job creators and taxing the people who want to invest.

And, frankly, when you have a very high capital gains tax, all you do is guarantee that people will keep the money where it is. I talked to a young couple the other day. Their grandfather owns some timber. He had a firm position. As long as the tax is as high as it is now, he is not selling it, because he does not want to give the money to the Government. He would rather just let the trees keep growing, pay real estate tax, property tax, and wait because he just hates the idea that the Government is going to take that much of his money.

I talk to people who say, "Well, I have a little stock I would like to sell, but, frankly, with the current tax rate, it is too high. I won't sell."

What are the Democrats proposing to do? They have proposed to raise taxes.

Now, you would think, having watched Governor Florio in New Jersey have a tax revolt, that they would decide that raising taxes does not make any sense. But they said,

> Oh, no, we have to have a tax increase. We have to prove that class warfare is more important than job creation.

Let me pose this simple challenge to our friends in the Democratic Party: I do not believe there is a town in America where, if you went in and said, "We want to create a thousand new jobs," they would say, "Yes, but will you punish the rich first?"

I do not think there is a town in America where, if you went in and said, "We want to encourage young people to go out and have a better future," and they would say "No, no, you have to tax the American dream, you have to tax the dream of rising, you have to tax the dream of succeeding."

I do not think there is a town in America where people who are unemployed—and notice what we do, we offer tax breaks to Japanese factories, offer tax breaks to German factories and all over America. There are local-State programs that have a special tax rate.

> If you will build your factory here, you will get 5 years of tax abatement, if you will come over and create jobs here.

All over this country today, I have talked to city and county officials, I have talked to chamber of commerce officials, and they love the idea of industrial revenue bonds. Have a little tax-free bond that would help build that next factory.

So, as long as you are a foreigner, if you want to come and build the next auto plant, "We will give you a tax break to build your factory."

Now we come to that American who has a new idea, the person who invented the next computer or the next videotape recorder or has invented the newest kind of medicine. They say,

> You know, I think I can create a new company that would grow as fast as Polaroid or Apple Computer or IBM or Xerox. I think if you will give me a chance to work and save and keep my money and invest it, if you will give me a chance to go out here and issue a little stock and create a small company, I believe I might create 5,000 new jobs here.

Now, I say this from personal experience.

In Carrollton, Georgia, they have a company called Southwire. It is 40 years old and employs over 5,000 people. There are 5,000 families earning a good permanent income because we encouraged somebody to go out and create a new factory and that factory today is the largest single independent wire producer in the world.

I had lunch recently at Coca-Cola. In the 1880's Coca-Cola was a small company in Villa Rica, GA. It had a brand new idea. Today it spans the world, 150 countries.

Each of these ideas started small. I fly Delta Air Lines occasionally. Delta originally was comprised of two cropdusting airplanes, the whole company, two cropdusters in Louisiana.

Now, you start with that idea that the genius of America has been dynamic, it has been exciting, it has been growth-oriented. The genius of America has been to say to people,

> If you will go out and you will work your heart out and you will save and maybe even take a second job, if you will do what it takes, someday you can succeed.

What do our good friends, the liberal Democrats, say?

> No, we got to tax that success, we got to tax that dream, we got to tax that opportunity. If you are breathing, tax it; if you are drinking water, tax it; if you are standing still, tax it.

It does not seem like there is anything they cannot find some excuse to tax.

If you were to take all the tax increases their Presidential candidates are proposing—different candidates are proposing different tax increases, whether it is a 50-cents-a gallon gas tax increase or some other increase, a surcharge here, a big tax there—it is astonishing how creative they are at raising taxes. And yet I would argue that there are two challenges to the Congress this year; one I have described in earlier speeches as a necessary revolution to replace the welfare state. In those speeches I cited the Reader's Digest article from January entitled "How the Unions Stole the Big Apple." And I cited the case in Reader's Digest in January of the $57,000 a year janitor in a school, $57,000 a year, who was required by his contract to mop the school three times a year—not three times a week, not three times a month, not three times a quarter, but three times a year.

Now, when you are paid $57,000 a year to mop once every 4 months, you are clearly never going to be able to afford that kind of Government because they can always find a new reason not to work and charge you more money. Where do we see the biggest calls for tax increases? For big-city mayors, mayors who will not make their bureaucracy work, who will not go through and make them efficient, will not take the steps necessary to reform them, but who instead turn to working Americans and say, "I want you to pay more taxes out of your hard work so I can give it to the bureaucracy that is not doing its job"?

□ 1810

And again, in the Reader's Digest article in January, "How the Union Stole the Big Apple," there is an entire section about the sanitation workers' contract which was written in such a way that, as they got more efficient, garbage trucks; they now have crews that work 4 hours a day and are paid 4 hours a day to do nothing, paid 4 hours a day to go to the health spa; and now let me contrast that, if I might—and by the way, lest someone thinks I am exaggerating, the New York Times has twice in the last 2 weeks editorialized because Mayor Dinkins in the middle of a massive deficit, $1,900,000,000 deficit, in the middle of screaming for everybody else to raise their taxes to transfer money to New York City, according to the New York Times he has again signed a contract with the sanitation workers that keeps the same deal.

Now why would I go back home to Georgia and say to hard-working citizens,

> I'm going to raise your taxes on your work so we can transfer money to New York City to pay for somebody who is working 4 hours a day and going to the health spa at your expense on your money?

Why should I raise taxes on a janitor in a school in Georgia who may mop every day for $17, $18, $21 in order to take money from that Georgia janitor and transfer it to a $57,000 a year janitor who has to mop every 4 months? It is just not right.

Yet our friends in the Democrat Party are so trapped into the welfare state, they are so much beholden to their large big-city machines, that they have to find ways to raise taxes to increase the amount of money they can give away through the welfare state.

And so the choice this week is very simple. Choice No. 1, I say to my colleagues, is,

> Do you believe we need a revolution to replace the welfare state? Because, if you do, you've got to vote no on the Democrat tax increase because the only way you're going to force change in the welfare state is to starve it. Giving the welfare state more money just lets it get bigger, lets it get sloppier, lets it get more inefficient, lets it do more things that make no sense to average working Americans."

No. 2:

> Do you believe the future of growth, the future of getting out of the recession, the future of job creation, is largely in the private sector with business? Or do you believe socialism might work, that while it failed in Russia, and failed in Czechoslovakia and failed in Germany, we could make it work here? Now, if you believe a bigger welfare state will work, if you believe a bigger bureaucracy is good, if you believe we ought to have more power and more money in Washington so Washington can control your life more, then you ought to vote for the Democratic tax increase because that's what it finances. In the end the Democrats raise taxes so they can have a bigger version of their government, so they can have a larger welfare state, so they can have more control over your lives, so they can decide what pork to give you because they took your money from you in the first place. Or do you believe that President Bush is right in focussing on creating real jobs that are permanent in the private sector by encouraging investment, by encouraging savings, by encouraging work?

Now I happen to believe, as the President said in his State of the Union Message, that the time has come to replace the values of the welfare state. I believe with the President that we have to go to a process, first of all, of requiring able-bodied citizens under the age of retirement to work, if they get money from the Government; second, of reforming the bureaucracy so they have efficient and effective cutting out of waste, cutting out the redundancies, cutting out the redtape; and, third, cutting taxes to encourage people to work, to save and to invest.

So, I hope every citizen who really wants us to replace the welfare state, every citizen who wants us to get out of the recession, and every citizen who wants us to create permanent jobs, jobs that take people off of welfare, jobs that take people off of unemployment, jobs that allow people to pay taxes because once again they are working for a living; I hope that every person who wants us to have that kind of a future will call their Congressman and will say,

> Vote no on the Democratic tax increase. Vote yes for President Bush's tax cuts. Vote yes to create jobs. Vote yes to end the recession.

Mr. Speaker, that is the choice we are going to face in the next 48 hours.

REQUEST FOR 30-MINUTE SPECIAL ORDER

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent to be allowed to address the House for 30 minutes.

Mr. GINGRICH. Mr. Speaker, reserving the right to object, I am, of course, going to give my good friend, the gentleman from Missouri [Mr. VOLKMER], a chance to have his special order. But let me, under this reservation for just a moment, point out for those who study the House, who would like to know, that they should understand that the Democratic leadership, which is in the process of writing a one-sided rule, has not yet finished that rule and, therefore, has not filed it, and, therefore, under the rules of the House, if they fail to file the rule before we adjourn today, they could not bring up their tax increase bill tomorrow, and we could not begin debate tomorrow.

So, while I will withdraw my reservation in just a moment, I want to make sure all my colleagues understand that we are having an opportunity to watch the process at work and that the rule, which I believe is remarkably one-sided in favor of the tax increase bill, will be brought in, and I look forward to hearing the comments of my good friend, the gentleman from Missouri [Mr. VOLKMER].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CUTTING TAXES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. VOLKMER] is recognized for 30 minutes.

Mr. VOLKMER. Mr. Speaker, while I have been here during special orders, I have heard described the Democratic proposals and also the President's proposal, and it just is not portrayed as I have studied it, and it does not appear to me that the proposals have been characterized properly. One of the things that has not been mentioned in the debate here in the special orders, either by the gentleman from Indiana [Mr. BURTON], the two gentlemen from Texas, Mr. DELAY and Mr. ARMEY), or the gentleman from Georgia [Mr. GINGRICH] is the question of the deficit.

Mr. Speaker, as my colleagues know, under the President's proposal there are tax cuts provided that reduce revenues to the U.S. Government. There are no proposals within that proposal that I know of that replace those revenues. But now I seem to understand how the gentlemen that are supporting the President's proposal would lead us to believe, that because of all these tax cuts we are going to have all these jobs, and because we have all these jobs, we are going to have the additional revenues that will equalize it.

Mr. Speaker, while I sat in the chair and thought about this, I just wondered why the President did not propose to cut taxes even further. Maybe we should cut it down to where nobody hardly pays any taxes because then we will have all this money out there, and we would be producing all these multitudes of jobs, millions and millions of jobs within a week or two, and we would have all this revenue coming in.

My colleagues, that is smoke and mirrors. That is not reality. That is trickle-down economics. What the Democratic proposal does, and all one has to do is read it and they will see it, is, yes, we propose tax cuts. We propose tax cuts for the middle income.

☐ 1820

But we also propose that we lose revenues as a result of that. We recognize that, and therefore we propose that we replace that revenue with other revenue and revenue from the wealthy, from those that have income over $200,000, from those millionaires who would get a 10-percent surtax.

They are the same ones that got the big tax breaks in 1981 and continued on through 1986. They are the ones that have not had their total tax increased as the middle class has in the same time period. While their taxes have been reduced, as the gentleman from Georgia [Mr. GINGRICH] pointed out, from 70 to 28 percent, from 70 to 28 percent, our middle-income people, because of increases in the Social Security tax, and even though their income tax may have been reduced a little bit, but with the Social Security tax going up, have actually had an increase.

So the wealthy have had the large, over a 50-percent tax cut in this timeframe, while those in the middle income, who we wish to give some tax relief to, have got a tax increase in that same period.

So we say yes, we are willing to follow the President and stimulate the economy with some tax cuts, but on the other hand, we are not willing to increase deficits to do it. We say that if we are going to reduce revenues through tax cuts, then in order to keep the deficits, and they are already too high, in order to keep them from escalating further, that we must replace that revenue, and we do not use smoke and mirrors.

Smoke and mirrors have been around the Congress and the administration for a long period of time. The first time in my memory that they were used effectively was when the former director of the Office of Management and Budget was a former Member of this body back in 1981 and then in 1982. It was with smoke and mirrors that we did the 1981 budget and the 1981 tax bill. It was through that period of smoke and mirrors that we have got us to where we are today. Today we do not have budget deficits of less than $60 billion.

I can well remember in the years before 1981, while I was here and there was a different person in the White House, we had budget deficits of $28 billion, $56 billion. We thought they were too high. I even voted against some of the budgets because that was too high a deficit.

As soon as we started the 1981 timeframe, we did not see ever again, and we have never seen again, budget deficits of less than $75 billion or even less than $100 billion. Now we are up over $400 billion, and what this administration is asking us to do again is to reduce revenues, reduce revenues again, increase the deficits in order to give the wealthy big tax breaks.

If we analyze the President's proposal, there is very little in there for those of income under $50,000. But there is a great deal in there for those over $200,000 and more. Those of over $200,000 or more are going to get tax breaks of thousands of dollars a year. They will get tax breaks as much or more than the middle income will earn in a year, actually earn, not pay taxes but earn in a year.

So to the middle income they say, "We will give you a small amount, but you are really going to get your breaks when the wealthy, the trickle-down theory, when the wealthy go out and give you a new job in this country with the factories they are going to build in Mexico and Taiwan and China."

Because that is what this administration has permitted the industrialists and others of this country to do. That investment has not come into this country. We do not see those manufacturing jobs being built by the industrialists, by the investors in this country.

If I really thought that many of these people that have all this wealth would invest it in this country and would create manufacturing jobs in this country, then I would be more inclined to think the way, perhaps, that the people on the other side of the aisle do. But that is not what I have been seeing lately. I see more jobs going to Mexico than are coming to Missouri. I see a lot more jobs going to Korea and Japan and other countries than I do coming to Illinois or Indiana or anyplace else.

By the way, just during the Presidents Day break I had a field hearing out in Indiana, the central part of it. While I was there I was reading the Kokomo Tribune paper, Kokomo, IN, and I was reading where General Motors, and General Motors has been a good company for the United States in the past but I question how much now, because I was reading about the Delco operation that they had there. General Motors was moving almost all of the assembly operation, guess where: Mexico, Mexico. Now we are going to give them more money to do that with?

Are the investors really going to be using their money to play more on the stock market? The stock market is looking real good for a lot of people these days. Is that where they are going to put their money? That does not create jobs.

Maybe somebody on the other side of the aisle could educate me how, if we give somebody another $50,000 instead of giving it to the Government for taxes for our programs, and we increase the deficit and we borrow the money from the Japanese or Germans or somebody else to pay for those bonds, but that person out there now has over millions of dollars already, he is going to take that $50,000 and he is going to come to Hannibal, MO, and build a plant and put my people to work? I do not think so. I really do not think that is what he plans to do with that money.

You say, "Well, if you take this money away from him with the surtax, if you take that away from him, he will not be able to build those plants and the factories and have those businesses again," perhaps not, but if he has enough income of $1 million he must have pretty many investments, or if he is like some of our athletes that make over $1 or $2 million, he is still going to have quite a bit left over. He is sure going to have a lot more left over than most of the people in my district make in a year. He is going to have left over a lot more than a lot of people make in a lifetime to invest.

I do not think that is going to stop him from investing. It might slow him down a little bit in buying or thinking of buying that newer yacht. Instead of having the one that costs a half a million dollars, he will start thinking about buying one that costs three-quarters of a million dollars, and instead of going $500,000 he will go to $750,000. It might stop him from doing that. That is really a pity. I feel sorry for him.

Or it might be that instead of having for himself and his wife a 15-room mansion, he has to live in a 10-room mansion; a 10-bedroom mansion, not a 10 room. I do not know of many mansions with 10 rooms.

□ 1830

It might make him slow down with those types of things. I do not think it really is hurting him as far as the necessities of life.

People poke fun at a $200 tax cut or a $400-a-year tax cut. It is not a great deal, I will admit, and it is not going to really help a lot of people a whole lot. But, folks, there are a lot of people in my district right now that I think would even stand in line if somebody would walk up to them tomorrow and say, "If you stand in line here for all day, I will give you $400, but you only get it a dollar and a half a day." I have got a lot of people that would take them up on that.

We do not even have to tell them to stand in line. They do not have to do anything. All it means is when they get their paycheck, they are going to get a little bit more money.

What is wrong with that? That means maybe they can pay their bills a little easier. It might mean they can maybe even take their kids to the movie. You know, they may not have that big yacht and that big mansion to worry about. They may not have to worry about whether they are going to spend the summer in the Caribbean and the winter somewhere else and part of the fall in France. They may not have to worry about whether they are going to have that money because the got a 10-percent surtax.

With that little bit of money they may be able to take their kids to the movie. They may be able to stop afterward and get an ice cream cone, because some of them right now cannot do that.

So it is not a lot of money. I do not think anybody here is going to stand here tomorrow or the next day and tell you that it is a whole lot of money and that it is going to enable anybody to go out and buy a new car. You cannot buy a new car for $400, everybody knows that.

Nobody is kidding anybody. You cannot tell me that there are not people out there that can use it, too.

So the Democratic tax bill may not be the best in the world, but it is sure a lot better than what the President proposes. At least we do not increase the deficit. At least we do not say well, $400 billion is not a bad deficit; let us put another $50 billion on a year. You know, what is $50 billion when you are up to $400 billion? Who cares.

I care. I think most of the Democrats care. We do not go on increasing the deficits. I say to you fellow Members of the House, that I want you to realistically look not just listen to what has been said here earlier this evening, but look at the proposals realistically. You tell me where you find in the President's proposal the methodology to increase the revenues to pay for the loss of revenues that he has in his proposal. I want to see those in black and white. I do not care to see it through smoke and mirrors. I do not want to see it with all those assumptions.

I can remember, as I said earlier, when this all started when the former Member of this House was OMB Director and we had that 1981 budget. Boy, did it have smoke and mirrors in it. It had assumptions that were written invalid from the get-go, as we say back home.

It had assumptions that, boy, with this type of budget, our GNP was going to be great. Interest rates were going to go down. We were going to have a real rapid GNP growth. We were not going to have unemployment. Everybody was going to be working. There was going to be no inflation. No, we were not going to have any inflation.

Not too many economists really believed that type of philosophy, that you can have a heated-up economy, a rapid growth in the economy, and still hold down interest rates and hold down inflation, and at the same time you have got 3- or 4-percent unemployment.

Come on, people, it does not work that way. If you put those other things in there, you are going to have higher interest rates, because you are going to have greater demand on the economy. Especially now, when most of the interest rates are low right now. But when this economy gets going and you get a demand for the money, I will guarantee you the interest rates are going to go up, especially with $400 billion a year deficits. That soaks up a whole bunch of money.

So, folks, I just want to say that I think everybody should look very well and not just listen to the oratory and descriptions of legislation, but look at the legislation itself. Just see what it says. Review it as what it is.

Mr. Speaker, at this time I would like to yield to the gentleman from Iowa [Mr. NAGLE].

Mr. NAGLE. Mr. Speaker, I would like to follow on the comments of the gentleman from Missouri [Mr. VOLKMER] and amplify, if I might, on my comment this morning.

While the gentleman from Missouri is still here, does the gentleman know what the President's submitted budget deficit is for this year?

Mr. VOLKMER. The best I can figure it, it is around $380 billion. But that is with their assumptions. If you discount some of their assumptions it is going to be well over $400 billion.

Mr. NAGLE. Am I correct, and I do want to come back to that, but am I correct that does not include the S&L bailout?

Mr. VOLKMER. That is correct.

Mr. NAGLE. And it does not include the Social Security trust fund.

Mr. VOLKMER. That is correct.

Mr. NAGLE. I had a figure when you added those two in of $500 billion. Is that correct?

Mr. VOLKMER. Yes.

Mr. NAGLE. What assumption is the administration making that you find particularly disquieting and difficult?

Mr. VOLKMER. The biggest one I find is in the GNP. I see us moving very slowly. I think now even most economists are saying that we are almost to a standstill. We are not going to see that growth in that GNP.

Mr. NAGLE. What was the GNP growth projections?

Mr. VOLKMER. I think it was up somewhere close to a 2.2-percent rate, which is slow anyway. But I do not see that movement at all in the economy. I do not think anyone does.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4210, TO PROVIDE INCENTIVES FOR INCREASED ECONOMIC GROWTH AND TO PROVIDE TAX RELIEF FOR FAMILIES

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 102–435) on the resolution (H. Res. 374) providing for the consideration of the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3844, HAITIAN REFUGEE PROTECTION ACT

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 102–436) on the resolution (H. Res. 375) providing for the consideration of the bill (H.R. 3844) to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti, which was referred to the House Calendar and ordered to be printed.

HOUR OF MEETING ON TOMORROW

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon tomorrow.

The SPEAKER pro tempore (Mr. COSTELLO). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

HOUR OF MEETING ON THURSDAY, FEBRUARY 27, 1992

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday, February 26, 1992, it adjourn to meet at 10 a.m. on Thursday, February 27, 1992.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ENGEL (at the request of Mr. GEPHARDT) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DOOLITTLE) to revise and extend their remarks and include extraneous material:)

Mr. BILIRAKIS, for 60 minutes, on February 27.

Mr. BEREUTER, for 5 minutes, today.

Mr. DELAY, for 60 minutes, on March 3.

Mr. SANTORUM, for 60 minutes, on March 4.

(The following Members (at the request of Mr. LIPINSKI) to revise and extend their remarks and include extraneous material:)

Mr. JONTZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. CLEMENT, for 60 minutes each day, on March 16 and 17.

Mr. OWENS of New York, for 60 minutes each day, on March 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, 30, and 31.

(The following Member (at the request of Mr. BURTON of Indiana) to revise and extend her remarks and include extraneous material:)

Ms. WATERS, for 60 minutes each day, on February 26 and 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DOOLITTLE) and to include extraneous matter:)

Mr. RHODES.

Mr. SOLOMON.

Mr. CAMP in two instances.

Mr. BEREUTER.

Mr. BAKER.

Mr. MICHEL.

Mr. LEWIS of California.

Mr. MILLER of Ohio in three instances.

Ms. ROS-LEHTINEN in five instances.

Mr. CUNNINGHAM.

(The following Members (at the request of Mr. LIPINSKI) and to include extraneous matter:)

Mr. BONIOR in two instances.

Mr. ROE.

Mr. HOYER.

Mr. TRAFICANT in two instances.

Mr. PICKLE in three instances.

Mr. CARDIN.

Mr. SKAGGS.

Mr. PANETTA.

Mr. DOWNEY.

Mr. LANTOS.

Mr. CLAY.

Mr. GUARINI.

Mr. LEVIN of Michigan.

Mr. HARRIS.

Mr. LIPINSKI.

Mr. MURTHA.

Mr. ERDREICH in two instances.

Mr. RICHARDSON.

Mr. TRAXLER.

Mr. MCNULTY.

Mr. ROYBAL.

Mr. SMITH of Florida.

Mr. BILBRAY.

Mr. SANDERS.

Mr. STARK.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 355. An act to provide emergency drought relief to the reclamation States, and for other purposes;

H.R. 476. An act to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes; and

H.R. 543. An act to establish the Manzanar National Historic Site in the State of California, and for other purposes.

ADJOURNMENT

Mr. DERRICK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 39 minutes p.m.) under its previous order, the House adjourned until Wednesday, February 26, 1992, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2865. A letter from the Secretary of Housing and Urban Development, transmitting a report on HUD research and development activities during fiscal year 1991, pursuant to Public Law 101-625, section 951(b) (104 Stat. 4417); to the Committee on Banking, Finance and Urban Affairs.

2866. A letter from the Secretary of Education, transmitting a notice of Final Priorities—Office of Indian Education: Planning, Pilot, and Demonstration Projects for Indian Children; and Educational Personnel Development, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2867. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a copy of the Energy Information Administration's Annual Energy Outlook for 1992, pursuant to 15 U.S.C. 790d(a); to the Committee on Energy and Commerce.

2868. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend title XIX of the Social Security Act to add requirements concerning health insurance of children by absent parents; to the Committee on Energy and Commerce.

2869. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Korea (Transmittal No. 8-92), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

2870. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Australia (Transmittal No. 07-92), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

2871. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Greece (Transmittal No. DTC-5-92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2872. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations covering the second half of October and all of November and December 1991, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

2873. A letter from the Secretary, Department of Commerce, transmitting the Export Administration's annual report for fiscal year 1991, pursuant to 50 U.S.C. app. 2413; to the Committee on Foreign Affairs.

2874. A communication from the President of the United States, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112(b); to the Committee on Foreign Affairs.

2875. A letter from the Secretary of Labor, transmitting a report of actions taken to increase competition for contracts during fiscal year 1991, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2876. A letter from the Chairman, U.S. Securities and Exchange Commission, transmitting a report of actions taken to increase competition for contracts during fiscal year 1991, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2877. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period October 1, 1991, through December 31, 1991, pursuant to 2 U.S.C. 104a (H. Doc. No. 102–194); to the Committee on House Administration and ordered to be printed.

2878. A letter from the U.S. Information Agency, transmitting a report on the official request from the Republic of El Salvador for emergency import restrictions on significant pre-Hispanic archaeological material, pursuant to 10 U.S.C. 2602(g)(1); to the Committee on Ways and Means.

2879. A letter from the Secretary of Labor, transmitting the quarterly report on the expenditure and need for worker adjustment assistant training funds under the Trade Act of 1974 for period ending September 30, 1991, pursuant to 19 U.S.C. 2296(a)(2); to the Committee on Ways and Means.

2880. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act to specify the purposes and duration of emergency assistance under part A of title IV; to the Committee on Ways and Means.

2881. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled, "Child Support Enforcement Amendments of 1992"; to the Committee on Ways and Means.

2882. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled, "AFDC Savings Set-Aside Amendments of 1992"; to the Committee on Ways and Means.

2883. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled, "Social Security Act Cross Program Recovery Amendments of 1992"; to the Committee on Ways and Means.

2884. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on various issues of the Safety Research Program of the Nuclear Regulatory Commission, pursuant to 42 U.S.C. 2039; jointly to the Committees on Energy and Commerce and Interior and Insular Affairs.

2885. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled, "Medicare Budget Amendments of 1992"; jointly to the Committees on Energy and Commerce and Ways and Means.

2886. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled, "Medicare Premium Equity Amendments of 1992; jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. House Resolution 374. Resolution providing for the consideration of the bill H.R. 4210, a bill to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families (Rept. 102–435). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. House Resolution 375. Resolution providing for the consideration of the bill H.R. 3844, a bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti (Rept. 102–436). Referred to the House Calendar.

Mr. BROOKS: Committee on the Judiciary. H.R. 3844. A bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti; with an amendment (Rept. 102–437). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. NUSSLE (for himself, Mr. DANNEMEYER, Mr. GOSS, Mr. CUNNINGHAM, Mr. ALLEN, and Mr. COX of California):

H.R. 4294. A bill to make applicable to the Congress certain laws relating to the terms and conditions of employment, the health and safety of employees, and the rights and responsibilities of employers and employees; and to repeal and prohibit certain privileges and gratuities for Members of the U.S. House of Representatives and for other purposes; jointly, to the Committees on House Administration, Ways and Means, Education and Labor, the Judiciary, Government Operations, and Post Office and Civil Service.

By Mr. NUSSLE (for himself, Mr. DANNEMEYER, Mr. GOSS, Mr. CAMP, Mr. ZELIFF, Mr. EWING, Mr. ALLEN, Mr. LIGHTFOOT, and Mr. COX of California):

H.R. 4295. A bill to provide that pay for Members of Congress shall be reduced whenever total expenditures of the Federal Government exceed total receipts in any fiscal year, and for other purposes; jointly, to the Committees on House Administration and Rules.

By Mr. NUSSLE (for himself, Mr. DANNEMEYER, and Mr. COX of California):

H.R. 4296. A bill to eliminate the franking privileges for the House of Representatives, to establish a spending allowance for postage for official mail of the House of Representatives and to limit the amount and type of mail sent by Members of the House of Representatives; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. NUSSLE (for himself, Mr. DANNEMEYER, Mr. CUNNINGHAM, Mr. ZELIFF, Mr. EWING, and Mr. COX of California):

H.R. 4297. A bill to provide for the adjournment of Congress by September 30 of each year; to the Committee on House Administration.

By Mr. AUCOIN (for himself, Mr. MILLER of California, Mr. DEFAZIO, Mr. HOAGLAND, Mr. HOCHBRUECKNER, and Mr. LEVINE of California):

H.R. 4298. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on cyanide used in mining and mineral activities and to use the revenues from such tax for environmental cleanup and other purposes; jointly, to the Committees on Ways and Means and Interior and Insular Affairs.

By Mr. BRUCE (for himself and Mr. JACOBS):

H.R. 4299. A bill to amend the Internal Revenue Code of 1986 in order to provide an incentive for business to invest in pollution abatement property and related assets; to the Committee on Ways and Means.

By Mr. VENTO (for himself, Mr. GONZALEZ, Mr. CONYERS, Mr. WAXMAN, Mr. KILDEE, Ms. OAKAR, Mr. SCHUMER, Mr. MFUME, Ms. SLAUGHTER, Mr. AUCOIN, Mrs. BOXER, Mr. BRUCE, Mr. CLAY, Mr. COSTELLO, Mr. COYNE, Mr. DE LUGO, Mr. DOWNEY, Mr. EVANS, Mr. FROST, Mr. FUSTER, Mr. GUARINI, Mr. HALL of Ohio, Mrs. KENNELLY, Mr. KOSTMAYER, Mr. LANTOS, Mr. LEHMAN of California, Mr. LEVINE of California, Mr. MARTINEZ, Mr. MAZZOLI, Mr. MCNULTY, Mr. MILLER of California, Mr. MOODY, Mrs. MORELLA, Mr. OWENS of New York, Mr. OWENS of Utah, Ms. PELOSI, Mr. RAHALL, Mr. RICHARDSON, Mr. SABO, Mr. SERRANO, Mr. WILLIAMS, and Mr. WYDEN):

H.R. 4300. A bill to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, Education and Labor, and Veterans' Affairs.

By Mr. DE LUGO:

H.R. 4301. A bill to provide airport and airway improvements for the U.S. Virgin Islands; to the Committee on Public Works and Transportation.

By Mr. GUARINI:

H.R. 4302. A bill to amend the Internal Revenue Code of 1986 to modify the treatment of certain higher education loans from qualified employer plans; to the Committee on Ways and Means.

By Mr. IRELAND:

H.R. 4303. A bill to amend title 10, United States Code, to reinstate the requirement that a competitive prototype program strategy be used in the development of a major weapons system; to the Committee on Armed Services.

By Mr. KANJORSKI:

H.R. 4304. A bill to amend the Internal Revenue Code of 1986 to enhance tax equity and fairness by imposing an alternative minimum tax on corporations importing products into the United States at artificially inflated prices; to the Committee on Ways and Means.

By Mr. LOWERY of California:

H.R. 4305. A bill to amend the Fair Labor Standards Act of 1938 to permit State and local agencies to adopt flexible and compressed work schedules; to the Committee on Education and Labor.

By Mr. MACHTLEY (for himself, Mr. KOPETSKI, Mr. PETERSON of Florida, and Mr. WISE):

H.R. 4306. A bill to amend title XVIII of the Social Security Act to exempt mental health services furnished to an individual who is a resident of a nursing facility from the limitation on the amount of incurred expenses for mental health services that may be taken into account in determining the amount of payment for such services under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MOODY:

H.R. 4307. A bill to amend the Internal Revenue Code of 1986 to apply the special valuation rules to grantor retained interest involving residential property other than a principal residence; to the Committee on Ways and Means.

By Mr. PENNY:

H.R. 4308. A bill to grant employees family and medical leave under certain circumstances and for other purposes; jointly, to the Committees on Education and Labor, Post Office and Civil Service, and House Administration.

By Mr. RHODES:

H.R. 4309. A bill to amend the Internal Revenue Code of 1986 to provide protection for taxpayers, and for other purposes; to the Committee on Ways and Means.

By Mr. HERTEL:

H.R. 4310. A bill to reauthorize and improve the national marine sanctuaries program, and to establish the Coastal Sanctuary Foundation; to the Committee on Merchant Marine and Fisheries.

By Mr. RICHARDSON (for himself and Mr. JOHNSON of South Dakota):

H.R. 4311. A bill to amend title XIX of the Social Security Act to provide for mandatory coverage of services furnished by nurse practitioners and clinical nurse practitioners under State Medicaid plans; to the Committee on Energy and Commerce.

By Mr. SERRANO (for himself, Mr. ORTIZ, Mr. MARTINEZ, Ms. ROS-LEHTINEN, Mr. ROYBAL, Mr. DE LA GARZA, Mr. DE LUGO, Mr. RICHARDSON, Mr. TORRES, Mr. BUSTAMANTE, Mr. FUSTER, Mr. PASTOR, Mr. MATSUI, Mr. CAMPBELL of Colorado, Mrs. MINK, and Mr. MINETA):

H.R. 4312. A bill to amend the Voting Rights Act of 1965 with respect to bilingual election requirements; to the Committee on the Judiciary.

By Mr. WYDEN (for himself, Mr. MARKEY, and Mr. DINGELL):

H.R. 4313. A bill to amend the Securities Exchange Act of 1934 to impose additional fraud detection and disclosure obligations on auditors of public companies; to the Committee on Energy and Commerce.

By Mr. NUSSLE (for himself, Mr. DANNEMEYER, Mr. GOSS, Mr. ZELIFF, Mr. EWING, and Mr. COX of California):

H.J. Res. 418. Joint resolution proposing an amendment to the Constitution of the United States limiting the number of consecutive terms a person may serve as a Representative or Senator, which shall be known as the Citizen Representative Reform Act New Blood Provision; to the Committee on the Judiciary.

By Mr. PAXON:

H.J. Res. 419. Joint resolution proposing an amendment to the Constitution of the United States providing for the recall of Senators and Representatives; to the Committee on the Judiciary.

By Mr. ROE:

H.J. Res. 420. Joint resolution designating February 14, 1993, through February 20, 1993, as "National Engineers Week"; to the Committee on Post Office and Civil Service.

By Mr. ROYBAL:

H.J. Res. 421. Joint resolution designating April 22, 1992 as "Earth Day"; to the Committee on Post Office and Civil Service.

By Mr. SCHEUER (for himself, Mr. ASPIN, Mr. WAXMAN, Mr. AUCOIN, Mr. MRAZEK, Mr. OWENS of Utah, and Mr. FEIGHAN):

H.J. Res. 422. Joint resolution designating May 1992 as "Neurofibromatosis Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H. Res. 373. Resolution returning to the Senate the bill S. 884; considered and agreed to.

By Mr. HEFLEY:

H. Res. 376. Resolution amending the rules of the House of Representatives to limit the availability of appropriations for office salaries and expenses of the House of Representatives to 1 year and to require excess amounts appropriated for that purpose to be used for open-market purchase of outstanding interest-bearing obligations of the Government; to the Committee on Rules.

By Mr. WELDON:

H. Res. 377. Resolution requiring that travel awards that accrue by reason of official travel of a Member, officer, or employee of the House of Representatives be used only with respect to official travel; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials where presented and referred as follows:

326. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the Steamtown National Historic Site; to the Committee on Interior and Insular Affairs.

327. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the Rural Health Care Initiative proposed by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

328. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the enactment of health care legislation; jointly, to the Committees on Energy and Commerce and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. WALSH, Mr. GILMAN, Mr. PAXON, Ms. ROS-LEHTINEN, Mr. DICKINSON, Mr. HANCOCK, Mr. FORD of Tennessee, Mr. JAMES, Mr. SISISKY, Mr. ESPY, Mr. SPENCE, Mr. BROOMFIELD, Mr. KYL, and Mr. FIELDS.

H.R. 53: Mr. KOPETSKI, Mr. JEFFERSON, Mr. WYDEN, Mr. WISE, Mr. GEREN of Texas, and Mr. NAGLE.

H.R. 110: Ms. DELAURO.

H.R. 187: Mr. SAWYER and Mr. NCNULTY

H.R. 394: Mr. SLATTERY and Mr. JAMES.

H.R. 406: Mr. BAKER.

H.R. 431: Ms. MOLINARI, Mr. HOPKINS, Mr. JEFFERSON, Mr. ROE, Mr. HATCHER, Mr. WISE, Mr. CARPER, Mr. PANETTA, and Mr. BEREUTER.

H.R. 481: Ms. SNOWE.

H.R. 565: Mr. BLAZ and Ms. NORTON.

H.R. 576: Mr. HALL of Ohio, Mr. RICHARDSON, Mr. WYDEN, Mr. LENT, Mr. CLINGER, Mr. BLILEY, Mr. FALEOMAVAEGA, Mr. KASICH, Mr. DORGAN of North Dakota, Mr. BOEHLERT, and Mr. BONIOR.

H.R. 643: Mr. BOEHNER.

H.R. 722: Mr. CONDIT and Mr. GILMAN.

H.R. 723: Mr. CONDIT and Mr. GILMAN.

H.R. 880: Mr. STAGGERS.

H.R. 951: Mr. LEVIN of Michigan.

H.R. 1007: Mr. RAMSTAD.

H.R. 1049: Mr. FEIGHAN, Mr. LIVINGSTON, Mr. LAGOMARSINO, Mr. ROTH, Mr. MARTINEZ, and Mr. MORAN.

H.R. 1067: Mr. WASHINGTON.

H.R. 1147: Mr. TOWNS and Mr. ORTON.

H.R. 1259: Mr. MAVROULES.

H.R. 1330: Mr. BUSTAMANTE.

H.R. 1422: Mr. MCCLOSKEY, Mr. TORRES, Ms. SLAUGHTER, Mr. PAXON, and Mr. ANDREWS of New Jersey.

H.R. 1473: Mrs. MEYERS of Kansas.

H.R. 1481: Mr. SUNDQUIST.

H.R. 1502: Mr. GREEN of New York, Mr. BLACKWELL, Mr. RUSSO, and Mr. SISISKY.

H.R. 1516: Mr. HUTTO, Mr. LIVINGSTON, and Mr. PETRI.

H.R. 1536: Mr. JEFFERSON, Mr. SARPALIUS, Mr. MINETA, Mr. HUGHES, and Mr. DORGAN of North Dakota.

H.R. 1566: Mr. FROST, Mr. RICHARDSON, and Mr. JONES of North Carolina.

H.R. 1628: Mr. GEJDENSON, Mr. GAYDOS, Mr. PERKINS, Mr. STOKES, Mr. BLACKWELL, Mrs. LLOYD, Mr. SANTORUM, Mr. LAUGHLIN, Mr. PANETTA, Mr. MCDADE, Ms. PELOSI, and Mr. SPENCE.

H.R. 1703: Mr. FASCELL.

H.R. 1704: Mr. SHAYS.

H.R. 1733: Mr. ECKART, Mr. STOKES, Mr. WALSH, Mr. WOLPE, and Mr. HOAGLAND.

H.R. 1870: Mr. YATES, Mr. STOKES, Mr. BUSTAMANTE, and Mr. DYMALLY.

H.R. 2070: Mr. GORDON, Mrs. MINK, Mr. HEFNER, Mr. MCMILLEN of Maryland, Mr. CALLAHAN, Mr. WHITTEN, Mr. BRYANT, Mrs. UNSOELD, Mr. WALSH, Mr. MCEWEN, and Mr. PRICE.

H.R. 2083: Mr. WOLPE.

H.R. 2108: Mr. GEJDENSON.

H.R. 2202: Mr. MARTINEZ.

H.R. 2214: Mrs. MEYERS of Kansas and Mr. RICHARDSON.

H.R. 2248: Mr. LEWIS of Florida, Mrs. UNSOELD, and Mr. JOHNSON of Texas.

H.R. 2259: Mr. RUSSO, Mr. SAVAGE, and Mrs. COLLINS of Illinois.

H.R. 2304: Ms. WATERS.

H.R. 2492: Mr. ANDREWS of New Jersey and Mr. KOSTMAYER.

H.R. 2567: Mr. BROWN.

H.R. 2591: Mr. TOWNS, Ms. NORTON, Mr. HOCHBRUECKNER, Mr. TRAFICANT, Mr. SMITH of Florida, Mr. FROST, Mr. FOGLIETTA, Mrs. LOWEY of New York, and Mr. DE LUGO.

H.R. 2598: Mr. MCGRATH.

H.R. 2632: Mr. HAYES of Louisiana.

H.R. 2668: Ms. OAKAR, Mr. SAWYER, Mr. OWENS of New York, Mrs. MORELLA, and Mr. MCCLOSKEY.

H.R. 2669: Ms. OAKAR, Mr. SAWYER, Mr. OWENS of New York, Mrs. MORELLA, and Mr. MCCLOSKEY.

H.R. 2726: Mr. TOWNS.

H.R. 2768: Mr. JENKINS.

H.R. 2774: Mr. EDWARDS of California, Mr. RANGEL, and Mr. PASTOR.

H.R. 2890: Mrs. MORELLA, Mr. ATKINS, Mr. STUDDS, Mr. STARK, Mr. OBERSTAR, Ms. SNOWE, and Mr. DORNAN of California.

H.R. 2966: Mr. CLAY and Mr. WILLIAMS.

H.R. 3089: Mr. DARDEN, Mr. HORTON, Mr. LAFALCE, Mr. ANTHONY, Mr. HATCHER, Mr. WALSH, Mr. JEFFERSON, Mr. BLILEY, Mr. EVANS, Mr. LANCASTER, and Mr. ESPY.

H.R. 3164: Mr. EDWARDS of Oklahoma, Mr. MCCLOSKEY, Mr. FROST, Mrs. UNSOELD, Mr. ROSE, Mr. CONDIT, Mr. ATKINS, Mr. RIGGS, Mr. NEAL of Massachusetts, and Mr. SENSENBRENNER.

H.R. 3277: Mr. RAMSTAD, Mr. WILLIAMS, Mr. FRANK of Massachusetts, Ms. PELOSI, Ms. NORTON, Mr. SAVAGE, Mr. MARKEY, Mr. MAVROULES, and Mr. MRAZEK.

H.R. 3285: Mr. DELLUMS and Mr. MCDERMOTT.

H.R. 3395: Mr. RANGEL, Mr. OXLEY, Mr. WALSH, and Mr. HEFLEY.

H.R. 3486: Mr. LEVINE of California.

H.R. 3553: Mr. BLACKWELL and Mr. DOOLEY.

H.R. 3571: Mr. CAMPBELL of Colorado, Mr. CHAPMAN, Mr. DEFAZIO, Mr. HORTON, Mr. HUGHES, Mr. JONES of North Carolina, Mr. NEAL of North Carolina, Mr. PENNY, and Mr. STEARNS.

H.R. 3578: Mr. SANDERS and Mr. RINALDO.

H.R. 3654: Mr. ANTHONY, Mr. BARTON of Texas, Mr. BILIRAKIS, Mr. BLACKWELL, Mr. BREWSTER, Mr. CALLAHAN, Mr. CAMP, Mr. CARDIN, Mr. CONDIT, Mr. CONYERS, Mr. COYNE, Mr. DORNAN of California, Mr. ENG-

LISH, Mr. EWING, Mr. FOGLIETTA, Mr. GRANDY, Mr. HERTEL, Mr. HUCKABY, Mr. KANJORSKI, Mr. KOSTMAYER, Mr. KLUG, Mr. LENT, Mr. LEVIN of Michigan, Mr. MCCOLLUM, Mr. MCNULTY, Mr. MATSUI, Mr. MILLER of California, Mr. MONTGOMERY, Mr. MURTHA, Mr. PACKARD, Mrs. PATTERSON, Mr. PRICE, Mr. PURSELL, Mr. SKELTON, Mr. STUMP, Mr. SUNDQUIST, Mr. SYNAR, Mr. TAUZIN, Mr. TRAXLER, Mr. VENTO, Mr. LAFALCE, Mr. PENNY, and Mr. SABO.

H.R. 3689: Ms. PELOSI and Ms. NORTON.

H.R. 3702: Mr. ANTHONY.

H.R. 3718: Mr. COSTELLO, Mr. DURBIN, and Mr. ROYBAL.

H.R. 3748: Mr. VENTO.

H.R. 3809: Mr. STARK, Mr. AUCOIN, and Mr. JACOBS.

H.R. 3832: Mr. DE LUGO.

H.R. 3838: Mr. FIELDS, Mr. ATKINS, and Mr. FOGLIETTA.

H.R. 3841: Mr. HARRIS, Ms. SNOWE, Mr. DERRICK, Mr. MCCRERY, Mr. PARKER, and Mr. RAY.

H.R. 3844: Mr. PALLONE.

H.R. 3949: Mr. KOPETSKI, Mr. FRANK of Massachusetts, Mr. CONYERS, and Mr. STAGGERS.

H.R. 3978: Mr. HALL of Texas, Mr. GUARINI, and Mr. BONIOR.

H.R. 4002: Mr. FEIGHAN, Mrs. BOXER, Mr. PALLONE, Mr. LANTOS, Mr. SOLARZ, Mr. CONDIT, Mr. PAXON, Mr. MCNULTY, Mr. VENTO, Mr. BERMAN, Mr. KOSTMAYER, and Mr. YATES.

H.R. 4013: Mr. COOPER, Mr. FEIGHAN, and Mr. VISCLOSKY.

H.R. 4023: Mr. STARK, Mr. HOCHBRUECKNER, Ms. MOLINARI, Mr. HUCKABY, and Mr. SANGMEISTER.

H.R. 4025: Mr. TRAXLER and Mr. ZELIFF.

H.R. 4051: Mr. FROST, Mr. HOUGHTON, and Mr. ERDREICH.

H.R. 4073: Mr. KENNEDY, Ms. WATERS, Mr. TORRES, Mr. NEAL of Massachusetts, and Mr. LAFALCE.

H.R. 4083: Mr. FOGLIETTA, Mr. TRAFICANT, Mr. KLECZKA, Mr. EMERSON, Mr. FEIGHAN, Mrs. COLLINS of Illinois, Mr. MCNULTY, Mr. VOLKMER, Mr. YATRON, Mr. TORRES, Mr. NOWAK, Mr. PASTOR, and Mr. LEHMAN of Florida.

H.R. 4086: Mr. HALL of Ohio.

H.R. 4100: Mr. HOCHBRUECKNER, Mr. WILLIAMS, Mr. WILSON, Mr. EDWARDS of Texas, Mr. JACOBS, Mr. BRYANT, Mr. NAGLE, Mr. RAHALL, Mr. YATRON, Mr. BORSKI, and Mr. KANJORSKI.

H.R. 4121: Mr. ZELIFF.

H.R. 4122: Mr. PERKINS, Mrs. MINK, Mr. MARTINEZ, Mr. WASHINGTON, Mr. FLAKE, Mr. SERRANO, Mr. RANGEL, Mr. OLVER, and Mr. EVANS.

H.R. 4158: Mrs. BOXER.

H.R. 4166: Mr. HATCHER and Mr. SOLOMON.

H.R. 4169: Mr. ATKINS, Mr. NATCHER, and Mr. COSTELLO.

H.R. 4178: Mr. MILLER of California and Mr. DELLUMS.

H.R. 4183: Mr. ANTHONY.

H.R. 4190: Mr. RAHALL, Mr. ALLARD, Mr. KOSTMAYER, Mr. ENGLISH, Mr. LAGOMARSINO, and Mr. BRUCE.

H.R. 4194: Mr. EWING and Mr. MCDADE.

H.R. 4196: Mr. BEVILL, Mr. SKEEN, Mr. GINGRICH, Mr. JOHNSON of South Dakota, Mr. BREWSTER, Mr. WILSON, Mr. HATCHER, Mr. HOLLOWAY, Mr. KLECZKA, Mr. BILIRAKIS, Mr. GOSS, Mr. RAY, Mr. GEKAS, Mr. ERDREICH, Mr. CRAMER, Ms. SNOWE, Mr. HANCOCK, Mr. SAXTON, and Mr. DORGAN of North Dakota.

H.R. 4206: Mr. LAGOMARSINO, Mr. NEAL of Massachusetts, Mr. SHAYS, Mrs. UNSOELD, Mrs. BOXER, Mrs. MINK, and Mr. HUGHES.

H.R. 4220: Mr. MCCLOSKEY and Mr. ECKART.

H.R. 4224: Mr. BALLENGER, Mr. PORTER, Mr. KLUG, Mr. DORNAN of California, and Mr. ZELIFF.

H.R. 4229: Mr. FRANK of Massachusetts.

H.R. 4243: Mr. SYNAR, Ms. SLAUGHTER, and Mr. LAFALCE.

H.R. 4271: Mr. LOWERY of California and Mr. SANGMEISTER.

H.R. 4277: Mr. TOWNS, Mr. TORRES, and Ms. HORN.

H.J. Res. 27: Mr. GILLMOR.

H.J. Res. 351: Mr. KOSTMAYER, Mr. LEHMAN of Florida, Mr. HUGHES, Mrs. PATTERSON, Ms. PELOSI, Mr. HOCHBRUECKNER, Mr. BEILENSON, Mr. MORAN, Mr. MRAZEK, Mr. LAFALCE, Mrs. BOXER, and Mr. WAXMAN.

H.J. Res. 402: Mr. ALLEN, Mr. EMERSON, Mr. TRAFICANT, Mr. MURPHY, and Mr. PICKETT.

H.J. Res. 407: Mr. TRAXLER, Mr. MAVROULES, Mr. MCMILLAN of North Carolina, Mr. DARDEN, Mr. MCGRATH, Mr. SARPALIUS, Mr. BOUCHER, Mr. HUGHES, Mr. WALSH, Mr. GONZALEZ, and Mr. ANDERSON.

H.J. Res. 411: Mr. WALSH, Ms. NORTON, Mrs. ROUKEMA, Mr. LAGOMARSINO, Mrs. LOWEY of New York, and Mr. MATSUI.

H.J. Res. 414: Mr. VANDER JAGT, Mr. HORTON, Mr. OWENS of Utah, Mr. SCHUMER, Mr. ACKERMAN, Mr. RITTER, Mr. LEHMAN of Florida, Mr. GILLMOR, Mr. SHAYS, Mr. SOLARZ, Mr. DE LUGO, Mr. DORNAN of California, Mr. FASCELL, Mr. ERDREICH, Mr. GORDON, Mr. PAXON, Mr. SOLOMON, Mr. TOWNS, Mr. KOSTMAYER, and Mr. MURPHY.

H. Con. Res. 192: Mr. CHANDLER, Mr. ATKINS, Mr. LANTOS, Mr. JOHNSTON of Florida, Mr. FASCELL, Mr. IRELAND, Mr. SCHEUER, Mr. HUGHES, Mr. ECKART, Mr. YATRON, Mr. LAFALCE, Mr. COYNE, Mr. FEIGHAN, Mr. TRAFICANT, and Mr. JENKINS.

H. Con. Res. 239: Ms. ROS-LEHTINEN and Mr. HOYER.

H. Con. Res. 263: Mrs. MORELLA, Mr. CARPER, and Mrs. SCHROEDER.

H. Con. Res. 264: Mr. ROHRABACHER, Mr. LAFALCE, and Mr. HUGHES.

H. Con. Res. 266: Mr. GILMAN, Mr. KOPETSKI, Mr. ANDREWS of Maine, Mr. RANGEL, Mr. LEVINE of California, Mr. MCHUGH, Mr. JONES of Georgia, Mr. MCDERMOTT, Mr. SANDERS, and Mr. PASTOR.

H. Con. Res. 272: Mr. MCMILLEN of Maryland, Mr. ACKERMAN, Mr. LEWIS of Florida, Mr. ROYBAL, Mr. LEVINE of California, and Mr. MANTON.

H. Con. Res. 274: Mr. POSHARD, Mr. JONES of North Carolina, Mr. TAYLOR of North Carolina, Mr. GOSS, and Mr. TOWNS.

H. Con. Res. 277: Mr. WALSH, Mr. BROOKS, Mr. STENHOLM, Mr. BRYANT, Mr. COMBEST, Mr. GEKAS, Mr. LAUGHLIN, and Mr. ORTIZ.

H. Res. 271: Mr. SANDERS and Mr. MFUME.

H. Res. 322: Mr. JEFFERSON, Mr. TORRES, Mr. GLICKMAN, Mr. GALLEGLY, Mr. MCCLOSKEY, Mr. MILLER of Washington, and Mr. MURPHY.

H. Res. 332: Mr. SHAYS and Mr. EWING.

H. Res. 359: Mr. LEVINE of California.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Res. 194: Mr. CHAPMAN and Mrs. LLOYD.

EXTENSIONS OF REMARKS

THE PEACE PROCESS IN EL SALVADOR

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. McNULTY. Mr. Speaker, one of my constituents, Sister Jane Brooks, CSJ, was kind enough to send me a very important article entitled, "The Peace Process in El Salvador (A Hermeneutic of Suspicion)," by the Reverend Daniel Santiago, which appeared in the publication America on January 11, 1992. I would like to insert this article in the CONGRESSIONAL RECORD.

THE PEACE PROCESS IN EL SALVADOR (A HERMENEUTIC OF SUSPICION)

(By Rev. Daniel Santiago, a Catholic priest working in El Salvador)

On Feb. 11, 1990, the Salvadoran Air Force bombed Corral de Piedra, a small community of returned refugees in the Province of Chalatenago. The attack proceeded thus: At about 8:30 in the morning three Huey helicopters commenced strafing Corral de Piedra with machine-gun fire. They then let loose a barrage of rockets against the village and its environs. Later two A–37 Dragonfly airplanes dropped eight bombs on Corral de Piedra. The attack lasted one hour.

Three houses received direct hits. The corrugated metal roofs and adobe walls offered minimal protection against flying shrapnel. Four children and one adult died immediately. Seventeen others required hospitalization for wounds sustained in the attack. The most horrible sight greeting the survivors was the lacerated and crushed body of two-year-old Blanca Guardado enveloped in the arms of her dead father, Jose.

The survivors who were ambulatory organized an evacuation of the wounded to the city of Chalatenango. During this evacuation the Air Force returned with two C–47 Dakotas and again strafed the village.

Corral de Piedra is not an extraordinary case. The list of massacres and attacks against defenseless civilians is a long one. As the Government of El Salvador and the Salvadoran resistance, the F.M.L.N. (Farabundo Marti National Liberation Front), intensify their negotiations for a cease-fire it is important to recall these victims and the reason they died: Mogotes, 31 killed; Guazapa, 34 killed; Armenia, 23 killed; Mozote, 800 killed; San Antonio Abad, 35 killed; San Jose de Las Flores, 57 killed; Sumpul River, 600 killed; Los Cerros de San Pedro, 300 killed.

The special, U.S.-trained Atlacatl Battalion has its own list of massacres: Tenango and Guadalupe, 150 killed; Tenancingo, 50 killed; Copapayo, 118 killed; Las Piletas, Gualsinga River, 34 killed. At times the Atlacatl has joined forces with the Belloso Battalion—San Carlos Lempa, 25 killed; Los Llanitos, 68 killed. The Atlacatl also participated in Operation Phoenix on Guazapa volcano where 245 civilians, mostly women and children, were killed. On Nov. 16, 1989, soldiers of the Atlacatl Battalion entered the Jesuit University of Central America and brutally killed six priests, a housekeeper and her daughter.

Salvadorans long for assurances that these massacres will end. They know it is not enough to sign a document saying "the Armed Forces and the F.M.L.N. will respect human rights." Such assurances have been offered in the past. Called, variously, "messages," "symbols, " "indications" and "signs of peace," they have been ineffectual. Massacres are not the cause of El Salvador's problems, they are a consequence of larger injustices. The dialogue for peace must address the underlying causes of the conflict as well as their consequences.

Some claim that the Armed Forces of El Salvador kill only for the pleasure of killing, because they are evil. This is an expression of the "Black Legend," the most ubiquitous interpretation for Latin American history heard in the United States. It goes like this: Killing is a Salvadoran cultural trait. Salvadorans are a naturally violent people. They are hot-headed, hot-blooded and lacking any appreciation for democracy, human rights and peaceful mediation of differences.

On the contrary, military actions in El Salvador, like that at Corral de Piedra, are acts of terrorism. They are planned and executed in order to maintain the Salvadoran system of agricultural production by terrorizing the population and guaranteeing a ready and cheap supply of labor. The proof of this contention is, quite literally, evident across the Salvadoran landscape.

From early November until late January, in early mornings and late afternoons, Salvadoran highways are choked with lines of peasants—men, women and children—trekking to the plantations to pick coffee and cotton and to cut sugar cane.

Each coffee worker carries a basket and tumpline. These are not happy peasants, like the Juan Valdez of commercial fame. The children are malnourished and exhausted. The adults appear haggard. Coffee picking is tiresome work with little economic reward.

During these months, bales of cotton line the sides of the coastal highways. One can see lean-tos set among the cotton fields, temporary homes for the seasonal workers toiling under the sun.

Sugar cane is cut by hand. Sugar cane also cuts, lacerating the hands and arms of the men and women who wield machetes. Children haul the cane to waiting trucks. Exhausted after a few hours work, they cannot pause to rest except at designated periods. The flow of profit cannot be disrupted.

The coastal highways are very dangerous during harvest time. Trucks brimming with sugar cane race from field to crusher and from crusher to refinery. Profit rules in El Salvador. There is no concern for the safety of the workers. These trucks are piled so high they often fall over, killing people on the road. All spew toxic fumes. This is harvest time in El Salvador.

The three main export crops—cotton, sugar and coffee—must be harvested in November, December and January. All are labor intensive and require very little labor during the rest of the year. A lack of available labor during these months would mean losing the crop and thus El Salvador's second-largest source of foreign capital after the United States' contribution to the war effort. If the majority of people were gainfully employed in a stable economy, there would be no workers for the harvest. The Salvadoran export economy, therefore, depends as much on seasonal unemployment and underemployment (from February until October) as on available labor from November until January.

The wages from the harvest are low and are used to purchase clothing or shoes for the children and possibly a few Christmas presents. The peasants are paid piecemeal and by the end of the harvest many workers spend more on the costs incurred to pick coffee than they earn. Why would they continue to work? For the coffee pickers, gleaning rights belong to those who stay for the whole harvest. Also, some plantations refuse to rehire peasants who work only during the more profitable early part of the season.

The export economy of El Salvador is weakened by competition from crops cultivated for local consumption. The staples of the Salvadoran diet are corn and beans. Corn is planted, usually on leased land, in early May. The corn ripens in August and some is harvested. The majority of the corn cobs, however, are snapped while on the stalk, allowed to dry in the field and picked throughout October, November and December. Thus El Salvador's three main export crops—its source of foreign capital—and its two, important domestic crops—the dietary staple of the poor—are all harvested in the same season. The corn and bean harvests are more important to the peasant than the coffee, cotton and sugar harvests. The motivation to pick coffee is undermined, not only by low wages, but by the relative lack of importance of the crop in the life of the poor.

Salvadoran peasants have long realized how easy it would be to demand higher wages if they were organized. If workers had the right to organize and to strike, the agricultural economy would favor workers over producers. Coffee beans, for example, ripen at different times throughout the harvest, and the export-quality beans must be picked before they fall to the ground. A two-week strike would cost the landowners early. If there are no pickers, there is no harvest. If there is no harvest, there is no foreign exchange for the government and oligarchy.

Until El Salvador diversifies its economy and restructures the relationship of the workers to the landowners, allowing greater participation from all levels of society in decision making, it will be torn by civil and class war.

THE HISTORY OF THE SYSTEM

How did El Salvador's economy develop in such a precarious fashion? Soon after the conquest, the central region of El Salvador was organized in colonial plantations that grew trade crops of balsam, cacao and indigo. But partly as a consequence of isolation, large-scale development was delayed. The Spanish permitted the Indians to maintain much of their traditional system of commercial lands. Nuclear families kept gardens close to home for fresh fruits and vegetables. Large, extended families used fields for com-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

mon grazing, cultivation of staples and some crops for sale. The extended families adopted a saint as protector and used the saint's feast day as an annual celebration and opportunity to review communal leadership.

Central America became independent from Spain in 1821. A loose Central American Union floundered until 1839, at which time El Salvador and the other countries of Central America became separate. During these years the landed ologarchy initiated efforts to dissolve the Indian communal lands and in 1833 suppressed an uprising under Anastasio Aquino.

In mid-century, the Government secured most of its operating revenue from export taxes on indigo. A decline in demand for indigo led the oligarchal families to propose full-scale privatizing of the Indians' communal lands, so as to increase export production. This "bouregeois revolution" culminated in the Constitution of 1886 [discussed in America, 9/24/91]. Large tracts of once communal land, used for internal production, were turned over to cash crops—indigo, cotton, sugar and coffee. The Indians were required to lease lands from the new landowners. The Indians' only source of cash was to work as seasonal laborers on the newly enlarged plantations. The oligarchy explained this as bringing El Salvador into the modern world. The poor and Indians saw it as land theft, reducing the majority of Salvadorans to serfdom and installing a feudal economy over Salvadoran society. The Indians again rebelled but were crushed.

Peasant subservience to the landowner was assured through the local militias. Terror kept the workers from organizing. Landowners lent workers to each other as if bartering in slaves. This system functioned until 1932, when the rural Indian population in the western part of El Salvador and workers in the capital rose against the landowners. The military crushed this uprising, killing 30,000 Indians. The Great Killing, as it is called, transformed the regional militias into a national institution and gave the military a key role in Salvadoran social life, which it still plays today.

In the late 1970's the working classes of El Salvador again organized to demand higher wages and land reform. The landowners and military responded with the same brutal efficiency. In 1980 the United States, under the Reagan Administration, replaced the Salvadoran oligarchy as the chief patron of the Salvadoran Armed Forces. With this exception, little has changed in El Salvador since the "liberal reforms" of the late 19th century that dissolved the communal lands.

A RATIONALE FOR WAR

Which brings us back to Corral de Piedra. Why did the Salvadoran Air Force strike this small settlement with such ferocity on Feb. 11, 1990? Why kill Jesuit priests, Archbishop Oscar Romero, American nuns, tens of thousands of civilians?

Corral de Piedra is an agricultural cooperative. A review of massacres and invasions over the past 12 years shows that cooperativists have been prime targets for attacks by the Salvadoran Armed Forces. A cooperative is a self-sufficient, agro-economic model of development. Corral de Piedra is not a direct economic threat to the oligarchy. It subverts the economy, however, in that it is a model for economic self-sufficient cooperative, even one that is very poor, does not provide labor for the annual harvest.

This helps account for the massacre of the Jesuits. Many in the Christian base communities, cooperatives and unions saw the Jesuits' deaths as an attack on economic and social-self sufficiency among the poor. The Jesuits still work openly and alongside the poor to undermine class dependency and institutionalized poverty. In this they are subversive of the economic status quo.

Oscar Romero was an economic subversive. He advocated programs like land reform that would have given the poor economic stability. A stable, economic base for El Salvador is contradictory to the interests of the landowners.

Archbishop Rivera Damas is subversive in this way. Under his leadership the Social Secretariat of the Archdiocese has started a credit union program for small communities. Communities are given a small amount of capital to allow them to create a middle-interest account. They are allowed to keep this capital if the community invests. People who are saving money do not have to borrow at 20 percent interest to buy seed and fertilizer. If poor communities do not need the seasonal work in order to support the cost of planting their staple corps, the export corps would not be harvested.

Ironically, even capitalism is subversive to El Salvador's feudal economy. The oligarchy and military do not want to see an expanded middle class in El Salvador. Competition would force prices down and reduce the oligarchy's profit margin.

Until the conditions of dependency and institutionalized poverty change, the peace process and dialogue between the F.M.L.N. and the Government of El Salvador mean little. On the other hand, when cooperativists, like those from the Good Shepherd Agricultural Cooperative in Aguilares, can report that they are raising chickens and selling eggs on the open market without fear of reprisal from the large egg-producers, we will know that peace is coming to El Salvador.

When unions, like Fenastras, can organize and negotiate wages without their members being beheaded and their offices blown up, we will know that peace is coming to El Salvador.

News of a peace accord is a sign of hope. But El Salvador is a land of crushed hopes and there is ample cause for suspicion. As the Government and the F.M.L.N. were negotiating in New York, Mirtala Lopez, a courageous Salvadoran who works with the Christian Committee for Displaced People of El Salvador, received five successive death threats from the Anti-Communist Society of El Salvador. These threats were accompanied by a candle dripped in blood and a five colon donation for a coffin. Shortly after, Mirtala came to the United States to speak about her experience. Despite the danger to her life she decided to return to El Salvador. Bishop Thomas Gumbleton of Detroit, Patrick McManamon, S.J., of the Detroit Province of the Society of Jesus, Alice Fairchild, O.P., a Dominican from New York, and two congressional aides—Hector Lucena from the office of Thomas Foglieta (D., Ohio) and Karen Masterson from the office of Tony Hall (D., Ohio)—volunteered to accompany Mirtala to El Salvador. All were denied visas by the Salvadoran Minister of the Exterior. Mirtala Lopez has good reason to be dubious whether justice is really coming to El Salvador.

The Armed Forces could easily manipulate the F.M.L.N. into an armed confrontation. The political space that has appeared in recent years in El Salvador is not the result of altruism on the part of the oligarchy and military. It grew, to a large extent, because of the sustained military effectiveness of the F.M.L.N. For the F.M.L.N. to agree now to a cease-fire and enter the political struggle is a serious risk. A cease-fire would surely make the front pages of the international newspapers. When the F.M.L.N. endorses candidates for elected office in El Salvador, this too will make news, although the back pages. But what would be the news-value of the following succession of events; if the Minister of the Interior deports the international church-workers and human rights advocates; if the government reneges on its agreed-upon reform of the Armed Forces; if the Anti-Communist Society acts on its promise to kill Mirtala Lopez; if selected leftist candidates meets with accidents?

El Salvador has already ceased to be news. Renewed outbreaks of killing would receive very little attention in the United States, if any. Yet the F.M.L.N. would respond to such attacks. Caches of arms buried in abandoned wells and grenades hidden in volcanic ravines would be retrieved. Some efforts to organize would take place, and a general call for an insurrection would be made. And there would be a great killing of the poor, the Christian base communities, unions, and grass-roots, human rights groups.

A massacre of the poor could take place without help from the United States, for the Armed Forces of El Salvador have not always relied on U.S. patronage. The State Department may even object to the killing, but it certainly would not intervene to protect the poor. The important question is, how would the North American people respond?

TRIBUTE TO RICHARD "FOXY" MARSHALL

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Richard Foxy Marshall for his outstanding achievements as head football coach of Portsmouth High School.

Since his arrival at Portsmouth High School in 1985, Foxy Marshall has won three State titles and has never had a losing season. With those State titles, Foxy Marshall has become the first coach in Rhode Island interscholastic football history to win championships in Rhode Island's three football divisions: B, C, and the newly formed championship division, which contains the top football schools in Rhode Island.

An enthusiastic coach, Foxy, is a role model to the players he coaches. After suffering a heart attack, Foxy returned to the game with the same vigor and enthusiasm he has always displayed.

Foxy Marshall came to Portsmouth in 1985, after coaching football at Warren High School and at Roger Williams College in Bristol. Foxy was a police officer for the town of Bristol for 23 years before retiring as a captain in 1989.

I sincerely congratulate Richard "Foxy" Marshall of all his recent achievements. You have proved to be a role model both on and off the field to the young men you coach. I wish him success in all his future endeavors.

NISHA HITCHMAN SELECTED AS 1992 McDONALD'S BLACK HISTORY MAKER OF TOMORROW

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, Ms. Nisha Hitchman of Miami Norland Senior High School was selected as 1 of the 10 1992 McDonald's Black History Makers of Tomorrow. The McDonald's Black History Makers of Tomorrow program is a salute to educational excellence, high moral character, and student leadership shown among America's high school juniors. The students are recognized both for present accomplishments and for their expected positive impact on our Nation. The energetic idealism of the 10 national winners and 5 semifinalists represent grand hope for our Nation's future. The program is sponsored by McDonald's for the purpose of highlighting talented minority youth and that of providing positive role models.

Ms. Hitchman's résumé is replete with academic honors and student involvement. She currently attends Miami Norland Senior High School where she is active in the school newspaper, the Calculus Math Team, Mu Alpha Theta, Junior Committee, Inter-Club Council, National Honor Society, softball, English Honor Society, Top Teen of America, and Campus Life. Ms. Hitchman plans to serve as a page in the Florida State Legislature this spring.

The winners were selected based on submission of an application, school transcripts, letter of recommendation, and a 500 word essay titled "How I Plan to Make an Impact on Black History." McDonald's received more than 1,000 essays from high school students nationwide. Nisha and the other nine winners recently traveled to Washington, DC, from February 19 to 22 to attend the McDonald's Leadership Conference and had the honor of participating in a live taping of Black Entertainment Television's [BET] Teen Summit on February 22.

In her noteworthy essay, Ms. Hitchman wrote:

> I plan to make an impact on black history by living free and giving others the courage to be free. . . . The path I have taken to be mentally free is that of realizing my uniqueness, yearning for quality education, being determined, and having the intent of teaching others how to be totally free.

I wish her much success in her effort to use the dynamic force of liberty in those around her, and challenge her peers to strive for excellence as well.

I commend Ms. Hitchman on receiving this impressive national award. She has already accomplished many impressive things and I am confident her future will bring great things as well. I also thank Ms. Barbara W. Gothard, the president of the Gothard Group, a public relations firm in Miami, for getting the story of Ms. Hitchman's accomplishment out to the south Florida community.

FORMER CONGRESSMAN JOSEPH FISHER, GENTLEMAN, LEGISLATOR

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. PICKLE. Mr. Speaker, last week we lost one of our finest colleagues, Congressman Joseph Fisher of Virginia. Those of us who have served with him recognize Joe Fisher as one of the most honorable and talented Members who ever served.

Always polite and gentlemanly, yet always full of insight and integrity, Joe Fisher was a public servant in the best sense of the word. The Washington Post captured the essence of this splendid gentleman and his service, and I ask that it be reprinted in the CONGRESSIONAL RECORD as follows:

JOSEPH L. FISHER

Joseph L. Fisher was not a feature writer's dream. The most vivid adjectives applied to him in the papers were "mild-mannered," "soft-spoken" and, in later years, "gray" and "grandfatherly." But as even the journalists who thus caricatured him knew, there was a lot more to Joe Fisher than that. He commanded enormous respect—in county government, state office and Congress—because he combined a first-rate intellect with a strong commitment to principle. He didn't have to be loud to be listened to, and although he had a knack for compromise and conciliation, he could also—in things that counted—be very determined.

In 1968, for example, he and two other members of the Arlington County Board secured passage of Virginia's first open housing ordinance, despite a Republican walkout and some strenuous opposition from the county prosecutor. Six years later, he took on Rep. Joel Broyhill, an institution in Northern Virginia's 10th District who had rolled over one strong challenger after another. What most considered to be an impossible quest became even more impossible when Mr. Fisher threw his back out in the middle of the campaign and had to seek votes for a time in great pain and in a wheelchair. Even his friends were urging him to pull out, but instead Mr. Fisher pulled off a stunning upset, ending Mr. Broyhill's congressional career after 11 terms.

Mr. Fisher, who died Wednesday at the age of 78, was one of the postwar generation of government leaders who saw this metropolitan area whole and worked to knit its cities, towns and counties together through various forms of regional cooperation. A respected economist and a World War II veteran, he gained election to the Arlington board in 1964, and while there also served as chairman of the metropolitan transit agency and the Council of Governments. After three terms in Congress, he wound up his public career in Gov. Charles S. Robb's cabinet as secretary of human services. It was there that state Sen. Edward E. Wiley—no great admirer of Northern Virginia—appraised Mr. Fisher's performance in terms that could be applied to just about all his works. "Joe's a fine gentleman," he said, "doing a superb job."

TRIBUTE TO CORTLAND BANKS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Cortland Banks in my 17th Congressional District of Ohio which is celebrating its 100th anniversary this year.

Mr. Speaker, in these troubled times of bank failures and lending crises, it gives me great pride to honor an independent local bank that has grown prudently and safely for the past 100 years. Over its lifetime, Cortland Banks have survived no less than seven national recessions and the Great Depression. During the periods of economic boom, the Cortland Banks resisted the temptation to outgrow its original purpose to serve its Mahoning Valley depositors. Founded by William H. Wartman, the Cortland Banks have added nine branches to its original in Cortland, OH. Cortland Banks now has offices in Brookfield, Vienna, Bristolville, Windham, Hiram, Williamsfield, Manuta, and Hubbard.

Mr. Speaker, it is with great pleasure that I rise today and pay tribute to the Cortland Banks on its centennial.

RESCUING THE U.S. SAVINGS BOND PROGRAM

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. MURPHY. Mr. Speaker, today I rise to demand the U.S. Treasury reverse a recently implemented policy regarding U.S. savings bonds. No longer is it possible to walk into a bank, and simply purchase a bond. We are now required to fill out an application and submit it to the bank before receiving the actual savings bond in the mail. Implemented in the name of cost savings, this streamlining policy will, I predict, do serious harm to a popular Government savings program.

Throughout the years of this program's existence, purchasing a U.S. savings bond has been the ideal gift. Over the years I myself have purchased bonds for numerous children, nieces and nephews, and now grandchildren. Speaking from past experience, I believe that giving a child a U.S. savings bond, conveys to them a certain sense of maturity and responsibility. As bondholders they could share the same pride that adults had in their Nation and the value of hard work. Americans have always held the belief that patience and perseverance pays off in the end. Watching a bond grow to maturity taught young people this valuable and vital lesson.

Now, unable to purchase a savings bond upon demand, I am concerned that people will simply be deterred from buying them. Call me old fashioned, but people do not trust what they cannot see, and do not have faith in what they cannot hold. Now it will be simpler to write a check as a gift. They are easy to cash and even easier to spend. One more tradition to help American children learn the values of thrift, patience, and perseverance, sacrificed at the expense of Government efficiency policies.

I can only hope that the Treasury will reverse this decision. Americans are now desperately looking to Washington for leadership. Telling them one more time that even simple requests, like buying a U.S. savings bond, will require filing an application and dealing with Washington's monstrous bureaucracy is the wrong message to send to our citizens. Let's throw the average citizen, already drowning in a hostile sea of Government rules and regulations, a lifeline. Let us demand that the Treasury reverse this policy.

CONGRESSMAN KILDEE SALUTES GARNETT NELSON JACKSON

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. KILDEE. Mr. Speaker, I rise today to ask you and my fellow Members of Congress to join me in saluting a great American, Garnett Nelson Jackson. She has dedicated her life to what I consider to be the most noble of occupations—teaching. Garnett Jackson's accomplishments have been a great source of pride to me, both as her Congressman and as her colleague, being a former teacher myself.

Ms. Jackson was born in New Orleans, LA. The second child of three girls, Garnett is the product of a private and Catholic school education. Garnett Jackson earned a bachelor of arts degree in education from Dillard University in New Orleans. Formerly employed with the U.S. Postal Service, Ms. Jackson is currently a kindergarten teacher at Civic Park and Coolidge Elementary Schools in Flint. She has one child, Damon Jackson, a graduating senior from Flint Central High School.

Garnett Nelson Jackson's outstanding ability to educate others transcends the title of "teacher." her achievements in the field of education have received national recognition. She is a recipient of the National Association for the Advancement of Colored People [NAACP] Harambee Medal. This award is given to African-Americans who inform and enlighten the community. Ms. Jackson also received the 1991 Dorothy A. Evans Educator of the Year Award from the NAACP-Flint branch.

A noted author, Garnett Jackson has published several books under the series title, "African Like Me." The book series targets African-American children ages 4 through 8 and is designed to promote positive self-awareness through the study of important historical figures. The titles include, "I Am An African-American Child," "The Little African King, King Tut," "Benjamin Banneker and His Wooden Clock," "Frederick Douglass, Freedom Fighter," and "Phyllis Wheatley, Poetess." Additionally, Garnett Jackson has a column that appears weekly in the local daily newspaper, the Flint Journal, and writes for a local African-American newspaper, the Flint Editorial.

Garnett credits her many accomplishments to her mother, Carrie Sherman. Ms. Sherman not only instilled in her children a respect for truth and honesty, she also taught them to always stand up for their beliefs and to be true to themselves. To Ms. Sherman, words were not enough. She knew that for her children to internalize these values, she must set the example. Carrie Sherman blazed a path for her three daughters, including Garnett, by becoming a successful businesswoman owner of a grocery store, barber shop, and ice cream shop. With such an outstanding foundation to build upon, it was inevitable that Garnett Jackson would become the outstanding citizen we know today.

Mr. Speaker, it is my belief that the role of government is to promote, protect, defend, and enhance human dignity. If our Government is to fulfill this role, it certainly needs the support of educators such as Garnett Nelson Jackson whose life has been dedicated to a series of struggles to promote and enhance human dignity. She exemplifies all that is good about being an American and I am proud to have the opportunity to represent her.

TRIBUTE TO LARRY BERMAN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Larry Berman on being named the "Young Citizen of the Year," an award by the Woonsocket Jaycees.

During the past 4 years I have spent in public life, I have become well acquainted with a wide variety of people who interact with my office on a daily basis. I am consistently impressed with the level of commitment and effort demonstrated by so many of them.

However, I must agree with the Woonsocket Jaycees that there are some people among us whose dedication and hard work stand out from the crowd.

You are clearly one of those special persons, Larry.

As Assistant managing editor of the Woonsocket Call, your commitment to delivering the truth to your readers day in and day out stands second to none.

The highest standard of fairness and accuracy have been the hallmarks of your management of the Call's news content.

In addition to your commitment to the paper, you have somehow found the time to give back to your community in numerous other endeavors.

Your work with the budding young journalists in the local schools, commitment to commerce development in the city, and assistance in planning and fundraising for annual events are extraordinary examples of your commitment and dedication to improving the quality of life for the Greater Woonsocket area.

I share with the entire Woonsocket community in extending congratulations to you on this most worthy award. I wish you continued success in all your future endeavors.

TRIBUTE TO SAINT XAVIER UNIVERSITY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. LIPINSKI. Mr. Speaker, on May 1, 1992, Saint Xavier College of Chicago will become Saint Xavier University. I rise today to recognize the students and faculty of this academic institution and to congratulate the entire Saint Xavier community on this special occasion.

Saint Xavier College was founded in 1846 by the Sisters of Mercy and chartered by the State of Illinois with the power to grant degrees in 1847. Since that time, it has grown to offer a diverse curriculum including 30 undergraduate majors and 19 graduate programs in the areas of arts and sciences, business, education and nursing.

The change in name is an accurate representation of the Saint Xavier of today. Saint Xavier is a private Catholic university with a tradition of academic excellence. Its outstanding faculty is committed to teaching, scholarship and service to the community. Saint Xavier has developed into both an urban and international university serving the diverse educational needs of over 3,700 students from Chicago's southwest side as well as centers in Orland Park, IL, Paris, and Milan.

As Saint Xavier College becomes Saint Xavier University, I urge my colleagues to join me in saluting this fine academic institution. Its history and accomplishments should serve as a model for colleges and universities throughout the Nation. I join the Saint Xavier community in looking to the future and all the accomplishments it will bring.

CONGRATULATIONS LITHUANIA

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. BONIOR. Mr. Speaker, I am proud to support House Concurrent Resolution 239. The people of Lithuania deserve to have a resolution congratulating them for their successful and peaceful revolution.

Recently, we celebrated the 74th anniversary of Lithuania's declaration of independence on February 16, 1918. For 22 years, Lithuania enjoyed independence until Hitler and Stalin agreed to the treacherous Molotov-Ribbentrop Pact. From then on, the people of Lithuania endured over a half century of repression under Communist dictatorship.

Over the past few years, Sajudis led a nonviolent movement for democracy. These efforts bore fruit on March 11, 1990 when the newly elected parliament declared the restoration of Lithuania's independence.

However, the trials of the Lithuanian people continued. In January last year, Soviet troops launched a bloody assault against Vilnius. By the thousands, Lithuanians bravely defied the Soviet tanks. The actions of the Lithuanian people were a crucial turning point in the defeat of communism. Freedom loving people around the world continue to draw inspiration from these events.

I am proud that the United States never recognized the illegal Soviet annexation of Lithuania and the Baltic States. Our patient and principled stand helped lead to the demise of communism. Over the past few years, we have witnessed the triumph of freedom in Eastern Europe. We can all rejoice that Lithuania and the Baltic States were finally able to restore their independence.

I would like to express solidarity with the Lithuanian people who have sacrificed so much for the cause of freedom.

ELECTION YEAR SOLUTIONS, LONG-TERM PROBLEMS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. ANDERSON. Mr. Speaker, our country is mired in the longest recession since the Great Depression. Nearly 9 million Americans are unemployed. Housing starts are at their lowest level since 1945. Business failures are at an all time high, causing job insecurity even among those who are employed. People are looking toward Washington for solutions to their economic problems. Unfortunately, they find a Government whose actions are constrained by a nearly $400 billion budget deficit. Meanwhile, the economy inches toward recovery, even as we are faced with long-term, structural problems that prevent the resurgence of America as the world's premier economic power.

Most economists agree that the economy will fully recover from the recession by mid-1992. The Congressional Budget Office [CBO] estimates economic growth of 5.2 percent over the next 2 years without Government intervention. But since this is an election year, Democrats and Republicans have offered plans to fix the economy with a fiscal stimulus. The Republican plan centers on a capital gains tax cut. The Democrat's alternative is a tax cut for the middle class. These proposals threaten to embroil the Democrat-controlled Congress in a bidding war with the President to determine who is the party of least responsibility. Neither plan will provide a short-term stimulus to the economy. Both are inadequate to meet the economic demands of the 21st century.

To the extent that additional tax revenues or spending cuts can be found, they should not be squandered on a politically expedient tax cut. They should be used to reduce the deficit and meet pressing domestic problems that inhibit economic growth. These deep-seated problems, including a lack of spending on education, investment, and infrastructure, will linger long after the recession is over unless we act with an eye toward the future.

Congress should also focus on measures to increase our national savings rate. Economists have all pointed to our dismally low savings as the greatest impediment to our economic growth, with our high Federal budget deficit a contributing concern that drags down long-term investment. Consumers have renewed their commitment to saving and reduced spending to pay off the historically high levels of debt accumulated in the 1980's. While increased saving has caused short-term pain in the form of dampened consumption, it is essential to long-term growth. Enacting tax cuts ignores this long-term prescription for recovery by focusing on short-term consumption.

Tax cuts will be ineffective in the short term because they have little effect on consumer spending. A tax cut of $400 for a family is too little; an extra dollar a day will not stimulate a family to spend more money. Now they are also too late. Last month Americans spent more money and increased home purchases. Consumer spending rose without the benefit of a tax cut because of reduced personal debt levels. Even if the tax cuts were timely, polls show that consumers would use additional revenue to further reduce their personal debt level. While reducing debt and increasing savings should be encouraged, giving families tax cuts to accomplish these goals would increase public debt, thereby canceling the benefits of increased personal savings.

The President's capital gains tax cut will, like middle-class tax cuts, exacerbate the budget deficit without providing fiscal stimulus to the economy. While its exact budgetary implications are disputed, the Joint Committee on Taxation estimates that the President's proposal will lose $15.4 billion over the next 6 years. To compound its negative fiscal impact, the benefits of a capital gains tax cut will disproportionately flow to wealthy Americans, those who need a handout from the Government the least after receiving most of the income gains of the 1980's. Those who have incomes over $200,000, will receive an average tax cut of $19,000. At the same time, those in middle-income tax brackets will receive, on average, only $200. A capital gains tax cut at this juncture provides little relief to middle-income Americans who have been hard hit by the recession. I have supported a capital gains tax cut in the past, because I believe the Tax Code should stress investment, but the President's proposal neither addresses the short-term needs of most Americans nor the specter of our unbridled deficit.

Increasing budget deficits will add to the long-term economic problems of our country. There is direct causal relationship between how much the Federal Government goes into debt and the interest rate we pay on our outstanding debt. Financial markets are sure to panic if the Government breaks the fiscal restraints of the budget. This will drive up interest rates. Higher interest rates dampen home sales, vital investment in plants and equipment, and decrease exports by artificially strengthening the dollar. This will cost the average American far more than he or she will gain through a politically popular tax cut. Lower interest rates will allow Americans to reduce their mortgage payments, care payments, and payments on their student loans. This will give the middle class money in the long run without increasing our budget deficit.

Congress is elected by the people to represent their best interests, both short and long term. Yet during the time I have represented my constituents, debt levels have soared. We cannot let election year pressures obscure our view of the future. Even without tax cuts, budget estimates for the next 10 years project deficits bottoming out at $156 billion in 1996, but rising to $303 billion in 2001. We simply cannot run annual budget deficits in the hundreds of billions of dollars. There is a saying in the Navy that the commander is responsible for what happens during his watch. My last act as a Member of Congress will not be to exacerbate the deficit problem and threaten this Nation's long-term prosperity. We have passed too many bills onto our children. Short-term fixes, while effective in campaigns, do not address systemic and fundamental problems that only add to our long-run economic and budget problems. We must separate election year politics from sound policy in crafting economic policy.

I am in the enviable position where, unlike that of my colleagues, the winds of political expediency blow less strong. Immune from these pressures, I am absolutely free to pursue the responsible, if not politically popular, course of action. Growth, with fiscal responsibility, will guide my actions during the 102d Congress.

OLGA MIYAR, HONORED PRINCIPAL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Olga Miyar, who has been honored by the Dade County Public School System as being one of its best administrators. She was one of seven candidates to be chosen to compete for an award.

As principal of Auburndale Elementary, Ms. Miyar strongly believes that recognition motivates her young students to learn and encourages parental involvement. She was recently featured in the Miami Herald for her extraordinary dedication and commitment to education. The article "Auburndale Principal 'Never Wants to Leave'" by Jon O'Neill reveals why she is so admired and loved by students and colleagues. The article follows:

> Olga Miyar knows all about the three Rs. But the Auburndale Elementary principal has added two more of her own: Recognize and Reward.
>
> Miyar believes this concept not only motivates kids to learn, but keeps parents involved with the school as well.
>
> "It works for everyone, even me." she said. "I enjoy being recognized, too."
>
> And so she is. Miyar, 47, is the region IV nominee for the 1991-92 Principal of the Year.
>
> "She really runs a terrific school," said Region IV Superintendent Carol Cortes. "There are so many facets to it and she manages to blend them all together. Auburndale is the kind of school people are always trying to transfer into."
>
> Parent involvement is one reason the school is successful. Auburndale, at 3255 SW Sixth St., has 1,054 students and consistently ranks among the highest in average attendance and school volunteers.
>
> "It's like a family here," said second-grade teacher Marlene Rodriguez. "The kids really look up to her, and she used her own experience to help me get started. She's accessible

and helpful to everyone. I don't know how she has the energy to do what she does."

Miyar says she makes a point of communicating with teachers, parents and students to make them feel they are a part of the school.

"I want to empower people," Miyar said. "My mission is help our students achieve."

To Miyar, that means all students, including the 150 kids who attend the exceptional Education Center there, recognized as one of Dade's best.

She also helped bring Auburndale into the age of technology. The school has a new computer lab, uses video discs for music lessons and is getting computers in each classroom.

Miyar has also added personal touches to her work. She loves pink, and the color is everywhere. Her office is painted "School Board pink," and festooned with pink ribbons. The school mascot is a pink panther.

"Pink is a very soothing color," she said. "It gives off a special glow."

Miyar was born in Cuba and came to Miami in 1961. She has a bachelor's degree in education and a master's in administration and supervision from the University of Miami.

In 1968, she started teaching at Coral Way Elementary, three blocks from where she lived. In 1970, she went to Douglass Elementary. Since then, she has taught or held administrative posts at six other schools. She came to Auburndale five years ago.

Miyar makes no bones about her goal;

"I want to be a legend in this community. I don't even want to leave Auburndale."

Mr. Speaker, I commend Olga Miyar for her outstanding achievements as teacher and administrator. Her devotion to education is an inspiration to all teachers and principals in Dade County and around the Nation.

IN HONOR OF DR. JOSEPH MASTROMONACO, SR., BAYONNE UNICO'S MAN OF THE YEAR

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. GUARINI. Mr. Speaker, I ask you and my distinguished colleagues to join me in saluting Dr. Joseph Mastromonaco, Sr., who has been named "Man of the Year" by the Bayonne chapter of Unico National.

Dr. Mastromonaco will be honored as "Man of the Year" during a gala dinner this Saturday evening at the Ukrainian National Home in Bayonne, which is my congressional district.

Matthew Guerra, president of the Bayonne chapter of Unico, recently announced the selection of Dr. Mastromonaco as "Man of the Year," noting his accomplishments in the medical field and his more than 50 years of service to the community of Bayonne.

Dr. Mastromonaco was born and bred in Bayonne, taking his education at St. Mary's School and then at Bayonne High School. He attended Gettysburg College and then did graduate work at New York University. Following this, Dr. Mastromonaco journeyed abroad, receiving his M.D. from the University of Rome, Italy and the University of Bologna, Italy in 1935.

Despite the time he spent away from his home studying and preparing for his career, Dr. Mastromonaco always planned to return to his home in Hudson County, NJ. Following his graduation in Italy, he took a rotating internship at the Jersey City Medical Center, where he stayed for 2 years.

In 1938, Dr. Mastromonaco returned to his home in Bayonne as a doctor at Bayonne Hospital. This marked the beginning of an illustrious 48-year career at the hospital.

While practicing at Bayonne Hospital, Dr. Mastromonaco also undertook numerous positions in the public sector. From 1938 until 1946 he was the city physician for Bayonne. During World War II, he was a civilian medical officer for the U.S. Army's Manhattan project. From 1946 until 1948, Dr. Mastromonaco was the medical inspector for the Bayonne Board of Education.

Following this period of service, the doctor took a leave from the public sector. In 1959, he was named a fellow of the International College of Surgeons, and in 1960 was named a fellow of the American Society of Abdominal Surgeons.

In 1962, Dr. Mastromonaco returned to serve the city of Bayonne as the director of health and welfare. He served in this post for 17 years, and from 1976 until 1979 was also health officer.

During his tenure as director, the department established community health programs such as the Free Screening Clinic for Cancer, Heart Disease and Hypertension; the Pre-Natal and Child Health Care Clinic at the Bayonne Hospital; the Drug and Alcohol Abuse Program; the Bayonne Mental Health Center; the Senior Citizens Nutrition Program; the Bayonne Community Day Nursery and many other programs.

Dr. Mastromonaco also became the first director of the department to be licensed as a health officer by the State of New Jersey.

Upon his retirement in 1979, then-Mayor Dennis Collins honored him by declaring June 20, "Dr. Joseph Mastromonaco Day."

In 1985, Dr. Mastromonaco received the Golden Merit Award from the Medical Society of New Jersey for his completion of 50 years as a practicing physician.

In addition to the aforementioned activities, Dr. Mastromonaco is also a member of the Hudson County Medical Society, the Medical Society of New Jersey, the American Medical Association, the Royal Arcanium, and is a past president of the Bayonne chapter of Unico National.

Mr. Speaker and my distinguished colleagues, Dr. Mastromonaco is a man truly deserving of our praise and thanks for his dedication to improving the quality of life for the residents of Bayonne. I know this august body will want to join me, Dr. Mastromonaco's wife Elinor, his four sons, Vito, Joseph Jr., Edward, and Thomas, along with his 13 grandchildren in congratulating him on being named "Man of the Year" and thanking him for a job well done.

ALLISON WINS DAYTONA 500

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. ERDREICH. Mr. Speaker, I rise today to congratulate two of Alabama's most distinguished citizens. On Sunday, February 16, Davey Allison of Hueytown, won the 34th annual Daytona 500. Just 4 years ago, Davey's father, Bobby, became the 30th winner in the annual NASCAR event. With Davey's win Sunday, the Allisons became only the second father and son team to win at Daytona.

Bobby and Davey are two outstanding representatives of Alabama and both are proud to be members of the "Alabama Gang."

In the Sixth District, and throughout Alabama, we are proud of the Allisons and the contributions they have made to our State. These two men are outstanding role models and are to be commended for their achievements in the auto racing world.

Mr. Speaker, I can safely say if Congress were able to move as fast as these two men, most of our problems would be small ones. Just so, like these two, we move in the right direction.

TRIBUTE TO ROGER C. MARKELL

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a fine individual from the community of Midland, MI.

Mr. Roger C. Markell was born in Holt, MI. After graduating from high school he served in the Army until 1946. Upon leaving the Army he returned to the Lansing area and worked in area dairies until deciding to attend Michigan State College in 1949.

He graduated from Michigan State in 1952 with a bachelor of science degree in recreation. While he was in college he worked for both the Lansing Recreation Department and the Lansing YMCA.

Roger joined the Midland Community Center in 1952 as the men's and boy's athletic director. He was named executive director of the center in 1978, after serving as assistant director and associate director of the center. He has remained director for the past 13 years.

During this time Mr. Markell has helped to build the center into a place where people go to relax, compete, make friends and have fun. He has seen the location of the building change, and the area more than double in size. It has been called a polished gem of the community, and he certainly is responsible for a large part of that gem.

Roger is married to Elizabeth June Harris, and they have seven children. He is involved with the community in many other ways, including the Midland Rotary Club, as former chairman of the Adult Education Advisory Council and as a senior warden at the St. John's Episcopal Church.

Roger Markell will be retiring on April 30, 1992. Mr. Speaker, I know that you will join with me in commending this outstanding individual for the service he has provided to the community for the past 39 years. He will be sorely missed.

C.B. SMITH, SR., PHILANTHROPIST AND FRIEND

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. PICKLE. Mr. Speaker, at the beginning of World War II, the president of General Motors appointed young C.B. Smith to the War Production Board where he served with great distinction.

After the war, he became directly involved with General Motors and began an outstanding career as president of the Texas Automobile Leaders Association.

But his outstanding achievement may well be termed in the gifts he gave to his alma mater, the University of Texas. He was a devoted friend of Walter Prescott Webb, committed a good portion of his life to honoring the memory of this outstanding individual where he established a chair of Walter Prescott Webb. His gifts to the University of Texas will be remembered forever.

It was my privilege to count him as one of my early friends whose steadfast loyalty and support lasted all these years. He was a hard driving, successful businessman, but a benefactor of the arts and humanities whose contributions will last forever.

Mr. Speaker, I include a reprint of the life of this good man for the CONGRESSIONAL RECORD.

BUSINESSMAN, DONOR C.B. SMITH, 88, DIES

C.B. Smith Sr., business leader and philanthropist, died Tuesday. He was 88.

Born in West Texas in 1903, Smith came to Austin to attend the University of Texas as a junior after two years at Arlington Junior College, a branch of Texas A&M. At UT, Smith earned bachelor's and master's degrees in history and political science.

The medal-winning track and field athlete spent two years coaching at Houston Junior College (now the University of Houston) before beginning a long and profitable business career in the automotive industry.

In 1941, he was named by the president of General Motors to the War Production Board in Washington, D.C. His performance there won him the Distinguished Service Award.

He later served as president of the Texas Automobile Dealers' Association and was Dealer Advisory Council chairman.

Smith, was chairman of the Austin Chamber of Commerce and president of the Austin Area Economic Development Foundation. He was a co-founder of the Headliners Club, served on the vestry of Episcopal Church of the Good Shepherd, and served on the boards of Brackenridge Hospital, St. Stephen's School, St. Andrews's School and MBank.

Smith. a lifelong friend of Walter Prescott Webb, donated the Walter Prescott Webb papers to the Texas State Archives and sponsored the Walter Prescott Webb Lecture Series at the University of Texas at Arlington.

At UT-Austin, Smith contributed to both academic and athletic programs. As co-founder to UT's Track and Field Club, he sponsored the writing and publishing of the first in-depth history of track and field in America, and he funded a similar publication on UT baseball. He was co-founder and first president of the Longhorn Hall of Honor.

Smith founded Texas Books for Texas Libraries, was a founder of the Chancellor's Council and chaired and participated in numerous other organizations benefiting the university.

To commemorate Webb, Smith established the Walter Prescott Webb Chair in History and Ideas at UT, which now is endowed at $1 million.

Smith is survived by his son, D.B. Smith, Jr., of Friday Harbor, Wash.; two daughters, Doris Smith Jones of Flower Mound and Johanna Louetta Smith of Austin; and seven grandchildren and 13 great-grandchildren.

Services will be Saturday at 2 p.m. at the Episcopal Church of the Good Shepherd, 2206 Exposition Blvd., with burial at Austin Memorial Park. Weed-Corley Funeral Home is handling arrangements.

TRIBUTE TO THE INTEGRITY OF ERIC APPLE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. TRAFICANT. Mr. Speaker, today I rise to honor Eric Apple, a very commendable young person from my 17th District of Ohio. The hard work and dedication Eric has put into researching American history, especially U.S. Presidents, has brought him to the attention of First Lady Barbara Bush.

Indeed, it was a surprise when Eric's parents, Les and Bonnie Apple, received a phone call last month from a member of Barbara Bush's staff, who personally invited Eric's family to meet with the First Lady in Washington. The invitation came as a reply to a photograph Eric sent to Mrs. Bush of a display devoted to her efforts that he created for the Girard Free Library.

Eric, who is a graduate of Liberty High School, admires Barbara Bush for her caring, motherly demeanor and her extensive work with literacy and disabled students. His parents and grandmother, Sally Chudakoff, have also been staunch admirers of the First Lady.

I rise today, Mr. Speaker, to commend Eric Apple on this well-deserved recognition by the White House. May he continue to be rewarded for all of his future intellectual pursuits.

TRIBUTE TO SUSAN HAGER'S ELECTION AS THE 1992 PRESIDENT OF NATIONAL SMALL BUSINESS UNITED

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. IRELAND. Mr. Speaker, I want to take this opportunity today to congratulate Susan Hager, cofounder and president of Hager Sharp Inc., on being elected the 1992 president of National Small Business United. I also want to commend outgoing NSBU president, George Abbott of Omaha, NE, for his fine work on behalf of small businesses nationwide during the past year.

I am especially pleased to see Susan taking the helm of NSBU because of my experience in dealing with her, as well as with John Paul Galles and all of the very capable staff of National Small Business United. Susan's skills and experience in running a successful business here in Washington, DC, coupled with her dedication to the cause of small business, make her the perfect spokesperson for NSBU's strong advocacy role in important small business issues.

In addition to having served for many years on the NSBU board of trustees, Susan Hager is a founding member and past national president of the National Association of Women Business Owners. She has served as chair of the Treasury Department's Small Business Advisory Council, and is a former member of the Small Business Administration's National Advisory Council.

A veteran defender of small business issues and concerns, Susan was a delegate to the White House Conference on Small Business in both 1980 and 1986. Through her public relations firm, Susan also played a big role in assuring that the Small Business Administration, targeted for elimination in 1986, today maintains its critical role as the voice of small business within the executive branch.

At a time when such watershed issues as health care availability, access to credit, growth and job creation all hinge on small business' ability to generate the economic steam that will power our Nation into the 21st century, it is a great pleasure for me to know that Susan Hager will be speaking out this year on behalf of NSBU's 60,000 small business owners and its network of regional small business organizations.

CONGRESSMAN KILDEE HONORS LLOYD BURLEY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the House of Representatives to join me in paying tribute to Lloyd Burley who has served for 25 years as a dedicated public servant of the people of Marathon Township. Lloyd is retiring from the Marathon Township Board due to his lengthy battle with cancer. His peers and those he served so well will surely feel the loss of this truly inspiring individual.

In addition to his accomplishments as a community leader, Lloyd has also distinguished himself in agricultural pursuits. In 1977, he was honored for his outstanding farming achievements by being named Lapeer County's Dairyman of the Year. He is past president of the Lapeer County DHIA, former chairman of the Marathon Township Agricultural Stabilization and Conservation Service Community Committee, and has served on the soil conservation district board, the Farm Bureau's Dairy and Livestock Board, and with the 4–H Program.

Lloyd is one of those fine people you meet in life who is honest, unselfish, fair, and endowed with common sense. A testament to these qualities is the manner in which Lloyd has distinguished himself in every task he has undertaken. Everyone who has been touched by this extraordinary individual knows the loss the Marathon Township Board will soon experience. While he will be missed, those familiar with Lloyd know that he will continue to inspire, enhance, and contribute to all the lives he touches.

Mr. Speaker, it is indeed an honor and a pleasure for me to rise before the House of Representatives to pay tribute to Lloyd Burley. He has served tirelessly for his community for over two decades. I urge my colleagues to join me in commending Lloyd on the occasion of his retirement. His selflessness has touched the lives of countless people and continues to serve as a beacon of bright hope for our entire community.

A SPECIAL TRIBUTE TO THE HEBREW ACADEMY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. STOKES. Mr. Speaker, I am pleased to rise today in recognition of the 49th anniversary of the Hebrew Academy of Cleveland. In honor of this momentous occasion, a celebration banquet will be held on Sunday, March 1, 1992, at the Sheraton City Centre in Cleveland. At that time, Hebrew Academy president Louis Feig and others will highlight the achievements of this great organization. I am proud to pay tribute to the Hebrew Academy and I would like to share with my colleagues some historical information on the academy.

It was during the turmoil of World War II in 1943 that Telsche Yeshiva and leaders of the Jewish Community Federation banned together to open the Hebrew Academy, the first Jewish day school to operate in the Cleveland area. The founders of the academy recognized the need for a center designed to nurture the development of leaders in the Jewish community.

Over the years, the academy has helped children become teachers, rabbis, doctors, lawyers, and leaders. The facility is fully chartered by the Ohio Department of Education and serves children between the ages of 3 and 18. Currently, Rabbi N.W. Dessler serves as educational director for the academy.

Through the financial support of the Jewish Community Federation, more than 4,000 young men and women have been able to graduate from the academy. These individuals have, through their day school experiences, developed into pillars of society and positive role models. In addition, many have been able to journey to Israel and share their knowledge and skills. Their achievements are a strong reflection of the success of the Hebrew Academy.

During the 1991 school year alone, the academy is serving more than 750 students. Just recently, President Feig and his staff extended their arms to more than 120 Soviet children who recently arrived in the Cleveland area. The willingness to reach out to those in need beyond our borders is further evidence of the academy's unselfish commitment and its continued following of Telsche Yeshiva's teachings.

Mr. Speaker, the Hebrew Academy is recognized for the phrase "A people survives so long as it transmits its heritage from one generation to the next." The day school teaches its students about the Jewish religion, reminds them of their past, and prepares them for the future.

The academy has much to celebrate as we glance back over the years. I invite my colleagues to join me today in this special salute to the Hebrew Academy.

THE 74TH ANNIVERSARY OF ESTONIAN INDEPENDENCE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. BONIOR. Mr. Speaker, I'd like to join millions of freedom loving people around the world in celebrating the 74th anniversary of Estonian independence. On February 24, 1918, Estonia proclaimed independence which it enjoyed until Hitler and Stalin agreed to the treacherous Molotov-Ribbentrop Pact. Soviet troops soon occupied and forcibly annexed Estonia. From 1940 on, Estonia suffered terribly under Soviet imposed Communist rule.

I am proud that the United States never recognized the Soviet annexation of Estonia and the Baltic States. Our patient and principled stand helped lead to the demise of communism and freedom for the Baltic States.

Over the past few years, we have witnessed the triumph of freedom in Eastern Europe. We can all rejoice that Estonia and the Baltic States were finally able to restore their independence following the failed August coup.

Today, Estonia faces tremendous challenges to complete the transition to a free and independent state. The ratification of a new constitution promises to usher in further democratic changes. In addition, the upcoming elections for the national assembly promise to help stabilize the internal political situation.

I'd like to express solidarity with the Estonian people who have sacrificed so much for the cause of freedom.

THE TRIBUTE TO YOUNG AMERICA PROGRAM

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. PORTER. Mr. Speaker, I want to take this opportunity to draw the attention of the Members of this body to an important program that is an excellent example of the type of innovative cooperation between the business and education communities that is necessary to our Nation's future strength.

Mr. Speaker, the future of America rests with our young people. To succeed, America's youth must be provided with the tools to make a difference, and our most valuable tool is education.

Our cities and towns, as well as the Federal Government, have long been responsible for providing education and training for our children. As we look to the future, however, the business sector can and must provide additional educational opportunities. That is why I am so impressed by one such successful business-education partnership—the Tribute to Young America Program, sponsored by Discover Card Services, Inc., which is located in my congressional district.

The Tribute to Young America Program offers America's youth a variety of programs that provide both the resources and the skills necessary to allow high school students to continue their education. The cornerstone of this effort is the Tribute Award Scholarship Program for high school juniors. Developed in conjunction with the American Association of School Administrators, the Tribute Awards recognize students' academic achievement, leadership qualities, dedication to the community, and unique endeavors and experiences. The scholarships total $750,000 with individual awards of up to $22,500.

State Tribute Award winners will be announced in mid-April of this year, with the national winners being honored at a ceremony here in Washington, DC, on June 17. I urge all Members to recognize and pay tribute to the nearly 5,000 students vying for Tribute Award scholarships. All of these young people should be commended for their ambition and will to succeed. I look forward to the opportunity to honor the national winners in June, and send our Nation's future leaders forward to a successful and rewarding educational experience beyond high school.

Mr. Speaker, the Tribute to Young America Program exemplifies the commitment by corporate America to our educational system and our children, setting a fine example for how business and education can work together for the common good of America's youth. I ask my colleagues to join me in honoring this program, and the scholars it helps produce.

SHARON McGEE, DADE SUPER TEACHER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, every school district has those teachers who stand out. Ms. Sharon McGee is clearly one of these exceptional educators. She presently devotes herself to the Emerson Elementary School in Miami where she teaches gifted children who need special help. The Miami Herald recently recognized her as one Dade County's super teachers in an article by staff writer, Jon O'Neill. That article follows:

In Sharon McGee's class at Emerson Elementary nothing is taken for granted.

McGee, 42, teaches gifted students who need special help. Some students have behavior problems and others have attention disorders. Although the class is small—only 10 kids—it can be trying.

But the rewards are great, said McGee, a teacher for 13 years: "These are the neatest kids. When you see them starting to open and make progress, when they start realizing they can be successful, it's the greatest feeling."

The special gifted classes at Emerson, 8001 SW 36th St., are the only ones in Dade and include 20 kids who come from as far away as Perrine and Hialeah. McGee designed the program, which started three years ago, and teaches students in first through fourth grades.

"She's wonderful," principal Carol DeLaurier said. "She gives 150 percent all the time and if you need her for something, she's there."

McGee uses "anything that works" to reach her special group of kids. All are inteligent, but most have problems with their confidence and self-esteem.

"I've had students who wouldn't even put their names on a paper," McGee said. "So my first goal is to show them they can be successful. You have to prove that to them and then build on it."

McGee uses a point system to reward her students for turning in quality work. She also uses a lot of literature and creative writing, something she calls "bibliotherapy." The classes publish a weekly newsletter.

Recently in a school science fair, kids from the special gifted classes took two first-place awards and one second place.

"Once I've had them for a while, I start demanding more from them," McGee said. "And when they feel good about themselves, they give me more."

The kids know that McGee pushes them. But they enjoy being with her.

"She makes us work constantly," said Kenny Armes, 8, a third-grader. "But she's a great teacher. It's fun to learn with her."

Fourth-grader Ernie Menendez, 9, said he gets tired of all the work sometimes, but he appreciates what McGee is doing and he knows it will pay off.

"She always takes time to explain things to us," Ernie said. "And I know I have to do this to earn my points, and to get a good education."

Born in Boston, McGee came to Miami when she was 5. She graduated from Carol City High, got a degree in elementary education from Florida International University, then followed it up with a master's in learning disabilities. McGee is now pursuing a doctorate in exceptional education.

McGee says she always wanted to be a teacher, but fought it for a while.

"I was active in the feminist movement and I didn't want a traditional female job," she said. "But I was cutting off my nose to spite my face. I decided I wanted to try and make a difference."

After three years as a legal secretary, McGee started teaching in Key West in 1979. Since then, she has taught at Dearborn, Gulliver, Opa-locka and Royal Green elementaries. She came to Emerson three years ago.

"I love this place," McGee said. "I believe in this program and I believe these kids can be successful."

Mr. Speaker, I commend Ms. McGee for her passionate commitment to teaching children who require special attention. It is apparent that her patience and perseverance make a difference in the lives of the children she teaches. I commend the leadership of Principal Dr. Carol Delaurier and Assistant Principal Mrs. Olga Miyar who help make Emerson Elementary School a place where teachers like Ms. McGee and her gifted students can thrive.

GREEN THUMB PROGRAM IS A WELCOME RELIEF

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. MURPHY. Mr. Speaker, recently I met with representatives of Pennsylvania Green Thumb Program. This valuable program operates as one of the primary national contractors for the Senior Community Employment Program, which is funded by the U.S. Department of Labor. During the last year this program provided 945 part-time jobs for senior citizens throughout the Commonwealth of Pennsylvania, 129 within my own congressional district.

These days, as the rhetoric of political campaigns swirl throughout the airwaves, we hear many promises made to our older citizens. Unfortunately, as a longtime observer of politics, I know that many of these promises will be forgotten after election day. For this reason, the Green Thumb Program is such a welcome relief. Their promises and commitments made to older Americans have remained strong and sound since the inception of the program. The history of Green Thumb is one of unswerving dedication to putting older Americans to work.

America will surely make a grave error when or if it stops relying on its senior citizens. They have built and battled throughout their long lives for many important achievements which too many younger people now take for granted. We should be grateful as a nation for their sacrifice. They are one of our great repositories of knowledge, and their insight on local and world events should always be regarded as an important resource.

People are not meant to be cast aside when they reach a certain age. In other cultures, seniors are revered as teachers. They are objects of respect and admiration. The Green Thumb Program operates on this premise here at home, and its good sense is commendable. I know when I go back to Pennsylvania, I frequently receive informed advice and enlightening comments from my older constituents. I have come to greatly respect their views.

As America strives to reshape its role and vision in a rapidly changing world, I believe some of our older citizens may hold the keys to success. I know when you put a senior citizen to work, they bring a calm sense of experience to the job. Their knowledge inspires their fellow workers, and I am sure that everyone's work improves. I hope that the future will hold continued success for the Green Thumb Program, and I look forward to the day when every senior citizen is respected and revered in the workplace.

TRIBUTE TO DOUGLAS McFARLANE

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize an outstanding individual from the community of Mt. Pleasant, MI, who has been named Citizen of the Year by the Mt. Pleasant Area Chamber of Commerce.

Mr. Douglas McFarlane is a native and life long resident of Mt. Pleasant. The youngest in a family of four, Doug graduated from Mt. Pleasant High School. He received his teaching certificate, masters, and specialist degrees from Central Michigan University [CMU]. While attending college, he was a member of the student senate.

Doug McFarlane served his country in the U.S. Army with distinction and has been committed to the Mt. Pleasant community for two decades in many different ways. Doug has worked diligently in a number of leadership roles with the Mt. Pleasant Area Chamber of Commerce and the Isabella County United Way. he has served the city of Mt. Pleasant in many capacities. From 1981 to 1983 and from 1987 until now he has served on the Mt. Pleasant City Commission. In 1982 and 1989, he was vice-mayor and in 1983 and 1990 he was elected mayor.

Doug has also been greatly involved with his alma mater, Central Michigan University. He has served on the board of directors of the First Nighters, the Presidents Club, and as a chairman of the Community Campaign. He is currently a member of the alumni board and is active in planning activities for the CMU centennial.

Doug is married to Penny McFarlane. They have two children—Janna and Garren.

Mr. Speaker, Doug McFarlane is truly a remarkable and giving leader. I know you will join with me in commending and congratulating Doug on receiving the 1992 Mt. Pleasant Area Chamber of Commerce Citizen of the Year Award in recognition of his long time commitment and dedication to the people of his community.

A CONGRESSIONAL SALUTE TO CAPT. JOSEPH C. DE LADURANTEY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. ANDERSON. Mr. Speaker, on Thursday, February 27, 1992, the Los Angeles Police Department will be honoring the retirement of Capt. Joseph De Ladurantey. It is with great pride and pleasure that I rise today to pay tribute to a dedicated citizen who has served the Los Angeles Police Department and community with distinction.

Joe's long and illustrious career began 27 years ago. By February 1979, he had become commanding officer of the Wilshire Patrol division and by March 1989, Joe was captain of police for the Los Angeles Police Department. There are many highlights associated with Captain De Ladurantey's career. He developed a Community Coordinating Council to resolve community problems in a city owned housing complex. He was the founder of the Westside Major Crime Violators Task Force, which is a multijurisdictional unit formed for the purpose of compiling information from many areas so as to launch a coordinated attack against crime in the greater Los Angeles area. Joe developed a Korean language and cultural awareness course for police officers in cooperation with the Los Angeles Unified School District. He also developed a Community Orientation Program, in conjunction with the National Conference of Christians and Jews, for officers newly assigned to the Los Angeles area. He was involved in the implementation of the human resources development committee and a board member of the peer counseling coordinating committee. Joe established an extremely successful community based citizen patrol in the Beverly/Fairfax district as a supplement to the Neighborhood Watch Program. In addition, Captain De Ladurantey has been a robbery-homicide watch commander, whose responsibilities included citywide coordination of all rape investigations, homicide sex crimes, and audit responsibility for all homicide investigations. He served as the assistant program director for a federally funded multimillion dollar computerized emergency command control communications system involving computer aided dispatching and the 911 emergency assistance network.

In conjunction with his daily responsibilities, Captain De Ladurantey, with coauthor Daniel Sullivan, has published "Homicide Investigation Standards" and "Criminal Investigation Standards." With coauthor Robert Wadman, he has published Public Productivity Review, "Overcoming Limitations to Police Productivity Measurement: The Omaha Experience." Furthermore, his articles have appeared in the Police Chief and the Journal of Police Science and Administration. Joe has also developed concept papers for the President's National Advisory Commission on Criminal Justice Standards and Goals Task Force.

Captain De Ladurantey's professional affiliations include the International Association of Chiefs of Police, the California Police Chiefs Association, the Southern California Association of Public Administrators, and the Los Angeles County Peace Officers Association. He is also associated with the California Association of Criminal Justice Educators, the University of Southern California Trojan Alumni Association, and the Command Officers Association.

Joe's involvement with his community is not limited to the scope of his employment. He is a board member of the Romona Gardens Coordinating Council. He serves on the board of directors for Camp Fire, the Los Angeles Area Council, Gabrielino District. He is a board member on the San Pedro Reclamation Committee, Gang Alternatives Program, and the Blind Children's Center of Los Angles. Joe is a board member and program chairperson for the Boys & Girls Club of Wilmington and the president of the Boys & Girls Club of Harbor City. He is president and general manager of the Los Angeles Police Department Centurions and president of the East Los Angeles College Quarterback Club.

Now a new challenge will be met. In December 1991, Joseph De Ladurantey became chief of police in Torrance, CA. No one doubts that he will succeed. On this most deserving occasion my wife, Lee, joins me in extending our thanks to Capt. Joseph C. De Ladurantey for his numerous contributions to the greater Los Angeles community. The Los Angeles Police Department is losing an extremely valuable commanding officer and personality. We wish, Joe, his wife, Terri, and their daughters, Theresa, Jennifer, Christina, and Monica, all the best in the years to come.

TRIBUTE TO CHANEY HIGH SCHOOL CLASS OF 1942 ON THEIR 50TH CLASS REUNION

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today, Mr. Speaker, to pay tribute to the Chaney High School class of 1942 from my 17th District of Ohio on their 50th class reunion which will be celebrated on October 3, 1992.

When the members of this class left the protected nest of high school, they found themselves in the middle of World War II. Upon graduation many enlisted or were drafted into the Armed Forces and encountered the harsh reality of war. One graduate from this class, Marine Edward H. Weekly, is now buried in Arlington National Cemetery.

All the graduates used their experiences at Chaney High School to enhance their lives by becoming doctors, nurses, lawyers, teachers, principals, college professors, business professionals, and homemakers.

Again, Mr. Speaker, I rise to congratulate the Chaney High School class of 1942 on their 50th class reunion. They remain excellent examples to citizens who also wish to lead fulfilling lives by remaining loyal to a sense of civic responsibility.

KNESSETH ISRAEL CONGREGATION CELEBRATES CENTENNIAL

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. ERDREICH. Mr. Speaker, I would like to congratulate and recognize more than a century's worth of outstanding service to a community. On February 23, 1992, the Knesseth Israel Congregation, of Birmingham, AL, celebrated its 100th anniversary.

This congregation has been a center of Jewish life in Birmingham through the years and remains so today. Its allegiance to traditional Jewish beliefs and practices have ensured its survival and has preserved a 3,500-year-old history of tradition.

One of the many highlights of Knesseth Israel was the presence of the late Philip Birnbaum. Mr. Birnbaum came to Birmingham as a young man from Poland to teach and study. After his years in Birmingham, Mr. Birnbaum went on to author numerous books on Jewish thought. Many of his students, young men training for their bar mitzvahs, remain touched by his teaching and mourned at his passing 3 years ago.

Mr. Speaker, many of the members of this congregation are key business and civic leaders in the Birmingham community. Rarely does a congregation of 500 bring this kind of leadership together. The Knesseth Israel Congregation is to be commended for its outstanding guidance and the service it has provided to Birmingham throughout the years.

BRADDOCK HIGH STUDENTS COMPILE INTERNATIONAL COOKBOOK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, the members of the G. Holmes Braddock High School Future Homemakers of America group are compiling a cookbook of international recipes. When the books are completed, the group plans to sell them and send the proceeds to UNICEF to fight childhood hunger worldwide. The Miami Herald recently brought attention to this exciting project in an article by staff writer, Jon O'Neill. That article follows:

> For a group of students at G. Holmes Braddock High School, the way to cultural understanding passes through the stomach.
>
> That is why some members of the school's Future Homemakers of America are assembling a multicultural cookbook, featuring recipes submitted by students, staff and parents. So far, they have contributions for delicacies from Trinidad, Cuba, China, Spain, Russia and Canada.
>
> "We got a lot of things, but we need even more," said Susan Yaskin, a teacher and sponsor of the club.
>
> Once printed and bound, the book will be sold and the proceeds donated to UNICEF, a worldwide organization dedicated to feeding hungry children.
>
> "We're trying to bring a positive focus to the differences between us," Yaskin said. "It's just another way of bringing people together."
>
> The cookbook is one of 10 projects the homemakers' club is involved in under the theme Join Hands for World Peace. Two others involve making quilts for Jackson Memorial Hospital and producing a series of skits on prejudice that the students will present at area elementary schools.
>
> The cookbook, however, may be the most time-consuming, with most of the kids putting in hours after school.
>
> Yaskin and some of the students are also looking for a sponsor to help defray the cost of producing the book cover.
>
> They want to use the same logo featured on the T-shirts that club members wear. The design has kids from all over holding hands around a globe with a peace sign inside it.
>
> Adys Bustillo, 17, came up with the design, and Jessi Alvarado, 17, drew it.
>
> "We wanted something with kids because they are the future," Adys said. "I was sitting around one day when it came to me."
>
> The idea for the book came up one day when Yaskin was talking about UNICEF. The kids didn't know what it was, so they made some calls to find out. The cookbook grew from there.
>
> Forms asking for recipes were distributed throughout Braddock, at 3601 SW 147th Ave. The results have surprised some of the kids.
>
> "There are some weird foods out there," Adys said. "Like peanut butter soup."
>
> "We know we're not going to change people by giving them recipes," said Lisette

Lopez, 18, another student working on the project. "But this is one way people can learn to appreciate other cultures."

Lopez and Susan Vega, 17, are also working on the skits for elementary school students.

"There are so many different kinds of people here," Susan said. "With the play, we want to show little kids that prejudice is wrong."

Jessi said he thinks the cookbook and the plays are excellent ideas.

"We have to start right now," he said. "People fight because of differences, but we are all just human beings."

The project has also been a lesson for the students.

"By coming up with ideas for the skits, I've learned a lot about racism," Lissette said. "Sometimes, I can't believe things like that are still happening today."

I commend Susan Yaskin, a teacher and advisor of the Future Homemakers of America group, for uniting Braddock students around this project. I also want to recognize Principal Louise Harms for her leadership in making Braddock High a place where innovative projects are nurtured, such as an international cookbook to fight world hunger. I wish them much success with this endeavor.

THE 10TH ANNIVERSARY OF THE ILLINOIS VIETNAM VETERANS LEADERSHIP PROGRAM

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to the Illinois Vietnam Veterans Leadership Program [IVVLP] and the many Vietnam veterans it has served.

The IVVLP was founded 10 years ago as a comprehensive veterans employment service. Since it creation, the organization has assisted hundreds of veterans in Chicago and throughout Illinois to find gainful employment. The IVVLP's contributions are visible throughout the community.

Through the IVVLP's work, the Chicago Vietnam Memorial Fountain in Herald Square was constructed and dedicated by business leaders and officials of the City of Chicago. In addition, the Vietnam Veterans Act was passed by the Illinois State legislature to fund seven community-based statewide veterans organizations which have placed over 27,000 veterans.

The IVVLP is also concerned with education. Through the development and publication of "A Look Inside the War," the IVVLP seeks to present junior high and high school students with a broader view of the Vietnam conflict than that of a textbook. This supplemental reading guide conveys the experiences of those who fought in Vietnam to school children throughout Illinois.

Finally, the IVVLP has developed a pro bono legal service for veterans which has contributed over $125,000 of free legal services. In doing so, the IVVLP has assisted those in need with cases ranging from child custody to home foreclosures.

I believe the Illinois Vietnam Veterans Leadership Program is a model for groups throughout the Nation to emulate. Mr. Speaker, I urge my colleagues to join me in commending the IVVLP on its 10th anniversary and to join me in recognizing its work in veterans' employment services, education, and public service. I look forward to celebrating many more anniversaries of this fine organization in the years to come.

TRIBUTE TO RABBI ALVAN KAUNFER

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to honor a leader in the Jewish community of Rhode Island. Rabbi Alvan Kaunfer is the founder of the Alpern Schechter Day School, a Jewish religious day school located in Providence. Rabbi Kaunfer served as director of the school since its inception in 1978 until 1991.

The Alpern Schechter Day School was founded by parents who wanted to combine high quality secular education with Jewish religious education. The school began with a single kindergarten class. Year by year the school added a grade until reaching nine full grades, kindergarten through eighth grade.

In the early years of the school, Rabbi Kaunfer served as the school director, while also serving the Temple Emanu-El as assistant rabbi. He is presently the pulpit rabbi at Emanu-El.

Rabbi Kaunfer has served the community of Providence well. He is both liked and respected. We honor Rabbi Kaunfer for his the Providence community, especially for the children of Alpern Schechter Day School. I wish him continued success in all his future endeavors.

LOAN GUARANTEES FOR ISRAEL

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. SCHUMER. Mr. Speaker, I was shocked to open this morning's papers and see the irony to today's news: The President won't support loan guarantees for Israel, but he did support them for Iraq.

The Los Angeles Times has reported that in 1984 and 1987, then-Vice President Bush was instrumental in securing $700 million in loan guarantees for Iraq from the Export-Import Bank. In 1989, President Bush ordered an expansion of political and economic ties to Iraq, calling it a key friendly state. The Agriculture Department subsequently approved $1 billion in loan guarantees, and the White House blocked a Commerce Department hold on technology exports to Iraq.

This is how the White House deals with a dangerous dictator seeking loans to build his military capability. But when our longstanding ally, Israel, comes to the United States for loan guarantees to settle Jewish refugees from Russia, the administration gives Israel the cold shoulder. We see Secretary Baker coming before the Congress and cleverly manipulating the facts, pretending that the loan guarantee package would cost American taxpayers $10 billion, when it is Israel that will repay those loans. It seems that the administration is no longer concerned about the humanitarian imperatives that once guided American foreign policy when we worked to free Soviet Jews.

I am dismayed that the guiding light of morality has been extinguished in our foreign policy. The Bush administration's foreign policy is based on cold political calculations, or as we have seen too many times, most exceptionally in Iraq's case, on political miscalculations.

MODIFYING THE TREATMENT OF CERTAIN HIGHER EDUCATION LOANS FROM QUALIFIED EMPLOYERS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. GUARINI. Mr. Speaker, today I am introducing legislation which will make it easier for working Americans to pay the high cost of college tuition. Over the past decade, tuition costs have risen dramatically and higher education is now out of reach for many Americans. As tuition costs have escalated, direct student assistance has been reduced. Americans are caught in a squeeze, and we need to do something about it.

The legislation that I am introducing today will encourage Americans to save for education, and, more importantly, allow them to use their savings at a time when it is needed the most.

The average American family has three major expenses to plan for—home purchase, education for their children, and retirement. Since the 1970's, family incomes have remained virtually stagnant. One recent study has found that less than 18 percent of a family's income is left for clothing, recreation, and savings. Under these circumstances, it is very difficult, if not impossible, for most families to save enough money for all these purposes.

Under current law, an individual can receive a long-term loan from their employer-provided plan for a home purchase. However, an individual can borrow from a qualified employer retirement savings plan to pay for college tuition without incurring substantial penalties only beginning at age 59½. Moreover, such loans must be repaid to the plan at high interest rates within a relatively short period, just 5 years.

By the time most Americans qualify to borrow from their plans, their children are past college age. And even if they still have a need to borrow for tuition, the repayment terms are so strict that the costs can be prohibitive.

My legislation makes several key changes to permit working Americans to gain access to their savings in order to pay for higher education of their children. First, an individual may withdraw funds from an employer plan at any age without incurring a penalty if the proceeds will be used to pay tuition and fees for higher education. Second, the 5-year repayment period is expanded to 15 years. This will make repayment to the plan more affordable. Finally, the employee will no longer have to repay the plan at high market rates of interest, but need only pay a reasonable rate of interest, which is defined to be not less than ½ of the prime rate.

If individuals know that they can use funds in employer plans for higher education when it is needed, they will be encouraged to save more, thus increasing the ultimate amount that is available for retirement purposes. Consolidating savings for the primary purpose of retirement income while making funds available for other purposes along the way cannot help but encourage additional savings. Also, because these loans will be repaid, this policy also will not reduce the amount that will be available for retirement purposes. With more money available for education, the Government will be better able to target its resources to those Americans most in need.

This legislation benefits all income levels who participate in employer-sponsored plans, recognizes the difficulty many families face in trying to save for several major lifetime expenses, and at the same time encourages long-term savings through convenient methods such as the payroll deduction. It can make an important contribution to the effort to enable Americans to save for college expenses.

THE FINANCIAL FRAUD DETECTION AND DISCLOSURE ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. WYDEN. Mr. Speaker, today, in an effort to bring accountants back to the first line of defense against cooked books and other ripoffs in publicly traded companies, I am introducing the Financial Fraud Detection and Disclosure Act. Telecommunications and Finance Subcommittee Chairman EDWARD MARKEY, and Energy and Commerce Chairman JOHN DINGELL are joining me as original cosponsors.

This legislation will require auditors to look more actively for fraud and to report to regulators any fraud that is not promptly corrected by management. When this bill becomes law, auditors and executives will be put on notice that companies may pay for auditors but they do not own them. And investors and taxpayers will be more comfortable that the financial statements they rely upon to depict a company's financial condition will reflect reality, not funhouse mirrors.

During the 1980's, many economists and policymakers decried the financial greed and excess that turned American industry into the plaything of high-flying financiers. As the decade ended, it became obvious that outright fraud was as responsible as short-sighted mismanagement for the various financial disasters that robbed taxpayers and investors of hundreds of billions of dollars.

It is hard to legislate against greed. But taxpayers and investors have a right to expect that corporate management to whom they entrust their savings will not steal from them. And they have a right to expect that the guards they rely upon to alert them to outright fraud—the public accountants who audit corporate financial statements—will be at their posts and ready to blow the whistle on larcenous executives.

The savings and loan industry was the most serious financial meltdown of the 1980's and the most damning commentary on auditor performance. According to the Resolution Trust Corporation, 40 percent of the savings and loan failures were attributed to fraud, but time after time auditors either did not know what was going on or did not tell anybody. Rogue elephants were stampeding through the auditors' offices, but they saw nothing.

For example, 28 of 30 savings and loans that went bankrupt in California in 1985 and 1986 received clean audits just before they went under. A General Accounting Office report on 11 failed thrifts found that accountants had certified a net worth of $44 million but at the time they failed they were $1.5 billion in the hole. Vernon Savings & Loan received a clean audit even though 90 percent of its loans were later found to be bad. And auditing breakdowns at Charles Keating's Lincoln Savings & Loan so outraged Judge Stanley Sporkin that he singled out the accountants in a blistering opinion in which he asked, "Where were these professionals when these clearly improper transactions were being consummated? Why didn't any of them speak up or disassociate themselves from the transactions?"

Where were the accountants and why didn't they speak up? Those are the two key questions behind many audit failures that my legislation seeks to correct.

Accountants often don't see anything because the auditing standards they write do not require them to look sufficiently hard for fraud. My legislation would change that by requiring auditors to perform specific new procedures, using methods prescribed by the Securities and Exchange Commission, to help identify material illegal acts and related party transactions, and to evaluate whether there is substantial doubt about a company's ability to continue as a going concern.

In the past, auditors who have detected fraud have often not spoken up because they believed they had a privileged relationship with their client that came before their responsibility to the public. However, the Supreme Court, in the 1984 case United States versus Arthur Young, dismantled that misguided notion, ruling that "by certifying the public reports that collectively depict a corporation's financial status, the independent auditor assumes a public responsibility transcending any employment relationship with the client."

In other words, auditors are supposed to inform the public when they see companies committing fraud. Unfortunately, 8 years later, the auditing profession still has not caught up with the Supreme Court. It is still possible for an auditor to know about fraud and fulfill his professional responsibilities without actually coming right out and telling regulators or the public about it.

My legislation would correct that problem as well, by requiring auditors who detect fraud to report it to top management and, if management does not correct the fraud promptly, to report it to regulators. This legislation merely codifies the public responsibility principle articulated in the 1984 Supreme Court ruling, which the accounting profession, moving with geologic speed, has not yet complied with satisfactorily.

Mr. Speaker, this legislation will not impose new regulatory burdens on public companies, which is why the Financial Executives Institute, an organization of top corporate financial officers, recently informed me that it has no objections to the bill. But it will significantly help protect investors and taxpayers, which is why the SEC, the State securities regulators, and the GAO have all historically supported this legislation.

The corporate financial officers and the regulators understand that the capitalist system depends upon the efficient flow of funds from investors to companies. They know that investors depend upon financial statements to make judgments about where to invest, and that if those statements are not reliable, the resulting uncertainty will raise the cost of capital for all companies. Honest, well-run companies benefit from tough, independent scrutiny of their books; dishonest companies would prefer to cover up their shortcomings.

The Financial Fraud Detection and Disclosure Act will change the psychology in the corporate suites of would-be dishonest companies. It will put managers on notice that if they commit fraud, it is more likely to be discovered by auditors, and if the auditors do detect fraud, they cannot be coerced into silence. Restoring the historical independence of the accounting profession and toughening up their procedures will put well-armed auditors back where they belong, on the front lines protecting the public against financial fraud.

I thank Chairman MARKEY and Chairman DINGELL for joining me as original cosponsors and urge my colleagues to support the bill.

GLORIA RODRIGUEZ, DADE SUPER TEACHER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, every school district has those teachers who stand out. Ms. Gloria Rodriguez is clearly one of these exceptional educators. She presently devotes herself to the G. Holmes Braddock High School where she teaches typing, business management, and office skills. The Miami Herald recently recognized her as one of Dade County's super teachers in an article by staff writer, Jon O'Neill. That article follows:

Gloria Rodriguez tries to teach her students things that many adults don't know—like basic skills to survive in the job market jungle.

Rodriguez, 39, teaches typing, business management and office skills at G. Holmes Braddock High School. She also runs the business work experience program, which has 28 students employed in offices around Dade.

"My goal is to get them prepared," Rodriguez said. "I want them to be true professionals in every way. I want to influence their lives."

Her students say she does just that.

"She's not like a normal teacher," said Mercy Nunez, 16. "She's more like a friend. I can always talk to her after class when I have a problem. She's really great. Plus, I want to be an accountant, so this class is helping me a lot."

Bernadette Caldwell, 17, said Rodriguez is giving her an edge in the competition for jobs.

"She makes us understand things," Caldwell said. "She's not boring because she really gets involved with us and makes it fun."

Monday, Rodriguez led the class through a review for a mid-term exam. The subject was the "Do's and Don'ts of Job Interviews."

"I'm trying to show them what employers look for," Rodriguez said. "We try to produce kids who will have happy lives and who won't be a burden to society."

For Rodriguez, it's a mission. She likes to quote Cuban patriot Jose Marti.

"Youth is the hope of the world," she says. "I believe that."

Rodriguez also supervises part of the work experience program, which places students in offices. Once each nine weeks, she visits the kids and interviews each employer. For her work in the classroom and out, Rodriguez was nominated as Teacher of the Year in the business education department.

"She really is exemplary," said Louise Harms, principal of the school at 3601 SW 147th Ave. "She's one of the reasons our business department is number one."

Although business and job-hunting skills are fairly serious subjects, Rodriguez tries to keep the class light. Recently, she made Mercy teach a class while she became a student.

"She was like the worst student," Mercy said. "She kept interrupting me while I was trying to teach."

"I want them to emjoy coming to class," Rodriguez said.

Like most good teachers, Rodriguez has never wanted to do anything else. Born in Havana, Cuba, she came to Miami in 1961. After graduating from Hialeah High School, she attended Miami-Dade Community College. When she finished, she became a secretary because "in 1970, there were no teaching jobs available," she said.

After working for five years, she got a bachelor's degree in vocational education from Florida International University and is now working on her master's at Barry University.

She started teaching in 1986 at Robert E. Lee Junior High. She spent three years at Southridge High and came to Braddock when it opened in 1990.

"I'm so glad to be doing this," she said. "I'll never quit."

Mr. Speaker, I commend Ms. Rodriguez for her commitment to preparing high school students for the real world. I am sure that the many students involved with the business work experience program she administers are being well prepared. I commend the leadership of principal Louise Harms for making Braddock High a place where students can get a head start on life with hands-on experience.

H.R. 355

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. LEHMAN of California. Mr. Speaker, I am pleased to rise in support of the passage of H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991. California is now suffering from a sixth year of drought, and no part of the State has been left untouched. Agriculturally based communities, urban areas, fish and wildlife, and the environment have experienced unprecedented losses. Estimated at well over $1 billion for 1991, the financial losses during 1992 could make last year's estimate seem minuscule.

It is my hope that the Reclamation States Emergency Drought Relief Act of 1991 will relieve some of the existing stresses on California, by providing much needed emergency loans to water users for drought mitigation measures, funds to drill for supplementary water resources, flexibility to use federally constructed facilities to store and convey water within valleys and from one part of the State to another, and various measures to reduce impacts on the environment. When I introduced the bill in 1991, California was entering its fifth drought year and times then were bad. Since then, things have only gotten worse. Nearly 5,000 farms in the Central Valley have just been told that they will get no Federal water deliveries in 1992 with which to water their crops. Already struggling from an onerous 1991, these farmers and their communities have stretched dwindling resources to the limit. The limits are manifest in the form of high unemployment, bankruptcies, and tight credit. These people are most in need of relief and, while the measures embodied in this bill are modest, they will help.

It is with a heavy heart that I look to the sky and hope that more precipitation will fall in the mountains in the northern and eastern parts of California because I know that anything short of more real rain and snow will provide only Band-Aid solutions to existing problems. Citizens in the part of the State that I represent are hurting, as they are in other parts of the State, and they are clamoring for help. I hope that in the coming months the Federal Government will do all it can within existing authority to provide these individuals with additional assistance, whatever form that assistance may take and, if further legislation is warranted, that Congress address it as emergency legislation. This bill is a good start and I am glad I am here today to witness its passage. I ask that, for the people of California and other Western States suffering from drought, the President sign this bill as expeditiously as possible.

TRIBUTE TO MR. MARVIN DeWITT

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to Mr. Marvin DeWitt, of Zeeland, MI. Marvin DeWitt is a highly regarded Michigan industrial leader, known not only for his extraordinary business sense and success, but also for using his talents and resources to enrich the lives of others.

At the helm of Bil-Mar Foods, the multimillion-dollar poultry company that he cofounded with his brother, Marvin DeWitt introduced people around the globe to Michigan's outstanding poultry products. In the process, he provided employment and a better quality of life for thousands of west Michigan workers.

Though the products of the company that Marvin DeWitt founded are enjoyed worldwide, Marvin did not stop with promoting and selling his products on a global scale. He also promoted self-reliance among the world's poorer farmers. Mr. DeWitt initiated a program in Nigeria to share his company's expertise in raising poultry, and sponsored a water project that allowed villagers to put these new techniques into practice.

Rest assured that Mr. DeWitt's concern for the less fortunate of other nations did not preclude him from helping people in his own community. He gave his personal attention to the residents of Ottawa County by serving on the Ottawa County Board of Supervisors and the Ottawa County Road Commission. In addition, he gave to us his leadership and wisdom by serving on the Zeeland School Board, and as a trustee at his alma mater, Northwestern College, in Iowa.

The latest display of goodwill and foresight by this custodian of west Michigan is Mr. DeWitt's extraordinary gift to Grand Valley State University. Mr. DeWitt made possible the magnificent new Cook-DeWitt Center at the university. For many, many years to come, this splendid concert hall will allow fine art students to perfect their talents, and provide a venue in which the community can appreciate them.

Every community should be as lucky as we are in Ottawa County to have a person like Marvin DeWitt. I am proud to pay tribute to Marvin here today, and bring to the attention of my colleagues in Congress his great energy, ingenuity, and accomplishments.

NATIONAL ENGINEERS WEEK

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. ROE. Mr. Speaker, today I am introducing a resolution designating February 14, 1993 through February 20, 1993 as National Engineers Week as a tribute to the 1.5 million men and women in the engineering profession who have been in the forefront of the building of our Nation.

Engineers play an absolutely vital role in every community in this Nation. On a daily basis, engineers turn ideas and concepts into the reality that is the bricks, concrete and structures—the roads, bridges, buildings, parks, athletic facilities and many others—that are America.

The successful work and enterprises of engineers is absolutely vital and fundamental to maintaining our Nation's ability to remain technologically competitive in the global economy and to improving the quality of life of every American.

National Engineers Week is more than a celebration of the varied and outstanding achievements of the engineering community. It is also a drive to prepare our Nation for the future.

During National Engineers Week, which was first celebrated by the engineering community in 1951, engineers throughout the Nation participate in a multitude of activities to increase public awareness of the profession's many contributions. Through expositions, demonstrations, exhibits, fairs, and especially, visits to schools and classrooms, the engineering community devotes the full week to making the youth of America aware of the value, excitement and importance of an engineering career.

The engineering community has been celebrating National Engineers Week for more than 40 years. The week's activities are supported by more than 50 engineering societies, numerous major corporations and by many government agencies.

It is long past time for Congress to pay tribute to the Nation's 1.5 million engineers, to join in the celebration of their achievements and to provide support for the educational efforts that will produce a better America for the future.

I urge my colleagues to join with me in paying tribute to the Nation's engineering community by supporting the designation of National Engineers Week.

AVIATOR VERNON MEGEE—FROM PRIVATE TO FOUR STAR GENERAL—DIES AT 91

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. PICKLE. Mr. Speaker, when the history of the development of warfare of the 20th century is written by those historians who come after us, that chapter devoted to the evolution of aeronautical warfare must address the development of the importance of close air support of ground troops for the success of any military operation.

One man is credited with directing the fulfillment of that concept. Recently, that man, Vernon E. Megee, was buried in Arlington Cemetery among his fellow patriots.

The product of a mid-America one-room schoolhouse, Vernon enlisted in the Marine Corps in 1919 to earn enough money to finish his education at Oklahoma A&M. Forty years later, he retired with four stars, the only man in the Marine Corps to go from private to four-star general.

My friendship with Vernon Megee began during his retirement years in Austin from 1960 to 1989. General Megee was the ranking military officer in the area and participated in many official events, as well as being an active member of the Downtown Rotary and the Austin Country Club.

I was privileged to know this outstanding American and am proud to offer his obituary for all to read:

General Vernon E. Megee, USMC (Retired), died January 14, 1992, in Albuquerque, New Mexico, at the age of 91. General Megee, as the Colonel in command of the Landing Force Air Support Control Unit One at Iwo Jima, told his pilots to "Go in and scrape your bellies on the beach" in support of the ground troops. At the battle for Okinawa, both Marine and Army units utilized close air support under Colonel Megee's command to help "dig the enemy out of caves" as the ground units advanced. For his outstanding performances at Iwo Jima and Okinawa, General Megee was awarded the Legion of Merit with Combat "V" and the Bronze Star with Combat "V".

In 1956, General Megee became the first Marine Aviator to hold the post of Assistant Commandant/Chief of Staff of the U.S. Marine Corps. Previously, in 1950, General Megee served as the Director of Intelligence for the Joint Chiefs of Staff. He then took command of the First Marine Air Wing in Korea. His last assignment was as Commanding General, Fleet Marine Force, Pacific, where two-thirds of the combat forces of the Marine Corps were under his command. He retired from the Corps in 1959, having risen from private to four stars after more than forty years of service.

General Megee also saw foreign service in Haiti, Nicaragua, China and Peru. His other decorations included the Navy-Marine Corps medal (Nicaragua), the Cruz de Aviacion (Peru), the Military Order Taikuk with Silver Star (Korea) and the Distinguished Service Medal.

A native of Oklahoma, General Megee received a Bachelor of Science degree from Oklahoma State University and a Masters of Arts from the University of Texas.

After retirement from active duty, much of General Megee's time was spent in volunteer service to the Marine Military Academy in Harlingen, Texas, where he served as the first Superintendent and as President of the Board of Trustees. On November 11, 1988, General Megee was elevated to the position of Emeritus Chairman of the Board, the first trustee of the school to be so honored.

General Megee is survived by his daughter and son-in-law, LaVerne M. and Alfred T. Broad of Albuquerque, NM, a granddaughter, Kathleen L. Broad, also of Albuquerque, and a grandson, Tyson Megee Broad of Portland, Oregon. Two sisters, Opal Jones of Fresno, California and Walsa Meier of Broken Arrow, Oklahoma also survive General Megee. His wife, Nell, preceded him in death in July, 1989.

A SPECIAL SALUTE TO GEORGE FRASER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. STOKES. Mr. Speaker, the Black Professionals Association charitable foundation will host its twelfth annual scholarship and awards gala on Saturday, February 29, 1992. The gala will be held at the Stouffer Tower City Plaza Hotel in Cleveland.

The Black Professionals Association [BPA] is composed of more than 100 black professionals throughout the Cleveland area. Over the years, BPA has chosen February, which is officially celebrated as Black History Month, to recognize African-Americans who are positive role models and have achieved significant success in their chosen fields. Last year, I had the honor of being selected as the 1991 black professional of the year by this distinguished organization.

Today, I am proud to rise to salute the 1992 black professional of the year, George C. Fraser. I would like to share with my colleagues and the Nation some of the achievements of this year's award recipient.

Mr. Speaker, George Fraser is an outstanding businessman who is the founder and president of SuccessSource, Inc. Prior to the inception of SuccessSource, Mr. Fraser was employed by the Ford Motor Co. in its Minority Dealer Development Program. In addition, he was employed by United Way Services of Cleveland and Procter & Gamble in Cleveland and Cincinnati, OH.

It was during this time, Mr. Fraser recognized the need for an informational resource which would encompass the enormous breadth and diversity of African-American excellence. His idea led to the development of the innovative SuccessGuide, a comprehensive directory of African-American businesses, professionals and organizations.

The SuccessGuide has proven to be a valuable asset to the African-American community. More importantly, by tapping into this arena, George Fraser has succeeded in overcoming the corporate barriers which in the past impacted African-Americans' ability to start and build businesses.

As president of this highly successful venture, Mr. Fraser was able to make the transition from employee to employer in only 5 years. This is a testament to this individual's persistence, his entrepreneurial skills and his determination to succeed.

Mr. Speaker, not only is George Fraser a successful businessman, but he is also a community leader. He gives his time and advice to benefit community organizations. Mr. Fraser is an active board member of the Greater Cleveland Growth Association, John Carroll University and the Cleveland NAACP. The Black Professionals Association is just one of the many organizations to recognize Mr. Fraser's exceptional talents. Recently, he was selected as the role model of the year by the Teen Father Program; national volunteer of the year by the United Negro College Fund [UNCF]; and Cleveland business advocate of the year by the city of Cleveland.

Mr. Speaker, I am pleased to congratulate George Fraser for his achievements. He is well deserving of the honor accorded him as the 1992 black professional of the year. I join the community and his many friends and colleagues in saluting him on this momentous occasion, and I wish him much continued success.

TAX FAIRNESS IN THE 1980'S

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. PORTER. Mr. Speaker, as debate within the Congress returns to the issue of tax fairness, I commend to my colleagues the following article which appeared in the Wall Street Journal on January 28, 1992. I think the author makes a convincing argument against the claim that the rich were the only ones who improved their standing during the 1980's.

[From the Wall Street Journal, Jan. 28, 1992]

THE "FORTUNE FIFTH" FALLACY

(By Richard B. McKenzie)

According to numerous pundits, the shift in the income distribution during the 1980s was seismic, with the rich getting richer and the rest, poorer. And Harvard University Prof. Robert Reich, among a chorus of academics, professes that only the "most fortunate fifth" of Americans—those with "princely incomes" (or households with more than $55,205 in annual earnings in 1990)—improved their economic station during the past two decades. He argues that justice and economy demand that the growing hardship of the lower four-fifths of income earners be relieved with whooping tax increases on the rich.

Myriad versions of these claims have often been fortified with citations of official data on real median family income and on shares of income going to each of the five quintiles of households. Real median family income, adjusted for inflation using the standard consumer price index (CPI), and set relative to the 1970 level, did trend downward from 1970 to the late 1980s.

A DEFECTIVE MEASURE

Fortunately, the reality of the changing income distribution is far more complicated than the modern prophets of gloom would have us believe. As rarely conceded, the real median family income began to rebound after 1982. Moreover, this measure of the real median is defective in three key ways: (1) the method for computing the CPI was changed in 1983, the effect of which was to obscure the growth in real incomes; (2) the average family size fell by 17% between 1970 and 1986; and (3) fringe benefits and other wage supplements, which are not counted as family income, expanded from 12% of total wages and salaries in 1970 to 20% in 1986.

Researchers at the Congressional Budget Office have determined that when the real median income is recomputed with a consistent consumer price index (the so-called CPI-X) and adjusted for the economies associated with smaller families, the real median family income trends upward, rising by 20% between 1970 and 1986. When real median income is further adjusted to account, in a rough way, for the growth in nonwage income, the rise during this period may be more than 28%.

While such revised data seriously undercut the critics' empirical props, they have a ready-made comeback: The median rose only because the rising economic tide "lifted the yachts, but neither the tugboats nor the rowboats."

Critics do have some of the facts on the changing income distribution right. The share of total income going to the quintile of households with the lowest incomes did fall from 4.1% in 1970 to 3.9% in 1990 (after reaching 4.2% in 1980), and the share of income received by the middle three quintiles fell from 52.7% in 1970 to 49.5% in 1990. At the same time, the quintile of households with the highest incomes rose relatively rapidly during the 1970s and 1980s, with their share of income rising from 43.3% in 1970 to 46.6% in 1990.

The data do offer the surface appearance of a "most fortunate fifth." But appearances are deceiving. Census Bureau data reveal that the real mean incomes (adjusted only for inflation by the CPI-X) of every quintile of households trended upward during the 1970s and 1980s. These data alone indicate that it is grossly misleading to suggest that changes in the income distribution were "seismic" or that the poor as a group got poorer, or that only the "most fortunate fifth" gained over the past decade or two.

Critics of the changing income distribution delight in comparing current real household income of quintiles with the 1970s peak achieved in 1973, prior to the first oil-supply shock that helped throttle income growth for the rest of the decade. They stress that the real income of the lowest two quintiles fell between 1973 and the late 1980s, rarely noting the flaw in the price index or the need to make other adjustments for decreasing household size and increasing nonwage benefits. In addition, the relatively strong growth in real household income in the middle and late 1980s is never mentioned, mainly because such an acknowledgement undercuts the simplistic claim that the downward trend was all Ronald Reagan's fault.

The average incomes of the lowest two quintiles of households rose a modest 4.7% and 4%, respectively, between 1973 and 1989 (just before the current recession) using the CPI-X as the deflator. And that's without even making other adjustments. However, between 1983 and 1989 the average income of the lowest quintile rose 11.1%, while the average income of the second quintile rose 10.1%. The average income of the middle quintile expanded by 10.7% and the fourth quintile by 11.65 in the 1983-89 period.

Granted, the average real income of the top quintile rose by much more, 18.8%, but it is naive to assume that the top quintile is an exclusive club. It in fact comprises changing collections of households with changing collections of household members operating on continually changing conditions. A student in the early 1980s, for example, had jumped several quintiles by the end of the decade simply by taking his first job or by marrying someone with an income. The very limited research done on the subject suggests that a sizable share—surely a third and possibly half—of the households in the top quintile at the end of the 1980s were in a lower quintile in earlier years.

Moreover, the nature of the quintiles of households ensures that the top quintile often grows more rapidly than the lower ones. People in the top quintile who increase their productivity and hours of work, marry (or stay married), and decide to have a nonworking family member go to work (and 83% of the households in the top quintile have two or more income earners, far higher than the lower quintiles) automatically raise their quintile's mean household income. These people cannot move to a higher category.

People in any of the lower quintiles who do the same can easily move up one or more quintiles, increasing their own welfare but, in the process, reducing the mean income of their former quintile.

TRICKLING IN ALL DIRECTIONS

Overall, the critics have been right in stressing that the rich have gotten richer, but they are way off base to suggest that the rich were always rich during the 1980s, or that they have become richer at the expense of the rest of the population, or that their riches were ill-gotten or undeserved. It is far more accurate to say that in the 1980s many rich and not-so-rich Americans got richer faster than other Americans. Some Americans in all quintiles fell behind. Both ends of the income distribution were contributing to the economic improvement of the other. Income growth was trickling in all directions, not just down or up the income distribution.

Clearly, the country has experienced a host of economic problems over the past two decades, of which decreasing real wages for some groups is one of the more important. While the available data do not permit an exact determination of how many Americans lost economic ground during the past two decades, it is clear that critics have grossly exaggerated the economic hardship visited on the vast majority of Americans. Furthermore, the critics don't seem to realize that many of the observed changes in real wages have been instructive. They have caused many people to learn from their experience and to take corrective action—without directives from Washington.

(Mr. McKenzie is a professor of management at the University of California, Irvine. His study, "The Fortunate-Fifth Fallacy," is soon to be released by the Center for the Study of American Business at Washington University in St. Louis.)

WITHIN 3 YEARS, AMERICA WILL BE SPENDING MORE ON HEALTH CARE THAN IT SPENDS ON ALL FOOD AND BEVERAGES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. STARK. Mr. Speaker, page 313 of the 1992 Economic Report of the President contains a table which dramatically shows how the outrageous inflation in health care costs has become the pacman of the American economy, gobbling up a larger and larger share of the GNP and eliminating our ability to spend our resources in other areas.

Looking at the table, it becomes clear that without serious cost containment and budgeting—which the President's proposals don't provide—Americans will soon be spending more on health care than they spend on all the food and beverages consumed at home and in restaurants.

The table on page 313, which uses 1987 value dollars, shows that in 1959 we spent $301.9 billion on all foods and beverages and $95 billion on medical care.

At the end of 1991—using 1987 dollars—foods, and beverages consumed $513.5 billion of the Nation's personal consumption and medical care $446.5. Over 30 years, health has moved from being one third the size of food to nearly equaling it. The trend line is such that medical care is likely to exceed food at 2:14 p.m., April 19, 1995, give or take a few months.

I may joke about being able to predict the minute when health will exceed food as a cost to consumers, but it is no joke that it is about to happen. I'll bet anyone who wants to, a bottle of aspirin and a box of band-aids that I am within a month of predicting the date—unless we can pass national cost containment proposals between now and 1995.

If we had achieved great advances in public health over this period, one might say it was money well spent. The problem is, we haven't seen much improvement and lag other nations in many key health indicators. Other economics have not seen our type of health inflation taking over large parts of their economies, and as a result those foreign nations have become more competitive and productive in trade, are able to devote more resources to education, social infrastructure and other important services.

It is time, Mr. Speaker, for some really tough cost containment.

STATEMENT OF WYDEN/BABBITT ARTICLE ON NAFTA

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. SKAGGS. Mr. Speaker, I'm not sure how many of my colleagues have had the chance to read the excellent article in the Los Angeles Times on the North American Free Trade Agreement which was written by our colleague from Oregon, Congressman RON WYDEN, and the former Governor of Arizona, Bruce Babbitt, who is president of the League of Conservation Voters.

Congressman WYDEN and Governor Babbitt make a compelling case that any free trade agreement must include specific provisions to protect the environment. I commend their article to you.

Mr. Speaker, at this point I'd like to include a copy of the commentary in the RECORD.

[From the Los Angeles Times, Feb. 11, 1992]

PERSPECTIVE ON FREE TRADE—WHO'S AFRAID OF MEXICAN TRADE?

(By Bruce Babbitt and Ron Wyden)

The outline of a North American free-trade agreement that could be consummated this year is at hand. Negotiators from the United States, Mexico and Canada are about to exchange their first drafts. But growing support for protectionism may spook the President from pushing the agreement in an election year.

It need not be such a gamble. It's still possible to write an agreement that would promote job growth and improve the environment more satisfactorily than the quick fixes proposed so far in Washington.

Exports have driven our economic growth in recent years, and without stronger links to the global economy, we will find it difficult to compete with regional trading blocs in Asia and Europe—regardless of tax cuts or Japanese trade concessions.

A successful North American free-trade agreement would immediately expand U.S. access to Mexico, a rapidly growing market. The unilateral reforms that Mexico has undertaken since joining the General Agreement on Tariffs and Trade in 1986 have triggered an investment boom and energized Mexican entrepreneurs. They now have the money to buy American heavy equipment, such as trucks, tractors and earth movers, high-technology products, environmental cleanup services and products, finished paper products and agricultural products, including wheat, fruit, nuts and potatoes.

In addition, a free-trade agreement would enable all North American companies to develop the kind of regional links that help make German and Japanese competitors so formidable. The old model of huge, integrated, monolithic companies launching exports from a single national base no longer reflects reality. Most production now comes from what Harvard Prof. Robert Reich calls a "web" of trade and investment flows, in which products and services are created out of flexible, ever-shifting combinations of joint ventures, target-specific alliances and specialized service providers.

European and Asian companies have already spun such webs in their regions. North American companies should have similar opportunities.

But to be successful, a North American free-trade "web" must include explicit provisions to protect the environment and public health. Without such rules, free-trade pressures would induce companies to cut short-term costs by skirting laws intended to protect health and the environment. And without such protections, long-term economic growth could not be sustained, because business can't operate with a work force suffering the effects of air and water pollution.

This question of negotiating environmental protections has polarized political debate on the free-trade agreement. From the outset, the Bush Administration has seemed to favor an approach that pushes Mexico hard for concessions on intellectual property and investment rules, but backs off when it comes to clean water, clean air and safe food.

There has been serious opposition in some quarters to almost any treaty that would expose the U.S. economy to additional competition, even though refusing free trade with Mexico would sacrifice economic growth and leave major existing environmental problems to fester untreated.

The key votes in Congress, however, seem to be held by a group that falls in neither camp. These pro-trade Democrats and pro-environment Republicans suggest another path: Negotiate a job-creating trade agreement but include the cleanup of pollution along the U.S.-Mexico border and require that new investment in Mexico pay up front for basic environmental protection infrastructure.

This swing group of policy-makers wants an environmental protection program built around strong rules, adequate resources and tough enforcement.

Serious environmental protection would require rules to ensure high standards on both sides of the border, with the costs based on the "polluter pays" principle.

Serious environmental protection would provide for a binational bond program to raise the $5 billion to $9 billion needed to clean up existing pollution along the border and a small levy on new investment to be set aside for future environmental protection.

Serious environmental protection would include a mandatory enforcement program, based on a binational enforcement agency that would be supported by a provision to allow citizens of either country access to the other's legal systems.

The current thinking of the Administration, unfortunately, is that free trade and environmental protection are not related and should not be linked. It has asked for less money to protect the border environment than Mexico plans to spend, even though the U.S. economy is 25 times larger than Mexico's. It maintains that free trade will provide resources for environmental protection, but will not say when such resources might be available nor commit to actually spending them on the environment.

In fact, the Administration's central position is that it will be enough to rely on voluntary agreements with Mexico and voluntary compliance by the very businesses that created the environmental problems in the first place. It has said only that it will conduct additional regulatory enforcement "as appropriate"—whatever that means.

A North American free-trade agreement built around the principles we advocate would bring this country more jobs and a cleaner environment. Unlike the short-term tax breaks and subsidy programs being bandied about Washington, it would help generate prosperity—even after the election.

CONTINUED NEED FOR COMPETITIVE PROTOTYPING

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. IRELAND. Mr. Speaker, I rise to introduce legislation to reinstate the requirement for competitive prototypes in major acquisition programs of the Department of Defense [DOD]. The requirement for competitive prototyping was contained in a law—10 U.S.C. 2365—that expired on September 30, 1991.

Mr. Speaker, competition is the American way. If properly conducted, competition yields products with superior quality at lower prices. The benefits of competition have been proven over and over again in our society. Competition is the foundation of American economic behavior. In a nutshell, that is the reason I am proposing this legislation.

Under the proposed legislation, DOD would be required to use a competitive prototype program strategy in the development of major weapons systems and their subsystems. The Secretary of Defense, however, would have the authority to waive the requirement in special circumstances specified in the legislation—provided the Secretary makes written notification to Congress, explaining why such a strategy is not practicable.

Mr. Speaker, I would like to place a copy of my bill and the underlying legislation that would be reinstated—10 U.S.C. 2365—in the RECORD.

DOD has used competitive prototyping to great advantage in the past. The F–16 fighter program is a prime example. That program produced two excellent machines—the Air Force F–16 and the Navy F/A–18, both of which did a yeoman's work in the recent air war against Iraq.

Unfortunately, DOD has not always used competitive prototyping—with predictable results. The A–12 provides ample proof of what happens when the military ignores the clearcut advantages of competition.

As many of you will remember, Secretary of Defense Cheney had to terminate the Navy's A–12 stealth bomber on January 7, 1991. He terminated the program for default, because of unacceptable slippage in the program's schedule, massive cost overruns, and widespread management deficiencies. The contractor is now suing the Federal Government. Before it's all over, billions of dollars will have been spent, and we will have absolutely nothing to show for it.

The termination of the A–12 program was a devastating blow to naval aviation. The Navy needs a replacement for the aging A-6 bomber, there is no question about that.

But what does the Navy do in the wake of the A-12 disaster?

The Navy launches the AX program—successor to the A-12—with a paper competition planned for the concept exploration and definition phase. This phase is now underway, and will be followed by the selection of only one contractor for the crucial demonstration and validation [DemVal] phase scheduled to begin next year. There would be no competitive prototypes. This is another recipe for disaster.

The Navy has rejected the idea of competitive prototypes for the AX. Competitive prototyping is too expensive, in the Navy's view. The Navy wants to establish a comfortable team relationship with a favored contractor, and then give that company plenty of money and time to do the job.

Since when is competition too expensive? Admittedly, competition probably costs more up front, but over the life of the program, competition will save big bucks.

Now, who is it in the Navy who rejects competition? Capt. Jeffrey Cook is the AX program manager. He is the genius behind the AX acquisition strategy. Well, Captain Cook was the chief engineer on the A-12 program, and engineering is where the A-12 came unglued. And his boss, Navy Acquisition Executive Cann seems enthralled with Captain Cook's genius. He describes the AX plan as "a classical approach to a new start."

Mr. Speaker, recent experience tells me that the Navy's acquisition strategy for major aviation programs needs closer scrutiny. Mr. Cann and Captain Cook were part of the management structure that led us down the road to the A-12 disaster. Should we now follow their lead on the AX? Should those two be entrusted with the future of naval aviation? Or should we rely on the time-honored benefits of competition to solve the problem at hand?

I am not alone in questioning the wisdom of the AX acquisition strategy. Others have questioned it as well.

The Defense Acquisition Board [DAB] met to review the AX program plan on June 28, 1991. On July 3, 1991, Under Secretary of Defense for Acquisition Yockey authorized the Navy to proceed with the initial concept exploration and definition phase but directed the Navy to develop a revised acquisition strategy. At the time, the Navy's plan did not comply with DOD regulation 5000.2, part 5, section D, and 10 U.S.C. 2365. Both mandate competitive prototyping.

Under Secretary Yockey subsequently indicated that a final decision on whether to proceed with AX into DemVal with one or two contractors has been deferred until the Milestone I DAB review, which is scheduled to take place during the second quarter of fiscal year 1993.

Mr. Speaker, the Navy's apparent determination to head right back down the A-12 road to disaster with the AX tells me that the law requiring competitive prototyping must be reinstated.

Competitive prototyping makes eminently good sense. It also happens to be fully consistent with the DOD's new acquisition strategy that places heavier emphasis on R&D and stresses prototypes over production. Secretary Cheney described the new acquisition strategy during testimony before the House Armed Services Committee on February 6, 1992. He said: "More work will be done with prototypes to demonstrate capabilities, to prove out concepts, and technologies." That's exactly what is needed. That is exactly what my legislation would do.

I urge all my colleagues to support this bill.

H.R. 4303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF REQUIREMENT FOR USE OF COMPETITIVE PROTOTYPE PROGRAM STRATEGY IN DEVELOPMENT OF MAJOR WEAPONS SYSTEM.

(a) IN GENERAL.—Subsection (e) of section 2365 of title 10, United States Code, is repealed.

(b) EFFECTIVE DATE.—Section 2365 of title 10, United States Code, as amended by subsection (a), shall apply to major weapons systems that enter the advanced development stage after the date of the enactment of this Act.

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§2365. Competitive prototype strategy requirement; major defense acquisition programs

(a) COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT.—Except as provided in subsection (c), the Secretary of Defense shall require the use of a competitive prototype program strategy in the development of a major weapons system (or a subsystem of such system).

(b) QUALIFYING STRATEGIES.—An acquisition strategy qualifies as a competitive prototype strategy if it—

(1) requires that contracts be entered into with not less than two contractors, using the same combat performance requirements, for the competitive design and manufacture of a prototype system or subsystem for developmental test and evaluation;

(2) requires that all systems or subsystems developed under contracts described in paragraph (1) be tested in a comparative side-by-side test that is designed to—

(A) reproduce combat conditions to the extent practicable; and

(B) determine which system or subsystem is most effective under such condition; and

(3) requires that each contractor that develops a prototype system or subsystem, before the testing described in subparagraph (B) is begun, submit—

(A) cost estimates for full-scale engineering development and the basis for such estimates; and

(B) production estimates, whenever practicable.

(c) EXCEPTION.—Subsection (a) shall not apply to the development of a major weapons system (or subsystem of such system) after—

(1) the Secretary submits to Congress—

(A) written notification that use of a competitive prototype program strategy is not practicable with respect to such system or subsystem; and

(B) a report that fully explains why use of such a strategy is not practicable, including cost estimates (and the bases for such estimates) comparing the total program cost of the competitive prototype strategy with the total program cost of the alternative acquisition strategy; and

(2) 30 days elapse after the Secretary submits the notification and report required by paragraph (1).

(d) DEFINITIONS.—In this section:

(1) The term "major weapons system" means a major weapons system that is acquired under a program that is a major defense acquisition program.

(2) The term "major defense acquisition program" means a Department of Defense acquisition program that—

(A) is not a highly sensitive classified program (as determined by the Secretary of Defense); and

(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars).

(3) The term "subsystem of such system" means a collection of components (such as the propulsion system, avionics, or weapon controls) for which the prime contractors, major subcontractors or government entities have responsibility for system integration.

(e) TERMINATION.—This section shall cease to be effective on September 30, 1991.

RUSSIANS NEED OUR CAPITALIST EXPERTISE AND OUR MONEY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. DINGELL. Mr. Speaker, I would like to commend to the attention of my colleagues the thought provoking article written by Mr. Robert A. Hefner III, which appeared in the Dallas Morning News on Sunday, January 5, 1992.

While this Chamber must continue to focus very carefully upon our Nation's economic concerns, I believe that Mr. Hefner raises an important security concern. We must not miss this historic opportunity to take full advantage of America's investment in the cold war. This is our moment—our chance to help transform the new republics of the former Soviet Union into political and economic allies, so that our Nation might never again have to divert so much of our precious domestic resources toward preparation for war.

[From the Dallas Morning News, Jan. 5, 1992]

RUSSIANS NEED OUR CAPITALIST EXPERTISE AND OUR MONEY

(By Robert Hefner)

Almost singlehandedly over the last half-decade, Mikhail Gorbachev has pried open a historically unprecedented window of opportunity for global peace in the 21st century. No one can predict how long this window of opportunity may remain open. Indeed, many of Boris Yeltsin's reformers fear that the long cold Russian winter may slam it shut.

Thus President Bush may hold in his hands history's single most opportune moment to achieve a level of peace never before known by humankind. Yet, at this critical time, the Bush administration's ability to act seems to be frozen in confusion, "changing of the guard," internal controversy and presidential campaign positioning.

President Bush must act immediately and boldly during this time when Mr. Yeltsin and his cabinet have the momentum of widespread grass-roots public support to put in place all the systems of a free-enterprise democracy, fulfilling the ideals America has fought for throughout most of the 20th century. Boris Yeltsin has clearly indicated his willingness to cooperate, and, without doubt, the United States could lead the G–7 countries in an effort to fully support him and his new commonwealth.

Mr. Yeltsin is now the most influential person in the former Soviet Union. He has widespread political support from a vast cross section of the Russian people—old and young, rural and urban, new and old guard. And, even more important, Mr. Yeltsin has in his cabinet some of Russia's best and brightest people, including a group of young economists headed by Yegor Gaydar and Peter Aven, who passionately believe in democracy, human rights, private property and a market economy (as did another group of young men in Philadelphia in 1776).

Mr. Gaydar is Russia's deputy premier for economics in the Russian Council of Ministers, responsible for the economic transition; Mr. Aven is the new first deputy minister of foreign affairs. They have spent the past 10 years (often at great personal risk) studying Western markets, private property and banking. They want a floating hard currency by June.

That is precisely where U.S. policy must be targeted. Nothing could jumpstart Russia's economy as fast as an exchangeable currency that has the full confidence of the world financial market. U.S. aid should not fund projects or be doled out to help a crumbling bureaucracy.

U.S. aid should be in the form of guarantees or credits to the new central bank of Russia (and those of its new commonwealth countries), specifically organized to establish full market confidence in the new Russian currency. A totally convertible currency pegged to the U.S. dollar would immediately open spigots to an enormous inflow of private foreign capital as well as begin settling the chaotic political waters.

But this U.S. aid package must be given only in return for guarantees of market reform, private property, free elections, human rights and a bilateral agreement for the destruction of strategic nuclear weapons. Mr. Yeltsin and his cabinet want exactly what America wants, and the Bush administration must act immediately to seize this opportunity. The long Russian winter has started, and no one can predict next year's circumstances.

Additionally, the U.S. should openly and publicly support the goals of the Gaydar group with positive official statements and recognition. The popular momentum at this moment supports change. Our foreign policy must focus on the need to help facilitate these reforms of free elections, private property, free markets and convertible currency so that when the backlash comes (and indeed it will, I fear sooner rather than later), these essential systems will be in place, and, as history has taught us, they will withstand assault.

The United States has spent most of this century fighting two world wars and the Cold War for these ideals at great cost in both human life and money. The Cold War alone has cost about $8 trillion (twice our current national debt), and we must not now lose sight of what we have fought so hard for and fail to act decisively while the opportunity is here. This time we must finish the job and "go all the way to Baghdad." Even with our huge deficits, we must not lose our resolve to finish the job.

The founding of a handful of new freemarket democracies with enormous opportunity to become important trading partners and allies in the Marshall tradition is surely worth another $75 billion or even $150 billion of credits to the new Russian and other commonwealth central banks.

Under the conditions set forth above, this could certainly be funded out of our defense budget. Without such bold action now to support these reforms and reformers, the window of opportunity will slam shut, and the former Soviet empire will drop into chaos, civil war and totalitarian states at a long-term cost to America many times more than these proposed peace guarantees. On the other hand, with such action, these new democracies will become global neighbors and provide an American-oriented growth market, which over the long term will pay us many economic dividends.

RECOGNITION OF THE CONSTITUTIONAL RIGHTS OF ETHNIC ALBANIANS IN MACEDONIA IS ESSENTIAL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. LANTOS. Mr. Speaker, as we have witnessed the establishment of independent republics in the territory that was formerly Yugoslavia, there are rising concerns about the protection of the civil and human rights of all ethnic nationalities and in particular the rights of ethnic Albanians.

The latest area of grave concern, Mr. Speaker, is with ethnic Albanians in the Republic of Macedonia. In a recent referendum, the people of Macedonia voted that their Republic should become independent. The Republic of Macedonia, however, includes a significant Albanian population. The last census of Yugoslavia, which was taken a decade ago, indicates that 20 to 25 percent of Macedonia's population are Albanian. That number is well above that ratio today, and it may well exceed 40 percent of the population.

Unfortunately, the newly proclaimed Constitution of the Republic of Macedonia, which recently went into effect, does not provide guarantees of minority rights for the Albanians and other ethnic minorities in Macedonia. There are disturbing patterns emerging, Mr. Speaker, that raise questions about how this Albanian population is being treated. There are two instances that I would like to bring to the attention of my colleagues.

The first involves collusion between government officials in the Republic of Macedonia and the Republic of Serbia. As you know, the Serbian Government has consistently followed a policy of suppressing the Albanian majority in the autonomous Province of Kosova. Just a few days ago, two leaders of the Albanian community in Macedonia were invited to the United States to meet with members of the Congress and others in our country to present their case. In order to fly to the United States, they had to receive appropriate visas from our closest U.S. Embassy, which is in Belgrade, capitol of the Republic of Serbia. When they arrived in Serbia, they were arrested by Serbian police and prevented from getting to the American Embassy to receive their travel documents. The following day when they attempted to board the flight to the United States, they were forcefully removed from the plane.

Mr. Speaker, this collusion between the Government of Macedonia and Serbia is a serious violation of human rights. These Albanian leaders were denied the right of free movement and travel, freedom of speech to present their case, and they were subject to police harassment and intimidation. I urge my colleagues to join me in condemning this action by Serbian police officials and the collusion of officials of the Macedonian Republic.

The second instance of concern relates to the educational opportunities provided for Albanians in Macedonia. In the Macedonian capital of Skopje last year there were some 8,000 students who completed the eighth grade. Of those students, 3,800 were Macedonians and 3,200 were Albanians. For the 3,800 Macedonians, there were some 30 schools with instruction in the Macedonian language where they could continue their education. For the 3,200 Albanians, there was 1 school with 3 classes with instruction in the Albanian language—a total of 120 places for 3,200 students!

It was incidents like these two that I have described, Mr. Speaker, that led Albanians in Macedonia to organize and conduct a referendum of ethnic Albanians in Macedonia on January 11–12 of this year. The question on the ballot was whether Albanians should be given political-territorial autonomy within the Macedonian Republic. The vote was overwhelming in favor.

The Assembly for Political-Territorial Autonomy of Ethnic Albanians in Macedonia wrote to the Council of Ministers of the European Community raising the issue of the treatment of Albanians in Macedonia and requesting recognition and acceptance of their justified claim for political and territorial autonomy.

Mr. Speaker, I ask that this letter be placed in the RECORD and I urge my colleagues to read it. It raises serious questions that must be considered before the status of the Republic of Macedonia can be recognized.

THE ASSEMBLY FOR POLITICAL-TERRITORIAL AUTONOMY OF ETHNIC ALBANIANS IN MACEDONIA,
Gostivar, Macedonia, February 12, 1992.

THE COUNCIL OF MINISTERS OF THE EUROPEAN COMMUNITY.

DEAR SIRS: The Assembly for Political-territorial Autonomy of Ethnic Albanians in Macedonia highly appreciates the efforts made by the Commission of Arbitration for the solution to the crisis in the area of the former Yugoslavia, particularly their engagement for the protection of human rights through the right for self-determination. We read with a special interest the part of the Commission's report that deals with Macedonia's recognition by the EC and its member states. We have noticed, with regret, in this report, that the Commission has not taken into consideration the indisputable natural, historical and current facts of life and activity of about 40% of the total population of Macedonia—the ethnic Albanians, who declared themselves for the political-territorial autonomy of the territory inhabited by them in the Referendum held on Jan. 11 and 12, 1992.

What follows is only a short list of indisputable facts that were underestimated or ignored in the Commission's report:

(1) ethnic Albanians in Macedonia live on their lands as an autochthonous people;

(2) ethnic Albanians in Macedonia comprise a compact entity in the territory where they live;

(3) ethnic Albanians are a national entity distinguished by their own customs, characteristics, language;

(4) ethnic Albanians constitute the majority of the population of the region inhabited by them;

(5) the sovereign and nation-building status of ethnic Albanians guaranteed by article 1 of the 1974 Constitution of the Socialist Republic of Macedonia is degraded in the current Constitution to national minority states;

(6) there is no mechanism such as consensus for instance, for the protection of human and collective rights of ethnic Albanians and other nationalities;

(7) the collective and individual human rights and freedom of Macedonians are not limited according to the current Constitution whereas for non-Macedonians there are many limitations.

All these facts also were underestimated and ignored in the current Constitution adopted on Nov. 17, 1991.

On the occasion we express our convictions that ethnic Alabanians in Macedonia are not against the independence of Macedonia and her recognition by the EC and its member states, on condition that their political-territorial autonomy is recognized as a step towards finding the right and just solution to the Alabanian question, in accordance with Final Helsinki Act of 1975 and the Paris Chart for a new Europe in 1990, which documents recognize the right for self-determination to all peoples.

In the Referendum for Political-Territorial Autonomy of Ethnic Alabanians in Macedonia held in Jan. 11 and 12, 1992 in 17 municipalities (out of 34 in total in Hacadonia) took part 360,928 voters out of 383,539 voters in total out of which 99.90% voted FOR the Political-Territorial Autonomy of the Ethnic Albanians in Macedonia.

On the basis of the above-mentioned facts we would like to let you know that without the solution to the ethnic Albanian question in Macedonia, that is, without the federalization of Macedonia, this region will remain unstable and volatile and will continuously threaten peace both in the area of the former Yugoslavia and the Balkans in general. Therefore we ask you to reconsider the statements in the report on Yugoslavia by the Commission of Arbitration concerning the international recognition of Macedenia.

Before making the decision on the recognition of Macedonia, the EC should take into consideration the following facts: that ethnic Albanians did not vote for the current Constitution of Macedonia; that the population census in Macedonia is partially carried out and consequently the national structure of Macedonia is not known; and that ethnic Albanians declared themselves for political-territorial autonomy.

For these reasons the EC, before making the decision for the recognition of Macedonia, should made efforts for the realization of a new total population census of Macedonia, under the supervision of the international institutions, because Macedoniane are not a majority population in Macedonia in comparison with all the others who live in it: The EC should engage in making changes in the current Constitution, and respect the political will of the ethnic Albanian people in Macedonia.

RILEY TELLS STORY TO ILLUSTRATE LIKELY RTC ABUSE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. CLAY. Mr. Speaker, one of the most serious financial debacles in the history of our Nation—the collapse of our savings and loans industry—continues to plague the integrity of our national economic agenda. Reports of inefficiencies on the part of the Resolution Trust Corporation, which Congress established to address the savings and loan crisis cannot be ignored. I would like to take this opportunity to share a press report from the Arkansas Democrat-Gazette which details some of the difficulties which one businessman encountered in his efforts to negotiate with the Resolution Trust Corporation.

[From the Arkansas Democrat-Gazette, Jan. 27, 1992]

RILEY TELLS STORY TO ILLUSTRATE LIKELY RTC ABUSE

A Little Rock businessman, Pat M. Riley, tells a personal story about how the Resolution Trust Corp. may be mishandling assets of failed savings and loans.

The RTC is the federal agency charged with selling off the assets of failed savings and loans to recover as much money as possible.

Many business executives and financial industry officials have complained about the way the RTC is operating. Responding to their complaints, Rep. Beryl Anthony, Jr., D-Ark., said Friday he will convene hearings in Arkansas in March to discuss problems with the RTC.

There may be others like Riley who come forward.

He owed $500,000 on a $6 million loan from the failed Savers Federal Savings and Loan of Little Rock. Last July Riley, offering to pay it off for $350,000, proposed a discount for the early payoff. The RTC refused his offer.

The RTC offered to sell the loan to him for $490,500, but he refused.

The RTC finally sold the loan for $385,000 to a Virginia-based partnership, which included one of the RTC's top national independent contractors, officials said.

BRW Real Estate Operating Co. Ltd. of Alexandria, Va., paid $80.5 million for a bundle of Savers loans, including Riley's.

The price for the package of loans was 77 percent of its total appraised value, officials said.

In 1983, Riley took out the loan from Savers Federal Savings & Loan to build Woodland Heights Apartments, a Little Rock retirement center.

The RTC took over Savers Federal, changed the name to Savers Savings Association in 1989 and began selling off the institution's assets.

Among the assets for sale was Riley's loan, which carried a 13 percent interest rate and a payoff amount of $500,000.

While banks and other major investors have bought real estate and loans from the RTC for big discounts, the offer to Riley to buy his loan for $490,500 was only a 0.019 percent discount.

The RTC then listed his loan for sale for $474,000 but nobody bought it.

Last fall, Riley's loan was then included in a package of real estate and mortgages from the Savers portfolio. And in December, BRW Real Estate bought it in the Savers loan package.

RTC spokeswoman Jane Jankowski said the mortgages in the bulk sale were "bad" and non-performing loans.

But Riley has always been current in repaying the loan and Savers never had a problem with the loan, according to Riley's records and Savers officials who asked not to be identified.

"I've performed. I've never missed a payment. I haven't been rewarded for that though," Riley said.

"When I sought to negotiate with the RTC, they said they just had no mechanism to deal with anybody that was performing," Riley said.

"They had policies and procedures to make payoffs at discounted rates to those whose loans were in trouble. Those of us who were performing were simply left to make a full payment," he said.

He said RTC officials also told him they needed to put some "good" loans into the bulk offerings to sell off the asset packages.

RTC officials said his wasn't the only good loan being sold off at a discount to large investors.

"I borrowed the money and I fully expected to pay it in full," Riley said. "Nonetheless, when they are trying to give it to out-of-state people at 30 percent discounts, it seems only appropriate they offer me some reasonable discount to pay for it myself.

"To put this in proper perspective, it is not only myself who is paying in full but it is the United States taxpayer including you and I who are being penalized. Had the RTC simply held it, they would have received their money in full," he said.

BRW is a partnership of the J.E. Robert Co., the Blackstone Group and Goldman Sachs.

J.E. Robert Co. is a Virginia-based management firm that was the RTC's second largest independent contractor. J.E. Robert performs appraisal, accounting and management work for the federal government.

The company has earned more than $80 million for its work, according to American Banker, a banking industry newspaper.

J.E. Robert also manages more than $10 billion in assets for the RTC but was not involved in the Savers portfolio it bought, officials said.

J.E. Robert has teamed up with the New York-based Blackstone Group to buy up RTC property across the Southwest.

FINANCIAL FRAUD DETECTION AND DISCLOSURE ACT OF 1992

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. MARKEY. Mr. Speaker, I am pleased to join with my colleague from Oregon, Mr. WYDEN, and Chairman DINGELL of the full Energy and Commerce Committee in introducing today the Financial Fraud Detection and Disclosure Act of 1992. This legislation seeks to place additional responsibility on independent public accountants who certify the financial health of public institutions and make those accountants more accountable to those they serve—the investing public.

This legislation is the natural product of the subcommittee's commitment to clean up after the financial excesses of the 1980's. The public was consistently overlooked in that decade of greed, but it is the public that is now being forced to foot the bill for the consequences of the corporate misdeeds that helped shape the decade. Just last year, the public was asked to assume the costs of an additional $25 billion for the S&L bailout, as well as a $70 billion line of credit for the bank insurance fund. Mr. Speaker, the taxpayer has had enough. In keeping with our successful passage of the Insider Trading and Securities Fraud Enforcement Act of 1988; the Market Reform Act, and the International Securities Enforcement Cooperation Act of 1990, this legislation focuses on the need for greater preventive measures to curtail the deceptive actions of financial criminals before the consequences of such actions are played out at taxpayers expense.

Congress, in the years following the Great Depression, mandated that public companies have their financial statements scrutinized by independent auditors. While congressional intent was to provide for an independent and objective review of a company's finances, the mechanism to ensure such objectivity was imperfect; Congress did not provide any official guidelines outlining how companies should conduct their audits. This resulted, first, in companies hiring their own private watchdog, and, second, in auditors that feared biting the hand that fed them. The legislation being introduced today will seek to rectify this apparent conflict-of-interest by mandating specific guidelines and regulations to be followed by all independent auditors.

This legislation should not be viewed as Congress pointing its disapproving finger at independent accountants. Indeed accountants, too, can fall victim to the elaborate financial schemes of fraudulent corporate managers. However, there currently is no general requirement that the audit be designed to provide reasonable assurance of detecting fraud—a shortcoming which may have contributed to the issuance of clean bills of health for some financially wrecked institutions by several large accounting firms. One must wonder how 28 of the 30 S&L's that failed in California in 1985 and 1986 could have received clean audits a year before they went under, and how one of the big six accounting firms, Price Waterhouse, could have been so successfully duped by BCCI. Accordingly, this legislation will mandate specific requirements to ensure that public auditors conduct a thorough, independent audit and look for material misstatements during the course of an audit.

The legislation we are introducing today is the culmination of more than 20 hearings on the accounting profession conducted since 1984 by the Oversight and Investigations Subcommittee chaired by Chairman DINGELL. It also contains key provisions from a House-passed amendment to the 1990 Comprehensive Crime Control Act, as well as language adopted by the House, but later dropped from title IV of H.R. 6, the Financial Institutions Safety and Consumer Choice Act of 1991, in which auditors are required to expand their search for fraudulent activities of clients and directly report any such findings, under appropriate circumstances, to the SEC.

These new rules will provide regulators with an early warning bell to prevent the problems of the 1980's from overflowing into the 1990's. This legislation, however, is just one step in many that must be undertaken so that we can begin to alter the way in which our financial system is monitored and monetary interests of the investing public are protected. I look forward to moving this legislation swiftly through the Subcommittee on Telecommunications and Finance and urge its support by the House.

BILL ROBERTS: U.S. ATTORNEY AND JUSTICE DEPARTMENT CHAIRMAN OF THE ATTORNEY GENERAL'S ADVISORY COMMITTEE OF U.S. ATTORNEYS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of our colleagues the great job Bill Roberts is doing in his newly appointed position as chairman of the Justice Department Advisory Committee of U.S. Attorneys while still working as a U.S. attorney.

Mr. Roberts splits his time between home and his duties in Washington. He is the U.S. attorney of Springfield, IL and the chairman of the Attorney General's Advisory Committee of U.S. Attorneys. Mr. Roberts speaks on behalf of 93 U.S. attorneys nationwide in meetings with Attorney General William Barr, and his voice is heard on subjects ranging from budgets to gang busts.

At this point I wish to insert in the RECORD an article by Bob Estill, "Roberts Finds Time to Split Town for Washington Duties," which further details of Mr. Roberts' plans, accomplishments, and devotion.

ROBERTS FINDS TIME TO SPLIT TOWN FOR WASHINGTON DUTIES

(By Bob Estill)

WASHINGTON.—U.S. Attorney Bill Roberts of Springfield lives what he calls a "schizophrenic existence."

But it's his time, not his personality, that's split.

Since the top federal prosecutor in the Central Illinois district became chairman of the attorney general's Advisory Committee of U.S. Attorneys in January, he has divided his time between Springfield and Washington, D.C.

In Washington, he is the voice of the 93 U.S. attorneys nationwide in daily meetings with Attorney General William Barr. He counsels the head of the Justice Department on subjects from budgets to busts of gangs, drug dealers and other armed felons.

"I'm the U.S. attorney for a couple of days, and I'm on the staff of the attorney general for a couple of days," Roberts said. "Trying to keep in sync with both worlds is something with which I've not completely come to terms yet. But I'm getting there."

The Springfield Republican was appointed to the 15-member committee in 1989 by Barr's predecessor, Dick Thornburgh, and elected by the panel members last year to serve a one-year term as chairman.

"It's a determinate sentence," Roberts said with a laugh.

The first Illinois prosecutor to serve as committee chairman, the 49-year-old Roodhouse native is among seven Prairie State prosecutors who have served on the panel. Predecessors include former Gov. James Thompson, appointed when the committee was created in 1973, and Sam Skinner, now White House chief of staff.

This year, Roberts expects to average three to four days a week in his fifth floor office in Washington, just a few doors down from Barr's suit. The proximity is more than geographic. Roberts is part of a coterie of eight to 10 top managers who meet with Barr every morning.

"What I bring * * * is a perspective beyond the (Washington) Beltway, which I believe Attorney General Barr finds valuable," Roberts said. "Somebody on his staff remarked to me that 'you are the only one in the room who can really tell us if it will play in Peoria.'"

Roberts, formerly Sangamon County state's attorney, serves as a bridge between two worlds in the Justice Department.

He said he understands the perspective of officials here who feel the Justice Department "must speak with one voice."

But he also recognizes that the 93 U.S. attorneys, all presidential appointees, have "far more trial experience and certainly more experience in their particular locations than somebody in Washington."

As an experienced prosecutor, Roberts also is aware of how the job has expanded since the 1970s, when "bank robberies were the big cases." Now, Roberts said, prosecutors are reaching out to local communities in cooperative efforts to rid the streets of drug dealers and armed criminals.

One new project the advisory panel helped shape is "Weed and Seed," which Roberts calls a "marriage of law enforcement and social services." It is being tested in Trenton N.J., Philadelphia, Kansas City, Mo., and Omaha, Neb.

"Weeding" begins when the Justice Department, working in concert with local law enforcement, elected officials and community groups, targets areas for crackdowns by federal, state and local law enforcement agencies.

"It's a whole community effort * * * to take out the bad guys, the crack dealer on the corner, the dope house in the middle of the block, that are festering and infecting the neighborhood," Roberts said.

"Seeds" then will be planted for neighborhood improvement, Roberts said, in a myriad of ways from sprucing up the appearance with street cleaning or refurbishing of parks and playgrounds to providing assistance on home loans and organizing neighborhood watch programs.

The advisory panel strongly recommended, and the attorney general agreed, that the experiment be taken "one step at a time" instead of having every community in the country competing for a limited pool of funds, Robert said. This year, 16 cities, including Chicago, vie for a share of $10 million for the program.

"Triggerlock," aimed at armed and violent criminals, is another program that "rose up from the field," evolving from a summit meeting last year of prosecutors, police chiefs, sheriffs and other law enforcement officials, Roberts said.

Under "Triggerlock," federal prosecutors work with state and local officials to prosecute armed criminals under federal laws that may be tougher than state or local laws. For example, a drug dealer caught with a gun in his possession would be tried not only on the drug charge, but for a federal weapons felony carrying a mandatory sentence of five years in prison or up to life imprisonment for repeat offenders, Roberts said.

The advisory panel also works closely with Barr on the less glamorous aspects of Justice Department duties, including the budgets for the U.S. attorneys.

"We're in their pitching for our share of the pie,'" Roberts said of his fellow prosecutors. "When they have economic resources to distribute, we've done pretty well."

Roberts said his wife, Carole, has been a good soldier about his career taking him away from home so often.

"I'm comfortable doing what I'm doing," Roberts said. "And in summary, I look forward to the time when I can live in one community again."

CELEBRATING THE FOUNDING OF ROTARY INTERNATIONAL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. SOLOMON. Mr. Speaker, Rotary celebrated its founding on February 23. On February 28, Rajendra K. Saboo, president of Rotary International, will lead other Rotarians in commemorating that event at U.N. headquarters.

I'm paying tribute to all that is good about Rotary it is my privilege to place in today's RECORD Mr. Saboo's inspiring message, and I would urge all Members to read it.

[From the Rotarian, Feb. 1992]

WHO HAS SEEN THE FACE OF PEACE?

(By Rajendra K. Saboo)

I remember my four-year-old grandson saying to his sister, "Let us now make peace, and play." To children, peace is so simple, sincere, and pure.

Yet when the world's great leaders invoke the rhetoric of peace, they explain its complexities. To them, peace is something difficult to achieve.

How do we explain this difference?

Like the child, peace also "grew up," developing a multi-faceted personality, presenting a different face to different people from different angles. It cannot be seen in a single glance, or captured in a single word or phrase.

No wonder that peace is represented by a dove—a bird in the wild. The dove is elusive. If you try to chase it, the bird flies quickly away until it disappears into the sky. But place a few grains of seed corn in your open hand, and the dove will come to you of its own accord.

Peace, too, will come to you . . . if with sincerity, you hold out the seeds that nourish it and help it to grow. Offer up the seeds of goodness and service then peace will descend upon you.

I know a Rotarian whose greatest moment in Rotary came when, after 10 days of serving in an eye-operation camp, he was adjusting new spectacles on the eyes of a 65-year old patient, one of the many who had undergone surgery. Suddenly, the patient's voice came loud and clear, "I can see, I can now see after 25 years." He was dancing with excitement. As happiness blossomed within the patient, peace flowered within the Rotarian who had served.

Such service must be the first step to peace, because peace grows within the heart. Peace thrives with service and understanding, according dignity to our fellow men. Peace is nourished by truth and principles, and it is strengthened when we overcome our differences to work together, finding common ground for a noble cause. How true are the words of Ralph Waldo Emerson: "Nothing can bring you peace but yourself."

Like you, I love myself, my family, my city, my country, but I will have to progressively look beyond them to find the true face of peace. Let each Rotarian be a crusader for peace, seeking it in his or her own way, but always through service, the basis for any worthy enterprise.

Peace begins with you—by reaching out to your neighbor, by opening your heart, by bridging the differences between people and communities.

For a world at peace is not a dream, nor a wishful fantasy. Working this year in tandem with the United Nations and its agencies, I have seen the flowering of peace in our joint initiatives for the health and welfare of others. Now, to culminate this week spent commemorating the birth of Rotary on 23 February—today known as World Understanding and Peace Day—I will again return to UN headquarters. And there, along with other Rotarians on 28 February, we will celebrate our partnership and our dream. Within your own clubs as well, find time to celebrate our special relationship and our special quest for peace.

In closing, I leave you with a reflection from Mahatma Gandhi, spoken shortly after his quest for India's independence took him to Britain.

"I am not conscious of a single experience throughout my three-month stay in England and Europe that made me feel that East and West is West. On the contrary, I am convinced more than ever that human nature is the same, no matter under what clime it flourishes, and that if you approached people with trust and affection, you would have tenfold trust and thousandfold affection returned to you."

The Mahatma realized that service is not merely the essence, but the likeness of peace. This is a vision we can share, based on trust and affection.

"Look Beyond Yourself" to see the true face of peace.

INFORMATION SERVICES

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. SMITH of Florida. Mr. Speaker, in recent months, a number of articles have been published seeking to frame the debate regarding the entry of the regional telephone companies into the information services business.

I hope that my colleagues will find interesting the attached comments by Mr. Allen Neuharth. I also believe that Congress must not inhabit the ability of all Americans to enjoy the added options offered by potential information services providers.

[From the Adweek, Oct. 28, 1991]

ALLEN NEUHARTH

Now head of the Freedom Forum. Allen Neuharth fought the newspaper wars for years as chief of Gannett Co.

Q. In light of recent court rulings, are newspapers justified in trying to bar the regional Bell phone companies from information services fields?

A: Not in my view. Newspaper publishers are simply seeking special protection, which under our free-market system no single individual should have. If newspaper publishers accept the Baby Bells as conveyors of information and figure out how to be co-entrepreneurs with them, they'd be much better off.

Q: Will Baby Bells' information services cut into newspaper profits?

A: I don't think so, because the basic commodity of a newspaper is that it's printed with ink on paper that people can hold, and that will still be the way a very, very large segment of the population will want to get their news.

Q: so why are newspaper publishers making such a ruckus?

A: Publishers like to scream bloody murder. They are traditionalists who don't want their turf invaded. They did it with radio and did it with cable. They still don't recognize that the First Amendment applies to broadcasting, too. It's no more likely that the Baby Bells will have a monopoly on information services than newspapers will have a monopoly over news.

BIOGRAPHY OF CHIEF JOSEPH BRANT

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my on-going series this year, I am providing for the consideration of my colleagues a short biography of Joseph Brant, a warrior chief of the Mohawk Tribe. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

JOSEPH BRANT (MOHAWK)

During the American Revolution and the years just preceding it, the most powerful Indian friend British settlers had was Joseph Brant (born "Thayendanegea"), a warrior chief of the Mohawk tribe. His lifetime devotion to the English cause started in 1755 when, only 13 years old, he fought under Sir William Johnson in the Battle of Lake George.

Johnson, who became British superintendent of Iroquois tribes in what is now upstate New York, was to play a most significant part in the young Indian's life. He had made friends with the Mohawks, learned their language, and married Molly Brant, young Joseph's sister. Sir William took Brant under his wing, had him educated at a mission school (which later became famous as Dartmouth College), and made him his assistant. In addition to these duties, Brant, who had joined the Anglican Church, worked at revising the Mohawk prayer book and translated parts of the Bible into the Mohawk language.

By 1775 Brant had become a prominent leader, not only of his own tribe, but of the five others which made up the powerful Iroquois League of Indian Nations. As the Revolution began, he accompanied Guy Johnson, Sir William's nephew, on a trip to England, acting as Johnson's secretary. The Mohawk chief was presented at court, had tea with Boswell, and sat to have his portrait painted by the celebrated and fashionable English artists, Romney.

Brant returned to America completely dedicated to the British side in the Revolution. Although the Iroquois League had declared itself neutral, Brant determined to bring it over to the English. British success in driving Washington out of New York in 1776, and the influence of his sister Molly (now widow of Sir William), helped him persuade the Senecas, Cayugas, and Onondagas to join his Mohawks. Members of the two other League tribes, Oneidas and Tuscaroras, chose the American side or were neutral.

Commissioned as a British officer, Brant led strong bands of combined Tories and Iroquois warriors in border raids and battles up and down the Mohawk Valley, acquiring a reputation for both savage ferocity and fighting skill. He surrendered only in the fall of 1781, when Washington sent General Sullivan and his men into the field, overwhelming English and Indian forces at the Battle of Johnstown, and ending war along the Mohawk.

In 1783, the Revolution at an end, Brant, still commissioned by the British and retained on half pay, was rewarded with a grant of English land along the Grand River in Ontario, where he settled with his Mohawk followers. Other Indians from the Six Nations joined them, and the area became known as the Six Nations Reserve. Brant ruled it in peace until his death in 1807, when his youngest son, John, became chief of the Mohawk tribe.

He is buried near a small church which he had built on the Grand River near Brantford, Ontario. A marker reads: "This tomb is erected to the memory of Thayendanegea, or Captain Joseph Brant, principal chief and warrior of the Six Nations Indians, by his fellow subjects, admirers of his fidelity and attachment to the British Crown."

GLOOM OF SOME AMERICANS SEEMS ROOTED IN UNREALITY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. BEREUTER. Mr. Speaker, this week the House is scheduled to debate tax policy and economic incentive legislation. Before the tax bill is taken up on the House floor, this Member urges his colleagues to consider the following editorial from the February 24, 1992, edition of the Omaha World-Herald.

[From Omaha World-Herald, Feb. 24, 1992]

GLOOM OF SOME AMERICANS SEEMS ROOTED IN UNREALITY

Some people are hard to figure out. They endure the tough times with pluck and courge. Then, when the pressure is off, they go to pieces.

They came through the Cold War in good shape. They handled the Arab oil embargo of the 1970s. The big recession of the early 1980s didn't faze them. But now the Soviet Union has collapsed. The Cold War is over. The United States is experiencing a recession that is relatively mild by recent standards. And some people look ahead and see only darkness.

Such people came to mind in connection with a recent survey by Money magazine. The survey examined Americans' attitudes about the economy. The results suggested a level of gloom that, considering the circumstances, was surprising.

One of every five survey participants said the country is entering a depression. More than half said they were sure the inflation rate and the unemployment rate would rise this year.

When people say such things, it is an indication that they have lost faith in the economy. An editor of the magazine said the survey indicated that "there's something deeply disturbing going on out there."

Admittedly, a recession brings pain to those who can't find the right job, or any job. They deserve the sympathy and understanding of their fellow Americans. But the general lack of confidence indicated in the survey was something different. It suggests a crisis in spirit that is largely unwarranted by the outlook. A number of private and government economists predict an upturn by the middle of the year.

Personal income registered a healthy increase in December. Exports set a record in 1991. Stock prices have remained near record levels. Housing prices and financing costs have been unusually affordable.

Alan Greenspan, the chairman of the Federal Reserve System, has said that the outlook is so favorable that a government effort to jumpstart the economy could do more harm than good.

As to inflation, the people who predicted an increase might be right. But only because inflation has been so low that economists believe it will inevitably trend upward. Consumer prices rose about 3.1 percent last year. Economists are predicting an inflation rate of about 3.5 percent this year.

However, the increase in prices last month was so small that if it continued all year, the total inflation for 1992 would be less than 1 percent. Certainly any fear of runaway inflation can't logically have been rooted in recent experience. More likely it is rooted in the evening network news, where the message is often that the American economy is sick and getting sicker.

Or it's rooted in the rhetoric of Democratic politicians, where the message is that most families have been slipping financially since Jimmy Carter—or was it Lyndon Johnson?—left the White House.

Such thinking is dangerous when it spreads to the general public. It leads to pessimism, fear and loss of spirit. None of which America needs to be burdened with as it enters what should be one of its most exciting periods.

IN HONOR OF NEIL YESU

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, a little over 30 years ago, President Kennedy stated: "Our progress as a Nation can be no swifter than our progress in education." It is obvious that Mr. Neil Yesu followed these words in all that he did for Springfield Central High School as its first principal and in general, what he has done to improve the level of education in western Massachusetts.

Mr. Yesu graduated from American International College in Springfield in 1960 with a bachelor of arts in humanities. He knew he wanted to teach, so from 1960 to 1961 he worked at Branford High School in Branford, CT, as an English teacher as well as a baseball coach and student government adviser. By becoming involved in these extracurricular activities, especially in his first year at a new job, it showed that Mr. Yesu was not going to be just a teacher to his students. He would instead, be the kind of person who the students could come to when they needed help, for he cared not only about what they learned, but also what they were involved in to make them well-rounded people.

He went to Westfield State College where he received his masters in education in 1964. During his stay at Westfield State, Mr. Yesu took on the position of an English and speech teacher at Van Sickle Junior High School in Springfield, MA. This would be the first of five different positions he would hold in the Springfield public school system. He stayed at Van Sickle until 1967 when he became an English teacher, as well as the cross-country coach, at Classical High School. On top of that, he found time to teach English at Western New England College. He kept both of these jobs until 1972, when he was offered the position of assistant principal of Classical High School. This appointment showed that now, the parents, administration, and faculty, as well as the students, knew what an asset Mr. Yesu was to the education of the students. In 1979, his contributions were even more appreciated when he was appointed to the position of principal. He stayed at Classical until the school was closed in 1984 because a new school, Springfield Central High School, was built to replace Classical and Springfield Technical High School.

For some time it was questionable who was going to take on the responsibility of being the new principal with a student body from two such diverse schools. After a nationwide search, the board decided they had looked too far. The man they needed was right under their nose. In the fall of 1984, Mr. Yesu became the first principal of Springfield Central High School.

"I had the responsibility to meld two established schools with divergent goals, philosophies, student bodies, and staffs into a new entity. This opportunity for making history, establishing traditions, and reshaping the perspective of a secondary education was successfully accomplished." When Mr. Yesu said this, some listerners might have felt he was patting his own back a bit too much, but when you compare the position of Central High School with other urban schools, he was by far being very modest. Eighty to eighty-five percent of the students at Central go on to a 2- or 4-year college and the dropout rate average has been only 3 percent. Compare that to 72 percent of the students nationally that go on to college and 27.4 percent of the students nationwide who drop out of urban high schools and you can see just how much Mr. Yesu contributed to the students, staff, and administration.

Having been a teacher myself, I know how hard it is to motivate students. Mr. Yesu's belief that everyone can achieve high personal goals was passed on to his students, faculty, and staff. The standards in education Mr. Yesu has set and the commitment he has shown should make the Springfield community proud. I speak for all of Springfield when I say I hope your years of retirement are as fulfilling as your 32 years in education.

EARTH DAY 1992 RESOLUTION

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. ROYBAL. Mr. Speaker, I am introducing an Earth Day 1992 resolution today. I invite all Members of the House to join as cosponsors.

Since 1970, Earth day has become a time for Americans to show their concern for the environment and their dedication to the future of the Earth. It has become a rallying point for a variety of individuals, groups, businesses, organizations and communities who share an abiding interest in bringing environmental concerns to the forefront of national debate. A celebration of past achievements, this day also represents a renewal of the commitment to continue the struggle for a cleaner, safer and better world for our children and their children's children.

Earth Day 1992 offers an excellent chance to increase the awareness of all citizens to the many threats to our fragile ecosystems and educate them on the many ways to help heal our troubled planet. Efforts on the part of involved individuals, activists, grade school, high school and college students and faculties, businesses, organizations and local communities will serve to encourage easy, day-to-day changes aimed at conserving our precious resources and preventing further degradation of nature. Concern is not enough to change harmful habits and practices. It must be supported by personal actions and a commitment by society to create a world where people understand and respect the essential relationship between themselves and nature.

Environmental problems including climate change, ozone depletion, loss of forests, wetlands and wildlife habitats, acid rain, air and water pollution, hazardous and solid waste disposal require strong action on the part of Congress as well as support from the executive and judicial branches of the Government. Responsible, reasonable and balanced measures such as the elimination of the manufacture and use of chlorofluorocarbons, increased recycling, improved energy efficiency and the promotion of conservation incentives. A lasting commitment to sustainable development will help prevent the reckless depletion of irreplaceable resources.

I encourage all Americans to join together in a nationwide demonstration of concern for the environment and the future of our planet. From school children to senior citizens, we must all act on behalf of the environment for meaningful change.

THE NATIONAL MARINE SANCTUARIES REAUTHORIZATION AND IMPROVEMENT ACT OF 1992

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. HERTEL. Mr. Speaker, in this 20th anniversary enactment of the National Marine Protection, Research, and Sanctuaries Act of 1972, we are called upon to reauthorize title III of the act, which authorizes the Secretary of Commerce to designate national marine sanctuaries. The primary mission of the National Marine Sanctuary Program is to preserve and restore areas of ocean, coastal, and Great Lakes waters for their unique qualities.

As we take on this task, we just look at what history has taught us through the current site selection, evaluation, and designation process. In the 1970's, the first two designations were made for the U.S.S. Monitor National Marine Sanctuary and Key Largo National Marine Sanctuary. Four more national marine sanctuaries varying in location, scope, and size were designated by 1981. For the greater part of the 1980's, like many other Federal environmental programs, the National Marine Sanctuary Program received a low priority. So meager was the administration's support at that time that the purpose and policies of the act were threatened because such limited resources were made available to carry them out.

With fervent congressional interest, the National Marine Sanctuaries Program has exhibited a revival in the late 1980's and early 1990's. While the Florida Keys National Marine Sanctuary and the Flower Garden Banks National Marine Sanctuary have both received final designation through a long and tedious consideration process, even involving congressional intervention, several other areas are under active candidacy for designation.

At this point, we are called upon to reexamine and rebuild on the purposes and policies of title III of the National Marine Protection, Research, and Sanctuaries Act. As we begin to reauthorize and improve the act, we must be cautious in our approach, yet adamant about our mission. We must not seek to achieve far-reaching goals, beyond the scope of the act, with controversial overtones that could inhibit our chances of enacting sound legislative improvements this year.

We must ensure that fragile and diverse ocean, coastal, and Great Lakes resources in threatened areas receive the benefit of a sold program for selection, evaluation, and designation as a national marine sanctuary. We must emphasize that it is the role of the National Oceanic and Atmospheric Administration to promote continuing sound conservation, preservation, and management practices in sanctuary areas and that these objectives serve as the cornerstones of the National Marine Sanctuary Program.

The 1990's offer challenge and opportunity. This is a time for examining our progress in the first 20 years of the National Marine Sanctuary Program, for reaffirming our goals and objectives, and for expanding on our experience. For example, there is much to be learned from long-term research, monitoring, and education in sanctuary areas, yet as management plans are currently implemented, few incorporate the full range of benefits that could accrue if these were made a part of overall resource protection plans.

Another area that deserves attention relates to the use of money recovered in damage actions. If civil penalties, forfeiture proceeds, and damages for violations of prohibited activities were collected in one account to be made available for restoring sanctuary resources and dedicated to program goals, there would be an accomplishment. Given adequate enforcement tools, the National Ocean and Atmospheric Administration could effectively manage the sustainable use of sanctuary resources.

Along with questions about the adequacy of the purposes and policies of the act in protecting marine and coastal areas for future generations arise notions about the geographic distribution of sanctuaries, their appropriate size, and the overall number that should be designated. While much of the current designation process has been frustrated with delay, those sanctuaries that have made it through the approval process demonstrate that the program is a noble one. Streamlining the process means requiring and demanding greater cooperation between Federal and State agencies, private and public organizations, as well as giving the National Oceanic and Atmospheric Administration the support it needs to do its job. To acknowledge that the National Marine Sanctuary Program has been underfunded does nothing to solve its problems if we are unwilling to make a major and realistic commitment to increase program funding. Without such an increase, management of existing sanctuaries would be ineffective at best, and new site selections could be virtually halted.

Improved program implementation is not something that I believe the Congress should try to micromanage for the National Oceanic and Atmospheric Administration. However, I do believe that by stipulating careful purposes and policies, and with adequate funding, the agency should be able to proceed with designations of a variety of meritorious sanctuaries proposed and do a good job of managing them. The National Oceanic and Atmospheric Administration must make and enforce some strict determinations about what activities are consistent with resource conservation and enhancement.

As the National Marine Sanctuary Program grows and develops, there are guides, such as the National Park Service, to aid us in recognizing its potential. Again, it is the commitment of financial resources that determines the program's effectiveness. Granting authority to the National Oceanic and Atmospheric Administration to receive and solicit donations, to acquire property and facilities, such as visitor's centers and docks, will contribute to its well-being. In addition, a foundation could make it possible for the program to expand outreach, educational, and other related projects yet unaccomplished.

Mr. Speaker, while I have discussed only a few of the issues that require examination during the next few months, I am offering for introduction a bill called the National Marine

Sanctuaries Reauthorization and Improvement Act of 1992. This bill represents a balance of the comments and suggestions of witnesses who testified on November 7, 1991, at a joint hearing I chaired of the Subcommittee on Oceanography, Great Lakes and the Outer Continental Shelf, with Chairman GERRY STUDDS of the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

By introducing this bill today, I am seeking to provide a vehicle for our reauthorization that takes present improvements in the current National Marine Sanctuary Program. Over the past few months, I have sought and received the benefit of the insight of a variety of interested parties who work with the National Marine Sanctuary Program, and it is through their suggestions that this legislation is possible. Again on March 11, 1992, the Subcommittee on Oceanography, Great Lakes and the Outer Continental Shelf will conduct a joint hearing with the Subcommittee on Fisheries and Wildlife Conservation and the Environment on reauthorization of title III of the National Marine Protection, Research, and Sanctuaries Act. At that time, I hope more progress on this reauthorization legislation can be accomplished.

Before closing, I would like to thank some who provided me with extraordinary assistance in preparing this legislation: members of the Marine Sanctuaries review panel, especially Jack Sobel of the Center for Marine Conservation, John Humke of the Nature Conservancy, and Frank Potter of the International Network for Environmental Policy; Andy Palmer, Dawn Martin, and Fred Felleman of the American Oceans Campaign; David Slade of the Coastal States Organization; Gary Magnuson of the Center for Marine Conservation; Steve Hughes of the Congressional Research Service; G. Carleton Ray and M.G. McCormick-Ray of the University of Virginia; William DuBose of the National Ocean Industries Association; Lee Weddig of the National Fisheries Institute; and those at the National Oceanic and Atmospheric Administration who have worked hard to develop and manage this program in the first 20 years.

Special acknowledgment should be given to Hank Savage of the Office of Legislative Counsel for his thoughtfulness and competent counsel, to Mike Quigley for his scientific expertise and insight, and to Rita Diehl for her excellent legal analysis.

At this point, Mr. Speaker, I would like to offer for introduction the National Marine Sanctuaries Reauthorization and Improvement Act of 1992, followed by a brief summary of its provisions.

SUMMARY OF H.R. 4310, THE NATIONAL MARINE SANCTUARIES ACT

TITLE I—REAUTHORIZATION AND IMPROVEMENT OF THE NATIONAL MARINE SANCTUARIES PROGRAM

Section and description

101. Title.—"National Marine Sanctuaries Reauthorization and Improvement Act of 1992."

102. Findings, Purposes, and Policies.—Includes "cultural" qualities and "international significance" among findings for recognition of a marine sanctuary. Adds to the purposes and policies of the program maintaining the natural variety of living resources and ensuring that sites are representative of all biogeographic regions. Identifies marine environment areas of special national significance due to their natural resource, human-use, and cultural resource values and provides authority for coordinated management of these areas, long-term monitoring and research, and interagency cooperation.

103. Definitions.—Amends definition of "damages" to include long-term monitoring of injured marine resources within a national marine sanctuary. Amends "response costs" definition to include enforcement, legal, and other costs as authorized by the Secretary.

104. Sanctuary Designation Standards.—Emphasizes finding that state and federal authorities should be supplemented to ensure coordinated conservation and management. Includes natural diversity and functional diversity among the area's natural resource and ecological qualities. Requires consultation with other federal agencies in drafting a resource assessment section of the environmental impact statement regarding past, present or proposed discharge or disposal of materials within the boundaries of or affecting an area designated a marine sanctuary.

105. Procedures for Designation and Implementation.—Allows "documents" and summaries of designation to be submitted to Congress, in lieu of a prospectus. Requires federal agency comments regarding a proposed designation to the Secretary of Commerce within 45 days of notice, unless the Secretary for "good cause" grants an extension. Requires consultation with fishery management authorities in drafting regulations. Amends determinations of access and valid rights by allowing the Secretary to certify that leases, permits, licenses or rights acquired after the designation are consistent with the purposes and policies of the Act. Requires an annual report to Congress summarizing various itemized features of program administration.

106. International Cooperation.—Promotes international consultation and cooperation.

107. Prohibited Activities.—Makes it unlawful to destroy, cause the loss of, or injurie any santuary resource; or to refuse enforcement and inspection authorized by the Act.

108. Civil Penalties.—Creates "in rem" liability, the penalty constitutes maritime lien on vessel in violation. Establishes a fund for civil penalties and forfeiture proceeds, including interest.

109. Research, Monitoring and Education.—Establishes programs of research, monitoring, and education in accord with the purposes and policies of the National Marine Sanctuaries Act, including coordination with other government and private entities and the National Estuarine Research Reserve System.

110. Cooperative Agreements and Donations.—Allows for cooperative agreements with public and private persons and organizations. Gives the Secretary authority to solicit donations for program use and to acquire such land, facilities, and other property as may be necessary and appropriate to carry out the purposes and policies of the Act.

111. Destruction or Loss of, or Injury to, Sanctuary Resources.—Clarifies defenses where destruction, loss of, or injury to, sanctuary resources was authorized by a valid license or permit. Includes interest on amounts recoverable and provides calculation of interest. Permits the Secretary to authorize response actions, and eliminates the cap on the use of recovered amounts to finance future response costs and damage assessments.

112. Authorization of Appropriations.—For General Administration, $500,000 for fiscal year 1993; $5,200,000 for fiscal year 1994; $5,410,000 for fiscal year 1995; $5,620,000 for fiscal year 1996; $5,850,000 for fiscal year 1997; and $6,084,000 for fiscal year 1998. For Management of Sanctuaries, $20,000,000 for fiscal year 1993; $20,040,000 for fiscal year 1994; $20,840,000 for fiscal year 1995; $21,670,000 for fiscal year 1996; $22,540,000 for fiscal year 1997; and $23,442,000 for fiscal year 1998. For Site Review and Analysis, $3,000,000 for fiscal year 1993; $3,120,000 for fiscal year 1994; $3,240,000 for fiscal year 1995; $3,370,000 for fiscal year 1996; $3,510,000 for fiscal year 1997, and $3,650,000 for fiscal year 1998.

113. Advisory Councils.—Gives the Secretary authority to establish Advisory Councils comprised of groups or persons interested in the protection of sanctuary resources and multiple use management of marine sanctuaries.

114. Management of Cultural and Historic Resources Located in National Marine Sanctuaries.—Authorizes protection of resources of cultural or historical significance, located in a national marine sanctuary. This includes abandoned shipwrecks, the title to which is asserted by the federal government for shipwrecks outside of state waters.

115. Short Title.—Renames Title III of the National Marine Protection, Research and Sanctuaries Act of 1972, the "National Marine Sanctuaries Act."

TITLE II—COASTAL AND OCEAN SANCTUARY FOUNDATION

201. Title.—"Coastal and Ocean Sanctuary Foundation."

202. Definitions.—Board of Directors, Secretary of Commerce, Under Secretary of Commerce for Oceans and Atmosphere, Foundation.

203. Establishment of Foundation.—Charitable, non-profit organization.

204. Functions of Foundation.—Raise funds for support of foundation including conservation, research, restoration, education, and management activities. Funds may be matched by not more than 50 percent through a grant.

205. Board of Directors.—Ten Members with related background, rotating appointments. No compensated federal employees may serve on foundation.

206. Rights and Duties of Foundation.—Standard formation powers, seal, and perpetuation.

207. Administrative Services and Support.—Office space and personnel.

208. Audits and Reports.—Audit of accounts similar to private corporation. Annual report to Congress.

209. Relief with Respect to Certain Acts and Failures of Foundation.—U.S. Attorney General may petition for equitable relief upon failure to perform duties.

210. Release of U.S. from Liability.—United States is not liable for acts of foundation. Full faith and credit shall not extend to the foundation.

211. Authorization of Appropriations.—Not more than $1,000,000 shall be available for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

212. Use of Interest on Funds.—Interest on foundation funds may be used for projects and programs approved by the Board.

QUESTIONS OF NATIONAL CHARACTER

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. TRAXLER. Mr. Speaker, I rise today to bring to the attention of my colleagues a recent column written by Mr. Haynes Johnson of the Washington Post. Mr. Johnson, an especially insightful and perceptive columnist for many years, has departed on a 1-year sabbatical to do a book on American values—personal, political, and economic. I believe his February 7 column accurately depicts the current plight of the American economy and American society itself. I hope my colleagues will take the time to read "Questions of National Character" carefully and take its warnings to heart.

QUESTIONS OF NATIONAL CHARACTER

(By Haynes Johnson)

The Japanese, of all people, should know better. It's not only bad form to insult good allies and partners. It's also stupid to attack them when they are down and feeling most vulnerable.

Yet that's what Japanese leaders have done twice in the last two weeks, repeating a cycle in which high-ranking officials there have publicly disparaged America and Americans.

The latest insults began when Yoshio Sakurauchi, speaker of the lower house of the parliament, castigated American workers as "lazy" and illiterate. Prime Minister Kiichi Miyazawa further inflamed American passions by charging that America "may lack a work ethic" and suggesting that some Americans have forgotten how "to live by the sweat of their brow." He also blamed part of U.S. economic woes on the numbers of college graduates who flocked to Wall Street during the 1980s rather than choosing careers "producing things of value."

Six years ago, then-Prime Minister Yasuhiro Nakasone boasted that Japan was far ahead of the United States as a well-educated and "intelligent society." He attributed part of America's problems to its racial, ethnic makeup, saying: "In America, there are quite a few black people, Puerto Ricans and Mexicans."

His implicit slur was expressed more explicitly four years later by then-Justice Minister Seiroku Kajiyama, who compared prostitutes in Japan to black Americans who move into white neighborhoods and "ruin the atmosphere."

In the best of times, such comments would infuriate Americans and heighten anti-Japanese feelings. In today's troubled America, they strike with special force amid growing fears about this nation's economic future and long-term prospects.

The Japanese are not alone in expressing a belief that America is in decline. Many Europeans, among others, make the same points, albeit more diplomatically: Poor old America, used to be great, can't get its act together, sad to see how it's slipping.

Americans need no gibes from U.S. competitors to remind them of their internal problems. Here at home, evidence accumulates that increasing numbers share such pessimistic views. Not only is consumer confidence at an all-time low. Confidence in the political and economic system also is being seriously shaken. Americans know theirs is a system under stress, in the midst of fundamental testing. They also know that problems will linger long after this recession ends. Not since the Great Depression has an economic slump cut so wide a swath, affecting everyone from top executives to the shrinking middle class to declining blue-collar workers and rising numbers of those in poverty.

For the rest of this decade, national life will be dominated by cities and states bankrupt, critical public services slashed, health-care clinics closing, hospitals in distress, benefits cut or eliminated, violent crime increasing, infrastructure crumbling, basic manufacturing and corporate white-collar jobs permanently lost. These problems and increasing evidence of public cynicism about all institutions and leaders make it likely that divisions among winners and losers will increase, exacerbating tension among races, regions, ethnic groups and economic classes.

These conditions raise questions about whether something fundamental has gone wrong and, if so, what are the causes and possible solutions. Have American values changed? Has the belief in America's uniqueness, in its representation of something far greater than its many disparate parts, changed? Does common national purpose exist, and where are the leaders who will articulate it? If such leaders emerge, will people follow them? Is there no more American Dream?

In a way, the Japanese taunts could prove helpful if they stir Americans to the kind of concerted action that Japanese treachery sparked 50 years and two months ago today. Concern about precisely that response led Japan's greatest admiral, Isoroku Yamamoto, to tell exultant officers after the successful attack on Pearl Harbor: "I fear we have only awakened a sleeping giant, and his reaction will be terrible."

But America's problems are not with outside forces. In 1992, it faces a test from within—of its economic and political will. Does it still have the national character to respond and to win?

LET GOD BLESS AMERICA AGAIN

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. LEWIS of California. Mr. Speaker, I would like to raise to your attention today a poem written by a young 70-year-old lady, Mary Ann Watson Alexander, of Redlands, CA. Ms. Alexander asked that her poem about the challenges America faces be shared with others in Congress.

LET GOD BLESS AMERICA AGAIN

(By Mary Ann Watson Alexander Class of 1940—BHS)

From America the home of the free and the brave
To wickedness and violence we've become a slave.
All this, and more, on the TV we view.
I'll tell you what we ought to do;
Put a hold on exploration of outer space,
And concentrate on helping the human race.
An ongoing plan is to put people on Mars for 4 years.
Such waste of money, at this time drives me to tears.
Our world is going down the drain;
It really is a rotten shame.
If we were to analyze our government's budget
And mention a few things, they'd probably fudge it.
We'd find there is millions for testing such things
As pickles and bee's wax and likely humming bird wings.
Why not revamp the budget and come up with a plan
That could use those monies to help our fellow man?
We have people in New York City living in sewers by masses,
And people in Los Angeles living under Freeway overpasses.
Our parks have been taken over by out-of-workers,
While being criticized by wealthy smirkers.
The Communists threatened, way back when,
The destruction of America was their plan.
They would work on our youth
By distorting the truth,
By destroying the home, the church and the school;
Working from the inside out is their rule.
We've closed our eyes and our minds to intelligent men
Who have tried to tell us the Communists are not our friends.
If we continue to trust them and fall into their trap,
Eventually our country will fall into their lap.
Things will never go back to what they used to be,
The Land of the brave and the home of the free,
When man worked from sun to sun
And a woman's work was never done.
Now we have unions who regulate hours
And women libbers who demonstrate their powers.
The parents, of necessity, are out of the home,
While children are left on the streets to roam.
In place of love and hugs and kisses
They have their own latch key and empty dishes.
Why go home when there's no one there,
No one to listen, no one to care?
Our country is in such a sad state
That mothers must work to put food on the plate;
While government officials give themselves raises,
And expect us ordinary people to give them praises.
They need more money for entertaining
As well as two or three home maintaining.
They know nothing of sacrificing for themselves
While welfare and aid for the elderly are put on the shelf.
We are generous with our money all over they world
As into oblivion our beloved country's being hurled.
Our only hope is for all to pray
"God bless America in the good old way."
I hope they'll wake up before it's too late.
Our youth have turned to pot, speed and alcohol;
When spaced out, they think they're having a ball,
But a day or so later when they come to,
They find there is really not much they can do;
So they repeat the self-destructive action,
Indulging in sex, freely, is a faction.
Our beautiful girls have turned to the street
Hoping there will be love in someone they meet.

They become prostitutes, to be raped and degraded
By men who hate women because they were hated.
Prophylactics are being handed out at random,
More or less saying, "sex is OK if you use a condom."
They don't tell that these things can break,
But when you get AIDS, it's forever too late.
What's wrong with just saying NO?
Sex is only a part of real love, don't you know.
Look back at the history of the Roman empire;
To conquer their world they did aspire.
Their gross sin and wickedness caused them to fall.
History may repeat itself if on God we don't call.
Wake up America for God's sake;
Wake up before it's irreversibly too late.
I'm, not a religious fanatic, but when I size up our nation,
My simple intelligence says God's our only salvation.
His Word is what our country was founded upon.
The home and safety and high morals are already gone.
We've allowed atheists and communists freedom of speech.
What have they done to accomplish world peace?
Not a cotton pickin' thing—of peace there's a dearth.
There's heartache and poverty all over this earth.
Don't fool yourself, communism is not dead.
In many countries it still raises it's ugly head.
Right south of the border, it's plain to see,
Communism is as live as it can be.
So much is happening in the world as a whole,
Which only goes to prove God is still in control.
So decide now what will be our fate.
Turn to God and say, "Thou art great."
Let Him help us while there is still time
To purge America from sin and crime.
The land we love, the home of the free
Is about to be destroyed by "One World" economy.
My heart aches for my fellow man.
Washington, don't let us fall in the communist's plan.
God have mercy on your soul
If you don't turn to Him and get us out of this hole.
God Bless America is a prayer.
Join me in it if you really care.
God bless America—land that I love;
Stand beside her and guide her through the night with a light from above,
From the mountains, to the prairie, to the oceans white with foam,
God bless America, my home sweet home. (I repeat)
God bless America, my home sweet home!!!

KNIGHT OF THE GAEL HONORS JOAN AND LARRY TUNTLAND

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. BILBRAY. Mr. Speaker, I rise today and ask my colleagues to join me in honoring two outstanding citizens of southern Nevada, Joan and Larry Tuntland. On the evening of March 18, 1992, these two individuals will be honored for their outstanding contribution to the community by Bishop Gorman High School in Las Vegas, NV, on the occasion of the 10th annual "Knight of the Gael."

Although Larry Tuntland's responsibilities have recently carried him to northern Nevada, his long association with southern Nevada and statewide business and civic associations has left an indelible mark on the city of Las Vegas. Throughout his rise to area president of First Interstate Bank in northern Nevada, Larry has also found time to become a member of the board of trustees for the Economic Development Authority of western Nevada; a trustee for the University of Nevada, Reno Foundation; a member of the board of directors of the Nevada Area Council of Boy Scouts; and chairman of the Nevada Community Redevelopment Corp.

His civic involvements have led him to become president of the Boulder Dam Area Council of Boy Scouts and a member of the advisory board for the Boys and Girls Clubs of Las Vegas. He has also served as a member of the president's council for UNLV.

While spending most of her time raising the two Tuntland children, Dan, 21, and Ray, 26, Joan Tuntland has also enjoyed her involvement with Little Flower and Saint Anne's schools along with Bishop Gorman and Bishop Manogu schools. In addition she has become an integral part of her husband's civic involvements.

Joan and Larry Tuntland are an example of the community and family spirit that is essential in today's fast-paced world. While managing professional and family success, they have managed to become integral parts of the Las Vegas community. I am indeed honored to salute their achievements today and ask my fellow Members to join me in congratulating Joan and Larry Tuntland.

MAKING CONGRESS MORE FAMILY FRIENDLY

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. SMITH of Texas. Mr. Speaker, last week, Congresswoman PAT SCHROEDER and I circulated a questionnaire to determine how the congressional schedule could be made more family friendly.

The survey asks members how they would like to change the schedule to better accommodate their families.

The purpose of the survey is not to increase congressional recess time, but to shift priorities on behalf of families.

The current schedule discriminates against members with school-aged children because not enough consideration is given to having congressional recesses coincide with school vacations.

American families benefit by the presence of representatives in Congress who have young children.

These members face many of the same challenges and decisions as other parents across the Nation.

And American families are better served by having individuals in Congress who share their concerns and perspectives.

The deadline for the survey is this Friday, February 28.

Please help make Congress more family friendly by completing the survey and returning it to my office.

TRIBUTE TO RAY J. MADDEN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. VISCLOSKY. Mr. Speaker, I rise today, February 25, 1992 on what would be the 100th birthday of the late Ray J. Madden who passed away at 95 years of age on September 28, 1987, in Washington, DC. I offer my remarks as a special tribute to a dedicated public servant who served the people of northwest Indiana for 34 years in the U.S. Congress, from January 1943 to January 1977—longer than any other Member of Congress from Indiana.

Ray Madden was an extraordinary individual whose life was marked with great achievements and contributions to the Nation and the district he served. During his 95 years, Chairman Madden worked hard to positively influence the lives of others. This is reflected by his 60 years of public service ranging from his position as municipal judge in Omaha, NE, to city comptroller of Gary, IN. In addition, Mr. Madden served his country during World War I as an enlisted Navy serviceman. In Congress, he rose to become chairman of the powerful House Committee on Rules.

Chairman Madden came to Congress in 1942 with the objective that he would bring assistance to working Americans. A friend of organized labor and a proponent for equality, his first goal when he arrived in Washington was to see that postal employees were given appropriate raises, citing the lack of a compensation increase for 21 years. He was ultimately successful.

Another area of interest was his commitment to the immigrant community. Chairman Madden worked hard to see that standards were provided to ease the transition the area's relatively new immigrant population. In a 1981 interview sponsored by the former Members of Congress Association, oral history project, Chairman Madden stated that his commitment in Congress was to those he represented, "the working people and ethnics," and his service reflected his desire to help them.

At the national level, Chairman Madden took an active interest in supporting legislation on a wide variety of topics. He supported the establishment of the School Lunch Program, authorization of Federal funding for cancer research, assistance for displaced persons, legislation to extend the Reciprocal Trade Act and a variety of bills to protect the rights of workers. Known as a liberal Democrat, Madden utilized his seat on the prestigious House Rules Committee to see that the Truman administration's Fair Deal legislation was moved through committee for full consideration by the House. In a U.S. News and World Report article, Ray

Madden was cited as one of the three committee members on whom the administration could depend.

In 1951, Chairman Madden received national attention for his work in investigating the Katyn forest massacre. The subject surrounded the killing of some 15,000 Polish army officers and intellectuals during the winter of 1939–40 just after Poland had been divided between the German and Russian occupying forces. In 1943, the Germans disclosed the massacre blaming the Russians. Madden introduced a bill in 1951 which created a special committee to oversee an investigation. The measure passed and Madden was named chairman of the special group. He embarked on a trip to Europe where he held meetings and heard testimony from some 400 persons. Based on this factfinding mission, Madden and his committee determined that the time of the massacre was not later than 1940 when Soviet forces occupied the territory. He recommended that this report be forwarded to the United Nations General Assembly for possible action by the International Court of Justice. As the leader of this investigation, Congressman Madden received accolades for his hard work and efforts to see that the investigation was carried out promptly. He was also recognized in 1952 as having performed a very real service to the Nation in this regard.

As the record reflects, Chairman Madden's contributions were numerous and his energy and enthusiasm to participate in developing national policy was unending.

Still, he found time to travel frequently to and from northwest Indiana where he participated in meetings and local events. "There were many rubber chicken dinners," Madden stated in a 1981 interview, which reflected the level of participation he had on the local level. He was concerned about health-care services for the thousands of veterans in the First District and testified before the House Veterans' Affairs Committee on the need for a health care facility in northwest Indiana, specifically Lake County which had the highest concentration of veterans. The environment was also a concern and in 1943, Madden introduced a bill to control pollution discharged into Lake Michigan.

As a political leader in the area, Madden worked to see that local Federal projects were secured for his district. In the early 1970's Mr. Madden worked to incorporate infrastructure improvement projects for northwest Indiana. In 1973, Chairman Madden was responsible for the development of the Urban High Density Program, which designed road transportation improvement projects for areas with high-density traffic patterns. The result created the Cline Avenue project in East Chicago, IN, which initially provided greater access to the area steelmills, the communities of East Chicago and Gary. Equally important, this project created an array of jobs. In addition, Madden worked to see that the city of Hammond received Federal funds to initiate a rail relocation program which was targeted to resolve the problem of traffic in the downtown corridor and was a positive economic spur for the area. His efforts on behalf of the people and area are well remembered.

Ray Madden was a public leader of our time who lived through the Great Depression and his experience was reflected in his commitment to see that such an economic dislocation would never be repeated in our Nation.

On numerous occasions, Madden spoke to students about the need to plan for the future. He wanted to plant the seeds of his vision and he reminded students that "there is today a very serious effort to engage the people of our country in future thinking." This was an ongoing theme during his visits to educational institutions and he reiterated his view in 1982 when he said it was "important for people to realize sooner or later that the average citizen must pay more attention to the Federal Government and those who represent the public's interest."

In addition to his contributions to the people he served, Mr. Madden was a figure I personally respected and admired. I can remember my first trip to Washington, DC, with my father at the age of 13. We made a visit to the chairman's office and had our pictures taken on the Capitol steps. He took me to my first committee hearing and joined my father and me for dinner later that day. This is a special memory I will carry with me forever and I imagine there are thousands of others in northwest Indiana who have similar memories.

At the chairman's funeral he was eulogized as a man who was truly a great leader and a man of his time. During the course of his professional and public life, he dedicated himself to helping people. His heart was so big that he was always there to aid someone and who very seldom thought of himself. His style in public life was marked by his dedication to service. Even after his retirement in 1977, Mr. Madden continued to be active in civic affairs. When I arrived in the Congress in 1985, he was kind enough to share his advice and insights with me.

Ray Madden was a great person, great for his public deeds; greater for his kind heart, and greatest for his attributes as a gentleman and a true representative of the people.

His contributions and efforts will not be forgotten. His legacy will be felt in northwest Indiana and the entire Nation for generations to come. Ray Madden's commitment to public service is one that few, if any, have ever matched.

Chairman Madden, I, on behalf of the people of northwest Indiana and the United States, remember you fondly on what would be your 100th birthday. We owe you our deepest gratitude for successfully dedicating your life's work toward leaving the world a better place.

INTRODUCTION OF LEGISLATION PROVIDING MEDICAID COVERAGE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. RICHARDSON. Mr. Speaker, I am pleased to introduce legislation today providing Medicaid coverage for all certified nurse practitioners and clinical nurse specialists for services they are legally authorized to perform, whether or not they are supervised by a physician.

As the need to provide medical care to the Nation's medically underserved populations has increased, the need to facilitate access to quality, cost effective primary care provided by nurses in advanced practice has increased. The advanced clinical training of nurse practitioners allows them to provide many of the primary care services usually performed by a physician. In fact, between 75 and 80 percent of adult primary care services and up to 90 percent of pediatric primary care services can be provided by nurse practitioners. Over 400 studies, including one by the Office of Technology Assessment concluded that nurses in advanced practice provide high quality care in a cost effective manner in both rural and inner city settings.

Unfortunately, while advanced practice nurses are willing and able to provide services in medically underserved settings, not all nurse practitioners and clinical nurse specialists are being reimbursed for their services in these areas. For example, Medicaid patients are able to access the care of pediatric and family nurse practitioners but not adult and women's health nurse practitioners in the same Medicaid setting. My legislation would enable all nurses in advance practice, regardless of specialty to be accessed by Medicaid recipients.

Nurse practitioners and clinical nurse specialists are specially prepared to provide care to the indigent. Their educational programs emphasize the provision of care to patients who have limited resources, financial and otherwise. In a national survey conducted by the American Academy of Nurse Practitioners, over 60 percent of the patients seen by these providers had family incomes of less than $16,000 per year.

Twenty eight States, CHAMPUS and the Federal Employees Health Benefits Program already recognize the important role of nurses in advanced practice by requiring direct reimbursement for them. The latter two entities have done so for over a decade. CHAMPUS, FEHB, and States providing direct reimbursement have likely learned that better utilization of advanced practice nurse can save money. Studies have found that nurse practitioners serving in outpatient medical clinics can reduce hospital stays for their patients by 50 percent. One study found that for 58 tasks, the average bill was $8.13 when performed by a nurse practitioner and over $16 when performed by a physician.

I am hopeful this legislation will help to eliminate disparities in access to care for rural and inner city Medicaid populations by providing direct reimbursement to nurse practitioners and clinical nurse specialists who have proven their ability to deliver quality care in a cost effective manner.

HONORING JAMES BERTOLINO

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. MURTHA. Mr. Speaker, I'd like to take a moment to honor an individual whose contributions to the workers of the Johnstown, PA area are unmatched. Jim Bertolino, who is retiring as president of Teamsters Local No. 110, has been a tireless advocate for the many Teamsters, and in fact for all workers, in our area.

Jim's involvement in labor issues goes back to the late 1950's. One of his earliest efforts at organizing a group of employees resulted in him losing his job. But Jim was undaunted, and continued to fight for the rights of the local workers. From 1977 to 1992, he served as president of local No. 110, which eventually represented Teamsters in 19 counties of Pennsylvania.

But for all the important work that Jim has done on behalf of the workers of our area over the past 30 years, perhaps the thing we'll remember him the most for has been his endless work for charitable causes, especially during the disastrous 1977 flood in Johnstown. Jim's efforts in serving with the civil defense, helping to set up the flood disaster office in the Teamsters hall, and hauling food and supplies for flood victims will never be forgotten by the many grateful recipients of the aid Jim was so instrumental in organizing.

On behalf of many members of our community, I'd like to extend all our best wishes to Jim Bertolino on the occasion of his retirement. He's been a tremendous asset to every working man and woman in our area, and his day-to-day efforts for them, and for all the people in western Pennsylvania, will be remembered by them with pride.

TRIBUTE TO THE DAILY CALIFORNIAN ON ITS 100TH BIRTHDAY

HON. RANDY "DUKE" CUNNINGHAM,

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. CUNNINGHAM. Mr. Speaker, the newspaper of record for east San Diego County, the Daily Californian, celebrates its 100th birthday this coming February 29th.

Under the ownership of E.N. Sullivan, the Daily Californian's ancestor, the El Cajon Valley News, was first published on March 12, 1892. In those days, San Diego County was wild, untamed country. And because El Cajon itself was home to only 600 residents—hardly enough to support even a small newspaper—the El Cajon Valley News concentrated more on news from communities like Las Pensaquitas and Encinitas, the latter a rugged day-long horseback ride away. For only $1, residents of San Diego County could subscribe to a year's worth of the El Cajon Valley News.

The first front page of the El Cajon Valley News provides a valuable glimpse of life on the Southern California frontier. It featured a lengthy essay on diet and a full page of "Easy Lessons in Spanish."

In 1912, the Sullivan family transferred ownership of the El Cajon Valley News to C.O. Preston, who owned the paper until 1936. Thereafter the weekly paper was owned and published by Henry C. Reed and his son Carlyle until 1953, by Sy Cassidy from 1953–64, and by the Baker family from 1964–74.

On January 21, 1974, the former El Cajon Valley News was renamed the El Cajon Californian. Upon its sale to Landmark Communications, Inc., of Norfolk, VA, the paper took its present name, the Daily Californian, and moved its El Cajon offices from 613 West Main Street to a new building at 1000 Pioneer Way.

From its humble beginnings as a country paper, the Daily Californian now employes over 200 people and is published 6 days a week. Its circulation of 23,000 now serves readers in La Mesa, Spring Valley, Alpine, Lakeside, Santee, and other parts of east San Diego County, in addition to the city of El Cajon.

Let the permanent RECORD of the Congress of the United States show that the Daily Californian has served its community and its readers with distinction for100 years. May it continue to chronicle east San Diego County's next century with excellence.

EARNEST McKEEVER: RESPONSIBLE TEXAN EVERY ELECTION

HON. JIM CHAPMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. CHAPMAN. Mr. Speaker, while Greeks in ancient Athens are generally held as the founders of democracy, the United States of America is viewed by the world as the symbol of democratic values in the modern era. Yet, our citizens hold the dubious distinction of having one of the worst records of participation in the democratic process of government. This is apparent when one considers the abbysmally low turnout of our voters at the polls. Happily, there are certain exceptions to this unfortunate situation.

It is my distinct honor and privilege to call attention to a gentleman who, in his 83 years, has been a model that we should all strive to emulate. Mr. Earnest Richard McKeever of Sulphur Springs, TX, has never missed voting in an election. For more than half a century, he has been an involved and responsible citizen, filling his role in our representative form of government. Further, it most certainly is noteworthy from my side of the aisle that in all those years, he has voted singularly for Democratic candidates.

Mr. McKeever has stood up and has been counted. He has been a part of the process and has helped make our system work. I would suggest that if more Americans took their responsibilities of citizenship as seriously, we would all find ourselves better off. Such attitudes of involvement carry far beyond the polling place into all facets of our daily lives.

I therefore commend Earnest Richard McKeever for his unique and thoroughly outstanding record of involvement in our democratic process. I look forward to his continuing this important commitment into the next century and beyond.

SUPPORT FOR H.R. 4192, THE TRUTH IN BUDGETING ACT

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. LEVIN of Michigan. Mr. Speaker, I am pleased to be an original cosponsor of House Resolution 4192, the Truth in Budgeting Act. This legislation, which was developed with the able assistance of the National Committee to Preserve Social Security and Medicare, will make clear that Social Security is self-sustaining and in fact is running a sizable surplus which is being used to mask deficit spending in the general operating budget of the United States.

Three times the Congress has passed laws to take Social Security out of the budget. Nevertheless, it continues to be counted in the budget totals, thereby using Social Security surpluses to hide other Federal spending. By aggregating trust fund surpluses with general fund deficits, the Federal budget hides almost one-third of Government deficit spending.

The way that the Federal budget is structured provides incentives to cut programs financed through trust funds, even though programs currently generate more revenue than they pay out in benefits. I believe the Federal budget should be restructured so policymakers can identify the extent to which programs contribute to the budget deficit or, as in the case of Social Security and other trust funds that have surpluses, actually finance the deficit.

The truth in budgeting proposal would redefine spending so that revenues to trust funds are netted against spending from trust funds. Currently, revenues, such as interest, are netted elsewhere against spending, and tax revenue is pooled in the overall revenue totals.

Placing dedicated revenue, such as the Social Security payroll taxes, directly into the appropriate trust fund will carry out the intent of the Congress that certain revenue sources should finance specific activities.

The truth in budgeting proposal also requires that the interest payments to the trust funds should be subtracted from trust fund spending, instead of being subtracted from total interest spending. Currently, the interest paid to the trust funds is hidden so that interest spending by the Federal Government in the budget totals is only the interest paid to the public. It is time to quit hiding the amount of interest the Government must pay to finance the public debt.

Adoption of the Truth in Budgeting Act will make clear the true size of the Federal deficit. We must end the charade and gimmickry that characterizes Federal budgeting.

IN HONOR OF JUSTICE NAT A. AGLIANO—THE RETIREMENT OF A DEDICATED PUBLIC SERVANT

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to Nat Anthony Agliano, the presiding justice of the California Court of Appeals for the Sixth Appellate District, on his February, 1992 retirement. Nat has been an outstanding resident and public servant in California for over 45 years and I am honored to have the chance to recognize his exceptional contributions.

Nat received a bachelor of science in business administration from the University of California, Berkeley in 1954, and then went on to obtain a law degree from Hastings College of Law in 1959. From the beginning, Nat applied his training and exceptional talent to improving a multitude of aspects in the legal field. It is obvious that Nat's service to the legal system of California is truly unprecedented. He began his career as the deputy attorney general for the criminal division in Sacramento in 1960. After 3 years, Nat moved into private practice as a partner in the law firm of Panelli & Agliano in Salinas, CA. In August 1971, Nat was appointed as a judge on the Salinas Municipal Court and 8 months later, he was appointed to the Salinas Superior Court. In 1984, Nat became an associate justice on the California Court of Appeal, and, for the past 6 years, Nat has served as the presiding justice of the California Court of Appeal.

Throughout his career, Nat has extended himself in the legal field outside of his official role. He was a member of the State Judicial Council Sentencing Practices Advisory Committee for formulation of sentencing rules under the Determinate Sentencing Law of 1977. He was both the chairman and a member of the California Judges Association, Criminal Law and Procedure Committee, and a seminar panel member for the Criminal Law Institute of California. Nat was also a member of the judges association and Commission for Judicial Education and Research, a seminar leader for the family law institute, and a committee member to review probation analysis studies performed by California Adult and Youth Correctional Agency. In addition, Nat served in the U.S. Army from 1954 to 1956.

Nat Anthony Agliano has provided leadership above and beyond the call of duty. Throughout his career, he has demonstrated exemplary personal and professional dedication at home, in his work, and in his community. Nat currently resides in Salinas with his wife, Lillian, and is the father of four children.

Nat has selflessly devoted the majority of his life to the study and betterment of the legal field. Mr. Speaker, I ask my colleagues to join me now in recognition of Nat's lifetime of public service. it is with great pride and respect that I rise to salute the lifelong accomplishments and selfless dedication of Nat Anthony Agliano.

TRIBUTE TO LOUISIANA NATIONAL GUARD ON THE 1 YEAR ANNIVERSARY OF THE LIBERATION OF KUWAIT

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. BAKER. Mr. Speaker, I rise today, on the 1-year anniversary of the liberation of Kuwait, to again thank the Louisiana National Guard for their courageous service to our country. It is with a deep sense of gratitude that I remember the Louisiana National Guard's tremendous efforts during the gulf war.

On August 2, 1990, Iraq invaded Kuwait, prompting President Bush to deploy United States Armed Forces to defend and free the region from Iraqi aggression and terror. After 40 days of air combat and 4 days of ground assault, the allied forces liberated Kuwait on February 26, 1991. Of the more than 527,000 U.S. troops sent to the gulf region, over 75,000 were National Guard members.

These brave soldiers, many of whom are my constituents, were suddenly uprooted from their jobs, friends and families to answer their Nation's call. Thousands of National Guard soldiers across this country dropped out of college, deferred marriages and missed the births of their children. Despite the prospect of months away from home and the dangers of battle, these men and women fulfilled their duty proudly and without complaint.

The National Guard played an extremely important role throughout Desert Shield and Desert Storm. In the first major wartime use of an All Volunteer Force, the U.S. military found itself depending to an unprecedented degree on the support of the National Guard. I believe these citizen soldiers met the test in the manner of true professionals. Louisiana Guard members performed outstanding service in security, transportation, fuel handling, and medical service. Their support was an integral and vital part of the U.S. victory and success in the gulf.

I want to thank the Louisiana National Guard for their service to this country. We shall not forget their sacrifices nor their bravery.

FREDD STATE TECHNICAL COLLEGE TRIO DAY FESTIVAL

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. HARRIS. Mr. Speaker, I would like to express my support in declaring February 28, 1992, as "Fredd State Technical College TRIO Festival."

In September 1991, Fredd State Technical College, in Tuscaloosa, AL, received its first Federal funding under title IV, thereby establishing its programs as TRIO programs. For over 20 years, TRIO programs have worked toward preparing disadvantaged and first generation students for college and assisting them once enrolled.

National TRIO Day has been celebrated by administrators, counselors, faculty, and students involved in educational opportunity programs for the last 4 years. This day was established as a way to focus the Nation's attention on the needs of disadvantaged young people and adults who are working toward bettering their lives, and toward the investments that must be made if they are to be able to continue their efforts.

Fredd State Technical College's programs deserve similar attention. These programs reach out to disadvantaged, low income and handicapped students, aiding them in their educational endeavors. The funds invested in these programs will produce large rewards as TRIO program participants succeed in their goals and enhance their opportunities for becoming productive citizens.

Celebrating February 28, 1992, as Fredd State Technical College TRIO Day Festival expresses our Nation's support for this college's worthy programs and their dedication to assisting others.

TRIBUTE TO THE LATE MOST REVEREND JOSEPH McSHEA, D.D., RETIRED BISHOP OF ALLENTOWN, PA

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to the Most Reverend Joseph McShea, retired bishop of Allentown, who passed away on November 28, 1991. Bishop McShea was a compassionate pastor, a brilliant scholar, and one of the most influential members of the Catholic Church in America. Most especially, he was a great friend—not just to the members of the diocese he founded in Alllentown, but to all of us who call the Lehigh Valley home.

Bishop McShea was born on February 22, 1907, in Lattimer, PA, and was one of seven children of Roger and Jeanette McShea. The family moved to Philadelphia when Joseph was 11 years old, and later settled in St. Francis de Sales Parish, where he attended West Philadelphia Catholic High School for Boys, and St. Charles Borromeo Seminary. In 1926, Joseph was selected to complete his seminary course at the Pontifical Roman Seminary and the Lateran University in Rome. While in Rome, he earned doctorate degrees in Philosophy and Theology and was ordained a priest on December 6, 1931.

Bishop McShea's scholarship and abilities were recognized by the church hierarchy almost immediately. After serving as a professor at St. Charles back in Philadelphia, he returned to Rome in 1935 to serve in the Sacred Congregation for the Oriental Church. In 1938, he was recalled to the United States to serve as secretary to the papal delegate in Washington—a post he held for more than 13 years.

He returned to St. Francis de Sales in Philadelphia as pastor in February 1952, and was consecrated a bishop in March of that year by Archbishop Amleto Cicognani, then the papal delegate to the United States and later the Vatican's cardinal secretary of state. For the next 9 years, Bishop McShea served as titular bishop of the city of Mina in Algeria, auxiliary bishop of Philadelphia, and pastor of St. Francis de Sales. He also participated in the extensive studies which resulted in the creation of the Diocese of Allentown.

On January 28, 1961, Pope John XXIII created the Diocese of Allentown and named Bishop McShea as its first bishop, saying he was one "especially suited for the task" of building the new diocese. Bishop McShea was formally installed on April 11, 1961. Later that year, the pope named Bishop McShea a member of the Pontifical Commission for Religious for the preparatory sessions of the Second Vatican Council. As 1 of only 18 Americans elected to the commission charged with facilitating the council's work, he presented the Commission for Religious' document to the council in full session.

At the same time, Bishop McShea was overseeing an ambitious education expansion and building program, which tapped into the energy and generosity of the new diocese. More than 300 buildings were built, added onto, or renovated throughout the diocese during his time as bishop, as his $7.5 million fund-raising goal was exceeded by more than $4 million. Among the projects completed in this time of expansion were three new Catholic high schools, two high school renovations, and Allentown College of St. Francis de Sales, which celebrated its 25th anniversary in 1990. The president of Allentown College and my good friend, Father Dan Gambet, told me that Bishop McShea often referred to the college as the jewel in the crown of his achievements.

But the Allentown Diocese's commitment was not merely in bricks and mortar. According to a report in the Allentown Morning Call, the diocese accounted for 20 percent of the ordinations in Pennsylvania from 1961 to 1975, despite having just 7 percent of the State's Catholic population at the time.

And two national relief efforts were originated in the diocese under Bishop McShea's guidance: National Shut-In Day, an October observance aimed at encouraging visitation of those unable to leave their homes, and Operation Rice Bowl, an ecumenical program designed to raise both money and awareness for the fight against hunger in our country and around the world. Through these programs, Bishop McShea's compassion and commitment are helping others well beyond the five counties in the Diocese of Allentown.

Bishop McShea submitted his resignation as head of the Diocese of Allentown on his 75th birthday, February 22, 1982, but continued to serve as an adviser and friend to the Diocesan leadership and parishes, as well as to the community at large. He once told his priests, "Coming to Allentown was like going to heaven without the inconvenience of dying."

On December 4, 1991, I joined community leaders from the Lehigh Valley and national Catholic leaders such as Anthony Cardinal Bevilacqua, Archbishop of Philadelphia, John Cardinal Krol, retired Archbishop of Philadelphia, and the Most Reverend Thomas J. Welsh, the current Bishop of Allentown, at funeral ceremonies for Bishop McShea. We were privileged to hear a brilliant, warm, humorous, and moving message about him delivered by Bishop David B. Thompson, whose remarks celebrated the achievements and captured the essence of this remarkable man. It was indeed a fitting farewell to a good friend and faithful servant of the Church.

Mr. Speaker, Joseph McShea's life as an example of the power of a strong faith in God and a loving concern for our fellow man. While we mourn his passing, we take comfort in the knowledge that his faith and love will continue to enrich his diocese and his community for many years to come.

TRIBUTE TO JACQUELINE M. SPELL

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. CARDIN. Mr. Speaker, today I rise to pay tribute to Jacqueline M. Spell, who retired as chief clerk of the Maryland House of Delegates on December 31, 1991. A reception in her honor will be given on February 27, 1992.

Mrs. Spell was the first woman to serve as chief clerk in the State of Maryland and was appointed by Speaker John Hanson Briscoe on January 10, 1979. She joined the office of Chief Clerk James P. Mause in January 1968 and 1 year later became assistant chief clerk. She became acting chief clerk for the 1972 legislative session when Mr. Mause was paralyzed in an automobile accident after the 1971 session.

Mrs. Spell operated the clerk's office as a true professional, with utmost integrity and great respect for the House of Delegates. Through her public service, legislators were better equipped to respond to the needs of their constituents.

Mrs. Spell served under four speakers: Thomas Hunter Lowe and John Hanson Briscoe, who went on to become judges; R. Clayton Mitchell, Jr., who continues as speaker today, and myself.

Prior to her entry into State service, Mrs. Spell bred, broke, and trained thoroughbred race horses, and in 1976 was appointed a member of the State board of inspection of horse riding stables.

The Maryland General Assembly will miss her greatly. She is a woman who is loved and respected. Mr. Speaker, I hope you and my colleagues join me in praising Mrs. Jacqueline M. Spell, a woman who has served the Maryland Legislature for nearly 25 years with great distinction.

THE CANCER REGISTRIES AMENDMENT ACT OF 1992

HON. BERNIE SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. SANDERS. Mr. Speaker, I am delighted and honored to have just received a letter of endorsement from the Congressional Caucus for Women's Issues for my bill, the Cancer Registries Amendments Act of 1992, H.R. 4206. Together with the American Cancer Society's endorsement and the cosponsorship by 69 Members of the House of Representatives, the caucus' support demonstrates the urgent need for this important legislation in the fight against cancer.

One in three Americans today will be afflicted with cancer and one in five will die of that terrible disease. In terms of breast cancer, 180,000 women this year will be diagnosed with this disease, and it is estimated that 46,000 American women will die of breast cancer this year. Very few families in our country do not suffer the loss of one or another member as a result of cancer.

The American Cancer Society publication "Cancer Facts and Figures—1992" opens with, "Incidence—since there is no nationwide cancer registry, there is no way of knowing exactly how many new cases of cancer are diagnosed this year. The American Cancer Society estimates cancer incidence for the upcoming year using the best available data sources at the time."

We need more than estimates, especially when there is a current epidemic in breast cancer. Estimates tell us that the number of women getting breast cancer has increased 57 percent over the past 40 years. The numbers afflicted with the disease have grown 3 percent a year since 1980. In certain parts of the country, breast cancer mortality rates are much higher than in other areas. For example, the New England States, including my State of Vermont, the Mid-Atlantic States, including Maryland, and the District of Columbia appear to have the highest rates in the country. Why is that?

Clearly, if we are going to be effective in fighting cancer in general, and breast cancer specifically, we need more information—we need better than estimates. Our researchers need information that they do not have today. Amazingly, half the States in America today lack statewide registries that collect data on incidence, stage, treatment and follow-up information regarding cancer.

We need to know the age of people who are coming down with cancer. We need to know exactly where they live. We need to know the kind of work they do. We need to know their racial and ethnic backgrounds. We need to know the effectiveness of the treatments they receive. We need to know the relationship between early detection and the success of treatment. In other words, we need as much information as we can gather, so that we can put together all the data, and the clues, and the trends, and better understand the cause of this disease and how to control it.

The Cancer Registries Amendments Act of 1992 will provide $30 million a year to the States to establish or upgrade their cancer registries systems. For those 10 States, including Vermont, who today have no cancer registry, planning grants will be provided. Furthermore, as part of this whole process, this legislation will provide funding for a comprehensive study as to why certain regions of our country lead the Nation in breast cancer mortalities.

I would like to conclude by thanking my friend and colleague, Senator LEAHY, who has introduced the Cancer Registries Amendment Act in the Senate, and for his development of another piece of legislation that I introduced in the House. The second bill declares breast cancer a public health emergency, and in so doing will certainly accelerate investigation into the cause, treatment, and prevention of breast cancer.

Mr. Speaker, I wish to enter into the RECORD a summary of the cancer registry bill and the letters of endorsement from both the American Cancer Society and the Congressional Caucus for Women's Issues.

THE CANCER REGISTRIES AMENDMENT ACT OF 1992

(Congressman Bernard Sanders and Senator Patrick Leahy)

(Amends the Public Health Service Act to provide for the creation of cancer registries in every State. The registries will collect demographic data for each incidence of cancer, providing a nationwide data base to allow researchers to track cancer rates and focus on prevention. The bill also calls for a study of the elevated breast cancer mortality rates in the Northeastern and Mid-Atlantic States.)

Grants to States—HHS Secretary makes grants to States for the purpose of operating registries of individuals with cancer in order to collect, for each form of cancer, data on:

a. demographic information about each case of cancer,

b. administrative information, including date of diagnosis and source of information,

c. pathological data characterizing the cancer, including the cancer site, stage of disease (Staging Guide), incidence, type of treatment, and

d. other elements the Secretary deems appropriate.

Matching Funds—a three to one match (25 percent contribution from the States). A certain percent of this money is alloted for quality control and administration. Current State cancer control prevention service dollars can count as State match.

Planning Grants—the Secretary also can make grants to States for the purpose of planning for enabling registry legislation and compliance with eligibility for registry grants.

Utility of Data—the Secretary shall issue guidelines for the collection and presentation of data for the registry, and require procedures to ensure the completeness and accuracy of reporting by the registries.

Population-based Data—the Secretary shall require that, to the extent practicable, data collected for the registry be collected on all cases of cancer occurring in populations defined by the Secretary.

Consideration of Relevant State Laws—grants will only be made if the law of the State involved facilitates the collection of data for the registry, and if the law of the State will maintain the confidentiality of information contained in the registry. Those States that do not meet eligibility requirement can apply for planning grants.

Study of Elevated Breast Cancer Mortality Rates in the Northeast and Mid-Atlantic Regions—the Secretary shall make grants available to relevant States to facilitate the collection of data to conduct a study of the elevated age-adjusted breast cancer mortality rates in: Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and the District of Columbia.

Authorization of Appropriations—$30 million per year.

CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES, CONGRESS OF THE UNITED STATES, WASHINGTON, DC,
FEBRUARY 19, 1992.

Hon. BERNARD SANDERS,
Cannon House Office Building, Washington, DC.

DEAR BERNIE: The Executive Committee of the Congressional Caucus for Women's Issues met today and unanimously endorsed H.R. 4206, the Cancer Registries Amendment Act and H.Res 359, which declares breast cancer a public health emergency. Both of these bills address one of the major women's health issues today: the rising incidence of breast cancer.

We are pleased that you have introduced this important legislation and we look forward to working with you for its passage.

Sincerely,

PATRICIA SCHROEDER,
Co-Chair.
OLYMPIA SNOWE,
Co-Chair.

AMERICAN CANCER SOCIETY,
Washington, DC, February 4, 1992.

Hon. BERNARD SANDERS,
Cannon House Office Building, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN SANDERS: For more than 40 years, the American Cancer Society has been actively engaged in supporting the development of complete, population-based cancer incidence registries in the United States. They are valuable to our research efforts as well as assuring high quality care for the cancer patient. Although much progress has been made in many parts of the country in developing such registries, case incidence reporting is still incomplete. Much work remains to achieve acceptable standards for data uniformity and accuracy for the country as a whole. In the absence of full incidence reporting, we continue to rely largely on mortality statistics for information regarding trends in cancer occurrence.

The Cancer Registries Amendment Act of 1992 represents a significant step towards fulfilling this important cancer control goal. Through the support of State health departments and affiliated organizations in the process of developing cancer incidence registries, this legislation will provide strong encouragement for population-based cancer case reporting and move us closer to the important goal of a complete national cancer registry system. Importantly, the proposed legislation addresses the necessity for patient confidentiality without compromising the integrity of the system.

This initiative would also require a study to determine the factors contributing to elevated breast cancer mortality rates in certain States. Breast cancer is the most common form of cancer in the United States and the second leading cause of cancer death, and yet we do not know what causes this disease. The proposed study could be potentially useful in identifying factors that require further research.

The American Cancer Society commends you for your leadership in this area. By strengthening such cancer data resources throughout the United States, it will be increasingly possible to carry out productive investigations regarding the origins of particular cancers and the causes underlying their current trends and patterns in our population. The Society looks forward to working with you and your staff on this legislation. Please contact Kerrie Wilson at (202) 546-4011 if we can be of any assistance.

Sincerely,

WALTER LAWRENCE, Jr., M.D.,
President.

THE FAIRPLAY FOR TAXPAYERS ACT OF 1992

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 1992

Mr. RHODES. Mr. Speaker, today I rise with great pleasure to introduce important new legislation designed to further the goals of fairness and evenhandedness between taxpayers and the Internal Revenue Service [IRS]. Mr. Speaker, the Fairplay for Taxpayers Act of 1992, which I am introducing today, will change for the better several sections of the Internal Revenue Code that give unfair advantages to the IRS when dealing with individual taxpayers.

As Members of Congress, each of us regularly receive letters from our constituents which, in some form or another, call to our attention some difficulty they have encountered in their dealings with the IRS. Indeed, many of these situations are legitimate instances of taxpayers trying their best to comply with the complex maze of laws that govern their payment of taxes. Too often, taxpayers have acted legally and in good faith to diligently pay their taxes in full and on time, but have later stumbled across IRS rules that seemed designed to penalize them despite their best efforts. At every turn, there are rules and laws that do not serve the best interests of the taxpayer. Rather, IRS regulations serve the organizational and bureaucratic interests of the IRS as much, if not more, than those who actually pay the taxes that keep our Nation going.

The IRS is a massive agency, with lawyers, accountants and innumerable staffers. While the IRS certainly needs its staff to collect the tax money that runs our Government, the size of the bureaucracy, with seemingly vast and unlimited resources, also intimidates the individual taxpayer. In fact, many taxpayers are likely to avoid challenging IRS rulings, accepting rulings they disagree with instead, because of the fear of the risks of doing otherwise. To some, the high cost, both in terms of time and money, of confronting one of the most notorious of Federal bureaucracies whose pockets are immense is discouraging to say the least. Hopes of actually winning a challenge to what appears to be an invincible wall of tax policy entrepreneurs must surely appear slim to those who might otherwise believe they have a legitimate claim.

Others are probably concerned with the potential ramifications of challenges, that is, the possibility of retribution by an angry IRS in the form of future audits, unusually intense scrutiny of every detail of one's future filings, and who knows what else.

To be sure, by no means do I intend to malign the IRS by saying they do actually engage in these practices. I am sure officials with the IRS would not agree that these types of practices are at all common within the Agency. However, these practices have at one time or another occurred, and such stories act to reinforce a fear of the IRS.

For these reasons, Mr. Speaker, I am introducing the Fairplay for Taxpayers Act of 1992. This bill has already been sponsored by Senators STEVE SYMMS (R–ID) and ALFONSE D'AMATO (R–NY) in the other Chamber. These Senators are not unlike Members of the House of Representatives—they too receive letters of distress from constituents of their States relating to their dealings with the IRS.

This legislation will make several important changes to the Internal Revenue Service Code.

For one thing, it will extend an evidentiary privilege to communications between a lawyer, accountant or an enrolled agent with respect to the preparation of a tax return for a client. Currently, the IRS can seize and inspect documents relating to the preparation of a taxpayer's returns. The Freedom for Taxpayers Act will prohibit this by making such communications privileged, much as are those between an attorney and client, for example.

This bill will also equalize the rates of interest paid by the Government to the taxpayer on taxpayer overpayments and those which are paid by the taxpayer to the Government on underpayments. Currently, the Government pays a taxpayer 2 percent interest on tax overpayments. However, when a taxpayer underpays his or her taxes and must make up the difference, the interest paid is 3 percent. This may not seem like an awful lot, but it is one example of why the IRS is viewed by many as simply unfair to the taxpayer. There is simply no reason why the Government should get a higher interest rate on underpayments than the taxpayer gets on overpayments.

Mr. Speaker, the Taxpayer Fairness Act gives taxpayers 45 days, rather than the current 10, to pay taxes and penalties before liability for interest payments begin. It requires that administrative changes in tax regulations be applied prospectively rather than retrospectively, unless otherwise mandated by Congress.

The bill would also allow taxpayers to recoup a portion or all costs and expenses to the extent he or she prevails in a tax dispute. Currently, a taxpayer must prove the IRS was not just wrong in its judgment relating to the taxpayer's claim, but that it also was not "substantially justified" in reaching its conclusion in order to recover costs incurred in an administrative or court proceeding with the IRS. Without this provision, even if the taxpayer is proven correct in a proceeding, the cost of the case might be prohibitive. More than just unfair, it is also of concern because the potential of high costs might cause those taxpayers with legitimate claims simply not to file.

My bill would replace the "substantially justified" test by allowing taxpayers to recover the same percentage of costs incurred as the percentage by which he prevails in the controversy. For example, if the IRS determines that a taxpayer owes $1,000 but it is subsequently determined that the actual debt is $500, the taxpayer would be entitled to 50 percent of the costs incurred challenging the IRS claim.

Finally, the Fairness for Taxpayer Act would revise several IRS employee conduct practices. The bill would improve the ability of the IRS to monitor and to discourage misconduct by Service employees, improve oversight by the Congress of employee misconduct in the IRS and provide education and training for employees regarding their conduct.

Specifically, the bill requires IRS employees to report to the IRS Inspection Service all instances of misconduct. The IRS Commissioner will be required to report quarterly to the Inspector General of the Department of the Treasury concerning such instances. On an annual basis, the inspector general will submit to the Congress a detailed summary of the quarterly reports submitted during the prior year by the IRS Commissioner.

Furthermore, Mr. Speaker, the IRS Commissioner will be required to carry out an education and training program for all Service employees regarding appropriate and ethical conduct of governmental duties and responsibilities, including explanation of applicable standards of conduct.

Mr. Speaker, I think this last section regarding IRS employees should not be construed as representing the belief by Members of Congress that employees of the IRS are anything short of professional. In fact, I believe that these requirements and reports will serve to highlight to the American people the difficult job IRS employees have to do and the extent to which they are dedicated to improving service to the U.S. taxpayers.

I do not believe that these measures alone will magically solve every problem associated with IRS—U.S. taxpayer relations. Members of both the House of Representatives and the other body will continue to receive phone calls and letters asking for assistance.

Rather, I think this bill represents a solid step in the right direction, a step that needs to be taken in order to restore the faith the U.S. taxpayer should have in the IRS.

I hope all my colleagues who have, at some time, heard from their constituents regarding problems with the IRS will join me in cosponsoring this important measure. At least then we can do more than just tell our constituents we care—we can show them specific measures we intend to take to make their dealings with the IRS less costly, more fair and better suited to overcoming the burdensome complexity of U.S. tax laws.

I insert the text of this bill along with a section-by-section analysis in the RECORD immediately after my comments:

H.R. 4309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF THE 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Fairplay for Taxpayers Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. COMMUNICATIONS BETWEEN TAXPAYER AND TAX RETURN PREPARER.

(a) IN GENERAL.—Rule 501 of the Federal Rules of Evidence is amended by—

(1) inserting "(a)" before "Except";

(2) inserting after "Except as" the following: "provided in subsection (b) and as"; and

(3) adding at the end thereof the following:

"(b) The communications between a lawyer, an accountant, or an enrolled agent with respect to the preparation of a tax return for a client and the client shall be privileged in the courts of the United States."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to communications after the date of the enactment of this Act.

SEC. 3. RATE OF INTEREST TO BE SAME FOR UNDERPAYMENTS AND OVERPAYMENTS OF TAX.

(a) IN GENERAL.—Subparagraph (B) of section 6621(a)(1)(B) (defining overpayment rate) is amended by striking "2 percentage points" and inserting "3 percentage points".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies for purposes of determining interest allocable to periods after December 31, 1991.

SEC. 4. FAIR ACCRUAL OF INTEREST.

(a) IN GENERAL.—Paragraphs (2)(A) and (3) of section 6601(e) (relating to rules for computing interest) are each amended by striking "10 days" and inserting "45 days".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any notice and demand given after December 31, 1991.

SEC. 5. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS AND RULINGS.

(a) IN GENERAL.—Subsection (b) of section 7805 (relating to rules and regulations) is amended to read as follows:

"(b) RETROACTIVITY OF RULES AND REGULATIONS.—

"(1) IN GENERAL.—Any final, temporary, or proposed regulation or ruling issued by the Secretary shall apply prospectively from the date of publication of such regulation or ruling in the Federal Register.

"(2) CONGRESSIONAL AUTHORIZATION.—The prospective-only treatment of paragraph (1) may be superseded by a specific legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to a statutory provision."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any regulation published after the date of the enactment of this Act.

SEC. 6. AWARDING OF COSTS AND CERTAIN FEES IN TAX CASES.

(a) REPEAL OF SUBSTANTIAL JUSTIFICATION TEST.—

(1) IN GENERAL.—Section 7430(c)(4)(A) (defining prevailing party) is amended by

(A) replacing "substantially prevailed" with "prevailed to some extent" in clauses (ii) and (iii);

(B) striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(2) CONFORMING AMENDMENT.—Section 7430(c) is amended by striking paragraph (7).

(b) PRO RATA ALLOCATION OF COSTS.—Section 7430(c)(4) is amended by adding at the end thereof the following new subparagraph:

"(C) PRO RATA ALLOCATION.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a party shall be treated as the prevailing party at least with respect to the applicable percentage of reasonable litigation and administrative costs.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is the percentage determined by dividing—

"(I) the amount of any tax, interest, penalties, or additions to tax the Service initially claimed the taxpayer was required to pay with respect to the issues in the proceeding less the amount the taxpayer is required to pay, by

"(II) the amount the Internal Revenue Service initially claimed the taxpayer was so required to pay."

(c) REVISING TEST FOR RECOVERY OF REASONABLE ADMINISTRATIVE COSTS.—Section 7430(c)(2) (relating to reasonable, administrative costs) is amended by striking the last paragraph of the subsection and replacing it with: "Such term shall only include costs incurred during, or in preparation for, (i) the initial audit, or (ii) an appeals conference, or at any time thereafter."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding commenced after December 31, 1991.

SEC. 7. CIVIL DAMAGES FOR CERTAIN ACTIONS OF INTERNAL REVENUE SERVICE.

(a) SECTION TO APPLY TO CARELESS ACTIONS.—Section 7433(a) is amended by inserting "carelessly," after "recklessly".

(b) DAMAGES AVAILABLE WITH RESPECT TO DETERMINATION OF TAX.—

(1) IN GENERAL.—Section 7433(a) is amended by inserting "determination or" before "collection".

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 7433 is amended by inserting "DETERMINATION OR" before "COLLECTION".

(B) The item relating to section 7433 in the table of sections for subchapter B of chapter 76 is amended by inserting "determination or" before "collection".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions taken by employees of the Internal Revenue Service after December 31, 1991.

SEC. 8. INTERNAL REVENUE SERVICE EMPLOYEE CONDUCT REPORTING.

(a) FINDINGS.—The Congress hereby finds that—

(1) the Internal Revenue Service has many fine and upstanding employees who carry out their duties appropriately and admirably;

(2) ethics and integrity in government are of vital concern to the Congress and to the public;

(3) ethics and integrity are especially important with respect to the Service because its broad powers to enforce the tax laws gives its employees exceptional authority over the liberty of taxpayers;

(4) the IRS Code of Conduct manual is unclear with respect to the types of unethical behavior that must be reported;

(5) Service employees need a clear statement of the types of behavior needed to maintain a high level of integrity and ethical behavior within the Service;

(6) the system of voluntary compliance with the tax laws will only function so long as taxpayers believe they receive fair and even-handed treatment by these laws and by the Service charged with its administration;

(7) there is a great need for public awareness of and protection against even isolated cases of misconduct;

(8) despite the high quality of Service employees, some cases of employee misconduct have occurred and the problem of misconduct within the Service, especially with regard to abuses in investigations of taxpayers, has been the subject of a report by the Commissioner's Review Panel on IRS Integrity Controls;

(9) the Commissioner's Review Panel found that "little demonstrable progress is evident" with regard to ethics initiatives within the Service;

(10) there is, therefore, a great need to improve the oversight of the conduct of Service employees;

(11) the Congress has insufficient information to perform its oversight role of the Internal Revenue Service on behalf of the public; and

(12) the Inspector General of the Department of the Treasury is directly involved in investigations of certain employee actions, placing him in an oversight capacity with responsibility to Congress.

(b) PURPOSE.—It is the purpose of this subsection to improve the ability of the Service to monitor and to discourage misconduct by Service employees, to improve oversight by the Congress of employee misconduct in the Service, and to provide education and training for employees regarding their conduct.

(c) IRS EMPLOYEE REPORTING OF MISCONDUCT.—The Service shall require employees to report to the Inspection Service all instances of misconduct as defined under subsection (h)(1).

(d) SUBMISSION OF QUARTERLY REPORTS.—The Commissioner shall report quarterly to the Inspector General concerning cases reported to the Inspection Service of misconduct by Service employees. Such quarterly reports shall include detailed and specific information such as, but not limited to,

(1) the region and branch of an employee alleged to have acted inappropriately;

(2) the precise nature of alleged misconduct reported;

(3) the extent to which alleged misconduct was investigated;

(4) any determinations or dispositions of such investigated cases; and

(5) measures taken by the Service to prevent such abuses from occurring in the future.

(e) PREPARATION AND SUBMISSION OF ANNUAL SUMMARIES—

(1) The Inspector General shall submit to the Congress an annual summary of the quarterly reports submitted during the prior year by the Commissioner as required under subsection (d), or reported directly to the Office of Inspector General. This summary report shall be submitted by March 1 of each year to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(2) Each summary report shall contain the type of information required to be submitted by the Commissioner to the Inspector General pursuant to subsection (d). In addition to such information, the Inspector General shall include in the summary other information available to him which is relevant and appropriate to such a summary report.

(3) Summary reports required to be submitted pursuant to this subsection shall also include, but not be limited to—

(A) summaries of reports and complaints alleging acts of misconduct as defined in this Act;

(B) statistical summaries of the number of complaints and reports alleging acts of misconduct, of investigations of such complaints and reports, and of the dispositions of such investigations;

(C) analyses and descriptions of the types of acts of misconduct reported and the region and branch of the individual who is alleged to have acted inappropriately;

(D) analyses and explanations of decisions not to investigate alleged misconduct as well as descriptions of corrective actions taken by the Service with regard to employees who are found to have acted inappropriately; and

(E) analyses by the Inspector General regarding trends concerning integrity and ethics among IRS employees.

(4) The summaries prepared by the Inspector General shall be public documents and shall be made available in the IRS public reading room to all members of the public.

(f) PRIVACY.—Nothing in this section shall be construed to permit the publication of the names or similar identifying information of any taxpayer or of any employee of the Service. The annual summary described in subsection (e) will be drafted in such a way as to protect the privacy of taxpayers and employees of the Service while satisfying the full intent of this section. Publication of the annual summary pursuant to this section is deemed not to be contrary to the legitimate privacy interests of taxpayers and Service employees.

(g) EDUCATION AND TRAINING.—The Commissioner shall carry out an education and training program for all Service employees regarding appropriate and ethical conduct of governmental duties and responsibilities, including explanation of applicable standards of conduct.

(h) DEFINITIONS.—For purposes of this subsection—

(1) the term "misconduct" shall include, in addition to matters which may be criminal in nature, misfeasance such as harassment of taxpayers, harassment of fellow employees, conflict of interest, preferential treatment, improper associations, computer misuse, or other instances of serious misfeasance.

(2) the terms "Service" or "IRS" refer to the Internal Revenue Service to the Department of the Treasury.

(3) the term "Commissioner" means the Commissioner of the Internal Revenue Service.

(4) the term "Inspector General" means the Inspector General of the Department of the Treasury and the term "Office of the Inspector General" means the Office of the Inspector General of the Department of the Treasury.

(5) the term "employee" includes any officer or employee of the Service.

(6) the term "Inspection Service" means the Inspector General Inspection Service of the Internal Revenue Service of the Department of the Treasury.

(i) AMENDMENTS OF THE INTERNAL REVENUE CODE.—Section 6103(f) of the Code (relating to disclosure to Committees of Congress) is amended by adding the following new subsection at the end thereof:

"(5) SUMMARY REPORTS.—Pursuant to Section 8 of the Fairplay for Taxpayers Act of 1992, annual summary reports submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives shall include return information but shall not include the name or similar identifying information of any taxpayer or of any officer or employee of the Service. Such reports may be used and referred to by such Committees publicly or in open Committee session."

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the Inspector General to carry out his duties under this Act.

SECTION-BY-SECTION ANALYSIS OF BILL

SECTION 1. SHORT TITLE: FAIRPLAY FOR TAXPAYERS ACT OF 1991

SECTION 2. ESTABLISHING A TAX PREPARER PRIVILEGE

Proposed Change: The bill extends an evidentiary privilege to attorneys, accountants, and enrolled agents engaged in tax matters. These tax preparers would benefit from the same client privilege as is currently enjoyed by attorneys doing non-tax work.

Current law:

The attorney-client privilege protects certain communications from disclosure, including letters, notes, and working papers. The privilege gives the client the opportunity for the full benefit of counsel which can only be gained if the client believes he may freely and openly discuss his case with his attorney.

The privilege does not protect communications which are part of a conspiracy to commit illegal acts. Nor can a person protect documents from disclosure by giving them to his attorney.

The attorney-client privilege does not extend to purely tax matters. If a communication is exclusively tax related, then it is not protected under the privilege.

There is no privilege for other tax preparers such as accountants and enrolled agents.

Reasons for Change:

The purpose of the attorney-client privilege is to encourage a free and open dialogue between the parties. Such open communication is essential for the client to receive the most accurate and useful information possible. This rationale extends with equal force to communications between taxpayer and tax preparer.

Whereas the IRS can demand these communications from the taxpayer or his attorney, the taxpayer has no right to demand the working papers of the IRS agent. This is one-side and blatantly unfair to the taxpayer.

More open and complete communication will also improve the quality of tax preparation, resulting in more accurate tax filings and easier administration of the tax laws by the IRS.

SECTION 3. EQUALIZATION OF INTEREST RATES

Proposed Change: The bill equalizes the interest rate charged by the government and that demanded by the government at 3 percentage points over the base rate.

Current Laws:

When the taxpayer owes the government back taxes or penalties, he incurs interest at the rate of 3 percentage points over a base interest rate which is related to the rate charged on Treasury bills. When the government owes the taxpayer money, it incurs interest at 2 percentage points over the base rate.

Reasons for Change:

It is unfair for the government to charge a higher interest rate than it is willing to pay. Unfairness such as this erodes public support for and compliance with the tax system.

SECTION 4. FAIR ACCRUAL OF INTEREST

Proposed Change: The bill would establish that if the taxpayer pays the full amount of taxes, interest, and penalties owed within 45 days from the date of notice and demand, then no interest liability accrues to the taxpayer.

Current Law:

Interest accrues on back taxes if the amount is not paid within 10 days from the date of notice and demand. However, if the government owes the taxpayer a refund, interest accrues if not paid within 30 days from the date of overpayment. Moreover, no interest is due if the government actually cuts a check within 45 days of the date of overpayment.

Reasons for Change:

The current system is unfair because it requires the taxpayer to make a payment much more rapidly than the government. Moreover, many taxpayers need time to organize their financial affairs in order to make payment. If the government needs a 45 day window, the taxpayer should be afforded at least as much time as the government.

SECTION 5. RELIEF FROM RETROACTIVE TAXATION

Proposed Change: All final, temporary, or proposed regulations and rulings would apply prospectively from the date of publication. This prospective-only treatment would apply in all cases unless the Congress specifically waives this requirement.

Current Law:

When the Congress changes the tax laws and the Treasury Department responds with new or revised regulations, those regulations apply retroactively to the date of enactment of the new law, even though the taxpayer may have been unaware of the change until the publication of the regulations, or may have been unable to comply with the new law pending the publication of the regulations.

Reasons for Changes:

Retroactive taxation is unfair and damaging to a system of voluntary compliance because taxpayers believe the system to be capricious.

SECTION 6. AWARDING OF COSTS AND FEES IN TAX CASES

Proposed Changes:

(1) The bill replaces the "substantially justified" test for determining whether the taxpayer may recover costs and fees incurred as part of an administrative or court proceeding. Under the bill, if the taxpayer prevails to some extent in the controversy, then he may recover the same percentage of costs incurred as the percentage by which he prevails in the controversy.

Thus, for example, if the IRS initially claims $1,000 in back taxes and if the taxpayer is finally determined to owe $600, then the taxpayer has prevailed with respect to $400, or 40% of the claimed amount. Under the bill, if the taxpayer incurred $200 in costs, then the taxpayer could recover 40% of $200, or $80 in costs.

(2) The bill also changes the point in the process at which administrative costs incurred may be recoverable to the earlier of the initial audit or the date of the appeals conference.

Current Law:

(1) To recover costs incurred in an administrative or court proceeding with the IRS, the taxpayer must first show the IRS position was incorrect and then the taxpayer must show the position taken by the IRS was not "substantially justified", which may involve taking the IRS to court a second time.

(2) The costs which may be recovered are well-defined in the Code, and are divided between those which are incurred as part of litigation and those which are incurred as part of administrative action.

The Code specifies that only those administrative costs which are incurred after the earlier of (i) the date of receipt by the taxpayer of the Appeals Office decision, or (ii) the date of notice of deficiency.

Reasons for Change:

(1) The "not substantially justified" test is, in practice, a very high standard to meet. In a great many cases, therefore, the taxpayer is unable to recover even when the position taken by the Service was proven to be incorrect. The taxpayer is subject to additional tax whether he is right or wrong because even if the taxpayer prevails in the underlying case, the cost of establishing a defense is, in effect, another tax.

(2) Much of the costs incurred by the taxpayer in an administrative action are incurred long before a notice of deficiency or Appeals Office decision is received. Therefore, most of the costs incurred by the taxpayer may be ineligible for recovery. The purpose of the recovery statute is to hold the taxpayer harmless to the extent he prevails with respect to a contested amount. The current test for when a taxpayer may recover administrative costs prevents this result.

SECTION 7. CIVIL DAMAGES FOR CERTAIN ACTIONS OF INTERNAL REVENUE SERVICE

Proposed Change: The bill expands the rights of taxpayers to sue the United States for civil damages when the IRS causes the taxpayer to suffer financial harm. First, the bill would allow the taxpayer to sue if an IRS agent was careless. Second, the bill would allow the taxpayer to sue if the mistake by the IRS occurred in the determination of tax liability as well as the collection of the tax.

Current Law:

Under current law, taxpayers are allowed to sue the Untied States in District Court for civil damages but only if an IRS employee recklessly disregards procedures or law in connection with the collection of tax.

Reasons for Change:

In order to recover damages, the taxpayer must show the behavior of the Service was in reckless disregard of law or procedure. This is a very high standard to meet. The standard proposed in the bill is that of carelessness, which is a much lower standard than recklessness. This lower threshold is appropriate because a taxpayer who suffers financial harm because the IRS has erred does not care whether the agent was reckless or merely careless. In either case, the taxpayer should be made whole.

All cases can be thought of as proceeding from the determination stage, where the amount of tax, penalties, and interest is determined, to the collection stage, where the IRS attempts to collect the amount of tax established in the determination stage.

The tools available to the Service for collecting tax lend themselves to great financial harm if misused. But a taxpayer can suffer, as well, if IRS personnel are careless about determining tax liability because the result may be the taxpayer must spend years and thousands of dollars trying to straighten the matter out. This is time and money taken from the taxpayer's other economic activities.

SECTION 8. INTERNAL REVENUE SERVICE EMPLOYEE CONDUCT REPORTING

Proposed Changes:

1) The bill expands the definition in the IRS Rules of Conduct manual with respect to the conduct which must be reported by employees to the IRS Inspection Service. Employees would hereafter be required to report misfeasance such as harassment of taxpayers, harassment of fellow employees, conflict of interest, preferential treatment, improper associations, and computer misuse.

2) The bill requires the Commissioner of the IRS to submit detailed quarterly reports to the Inspector General of the Treasury Department concerning cases reported to the Inspection Service. These quarterly reports will include the region and branch of the employee alleged to have acted inappropriately, the precise nature of the alleged misconduct, the extent to which the misconduct was investigated, any determinations or dispositions of such investigated cases, and measures taken by the Service to prevent such abuses from occurring in the future.

3) The bill requires the Inspector General of the Department of the Treasury to submit to the Congress an annual summary of the quarterly reports submitted during the prior year by the Commissioner of the IRS. This report shall be submitted to the Finance Committee and the Committee on Ways and Means no later than March 1 of each year.

These annual reports shall include summaries of the reports received by the Commissioner as well as statistical summaries of the number of complaints and reports alleging acts of misconduct, of the investigations of such complaints and reports, and of the dispositions of such investigations, as well as analyses by the Inspector General regarding trends in integrity and ethics among IRS employees.

These reports will be written in such a way as to ensure the privacy of taxpayers and employees and officers of the IRS. No identifying information will be included in either the quarterly or the annual reports.

4) The Commissioner is instructed to carry out an education and training program for

all Service officers and employees regarding appropriate and ethical conduct of governmental duties and responsibilities, including explanation of applicable standards of conduct.

Current Law:

The current IRS Rules of Conduct manual states that employees are only required to report to the IRS Inspection Service misconduct by other employees that is criminal in nature or otherwise unethical. However, the distinction between what types of unethical behavior must and what need not be reported is unstated. For example, this listing does not include harassment of taxpayers or other employees.

A Review Panel on IRS Integrity Controls, appointed by the Commissioner of the Internal Revenue Service, found that "little demonstrable progress is evident" with regard to ethics initiatives within the Service.

Reasons for Change:

For their own protection employees at the IRS need a clear statement of correct ethical behavior. The current manual fails to provide that statement by ignoring many aspects of employee behavior which must be considered to be unethical.

The Commissioner of the IRS has limited abilities from his national office to monitor the progress of the various regions and branches in the Service in their attempt to improve the standards of integrity and ethics of Service employees. To assist the Commissioner in this important task, the bill requires him or her to report on a regular basis the progress being made at the local levels.

As has been shown in other agencies, public and congressional oversight are effective guarantors of the rights of individuals against government bureaucracies. The only way to make such oversight possible is to make sufficient information available. Therefore, the bill requires the Inspector General to submit an annual report summarizing the quarterly reports received from the Commissioner to assure the public of steady progress, or to alert the public if problems are developing with regard to IRS integrity controls, and to apprise the Congress of developments within the IRS regarding ethical behavior.

HOUSE OF REPRESENTATIVES—*February 26, 1992*

The House met at 12 noon.

The Reverend Dr. Ronald F. Christian, Office of the Bishop, Evangelical Lutheran Church in America, offered the following prayer:

Oh, God of all goodness, we give You praise and thanks for all the blessings of life. We are grateful for:

The blessing of food and the challenge to feed others;

The blessing of shelter and the challenge before us to care for the homeless;

The blessings of love from family and friends and the challenge to love others who are lost and alone.

You have given us much, O Lord, and You expect as much from us. Help us to accept Your blessings with gratitude, and may we also receive Your challenges as blessings. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PAXON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. PAXON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 282, nays 115, answered "present" 1, not voting 36, as follows:

[Roll No. 22]

YEAS—282

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clement
Clinger
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Ewing
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Mineta
Mink
Moakley
Montgomery
Moran
Morrison
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rangel
Ravenel
Ray
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schulze
Schumer
Serrano
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—115

Allard
Allen
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Clay
Coble
Coleman (MO)
Cox (CA)
Crane
Cunningham
DeLay
Doolittle
Duncan
Fawell
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Hunter
Inhofe
Jacobs
James
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Machtley
Marlenee
Martin
McCandless
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Murphy
Nussle
Paxon
Penny
Pursell
Ramstad
Regula
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shays
Sikorski
Smith (OR)
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Chandler

NOT VOTING—36

Boxer
Brewster
Coleman (TX)
Coughlin
Dannemeyer
Dickinson
Dooley
Engel
Fascell
Fields
Gibbons
Hansen
Hayes (LA)
Hobson
Houghton
Hoyer
Ireland
Kasich
Lowery (CA)
McDermott
Miller (CA)
Mollohan
Moody
Mrazek
Olver
Pease
Rahall
Russo
Sanders
Savage
Sharp
Smith (NJ)
Smith (TX)
Vander Jagt
Washington
Whitten

☐ 1227

Mr. KOPETSKI and Mr. BUSTAMANTE changed their vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. NAGLE). Will the gentleman from California [Mr. TORRES] please come forward and lead the House in the Pledge of Allegiance.

Mr. TORRES led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

that the Senate agrees to the report of the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212) "An Act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested.

S. 2166. An act to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes.

The message also announced that, pursuant to Public Law 101-649, the Chair, on behalf of the Republican leader, appoints Mr. Richard Estrada of Texas and Mr. Michael Teitelbaum of New York, as members of the Commission on Legal Immigration Reform.

REPORT ON THE PROGRESS OF HON. JAMIE L. WHITTEN

(Mr. NATCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NATCHER. Mr. Speaker, I want to inform my colleagues that yesterday I spoke on the telephone with my chairman and good friend, JAMIE WHITTEN. We had a good conversation. We talked about the work before the Committee on Appropriations.

The chairman told me he feels fine. His doctors say he is doing fine. They have not set any limits on his activities. He has been in daily contact with his staff.

He said he expected to be back in the office on a full-time basis in a week or two. It has been tiresome, he told me, with one examination after another. The chairman told me that his high blood pressure had been brought under control with medication and that he also was undergoing a procedure to take care of a minor prostate problem.

Mr. Speaker, he pointed out to me that there are 9 subcommittees holding hearings on the fiscal year 1993 budget this week; that 10 subcommittees will complete their hearings by the end of April, and the other 3 will conclude in May. My chairman told me if the budget resolution is completed on time, he sees no reason why all 13 appropriations bills cannot be acted on by the House by the end of June as has occurred in the past.

Mr. Speaker, it is a pleasure for me to give this report to the House, and I know all Members join me in wishing JAMIE the best and look forward to his return.

□ 1230

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 194

Mr. PETERSON of Minnesota. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Resolution 194.

The SPEAKER pro tempore (Mr. NAGLE). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 194

Mrs. VUCANOVICH. Mr. Speaker, I ask unanimous consent to remove my name from cosponsorship of House Resolution 194.

The SPEAKER pro tempore (Mr. NAGLE). Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

DEMOCRATS' ECONOMIC GROWTH PLAN A SHAM

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, the Democrats call it the Taxpayer Fairness and Economic Growth Act of 1992, but the leading Democrat Presidential contender, Paul Tsongas, calls it immoral and has stated that he would veto it if he were the President.

The Institute for Research on the Economics of Taxation calls the Democrat plan a threat to growth. Even the liberal Washington Post calls the Democrats' plan a shapeless bill which will likely hurt more than help the economy.

The National Center for Policy Analysis says that the Democrats' plan would lead to a net loss of more than 100,000 jobs over the next 6 years and prolong the current recession.

By contrast, the Republican plan would create almost 600,000 jobs.

Mr. Speaker, the Democrats' plan is a sham and should be rejected.

TELL MIDDLE CLASS WE ARE ON THEIR SIDE

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, for 2 long years this administration said that there was no recession. They said the economy was not in trouble, and for a decade before that they told us to be patient, that trickle-down economics would produce jobs.

Well, we have waited, and we have waited, and we have waited. Where are the jobs?

We are losing 9,400 jobs every month in America, and now the President sends us a proposal that is just more of the same.

Do we want to go back to the old ways, the way we have been doing things, or do we want to say no more gimmicks, no more tax cuts for the wealthy, no more broken promises?

Mr. Speaker, the middle class of America has waited too long.

There is really only one question, one question to ask in today's debate: Which side are you on? Let us tell the middle class, "We are on your side."

THERE THEY GO AGAIN

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, there they go again. In 1986, they called it tax reform. In 1990, the Democrats called it deficit reduction. In 1992, they called it middle-class tax relief. Yeah; right.

When is enough enough? Why can they not just come out and tell the American people the truth: "We Democrats believe we can spend your money better than you."

You may think that that is an absurd statement, but look at the facts. It is a fact: Since 1947, every dollar raised in new taxes has generated $1.59 in Federal spending. It is a fact: The Federal budget is consuming a near record level of gross national product. And it is a fact: The American taxpayers are paying record levels of local, State, and Federal taxes.

With this backdrop, why are the Democrats asking for billions in new taxes and only giving each person in a family of four 25 cents a day. The answer is easy. The higher taxes are permanent, and the 25-cents-a-day tax cut is temporary for only 2 years.

Let's get real. Let us pass a tax plan that will create jobs and real economic growth which will give every American a tax break, especially the middle class.

A TAX PLAN THAT MAKES SENSE

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, there is a lot of discussion that we have an education problem in this country. It is said that Americans do not read very well.

It is clear to me from listening to the floor yesterday there are some in this Congress who do not read very well. I heard people on the floor say the Democrats are proposing a tax increase for people in the $30,000 income range. What a bunch of nonsense.

Yes, this plan proposes some modest tax hikes. And I will tell you for whom they propose it: If you earn over a million dollars a year, we are suggesting a modest tax increase. If you are a couple earning over $200,000 a year gross income, we are proposing a modest tax increase.

Why? We would use the money to give the middle-income families in this country a little help. They are the ones squeezed throughout the 1980's with higher tax burdens.

We believe the economic engine in this country is in the middle class, and we believe when folks like that are squeezed, they deserve some help. We will give them some help by taxing the rich and giving a little help to the rest. That is a tax plan, in my judgment, that makes sense, Mr. Speaker.

DEMOCRATS' TAX BILL GIVES CORPORATE AMERICA A TAX BREAK

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, Democrats come to the floor every day and blast Republicans for favoring big business.

If these same Democrats are true to their convictions, they will have no choice but to vote against their own tax bill. The Democrats' tax bill gives corporate America a tax break while it raises taxes on America's small businessmen and entrepreneurs.

Most small business owners are not corporations and pay taxes as individuals. Any tax cuts aimed at corporate America miss 90 percent of America's companies.

In America, there are 14.3 million sole proprietors, 18.4 million partnerships, and only 3½ million corporations.

Mr. Speaker, the leading Presidential candidate for your own party, Paul Tsongas, said Democrats love employment but hate employers. Your tax bill proves that his statement is true.

Mr. Speaker, the fact is one cannot create more employees in America without creating more healthy employers throughout this country.

A CLASSIC EXAMPLE OF SHOOTING THE MESSENGER

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, now the right wing of President Bush's Republican Party has decided that the reason for the unpopularity of the Bush economic recovery plan is none other than Treasury Secretary Nicholas Brady. They have asked President Bush to fire Secretary Brady.

In a classic example of shooting the messenger, many Republicans are prepared to summarily execute Secretary Brady to take the heat off the President.

Now, do not blame Secretary Brady for capital gains cuts that favor the wealthiest people in our Nation. This proposal is not Brady's fault. It is classic Republican dogma, not Nick Brady's musings. Do not blame Secretary Brady for the tax increases in the President's plan. You cannot give tax breaks to wealthy people without asking somebody to pay for them.

Before this Republican bash-Brady bunch gets too carried away with tossing Bush operatives overboard, I hope they will remember that if you do not like the tune, you blame the organ grinder, not the monkey.

□ 1240

CONSUMER CONFIDENCE AT NEW LOW

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, two headlines appeared in this morning's newspaper. One said, "Consumer Confidence Hits 17-Year Low." The other said, "Passage of the President's Economic Growth Package Unlikely."

Is there any question why America is losing confidence?

Two-thirds of our gross domestic product constitutes consumer spending. When consumer confidence falls, investment drops. When investment drops, unemployment increases and the deficit grows.

What the Democrats are proposing is a $93 billion tax increase on this economy. Is there any wonder that consumers are losing confidence.

Two years ago, the Democrats raised taxes by $175 billion and our economy started going into the tank and that is where it is still headed.

Let me expose the Democrats' so-called growth package. It comprises a gimmicky tax credit which is temporary and a permanent tax increase.

This is not applicable to the rich. Everyone making $85,000 or more in America gets a tax increase. Those are the people who create jobs. Without new jobs, there will be no new employment. This is why we have no consumer confidence.

REPUBLICANS WILL NOT EVEN INTRODUCE THEIR OWN TAX PACKAGE

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, I am starting to feel sorry for the President of the United States. Last night in California he condemned the Democrats and Congress. Monday he condemned the Democrats and Congress. Today we will consider his economic proposal that he could not find one friend in the Republican Party, not one brave soldier in the House Republican Party to introduce his bill. When we have the debate this afternoon, everyone should understand it is on the Gephardt substitute, which is the President's package, because the majority leader of the Democratic Party had to introduce the Republican package, and we will see how many votes he gets.

Now, I know Pat Buchanan is angry at him. I know his House Republicans are angry at him. So I would suggest that perhaps last night when the President criticized House Democrats, he should have criticized House Republicans, and if he wishes to consider changing parties and become a Democrat, he could spend the rest of the year being President instead of running for it, and the country would be better off because of that.

DIFFERENCES BETWEEN DEMOCRATS AND REPUBLICANS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, there are great differences between the Democrats and the Republicans in this House with regard to the direction that this country should go. Republicans are the party of less government, rather than more. Republicans are the party that believes real wealth and growth occurs in the private sector, and it is the Government's role to create an environment in which that private sector can prosper.

Republicans believe that dollars should be left in the hands and pockets of citizens, rather than being confiscated by taxes.

This difference really comes out clearly in the debate over the economic incentive packages that we will talk about today.

Mr. Speaker, I think today's Washington Post which quoted a leading Democrat is the most defining statement that I have read for a very long time. Basically it said, "I am uncomfortable," this Democrat leader said, "with the package that puts money in the pockets of business."

Where do we think jobs come from? Where do we think property is created that provides jobs?

We ought to have as a goal providing jobs for everyone in this country who wants to work, and a prosperous business will do that.

DEMOCRATIC CONGRESS ONLY INTERESTED IN PARTISAN POLITICS

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, unfortunately, yesterday I told you and today I tell you again and perhaps will be back here tomorrow suggesting that at the conclusion of this week the American public will have less confidence and respect for Congress as an institution than they have already. Part of that has been evidenced, as my colleagues have suggested earlier, so vividly in today's Washington Post.

The one headline, "Consumers' Pessimism Deepens." And the other front page headline, "Deadlock on a Tax Bill Seen Likely."

Members will recall that when the President's tax package was brought to the Ways and Means Committee, they did not work with the administration for technical clarifications. They randomly and summarily voted to reject this package. Then they went into a closed Democratic caucus to try to write their own partisan tax package.

Mr. Speaker, apparently the Congress, or at least the Democratic Congress, is not interested in economic recovery. They are interested in partisan politics, and I regret that very much.

GUARANTEE PROGRAMS AT HOME, NOT ABROAD

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, while Congress debates taxes, an Israeli leader said that Israel will use the $10 billion in housing guarantees from America as they see fit. They will not bow down to any pressure from Washington and they will use it to build housing on the West Bank and the Gaza Strip.

Now, let us think about this. We are bankrupt. People are losing their homes, losing their jobs, sleeping on steel grates, massive unemployment, and a foreign nation will tell us how they will use the programs that we devise from our taxpayers' accounts.

I say it is time to tell Israel and every foreign nation out there that you are our friends, but you are not our taxpayers' responsibility.

And let me say something, Mr. Speaker, around here that seems to be very silent on the issue. If we have $10 billion to guarantee housing or anything, we should be using it to guarantee programs in America.

Think about it.

THE PLIGHT OF HAITIAN REFUGEES

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, I, like many people across this Nation, am concerned with the plight of Haitian refugees.

This situation clearly requires us, as a government, to make the determination between those Haitian refugees fleeing economic hardship and refugees escaping political persecution. The Haitian Refugee Protection Act does not make this determination.

Evidence clearly shows that a large majority of refugees fleeing Haiti are escaping economic hardship. Refugees are not making the easier and safer overland trip to the Dominican Republic. Many of those interdicted asked to return to Haiti when they discovered they would not be permitted to go the United States.

The United States has already provided 4,800 Haitian refugees with the opportunity to seek political asylum. Suspending return of interdicted Haitian refugees for another 6 months sends a dangerous message from the U.S. Government encouraging Haitians to make a treacherous and unsafe 700-mile voyage.

The bill is unfair and unnecessary. Economic hardship is not an automatic right to enter the United States. It is not fair for the people of Florida to have to shoulder the burden of refugees entering the United States because of poverty when we are faced with enough economic hardship on our own shores.

DO NOT HURT HAITIANS FOR PLANTING FOR THEIR FUTURE

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, the economic embargo against Haiti was implemented to force a return to democracy, and to demonstrate that the United States would not stand silent witness to a brutal military coup, not to condemn poor Haitians to a devastated, deforested future.

I am sad to report, Mr. Speaker, that our economic embargo in Haiti may just be making things worse for the poorest of the poor citizens of this hemisphere.

In 1981, the Pan American Development Foundation [PADF], with United States AID support began a complex agroforestry project in Haiti. Over the next 4 years, PADF, working with Haitian peasant farmers, local missionaries and other private voluntary organizations, grew over 20 million tree seedlings.

In 1990 alone, PADF provided tree seedlings, training and/or agroforestry services to over 60,000 poor Haitian farmers, producing and distributing over 6.5 million trees.

But, PADF did more than help plant and grow trees, they transferred new knowledge and techniques directly to some of the world's most impoverished farmers, in a country where 70 percent of the population depends on agriculture and only one-third of the soil can be cultivated.

The economic embargo stopped all of this humanitarian work dead in its tracks. All of the U.S. AID funding for PADF tree growing efforts was embargoed.

To make matters worse, the lack of propane gas and kerosene from the embargo, has forced Haitians to cut down an increasing number of trees for charcoal in a landscape already laid waste by years of deforestation.

Mr. Speaker, cutting off PADF's tree growing programs will not affect the military dictators who canceled the birth of democracy in Haiti. It is just hurting the poor.

Mr. Speaker, I respectfully request that the Department of State reinstate immediately the Pan American Development Foundation's Haitian agroforestry project. Let trees continue to grow in Haiti.

☐ 1250

DEMOCRATS' TAX PLAN CREATES HIGHER UNEMPLOYMENT, NOT JOBS

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, it appears that economic growth legislation may die because of partisan bickering and class warfare. If we cannot give Americans the opportunity for economic prosperity, why are we here? For years, Congress has offered the American people nothing but higher taxes, bigger deficits, and enough bureaucratic redtape to bankrupt many hard working small business people.

Now the Democrats are pushing a $90 billion increase in income taxes to pay for less than $1 a day for only 2 years for the middle class. The Democrats' plan will fail to create jobs; what it will create is higher unemployment.

Americans want jobs, not political gimmicks. The Virginians I represent understand what the Democrats' plan really is. The ruling party obviously wants to do nothing about the economy because economic recovery will hurt the Democrats' campaign for the Presidency. It is truly a shame that so many families have to suffer because Congressmen refuse to place the good of the people above their own narrow political desires.

TRIBUTE TO A NEW AMERICAN HERO: KRISTI YAMAGUCHI

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, it is my pleasure to ask our colleagues to join in celebration of a new American hero: Kristi Yamaguchi of Fremont, CA.

On Friday, February 21, Kristi dazzled the world with her grace and skill as she skated to a gold medal in the Winter Olympics.

As a fellow American of Japanese ancestry and neighbor in the San Francisco Bay area, I felt a special pride in her extraordinary achievements as she bested the best of the world in Albertville, France.

I felt an even greater pride for her parents—Jim and Carole Yamaguchi—and her grandmother Kathleen Doi of San Jose.

With her victory, Mr. Speaker, Kristi Yamaguchi has given all Americans—and the world—a chance to stand up and cheer for the United States.

So, today I ask my colleagues here in the U.S. House of Representatives to stand up and cheer for Kristi Yamaguchi—a great American with a proud heritage, and surely a bright future.

And Kristi, thanks a million.

THE DEMOCRAT PLAN: A SUGAR-COATED HANDOUT

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker what has happened to the party of Franklin Roosevelt? In these hard times, the Democratic Party is offering the voters a pale shadow of the New Deal. A $200 tax credit; 55 cents a day. The price of a candy bar.

For a candy bar a day, the Democrats hope the voters will sweep them back into office.

This modest tax credit will give the jobless nothing more than a little something to chew on while they stand in the unemployment lines.

And the more the jobless think about it, the more they'll want a job, not a sugar-coated handout.

The President's program will create more jobs. The Democrats' program will create more jobless. That's the conclusion of the National Center for Policy Analysis.

The voters will see through the Democrats' bill like a transparent candy wrapper. This plan is all sugar and no protein.

I urge my fellow Members to vote for the President's seven-point growth package. It will bring America back—to stay.

INDUSTRIAL REINVESTMENT AND DEFENSE DIVERSIFICATION ACT

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, I ask my colleagues to join me in the Industrial Reinvestment and Defense Diversification Act, which I will be introducing shortly.

Mr. Speaker, in most countries we can expect the executive, the Prime Minister, the President, what have you, to come forward with a plan to put the people of the country to work. In this country, the President, Mr. Speaker, is disengaged. He does not seem to understand that whether they are defense workers or auto workers who are losing their jobs, that the Government owes them more than extended unemployment benefits, that they deserve to be given jobs and we need to have the kind of program here that brings back the $100 billion we are spending in Europe, and puts Americans to work with it.

Mr. Speaker, we are going to spend almost $30 billion on military bases in Europe while this administration refuses to do anything to put dislocated defense workers to work, dislocated auto workers to work.

We need to put this country back to work, and we need to move this bill forward.

Mr. Speaker, I will be sending a "Dear Colleague" to my friends in the Congress requesting that they join with me in the Industrial Reinvestment and Defense Diversification Act.

THE DEMOCRATS CONTROL THE AGENDA ON THE TAX BILL

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, the American people are waiting with bated breath for what they expect to be a serious policy discussion later today. But, thanks to the Democrats, instead what they will see is a very shallow political discussion. The Democrats, who control the agenda on the floor, have allowed us to discuss the impact on unemployment, jobs, and the budget of the United States of a Democrat bill that will not work. We will then consider the Democrat majority leader's uninvited distortion and misrepresentation of the President's bill and then, also, Congressman BILL ARCHER's representation and presentation of the President's actual tax bill.

The question is, which of these three will most stimulate economic growth, will most create new jobs, and will most help us to alleviate our deficit situation?

In their effort to encourage acceptance of their bills and rejection of the President's bills, the Democrats will cite economic research from their wholly owned subsidiary, the Congressional Budget Office.

This economic research will again be consistently wrong, consistently incorrect, and all the errors will be in favor of the Democrats' political arguments.

VETERANS' VOLUNTARY SERVICE CORPS

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, today I am introducing legislation to create a Veterans' Voluntary Service Corps to use the commitment and skills of separating service members to assist both former Eastern European Communist bloc nations and Soviet Union republics as they build a more secure future. I call the program participants VIPS [Volunteers Investing for Peace and Security].

As our Nation continues on a 25-percent reduction to the military defense structure of America over the next 3 years, we will find it necessary to separate from the Armed Forces many of the high quality members of the All Volunteer Force that won the cold war. As a result, there will be some of our Nation's best and brightest people both retiring after a full career and also separating early from the military under the voluntary incentive programs authorized by the Congress last year. Many of these talented professionals possess engineering, logistics, communications, and health care skills of immense value to former Warsaw Pact nations striving to rebuild an old and crumbling infrastructure in order to find a place in a new world. We must find a way to tap this valuable resource and allow former service members to continue to work for peace without a uniform.

My plan calls for the Department of Defense [DOD] to work closely with the State Department to determine the needs of government and free enterprise in these nations struggling with their new-found freedom. Under my proposal the Secretary of Defense would take applications, maintain a registry of volunteers and skills, and coordinate skill information with the Secretary of State. DOD would remain responsible for administrative details, but volunteers, once they report in-country, would be responsible to the Secretary of State through the Ambassador. Participants would serve at the pleasure of the Ambassador who may terminate their participation, if necessary. I also include a provision which would allow the former member to serve with the Peace Corps upon request by the in-country Peace Corps supervisor.

This legislation includes an incentive package to attract qualified and motivated people to the program. In addition to a modest annual stipend of $25,000, the Secretary of Defense may authorize various elements of the Foreign Service benefits package that is available to individuals serving overseas. In addition to round-trip transportation and household goods shipments, the Secretary may authorize medical care for volunteers and dependents, housing allowance, overseas cost-of-living allowance, and dependent children educational costs.

Participants would not be granted diplomatic status, but would serve in the same status as a Federal employee assigned overseas. Funding for the program would be provided by the Department of Defense, to include reimbursement to the Department of State for language and/or cultural training. I believe the program can achieve its objectives without large numbers of participants. Accordingly, I have restricted the total number of participants to 1,000 over the full course of the program.

The legislation I am proposing today is the first step of a broader legislative package. Over the next few weeks and months, I know that many of my colleagues will be suggesting other ways to utilize the unique skills and training of our military personnel to address problems in civilian society. There is great potential to capitalize on the training and experience of the finest military force in the Nation's history. By working together to meld and refine the best of everyone's ideas, I am confident we will be able to do so.

SUPPORT TAX PROPOSAL CONTAINED IN H.R. 4200

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, this morning's Washington Post contained two front-page headlines, that clearly show cause and effect. One said, "Deadlock on Tax Bill Seen Likely—Neither Party's Plan Given Much Chance of Passing This Year." The other headline said, "Pessimism Deepens—Confidence on Job Loss Fears Hits 18-Year Low."

There are many lessons from our New Hampshire primary that could help us deal with this deadlock and pessimism. My friends on the Democrat side of the aisle should listen to their New Hampshire first-place winner Paul Tsongas' message, instead of proposing the tax increases contained in the Gephardt tax plan. Democrat Tsongas said in New Hampshire:

> The need for this country is to get the economy moving.
>
> My responsibility to the middle class is not to give them a 97-cents-a-day tax cut, but to give them jobs.

Tsongas concluded:

> My first responsibility is to get the economy going, so I take whatever resources I have and put it into that engine.

From a New Hampshire Republican perspective, we agree with Mr. Tsongas on this issue. I urge all Members to vote against the Gephardt tax increase plan. Let us work together to cut taxes and create good, high-paying jobs by supporting H.R. 4200.

SCRAP THIS DRUG WAR AND LET US START ANEW

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, as the leaders of six Latin American countries meet with President Bush in a drug summit down in Texas today, one thing is very clear: That is that the war on drugs has failed.

Yes, there have been some successes here and there and we are interdicting more crack cocaine than ever before. But by the ultimate standard by which the war on drugs should be judged—the amount of drugs available to people in our country, the amount of crime caused by drugs—unfortunately, this war has failed.

□ 1300

Mr. Speaker, if we look at price, if we look at purity and we look at preponderance, there is more crack cocaine on our streets now than ever before, and not a single crack dealer has been unable to sell a vial of his poison because of this war on drugs. Yes, indeed the President has tried on a strategy of interdiction, but it is like a balloon. Squeeze it in one place, it pops up in another. So, we have eliminated the Medellin cartel, and the Cali cartel has taken over. We have eliminated growth in Ecuador, and limited it in Brazil, and it has increased in Bolivia.

Mr. Speaker, we ought to see the forest, not the trees; roll up our sleeves, scrap this war on drugs and start anew.

WHAT ARE THE DEMOCRATS UP TO?

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I think the American people have figured out what the Democrats are up to on the floor today. They want to increase taxes again. They have done it every time a tax bill comes to the floor. They are looking to increase taxes again today.

Mr. Speaker, the Democrats claim to love jobs. The problem is that they also seem to hate job creators. We have heard Members come to the floor today already suggesting that the only good job is a Government job, that we ought to somehow have programs to put all these jobs into the Government, and what are they doing in specifics in their bill?

One area that I am familiar with in science and technology is that in their bill they seek to undermine the ability of the high technology entrepreneurial companies in this country to be able to do business in the future. For example, they are dealing with intellectual property in ways that would no longer get favorable tax treatment, which means that they will destroy high technology in this country.

They are also in their bill taking the depreciation schedules that now apply to high-technology companies and expanding them. Here is what it would do: It means that American high-technology companies will have to pay in effect a sales tax in order to acquire other high-technology companies instead of writing off acquisitions in 3 to 5 years, as in current law. The Democrat tax bill would require a 14-year writeoff. This translates into a 12- to 20-percent sales tax on the high-technology entrepreneurial industries in this country that have to create the jobs of the future.

THE PRESIDENT IS RIGHT ABOUT SETTLEMENTS IN THE OCCUPIED TERRITORIES

(Mr. MAZZOLI asked and was given permission to address the House and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, when the President is wrong, or in our opinion wrong, I think it is important that we criticize him. I think he has been wrong in some of his economic policies, and that will be demonstrated here on the floor today and for the next several weeks. I think he is wrong on the Haitian policy, and I think that will come up today and in the weeks ahead on this floor.

But at the same time, when the President is right, I think he should be praised. I think the President is right in his policy with regard to further settlements on the West Bank and in the occupied territories in Israel. Settlements are an impediment to peace. They make the peace talks, which are convened here in Washington, much more difficult.

Mr. Speaker, the United States has a very special relationship with the nation of Israel. We have had it for over 40 years. We will continue to have it for the future. But this situation of continued settlements in the occupied territories and on the West Bank is an impediment to peace.

I am proud that the President's plan would seek a halt to those settlements, and I hope that is the ultimate outcome, that those settlements are halted.

ELECTION YEAR STUNTS

(Mr. McGRATH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McGRATH. Mr. Speaker, last December, and again this month, I urged my colleagues on the Ways and Means Committee, to proceed on an economic recovery package in a bipartisan fashion. My plea was ignored by the majority.

While hard working men and women fear for their future employment prospects, or desperately seek new jobs, we are mired in a pathetic election year debate.

I am appalled that we will consider a dollar a day tax credit, based on Social Security and Medicare taxes. While this proposal does not directly affect those trust funds, it deceives Americans. We should not even suggest that we can give back money from those underfunded programs.

I also point out to my colleagues on the other side, that the new taxes in their economic package, are the same new taxes they propose to use to finance their national health care proposal. I can only assume that an election year stunt takes priority over health care.

I urge the Democratic leadership to rise above partisanship, return to the bargaining table, and develop an honest economic recovery package.

SUPPORT FOR HAITIAN REFUGEES

(Mr. BLACKWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKWELL. Mr. Speaker, I rise today to address a most troubling situation that has generated great concern among the people of my district, as well as myself. I am referring to the overwhelming hardships that have plagued the Haitian refugees.

Since the overthrow of President Aristide, the Haitians have faced adversity, despair, threats of extreme violence, and now the denial of a place of refuge in the United States.

As the Haitians have risked their lives in route to safety, the administration has simply decided to wash their hands of the situation. We must no longer turn our backs on those who are in peril.

We are all familiar of reports that the military regime is harassing, persecuting, and murdering hundreds of Haitians and yet America's door is still closed.

Repatriating the Haitian refugees at a time when many are fearful for their lives, due to the chaos that has erupted by the violent coup is unacceptable.

The United States is known as a country that sets the standards for human decency and civil rights for the rest of the world. I have always been proud to live in a country that has in the past has opened its doors to oppressed people of many nations, both near and far. Therefore, it is only fair that I simply ask my colleagues how can we possibly, with a clear conscience, turn a blind eye to these brave, yet frightened people? This repatriation is an action that sends a negative message to the Haitians and to oppressed people everywhere, searching for a better way of life.

I firmly believe that the current process is simply inadequate. I encourage my colleagues to vote in favor of legislation that will give the Haitian refugees the opportunity to flee from the persecution that has been inflicted upon them, and offer them the promise of life that they may not receive if forced to return to the cold-blooded, dictatorship that is wreaking havoc on this small island nation.

DISPLACED HOMEMAKERS NEED OUR HELP

(Mr. BILIRAKIS asked and was given permission to address the House and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, this week the House will consider economic growth legislation which contains provisions to permanently extend the targeted jobs tax credit program. That is good. I have never heard anyone from either party oppose TJTC.

However, Mr. Speaker, there is a group of people who are not presently covered under the program but who desperately need our help: the displaced homemakers of our society. Displaced homemakers are ordinarily women who have been homemakers and who need now to find work because of death of the income earner, or divorce, separation, or disability.

Yesterday I testified before the Committee on Rules in an effort to have an amendment made in order to the economic growth bill which would have the TJTC Program include displaced homemakers. While I truly appreciate the serious consideration which my amendment was given, I am extremely disappointed that the full House will not have the opportunity to vote on this legislation. TJTC is good. It would better serve its intended purpose if displaced homemakers were included.

Mr. Speaker, this approach is cost effective by providing prospective employees with the incentive to hire and train displaced homemakers. We avoid the much more costly alternative of publicly supporting these homemakers and their families. We need to help them to help themselves.

I truly hope that any economic considerations will consider the concerns of displaced homemakers.

OPPOSITION TO PRESIDENT BUSH'S 1993 BUDGET PROPOSAL TO TAX CREDIT UNIONS

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, I oppose H.R. 4210, the administration's fiscal 1993 budget proposal, which contains a provision to tax America's credit unions.

President Bush would reduce the tax on capital gains and repeal the tax on the purchase of luxury items, proposals that would disproportionately benefit wealthy Americans. To pay for these tax cuts for the rich, President Bush would increase the tax burden on the middle class by taxing credit unions with assets over $50 million. There are almost 1,000 such credit unions, with 32 million members—half of this Nation's credit union members—with a majority being lower and middle-class Americans.

Because credit unions are not for profit, their members will take the hit for this tax—almost $1 billion over the next 5 years—in the form of higher borrowing costs, higher fees for services, and lower savings interest rates.

President Bush claims that repealing credit unions' tax-free status is necessary to put banks and thrifts on an equal tax footing with credit unions.

But credit unions are different from banks and savings associations. Credit unions are not-for-profit organizations with only one purpose: Providing services and credit to their members.

In 1937, Congress granted credit unions an exemption from Federal income taxes to enable credit unions to provide financial services to those who were at a disadvantage in obtaining these services elsewhere. Credit Unions should not be punished for performing such services.

I urge my colleagues to reject such a tax on credit unions, and vote against H.R. 4210.

□ 1310

JUST SAY NO TO DEMOCRATIC TAX PROPOSAL AND YES TO REPUBLICAN ALTERNATIVE

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, under the guise of tax equity, we are about to have a debate today that will give us once again an unfair rule limiting the ability of the minority to offer amendments on the floor during the course of the debate and an up or down vote on either the Democrats' proposal, which would increase taxes, or the Republican proposal, the stripped down package of seven economic incentives that would directly stimulate the economy and truly create incentives for savings and job creation.

Quite simply, the Democrats are, as previous speakers have said, playing election year politics with this most sensitive of subjects at a time when the American people want cooperation and not confrontation.

The Democrats are trying to buy the working men and women of this country for 60 cents a day for 2 years. In exchange, they want to permanently increase taxes on over 2 million American families.

Once again, we are talking about taxing the American dream. We ought to just say no to the Democratic proposal, and yes to the Republican alternative, which will truly stimulate the economy and again provide the kind of incentives that American people want for investment, savings, and job creation.

GIVE AID TO WOMEN HIDING IN EMBASSIES IN KUWAIT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, today I am sending a letter to Secretary Cheney, and I hope many other Members do the same thing. We have got so many military assets adjoining Kuwait, all sorts of planes, all sorts of transportation. And to read every day in the paper about the number of women in embassies in Kuwait hiding out because of the sexual abuse and violence they have sustained in the different Kuwaiti families where they have been employed, is horrifying.

Mr. Speaker, as you know, the Filipino Embassy now has hundreds of women. The Sri Lankan Embassy has all sorts of women. This is absolutely intolerable.

With resources to get them out of there and help them return to some place that is safe so nearby, I would certainly hope we would do that.

ECONOMIC GROWTH

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, soon we are going to begin debate on proposals to stimulate economic growth. The Democrats have another plan and yet another tax increase. It creates a deficit of $30 billion over the first 2 years.

Ah, they say, but we will make that money up later. Have you heard that one before?

The American people will be forgiven for saying they have heard that one before.

I just returned from Russia, Mr. Speaker. They have a daunting challenge over there. Terrible economic and political instability. Next to them, our troubles must look mighty small.

We asked them to make tough decisions, so why can't we? The President has a plan that is paid for, that is responsible. It stimulates growth and creates jobs. But the Democrat plan is designed for failure, to be vetoed by the President. The only consequence is political name calling.

Let us stop playing politics. Let Republicans offer their own bill. Reject political nonsolutions like the Rostenkowski substitute. Let us help the American people.

WHAT'S GOOD FOR AMERICAN BUSINESS IS GOOD FOR AMERICAN WORKERS

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, every once in a while you encounter a defining statement that distinguishes the Democrat Party from the Republican Party. I found one in this morning's Washington Post in a column, "Election Year Deadlock Seen Blocking Tax Bill."

I found a statement from one of the most prominent senior Democrats in this Chamber, a very important Member of the majority party. In complaining about a capital gains tax cut, he says:

> I have ridiculed the trickle down theory for years, so I am very uncomfortable with a package that puts money in the pocket of business.

Well, there it is, Mr. Speaker. It is bad if it puts money in the pockets of business.

One of the Presidential candidates for the majority party admits that the Democrats like employment—it is just employers they do not like.

Well, here we have it. The notion that the only good job is a government job is certainly a hallmark, a defining position of the majority party.

So I intend to carry this with me and show it to every businessman I encounter on the highways and byways of this country. I do not mind putting money in the pocket of a businessman. He might be able to create some more jobs. I do not know what the gentleman wants to create by harming business, but there you have it, and I commend it to your careful study.

WHAT IS WRONG WITH THE DEMOCRAT TAX PACKAGE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, what is wrong with the Democrat tax package?

Democrats' 2-year tax relief is built on a permanent tax increase; they add a new top bracket of 35 percent beginning at: $85,000 for single filers; $145,000 for married joint filers; and $125,000 for heads of households.

If the Democrats want to make their tax credit permanent, they would have to increase taxes on middle-income America—individuals with $35,000 per year and families with $70,000 or more in income.

In the name of economic growth, the Democrats raise tax rates on 90 percent of American businesses because they are taxed as individuals.

Corporations saw their tax relief go from a permanent tax rate reduction, to a 2-year cut, to nothing in less than a week.

Democratic Presidential frontrunner Paul Tsongas has said he would veto the House Democrats' tax bill if he were President.

PROVIDING FOR CONSIDERATION OF H.R. 4210, ECONOMIC GROWTH ACCELERATION ACT OF 1992

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 374 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 374

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. Immediately upon the conclusion of the general debate and notwithstanding any rule of the House, the Chair shall put the question, without further debate, on adopting an amendment in the nature of substitute consisting of the text of the bill H.R. 4210. No further amendment to the bill shall be in order except the following amendments in this order: (1) an amendment in the nature of a substitute consisting of the text of the bill H.R. 4200 as modified by the amendment in section 2 of this resolution, to be offered by Representative Michel of Illinois or Representative Archer of Texas or their designee; and (2) an amendment in the nature of a substitute consisting of the text of the bill H.R. 4287, to be offered by Representative Rostenkowski of Illinois or his designee. Both amendments shall be considered as having been read and shall not be subject to amendment. Each amendment shall be debatable for not to exceed one hour, to be equally divided and controlled by the proponent and a Member opposed thereto. All points of order against each amendment in the nature of a substitute are hereby waived. If more than one amendment in the nature of a substitute is adopted, only the last such amendment which is adopted shall be considered as finally adopted in the Committee of the Whole and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendment as may have been adopted, and the previous question shall be considered as having been ordered on the bill and amendment thereto final passage without intervening motion except one motion to recommit, which may not contain instructions.

SEC. 2. At the end of line 25, page 14 of H.R. 4200, insert the following new sentence: "Notwithstanding any other provision of

> this chapter, in the case of a taxpayer other than a corporation, any amount treated as ordinary income under this subsection shall be subject to tax at a rate not in excess of 28 percent.".

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman will state his point of order.

Mr. SOLOMON. Mr. Speaker, I make a point of order against the consideration of House Resolution 374 on grounds that it is in violation of clause 4(b) of House rule XI, and ask to be heard on my point of order.

Mr. Speaker, I regret that I must again rise to make this point of order that the minority's right to offer a motion to recommit of its choosing is being violated. I thought I had assurances from your leadership that this right would not be further abridged pending a promised Rules Committee inquiry into the legislative history behind this rule.

Mr. Speaker, as you will recall, on January 3, 1991, I transmitted to you, the majority leader, and the chairman and other members of the Rules Committee a 48-page report prepared by our Rules Committee minority staff entitled, "The Motion to Recommit in the U.S. House of Representatives: The Rape of a Minority Right."

□ 1320

That paper traces the legislative history and the intent behind the two rules at issue here, which were adopted by the House back in 1909.

In essence, Mr. Speaker, that report documents that the two rules were specifically adopted to permit the minority the right to offer a motion to recommit of its own choosing, including one with instructions, so that it could go get a final vote on its position.

Mr. Speaker, that report goes on to conclude that a 1934 precedent that has been relied on to deny the minority a right to offer recommittal instructions of its choosing was strongly decided and should be reversed.

In my letter to the Speaker, I urged that the majority reconsider its policy of denying instructions in motions to recommit, and I quote:

> Thereby avoid future confrontations and points of order over such a fundamental guarantee of fairness.

It was my hope that on the basis of the clear historic record behind this rule and guarantee that the Committee on Rules would not deny us our immutable right in this 102d Congress. We were promised that. Unfortunately, that was not the case here today.

Mr. Speaker, clause (b) of House rule XI provides, and I quote:

> The Committee on Rules shall not report any rule or order of business which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.

That is the rule of this House. That is the rule that we live by and we have lived by for 80 years, and clause 4 of rule XVI provides, and again I quote, "After the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit," and I am quoting, "shall be in order, and the Speaker," Mr. Speaker, listen, "the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or the joint resolution."

Mr. Speaker, those two clauses were adopted as amendments to House rules on March 15, 1909, when the minority party, Democrat, that is right, they were in the minority, it may have been the last time they were in the minority, joined with a group of insurgent Republicans, can Members imagine, to guarantee greater minority rights. And yes, would it not be nice if Democrats and Republicans were joining together today on this economic growth package? God forbid, I guess.

Mr. Speaker, prior to this rule's revision, the motion to recommit was controlled by the majority party and the minority had no rights. This change was instituted for the specific purpose of giving the minority a final vote on its alternative legislative proposal through a motion to recommit with instructions.

That is so every Member, 435 Members, can have some say, some input into legislation.

The rule before us right now, on the other hand, provides that the motion to recommit, and I quote, "may not contain instructions." That means we cannot have a motion to recommit with or without instructions.

It is, therefore, in direct violation of this rule, which was purposely designed to guarantee the minority a vote on its final proposition by way of instructions.

Mr. Speaker, I will not again take your time and the time of this House to quote speaker after speaker after speaker over the last 80 years who have ruled that the House, that this whole purpose of this rule was to protect the right of the minority to offer its final proposition to a bill.

Mr. Speaker, that is just a plain fact that cannot be denied or ruled away by the way of the Speaker's gavel.

Mr. Speaker, if the Chair overrules my point of order today, not only is the minority being denied the right to offer a final amendment to the bill, it is even being denied the right to offer general instructions that the Committee on Ways and Means, and listen to this, reconsider this bill with a view to developing a bipartisan compromise.

Mr. Speaker, that completely flies in the face not only of the legislative history behind this rule but of common sense and common decency.

Mr. Speaker, the motion to recommit may be the last opportunity to salvage an economic growth program in this Congress this year. Without instructions, a straight motion to recommit by implication kills the bill. I hope my colleagues are listening over there. It kills the bill.

But with instructions, the House would have an opportunity to tell the Committee on Ways and Means to get back to work.

Mr. Speaker, I strongly urge that the Chair not render this important minority right completely null and void by overruling my point of order. Leave this institution with some measure of dignity and respect for the rights of the minority.

Mr. Speaker, as Speaker of this House you are required by the rules of this House and by the tradition of this body and, above all else, out of fairness to represent all of the Members of this House, and it is on behalf of all 435 Members of this House on both sides of the aisle that I respectfully ask to have my point of order sustained.

The SPEAKER pro tempore (Mr. MURTHA). The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER] to speak on the point of order.

Mr. WALKER. Mr. Speaker, the gentleman made reference in his remarks to an assurance that he had received from the leadership of the House that this right would be protected during which time a study of the question would be taken; is that not correct?

Mr. SOLOMON. Mr. Speaker, back in January 1991, under a similar circumstance when we were being denied our right, we made the point of order. It was ruled against us.

At that time, the Speaker and the minority leader on the Democrat side, and I think perhaps a couple of other Democrat leaders as well, met with the gentleman from Illinois [Mr. MICHEL] and myself in the Speaker's quarters, at which time we were given assurances that our rights would be protected and that we would work this out and that we would do it through the Committee on Rules.

Nothing has been done since that time.

Mr. WALKER. So what we have here is not only the fact that the rules of the House are being violated, I agree with the gentleman's point of order, but also that an assurance to the minority, a firm assurance that we would be protected until which time the matter had been worked out is also being violated today?

Mr. SOLOMON. That is certainly my understanding. And needless to say, that is why I am so upset about this action today.

The SPEAKER pro tempore. Does the gentleman from South Carolina [Mr. DERRICK] wish to be held on the point of order?

Mr. DERRICK. Mr. Speaker, the gentleman makes the point of order that the resolution is not in order because it limits the motion to recommit in violation of clause 4(b) of rule XI.

Mr. Speaker, I respectfully disagree and ask the Chair to overrule the point of order.

Clause 4(b) of rule XI prohibits the Committee on Rules from reporting a rule "which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI."

Mr. Speaker, House Resolution 374 does not propose to prevent the minority from offering a motion to recommit, so it does not violate clause 4(b) of rule XI.

It is now very well established under the precedents that the Committee on Rules may recommend special orders of business limiting instructions on the motion to recommit.

This point was reaffirmed as recently as November 25, 1991, on June 4, 1991, and also on October 16, 1990, when the House tabled by a vote of 251 to 171 an appeal of the Speaker pro tempore MURTHA's overruling of a point identical to that raised by my Republican friend today.

In a ruling on January 11, 1934, the Speaker Mr. Rainey stated that:

> The Committee on Rules may, without violating this clause, recommend a special order which limits but does not totally prohibit a motion to recommit pending passage of a bill or joint resolution such as precluding a motion containing instructions relative to certain amendments.

Mr. Speaker, the precedents are clear and unequivocal. If a special order of business does not deprive the minority of its right to offer a simple motion to recommit the bill or joint resolution under consideration, then it does not violate clause 4(b) of rule XI. As the Speaker pro tempore noted on October 16, 1990, clause 4 of rule XVI does not guarantee that a motion to recommit a bill may always include instructions.

I urge the point of order be overruled.

□ 1330

The SPEAKER pro tempore (Mr. MURTHA). Does the gentleman from New York [Mr. SOLOMON] wish to be heard further on the point of order?

Mr. SOLOMON. Mr. Speaker, I just cannot tell you how shocked I am at that ruling being quoted as being precedents, because if you will look back through the RECORD, in June 1991, we were assured by the real Speaker that that would not be used as precedents in this House. Now it is being cited as precedent. I think that is outrageous. I challenge the ruling of the Chair.

The SPEAKER pro tempore. The Chair has not ruled yet.

Mr. SOLOMON. Some of us are clairvoyant, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania [Mr. WALKER] desire to be heard on the point of order?

Mr. WALKER. Mr. Speaker, I desire to be heard on the point of order.

Mr. Speaker, the gentleman from South Carolina [Mr. DERRICK] has cited specific instances from the last few minutes as precedents for suggesting how the Chair should rule today. The gentleman from New York [Mr. SOLOMON] makes an absolutely valid point the Chair ought to take into consideration.

At the time those rulings were made there was real question expressed about whether or not this was an appropriate course to be taken. The leadership of this House felt it was so questionable that they agreed to study it. The gentleman from New York received assurances that we would not proceed along this path until we had studied this matter and found out what the rights of the minority should be in these kinds of instances.

Now what we have happening is that the very items that were considered questionable enough to call for that kind of study in the past are being cited as precedents for the Chair today.

If the Chair ever wants to know why the minority feels at times that there is a dictatorial sense about the direction in which we are moving, this is a perfect example of where we have outrageous rulings which are questionable, which even the leadership questions, and then have those later on cited as precedents for action.

That is precisely what is taking place here. I would hope that the Chair would not continue to rule in a manner which undermines minority rights.

The SPEAKER pro tempore. Does the gentleman from South Carolina [Mr. DERRICK] desire to be heard?

Mr. DERRICK. Mr. Speaker, we also, in addition to the precedents of recent date, rely on the January 11, 1934 decision. I think the rules clearly state that the minority is entitled to a motion to recommit, but they are not entitled without question to a motion to recommit with instructions.

We have had this same point of order brought up by the distinguished gentleman from New York [Mr. SOLOMON] in the Committee on Rules, and ruled the same way, the chairman of the Committee on Rules did.

The SPEAKER pro tempore (Mr. MURTHA). The Chair is prepared to rule.

The gentleman from New York makes a point of order against House Resolution 374 on the ground that it violates clause 4(b) of rule XI, which provides that the Committee on Rules shall not report any rule or order of business that would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.

Clause 4 of rule XVI provides for one motion to recommit a bill or joint resolution after the previous question is ordered on final passage, with preference in recognition going to a Member who is opposed to the bill or joint resolution.

The pending resolution provides that the motion to recommit H.R. 4210 pending the question of its passage may not contain instructions. It does not impair a simple motion to recommit.

The precedent of October 16, 1990, is precisely on point. On that occasion the Committee on Rules had reported a special order of business that precluded the inclusion of instructions in the motion to recommit a bill pending the question of its passage. The present occupant of the Chair overruled the point of order, relying on precedents of the House—specifically the ruling of Speaker Rainey on January 11, 1934—holding that the Committee on Rules does not violate clause 4(b) of rule XI so long as it does not deprive the minority of the right to offer a simple motion to recommit.

Under the precedents a special order that does not preclude a simple motion to recommit does not "prevent the motion to recommit from being made as provided in clause 4 of rule XVI." Clause 4 of rule XVI does not guarantee that a motion to recommit after the previous question is ordered on passage of a bill or joint resolution may always include instructions.

The pending resolution does not "prevent the motion to recommit from being made as provided in clause 4 of rule XVI." The Chair will follow the precedent of October 16, 1990. The point of order is overruled.

Mr. SOLOMON. Mr. Speaker, you can only push the minority so far. I respectfully appeal the ruling of the Chair.

Mr. DERRICK. Mr. Speaker, I move that the appeal of the ruling of the Chair be laid on the table.

The SPEAKER pro tempore. The question is on the motion to table, offered by the gentleman from South Carolina [Mr. DERRICK].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 157, not voting 21, as follows:

[Roll No. 23]

YEAS—256

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper

Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—157

Allard
Allen
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison
Myers
Nichols
Nussle
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—21

Archer
Coleman (TX)
Dannemeyer
Dickinson
Eckart
Gaydos
Gingrich
Hoyer
Jones (GA)
Morella
Nowak
Oxley
Ray
Savage
Schaefer
Sharp
Smith (TX)
Swift
Tauzin
Vander Jagt
Whitten

□ 1402

Mr. GILMAN and Mr. GOODLING changed their vote from "yea" to "nay."

Mr. RICHARDSON changed his vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 374 is a modified rule providing for the consideration of H.R. 4210, the President's economic growth bill. The rule waives all points of order against the consideration of the bill and allows up to 2 hours of general debate, equally divided and controlled by the chairman and the ranking minority member of the Committee on Ways and Means.

The rule provides that at the conclusion of general debate, the Chair shall immediately put the question, without further debate, on an amendment in the nature of a substitute consisting of the text of the bill H.R. 4210.

The rule provides that no further amendment shall be in order except two amendments in the nature of substitutes, to be considered in the following order: one by Representative MICHEL or ARCHER, or their designee, consisting of the text of the bill H.R. 4200 as modified by the amendment in section 2 of House Resolution 374; and one by Representative ROSTENKOWSKI or his designee consisting of the text of the bill H.R. 4287.

Each substitute shall be considered as read, shall be debatable for 1 hour, equally divided and controlled by the proponent and a Member opposed thereto, and shall not be subject to amendment.

The rule provides that the three substitutes shall be considered under a king-of-the-hill procedure. Under king of the hill, if more than one amendment in the nature of a substitute is adopted, only the last such amendment adopted shall be considered as finally adopted and reported back to the House.

Finally, Mr. Speaker, the rule waives all points of order against each substitute and provides for one motion to recommit, which may not contain instructions.

Mr. Speaker, the people of my State of South Carolina are hurting. In fact the people of every State of this Union are hurting after 1½ years of recession.

Unemployment stands at 7.1 percent, meaning there are 9 million Americans who want to work but cannot find jobs. Millions more have only part-time jobs. Millions of others have given up looking for jobs altogether.

The conference board reported yesterday that consumer confidence has fallen to its lowest level since the 1970's. Obviously many who now have jobs fear they might lose them before the recession ends.

Mr. Speaker, it has been years since there was so much pain and apprehension in our land. Our people are looking to us for leadership and help as they struggle to keep their families intact and their heads above water. And we will provide that leadership.

Mr. Speaker, this rule will enable the house to consider competing tax relief and economic growth proposals. To me there is simply no competition.

Two of those proposals—the President's package, and the House Republican package—represent more of the same tired trickle-down economics which have brought our country to its knees, ravaged our middle class, and quadrupled our national debt.

They offer the kind of economic growth which give the wealthy huge tax cuts, neglects middle-income Americans and sends the bill to our grandchildren.

Mr. Speaker, Americans are weary of those policies. They're tired of waiting for the trickle-down to get to them. They're tired of worrying about their jobs, their health benefits, their pensions, and their children's futures. They know instinctly our country cannot continue on its present path, and they're looking for change.

Fortunately, the rule makes in order a Democratic alternative to those tired policies. Under the guiding hand of Chairman ROSTENKOWSKI the Democrats on the Ways and Means Committee have crafted an outstanding package offering substantial tax relief to our middle class and offering the business community targeted incentives for growth.

For individuals, the Democratic alternative sends help where it's needed most: to middle-class workers and families. Our middle class has been squeezed hard during the last decade by stagnating wages and increasing payroll taxes. The Democratic alternative will give families up to $800 in tax relief over 2 years to ease that squeeze. It will also provide families a tax credit for student loan interest, and let them dip into their IRA's without penalty to buy homes, pay medical bills, or college tuition.

The Democratic alternative offers businesses a variety of incentives, including an investment tax allowance and an increased expense allowance for small firms. It gives a capital gains tax cut to people who invest in the startup companies which will provide new jobs in the future, and indexes capital assets to inflation for the first time in our history. And it creates enterprise zones across this country, in both cities and rural areas, to spur investment and employment in places often overlooked, or worse, written off.

Mr. Speaker, the Democratic alternative offers all these things and more without increasing the national debt by requiring our wealthiest citizens to pay their fair share. The Democratic plan would create a new 35-percent bracket for families with incomes of $200,000 or more, and would require millionaires to pay a new 10-percent surtax.

Unlike the other proposals, however, which would increase the deficit dramatically, the Democratic package would actually reduce the deficit by $14 billion over 6 years.

Mr. Speaker, the American people are in great pain and looking to Congress to relieve their suffering. It's up to us to provide the shelter our people so desperately need to weather the storm and the incentives our economy needs to resume its growth. I urge the Members to support the rule and to support the Democratic alternative.

☐ 1410

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just as we did yesterday for 8 hours upstairs in the Committee on Rules, we are going to hear today a lot of talk from the other side of the aisle about just how fair, how fair this rule and procedure are. But what is a Democrat definition of "fairness," Mr. Speaker? Well, Democrats made it quite clear in the Committee on Rules yesterday that to them fairness means telling 435 Members of this House, both Democrat and Republican, to vote on just two partisan substitutes. Their idea of fairness means prohibiting 435 Members of this House on both sides of the aisle from changing either one of those two substitutes and, further, making it impossible to develop a bipartisan compromise that has any chance of becoming law.

Mr. Speaker, the American people watching on C-SPAN yesterday were appalled, and they were disgusted at the trickery and the misrepresentations of the Democrats. My colleagues, check those calls coming in last night.

For instance, 4 days after our Republican leader, the gentleman from Illinois [Mr. MICHEL], introduced a bill consisting of the President's short-term economic stimulus package, the Democrat majority leader got up in the House and complained that the Republicans had not introduced the President's bill; therefore, he was going to do it by request. I do not know by request of whom. The only problem is that, contrary to the majority leader's assertions, the Republicans had already introduced the bill that the President asked Congress to enact by March 20. And the bill introduced by the Democrat majority leader was not the President's bill at all. It was a cannibalized version of the short-term and long-term programs offered by President Bush, without the means to pay for it because the Democrats stripped out the President's spending cuts. I ask my colleagues, "Where do you come off doing such a thing?"

So, when the Democrats tell us this rule is fair, they are correct in one sense, my colleagues. It is fair to the Democrat caucus, but it is not fair to 435 Members of this House, and it damn sure is not fair to the American people.

We had some 13 Members testify before the Committee on Rules yesterday, and roughly 10 amendments were requested by Democrats and by Republicans. We Republicans tried to make all of those amendments in order under the rule, out of fairness. We also offered a rule providing an open amendment process for both substitutes, and our rule was rejected. Democrats could have bent our proposals, and we could have bent theirs, and we could have had a compromise. But, Mr. Speaker, this rule here today is not fair to the American people who operate under the assumption that their individual Representative in Congress has the same right to vote and to amend bills as anyone else.

I say to my colleagues, "You don't have that right, gentleman. It's being taken away from you by your Democrat leadership that voted against you yesterday on all of your amendments that you wanted to offer. If I was a Democrat, I'd be outraged."

Mr. Speaker, this is not fair, but what is really unfair to the American people about this rule is its partisan nature. Nothing we vote on is going to become law. The Democrats will defeat the Republican substitute, and the President will veto the Democrat substitute, and the American people will be left with nothing in the way of economic stimulus and job-creating programs.

Mr. Speaker, that is a shame. The chairman of the Committee on Ways and Means admitted as much upstairs yesterday when he said that this is all political theater. This is political theater? And he said that he really agreed with the economists who told his committee that we should take no action at all. The gentleman from Illinois [Mr. ROSTENKOWSKI] is quoted to the same effect in Monday's New York Times, and let me quote him:

> The one time I agree with the economists, I'm forced to do something other than sit on my fanny and do nothing. The political climate insists that * * *.

Mr. Speaker, that same article points out that the chairman argued in his caucus, the Democrat caucus, that by deliberately passing a bill they know the President will veto, the Democrats will achieve their objective of doing nothing while getting political mileage out of the claim that they tried to help the middle class. Mr. Speaker, this is the kind of twisted, cynical concept of fairness the Democrats are talking about when they claim this process is fair. Yes, it is fair to their political objective of promoting and provoking a partisan confrontation and a veto, thereby prolonging the recession and maybe electing a Democrat President. That is their game plan. It is obvious.

What I would submit to the gentlemen on that side of the aisle is: The American people can see through all of this. They do not want partisan politics when millions of people are suffering. I would ask my colleagues on the other side of the aisle whether their strategy of holding the American people hostage to a recession until after the election is really fairness?

What justification do we get in response to the Democrats in defense of this partisan process? Their distinguished Democrat whip replied to the Committee on Rules that this process is designed to demonstrate just whose side are we on. I have never heard anything so sickening in my life, and by that it was clear he was talking about the rich versus the middle class.

Mr. Speaker, that is not and it should not be the issue before us today, igniting a fuse that will set off some kind of class warfare pitting Americans against Americans. We should all be on the side of the American people, and what is best for this country and is creating jobs. We should all be on the side of a program that can be enacted into law and one that will work. Mr. Speaker, we are only fooling ourselves, and we are only trying to fool the American people if we frame the debate in terms of us versus them—rich versus middle class.

Redistributing the wealth without creating new wealth and new jobs is not going to get this economy moving. My colleagues know that. I do not know of one economist who thinks raising taxes will lift us out of this recession. The Democrat tax package is nothing but a shell game of raising taxes on people earning, yes, over $85,000 a year. Democrats want to raise their taxes and cut taxes for those earning under $85,000 a year by 27 cents a day. The chairman of the Committee on Ways and Means says his middle class tax credit of $200 a person is going to put his party, listen to this, in the 92d percentile of approval. Mr. Speaker, that is an insult to the American people.

□ 1440

Let us face it, this is nothing but a two-bit, 25-cent bill, and the American people are not so stupid as to be bought off by it when it does nothing to stimulate jobs in the economy.

In conclusion, Mr. Speaker, I urge every Member to vote against this partisan rule because nobody wins and everybody loses under this partisan approach which is going nowhere. I heard Members on the other side of the aisle testify to that effect yesterday.

Let us send this bill back to the Ways and Means Committee and insist that they engage in genuine deliberation and compromise on a bipartisan basis that includes the ideas of the President of the United States. And let us do so without raising taxes, without increasing the deficit, and in a way that will produce real economic growth.

Let us produce the kind of a bill the President can sign, one that will really benefit this Nation. That is what the American people sent us here to do. That is what they expect of us.

Mr. Speaker, I ask the Members to vote down this rule, and let us get down to work and produce a bill that will be signed into law.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, we have the choice today of a Democratic middle-class tax relief or a Republican tax relief.

Mr. Speaker, the Democratic plan is far better because it promotes fairness, fiscal discipline, and economic growth. Let us face it, we are here for two reasons: First, to help the middle-class tax situation, and second, also to spur growth and investment. But let us face another fact. We are engaged in a political bidding war.

The Democratic plan is far superior. It pays for itself by 1997. It rewards long-term investment. It helps small business owners and farmers, and it contains fair taxation of capital gains. The Democratic plan reflects the Democratic commitment to three principles: First, that the wealthiest Americans who got the Reagan-Bush tax breaks must be enlisted to provide tax relief for squeezed middle-class individuals; second, to spur investment we must reduce the deficit by making tough choices and rejecting gimmickry; and third, we must make incentives for economic growth, both short-term and sustained, to get America back on the right track.

This is a fair rule. It contains a vote on the Republican substitute, it contains a vote on the President's tax plan, and it contains a vote on the Democratic plan. The Democratic plan, because of fairness, fiscal discipline, and economic growth, is the best plan. It is not going to be a panacea. It is not going to resolve all problems. Our objective is to spur growth, investment, and savings.

Mr. Speaker, that is all we want to do, and the American people deserve this chance.

Mr. Speaker, I would like to thank the managers of the bill for this opportunity to speak in favor of the rule and in favor of the Rostenkowski-Gephardt substitute to President Bush's tax plan.

By any objective standard, Republican tax policies in the 1980's have contributed to the severity of the 17 month-long recession that we are fighting to get out of and its tax policies continue to jeopardize our ability to provide for long-term economic growth.

Today, we will have the chance to do something to address both these serious problems: tax fairness and economic growth. Restoring fairness to the Tax Code needs to be a priority not just on the grounds that for the past decade Washington has shoved the tax burden onto the backs of middle America. Democrats have traditionally championed fairness in the Tax Code because it goes hand in hand with economic growth. We cannot continue with a 1980's tax policy that concentrates wealth in the hands of a few income earners and expect the rest of the American taxpayers to keep paying the bills.

The Democratic substitute provides for a 2-year refundable tax credit for 20 percent of Social Security and Medicare taxes. And the cost of this tax cut is paid for by raising the top marginal tax rate and instituting a 10-percent surtax on millionaires. That's a simple proposition: is it fair to ask a few to start paying more in taxes so that a majority of Americans will benefit from much needed tax relief? The answer should be a resounding yes.

The Democratic substitute also includes other provisions designed to start helping those in America who do not always get a fair shake from the Tax Code: small businesses, farmers, students, and self-employed individuals.

The Democratic substitute targets a capital gains tax reduction for long-term investment in small businesses; it allows for greater depreciation on farm equipment; it extends the 25-percent deduction for health insurance costs of self-employed individuals; it provides for a tax credit on student loan interest. It puts in place various tools for economic growth, and the tax package does so with a refreshing spirit of fiscal discipline in order to ensure that we do not increase the Federal deficit.

Mr. Speaker, the Democratic substitute is deserving of our support. We finally are passing tax legislation that addresses the real needs of the many rather than the laundry wish lists of a few. I urge my colleagues to vote in favor of the Rostenkowski-Gephardt alternative to President Bush's tax plan.

Mr. SOLOMON. Mr. Speaker, I yield six minutes to our Republican leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I am disappointed, but not surprised, at the process which has brought us to the floor to consider H.R. 4210. This is the so-called economic growth bill for which no one claims responsibility. And for which, I might add, quite frankly, no one is going to vote in the final analysis.

If I might very briefly, under leave to include extraneous matter, ask to include after my remarks a chronology by date of exactly what took place from the date the President submitted his State of the Union Message in which he asked for some 49 proposals to be enacted by this Congress during the entire life of this session. It is obviously impractical for us to think in terms of that entire package being enacted by March 20. That was never the President's intention. He said in his State of the Union Message: My short-term goal for March 20 is those seven points that will stimulate the economy and create jobs, and then, of course, the balance of what I have proposed here will come later. And he asked us quite frankly, Could you submerge the politics for the first part and get it enacted immediately? Then after that we will take our chances. We realize it is a Presidential year and politics will rear its ugly head.

Then, of course, what the majority leader did, as pointed out so well by the distinguished gentleman from New York, was to take from a rough draft part of the President's entire program and reinvent it for all practical purposes and call it the President's program.

Now, there is no way around here that we in the minority will be told what is the President's plan or specifically how it ought to be written. That is our responsibility, and we take on that responsibility. But to have the majority go through this kind of charade for no other purpose than supposedly to bring about a vote on what they purport to be the President's program is just so much bunk and hokum, and we ought to address that right up front.

After we waste the people's time voting on this case of mistaken identity, we are going to consider a Republican alternative and a Democratic alternative, and there will be no opportunity to amend or improve either version or work the will of the House, as we normally would do in the legislative process around here. Furthermore, the minority is denied its traditional right of a motion to recommit the bill with instructions. I suspect maybe part of the reason is due to the fact that had the majority introduced its own base bill and then its substitute, they would have gotten two bites of the apple. But they denied themselves the first one by engaging in this hocus-pocus. So they provide themselves only one real legitimate vote and they deny us the normal motion to recommit because then we would have two votes and they would have only one. That is the kind of game that is being played around here.

Someone with a suspicious mind might conclude that the Democratic leadership was never serious about working out a package at all to stimulate economic growth. Why else, then, was the Democratic plan formulated behind closed doors during this last week and a half, with various versions leaked to see how numerous interest groups would react?

Now we are presented with a Democratic alternative which appears to cater to many groups but which still has as its cornerstone that so-called temporary middle class tax cut paid for, incidentally, by a hefty and permanent tax increase.

Furthermore, the majority totally exempts its package from the Gramm-Rudman discipline. As much as that act and even the budget agreement have been maligned over a period of time, nevertheless spending caps are spending caps. When you simply want to come in here and throw off whatever discipline we have finally had for the last couple of years in our own House by way of Gramm-Rudman and the Budget Act, than it seems to me we have another problem. It glosses over the $30 billion deficit in the first 2 years, just as though it never happened or it is not real.

The Republican alternative, which I introduced along with my good friend, the gentleman from Texas, Mr. BILL ARCHER, our ranking member on the Ways and Means Committee, on February 7 to get this process moving, contains the seven items the President asked for in his State of the Union Address to be enacted by March 20. Here they are, specifically and quickly: A $5,000 first-time homebuyer tax credit; Penalty-free IRA withdrawal for first-time homebuyers; An investment tax allowance; A capital gains tax rate reduction; Passive loss relief for active real estate developers; Alternative minimum tax depreciation simplification and enhancement; and then finally, pension fund investment in real estate enhancement.

We extended the hand of cooperation, quite frankly, to our friends on the other side of the aisle, and they slapped it down. The people sent us here to legislate, not to engage in what our distinguished chairman of the Ways and Means Committee has called high political theatre, mentioned earlier by my distinguished friend, the gentleman from New York [Mr. SOLOMON]. It is time to begin legislating in earnest.

What the majority does here does not even rise to the level, frankly, of playing politics. It is simply a reflex mechanism of a party that has long since lost a sense of purpose except the exercise of raw power for its own sake.

Someone once defined extremism as redoubling your efforts while forgetting your goal. That comes closer to what the majority has done here. It is a sophomoric prank that once might have looked bright and clever but today looks only tacky, tawdry, tired, and a bit sad.

Mr. Speaker, I am obliged to vote against the rule because of its shortcomings, as I have enumerated, and I certainly ask my colleagues to join me in that vote.

ECONOMIC GROWTH PROPOSALS CHRONOLOGY

January 28, 1992: The President presented the State of the Union message. He stated: "We must have a short term plan to address our immediate needs, and heat up the economy. And we need a long term plan to keep the combustion going, and to guarantee our place in the world economy."

The President then listed the seven items of his short term plan and further stated: "Then this is my short term plan. Your part, members of Congress, requires enactment of these common sense proposals that will have a strong effect on the economy—without breaking the budget agreement and without raising tax rates. . . . I submit my plan tomorrow. I am asking you to pass it by March 20th."

January 29, 1992: Chairman Rostenkowski sent a letter to Secretary Brady requesting legislative language for all of the President's revenue proposals. He further insisted on introduction of the President's revenue proposals by the Republican Leadership or the Ranking Republican of the Committee. (See Letter No. 1)

February 4, 1992: Republican Leader Michel, for himself, Mr. Archer, Mr. Gingrich, Mr. Lewis, Mr. Edwards, Mr. Hunter, Mr. McCollum and Mr. Weber, introduced H.R. 4150 by request, which sets forth the President's comprehensive economic agenda.

H.R. 4150, was introduced to comply with the Democrat's request that statutory language be introduced and made available to expedite consideration of the President's economic growth proposals by the House.

H.R. 4150 is a comprehensive bill containing 49 Titles. Title I contains the seven tax incentives outlined by the President in his State of the Union address as components of a short-term economic recovery package. Titles II and III contain the balance of the President's tax provisions for families and to promote long-term growth. The balance of the bill represents program changes and initiatives proposed by the President which require legislation.

February 6, 1992: Chairman Rostenkowski sent a letter to Congressmen Michel and Archer complaining that H.R. 4150 was impractical to use as a markup document because of the large number of titles and the many Committees which received a referral of the bill. (See Letter No. 2)

February 7, 1992: Congressmen Michel and Archer responded that it was unfortunate that the Chairman found it impractical to work from H.R. 4150. In light of the unprecedented fact that the Chairman was not putting forward a "Chairman's mark" and in order to facilitate the Ways and Means markup and the overall effort to enact growth legislation by March 20, a second bill, H.R. 4200 was introduced by Mr. Michel and Mr. Archer. (See Letter No. 3)

H.R. 4200 contains the seven specific growth provisions (Title I of H.R. 4150) which the President called Congress to act on by March 20, along with provisions that completely offset the costs of those provisions under Treasury Department and Office of Management and Budget scorekeeping.

February 11, 1992: Again, the Democrats were not happy with the introduction of H.R. 4200—they found it "surprising and regrettable." (See Letter No. 4) The Republican Leadership did not comply with the Democrat's specific request that all three revenue titles—Titles I, II and III of H.R. 4150—be introduced. But these three titles were never meant to be a stand-alone package by the President.

Majority Leader Gephardt, nevertheless, took it upon himself to introduce Title I, II and III of H.R. 4150, with modifications made to those titles, as a new bill—H.R. 4210—on February 11, 1992.

February 12, 1992: H.R. 4210 then because the markup document for the sham markup held by the Ways and Means Committee on February 12, 1992. At this markup, the Democrats never had any intention of working with Republicans to craft an economic growth package.

The Democrats voted down the President's proposal offered by Mr. Archer (H.R. 4200) and then voted to report without recommendation H.R. 4210 which they incorrectly represented as the President's package. Then they went behind closed doors to secretly craft their own package.

Congressmen Michel and Archer responded to Chairman Rostenkowski's letter of February 11, clarifying that the Chairman had been mistaken about what the President had asked Congress to do and what was introduced on his behalf. It further stated that Congressmen Michel and Archer were anxiously waiting to see what the Democratic party would put forth as its plan for jobs. (See Letter No. 5)

[Letter No. 1]

COMMITTEE ON WAYS AND MEANS,
Washington, DC, January 29, 1992.

Hon. NICHOLAS F. BRADY,
Secretary of the Treasury, U.S. Department of the Treasury, Washington, DC.

DEAR MR. SECRETARY: I listened with great interest to President Bush last night as he presented his State of the Union address, both with regard to the substance of his proposals for economic growth and his call for enactment by March 20, 1992.

The Members of the Committee on Ways and Means stand ready to cooperate with the President to lead our country toward a positive future. However, if the Administration is serious in its desire to move this legislation quickly, the process must begin with your submission of the legislative language for all the revenue proposals contained in the President's budget proposals that are within the jurisdiction of the Committee on Ways and Means. Introduction of the President's revenue proposals by the Republican Leadership or the Ranking Member of the Committee is an absolutely necessary first step. Of course, I would anticipate that any health-related revenue proposals would be omitted from the introduced bill since the President has indicated his intention to move his health initiatives on a separate legislative track after formal presentation to the Congress sometime next month.

Mr. Secretary, let me emphasize the importance of including all the President's revenue proposals, whether they decrease or increase revenues. In my opinion, there will not be an opportunity to consider separate revenue legislation later in the year. Consequently, all the Administration's revenue proposals should be incorporated within your one submission. Self-selection among the revenue proposals in the President's Budget will only encourage selectivity in the Congress.

I hope, Mr. Secretary, that you will be able to prepare the legislative language of the President's revenue proposals so that it could be timely introduced in the House of Representatives next Tuesday, February 4, 1992, when you and the President's other economic advisors testify before this Committee on the President's proposals.

Sincerely yours,
DAN ROSTENKOWSKI,
Chairman.

[Letter No. 2]

COMMITTEE ON WAYS AND MEANS,
Washington, DC, February 6, 1992.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, The Capitol, Washington, DC.

DEAR MR. LEADER: As you know, I have scheduled a markup next Wednesday on the President's revenue proposals contained in H.R. 4150, the Economic Growth Act of 1992, which you introduced by request on behalf of the President earlier this week.

As I indicated in my opening statement at our hearings this Tuesday, we have every intention of trying to meet the March 20 deadline set by the President for passage of a significant economic growth bill—not because of the President's demand, but rather because there is a lot of pain and hardship in America today.

The immediate problems, however, is one of procedures. As you know, H.R. 4150 contains 49 titles and was referred to seventeen committees of the House. I trust you will agree with me that it is impractical to use H.R. 4150 as the markup document next Wednesday. Thus, for us to proceed as we intend next week, it is imperative that the President's revenue proposals contained in Title I, Title II, and Title III of H.R. 4150 be introduced as a separate bill.

The purpose of this letter is to request that you, along with the other sponsors of H.R. 4150, introduce the first three titles of H.R. 4150 as a separate bill for purposes of the Ways and Means Committee markup next week. As a courtesy, I have made the same request of the Ranking Republican Member of the Ways and Means Committee, the Honorable Bill Archer. As I indicated this past Tuesday, I have no intention of presenting a "Chairman's Mark" as a starting point for the markup. In deference to the President, the starting point will be the President's revenue proposals contained in the first three titles of H.R. 4150.

Let me reemphasize a point I made this past Tuesday. The idea suggested in the President's budget that there may be two tax bills this year implementing the President's economic growth package and budget proposals is totally unrealistic. The Ways and Means Committee has a long and important agenda that it anticipates pursuing this year after March 20th, including health care reform, an increase in the Social Security earnings limitation, and various trade initiatives. In talking to Members on both sides of the aisle, there appears to be broad agreement with my position that there will be only one tax bill this year, and it is going to be written in the next few weeks as the President has demanded.

To facilitate the markup of the Ways and Means Committee, it is my hope that you can introduce the separate revenue bill reflecting the first three titles of H.R. 4150 as quickly as possible. Since the statutory language of the first three titles of H.R. 4150 is obviously available, I hope that you would be able to introduce the bill during this Friday's session of the House. This will enable me to circulate the bill early next week to Members of the Ways and Means Committee in preparation of the Wednesday markup. If, for some reason, you do not anticipate introduction of the bill tomorrow as requested, I would appreciate your informing me as soon as possible.

With warm regards, I am
Sincerely yours,
DAN ROSTENKOWSKI,
Chairman.

[Letter No. 3]

OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, February 7, 1992.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR MR. CHAIRMAN: We are glad to know that you have every intention of trying to meet the President's March 20 deadline for passage of a significant economic growth bill.

You have stated that you will not put forward a "Chairman's Mark" as a starting point for the Ways and Means Committee's markup next week and that you intend to begin working from the President's economic growth plan. We think that is indeed appropriate and constructive in the absence of any economic growth plan introduced by the majority which could serve as the starting point. The President has taken the initiative on the important issue of job creation and economic growth, and we are pleased that the Ways and Means Committee wants to follow his lead.

It is unfortunate that you do not feel that it is practical for the Committee to begin its work from H.R. 4150, which was introduced last week to comply with the request that statutory language describing the President's economic agenda be available to expedite consideration by Congressional committees. We certainly do not want the Ways and Means Committee's difficulty in dealing with a comprehensive package to slow down consideration of the President's job creation initiatives.

Therefore, in order to facilitate both the Ways and Means Committee's markup and our collective effort to enact legislation expeditiously, we are introducing today a separate bill, as you requested. It includes the specific economic growth provisions (Title I of H.R. 4150) which the President singled out in his call for action by March 20, along with provisions which completely offset the costs of those items under Treasury Department and Office of Management and Budget scorekeeping.

A letter signed by the Director of the Office of Management and Budget is being sent to you which will affirm that the bill, as introduced, complies with the Budget Enforcement Act and will not result in a sequester and is consistent with the President's program. As you will recall, you requested similar letters in recent months to help expedite the enactment of extended benefits under the unemployment compensation program. Surely, legislation to preserve existing jobs and create new jobs is an equally important issue.

You should note that the bill does not include Title II or Title III of H.R. 4150. Those two titles were integral and inseparable parts of the President's comprehensive economic program as defined in H.R. 4150, which you have said you will not use as a starting point for markup. The first three titles of that comprehensive bill are not, and never were intended to be, a stand alone package. Their consideration as such by the Ways and Means Committee would be a gross misrepresentation of the President's economic growth agenda and would be viewed as obstructing our goal of mutually developing a package which can be signed into law expeditiously.

It is very important to note that the new bill does not rely upon tax increases for its funding. The President believes—and we strongly agree with him—that economic growth does not require higher taxes for any Americans.

We hope that our introduction of this new bill today will help you and the Members of the Ways and Means Committee expedite the important work of starting the President's economic growth initiatives through the legislative process. We are confident that by working together we will be able to respond to the President's important challenge of providing a needed stimulus to our economy.

With warm regards, we remain,
Sincerely,
ROBERT H. MICHEL,
Republican Leader.
BILL ARCHER,
Ranking Member, Committee on Ways and Means.

[Letter No. 4]

COMMITTEE ON WAYS AND MEANS,
Washington, DC, February 11, 1992.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, the Capitol, Washington, DC.

Hon. BILL ARCHER,
Ranking Republican, Committee on Ways and Means, Longworth Building, Washington, DC.

DEAR MR. LEADER AND BILL: Thank you for your letter of February 7, 1992, indicating that you both have introduced H.R. 4200, the Economic Growth and Job Creation Act of 1992. It is my understanding that H.R. 4200 contains a modified version of Title I of H.R. 4150 (the President's Economic Growth Act of 1992), as well as selective provisions from other titles of H.R. 4150, and has been referred to five Committees of the House. It is my further understanding that you have changed the President's proposals by modifying Title I of H.R. 4150 with respect to the treatment of capital gains under the minimum tax. In your letter, you suggest that H.R. 4200 be used as the starting point for the Ways and Means Committee markup scheduled tomorrow.

As you know, in my letter of February 6, I requested that all three revenue titles contained in the President's economic growth package—Title I, Title II, and Title III of

H.R. 4150—be introduced as a separate bill as a starting point for the Committee's markup. As I have consistently stated, the suggestion that there may be two tax bills this year implementing the President's economic growth package and budget proposals is totally unrealistic. Given the legislative commitments of the Ways and Means Committee with respect to trade and comprehensive health care reform, I remain convinced that there will be only one such tax bill this year—written by March 20 as the President has demanded.

For these reasons, I find your introduction of H.R. 4200, containing only a modified version of Title I and other selective provisions of H.R. 4150, both surprising and regrettable. It is surprising because the first modifications to the President's revenue proposals have come from Members of his own party in the house, and invite selective modification and cherry-picking from others in the Congress. It is particularly regrettable because by failing to introduce Titles II and III, you are asking millions of hard-working, middle-class Americans to wait until some indefinite time in the future for a tax cut that they desperately need and richly deserve.

In addition, such selectivity among the revenue provisions of the President's program suggests postponing consideration not only of much-needed tax relief for the middle class, but also of such other important revenue initiatives as the permanent extension of the research and development credit, the deductibility of student loan interest and the repeal of luxury excise taxes. Along with many Members on both sides of the aisle, I believe that these and all other revenue provisions contained in the President's revenue package should be considered contemporaneously, not selectively, as you suggest.

After consulting with my Leadership, it is my understanding that Majority Leader GEPHARDT has introduced today H.R. 4210, containing the first three titles of H.R. 4150 in a separate bill, that was referred exclusively to the Commission on Ways and Means. It is my intention to use H.R. 4210 as the starting point for the Ways and Means Committee markup tomorrow. H.R. 4210 puts all aspects of the President's revenue proposals officially before the Committee. This new bill will, of course, be open to amendment, and could be amended by H.R. 4200 if you choose and a majority of the Committee agrees. Of course, in such an event, the Committee would have to consider the implications of deleting the proposed middle-class tax cut and other important revenue proposals contained in Title II and Title III of the President's program.

As I indicated at the Ways and Means Committee hearings last week and in my previous letter to both of you, we have every intention of trying to meet the President's March 20 deadline. I look forward to reporting the President's revenue proposals to the House as expeditiously as possible.

Sincerely yours,

DAN ROSTENKOWSKI,
Chairman.

[Letter No. 5]

OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, February 12, 1992.
Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means; Washington, DC.

DEAR MR. CHAIRMAN: After reading your letter of February 11, 1992, we realize that you are mistaken about what the President has asked us to do, as well as what we introduced on his behalf.

First, you are wrong when you state that H.R. 4200 contains a modified version of Title I of H.R. 4150 the President's Comprehensive Economic Growth package. Title I is identical in every respect in both bills. It is very important to note that H.R. 4200 does not rely upon tax increases for its funding. Our bill, as introduced, complies with the Budget Enforcement Act and will not result in a sequester.

The bill Majority Leader Gephardt introduced yesterday (H.R. 4210) ignores the actual language of our bills and obviously has been modified and introduced to obscure the fact that your party has no plan to create new jobs or preserve those existing jobs in America. Your failure to produce a majority party position cannot become the reason why Congress fails to produce timely incentives to create jobs.

You also reassert your earlier contention that there will be only one tax bill this year. We believe that approach is both unwise and unwarranted. Your position requires Congress to act on a bill of mammoth proportions, containing not only job creation proposals, but tax extenders, unemployment compensation reform and an increase in the public debt limit—all paid for by a myriad of tax increases. This course can only create endless delays and probably will produce nothing in law. We must do what needs to be done now to put Americans back to work as soon as possible.

We have been anxiously waiting for your party to put forward its plan for jobs and have seen nothing. We have heard from your side endless posturing about middle class tax relief but with no specifics and always combined with some call for still unknown tax increases. You should act on the question of jobs first, since the income tax code means nothing for those unemployed or those in a position to lose their job. We should address their needs immediately. It is the general state of the economy that the President and the American people want us first to address.

Lastly, you talk of your regret over asking the middle-class to wait for a tax cut. Congressional Republicans and the President are interested in addressing the need for fundamental tax reform. We believe that trying to act without a consensus on how to accomplish it is nothing more than a charade. Your party's top two Presidential candidates are opposed to your current "dollar-a-day-give-away" which should caution you on unilaterally forcing its inclusion.

We want to insist on the use of spending reform and reductions as the preferred method of paying for any tax benefits. Therefore, we want to use much of the defense savings anticipated to pay for any middle class relief. We understand that you and your Leadership also want to deny us the opportunity at a later stage. We recognize that there is a "Defense-Taffy-Pull" going on in your party, particularly in the Senate, over how defense savings should be used. Once again your party's difficulty in resolving this issue should not result in all of America suffering.

The American people should not have to wait for action just because you do not yet have your package. We therefore request of you and your Leadership to consider H.R. 4200 on the Floor of the House of Representatives next week under suspension of the rules. This way we can at least get some sentiment of the House on the President's proposal and with help from your side send a bill to the Senate so they can quickly act.

Mr. Chairman, we should resolve our differences for the sake of the country. Let us not embark on a path that weeks from now will result in deadlock and finger pointing over who's to blame.

Sincerely,

ROBERT H. MICHEL,
Republican Leader.
BILL ARCHER,
Ranking Member,
Committee on Ways and Means.

☐ 1430

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, this rule is about choices. It gives us the opportunity to choose between three very different ideas of what we need for economic growth in this country.

The President has his plan. It continues the policies of the past, with no vision for the future. Predictably, the wealthy receive tax breaks, the middle class gets hardly a mention. And who pays for this plan. The American taxpayers do—through a $49 billion addition to our national debt.

The Republican substitute shows concern that perhaps the President was doing too much for the middle class and strips his plan of help for first-time homebuyers, personal exemptions for children, and increases the tax breaks for the well-to-do.

The Democrats have proposed a plan that presents a clear alternative. It makes good on our promise to provide relief for middle-income taxpayers; it steers a course toward job creation, economic growth, and investment incentives; and it does this without adding to the national debt by asking the wealthiest Americans to carry their fair share of the tax burden.

The Democratic plan confronts the pain people are feeling head on. When Americans cannot pay their bills, cannot afford health care, cannot find jobs, they look to us and they expect action. They are fighting to try and cope with a recession that continues to grip our Nation with no end in sight.

What we are offering is leadership and hope. The Democrats' bill offers real tax relief for working men and women. For those making under $100,000 each year, this plan offers $43 billion in tax savings over 5 years.

The Democratic plan will help create jobs. It offers real help for the business community. Small business—the basic engine of economic growth—will get tax incentives to start investing in the future now. Research and development will be kept strong through an extension of the R&D tax credit. And our capital gains proposal will encourage investment in new companies, generating new jobs.

The Democrats' plan does all this while returning us to a fairer tax system. To make up for a decade of imbalance, it adds a new top tax bracket, puts a surtax on millionaires, and stops corporations from deducting huge salaries for CEOs.

Mr. Speaker, the Democratic plan presents all those here with the opportunity to choose a plan that pays for itself and does not add to the already bloated deficit. It gives us the choice to return to policies that demand fiscal responsibility.

I urge my colleagues to allow us to consider these three choices, these three different visions. Support the rule.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is a strange fairness process that starts in this kind of unfairness. We are going to hear a lot about tax fairness from the Democrats today, but they cannot seem to bring fairness to the processes of the House.

This rule is simply designed as a method of shutting down House processes so that they can raise taxes. Every time the Democrats are out of touch with the country, what they do is shut down fair consideration of bills in the House so they can go about doing things that they know the country would regard as an outrage.

In this case the country would regard it as outrageous if they understood all the details of the Democrats' tax bill, because the Democratic tax bill is, in fact, an effort to destroy jobs in this country.

The Democrats seem to believe that the only kind of good job is a government job. We have heard a number of them come to the floor today talking about the fact that if we could only have Government programs, and all we need to do is collect more taxes and get more Government programs. That is based upon an economic analysis that makes no sense.

They go to the Joint Tax Committee to get the economic analysis that goes into this unfair rule and this unfair plan that suggests, for instance, if you tax at 100 percent all incomes over $250,000, that you would get increased revenues for the next 5 years.

Do they really believe that what you would get out of taxing incomes at 100 percent, that you would really get people willing to earn money so they could turn it all over to the Government? Yet their economic model suggests that.

Democrats claim to love jobs, but they hate job creators. The problem is that all of their plans are aimed at undermining the ability of entrepreneurs to create jobs in the country. Their issues are aimed at people who take personal risk with their own personal money and thereby create jobs.

What the Democrats do over and over again in bills that they bring to the floor is tax those people out of the job market and force those people to take their money out of risk and put it into shelters. And that is exactly what is happening in their bill today. They bring a bill which they claim helps the middle class, it gives the middle class 27 cents a day, but says to the middle class that you may not have a job.

My guess is most middle-class Americans would prefer to have the job and not the 27 cents. If they could have both, they would love it, but the Democrats do not give them both. The Democrats destroy jobs.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, our Republican friends attack the Democratic tax plan because of the middle-class tax cut. With all due respect, I think they've got it backwards. The Republican package in my view is a pitiful repeat of the 1980's mistakes of providing a bonanza for the rich on borrowed money.

The reason the Democratic Ways and Means package should not pass is not because it is so different than the President's, but because it is so similar. It is amazing to me that at a time when the results of the Reagan-Bush supply-side binge of the 1980's are coming crashing down on the shoulders of every American family, the Republican answer seems to be that we ought to do it all over again. Unfortunately, they seem to be joined by a lot of the Democrats on the Committee on Ways and Means.

The Republican Party has it wrong. We should have a middle-class tax cut paid for by a tax increase on the wealthy. The problem with the Democratic package is not that it treats high-income people too badly, it is that it treats them too well.

The fact is that for 5 years, yes, in contrast to the Republican package, the Democratic package is in budget balance. But after 5 years the long-term costs of that capital gains gift, half of which goes to the super wealthy, will total $300 billion.

It is true the Democratic package is not as bad as the White House plan, which costs even more but, my God, can we not do better than that?

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today we are in for a rare treat. In the ordinary debate of this body we usually have an opportunity to see the Democrats out of touch with reality. Today we have a special treat: We get to see them making a special effort to recreate reality.

Later on we will see the fiction of class warfare in the general debate.

Mr. Speaker, let us focus on this rule. They have brought with their nine members of the Committee on Rules against four Republican members a rule that says we will begin the debate by consideration of H.R. 4210, a bill offered by Mr. GEPHARDT by request—of whom? Mr. GEPHARDT says by request of the President, he is offering the President's bill.

The President said:

> This is not my bill, and I didn't request that the leader of the opposition offer my bill.

If you were the President of the United States, would you ask the leader of the opposition party to submit your bill for consideration? Or might you instead ask the leader of your own party?

Let us see how the process goes. After we consider Mr. GEPHARDT's distortion of the President's bill which he falsely claims he is offering by that request, we then will consider a larger bill by the chairman of the Committee on Ways and Means, the Democrat member from Illinois [Mr. ROSTENKOWSKI], for himself and for, guess who? The gentleman from Missouri [Mr. GEPHARDT]. The gentleman from Missouri [Mr. GEPHARDT] gets to offer two bills.

Then after that we will consider a bill offered by the gentleman from Illinois [Mr. MICHEL], the leader of the Republican minority in Congress, the President's party, and the gentleman from Texas [Mr. ARCHER], the Republican minority leader of the Committee on Ways and Means and the President's very own Congressman.

The gentleman from Illinois [Mr. MICHEL] and the gentleman from Texas [Mr. ARCHER] will say that this is the President's bill, and the President says this is the President's bill. But we are going to be asked to believe that this is not the President's bill, like the President says, like his minority leader says, like his own Congressman says. We are going to be asked to believe that instead the President's bill is submitted by the majority leader of the opposition party to the President, even though the President says, "No, that is not my bill."

What is the upshot of all of this? To enhance the well-being of the American people, to create jobs for the American people, to increase the incomes of the American people, to reduce the deficits?

□ 1440

No. To enhance the votes of the Democrat Party and to reduce their deficit in number of years of White House occupancy.

This is not a debate, a serious debate about public policy we will see today. This is a very insidious, intellectually shallow and morally corrupted debate about the politics of a party that has lost its greatness, the Democrat Party.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Michigan [Mr. BONIOR], the distinguished majority whip.

Mr. BONIOR. Mr. Speaker, for 2 long years this administration said that there was no recession. They said our economy was not in trouble.

For a decade before that, they told us to be patient, that trickle-down, supply-side economics would produce jobs.

Well, we have waited and we have waited. Where are the jobs?

We are losing 9,400 jobs every month in this country. Now the President and my Republican colleagues send up a proposal that is just more of the same, the status quo. Do we want to go back to the old ways or do we want to say no more gimmicks, as the Secretary of Housing, Mr. Kemp, a Republican, said, no more gimmicks to the President's proposal? No more tax cuts for the wealthy. No more broken promises.

Mr. Speaker, the middle class of America has waited too long. So when we strip away the rhetoric, there is really only one question that is really worth asking when we are done with this process. It is whose side are you on? Everything else is as irrelevant as asking which picture of Elvis should be on the stamp. Whose side are you on?

Are you on the side of those who profited by merger-mania and the tax favors of the 1980's? Are you on the side of hard-working people in our constituencies who have not gotten a break during the 1980's? Are you on the side of families who have been squeezed by this recession, squeezed by exorbitant health care costs, squeezed by the costs of housing? Whose side are you on? And what is the best way to tell whose side you are on?

Look at the bills. Fairness. The centerpiece of the Republican plan is a tax cut for the already wealthy; again, they go to the trough, $8,000 in one of their plans for the very wealthy, $12,000 in the other.

The Democratic plan provides $800 to $1,000 in tax relief for middle class families if both spouses are working and pays for it by asking the wealthy to pay their fair share to make the sacrifice to make America move again.

We do that by putting a surtax on millionaires, by raising the rate of people making over $145,000 a year and by a $1 million cap on the corporate deductions of CEO salaries.

Fiscal discipline. The Republican plan increases the deficit 49 billion in the President's plan. Our plan puts an end to that kind of borrow-and-spend mentality, $14 billion in deficit reduction.

Economic growth. Our plan helps small business owners, helps farmers. It helps long-term investors.

Here is the key point: This bill will circulate $45 billion back in the hands of the middle class that will be recycled throughout our economy to create demand, to create jobs for the people who are out of work in this economy, a down payment on the car or college tuition.

We are tired of trickle down. We want it to bubble up from the center. That is the basic change in what we are doing. We are giving it to the broad-based class and letting it bubble up.

Members may call it what they like. Our plan helps working people, and there are economists who do not like our plan.

Let us remember, many of them are the ones who told the President that there was no recession or that it was no big deal or that prosperity was around the corner. They are the ones who told us to be patient, that trickle-down economics would produce jobs.

Mr. Speaker, there is an old Abbott and Costello routine where Abbott says, "Lou, if you had 50 bucks in one pocket and 100 bucks in the other pocket, what would you have?"

And Lou says, "Somebody else's pants."

Average Americans feel that the 1980's, the tax breaks during the 1980's were going into somebody else's pockets, and they are right. Let us put money back in the pockets of middle class Americans for a change. Let us show the middle class of America that we are on their side.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, the gentleman from Detroit just mentioned the word "gimmicks." I would suggest that this rule in itself is little more than a gimmick because the result of today's debate, I think, is pretty well known already.

As the gentleman from Texas [Mr. ARMEY] pointed out very clearly, the process has been set up in such a way that certain things are going to fall into place and the results of the votes on those issues are pretty well known already. As a result of this type of process, yesterday I appeared before the gentleman from South Carolina and I offered an amendment to the tax bill on the floor today. That amendment would have provided that tax policy be set by this House whenever taxes are increased or new taxes imposed, they be enacted by no less than three-fifths of the Members of the House, otherwise known as a supermajority.

Tax policy is perhaps the most important issue that we deal with here, other than perhaps the declaration of war. And as the result of that, as the result of the important function that we play here, it seems to me that the American people are entitled to see their House work in a much more competent and able way than we do today.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the distinguished gentleman from Texas [Mr. FROST], a member of the Committee on Rules.

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding time to me. I will be very brief.

We have heard all kinds of claims from the other side of the aisle. The question is, do the Republicans, do the minority have the opportunity to offer their version of what this tax legislation should be?

I would suggest to my colleagues that the answer to that question is yes.

The gentleman from Illinois [Mr. MICHEL] and the gentleman from Texas [Mr. ARCHER] were permitted to offer their Republican substitute. They could have fashioned that any way they wanted to. They were permitted to even change that as of yesterday.

The Committee on Rules permitted them to fashion it as they wished to offer it. So there clearly will be a vote on the Republican tax plan. That may not be enough for the Members on the other side of the aisle. Perhaps some of the colleagues of the gentleman from Illinois [Mr. MICHEL] and the gentleman from Texas [Mr. ARCHER] do not agree with the way the Republican leadership has put their package together. That is a problem for those Members on the other side of the aisle to deal with their own leadership on.

They were given a Republican tax package. There will be a clear up-or-down vote on the tax package. The American people will have a choice between the Democratic package that offers middle-class tax relief, that offers $200 for an individual, $400 for a married couple.

Maybe some of my colleagues from other parts of the country do not think that $400 is very much money. People in my area in Texas would like to have $400. They would like to have that money to do with as they wish, to help themselves, their families and the economy of my State. There will be a clear-cut choice between a Democratic package on the one hand favoring the middle class, a Republican package on the other hand, fashioned by the Republican leadership, which does not have a middle-class tax cut in it.

This is a fair rule, and I urge its adoption.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Let me respond to the gentleman from Texas and say that the gentleman knows that after those people came in and testified before us, the Democrats in their cute way then waived all points of order, waived the Budget Act, and threw out the Deficit Reduction Act. That is why we have these huge deficits today, and he knows that is why we are opposing this rule.

Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. GINGRICH].

□ 1450

Mr. GINGRICH. Mr. Speaker, I think the speech of the last Democratic speaker sadly says it all. We are going to have a Republican substitute. We are going to have a Democrat bill.

This morning's newspaper had two headlines. One headline said "Consumer Confidence Drops." The other headline said "Tax Bill Probably Dead for a Year."

The American people saw the President of the United States come right here and speak in January, for the State of the Union, and ask the Congress to help create jobs, to help save families, to help save people so they could go to work, so they could pay a mortgage, so they could have a decent future. He appealed to the Congress on both sides of the aisle. He said "I want you to pass a job-creating tax cut proposal by March 20 so the American people can go back to work."

What happened? For the last 3 weeks the American people have watched the Democratic leadership in Congress, day after day, behave in a narrow, partisan way so that this "Deadlock on Tax Bill Seen Likely, Neither Party's Plan Given Much Chance of Passing This Year," and "Consumers' Pessimism Deepens, Index of Confidence Hits 18-Year Low on Job Loss Fears."

If you were a consumer watching this Congress, would not your confidence fall? If you watched the petty, partisan bickering would not your confidence fall? If you heard Members of the majority party, with a responsibility to cooperate with the President of the United States, get up and say "We are going to have two partisan plans, the Republicans get to offer theirs, and it will lose, of course, since they are the minority, and then we will pass ours, which will be vetoed, of course, because it is not going to agree with the President." The President asks for a tax cut, the Democrats give him a tax increase. The President asks for a bill to create jobs. The best analysis we have from the National Center for Policy Analysis is that the Democratic plan kills 100,000 jobs, so that they are going to send down to the President a tax increase job-killing bill and say "We did our job. We were good and unpartisan." Every Democratic strategist is going to say: "Terrific, if only the recession lasts long enough, if only there are enough unemployed Americans, we will be better off."

That may be OK if you are a Democratic Party strategist for a Presidential campaign, but as a Member of the House, I would think we would have an obligation to put the unemployed American, the family worried about their jobs, the person trying to pay a mortgage, the small business trying to prosper, the auto companies that wish people had enough confidence to buy a car, I would think that there would be some desire to work together on a bipartisan basis.

Let me just close by saying I hope every one of our colleagues listened to that last speech about the Democratic plan. Let us help beat it and then let us work together for a bipartisan job creation tax cut.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, people around here are prone to rewrite history. On the night that the President spoke here on this podium, I sat right over here and I heard the plan and the vision that he laid out for America. I said to myself, "How are you going to pay for this," when I heard all the grandiose things that he was talking about to put people back to work.

Then in the next couple of days I got a copy of the President's budget. I looked in this budget, and how he was going to pay all these things that he had laid out for us here in the Chamber, he was going to cut Medicare. When the Republicans saw this in the budget, they were not going to vote to cut Medicare to pay for these breaks that the President had offered here on the floor.

Also, it was a challenger, I believe, to the President of the United States in New Hampshire that said "Something happened between here and Pennsylvania Avenue to the President's memory, because the package that he sent up here for consideration was nothing like it. He had forgotten all about middle income America from the ride from the Capitol to the White House, and it showed up in New Hampshire."

So for people to say that we have absolutely not cooperated with the President to put a package, it took 2 years to recognize that we were in a recession. Then he gave us about 50 days to put together a package, and we have a package.

If I were the Republicans I would be upset, too. I would not want to consider a package that I had to cut Medicare and veterans' benefits and these other programs to finance another giveaway for the rich folks in this country.

Mr. SOLOMON. Mr. Speaker, may I ask how much time is remaining on each side, please?

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from New York [Mr. SOLOMON] has 8 minutes remaining, and the gentleman from South Carolina [Mr. DERRICK] has 7 minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, let me answer my friend who just spoke on the Democrat side of the aisle about messages from New Hampshire. The strongest message from New Hampshire that had a glint of responsibility in it was a message from the Democrat Presidential frontrunner, Mr. Tsongas, who said that he would veto the Democrat plan. And he said that because he understood, just as all of us understand, and the American people understand, that any American family would rather have a job than get a $200 or $400 cut. That is just a couple of days with respect to a paycheck. If you are employed for 1 week then you have already made more money than you are going to get in this Democrat giveback.

The point about the Democrat bill as analyzed by the National Center for Policy Analysis that says that it will lose 100,000 jobs is that in raising the tax rate for investors, we are going to motivate investors not to put their money in jobs-creating investments, not to do things that are going to create jobs for middle class America. We are going to motivate them to go to these tax-free bonds and invest their money there, because they are not going to get whacked with these enormous taxes that the Democrats are building for them.

Once again, the Democrat Party needs to understand blue collar workers cannot hire themselves. Somebody has to go out there, take a risk, and create the jobs. That message was not lost on Mr. Tsongas and I do not think it is lost on the American people.

Mr. DERRICK. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. SOLOMON. Mr. Speaker, because the gentleman was denied four good amendments before our Committee on Rules last night, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

The SPEAKER pro tempore. The gentleman from Ohio [Mr. TRAFICANT] is recognized for 3½ minutes.

Mr. TRAFICANT. Mr. Speaker, how can America return to greatness if Congress continues to vote on bills that are at best half good and half bad? Where I come from, half good and half bad is mediocre. The problem with our country is we have enacted mediocre laws and we have a mediocre economy and we have a mediocre Congress that leads a mediocre Government.

One of the problems is here, and I really believe this, the American people do not want token tax cuts once a year. They want a policy that is going to keep them working where they will have a job and a paycheck 5 days a week.

There is another problem in this House. Everybody is scared to death around here. We have a small group of power-hitting elitists that force-feed our Congress our trade and tax policies from the Committee on Ways and Means.

I do not know about the Members. If they are satisfied with being damned lemmings, then go over the bridge. But I do not like it. My district has been decimated. I do not like the trade and tax policies. I think it is time for Chairman ROSTENKOWSKI to open the process up. I doubt if the members of the Committee on Ways and Means actually have a say around here.

I do not mean to take off on the chairman. I am sure he means well. But I want to say this today. The tax and trade policies coming out of the Committee on Ways and Means the last 12 years are damned losers, and America is losing, and America is losing very badly.

I do not like it. We should have incentivized the purchase of American-made goods in our economy. We should allow the American people to write off the sales tax on the purchase of an American automobile.

I think our Congress should incentivize the Tax Code. We should allow the deduction of the sales tax of American vehicles and we should allow the interest on the car note to be deducted as well.

In addition, I think we have to incentivize our economy. We should reinstate the investment tax credit for the purchase of American-made goods only.

I also recommended a piece of legislation this Congress should have voted on, a 7-percent consumer tax credit up to $1,000 on the purchase of any durable goods manufactured in America.

□ 1500

Giving the Americans money in their pocket is not going to solve our problems but when they invest to get a reasonable credit to the consumers, those middle-income people, a $1,000 possible consumer tax credit would go a hell of a lot further than $400 to $800.

The bottom line is you may not agree with it, but everybody in this Congress should have a say. If you are not going to have a say and you are going to give that say up, then you might as well go home, because what we have is mediocre laws and a mediocre damn Congress and with a mediocre Government.

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, does the gentleman plan on voting for the rule?

Mr. TRAFICANT. Reclaiming my time, I am going to vote for the rule to give everybody a chance. I appreciate your time. I am going to vote "no" on all of these three measures, because they are not good enough for the American people. We do not need any more half-baked, half-good, half-bad legislation. I think when Congress realizes that, we will do a lot better.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the very able gentleman from Pennsylvania [Mr. RITTER], a member of the Committee on Energy and Commerce.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it is not often that I agree with the gentleman from Ohio [Mr. TRAFICANT], but on the investment tax credit idea, he is absolutely right.

Ladies and gentlemen, wealth is produced in a modern society by making things, by production, by producing. We have allowed manufacturing in this country to go to hell in a handbasket. We do not nurture our production in manufacturing industries the way our competition does.

We have a disease here called short-term-itis.

Yesterday in the Committee on Rules—on a straight party line vote—the Democrats turned down a proposal for a 10-percent investment tax credit, a 1-year temporary tax credit to inject some kind of ability for American companies to go out there and buy the equipment, the machinery, the productive capacity that makes our workers more competitive. That was the Ridge competitiveness tax credit. It is similar to the Ritter bill of last June, H.R. 2704. This tax credit will bring us economic growth, because we will make our industries more productive, more competitive. We will give our workers better tools. We will empower them with the latest technologies.

Now, nowhere directly in either of these bills—other than the somewhat accelerated depreciation allowance—does this come forward. This is the kind of emphasis that is missing. This is the kind of emphasis we need to bring to bear on our economy, and American workers, blue collar workers, manufacturing workers. People who work in American industry all know that a targeted, narrowly focused credit on equipment, machinery and productive capacity is where it is at, and this is the kind of amendment that I wish had been allowed in yesterday's Committee on Rules resolution, but was turned down on a party line vote.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, you know, I have heard that the Presidential candidate Tsongas would veto the Democrat bill. I have heard colleagues on the other side of the aisle say that they would not support the President's plan.

The American people really do not care if it is a Democratic bill or a President's bill.

The other side of the aisle, you have some good points in your bills. We have. I think what the American people want us to do is to sit down and negotiate something that is going to cut high taxes and cut spending in this country.

Mr. Speaker, I think our freshman class, both Republicans and Democrats, that want to make some changes could sit down and do a better job than the good old boys in this Congress, because it would help people and create jobs.

I think if we take a look and analyze those plans and sit down and negotiate for once and take out 1992 Presidential elections, we can actually help the people in this country.

I would beg you from our freshman class, from both the Republicans and the Democrat kids, that we do just that and let us help the American people instead of this rhetoric going back and forth.

Mr. DREIER of California. Mr. Speaker, I yield myself 2 minutes, the remainder of my time.

Mr. Speaker, we have been hearing an awful lot about fairness over the past few minutes.

My colleagues on the other side like to talk about how fair this tax bill is. They like to talk about how fair this rule is. We have heard many arguments coming from our side which show it is anything but fair.

I cannot help but ask: What is fair about a rule which is, as the gentleman from New York, a distinguished ranking Member, pointed out, prevented us from being able to incorporate instructions in our recommital motion? It is a procedural matter here, but it is something that has gone on for years. It is simply a right of the minority. It is denied to us in this fair rule.

What is fair about a tax bill which creates and extends class warfare? It continues to pursue this us-versus-them mentality.

They do not like to say that the 20 percent of Americans who fall in the wealthiest group are paying today 60.5 percent of the tax burden. That is a 4.4-percent increase over the liability that they had in 1980. Now, in 1980, that was before the 1981 tax bill, which they all like to continue to attack over and over again.

What is fair about a rule which says to people like the gentleman from Ohio [Mr. TRAFICANT], who was standing here who had four amendments that he wanted to offer cannot be offered? What is fair about a rule that says to the gentleman from Oregon [Mr. AUCOIN], who wanted to offer an amendment to incorporate the President's plan for that $5,000 tax credit for first-time homebuyers? It cannot even be included in there.

Let us look at some of the Republican amendments, some of us on the minority, who wanted to participate in this fair rule.

The gentleman from New Jersey [Mr. SAXTON] wanted to require a three-fifths vote for any bill or amendment which would raise taxes. That seems fair. It seems fair to me. Unfortunately, we are not allowed to offer this in this fair rule.

Mr. Speaker, I am not a proponent of having to move to that kind of measure, but because Congress has continued down this road of tax and spend and tax and spend, it seems we have no choice other than to attempt to put in place a three-fifths vote to increase taxes.

We have other amendments which tragically were not able to be incorporated.

Mr. Speaker, what they call a fair rule is a very unfair rule, and I urge a strong vote against this rule.

Mr. DERRICK. Mr. Speaker, I yield myself 4½ minutes, the remainder of my time.

Mr. Speaker, I would like to address two major subjects in the remaining time.

One is the alleged unfairness of the rule. I have served on the Committee on Rules for many years, and I have to say that this comes close to being the fairest rule I have ever seen. It gives each major player in our Government an opportunity to have its idea of what is best for this Nation voted on by the American people through their elected Representatives.

The President came to this very Chamber a month or so ago with his State of the Union Address, and he stood right back here. He suggested a plan that he thought was good for this Nation which would lead us out of the economic morass that we find ourselves in today.

Under this rule, we are going to have an opportunity to vote on a large part of that plan. The American people should have that right through their elected representatives.

The Republicans in the House, the minority, have a plan that differs from the President's plan. It is their own plan that they have worked out, and the Republican conference, I assume, has gone back and forth and worked out what they feel is the best plan that they can craft, and what they feel represents the best plan for the Nation. The American people will have an opportunity to vote on that plan through their elected representatives.

We Democrats, through our Democratic caucus, have come forth with a plan as well. Our plan has been debated back and forth. There have been changes made. There have been additions and deletions responding to the views of different caucus members. It is not the plan which originally came from the Committee on Ways and Means. But it is what the Democrats, in their collective wisdom, believe is in the best interests of this country.

□ 1510

The people of our Nation will have an opportunity to vote on the Democratic plan through their elective Representatives. So the administration, and both parties in the House, the majority and minority, will have an opportunity to express their will.

As I said, this is one of the fairest rules I have ever seen come to the floor of this House. It should be fair because it is also one of the most important rules to come before this House.

The second major point I want to address is the state of our economy and the propriety of this legislation. In 1980, the entire debt of this Nation that had been accumulated over 200 years was about $1 trillion. Today, just 12 years later, it stands at almost $4 trillion. The average working man and woman in this country over the last 12 years has seen his or her hourly wage drop by almost $1.20 an hour in real terms.

In 1980, the annual deficit of this country was about $74 billion. This year it will reach nearly $400 billion.

In 1980, we were the largest creditor Nation in the world. Today we are the largest debtor Nation.

I suggest to you if you think that this has been the right route for our country to take, the route that we took under the Republican administrations during the 1980's and into the 1990's which gave huge tax cuts to the rich on borrowed money, by all means vote for the Republican substitute. If you disagree, and believe it's time to reverse those policies and give the middle class a break, then vote for the Democratic substitute. Vote for the working men and women of this country.

Mr. PACKARD. Mr. Speaker, I rise today to express my distaste for the partisan steamroll tactics that forced a closed, king-of-the-hill rule.

This rule does not allow for amendments, it does not allow free and open debate, and the outcome of this debate is predetermined because of what the Democratic leadership has dictated.

Let me underscore this point: What we debate and when we debate it is decided by the Democratic leadership. How we are allowed to debate such crucial issues as an economic growth package is dictated by the Rules Committee which has a supermajority of Democrats.

This is the House of the people. This is where the difference between two divergent visions are supposed to debate in a free and open manner. What is best for America and the American people should guide the actions of this body. Instead, we are forced to debate different economic growth packages under a restrictive, rigged rule which predetermines the outcome of our debate in the Democrats' favor.

That is guiding this body in cheap politics and not sound policy. I find this appalling and wish to express my extreme opposition to this rule.

Mr. KYL. Mr. Speaker, I rise in opposition to the rule. This rule is not intended to allow the House to craft the best plan to promote economic recovery, but simply to set up a process that will culminate in a political confrontation with the President.

The sole aim of this rule is gain political advantage. It is wrong. The American people don't care about political advantage. They are fed up with it. They care about keeping their jobs, or just getting a job. They care about paying the mortgage or the rent, and putting food on the table. They care about economic recovery and their children's futures.

This process and this bill are seriously flawed. The underlying bill, which was introduced by the Democrat leader and is purported to represent the President's plan, is not the President's plan at all. It is a cherry picking of the President's proposals, some of which have been significantly altered. Spending reductions and reforms were eliminated.

What the President called for in his State of the Union Message was a two-pronged attack: Passage of seven proposals by March 20 to quickly stimulate the economy; and more fundamental reforms to help families and strengthen the economy over the long term.

The seven short-term proposals are embodied in H.R. 4200, which was introduced by the Republican leader, Mr. MICHEL, in an effort to cooperate with the majority and facilitate action in the Ways and Means Committee.

The Democrat leadership ruled out consideration of a second package of long-term reforms; they limited President's plan to the seven short-term proposals in H.R. 4200; and now, because they limited the parameters of what can be considered, they say the President has abandoned support for key items, like the increase in the dependent deduction.

The Democrat caucus went on to craft its alternative to the President's package behind closed doors, changing it several times during the past week after the Ways and Means Committee had completed action. They crafted an alternative designed, not to help the economy, but to try to lure just enough support to ensure its passage over the President's plan. Their own standard bearer out of New Hampshire has said he would veto it.

This process is flawed, Mr. Speaker, and it is wrong. If you are truly interested in a bipartisan effort to craft an effective economic recovery plan, give us the opportunity to offer amendments. Let's work together, and with the President, to get this economy moving again.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 244, nays 178, not voting 12, as follows:

[Roll No. 24]

YEAS—244

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Chapman
Clay
Clement
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper

Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hubbard
Huckaby
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Wilson
Wise
Wolpe
Yatron

NAYS—178

Allard
Allen
Archer
Armey
AuCoin
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carr
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Davis
DeLay
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hughes
Hunter
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Kennedy
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Obey
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Sanders
Santorum
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wolf
Wyden
Wylie
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Coleman (TX)
Dannemeyer
Dickinson
Dymally
Hoyer
Hyde
Savage
Sharp
Smith (TX)
Valentine
Vander Jagt
Whitten

□ 1534

The Clerk announced the following pair:

On this vote:

Mr. Dymally for, with Mr. Dickinson against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members hay have 5 legislative days to revise and extend their remarks on H.R. 4210, the bill we are about to take up.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Illinois?

There was no objection.

ECONOMIC GROWTH ACCELERATION ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 374 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4210.

□ 1536

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, with Mr. DERRICK in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 1 hour, and the gentleman from Texas [Mr. ARCHER] will be recognized for 1 hour.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 4210, which was reported by the Committee on Ways and Means without amendment and without recommendation.

H.R. 4210 contains all of the tax proposals supported by President Bush in his State of the Union Address, and submitted in his budget for fiscal year 1993. Some will say that H.R. 4210 is not the President's bill—to which I say, baloney. Listen to his State of the Union Message. Read his budget—and tell me this is not the President's bill.

After the President's State of the Union Address and budget message, he submitted to the Congress a 49-title bill that contained all his budget proposals for fiscal year 1993. That bill was introduced as H.R. 4150 by the Republican leadership in the House.

The first three titles of H.R. 4150 contain all of the President's tax proposals and a few items within the jurisdiction of other committees of the House. In his State of the Union Address, the President challenged the Congress to enact his tax package by March 20—a challenge we were glad to take up—not because of the President's demand, but because so many millions of Americans are experiencing pain and hardship due to the recession.

And then a very curious thing happened. When I asked that the first three titles of H.R. 4150 be introduced as a separate bill to expedite consideration of the President's revenue proposals, no member of the President's party here in the House would introduce the bill.

Instead, after consultation with the President, the Republican leader and ranking minority member of the Ways and Means Committee introduced H.R. 4200, revising the President's original proposals. Gone was the middle-class tax cut—we'll do that some other day they said. But let's make capital gains even more generous—and get it done by March 20.

Think of it. Hard-working middle-class Americans—the economic bedrock of this country—are being asked by the President and Republicans here in the House to wait for a second tax bill later this year—a second tax bill that they know will never come. The

President himself has characterized the second tax bill as a political dance.

But, the very wealthiest, who would have received a tax break from the capital gains exclusion of $8,500 each year under the President's first tax proposals—their benefit was increased to over $12,700 a year under the new slimmed down version. Just yesterday, the Republican leadership and the President amended their bill again—boosting once more the capital gains exclusion for the very wealthiest and making the Republican substitute lose hundreds of millions more in revenue—but still ignoring the middle class.

As my distinguished counterpart, Senator BENTSEN, has said, "If the President keeps changing his proposals, even he won't make his March 20 deadline."

But, since no Republican Member would sponsor the President's original request—on which he issued his challenge, the majority leader, Mr. GEPHARDT, introduced H.R. 4210—not by request, but by default. No one in the President's own party here in the House would introduce his original tax proposals, not even those who so loudly applauded the President when he laid down the March 20 gauntlet.

I want to set the record straight with respect to H.R. 4210. This bill is the President's original tax program. It contains the tax provisions he proposed in his State of the Union and which he submitted in his budget the very next day.

Only after Republican Members of the House read the details and fine print of the President's budget did they walk away from his original tax proposals and begin to develop the second version of the President's tax bill which, in turn, abandoned the middle class.

But all of the President's original tax proposals are before us today in H.R. 4210—the President's proposal to tax credit unions, to tax annuities which are an important savings vehicle for middle-income people—his proposed tax on corporate-owned life insurance—and most objectionable, his proposed Medicare payroll tax on State and local government workers—a tax on firemen, a tax on policemen, and a tax on teachers across the country. They're all here in H.R. 4210.

I'd like to emphasize my particular opposition to the President's proposal to impose the Medicare payroll tax on 2 million State and local government employees. Congress has consistently, and on a bipartisan basis, rejected this blatant attempt by the administration to renege on a promise made to these workers in 1986. This provision would cost my own city of Chicago—as well as many other State and local governments across the country—millions of dollars in extra taxes. At a time when States and localities are facing significant budget problems of their own, this proposed tax is particularly unfair and burdensome.

I am also opposed to H.R. 4210 because the President proposes to extend the low-income housing tax credit, targeted jobs tax credit, and mortgage revenue bond program for only 18 months, and would allow employer-provided educational assistance to expire entirely—this from a President who declares himself to be the education President.

Each of these provisions deserves to be made permanent, as proposed in the Democratic substitute that I will offer tomorrow. We have had enough temporary extensions of these desirable incentives. No business can make plans to invest if the tax laws are uncertain or keep changing as the President proposes.

I also oppose H.R. 4210 because it would make our tax system less fair than it is today. The millionaires who will be the primary beneficiaries of the President's capital gains tax cut would not pay a penny more in tax to help finance their expanded tax breaks. The President tells the middle class to wait for the trickle-down to start, while he showers the wealthy with a flood of more and more tax breaks. Well, middle-class Americans have been waiting long enough for the trickle to start. After a full decade of waiting, they're not even damp.

No wonder a middle-class tax cut of 400 bucks seems so trivial to the White House and its Republican supporters in Congress—after showering the wealthy with tax breaks of thousands of dollars over the last 10 years. We've been accused of trying to soak the rich in our Democratic substitute. Well, the Reagan and Bush administrations have been giving a bath to the middle class for the last decade.

My final objection to H.R. 4210 is that it would increase the deficit by $49 billion through 1997. That revenue loss would continue—and grow beyond the budget window, imposing more and more debt on our children and grandchildren.

Even using the administration's own estimates—those prepared by the President's own Office of Management and Budget—the President's revenue proposals do not pay for themselves and would, therefore, increase the budget deficit in both the short and long term.

We will undoubtedly hear from our Republican colleagues today that H.R. 4210 is not the President's full package because the President wants to cut spending to pay for it. And yet, once again, no member of the President's party has been willing to step forward and propose the cuts in Medicare or other spending programs that would be necessary to offset the $49 billion revenue loss contained in H.R. 4210. Given an opportunity to amend their substitute yesterday, the Republican leadership asked for only one amendment—to increase their tax cut for the wealthy. If Republican members of the Committee on Ways and Means want an opportunity to vote on the Medicare cuts proposed in the President's budget, all they have to do is ask. I will be glad to accommodate them and the President with a markup in the Ways and Means Committee within a week of their request—and let's see how much support the President's Medicare cuts have.

Mr. Chairman, for all the stated reasons, I strongly oppose H.R. 4210, and urge all my colleagues to reject the President's tax proposals. Tomorrow, I will present a substitute that I believe is far better for our country and all middle-class Americans.

□ 1540

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have an opportunity over the next 2 days to help put people back to work, provide job security for those who do have jobs and stimulate long-term growth to benefit all Americans.

President Bush took the initiative in January to challenge the Congress to act by March 20 on a seven-point fast-track plan to move the economy forward. We will have an opportunity to vote on that plan tomorrow in the form of the Michel-Archer substitute.

It is a plan that we can enact into law quickly, one that will put Americans back to work and preserve the jobs of those who are already working.

It is fully funded, Mr. Chairman, in each year—without resorting to any tax increases—and meets every provision of the budget law. The final decision of what requires sequestration and what complies with the budget law was by law given to OMB, a law that was supported by the chairman of our committee.

We will also have an opportunity to vote on the Democrats' alternative—which would increase taxes by $93.5 billion between now and 1997; $75 billion of that tax is just the first installment of the substitute's permanent tax increases levied on some American families to pay for a small, temporary tax cut for some—but not all—middle-income families.

Millions of senior citizens living on their savings will receive none of the benefit. Neither will State and local employees who aren't covered by the Social Security System.

The Democrat plan destroys the Budget Enforcement Act's important protections against deficit spending. In fact, the Joint Tax Committee says their substitute will increase the deficit by $30.2 billion in the first 2 years alone.

It would force a massive sequester of entitlement programs—if the Democrats didn't duck that consequence by trashing the deficit disciplines in the budget law.

The substitute still increases the deficit. The Federal Government will still have to borrow those billions of dollars. Democrats don't count them—but the financial markets will—and interest rates will be forced upward.

The President and House Republicans said from the beginning that we are not going to engage in a bidding war—and we have been true to our word.

Our substitute is the same fast-track initiative the President called for on January 28. It's a job creating, economy stimulating package. It was never intended to include all of the proposals—such as middle-income family tax relief which the President called for in a second package to be developed after this stimulus package is enacted.

He knew—and boy, was he right—that Congress would get bogged down if we tried to do everything at once. That's why he wisely chose a two bill approach.

In contrast to H.R. 4200, The Democrat alternative is the end product of one-sided bidding war House Democrats waged to attract outside support for a huge tax package.

In attempting to be all things to all people, the majority created a monster they know the President has to veto. It will never become law. Why put the country through that agony?

We do not have to. In fact, we are far closer to bipartisan agreement than any of us imagined we could be when this process started.

The Democratic alternative now includes six of the seven proposals—some identical, some modified—contained in the President's March 20 challenge.

Surprisingly, the only one the Democrats rejected was the tax credit for first-time home buyers that is a major job-creating provision in the President's package—700,000 new jobs, carpenters, masons, electricians, and on and on.

Obviously, Democrats like what President Bush put into his March 20 challenge just as much as we Republicans do. That ought to form the basis for compromise, not confrontation. Why can't we simply get together and do the job he asked us to do?

We could enact, in a heartbeat, those items on which we already agree. That is the Archer-Michel substitute.

Let us get those provisions over to the Senate and into a conference committee where we can work out our differences. Don't stop the process by passing a House bill that cannot become law.

A sincere, bipartisan effort right now can result in legislation to give the economy a strong push, speed its recovery, and ease the anxiety many Americans feel today. We can do that if we work together on this simple package on which we already have such great agreement.

That is exactly the reason we introduced H.R. 4200 as a separate bill. Chairman ROSTENKOWSKI wanted to work from a smaller package than H.R. 4150—the comprehensive bill which contained all of the President's revenue, spending reduction, and reform proposals.

It was a sincere effort on our part to work with House Democrats to move the President's economic growth initiative forward. We have extended a hand of cooperation every step of the way, and we still are extending it to you.

Work with us, not against us. Help the President put Americans back to work without raising taxes on any American families. Don't block his efforts. Let's get together on a bill that can become law quickly. We can do it—just as we've done it before.

In his State of the Union Message in 1975, President Ford challenged the Congress to enact an economic stimulus package by April 1 of that year. And do you know what? They did it.

Although it was not without controversy—Congress approved the conference agreement on March 26—and President Ford signed it into law. We're no less capable of acting quickly than our predecessors did in 1975.

Oh, and by the way, there is another similarity. That 1975 act also included a tax credit for the purchase of homes, and it worked.

□ 1550

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I will be happy to yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, might I take this time to applaud the gentleman from Texas [Mr. ARCHER] for his statement, and particularly his citation of the fact that six of the seven proposals in our proposition that we are proposing here are quite similar, if not tracking just about perfectly, with some of the provisions in the Democratic proposed bill.

As the gentleman so appropriately points out, there is a great opportunity for at least some agreement with an opportunity to refine each other's proposals.

We never have claimed to be omnipotent on our side or that the President's proposal was in that nature.

I do not think the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI] would say that their proposals are all omnipotent. Under the normal procedure around here, we would try to do the very best to come together and get some area of compromise.

Mr. Chairman, I applaud the gentleman from Texas [Mr. ARCHER] again for his very eloquent statement.

Mr. ARCHER. Mr. Chairman, I thank the gentleman from Illinois [Mr. MICHEL] for his comments.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I rise in opposition to all three of the tax proposals before us today: the President's original tax proposal (H.R. 4210), the Republican alternative offered by the gentleman from Texas [Mr. ARCHER] (H.R. 4200), and the Democratic alternative offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] (H.R. 4287). In a year when the Federal budget deficit is expected to reach a staggering $400 billion, we have no business cutting taxes at all.

Neither the Republican nor the Democratic alternative—the only two plans we are seriously considering—is likely to help the economy very much now, and either one is certain to make it worse in the long run. We would be wise to reject both of these proposals and start over on a different approach to encouraging economic growth: Investing more money in human and physical resources. Investment—not tax cuts—is the key to creating jobs and increasing productivity both now and in the future.

As we all know, the country faces two very different economic challenges: ending the recession, and reversing the far more serious long-term problem of slow growth caused by too much borrowing and spending, and too little saving, investment, and productivity. Unfortunately, the usual remedy for recession—deficit spending—is precisely the opposite of what is needed to promote sustained economic growth and strengthen our ability to compete in the global market.

As economists have been saying for years, reducing our Federal budget deficits is the most important step the Government can take to increase jobs and productivity over the long term. Cutting Federal borrowing would free up more of our Nation's limited amount of savings for private capital investment. It would also make more tax dollars available for investment in public programs the country needs because it would slow the rising cost of paying interest—now more than $200 billion annually—on the national debt. Cutting taxes, which would increase our deficits, would simply plunge us further into debt.

That is why one of the most important concerns these tax proposals raise is their effect on the deficit. Virtually every economist who testified before the Budget Committee and the Ways and Means Committee reiterated his or her belief that our huge deficits are the heart of our economic problem—and that the last thing we should do is increase those deficits even further.

It is virtually certain, however, despite claims to the contrary, that both the Republican and the Democratic alternatives would increase our deficits. The Congressional Budget Office [CBO] says that H.R. 4200, the Republican plan, would add several billion dollars to each year's deficit, for a total increase of $25.4 billion over the next 6 years.

The CBO also says that the Democratic plan would increase the deficit by $30.2 billion over the next 2 years—which, incidentally, is a violation of the 5-year budget plan agreed to by the President and Congress in 1990. Although the CBO projects that the Democratic alternative would produce a net budget surplus of $13.9 billion for the 1992–97 period, it is likely that the additional revenues which are supposed to be used to pay for the 1992–93 payroll tax credits would in fact be used either on spending programs or tax cuts.

The probability that the Democratic plan will result in a net increase in deficits, rather than a net reduction, is heightened by the fact that the payroll tax credit—the key middle-class tax component of the package—is scheduled to last only 2 years. If we in fact allow that provision to lapse, we would be raising taxes on the middle class just prior to the 1994 congressional elections—something Congress is not likely to let happen. But if we extend the payroll tax credit for 3 more years, we will lose about $75 billion in revenues over that period, far exceeding the revenues gained during those years from other provisions of the package.

Another major problem with the Democratic alternative is that, beyond the 6-year time period for which revenue estimates are shown, the capital gains indexing provision would begin contributing greatly to the deficit. Although no official estimates are available, it is likely that this provision would cost about $300 billion in lost revenues over the next 20 years.

Not only would these tax plans exacerbate our long-term economic problem, they would also do very little to stimulate the economy now, because neither would generate a burst of consumer activity. The amounts provided are too small for that and, in any case, a lot of taxpayers would use their extra dollars to pay off debts or add to savings.

I also do not think that these tax plans have the popular appeal that many of our colleagues believe they do. Many voters view these proposals more as an election-year ploy than as any substantial help for themselves or for the economy. Recent polls show that very few Americans think that a tax cut would help end the recession, while a majority believes that increased Government spending would.

The Democratic plan, in my opinion, squanders an important potential source of revenue—a higher tax on the wealthy—on a measure that would neither help the economy nor do much to improve the lives of individual Americans, a waste of revenue that could be put to much better use.

There is no fiscal initiative that the President or Congress can come up with that will do nearly so much to help the economy and put more cash in Americans' pockets as lower interest rates are doing right now. But if the politics of the moment demand that we do something, we ought at least to act in a way that is consistent with what needs to be done to strengthen our economy over the next several years: we should start spending more money on programs to improve the skills of our work force and update our infrastructure. More investment in such areas as education, job training, economic conversion, research and development, new technologies, and roads and bridges is essential if we are to improve our ability to compete successfully in the international marketplace and generate jobs that pay steadily rising wages. And more spending in those areas would also create jobs right now.

We should pay for this new and necessary spending by doing what the Democratic plan would do to pay for the middle-class tax cut—raising the taxes of the richest Americans, those families whose income soared during the 1980's while their Federal tax burden declined by about one-third. The 35-percent marginal tax rate for upper income taxpayers contained in the Democratic alternative would raise about $10 billion a year, which would pay for a significant increase in the investment our country desperately needs.

What Americans really want are solid reasons to be optimistic again about their economic prospects. A serious plan to shore up our economic foundation and create jobs—without adding tens of billions of dollars to the national debt—will surely give Americans more confidence in our Nation's future well-being than will any of the tax proposals we are now debating.

Mr. Chairman, I urge my colleagues to vote "no" on all three alternatives.

□ 1600

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SCHULZE], a member of the Committee on Ways and Means.

Mr. SCHULZE. Mr. Chairman, I rise to strongly oppose the Democrat alternative. It is not, as claimed, a measure to stimulate economic growth. It is, instead, a political statement at a time when the American people are telling us that we must put politics aside and create jobs and job security for American workers.

The Democrat alternative is aimed at dividing America politically, not at creating jobs. It is designed to buy votes by pitting American citizens against each other, based on their income.

The Democrat bill is a rehash of the socialistic tax-the-rich mentality that drove Western Europe toward economic stagnation. It contains no less than a dozen tax increases aimed at the so-called wealthy. In reality, those tax increases will cost American workers their jobs and it will punish working, middle-class Americans.

By increasing the top marginal tax rate by 4 percent, the Democrat bill increases taxes on millions of small businesses that are not incorporated. It is a bad bill for small business.

Perhaps most importantly, the Democrat bill increases taxes by over $90 billion over the next 5 years, without 1 cent of Federal spending reduction. It does not meet the pay-as-you-go requirements under the 1990 Budget Summit Agreement and will require a $22 billion sequester.

The President's jobs bill, on the other hand, does not increase the deficit in any year and does not depend on any tax increases.

I urge my colleagues, on both sides of the aisle, to oppose this income redistribution catastrophe and support the President's jobs package. The President urged Congress to send him a bill he could sign by March 20. Instead, the Democrats play political gamesmanship with American workers.

We need to create jobs, Mr. Chairman, not eliminate them.

We need to encourage Americans to save and businesses to expand, not tax them into oblivion. This bill will hurt middle-class Americans.

The majority party in Congress is unwilling to work with the President on a jobs bill. What is clear, is that the American people are fed up. If American workers nationwide realize that Democrats care more about winning the White House than they do about saving American jobs, then watch out.

The American people will catch on. They will understand that President Bush must have permission from Democrats in Congress to spend $1 of Federal money.

The American people know, Mr. Chairman, that your tax bill is aimed at one target, gaining the White House.

The President has put forward a seven-point plan for economic recovery. It is responsible, it will work, and, it does not increase the deficit or risk American jobs. It is up to us in the House to meet his challenge.

I urge my colleagues to vote against the failed Carteresque policies in the Democrat alternative, and send a message to the American people: We need jobs and economic growth, not politics as usual.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from Illinois for yielding time to me. I congratulate him on moving this bill to this particular juncture and certainly hope that it is the bill to go forward to the other body and to conference with the other body where it will be changed to some extent.

I think it is a good bill. I think it is a worthy effort. But, I would have enjoyed seeing in it certain other provisions. I would particularly have enjoyed seeing, and I hope it is possible to bring it back, something along the lines of that middle income, as I would call it, first time home buyer tax credit. I think that it has worthiness.

I know back home in Louisville in Jefferson County, KY, this is a very important provision. It does encourage, I am told, people to buy homes for the first time.

I would like to see something, and I hope maybe it can be done, dealing with the individual retirement account, which I believe give people an opportunity to save money.

Having said that, I also want to commend the gentleman for having put in the bill many things which are very advantageous, including a provision which has not received a lot of attention which deals with setting up enterprise zones in the various communities around the country.

If I understand it correctly, Mr. Chairman, there are in there, I believe, 10 demonstration enterprise zone programs for urban areas and 25 demonstration programs for rural areas, something like $13 million for each of the urban areas and perhaps something like $5 million for the rural areas.

We have a very useful enterprise zone which has been created in Louisville under State law which might give us an opportunity to tap into some of this national activity. Our zone has created jobs. It has put people to work, and I hope that when this bill goes forward and then is worked on in the conference, that the enterprise zone provision can be kept. That is very important.

Last but not least, Mr. Chairman, I think again that what we want to do is to make sure that in the bill that is reported back is fairness as well as economic growth.

Mr. ARCHER. Mr. Chairman, I yield 4½ minutes to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Chairman, I thank the gentleman for yielding time to me.

On January 28, President George Bush issued a challenge to the U.S. Congress. In his State of the Union Address he asked for legislative action on seven items designed to jump-start our ailing economy, and he challenged us to complete our work by March 20. It was a simple request and a challenge that was clearly understood by the American people.

And how have we reacted to the challenge of the President and the American people? My friends, we've blown it.

As Republicans, we were ready to lay our party differences aside and do what was right for the country. And for a while, it looked like the Democratic leadership were actually ready to do the same. But I guess that I was being a Pollyanna, because the Democratic leadership has prostituted the process and thumbed their noses at the American people, who are suffering real hardships from our faltering economy.

First, they held a markup that resembled a train station as the bills were railroaded through without the benefit of input from members of the Ways and Means Committee.

Then, after we considered these bills in full view of the American public, the Democratic leadership slammed the doors on the people in order to draft their own bill in private.

Yes, even while the walls of oppression are falling across the world, the members of the Democratic leadership are erecting barriers, doing the people's business behind closed doors in smoke-filled rooms. But even that wasn't bad enough. They went behind closed doors twice more to make additional changes to their plan and then denied the Republicans the privilege to make any significant changes in their proposal.

Now, they have the audacity to come to the floor today and claim that we are the ones playing politics. The other side has made the process a sham and a farce, and the American people are tired of it.

It is hard, but put aside for a minute the gestapo tactics of the Democratic leadership on these bills and look at the difference between the two plans. If you laid them side-by-side what do you see?

Well, the President's plan addresses seven items that are designed to stimulate growth and create jobs. The Democratic plan is a massive proposal designed to redistribute the wealth in America through the Tax Code.

The President's plan tries to encourage home ownership through the use of a $5,000 tax credit for first-time home buyers. The Democratic leadership doesn't think that is a very good idea, so they didn't include it in their proposal.

The President's plan tries to reach out to various sectors of our society who are hurting, and the Democratic plan gives tax breaks to some and nothing to others. For instance, the Democratic leadership has decided that senior citizen retirees are not deserving of a tax break and cut them out of the picture.

The President's plan pays for itself while the Democratic proposal has a $30 billion shortfall that will cause a sequester of essential services like Medicare and Medicaid.

That tells you what the Democratic plan is not. But what does it do? The philosophy of the Democratic plan is that if we give each American 50 cents a day for the next 2 years, we'll stimulate the economy, create jobs, and get us out of this recession. Isn't that amazing. Think of all of the things we'll be able to do with our 50 cents.

Like some television advertisement peddling the latest kitchen appliance, the snake oil salesmen on the other side of the aisle are going to try and sell middle class tax relief to the people. "Yes, folks, for only 50 cents a day, you too can be the proud owner of prosperity and a better life."

Well, let the buyer beware. What you hear is not what you'll get. The American people do not want phony tax relief or used car salesmen masquerading as statesmen. They want an end to business as usual in Washington. They want an end to the politics as usual. They want a legislative package that will get us going again; 50 cents, that is about all the Democratic plan is worth.

☐ 1610

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, it behooves me to answer some of the remarks that were just made by the preceding speaker. It comes to my mind that the President did not consult any of us, I do not even know that he consulted the Republicans when he introduced his legislation. I do not believe that we were consulted when H.R. 4200 was introduced by Mr. ARCHER.

The idea that the Democrats, after having made the recommendation that both these bills be sent out to the floor for consideration, that we went into some weasle's hole to write our bill is ridiculous.

Mr. Chairman, the Democrats caucused, as it should be expected we would when we have been told by the administration, by the minority leader, by every member of the President's Cabinet that H.R. 4200 is what the President wanted. We made no contributions to that effort at all.

What we did as Democrats is we fashioned a bill that we think the American people will support. Actually, what happened is we went to our caucus on two occasions. There were not just 23 Democratic members of the Committee on Ways and Means writing this legislation. We consulted with 180 to 200 members of the Democratic caucus, and since we introduced our substitute, which will be considered tomorrow, we have not changed it one time. Provisions have been added to or subtracted from the President's legislation on three occasions.

The idea, Mr. Chairman, that the Democrats did something in a smoke-filled room is absolutely ridiculous.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I do believe we need the same kind of constructive cooperation between the Democratic and Republican parties and between the executive and legislative branches that we saw when we fought the Persian Gulf war. We have a war going on in this economy within our society and we have got to win this economic war.

So, Mr. Chairman, I wanted to support the President's proposal. In fact, I was one of the few Democrats that stood up when he suggested that he was going to make a cut in the capital gains tax rate.

But the seven brightest points of the President's economic proposal, when you look more closely at them, they lose their glow. The passive loss provision, for example, which seemed like a good idea in the President's proposal, it only applies to new property, to the original developer. We do not need to build new office buildings, we need to build existing office buildings.

The capital gains tax rate cut, because he restored the depreciation recapture provision he was able to put $5.4 billion of new revenue into the budget because of a tax-rate cut. In fact, what happens is that he increases the taxes on capital gains for many property transfers by 11 percent.

It is good to open up pension funds to real estate, but the President's proposal does not go nearly far enough.

I do support the $5,000 first-time tax credit for home buyers. The Ways and Means provisions in real estate are far better, Mr. Chairman.

Why do I talk about real estate? Because the real estate provisions, believe it or not, are far more important than this $200 to $400 tax credit for the middle class. That is not going to bring this economy back. Giving people the incentive to invest in capital is going to bring this economy back. Real estate, ladies and gentlemen, is the way that we finance 70 percent of the programs that count in this country. Two-thirds of all of our public school education is financed by property taxes on real estate. Ninety-five percent of our police protection and our fire protection is financed by real estate. We have got to shore up real estate values again.

Mr. Chairman, there are other reasons why real estate is terribly important. The decline in real estate values is the principal reason why our banking system is failing today. It is not corruption, it is not mismanagement, anymore. It is because the portfolios—real estate portfolios—in those banks are losing the value dramatically. They are losing them as we speak. We have got to shore up real estate values. Mr. Chairman, if we do not, the programs that really count are the ones that are going to suffer, the programs that are operated at the local level of government.

The Federal Government pays about 5 percent or 6 percent of education, even though we talk about all this investment in human infrastructure. It does not make the difference at the Federal level; it makes the difference at the local level.

The way that we can make a difference is to shore up real estate, give people the incentive to reinvest in our largest capital base of $12 trillion.

Mr. ARCHER. Mr. Chairman, I yield myself 40 seconds just in order to respond to the gentleman from Virginia, because I do not think he has read our package and I do not think he has carefully examined the Democrats' package.

The Democrats' package extends the life of commercial real estate from 31 to 40 years, thereby reducing the depreciation deduction by 22 percent. That is going to depress the value of real estate in a major way.

In addition, there is no capital gains provision relative to existing property in the Democrats' proposal. The capital gains reduction in the Michel-Archer substitute clearly stabilizes and improves the value of real estate, particularly while exempting real estate transactions from the minimum tax.

The gentleman really should carefully examine both packages side by side.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this time. I appreciate the correction he has made.

However, I do not want us to overlook the message that the gentleman from Virginia [Mr. MORAN] had, because I think it is quite correct, that so much of the problem of this recession, the problem we are having in the banks, is real estate driven.

□ 1620

We have seen real estate prices come down dramatically, and much of it can be attributed directly back to the tax bill of 1986.

I would like to comment for a moment, if I can, for just a few moments on the issue that the chairman raised just a few moments ago in talking about how the Democrat caucus went out and they conversed with the various members of the Democrat caucus and built this bill. I would also like to remind the chairman that we asked for the same thing in the committee as far as Republicans are concerned and were advised that a rule would be opposed that would allow the Republicans the same privilege that the majority party has in this Congress. We would have liked to have gone out and to have worked our own bill.

The President's bill should certainly be considered. The President's bill should be voted on, and the President's bill, for the most part, will be supported by the Republicans on the Republican side here in the Congress as we determine the President's bill to be. However, in this particular situation, we have been gagged as far as coming up with our own bill.

There are things we would have liked to have put in our bill, for instance, repeal of some of the luxury taxes that are putting boatyards out of business and that are strapping the automobile industry. These are things that we should have talked about.

But I would like to say, and I think it is plain to observe here, we are going through nothing new now but a political process. If anybody listening to this debate thinks that the debate that we are having here on the floor today is going to lead to an economic-recovery package, they are absolutely wrong. The only way this Congress is going to be able to pass an economic-recovery package that means anything in the world is going to be if the Democrats and Republicans and the Committee on Ways and Means get together with the administration and draw such a bill, a bill that will put American workers back to work again.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I can only suggest to my colleagues that on February 7, Director of OMB Dick Darman wrote me a letter suggesting that

> H.R. 4200 is, of course, thoroughly consistent with the President's program. For all these reasons, therefore, we would urge its prompt enactment.

On February 11, Secretary Brady wrote:

> H.R. 4200 contains those specific economic growth proposals that the President asked the Congress to enact by March 20. The administration strongly supports H.R. 4200 and believes its prompt enactment would provide a much-needed boost to the economy as well as to those Americans out of work or concerned about their future employment.

On February 12, the Assistant Secretary of Tax Policy, Fred Goldberg, stated before the Committee on Ways and Means:

> H.R. 4200 reflects the bill the President of the United States would like to see on his desk by March 20.

On February 12, minority leader Mr. MICHEL and the gentleman from Texas [Mr. ARCHER] wrote to me, saying:

> We, therefore, request of you and your leadership to consider H.R. 4200 on the floor next week under suspension of the rules. This way we can at least get some sentiment of the House on the President's proposal.

On February 14, every minority member of the Committee on Ways and Means signed minority views in the report accompanying H.R. 4200 which stated:

> This, H.R. 4200, is the short-term program the President was referring to in his State of the Union Message when he said, "We must have a short-term plan to address our immediate needs and heat up the economy."

Mr. Chairman, we had nothing to do with the creation of H.R. 4200. We had nothing to do with the amendment or what the President has offered.

Mr. Chairman, I also want to note that I am quite pleased that the ranking member of the Committee on Ways and Means and the minority leader suggested that we take six of the seven economic growth points that the President suggested. Such comments show that our efforts at crafting a substitute have been more bipartisan than many of the previous speakers have led our listeners to believe. We recognized that the President is right sometimes, and we incorporated that in our legislation.

Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I regret that this argument appears to be taking a political tone. Quite frankly, when I heard the President's message, I thought there were quite a few things in the President's bill that I could support.

It is true that in my opinion he gave away too much in so-called tax incentives or shelters to the rich and at the same time did not provide the same type of equity to lower- and middle-income people. But since the Republicans had an opportunity to support the entire President's package, I would have hoped that they would have brought that to the committee and worked its will and we would have had the opportunity to work on it and make those changes.

Unfortunately, the President, for whatever reasons, only saw fit to send that part of the bill that gave away the tax incentives and did not give any comfort at all or bring any equity to the system, and so, therefore, when given an alternative, and I concede that the targeted jobs credit was in the President's bill but on a temporary basis was made permanent by the alternative.

The low-income housing credit which has provided over 95 percent of the low-income housing in this country, that is, housing where the rent is $450 or less, it is made permanent in this bill and, of course, the enterprise zone which my friend and former colleague, Secretary Jack Kemp, has fought so long and hard for for the first time was able to be reported out not just in its original fashion but in working with Dick Darman and in working with the Attorney General, we are able to really have the most effective demonstration project, not to see whether entrepreneurs are willing to take advantage of tax incentives and move in poor neighborhoods but an opportunity with the $500 million that has been set aside by the Committee on the Budget to be used in the standing committee to improve the quality of education, to improve housing, to have alternatives to the expensive jail system, to have treatment centers with accountability, and at the same time provide jobs by allowing entrepreneurs to be partners in the education and training process, many of the ideas that my distinguished friend from the Republican side, the gentleman from Iowa [Mr. GRANDY], and I have thought about and have worked with him on, so it seems to me you should not say whether you are with the President or whether you are with the Democrats.

The fact of the matter is you will have an opportunity today to see which side you are on, and alternatives will be in front of this body. So if you are for making targeted job credits permanent, if you are for making low-income housing permanent, if you are for trying to assist the President and the Attorney General with the Read and Seed Program, we have given you an alternative that you can be proud of.

Mr. ARCHER. Mr. Chairman, I yield 4 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], a respected member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, people are angry at Congress. They see this body as out of touch, as incompetent, and I tell them, "If you are not angry now, democracy is brain-dead. Brain-dead." But democracy is not brain-dead, because they are angry, because they do understand that what is going on here on the floor of the House of Representatives today does not address their interests.

They are in pain; if they are working, they are worried. If they are working, they have friends who has lost their job and are using up their retirement income, who has maybe lost their house; and had to bring kids home from college and in these tough times, this Congress is not acting on their behalf today.

You do not have to take my word for it. You do not have to take what the Democrats say versus what the Republicans say; or what the editors of newspapers say and all the public comment about this big package proposed by the other side's leadership which has received broad negative comment. You do not have to take those comments as true. You read instead the testimony from our committee hearings that were held in December before this issue had become part of the Presidential campaign.

You will see that there are four things that everyone who testified irrespective of their point of view, agreed on, and they are very simple. They said if Congress wants to help people, if they want to create jobs, if they want to turn around the economy, they can do so by passing a very targeted bill that helps people buy homes, that helps small businesses buy machinery and equipment; that helps people buy homes and build stronger communities, buy machinery and equipment to build a more competitive America. Only a targeted bill that encourages those things that are in harmony with our short-term values and goals and our long-term objectives as a Nation, will create jobs and stimulate growth.

□ 1630

They made it very clear. You do those things and stimulate those purchases that will have a ripple effect and people will get jobs and be employed.

They said two other things, unanimously respected by experts from throughout America. You pass a bill with a deficit, and you will slow this economy. You will cost people their jobs.

And let me tell you, I represent thousands of people to whom the news that it will cost jobs is bitter medicine. But this bill is going to cost jobs. It is going to pass this House because it is introduced by the Democrat caucus and they have the votes by 2 to 1 here on the House floor. But this bill has a big deficit the first year, a big deficit the second year, and get this, unless you repeal the middle-class tax break that third year, it continues to have big deficits. Those big deficits will slow the economy, and will cost jobs. There is not anyone who disagrees with that.

Then the fourth message those who testified at the hearings gave us was, "Do not pass a big bill." It will take us too long to figure out what you have done to us, who are the winners and who are the losers, and while we are figuring it out, it will slow down economic activity.

There are people, thousands in Connecticut, holding on by their fingernails. They cannot do it for 6 more months while we send up a bill that then takes months to figure out who got hurt and got helped, not when we have been told very clearly that a targeted bill to help people buy homes, help business buy machinery and equipment will help.

In Connecticut where people are having to stop producing defense equipment and start producing other kinds of equipment, in Connecticut more than in any other State we need to buy machinery and equipment to produce new goods.

Mr. Speaker, I urge my colleagues to vote for the targeted tax bill and I urge the people of America to watch closely what is going on in this House.

Mrs. KENNELLY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Speaker, I regret this debate so much. There is so much that we do agree on, but you would not know it from this debate today, stimulating long-term economic growth, encouraging savings and investment, there are many things in a bipartisan way that we should be talking about today, a capital gains differential, extending the research and development tax credit, those are all things that we need to do and we need to do them now.

One of the specific provisions of the bill that I would like to mention is the passive loss provision. Over 325 Members of the House have supported a passive loss change in the Tax Code. What we really tried to do here is level the playing field for the real estate industry because of what happened during the deliberations on the other side of the Capitol during the 1986 act debate.

This bill literally just puts us back in place without going back to the tax shelters of the past. It is directed just to the people who deal in the real estate industry, people who work over 500 hours a year or over half their time in the year in the real estate business. Its purpose is clearly to avoid lawyers, doctors, passive investors who are not active real estate professionals. It is not to provide a tax deduction for mortgage bankers or Wall Street brokers.

In fact, there are 10 provisions that will remain in the tax law to prevent real estate shelters, which was the purpose of the 1986 act. Our passive loss provision in this bill on the Democratic side deals only with existing real estate.

One of the problems in the New England States and the Sunbelt States is not the need to encourage new development of new shopping malls and shopping centers, but it is to encourage some kind of activity in the economic marketplace. The real purpose is to get more activity into existing real estate. That is where the problem lies today.

What this bill attempts to do is limit it just to existing, not new development, and also to include not just real estate developers, but again people who are actively involved in the real estate industry.

Finally, the cost of this bill is paid for. This provision is paid for out of the real estate industry. This is no gift.

As the gentleman from Texas [Mr. ARCHER] mentioned earlier, yes, in the Democratic bill the real estate depreciation rules are changed. They are extended in order to pay for the bill out of the industry itself.

I believe that some kind of passive loss provision change is desperately needed if we are going to restimulate this sagging economy. The real estate industry has been the first into the recession and it is generally the first out of a recession.

We can help. This will encourage investment in the very areas of this country where it is needed the most, and I certainly support its passage.

Mr. ARCHER. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I want to thank the gentleman for yielding me this time.

As I contemplate the decisions we are going to be asked to make today, I understand about all the politics and all the political agenda. I understand that the Democrat majority would like to make this a debate on class warfare, class conflict. They want us to decide whose side you are on and make this a political debate, but the fact is we will vote today on a Democrat package or a Republican package, and we want to ask what will be the real impact in the real lives of real Americans.

Now, in trying to get some real bona fide professionally competent analysis of this, the first thing I realized was that we cannot rely on the Democrat-owned and controlled Congressional Budget Office or the Joint Tax Committee because they are consistently wrong. In fact, for the last year in which we have real whole data, they made a $134 billion mistake in predicting what turned out to be $120 billion for the capital gains earnings. In that one component alone, they were more than 100 percent wrong, so we cannot rely on them.

Well, fortunately, an organization called the National Center for Policy Analysis, an independent think tank, tax-exempt foundation, which has the IRS to guarantee that they will not engage in partisan politics and can only raise money for itself, not by congressional doling of money for incompetent work, but by proving their competence to voluntary contributors in the real world, have done an analysis. They have given us a choice.

Do we want a package that gives us job creation or job destruction? In examining this, they say that the Republican package offered by the gentleman from Texas [Mr. ARCHER] consistently gives you, as you see in the black lines, job creation for every one of the next 5 years, 24,000 the first year, 84,000 the next year, 220,000 the following year, and 350,000, up until you get over 500,000 jobs created.

What happens with the Democrat package? What would you guess? Twenty-one thousand jobs lost, destroyed the first year, 62,000 the next year, 71,000 the third year, a consistent pattern as we see here of job loss for every year of this package for the next 5 years.

Now, the question is, "Shall we have a package that creates jobs or loses jobs?" Independent thinkers, professionally competent thinkers, say the Republican package creates jobs, the Democrat package loses jobs.

Now, shall we have economic growth or go back to the malaise we had before?

The independent researchers by the second graph tell us that in each of the next 5 years, with the Republican package, we would have economic growth. The gross domestic product would grow by 12.9 percent the first year, 38 percent the second year, 67 percent the third year, on up until 143 billion dollars' worth of growth in the fifth year.

What happens with the Democrat plan, ill-conceived as it is with its tax increases, repressing the economy? There would be 3 billion dollars' worth of decline in gross domestic product the first year up to a maximum of 19 billion dollars' worth of lost domestic product, until finally you get in the last year $6 billion worth of lost product.

☐ 1640

Do we want economic growth and prosperity, or do we want malaise? Do we want jobs created, or do we want jobs destroyed? If you vote for Mr. ARCHER's Republican package, you get growth in the economy and jobs created. If you vote for their package, you get malaise, and I would say the independent thinking of real Americans in the real world is more reliable than the testimony you will get about the botched thinking of the Congressional Budget Office by the majority.

Mrs. KENNELLY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. I thank the gentlewoman for yielding this time to me.

Mr. Chairman, most of us have town meetings. Most of us have people come to our offices when we are back in our districts, and I do that.

Mr. Chairman, a week ago there were scores of people in my office seeking employment. If they are listening to this debate, they would be brokenhearted. In the first place, it is very complex. These tax matters are very complex. They do not understand that.

The gentleman in the well just a moment ago said one bill would actually lose jobs, another would gain jobs.

Mr. Chairman, our constituents expect us to find jobs and to make jobs.

The gentleman from New Jersey [Mr. ROE], chairman of the Committee on Public Works, has introduced a bill which provides for construction jobs in the infrastructure. I have introduced a bill which allows the States to make application to the Federal Government for assistance in providing jobs. This is a direct approach.

The legislation before us today has been worked on very carefully, and I intend to vote for the bill which seems to me to do the most good. Most of it is long term. Most of our constitutents are concerned about the short term. They realize we are putting up billions of dollars in foreign aid; $24 billion, I believe, last year. And we are putting certainly hundreds of millions of dollars, and perhaps billions of dollars, in aid to our former enemies, the Russians, taking care of their welfare.

And they wonder why they cannot be considered, simplistically, themselves, and why they cannot find a job for themselves, why the Federal Government is wasting all this time on these long-term things when the reality of it is that my constituents are out of jobs.

Mr. Chairman, they have tears going down their cheeks; they are trying to work, they are not seeking to be on welfare, they are seeking to have something to do that is worthwhile.

Mr. Chairman, there is plenty of work in this country to do.

So, the two main reactions that I have to this debate is that we ought to get off the partisan discussion and we ought to think about what this is all really about, and that is to find jobs for our constituents in a way that is American, that is consistent with the things that we do elsewhere.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas, [Mr. COMBEST].

Mr. COMBEST. I thank the gentleman for yielding this time to me.

Mr. Chairman, let us cut right to the chase: There are two distinct economic plans—we want to cut taxes and restore growth incentives and they want to raise taxes and reduce incentives—it is the same old philosophical differences.

My taxing friends have the same won't work solutions they always have—they tell us that prosperity and economic growth is just one more tax increase away.

They continue to say the trickle-down theory is not working. Well, I do not know where they have been for the past 6 years but the 1986 tax bill took away any chance for trickle—it took away all of the incentives for lasting investment and savings. And what is not working today is their program.

We said it then and we have said it with each and every tax increase: The result of this new tax increase will be unemployment and a stagnant economy. Well, our predictions have come true and now we want to restore the incentives and they want more taxes.

The philosophical differences are clear. We believe that business creates job opportunities and economic growth and they believe that more taxes and Government programs will solve the economic downturn.

People are upset and want action, but I have yet to hear my first constituent say they want more taxes and more Government. The difference is very clear—it is black and white—or as the case will be for families and small businesses—black and red.

Mrs. KENNELLY. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. I thank the gentlewoman for yielding the time to me.

Mr. Chairman, my esteemed colleague, the gentleman from Florida [Mr. BENNETT] was correct when he said we need to pierce through the partisan debate on this issue. Our country is facing serious problems. We do need to take action, progrowth action.

The President has challenged us, and it is time for us to act and to move.

Now, as we look at the three proposals before us, I can support many of the provisions in each of the proposals. In fact, as you look down the President's proposal, there are many fine ideas, as there are in the Democratic substitute and in the Republican substitute.

There are significant problems in each proposal as well. I cannot support on final passage a bill which would increase the deficit by $50 billion plus as the President's bill would do. I find it difficult to support a bill that would increase taxes on the wealthy and rather than using those increases for real progrowth initiatives, would instead provide a redistribution of the wealth through a $1 a day middle-class tax rebate.

I find it difficult to support on final passage a bill which is paid for by using a new accounting mechanism, smoke and mirrors, saying, "Well, we are going to count our money differently and we are going to assume that the future's money is in our pocket today so we can spend it today," as the Republican substitute would do.

But the real fact is the Constitution requires all tax bills to originate in the House of Representatives. This is the starting place for a progrowth package. Whatever we vote on here will go to the Senate, they will have to act on it, it will have to come back to us in conference, and the President will have to support it too.

In order to get any package sent forth that will actually help our country, pull us out of the recession and set us up for long-term growth and stability in our economy, we are going to have to have the support of Democrats, Republicans, and the President.

So, I am prepared to support all of these bills today. However, when they come back from conference, if these defects have not been cured, I cannot support any of these bills on final passage.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. I thank the gentleman for yielding this time to me.

Mr. Chairman and members, I perhaps come to this debate today with a bit more of a personal experience than many of my colleagues. And I say that because this recession cost my family their business.

So, I understand what the pain of this recession means, and I will tell you that they would be very disturbed to recognize that we here in the Congress of the United States are playing partisan politics when people's lives and their livelihoods are at stake.

Just 14 months ago this Congress made the mistake of trying to get the rich by raising taxes $144 billion as we entered a recession. Instead of reducing the deficit, we increased the deficit by $130 billion the first year, we deepened the recession and probably that act alone is what guaranteed that the 80 individuals who worked for my father do not have jobs today.

We now talk about giving people in the name of economic recovery a $200 to $400 tax credit. Well, a $200 to $400 tax credit achieved next spring on your 1992 returns does nothing, ladies and gentlemen, for the individual without a job. It is time that this Congress recognizes its partisan motives do little for the country and do even less for working men and women.

We ought to understand that economic growth is what creates jobs, and we ought to, within the context of the Gramm-Rudman budget discipline that we have imposed upon ourselves, find a way to do that.

The Democratic options do not accomplish that. They are simply the wrong proposal, the wrong remedy at the wrong time.

I hope, when it is done, we will come back and do something on a bipartisan basis for the country.

Mrs. KENNELLY. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I thank the gentlewoman for yielding this time to me.

Mr. Chairman and colleagues, there has been a great deal of misinformation, perhaps disinformation, about the proposals before us.

The economists who came before our committee spent many, many hours telling us, "Don't try to do too much to the economy to try to stimulate it, because if you do, you might do the wrong thing."

□ 1650

Mr. Chairman, this bill is often being judged in harsh terms, harsh reviews, by the Republican side of the aisle in terms of what it did for the economy. This bill is not predominantly a bill to jumpstart the economy because we listened to those experts, 52 hours of experts. It does some, a couple of things, which are very worth doing. It has a very important stimulant for small business, which is where most of the jobs are created. It improves the ability for pension funds to engage in real estate purchases, which is positive. Passive loss provisions will help the economy, will help the real estate industry.

There are a number of things in here which are helpful, but do not judge this bill as a big jumpstart for the economy. We were told not to try to do that, and we do not do that, so a lot of the criticism is misplaced. It is criticizing the bill for what it did not even try to do, but what this bill does do and how it should be judged is a bill that makes a significant change in the relative shares of tax burdens in this country.

Now we were told that we do not like to redistribute income through the tax bills. We have heard that siren song. But, my friends, the tax bill of 1981 and a number of subsequent measures produced what has generally been acknowledged to have been the most massive redistribution of wealth in the history of this Nation. Those tax bills, particularly that first one, did not do anything apparently to stimulate the economy because we then plunged into a recession, and we produced deficits which are basically destroying our future prospects. But what it did do was a massive redistribution of wealth. People at the very top basically doubled their income, and their taxes proportionately to income fell drastically.

Mr. Chairman, what this bill does do is restore some fairness, and that is the grounds upon which it should be judged. This bill restores some fairness by asking people in the very upper brackets to pay a little bit more, which they should do when they are still far below what they were paying had the laws of the 1980's still been in effect, and at the same time it produces some tax relief for those in the middle-income groups, and that is what it should do.

The previous speaker, the gentleman from Wisconsin [Mr. GUNDERSON], my friend, said that $400 is unimportant. Four hundred dollars per family is not unimportant when they are trying to pay the heat, or the rent, or the grocery bills. Four hundred dollars is approximately equal to the take-home pay of 1 week for many families, and that is a very important change, and at the 35-percent bracket it is an important change because it is permanent.

There are other issues I could talk about in the bill. Many of them are very meritorious, but let us look at the bill for what it is. It is a chance to produce some fairness. It is a chance to give some tax relief to middle-income families. It is a chance to make some changes in the Tax Code which are very, very positive and long overdue.

This country has two roads to go down at this time. It could take the trickle-down approach where we put more tax breaks, more stimulants, in at the top of the income scale and hope they trickle down, or we can try to restore some fairness, do some things for investment, some growth, and try to recognize that it is a small business that produces the jobs. It is the middle-income folks that need the relief, and they are the ones that pay the taxes, fight the wars and bear the burdens. I certainly prefer the latter approach.

Now the present proposal would increase the deficit $50 billion. This proposal not only does not increase the deficit, it actually reduces the deficit by approximately $17 billion. That is another point in its favor because we must at some point, and the sooner the better, begin down the road of reducing the deficit.

So, Mr. Chairman and my colleagues, I hope this debate will return to what the bill really is, and what it does try to do and not what it does not try to do, and be judged on that ground and that ground alone, and I hope the debate will help to enlighten the American public as to what is actually involved here, and I strongly urge my colleagues to support this bill. It is not a trivial matter for those people who are desperately pressed. It is important relief for the middle-income folks. Those are the people who at this moment have been hit the hardest over the last 10 years and now need the help.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Chairman, Congress must pass, as the President has asked, an economic incentive package—and I emphasize the word "incentive." Without incentives, there will be no growth. Without growth, there will be no recovery.

Before coming to Congress, I spent my entire adult life in the real estate business. I have worked with young couples seeking to purchase their first home. I have worked with small business people seeking to expand. These people make America grow.

So, I know a little bit about incentives and growth, because for three decades my living depended on it. I know, because I have seen it, that incentives can fire up the engine of economic growth.

And I want to tell you, that by any definition, a bill that raises taxes by $90 billion does not provide an incentive to growth.

A bill that puts 100,000 people out of work does not provide an incentive to growth.

A bill that ignores first-time home buyers does not provide an incentive to growth.

A bill that raises taxes permanently starting with those earning $85,000 does not provide an incentive to growth.

A bill that adds 97 cents a day to the wages of the average American family does not provide an incentive to growth.

Yet that is what the Democrat's substitute would do. It would do nothing to stimulate growth through incentives. If this is the best we can do, we would be better off doing nothing at all.

Mr. Chairman, my colleagues in the majority seem to have forgotten who creates the jobs in this country. Their legislation demonstrates one thing very clearly—they don't believe that free enterprise has any contribution to make to the American dream. Maybe that's why their leadership is so uncomfortable with their Presidential frontrunner.

But we Republicans know who creates jobs. It is, for example, the small homebuilder, who not only puts carpenters, electricians, and plumbers to work, but also creates jobs in the carpet mills, on the refrigerator assembly line, in the paint factory, and at the lumber yard.

One of our colleagues is reported to be uncomfortable with putting money in the pockets of business. I say there is nothing wrong with giving business incentives to grow.

If business doesn't have money in its pocket, than neither will workers have money in theirs. I have never known of a growing business that has had to lay people off. It should be obvious that growing businesses create jobs.

But the only jobs that will be created in the Democrat's bill are those in unemployment offices, where they will be needed to handle a growing caseload. The American people expect better.

Mr. Chairman, if the majority continues to act like Government is a game, with political points to be scored at the expense of the President whenever possible, the American people will continue to be the real loser. Let's get to work, so that America can get to work. Pass the Michel-Archer substitute, the only legislation before us that will provide the incentives we need to start growing again.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from New Jersey [Mr. GALLO] who just spoke in the well is a practicing realtor who understands real estate. It is no secret to the people of this country that one of the greatest problems that has brought about the difficulties in so many of our financial institutions is a decline in the value of real estate. We should do what we can to stabilize those values, not just to create jobs, but to protect the viability of financial institutions and save the taxpayers money under the RTC, the FDIC and the FSLIC. We have tried to do that to the degree that we can in the Michel-Archer substitute.

I think it is important, because a number of people throughout this country are being told that the Democrat alternative is far more favorable and helpful to real estate values, that we look at a side-by-side comparison.

First, the Michel-Archer substitute cuts capital gains to a 15.4 percent rate and exempts those gains from the minimum tax. It caps the recapture of depreciation at 28 percent, which means that no one will be worse off than they are under the current law, and most will be far better off. It applies to new real estate purchase as well as to existing real estate purchases.

Now what does the Democrat alternative do? It indexes the cost basis only prospectively for newly acquired property. It has no benefit for existing real estate holdings, and it increases the minimum tax to 25 percent, which will apply to the indexed gain. It recaptures all depreciation deductions without capping them at 28 percent, and, due to the huge tax rate increases in the Democrats' bill, it subjects them to an offensive tax rate of 40 percent or higher.

□ 1700

First time homebuyers get the $5,000 credit under the Michel-Archer substitute. They get nothing under the Democrat package.

On depreciation, there is no change in the Michel-Archer substitute in current law. Depreciation continues unaffected. The Democrat plan greatly lengthens depreciation, as I mentioned earlier, on commercial real estate, and it reduces the deduction for depreciation by over 22 percent. That will not help the value of real estate. It even increases the length of depreciation for residential real estate from 27½ years to 31 years.

On deduction of mortgage interest and property taxes, the Michel-Archer substitute has no change from current law. The Democrat alternative has a 2-year extension of current limitations on itemized deductions and denies homeowners the full deduction of mortgage interest and property taxes.

Under the passive loss activities, the Michel-Archer bill restores full deductions for real estate developers. The Democrat package restores 80 percent, not full deduction, of passive losses for real estate professionals but only for existing property.

Mr. Chairman, let us look very carefully and see which bill does give the greatest assistance to improving the value of real estate.

Mr. Chairman, I reserve the balance of my time.

Mrs. KENNELLY. Mr. Chairman, I yield 5 minutes to the gnetleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, we have heard a great deal this afternoon from our friends in the Republican Party about class warfare. Well, I think nobody, I would hope, is sympathetic to war in general and to class warfare in particular, but I think we should be fairly clear that in fact class warfare has been waged in this country in the last 15 years. We did not create it. Class warfare exists, and the problem is that the wrong class is winning that war. And what some of us think is that maybe, at a time when the richest 1 percent of our population now owns 36 percent of the wealth of this country, at a time when the wealthiest wage earners, the wealthiest 1 percent of earners, now earn more money than the bottom 40 percent of wage earners, at a time when the top 20 percent of wage earners earn more income than the bottom 80 percent of wage earners, we should shift the balance of that war just a little bit.

What our Republican friends are upset about is that for the last 15 years their side has been winning this war, and that we should concede. It is not that I want to identify with the Democrats, who threw in the towel years ago. As the only Independent in this body, what I concede and congratulate my Republican friends about is that "You won. Reaganomics and the trickle-down theory was a fraud, but you got enough of the Democrats to go along with you."

And then what happened? Let us talk about it. The richest 1 percent of the population has seen a doubling of their real income over the last 10 years. I say, "Congratulations. You guys won."

The salaries of ordinary working people earning between $20,000 and $50,000 a year went up by 44 percent, but those people earning $200,000 a year or more went up by 697 percent. We have had a doubling of millionaires. We have had a doubling of billionaires. Congratulations. Reaganomics and the trickle-down theory was a success. I say, "If you are a millionaire or a billionaire, you made out like a bandit."

The combined net worth of the 400 richest American families tripled in 7 years, between 1982 and 1989, from $92 billion to $270 billion. And on and on it goes.

The trickle-down theory works for the rich and the very rich. But what about the working people and the middle-income people? Unfortunately, that fraudulent philosophy did not work for those people. Their wages have declined. Their standard of living has declined.

Once, at a time long, long ago, some may remember that this Nation led the world in terms of the wages and benefits we paid our workers. Then came the trickle-down theory, and we are now in 10th place and falling fast. Scandinavia is ahead of us, and Western Europe is ahead of us. And on and on it goes.

To the degree that the Democratic proposal says that finally the rich should start paying their fair share of taxes so that we can lower taxes on working people and middle-income people, I support that aspect. But I would go further. To the degree, however, that the Democratic proposal also gets involved in the trickle-down theory and the reduction of capital gains, I am opposed to that because that is continuing a philosophy that has not succeeded.

If we want to create jobs, which we do, the real approach would be to make significant reductions in military spending by the hundreds of billions of dollars over the next 5 years and put that money into this country with a new industrial policy.

Mr. Chairman, let us build the housing we need. Let us rebuild American industry with that money. That is how we can create the millions of jobs we need.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I would ask the Members, have they been back to their districts recently? People are sick and tired of all this partisan fighting. Neither of these alternatives is going anywhere because they are not the result of a bipartisan agreement.

Give me a break. We are now engaged in a fruitless exercise and a total waste of time. Why are we not putting our heads together to fashion a package that will create jobs and do it without raising taxes or raising the deficit? Why are we bringing alternatives to the House floor that prevent amendments to make either package better?

□ 1710

Why are we suggesting alternatives that waive the Budget Act, the only protection from higher deficits? Deficits are already crippling our already fragile economy. Why can we not have both the White House and Congressional leaders on both sides of the aisle sit down and hammer out a package that is going to get our economy off the dime?

You name the place, I will order the Domino's pizza. They deliver all day and all night. They can make their deadlines; why can't we?

Mr. MOODY. Mr. Chairman, I yield 5 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in strong support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992.

Our plan reflects our commitment to equity in the Tax Code. The payroll taxes used to finance Social Security Programs through the old-age, survivors, and disability insurance and hospital insurance trust funds have increased substantially over the last decade. In order to provide some relief to those middle-class Americans who have been asked to bear the burden of the increased taxes, without jeopardizing the fiscal integrity of the trust funds, the Democratic substitute would provide a refundable income tax credit in 1992 and 1993 of 20 percent of the employee's share of OASDI and HI tax liability. The maximum credit is $200 for single taxpayers, and $400 for married couples filing joint returns.

Some ridicule our equity proposal but the bottom line is $200 or $400 over 1 year—$400 to $800 in 2 years—that to some may not be important but to other is very meaningful. Also remember that it their money they are getting back. We are not talking about the largess of the Congress to give a tax cut whatever it might be. We are talking simply about people keeping more of their hard earned dollars.

As a party we have talked about fairness and equity for almost 2 years now and we want the American people to know that this is what we stand for. Even after the questions about the size of the return we continued to stand by our move toward some fairness. Unlike the President who some how decided after announcing a $500 increase in the personal exemption that it was no longer important.

Next, we have known for some time, this country is in the midst of a serious recession. Therefore the second reason for this bill is jobs and economic growth.

We extend the Mortgage Revenue Bond Program permanently. In 1991 in the midst of a recession, this program produced 40,000 jobs and generated over $1.1 billion in wages and tax revenues. That is real economic growth; not to take this opportunity to make this program permanent would be wrong.

We extend the low-income housing tax credit permanently. In 1991 in the midst of a recession, this program produced 56,000 jobs and generated over $1.8 billion in wages and tax revenues. That is real economic growth.

We would make the R&D credit, small issue manufacturing bonds and educational assistance permanent; these are important investments for future economic growth. We must and should make these permanent now.

We establish enterprise zones, make the targeted jobs tax credit permanent, and provide incentives for venture capital. These incentives will create jobs.

In this bill we allow small businesses to expense larger amounts of capital investment, and we treat depreciation more generously under the alternative minimum tax. These are important investments for future economic growth.

If you support restoring equity to the Tax Code, if you support creating jobs, if you support future economic growth, support the Democratic alternative. It just makes good sense.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, this is a kind of interesting exercise today. I do not think there is anyone in the Chamber who thinks that the bill we are debating today is going to become law. I think we are all very clear on that. But it does serve a useful purpose inasmuch as it gives us an opportunity to look at some things that might work and some things that we can do to help the economy. We can look at some things that have happened throughout history to give us some guidance along that way.

Let me read a short paragraph to you that was said some years ago here in this Chamber. Someone said:

> I am convinced that the enactment this year of tax reduction and tax reform overshadows all other domestic problems in this Congress. For we cannot lead for long the cause of peace and freedom if we ever cease to set the pace at home. This tax cut will increase the purchasing power of American families and business enterprises. It will, in addition, encourage the initiative and risk-taking on which our free system depends.

Mr. Chairman, that was John Kennedy in 1963 pointing out what it was that was needed to be done in 1963 to help encourage economic growth. The House and Senate ultimately responded and programs were put into place which included a reduction in marginal tax rates. It also included a reduction from 52 to 48 percent of the corporate tax rate. It included the broadening of the investment tax credit and a number of other items, all of which helped the country grow through the 1960's.

Mr. Chairman, it was just about 20 years later that Ronald Reagan was elected President and said much the same thing. Is it not interesting that a Democrat and a Republican both got together years apart and recognized that a recession was in place during their time and were able to enact programs that helped us grow out of those recessions?

Mr. Chairman, we can do the same thing. It is not this bill though. It is not the bills we are going to debate tomorrow. It is something that we need to do on a bipartisan basis.

Mr. Chairman, if Kennedy and Reagan could agree on an economic package to promote growth, I suggest to you that we can too.

Mrs. KENNELLY. Mr. Chairman, may I inquire how much time is left?

The CHAIRMAN. The gentlewoman from Connecticut [Mrs. KENNELLY] has 11 minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 17 minutes remaining.

Mrs. KENNELLY. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, one of the great strengths of the Democratic tax package is the permanent research and development tax credit. I commend Chairman ROSTENKOWSKI in his efforts to make the R&D tax credit permanent. I would add that research and development has long been one of my top priorities. It's been over a decade since I first introduced legislation creating a permanent research and development tax credit. In that time, this issue has become a priority for Members both on and off the Ways and Means Committee. Over 300 Members, both Democrats and Republicans, have endorsed the permanent R&D tax credit approach.

The R&D tax credit gives a wide range of U.S. companies, from automotive to computers to electronics to health care, a 20-percent tax credit for increases in R&D spending over what they otherwise would spend. The present R&D tax credit is set to expire in June of this year. If made permanent, it is estimated that R&D spending would increase by billions between 1991 and 1995.

Now, why is it important that the R&D tax credit be made permanent? First, the R&D tax credit has been shown to work. In testimony before the Ways and Means Committee, we have found that during the time that the R&D credit had its maximum impact—from 1982 to 1985—company-funded R&D had a 8.1-percent annual growth rate, the highest rate of any period between 1960 and 1990.

Second, and perhaps more important, a permanent R&D tax credit will allow American companies to focus on the longterm. Too often we hear criticism that U.S. firms are too concerned about quarterly earnings reports, and not enough on long-term investments that will lead to improved productivity and profitability. By making the R&D credit permanent, we can make great strides in creating a business environment in which managers can invest in projects which may not pay off for a number of years, but in the end may be crucial to creating jobs and winning market share.

More than ever, it is important that we act to stimulate research and development. Early this week, New Technology Week and the New York Times reported that industrial spending for R&D in Japan exceeded that in the United States for the first time. This is truly alarming news for our economy. In the past, we have historically spent more on R&D than any other country, and this has largely been responsible for America's technological edge over our economic competitors.

The R&D tax credit has traditionally had broad bipartisan support. One reason for that is the understanding by Members that whichever country wins the R&D race has a big leg up on the economic race. Well, it looks like we're no longer leading the R&D race, and we must take action to turn the tide. A permanent R&D tax credit is a strong step which has shown to be effective, a step we can take to regain the lead. I am pleased that a permanent R&D tax credit is part of the legislation we are considering, and I urge passage of the bill.

□ 1720

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, in 1984 a Presidential candidate was asked, "Where's the beef?" In that same vein, I think it's fair to ask of the proposals before us today, "Where's the growth?"

These alternatives are not about economics, jobs, or the recession. These are political documents. Instead of aiming at each other to score political points, we ought to be aimed at the real enemy—the recession. None of these has that right target in its sights.

The Democratic package is, of course, no great surprise. Frankly, I think many of us would be shocked if we were presented with anything different. Masquerading as a growth proposal, the Democratic leadership has cobbled together for us a package based on finger-in-the-wind economics. Sacrificing long-term economic goals at the altar of short-term political expediency, the Democrats have once again shown the American people that they just can't keep those tax-and-spend impulses in check.

It is significant that the only thing of permanence in the Democratic package is a tax increase. Just when you thought it might sink in, the party of class warfare shows us that they have learned none of the economic lessons of the 1980's. As the unabashed promoters of tax fairness, the Democrats are out once again to play the class-envy game. This is, of course, the same bunch that brought us those soak-the-rich luxury taxes. Maybe we can bring in some of those out-of-work boatbuilders to give us a little lesson as to how this unique brand of Democratic economic theory works.

Unfortunately, the Republican proposal, while it cannot help be a more attractive alternative, does little to reclaim the party's progrowth mantle. The timid denizens of the Treasury have given us a package that says that we are all for greater investment, enhanced savings and improved competitiveness, as long as it's done this year. It is of little solace to this Member that our claim to superiority on this floor today is defined almost solely by the deficiencies of the Democratic package rather than by the boldness of our own message. It may not be gimmickery, but it certainly is not enough growth for me.

In his book, "The Growth Experiment," Lawrence Lindsey quotes an old farmers' almanac that says that "if Patrick Henry thought that taxation without representation was bad, he should see how bad it is with representation."

This is not time for humor, but I cannot help but feel that it is an apt description for the exercise we are to go through here today. The American people want and deserve better. That is why on each of these plans, I will vote no. At least for now, I would rather walk than hitch a ride on either of these trains.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Chairman, as we debate legislation to strengthen the economy and spur economic growth, we should remember a group of individuals who especially need our help, the displaced homemakers of our society.

As Members know, the underlying bill which we are debating includes provisions to permanently extend the Targeted Jobs Tax Credit Program. All of us in the Congress strongly support the permanent extension of this program because we feel that it is far better to give hard-to-employ individuals an opportunity to work than to give them a handout.

However, the full purpose of the TJTC Program is not being met because displaced homemakers are not covered by the current legislation as a targeted group. And they should be.

Mr. Chairman, displaced homemakers are primarily women who have been full-time homemakers for a number of years but who have lost their source of economic support due to divorce, separation, abandonment, or the death or disability of a spouse. In fact, the major cause of displacement for homemakers is the death of their spouse, with divorce following as the second major reason.

Furthermore, many displaced homemakers are living at or near the poverty level, are younger than 35 and have children. The standard of living of the displaced homemaker woman declines 73 percent in the first year after divorce, while the man's standard of living increases 42 percent.

Mr. Chairman, most people want to work if given the opportunity. I believe that extending the TJTC Program to displaced homemakers is a cost-effective method of addressing this problem. By providing prospective employers with the incentive to hire and train displaced homemakers, we avoid the much more costly alternative of publicly supporting these homemakers and their families.

Therefore, although the rule supported by the majority precludes our addressing this matter within the pending bill and the offered substitutes, it is my hope that either a freestanding bill can move out of the Committee on Ways and Means or reconsideration of the pending package can incorporate the provisions of my H.R. 1536 legislation.

If we want to talk of tax fairness, tax equity, and good tax policy, we must consider, Mr. Chairman, the displaced homemakers of our country.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I am a Republican. I am going to talk against the Democratic bill.

I do not like to do this because I think anything I have been able to accomplish here has been done on a bipartisan basis. I say this not because it is the Democratic feature, but because I think there are two features that Members ought to recognize are not good.

The first feature is that when one increases taxes on the so-called high earners, what one is really doing is hurting those people who are individual entrepreneurs, individual businessmen.

Many of those people are not incorporated. Many of those people pay their normal taxes. Those are the people that one is going to be hurting.

I do not think that is a good idea, frankly, because two-thirds of the employment in this country in job generation comes from that very group we are trying to attack. That may make sense from somebody's economic standpoint. It does not make sense to me, particularly if we are trying to goose up this economy and let it move again.

The second thing is this, the $30 billion it is going to cost in this package over the next 2 years, over and above the budget agreement.

I am on the Committee on the Budget. I do not think it does the greatest job in the world, but it tries. And the only thing it tries to do is to set up an element of discipline.

If we break that discipline, we have got nothing else to go on.

Frankly, if we hit the small business people who are trying to create the jobs which will bring us out of this recession and if we try also to hurt those people who are trying to create and establish and maintain discipline in the budget cycle, I think that is wrong.

One other thing. The economy is a very difficult, very sensitive area to touch. Most of it is driven by individuals like my colleagues and myself and others who are creating jobs out there. Please let us not do something for political purposes which is going to hurt the very fueling process that makes this country great.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Chairman, it is unfortunate how partisan this debate has become, and that more proposals to stimulate the economy were not given the chance to be considered on the floor. I am afraid this whole process has turned into jockeying for political advantage this November. Why does the majority leadership continue to urge the House to operate under closed rules? Is the leadership concerned that this body might improve the proposals before us, or is it that they do not believe the House as a whole should have the opportunity to work its will and put together a comprehensive and meaningful economic growth package?

Recognizing the sluggish state of two of our country's most critical industries, housing construction, and automobile manufacturing, this past November I introduced legislation that would provide middle-income Americans with reasonable and responsible tax credits to buy a first home or an American made automobile. I don't know about you, but after this week's startling announcement by General Motors indicating its intention to close another 12 U.S. manufacturing plants, I think action must be taken on such a proposal if we are to meaningfully help this floundering industry.

By providing a strong stimulant to middle Americans to purchase domestic made vehicles we would be putting countless unemployed autoworkers back to work and in the process ease the social service burden presently imposed by such unemployment.

I plan to support Michel-Archer substitute economic growth package because I feel it represents the best hope for real economic growth. Like my bill, H.R. 4005, it includes a tax credit for first-time home buyers. Conversely, I believe the Democratic proposal will do little to stimulate real economic growth. When I study this proposal, I am compelled to ask "Where's the beef?"

□ 1730

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, because we have only got hold of this bill in the last few hours, I have been back in my office evaluating this bill. I am talking about the Democrats' package that was introduced, H.R. 4287. It just amazes me, absolutely amazes me. Those that wrote the bill, the Democrats' bill, must think the American people are stupid because they must have the opinion that nobody is going to read this, no one is going to evaluate it, no one is going to understand what is going on here.

The Democrats' bill, for instance, would cap at $1 million per year the corporate tax deduction for compensation paid to corporate executives. That sounds like a good one. "We will get those old guys that make $1 million."

The Democrats have prepared a very entertaining proposal. It sounds great on the surface, much like a good book. It provides a great story, but it is not real. That is exactly what the Democrats like. They must prefer fiction over fact, because their tax bill rewards entertainment and punishes production.

Under the Democrats' bill an executive of a company which produces capital products and creates jobs in industries such as steel and energy and food and computers or textbooks is punished by the Democrats' bill, but the Democrats reward entertainers who sing songs or make movies, like Oliver Stone, act out fictional stories, or hit balls over fences. These people are not limited by the $1 million cap.

On the other hand, the Democrats give, while they have got their hands in your pocket, and taketh away. The Democrats want the public to believe they are going to help the economy, but the fact is that they give with one hand and take away with the other. The real problem is that the hand that takes away is a lot bigger than the hand that gives.

They give a temporary tax cut of $46 billion, but take away with a $77.6 billion permanent tax increase. They give the real estate industry some passive loss relief, but take it back by expanding depreciation schedules on commercial property.

Any Member that represents a district with real estate problems better not vote for the Democrat bill, because what you are doing here is you are further decreasing and devaluing property.

Then they are going to give the boat industry relief by repealing a luxury tax that they put on the boating industry costing a lot of jobs, and then take it away with a diesel tax on boats that do not even use highways. It just amazes me. The American people are not stupid. They understand that this has no semblance to good economic policy, and they are going to reject it, even though this House may pass it.

Mrs. KENNELLY. Mr. Chairman, I yield 4 minutes to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, let me begin by thanking Chairman ROSTENKOWSKI for acting so swiftly and positively in bringing this legislation before us. The chairman labored hard and long to get a consensus bill out of the committee, and I think he deserves great credit for producing a package that we can vote for and be proud of. In 1986, our motto was "Write ROSTY." In 1992, we say "ROSTY Rides Again."

After a long delay, after great denial, the President finally recognized last month that we are mired in such deep economic trouble that comprehensive action was required to stimulate growth and economic activity. We are meeting the challenge laid down by the President in his State of the Union Address.

We are giving him a vote on the total package he requested in the State of the Union Address. We're giving him a vote on his twice revised package that has been tailored to his specifications. And we are acting promptly, consistent with his request that a recovery plan be fashioned by March 20.

Now it is time to fulfill our obligations to ourselves and to the people who sent us here. We can debate, we can define the differences between us, and we can disagree. But today and tomorrow, we must produce, we must act, and we must decide. That is what our people expect us to do, and we can deliver no less.

This is a representative body; it is filled with intelligent people, some of them disagree with us on how this tax bill should be fashioned, and I respect their views. I must confess, however, to some amazement, when I hear some of our friends talk so disparagingly about our proposal to put $400 a year for the next 2 years into the pockets of middle-income Americans.

I do not know where you live, and I do not know who you represent, but I have got to tell you: To the people of St. Louis, MO, $800 is lot of money. To the elitists, to the editorial writers, and evidently, to the President and his allies, $800 in the pockets of middle-class people isn't much. To them, I can only say: You are out of touch, it is time to get real.

I've got people in my district who work hard, who play by the rules, who fear for their jobs, who wonder how they are going to educate their kids or pay for health care, who would deeply appreciate a tax cut during these hard economic times.

To my people, many of whom are the casualties of the class war waged against them by the Republican policies of the 1980's, an $800 tax cut sounds right, and raising taxes on the rich to pay for it makes sense.

This core idea of fairness, this belief in the aspirations and the opportunities of the middleclass, is at the heart of the Democratic alternative written by Chairman ROSTENKOWSKI and his colleagues on Ways and Means.

By contrast, the Michel-Archer substitute would take us down the well-worn path of bigger deficits and bigger tax cuts for the rich and greater decline for America.

The Republican proposal does not help with education or health care, does not help people who use mass transit, and does not target help to venture capital or small business.

The President's proposal for middle-income tax relief was dropped from Air Force One somewhere between Andrews Air Force Base and New Hampshire. And the only growth this bill will create is the one kind of growth mastered by the Reagan and Bush administrations—growth in the deficit and growth in the incomes of people who already have it made.

The differences between the two approaches could not be more clear. As John Kennedy said: "They are the party that breaks promises, we are the party that breaks precedents."

We do not think the answer to the Republican recession is giving the rich another $12,000 tax cut. We don't think the country needs more debt.

We do not think the middle class of America is undertaxed, we say middle-income people deserve a tax break paid for by the rich. After 12 years of Republican class warfare against struggling American families, we join middle-income families in a fight for fairness, a fight for equity, and a fight for growth.

Let us fulfill our commitment to pass legislation aimed at ending this recession and providing action for the people who sent us here.

Mr. Chairman, I urge Members to vote for the Democratic alternative when the vote comes.

Mr. ARCHER. Mr. Chairman, I yield the remainder of my time, 6 minutes, to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, there they go again—raising taxes. The simple facts are that the Democrat bill provides very small temporary relief for some in exchange for large permanent tax increases for others—what a deal. The sponsors of this bill call it a tax relief measure. If that's the case, they must spell relief "m-o-r-e t-a-x-e-s." I do not know about you, but that is not how I spell it.

Yes, Mr. Chairman, there they go again.

Rarely are the differences between the two parties so clear as they are today.

Yes, Mr. Chairman, there they go again, misleading the American people.

They claim that it gives a significant tax break to middle-income Americans, and yet that tax break amounts to a cup of coffee a day. They say it will stimulate the economy, and yet not a single legitimate economist can be found who says it will.

There they go again—raising taxes.

Yes, Mr. Chairman—there they go again—breaking promises. It was less than 6 years ago that this body passed the Tax Reform Act of 1986 which promised the American people lower tax rates. And now, many of the chief sponsors of that legislation propose to break that promise and increase the number of tax brackets from two to four and the top tax rate to 35 percent. On top of that they eliminate exemption for many American families—which means an effective rate of 40 percent. And then for those they call the wealthy, an additional surtax of 10 percent.

Mr. Chairman. There is a much loved gentleman in my State of California who served as the 40th President of the United States. If he were engaging in this debate today, I think I know what he would say. "There they go again."

What an appropriate description of the Democrats' tax proposal.

There they go again—breaking promises.

There they go again—misleading the American people.

In short, the Republican growth package is aimed at making the economy grow while the only thing that will grow under the Democrats' bill are taxes.

Republicans offer Americans the opportunity to buy their first home and put the construction industry back to work. Democrats offer a free cup of coffee per day.

Republicans offer permanent tax reductions; the Democrats offer temporary relief coupled with permanent tax increases.

Republicans offer a maximum tax rate of 28 percent. Democrats propose to move tax rates beyond 40 percent.

Mr. Chairman, I yield back the balance of my time.

Mrs. KENNELLY. Mr. Chairman, I yield the remainder of my time to the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, I want to remind my colleagues why H.R. 4210, the President's original tax proposals should be opposed.

Let us start with the deficit. The President's proposals increase the deficit by $49 billion through 1997. They continue the legacy of the Reagan administration by passing on billions of dollars of debt to our children and grandchildren.

Second, the President's tax package contains many proposals that are opposed, not only by Democrats, but by Republican Members of the President's own party. Particularly objectionable, is the Medicare payroll tax that the President proposes to impose on 2 million State and local workers who were grandfathered from the tax in 1986. This provision has consistently been rejected on a bipartisan basis by the Ways and Means Committee on the four occasions that the President has proposed it.

My third objection is that the President's proposal does not permanently extend various expiring tax provisions such as the low-income housing credit, the targeted jobs credit, mortgage revenue bonds, and other beneficial programs.

My fourth objection is that the President's package does not ask the wealthy to pay their fair share. Millionaires who would receive the benefit of the capital gains relief under the President's proposal are not asked to pay one red cent for that relief.

Instead, middle-class taxpayers—and generations of Americans to come—would ultimately have to finance these additional tax breaks for the wealthy because we would have to borrow the wealthy's tax cut from foreign investors.

My colleagues, the President has issued a challenge to us—to pass an economic recovery plan by March 20. We will meet the President's challenge—not because of his demand—but because of the pain and economic hardship middle-class Americans are experiencing across the country. The only issue to decide today is which plan is best for middle-class Americans and for the country.

Tomorrow this House will consider two alternatives to the President's original tax program—one, a third version of the President's original tax program, and a substitute crafted by Democratic Members of the House.

However, we must first vote on H.R. 4210, the President's original tax proposals. This bill is fatally flawed, and should be overwhelmingly rejected by Members on both sides of the aisle.

Mr. ANNUNZIO. Mr. Chairman, I rise today to oppose H.R. 4210, the administration's fiscal 1993 budget proposal, which contains a provision to repeal the tax exemption for credit unions.

Once again, the administration has proposed financing the Government on the backs of the middle class, while giving the upper class tax breaks. H.R. 4210 would punish a healthy industry set up for the benefit of lower and middle-income Americans.

While reducing the tax on capital gains income and repealing the tax on the purchase of luxury items such as boats and airplanes, proposals that would disproportionately benefit wealthy Americans, President Bush wants to tax credit unions with assets over $50 million, a tax that affects the lower and middle class Americans who make up the vast majority of credit union members.

WHY CREDIT UNIONS ARE TAX-FREE

In 1937, Congress granted credit unions an exemption from Federal income taxes to enable credit unions to provide financial services to those who were at a disadvantage in obtaining these services elsewhere. Credit unions are an alternative to the "for profit" banking system, since they are owned and run by their members.

Congress did not make the exemption contingent on the credit union's size, the relative affluence of its members, or on the classification of its field of membership. It was granted on the basis of its member ownership and control. That was the right decision then, and it is the right decision now.

ROLE OF CREDIT UNIONS IN OUR ECONOMY

President Bush claims that repealing credit union's tax free status is necessary to put banks and thrifts on an equal tax footing with credit unions.

But credit unions are different animals from banks and savings associations.

Credit unions are not-for-profit organizations with only one purpose: providing services and credit to their members, who are individuals with a common bond such as employer or profession.

They are democratically-based organizations with each member having a vote on the structure and operation of their credit union.

Credit unions have been so successful that they are being exported to Eastern Europe and Third World countries as an example of democracy in action and sound economic organizations.

Credit unions give people who might otherwise go without financial assistance a place to save and borrow. Just as importantly, credit unions are a place of education where members may receive the financial counselling necessary for them to take advantage of opportunities to change their situation for the better.

MEMBERSHIP OF CREDIT UNIONS

There are 14,300 credit unions in the Nation, with a combined total membership of 61.6 million members and combined assets of $235 billion. President Bush's proposal would affect almost 1,000 credit unions, with 32 million members—half of this Nation's credit union members. These credit unions hold over half of credit unions assets—$147 billion.

Among the credit unions that would be taxed are 135 Federal, State, and municipal employee credit unions, 137 of the 250 military credit unions, employees of 191 of this Nation's largest manufacturing companies, and 120 education-related credit unions.

It is fair to say that the members of these credit unions, firefighters and police officers, teachers and machine operators, soldiers and sailors, are members of the middle class.

They are people who work hard for their money. They use their credit unions for simple financial management—savings accounts, checking accounts, care and education loans, mortgage loans—and look to their credit union as a place where they can get answers to their questions about how to buy a house, or the best way to save for retirement. They do not use their credit unions for high stakes, complicated investment opportunities.

Credit unions are not in that business. They are in the business of helping those people with just enough money to live on, or those trying to save for retirement or a home, not those people with the financial resources to "play" with their money in the form of risky real estate opportunities or business ventures.

Yet this administration proposes a tax of almost $1 billion over the next 5 years on these people.

TAX NOT NECESSARY

Credit unions have prospered through adhering to the philosophy of "not for profit, but for service." The credit union industry has constantly proven to be successful in maintaining high capital levels and low losses.

Taxing credit unions is unnecessary and punitive for an industry that has done an outstanding job of serving its members and protecting against any taxpayer bailout of any federally insured credit unions. The National Credit Union Share Insurance Fund is the only Federal deposit insurance fund that has not required a Federal bailout. It is fully capitalized by credit unions.

We should not punish credit unions for being successful in order to help an ailing banking and savings association industry that is responsible for much of its own problems.

If bankers want to play on a level playing field, why don't they change their modus operandi? Have them pay off all their stock holders; give each depositor one vote in the governing of the bank; don't pay directors any fees; limit the sources of funds to its depositors. I doubt that bankers would want to adhere to these restrictions.

President Bush has once again retreated from his "no new taxes" pledge. And remember, a tax on credit unions is just another disguised tax on the middle class. Because credit unions are not for profit, their members will take the hit for this tax in the form of higher borrowing costs, higher fees for services, and lower interest rates. Members of credit unions—the middle class—should not have to bear such costs.

There have been many proposals to tax credit unions in the past. Each one of them has been soundly rejected by Congress. Taxing credit unions is not fair and not necessary. Congress has recognized that for over half a century.

CONCLUSION

I have been a staunch supporter of credit unions ever since I came to Congress over 28 years ago. Credit unions were established to assist the little people. They have done an excellent job in accomplishing this for almost a century and they continue to do an excellent job for their members.

Why should we punish such successful credit unions by changing the framework under which they operate by taxing them?

The same reasons for granting them tax free status in 1937 exists today. Taxing those credit unions with assets over $50 million would only be a beginning. It would be a slippery slope, and before we know it, all credit unions would be taxed.

I urge my colleagues to reject any tax on credit unions, and vote against H.R. 4210.

Mr. GREEN of New York. Mr. Chairman, last December a panel of economists from across the ideological spectrum testified before the Ways and Means Committee on how various tax and economic growth proposals would impact on our Nation's recessionary economy. There was almost universal consensus that whatever Congress does it should not increase the Federal budget deficit. The economists also noted that income transfers from one group to another will not stimulate the economy and create vital jobs.

Today, Chairman ROSTENKOWSKI will present Members with a tax proposal that despite $77 billion in permanent tax increases defies the concerns of leading economists by adding $30 billion to the budget deficit over the next 3 years. This is one Member who simply refuses to ignore the importance of restraining and reversing our $400 billion budget deficit. I owe it to my constituents to save my vote for a bill that helps to stimulate the economy and holds down the deficit. Therefore, I rise to express my strong opposition to H.R. 4287, the Rostenkowski tax alternative.

Due to conflicting revenue estimates, I must also vote against the Republican seven point tax plan. While Treasury points to a $9.2 billion surplus if the proposal is enacted, the Joint Committee on Taxation believes that the plan would add $13 billion to the budget deficit. Simply put, we cannot afford any further increase in the budget deficit.

While reducing our budget deficit remains a difficult and elusive goal, it is essential if we are serious about encouraging sustained long-term economic growth. It is widely accepted that any increase in the deficit risks driving up interest rates in the credit markets, thus undoing any efforts to prod our economy out of its current recessionary state. Higher interest rates will hurt families trying to buy a home, or for a business deciding whether to make an investment.

Since the Rostenkowski tax proposal costs $30 billion over the next 3 years, unless an "emergency" is invoked or the 1990 budget enforcement agreement is amended all mandatory spending would be subject to a $30 billion sequester after Congress adjourns this fall. This would require automatic cuts in Medicare, guaranteed student loans, Head Start, social service block grants, certain unemployment program costs, the crime victims fund and other critical entitlement programs.

Preventing a sequester by declaring an "emergency" would force an increase in Federal borrowing by $30 billion between now and 1994. If Congress agrees to exempt the spending from the budget I fear that we start on a slippery slope that will set a precedent for further exemptions down the road. Plainly, the more Congress exempts the larger the deficit grows.

In addition to the importance of making deficit reduction the first priority of any viable economic policy, we must ask ourselves whether a temporary tax cut will have a stimulative effect on our recessionary economy. The Joint Tax Committee has estimated that the 54 cents a day temporary middle class tax cut contained in the Rostenkowski bill will cost $46 billion.

Economists have testified that this meager tax cut will not prompt people to spend in the current economic climate, let alone stimulate the economy. Herbert Stein, a senior fellow with the American Enterprise Institute testified:

> * * * tax cuts would interfere with achievement of the most important long-run national objectives, such as reducing poverty, improving education and controlling crime.

Isabel Sawhill with the Urban Institute stated:

> Middle-class tax relief treats the symptoms rather than the underlying causes of the stagnation of living standards * * * no one should be under any illusion that a temporary tax cut is going to have a significant macroeconomic impact on the economy.

Even the Director of the Congressional Budget Office, Robert D. Reischauer, noted:

> Any (legislative) actions that are taken to respond to the economy's cyclical weakness are likely to compromise the Nation's long-run economic goals to some degree.

The Rostenkowski amendment also proposes raising taxes on individuals with taxable income over $85,000 and couples above $145,000. Again, income transfers from one group to another will not stimulate the economy. Only long-term economic growth will increase the standard of living and create vital jobs.

Many individuals and families in New York City, which is one of the highest cost-of-living areas in the Nation, would be adversely affected by the Rostenkowski tax increase proposal. For example, the Veterans Affairs Director of Dietetic Services married to the mid-level civil servant trying to put their child through college would see their taxes increase considerably. Are they the "filthy rich" couple that should be targeted by the Democrats' class warfare? Moreover, would it not be better to use any new tax revenue for deficit reduction, which will help ensure and sustain long-term economic growth?

Furthermore, increasing the top individual tax rate as the Rostenkowski amendment proposes will hurt many of America's small businesses, which are unincorporated and file as individuals. Aftertax earnings are the main source of job-creating capital for small business owners. Therefore, such a tax increase will only hinder economic growth by leading to greater job displacement and higher unemployment.

I also fear that today's temporary tax cut may lead us down a dangerous path. After all, will the Congress summon the political courage to let the $46 billion temporary tax cut expire as planned after 1993? According to Treasury Secretary Brady, if the tax cut were extended for an additional 3 years it would cost $125 billion. Thus, Congress would have to raise taxes again. Will the Democrats then delve into the pockets of middle class Americans and raise taxes on individuals with taxable income of $37,000 and couples making $72,000 to offset the cost?

It is most unfortunate that many in Congress seem intent on moving ahead with politically popular initiatives that economists have signalled will not help the recessionary economy to recover and could eventually damage the prospects for sustained long-term economic growth. I see nothing in the Rostenkowski tax proposal that will create jobs or stimulate our economy in the short-term, let alone sustain long-term economic growth. Any growth proposal that fails to make deficit reduction a priority of economic policy, fails to address economic reality.

I urge my colleagues to vote against the Rostenkowski tax alternative and any other plan that will increase our $400 billion budget deficit. After all, it is only through sustained long-term economic growth that our Government can increase the standard of living and create vital jobs for all Americans.

Mr. KLECZKA. Mr. Chairman, today the House meets at a critical time to consider an economic recovery package to put our stalled economy back on track.

We have a choice of proposals to consider: The President's original growth and tax plan, his revised seven point plan offered as the Republican substitute, and the Democratic substitute package.

While the President's original plan, which he unveiled in the State of the Union Address, promised tax relief to the middle class, his revised priority plan drops middle-income tax relief. Only the Democratic substitute follows through with tax relief for most middle-income workers and families, and provides effective incentives for investment in small businesses, job creation, and education.

The Democratic plan, which has my support, provides a 2-year, 20-percent income tax credit for Social Security payroll taxes paid by workers, up to a maximum of $200 per worker or $400 per couple. Ninety million households would be eligible for this relief.

The Democrats' plan encourages investment in small firms and job creation, as small businesses account for two-thirds of newly created jobs. Under the proposal, small firms will receive a tax incentive for new property they place in service in 1992 and 1993, and an investment tax allowance for new equipment. In addition, for small startup firms seeking crucial financing, the plan provides investors a targeted 50-percent exclusion of gain on venture capital small business stock held 5 years.

For individuals investing in their education, the Democratic substitute makes permanent the tax credit for employer-provided education assistance, allows a tax credit for student loan interest, and penalty free individual retirement account [IRA] withdrawals for education expenses.

I am also pleased that a provision similar to my First-Time Homebuyers Act, allowing a penalty free IRA withdrawal of up to $10,000 for a downpayment on a first home, was included in the recovery package.

While the Democratic plan does not include the President's capital gains tax cut, which primarily benefits the wealthy, it does have capital gains provisions. Capital gains would be indexed so the value lost to inflation would not be taxed. Also indexed would be the one-time, $125,000 exclusion of capital gain for those over age 55 who sell their home. The age requirement would be removed for disabled taxpayers.

The Democratic substitute, unlike the President's and Republicans' plans, returns fairness to the tax system and pays for the investment incentives it provides. It includes a new 35-percent tax bracket for upper income earners, which affects couples earning over $185,000 and individuals earning over $105,000. It also adds a millionaire surtax of 10 percent for taxable income over $1 million. In addition, businesses will only be able to deduct up to $1 million in compensation paid to their executives.

While I was disappointed the plan I support does not include savings incentives or the President's $5,000 tax credit for new home purchases, the Democratic substitute nonetheless achieves the goals of investment, tax relief, and job creation we need to move our economy forward. I urge your support for the Democratic substitute to H.R. 4210.

Mr. HERTEL. Mr. Chairman, I believe one of the provisions in this bill, H.R. 4210, is contradictory. This substitute bill repeals certain taxes, which have caused harm to many firms, and most importantly their employees. I'm glad we're redressing this mistake, especially as it applies to taxes on recreational boats. While we're correcting one mistake, we're making another. amended by adding the following at the end thereof: This substitute extends the excise tax on diesel fuel to recreational vessels. What kind of sense does it make to on one hand assist the boat builders by repealing one tax, that grieviously harmed their industry, then turn around and pass another tax that hurts the consumers of their product. This provision should have never seen the light of day. I will fight to remove this tax increase from this or any future proposal.

The CHAIRMAN. All time has expired.

The text of H.R. 4210 is as follows:

H.R. 4210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ACCELERATED GROWTH

SEC. 101. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Economic Growth Acceleration Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 SHALL NOT APPLY.—Except as otherwise expressly provided, no amendment made by this title shall be treated as a change in rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

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Subtitle A—Provisions Relating to Capital Gains

SEC. 111. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) DEDUCTION ALLOWED FOR CAPITAL GAINS.—

"(1) IN GENERAL.—If, for any taxable year, a taxpayer other than a corporation has a net capital gain, an amount equal to the sum of the applicable percentages of the applicable capital gain shall be allowed as a deduction.

"(2) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under paragraph (1) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by income beneficiaries (other than corporations) as gain derived from the sale or exchange of capital assets.

"(b) APPLICABLE PERCENTAGES.—For purposes of this subsection, the applicable percentages shall be the percentages determined in accordance with the following table:

"In the case of:	The applicable percentage is:
1-year gain	15
2-year gain	30
3-year gain	45

"(c) GAIN TO WHICH DEDUCTION APPLIES.—For purposes of this section—

"(1) APPLICABLE CAPITAL GAIN.—The term 'applicable capital gain' means 1-year gain, 2-year gain, or 3-year gain determined by taking into account only gain which is properly taken into account on or after February 1, 1992.

"(2) 3-YEAR GAIN.—The term '3-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 3 years.

"(3) 2-YEAR GAIN.—The term '2-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by 3-year gain, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 2 years but not more than 3 years.

"(4) 1-YEAR GAIN.—The term '1-year gain' means the net capital gain for the taxable year determined by taking into account only—

"(A) gain from the sale or exchange of assets held more than 1 year but not more than 2 years, and

"(B) losses from the sale or exchange of assets held more than 1 year.

"(5) SPECIAL RULES FOR GAIN ALLOCABLE TO PERIODS BEFORE 1994.—For purposes of this section—

"(A) GAIN ALLOCABLE TO PERIODS BEGINNING ON OR AFTER FEBRUARY 1, 1992 AND BEFORE 1993.—In the case of any gain from any sale or exchange which is properly taken into account for the period beginning on February 1, 1992 and ending on December 31, 1992, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 3-year gain.

"(B) GAIN ALLOCABLE TO 1993.—In the case of any gain from any sale or exchange which is properly taken into account for periods during 1993, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 2-year gain and 3-year gain, respectively.

"(6) SPECIAL RULES FOR PASS-THROUGH ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-through entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

"(B) PASS-THROUGH ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-through entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(7) RECAPTURE OF NET ORDINARY LOSS UNDER SECTION 1231.—For purposes of this subsection, if any amount is treated as ordinary income under section 1231(c) for any taxable year—

"(A) the amount so treated shall be allocated proportionately among the section 1231 gains (as defined in section 1231(a)) for such taxable year, and

"(B) the amount so allocated to any such gain shall reduce the amount of such gain."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Section 56(b)(1) is amended by adding at the end thereof the following new subparagraph:

"(F) CAPITAL GAINS DEDUCTION DISALLOWANCE.—The deduction under section 1202 shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Subparagraph (B) of section 170(e)(1) is amended by inserting "the nondeductible percentage" before "the amount of gain".

(B) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), the term 'nondeductible percentage' means 100 percent minus the applicable percentage with respect to such property under section 1202(b), or, in the case of a corporation, 100 percent."

(4)(A) Paragraph (2) of section 172(d) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 221 (as redesignated by section 224(a) of this Act) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deductions for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 (as amended by section 224(c) of this Act) is amended by striking "reference" in the item relating to section 221 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for net capital gain) shall not be taken into account."

(8) Subparagraph (C) of section 643(a)(6) is amended—

(A) by inserting "(i)" before "there", and

(B) by inserting ", and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account" before the period at the end thereof.

(9) Paragraph (4) of section 691(c) is amended by striking "1202, and 1211" and inserting "1201, 1202, and 1211".

(10) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(11) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(12)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence.

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act of 1936, is amended by striking the last sentence.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Reduction in capital gains tax for noncorporate taxpayers."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after February 1, 1992.

(2) TREATMENT OF COLLECTIBLES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after February 1, 1993.

(B) SPECIAL RULE FOR 1992 TAXABLE YEAR.—In the case of any taxable year which includes February 1, 1992, for purposes of section 1202 of the Internal Revenue Code of 1986 and section 1(g) of such Code, any gain or loss from the sale or exchange of a collectible (within the meaning of section 1222(12) of such Code) shall be treated as gain or loss from a sale or exchange occurring before such date.

SEC. 112. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect to such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1968, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) Limitation in Case of Installment Sales.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of enactment of the Economic Growth Acceleration Act of 1992)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) Conforming Amendments.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) Depreciation adjustments.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) Section 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) Recapture of reduction.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of enactment of the Economic Growth Acceleration Act of 1992)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) Special Rule for Pollution Control Facilities.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(8) Subsection (d) of section 1017 is amended to read as follows:

"(d) Recapture of Deductions.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(9) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of enactment of the Economic Growth Acceleration Act of 1992)".

(d) Effective Date.—The amendments made by this section shall apply to dispositions made on or after February 1, 1992, in taxable years ending on or after such date.

Subtitle B—Provisions Relating to Passive Losses and Depreciation

SEC. 121. PASSIVE LOSS RELIEF FOR REAL ESTATE DEVELOPERS.

(a) Treatment of Real Estate Development Activities.—Subsection (c) of section 469 (relating to the limitation on passive activity losses and credits) is amended by adding at the end the following new paragraph:

"(7) Real estate development activity.—The real estate development activity of a taxpayer shall be treated as a single trade or business activity that is not a rental activity."

(b) Definition.—Subsection (j) of section 469 is amended by adding at the end thereof the following new paragraph:

"(13) Real estate development activity.—

"(A) In general.—The real estate development activity of a taxpayer shall include all activities of the taxpayer (determined without regard to subsection (c)(7) and this paragraph) in which the taxpayer actively participates and that consist of the performance of real estate development services and the rental of any qualified real property.

"(B) Real estate development services.—For purposes of this paragraph, real estate development services include only the construction, substantial renovation, and management of real property and the lease-up and sale of real property in which the taxpayer holds an interest of not less than 10 percent.

"(C) Qualified real property.—For purposes of this paragraph, real property is qualified real property if the taxpayer materially participated in the construction or substantial renovation of such property."

(c) Effective Date.—The amendments made by this section are effective for taxable years ending on or after December 31, 1992.

SEC. 122. SPECIAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.

(a) In General.—Section 168 is amended by adding at the end thereof the following new subsection:

"(j) Special Rule for Equipment Acquired in 1992.—

"(1) Additional allowance.—There shall be allowed, in addition to the reasonable allowance provided for by section 167(a), a depreciation deduction determined under paragraph (2) with respect to qualified equipment.

"(2) Determination of additional allowance.—

"(A) In general.—The additional allowance shall equal 15 percent of the purchase price of the qualified equipment.

"(B) Purchase price.—For purposes of paragraph (A), the purchase price of qualified equipment shall equal its cost to the taxpayer. In the case of self-constructed property that is qualified equipment under paragraph (4)(D), cost is determined on the date the property is placed in service.

"(3) When additional allowance may be claimed.—The additional allowance may be claimed in the tax year in which the qualified equipment is placed in service.

"(4) Definitions and special rules.—

"(A) Qualified equipment.—For purposes of this subsection, the term 'qualified equipment' means property that—

"(i) is new property,

"(ii) is section 1245 property (within the meaning of section 1245(a)(3)),

"(iii) is—

"(I) acquired on or after February 1, 1992, but only if no binding contract for the acquisition was in effect before that date, or

"(II) acquired pursuant to a binding contract entered into on or after February 1, 1992, and before January 1, 1993,

"(iv) is placed in service before July 1, 1993, and

"(v) is not defined as disqualified property in regulations prescribed by the Secretary.

"(B) New property.—For purposes of this paragraph, property is new property if the original use of the property commences with the taxpayer and commences on or after February 1, 1992. Except as otherwise provided in regulations, repaired or reconstructed property is not new property, regardless of the extent of the repairs or reconstruction.

"(C) Acquire.—For purposes of this paragraph, a taxpayer is considered to 'acquire' property on the date the taxpayer obtains physical control or possession of the property, or on such other date as the Secretary may prescribe by regulations.

"(D) Special rule for self-constructed property.—If a taxpayer manufactures, constructs, or produces property for the taxpayer's own use, the property shall be treated as 'qualified equipment' only if—

"(i) the property meets the requirements of clauses (i), (ii), (iv), and (v) of paragraph (4)(A), and

"(ii) the taxpayer begins manufacturing, constructing, or producing the property on or after February 1, 1992, and before January 1, 1993.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(b) Basis Adjustments.—Subsection (c) of section 167 is amended by adding at the end thereof the following new sentence: "If a taxpayer claims the additional allowance provided by section 168(j) with respect to qualified equipment in a taxable year, the basis of the qualified equipment is reduced under section 1016 by the amount of the additional allowance before the depreciation deduction under paragraph (a) is determined for that taxable year."

(c) Alternative Minimum Tax.—Paragraph (1) of section 56(a) is amended—

(1) by inserting "or (iii)" after "(ii)" in subparagraph (A)(i), and

(2) by adding at the end thereof the following new clause:

"(iii) The additional allowance provided by section 168(j) for certain equipment shall apply in determining the amount of alternative minimum taxable income. The basis adjustment required for the additional allowance provided by section 168(j) shall be made before the depreciation deduction allowable in determining alternative minimum taxable income under this paragraph is determined."

(d) Cross Reference.—Subsection (e) of section 1016 is amended by adding at the end thereof the following new paragraph:

"(3) For the order in which basis adjustments should be made for depreciation in the case of property with respect to which the special additional allowance is claimed under section 168(j), see section 167(c)."

(e) EFFECTIVE DATE.—The amendments made by this section are effective February 1, 1992.

SEC. 123. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) GENERAL RULE.—Clause (i) of section 56(g)(4)(A) is amended to read as follows:

"(i) PROPERTY PLACED IN SERVICE AFTER 1989 AND PRIOR TO FEBRUARY 1, 1992.—The depreciation deduction with respect to any property placed in service—

"(I) in a taxable year beginning after 1989, and

"(II) prior to February 1, 1992,

shall be determined under the alternative system of section 168(g)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for property placed in service on or after February 1, 1992.

Subtitle C—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 131. REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) INTERESTS IN MORTGAGES.—The last sentence of subparagraph (B) of section 514(c)(9) is hereby transferred to subparagraph (A) of section 514(c)(9) and added at the end thereof.

(b) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—For purposes of section 514(c)(9)(B), except as otherwise provided by regulations, the following additional rules apply—

"(i) IN GENERAL.—

"(I) For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(II) Clause (v) of subparagraph (B) shall not apply to the extent the financing is commercially reasonable and is on substantially the same terms as loans involving unrelated persons; for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary.

"(ii) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—In the case of a qualifying sale out of foreclosure by a financial institution, clauses (i) and (ii) of subparagraph (B) shall not apply. For this purpose, a 'qualifying sale out of foreclosure by a financial institution' exists where—

"(I) a qualified organization acquires real property from a person (a 'financial institution') described in sections 581 or 591(a) (including a person in receivership) and the financial institution acquired the property pursuant to a bid at foreclosure or by operation of an agreement or of process of law after a default on indebtedness which the property secured ('foreclosure'), and the financial institution treats any income realized from the sale or exchange of the property as ordinary income,

"(II) the amount of the financing provided by the financial institution does not exceed the amount of the financial institution's outstanding indebtedness (determined without regard to accrued but unpaid interest) with respect to the property at the time of foreclosure,

"(III) the financing provided by the financial institution is commercially reasonable and is on substantially the same terms as loans between unrelated persons for sales of foreclosed property (for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary), and

"(IV) the amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property ('participation feature') does not exceed 25 percent of the principal amount of the financing provided by the financial institution, and the participation feature is payable no later than the earlier of satisfaction of the financing or disposition of the property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt-financed acquisitions of real estate made on or after February 1, 1992.

SEC. 132. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 131 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(H) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) investments in the partnership are organized into units that are marketed primarily to individuals expected to be taxed at the maximum rate prescribed for individuals under section 1,

"(II) at least 50 percent of each class of interests is owned by such individuals,

"(III) the partners that are qualified organizations owning interests in a class participate on substantially the same terms as other partners owning interests in that class, and

"(IV) the principal purpose of partnership allocations is not tax avoidance.

"(ii) EXCEPTION WHERE TAXABLE PERSONS OWN A SIGNIFICANT PERCENTAGE.—In the case of any partnership, other than a partnership to which clause (i) applies, in which persons who are expected (under the regulations to be prescribed by the Secretary), at the time the partnership is formed, to pay tax at the maximum rate prescribed in section 1 or 11 (whichever is applicable) throughout the term of the partnership own at least a 25 percent interest, the provisions of subparagraph (B) shall not apply if the partnership satisfies the requirements of subparagraph (E)."

(b) PUBLICLY TRADED PARTNERSHIPS; UNRELATED BUSINESS INCOME FROM PARTNERSHIPS.—Subsection (c) of section 512 is amended by striking paragraph (2) (relating to publicly traded partnerships), by redesignating paragraph (3) as paragraph (2), and by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

Subtitle D—Provisions Affecting Homebuyers

SEC. 141. CREDIT FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—Subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases a principal residence (within the meaning of section 1034), there shall be allowed to such individual as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the purchase price of the principal residence.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed $5,000.

"(2) LIMITATION TO ONE RESIDENCE.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return under section 6013, the credit under this section is allowable only if both the husband and wife are first-time homebuyers, and the amount specified under paragraph (1) shall apply to the joint return.

"(4) OTHER TAXPAYERS.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and the sum of the amount of credit allowed to such individuals shall not exceed the lesser of $5,000 or 10 percent of the total purchase price of the residence. The amount of any credit allowable under this section shall be apportioned among such individuals under regulations to be prescribed by the Secretary.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of any other credits allowable under this chapter.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of the acquisition thereof.

"(2) FIRST-TIME HOMEBUYER.—

"(A) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual has not had a present ownership interest in any residence (including an interest in a housing cooperative) at any time within the 36-month period ending on the date of acquisition of the residence on which the credit allowed under subsection (a) is to be claimed. An interest in a partnership, S corporation, or trust that owns an interest in a residence is not considered an interest in a residence for purposes of this paragraph except as may be provided in regulations.

"(B) CERTAIN INDIVIDUALS.—Notwithstanding subparagraph (A), an individual is not a first-time homebuyer on the date of purchase of a residence if on that date the running of any period of time specified in section 1034 is suspended under subsection (h) or (k) of section 1034 with respect to that individual.

"(3) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—No credit is allowable under this section if—

"(A) the residence is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), or

"(B) the basis of the residence in the hands of the person acquiring it is determined—

"(i) in whole or in part by reference to the adjusted basis of such residence in the hands of the person from whom it is acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(d) RECAPTURE FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (determined without regard to subsection (e)) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—The provisions of paragraph (1) do not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period to which reference is made under paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence.

"(e) PROPERTY TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—The provisions of this section apply to a principal residence if—

"(A) the taxpayer acquires the residence on or after February 1, 1992, and before January 1, 1993, or

"(B) the taxpayer enters into, on or after February 1, 1992, and before January 1, 1993, a binding contract to acquire the residence, and acquires and occupies the residence before July 1, 1993."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) EFFECTIVE DATE.—The amendments made by this section are effective on February 1, 1992.

SEC. 142. PENALTY-FREE WITHDRAWALS FOR FIRST HOME PURCHASE.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 213 of this Act, is further amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR FIRST HOME PURCHASE.—A distribution to an individual from an individual retirement plan with respect to which the requirements of paragraph (7) are met."

(b) DEFINITIONS.—Subsection (t) of section 72 is amended by adding at the end thereof the following new paragraph:

"(6) REQUIREMENTS APPLICABLE TO FIRST HOME PURCHASE DISTRIBUTION.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a distribution if—

"(i) DOLLAR LIMIT.—The amount of the distribution does not exceed the excess (if any) of—

"(I) $10,000, over

"(II) the sum of the distributions to which paragraph (2)(E) previously applied with respect to the individual who is the owner of the individual retirement plan.

"(ii) USE OF DISTRIBUTION.—The distribution—

"(I) is made to or on behalf of a qualified first home purchaser, and

"(II) is applied within 60 days of the date of distribution to the purchase or construction of a principal residence of such purchaser.

"(iii) ELIGIBLE PLANS.—The distribution is not made from an individual retirement plan which—

"(I) is an inherited individual retirement plan (within the meaning of section 408(d)(3)(C)(ii)), or

"(II) any part of the contributions to which were excludable from income under section 402(c), 402(a)(7), 403(a)(4), or 403(b)(8).

"(B) QUALIFIED FIRST HOME PURCHASER.—For purposes of this paragraph, the term 'qualified first home purchaser' means the individual who is the owner of the individual retirement plan, but only if—

"(i) such individual (and, if married, such individual's spouse) had no present ownership interest in a residence at any time within the 36-month period ending on the date for which the distribution is applied pursuant to subparagraph (A)(ii), and

"(ii) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from an individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(D) PRINCIPAL RESIDENCE.—For purposes of this paragraph, the term 'principal residence' has the meaning given such term by section 1034.

"(E) OWNER.—For purposes of this paragraph, the term 'owner' means, with respect to any individual retirement plan, the individual with respect to whom such plan was established."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after February 1, 1992.

TITLE II—TAX RELIEF FOR FAMILIES

SEC. 201. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Tax Relief for Families Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 SHALL NOT APPLY.—Except as otherwise expressly provided, no amendment made by this title shall be treated as a change in rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

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Sec. 225. Public transit fringe benefit exclusion.

Subtitle A—Provisions Relating to Education and Savings

SEC. 211. DEDUCTION FOR INTEREST ON CERTAIN EDUCATIONAL LOANS.

(a) IN GENERAL.—Paragraph (2) of section 163(h) is amended by striking "and" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any qualified educational interest (within the meaning of paragraph (5)), and".

(b) QUALIFIED EDUCATIONAL INTEREST DEFINED.—Subsection (h) of section 163 is amended by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) For purposes of this subsection—

"(A) QUALIFIED EDUCATIONAL INTEREST.—The term "qualified educational interest" means interest which is paid during the taxable year on qualified educational indebtedness.

"(B) QUALIFIED EDUCATIONAL INDEBTEDNESS.—The term "qualified educational indebtedness" means any loan—

"(i) which is provided—

"(I) pursuant to a Federal, State, or State-based guarantee program or insurance program,

"(II) by an organization described in section 501(c)(3) and exempt from tax under section 501(a),

"(III) by a financial institution under a supplemental education program which requires that payments be made to the educational institution referred to in subparagraph (C)(i), or

"(IV) by an institution that is an eligible educational institution (defined in subparagraph (E)) on the date the loan is provided, and

"(ii) which is incurred to pay qualified educational expenses which are paid or incurred at a time that is reasonably contemporaneous (as defined in regulations prescribed by the Secretary) with the time the loan proceeds are received.

"(C) QUALIFIED EDUCATIONAL EXPENSES.—

"(i) IN GENERAL.—The term 'qualified educational expenses' means qualified tuition and related expenses of the taxpayer, the taxpayer's spouse or child (as defined in section 151(c)(3)) for attendance at an institution that is an eligible educational institution (as defined in subparagraph (E)) at the time of attendance, provided that the person in attendance at such institution is a qualified individual.

"(ii) QUALIFIED TUITION AND RELATED EXPENSES.—The term 'qualified tuition and related expenses' has the meaning given such term by section 117(b), except that such term shall include any reasonable living expenses of the qualified individual while living away from home and attending the educational institution referred to in clause (i).

"(iii) EXCLUSION OF REIMBURSED EXPENSES.—If the taxpayer, or the taxpayer's spouse or child, is reimbursed for tuition or a related expense by someone other than the taxpayer or the taxpayer's spouse or child, the tuition or related expense shall not be 'qualified tuition and related expenses' to the extent of the reimbursement.

"(iv) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified tuition and related expenses for any taxable year shall be reduced by any amount excludable from gross income for that year under section 135.

"(D) QUALIFIED INDIVIDUAL.—An individual is a 'qualified individual' if the individual—

"(i) is either—

"(I) a high school graduate, or

"(II) over 18 years of age, and

"(ii) is enrolled in a course of study—

"(I) leading to a degree or certificate, or

"(II) related to existing or future full-time employment.

"(E) ELIGIBLE EDUCATIONAL INSTITUTION.—An institution is an 'eligible educational institution' if it is described in section 481(a) of the Higher Education Act of 1965 and is eligible to participate in programs under title IV of such Act.

"(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations—

"(i) precluding treatment of artificial loan arrangements as qualified educational indebtedness,

"(ii) specifying reasonable repayment terms for qualified educational indebtedness, and

"(iii) providing rules for the application of this paragraph to loans incurred before February 1, 1992."

(c) COORDINATION WITH QUALIFIED RESIDENCE INTEREST PROVISION.—

(1) LIMITATION.—Clause (ii) of section 163(h)(3)(C) is amended—

(i) by striking "(ii) LIMITATION.—The" and inserting the following:

"(ii) LIMITATIONS.—"

"(I) The",

(ii) by moving the text of such clause 2 ems to the right, and

(iii) by adding at the end thereof the following new subclause:

"(II) Except as provided in clause (iii), the aggregate amount treated as home equity indebtedness for any period (after the application of subclause (I)) shall be reduced by any amount treated by the taxpayer as qualified educational indebtedness under subsection (h)(5)."

(2) ELECTION.—Subparagraph (C) of section 163(h)(3) is amended by adding at the end thereof the following new clause:

"(iii) If the taxpayer elects not to treat otherwise qualified educational indebtedness as qualified educational indebtedness, the reduction required by subparagraph (C)(ii)(II) shall not apply for that taxable year."

(d) EXCLUSION FROM DEFINITION OF INVESTMENT INTEREST.—Subparagraph (B) of section 163(d)(3) (defining investment interest) is amended by striking "or" at the end of clause (i), striking the period at the end of clause (ii) and inserting ", or", and inserting after clause (ii) the following new clause:

"(iii) any qualified educational interest (as defined in subsection (h)(5))."

(e) INFORMATION REPORTING.—

(1) REPORTING REQUIREMENT.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new section:

"SEC. 6050O. RETURNS RELATING TO EDUCATIONAL INTEREST.

"(a) EDUCATIONAL INTEREST OF $10 OR MORE.—Any person who receives from any individual interest aggregating $10 or more for any calendar year on an educational loan described in section 163(h)(5)(B) shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name and address of the individual from whom the interest described in subsection (a) was received,

"(B) the amount of such interest received for the calendar year, and

"(C) such other information as the Secretary may prescribe.

"(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(2) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following:

"Sec. 6050O. Returns regarding educational interest."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to interest paid on or after July 1, 1992.

SEC. 212. FLEXIBLE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subchapter B of chapter 1 (relating to computation of taxable income) is amended by adding at the end thereof the following new part:

"PART XII—FLEXIBLE INDIVIDUAL RETIREMENT ACCOUNTS

"Sec. 292. Special rules for flexible individual retirement accounts.

"SEC. 292. SPECIAL RULES FOR FLEXIBLE INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) GENERAL RULE.—For purposes of this title, in the case of a flexible individual retirement account—

"(1) the taxation of such account shall be determined under subsection (d), and

"(2) the taxation of any distributions from such account shall be determined under subsection (e).

"(b) FLEXIBLE INDIVIDUAL RETIREMENT ACCOUNT DEFINED.—For purposes of this section, the term 'flexible individual retirement account' means a trust created or organized in the United States for the exclusive benefit of an individual and the individual's beneficiaries, but only if the written governing instrument creating the trust meets the following requirements:

"(1) No contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year on behalf of any individual in excess of $2,500.

"(2) The trustee is a bank (as defined in section 408(n)) or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

"(3) No part of the trust assets will be invested in insurance contracts or collectibles (within the meaning of section 408(m)).

"(4) The interest of the individual in the balance in such individual's account is nonforfeitable.

"(5) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(c) CONTRIBUTIONS TO FLEXIBLE INDIVIDUAL RETIREMENT ACCOUNTS.—

"(1) FORM OF CONTRIBUTION.—No amount may be contributed to a flexible individual retirement account unless such amount is paid in cash by or on behalf of the individual for whom such account is maintained.

"(2) CONTRIBUTION LIMITS.—

"(A) IN GENERAL.—Except as provided in this subsection, the aggregate amount of contributions for any taxable year to all flexible individual retirement accounts maintained for the benefit of an individual shall not exceed the lesser of—

"(i) $2,500, or

"(ii) an amount equal to the compensation includible in the individual's gross income for such taxable year.

"(B) MARRIED INDIVIDUALS FILING JOINT RETURNS.—For purposes of subparagraph (A)(ii), in the case of married individuals filing a joint return under section 6013 for the taxable year, the compensation of each of such individuals for such taxable year shall be treated as equal to one-half of the aggregate compensation of both individuals.

"(C) COMPENSATION.—For purposes of this paragraph, the term 'compensation' has the meaning given such term by section 219(f)(1).

"(3) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—No contribution may be made during a taxable year to a flexible individual retirement account maintained for the benefit of the taxpayer if the taxpayer's adjusted gross income exceeds the applicable dollar amount.

"(B) APPLICABLE DOLLAR AMOUNT.—For purposes of this paragraph, the term 'applicable dollar amount' means—

"(i) in the case of a taxpayer filing a joint return, $120,000,

"(ii) in the case of a taxpayer who is a surviving spouse (as defined in section 2(a)) or who is a head of a household (as defined in section 2(b)), $100,000, or

"(iii) in the case of any other taxpayer, $60,000.

"(C) SPECIAL RULE FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual filing a separate return whose adjusted gross income does not exceed the applicable dollar limit, such individual's adjusted gross income shall be treated as exceeding such limit if the aggregate adjusted gross income of such individual and the individual's spouse exceeds $120,000.

"(D) MARITAL STATUS.—Subparagraph (C) shall not apply to any individual who is not treated as married under the rules of section 219(g)(4).

"(E) ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'adjusted gross income' has the meaning given such term by section 219(g)(3)(A).

"(4) NO CONTRIBUTION IN CASE OF DEPENDENTS.—No contribution may be made during a taxable year to a flexible individual retirement account maintained for the benefit of an individual with respect to whom a deduction under section 151(c) is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins.

"(5) TRANSFERS PERMITTED.—

"(A) IN GENERAL.—In the case of a transfer by a trustee of a flexible individual retirement account maintained for the benefit of an individual to a trustee of another flexible individual retirement account maintained for the benefit of such individual, such transfer shall not be treated as a contribution for purposes of this section.

"(B) INFORMATION PROVIDED.—A trustee making a transfer described in subparagraph (A) shall provide to the other trustee such information as the Secretary requires to carry out the purposes of this section.

"(d) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a flexible individual retirement account is exempt from taxation under this subtitle.

"(2) UNRELATED BUSINESS INCOME.—A flexible individual retirement account shall be subject to the tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(3) POOLING ARRANGEMENTS PERMITTED.—A common trust fund or common investment fund consisting of flexible individual retirement accounts assets which is exempt from taxation under this subtitle shall not be treated as failing to be exempt from taxation under this subtitle solely by reason of the participation or inclusion in such fund of assets of—

"(A) a trust exempt from taxation under section 501(a) which is part of a plan described in section 401(a), or

"(B) an individual retirement plan exempt from taxation under section 408(e)(1).

"(4) CESSATION OF TREATMENT AS ACCOUNT.—

"(A) IN GENERAL.—If during any taxable year of an individual for whom a flexible individual retirement account is maintained the requirements of subsection (b) are not met with respect to such account, the account shall cease to be a flexible individual retirement account as of the first day of such taxable year.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a flexible individual retirement account by reason of subparagraph (A) on the first day of any taxable year, subsection (e) shall apply as if there were a distribution immediately before the account ceased to be a flexible individual retirement account in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(e) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of a flexible individual retirement account shall not be included in the gross income of the distributee.

"(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 7 YEARS.—

"(A) IN GENERAL.—Any amount distributed out of a flexible individual retirement account which consists of earnings allocable to contributions made to the account during the 7-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) 10-PERCENT ADDITIONAL TAX ON EARNINGS ON CONTRIBUTIONS HELD LESS THAN 3 YEARS.—

"(i) IN GENERAL.—If any amount described in subparagraph (A) consists of earnings allocable to contributions made during the 3-year period ending on the day before the distribution, the tax imposed by this chapter on the distributee for the taxable year in which such distribution occurs shall be increased by an amount equal to 10 percent of such earnings.

"(ii) EXCEPTION FOR DISTRIBUTIONS ON DEATH.—Clause (i) shall not apply to distributions made to a beneficiary (or the estate of the individual) on the death of the individual.

"(C) ORDERING RULE.—

"(i) FIRST-IN, FIRST-OUT RULE.—Distributions from a flexible individual retirement account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) CONTRIBUTIONS IN THE SAME YEAR.—Under regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

"(3) OTHER AMOUNTS TREATED AS DISTRIBUTIONS.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of any distributable event—

"(i) there shall be treated as distributed during the taxable year in which the event occurs to the individual for whom the flexible individual retirement account is maintained an amount equal to the distributable amount, and

"(ii) any earnings after the date of the distributable event which (as determined under regulations) are allocable to the distributable amount shall be treated as distributed to such individual in the taxable year in which earned.

"(B) TAX TREATMENT OF AMOUNTS.—

"(i) IN GENERAL.—Except as provided in this subparagraph, paragraph (2) shall apply to any amount treated as distributed under subparagraph (A).

"(ii) SUBSEQUENT EARNINGS.—Notwithstanding paragraph (2), any earnings treated as distributed under subparagraph (A)(ii)—

"(I) shall be included in gross income in the taxable year in which treated as distributed, and

"(II) shall be subject to the additional tax under paragraph (2)(B) for such taxable year, except that paragraph (2)(B) shall be applied by substituting '20 percent' for '10 percent'.

"(iii) EXCEPTION FOR EXCESS CONTRIBUTIONS.—In the case of a distributable event described in subparagraph (C)(ii) (relating to excess contributions) which occurs by reason of a contribution not permitted under subsection (c)(4), any amount required to be included in gross income (or any additional tax imposed) by reason of this paragraph shall be included in the gross income of (or imposed on) the taxpayer entitled to the deduction under section 151(c) for the individual for whom the account is maintained.

"(iv) ACTUAL DISTRIBUTIONS.—If any portion of any distributable amount and any earnings allocable to such amount are actually distributed from the account during any taxable year, this paragraph shall cease to apply to any earnings attributable to such portion for periods following such distribution.

"(C) DISTRIBUTABLE EVENT.—For purposes of this paragraph, the following are distributable events:

"(i) The use of a flexible individual retirement account (or any portion thereof) as security for a loan.

"(ii) Except as provided in paragraph (4), a contribution to a flexible individual retirement account in excess of the amount allowed under subsection (c).

"(iii) Any other event to the extent, and subject to such terms and conditions, as the Secretary may prescribe by regulations in order to accomplish the purposes of, or to prevent abuse of, this section.

"(D) DISTRIBUTABLE AMOUNT.—For purposes of this paragraph, the term 'distributable amount' means the following:

"(i) In the case of a distributable event described in subparagraph (C)(i), the amount in the account used as security for a loan.

"(ii) In the case of a distributable event described in subparagraph (C)(ii), the amount of the excess contribution.

"(iii) In any other case, the amount determined under regulations.

"(4) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to the distribution of any contribution paid during a taxable year to a flexible individual retirement account to the extent that such contribution exceeds the amount allowable under subsection (c) by reason of paragraph (3) or (4) thereof if—

"(i) at the time of making such contribution, the taxpayer in good faith believed that—

"(I) in any case to which subsection (c)(3) applies, the taxpayer's adjusted gross income would not exceed the applicable dollar limit under subsection (c)(3), or

"(II) in any case to which subsection (c)(4) applies, the individual for whom the account is maintained would not be the dependent of any individual for purposes of section 151(c),

"(ii) such distribution is received on or before the last day of the taxable year following such taxable year, and

"(iii) such distribution is accompanied by the amount of earnings actually attributable to such excess contribution.

"(B) LIMITATION ON AMOUNT.—Subparagraph (A) shall apply only to that portion of the amount of the distributions which does not exceed the limitation under subsection (c)(2) (and earnings actually attributable to such portion).

"(C) EARNINGS.—Any earnings described in subparagraph (A)(iii) shall be included in the gross income of the individual for whom the account is established (or in the case described in subclause (II) of subparagraph (A)(i), the taxpayer entitled to the deduction under section 151(c)) for the taxable year in which it is received.

"(5) TRANSFERS.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is a transfer to which subsection (c)(5) applies.

"(B) CONTRIBUTION PERIOD FOR AMOUNTS TRANSFERRED.—For purposes of paragraph (2), the flexible individual retirement account to which any amounts are transferred in a transfer to which subsection (c)(5) applies shall be treated as having held such amounts during any period such amounts were held (or treated as held under this subparagraph) by the account from which transferred.

"(6) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—Rules similar to the rules of section 408(d)(6) shall apply to a flexible individual retirement account.

"(f) OTHER RULES.—

"(1) DISALLOWANCE OF LOSSES.—No loss shall be allowed in connection with a contribution to, or distribution from, a flexible individual retirement account.

"(2) DISTRIBUTION INCLUDES PAYMENT.—For purposes of this section, the term 'distribution' includes any payment, and the term 'distributee' includes any payee.

"(3) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(4) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if—

"(A) The assets of such account are held by a bank (as defined in section 408(n)) or such other person who demonstrates, to the satisfaction of the Secretary, that the manner in which such other person will administer the account will be consistent with the requirements of this section, and

"(B) the custodial account would, except for the fact that it is not a trust, constitute a flexible individual retirement account described in subsection (b).

For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(g) REPORTS.—The trustee of a flexible individual retirement account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions (and the years to which such contributions relate), distributions and such other matters as the Secretary may require under regulations. Such reports shall be filed with the Secretary and furnish to such individuals at such time and in such manner as the Secretary may prescribe.

"(h) CERTAIN TRANSFERS FROM INDIVIDUAL RETIREMENT PLANS.—

"(1) QUALIFIED TRANSFERS NOT TREATED AS CONTRIBUTIONS.—A qualified transfer from an individual retirement plan to a flexible individual retirement account shall not be treated as a contribution for purposes of this section.

"(2) TAX TREATMENT OF AMOUNTS TRANSFERRED.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer—

"(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) TIME FOR INCLUSION.—Any amount includible in gross income under subparagraph (A) with respect to the amount transferred shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(3) QUALIFIED TRANSFER.—For purposes of this section, the term 'qualified transfer' means a transfer to a flexible individual retirement account that—

"(A) is made from an individual retirement plan out of amounts that are not attributable to contributions that were excludable from income under section 402(a)(5), 402(a)(7), 403(a)(4), or 403(b)(8),

"(B) is made to a flexible individual retirement account contributions to which are not prohibited under paragraph (3) or (4) of subsection (c),

"(C) meets the requirements of section 408(d)(3), and

"(D) is made between February 1, 1992 and December 31, 1992.

"(i) CROSS REFERENCE.—

"For taxes on prohibited transactions involving a flexible individual retirement account, see section 4975."

(b) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 (relating to prohibited transactions) is amended—

(1) by inserting ", or a flexible individual retirement account described in section 292(b)" after "described in section 408(b)" in subsection (e)(1), and

(2) by adding at the end of subsection (h) the following new sentence: "This subsection shall not apply to any tax imposed with respect to a flexible individual retirement account (as defined in section 292(b))."

(c) FAILURE TO PROVIDE REPORTS ON FLEXIBLE INDIVIDUAL RETIREMENT ACCOUNTS.—Section 6693 (relating to a failure to provide reports on individual retirement accounts or annuities) is amended—

(1) by inserting **"OR ON FLEXIBLE INDIVIDUAL RETIREMENT ACCOUNTS"** after **"ANNUITIES"** in the heading of such section, and

(2) by adding at the end of subsection (a) the following new sentence: "The person required by section 292(g) to file a report regarding a flexible individual retirement account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause."

(d) COMMON FUNDS.—Section 408(e)(6) is amended to read as follows:

"(6) COMMINGLING INDIVIDUAL RETIREMENT ACCOUNT AMOUNTS IN CERTAIN COMMON TRUST FUNDS AND COMMON INVESTMENT FUNDS.—Any common trust fund or common investment fund consisting of individual retirement account assets which is exempt from taxation under this subtitle does not cease to be exempt on account of the participation or inclusion of assets of—

"(A) a trust exempt from taxation under section 501(a) which is part of a plan described in section 401(a), or

"(B) a flexible individual retirement account exempt from taxation under section 292."

(e) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Part XII. Flexible individual retirement accounts."

(2) The table of sections for subchapter B of chapter 68 is amended by inserting "or on flexible individual retirement accounts" after "annuities" in the item relating to section 6693.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 213. PENALTY-FREE WITHDRAWALS FOR CERTAIN EDUCATIONAL AND MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (6)) of the taxpayer for the taxable year."

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(2) APPLICATION OF MEDICAL RULES TO CERTAIN RELATIVES.—Section 72(t)(2)(B) is amended by adding at the end thereof the following new sentence: "For purposes of this subparagraph, a child, grandchild, or lineal ascendant of the taxpayer shall be treated as a dependent of the taxpayer in applying section 213."

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraph:

"(6) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)),

at an eligible educational institution (as defined in section 163(h)(5)(E)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions on or after February 1, 1992.

Subtitle B—Other Provisions

SEC. 221. CASUALTY LOSS ON SALE OF HOME; BASIS ADJUSTMENT.

(a) CASUALTY LOSS.—Paragraph (3) of section 165(c) is amended by striking the period and inserting ", or from the sale of a principal residence (within the meaning of section 1034)."

(b) $100 LIMITATION TO APPLY.—Paragraph (1) of section 165(h) is amended by inserting ", or from each sale of a principal residence," after "theft,".

(c) BASIS ADJUSTMENT.—Section 1016 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INCREASE IN BASIS OF NEW PRINCIPAL RESIDENCE.—

"(1) IN GENERAL.—If—

"(A) the taxpayer sells property used by the taxpayer as his principal residence (within the meaning of section 1034) ('the old principal residence') and realizes a loss on the sale, and

"(B) the taxpayer purchases a new principal residence (within the meaning of section 1034) within the time period described in section 1034(a) (and taking into account any suspension of such period under section 1034(h) or (k)), the basis of the new principal residence shall be increased by the amount of the loss realized on the sale of the old principal residence, less the amount treated under regulations prescribed by the Secretary as a casualty loss arising from the sale of the old principal residence.

"(2) REGULATIONS.—The Secretary shall prescribe regulations for determining the amount that shall be treated as a casualty loss arising from the sale of the old principal residence."

(d) CROSS REFERENCES.—

(1) Subsection (m) of section 165 is amended by adding at the end thereof the following new paragraph:

"(6) For adjustments to basis of a new principal residence where a loss is claimed under this section on sale of a principal residence, see section 1016(e) and section 1034."

(2) Subsection (l) of section 1034 is amended by adding at the end thereof the following new sentence: "For adjustments to basis of the new principal residence on sale of the old principal residence at a loss, see section 1016(e)."

(3) The heading of paragraph (1) of section 1034 is amended by striking "REFERENCE" and inserting "REFERENCES".

(e) EFFECTIVE DATE.—

(1) CASUALTY LOSS.—The amendments made by subsections (a) and (b) apply to sales of principal residences on or after February 1, 1992.

(2) BASIS ADJUSTMENT.—The amendments made by subsections (c) and (d) apply to sales of principal residences on or after January 1, 1991.

SEC. 222. FAMILY TAX ALLOWANCE.

(a) GENERAL RULE.—Paragraph (1) of section 151(d) (defining exemption amount) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'exemption amount' means—

"(A) $2,000, or

"(B) in the case of an exemption under subsection (c) for a child who has not attained age 19 before the close of the calendar year in which the taxable year begins—

"(i) $2,425 for taxable years beginning in 1992, and

"(ii) $2,800 for taxable years beginning in 1993 and subsequent years."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 151(d)(3) of such Code is amended by striking "the exemption amount" and inserting "each dollar amount in effect under paragraph (1) (after any adjustment under paragraph (4))".

(2) Subparagraph (A) of section 151(d)(4) of such Code is amended—

(A) by striking "the dollar amount contained in" and inserting "the dollar amounts contained in subparagraph (A) and subparagraph (B)(ii) of", and

(B) by adding at the end thereof the following new sentence: "In the case of the $2,800 amount contained in subparagraph (B)(ii), the preceding sentence shall be applied by substituting '1992' for '1989' the first place it appears, and by substituting '1991' for '1988'."

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective October 1, 1992.

SEC. 223. EXTEND HEALTH INSURANCE DEDUCTION FOR SELF-EMPLOYED.

(a) EXTENSION.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 224. ADOPTION EXPENSES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. SPECIAL NEEDS ADOPTION EXPENSES DEDUCTION.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the individual for such taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount of adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $3,000.

"(2) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowable under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) REIMBURSEMENTS.—No deduction shall be allowable under subsection (a) for any qualified adoption expenses for which a taxpayer is reimbursed. If a taxpayer is reimbursed for qualified adoption expenses for which a deduction was allowed under subsection (a) in a prior taxable year, the amount of such reimbursement shall be includible in the gross income of the taxpayer in the taxable year in which such reimbursement is received.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorneys fees, and other expenses which—

"(A) are directly related to the legal adoption of a child with special needs by the taxpayer,

"(B) are not incurred in violation of State or Federal law, and

"(C) are of a type eligible for reimbursement under the adoption assistance program under part E of title IV of the Social Security Act.

"(2) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act."

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (13) the following new paragraph:

"(14) ADOPTION EXPENSES.—The deduction allowed by section 220 (relating to deduction for expenses of adopting a child with special needs)."

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 220 and by inserting the following new items:

"Sec. 220. Special needs adoption expenses deduction.

"Sec. 221. Cross reference."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to adoptions on or after February 1, 1992.

SEC. 225. PUBLIC TRANSIT FRINGE BENEFIT EXCLUSION.

(a) Paragraph (4) of section 132(h) (providing special rules for determining the fringe benefits excluded from income under section 132) is amended to read as follows:

"(4) CERTAIN EMPLOYER-PROVIDED TRANSPORTATION EXPENSES.—The term 'working condition fringe' includes—

"(A) parking provided to an employee on or near the business premises of the employer, and

"(B) passes, tokens, fare cards, tickets or similar instruments for commuting by public transit provided to an employee at a discount by the employer, or reimbursements by the employer to cover all or part of the costs of such instruments, to the extent that the total amount of such discounts or reimbursements does not exceed $60 per month."

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for discounts and reimbursements provided on or after February 1, 1992.

TITLE III—LONG TERM GROWTH

SEC. 301. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Long Term Growth Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 SHALL NOT APPLY.—Except as otherwise expressly provided, no amendment made by this title shall be treated as a change in rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

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SEC. 311. CREDIT FOR RESEARCH AND EXPERIMENTATION.

(a) PERMANENT CREDIT.—Section 41 (relating to the credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 28(b) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1992.

SEC. 312. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) EXTENSION.—Paragraph (5) of section 864(f) (relating to allocation of research and experimental expenditures) is amended to read as follows:

"(5) YEARS TO WHICH RULE APPLIES.—This subsection shall apply to the taxpayer's first 4 taxable years beginning after August 1, 1989, and on or before August 1, 1993."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after August 1, 1991.

SEC. 313. EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) Paragraph (1) of section 42(o) is amended—

(A) by striking "to any amount allocated after June 30, 1992" and inserting "for any calendar year after 1993", and

(B) by striking "June 30, 1992" in subparagraph (B) and inserting "1993".

(2) Paragraph (2) of section 42(o) is amended—

(A) by striking "July 1, 1992" each place it appears and inserting "1994",

(B) by striking "June 30, 1992" in subparagraph (B) and inserting "December 31, 1993",

(C) by striking "June 30, 1994" in subparagraph (B) and inserting "December 31, 1995", and

(D) by striking "July 1, 1994" in subparagraph (C) and inserting "January 1, 1996".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1991.

SEC. 314. EXTENSION OF TARGETED JOBS TAX CREDIT.

(a) EXTENSION.—Section 51(c)(4) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work after June 30, 1992.

SEC. 315. EXTENSION OF SOLAR AND GEOTHERMAL INVESTMENT CREDIT.

(a) EXTENSION.—Section 48(a)(2)(B) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to periods after June 30, 1992.

SEC. 316. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to manufacturing facilities and farm property) is amended to read as follows:

"(B) BONDS ISSUED TO FINANCE FARM PROPERTY.—In the case of any bond issued as part of an issue, 95 percent or more of the net proceeds of which are to be used to provide any land or property in accordance with section 147(c)(2), subparagraph (A) shall be applied by substituting 'December 31, 1993' for 'December 31, 1986'."

(b) CONFORMING AMENDMENT.—Section 144(a)(12) (defining manufacturing facility) is amended by striking subparagraph (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after June 30, 1992.

SEC. 317. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

SEC. 318. EXPENSES FOR DRUGS FOR RARE CONDITIONS.

(a) IN GENERAL.—Section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking subsection (e).

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on the date of enactment of this Act.

Subtitle B—Provisions Relating to Enterprise Zones

PART I—GENERAL PROVISIONS

SEC. 321. SHORT TITLE.

This subtitle may be cited as the "Enterprise Zone—Jobs Creation Act of 1992".

SEC. 322. PURPOSE.

It is the purpose of this subtitle to provide for the establishment of enterprise zones in order to stimulate entrepreneurship, particularly by zone residents, the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels,

(2) regulatory relief at the Federal, State, and local levels, and

(3) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations.

SEC. 323. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on January 1, 1992.

PART II—DESIGNATION OF ENTERPRISE ZONES

SEC. 324. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 of subtitle F (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER D.—Designation of Enterprise Zones

"Sec. 7880. Designation

"SEC. 7880. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITION.—For purposes of this title, the term 'enterprise zone' means any area—

"(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior, designates as an enterprise zone.

"(2) AUTHORITY TO DESIGNATE.—The Secretary of Housing and Urban Development is authorized to designate enterprise zones in accordance with the provisions of this section.

"(3) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area, and

"(ii) the procedures for designation as an enterprise zone, including a method for comparing courses of action under subsection (d) proposed for nominated areas, and the other factors specified in subsection (e).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 48-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) January 1, 1992.

"(C) NUMBER OF DESIGNATIONS.—

"(i) IN GENERAL.—The Secretary of Housing and Urban Development may designate—

"(I) not more than 50 nominated areas as enterprise zones under this section, and

"(II) not more than 15 nominated areas as enterprise zones during the 12-month period beginning on the date determined under subparagraph (B), not more than 30 by the end of the 24-month period beginning on that date, not more than 45 by the end of the 36-month period beginning on that date, and not more than 50 by the end of the 48-month period beginning on that date.

"(ii) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated as enterprise zones, at least one-third must be areas that are—

"(I) within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined using the most recent census data available),

"(II) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B), or

"(III) determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designations under this section unless—

"(i) the State and local governments in which the nominated area is located have the authority to—

"(I) nominate such area for designation as an enterprise zone,

"(II) make the State and local commitments under subsection (d), and

"(III) provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled, and

"(ii) a nomination therefor is submitted by such State and local governments in such a manner in such form, and containing such information, as the Secretary of Housing and Urban Development shall prescribe by regulation.

"(4) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(b) TIME PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

"(B) the termination date specified by the State and local governments as provided in the nomination submitted in accordance with subsection (a)(3)(D)(ii),

"(C) such other date as the Secretary of Housing and Urban Development shall specify as a condition of designation, or

"(D) the date upon which the Secretary of Housing and Urban Development revokes such designation.

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that a State or local government in which the area is located is not complying substantially with the agreed course of action for the area.

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may designate a nominated area as an enterprise zone only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of the local government,

"(B) the boundary of the area is continuous, and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of not less than—

"(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(3)(C)(ii)) is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more, or

"(II) 1,000 in any other case, or

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

"(3) ELIGIBILITY REQUIREMENTS.—A nominated area meets the requirements of this paragraph if the State and local governments in which the nominated area is located certify, and the Secretary of Housing and Urban Development accepts such certification, that—

"(A) the area is one of pervasive poverty, unemployment and general distress,

"(B) the area is located wholly within the jurisdiction of a local government that is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of the Enterprise Zone—Jobs Creation Act of 1992,

"(C) the unemployment rate for the area, as determined by the appropriate available data, was not less than 1.5 times the national unemployment rate for the period to which such data relate,

"(D) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was not less than 20 percent for the period to which such data relate, and

"(E) the area meets at least one of the following criteria:

"(i) Not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the area within the jurisdiction of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

"(ii) The population of the area decreased by 20 percent or more between 1980 and 1990 (or the most recent decade for which census data are available).

"(4) ELIGIBILITY REQUIREMENTS FOR RURAL AREAS.—For purposes of paragraph (1), a nominated area that is a rural area described in subsection (a)(3)(C)(ii) meets the requirements of paragraph (3) if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that the area meets—

"(A) the criteria set forth in subparagraphs (A) and (B) of paragraph (3), and

"(B) not less than one of the criteria set forth in the other subparagraphs of paragraph (3).

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the State and local governments of the jurisdictions in which the nominated area is located agree in writing that, during any period during which the nominated area is an enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may include, but is not limited to—

"(A) the reduction or elimination of tax rates or fees applying within the enterprise zone,

"(B) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone,

"(C) an increase in the level of efficiency of local services within the enterprise zone, for example, crime prevention, and drug use prevention and treatment,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the enterprise zone, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the enterprise zone,

"(E) mechanisms to increase equity ownership by residents and employees within the enterprise zone,

"(F) donation (or sale below market value) of land and buildings to benefit low and moderate income people,

"(G) linkages to—

"(i) job training,

"(ii) transportation,

"(iii) education,

"(iv) day care,

"(v) health care, and

"(vi) other social service support,

"(H) provision of supporting public facilities, and infrastructure improvements,

"(I) encouragement of local entrepreneurship, and

"(J) other factors determined essential to support enterprise zone activities and encourage livability or quality of life.

"(3) LATER MODIFICATION OF A COURSE OF ACTION.—The Secretary of Housing and Urban Development may by regulation prescribe procedures to permit or require a course of action to be updated or modified during the time that a designation is in effect.

"(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give preference to the nominated areas—

"(1) with respect to which the strongest and highest quality contributions have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief, "(2) with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action will actually be carried out during the period of the enterprise zone designation,

"(3) with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(4) which best exhibit such other factors determined by the Secretary of Housing and Urban Development, including relative distress, which are consistent with the intent of the enterprise zone program and which have the greatest likelihood of success.

"(f) GEOGRAPHIC DISTRIBUTION.—In making designations, the Secretary of Housing and Urban Development will take into consideration a reasonable geographic distribution of enterprise zones.

"(g) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory of the United States.

"(3) LOCAL GOVERNMENTS.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia.

"(h) CROSS REFERENCES.—

"(1) For definitions, see section 1391.

"(2) For treatment of employees in enterprise zones, see section 1392.

"(3) For treatment of investments in enterprise zones, see sections 1393 and 1394."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 80 of subtitle F is amended by adding at the end thereof the following new item:

"SUBCHAPTER D—Designation of Enterprise Zones".

SEC. 325. REPORTING REQUIREMENTS.

Not later than the close of the second calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each second calendar year thereafter, the Secretary of Housing and Urban Development shall submit to the Congress a report on the effects of such designation in accomplishing the purposes of this subtitle.

SEC. 326. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7880 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)), or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(b) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of an enterprise zone under section 7880 shall not constitute a Federal action for purposes of applying the procedural requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

PART III—FEDERAL INCOME TAX INCENTIVES

SEC. 327. DEFINITIONS AND REGULATIONS; EMPLOYEE CREDIT; CAPITAL GAIN EXCLUSION; STOCK EXPENSING.

(a) GENERAL RULE.—Chapter 1 of subtitle A (relating to normal tax and surtax rules) is amended by inserting after subchapter T the following new subchapter:

"SUBCHAPTER U—Enterprise Zones

"Sec. 1391. Definitions and Regulatory Authority.
"Sec. 1392. Credit for enterprise zone employees.
"Sec. 1393. Enterprise zone capital gain.
"Sec. 1394. Enterprise zone stock.

"SEC. 1391. DEFINITIONS AND REGULATORY AUTHORITY.

"(a) ENTERPRISE ZONE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone' means any area which the Secretary of Housing and Urban Development designates pursuant to section 7880(a) as a Federal enterprise zone for purposes of this title.

"(2) TERMINATION OF ENTERPRISE ZONE.—An area will cease to constitute an enterprise zone once its designation as such terminates or is revoked under section 7880(b).

"(b) ENTERPRISE ZONE BUSINESS.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone business' means an activity constituting the active conduct of a trade or business within an enterprise zone, and with respect to which—

"(A) at least 80 percent of the gross income in each calendar year is attributable to the active conduct of a trade or business within an enterprise zone,

"(B) less than 10 percent of the property (as measured by unadjusted basis) constitutes stocks, securities, or property held for use by customers,

"(C) no more than an insubstantial portion of the property constitutes collectibles (as defined in section 408(m)(2)), unless such collectibles constitute property held primarily for sale to customers in the ordinary course of the active trade or business,

"(D) substantially all of the property (whether owned or leased) is located within an enterprise zone, and

"(E) substantially all of the employees work within an enterprise zone.

"(2) RELATED ACTIVITIES TAKEN INTO ACCOUNT.—Except as otherwise provided in regulations, all activities conducted by a taxpayer and persons related to the taxpayer shall be treated as one activity for purposes of paragraph (1).

"(3) SPECIAL RULES.—

"(A) RENTAL REAL PROPERTY.—For purposes of paragraph (1), holding real property located within an enterprise zone for use by customers other than related persons shall be treated as the active conduct of a trade or business for purposes of paragraph (1)(A) and as not subject to paragraph (1)(B).

"(B) TERMINATION OF ENTERPRISE ZONE BUSINESS.—An activity shall cease to be an enterprise zone business if—

"(i) the designation of the enterprise zone in which the activity is conducted terminates or is revoked pursuant to section 7880(b),

"(ii) more than 50 percent (by value) of the activity's property or services are obtained from related persons other than enterprise zone businesses, or

"(iii) more than 50 percent of the activity's gross income is attributable to property or services provided to related persons other than enterprise zone businesses.

"(c) ENTERPRISE ZONE PROPERTY.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone property' means—

"(A) any tangible personal property located in an enterprise zone and used by the taxpayer in an enterprise zone business, and

"(B) any real property located in an enterprise zone and used by the taxpayer in an enterprise zone business.

In no event shall any financial property or intangible interest in property be treated as constituting enterprise zone property, whether or not such property is used in the active conduct of an enterprise zone business.

"(2) TERMINATION OF ENTERPRISE ZONE.—The treatment of property as enterprise zone property under subparagraph (A) shall not terminate upon the termination or revocation of the designation of the enterprise zone in which the property is located, but instead shall terminate immediately after the first sale or exchange of such property occurring after the expiration or revocation.

"(d) RELATED PERSONS.—For purposes of this subchapter, a person shall be treated as related to another person if—

"(1) the relationship of such persons is described in section 267(b) or 707(b)(1), or

"(2) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '33 percent' shall be substituted for '50 percent'.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of the Enterprise Zone—Jobs Creation Act of 1992, including—

"(1) providing that Federal tax relief is unavailable to an activity that does not stimulate employment in, or revitalization of, enterprise zones,

"(2) providing for appropriate coordination with other Federal programs that, in combination, might enable activity within enterprise zones to be more than 100 percent subsidized by the Federal Government, and

"(3) preventing the avoidance of the rules in this subchapter.

"SEC. 1392. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

"(a) GENERAL RULE.—In the case of a taxpayer who is an enterprise zone employee, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 5 percent of so much of the qualified wages of the taxpayer for the taxable year as does not exceed $10,500.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ENTERPRISE ZONE EMPLOYEE.—The term 'enterprise zone employee' means an individual if—

"(A) the individual performs services during the taxable year that are directly related to the conduct of an enterprise zone business,

"(B) substantially all of the services described in paragraph (1)(A) are performed within an enterprise zone, and

"(C) the employer for whom the services described in paragraph (1)(A) are performed is not the Federal Government, any State government or subdivision thereof, or any local government.

"(2) WAGES.—The term 'wages' has the meaning given by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such subsection).

"(3) QUALIFIED WAGES.—The term 'qualified wages' means all wages of the taxpayer, to the extent attributable to services described in paragraph (1).

"(c) LIMITATIONS.—

"(1) PHASE-OUT OF CREDIT.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) $525, over

"(B) 10.5 percent of so much of the taxpayer's total wages (whether or not constituting qualified wages) as exceeds $20,000.

"(2) PARTIAL TAXABLE YEAR.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in paragraph (1) shall be adjusted on a pro rata basis (based upon the number of days).

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under this section for the taxable year shall be reduced by the amount (if any) of tax imposed by section 55 (relating to the alternative minimum tax) with respect to such taxpayer for such year.

"(e) CREDIT TREATED AS SUBPART C CREDIT.—For purposes of this title, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C of part IV of subchapter A of chapter 1.

"SEC. 1393. ENTERPRISE ZONE CAPITAL GAIN.

"(a) GENERAL RULE.—Gross income does not include the amount of any gain constituting enterprise zone capital gain.

"(b) DEFINITION.—For purposes of this section—

"(1) IN GENERAL.—The term 'enterprise zone capital gain' means gain—

"(A) treated as long-term capital gain,

"(B) allocable in accordance with the rules under subsection (b)(5) of section 338 to the sale or exchange of enterprise zone property, and

"(C) properly attributable to period(s) of use in an enterprise zone business.

"(2) LIMITATIONS.—Enterprise zone capital gain does not include any gain attributable to—

"(A) the sale or exchange of property not constituting enterprise zone property with respect to the taxpayer throughout the period of twenty-four full calendar months immediately preceding the sale or exchange,

"(B) any collectibles (as defined in section 408(m)), or

"(C) sales or exchanges to persons controlled by the same interests.

"(c) BASIS.—Amounts excluded from gross income pursuant to subsection (a) shall not be applied in reduction to the basis of any property held by the taxpayer.

"SEC. 1394. ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—At the election of any individual, the aggregate amount paid by such individual during the individual's taxable year for the purchase of enterprise zone stock on the original issue of such stock by a qualified issuer shall be allowed as a deduction.

"(b) LIMITATIONS.—

"(1) CEILING.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed $50,000 for any taxable year, nor $250,000 during the taxpayer's lifetime.

"(A) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under this paragraph (1)—

"(i) the amount of such excess shall be treated as an amount paid in the next taxable year, and

"(ii) the deduction allowed for any taxable year shall be allocated among the enterprise zone stock purchased by such person in accordance with the purchase price per share.

"(2) RELATED PERSONS.—The taxpayer and all individuals related to the taxpayer shall be treated as one person for purposes of the limitations described in paragraph (1).

"(3) ALLOCATION OF EXCESS AMOUNTS.—The limitations described in paragraph (1) shall be allocated among the taxpayer and related persons in accordance with their respective purchases of enterprise zone stock.

"(4) PARTIAL TAXABLE YEAR.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in paragraph (1) shall be adjusted on a pro rata basis (based upon the number of days).

"(c) DISPOSITION OF STOCK.—

"(1) GAIN TREATED AS ORDINARY INCOME.—Except as otherwise provided in regulations, if a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a), the amount realized upon such disposition shall be treated as ordinary income and recognized notwithstanding any other provision of this subtitle.

"(2) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If a taxpayer disposes of any enterprise zone stock before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined in subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under subsection (a) with respect to the stock so disposed of.

"(d) DISQUALIFICATION.—

"(1) ISSUER OR STOCK CEASES TO QUALIFY.—If a taxpayer elects the deduction under subsection (a) with respect to enterprise zone stock, and either—

"(A) the issuer with respect to which the election was made ceases to be a qualified issuer, or

"(B) the proceeds from the issuance of the taxpayer's enterprise zone stock fail or otherwise cease to be invested by the issuer in enterprise zone property, then, notwithstanding any provision of this subtitle (other than paragraph (2)) to the contrary, the taxpayer shall recognize as ordinary income the amount of the deduction allowed under subsection (a) with respect to the issuer's enterprise zone stock.

"(2) SPECIAL RULES.—

"(A) LIQUIDATION.—Where enterprise zone property acquired with proceeds from the issuance of enterprise zone stock is sold or exchanged pursuant to a plan of complete liquidation, the treatment described in paragraph (1) shall be inapplicable.

"(B) TERMINATION OF ENTERPRISE ZONE.—The treatment of an activity as an enterprise zone business shall not cease for purposes of paragraph (1) solely by reason of the termination or revocation of the designation of the enterprise zone with respect to the activity.

"(C) PARTIAL DISQUALIFICATION.—Where some, but not all, of the property acquired by the issuer with the proceeds of issuance of enterprise zone stock ceases to constitute enterprise zone property, the treatment described in paragraph (1) shall be modified as follows—

"(i) the total amount recognized as ordinary income by all shareholders of the issuer shall be limited to an amount of deduction allowed up to the unadjusted basis of property ceasing to constitute enterprise zone property,

"(ii) the amount recognized shall be allocated among enterprise zone stock with respect to which the election in subsection (a) was made in the reverse order in which such stock was issued, and

"(iii) the amount recognized shall be apportioned among taxpayers having made the election in subsection (a) in the ratios in which the stock described in paragraph (2)(C)(ii) was purchased.

"(3) ADDITIONAL AMOUNT.—If income is recognized pursuant to paragraph (1) at any time before the close of the 5th calendar year ending after the date the enterprise zone stock was purchased, the tax imposed by this chapter with respect to such income shall be increased by an amount equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(A) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of the disqualification event described in paragraph (1),

"(B) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under subsection (a) with respect to the stock so disqualified.

"(e) DEFINITIONS.—For purposes of this section—

"(1) ENTERPRISE ZONE STOCK.—The term 'enterprise zone stock' means common stock issued by a qualified issuer, but only to the extent that the amount of proceeds of such issuance are used by such issuer no later than twelve months following issuance to acquire and maintain an equal amount of newly acquired enterprise zone property.

"(2) QUALIFIED ISSUER.—

"(A) IN GENERAL.—The term 'qualified issuer' means any subchapter C corporation—

"(i) which does not have more than one class of stock,

"(ii) which is engaged solely in the conduct of one or more enterprise zone businesses,

"(iii) which does not own or lease more than $5 million of total property (including money), as measured by the unadjusted basis of the property, and

"(iv) more than 20 percent of the total voting power and 20 percent of the total value of the stock of which is owned by individuals, partnerships, estates or trusts.

"(B) LIMITATION ON TOTAL ISSUANCES.—A qualified issuer may issue no more than an aggregate of $5 million of enterprise zone stock.

"(C) AGGREGATION.—For purposes of applying the limitations under this paragraph, the issuer and all related persons shall be treated as one person.

"(3) AMOUNT PAID.—For purposes of subsection (a), the amount 'paid' by a taxpayer for any taxable year shall not include the issuance of evidences of indebtedness of the taxpayer (whether or not such indebtedness is guaranteed by another person), nor amounts paid by the taxpayer after the close of the taxable year.

"(f) ISSUANCES IN EXCHANGE FOR PROPERTY.—If enterprise zone stock is issued in exchange for property, then notwithstanding any provision of subchapter C of chapter 1 of subtitle A to the contrary—

"(1) the issuance shall be treated for purposes of this subtitle as the sale of the property at its then fair market value to the corporation, and a contribution to the corporation of the proceeds immediately thereafter in exchange for the enterprise zone stock, and

"(2) the issuer's basis for the property shall be equal to the fair market value of such property at the time of issuance.

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a taxpayer elects the deduction under subsection (a), the taxpayer's basis (without regard to this subsection) for the enterprise zone stock with respect to such election shall be reduced by the deduction allowed or allowable.

"(h) LIMITATIONS ON ASSESSMENT AND COLLECTION.—If a taxpayer elects the deduction under subsection (a) for any taxable year—

"(1) the period for assessment and collection of any deficiency attributable to any part of the deduction shall not expire before one year following expiration of such period of the qualified issuer that includes the circumstances giving rise to the deficiency, and

"(2) such deficiency may be assessed before expiration of the period described in paragraph (1) notwithstanding any provisions of this subtitle to the contrary.

"(i) CROSS REFERENCE.—For treatment of the deduction under subsection (a) for purposes of the alternative minimum tax, see section 56."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 1394(g), in the case of stock with respect to which a deduction was allowed or allowable under section 1394(a)."

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"SUBCHAPTER U. Enterprise zones."

SEC. 328. ALTERNATIVE MINIMUM TAX.

(a) CORPORATIONS.—Subparagraph (B) of section 56(g)(4) (relating to adjustments based on adjusted current earnings of corporations) is amended by adding the following new clause at the end thereof:

"(iii) EXCLUSION OF ENTERPRISE ZONE CAPITAL GAIN.—Clause (i) shall not apply in the case of any enterprise zone capital gain (as defined in section 1393(b)), and such gain shall not be included in income for purposes of computing alternative minimum taxable income."

(b) INDIVIDUALS.—Subsection (b) of section 56 (relating to adjustments to the alternative minimum taxable income of individuals) is amended by adding the following new paragraph at the end thereof:

"(4) ENTERPRISE ZONE STOCK.—No deduction shall be allowed for the purchase of enterprise zone stock (as defined in section 1394(e))."

SEC. 329. ADJUSTED GROSS INCOME DEFINED.

Subsection (a) of section 62 (relating to the definition of adjusted gross income) is amended by adding at the end thereof the following new paragraph:

"(14) ENTERPRISE ZONE STOCK.—The deduction allowed by section 1394."

PART IV—ESTABLISHMENT OF FOREIGN TRADE ZONES IN ENTERPRISE ZONES

SEC. 330. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign trade zone within an enterprise zone designated pursuant to section 7880 of the Internal Revenue Code of 1986.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone so designated.

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones so designated, the Foreign-Trade Zone Board and the Secretary of the Treasury shall approve the applications, to the maximum extent practicable, consistent with their respective statutory responsibilities.

Subtitle C—Excise Tax Provisions

SEC. 341. REPEAL OF LUXURY EXCISE TAX ON BOATS AND AIRCRAFT.

(a) GENERAL RULE.—Subpart A of part I of subchapter A of chapter 31 (relating to luxury taxes) is amended by striking sections 4002 and 4003 and by redesignating section 4004 as section 4002.

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 4002(b)(2)(A) (as redesignated by subsection (a)) is amended by striking ", boat, or aircraft".

(2) Subparagraph (B) of section 4002(b)(2) (as redesignated by subsection (a)) is amended by striking "in the case of a passenger vehicle, $100,000 in the case of a boat, and $250,000 in the case of an aircraft".

(3) Paragraph (2) of section 4011(c) is amended—

(A) by striking ", boats, and aircraft" in the paragraph heading,

(B) by striking ", boat, or aircraft" in subparagraph A,

(C) by amending subparagraph (B) to read as follows:

"(B) QUALIFIED LEASE.—For purposes of subparagraph (A), the term 'qualified lease' means any long-term lease (as defined in section 4052) of any passenger vehicle.", and

(D) by striking "section 4004(c)" in subparagraph (C) and inserting "section 4002(c)".

(4) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4002(a)".

(5) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4002(a)".

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part I is amended by striking ", boats, and aircraft" in the item relating to subpart A.

(2) The table of sections for subpart A is amended by striking the items relating to sections 4002, 4003 and 4004 and inserting the following:

"Sec. 4002. Rules applicable to subpart A."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to boats and aircraft sold or used on or after February 1, 1992.

SEC. 342. REPEAL OF EXEMPTION FOR THE USE OF DIESEL FUEL IN PLEASURE BOATS.

(a) IN GENERAL.—Paragraph (1) of section 4041(a) (relating to imposition of tax on diesel fuel and special motor fuels) is amended to read as follows:

"(1) TAX ON DIESEL FUEL WHERE NO TAX IMPOSED UNDER SECTION 4091.—

"(A) HIGHWAY VEHICLES.—There is hereby imposed a tax on any liquid (other than any product taxable under section 4081)—

"(i) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle for use as a fuel in such vehicle, or

"(ii) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such fuel under clause (i).

"(B) BOATS.—There is hereby imposed a tax on any diesel fuel (within the meaning of section 4092(a)(2)) that is not taxable under subparagraph (A) and is—

"(i) sold by any person to an owner, lessee, or other operator of a diesel-powered boat for use as a fuel in such boat, or

"(ii) used by any person as a fuel in a diesel-powered boat unless there was a taxable sale of such fuel under clause (i).

"(C) RATE OF TAX; PREVIOUSLY TAXED FUEL.—The rate of tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate in effect under section 4091 at the time of such sale or use. No tax shall be imposed by this paragraph on the sale or use of any diesel fuel if there was a taxable sale of such fuel under section 4091."

(b) EXEMPTION FOR BUSINESS USE.—

(1) IN GENERAL.—Subsection (b) of section 4041 is amended by adding at the end thereof the following new paragraph:

"(3) EXEMPTION FOR BOAT BUSINESS USE.—

"(A) IN GENERAL.—No tax shall be imposed by subsection (a)(1)(B) or (d)(1) on diesel fuel sold for use or used in a boat business use.

"(B) TAX WHERE OTHER USE.—If diesel fuel on which no tax was imposed by reason of subparagraph (A) is used otherwise than in a boat business use, a tax shall be imposed by subsection (a)(1)(B)(ii) and by the corresponding provision of subsection (d)(1).

"(C) BOAT BUSINESS USE DEFINED.—For purposes of this paragraph, the term 'boat business use' means any use of a boat in the active conduct of—

"(i) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(ii) any other trade or business unless the boat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation."

(c) CONFORMING AMENDMENTS.—

(1) the heading of subsection (b) of section 4041 is amended by inserting "; EXEMPTION FOR BOAT BUSINESS USE" after "FUEL".

(2) Subparagraph (A) of section 4041(b)(1) is amended by striking "subsection (a) or (d)(1)" and inserting "paragraph (1)(A) or (2) of subsection (a) or subsection (d)(1)".

(3) Subparagraph (B) of section 4041(b)(1) is amended by striking "paragraph (1)(B) or (2)(B)" and inserting "paragraph (1)(A)(ii) or (2)(B)".

(4) Paragraph (2) of section 4092(a) is amended by striking "or a" and inserting ", diesel-powered boat, or".

(5) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "boat business use as defined in section 4042(b)(3)(C)".

(d) RETENTION OF TAXES IN GENERAL FUND.—

(1) TAXES IMPOSED AT HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1992.

SEC. 343. ADDITIONAL SERVICES SUBJECT TO COMMUNICATIONS EXCISE TAX.

(a) DIGITAL DATA TRANSMISSIONS.—Paragraph (2) of section 4252(b) is amended by inserting before the period "or an unlimited number of digital data transmissions to the subscriber's telephone or radio telephone stations in such specified area if primarily used for such transmissions".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on July 1, 1992.

SEC. 344. REPEAL OF EXEMPTION FOR CERTAIN COIN-OPERATED TELEPHONE SERVICE.

(a) REPEAL OF EXEMPTION.—Section 4253 is amended—

(1) by striking subsection (a) and redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k) as subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), and (j), respectively, and

(2) by striking "subsection (c), (h), (i), or (j)" in subsection (j)(1) (as so redesignated) and inserting "subsection (b), (g), (h), or (i)".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1992.

Subtitle D—Provisions Related to Retirement Savings and Pension Distributions

SEC. 351. TAXABILITY OF BENEFICIARY OF QUALIFIED PLAN.

(a) IN GENERAL.—So much of section 402 (relating to taxability of beneficiary of employees' trust) as precedes subsection (g) thereof is amended to read as follows:

"SEC. 402. TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST.

"(a) TAXABILITY OF BENEFICIARY OF EXEMPT TRUST.—Except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

"(b) TAXABILITY OF BENEFICIARY OF NONEXEMPT TRUST.—

"(1) CONTRIBUTIONS.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section.

"(2) DISTRIBUTIONS.—The amount actually distributed or made available to any distributee by any trust described in paragraph (1) shall be taxable to the distributee, in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(5) (relating to amount not received as annuities).

"(3) GRANTOR TRUSTS.—A beneficiary of any trust described in paragraph (1) shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

"(4) FAILURE TO MEET REQUIREMENTS OF SECTION 410(B).—

"(A) HIGHLY COMPENSATED EMPLOYEES.—If one of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under this subsection, include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), this subsection shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan.

"(C) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) RULES APPLICABLE TO ROLLOVERS FROM EXEMPT TRUSTS.—

"(1) EXCLUSION FROM INCOME.—If—

"(A) any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution,

"(B) the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and

"(C) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(2) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any eligible rollover distribution, the maximum amount transferred to which paragraph (1) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to paragraph (1)).

"(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(4) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' means any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust; except that such term shall not include—

"(A) any distribution which is part of a series of substantially equal periodic payments (not less frequently than annually) made—

"(i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and his designated beneficiary, or

"(ii) for a specified period of 10 years or more, and

"(B) any distribution to the extent such distribution is required under section 401(a)(9).

"(5) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer resulting in any portion of a distribution being excluded from gross income under paragraph (1) to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B) shall be treated as a rollover contribution described in section 408(d)(3).

"(6) SALES OF DISTRIBUTED PROPERTY.—For purposes of this subsection—

"(A) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(B) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(C) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money, the taxpayer may designate—

"(i) the portion of the money or other property which is to be treated as attributable to the amount not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution. Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(D) TREATMENT WHERE NO DESIGNATION.—In any case where part or all of the distribution consists of property other than money and the taxpayer fails to make a designation under subparagraph (C) within the time provided therein, then—

"(i) the portion of the money or other property which is to be treated as attributable to the amount not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution,

shall be determined on a ratable basis.

"(E) NONRECOGNITION OF GAIN OR LOSS.—In the case of any sale described in subparagraph (A), to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (1), neither gain nor loss on such sale shall be recognized.

"(7) SPECIAL RULE FOR FROZEN DEPOSITS.—

"(A) IN GENERAL.—The 60-day period described in paragraph (3) shall not—

"(i) include any period during which the amount transferred to the employee is a frozen deposit, or

"(ii) end earlier than 10 days after such amount ceases to be a frozen deposit.

"(B) FROZEN DEPOSITS.—For purposes of this paragraph, the term 'frozen deposit' means any deposit which may not be withdrawn because of—

"(i) the bankruptcy or insolvency of any financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State.

A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (3) (without regard to this paragraph) such deposit is described in the preceding sentence.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(i) an individual retirement account described in section 408(a),

"(ii) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(iii) a qualified trust, and

"(iv) an annuity plan described in section 403(a).

"(9) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTION AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, the preceding provisions of this subsection shall apply to such distribution in the same manner as if the spouse were the employee; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution.

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).

"(e) OTHER RULES APPLICABLE TO EXEMPT TRUSTS.—

"(1) ALTERNATE PAYEES.—

"(A) ALTERNATE PAYEE TREATED AS DISTRIBUTEE.—For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

"(B) ROLLOVERS.—If any amount is paid or distributed to an alternate payee who is the spouse or former spouse of the participant by reason of any qualified domestic relations order (within the meaning of section 414(p)), subsection (c) shall apply to such distribution in the same manner as if such alternate payee were the employee.

"(2) DISTRIBUTIONS BY UNITED STATES TO NONRESIDENT ALIENS.—The amount includible under subsection (a) in the gross income of a nonresident alien with respect to a distribution made by the United States in respect of services performed by an employee of the United States shall not exceed an amount which bears the same ratio to the amount includible in gross income without regard to this paragraph as—

"(A) the aggregate basic pay paid by the United States to such employee for such services, reduced by the amount of such basic pay which was not includible in gross income by reason of being from sources without the United States, bears to

"(B) the aggregate basic pay paid by the United States to such employee for such services.

In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code.

"(3) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

"(f) WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, when making an eligible rollover distribution, provide a written explanation to the recipient of the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' has the same meaning as when used in subsection (c) of this section or paragraph (4) of section 403(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (c)(8)(B)."

(b) REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.—Subsection (b) of section 101 is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 55(c) is amended by striking "shall not include any tax imposed by section 402(e) and".

(2) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(e)) is hereby repealed.

(3) Paragraph (4) of section 72(o) (relating to special rule for treatment of rollover amount) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(4) Paragraph (2) of section 219(d) (relating to recontributed amount) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(5) Subparagraph (A) of section 292(h)(2) (relating to flexible individual retirement accounts), as added by section 212 of this Act, is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(6) Paragraph (20) of section 401(a) is amended by striking "qualified total distribution described in section 402(a)(5)(E)(i)(I)" and inserting "distribution to a distributee on account of a termination of the plan of which the trust is a part, or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan".

(7) Subparagraph (B) of section 401(a)(28) (relating to coordination with distribution rules) is amended by striking clause (v).

(8) Subclause (IV) of section 401(k)(2)(B)(i) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(9) Clause (ii) of section 401(k)(10)(B) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution."

(10) Paragraph (1) of section 402(g) is amended by striking "subsections (a)(8)" and inserting "subsections (e)(3)".

(11) Subsection (i) of section 402 is amended by striking ", except as otherwise provided in subparagraph (A) of subsection (e)(4)".

(12) Subsection (j) of section 402 is hereby repealed.

(13)(A) Clause (i) of section 403(a)(4)(A) is amended by inserting "in an eligible rollover distribution" before the comma at the end thereof.

(B) Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 402(c) shall apply for purposes of subparagraph (A)."

(14)(A) Clause (i) of section 403(b)(8)(A) is amended by inserting "in an eligible rollover distribution" before the comma at the end thereof.

(B) Paragraph (8) of section 403(b) is amended by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4), (5), (6), and (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(15) Subsection (c) of section 406 (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(16) Subsection (c) of section 407 (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(17) Paragraph (1) of section 408(a) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(18) Clause (ii) of section 408(d)(3)(A) is amended by striking "of a qualified total distribution (as defined in section 402(a)(5)(E)(i))" and inserting "(as defined in section 402(c)(1))".

(19) Clause (ii) of section 408(d)(3)(A) is amended—

(A) by striking "the entire amount received (including money and any other property) represents the entire amount in the account or the entire value of the annuity and", and

(B) by striking "the entire amount thereof" and inserting "the entire amount received (including money and any other property)".

(20) Subparagraph (B) of section 408(d)(3) (relating to limitations) is amended by striking the second sentence thereof.

(21) Subparagraph (F) of section 408(d)(3) (relating to frozen deposits) is amended by striking "section 402(a)(6)(H)" and inserting "section 402(c)(7)".

(22) Subclause (I) of section 414(n)(5)(C)(iii) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(23) Paragraph (2) of section 414(s) (relating to employer may elect to treat certain deferrals as compensation) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(24) Subparagraph (A) of section 415(b)(2) (relating to annual benefit in general) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(25) Subparagraph (B) of section 415(b)(2) (relating to adjustment for certain other forms of benefit) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(26) Paragraph (2) of section 415(c) (relating to annual addition) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(27) Clause (i) of section 457(c)(2)(B) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(28) Subsection (c) of section 691 (relating to coordination with section 402(e)) is amended by striking paragraph (5).

(29) Subparagraph (B) of section 871(a)(1) (relating to income other than capital gains) is amended by striking "402(a)(2), 403(a)(2), or".

(30) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(31) Paragraph (1) of section 871(k) is amended by striking "section 402(a)(4)" and inserting "section 402(e)(2)".

(32) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(33) Subsection (b) of section 1441 (relating to income items) is amended by striking "section 402(a)(2), 403(a)(2), or".

(34) Paragraph (5) of section 1441(c) (relating to special items) is amended by striking "section 402(a)(2), 403(a)(2), or".

(35) Subparagraph (A) of section 3121(v)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(36) Subparagraph (A) of section 3306(r)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(37) Subsection (a) of section 3405 is amended by striking "PENSIONS, ANNUITIES, ETC.—" from the heading thereof and inserting "PERIODIC PAYMENTS.—".

(38) Subsection (b) of section 3405 (relating to nonperiodic distribution) is amended—

(A) by striking "the amount determined under paragraph (2)" from paragraph (1) thereof and inserting "an amount equal to 10 percent of such distribution" and

(B) by striking paragraph (2) (relating to amount of withholding) and redesignating paragraph (3) as paragraph (2).

(39) Paragraph (4) of section 3405(d) (relating to qualified total distributions) is hereby repealed.

(40) Paragraph (8) of section 3405(d) (relating to maximum amounts withheld) is amended to read as follows:

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property received in the distribution."

(41) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(42) Paragraph (4) of section 4980A(c) is amended to read as follows:

"(4) ONE-TIME ELECTION FOR CERTAIN DISTRIBUTIONS.—A taxpayer may elect to determine the excess distributions as defined in paragraph (1) for a calendar year by multiplying the limitation in paragraph (1) by 5 times the amount of such limitation without regard to this subparagraph. Not more than one election may be made under this paragraph with respect to any taxpayer."

(43) Subparagraph (C) of section 7701(j)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—Distributions made before February 1, 1992 shall be taxed in accordance with the provisions of sections 101(b) and 402 of the Internal Revenue Code of 1986 as in effect prior to the amendments made by this section.

(3) TERMINATION OF PRIOR TRANSITIONAL RULES.—Paragraph (5) of section 1122(h) of the Tax Reform Act of 1986 shall not apply to any amount distributed after December 31, 1996.

(4) 5-YEAR PHASE-OUT OF PRIOR TRANSITIONAL RULES.—

(A) In the case of any lump distribution in any taxable year beginning after December 31, 1991 and before January 1, 1997, paragraph (5) of section 1122(h) of the Tax Reform Act of 1986 shall apply to the phase-out percentage of any lump sum distribution which would have been eligible for the election of those provisions.

(B) For purposes of this paragraph.—

In the case of distributions during calendar year:	The phase-out percentage is:
1992	100
1993	70
1994	35
1995	20
1996	10

SEC. 352. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting:	The number of anticipated payments is:
Not more than 55	300
More than 55 but not more than 60.	260
More than 60 but not more than 65.	240
More than 65 but not more than 70.	170
More than 70	120

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If in connection with the commencement of annuity payments under any qualified employer plan the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is on or after February 1, 1992.

SEC. 353. REQUIREMENT THAT QUALIFIED PLANS INCLUDE OPTIONAL TRUSTEE-TO-TRUSTEE TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

"(a) GENERAL RULE.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting after paragraph (30) the following new paragraph:

"(31) OPTIONAL DIRECT TRANSFER OR ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(A) IN GENERAL.—A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that if the distributee of any eligible rollover distribution—

"(i) elects to have such distribution paid directly to an eligible retirement plan, and

"(ii) specifies the eligible retirement plan to which such distribution is to be paid (in such form and at such time as the plan administrator may prescribe), such distribution shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan so specified.

"(B) LIMITATION.—Subparagraph (A) shall apply only to the extent that the eligible rollover distribution would be includible in gross income if not transferred as provided in subparagraph (A) (determined without regard to sections 402(c) and 403(a)(4)).

"(C) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this paragraph, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A).

"(D) ELIGIBLE RETIREMENT PLAN.—For purposes of this paragraph, the term 'eligible retirement plan' has the meaning given such term by section 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it is a defined contribution plan, the terms of which permit the acceptance of rollover distributions."

(b) EMPLOYEE'S ANNUITIES.—Paragraph (2) of section 404(a) (relating to employee's annuities) is amended by striking "and (27)" and inserting "(27), and (31)".

(c) EXCLUSION FROM INCOME.—

(1) QUALIFIED TRUSTS.—Subsection (e) of section 402 (relating to taxability of beneficiary of employees' trust), as amended by section 351 of this Act, is amended by adding at the end the following new paragraph:

"(4) DIRECT TRUSTEE-TO-TRUSTEE TRANSFERS.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

"(2) EMPLOYEE ANNUITIES.—Subsection (a) of section 403 is amended by adding at the end thereof the following new paragraph:

"(5) DIRECT TRUSTEE-TO-TRUSTEE TRANSFER.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(d) WRITTEN EXPLANATION.—Paragraph (1) of section 402(f) (as amended by section 351 of this Act) is amended to read as follows:

"(1) IN GENERAL.—The plan administrator of any plan shall, before making an eligible rollover distribution, provide a written explanation to the recipient of—

"(A) the optional direct transfer provisions provided pursuant to section 401(a)(31), and

"(B) the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning on or after February 1, 1992.

SEC. 354. SALARY REDUCTION ARRANGEMENTS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) SALARY REDUCTION ARRANGEMENTS.—

(1) IN GENERAL.—Paragraph (6) of section 408(k) (relating to salary reduction arrangements) is amended to read as follows:

"(6) EMPLOYEE MAY ELECT SALARY REDUCTION ARRANGEMENT.—

"(A) QUALIFIED ARRANGEMENTS.—A simplified employee pension shall not fail to meet the requirements of this subsection for a year merely because, under the terms of the pension, the employees may participate in a qualified salary reduction arrangement.

"(B) CERTAIN EMPLOYERS NOT ELIGIBLE.—This paragraph shall not apply with respect to any year in the case of a simplified employee pension maintained by an employer with more than 100 employees who were eligible to participate (or would have been required to be eligible to participate if a pension was maintained) at any time during the preceding year.

"(C) QUALIFIED SALARY REDUCTION ARRANGEMENT.—For purposes of this paragraph, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer which meets the requirements of subparagraphs (D), (E), and (F) and under which—

"(i) an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the simplified employee pension on behalf of the employee, or

(II) to the employee directly in cash,

"(ii) the amount which an employee may elect under clause (i) for any year may not exceed a total of $3,000 for any year.

An arrangement meets the requirements of clause (ii) only if, under the arrangement, the employer may not place a limit on the percentage of compensation an employee may elect to contribute.

"(D) NONELECTIVE CONTRIBUTIONS.—An arrangement meets the requirements of this subparagraph only if, under the arrangement, the employer is required (without regard to whether the employee makes an elective contribution) to make a contribution to the simplified employee pension on behalf of each employee eligible to participate for the year in an amount equal to 1 percent of the employee's compensation (not in excess of $100,000) for the year.

"(E) ARRANGEMENT MAY BE ONLY PLAN OF EMPLOYER.—

"(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or amounts were accrued, for any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

"(ii) SERVICE CREDIT.—A qualified plan maintained by an employer shall provide that, in computing the accrued benefit of any employee, no credit shall be given with respect to any year for which such employee was eligible to participate in a qualified salary reduction arrangement of such employer.

"(F) RULES RELATING TO MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—An arrangement meets the requirements of this subparagraph only if, under the arrangement, the employer is required to make a matching contribution described in subparagraph (F)(ii) to the simplified employee pension on behalf of each employee that makes elective contributions under subparagraph (C)(i)(I).

"(ii) RATES OF MATCHING CONTRIBUTIONS.—The level of an employer's matching contribution—

"(I) shall equal as much of the employee's elective contribution as does not exceed 3 percent of the employee's compensation, plus

"(II) an amount equal to 50 percent of the employee's elective contribution that exceeds 3 percent of the employee's compensation and is not greater than 5 percent of the employee's compensation.

"(G) QUALIFIED PLAN.—For purposes of this paragraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

"(H) COMPENSATION.—For purposes of this paragraph, the term compensation has the same meaning as in section 414(q)(5)."

(2) CONFORMING CHANGES.—Subparagraph (B) of section 408(k)(7) is amended by striking "paragraph (2)(C)" and inserting "paragraphs (2)(C) and (6)(H)".

(b) COST-OF-LIVING ADJUSTMENTS.—Paragraph (8) of section 408(k) is amended to read as follows:

"(8) COST-OF-LIVING ADJUSTMENTS.—

"(A) IN GENERAL.—The Secretary shall adjust each of the following amounts at the same time and in the same manner as under section 415(d):

"(i) The $300 amount in paragraph (2)(C).

"(ii) The $200,000 amount in paragraph (3)(C).

"(iii) The $3,000 amount in paragraph (6)(C)(ii).

"(iv) The $100,000 amount in paragraph (6)(D)(i).

"(B) EXCEPTIONS.—

"(i) COORDINATION WITH SECTION 401(A)(17).—The amount described in clause (ii) of subparagraph (A) (as adjusted under such subparagraph) shall not exceed 100 percent of the amount in effect under section 401(a)(17).

"(ii) BASE PERIOD.—The base period taken into account under section 415(d) for the amounts described in clauses (iii) and (iv) of subparagraph (A) shall be the calendar quarter beginning October 1, 1991."

(c) REPORTING REQUIREMENTS.—Subsection (1) of section 408 is amended—

(1) by striking "(1) SIMPLIFIED EMPLOYER REPORTS.—An" and inserting the following:

"(1) SIMPLIFIED EMPLOYER REPORTS.—

"(1) IN GENERAL.—An",

(2) by moving the text of such subsection 2 ems to the right, and

(3) adding at the end thereof the following new paragraph:

"(2) QUALIFIED SALARY REDUCTION ARRANGEMENTS UNDER SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) IN GENERAL.—The employer maintaining any simplified employee pension established pursuant to a qualified salary reduction arrangement under subsection (k)(6) shall each year prepare, and provide to each employee eligible to participate in the arrangement, a description containing the following information:

"(i) The name and address of the employer and the trustee.

"(ii) The requirements for eligibility for participation.

"(iii) The benefits provided with respect to the arrangement.

"(iv) The time and method of making elections with respect to the arrangement.

"(v) The procedures for, and effects of, withdrawals from the arrangement.

"(B) TIME REPORT PROVIDED.—The description under subparagraph (A) for any year shall be provided to each employee during the 30-day period preceding the first date during such year on which the employee may make an election with respect to the arrangement."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1991.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to a simplified employee pension which was in effect on the date of the enactment of this Act and which maintained a salary reduction arrangement on such date, unless the employer elects to have such amendments apply for any year and all subsequent years.

SEC. 355. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—A cash and deferred arrangement shall not be treated as a qualified cash and deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This subparagraph shall not apply to a rural cooperative plan."

(b) EFFECTIVE DATES.—The amendment made by this section shall apply to plan years beginning on or after February 1, 1992.

SEC. 356. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or his delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans,

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

SEC. 357. SIMPLIFICATION OF NONDISCRIMINATION TESTS APPLICABLE UNDER SECTIONS 401(k) AND 401(m).

(a) CASH OR DEFERRED ARRANGEMENTS.—

(1) IN GENERAL.—Paragraph (3) of section 401(k) (relating to application of participation and discrimination standards) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by striking subparagraphs (A) and (B) and inserting the following:

"(A) IN GENERAL.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement unless—

"(i) those employees eligible to benefit under the arrangement satisfy the provisions of section 410(b)(1),

"(ii) the actual deferral percentage of each eligible highly compensated employee for the plan year does not exceed 200 percent of the average deferral percentage of nonhighly compensated employees for the preceding plan year, and

"(iii) the actual deferral percentage of each eligible highly compensated employee for the plan year does not exceed the average deferral percentage of nonhighly compensated employees for the preceding plan year by more than 3 percentage points.

"(B) DEFERRAL PERCENTAGES.—For purposes of this paragraph—

"(i) ACTUAL DEFERRAL PERCENTAGE.—The actual deferral percentage of any employee for a plan year is the percentage which—

"(I) the amount of employer contributions actually paid over to the trust on behalf of such employee for such plan year, is of

"(II) the employee's compensation for such plan year.

"(ii) AVERAGE DEFERRAL PERCENTAGE OF NONHIGHLY COMPENSATED EMPLOYEES.—The average deferral percentage of nonhighly compensated employees for any plan year is the average of the actual deferral percentages for such plan year of all eligible employees other than highly compensated employees.

"(C) SPECIAL RULES.—

"(i) ELECTION TO USE AVERAGE DEFERRAL PERCENTAGE FOR HIGHLY COMPENSATED EMPLOYEE.—A plan may provide that in lieu of satisfying the requirements of clauses (ii) and (iii) of subparagraph (3)(A), a cash or deferred arrangement may be a qualified cash or deferred arrangement if the average deferral percentage for eligible highly compensated employees for such year bears a relationship to the average deferral percentage of nonhighly compensated employees for the preceding plan year which meets either of the following tests:

"(I) The average deferral percentage for the group of eligible highly compensated employees is not more than the average deferral percentage for nonhighly compensated employees for the preceding plan year multiplied by 1.25.

"(II) The excess of the average deferral percentage for the group of eligible highly compensated employees over the average deferral percentage for nonhighly compensated employees for the preceding plan year is not more than 2 percentage points, and the average deferral percentage for the group of eligible highly compensated employees is not more than the average deferral percentage for nonhighly compensated employees for the preceding plan year multiplied by 2.

The average deferral percentage for the group of eligible highly compensated employees is the average of the actual deferral percentages for such plan year of all eligible highly compensated employees.

"(ii) SPECIAL RULE FOR FIRST PLAN YEAR.—In the case of the first plan year of any plan, the amount taken into account as the average deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(I) 3 percent, or

"(II) if the employer makes an election under this subclause, the average deferral percentage of nonhighly compensated employees determined for such first plan year.

"(iii) AGGREGATION OF PLANS.—If 2 or more plans which include cash or deferred arrangements are considered as 1 plan for purposes of section 401(a)(4) or 410(b), the cash or deferred arrangements included in such plans shall be treated as 1 arrangement for purposes of this paragraph. If any highly compensated employee is a participant under 2 or more cash or deferred arrangements of the employer, for purposes of determining the actual deferral percentage with respect to such employee, all such cash or deferred arrangements shall be treated as 1 cash or deferred arrangement.

"(iv) RULES RELATING TO ELECTION.—

"(I) IN GENERAL.—The election to use the average deferral percentage pursuant to subparagraph (C) shall be made, if at all, with respect to the first plan year of the plan (or, if later, the first plan year beginning after February 1, 1992) and, once made, shall be irrevocable.

"(II) CONSISTENCY REQUIREMENT.—The election to use the average contribution percentage pursuant to section 401(m)(3)(C)(i) will be treated as an election to use the average deferral percentage pursuant to subparagraph (C)(i)."

(2) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—Paragraph (8) of section 401(k) is amended by striking subparagraphs (A), (B), and (C), and inserting the following:

"(A) IN GENERAL.—A cash or deferred arrangement shall not be treated as failing to meet the requirements of clauses (ii) and (iii) of paragraph (3)(A) (or clause (i) of paragraph (3)(C)) for any plan year if, with respect to each highly compensated employee having excess contributions for such plan year, the amount of such excess contributions (and any income allocable to such contributions) is distributed to such employee before the close of the following plan year. Any distribution of excess contributions (and income) may be made without regard to any other provision of law.

"(B) EXCESS CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'excess contributions' means, with respect to any highly compensated employee for any plan year, the excess of—

"(i) the aggregate amount of employer contributions actually paid over to the trust on behalf of such employee for such plan year, over

"(ii) the maximum amount of such contributions permitted under the limitations of paragraph (3).

"(C) PLANS THAT UTILIZE AVERAGING OPTION.—A plan that elects to use the average deferral percentage for highly compensated employees as provided in paragraph (3)(C)(i) must determine the maximum amount of contributions permitted under the limits of paragraph (3)(C)(i) by reducing the contributions made on behalf of highly compensated employees in order of the actual deferral percentages beginning with the highest of such percentages and distribute the excess contributions to the highly compensated employees on the basis of the respective portions of the excess contributions attributable to each such employee. To the extent permitted by regulations, an employee may elect to treat the amount of excess contributions as an amount distributed to the employee and then contributed by the employee to the plan."

(b) NONDISCRIMINATION TEST FOR MATCHING CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS.—

(1) IN GENERAL.—Subparagraph (A) of section 401(m)(2) (relating to contribution percentage requirement) is amended to read as follows:

"(A) CONTRIBUTION PERCENTAGE REQUIREMENT.—A plan meets the contribution percentage requirement of this paragraph for any plan year only if—

"(i) the actual contribution percentage of each eligible highly compensated employee for such plan year does not exceed 200 percent of the average contribution percentage of nonhighly compensated employees for the preceding plan year, and

"(ii) the actual contribution percentage of each eligible highly compensated employee for the plan year does not exceed the average contribution percentage of nonhighly compensated employees for the preceding plan year by more than 3 percentage points."

(2) CONTRIBUTION PERCENTAGES.—Paragraph (3) of section 401(m) is amended to read as follows:

"(3) CONTRIBUTION PERCENTAGES.—For purposes of this subsection—

"(A) ACTUAL CONTRIBUTION PERCENTAGE.—The actual contribution percentage of any employee for any plan year is the percentage which—

"(i) the sum of the matching contributions and employee contributions paid under the plan on behalf of such employee for such plan year, is of

"(ii) such employee's compensation (within the meaning of section 414(s)) for such plan year.

"(B) AVERAGE CONTRIBUTION PERCENTAGE OF NONHIGHLY COMPENSATED EMPLOYEES.—The average contribution percentage of nonhighly compensated employees for any plan year is the average of the actual contribution percentages for such plan year of all eligible employees other than highly compensated employees.

"(C) SPECIAL RULES.—

"(i) ELECTION TO USE AVERAGE CONTRIBUTION PERCENTAGE FOR HIGHLY COMPENSATED EMPLOYEE.—A plan may provide that in lieu of satisfying the requirements of paragraph (2)(A), a plan meets the contribution requirement of this section if the average contribution percentage for eligible highly compensated employees for such year bears a relationship to the average contribution percentage of nonhighly compensated employees for the preceding plan year which meets either of the following tests:

"(I) The average contribution percentage for the group of eligible highly compensated employees is not more than the average contribution percentage for nonhighly compensated employees for the preceding plan year multiplied by 1.25.

"(II) The excess of the average contribution percentage for the group of eligible highly compensated employees over the average contribution percentage for nonhighly compensated employees for the preceding plan year is not more than 2 percentage points, and the average contribution percentage for the group of eligible highly compensated employees is not more than the average contribution percentage for nonhighly compensated employees for the preceding plan year multiplied by 2.

The average contribution percentage for the group of eligible highly compensated employees is the average of the actual contribution percentages for such plan year of all eligible highly compensated employees.

"(ii) CERTAIN CONTRIBUTIONS MAY BE TAKEN INTO ACCOUNT.—Under regulations, an employer may elect to take into account under subparagraph (A)(i) elective deferrals and qualified nonelective contributions under the plan or any other plan of employer. If matching contributions are taken into account for purposes of subsection (k)(3)(A) for any plan year, such contributions shall not be taken into account under paragraph (2) for such plan year.

"(iii) SPECIAL RULE FOR FIRST PLAN YEAR.—Rules similar to the rules of subsection (k)(3)(C)(ii) shall apply for purposes of this subsection.

"(iv) RULES RELATING TO ELECTIONS.—

"(I) IN GENERAL.—The election to use the average contribution percentage pursuant to subparagraph (C) shall be made, if at all, with respect to the first plan year of the plan (or, if later, the first plan year beginning after February 1, 1992) and, once made, shall be revocable only with the consent of the Commissioner.

"(II) CONSISTENCY REQUIREMENT.—The election to use the average deferral percentage pursuant to section 401(k)(3)(C)(i) will be treated as an election to use the average contribution percentage pursuant to subparagraph (C)(i)."

(3) DISTRIBUTION OF EXCESS AGGREGATE CONTRIBUTIONS.—Paragraph (6) of section 401(m) is amended—

(A) by striking subparagraphs (A) and (B) and inserting the following:

"(A) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1) for any plan year if, with respect to each highly compensated employee having excess aggregate contributions for such plan year, the amount of such excess aggregate contributions (and any income allocable to such contributions) is distributed to such employee before the close of the following plan year (or, if forfeitable, is forfeited). Any distribution of excess aggregate contributions (and income) may be made without regard to any other provision of law.

"(B) EXCESS AGGREGATE CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'excess aggregate contributions' means, with respect to any highly compensated employee for any plan year, the excess of—

"(i) the aggregate amount of the matching contributions and employee contributions (and any qualified nonelective contribution or elective contribution taken into account under paragraph (3)(A)(i)) actually made on behalf of such employee for such plan year, over

"(ii) the maximum amount of such contributions permitted under the limitations of paragraph (2)(A)."

"(C) PLANS THAT UTILIZE AVERAGING OPTION.—A plan that elects to use the average contribution percentage for highly compensated employees as provided in paragraph (3)(C)(i) must determine the maximum amount of contributions permitted under the limits of paragraph (3)(C)(i) by reducing the contributions made on behalf of highly compensated employees in order of the actual contribution percentages beginning with the highest of such percentages and distribute the excess aggregate contributions to the highly compensated employees on the basis of the respective portions of the excess aggregate contributions attributable to each such employee. Forfeitures of excess aggregate contributions may not be allocated to participants whose contributions are reduced under this paragraph."

(4) CONFORMING AMENDMENT.—Paragraph (9) of section 401(m) is amended to read as follows:

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and subsection (k), including regulations permitting appropriate aggregation of plans and contributions."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after February 1, 1992.

SEC. 358. DEFINITION OF HIGHLY COMPENSATED EMPLOYEE.

(a) GENERAL RULE.—Subsection (q) of section 414 (defining highly compensated employee) is amended to read as follows:

"(q) HIGHLY COMPENSATED EMPLOYEE.—

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who, during the year or the preceding year—

"(A) was a 5-percent owner, or

"(B) received compensation from the employer in excess of $50,000.

The Secretary shall adjust the $50,000 amount specified in subparagraph (B) at the same time and in the same manner as under section 415(d).

"(2) SPECIAL RULE FOR CURRENT YEAR.—In the case of the year for which the relevant determination is being made, an employee not described in subparagraph (B) of paragraph (1) for the preceding year (without regard to this paragraph) shall not be treated as described in such subparagraph for the year for which the determination is being made unless such employee is a member of the group consisting of the 100 employees paid the highest compensation during the year for which such determination is being made.

"(3) 5-PERCENT OWNER.—An employee shall be treated as a 5-percent owner for any year if at any time during such year such employee was a 5-percent owner (as defined in section 416(i)(1)) of the employer.

"(4) SPECIAL RULE IF NO EMPLOYEE DESCRIBED IN PARAGRAPH (1).—If no employee is treated as a highly compensated employee under paragraph (1), the employee who has the highest compensation for the year shall be treated as a highly compensated employee.

"(5) COMPENSATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'compensation' means compensation within the meaning of section 415(c)(3).

"(B) CERTAIN PROVISIONS NOT TAKEN INTO ACCOUNT.—The determination under subparagraph (A) shall be made—

"(i) without regard to sections 125, 402(e)(3), 402(h)(1)(B), and 414(h)(2), and

"(ii) in the case of employer contributions made pursuant to a salary reduction agreement, without regard to sections 403(b) and 457.

"(6) FORMER EMPLOYEES.—A former employee shall be treated as a highly compensated employee if—

"(A) such employee was a highly compensated employee when such employee separated from service, or

"(B) such employee was a highly compensated employee at any time after attaining age 55.

"(7) COORDINATION WITH OTHER PROVISIONS.—Subsections (b), (c), (m), (n), and (o) shall be applied before the application of this section.

"(8) SPECIAL RULE FOR NONRESIDENT ALIENS.—For purposes of this subsection, any employee described in subsection (r)(9)(F) shall not be treated as an employee."

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 414(r) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

"(F) Employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(2) Paragraph (2) of section 414(s) is amended to read as follows:

"(2) EMPLOYER MAY ELECT TO TREAT CERTAIN DEFERRALS AS COMPENSATION.—An employer may elect to include all of the following amounts as compensation:

"(A) Amounts not includible in the gross income of the employee under section 125, 402(e)(3), 402(h)(1)(B), or 414(h)(2).

"(B) Amounts contributed by the employer under a salary reduction agreement and not includible in gross income under section 403(b) or 457."

(3) Paragraph (17) of section 401(a) is amended by striking the last sentence.

(4) Subsection (1) of section 404 is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning on or after February 1, 1992.

SEC. 359. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) INTERNAL REVENUE CODE AMENDMENT.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1993, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1995.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

Subtitle E—Other Provisions

PART I—PROVISIONS RELATING TO CHARITABLE CONTRIBUTIONS

SEC. 361. THE ALTERNATIVE MINIMUM TAX.

(a) REPEAL OF TAX PREFERENCE.—Subsection (a) of section 57 is amended by striking paragraph (6) (relating to the appreciated property charitable deduction under the alternative minimum tax) and by redesignating paragraph (7) as paragraph (6).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in calendar years ending on or after December 31, 1992.

SEC. 362. ALLOCATION AND APPORTIONMENT.

(a) APPLICATION OF SECTION 864(E)(6).—Paragraph (6) of section 864(e) is amended by designating the existing text as subparagraph (A), by inserting the heading "AFFILIATED GROUP RULE" before the text of subparagraph (A), and by adding at the end thereof the following new subparagraph:

"(B) ALLOCATION AND APPORTIONMENT OF CHARITABLE DEDUCTIONS.—A charitable contribution allowable as a deduction in computing taxable income for a taxable year shall be allocated and apportioned solely to gross income from sources within the United States. For purposes of the preceding sentence, all members of an affiliated group shall be treated as a single corporation."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in calendar years ending on or after December 31, 1992.

SEC. 363. INFORMATION REPORTING OF LARGE DONATIONS.

(a) REPORTING BY DONEES.—

(1) REPORTING REQUIREMENT.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new section:

"SEC. 6050P. RETURNS RELATING TO CERTAIN CHARITABLE CONTRIBUTIONS.

"(a) GENERAL RULE.—The donee of any large charitable donation shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

"(1) the name, address, and TIN of the donor,

"(2) the amount of the contribution (or the value, if the contribution is made other than in money), and

"(3) the circumstances under which the contribution was made.

"(b) LARGE CHARITABLE DONATION.—For purposes of this section, the term 'large charitable donation' means any combination of money or value of property contributed by an individual during the calendar year in contributions for which a deduction could potentially be claimed under section 170, based on the donee's determination that it did not provide substantial goods or services in exchange for the contribution, if the amount of such contributions exceeds $500.

"(c) STATEMENT TO BE FURNISHED TO DONORS.—Every person making a return under subsection (a) shall furnish a copy of such return to the donor at such time and in such manner as the Secretary may by regulations prescribe.

"(d) EXCEPTIONS FROM FILING.—Subsection (a) shall not apply to any organization exempt from the filing requirements of section 6033 by reason of the organization's normal level of gross receipts, whether exempted by section 6033(a)(2)(A)(ii) or by the Secretary pursuant to section 6033(a)(2)(B)."

(2) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 (as amended by section 363 of this Act) is amended by adding at the end thereof the following new item:

"Sec. 6050P. Returns relating to certain charitable contributions."

(b) DENIAL OF DEDUCTION.—Except as otherwise provided by regulations, no deduction for a large charitable donation (as defined in section 6050P of the Internal Revenue Code) shall be allowed unless the donor includes on the return on which such deduction is first claimed such additional information as the Secretary may prescribe (by form or regulation).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made on or after July 1, 1992.

PART II—OTHER PROVISIONS

SEC. 371. EXTEND MEDICARE HOSPITAL INSURANCE (HI) COVERAGE TO ALL STATE AND LOCAL EMPLOYEES.

(a) APPLICATION OF HOSPITAL INSURANCE TAX.—Paragraph (2) of section 3121(u) (relating to the application of the hospital insurance tax to State and local employment) is amended:

(1) by striking "subparagraphs (B) and (C)" and inserting "subparagraph (B)" in subparagraph (A), and

(2) by deleting subparagraphs (C) and (D).

(b) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(1) Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended:

(A) by striking "paragraphs (2) and (3)" and inserting "paragraph (2)" in paragraph (1)(B), and

(B) by deleting paragraphs (3) and (4).

(2) Section 218(n) of the Social Security Act (42 U.S.C. 418(n)) is repealed.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to services performed after June 30, 1992.

(2) SERVICES PERFORMED BEFORE JULY 1, 1992.—If any service performed by an individual during July 1992 is medicare qualified government employment (as defined in section 210(p) of the Social Security Act (42 U.S.C. 410(p)), as amended by subsection (b) of this section), the amendments made by subsection (b) of this section shall apply to all periods (if any) of service performed by that individual before July 1, 1992 that would be medicare qualified government employment (as so defined) if performed after June 30, 1992.

(3) DISABILITY BEFORE JULY 1, 1992.—For purposes of establishing entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to the amendments made by subsection (b) of this section, no individual may be considered to be under a disability for any period before July 1, 1992.

(4) CONFORMING AMENDMENT.—Section 278(d)(2)(A) of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law No. 97-248, as amended by section 309(a)(11) of the Technical Corrections Act of 1982, Public Law No. 97-448, is amended by inserting "or of section 371(c)(2) of the Long Term Growth Act of 1992" after "subsection".

SEC. 372. CONFORM TAX ACCOUNTING TO FINANCIAL ACCOUNTING FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1986 (relating to inventories) is amended by inserting at the end thereof the following new section:

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN STOCK OR SECURITIES.

"(a) GENERAL RULE.—Each stock or security held for resale to customers in the ordinary course of the taxpayer's trade or business at the close of the taxable year shall be treated as sold for its fair market value on the last business day of such taxable year and any gain or loss shall be taken into account for that taxable year.

"(b) BASIS ADJUSTMENT REQUIRED.—Proper adjustment shall be made to the taxpayer's basis in each stock or security so that any gain or loss subsequently realized is not recognized to the extent such gain or loss was previously taken into account by reason of subsection (a).

"(c) DERIVATIVE FINANCIAL INSTRUMENTS HELD BY DEALERS.—A taxpayer that is required by subsection (a) to treat stocks or securities held for resale to customers in the ordinary course of the taxpayer's trade or business as sold for their fair market value on the last business day of the taxable year shall—

"(1) treat all derivative financial instruments held at the close of the taxable year as sold for their fair market value on the last business day of the taxable year, and

"(2) properly adjust the amount of gain or loss subsequently realized for gain or loss taken into account by reason of paragraph (1).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) STOCK OR SECURITIES DEFINED.—The term 'stock or securities' shall include stock or securities as defined in section 851(b)(2), 1091(a), or 1236(c), and notional principal contracts.

"(2) DEALERS OR TRADERS IN NOTIONAL PRINCIPAL CONTRACTS.—A dealer or trader in notional principal contracts shall be treated as holding such contracts for resale to customers in the ordinary course of its trade or business.

"(3) DERIVATIVE FINANCIAL INSTRUMENTS DEFINED.—The term 'derivative financial instruments' includes commodities, options, forward contracts, futures contracts, notional principal contracts, short positions in securities, and any similar financial instrument.

"(4) SECTION 263A SHALL NOT APPLY.—The cost capitalization rules of section 263A shall not apply to stock, securities, or derivative financial instruments accounted for under this section.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules to prevent the use of year-end transfers, related parties, or other arrangements to avoid the effect of this section."

(b) CONFORMING AMENDMENT.—Subsection (b) of section 471 is amended to read as follows:

"(b) CROSS REFERENCES.—

"(1) For rules relating to the inventory method that conforms to the best accounting practice for dealers in stock or securities, see section 475.

"(2) For rules relating to capitalization of direct and indirect costs of property, see section 263A."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of Subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Conform tax accounting to financial accounting for securities dealers."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary,

(C) the change in method of accounting shall be implemented by valuing each stock or security to which the amendments of this section apply at its fair market value on the last day of the first taxable year ending on or after December 31, 1992, and

(D) 10 percent of any increase or decrease in value by reason of subparagraph (C) shall be taken into account in each of the 10 taxable years beginning with the first taxable year ending on or after December 31, 1992.

SEC. 373. DISALLOWANCE OF INTEREST DEDUCTIONS ON CORPORATE OWNED LIFE INSURANCE

(a) DISALLOWANCE OF DEDUCTION.—Subsection (a) of section 264 is amended—

(1) by striking "to the extent that the aggregate amount of such indebtedness with respect to policies covering such individuals exceeds $50,000" in paragraph (4), and

(2) by striking the last sentence thereof.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to interest incurred on or after February 1, 1992.

SEC. 374. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) no deduction is allowed under section 165 of such Code for a loss on the disposition of property to the extent that the taxpayer has a right to be reimbursed for the loss with FSLIC Assistance, and

(2) no deduction is allowed under section 166, 585, or 593 of such Code with respect to any debt to the extent that the taxpayer has a right to be reimbursed for the debt with FSLIC Assistance.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC Assistance" means any money or other property provided with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) pursuant to section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or any similar provision of law). The term "FSLIC Assistance" does not include money or other property to which the amendments made by section 1401(a)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 apply.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The provisions of this section apply to FSLIC Assistance credited on or after March 4, 1991, with respect to property disposed of and chargeoffs made in taxable years ending on or after March 4, 1991.

(2) SPECIAL RULE FOR NET OPERATING LOSS CARRYOVERS.—The amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991, must be reduced by the amount of FSLIC Assistance credited on or after March 4, 1991, with respect to property disposed of or chargeoffs made in taxable years ending before March 4, 1991.

SEC. 375. EQUALIZING TAX TREATMENT OF LARGE CREDIT UNIONS AND THRIFTS.

(a) REPEAL OF EXEMPTION.—Subparagraph (A) of section 501(c)(14) is amended to read as follows:

"(A) Small credit unions without capital stock organized and operated for mutual purposes and without profit. For purposes of this subparagraph, a credit union is a small credit union unless, for any taxable year, the average adjusted basis of all of its assets exceeds $50,000,000."

(b) REPEAL OF DEDUCTION FOR DIVIDENDS PAID.—Subsection (a) of section 591 is amended by inserting "credit unions that are not small credit unions as defined in section 501(c)(14)(A)," after "domestic building and loan associations,".

(c) RESERVES FOR BAD DEBTS.—

(1) IN GENERAL.—Paragraph (1) of section 593(a) is amended by striking "or" at the end of subparagraph (B), by inserting "or" at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

"(D) any credit union that is not a small credit union as defined in section 501(c)(14)(A),".

(2) CONFORMING AMENDMENT.—Paragaph (2) of section 593(a) is amended by striking "association or bank" and inserting "entity".

(d) EFFECTIVE DATE.—The provisions of this section apply for taxable years ending on or after December 31, 1992.

SEC. 376. TREATMENT OF ANNUITIES WITHOUT LIFE CONTINGENCIES.

(a) LIFE CONTINGENCY REQUIRED FOR ANNUITY TREATMENT.—Paragraph (5) of section 72(c) is amended to read as follows:

(5) ANNUITY CONTRACT.—

"(A) IN GENERAL.—For purposes of this subtitle (other than subchapter L), a contract is treated as an annuity contract only if the purchaser irrevocably chooses as a settlement option a series of substantially equal periodic payments (not less frequently than annually) made for the life of the annuitant or the joint lives of the annuitants. The settlement option must be irrevocable as of the date the contract is entered into.

"(B) CERTAIN FEATURES.—

"(i) TERM CERTAIN FEATURE.—If the settlement option described in subparagraph (A) contains a term certain feature, that feature may not guarantee that periodic payments will be made for a period of time that exceeds one-third of the life expectancy of the annuitant determined as of the annuity starting date.

"(ii) AMOUNT CERTAIN FEATURE.—If the settlement option described in subparagraph (A) contains an amount certain feature, that feature may not guarantee that an amount will be paid that exceeds one-third of the cash value of the contract (determined without regard to any surrender charge) determined as of the annuity starting date (or date of annuitant's death, if earlier).

"(C) SPECIAL RULES.—This paragraph shall not apply to—

"(i) annuities purchased by a trust described in section 401(a) which is exempt from tax under section 501(a),

"(ii) annuities purchased as part of a plan described in section 403(a),

"(iii) annuities described in section 403(b),

"(iv) annuities provided for employees of a life insurance company under a plan described in section 818(a)(3),

"(v) amounts received from an individual retirement account or an individual retirement annuity,

"(vi) individual retirement annuities,

"(vii) amounts received from a trust described in section 401(a) which is exempt from tax under section 501(a), and

"(viii) annuities which qualify as a 'qualified funding asset' in accordance with section 130(d)."

(b) EFFECTIVE DATE.—The provisions of this section apply to all contracts entered into on or after the date of enactment of this Act.

SEC. 377. EXPANSION OF 45-DAY INTEREST-FREE PERIOD.

(a) IN GENERAL.—Subsection (e) of section 6611 (relating to interest on overpayments) is amended to read as follows:

"(e) TAX REFUND WITHIN 45 DAYS.—No interest shall be allowed under subsection (a) on any overpayment of tax imposed by this title if such overpayment—

"(1) is refunded within 45 days after the last date prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return),

"(2) is refunded within 45 days after the date the return is filed, in case the return is filed after such last date, or

"(3) is refunded within 45 days of the date the right to the refund arises, in case the right to the refund arises other than pursuant to the original filing of a tax return."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns due on or after July 1, 1992, and to all other refunds made on or after such date.

SEC. 378. USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA FOR INCOME VERIFICATION.

(a) Section 6103(1)(7) of the Internal Revenue Code of 1986 is amended by striking out "Clause (viii) shall not apply after September 30, 1992." at the end thereof.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

Pursuant to the rule, the question is on the amendment in the nature of a substitute consisting of the text of the bill H.R. 4210.

RECORDED VOTE

Mr. ROSTENKOWSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 1, noes 427, not voting 6, as follows:

[Roll No. 25]

AYES—1

Orton

NOES—427

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
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Johnson (CT)
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McGrath
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Ros-Lehtinen
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Slaughter
Smith (FL)
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Walsh
Washington
Waters
Waxman
Weber
Weiss
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Wheat
Williams
Wilson
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Yates
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Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—6

Coleman (TX)
Dannemeyer
Dickinson
Smith (TX)
Valentine
Whitten

☐ 1807

Messrs. MARTINEZ, OWENS of New York, ACKERMAN, and OLVER changed their vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. ROSTENKOWSKI. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LEWIS of Georgia) having assumed the chair, Mr. BENNETT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, had come to no resolution thereon.

Mr. DANNEMEYER. Mr. Speaker, I was unavoidably absent for rollcall votes 17–25. Had I been present during these votes, I would have voted "yea" on rollcall votes 17 through 21 and "nay" on rollcall votes 22 throuth 25.

RESIGNATION AS MEMBER OF COMMITTEE ON MERCHANT MARINE AND FISHERIES

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Merchant Marine and Fisheries:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 5, 1992.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR SPEAKER FOLEY: In anticipation of my election to the Committee on Veterans Affairs, I hereby resign my membership on the Committee on Merchant Marine and Fisheries.

Mr. Speaker, it has been a pleasure and honor to serve with my colleagues on the Merchant Marine and Fisheries Committee. They are men and women of dedication and high caliber, whom I am proud to call friends. While I will miss them, and the issues before that Committee, I look forward to my new assignment working with Chairman Montgomery and the members of the Veterans Affairs Committee.

Thank you.

Sincerely,

BOB CLEMENT,
Member of Congress.

The SPEAKER pro tempore. Without objection the resignation is accepted.

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3380

Mr. ECKART. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Missouri [Mr. COLEMAN] be removed from the list of cosponsors of H.R. 3380.

The SPEAKER pro tempore (Mr. LEWIS of Georgia). Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1810

HAITIAN REFUGEE PROTECTION ACT OF 1992

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House of Resolution 375 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 375

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3844) to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti. All points of order against consideration of the bill are waived. The first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments, made in order by this resolution and which shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. Said substitute shall be considered as read. All points of order against said substitute for failure to comply with clause 7 of rule XVI are waived. No amendment to said substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Unless otherwise specified in the report each amendment shall be considered in the order stated, may be ordered only by the Member specified or a designee, shall be considered as read when called up for consideration, shall be debatable for twenty minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LEWIS of Georgia). The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN], and pending that I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. WHEAT. Mr. Speaker, House Resolution 375 is a modified rule providing for the consideration of H.R. 3844, the Haitian Refugee Protection Act of 1992. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives all points of order against consideration of the bill and makes in order the Judiciary Committee amendment in the nature of a substitute now printed in the bill as original text for purposes of amendment. The rule also waives clause 7, prohibiting nongermane amendments, against the substitute.

Only those amendments contained in the report accompanying this rule will be made in order and will be considered in the order and manner specified in the report. The amendments are not subject to amendment nor to a demand for a division of the question.

Finally, the rule provides for a motion to recommit with or without instructions.

Mr. Speaker, it is imperative that the Congress act swiftly on this legislation. H.R. 3844 provides minimal protection for Haitians seeking political asylum in the United States—a 6-month moratorium on forced repatriation only for those Haitians in United States custody outside the United States on February 5, 1992, a study and report of the Haitian situation since last September's coup, a set-aside of 2,000 refugee slots from the worldwide total of 132,000.

Mr. Speaker, I urge adoption of the resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Speaker, I thank the gentleman from Missouri for yielding time to me and I rise in support of H.R. 3844 because I believe the situation in Haiti is extremely dangerous and poses a real threat to those who are forcibly repatriated. I am convinced that if Haiti were located thousands of miles away from our shores, our Government would not have thought twice about extending temporary protective status to Haitians. We already provide such protection to the Lebanese and the Liberians, but the Haitians are subjected to a much tougher test before they are permitted refuge.

This bill does not go so far as to provide temporary protective status. It merely prohibits for 6 months the voluntary repatriation to Haiti of any Haitian refugees in United States custody outside the United States on or before February 5, 1991. This is a limited measure and one we should not hesitate to pass. What right do we have to tell the government in Hong Kong that they should not send back the Vietnamese boat people, when we ourselves are doing the same thing with regard to the Haitians? That is a classic case of "Do what I say, not what I do."

This is our opportunity to regain the moral high ground. I am somewhat encouraged that progress is being made in the negotiations to return President Aristide to Haiti, but peace will not return overnight to that tragic nation. We must provide some kind of temporary refuge. The personal stories the Guantanamo refugees have been telling the INS interviewers are chilling. There can be no question that a climate of fear and intimidation exists in Haiti. Murder, torture, and other forms of violence are directed at anyone who may be an Aristide supporter.

While the primary purpose of the bill is to prevent the return of the Haitians in U.S. custody, I am pleased that it also provides funded refugee slots for 2,000 Haitians. It is important that those refugees who are eventually permitted to come to the United States do not become a burden on the local community. It has always been my position that the Federal Government must assume the financial responsibility for those it admits.

Mr. Speaker, this is our chance to do what is right, to practice what we preach. We cannot ignore these people in need. We cannot repeat the mistakes of the 1930's when Jews fleeing Nazi persecution were refused our help. I ask my colleagues to vote for H.R. 3844 and I commend Chairman MAZZOLI for his compassion and leadership on this issue.

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are faced with a bad procedure and a bad bill.

First, with regard to the procedure, there is no reason this should not have been an open rule. Not until Monday afternoon, during special orders, was there an announcement made on the floor that amendments had to be submitted to Rules by the following day. Of course most of the Members were not even in town at the time.

When the Rules Committee met on this bill yesterday, the Judiciary Committee had not even filed its report on the bill, so that Members were denied the opportunity to see the committee report before the deadline for amendments expired.

In the Rules Committee I offered a motion for an open rule, but that was rejected by the majority members of the Rules Committee.

We were told that this bill was urgent and had to move quickly. But the Attorney General has already written a letter saying that the President's senior advisers would recommend a veto if this bill is presented to the President. We are rushing a futile effort. If the proponents of this bill were really serious about helping Haitians instead of trying to score political points, they would have brought this bill to the floor under an open rule allowing all

Members to participate, so that it would have been possible to work out an arrangement which might have been acceptable to the President who is required, under the Constitution, to sign it.

Under this rule a Member who comes up with an amendment today, the first day the committee report has been available, will be denied the opportunity to even have the idea considered.

But, Mr. Speaker, if the procedure is bad, the bill is worse.

By prohibiting the repatriation of Haitians currently in United States custody, this legislation could encourage many more Haitians to risk the dangerous voyage to the United States in the erroneous belief that they ultimately will be permitted to stay in this country.

This bill fails to specify exactly how this massive Haitian population is to be cared for. The situation has the potential to overwhelm the Government's capacity to house and process such a large number of asylum seekers.

Mr. Speaker, Haitians are not being discriminated against. During the past 5 years alone, nearly 100,000 Haitians have been granted legal immigrant status in the United States. By comparison, 77,000 Cubans received legal resident status during the same period. There are currently a total of about 1 million Haitian immigrants in the United States.

The problem is that we cannot take in every person in the world who wants to come to the United States to find a better job upon his own decision. If that were possible, a substantial portion of the world would move here tomorrow.

We do make a special exception for those fleeing persecution. But if these Haitians fear persecution, all that is required for them is to walk across the open border to the Dominican Republic, which shares the same island as Haiti.

☐ 1830

It is noteworthy that of the 23 who did cross the border in November 1991, 15 voluntarily returned to Haiti.

Mr. Speaker, this is not a bill to help those who are persecuted. I fear it is a bill to score political points, even though there is almost no chance that it will become law. I ask my colleagues to join me in voting no on the rule and opposing the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to explain a little bit of the Rules Committee process. There are those who have suggested that the time frame was short for getting amendments to the Rules Committee. In fact, the "Dear Colleague" letter was received on Monday, giving a deadline of noon, a deadline that was in fact extended. Chairman MOAKLEY came to the floor and did a 1-minute requesting amendments to the Rules Committee and saying, and I quote, "that the committee will understand if the amendments are not drafted in proper form due to lack of availability of the reported bill."

So it was made clear to Members prior to the deadline of the bill that even if the report was not available from the Judiciary Committee, amendments could be submitted to the Rules Committee, and that the Rules Committee would consider those amendments. To my knowledge—and I was present in the Rules Committee during the consideration of this rule—all of the amendments that were presented to the Rules Committee were included for amendment in this bill.

Mr. Speaker, I yield 8 minutes to the distinguished gentleman from New York [Mr. RANGEL], the sponsor of the bill.

Mr. RANGEL. Mr. Speaker, let me say to my colleagues that it is very important that we understand what we are voting for and what we are not voting for. One of the things that is not in the bill is allowing the Haitians to come to these great United States. If there are Members in this House who believe, for whatever reason, that the Statue of Liberty is not tall enough or the torch that she carries is not bright enough, this bill would not allow them to come in. If there are people who believe that after their parents and grandparents and forefathers have come to this great country, they should then pull the rope up behind them and close the doors, fear not, because this does not allow them to come in.

This really is not to resolve any legal or political problems the President may or may not have. This is merely a question of morality and how we treat people after we have gone ahead and preached that we are the leaders of the new world order, that we are the protectors of democracy wherever we can find these fragile countries, and where we have encouraged directly that the people in Haiti should have a democratic government after years of cruel dictatorship.

Now, these people thought that we meant it. So what did they do? They elected a president. Oh, he does not have a lot of money. He does not have the guns, he does not have the businesses, and he does not have the army, and so the army overthrew the government and chased him into exile. After that time thousands of Haitians, for fear of their lives, have in rickety ships sought to leave this war-torn country, and we in our benevolence have picked them out of the shark-infested waters and placed them in a barbed-wire confinement in the military base in Cuba until the Organization of American States can work its will and democracy is restored, the president is returned, and these people can go back to the democracy that we promised.

We do not believe the story that there is no evidence of retaliation against these people by the mean-spirited criminal thugs who have already killed 2,000 Haitians. And there is one thing we should know about the Haitian army. With all of its guns and all of its training that it received in the United States, it has never deliberately fought and killed anybody except poor defenseless Haitians. They have no record of defending their country against anything.

Now, when the distinguished lady from the State Department tells us time and time again that she has no evidence that these people are being brutalized upon their return, let me say that a group of us went to Haiti, including Congressman GILMAN, Congressman MFUME, Congressman, PAYNE from New Jersey, and the gentleman in the chair, the gentleman from Georgia [Mr. LEWIS]. We went to the Embassy, and guess what? Our ambassador has been recalled. He was in the United States because of the violence that has taken place in Haiti. Half of his staff was called back.

So we said, "Mr. Chargé d'Affaires, if indeed the State Department is saying that no harm is coming to these people and they have no evidence of it, how do you know this?"

He said, "Well, quite honestly, we don't know, but you can't prove a negative. We have 50 Americans that live in Haiti, but they have not reported any atrocities to our Embassy."

How shocking that he should wait for a poor Haitian to look for some white American somewhere in Haiti, assuming that they would be couriers and report it to the Embassy.

No; I think it is sad that that is happening in this great Republic. All we are saying and asking of the Members is this: "Don't send these people back to the fate which they have left." We are not asking that we take them to Miami or New York. We are not asking that we treat them the same way we would treat any other European refugee. We are not asking you to show a lot of compassion and open up your arms and your hearts as Americans are used to doing. We are not asking that. We are asking that we do not send these wretched souls back to Haiti.

One of the civil rights activists in Haiti, a priest, told us this sad story: When we asked about the atrocities that were committed upon the people that were involuntarily repatriated, one of the saddest stories we heard there as a congressional delegation was that a mother saw her son returned. He was dumped on the sands of Haiti. He was photographed by the ruthless, out-of-control army, he was fingerprinted, and he was delivered to the village that he said he came from. His mother was so happy to see him and to know that he was alive and to know that he was well, but she said, "Son, please leave us, because the soldiers are looking for you, and it is not just your home that could be burned but the entire village could be burned," as it has been.

I challenge anybody in the State Department to tell me this: What have they tried to do to find out what has happened to these wretched souls? They may not look like you. They may not speak the same language that you do, but they are God's children, and they deserve to be treated decently, and we should not send them back to Haiti.

Some of us have said that "We don't know what happened with the lynchings in the South. We weren't there. We sympathize, but don't blame us for what happened to you in the South."

□ 1830

Others have said we were not there when the Jews were killed in Germany, that we do not know what happened. But, my colleagues, we do know what is happening in Haiti today, and we do have the power to do something about it.

Mr. McEWEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I am very concerned about this issue, as everyone is, and I certainly have a great deal of respect for my colleague from New York [Mr. RANGEL], who spent a great deal of time working on this.

Mr. Speaker, I come from southern California. I should say that the issue of immigration is one which is very intense. It has created a great deal of ire.

Mr. Speaker, we know that this country has been founded on the movement of immigrants who have come from throughout the world, and I clearly recognize that.

It seems to me we are dealing with a unique situation here. Just 2 days ago we saw the first step toward what we hope and pray will be a satisfactory agreement, a settlement between President Aristide and the military which has ruled over Haiti for the past several months. I think if we move ahead with this legislation it would be a real mistake for us, because this country, while we want to be that beacon of hope for those being repressed throughout the world, cannot continue to blindly accept people from all over the world. We need to recognize the disparity between economic and political refugees who are seeking asylum.

So I feel very strongly about this, Mr. Speaker. I think we have no choice other than to proceed and recognize that the very fragile 2-day-old agreement that was reached between President Aristide and the military should have an opportunity to work before we proceed with this.

Mr. WHEAT. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from Missouri for yielding.

Mr. Speaker, let me just make a couple very brief points. We will, if I understand the procedure, have half of the general debate tonight after adoption of the rule and then half of it tomorrow with the vote, if necessary, on the four amendments that the Committee on Rules made in order.

Mr. Speaker, let me make one comment. Some have argued against the rule. The rule cannot be argued against. Four requested amendments were brought to the Committee on Rules. The Committee on Rules has made in order those four amendments. So nobody was denied. No Member of the House was denied an opportunity to be heard as an amendment. So all members of the committee should support the rule.

Mr. Speaker, second, I would like to see this House support the bill. I think the underlying bill is a very good bill. The gentleman from New York has spoken to it.

Mr. Speaker, the gentleman from Kentucky, the speaker in the well at this moment, has been active in it. It is a very limited bill. Some feel like it should be more broad. It only deals with those Haitians who were in Guantanamo or aboard vessels in the Windward Passage on February 5. It does not allow any special immigration benefits to any Haitian. It allows no right of entry into the United States to any Haitian refugee except those who were cleared by way of the screening process, the asylum screening process which is taking place in Guantanamo even as we speak.

Mr. Speaker, it basically does one thing, and that we must keep on our mind, because I will ask the committee for the most part to oppose the amendments that are offered.

We need to keep our eye on the sparrow here. The sparrow here is not allowing the Haitians to be sent back to Haiti at this time, but to give them 6 months, and maybe less, because many, many interesting things are occurring under the aegis of the OAS and with President Aristide. But for 6 months those ought not to be sent back who are now in Guantanamo as of February 5.

So that is all this is. It is a nonrepatriation bill. It is not an immigration bill. It does not confer refugee status on anyone. It does not give them any rights of any kind except to be treated as human beings, which I hope we are generous enough to do. It is only that, just not to be returned to Haiti, and not to be returned for a 6-month period, or earlier, in the event that there is a settlement of the grievances that leads to peace and concord in that country.

Mr. Speaker, I would ask the House to adopt the rule, and then I would ask the committee to support the bill.

Mr. McEWEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for the rule on H.R. 3844, a bill to provide for a 6-month delay in repatriating refugees who do not qualify for asylum and were in custody as of February 5, 1992. The measure also requires 2,000 of the total fiscal year 1992 refugee slots to be allocated for Haitians.

Along with some of my colleagues, we returned last week from Haiti, and it is clear that the September coup has unleashed repression and persecution upon the long-suffering Haitian people. Hundreds of people have been killed and many more have been persecuted and fled for their lives. The coup in Haiti has led to untold human tragedy.

The coup also energized the Organization of American States into unprecedented concerted action to restore constitutional government in Haiti. We hope the agreement signed this week will result in the restoration of democratic rule to that beleaguered nation. But there is no guarantee that it will. In the interim, we must help those Haitians who have left their country because of fear.

Mr. Speaker, under the Refugee Act of 1980, if a person has a well-founded belief that he or she will be targeted for persecution based on political belief, race, or religion, that person qualifies as a political refugee and may be brought to the United States. Over 35 percent of the interdicted Haitians have been found to have a plausible claim to political asylum and 1,500 have been brought to the United States to pursue their claims. At present, the Coast Guard is returning about 2,000 people per week to Haiti. This bill reasonably delays repatriation of these people until the reports of reprisals against these people can be further investigated.

This measure also urges the President and Secretary of State to join the UN Conference on Human Rights in organizing an international conference to resolve the Haitian refugee crisis. Accordingly, I urge our colleagues to support the rule and the adoption of this measure.

Mr. WHEAT. Mr. Speaker, I yield 5 minutes to the distinguished gentleman form Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I would like to first of all compliment the leaders of this measure and point out that the rule is infinitely fair. I have been granted an amendment. I want to commend the gentleman from Kentucky, the leader of this effort, and point out that everyone that asked to have an amendment put to this legislation was accorded that privilege.

Mr. Speaker, my point in rising now is to bring to your attention a statement of conscience in support of stopping the repatriation of Haitian refugees that was issued today by the members of the Congressional Black Caucus, as well as Mr. Randall Robinson of Trans-Africa, Dr. Mary Berry, Rev. Benjamin Hooks of the NAACP, Rev. Jesse Jackson, and Bill Lucy, the executive treasurer of AFSCME.

This statement of conscience reads as follows:

STATEMENT OF CONSCIENCE IN SUPPORT OF STOPPING THE REPATRIATION OF HAITIAN REFUGEES, FEBRUARY 24, 1992

We, the undersigned American citizens, believe that our government's continued forced repatriation of Haitian refugees into the hands of the brutal military dictatorship who overthrew their democratically-elected government is in violation of both the letter of America's immigration laws and the spirit of our tradition of safe haven for the oppressed.

The plight of Haitian refugees seeking protection in the United States forces us to question whether our government is truly committed to a new world order based upon a respect for human rights and democratic ideals. At the very least, we should allow these desperate men and women to remain in the relative safety of the military base at Guantanamo Bay in Cuba until the situation in their nation stabilizes enough to guarantee that they are not being returned to face death or persecution for attempting to flee to freedom. Human rights monitors in Haiti have reported that some repatriated refugees have already been subjected to reprisals by the Haitian military.

Indeed, human rights conditions in Haiti are as life threatening today as they were when Haitian soldiers first removed President Jean-Bertrand Aristide. Americas Watch, Amnesty International and Physicians for Human Rights have each concluded that the Haitian military has embarked on a widespread terror campaign that includes arresting, intimidating and slaying innocent civilians.

The humanitarian move of allowing the Haitians to stay in Guantanamo Bay or to receive "temporary protected status" on our shores would be right in line with America's established foreign policy practices in the Caribbean. We have already welcomed thousands of Cuban refugees seeking political asylum. In addition, America has been willing to take military action to restore democracy in Panama.

In light of the grave human rights conditions in Haiti, we can only believe that the real reason these people are being repatriated without due process is because they are black. Cuban, Soviet and Vietnamese refugees have been welcomed with open arms.

Protecting the Haitian refugees is not at all complicated. Under the Immigration Act of 1990, the Attorney General is authorized to grant safe haven to nationals from countries experiencing political instability, civil war or natural disasters. Why are Haitians being denied this basic protection in the face of the well-documented evidence of violence and political instability in their homeland? And what is there to possibly be gained by repatriating them so quickly?

We believe that Supreme Court Justice Blackmun is legally and morally correct when he stated today that the situation of the Haitians and their lawyers raises serious questions of domestic and international law, First Amendment protections, and due process, questions which deserve a ruling from the Supreme Court after "full and careful consideration of the merits of their claims."

We are asking President Bush to personally intervene and order a halt to the Haitian repatriation program, at least until political conditions in Haiti improve or other options can be explored. If the President will not act, Congress must enact legislation to prevent the repatriation of Haitians at least temporarily.

We recognize that these are difficult times for all Americans. But when matters of life or death are at issue, the American people are fully committed to our national ideals. The signatories of this "Statement of Conscience" seek a solution to the Haitian refugee dilemma that is consistent with our nation's humanitarian tradition and that is fair in its treatment of the refugees. Surely the first step must be to immediately stop the Haitian repatriation program.

□ 1840

Mr. WHEAT. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Speaker, I rise today to discuss the critical situation of the people from Haiti and in particular this administration's radical shift in its human rights policy due to the influx of refugees who have come from Haiti.

Jean-Bertrand Aristide, the populist priest, was elected president in 1990 in Haiti's first free election. All over the world we have called for democracy. We have said to nations that if they practice democracy, we are willing to support them and their people. He was ousted in a military coup last September, and now it seems that we have looked at this democracy and determined primarily on the basis of the color of its people that they do not deserve the rights that other nations have been able to gain here in America.

Immediately after the coup, hundreds of people were killed in street violence, turmoil in the country not only begun then but has continued until now.

As of mid-February, more than 13,000 people had fled the island, most of them risking their life going out in small boats, hoping to make their way to safety in America.

The administration charges that these refugees are fleeing the country because of economic reasons and, consequently, are not eligible for political asylum.

However, I would contend that the Haitians are in grave danger in Haiti because the democratically elected government has been overthrown and its leader is here, out of the country.

I completely disagree with this argument that the Haitians are fleeing their homeland solely for economic opportunity. As a matter of fact, our economic conditions are not that inviting at the moment.

They are fleeing because there is political oppression in Haiti. This claim belittles their plight. The treatment of the Haitian refugees is clearly inconsistent with historical United States policy in the treatment of its political refugees.

The President must resist the pressure to abandon these refugees, work toward bringing peace to Haiti so that in time these refugees may return to their country in safety. It is both immoral and illegal to return these Haitian refugees to such dangerous conditions, at least in the absence of hard evidence of safety. Just as the United States grants political asylum to people throughout the world, Mr. Speaker, I expect our policy to be consistent and protect the refugees of Haiti.

I ask for passage of this rule.

Mr. WHEAT. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, for those of us that live in Florida and have to deal with the problem as it exists not only today but for many years, I urge all of my colleagues, please vote for this rule, vote for this bill.

Not only is it humanitarian, but for 200 years this island has been dealt and the people of this island have been dealt from the bottom of the deck. They have never had, for 200 years, since they have been independent, quote unquote, except for the 7 months that Mr. Aristide was in power, they have never had a day of democracy.

Two hundred years of being cheated of what your birthright supposedly gave you. This is the right thing to do.

I have an amendment, a sense-of-the-Congress amendment, which asks that we provide some peacekeeping forces and some humanitarian rights monitors. And we can only do that at this moment. But at least let us not send back those people that already came to Guantanamo and are afraid for their lives. Let us do something right for a change for the people of Haiti.

I urge my colleagues to pass this rule and pass this bill.

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there have been those on this floor who have argued that the Haitians do not deserve political asylum as the result of the fact that they are fleeing economic poverty as opposed to political persecution. I think a careful examination of this situation would reveal otherwise. I am on the Select Committee on Hunger, and I have traveled all over the world, South America, desperately poor situations in Peru, to the situation of people starving to death in Ethiopia and in Sudan. And I have been to Haiti.

Mr. Speaker, there is no poverty any more oppressive than that I have seen in Haiti. Yet prior to the September 30 coup. Haitians were not getting in open boats or fleeing to the United States, or to Cuba, or trying to make their way across difficult terrain into the Dominican Republic. That exodus began only after political persecution began in the country of Haiti.

While the plight of the Haitians in regard to poverty is immense, their political persecution is what they currently fear and they are currently fleeing.

□ 1850

For those that disagree, I would point out what this bill does. It is really a 6-month moratorium on forced repatriation only for those Haitians who are in U.S. custody outside the United States on February 5.

It will also require a study and report of the Haitian situation since last September's coup, and a set-aside of 2,000 refugee slots from the worldwide total of 132,000 for the Haitians that go through the normal INS process.

Mr. Speaker, I think we can do no less than to pass this humanitarian legislation, and in order to do so, to pass this resolution.

Mr. McEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I had not prepared to speak further on the rule, except a couple of glancing references were made to it, and so I will make a final observation.

Some have suggested that since only 1 Haitian in 6 on this planet already lives in America, well over a million, that somehow or another Americans are selfish. That will be debated when the bill comes before us shortly.

The issue before us now is the rule. The rule says that on Monday evening during special orders that we had to submit any efforts to make amendments immediately the following day. Due to the fact that Members were not aware of that, they were unable to do so, and many did not file them.

It has been made reference on the floor here in the last 15 minutes that on three occasions no one filed any requests for amendment, and therefore we should proceed on. That is not unlike the American troops coming upon the prisoners held in the concentration camps, and when they flung open the door no one jumped up and ran out because they had been starved.

When people are not aware of what is available to them they do not file amendments. Therefore, I request a "no" vote on the rule so that we can then get to the basics of the bill.

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would remind the Members that there was a Tuesday noon deadline for the submission of amendments. That deadline was promulgated Monday morning. There was written notice in all Members' offices. Chairman MOAKLEY of the Committee on Rules also came to the floor and made a 1-minute statement about the availability of the Committee on Rules to receive amendments for inclusion in this bill. We only received four amendments, even though the chairman made it clear that the amendments need not necessarily be in proper form in order to be received by the Committee on Rules. All of the amendments we received were included in the bill.

I think the rule is imminently fair and provides a real opportunity for debate and discussion of this legislation.

Mr. McEWEN. Mr. Speaker, I yield myself 1 minute.

I do not know what the point is here. The truth of the matter is what do we have to fear? The fact is we were not given a chance to do it. Obviously no one did, under that time. All we are saying is we are making the point that it was done rapidly and without a chance to do it, and you ought to just accept it. You have the votes, you did it and that is the way it is. Do not intimate that because Republicans did not respond because the report was not even available until yesterday that they did not file amendments in response to that report by noon, when it had not been filed until later in the day. It is simply unfair to say that we did not respond.

It is simple. The fact is you did it. That is the way it is. Do not try to dress it up. We will simply just say we are going to vote no, you are going to win, and we are going to proceed on with the bill. Do not beat us about the head and shoulders any further that somehow or another we did not respond in time when simply the opportunity was not there.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. McEWEN. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I think it is rather interesting that the whole debate is about when we filed amendments. It was not too many years ago that we did not have to file amendments at all, that the House operated as a true democracy where we had an actual opportunity to come on the floor and debate things based upon the Members' ability to come to the floor with whatever amendments they wanted to craft.

This idea of shutting down the democratic process by forcing amendments and then having late announcements of when those amendments can be filed and all kinds of things to limit the ability of Members to interact within the legislative process is a distortion of the process, it is a corruption of the democratic traditions of this House, and it is really bad that it had deteriorated into a situation where the whole discussion is whether or not the time line granted by the Committee on Rules for filing amendments is appropriate.

We ought not have any necessity to file amendments. We ought to be given the chance in an open process to bring amendments to the floor, whatever they might be.

Mr. McEWEN. Mr. Speaker, I think we should proceed on with the bill. I yield back the balance of my time, and trust the gentleman from Missouri will do the same.

Mr. WHEAT. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LEWIS of Georgia). The question is on the resolution.

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 45, noes 27.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 375 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3844.

The Chair designates the gentleman from Maryland [Mr. MFUME] as Chairman of the Committee of the Whole, and requests the gentleman from Missouri [Mr. WHEAT] to assume the chair temporarily.

□ 1854

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3844) to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti, with Mr. WHEAT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes and the gentleman from Florida [Mr. McCOLLUM] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, I rise to support H.R. 3844, the Haitian Refugee Protection Act of 1992, which the Committee on the Judiciary ordered reported favorably last Thursday, February 20, 1992.

The bill responds to the deplorable economic and political situation in Haiti today without creating a false and illusory incentive for the wholesale exodus of the population from that troubled place. Let us be very direct about the matter: The problem confronting us and the people of Haiti is, at its core, a political problem—and one which this administration and the Organization of American States [OAS] have been particularly dilatory in resolving.

Last September, the elected Government of Haiti was ousted by a brutal military which embarked upon a reign of terror. In the 5 months that have followed, the military coup leaders have continued their strangehold over the institutions of government; a bungled embargo has only worsened the lives of the poorest Haitians; and thousands of Haitians sought refuge in leaky boats.

As the numbers mounted, the administration attempted to internationalize the problem by asking other nations of the Americas to share the burden created by this human tide. The result, to say the least, were deeply disappointing. Brazil, one of the largest and most populous nations on Earth, took exactly zero boat people from Haiti. Argentina, zero. Our democratic friends in Panama, zero. Two nations—Venezuela and Honduras—were the only nations in this hemisphere who actually accepted Haitian refugees, with Honduras taking 250 and Venezuela taking 100.

Haiti's neighbors in this hemisphere, including this Government, seemed immobilized by the situation. The sight of the boat exodus evoked an outpouring of sympathy, followed by denunciations of the military leaders, but little else. Housed in its fine marble structure at 17th and Constitution Avenue, the Organization of American States held countless meetings as the boats kept coming. I might add in this regard that since the coup, almost 16,000 Haitians have been picked up by United States ships on the high seas.

When the so-called breakthrough meeting finally took place at the OAS building last weekend, it was about 5 months too late to prevent the immigration problem that we are addressing today. The boats in the water are more than a symbol of human misery; they are in indictment of the failure of the nations in this hemisphere to act collectively and decisively to achieve a workable political solution to a reign of terror in Port-au-Prince.

I wish to state what this bill does and does not do. It suspends the return of Haitians for 6 months to allow for a political solution to be forged. Following that period, they may be returned. It applies only to those Haitians still in Guantanamo who were in United States custody on February 5, 1992—now less than 3,000 persons. It sets aside 2,000 refugee slots for Haitians, but it does not increase—at all—the overall number of refugees that this country will accept.

There is one more thing that this bill does not do. It does not set any type of precedent for establishing the United States as an economic refuge for troubled regions of the world. We simply cannot permit that. This nation—even in better times—cannot function as an economic mecca to the world if we ever hope to take care of those already in our midst who live in poverty and have fallen through the safety net of government and private charity.

Mr. Chairman, this bill provides a humane yet limited response to the current crisis. I urge my colleagues to support it.

□ 1900

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think everybody who is going to deal with this bill on the floor of the House will recognize the same fact about Haiti that I do, and that is that Haiti is, indeed, an impoverished nation. It has an economic and a political plight right now which is disastrous. It is a tragedy that the democratically elected government has been deposed and that President Aristide is now in exile. We all want to see a change to return democratic government to power as quickly as possible.

In the meantime, we want to extend as much of a compassionate hand as we can to the people of Haiti, whether they be on the island still or whether they have left it and gone to Guantanamo or elsewhere.

But there is a tremendous difference of opinion with respect to the present policies of the U.S. Government, and this bill is a reflection of that.

I rise in opposition to the bill before us today because it goes in the face of the repatriation policy of President Bush's administration which I believe is the compassionate and orderly thing to be doing. What we have seen over the past several months since President Aristide was deposed is an outflow of nearly 16,000 Haitians from the island of Haiti who have left by boat and been picked up by the United States Coast Guard cutters off the coast of Haiti, and for the most part brought to the island of Cuba to our base there at Guantanamo.

There has been a dispute about the processing that has been going on, but nothing about the facts of what has happened there with those almost 16,000 people. The Government, through the Immigration and Naturalization Service and the State Department, has been screening the people who have come to Guantanamo to determine who has a plausible claim for political asylum under the Refugee Act which is the law of the United States and has a plausible basis for making an argument in front of an immigration judge for the right to stay here on the basis that if they were returned to Haiti they could suffer and have a reasonable fear of suffering political or religious persecution. That is the Federal law. That is the guideline that this Congress passed for determining whether people can come here as refugees or seek asylum here under the asylum laws, either one.

More than 35 percent of all of those who have left Haiti and been picked up by our Coast Guard cutters and taken into Guantanamo, more than 35 percent have already been screened into this process, have already been determined by the Immigration and Naturalization Service to have a plausible claim for political asylum and have been given the right to go before an immigration judge and argue their case, which they will be doing over the next several weeks and months. It is only the remaining balance, the remaining roughly 65 percent, that this vote is about today and tomorrow. It is the remaining 65 percent who have been determined not to have that claim who we believe, and the Government, our Government, that is, the Immigration Service and the State Department and President Bush believe are truly economic refugees, people who have left not because they have a fear of persecution in Haiti but because of the economic conditions there. It is only that group which are being repatriated into Haiti.

If we stop the repatriation, what we are going to be doing is drawing on the desires of thousands and thousands of people in Haiti as well as those in other Caribbean and Central American regions where poverty is so great, drawing on their desires to leave their homeland and come to the United States where obviously the economic conditions are better.

We, as a nation, simply cannot take in all of the people who want to come here because they are impoverished, because their economies are bad, who want to come. That is why we have an immigration law. That is why we have a legal immigration process, and that is why we have a Refugee Act and an asylum law that says that we only take people in in those cases that are exceptions to the legal immigration process where they are reasonably in fear that they will be persecuted if they were to be returned to their home.

If we abrogate that policy by passing this bill and putting a 6-month delay in the process of returning those who have been screened out and are not being allowed to continue on because they do not have that reasonable fear or any plausible claim to it, we will be encouraging more to come, and in the interim, there will be thousands who will leave Haiti, there will be thousands who will leave elsewhere, and that is the real gist of the problem that we face is the magnet effect that is here, not to mention the destruction of the principles of the law that are on the books with regard to the whole refugee processing in this Nation and around the world.

So I urge my colleagues to look carefully at this. It is not a question of who is most concerned or who is not concerned with the fate of the people of Haiti. All of us share a concern for that. It is a very grave concern. But we have to have orderly laws.

We have taken in in the last 3 years about 90,000 Haitians legally. We have taken in a lot more historically, proportionately of Haitians legally into this country than perhaps any other nation in the world, and we will continue to do that through the legal immigration process.

Let us not encourage them to leave by the thousands and, in turn, encourage others who might also seek to come to the United States to then leave their countries to come here simply because the conditions are rife in their country at the time. We have to go by the standards on the books. It is the only way we can operate effectively in this country with orderly process and not be inundated with those who want to come here because of economic reasons.

So anyway, I am opposed to this bill. I urge my colleagues to defeat it. It is bad policy.

Mr. Chairman, I reserve the balance of my time.

□ 1910

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky [Mr. MAZZOLI], the distinguished chairman of the subcommittee that crafted this legislation, held the hearings and brought it to the full committee.

Mr. MAZZOLI. Mr. Chairman, I want to thank my friend and chairman, the gentleman from Texas [Mr. BROOKS], for yielding me this time, and I would like to pay tribute to my friend, the gentleman from New York [Mr. RANGEL], my congressional classmate, for the work that he did from the start on this bill, and to thank my friend, the gentleman from Florida [Mr. MCCOLLUM], with whom I have worked for many years and enjoyed every moment of that time.

While I am extending some accolades around, let me extend them to the gentleman from Oregon and all members of the subcommittee, because many times they all showed up at nighttime when we needed to get work done.

I will just take a few minutes, Mr. Chairman, to reflect on the fact that this is not something which just sort of occurred to us overnight. We had our first hearing last November 20 before this Congress adjourned for the winter work period recess. We had a hearing and we introduced a bill last November. It did not get called to the floor, but I think it had a very beneficial effect. I believe it led almost directly to the institution of a refugee program. We now have a refugee program with the nation of Haiti, a program we have never had before. I really believe and attribute the introduction of our bill to that fact, to the enactment of that refugee program.

After the hearing, as I mentioned, we introduced the bill. It was given number H.R. 3844, and despite the fact that Congress entered its 1991 session before action was taken on that, it did produce, as I have said, the enactment of a refugee program.

Now, utilizing these new asylum screening programs, we now have a very formal process to decide which people who are in Guantanamo are in fact refugees under the classic definition of political refugees and which are economic migrants and therefore have to go back eventually to their homeland.

In 1987, we began hearings and worked on a bill that was then called the safe harbor bill. It was a bill designed to fill a gap. That gap was ultimately filled in 1990 by the Immigration Act which passed the bill which is called temporary protected status.

The gap is this. If you are a political refugee, then the law says you have a chance to come into the United States and you have a chance to have your claim for asylum adjudicated and quite a few legal processes give you protection. If you are an economic migrant, you have none of those protections and you must go back to your homeland. However, there are times when the homeland is in the middle of some upheaval because of natural problems, because of political trouble, because of wars or rumors of wars, and that is the gap that we filled in 1990, and that is what we are trying to do with this bill.

Very simply, Mr. Chairman, we say that even those Haitians who are on Guantanamo who are not political refugees and do not have the opportunity under the law to be brought into the United States for furtherance of their asylum hearings, even the people who do not pass that screening ought to be protected from going back to Haiti when their lives, when their health, when their well-being could be in any jeopardy, and we think that is the case today.

I am not sure whether I believe all the reports of all the human rights groups about all the possible troubles in Haiti, but I think it is very clear, as I said in the committee the other day, trouble is afoot in that land. Difficulties are clearly facing the returnees in that land.

So what this bill does, Mr. Chairman, is not grant any particular refugee benefits or any particular immigration benefits to any of these people. It does not require that they be brought into the United States. It simply says that they shall not be returned to Haiti until 180 days or earlier if there is some solution to the problem, very simple. It simply protects these people from being returned to a land where that return might cause them some difficulty.

The bill began as a temporary protected status bill. It was changed by the wisdom of our committee into a nonreturn bill. That is the bill before this committee, a nonreturn bill. I believe it is a very eminently supportable piece of legislation. It does good for good people and at the same time it does not cause any unnecessary precedents.

There has been some talk tonight about creating a precedent or maybe doing something which will interfere with our refugee policy in the future. This creates no precedent. We have on the books this situation, so all we are doing is protecting those people from being returned.

On November 20, the Subcommittee on International Law, Immigration, and Refugees held a hearing on the issue of Haitian immigration to the United States. Witnesses from the Departments of State and Justice presented the administration's position forcefully and even eloquently. Yet, in the end, most of the members of the subcommittee felt that not all the Haitians who fled their nation were economic refugees, but that some were political refugees fleeing persecution and entitled to protection.

Following these hearings, and with the support of several of my colleagues on the subcommittee, I introduced H.R. 3844, designed to give temporary safe harbor to Haitians who had left their nation.

Despite the fact that Congress ended its 1991 session before action could be taken on H.R. 3844, it had the salutary effects of producing a more formal procedure, using trained Immigration Service personnel, of evaluating asylum claims of those Haitians who have wound up at Guantanamo Naval Base, and of producing, for the first time ever, a formal refugee program with Haiti. This program will soon be evaluating, screening, and adjudicating asylum applicants in Port-au-Prince.

Utilizing the new asylum screening procedures and trained evaluators, the Immigration and Naturalization Service has determined that some 35 percent of those it has interviewed on Guantanamo have plausible claims for asylum, and those persons either have been brought in or will be brought in to the United States to pursue those asylum claims.

Whether that 35-percent number accurately reflects the number of Haitians who do in fact have a well-founded fear of persecution is not the central issue. Even the most ardent advocates for the Haitians do not claim that 100 percent of those on Guantanamo have a well-founded fear of persecution.

In 1987, I introduced legislation to fill that gap in our refugee and asylum law. In those days, we called it the safe haven bill. Today, we call it temporary protected status, and it has been on the books since 1990.

The theory of safe haven, or temporary protected status, is that in some instances conditions in an alien's home country may have degenerated to such an extent that it is not safe for anyone to be returned there. This law, therefore, provides for a kind of cooling-off period while we wait to see what happens in the home country.

Since 1960, 21 nationality groups have been granted either temporary protected status, or as it used to be known, extended voluntary departure. Currently, nearly 200,000 Salvadorans and thousands of Lebanese, Liberians, and Somalians hold temporary protected status.

The subcommittee marked up H.R. 3844 on February 5—the eve of the Presidents' birthday recess—and approved an amendment in the nature of a substitute to H.R. 3844. With one additional amendment, the subcommittee's bill was approved by the full Judiciary Committee last week by a vote of 21 to 12.

H.R. 3844 directs the President to set aside at least 2,000 refugee numbers for Haitians in fiscal year 1992. The refugee numbers are to be taken from the existing fiscal year 1992 worldwide ceiling of 132,000 funded refugee numbers.

Of that total, the President, in his October 9, 1991, Presidential, No. 92-2, Determination, left 1,000 numbers unallocated. This bill allocates those 1,000 visa numbers to Haitians and directs the President to set aside an additional 1,000 visas from the remaining 131,000 as the President sees fit—for example, by prorated reductions in other refugee categories. None of the refugee numbers provided under this section are to be allocated to persons within the United States.

H.R. 3844 requires the Assistant Secretary of State for Human Rights and Humanitarian Affairs to conduct a study of Haitians repatriated since the September 30 coup to determine the extent to which their human rights may have been violated. The bill requires that a report on this subject be submitted to Congress within 90 days, followed by a second report to be submitted within 180 days.

The bill also urges the President and Secretary of State, in conjunction with OAS and U.N. High Commissioner for Refugees, to convene an international conference aimed at adopting a comprehensive program of action to resolve the Haitian refugee crisis.

The bill declares excludable from the United States any Haitian national who provided financial or other material support for, or directly assisted the September 30 coup against, President Aristide or was involved in terrorist acts against the Haitian people anytime after the coup.

Such exclusion from the United States shall be in effect until such time as the President certifies to Congress that democratically elected government has been restored in Haiti consistent with the Haitian Constitution.

The bill adopted provides basic immigration benefits only to the Haitians in Guantanamo on February 5. It provides no immigration benefits to Haitians now in the United States.

I note that it provides no right to Haitians in Haiti or Guantanamo, or anywhere else, to enter the United States. It does not force the administration to end its interdiction and rescue programs. And it is not an open-ended, unbounded program of safe harbor.

Instead, the bill directs the administration not to send back to Haiti for 6 months those Haitians who were in United States custody, on Guantanamo or on our naval vessels, on February 5, 1992—a known and fixed population of 11,909 people, of whom 2,926 had already been returned by February 18, and will be unable to benefit from this bill.

Whether or not we give 100-percent credibility to recent reports from Amnesty International and Americas Watch—and I do not—there is sufficient evidence to persuade me that all is not well in Haiti and random—if not aimed and targeted—violence is afoot in the land.

Therefore, we ought to protect at least a portion of the Haitian asylum seekers while we wait for the dust to settle in their homeland.

Mr. Chairman, I urge support for this bill.

Mr. McCOLLUM. Mr. Chairman, I yield 6 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, when this body looks at the political and social problems in Haiti, it is clear there are no quick or easy answers. This body is faced with tough choices, and we need perseverance and action if we are to see democracy brought to that impoverished island nation.

As ranking member on the Subcommittee on Human Rights and International Organizations of the Foreign Affairs Committee, this Member knows full well the enormous suffering that the Haitian people endure. This Member has worked with other Members, on both sides of the aisle, to develop assistance programs that address basic human needs and encourage development. Those of us who have been active on the issue of Haiti—individuals such as the distinguished chairman of the Committee on Foreign Affairs, Mr. FASCELL, the distinguished ranking member of the Western Hemisphere Subcommittee, Mr. LAGOMARSINO, the distinguished gentleman from California [Mr. DYMALLY], and the distinguished gentleman from Minnesota [Mr. OBERSTAR], among others—have sought to provide assistance that would give Haitians real hope for the future. And this Member sincerely believes that everyone, regardless of their position on the refugee matter, has a sincere desire to help alleviate the suffering of the desperately impoverished people of Haiti. How could one look at Haiti and feel otherwise?

Mr. Chairman, the coupe that ousted President Jean-Bertrand Aristide was a blatant usurpation of power from a democratically elected head-of-state. The Bush administration was correct when it immediately condemned the coup. The United States has rightly taken the lead in opposing the military junta in the OAS, and the United Nations. Together with the OAS, we have placed an embargo on Haiti, and have limited trade in all but the most basic elements. At the same time, the United States has strongly supported the OAS-sponsored negotiations between ousted President Aristide and the junta forces.

Things have not progressed as fast as we would like, but the international pressure is having an impact. Over the last weekend, the OAS negotiators made great strides toward reaching an agreement that would permit Aristide's return.

Implicit in H.R. 3844 is the charge that the United States is repatriating political refugees. I would suggest that the opposite appears to be the case—that the United States is making very serious efforts to identify real political refugees in order to grant them political refugee status.

As of last week, when the State Department came to testify before the Foreign Affairs Committee, the INS had interviewed some 11,000 of the more than 15,000 Haitians who had fled. Of that total, 4,100 individuals have been found to have a sufficiently plausible claim to pursue the claims further in the United States. Over 1,400 of these have already reached the United States. It is this Member's understanding that as of today, the number of individuals who have been screened in is up to 5,200, with 1,800 of those already having been transported to the United States.

Let me repeat that—5,200 of those who have completed the initial interview process at Guantanamo Bay have been found to have claims of sufficient merit to permit them to pursue those claims in the United States. The United States is screening in more than 35 percent of the Haitian applicants.

Clearly we are rightly concerned about the safety of Haitians who have been returned. No one wants to return people if they are going to be persecuted. But the United States now has 18 consular officers in Haiti, as well as four INS officers. A number of these officers are tasked specifically with monitoring repatriate safety. We are doing followup.

And what have these officers found? Of the 41 Haitians who have fled the island a second time, after being repatriated by the United States—the so-called double-backers—not one single case of harassment could be substantiated, and many were absolutely disproved. Investigators have gone to the villages to track down the innumerable rumors and allegations of oppression, but these rumors disappear into thin air. There is a great deal of anecdotal evidence—almost all of which is turning out to be false.

It is true that the allegations of the all of the double-backers have not been fully investigated yet—it takes time to go to the villages and check out sources. It may in fact turn out that there have been some isolated instances of persecution of those who have been repatriated. But the fact is that there is no reliable evidence whatsoever to indicate that there is political oppression for those who return to Haiti—there is only the grinding poverty from which they understandably fled.

Indeed, probably most Haitians would leave to live in the United States if they could. That half of the island of Hispaniola would be virtually emptied. But, as other Members have made clear, poverty does not entitle an individual to political asylum. If that were the case, the United States would be inundated with tens of millions of economic refugees each year.

This Member would add that yesterday, when CIA Director Robert Gates testified before the Foreign Affairs Committee, he noted that the best intelligence available leads to the conclusion that the Haitian Army is making a conscious effort not to persecute the repatriates.

Mr. Chairman, we are facing a fundamental issue, one that goes far beyond our immediate concerns for Haitians. Do we really want to establish U.S. policy that any citizen from a nation experiencing instability should be entitled to refugee status? Clearly, that is the direction we would be heading with the passage of this legislation.

I would urge that a more appropriate standard is the one that is currently in place—that there must be a well-founded fear of persecution on account of his or her race, religion, nationality, political opinion, or membership in a particular social group. These are the criteria that the United States has been applying to Haitians, and these are the criteria that should remain in place.

Last, Mr. Chairman, this Member would ask his colleagues to consider the message this legislation sends to the people of Haiti. It encourages them to make the attempt to flee Haiti in the misguided belief that they will be welcomed with open arms in the United States. This legislation encourages them to board those flimsy, unseaworthy boats to attempt that dangerous crossing. It is a crossing that has taken far too many lives, and we should not be encouraging more Haitians to make the attempt.

Even with every sympathy for the economic plight of the Haitian people, this legislation must be defeated. I urge my colleagues to bear in mind that series of disasters for Haitians, and for our country, which would be launched by the passage of this legislation. I strongly urge my colleagues to vote "no" on the passage of H.R. 3844.

☐ 1920

The CHAIRMAN. The Chair would advise those Members controlling debate that the gentleman from Texas [Mr. BROOKS] has 20 minutes remaining and the gentleman from Florida [Mr. MCCOLLUM] has 18 minutes remaining.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS] the distinguished chairman of the Committee on Government Operations and the ranking and important member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, I begin by expressing commendations to the chairman of the Committee on the Judiciary and the chairman of the Subcommittee on International Law, Immigration, and Refugees, the gentleman from Kentucky [Mr. MAZZOLI], because I am, of course, offering the amendment that would grant temporary protected status to the Haitians until such time as democracy has been restored to their country.

It is the legitimate conclusion that one can reach if you agree that simple reality is that there is an armed conflict in Haiti today.

If that is the case, then to talk about only people who were here before February 5 being able to enjoy staying in Cuba becomes a hollow mockery.

Ladies and gentlemen, the American people have not taken leave of their senses. I urge that, in the discussion that will continue tomorrow, that we give serious consideration to this amendment. I think it is very important that we understand that temporary protected status is an emergency provision that can be given. It was done in El Salvador. I think everyone on this floor supported it. I ask that we do no less for those fleeing the poorest, most war-wracked country in the Western Hemisphere.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, the most important provision in this bill, besides passing it, is the amendment of the gentleman from Florida [Mr. SMITH] tomorrow, sending a peacekeeping force to Haiti, either United Nations or Organization of American States.

We have not had a foreign policy toward Haiti. We have neglected it. We care about democracy in Eastern Europe, but we have simply not paid attention to the tragedy in Haiti.

Mr. Chairman, 1,500 people have died. Let us have a little bit of faith in the OAS and the United Nations, two new vital agencies that will keep the peace until the situation is taken care of.

Mr. Chairman, I rise today to express my strong support for the Haitian Refugee Protection Act and the sense-of-Congress amendment that either the United Nations or the Organization of American States should send a peacekeeping force to Haiti. The Smith amendment seeks to serve the short-term goal of protecting Haitians returning to their country from reprisal and the long-term goal of reestablishing democracy in Haiti.

Today, as we celebrate the rise of struggling democratic states across the Atlantic, we must maintain our firm commitment to democracy and human rights in our neighboring country of Haiti. Several years ago, a similar situation existed in El Salvador and Guatemala, when many Salvadorans and Guatemalans were forcibly repatriated from the United States only to face persecution in their homelands. This mistake must not be repeated.

Since the violent coup last year, more than 1,500 people have died, according to Amnesty International reports, and countless other well-documented atrocities have occurred. Thus, it is clear, danger exists for all Haitians, even those who remained behind.

Sending Haitian refugees back to this violent environment without a mechanism in place to ensure their safety is brutal. Although the administration claims that there is no evidence of reprisal, there is no way to monitor the treatment of refugees returning hundreds at a time, many of whom are disappearing into the countryside. The presence of a peacekeeping force would at once replace the current turmoil with a climate of security while sending a clear message to the Haitian military.

Once again, I wish to commend my colleague for his work on this vital provision and urge my colleagues to do the same.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Haitian Refugee Protection Act. This legislation would extend a minimum of compassionate consideration to thousands of anguished, displaced Haitian refugees.

These refugees deserve all the understanding and mercy our Nation can offer.

In recent years, we have witnessed a transformation in the world order as more and more nations seek to establish democratic governments. The tiny nation of Haiti has struggled to follow in the footsteps of those marching toward freedom and democracy. But, today, in Haiti, the dreams of democracy have surrendered to the hellish nightmare of a society torn and uprooted by the brutal military dictatorship that deposed its first freely elected President.

Since last September, hundreds of Haitians have been murdered in the violence which has rocked this tiny island. More than 13,000 have fled the ruthless military regime that has destroyed their young democracy, and U.S. policy toward these refugees has been unconscionably callous, coldhearted, and uncaring. Amnesty International and Americas Watch have documented the persecution of the Haitian people. Yet, the State Department has scorned the pleas of thousands of suffering Haitians who have been ruthlessly deported and returned to the violent hands of its military rulers.

We know that the people of Haiti deserve our compassion—across the Nation, Americans are pleading with the administration to stop the deportation of the Haitian boat people. As we debate whether or not to offer hope and compassion to the suffering Haitian refugees, one of our Nation's national treasures, the famed choreographer and dancer, Katherine Dunham, is risking her life to help those fleeing Haiti.

Ms. Dunham has been on a hunger strike since February 1—25 days. She has vowed not to end her protest until President Bush stops the deportation of thousands of Haitians from Guantanamo Bay. More than most Americans, Mrs. Dunham is familiar with the Haitian culture and knows the Haitian people. In her appreciation for their contributions to others, Katherine Dunham is ready and willing to give her life to end their senseless suffering. The very least we can do is acknowledge what we already know to be right in our hearts and minds.

The United States is the symbol of freedom and democracy for all the peoples of our world but, so far, we have failed the people of Haiti. Today we have a chance to offer them a fighting chance for freedom. The modest resolution before us will provide the Haitian refugees with a 6-month safe haven in Guantanamo Bay, and will direct the President to set aside 2,000 refugee numbers for Haitians. I urge my colleagues to vote in favor of the Haitian Refugee Protection Act.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. I thank the gentleman for yielding to me.

Mr. Chairman, I want to commend the chairman of the committee, the gentleman from Texas [Mr. BROOKS], the chairman of the subcommittee, the gentleman from Kentucky [Mr. MAZZOLI], and all of those who have worked so hard on this legislation. I want to commend all of those who have been involved in this legislation. It is legislation that is proper, it is legislation in the true American tradition.

Mr. Chairman, I am from that region, I am from the Virgin Islands, and I have many Haitians in the Virgin Islands. They have strengthened the fabric of our community.

This is legislation I urge all Members to support.

Mr. Chairman, standing in New York City harbor there is a symbol of freedom, freedom that this great Nation has extended to generations of immigrants from all over the world: the Statue of Liberty. She has been a shining beacon of hope to millions of the persecuted, the beleaguered, and the exiled.

Today, Mr. Chairman, that beacon is dimmed. Dimmed by a shameful policy of the administration, one that rejects the thousands of people of Haiti who have fled their homeland seeking our help.

Boatloads of refugees from the horrors of the Haitian military coup are being returned to the country they fled. The administration claims they face no danger, but can provide no proof that they are not condemning them to prison, beatings, and death. Yet, the repatriations continue.

Following the election of Haitian President Jean-Bertrand Aristide, we shared the hope, for a brief moment, that democracy, at long last, had come to the people of Haiti. But that hope died September 30, 1991, when a band of military thugs ousted President Aristide and installed their own puppet government.

In response, the Organization of American States moved boldly. Its members enacted an economic embargo to pressure the military regime to surrender to the democratic will of the people and return power to the duly elected President.

The embargo has, perhaps, hurt most those it sought to help. Thousands of Haitians lost their jobs as industry came to a standstill. Foreign investment in the country dwindled.

Meanwhile, thousands fled Haiti, seeking refuge in other nations, including the United States. The U.S. Coast Guard rescued thousands who braved death on the seas. They were housed in temporary facilities in Cuba and the United States mainland.

There were hopeful signs that the OAS economic embargo was working. The OAS had shown firm resolve and unity among its member nations. Negotiations between the OAS and representatives of the coup were ongoing. In Haiti, there were moves toward the appointment of a prime minister, possibly leading the way to the return of President Aristide. Humanitarian aid was being sent to Haiti in an effort to help the people most hurt by the embargo.

Then, the glimmer of hope that had been rekindled dimmed as the United States broke ranks with OAS nations, relaxed the embargo, and began the return of refugees. There can be no doubt that the leaders of the military junta that overthrew President Aristide have seen the moral collapse of U.S. resolve as their triumph.

In recent days, the OAS has achieved some measure of success. An agreement has been reached to install a new Prime Minister, grant amnesty to those involved in last September's coup, and retain Lt. Gen. Raoul Cedras as commander of the military. These are positive steps, but they may not be solutions. President Aristide has grave concerns about keeping General Cedras in power. The future remains most uncertain.

Mr. Chairman, we in the Virgin Islands are neighbors who share the same region. We have a vibrant Haitian population in the Virgin Islands, upstanding citizens who, given the opportunities that our democracy has bestowed, have become an important part of the fabric of our community.

Mr. Speaker, I strongly support the legislation introduced by the gentleman from Kentucky, and I am proud to be a cosponsor. In the face of the administration's terrible decision to return thousands of Haitian refugees, Congress must act.

As this bill directs, no Haitians should be repatriated involuntarily for 6 months from the enactment of this legislation.

As this bill directs, a study must be conducted to determine whether the human rights of those sent back to Haiti have been violated.

As this bill directs, an additional 2,000 refugee admissions should be reallocated to Haiti.

Mr. Chairman, particularly now that the Supreme Court has ruled that it will not halt the repatriations of Haitian refugees, we in the Congress must ensure that the beacon of liberty again shines bright, and that hope is rekindled in the people of Haiti that democracy may once again be restored. I urge my colleagues to vote in favor of this legislation.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Chairman, I commend the chairman of the full committee, the gentleman from Texas [Mr. BROOKS], and the chairman of the subcommittee, the gentleman from Kentucky [Mr. MAZZOLI], for their outstanding efforts on this issue.

I of course rise in support of H.R. 3844.

Mr. Chairman, I rise today in support of H.R. 3844. I want to commend Chairman BROOKS for bringing this bill to the floor in an expedited manner. I also want to recognize the outstanding efforts of the chairman of the International Law, Immigration, and Refugees Subcommittee, the gentleman from Kentucky [Mr. MAZZOLI], for his hard work in crafting this much needed piece of legislation and his dedication to human rights.

What is difficult about the issue is not having the facts. Are these Haitians economic refugees or are their lives at risk and are therefore political refugees?

Mr. Chairman, there has been one recurring issue in this debate that has yet to be resolved for me: the issue of the State Department's sources and the credibility of its sources in determining human rights conditions in Haiti and especially for those Haitians involuntarily returned to Haiti.

To me, the credibility of information regarding the safety of the Haitians, both the safety of those in Haiti now and those who are forced to return, is the vital question. During the subcommittee hearing on November 20, 1991, I asked the State Department for a list of organizations providing information on the conditions in Haiti, including the human rights situation. I also asked the State Department to assess the credibility of each information source. It was only after a great deal of prodding that I finally received this information—77 days later.

The answer I received from the State Department puzzles me. It states, "The Embassy's Haitian contacts include large numbers of key figures in government and politics, at all levels and across the political spectrum, business persons, educators, the clergy, the media, health care workers, and human rights activists."

What puzzles me is that there is information being reported by a number of sources that suggest terrible human rights violations have occurred and are continuing to occur in Haiti. For instance, Amnesty International, perhaps the best known and most respected human rights organization, issued a report last month that details killings, beatings, and other human rights violations throughout Haiti. Yet, the State Department claims to use information from human rights organizations and apparently concludes—from what we have seen of the administration's policy—that reports of these violations are not accurate.

I still want to know why the State Department is discounting the Amnesty International report. Amnesty International is the source the State Department cites in its "Country Reports on Human Rights Practices for 1990" to determine human rights violations in Burma, in Iran, and in Vietnam. Suddenly, the information from Amnesty International is not good enough.

On February 10, 1992, the subcommittee sent a letter to the State Department to specifically address these concerns. The State Department responded by stating that "Given the inherent human element involved, it is impossible to ascribe objective measures of credibility to these sources." The State Department further contends that the Embassy's staff is making a valid assessment of general human rights conditions. The State Department reports that it even assigned an additional two officers to specifically monitor repatriation. I am concerned that this may be too great a task for the Embassy. It is my understanding that, ironically, because of human rights concerns, the State Department has withdrawn its Embassy staff in Haiti on several occasions. Thus far, more than 5,000 Haitians have been repatriated. Given the information from the State Department, I am not sure that the Embassy can adequately monitor and ensure the safety of the repatriated Haitians.

This bill buys time. Perhaps it saves lives.

Mr. Chairman, this bill before us is only a piece of the solution. This administration and this Congress must continue to push for better conditions in Haiti; to reinstate a democratically elected government; and to improve human rights and economic conditions. Mr. Chairman, it takes a great threat to force people to flee their families and friends—to flee their homes and communities—to face a dangerous, perhaps life threatening, voyage on an unsafe boat in unknown waters. It is not a decision taken lightly.

Mr. Chairman, I support this bill and the end of forced repatriations for humanitarian reasons. I am uncomfortable with the State Department's information and uncertain about the credibility of the information the State Department is using. There are great consequences if the State Department is wrong—hundreds, maybe thousands of innocent people could be persecuted or even killed.

Mr. Chairman, I urge my colleagues to support this bill.

U.S. DEPARTMENT OF STATE,
Washington, DC, February 4, 1992.

To: H—Steven K. Berry.
From: ARA—Robert S. Gelbard.
Subject: Reply to Representative Kopetski's Request on Haiti.

In response to Rep. Kopetski's request during my testimony before the Mazzoli subcommittee, I provide the following language to be inserted on page 110 of the transcript:

Our Embassy in Haiti maintains a wide range of contacts in all sectors of Haitian society and in the American and international communities there.

The Embassy's Haitian contacts include large numbers of key figures in government and politics, at all levels and across the political spectrum, business persons, educators, the clergy, the media, health care workers, and human rights activists. The international community includes a large number of private voluntary agencies working throughout the country in such areas as agriculture, health care and education, missionary and other religious groups, representatives of international organizations such as the Red Cross, OAS and UNDP, human rights organizations, and the diplomatic corps.

In addition, the Embassy operates its own "warden" system through which it maintains contact with American citizens scattered throughout Haiti and thereby receives information on conditions outside the capital. Members of the Embassy's staff also travel through the country as circumstances permit to observe local conditions and talk with residents.

Information from these and other sources is considered in making our classified and unclassified evaluations of conditions in Haiti.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 10, 1992.

Hon. ROBERT S. GELBARD,
Principal Deputy Assistant Secretary of State for Inter-American Affairs, Department of State, Washington, DC.

DEAR AMBASSADOR GELBARD: As members of the Subcommittee on International Law, Immigration, and Refugees, we are extremely interested in the sources and accuracy of information used by the Department of State in formulating the ongoing repatriation policy with Haiti.

In the Subcommittee's November 20, 1991, hearing on Cuban and Haitian Immigration, you were asked to provide the Subcommittee with a listing of the different sources of information used by the Department of State to assess the human rights situation in Haiti and the prospects for safety of Haitians who are repatriated. You also were asked to provide the Subcommittee with the credibility assigned to the State Department's sources and the process the State Department uses to establish the credibility of these sources. While the Subcommittee received a response to the first part of its request on February 5, 1992, it has not received a response to the second part.

We raise this issue of the accuracy of the information for two reasons. First, Amnesty International issued a report last month that detailed killings, beatings, and other human rights violations throughout Haiti. Yet, the State Department concludes—from what we have seen of the Administration's policy—that reports of these violations are not accurate. Further, State now has reports from INS interviews with "doublebackers" that repatriates are targeted by Haitian authorities for beating, imprisonment and perhaps even extrajudicial killings.

We would like to know how the State Department makes the assessment that repatriates are not in danger of physical harm and the specific sources it relies upon.

Secondly, we are concerned by a statement in the Amnesty International report that "Members of the Catholic Church, journalists and others involved in the collection and dissemination of information on human rights (in Haiti) have been threatened and intimidated by members of the security forces." This statement again raises questions about the reliability of the sources outlined in the State Department's memorandum of February 4, 1992, concerning the Department's information sources on Haiti.

We would like to know how the State Department confirms reports from its sources considering the possibility of threats to sources of information on conditions in Haiti.

It is vital for this Subcommittee to have this information for the ongoing policy debate over Haiti. Therefore, we would appreciate a response to this letter no later than February 20, 1992.

Sincerely,

ROMANO L. MAZZOLI,
Chairman.
MIKE KOPETSKI.
CHARLES E. SCHUMER.
HOWARD L. BERMAN.
JOHN BRYANT.

U.S. DEPARTMENT OF STATE,
Washington, DC.

Hon. HOWARD L. BERMAN,
House of Representatives,
Washington, DC.

DEAR MR. BERMAN: I am replying to your letter to Ambassador Gelbard of February 10 in which you and other members of the Subcommittee on International Law, Immigration and Refugees ask for an evaluation of sources of information on the well-being of repatriates to Haiti.

As Ambassador Gelbard explained in his response of February 5 to the Subcommittee on this issue, our Embassy in Port-au-Prince is in contact with a broad range of individuals in virtually all segments of Haitian society and the international community. Given the inherent human element involved, it is impossible to ascribe objective measures of credibility to these sources (and it would be detrimental to our information-gathering efforts to try).

I would, nonetheless, point out that all such contacts are considered to some extent useful sources of information. Factors such as personal bias, possible intimidation, or self-serving interests are, of course, taken into account by Embassy officers. Ultimately, it is the totality of information received, and the observations, experience and discretion of the Embassy's personnel, through which we make our best judgment of conditions.

Applying these methods, our Embassy provides a continuing, and we believe valid, assessment of general human rights conditions within the country, taking particular note of the prevalence of violence, patterns of abuses, etc.

When specific, detailed allegations of abuse are made, Embassy personnel conduct their own investigations to the extent resources permit. This was done most recently in connection with the allegations of a number of "doublebackers" that they or others were persecuted following repatriation. In the investigations completed by the Embassy thus far, the charges of abuse were determined to be without foundation. The Embassy's investigations are continuing.

Sincerely,

JANET G. MULLINS,
Assistant Secretary Legislative Affairs.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, the important thing is that we merely have to do what America has always done. We have always been a generous and compassionate country to all other refugees. So, why act any differently now?

If we do what we always have done, that will take care of the situation with respect to the Haitians.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Chicago, IL [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I thank the gentleman for yielding time to me.

I want to commend the gentleman from Texas [Mr. BROOKS] for this bill. I hope to revisit this issue tomorrow.

Mr. Chairman, I rise in full support of H.R. 3844, the Haitian Refugee Protection Act and want to commend my colleagues for their speedy response to this crisis. Additionally, I lend my support to my colleague, Mr. CON-

YERS' amendment. I believe that it is critical that this bill protect all Haitian refugees who have fled, not just those fleeing before February 5.

I stand here today to ask you, my colleagues, to have compassion for the Haitian refugees who have fled their country because they fear political persecution. The actions that have been taken by the U.S. Government and the highest court in this country are deplorable. We are supposed to be a compassionate nation, a nation that cares about the world community, and now we refuse to take a moral stance to assist the Haitians simply because they are poor and people of color. We ought to be consistent in our refugee policy whether for Eastern Europeans or Haitians.

The United States Embassy in Haiti has noted that there have been reports of killings, police harassment, illegal searches, and looting of private homes and arrests without warrants, by Haiti's de facto government. In addition, Amnesty International has reported hundreds of executions, beatings and political arrests after the coup, with the repression centered on the supporters of the ousted President. What additional proof does the President need to show that these refugees are escaping political persecution and not economic persecution? Our own Embassy has provided proof enough.

Hundreds of Haitians have been returned without an adequate review process. We know that Haiti is closely monitoring these returns by fingerprinting each refugee. Today we have the opportunity to ensure that our hands are not bloodstained. Support this amendment and this bill—Let's stop these illegal deportations.

Ms. NORTON. Mr. Chairman, the agreement between President Aristide and Prime Minister Theodore to restore democracy in Haiti is a painfully incomplete step toward renewing democracy in that small and troubled land. The agreement certainly does not provide immediate relief for the refugees still being repatriated by the administration. President Aristide will not be immediately returned to the Presidency, and it remains unclear whether the current leadership of the Haitian military will remain in power.

Thus, today Haiti remains out of control and we cannot say that it has ceased terrorizing its own people. Yet, shamefully the Bush administration, with the assent of the Supreme Court, has decided that the thousands of Haitians who have fled in terror should cavalierly be returned.

The human tragedy unfolding in Haiti is no less significant in this hemisphere than the invasion of Kuwait was in the Middle East. President Bush needs to take two actions immediately. First, until it can be clearly determined that a political solution has been obtained which clearly restores democracy in Haiti, the United States and other countries should continue to offer a safe haven to Haitian refugees. Second, the President should take a leadership role, as he did in the Persian Gulf, with the OAS and the international community, to help achieve real stability in Haiti and safe refuge for those who have fled.

The legitimate and immediate security concerns of the refugees will be best served by the passage of this legislation and I support the amendments offered by my colleagues JOHN CONYERS and LARRY SMITH. The Conyers' amendment grants temporary protected status to the refugees which will ensure that they are not being returned to a volatile and dangerous homeland. The Smith amendment addresses the need for the involvement of peacekeeping forces from either the United Nations or the OAS. It is totally irresponsible to return refugees without a reliable network on the ground in Haiti which can monitor and protect them.

We have insisted upon democracy thousands of miles across the oceans. We can demand no less in our own hemisphere. We have proudly and appropriately stood with refugees from everywhere—from the Soviet Union, from Eastern Europe, from Southeast Asia. We must find a way to stand with the refugees in our own sphere of immediate interest. The fledgling democracy in Haiti was killed in its infancy. We must help it to be born again by standing in support of H.R. 3844, The Haitian Refugee Protection Act.

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of H.R. 3844, the Haitian Refugee Protection Act and urge my colleagues to pass it promptly.

It is an outrage that when refugees escape from persecution in certain countries, our Government has given immediate protective status in the United States without a second thought. But when refugees have escaped persecution in Haiti, not only do we deny them protective status, we deliver them right into the hands of the very forces they have fled. The current administration's policy has returned Haitians to a regime that we, at least in theory, have condemned. The tragic human rights records of repressive Haitian regimes are no secret, but this administration has seen fit to ignore what we should all understand.

There is no question that refugees fleeing Haiti are doing so because they fear for their lives. Amnesty international has testified that the refugees face a killing field and certain persecution if they are sent back to Haiti. So far, amnesty estimates that in 5 short months, 1,500 people have been executed by the military regime which stole democracy from the hands of the Haitian people. Is this part of the new world order? Or has this administration decided that Haiti is not entitled to benefit from that new order?

Negotiations are underway to try and clear the path to restoring President Aristide to his democratically elected position. Progress is being made. But without this legislation, we will be returning these refugees to a despotic and vengeful regime. In fact, the administration admits that some of the refugees who have not escaped from Haiti after having been returned face persecution there. The legislation represents a very moderate approach, delaying the deportations for 6 months. It is the least we can do. In fact, it is a tragedy that it has taken so long to reach this point.

I urge my colleagues to support H.R. 3844. To reject this reasonable compromise legislation would be a tragic miscarriage of justice and it would cost human lives.

Mr. MFUME. Mr. Chairman, in today's world, the violent denial of fundamental human rights and the suppression of a people's right to self-determination, stand without equal as the most egregious examples of man's inhumanity to man. For when a people are forcibly deterred from enjoying the full protection of the law and from actively participating in a peaceful democratic governing process the government has surely sown the seeds for its own destruction.

In 1991 the brave people of Haiti went to polls to select their first democratic government in Haiti's 200-year-old history. The election of President Jean-Bertrand Aristide ushered in a new era of hope that the poorest nation in the Western Hemisphere would finally depart from its policy of intimidation and elimination of persons engaged in legitimate political opposition.

Who could ever have predicted that 1 year after the torch of democracy was ignited on Haitian soil the country would be besieged by chaos and anarchy? The Haitian military—the bitterest enemy of human rights and democracy—has again raised its ugly head. Only this time, the leviathan desires to extinguish the torch of freedom and millions of dreams that were inspired by its bright hope for the future.

Mr. Chairman, against this backdrop, thousands of citizens began to flee Haiti for fear of military reprisals and the return of the death squads known as the Ton Ton Mecout. In fact, this threat has proven very real. Indiscriminate and arbitrary acts of violence have again forced those politically opposed to martial law either underground or in exile.

The justice system in Haiti is literally nonfunctioning. The breakdown of authority has undermined the economic vitality of the country. In short, Mr. Chairman, the essence of Haiti's current crisis is the general breakup of a democratically mandated political system. This very breakdown has cast its shadow into other sectors, such as the economy, but it is clear that these other problems derive and are further exacerbated by the failure of the political process.

I come to the floor of this House in order to issue my plea for the preservation of life and democracy. I come before the House in an attempt to prevent innocent men, women, and children from being repatriated back to a country that does not value its people's fundamental rights. I come to the well after witnessing first hand the conditions facing Haitians upon their return home from sea.

For this reason, I support H.R. 3844, the Haitian Refugee Protection Act. H.R. 3844 prohibits, for 180 days, the involuntary repatriations of Haitian citizens who were in United States custody on or before February 5, 1992, and do not qualify for asylum. This measure also provides 2,000 federally funded refugee admission slots be allocated to Haiti. Persons involved in the anti-Aristide coup would not be eligible for the increased slots.

Additionally, I support the amendment offered by my friend, Representative JOHN CONYERS, which would permit Haitian refugees to register for temporary protected status until the return of democracy in Haiti. This is similar to what was provided for Salvadoran refugees who found themselves in a similar situation.

Our colleague, LARRY SMITH of Florida, also has a viable proposal I wish to lend my support to. Representative SMITH's progressive approach expresses a sense of Congress, the United Nations, or the Organization of American States send a peacekeeping force into Haiti to restore peace and order.

Mr. Chairman, our efforts should be to protect the innocent and punish the perpetrators. The forced repatriations flies in the face of this commitment and only reveals an ambivalent commitment to freedom and democracy by the Bush administration. I am tired of the bloodshed in Haiti. I am tired of the injustice and I am tired of idle promises which only serve to defer violence and death for another day.

Mr. Chairman, let's end the carnage by restoring the dignity of the proud Haitian people. Support the Haitian Refugee Protection Act.

Mr. TOWNS. Mr. Chairman, I rise in support of H.R. 3844 which would provide for a 6-month moratorium on the deportation of Haitian refugees.

Haitian refugees have repeatedly suffered from a United States immigration policy that was more concerned with ideology than justice; and one which blatantly assumed that poverty was the sole reason for Haitians to flee to American shores. The United States Supreme Court's recent decision to permit the repatriation of Haitian refugees is only the latest in a series of injustices faced by Haitian refugees. The administration's blatant refusal to even permit the most minimal protection of temporary protected status or extended voluntary departure shows a blatant disregard for the lives of these refugees. Given the historic mistreatment that Haitian refugees have experienced, one can rightly conclude that the policy decisions toward them would have been dramatically different if these refugees were not black.

Today, this House has an opportunity to provide humanitarian support to Haitian refugees who are fleeing an atmosphere of violence and repression, I would urge my colleagues to stand up and be counted. In the same manner that we have argued for temporary protection for other ethnic groups during times of political crises in their countries, we should do no less for the Haitian refugees. I would urge my colleagues to adopt this measure without weakening amendments.

Mr. ATKINS. Mr. Chairman, I rise in support of H.R. 3444, the Haitian Refugee Protection Act. I am a cosponsor of this measure not because I was asked to be by any interest group, but rather because it would be unconscionable not to be an advocate of this measure.

The Bush administration argues that those Haitian refugees who have been forcibly returned to Haiti are not subject to persecution and are only economic refugees. They claim that the United States Embassy staff is monitoring the human rights situation in Haiti and particularly the safety of those individuals we have repatriated. But we have very few resources and personnel in Haiti to even attempt the task. In light of Amnesty International's documentation that Haitians are leaving for the Dominican Republic and Cuba in the tens of thousands, countries hardly known for their prosperity, it is ludicrous to honestly assert that these refugees are leaving only for economic reasons.

More than 15,000 Haitians have fled since the bloody coup which overthrew President Aristide's government. As the refugees attempted to escape their country on rickety boats, the State Department intercepted them in international waters and began the prescreening questioning for asylum in the United States. Questioning such individuals, still dazed and dehydrated from being at sea and on board a Coast Guard ship heading back to Port-au-Prince, is clearly not a fair screening process.

The administration argues that the vast majority of the Haitian refugees have left their homeland because of the economic conditions there. But the fact is that the returnees are being photographed and fingerprinted by the Haitian military regime when they disembark from United States boats. Such monitoring suggests a desire by the military authorities to continue some kind surveillance of the refugees upon their return to Haiti. Given the brutality of the Haitian military authorities, it is not difficult to imagine that this surveillance is political in nature and conceivably will result in renewed persecution.

The fact is that we are dealing with a military government in Haiti which last September violently overthrew a democratically elected government. The best efforts of the Organization of American States to mediate the political situation and restore some semblance of a democratic government have so far failed. In the meantime, hundreds of people have been killed in street violence in that nation, bringing back all-too-familiar memories of the savage Duvalier dynasty. Why is it so hard to believe that such a brutal regime would not think twice of persecuting those who have attempted to escape from its authority?

Monday's decision by the Supreme Court effectively allowed the forcible return of the Haitians now in United States custody. In his opinion supporting the denial to hear the case on the merits, Justice Clarence Thomas expressed his concern over allegations of mistreatment of those forced back. Justice Thomas left the matter for "the political branches." The Court is clearly leaving the decision to Congress and the President. We must not back down from this responsibility. It is time for the U.S. Congress to side with compassion and reason, and that is why I am a cosponsor of H.R. 3844. I urge my colleagues to join me in swiftly passing this important measure.

Mr. PENNY. Mr. Chairman, I rise in strong support of the Haitian Refugee Protection Act, and I urge my colleagues to do the same.

I am a cosponsor of Representative RANGEL's concurrent resolution that would grant protection from deportation to Haitian refugees until a democratically elected government is returned to Haiti. The legislation we are now considering represents a compromise position, a 6-month stay of deportation, and I applaud Chairman MAZZOLI and Chairman BROOKS for bringing this bill to the floor, and Mr. RANGEL for his work on this issue.

We need to strongly support the restoration of the first ever democratically elected government in Haiti. Mr. Aristide was elected President with 67 percent of the vote, a strong mandate for change. The defacto military regime that deposed President Aristide has demonstrated a total disregard for human rights in Haiti, and the poorest Haitian people are suffering the most as a result of the army's brutality. Our effort must include protection for Haitians who have fled the deplorable conditions that they face in their country, and we need to address the fear they have of returning to Haiti.

The Bush administration hopes to address this problem by forcibly repatriating the Haitian refugees and by easing the trade embargo put in place with the support of the member nations of the Organization of American States [OAS]. I supported President Bush's efforts to consult with and enlist the support of the OAS in dealing with the coup in Haiti. I cannot understand why we are now undermining the OAS effort.

The State Department claims they have no evidence of political persecution of the returned Haitians. Anyone who listened to National Public Radio reporter Alan Tomlinson's report from Haiti knows better. Amnesty International reports that 1,500 people have been killed since the coup, and there are daily death threats against President Aristide. If the Haitian Army would kill Mr. Aristide on his return, why would they hesitate to threaten or kill anyone who supported his election?

The humanitarian situation in Haiti must also be addressed promptly. Chairman TONY HALL and the staff of the House Select Committee on Hunger have closely monitored the food and medical problems throughout the country. While there are no reports of starvation yet, UNICEF reports that the number of severely malnourished children under the age of 5 has increased from 20 to nearly 30 percent. There is very little water or electricity in the Port-au-Prince, and emergency feeding programs in Haiti that were serving 750,000 people before the coup are now feeding only about 10,000. And, volunteer organizations routinely report harassment and threats from the military as they attempt to serve the poor.

Today's New York Times reports that President Aristide has signed an agreement with a former political rival and now his Prime Minister-designate, Rene Theodore, outlining a national unity government and beginning a timetable for the President's return to Haiti. Let us give the Haitian political leaders a chance to restore civilian rule to Haiti by supporting the Haitian Refugee Protection Act.

Mr. BROOKS. Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MAZZOLI) having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3844) to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti, had come to no resolution thereon.

INTRODUCTION OF SPENDING PRIORITIES REFORM ACT OF 1992

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PENNY. Mr. Speaker, today, Representative HARRIS FAWELL and I have introduced the Spending Priorities Reform Act of 1992, a bill to rescind the unobligated funding of over 640 projects, totaling over $1.5 billion contained in fiscal year 1992 appropriations acts.

We arrived at these projects following an examination of several thousand potential projects using criteria that asked whether each item—

Previously had been authorized;

The subject of a hearing before the relevant authorizing committee;

Added during conference committee;

Has a meaningful relationship to the act under which it is funded or the agency or program under which it is administered;

Was noncompetitively awarded;

Was earmarked in violation of established congressional procedure or the process described by law; and/or

Is for a project of purely local interest, without regional or national importance.

The projects included in the Spending Priority Reform Act tripped at least three of the above criteria. In several instances, more than three criteria were violated. Moreover, beyond this, many of these projects are better characterized as pork barrel spending.

With the budget deficit near $400 billion and the national debt expected to exceed $4 trillion during 1992 and with the interest payment on the debt the fastest growing part of the budget, it is incumbent on us to weed out all wasteful spending.

And the American people are demanding it. In poll after poll, Americans express their continuing concern with deficit spending. Americans are telling us to pull our collective belt tighter, just as they are doing the same in their own lives. With the prolonged recession taking its devastating toll on our Nation's prosperity, reducing pork barrel spending is not only desirable, it is essential.

So this is the step we take today; 642 projects totaling $1.54 billion is where we start. We ask others to join us in this effort.

THE HAITIAN REFUGEE PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, I would like to take my full 60 minutes, but I do want to take this opportunity to clarify some important points with respect to the issue we have just discussed on the floor of the House and the issue that will be before us tomorrow, and that is the bill, H.R. 3844, the Haitian Refugee Protection Act.

Mr. Speaker, I represent in the 12th Congressional District of New York one of the largest groups of Haitians outside of Haiti. There is only one other community in the United States which is larger than the Haitian-American community in my district, and that is the Haitian-American community in Miami. I represent a large number, and I would like for them to know that there are a number of very important points here that need to be clarified.

No. 1, it was not the Supreme Court of the United States that ordered that Haitians should be deported from Guantanamo to Haiti. That is not what the Supreme Court decided. The Supreme Court is not in the business of implementing policy. That is the duty of the executive branch. The Supreme Court merely said that, if the executive branch of the Government wants to do this under present law, present constitutional law, they have the right to do it, and it refused to protect the Haitians and grant the injunction that was requested on their behalf. Our Government, our present administration, still has a number of options, and they have the leeway and the ability not to proceed and deport the Haitians in Guantanamo back to Haiti. That is their prerogative.

Mr. Speaker, tremendous latitude is afforded the executive branch even without legislation from this body in the way they handle refugees. Historically we have never had quite this much controversy. We have never had to wrangle through the courts. Congress has never had to get so involved in a situation parallel to the one that exists in Haiti where we have a government which has been illegally deposed, a government taken over by military thugs, people who have the guns, but do not have any particular ideology and no large segment of the population behind it, but they have taken over, they have been condemned by the United Nations, they have been condemned by the Organization of American States. Very few governments in the world recognize the people who are in power in Haiti. The United States has endorsed the resolutions of both the United Nations and the Organization of American States, and an embargo has been imposed. Our Government is involved in that embargo. We were 100 percent behind it until recently when we decided to unilaterally ease the embargo to some degree, but nevertheless we have taken actions, and even now, with the embargo being partially lifted, there are certain definite restrictions in force imposed by our Government.

So, Mr. Speaker, we recognize the situation is not a legal one. The situation is one where people are being terrorized, they are being persecuted, and yet, unlike at any other time in history, we have decided to send people back to that Government. We have decided to throw them out of this country, take them away from the protection of this Government and send them back to a government we deem to be illegal, we deem to be a terrorist government, and proceed to institute new kinds of standards that never existed before.

It is not the fact that we have a recession, my colleagues. It has nothing to do with that because this Nation has 250 million people, more than 250 million people. This Nation is able to absorb far more than 14,000 Haitians. We have absorbed 50,000 Hungarian freedom fighters, people from Hungary, some who were fighting for freedom and some who were just fleeing, taking the opportunity to flee to a country with better economic circumstances, which is always the case when we have refugees. We absorbed 400,000 Cubans. Recently we absorbed large numbers of Salvadorans, a large number of people fleeing Nicaragua.

Mr. Speaker, we are able and have been willing to absorb large numbers of people without it having any great impact on our economy. Our economy is in trouble because it is mismanaged, not because we are an overpopulated nation, I assure my colleagues. So, all of a sudden the label of Haitians as being a threat to the economy is the application of a new standard, a double standard, an unfortunate standard.

Mr. Speaker, I yield to my colleague from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, first of all I want to comment that the gentleman from New York [Mr. OWENS] has again called for a special order on this subject. I believe this is at least his third, and he has afforded us the full and ample discussion in the Congress that is required for this matter, and I want to commend him sincerely for that.

Mr. Speaker, I would like to just pose this question because more people in the country are beginning to ask whether or not our Government in the executive branch has really sent a wink and a nod to this illegitimate regime, the junta, that ruthlessly rules Haiti at this moment. If we really wanted to deal with these 7,000 troops, some under varieties of control and command with not a great deal of artillery and weaponry in the military sense of that term, would it not be appropriate, would the gentleman think, for us to at least eliminate flights that obtain from Haiti to Miami in which the elite are traveling back and forth doing their shopping and vacationing all during this period since the coup has gone on?

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Would we not identify as certain malefactors the people that were behind the coup and have them identified and held up to public scorn and sanction? Would we not have frozen the assets of this rebel government and of those who are there in that country? Would we not have required a U.N. presence to investigate the nature of the turmoil and instability in that country?

Would we not have refused to modify the modest sanctions so that we have almost a constructive engagement approach, as in South Africa, that we now have there? And would we not have refused to send fleeing Haitians who risked their lives to get here back to their oppressors?

The question is this: Is our government really sending signals to this illegitimate rule in Haiti even as we move on this legislation this evening?

Mr. OWENS of New York. Mr. Speaker, I would answer all the gentleman's questions in the affirmative. The gentleman's questions and answers make it clear that we have the capacity and in this measure we have the capacity to bring the illegal military government of Haiti to its knees in a matter of days or at least a couple of weeks.

It could have been done. Yes, it could all have been done. We have acted in complicity. We have done that if by no other act than the fact that at the same time we were endorsing the OAS resolutions and the United Nations resolutions we criticized the democratically elected president of Haiti and we indicated that perhaps he should have been deposed.

Here is a president elected by 70 percent of the voters, and we indicated that he must be more reasonable and let the opposition, those people he defeated have a greater voice in government.

I think it is very important to note also that we have maintained the military in Haiti. Haiti has the largest military of any of the Caribbean Islands, the largest military force, and we have paid for that military force. We have trained them. We have kept them going all these years. Why does a nation of 5 million people need 7,000 to 10,000 troops?

Jamaica is of comparable size, and Jamaica has only a police force. In fact, most of the Caribbean countries have only a police force. Haiti has an army, but most of the Caribbean countries have a police force. Haiti's army is maintained by the United States.

This army, incidentally, has never faced combat. They only shoot down innocent people. Again and again this army has only gone into action against the long-suffering people of Haiti.

The gentleman also commented about the fact of the elite of Haiti who certainly were in complicity with this coup and who benefit from it. This is the one group that does not want to see democracy finally come to Haiti. This is a group that has indulged itself in oppressing the Haitian people over the last few decades. The wife of Duvalier used to come to New York City on shopping trips and spend as much as $2 million on one shopping trip.

This is the poorest country in the hemisphere. I want everybody to understand that it is not poor because God has ordained it to be poor. It is poor because of the wretched leadership it has had over the last few decades. It is poor because of this elite group that supports the army and now is not affected at all by the embargo because they travel back and forth to Miami by plane to shop. This is the group that has oppressed the people and utilized the riches of the country. If we could somehow plow back just a few million dollars at a time that Duvalier's wife used to spend on her shopping trips, we could get a decent system for providing water, we could get a decent immigration system, and there are a number of things that money could buy which the elite of Haiti has drained off.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield for a few seconds?

Mr. OWENS of New York. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I thank my friend, the gentleman from New York, for yielding, and I thank the gentleman from Michigan [Mr. CONYERS].

I will not be able to spend the remainder of the evening with the gentlemen, but I want to commend both of them for having led the effort to reach the point where we are tonight and where I hope we will be on tomorrow when I think we will have a very great opportunity to pass a piece of legislation that, as I said earlier this evening, will do good for good people.

That would not have been the case if it had not been for my friend and seat mate, the gentleman from Michigan, on the Judiciary Committee, who led the fight at that level, and had it not been for my friend, the gentleman from New York [Mr. OWENS] with these special orders, who represents his people so ably.

Let me suggest that I hope that tomorrow brings us not just simply passing H.R. 3844 but, more to the point, I hope it opens up a new vista, a new opportunity for this Congress to take an active role in what has been going on and to try to cure what the other gentleman from New York [Mr. RANGEL] mentioned as a 200-year travail, with its sad stories over those years.

So, Mr. Speaker, I want to thank the two gentlemen. It has been a pleasure working with them. On tomorrow we have an opportunity to pass a bill which I hope is not the end of the adventure but a beginning.

Mr. OWENS of New York. Mr. Speaker, I want to thank the gentleman from Kentucky for his leadership on this issue and for bringing us to the point where we are now with considerable difficulty, much more difficulty than we should have had in this House to bring this bill forward. It has limitations, but I think that is also part of our difficulties. I agree with him that the debate tomorrow should be the opening of a whole new set of discussions on policy relating to Haiti with respect to this country. So I commend the gentleman.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman very much.

Mr. CONYERS. Mr. Speaker, if the gentleman will yield, I want to say to the gentleman from Kentucky [Mr. MAZZOLI] that there were those in this Congress and in this country who would have sworn that we would never see the Haitians have their day in the United States Congress. It is only through this subcommittee which the gentleman has chaired, through the concurrence and support of the chairman of the full committee, that not only his provision, but my provision, have been allowed to come to the floor.

I want to publicly let the gentleman know that in moving this analysis forward as I do with the gentleman from New York [Mr. OWENS] we do this in the spirit of legislative debate that really makes the Congress a place and a forum for the resolution of the complicated issues that people face in a democracy. I salute the gentleman in terms of his work, and I hope that he will recognize me on the floor tomorrow during general debate.

And might I just say to the distinguished gentleman from New York that he has pointed out and even given additional reasons to my modest list, and the fact of the matter is that we can do no less than to follow the statement of conscience that was released by prominent civil rights and labor leaders here today, that calls for, first, an end to the repatriation process of sending people back to an almost certain death, and certainly to support a way that has been amply demonstrated in the case of the Salvadorans in their war-torn, strife-wracked country, because we used the emergency provisions of the immigration laws to allow them to come in. Remember, Members of this Congress, this does not allow Haitians to live in the United States. It is a temporary provision that will allow them to stay only until such time as it is safe for their return and a democratic government is restored.

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So this discussion is exceedingly urgent, because we do not want Members to think that this is some letting the doors open, or doing something that in any way contradicts the very carefully constructed rules under which the immigration and naturalization law in this country operates.

Mr. Speaker, I thank the gentleman from New York [Mr. OWENS] for yielding to me. Again, I think his contribution will be recognized as a major one on the subject of the crisis in Haiti this year.

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman from Michigan [Mr. CONYERS] for his remarks. I also thank him for the amendment that he has offered to the bill which, of course, I will support on the floor tomorrow. The amendment of the gentleman extends to Haitians the same protection that the United States has given to Salvadorans and others who were victimized as a result of armed conflict in their homeland.

Mr. Speaker, the amendment of the gentleman from Michigan [Mr. CONYERS] grants temporary protective status to any Haitian in the United States, in the custody or control of the United States or on a United States vessel, or at Guantanamo Bay. Those that qualify would be allowed to stay in the United States until the President certifies to the Congress that a democratically elected government has been restored to Haiti.

Mr. Speaker, it is important to understand what the amendment of the gentleman from Michigan [Mr. CONYERS] adds. The bill that will be on the floor still has many faults. It does not recognize the fact that there are many Haitians who have left Haiti after the February 5 cutoff date in the bill that would be before the House, and that bill also simply delays repatriation for 6 months. But most Haitians would be forced to return to Haiti anyway. The bill does not change the review process or the adjudication standard that is being used today by the Immigration Service.

So we are pleased that the bill will be before us and we will have an opportunity to take some steps to relieve the Haitian refugees in this situation. But the bill by far is a retreat from the position that the United States Governments over the years have taken with respect to the treatment of refugees.

Mr. Speaker, I want to close out by saying that I salute the people of Haiti for their endurance and their fidelity to the principles of democracy.

It was not too long ago that our Government finally allowed the Haitian people to throw out the Duvalier dictatorship. Step by step, they have proceeded toward a legitimate democratically elected government, over enormous obstacles.

It was first considered a joke, that they would not be expected to be able to write a constitution. They wrote a constitution which is a magnificent document. They proceeded to vote on that constitution, despite the fact that every step the military could take was taken to discourage people from going out to vote for that constitution. But they voted on a constitution.

The constitution set in motion an electoral process which the desperate military finally actually took the step on election day of the first attempt to elect a government of shooting people down at the polls. They were that desperate. They murdered people in polling places in large numbers and stopped the process there.

Normally, under most circumstances a people as poor as the citizens of Haiti, a people as illiterate as the people of Haiti, a people as oppressed and downtrodden over the years as the people of Haiti, would have given up. But the Haitians did not give up. They persevered. They insisted. They would not take a bogus government.

The military had their own election and installed their own people, their own puppet government. The people refused to go out and vote for that puppet. The puppet was deposed.

Finally they got to the point where they had another election, supervised by the members of the OAS, the United Nations, Jimmy Carter, and other prominent people. They elected Jean-Bertrand Aristide.

Seventy percent of the vote elected Mr. Aristide. In 7 months while Jean-Bertrand Aristide was in power, and the gentleman from Florida in his opening statement, despite the fact he is in opposition to this bill, he admitted that during the time Aristide was in power there was no problem of large numbers of Haitians trying to leave Haiti and get into this country. The number of people interdicted by Coast Guard boats went down to almost zero in the 7 months that Jean-Bertrand Aristide was in power as the duly elected president of Haiti.

What did he have to offer? He did not have any foreign aid from the United States. Our government was very cold to him and critical of him. He did not have any miracles. In spite of the fact he was a priest, he did not wave a wand and suddenly the ground began to grow new vegetables and new food appeared.

The one thing that Jean-Bertrand Aristide offered his people was hope. Hope kept the Haitians at home. Hope stopped the attempt to migrate across shark infested seas and risk their lives. Hope is what the Haitians live on when they cry for the return of Jean-Bertrand Aristide.

Mr. Speaker, I salute the people of Haiti. They understand better and feel stronger about democracy than perhaps any other group in this hemisphere. It is the duty of this country, the United States of America, which wants to be and deserves to be the leader of the new world, to do everything possible to support that democracy.

Mr. Speaker, when we support that democracy we will solve or end many of the problems we are confronted with now with respect to refugees from Haiti attempting to enter this country.

Mr. Speaker, if the gentleman from Michigan [Mr. CONYERS] would like to make any closing remarks?

Mr. CONYERS. Mr. Speaker, I would, because the reference of the gentleman from New York [Mr. OWENS] to the courage and fidelity of the Haitian people to democracy needs to have this one footnote added. It is that on the anniversary of the election of President Aristide there was a celebration under the despotic conditions that exist. They were hitting on pots and pans, beating on car hoods, putting up posters of Aristide, and celebrating the memory, even under the incredible, ruthless martial law that exists there. That was just another footnote in this epic struggle and story of the glory of the Haitian people in this very, very trying period.

Mr. OWENS of New York. Mr. Speaker, the gentleman from Michigan [Mr. CONYERS] is correct. There is some talk about Aristide having been deposed, and therefore the people lost faith in him. But we have visited as a delegation of the Members of Congress last week. We visited Haiti. Even the opposition leaders, the people who do not want to see Aristide returned, admit that if another election was held today, Aristide would overwhelmingly be the victor. Aristide would be the victor because they know he does not have a wife who would come to the United States and spend $2 million shopping while the people are starving. Aristide would be the victor because Aristide believes truly in democracy at the grassroot level.

Mr. Speaker, the Haitian people have seen in Jean-Bertrand Aristide the man who will turn around a process in the country of oppression from the top that has been there for the last four or five decades. I hope that our government, the Government of the United States, will come to Aristide's aid and try to help to make his dream come true, as well as allow the people of Haiti finally to throw off the yoke of oppression and begin to do for themselves what they are perfectly capable of doing.

Mr. Speaker, they have their place in the sun and they can make the economy of Haiti support the people of Haiti, if you get rid of all the parasites and the oppressors.

ECONOMICS IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, earlier today we had a debate about increasing taxes on the American people. I would like to talk a little bit about that discussion, and then a little bit about the decisions that will be made relative to tax increases as we complete consideration of legislation tomorrow.

Mr. Speaker, we were told that the bill before us today was an economic growth bill. When a bill proposes, as does the Democratic approach to this issue, tax increases, it is not talking about economic growth.

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It is talking about economic stagnation and ultimately economic ruin.

The American people are today taxed beyond their ability to pay. Their Federal, State, and local taxes have put an unbearable burden upon them, and they are incapable of carrying that burden any longer. The American people are in need of massive tax relief, not additional tax increases.

Now, some on this floor would have us believe that the way to accomplish the goal of relieving the American people of their tax burden is to increase taxes on some so that we can reduce taxes for others. That was the debate today.

We heard a debate that said that we ought to give the middle class tax reduction while we increase taxes on the rich, that that is fair. In a very basic analysis, that sounds fair. Let those who have the ability to pay pay more so that we can cut the bill for those in the middle class.

It was talked about on the floor today in the context of "whose side are you on," on the side of working people who need tax relief or on the side of the rich who can afford to pay.

The speciousness of that argument is almost unbelievable. It does not even relate to the reality of our time.

The fact is that what we as a Congress should be about is being on the side of job creation. That involves both relieving the tax burden on the middle class and at the same time assuring that the tax burden on well-to-do people in this country is not so onerous that they end up not being able to create the jobs that society needs.

In other words, there needs to be significant reduction of taxes across-the-board, not simply an attempt to transfer wealth among various groups within the society, class warfare, if you will.

Now, I think it gets confusing when we hear Members talking on the House floor about how taxation relates to job creation. It strikes me that many of my liberal colleagues seem to love jobs and seem to think that jobs are a wonderful thing, but then amazingly hate job creators, think that anybody who is in the business of creating jobs is somehow a bad guy unless, unless it is the Government. They seem to love government jobs. Somehow Government's ability to create jobs can do all kinds of good things, but the jobs created by small business or by big business, for that matter, are somehow bad.

The real fact of the matter is that jobs in this society are created mostly by small business. Eighty-five percent of all the jobs created in modern times have come out of the small business sector. Small business is run and created by entrepreneurs. Small business is created by people who take money of their own or money that they borrow and put it at risk to build a business and thereby create jobs.

The fascinating thing about what happens when we tax the so-called rich is that the people that we hit the hardest are those small businessmen, those entrepreneurs, because for the most part they are not incorporated. They do not pay taxes. They pay personal taxes. They are individual businessmen paying taxes.

In some cases, the amount of money that they make in that small business is significant. It is not that they get the money for themselves. It is that they make the money as a small businessman and then have to pay taxes on it.

What happens when we raise taxes on the so-called rich in this Congress is that we hit those small businessmen and give them an additional burden to pay. Every dollar of additional tax that we impose upon them is one less dollar that could be spent in creating jobs, in putting new people into place. So every time we increase taxes on the people who create jobs, we are in fact destroying the ability to have the jobs.

That is what was happening on the floor today. Regardless of all the rhetoric, what was really happening here was that we were talking about significant tax increases that would have the end result of destroying jobs.

There was also some revisionist history in all of this. We heard talk today that we do not want to go back to the failed policies of the 1980's, that the failed policies of the 1980's created the mess that we are now in. That is a lot of hokum.

The fact is that between 1982 and 1990, we created in this country 21 million jobs, 21 million reasonably good jobs. There has been a false rumor spread that somehow we were creating a lot of work during the 1980's but it was all menial jobs that did not pay very well. The fact is the analysis is now in. The jobs that were created during the 1980's averaged in pay $28,000. Those are pretty good jobs. It is the kind of jobs that we want to create for the future of this country. So the program works.

If you take a look at the idea of cutting taxes in order to create jobs, what worked was the 1981 tax cut. It created a massive amount of entrepreneurial activity in this country. We had record numbers of businesses created. It was those businesses that were created that created the new jobs. That is what really happened in the economy.

Despite everything else, the fact was that we were creating millions of new businesses and with it millions of new jobs.

What happened to kill it off? Well, in 1986, we did a Tax Reform Act. I should go back a little bit.

Let us remember that in 1983, we reformed Social Security. That was a bipartisan plan, had my support and had the support of most Members of Congress. It was a plan aimed at shoring up our Social Security system to assure people adequate livelihoods out into the future when they retire. It was an attempt to make certain that our retirement system was secure not only for those now participating in it but for future generations who are now paying into the system that were fearful that benefits would not be available to them.

The fact is that in that bipartisan solution to the Social Security problem, we raised taxes, those taxes affecting working men and women. In fact, most working families in this country pay more in Social Security taxes than they pay in income taxes.

But let us understand, that was a bipartisan decision aimed at trying to make certain that the Social Security system would remain secure.

Having done that, we should have been satisfied. But we came to 1986 and decided again to reform the Tax Code in ways supposedly to help the middle class. Again, that package had broad support by many Members because what it was doing, among other things, was lowering tax rates, a positive thing in my opinion. I am glad we lowered the tax rates in that bill.

But the fact is, we also imposed some additional tax burdens that are coming back to haunt us. For example, we hit the real estate industry with a triple whammy. We ended their passive loss treatment. We ended or modified the depreciation schedules. And we raised capital gains taxes and made capital gains rates the same as regular income rates.

What happened was that an already difficult economic scenario for real estate began to collapse around us. And when real estate collapsed, it took a lot of other things with it. It took banks with it and created an economic downturn that we are now seeing.

But understand, those were policy decisions that were made here. It was not the economy. It was tax policy decisions that were made that resulted in real problems.

Now, the economy, despite some of those problems, struggled along for a while. It was anemic but it was still growing. Sometimes it was growing only at a tenth of a percent a month. Sometimes two-tenths of a percent. But we got out into 1990. The economy is still growing but struggling a great deal with all kinds of problems beginning to come up on the screen.

The savings and loans were failing. We were in the process of trying to come up with money at the Federal level to take care of the depositors of those savings and loans. We were beginning to see the trouble in the banking industry. Home values and property values in many States were actually in decline rather than appreciation so that people were taking real losses on their property.

☐ 2010

Many of those people had decided as a result of provisions that we put in the Tax Act of 1986 to begin to use home equity loans when they were buying cars and other kinds of consumer goods, not using the equity in the good itself, but using the equity in their homes so that they could write it off against taxes. So as their property values began to drop, they also lost some of their credit line, and also began to worry about losing their home should something happen to their job.

So there were all kinds of fears being built into the economy as a result of some of these policy decisions.

What did we do in 1990 when we saw all of those difficulties brewing around us? The Democrats decided that what they had to do was stick it to President Bush by forcing him to back down on what he had said in 1988, that he would have no new taxes in the economy. So their No. 1 goal in 1990 became to force President Bush, as a part of a budget deal, to accept a tax increase. Every day they pursued the goal of trying to assure that President Bush would have to, as a part of a budget deal, accept a tax increase, and finally they won.

The President and his advisers, along with the Democratic leadership went to the lawn of the White House in June 26, 1990, and announced that they had agreed to a budget deal, and included in the budget deal would be tax increases.

The economy, as of that date, began to collapse. You do not have to take my word for it. Go to all of the economists who have come together to decide when the present recession began. They will tell you it began in July 1990. What was the event that triggered it? The event that triggered the recession was when investors all over the country began to pull back from decisions aimed at growth.

Why did they pull back? Because they had just heard it announced that we were going to raise taxes, and they did not know where those taxes might be increased. But one thing they were certain of is if they took their money out of risk and out of investments, out of job creation, if you will, and put it into shelters, they would be fine. And so, money immediately began to move out of the productive sector of the economy into the unproductive sector of the economy; namely, shelters of various kinds, mostly in government bonds, some of them in municipal bonds, some of them in U.S. bonds, a lot of things of that type.

Guess what? The economy could not stand that. So the tax increase decision that we made in 1990 had its affect as soon as it was announced and began to drive the economy down, and we have been living through a totally unnecessary recession ever since.

Does that mean that the economic program of the 1980's failed? No. The economic program, the Reagan economic program of 1981 that cut taxes worked. That cut in taxes set off a wave of entrepreneurism and a massive amount of job creation. Two out of every three jobs created in the world were created in this country during that period. Two-thirds of all of the jobs created all over the world were created in this country during that period. I thought that is what we should be all about as a country, making certain that there are opportunities available to everyone, that job creation was available to everyone. We were doing it during the 1980's, and what happened to kill it in the 1990's has brought us to the stage we are today. We backed away. We raised taxes. Instead of sticking with lower taxes, we went to increased taxes, and we increased them steadily in 1983, in 1986 and in 1990, and it has given us the problem that we now face.

So regardless of the revisionist history that we have here, the fact is that what we have for real is that when we reduce the tax burden on the American economy and on the American taxpayer, the result is very positive. We get both economic growth and job creation, which leads to more revenue, not less revenue for the job, which helps us solve our deficit problems. A growing economy benefits everyone. That is what we were producing during the 1980's. It is what we do not have at the beginning of the 1990's.

So what is the solution that was proposed on the House floor today to those problems? The Democrats brought to us a package that suggested that we would be better off with more tax increases, that the way to economic salvation was to create even more tax increases. I think it is clear that tax increases at this point will drive the economy even further down. It will destroy more jobs; it will create more debt. It will result in more losses of financial institutions, and the economy will suffer dramatically as a result.

I guess though that I understand that the real agenda was not so much economics as it was politics, and to a lesser extent philosophy, because to have a class warfare kind of argument that we heard today, and to be antijob creation is really kind of the ultimate expression of socialism. What we heard a lot of today is Members who basically buy the idea that all of the wealth in society is ultimately in the hands of Government, and Government should control as much of it as possible, because if Government has the money, Government will do good things with it. If Government does not have the money, they are not certain that good things will be done with it, and so the more we can bring the wealth to Washington and redistribute it from Washington, the better off the country is.

We have heard Members suggest that the kinds of jobs we want to have for our future are Government jobs. We even had Members come to the floor today suggesting that as the defense industry is cut back, what we ought to do is create Government programs with more Government jobs to absorb those defense workers. Why not absorb them in the private sector? Why not come up with ways to have entrepreneurs invest in the future and create jobs for people in the defense industry there? Why do they have to move into Government jobs, many of which are dead-end jobs? Why not create a growing economy in which everyone benefits? Why not take the savings from defense and make certain it goes back to the people in tax reductions? Why would we create more Government programs?

The answer to that question is if you believe that only good things happen in Washington and all of the money should flow here, you agree with the folks who propose those kinds of programs. If you think that good things happen in communities because of what people do for themselves, then what you believe is that as Washington finds places where we can cut spending we ought to give it back in tax relief.

As for this argument that somehow if we give tax relief to people that some of these rich will benefit, and that would be a terrible thing, let us understand that when we raise taxes on the rich, the rich do not pay them anyway. Now people say, "Uh huh, gotcha, Walker. You have now admitted it. These people escape the tax burden."

The fact is that what they do is they do what all of us do. They are smart with the money that they have available to them. If in fact what you tell them is that you are going to tax them for having their money over here at risk, what they will do is take their money and bring it over here where it is not at risk, and where they do not have to pay taxes on it.

What do I mean? If what you do is say to somebody who has a lot of money to spend, if you have it over here and you are going to spend it on jobs and in a business where you may run the risk of losing it all, the business may collapse and you may lose it all, but for doing that what society is going to say to you is you are going to have to pay a lot of taxes on it over here. But if you take your money and bring it over here and put it in municipal bonds, it is absolutely safe, and we will not charge you any taxes on it. Guess what. A lot of people are going to decide not to have it at risk over here and to put it into something safe over here.

I know people will say why not just end some of those shelters like the municipal bonds. The reason why we do not do that is because we then switch the burden of all local projects, for example, building new schools, improving the infrastructure of communities, into a situation where they would have to pay the regular interest rates, which means you would switch over the whole burden of taxation and the costs of projects onto property taxes in this country, and it would be fantastically expensive because if you could not have low interest rates available for public works projects, they would have to pay the regular market rates, and that means that the property taxes would be enormous.

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The interest on a school building, for instance, is most of the cost of a school building. If you doubled the interest rate, for example, you would have school buildings costing twice as much as they now do, all paid for out of taxes. That does not make a lot of sense, and it is something that we are not likely to end for exactly that reason, so you are always going to have some shelters out there for the rich to take advantage of.

The question for us as a society and the question for policymakers is how do you get the rich not to shelter their money in that way, how do you get them to pull it out of shelters and bring it over at places where it might be actually used productively? Well, the way you do that is to assure them that if they make some money along the way that they are able to keep, a percentage of that is not all going to be taxed away.

Now, if you do not do that, if you do as some of our colleagues have suggested, impose a heavy burden of tax on it, what they will say is, "Fine, I don't need this. I don't have to do this. I am rich. I can do whatever I want with my money. Why should I go out and put it at any kind of risk and create any jobs? I will just use it on myself."

Let us use the example of the luxury tax. That is a good example. Congress passed a luxury tax with the idea it was only going to tax luxury items and the only people who bought these luxury items would be the rich; only the rich would buy $100,000 boats, only the rich would buy $30,000 cars, only the rich would buy expensive jewelry and furs. Well, that is true. They are the people who can afford to buy it.

So it was not going to hit any middle-class people. The problem, though, became that the rich made very rational decisions. They said, "Fine, you are going to tax us on it, we are not going to buy it." So they stopped buying boats, and guess what, the rich not buying boats meant that middle-class, blue-collar workers no longer had a job building boats. The people who supplied those boats with refrigerators and all kinds of things no longer had jobs. Automobile dealerships shut down, and mechanics were out of work. The jewelers shut their shops and the clerks in those shops no longer had work. The people who made the jewelry in the factories no longer had work. The furriers shut down business. All of that is job losses, not because we were going to get any more money out of the rich. The rich did not pay it. The rich simply stopped buying the goods, and the society suffered enormously.

Let us understand; let us understand also what leads some people on this floor to decide that those ideas are good ideas. One of the Members of the other body asked the Joint Tax Committee for an analysis recently. He asked them that if we put a 100-percent tax on rich people, and let us say $250,000, that after $250,000 you are a rich person, you have made enough money, and we are going to tax you at 100 percent of everything you make over $250,000, how much more revenue would that bring into the Federal Government, and the Joint Tax Committee came back and said, "Well, it would raise this many million in the first year, and then it would raise even more in the second year, and then in the third year it would raise even more, and then in the fourth year we would get even more money out of it."

Think about that for a minute. The Joint Tax Committee's analysis upon which the Democrats depend for a lot of what they do on the floor said that people in this country would be willing to work year after year after year to have the money that they made taxed away at 100 percent. That is not going to happen, folks. That is not in human nature.

The people in the first year, you might get some money out of it, because people already would have invested. By the second year, nobody, nobody would be willing to work to have every dime that they made over a certain figure taken away by the Government. No one. The return from that tax would be zero, and yet the analysis of the Democrats is that that is rational behavior, that it is rational behavior to believe that everybody would be willing to work for a 100-percent tax rate. That is what drives process here that makes no sense in society as a whole, and it is that lack of common sense that is driving the economy to a state of ruin.

I will be happy to yield to the gentleman from Georgia.

Mr. GINGRICH. I appreciate very much my colleague, the gentleman from Pennsylvania, yielding.

It seems to me the gentleman is coming right to the essence of the current debate, the debate that we will see tomorrow in the vote on these two tax bills.

I would say that there are two principal questions. First, do you want economic growth? And, second, how does economic growth occur?

I divided it in two, because it has occurred to me as I expect it has to my friend from Pennsylvania that a number of other colleagues in the Democratic Party, frankly, do not care about economic growth. They do not care about jobs. They do not care about people being at work, that they care about class warfare, they care about redistribution, that the classic argument of whether our No. 1 assignment is to make a bigger pie or to fight over slicing up the current pie, that a great many of our friends in the Democratic Party are into slicing up the current pie and redistributing it. They literally do not care about economic growth.

What I am going to say next, and if you do not care about new jobs and new take-home pay and new productivity, if you really do not care about economic growth and all you care about is class warfare, you can quit listening, because this next part, quite frankly, only relates to people who would like to see a bigger American economy with more jobs and higher take-home pay and greater productivity.

But the second question, if you decide you want economic growth, and I think most Americans and even, frankly, at least half the Democrats would like to have more economic growth, and they would like to have more jobs, the question then becomes: How does economic growth occur? What leads to jobs? What leads to higher take-home pay? What leads to greater productivity and new factories and new business and new opportunities?

I thought it was fascinating that the only Democrat I have heard in modern times, certainly in the last 25 years since the death of President John F. Kennedy who really seemed to understand a little bit of this, was Paul Tsongas who, on primary night in New Hampshire, said that if you do not have a goose, you do not get golden eggs. If you do not have businesses, you do not get jobs. If you do not like job creators, you cannot expect jobs to be created and he began to talk about a rational economic policy.

But I would just make this point about our friends in the Democratic leadership: When they raise taxes, as they are talking about doing tomorrow, and the Democratic bill would raise taxes by billions of dollars, they inevitably slow down growth, kill jobs, and the best estimate we have from the National Center for Policy Analysis is that they would kill about 100,000 jobs, now, in the middle of a recession.

Mr. WALKER. Let me just reclaim my time, if I can, for a moment. In other words, the bill that we will have on the floor tomorrow, if passed, despite the fact that the claim is it would only tax the rich, would have an impact according to the National Center of killing 100,000 jobs in the country?

Mr. GINGRICH. That is exactly right. The National Center for Policy Analysis, which I believe is in Dallas, TX, had two economists who used to work for the Treasury, work through the numbers, and it is their estimate that the Democratic tax increase bill tomorrow, if it passed and were put into law, would kill about 100,000 jobs below the current economy.

Mr. WALKER. That is 250 jobs in every congressional district in the country, is it not?

Mr. GINGRICH. That is about right.

Mr. WALKER. And most of us think it is pretty tragic when a business in our area shuts down that costs 250 people their jobs, so, in other words, with this one policy decision on the House floor, we are going to have the effect of stripping every congressional district in the country of 250 of its jobs.

Mr. GINGRICH. That is exactly right. What will happen, if the Democratic tax increase passes, is that additional tax increases would so weaken business and so weaken small businesses and so weaken consumer demand that you would have the equivalent of about 50 small businesses at five employees each, or 1 medium-sized business, close down in every congressional district if you were to average it across the whole country.

Mr. WALKER. What the Democrats are telling us is that the advantage to their plan though is that everybody in that area is going to get $4 a week.

Mr. GINGRICH. I would say, first of all, to my good friend that if you are a family of four, I believe it comes down to about 25 cents a day per family member, and that is only if you have a job. So for the 100,000 people who the Democrats will put out of work with their tax increase, those 100,000 people will not get any tax break, because they will be out of work. They will not have any taxes to get a tax break on. They will be on unemployment or on welfare or food stamps.

Mr. WALKER. What the gentleman is saying is that there are, in every congressional district, there are 50 businesses employing about five people that will go out of business, and those people will be out of their jobs, but what they will be left with is $4 a week. So, if their job is worth more than $4 a week, they are in real trouble.

□ 2030

Mr. GINGRICH. That is right. I think it is a very big gamble and I am sort of surprised after the George McGovern experience of trying this in 1972, that the Democrats would come back to this well. It is a very big gamble to think that the American people are dumb enough that if you give them about $4 a week for 2 years in return for a permanent tax increase, that somehow magically they are going to be dumb enough to take the $4 and not realize first of all that the permanent tax increase leads to a bigger welfare state.

Mr. WALKER. Wait a minute, wait a minute. They only get this for 2 years?

Mr. GINGRICH. That is my understanding.

Mr. WALKER. It is not a permanent thing?

Mr. GINGRICH. No. This is a disappearing $4 tax cut.

Mr. WALKER. So after 2 years they lose the $4 a week but we retain the taxes that are killing 100,000 jobs?

Mr. GINGRICH. Exactly.

Mr. WALKER. So out into the future, they do not even get the $4, but the jobs continue to be lost.

Mr. GINGRICH. If you were in private business, I doubt the Government would allow you to offer this deal. My guess is that the Government would say that if you were out there saying, "I have a terrific deal for you. I will give you $4 a week for the next 2 years and if you are 35 years old, from the time you are 37 on there will be no more tax breaks, but by the way, the taxes will stay higher."

So if you succeed at anything, remember, basically what the Democrats are gambling on is that people who expect to succeed or people who want to live out the American dream are not going to be smart enough to figure out that that is who they are going to tax.

Mr. WALKER. Right.

Mr. GINGRICH. So what they are saying is if you are guaranteed to have a job, which in this economy is shaky itself, and if you are guaranteed never to be a success the rest of your life, we will give you $4 a week for 2 years and expect you to be grateful.

Now, if you think you might lose your job because we are going to weaken the economy, the Democrats with their tax increase will weaken the economy, that is a bad deal or if you ever the rest of your life think you will be successful in any way, this is a bad deal because there is a permanent tax increase, or if you think Washington is a dumb place to have your money because politicians are not very good at spending it for you, they love doing it, but they are not good at it, then you do not want to transfer the money and the power to Washington permanently, so for all those different reasons, it seems to me, as I said, this is sort of a George McGovern tax increase of the most foolish kind.

Mr. WALKER. It sounds to me, for instance, if you were a guy who decided that what you want to do is parlay your $4 a week by going and buying four lottery tickets a week, if you actually got lucky and it paid off, you would still be a loser out of all of this because the Democrats are going to take it all away from you after you have won the lottery.

Mr. GINGRICH. That is actually a good way to put it. If you are truly disciplined and you thought that by buying a $4 lottery ticket every week for 2 years, which would be 104 lottery tickets, that you might win once, the Democrats would have raised your taxes enough that you would be a net loser anyway, because your taxes would be higher.

Essentially what they want to tax is success, achievement, hard work, energy, entrepreneurship, exactly the talent needed.

This is why I thought it was so fascinating that Paul Tsongas, the frontrunner in New Hampshire, would clearly veto the Democratic tax increase bill because it violated all the principles and all the values he has campaigned on. It is antismall business. It is antientrepreneur. It is antijob creation. It is antiinvestment, and it does so in the name of sort of the silliest kind of tax cut, a tax cut so small that even your teenager will not notice it.

I mean, this is the kind of tax cut that will not quite get you, you could not take your wife to the movies on the tax cut unless you only went to the movies once a month. It is just sort of silly. In return for that, what they expect the American people to be is foolish enough to say, "Oh, thank you for my $4 a week, and I am not going to notice your massive tax increase and I won't notice that you killed 100,000 jobs."

Mr. WALKER. Unless, of course, it happens to be my job and then what they will do, the Democrats in the Congress will say, "Well, that is the President's fault."

Mr. GINGRICH. That is right.

Mr. WALKER. It is the President's economic conditions that killed off the economy, not our tax increases.

Mr. GINGRICH. The gentleman has it exactly right.

What we have is the Democratic leadership, which has controlled the Congress since 1954, which means they have been in charge of the House for 5 years longer than Fidel Castro has been in charge of Cuba, that leadership which blocked the President's tax cut in 1989 when he asked for it, blocked the President's tax cut in 1990 when he asked for it, blocked the President's tax cut in 1991 when he asked for it, the President came back this year once again, came to the State of the Union, stood right down there and said, "Won't you please help create jobs and help end the recession by passing my tax cut?"

And now they are right back less than 2 months later trying to kill the economy by raising taxes.

Mr. WALKER. Did not the majority leader today offer the President's program on the floor? I mean, he said he did.

Mr. GINGRICH. Absolutely not. The majority leader, who is a very distinguished person, in a clever but shallow partisan trick introduced a whole set of unrelated tax ideas which collectively represent all the various ideas of the Bush administration. That is not the President's tax proposals for economic growth. The President has denounced it. The gentleman from Illinois [Mr. MICHEL], the Republican leader, has denounced it. The gentleman from Texas [Mr. ARCHER], the Republican leader on the Ways and Means Committee, has denounced it.

Mr. WALKER. The gentleman from Texas [Mr. ARCHER] is perhaps the President's personal Congressman. Is that not right?

Mr. GINGRICH. That is exactly right. The gentleman from Texas [Mr. ARCHER] is the President's personal Congressman.

I think it was a sad commentary that in the middle of a period when most Americans are in real economic pain, when most Americans are genuinely worried about the recession, when most Americans want to create jobs, to have a distinguished person like the majority leader, the Democratic leader, just play political games instead of trying in a bipartisan manner to work together to pass a genuine tax cut program to create jobs.

So I just want to commend my good friend, the gentleman from Pennsylvania, because I think this is a very, very important message about what has to happen in America if we are ever again going to create jobs and end the recession.

Mr. WALKER. Let me also add an addendum to that, that the game on that was even more serious, and that is that not only did the majority leader do that to the President's program, he eliminated all the spending cuts that the President had in his program, did not include them, but kept billing it this way so that on the evening news tonight the President's program was turned down overwhelmingly by the Congress, so we adjourned or we stopped business on the bill at the point that we had voted on the Gephardt motion, so that that would be the only action of the House that would be on the television news tonight. So it was all a political game. It was all designed for political advantage. It had no substance involved with it. The majority leader knew upon introduction that it would be almost unanimously rejected. I cannot imagine that somebody actually voted for it, because both sides of the aisle indicated that it was a piece of trash. It was not something that you ought to support, and yet somebody voted for the thing.

The question is why we engage in those kinds of shenanigans when the American people are really hurting.

The fact is that it does hurt when you have an economy that is in downturn. It hurts people directly. It hurts us all because collectively the Nation suffers. The debt of the Nation goes up and it is in fact taxes and debt that are pressing it out of world markets. The global economy, whether we like it or not, is here to stay. We are going to be a nation which if we intend to provide economic leadership and jobs for our people are going to have to compete in global markets, to have situations arise where we are piling up more debt because the economy is not growing and where we are creating more taxes that make our businesses uncompetitive is precisely the wrong prescription for adequate competition in global markets.

We have to begin some focus ahead. This body, this Congress, is the single most reactionary institution in the country today. We are always focusing on what has already happened, rather than focusing on the future. We are constantly using economic analyses which are outdated to try to pass bills for the future. We are constantly doing all the wrong things in terms of assuring people that there will be work available to themselves and to their children. We are constantly behind the curve. We never focus ahead.

There is an opportunity to at least develop policies that will allow others to focus ahead.

I despair that Congress will ever be able to focus ahead because we are so captive in this body of special interest groups and all kinds of power brokers on the outside who want to maintain the status quo that it becomes difficult for my colleagues to show the kind of courage that drives the process forward; but at least what we ought to do is to have policies that force the Nation to focus ahead, or if not force the Nation to focus ahead, at least allow the Nation to focus ahead.

People will make rational choices if given the opportunity to do so. The more money you allow the working man to keep in his pocket, the more likely he is to make the right kinds of decisions about his future and the future of his children. The more money you allow the businessman to keep in his pocket, the more likely he is to make the right choices about that business and how it should grow and how it should create more jobs. The more money that you allow to stay at the community level, the more likely you are to have good decisions made about how we ought to live collectively.

□ 2040

The more you transfer money to Washington and expect the money to be well-spent, the worse the situation will be because they will be captive of reactionary, insidious policies that destroy rather than build.

I think the American people ought to insist upon a revolution, a revolution of values, a revolution of integrity, a revolution of progress. They ought to insist that Congress get its act together at least enough to allow them to make real choices for themselves. The problem is that we do not have revolution on our minds here, a revolution to straighten things out so that we as a Nation can address the next century.

The problem is that we are reactionaries in this Congress, too often, that we simply are reacting to events and that reaction is usually wrong.

Today we saw a good example of that. I am afraid we may tomorrow.

I am afraid we may approve policies here tomorrow that will be simply another reaction and another case of doing all the wrong things. Hopefully, the President will have the sense to veto a package that comes out of Capitol Hill that looks like the Democratic proposal that will be on the floor tomorrow. Maybe. Maybe we will turn it down here. But, if we do not, the President should veto it because he should know now that the economy cannot stand tax increases, that the economy cannot stand more job losses, that we have to proceed ahead and give the American people some assurance that their jobs and their economy will grown in the future.

This has been a disappointing day because it has been a day of politics rather than policy. The American people can begin to correct that by insisting on a Congress that acts and not just reacts.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HOYER (at the request of Mr. GEPHARDT) for today, on account of death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCCOLLUM) to revise and extend their remarks and include extraneous material.)

Mr. DORNAN of California, for 5 minutes each day, on March 3 and 4.

Mr. DORNAN of California, for 60 minutes, on March 5.

Mr. BURTON of Indiana, for 60 minutes each day, on April 1, 2, 3, 6, 7, 8, 9, and 10.

Mr. DELAY, for 60 minutes, on March 4.

Mr. WALKER, for 60 minutes, today.

(The following Members (at the request of Mr. MFUME) to revise and extend their remarks and include extraneous material:)

Mr. MCCLOSKEY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCCOLLUM) and to include extraneous matter:)

Ms. MOLINARI.

Mr. MORRISON.

Mr. GILMAN.

Mr. CAMPBELL of California.

Mr. BROOMFIELD in two instances.

Mr. FAWELL.

Mr. FIELDS.

Mr. HANSEN.

Mr. IRELAND.

Mr. YOUNG of Florida.

Mr. GALLEGLY.

Mr. LEWIS of California.

Mr. HUNTER.

Ms. ROS-LEHTINEN.

Mr. GILMAN in two instances.

Mr. SOLOMON in two instances.

Mrs. MORELLA.

Mr. GINGRICH.

Mr. BEREUTER in two instances.

(The following Members (at the request of Mr. MFUME) and to include extraneous matter:)

Mr. MURTHA.

Mr. SWETT.

Mr. HAMILTON.

Mr. TORRICELLI.

Mr. EDWARDS of California in four instances.

Mr. HOYER.

Mr. AUCOIN.

Mr. CLAY.

Mr. RUSSO.

Mr. SOLARZ.

Mr. MATSUI.

Mr. SIKORSKI.

Mr. MCCLOSKEY.

Mr. LEVINE of California.

Mr. ANTHONY in two instances.

Mr. TOWNS.

Mr. VENTO.

Mr. ROWLAND.

Mr. BROOKS.

Mr. TALLON.

ADJOURNMENT

Mr. WALKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, February 27, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2887. A letter from the Assistant Secretary, Department of Defense, transmitting a report on the consolidation of supply depots, pursuant to Public Law 102–190, section 313(a)(3) (105 Stat. 1336); to the Committee on Armed Services.

2888. A letter from the Secretary of Defense, transmitting the Department's Annual Report to Congress for Fiscal Year 1992, pursuant to 10 U.S.C. 113; to the Committee on Armed Services.

2889. A letter from the Under Secretary of Defense, transmitting the Secretary's certification with respect to the Navy's AOE 6 program, pursuant to 10 U.S.C. 2433; to the Committee on Armed Services.

2890. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 138 of title 10, United States Code; to the Committee on Armed Services.

2891. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation entitled, "Military Construction Authorization Act, 1993"; to the Committee on Armed Services.

2892. A letter from the Secretary, Housing and Urban Development, transmitting a report on the feasibility and effectiveness of establishing uniform standards for training and certification of executive directors and other officers and members of local, regional, and State public housing agencies, pursuant to Public Law 101–625, section 502(b) (104 Stat. 4183); to the Committee on Banking, Finance and Urban Affairs.

2893. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–151, "Advisory Neighborhood Commission Election Temporary Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2894. A letter from the Director, Agency for International Development, transmitting a report on economic conditions prevailing in Turkey that may affect its ability to meet its international debt obligations and to stabilize its economy, pursuant to 22 U.S.C. 2346 note; to the Committee on Foreign Affairs.

2895. A letter from the Director, Agency for International Development, transmitting a report on economic conditions prevailing in Portugal that may affect its ability to meet its international debt obligations and to stabilize its economy, pursuant to 22 U.S.C. 2346 note; to the Committee on Foreign Affairs.

2896. A letter from the Director, Agency for International Development, transmitting a report on economic conditions prevailing in Egypt that may affect its ability to meet international debt obligations and stabilize its economy, pursuant to 22 U.S.C. 2346 note; to the Committee on Foreign Affairs.

2897. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of S. 1415, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

2898. A letter from the Assistant Secretary (Management), Department of the Treasury, transmitting a report on its activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

2899. A letter from the National Endowment for Democracy, transmitting a report on its activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

2900. A letter from the Chairman, National Transportation Safety Board, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1991, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2901. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on its activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2902. A letter from the U.S. International Trade Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1991, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2903. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2904. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2905. A letter from the Assistant Secretary of the Department of the Interior, transmitting a draft of proposed legislation to amend the Surface Mining Control and Reclamation Act of 1977, as amended, to extend authority to collect abandoned mine reclamation fees; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROE: Committee on Public Works and Transportation. H.R. 3118. A bill to designate Federal Office Building Number 9 located at 1900 E Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building" (Rept. 102–438). Referred to the House Calendar.

Mr. ROE: Committee on Public Works and Transportation. H.R. 2539. A bill to designate the Federal building and U.S. courthouse located at 402 East State Street in Trenton, NJ, as the "Clarkson S. Fisher Federal Building and United States Courthouse" (Rept. 102–439). Referred to the House Calendar.

Mr. ROE: Committee on Public Works and Transportation. H.R. 2818. A bill to designate the Federal building located at 78 Center Street in Pittsfield, MA, as the "Silvio O. Conte Federal Building," and for other purposes (Rept. 102–440). Referred to the House Calendar.

Mr. ROE: Committee on Public Works and Transportation. H.R. 3041. A bill to designate the Federal building located at 1520 Market Street, St. Louis, MO, as the "L. Douglas Abram Federal Building" (Rept. 102–441). Referred to the House Calendar.

Mr. ROE: Committee on Public Works and Transportation. H.R. 2475. A bill to designate the U.S. courthouse being constructed at 400 Cooper Street in Camden, NJ, as the "Mitchell H. Cohen United States Courthouse" (Rept. 102–442). Referred to the House Calendar.

Mr. ROE: Committee on Public Works and Transportation. H.R. 3818. A bill to designate the building located at 80 North Hughey Avenue in Orlando, FL, as the "George C. Young United States Courthouse and Federal Building" (Rept. 102–4434). Referred to the House Calendar.

Mr. ROE: Committee on Public Works and Transportation. S. 1889. An act to designate the U.S. courthouse located at 111 South Wolcott in Casper, WY, as the "Ewing T. Kerr United States Courthouse"; with amendments (Rept. 102–444). Referred to the House Calendar.

Mr. ROE: Committee on Public Works and Transportation. S. 1467. An act to designate the U.S. Courthouse located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr. United States Courthouse"; with amendments (Rept. 102–445). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GILMAN:

H.R. 4314. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit for the purchase of domestically manufactured automobiles; to the Committee on Ways and Means.

By Mr. FAWELL (for himself, Mr. PENNY, Mr. BAKER, Mr. BALLENGER, Mr. BOEHNER, Mr. CHANDLER, Mr. COX of California, Mr. CRANE, Mr. DANNEMEYER, Mr. BURTON of Indiana, Mr. DOOLITTLE, Mr. DUNCAN, Mr. GOSS, Mr. HANCOCK, Mr. HUNTER, Mr. LUKEN, Mr. MOORHEAD, Mr. OXLEY, Mr. PETRI, Mr. SENSENBRENNER, Mr. SOLOMON, Mr. STENHOLM, Mr. WALKER, Mr. ZIMMER, Mr. ARMEY, Mrs. JOHNSON of Connecticut, Mr. KLUG, and Mr. SHAYS):

H.R. 4315. A bill to rescind unauthorized appropriations for fiscal year 1992; to the Committee on Appropriations.

By Mrs. BYRON:

H.R. 4316. A bill to amend title 10, United States Code, to establish a volunteer program to use the technical skills of recently retired and separated members of the Armed Forces to assist in meeting the infrastructure needs of East European countries, the Baltic States, and the former Soviet Republics; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. ORTON:

H.R. 4317. A bill to amend section 21A of the Federal Home Loan Bank Act to provide improvement in the operations of the Resolution Trust Corporation, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GIBBONS (by request):

H.R. 4318. A bill to make certain miscellaneous and technical amendments to the Harmonized Tariff Schedule of the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 4319. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on higher education loans and to permit penalty-free withdrawals from qualified retirement plans to pay for higher education expenses; to the Committee on Ways and Means.

By Mr. BUSTAMANTE

H.R. 4320. A bill to amend title 10, United States Code, to extend coverage under the Civilian Health and Medical Program of the uniformed services to members of the armed services who are discharged or released from active duty after completing 8 or more, but less than 20 years, of active service and to the dependents of such members; to the Committee on Armed Services.

By Mr. HANSEN:

H.R. 4321. A bill to amend the Radiation Exposure Compensation Act relating to judicial review of a denial of a claim under that act; to the Committee on the Judiciary.

By Ms. MOLINARI (for herself, Mr. EMERSON, Mr. GOODLING, and Mr. HALL of Ohio):

H.R. 4322. A bill to amend the Child Nutrition Act of 1966 to establish a breastfeeding promotion program; to the Committee on Education and Labor.

By Mr. KILDEE (for himself, Mr. FORD of Michigan, Mr. MILLER of California, Mr. MURPHY, Mr. MARTINEZ, Mr. OWENS of New York, Mr. PERKINS, Mr. SAWYER, Mrs. LOWEY of New York, and Mr. OLVER):

H.R. 4323. A bill to improve education for all students by restructuring the education system in the States; to the Committee on Education and Labor.

By Mr. RUSSO (for himself and Mr. DONNELLY):

H.R. 4324. A bill to amend the Internal Revenue Code of 1986 to require continuation coverage under an employer group health plan for both current and former employees of an employer in bankruptcy proceedings; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 4325. A bill to improve the wilderness management, wilderness research, and special management area programs of the Forest Service, including better coordination with the wilderness management and research programs of the Department of the Interior; jointly to the Committees on Agriculture and Interior and Insular Affairs.

H.R. 4326. A bill to improve the wilderness management and wilderness research programs of the National Park Service and Bureau of Land Management in the Department of the Interior; to the Committee on Interior and Insular Affairs.

H.R. 4327. A bill to improve the wilderness management and wilderness research programs of the U.S. Fish and Wildlife Service in the Department of the Interior including better coordination with the National Park Service and Bureau of Land Management; jointly, to the Committees on Merchant Marine and Fisheries and Interior and Insular Affairs.

By Mr. WALSH:

H.R. 4328. A bill to amend the Department of Housing and Urban Development Act to prohibit the Secretary of Housing and Urban Development from making lump sum relocation assistance payments, except under certain circumstances; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FEIGHAN (for himself, Mr. SMITH of Florida, Mr. SCHEUER, Mr. MILLER of Washington, Mr. GREEN of New York, Mr. STUDDS, Mr. JOHNSTON of Florida, Mr. FAZIO, Ms. KAPTUR, Mr. TORRES, Mr. HOYER, Ms. NORTON, Mr. DERRICK, Mr. FROST, Mr. OWENS of New York, Mr. WAXMAN, Mrs. MORELLA, Mr. STARK, Mr. CAMPBELL of Colorado, Mr. WYDEN, Mr. SABO, Mr. JACOBS, Mr. EVANS, Mr. MANTON, Mr. GEJDENSON, Mr. BATEMAN, Mr. MRAZEK, Mr. MCGRATH, Mr. ATKINS, Mr. SCHIFF, Mr. RANGEL, and Mr. CLAY):

H.R. 4329. A bill to amend title 18, United States Code, to deny convicted felons and other individuals the opportunity to seek administrative relief from prohibitions against possessing, shipping, transporting, or receiving firearms or ammunition, and to eliminate the authority of the Federal courts to admit additional evidence in reviewing denials of such administrative relief for other persons; to the Committee on the Judiciary.

By Mr. AuCOIN (for himself, Mr. DEFAZIO, Mr. KOPETSKI, Mr. WYDEN, Mr.SMITH of Oregon, Mr. DICKS, Mr. MCDERMOTT, Mr. SWIFT, Mrs. UNSOELD, and Mr. MORRISON:

H.J. Res. 423. Joint resolution designating 1992 as "Columbia River Bicentennial Year" and May 11, 1992 as "Captain Robert Gray Day"; to the Committee on Post Office and Civil Service.

By Mr. BENNETT:

H.J. Res. 424. Joint resolution to designate April 9, 1992, as a "Day of Recognition of Filipino World War II Veterans"; jointly, to the Committees on Post Office and Civil Service and Foreign Affairs.

By Mr. HARRIS (for himself, Mr. BILIRAKIS, Mr. BLILEY, Mr. CALLAHAN, Mr. COOPER, Mr. ERDREICH, MR. ESPY, Mr. GEREN of Texas, Mrs. PATTERSON, Mr. PAYNE of Virginia, Mr. PETERSON of Florida, Mr. PRICE, Mr. RAVENEL, Mr. ROWLAND, Mr. SISISKY, Mrs. LLOYD, Mr. HAYES of Louisiana, Mr. LEWIS of Georgia, Mr. JENKINS, Mr. HEFNER, Mr. BREWSTER, Mr. BARNARD, Mr. ANTHONY, Mr. CHAPMAN, Mr. PICKLE, Mr. TAUZIN, and Mr. GORDON):

H.J. Res. 425. Joint resolution designating May 10, 1992, as "Infant Mortality Awareness Day"; to the Committee on Post Office and Civil Service.

By Mr. TAYLOR of North Carolina (for himself, Mr. WALSH, Mr. FORD of Michigan, Mr. JONES of North Carolina, Mr. RIGGS, Mr. BACCHUS, Mr. LIVINGSTON, Mr. PAYNE of New Jersey, Mr. EMERSON, Mr. DE LA GARZA, Mr. RANGEL, Mr. GUARINI, Mr. LIPINSKI, Mr. BENNETT, Mr. MCMILLEN of Maryland, Mr. JEFFERSON, Mr. HORTON, Mr. TOWNS, Mr. DE LUGO, Mr. TRAXLER, and Mr. COBLE):

H.J. Res. 426. Joint resolution designating May 7, 1992, as "National Barrier Awareness Day"; to the Committee on Post Office and Civil Service.

By Mr. FASCELL (for himself, Mr. YATRON, and Mr. TORRICELLI):

H. Con. Res. 283. Concurrent resolution expressing the sense of the Congress with respect to United States participation in the United Nations Conference on Environment and Development [UNCED]; to the Committee on Foreign Affairs.

By Mr. DELLUMS:

H. Res. 378. Resolution expressing the sense of the House that the Governor of the State of California, or the California Board of Prison Terms, or both, should take actions within their power to bring about the reconsideration of the 1972 conviction and/or the immediate release from prison of Elmer "Geronimo" Pratt, and that the Judiciary Committee should inquire into the information known to the Federal Bureau of Investigation, which was not released to the California Attorney General and courts in 1980; to the Committee on the Judiciary.

By Mr. GAYDOS:

H. Res. 379. Resolution providing amounts from the contingent fund of the House for the expenses of investigations and studies by standing and select committees of the House in the second session of the One Hundred Second Congress; to the Committee on House Administration.

By Mr. MORAN: (for himself, Mr. ARMEY, and Mr. KENNEDY)

H. Res. 380. Resolution condemning the forced repatriation of Vietnamese refugees in Hong Kong; to the Committee on Foreign Affairs.

By Mr. TRAFICANT:

H. Res. 381. Resolution urging the Committee on Foreign Affairs of the House of Representatives to conduct hearings to investigate the pattern of abuse by members of the royal family and government agencies of Saudi Arabia in their commercial dealings with citizens and companies of the United States; to the Committee on Foreign Affairs.

By Mrs. UNSOELD (for herself and Mr. AUCOIN):

H. Res. 382. Resolution expressing the sense of the House of Representatives that the

United States should secure international agreements to ensure effective implementation and compliance with United Nations General Assembly Resolution 46/215 (calling for a worldwide ban on large-scale driftnet fishing); to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. MORRISON.

H.R. 50: Mr. ANDREWS of Maine, Mr. ATKINS, Mrs. BOXER, Mr. KOSTMAYER, Mr. MCDERMOTT, Mr. MARTINEZ, and Mr. MINETA.

H.R. 78: Mr. BLILEY.

H.R. 110: Mr. LUKEN.

H.R. 327: Mr. SANTORUM.

H.R. 727: Mr. STAGGERS.

H.R. 916: Mr. SANDERS and Mr. SARPALIUS.

H.R. 1181: Mr. MCCLOSKEY and Mr. SOLARZ.

H.R. 1306: Mr. MCMILLEN of Maryland.

H.R. 1430: Ms. OAKAR.

H.R. 1527: Mr. LEHMAN of Florida.

H.R. 1559: Mr. DOWNEY.

H.R. 1703: Mr. KOSTMAYER.

H.R. 1771: Mr. BILBRAY, Mr. HANCOCK, and Mr. RINALDO.

H.R. 2056: Mr. PICKETT, Mr. ANDREWS of Maine, Mr. TRAXLER, Mr. FOGLIETTA, and Mr. BILBRAY.

H.R. 2106: Mr. FROST, Mr. LEHMAN of Florida, Mrs. LOWEY of New York, and Mr. MCDERMOTT.

H.R. 2333: Mr. NAGLE.

H.R. 2390: Mr. WALSH.

H.R. 2448: Mr. DICKINSON, Mr. STAGGERS, and Mr. ROEMER.

H.R. 2695: Mr. CRAMER, Mr. BENNETT, Mr. YOUNG of Alaska, and Mr. BILIRAKIS.

H.R. 2772: Mr. OWENS of New York, Mr. RAHALL, Mr. RITTER, Mr. MATSUI, Mr. PENNY, Mr. KOPETSKI, Mr. EVANS, Mr. BACCHUS, and Mrs. VUCANOVICH.

H.R. 2880: Mr. MCHUGH, Mr. TRAXLER, and Mr. GILMAN.

H.R. 2910: Mr. KOSTMAYER.

H.R. 3030: Mr. PETERSON of Florida, Mr. PETERSON of Minnesota, and Mr. HOBSON.

H.R. 3035: Mr. ZELIFF, Mr. ANDREWS of Maine, and Mr. RHODES.

H.R. 3067: Mr. BUSTAMANTE.

H.R. 3253: Ms. WATERS and Mr. CONYERS.

H.R. 3281: Mr. GAYDOS.

H.R. 3380: Mr. COLEMAN of Texas, Mr. TRAFICANT, Mr. KLUG, and Mr. LIGHTFOOT.

H.R. 3439: Mr. COX of California.

H.R. 3441: Mr. JAMES.

H.R. 3501: Mr. SLATTERY.

H.R. 3549: Mr. MARLENEE, Mr. JOHNSON of South Dakota, Mr. MORRISON, Mr. KOLTER, Mr. JONTZ, Mr. JEFFERSON, Mr. DORGAN of North Dakota, and Mr. LAROCCO.

H.R. 3552: Mr. DEFAZIO.

H.R. 3561: Mr. BEREUTER, Mr. LAGOMARSINO, Mr. GILLMOR, Mr. BAKER, Mr. COX of California, and Mr. HUNTER.

H.R. 3578: Mr. GALLO.

H.R. 3654: Mr. APPLEGATE, Mr. BALLENGER, Mr. BLILEY, Mr. BOEHNER, Mr. CHANDLER, Mr. COBLE, Mr. COX of California, Mr. DAVIS, Mr. EDWARDS of Oklahoma, Mr. FAWELL, Mr. FRANKS of Connecticut, Mr. GALLO, Mr. GILCHREST, Mr. GILLMOR, Mr. HASTERT, Mr. HERGER, Mr. HOAGLAND, Mr. HOPKINS, Mr. KASICH, Mr. LIGHTFOOT, Mr. MCEWEN, Mrs. MEYERS of Kansas, Mr. MOORHEAD, Mr. MYERS of Indiana, Mr. RAMSTAD, Mr. RIDGE, Mr. RIGGS, Mr. SCHIFF, Mr. SPENCE, Mr. STEARNS, Mr. THOMAS of California, Mr. WEBER, and Mr. JAMES.

H.R. 3730: Mr. SMITH of Florida.

H.R. 3782: Mr. RUSSO, Mr. RIGGS, Mrs. SCHROEDER, Mr. GILMAN, Mr. KILDEE, Mr. ROE, Mr. REED, and Ms. KAPTUR.

H.R. 3801: Mr. PARKER, Mr. RIGGS, Mr. SUNDQUIST, and Mr. PACKARD.

H.R. 3803: Mr. PENNY, Mr. TOWNS, Mr. SYNAR, and Mr. CAMPBELL of Colorado.

H.R. 3808: Mr. HAYES of Louisiana and Mr. STAGGERS.

H.R. 3828: Mr. SIKORSKI.

H.R. 3857: Mr. DANNEMEYER.

H.R. 3861: Mr. PORTER and Mr. BLAZ.

H.R. 3939: Mr. BUSTAMANTE, Mr. JONTZ, Mr. GIBBONS, Mr. PAYNE of New Jersey, Mr. MCDERMOTT, and Mr. ANDREWS of New Jersey.

H.R. 3952: Mr. BARTON of Texas.

H.R. 3967: Mr. ALLEN and Mr. EMERSON.

H.R. 3981: Mr. VANDER JAGT and Mr. HOAGLAND.

H.R. 4073: Mr. COYNE, Mr. GAYDOS, and Mr. SCHUMER.

H.R. 4100: Mr. CHAPMAN, Mr. FROST, Mr. FOGLIETTA, Mr. TALLON, Mr. SIKORSKI, and Mr. CLAY.

H.R. 4130: Mr. TAYLOR of North Carolina.

H.R. 4159: Mrs. MORELLA, Mr. TOWNS, Ms. NORTON, and Mr. JEFFERSON.

H.R. 4175: Mr. DINGELL, Mrs. BOXER, Mr. BROOKS, Mr. TORRES, Mr. FALEOMAVAEGA, Mr. HALL of Ohio, Mr. CLAY, Mr. GIBBONS, Mr. STARK, Mr. GAYDOS, Mr. LANTOS, Mr. KOPETSXI, and Mr. NEAL of Massachusetts.

H.R. 4202: Mr. ZIMMER.

H.R. 4212: Mr. COOPER.

H.R. 4229: Mr. TOWNS and Mr. SANTORUM.

H.R. 4230: Mr. GUARINI and Mr. HOLLOWAY.

H.R. 4244: Mr. SPENCE.

H.R. 4250: Mr. RICHARDSON.

H.R. 4259: Mr. LIVINGSTON, Mr. HOAGLAND, Mr. BEREUTER, Mr. MFUME, Mr. NUSSLE, Mr. SARPALIUS, Mr. BAKER, Mr. SIKORSKI, Mr. VENTO, Mr. MCMILLEN of Maryland, Mr. DEFAZIO, Mr. TOWNS, Mr. LEACH, Ms. PELOSI, and Mr. LIGHTFOOT.

H.R. 4277: Mr. KOPETSKI, Mr. MILLER of California, Mr. ANDREWS of New Jersey, and Mr. GAYDOS.

H.R. 4279: Mr. HERGER, Mr. CAMP, Mr. EWING, Mr. PETERSON of Minnesota, Ms. LONG, Mr. CONDIT, and Mr. DORGAN of North Dakota.

H.R. 4293: Mr. COLEMAN of Texas, Mr. HORTON, Mr. TOWNS, and Mr. STENHOLM.

H.J. Res. 272: Mr. RIGGS, Mr. HOBSON, Mr. GORDON, Mr. TAYLOR of Mississippi, Mr. WHITTEN, Mr. QUILLEN, Mr. COLEMAN of Texas, Mr. LEHMAN of Florida, Mr. IRELAND, Ms. DELAURO, Mr. MILLER of Ohio, Ms. HORN, Mr. INHOFE, Mr. RAHALL, Mr. ASPIN, Mr. KOPETSKI, Mr. HALL of Ohio, Mr. MARLENEE, Mr. COBLE, Mr. MATSUI, Mr. KLUG, Mr. ALEXANDER, Mrs. MEYERS of Kansas, Mr. MCCRERY, Mr. HAMMERSCHMIDT, Mr. ROSE, Ms. SNOWE, Mr. PORTER, Mr. HOPKINS, Mr. SIKORSKI, Mr. SANDERS, Mr. NAGLE, Mr. KENNEDY, Mr. MONTGOMERY, Mr. BAKER, Mr. TALLON, Mr. PETERSON of Minnesota, Mr. HUCKABY, and Mr. SPENCE.

H.J. Res. 390: Mr. CARPER, Mr. GALLO, Mr. HYDE, Mr. SOLARZ, Mr. MFUME, Mr. LAGOMARSINO, Mr. PANETTA, Mr. KOPETSKI, Mr. CLAY, Mr. MOODY, Mr. MARTINEZ, Mr. GORDON, Mr. DICKS, Mr. CONDIT, Mr. RAMSTAD, Mr. BORSKI, Mr. KLUG, Mr. MATSUI, Mr. VENTO, Mr. PRICE, Mr. BERMAN, Mr. SOLOMON, Mr. DEFAZIO, Mr. SABO, Mr. LIPINSKI, Mr. WELDON, Mr. RAHALL, Mr. DYMALLY, Mr. COLEMAN of Texas, and Mr. WYDEN.

H.J. Res. 397: Mr. GUARINI, Mr. SOLARZ, Mr. HOCHBRUECKNER, Mr. PAXON, and Mr. SKEEN.

H.J. Res. 410: Mr. GORDON, Mr. SCHUMER, Mr. COLEMAN of Texas, Mr. MCMILLEN of Maryland, Mr. VENTO, Mr. WYDEN, Mr. TRAXLER, Mr. BUSTAMANTE, Mr. SABO, Mr. KOLTER, Mr. NEAL of Massachusetts, Mr. SOLARZ, Mr. MOODY, Mr. JOHNSON of South Dakota, Mr. GUARINI, Mr. KLECZKA, Mr. DONNELLY, Mr. MCHUGH, Mr. JENKINS, Mr. LEACH, Mr. JONES of North Carolina, Mr. SANDERS, Mr. MAVROULES, Mr. AUCOIN, Mr. MAZZOLI, Mr. PERKINS, Mr. HOCHBRUECKNER, Mr. PASTOR, Mr. SKEEN, Mr. OLVER, Mr. WOLPE, Mr. LANTOS, Mr. CARPER, Mr. SWETT, Mr. EARLY, Mr. LAFALCE, Mr. SCHEUER, Mr. MURPHY, Mr. PELOSI, Mr. KILDEE, Mr. TOWNS, Mr. FOGLIETTA, Mr. DELLUS, Ms. MOLINARI, Mr. OWENS of New York, Mr. WALSH, Mr. SARPALIUS, Mrs. LOWEY of New York, Mr. SCHIFF, Mr. ROYBAL, Mr. REED, Mr. ANNUNZIO, Mr. HAYES of Illinois, Mr. LEVINE of California, Mrs. BOXER, Ms. DELAURO, Ms. NORTON, Mr. LEVIN of Michigan, Mr. KENNEDY, Mr. BERMAN, MR. ASPEN, MRS. MORELLA, MRS. COLLINS of Illinois, Mr. ANDREWS of New Jersey, Mr. DAVIS, MR. LONG, MR. BILIRAKIS, MR. PETERSON of Florida, Mr. BENNETT, Mr. NAGLE, Mr. RIGGS, Mr. DORNAN of California, Mr. WEISS, Mr. PALLONE, Mr. BATEMAN, Mr. SHAYS, Mr. LIVINGSTON, Mr. MARTIN, Mr. ESPY, Mr. VANDER JAGT, Mr. MRAZEK, Mr. BLAZ, Mr. WEBER, Mr. SMITH of Florida, Mr. EMERSON, Mr. BLILEY, Mr. RHODES, Mr. BORSKI, Mr. BROOMFIELD, Mr. KOSTMAYER, Mr. CLEMENT, Mr. GRANDY, Mr. ERDREICH, Mr. ARCHER, Mrs. PATTERSON, Mrs. MEYERS of Kansas, Mr. ROGERS, Mr. LEHMAN of Florida, Mr. JEFFERSON, Mr. MCNULTY, Mr. WOLF, Mr. FASCELL, Mr. MICHEL, Mr. WHITTEN, Mr. CARR, Mr. HAMMERSCHMIDT, Mr. HORTON, Mr. BUNNING, Mr. HUBBARD, Mr. MORAN, Mr. MANTON, Mr. EWING, Mr. FIELDS, Mr. FISH, Mr. PAXON, Mr. LANCASTER, Mr. ZELIFF, Mr. ATKINS, Mr. LOWERY of California, Mr. INHOFE, Mr. RUSSO, Mr. KLUG, Mr. LENT, Mrs. JOHNSON of Connecticut, and Mr. FRANKS of Connecticut.

H.J. Res. 411: Mr. DEFAZIO, Mr. WHITTEN, Mr. MCNULTY, Mr. MCCLOSKEY, Mr. CLEMENT, Mr. SAXTON, and Mr. GUARINI.

H.J. Res. 417: Mr. CONYERS.

H. Con. Res. 180: Mr. BRYANT, Mr. TORRICELLI, and Mr. CLAY.

H. Con. Res. 203: Mr. DOWNEY, Mr. DELLUMS, Mr. MCNULTY, Ms. PELOSI, Mr. LEVIN of Michigan, Mr. RINALDO, Mr. VANDER JAGT, Mr. GALLO, and Mrs. MORELLA.

H. Con. Res. 220: Mrs. UNSOELD, Mrs. SCHROEDER, Mr. MCNULTY, Mr. JEFFERSON, Mr. LAFALCE, Mr. BLACKWELL, Mr. FRANKS of Connecticut, Mr. FALEOMAVAEGA, Mr. LANTOS, Mr. FROST, and Mr. SOLARZ.

H. Con. Res. 224: Mr. SIKORSKI.

H. Con. Res. 233: Mr. STAGGERS, Mr. SMITH of Oregon, Mr. OBERSTAR, Mr. JAMES, Mr. OWENS of Utah, Mrs. LLOYD, Mr. KOSTMAYER, Mr. PARKER, Mr. COBLE, Ms. MOLINARI, Mr. TRAFICANT, Mr. PORTER, and Mr. BLILEY.

H. Con. Res. 246: Mr. ECKART, Mr. HAYES of Illinois, Mr. JOHNSON of South Dakota, Mr. LIPINSKI, Mr. TRAXLER, and Mrs. UNSOELD.

H. Con. Res. 257: Mr. ATKINS, Mr. BARNARD, Mr. CLAY, Mr. DEFAZIO, Mr. GILMAN, Mr. NAGLE, and Mr. OBERSTAR.

H. Con. Res. 263: Mrs. BOXER.

H. Res. 130: Mr. SCHEUER, Mr. TOWNS, Mr. TRAXLER, Mr. BERMAN, Mr. DEFAZIO, Mr. KILDEE, Mr. COLEMAN of Texas, and Mr. SMITH of Florida.

H. Res. 215: Mr. ATKINS.

H. Res. 233: Mr. GREEN of New York, Mrs. PATTERSON, Mr. ZIMMER, and Mrs. LLOYD.

H. Res. 322: Mr. WOLF, Mr. LANTOS, Mr. HOCHBRUECKNER, and Mr. KOPETSKI.

H. Res. 325: Mrs. SCHROEDER, Mr. MCNULTY, Mr. KOSTMAYER, Mr. MARLENEE, Mr. SANDERS, Mr. CONDIT, Mr. ROYBAL, and Mr. MCMILLEN of Maryland.

H. Res. 332: Ms. MOLINARI, Mr. NUSSLE, Mr. CUNNINGHAM, and Mr. SMITH of Texas.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3380: Mr. COLEMAN of Missouri.

H. Res. 194: Mr. PETERSON of Minnesota and Mrs. VUCANOVICH.

SENATE—*Wednesday, February 26, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable RICHARD C. SHELBY, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *If any man offend not in word, the same is a perfect man* * * * *the tongue is a fire, a world of iniquity* * * * *it defileth the whole body and setteth on fire the course of nature; and it is set on fire of hell.*—James 3:2,6.

God of truth and light, Apostle James vividly describes the destructive nature of words, spoken and written. Having been uttered or printed, they cannot be retracted. Thank you, Lord, for a free press, for men and women dedicated to get the facts and keep the people informed. Thank you for their untiring efforts, often at great risk, and for faithful commitment to their mandate.

But gracious Father, investigative reporting seems epidemic in an election year, its primary objective to defame political candidates. Seeking their own reputation, they destroy another's as they search relentlessly, microscopically for some ancient skeleton in a person's life. Eternal God, help these self-appointed vacuum cleaner journalists to discover how unproductive and divisive their efforts are.

We pray this in the name of Jesus Christ who is the Light of the world, the Word of God made flesh. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 26, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD C. SHELBY, a Senator from the State of Alabama, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SHELBY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, am I correct that under the order the Journal has been approved and the time for the two leaders is reserved?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, today the period for morning business will extend until 1 p.m. During that time, a number of Senators are to be recognized, by prior order, to address the Senate for various times and on a variety of topics. Morning business will close at 1 p.m., at which time the Senate will proceed to the consideration of S. 479, the joint ventures cooperative bill.

Yesterday, prior to the vote on the motion to invoke cloture on the motion to proceed to that bill, the managers attempted to work out an overall agreement identifying the amendments and specifying time limits for the bill. They were unsuccessful. So the Senate proceeded to vote to invoke cloture on the motion to proceed by, I believe, a vote of 97 to 0. The bill is before the Senate today with no agreement as to amendments or as to time limits.

Therefore, Senators should be aware that rollcall votes may occur at any time today and during the evening, once the Senate takes up the bill at 1 p.m.

Mr. President, I thank my colleagues, and I yield the floor.

MORNING BUSINESS

Mr. HOLLINGS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I think I have 20 minutes under the previous order.

The ACTING PRESIDENT pro tempore. The Senator is correct.

AN ECONOMIC-STIMULUS PACKAGE WE CANNOT REFUSE

Mr. HOLLINGS. Mr. President, I thank the distinguished leader and the Presiding Officer. What I hope to do this morning—having paved the way with a good bit of study and conversation and negotiations—is to submit a plan to get this Congress together so that we can get something done to stimulate the economy, without increasing taxes, without increasing the deficit, and without dividing America. Right now we are headed for a stalemate.

On Monday morning, the Washington Post editorialized, "throw all the tax bills out," and the lead story this morning is to the effect that the leaders of the tax committee on the House side said they did not think any tax bill was going to pass and be signed into law by the President. Of course, the big stumbling block has been the insistence by some that we soak the rich in order to pay for middle-class tax relief. And therein is the wrong foot that we stepped off on last fall.

We all seemed to wake up last fall to the extreme recession which the country is now in. And so hastening to the pollsters, some politicians immediately identified the problem as a class problem, a tax fairness problem. And if you take a poll, you will find out that, yes, middle America would like a tax cut, and they would like it paid for by the rich.

Very interesting, Mr. President. Of course, they never poll the rich. So going back to our good colleague, Russell Long, who said years ago, "don't tax you, don't tax me, tax that fellow behind the tree." That is an exercise in futility. So we got off on the wrong foot.

Tax equity is something to be dealt with at an appropriate time, but we have more pressing problems at this particular hour. We need to stimulate this economy, and in the middle of a recession the last thing you do is raise taxes on anybody.

Beyond that, it is demagoguery to start dividing America with class warfare appeals, because poor America and middle America and rich America are all in this together.

We need a balancing act, and it can be done if we study it closely, as we in the Budget Committee are required to do. We can get certain cuts across the board, and a budget freeze, and thereby produce a pool of money to reallocate toward investment in the private sector and to investment in the public sector.

Specifically, let us go back to November 1991—the budget just passed. Three readings in November, the House and Senate; then just a couple of months ago in December, signed by the President. We can take that same do-

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

mestic discretionary budget for 1992 and say that it will be the budget for 1993 as well.

Similarly with the international discretionary budget, take the 1992 budget and apply it for 1993. That is not an unusual or unique idea. If you were a Governor and you could not print money, you would appear before your State legislature and say, look, we are doing fine this year, let us simply take this year's budget and extend it into next year.

If you are mayor of a city, you get the city council in and you say, look, we do not want to let the policemen and firemen go. We can't print money. Keep the budget at the same level. Nobody is hurting too badly as concerns this budget. We just adopted it. So extend it for another year.

In fact, there are many parliamentary bodies and legislative bodies that have biennial budgets.

So that can be done without getting sidetracked on arguments about entitlements. Nor can we afford to get sidetracked on arguments about fairness and equity. In this dilemma in which we find ourselves in this country, you are not allowed the luxury of tackling these issues right now.

We should not be toying with Social Security or COLA's for the military or civil service retirees, or the means-tested programs like food stamps, for the simple reason that no one can tell how many people are going to get sick and make demands on Medicare, how many people are going to be hungry and need food stamps.

A total freeze would draw in some substantial sums. But we tried that, Senator Howard Baker and myself, for a 4-year period in the beginning of the eighties when we were warned by George Bush that Reaganomics was voodoo. We were told by Howard Baker that Reaganomics was a river boat gamble—and we have lost that gamble. Instead of growing out of deficits, we have grown into the most horrendous debt you have ever seen.

By refusing to pay the bills, the Reagan-Bush crowd has gone from a $100 billion deficit to a $200 billion deficit to a $300 billion deficit, and right this minute we are at the $400 billion level, and by the end of the year we will be at the $500 billion deficit level.

Now the President said, in February of last year, that we were headed in the right direction. He said we would reduce the deficit $500 billion over 5 years. The truth is that we are headed in the wrong direction, increasing the deficit by $500 billion in 1 year alone.

So let us not go around with these phony estimates. Let us get into the real world here and see if we can do this without increasing the deficit. Since the deficit is increasing in increments each year of $100 billion over the last 3 years, we would do well just to hold the line, stop the hemorrhage.

I would like to cut the deficit. You would like to cut the deficit. We have had Gramm-Rudman-Hollings and every plan I have submitted. But now is no time to argue about that. If you take a freeze, if you cut 10 percent from the bureaucracy by way of attrition, which we did 10 years ago under President Reagan, we could save a billion there.

Then we come around with a defense cut. Again, let's not get sidetracked by debating how much we would like to cut in 1994 and beyond. The point here is, we have to do this very judiciously, and my plan is only for 1 year, 1993. We are not allowed the luxury of 5 years. All those 5-year, 6-year plans are not worth the paper they are written on.

So let us not get off in that nonsense. You do not want to close down Fort Dix and have the former soldiers out on the sidewalk collecting unemployment.

So the administration's plan to cut $10 billion in 1993 is sound. And we can take that $10 billion cut, plus some $12 billion that we pickup from the cut across the board of the bureaucracy and the freezes, and we can pickup another $2 billion out of Intelligence—and I speak as a Senator in my eighth year on the Intelligence Committee and I served in this field going back 35 years.

I can get you additional savings. But let us take that $24 billion savings and reallocate it: $15.8 billion to the private sector and $8.2 billion to the public sector. And for the $15.8 billion for the private sector, we adopt Republican and Democrat proposals, all of the above that you can possibly get done. You can get an investment tax credit at $9 billion, capital gains, accelerated depreciation, IRA savings accounts, real estate, and R&D tax credit.

Mr. President, I ask unanimous consent that the table outlining my plan be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

HOLLINGS PLAN: TO STIMULATE THE ECONOMY WITHOUT INCREASING TAXES, WITHOUT INCREASING THE DEFICIT, WITHOUT DIVIDING AMERICA (FEB. 20, 1992)

SAVINGS (OUTLAYS)

1. 10 percent Reduction of Civilian Workforce (through attrition over 3 years):

Reduction: 1993, 3.3 percent; 1994, 3.3 percent; 1995, 3.4 percent.

Savings: 1993, 1.1 percent; 1994, 3.6 percent; 1995, 6.5 percent.

Savings: $1 billion.

2. Freeze International Discretionary at 92 levels:

Outlays: 1992, $20 billion; 1993, $21 billion.

Savings: $1 billion.

3. Freeze Domestic Discretionary at 92 levels (exempts all entitlements including Social Security, military and civil service colas, medicare, medicaid, SSI, food stamps, AFDC):

Outlays: 1992, $214 billion; 1993, $224 billion.

Savings: $10 billion.

4. Cut Defense $10 billion below 1993 cap:

Savings: $10 billion.

5. Cut $2 billion from Intelligence:

Savings: $2 billion.

Total first year savings: $24 billion.

INVESTMENT

Private sector investment

1. Investment Tax Credit, −$9 billion.
2. Capital Gains, +$3.7 billion.
3. Accelerated depreciation, −$3.1 billion.
4. IRA/Savings Accounts, −$5.6 billion.
5. Real Estate, −$1 billion.
6. R&D Tax Credit, −$0.8 billion.

Costs: $15.8 billion.

Public sector investment

1. Revenue Sharing ($4 billion).
2. Head Start/WIC.
3. Technical Training Centers.
4. Manufacturing Centers.
5. Community Health Centers.
6. Advanced Technology Programs.
7. National Science Foundation.

Costs: $8.2 billion.

Total first year costs: $24 billion.

Increase in the deficit=0.

Mr. HOLLINGS. That amounts to $15.8 billion for the private sector. Another $8.2 billion goes to investment in the public sector—Head Start, WIC, technical training centers, manufacturing centers, community health centers, National Science Foundation, R&D, and revenue sharing.

If we can find $14 billion for foreign aid, we surely can find $4 billion for American aid. We have dumped burdens on the local communities, cities, counties and States—for example, the Americans With Disabilities Act, clean air and water, and so on—but we slashed the funding to do it. And the best of leaders, including our friends Senator Weicker, now Governor Weicker, Senator Wilson, now Governor Wilson, Senator Chiles, now Governor Chiles, they are all in a heck of a dilemma. And it is time we move to fill that gap, too.

Senators and Presidents are running around here with an American plan for Russia, an American plan for Egypt, an American plan for Israel, an American plan for Bangladesh, an American plan for the People's Republic of China, an American plan for the Japanese defense—we have got 37,000 in Japan; you and I are paying for it while they are taking us to the cleaners, economically—American plans now for El Salvador and Ethiopia, an American plan for sending our jobs fast-track to Mexico. It is high time we came up with an American plan for America?

That is what the public wants. They do not want pandering, as our friend Paul Tsongas calls it. That is what we have been doing for years: Buying the people's votes with deficits. And the headlines are right on target. They ought not to pass these tax cuts just to buy votes. We ought to have not investment in consumption but investment in production—it is industry that hires the people.

I listened on the early morning news and they talked about consumer confidence. Consumers are not looking for confidence. They are looking for a job. Unless you have a job, you are not a consumer. If Americans have good jobs and secure jobs, then consumption will take care of itself.

The gamesmanship and bickering must stop. I submit this plan in all seriousness now.

I think we got off on the wrong foot by taking a tax approach to the recession. It should be a budget approach, an overall economic plan. It has to be done without raising taxes. It can be done with the freezes, and it can be done with the cuts I have listed here. We have done these things before. We favor these things. And we can get on with our business and give the President a plan that he can sign before March 20.

I am tempted to call this a Mafia plan. I am making my colleagues a budget offering that they cannot refuse. I do not see how the President can veto it. We all want to cut the bureaucracy. Everybody says they are for it. The President says he is for a freeze. If we take for 1993 the 1992 budget we just voted on, who is going to vote against that? You take the President's defense cut of $10 billion in 1993, plus a $2 billion cut in intelligence. Let's get together on all of these things that we agree on. We agree on 90 percent of the economic agenda. Let's not get sidetracked down the primerose path of tax cuts for the middle class and zap the rich and everything else. Because those things are going to be vetoed.

The President is not going to accept any tax increase, I do not care whose it is. Of course, we tried that last year, or the year before—luxury tax, luxury cars, going to zap the rich, their luxury boats, and everything. Now they are running around trying to repeal it.

So let us get off the soak-the-rich game, and let's get into the real world here and do the best we can under the circumstances. And I respectfully submit that I am offering such a plan. We can move on it, and we should move on it, Mr. President, and we should do it by March 20.

I yield the floor.

Mr. GORTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

FIGHTING THE RECESSION

Mr. GORTON. Mr. President, yesterday, during this hour, the chairman of the Budget Committee spoke of fighting the recession with a bill which would repudiate the budget agreement of 1990 in order, of course, to be able to raid the defense budget for various other Federal spending programs. He was immediately succeeded by the distinguished chairman of the Finance Committee who spoke of this bill as representing reality in today's recession-driven world.

Mr. President, I regret to say that I would use a quite different description than reality to speak of that proposal.

It is particularly regrettable that two of the three Senators most responsible for fiscal policy in this body would make such an assertion. Each of those Senators, and all of our colleagues, recognize that at this point the United States of America could repeal the defense budget, could abolish the armed services, could appropriate nothing at all, zero dollars and zero cents to our national defense establishment, and still not balance the budget of the United States.

There is no peace dividend to be found in cuts of the budget deficit, and there is no cure for a budget deficit and a debt of the United States which may very well be the principal cause of the present recession there.

Until those Members are willing to do what the chairman of the Appropriations Committee is now considering doing, and that is to look at the rapidly growing entitlement programs which each year take a greater percentage of our budget than in the previous year, we are simply not going to be able to speak of a peace dividend at all.

Yet in some respects that position may be more constructive than that of the leadership in the other body. The tax debate which has been triggered by this recession presumably should lead us to measures designed to get us out of that recession. Yet the House is about to vote on a grab bag of tax proposals which share but two common threads: First, they are designed to win votes in November; and second, they are unanimously and across the board subject to criticism by serious economists as ineffective, totally ineffective as creating economic growth.

Many Members are still involved in the class warfare that marked the tax debate of 1990. Yet it might be appropriate to remind them that the last time that taxing the wealthy was their theme, the result was a so-called luxury tax. The net result of that luxury tax on yachts costing more than $100,000 was not, however, to tax the wealthy. The wealthy simply stopped buying such yachts and the impact was that tax returns dropped rather than increasing, and the people who lost their jobs were not the wealthy, but the working men and women of the United States who had good careers in building these particular craft.

That is simply perhaps the most trenchant example of the dead-end street, which is a debate over whether or not we ought to tax the wealthy.

Even so, that House bill is more insidious because the tax cuts for the middle class included in it are temporary, while the tax increases are permanent. The net result of that bill in the view of this Senator will be to exacerbate and to extend the recession, not to get to work our way out of it.

Interestingly enough, people who have voted in various primary elections, even on the Democratic side of the ballot, seem to have seen through it. They are not voting for candidates the centerpiece of whose campaign is to cut taxes across the board. They seem to be voting for candidates with more serious programs than that.

This Senator hopes, though he regrets that he does not believe, that the Senate will do somewhat better when it comes to dealing with these issues.

My distinguished colleague, the junior Senator from South Carolina, who spoke immediately before me, as is frequently the case, spoke of an attempt to get together with something that can have a positive impact on this recession and can be signed by the President of the United States and supported on a bipartisan basis rather than simply going through an exercise in politics.

But if we cannot provide measures, if we cannot pass measures which objective outside economists believe will build up the economy either in the short term or in the long term, we would be far better not to interfere with the situation at all, because we will serve only to make it worse. We need a serious attempt to deal with problems relating to this recession, to our infrastructure, and to a fairer and more effective tax policy.

Mr. President, I now ask unanimous consent I be permitted to proceed for an additional 5 minutes on a separate subject, under a separate title.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMERICAN HEART MONTH

Mr. GORTON. Mr. President, President Bush, a former American Heart Association volunteer, in an Oval Office signing ceremony on Valentine's Day, proclaimed the month of February as the 29th annual American Heart Month. A constituent of mine from Walla Walla, Anne Golden, chairman of the American Heart Association and past chairman of the American Heart Association Washington affiliate, participated in the White House event. As a result of a 1963 congressional resolution, February has been designated as American Heart Month since 1964, demonstrating the seriousness of cardiovascular diseases, including heart attack and stroke.

During American Heart Month, please join me in applauding the work of the American Heart Association in reducing disability and death from cardiovascular diseases and stroke. The AHA reports that from 1979 to 1989 the age-adjusted death rate for cardiovascular diseases fell 23.4 percent, but in this same period the actual number of deaths declined a mere 2.6 percent.

Despite gains, cardiovascular diseases remain the leading cause of death in the United States. According to the

American Heart Association, heart attack, stroke, and related disorders cause almost as many deaths in the United States as cancer, AIDS, accidents, pneumonia, influenza, and all other sources combined. Cardiovascular diseases kill about 1 million Americans each year.

The American Heart Association, including 56 affiliates and about 3.5 million volunteers, dedicate this month to heighten the dissemination of educational materials and to increase public support of its mission. The AHA, one of the world's largest voluntary health organizations, is committed to the "reduction of disability and death from cardiovascular diseases and stroke."

Research is the No. 1 priority of the American Heart Association. To this end, in fiscal year 1990-91, the AHA invested over $95 million in research. The size of this financial commitment makes the AHA second only to the federally funded National Heart, Lung, and Blood Institute in the amount contributed to cardiovascular research.

As a result of the respective research, prevention and education programs of the AHA, the NHLBI and the National Institute of Neurological Disorders and Stroke, progress has been made against cardiovascular diseases. The AHA reports that the age-adjusted death rates from heart attack, stroke, and related disease are declining. However, the AHA warns that much more needs to be done because an American dies from cardiovascular diseases every 34 seconds. According to the AHA, more than one in four Americans suffer from one or more of these diseases at an estimated cost in 1992 of $108.9 billion in medical expenses and lost productivity.

In 1991-92, the 56 affiliates of the American Heart Association are investing over $44.9 million in local research programs. I take this opportunity to commend the AHA Washington affiliate for their research, education, and community programs to prevent cardiovascular diseases. The AHA Washington affiliate in fiscal year 1991-92 will spend about $771,961 on research being conducted at the following research facilities in Washington, Harborview Medical Center, the Seattle Department of Veterans Affairs Medical Center, the University of Washington, the Virginia Mason Medical Center, and Washington State.

However, I am concerned about the Federal commitment to the battle against cardiovascular diseases, including heart attack and stroke. While the AHA estimates that the economic costs for these diseases in 1992 will total $108.9 billion, the Federal research investment in fiscal year 1992 at the NHLBI is $685.875 million for cardiovascular diseases and $60.295 million at the NINDS for stroke research. I encourage my colleagues to reaffirm our dedication to the battle against this Nation's No. 1 killer—cardiovascular diseases. A significant growth in Federal resources is needed to take advantage of research opportunities in this area.

I ask unanimous consent that this year's Presidential proclamation be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[A Proclamation by the President of the United States of America]

AMERICAN HEART MONTH, 1992

Since our first annual observance of American Heart Month just over 25 years ago, our Nation has made substantial progress in the fight against cardiovascular disease. According to the American Heart Association, a not-for-profit volunteer health agency, age-adjusted death rates from heart attack declined by almost 51 percent between 1963 and 1988. During the same period, the death rate from stroke dropped even further, by close to 61 percent. Advances in both the prevention and the treatment of cardiovascular disease have saved lives.

Despite the success of related research and nationwide public awareness campaigns, diseases of the heart and blood vessels continue to claim the lives of nearly 1 million Americans each year. In fact, heart attack, stroke, and other forms of cardiovascular disease remain our Nation's number one killer.

The American Heart Association reports that more than 69 million Americans currently suffer from one or more forms of cardiovascular disease, including high blood pressure, coronary heart diseases, rheumatic heart disease, and stroke. While many people mistakenly assume that heart disease occurs primarily in old age, studies show that 5 percent of all heart attacks occur in people younger than age 40, and more than 45 percent occur in people younger than age 65.

Cardiovascular disease can affect people of any age, race, or walk of life, and women as well as men. Its toll in terms of individual pain and suffering is incalculable. Its cost to our Nation, in terms of health care expenses and lost productivity, totals in the billions of dollars.

Today concerned organizations in both the public and private sectors are working to save lives and to help alleviate the wider impact of cardiovascular disease. Through the National Heart, Lung, and Blood Institute, the Federal Government has spent millions of dollars on educational programs and on research into cardiovascular diseases. The American Heart Association estimates that it has invested nearly 1 billion dollars in research since it became a national voluntary health organization in the late 1940s. That investment has been made possible by the generosity of the American public and by the dedicated efforts of the Association's 3.5 million volunteers.

Thanks, in large part, to ongoing support from the Federal Government and from the American Heart Association, physicians and scientists have been able to make many important advances in cardiovascular health care. Public and private funding has also led to the development of effective educational programs, which have enabled more and more Americans to learn what they can do to avoid heart attack and stroke.

Today, for example, we know how important it is to avoid the use of tobacco products, in particular, smoking. We are especially aware of the dangers of smoking among young people. We also know that controlling one's blood pressure, maintaining a diet low in fat and cholesterol, and exercising regularly are all prudent ways of reducing the risk of cardiovascular disease.

Encouraged by the progress that we have made thus far, and recognizing the need for continued education and research, let us pause this month to strengthen and renew our commitment to the fight against cardiovascular disease. After all, the many programs and activities that are conducted during American Heart Month offer lessons for life.

The Congress, by Joint Resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b), has requested that the President issue an annual proclamation designating February as "American Heart Month."

Now, therefore, I, George Bush, President of the United States of America, do hereby proclaim the month of February 1992 as American Heart Month. I urge all Americans to join in observing this month with appropriate programs and activities.

In witness whereof, I have hereunto set my hand this fourteenth day of February, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.

GEORGE BUSH.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

U.S. POLICY AND THE AUTO INDUSTRY

Mr. LEVIN. Mr. President, on Monday, the Nation and the world watched as General Motors announced the largest annual loss ever of any U.S. manufacturing company, $4.5 billion, and the closing of 12 additional plants affecting over 16,000 GM workers, over half of whom live in Michigan. These job losses do not even count the additional tens of thousands of jobs at supplier companies that will be lost, nor the plant closings announced in December, and GM plans to announce seven more plant closings in the months to come.

The news is a tragedy for both Michigan and the Nation. While there is plenty of blame to go around, Washington is responsible for much of the pain felt this week in Michigan, New York, Indiana, Ohio, and across the Nation. Americans are paying the price for the absence of a national economic policy and our feeble trade policy.

Mr. President, there is no shortage of examples of that feebleness. Yesterday we debated our trade policy with China, where we have tolerated China's use of forced labor, its denial of basic human rights, and its indiscriminate sale of arms around the world.

Japan is another example. Take auto parts. We have a $5 billion trade surplus worldwide in auto parts, if you exclude Japan. So we compete extremely well worldwide in auto parts. But we are not permitted to compete freely in the Japanese market because of their closed system called keiretsu. As a result, we have less than 1 percent of the Japanese auto parts market and a $10 billion auto parts deficit with Japan, a deficit which is growing.

One of the most shocking examples of our weak trade policy is our continued toleration of the Japanese ban on rice imports. For over 20 years we have tolerated a flatout ban on the sale of American rice in Japan. Last year, American rice producers in Japan were threatened with arrest for simply displaying American rice at a food expo in Japan.

The Japanese ban violates both United States trade law and international agreements. The ban hurts United States rice farmers who produce rice at a fraction of the cost that Japanese rice farmers do, and it is an insult to millions of Americans who have lost their jobs to imports.

Not only have we tolerated this ban, but the U.S. Government has twice rejected U.S. rice industry petitions for Government intervention—twice.

At a recent Finance Committee hearing, Senator BREAUX pressed our Trade Representative for an explanation. She told him that the administration concluded that it could best open the Japanese rice market in the Uruguay round of GATT negotiations. When Senator BREAUX asked how the administration would respond if the industry filed a third petition for intervention, our Trade Representative said the administration would study it—study.

To most Americans, that is incomprehensible, but it gets worse. Not only has the administration tolerated this ban on an American product, rejected the industry's petition, and refused to even commit to accepting future petitions, but its measure of success in the GATT negotiations that it says it wants to rely on is an absurd measure.

Look at what the administration would consider success in those GATT negotiations. The administration says it is seeking to replace the import ban on American rice with—listen to this—a 700- to 800-percent tariff on American rice. That tariff, which it seeks to have the Japanese put in place over the ban on American rice, would result in foreign rice taking over about 3 percent of the Japanese rice market. That is our goal in the GATT negotiations: End the ban on American rice; end the criminal law in Japan which throws American rice producers in jail if they even display American rice; and substitute that with a 700- to 800-percent tariff on American rice, which will get us and all the other rice producers in the world 3 percent of the Japanese market. That is a goal of our trade negotiator.

Our Trade Representative called that promising, a step in the right direction. I do not think too many Americans would call it that. They would say that we should match Japanese restrictions on our products with American restrictions which are equivalent on Japanese products just for as long as the Japanese impose them.

The American people are not protectionists, but they do believe in fair play, and that is why, in public opinion poll after public opinion poll, three quarters of the American people say that they favor enacting bills to require Japan to reduce its $43 billion trades surplus with the United States. We must apply equivalent restrictions, not because we are mad at anybody, but because we cannot survive on press releases alone. And that is not Japan-bashing. That is America-boosting.

The Japanese say rice is cultural. Making automobiles is cultural in Michigan. It is not going to be for long, unless we start fighting as hard for American jobs as other countries fight for their jobs.

We can compete if we are allowed to. The Washington Post recently published an article headlined: "U.S. Cars and Vans Make Inroads in West Europe. Detroit's Big 3 Saw Sales Rise 65 Percent in 1991." The Post article reported that the big three sold an estimated 1.6 billion dollars' worth of U.S.-made cars and vans in Western Europe last year, and that is a 65-percent increase from 1990. The article is just one more indication that American-made vehicles can compete anywhere when given the chance.

According to a recent J.D. Power survey of 5-year-old cars, General Motors, Ford, and Chrysler cars are on the average all more dependable than Volvo, Audi, Volkswagen, Saab, Mitsubishi, and Isuzu, among other vehicles. Quality is no longer an issue. Here is the survey, and it is independent and it is used by all manufacturers. We can compete in both quality and price and American auto parts, and vehicle manufacturers are able and eager to market their products abroad when given the opportunity to sell those products.

In Japan, we are not being given a chance to prove that we can compete. We have been locked out. Some who do not care about Japanese barriers to American products try to divert attention from the issue by raising other issues, such as the right-hand-drive issue.

The fact is that General Motors produces right-hand-drive vehicles in Europe for export to Japan, and they have had just as much trouble overcoming Japanese barriers to right-hand vehicles as to lefthand vehicles. As a matter of fact, their lefthand vehicles have outsold their right-hand vehicles in Japan. Even Honda, from its plant in Ohio, has been shipping left-hand-drive vehicles to Japan.

The right-hand-drive issue is a red herring used to distract us from pursuing the goal of equivalent restrictions by those who do not care about Japanese restrictions. We cannot allow ourselves to be distracted from that central issue. American manufacturers and farmers are ready, eager, and able to compete, but it is up to the Government to ensure that they have access to foreign markets. Whether those markets are Canadian, Chinese, French, or Japanese, if foreign governments erect barriers, that is their decision. But if we tolerate them, that is our decision.

We have to fight just as hard for our workers and our farmers as other governments fight for theirs. For 20 years, U.S. administrations have been giving workers rhetoric instead of results, and that has to stop. We must act to control our economic destiny and place equivalent restrictions on the goods of countries which place restrictions on American goods.

Europe is tired of Japanese barriers. They have placed a 16-percent limit on Japanese autos through the year 1999. Our Trade Representative, whoever she or he may be, will probably still be jawboning in the year 1999.

Mr. President, American workers have faced the challenges of productivity, and they have met them. They are now among the most productive workers in the world, and they are becoming more productive every day. American workers have faced the challenges of quality, and the products they make, led by automobiles and trucks and auto parts and vans, are among the highest quality products in the world. That is not me saying it. That is the independent J.D. Power survey which says it. And these vehicles are getting better every year.

But unfair competition has devastated the hardworking families in my State and across the Midwest in the country. American families need our Government fighting on their side. Is that not why we have Government? Today, thousands of people in my State are asking that question with visions of an impending pink slip in their hands.

Across this country, the work that we do in the Congress to get this economy moving is going to be judged in part by the progress that we make in forcing the White House to get tough on trade. It is not too late. We should get on with that job and face that challenge that our workers cannot face without us.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I want to compliment the Senator from Michigan for his outstanding remarks. He mentioned his State of Michigan and the Midwest. It also applies to the West.

We have a company, Motorola Co. They make pagers. They say they would have 70 percent of the market if there was not an arbitrary quota set by the Japanese.

It applies throughout this country, and it is not bashing our good friends and allies in Japan. It is just asking for something that is fair and equal.

I complement the Senator for bringing attention to what is just an absolutely arbitrary policy by our friends and allies.

Mr. LEVIN. I thank my friend from Arizona. I do agree that every State, without exception, has been impacted by discriminatory barriers that have been placed against our products by Japan and other countries. I am just as tough on Canada when Canada imposes the discriminatory barriers as Japan, but Japan is the worst problem, and we all know it.

Mr. DECONCINI. The Senator from Michigan is 100 percent correct. I am glad he raised that issue this morning.

Mr. LEVIN. I thank the Senator.

PROGRESS IN THE DRUG WAR

Mr. DECONCINI. Mr. President, President Bush and the drug czar, the Director of the Office of National Drug Control Policy, Governor Martinez, are in San Antonio for a 2-day drug summit with the leaders of six Latin American nations. The White House claims that this summit will highlight the progress in the war on drugs internationally as well as what the United States has done, as the President says, to win the war.

I take exception to that. Today I just want to go over one area. I come to the floor to denounce in the strongest terms that I can a misguided policy of the Bush administration, which I am willing to bet is not highlighted by the President today or tomorrow in San Antonio when he meets with our good friends, who are trying to fight the drug problem in their own nations in South and Central America.

In its effort to convict Gen. Manuel Noriega—we all remember who he is, the former dictator of Panama—the Bush administration has adopted a policy of handing out a cascade of plea bargains to a host of notorious, convicted drug kingpins, and convicted drug traffickers. And their lawyers anxiously await—and sometimes actually seek out—these kinds of agreements. They look for invitations from our Justice Department to testify against Manuel Noriega. As the poster here points out and illustrates—and these are just a few examples of some of the plea bargains that have been entered into—what kingpin would not jump at an opportunity to get his sentenced reduced for life and 135 years on top of that—that is a long time—down to maybe 8, 10, or 15 years and his family put in the witness protection program? Anybody with an ounce of sense would love to come forward and testify against Noriega or anybody else.

The group the prosecution assembled in the Noriega trial reads like a Who's Who of drug kingpins in the Federal prison system.

Let me just tell you about Col. Del Cid—right here. The former Noriega bagman faced 70 years in jail on four counts of drug trafficking and racketeering—70 years in a U.S. prison. Noriega's prosecutor dropped three of these counts and recommended a maximum 19-year sentence on the remaining count. They have also promised not to deport him when he does get out, if he gets out, on parole.

If you think that is a bad one, then look at Daniel Miranda, whose lawyer said when he went to cut a deal with the Federal U.S. prosecutors for his client, "We made them a list of demands and they basically agreed to all of them." Now, Miranda flew cocaine shipments for Colombian drug lords. The prosecutors have also agreed to ask the INS to give Miranda "legal entry" into the United States and for the FAA to restore his commercial license. This sweetheart deal is for a witness who had never even met Noriega. How do you explain Daniel Miranda's plea bargain? You cannot.

Ricardo Bilonick had been hunted for years by the U.S. law enforcement officials for a 2,100-pound shipment of cocaine seized in 1984. Bilonick should have served 60 years. Sixty years in prison is what he should have served, and yet, with parole, he will be out in 7 years and maybe even less. And, shockingly, our Government has promised to urge other countries not to prosecute this drug kingpin. Sixty years. Be a witness against another drug kingpin that is important for us to get a conviction and what do you get in exchange? Seven years and you are out, and you get to get your airplane back and stay in this country.

Nevertheless, the biggest travesty of all is yet to come, what I call the sweetheart deal, and that is to Carlos Lehder by the Bush administration. Lehder, one of the founding members of the Colombian drug cartel and admirer of Adolf Hitler, from his own quotes, is the most notorious cocaine trafficker ever apprehended by the U.S. Government. More than anyone, this individual was responsible for the development, the growth, and the supplying of cocaine markets in the United States. At one time Lehder was responsible, they say, our Government estimates, for 80 percent of the cocaine that entered the United States. Eighty percent of those crimes that were related to cocaine, 80 percent of the people who got hooked on cocaine during his peak performance are directly related to this individual. He is a vicious criminal who is responsible for thousands of deaths in Colombia. The tens of thousands of pounds of cocaine that he smuggled into this country has caused unprecedented violence, murder in the streets, and all kinds of misery—crack babies, drug addicts, millions upon millions of people whose lives are damaged and probably ruined.

In what was considered the most important drug trafficking trial in history, the United States very professionally and very confidently was able to convict Mr. Lehder in 1988, and he was sentenced to life plus 135 years. Now, that is a long time, right? That is a message: You mess with bringing drugs into the United States and we catch you, you are going away forever.

How did the narco-terrorist end up testifying for our Government against Manuel Noriega? Lehder himself was lobbying for a spot in the Noriega trial less than a month after Noriega's arrest. He sent out letters. He sought interviews. After more than a year of silence, he all of a sudden wants to be a good guy and help convict Manuel Noriega. Did he do it out of love for the United States? I doubt it. I do not think we can conclude that.

His disdain for America is renowed. The prosecutor in his trial stated that Lehder was motivated by his hatred of the United States, for all the travesties that he has committed which resulted in a life sentence. He considered cocaine a revolutionary weapon against North American imperialism, and at the Noriega trial Lehder himself testified that he was testifying in the hopes of winning a reduced sentence which would allow him to return to Colombia. What do you suppose he is going to do when he returns to Colombia? Be a good, outstanding citizen?

I still do not know the extent of the Lehder plea bargain. I wrote a letter in late December to Attorney General Barr requesting a detailed explanation, in executive session if he thought it was detrimental to the Noriega trial. However, it took more than 2 months for a response that was vague. Really, I cannot understand what is going on at the Justice Department.

I do know that in return for testifying against Noriega, Lehder was transferred out of our country's highest security prison, the Federal prison in Marion, IL. The Justice Department claims he was moved for his own personal safety. I have been in that prison. You can be as safe as anybody there. There are people there who have no chance of touching or coming in contact with anybody that is dangerous or might be injured. I have seen them. So there is no excuse, for security reasons, for moving anybody. There may be for some other reason, perhaps a promise of some leniency. How can moving him out of the most secure prison in the United States improve the safety of this drug kingpin? It cannot and it will not.

We all know that the administration went along with Mr. Lehder's wish and brought eight members of the family to the United States to live under the Federal protection program. Eight family members for which we are paying for protection now. I wonder how much that will cost the American taxpayer.

The Justice Department claims that Lehder is paying for bringing them up here himself. My question is what is he using for payment? Lehder can only be paying for these services with drug profits. That is the only employment the man has had, to our knowledge, in the last 10 or 15 years.

Lehder who was fined a paltry, $350,000 when he was convicted, along with the sentence of life and 135 years, has acknowledged that he still has $8 million in property and assets throughout the world.

These assets are from drug profits because he has no other noticeable income. And he continues to earn interest in that which his family can benefit from, and yet we are paying to fly his family up here. Is that ludicrous? Indeed it is.

This is disturbing in light of the fact that Lehder owes $98 million to the United States in taxes on his drug profits, and he has not paid one dime.

At one time the motto of Colombian drug lords was "We prefer a grave in Colombia to a jail in the United States." With the new Bush policy on plea agreements and plea bargaining, Colombian drug dealers are requesting deals that will land them in the United States. Who would not want to come here and end up getting their whole record clean and serve a minimal period of time?

Colombia drug lord Pablo Escobar, who surrendered to the Colombian Government in June, is now sitting in his private luxurious prison outside his hometown. He continues to run his cocaine empire from prison and orders assassinations of his enemies. He has family visits. It is almost—well, it is ridiculous to even consider this as true incarceration for violating the laws of Colombia.

In late December, Escobar proposed his own deal to the U.S. Government. Escobar wants to provide evidence against, guess who? Noriega—in exchange for handing over all evidence against Escobar.

I hope we do not do that. Someday we might get Mr. Escobar, and I would like to see him tried in our courts and, if convicted by a jury, I would like to see these kind of sentences and send the right message to these drug dealers and these drug kingpins.

It was once the stated policy of this administration to prosecute drug kingpins to the fullest extent possible. Clearly that policy has been replaced by a misguided policy that caters to the most notorious drug traffickers in the world.

This week, while the President will be attempting to extract demands from Andean nations to fight the war on drugs, the United States Government must defend its get-soft policy on drug kingpins. What an embarrassment we must be facing today with these very friendly nations and some of them courageous leaders that are willing to take on the drug lords, when we have this policy here.

Mr. President, this policy, plain and simple, is wrong. It is indefensible and it is detrimental to our relationship with our allies on the war on drugs. It does not do anything really positive that would get a conviction on Noriega. We should convict Noriega on the basis of the evidence we have. If we do not have it, that is unfortunate.

But we are sending the wrong message when we bargain with the likes of Carlos Lehder and Pablo Escobar.

Last November we listened to President Bush threaten to veto a comprehensive crime bill that emerged from the House-Senate conference committee. Yet, under that bill there would be no opportunity for drug plea bargains as have gone on here. Under that bill, the opportunity to bargain with the likes of Carlos Lehder and Pablo Escobar would be gone. They would have received the death penalty.

That is the message we should be sending to our allies and to anybody who wants to traffic drugs into the country; if you get caught here, it is serious.

Mr. President, I plan to introduce legislation that will put an end to plea bargaining and plea agreements for drug kingpins.

In the meantime, I call on the President to renounce this misguided policy, and not to permit the Justice Department to enter into more plea bargains such as has been done in the past year or two in this country and perhaps are in the planning stages in the future.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. We are now in morning business, and under a previous order the Senator from Vermont would be recognized to speak for up to 10 minutes.

Mr. LEAHY. Mr. President, am I correct that the unanimous-consent agreement would begin a bill on joint production at 1 o'clock?

The ACTING PRESIDENT pro tempore. The Senator is correct.

ORDER OF PROCEDURE

Mr. LEAHY. Mr. President, I ask unanimous consent that that order be delayed until no later than 1:15 under all the same circumstances that were entered into.

The ACTING PRESIDENT pro tempore. Is there objection? Hearing none, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY and Mr. CONRAD pertaining to the introduction of S. 2262 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ORDER OF PROCEDURE

Mr. LEAHY. Mr. President, I understand that we are now within minutes of the time we will proceed to the National Cooperative Research Act.

The PRESIDING OFFICER (Mr. GORE). The Senator is correct.

Mr. LEAHY. I ask that we proceed to that now.

TODAY'S BOXSCORE ON AN IRRESPONSIBLE CONGRESS

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,824,561,996,052.80, as of the close of business on Monday, February 24, 1992.

As anybody who knows anything about the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $282,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

CONFERENCE REPORT TO H.R. 2212, THE UNITED STATES-CHINA ACT OF 1991

Mr. CHAFEE. Mr. President, we are here today, once again, to decide on the fate of United States-Chinese relations. We will also decide on what approach we will take to attempt to bring about democratic reforms in China and responsible behavior by the Government there.

At the outset, it should be clear what we are talking about. Or more precisely, what we are not talking about. First, we are not talking about whether China has acted irresponsibly in the past with a disregard to international standards of behavior—because it has. We all agree that China has failed to respect the human rights of its citizens, as we would have them do. We also all agree that China, in the past has failed to act fairly with regard to the protection of American intellectual property rights. We can even agree that China has acted irresponsibly in exporting missile and nuclear technology to countries that ought not have such technology.

Second, we are not talking about granting a nation some type of special privileged trade status. Nearly all the nations of the world have most-favored-nation status, including Burma, Syria, Ethiopia, Libya, Iraq, Iran, and Cambodia. In fact, the only nations that do not have MFN status are Cuba, Vietnam, Romania, Loas, Albania, and North Korea—nations with which we have virtually no political or economic ties. The Soviet Union was granted MFN status last year, and Congress will likely act soon to extend this status to the new nations of the Commonwealth of Independent States.

So we are not talking about granting some special right to some well deserving nation with which we have no outstanding political or economic differences.

What this debate is about, despite all the rhetoric on human rights and other issues, is how the United States can best bring about progress in China. Clearly, there is a fundamental difference of opinion on how to do this. China, after all, throughout its history, has always been extremely resistent to outside pressure.

President George Bush, himself a former Ambassador to China, feels very strongly about maintaining a relationship with China. He has made the case that the United States gains more from China by remaining engaged and negotiating than by bluster, threats, and ultimatums. With all due respect to the proponents of linking MFN status to a rigid list of conditions, I say let us look at the President's track record in this regard since his decision to extend MFN status for another year last June.

The conference report to H.R. 2212, which was finalized in November of last year, calls on the Chinese Government to do quite a number of things:

Provide an accounting of all citizens detained after the events of Tiananmen Square—the Chinese have already accounted for all those prisoners the United States has inquired about;

Stop all exports made with convict labor—the United States and China already are finalizing a memorandum of understanding memorializing their agreement on this subject;

Stop the intimidation of Chinese nationals in the United States—according to the State Department, this already has occurred;

Engage in high level discussions on human rights—this already has occurred;

Adhere to the Missile Technology Control Regime—just last week the Chinese agreed to accept the limitations of the Regime;

Protect the intellectual property rights of American patent and copyright holders—last year the United States and China reached an agreement to provide this protection; and

Provide Americans fair trade access to China and cease unfair trade practices—these issues are currently the subject of bilateral negotiations.

In addition, the Chinese have agreed to sign the Nuclear Nonproliferation Treaty within 2 months, satisfying a long-time demand by the United States Government that was not even included in H.R. 2212. This is no small achievement and represents an important step toward all nations of the world agreeing to this treaty—146 nations have already done so. As you may know France recently agreed to sign the treaty, but India, Pakistan, Brazil, Argentina, and Israel have not yet agreed to sign.

Does this impressive list of accomplishments mean that the Chinese have agreed to do everything we would like them to? Certainly not. Does it mean that there is no need to continue to press the Chinese on other areas of concern? Again, that is not the case. Clearly we would all like to see further progress in China—the release of the Tiananmen Square prisoners of conscience, the release of jailed religious leaders, and the return to freedom of speech, press, and assembly—to name a few.

All Senators should recognize, though, that tremendous progress has been made through the President's strategy of remaining engaged in quiet diplomacy rather than harsh rhetoric. Simply stated, we should allow this process to continue. We will have another bite at the apple in June when MFN comes up for review again.

If we should deny MFN status to China, the United States Congress would be killing American jobs.

In my State of Rhode Island, the world's largest toy company, Hasbro, has hundreds of American jobs dependent on a portion of its products being made in China. If we deny Hasbro that source, we will give Hasbro's foreign competitors, who are all obtaining a portion of their products in China, an incredible advantage.

When we have nations such as Sweden, England, Switzerland, Denmark, and in fact every other country in the world giving MFN status to China, we must ask ourselves—what do they know that we don't? I do not believe that these countries care less about human rights and weapons proliferation than does the United States. The simple fact is that around the world there is near unanimous agreement that trade sanctions are not an effective manner in which to effect change in China. I urge my colleagues to vote against this conference report.

HOW PRESIDENT BUSH CAN RESTART ECONOMIC GROWTH

Mr. KASTEN. Mr. President, I rise today to address some of the really important economic choices America is facing. We all know that in the last 3 years, the economy has gotten on the wrong track. Rising tax and regulatory burdens have put the brakes on economic growth.

I think the key event that derailed the economy was the tax increase package of 1990. In effect, we allowed Democrats in Congress to saddle taxpayers with one of the largest tax increases in the history of America. Congress asked us to come up with $165 billion in new taxes, and expected that this would not affect the performance of the economy.

I am not an economist; I used to be a small businessman. But I know that that is not the way the economy works. Tax increases seriously impede economic growth. We cannot tax and spend our way to economic prosperity.

That is one of the major reasons I voted against the 1990 budget deal. It is a serious mistake to move money from the private sector—where it creates jobs—to Congress where it creates mammoth deficits for our children to pay.

There are a lot of people in Congress who relished the budget deal as an opportunity to increase—not decrease—Federal spending. And that is exactly what happened. Instead of closing the deficit gap, Federal spending increased across the board, 6 percent in 1991, and a projected 12 percent in 1992.

As a result, the Federal Government is even deeper in the hole than it was in 1990.

The tax increase suffocated the economy, resulting in lower, not higher, tax receipts. This is a startling fact: According to OMB, tax revenues are now $500 billion lower than the pre-budget summit revenue baseline for the 1991–95 period. In other words, we have lost $500 billion in tax revenue.

To be sure, there were other contributing factors. But the bottom line is this: We cannot reduce the budget deficit without a strong, growing economy that is generating tax revenues.

Both parties now recognize that it is time to focus on economic growth. That is why both parties are pushing for tax cuts to restore economic growth.

While many economists say the recovery may already be underway, I believe America cannot reach its full job-creating potential without reigniting incentives to work, save, invest, innovate, and take risks.

The President's plan for economic growth contains a lot of the initiatives I have been working for. We want to restore growth by sparking entrepreneurial investment.

Remember: In the 8-year economic boom of the 1980's, 19 million new jobs were created. Over 90 percent of these new jobs were created by entrepreneurial small businesses.

We want to cut the capital gains tax, a sure-fire recipe for economic expansion and job creation. In 1986, Congress increased the capital gains tax by a stunning 65 percent, and as a result, the rate of new business start- ups fell 12 percent since the 1986–88 period.

Other countries, like Japan and Germany, are gaining ground on us because they tax capital gains less than we do. In some countries, capital gains are not taxed at all.

While the administration's capital gains proposal moves in the right direction, it is less of a tax cut than advertised.

Buried deep in the fine print of the Treasury's background materials on the capital gains plan is a provision that would add back the 45-percent capital gains exclusion for the alternative minimum tax [AMT].

Many taxpayers, including middle-income farmers, small businesses, and investors who take large once-in-a-lifetime capital gains would face a top capital gains tax rate of 24 percent, not the 15.4 percent we have been led to believe.

Economist Larry Kudlow has pointed out that this provision would practically wipe out the incentive effects of the tax cut.

In an effort to comply with static revenue estimates, the green eyeshades at OMB and Treasury have pulled a fast one on those of us who have been fighting for real capital gains reform. They ignore the fact that people respond to incentives and disincentives. Economic history shows that the lower the capital gains tax, the more the Treasury collects in tax revenues. A significant reduction in the capital gains tax, capped at 15 percent and indexed for inflation, must be the cornerstone of any economic growth package.

Let me turn to the current legislative situation. The House Ways and Means Committee has reported a bill that raises taxes on the so-called rich to finance tax cuts for the middle class and various investment incentives for business. The Senate Finance Committee is likely to propose something similar, with higher tax rates applied to higher incomes.

As a general proposition, I support tax cuts for families. But I do not think a tax cut of 50 to 90 cents a day is going to do much to spark business investment and create jobs.

And I will tell you something that will destroy jobs: Increasing income tax rates on sole proprietors, a driving force in our small business sector.

In my opinion, these soak the rich plans will end up costing middle-class jobs. I would like to take you to Pulaski and Oconto, WI, where the so-called luxury tax on boats has cost my State thousands of jobs in the marine industry.

I think most economists would agree that if you tax something, you get less of it. Moreover, raising tax rates in a recession will only worsen our economic problems.

The American people want the Congress to spark job creation, not class warfare. President Bush has made it clear that he will veto a bill that raises taxes, period. I think that veto will be sustained.

Whether Congress takes action on his growth package by March 20, the President has the power to take several unilateral actions to restore the economy. The President has already taken an important first step by imposing a 90-day moratorium on new regulations. In the last 3 years, the pages of the Federal Register have increased from 55,000 to nearly 70,000. Each extra page of regulations imposes new requirements on businesses, particularly small businesses.

I applaud this moratorium, and I think the President should extend the moratorium for those regulations that impose excessive costs on the private sector. This moratorium should stay in effect until Congress reauthorizes and strengthens the Office of Information and Regulatory Affairs [OIRA], the agency that reviews costly regulations.

Second, President Bush should seek to line-item veto wasteful parts of multi-billion-dollar spending bills, and he should test his authority on this issue with the Supreme Court.

From 1789 until the collapse of the Nixon Presidency, the President had the power to impound, or refuse to spend, money appropriated by Congress. Thomas Jefferson used it to withhold $50,000 for Navy gunboats. Franklin D. Roosevelt used it to stop $500 million for public works appropriations. Presidents Kennedy and Johnson used impoundment power to reduce Federal spending by 6 percent and 5.4 percent during their respective administrations.

This impoundment power amounted to a line-item veto. Unfortunately, Congress passed the 1974 Budget Act which effectively stripped the President of a legitimate constitutional power to item veto wasteful spending.

A recent General Accounting Office study found that if Ronald Reagan and George Bush had had the line-item veto from 1984 to 1989, about $70 billion in wasteful spending would have been reduced or eliminated.

President Bush ought to assert his line-item veto power to bring the Federal budget under control, and send it to the Supreme Court.

Third, the President should unilaterally index the capital gains tax. Economist Paul Craig Roberts has pointed out that the word "cost" in calculating capital gains, is not defined by statute, but by IRS regulation.

The President could change the regulatory definition of the word cost so that the capital gains tax is levied on the real gain, not the inflation gain.

This change to index capital gains would immediately reduce the effective tax on long-term capital gains, thereby spurring investment. It would also help stop the decline in values for homes, properties, and businesses.

Mr. President, in summary, I think President Bush should draw the line on new taxes. He ought to extend the ban on costly regulations, test the line-item veto, and unilaterally index the capital gains tax.

I think these steps will help put President Bush back on the political offensive, and help put the economy back on the road to growth.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 479, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 479) to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Cooperative Research Act Extension of 1991".

SEC. 2. JOINT VENTURES.

SEC. 2. The National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.) is amended—

(1) by inserting after section 1 the following:

"SEC. 1A. FINDINGS AND PURPOSE.

"(a) The Congress finds that—

"(1) technological innovation and its profitable commercialization are critical components of the United States ability to raise the living standards of Americans and to compete in world markets;

"(2) cooperative arrangements among non-affiliated firms in the private sector are often essential for successful technological innovation and commercialization; and

"(3) the antitrust laws may inhibit cooperative innovation arrangements because of uncertain legal standards and the threat of private treble damage litigation.

"(b) It is the purpose of this Act to promote innovation, facilitate trade, and strengthen the competitiveness of the United States in world markets by clarifying the applicability of the rule of reason standard and establishing a procedure under which firms may notify the Department of Justice and Federal Trade Commission of their cooperative ventures and thereby qualify for a single-damage limitation on civil antitrust liability.";

(2) in section 2(a)(6) by—

(A) striking "and development" and inserting ", development, or production";

(B) redesignating subparagraphs (D) and (E) as subparagraphs (E) and (G), respectively;

(C) inserting after subparagraph (C) the following new subparagraph:

"(D) the production or testing of any product, process, or service,";

(D) striking "or" after the comma in subparagraph (E), as redesignated;

(E) inserting after subparagraph (E), as redesignated, the following:

"(F) the collection, exchange, and analysis of production information related to activity of the joint production venture, or";

(F) striking "and (D)" and inserting "(D), (E), and (F)" in subparagraph (G), as redesignated; and

(G) by amending the matter following subparagraph (G) to read as follows:

"and may include the establishment and operation of facilities for the conducting of research, development or production; the integration of existing facilities where those facilities are used for the production or processing of a new product or technology pursuant to the joint venture; and the prosecuting of applications for the patents and the granting of licenses for the results of such venture, but does not include any activity described in subsection (b).";

(3) in section 2(b)—

(A) in the matter before paragraph (1) by striking "and development" and inserting ", development, and production";

(B) in paragraph (1) by striking "conduct the research and development that is the" and inserting "carry out the"; and

(C) in paragraph (2) by striking "production or" each place it appears;

(D) in paragraph (3)(B) by striking "and development" and inserting ", development, or production";

(4) in section 3 by—

(A) striking "and development" the first place it appears and inserting ", development, or production"; and

(B) striking "and development" the second place it appears and inserting ", development, product, process, or service";

(5) in section 4 by striking "and development" and inserting ", development, or production" each place it appears in subsections (a)(1), (b)(1), (c)(1), and (e);

(6) in section 4(e), by—

(A) inserting a dash after "if";

(B) designating the matter after such dash as paragraph (1);

(C) striking the period at the end of paragraph (1) as designated by subparagraph (B) and inserting "; and"; and

(D) adding at the end thereof the following:

"(2) in the case of a claim against a joint venture for production, the joint venture satisfies the requirements of section 7.";

(7) in section 5(a) by striking "and development" and inserting ", development, or production";

(8) in section 6 in the section heading by striking "and development" and inserting ", development, or production";

(9) in section 6—

(A) in subsection (a) by inserting "and, after enactment of the National Cooperative Research Act Extension of 1991, any party to a joint production venture, acting on such venture's behalf, may, not later than 90 days after entering into a written agreement to form such venture," after "whichever is later";

(B) in subsection (a)(1) by striking "identities of the parties to such venture, and" and inserting "identity of each party to such venture, including, in the case of a corporation, the nation in which it is incorporated and the location of its principal executive offices, and the nation of incorporation and the location of the principal executive offices of any corporation that directly or indirectly owns or controls a majority of the shares of such corporation, and "; and

(C) in subsections (d)(2) and (e) by striking "and development" and inserting ", development, or production" each place it appears; and

(10) by adding at the end thereof the following new section:

"APPLICABILITY TO JOINT VENTURES FOR PRODUCTION

"SEC. 7. Section 4 of this Act applies only to a joint venture for production—

"(1) whose principal facilities for the production of a product, process, or service are located within the United States or its territories; and

"(2) in which each of the parties to the joint venture makes a substantial commitment to the United States economy, as evidenced by investments in the United States such as long-term production facilities and by significant contributions to employment in the United States.

"REPORTS ON JOINT VENTURES AND UNITED STATES COMPETITIVENESS

"SEC. 8. (a) PURPOSE.—The purpose of the reports required by this section is to inform Congress and the American people of the effect of this Act on the competitiveness of the United States in key technologies and areas of production.

"(b) ANNUAL REPORT BY THE FEDERAL TRADE COMMISSION.—Within 1 year after the date of enactment of this subsection, and by that date in each succeeding year, the Commission shall submit to Congress a report including—

"(1) a list of joint ventures filing under this Act during the preceding 12-month period, including the purpose of each joint venture and the identity of each party to the joint venture as described in accordance with section 6(a)(1); and

"(2) a list of enforcement actions, if any, brought against joint ventures filing under the Act by the Department of Justice during the preceding 12-month period for violations of the antitrust laws.

"(c) TRIENNIAL REPORT BY THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall submit to Congress a triennial report, the first report to be submitted within 3 years after the date of enactment of this subsection, that includes—

"(1) a description of the industrial technologies most commonly pursued by joint ventures for research and development for which filings were made under this Act during the preceding 3-year period, and an analysis of the trends in the competitiveness of United States industry in those technologies;

"(2) a description of the areas of production most commonly engaged in by joint ventures for production for which filings were made under this Act during the preceding 3-year period, and an analysis of the trends in the competitiveness of United States industry in those production areas; and

"(3) an update of the report submitted by the Secretary under subsection (d) to reflect changes in foreign laws or practices.

"(d) REVIEW OF FOREIGN LAWS.—Within 1 year after the date of enactment of this subsection, the Secretary of Commerce shall submit to Congress a report on the treatment of United States corporations or other business entities under the laws relating to joint research and development and joint production ventures, or similar arrangements, of each foreign nation or community of nations whose corporations or other business entities have filed under this Act.

"(e) INTERAGENCY COOPERATION.—The Federal Trade Commission, the Office of the United States Trade Representative, and the Office of Science and Technology Policy, as well as other Federal departments and agencies, shall provide such information and assistance in the preparation of the reports under subsections (c) and (d) as the Secretary of Commerce may request.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am glad that this legislation is now before the Senate. Again I reiterate what I said last night in thanking Senators who voted for cloture to go forward with it, and also thanking Senator MITCHELL, the majority leader, for putting this on the calendar.

It is interesting that a bill that has so much bipartisan support had to go through so many difficult steps to get on the floor. Notwithstanding efforts of the leader, myself, Senator BIDEN and others, we seem to have the mushroom-type of holds, the kind that sort of pop up; it gets dark, rains little bit, mushrooms pop up. The same thing happens with holds. I am glad to see they went off once the cloture was overwhelmingly agreed to, as it should have been.

Again we are talking about how we build America's future, how we create jobs in the future—not just for today—but for our children and our children's children.

In 1984, Congress passed the National Cooperative Research Act. That was done to encourage U.S. companies to enter procompetitive joint research and development ventures, and do it without fear of treble antitrust damages.

In effect, what it said is if you want to get into real research and development in the United States, we are going to let you compete with the rest of the world, with Europe, and with Japan, so we do not suddenly find the rest of the world has outstripped us.

S. 479 is the National Cooperative Research Act Extension. Senator THURMOND and I first introduced it in 1989 it was reported out of the Judiciary Committee last summer by a 13-to-1 vote.

Those who know the Judiciary Committee know this is a committee that goes across the political spectrum. By 13 to 1, we voted this out. It would extend the 1984 act to cover production of joint ventures as well as research and development joint ventures.

Mr. President, what I am saying, when you look at something like this, with the broad support that it has received, is that we know this is a bill long overdue. We cannot afford the luxury of sitting back scratching our heads and saying we wonder how the Japanese are beating us at this, that and the other thing, how the Europeans, especially the European Community, can beat us at this, that, and the other thing, and we are really working hard doing things exactly the same as we did in the 1940's and 1950's when we were ahead. It is not the 1940's and the 1950's. It is the 1990's. And the techniques and the laws that helped us compete in the 1940's and 1950's are not the techniques and the laws that are going to allow us to compete in the 1990's. We are not running a museum called the United States. We should be a dynamic and ever-growing and ever-expanding economy.

This bill was needed when Senator THURMOND and I introduced it nearly 3 years ago. It was needed when Senators BIDEN and THURMOND and I revised it in committee last July. It is needed more than ever now with an economy on the ropes and jobs disappearing daily.

As the American people will recognize all too well, we are in the midst not just of a temporary downturn but of long-term economic problems brought on by reckless spending and borrowing policies that weaken our competitive position.

We can do one of two things. We can wring our hands and say "Was that not awful? I wonder who is at fault." Or we can say we have a bad problem, and we have a way to get out of it, and we have a way to give a brighter day and a brighter future not only to ourselves but to our children and our children's children.

I choose the latter. My children will live most of their lives in the next century. I like to think some of us think of that next century which is only 8 years away.

So I would tell my colleagues that the purpose of this new legislation is similar to the purposes of the 1984 act. In that act Congress recognized that antitrust laws could inhibit procompetitive research and development joint ventures. Why? Because of uncertain legal standards and also the threat of treble damages.

In fact, in the 1984 report on the joint R&D bill, there was a conclusion by the Judiciary Committee. Let me just read that. It says:

> Valuable joint R&D activity has been discouraged by the paucity of clear legal guidelines about the application of the antitrust laws to this type of activity. The perception by many firms of exaggerated antitrust risks will continue to deter desirable joint activity unless Congress acts to clarify the essential difference between joint activities and the kind of collusive conduct that is properly condemned by the antitrust laws.

Mr. President, one of the reasons that Senator THURMOND and I supported the 1984 act, and one of the reasons we support the legislation here, is that we know that the 1984 act worked well. Companies have used it. They have filed over 230 notifications for joint research and development ventures. These, incidentally, have involved everything from chipmaking and steelmaking processes to superconductors. It is not limited to just one industry.

Many argue that the 1984 act was critical to the formation of Sematech. That was the industry-Government research consortium whose mission is to restore U.S. leadership in semiconductor and manufacturing technology.

We have had a chance to study its result. We have had a chance to see what is working. I think all of us know the 1984 act is not enough. The reason it is not enough is it does not address the issue of joint manufacturing ventures. It is precisely in manufacturing that the U.S. economy faces its greatest competitive challenges. When it comes to basic research and science, here in the United States, we are the world leader. Our 1984 act helped us keep in that leadership position.

We have been the great innovators. We have made scientific breakthroughs. We continuously invent new products, not only in our laboratories, but in our universities. But then we reach the point of what happens once we developed it, once we have invented it; how do you get it on the market?

And you watch that there is a sudden dropoff. We innovate; we design; we invent; we create. As an American, I am proud that we do it better than anybody else. But when it comes to taking these innovations and turning them into a commercial product that will sell, we find we are continuously outmaneuvered by well-planned and well-financed foreign competition. It happens time and time again. We invent it. We design it. We create it. And then when their organizations, their plants, their financing come swooping in from outside our borders, they take it over.

We can invent products like VCR's, something that the majority of American families now have. We can invent products like memory chips, or industrial robots, or liquid crystal displays, all things that are part of the 1990's. But what happens? The Japanese and others do the manufacturing. So we have spent the money; we have done the research; we have made the innovation. And what has happened? They step in and take the jobs and the profits.

No matter how much our services sector might grow, we have to recognize that manufacturing has been and is going to continue to be the necessary anchor for healthy economic growth. No economist is going to tell us that we were ever hurt by expanding our industrial base, and the jobs that go with it. Quite to the contrary. We all know the more we are able to expand our industrial base, the more we are able to create those jobs, the better our economy.

So will the joint production bill that Senator THURMOND and I sponsor help? Of course, it will. The new technologies that create jobs and income often require enormous investment. The cost for a state-of-the-art semiconductor manufacturing facility—now, this is one state-of-the-art semiconductor manufacturing facility—is now a half a billion dollars.

The Japanese firms that are part of powerful keiretsu organized around giant banks may have access to that kind of capital. I will tell you right now, what I hear from CEO's of our American firms: They often do not. Moreover, among our competitors in places like Japan, Europe, and Korea, governments do not hesitate to encourage cooperative efforts, especially if they are talking about technologies such as semiconductors or superconductivity, x-ray lithography, or even artificial intelligence. They know that jobs are going to come with the ability to manufacture in each of these areas.

So what do they do? They step in. They push for the joint production. And, frankly, Mr. President, I think that they are hoping that, here in the United States, we will still look at the forties and fifties and not be willing to do the same. I think that they would love to see this legislation defeated. They would love to see it go down the tubes. Why? Because we will not be able to compete with them. They will keep on doing what they know works, and we will keep on talking about why we do not want to do what works.

That is no way to win a game. It sort of ends up guaranteeing that we lose; those who would oppose this probably would say would lose cheerfully. I have always agreed with the person who said: "Show me a cheerful loser, and I will show you a loser." I do not want to lose. I do not want to lose, for the sake of people looking for jobs today, or for those who look for them tomorrow and from thereon here in the United States. After all, this is a time when we ought to be looking at what works for the United States of America, what creates jobs in the United States of America. And if we know that our competition has found a way to beat us out of these jobs, that they have found a way to take jobs away from us, would it not make a little bit of sense to try some of the same things and bring those jobs back?

I do not know a single person in this body, Republican or Democrat, who is going to stand up and say: You know, we have to ship a few more jobs to the Japanese, or the Koreans, or the Europeans. I think if anybody stood up and said that, the rest of us would probably toss them out of here. We would not have to worry about doing it; their own State would.

But here we are, talking about legislation to allow those jobs to be here in the United States and let us compete. And we carried our burden. We protected Europe; we protected Japan; we protected everybody else since World War II. Now it is time to start thinking about some of the things we need to allow us to be competitive with them. They do not need any more help from us to be competitive. They have shown that they can take what is the best that we are able to offer, and then go and use it themselves.

So let me tell you what S. 479 would do. It would eliminate the antitrust uncertainty that now surrounds production joint ventures. The legislation would codify the judge-made rule that joint production ventures are not per se illegal, and should be evaluated, for antitrust purposes, according to the rule of reason. So that is long overdue.

It would eliminate treble damage liability for joint ventures that file a stipulated notification with both the Federal Trade Commission and the Attorney General.

It would apply only to joint ventures whose principal production facilities are located within the United States, and whose venturers make a substantial commitment to the U.S. economy.

I am not suggesting setting up a law that looks great on the books, but is designed just to help foreign competition; this is, first and foremost, to allow the United States to be competitive.

As a result of this legislation, the companies would know that only unreasonable or anticompetitive ventures could be challenged and that only actual damages would be assessed, and they would understand that the Federal Government stands foursquare behind the proposition that cooperative ventures have a vital role to play in our economic future.

It brings us into the same realities in this country that our competitors long ago realized. And because they long ago realized, they have taken these hundreds of thousands, even millions of jobs away from us. We are trying to bring some of those jobs back for Americans.

While this legislation will benefit American businesses across the board—I mention everything from chip production to steelmaking—it is going to have perhaps the greatest impact on our electronics industry. Let us take a look at what the electronics industry is. It employs 2.6 million Americans. It also represents a $750 billion global market. We are not talking just about a mama and papa corner store operation—2.6 million Americans, $750 billion global market. We are talking about real money and real jobs.

But over the past decade we have seen in this country the erosion of America's leadership in high-tech electronics. We used to be the unqualified leader in the world. We have seen that leadership disappear.

In my capacity as chairman of the Judiciary Committee's Subcommittee on Technology and the Law, I have been very concerned about the decline of the U.S. semiconductor industry. Semiconductor chips are really the crude oil of our electronics chain. In fact, they are at the heart of the technology revolution. These semiconductors are critical to the Nation's economic growth. They also are critical to our national security. Nearly every domestic industry depends directly or indirectly on the products of the semiconductor industry. It is almost impossible to find a domestic industry that does not have that dependence. Semiconductor chips drive everything from wrist watches to medical diagnostic equipment, certainly to the desk top computer that I and others use, also to fighter jets, especially the most advanced. As an American, I am awfully proud that this important tool was invented here—I think we all are in agreement on this. But look what has happened to this American invention. We invented it, and it has been turned into an engine for Japanese jobs and growth.

This is not meant as some form of Japanese bashing. If they are smart enough to take our inventions and turn them into jobs, well fine; we cannot complain about that. What we ought to complain about is we were not smart enough to use it and create the jobs here in the United States. That is what we ought to complain about.

What I am saying is if we are smart enough to produce the invention, if we are smart enough to do it to begin with—and that means spending the money in our universities, the money in our research, all of which costs every one of us in one way or the other—once we have done it, for heaven's sake let us keep the jobs here. Let us go the next step. If inventing the product or making the technology is a small part of the equation and the jobs are of enormous importance afterward, let us make sure we get it all. If we are the ones who started it, let us get it all.

It would be one thing if, as Americans, we had to wait for somebody else to show the innovation, to show the technology, where we had to wait for somebody else to invent it and then go hat in hand and say, "Gosh, could we use your invention and could we create some much needed jobs in our country?" Instead we spent the money, we invented it, we created the technology. At least, let us now as a Nation get the benefits of the jobs.

But the statistics are painting a very gloomy picture. America's percentage of the global semiconductor market dropped from 57 percent in 1980 to 36 percent in 1989. According to a 1991 report of the National Advisory Committee on Semiconductors, "The problems facing the U.S. semiconductor industry are very serious and are growing worse."

We have just seen this steady drop, drop, drop. We have not become weaker as a country during that time. That is not why. It has not dropped because we have been attacked by some foreign power. It has not dropped because we have had some cataclysmic event happen in the United States. It is not because all of our scientists and best brains have suddenly left.

No; it means we have not taken the steps to hold onto it. And we have to ask ourselves what does that mean for the U.S. economy. Every percentage point—remember we have experienced a drop of 57 percent in 1980 to 36 percent in 1989—every single percentage point drop in the U.S. share of the world's semiconductor market results in nearly 3,000 semiconductor industry jobs lost, $130 million in lost wages, $59 million less spending for research and development, $40 million less Government tax revenues. That is just for 1 percentage point drop, and this is just for one industry.

The same report talks about the remarkable come from behind success of our foreign competitors in Asia and Europe. Why have they been so successful? Not because they have shown the same innovative genius that we have here in the United States, but because of the strategic importance they have placed in high technology and their willingness to pool their resources in procompetitive efforts to advance technology.

If we are going to compete in the global market, our companies have to be free to cooperate. They have to be free to pool resources, especially for projects of risk that they could not afford to tackle on their own. As the late Bob Noyce, who is the inventor of the integrated circuit and president of Sematech said in March 1990 when he came before my subcommittee, the Technology Subcommittee, companies simply cannot afford to go it alone anymore. "Cooperation is not only important for survival today, it's essential."

I have had some critics tell me that they think if this legislation passed, even though all our competitors have done this, they think somehow if we do not stand above the fray and, I guess, turn things over to everybody else, they claim this kind of cooperation means mergers and acquisitions, a boost for the big person at the expense of the smaller entrepreneurs.

If that were the case, I would not be the primary sponsor of this legislation. In fact, it is not the case at all. In testimony before the Antitrust Subcommittee in July 1990, Prof. David Teece, of the University of California at Berkeley School of Business, emphasized that this legislation would reduce the incentives for mergers and acquisitions, not increase them. It would allow small- and medium-sized firms to maintain their independence and yet join with other companies for research and development and production in those instances where a project was too big or too costly or too risky to pursue alone.

If you come from a State like mine, you know that industrial strength comes from the industrial dynamism of our small enterprises. The National Cooperative Research Act extension of 1992 will guarantee diversity, will guarantee economic prosperity for all American companies.

Mr. President, we must recognize that our foreign competitors do not labor under the same antitrust restrictions that confront American businesses. We sit here and say, "Gosh, we had these laws in the forties, we had these laws in the fifties. Why change them?"

Why change them? Drive up and down the roads of our country and look at all the plants that have closed. Drive up and down the roads of Japan and Europe and see all the plants that have opened. They are doing something right. We are doing something wrong. I would like to be able to go to the high schools of this country and say, "study hard, boys and girls, study hard. Learn a lot because we are going to have jobs available for you. They are going to be good jobs. They are going to be jobs to allow you to start a family, buy a home, own an automobile, pay your bills." But I do not want to have to tell them you have to move to Europe to get those jobs and move to Japan to get those jobs because they are not going to be available to you in this country.

Our responsibility is to us, the United States. These foreign competitors are not under the same restrictions that we are. What happens? It is simple. Their research and development and manufacturing muscle is unlimited. Their research and development and manufacturing ventures are formed on strictly pragmatic grounds: What is needed and what is going to work. What is going to create jobs in their country.

Do you think a single one of these countries is sitting there at night saying, gosh, we better not do this because we are going to take jobs away from the United States? Do you think there is a single one of those countries that is going to say the United States has covered our backside for years or has paid the bills of reconstruction after World War II, or the United States is doing this, that, or the other thing, we better make sure those jobs stay over there? Ha, ha and ha. It just does not happen that way. They want the jobs for themselves.

I understand that. I do not disagree with it. More power to them. But why not give us the muscle to take those jobs back, especially if we are the ones who developed the know-how in the first place. It is not as though we are going over and saying, here, you develop all the know-how, and take it away from them. We are saying if we at least develop it, we ought to have the jobs here.

If we do not worry about having the jobs here, do you think anybody else is going to? Do you think the European Community is going to pass a law saying we have to give more of an advantage to the United States? Do you think in the Japanese parliament, somebody is going to say, you know what we ought to do, we were so impressed when the President and others came over here to talk with us a few months ago, we are going to pass a law to give more of a competitive advantage to the United States. Let us not hold our breath waiting.

Their research and development manufacturing muscle is unlimited. Their research and development manufacturing ventures, as I have said before, are strictly pragmatic. What is needed and what is going to work? They move ahead and we fall way behind. Way behind.

I do not believe the joint production ventures are a panacea for this Nation's competitive ills. Just doing that, we are not suddenly going to see this Phoenix-like rise in our ability to compete. Not all by itself. No one blames our decline in international high-tech markets solely on antitrust barriers to cooperation. Of course not, But joint research, development, production ventures, they are all an important part of a long-term comprehensive industrial strategy.

If we pass the National Cooperative Research Act extension, then we remove a significant impediment to the creation of joint production ventures; we remove unnecessary impediments, legal, or otherwise. We ought to do so.

So the time has come to stop talking about economic recovery. Let us start taking some action. The bill is only a step. I have argued on other occasions that increased public and private investment, certainly better education and training, a serious technology policy for this country are all necessary elements of a more competitive America. We are not going to pass a bill that takes care of increased public and private investment, better education, better training and a technology policy. We are not going to do that this afternoon. But we can make a start and this is a good place to start. It gives American companies the help they need.

Mr. President, I have spoken more than I normally do on this floor. I want to thank Senator THURMOND who is here; Senator BIDEN, chairman of the Judiciary Committee; Senators BROWN and HATCH for their efforts in bringing this legislation to what I hope is a point of final passage. I would like to thank a number of members of the Judiciary Committee staff for their fine work on this legislation.

Some think Senators are merely constitutional impediments to their staffs. The fact is that none of us could put together major, complicated and important legislation like this without the help of the staffs. I thank Patricia Vaughan of Senator THURMOND'S staff; Cynthia Hogan and Scott Schell of Senator BIDEN'S staff; John Bliss and Tom Forbord of Senator BROWN'S staff; Mark Disler of Senator HATCH'S staff; Charles Kinney who has been a great help in bringing this to the Senate floor; Ann Harkins, my chief counsel, Tris Coffin, another lawyer on my staff, as well as two of my former staff members, Jill Friedman and Craig Schiffries, for all their work over the past 2 years.

We spent 2 years getting this bill here. This bill can pass, this bill should pass. It will not cure all the economic ills in this country. It will not have an effect immediately, but it will have an effect in the long-term. It is one of the most important steps that could be taken to turn around this loss of jobs to allow us to use our inventive American genius to create American jobs.

I know that Senator BIDEN wished to speak on this. I see the ranking member of the committee on the floor. I ask, Mr. President, does the distinguished Senator from South Carolina wish to speak? If he does, I yield to him.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in support of S. 479, the National Cooperative Research Act extension of 1991. As has already been stated today, S. 479 amends the National Cooperative Research Act of 1984 by extending its provisions to include manufacturing as well as research and development. The 1984 act received strong bipartisan support, and I am hopeful that the same will be true for S. 479.

Mr. President, the 1984 act has been very successful. I am told that it has led to the filing of more than 260 research and development joint ventures. This number undoubtedly includes some joint ventures which would not have occurred without the act. Mr. President, when we enacted the 1984 act, that is exactly what we wanted to happen. It is now time to expand the reach of the 1984 act, and to include joint production.

Competition in worldwide markets is strong and is getting stronger every year. If American firms are to be successful international competitors, they cannot afford to settle for less than the most advanced means of research, development and manufacturing. This requires substantial investment in state-of-the-art facilities and other technological know-how. Mr. President, there is no question that such investment is expensive. The amendments we are proposing today, by encouraging joint production ventures, should help ease this investment burden and will enable American businesses to respond more effectively to the competitive challenges that face them in international markets. Joint manufacturing ventures should provide just the answer for firms which cannot make the needed investments in new production technology. This is especially true for firms that do not want to merge their entire operations to achieve the benefits such ventures provide.

The National Cooperative Research Act of 1984 was the first step in addressing these competitive concerns. It has two simple features. First, it guarantees that joint research and development ventures, if they are ever called into question under the antitrust laws, will be analyzed under the rule of reason standard so that the competitive benefits of such ventures can be considered. Second, antitrust liability with respect to a joint research and development venture disclosed to the Government, is limited to actual damages plus prejudgment interest. It is now time to take the next step and to extend the benefits of the 1984 act to production joint ventures.

Mr. President, there is one last point that should be made. The bill we are proposing today, like the 1984 act it amends, does not provide an antitrust immunity. Nor does it weaken antitrust enforcement. It only clarifies that these production joint ventures, if challenged under the antitrust laws, are subject to rule of reason treatment, and will be subject to actual, rather than treble damages. I think this distinction is an important one to remember, especially since it is erroneously, but frequently stated, that this legislation creates an antitrust immunity.

As I noted at the outset, Mr. President, the 1984 act received strong bipartisan support. I am pleased that S. 479 has also been the product of much bipartisan cooperation, and I hope that this cooperation will continue. I urge my colleagues to vote for this legislation.

Mr. DODD. Mr. President, I rise in strong support of this legislation. And I want to commend the Senator from Vermont [Mr. LEAHY] and the Senator from South Carolina [Mr. THURMOND] for their work on it. I think they have come up with a solid piece of legislation that deserves our support.

Mr. President, I have long held the conviction that as we enter the next century, our standing in the world will come to depend much less on our military might, and much more on our economic capabilities. And over the last decade or so, our international competitiveness has been on the decline.

We are still the strongest economic power in the world, Mr. President, and the most productive one. But we are slowly beginning to lose our edge. The Japanese and the Germans invest much more of their GNP than we do. As a result, we have lost precious market share over the past 10 years—and we risk losing more.

The problem is not in research and development, Mr. President. We are a nation of innovators, from the old Model T to the latest in computer chips. But we have not been quite as successful at the production phase—bringing products to market at a low cost.

That is the problem this bill attempts to address. This bill would encourage companies to form joint ventures to collect, exchange and analyze production information related to their venture—just as companies are now allowed to do in the area of research and development. This provision would allow American firms to compete on an equal footing with our major competitors, where this practice is already in place.

The bill operates on the principle that we work best when we work together. And Mr. President, I believe it is a winning principle.

Some have stated that this bill raises antitrust concerns. That is not the case, Mr. President. The bill would only declare that a joint venture in production should not be deemed an antitrust violation automatically. It would provide the Justice Department every opportunity to scrutinize a proposed joint venture for possible antitrust violations on the basis of all relevant factors.

Finally, I would note that the bill contains a provision which ensures that any joint venture, in order to qualify for this consideration, must make a substantial commitment to the U.S. economy, in the form of job creation or increased tax revenues. This is an important addition which I wholeheartedly endorse.

Mr. President, this bill is not a cure-all for our economic woes. It will not reverse the trade deficit overnight. But this bill will ensure that joint ventures in production are viewed on their merits—not by some arbitrary standard. And it will help to keep us competitive as we enter the next century.

Mr. President, I yield the floor.

AMENDMENT NO. 1698

(Purpose: To grant the power to the President to reduce budget authority)

Mr. MCCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] for himself, Mr. COATS, Mr. DOLE, Mr. MCCONNELL, Mr. WALLOP, Mr. NICKLES, Mr. SIMPSON, Mr. BOND, Mr. MACK, Mr. SMITH, Mr. PRESSLER, Mr. WARNER, Mrs. KASSEBAUM, Mr. ROTH, Mr. HELMS, Mr. GARN, Mr. CHAFEE, Mr. SYMMS, Mr. LOTT, Mr. KASTEN, Mr. BROWN, Mr. CRAIG, Mr. THURMOND, Mr. MURKOWSKI, Mr. EXON, Mr. GRAMM, Mr. LUGAR, Mr. BURNS, Mr. BOREN, and Mr. SEYMOUR, proposes an amendment numbered 1698.

Mr. LEAHY. Mr. President, I do not want to object. The amendment is short. It might make it a lot easier for all staff to have it read through unless the Senator was about to describe it.

Mr. MCCAIN. I was going to describe it.

Mr. LEAHY. Then I shall not object.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . LEGISLATIVE LINE ITEM VETO ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Legislative Line Item Veto Act of 1991".

(b) ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.—The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"PART A—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"GRANT OF AUTHORITY AND CONDITIONS

"SEC. 1101. (a) IN GENERAL.—Notwithstanding the provisions of part B of title X and subject to the provisions of part B of this title, the President may rescind all or part of any budget authority, if the President—

"(1) determines that—

"(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

"(B) such rescission will not impair any essential Government functions; and

"(C) such rescission will not harm the national interest; and

"(2)(A) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority; or

"(B) notifies the Congress of such rescission by special message accompanying the submission of the President's budget to Congress and such rescissions have not been proposed previously for that fiscal year.

The President shall submit a separate rescission message for each appropriations bill under paragraph (2)(A).

"(b) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

"(B) The period referred to in subparagraph (A) is—

"(i) a Congressional review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

"(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

"(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

"(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message) shall run beginning after such first day.

"DEFINITIONS

"SEC. 1102. For purposes of this title the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of budget authority, in whole, rescinded in a special message transmitted by the President under section 1101.

"PART B—CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS

"PRESIDENTIAL SPECIAL MESSAGE

"SEC. 1111. Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

"(1) the amount of budget authority rescinded;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(3) the reasons and justifications for the determination to rescind budget authority pursuant to section 1101(a)(1);

"(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

"(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

"TRANSMISSION OF MESSAGES; PUBLICATION

"SEC. 1112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under sections 1101 and 1111 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

"(b) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under sections 1101 and 1111 shall be printed in the first issue of the Federal Register published after such transmittal.

"PROCEDURE IN SENATE

"SEC. 1113. (a) REFERRAL.—(1) Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

"(2) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

"(b) FLOOR CONSIDERATION IN THE SENATE.—

"(1) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

"(c) POINT OF ORDER.—(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

"(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.".

Mr. McCAIN. Mr. President, before describing the amendment, I wish to express my deep appreciation to my friend and comrade in arms, Senator COATS, who is the leader on this issue. He and I have been fighting for this particular issue for many years. He is a person of political courage and depth of commitment to seeing that some kind of fiscal sanity be enacted in this out-of-control deficit and budget process that now afflicts every man, woman, and child in this Nation. I am grateful for his leadership and also his encouragement from time to time when we have been a little depressed about the prospects of seeing real reform being enacted.

Mr. President, this amendment enables the President, 20 days after enactment of an appropriations bill, to identify items of spending within that bill which the President believes are wasteful and to notify Congress that the President is eliminating or reducing the funds for those items.

The President may veto part or all of the funds for programs deemed wasteful.

It also allows the President to submit such enhanced rescissions with the budget submission at the beginning of the year. The second shot at proposing rescission assures that the President has the opportunity to strike pork barrel spending that may not be obvious during the first rescission period.

The Congress is required to overturn this line-item vetoes with majority votes in the House and Senate within 20 days or they become effective.

The President may veto the rescission disapproval bill. In that case, the veto may be overridden by a two-thirds vote of the House and Senate.

This amendment would not allow the President to rescind money for entitlements like Social Security, Medicare, or food stamps.

The amendment amends part B of title X of the Impoundment Control Act of 1974. It does not amend part A of title X of the Impoundment Control Act of 1974. The language from part A of title X is retained. It specifies that "nothing contained in this act, or in any amendment made by this act, shall be construed as * * * superseding any provision of law which requires the obligation of budget appropriations or the making of outlays thereunder."

I hope that explains the amendment to the satisfaction of my colleague from Vermont.

Mr. LEAHY. Mr. President, it explains——

The PRESIDING OFFICER. Does the Senator from Arizona yield the floor?

Mr. LEAHY. I thought the Senator was asking me a question.

Mr. McCAIN. I do not yield.

Mr. LEAHY. I understood the Senator from Arizona was asking a question.

Mr. McCAIN. I was not asking. I said I hope that satisfies the desire of my friend from Vermont.

Mr. LEAHY. May I respond?

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. LEAHY. May I respond?

Mr. McCAIN. If the Senator will respond in less than 3 minutes, I would be very glad to yield.

Mr. LEAHY. I will be glad to. I can do this easily. It does explain it, but I must say with all due respect to my friend from Arizona, it appears that here we have a bill that is designed to create hundreds of thousands, if not millions, of well-paying jobs, and the Senator from Arizona appears, for whatever reason—he has every right to offer it—to be making a political statement that would stop those hundreds of thousands and millions of Americans from getting jobs and would allow the Japanese and Europeans to continue to eat our lunch because we do not have the guts to stand up and pass a bill that makes us as competitive as they are. So I understand it very well, Mr. President.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. McCAIN. I thank the Chair.

In response to the Senator from Vermont, I certainly appreciate the urgency which he attaches to his legislation and the importance of it. In fact, for about the last 45 minutes I was treated to a detailed description of not only his legislation but of the wonderful things it would do for America.

I would like to say to my friend from Vermont that this legislation will do a lot more than he has ever contemplated doing because it will bring down what is destroying America, and that is spending in the Congress. It is out of control, and the American people are sick and tired of it.

The budget process is broken. In 1960, the deficit was $236.8 billion. In 1970, it was $283.2 billion. In 1980, it was $709.3 billion. In 1990, it was $2.4 trillion. And it is expected to surpass $4 trillion within the next year.

As much as I admire, respect, and appreciate the legislation proposed by the Senator from Vermont, sooner or later we are going to get this under control. It may not be today or tomorrow, but the American people have had enough. They have had enough.

What I intend to describe today is the effect on national security and the effect on the lives of tens of hundreds of thousands of American men and women who are serving in the military of the United States today, who we are going to tell we cannot afford to keep in the military even though many of them are minorities and joined the military for a career, that we cannot afford to keep them in the military, but yet we can appropriate $6.3 billion which was neither authorized nor requested. At the same time we are able to spend money on museums, for truck engines that the Pentagon cannot use, for military museums in certain Congressmen and Senators' districts, I am having to tell these young men and women I am sorry but you cannot stay in because we cannot afford to keep you.

Mr. COATS. Mr. President, will the Senator from Arizona yield?

Mr. McCAIN. I would be glad to yield for a question.

Mr. COATS. For a question.

I think the Senator from Arizona, and I—I want to ask him if he agrees with me—want to assure our colleagues and particularly the Senator from Vermont that this effort is in no way meant to derail the current legislation before us. I can assure our fellow colleagues that the vote will take place on this bill today, that Senator McCAIN and I have no intention of filibustering this bill. We simply are looking for an opportunity to bring to the Senate floor a matter of extreme importance to us and to many—in fact, a solid majority of the American people.

Now, we have been asking for hearings, and we have been asking for straight up-or-down debate and vote on this matter of the line-item veto for several years, and we were not able to get that. We are not able to get that because the leadership in this body does not want us to have a straight up-or-down vote. And so we are reduced to the option that every Senator has of offering this as an amendment to another bill that is on the floor.

Undoubtedly a budget point of order will be offered. We will make a motion to waive that. But everyone ought to know that the procedure involved here is to force us to get 60 votes to pass this bill rather than 50.

There are many people that would prefer we never debate this subject, that we never have a vote on this issue. But I want to assure my colleagues that neither Senator McCAIN nor I have any intention of denying the Senator from Vermont the opportunity to have a vote on the bill that is currently on the floor, to have it today, and this debate that is about to take place; from our side our perspective is not to delay this even over to the next calendar day.

So I think my colleague from Arizona is certainly within his rights and certainly has no intention, and neither do I, of denying one American the opportunity to receive a job through the bill that the Senator from Vermont has been talking about. That is not our intention.

Our intention is to have the Senate address the matter that we think is important and, frankly, we are not allowed any other opportunity to bring the bill freestanding to the floor. This is the only option that we have to do it. We tried numerous ways, and all of those have failed.

I thank the Chair. I thank the Senator from Arizona for yielding.

Mr. McCAIN. I had the floor.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. McCAIN. Mr. President, I would like to talk about who supports this legislation.

THE WHITE HOUSE,
Washington, February 26, 1992.

Hon. JOHN McCAIN,
U.S. Senate, Washington, DC.

DEAR JOHN: I strongly support the efforts of you and Senator Coats to provide me and future Presidents with a form of legislative line-item veto authority. In my State of the Union Address, I once again urged your colleagues in the Senate and the House to give me what 43 Governors currently enjoy—the line-item veto.

Your approach is a fair compromise. It allows me to eliminate or reduce items I believe are wasteful of taxpayers' dollars, but it also gives Congress the opportunity to overturn these rescissions or reductions.

Billions upon billions of dollars have been wasted over the years on programs of a parochial nature with dubious value to the American taxpayer. The line-item veto approach, whether instituted through the Constitutional amendment I have previously proposed or through your statutory initiative, is the best way to prevent future wasteful spending and to rein in deficit spending.

I appreciate and fully support your amendment.

Sincerely,

GEORGE BUSH.

The following letter I received on the "Buchanan for President" stationery:

"I will veto any new taxes. I will not beg for a line-item veto. I will use the line-item veto the president already possesses. If raising taxes relieved the deficit, we would have had a balanced budget by now; but we don't. Instead, we have a $400 billion deficit. If deficit spending is the road to economic prosperity, we would have prosperity now. Instead, we have a 20-month recession. If Congress won't cut spending, then we must use the line-item veto to tell Congress that the American people won't accept their spending habits."

Next I have a letter from the Tsongas for President committee:

Sen. Paul Tsongas, Democratic Candidate for President, supports the line-item veto. He believes that it is an effective way of reducing waste in government.

Thank you for your interest.

Sincerely,

STEPHEN M.L. COHEN.

Next, Mr. President, from the Bill Clinton for President Committee:

GOVERNOR BILL CLINTON ON THE LINE-ITEM VETO

I strongly support the Line-Item Veto, because I think it's one of the most powerful weapons we could use in our fight against out of control deficit spending.

I myself recently heard Presidential candidate Jerry Brown strongly support the line-item veto. It is interesting that the only two Presidential candidates on the Democratic side who have not supported the line-item veto obviously are Members of this body.

Mr. President, I want to mention again the reason this is such a very important issue. A recent poll by the New York Times and CBS showed that 71 percent of the American people disapprove of Congress, 17 percent approve.

If any of us would take the time to go out and ask the men and women that we represent, which I do frequently, they will tell you that one of their greatest and legitimate concerns is about the out-of-control spending, and the fact that spending has become a way of life and a parochial system to a degree that we can no longer afford.

In good times, it is one thing. In bad times, it is something else.

I am not going to focus my remarks today on the $2.5 million appropriation that is used to study the effect on the ozone layer of flatulence in cows. I am not talking about weed institutes. I am not going to talk about the things that make the American people laugh and cry at the same time.

What I am primarily going to talk about is the $6.3 billion that was appropriated last year over the authorization bill—many of which by the way are very legitimate programs, and many are not. I am not here to judge many of those programs as I am the process.

The process is broken. And, at the same time that we are going to spend more than $20 million on some engines for trucks that the Pentagon says they will have to put in a warehouse someplace and never use, we are telling men and women, "I am sorry. We cannot afford to keep you." And we are throwing them out by the thousands. That is not acceptable in our society today.

I want to emphasize again, Mr. President, some of the programs that have been appropriated without authorization—many of them, by the way, added in conference—on either bill are legitimate. Many are not. And the only way we can get rid of those that are not is by reforming the process. That process means giving the President a line-item veto.

Mr. President, this legislation will be characterized as it has in the past as a dangerous transfer of political power to the executive branch. Forty-three Governors out of fifty in the United States of America, including Governor Clinton who is running for President of the United States, say that that has not been abused; that is not a dangerous transfer of power.

The difference, as you know, is that these Governors have to balance their budgets. We do not. They will tell you, Governors both Republican and Democrat, that one of the most useful tools that they have is the line-item veto—that without it, they would have great difficulty in balancing their budgets which, as I mentioned, we do not seem to have to do, despite the fact that there are laws on the books that mandate that we do so.

What is dangerous is what is happening to the administration of the Government. This kind of spending is threatening our national security, and consuming resources that could be better spent on a tax cut, deficit reduction, or health care.

I want to emphasis again that nobody believes that our budget deficit is not out of control. I repeat these numbers: In 1960, the Federal deficit held by the public was $236.8 billion. In 1970, it was $283.2 billion. In 1980, it was $709.3 billion. In 1990, it was $2.4 trillion. It is expected to surpass $4 trillion within the next year.

We cannot do it, Mr. President. If I had said 4 years ago when Senator COATS and I first tried to get this line-item veto that next year we are going to spend more money on interest on the national debt than on national defense, they would have said I was crazy. That is what we are going to do next year; we are going to spend more on interest on the national debt than on defending this Nation's vital security interests.

Who is going to pay for it, Mr. President? I think we know who is going to pay; not us; our kids. Our kids, and our grandchildren, because this thing has gotten so big that there is no way we can get it under control.

I do not make the charge that this spending is threatening our national security without a great deal of consideration. After last year's defense appropriations bill, it is unfortunately clear how dangerous this kind of spending can be to our national security. It should now be clear how urgent the line-item veto is.

Mr. President, I will not take too long. Just some examples:

The bill mandates that a single contractor get a noncompetitive extension of a contract for CHAMPUS services worth over $1 billion; the sum of $20 million in gasoline truck engines to keep one firm alive at a time when the Army has a more than 10-year surplus of such engines and is converting to multifuel engines; $175 million in upgrades for the F-14 whose nature is undefined, which seems to be designed to subsidize an engine manufacturer and which will create a fourth configuration of the F-14 rather than attempt to address Navy's real development problems; the sum of $35.5 million for 155-millimeter artillery rounds may be a good idea but why 155-millimeter rounds and not all the others? The sum of $8 million to subsidize the manufacture of tactical trailer and dolly sets. That seems to be over $80 million over black programs, which now seem to have black budgets.

The sum of $356.5 million above the increase we made is authorized for still more C-130's, a plane constantly being thrust on the National Guard without regard for the Guard's overall priorities and the need for a modern total force concept. Further, there is another $42.6 million for C-130 modifications.

The sum of $238 million for LCAC landing craft, to double the number from 12 to 24. Although the authorization act questions the need for 12, and the appropriations bill does not fund an LSD-49, called an amphibious landing ship, which was both requested and authorized.

The sum of $114 million in university set-asides that subsidize certain schools without any competition, without any concern for academic excellence, and without concern for the taxpayers—often make gifts of $10 million to $29 million of the taxpayers' money to a given school.

Mr. President, I do not like to point to specific examples, but one that struck my interest: $10 million went to a small school in Pennsylvania—over one-third of that school's budget—to study stress in the military. Do you know where the stress is in the military today, Mr. President? It is in people that are in fear of their jobs and careers.

Ten million dollars—$10 million to study stress in the military was given to a school, without any competition—without any that I know of, or that this body was made aware of. And maybe it is a very highly qualified institution, but there is no way I would have any way of knowing.

The sum of $25 million for an Arctic region supercomputer that I understand is going to be used to gather energy and study it from the aurora borealis. I think that is probably a worthwhile project, but I am not sure it should supersede the lives and careers of men and women who want to stay in the military that we are forcing out.

The sum of $55 million to satisfy a private manufacturer's claim for cost overruns. I will end with this, because I do not want to take too long. The sum of $55 million to satisfy a private manufacturer's claim for cost overruns on TAGS 39 and 40 ships built during 1989 and 1990 that it could never get through the law. Let me discuss this in more detail.

As a result of actions, the source and nature of which are not clear to me, the defense appropriations bill would provide $55 million to a single firm, the Baltimore Marine Division of Bethlehem Steel, for cost overruns on two TAGS 39 ocean surveying ships.

This $55 million would be given to Bethlehem steel, even though the taxpayers already paid $196.7 million for these ships. It would be given, although the Department of Defense did not request it, although the money is not authorized; and the money was not included in the House or Senate defense appropriations bills. The $55 million of the taxpayers' money would be given away, although none of the merits claimed have been decided by the proper courts and boards, and such claims are pending.

Bethlehem Steel already filed requests for equitable adjustments by the Navy and requested relief from the Secretary of the Navy and filed suit in the U.S. Claims Court.

There are many other examples, and I may be wrong about some of these. But if I, as a member of the authorizing committee, had been allowed to examine many of these, I might—emphasizing might—be more supportive.

I want to talk again about the men and women in the military that are being affected by the fact that we cannot afford to keep them.

> DEAR SENATOR MCCAIN: I have been a loyal, dedicated Marine for 5 years 7 months. I served 7 months in Saudi Arabia in the Marine aircraft group 18, for which I received the Navy Commendation Medal of Leadership and Organization Skill, et cetera, et cetera. Now I have no choice but to step down.
>
> My questions to you, Senator MCCAIN, are what are your thoughts on the Marine Corp Draft Board selection process? What can you do to amend the law that all the military offers stated a 5-year requirement?
>
> I will be unemployed February 15, 1992. I thank you for your time and effort.

> DEAR SENATOR: I was just on the phone with my husband, who commutes up here from Yuma. He is retired out of the Marine Corps. I was telling him I would have to write to our Congressmen about what the Army is doing to men like our son, with 17 years in. Now he has been told that the Army finds, among other units, his unit is overspent.
>
> In their zeal, the Army expects every man to apply for an early-out. In return for 17 years in, they will give Richard an annuity for 39 years.
>
> What is so tragic about this process is that the ones who have an excellent record and received the Bronze Star, like our son received in Saudi, will be thrown out along with the unexcels. There is a real calamity going on in the military community.

> DEAR SENATOR: I have been passed over for promotion, and my military service is exemplary. Even though I would have been eligible for retirement in less than 3 years, I was optimistic of my achievement to allow for my promotion to major in 1991, and several more years as a productive officer before retirement.

> The Air Force has given me until the 15th of April to separate or face a 95 percent possibility of involuntary discharge and notification in July. So time is definitely not on my side.
>
> I would greatly appreciate efforts to resolve this inequity against a very small group of individuals. On behalf of myself, I thank you in advance.

I have hundreds of these letters, Mr. President, from people who say that they want to stay in the military. I think that all of the funds that we have available should be spent to be able to keep them in, at least for a longer period of time, and perhaps at least ease the transition. We cannot do that when we are spending moneys on unnecessary and unwanted projects, and the fact is clear.

Mr. President, in 1989, Senator COATS and I offered the same amendment. It received 40 votes. I hope my colleagues who voted against the line-item veto then now realize the need for congressional reform. I hope they realize that the reform of Washington begins today with the line-item veto.

According to a recent GAO study, $70 billion could have been saved between 1984 and 1989 if the President had a line-item veto. I know my colleague, Senator COATS, will expand on that later on. But the $70 billion are only those that the President asked for rescission, not those that he would have if he had had rescission power.

Mr. President, we cannot turn a blind eye to unnecessary spending. We cannot ignore the line-item veto when it is self-evident how effective it can be in reducing the deficit.

The $6.3 billion would pay for the personnel and operating costs of 195,000 enlisted personnel in the Air Force for 1 year. It would pay for the operating costs of up to 16 carrier battle groups for 1 year. It would pay for the operating costs of eight to nine fully armored Army divisions. It would pay for the operating costs of 14 to 15 light infantry divisions for 1 year. It would pay for the total operation of the soon-to-be-closed Williams Air Force Base in Arizona for 50 years.

This kind of spending is affecting our national security. The time has come for a line-item veto. And it is time to end business as usual. The American people deserve better.

Let me tell you that a President empowered with the veto is not considered a threat to our Republican form of Government by the Framers of the Constitution. According to Alexander Hamilton in Federalist No. 73, the views of the Founding Fathers on executive veto power are as follows:

> It [the veto] not only serves as a shield to the executive, but it furnishes an additional security against the enaction of improper laws. It establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitancy, or any impulse unfriendly to the public good, which may happen to influence a majority of that body.

(Mr. KOHL assumed the chair.)

Mr. MCCAIN. Mr. President, given Congress' predilection for pork barrel spending, omnibus spending bills and continuing resolutions, it would seem only prudent and constitutional to provide the President with functional veto power.

The President must have more than the option of vetoing a spending bill and shutting down the Government or simply submitting to congressional coercion.

Mr. President, let me emphasize that this amendment more closely resembles enhanced rescission power. The Congress is not transferring power. We are proposing an end to business as usual. The taxpayer needs protection.

Furthermore, this strictly defined and limited line-item veto will not fundamentally upset the balance of power between the executive and legislative branches. And, it is consistent with the values expressed in our Federal Constitution.

Mr. President, criticism of the line-item veto has not stopped with the unfounded charge of upsetting the delicate balance of power between the President and Congress. Opponents claim that it would give the President the power to coerce the Congress. That is not true anymore given the power of 43 Governors in the United States of America who have this power.

The President is given very limited power by this amendment. It is limited to appropriation bills and only for a limited time after their passage.

Congress is guaranteed the opportunity to quickly overturn the President's rescissions. Opponents may hide behind the charge of coercion, but Congress would not submit to Presidential extortion. They would expose the President's coercion, and overturn any offensive rescission.

Charges that the President would abuse this power are misleading and unfounded.

Again, I will rely upon Alexander Hamilton, who posed this question to his contemporaries in Federalist No. 73:

> If a magistrate so powerful and so well fortified as a British monarch would have scruples about the exercise of the power under consideration, how much greater caution may be reasonably expected in a President of the United States, clothed for the short period of four years with the executive authority of government wholly and purely republican?

This legislation will merely require the Congress to recognize the President's rescissions, which are largely ignored, and help reduce wasteful spending. It is not a means for Presidential abuse, but a means to end congressional abuse.

It will give the President limited power in controlling spending and reducing the deficit.

It should be self-evident to all Senators that controlling spending is something that the Congress is completely unable to do. I bring to the Senate's attention the $3.7 trillion public debt as irrefutable proof of our inability to control spending.

This inability to control spending was aggravated in 1974 by the Budget Control and Impoundment Act. If opponents of this amendment are in search of a dangerous transfer of political power, they can end their search with that power grab by Congress.

Specifically, the Budget Control and Impoundment Act of 1974 weakened executive power by allowing the Congress the legal option of ignoring the spending cuts recommended by the President through simple inaction.

Since 1974, the Congress' attitude toward Presidential rescissions has become one of near total neglect.

For example, President Ford proposed 150 rescissions, and Congress ignored 97. President Carter proposed 132 rescissions, and Congress ignored 38. President Reagan proposed 601 rescissions, and Congress ignored 384. President Bush has proposed 47 rescissions, and Congress ignored 45.

If the Congress had accepted the 564 Presidential rescissions that it has ignored since 1974, $40.4 billion would have been saved. This is not a trivial sum to a taxpayer, even if it is to a hardened Washington veteran.

The practice of ignoring Presidential rescissions is in contrast to the practice prior to the power grab by Congress in 1974.

Presidents Truman, Eisenhower, Kennedy, Johnson, and Nixon all impounded funds that Congress had appropriated for line-item projects.

In the most telling example of Presidential impounding as a means of controlling spending, President Johnson impounded $5.3 billion for many of his Great Society programs during the Vietnam war to quell inflation.

These modern Presidents were not alone in their exercise of rescission power. In 1801, President Jefferson refused to spend $50,000 on gunboats as appropriated by Congress.

He, of course, had good reason. When the gunboats were appropriated, a war with Spain was considered imminent. The war never materialized, and the threat posed by Spain ebbed. Circumstances changed, and Jefferson thought it was within his power to eliminate this unnecessary spending.

The money for the gunboats was not spent, and money was not appropriated in 1802 for the gunboats.

Clearly, the Union did not fail because the President refused to waste the taxpayers' money.

Until 1974, our Presidents had the power to decide whether appropriated moneys should be spent or not.

Thus, whether through rescission, impoundment, or deferral, the executive branch had a significant role in spending control prior to the Budget Control and Impoundment Act of 1974.

My amendment simply does not constitute a transfer of power to the executive branch. In fact, it will reestablish the balance of power between the executive and legislative branches in matters of appropriations that existed before the Budget Control and Impoundment Act of 1974.

Mr. President, I seek this body's attention to an article of Sunday, February 3, by Mr. George Will. Mr. Will makes, I think, a very strong case, and I would just like to read a couple of excerpts from it.

> The word "veto" is not in the Constitution. The veto power is in the "presentment" clause (Article I, Section 7, Clause 2), which says "every bill" passed by both houses of Congress must be presented to the president. "If he approve, he shall sign it"; if not, he shall return it and Congress can try to override his rejection by a two-thirds vote in both houses.
>
> But what is a "bill"? The Constitution's next clause says "every order, resolution or vote" to which the House and Senate must concur (other than for adjournment) must be presented to the president. Rep. Tom Campbell (R-Calif.), a former Stanford Law professor, says that items Congress has separately debated and voted, often after separate hearings in different committees, the president should also be able to consider separately. That would fulfill the Framers' intentions for the veto's role in the system of checks and balances.
>
> Congress defeats the Framers' intentions by bundling disparate measures into huge omnibus bills, presenting presidents with all-or-nothing choices. A meaningful veto power is lost when the cost of its exercise is governmental chaos.

Mr. President, I ask unanimous consent that the complete article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 23, 1992]

LAWRENCE WELK AND LINE ITEMS

(By George F. Will)

Recently George Bush went wandering again in the tangled underbrush of his syntax: "I'm all for Lawrence Welk. Lawrence Welk is a wonderful man. He used to be or was, or whatever he is now, bless him. But you don't need $700,000 for a Lawrence Welk museum when we've got tough times and people in New Hampshire are hurting."

Welk, bless him, is alive—much more so than Bush's feeble campaign for a line-item veto. If presidents had such a veto, Bush could veto pork projects like the Welk museum in North Dakota—which museum, by the way, is no proper project for Congress even when New Hampshire is in clover.

Bush periodically says he longs for a line-item veto—the power to veto parts of bills rather than reject entire bills. He has even said he thinks he already has the constitutionally implied power to wield such a veto. But he neither presses Congress to authorize such a veto nor asserts the implied power.

Now come Sens. John McCain (R-Ariz.) and Dan Coats (R-Ind.), an anti-litter squad plucking from the dust an idea discarded there by Bush after he milked it for political rhetoric and then lost interest. This week McCain and Coats will introduce a measure to give presidents line-item veto power.

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But what is a "bill"? The Constitution's next clause says "every order, resolution or vote" to which the House and Senate must concur (other than for adjournment) must be presented to the president. Rep. Tom Campbell (R-Calif.), a former Stanford Law professor, says that items Congress has separately debated and voted, often after separate hearings in different committees, the president should also be able to consider separately. That would fulfill the Framers' intentions for the system of checks and balances.

Congress defeats the Framers' intentions by bundling disparate measures into huge omnibus bills, presenting presidents with all-or-nothing choices. A meaningful veto power is lost when the cost of its exercise is governmental chaos.

People wonder why, if presidents have always had the implied line-item veto, no one exercised it. The answer is that presidents from Washington through Nixon did, by impounding appropriated funds. Congress, exploiting post-Watergate antagonism toward the presidency, virtually ended impounded in 1974.

True, Washington said, "From the nature of the Constitution, I must approve all the parts of a bill, or reject it, in toto." But in Washington's day, Congress passed extremely general, lump-sum appropriations bills, expecting presidents to exercise vast discretion about spending. The First Congress's appropriation bill in 1787 could be typed on a single, double-spaced page. But 199 years later, President Reagan in a State of the Union address hoisted a 43-pound, 3,296-page omnibus bill, a graphic argument for the line-item veto.

Forty-three governors have the line-item veto. It would be no panacea for federal deficits because so much of the budget is obligatory interest and entitlement spending. But thousands of ripe targets for line-item vetoes involve billions of dollars. Congress could still override any item veto, but it would not be comfortable mustering two-thirds majorities, item by item, for pieces of parochial pork.

Last May, four senators and 44 representatives urged Bush to assert the implied power of a line-item veto. A Bush aide responded limply that because constitutional scholars differed about this power, 'You've got to make sure you've got a good test case."

Bush says he has been looking for one since 1989. But if after 1,125 days he still can't find one, he isn't seriously looking. Besides, once a president asserts the power, making a case against it will be Congress's problem, perhaps in the Supreme Court.

If a president unilaterally exercised a line-item veto, the court might side with him. If it sided with Congress, he would still win by having focused attention on Congress's defense of indefensible practices. Or the court might declare this a "political question" that the legislative and executive branches must fight out. Public opinion would then be decisive, and a serious president would win. So what is needed is a serious president, one who means what the current one says about the veto power.

Mr. MCCAIN. Let me reiterate, this legislation only pertains to appropriation bills. This legislation will not give the President the authority to line-item veto provisions on nonappropriation bills. And, again, Congress need only overturn the President's rescissions by a simple majority if Congress disapproves.

Again Alexander Hamilton in Federalist No. 73 sheds light on the role of executive veto power in our system of checks and balances:

> When men, engaged in unjustifiable pursuits, are aware that obstructions may come from a quarter which they cannot control, they will often be restrained by the apprehension of opposition from doing what they would with eagerness rush into if no such external impediments were to be feared.

Those opposed to this amendment should consider that pithy statement, and question whether they may be simply defending "unjustifiable pursuits" like bovine flatulence studies, Abraham Lincoln Research and Interpretative Centers, unauthorized spending, or projects that "demonstrate methods of eliminating traffic congestions."

Let me now turn to another criticism of the line-item veto. Many opponents claim that a President with line-item veto authority could not balance the budget or even significantly reduce the deficit. I will make no claims that this amendment is the answer to all our budgetary problems.

With roughly $1 trillion of entitlement spending in a budget of $1.5 trillion, it is clear that a line-item veto will not be the tool that solves all of our fiscal difficulties.

Only a Congress with a political will not characteristic of recent Congresses' will be able to balance the budget.

But, a President dedicated to restraining Federal spending could use line-item veto power as an effective tool to reduce government spending and move closer to a balanced budget than we are today.

The GAO study makes my point. A President with line-item veto authority could have saved the American taxpayer $70 billion since 1974.

Let me draw upon recent experience to emphasize that point. I will use the appropriation bill for the Department of Defense.

The SSN-21 attack submarine, known as the Seawolf, is a weapon system that no longer has a mission—not unlike Jefferson's gunboats.

Unless the program is canceled, it will cost at least another $4.6 billion between fiscal year 1993 and 1997.

There is no justification for an incredibly expensive submarine to fight a Soviet naval threat that no longer exists—much like the Spanish threat in 1801.

The Seawolf Program is also plagued with management problems, combat system development problems, manufacturing problems, and quite likely cost overrun problems.

Thus, we have a submarine that no longer has a mission, and if it had a mission, it likely would be unable to meet the requirements of that mission. And, if it did meet the requirements, it would likely be at a cost well over its original estimated cost.

It is an item that could be eliminated from the budget without impairing our national defense.

And, a President determined to control Federal spending, and armed with a line-item veto could save the taxpayers over $1.9 billion for each submarine, $1,903,225,000.

The President could do that by line-item vetoing the funding for the Seawolf in title III, Navy shipbuilding and conversion of Public Law 102–172.

Under the provisions of our amendments, the President would sign the appropriations bill into law minus the specific line-item veto of the Seawolf Program.

The House and the Senate would then have 20 days to pass a rescission disapproval bill with a simple majority of votes, and present that to the President for approval or disapproval.

The President then has an additional 10 days, not including Sundays, to sign or veto the rescission disapproval bill.

The House and the Senate could override the President's veto within a 5-day period with a two-thirds vote.

If either House of the Congress failed to act on either of the President's vetoes, the rescission would be considered accepted.

This procedure is clearly far stricter on the Executive than the procedure employed prior to 1974. A strong argument can be made that this amendment restricts the power of the Executive as opposed to transferring power to the Executive—especially if one is inclined to believe that the President already has a constitutional line-item veto right like Jefferson executed in 1801.

Notwithstanding the procedural hurdles, it should be clear that a determined President could reduce spending with a line-item veto. It should also be clear that a more determined Congress could override the President.

And finally, I would again like to revisit the 1992 Defense appropriation bill. In that legislation, there was $6.3 billion in unauthorized spending. This happened despite the fact that the law specifically provides that:

> No funds may be appropriated for any fiscal year, or for the use of any armed force or obligated or expended (for procurement, R&D, etc.) unless funds therefore have been specifically authorized by law.

The Congress chose to violate the law. A President armed with a line-item veto could save the taxpayer $6.3 billion.

A determined President may not be able to balance the budget—only the voters can ultimately control Congress—but a determined President could make substantial progress toward real spending reduction.

As we approach the 1993 budget cycle, many tough spending decisions will have to be made. According to the testimony of the Director of the Congressional Budget Office, Robert Reischauer, on January 22, 1992:

> Meeting the discretionary spending limits for fiscal year 1993 will require holding defense and domestic appropriations below their 1992 levels, after allowing for inflation. By CBO's calculations, the required cuts in defense budget authority amount to $15 billion, or 5 percent below the 1992 level. For domestic discretionary programs, the budget authority cut is $6 billion, or 3 percent. Required outlay reductions total almost $9 billion, which amounts to 4 percent of total domestic discretionary outlays and 8 percent of outlays from new budget authority.

When Congress looks for $21 billion in budget authority cuts, the Congress may wish it had acted on the previous Presidential rescissions it ignored. Saving $40.4 billion in prior years would have obviated the need for cuts in fiscal year 1993 budget authority. Perhaps, if the President had a line-item veto between 1984 and 1989 and saved the $70 billion estimated by the GAO, we would not be looking for $21 billion in spending cuts. Perhaps, if Congress had not appropriated $6.3 billion in unauthorized defense spending, Congress would only be looking to cut roughly $15 billion for fiscal year 1993.

Whether it is $40 billion or $70 billion or $6.3 billion, it is substantial and it could be saved by a President with line-item veto authority.

A President with line-item veto authority could have played an active role in deficit reduction, and could have mitigated some of this fiscal dilemma.

As we continue to face enormous budget deficits and annually search for ways to reduce spending, it seems self-evident that there is a place in our budget process for a President empowered with a line-item veto to provide the needed discipline to eliminate waste.

With our public debt expected to approach $3.9 trillion this year and our gross domestic product of roughly $5.7 trillion, it is obvious that our debt may soon surpass our output.

With that in mind, I hope the Senate would consider the following quote by a prescient figure in the "Scottish Enlightenment," Alexander Tytler. He stated:

> A democracy cannot exist as a permanent form of government. It can exist only until a majority of voters discover that they can vote themselves largesse out of the public treasury. From that moment on, the majority always votes for the candidate who promises them the most benefit from the public treasury, with the result being that democracy always collapses over a loose fiscal policy.

If our debt surpasses our output, I fear that our democracy may just collapse over loose fiscal policy.

Our amendment is a small step, a very small step.

I would like to make a couple of additional comments.

I have supported projects that affect my district. I will plead guilty to the charge that in the City of Satan we all find it difficult to do the Lord's work. My colleague from Indiana and I will be charged with hypocracy because we have supported projects that affect our State.

We are not talking about projects. We are talking about process. Not projects, process.

The process needs to be reformed. The system needs to be reformed. If you are here, you must operate within the system, and that is one reason I admire the courage of my friend from Indiana, because recently statements have been made about things that happen to Senators that support the line-item veto.

Finally, Mr. President, I appreciate the indulgence of my colleagues because I know there are many things that need to be said here. I harbor no illusions, Mr. President, as to the possibility of overriding a vote on, I believe it will be, a point of order on the budget. I do not believe that we have 50 votes, much less 60, and I regret that. I wish it were not the case.

So, I am making the strongest possible recommendations to the President of the United States following this vote, that he go ahead and exercise the line-item veto, exercise it and take it to court. Scholars and lawyers and constitutional lawyers are evenly divided on this issue, remembering that prior to 1974 is basically what we are seeking restoration of. And I think we have reached a situation, nearing a $4 trillion deficit, with spending out of control, forcing men and women out of the military, many of them minority who had joined the military for a career, that the President should indeed exercise the line-item veto.

This morning's Wall Street Journal article entitled "Just Do It," is, I think, a very, very excellent depiction of the situation. And it says:

> The Coats-McCain proposal would revive a President's power to "rescind," or delete, egregious spending items. That constitutional power has been dormant since 1974, when Congress steamrollered a President weakened by Watergate to eliminate the long-established power to impound funds. A President can still send up a package of pork for rescission, but the money is spent unless Congress votes not to; of course it never does. The Coats-McCain amendment would make the rescission itself automatic; Congress would have to override if it still wanted the most outrageous pork.
>
> The threat this poses to logrolling-as-usual can be seen in the fanatic opposition it inspires * * *
>
> Mr. Byrd will argue that every Senator likes pork, which is exactly why the item veto is needed. Like any addict, Senators need to be stopped before they spend again. An item veto puts the President back into the spending game in a way that restores accountability. It's true that an item veto couldn't touch the entitlements, but it at

> least would give a President more bargaining power * * *.
>
> President Bush agrees with scholars who say the Constitution already gives him the power to use an item veto, and claims to be looking for the right item to strike. If he is serious, Mr. Bush has a great opportunity now. If he asserts his item-veto power, Congress will be forced to defend its pork in public. The matter would go to the courts, which might side with Congress, but that would leave matters no worse than they are now. Moreover, Mr. Bush would at least have focused public attention on the main problem, congressional spending.
>
> Mr. Bush's tax-pledge reversal has left him with a credibility problem; the public won't believe his promises unless he shows he's also willing to act. Just do it, Mr. President.

Mr. President, I am not sure that I would have used the language that is there in the Wall Street Journal, and if any of my colleagues find it offensive, I would like to apologize ahead of time for that. My deep and profound apology if this Wall Street Journal article offended any of my colleagues. But I think the situation is serious, Mr. President.

I do not think we are going to win this vote. I hope that we will have ample debate. I will listen with respect and with great and deep and profound respect to the arguments of the distinguished chairman of the Appropriations Committee, the distinguished ranking minority member of the Appropriations Committee, Mr. HATFIELD, and others who will make, I am sure, their arguments, and they will make them clear and in cogent style. I will not be convinced, obviously, but I look forward and will listen with deep respect to their views. I hope that that will continue, and I am sure that that will continue, to 'characterize this debate.

We need this passed and I think we need it soon. I think it is very, very important not only on the issue of fiscal sanity and budgetary problems, but, Mr. President, as I mentioned earlier, the American people no longer trust their elected representatives to do the right thing. Seventeen percent of the American people approve of Congress. Should that not serve as a wake-up call?

There was a lot of media attention to the wake-up call that was sent to President Bush in New Hampshire. Should the Congress not get a wake-up call that they are sick and tired of this kind of spending of their hard-earned tax dollars, that we need to get the system under control?

Mr. President, I urge my colleagues' full consideration of this amendment. I appreciate the dedicated efforts of 30 of my colleagues who are cosponsors, and especially my friend from Indiana, Mr. COATS.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be permitted to make several speeches on this subject, either consecutively or at separate times, without any of those speeches being charged against me as a second speech.

The PRESIDING OFFICER. Is there objection?

Mr. COATS. Reserving the right to object, and I will not object, but I wonder if that same approach will be allowed to other Senators who might take the opposite side of Senator BYRD.

Mr. BYRD. Mr. President, I have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, did the distinguished Senator from Indiana wish me to yield to him?

Mr. COATS. Mr. President, I earlier asked the distinguished President pro tempore of the Senate if he wished to go ahead and immediately respond to the remarks of Senator MCCAIN or, given the fact that Senator MCCAIN and I are jointly sponsoring this effort, if he would like me to go forward in a summary manner relative to my support for Senator MCCAIN's effort and the bill which I originally introduced, and then respond to us both jointly. He indicated he would be willing to yield a limited amount of time, and that is really all I will need. There may be further debate or questions later, but I do not need to repeat a lot of the things Senator MCCAIN has already said.

Mr. BYRD. Mr. President, how much time would the Senator wish?

Mr. COATS. I would think, Mr. President, 10 minutes or so would be sufficient. I may want to ask for a minute or two to summarize after that.

Mr. BYRD. Mr. President, I ask unanimous consent I may yield to the distinguished Senator from Indiana [Mr. COATS] for not to exceed 15 minutes for the purpose of his making a statement only, not for the purpose of his offering an amendment or making any motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. And that I may be protected in my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I thank the distinguished leader for yielding the time. I will attempt to confine my remarks to the 15 minutes he has generously allocated.

Mr. President, first of all, I want to thank you and commend the coauthor of this effort, Senator MCCAIN from Arizona, for his detailed presentation of a matter which has been before this body on a number of occasions.

Senators should know this is not a new effort. In fact, early in the decade of the 1980's, Senator Armstrong, a Republican from Colorado, combined with Senator Long, a Democrat from Louisiana, and together they almost succeeded in having this body pass a legislative line-item veto, or what is perhaps more accurately called enhanced rescission measure.

Subsequent to that, there have been numerous attempts to offer the line-item veto. In 1989 when I first arrived in the Senate, noticing there were three or four various proposals floating about the body relative to enhanced rescission or line-item veto, we were able to convene a series of meetings by which we rallied around one single piece of legislation. I was designated to lead that effort. I led that effort in offering in 1989 the enhanced rescission amendment which is very close to what we are offering here today. Unfortunately, that did not succeed.

In a subsequent vote—which I offered a year later—we achieved 43 votes but still fell short of the necessary majority to indicate that a majority of this body supports the idea of line-item veto.

It is somewhat of a mystery to me how we are so out of step with what I think a majority of the American people support. Clearly, poll after poll indicates that well over two-thirds of the American people believe that we ought to pass line-item veto authority to the President. They do not see it as undermining the role of Congress but see it as restoring equity and balance between the executive branch and the legislative branch.

Forty-three of our fifty Governors already have line-item veto. In fact, this goes back 131 years when the State of Georgia first enacted line-item veto power. No State, in my understanding, has rescinded that. The executive branch and legislative branch have achieved that balance and they have been able to exercise what many feel is a very responsible way of governing and spending the taxpayers' dollars through line-item veto check and balance.

I think it is fair to state that the other seven Governors who do not now have line-item veto authority wish they had line-item veto authority.

As Senator MCCAIN indicated, all candidates on both Republican and Democrat tickets for President this year support line-item veto authority except the two candidates that happen to be Members of this particular body. All the others, both Republicans and Democrats, are in support of line-item veto authority.

So it is clear that many people who have examined this, who understand how this process works or does not work in this case, support the concept of line-item veto authority to the President.

Senator MCCAIN described it, and I will not go through all the details as they are already now a part of the record. This enhanced rescission or legislative line-item veto act will restore a balance that was lost in the Budget

Act of 1974 which set up a procedure whereby the President was allowed to send rescissions to Congress but those rescissions were of no effect unless Congress affirmatively acted on them.

This simply turns that procedure upside-down and says that the President has the authority on appropriation measures, in addition to one other time when he submits his annual budget, to submit to Congress a series of rescissions, one or more rescissions which will automatically take effect Congress within the prescribed time overturns that or sends a resolution of disapproval back to the President.

So it turns that process upside-down and I think, in doing so, restores a balance that is currently not present in our legislative process.

In response to the argument that this will not solve all the deficit problem—I think both Senator McCAIN and I and others in support of this answer—yes, that is true, it will not solve all of the deficit problem.

On the other hand, it is a significant tool. And absent any other proposal to solve the deficit problem, absent political will necessary to deal with the deficit, absent a balanced budget amendment to the Constitution which would force us to place our hand on the Bible and raise the other and swear to a balanced budget each time we are sworn into office as many of our State legislators have to do, absent those measures, line-item veto is perhaps the best tool we have available immediately to bring about a decided effect on reduced spending.

As was mentioned before, the General Accounting Office recently issued a report on estimating potential savings under line-item veto. I would like to quote from that. It says:

> If Presidential line-item veto, line-item reduction authority had been applied to all items to which objections were raised in the statement of administration policies during fiscal years 1984 through 1989, spending could have been reduced by amounts ranging from $7 billion in 1985 to $17 billion in 1987, for a 6-year total of about $70 billion. This would have reduced Federal deficits and borrowing by 6.7 percent.

That is not small potatoes. That is big dollars. That is $70 billion we could use to reduce the deficit or if the majority so chose, $70 billion which we could apply to what I would consider much more appropriate, much higher priority spending items relative to health and education and a number of other items that this body has discussed over the past couple of years that many say we do not have the money to pay for. It could have been used for those purposes.

I suggest those purposes would have a higher priority than the purposes for which the rescissions requiring reduction of amounts asked for by Congress which many classify as pork barrel have been asked.

The GAO report goes on to state that line-item veto authority would have been applicable to about 40 percent of annual Federal spending during the eighties. The remaining 60 percent, of course, are entitlements or other mandated spending programs to which this would not apply.

Each year during the appropriations process, this institution and all of us, individually, are lampooned, rightly so, for the spending items that come out of this body. A number of groups put out various publications and lists. I have one here called the "1992 Congressional Pig Book Summary." It plays across the front pages of our major newspapers as, after approval or passage of an appropriations measure, the press starts to fine-tooth comb through these and sees these little pork-barrel items that are attached—many times adding up into the several billions of dollars.

It is not my purpose today to stand here and itemize or list this page after page after page of items that I think most Americans would say either are not necessary or certainly in this current budget deficit crisis are not high priority items.

I do not mean to stand here and put my fellow colleagues on the witness stand or highlight their particular appropriation or pork-barrel project that was included in last year's appropriations bills. Because I think what we are dealing with here is a very systemic problem in this institution. We are trying to save ourselves from ourselves by this measure.

All of us have the temptation to carry around in our pocket the list of items that are goodies for our folks back home which, when the appropriate bill comes along, we are able to attach and we hope goes through the process without any scrutiny because we know that if brought to the light of day in debate on the Senate floor they probably would not garner 51 votes or a majority.

I am not saying and I am not trying to cast judgment on any one particular project because I think all of us have some culpability here. What I am trying to do is point to the process which allows us to do this kind of thing and which allows us to attach a small item to an omnibus appropriations measure and then give the President no authority other than to veto the entire measure or accept the entire measure.

Really what we are talking about is simply a procedure whereby items that would never stand the light of day or the heat of debate or garner a majority of votes or otherwise had passed into law by being attached to a bill which the President has little or no choice but to accept in total.

So we are trying to change that procedure and we are trying to give the executive branch an opportunity to say "I still want to pass the entire appropriations bill, because it goes to a number of important programs—defense, veterans affairs, health care, education, and so forth. But I cannot accept it with that particular item or items that I do not think meet national goals or meet the test of majority support."

So this enhanced rescission process is designed to give the President an opportunity to send back a list of items that he does not believe meets those tests. We then have a chance to say yes, they do meet those tests. We have the opportunity to bring those items to the floor and if they receive a majority of support, send them back to the President saying, "No, they do meet the test and have achieved a majority."

That is the way our process works. That is the way it ought to work. It does not work that way in terms of our current appropriations process. And this is what we are attempting to accomplish with this particular measure.

I think we all know how the current system works. I think we know that it has not been effective. I think we know the American people send us here with the idea of justifying those projects which we think are important to our particular States or our particular areas.

We have a chance today to enact legislation supported by a clear, decisive majority of the American people, supported by 43 out of our 50 Governors. It has been tested for more than 131 years in the legislative process, supported by all candidates for President except for the two candidates from this particular institution.

I hope our colleagues, even though the vote may ultimately be one of procedure in terms of waiver of the Budget Act, I hope our colleagues will understand that the vote on the procedural matter is really the only vote we are going to have. Therefore, their declaration of support or opposition to line-item veto will be determined on the basis of this procedural vote which will be taken in this Chamber at some point in the future.

Again, I want to repeat that Senator McCAIN and I have no intention whatsoever of holding up the legislative process that the Senate is currently undertaking. There is no reason why the bill before us cannot be voted on and passed or at least receive the will of the majority today. There is no reason that this needs to be delayed.

This issue has been debated over and over and over. I think Members of the body pretty much are aware of where they stand and what the arguments are on both sides. We certainly are prepared to go to that vote on a fairly expeditious timetable.

We have requests from a few Members of the body in support of this effort for brief expressions of support for this particular legislation. But we have no intention of offering this for any other purpose simply than to bring the issue to the floor. As I said, we would prefer to have it come through committee, be brought to this floor for debate, and have a clean up or down, 51 vote wins effort. That is not possible. We have attempted to do this in a number of different ways without success, so we are reduced to offering this as an amendment.

Mr. President, I want to thank again the President pro tempore for yielding time to me to explain my position on this. It is a matter that I think is of importance to the Nation. It has the support of this President, as it has had from previous Presidents. I believe it is a fair compromise.

I ask unanimous consent to print in the Record a letter Senator McCain and I received from the President indicating his support for this.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The White House,
Washington, February 26, 1992.

Hon. John McCain,
U.S. Senate, Washington, DC.

Dear John: I strongly support the efforts of you and Senator Coats to provide me and future Presidents with a form of legislative line-item veto authority. In my State of the Union Address, I once again urged your colleagues in the Senate and the House to give me what 43 Governors currently enjoy—the line-item veto.

Your approach is a fair compromise. It allows me to eliminate or reduce items I believe are wasteful of taxpayers' dollars, but it also gives Congress the opportunity to overturn these rescissions or reductions.

Billions upon billions of dollars have been wasted over the years on programs of a parochial nature with dubious value to the American taxpayer. The line-item veto approach, whether instituted through the Constitutional amendment I have previously proposed or through your statutory initiative, is the best way to prevent future wasteful spending and to rein in deficit spending.

I appreciate and fully support your amendment.

Sincerely,

George Bush.

Mr. COATS. Mr. President, I will quote from that by saying:

> Your approach is a fair compromise. It allows me to eliminate or reduce items I believe are wasteful of taxpayers' dollars, but it also gives Congress the opportunity to overturn these rescissions or reductions.

I think it is a fair balance. I think it remedies an imbalance that currently exists. I think it saves us from ourselves and it certainly saves us from a great deal of embarrassment as once again this year the press and the public will highlight items of spending passed by this body not by an up-or-down vote on a particular item but passed by this body because it is attached to an appropriations bill and the President having no choice but to veto or accept the whole bill. I hope my colleagues will see this vote coming up in those terms and will obviously support it.

Mr. President, I know my time has expired. If I could inquire of the Chair, parliamentary inquiry. I need to understand the President pro tempore's unanimous-consent request relative to a request for the yeas and nays on this particular amendment.

The PRESIDING OFFICER. Any Senator can request the yeas and nays when he has the floor in his own right.

Mr. COATS. Mr. President, I would therefore request the yeas and nays.

Mr. BYRD. The Senator does not have the floor in his own right.

The PRESIDING OFFICER. That is correct, the Senator received consent to speak only.

Mr. COATS. That was my initial request to the Chair. That is the clarification I was asking.

The PRESIDING OFFICER (Mr. Lieberman). The Senator's time has expired.

Mr. BYRD. Mr. President, he wants to get the yeas and nays on his amendment so that he can offer an amendment to it, and that will qualify him to offer an amendment to it. But under the consent by which I yielded to the Senator, part of that consent request is he cannot offer an amendment or make any motion. But if he wishes to ask for the yeas and nays, he may do that.

Mr. COATS. Mr. President, I thank the President pro tempore. I have no intention of offering a second degree to this amendment or offering a motion to this. I would, however, accept the Senator's offer to ask at this time for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. LEAHY. Will the Senator from West Virginia yield for 1 minute to me?

Mr. BYRD. I yield 1 minute to the Senator from Vermont under the same circumstances by which I yielded to the Senator from Indiana.

Mr. LEAHY. Mr. President, just for the information of Senators, as manager of this bill, I have been asked by a number of Senators the state of play. Rescinding from the one issue of the pending amendment, on which the yeas and nays have just been ordered, I believe the various parties have come together on some compromise amendments. This bill could be passed in a relatively short time, rescinding from this issue.

I hope if there are other amendments I am not aware of to the bill that people will tell me about it. I do not wish to detract from anybody's debate on the pending issue, but the basic National Cooperative Research Act, the Leahy-Thurmond Act, I think is in a position where it can pass rather rapidly once we get back on it.

I thank the distinguished Senator from West Virginia.

Mr. THURMOND. Mr. President, I would like to suggest to the distinguished manager of the bill if he can announce if anybody has amendments they ought to come to the floor and offer them.

Mr. LEAHY. If the Senator from West Virginia will yield further under the same conditions so I can respond to the Senator from South Carolina, we have this one pending amendment. But I agree with the Senator from South Carolina. I strongly urge if Senators have some other amendments, they either notify, on that side of the aisle, the Senator from South Carolina, this side of the aisle notify me, so we can see if either they could be agreed to or we could be in a position to ultimately offer time agreements because I think the Senator from South Carolina and I are ready to wrap this up.

So I urge Senators if they have something we are not aware of, please come forward and let us know. While this other debate is going on, we can try and work it out.

Mr. THURMOND. We will try and get a hot line run over here, if you all can do the same. I understand the distinguished chairman of the Judiciary Committee, Mr. Biden, and the administration have gotten together on an amendment, and I presume Chairman Biden will come in and offer that amendment.

Mr. LEAHY. If the Senator will yield further, with the same provisions, that is my understanding. My understanding is that the one principal amendment relative to the National Cooperative Research Act that was in doubt has been worked out and could be disposed of very, very quickly in a way acceptable both to Senator Thurmond and myself.

Mr. THURMOND. Mr. President, I believe that the amendment I spoke about was between Senator Biden and the administration and Senator Brown. The three, I think, have agreed.

Mr. LEAHY. In fact, in cooperation with Senator Biden, Senator Brown, and the administration, it has been worked out.

I thank the Senator from West Virginia.

Mr. BYRD. I thank the Senator.

Mr. President, I wish to thank the distinguished Senator from Arizona [Mr. McCain] for his courtesy in writing a letter to me to inform me it was his plan to proceed with an amendment of this nature today or tomorrow. He may have written to other Senators as well, but I thank him for writing that letter to me. It was very kind of him, thoughtful of him, and generous, and I deeply appreciate it.

Mr. President, I rise today to address the Senate on a matter of great importance to the Senate and the House of Representatives and to the American people. I intend to discuss nothing less than the evolution of representative democracy, the American constitutional system of checks and balances and separation of powers, and the growing threat to that system by proposals to place into the hands of the President—this President, any future President of any party—an item veto or enhanced rescission powers—in other words, the power over the purse.

For the sake of convenience, my references in today's speech, today's first speech to the item veto are meant to include enhanced rescission powers, unless otherwise stated. I shall be speaking quite at length, and inasmuch as I have spent a good many weeks in preparing these remarks, I shall make them in separate speeches. Although they may be given consecutively, they will appear in the RECORD as separate speeches.

In another speech, which I expect to give before the day is over, I will deal more at length with the subject of enhanced rescission powers.

After a decade of triple-digit deficits that have led to a tripling of the national debt, the item veto and enhanced rescission powers are being pushed as process reforms, purportedly to help us to get a handle on the bloated deficits that have us drowning in a sea of red ink.

The item veto is, in reality, a quack medicine which would be better denominated as snake oil.

Mr. President, in saying this, I do not cast any aspersions or reflections on the Senators who have introduced this amendment, or do I say this pejoratively with respect to any Senator who supports this amendment. There is an honest difference of opinion here. And so I want to stipulate for the record that I do not mean to cast any reflection on any Senator, on his integrity, or on his good intentions, or on his dedication, his conscientious belief. But that is what it amounts to, in my view—snake oil.

It is being used to fool the public into thinking that a line-item veto would really work as a painless way to cure the disease of spiraling deficits.

Mr. Reagan made several comments, even speeches on the line-item veto. He was a great promoter of the idea. And there have been other Presidents, as well, who have done likewise. President Bush also supports the line-item veto. Reference has been made to some of the Democratic candidates for President. Mr. President, the message applies to them as well.

If any one of those Democratic candidates who is out on the hustings at this time promoting the line-item veto becomes President, I will oppose him just as strongly as I oppose President Bush in respect to the line-item veto. They simply do not know what they are talking about. They have not made as much of a study of this as some of us have. They have not read the Constitution lately, apparently. And so they certainly will not endear themselves to this Democrat by advocating the line-item veto.

And I hope that Mr. Clinton, and Mr. Tsongas, and Mr. Brown get the message. If any one of them ever does become President, and I am still able to stand on my feet here, I will tell them it is snake oil. Just because they are Democrats does not make any difference to me on this subject.

Let me say again it is being used to fool the public. They are using this to fool the public into thinking that a line-item veto would really work as a painless way to cure the disease of spiraling deficits. Politicians have seized upon it as a convenient expedient to avoid making the hard choices and painful decisions required to effectively bring the deficits down.

Authority for the President of the United States to veto "items" in appropriation bills was first proposed at the Federal level by Ulysses S. Grant in 1873. Three years later, in 1876, the first resolution to amend the Constitution to give the President the item veto was introduced in the House of Representatives by Representative Charles James Faulkner of West Virginia. Since then, over two hundred resolutions have been introduced to achieve this end, and more than a dozen presidents have promoted such a veto, the most recent being the current occupant of the White House, George Bush, whose predecessor, Ronald Reagan, was a vigorous advocate.

I am aware that there are many sincere advocates who conscientiously and seriously believe that the item veto will work and that, although the idea has been around for more than a hundred years, it is at last an idea whose time has come, we think. The truth is, it is not the panacea that the budget medicinemen proclaim it to be, and it will not work to control the deficit hemorrhage. What it will do, however, and what it is meant to do, is that it will shift the power over the purse from the legislative branch to the executive and thus destroy the delicate balance crafted by the framers of our constitutional system over 200 years ago. I am opposed to the item veto in all of its forms, and I shall at some length, explain why.

The power over the purse is the taproot of the tree of Anglo-American liberty. This power is expressly vested in the legislative branch by the Constitution of the United States, not by the Wall Street Journal and editorials from which were alluded to earlier by the distinguished Senator from Arizona [Mr. MCCAIN]; not by the pamphlet that was published by the General Accounting Office to which references have been made, but by the Constitution of the United States.

To better understand how the legislative branch came to be vested with the power over the purse, it seems to me that one should examine not only the roots of the taxing and spending power but also the seed and the soil from which the roots sprang and the climate in which the tree of Anglo-American liberty grew into its full flowering. Only by understanding the historical background of the Constitutional liberties which we Americans so dearly prize can we fully appreciate that the legislative control of the purse is the central pillar—the central pillar—upon which the Constitutional temple of checks and balances and separation of powers rests, and that if the pillar is shaken, the temple will fall. It is as central to the fundamental liberty of the people as is the principle of habeas corpus, although its genesis and raison d'etre are not generally well understood. Therefore, before focusing on the power over the purse as the central strand in the whole cloth of Anglo-American liberty, let us engage in a kaleidoscopic viewing of the larger mosaic as it was spun on the loom of time. Hence, I shall first touch upon the evolvement of the English nation out of the early Anglo-Saxon kingdoms and subkingdoms and then examine the development of the English Parliament; then the relationship of our own written Constitution and Bill of Rights to the generally unwritten constitution of England; then, the parallelism of the powers and immunities of Parliament and Congress; and lastly, the establishment of power over the purse by Parliament, the vesting of the power in the Congress by the Constitution, and the centrality of power over the purse to the overall scheme of Constitutional American liberty.

Congress' control over the public purse has had a long and troubled history. Its beginnings are imbedded in the English experience, stretching backward into the middle ages and beyond. It did not have its genesis at the Constitutional convention, as some may think, but, rather, like so many other elements contained in the American Constitution, it was largely the product of our early colonial and State governments and hundreds of years of British history predating the earliest settlements in the New World.

Notwithstanding, therefore, William Ewart Gladstone's observation that the American Constitution "is the most wonderful work ever struck off at a given time by the brain and purpose of man,"—although there is some question with regard to that quotation—the Constitution was, in fact, not wholly an original creation of the Framers who met in Philadelphia in 1787. It "does not stand in historical isolation, free of antecedents," as one historian has noted, but "rests upon very old principles—principles laboriously worked out by long ages of constitutional struggle." The fact is, Gladstone himself, contrary to his quote taken out of context, recognized the Constitution's evolutionary development.

British subjects outnumbered all other immigrants to the colonies under

British dominion. They are trying to change American history these days but it cannot be changed. The very first sentence of Muzzey's history, which I studied in 1929, 1928, 1930—the very first sentence—says: "America is the child of Europe." America is the child of Europe.

They brought with them—those early settlers from England—the English language, the common law of England, and the traditions of British customs, rights, and liberties. The British system of constitutional government, safeguarded by a House of Commons elected by the people, was well established when the first colonial charters were granted to Virginia and New England. It was a system that had developed through centuries of struggle, during which many of the liberties and rights of Englishmen were concessions wrung—sometimes at the point of the sword—from kings originally seized of all authority and who ruled as by divine right.

The Constitutional framers were well aware of the ancient landmarks of the unwritten English constitution. Moreover, they were all intimately acquainted with the early colonial governments and the new state constitutions which had been lately established following the Declaration of Independence and which had been copied from the English model, with adaptations appropriate to local conditions. Let us trace a few of the Anglo-Saxon and later English footprints that left their indelible imprint on our own constitutional system.

Roman sway in Britain left no residue of influence, but, with the collapse of the Western Roman empire, the invasions by Angles, Saxons, and Jutes in the fifth century set the stage for Anglo-Saxon dominance over the native Britons and the establishment of numerous petty tribal units, kingdoms and subkingdoms, from which eventually emerged the seven great kingdoms of the Anglo-Saxon heptarchy: Northumbria, East Anglia, Kent, Mercia, Essex (East Saxons), Sussex (South Saxons), and Wessex (West Saxons). At various times, one or the other of these kingdoms would gain a more or less headship, with Northumbria supreme in 618; Mercia, in 757; and, at last, Wessex in 825, during the reign of Egbert, the supremacy of which was to last until Edward the Elder became ruler of all England. The result of these efforts to annex other kingdoms and subkingdoms into one England was but the perfecting of a unity already existing somewhat, the different tribes and realms having from the first been unified against Britons, even while warring amongst themselves for supremacy. Into a territory thus divided among strong and ambitious kings there came the great unifying force of Christianity. The rise of Wessex, therefore, foreordained the consolidation of all England under one kingship, that of Edward the Elder (899–924), son of Alfred the Great (871–899).

The Anglo-Saxon kings were aided in their governance by the witenagemot, or witan, which was a national council consisting of ealdormen (the chief magistrates of the shires), thegns, bishops, and nobles. These were the wise and great of the realm. This council acted as a court for the trial of great men; it chose the king, usually from the royal family; it assisted in making important laws for the realm. It shared in the king's responsibility for many public acts, such as the imposition of taxes and customs, defense measures, prosecution of traitors, and ecclesiastical patronage. A strong king dominated the witan; a weak king bowed before the magnates who sat about him. No king could afford to ignore the witan. It kept alive the principle that the king must govern with advice.

William of Normandy defeated Harold II, son of Godwine, at the battle of Hastings on October 14, 1066, and, with the coming of the Normans, feudalism was brought to England. The Anglo-Saxon witenagemot, or king's council, became the magnum concilium, or Great Council, under the Normans. Membership was now based upon landholding, not upon the criterion of personal importance, as in the Anglo-Saxon witan. The Great Council met about three times a year, and all the tenants-in-chief, called barons, were expected to attend, including abbots and bishops, who were legally barons for feudal purposes. The total number expected to be present was about 500. There was a smaller council in constant attendance upon the king, made up of the permanent officials of the king's household—such as the treasurer, the chamberlain, the chancellor, or king's secretary, and the justiciar, who was the king's chief administrative and legal assistant—and some of the tenants-in-chief. This small council was known as the curia regis.

As progressive steps were unfolding in the administration of the affairs of the realm, the idea of representative assemblies was also slowly taking form. The seedling Anglo-Saxon gemots and folk-moots, the witan, the Great Council, the *curia regis*—all these had laid the foundation for the growth of future parliaments.

Alfred, King of Wessex (871–899), had, for example, declared in the promulgation of a body of his laws, "I then, Alfred, King of the West Saxons, showed these to all my Witan, and they then said that it liked them well so to hold them." Edmund (939–946) began his laws by declaring them to have been established with the counsel of his witan, ecclesiastical and lay. Edgar the Peaceful (959–975) ordained "with the counsel of his Witan." Ethelred II (978–1016), in the preamble of the code of 1008, stated, "This is the ordinance which the King of the English, with his Witan, both clerical and lay, have chosen and advised."

From the time of Egbert (802–839) to Edward the Confessor (1043–1066), the national witenagemot had wielded great powers. It elected kings, and, at times, it deposed them. It advised and assisted the king in the leyving of revenues, and in the raising of military forces, and it possessed the functions of the highest court. It also advised and consented in the making of laws.

The national witenagemot survived the Norman Conquest, becoming the *magnum concilium* under the Norman kings, and the witan became the *curia regis*, the court of the king's vassals. In legal theory, what the witenagemot was in the days of King Edward the Confessor, it remained in the days of William the Conqueror. In practice, however, under feudalism and the vigorous control of William and his immediate successors, the influence of the national assembly was minimized.

With the accession of Henry II (1154–1189), the first of 14 Plantagenet kings, the Great Council experienced a revival of its strength and influence. Its right to a share in making the laws was regained. All the king's tenants-in-chief had a right to be present, for example, when special taxation was needed.

With the introduction of elected representatives into the national assembly, the parliament began to take form. In 1213, King John held a council at St. Albans which was attended not only by the clergy and lords but also by four knights chosen in each county. In 1254, Queen Eleanor and the Earl of Cornwall, acting as regents during the absence of Henry III in Gascony, directed the sheriffs to cause attendance, before the king's council at Westminster, of two knights from each county chosen by the men of the county for that purpose. In 1261, during the Baron's War, the confederate barons summoned three knights from each county to St. Albans, but Henry ordered the knights to meet him instead, at Windsor. Following the battle of Lewes on May 14, 1264, the French-born Simon de Montfort, in the king's name, directed the sheriffs to bring two knights from each shire, two citizens from each city, and two burgesses from each borough to sit in a parliament—the word comes from the French, *parler:* to speak or talk—in 1265.

Edward I (1272–1307) has been called the "father of Parliament." In 1295, he convened the "Model Parliament," at Westminster, to which he summoned the lay and spiritual lords, two knights from each shire, two citizens from each city, two burgesses from each borough, the prior of each cathedral, the archdeacons of each diocese, and elected proctors for the cathedral and parochial clergy. The King wanted money, so he called all sections of society who were in a position to supply it—or, just as important, to withhold it unless their grievances were redressed by the King.

The Model Parliament sat in three separate houses, each granting a different proportional tax—a recognition of the principle that a tax required the consent of those who were expected to pay it. But the clergy had long voted taxes in their own ecclesiastical assemblies, and they had always been represented in the national councils by bishops and other church officials. Therefore, although invited to each Parliament succeeding that of 1295, their attendance was reluctant and irregular and ceased altogether in the next century.

Hence, Parliament, which had its beginnings in the Anglo-Saxon witenagemot, later in the deliberations of the king's magnum concilium, or Great Council, and the Curia Regis, or King's Council, took its essential form in the reign of Edward I, although its structure remained fluid for a long time. Edward I who, as I say, ruled from 1272 to 1307. Under his hand, it became a more comprehensive body, largely because of the inclusion of new representative elements, such as the rural and town middle class.

You hear a lot about the middle class in these latter days. Well, Parliament became a more comprehensive body during the time of Edward I because of the inclusion of new representative developments such as the rural and town middle class.

It remained for the 14th century to witness the emergence of a Parliament legally defined and constituted. Edward III, who reigned from 1327 to 1377—50 years—regularly summoned the knights and burgesses to Parliament in every one of the 50 years of his reign, and it was during the Parliaments of the 1330's that the knights and burgesses united to form what was to become the Commons, but not yet called the "House of Commons"—that title would take nearly another hundred years to develop. The Commons and Lords still met in full sessions, but they separated to debate and decide most issues among themselves—the Lords staying in the Parliament chamber, the knights and burgesses in the precincts of Westminster Abbey, and by 1463, the Commons had their own clerk. In 1377, the last year of Edward III's reign, Sir Thomas Hungerford was elected the first Speaker, so titled. He was the man who spoke to the King on behalf of the Commons, and had the absolute right to do so. Slowly, the council in Parliament was to become the House of Lords when it came to be composed only of a fixed hereditary element of lay and ecclesiastical lords, and the royal officials of the council withdrew and no longer participated in its work.

Keep in mind that Parliament, in its final structure, was not the result of design and careful planning or deliberate organization; instead, it was the product of chance, trial and experience, compromise and struggle, over a long period of centuries—a long period of centuries.

Mr. President, we have now traced the British Parliament from its earliest rudimentary Anglo-Saxon and Norman beginnings to its 14th century bicameral form, of Members in Commons, elected by the people, and Lords appointed by the king. Transplanted to the American colonies, the bicameral legislative branch would take the shape of representative assemblies elected by the people, and upper houses, or councils, appointed by Royal governors. Under the American Constitution—which I would suggest we should read more often, and I would also suggest that with each reading we find something we did not think we saw before. It is very much like reading Shakespeare, a great deal like reading the Bible. You always seem to find something new. Under the American Constitution, Article I, section 1, it would take the bicameral form of a House of Representatives, elected by the people, and a Senate appointed by the state legislatures.

I wish now to mention some other important developments in the course of British history which served as guideposts in the formation of the American Constitution. It is wise to remember that our own Constitution was not a mere imitation of the constitution of the mother land; it was a historical development from the British model. Many of the principles underlying the British constitution were the result of lessons learned through centuries of strife and conflict between English monarchs and the people they ruled. The rights and liberties and immunities of Englishmen had been established by men who, like the authors of our Declaration of Independence, were willing to risk their lives, their fortunes, and their sacred honor for those rights. The U.S. Constitution was, then, in many ways, built upon a foundation from which the colonies themselves had never departed but had only adjusted to local needs and conditions and social forces that were at play in American colonial life.

We often refer to the English constitution as an unwritten constitution, unlike the American Constitution which, together with the American Bill of Rights and subsequent amendments, consists of a single written instrument comprising only a few pages. However, the English constitution does include many written documents such as Magna Carta (1215), the Petition of Right (1628), and the English Bill of Rights (1689), all of which helped influence the formulation and contents of our own Constitution. There were various other English charters, court decisions, and statutes which were components of the English constitutional matrix and which were reflected in our own organic law, framed at Philadelphia in 1787. Among these great English pillars of liberty, for example, was the writ of habeas corpus: "You shall have the body." Habeas corpus is perhaps the most celebrated of Anglo-American judicial procedures. It has been called the "Great Writ of Liberty" and hailed as a crucial bulwark of a free society. Justice Felix Frankfurter termed it "the basic safeguard of freedom in the Anglo-American world."

The name "habeas corpus" derives from the opening words of the ancient English common law writ that commanded the recipient to "have the body" of the prisoner present at the court, there to be subject to such disposition as the court might order. In Darnel's Case (1627), during the struggle for parliamentary supremacy, if a custodian's return to a writ of habeas corpus asserted that the prisoner was held by "special command" of the king, the court accepted this as sufficient justification. This case precipitated three House of Commons resolutions and the Petition of Right, to which Charles I (1625–1649) gave his assent, declaring habeas corpus available to examine the underlying cause of a detention and, if no legitimate cause be shown, to order the prisoner released. But even these actions did not resolve the matter. Finally, under Charles II (1660–1685), the Habeas Corpus Act of 1679 guaranteed that no British subject should be imprisoned without being speedily brought to trial, and establish habeas corpus as an effective remedy to examine the sufficiency of the actual cause for holding a prisoner.

Although the Act did not extend to the American colonies, the principle that the sovereign had to show just cause for detention of an individual was carried across the Atlantic to the colonies and was implicitly incorporated in the federal Constitution's Article I provision prohibiting suspension of the Writ of Habeas Corpus "unless when in Cases of Rebellion or Invasion the public Safety may require it."

Another English statute that made its imprint on our Federal Constitution was the Act of Settlement. Until the late seventeenth century, royal judges held their offices "during the king's good pleasure." Under the Act of Settlement of 1701, judges were to hold office for life instead of at the king's pleasure and could be removed only as a result of charges of misconduct proved in Parliament. This was a crucial step in insuring the independence of the American judiciary. The Constitutional Convention of 1787 adopted the phrase "during good behavior", in Article III, to define the tenure of Federal judges in America.

William the Conqueror had brought with him from Normandy the sworn inquest, the forerunner of our own grand jury to which the Fifth Amendment of the Constitution refers.

Under Henry I (1100–1135), the small council, or *curia regis*, when it sat with a staff of clerks for financial business, came to be called the exchequer court, and it audited the returns of the sheriffs, who collected the king's revenues in feudal incidents, dues, fines, and taxes. It was at about this same time that the system of itinerant justices—royal justices travelling on circuit—had its beginnings. These itinerant justices travelled out into the counties from the curia regis to the shire courts to do royal judicial tasks.

Henry II (1154–1189) created a new court, the Court of Common Pleas, a special group of five barons from the curia regis, who were to sit permanently at Westminster to transact judicial business other than that which was under the jurisdiction of the exchequer court. Henry II also increased the use of itinerant justices by dividing England into four circuits in 1179, each served by five or six judges who, as they moved about England, began to develop a national common law which became a uniform law, based upon precedents, for all England.

According to the Assize of Clarendon in 1166, Henry II ordered the formation of an accusing or presenting jury to be present at each shire court to meet the king's itinerant justices. This was a jury of "twelve of the more competent men of a hundred and by four of the more competent men of each vill" who were to be put "on oath to reply truthfully" about any man in their hundred or vill "accused or publicly suspected" of being a murderer, robber, or thief. This accusing jury—like the sworn inquest under William I—was the antecedent of our own modern grand jury.

Like the presentment jury, the trial jury had Continental origins, and by 1164, there was a clear beginning of the use of petit juries in crown proceedings. It was mostly used in the reign of Henry II (1154–1189) to determine land claims and claims involving other real property. By 1275, in the reign of Edward I, it was established that the petit jury of twelve neighbors would try the guilt of an accused. Five centuries later, jury trial in Federal criminal cases was required by article III of the United States Constitution, and was repeated in the sixth amendment of the United States Constitution. The seventh amendment provided for a jury trial in civil matters.

The fountainhead of English liberties was Magna Carta, signed by King John on June 15, 1215, in the meadow of Runnymede on the banks of the Thames, and during the next 200 years the Magna Carta was reconfirmed 44 times. It is one of the enduring symbols of limited government and the rule of law. Consisting of 63 clauses, it proclaimed no abstract principles but simply redressed wrongs. Simple and direct, it was the language of practical men. Henceforth, no freeman was to be "arrested, imprisoned, dispossessed, outlawed, exiled, or in any way deprived of his standing * * * except by the lawful judgment of his equals and according to the law of the land." The phrase "law of the land" would become the phrase "due process of law" in later England, and in our own Bill of Rights. Other provisions also anticipated principles that would likewise be reflected five centuries later in the U.S. Constitution. Several chapters (28, 29, 30, 31) relate to abuses by royal officials in the requisitioning of private property and thus are the remote ancestor of the requirement of "just compensation" in the fifth amendment in our own Bill of Rights. Other chapters (20, 21, 22) require that fines be "in proportion to the seriousness" of the offense and that fines not be so heavy as to jeopardize one's ability to make a living—thus planting the seed of the "excessive fines" prohibition in the American Bill of Rights' eighth amendment.

In 1368, over 400 years before *Marbury* v. *Madison* (1803), a statute of Edward III commanded that Magna Carta "be holden and kept in all Points; and if there be any Statute made to the contrary, it shall be holden for none." So, here was an early germ of the principle contained in the supremacy clause of the Federal Constitution's article VI.

Magna Carta was, therefore, irrevocably woven into the fabric of American constitutionalism, both by contributing specific concepts such as "law of the land" (due process) and by being the ultimate symbol of constitutional government under a rule of law.

King John had been forced by his recalcitrant barons to sign the Great Charter. The principle that the king was bound by what the barons considered to be a feudal contract became expanded into the broader idea that in some things any king is bound by law. He must respect the rights of his subjects, and if he violates those rights, he may be compelled to observe them.

We have already observed several elements of our own constitution and system of jurisprudence that have their roots in English history. Let us now examine the English beginnings of some of the liberties and immunities that are secured to us by the American Bill of Rights.

For instance, the fifth amendment establishes the right against self-incrimination. In 1641, during the reign of Charles I, who lost his head on January 30, 1649, the Long Parliament, dominated by the Puritan party and common lawyers, prohibited ecclesiastical authorities from administering any oath obliging one "to confess or to accuse himself of any crime." The rudimentary idea of a right against self-incrimination was lodged in the imperishable opinions of Chief Justice Edward Coke, with inferences drawn from Magna Carta, and the right became entrenched in English jurisprudence, even under the judicial tyrants of the Restoration. In 1776, the Virginia Constitution and Declaration of Rights provided that, in criminal prosecutions the accused party cannot "be compelled to give evidence against himself." Every State (eight, including Vermont) that prefaced its constitution with a bill of rights imitated Virginia's phrasing, thus paving the way for inclusion of the language in the fifth amendment, "No person * * * shall be compelled in any criminal case to be a witness against himself."

The "due process" clause of the fifth amendment had centuries-old antecedents, as I have earlier stated, going back to the Magna Carta's "law of the land." A 1354 act of Parliament paraphrased Magna Carta's chapter 39 as follows: "No man * * * shall be put out of Land or Tenement, nor taken, nor imprisoned, nor disinherited, nor put to death, without being brought in Answer by due Process of Law." This is said to have been the first reference to "due process" in English legal history. Due process in the 1354 enactment meant an appropriate common law writ. In mid-seventeenth century England, "due process" and the "law of the land" referred to procedural due process in both civil and criminal cases. The Petition of Right (1628) played no favorites with the two terms, demanding "that freemen be imprisoned or detained only by the law of the land, or by due process of law and not by the King's special command, without any charge." Generally, however, the "law of the land" usage was the dominant one. The usage was similar in the American colonies, where, in deference to Magna Carta, the "law of the land" formulation was the most common. We are told that probably the first American reference to "due process of law" was in a 1692 Massachusetts act endorsing chapter 29 of Magna Carta. Four States, in ratifying the Constitution, recommended a comprehensive bill of rights and urged versions of chapter 29 of Magna Carta, although only one, New York, referred to "due process of law" rather than the Magna Carta's "law of the land." The "due process" clause of the Constitution reflected James Madison's preference at the convention.

The fourth amendment prohibition against "unreasonable searches and seizures" was the marriage of an ancient British right and new, colonial interpretations that vastly extended its meaning. As early as 1589, Robert Beale charged that the general search warrants used by the High Commission against Puritans violated Magna Carta (1215). But neither Britain nor the separate American colonial and State governments immediately abolished general searches. It appears that the confinement of all searches and seizures by warrant to the particular place, persons, and objects enumerated, derives from Massachusetts, where a cluster of Massachusetts statutes and court decisions from 1756 to 1766, in culmination of a century-long process, uniformly restrained searches and seizures to the person or location designated in the warrant. The specificity of the fourth amendment was thus a natural outgrowth of these landmarks of earlier experience from the British and from the American colonial scene.

The first amendment right of the people "to petition the Government for a redress of grievances" was recognized in the Magna Carta in 1215 and was well established in English law hundreds of years before the American Revolution. The King would summon Parliament to meet and supply funds for his needs and purposes, and Parliament developed the habit of petitioning the King for a redress of grievances as a condition for supplying the money.

Mr. President, therein lies a deep and abiding principle in support of the power of the purses residing in the hands of the peoples' representatives in the legislative branch. Let me say it again. The King would summon Parliament to meet and supply funds for his needs and purposes, and Parliament developed the habit of petitioning the King for a redress of grievances as a condition for supplying the money that he wanted and needed.

The English Bill of Rights in 1689 explicitly affirmed "the right of the subjects to petition the King."

The third amendment of the Constitution derives in part from the English Petition of Right (1628), which complained that "great companies of soldiers and mariners have been dispersed into divers counties of the realm, and the inhabitants against their wills have been compelled to receive them into their houses." The Petition, drawn up by Parliament, requested that the King "remove the said soldiers and mariners, and that your people may not be so burdened in time to come." The Constitution's third amendment, in similar language, states: "No Soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law."

The sixth amendment provides that "in all criminal prosecutions, the accused shall enjoy the right to a speedy trial." The origin of the right can be traced back at least to Magna Carta in 1215, and even earlier to the Assize of Clarendon in 1166 during the reign of Henry II.

Mr. President, it is not necessary in this context to cite further instances in which the American Bill of Rights can be traced back to British ancestral roots in order to prove the connection. It has been convincingly illustrated by the examples I have brought forward.

I have also earlier traced the British Parliament's growth from frail roots buried in the hoary past. The long struggle by which the British Parliament established its prerogatives, its powers, and its ascendancy over the crown—its ascendancy over the crown—produced an impactive stamp upon our own legislative branch which I wish now to review.

The constitutional framers were acutely aware of this slow and tortuous path which Parliament had traveled upward through the century in the pursuit and protection of its rights and powers. It will be instructive to view some of the chief points wherein the U.S. Congress' rights and powers are related to those of Parliament which were gained through trial and struggle, and we cannot do better than to begin with the origin of bills.

In Anglo-Saxon times, and under the Norman and early Plantagenet kings, the sovereign placed his legislative proposals before the witan, or council, for advice and approval. As the centuries passed, the Parliament slowly evolved, and its earliest functions were primarily judicial. In time, however, the judicial character of Parliament became less important, although the House of Lords still remained the highest court in the land. With the decline of its judicial functions, there came a corresponding increase in its legislative functions, and by the fourteenth century, nearly all legislation resulted from petitions submitted by Parliament to the King. If the king approved the petitions, he would give them the force of statutes, but difficulties were early experienced because the laws that were placed on the roll as acts of Parliament often differed materially from the petitions that Parliament had initiated. The King and his ministers had obviously deviated from, and altered, the petitions, so that the resulting statutes bore but little resemblance to the original petitions. Parliament took umbrage at such abuses, and, in answer to its complaints, Henry V, in 1414, proclaimed that "nothing be enacted to the petitions of his Commons that be contrary of their asking whereby they should be bound without their assent." Under his predecessor, Henry VI, who ruled from 1399 to 1413, Parliament had begun to substitute bills for petitions. The bill contained the statute in the precise form in which it was to be approved, and when it was presented to the King, neither he nor his servants could make changes in drafting the statute because it was already drafted in the bill. The King could, of course, refuse his assent to the entire bill but he could not change it from its original form. The 1787 convention in Philadelphia was not unmindful of these events—this English history was fresh in the minds of our forebears—as the very first sentence of Article I will attest. Therein the framers vested "all legislative powers" in the Congress, and they also required in article I that every bill, before it becomes a statutory law, must be presented to the President for his approval or rejection in its entirety. Those persons and groups who today advocate that the President be given an item veto or enhanced rescission powers should be reminded of the English roots, now five hundred years past, of the constitutional provisions which they seek to change.

Toward the close of Edward III's reign, Parliament developed an effective weapon for its use in controlling the King's ministers: the weapon of impeachment. The House of Commons, in the "Good Parliament" of 1376, moved against John of Gaunt's political machine by impeaching Richard Lyons, a customs officer and others who had used their offices for illegal purposes. This was the first instance in which the impeachment weapon would be used but it would not be the last, as witness the case of Francis Bacon, the Lord Chancellor, who was impeached in 1621 for accepting bribes.

The impeachment process was a criminal trial. The House of Commons acted as an accusing jury and brought ministers and other servants of the King before the House of Lords for the trial of serious offenses such as treason and bribery. The judicial power, which at one time lodged in the whole Parliament, was declared in 1399, at the suggestion of the Commons themselves, to reside in the Lords only. The House of Lords, therefore, had always retained the judicial functions of the old Great Council, and if the Lords found the accused guilty of the charges brought against him by the House of Commons, the penalty might be banishment or forfeiture of land, heavy fine or imprisonment in the Tower, or death. If evidence were lacking to support impeachment, Parliament could resort to a bill of attainder, as it did with the Earl of Strafford, who was beheaded on May 12, 1641. A bill of attainder is a legislative act that inflicts punishment on a designated individual without a judicial trial. The first bill of attainder was passed by Parliament in 1459.

During the American Revolutionary period, several State legislatures used bills of attainder to condemn Tories and to confiscate their property. Thomas Jefferson in 1778 drafted a bill of attainder, which the Virginia Legislature passed, against Josiah Philips, a notorious Tory brigand. Elbridge Gerry of Massachusetts, at the 1787 Constitutional Convention, proposed a prohibition against bills of attainder. The proposal was adopted unanimously, and it appears in article I, section 9, as a limitation on Congress, and in article I, section 10, as a limitation on the States.

Back to impeachment, colonial legislatures used the weapon to remove officials from office for maladministration, corruption, and misconduct in office. The Federal Constitution, in article I, section 2, gives to the House of Representatives the "sole Power of Impeachment," and, in article I, section 3, gives to the Senate the "sole Power to try all Impeachments," thus copying from the English model. The framers, however, limited the penalty to removal from office and disqualification to hold any office of honor, trust or profit under the United States.

Various privileges and immunities guaranteed to Congress by the Constitution were similar to those that Parliament had won through centuries of struggle against autocratic rule. Freedom of speech, for example, was a privilege anciently possessed by the members of the House of Lords, they being able to defend their rights by force of arms. However, during the early years of existence of the House of Commons, its members were frequently proceeded against by the crown for speeches they had made in Parliament. Members complained about this harassment and infringement upon their liberties. If they were denied freedom to speak without fear of reprisal, then they could not be independent of the King. If they could be punished by the King for their speeches in Parliament that were displeasing to him, then they could not check arbitrary government. Freedom of speech was fundamental, therefore, to the power of Parliament, for without this right, Parliament would become a weak and spineless body, totally subservient to the King. Henry IV, who had been made King by Parliament, had to keep the good will of Parliament and he was compelled to ask Parliament for money to finance his wars. The members were aware of their strong position, and when they demanded more privileges and powers, Henry was forced to yield. Thus, he acknowledged the right of Commons to debate freely, and, in 1407, he proclaimed that the lords and commons might "commune among themselves in this present Parliament and in every other in time to come, in the absence of the King, of the estate of the realm and of the remedy necessary for the same." Subsequent to Henry IV's reign, there were, from time to time, violations of the right to freedom of speech, and Parliament would act to reaffirm the right, only to have it violated again. The privilege was finally confirmed by the English Bill of Rights in 1689, under William III and Mary, the ninth article of which provided that "the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament." Nearly the same language was included in article I, section 6, of the American Constitution, which states, with reference to Members of Congress, "for any Speech or Debate in either House, they shall not be questioned in any other Place."

Henry IV also formally recognized the privilege of members of Parliament to freedom from arrest on civil process during a session of Parliament and in going to or returning from one, but the privilege had dated from the earliest Anglo-Saxon times. Ethelbert, in a law of the Kingdom of Kent in the sixth century, ordained that, if the King called his people "to him, and one there do them evil let him compensate with a twofold bot and fifty shillings to the King." A law of King Canute, who reigned from 1016 to 1035, proclaimed that every man was entitled to freedom from molestation in going "to the gemot and from the gemot, except he be a notorious thief." During Edward I's reign (1272–1307), the principle was enunciated that it was unbecoming for a member of the King's council to be distrained in time of its session. A statute of 1432, in the reign of Henry VI, required punishment of anyone who molested members coming to Parliament, giving, as in the ancient law of Ethelbert, double damages to the injured party.

Notwithstanding the immemorial recognition of the privilege of freedom from arrest of members for civil causes during Parliament's sessions, frequent contests took place for its enforcement. Under James I in 1604, Sir Thomas Shirley was arrested for a private debt and he claimed freedom from arrest as a Member of Parliament. The King reluctantly accepted the decision of the House of Commons upholding Shirley's contention. The privilege was written into the U.S. Constitution by the framers, article I providing that Congress' Members "shall in all cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same."

The right of the House of Commons to decide contested elections of Members was challenged under James I, in the case of Sir Francis Goodwin, who had been returned as a knight from Buckinghamshire. He had earlier been outlawed in the process of a civil suit, and the royal proclamation summoning Parliament had barred such a candidate. A writ of election had, therefore, been refused by the court of chancery. In a new election, the defeated candidate, Sir John Fortescue, was elected. When Parliament assembled in 1604, it asserted that by precedent it had the right to rule on election disputes, and the Members determined that Goodwin "was legally elected and returned" and that the outlawry did not disqualify him. King James denied the validity of the first election, declaring that he was not bound by precedents set by his predecessors, but, after a prolonged dispute, he granted the right of the House of Commons to be the judge of returns of its own Members, and the right of the Commons to determine the qualifications of its own Members was never again questioned. Although this right was abandoned in England in 1868 by an act providing for trial of election cases in the superior courts of law, the American Constitution in 1787 showed the impress of the period of its formation, in the article I, section 5, provision that, "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members."

The Act of Settlement of 1701 provided that "no person who has an office or place of profit under the king or receives a pension from the Crown shall be capable of serving as a member of the House of Commons." This was intended to check the corrupt influence of the Crown over Parliament, but the evil remained, and the Crown continued to exert control by gifts of offices and pensions. In 1741, two hundred appointments were held by Members of the House of Commons. The following year, the Place Bill excluded a large number of officials from Commons. In 1782, five years before the Philadelphia Convention, Parliament passed the Civil List Act, bringing about further reform of the same nature. The U.S. Constitution corresponds with the spirit of the 1701 Act of Settlement, in stating, in article I, section 6: "No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States shall be a Member of either House during his Continuance in Office."

Mr. President, it is not necessary to consider the full list of legislative powers and immunities contained in the Constitution that may be compared with those of Parliament and of the colonial legislatures from which many of those powers were copied or derived. Enough has been said to establish the debt that Americans owe to the English experience and to the influence of the English Constitution in the formulation of the American Constitution.

I have been able to trace root and branch in example after example the nexus between the two constitutions.

However, in discussing the item veto or any proposal favoring enhanced rescission authority for the Executive, it is important to review briefly the long history of the power over the purse and how that power came to be vested in the legislative branch, this branch.

Since time immemorial, Anglo-Saxon and later English kings had levied taxes on their subjects with the advice and consent of the witenagemot or the Great Council. When Parliament later grew out of the Great Council, and when knights and burgesses from the shires and boroughs and representatives from the town and rural middle class were chosen to participate in Parliament, the king sought approval, from this representative body, of revenues for the operation of government, the national defense, and the waging of wars. In return for its approval of the sovereign's request for money, Parliament learned that it could secure the redress of grievances and exact concessions from the king. You are asking for money? Then we, the people's representatives, want this first. Make these concessions, and then we will vote you the money. If he resisted, then Parliament would refuse to grant funding requests and new taxes. In 1297, almost 700 years ago now, Edward I reluctantly agreed to the "Confirmation of the Charters," and, in doing so, he agreed, under clause 6 of the Parliamentary document, that in the future he would not levy "aids, taxes, nor prises, but by the common consent of the realm." The significance of the event was twofold. In the first place, it was henceforth necessary that representatives of the whole people, and especially the middle class, be summoned to all Parliaments where any non-feudal taxation proposals were to be considered. Moreover, and of even greater importance, the control of the purse was lodged in Parliament, and this was a power that Parliament would frequently use to check the abuse of royal authority and to persuade the king to grant concessions.

This is the meat of the coconut. On two occasions in Edward II's reign (1307–1327), Parliament had asked for a redress of grievances before it granted taxes on personal property, and in both cases, the substance of Parliament's petitions were approved and enacted into statutes by the king. On one of these occasions, in 1309, the Commons granted a subsidy "upon this condition, that the king should take advice and grant redress upon certain articles wherein they are aggrieved." Members of Congress should take note.

There are early instances of the allocation of funds for specific purposes, such as the Danegeld, which was a land tax levied to meet requirements arising from Danish invasions and to buy off the invaders. It usually was two shillings on each hide of land. It continued for some time after the danger of Danish invaders had passed, and, as a land tax, it was revived by William the Conqueror for specific emergency purposes such as defense preparations in 1084, when the King of Denmark threatened to enforce his claim to the English throne. Although continued as a land tax under William I's successors, its original character was lost, and its name, the Danegeld, fell into disuse in 1163, during the reign of Henry II. It became a source of revenue for general purposes.

Feudal charges were levied by kings before the creation of Parliament and appropriated for specific purposes. For example, scutage, a tax levied upon a tenant of a knight's fee in commutation for military service, was assigned to the financing of military measures. Funds collected to buy Richard I's freedom were paid into a special "exchequer of ransom." The Saladin tithe was applied to financing the costs of a crusade, as were specific grants for Holy Land conquests in 1201, 1222, and 1270. In 1315, the Barons successfully insisted that Edward II's personal expenditures be limited to £10 a day. By Edward III's day (1327–1377), it was becoming customary to attach conditions to money grants. Parliament often insisted that the money granted should be spent for certain specified purposes, and for no others.

In 1340, a grant was made by Commons to the king on the condition that it "shall be put and spent upon the Maintenance and Safeguard of our said Realm of England, and on wars in Scotland, France, and Gascoign, and in no places elsewhere during the said Wars." In 1344, a two-year subsidy was granted and appropriated specifically for the war in France and for defense of the North against invasion by the Scots. Two years later, and again in 1348, it was stipulated that the aid must be used for defense against the Scots. Parliament granted a subsidy to Richard II in 1382 with the express provision that it go to "the improvement of the defence of the realm of England and the keeping and Governance of his Towns and Fortresses beyond the Sea." The expenses of Henry IV's coronation, who reigned from 1399 to 1413, were funded by a special appropriation.

Sometimes, treasurers were appointed for overseeing a particular subsidy to ensure that the money was spent in accordance with the terms specified in the appropriations. Ship money was levied in early times in port cities to provide for naval maintenance and upkeep, the assumption being that the ports were the primary beneficiaries of a strong navy and were safeguarded from invasion by it. In 1382, the revenues from tonnage and poundage were specified for application to the safe keeping of the sea.

Some of the early appropriations went into details. For instance, a grant was made to Edward IV in 1472 to cover the expenses of 13,000 archers for one year at a daily wage of sixpence. Another grant was made by Commons to Edward IV in 1475 for his war in France on the condition that his departure for France be no later than St. John's Day in 1476, and he was not to receive the money until his ships were actually ready to leave for France.

Wool subsidies were specifically appropriated, on occasion, for defraying the cost of the garrison of Calais. The terms of numerous grants from the 14th century to the 17th century required the application of customs receipts to the defense of the country against invasion and to the protection of ships against pirates and hostile navies. The preamble to the subsidy Act of 1558–9 quoted Edward I as having recognized that his predecessors "tyme out of mynde have had enjoyed unto them, by authoritie of Parliament, for the defence of the Realms and the happy saulfguarde of the Seas" the proceeds of customs charges on certain goods.

Following the Restoration in 1660, Commons aimed at keeping Charles II short of funds to prevent the maintenance of a large standing army in time of peace. This was in contrast to their willingness to make grants for the navy, and they took precautions to ensure that appropriations for the Navy were spent for that purpose and no other, as, for example, in 1675, it was provided that the funds "for building ships shall be made payable into the Exchequer, and shall be kept separate, distinct, and apart from all other monies, and shall be appropriated for the building and furnishing of ships, and that the account for the said supply shall be transmitted to the Commons of England in Parliament."

The principle of appropriating the supplies (sums of money) for specific purposes only, instead of placing the funds without reserve into the king's hands, dates back, as I have quoted, at least as far as 1340. Here, then, as early as the mid-1300's—650 years ago—was the beginning of the current system of congressional appropriations as we know them. Members of Congress should be aware of the venerableness of this aspect of the modern appropriations process. It was not something that was conceived just yesterday and did not just come out of the woodwork.

After the Commons and Lords separated into two houses in the early 1300's, around 1339, 1340, and 1341, the House of Commons reserved to itself the power—the House of Commons reserved to itself the power to initiate tax and money bills.

Now where have we heard that before?

In 1395, the grant to the king, Richard II, was made "by the commons with the advice and consent of the lords." It started out in the commons. In 1407, the king—Henry IV, the former duke of Lancaster—agreed that he would listen to reports about money grants only "by the mouth of the speaker of the Commons." The right of the commons to originate taxes and money grants was a right by custom, not a statutory right, but it was a custom that was not easily shaken. For example, Henry IV had failed in 1407 when he tried to proceed first through the House of Lords. The Commons refused to accept such "a great prejudice and derogation of their liberties." The U.S. Constitution, in Article I, reflects the very same principle: "All Bills for raising revenue shall originate in the House of Representatives."

As the years passed, Parliament extended its power in the control of government expenditures and the earmarking of appropriations of money for particular purposes. Almost always it was specified that general taxes to the king were for national defense, a part of the custom on wool was to be used for the maintenance of Calais, as I have earlier stated, and the tunnage and poundage tax was to be spent for such specific purposes as the navy and "the safeguarding of the sea and in no other way." The royal income was to be used for the expenses of the royal household.

During the Commonwealth, the House exercised full control over government expenditures, and after the Restoration in 1660, the House claimed, and Charles II grudgingly conceded, the right of appropriation in the Appropriation Act of 1665. From that time, it became an indisputable principle that the moneys appropriated by Parliament were to be spent only for the purposes specified by Parliament. Since the reign of William and Mary (1689–1701), a clause was inserted in the annual Appropriation Act forbidding—forbidding under heavy penalties, Lords of the Treasury to issue, and officers of the Exchequer to obey, any warrant for the expenditure of money in the national treasury, upon any service other than that to which it was distinctly appropriated.

The right of Parliament to audit accounts followed, as a natural consequence, the practice of making annual appropriations for specified objects. Even as early as 1340, a committee of Parliament was appointed to examine into the manner in which the last subsidy had been expended. Henry IV resisted a similar audit in 1406, but in 1407 he conceded Parliament's right to look at the ways the appropriations were spent. Such audits became a settled usage.

These two principles—that of appropriations and that of auditing—were united by the framers in a single paragraph of Article I, section 9, of the U.S. Constitution: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

So, Mr. President, as we can see, legislative control over taxation bears close relation to the history of Parliament. The witenagemot possessed the right of advice and consent regarding taxation, although the right was probably exercised only rarely because the royal needs in the Anglo-Saxon era were normally supplied by income from royal farms, fines, and payments in kind or the quasi-voluntary tribute paid by the kingdom to its sovereign. The Norman kings exacted feudal aids and other special varieties of taxation, retaining and adding to the imposts of Saxon kings. But there is scant evidence as to what extent the council was asked by the kings. Although a tax in the reign of Henry I (1100–1135) was described as the "aid which my barons gave me," it appears that until the time of Richard I (1189–1199), the king usually merely announced in assembly the amounts needed and the reasons for his imposing subsidies. By the feudal doctrine, the payer of a tax made a voluntary gift for relief of the wants of his ruler.

Magna Carta (1215) provided that, except for three feudal aids, no tax should be levied without the assent of a council duly invoked. But as the burden of taxation increased, the necessity for broadening the tax base to all classes of society also increased. Hence, the establishment of the representative system in Parliament had its essential origin in the necessity for obtaining the consent, by chosen proxy, of all who were taxed. After the "Confirmation of the Charters" in 1297, the right of the people of the realm to tax themselves through their own chosen representatives became an established principle. The Petition of Rights, reluctantly agreed to by Charles I in 1628, emphatically reaffirmed the principle. Charles had attempted a forced loan in 1627 to meet his urgent money needs. This was, in effect, taxation without parliamentary sanction, and many refused to contribute, whereupon Charles arbitrarily imprisoned several persons who would not pay. When he called Parliament into session the next year, twenty-seven members of the new house had been imprisoned for failure to pay the forced loan. When Charles demanded the money he so desperately needed, the commons paid no attention. They decided almost at once to put their major grievances in a Petition of Rights. Among these, the Petition asked that arbitrary imprisonment should cease and that arbitrary taxation should cease and "no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament." When Charles granted the Petition of Rights, the Commons voted him taxes.

The insistence by Charles I that he possessed a divine right to levey taxation and could seek funds directly from citizens, created the conditions for civil war in England. James I had decided to raise revenue by imposing an import duty on almost all merchandise, and the political struggle intensified when Charles acted to levy tonnage and poundage without parliamentary authority. After the House of Commons passed the Petition of Rights, it also moved to curb the King's power to raise revenue from customs duties, precipitating another clash with Charles.

Charles I tried to govern without Parliament by resorting to various means of raising revenue. Additional Knighthoods were created, requiring the beneficiaries to pay a fee to the King. Those who refused were fined. Other efforts to raise money led to increased resentment from citizens and threw the country into a state of crisis. Charles lost both his throne and his head.

The Bill of Rights, to which William III and Mary were required to give their assent before Parliament would make them joint sovereigns, declared "that levying money for or to the use of the crown, by pretense of prerogative, without grant of Parliament, for longer time, or in other manner than the same is or shall be granted, is illegal."

It was the violation of this constitutional principle of taxation by consent of the taxpayers, through their chosen representatives, that led to the revolt of the colonies in America. The Declaration of Independence explicitly names, as one of the reasons justifying separation from England, that of her "imposing taxes on us without our consent."

There is, then, a certain historic fitness in the fact that first among the powers of Congress enumerated in Article I, section 8, of the Constitution is the power "to lay and collect taxes." The power to appropriate monies is also vested by Article I solely in the legislative branch—nowhere else; not downtown, not at the other end of Pennsylvania Avenue, but here in the legislative branch.

Mr. President, I close, as I began, by saying that we have all perhaps been subject to the notion that the Federal Constitution with its built-in systems of checks and balances, was an isolated and inovative new instrument of government which sprang into existence—sprang into existence—during three months of meetings behind closed doors in Philadelphia, and that it solely was the product of the genius of the Framers who gathered there behind closed doors to labor to make it come about. However, as I have also said heretofore, American constitutional history can only be fully understood and appreciated by looking into the institutions, events, and experiences of the past out of which the organic document of our nation evolved and took unto itself a life and soul of its own. To ascertain the origin of the Constitution, then, it must be sought among the records treating of the fierce conflicts between kings and people—it cannot be found just in Madison's notes, but it must be sought among the records of treating fierce conflicts between kings and people—the evolution of chartered rights and liberties, and the development of Parliament in the island home of those hardy forebears who crossed the Atlantic to plant new homes in the wilderness and who transplanted to the English colonies of the New World the familiar institutions of government which would assure to them the rights and liberties which they, as British subjects in a new land, held to be their due inheritance. The U.S. Constitution was, in many ways, the product of many centuries—many centuries—and it was not so much a new and untried experiment as it was a charter of government based largely on the British archetype, as well as on State and colonial models which had themselves been influenced by the British example and by the political theories of Montesquieu, who believed that political freedom could be maintained only by separating the executive, legislative, and judicial powers of government, which powers, when divided, would check and balance one another, thus preventing tyranny by any one man, as had been the case in France.

Moreover, unlike the British Constitution, which, as I say, was generally an unwritten constitution consisting of written charters, common law principles and rules, and petitions and statutes of Parliament, the American Constitution was a single, written document that was ratified by the people in conventions called for the purpose.

In a real sense, therefore, the U.S. Constitution was an instrument of government that was the result of growth and experience and not manufacture, and its successful ratification was, in considerable measure, due to the respect of the people for its roots deep in the past. The mainspring of the constitutional system of separation of powers and delicate checks and balances was the power over the purse—the power over the purse—the mainspring of the constitutional system of separation of powers and delicate checks and balances was the power over the purse, vested—where? Here in the legislative branch. That power guaranteed the independence and the freedom of the people.

James Madison, who is justly called the father of the Constitution, summed up, in a very few words, the significance of the power over the purse in the preservation of the people's rights and liberties, and the fundamental importance of the retention of that power by the people's elected representatives in the legislative branch.

He did this in the Federalist No. 58, in which he referred to the House of Representatives and said:

> They in a word hold the purse; that powerful instrument by which we behold in the history of the British constitution, an infant and humble representation of the people, gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power over the purse, may in fact be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Let me read just the last portion of the work by Madison.

> This power over the purse, may in fact be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Mr. President, the elected representatives of the people in this body should remember those immortal words by Madison, the father of the Constitution. If they wish to know the value of the constitutional liberty, they might retire to those words and read.

Mr. President, to alter the constitutional system of checks and balances, by giving the executive—any executive, any President, Democrat or Republican—a share in the taxing or appropriations power through the instrument of an item veto or enhanced rescission would, in my view, be rank heresy. As we have seen, the entrusting of the power over the purse to the legislative branch was no accident of history but rather the result of over 600 years of contest with royalty. To chisel away this rock, that through bloody centuries has undergirded the hard-won, cherished rights of freemen in England and in America, should be anathema to any informed and thoughtful citizen in these United States.

To quote Aristotle: "Of all these things the judge is Time." From our vantage point, then, Mr. President, as we take the long look backwards into the murky past, history clearly teaches us that the power over the purse—to tax and appropriate funds—wisely came to be lodged, more than 600 years ago, in the directly elected representatives of the people; that this principle lies at the foundation and is a chief source of our liberties; and that it is not a power that should be shared by a king or a President.

Now, Mr. President, the title of my second speech is: "The Item Veto; Why Follow the States?"

Mr. BROWN. Mr. President, I rise today in support of the legislative line-item veto amendment offered by Senator McCain granting the President authority to veto specific items. The President should have this authority to veto inappropriate, wasteful spending because Congress cannot seem to discipline itself. The annual appropriations bills, which include hundreds of pork barrel projects and contribute to our $400 billion Federal budget deficit, are evidence of this lack of self-discipline. It is further demonstrated by the fact that it has been 23 years since the United States had a balanced Federal budget.

This amendment gives the President two opportunities every year to eliminate wasteful spending through line-item veto. First, the President can submit rescissions as part of his budget proposal at the beginning of the year. Second, he can line-item veto wasteful pork spending within 20 days after signing an appropriations bill. At either point, Congress has 20 days to overturn those line-item vetoes or accept them. If Congress does not act, the items identified by the President are eliminated and the taxpayers' money is saved. If Congress feels the items have merit, it can adopt a joint resolution disapproving the rescissions.

There is no justification for pork barrel spending. Just today, I introduced the Spending Priority Reform Act of 1992, which identifies 642 projects totaling more than $1.5 billion from the fiscal year 1992 appropriations bills. All of these 642 projects failed to follow the budget process. The bill rescinds any unobligated funds for these projects and returns the balance to the Treasury to reduce our $400 billion deficit. Although the savings from this proposal are small relative to the $1.5 trillion Federal budget, it does introduce integrity and fiscal responsibility into the process.

Congress must set priorities and control wasteful Government spending. The Presidential line-item veto will keep Congress in line. I support this amendment, and I urge my colleagues to do the same.

Mr. KASTEN. Mr. President, I strongly support the initiative by Senators McCain and Coats to grant the President line-item veto authority. While this legislation is needed to broaden and clarify the President's veto authority, I believe it is time for the President to line-item veto wasteful parts of multibillion-dollar spending bills and test his authority on the issue with the U.S. Supreme Court. Today's $390 billion budget deficit has been created by a bankrupt congressional budget process which has taken away the President's power to control Federal spending.

Some legal scholars believe that the President has an inherent line-item veto power granted by the U.S. Constitution. This theory is based on historical precedents which underscore the original intent of the Constitution's Framers.

The Constitution empowered the President to veto spending bills passed by the Congress. However, the boundaries of Presidential discretion over the expenditure of appropriated funds were not clearly defined by the Framers. From 1789 until the collapse of the Nixon Presidency, the President retained the power to impound—or refuse to spend—money appropriated by Congress. The Congress could not overturn this action. Effectively, this impoundment power amounted to a line-item veto.

For almost 200 years, Presidents exercised this inherent item-veto power to check the Congress' propensity to overspend. For example, in 1801 President Thomas Jefferson withheld $50,000 intended for maintaining Navy gunboats on the Mississippi. President Franklin D. Roosevelt impounded $500 million that Congress had earmarked for public works projects. In the 1960's, Presidents Kennedy and Johnson used impoundment power to reduce Federal spending by 6 percent and 5.4 percent during their respective administrations.

President Nixon pushed his impoundment power to its outer limits by reducing and eliminating spending projects appropriated by Congress. In response to Nixon's alleged abuse of impoundments, Congress passed the 1974 Budget and Impoundment Control Act, which effectively stripped the President of a legitimate constitutional power to item veto wasteful spending.

The combination of restricted impoundment and the congressional use of multibillion-dollar appropriations bills has caused deficit spending to skyrocket. In fact, the budget deficit increased over fourfold in the first 10 years of the 1974 act.

A new General Accounting Office [GAO] study confirms that a line-item veto would be a significant tool in bringing the budget deficit under control. Specifically, the GAO found that if Presidents Ronald Reagan and George Bush had had an item veto from 1984 to 1989, about $70 billion in wasteful Government spending would have been reduced and eliminated.

The GAO simply took the administration's announced objections to various spending projects and funding levels and assumed that the President selectively vetoed these items. With these line-item spending cuts factored in, the GAO estimated that the additions to the Federal debt over the 5-year period would have been reduced by 6.7 percent.

Clearly, the line-item veto would help keep deficit spending under control—and, more importantly, put an end to the calls by some in Congress to raise taxes. Unfortunately, the Democrat-controlled Congress has repeatedly squelched legislative attempts by Republicans to explicitly grant line-item veto authority to the President.

With the national debt rising to just over $4 trillion this year, we simply cannot afford to wait for the Congress to act. That is why I believe the President should assert his inherent item veto power—and eliminate wasteful spending.

THE ITEM VETO; WHY FOLLOW THE STATES?

Mr. BYRD. Mr. President, in my first address on the item veto, I discussed the crucial ingredients of representative government that the Framers borrowed from our English heritage. The purpose was to shift the focus from what some reformers see as short-term benefits in dealing with the current budget deficit to the much larger perspective of institutional moorings and constitutional safeguards, including separation of powers and our system of checks and balances. I traced in substantial detail the degree to which those values depend on the retention by the legislative branch of its control over the power of the purse.

In debating the virtues—and the vices—of the item veto, we must remain alert to its implications for constitutional government and executive-legislative relations. Now I will examine an argument we frequently hear: The President should have the item veto because 43 State Governors have it.

So we hear the President say, give me what 43 State Governors in this country have and I will balance the budget. And we hear many of the Governors say we have the power of the item veto, why should the President not have it?

There are some former Governors in this body who make that argument.

Mr. President, this argument is too simplistic. It sounds good. It is much too simplistic. It suggests that State governments are like the Federal Government, only smaller. One neeed only compare the Federal Constitution against any State constitution to note the vast differences in the powers, functions, purposes, and responsibilities of the Federal Government versus the State governments.

So to those who say, "Give me what the 43 State Governors have. If it is good for them, I ought to have it. Why not give it to me?" And to those in this body who say, "If it is good enough for 43 Governors, it should be good enough for the President of the United States." And those candidates out there who have not read the Constitution lately and who argue, "Oh, 43 Governors of the country have it and we balanced our budgets. Why shouldn't the President have it?" I say they have not read their Constitution lately, if ever they have paid very much attention to it.

Many constitutional provisions appropriate for the States are not suitable for the Federal Government.

Sixteen members of the present Senate have been State Governors. By my count, they are split down the middle on the issue of granting the President an item veto. Half favor it; half oppose it. Obviously the question of following State precedents on the item veto is a complex one. We cannot conclude that what is good for the States is automatically good for the Federal Government.

There are many questions to be explored. What constitutes an "item," and does it include a "part" or "section" or phrases or clauses or a whole paragraph? Why did the States grant their Governors an item veto? What other changes did they have to make in their constitutions and budget process to accommodate the item veto? Do we want those changes in the U.S. Constitution? What item veto issues have had to be litigated in State courts? Would we likely inherit those issues at the national level? Would the item veto reduce Federal budget deficits?

My remarks will demonstrate that the debate on the item veto is filled with serious misconceptions. When we examine the item veto at the State level, and compare it to the way Congress and the President act on the national budget, it is clear that the item veto should not be adopted by the Federal Government.

I do not care what those Democratic candidates running for President say. I do not care what the President says. I do not care what George Will says in his column. I do not care what the Wall Street Journal says in its editorial. I do not care what the General Accounting Office says in its lately published trash piece.

RELYING ON THE STATES AS A MODEL

Presidents who favor the item veto often point to State precedents for support. In asking for an item veto in his State of the Union Address in 1986, President Reagan told Congress: "I ask you to give me what 43 Governors have: Give me a line-item veto this year. Give me the authority to veto waste, and I'll take the responsibility, I'll make the cuts, I'll take the heat." In his State of the Union Address the next year, he asked for a line-item veto, as he said, "so we can carve out the boondoggles and pork, those items that would never survive on their own."

Later in 1987, in a speech to the U.S. Chamber of Commerce, President Reagan claimed that the line-item veto would enable him to "cut wasteful projects." In a radio address to the Nation, he described the line-item veto as "a way of reaching into these massive congressional spending bills and cutting out the wasteful items." In yet another speech in 1987, this time to the National Association of Manufacturers, President Reagan told his audience that the line-item veto would give the President "the ability to veto spending, project by project."

In his State of the Union Message in 1988, President Reagan again asked Congress to give the President "the same authority that 43 Governors use in their States: the right to reach into massive appropriation bills, pare away the waste, and enforce budget discipline." He claimed that the continuing resolution contained "millions for items such as cranberry research, blueberry research, the study of crawfish, and the commercialization of wildflowers." He promised to submit a proposal to rescind those items, "which" he said, "if I had the authority to line them out I would do so."

This reliance on State practices is fundamentally flawed. President Reagan ignored crucial differences between budgeting at the State and national levels.

Those others who proclaim the wonders of the line-item veto likewise ignore crucial differences.

His remarks to Congress, the Nation, and various organizations on the item veto were profoundly misleading. The facts are clear. Even if President Reagan had had the item veto during his two terms in office, he could not have "carved out," to use his words, "the boondoggles and pork," cut wasteful spending "project by project," or eliminated funds for "cranberry research, blueberry research, the study of crawfish, and the commercialization of wildflowers." Later in my remarks, I will explain why that is so.

There has been too much confusion and misrepresentation on the item veto. It is necessary for us, as representatives of the people, to set the record straight. Especially on constitutional questions we must seek and speak the truth.

WHY DID THE STATES ADOPT THE ITEM VETO?

Why did 43 States give their Governors the item veto and, yet, Congress consistently refuses to grant that power to the President? Part of the reason lies in the different attitudes toward legislative power at the State level and congressional power at the national level. The expectations that we have for State legislatures and for Congress are not the same.

When the American States declared their independence from England, initially they passed through a period of distrust toward executive power. Given the attitude at that time toward George III, that is not surprising. Few of the States gave their Governors a veto power. Between 1776 and 1787, only three States empowered their Governors to exercise the veto: South Carolina, New York, and Massachusetts. The Governor of New York, as part of a "council of revision," shared the veto power with the chancellor and the judges of the State supreme court. Not until 1821 was the veto power vested solely in the Governor of New York. Over time, the original thirteen States and the new States gradually extended the veto power to their Governors. At the present time, every State gives the Governor a qualified veto with the exception of North Carolina.

After the Civil War, some of the States began to grant the Governor a form of "item veto" over legislation. Usually this power was restricted to appropriations bills. Some Governors were empowered not only to strike an item but also to reduce its amount. That is known as the item-reduction veto.

The motivation for the item veto came from several sources. One was the provisional constitution of the Confederate States, adopted on February 8, 1861, seventy-five years after the U.S. Constitution was written. The permanent constitution of the Confederacy also contained the item veto, using this language:

> The President may approve any appropriation and disapprove any other appropriation in the same bill. In such case he shall, in signing the bill, designate the appropriations disapproved; and shall return a copy of such appropriations, with his objections, to the House in which the bill shall have originated; and the same proceedings shall then be had as in the case of other bills disapproved by the President.

The framers of the Confederate Constitution in 1861 adopted the item veto because they were impressed by the operation of the English parliamentary system as it had by then developed. They believed that it promoted more effective and efficient practices than did the American system of separation of powers. In particular, they liked the way that budgetary power was concentrated in the Prime Minister and his cabinet. Under this system of government, the legislative body had little say over the content of financial plans. The British Parliament was largely subordinate to the Prime Minister.

The leaders of the South, although admirers of the English governmental system, were not "blind imitators." Nevertheless, they provided that proposals for expenditures should originate with the President. With the exception of legislative expenses and the payment of claims against the Confederate States, the Confederate Congress was forbidden to appropriate funds unless they were asked for, and estimated by, heads of the executive departments or unless Congress could muster a two-thirds vote in both Houses. To defend his budget estimates, the President, Jefferson Davis, was given the item veto, but he never exercised the authority. The Confederate Constitution also resembled the British parliamentary system in another manner. The Confederate Congress was empowered to grant seats in either house to the heads of the executive departments, with the privilege of discussing any measure concerning their department.

These types of parliamentary procedure have been considered but not adopted by the U.S. Congress. After World War I, when Congress considered legislation that became the Budget and Accounting Act of 1921, some of the budget reformers wanted to place Congress in the same subordinate position as the Confederate Congress had been. It was proposed that Congress could not add to the President's budget unless it received permission from the Secretary of the Treasury or could attract a two-thirds majority in each House. That idea was firmly rejected by Congress. It did not embrace the parliamentary system. The budget submitted by the President was executive only in the sense that he was responsible for the estimates submitted. After the budget was submitted, Congress retained full power to increase or decrease the estimates by majority vote.

With regard to giving departmental heads a seat in Congress with the privilege of debating measures within the jurisdiction of their departments, that proposal has been advanced several times. Congressman George Pendleton of Ohio recommended it in 1864 and again, later, in 1879, when he was a member of the U.S. Senate. He was never successful in persuading his colleagues on the merit of this idea.

In addition to the influence of the Confederate Constitution, some of the States granted the Governor an item veto for another reason. Most of the item vetoes were in place by 1915 and reflected the efforts of progressiveness to institute "good government." Reformers regarded State legislatures as corrupt and venal. The following description of the Illinois Legislature appears to fit the reputation of other State legislatures in the years after the Civil War:

> The record of the Illinois assembly in the period immediately following the Civil War is perhaps no more shameful than the general legislative debacle of that period; but the enactment of 2,113 bills during Governor Oglesby's term (1864–68), and of an additional 1,814 during the term of Governor Palmer (1868–72), illustrates the orgy which took place in legislatures generally. The disturbing feature of these legislative mills was the fact that a large majority of their products were obviously, and even blatantly, special in nature. Grants, subsidies, charters, appropriations—favors in the form of special and local legislation—were enacted in gross negligence of public interest. (The fiction of Mark Twain's *Gilded Age* is hardly as strange as the truth.) A clear impression of the extent of this violation of legislative principle may be had by comparing the four volumes of special and local bills enacted in 1869 with the single volume of enactments of general state interest and purpose.

In response to this legislative behavior, States began to arm the Governor with the item veto. Moreover, State constitutions were rewritten wholesale to restrict the legislature. For example, Florida's Constitution of 1868 limited the number of subjects that could be included in a bill: "Each law enacted in the Legislature shall embrace but one subject and matter properly connected therewith." Significantly, these types of restrictions have never been applied to Congress. As a result, the budget procedures followed by the States are in no way comparable to those adopted by the National Government. Once we understand the extent of that difference, we can understand why the item veto is inappropriate for the Federal Government.

CONSTITUTIONAL RESTRICTIONS ON STATE LEGISLATURES

Anyone reading the text of State constitutions is struck by their antilegislature bias. The constitutions are filled with proscriptions and prohibitions. In contrast to the U.S. Constitution, which is in the nature of a general charter with few restrictions on Congress, State constitutions place limits on State borrowing, require balanced budgets, and contain numerous prohibitions on private, special, and local laws. Specifications are set forth, usually of a restrictive nature, on laws that (1) fix the rate of interest; (2) remit fines, penalties, or forfeitures; (3) exempt property from taxation; (4) relate to the management of public schools; and (5) alter the salaries of public officers during their terms in office. Such restrictions would be inappropriate for the U.S. Constitution; yet, they are commonplace in State constitutions.

Other restrictions in State constitutions are tied closely to the item veto. General appropriations bills shall contain nothing but appropriations. The purpose is to prohibit the addition of substantive legislation to appropriations bills. Authorization bills are limited to a single subject in many States. Language in State constitutions even dictates the style and form of appropriations bills. On all such matters, the U.S. Constitution is silent. Congress is at liberty to establish its own authorization and appropriations procedures and to change them whenever necessary.

The U.S. Constitution merely states that "No money shall be drawn from the U.S. Treasury, but in Consequence of Appropriations made by Law." Congress, thus, may act through the appropriations process with very few constitutional restrictions. Congress is prohibited from increasing or decreasing the compensation of a President during his term in office, and may not diminish the compensation of members of the Federal judiciary. The first amendment prohibits Congress from using the power of the purse to establish a national religion. For the most part, however, the spending power is available to Congress to use in accordance with its own judgment for social, military, and economic ends.

That is not the case with State constitutions. I shall cite some typical restrictions. First, although the Federal Constitution does not prohibit the Congress from adding legislation to appropriations bills—such matters are handled by House and Senate rules—State constitutions do prohibit legislation on appropriation bills. Section 71 of the Alabama Constitution provides that the general appropriations bill "shall embrace nothing but appropriations" for specified purposes. Article IV, section 8, of the Illinois Constitution states that appropriations bills shall be limited to the subject of appropriations. Article IV, section 69, of the Mississippi Constitution directs: "Legislation shall not be engrafted on appropriations bills. * * *" Under the New Mexico Constitution, article IV, section 16, any matter not specifically authorized by the Constitution to be included in appropriations bills shall be held void. Other State constitutions contain similar restrictions. The U.S. Congress is not subject to constitutional limitations on what belongs in appropriations bills. What a difference.

Second, Congress can limit a bill to a single subject or pass a bill with more than one subject. The State constitutions prohibit legislatures from including more than one subject within a bill, other than the general appropriations bill. The purpose is to protect the governor's line-item veto and to restrict "logrolling" by legislators. Section 71 of the Alabama Constitution, after establishing the content of the general appropriations bill, states: "All other appropriations shall be made by separate bills, each embracing but one subject." Article II, section 16, of the Delaware Constitution provides: "No bill or joint resolution, except bills appropriating money for public purposes, shall embrace more than one subject, which shall be expressed in its title."

Can you imagine, Mr. President, our having to pass a separate bill for each subject? We would never get through.

Under article III, section 14, of the Nebraska Constitution, no bill shall contain more than one subject, "and the same shall be clearly expressed in the title." Similar restrictions are found in many other State constitutions. They form no part of the U.S. Constitution. The content of legislation is a prerogative exercised solely by Congress, subject to the President's veto.

Third, although the style and the format of bills are decided solely by Congress, State legislatures confront specific restrictions thereon in their constitutions. Article II, section 13, of the Alaska Constitution directs that the subject of each bill shall be expressed in the title, and even specifies the enacting clause: "Be it enacted by the Legislature of the State of Alaska." Under the Alabama Constitution, article IV, section 45, the style of laws of that State shall be: "Be it enacted by the legislature of Alabama," and the act "shall be divided into sections for convenience, according to substance, and the sections designated merely by figures." Comparable restrictions are placed in other State constitutions.

Fourth, Congress may itemize appropriations bills or include a number of items within a lump-sum amount. Typically, State constitutions require itemization as a means of protecting the Governor's item veto authority. Article III, section 16(C), of the Louisiana Constitution directs the legislature to pass an "itemized" appropriations bill. Article IV, section 12(c), of the California Constitution requires the Governor to send with his budget a budget bill "itemizing recommended expenditures."

Congress could itemize appropriations bills if it wanted to. However, that would lock agencies into the specific amounts for specific programs.

Mr. President, Congress could itemize. It is not directed to by the Constitution as the State legislatures are directed by their State constitutions to do. However, that would lock agencies into the specific amounts for specific programs. If those amounts and programs had to be changed in the middle of a fiscal year, which is often likely, the details would be frozen into law. The agencies would have to return to Congress for additional legislation to change the dollar amounts for the affected programs. The agencies do not want that, and neither does Congress. The legislative workload is heavy enough as it is.

Thus, it is settled practice for Congress to appropriate in large, lump-sum accounts. Agencies can shift funds within an account without seeking new legislation. The shifts of funds within an account is what we call "reprogramming," and usually involves a substantial amount of joint action by the agencies and the committees with jurisdiction. It is a practical process that meets the needs of both branches. Line-itemization is in the interest neither of Congress nor of the executive branch agencies.

THE PRACTICAL EFFECT OF LUMP-SUM FUNDING

The appropriation of lump-sum amounts in an appropriations bill means that there are no "items" to item veto. That is a very simple fact about Federal budgeting, and congressional advocates here in this Senate ought to know that. Have they never looked at an appropriations bill? Congressional advocates of the item veto consistently overlook that fundamental point. That is different from the environment in which the State legislatures and their governments operate.

Can it be possible that these Members of the House and Senate have not carefully examined an appropriations bill? If there are no items in a bill, there cannot be any item veto. Can it be the President has not looked at the bills that he has signed? Somebody ought to show him one of those bills.

What could be more elemental?

Consider the claims made by President Reagan in his State of the Union Message in 1988. He told Congress, and the Nation, that if he had possessed an item veto when the continuing resolution reached him in December 1987, he would have eliminated funds for cranberry research, and for blueberry research. In fact, he could not have done that. He could not have done that. And here is why.

The four programs that President Reagan found objectionable could be item-vetoed by a President armed with item-veto authority only if they were mentioned in the bill presented to the President for his veto. Those programs, however, were not identified in the bill.

The four programs were funded under the agriculture title of the continuing resolution, within an account called "Cooperative State Research Service." The account provided $303 million for various projects and activities. With item-veto authority, President Reagan, of course, could have deleted the entire $303 million in the account. He could not, however, have eliminated only the four particular programs, because they were never specifically mentioned in the bill.

If we look within the account for Cooperative State Research Service we find a subsection that provides $31 million for contracts and grants for agriculture research. The four programs identified by President Reagan are funded by that subsection. With an item veto could President Reagan have deleted the $31 million? Possibly, but that would be vetoing an "item within an item," and some State courts have held that such actions by a Governor would exceed his item-veto authority. Even if that were possible, the President would lose the entire $31 million and not just the four programs.

To locate the four programs, we have to look at the conference report. That explains how Congress expects the lump-sum amounts to be spent. A table in the conference report allocates the $31 million among 60 programs, including $92,000 for research on the blueberry shoestring virus, to be conducted in Michigan; $260,000 for cranberry/blueberry disease and breeding in New Jersey; and $50,000 for native wildflowers in New Mexico. Those three programs reach a grand total of $402,000, which is a remarkably small sum to deserve mention in a State of the Union Message.

What of the money that President Reagan said went for the study of crawfish? The table in the conference report on the 60 programs identifies $660,000 for aquaculture, and a page in the report refers to $200,000 for "research in Louisiana." A citizen would have had to call the Appropriations Subcommittee on Agriculture to learn that the crawfish study was funded by the $200,000.

To sum up, President Reagan claimed that with item-veto authority he could have eliminated these four programs. The fact is that he could not have singled them out for oblivion, even with the item veto. They were never specifically mentioned in the bill he received and thus were never candidates for an item veto.

So if there are items in the bill he does not like, he can veto the whole bill, but if there are many other items that he likes, consequently he may not veto the bill. There may be items in those same bills that I do not like. But if one cannot take out the items—and we often try, where we know they are there—one has to vote for the whole bill or vote against it.

CONTROVERSIES AND CONFLICTS IN STATE COURTS

The item veto has provoked many legal disputes in State courts. Governors have had to interpret the language in the Constitution, and it should not surprise us that they interpret the language generously in order to expand executive power. Those interpretations have been challenged by legislators, citizens, and organizations, claiming that the Governors exceeded their constitutional powers. Similarly, we could expect Presidents and their assistants to interpret item-veto authority in the U.S. Constitution to accommodate the fullest extension of executive power.

State courts have had great difficulty in articulating objective legal principles in order to keep the item veto within constitutional bounds. A number of State judges, in this search for governing rules, admit that judicial reasoning is more often ad hoc and subjective. If State judges encounter problems in adjudicating these questions, we should expect Federal judges to experience similar difficulties, on a much larger scale. Do we want that kind of power vested in the Federal courts? Can they safely referee the inevitable collisions that will occur between Congress and the President? Is this a prudent use of judicial capacity and authority? Are the courts not busy enough?

The problems faced by State courts have been exceedingly difficult and politically sensitive. An early issue involved item veto authority by the Governors of Pennsylvania. They not only exercised the item veto, as provided in the State constitution, but they even exercised item-reduction. In 1899, the Governor of Pennsylvania received an appropriations bill containing a two-year grant of $11 million for public schools. Instead of approving or vetoing the entire $11 million, the Governor approved $10 million and eliminated the balance. The veto message conceded that the Governor's authority "to disapprove part of an item is doubted, but several of my predecessors in office have established precedents by withholding their approval from part of an item and approving other parts of the same item."

The Pennsylvania Supreme Court upheld the Governor's interpretation. The court reviewed the history of what it considered to be legislative abuses that had undermined the Governor's veto power. In particular, it pointed to the legislative custom of combining a number of different subjects in one bill, forcing the Governor either to veto the entire measure or to accept provisions he did not want. These "omnibus" bills said the court became a "crying evil, not only from the confusion and distraction of the legislative mind by the jumbling together of incongruous subjects, but still more by the facility they afforded to corrupt combinations of minorities with different interests to force the passage of bills with provisions which could never succeed if they stood on their separate merits. So common was this practice that it got a popular name, universally understood as log rolling. A still more objectionable practice grew up of putting what is known as a 'rider,' that is a new and unrelated enactment or provision on the appropriations bills, and thus coercing the executive to approve obnoxious legislation or bring the wheels of the government to a stop for want of funds."

All of us have different views on how active we want the courts to be. Is this an appropriate issue for Federal judges? Do they have special expertise to determine which legislative practices are acceptable and which are not? Do they even have authority to explore such questions? I personally doubt that we should open the door to such decisions by Federal judges. I fear that substantial harm would come to the independence and integrity of the judiciary if it became embroiled in these types of legislative conflicts between Congress and the President.

The Pennsylvania court did not interpret the text of the Constitution. Instead, it based its decision on the practices of Governors. Because several Governors of Pennsylvania had exercised the right to reduce items, even without express constitutional authority, the court concluded that the principle was well-established regarding "the right of the Governor in the exercise of his independent legislative judgment to approve an appropriation in part, by reducing the amount fixed by the legislature. As to that principle the executive practice must be considered as settled." This was strange reasoning, indeed!

In dissent, Justice Mestrezat acknowledged that executive construction of a statute of constitution is useful if the instrument is ambiguous. But when the constitutional language is plain, and Justice Mestrezat regarded the Pennsylvania Constitution as clear in granting the Governor item-veto power but not item-reduction power, "extrinsic circumstances and practical construction are not permitted to have any force in its interpretation."

Another early decision involved the Governor's power in Mississippi to veto conditions placed by the legislature in an appropriations bill. This case should be of great interest to Congress because we frequently place conditions, qualifications, and provisions on the funds that we appropriate. We say: "Here are funds, with the following conditions attached." Could a President, armed with an item veto, receive from Congress a conditional appropriation, delete the condition, and thereby convert the statutory language into an unconditional appropriation? I invite my colleagues to think carefully about this. The implications are both profound and disturbing.

To be concrete, would conservatives want to appropriate funds for Medicaid on the condition that Federal money not be used to pay indigent women for abortions, and then have that condition vetoed by the President? Would liberals have wanted, a few years back, to appropriate funds for Nicaragua on the condition that Federal money not be used to provide lethal aid for the Contras, only to see that condition vetoed by the President? The very conditions that made the appropriation possible, in terms of developing the necessary consensus within the legislature, would be subject to the President's veto. Congress could retain control only by mustering a two-thirds veto in each House for the override.

The Mississippi case, decided in 1989, concerned the Governor's veto of conditions on an appropriation. Section 73 of the Mississippi Constitution authorized the Governor to veto "parts of any appropriation bill." The State court ruled that this section related only to "items of distinct appropriations." It did not permit the Governor to veto unwanted legislation on appropriations bills, because that issue was addressed in section 69 of the constitution. Section 69 prohibited the engrafting of legislation on appropriation bills, "but the same may prescribe the conditions on which the money may be drawn, and for what purposes paid."

The Mississippi court refused to permit the Governor to encroach upon the prerogative of the State legislature to place conditions on appropriations. When this issue resurfaced many times in the 20th century, State courts looked frequently for guidance to the Mississippi decision. Therefore, it is important to understand the analysis of the Mississippi court:

> * * * if a single bill, making one whole of its constituent parts, "fitly joined together," and all necessary in legislative contemplation, may be dissevered by the governor, and certain parts torn from their connection may be approved, and thereby become law, while the other parts, unable to secure a two-thirds vote in both houses, will not be law, we shall have a condition of things never contemplated, and appalling in its possible consequences.
>
> Every bill of the character in question has three essential parts: The purpose of the bill, the sum appropriated for the purpose, and the conditions upon which the appropriation shall become available. Suppose a bill to create a reformatory for juvenile offenders, or to build the capitol, containing all necessary provisions as to purpose, amount of appropriation and conditions, may the governor approve and make law of the appropriation and veto and defeat the purpose or the conditions, or both, whereby the legislative will would be frustrated, unless the vetoed purposes or conditions were passed by a two-thirds vote of both houses? This would be monstrous. The executive action alone would make that law which had never received the legislative assent. And after all and despite the pragmatic utterances of political doctrinaires, the executive, in every republican form of government, has only a qualified and destructive legislative function and never creative legislative power. If the governor may select, dissect, and dissever, where is the limit of his right? Must it be a sentence or a clause, or a word? Must it be a section, or any part of a section, that may meet with executive disapprobation? May the governor transform a conditional or contingent appropriation into an absolute one in disregard and defiance of the legislative will? That would be the enactment of law by executive authority without the concurrence of the legislative will and in the face of it.

This analysis is intriguing, but how well can judges distinguish between item vetoes that are "destructive" (permissible) and "creative" (impermissible)? Is that test or guideline sufficiently objective to guide the courts, or does it invite judges to intrude their own subjective judgments on the legislative process? As I will indicate, some decisions by contemporary courts reveal considerable uneasiness about the competence and ability of judges to adjudicate item-veto disputes with these guidelines.

LITIGATION IN THE TWENTIETH CENTURY

The question of the legislature's maintaining control over the integrity and coherence of a bill, addressed in part by the Mississippi case, arose again in the State of Washington. In 1909, the Governor vetoed the first four sections of a bill and approved the last two, one of which repealed an earlier statute. When the legislature passed the bill, the repealing section was tied in substance and logic to the first four sections. Could the Governor invoke his item veto in a manner to disrupt the internal logic intended by the legislature? The Washington court held that when the first four sections fell because of the item veto, so did the repealing section:

> In other words, when the executive approved the repealing section he approved something that his veto had already destroyed. The legislature attempted to substitute one act for another and the executive had a right to place his veto on the substitution, but he could not defeat the one act by his veto, and the other by approving the repealing clause.
>
> We are therefore of opinion that the attempted repeal of the act of March 4, 1909, is a nullity. * * *

A year later, the Texas Supreme Court reviewed the freedom of the legislature to alter the structure of appropriations bills as a technique for curbing the Governor's item veto. Could the legislature eliminate some items and group them under a single appropriation? The court refused to second-guess this legislative tactic. A concurring opinion noted:

> The wisdom of grouping many items of appropriation into a single item, it is not our province to determine, even if it could be assumed that it was purposely and deliberately done so as to deny to the Governor the right to prune or cut out any part or portion of the amount appropriated, because it was within the power of the Legislature to make the appropriation in this manner, and same was not subject to any constitutional or legal objection.

Other State courts, however, have intervened when they decided that the legislature had improperly handcuffed the Governor. In 1939, a New York court held that the legislature could not take an itemized appropriations bill submitted by the Governor and pass the bill only with lump sums. The bill emerging from the legislature contained a single item of appropriation for each of the various departments or divisions of departments. The "whole spirit" of the State constitution, said the court, was "against lump sum appropriations and in favor of appropriations showing the items of expenditure."

The Mississippi and Washington courts in 1898 and 1910 had tackled two problems: the capacity of legislatures to attach conditions on appropriations, and the ability of legislatures to exercise control over the logic and consistency of bills. Both issues raise the question of "severability": the power of Governors to sever some sections of a bill without violating the integrity and purpose of what remains.

Two subsequent cases in the State of Washington sustained the Governor's veto of a section on the ground that the language was severable. In one of the cases, a dissenting judge denied that courts possessed the ability to distinguish in an objective way between "negative" vetoes (legitimate because the matter was legally severable) and "affirmative" vetoes (illegitimate). This dispute is similar to the attempted distinction between "destructive" and "creative" vetoes in the early Mississippi case. The dissenting judge argued that the Governor's item veto was affirmative "because it actually creates a result different from that intended, and arrived at, by the legislature."

Some courts, faced with an item veto that appeared to have both negative and affirmative characteristics, opted for a balancing test. A Wisconsin court in 1940 admitted that a Governor's item veto "did effectuate a change in policy," and was affirmative or creative to that extent, but concluded that the remainder of the bill constituted "a complete workable law."

Five years earlier, the same court had upheld a Governor's item veto after concluding that the balance of the vetoed bill was "a complete, consistent and workable scheme and law." Nevertheless, a Massachusetts court struck down an item veto of a condition on an appropriation, arguing that words or phrases in a condition were not "items or parts of items" that could be vetoed pursuant to the State constitution. Decades later, the Massachusetts court reversed course to permit the Governor to delete restrictive words and phrases imposed on appropriations items, provided that the language was severable.

These cases prepare us for a Virginia case that is widely cited. In 1940, the Supreme Court of Virginia held that the Governor could not veto items that were "tied up" with other provisions. In trying to determine how to distinguish between severable and inseverable items, the court resorted to a medical analogy:

> If the Commonwealth were to determine to erect a library building and were to set apart a certain sum for structural steel, another for a heating plant, etc., and were finally to provide for a supervising architect at a stated salary, plainly the Governor could not, by veto, dispense with the services of an architect, although the sum to be paid for his services might, in a limited sense, be regarded as an item. That term, as used in the Constitution, refers to something which may be taken out of a bill without affecting its other purposes or provisions. It is something which can be lifted bodily from it rather than cut out. No damage can be done to the surrounding legislative tissue, nor should any scar tissue result therefrom.

The Governor of Virginia had vetoed seven provisions and items. The court ruled that if a provision or condition was "intimately interlocked" with other portions of the bill, the veto was not authorized by the State constitution.

State courts have issued a variety of opinions on the authority of Governors to delete sections from bills. In Washington and Louisiana, State courts permitted the Governor to sever items or sections from a bill. An Arizona court upheld the Governor's veto of certain sections in an appropriations bill because they were severable in the eyes of the court, and disallowed other item vetoes because the sections seemed inseverable. The Supreme Courts of Florida, Iowa, and Louisiana concluded that Governors may not veto a qualification or restriction without also vetoing the appropriation to which the qualification or restriction relates. An advisory opinion by the Supreme Court of Delaware decided that the Governor's item veto applied only to items of appropriations and not to conditions.

A decision by the Supreme Court of Washington in 1980 illustrates the liberties that State courts have taken with the item veto. The Governor had vetoed approximately 45 words of a section, although the State constitution provides that the Governor "may not object to less than an entire section." In sustaining the Governor, the court announced that the determination of what constitutes a "section" is a judicial, not a legislative question. Now, imagine that.

Also extraordinary is a decision in 1988 by the Supreme Court of Wisconsin. The court held that the Governor could exercise partial veto power to veto phrases, digits, individual letters, and word fragments. He could exercise what, in effect, is item-reduction authority by striking digits from an appropriation (deleting the "1" in $150,000), even though the State constitution grants no item-reduction authority for the Governor. He could effect all of those changes as long as what remains after the vetoes is a complete and workable law.

When State courts have appeared to side too much with the Governor, the people have resorted to constitutional amendments to restore the proper balance between the legislative and executive branches. In 1960, the Supreme Court of Florida decided that the Governor may veto an item within an item. He had vetoed a portion of an appropriation item, eliminating maximum salaries that the legislature had established for certain State officers. The ruling implied that the Governor could veto conditions or qualifications attached to an appropriation. Florida responded by amending its constitution in 1968 to prohibit the Governor from vetoing any qualification or restriction without also vetoing the appropriation related to it.

THE SEARCH FOR JUDICIAL STANDARDS

The last two decades mark an extraordinary increase in the number of State court cases on the item veto. After the first item veto decision in 1893, over the next 77 years (up to 1969), there were about 60 decisions. There have been that many in just the past two decades. Obviously, State courts have been unable to establish clear principles to resolve item-veto disputes. Of the issues that continue to vex the State courts, one of the most frequent issues is the difficult one of vetoing conditions in appropriations bills. Are these conditions intimately "tied to" to the appropriation, and therefore inseverable, or may they be eliminated by the Governor?

State judges have had to reconsider some of the earlier doctrines that attempted to distinguish between destructive and creative vetoes (or negative and affirmative vetoes). A Washington court in 1977 held that the Governor's 14 vetoes of items and sections in a bill were impermissible because the resulting bill, after the vetoes, created a result unintended by the legislature. The item vetoes were, therefore, "affirmative" and "creative" in effect.

Nevertheless, a Wisconsin court in 1978 agreed that the Governor may delete provisos or conditions in an appropriations bill "so long as the net result of the partial veto is a complete, entire, and workable bill which the legislature itself could have passed in the first instance." A dissenting judge objected to the reasoning and doctrines used by State courts for decades to determine the scope of item-veto power. He called attention to the attempt by one Governor to strike the digit "2" from a $25 million bonding authorization bill, and noted that advisors to a recent Governor reportedly considered deleting the first letter "t" from the word "thereafter" to make it "hereafter," thus changing the effective date of a liquor tax increase." The judge then took aim at the dubious legal principles used by State courts:

> Only the limitations of one's imagination fix the outer limits of the exercise of the partial veto power by incision or deletion by a creative person. At some point this creative negative constitutes the enacting of legislation by one person, and at precisely that point the governor invades the exclusive power of the legislature to make laws.
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> * * * In the scheme of our constitution, the governor is to review the laws and not to write them. He is not, by careful and ingenious deletions, to effectively 'write with his eraser' and to devise new bills which will become law unless disapproved by two-thirds of the legislators who are elected by the people of the state.
>
> * * * every veto has both an affirmative and a negative ring about it. Every veto necessarily works some change of policy, and in a sense partakes of legislating. Here lies the difficulty the majority confronts in saying precisely where the proper sphere of the executive ends and that of the legislature begins.
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> The majority is rightfully wary of the elusive tests enunciated in some other jurisdictions. To hold that the exercise of the partial veto power may not have an "affirmative," "positive" or "creative" effect on legislation, or that the veto may not change the "meaning" or "policy" of a bill, as some courts elsewhere have done, would be to involve this court in disingenuous semantic games. While these tests may be appealing in the abstract, they are unworkable in practice. Every veto may be perceived in affirmative or negative terms, and as either conforming to or defying the general legislative intent, depending upon the observer's perspective. These tests are inescapably subjective. Without an objective point of reference, this court would be reduced to deciding cases upon its subjective assessment of the respective policies espoused by the legislature and the executive, an unseemly result which would foster uncertainty in the legislative process. More importantly, such a result would defeat its own purpose; the judicial department may no more assume the proper functions of the legislature, or interfere with their discharge, than may the governor.

In 1984, a Washington court upheld the Governor's veto of a section and all references in the bill to the section, but also announced that it was abandoning the affirmative/negative test it had used to decide the constitutionality of item vetoes. The court dismissed that test as unworkable, subjective, and an intrusion by the judiciary into the legislative branch: "There are no standards to predict whether a veto will be perceived by the court as affirmative or negative." In future disputes, the court warned, the check on item vetoes would have to be legislative overrides, not judicial review. A dissenting judge explained that the majority's decision to abandon the affirmative/negative test resulted "in large part from the fact that the Governor's veto here was clearly affirmative in nature."

Scholars who analyze the efforts of State courts to monitor the exercise of item-veto power are also troubled by the lack of objective judicial tests. In a recent law review article, Louis Fisher and Neal Devins suggest that Federal courts, "like their State counterparts, might be unable to develop a coherent doctrinal approach to the item veto." Because of the difficulties inherent in any attempt to draw "bright lines" for questions of the budgetary process, they conclude that the Federal judiciary is poorly designed as an institution of government to referee item-veto collisions between Congress and the President:

> Federal court interpretations of a presidential item veto might have the unintended result of transforming the judiciary into arbitrators of the federal budgetary process. In light of state court decision making, differences between the state and federal budgetary process, and federal court rulings that have affected the balance of powers, the prospect of such fundamental decisions being made in the courts is unsettling. The judiciary is the branch least suited to mediate the budgetary process.

ITEM VETOES AS A DEFICIT-REDUCTION TOOL?

Proponents of the item veto suggest that in this exercise to "pare away the waste," the President could make a significant cut in the Federal deficit, which is still in the range of or was in the range of $200 billion a year. There have been efforts to use quantitative techniques to demonstrate the relationship between item-veto authority and budget constraint.

There is no way to prove, with statistics, whether the item veto in the hands of the President would be a useful weapon to reduce the Federal deficit. First, the use of the item veto by the Governors is not necessarily evidence of budgetary control. It might indicate the opposite. If a Governor maintains adequate control over the budgetary process, there is no need to use the item veto. The Governor will be satisfied by the accommodations reached between the legislative and executive branches. "A politically astute Governor will use the item veto with care and may decide that his political objectives are best achieved by not using it at all." A lack of item vetoes may therefore coincide with good budget control. On the other hand, a Governor who loses control of the legislative process and has to resort to item vetoes may, in the end, exercise less control over spending.

Second, the threat of the regular veto, and the legislative changes it brings about, may be far more influential in constraining spending than the use of item vetoes after-the-fact. But there is no way to measure the effectiveness of these threats, even though they lead to substantial alterations in bills that pass through the legislative body.

Third, the "savings" that result from an item veto may merely offset the money added by legislators in contemplation of an item veto. A study of the veto process in Pennsylvania concluded: "When a legislator, even those opposed in principle to an appropriation, is reasonably certain that the Governor will slice it down to more moderate size, he is tempted to bolster himself politically by voting large sums of money to a popular cause." After a study of politics in Michigan, a writer said that the item veto "has encouraged their constituents by voting for appropriations far in excess of anticipated revenues thus forcing the Governor to make the inevitable reductions and incur the wrath of the interests adversely affected."

Should we expect something different in Congress? Those who advocate the item veto say that it is necessary to control "log-rolling." It is my judgment that the availability of an item veto for the President would make log-rolling much worse. There would be less legislative discipline. How convenient it would be for Members of Congress to add spending for special interests and let the President and budget officials take the heat for making the cuts. When all the cuts have been made, is it reasonable to conclude that we would be better off in terms of budget control and political responsibility? Not at all.

Senator MARK HATFIELD, who served as Governor of Oregon from 1958 to 1966, testified in 1984 on his experience in State politics. He told the Senate Committee on the Judiciary:

> We also know that the legislatures in States which have the line-item veto routinely 'pad' their budgets, and that was my experience, with projects which they expect, or even want their Governors to veto. It is a wonderful way for a Democrat-controlled legislature, that I had, to put a Republican Governor on the spot: Let him be the one to line-item these issues that were either politically popular, or very emotional.

Fourth, a persuasive case can be made that the item veto, at the Federal level, might even lead to an increase in spending. Presidents and their executive officials could unleash the item veto as a means of controlling the votes of Members of Congress. The President could call a Senator or a Member of the House of Representatives and say: "I am being advised to item veto a project in your State (or district) that I know you have advocated for many years. Analysts in OMB tell me that the project has insufficient merit and should be eliminated. I am continuing to study it. While I have you on the phone, I wonder if I can count on your vote for the military assistance plan I have in Central America. Can you help me out?"

Suppose the President had said to Senators, or said to the Senator presently presiding over the Senate, the Senator from Illinois—who presides over his body with a degree of dignity and skill and fairness that is so rare as a day in June—had said to that Senator, "I want you to vote for Clarence Thomas."

Or he had said to the Senator from West Virginia, "I want you to vote for Clarence Thomas. How about it?

"You know, there is an item in the appropriations bill that some of the people in the OMB have advised me to veto. I kind of hate to veto your item. How are you going to vote on Clarence Thomas?"

Where goes the independence of the Senator in voting on a nomination? Or in voting on a treaty? The President says, "Can you help me out?"

The implication is, "I will help you out if you can help me out. If you don't vote for me, I will use my veto pen."

No one even has to read between the lines to see that an accommodation might be worked out, with Members of Congress getting the projects they want, and the President getting the spending program he wants. Both sides win and Federal outlays climb upward. In addition to the use of the item veto for spending priorities of the President, it could be used as leverage to gain support of an embattled nominee, a threatened treaty, or some other executive goal that is entirely unrelated to budgeting.

Executive officials have been fairly forthright in admitting that the main effect of an item veto would not be to save money but to advance Presidential interests over congressional interests. The Economic Report in 1985 concluded that the item veto "may not have a substantial effect on total Federal expenditure. The experience of the States indicates that per capita spending is somewhat higher in States where the Governor has the authority for a line-item veto * * *." However, it could be used by the President "to change the composition of Federal expenditure—from activities preferred by the Congress to activities preferred by the President." In previous testimony, administrative officials have told congressional committees that the item veto would be used to delete funds that Congress had added to the President's budget.

Mr. President, there is little empirical or comparative evidence to show that an item veto actually works to curtail spending in Government. Its history and experience at the State level indicate that its use as an instrument to promote partisan and executive interests has more often than not been the motivation for its application, and that such usage is most likely to occur where the legislative is, in whole or in part, controlled by the party that is in opposition to the party of the Chief Executive. That most of the signs point in such a direction can be gleaned from articles and surveys conducted by various political science analysts, professors, and others whose knowledge and competence constitute valuable insights bearing upon the subject of the efficacy of the item veto as a means of fiscal control. One such article appeared in 1985 under the title: "The Line-item Veto in the States: An Instrument for Fiscal Restraint or an Instrument for Partisanship?" Its coauthors were Glen Abney, professor of political science at Georgia State University, and Thomas P. Lauth, associate professor of political science at the University of Georgia.

The article by Abney and Lauth examines the item veto at the State level to determine whether it is primarily used as a tool for fiscal restraint or as a tool for the advancement of political partisanship. That there exists a definite linkage between partisanship and the item veto is clear, from a reading of the article. Whether or not such a veto is an effective instrument by which controlled and efficient spending can be assured is not only far from clear but is also dubious. The conclusions reached by Professors Abney and Lauth should be instructive to any Senators who may be persuaded by the argument that the Federal Government should follow the lead of 43 States in granting item veto power to the chief executive:

> Is the line-item veto used as an instrument for fiscal restraint or an instrument for partisanship? Often, it is a partisan instrument that may have the result of promoting fiscal restraint. Of course, any time the item veto is used, a state's budget is reduced. However, reductions are not the same as efficiency. Indeed, reductions can be inefficient. Furthermore, efficiency is a relative term. What may seem an extravagance for one person may be seen as a necessity by another. It is easier to portray the item veto as an instrument of the executive increasing his or her legislative powers rather than as an instrument for efficiency.
>
> Does the item veto encourage fiscal responsibility? The line-item veto has been around in most states for a considerable time. Legislatures in states with it do not seem more fiscally responsible than legislatures in other states. Of course, our data are not longitudinal, and we cannot measure change following the introduction of the veto. However, given its partisan use, the item veto probably has had minimal effect on making legislatures or state government fiscally more restrained.
>
> Because the president does not have the line-item veto, we can only speculate about how it might be used if established in the future. However, based upon state experiences with the item veto we anticipate it would enhance the president's ability to deal with the Congress on matters of a partisan nature, but it is not likely to have much impact on such fiscal matters as the size of the deficit.

Another illuminating article, based on a study of gubernatorial item-veto use in Wisconsin, was published in 1986 by James J. Gosling, vice chancellor of the University of Wisconsin-Extension and faculty member of the Robert M. LaFollette Institute of Public Affairs on the Madison campus. Dr. Gosling's study, described in an article titled "Wisconsin Item-Veto Lessons," suggests that the item veto in Wisconsin has been utilized mainly as an instrument of "policy choice and partisan advantage rather than of fiscal restraint." Pointing out that the Wisconsin Constitution and State laws permit a gubernatorial veto, not only of the appropriations in a spending bill but also permit a partial veto of "statutory or session law language" therein, Dr. Gosling states that Wisconsin's Governors have used the item veto with "relative frequency," and that such authority invites "creative writing" simply by selectively striking any word or letter within an appropriations bill. Gosling states that, "With the swipe of a veto pen, a proscription can be transformed into a prescription—a 'shall not' easily turned into a 'shall.'"

Based on the 12-year study, Dr. Gosling found that, "86 percent of the line-item vetoes affected statutory or session law exclusively, involving no veto of appropriations, while only 14 percent directly affected appropriations." He further stated that, although some of the vetoes of statutory law were judged to have produced a fiscal effect, even though no appropriation was directly vetoed, "72.1 percent of the item vetoes had no fiscal effect at all." Dr. Gosling made this further comment concerning the impact and effect of the 542 item vetoes exercised by Wisconsin Governors between 1975 and 1985:

> On the revenue side, such vetoes modified state law governing taxes or fees. On the expenditure side, such vetoes affected projected budgetary outlays by eliminating new programs approved by the legislature, changing eligibility standards for existing programs, modifying mandated services, reducing the state's percentage of support for local assistance programs, or redefining the cost basis on which state financial assistance to local governments is calculated.

Gosling's study concluded that:

> In summary, the item veto, as employed by Wisconsin governors, appears to have been used primarily as a tool of policy making and partisan advantage rather that of fiscal restraint. * * *
>
> While item vetoes generally result in budget reductions, are they employed primarily to cut costs or to effect desired policy changes which may or may not have accompanying cost reductions? As this study suggests, policy considerations, colored somewhat by partisanship, appear largely to guide gubernatorial item-veto choice. * * *
>
> The item veto appears to have been used disproportionately to alter unacceptable policy and to further partisan interests.

An interesting example of partisan use of a gubernatorial item veto can be found on page 47, Appropriation Acts of the General Assembly, 1941. When the 1941 appropriation bill produced a conflict between the Republican senate and the Democratic house in Pennsylvania, the argument was tossed into the lap of Republican Governor James, who had the power not only to veto items but also to reduce them. The House felt the sting of the Governor's veto after it voted to appropriate to the department of commerce an amount 17 percent less than the Governor had recommended in his budget. Governor James retaliated by reducing the appropriations for both the department of the auditor-general and the treasury department to points 17 percent below his budget suggestions; these were the only two departments headed by Democrats.

As to the implications concerning a Presidential item veto, I again quote Dr. Gosling:

> If the item veto is primarily employed for policy and partisan purposes at the federal level, it could become a coveted tool for the President to bring congressional priorities more in line with those of the President and executive branch. At the hands of an ideologically motivated President, it could be used to eliminate (or reduce, if the approved form of item veto permits) appropriations for programs that are antithetical to the policies of the administration. Unacceptable legislative riders could likewise be excised. * * *
>
> In conclusion, a presidential item veto is more likely to give the President one more resource to gain partisan leverage toward pursuit of the administration's policy agenda.

We should think of the item veto not as an instrument for fiscal restraint but rather as a means by which the President would control Congress. Studies of State spending, as have been shown, yield a similar conclusion. In general, the item veto is not used in the States for budget savings. It is more often used for political and partisan benefit.

Finally, I have already pointed to the dramatic differences between the Federal appropriations process and the State appropriations process. States itemize their appropriations bills. For very good reasons, Congress does not. If Congress were to decide to appropriate even more by lump-sum rather than by items, clearly there would be nothing for the President to item veto. Under these conditions, what level of savings through the item veto could we expect?

Mr. President, through these comments today, I have attempted to explain why it would be seriously misguided for the National Government to borrow the item veto from the States. The State and Federal systems of government, their budget processes, and their history and practices are fundamentally different. How well the item veto actually works in the States has been analyzed by many people reaching quite different opinions. The benefit and utility of the item veto at the State level are subject to endless, inconclusive debate.

What is more clear is the inapplicability of the States' item veto to the

Federal Government. The Governors of most of the States are given item veto authority by their State constitutions. But State constitutions and the Federal Constitution are two very different matters.

I say again, lay down the Constitution of your State. Lay it down beside the Federal Constitution. Compare the two.

The needs, functions, responsibilities, and powers of a State government differ significantly and critically from those of the National Government. These are two different spheres, similar in some respects, perhaps, but immensely dissimilar in others—so dissimilar that any attempt to justify the item veto at the national level by citing the State example is an inane exercise in the juxtaposition of incongruous concepts. There is simply no point in quixotically tugging at irrelevant windmills. Transfer of this instrument to the President would not yield budgetary restraint. Instead, it would create political friction of a destructive character, lead to less accountability by the legislative and executive branches, and place upon the judiciary a burden for monitoring the scope of the item veto but without clear standards and guidelines for the courts. In the end, our political institutions would be weakened and our resolve toward budget responsibility impaired. This is not a step to be taken lightly. It is not a step to be taken at all.

I was somewhat amused when I heard some of the Governors talk about how they balance their budgets, how they have to balance their budgets. They have the line-item veto, they say. They have the line-item veto. They balance their budgets. What they do not say is how much Federal money they get to help them balance their budgets. They are right in along with everybody else for the handout waiting for their check to come in.

They do not have to be concerned about the national defense. They do not have the responsibility for the national defense.

Mr. THURMOND. Mr. President, I rise today to support the amendment offered by the able Senator from Arizona, which would give the President statutory line-item veto authority. Under this approach, the President is authorized to rescind all or part of any budget authority submitted to him.

I am pleased to be a cosponsor of this amendment, as well as S. 196, the underlying line-item veto bill.

Each year during the budget debate, much discussion is focused on ways to enhance revenues. The Congress must address runaway spending if we are truly going to establish a sound fiscal policy for this Nation.

Mr. President, the Office of Management and Budget projects the national debt to exceed $4 trillion by the end of fiscal year 1992 and $4.5 trillion by the end of fiscal year 1993. The payment on the interest of this national debt is the second largest item in the budget. Our Federal deficit exceeded $150 billion for fiscal year 1989, $220 billion for fiscal year 1990, $268 billion for fiscal year 1991, and is projected to exceed $399 billion in fiscal year 1992. This must stop. We must take strong, disciplinary action to ensure fiscal responsibility.

The Congress regularly enacts appropriations measures, totaling billions and billions of dollars. Unfortunately, items are often tucked away in these bills representing millions of dollars that would have little chance of passing on their own merit. The President's hands are tied. He has no discretion to stop these unnecessary expenditures and must approve or disapprove the bill in its entirety.

Presidential authority for line-item veto is a badly needed fiscal tool which should provide a valuable means to reduce and restrain excessive appropriations.

Forty-three Governors currently have, in one form or another, the power to reduce or eliminate items or provisions in appropriation measures. Mr. President, I enjoyed that power as Governor of South Carolina and I saved South Carolina from many unnecessary expenditures. Surely, the President should have the same discretionary authority that 43 Governors now have to check unbridled spending.

I have been a supporter for a constitutional amendment to provide for a line-item veto. In the 101st Congress, the Senate Judiciary Committee, of which I am ranking member, approved similar legislation which proposed a constitutional amendment ensuring the President's line-item veto authority. I reintroduced this legislation in the 102d Congress and it is pending in the Judiciary Committee. Although I much prefer a constitutional amendment providing for a line-item veto, I am pleased to support this statutory, middle-ground approach.

Mr. President, it is my hope that this Congress will swiftly approve line-item veto and send a clear message to the American people that we are making a serious effort to get our Nation's fiscal house in order.

I urge my colleagues to support this amendment.

Mr. WOFFORD. Mr. President, I support this bill. Our industrial base—the heart of our Nation's economic strength—is eroding. As our competitors have worked to develop technological innovations—innovations that often originate here in the United States—into products and markets and jobs, our domestic manufacturers have to work even harder to remain competitive.

Research and development in this country is excellent. But we have to make it easier for companies to take the next step, to develop their ideas into products, which will create jobs and benefit workers here in America. The original National Cooperative Research Act, passed in 1984, has shown us that the joint venture approach works: since its enactment, over 150 research partnerships have brought advances in sectors ranging from high technology to steelmaking.

It's time to extend this successful program to manufacturing. We need to let our companies work together, to pool their resources to promote the manufacture of new products here in the United States. Our work force, the most productive in the world, is up to the challenge. Let's pass this bill and make sure that American ideas lead to American jobs.

ENHANCED RESCISSION POWER MEANS ENHANCED EXECUTIVE POWER

Mr. BYRD. Mr. President, the title of this speech is "Enhanced Rescission Power Means Enhanced Executive Power." I will speak just a little while about the proposal to give to the President the power of enhanced rescissions.

Mr. President, I have not had a chance to study the amendment carefully. Just a cursory reading of it, though, is enough. To those Members of both Houses who may be so myopically generous and accommodating to any President as to want to give him an item veto, this is their chance, but do not count me in. The item veto would give to any President loaded dice, and I, for one, will not play in that game.

I heard a Senator say recently that according to a Gallup poll "some 70 percent" of the American people support the item veto. This is understandable. The average citizen who is concerned about spiralling budget deficits cannot be expected to understand the intricacies of appropriations bills. He is worried about the economy, about holding a job or getting another job, and to him the suggestion that the President be authorized to strike so-called "pork barrel" items—one man's pork may be another man's sustenance—from bills passed by Congress has an appeal. But Members of the House and Senate who peddle the item veto as a cure for deficits ought to know better.

Can it be that while voting on appropriations bills every year they have never taken the time to leaf through one of those bills? Or are they just engaging in demagoguery by using the item veto to avoid tough political decisions and knowingly playing upon the ignorance of honest souls who are uninformed concerning the complexities of the appropriations and budgeting process?

Unlike State legislatures, Congress does comparatively little itemizing in its appropriations bills. Consequently, there are relatively few "items" for a President to strike. This point can be demonstrated by examining the Energy and Water Development Appropriations Act for fiscal year 1990. One will note therein that Congress appropriated mostly by lump-sum amounts, not by items. For example, under "General Investigations," there is a lump sum of $131,086,000 for surveys, detailed studies, and plans concerning rivers and harbors, flood control, shore protection, and related projects. The paragraph contains some earmarkings of funds for eight projects totaling $1,850,000. In the remaining section, seven projects are specified, amounting to $1,265,000, making a grand total of $3,115,000 for the fifteen earmarked projects which would be stricken out of the act by an item veto. What about the remaining $127.9 million? How is it to be spent? The Act signed by the President does not say. The answer is to be found in the conference report, which identifies over 350 items, which could not be eliminated by a Bush item veto, because conference reports do not go to the President for his signature. Even the 15 specific projects listed in the act signed by President Bush could just as easily have been identified by Congress in the conference report rather than in the act, thus leaving the President with only the lump sum to veto or to approve. Thus, for Senators to maintain that arming the President with item-veto power would curtail spending, is vain posturing.

Take another example from the same fiscal year 1990 Energy and Water Appropriations Act. Under "Operation and Maintenance, General," $1,377,504,000 was appropriated. Only four specific amounts are listed with projects earmarked for California, Minnesota, Nebraska, and South Dakota, totaling $8.9 million, which could be subjected to a line-item veto. What about the remaining $1,368,604,000, none of which is set forth in discrete items? Again, the answer to the question can be found in the conference report, which the President cannot veto. That report identifies more than 700 projects, but the report does not go to the President for his signature or approval. Thus, if the President had had the power to veto separate items, he could have vetoed only four items in the Act, under "Operation and Maintenance, General," and they would have amounted to a total of only $8.9 million, or six-tenths of 1 percent (0.6) of the account! Can anyone seriously believe that giving an item veto to the President would be an effective tool in eliminating budget deficits? Let's stop trying to fool the people.

The item veto operates differently at the State level, because items are set forth discretely in the bills presented to the Governor. But at the Federal level, as I have already demonstrated, funds are appropriated mostly in lump-sum amounts, which allow administrative officials and executive branch personnel some flexibility and discretion in utilizing the funds more efficiently. In moving money around in large accounts, the agencies are required to report to Congressional committees and secure their approval on any "reprogrammings."

Officials in the Reagan administration claimed that the Framers of the Constitution anticipated that Congress would pass separate appropriations bills for discrete programs rather than bills that would encompass a variety of related or unrelated matters. Those Reagan administration spokesmen displayed an appalling ignorance of history. In the first two Congresses, the general appropriations were made in single bills. The first appropriations bill of record, in 1789, appropriated $639,000, as follows:

H.R. 32, an Act of 1789:

Civil list	$216,000
Department of War	137,000
Board of Treasury	190,000
Pensions to invalids	96,000
Total, H.R. 32	639,000

H.R. 47, an Act of 1790, appropriated $551,491.71, for the following:

H.R. 47, An Act of 1790:

Civil list	$141,492.73
Department of War	155,537.72
Pensions to invalids	96,979.72
Expenses of Congress	(Such sums)
Contingent charges	10,000.00
Treasury	147,169.54
Jehoiakim M'Toksin	120.00
James Mather	96.00
Gifford Dalley	96.00
Total, H.R. 47	551,491.71

H.R. 120, an Act of 1791, appropriated $740,232.60, as follows:

H.R. 120, an Act of 1791:

Civil list	$299,276.53
Department of War	390,199.54
Treasury	50,756.53
Total, H.R. 120	740,232.60

The claim of Reagan administration officials that, in the earlier years, Presidents were able to veto or sign separate appropriations bills for discrete programs or activities, in accordance with the anticipation of the Constitutional Framers, was without a grain of truth, as evidenced by the kind of bills enacted in 1789, 1790, and 1791, shown above. George Washington, who had presided over the Philadelphia Convention, later stated, when he was President: "From the nature of the Constitution, I must approve all parts of a Bill, or reject it in toto." Moreover, the Members of the First Congress included many of the framers who had attended the Philadelphia Convention. Evidently, they did not anticipate that Congress would pass separate appropriations bills for discrete programs, as Donald Regan, President Reagan's secretary of the treasury, maintained. As will be noted, each of the three Acts appropriated funds for the Civil List, the War Department, and the Treasury. Pensions to invalids, and other items were included, as in H.R. 120, of the $390,199.54 appropriated for the Department of War, $100,000 was earmarked for defraying the expenses of an expedition against certain Indian tribes, and $87,463.60 was earmarked for pensions to invalids. There were also earmarks in H.R. 47. The acts also contained authority for the President to authorize additional funding from customs receipts. Consequently, the figures I have shown do not accurately reflect the entire cost of Government operations for the 3 years.

Authorizing the President to veto "items" in appropriations bills may be a legitimate topic for debate, but the issue should not be obscured by misconceptions and glib assertions that have no basis in facts. Before undertaking major surgery on the appropriations process, I submit that we must first understand it. Perhaps we will then stop kidding ourselves into believing that the item veto is the desideratum that its political hawkers claim it to be.

Mr. President, during the past century, the item veto proposal has been offered in Congress as a constitutional amendment many times but it has rarely received any serious consideration. More recently, there has been an escalation of attempts to give the President item veto authority by statute. I submit, however, that the President cannot be given the item veto by statute and that, if such a statute were enacted, it would be ruled unconstitutional by the courts.

The U.S. Constitution, in article I, section 1, vests all legislative powers in Congress:

> All legislative Powers herein granted shall be vested—

Not "may be vested"—

> * * * in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Article I, section 9, paragraph 7, vest the appropriations power in Congress:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

The two foregoing sections in article I, clearly and unequivocally place the appropriations power in Congress and only in Congress, for if appropriations can only be made by law and only Congress has power to make law, then only Congress can make appropriations. To argue, therefore, that any transfer to the executive of the congressional power over appropriations can be accomplished by statute is but an excursion into Alice-in-Wonderland fantasy. A power which has been vested in Congress by the Constitution cannot be taken away, transferred, or given away by statute. I would be ashamed, as a United States Senator, to demonstrate my ignorance of the Constitution by maintaining that such could be done. It can only be done by an amendment to the Constitution, and I do not view that likelihood as an immediate threat.

What I consider as a greater danger to Congress' power over the purse, however, is a proposal making the rounds of late that is commonly referred to as "enhanced rescissions." This is a Trojan horse, a back-door approach to the item veto and, in effect, a super item veto. That it indeed might be capable of achievement by statute should be very disquieting to all who view the power over the purse as the master balance-wheel in the constitutional mechanism of checks and balances.

When Congress passed the Congressional Budget and Impoundment Control Act of 1974, it was responding to a perceived shift of power to the President, demonstrated by the refusal to spend appropriated funds by the Executive during the Lyndon Johnson and Nixon administrations. The act was designed to protect Congress' power over the purse, and to protect the constitutional balance between the executive branch and the legislative branch. It required the approval by both Houses before any Presidential rescissions of appropriated funds could become effective. Congress having passed an appropriations bill, and the President having signed it into law or having let it become law without his signature, his rescissions could only prove successful if Congress acted favorably to approve them. If Congress did nothing within a prescribed 45-day period, the budget authority proposed by the President to be rescinded had to be made available for obligation. Under "enhanced rescissions," however, the situation would be reversed and the burden would be shifted. If Congress did nothing or were not to succeed in disapproving the President's proposed rescissions, then the budget authority would not be made available for obligation.

Mr. President, on June 6, during the debate on the "Americans with Disabilities Act of 1990," an amendment was offered to grant to the President the power to reduce budget authority. The amendment fell because a motion to waive a Budget Act point of order failed to attract the necessary 60-vote majority. The amendment would have added to the Congressional Budget and Impoundment Control Act of 1974 a new title: "Title XI—Legislative Line Item Veto Rescission Authority." Under the amendment, the President could, within 20 calendar days (excluding Saturdays, Sundays, and holidays) after the date of enactment of a regular or supplemental appropriations bill or continuing resolution, notify Congress by special message of his decision to rescind all or any part of any budget authority contained therein.

The President could also notify the Congress of such rescissions by special message at the time he submits his budget message to Congress, provided such rescissions had not been proposed previously for that fiscal year. In other words, following the beginning of the new fiscal year on October 1 in a given year, the President could wait until he presents his new budget the following January, at which time he could propose rescissions of budget authority contained in all previously enacted 13 regular appropriations bills and supplementals if no such rescissions had been proposed previously for that fiscal year which began 3 months earlier.

Such budget authority so rescinded would be deemed canceled unless a bill disapproving the full rescission were to be enacted by Congress and presented to the President within 20 calendar days of session for his approval or disapproval. The President would have an additional 10 days (exclusive of Sundays) in which to sign or veto the rescission disapproval bill, which must disapprove the rescission "in whole."

One of my favorite old-time songs and fiddle tunes is "The Roving Gambler." But one does not have to be the roving gambler to know that to give to any President an enhanced rescissions power is to hand the President a stacked deck to be used against the elected Representatives of the people and against the people themselves.

The difficulties that would confront Congress are obvious. First and foremost, for any projects, programs, or activities on a President's selective hit list, Congress in all likelihood would have to produce the votes from three to four times before such budget authority could be finally locked in. As a scenario, for example, the President vetoes an appropriations bill but the Congress overrides the veto and the bill becomes law, after which the President rescinds part of the budget authority in the act, and Congress then passes a bill disapproving the rescissions; the President then vetoes the disapproval bill, and Congress attempts to override the veto. In such a not-unlikely scenario, not only would Congress have voted four times on the same appropriations items, but a two-thirds majority in both Houses would also have been required on two of the votes in order for Congress to succeed in nailing down the budget authority.

Obviously, enhanced rescissions authority for any President would give him a "heads, I win-tails, you lose" advantage over the Congress. As we all know, throughout the 200 years of our history, very few Presidential vetoes have been overridden, and that is because the President needs only one-third plus one of the Members voting in either House to have his veto sustained. Yet, from time to time, Congress has been able—on a matter of national significance—to muster the necessary two-thirds to override. But if the President were to be given an enhanced rescissions authority, it would be necessary for Congress to marshal a two-thirds majority in both Houses, not once but twice in order to enact any budget authority to which he objects, and the usual situation would involve a veto of one or more items that could be of importance only to a single region or a few States—or even only to a single State or congressional district. Under such circumstances, the already great odds favoring sustention of a President's veto would be increased exponentially. As the geographical area directly affected by such a veto would, in most cases, be less than nationwide, fewer Members in both Houses would be interested in overriding the veto. Add to this the fact that in the House, where representation is based upon population, the possibility already exists for a mere handful of States, in a given situation, to thwart the will of the majority in both bodies. Take, for example, five States: California, with 45 votes; New York, with 34; Texas, 27; Pennsylvania, 23, and Illinois, with 22 votes; these five States have a total of 151 House votes—more than one-third of the membership. Banded together, these five States alone can thus sustain a Presidential veto of a bill that is important, in varying degree, to the other 45 States.

Conversely, a minority of States with large populations can produce a two-thirds vote to override. It is theoretically possible for 16 States—less than one-third of the total number of States—to override a Presidential veto in the House. The following tabulation of 16 of the larger-populated States shows a total of 293 votes—three votes more than the 290 needed to override when all 435 members cast their votes: California, 45; New York, 34; Texas, 27; Pennsylvania, 23; Illinois, 22; Ohio, 21; Florida, 19; Michigan, 18; New Jersey, 14; Massachusetts, 11; North Carolina, 11; Indiana, 10; Virginia, 10; Georgia, 10; any two—Wisconsin, Missouri, or Tennessee—with 9 each, 18; for a total of 293.

The point I am making is that the less-populated States would find their collective strength in the House significantly diminished from the standpoint of overriding a veto in a situation where only a region or a few States were impacted adversely by a veto. For instance, the six States of Maine (2), New Hampshire (2), Vermont (1), Massachusetts (11), Rhode Island (2), and Connecticut (6), in the Northeast collectively have only 24 votes in the House—a substantial contribution to an override on a matter of nationwide significance, and most Presidential vetoes are in regard to matters of importance nationally. But the collective Members of the same six States would find it extremely difficult, if not impossible, to interest two-thirds of the total House membership in overriding a veto of budget authority of importance only to the Northeast region.

With enhanced authority to rescind budget authority, the President could be expected to exercise the veto power more often because he would know that if a veto of an entire bill were not sustained, he could come back with his new rescission power and, in effect, veto the separate and specific budget authority items that he finds particularly objectionable, with little chance that both Houses would pass a disapproval bill of importance only to a few States or a few members, and with an even less likelihood of an override of his veto of a disapproval bill of such limited interest to the overall membership of both Houses. Enhanced rescission authority would, therefore, provide an enormous incentive to any President to follow a divide-and-conquer policy, and he would virtually be assured of success in totally dominating the appropriations process. Such an expansion of executive power, with a corresponding reduction of the power of the legislative branch, would effectively emasculate the balance between the two branches. I should think that even Alexander Hamilton, who was a leading proponent of tilting the balance toward a strong executive, would gag at the thought of swallowing such a dose of Presidential power.

Moreover, Congress would find it necessary to spend a greatly increased amount of time and energy in enacting budget authority to meet the needs of the Nation as viewed by the elected representatives of the people. The tensions between the executive and legislative branches would rise to the boiling point as Congress found itself more and more subservient to an aggressive and politically partisan President. The Nation would suffer the consequences of such a power shift, and the constitutional system of checks and balances would be reduced to rubble. With the occupant of the oval office in possession of such swollen power, the chief executive would not only become the chief legislator; he would also be a king, in everything but name only. And what's in a name, when a pickle by any other name smells just as sour?

The proponents of enhanced rescission power for the President argue that his current rescission authority, limited as it is, has met with little success because Congress, they say, has been unresponsive to his requests. The facts are otherwise.

Mr. President, I will put into the RECORD a table that will show that for the fiscal years 1974 through 1992, the Presidents during those years proposed for rescission, $61,635,857; total amount of proposals enacted by the Congress, of those that the President requested, $19,557,337,366; and an additional amount of rescissions initiated by the Congress of $36,210,728,246.

Another way of looking at it, 1974 through fiscal year 1992, as of February 26, 1992, the number of rescissions proposed by Presidents was 920; number of Presidential proposals accepted by Congress 324; number of rescissions initiated by Congress on its own, 351.

Mr. President, I ask unanimous consent that that table be printed in the RECORD at the conclusion of this speech.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. Mr. President, the rescission authority which now exists works well. Congress has not ignored Presidential rescission proposals; and, in fact, as I have stated, Congress has enacted a great number of rescissions on its own.

Another aspect of enhanced rescission authority that concerns me is the leverage that such authority would give the President over the Nation's priorities.

The President is presently limited to a choice of either vetoing the whole bill or letting it become law with or without his signature. If the item veto power were to be given to the President—which, I believe, could only be accomplished by an amendment to the Constitution—Congress could limit the effectiveness of that power simply by showing fewer items and more lump sums in an appropriations act. However, with the grant of enhanced rescissions power to the President—which can possibly be achieved by statute—he could sign the appropriations act into law, following which he could, for all intents and purposes, effectively accomplish the equivalent of a veto of a part or parts of the act by rescinding whatever budget authority he found objectionable, thus placing the burden on the Congress to pass a new bill reinstating the rescinded authority, plus, in the event of a Presidential veto of that bill, an additional burden of producing a two-thirds vote in both Houses to "screw it to the sticking place."

Surely, Congress would have to be infected with a collective madness to seriously contemplate handing to any President, Democrat or Republican, such power—let Mr. Clinton get in the White House; let Mr. Tsongas get in the White House; let Mr. Brown get in the White House. They are Democrats. If this Senator from West Virginia is here, let them try getting enhanced rescissions or the line-item veto through this Senate.

I will do everything I can to stop it. And why my Republican friends do not take the same stand, I cannot understand. But if it were a Democratic President, the shoe would be on the other foot for them. I daresay they would not want to be handing that President enhanced rescissions powers or line-item veto authority. They would not want him to have that. It would be different then.

But whether he is a Democrat or a Republican, I am against it. Surely, Congress would have to be infected with a collective madness to seriously contemplate handing to any President such a blackjack, even though it be clothed with the velvet-sounding name: enhanced rescissions. It may sound like the voice of Jacob to the ears of the unwary, but, in reality, it is the hairy hand of Esau, and Congress should never let itself be fooled into giving its blessing to such a perverse proposal.

Mr. President, the item veto and the enhanced rescissions proposal are currently being advocated most vigorously and most vociferously by the White House and by Republican Members of the House and Senate, who have had, for the last 13 years, a President of their party in the Oval Office. But powers created for the use of one President will remain to be used by another. It cannot be turned on and off at will. A conservative George Bush today may be followed by a liberal Jimmy Carter tomorrow—who knows, or a liberal Michael Dukakis—or vice versa. Then where would we be? The shoe would pinch my Republican friends in the Senate.

What if a Democrat were the occupant of the big house at 1600 Pennsylvania Avenue? Would our Republican colleagues then suffer a vomitive aversion to enhanced rescissions and the item veto? Would not this seemingly precious metal then be seen for what it really is: fools gold? Would not the wax in their item-veto wings melt if our Republican colleagues were forced to fly into the heat of a Democratic Presidential sun? Ah, would they be like Hector on the field to die, to save sweet item veto's honor; or, like a perfumed Paris, would they turn and fly? And what about the cherished friends of enhanced rescissions on the Democratic side of the aisle? Would they so lovingly salute the banner of enhanced rescissions if the assault weapons mobilized beneath its tattered folds were in the hands of a White House brigade led by Commander in Chief Ronald Reagan or George Bush? To ask these questions is to answer them. Perhaps it all depends on whose ox seems to be getting gored.

Let us briefly survey a few of the likely targets of a line-item veto or enhanced rescissions under a President Carter or a President Reagan—one, a Democrat; the other, a Republican.

On February 21, 1977, President Carter announced several water projects which he claimed did not merit continued funding in the fiscal year 1978 budget. Congress was able to prevent the elimination of funds for almost all of these projects by appropriating money in the Energy and Water Development Appropriations Bill. However, if President Carter had been vested with line-item veto or enhanced rescission authority, the list of projects that he publicly opposed in this one bill, and which would likely have been candidates for a line-item or enhanced rescission authority, include:

PROJECT, STATE

Applegate Lake, Oregon.
Atchafalaya River and Bayous Boeuf, Black and Chene, Louisiana.
Bayou Bodcau, Louisiana.
Cache Basin, Arkansas.
Grove Lake, Kansas.
Hillsdale Lake, Kansas.
LaFarge Lake, Wisconsin.
Lukfata Lake, Oklahoma.
Meramec Park Lake, Missouri.
Richard B. Russell Dam and Lake, Georgia, South Carolina.
Tallahala Creek, Mississippi.
Yatesville Lake, Kentucky.
Columbia Dam, Tennessee.
Fruitland Mesa, Colorado.
Savery-Pot Hook, Colorado, Wyoming.
Auburn, California.
Narrow Unit, Colorado.
Oahe Unit, South Dakota.
Mississippi River, Gulf Outlet, Louisiana.
Tensas Basin, Arkansas, Louisiana.
Bonneville Unit, Central Utah Project, Utah.
Central Arizona Project, Arizona.
Garrison Diversion, North Dakota.

In February of 1981, President Reagan presented his Program for Economic Recovery to the Nation. In his budget reform proposals, he called for eliminating or reducing various programs within a number of agencies including the following:

This is for my friends on the Democratic side of the aisle who embrace the line-item veto, who embrace enhanced rescission.

Well, here are the items that were in the budget reforms proposed by President Reagan in 1981:

DEPARTMENT OF AGRICULTURE

Child Nutrition Programs.
Food Stamps.
Dairy Price Supports.
Alcohol Fuels and Biomass Loans.
Rural Electrification Administration.
Farmers Home Administration Direct Loans.

DEPARTMENT OF COMMERCE

Economic and Regional Development (including the Appalachian Regional Commission).
Various National Oceanic and Atmospheric Administration Programs.

DEPARTMENT OF DEFENSE

Inland Waterway Subsidies.

DEPARTMENT OF EDUCATION

Impact-aid for Schools.
Vocational Education.
National Institute on Education.
Institute of Museum Service.
Guaranteed Student Loan Programs.

DEPARTMENT OF ENERGY

Synthetic Fuels.
Fossil energy.
Alcohol fuels subsidies.
Energy regulation.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Benefits.
AFDC Welfare Benefits.
Medicaid.
National Institutes of Health.
Medical Services for Merchant Seamen.
Health Professions Education.
Health Maintenance Organization.
National Health Service Corps.
Regulation of Health Care Industry.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subsidized Housing Levels.
Subsidized Housing Rents.
Solar Energy and Conservation Bank.
Community Development Support Assistance.
Rehabilitation Loan Fund.
Neighborhood Self-Help Development.

DEPARTMENT OF THE INTERIOR

Improve Targeting of Conservation Expenditures.
Youth Conservation Corps.

DEPARTMENT OF LABOR

Unemployment Insurance.
Federal Employees Injury Compensation (FECA).
Unemployment Compensation for Ex-Servicemembers.
Trade Adjustment Assistance.
Black Lung.
Comprehensive Employment and Training Act (CETA).
Young Adult Conservation Corps.

DEPARTMENT OF TRANSPORTATION

Highway Safety Grants.
Mass Transit Operating Subsidies.
Amtrak Subsidies.
Northeast Corridor Improvement Project.
Low Volume Railroad Branchlines.
Cooperative Automotive Research.
Subsidies for Airway and Airport User Fees.

OTHER AGENCIES

Acceleration of Mineral Leasing.
CAB Airline Study.
Export-Import Bank.
Postal Service Subsidies.
Water Resource Development Construction.
EPA Waste Treatment Grants.
Corporation for Public Broadcasting.
NASA Reductions.
National Consumer Cooperative Bank.
National Endowments for the Arts and Humanities.
National Science Foundation.

As in the examples given under President Carter, although Congress was able to restore funding for many of the above programs, had President Reagan been vested with line-item veto or enhanced rescission authority, he would have been able to use such power against the wishes of Congress.

During the 1988 Presidential election, Democratic candidate Michael Dukakis publicly announced his opposition to two Department of Defense weapon systems—the Midgetman and the MX missile. Had he been elected President and had he been given line-item veto or enhanced rescission authority, it is likely that he would have exercised that power to reduce or eliminate one or both of these systems.

So I say to my Republican colleagues: "The old order changeth, yielding place to new." Tennyson's words are as true in politics as in other fields. Some day the Presidency will again be in the hands of a Democrat. You cannot eat your cake and have it too.

Mr. President, an old bluegrass song carries a line: "I'm traveling down a long, lonesome highway, and there's no turning back." Thoughtful Senators know that once enhanced recission power is ever given to the President—which, God forbid—it will never be taken back by Congress.

So I say to my Republican friends, give this President enhanced rescission authority, give it to him, and then when a Democratic President is in that White House—as one will be as sure as the splendid Sun crosses the heavens—that power will never be given back to the Congress. It is a one-way ticket and there is no bend in the road. It is a train that will never return. Any legislation that might in the future seek to negate a President's power of enhanced rescission would be summarily vetoed.

So you pass this legislation—and it is offered by Senators on the Republican side now—you pass it. If it should become law, the day will come when you will rue it. You will never get the power back. Try to pass legislation to retrieve it. The Democratic President will veto it. It will take a two-thirds vote to override the veto, and you probably will never get two-thirds.

I can remember a time in 1937 when the Republicans had only 17 Senators—17; 17 Republicans in the Senate. Better not give that much power to the President—any President.

Such a fateful shift of power over the purse would permanently alter the constitutional system of checks and balances and separation of powers. I warn Senators that once we go down that road, there will be no turning back.

The moving finger writes; and, having writ,
  Moves on,
Nor all your piety nor wit
  Shall lure it back to cancel half a line,
Nor all your tears wash out a word of it.

That completes my third speech, Mr. President.

EXHIBIT 1

	Number of rescissions proposed by President	Total amount proposed by President for rescission	Number of proposals accepted by Congress	Total amount of proposals enacted by Congress	Number of rescissions initiated by Congress	Total amount of rescissions initiated by Congress
Fiscal year:						
1992	[1]1	16,700,000	0	0	25	1,382,377,000

EXHIBIT 1—Continued

	Number of rescissions proposed by President	Total amount proposed by President for rescission	Number of proposals accepted by Congress	Total amount of proposals enacted by Congress	Number of rescissions initiated by Congress	Total amount of rescissions initiated by Congress
1991	30	4,859,251,000	0	0	22	1,332,955,000
1990	11	554,258,000	8	513,302,000	68	2,322,145,000
1989	6	143,100,000	1	2,053,000	9	212,313,000
1988	0	0	0	0	61	3,860,653,067
1987	73	5,835,800,000	2	36,000,000	50	5,699,509,675
1986	83	10,126,900,000	4	143,210,000	5	6,668,450,000
1985	244	1,854,800,000	98	173,699,000	11	5,451,074,000
1984	9	636,400,000	3	55,375,000	8	2,181,515,000
1983	21	1,569,000,000	0	0	10	280,605,100
1982	32	7,907,400,000	5	4,365,486,000	3	16,927,000
1981	166	15,361,900,000	101	10,899,935,550	43	3,678,590,600
1980	59	1,618,100,000	34	777,696,446	30	3,003,950,100
1979	11	908,700,000	9	723,609,000	1	47,500,000
1978	12	1,290,100,000	3	55,255,000	2	61,964,000
1977	20	1,926,930,000	11	1,277,090,000	2	5,200,000
1976	50	3,582,000,000	7	148,331,000	0	0
1975	87	2,722,000,000	38	386,295,370	1	4,999,704
1974	2	495,635,000	0	0	0	0
Grand total 1974–92	920	61,635,857,000	324	19,557,337,366	351	36,210,728,246

[1] As Feb. 26, 1992.

Source: GAO.

Mr. BYRD. I have two or three additional speeches. I do not know what the wishes of the leadership may be. I am sure that Senator SASSER is ready to present a point of order. But I told Senator MCCAIN that, should I elect to put in a quorum, I would notify him. Let me see if I can ascertain what the wishes of the leadership may be.

THE GAO REPORT ON THE LINE-ITEM VETO

Mr. BYRD. Mr. President, something has been said today about the report entitled "Line-Item Veto, Estimating Potential Savings." That was the title of the report by the General Accounting Office.

The purpose of that report, according to its cover letter, was to provide a better basis on which to debate the basis of Federal line-item veto proposals.

Well, having read the report, I am prepared to state that it in no way achieves its stated purposes. I have thought rather well of the General Accounting Office over the years. The General Accounting Office is an arm of the Congress, and why the General Accounting Office would allow itself to be used to stick a knife in the back of the Congress is a little beyond me.

Cassius died by turning the same dagger upon himself that he had plunged into the veins of Caesar.

Apparently, the General Accounting Office wants to do the same. And it is my guess that it will get a little bit of that same knife that it has used on the Congress. In all my years in Congress, that is the weakest report that I have seen from the General Accounting Office—shabby. It is fatally flawed.

Its basic premise assumes that the President would have applied the line-item veto to all items to which objections were raised in statements of administration policy during fiscal years 1984 through 1989. Yet the report itself states on page 2 that these estimates are subject to a variety of uncertainties, and other administration documents indicated that they may overstate the savings that would have occurred. A special one-time OMB report in 1988 indicated that the President would have vetoed much smaller amounts than those that the SAP's—statements of administration policy—identified as objectionable for that year.

Armed with this knowledge, the GAO should have concluded that it was not possible to issue a report that could state with any certitude what amounts of appropriations would have been line-item vetoed.

Furthermore, page 7 of the report indicates that 71 Federal programs would have been terminated. If in fact these programs were not terminated but were objected to in SAP's in more than 1 of the 6 years, did the GAO count the savings every time the terminations were recommended?

I will give one more example. I know for a fact that the President proposed several times to terminate Amtrak. So if the President proposed the termination of Amtrak in each of the 6 years, 1984 through 1989, did the GAO count the savings in every one of those years, duplicating the savings?

The President asked for the termination each year. The Congress did not terminate Amtrak, but the General Accounting Office, in its lousy report, does not allow for that fact. It uses the total cumulative figure over those 6 years, as if it had been a different item in each year that had, indeed, been terminated by the Congress. So it overstates the savings by sixfold, in that instance. Imagine the arm of the Congress—the GAO—letting itself be used to enhance the destruction of the constitutional powers, the basic constitutional power of the Congress, the power over the purse.

Let me take some excerpts from the budget overview hearing of the Senate Appropriations Committee held on February 18, 1992. Mr. Darman was the witness.

Mr. Darman said, "so it shows, once again, that from the perspective of at least appropriations, appropriations is not where the fundamental problem is * * *."

Then, in another instance, in referring to the Federal budget, he said that it was about $1.5 trillion—

> "About a trillion and a half dollars a year," If you say to them, "But by the way, the reason the deficit is so out of control is that we only look at about $500 billion of that each year. The other trillion we just leave alone."

What Mr. Darman had reference to there was entitlements and mandatory items. That is one of the areas of the budget that is not only getting out of control, it has been out of control. And it is getting worse.

But the point I am making here is, the line-item veto would not give the President of the United States an opportunity to get at that. He could not go back and line-item the entitlements and mandatories.

Where the Presidents have missed the boat has been on those occasions when they could have vetoed authorization bills coming to the White House that established new programs, new and costly programs.

I am talking with reference to the fact that the budgets have gotten out of control, the deficits are eating us up, and the mandatories and entitlements are going to swallow us whole. They are going to eat us alive.

So that was the time for the Presidents to have exercised their veto. Once those are in law and they are required to be funded and they are not controllable by the Appropriations Committee, they are automatic. The formulas are set by law. Then the horse is out of the barn. That is what is happening to the budget.

Supporters of the line-item veto and the enhanced rescissions presume, Mr. President, and would have people believe, that it is the Appropriations Committee that is responsible for the enormous deficits that we are running. The Appropriations Committee has control over only a minor portion of the budget. As I will shortly indicate, and point out to the Senate, the uncontrollable portions of the budget are the parts that are really causing the runaway deficits, but the President cannot line-item veto those areas of the budget. They are set by law. The only way they can be changed would be by another law passed by the Congress and signed by the President.

The chart which I am about to show will point out that between the years 1981 and 1997 mandatory items and entitlements will have accounted for $2,524,000,000,000 above inflation in those years. This line represents the cumulative real increase in entitlements in the years 1981 to 1997, and with the horizontal line representing, let us say, inflation in this instance or baseline. The viewers will note that in the bar to their far left, entitlements and mandatory will be $2,524,000,000,000 over inflation in those years. Defense will be $733 billion over inflation. Foreign operations $27 billion under inflation. And domestic discretionary funding, cumulatively speaking, during those years will amount to $655 billion under inflation—under inflation.

But the point again is this: While defense and domestic discretionary—and I will point out those two bars on the chart again, defense and domestic discretionary—go through the appropriations process; in this year we are about to be in, fiscal year 1993, domestic discretionary will be 12.7 percent of the budget and defense will be 19.2 percent. So that is about 32 percent of the total budget that the Appropriations Committee will have control over. But for entitlements and mandatory, the Appropriations Committee will have no control over them.

Now as to appropriations, between the years 1945 and 1991, let me call your attention to the fact that in those years—1945 through 1991—the Presidents of the United States requested a total of $11,710,201,833,552. How much did the Congress appropriate in those years? It appropriated a total of $11,521,432,604,188. In other words, Congress appropriated $188,769,229,364 less than all the Presidents in those years requested. So let the Appropriations Committees not be blamed for the budget deficit.

And when we talk about a line-item veto, that is what the President will be line-iteming. He will be line-iteming appropriations.

Appropriations, as I have just stated, has not been the culprit. The Appropriations Committees have not been the culprits, and yet there are those in this Senate who want to adopt an amendment giving to the President line-item veto power; they cannot give him that by statute but they want to try it. But they can give him by statute, I think, enhanced rescissions, which is by far worse than the line-item veto, and it would be directed at appropriations.

Why take the gun to the innocent entity?

Mr. Reagan was the chief proponent, as I say, in recent years of the line-item veto.

Let us just take his budgets. What did he request in the 8 years when he was President? He requested a total of $4,587,429,688,727. How much was appropriated? $4,571,282,018,726. In other words, Congress came under Mr. Reagan by a total of $16,147,670,001.

So I hope those who feel that the Appropriations Committees have been the culprits will see that the facts do not support their assertions. And I am talking about those Presidents as well who think that, because that is what they are driving at. When they talk about the line-item veto, they are talking about vetoing appropriations bills. And what I am saying is that the Appropriations Committees are not responsible for the deficits. I have just proved it.

I ask unanimous consent, Mr. President, that the tables showing all of the appropriations from 1945 through 1991 be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION ACTS COMPARISON OF BUDGET REQUESTS AND ENACTED APPROPRIATIONS

	Administration requested	Enacted appropriations	Difference under (−)/ over (+)
Calendar year:			
1945	$62,453,310,868	$61,042,345,331	−$1,410,965,537
1946	30,051,109,870	28,459,502,172	−1,591,607,698
1947	33,367,507,923	30,130,762,141	−3,236,745,782
1948	35,409,550,523	32,699,846,731	−2,709,703,792
1949	39,545,529,108	37,825,026,214	−1,720,502,894
1950	54,316,658,423	52,427,926,629	−1,888,731,794
1951	96,340,781,110	91,059,713,307	−5,281,067,803
1952	83,964,877,176	75,355,434,201	−8,609,442,975
1953	66,568,694,353	54,539,342,491	−12,029,351,862
1954	50,257,490,985	47,642,131,205	−2,615,359,780
1955	55,044,333,729	53,124,821,215	−1,919,512,514
1956	60,892,420,237	60,647,917,590	−244,502,647
1957	64,638,110,610	59,589,731,631	−5,048,378,979
1958	73,272,859,573	72,653,476,248	−619,383,325
1959	74,859,472,045	72,977,957,952	−1,881,514,093
1960	73,845,974,490	73,634,335,992	−211,638,498
1961	91,597,448,053	86,606,487,273	−4,990,960,780
1962	96,803,292,115	92,260,154,659	−4,543,137,456
1963	98,904,155,136	92,432,923,132	−6,471,232,004
1964	98,297,358,556	94,162,918,996	−4,134,439,560
1965	109,448,074,896	107,037,566,896	−2,410,508,000
1966	131,164,926,586	130,281,568,480	−883,358,106
1967	147,804,557,929	141,872,346,664	−5,932,211,265
1968	147,908,612,996	133,339,868,734	−14,568,744,262
1969	142,701,346,215	134,431,463,135	−8,269,883,080
1970	147,765,358,434	144,273,528,504	−3,491,829,930
1971	167,874,624,937	165,225,661,865	−2,648,963,072
1972	185,431,804,552	178,960,106,864	−6,471,697,688
1973	177,959,504,255	174,901,434,304	−3,058,069,951
1974	213,667,190,007	204,012,311,514	−9,654,878,493
1975	267,224,774,434	259,852,322,212	−7,372,452,222
1976	282,142,432,093	282,536,694,665	+394,262,572
1977	364,867,240,174	354,025,780,783	−10,841,459,391
1978	348,506,124,701	337,859,466,730	−10,646,657,971
1979	388,311,676,432	379,244,865,439	−9,066,810,993
1980	446,690,302,845	441,290,587,343	−5,399,715,502
1981	541,827,827,909	544,457,423,541	+2,629,595,632
1982	507,740,133,484	514,832,375,371	+7,092,241,887
1983	542,956,052,209	551,620,505,328	+8,664,453,119
1984	576,343,258,980	559,151,835,986	−17,191,422,994
1985	588,698,503,939	583,446,885,087	−5,251,618,852
1986	590,345,199,494	577,279,102,494	−13,066,097,000
1987	618,268,048,956	614,526,518,150	−3,741,530,806
1988	621,250,663,756	625,967,372,769	+4,716,709,013
1989	652,138,432,359	666,211,680,769	+14,073,248,410
1990	704,510,961,506	697,257,739,756	−7,253,221,750
1991	756,223,264,591	748,262,835,695	−7,960,428,896
Total	11,710,201,833,552	11,521,432,604,188	−188,769,229,364

Source: House Committee on Appropriations.

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION ACTS COMPARISON OF BUDGET REQUESTS AND ENACTED APPROPRIATIONS

	Administration requested	Enacted appropriations	Difference under(−)/over
Calendar year:			
Carter administration			
1977	364,867,240,174	354,025,780,783	−10,841,459,391
1978	348,506,124,701	337,859,466,730	−10,646,657,971
1979	388,311,676,432	379,244,865,439	−9,066,810,993
1980	446,690,302,845	441,290,587,343	−5,399,715,502
Total	1,548,375,344,152	1,512,420,700,295	−35,954,643,857
Reagan administration			
1981	541,827,827,909	544,457,423,541	2,629,595,632
1982	507,740,133,484	514,832,375,371	7,092,241,887
1983	542,956,052,209	551,620,505,328	8,664,453,119
1984	576,343,258,980	559,151,835,986	−17,191,422,994
1985	588,698,503,939	583,446,885,087	−5,251,618,852
1986	590,345,199,494	577,279,102,494	−13,066,097,000
1987	618,268,048,956	614,526,518,150	−3,741,530,806
1988	621,250,663,756	625,967,372,769	4,716,709,013
Total	4,587,429,688,727	4,571,282,018,726	−16,147,670,001

Mr. BYRD. Mr. President, I am not needlessly taking up the time of the Senate. It is my understanding that efforts are being made to work out an agreement on the pending bill, and it is hoped that such agreement might be reached shortly.

So I am trying to accommodate the leadership in that respect. At the same time, I am trying to accommodate Senators, now and in the future by having separate speeches in the RECORD which I hope will be of assistance to those Senators who might read those speeches in the years to come when I am no longer here. Somebody else can defend the Congress and its powers.

I ask unanimous consent now that each of the speeches I have made appear separately, in separate places in the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I rise in support of S. 479, the National Cooperative Research Act Extension of 1991. This bill takes the important step forward of extending to benefits of the National Cooperative Research Act of 1984 to manufacturing and production joint ventures. It will make it easier for American companies to make the leap from the laboratory—where we have led the world—to the marketplace, where new product introduction has too often lagged. For these reasons, I had included a very similar title in S. 940, my economic growth bill.

The 1984 National Cooperative Research Act clarified that a research and development joint venture would not be per se illegal under the antitrust laws, but would be tested under the rule of reason. This was not a novel standard. The rule of reason simply means that a court must look to see whether the challenged conduct is an unreasonable restraint of trade. It is the standard used to judge virtually all conduct that has legitimate, procompetitive justifications. The 1984 act also declared that research and development joint ventures that properly disclosed their existence to the Attorney General and the Federal Trade Commission could only be liable for actual, rather than treble, damages for antitrust claims resulting from such ventures.

This bill extends these protections to production joint ventures. It makes clear that courts should apply the rule of reason standard to production joint ventures, and allows those joint ventures to take advantage of the same protections against treble damages.

What this bill does not do is undermine the antitrust laws. This bill does not create any antitrust immunity for joint venturers. The rule of reason remains the basic antitrust standard. The bill merely prevents a court from erroneously declaring a joint venture to be a per se violation. A year and a half ago, Senators DANFORTH, JEFFORDS, BINGAMAN, BRYAN and I, all former State attorneys general with antitrust enforcement responsibility, wrote to Senators BIDEN and METZENBAUM urging passage of this bill and discussing the bill's antitrust implications. I ask that a copy of that letter be printed in the RECORD following my statement.

This bill, S. 479, will in a very important way, help our companies compete. Too many American firms are deterred from making strategic investments because of cost. One way for companies to cut costs is by forming strategic joint ventures. Such ventures encourage companies to pool resources, sharing the risk of those projects that are beyond their individual means.

A recent article in the New York Times science section stating that Japan has now passed the United States as the leading nation supporting industrial R&D. This is a clear indication of our increasing inability to keep up with Japan on key competitive issues.

By passing this legislation, we are aiding American companies with this process of pooling resources and sharing costs. The global marketplace is more competitive and more expensive than the traditional domestic-only market in which most American firms have competed. We need to change our way of thinking when it comes to assisting American companies. We can no longer afford to apply outdated norms to the modern marketplace. S. 479 helps to address some fundamental issues confronting American companies as they attempt to compete. I urge my colleagues to support the passage of this most important legislation.

I also ask unanimous consent that the New York Times article on Japan passing the United States in support for industrial research be included in the RECORD as part of my statement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 25, 1992]

JAPAN SEEN PASSING UNITED STATES IN RESEARCH BY INDUSTRY

(By William J. Broad)

Japan has equaled or surpassed the United States as the world's top patron of industrial research and development, according to a growing number of science analysts. If so, Japan has a powerful weapon in the trade wars of the 1990's and beyond as it uses research discoveries to launch a new wave of innovative goods and services.

The analysts take issue with the Federal Government's Japan-watchers, who calculate that the United States still leads in research spending by business, while acknowledging that America's edge in this area is eroding fast. Last week a Federal agency reported that American spending on research and development, including money from government, business and other sources, has begun to decline for the first time since the 1970's.

An increasing number of private analysts, as well as Japanese economists and American officials, say the picture is far gloomier than Federal estimates suggest. Japan, they say, has in fact expanded its industrial research so rapidly in the past decade that it now rivals the United States, and perhaps has already pulled ahead.

The dispute comes even as the Japanese have seized the leadership role in related fields. Japan, with half the population of America and an economy two-thirds the size, is already known to invest more in new factories and equipment. In 1990, it spent $586 billion on capital investment, compared with the $524 billion spent by the United States. And experts agree that certain of Japan's high-technology industries, including semiconductor fabrication, heavily outspend American rivals in advanced research as well.

What is emerging now is the radical idea that Japan as a whole, for the first time, is challenging America's traditional role as world leader in the overall support of industrial research. That role is seen as vital since private industry is increasingly the source of the innovations so important in the international race for commercial advantage that it is pouring vast amounts of money into industrial research and say it will eventually overtake the United States if the pace of investment is sustained.

A leader of the school that says Japan has already attained superiority is Senator Jeff Bingaman, Democrat of New Mexico, who recently told his Congressional colleagues that Japan had quietly scaled the summit of industrial research and development. "It is close to certain that the Japanese are, or will soon be, outspending us on civilian R.&D., especially in industry," Mr. Bingaman said.

In an interview, Bruce R. Scott, a professor at the Harvard Business School, agreed and said the way the Federal Government compares international industrial research spending gave a false picture of foreign spending.

Significantly, a Federal panel has adopted that view. The Competitiveness Policy Council, recently created by Congress, is an advisory body whose 12 members are appointed by the White House and Congress. Mr. Scott of Harvard is a member, and the council's chairman is C. Fred Bergsten, director of the Washington-based Institute for International Economics.

The council is circulating a draft report that says Japan has surged ahead of America in business spending on research. The final report is to be made public on March 4.

Federal officials in charge of comparing research among nations insist that the United States is still far ahead of Japan. But they concede that their methods, which center on adjusting exchange rates between the dollar and the yen, need an overhaul.

John E. Jankowski Jr., a senior financial analyst at the National Science Foundation, a Federal agency that supports research and monitors spending on scientific research, said the agency's current method was nowhere "near the ideal of what we'd like" but defended it as the best available. Its overhaul, he said, would require a major effort that was unlikely soon in a period of tight budgets.

The issue of who leads the world in industrial research has taken on new significance in recent years because such research has quietly become a prime engine of discovery and innovation.

For decades, in America and elsewhere, it was governments that financed the lion's share of scientific research and development, putting money into universities, defense industries and state laboratories. In the United States, the Government did so with a vengeance during the cold war and pioneered a host of innovations, including rockets, jet engines, computer chips, communication satellites and photovoltaic cells.

By 1980, American industry had grown so large and had become so dedicated to its own pursuit of scientific advancement that for the first time it surpassed the Federal Government as the nation's top patron of science research. It has maintained that position ever since.

In 1989, for instance, the most recent year for which foundation figures are available, American industry spent $71.77 billion on research and development, compared with the $68.72 billion from all other sources in the United States, including the Federal Government. As a result of this and other factors, American industry has become a hotbed of innovation.

SWINGING WILDLY

The trend of spending more on industrial research is global. Yet measuring exactly how much nations spend is extremely difficult, experts agree. A crucial problem is exchange rates, which can swing wildly and are often seen as poor indicators of a currency's real value.

As a result, economists have developed conversion tables that try to equalize price levels among countries. These are known as Purchasing Power Parities, or P.P.P.'s. Their aim is to make the clout of differing currencies roughly equal in terms of goods that are traded internationally. For instance, American P.P.P.'s for 1989 show a dollar on average being worth 204 yen. That is much stronger than the dollar's actual market value that year of 138 yen. What that means is that a Japanese camera was cheaper for an American buyer and more expensive for a Japanese buyer than is suggested solely by market exchange rates.

The National Science Foundation routinely uses the parity technique, rather than exchange rates, to compare research among nations. It thus finds Japanese industrial research to be relatively paltry. The foundation says Japanese industry spent 8.54 trillion yen on research in 1989, which by the parity technique is equal to $41.90 billion, or a little more than half the comparable American sum. But if calculated at market exchange rates, the figure jumps to $61.83 billion.

The Japanese see their investment as even greater. The July 1991 issue of The Japan Economic Survey, published in Washington by the Japan Economic Institute, cited a Japanese Government study that said Japanese business in 1989 spent 9.60 trillion yen on research. Using a market exchange rate of 135 yen to the dollar, the survey said that figure equaled $71.10 billion dollars, or roughly what American business spent that year.

The fields where Japan's industrial research investment is expanding rapidly include publishing, printing, petroleum, plastics, fabricated metal products, machinery, communications, textiles, chemicals and transportation. Areas where it is down include agriculture and mining.

Changes in Investment—Shifts in Japan's research and development expenditures in selected industries between 1988 and 1989.

Industry:	*Percent of change*
Agriculture	−46.3
Mining	−12.5
Construction	+24.7
Manufacturing	+14.1
Food products	+13.5
Textiles	+11.6
Publishing and printing	+33.0
Plastic products	+32.8
Nonmetallic mineral products	+11.5
Fabricated metal products	+22.0
Non-electric machinery	+23.9
Electric machinery	+14.5
Transportation equipment	+14.6
Motor vehicles	+16.6
Precision machinery	+11.5
Transportation, communications and utilities	+12.0

Source: Japanese Management and Coordination Agency

Senator Bingaman, who heads the technology and national security subcommittee of the Congressional Joint Economic Committee, saw the Japan Economic Survey article, became worried that the science foundation's estimates were faulty and ever since has tried, with minor success, to stir debate on the subject. An early review of the dispute was published in New Technology Week, a trade publication based in Washington that first explored the topic in its Jan. 13 issue.

In its current issue, dated Feb. 24, New Technology Week moved the issue forward by citing new evidence of Japan's supremacy. The publication said the American Embassy in Tokyo is citing a preliminary 1990 figure for Japanese industrial research of 10.72 trillion yen, or, at an exchange rate of 135 yen to the dollar, nearly $80 billion. That figure, the publication said, is far greater than comparable American spending and "should send shock waves through the U.S. Industrial community."

Some experts say the problem is overstated. They note that the United States Government supports a vast amount of research, unlike Japan, and that this Federal research is a quiet aid to American industry. For instance, the billions of dollars spent annually on scientific research by the National Institutes of Health is clearly a boon to the pharmaceutical industry. But the results from much of this Federal research, unlike business research, are openly published in scientific journals and are available to the Japanese as well.

Some experts say the status of American industrial research may be far worse than the debate over exchange rates so far suggests. Mr. Scott of the Harvard Business School said current methods of comparison are likely to vastly understate Japanese prowess since they focus on consumption rather than production, which in Japan is often remarkably efficient.

Using the parity technique to analyze research spending, he said, is crazy, "That's a way to measure Japanese incomes and say what they can purchase," he said. "If you adjust instead for the productive power of the manufacturing sector, you get an exchange rate closer to 100" yen to the dollar.

That figure, if applied to Japan's 1989 investment in industrial research, as measured by the National Science Foundation, leads to a dollar equivalent of $85.4 billion. And that, of course, is far ahead of American industry's $71.77 billion investment that year.

While not endorsing the accuracy of such calculations, Mr. Jankowski of the foundation said that any overhaul of America's system for gauging the financial strength of foreign industrial research would have to take such productivity issues into account.

U.S. SENATE,
Washington, DC, September 21, 1990.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Dirksen Senate Building, Washington, DC.
Senator HOWARD M. METZENBAUM,
Chairman, Subcommittee on Antitrust, Monopolies and Business Rights, Committee on the Judiciary, Hart Senate Building, Washington, DC.

DEAR JOE AND HOWARD: We are writing to you, as former state Attorneys General, concerning various proposals to extend the National Cooperative Research Act of 1984 to include manufacturing or production joint ventures, in addition to research and development joint ventures. There are presently four bills introduced in the Senate which address this issue: S. 1006, introduced by Senators Thurmond and Leahy; S. 2692, introduced by Senator Thurmond on behalf of the administration; Title IV of S. 2765, introduced by Senator Lieberman; and H.R. 4611, which has already passed the House of Representatives. First and foremost, we want to encourage you to move this legislation so that it can be considered by the full Senate.

With respect to the substance of this bill, we believe that those of us who served as state attorneys general have a unique perspective with respect to this legislation which might be helpful to our colleagues as they consider this bill. We hope that our observations will be of assistance to you as your committee deliberates.

There can be no doubt about the need to improve America's competitiveness in international trade. Too often in recent years, American business and industry have been left in the dust by overseas competitors. One of our problems is that, while we continue to make breakthroughs in basic science and research and to invent new products, we often drop the ball when it comes to bringing new products to market.

S. 1006, and related legislation, will encourage and facilitate efforts to bring these products to markets by clarifying the antitrust principles governing manufacturing joint ventures. It is important to note that these bills do not change the existing standard for evaluating the antitrust consequences of these joint ventures: joint ventures will continue to be judged under the rule of reason. A joint venture will still violate the antitrust laws if it constitutes an unreasonable restraint of trade. These bills will, however, help to alleviate some companies' fears that their joint venture would constitute a per se violation of the antitrust laws.

S. 1006, and related bills, will also extend to manufacturing joint ventures limited protection against trebled damage awards, just as currently afforded to research and development joint ventures. Joint venturers who violate the antitrust laws will continue to be liable for actual damages, prejudgment interest and the prevailing plaintiff's costs and attorney's fee.

As former antitrust law enforcers, we are the first to concede that detrebling damages for qualified manufacturing joint venturers reduces a measure of deterrence against anticompetitive activity. These bills, however, contain specific provisions that make it unlikely that an unscrupulous manufacturer could attempt to use the provisions of this bill as a means to reduce the risks of engaging in anticompetitive conduct. They require, as a condition of detrebling damages, that joint venturers notify the Department of Justice and the Federal Trade Commission of the venture, its nature and objectives, and that the Department or the Commission publish a notice of the joint venture in the Federal Register. These notice provisions will strengthen public and private prospective antitrust enforcement by enabling the Department of Justice, Federal Trade Commission, or other private parties to sue to enjoin any joint venture prior to its consumation.

Furthermore, we believe that any loss of deterrence against manufacturing joint venturers must be weighed against the procompetitive and competitiveness benefits. Manufacturing joint ventures are essential for firms to meet successfully the challenge of foreign competition. They can allow companies to share the risks of bringing new products to market, spread the start-up costs thereby reducing barriers to new product entry, and allow companies to contribute and share production and technical expertise and know-how. A manufacturing joint venture may also be a necessary adjunct to a research and development joint venture since, especially for high-tech products, research and development activities must be closely coordinated with production investment, processes and techniques. Since our firms already face an extremely high cost of capital relative to the rest of the world, we need these manufacturing joint ventures to help us stay competitive.[1] Moreover, as compared with mergers driven by the need to share risks, acquire sufficient capital or share knowledge, manufacturing joint ventures present a less permanent, and therefore an inherently less anticompetitive, alternative.

In terms of developing new manufacturing products or processes, it is also often difficult to assess the potential antitrust risk at the outset of a venture. An effective manufacturing joint venture, especially for a new product or process, needs some space within which it can evolve as is necessary to serve its legitimate, pro-competitive purposes. When damages are trebled, the risks associated with entering a joint venture are also trebled. The specter of a large, treble damage award may encourage a joint venturer to be too conservative and risk-averse in making decisions as to how the joint venture will proceed and evolve. Treble damages can thereby chill legitimate procompetitive activity. Detrebling the damages decreases the incentives to be risk-averse since the risks are also detrebled.

We believe that when it comes to manufacturing joint ventures, we no longer have the luxury of the extra measure of deterrence provided by a treble damage remedy. When Congress enacted the National Cooperative Research Act of 1984, it justified detrebling of antitrust damages for research and development joint venturers on the grounds that joint research and development is essential for firms to meet successfully the challenge of foreign competition, and that the antitrust risks involved in joint R&D are highly speculative at the time a firm must decide whether to join a venture and are particularly difficult to assess because joint R&D continually evolves. These circumstances similarly justify extending the detrebling provisions to manufacturing joint ventures.

We urge you to complete action on these bills quickly and report a bill in time for consideration by the full Senate during this Congress.

Sincerely,

JAMES M. JEFFORDS.
RICHARD BRYAN.
JEFF BINGAMAN.
JOSEPH I. LIEBERMAN.
JOHN C. DANFORTH.

THE REAL ISSUE IS POWER

Mr. BYRD. Now, Mr. President, the title of this statement is, "The Real Issue Is Power."

Mr. President, first among the complaints against the King of Great Britain that had been set forth in the Declaration of Independence was, "He has refused his assent to Laws, the most wholesome and necessary for the public good." Many of the laws adopted by colonial governments had had to be transmitted to England and submitted to the crown for approval. Royal provinces were expected to transmit their laws promptly. Rhode Island, Connecticut, and Maryland were not required by their charters to offer their laws to the crown, but each found it convenient to do so when the crown became insistent. Although the royal veto had fallen into disuse early in the 1700's as far as laws passed by Parliament were concerned, the veto was continued in regard to colonial laws. Although the real work of considering colonial laws was done by the Board of Trade in England, and the final action was only recorded as done by the King in the presence of, and with the advice of, his Privy Council, the Declaration of Independence laid the full responsibility for the royal vetoes at the door of the King.

Considering their antipathies toward King George III, therefore, one might wonder why the Framers provided the Chief Executive with any veto at all. But they did, and it has been a part of our Nation's history for these past two hundred years.

It has been asserted by some proponents of the item veto that "Congress has eroded the veto power" and that the Founders "intended" that the veto "be frequently and forcefully used as an essential internal control on government." Just what did the Founders intend in providing the veto power to the President, and has the power been indeed eroded?

There are those who have not read the Constitution lately. They have not read Madison's notes lately. And they have not read probably the debates at the conventions that took place. They contend that the veto power is already there; all the President needs to do is use it. And they virtually dare the President to go ahead and use it. They say use it, go ahead and do it.

Well, there may have to be a court test of this at some point, Mr. President. If the President, indeed, succumbs to that tenuous and seductive reasoning, there may have to be a court case.

That is another reason I wanted to make these statements so they will be in the RECORD. Perhaps they can be useful at such a time as that.

To find the answers to these and other questions regarding the veto, I have carefully examined the "Debates in the Federal Convention of 1787 as reported by James Madison." My examination covered the 637 pages of Madison's notes, as they appear in Formation of the Union of the American States, House Document No. 398, 69th Congress, 1st session, Government Printing Office, Washington, DC, 1927.

Not a great deal appears regarding the veto in the record of the Convention debates. Not many of the delegates participated in discussions on the subject, and my own account—which results from my own, my own careful examination, not my staff, not somebody else, of Madison's notes—captures the essential content and flavor of the debates and the details of the actions that took place in developing the veto during the entire period, beginning on May 25, 1787, when a quorum of States had assembled, through September 17, when the signing of the Constitution occurred.

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[1] A recent study showed that the real, after-tax cost of funds in the U.S. (5.8%) is over 15% greater than in West Germany (4.9%), twice that of Japan (2.4%), and over three times greater than in Great Britain (1.9%). McCauley and Zimmer, Federal Reserve Bank of New York Quarterly Review (date).

On May 29, Edmund Randolph, of Virginia, presented a plan on behalf of the Virginia delegation. The plan included a proposal which, in paragraph No. 8, provided that "the Executive and a convenient number of the National Judiciary, ought to compose a Council of revision with authority to examine every act of the National Legislature before it shall operate * * * and that the dissent of the said Council shall amount to a rejection, unless the act of the National Legislature be again passed.* * *"

The Randolph plan, consisting of fifteen paragraphs or resolutions, was referred to the Committee of the Whole House with no indication in the record of any further discussion thereon. On June 4, in discussing Randolph's proposal No. 8, Mr. Elbridge Gerry of Massachusetts expressed doubts that the judiciary ought to form any part of the veto exercise, "as they will have a sufficient check against encroachments on their own department by their exposition of the laws, which involved a power of deciding on their constitutionality." James Wilson of Pennsylvania said, "The Executive ought to have an absolute negative. Without such a self-defense the legislature can at any moment sink it into nonexistence." He favored giving the executive and judiciary jointly an absolute negative.

Alexander Hamilton of New York and James Wilson of Pennsylvania favored an absolute negative on the laws. "There was no danger * * * of such a power being too much exercised. * * * the King of Great Britain had not exerted his negative since the [1688] Revolution." Benjamin Franklin was opposed to such a negative, as it would be used "to influence and bribe the legislature into a compleat subjection to the will of the Executive." Roger Sherman of Connecticut was "against enabling any one man to stop the will of the whole.* * *" He thought "we ought to avail ourselves of his wisdom—meaning the Chief Executive's wisdom—in revising the laws, but not permit him to overrule the decided and cool opinions of the legislature." Madison supposed that "if a proper proportion of each branch should be required to overrule the objections of the Executive, it would answer the same purpose as an absolute negative." Mr. Wilson again spoke to say he "believed as others did that this power would seldom be used. The legislature would know that such a power existed, and would refrain from such laws, as it would be sure to defeat * * * requiring a large proportion of each House to overrule the Executive check might do in peaceable times; but there might be tempestuous moments in which animosities may run high between the Executive and legislative branches, and in which the former ought to be able to defend himself." Pierce Butler of South Carolina was opposed to giving a "compleat negative on the laws," it being observed that "in all countries the Executive power is in a constant course of increase.* * * Gentlemen seemed to think that we had nothing to apprehend from an abuse of the Executive power. But why might not a Cataline or a Cromwell arise in this Country as well as in others." Gunning Bedford of Delaware was "opposed to every check on the legislative. * * * The Representatives of the people were the best judges of what was for their interest, and ought to be under no external controul whatever. The two branches would produce a sufficient controul within the legislature itself." Colonel George Mason said that the "probable abuses of a negative had been well explained by Dr. Franklin as proved by experience, the best of all tests. Will not the same door be opened here."

On the question to give the executive an absolute negative, the vote was 10 against, none for. On a motion by Butler to give the National Executive a power to "suspend any legislative act for the term of ," all the States were opposed. On a motion by Mr. Gerry to give "the Executive alone without the Judiciary the revisionary control on the laws unless overruled by ⅔ of each branch," the vote was 8 states for, to 2 states against.

On June 6, Mr. Wilson moved to include with the National Executive, "a convenient number of the national Judiciary," in the "revision of the laws." Madison seconded the motion, observing that "it would also enable the Judiciary Department the better to defend itself against legislative encroachments," and that "whether the object of the revisionary power was to restrain the Legislature from encroaching on the other coordinate Departments * * * or from passing laws unwise in their principle, or incorrect in their form, the utility of annexing the wisdom and weight of the Judiciary to the Executive" seemed incontestable. Mr. Gerry thought the Executive, standing alone, "would be more impartial than when he could be covered by the sanction & seduced by the sophistry of the Judges."

Mr. Pinkney was "opposed to an introduction of the Judges into the business." Colonel Mason believed that the "Executive power ought to be well secured against legislative usurpations on it. The purse & the sword ought never to get into the same hands whether legislative or Executive." Mr. Dickenson thought "a junction of the Judiciary * * * involved an improper mixture of powers." On the question for joining the judges to the Executive in the revisionary business, there were 8 noes and 3 ayes.

On June 13, the Committee of the Whole rose, and submitted its report on Mr. Randolph's propositions, among which it was resolved, in paragraph 10, "that the National Executive shall have a right to negative any Legislative Act, which shall not be afterwards passed unless by two thirds of each branch of the National Legislature."

On June 15, Mr. Patterson of New Jersey laid before the convention the plan which he said "several of the deputations wished to be substituted in place of that proposed by Mr. Randolph." There was no mention of a veto in the [New Jersey] plan moved by Mr. Patterson.

On June 18, during debate on the Patterson and Randolph plans in Committee of the Whole, Alexander Hamilton, who had been hitherto silent on the business before the convention, declared himself "unfriendly to both plans" and proceeded to read to the Committee of the Whole House a sketch of a plan which he preferred to either the New Jersey or the Virginia plan. He said he did not mean to offer the paper he had sketched as a proposal; it was "meant only to give a more correct view of his ideas, and to suggest the amendments which he should probably propose to the plan of Mr. Randolph in the proper stages of its future discussion."

Hamilton's proposal regarding a veto for the Executive was limited to the following words: "to have a negative on all laws about to be passed." After Hamilton completed his reading of the paper, the Committee rose and the House adjourned.

On June 19, the propositions of Mr. Patterson were again discussed, and the Committee of the Whole voted 7 to 3, with Maryland divided, to re-report the Randolph plan in preference to the Patterson plan. The Randolph plan, as rereported, was essentially unchanged regarding the veto from what it had been when first reported on June 13, namely, "that the National Executive shall have a right to negative any Legislative Act, which shall not be afterwards passed unless by two thirds of each branch of the National Legislature." The Randolph plan contained 19 resolutions, and the Framers proceeded to debate and amend the various parts.

No discussion of Resolution No. 10, having to do with the veto, occurred until July 21, in Convention, when James Wilson of Pennsylvania moved "that the supreme National Judiciary should be associated with the Executive in the Revisionary power." The proposition had been made before and had failed, but Wilson felt he should make another effort. "The Judiciary ought to have an opportunity of demonstrating against projected encroachments on the people as well as on themselves." Madison seconded the motion.

Nathaniel Ghorum of Massachusetts did not see the advantage of employing the judges in this way "nor can it be necessary as a security for their constitutional rights. The Judges in England," he said, "have no such additional provision for their defence, yet their jurisdiction is not invaded." Madison disagreed: "It would be useful to the Judiciary department by giving it an additional opportunity of defending itself against Legislative encroachments. * * * It would moreover be useful to the Community at large as an additional check against a pursuit of those unwise & unjust measures which constituted so great a portion of our calamities. * * * Experience in all the States had evinced a powerful tendency in the Legislature to absorb all power into its vortex. This was the real source of danger . . . and suggested the necessity of giving every defensive authority to the other departments that was consistent with republican principles." George Mason supported the motion, saying, "It would give a confidence to the Executive, which he would not otherwise have."

Elbridge Gerry of Massachusetts was opposed, stating that the object he "conceived of the Revisionary power was merely to secure the Executive department against legislative encroachment." Caleb Strong of Massachusetts thought that "the power of making ought to be kept distinct from that of expounding the laws" and that "the Judges in exercising the function of expositors might be influenced by the part they had taken in framing the laws." Gouverneur Morris supported the motion, observing: "The interest of our Executive is so inconsiderable & so transitory, and his means of defending it so feeble, that there is the justest ground to fear his want of firmness in resisting encroachments." Luther Martin of Maryland considered the association of the judges with the Executive as "a dangerous innovation. * * * It is necessary that the Supreme Judiciary should have the confidence of the people. This will soon be lost, if they are employed in the task of remonstrating against popular measures of the Legislature." Madison again spoke: "If a Constitutional discrimination of the departments on paper were a sufficient security to each against encroachments of the others, all further provisions would indeed be superfluous. But experience has taught us a distrust of that security." Colonel Mason spoke again, saying that he "observed that the defence of the Executive was not the sole object of the Revisionary power," but it would have a "restraining power" in hindering passage of "unjust and pernicious laws." Gerry, taking the floor again, said he "had rather give the Executive an absolute negative for its own defense then thus to blend together the Judiciary and Executive departments" as it would "bind them together in an offensive and defensive alliance against the Legislature."

Nathaniel Ghorum of Massachusetts objected to letting the Judiciary share in revisionary power of the Executive, maintaining that "as the Judges will outnumber the Executive, the revisionary check would be thrown entirely out of the Executive hands, and instead of enabling him to defend himself, would enable the Judges to sacrifice him." John Rutledge of South Carolina thought the "Judges of all men the most unfit to be concerned in the revisionary Council. The Judges ought never to give their opinion on a law till it comes before them." On Wilson's motion to join the Judiciary with the Executive in the revisionary power, the motion was defeated by a vote of 3 to 4, with Pennsylvania and Georgia divided and New Jersey absent. Resolution No. 10, giving the Executive a qualified veto, was then agreed to.

On July 26, the proceedings were referred to the Committee of detail, and the Convention adjourned until August 6 to give the Committee time to prepare and report the Constitution.

On August 6, Mr. Rutledge submitted the Report of the Committee of detail. Article VI, sect. 13, dealt with revision as follows:

> Sect. 13. Every bill, which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States for his revision: if, upon such revision, he approve of it, he shall signify his approbation by signing it: But if, upon such revision, it shall appear to him improper for being passed into a law, he shall return it, together with his objections against it, to that House in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider the bill. But if after such reconsideration, two thirds of that House shall, notwithstanding the objections of the President, agree to pass it, it shall together with his objections, be sent to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of the other House also, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for or against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within seven days after it shall have been presented to him, it shall be a law, unless the legislature, by their adjournment, prevent its return; in which case it shall not be a law.

On August 7, amendments were offered. George Read of Delaware sought to give an absolute negative to the Executive, but his motion was defeated, 1 to 9.

On August 15, amendments to Article VI were offered. When section 13 was reached, James Madison moved that "all acts before they become laws should be submitted both to the Executive and Supreme Judiciary Departments, that if either of these should object, ⅔ of each House, if both should object, ¾ of each House, should be necessary to overrule the objections and give to the acts the force of law."

Mr. President, if this ever reaches the court, I will have already done the examining of the notes of the convention for the justices. It might save them a little work.

The motion, as it appeared in the Journal, was as follows:

> Every bill which shall have passed the two houses, shall, before it becomes a law, be severally presented to the President of the United States, and to the judges of the supreme court for the revision of each. If, upon such revision, they shall approve of it, they shall respectively signify their approbation by signing it; but if, upon such revision, it shall appear improper to either, or both, to be passed into a law, it shall be returned, with the objections against it, to that house, in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider the bill: but if, after such reconsideration, two thirds of that house, when either the President, or a majority of the judges shall object, or three fourths, where both shall object, shall agree to pass it, it shall, together with the objections, be sent to the other house, by which it shall likewise be reconsidered; and, if approved by two thirds, or three fourths of the other house, as the case may be, it shall become a law.

Mr. Madison's motion was rejected by a vote of 3 to 8.

Gouverneur Morris suggested the expedient of an absolute negative in the Executive, and observed that "encroachments of the popular branch of the Government ought to be guarded against * * *. If the Executive be overturned by the popular branch, has happened in England, the tyranny of one man will ensure." Hugh Williamson of N.C. moved to change "2/3 of each House" into "3/4" as requisite to overrule the President's dissent. The motion was adopted, 6 to 4, with Pennsylvania divided. "Ten days (Sundays excepted)" instead of "seven" were allowed to the President for returning bills with his objections, with only two states voting against. Section 13 of article VI, as amended, was then agreed to. On August 16, Mr. Randolph offered the following motion, which was agreed to by a vote of 9 to 1, Massachusetts being absent:

> Every order resolution or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment and in cases hereinafter mentioned) shall be presented to the President for his revision; and before the same shall have force shall be approved by him, or being disapproved by him shall be repassed by the Senate and House of Representatives according to the rules and limitations prescribed in the case of a Bill.

No further action on this subject occurred until September 12, when Dr. Samuel Johnson of Connecticut, "from the Committee of stile," reported a digest of the plan, Sect. 7 of which was as follows:

> Every bill which shall have passed the house of representatives and the senate, shall, before it become law, be presented to the president of the United States. If he approve he shall sign it, but if not he shall return it, with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after

> such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.
>
> Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by three-fourths of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Hugh Williamson of North Carolina moved to reconsider the clause requiring three-fourths of each House to overrule the President's negative, in order to strike out "¾" and insert "⅔." Mr. Gerry supported the motion, stating that "the primary object of the revisionary check of the President is not to protect the general interest, but to defend his own department. If ¾ be required, a few Senators having hopes from the nomination of the President to offices, will combine with him and impede proper laws." Mr. Madison was opposed, believing that "the object of the revisionary power is twofold: to defend the Executive Rights, and to prevent popular or factious injustice. It was an important principle in this and in the State Constitutions," he said, "to check legislative injustice and encroachments." The question to insert "⅔" in place of "¾" was carried by a vote of 6 to 4, with New Hampshire divided.

On Thursday, September 13, Madison sought to amend the language "if any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him," by inserting between the words "after" and "it," the words "the day on which," in order to prevent a question whether the day on which the bill is presented, ought to be counted or not as one of the ten days. The amendment by Madison was defeated, 3 to 8. There was no further action regarding the veto power, and the Convention completed its work four days later on Monday, September 17.

Mr. President, my study of the Convention debates clearly shows that the discussions that took place regarding the veto power were few and were engaged in only briefly. The discussions revolved around three questions: (1) whether the veto power should be given to the Executive alone or jointly to the Executive and members of the Judiciary; (2) whether the veto should be an absolute negative; and (3) the number required for a legislative override of the Executive veto—with the discussions concentrating finally on a ⅔ requirement in preference to a ¾ majority.

There was no mention whatsoever of an item veto. The President was given a qualified negative only—not an absolute one—and it seems clear from the debates that its use was not anticipated, as the item-veto advocates would have us believe, "to be frequently and forcefully used as an essential internal control on government."

The argument by item-veto proponents that "Congress has eroded the veto power" and that the item veto is needed to restore that President's veto to its original vigor and purpose as intended by the Framers is not borne out by the record. The primary purpose in giving the President a veto power, as the record of the Convention debates clearly indicates, was to allow him to defend himself against encroachments by the legislative branch.

Our experience with the veto over the past 200 years has shown that its use has become more frequent during the last century than during the preceding one, and that the veto power has not been "eroded"—contrary to the claims that the item veto is necessary to restore the President's veto power to its "original vigor." The facts show that the veto power has been used vigorously by several Presidents and with comparatively few overrides.

Franklin D. Roosevelt is the champion with respect to vetoes, and he is fairly closely followed by Grover Cleveland with excellent records, with few overrides.

In the early years, the veto was used sparingly. President Washington vetoed only two bills. From Washington's Presidency until June 29, 1990, Presidents have exercised their veto power 2,482 times, of which 1,051 were pocket vetoes. Of the 1,431 regular vetoes, only 103, or 7 percent, have been overridden, the first override occurring under John Tyler, the Nation's 10th President.

Mr. President, the reason I do not have the number of vetoes brought up to date is simply this: This series of speeches I had prepared 2 years ago, or close thereto, because I felt that there would come a time when I would need to say a few words on the subject matter. So at that time, I prepared these speeches, and that is why I had the date of June 29, 1990, as the date up to which I had counted the number of vetoes that had been exercised. So I have not brought the speech up to date from June 29, 1990.

I thought I should make that explanation for the record.

Two Presidents vetoed legislation with exceptional frequency: Cleveland, in two terms, exercised the veto 584 times, while Franklin Roosevelt vetoed 635 bills, with all but one occurring during his first three terms. President Bush at the time I prepared this speech back in 1990, had one pocket veto and twelve regular vetoes on the scoreboard, with no overrides. With an average over these 200 years of only one override out of every 14 regular vetoes—and with President Bush batting a perfect score, 13 vetoes and no overrides—it is clear that the "qualified" Presidential veto has, in practice, proved almost absolute in regard to bills of general interest to the Nation. It should not stretch one's imagination too far to comprehend the utter futility of attempting to override an item veto if a President were to be given such power over matters of interest only to a limited area or region. In recognition of this difficulty, some Senators have advanced the proposal that a President's line-item veto be overturned by only a simple majority in both Houses, rather than two-thirds. At the Federal level, may I say, how could a relaxed requirement of only a majority veto be squared with the Framers' requirement of a two-thirds supermajority? Moreover, if only a simple majority were needed to override a veto, Congress would have to spend an inordinate amount of time in attempting to override vetoes of items of less than national significance, items important only to a region or a few States or Congressional districts.

We need only review the experienced difficulties encountered in States whose constitutions give their governors item-veto power to readily see that serious constitutional questions are inherent in such a proposal if it were to be put in place at the Federal level, regardless of the size of the number required to override. State courts have had to grapple with the interpretation of the word "item." It is confined to dollar amounts? Or does it also comprehend "substance" as well as dollar amounts?

I must caution my Senate colleagues regarding another fact that is often overlooked in the debate over the item veto: the equality between the two Houses would be negated regarding appropriations bills. This inequality would apply equally to enhanced rescissions. The Constitution requires that vetoed bills be returned by the President to the House in which the bill originated. Since regular appropriations measures customarily originate in the House of Representatives, the Senate being thereby limited to the offering of amendments, vetoed appropriations bills are, and will likely continue to be, returned by the President to the House. If the House were to decide not to attempt an override of Presidential rescissions or of item vetoes or if a House effort to override should fail, the Senate would never be given a second chance to reenact the appropriations it had originally supported. Only in the unlikely event of a House override would the Senate get a second try at bat. The House would always have a choice as to whether or not to go for the override. If it chose not to try, its decision would automatically deny the Senate the opportunity, even in instances where the items vetoed or rescinded by the President had been added in the Senate. Hence, the President could insure his veto against an override simply by choosing to veto only those items added by Senate amendments—amendments in which the House itself had little or no interest, and concerning which the House would be most unlikely to mount an effort to override.

Simply put, the item veto is a pandora's box, and it should not be opened. Even were only a majority to be required in order to override—as some would suggest—let's leave this jinni in the bottle where it has rested now for over 200 years—undisturbed!

In the recurring debates over the years concerning the item veto, much has been spoken and written about the so-called "pork" in appropriations bills. Proponents of the item veto wax eloquent when they go after "pork barrel" spending. If Voltaire were here, he would probably say, "If you wish to converse with me, define your terms." Just what is "pork"? Is it to be defined only by the beam in the eye of the beholder? If one listens closely to the advocates, it becomes indubitably clear that the working definition of "pork" is a project that Congress wants and the President does not, or a project that is in somebody else's district. On the other hand, the projects the President wants—for example, the superconducting super collider, which dwarfs—dwarfs—the normal Congressional items in the pork barrel, to say nothing of the space station—are not to be stigmatized as "pork."

I chair the Subcommittee on Appropriations for the Department of the Interior and related agencies, and I annually review the hundreds of requests that I receive from colleagues on both sides of the aisle who want funds from my subcommittee for programs or projects affecting their respective States. I, of course, shall not identify such Senators, but it has caught my attention that there are a good many Senators who strongly champion the item veto, yet, who quite unabashedly request funds from my subcommittee for their own State projects. Those projects would be bait for enhanced rescissions or an item veto by the President if he possessed such powers. This proves that there is, in fact, an exception to the old saying that you can't have your cake and eat it, too. We can, indeed, have it both ways!

In any event, just as one man's meat is another man's poison, one man's "pork" is often another man's job. Much of the vaunted pork is for rivers, dams, harbors, and water resources projects, or for highways, mass transit, and other transportation items. Pork or not, this Nation suffers from an infrastructure deficit, and such projects are important in meeting the transportation, flood prevention, industrial and commercial needs of the Nation. They also provide construction jobs and strengthen local and regional economies and bring increased revenues into government coffers at Federal, State, and local levels. Pork? Navigational improvements of our rivers, the deepening of our ports and harbors, and the building of lighthouses. All these enhance the Nation's shipping of manufactured goods, agricultural products, and raw materials, and they promote safety. Dams improve water quality, provide recreation, protect people and towns against floods, provide water for power, and husband water for release in seasons of drought. Pork? Improved water and rail and motor transportation helps to increase the productivity of workers, and increased productivity is the key to growth in the economy. Pork? If all this is pork, then the Nation needs more of it, for a nation—like a company—that does not invest in its plant and equipment, its people and its future, is bound to fail in the long run. Moreover, the item veto would only substitute a President's pork for Congress' pork, and were a President to possess this power, we would probably end up with greater spending, rather than less, at the Federal level, as the President would be telling Congressmen: "If you will vote for what I want in the bill, I will not cut out what you want." So there would be more pork than ever. If the Chief Executive were ever to be given this long handled barbecue fork—the item veto—he would become preeminent in the legislative process—the Chief Legislator, the super wheeler and dealer!

Moreover, if the President were given item veto or enhanced rescission authority, who, in the executive branch, would select the "items" to be vetoed? It would not be the President. Certainly the President does not have the time or the expertise to make such determinations involving thousands of discrete items scattered throughout the vast Federal budget. The fact is that such decisions would generally be made by bureaucrats in the Office of Management and Budget and other executive branch agencies before being channeled up to the Oval Office. Therefore, the fate of untold numbers of appropriations items affecting various and sundry projects and programs would rest in the hands of anonymous people who are not elected and who do not have to face the voters. The veto pen would be wielded by the President's hand, but, for all practical purposes, the items rescinded or stricken would be determined by individuals unknown to the Congress, unknown to the people and, in many instances, unknown even to the Chief Executive himself. Surely the Congress would think more times than twice before turning over a share of the purse strings to scores of administrative functionaries in the executive branch who would thus become de facto legislators, yet who would be unaccountable to the electorate.

Still, the proponents of the item veto and enhanced rescissions claim that the President needs such authority in order to put the brakes on congressional spending. The claim is misleading and should be seen for what it is: budgetary mythology. The fact is that Congress, over the years, has spent less than Presidents have requested in their budgets. For example, former President Reagan's budget requests during his eight years in the White House totaled $4,587,429,688,727. Congressional appropriations for those years amounted to $4,571,282,018,726, or $16,147,670,001 less than President Reagan asked for. If we wish to examine a longer period, let us look at the 44 years between 1945 and 1988, inclusive. The various administrations, Democratic and Republican, during that time requested $9,597,329,175,096, while the total of all annual, supplemental, and deficiency acts, all regular appropriations bills amounted to $9,409,700,347,968, which was $187,628,827,128, or .019 percent, under the combined budget requests of Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, and Reagan. Thus, while devotees of the item-veto like to picture frugal Presidents valiantly struggling to keep spendthrift Congresses in check, the record does not support their case, certainly not with respect to Appropriations Committee actions.

Furthermore, over half of the total Federal budget is outside the control of the congressional appropriations process and would, therefore, be beyond the ability of the President to item veto or rescind even if he were to be granted such powers.

What did President Reagan and what does President Bush have in mind as the target for cuts if given the item veto and enhanced rescission power? Obviously, not defense or foreign aid. What this means is that education, water and sewage treatment facilities, environmental and toxic waste cleanup, scientific research, air safety, job training, health services, harbor and port improvements, flood prevention projects, transportation, essential air service to rural areas, and other national needs would get the item veto knife. Is this what Senators want? Is this what the Nation's Governors want?

They want the line-item veto. Watch them scream if the President were ever to be given the line-item veto. The

Federal checks that they like to wait and have their hands out waiting for will not come. How would they then balance their budgets? Is this what the people want? These are investments in people, investments in the Nation's infrastructure, investments in the Nation's future. A company that does not invest in new plant and equipment and in the education and training and well-being of its employees will fail. Likewise, a nation that does not invest in its infrastructure, in the education and training and health of its people, and in research and technology will find itself unable to compete economically, industrially, scientifically, and culturally with other nations, and its standard of living will fall. Is this what we want for our country? This is the part of the overall budget that has taken the brunt of the cutting knife over the past 10 years. Is this where the budget will be balanced by further cuts?

Mr. President, the item veto would encourage creation of more entitlement programs. Because if there existed a danger that the President would line-item out, or use his enhanced rescissions powers which this amendment is giving, if he should line-item out the programs that were popular with Members and with their constituents, then why would not Members resort to passing of legislation giving those programs entitlement status so that it would be automatic thereafter? The President could no longer line-item veto them then.

So what this would mean, as I say, is that to give the President the line-item veto would encourage creation of more entitlement programs. Once in place, these would be beyond the reach of the veto power because such backdoor spending is not subject to the discriminating control of annual appropriations. Senators should also be aware that, although the national debate over the item veto has confined itself to the so-called "pork" in appropriations bills, such a veto could also be extended to apply to tax-revenue bills and other authorization bills. Why subject only the appropriations bills to an item-veto power and not revenue-raising bills or other authorization bills? Legislation to authorize new and costly social programs, agricultural support programs, defense authorization bills, and other authorizing measures such as acid-rain and environmental bills could also be made subject to the item veto.

That would be the purpose of the amendment which I would offer as a second-degree amendment to the pending amendment. Let the legislation that is within the jurisdiction of all of the committees be subject to the line-item veto as well as appropriations bills. Is that what we want?

I have an amendment that would provide that across the board all the committees would have their legislation subject to the item veto. How would the Armed Services Committee like to have its legislation sent down to the President and he can line-item out the items he did not want? The Armed Services Committee might want those items. The President could line them out.

I do not believe that the chairmen of authorizing committees want to see that happen. That would be the next step. It might even be the step here. If the Senate wants to take that action, it will have the opportunity. And if it should not take it now, on another day at some future time if the line-item veto is ever imposed on appropriations bills, get ready. The rest of the committees might as well get ready because it will not be long until the line-item veto will embrace and swallow them as well.

If we want to give the President a real hold on Government spending, it can be done by authorizing him to cut "items" out of legislation that authorizes back-door and other spending programs. In this way, he can kill the "authorizing" egg before it ever hatches into the "appropriations" chicken. The appropriations committees do not operate in a vacuum. Normally, they appropriate funds for programs that have been previously created by authorizing legislation enacted into law and signed by the President. Why not, then, give the President the power to item veto authorization acts passed by Congress, so that by closing the authorizing valve at the head of the line he can assure that there will be no appropriations that will flow through the spigot? Sounds interesting, does it not? How many members of the Labor and Human Resources, or Agricultural or Commerce, or Environment and Public Works, or Finance, or Armed Services or other authorizing committees would welcome that kind of a shift of power to the President?

How many ranking Members on the other side of the aisle would like to see their authorizing committees protected from the line-item veto, or from the enhanced rescissions powers?

Senators on authorizing committees who are eager to shift power to the Executive by giving him an item veto over appropriations should be aware that sauce for the goose can also be sauce for the gander. I submit that if the Senate is going to be forced to vote on the one, it should be also forced to vote on the other, and I shall try to see that it does, if that becomes necessary.

The Reagan and Bush administrations, in pressing Congress to grant line-item veto and enhanced rescission powers to the Chief Executive, have sought to frame the debate around the argument that such authority is necessary to allow the President to cut Federal spending, eliminate the deficits, and balance the Federal budget. But the real issue here is much broader than that of balanced budgets—and, incidentally, neither President Reagan nor President Bush has ever submitted a balanced budget to the Congress during their 10 years of running the Government.

The real issue is power. That is the issue. Anyone who doubts this will find most illuminating the following statement by Mr. Richard Darman, Director of OMB, during a May 13, 1990 appearance on ABC's "This Week With David Brinkley." I happen to get along very well with Mr. Darman. I like him. But I think since this is public information anyhow, I will just use it here.

Mr. George Will, a columnist who likes the line-item veto said:

> The line-item veto was used by Governors Reagan, Thompson of Illinois, Thornburgh of Pennsylvania. ... It's an interesting management tool, but no one really thinks that's a way to cut the kind of deficit we're talking about. Are you suggesting that?
>
> Mr. DARMAN. No. ... In and of itself, it isn't directly a significant way to cut the deficit. What it does do is it transfers a degree of power to the Executive branch and gives the President, in the case of the Federal Government, a stronger position in negotiations. That stronger position could be used, for example, to get savings in other program areas.

So, Mr. President, I repeat that the real issue is power, just as Mr. Darman said on that occasion. It goes to the very heart of our constitutional system of checks and balances and separation of powers. Power. I do not want to see that power in the hands of any President. I do not want to see it in the hands of a Republican President. I do not want to see it in the hands of a Democratic President.

It is not a battle over turf; it is a battle over the division of powers between the executive and the legislative branches of Government. That division and balancing of powers between these two branches—setting aside the third branch, the judicial, in the context of this argument—is what is fundamentally at stake here, and the sooner this is understood, the more clearly will appear both the folly and the danger of the proposals being advanced.

The central mainspring in our constitutional balancing system is control of the purse. Just as the love of money is, according to the Scripture, the root of all evil, so is money the milk of politics and the grease of government. The item-veto debate, when shorn of all of its fancy trappings, is a debate about power, and control of the purse is the bone and sinew of power.

I did not put that power here. The constitutional Framers put it in the legislative branch—the power of the purse—and that is where it ought to stay. That is where it has been these 200 years. I have already related in an earlier speech how those Framers, who met in Philadelphia in 1787, knew about the history of England, about the long struggle of Englishmen to wrest the control of the purse away from tyrannical monarchs and place it in the hands of the representatives of the people in Parliament.

In the pages of history, we have witnessed the centuries-long struggle for Anglo-American liberty, and the parallel struggle for power over the purse—the safeguard of liberty—when that power remains vested in the legislative branch, the branch of government that is closest to the people. It is a historical positive that was clearly stated by William Ewart Gladstone in a speech at Hastings on March 17, 1891. He said:

> The finance of the country is ultimately associated with the liberties of the country. It is a powerful leverage by which English liberty has been gradually acquired. . . . If the House of Commons by any possibility lose the power of the control of the grants of public money, depend on it, your very liberty will be worth very little in comparison. That powerful leverage has been what is commonly known as the power of the purse—the control of the House of Commons over public expenditure.

Mr. President, Gladstone was right in associating the "power of the control of the grants of public money" with one's "very liberty." The power to appropriate money or to withhold its appropriations is the power to shape public policy and determine the Nation's priorities. The Founding Fathers placed this power squarely in the hands of the legislative branch, specifically providing that money can be drawn from the Treasury only as a consequence of appropriations made by law and providing that only the Congress can make such law. The only participation the President was given in the process was by way of a qualified negative, a qualified veto, which could be overridden by a two-thirds vote in both Houses of the Congress. The President was limited to accepting or rejecting the congressional enactment in its entirety. He could not pick and choose. It was all or nothing. The priorities were to be determined by Congress, not the President. In determining the priorities, Congress—not the President—would make public policy. Whether the public purse would be tapped to clean up the Nation's toxic wastes, deepen the Nation's harbors, provide aid to education, or place a man on the Moon, would be determined by the people's directly elected Representatives in Congress, not by a President chosen indirectly by the people through electors. The power over the purse was not concentrated in one man, the President, but was diffused among many representatives of the people and of the State sitting in two separate Houses of Congress. That is what the Constitution of the Untied States provides. That is not provided by the constitutions of the 50 States. The power of the purse was not vested in the legislative branch by State constitutions, but by the Federal Constitution. The Framers knew that liberty would best flourish where power was least concentrated, and they established a system of separated powers as a safeguard against tyranny. Reciprocal restraints between the legislative and executive branches are fundamental to the operation of the system and the preservation of the people's liberties.

I hope the Governors will study the Constitution of the United States. They have tough jobs. They have to know something about their State constitutions. But they also ought to be able to recognize the difference in their own State constitution and the Federal Constitution.

Surely, if they know that difference, they had been able to grasp the fundamental principle that the power of the purse is the foundation stone of this constitutional system and that power of the purse is lodged in the Congress of the United States. And that although at the State level, they, the Governors, may have the line-item veto, they are two different spheres—the State and the Federal Government. They operate differently and have different responsibilities.

And I would assume that the Governors of the States are as equally jealous of the separation of powers and checks and balances of the Federal Constitution as those of us in this legislative branch. But, as I say, perhaps they have not read the Constitution lately.

The most effective instrument of restraint possessed by the legislative against a powerful executive branch is the control of the purse, and were the President to be granted item veto or enhanced rescission authority it would seriously unbalance the delicate system that was put in place by the Constitution. Just as water does not flow uphill, so would the flow of power to the executive be permanent, the legislative branch would be correspondingly weakened for all time. The power to set the Nation's priorities, and the initiative on spending as a determinant of public policy would be transferred to the hands of an imperial President.

It is difficult to imagine how the Congress could deal a more fatal blow, not only to itself, but also to the basic structure of our Federal Government. The office of the Presidency is already the repository of awesome power. Its occupant is Commander in Chief, the head of the executive branch, the titular leader of his political party with extensive patronage at his disposal, and his "bully pulpit"—in this modern telecommunications age—gives him an enormous advantage in going over the heads of Congress to appeal directly to the people. If, in addition to these formidable strengths, he were given the item veto or enhanced rescission authority, he would become king in everything, except name only and Congress would be left with no check and balance over him other than that of impeachment.

Woodrow Wilson, in his book "Congressional Government," referred to the veto power as the President's "most formidable prerogative," and, by its exercise, "the President acts not as the executive but as a third branch of the legislature." If the President were to be armed with the item veto he would dominate the appropriations process and render the national legislature subservient to his will, even in matters independent of the appropriations function—such as treaties and Supreme Court nominations or the sale of the AWACS airplane to Iran or Stingers to Kuwait, or a capital gains tax. It would be to give the Executive a club which could be held over individual Members of the Congress, and even whole delegations, to coerce their cooperation on wholly unrelated legislative propositions in which the Executive was especially interested. Since money is the lifeblood of policies, the President could, by vetoing or rescinding items of appropriations, strike at those policies with which he was not in agreement—whether it be farm policy, REA, low-income public housing, aid to education, environmental cleanup, civil rights, or school lunch programs—and effectively negate, alter, or make them anemic. By rescinding the moneys, he could cut off the life-support systems for any and all congressional programs which were not to his liking and for which a two-thirds majority in both Houses was lacking.

I hope that Senators will, if they thought once, I hope they will think again about this amendment, and I hope that my Republican friends will remember that they will not always have George Bush in the White House. They will not always have a Republican President in the White House. One day there is going to be a change. There will be a Democrat in the White House. And when that happens, as it surely will, one day, how then will they view the line-item veto and enhanced rescissions. How then would they like to have their programs in the hands of a President of the other party?

That is what I am thinking of, Mr. President. I am thinking of our Constitution, our constitutional system, and the wisdom of the constitutional Framers who placed the power of the purse here in this institution. And the only element that the President can exercise in that power is the veto. And it is a qualified veto as I have already, I think, demonstrated. That much, as President Bush says; No more.

With a line-item veto in his arsenal, the President with the support of only one-third plus one of the Members in either House could, by the item veto, defeat public policy supported by the remaining two-thirds minus one in that body and the unanimous vote of the other House. The other House could be unanimously against him. For a more dramatic example, though it is unlikely that such a combination would ever occur, take the 17 States of Alaska, Delaware, Hawaii, Idaho, Maine, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, West Virginia, and Wyoming. These States have a total population of something like 17½ million people, 17½ million out of 250 million. With the solid support of the 34 Members of the Senate, I hope my friends if they are not listening will read, with the solid support of the 34 Members of the Senate from these 17 States having a total population of only 17½ million, and representing only 5 percent of the entire population of the Nation, the President could thwart the will of the remaining 66 Members of the Senate and the entire 435 Members of the house, representing 95 percent of the people of the United States. Give the President those 17 States that I have named, here in the Senate, and he can thwart the will of the 435 Members of the House, and the other 66 Members of the Senate, if we give him the line-item veto. While this, admittedly, is an extreme example, it nevertheless makes the point. Is this majority rule.

Originally, the veto was primarily designed to shield the executive from encroachments from the legislature. Without the veto, so Hamilton argued, "the former would be absolutely unable to defend himself against the depredations of the latter." To allow the President to set up his individual opinion against that of Congress in detailed matters of public policy, by empowering him with the item-veto weapon, would be to confer on the executive a legislative function entirely foreign to the original concept of the nature and purpose of the veto. He could exercise this item veto almost with impunity when his own party is in control of Congress.

Montesquieu's principle of separation of powers is a fundamental in the American constitutional system of government, to be observed wherever possible with only such overlapping as is needed to give effect to the other great principle of checks and balances. A transfer of control of the purse strings to the executive would be a major power shift and would threaten the very foundations of our Government. Such a concentration of power could be an enormous threat to civil liberties. Hence, the case for the line-item veto as a way to foster fiscal restraint is but a mere side show. The main event is in the big tent—the expansion of Presidential power. It should be avoided as one would shun the bite of an asp!

Mr. President, I have spoken now on the order of 6 hours. I hope that the Senate collectively will not have lost its mind, and that on tomorrow it will support the point of order which will be raised by the distinguished Senator from Tennessee [Mr. SASSER] and in so doing, will vote against the motion to waive the Budget Act.

If the motion to waive should succeed, then there will be a full-fledged filibuster, and it will take more than 60 votes to shut off the filibuster.

Mr. President, I thank the occupant of the chair for his patience and fortitude in presiding over the Senate during the time that I have held the floor.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 479 at 11:15 a.m. on Thursday, February 27, Senator SASSER be recognized to make a budget point of order against the pending McCain-Coats amendment No. 1698 and that Senator MCCAIN then be recognized to make a motion to waive the Budget Act; that there then be 2 hours and 10 minutes of debate on that motion to waive the Budget Act, with Senator DECONCINI controlling 10 minutes of that time, with the balance being equally divided and controlled in the usual form; that at the conclusion or yielding back of time on the motion to waive, the Senate proceed to vote on that motion; that if the motion to waive the Budget Act prevails, Senator BYRD be recognized to offer a second-degree amendment to the pending McCain-Coats amendment No. 1698, and that there be no further agreement with respect to proceeding on the bill thereafter; that if the motion to waive the Budget Act fails, there then be 30 minutes on the bill and on the committee substitute amendment, inclusive; and that the only amendments in order, in addition to the committee substitute be the following:

That they be first degree, except where noted otherwise, with limitations on debate as indicated:

Thirty minutes on an amendment by Senators BROWN and BIDEN relative to section 7 of the substitute; 5 minutes on an amendment by Senators LEAHY and THURMOND relevant to the committee substitute; an amendment by Senator WALLOP on reporting requirements; a second-degree amendment by Senator LEAHY to the amendment by Senator WALLOP; and 5 minutes on a managers' technical amendment; that all allocations of time listed above be equally divided and controlled in the usual form; that no motion to recommit be in order; and that at the conclusion or yielding back of time on the committee substitute, the Senate proceed to vote on the adoption of the committee substitute amendment, as amended, if amended; read the bill for the third time; and vote on final passage of the bill, as amended, with all these steps occurring without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

No objection is heard. The request by the majority leader is approved.

LUMBEE TRIBE OF CHERAW INDIANS RECOGNITION ACT

Mr. MITCHELL. Mr. President, I understand that the Republican leader is not in a position to give consent to proceed to H.R. 1426, the Lumbee Indian Recognition Act.

Mr. DOLE. That is correct.

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, in view of the Republican leader's inability to give consent, I now move to proceed to the immediate consideration of calendar No. 384, H.R. 1426, the Lumbee Indian Recognition Act, and I send to the desk a cloture motion and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to H.R. 1426, an act to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes:

Daniel K. Inouye, David L. Boren, Bob Graham, Jeff Bingaman, Herb Kohl, John Breaux, J. Lieberman, Pat Leahy, Alan Cranston, J.J. Exon, Tom Daschle, Wendell Ford, Dale Bumpers, Charles S. Robb, Dennis DeConcini, Timothy E. Wirth, Christopher Dodd, Terry Sanford.

Mr. MITCHELL. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. The Senator has that right.

NOMINATION OF BARBARA HACKMAN FRANKLIN

Mr. MITCHELL. Mr. President, I further ask unanimous consent, as if in executive session, notwithstanding rule XXII, that at 3 p.m. on Thursday, February 27, or upon the conclusion of S. 479, whichever occurs later, the Senate proceed into executive session to consider the nomination of Barbara Hackman Franklin to be Secretary of Commerce, and that, upon the disposition of the nomination, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection? The Chair hearing none, without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I further ask unanimous consent that immediately following the disposition of S. 479 or the nomination of Barbara Franklin to be Secretary of Commerce, there then be 2 hours of debate prior to a vote on the motion to invoke cloture on the motion to proceed to the consideration of H.R. 1426, with the time equally divided and controlled between the two leaders or their designees, and with the live quorum being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I wish to correct one misstatement I made earlier. In my reference to the circumstance which would occur if the motion to waive the Budget Act prevails, which I added extemporaneously to this written agreement, I stated that the remainder of the agreement with respect to this bill would fail, would not be operative if the motion to waive prevails. I intended to state that the entire agreement with respect to all of the other provisions, not just those relating to this bill, would not be in effect should the motion to waive prevail. And I want to clarify that to make certain there is no misunderstanding.

The PRESIDING OFFICER. Without objection, the clarification outlined by the majority leader is agreed to and made a part of the unanimous-consent agreement.

Mr. BYRD. Mr. President, reserving the right to object, and I shall not, did I understand the leader to say in the event a motion to waive fails that the rest of the agreement would obtain, but if the motion to waive carried, the rest of the agreement would be invalid?

Mr. MITCHELL. Actually, the Senator has stated in the question, stated the rest of the agreement being inoperative in either alternative.

What I said, at least what I intended to say, is that if the motion to waive the Budget Act, which motion will be made by Senator MCCAIN, prevails or carries, then there will be no further agreement under all of the parts of the agreement which I have read here and stated here. It would not be operative, and the Senator from West Virginia would then be recognized to offer a second-degree amendment to the McCain-Coats amendment; that is, if his motion to waive carries—"prevails" is the word I used.

If, on the other hand, the motion to waive the Budget Act fails, then all of the remainder of this agreement, and that relates to this bill, the nomination of Barbara Franklin and the Lumbee Indian Recognition Act, would all become operative.

Mr. BYRD. In other words, if the motion by Mr. MCCAIN to waive is agreed to, the bill then may be filibustered tomorrow?

Mr. MITCHELL. That is correct.

Mr. BYRD. Well, it will be.

Mr. MITCHELL. I assume that is correct, too.

Mr. DOLE. We had some indication.

Mr. BYRD. I thank the leader.

The PRESIDING OFFICER. The foregoing requests with the clarifications as noted are agreed to.

The text of the agreement follows:

Ordered, That at 11:15 a.m. on Thursday, February 27, 1992, when the Senate resumes consideration of S. 479, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States, the Senator from Tennessee (Mr. Sasser) be recognized to make a budget point of order against the pending McCain/Coats Amendment, No. 1698, and that the Senator from Arizona (Mr. McCain) then be recognized to make a motion to waive the Budget Act.

Ordered further, That there then be 2 hours and 10 minutes of debate on the motion to waive the Budget Act, with 10 minutes under the control of the Senator from Arizona (Mr. DeConcini) and the remaining time equally divided and controlled in the usual form; at the conclusion or yielding back of time on the motion to waive, the Senate proceed to vote on the motion.

Ordered further, That if the motion to waive the Budget Act prevails, the Senator from West Virginia (Mr. Byrd) be recognized to offer a second amendment to amendment No. 1698, and that the agreement on S. 479, H.R. 1426, and the Franklin nomination be considered vitiated.

Ordered further. That if the motion to waive the Budget Act fails, there then be 30 minutes on the bill and on the committee substitute amendment, inclusive; that the only amendments in order, in addition to the committee substitute, be the following, that they be first degree amendments, except as noted otherwise, with limitations on debate as indicated:

Brown/Biden: Relative to Sec. 7 of the substitute; 30 minutes.

Leahy/Thurmond: Relevant to the committee substitute; 5 minutes.

Wallop: Relative to reporting requirements.

Leahy: 2nd degree amendment to the Wallop amendment.

Managers: Technical amendment; 5 minutes.

Ordered further, That all allocations of time, listed above, be equally divided and controlled in the usual form and that no motion to recommit be in order.

Ordered further, That at the conclusion or yielding back of time on the committee substitute, the Senate proceed to vote on the adoption of the substitute amendment, as amended, if amended; read the bill for the third time; and vote on final passage of the bill, as amended; with all these steps occurring without any intervening action or debate.

Ordered further, That, notwithstanding the provisions of Rule XXII, at 3 p.m. on Thursday, February 27, 1992, or upon the disposition of S. 479, whichever occurs later, the Senate proceed into Executive Session to consider the nomination of Barbara Hackman Franklin to be Secretary of Commerce, and that upon the disposition of the nomination, the President be immediately notified of the Senate's action, and the Senate then immediately return to Legislative Session.

Ordered further, That immediately following the disposition of S. 479. or the nomination of Barbara Hackman Franklin, to be Secretary of Commerce, there then be 2 hours of debate prior to a vote on the motion to invoke cloture on the motion to proceed to the consideration of H.R. 1426, a bill to recognize the Lumbee Indian tribe of North Carolina, with the time equally divided and controlled between the two Leaders or their designees, and with the live quorum being waived.

MORNING BUSINESS

LOAN GUARANTEES FOR ISRAEL

Mr. MOYNIHAN. Mr. President, the annual plenary session of NJCRAC, the National Jewish Community Relations Advisory Council, was held this year in Portland, OR. The 600 delegates at this plenum included officers of the 13 national Jewish organizations and 127 local Jewish community relations councils that are affiliated with NJCRAC.

Our colleague, Senator ROBERT PACKWOOD, was a featured speaker at this plenary session which was the first ever held in his State. Friends among the delegates from New York State reported the depth of the Oregonian hospitality and the quality of careful discussion that characterized this gathering.

I thought the Members of the Senate would be interested in the plenary session's thoughtful statement on this pressing question on loan guarantees to assist Israel in the absorption of recent immigrants from the former Soviet Union and Ethiopia. The member agencies of NJCRAC have many different views on most policy questions, particularly as they relate to the territories that came under Israeli control during the June 1967 war. Yet they speak with one voice in support of the humanitarian need for these loan guarantees and call upon "our Government and the Government of Israel to reach an agreement, in the context of shared interests, they will enable the necessary legislation to be enacted expeditiously by Congress."

Mr. PACKWOOD. Mr. President, as Senator MOYNIHAN mentioned, earlier this month in Portland, OR, I was honored to speak at the National Jewish Community Relations Advisory Council. I strongly agree with the NJCRAC's statement on loan guarantees for the absorption of immigrants to Israel. The moral and humanitarian arguments are the most compelling reasons why the administration and Israel should continue to work toward an agreement on the loan guarantees that is mutually acceptable. It is my hope that such an agreement can be reached.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that a copy of the NJCRAC plenum statement on loan guarantees and a list of the NJCRAC constituent organizations be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PLENUM STATEMENT ON LOAN GUARANTEES

There is no higher priority on the Jewish communal agenda today than the successful absorption in Israel of the massive immigration, particularly from the former Soviet Union. This modern day exodus was made possible through the continuous efforts of successive U.S. administrations working in close cooperation with members of Congress, Israel, the American Jewish community, the many non-Jewish friends of the Soviet Jewry movement and supporters of the principle of freedom of emigration. President George Bush always has been among the most devoted of U.S. officials to the cause of freedom for Soviet Jews and to the rescue of Ethiopian Jewry. Rather than requesting grants or loans, Israel now has turned to the U.S. seeking guarantees, so that capital can be borrowed from private lending institutions in order to meet the pressing humanitarian needs of the new immigrant families.

We, the assembled delegates at the Plenary Session of the National Jewish Community Relations Advisory Council in Portland, Oregon, representing 13 national and 117 community agencies from across the country, affirm our strong support for the loan guarantees. We believe that this is a humanitarian, not a political issue. We urge our government and the government of Israel to reach an agreement, in the context of shared interests, that will enable the necessary legislation to be enacted expeditiously by Congress.

NJCRAC CONSTITUENT ORGANIZATIONS

NATIONAL AGENCIES

American Jewish Committee
American Jewish Congress
B'nai B'rith/Anti-Defamation League
Hadassah
Jewish Labor Committee
Jewish War Veterans of the U.S.A.
National Council of Jewish Women
Union of American Hebrew Congregations
Union of Orthodox Jewish Congregations of America
United Synagogue of America/Women's League for Conservative Jordanian
Women's American ORT

COMMENTARY AGENCIES

ALABAMA

CRC of the Birmingham Jewish Federation

ARIZONA

CRC of the Greater Phoenix Jewish Federation
JCRC of the Jewish Federation of Southern Arizona

CALIFORNIA

Jewish Federation of Greater Long Beach and West Orange County
CRC of the Jewish Federation-Council of Los Angeles
JCRC of the Greater East Bay
Jewish Federation of Orange County
JCRC of Sacramento
JCRC of United Jewish Federation of San Diego
JCRC of San Francisco, the Peninsula Marin and Sonoma Counties
JCRC of Greater San Jose

CONNECTICUT

Jewish Federation of Greater Bridgeport
Jewish Federation of Greater Danbury
Jewish Federation of Eastern Connecticut
CRC of Greater Hartford, Jewish Federation
Jewish Federation of Greater New Haven
United Jewish Federation of Stanford
Jewish Federation of Waterbury

DELAWARE

Jewish Federation of Delaware

DISTRICT OF COLUMBIA

Jewish Community Council of Greater Washington

FLORIDA

Jewish Federation of South Broward
Jewish Federation of Fort Lauderdale
Jacksonville Jewish Federation
Greater Miami Jewish Federation
Jewish Federation of Greater Orlando
Jewish Federation of Palm Beach Country
Jewish Federation of Pinellas County
Sarasota-Manatee Jewish Federation
South Palm Beach County Jewish Federation

GEORGIA

Atlanta Jewish Federation
Savannah Jewish Federation

ILLINOIS

JCRC of the Jewish United Fund of Metropolitan Chicago
Jewish Federation of Peoria
Springfield Jewish Federation

INDIANA

Indianapolis JCRC
Jewish Federation of St. Joseph Valley

Iowa

Jewish Federation of Greater Des Moines

KANSAS

(See Missouri)

KENTUCKY

Central Kentucky Jewish Federation
Jewish Community Federation of Louisville

LOUISIANA

Jewish Federation of Greater Baton Rouge
Jewish Federation of Greater New Orleans
Shreveport Jewish Federation

MAINE

Jewish Federation-Community Council of Southern Maine

MARYLAND

Baltimore Jewish Council

MASSACHUSETTS

JCRC of Greater Boston
Jewish Federation of North Shore
Jewish Federation of Greater New Bedford
Jewish Federation of Greater Springfield
Worcester Jewish Federation

MICHIGAN

Jewish Community Council of Metropolitan Detroit
Flint Jewish Federation

MINNESOTA

JCRC/Anti-Defamation League of Minnesota and the Dakotas

MISSOURI

Jewish Community Relations Bureau of Greater Kansas City
St. Louis JCRC

NEBRASKA

ADL/CRC of the Jewish Federation of Omaha

NEW JERSEY

Federation of Jewish Agencies of Atlantic County
United Jewish Community Bergen County/North Hudson
Jewish Federation of Central New Jersey
Jewish Federation of Clifton-Passaic
Metro West United Jewish Federation
Jewish Federation of Greater Middlesex County
JCRC Jewish Federation of North Jersey
JCRC of Southern New Jersey
Jewish Federation of Mercer and Bucks Counties

NEW MEXICO

Jewish Federation of Greater Albuquerque

NEW YORK

Jewish Federation of Broome County
Jewish Federation of Greater Buffalo
Elmira Jewish Welfare Fund
Jewish Federation of Greater Kingston
JCRC of New York
United Jewish Federation of Northeastern New York
Jewish Federation of Greater Orange County
Jewish Community Federation of Rochester
Syracuse Jewish Federation
Utica Jewish Federation

OHIO

Akron Jewish Community Federation
Canton Jewish Community Federation
Cincinnati JCRC
Cleveland Jewish Community Federation
CRC of the Columbus Jewish Federation
JCRC of the Jewish Federation of Greater Dayton
CRC of the Jewish Federation of Greater Toledo
JCRC of Youngstown Area Jewish Federation

OKLAHOMA

Jewish Federation of Greater Oklahoma City
Jewish Federation of Tulsa

OREGON

Jewish Federation of Portland

PENNSYLVANIA

CRC of the Jewish Federation of Allentown
Erie Jewish Community Council
CRC of the United Jewish Federation of Greater Harrisburg
JCRC of Greater Philadelphia
CRC of the United Jewish Federation of Pittsburgh
Scranton-Lackawanna Jewish Federation
Jewish Federation of Greater Wilkes-Barre

RHODE ISLAND

CRC of the Jewish Federation of Rhode Island

SOUTH CAROLINA

Charleston Jewish Federation
Columbia Jewish Federation

TENNESSEE

JCRC of the Memphis Federation Council
Jewish Federation of Nashville and Middle Tennessee

TEXAS

Jewish Federation of Austin
Jewish Federation of Greater Dallas
JCRC of the Jewish Federation of El Paso
Jewish Federation of Fort Worth and Tarrant County
CRC of the Jewish Federation of Greater Houston
JCRC of the Jewish Federation of San Antonio

VIRGINIA

United Jewish Community of the Virginia Peninsula
Jewish Community Federation of Richmond
United Jewish Federation of Tidewater

WASHINGTON

Jewish Federation of Greater Seattle

WISCONSIN

Madison Jewish Community Council
Milwaukee Jewish Council

MESSAGES FROM THE HOUSE

At 4:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the bill of the Senate (S. 884) to require the President to impose economic sanctions against countries that fail to eliminate large-scale drift net fishing, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2152. An act to enhance the effectiveness of the United Nations international driftnet fishery conservation program;

H.R. 3519. An act to authorize the establishment of the Steamtown National Historic Site;

H.R. 4113. An act to permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier U.S.S. Lexington to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorial; and

H.J. Res. 414. Joint resolution regarding the San Antonio Drug Summit.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 239. Concurrent resolution congratulating the people of Lithuania for their successful peaceful revolution and their continuing commitment to the ideals of democracy.

The message also announced that pursuant to section 141(a)(C) of Public Law 101-649, the minority leader appoints the following individuals from private life to serve as members of the Commission on Legal Immigration Reform on the part of the House: Mr. Harold W. Ezell of Newport Beach, CA, and Mr. Robert Charles Hill of Rockville, MD.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3519. An act to authorize the establishment of the Steamtown National Historic Site; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second time by unanimous consent, and placed on the calendar:

H.R. 2152. An act to enhance the effectiveness of the United Nations international drift net fishery conservation program.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2683. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, a report on budgeting for administrative costs under credit reform; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget, and to the Committee on Governmental Affairs.

EC-2684. A communication from the Administrator of the General Services Administration, transmitting, a draft of proposed legislation to improve the acquisition system; to the Committee on Governmental Affairs.

EC-2685. A communication from the Inspector General of the National Endowment for the Arts, transmitting, pursuant to law, a report presenting the results of the Endowment's review of the covered activities for fiscal year 1991; to the Committee on Governmental Affairs.

EC-2686. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, the annual report on States' compliance with standards for the accreditation of educational programs for personnel who perform radiologic procedures, as well as standards for the certification of such individual for calendar year 1991; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Alan Greenspan, of New York, to be a member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1992.

Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years.

Frank G. Zarb, of New York, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1992.

J. Carter Beese, Jr., of Maryland, to be a member of the Securities and Exchange Commission for a term expiring June 5, 1996.

William C. Perkins, of Wisconsin, to be a Director of the Federal Housing Finance Board for a term of 1 year.

Lawrence U. Costiglio, of New York, to be a Director of the Federal Housing Finance Board for a term of 3 years.

Marilyn R. Seymann, of Arizona, to be a Director of the Federal Housing Finance Board for a term of 5 years.

Daniel F. Evans, Jr., of Indiana, to be a Director of the Federal Housing Finance Board for a term of 7 years.

(The above nominations were approved subject to the nominee's commitment to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE:

S. 2261. A bill to amend Section 162 of the Internal Revenue Code of 1986 relating to deductions for trade or business expenses; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. HEFLIN, Mr. PRYOR, Mr. BOREN, Mr. DASCHLE, Mr. HARKIN, Mr. CONRAD, Mr. BAUCUS, Mr. ADAMS, Mr. FORD, Mr. WELLSTONE, Mr. AKAKA, Mr. SANFORD, Mr. SHELBY, Mr. JOHNSTON, Mr. DECONCINI, Mr. ROCKEFELLER, and Mr. DIXON):

S. 2262. A bill to make emergency supplemental appopriations to provide a short-term stimulus to promote job creation in rural areas of the United States, and for other purposes; to the Committee on Appropriations.

By Mr. MOYNIHAN (for himself, Mr. SPECTER, and Mr. WOFFORD):

S. 2263. A bill to authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI:

S. 2264. A bill to reduce the 52 percent unemployment rate on Indian reservations by amending the Internal Revenue Code of 1986 to provide Indian Employment Opportunity tax credits to employers within Indian reservations, and for other purposes; to the Committee on Finance.

By Mr. BROWN (for himself and Mr. SMITH):

S. 2265. A bill to rescind unobligated appropriations for fiscal year 1992; to the Committee on the Budget, the Committee on the Judiciary, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Governmental Affairs and the Committee on Veterans Affairs, jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee and other committees be authorized to report their views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

By Mr. DODD (for himself, Mr. RIEGLE, Mr. D'AMATO, Mr. DIXON, Mr. SANFORD, Mr. WIRTH, Mr. KERRY, and Mr. BRYAN):

S. 2266. A bill to provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CRANSTON:

S. 2267. A bill for the relief of Charles Richmond; to the Committee on Governmental Affairs.

By Mr. CRANSTON (for himself, Mr. PACKWOOD, Mr. WIRTH, and Mr. JEFFORDS):

S. 2268. A bill to make the import alert issued by the Food and Drug Administration with respect to the drug RU-486 ineffective and for other purposes; to the Committee on Labor and Human Resources.

By Mr. RIEGLE:

S. 2269. A bill to temporarily extend the Defense Production Act of 1950; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DURENBERGER (for himself, Mr. WOFFORD, Mr. KASTEN, Mr. KOHL, Mr. DASCHLE, Mr. SEYMOUR, Mr. ROCKEFELLER, Mr. SPECTER, Mr. BREAUX, Mr. D'AMATO, Mr. BURDICK, Mr. LEAHY, Mr. WELLSTONE, and Mr. HARKIN):

S. Con. Res. 95. A concurrent resolution concerning the United States Trade Representative's review of previously rejected Generalized System of Preferences (GSP) petitions from Central and Eastern European Countries, and the denial of certain petitions for which no review was initiated in the 1990 review; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE:

S. 2261. A bill to amend section 162 of the Internal Revenue Code of 1986 relating to deductions for trade or business expenses; to the Committee on the Finance.

TAX TREATMENT OF CERTAIN COMPENSATION

Mr. DASCHLE. Mr. President, American taxpayers should not have to subsidize the salaries of the chief executive officers of major corporations. I send to the desk a bill to free them from that burden.

My bill to abolish CEO salary subsidies is straightforward and modest. It says that corporations paying their CEO's over $500,000 per year may not deduct that compensation as a business expense.

Americans legitimately may ask why executive compensation is so out of step with norms of logical compensation. According to a Business Week study, the average annual compensation of U.S. executives in 1990 was nearly $2 million. What riles many is that the huge increase in pay during the 1980's not only seems unjustified by corporate performance levels but is way out of line with the historic relationship between executive pay and the pay of the average worker. In a single decade, compensation of chief executive officers [CEO's] jumped 212 percent, while the factory workers saw their pay grow by just 53 percent, engineers by 73 percent, and teachers by 95 percent. During that very same period the average earnings per share of the S&P 500 companies grew by only 78 percent.

Even in 1990, corporate profits fell, on average, 7 percent, while CEO's compensation increased by 7 percent. Recent studies have found U.S. CEO's being paid between 100 and 160 times more than the average American worker. These levels are five times higher than those of our five largest foreign competitors.

Some would say that the level of compensation is justified by the level of risk involved in these high-paid positions. Top corporate executives argue that they do not enjoy the same degree of job security as the average worker and can be fired at a moment's notice by their boards of directors. However, statistics do not support such a claim. In fact, there does not appear to be any relationship between risk and reward. Whatever risk there once was has been virtually eliminated by large annual increases in compensation, regardless of performance. Instead, it is the average worker who is now at greater risk of being forced to accept lower wages and benefits or, even worse, unemployment.

CEO compensation is set by corporate boards of directors, who often are themselves CEO's of other companies. This creates a potential conflict of interest. Most boards rely on comparable compensation studies conducted by compensation consultants, who are hired by the CEO. As compensation packages increase in value for a few, these comparable compensation studies place pressures on other companies to grant corresponding increases.

Although it is universally acknowledged for other purposes that the United States operates in a global economy, for purposes of setting CEO compensation levels, we in the United States rarely, if ever, take into account the compensation of CEO's in other industrialized nations. If the compensation studies included this factor, it would become immediately apparent that the level of CEO compensation in this country is excessive.

According to the 1990 edition of Towers Perrin's Worldwide Total Remuneration, the average total compensation paid to executives in companies with at least $250 million in gross annual sales was higher in the United States than in any of the other 19 industrialized countries included in the study. United States corporate executive compensation ranges from 163 percent of Canadian executive compensation to 459 percent of Korean corporate executive compensation. Our chief executives receive over twice as much as their Japanese and British peers.

Mr. President, I recognize this is America, where the sky's the limit. I do not rise today to dispute the right of American corporations to pay their top executives as much as they like. I leave that issue for another day.

My purpose today is to object to making the average taxpayer subsidize outrageous corporate executive salaries, and to introduce legislation to stop that practice. Until recently, few people have focused on the fact that, under current law, corporations may deduct compensation paid to their executives. While the law supposedly limits this deduction to reasonable and necessary compensation, the fact of the matter is that executive compensation is rarely, if ever, challenged on this basis.

The bill I am introducing, therefore, would expressly disallow the business deduction for executive compensation to the extent an executive's compensation exceeds $500,000 in any given year. Under the proposal, the deduction would be disallowed for any compensation, including an executive's salary, bonuses, stock options, restricted stock, and performance grant. The fact of the matter is that a major portion of the compensation of most executives is in nonsalary form. This allows for increases in nonsalary compensation that could be masked from public scrutiny.

While the $500,000 floor may appear arbitrary, it is intentionally set far above the average compensation received by the highest paid executives in all other industrialized nations. I also propose to index this rate to allow for adjustments for inflation.

The proposal I am advancing today is ideally suited to the legislation currently before Congress to instill fairness into the Tax Code and promote economic growth. Moreover, at a time when resources are limited for achieving our goals in this area, this measure may realize substantial savings to the U.S. Treasury. At least one study has shown that the compensation of up to 83 percent of corporate executives exceeds the $500,000 level. I encourage my colleagues not only to support this legislation, but to work with me in securing its speedy passage as part of the pending tax legislation.

By Mr. LEAHY (for himself, Mr. HEFLIN, Mr. PRYOR, Mr. BOREN, Mr. DASCHLE, Mr. HARKIN, Mr. CONRAD, Mr. BAUCUS, Mr. ADAMS, Mr. FORD, Mr. WELLSTONE, Mr. AKAKA, Mr. SANFORD, Mr. SHELBY, Mr. JOHNSTON, Mr. ROCKEFELLER, Mr. DIXON, and Mr. DECONCINI):

S. 2262. A bill to make emergency supplemental appropriations to provide a short-term stimulus to promote job creation in rural areas of the United States, and for other purposes, to the Committee on Appropriations.

RURAL JOBS AND INVESTMENT ACT OF 1992

Mr. LEAHY. Mr. President, I am very proud to be a product of rural America. My own State of Vermont is considered one of the most rural in this country. It is one where we have seen generation after generation of Leahys for nearly a century and a half, proud to be citizens of this rural State.

There is no future in rural America if there are no jobs. It is as simple as that. That is why today I am introducing the Rural Jobs and Investment Act of 1992.

This legislation provides a life preserver to keep our rural economy afloat during this recession.

Rural America has been hit hard by the recession. The economy of rural America continues to spiral downward. During the 1980's, while we spent billions of taxpayers' dollars on defense, S&L bailouts, and foreign aid, the needs of rural America were ignored. In a void created by a decade of neglect, rural America needs help now.

We were told last year that the recession would be brief and that any Federal assistance would be wasted—left in the pipeline when the economy began to recover. Well, that was wrong on both counts. The recession has not ended. It has gotten worse.

And, investment in rural America is not a waste. It is an investment that creates jobs now and makes us more productive for the future.

Nowhere is this investment needed more than in rural America. In 1991, 1 in 10 rural Americans was unemployed. In rural Vermont alone, unemployment rose 30 percent just last year.

The key to the success of this initiative is to create jobs and do it quickly. In this legislation, there are no gimmicks. It is investment in rural America that will help rural Americans. This bill does not create new Federal programs. Instead, it supplements 1992 funds that Congress has already approved last fall. The bill specifically targets money to programs that have proven records. These projects include water and sewer construction and repair, electric power transmission, business expansion, and affordable housing.

I was told recently by the town manager of St. Johnsbury, VT, that with a small increase in Federal water and sewer dollars, he could "put every single plumber in that area to work." This legislation gives St. Johnsbury's town manager, and every other town manager throughout rural America, the money to hire such people and put them to work now.

This is not a make-work jobs bill; this is an investment-in-our-future bill. This bill is to help rural America create jobs today. This bill is essential for rural America.

No company is going to locate in a rural community, and businesses cannot expand in rural areas, unless thay have clean water and adequate, reliable sewer systems. That's why this bill provides over $2 billion for water and sewer needs. No company can survive if they do not have a reliable electric supply. That's why this bill will provide $700 million to meet the outstanding demand for Rural Electric Administration loans. No company can expand without investment capital. That is why this bill provides nearly $500 million for rural economic loan and grant programs—the very same amount requested by the Secretary of the Treasury for economic development in Latin America for 1992.

This recession is draining our national spirit. It is draining our Government's resources. Overall, it is going to add $99 billion to the Federal deficit in 1992. The cost of this legislation would be offset because by creating jobs we lower costs to the Federal Government and increase revenue.

Let me use a simple example. In my State, if an average Vermonter loses his or her job, it adds approximately $15,000 to our deficit. The taxpayers' dollars have to be used to cover $2,300 in annual tax losses and $12,300 in unemployment benefits. By putting people back to work, we lower Federal assistance costs, we increase tax revenues, and we give people a sense of purpose. We, once again, hold out that bright future for rural America. In fact, it is estimated that we can save $33 billion for every 1 percentage point the national unemployment rate is lowered.

There are some that say, "We cannot afford not to. We have to invest in rural America. We can build strong rural communities that remain proud of their rural heritage.

This bill is the first step toward assuring a better future for rural America. Now is the time to begin.

Mr. President, I ask unanimous consent that I be allowed to have this legislation introduced, have it appropriately referred, and introduce it on behalf of myself, Mr. HEFLIN, Mr. PRYOR, Mr. BOREN, Mr. DASCHLE, Mr. HARKIN, Mr. CONRAD, Mr. BAUCUS, Mr. ADAMS, Mr. FORD, Mr. WELLSTONE, Mr. AKAKA, Mr. SANFORD, Mr. SHELBY, Mr. JOHNSTON, Mr. ROCKEFELLER, Mr. DIXON, and Mr. DECONCINI.

The PRESIDING OFFICER (Mr. GORE). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I see the distinguished Senator from North Dakota here.

I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise to commend the chairman of the Agriculture Committee with this initiative.

If ever there was a need, this is it. One out of every eight persons in rural America is out of a job. Rural unemployment is 20 percent higher than 1 year ago, and rural unemployment is 27 percent higher than urban unemployment. We have a crisis, Mr. President, in the heartland of America.

Senator LEAHY, as chairman of the Agriculture Committee, has come forward with an agenda, an agenda to address the deep-seated problems that we face.

Rural America is not alone. We know, as we analyze what has happened in the United States, that we have let funding of our infrastructure slip. We know that infrastructure investment is directly linked to productivity growth. As we look at our major competitors all across the world we see that they are on the move, and we are standing still.

The questions before this body, before the Congress, before the leadership of this country are: What are we going to do? How are we going to respond? Are we going to respond?

Mr. President, I hope we answer loudly and clearly in the affirmative.

The bill that the Senator from Vermont has introduced is an excellent piece of legislation. It says: no new programs; let us use those programs that have proven that they work.

Mr. President, the programs that are enhanced by this bill to work. They build infrastructure. They provide jobs, which is precisely what is needed in rural America today.

This bill, if passed, will create 168,000 jobs in this country. Mr. President, that is what is needed. It will not just be a make-work program. These are jobs that are going to build the heartland of this country, build the foundation of this country, so America can be more efficient, more competitive. That is precisely what we ought to do.

Mr. President, I would be remiss if I did not mention very specifically a program that I have worked on for all 5 years that I have been in the Senate. It is called AARC—the Alternative Agricultural Research and Commercialization Centers. It has a very long title. It has a very simple mission. The mission is to commercialize the nonfood, nonfood uses of our agricultural commodities—"new uses".

The new farm and forest products task force during the Reagan administration identified the commercialization of new uses as the most significant opportunity for rural America. The task force investigated what could be done to reinvigorate the economies in the rural parts of our country and they concluded that we have an enormous opportunity.

We do outstanding commercial research in this country. We do outstanding basic agricultural production research in this country. But we fail to commercialize that research.

All to often what we find is that our friends from Japan and Europe are right here in this country going from college campus to college campus, from research lab to research lab, looking at what is on the shelf. What they find Mr. President, is that America has discovered new uses for agricultural commodities. They take the ideas, they go back home and commercialize these products and move them in the world marketplace.

Mr. President, we have to fight back, and the bill that Senator LEAHY has introduced helps us fight back. It says America is going to stand up. America is going to build its foundation and strengthen its core.

Mr. President, I thank the Senator from Vermont for his leadership and urge my colleagues to take a close look at this legislation, because, very frankly, we have an opportunity to help rural America.

For a long time we have been spending money abroad by paying the military bills for our allies in Europe and Japan. For a very long time we have built their infrastructure, we have subsidized their economies, we have made them stronger and more competitive. Now is the time, now is the opportunity to bring some of those resources home to rebuild the heartland of America. This is the opportunity. This is the time. We ought to seize it.

I thank the Chair, and I thank the chairman as well.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator from North Dakota for those words. I should note that the Senator from North Dakota is a very valued member of the Senate Agriculture Committee, as he is a number of other committees. But certainly on the Agriculture Committee, which I chair, you have not seen any member of that committee who has been a more consistent, more ardent advocate for the needs of rural America, the needs to get people back to work, to help them with education, create jobs, than the Senator from North Dakota. I applaud what he has said here.

It is that kind of commitment, I believe, that protects rural America. Too often those of us from rural America think that our voices get drowned out in the demands and the calls, many very justifiable, of urban America. But I do not think the voices will ever be drowned out as long as the Senator from North Dakota is here because he makes it very clear that they are heard, and I am delighted to have his support.

Mr. WELLSTONE. Mr. President, the recession which continues to grip this country's economy has meant pain for tens of thousands of American households. Nobody can be unaware of this fact. Yet, as has been the case for the past decade, the difficulties of one important group of Americans have been relatively underreported in discussions of this recession. I am talking about the citizens of rural America, the one-third of our people who live in nonmetropolitan areas. Rural America has been particularly hard hit, not only in the past year, but for the last decade.

The Rural Jobs and Investment Act of 1992, introduced today, of which I am an original cosponsor, takes immediate and concrete steps to address the economic difficulties of rural America. It mobilizes Federal Government resources immediately to build and maintain necessary economic infrastructure in rural communities. It will create new jobs right away, when jobs are exactly what those communities most urgently need. The programs for this measure already exist, and the administrative structure is in place. This legislation simply acknowledges that money which we have committed for this year to defense spending is no longer needed for that purpose. The cold war is over. It is time to turn our attention to basic domestic needs.

I hope that this bill, which will provide an immediate infusion of $6 billion for backlogged projects that meet urgent needs in rural housing, sewer and water, energy conservation and weatherization, electrification, and other infrastructure categories, will become part of a comprehensive economic recovery package soon to be considered by the Senate. We need job creation now. And rural America needs the kinds of infrastructure projects that this bill funds. In addition to funding for infrastructure, the measure also promotes rural economic development through community development block grants, Small Business Administration microloans and the Alternative Agricultural Research and Commercialization Program.

This measure will do more than stimulate immediate economic growth, although that is desperately needed. The bill also demonstrates our commitment to the future of these communities and their quality of life. Modernization and improvement of basic rural infrastructure is needed so that our small towns and communities can continue to make vital contributions to this country's economic and social life, contributions from which our entire society has derived incalculable benefit.

The recession has exacerbated profound economic problems facing rural America. But our present economic troubles represent a mere continuation of stress for rural communities. Since the agricultural crisis of the early and middle 1980's, rural America has struggled. It has lost money, it has lost resources, and it has lost population.

Even aside from the current recession, rural poverty since the 1980's has hovered three to four points higher than the national average: 16–17 percent for rural areas compared to around 13 percent nationally. A recent report by the U.S. Department of Agriculture indicates that a rural child is far more likely to live in poverty than the average American child; 24 percent of children in nonmetropolitan areas lived in poverty in 1987, with another 12 percent living near the poverty line. That compares to 20 percent of children in metropolitan areas living in poverty, with an additional 9 percent living near poverty.

Of the heads of rural families living in poverty, a higher percentage actually have jobs than do their metropolitan counterparts. In fact, more of the rural poor work full time than do urban poor. The problem is the loss of good jobs in rural areas. People need good jobs, jobs that can support a family. Farm income has declined in real terms, rural manufacturing has declined, and rural people have been pushed into low-paying, service-sector jobs.

Our domestic economic policy of the last decade has ignored key elements of national economic health. We have allowed our rural economy to decline. This must change. There is no more important role for the Federal Government today than to help lead our economy out of its depressed condition. We need to stimulate growth, and there is only one way to do that—investment, both public and private. We will be debating various measures this year in search of the best ways to encourage private investment that will promote long-term growth and global competitiveness.

But private investment is only one part of the recovery solution. The Federal Government must invest directly to create jobs and stimulate growth. The experience of every successful economy in the world today shows that public investment in human capital and infrastructure plays a key role in promoting economic prosperity. America has fallen behind our leading competitors in public capital investment, and our productivity and competitiveness are suffering as a result.

This rural jobs and investment bill will put people to work quickly doing needed work. In Minnesota there is a great deal of outstanding demand for such projects. For rental housing, Minnesota received $4 million in funding for seven construction projects in 1991. However, there is a backlog of 13 rental housing applications which, if fully funded, could bring another $10 million to Minnesota in direct construction spending. Similarly, Minnesota has nearly 700 applications outstanding for single-family housing loans, loans which nationally average over $45,000 apiece. There is clearly a strong need for more housing in rural Minnesota.

Further, 12 Minnesota rural electrical cooperatives also have outstanding applications for loans that would be guaranteed or insured under the provisions of this bill, to the total tune of over $32 million. In addition, the backlog for sewer and water projects in rural Minnesota totals around $52 million in loans and $7 million in grants.

Funding for projects such as these will directly benefit my State, as it will every other State with rural-project backlogs in these program areas. We estimate that this measure will create over 160,000 jobs.

It is clear to anyone who travels in our heartland and its rural communities that rural America is crying out for jobs—real jobs accomplishing real, productive work. As we craft an economic recovery package this year, we must ensure that appropriate investments are made in the people and communities of rural America. This bill represents such an investment. Rural jobs and infrastructure have been too long neglected in our economic policy, and we as a nation are suffering the consequences. I urge my colleagues to support this legislation.

By Mr. MOYNIHAN (for himself, Mr. SPECTER, and Mr. WOFFORD):

S. 2263. A bill to authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson; to the Committee on Banking, Housing and Urban Affairs.

ANNIVERSARY OF THE AMERICAN PHILOSOPHICAL SOCIETY AND THE BIRTH OF THOMAS JEFFERSON

• Mr. MOYNIHAN. Mr. President, the American Philosophical Society will celebrate its 250th anniversary in April 1993. In 1743 Benjamin Franklin, one of the society's principal founders, wrote:

> The first drudgery of settling new colonies is now pretty well over and there are many in every province in circumstances that set them at ease, and afford leisure to cultivate the finer arts, and improve the common stock of knowledge.

Thus was the country's first learned society born. Its early members included most of the great founders of the Republic: Washington, Adams, Hamilton, Paine. Membership was not limited to Americans, however. European scientists also proudly proclaimed membership in the society on title pages of their books.

The society's contribution to the young Nation cannot be overlooked. Such were its resources and great influence that it served many functions: national academy of science, national library and museum, even patent office. Then as today, most anyone of great scholarly accomplishment was included among its ranks. In 1780 Pennsylvania granted a charter which guaranteed that the APS might correspond with learned individuals and institutions "of any nation or country." The State also deeded a portion of Independence Square to the society, on which it erected a hall in 1785–89.

The American Philosophical Society promotes useful knowledge in the sciences and humanities through excellence in scholarly research, professional meetings, publications, library resources, and community service. Its members are elected for their scholarly and scientific accomplishments in all fields of learning, including mathematical and physical sciences, biological and medical sciences, social sciences, humanities, and public affairs.

The society's library is a major national center of research. It holds some 180,000 volumes and 6,000 manuscripts specializing in the history of science in America and its European background. It also houses a vast biographical archives and an outstanding collection of maps and prints. Its rare book collection is among the finest in the world.

As important is the role the society plays in promoting research. It bestows awards upon those accomplished in such fields as jurisprudence, astronomy, and navigation. It also sponsors major research grant programs, and has over the years given some $14 million to 11,000 individual scholars and scientists. More than $30 million has gone to other scholarly projects.

In short, Mr. President, we owe an incalculable debt to the American Philosophical Society. It is more than a learned society; it is a national treasure. Next year's anniversary coincides with the 250th anniversary of the birth of Thomas Jefferson, both member and third president of the society. The APS plans to commemorate both of these historic dates with special events in Philadelphia. I rise today to introduce a bill authorizing the striking of a gold medal to present to the society as Congress' contribution to this lofty occasion. I trust my colleagues will concur that this is fitting recognition for an organization which has contributed so mightily to the cultural and intellectual life of this Nation. I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the American Philosophical Society was founded by Benjamin Franklin in 1743 in Philadelphia and is the oldest learned society in the United States and one of the principal scholarly and scientific bodies in the world;

(2) the American Philosophical Society plans to celebrate its 250th anniversary and the 250th anniversary of the birth of Thomas Jefferson with programs and activities to be held in Philadelphia, Pennsylvania, in April 1993;

(3) Thomas Jefferson served as the third president of the American Philosophical Society at the same time as he served as President of the United States; and

(4) it is proper and desirable to pay tribute to the American Philosophical Society and to Thomas Jefferson's devotion to learning as exemplified in the principles and programs of the American Philosophical Society.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—In commemoration of the 250th anniversary of the founding of the American Philosophical Society and the 250th anniversary of the birth of Thomas Jefferson, the President is authorized to present, on behalf of the Congress, to a duly authorized representative of the American Philosophical Society, a gold medal of appropriate design.

(b) DESIGN AND STRIKING.—The Secretary of the Treasury is authorized and directed to strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary in consultation with representatives of the American Philosophical Society.

SEC. 3. DUPLICATE MEDALS.

(a) AUTHORIZATION AND DIRECTION TO THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury is authorized and directed to strike 50 bronze duplicates of the gold medal struck pursuant to section 2.

(b) SALE OF DUPLICATE MEDALS.—The Secretary of the Treasury is authorized and directed to sell the bronze duplicates to the American Philosophical Society at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(c) PRESENTATION OF DUPLICATE MEDALS.—The American Philosophical Society shall present the bronze duplicates to persons of scholarly achievement in connection with annual ceremonies.

SEC. 4. NATIONAL MEDALS.

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) EXCEPTION.—Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated an amount not to exceed $30,000 to carry out the purposes of this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate medals to the American Philosophical Society under section 3 shall be credited to the appropriation made pursuant to the authorization provided in subsection (a).•

By Mr. DOMENICI:

S. 2264. A bill to reduce the 52-percent unemployment rate on Indian reservations by amending the Internal Revenue Code of 1986 to provide Indian employment opportunity tax credits to employers within the Indian reservations, and for other purposes; to the Committee on Finance.

INDIAN EMPLOYMENT OPPORTUNITY ACT OF 1992

• Mr. DOMENICI. Mr. President. I am pleased to join my colleagues, Mr. MCCAIN and Mr. INOUYE, in offering the Indian Employment and Investment Act of 1992. At this time, I would also like to reintroduce my legislation, the Indian Employment Opportunity Act.

I urge Members who have a genuine interest in creating private sector job opportunity for Americans to consider the approach common to each of these pieces of legislation during the Finance Committee's markup of an economic recovery tax bill.

I remind my colleagues, that an economic recovery package that neglects the plight of our native Americans is a poor reflection of American values.

American Indians are by far America's poorest ethnic group. About one-half of America's 1,400,000 Indians live on reservations. To justify the need for reform, consider that the average rate of unemployment on Indian lands is 52 percent.

Sadly, it is not heritage that links our tribes together, but rather the lack of economic infrastructure, and all of the associated problems that plague chronically depressed communities.

The 1980 census data reveals that 40.5 percent of Indians living on reservations live below the poverty level, and severe social problems are attendant; alcoholism, drug abuse, and highway deaths. Housing conditions on a reservation are just a notch above homelessness.

Long before I came to the U.S. Senate, Washington has shown concern for Indian people, but it has sought to achieve this with a broad range of programs of direct support. Obviously much of that support has been important, but the figures also show that the assistance has not been very successful.

I want to see a tidal wave of jobs and opportunity sweep across America—dignity of a job, a real job, a productive job.

Jobs are not a cure all, but jobs do create hope, afford options, and restore dignity.

With regard to creating jobs and employing America's Indian people, the employment tax credit in the Employment Opportunity Act works such that the more jobs are created, the greater the tax benefit. It does this without imposing a destructive bureaucratic barrier.

In my bill, if an American corporation moves to the Indian reservation and agrees to hire 90 percent Indian people from that reservation, they will receive a wage-based credit for the next 10 years.

The company will receive 60 percent of the first $8,800 in salary per employee as an Indian opportunity tax credit. For the next amount of earnings up to $33,000 per worker, the employer will receive a 20-percent tax credit. The wage caps are indexed for inflation and would be adjusted annually.

The purpose of the tax credit is to invite private sector, profitmaking companies to the Indian lands of our country. Although this approach is job oriented, not profit oriented.

My bill will not simply displace workers, because American companies are prohibited from closing down elsewhere to move to the reservation. The work force at an eligible firm must be at least 90 percent comprised of members of that particular tribe, pueblo or reservation.

To assure against abuse, my bill makes it a Federal felony for any businessperson to offer a bribe to any Indian official, or for any Indian to accept such a bribe.

Last, the tribe decides if they chose the credit, because if they do opt for the credit, they must agree with the Federal Government that for 10 years they will not substantially change the tax laws of the Indian reservation or tribe so as to diminish the effectiveness of the Federal incentives.

This legislation, like the McCain bill, is geared to employ hundreds, if not thousands of Indian men and women in meaningful, full-time employment. It is designed to build an economic base. It is designed to build mainstream job opportunity.

Is this idea so new? It is not, really. The 1984 Treasury Department study on tax reform advocates this approach and it has been successful in Puerto Rico. While many variations of tax incentives on Indian lands have been proposed, frankly, this approach will be the most effective because it ties the reward directly to the jobs created, not the profits that are made.

The bill being introduced by Senators MCCAIN, INOUYE, and myself incorporates many of the provisions of my bill and follows the same approach. In addition, the McCain-Inouye-Domenici bill includes an investment tax credit to counter the current disincentives to investment on Indian lands, like double taxation and infrastructure deficiencies.

The investment tax credit is geared specifically to reservations where Indian unemployment levels are unconscionable—the credit is available only on reservations having an unemployment rate exceeding the national average by at least 300 percent.

The credit percentage in the bill is drafted high, 25 percent for personal property, 33.3 percent for new construction and infrastructure investment. The static numerical value of the credit is designed to reflect the need for a differential.

The differential means the difference between the level of the credit on Indian lands and off Indian lands. The Congress is expected to enact an investment tax credit. Therefore, the reservation tax credit must be greater than the ordinary tax credit in order to achieve it's purpose of attracting investment especially to Indian lands.

Therefore, in order to bring investment opportunity to Indian lands, the differential is of the essence. In this regard, I encourage the tax writing committees to examine the appropriate credit level.

I truly believe that these approaches have the potential to eliminate one of our Nation's greatest contradictions; the disenfranchisement, and unemployment of our Nation's most resourceful people, the American Indians. It is one of my greatest hopes that the Federal Government will lead American industry to employ and invest in our Indian people, so that, subsequently, they can afford to preserve and develop their own culture.

Again, I urge the Senate Finance Committee to give this issue its greatest attention. I request unanimous consent that the Indian Employment Opportunity Act of 1992 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment Opportunity Act of 1992."

SEC. 2. INDIAN EMPLOYMENT OPPORTUNITY CREDIT.

(a) INDIAN EMPLOYMENT OPPORTUNITY CREDIT.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by inserting after section 29 the following new section:

"SEC. 30. INDIAN EMPLOYMENT OPPORTUNITY CREDIT.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 60 percent of the qualified employment expenditures of the eligible employer for the taxable year not exceeding $8,840, and

"(2) 20 percent of such expenditures exceeding $8,840 but not exceeding $33,370.

"(b) LIMITATIONS BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for a taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over

"(B) the tentative minimum tax for the taxable year.

"(2) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(A) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an Indian employment opportunity credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an Indian employment opportunity credit carryover to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1992, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of clauses (i) and (ii)) such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under this section for such taxable year, and "(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EMPLOYMENT EXPENDITURES.—The term 'qualified employment expenditures' means the qualified wages paid or incurred by the eligible employer during the taxable year to qualified employees with respect to all Indian reservations.

"(2) QUALIFIED WAGES.—The term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(3) ELIGIBLE EMPLOYER.—The term 'eligible employer' means any employer with a trade or business located within an Indian reservation and whose full-time work force with respect to such trade or business is comprised of at least 90 percent qualified employees.

"(4) QUALIFIED EMPLOYEE.—

"(A) IN GENERAL.—The term 'qualified employee' means any member of the Indian tribe which has jurisdiction over the Indian reservation—

"(i) at least 90 percent of whose services for the eligible employer during the taxable year are directly related to the conduct of such employer's trade or business located within such Indian reservation, and

"(ii) who performs at least 50 percent of his services for such employer during the taxable year within such Indian reservation.

"(B) EXCEPTION FOR INDIVIDUALS WITH RESPECT TO WHOM CREDIT IS DETERMINED UNDER SECTION 51(a).—The term 'qualified employee' shall not include an individual with respect to whom any credit for the eligible employer is determined under section 51(a) for the taxable year (relating to targeted jobs credit).

"(5) INDIAN RESERVATION.—The term 'Indian reservation' means an Indian reservation, pueblo, public domain Indian allotment, former Indian reservation in Oklahoma, or land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601, et seq.).

"(d) APPLICATION TO CERTAIN ENTITIES, ETC.—For purposes of this section, under regulations prescribed by the Secretary, rules similar to the rules of section 52 (other than subsection (b) thereof) and section 41(f)(3) shall apply.

"(e) INFLATION ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxable year beginning after December 31, 1991, each dollar amount contained in subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof.

"(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10).

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the abuse of such purposes by denying the credit allowable under this section to employers which relocate their businesses within an Indian reservation while displacing former employees or which otherwise conduct their businesses so as to take advantage of the credit allowable by this section without furthering such purposes."

(b) NO DEDUCTION ALLOWED.—Section 280C of the Internal Revenue Code of 1986 (relating to disallowance of deductions for certain expenses for which credits are allowable) is amended by adding at the end thereof the following new subsection:

"(d) RULE FOR SECTION 30 CREDITS.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable under section 30 (relating to the Indian employment opportunity credit.). This subsection shall be applied under a rule similar to the rule under the last sentence of subsection(a)."

(c) GUARANTEE AGREEMENT.—Any Indian tribal government of an Indian reservation within which employers utilize the employment tax credit allowable under section 30 of the Internal Revenue Code of 1986 (as added by this section) shall enter into an agreement with the Secretary of the Treasury (at such time and in such form and manner as the Secretary prescribes) guaranteeing that for the period of 10 years from the date of the agreement, or if less, the period during which such section 30 is in effect, such government shall not impose or modify any tax treatment or business regulation which would lessen the tax benefits of such section 30 with respect to such employers.

(d) TECHNICAL AMENDMENTS RELATED TO CARRYOVER AND CARRYBACK OF CREDITS.—

(1) CARRYOVER OF CREDIT.—

(A) Subsection (c) section 381 of the internal Revenue Code of 1986 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph.

"(26) CREDIT UNDER SECTION 30.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 30, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 30 in respect to the distributor or transferor corporation."

(B) Paragraph (2) of section 383(a) of such Code is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) unused Indian employment opportunity credit under section 30,"

(2) CARRYBACK OF CREDIT.—

(A) Subparagraph (C) of section 6511(d)(4) of such Code (defining credit carryback) is amended by inserting "and any Indian employment opportunity credit under section 30(b)" before the period at the end thereof.

(B) Subsection (a) of section 6411 of such Code (relating to tentative carryback and refund adjustments) is amended—

(i) inserting "Indian employment opportunity credit carryback," after "section 172(b)," in the first sentence, and

(ii) by striking so much of the second sentence as follows "the return for the taxable year" and inserting the following: "of the net operating loss, net capital loss, unused Indian employment opportunity credit, or unused business credit from which the carryback results and within a period of 12 months after such taxable year (or, with respect to any portion of an Indian employment opportunity credit carryback, or business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, within a period of 12 months form the end of such subsequent taxable year or, with respect to any portion of a business credit carryback attributable to a research credit carryback or an Indian employment opportunity credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year) in the manner and form required by regulations prescribed by the Secretary".

(C) Subsections (a)(1) and (b) of section 6411 of such Code are each amended by inserting "unused Indian employment opportunity credit," after "net capital loss,".

(e) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 29 the following new item:

"Sec. 30. Indian employment opportunity credit."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after January 1, 1992, in taxable years ending after such date.

SEC. 3. BRIBERY OF TRIBAL OFFICIALS.

(a) IN GENERAL.—Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1169. Bribery of tribal officials

"(a) Whoever—

"(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any tribal official, or person who has been selected to be a tribal official, or offers or promises any tribal official, or any person who has been selected to be a tribal official, to give anything of value to any other person or entity, with intent—

"(A) to influence any official act,

"(B) to influence any tribal official, or person who has been selected to be a tribal official, to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the Indian tribe of such tribal official or person or on the United States, or

"(C) to induce any tribal official, or person who has been selected to be a tribal official, to do or omit to do any act in violation of the lawful duty of such official or person; or

"(2) being a tribal official, or person selected to be a tribal official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for—

"(A) being influenced in the performance of any official act,

"(B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the Indian tribe of such tribal official or person or on the United States, or

"(C) being induced to do or omit to do any act in violation of the official duty of such tribal official or person, shall be fined not more than the greater of $20,000 or 3 times the monetary equivalent of the thing of value, or imprisoned for not more than 15 years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

"(b) For purposes of this section—

"(1) The term 'tribal official' means any officer or employee of, or any individual acting on behalf of, any Indian tribe or any branch of government of an Indian tribe.

"(2) The term 'person who has been selected to be a tribal official' means any person who has been nominated or appointed to be a tribal official, or has been officially informed that such person will be so nominated or appointed.

"(3) The term 'official act' means any decision or action on any question, matter, cause, suit, proceeding, or controversy, which may at any time be pending, or which may by law be brought before any tribal official, in such official's capacity, or in such official's place of trust or profit.

"(4) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, Regional Corporation or Village Corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seqq.)) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

"(b) CONFORMING AMENDMENT.—The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1169. Bribery of tribal officials.".●

By Mr. BROWN (for himself and Mr. SMITH):

S. 2265. A bill to rescind unobligated appropriations for fiscal year 1992; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition and Forestry, to the Committee on the Judiciary, to the Committee on Commerce, Science and Transportation, to the Committee on Armed Services, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Governmental Affairs, and to the Committee on Veterans Affairs.

SPENDING PRIORITY REFORM ACT OF 1992

● Mr. BROWN. Mr. President, common sense tells us Congress should at least review a project before it is funded. The bill I am introducing today, the Spending Priority Reform Act of 1992, identifies 642 projects totaling more than $1.5 billion from the fiscal year 1992 appropriations bills. All these projects failed to follow the budget process, yet Congress funded them.

The purpose of this bill is to restore a measure of discipline and fiscal responsibility to the budget process. If a project has merit, it will survive the rigors of the budget process. The process should work for meritorious projects by weeding out unnecessary, wasteful spending. This can only be achieved if we give the process the chance to work by adhering to the budget rules and procedures.

The bill rescinds any unobligated funds for these 642 projects and returns the balance to the Treasury to reduce our $400 billion deficit. Mr. President, I ask that at the conclusion of my remarks, a chart listing by appropriations bill, the number of these projects and the dollar value, appear in the RECORD.

The savings from this proposal are small relative to the $1.5 trillion Federal budget, but this legislation highlights the obvious flaws in the congressional budget process and the need for reform. I am pleased that Senator BOB SMITH is an original cosponsor. I am joined in this effort by Representatives FAWELL and PENNY who are introducing a companion bill in the House.

A bipartisan coalition of Members and citizens groups developed a set of criteria which were used in determining whether or not projects were sufficiently scrutinized to merit expenditure of the taxpayers' money. The projects included in this bill met at least three of the following seven criteria:

Spending appropriated by Congress was never the topic of a congressional hearing;

Spending was not authorized;

Spending was added in conference;

Spending was not awarded on a competitive basis;

Appropriation does not relate to the legislation which funds it or the agency which administers the project;

Appropriation earmarked in violation of established congressional procedure or the process prescribed by law; and

Appropriation was for projects of purely local interest, without national or regional importance.

The three criteria most often met were that the projects were not authorized, not subject to an authorization hearing, and not competitively awarded. This says something about the way Congress spends the taxpayers' money. It is time to curb the number of federally funded projects which receive funding although they do not follow the budget rules and procedures.

Controlling Federal spending is the biggest challenge we face today because Congress does not adhere to the budget process, set priorities, and make the tough, but necessary, fiscal choices. This year the Federal deficit is estimated to be $400 billion. Now, more than ever, it is important for Congress to stick to the budget process in order to evaluate each and every dollar it spends.

Congress must set priorities and control wasteful Government spending. Eliminating over $1.5 billion in Federal spending is a step in the right direction. It sends a clear message to the American taxpayers that it is not business as usual in Washington, we are serious about fiscal discipline.

I ask unanimous consent that the chart and the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPENDING PRIORITY REFORM ACT OF 1992

[Totals]

Appropriation bill	Projects	Total amount
1. Agriculture	141	$73,979,000
2. Commerce/Justice/State	69	90,619,000
3. Defense	43	203,160,000
4. Energy and Water	17	94,350,000
5. Interior	36	90,783,000
6. Transportation	122	534,174,000
7. Treasury/Postal Service	6	55,289,400
8. VA/HUD	208	398,009,000
Total:	642	1,540,363,400

S. 2265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Spending Priority Reform Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Use of money for deficit reduction.

TITLE I—AGRICULTURE APPROPRIATIONS

Sec. 101. Special research grants.

TITLE II—COMMERCE, JUSTICE, STATE AND RELATED AGENCIES APPROPRIATIONS

Subtitle A—Department of Justice

Sec. 201. State and local law enforcement assistance grants.

Subtitle B—Department of Commerce

Sec. 211. National Oceanic and Atmospheric Administration.
Sec. 212. Fresh-water hatchery.
Sec. 213. Fish oil research.
Sec. 214. International Trade Administration.

Subtitle C—Related Agencies

Sec. 221. Small business administration.'
Sec. 222. Tree planting program.

Subtitle D—Department of State

Sec. 231. Miscellaneous direct grants.

TITLE III—DEPARTMENT OF DEFENSE APPROPRIATIONS

Sec. 301. University grants.
Sec. 302. Miscellaneous projects.
Sec. 303. Army—operations and maintenance.
Sec. 304. Navy-operations and maintenance.
Sec. 305. Defense agencies.

TITLE IV—ENERGY AND WATER APPROPRIATIONS

Subtitle D—Department of State

Sec. 401. Department of Defense-Civil.
Sec. 402. Department of the Interior.
Sec. 403. Department of Energy.
Sec. 404. Solar and renewable energy programs.
Sec. 405. Biological and environmental research.
Sec. 406. Supporting research and technical analysis.
Sec. 407. Materials production and other defense programs.

TITLE V—INTERIOR AND RELATED AGENCIES APPROPRIATIONS

Sec. 501. National Park Service.
Sec. 502. Construction and anadromous fish.
Sec. 503. National Forest System.

TITLE VI—TRANSPORTATION APPROPRIATIONS

Sec. 601. Motor carrier safety grants.
Sec. 602. Federal highway demonstration projects.
Sec. 603. Highway feasibility studies.
Sec. 604. Feasibility, design, environmental, and engineering projects.

TITLE VII—TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

Sec. 702. General Services Administration.

TITLE VIII—VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS

Subtitle A—Department of Veterans Affairs

Sec. 801. Construction projects.

Subtitle B—Department of Housing and Urban Development

Sec. 811. Special purpose grants.
Sec. 812. Policy development and research grants.

Subtitle C—Independent Agencies

Sec. 821. Environmental Protection Agency.
Sec. 822. Federal Emergency Management Agency.
Sec. 823. National Aeronautics and Space Administration.

TITLE IX—BLUE SMOKE AND MIRRORS

Sec. 901. Sense of the congress.
Sec. 902. Use of money for service for deficit reduction.

SEC. 2. USE OF MONEY FOR DEFICIT REDUCTION.

It is the sense of Congress that any money returned to the Treasury as a result of this Act should be deposited in the General Fund of the Treasury to be applied against the Federal budget deficit.

TITLE I—AGRICULTURE APPROPRIATIONS

SEC. 101. SPECIAL RESEARCH GRANTS.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for special research grants provided by the Secretary of Agriculture under section 2(c) of the Act of August 4, 1965 (7 U.S.C. 450i(c)); and

(2) the grants were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1992 (Public Law 102–141; 105 Stat. 883–884); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following amounts provided for special research grants (Conference Report to accompany H.R. 2698, House Report 102–239, pages 15 through 18):

Aflatoxin (IL)	134,000
Agribusiness management (MS)	75,000
Agricultural diversification (HI)	154,000
Agricultural management systems (MA)	261,000
Agricultural trade (ND)	350,000
Alfalfa (KS)	125,000
Alternative cropping systems (Southeast)	278,000
Alternative crops (ND)	700,000
Alternative marine and fresh water species (MS)	275,000
Alternative pest control (AR)	1,400,000
Alternative to dinoseb (OR)	225,000
Animal waste disposal (MI)	120,000
Appalachian hardwoods (WV)	750,000
Apple quality research (MI)	94,000
Aquaculture (general)	316,000
Aquaculture (Stoneville)	700,000
Aquaculture research (IL)	200,000
Aquaculture (LA)	390,000
Asparagus yield decline (MI)	94,000
Babcoc Institute (WI)	75,000
Bean and beet (MI)	189,000
Beef carcass evaluation and identification (IA, NY, GA, TX, IL)	210,000
Beef fat content (IA)	237,000
Broom snakeweed (NM)	200,000
Canola (KS)	100,000
Celery fusarium (MI)	39,000
Center for rural studies (VT)	37,000
Chesapeake Bay aquaculture	437,000
Competitiveness of agricultural products (WA)	800,000
CONSOIL (WI)	25,000
Controlled environment production systems (PA)	240,000
Cool season legume research (ID, WA)	387,000
Cottonseed extraction and oil refining (TX)	75,000
Cranberry/blueberry disease and breeding (NJ)	260,000
CRP acreage usage (MO)	50,000
Dairy goat research (TX)	75,000
Delta rural revitalization (MS)	175,000
Dogwood anthracnose (GA, NC, TN)	137,000
Dried bean (ND)	100,000
Eastern filbert blight (OR)	85,000
Enhanced livestock production (ND)	250,000
Environmental research (NY)	575,000
Ethanol research (AR)	175,000
Expanded wheat pasture (OK)	337,000
Export development (KY)	227,000
Farm and rural business finance (IL, AK)	125,000
Fish marketing (OR, RI)	340,000
Floriculture (HI)	296,000
Food and Agriculture Policy Institute (IA, MO)	750,000
Food irradiation (IA)	237,000
Food marketing policy center (CT)	393,000
Food processing center (NE)	50,000
Food safety consortium (AR, KS, IA)	1,942,000
Food systems research group (WI)	261,000
Forestry marketing (VT, NH)	50,000
Genetic engineering of plants (OH)	240,000
Global change	2,000,000
Grasshopper biocontrol (ND)	75,000
Great Plains agricultural policy center (KS, OK)	100,000
Human nutrition research (NY)	735,000
Human nutrition research (IA)	500,000
Human nutrition (LA)	800,000
Improved dairy management practices (PA)	335,000
Integrated orchard management (VT)	49,000
Integrated pest management	4,457,000
Integrated production systems (OK)	193,000
International livestock program (KS)	94,000
Iowa biotechnology consortium	1,953,000
Irrigation/fish production (AR)	167,000
Kansas facility study	50,000
Leafy spurge biocontrol (MT)	125,000
Livestock and dairy policy (NY, TX)	525,000
Lowbush blueberry research (ME)	185,000
Low-input agriculture (MN)	230,000
Maple research (VT)	99,000
Mechanical tomato harvester (PA)	134,000
Mesquite and prickly pear (TX)	100,000
Michigan Institute	2,358,000
Midwest agricultural products (IA)	700,000
Midwest plant biotechnology consortium	2,865,000
Milk safety (PA)	284,000
Milkweed research (NE)	80,000
Mink research (OR)	46,000
Minor crop pest control (HI)	285
Minor use animal drugs (IR–4)	464,000
Mosquito research (AR, CA, LA, MS, TX)	453,000
Multi-cropping strategies for aquaculture (HI)	150,000
National biological impact assessment	300,000
Nematode resistance genetic engineering (NM)	150,000
New uses for agricultural products (OH)	140,000
Non-food agricultural products (NE)	110,000
Oil from jojoba (NM)	200,000
Oregon—Mass. biotechnology	537,000
Peach tree short life (SC)	192,000
Pest control alternatives (SC)	125,000
Pesticide clearance (IR–4)	3,500,000
Pesticide impact assessment	2,968,000
Pesticide research (WA)	667,000
Phytophthora root rot (NM)	150,000
Potato research	1,435,000
Poultry (GA)	172,000
Preservation and processing research (OK)	282,000
Procerum root disease (VA)	25,000
Product development and marketing center (ME)	221,000
Red River Corridor (MN, ND)	200,000
Regional barley gene mapping project	412,000
Regionalized implications of farm programs (MO, TX)	348,000
Rural development centers (PA, IA, ND, MS, OR)	500,000
Rural economic development (GA)	744,000
Rural environmental research (IL)	125,000
Rural policies institute (AR, NE, MO)	525,000
Russian wheat aphid (WA, OR, ID, CA, CO)	437,000
Safflower research (ND, MT)	250,000
Sandhills grazing management practices (NE)	99,000
Seafood and aquaculture harvesting, processing, and marketing (MS).	361,000
Seedless table grapes (AR)	50,000
Small fruit research (OR, WA, ID)	187,000
Southwest consortium for plant genetics and water resources	400,000
Soybean bioprocessing (IA)	275,000
Soybean cyst nematode (MO)	359,000
STEEP II—water quality in Northwest	980,000
Stone fruit decline (MI)	283,000
Subirrigation research (MI)	531,000
Sunflower insects (ND, SD)	200,000
Sustainable agriculture systems (NE)	70,000
Swine research (MN)	140,000
TCK smut (wheat)	250,000
Technology transfer development (IA)	100,000
Tropical and subtropical	3,320,000
Urban pests (GA)	76,000
Water conservation (NV)	200,000
Water management (AL)	398,000
Water quality	9,000,000
Weed control (ND)	500,000
Wheat genetic research (KS)	159,000
Wheat marketing (OR)	300,000
White mold research (OH)	55,000
Wild rice research (MN)	88,000
Wood utilization research (OR, MS, MI)	2,852,000
Wool research (TX)	250,000
World food systems (IN, OH)	368,000

TITLE II—COMMERCE, JUSTICE, STATE AND RELATED AGENCIES APPROPRIATIONS

Subtitle A—Department of Justice

SEC. 201. STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE GRANTS.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside as grants for State and local law enforcement assistance; and

(2) the grants were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(B) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992, (Public Law 102-140 105 Stat. 813-814); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are as follows:

(1) $500,000 for a one time grant to the National College of District Attorneys which will allow them to move into a permanent facility with the latest technology.

(2) $700,000 for a grant to SEARCH Group, Inc. for continued support to State and local criminal justice agencies to improve their use of computers and information technology.

SUBTITLE B—DEPARTMENT OF COMMERCE

SEC. 211. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for construction, the National Ocean Service, the National Marine Fisheries Service, oceanic and atmospheric research, program support, and miscellaneous projects; and

(2) the projects were—

(A) not authorized;

(B) not awarded on a competitive basis;

(C) not the subject of congressional committee or subcommittee authorization hearings; and

(D) in the case of the projects described in subparagraph (F) of paragraph (1), subparagraphs (D) and (E) of paragraph (2), subparagraphs (O), (P), (Q), and (R) of paragraph (3), subparagraphs (D) and (E) of paragraph (4) and subparagraphs (E), (F), (G), and (H) of paragraph (6) of such subsection, first added added by the Committee of Conference on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (105 Stat. 813); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are as follows (Conference Report to accompany H.R. 2608, House Report 102-33, pages 38-46):

(1) CONSTRUCTION.—

(A) $196,000 for Beaufort, North Carolina lab.

(B) $200,000 for NOAA Facilities Initiative.

(C) $1,250,000 for Lafayette Fisheries Lab.

(D) $1,000,000 for Alaska Fisheries Center.

(E) $2,000,000 for the relocation of San Francisco NWS.

(2) NATIONAL OCEAN SERVICE.—

(A) $1,900,000 for a South Carolina Wetlands Demonstration project.

(B) $1,000,000 for Special Area Management in Charleston, South Carolina.

(C) $150,000 for Hawaii Humpback Marine Sanctuary.

(D) $1,000,000 for a grant to the South Carolina Coastal Council for the acquisition of the Victoria Bluff Trace in Beaufort County, South Carolina.

(E) $1,500,000 for Oil Pollution Act of 1990.

(3) NATIONAL MARINE FISHERIES SERVICE.—

(A) $400,000 for Fish Cooperative Institute Enhancement in South Carolina.

(B) $550,000 for Hawaiian Monk Seals.

(C) $1,500,000 for Stellar Sea Lion Recovery Plan.

(D) $750,000 for Hawaii Stock Management Plan.

(E) $300,000 for Lobster Research.

(F) $350,000 for Atlantic Bluefin Tuna Research.

(G) $750,000 for Dolphin Safe Technologies.

(H) $250,000 for Hawaiian Sea Turtles.

(I) $200,000 for Beluga Whale Committee.

(J) $1,700,000 for Pacific Tuna Management.

(K) $150,000 for Recyclable Fishing Nets study.

(L) $750,000 for East Coast Observers.

(M) $800,000 for Mahi Mahi Export Strategies.

(N) $1,471,000 for Shellfish Water Studies Research.

(O) $150,000 to establish a Center for Shark Research at Mote Marine Laboratory in Sarasota, Florida (National Marine Fisheries Service; Conference Report 102-233, p. 42, 47).

(P) $110,000 to initiate a Multispecies Aquaculture Center in New Jersey (National Marine Fisheries Service; Conference Report 102-223, p. 42, 47).

(Q) $200,000 for Anadromous Fishery Project (National Marine Fisheries Service; Conference Report 102-233, p. 43).

(R) $300,000 for a Seafood Business Education Center at Kingsborough Community College Center for Marine Development and Research, New York, New York; to develop and promote innovative post-secondary education and research in the field of seafood business management and operations (National Marine Fisheries Service; Conference Report 102-233, p. 43, 49).

(4) OCEANIC AND ATMOSPHERIC RESEARCH.—

(A) $1,168,000 for SE U.S./Carribean FOCI Program.

(B) $500,000 for the Prince William Sound Institute.

(C) $394,000 shall be available only for a semitropical research facility located at Key Largo, Florida.

(D) $50,000 for a Brown Algae Sea Grant (Ocean and Atmospheric Research; Conference Report 102-233, p. 44).

(E) $6,500,000 for Regional Marine Research Centers (Ocean and Atmospheric Research; Conference Report 102-233, p. 44):

(i) $2,000,000 for the New York Bight Center;

(ii) $2,000,000 for NE/Gulf of Maine Center; and

(iii) $2,500,000 for other regional centers.

(5) PROGRAM SUPPORT.—$2,000,000 for Woods Hole Marine Biomedical Institute.

(6) MISCELLANEOUS.—

(A) $700,000 for the Coastal Ocean Science Program for estuary research by the University of South Carolina's School of Public Health and the Baruch Institute.

(B) $1,300,000 for the Marine Fisheries Initiative (MARFIN) to implement a program for assessing the impact of incidental harvest by the shrimp trawl industry on the fisheries in the Southeast and Gulf of Mexico.

(C) $3,200,000 for the NOAA Under-sea Research Program for the Hawaiian Undersea Research Laboratory (HURL).

(D) $250,000 for the Fisheries Promotional Fund for a grant for a feasibility study for the San Francisco Fisheries and Environmental Research Center.

(E) $200,000 for a grant to the New England Science Center to support the development of video teleconferencing programs and the use of telepresence to provide ongoing programming, special presentations, and continuing education to improve science literacy and education.

(F) $55,000 for Columbia River Weather Buoy.

SEC. 212. FRESH-WATER HATCHERY.

(a) FINDINGS.—Congress finds that—

(1) the amount listed in subsection (c) is set aside for construction, renovation, and operation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas;

(2) the National Oceanic and Atmospheric Administration has no statutory authority to run freshwater hatcheries;

(3) the amount appropriated is a pass-through to the United States Fish and Wildlife Service; and

(4) the project referred to in paragraph (1) was—

(A) not authorized;

(B) not awarded on a competitive basis;

(C) without meaningful relationship to the Act under which it was funded; and

(D) earmarked in violation of established congressional procedures.

(b) RESCISSION.—There are rescinded—

(1) the amount listed in subsection (c), which was set aside or otherwise made available out of appropriations made by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (Public Law 102-140; 103 Stat. 799); and

(2) the underlying appropriation for the amount.

(c) AMOUNT.—Except to the extent obligated, the amount rescinded by subsection (b) is $600,000 (Conference Report to accompany H.R. 2608, House Report 102-233, page 41).

SEC. 213. FISH OIL RESEARCH.

(a) FINDINGS.—Congress finds that—

(1) the amount listed in subsection (c) is set aside for the production of refined fish oil;

(2) the fish oil is then provided to the National Institute of Health for use in medical research; and

(3) the project referred to in paragraph (1) was—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) earmarked in violation of established congressional procedures.

(b) RESCISSION.—There are rescinded—

(1) the amount listed in subsection (c), which was set aside or otherwise made available out of appropriations made by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (Public Law 102-140; 105 Stat. 799); and

(2) the underlying appropriation for the amount.

(c) AMOUNT.—Except to the extent obligated, the amount rescinded by subsection

(b) is $937,000 (Conference Report to accompany H.R. 2608, House Report 102-233, page 43).

SEC. 214. INTERNATIONAL TRADE ADMINISTRATION.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for special research grants provided for the International Trade Administration;

(2) the projects were—

(A) not authorized;

(B) not awarded on a competitive basis;

(C) not the subject of congressional committee or subcommittee authorization hearings; and

(D) in the case of the project specified in paragraph (3), first added by the Committee of Conference on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (Public Law 102-104, 105 Stat. 802); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following (Conference Report to accompany H.R. 2608, House Report 102-333 page 59):

(1) $3,315,000 for a grant to the Tailored Clothing Technology Corporation.

(2) $8,000,000 for a grant to the National Textile Center University Research Consortium.

(3) $3,000,000 for support costs for a new materials center in Ames, Iowa.

Subtitle C—Related Agencies

SEC. 221. SMALL BUSINESS ADMINISTRATION.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for salaries and expenses; and

(2) the amounts were—

(A) not authorized;

(B) not awarded on a competitive basis;

(C) not the subject of congressional committee or subcommittee authorization hearings; and

(D) in the cases of the grants described in paragraphs (13), (14), (15), (16), (17), and (18) of such subsection, first added by the Committee of Conference on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (105 Stat. 813-814); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are as follows:

(1) $4,000,000 for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development.

(2) $1,000,000 for a grant to the New Hampshire Department of Resources and Economic Development.

(3) $1,000,000 for a grant to the New York City Public Library for equipment, supplies and materials for the new Science, Industry, and Business Library.

(4) $500,000 for a grant to the University of Arkansas at Little Rock for a program to provide basic and high technology assistance to small- and medium-sized manufacturers located in rural areas.

(5) $1,000,000 for a grant to Seton Hill College in Greenburg, Pennsylvania, for a Center for Entrepreneurial Opportunity.

(6) $800,000 for a grant for the development and implementation of an integrated small business data base for the Appalachian Region to be provided to a nonprofit organization based in Towanda, Pennsylvania.

(7) $340,000 for a grant to the city of San Francisco, California, for a trade office to provide support, assistance, and research into bilateral trade opportunities between the United States and Asia.

(8) $55,000 for a grant to the city of San Francisco, California, for the publication of a small business export promotion guide.

(9) $375,000 for a grant to the city of Espanola, New Mexico, and $375,000 for a grant to the County of Rio Arriba, New Mexico for the development of the Espanola Plaza center for cultural enhancement and economic development.

(10) $550,000 for a grant to the County of Rio Arriba, New Mexico, for the development of the Cumbres and Toltec Science Railroad rural economic development project.

(11) $500,000 for a demonstration program to assist small businesses in complying with the Clean Air Act.

(12) $100,000 for the New Jersey EXCEL program, as described in Senate Report 102-106.

(13) $150,000 for a grant to the University of Central Arkansas for the Small Business Institute Program's National Data Center.

(14) $4,500,000 to the University of Kentucky in Lexington, Kentucky, to assist in construction of the Advanced Science and Technology Commercialization Center.

(15) $1,500,000 for a grant to the Massachusetts biotechnology Research Institute to establish and operate a shared incubator facility and a science and business center.

(16) $1,500,000 for a grant for a New England Regional Biotechnology Transfer Center to be located at a university in the region that has accredited schools of Medicine, Dental Medicine, Human Nutrition and Veterinary Medicine.

(17) $1,500,000 for a grant to Indiana State University for the Center for Interdisciplinary Science Research and Education.

(18) $1,000,000 for a grant to the Michigan Biotechnology Institute for an advanced program of technology transfer in the field of industrial biotechnology to support evaluation, validation and scale-up of early technology and technical assistance to small businesses.

SEC. 222. TREE PLANTING PROGRAM.

(a) FINDINGS.—Congress finds that the program repealed under subsection (d)—

(1) was both authorized and appropriated in an appropriations Act, in violation of established congressional procedures;

(2) is similar to existing programs carried out by the Department of the Interior and the Department of Agriculture and has no relation to the Act under which it is funded; and

(3) was first added by the Committee of Conference on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992.

(b) RESCISSION.—There are rescinded—

(1) the amount listed in subsection (c), which was set aside or otherwise made available out of appropriations made by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (105 Stat. 813-814); and

(2) the underlying appropriation for the amount.

(c) AMOUNT.—Except to the extent obligated, the amount rescinded by subsection (b) is $16,000,000 to implement section 24 of the Small Business Act (Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (105 Stat. 813-814)).

(d) REPEAL.—Section 24 of the Small Business Act (15 U.S.C. 651) is repealed.

Subtitle D—Department of State

SEC. 231. MISCELLANEOUS DIRECT GRANTS.

(a) FINDINGS.—Congress finds that—

(1) the amount listed in subsection (c) is set aside for the North/South Center; and

(2) such amount was—

(A) not authorized;

(B) not awarded on a competitive basis;

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amount listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (Stat. 813-814); and

(2) the underlying appropriations for the amount.

(c) AMOUNT.—Except to the extent obligated, the amount rescinded by subsection (b) is $5,000,000 for the North/South Center at the University of Miami, Miami, Florida.

TITLE III—DEPARTMENT OF DEFENSE APPROPRIATIONS

SEC. 301. UNIVERSITY GRANTS.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for university grants; and

(2) the grants were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Defense Appropriations Act, 1992 (Public Law 102-172; 105 Stat. 1164-1167); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following (Conference Report to accompany H.R. 2521, House Report 102-328):

(1) $10,000,000 for neuroscience research at Louisiana State University.

(2) $10,000,000 for Marywood College, Pennsylvania.

(3) $6,000,000 for University of Texas at Austin.

(4) $6,000,000 for Northeastern University.

(5) $5,000,000 for Texas Regional Institute for Environmental Research and Development.

(6) $7,700,000 for Kansas State University.

(7) $1,600,000 for University of Wisconsin.

(8) $29,000,000 for Boston University.

(9) $250,000 for the Medical College of Ohio.

(10) $500,000 for the University of South Carolina.

(11) $750,000 for George Mason University.

(12) $2,300,000 for Manmouth College, New Jersey.

(13) $2,000,000 for the University of Minnesota.

(14) $500,000 for the University of St. Thomas.

(15) $2,000,000 for Brandeis University.

(16) $3,000,000 for New Mexico State University.

(17) $5,000,000 for Penn State University (Conference Report to accompany H.R. 2521, House Report 102–328, page 60).

(18) $6,800,000 for Monterey Institute for International Studies (Conference Report to accompany H.R. 2521, House Report 102–328, page 60).

(19) $2,500,000 for St. Francis College, Pennsylvania (Conference Report to accompany H.R. 2521, House Report 102–328, page 60).

(20) $1,300,000 for Oregon Graduate Institute (Conference Report to accompany H.R. 2521, House Report 102–328, page 60).

SEC. 302. MISCELLANEOUS PROJECTS.

(a) FINDINGS.—The Congress finds that—

(1) the amounts listed in subsection (c) are set aside for miscellaneous projects;

(2) the projects were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1152–1153, 1160, 1165–1166); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following amounts (Conference Report to accompany H.R. 2521, House Report 102–328):

(1) $1,000,000 for the Mississippi Resource Development Corporation.

(2) $300,000 for Maryland Hospital Association.

(3) $10,000,000 for the National Biomedical Research Foundation.

(4) $25,000,000 for the Arctic Region Supercomputer at University of Alaska.

(5) $1,000,000 for the Consortium for International Earth Science Information Network.

(6) $300,000 for the Oregon Department of Economic Development.

(7) $350,000 for the Capitol Fourth Project.

(8) $7,000,000 for the National Prestro Industries Cleanup (Wisconsin).

(9) $750,000 for fish stocking in Hawaii.

SEC. 303. ARMY—OPERATIONS AND MAINTENANCE.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for Army operations and maintenance projects;

(2) the projects were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1153); and

(2) the underlying appropriations for the amounts

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (c) are the following (Conference Report to accompany H.R. 2521, House Report 102–328):

(1) $250,000 for Joint Military Civilian Airport Study.

(2) $6,800,000 for Fort Ripley Railyard Study.

(3) $4,000,000 for National D-Day Museum Foundation.

(4) $4,000,000 for Airborne and Special Operations Foundation.

SEC. 304. NAVY—OPERATIONS AND MAINTENANCE.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for Navy operations and maintenance projects; and

(2) the projects were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1154); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following (Conference Report to accompany H.R. 2521; House Report 102–328):

(1) $210,000 for Model Recycling Center.

(2) $2,100,000 for Naval Undersea Museum.

(3) $1,600,000 for USS Blueback Museum.

(4) $1,000,000 for Fenwick Pier Demonstration.

(5) $20,000,000 for 2.5 ton truck engine and spares.

(6) $300,000 for Mokapu Internment-Reburial of Skeletal remains of Native Hawaiian graves.

SEC. 305. DEFENSE AGENCIES.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for Defense Agencies projects;

(2) the projects were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSIONS.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Defense Department Appropriations Act, 1992 (Public Law 102–172, 105 Stat. 1159); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following amounts provided for Defense Agencies projects (Conference Report to accompany H.R. 2521, House Report 102–328):

(1) $3,000,000 for World University games.

(2) $2,000,000 for 1996 Summer Olympics-earmark.

TITLE IV—ENERGY AND WATER APPROPRIATIONS

SEC. 401. DEPARTMENT OF DEFENSE—CIVIL.

(a) FINDINGS.—Congress finds that—

(1) the amount listed in subsection (c) is set aside for a project in connection with Charleston Riverfront Park in the State of West Virginia for the Corps of Engineers;

(2) the project was—

(A) not authorized;

(B) not awarded on a competitive basis;

(C) not the subject of congressional committee or subcommittee authorization hearings; and

(D) first added by the Committee of Conference on the Energy and Water Appropriations Act, 1992.

(b) RESCISSION.—There are rescinded—

(1) the amount listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Energy and Water Appropriations Act, 1992 (Public Law 102–104, 105 Stat. 512, 516); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amount rescinded by subsection (b) is $2,000,000 (Conference Report to accompany H.R. 2427, House Report 102–177, page 44).

SEC. 402. DEPARTMENT OF THE INTERIOR.

(a) FINDINGS.—Congress finds that—

(1) the amount listed in subsection (c) is set aside for a Shoshone Irrigation Project in Wyoming;

(2) the grants—

(A) failed in a competition process;

(B) was first added by the Committee of Conference on the Energy and Water Appropriations Act, 1992; and

(C) was not the subject of congressional committee or subcommittee authorization hearings.

(b) RECISSION.—There are rescinded—

(1) the amount listed in subsection (c), which was set aside or otherwise made available out of appropriations made by the Energy and Water Appropriations Act, 1992 (Public Law 102–104, 105 Stat. 521–523); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amount rescinded by subsection (b) is $800,000 (Conference Report to accompany H.R. 2427, House Report 102–177, page 50).

SEC. 403. DEPARTMENT OF ENERGY.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for energy supply, research, and development activities;

(2) the activities were—

(A) not authorized;

(B) not awarded on a competitive basis;

(C) not the subject of congressional committee or subcommittee authorization hearings; and

(D) first added by the Committee of Conference on the Energy and Water Appropriations Act, 1992.

(b) RECISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Energy and Water Appropriations Act, 1992 (Public Law 102–104; 105 Stat. 526); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following (Conference Report to accompany H.R. 2427, House Report 102–177, pages 52–83):

(1) $10,000,000 for the Institute of Micromanufacturing at Louisiana Tech University.

(2) $10,000,000 for an ambulatory research and education building at the Oregon Health Sciences University.

(3) $4,800,000 for Medical University of South Carolina's Cancer/Oncology Center.

(4) $6,000,000 for project 89–R–121, the Biomedical Research Institute, Louisiana State University Medical Center in Shreveport, LA.

(5) $4,000,000 for the Technology Complex at Pittsburg State University, Pittsburg, KS.

(6) $10,000,000 to expand the Energy, Mineral and Materials Science Research Building at the University of Alabama, AL.

(7) $10,000,000 for construction of the Research Institute at the Loma Linda University Medical Center, CA.

(8) $10,000,000 for construction of a Cancer Research Center at the Indiana University School of Medicine at Indianapolis.

(9) $10,000,000 for construction of the Old Colony Center for Technological Applications at Bridgewater College in Bridgewater, MA.

(10) $10,000,000 for capital funds for the Center for Molecular Electronics at the University of Missouri-St. Louis, MO.

SEC. 404. SOLAR AND RENEWABLE ENERGY PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) the amount listed in subsection (c) is set aside for the PICHTER-OTEC project in the State of Hawaii; and

(2) the project was—

(A) not authorized;

(B) not awarded on a competitive basis;

(C) not the subject of congressional committee or subcommittee authorization hearings; and

(D) first added by the Committee of Conference on the Energy and Water Appropriations Act, 1992.

(b) RESCISSION.—There are rescinded—

(1) the amount listed in subsection (c), which was set aside or otherwise made available out of appropriations made by the Energy and Water Appropriations Act) 1992 (Public Law 102–104; 105 Stat. 526); and

(2) the underlying appropriations for the amount.

(c) AMOUNTS.—Except to the extent obligated, the amount rescinded by subsection (b) is $2,000,000 (Conference Report to accompany H.R. 2427, House Report 102–177, page 55).

SEC. 405. BIOLOGICAL AND ENVIRONMENTAL RESEARCH.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for biological and environmental research projects, and

(2) the grants were—

(A) not authorized;

(B) not awarded on a competitive basis;

(C) not the subject of congressional committee or subcommittee authorization hearings; and

(D) first added by the Committee of Conference on the Energy and Water Appropriations Act, 1992.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Energy and Water Appropriations Act, 1992 (Public Law 102–104, 105 Stat. 526); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following (Conference Report to accompany H.R. 2427, House Report 103–177, page 56):

"(12) $750,000 for the Center for Health Technologies, Inc., Miami, Florida (a nonprofit corporation created by south Florida business leaders and scientists to expedite the growth of health technology industries through the transfer of laboratory developments into successful biomedical, biotechnology, and health care products and services)."

"(13) $2,000,000 of the $11,000,000 provided for the National Institute for Global Environmental Change for a new Southeastern Regional Center to be located at the University of Alabama."

SEC. 406. SUPPORTING RESEARCH AND TECHNICAL ANALYSIS.

(a) FINDINGS.—Congress finds that—

(1) the amount listed in subsection (c) is set aside for the University of Connecticut (advanced energy projects);

(2) the project was—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(D) first added by the Committee of Conference on the Energy and Water Appropriations Act, 1992.

(b) RESCISSION.—There are rescinded—

(1) the amount listed in subsection (c), which was set aside or otherwise made available out of appropriations made by the Energy and Water Appropriations Act, 1992 (Public Law 102–104, 105 Stat. 526); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amount rescinded by subsection (b) is $400,000 (Conference Report to accompany H.R. 2427, House Report 102–177, page 86).

SEC. 407. MATERIALS PRODUCTION AND OTHER DEFENSE PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) the amount listed in subsection (c) is set aside for a materials production grant to complete the Center of Advanced Electronics Technology at Spartes State Technical College in Eufala, Alabama; and

(2) the grant was—

(A) not authorized;

(B) not awarded on a competitive basis;

(C) not the subject of congressional committee or subcommittee authorization hearings; and

(D) first added by the Committee of Conference on the Energy and Water Appropriations Act, 1992.

(b) RESCISSION.—There are rescinded—

(1) the amount listed in subsection (c), which was set aside or otherwise made available out of appropriations made by the Energy and Water Appropriations Act 1992 (Public Law 102–104, 105 Stat. 529); and

(2) the underlying appropriations for the amount.

(c) AMOUNTS.—Except to the extent obligated, the amount rescinded by subsection (b) is $1,600,000 (Conference Report to accompany H.R. 2427, House Report 102–177, page 61).

TITLE V—INTERIOR AND RELATED AGENCIES APPROPRIATIONS

SEC. 501. NATIONAL PARK SERVICE.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for projects for operation of, and construction in, the National Park system; and

(2) the projects were—

(A) not authorized;

(B) not awarded on a competitive basis;

(C) not the subject of congressional committee or subcommittee authorization hearings; and

(D) in the case of projects listed in subsection (c)(2)(C) and (c)(2)(D), first added by the Committee of Conference on the Department of Interior and Related Agencies Appropriations Act.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Interior and Related Agencies Appropriations Act, 1992 (Public Law 102–154; 105 Stat. 996); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following (Conference Report to accompany H.R. 2686, House Report 102–256, pages 23–29):

(1) OPERATION OF THE NATIONAL PARK SYSTEM.—

(A) $300,000 for grant to the Horseshoe Curve National Historic Landmark.

(B) $250,000 for grant to National Constitution Center, PA.

(C) $100,000 for grant to the National Folk Festival.

(D) $2,000,000 to develop and stimulate sales of Native Hawaiian handicrafts.

(E) $250,000 for the rehabilitation of non-Federal facilities at Sloss Furnace National Historic Landmark, AL.

(F) $380,000 grant to the Southwestern Pennsylvania Heritage Preservation Commission.

(G) $1,250,000 grant to the Steel Industry Heritage Task Force for the economic revitalization of the Monogalela Valley, PA.

(H) $65,000 for a cooperative agreement with the Susan LaFleche Picotte Center, NE.

(I) $1,950,000 grant to the Wheeling Park Commission.

(J) $700,000 grant to the National Institute for Conservation of Cultural Property.

(K) $500,000 grant to the Institute for the History of Technology and Industrial Archaeology.

(L) $13,100,000 for the construction of certain Federal and non-Federal projects at America's Industrial Heritage Park, PA.

(M) $2,000,000 for rehabilitation activities at the Chicago Public Library, IL.

(N) $500,000 for the Darawin Martin House, Buffalo, NY.

(O) $2,000,000 for restoration of historic buildings at Fisk University, TN.

(P) $3,650,000 for the construction of a gateway at the Illinois and Michigan Canal.

(Q) $1,000,000 for the restoration of historic buildings at Lane College, TN.

(R) $1,808,000 for construction of New Jersey Urban History Initiative, Perth Amboy, NJ.

(S) $1,892,000 for construction of New Jersey Urban History Initiative, Trenton, NJ.

(T) $4,200,000 for construction of New Jersey Urban History Initiative, Paterson, NJ.

(U) $1,000,000 for the Penn Center, SC.

(V) $1,500,000 for advanced project planning at the Salem Maritime National Historic Site, MA.

(W) $1,950,000 for construction of a visitors center at the Salem Maritime National Historic Site, MA.

(X) $1,000,000 for the rehabilitation of the Tad Gormely Stadium, LA.

(Y) $13,000,000 for planning and construction at the America's Industrial Heritage Park.

(2) CONSTRUCTION.—

(A) $2,700,000 for planning and site acquisition for the Abraham Lincoln Research and Interpretive Center, Springfield, IL.

(B) $13,000,000 for development and rehabilitation of locomotive artifacts at Steamtown National Historic Site, Scranton, PA.

(C) $1,300,000 for a Lewis and Clark National Historic Trail and Interpretive Center, NE.

(D) $1,000,000 for the rehabilitation of James Madison's home in Montpelier, VA.

SEC. 502. CONSTRUCTION AND ANADROMOUS FISH.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for construction projects; and

(2) the projects were—

(A) not authorized;

(B) not awarded on a competitive basis;

(C) not the subject of congressional committee or subcommittee hearings; and

(D) first added by the Committee of Conference on the Department of Interior and Related Agencies Appropriations Act, 1992.

(b) Rescission.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Interior and Related Agencies Appropriations Act, 1992 (Public Law 102–105; 154 Stat. 794); and

(2) the underlying appropriations for the amounts.

(c) Amounts.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following: (Conference Report to accompany H.R. 2686, House Report 102–256, pages 17–18):

(1) $1,500,000 for the National Wetlands Center.

(2) $268,000 for the Poulsbo Marine Science Center, WA.

(3) $680,000 for the Witchita National Environmental Education Center, KS.

(4) $13,550,000 for the development of Walnut Creek National Wildlife Refuge, LA.

SEC. 503. NATIONAL FOREST SYSTEM.

(a) Findings.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for projects for the National Forest System; and

(2) the projects were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) Rescission.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Interior and Related Agencies Appropriations Act, 1992 (Public Law 102–154; 105 Stat. 1014); and

(2) the underlying appropriations for the amounts.

(c) Amounts.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following: (Conference Report to accompany H.R. 2686, House Report 162–256, page 61):

(1) $100,000 for a black bear study on the Green Mountain National Forest, VT.

(2) $90,000 for a wolverine study on the Sawtooth National Recreation Area, ID.

(3) $150,000 for inland fish management for the Monogahela National Forest, WV.

TITLE VI—TRANSPORTATION APPROPRIATIONS

SEC. 601. MOTOR CARRIER SAFETY GRANTS:

(a) Findings.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for Motor Carrier Safety Grants; and

(2) the grants were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) Rescission.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102–143; 105 Stat. 917); and

(2) the underlying appropriations for the amounts.

(c) Amounts.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following (Conference Report to accompany H.R. 2942, House Report 102–243, pages 29–30:

Highway widening and improvement demonstration project, KY	$7,200,000
Climbing lane and highway safety demonstration project, PA	6,300,000
Indiana industrial corridor safety demonstration project, IN	3,600,000
Alabama highway bypass demonstration project, AL	9,000,000
Kentucky bridge demonstration project, KY	4,500,000
Virginia HOV safety demonstration project, VA	5,400,000
Urban highway corridor demonstration project, MI	9,630,000
Bicycle transportation demonstration project, MI	900,000
Urban airport access safety demonstration project, MI	9,000,000
Pennsylvania reconstruction demonstration project	8,100,000
Pennsylvania toll road demonstration project	1,800,000
Highway bypass demonstration project, AL	9,000,000
Highway safety improvement demonstration	16,350,000

SEC. 602. FEDERAL HIGHWAY DEMONSTRATION PROJECTS.

(a) Findings.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for Federal Highway Administration demonstration projects; and

(2) the demonstration projects were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) Rescission.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102–143; 105 Stat. 917); and

(2) the underlying appropriations for the amounts.

(c) Amounts.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following amounts provided for Federal Highway Administration studies (Conference Report to accompany H.R. 2942, House Report 102–243, pages 31–32):

Bridge construction (Hillsboro, IL)	$850,000
Florida U.S. 27 (Palm Beach County)	6,050,000
U.S. Route 89 (Farmington to Ogden, UT)	4,050,000
Columbus, IN, I–65 and State Road 46 interchange	3,150,000
Florida causeway (17th Street) tunnel project (Fort Lauderdale)	5,225,000
Hubbard Expressway project (Youngstown, OH)	3,600,000
Indiana East Chicago Marina/rerouting of Route 12	756,000
Interstate 680 access ramps project (Youngstown, OH)	2,250,000
Michigan Bristol Road relocation project (Flint and Genesee County)	4,500,000
Michigan M–84 expansion (Saginaw and Bay Counties)	450,000
Michigan U.S. 31 (City of Niles and City of Benton Harbor)	450,000
Muncie, IN, State Road 67 (I–69 to Muncie By Pass	6,300,000
New York Exit 26 bridge project (Schenectady County)	3,600,000
Pennsylvania State Route 711 bypass (Ligonier)	900,000
Highway 101 (tri-state) feasibility study)	270,000
Alabama-Florida (connect I–65 to I–10 in Pensacola, FL)	1,842,000
Bridge between Niobrara, NE and Springfield, SD	3,200,000
California: Highway 152 (Interstate 5 in Central Valley with U.S. 101 and CA Hwy 1)	1,600,000
Florida: Northeast Dade bikepaths:	
City of North Miami	800,000
City of North Miami Beach	865,000
Dade County for Aventura and Sunny Isles	860,000
Illinois: U.S. Highway 20 between Freeport and Galena	2,113,000
Illinois: Springfield Eleventh Street extension	700,000
Indiana: Indianapolis to Evansville	3,200,000
Iowa Highway 2	360,000
Iowa: Black Hawk County-Rainbow Drive and 18th St/Cedar Falls	3,200,000
Michigan: Grand Rapids I–96 Bypass	2,400,000
Minnesota: 77th Street reconstruction	9,240,000
Missouri: Telegraph Avenue/I–255 interchange	40,000
Montana: U.S. Highway 93 (Native American religious site)	100,000
Nevada: I–15/Sahara Avenue interchange	1,600,000
Nevada: U.S. 395 extension from South Virginia Avenue to Mount Rose Highway	2,800,000
New Mexico: Santa Fe Relief Route (bypass)	4,800,000
New York: Miller highway from 59th Street to 72nd Street (west side of Manhattan)	2,800,000
New York: Mount Vernon parking facility	320,000
North Carolina: U.S. 64	2,560,000
Pennsylvania: North Philadelphia intermodal facility	4,800,000
Pennsylvania: Center Avenue extension	3,200,000
Pennsylvania: Interstate highway 81 (vicinity of Wilkes-Barre)	4,000,000
Pennsylvania: Quakertown congestion relief (Bucks County)	1,000,000
Pennsylvania: U.S. Route 6 bypass/widening (Wysox, Towanda, and Tunkhannock Boroughs)	4,000,000
Pennsylvania: U.S. Route 202 (King of Prussia and Montgomeryville)	400,000
Ohio Railroad-highway corridor studies (6)	240,000
Texas: City of Laredo (FM 3464 from Mines Road (FM 1472) to Interstate 35)	1,600,000
U.S. Route 24 (from Fort Wayne, IN to Toledo, OH)	240,000
Utah: West Valley City-widen 5600 West	1,600,000
Virginia I–495 interchanges (Capital Beltway)	1,600,000
Virgin Islands: Christiansted Bypass	1,600,000
Washington: Marysville/Tulalip Tribes I–5 interchange	2,720,000
Washington: Snohomish County HOV lanes/park and ride project	800,000
Fifth/Sixth Street improvements, Waterloo, IA	4,500,000
Des Moines inner loop, IA	1,800,000

Highway 71, Fayetteville, AR	12,600,000
Interstate 90 interchange, Bozeman, MT	675,000
Airport access road, Albuquerque, NM	4,320,000
Lock and dam, 4, Pine bluff, AR	3,600,000
U.S. 212 bridge, Forest City, SD	2,560,000
Crossing project, Provo, UT	3,150,000
Eighth Street bridge crossing, Sheboygan, WI	6,560,000
Bridge safety repair, VT	990,000
Alaska-Canada highway	9,600,000
Southeast Kansas corridor	1,376,000
Pearl River bridge, Jackson, MS	1,600,000
Maricopa Road, AZ	3,600,000
Interstate 35 interchange, Salina, KS	2,584,000
Pond Creek, Grant County, OK	800,000
Highway beautification, Grand Forks, ND	800,000
FBI complex, Harrison County, WV	9,840,000
Route 21 widening, Newark, NJ	5,000,000
I-280 downtown connector interim improvements, Newark, NJ	3,000,000
I-78 downtown connector, Newark, NJ	4,000,000
Raymond Plaza/Penn Station, Newark, NJ	1,500,000
Interstate emergency callbox system, NJ	3,500,000
Routes 70/38 circle elimination, NJ	6,000,000
Sky harbor access road, AZ	5,040,000
Route 4 bridge replacement, NJ	2,000,000
Chief Joseph Highway, WY	4,800,000
Right-of-way, El Santo and related roads, Taos, NM	480,000
I-87 Tappan Zee moveable median barrier, NY	4,800,000
Gowanus Expressway, NY	1,200,000
Meadowbrook State Parkway, NY	3,600,000
Belgrade overpass, MT	1,200,000
Pine Creek, McCurtain County, OK	1,440,000
Rail crossing, Caliente, NV	1,600,000
Highway 30, Clinton, IA	1,440,000
Ports-of-entry, Columbus/Sunland Park, NM	2,400,000
Maple Road extension, Walled Lake, MI	2,400,000
Bryden Canyon Bridge access, Clarkston, WA	3,600,000
Overland Park interchange, KS	3,600,000

SEC. 603. HIGHWAY FEASIBILITY STUDIES.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for highway feasibility studies; and

(2) the studies were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102-143; 105 Stat. 917); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following amounts provided for highway feasibility studies (Conference Report to accompany H.R. 2942, House Report 102-243, page 33):

Route No. 9, WV	1,040,000
Route No. 2, WV	2,080,000
FBI complex	480,000
Madison County, MS	192,000
Vermillion-Newcastle Bridge, SD NE	32,000
National Park System	240,000
Tacoma Narrows Bridge, WA	480,000
Bridge study, Greenville, MS	204,000
Tonto National Forest, AZ	720,000
Kihei-Heleakala Highway, HI	1,200,000
Interchange, Johnson City, TN	280,000
Route 208/Route 4 interchange, NJ	4,000,000
U.S. Route No. 57, WA	800,000
Route 21 Viaduct, NJ	2,700,000
Route 17/Route 4 interchange, NJ	4,000,000

SEC. 604. FEASIBILITY, DESIGN, ENVIRONMENTAL, AND ENGINEERING PROJECTS.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for feasibility, design, environmental, and engineering projects; and

(2) the projects were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102-143; 105 Stat. 917); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following (Conference Report to accompany H.R. 2942, House Report 102-243, page 33):

Corridor G improvement program, WV	148,500,000
Corning by-pass safety demonstration project, NY	12,600,000
Turquoise trail project, AZ	2,700,000
Ottumwa road extension project, IA	7,200,000
North Carolina connector, Rocky Mountain to Elizabeth City, NC	4,800,000

TITLE VII—TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

SEC. 701. GENERAL SERVICES ADMINISTRATION.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for design and construction grants funded through the Federal Buildings Fund, under the jurisdiction of the General Services Administration; and

(2) the grants were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Treasury, Postal Service, and General Government Appropriations Act, 1992 (Public Law 102-141; 105 Stat. 819-850); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following (Conference Report to accompany H.R. 2622, House Report 102-234, pages 24-25):

(1) $921,000 for the design of a Federal courthouse in Albany, Georgia (105 Stat. 849).

(2) $5,000,000 for the construction of a Center for Disease Control in Atlanta, Georgia (105 Stat. 849).

(3) $9,968,400 for the construction of a Federal courthouse in Wichita, Kansas (105 Stat. 849).

(4) $25,000,000 for the design and construction of a Federal building and courthouse in Beckley, West Virginia (105 Stat. 850).

(5) $4,400,000 for the above-standard relocation expenses associated with the consolidation of the United States Secret Service office space in the District of Columbia (105 Stat. 849).

SEC. 702. GENERAL SERVICES ADMINISTRATION.

(a) FINDINGS.—Congress finds that—

(1) the amount listed in subsection (c) is set aside for the construction of a Federal courthouse in Brooklyn, New York; and

(2) the grant—

(A) has no meaningful relationship to the Act under which it was authorized;

(B) was not awarded on a competitive basis; and

(C) was not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amount listed in subsection (c), which was set aside or otherwise made available out of appropriations made by the Treasury, Postal Service, and General Government Appropriations Act, 1992 (Public Law 102-141; (105 Stat . 850)); and

(2) the underlying appropriations for the amount.

(c) AMOUNTS.—Except to the extent obligated, the amount rescinded by subsection (b) is $10,000,000 (Conference Report to accompany H.R. 2622, House Report 102-234, page 25).

TITLE VIII—VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS

Subtitle A—Department of Veterans Affairs

SEC. 801. CONSTRUCTION PROJECTS.

(a) FINDINGS.—Congress finds that—

(1) the projects listed in subsection (c) are set aside for construction projects; and

(2) the projects were—

(A) not authorized;

(B) not approved in a resolution adopted by the Committees on Veterans Affairs of the House and Senate, as required by section 5004 of title 38, United States Code;

(C) not awarded on a competitive basis; and

(D) not the subject of congressional committee or subcommittee hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Departments of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139; Stat . 740-741); and

(2) the underlying appropriation for the amounts.

(c) Except to the extent obligated, the amounts rescinded by subsection (b) are as follows (Conference Report to accompany H.R. 2519, House Report 102-226, pages 8-10):

(1) $16,800,000 for design of a clinical addition project to the Ann Arbor VA Medical Center.

(2) $700,000 for design of a central air conditioning project at the Fargo VA Medical Center.

(3) $250,000 for an environmental impact statement for a new national cemetery in South Florida.

(4) $100,000 for the purchase of land adjacent to the Beckley, West Virginia, VA Medical Center.

Subtitle B—Department of Housing and Urban Development

SEC. 811. SPECIAL PURPOSE GRANTS.

(a) FINDINGS.—Congress finds that—

(1) the grants listed in subsection (c) are "Special Purpose Grants" funded under Annual Contributions for Assisted Housing;

(2) until the enactment of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1701q-1), Special Purpose Grants were funded by the Secretary of Housing and Urban Development's discretionary fund under section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307);

(3) the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1701q-1) eliminated the use of the Secretary's discretionary fund for Special Purpose Grants;

(4) Congress continues to fund Special Purpose Grants through Annual Contributions to Assisted Housing, in violation of the spirit of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1701q-1); and

(5) the grants listed in subsection (c) were—

(A) not authorized;

(B) not the subject of congressional committee or subcommittee authorization hearings;

(C) not awarded on a competitive basis; and

(D) in the cases of the grants described in paragraphs (59) through (133) of such subsection, first added by the Committee of Conference on the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139; 105 Stat. 746).

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992; and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are as follows:

(1) $30,000 for health and safety repairs on housing units at the Tri-Cities Vista Terrace in East Pasco, Washington.

(2) $750,000 for low-income housing and economic revitalization in the southeast section of Seattle, Washington.

(3) $1,000,000 for the Tacoma, Washington, Hill Top Housing and Redevelopment Project.

(4) $2,000,000 for a land bank for Oregon's public housing authorities.

(5) $3,000,000 for the renovation of a training facility for the blind, deaf, and elderly blind in Lafayette, Louisiana.

(6) $1,500,000 for a rural community-based health insurance program in two communities in the Mississippi River Delta region of Arkansas.

(7) $1,500,000 for the northwest Mississippi regional medical center.

(8) $2,000,000 to help partially fund the San Mateo County, California, employee homeownership program.

(9) $1,600,000 for the Council of Jewish Organizations to establish business outreach centers in New York and Connecticut.

(10) $2,900,000 for the riverfront recapture economic development project in Hartford, Connecticut.

(11) $500,000 for the City of Wichita, Kansas, domestic violence program.

(12) $750,000 for the construction of a new children's center at the Wyanddotte House in Kansas City, Kansas.

(13) $1,500,000 for a municipal center in Bloomfield, New Mexico.

(14) $200,000 for the National Association of Southern Poor.

(15) $750,000 for the success through academic and recreational support program run by the Fort Myers, Florida, housing authority.

(16) $1,750,000 for low-income homeownership under the Sioux City, Iowa, housing demonstration project.

(17) $2,000,000 for economic development in the downtown areas of Davenport, Iowa.

(18) $4,370,000 for the City of Portland, Oregon, to establish a northeast Portland revolving loan fund to be used for urban economic development.

(19) $1,200,000 for infrastructure development of Hawaiian home lands, and bill language to guarantee its timely implementation.

(20) $1,300,000 for job retention of agricultural workers at two sugarcane mills on Hawaii's Hilo-Hamakua coast.

(21) $5,000,000 for development of a center in New Orleans, Louisiana, to train residents of public housing, particularly teenage parents, literacy, and job training skills.

(22) $500,000 for the New Jersey Institute of Technologies to study innovative housing technologies.

(23) $20,000 for a feasibility study on commercial redevelopment for Clayton, New Jersey.

(24) $500,000 for the Center for Health Technologies in Miami, Florida, for technology and economic development activities.

(25) $50,000 for a feasibility study on the creation of a business park in Wildwood, New Jersey.

(26) $80,000 to revitalize the central business district in Paulsbor, New Jersey.

(27) $2,500,000 for the construction of a residential facility at St. Joseph's School for the Blind in Jersey City, New Jersey.

(28) $500,000 for the Newark Public Library to develop literacy training and reading rooms at five public housing developments in Newark, New Jersey.

(29) $1,500,000 for the downtown revitalization of Rutland, Vermont.

(30) $2,000,000 to the Vermont Housing and Conservation Board for use in the development of affordable housing projects for low- and moderate-income individuals and families.

(31) $4,000,000 for the capital costs for a housing an detoxification center for homeless individuals in San Francisco, California.

(32) $1,000,000 to assist residents of the Windsor Park subdivision of north Las Vegas, Nevada, to participate in a plan developed by HUD to mitigate serious damage to homes that have sunk as a result of ground failure.

(33) $250,000 for the community stabilization and revitalization project sponsored by the Genesee Economic Revitalization Inc. for Flint, Michigan, and Genesee County, Michigan.

(34) $1,000,000 for infrastructure improvements for the Town of Clinton, Tennessee.

(35) $2,000,000 for the City of Homer, Alaska, for costs associated with the construction of an innovative waste water treatment plant. Delays and imprudent oversight of this project by the Federal Government threaten system users with onerous charges and may jeopardize the city's financial ability to meet other federally mandated standards.

(36) $750,000 for drug elimination efforts for the Fort Worth housing authority in Fort Worth, Texas.

(37) $500,000 for a community drug elimination program in housing projects in the Oklahoma City, Oklahoma, area.

(38) $1,000,000 to the Atlantic Economic Development Corp. for the Sweet Auburn Curb Market project.

(39) $5,000,000 for a homeless demonstration project at the Luther Place Church in Washington, DC.

(40) $500,000 for a grant for the City of Provo, Utah, for land acquisition and development of an alternate access route to the municipal airport and industrial park.

(41) $2,000,000 for job creation and economic revitalization activities in Newark, New Jersey.

(42) $300,000 for the Savannah, Georgia, housing authority to conduct a feasibility study on the need for scattered-site public housing.

(43) $500,000 for the North Dakota Business Marketing Alliance for a revolving fund for rural, home-based micro businesses.

(44) $500,000 for a capitalization of a statewide revolving loan fund and technical assistance program to promote new high-technology small business development in Utah. This grant shall be matched by local governments and other non-Federal sources.

(45) $400,000 for the Great Plains Native American Crafts Cooperative to provide business assistance to native American entrepreneurs.

(46) $250,000 for additional infrasturcture development for a light industrial park in West Valley City, Utah.

(47) $2,000,000 for the Center for Innovation and Development for a university-based, technology incubator facility in Grand Forks, North Dakota, to create new manufacturing jobs in rural areas.

(48) $250,000 for a low- and moderate-income housing assistance demonstration project cooperatively funded by the city and county of Salt Lake, Utah. Funds provided in a similar grant for fiscal year 1991 may be merged with this appropriation for greater project effectiveness.

(49) $900,000 for the renovation of an abandoned building to convert into an economic development and training center at Elkins, West Virginia.

(50) $700,000 for purchase and renovation of an abandoned building for use as an Alzheimer's clinic and adult day-care center at Parkersburg, West Virginia.

(51) $500,000 for a rural health care clinic in McDowell County, West Virginia.

(52) $800,000 for the development of a water supply system for the city of Crawford, Nebraska.

(53) $1,300,000 for the North Omaha Family Resource Center in Omaha, Nebraska.

(54) $300,000 for the Nebraska Center for Rural Health Education and Drug Information, to be established at the University of Nebraska Medical Center, to connect 30 rural communities across the State of Nebraska, providing drug and health care information to health professionals and consumers.

(55) $500,000 for the Harold Edgerton Educational Center in Aurora, Nebraska.

(56) $2,000,000 for the Navajo Nation to develop housing for handicapped and elderly individuals who live on remote portions of Navajo reservations.

(57) $100,000 for improvements to the West Side Community Center in Asbury Park, New Jersey.

(58) $250,000 for a statewide drug education program administered by the Oklahoma Alliance Against Drugs.

(59) $500,000 for the City of Kansas City, Kansas to operate a social service center.

(60) $850,000 for continuing a housing rehabilitation program in Ogden, Utah.

(61) $850,000 for rural development assistance demonstration activities through the State of Utah Department of Community and Economic Development.

(62) $300,000 for the Phyllis Wheatley Association for youth activities in Cleveland, Ohio.

(63) $300,000 for the St. Clair-Superior Coalition for community development in Cleveland, Ohio.

(64) $300,000 for the Harvard Community Services Center in Cleveland, Ohio.

(65) $500,000 for community drug abuse resistance education program for youth in low-income and subsidized housing in San Diego, California.

(66) $150,000 for San Diego, California, Filipino and Southeast Asian high-risk youth program for delinquency and youth gang prevention and education.

(67) $600,000 for grants for Alzheimer's Treatment and Care Centers in San Diego, California, to be managed by the Alzheimer's Association ($300,000) and the Alzheimer Family Center ($300,000).

(68) $1,000,000 to revitalize central city recreation infrastructure serving low- and moderate-income citizens in the city of San Bernardino, California.

(69) $850,000 for low-income housing, community and economic development activities through the Redwood Economic Development Commission in Humboldt County, California.

(70) $1,000,000 to improve low-income medical care to be applied in equal amounts to the Mothers and Children Clinic in Clearwater, Florida, and the Judeo-Christian Health Clinic in Holiday, Florida.

(71) $950,000 to acquire and renovate a food storage warehouse and to assist in the distribution of food for the Food Share organization in Oxnard, California.

(72) $700,000 for housing rehabilitation for low- and moderate-income families in Dubuque, Iowa.

(73) $1,000,000 to Seneca County, Ohio, of which $900,000 is for facility development and $100,000 is to develop an Old Fort Community Center.

(74) $1,000,000 to be equally allocated among crime prevention, senior nutrition and assistance in the Bay Ridge Community in Brooklyn, New York, senior nutrition and assistance at Staten Island University Hospital and crime prevention in Staten Island, New York.

(75) $1,000,000 for the Pennsylvania Housing Finance Agency to complete renovation and revitalization of the Saquoit Silk Mills in Scranton into low-income elderly apartments.

(76) $950,000 for renovations to reopen the vacant Florence Apartments in Scranton, Pennsylvania, for handicapped, single mothers with children, and homeless individuals.

(77) $575,000 for emergency construction of water lines in Ashburn, Massachusetts, to address presently irreversible hazardous contamination of the sole source of water for certain sections of the town.

(78) $510,000 for emergency construction of water lines in Uxbridge and Millville, Massachusetts, to address presently irreversible hazardous contamination of the sole source of water for certain sections of these towns.

(79) $400,000 for Holliston, Massachusetts, to defray the cost of the extension of critically needed water lines to areas of the town whose sole source of water has been contaminated.

(80) $1,000,000 to the City of Chicago, Illinois, for the Neighborhood Home Improvement Program.

(81) $250,000 for the Women's Resource Center to shelter victims of family violence in northern San Diego County, California.

(82) $1,000,000 to the City of Chicago, Illinois, for the Low-Income Housing Trust Fund.

(83) $400,000 for the City of Lynn, Massachusetts, to complete renovation of the Multi-Service Center, a centralized facility for the delivery of social services to meet the needs of homeless families and individuals.

(84) $1,500,000 for the Covenant House of New York City, New York.

(85) $1,500,000 for the Alliance of Residence Theaters of New York, New York, for acquisition and renovation of theater space.

(86) $500,000 for the Carbon Hill, Alabama, water system.

(87) $500,000 to Bishop State Community College, Mobile, Alabama, for innovative training for access to high technology for minority students.

(88) $421,000 to Franklin Borough, Pennsylvania, to settle a long-standing dispute with the Federal Government.

(89) $2,000,000 to reclaim Toledo, Ohio, neighborhoods through the combined efforts of local churches, expanded training for nonprofit community developers and residents in self-help apprenticeship to tear down, rehabilitate, and finance downpayments of homes.

(90) 1,000,000 for an innovative lead-paint abatement demonstration project in Westchester County, New York.

(91) $1,200,000 for improvements to the Cherokee Nation of Oklahoma's waste water treatment facilities located in Tahlequah, Oklahoma.

(92) $3,900,000 for land acquisition, construction, public improvements, and other purposes in Bay City, Michigan.

(93) $400,000 for the Karst Topography Rehabilitation Project in the Fountain Water District, Illinois.

(94) $290,000 for communications and other equipment in Marquette, Michigan.

(95) $690,000 for water, sewer, and roads projects in Boyne City, Michigan.

(96) $500,000 for a multi-service homeless shelter in Joliet, Illinois.

(97) $1,300,000 to help fund the Second Precinct Rehabilitation Project in Minneapolis, Minnesota.

(98) $1,072,000 to assist in acquisition of facilities and other purposes in Saginaw, Michigan.

(99) $4,200,000 for the New England Shelter for Homeless Veterans in Boston, Massachusetts.

(100) $950,000 to acquire, renovate, construct, and equip facilities to provide alternative housing, and educational and recreational opportunities for at-risk youth in the City of Wheeling, West Virginia.

(101) $850,000 to purchase, remodel, and equip a vacant Jewish Community Center building in Lawrence, Massachusetts, for use as a Girl's Club facility.

(102) $250,000 for the City of Lowell, Massachusetts, for a youth gang prevention program for adolescents in and around federally assisted housing, and for programs for at-risk adolescent girls.

(103) $250,000 to the Town of Framingham, Massachusetts, for school drop-out prevention activities.

(104) $900,000 for surface transportation in Portland, Oregon.

(105) $1,000,000 for the Oxbow Corporation for construction of the Oxbow project in Castlewood and Saint Paul, Virginia.

(106) $300,000 for the Business and Industrial Development Center at Northeast Texas Community College, Mt. Pleasant, Texas, to promote rural economic development programs.

(107) $3,000,000 for community development activities in Texas: Hopkins County ($1,500,000), and the Greater Paris Development Foundation Fund, Inc. in the City of Paris ($1,500,000).

(108) $400,000 to complete the acquisition, clearance, and relocation activities in the Central Norristown, Pennsylvania, redevelopment project.

(109) $700,000 to refurbish the Cresson Street tressel in Manayunk, Pennsylvania.

(110) $211,000 for a water main project in Adamsville, Jefferson County, Alabama.

(111) $1,100,000 to rehabilitate the Pease Auditorium, a historic building in Ypsilanti, Michigan.

(112) $2,900,000 for demolition and park construction in Tampa, Florida.

(113) $1,000,000 for the purchase of the Prince Carrollton Apartments in New Carrollton, Maryland, for low-income housing.

(114) $505,000 for the North Miami Beach, Florida, Performing Arts Cultural Center.

(115) $65,000 for improvement of recreational facilities in Biscayne Park, Florida.

(116) $2,500,000 for a Center for Advanced Care for the Elderly with the New England Deaconess Hospital in Boston, Massachusetts.

(117) $101,000 to improve recreational facilities in the Borough of Myersdale, Pennsylvania.

(118) $1,500,000 to improve the community recreational facilities in three communities, Portage Borough, Portage Township, and the City of Greensburg, Pennsylvania.

(119) $2,000,000 for construction of a multiuse facility, which will aid in the revitalization effort in Buffalo, New York.

(120) $500,000 for the Community Housing Improvement Systems and Planning Association for the purposes of predevelopment of Rancho Los Robles in North Monterey County, California.

(121) $2,500,000 for a demonstration project to create a revolving loan fund account for low-interest loans for renovation of store front business facades in the "Four Corners" area of downtown Newark, New Jersey.

(122) $1,000,000 for a parking garage in Ashland, Kentucky.

(123) $500,000 to support housing rehabilitation in Benton Harbor, Michigan.

(124) $985,000 for neighborhood revitalization and community development in the City of Fairmont, West Virginia.

(125) $150,000 for a new government center in Warren, Rhode Island.

(126) $5,950,000 to Peoria, Illinois, to settle a dispute with the Federal Government and for other purposes.

(127) $625,000 for a demonstration project to establish a community development priority list in the Commonwealth of Pennsylvania.

(128) $1,500,000 for community revitalization activities in Philadelphia, Pennsylvania.

(129) $1,000,000 for housing and other purposes in El Paso, Texas.

(130) $200,000 for improvement and revitalization of the rental business district of Perth Amboy, New Jersey.

(131) $1,000,000 for housing programs and other purposes in Ft. Wayne, Indiana.

(132) $2,500,000 for expanding the North Miami Center for Contemporary Art, Florida.

(133) $500,000 for a transitional housing assistance program in San Diego, California, to be administered by the St. Vincent DePaul Center for the Homeless.

SECTION 812. POLICY DEVELOPMENT AND RESEARCH GRANTS.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for policy development and research grants; and

(2) the grants were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139; 105 Stat. 752); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following (Conference Report to accompany H.R. 2519, House Report 102–226, page 27):

(1) $400,000 for the State of Hawaii Real Estate Commission for a nationwide study to be conducted by the Hawaii Real Estate Research and Education Center to evaluate the advantages and disadvantages of reforming the Internal Revenue Code to qualify residential ground lease financing for deductions or tax credits.

(2) $250,000 for the Alliance to End Childhood Lead Poisoning to convene a consensus group to help facilitate the development of interim containment guidelines on the abatement of lead in housing.

(3) $1,000,000 for innovative building technologies research with the Research Center for the National Association of Home Builders.

Subtitle C—Independent Agencies

SEC. 821. ENVIRONMENTAL PROTECTION AGENCY.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for research and development, abatement, control, and compliance, buildings and facilities, superfund projects, or construction grants; and

(2) the amounts were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139; 105 Stat. 762, 763, 764, and 765); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following (Conference Report to accompany H.R. 2519, House Report 102–226, Pages 36 through 39, 42 through 43, and 46:

(1) RESEARCH AND DEVELOPMENT:

(A) $3,200,000 for the Center for Environmental Management, Tufts University.

(B) $3,100,000 for the purchase of specialized equipment for neural science research, New York University Center.

(C) $1,000,000 for the Center for Excellence in Polymer Research and Environmental Study.

(D) $600,000 for the Natural Resources Research Institute's Minerals Research Laboratory.

(E) $1,300,000 for a research project to recycle mixed office waste at Western Michigan University.

(F) $90,000 for a pollution abatement demonstration program in Hamburg, New York.

(G) $2,000,000 for the Southwest Environmental Research and Policy Center.

(H) $2,000,000 for the Great Lakes national program office for a cooperative agreement between the Duluth/Grosse Ile labs for Great Lakes work on the Rouge River, Saginaw Bay and Buffalo River, as well as enhanced monitoring activities.

(I) $116,000 for two wetlands research projects at the University of Nebraska.

(J) $150,000 for a national Center on Solid Waste Research and Management.

(2) ABATEMENT, CONTROL AND COMPLIANCE.—

(A) Of the $7,000,000 provided for the Clean Lakes Program:

(i) $500,000 is included for Lakes Allatoona and Lanier in Georgia.

(ii) $500,000 is included for Lakes Cranberry, Wawayanda, Marcia, Sylvan, and other lakes in New Jersey.

(B) Of the $2,200,000 for multimedia grants to Indian tribes:

(i) $500,000 is for the International Council of Arizona;

(ii) $1,500,000 is for the Washington State Indian tribal initiative;

(iii) the remaining $200,000 is for other Indian reservations.

(C) $400,000 for the South Coast Air Quality Management District Alternative Fuels Demonstration Project.

(D) $2,000,000 for the San Francisco Estuary Project.

(E) $1,000,000 for EPA's National Training Center at West Virginia University.

(F) $300,000 for Canaan Valley, West Virginia, wetlands complex.

(G) $2,000,000 for the Lackawanna Institute for Environmental Renewal.

(H) $800,000 for the cleanup of the Buffalo River. Of this amount, $125,000 is for waterfront planning activities.

(I) $1,000,000 for the Small Flows Clearinghouse at West Virginia University.

(J) $1,000,000 for the Saginaw Bay National Watershed Initiative Pilot Project.

(K) $25,000 for the Lackawanna River Corridor Association water quality testing program.

(L) $300,000 for the Northeast Interstate Ozone Nonattainment and Visibility Project.

(M) $625,000 for the Florida Keys National Marine Sanctuary.

(N) $100,000 for a wetlands comprehensive plan in Eugene, Oregon.

(O) $1,000,000 for the Spokane Aquifer.

(P) $500,000 for a Lake Roosevelt Water Quality Recovery Plan.

(Q) $750,000 for a West Virginia rural water demonstration project.

(R) $300,000 for Water Regulations Compliance Training Project.

(S) $1,000,000 for the continuation of a stormwater management project on the Patuxent River.

(T) $500,000 for a Chesapeake Bay water quality model.

(U) $400,000 for a pollution reduction strategy in the Tar-Pamlico River Basin.

(V) $1,500,000 for the New Jersey Institute of Technology Integrated Pollution Prevention Initiative.

(W) $750,000 for a solar aquatic wastewater treatment demonstration project.

(X) $1,200,000 for sewage sludge composting techniques in the State of New Jersey.

(Y) $1,200,000 for a dredge spoil assessment and decontamination project.

(AA) $1,500,000 for an alternate fuel vehicle training program.

(BB) $1,450,000 for a nonpoint source pollution project at the University of Kansas, Iowa State University, and University of Nebraska.

(CC) $500,000 for the Illinois River basin nonpoint source pollution program.

(DD) $1,750,000 for the Lake Champlain Management Conference ($250,000 to be used for toxic sediment research).

(EE) $1,250,000 for the Lake Onondaga Management Conference.

(GG) $100,000 for the Connecticut River water quality work.

(HH) $1,000,000 for a demonstration project to clean up contaminated areas resulting from leaking underground storage tanks in Council Bluffs and Shenandoah, Iowa.

(II) $70,000 for the National Wood Energy Association for a biomass gasification demonstration project.

(JJ) $600,000 for an environmental health effects study conducted by the State of Louisiana Departments of Health and Hospitals in environmental quality.

(3) BUILDINGS AND FACILITIES.—

(A) $20,000,000 for site acquisition and preparation, planning and design of a Training and Ecology Center for dock facilities and infrastructure in Bay City, Michigan.

(B) $6,700,000 for a grant for the renovation of space and construction of shared and individual laboratories at the Neural Science Center and its related laboratory sites in New York City, New York.

(C) $5,000,000 for the design of a modern facility in Research Triangle Park (RTP), North Carolina.

(D) $6,000,000 for a grant to the Christopher Columbus Center Development, Inc. for planning and design of the Christopher Columbus Center of Marine Research and Exploration in Baltimore, Maryland.

(4) HAZARDOUS SUBSTANCE SUPERFUND.—

(A) $2,500,000 for Superfund research at Clark Atlanta University.

(B) $2,500,000 for the Gulf Coast Hazardous Substance Research Center.

(C) $115,000 for technical assistance at Fort Devens Sudbury Annex Superfund site.

(D) $213,000 for a new pumping system in St. Anthony, Minnesota.

(5) CONSTRUCTION GRANTS.—$46,000,000 for Rouge River National Wet Weather Demonstration Project grant.

SEC. 822. FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for emergency management planning and assistance projects; and

(2) the projects were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139; 105 Stat. 767); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following: (Conference Report to accompany H.R. 2519, House Report 102-226, pages 49 and 50):

(1) $1,000,000 for replacement of Chicago's warning siren system.

(2) $1,000,000 for a hazardous materials training facility in Waterloo, Iowa.

(3) $1,500,000 for an emergency operating center in Iowa.

(4) $50,000 for the planning and design of an emergency operating center in Vermont.

(5) $115,000 for a hazardous materials training facility in Vermont.

(6) $2,500,000 to construct an earthquake research laboratory facility at the University of Nevada, Reno.

(7) $1,155,000 to install new sirens in Kansas.

SEC. 823. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

(a) FINDINGS.—Congress finds that—

(1) the amounts listed in subsection (c) are set aside for research and development or construction of facilities; and

(2) the projects were—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of congressional committee or subcommittee authorization hearings.

(b) RESCISSION.—There are rescinded—

(1) the amounts listed in subsection (c), which were set aside or otherwise made available out of appropriations made by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139; 105 Stat. 769, 770); and

(2) the underlying appropriations for the amounts.

(c) AMOUNTS.—Except to the extent obligated, the amounts rescinded by subsection (b) are the following (Conference Report to accompany H.R. 2519, House Report 102-226, pages 52-54, and 59).

(1) RESEARCH AND DEVELOPMENT.—

(A) $950,000 for a study of a reusable space capsule landing site at the White Sands Missile Test Range.

(B) $25,000,000 for the Consortium for International Earth Science Network (CIESIN) to continue study and development of an interdisciplinary Earth science data and information network.

(C) $2,000,000 for AdaNET in West Virginia.

(D) $2,250,000 for academic grants, including $1,500,000 for the classroom of the future program at Wheeling Jesuit College, West Virginia.

(E) $750,000 for planning and design activities associated with the Delta College Learning Center, at University Center, Michigan.

(2) CONSTRUCTION OF FACILITIES.—

(A) $6,000,000 to construct, equip, and integrate a classroom of the future facility on the campus of Wheeling Jesuit College, West Virginia.

(B) $3,400,000 for CIESIN architecture and engineering design studies and facility development management.

(C) $13,500,000 to construct, equip, and integrate facilities related to the National Technology Transfer Center.

(D) $20,000,000 for construction of the Christopher Columbus Center of Marine Research and Exploration.

(E) $10,000,000 for the constructing, equipping, and integrating of an independent software validation and verification at West Virginia University.

(F) $10,000,000 for the improvement and modernization program at the Poker Flat Research Range located at Fairbanks, Alaska.

TITLE IX—BLUE SMOKE AND MIRRORS

SEC. 901. SENSE OF THE CONGRESS.

(a) FINDINGS.—The Congress finds the following:

(1) The tactic of delaying obligations in the appropriations process is an irresponsible budgeting technique which will only serve to exacerbate the budget deficit and the national debt.

(2) In an effort to evade the budget caps agreed to in the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), Congress delayed $3,780,000,000 in budget authority and $1,790,000,000 in budget outlays until fiscal year 1993. This will increase the pressure on the caps in the fiscal year 1993 appropriations process, which could, in turn, result in another round of obligation delays.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, with regard to the appropriations process, "forward funding" tactics should no longer be utilized and Congress should operate within the funding limits prescribed for each fiscal year.

By Mr. DODD (for himself, Mr. RIEGLE, Mr. D'AMATO, Mr. DIXON, Mr. SANFORD, Mr. WIRTH, Mr. KERRY, and Mr. BRYAN):

S. 2266. A bill to provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

INVESTMENT ADVISER OVERSIGHT ACT

• Mr. DODD. Mr. President, today, with the distinguished chairman of the full committee, Chairman RIEGLE, and a number of our colleagues, I am introducing the Investment Adviser Oversight Act of 1992. This is legislation developed with the Securities and Exchange Commission to protect investors by improving the supervision of investment advisers.

The legislation provides for increased inspections of investment advisers by increasing the fees they pay to the SEC and directing those fees to the hiring of additional SEC examiners. The legislation also amends the Investment Advisers Act to create an express prohibition against making unsuitable recommendations to clients, and to give the SEC authority to require that advisers having custody of client funds or securities be bonded against larceny or embezzlement. The bill also gives the SEC authority to develop with the States a central registry for investment advisers.

This proposal was the subject of a hearing before the Securities Subcommittee last week. It has the support of the SEC, State regulators, major industry groups, and consumer organizations. I believe it is essential that we pass this legislation in this Congress, so that we can protect the millions of investors who depend upon the advice of investment advisers.

When we use the term "investment adviser," we are talking about an individual or firm who receives compensation for giving advice relating to securities. The public may be more familiar with the term "financial planner"—which is used by many investment advisers.

Investment advisers are regulated under the Investment Advisers Act of 1940. They are required by that act to register with the SEC and to comply with the disclosure and other provisions of the act. The SEC's principle means of enforcing the act is through inspections of these firms.

In recent years, financial products and services have become increasingly complex, and more and more investors have turned to professional advisers for help. Over the past decade, the number of investment advisers has grown dramatically.

Between 1981 and 1991, the number of investment advisers registered with the SEC has increased from 4,580 to 17,500. Assets under their management have increased from $440 billion to more than $5.3 trillion, an increase of more than 1,200 percent.

But, in the face of explosive growth in the industry, the SEC examination staff has grown from just 36 examiners in 1981 to 46 examiners in 1991. That means that there are just 46 examiners to inspect over 17,500 firms.

As a consequence, the SEC is able to inspect investment advisers at the rate of only once every 30 years. As one member of the SEC staff told us recently, this inspection rate "doesn't even pass the laugh test." It demonstrates a failure of Federal supervision over this important industry. And, although larger advisers are inspected more frequently, we cannot take much comfort in that fact. The smaller advisers are often the ones who deal with the most vulnerable and unsophisticated investors.

Those individuals who seek help from an investment adviser may be the elderly—those who have retired and are looking for ways to make their savings last for the remaining years of their lives. They may be young couples planning for a family or saving for their children's college education. They may be couples reaching middle age, trying to invest so they can be comfortable in their retirement years. They may be widows or divorcees who have a small inheritance or a lump sum payment they need to invest safely, to provide for their future.

Many of them are unsophisticated and unsure, and they are looking for someone to trust. They are saying to the adviser or financial planner: "I don't know what is the best plan for me or my family. You tell me, what should I do with my savings?"

However, in some cases, investment advisers may be more interested in the fees they collect or in the commissions generated by the sale of products than they are in rendering sound, objective advice to their clients.

The SEC and other experts share my concern that the elderly may be the most vulnerable. The low interest rate environment is forcing many of our seniors to look for alternatives to interest-bearing instruments. The Wall Street Journal recently reported that 54 percent of all interest-bearing money market and certificate of deposit accounts are held by seniors. These seniors have an estimated 30 percent of their net worth tied up in interest-bearing assets. Many of them recently have seen their incomes slashed by lower interest rates.

When these elderly are taken in by con men, or when a financial planner urges them to buy securities—not because they are the most suitable investment but because the financial planner is receiving a commission on the sale of the product, the elderly, unlike many of us, have no opportunity to recoup their losses, because their income earning days are over.

But the elderly are not the only ones who are vulnerable to the abusive tactics used by some investment advisers. When other investors are taken in by slick sales tactics or high pressure solicitations, their pain and embarrassment may be just as great as we heard at our hearing last week.

One investor, Elizabeth Faitella, lives in Unionville, CT, where she is a secretary in a public school. Her husband Richard is a heating and air-conditioner contractor. The Faitellas were solicited by telephone by an investment adviser, who persuaded them to place $20,000 of their own money and another $20,000 of borrowed funds in a leveraged coin investment. Their investment today is worth less than $10,000—a loss of more than $30,000.

At last week's hearing, Ms. Faitella described the environment thousands of investors face. She stated, "some of these financial planners who have no experience and no expertise are allowed to continue to operate on the fringe of the current system and continue to line their own pockets at the great expense of their clients. * * * These people are skilled at conning their clients and will continue to prey upon innocent victims unless they are properly policed."

Another witness, Thomas Rush, is a government employee, as well as a part time teacher. An investment adviser called him repeatedly with stories of high returns on investments. The adviser finally persuaded Mr. Rush to invest $10,000 with him. Mr. Rush later found out that the adviser lied about huge profits in his account. The adviser commingled funds and shifted funds among accounts, in an effort to hide losses. The adviser had obtained information on Mr. Rush's financial status, knew what his limitations were, and knew that he simply did not have the resources to engage in a lengthy lawsuit. In fact, when Mr. Rush did hire an attorney, the lawyer charged him $750 for 2 days of work.

In now appears that Mr. Rush has lost his entire investment. Mr. Rush very candidly admitted that he came to testify before the subcommittee with "some degree of reluctance." He explained, "It is very difficult to admit that you have been duped." In my view, he wasn't "duped," he was defrauded. We owe him our gratitude for his willingness to tell his story, so that we can take the steps to protect others from unscrupulous investment advisers.

A third witness, Dr. Shapiro, dealt with a financial planner who ultimately embezzled $13 million from pension and individual accounts of doctors in Miami, FL. The financial planner is now in jail, but, as Dr. Shapiro said, "His lengthy jail sentence is little consolation to the people whose lives he diminished or destroyed."

We owe it to these investors, and to all investors, to keep this industry clean. The Chairman of the SEC has told us that his agency is not doing the job it should do in this area. He has come up with a suggestion: Increase the fees paid by investment advisers and use those funds to hire more SEC examiners.

What is gratifying to me is that the industry itself strongly supports Chairman Breeden's proposal. Those who would pay the higher fees are saying, "It's worth it. Give the SEC the examiners to help keep our industry clean, and we will pay the bill."

There are obvious questions. The first is, Why not just reshuffle personnel at the SEC? Move some people out of enforcement? Take some staff out of the disclosure review area? Take personnel out of the Division of Market Regulation, which oversees broker-dealers?

However, virtually every SEC division is overstressed as a result of an explosion in market activity over the past decade, a period in which SEC staff levels were kept virtually static. Only in the last several years has there been a rebuilding program at the SEC. Chairman Breeden has indicated that any reduction of SEC staff in other divisions would result in a reduction of investor protection in those areas.

Mr. President, the Investment Adviser Oversight Act of 1992 is much-needed legislation. Granted, it does not do everything some believe is necessary. It does not provide an express private right of action—something I personally believe investors should have, although the SEC has pointed out that investors can sue under other antifraud statutes, notably section 10(b) of the Securities Exchange Act. The bill does not provide for educational and testing requirements—something the States increasingly are requiring. There clearly are other provisions that could make the legislation an even better vehicle to protect investors, and I certainly intend to raise these other issues with my colleagues.

However, we have a very short legislative session this year, and some have suggested that more expansive legislation would fall of its own weight. In my view, and in the view of the SEC, by far the most important means of policing this industry is to place more cops on the beat. We have debated these issues for too many years, during a period in which the industry's growth has far exceeded the SEC's resources to police the industry. So, I believe we must act, and we must act this year. And, if the bill the SEC has developed is the bill around which we can build a consensus, then we should move it as soon as possible.

I ask my colleagues to take a serious look at what we are trying to accomplish here. I believe the legislation will have broad, bipartisan support.

I ask unanimous consent that a memorandum in support of the bill, the text of the bill, and a section-by-section analysis be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investment Adviser Oversight Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the activities of investment advisers are of continuing national concern;

(2) increased supervision of investment advisers by the Securities and Exchange Commission (hereafter referred to as the "Commission") is necessary to protect investors from fraud and other illegal conduct;

(3) additional resources are necessary to recover the Commission's costs of an enhanced program for the oversight of investment advisers and their activities, including the costs of registration and inspections; and

(4) because the direct beneficiaries of these activities are investment advisers, it is appropriate for investment advisers to pay fees for such activities.

SEC. 3 REGISTERED INVESTMENT ADVISER FEES.

(1) IN GENERAL.—The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended by inserting after section 203 the following new section:

"FEES FOR REGISTRANTS AND APPLICANTS

"SEC. 203A. (a) IN GENERAL.—The Commission is authorized, in accordance with this section, to establish fees to recover the costs of enhanced supervision and regulation of investment advisers and their activities. Such fees shall be collected to the extent provided in appropriations Acts. Such fees shall be deposited as an offsetting collection to the Commission's appropriation and shall remain available until expended. The costs covered by such fees shall include the costs of Commission expenses for registration activities and inspections and a proportional share of related Commission expenses related to—

"(1) policy and rulemaking activities;

"(2) administration;

"(3) information services; and

"(4) international activities.

"(b) TIME FOR PAYMENT.—(1) At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under this section.

"(2) Each investment adviser whose registration is effective on the last day of its fiscal year shall pay to the Commission the fee specified in section (c) not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) SCHEDULE OF FEES.—The amount of fees due from investment advisers in accordance with paragraphs (1) and (2) of subsection (b) shall be determined according to the following schedule:

"Assets under management	*Fee due*
	Fee due
Less than $10,000,000	$300
$10,000,000 or more, but less than $50,000,000	1,500
$50,000,000 or more, but less than $100,000,000	2,500
$100,000,000 or more, but less than $500,000,000	4,000
$500,000,000 or more, but less than $5,000,000,000	6,000
$5,000,000,000 or more	7,000

"(d) The Commission may, by rule, adjust the fees specified in subsection (c) by a percentage not greater than the percentage change in the Consumer Price Index for All Urban Consumers; U.S. City Average, All Items Index (or a similar successor index of the Bureau of Labor Statistics of the Department of Labor)—

"(1) between the [February, 1992] version of such index and the most recent version of such index that is in effect; or

"(2) if one or more adjustments have been made under this section after the date of enactment of this section, between the version of such index in effect at the time of the most recent adjustment and the most recent version of such index that is in effect.

"(e) SUSPENSION FOR FAILURE TO PAY.—The Commission, by order, may suspend the registration of any investment adviser if it finds (after notice) that such investment adviser has failed to pay when due any fee required by this section. The Commission may reinstate such registration upon payment of the fee.

"(f) RULEMAKING.—The Commission may adopt such rules and regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—This section shall become effective upon the adoption by the Commission of implementing rules and regulations, under section 203A(f) of the Investment Advisers Act of 1940, as added by subsection (a).

SEC. 4. FACILITIES FOR FILING RECORDS AND REPORTS.

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended—

(1) by inserting "(a)" after "SEC. 204."; and

(2) by adding at the end the following:

"(b) The Commission, by rule, may require any investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any person designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing.".

SEC. 5. PROHIBITED TRANSACTIONS BY INVESTMENT ADVISERS.

Section 206 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-6) is amended—

(1) in paragraph (4), by striking the period and inserting "; or"; and

(2) by adding at the end the following:

"(5) to give investment advice to any client, other than in connection with impersonal advisory services, unless the adviser has—

"(A) obtained from the client information concerning the client's financial situation, investment experience, and investment objectives; and

"(B) reasonably determined, based on the information required by this section and any other information known by the adviser, that the investment advice is suitable for the client.

As used in paragraph (5), the term 'impersonal advisory services' means any investment advisory services provided (i) by means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts; (ii) through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or (iii) by any combination of the foregoing services.".

SEC. 6. BOND REQUIREMENT.

Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-8) is amended by adding at the end the following:

"(e) The Commission may require, by rules and regulations for the protection of investors, that any investment adviser registered under section 203 who—

"(1) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account;

"(2) has access to the securities or funds of a client; or

"(3) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

shall obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners, directors, and employees of the investment adviser as the Commission may prescribe.".

SECTION-BY-SECTION ANALYSIS OF THE INVESTMENT ADVISER OVERSIGHT ACT OF 1992

Section 1. Short title. Section 1 provides that the title of this Act shall be the "Investment Adviser Oversight Act of 1992" (the "Act").

Section 2. Findings. Section 2 sets forth Congressional findings concerning the importance of amending the Investment Advisers Act of 1940 ("Advisers Act") to increase the resources available to the Securities and Exchange Commission (the "Commission") in connection with an enhanced investment adviser oversight program and to make certain other improvements.

Section 3. Registered investment adviser fees. Section 3(a) amends the Advisers Act by adding new section 203A, requiring investment advisers to pay upon application for registration and annually thereafter a fee based upon assets under management.

Subsection 203A(a) provides that the Commission shall collect fees to recover the costs of enhanced supervision and regulation of investment advisers and their activities. These fees will be deposited as an offsetting collection to the Commission's appropriation and will remain available until they are spent. The costs to be recovered through these fees include the costs of the Commission's expenses connected with investment adviser registration activities and inspections and a proportional share of related Commission expenses in the following areas: policy and rulemaking activities, administration, information services and international activities.

Paragraph (1) of subsection 203A(b) provides that when an investment adviser files an application for registration under the Advisers Act, the applicant must pay to the Commission a fee, no part of which will be refunded. If the applicant does not remit the fee together with the application, the filing of the application will not be deemed to have taken place.

Paragraph (2) of subsection 203A(b) requires each investment adviser whose application is effective on the last day of its fiscal year to pay to the Commission a fee. The fee must be paid and received by the Commission within the following 90 days, or such period of time as the Commission may designate by rule. No part of this fee will be refunded. Payment of the annual fee is not required if the adviser's registration has been withdrawn, canceled, or revoked prior to that date.

Subsection 203A(c) sets out the amount of the fee to be paid regardless of whether the adviser is applying initially for registration or remitting the fee required to be paid annually thereafter. The fee is to be calculated according to the following schedule, which is also contained in new section 203A:

Assets under management:	*Fee due*
	Fee due
Less than $10,000,000	$300
$10,000,000 or more, but less than $50,000,000	1,500
$50,000,000 or more, but less than $100,000,000	2,500
$100,000,000 or more, but less than $500,000,000	4,000
$500,000,000 or more, but less than $5,000,000,000	6,000
$5,000,000,000 or more	7,000

Subsection 203A(d) gives the Commission authority to adjust the initial and annual fees by reference to the percentage change in the Consumer Price Index-U.S. City Average—All Items—All Urban Consumers, or a similar index that the Bureau of Labor Statistics of the U.S. Department of Labor may designate as its successor. The adjustment will reflect the percentage change in the index from the end of the month prior to the enactment of this section to the latest date for which the index is available.

Subsection 203A(e) gives the Commission authority to suspend the registration of any investment adviser if it finds, after notice, that the adviser has not paid when due any fee required by section 203A. The Commission, at its discretion, may reinstate the adviser's registration after the adviser pays all fees due.

Subsection 203A(f) gives the Commission authority to adopt rules and regulations as necessary to carry out the purposes of section 203A.

Subsection (b) provides that new section 203A shall become effective upon adoption of the rules under section (f).

Section 4. Facilities for filing records and reports. Section 4 amends the Advisers Act by adding new subsection 204(b), authorizing the Commission to require investment advisers to file with the Commission any fee, application, report, or notice required by the Advisers Act or by the rules thereunder through any person designated by the Commission for that purpose and to pay the reasonable costs associated with that filing.

Section 5. Prohibited transactions by investment advisers. Section 5 amends the Advisers Act by adding to section 206, the general antifraud section of that Act, a new paragraph (5), which sets forth a suitability requirement applicable to investment advisers.

Investment advisers are fiduciaries, and as such, may not overreach or take unfair advantage of a client's trust. Sections 206(1) and 206(2) of the Advisers Act, together with the general fiduciary standards that bind investment advisers, require investment advisers to develop a reasonable basis for determining that their recommendations are suitable for a particular client. The Act makes the existing suitability requirement in the Advisers Act explicit. In order to satisfy this requirement, investment advisers first must obtain from the client information concerning the client's financial situation, investment experience, and investment objectives. Based on this information and any other information known to the adviser, the adviser reasonably must determine that investment advice to be provided is suitable for the client. The suitability requirement imposed under paragraph (5) is not applicable to impersonal advisory services, that is, any investment advisory services provided (i) by means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts; (ii) through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or (iii) by any combination of the foregoing services.

Section 6. Bond requirement. Section 6 amends the Advisers Act by adding to Section 208, which prohibits certain activities of investment advisers, a new paragraph (e) authorizing the Commission to require certain investment advisers to obtain a fidelity bond. The fidelity bond should provide a source of funds to make clients whole who have been defrauded through larceny or embezzlement. The authority granted to the Commission would extend to advisers with custody of client funds or securities, that have discretionary authority to direct client investments, or that advise investment companies.

MEMORANDUM OF THE SECURITIES AND EXCHANGE COMMISSION IN SUPPORT OF THE INVESTMENT ADVISER OVERSIGHT ACT OF 1992

This Memorandum is submitted by the Commission in support of the Investment Adviser Oversight Act of 1992 (the "Act"). The Act would amend the Investment Advisers Act of 1940 (the "Advisers Act") to (i) establish an initial and annual fee for investment advisers ("advisers") sufficient to offset the costs of an enhanced regulatory program; (ii) authorize the Commission to develop with the states "one stop filing" for advisers; (iii) impose an express "suitability" requirement on advisers; and (iv) authorize the Commission to require advisers having custody of client assets or investment discretion to obtain fidelity bonds.

1. INCREASED FEES TO FUND AN ENHANCED PROGRAM

The Advisers Act establishes a system of registration and regulation designed to disclose to clients the basic facts about an adviser and to hold the adviser to the highest standards of honesty and loyalty expected of a fiduciary. The primary means by which the Commission enforces the Act is through periodic inspection of investment advisers. The explosive growth in the number of investment advisers has outstripped the ability of the Commission to conduct examinations with adequate frequency.

Between 1981 and 1991 the number of advisers registered with the Commission increased from 4,580 to 17,500. During the same period assets managed by advisers soared from $440 billion to $5.4 trillion, an increase of more than 1200%, and more than twice the amount deposited in U.S. commercial banks.[1] During that same period Commission investment adviser inspection staff grew from 36 to 46 examiners, an increase of only 28%. As a result, the inspection cycle has grown from an average of 12 years in 1981 to approximately 30 years in 1991. Without additional resources, there cannot be any substantial increase in the number of inspections. Without adequate oversight of investment advisers, the Commission believes that the investing public is at serious risk.

To provide additional resources, the Act would assess an annual fee on registered investment advisers, based on the amount of assets under their management, at a level sufficient to fund an enhanced program. The revenues from the fee would be retained by the Commission and earmarked for the use of the investment adviser regulatory program. The Commission believes that it is appropriate that investment advisers pay the cost of enhanced regulation because advisers and their clients would be the primary beneficiaries. The industry would benefit from an enhanced professional and ethical stature, and the clients of investment advisers would benefit from recoveries of money, detection of violations before losses occur, and the prevention of future wrongdoing.

Investment advisers are among the very few federally regulated financial service providers that do not make a significant contribution to paying the cost of their regulation.[2] Currently, investment advisers pay a one-time fee of $150.[3] This fee does not begin to pay the cost of their regulation.

Section 3 of the Act adds a new Section 203A to the Advisers Act that would require advisers to pay upon application for registration and annually thereafter a fee based upon assets under management. The fee would be deposited as an offsetting collection to the Commission's annual appropriation and would remain available in subsequent years until expended.

Because the primary purpose of the legislation would be to enable the Commission to fund its adviser regulatory program, the amount of revenue required would depend largely upon the desired average frequency of inspections. The fees set forth in Section 3 would be sufficient to fund a five year inspection cycle. In its experience, the Commission has found that this cycle would provide the greatest benefit that would be commensurate with reasonable costs by permitting the Commission to inspect large advisers (assets over $1 billion) every three years and other advisers every 5.5 years.

The Commission has calculated that funding a five year inspection cycle would require additional revenue of approximately $16 million. If additional firms registered, the Commission's costs would increase and so would its revenues: if the number of advisers decreased, the Commission's costs would decrease, and so would its revenues. Thus, the investment adviser inspection cycle could be stabilized.

The Act provides that each adviser pay the full amount of the initial registration fee upon filing its Form ADV, and thereafter pay an annual fee within ninety days after the end of the adviser's fiscal year.[4] Based on the present number of advisers and the present cost of examinations, if the same fee were charged to all advisers, a five-year cycle would require an annual fee per adviser of approximately $900. However, the Commission has concluded that a tiered fee schedule, tied to assets under management, would be more appropriate because advisers with more assets under management generally have larger operations, require more resources to inspect and will be inspected more frequently. In addition, the Commission believes that charging all advisers a fee of $900 would be burdensome for small advisers and might create an inappropriate barrier to entry into the field.

The fees begin at $300 for advisers that do not have assets under management or who have no more than $10 million dollars under management. Most investment advisers and almost all financial planners would be in this tier. Advisers in the highest tier—those having more than $5 billion under management—would pay an annual fee of $7,000. Section 3 would permit the Commission to adjust the amount of the fees by the change in the consumer price index. This is intended to permit Commission revenues to increase with its cost so that a stable inspection cycle may be maintained.

Under Section 3, the Commission could, after notice, suspend the registration of an adviser that failed to pay the annual fee and reinstate the adviser upon payment of the fee.

2. ONE-STOP INVESTMENT ADVISER FILING

Section 4 would give the Commission authority to designate an organization, such as the NASD, its agent for the receipt of adviser filings and to permit that agent to charge a fee for the reasonable costs associated with its services. This would facilitate the implementation of "one stop filing" for federal and state adviser filings. Because one-stop filing would primarily benefit advisers, the Commission believes that it is appropriate that they bear the costs of the system.

Currently, the NASD operates the Central Registration Depository ("CRD") system, which permits broker-dealers to register their registered representatives with the NASD and the states by filing one document with the NASD, which is then electronically communicated to state regulators. This creates significant efficiencies for broker-dealers, and eases the burden on state regulators of physically processing paper filings. Plans are currently under way for the Commission to accept broker-dealer filings through the CRD system.

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[1] Fed. Res. Bull. Jan. 1992, at A19.

[2] Broker dealers pay the cost of their regulation through payments made to the NASD and the securities exchanges, and investment companies pay fees to the Commission based on the aggregate price of securities sold. Banks, savings and loans, and credit unions, in addition to paying premiums to support federal insurance, must pay fees (generally based upon their total assets) to the relevant banking regulatory agencies to pay the costs of their regulation.

[3] Rule 203-3 under the Advisers Act. Rule 203-3 was adopted under the authority of the Independent Offices Appropriation Act, 31 U.S.C. 9701.

[4] In addition, Section 3 would give the Commission authority to establish an alternate date for payment. The Commission expects to require the annual fee to accompany the adviser's annual update of its registration statement on Form ADV, which is due within ninety days after the end of the adviser's fiscal year. However, the provision would give the Commission flexibility to alter this schedule as appropriate.

The Commission and the states currently use a uniform registration form, Form ADV, for investment advisers. Creation of a central registration system for advisers would be more efficient for both investment advisers, the Commission and the states.

3. EXPRESS SUITABILITY REQUIREMENT

Section 5 of the proposed legislation would amend Section 206 of the Advisers Act by adding a new Section 206(5), expressly establishing a suitability requirement for advisers and an obligation to determine facts about the financial circumstances of a client in order to make this determination.[5] A suitability requirement is currently implicit in the antifraud provision of the Advisers Act.[6]

Under rules imposed by the NASD and the securities exchanges, broker-dealers are prohibited from making recommendations that are not suitable to the needs and investment objectives of their customers.[7] These rules serve to protect customers from overreaching by brokers who may be more concerned with making a sale than with the financial well-being of their customer. There is no self-regulatory organization to establishes standards of professional conduct for investment advisers and no express suitability requirement for investment advisers under the Advisers Act. Advisers have a fiduciary relationship with their clients enforceable under the antifraud provisions of the Advisers Act,[8] and the Commission has brought several cases against advisers making unsuitable recommendations under the general antifraud provisions of the Investment Advisers Act.[9] Because of the importance of the duty of advisers to assure that their recommendations are suitable, the Commission believes it would be desirable to make that duty explicit.

The prohibition against making unsuitable recommendations would not apply to impersonal investment advice. When impersonal advice is provided, through a newsletter, for example, there is no expectation that the advice has been tailored to the client's needs and it would be impractical for the adviser to ascertain the suitability of the recommendations for individual subscribers.

4. FIDELITY BONDING

Section 6 would give the Commission authority to require that investment advisers that have custody of client funds or securities or that have discretionary authority over client assets obtain a fidelity bond to protect their clients against theft or embezzlement of client assets. The provision is modeled after Section 17(g) of the Investment Company Act which gives the Commission authority to require a fidelity bond for investment company employees.[10]

Investment advisers are among the only financial service providers handling client assets that are not required to be bonded.[11] It is the Commission's experience that when a fraud by an adviser resulting in losses to clients is discovered, assets of the adviser are often insufficient to compensate clients. A bond would provide a source of funds from which defrauded clients could be made whole.

The authority granted the Commission by Section 6 would extend to advisers with custody or that have discretionary authority over client funds or securities. About three percent of registered investment advisers have custody of client assets.[12] Because of their easy access to client assets, these advisers present the greatest risk of loss. Advisers with discretionary authority also present risks because they can effect transactions in client securities without the approval of the client. For example, some advisers have indirectly gained access to client securities by directing the custodian to effect improper transactions in client securities.

Section 6 would also authorize the Commission to require advisers to investment companies to obtain a fidelity bond. Section 17(g) of the Investment Company Act requires an investment company to obtain a fidelity bond for its officers and employees. However, most investment companies do not have any employees and depend upon the employees of their investment adviser to administer the company. While the Commission believes it has the authority to extend Rule 17g-1 to require employees of a fidelity bond, the Commission believes it is desirable to have explicit legislative authority.[13]

In exercising its authority under the Act, the Commission would be able to exempt certain advisers from the bonding requirement or to deem the bonding requirement under the Investment Advisers Act satisfied by adequate coverage by another fidelity bond. This might cover advisers who are also registered as broker-dealers and subject to bonding required by NASD rules.

• Mr. RIEGLE. Mr. President, I am pleased to be an original cosponsor of the Investment Advisers Oversight Act of 1992. I would like to commend Senator DODD, chairman of the Securities Subcommittee, for his leadership on this issue and introducing this bill which is of vital importance to the American people.

The fastest growing segment of the financial industry is that of investment advisers. As more people have decided to invest their money to pay for their children's college education, or to buy a new home or car, thousands of men and women have emerged to help these people make sound investments. Unfortunately, a few advisers are out not to help others make money, but to help themselves to those people's assets.

For example, the SEC recently charged an investment adviser from California, with defrauding his 64 clients of more than $113 million. In one case, the SEC alleges that this adviser stole $10.4 million from two clients in just 7 days. He used the money he stole to buy several homes, 2 pleasure boats, and 12 cars, including a $140,000 Ferrari and a Mazda Miata convertible for each of his three secretaries.

This investment adviser was registered with the SEC. Ideally, the SEC would have examined his business affairs periodically, to make sure that he was obeying the laws governing his profession and upholding the best interests of his clients. But the SEC didn't. They couldn't.

Over the last 10 years, the number of registered investment advisers has more than tripled, rising from fewer than 5,000 to more than 15,000. In that same time, the number of examiners employed by the SEC to oversee the activities of the advisers has risen from 36 to 46.

That's 1 investigator for every 369 advisers. Given the time needed to conduct a thorough investigation, that means the examination cycle has increased from 12 years to about 30 years. I'm deeply troubled by these statistics. The SEC needs a credible enforcement policy, and it needs one soon.

Fortunately, the SEC is aware of the problem, and they have developed a plan to correct it. Right now, there is a one-time fee of $150 to register as an investment adviser. The SEC wants to institute an annual registration fee to pay for enhanced regulation.

Almost everyone would benefit from an improved examination system. The honest investment advisers would not have to worry about a few corrupt advisers giving the others a bad name. American investors would not have to worry about a dishonest adviser stealing their nest egg. Only dishonest investment advisers could dislike such a program, because they could no longer rely on an inefficient regulatory structure to aid them in defrauding their clients.

I support this bill and will work to ensure that it is adopted. Again, I thank Senator DODD for introducing legislation on this critically important issue.•

• Mr. D'AMATO. Mr. President, as a member and a former chairman of the Securities Subcommittee, I am concerned that regulation of the investment adviser industry is inadequate.

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[5] Under Section 5 of the bill the suitability of a particular investment would be evaluated in the context of the client's entire portfolio. A similar standard is applied in determining the prudence of an investment made for a retirement plan under the Employee Retirement Income Security Act of 1974 (ERISA) (See 29 CFR 2550.404a-1(b)(1)) and generally in determining the suitability of a trustee's investment decision under trust law. (See Restatement (Second) of Trusts §227 commentary (1959)).

[6] Section 206.

[7] NASD Rules of Fair practice, art. III §2; Rule 405 NYSE Guide; Rule 411 Am. Stock Ex. Guide. In addition, an unsuitable recommendation regarding a "penny stock," would violate rule 15c2-6 under the Exchange Act.

[8] *SEC* v. *Capital Gains Research Bureau*, 375 U.S. 180 (1963).

[9] *See, e.g., Westmark Financial Services*, Investment Advisers Act. Rel. No. 1117 (May 16, 1985) (financial planner recommended speculative equipment leasing partnerships to unsophisticated investors with very modest incomes).

[10] Under authority granted in Section 17(g), the Commission has adopted rule 17g-1 which establishes the minimum requirements of a fidelity bond and sets forth a schedule of minimum amounts of required bonds based on the asset size of the investment company.

[11] NASD and exchange rules require broker-dealers to be bonded (*See, e.g.*, NASD Rules of Fair Practice §32; NYSE Rule 319); exchange rules require transfer agents to be insured against losses (*See, e.g.*, NYSE Listed Company Manual §906.00); bank regulatory agencies require bank employees to be bonded (*See, e.g.*, 12 CFR 7.5215); and ERISA requires pension fund fiduciaries to be bonded (Section 412 of ERISA).

[12] Most investment advisers use an independent custodian such as a bank or broker-dealer.

[13] Rule 17g-1 currently extends required coverage of employees and officers of depositors, trustees and investment advisers of unincorporated management investment companies. Rule 17g-1(i).

Last year and this year, the Securities Subcommittee held hearings regarding investment advisers and the need for increased regulation in this area. Investment advisers advise others on the "advisability of investing in, purchasing, or selling securities. * * *"

I have heard numerous horror stories from individuals who relied on the advice of their investment adviser and ended up losing their entire investment—which in most cases was money earmarked for retirement.

At a Securities Subcommittee hearing last week, a surgeon testified that he had been bilked of $500,000 by his investment adviser. This man's adviser ended up fleeing to Taiwan with a total of $4.4 million of his clients' money—in cash stuffed into a suitcase. Another witness testified about her adviser who convinced her and 1,000 other individuals to invest a total of $55 million in a leveraged rare coin portfolio and condominium.

These stories are real, and the victims of investment adviser fraud are left with no redress but the expense of a lawsuit to try and collect a portion of their original investment. Oftentimes there is nothing left to collect.

As these and other stories reveal, many individuals who are unsophisticated in matters involving investment alternatives rely on advisers to make their investment decisions. As a result, regulation of investment advisers must be sufficient to protect investors from unscrupulous operators entrusted with investor funds.

Although the Investment Advisers Act of 1940 requires individuals who come within the definition of investment adviser or financial planner to register with the SEC, the SEC does not have sufficient resources to adequately regulate this industry. Indeed, in the words of the head of the SEC, Chairman Breeden, the adviser regulatory program is totally inadequate.

By 1981, there were 4,580 advisers registered with the SEC. At that time, 36 SEC examiners were able to make periodic inspections of these 4,580 investment advisers' books on an average of once every 12 years. In 10 years, the number of registered investment advisers nearly quadrupled to 17,500. The SEC examination staff, however, has only increased one quarter—to a total of 46 examiners.

The number of investment advisers has grown so rapidly that the SEC can now only inspect the books of most investment advisers once every 30 years—in most cases this amounts to no regulation at all.

Today, I am pleased to cosponsor important and necessary legislation to fill this void in investment adviser regulation. This legislation offered by the distinguished chairman of the Securities Subcommittee, the Investment Adviser Oversight Act of 1992, will improve supervision of registered investment advisers and provide two additional safeguards to further protect customers of registered investment advisers.

Right now, investment advisers pay only a one-time fee of $150 upon registration. The Investment Adviser Oversight Act of 1992 requires registered investment advisers to pay annual fees based on the dollar amount of the assets they manage. These fees will be used by the SEC to increase its examination staff so that advisers will be inspected every 3 to 5 years, depending on the size of assets under their management.

The Investment Adviser Oversight Act of 1992 also provides for additional safeguards to protect customers of investment advisers. Advisers will be required to give advice that is appropriate to their customer's need and this advice will be subject to the standards of suitability. Further, advisers will be required to obtain fidelity bonds which will protect investors who are the victim of theft or embezzlement.

This legislation is supported by the SEC and, most pointedly, the investment adviser industry itself. It achieves the laudable purpose of providing further protection of investors. It also sets standards for investment advisers which honest advisers welcome as a means to increase credibility of the entire industry.

I urge my colleagues to support this important piece of legislation.●

By Mr. CRANSTON:

S. 2267. A bill for the relief of Charles Richmond; to the Committee on Governmental Affairs.

RELIEF OF CHARLES RICHMOND

● Mr. CRANSTON. Mr. President, today I am introducing legislation that will serve to alleviate a gross injustice done to Charles Richmond.

Mr. Richmond was the plaintiff in Richmond versus OPM, a case decided by the Supreme Court in 1990. The circumstances of the case involved erroneous information provided to Mr. Richmond by the Office of Personnel Management—information which resulted in his ineligibility for his disability benefits for 6 months.

The problem began when Mr. Richmond sought to determine what the rules were on outside income with respect to his continued eligibility for disability payments. In 1986 and again in 1987, the individuals at OPM told Mr. Richmond that he could earn up to 80 percent of his preretirement pay without affecting his eligibility. He would lose his disability pension, however, if he earned 80 percent or more in any 2 consecutive years. Not only did they tell him this, but, on both occasions, they gave him OPM's Federal Personnel Manual letter, which expressly stated that to be the rule.

After receiving this information, Mr. Richmond did some additional overtime work and earned just over 80 percent of his preretirement income in 1986. OPM then informed him that the information which he had been given was in error, that he was not permitted to earn more than 80 percent in any 1 given year. The law had changed in 1982, from a 2-year to a 1-year rule, but OPM had never altered its manual letters, so that the individuals in the field were giving out the wrong information. Through no fault of his own, then, OPM suspended his pension for 6 months, a sum which totaled $3,993.

Over the last 6 years, Mr. Richmond has challenged OPM's action through all the possible administrative and judicial channels. After his claim was rejected by the Merit Systems Protection Board, Mr. Richmond filed an appeal with the U.S. Court of Appeals for the Federal circuit where he represented himself. By a 2 to 1 vote, that court agreed with Mr. Richmond, judging the Federal Government's activities in this case to be affirmative misconduct, and estopped OPM from applying the new law.

Subsequently, the Supreme Court reversed the court of appeals, basing its decision on a reading of the appropriations clause of the Constitution that holds that all Government payments must be authorized by a statute. In its decision, the Court devoted its attention to the broader policy question of whether the appropriations clause prevented the application of estoppel and said virtually nothing about the merits of the case. The one thing the Supreme Court explicitly commented on is the power of Congress to use private relief bills to deal with situations such as Mr. Richmond's. This holding, then, was obviously unrelated to the merits or equity of Mr. Richmond's individual situation or the culpability of the Government in providing him with erroneous information.

Mr. President, my intent in introducing this piece of legislation today is to remedy this injustice imposed on Mr. Richmond. He has exhausted all administrative and judicial channels to try to waive recovery, and the judges and justices who have actually dealt with the facts of his case have recognized how poorly he has been treated, and how egregious has been OPM's failure. Because of Mr. Richmond's lack of fault in the matter, taken together with OPM's glaring error—an error that the agency readily admits to—it is only fair for this Congress to provide private relief to Mr. Richmond.

I ask unanimous consent that a copy of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER BY THE UNITED STATES OF RECOVERY OF OVERPAYMENT OF ANNUITY.

Notwithstanding section 8346 of title 5, United States Code, or any other provision of law, the claim of the United States against Charles Richmond of National City, California, for the recovery of the amount of $3,993 for the overpayment of a disability retirement annuity to Charles Richmond under section 8337(d) of title 5, United States Code, shall be waived.●

By Mr. CRANSTON (for himself, Mr. PACKWOOD, Mr. WIRTH, and Mr. JEFFORDS):

S. 2268. A bill to make the import alert issued by the Food and Drug Administration with respect to the drug RU-486 ineffective, and for other purposes; to the Committee on Labor and Human Resources.

RU-486 REGULATORY FAIRNESS ACT

● Mr. CRANSTON. Mr. President, I am pleased to introduce today legislation, S. 2268, the RU-486 Regulatory Fairness Act, which would lift the import alert on the French drug, RU-486, issued by the Federal Food and Drug Administration [FDA] in June of 1989. This bill would also require that if a new drug approval application for RU-486 is submitted to the FDA in the future, that such application be given consideration in accordance with the provisions of section 505 of the Federal Food, Drug, and Cosmetic Act, section 355 of title 21 of the United States Code. The purpose of this legislation is to ensure that RU-486 is treated like any other new drug—on the basis of demonstrated scientific merit, not politics.

This measure is identical to H.R. 875, legislation introduced last year in the House of Representatives by Representative RON WYDEN and Representative HENRY WAXMAN. Hearings chaired by Representative WYDEN in 1990 and 1991 have demonstrated the importance of making sure that decisions made by the Federal Food and Drug Administration regarding this new drug are made on the basis of scientific and public health criteria—not simply to appease the extreme elements of the anti-abortion movement.

I am pleased to be joined in introducing this legislation by the Senator from Oregon [Mr. PACKWOOD], the Senator from Colorado [Mr. WIRTH], and the Senator from Vermont [Mr. JEFFORDS].

RU-486: POTENTIAL APPLICATIONS

Mr. President, I am sure that most Members of the Senate are familiar with the controversy surrounding RU-486 because of its potential as a nonsurgical form of abortion in the early stages of a pregnancy. However, because this is the first legislation introduced in the U.S. Senate dealing directly with RU-486, I believe it is appropriate to take a few moments to discuss in some detail what this new drug is and its potential not only for providing a nonsurgical alternative for early abortions, but for combating a number of serious diseases which afflict millions of Americans. It is tragic that the politics of abortion have threatened to keep this new drug from being thoroughly tested and evaluated by the American medical research community.

RU-486 is a synthetic compound developed by the French pharmaceutical company, Roussel-Uclaf. Its generic name is mifepristone. The trade name used in France and Great Britain is mifegyne. The inventor of RU-486, Dr. Etienne Baulieu, won the prestigious Lasker Award for clinical research for his tremendous work in developing RU-486. RU-486 acts both as an antiprogestin and an antiglucocorticoid. Each of these properties holds tremendous medical potential.

As an antiprogestin, it blocks the normal action of the hormone progesterone. Progesterone is produced by the body during a menstrual cycle after ovulation. If fertilization occurs, this hormone seems to prevent the lining of the uterus from dissolving. By blocking the progesterone, RU-486 allows the lining to dissolve, thereby terminating the pregnancy with the onset of menstruation. It is thus sometimes referred to as a menstrual inducing drug.

The potential use of RU-486 as a antiprogestin, however, goes far beyond pregnancy termination. It holds great promise as a contraceptive—perhaps a once a month pill—to suppress ovulation itself. It could thus one day become an alternative to existing oral contraceptives.

RU-486 has other important potential applications in the field of reproductive medicine. For example, it may be useful in the treatment of certain types of infertility, particularly those caused by a relatively widespread problem called endometriosis. It may also be effective in assisting in prolonged or difficult childbirths by helping to dilate the cervix and inducing labor. This ability to dilate the cervix in both pregnant and nonpregnant women can be used to facilitate surgical procedures inside the uterus, such as diagnostic dilation and curettage. One pilot study has also found RU-486 to be effective in reducing the size of fibroid tumors of the uterus, the leading cause of hysterectomies among American women.

Mr. President, one of the most significant applications of RU-486 as an antiprogestin may be in the area of treatment of certain kinds of cancer, especially breast cancers. The growth of cancerous cells in some types of breast cancer—perhaps over 40 percent—appear to be stimulated by the hormone progesterone. By inhibiting the effects of this hormone, RU-486 may slow down the spread of this type of cancer. The Canadian National Institute on Cancer has just received approval to begin very important large-scale breast cancer clinical trials of RU-486. As I will discuss in a few moments, it is clear that the manufacturer of RU-486 chose Canada for these trials, rather than the United States, because of the hostile environment for research on RU-486 which the anti-abortion extremists have sought to create in this country.

Preliminary research also suggests that RU-486 may have treatment potential for certain types of brain tumors which are also affected by the progesterone hormone in the body.

In its other property—as an antiglucocorticoid—RU-486 also appears to block the effects of adrenal hormones such as cortisone. As an antiglucocorticoid, it has already demonstrated significant success in treating patients with Cushing's syndrome, a disease caused by excessive cortisone. A 1986 letter from then-Secretary of Health and Human Services, Otis Bowen, described the results of treatment of patients with Cushing's syndrome with RU-486 as spectacular. Preliminary research has also indicated that it may be a useful treatment for glaucoma, a deadly eye disease which affects millions of Americans.

Mr. President, research in the area of hormone inhibitors like RU-486 may unlock the key to effective treatments for many human diseases related to hormone activity within the body as well as providing a safer, more effective oral contraceptive. As Dr. David Grimes, professor of obstetrics and gynecology and preventive medicine at the University of Southern California and the former chief of the abortion surveillance branch of the Centers for Disease Control in Atlanta, told the House Subcommittee on Regulation, Business Opportunities and Energy in its hearings in December 1991, RU-486 is the first of an entirely new class of drugs—antiprogestins—which have opened exciting new areas of research.

Yet, the extremists in the anti-abortion movement are determined to do everything possible to prevent or discourage further research into this drug because it also can be used as a nonsurgical abortion alternative for women who choose to terminate a pregnancy. During the House hearing, it was noted that certain cancer chemotherapy drugs are known to induce abortions. Had the antiabortion extremists been able to block the development of these drugs, countless lives might have been lost to cancer. If these extremists succeed in blocking research and development of RU-486, no drug which has an abortifacient potential will be safe in the future. That would be a tragic result for the millions of Americans suffering from a host of diseases that might otherwise be conquered. It would be very unfortunate if talented and creative biomedical researchers decided to leave these areas of research because of the political controversy. And, Mr. President, it would also be tragic if American women are denied access to a safe and effective nonsurgical abortion alternative because of the strident opposition of the antiabortion movement.

USE AS AN ABORTIFACIENT

Mr. President, it is the use of RU-486 as an abortifacient in the early stages of a pregnancy that has brought the greatest attention to this compound. As I have indicated, it interferes with the absorption of progesterone by the uterine lining, causing the lining to dissolve, as in normal menstruation.

RU-486 has now been approved for use for early pregnancy termination in two Western nations—France and Great Britain. It was approved in Britain last year and has been used for more than 3 years in France. It is expected to be on the market in Scandinavia in the near future. To date, more than 100,000 women worldwide have used RU-486 as an abortifacient.

In France and Great Britain, RU-486 is taken orally in tablet form at doses of 600 milligrams, followed 36 to 48 hours later by a prostaglandin which brings about contractions of the cervix. In Great Britain, the prostaglandin is administered through a vaginal pessary; in France it is administered by injection. In the future, it may be possible to administer the prostaglandin by pill form and even combine the antiprogestin and the prostaglandin in a single tablet. In Britain, it has been approved for use as an abortifacient in the first 63 days of pregnancy; in France, it is limited to the first 49 days. In both countries, it is administered and available under very strict controls.

When combined with a prostaglandin, it is reported to have produced a 96 percent success rate in inducing an abortion. Early trials with RU-486 alone produced effectiveness rates between 60 and 90 percent. The addition of the prostaglandin brought the rate up to the current level. The shedding of the uterine lining usually starts within 2 days after ingesting RU-486. A follow-up visit to assure that the procedure has been completed is scheduled 8 to 12 days later.

During the past decade in which extensive clinical trials of RU-486 have taken place, some side effects have been observed. A small percentage of women have experienced excessive bleeding or uterine cramps. In approximately 1 case out of 1,000, the bleeding was sufficient to require a blood transfusion. In addition, some women experience symptoms similar to a heavy menstrual period—slight nausea, fatigue, minor pains, and dizziness. In several recent cases in France, serious cardiovascular side effects resulted from the administration of the prostaglandin which follows ingestion of RU-486. In one instance, death occurred. For these reasons, women at greater risk of cardiovascular problems, women who smoke, or are over 35 years of age, are now excluded from using RU-486. It should be noted, however, that these problems are associated with the prostaglandin, and not RU-486 itself. Alternative prostaglandins are also being considered to reduce any potential risks.

To date, no long term adverse effects of the use of RU-486 have been discovered. Many researchers believe that such effects are unlikely given the very short time women are exposed to the drug. RU-486 metabolizes quickly and is virtually eliminated by the body within 2 days.

Dr. Grimes described in his testimony before the House subcommittee some of the advantages of RU-486 as an abortifacient over surgical abortions. Dr. Grimes, who participated in a number of studies conducted at the USC Medical School on the use of RU-486, noted that RU-486 avoids potential complications of surgical abortion, such as cervical injury, perforation of the uterus, and scarring of the lining of the uterine cavity. The risk of infection is also reduced, and it does not require the administration of anesthesia.

Finally, Mr. President, the greatest promise for the use of RU-486 may lie in third world nations where, according to World Health Organization [WHO] estimates, some 100,000 to 200,000 women die each year of complications from unsafe abortions. For these reasons, WHO has been sponsoring clinical trials in a number of countries. Providing access to nonsurgical abortifacients such as RU-486 may save the lives of untold women living in countries where access to surgical facilities is severely limited.

HOW THE FDA IMPORT ALERT IS HINDERING PROGRESS

Mr. President, while the rest of the world, including our neighbors to the north in Canada, are actively pursuing the potential of RU-486, the American medical research community has been restrained because of the strident opposition from the antiabortion movement and its allies in the administration. The evidence is quite clear that the 1989 FDA import ban was issued primarily to appease the leaders of the antichoice movement and the ban itself has contributed significantly to the slowing down of research activities on RU-486 in the United States.

Strictly interpreted, the Federal Food, Drug and Cosmetic Act prohibits the importation and distribution in interstate commerce of drugs that have not been approved by the FDA. However, for many years, the FDA has exercised its enforcement discretion to allow the importation of small amounts of such drugs for personal use provided they do not pose unreasonable or significant safety risks and are not intended for resale or commercial distribution. An import alert issued by the FDA means that such discretion is not allowed, and the drug must be automatically detained if found by the U.S. Customs Service in the personal baggage of a traveler or in the mail.

The House subcommittee staff investigation of the records of the FDA prior to the issuance of the 1989 import alert revealed virtually no documentation that RU-486 fell within the criteria for issuance of such an alert. When asked if the FDA had any evidence that a black market for RU-486 existed—a possible basis for imposing the import alert—the FDA produced no evidence to suggest that the manufacturer's tight controls on this drug were faulty. In fact, the evidence suggests precisely the opposite. Roussel-Uclaf maintains extremely rigid control over access to RU-486. FDA produced no evidence of any patterns of surreptitious importation of RU-486 or any seizures of the drug under the existing alert. Nor did the FDA produce any information or data regarding the drug's safety. No medical researchers familiar with RU-486 were contacted by the FDA prior to the issuance of the import alert to solicit any expert advice regarding the safety or risk factors associated with RU-486. The alleged safety criteria cited by FDA related only to the possible use of RU-486 without the supervision of a licensed physician. There was certainly no evidence to suggest that women were, in fact, trying to bring RU-486 into the United States for use without supervision of a physician. In short, the FDA files examined by the House subcommittee staff found "no scientific or procedural safety issue providing foundation for this FDA action, and no record of attempts to bring the drug into this country."

What the FDA files did reveal was that on May 5, 1989, then-FDA Commissioner Frank Young received a letter from 11 antiabortion activists in the Congress objecting to the fact that RU-486 was not one of the 40 drugs specifically excluded from importation into the United States. Nineteen days later, the agency's import operations branch issued a recommendation that RU-486 should be placed on the import alert list. There is little doubt that this political pressure, not scientific data, was the basis for the issuance of the import alert.

Mr. President, the FDA has argued that the import alert has not been the cause of the cessation of research on RU-486 in this country. That claim is clearly wrong. The import alert has had both a direct and indirect adverse impact on research on RU-486.

First, witnesses at the House hearings explained exactly how the import alert directly impedes research.

Dr. Kathryn B. Horwitz, a research scientist and professor of medicine, pathology and molecular biology at the University of Colorado School of Medicine described the impact of the ban on her activities at the 1990 House hearing. Dr. Horwitz is a basic scientist, not a clinician, and had been testing RU–486 in a test tube with breast cancer cells. She testified that when she put RU–486 on those cells, their growth slowed down. But she could no longer get RU–486. This is what Dr. Horwitz told the subcommittee happened to her after the import ban was issued:

> I called the FDA regional office in Denver and asked, "Look, what does this import alert mean? I'm not a Government official. I don't understand what this means. I am just a scientist. I need to bring RU–486 into the country to study breast cancer in a test tube. Can I have it mailed to me?" The answer by FDA was "no." I asked, "If I have a letter from NIH to say that I do research with RU–486 and I go to Paris for a scientific meeting, can I bring some RU–486 back with me for research?" They told me "no." I said, "How do I get RU–486 for research?" They said, "File an IND." Please note that I am a basic scientist. I am not a clinician. IND's are meant for clinical research involving human use. IND's are not meant for basic research. I said, "Please send me an IND form. I want to see what this form looks like." As I expected, the form deals with clinical research and human subjects, which I don't do. This means that as a result of the import alert, I cannot get RU–486 under any circumstances. I am absolutely thwarted in getting this drug into the country for basic research, and the IND route that the FDA proposes is entirely irrelevant in my case."

Another researcher, Dr. Gary Hodgen, professor of obstetrics and gynecology of the Eastern Virginia Medical School, graphically described in his testimony for last December's hearing the chilling impact of the import ban on individual research efforts. He testified how in 1982, he had met with Dr. Baulieu in Paris and had been given a supply of RU–486 to test in his laboratory on primates. Dr. Hodgen stated:

> Thus, I set out for Charles De Gaulle Airport having a briefcase loaded with RU–486 medication. The U.S. Customs officer at JFK had no problem with this large supply of RU–486 on my person because I described my research as a medical scientist and showed a letter confirming the intent of our collaborative research studies with Roussel-Uclaf and INSERM [the French equivalent of NIH] investigators * * *. Today, this story could not happen again because the FDA import alert on RU–486 would cause the U.S. Customs officers to seize the medication upon entry into the United States.

Mr. President, these are just two examples of medical researchers for whom the import alert has meant an inability to pursue promising research opportunities. Certainly the FDA would undoubtedly grant waivers of the import alert to researchers such as Dr. Horowitz and Dr. Hodgen. But each would have to run a bureaucratic maze to get permission to do even the most basic test-tube research on RU–486.

The commencement of the Canadian breast cancer trails with RU–486 presents a new interesting problem. Presumably, a woman participating in the Canadian trial would have her supply of RU–486 confiscated if she attempted to cross the United States-Canadian border with her prescribed medication to visit friends or relatives. Although the FDA would undoubtedly respond that they would authorize the return of the medication to the patient under those circumstances, many days or weeks might pass before such an individual could cut through the red tape to get a waiver from FDA. Under FDA guidelines issued in 1988, an AIDS patient who secures an AIDS-medication abroad which has not yet been tested or approved for use in this country would be permitted to retain the medication for personal use. Yet, a breast cancer patient participating in the Canadian clinical trial of a new drug with tremendous life-saving potential would have her medication seized by United States Customs officials. That is an unconscionable result.

Second, Mr. President, the import alert has clearly also had a pernicious indirect effect upon research efforts. The FDA has asserted that the reason for the slowing down of research on the RU–486 in the United States has been the reluctance of Roussel-Uclaf to make supplies of the drug available to American researchers. Yet, the FDA knows that Roussel-Uclaf has made it very clear that its decisions about where to test and market RU–486 will be based on factors which include the political environment of the country being considered and more specifically, the attitude of the Government toward the drug.

The sole public response that our Government has taken regarding RU–486 was the politically motivated issuance of the import alert—an action which was clearly sought by the antichoice movement for the purpose of sending a hostile message to Roussel-Uclaf regarding its consideration of the United States as a possible place to test or market this drug. The House subcommittee staff members who met with Roussel-Uclaf representatives reported that while the company is interested in the North American market, it sees too many unresolved political and commercial distribution problems in the United States. The company representatives expressed the view that Canada was a more open market; it is thus clear that the selection of Canada's National Cancer Institute—and not United States researchers—for the impending breast cancer trials was driven by the abortion political factor. The company has also indicated that because of the antiabortion political problems in the United States, its contraceptive research with RU–486 will be concentrated in Europe.

Mr. President, Dr. Myron Allukian, former president of the American Public Health Association, stated in his testimony before the House subcommittee that when he had traveled with a group of scientists and advocates to France to meet with the president and medical director of Roussel-Uclaf to present petitions of individuals urging that RU–486 be made available for testing in the United States, the representatives of Roussel-Uclaf were surprised to learn that there were individuals and groups in the United States who would like to see RU–486 brought to this country. Given the public posture of the Federal Government, represented by the import alert, it is easy to understand how the manufacturer would have been misled. In fact, virtually all of the major scientific and medical research organizations in the United States have called for testing of RU–486 in this country, and, if appropriate, clinical use.

Dr. Allukian described aptly the effect that the import ban has had on research efforts.

> [T]he import alert that the FDA has taken will have a negative effect on the health of the people in our country, and is not in their best interest. It also has a negative effect on cost, quality and access to health services. Our country should use every opportunity to research, develop, and implement new and better ways to prevent and treat disease. RU–486 has enormous potential in this area, and RU–486 should be given every opportunity to be tested, developed and utilized.* * * the FDA import alert sends the wrong message to researchers, academics, health professionals and the public at large.

Those who oppose the use of RU–486 as an abortifacient have claimed that their efforts to block development of this drug are not intended to prevent further research into the use of RU–486 for other purposes. The facts, however, suggest the opposite. The testimony of medical researchers at the House hearings in 1990 and 1991 clearly indicates that medical research in the United States on this drug has effectively come to a standstill since the import ban was issued. As Representative WYDEN indicated in his opening statement at last December's hearing, there have been no new investigational new drug applications submitted to FDA for basic research on RU–486 in at least 3 years. And the dozen preexisting research projects are, for the most part, moribund.

Mr. President, it is clear that the FDA import ban on RU–486 has served to intensify the fears of the manufacturer about the averse political environment in the United States toward further development of this drug. The ban was intended to send the signal that the U.S. Government was willing to allow the vocal protests of a strident minority opposed to abortion to deny the American public access to medical advances. It has had the intended impact.

Lifting the ban will send the right signal—that public health needs, not politics, will govern our response to the development of drugs like RU-486. Dr. Gary D. Hodgen aptly observed in his House testimony, "scientific progress should depend exclusively on the data, that is: The quality and quantity of evidence of safety and efficacy. Political factors have no place either for or against these criteria and must not be allowed to hasten or delay the rigorous examination of any proposed medications." Dr. Hodgen expressed the widely shared view that the FDA actions have helped make RU-486 more difficult to obtain for research purposes, and that it had become difficult for researchers to pursue their work in an atmosphere poisoned by politically motivated Federal Government interference.

CONCLUSION

RU-486 has repeatedly been described as the most exciting new development in women's health since the introduction of oral contraceptives over three decades ago. The American medical research community once lead the world in reproductive research advances. Today, sadly, our researchers have been thwarted by Federal Government policies that shut the door on progress in many areas because of the abortion controversy. This bill is intended to make sure that our research community has a fair opportunity to test RU-486 and if it is demonstrated to be safe and effective, that it be made available to the American public.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point along with an April 21, 1991 editorial from the Los Angeles Times dealing with this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "RU-486 Regulatory Fairness Act".

SEC. 2. IMPORT ALERT.

Effective on the date of the enactment of this Act, the import alert (No. 66-47) issued June 6, 1989, by the Food and Drug Administration with respect to the drug RU-486 shall not have any legal effect and shall be withdrawn by the Food and Drug Administration. On and after the date of the enactment of this Act, the Food and Drug Administration may not issue another import alert with respect to such drug or take any other action to bar the import of such drug unless the Food and Drug Administration finds that such drug is being imported for an illegal use.

SEC. 3 DRUG APPROVAL.

When an application is submitted under section 505 of the Federal Food, Drug, and Cosmetic Act for the drug RU-486 the application shall be given consideration in accordance with such section.

[From the Los Angeles Times, Apr. 21, 1991]

WHY A FRENCH FIRM IS SCARED BY AMERICA—ABORTION POLITICS LOCKS PROMISING MEDICINE OUT OF UNITED STATES

It is a pathetic spectacle: In the richest nation on earth, with the best medical care available, women and men may be dying because the Bush Administration's dogmatic stance on abortion has caused a fearful foreign pharmaceutical manufacturer to hold a promising drug off of the American market.

The French-made steroid, RU-486, has shown hopeful results in treating some forms of cancer, Cushing's Syndrome and other serious diseases. In one test, RU-486 reduced tumors in one of every five patients with advanced breast cancer that had not responded to chemotherapy.

RU-486 is also an abortifacient. Therein lies the problem. Developed in the mid-1980s, the pill may be a safe and humane alternative to surgical abortion. RU-486 is currently approved as an abortifacient in France; 65,000 French women have used it with no adverse effects. Britain, Sweden and the Netherlands are expected to approve it for this use.

ABORTION POLITICS

But not the United States. In 1989, with no evidence of smuggling or abuse of this drug, the FDA caved to pressure from anti-abortion groups by putting RU-486 on a short list of "import alert" drugs that cannot be brought into this country for personal use. Technically, researchers could apply for a license to import the drug for testing, but the alert—and fears of a product boycott—so frightened Roussel-Uclaf, the pharmaceutical manufacturer, that it will not make supplies available for FDA-approved research projects.

Despite the fact that abortion is still legal in this country, although increasingly restricted in many states, the Bush administration obviously prefers to hold hostage the 44,000 American women who die of breast cancer each year to the basest abortion politics. And the Administration would also clearly prefer that American women who lawfully choose to terminate a pregnancy expose themselves needlessly to surgical risks when a safer alternative may already be available. Washington's reasoning, that RU-486 could make abortion less painful—and therefore too easy—defies the reality that for most women, abortion is, and will remain, and emotionally painful experience.

NEW CAMPAIGN

As a result, American politicians are now reduced to begging the federal government and Roussel-Uclaf for FDA-sponsored clinical trials. Earlier this month, New York City Mayor David Dinkins, no stranger to the urban tragedies spawned by unwanted pregnancies, launched a letter-writing campaign. He called upon President Bush and Health and Human Services Secretary Louis W. Sullivan to lift the import alert on RU-486 and let it be tested like any other drug. Dinkins also wrote to the president of Roussel, asking him to permit the export and testing of RU-486 and not "allow a small minority to frustrate the large majority." Finally, Dinkins called on 33 other mayors around the country to join him. Included in this group are the mayors of Los Angeles, Santa Barbara, San Jose, San Diego and San Francisco.

Dinkins is not the first to step forward on this issue. Delegations of feminists and leading American scientists and physicians have met with Roussel executives in Paris to allay their fears of a product boycott and plead with them to supply the drug.

Rep. Ron Wyden (D-OR.) recently introduced a bill that would rescind the FDA's import alert, which would put RU-486 on the same status as other test drugs, allowing it to be approved or rejected for use here on the basis of its scientifically proven therapeutic value, rather than political judgments about abortion.

The 480 American women who will tomorrow discover that they have breast cancer, and the 4,400 women who will tomorrow undergo a surgical abortion, must wonder how long they must wait for a compassionate signal from the White House and courage from Paris.●

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. REID, the names of the Senator from Wisconsin [Mr. KASTEN], the Senator from Mississippi [Mr. LOTT], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 267, a bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State.

S. 405

At the request of Mr. MITCHELL, the names of the Senator from West Virginia [Mr. ROCKEFELLER] and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of S. 405, a bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment.

S. 466

At the request of Mr. GRASSLEY, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 466, a bill to amend the Internal Revenue Code of 1986 to provide for a renewable energy production credit, and for other purposes.

S. 479

At the request of Mr. LEAHY, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 479, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

S. 548

At the request of Mr. CRANSTON, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 548, a bill to amend various provisions of law to ensure that services related to abortion are made available to the same extent as are all other pregnancy-related services under Federally funded programs.

S. 619

At the request of Mr. BRADLEY, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 619, a bill to establish a Link-up for Learning demonstration grant program to provide coordinated services to at-risk youth.

S. 709

At the request of Mr. HATCH, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 709, a bill to amend the Internal Revenue Code to allow a deduction for qualified adoption expenses, and for other purposes.

S. 761

At the request of Mr. LIEBERMAN, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 761, a bill to reduce hazardous pollution.

S. 914

At the request of Mr. GLENN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 1423

At the request of Mr. DODD, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Georgia [Mr. NUNN], and the Senator from New Hampshire [Mr. RUDMAN] were added as cosponsors of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1451

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1557

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1557, a bill to improve the implementation and enforcement of the Federal cleanup program.

S. 1598

At the request of Mr. SASSER, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1598, a bill to authorize the Board of Regents of the Smithsonian Institution to acquire land for watershed protection at the Smithsonian Environmental Research Center, and for other purposes.

S. 1866

At the request of Mr. KENNEDY, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 2059

At the request of Mr. NUNN, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 2059, a bill to establish youth apprenticeship demonstration programs, and for other purposes.

S. 2064

At the request of Mr. HATFIELD, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2064, a bill to impose a 1-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period.

S. 2106

At the request of Mr. CRANSTON, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Maryland [Ms. MIKULSKI], the Senator from Alabama [Mr. SHELBY], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

S. 2113

At the request of Mr. SMITH, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Montana [Mr. BAUCUS], the Senator from Nevada [Mr. REID], the Senator from Nevada [Mr. BRYAN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Wyoming [Mr. WALLOP], the Senator from Oklahoma [Mr. NICKLES], the Senator from Utah [Mr. GARN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Colorado [Mr. BROWN], the Senator from Missouri [Mr. BOND], the Senator from Indiana [Mr. COATS], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New York [Mr. D'AMATO], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 2113, a bill to restore the second amendment rights of all Americans.

S. 2117

At the request of Mr. SASSER, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2117, a bill to ensure proper service to the public by the Social Security Administration by providing for proper budgetary treatment of Social Security administrative expenses.

S. 2123

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2123, a bill to provide for enhanced reporting to the public of release of toxic chemicals, and for other purposes.

S. 2156

At the request of Mr. GRAHAM, the names of the Senator from Nevada [Mr. REID], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S. 2156, a bill to amend the Intermodal Surface Transportation Efficiency Act of 1991.

S. 2201

At the request of Mr. BROWN, the names of the Senator from Washington [Mr. GORTON], the Senator from North Carolina [Mr. HELMS], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 2201, a bill to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States as employment-based immigrants under the Immigration and Nationality Act, and for other purposes.

S. 2232

At the request of Ms. MIKULSKI, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2232, a bill to make available to consumers certain information regarding automobiles.

S. 2239

At the request of Mr. PRYOR, the names of the Senator from North Dakota [Mr. CONRAD], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2239, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 218

At the request of Mr. MITCHELL, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of Senate Joint Resolution 218, a joint resolution designating the calendar year 1993 as the "Year of American Craft: A Celebration of the Creative Work of the Hand."

SENATE JOINT RESOLUTION 230

At the request of Mr. REID, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 230, a joint resolution providing for the issuance of a stamp to commemorate the Women's Army Corps.

SENATE JOINT RESOLUTION 236

At the request of Mr. D'AMATO, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Joint Resolution 236, a joint resolution designating the third week in September 1992 as "National Fragrance Week."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 254

At the request of Mr. D'AMATO, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from South Dakota [Mr. PRESSLER], the Senator from Virginia [Mr. WARNER], the Senator from Vermont [Mr. JEFFORDS], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Joint Resolution 254, a joint resolution commending the New York Stock Exchange on the occasion of its bicentennial.

At the request of Mr. MOYNIHAN, the names of the Senator from Washington [Mr. ADAMS], the Senator from North Dakota [Mr. CONRAD], the Senator from California [Mr. CRANSTON], the Senator from Nebraska [Mr. EXON], the Senator from Ohio [Mr. GLENN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Tennessee [Mr. GORE], the Senator from Wisconsin [Mr. KOHL], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 254, supra.

SENATE JOINT RESOLUTION 257

At the request of Mr. LAUTENBERG, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from New York [Mr. D'AMATO], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 257, a joint resolution to designate the month of June 1992, as "National Scleroderma Awareness."

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE RESOLUTION 246

At the request of Mr. DOLE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Resolution 246, a resolution on the recognition of Croatia and Solvenia.

SENATE CONCURRENT RESOLUTION NO. 95—RELATING TO GSP PETITIONS FROM CENTRAL AND EUROPEAN COUNTRIES

Mr. DURENBERGER (for himself, Mr. WOFFORD, Mr. KASTEN, Mr. KOHL, Mr. DASCHLE, Mr. SEYMOUR, Mr. ROCKEFELLER, Mr. SPECTER, Mr. BREAUX, Mr. D'AMATO, Mr. BURDICK, Mr. LEAHY, Mr. WELLSTONE, and Mr. HARKIN) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 95

Whereas on May 3, 1991 the President, on recommendation from the United States Trade Representative, rejected GSP petitions for Goya cheese, prepared or preserved mushrooms, grape wine, and other products; and

Whereas the GSP Subcommittee of the Trade Policy Staff Committee refused to review petitions seeking the addition of commercial chinaware to GSP during the annual review exercises of 1984, 1986, 1987, 1990, and 1991; and,

Whereas on July 12, 1991, the President announced that he would review previously rejected GSP petitions involving Central and Eastern European countries despite Federal regulations which were promulgated to project import sensitive American business interests from recurring GSP petitions for a period of three years (15 CFR 2007.0 (a) (1));

Whereas Goya cheese is quota-free and is a substitute for Parmesan cheese and would displace domestic Parmesan cheese pound for pound;

Whereas Goya cheese is being imported into the United States at a price below the cost of producing domestic Parmesan and GSP countries currently control 70% of all Goya shipments to the United States;

Whereas imports of Goya cheese from GSP countries and from Hungary have been rising each year while at times dairy farmers have been paid the same price for their milk that they received in 1978;

Whereas a zero duty on Goya cheese will cause a flood of imports, seriously damaging Italian-type American hard cheese producers;

Whereas a zero duty on Goya cheese will cause large amounts of surplus cheese to be sold to the US Department of Agriculture, thereby further decreasing milk prices and costing the American taxpayers several million dollars;

Whereas one-third of the processed mushrooms consumed in the United States are imported;

Whereas the number of commercial mushroom growers in the United States has declined by 54 percent in ten years, primarily as a direct result of increased imports from foreign producers;

Whereas American farmers produced 749 million pounds of mushrooms in 1991 worth $648 million, which production will diminish significantly, displacing thousands of domestic workers if increased imports are permitted;

Whereas, in 1989, the US wine industry suffered from a trade imbalance of $935 million to $98 million, that this imbalance has been as high a ratio as thirty-seven to one, and that granting GSP to Hungary would severely injure the domestic wine industry's ability to correct this imbalance;

Whereas there will be an 8 percent volume decrease of wine due to consumption loss caused by the increase in the Federal Excise Tax, and the US wine industry will contribute an estimated $1.5 billion in additional revenues over the next five years to government revenues;

Whereas imports of brandy have increased by fully 36 percent, while domestic brandy sales declined by 5 percent;

Whereas, in 1990, the US brandy industry suffered from a $232 million trade imbalance;

Whereas in 1984, and again in 1988, the US Congress approved the Wine Equity Act which established the principle of wine trade reciprocity for the US wine industry.

Whereas many of the secondary beneficiary countries of the Hungarian request do not provide market access for US wine and brandy.

Whereas the US wine and brandy industries face barriers in many countries, including Argentina and Brazil, such as high duties, licensing requirements, unfair subsidies, and currency controls;

Whereas US imports of commercial chinaware have increased substantially over the last 13 years (1979–1991) from 6.8 percent to 43.6 percent of US estimated consumption of commercial chinaware.

Whereas US production of commercial chinaware has fallen 18.6 percent in the last three years, sales have declined 13.7 percent, and employment has dropped 15.2 percent;

Whereas the US commercial chinaware industry suffered a net operating loss of over $10 million in 1991;

Whereas the commercial chinaware sector in Eastern Europe has already been the recipient of substantial Western investment and is recognized as a long-established, internationally competitive sector;

Whereas major trade associations such as the National Milk Producers Federation, the Associated Milk Producers, the Farmer's Union Milk Marketing Cooperative, the Minnesota Milk Producers Association, Mid-America Dairymen, the National Farmer's Union, Women Involved in Farm Economics, the United States Cheesemakers Association, the Cheese Importers Association of America, the Wisconsin Cheesemakers Association, the American Producers of Italian-type Cheese Association, the American Mushroom Institute, the Wine Institute, the Wine Grape Growers of America, the Brandy Association of America, and the American Restaurant China Council all oppose the petition because it is an irresponsible approach to achieving more open markets or fairer trade, and will seriously injure US agriculture and related industries while accomplishing minimal economic benefits to Hungary: Now, therefore, be it

Resolved by the Senate of the United States (the House of Representatives concurring), That the Congress—

(1) calls for the President of the United States to terminate all cases in the Special GSP Review for Eastern and Central Europe that involve petitions for products considered and rejected, or petitions filed and rejected, in any previous GSP annual review, such as Goya cheese, prepared or preserved mushrooms, grape wine, glassware, and chinaware;

(2) that the President's determinations of May 3, 1991, be reaffirmed; and

(3) that reauthorization of the GSP program should include the review of any discretion to waive the required three year waiting period.

Mr. DURENBERGER. Mr. President, I rise today to introduce a Senate resolution opposing the U.S. Trade Representative's review of previously rejected generalized system of preferences [GSP] petitions from Central and Eastern Europe.

Mr. President, the State Department is attempting to use the Generalized System of Preferences Trade Program to fulfill foreign policy objectives. This is being done at the expense of the American dairy, mushroom, wine, and brandy industries. If Congress permits the Executive to use the GSP Program as a foreign policy tool, it will set a precedent that could be potentially damaging to domestic industries in the future.

On July 12, 1991, the White House announced that, as part of a trade enhancement initiative for Central and Eastern Europe, previously rejected GSP petitions from these countries would be reconsidered. This announcement was made despite federal regulations that prohibit rejected GSP petitions to be refiled within 3 years. Furthermore, in the case of Goya cheese, mushrooms, and grape wine, petitions from Hungary had been rejected by the President on May 3, 1991. On August 8, 1991, the Trade Policy Staff Committee announced that it would reconsider these items.

The impact of granting quota-free and duty-free status for these products from GSP countries would be devastating to these industries. The United States currently operates in a trade deficit with respect to cheese, mushrooms, wine, and brandy. In my own State of Minnesota, dairy farmers who have been hurting for the past 2 years, would face continued low prices and farm bankruptcies by Goya cheese imports.

Industry sources indicate that if the Hungarian Goya cheese petition is accepted, 50,000 to 100,000 tons of Goya cheese would enter the country each year. This would seriously undermine the American dairy industry.

Goya cheese would compete with domestically produced Italian-type cheeses such as parmesan, romano, and asiago. Elimination of the 25-percent duty on Goya cheese would hurt American Italian-type cheesemakers by unfairly undercutting their price by 30 cents a pound. This would prevent American producers from competing with this imported product.

If 50,000 metric tons of Goya cheese is imported, it is expected that 1 billion pounds of domestic milk production would be displaced and purchased by the U.S. Department of Agriculture's Commodity Credit Corporation at a cost of at least $100 million. This would further depress farm milk prices in an already depressed market and drive more dairy farmers into bankruptcy.

This resolution is supported by major trade associations such as the National Milk Producers Federation, the Associated Milk Producers Inc., the Farmer's Union Milk Marketing Cooperative, the National Farmer's Union, the Minnesota Milk Producers Association, Mid-America Dairymen, Women Involved in Farm Economics, the United States Cheesemaker's Association, the Cheese Importers Association of America, the Wisconsin Cheesemakers Association, the American Producers of Italian-type Cheese Association, the American Mushroom Institute, the Wine Institute, the Wine Grape Growers Association of America, the Brandy Association of America, and the American Restaurant China Council.

AMENDMENTS SUBMITTED

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION

McCAIN (AND OTHERS) AMENDMENT NO. 1698

Mr. McCAIN (for himself, Mr. COATS, Mr. DOLE, Mr. McCONNELL, Mr. WALLOP, Mr. NICKLES, Mr. SIMPSON, Mr. BOND, Mr. MACK, Mr. SMITH, Mr. PRESSLER, Mr. WARNER, Mrs. KASSEBAUM, Mr. ROTH, Mr. HELMS, Mr. GARN, Mr. CHAFEE, Mr. SYMMS, Mr. LOTT, Mr. KASTEN, Mr. BROWN, Mr. CRAIG, Mr. THURMOND, Mr. MURKOWSKI, Mr. EXON, Mr. GRAMM, Mr. LUGAR, Mr. BURNS, Mr. BOREN, and Mr. SEYMOUR) proposed an amendment to the bill (S. 479) to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States, as follows:

At the appropriate place, insert the following:

SEC. . LEGISLATIVE LINE ITEM VETO ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Legislative Line Item Veto Act of 1991".

(b) ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.—The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"PART A—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"GRANT OF AUTHORITY AND CONDITIONS

"SEC. 1101. (a) IN GENERAL.—Notwithstanding the provisions of part B of title X and subject to the provisions of part B of this title, the President may rescind all or part of any budget authority, if the President—

"(1) determines that—

"(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

"(B) such rescission will not impair any essential Government functions; and

"(C) such rescission will not harm the national interest; and

"(2)(A) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority; or

"(B) notifies the Congress of such rescission by special message accompanying the submission of the President's budget to Congress and such rescissions have not been proposed previously for that fiscal year.

The President shall submit a separate rescission message for each appropriations bill under paragraph (2)(A).

"(b) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

"(B) The period referred to in subparagraph (A) is—

"(i) a Congressional review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

"(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

"(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

"(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message) shall run beginning after such first day.

"DEFINITIONS

"SEC. 1102. For purposes of this title the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of budget authority, in whole, rescinded in a special message transmitted by the President under section 1101.

"PART B—CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS

"PRESIDENTIAL SPECIAL MESSAGE

"SEC. 1111. Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

"(1) the amount of budget authority rescinded;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(3) the reasons and justifications for the determination to rescind budget authority pursuant to section 1101(a)(1);

"(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

"(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

"TRANSMISSION OF MESSAGES; PUBLICATION

"SEC. 1112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under sections 1101 and 1111 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

"(b) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under sections 1101 and 1111 shall be printed in the first issue of the Federal Register published after such transmittal.

"PROCEDURE IN SENATE

"SEC. 1113. (a) REFERRAL.—(1) Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

"(2) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

"(b) FLOOR CONSIDERATION IN THE SENATE.—

"(1) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

"(c) POINT OF ORDER.—(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

"(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on February 26, 1992, at 2:30 p.m. on Amtrak reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Wednesday, February 26, 1992, at 1:30 p.m. to conduct a hearing on the semiannual review of the Resolution Trust Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Wednesday, February 26, 1992, at 10 a.m. to conduct a markup of pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, February 26, 1992, at 2 p.m., to receive testimony on the impact of the defense builddown on the U.S. industrial base.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on February 26, 1992, beginning at 2 p.m., in 485 Russell Senate Office Building, to consider for report to the Senate S. 1602, the Fort Peck Indian Tribes Montana Compact Act of 1991, and for other purposes, and S. 2245, to authorize funds for the implementation of the settlement agreement reached between the Pueblo of Cochiti and the U.S. Army Corps of Engineers under the authority of Public Law 100-202, to be followed immediately by an oversight hearing on the President's budget for fiscal year 1993 for Indian programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Wednesday, February 26, 1992, at 9:30 a.m., for a hearing on the subject: The Integrity and Effectiveness of the Offices of Inspectors General.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, February 26, 1992, at 9:30 a.m. and at 10:30 a.m. At 9:30 a.m. the committee will hold a hearing to receive testimony on S. 1598, to authorize the Board of Regents of the Smithsonian Institution to acquire land for watershed protection at the Smithsonian Environmental Research Center, and for other purposes; and on S. 1682, to authorize the Board of Regents of the Smithsonian Institution to acquire an Administrative Service Center, and for other purposes. At 10:30 a.m. the committee will conduct an administrative business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 26, at 10 a.m. to receive a closed briefing on the Javits report on prospective arms sales.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FIFTY YEARS OF SERVICE

• Mr. LEVIN. Mr. President, on Wednesday, December 4, 1991, members of the U.S. Tank Automotive Command [TACOM] gathered to honor three outstanding employees: Henry B. Jones, director of procurement and production, Sophia T. Sapielak, accounting technician, and Samuel Letman, materials engineering technician. Each of these fine individuals will be celebrating 50 years of loyal service to the U.S. Government.

Mr. Jones began his career with the U.S. Government as a junior engineering aide in October 1941. When this great country entered the Second World War, Mr. Jones enlisted in the U.S. Army and served honorably until 1945. He returned to the U.S. Government's employ and through hard work and dedication rose to his current position as director of procurement and production. He has demonstrated superior expertise within his field and has received numerous awards, most notably the Presidential Rank Award.

Mrs. Sapielak is a valuable part of the U.S. Tank Automotive Command organization whose proficiency in accounting and clerical skills could not easily be replaced. Her dedication is evidenced by the numerous awards she has received. Mr. Letman has made significant contributions to the security of our country as both a civilian employee and as a member of the U.S. Army. His research into the development of tank automotive rubber components has done much to strengthen our mobile ground forces.

These outstanding individuals have demonstrated extraordinary commitment to their professions and their country. Loyalty such as theirs is rare and they have earned the respect and admiration of all who know them. I salute them.•

TRIBUTE TO WILLIAM SPRAGUE

• Mr. McCONNELL. Mr. President, I rise today to recognize Bill Sprague, an outstanding Kentucky farmer who was elected last December the president of the State's largest farm organization, the Kentucky Farm Bureau Federation. The circumstances surrounding Mr. Sprague's campaign and subsequent election illustrate the Sturgis, KY, farmer's determination and conviction.

Last August, Bill Sprague suffered a life-threatening accident that almost left him paralyzed. Mr. Sprague fell 18 feet from a ladder to the metal floor of a grain bin at his Union County farm. He was hospitalized for 28 days and endured about 3 weeks of physical therapy. However, Mr. Sprague proceeded with his goal to lead the Kentucky Farm Bureau.

Bill Sprague now approaches his position with the same tenacity which enabled him to be elected Farm Bureau president in spite of his injury. About one-third of Kentucky's population—some 330,000 families—belong to the Kentucky Farm Bureau. Mr. Sprague has developed a plan of action to meet the needs of Farm Bureau members and to shape the future of the organization, as well as the State's agriculture industry. This clear vision stems from a life-long career in agriculture.

After graduating from the University of Kentucky with a bachelor's degree in agricultural engineering in 1961, Bill Sprague joined the Air Force as an environmental engineer. He returned to his family farm in Union County in 1964. Mr. Sprague's Sturgis farm is located in the heart of Kentucky's grain and coal country. Today, with only four employees, Mr. Sprague raises 200,000 bushels of corn, 60,000 bushels of soybeans, and 15,000 bushels of wheat each year. He also raises beef cattle and hogs. Considering the size and production from his land, the farm ranks closely in size with the largest farms in the United States.

As Kentucky Farm Bureau president, Mr. Sprague hopes to improve educational opportunities for farmers in areas such as farm safety, boost membership in the Kentucky Farm Bureau, improve the use of the State's vast pasture land, and involve more members in the interworkings of the organization. He spends much of his time meeting with farm groups, speaking to State legislators, and traveling to Farm Bureau headquarters in Louisville. He is already making plans to run for reelection in December of this year, and hopes to lead the organization for the next 6 or 7 years.

Bill Sprague is one of Kentucky's most outstanding farmers, and is respected as an agricultural leader across the State. Please insert the following article from the Lexington Herald-Leader into the Record.

The article follows:

Farmer Refused To Let Injury Paralyze Campaign—New Farm Bureau President Ran for Office on His Back

(By Kevin Osbourn)

Sturgis.—Few people ascend to elected office lying flat on their backs.

But William Sprague won the presidency of the state's largest farm organization, the Kentucky Farm Bureau Federation, in December while doing just that. He had no choice. An accident at his Union County farm nearly left him paralyzed.

Before his campaign began, in the searing August heat, Sprague stood atop a ladder in a grain bin, trying to repair a machine that dried the grain.

He fixed it, climbed down to get a wrench for a final adjustment, and told a co-worker holding the ladder to do something else.

Sprague stepped to the top, then the bottom of the ladder slipped. He fell about 18 feet to the metal floor crushing several vertebrae.

To speed the healing process and avoid bending his spine, doctors ordered Sprague not to sit down. He has recovered to the point that he is able to walk, but the months after the accident were difficult.

"I was in the hospital 28 days and, had two to three weeks of physical therapy," he said. "I couldn't sit down for three months."

Sprague, 53, lay prone in the rear of a van traveling to Kentucky Farm Bureau meetings to campaign for president. His wife, Julia, drove.

"I saw a lot of treetops," Sprague said with a laugh. "I got to do a lot of reading."

The December election was the third time Sprague had challenged longtime rival Ray Mackey, a Hardin County farmer who was president for 13 years. Sprague came close to beating Mackey in 1990, then succeeded the next year.

He heads a powerful organization with several full-time lobbyists in Frankfort. Almost 330,000 families—representing about a third of the state's population—belong to the Kentucky Farm Bureau.

Many members live in cities and no longer farm. Many take advantage of membership to obtain insurance through an affiliate organization, Kentucky Farm Bureau Mutual Insurance Co.

Sprague outlined several of the major goals of his presidency while sitting in his kitchen, which overlooks the 3,000-acre farm he owns with his brother, Joe.

Farm Bureau lobbyists in Frankfort are focusing on three key goals during this General Assembly, he said.

The first is to overhaul Kentucky's inheritance tax. Kentucky is one of the most expensive state's to die in, putting a heavy burden on those who want to pass the family farm to their heirs. One idea the Kentucky Farm Bureau has supported is making estates of less than $600,000 exempt from death taxes.

Sprague's second legislative goal is to help the University of Kentucky, his alma mater, move its livestock research from Coldstream Farm in Lexington to the former Pin Oak Farm near Versailles.

The third is to fight livestock diseases by adequately financing state prevention programs and the state's diagnostic laboratories in Hopkinsville and Lexington.

But with such a tight state budget, Sprague admits that achieving everything he wants in Frankfort will be difficult.

Sprague's agenda involves more than state government, however.

He hopes to improve educational opportunities for farmers in areas such as farm safety, boost membership in the Kentucky Farm Bureau, improve the use of the state's vast pasture land and involve more members in shaping the future of the organization.

"We need to work on rural economic development," he said. "We can try to promote in-state processing plants. This would give us a better market and promote off-farm income."

Like many others, he thinks there is tremendous potential to sell Kentucky hay nationwide.

"The area we can expand most is in forage production," he said. "We are using a small percentage of the potential (pasture). That would mean more livestock, beef cattle and dairy cattle."

So far, most of Sprague's plans involve general goals rather than specific programs.

But the ideas spring from a life-long career in agriculture.

After graduating from UK with a bachelor's degree in agricultural engineering in 1961, Sprague joined the Air Force as an environmental engineer.

He returned to his native Union County and the family farm in 1964.

The long, flat expanse of land is in big grain and big coal country. From the back porch of his house, Sprague can see tipples from the former William Station Mine, where 10 miners died in a methane-gas explosion in 1989.

With the help of four employees, the Spragues raise as much as 200,000 bushels of corn, 60,000 bushels of soybeans and 15,000 bushels of wheat each year on several tracts of land. They also raise beef cattle and hogs.

Most of the crops are grown on former wetlands that were drained during the Great Depression. Men in the Works Progress Administration dug a huge ditch that opened up thousands of acres to agriculture.

Considering the size and production from Sprague's land, the operation ranks closely in size with the largest farms in the United States, he said.

Since the election, he is spending much less time on the farm. He often meets with farm groups, speaks to legislators in Frankfort or travels to Kentucky Farm Bureau headquarters in Louisville.

Already, he plans to run again at the annual convention in December and hopes to serve as president for six to seven years.

At least his injuries have healed enough that he is able to sit and drive himself to meetings.

Strangely enough, the accident resulted in something positive. It dispelled the misconception among some Farm Bureau members that Sprague was not actively involved as a working farmer.

"I would rather have figured out a better way for them to know that," he said.•

THE LIMITED PARTNERSHIP ROLL-UP REFORM ACT

• Mr. PRYOR. Mr. President, recently I added my name to the list of Senators who are showing their concern for small investors by cosponsoring the Limited Partnership Roll-up Reform Act of 1991, S. 1423. This bill will prevent general partners in publicly held limited partnerships from taking advantage of small investors.

According to the American Association of Limited Partners, there are 8 million small investors in this Nation who have put their money in limited partnerships. They are young couples trying to provide for their children's education. They are middle-aged Americans trying to develop a nest egg for their retirement. They are elderly people who depend on and live off of the money earned from these investments. And they have seen the value of their investment drop by as much as 75 percent.

These limited partners are losing out when what they thought were moderately safe investments are rolled-up with other limited partnerships into new entities. These new entities combine safer partnerships with riskier ones and are then traded on a stock exchange. Since the new entity usually has few cash assets left after the roll-up, and since riskier ventures are included, the price for the stock plummets during the first days of trading. So do the investor's hopes for the future.

In formulating these roll-ups, representatives from brokerage firms often solicit proxies for the general partners under an agreement that they only get paid for yes votes. This practice pressures the broker to convince partners to vote for roll-ups that are not in their best interests. Basically, these hired guns convince limited partners to trade in their investment for empty promises.

The new entities formed by these roll-ups are restructured so that the rights the limited partners had in the original deals are stripped away. This can include having their voting rights reduced, dividend payments ceased, and the proportion of the costs they must bear increased. This occurs as the general partners charge exorbitant fees—up to millions of dollars—to manage the roll-up transaction. Once again the big guys are getting rich off the little guys, and that is just not fair.

It is time to stop this abuse. The reforms proposed in the Limited Partnership Roll-up Reform Act of 1991 will give limited partners more resources to stop harmful roll-ups from occurring and more options if they do occur.

The bill would require clear and concise disclosure of the risks involved in the roll-up. Too often, investors are confused by a 200- or 300-page prospectus that has changes to the original rules of the investment buried within the text. This is just one of the clever tricks general partners use to deceive small investors without actually breaking any laws. The prospectus, under this bill, must clearly inform partners of any changes to voting rights, cash distribution policies, management compensation, and projected price performance under the new entity.

Also, a complete appraisal of the roll-up transaction, made by someone unaffiliated with the general partners, is to be made available to the limited partners with the prospectus. This will prevent the general partners from hiring people to say a bad deal is a good one. Both of these provisions are designed to help investors make informed decisions about the roll-up transaction.

Because the complicated nature of roll-up transactions has led to lengthy prospectuses, limited partners would receive at least 60 days to review the material. Investors need time to analyze the prospectus and organize viable alternatives to the roll-up.

The bill would also loosen Securities and Exchange Commission [SEC] rules regarding proxy solicitation. Limited partners need to be able to communicate with each other and assist in distributing clear information about the pending transaction. The current rules prohibit partners from talking to more than 10 other partners without having to file papers with the SEC. This rule puts all the cards in the general partner's hands.

The bill would also require that a list of limited and general partners involved in the proposed transaction be made available. All names, except ones the SEC deletes to protect confidentiality, would be on this list so limited partners may contact others and express their concerns about the deal. This way they will not be blindsided by the general partners.

The conflict of interest that occurs when hired guns are paid only for yes votes on the roll-up would be alleviated by this bill. The new rules would not allow people soliciting proxies to be compensated based on the outcome of the transaction.

Now, Mr. President, I do not mean to say that all roll-ups are bad or that they should be banned altogether. A legitimate roll-up transaction can benefit all parties involved. This bill simply reforms the process so general partners, still caught up in the greed and desire to get-rich-quick that was so prevalent in the 1980's, are prevented from running over the small investor saving for the future.

Mr. President, I support this bill and urge my colleagues to do so as well. It will help protect the small investors who are the lifeblood of our Nation. They provide the necessary capital that spurs economic growth and maintains our Nation's strength. Mr. President, let us not bite the hand that feeds us. Let us protect these investors and protect America's future.•

HONORING LT. DONALD HASTINGS MERSON

• Mr. KASTEN. Mr. President, I rise today to honor the lifetime achievement of a truly distinguished public servant—Donald Hastings Merson of Howard County, MD.

For 32 years, Lieutenant Merson has been a very valuable member of the Howard County Fire Department. This year, he is retiring—leaving behind him an outstanding record of brave service in defense of the Howard County community.

As we look to America's future, there is nothing more important we can do than give our young people role models they can admire. If we want them to be great, we need to give them an example of what they can strive for and achieve.

I think Donald Merson is one of these terrific role models. For over three decades, he risked his life for other people. He is a successful and happy man because he puts people first—doing something important for the community is more important to him than amassing a huge fortune.

Donald Merson is the kind of American hero that lives deep down in all of our hearts. He represents what is great in America's past and present—and offers today's children a living picture of what their own future can be.

I join all the men and women in Howard County in wishing Donald a happy retirement. He has done a lot for others—and he has richly deserved some happy years of retirement.•

TRIBUTE TO DONALD INGWERSON

• Mr. McCONNELL. Mr. President, I rise today to honor a great American from the Commonwealth of Kentucky, Donald Ingwerson. Mr. Ingwerson was recently "National Superintendent of the Year" by the annual convention of the American Association of School Administrators. This is not small honor Mr. President. Superintendents form 49 States and several other countries were considered for this prestigious award.

Donald Ingwerson has been the leader of the State's largest school district for 11 years. He has successfully led Jefferson County through many tough times, including recently steering the district through the landmark Kentucky Education Reform Act. Among the innovations Mr. Ingwerson has brought to his position are the nongraded primary program; tougher academic standards for student athletes; take-home computers; magnet schools; extended school services; a regional drug-abuse center; and participatory management for teachers.

With contributions such as these, it is obvious Mr. President that Donald Ingwerson is a wonderful choice for this particular honor. Candidates were evaluated using various criteria: creativity in meeting students' needs; a commitment to upgrading administrative skills; good communications skills; and knowledge of and involvement in community and national activities. Mr. Ingwerson serves as a marvelous example not only to the city of Louisville but to the entire education community.

I believe that Mr. Ingwerson says it best when he describes his personal philosophy of education, "Every child can learn * * * I guess what I am trying to do with my philosophies is to eliminate the excuses. I am trying to help everyone understand that failure to learn is unacceptable, that Louisville is a community of learners, and that each of us has a responsibility to expect the best of others and then help them achieve it." Mr. President, those thoughtful words demonstrate a vision which is unfortunately unique in our society.

I ask all of my colleagues to join me in offering congratulations to a man who has dedicated his life to furthering the educational possibilities of our Nation's young people.

Mr. President, I ask that the following article which appeared in the Louisville Courier Journal be inserted into the RECORD.

The article follows:

INGWERSON IS SUPERINTENDENT OF THE YEAR

(By Holly Holland)

Donald Ingwerson, superintendent of Jefferson County's public schools, yesterday was named national Superintendent of the Year at the annual convention of the American Association of School Administrators in San Diego.

Ingwerson, now in his 11th year as head of the state's largest school district, said he told the audience at the awards ceremony that he felt as though he'd won the Kentucky Derby.

"This is such a special occasion and I really wanted the people to know how it felt," he said in a telephone interview from San Diego, adding that he considers the honor the highlight of his career.

"This is an award for Louisville. I just happen to be the vehicle. I just think it's a recognition on the part of the nation that many of the things in Louisville are good."

In addition to the award, Ingwerson received a gold medallion and a $2,000 U.S. Savings Bond. A $10,000 scholarship will be presented in Ingwerson's name to a student at the high school Ingwerson attended in Bern, Kan.

Ingwerson's award "speaks well for our entire state," said school board member Allen Rose, who nominated him. "To go through the education reform that we have in this state and now to have the best superintendent in the country sends a message that we can do things in Kentucky."

Ingwerson was chosen from among school administrators representing 49 states and several overseas schools. Other finalists were Robert Henley, of Independence, Mo.; Jean McGrew, of Glenview, Ill.; and Karen Woodward, of Anderson, S.C.

Gary Marx, the association's senior associate executive director, said the panel of judges—representing business, government and education—are anonymous and do not offer public comments about their choices. Candidates were evaluated using four criteria: creativity in meeting students' needs; good communication skills; and commitment to upgrading administrative skills; and knowledge of and involvement in community and national activities.

This is the fifth year of the competition.

Marx said the judges based their decision on personal interviews of the four finalists and materials submitted with their applications. They did not consider current education issues in the community or accept comments from the public.

That policy angered some local residents who wrote to the association to criticize Ingwerson's handling of a divisive student-assignment plan that the school board approved on Dec. 19. Ingwerson and the school board have said that the plan, which calls for voluntary integration, was necessary to ensure compliance with the Kentucky Education Reform Act. Critics believe it will lead to re-segregation.

"To think that there isn't some group out there with no more response to public concern and outcry than that . . . it's no wonder people are cynical," said Judy Munro-Leighton, a Brown School parent who wrote to the association in December.

"If they couldn't find a better person than him, they shouldn't have bothered."

Jim Hill, an assistant professor of political science at the University of Louisville, who wrote to the association earlier this month, said he had hoped for a different outcome.

"What really disturbs me is that a system that was once regarded as the best example of desegregation in the country, to see it in turmoil and pain and to award the person who inflicted that pain . . . is just an outrage," he said.

But school board chairman Laken Cosby said the body of Ingwerson's work is what should have been considered, not his involvement in one controversial event.

"I think Don, over the past nine or 10 years, has really brought stability to this school district," Cosby said. "Now I realize that there have been problems recently related to school desegregation and busing, and that there are people who disagree with his stance in that area.

But I think that the majority of people in the community will support the plan once it's explained to them.

"This issue of school desegregation and busing would create problems anywhere in the country. And so you cannot make a judgment of whether he is the best superintendent based on the recent controversy we've had on school desegregation."

Ingwerson, 58, came to Louisville in 1981 from the Orange (Calif.) Unified School District. Innovations that he has brought to the Jefferson County Public Schools include the non-graded primary program; tougher academic standards for student athletes; take-home computers; magnet schools; extended school services; a regional drug-abuse center; and participatory management for teachers.

In his application, Ingwerson wrote that "my personal philosophy of education has been a simple one: Every child can learn . . . I guess what I'm really trying to do with my philosophy is to eliminate the excuses. I'm trying to help everyone understand that failure to learn is unacceptable, that Louisville is a community of learners, and that each of us has a responsibility to expect the best of others and then help them achieve it.

"It's one thing to have 92,000 students, but quite another to take care of them one-by-one, and it's the one-by-one we need to be about in education."•

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending exceeds the budget resolution by $6.4 billion in budget authority and by $5.9 billion in outlays. Current level is $3.0 billion above the revenue target in 1992 and $3.5 billion above the revenue target over the 5 years, 1992–96.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $354.1 billion, $2.9 billion above the maximum deficit amount for 1992 of $351.2 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 25, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1992 and is current through February 21, 1992. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H.Con.Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S.Con.Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated February 19, 1992, there has been no action that affects the current level of budget authority, outlays or revenues.

Sincerely,
ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., AS OF FEB. 21, 1992

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level[1]	Current level +/− resolution
On-budget:			
Budget authority	1,270.6	1,277.0	+6.4
Outlays	1,201.6	1,207.5	+5.9
Revenues			
1992	850.4	853.4	+3.0
1992–96	4,832.0	4,835.5	+3.5
Maximum deficit amount	351.2	354.1	+2.9
Debt subject to limit	3,982.2	3,728.8	−253.4
Off-budget:			
Social Security outlays:			
1992	246.8	246.8	
1992–96	1,331.5	1,331.5	
Social Security revenues:			
1992	318.8	318.8	
1992–96	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS FEB. 21, 1992

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			853,364
Permanents and other spending legislation	807,567	727,184	
Appropriation legislation	686,331	703,643	
Continuing resolution authority	13,992	5,454	
Mandatory adjustments[1]	(1,041)	1,105	
Offsetting receipts	(232,542)	(232,542)	
Total previously enacted	1,274,306	1,204,844	853,364
ENACTED THIS SESSION			
Emergency unemployment compensation extension (Public Law 102–244)	2,706	2,706	
American Technology Preeminence Act (Public Law 102–245)			(2)
Total current level	1,277,012	1,207,550	853,364
Total budget resolution	1,270,612	1,201,600	850,400
Amount remaining:			
Over budget resolution	6,400	5,950	2,964

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS FEB. 21, 1992—Continued

	Budget authority	Outlays	Revenues
Under budget resolution	....	....	....

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the concurrent resolution on the budget (H. Con. Res. 121).

[2] Less than $500,000.•

INDIAN EMPLOYMENT AND INVESTMENT ACT

• Mr. McCAIN. Mr. President, I ask that the text of the bill S. 2254, introduced yesterday by myself and others, be printed in the RECORD.

The text of S. 2254 follows:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2254

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment and Investment Act of 1992."

INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian Reservation Credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 (defining the Energy Credit and the Reforestation Credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian Reservation Credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

"In the case of qualified Indian reservation property which is:	Indian reservation percentage is:
Reservation personal property	25
New reservation construction property	33⅓
Reservation infrastructure investment	33⅓

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

"(B) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY.—The term 'qualified investment in qualified Indian reservation property' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property—

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on any regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental real property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer within an Indian reservation predominantly in the active conduct of a trade or business, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property described in clause (I), (II), or (III) of paragraph (2)(D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT DEFINED.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation. Examples of property which may be described in this paragraph include roads, power lines, water systems, railroad spurs, and communications facilities.

"(3) REAL ESTATE RENTALS.—For the purposes of this section, ownership (or leaseholding) of residential, commercial, or industrial real property within an Indian reservation for rental shall be treated as the active conduct of a trade or business in an Indian reservation."

"(4) DEFINITIONS.—For purposes of this subsection, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10))."

"(5) LIMITATION BASED ON UNEMPLOYMENT.—The Indian reservation credit allowed under section 46 for any taxable year shall apply only in the event that the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during such taxable year or in the immediately preceding taxable year. The requisite Indian unemployment rate shall be based upon those reservation Indians unemployed and able to work, and shall be certified by the Secretary of the Interior.

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting ", and," and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to certain dispositions, etc., of investment credit property), is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property, the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the expenditures taken into account with respect to the property been limited to an amount which bears the same ratio that the property was held by the taxpayer bears to the applicable recovery period under section 168(g)."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended to read as follows:

"(3) SPECIAL RULE.—In the case of any energy credit, reforestation credit or Indian reservation credit other than with respect to or expenditure for new reservation construction property—

"(A) only 50 percent of such credit shall be taken into account under paragraph (1), and

"(B) only 50 percent of any recapture amount attributable to such credit shall be taken into account under paragraph (2)."

(e) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (4) of section 50(b) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F) and inserting new subparagraph (D) as follows:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) CLERICAL AMENDMENTS.—

(1) The caption of section 48 is amended by deleting the period at the end thereof and adding "; Indian Reservation Credit."

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting in lieu thereof the following:

"Sec. 48. Energy Credit; reforestation credit; Indian reservation credit."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1991.

INDIAN EMPLOYMENT CREDIT

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credits) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end and of paragraph (7) and inserting ", plus", and by adding after paragraph (7) the following new paragraph:

"(8) the Indian employment credit."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—The Internal Revenue Code of 1986 is amended by adding new section , as follows:

"SEC. . INDIAN EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees) of the sum of—

"(1) the qualified wages paid or incurred during such taxable year, plus

"(2) qualified employee health insurance costs paid or incurred during such taxable year.

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section—

"(1) QUALIFIED WAGES.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term "qualified employee" means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation, and

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date of 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1991 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applied with respect to any employee for any taxable year shall be made without regard to subsection (b) of section 1395.

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)), and

"(C) any person who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10))."

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—PARAGRAPH (1) SHALL NOT APPLY TO—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

OTHER DEFINITION AND SPECIAL RULES

"(a) WAGES.—For purposes of this subpart, the term 'wages' has the same meaning as when used in section 51 except that paragraph (4) of section 51(c) shall not apply.

"(b) CONTROLLED GROUPS.—For purposes of this subpart—

"(1) all employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

"(2) the credit (if any) determined under section 1394 with respect to each such employer shall be its proportionate share of the wages and qualified zone employee health insurance costs giving rise to such credit.

"(c) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

OLYMPIC MEDALISTS

• Mr. D'AMATO. Mr. President, it is with extreme pride that I rise today to speak on behalf of two of my constituents who have won medals in the Winter Olympics in Albertville, France. Cathy Turner and Diann Roffe Steinrotter both won medals in the 1992 winter olympic games. I salute both of these women for their great accomplishments.

Just earning a place on the Olympic team requires an enormous investment of time and hard work. These women were accepted on the team, traveled to the games, and emerged as winners. To receive an Olympic medal is the supreme honor, especially since so much sweat and energy has preceded the competitions.

Years of dedication and commitment have brought these two young women to the Olympic games. Their efforts have been rewarded and their hopes and dreams have come true. Cathy Turner won a gold medal in the 500-

meter short-track speedskating event and a silver medal in the 3,000-meter short-track speedskating relay. Diann Roffe Steinrotter won a silver medal in the women's giant slalom skiing event.

Both women have emerged from the Olympic games as winners; in more ways than one. They have won in their respective events, and they have made bonds with people with similar interests from other parts of the country and all around the world. Their participation in the winter games is a tribute to their home State, the great State of New York, and to the United States as a whole. The entire State of New York and the Nation is extremely proud of these two women. They have represented the United States well in Albertville and have come home with Olympic medals. Cathy Turner and Diann Roffe Steinrotter, I congratulate you and thank you for giving your best, indeed your all, to the Olympic games in Albertville. I wish you many more successes in all of your future endeavors.•

TRIBUTE TO DR. ROBERT L. HENLEY

• Mr. BOND. Mr. President, I rise today to ask Members of the U.S. Senate to join me in paying tribute to Dr. Robert L. Henley, an educational leader who has contributed a great deal to the community of Independence, MO, and to the entire State of Missouri.

I am pleased to recognize Bob Henley on the occasion of his retirement after more than 30 years of dedicated service to education in the State of Missouri, most notably for his 17 years as superintendent of the Independence School District. In recognition of his retirement, Bob will be honored by his family and friends at a dinner in Independence on February 29, 1992.

I have known Bob for many years, dating back to my days as Governor of Missouri. Bob has developed a reputation for innovation in education which is unsurpassed in my State, and which is nationally recognized. He is responsible for implementing the widely touted Schools of the 21st Century Program, a before- and after-school child care program which is the first of its kind in the Nation.

In addition, during my term as Governor of Missouri, Bob was instrumental in implementing the pilot program for the Parents as First Teachers project. Parents as teachers begins at birth and continues to age 3, helping parents become more involved in their children's developmental and educational processes. With his guidance, the program has enjoyed tremendous success and we in Missouri have seen the payoff in advanced language, social, and motor skills when participating children enter school.

Bob has made countless contributions to his community and the Independence School District, and it is because of these efforts that he was recognized as the Missouri Superintendent of the Year. In addition, he was one of the top four finalists for the National Superintendent of the Year Award for 1992. To all of his efforts he brings the energy, vitality and confidence necessary to convince others to follow. I do not hesitate to say that he is one of the few visionary individuals I have had the pleasure of working with during my years in public life.

Although many in the Independence community will be saddened by Bob's retirement, his involvement in education will not end. Bob will be teaching parttime for the University of Missouri-Kansas City.

Mr. President, I am proud to recognize the many contributions of this distinguished and honorable citizen. I salute my dear friend, Dr. Robert L. Henley, today in the U.S. Senate and join his family and many friends in extending our best wishes for a wonderful and rewarding retirement.•

D.C. GUN LIABILITY, S. 2113

•Mr. D'AMATO. Mr. President, I rise today to lend my support to legislation, S. 2113, that will redirect the priorities within the government of the District of Columbia. A policy that the District government now condones would impose tort liability on a specific industry for the criminal misuse of its product. This policy would hold firearm manufacturers liable regardless of fault or defect for any damages or bodily injury that arise out of the discharge of any specified firearm. Should this policy be allowed to continue, its ramifications will be felt in every State of the Union and will have a potential negative impact upon every law-abiding gun owner.

Few of us in this Chamber have not felt the effects of crime in our Nation's Capital. Our colleagues, their families, our staff—all have been victimized by the escalating wave of crime and violence that grips this city. This is to say nothing of the miserable plight that many residents of Washington face on a daily basis. Murder rates continue to soar as Washington again led the Nation with the highest murder rate in 1991.

I understand the frustration that the many decent law-abiding citizens in Washington feel. The sense of powerlessness pervades almost every ward of the city. Angry residents are grasping at any solution—no matter how farfetched—to bring this reign of terror to a halt. Unfortunately, sometimes passions force individuals to act before thinking that action through.

Last November, the government of the District of Columbia placed on the ballot a referendum question that asked voters if firearms manufacturers should be held liable for the District's record homicide rate. Like Pontius Pilate, the District government washed its hands of its responsibility to enforce the law. Obviously overwhelmed by a revolving-door justice system that lets murder suspects back out on the streets to kill again, and one that does not institute, at the very least, a life without parole punishment for the crime of murder, the District government unloaded itself of its primary charge—to protect the citizens of the District of Columbia.

I cannot blame the citizens of the District for voting for this referendum. Their anger and frustration had to be vented and the District government gave them the conduit. By handing off its responsibility, the District government hopes to shed its culpability in the enormous murder rate this city faces. "Don't look at us," it seems to be saying, "it's the fault of those gun manufacturers. You should sue them for your son's murder. We can't be bothered to find his killer or keep him in prison."

Mr. President, that is wrong. Members of this body continue to fight to keep our streets free from those who prey on the decent citizens of our Nation. Unfortunately, whenever any measure with an iota of real crime control appears before us, it is rendered legislatively impotent. Without true anticrime proposals, desperate citizens will seek relief no matter how misguided.

Regardless of the frustration District residents must feel, misguided policy is still just that. To hold an entire industry strictly liable for the actions of felons who commit violent acts while the District government continues to allow them to roam the streets is simply absurd. Responsibility for the safety of the District's residents rests squarely with the District government. We cannot allow the District government to vacate their mission to the detriment of another. This legislation will place the responsibility that the D.C. government has dropped back where it belongs. I am pleased to support this bill, and I urge my colleagues to join me in cosponsoring this measure.•

FOUR CHEERS FOR MARYLAND

• Mr. CHAFEE. Mr. President, on February 21, the Maryland Senate voted 31–15 for a universal motorcycle helmet law. The Senate vote followed the overwhelming approval of the bill by the Maryland House and cleared the measure for the Governor's signature. Four cheers to the State of Maryland for being the first State to enact a universal motorcycle helmet law since the passage of the Chafee-Cooper amendment that was part of the Intermodal Surface Transportation Efficiency Act of 1992.

Four cheers to Gov. William Donald Schaefer for taking the initiative and convincing the assembly of the benefits of this legislation. As the Governor said, the first objective of this law is to save lives.

This law will also save the citizens of Maryland money. A special commission established by the Governor says a helmet law will save Maryland $1.3 million per year.

There are many heroes in this story and I cannot pay tribute to all those who deserve our thanks, but I would like to mention a few. I have already mentioned Governor Schaefer and the Maryland Assembly. In addition, there is Doug Wilson, a 23-year-old motorcycle rider who knows firsthand how riding without a helmet can change your life. He is still recovering from head injuries he suffered from a motorcycle accident. He was willing to tell his story to Maryland legislators and he convinced them to support the helmet legislation. Doug Wilson is one person who has made a difference.

There were also groups who made a difference and deserve our thanks. One of these groups is the Maryland Motorcycle Helmet Coalition chaired by Dr. Richard Alcorta, an emergency physician at Suburban Hospital.

The support of Dr. Alcorta and his colleagues in the medical community, including particularly the emergency medical services people, was crucial in the passage of the Maryland motorcycle helmet law. The entire health care community—including doctors and nurses, public health EMS, trauma center, and head injury care professionals—deserves a great deal of credit for the adoption of the Chafee-Cooper amendment. They have been instrumental at the State level in getting safety belt and motorcycle helmet laws passed as well. They see the personal tragedy of motorcycle crashes every day and know all too well what they cost the taxpayers.

Another group that worked very hard both at the Federal and State level is the Advocates for Highway and Auto Safety, a coalition of health, safety, consumer and insurance groups. As soon as the Chafee-Cooper amendment was signed into law, this group went right to work providing whatever assistance was requested by State and local groups who support motorcycle helmet laws. Several of its board members, including Mothers Against Drunk Driving [MADD] and a number of insurance companies were in the forefront in supporting these efforts.

Four cheers to these people and all those involved who had the courage to do the right thing that will benefit all of us.

I ask that an article from the Baltimore Sun, and a list of the "Supporters of Maryland's Motorcycle Bill" be printed in the RECORD at this point.

The material follows:

[From the Baltimore Sun, Feb. 22, 1992]

CROWNING MOMENT: ASSEMBLY VOTES FOR HELMET LAW

(By Laura Lippman)

ANNAPOLIS.—Despite grumbling from bikers who had staved off a helmet law for 12 years, the Senate yesterday enacted a bill requiring Maryland motorcyclists to wear protective headgear.

The 31-15 vote sent the measure to Gov. William Donald Schaefer, who had made the helmet law part of his legislative package. Maryland is the 25th state to require motorcycle helmets.

"I just commend all those who stood up under pressure with all these guys riding around," Mr. Schaefer said, referring to this week's frequent motorcycle motorcades in Annapolis.

"I don't go for this 'You're taking away part of my freedom,'" the governor said. "What you're trying to do is keep them from busting their heads open."

At least one erstwhile motorcyclist agreed: Doug Wilson, a 23-year-old Potomac man still recovering from head injuries he suffered in an accident last year.

"It would have saved me a lot of time if someone had made me wear a helmet," Mr. Wilson said yesterday after the Senate approved the bill.

"You don't ride a motorcycle thinking you're going to wreck," he said, "so you don't wear a helmet."

Mr. Wilson is still in therapy for the brain injuries from the accident during his senior year at the University of South Carolina. He has difficulty walking, talking, and using his left hand.

Yet he became an important player in the debate over the helmet law by convincing one of the swing votes on the Senate Judicial Proceedings Committee, which had blocked the bill's progress for years.

Maryland had a mandatory helmet law until 1979. Since then, efforts to revive it usually have died in House and Senate committees. But the momentum changed this year, powered by fiscal concerns, and the bill swept through the House of Delegates earlier this month.

The day before the Senate committee vote, Mr. Wilson visited his senator, Republican Howard Denis of Montgomery County. Their brief conversation convinced the senator to vote for the proposal, Mr. Denis said later.

"When I went to talk to people, I was asked where were the other people like me?" Mr. Wilson said. "I said, 'Well, they didn't live.'"

Sen. Philip C. Jimeno, D–Anne Arundel, provided the other swing vote on the committee, influenced by testimony that the state paid $1.3 million in health-care costs last year for injured cyclists who were on Medicaid or had no health insurance.

The bill also survived an attempt on the Senate floor to add a secondary enforcement amendment that the bill's proponents said would gut the measure. The amendment would have made riding without a helmet an offense only if a cyclist were stopped for another traffic violation.

When efforts to amend the bill failed Wednesday, its passage was all but assured. Yesterday, the Senate passed its own version and an identical House version after little debate.

Those who had opposed the bill—a group of leather-jacketed men and women—watched the vote quietly, leaving the State House without comment.

Some motorcyclists had distributed a news release last week threatening to cut off all their charitable donations if the bill passed. Maryland already required minors to wear helmets.

Thomas W. Waldron of the Annapolis Bureau contributed to this article.

[Maryland Motorcycle Helmet Coalition]

SUPPORTERS OF MARYLAND'S MOTORCYCLE HELMET BILL

ADVOCATES FOR HIGHWAY & AUTO SAFETY

AEtna Life and Casualty.
Alliance of American Insurers.
American Insurance Association.
American College of Emergency Physicians.
American Public Health Association.
Center for Auto Safety.
Consumer Federation of America.
GEICO.
Head Injury Foundation/University of Virginia.
Independent Insurance Agents of America.
ITT Hartford Insurance.
Kemper National Insurance.
Liberty Mutual Insurance.
Mothers Against Drunk Driving (MADD).
National Association of Professional Insurance Agents.
Nationwide Insurance.
New York Public Interest Research Group.
Police Foundation.
Public Citizen.
State Farm Insurance.
Trauma Foundation.
Travelers Insurance.
Wheeled Mobility Center/San Francisco State University.
American Academy of Orthopedic Surgeons/Maryland Chapter.
American Academy of Pediatrics/Maryland Chapter.
American College of Emergency Physicians/Maryland Chapter.
American Physical Therapy Association/Maryland Chapter.
Auxiliary to the Medical & Chirurgical Society of the State of Maryland.
Emergency Nurses Association/Maryland Council.
Epilepsy Association of Maryland.
Maryland Center for Independent Living.
Maryland Committee for Safety Belt Use.
Maryland Head Injury Foundation.
Maryland Regional Emergency Medical Services Advisory Council.
Maryland SAFE KIDS Campaign.
Maryland State Firemen's Association.
Maryland Trial Lawyers Association.
Medical & Chirurgical Faculty of the State of Maryland.
Mothers Against Drunk Driving (MADD)/Maryland Chapter.
Region V Emergency Medical Services Advisory Council.
Safety Council of Maryland.•

APPROPRIATIONS CATEGORY REFORM ACT

• Mr. WOFFORD. Mr. President, I thank my colleague, Senator SASSER, for his leadership in introducing the Appropriations Category Reform Act of 1992 to bring down the budgetary wall that keeps us from investing military savings in our domestic needs.

Since the budget walls were erected in 1990, the world has been turned upside down. We have a golden opportunity to turn our national priorities right side up; if we will only seize the day. If only we will turn our resources and energy toward building our economic strength and human capacities, then we will build the kind of America which can continue to lead the world—in peace, in freedom, and prosperity.

It is true that the instability of the post-cold-war world will require an efficient, mobile, flexible American military that is equal to any test. But at a time when American sea and air power is unchallenged and there is no longer a large standing army able to threaten Europe, we must redefine our own military commitments abroad.

The President recognized the need to reduce military spending in line with revolutionary changes in the world. But he sounded as if the savings outlined in his State of the Union Address were the end of the process. On the contrary, we are now just beginning the process of hard reappraisal of our strategic military needs. Acting soon to make the reductions proposed by the President is an important first step in that process.

It will not be easy to wean our economy from the constant pump-priming of massive military expenditures and the jobs they provide. But, peace-dividends are within reach if we have the leadership to convert our economy from its semiwar status of the last decades to a real peacetime engine of economic opportunity for all Americans.

We must reestablish our commitment to making the necessary public investment in our country's human and physical infrastructure—including health care, education, environmental protection, housing, urban development, and transportation. It is this public investment that enables private enterprise to prosper and that improves our Nation's international competitiveness.

We must also develop a program to convert our cold war economy to a post-cold-war world and rearm our victorious defense workers and industries to build economic and not just military strength.

Unfortunately, the administration has already signaled its reluctance to go along with this effort to respond to changed world events. According to his 1993 budget proposal, the President seems willing to modify the budget agreement only to allow the projected defense savings to offset his proposed increase in the personal exemption. That position, however, ignores the international economic challenges confronting American working families and businesses.

Mr. President, I urge my colleagues to join in this effort to refocus our priorities to acknowledge the changed military and economic conditions and to turn our attention—our will and our wallet—toward solving the deepening human challenges which confront our Nation and our world.•

TRIBUTE TO HOUSING LEADER EARL PHILLIPS

• Mr. GRAHAM. I am honored to offer a tribute today to one of America's outstanding housing leaders, Mr. Earl Phillips.

Earl Phillips is a builder. He builds public housing. He builds hope for the future. He builds public confidence. And, he builds a national constituency for housing.

In Miami, Earl Phillips served as executive director of the Dade County Department of HUD, which manages more than 12,000 units with nearly 30,000 residents. He will be moving to Atlanta in March.

"Earl Phillips, who led a striking turnabout of Metro-Dade's public housing projects and thus confirmed his status as one of the best housing reformers in the Nation" is taking the top job in Atlanta, said the Miami Herald.

In Washington, Earl Phillips is completing his term as president of the Council of Large Public Housing Authorities, comprised of more than 70 public housing authorities.

A graduate of Howard University, Earl Phillips has held leadership positions throughout our Nation. He has led housing authorities in Houston, Wilmington, and Newark. The people of Houston, remember Earl Phillips. He turned around the housing authority of the city of Houston from the brink of receivership to a model agency.

Earl Phillips is one of the most decorated civic leaders in Florida, earning citations from senior citizens, the State, Zeta Phi Beta, the United Negro College Fund, Dade County, U.S. HUD, and the city of Miami.

We have been honored to call Earl Phillips a Floridian. He has made our State and our Nation a better place.•

NATIONAL TRANSPORTATION POLICY

• Mr. LAUTENBERG. Mr. President, on February 21, the Senate confirmed the nomination of Andrew Card to be Secretary of Transportation. I was pleased to support him, and I extend all my best wishes to him in his new position. With this confirmation, I want to take a few minutes to express my concerns and hopes about transportation policy over the coming years.

Recently, the importance of basic infrastructure, such as transportation, to our economic well-being has come into clearer focus. I have long believed that few issues are as fundamental to that well-being as transportation. Our ability to move people and goods determines, to a great extent, our ability to compete. If those people and goods are stalled in congestion—in the air or on the ground—that diminishes our productivity. If our transportation systems are inefficient, costs escalate, making us less competitive and further diminishing productivity.

It was our concern over that diminished productivity that led the Environment and Public Works Committee to write the landmark legislation that became the Intermodal Surface Transportation Efficiency Act of 1991, now known as ISTEA. Under the leadership of Chairman BURDICK and Senator MOYNIHAN, we passed a bill that addressed the variety of transportation needs found around this country, in rural and urban areas.

The bill made fundamental changes in our transportation policy, removing many of the artificial barriers that had been erected among the various modes of transportation. Under the bill, areas that need roads can build them. Areas like my State, the most densely populated of all States, can focus its resources on transit. The bill makes sense, for transportation, for energy, for the environment, and for the quality of life of people who travel on our systems each and every day.

Congress wrote the bill. The President signed it into law. It will be up to Mr. Card as the new Secretary of Transportation to implement it. That is a tremendous challenge, but it also is a great opportunity.

Congressional interest in transportation policy did not end with passage of the ISTEA.

Unfortunately, we have already gotten some indications that the President may not have meant all the nice things he said when he signed the bill into law. In his State of the Union speech, he again hailed the bill, and the jobs, jobs, jobs that it will create. But, the next day, his budget said something else. What we got were cuts, cuts, cuts.

The President would underfund the highway program by almost $1.6 billion—about 8 percent—in fiscal 1993. He would slash the transit programs by more than one-third.

In another key area, he also proposes to take away needed funds. Amtrak's capital and operating budget would be cut by 61 percent. The Northeast corridor improvement project, which upgrades the safety and efficiency of rail service in a corridor that serves 11 million passengers a year, would get no money, down from $205 million this year.

I came to the Senate from the computer industry. We have a term there that has become commonplace: it is user-friendly.

Well, for millions of Americans who depend on rail and transit every day, this budget, as a reflection of the administration's policy, is not user-friendly. I ask to have printed in the RECORD, at the conclusion of my remarks, a copy of an editorial dated February 1, 1992, from the New York Times, entitled, "Mr. Bush Reneges on Mass Transit." It describes the types of impacts the Bush budget would have on the urban areas of our country.

It is said that actions speak louder than words. Although we have all heard what the President has said, we have seen his budget. That is what he is proposing for action. It is a course of action I cannot agree with.

A Secretary of Transportation should be an advocate for sound transportation. Mr. Card has the intelligence and abilities to be such an advocate.

He comes from a region that knows how congestion, whether it is in the air or on the roads, can affect productivity and quality of life. I hope that, as Secretary of Transportation, Mr. Card will work within the administration to help steer a course that is headed in the right direction.

Finally, I want to address an issue of great importance to New Jersey: aircraft noise. At a hearing with Mr. Card on February 19, I pressed him on what steps he will take as Secretary to address aircraft noise.

The FAA implemented a major change in air traffic patterns, known as the expanded east coast plan [EECP] in 1987. That change had serious impacts on many New Jersey residents.

But, it was implemented without benefit of public review or discussion, and without environmental reviews.

My position on this is clear, and I reiterated it to Mr. Card, as I have with his predecessors. The FAA was wrong. In implementing a change as massive and intrusive as this, the public should have been involved. Environmental reviews should have been performed, and taken into account. But, it did not happen. And, people have been forced to live with the results and we have had to fight to get the FAA's attention and action.

At the February 19 hearing, I asked Mr. Card about some specific issues on aircraft noise. I wanted to know what he will do to get the environmental impact statement on the EECP completed as quickly as possible. I pressed him to look closely at the possibility of expanding civilian use of special-use airspace over coastal waters, something I proposed 2 years ago.

And, I challenged him to respond to the views of many of my constituents that the FAA places a higher priority on keeping airline expenses down than on environment quality and quality of life for people living under the flight paths.

As he takes office, I will continue to press Mr. Card and the Department of Transportation to take this problem seriously, and provide some relief to those in New Jersey whose lives have been disrupted by the din of aircraft noise.

Mr. President, as chairman of the Transportation Appropriations Subcommittee, I enjoyed an open and productive relationship with former Secretary Skinner. Certainly, we had our differences. But, whenever possible, we would agree to disagree, and then move on, to address the serious transportation needs of our country.

I have met with Mr. Card, and look forward to such a relationship with him as we work to address the many challenges facing us in transportation.

The editorial follows:

> [From the New York Times, Feb. 1, 1992]
>
> MR. BUSH RENEGES ON MASS TRANSIT
>
> President Bush wants to chop half the Federal aid that New York, Los Angeles, Chicago and more than 60 other large cities hoped to get for operating buses, subways and commuter rail lines next year. Those cities and their environs have roughly half the nation's population and 90 percent of its masstransit traffic. Is Mr. Bush serious about helping urban America? Apparently not.
>
> Mass transit has been starved by Washington since President Reagan took office. Transit aid, discounted for inflation, is now 50 percent smaller than in 1981. The six-year Federal transportation program enacted last year was supposed to reverse that. It authorized $5.2 billion for the 1992–93 fiscal year, starting Oct. 1—nearly 40 percent more than this year. But the President's budget proposes only $3 billion. That's a devastating 20 percent cut from current spending, and less than Mr. Bush himself proposed last March.
>
> Mr. Bush conceded in his budget message that Federal clean air standards would put a heavier burden on transit systems. He didn't mention that America's cities and snarled suburbs need relief from traffic jams, nor that the entire nation needs to conserve oil. And he seems to have forgotten that he hailed the transportation bill for providing "jobs, jobs, jobs." His mass-transit cuts would mean 130,000 fewer.
>
> Mr. Bush wants only to help build new systems and modernize old ones, not keep them running. Incredibly, he thinks their survival is not a national concern. His budget shrinks next year's operating subsidies to $1 billion, where the new law authorized an increase to $2 billion.
>
> New Jersey offers a grim example: The current subsidy for N.J. Transit's buses and commuter rail lines would be slashed 90 percent, to $4 million. This could only mean higher fares and reduced service. Nationwide, even new projects and modernization take a hit. The new law authorized $2.8 billion, Mr. Bush would provide only $1.6 billion.
>
> The good news from the White House on this score is the President's endorsement of Congressional proposals to increase the tax deduction for businesses that subsidize employees who commute by mass transit. For the rest of his proposals, it can only be hoped that Congress will abide by last year's promise.●

DESALINATION TECHNOLOGY

● Mr. SIMON. Mr. President, in the January edition of U.S. Water News, an editorial appeared entitled, "Large-scale desalination may be just around the corner." While the overall editorial is more technical than I'd like to get into today, certain points were made that are worthwhile to highlight.

The editorial first states: "Desalination is fast becoming an economical reality and should be considered as a viable alternative to larger and more expensive water construction projects." Decades ago, when we though we had infinite resources, our water management programs focused on diverting natural water resources to new and thirsty parts of the United States. As our population has grown, it has become clear damming rivers and lakes will not be sufficient to provide for all our fresh water needs and that alternatives must be found. I believe desalination technology is the alternative of the future.

The editorial then states: "Despite the need for better technology, desalination is being used more and more in the United States because of the scarcity of water in coastal areas. In Florida alone, there are over 100 low-pressure reverse osmosis plants in operation, with at least 25 in other States. Desalination may provide up to 10 percent of water needs in the Nation's coastal areas if current research proves successful in improving technology and reducing costs." The importance of this last sentence is that it highlights two important points: First, desalination technology has an important role in meeting our domestic water needs; and second additional research and development is necessary in order for this technology to reach its full potential.

A view persists that desalination technology is needed only in California or overseas. Clearly this is not so. The coastal States are experiencing a growing problem of saline water intrusion into their groundwater supplies, as well as other difficulties. Florida's situation is but one example of how desalination technology can help a State to avoid fresh water shortages.

The biggest drawback to wider application of this essential technology is its costs. For this reason, I have introduced S. 481, the Water Research Act. My legislation would recommit the Federal Government to supporting research and development of desalination technology with the aim of lowering its cost. A hearing was held on S. 481 last summer, and I believe it will be moving shortly out of the Environment and Public Works Committee.

The U.S. industry, with the support of the Federal Government, was once the leader in this field; I believe we can be the leaders once again.●

CONGRATULATIONS TO REGINALD GLENN SANDERS

● Mr. SASSER. Mr. President, I am pleased to congratulate Reginald Glenn Sanders, a senior at Hamilton High School in Memphis, TN, on his selection as one of eight recipients of the Amateur Athletic Union/Mars Milky Way High School All-American Award, for which he will receive a $10,000 scholarship to the college of his choice. As a regional recipient, Reginald will be eligible for the national award of a college scholarship totaling $40,000 over 4 years.

We Tennesseans take great pride in the fact that two out of eight of the regional recipients of this award are from the Volunteer State. Reginald was selected from a group of over 13,000 applicants as a result of his accomplishments in academics, athletics, and community service.

Ranked first in his high school class of 300 students. Reginald has served as vice president of the National Honor Society, is listed in "Who's Who Among American High School Students", and is the recipient of the National English Merit Award. Reginald has also been honored as a member of the Hamilton High School Hall of Fame and as a congressional scholar at the National Youth Leadership Conference in Washington, DC.

Reginald has further distinguished himself in football, basketball, and cross country. His leadership on the basketball court helped his team claim victory in the Memphis Summer League and the 1991 Tennessee State Championship.

This scholar-athlete has volunteered much of his time for community service activities. He has tutored fourth, fifth, sixth grade students at inner-city schools as part of the Memphis Urban League education initiative. In addition, Reginald was the Memphis representative at the 17th annual legislative retreat of the Tennessee Black Caucus.

Reginald should certainly be commended for his exemplary record at Hamilton High School and in his community. The accomplishments of Young Americans such as Reginald assure me that the future of our Nation will be left in the hands of outstanding individuals. I am pleased that such an accomplished role model and citizen is being honored with this award.

I extend my best wishes to Reginald in his future endeavors and add my appreciation for his contributions to his community, to the State of Tennessee, and to the Nation.•

CONSORTIUM RESEARCH AND U.S. COMPETITIVENESS

• Mr. **BAUCUS**. Mr. President, I wish to express my strong support for the consortium research facilitated by S. 479. As we struggle to revive the American economy, it is critical that Congress explore all available avenues in support of improving the competitiveness of U.S. industries.

The auto sector provides an excellent example of the potential for consortium research. The big 3 auto makers are currently involved in a project known as the United States Advanced Battery Consortium, or [US-ABC].

The focus of US-ABC is the basic research necessary to develop a battery for an electric car. The ultimate potential of electric cars is enormous. With concerns about air pollution from internal combustion engines increasingly prominent, the need for alternatives is obvious. Equally obvious is the potential market for an effective electric vehicle. However, the costs of the basic research necessary to develop such a car are prohibitive for any one company.

By working together on the early stages of research, the big 3 are able to pool their financial resources and engineering talent. Ultimately, Ford, Chrysler, and GM will use this basic research independently to market electric vehicles.

I ask that an article describing US-ABC be printed in the RECORD following my remarks.

Other U.S. business sectors also have benefited from joint research. In the semiconductor sector, the semiconductor manufacturing technology consortium [Sematech] has made significant gains in improving high-technology manufacturing techniques. In short, the consortium model makes sense in numerous sectors.

Japanese industries have benefited from Government aided joint research for decades. At the Japanese Automobile Research Institute, for example, Japan's Ministry of International Trade and Industry [MITI] sponsors and funds a number of basic auto research projects.

If American industries are to compete against tough international competition, they must continue to pursue actively projects such as the battery consortium. The U.S. Government must do everything it can to facilitate their efforts.

The antitrust provisions of S. 479 are a step in the right direction.

The article follows:

UNITED THEY STAND

(By Al Fleming)

Through the years, U.S. automakers have taken fierce pride in beating one another to the punch in developing and introducing new products. The game was to guard your technological jewels behind locked doors at all costs, then bring them to market as far ahead of the competition as possible, accompanied by sounds of trumpets.

Today things are not quite the same. The game is played with a revolutionary new spin called the National Cooperative Research Act, signed by President Reagan and enacted in 1984 under the watch of the U.S. Justice Department and the Federal Trade Commission.

In the area of technology development, the law has transformed the once-cutthroat Big 3 into the Three Musketeers—all for one and one for all. It allows domestic automakers to pool their resources and move onto common ground, hopefully to unite and conquer Japan Inc. in the automotive technological wars.

The latest and what may be the most important action to date came Jan. 30 when Chrysler Corp., Ford Motor Co., and General Motors formed a research consortium to evaluate and develop advanced battery technologies for use in electric vehicles.

The agreement was signed by Chrysler's Francis J. Castaing, vice president of vehicle engineering; Ford's John P. McTague, vice president of research; and GM's Gary W. Dickinson, vice president and group executive in charge of the technical staffs group.

Called the United States Advanced Battery Consortium, the venture is aimed at developing advanced energy systems capable of providing future generations of electric vehicles with signficantly greater driving range and performance.

Through such consortiums the Big 3 feel they can identify the most promising technological alternative and concentrate their efforts in those areas. They consider it the most efficient and least costly way to proceed. Their research findings are shared equally.

Under terms of the pact, their projects can be conducted under contract to the consortium by battery manufacturers and other non-member parties. Helping in the program are the U.S. Department of Energy, the electric utility industry and the Electric Power Research Institute.

The participants stress it is not a joint vehicle research program and does not involve joint battery production. Rather it is a collective effort to identify quickly the best options for development of an increased-range battery system. They hope to have preliminary results within three years.

The Jan. 30 signing took place prior to Castaing, Dickinson and McTague sitting down to dinner at the Townsend Hotel in Birmingham, Mich. The trio meets about once a month for breakfast or dinner in the Detroit area to discuss how current projects are progressing and possible future projects.

Said Dickinson: "Respecting the anti-trust regulation, we're trying to find new ways to do things together instead of competitively. The battery consortium involves a rather unprecedented degree of cooperation across our industry, including our three companies, battery manufacturers, electric utilities and the federal government. We're all trying to point the same way in areas directed to societal needs, in this case vehicles with very close to zero emissions."

Under the umbrella of consortiums, partnerships, the SAE or Motor Vehicle Manufacturers Association of the United States, cooperative programs are also under way in areas including automotive safety, steel, advanced composite materials, emissions, and computer-aided design and manufacturing.

"We're doing a long list of things," said Castaing. "A lot is happening. It's based on mutual trust. Anti-trust law precludes us from exchanging competitive information in collusion at the expense of our customers. We don't talk about specific things like prices, product timing and production, as the Japanese do. The Japanese work together in a variety of ways. They don't search independently for the same thing at the same time."

Through cooperative research, the Big 3 expect to spend their r&d dollars more efficiently, speed up technology and product development, and perhaps even invent new technology.

"We hope there will be savings," said McTague. "But the main contribution will be enhanced capabilities that wouldn't have existed had the three of us gone our separate ways. What we're doing together is early-on in the r&d chain where costs are relatively low. The largest part of r&d cost comes as you get very close to the product, which is where we all go our separate ways. What we're looking at is creating together capabilities that none of us could have created separately. Everybody pushing in the same direction. That's where the leverage comes in."

Said Dickinson: "The time is right to work together on r&d. Not so much to reduce the level of spending at each company, but to make better use of our resources and spending."

Among the expected payoffs is a major speedup in developing and bringing to market new technology, a task at which the Japanese and some European automakers have excelled.

Castaing said, "Speeding up and doing more is the goal. The idea is not so much to save money, but to spend money more intelligently with each of us spending less time competing on a particular research effort, like the battery. I prefer to compete on product designs, styling, performance, efficiency, ergonomics—what the customers see."

The federal government and Big 3 corporate lawyers are watching for any hint of anti-trust violations, but there have been no problems.

"The government has been more encouraging than discouraging," Dickinson said. "Word we get from government agencies and congressmen we speak with is that they'd like to see us do more jointly."

But while the consortium is going well, there are some sore spots. One is that traditions do not die easily. Especially in the highly competitive Detroit automotive environment where generations of engineers have been trained to outperform their crosstown rivals, and the competitive juices still flow.

"Sharing does not come easily," said Dickinson. "Each of us feels we have something the other manufacturers don't. We have to learn how to lay our cards on the table openly, in a way that will benefit all. That's the principal barrier that surfaces. We've been taught not to work with our competitors."

At what point in this pre-competitive period of knowledge sharing and brotherhood are the companies apt to take what they've learned and go their own ways to develop products?

Said McTague: "Any of us at any time can build a vehicle with specific characteristics without telling the others, while still relying on a common technology base. Our common interest and cooperation is in making sure the technology is there to use."•

PROHIBITING ALL UNITED STATES MILITARY AND ECONOMIC AID TO TURKEY

• Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 2019 which prohibits all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem.

I remain staunchly opposed to the 1974 Turkish invasion of Cyprus and demand that all such forces withdraw immediately so that Greek Cypriot control may be restored. Until this pullout is accomplished, the people of Cyprus will be denied the most basic ideals of democracy based on majority rule, the rule of law, and the protection of minority rights. We cannot countenance Turkey's continued occupation of Cyprus against the wishes of the local Greek Cypriot population. To offer any assistance to Turkey would be a sanction of Turkish aggression and occupation of an island overwhelmingly Greek in composition and history. Furthermore, Turkey's kidnaping of five Americans during the 1974 invasion is a question still unresolved.

Until we can secure the Turkish Government's compliance with these issues, as well as U.N. Resolutions 3212 of November 1, 1974, and 365 of December 13, 1974, and Security Council Resolutions 353, 354, 358, and 360, we must not provide aid to Turkey. We must work to obtain the restoration of Cyprus for its rightful inhabitants—the Greek Cypriots.•

CONGRATULATIONS TO EMILY DENISE GRAHAM

• Mr. SASSER. Mr. President, I rise today to congratulate Emily Denise Graham, a senior at Tullahoma High School in Tullahoma, TN, on her selection as one of eight regional recipients of the Amateur Athletic Union/Mars Milky Way High School All-American Award for which she will receive a $10,000 scholarship to the college of her choice. As a regional recipient, Emily will be eligible for the national award of a college scholarship totaling $40,000 over 4 years.

We Tennesseans take great pride in the fact that 2 out of 8 of the regional recipients of this award are from the Volunteer State. Emily was selected from a group of over 13,000 applicants as a result of her exemplary record in academics, athletics and community service.

Ranked in the top 1 percent of her high school class, Emily has also served as president of the Student Council, vice president of the National Honor Society, and secretary/treasurer of Mu Alpha Theta, a mathematics honor society. Emily has represented the State of Tennessee admirably as a Girls State Representative, a participant in the Governor's School for the Sciences at the University of Tennessee, and as a State ambassador to the Hugh O'Brien Youth Leadership International Seminar.

Emily's achievements are not limited to the classroom. She has earned varsity letters in cross country, track, and swimming. Emily placed in the top eight in her region in the Midstate Regional Championship meets in the 200-meter individual medley and 100-meter breaststroke events. In addition, she cheers on her fellow athletes as cocaptain of the cheerleading squad.

This scholar-athlete has dedicated much of her time to community service activities. She serves on the mayor's youth council, is a peer tutor in mathematics, English, and science, and volunteers her time for the Special Olympics. She is also active in local dramatic productions, notably at the Community Playhouse and the South Jackson Civic Center.

Emily should certainly be commended for her accomplishments at Tullahoma High School and in her community. Young Americans like Emily are the key to the Nation's success, and I am pleased that such an outstanding role model and citizen is being honored with this award. I extend my best wishes to Emily in her future endeavors and thank her for her contributions to her community, to the State of Tennessee and to the Nation.•

EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2269, a 1-month extension of the Defense Production Act, introduced earlier today by Senator RIEGLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative read as follows:

A bill (S. 2269) to temporarily extend the Defense Production Act of 1950.

Mr. RIEGLE. Mr. President, this legislation extends the Defense Production Act from March 1, 1992, through April 1, 1992. House and Senate conferees are now engaged in negotiations to settle the differences between H.R. 3039 and S. 347, bills passed by the House and Senate respectively to amend, strengthen, and give a long-term extension to the DPA. I am encouraged by the progress being made and wish to commend in particular the leadership Congressman CARPER and Congresswoman OAKAR are exercising in getting the business of the conference completed. It is my strong hope that the conference can complete its work in March and I will certainly make every effort to make that happen. We must enact much needed amendments to the DPA in order to help prevent our country from becoming more and more dependent on foreign suppliers for critical components of essential weapons systems. Completion of the conference will also give United States officials, who are engaged in financial services negotiations in the GATT, and with Japan, Korea, and Taiwan, the tools they need to open financial markets now closed to United States firms.

The PRESIDING OFFICER. The bill was deemed read a third time and passed, as follows:

S. 2269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "March 1, 1992" and inserting "April 1, 1992".

AUTHORIZING THE TRANSFER OF AIRCRAFT CARRIER U.S.S. "LEXINGTON" TO CORPUS CHRISTI, TX

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senate proceed to immediate consideration of H.R. 4113, authorizing the transfer of the aircraft carrier U.S.S. *Lexington* to the city of Corpus Christi, TX, just received from the House; that the bill be deemed read three times and passed; that the motion to reconsider be laid upon the table; and that any statements relating to this measure be placed in the RECORD at an appropriate point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4113) was deemed read the third time, and passed.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I have no objection. I wanted to thank the leadership. This is particularly important to the junior Senator from Texas [Senator GRAMM]. He wanted me to convey his thanks to the majority leader.

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader for his cooperation in reaching the unanimous-consent agreement.

I thank the distinguished President pro tempore for his cooperation with respect to the agreement.

Mr. BYRD. Mr. President, I thank the majority leader.

I wish to ask a question. I think I know the answer but I will ask it anyhow.

I did not pay too much attention to the agreement as it was being stated.

Am I at liberty to offer an amendment, which I would otherwise have been since I had the floor and under the unanimous-consent request, retrieve the floor once the majority leader gives it up? Am I still at liberty to offer an amendment in the second-degree to the McCain amendment? Or did the agreement somehow take from me that right which was mine at that time?

Mr. MITCHELL. Mr. President, I will ask the Chair for an interpretation. But it is my understanding that the agreement described the circumstance in which such an amendment would be in order. And that otherwise, it would not be tomorrow.

I would ask the Chair as to whether or not the agreement would prohibit the offering of the amendment today? That question was not in mind when the staff drafted the agreement.

The PRESIDING OFFICER. The agreement would not preclude the offering of an amendment today.

Mr. MITCHELL. Mr. President, might I say to the distinguished President pro tempore that since the agreement preserves his right to offer the amendment in the event that the motion to waive the Budget Act prevails—and it is my hope that it will not prevail and I intend to support the President pro tempore's opposition to that motion—it is my hope that the agreement could take effect as stated and the distinguished President pro tempore would not have been disadvantaged in any way with respect to offering of the amendment.

Mr. BYRD. Mr. President, the whole value of my amendment was to make it more difficult for Senators to vote to waive the Budget Act. In this case, I do not have a feeling about this because I think surely we will defeat the motion to waive anyhow. But I did not pay close enough attention to what we were doing. That is my fault. I do not blame anyone else for that. Everyone else acted in good faith. But the amendment that I was going to offer was, in my opinion, one which would make Senators, especially chairmen of authorizing committees, and hopefully others as well, more reluctant to vote to waive the Budget Act. But that is perfectly all right. I think we will defeat it anyhow.

Mr. MITCHELL. Mr. President, I just want to say to the distinguished President pro tempore that our policy has consistently been that when an agreement places a Senator at a disadvantage through inadvertence or error, that the agreement would be vitiated to remove that disadvantage.

We just recently did that. I cannot recall which specific Senator it was, but we had a Senator on the other side who was placed at a disadvantage because there was an inadvertence in not protecting his right. I believe it was Senator BROWN, on an agreement.

And, therefore, I would say to the distinguished President pro tempore, if his failure to object was based upon misunderstanding or inadvertence, then I am prepared to say we should vitiate the agreement, give him the opportunity to offer the amendment if he wants to do so, and then to try to reconstruct the agreement otherwise. I personally believe it is not necessary. I think we are going to be able to defeat the motion to waive tomorrow, and letting the agreement go into effect would permit us to do so.

The agreement does not prohibit the offering of the amendment tonight. It does not preclude that. That was not in mind as we requested it.

If that circumstance places the distinguished Republican leader in a position where he feels he could not otherwise agree to the agreement, I think he ought to have the opportunity to vitiate the agreement as well if that is the President pro tempore's intention.

Mr. BYRD. Mr. President, the majority leader and his aides thought they were explaining this agreement to me, and they were. But I did not have my full attention directed to it at that time. So that is nobody's fault but mine. And I thought, however, that I would still have the opportunity to offer the amendment by virtue of my holding the floor, offer the amendment in the second-degree. But if it in any way disadvantages or gives a problem to the Republican leader, I will not do it. Because I think we are going to defeat the motion to waive anyhow. If I did not think so, I might try.

Mr. MITCHELL. Mr. President, just so there is not misunderstanding, I did not understand that the purpose, or one of the purposes of the amendment was to make it more difficult to vote for the motion to waive. I thought all the Senator from West Virginia was doing was having his right to offer the amendment reserved. That was done. I now fully understand, which I did not before. I think the Republican leader perhaps did not as well.

So I think now we ought to have it clear that if either the distinguished President pro tempore or the Republican leader wishes to vitiate the agreement on the basis that it was not clear to everybody exactly what the circumstances were, I think that right ought to be available. And if exercised by either, then we will just proceed to try to redo the agreement again.

Mr. BYRD. Mr. President, the majority leader is very fair. I will not exercise in those circumstances. I will not exercise my rights to vitiate the agreement. I do not think it is worth that. The leader has worked too hard and too long, and his staff—so did the Republican leader—to get an agreement. So it is not worth that much. So I will not.

Let me simply state what the amendment is going to do. The amendment offered by Mr. MCCAIN and the Senator from Indiana is directed only to the Appropriations Committee. It gives the President item-veto power and rescissions power directed toward appropriations bills.

As I have I think amply demonstrated, it is not the appropriations bills that are the problem. The President cannot veto entitlements. He cannot veto authorization measures—he cannot line-item veto authorization measures.

The amendment I was going to offer to the amendment by Mr. MCCAIN would have included direct spending authority and entitlement authority and give the President the power to strike or rescind any provisions or any portion of any authorization act.

So that I should think that with this amendment standing there as a second-degree amendment, the chairmen of the authorization committees would, likewise, want to protect their committees' jurisdiction and vote against waiving the act.

That was the purpose of the second-degree amendment. I will not offer it unless the motion to waive is agreed to, in which case I will offer it. It will still have some utility at that time.

Mr. DOLE. Will the Senator yield? I appreciate my friend's willingness not to offer it. I think just by implication, if he offered it, if the motion to waive prevailed—I fail to understand—it would have been offered in any event. It can be offered; he is within his right for it to be offered. We would have to ask, if that is the case, we go back and put the agreement together again.

Mr. BYRD. That would delay it. I thank both leaders. They have been fair to me, fair and agreeable. And I do not go home tonight feeling I have been deprived of my rights, and we will let the agreement stand.

Mr. MITCHELL. I thank the chairman.

Mr. BYRD. I thank the leader.

ORDERS FOR TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent—and I do this on behalf of the majority leader—that when the Senate completes its business today, it stand in recess until 9:45 a.m., Thursday, February 27; that following the prayer, the Journal of the proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day; and that there be a period for morning business not to extend beyond 11:15 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the following Senators recognized with the time limits specified:

Senators SIMPSON, KOHL, and LIEBERMAN, for up to 5 minutes each; Senator DOMENICI for up to 30 minutes; Senators COHEN and PRYOR for up to 15 minutes each; and Senator DECONCINI for up to 10 minutes.

The PRESIDING OFFICER. Without objection, the unanimous consent agreement as propounded is agreed to.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and at 9:36 p.m., the Senate recessed until Thursday, February 27, 1992, at 9:45 a.m.

EXTENSIONS OF REMARKS

LAWRENCE WALSH DOESN'T KNOW WHEN TO QUIT

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. BROOMFIELD. Mr. Speaker, once again someone has asked Lawrence Walsh "when."

When will he close down his Iran-Contra probe?

When will the political abuse of the Office of Independent Counsel end?

When will the taxpayers stop footing the bill for meaningless investigations and prosecutions?

And once again, Mr. Walsh's answer has proven disappointing. "It's perfectly clear we're talking a long time," he says.

As Michael Hedges of the Washington Times points out in a recent article, the world has changed dramatically since Mr. Walsh began his probe in 1986. Continuing his office has been compared to prosecuting a branch of bootleggers after prohibition is ended.

Nonetheless, Mr. Walsh plods on, enriching lawyers and leaving a trail of bankrupted victims in his wake.

I commend Mr. Hedges' articles to my colleagues and encourage them to sign on as cosponsors of the Independent Counsel Sunset Act—H.R. 444—so we never again have to witness such a perversion of our system of checks and balances.

QUIXOTIC QUEST?—AS CRITICS STEAM, LAWRENCE WALSH PUSHES ON WITH IRAN-CONTRA PROBE

(By Michael Hedges)

When asked how long he will pursue his quest, Iran-Contra special prosecutor Lawrence Walsh answers without apology or a trace of irony. "It's perfectly clear we're talking a long time," he says. "Months, not weeks."

Surrounded by canyons of legal documents in the small library of his offices on 13th Street NW., Mr. Walsh looks to be in fighting trim, perhaps 15 years younger than the 80 he turned last month. He appears capable of hanging in there for the long haul in his reduced role of overseer of the legal fallout from the Iran-Contra affair.

And that's what worries his critics, who view Mr. Walsh at best as a Don Quixote on a mission long since rendered irrelevant. The windmills are ever-receding; the cost of the joust continues to mount.

"The whole world has changed but not this guy," one highly regarded Washington lawyer says. "It seems to me this has become an obsessive mission for him."

For Mr. Walsh, the mission began in December 1986, when he was appointed by three federal judges with a broad mandate to investigate arms sales to Iran and allegations of money funneled illegally to the Nicaraguan resistance.

Congressional opponents of the Reagan administration pushed for the probe, but then almost immediately undercut it by giving immunity at their own hearings to Lt. Col. Oliver North and Adm. John Poindexter. Both men were later convicted but had the charges overturned by federal appellate courts because of the immunity grants.

Even some of Mr. Walsh's supporters contend he should have called in the dogs at that point and left as his primary accomplishment a clear articulation of the problems involved in trying to have simultaneous congressional hearings and a federal criminal probe.

But the prosecutor is still fighting what he perceives as the good fight.

Mr. Walsh's latest target, former CIA official Claire George, says of his indictment, "[It] merely makes me a pawn in the continuous drama of political exploitation."

In an editorial, the Wall Street Journal called the George indictment "another 'Walshing' whereby a legally bizarre prosecution forces its middle-class victim to spend millions of dollars to hire lawyers to shut Mr. Walsh down."

But Lawrence Walsh believes his work has had an important legacy, despite the setbacks and criticism.

"We have shown that there can be effective criminal law enforcement in the national security area, albeit with enormous difficulty," he says. Such expensive efforts should be made, he contends, "if the offense is serious enough."

In an interview, Mr. Walsh makes it clear his purpose is to establish, for history, the principle that criminal prosecution is the ultimate check in the system of checks and balances.

"If we tolerate deliberate deception by a popular and strong chief executive and false statements to the Congress, which is supposed to be one of the checks upon an autocratic executive, we have to see that the checks and balances are effective—and that, in the last analysis, takes law enforcement," he says.

But Mr. Walsh shows far less passion or compassion in defending individuals' rights not to be pursued by government enforcers, his critics maintain.

Asked about Joe Fernandez, a midlevel CIA officer who spent nearly $2 million to defend himself against charges that eventually were dropped, Mr. Walsh says: "I have no regrets because he always had the opportunity to cooperate with us. . . . He made the choice to be an antagonist."

HIGH COSTS

That's the attitude that infuriates Lawrence Walsh's opponents. It is what the Wall Street Journal called the "Catch $2.2 million": Cooperate or be ruined financially in a case that may be dropped or may result in a $50 fine.

Former Maj. Gen. Richard Secord was another of Mr. Walsh's targets. He eventually pleaded guilty to one count of making a false statement to Congress, was given probation and paid a $50 fine.

Mr. Secord says he was innocent of the charge, indeed claims Mr. Walsh knew he was innocent.

"I've spent $1.2 million on legal fees so far and it is not over yet," Mr. Secord says. "The reason I didn't go to trial was I was flat out of money and my lawyers wouldn't go any further. I pleaded guilty to a non-crime which Walsh knew didn't exist."

The former Air Force general also accuses Mr. Walsh of hounding business clients until several ended their relationships with Mr. Secord's security consulting companies. "Everyone in touch with me, no matter how remote, got called by the legions of lawyers this guy has at his disposal."

And Mr. Secord says $8 million belonging to his companies has been frozen in Swiss banks since 1986, an embargo Mr. Walsh enforces with occasional memos to the banks saying the freeze is still justified.

"I was financially destroyed by this, and I doubt I will ever recover," Mr. Secord says. "And in the end, the judge gave me a $50 fine. . . . That was like winning a battle after all your troops are dead."

THE UPSHOT

After spending—by his own estimate—about $30 million over more than five years, Mr. Walsh's Iran-Contra cases have for the most part gone one of three ways.

The main targets, former National Security Council aide Oliver North and former National Security Adviser John Poindexter, were convicted. But those convictions later were overturned because they were based in part on the pair's immunized testimony to Congress in 1986.

Others, like former CIA station chief Joe Fernandez, were able to get their cases dropped, but only after spending huge sums in legal fees—in Mr. Fernandez' case, $1.8 million.

The third class of defendant is illustrated by Elliott Abrams. The former State Department official says he pleaded guilty to charges brought by Mr. Walsh to avoid spending money on defense lawyers. Mr. Abrams was sentenced to community service and the requisite $50 fine—half the amount of some D.C. parking tickets.

Critics such as Mr. Secord say Mr. Walsh's $30 million price tag is an intentional misrepresentation of the true costs of the probe.

"He lies about that all the time," Mr. Secord says. "The costs of pursuing this investigation have been over $100 million."

The former general says the higher figure includes costs to the Justice Department, the federal courts, the CIA and other agencies of cooperating with the probe.

Mr. Walsh—whose hourly rate of pay was capped at about $140,000 a year when he worked on the case full time—won't comment on the future of his investigation. Official sources say it is following a path leading from a guilty plea by former CIA official Alan Fiers. Other indictments are anticipated, officials say, but not of "names" from the Reagan-Bush administration.

When asked specifically about Oliver North, Mr. Walsh says he can't comment because "we may not be through with him yet"—indicating the former Marine lieutenant colonel could be called as a witness in a future case.

CAREER-CAPPER

When Mr. Walsh began his probe in 1986, the Soviet Union was the Evil Empire, Wash-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ington covertly supported Iraqi President Saddam Hussein in his war with Iran, and then-Nicaraguan President Daniel Ortega considered himself the Castro of Central America.

If the world has turned, Lawrence Walsh has not let the revolutions distract him. He says he is pursuing to the letter of the broad mandate that a three-judge panel issued 63 months ago.

One newspaper quoted a Walsh acquaintance describing his work as "prosecuting a bunch of bootleggers after Prohibition has ended"—an analogy Mr. Walsh rejects.

From the beginning, Mr. Walsh saw his appointment as the capstone to a career in which he rose from a young, racket-busting prosecutor to a federal judge and top-dollar private lawyer. He also served as deputy to Ambassador Henry Cabot Lodge during U.S. peace talks with North Vietnam, and headed the American Bar Association committee that assesses Supreme Court nominees.

Mr. Walsh was born in Nova Scotia, but his family moved to New York when he was 2. He graduated from Columbia College in 1932; three years later, he got his law degree there.

After his first wife died, in 1965 he married Mary Alma Porter of Oklahoma City, his adopted home. He has four daughters and a son.

If Republicans now castigate Mr. Walsh's investigation while liberal Democrats support him, he has spent most of his life serving GOP bosses. At his first news conference as special counsel in December 1986, he answered charges that his ties to the Republican Party were too strong for him to be objective.

Over the years, Mr. Walsh worked for GOP heavyweights ranging from mob-fighting prosecutor Thomas Dewey and New York Gov. Nelson Rockefeller to New York City Mayor John Lindsay and President Nixon, who named him deputy to Mr. Lodge in the Paris peace talks.

PICKING UP PIECES

Now, Mr. Walsh has turned over the day-to-day running of the Iran-Contra investigation to his deputy, Craig A. Gillen. He stays in Oklahoma City three weeks out of four, working on the book that will be his final word on the probe—if not his critics' or that of historians.

He calls the writing of the book "agony" and says he is saving until last a formulation of how he sees his legacy.

It was in part Mr. Walsh's pugnacious style that backers sought when he was chosen to probe the Byzantine tangle of U.S. arm sales to Iran and clandestine funding of the Contras fighting Mr. Ortega's Sandinista regime in Nicaragua.

But whatever his legacy, for now Mr. Walsh's approach strikes those on the receiving end as vindictive and overzealous. And his targets—largely Reagan administration officials—have a growing body of supporters who believe that, after five years and many million dollars, enough is enough.

"It's a question of how rapidly these things can be handled, and it's not entirely in our control," Mr. Walsh says. "What happens in an investigation is that a piece will fall into place that will pick up a lot of material that had been hanging from an earlier investigation."

The latest development: a closed hearing on Valentine's Day to determine whether classified documents involving Clarie George, former CIA deputy director of operations, should be turned over to Mr. Walsh's staff.

Opponents have compared the George prosecution to Mr. Walsh's 1989 case against CIA agent Joe Fernandez, which was dismissed after the Justice Department declined to release classified documents. The prosecutor will not comment specifically on the George case.

REWARDING

Though Lawrence Walsh predicts a long life ahead for his probe, critics hope Congress pulls the plug. The law authorizing the independent counsel expires this year, and Congress will hold hearings to determine whether to extend it.

Mr. Walsh says he has not been called as a witness.

"I think there must be a continuation of the institution, but it should not be used lightly," he says. "The expense is a reflection of the scope of the assignment. . . . It reflects the very broad assignment we were given, and that has been the biggest criticism of it."

Mr. Secord and others say Mr. Walsh's probe is an example of why the law shouldn't be renewed.

"He ought to be Exhibit 1," Mr. Secord says. "If Congress doesn't vote to end the law, I hope Bush has enough guts to veto it."

After all the years, all the battles, all the controversy, does Mr. Walsh ever regret taking the assignment?

"No, it's a public responsibility if you are asked and can do it," he says. "Secondly, it is a very challenging and interesting assignment. Professionally, it's been rewarding, although not without its disappointments."

LAWRENCE WALSH CAN DISH IT OUT OUTSIDE COURTROOM

(By Michael Hedges)

Lawrence Walsh has been brawling in courtrooms since the 1930s, when he battled the mob as a young prosecutor under New York District Attorney Thomas Dewey.

So Mr. Walsh is toughened against insults from adversaries such as Lt. Col. Oliver North, who called him a "vindictive wretch."

But he still can be quick to anger.

Ask the Iran-Contra prosecutor about former staff member Jeffrey Toobin, and the invective flows: "He missed his target," Mr. Walsh growls. "He was supposed to get Abrams. We hit the target after he left."

Mr. Toobin had the effrontery to leave the Iran-Contra prosecution and then write a somewhat critical book about the process called "Opening Arguments: A Young Lawyer's First Case."

A self-proclaimed liberal, Mr. Toobin wrote that he came to view Mr. Walsh's probe as too broad and too vague.

"Only crimes are crimes," Mr. Toobin wrote, implying Mr. Walsh had lost sight of that mote of wisdom from the first week of law school. The former Walsh aide also wrote of the "futility of using the criminal process to expose or correct governmental misdeeds."

But Mr. Walsh is dismissive of those observations.

"He wanted things brought down to the primer stage where he could handle it," the prosecutor says of his former protege. "He's a tenderfoot [who] muffed it."

Clearly Mr. Walsh is not a man who takes a double-cross lightly—even if he cools down enough within five minutes to call Mr. Toobin a "nice kid."

TRIBUTE TO WILLIAM ARROWSMITH

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. EDWARDS of California. Mr. Speaker, with the deepest regret I must advise you and my colleagues in Congress of the death last week of William Arrowsmith, one of America's most distinguished scholars, and writers, a translator, and linguist of enormous talent. Bill was also a personal friend to many of us here in the House of Representatives and Senate.

The Boston Globe's obituary in its February 22, 1992, edition quoted Dr. John Silber, Boston University's president, as follows:

> In the classroom and in his books and essays and translations, Bill Arrowsmith used his enormous talents as scholar, linguist and poet to celebrate the basic modalities of human existence as revealed in classics.

The Globe article went on as follows:

> In 1972, Mr. Arrowsmith was one of 10 professors in the country to receive the $10,000 E. Harris Harbison Award for Gifted Teaching.

He translated numerous writers—classical and modern—including Euripides, Aristophanes, Petronius, Nietzsche, and the Nobel Prize-winning poet Eugenio Montale. For his translations of Montale, Mr. Arrowsmith received the International Montale Prize, the Landon Translation Prize, and the Shestack Poetry Prize.

The founding editor of three literary journals—the Chimera, the Hudson Review, and Arion—Mr. Arrowsmith had also edited Delos and served as contributing editor of American Poetry Review and Peoquod.

Born in Orange, NJ, he graduated from Princeton University in 1947, studied at Oxford University as a Rhodes scholar, and received a Ph.D. in classics at Princeton in 1954.

After teaching at Princeton, the University of Texas, and a year at the Massachusetts Institute of Technology, he came to Boston University in 1971, staying 5 years. He returned to Boston University in 1986 after stints at Yale, Johns Hopkins, New York, and Emory universities.

Bill leaves two daughters, Beth of Colorado Springs and Nancy of Austria; a sister, Mrs. L.V. Mills of Middletown, NY; a granddaughter; and a close friend, Marianne Meyer of New York. Our sympathies go to these dear members of his family.

Finally, Mr. Speaker, in Bill Arrowsmith's passing we lost more than a great scholar and a wise and talented professor. We also lost a friend, someone whose charm, warmth, and decency added much to the lives of all those fortunate enough to know him.

IN RECOGNITION OF LAKESIDE LOWER ELEMENTARY SCHOOL FLAG PROGRAM

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. ANTHONY. Mr. Speaker, I rise today to pay tribute to the Lakeside Lower Elementary School for the institution of a flag program. The fostering of patriotism in our youth of the United States is of utmost importance, and I commend the children of this school, the faculty, and administration for its leadership, and the parents for their encouragement.

Instilling a love for country and a respect and understanding of what this wonderful country means to its citizens begins at home. The people in Lake Village are proving to be fine examples for these young people by making them aware of the flag and its symbolism of freedom. I believe we will continue to see much success in this integral part of their education.

I congratulate this school and community and urge my colleagues to join me in the feeling of pride for this shining example of working together on their project of education and accomplishment.

A TRIBUTE TO MANUEL MENCIA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Mr. Manuel Mencia, director of the Office for Latin American Trade for the Florida Department of Commerce. Mr. Mencia, who admits that he loves his profession, has been incredibly successful in increasing Florida's trade with Latin America. In an International Business Chronicle article entitled, "Manuel A. Mencia: Relishing Each Day's Challenge," Luisa Esquiroz Arellano reports on the great fortunes of Manuel Mencia:

In the 12 years he's traveled through Latin America selling Florida for the state's Department of Commerce, Manuel A. Mencia, best known as "Manny," has had his share of adventure.

"The job has never been boring, says Mencia, now director of the Office for Latin American trade for the Florida Department of Commerce. "I've survived earthquakes, one mugging, two automobile accidents, one death threat and a plethora of late-night parties and social events."

Mencia, who relishes telling stories, has quite a repertoire. Early in his career, while representing Florida at the Guatemala International Trade Fair, a mystery man called him repeatedly at his hotel accusing him of being a CIA agent. "He promised to undermine my health dramatically."

He consulted on the problem with his superior at the Department of Commerce and with the security officer of the U.S. Embassy in Guatemala. "Both advised me that perhaps it would be a wiser course to leave before the conclusion of the fair," Mencia recounts. "I chose to stay, although I did look over my shoulder a lot."

In 1988, Mencia was in the Caracas Chamber of Commerce building when the riots exploded after President Carlos Andres Perez imposed an austerity program to save the country's economy. "We ran through the streets with some local VIPs, trying to find a taxi, while rock throwers smashed windows all around us," he recalls. "We didn't find one, but eventually, about 10 of us put $100 together and got a man with a station wagon to take us back to the hotel."

Behind Mencia's easygoing facade is a serious businessman who takes pride in "having been a player in developing Florida, and particularly Miami, into a major international crossroads."

Peter Tesch, project manager for the Economic Development Council for Marion County, says Mencia helped him organize the council's first trade mission abroad, which was to Barbados and Trinidad two years ago. "He was also very helpful when we started the international-trade program in Ocala."

Florida is fortunate to have Mencia in charge of Latin American trade, Tresch says. "His organization is one of the most effective groups in the state, as far as trying to promote international trade with Latin America."

Mencia plans to continue to play a major role in the state's international development. The office of Latin American trade organizes an average of nine trade missions and exhibits to Latin America every year, targeting the most promising markets for Florida. "That's the most challenging part of my job, given the volatile economic performance of the Latin American nations and the sometimes volatile nature of its politics," Mencia says.

"Most people I work with, or who have met me through my work, immediately realize that I enjoy what I do," he says. "I can't think of one day that I didn't look forward to the challenge. I have always been extremely conscious that government employees don't have the greatest reputation for productivity and initiative, and to me, this has been a great incentive to go out of my way to prove that we of the public sector do make an important contribution and effectively work with the private sector.

"I've always emphasized to my employees that when you work in the government," he adds, "you have to go an extra half-yard to prove yourself to the general public."

Mencia says government employees always have to fight the private sector's prejudiced ideas about bureaucrats. "When you walk through a businessman's door, his pre-conception of you is not going to be a good one and it is up to you to prove this person wrong," he says. "I'm very proud that, by and large, the staff of my office has done so consistently."

Says Carlos A. Amaro, general manager of Palex Medical Inc., a biomedical company in Dade County: "He's one of the most dedicated economic-development professionals, with a purpose to enhance and promote the internationalization of Florida. He's always willing, capable and available to help any businessman in providing any type of local and international contact. He's been very effective any time we've requested specific contacts or assistance with U.S. government offices overseas.

"He's done a great job, having to work with the limited resources he had," Amaro says. "I think he deserves a lot of credit for what his office has been able to accomplish."

Mencia has had to work effectively in spite of deep budget cuts in the Florida Department of Commerce. "We've been able to absorb them without serious reduction in our services," he says. "I think it's a testimony to the effective leadership of the Department and the quality of our work force."

In the past year, he says, the number of Florida foreign offices has increased to seven, and there's a strong possibility of opening an office in Taiwan in the near future. "Our Brazil office, which reports directly to me, has been an outstanding success both in developing trade opportunities with Brazil and, more importantly, in increasing the visibility of Florida," Mencia says. "Every day I receive an article published in Brazil describing Florida as a place to visit and invest."

But as director of the Latin American office, Mencia believes his greatest challenge is to help Florida corporations make the most of the opportunities that will emerge in Latin America this decade. "We are seeing some radical changes in the region, and just as Latin America refers to the 80s as the lost decade, I think years from now we'll look back to the 90s as the decade of opportunity," he says. "Our office plays a key role in helping Florida maximize its share of opportunities."

The changes in Latin America run parallel to a change in the paternalistic way the United States has traditionally viewed the region. "I think that the U.S. perception of Latin America is changing radically," Mencia says. "The Enterprise for the Americas Initiative is probably the most significant U.S. policy towards Latin America since President Kennedy's Alliance for Progress in the 60s. It's significant that this is an innovation that emphasizes trade and not aid. To me, that reflects the changing perception of U.S. policy makers and economists towards the region."

"Benign neglect," is Mencia's description of U.S. foreign policy towards Latin America in a historic context. "Interest in the region only grows at times of crisis, as when one of our frequent dictators threatened U.S. interests," Mencia says. "Then we would see a burst of activity and action."

Now the roles are changing, he says, and U.S. policy makers are recognizing Latin America as a logical partner in a world that's being divided into trading blocks. Even economists of high repute, such as Peter Drucker, chief economist for the *Wall Street Journal*, are now speaking of the need to reactivate the Latin American economies as a way to boost the ailing U.S. economy.

"I think all that presents unprecedented opportunities for Floridians," he says, "given our privileged geographical position and cultural affinity to Latin America."

I am pleased to recognize Mr. Manuel Mencia, and I would like to congratulate him on significantly escalating trade between Florida and Latin America. I wish Mr. Mencia continued success as the Director of the Office for Latin American Trade for the Florida Department of Commerce.

RUSSIA TO DEVELOP ARMS EXPORT INDUSTRY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. LEVINE of California. Mr. Speaker, Sunday's Washington Post included a disturbing article about the Russian economy and arms proliferation. The Post reported that the Russian Republic has decided to pursue foreign military sales as a key element of its national economic program. This decision by the Russians represents a significant failure for Bush administration policies toward arms control and the new republics of the CIS.

The international community, particularly the newly liberated countries of Eastern Europe and the CIS, has turned to the United States for leadership on this issue. But the administration's policy toward U.S. arms sales has sent the message that we approve of selling highly sophisticated weapons to unstable regions like the Middle East.

A quote by Andrei Kokoshin, a Russian military expert, included in the article printed below, makes the point quite clear, "I think if other countries would have started reducing arms deliveries, this would have had some effect, but it turned out that most democratic countries are not stopping arms sales, but increasing them."

Since the end of the gulf war, the Bush administration has sold over $16 billion in arms to the nations of the Persian Gulf nations. And, now we hear reports of a $5 billion F–15 package for Saudi Arabia. Following suit, the Russians have negotiated a $2 billion package with Syria for Mig–29 and SU–24 aircraft and concluded an agreement with Iran for SU–24's and T–72 tanks.

The Bush administration must back up its words on arms control with action. If the United States is to retain the leverage and influence necessary to dissuade other countries from making destabilizing sales, we must stop making destabilizing arms sales of our own.

[From the Washington Post, Feb. 23, 1992]

RUSSIA BOOSTS WEAPONS SALES TO AID ECONOMY

(By Fred Hiatt)

MOSCOW.—Russia has decided it must actively promote arms sales overseas at the expense of converting weapons factories to civilian purposes, according to senior Russian officials.

The growing sentiment in favor of unabashed pursuit of profit through weapons sales reflects both Russia's dire need of hard currency and the dismal state of its vast military-industrial complex. Although conversion remains a prime focus of government policy, it appears to be losing ground to those who believe the nation could quickly reap billions of dollars by selling tanks, fighter jets and other weapons abroad.

"Today, trading in arms is a necessity for us," Russian President Boris Yeltsin said in an interview published today in the newspaper Izvestia, adding, "Soviet weapons are highly popular in the world, and easily find buyers."

The Soviet Union was for years a leading purveyor of weapons abroad, along with the United States, but the sales were tightly controlled and used for political more than commercial gain. Now, with the Cold War over and Russia desperate for cash, many fear that dozens or hundreds of local governments and individual factories may begin freelancing in the arms business.

"The world market for arms has been divided in a sense, and it would not be wise to withdraw from the market we have cornered,' Vladimir Shibayev, deputy chairman of the government's committee for foreign economic relations, said in a newspaper interview this week. "After all, arms trade is a highly profitable business."

Air Marshal Yevgeny Shaposhnikov, former Soviet defense minister and now commander-in-chief of the joint armed forces of the Commonwealth of Independent States, similarly argued that "we shouldn't seriously curtail" arms production, both because arms workers and their families need protection and because the overseas arms market could be lucrative. With profits from arms sales, the marshal argued, the nation could buy equipment to produce consumer goods.

Peter Aven, deputy foreign minister for trade, said in a news conference Friday that trade in arms will continue to be regulated by the government, with no sales to countries engaged in conflicts, but he said the government will no longer enjoy a monopoly in sales.

"We proceeded from the view that armaments are also a commodity," he said. "They should be sold to earn money."

Yeltsin has prepared a decree authorizing the formation of "a series" of weapons-trading firms, each associated with a large weapons plant. A government committee would issue licenses for arms sales, Aven said. Two such trading firms already have been formed, he added.

Yeltsin explained Russia's motives in his Izvestia interview today.

"We have sharply cut back our expenditures for defense, and for purchasing arms in particular," he said. "A similar cutback in arms production would have dealt an enormous blow to the plants which make them . . . [and] would have led to social tensions and placed millions of people on the edge of unemployment. So trading of arms is a kind of buffer."

Yeltsin also said that Russia would give up the Soviet Union's ideological approach to arms sales, instead selling "on the governmental level, and openly," and respecting international conventions.

Aven said the government would not allow every firm to sell arms independently, because the competition might drive prices too low. But his deputy, Shibayev, acknowledged that many independent actors would like to enter the weapons business.

"In fact, we have opponents in the Defense Ministry, the Ministry of Industry and other departments," Shibayev told the newspaper Nezavisimaya Gazeta. "Today, many state-run producers are craving orders, and believe they will be able to solve their problems by selling off their military products independently."

Andrei Kokoshin, a military expert being proposed as a possible defense minister of Russia, said in an interview Friday that arms factory representatives have been disturbed to see Western nations wooing their former customers.

"I think if other countries would have started reducing arms deliveries, this would have had some effect, but it turned out that most democratic countries are not stopping arms sales, but increasing them," Kokoshin said. "Naturally, it's very disappointing to our arms producers to see . . . other countries advancing on our markets."

Yeltsin himself not long ago promised the aircraft complex at Ulyanovsk that it could sell four giant cargo planes, each worth an estimated $120 million, overseas. "I will sign, you sell," he told aircraft workers, to wild applause. The next day, he authorized an automotive factory in Nizhny Novgorod to sell 300 armored personnel carriers overseas, again keeping the proceeds and bypassing the Ministry of Defense.

A few days later, Yeltsin told 5,000 disgruntled military officers at the Kremlin that he had authorized the sale of excess weapons overseas—with all proceeds to go toward construction of officers' housing.

And this week, Ukrainian President Leonid Kravchuk charged that the Black Sea fleet—an object of contention between Ukraine and Russia—was in the process of selling off 49 ships through a joint-stock company headed by an admiral. Kravchuk said that cruisers, submarines, escort ships, minesweepers, landing craft, a destroyer and a missile boat have been sold or are to be sold to India and other countries.

"The competent bodies of Ukraine are now checking the lawfulness of the sale of the warships and craft of the Black Sea fleet," Kravchuk said.

Throughout the former Soviet Union, economic hard times are hitting the once inviolable military-industrial complex especially hard. Yegor Gaidar, Russia's deputy prime minister for economics, said that the government will spend only about 15 percent of last year's total on weaponry, mostly buying spare parts and other supplies needed to keep existing equipment in operation.

Desperate to survive, arms factories are seeking foreign investment and trying to produce civilian products. But many also are seeking to sell overseas.

"In St. Petersburg, 74 percent of enterprises belong to the munitions industry, and there are no natural resources," Yeltsin aide Galina Staravoitova told reporters. "Petersburg will not survive. The only way out is to allow export arms trade.

A FISHY SITUATION

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. MORRISON. Mr. Speaker, over the last year in the Northwest we have been wrestling with the controversial reallocation of one of our precious natural resources, Bering Sea pollock. Duff Wilson and Ross Anderson, reporters with the Seattle Times, wrote investigative articles about this allocation issue and about the North Pacific Fishery Management Council which makes these decisions. I would like to submit the articles to the RECORD and encourage Members to read them to get a better understanding of this ongoing controversy.

A FISHY SITUATION

(By Duff Wilson)

The United States' richest fishery is controlled by a federal council so riddled with conflicts of interest that its actions result in millions of dollars in benefits to some council members or their companies.

Critics say self-serving votes by council members are also leading to lost jobs here and artificial higher consumer prices for fish.

The group, called the North Pacific Fishery Management Council, was set up 15 years ago to manage the $1 billion-a-year Alaska fishery in the federal zone between three and 200 miles offshore.

But it wasn't until recent years, when American fishermen began fighting American fishermen, rather than the Japanese, for shares of the resource, that the council emerged in public view as a sort of Tammany Hall of the Pacific.

"The politics are so blatant it forces you as a protective measure to become part of the problem," says Walter Pereyra, a Seattle businessman and member of the council. "It's a corrupting process."

Four of the 11 council members own fishing businesses. Two are industry-group employees. One is a consultant who makes no secret of the fact he hopes to make money off his inside expertise.

Pereyra, perhaps more candid than most, admitted that he performs government business with an eye on his own trawler companies' bottom lines.

"I shouldn't even be on the council making these kinds of decisions that I have a conflict on—absolutely," he said. "I think that's true of every member of the council. It should be in the hands of professional managers."

Pereyra, for instance, loses millions of dollars in potential revenue because of council-imposed limits on fishing for a type of bottom fish called pollock. Pereyra, citing scientific studies on optimum yield, is trying to get the council to loosen the limits.

Under current practice, most of the council members are appointed precisely because of their industry experience. They are required to file financial-disclosure statements and take an oath to vote in the national interest.

But some council members say the national interest is often equivalent to their own business interest.

Consider:

After he took a $1,250-a-week job from crab fishermen, council member Larry Cotter changed his vote and tabled a far-reaching rule he'd previously favored and the crabbers opposed.

Council member Oscar Dyson voted to allow Japanese fishing companies to take 10 million pounds of cod from the U.S. fishing zone after he struck a private deal for his company to sell them a million pounds of cod fillets.

Council member Ron Hegge's three freezer boats kept their current fishing rights while competing trawlers were slashed in a plan approved by Hegge and a council majority in June. Some council observers said Hegge also stands to gain from a fishing-quota plan now under study. Hegge says he could be hurt, not helped, by the plan.

These council members all deny they were considering their private business while they performed their public service. But business people and other observers point to the web of self-interests on the council every time it decides who gets how much of the fish.

"It's a very serious problem, and we're getting situations here that are very, very close to the edge." said Rudy Petersen, a council member from 1982 to 1988 and owner of a Seattle-based factory trawler.

Steve Davis, longtime deputy director of the council staff until he quit in July, said council members take pains to mask their self-interest in scientific rationales.

"When you sit through a council meeting, you'll know there's an underlying motive that's probably the main reason they're doing what they're doing, or a particular council member is pushing a regulation down a particular path," Davis said.

Conflict-of-Interest charges were raised last summer in a plan to shift at least $250 million of annual fish product from a Seattle-based floating factory fleet to a largely Japanese-owned processing industry on the Alaska shore.

Washington, as a result of the plan, could lose more than 1,000 jobs. Critics say the decision will also mean higher prices for fish by curbing the free market economy.

Seven of the 11 council members live in Alaska, and four of them stood to gain or lose personally from the decision. But they all voted.

The fishery council is exempt from federal conflict-of-interest laws because it is supposed to be an advisory body, with the secretary of commerce making the final decision. The Secretary, however, almost never overrules a council decision and is not expected to do so in this case.

That leaves a handful of special interests in charge of a federal resource affecting thousands of jobs and millions of consumers.

The council has no rules on abstaining from votes because of personal interests, no rules against seeking outside work from special interests groups, and no requirements for lobbyists to report their activities or spending.

The council was set up under fishing-industry control because of a distrust of scientists who might set fishing limits too low, according to Bud Walsh, former chief counsel to the Senate Commerce Committee. Walsh worked with Sen. Warren Magnuson of Washington to draft the Fishery Conservation and Management Act in 1976.

Council members are nominated by the governors of Alaska and Washington and appointed to three-year terms by the secretary of commerce. They meet six times a year, usually in Anchorage. Four council members represent government agencies; seven represent fishing interests.

Donald Bevan, former director of the University of Washington School of Fisheries, said the law he helped to draft is not working because of the personal conflicts of fishing-industry members.

"We might do better with 11 real-estate salesmen who had no conflicts of interest," Bevan said. "It just isn't good public policy having people with a direct financial interest making decisions on those financial interests. We wouldn't stand still for a minute with a city council run by contractors making decisions on city contracts."

The American Factory Trawler Association recently approached the Department of Justice and the Department of Commerce inspector general to try to have conflict-of-interest charges investigated.

They weren't the first. Lee Alverson, a Seattle consultant and former top federal fishery official, tried without success years ago to interest federal agencies in investigating the council's activities.

Alverson and the trawler association, a Seattle-based group, said in their complaint to the Commerce Department that council members should not "be the recipient of considerable amounts of money from clients who have a great deal at stake in council decisions."

A department attorney responded that the Magnuson Act provide an implied exception to conflict-of-interest laws for council members.

"We're talking about billions of dollars that people can shift around between industry groups," Alverson said, "and they're going to vote for themselves."

Alverson and the Seattle fishing group were especially critical of Cotter, a consultant from Juneau.

Cotter was appointed to the council in 1986, thanks partly to a last-minute lobbying blitz by the Pacific Seafood Processors Association, a group representing shoreside processing plants. He was upfront about his plans to honor the debt.

"I don't think you will need to spend a lot of time trying to determine how I'm going to vote," Cotter wrote the head of the group.

President of a longshoreman's union at the time he was appointed to the council, Cotter soon quit that position and went into business as a freelance consultant.

Cotter's role in a committee studying ways to address the issue of "by-catch," a perennial problem where boats fishing for one species inadvertently scoop up others, is another illustration of how conflicts develop on the council. The committee's job was to decide whether fishermen should be required to toss the fish back or not. The decision was worth big money to the industry.

After months of work, the committee agreed on a consensus plan. Then one member, representing the Alaska Crab Coalition, had second thoughts.

Cotter, the committee chairman, had led the 1988 council discussion on the by-catch plan. But instead of urging a vote to approve, Cotter said he, too, had an 11th-hour change-of-mind.

Cotter's vote to delay the plan made the difference in the 6–5 vote. It was later killed.

A few months before that meeting, Cotter had been paid to take a week-long trip to the Soviet Union to represent the Alaska Crab Coalition in negotiations with Soviet business. Cotter said he planned to manage a joint venture for the crab boaters if it succeeded.

Shortly after the vote, Cotter disclosed he was being paid $1,250 a week by a group of crab operators for consulting services. Cotter quit that job about two months later, saying he was nervous about what his employers really expected of him.

"I wasn't, in my opinion, doing enough work for the amount of money I was receiving," Cotter said in a sworn deposition in a recent lawsuit that touched on council conflicts.

In an interview, Cotter insisted his private business had nothing to do with his change of vote. He noted that he disclosed the consulting agreement even though he was not required to do so at the time. Cotter said he voted against the by-catch plan to try to save it, not to kill it, because the National Marine Fisheries Service was going to refuse to enforce the plan.

The timing of his private deal indicated he was either negotiating or had already signed on with the crab-boat group at the time of the council meeting.

Cotter hears the talk. He grew angry at the allegations his vote was bought.

"If I'm going to be bought off—and I'm sure as hell not—it's not going to be for a couple thousand bucks," he said. "I mean, give me a break."

Cotter said he solicits consulting work from people who attend council meetings and plans to do even more work after he leaves the council next year. Cotter said he turns down some potential work because of council conflicts, adding that he would welcome a federal investigation.

"What I say is, come on and have a major investigation of me. Start with my bank account. Look at my check register."

In Cotter's view, his opponents in the Seattle-based trawler group, the big losers in the vote on fish allocation, are trying to destroy the council process with allegations of conflicts.

"There is smoke, no fire," he said.

Council member Dyson, a career fisherman from Kodiak, has also found himself accused of putting business interests first.

Shortly after Dyson was appointed to the council in 1986, a company representing 18 Japanese fishing companies signed a contract with Dyson's company to purchase one million pounds of cod products in return for the council and the state of Alaska allowing the Japanese to take about 10 million pounds of cod from the Bering Sea.

It was apparently the first and last such purchase agreement.

Jay Hastings, Seattle attorney for the Japan Fisheries Association, said the purchase agreement was offered to several other companies in addition to Dyson's. Hastings said U.S. authorities required the Japanese to buy some product if they wanted to fish off Alaska.

"I know the problem at that council now, but at that time I don't think it was even viewed as a problem in conflict of interest," Hastings said.

More recently, Dyson has been a solid vote in favor of giving onshore processing plants a guaranteed amount of fish to buy and sell. And he is one of nine stockholders in a big Kodiak processing plant.

In essence, Dyson is allocating large amounts of money to himself, says Gary Brown, an economist who worked on the onshore preference issue for the factory trawler group. The decision could be worth millions of dollars to Dyson's company, Brown said.

Dyson said he did not vote just for Dyson, but for all fishermen who may be helped by the onshore preference. He said his main interest is in seeing the fish resource managed well.

The council does get high marks for conservation. The panel routinely votes for a lower cap on fishing than scientists say they need to preserve the stock in the Gulf of Alaska and Bering Sea. Other councils, notably in New England, have allowed overfishing to the point of depletion.

Yet council members who are proud of their conservation work, when it comes time to divide up the available fish, are being accused of at least the appearance of voting their financial self-interest.

Hegge, a council member from Anchorage, owns three freezer boats that fish with lines and hooks. Those boats might have lost income if their fishing rights had been cut back as the council is proposing to do with similar offshore freezer boats the fish with nets.

Hegge's boats were exempted. Hook-and-line freezer vessels of less than 125 feet in length were classified as part of the in-shore fleet, which suffered no cutbacks. Hegge and his family own a 78-footer, a 56-footer and half of another 78-footer.

Economist Brown said Hegge did not take a final position on the onshore preference issue until after the amendment passed. "In fact, that definition was tailored for Hegge," Brown said.

Hegge denied that, saying he did not benefit from the amendment and would not have been hurt by being classified with the offshore fleet. He said he was voting to prevent the huge and mobile offshore trawl fleet from scooping up too many fish at the expense of the shore-based industry.

Some council insiders also said Hegge stands to gain from a plan for fishing quotas that the council is crafting. The quotas on black cod would replace a limited season on the cod, and they would give some fishermen a guaranteed future harvest right, a right that could be sold to other operators.

"Someone like Ron Hegge stands to do real well," said former council deputy director Davis.

But Hegge said this, too, is an incorrect assumption. He said he has cut back his black-cod fishing in recent years so he would receive a smaller quota than most other black cod-fishermen.

"I would be better off personally if we never went to it," Hegge said.

Hegge said he makes his council decisions based on testimony and the national-interest standards of federal law.

"I'm going to vote for the best interests of the resource, not the best interests of Ron Hegge," he said. "I think of my own situation in this sense: I think if it is good for me as a fisherman, I guess it would be good for the fisheries."

Three other council members are accused of conflicts of interest because they are paid to represent a certain viewpoint.

Richard Lauber, council chairman, is a full-time lobbyist for the Pacific Seafood Processors Association, which represents shore plants, the big winners in the billion-dollar onshore-offshore battle.

Henry Mitchell works for western Alaska interests as director of the Bering Sea Fisherman's Association. Bob Alverson manages the Fishing Vessel Owners' Association in Seattle.

They say they vote independently of their associations.

"As soon as council week comes along, I don't feel that I represent anybody but the resource," Alverson said.

Some former council staff members are also being accused of conflicts.

Richard Tremaine, an economist, and Davis, a biologist, were hired this year by LGL Associates, a consulting firm. LGL was paid about $15,000 by the shore processors' group to analyze the council proposals on onshore processing preference.

Tremaine worked on the analysis but said he did not use any inside information. Tremaine denied a charge by Brown that he was asked by council staff members to comment on council submittals before they were made public.

Davis, who was in charge of council staff on the onshore preference issue, said he had no conflict because he did not join LGL until after the council made its decision. Davis did not work on the LGL report financed by the shore processors.

Davis accepted the LGL job in April but stayed at the council three more months to finish work on the onshore preference plan. Davis passed out his new business cards at the June council meeting where the onshore decision was being made. He left federal employment July 10 and has recently been seeking industry clients.

Davis has now started speaking out about how the council decision on onshore preference was made by politics, not merit. He had to junk a $25,000 computer model because of lack of time to do a proper analysis. Davis said that is one big reason why, after 11 years, he quit.

"As analysts, we were kind of being, squeezed down a certain path," Davis said. "We felt if we'd had more time we would have come out stronger against" the onshore preference plan.

Economist Brown said he has worked with some of the seven similar councils in other parts of the country, but nowhere are the dollars so big or the conflicts so blatant.

More than half of all edible fish in the U.S. is caught off Alaska. The annual value to fishermen is nearly $1 billion per year, but because the council is allocating the fish in future years, too, the amount that is really at stake is $5 billion to $10 billion, Brown said.

"The stakes have gotten so high that I don't see how any process here can continue to work," Brown said. "There's never been a situation where you put billions of dollars in front of the industry and ask them to police themselves."

FISHY BUSINESS

(By Ross Anderson)

Never mind that it's November, and it's blowing a gale on the Bering Sea. Dave Fraser would rather be fishing.

He could be dragging an enormous trawl net into the wind, scooping up pollock, delivering them to the highest bidder, paying off his crew and taking his share home to Port Townsend.

Instead, Fraser's 86-foot boat is tied up at the docks in Alaska, while the fisherman works on the telephone and on airliners, trying to fend off a federal decision that threatens to push him and other Washington fishermen from the lucrative fishing grounds they helped pioneer a decade ago.

For this, Fraser blames the North Pacific Fishery Management Council, the Alaska-based council that allocates well over $1 billion worth of fish among competing interests every year. He and other fishermen are increasingly disturbed that the council is riddled with self-serving decisions, many of them tilted against Washingtonians.

"People talk about the fox guarding the hen house," he says. "But what we've got here is a few roosters divvying up the hens."

All this appears to be essentially legal, and largely invisible to taxpayers and consumers whose interests the council is supposed to protect. Fraser, who is vice chairman of a subcommittee that advises the council, says the decision-makers themselves can't even be blamed; the problem is a system that forces them to make decisions that affect their personal pocketbooks.

Fraser is just one of hundreds of Seattle-area fishermen whose livelihoods are jeopardized by a council decision last June to split up the pollock fishery worth hundreds of millions of dollars and give nearly half of it to Alaska-based processors.

The decision was made by a council that is sworn to operate in the national interest but that is dominated by Alaskans and by members who work for fish-processing companies.

The problem in the North Pacific is an old one: Although there are millions of tons of fish to be had, there are too many fishermen and too many boats. The result is an economic and political struggle for rights to harvest a publicly owned resource.

The solution, Fraser says, is to allocate those fish the old-fashioned way: Sell them to the highest bidder.

But that isn't the way the fishing industry works. Never has, and Fraser wonders if it ever will.

Instead, all that fish is given away. Until recently, it was allocated on a first-come, first-served basis. But now that there are too many takers, the allocation is done by the council, which has proven itself incapable of disregarding its myriad political and economic conflicts.

"The process has turned into a horror show," Fraser says. "It comes down to power, because there are no principles guiding their allocation decisions."

Like most Alaska fishermen, Fraser started out fishing salmon from a small gillnet boat out of Port Townsend. In the mid-1970s, fish runs were in decline and court rulings turned over half the runs to Native American tribes, so Fraser headed north to Bristol Bay.

But salmon runs were depressed there as well. Fishermen blamed offshore fleets of Japanese and Soviet factory ships, which fished for low-value groundfish but scooped up tons of salmon as well.

In 1976, Congress addressed that problem with the Magnuson Act, which sought to evict the foreign fleets by extending U.S. fisheries jurisdiction to 200 miles and which set up the regional fisheries councils to manage the fishing grounds.

Most Alaska fishermen considered pollock and other whitefish to be virtually worthless; they stuck with salmon.

But Fraser and a few friends saw the possibilities. They raised some money and built a modern trawler—the "Muir-Milach," Celtic for "shining sea full of fish." They pioneered the business, scooping up groundfish and selling it—initially to foreign factory ships and later to their U.S.-owned successors.

In recent years, Fraser's boat has grossed about $1 million per year, he says, providing a comfortable income for the owners and their crew.

During the '80s, however, the U.S. fleet grew faster than expected. At the same time, competitors built processing plants in Alaskan coastal towns such as Dutch Harbor and Kodiak. Now the combined fishing and processing capacity is greater than the supply of fish.

The Fishery Management Council, based in Anchorage, "worked well when it was Americanizing the fishery, taking fish away from foreigners," Fraser says. "But deciding between one American fisherman and another has turned into a horror show."

Instead of neutral biologists or resource managers, the council is run by officials from major processing companies. And in June, those conflicts of interest blurted into the open when the council voted to award rights to 45 percent of the fishery, worth an estimated $250 million, to the Alaska plants—a huge blow to the Seattle-based factory trawlers.

Fraser is one of hundreds of Washingtonians caught in the middle of a turf war. His boat is neither a factory-trawler nor a shore-based plant. He's just a fisherman, caught up in the politics of allocation.

So it was that Fraser and several of his fellow fishermen tied up their boat recently and flew to Washington, D.C.

The controversial inshore-offshore decision now sits with Commerce Secretary Robert Mosbacher, who must either approve the plan or send it back.

Fraser and friends sought meetings with members of Congress and other federal officials, trying to explain the flaws in the council system and its recent decision.

He came away with a strong sense of foreboding.

"The council process is kind of scary, but the congressional process is even scarier," he says. "That's the ultimate land of smoke and mirrors. You get 10 or 15 minutes with your congressman, or more likely with one of their staff. They try to be polite and empathetic, but some of them don't seem to understand the issue and you wonder: What are they going to do with this information?"

Congress is reluctant to mess with the status quo, he says. The council serves as a buffer, which prevents the politicians from having to deal with the volatile issues of allocating a public resource.

According to the Magnuson Act, the council is supposed to be advisory, he says—feeding information to federal fisheries officials, who make the final call. But it doesn't work that way.

"The biologists just set the overall quotas, and they're good at that. But they're not good at managing the human element. They set the quota at 2 million tons, and then they say: 'Have at it, boys.'"

When asked for a solution, Fraser has a bold idea. Instead of spending their time deciding who is entitled to the resource, simply let the marketplace rule.

"I tell them: 'This is a public resource, like trees or minerals. Why don't you sell it?'

"And they look at me like: 'Are you serious?'"

The history of the fisheries is defined by the "tragedy of the commons." Competing for a free resource, fishermen increase their catch until the fish are exhausted. Because of that tendency, fishery councils in other regions, especially New England, have presided over the demise of the industry they are supposed to protect.

Fraser and others fear the North Pacific Council will do the same. The council needs to get out of the business of allocation, so they can focus on the science of preserving the fish stocks, he says.

"And the only rational way to do that is to privatize the resource, to recognize their role as owners and sell it.

That would leave Fraser competing head-on with corporate factory trawlers and shoreside plants. But he's willing to take that risk.

"The guy who comes out best is the guy who can catch fish most efficiently and get it to market," Fraser says. "I may be naive, but I think I could come out fairly well under those ground rules."

What are the chances of the system being changed?

Virtually nil, he says.

The industry is accustomed to getting its fish for free, and most fishermen can be expected to resist any attempt to change that.

Taxpayers and consumers may see it differently. But, then again, they don't get to vote.

A TRIBUTE TO OLYMPIC GOLD MEDALIST KRISTI YAMAGUCHI

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. EDWARDS of California. Mr. Speaker, Fremont, CA, one of the cities in my congressional district, is not commonly known for its abundance of winter sports. But we are proud to claim as one of Fremont's own one of the shining stars of the recent Winter Olympics in Albertville, France. I rise today to congratulate Kristi Yamaguchi, the young woman from Fremont who won the Olympic Gold Medal in the women's figure skating on February 21.

Ms. Yamaguchi, an alumna of Mission San Jose High School, is known for her artistry as well as her athleticism on the ice. She started skating at age 6, and was a national champion pairs skater in 1989 and 1990. In both years, she was also second in the women's individual skating, testimony to her incredible talent. This year's national and world champion, she won the gold medal despite tough competition from fellow United States skaters and champions from Japan and France.

Ms. Yamaguchi stands out as a rare and talented athlete, and a young woman I am proud to have as a member of my community. Her amateur career thus far offers a powerful lesson for our Nation's young people, that with hard work and dedication no dream is unreachable. Her skill and grace are a beauty to watch, and I am very pleased to acknowledge her today. Mr. Speaker, I ask that you join me in sending congratulations to Kristi Yamaguchi and her family for her performance at the Olympics. We all wish her the best at the Lillehammer Olympics in 1994, or wherever her aspirations lead her, both on and off the ice.

HELP OUR DOMESTIC AUTO INDUSTRY (H.R. 4314)

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to draw the attention of my colleagues to a bill I have introduced today, H.R. 4314, which amends the Internal Revenue Code of 1986 to allow a refundable credit for the purchase of a domestically manufactured automobile.

In January, I had the opportunity to participate in a hearing of the House Budget Committee task force on urgent fiscal issues, organized by our colleague, the gentleman from New Jersey [Mr. GUARINI]. The hearing focused on our Nation's declining industrial base and specifically on the plight of the automobile industry.

Today, we have been discussing proposals to spur economic growth and provide tax relief for families. Central to the concepts I support is the need for job creation in our Nation. Needless to say, the declining industrial base, and the accompanying loss of jobs, is not contributing to an economic recovery.

Therefore, it is apparent that some form of Government assistance is necessary. There are several positive steps that could be taken by the Federal Government to spur domestic growth. The Federal Reserve has already significantly lowered the discount rate, a move that should lead to increased investment in research and development and infrastructure development, and the enactment of the $151 billion, 6-year Surface Transportation Reauthorization Act should also be of a lasting benefit to our economy.

However, these solutions will not begin to show a positive effect until several years from now. Therefore, a short-term solution is necessary. My legislation creates a refundable tax credit of 10 percent of the cost of a new car, up to a total tax credit of $2,500.

As you know, there has been a considerable debate over the definition of an American-made car. Therefore, my legislation defines a domestically produced vehicle as a vehicle containing at least 75 percent of U.S. material and labor.

Despite this initiative, if the auto industry does not respond by implementing improvements in management and manufacturing techniques, any effort made by the Federal Government or proposals by Congress will not suffice.

Mr. Speaker, I request that the full text of H.R. 4314 be inserted at this point in the CONGRESSIONAL RECORD, and I invite my colleagues to cosponsor this vital measure.

H.R. 4314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR PURCHASE OF DOMESTICALLY MANUFCTURED AUTOMOBILES.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. PURCHASE OF DOMESTICALLY MANUFCATURED AUTOMOBILES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount for each qualified automobile acquired by the taxpayer during the taxable year equal to the lesser of—

"(1) 10 percent of the cost of such automobile to the taxpayer, or

"(2) $2,500 ($1,000 in the case of a qualified automobile described in subsection (b)(1)(B)).

"(b) QUALIFIED AUTOMOBILE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified automobile' means any automobile if such automobile is manufactured in the United States and if—

"(A) such automobile is purchased by the taxpayer in the 1st retail sale of such automobile (within the meaning of section 4011), or

"(B) such automobile is acquired by the taxpayer in a qualified resale and such resale occurs within the 2-year period beginning on the date of the 1st retail sale of such automobile.

"(2) AUTOMOBILE.—The term 'automobile' means any 4-wheeled vehicle which is propelled by fuel (as defined in section 4064(b)(7)) and which is manufactured primarily for use on public streets, roads, and highways.

"(3) QUALIFIED RESALE.—The term 'qualified resale' means any sale of an automobile if—

"(A) such sale is after the 1st retail sale of such automobile,

"(B) such sale is for a purpose other than resale, and

"(C) no credit was allowed under this section for any prior acquisition of such automobile other than at its 1st retail sale.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) MANUFACTURED IN THE UNITED STATES.—An automobile shall be treated as manufactured in the United States if at least 75 percent of the cost to the manufacturer of such vehicle is attributable to value added in the United States or Canada.

"(2) JOINT ACQUISITIONS.—If any qualified automobile is jointly acquired by two or more persons—

"(A) the aggregate amount allowable as credit under subsection (a) to such persons with respect to such automobile shall be determined by treating all of such persons as one taxpayer whose taxable year is the calendar year in which such acquisition occurs, and

"(B) there shall be allowed to each of such persons a credit under subsection (a) for such person's taxable year in which such calendar year ends in an amount which bears the same ratio to the credit determined under subparagraph (A) as the portion of the cost of such automobile borne by such person bears to the aggregate cost of such automobile.

"(d) BASIS REDUCTION.—The basis of any qualified automobile shall be reduced by the amount of the credit allowable under this section to the taxpayer for the purchase of such automobile."

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Credit for purchase of domestically manufactured automobiles.
"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to automobiles acquired after December 31, 1991.

TRIBUTE TO CARL INGRAM

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. ANTHONY. Mr. Speaker, I would like to take this opportunity to pay tribute to Mr. Carl Ingram, a longtime friend of mine who passed away January 30, 1992, in Texarkana, AR. Mr. Ingram provided outstanding service to the people in the State of Arkansas during his tenure with the Farmers Home Administration from 1943 until his retirement January 3. 1992.

He was very helpful in rural development and worked unselfishly to ensure funding for farm programs and water association projects. His devotion to the farmers and rural development was demonstrated through his constant efforts to make sure the farmer's concerns were heard and attended to.

Carl Ingram will be missed not only by his family and friends but also by our community and State which he served faithfully for many years.

A TRIBUTE TO DR. JORGE BARCENAS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to pay tribute to Dr. Jorge Barcenas whose remarkable, life-saving efforts saved Andre Michel after he stopped breathing from an asthma attack. Dr. Barcenas' extraordinary actions were reported by Manny Garcia in a Miami Herald article, entitled "Doctor at Right Place, Time Revives Man Slumped in Car." I commend the following article to my colleagues:

When Dr. Jorge Barcenas opened a clinic in Kendall two weeks ago, he thought his days as an emergency room doctor were over. He was wrong.

Barcenas, who spent six years saving lives in emergency rooms, used his training Monday afternoon to save a 40-year-old man who stopped breathing after an asthma attack.

Andre Michel of Kendall passed out while driving to the clinic in the Shoppes at 104 at 14687 SW 104th St. Witnesses said Michel's car jumped a curb and hit a wall.

Within seconds, a woman ran to the Kendall Medical Clinic, which opened Feb. 1.

"About 5 p.m., this woman comes in screaming "He's not breathing,'" said Damaris Barcenas, the doctor's wife and manager of his clinic.

Jorge Barcenas, 36, was in a back room testing his new equipment when he heard the woman screaming. He followed her outside and found Michel slumped in the front seat. He recognized Michel as the same man who came by the clinic that morning to make an appointment. Michel was not breathing and was quickly turning blue.

Barcenas reclined the car's seat, leaned over Michel and began CPR. His wife called 911. He continued mouth-to-mouth resuscitation until Metro-Dade paramedics arrived.

Barcenas and the paramedics—who knew him from his days as medical director of the emergency room at Kendall Regional Medical Center—gave Michel oxygen and medicine to stimulate his breathing. The medics took Michel to Baptist Hospital, where he was listed in good condition Friday.

"He did a great job," said paramedic John Slimak, who was so impressed by Barcenas that he plans to nominate him for the fire department's Citizen's Commendation Award.

Meanwhile, Michel's family was impressed—and thankful.

"We're very happy he was there," said Michel's nephew, Landry Cheron. "Andre is doing much better. We thank him."

Barcenas said it was no big deal: "Every time something goes on, I always like to go by and help a little."

Mr. Speaker, I would like to thank Dr. Barcenas for helping to save the life of Andre Michel. His deed is duly recognized, and I wish him much success with the future of the Kendall Medical Clinic.

PITTSBURGH WELCOMES DR. J. DENNIS O'CONNOR, SIXTEENTH CHANCELLOR OF THE UNIVERSITY OF PITTSBURGH

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. COYNE. Mr. Speaker, I rise today to welcome Dr. J. Dennis O'Connor of the city of Pittsburgh and wish him great success as the new chancellor of the University of Pittsburgh.

On Friday, February 28, the University of Pittsburgh will celebrate Founder's Day with the installation of Dr. J. Dennis O'Connor as the 16th president of this historic institution. Two hundred and five years after the Pittsburgh Academy was first established as an center for higher education, the University of Pittsburgh will be continuing its traditions of academic excellence under the leadership of Chancellor O'Connor.

Dr. O'Connor was named earlier this year by Pitt's Board of Trustees to succeed Wesley W. Posvar, who served as Pitt's president since 1967. Dr. O'Connor comes to Pittsburgh from the University of North Carolina at Chapel Hill, where he served as vice chancellor of academic affairs and provost.

Dr. O'Connor brings to Pitt his proven experience as an energetic administrator, committed educator and scientist. Dr. O'Connor has combined his work as an administrator with a dynamic continuing career as a working scientist, conducting research in developmental biology. He has been active as an author of numerous papers published in scientific journals, and has lectured in the United States and abroad on a range of scientific and academic issued. Pitt's Trustees have found in this man an individual who has earned a well deserved reputation as a leader in the field of higher education.

A native of Chicago, Dr. O'Connor earned his bachelor of science degree from Loyola University in 1963, and his master's degree from De Paul University in 1966. He was awarded in Ph.D. degree from Northwestern University in 1968.

Dr. O'Connor began his professional academic career at UCLA as an assistant professor of zoology from 1968–73. He was associate professor of biology from 1973 to 1979, and professor of developmental biology from 1979 to 1987. In 1979, Dr. O'Connor became Chairman of the UCLA Biology Department. Between 1981 and 1987, he served as dean of the division of life sciences. While a member of the UCLA faculty, Dr. O'Connor also served as a visiting professor at Monash University in Australia and at the University of Nijmegen in Holland.

In 1987, Dr. O'Connor joined the faculty of the University of North Carolina. He served as vice chancellor of research and graduate studies and dean of the graduate school until 1988 when he was named vice chancellor of academic affairs and provost. At the same time, Dr. O'Connor served as vice president for Triangle Universities Center for Advanced Studies; board member of the North Carolina Biotechnology Center; and board member of the Research Triangle Institute.

It is clear from this outstanding academic and professional career why Pitt's presidential search committee chose Dr. O'Connor as the individual best qualified to become the University's new chancellor. I join the board of trustees in saluting Dr. O'Connor and welcoming him to Pitt and the city of Pittsburgh.

Dr. O'Connor has already found the University of Pittsburgh to be an institution of outstanding academic accomplishments, ready to continue its role as one of America's premier centers for higher education. He has also expressed his excitement about making his home in the city of Pittsburgh. I know that Dr. O'Connor will find ample confirmation of his initial positive assessment of the University and the city of Pittsburgh in his work and experiences as Pitt's new chancellor.

In his role as chancellor, Dr. O'Connor will take an active part in advancing the great traditions of the University of Pittsburgh. For over 200 years, Pitts has represented a commitment to education, research, and public service. During the late 19th and early 20th centuries, the university played a central role in the rise of Pittsburgh as a center of the American industrial revolution. In the 1920's and 1930's, Pitt's Cathedral of Learning, the world's tallest university structure at 42 stories, rose from the campus grounds to serve as a beacon for new generations of students seeking the benefits of higher education.

During this century, Pitt gained an international reputation for its medical center. Long considered one of the Nation's best medical schools, Pitt served as the academic home of Dr. Jonas E. Salk during the time he received well deserved acclaim for his work in developing a successful and highly effective vaccine for fighting polio. Dr. Salk's triumph in developing an antibody for combating one of the world's most crippling diseases brought the university a worldwide recognition. In the years following, Pitt emerged as the world's leader in organ transplantation. The site of the first double-transplant operation, Pitt's Medical Center continues to break new ground in the challenging field of transplant surgery.

In addition to the medical center, Pitt has a national reputation for the depth and breadth of its academic programs. Several departments in the arts and sciences enjoy high national ranking, including philosophy and international studies. Pitt is also known for its many fine professional schools and centers, such as the Katz Business School and the Learning Research and Development Center. Pitt is also playing a central role in the emergence of the city of Pittsburgh as a center for high technology research and development through its management of the University of Pittsburgh Applied Research Center, a major research complex just outside Pittsburgh. The university is also a partner in the Pittsburgh Supercomputing Center, one of five sponsored by the National Science Foundation.

Today, the University of Pittsburgh serves approximately 25,000 undergraduates and 10,000 graduate students and sponsors research programs with a total value exceeding $150 million. With 15,100 full and part-time faculty and staff, the university and its medical center is the largest employer in the city of Pittsburgh. Pitt consist of 17 undergraduate, graduate and professional schools and 15 major research centers on the Pittsburgh campus. In addition, it includes four regional campuses at Bradford, Greensburg, Johnstown, and Titusville. One of the Nation's leading universities, Pitt and its medical center have an operating budget which totals more than $1 billion annually.

Clearly, the position of chancellor for the University of Pittsburgh will be both challenging and rewarding for Dr. O'Connor. He will have daily responsibility for building upon the great traditions of this institution and directing the growth of Pitt as a center for learning. Still, I am confident that the university's board of trustees have entrusted the future of Pitt to an individual of outstanding academic and administrative skills.

I wish Dr. O'Connor the very best in his role as chancellor and extend to him my support and assistance in his work to promote the goals of higher education at the University of Pittsburgh.

DEFENSE RESTRUCTURING

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, February 26, 1992, into the CONGRESSIONAL RECORD:

DEFENSE RESTRUCTURING

The collapse of the Soviet Union offers the U.S. an opportunity to reevaluate the size and shape of its defense programs. The threat to the U.S. has changed dramatically in the last 2 years, but there is still no consensus on how much we should be spending on defense and how our military should be structured in the post-cold war world.

GLOBAL CHANGES

For decades United States defense planning centered on the Soviet threat. We maintained military forces capable of fighting simultaneously a major land war in Europe and a second smaller war elsewhere. This plan drove the large increases in the defense budget. Our cold war defense policy entailed the deployment of large nuclear and conventional forces to deter Soviet attack; forward deployment of United States forces in Europe and Asia to demonstrate our commitment to our allies; and large standing forces to sustain our security needs and objectives.

The changes in the Soviet Union and Eastern Europe have made this policy obsolete. Political and economic upheaval in the former Soviet republics and the breakup of the Soviet military make a conventional threat to Europe remote. The republics continue to possess large nuclear arsenals, but leaders in Russia and the other nuclear armed republics have stated their intention to reduce forces, strengthen ties to the West, and channel limited resources into economic and political reform.

U.S. RESPONSE

President Bush responded in early 1991 to the changing security environment with a revised defense plan that would cut U.S. forces by 25 percent and the $290 billion defense budget by 20 percent (adjusted for inflation) over the next 5 years. The plan would reduce active and reserve Army divisions from 26 to 18; Navy ships from 530 to 450; active and reserve tactical fighter wings from 34 to 26; and active duty military personnel from 2.1 million to 1.65 million. Overall military personnel levels would decline by about 1 million. United States troops in Europe would be cut from 325,000 to 150,000, and several military bases would be closed at home and abroad.

The President's proposed defense budget for fiscal year 1993 calls for an additional $50 billion cut in projected defense spending over the next five years, primarily by eliminating or delaying major weapons programs. The proposed budget for 1993 is $281 billion, about $10 billion less than last year's level. The budget envisions cutting defense spending by 4 percent annually over the next five years.

The President's budget plan could mean a 50 percent cut in U.S. strategic warheads to a level of 4,500–5,000. The President would cancel the B2 Stealth bomber at 20 aircraft, convert some strategic bombers to conventional missions, and boost spending on the Strategic Defense Initiative by 32 percent. He would also redirect funds away from production of next generation weapons toward research and development of new systems. He would cancel the Seawolf submarine and indefinitely delay the procurement of an advanced new Army helicopter and tank. More resources would be dedicated to upgrading existing systems.

The President contends that steeper cuts in defense spending would compromise our ability to respond to new security threats, and hollow out U.S. forces, lowering morale and effectiveness. He notes that defense spending will decline by 1996 to its lowest level, as a share of national income, since before World War II.

ASSESSMENT

I support most of the proposals in the President's defense budget. The proposal halving of our nuclear forces is a good start. President Yeltsin has indicated a willingness to negotiate even deeper cuts, down to perhaps 2,500 warheads. These proposals would make the world a safer place, and should be pursued, especially given the danger of Soviet nuclear weapons spreading to developing countries. The collapse of the Soviet Union also makes unnecessary further production of cold war weapons systems such as the B2 bomber.

I also think the President's procurement policy for conventional systems makes sense. The United States does not have to rush to produce new and expensive weapons systems at this time. The Gulf war demonstrated that the United States possesses superior weapons technologies, and can afford to make incremental improvements in existing systems, such as the F-18 fighter and the Apache helicopter. These systems should be sufficient to meet the security threats of the next decade. This new procurement strategy, combined with a substantial research and development budget, should maintain an adequate defense technology and industrial base.

FURTHER RESTRUCTURING

Many will say that the President's defense cuts are insufficient. Congress will likely consider deeper reductions. My view is that challenges at home will require that a greater share of the Federal budget be channeled to domestic needs—in the near term, to help lift the country out of recession, and in the long term, to boost American competitiveness and living standards.

I also think that the President's defense plan should be challenged for not using this opportunity to redefine national security. Defense spending should not be driven by the budget, but by a hard assessment of the new threats and risks to the United States. The questions for planners are not easy: What are the new nuclear dangers? What should be the size, shape, and cost of our forces? What industrial base should support them? How do we maintain our technological edge?

The President is essentially calling for less of the same, a smaller military force that still reflects cold war priorities and thinking. My view is that the United States no longer faces the Soviet threat, but rather diverse and unpredictable threats, ranging from rogue powers in regions where the United States has vital interests to drug trafficking to terrorism to weapons proliferation. These threats will require a smaller, more mobile, more flexible defense that can respond to a crisis anywhere in the world. Responding to these threats will also mean a much smaller United States military presence in Europe and Asia. The new military force structure must exploit the advantages of American technology, and be prepared to take decisive action without putting large numbers of American lives at risk. It must also work to accomplish these tasks at the lowest price possible.

TRIBUTE TO DOUGLAS S. McKAY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. SCHEUER. Mr. Speaker, I rise to eulogize and pay tribute to a man who dedicated a great deal of his life and energies to his community, civic organizations, and to helping his fellow men and women.

The community of Douglaston, the Borough of Queens, and the greater New York City community suffered a great loss in the death, at age 42, of Douglas S. McKay.

His service and dedication extended into many fields. A graduate of Columbia University and St. John's Law School, he was a member of the board of managers of the Queens County Bar Association.

He served on community boards 7 and 11, was past president of the Douglaston Civic Association, on the board of directors of the Alley Pond Environmental Center, an elder of the Community Church of Douglaston, and a member of the St. Andrew's Society.

A man of many talents, he was a columnist for the Bayside Times/Ledger, and an active member and State assembly candidate of the Democratic Party.

Whenever there was a just cause or an issue challenging our collective conscience, Doug McKay was invariably playing a key leadership role, donating his time and efforts.

He was a man of courage and faith who remained active till the end, when his young life was claimed by Crohn's disease.

I am confident the House of Representatives wishes to join me in expressing our condolences to his wife, Maureen, and their three children, daughters Devon and Morgan, and son, Cameron.

We have lost a dedicated and concerned civic leader, and a good friend and neighbor.

FREE RELIGION AND SPEECH, IN RETREAT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. EDWARDS. Mr. Speaker, we are a country that prides itself on its freedoms, and particularly those of speech and religion. This second editorial in a series that appeared in the Atlanta Constitution looks at the first amendment of the U.S. Constitution. We have reason to be concerned that the Supreme Court has and will continue to infringe on these freedoms. I fear for the future of our country's citizens as the Court moves away from these highly valued rights. I encourage you to read this editorial and to recognize the reasons for concern.

Article I: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

[From the Atlanta Constitution, Dec. 9, 1991]

FREE RELIGION AND SPEECH, IN RETREAT

This is the second in a series of editorials leading to the 200th anniversary Dec. 15 of the ratification of the Bill of Rights.

The First Amendment, which is dedicated to protecting rights of conscience and expression, begins with religion. The idea is at once to ensure that no religion receive official endorsement and that all people be free to worship according to their lights.

Over the past half-century, the U.S. Supreme Court has found such establishments of religion as public school prayer unconstitutional, reflecting excessive government sponsorship of religion. At the same time, it has required government to demonstrate a compelling interest if it is to restrict anyone's religious freedom.

On both fronts, the current Supreme Court is moving in the opposite direction.

In last year's Smith decision, a 6-3 majority held that any law that does not intentionally discriminate against religion is constitutional, even if it has the effect of impairing someone's ability to practice his faith. This session, the court heard a Rhode Island case in which the local school board (joined by the Bush administration) argued that the government may endorse religious practices as long as it does not coerce anyone into participating.

The First Amendment's protection of speech is also under assault, though to a lesser degree.

This year, in a 5-4 decision, the court upheld an Indiana law banning public nudity in a case involving nude barroom dancing. Writing for a plurality, Justice William Rehnquist all but wiped out precedent that viewed dancing as protected expression, subordinating it to society's policing powers to enforce morals.

In 1989 and 1990, the court, in successive 5-4 decisions, upheld the right of individuals to engage in symbolic speech by burning the American flag. But with Justices David Souter and Clarence Thomas replacing Justices Thurgood Marshall and William Brennan, it is likely that subsequent cases involving symbolic political speech will go the other way.

Dancing and flag-burning involve a gray area where protected speech and unprotected conduct must be distinguished. This session, the court will draw such a distinction when it reviews a Minnesota law singling out "hate crimes" for special punishment.

The most disturbing free-speech decision of the Rehnquist court to date is Rust v. Sullivan, which this year barred doctors in federally funded health programs from discussing abortion. Here, the court was prepared to let a governmental rule abridge speech in that most protected doctor-patient relationship.

It is small comfort that the abridgement applies only where federal funds are being spent. From clinics to universities, institutions throughout American society are in some measure supported by public monies. Will the Supreme Court, in its deference to government, go on to let officials restrict speech in other contexts as well?

PLACE THE BLAME WHERE IT BELONGS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. SOLOMON. Mr. Speaker, one morning Mr. Customer goes to the general store and purchases a baseball bat. He smiles as he lays his money on the counter along side of his purchase. Mr. Shopkeeper smiles, hands him his change and his baseball bat and says, "have a good day." With a smile on his face Mr. Customer proceeds to Mr. Neighbor's house where he promly begins to beat Mr. Neighbor senseless with the baseball bat.

The next day, Mr. Police Officer shows up at the general store.

Are you Mr. Shopkeeper?

Why yes, I am.

You're under arrest. You have the right to remain silent, you have the right * * *

Wait a minute, wait a minute, what have I done?

You beat Mr. Neighbor senseless with a baseball bat yesterday.

I did what?

You beat Mr. Neighbor senseless with a baseball bat and he required a whole lotta stitches and medical attention. Not to mention there will probable be psychological damage from this trauma.

I did no such thing.

Did you or did you not sell said baseball bat to one Mr. Customer yesterday?

Well, of course I did.

Then you're under arrest because your baseball bat put a serious hurt on Mr. Neighbor.

But it wasn't my baseball bat. I just sold it to Mr. Customer. I thought we was going to play baseball.

Yeah, that's what they all say.

I just wanna ask one more thing. What's gonna happen to Mr. Customer?

That poor man, he pleaded temporary insanity and is resting comfortably at home. Now hurry up and let's go. I gotta go book a coffee cup salesman for a cup of coffee that hit Mr. Husband in the head this morning.

Mr. Speaker, if you think this is a joke, then let's look seriously at what the District of Columbia is trying to do by placing blame for crimes on manufacturers to firearms in the District. When are we going to place this blame where it belongs—on the criminals. No one else and nothing else is at fault, but them.

Furthermore, Mr. Speaker, if the D.C. government wants to pass laws that infringe on the rights of law-abiding citizens, they had better look out! Because I will double my effort to cut off their Federal aid that comes from law-abiding taxpayers who resent this kind of legislation.

BIOGRAPHY OF SACAGAWEA (SHOSHONE)

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my on-going series this year, I am providing for the consideration of my colleagues a short biography of Sacagawea, the female Shoshone Indian who accompanied Lewis and Clark on their epoch-making expedition of 1804–1806. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

SACAGAWEA (SHOSHONE)

So many romantic legends have been inspired by Sacagawea, the Shoshone Indian woman who accompanied Lewis and Clark on much of their epoch-making expedition of 1804–06, that even today her biographers differ in many details.

However, the historic *Journals* of the two explorers, and their latter letters, tell us much about the famous "Bird Woman," as her Mandan Indian name may be translated.

One of President Jefferson's major purposes in commissioning Lewis and Clark to explore the newly acquired Louisiana Territory had been the establishing of friendly relations with Indian tribes between St. Louis and the Pacific Ocean. Indian chiefs were to be given Jefferson "peace medals" at these historic first contacts with white men.

In the winter of 1804, some 1,600 miles from their St. Louis starting point, Lewis and Clark arrived in the North Dakota country of the Mandan Indians, where they were befriended by the tribe and spent a peaceful winter. Living among the Mandans were a French Canadian fur trader, Toussaint Charbonneau, and his young Indian wife, Sacagawea. When the expedition left Mandan country, the couple went with it: Charbonneau, hired as an interpreter for $25 a month; and Sacagawea, her newborn baby on her back.

It seems likely that Sacagawea's main reason for accompanying the explorers was a longing to see her own Shoshone people again. Five years earlier, at about 12, she has been stolen by Crow Indians, taken far from her Rocky Mountain home, and sold as a slave to the Missouri River Mandons. In time she had again been sold, this time to Charbonneau.

If less than the heroine she has sometimes been pictured to be, Sacagawea was unquestionably of great value to the expedition in her role as peace envoy and intermediary with Indian tribes. Clark said of her—"Sacagawea reconciles all the Indians as to our friendly intentions. A woman with a party of men is a token of peace."

Across the Missouri River, Lewis and Clark were faced with the snow-capped Rocky Mountains. Crossing them would be impossible without horses. Going on ahead, Lewis met a band of Shoshone Indians, and persuaded them to return with him to the expedition.

When she saw the Indian band, say the *Journals*, Sacagawea "danced with joy." She began sucking her fingers to show that these were her people, among whom she had grown up. A particularly moving episode was the Indian girl's reunion with her brother, who had become chief of the tribe. With her tremendous advantage of Sacagawea's relationship, the explorers were able to barter for 29 fine Shoshone horses, and the journey continued.

Across the Rockies, the party built canoes and followed the Columbia River to the Pacific. The two explorers frequently praised Sacagawea's endurance and fortitude in their *Journal* She must have been understanding as well. Lewis wrote of her: "If she has enough to eat and a few trinkets to wear, I believe she would be perfectly content anywhere."

Sacagawea was among those Indians honored with the prized Jefferson peace medal, evidence of the genuine fondness Lewis and Clark felt for her. After the journey, Clark wrote to Charbonneau: "Your woman who accompanied you that long, dangerous, and fatiguing route to the Pacific Ocean and back deserved a greater reward for her attention and services on that route than we had in our power to give her."

Most historians now believe that Sacagawea died around 1812, at the age of about 24. Several monuments honor her memory. One of the best known is that erected by the Wyoming Historical Landmark Commission on U.S. Highway 287, 2 miles east of what is thought to be her burial place in a Shoshone graveyard.

COLUMBIA HEIGHTS MINNESOTA AND LOMIANKI, POLAND ESTABLISH "SISTER CITY" RELATIONSHIP

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. SIKORSKI. Mr. Speaker, in Minnesota, the land of 10,000 lakes, bridges are vital links that unite our communities, connecting our people to neighbors across our lakes and river banks. And, just as our Minnesota bridges provide a link to sharing friendships, talents, and traditions; Sister Cities build bridges of understanding and cooperation. Columbia Heights, MN and Lomianki, Poland have established a sister city relationship. It is a global bridge to build upon their common values and traditions, working to build communication and friendship with citizens on our global river banks.

I want to share with you the cooperative statement between our neighbors in Minnesota and Poland.

SISTER CITIES AGREEMENT BETWEEN THE CITIES OF COLUMBIA HEIGHTS, MN, UNITED STATES OF AMERICA AND LOMIANKI, POLAND

Edward Carlson, Mayor of the City of Columbia Heights, MN of the United States of America, and Andrzej Belka, Mayor of the City of Lomianki, Poland, declare on behalf of their respective citizens that they have established a "Sister City" relationship between the two cities to promote mutual understanding and friendly cooperation as follows:

(1) We shall seek to promote and foster mutual understanding through friendly relationships between the citizens of Columbia Heights and Lomianki.

(2) We shall promote and encourage the exchange of delegations, activities, and information in order to foster the sharing of cultural, educational, social, economic and political traditions. This will enable us to build bridges of friendship between individuals and organizations. Through understanding and appreciation for the particular traditions and common values we hold, we can bridge our total friendship.

Both Mayor Carlson and Mayor Belka declare this "Sister City" relationship to be established, and the document shall be published both in English and in Polish to be preserved by the two cities.

BARBARA BELL, HONORED PRINCIPAL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Barbara Bell, who has been honored by the Dade County Public

School System as being one of its best administrators. She was one of seven candidates chosen to compete for an award.

As principal of Joe Hall Elementary School, Ms. Bell strongly believes every child deserves an equal chance to learn, an opportunity schools should do their best to provide. She was recently featured in the Miami Herald for her extraordinary dedication and commitment to education. The article "Superintendent 'Would Be Proud'" by Roxana Soto reveals why she is so admired and loved by students and colleagues. The article follows:

At Joe Hall Elementary School the slogan is: "Joe Hall is a great place to be."

Students, teachers and parents say the reason is simple: Principal Barbara Bell.

"She is the reason why I don't mind driving 45 minutes to get to school every morning," said Shirley Webb, a first-grade teacher who has known Bell for 17 years. "I can't think of anybody else who works harder."

The people at the school system's Region V office seem to agree with Webb. They nominated Bell as their choice for the 1991-92 Principal of the Year award.

"Barbara Bell is an exemplary principal," said Margarita Alemany, Region V director. "She is energetic, dedicated, innovative and very caring of the students."

When Bell, 53, graduated from the University of Miami with a degree in Business Administration and Accounting, becoming an educator was the farthest thing from her mind.

But because opportunities for women were limited in 1959, she decided to give education a shot. Once she got a taste of teaching, she was hooked forever.

Bell's philosophy on education is straightforward. She believes every kid deserve an equal chance to learn.

"School is the one institution that can equalize opportunity for all children," she said. "It is up to the school to provide the best opportunity it can for students to learn, to care and to grow. Basically, a school has to be a place of learning and excellence."

Born in New York City, Bell came to Miami in 1953. She graduated from Miami Beach High School and went on to UM.

In 1960, Bell started teaching at Miramar Elementary. She also worked at Everglades Elementary and served as a curriculum coordinator at the North Central area office.

During this time, she returned to the UM to be certified in secondary and elementary education and get a master's degree in administration and supervision. She then became principal of Rockway Elementary until 1985, when she took over at Hall, 1901 SW 134th Ave.

Bell said she has loved every minute of her 32 years in the school system. Only once did she have to think twice about continuing her job—when her husband, school superintendent Paul Bell, died suddenly in October 1990.

"When Paul died, I really didn't know if I wanted to continue or not," Bell said. "But we shared a vision—education. I gave it a thought and I realized that running a school is something I knew how to do.

"He is still an inspiration. I know he'd be proud of what I've continued to do."

Mr. Speaker, I commend Barbara Bell for her outstanding achievements as teacher and administrator. Her devotion to education is an inspiration to all teachers and principals in Dade County and around the Nation.

BUSH ADMINISTRATION'S CIVIL JUSTICE REFORM FAVORS BUSINESS, HURTS POOR AND MIDDLE CLASS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. EDWARDS of California. Mr. Speaker, The New York Times ran an excellent commentary on the Bush administration's civil justice reform. This reform would benefit big business and rich Americans at the expense of the poor and middle class. I urge all of my colleagues to read this editorial.

[From the New York Times, Feb. 15, 1992]

BASHING LAWYERS—ALSO JUSTICE

Playing off public distaste for lawyers, the Bush administration embraces "reform" of civil justice. "Let's stop America's love affair with lawsuits," the President says. And Vice President Quayle condemns the costs and delays of litigating civil cases. Bashing lawyers may be fun, but this campaign risks harm.

Lawyers have indeed encouraged an increasingly litigious society. But Mr. Quayle addresses himself mainly to richer Americans, like manufacturers, municipalities and doctors. He offers nothing for the poor and middle class who need lawyers but can't afford their fees.

Lawyers do extract costs from the economy. But they also police the marketplace, drafting and enforcing the contracts that make a $6 trillion economy function. Yes, many bright people are drawn to law at the expense of vocations that create wealth. But many lawyers, including Mr. Quayle, apply their skills outside the practice of law.

Mr. Quayle makes some harmful, some useful and some harmless proposals. The harmful include requiring a losing plaintiff to pay the defendant's legal fees, sharply curtailing contingency fees for lawyers and recklessly attacking punitive damages.

Supporters of the "loser pays" rule believe it discourages frivolous lawsuits. It also discourages legitimate but risky ones. Similar arguments apply to contingency fee arrangements by which lawyers get a percentage of the winnings, but only if they win. Such fees often provide the only access to justice for people without means.

Punitive damages—awards over and above straight compensation for civil wrongs—have sometimes spun out of control. Mr. Quayle wants states to limit punitive awards to the actual financial harm the plaintiff suffered. But what of a wrong that caused small financial harm but such distress that the jury wants to teach a lesson?

Mr. Qualye would encourage more programs for out-of-court resolution but doesn't propose funds to pay for it. He also refuses to seek long-deferred increases for Federal poverty law programs, which he unfairly derides.

The President, likewise, fails to distinguish between meritorious and meretricious suits. "Health costs would be an awful lot lower if we didn't have frivolous lawsuits going after those doctors for malpractice," he says. That assigns no blame to doctors who malpractice, only to suits charging malpractice. An overloaded civil justice system needs reform, not simplistic slander.

NEW YORK CITY ACTIVIST TESTIFIES ON ENVIRONMENTAL RACISM

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. TOWNS. Mr. Speaker, I rise to call attention to the testimony of Ms. Marjorie Moore before the Health and Environment subcommittee of the Energy and Commerce Committee. Ms. Moore is the first African-American to direct a citywide environmental organization in New York City.

She testified yesterday before the subcommittee while we were investigating environmental racism and lead poisoning. Environmental racism—related to environmental equity—is the propensity for polluting industries and waste disposal facilities to locate near or in minority communities, and the disproportionate health risks borne by these communities. Health studies and studies of waste facility locations back up these charges.

The poor also suffer disproportionately in bearing the environmental health risks for the waste of our entire society. But according to the testimony of the Assistant Secretary for Health, while 41 percent of poor children have blood poisoning, it afflicts 61 percent of poor, African-American children. Among Hispanic children of all income groups, 48 percent of all Mexican-American children and 36 percent of all Puerto Rican children have blood poisoning.

These numbers are not even the full story, for they are based on the less exacting standard of 15 micrograms per deciliter. We have no statistics for the new standard of 10 micrograms per deciliter proposed by the Centers for Disease Control. According to the Assistant Secretary, "levels as low as 10 are associated with decreased intelligence, slower neurobehavioral development, learning disabilities, behavioral disturbances, and reduce stature."

These facts provide the context for Ms. Moore's testimony, which I include for the RECORD:

TESTIMONY OF MARJORIE MOORE, PROGRAM DIRECTOR, COMMUNITY ENVIRONMENTAL HEALTH CENTER AT HUNTER COLLEGE, NEW YORK CITY

Good morning, Mr. Chairman and members of the Subcommittee. My name is Marjorie Moore. I am the Program Director for the Community Environmental Health Center at Hunter College in New York City. Our Center provides technical assistance to grassroots groups in New York's poor communities. We work to develop effective community leadership on environmental health issues by educating and organizing.

I should also note that I am, to the best of my knowledge, the first African-American Director of a City-wide environmental organization in New York City. I am honored to have been asked to travel to Washington today to share with the Committee my thoughts on what our government can do to eliminate lead poisoning from our nation's health crisis vocabulary.

Please, for a moment, come back a few years with me. The time is 1971. Our country is at war—abroad and with itself. Our President is using covert operations to undermine foreign governments and to maintain power at home. College students are demanding action to protect our environment. Our cities, still reeling from riots, are facing severe challenges to create peaceful race relations, provide job opportunities for people of color (excuse me—Negroes and Puerto Ricans). We are confronting a major housing crisis. We need to straighten out our schools. Our children—mostly minority children—are dying from lead poisoning caused by landlord neglect and air pollution. And Marvin Gaye is singing about it all—Inner City Blues: "Make me wanna holler, throw up both my hands. Make me wanna holler, throw up both my hands."

OK—let's come back. Here we are in 1992. But like Marvin asked, "What's goin' on?" What the hell is going on? Here in America—twenty-one years later—a generation later—precious little has changed for our children. Childhood lead poisoning is still a national disgrace. In my neighborhood—Harlem—in New York City, and in communities of color all around this country, children are still being killed by lead poisoning. No, we are no longer burying them because of lead, but they are still dying. When lead prevents a child's mind and spirit from proper development, their lives are destroyed. In this "land of the free", our children are not "free" to pursue their dreams. Instead, they are dragged down and held back. Often, they can't learn to read, write, perform simple mathematics, master the coordination necessary to button a shirt or tie their shoes. What do you suppose becomes of a lead poisoned 4-year-old when they become a teenager? Do they become honor students and decide which university's offer of admission to accept and then become leaders in their chosen fields? What do you think? The real question is "Why?" Why, a generation later, do people in my neighborhood still wanna holler—throw up both our hands?

If you're wondering just what in the world school drop-outs, joblessness, child abuse, homelessness, drugs and crime could possibly have to do with lead poisoning, let's stop. The last time that broad action was taken on the Federal level to address lead poisoning was in the early 70's, when the issue was forced by parent and tenant groups in inner-city communities across the country. The "trouble-makers"—the ones who had the courage and the desperation to protest their living conditions in organized, illegal squats, vocal rallies and, when necessary, violent confrontation—well, in a sense, they were the lucky ones. Think about that. What made them take action? they were armed with information. They learned that lead was killing their kids—not in some university's school of public health, but burying their own. Everyone knew the obvious threats to our kids' safety—heroin, the pushers, the knives and guns and all that. And we were angry. We were angry that a life was snapped off for nothing—caught in the crossfire or whatever. But somehow, it was still one young life at a time. What ignited the feverous outcry over lead poisoning was when we developed an awareness that lead was bigger than all the .357's in Harlem and Detroit and Watts and Chicago and Philly. . . . When it dawned on us that we were sacrificing a whole damn generation, we hit the streets. When you've spent your life in the ghetto, your kids become your only hope out. Not for you, but for them and theirs. Lead was stealing our last dreams.

Need a little proof? Perhaps it would help to wonder, for a moment, just where today's young inmates, drop-outs and junkies came from. How many, dare we wonder, may have been lead-poisoned in their early years? We may never know. How many tens or hundreds of thousands of mothers could have taken action to protect their kids had they only known that there was a dangerous criminal right in their apartment 24/7—twenty-four hours a day, seven days a week? How many children have been whooped because they couldn't get it together enough to behave properly or pass basic math or keep their things organized or pay attention long enough—because they weren't developing properly? How many might have been lead-poisoned? We may never know. How many will abuse their kids? We may never know. Where did this last generation go? Why is it that more of our young males are in jail than in school? The questions are endless. Makes me wanna holler, throw up both my hands.

You have heard or will be hearing some alarming statistics from many of my distinguished colleagues about the scope of this tragic and needless disease. In short, with the guidelines recently adopted by the Centers for Disease Control, there will be an exponential increase in the number of children who will be considered lead-poisoned. These children—millions of American children—did not become poisoned upon the snap of CDC's fingers; they may have had dangerous levels of lead in their blood and bones for months or years. What? Again? When the Safe Drinking Water Act was amended in 1986, lots of folks suddenly found that their drinking water was contaminated—the same water that was OK yesterday. Other times, we suddenly find ourselves making three dollars over the limit for public assistance. In New York City, there are some working poor families who choose to enter the homeless shelter system, as horrible as it is, instead of living in our own communities, because the shelter system can serve as an expedited means of gaining a permanent apartment in a public housing project. And now lead. Makes me wanna holler, throw up both my hands.

We need to get serious, once and for all, about eliminating lead poisoning. There is no excuse for lead poisoning. Other serious diseases are tragic in that we don't know exactly what causes them or how to stem or cure the disease. The tragedy of lead poisoning is that we do know. We know what its causes are. We know how to prevent it. Yet, millions of our children's lives are still being destroyed by lead. It's a national disgrace. Imagine—a nation with the capability of steering missiles from miles away into a 2 square-foot target has yet to set its sights on protecting its own children. Makes me wanna holler.

We must get clear about responsibility. All too often, people in positions of significant responsibility have laid the blame for lead poisoning on parents. "If it's so dangerous, why don't they just move?", I have been asked. "Tell them to buy bottled water." One pamphlet even recommends paving over lead-contaminated soil around our homes. It has to stop. The industries that promoted this deadly toxin—particularly the paint, automotive and gasoline industries—all must be held accountable. And landlords who violate lead safety regulations ought to be subject to criminal prosecution. There is no reason I can think of why causing irreversible damage to a child's proper cognitive and emotional development ought not be treated as a felony.

Information, we understand, is power. What we don't know will hurt us and we're not going to take it anymore. Wide-ranging right-to-know provisions about lead hazards are a critical first step. Parents absolutely have a right to know if our homes contain lead paint just as surely as we would be entitled to be told that an armed drug-addict is standing over our babies' cribs. The notion that right-to-know provisions should apply only to home sales is an outrageous slap at poor people who cannot afford to purchase homes. If we move into an apartment laden with lead paint, why should we be denied such valuable child-protective information? Further, right-to-know ought to apply to occupants of all housing units. Poor people don't have a high mobility rate—usually, we're stuck in the only place we can afford for long periods of time. But that shouldn't be any reason not to tell me that my little 5 year-old could be in danger right now, should it.

Equally ludicrous is the ultimatum that we must choose between proper, safe abatement of lead hazards and homelessness. Some have suggested that appropriate abatement will cause a mass exodus of building owners, whom, we are asked to believe, without substantiation, would abandon their otherwise profit-making buildings if they are required to toss a little money into maintenance. Some stubborn, foolish owners, in the name of naked greed, may prefer no profit to less profit—unless we continue to permit them business loss tax write-offs for abandoning their property. And if the President and Congress found those few little hundreds of billions of dollars laying around to bail out the maladept, mooching, millionaire managers of our nation's S & L's, surely it is within our political imagination to devise a program to protect America's poorest families from choosing between in-home danger or homelessness.

How we serve our children ought to be as New York's Mayor David Dinkins offered, "the most important measure" on which we are judged. Our nation's local and State governments, as well as the Federal government, indeed have a moral obligation to spare our children needless devastation. It is sad that so relatively few local jurisdictions have significant legislation or regulations designed to protect children from lead. It is, in some ways, even more infuriating when meager provisions, once enacted, go largely unenforced. Everything I have learned about lead indicates that this is true in New York City; colleagues from around the country have shared with me similar frustrations. New, comprehensive Federal legislation may have the effect of enforcing New York City landlords, and the City itself—a major owner of real estate in its poorest neighborhoods—to spend monies requisite to bring apartments up to grade. In other words, if Congress doesn't look, no one will know. While I sincerely empathize with the monumental task of guiding New York City's finances through these horrendous economic times, I respectfully disagree with my Mayor, who worries that Federal legislation would lay an unfair burden upon the City. HR 2840 would not penalize New York for promulgating a cursory statute ten years ago, rather, the bill may require the City to simply obey its own ordinance. There can be no pride in denying our children.

New Federal legislation ought also to establish strict requirements for safety of both lead abatement workers and the tenant/occupant families. Standardized worker training courses are needed to ensure that abatement of lead hazards does not place children and their families at greater risk than without abatement. Family-sensitive abatement is essential; work crews must be able to communicate in the same language as the tenant/occupant family, and they must be able to establish an agreeable daily schedule for performance of the necessary work. Without such parameters, abatement can become a family's worst nightmare. I know—I had peeling lead paint in my apartment and, even in a city which purports to have a tough lead poisoning prevention law, and even though I knew all the right supervisors and high-level officials to call, it was hell. Got that? With all this professed legislative protection, my own keen knowledge and extensive connections, abatement was hell. What do you think it's like for young mothers without such resources? Makes me wanna holler, throw up both my hands.

The process of how the imminent lead hazard abatement industry will burgeon is another issue of extreme concern to me. The new CDC guidelines virtually ensure that, out of the tragedy of this horrible disease, a lucrative industry will emerge. Affirmative steps must be taken to ensure that the populations most victimized by lead poisoning receive the economic development benefits that this new industry will afford. Specifically, training programs for abatement managers should be established in conjunction with the nation's historically Black colleges. Similar programs at other institutions should offer priority to Latinos. Where necessary, training grants and loan packages should be made available to permit young entrepreneurs from poor families to start-up their new lead abatement businesses and enable them to hire workers from the hardest hit communities. In this fashion, a nominal but important level of economic integrity may be returned to victimized communities.

As I close, I must offer my most important suggestion. Like the old African griots' tale of the boy who looks for his lost magical stone in an open field miles from the dark forest where he had lost it, I simply want to point out that if the Committee wants to hear the full story of lead poisoning—how it impacts minority communities, whether Federal or local agencies have adequately responded to the threat of lead poisoning and what provisions are necessary in Federal legislation, ask the mothers. They can't afford to come to Washington—except those who live here, that is. The most sincere action this Committee could take would be to work with local groups in poor communities around the country to set up local hearings. I would be happy to provide the Committee with appropriate contacts to facilitate such hearings.

Mr. Chairman, members of the Subcommittee, I thank you all for your efforts to save our children. I am grateful for the opportunity to share my thoughts with you today, and I will be happy to answer any questions you may have.

DRIVER'S LICENSE SUSPENSION PROGRAM

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. SOLOMON. Mr. Speaker, it has recently come to my attention that a California group called Pot First has begun a postcard campaign asking their Representatives to please say no to "smoke a joint, lose your license," better known as the Driver's License Suspension Program. Public Law 101–516 requires States to implement a program that suspends the driver's licenses of individuals convicted of any drug offense for a period of not less than 6 months.

These California druggies would have you believe it is OK and legal to smoke marijuana in California or anywhere else for that matter. How absolutely ridiculous. It is this type of attitude that perpetuates the drug problem currently facing the United States today. These are the very people who never stop to think about the damage inflicted by drugs on our society. They do not stop to think that illegal drugs cost this country billions of dollars and thousands of lives yearly.

Wouldn't it be nice if these casual drug users woke up and realized they are at fault for children growing up without fathers because they died in the line of duty making a drug bust or they are at fault for a stray bullet ending the life of an innocent child during a street drug war. It truly amazes me to think they feel so removed from these activities.

Well, I would be only too glad to respond to their request to oppose this law with a resounding not on your life, because that might very well be what it costs us to just say yes.

WELFARE REFORM, CALIFORNIA STYLE

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. GALLEGLY. Mr. Speaker, I wish to bring to the attention of my colleagues an article which appeared on the editorial page of yesterday's Wall Street Journal concerning California's welfare reform program. Debra Saunders, a columnist for the Los Angeles Daily News, one of the leading newspapers in my district, has done a good job of describing California's enormous welfare problem and the ballot initiative proposed by Governor Wilson to remedy the situation.

Known as the Taxpayer Protection Act of 1992, the Governor's proposal would remove one incentive for those individuals who come to California attracted by its reputation as the Golden State for generous welfare benefits. In addition to limiting AFDC grants for newcomers to the level they received in their home States, the initiative contains powerful work incentives so that able-bodied recipients who fail to find gainful employment will suffer major cutbacks in benefits.

As welcome as this bold program will be in a State facing major budgetary problems, it fails to remedy the serious problem posed by illegal aliens. As Ms. Saunders points out: "Illegal aliens can slip over the border and receive free prenatal care. When their children are born in the United States—on the U.S. taxpayers' dime—those children become citizens and automatically can be enrolled for AFDC. With half of the Nation's illegal immigrants and a third of all refugees, California already shoulders a large burden. And as the economy sours, hurting immigrants who came here to work, the number of citizen children of illegal parents on AFDC in Los Angeles County alone rose from 97,665 in February 1991 to 121,042 in November.

"Meanwhile, the Immigration Reform and Control Act of 1986 is about to increase the number of immigrant adults eligible for benefits." One report estimates that there may be over 100,000 additional persons on AFDC after May 1992 and May 1993, when provisions expire that prohibit adult applicants for citizenship under the amnesty program from themselves receiving benefits.

Clearly the welfare costs facing my home State will escalate so long as citizen taxpayers are forced to pay for AFDC and other welfare benefits and services for illegal aliens and their American-born offspring. This is a problem which threatens to overwhelm not only California, but all border States and other States to which illegal aliens are moving increasingly in search of refuge, scarce employment opportunities, and public assistance.

Mr. Speaker, I have introduced legislation designed to rectify this growing problem. I call my colleagues' attention especially to House Joint Resolution 357 and H.R. 3605, which would restrict automatic birthright citizenship to persons born in the United States of legal-resident mothers, and to H.R. 3441, which would stop the payment of Federal welfare benefits to illegal aliens. Now is the time for action if we are to save State and local governments from budgetary disaster attributable in large measure to illegal immigration and to persons whose illegal status should bar them from taking unfair advantage of our generous welfare system.

Mr. Speaker, I ask unanimous consent that the full text of the article "Welfare Reform, California Style" be reprinted in the RECORD as it appeared in the Wall Street Journal on February 25, 1992.

[From the Wall Street Journal, Feb. 25, 1992]

WELFARE REFORM, CALIFORNIA STYLE

(BY DEBRA J. SAUNDERS)

For some Californians, welfare has become not a safety net but a hammock. This group by no means represents the majority of those on welfare, but its ability to get the most out of the system has helped drain it nearly dry. Because this group has so tapped the system, there may be little left for families who only recently have been driven by the recession to ask for aid.

That's why Californians may be willing to vote for a controversial initiative proposed by Gov. Pete Wilson that would radically restructure the state welfare system. While other states are freezing or cutting benefits because of state budget problems—and California is in the same leaky boat—Gov. Wilson, like Gov. Jim Florio and Assemblyman Wayne Bryant of New Jersey, seeks to address a system that discourages and undermines self-sufficiency.

The numbers in California tell the story.

One in five of those receiving Aid to Families with Dependent Children has been on aid for eight years or more. And that's a statistic welfare boosters often use to defend the current system.

It doesn't pay to work. A 1991 report by the bipartisan state Legislative Analyst's Office noted that the system's incentives "could induce [individual who have never been on AFDC] to go on welfare rather than work."

The Legislative Analyst's Office also found that the state's workfare program would work best if it prepared recipients "for jobs paying more than $1,400 per month." Those who took jobs that paid $1,200 a month, it noted, would be "*worse off by $150*" (their italics) per month.

A WELFARE MAGNET

The state has learned that 32% of women on AFDC conceive and have children after going on aid.

Without changes in the welfare system and demographic trends, the governor's Office of Finance expects the ratio of taxpayers to recipients of AFDC to drop from 6.21:1 in 1990 to 2.94:1 in 2000.

California's high benefit level appears to have been a welfare magnet for some. Until recently, state AFDC benefits for a family of three were $693 a month, the second highest in the nation. Now, at $663, they are the fifth highest—far greater than the $381 that represents the average grant in the nine other most populous states. The state Health and Welfare Agency believes about 7% of current AFDC recipients lived in another state within 12 months of starting aid here. Approximately half of that 7% were on aid immediately prior to moving to California—which makes them probable welfare shoppers; the price tag for these likely shoppers: $100 million.

These statistics explain the logic of Gov. Pete Wilson's proposed voter initiative, dubbed the Taxpayer Protection Act of 1992. It would limit AFDC grants for newcomers to what they received in their home state. As Health and Welfare Agency spokeswoman Kassy Perry recently put it, the administration understands that there are a certain number of individuals who come to California "to take advantage of our generosity in terms of cash benefits," and while that may be "their own way of searching for a better life" (36% of the new caseload arrivals come from the 10 lowest benefit states), California can no longer afford to fund it.

The governor's initiative also boasts of work incentives. Initially it would cut all grants by 10%. After six months, able-bodied recipients who failed to find a job would suffer an additional 15% cut. Still, while cutting a family of three's benefits to $507 after six months (which would be augmented by food stamps and MediCal), it would allow families to keep money earned from a part-time or full-time job—to an amount beyond the $693 that family earned before last year's welfare cuts. Food stamps would increase regardless of whether the parent works.

The initiative also would try to take away incentives that lead teen-age children to start families they cannot support. Teen-age mothers would receive an extra $50 each month for staying in school, and face a like cut for dropping out. What's more, minors would receive support only if they remain at home, unless their parents are deemed abusive or unfit. Payments would go directly to the (grand)parents.

A provision similar to part of New Jersey's new welfare plan would freeze benefits so that parents would not receive higher grants for children conceived after the parents began receiving AFDC. Gov Wilson has called the present system of increasing the grant for each child an "insidious incentive," although it probably would be more accurate to say such increases simply eliminated a disincentive.

The one growth area about which the initiative does nothing (because of court decisions, it can't) is that of illegal aliens and those seeking legal citizenship.

Illegal aliens can slip over the border and receive free prenatal care. When their children are born in the U.S. (on the U.S. taxpayers' dime), those children become citizens and automatically can be enrolled for AFDC. With half of the nation's illegal immigrants and a third of all refugees, California already shoulders a large burden. And as the economy soars, hurting immigrants who came here to work, the number of citizen children of illegal parents on AFDC in Los Angeles County alone rose from 97,665 in February 1991 to 121,042 in November.

Meanwhile, the Immigration Reform and Control Act of 1986 is about to increase the number of immigrant adults eligible for benefits. A 1990 report by the County Welfare Directors Association estimates that California could expect more than 100,000 new people on AFDC after May 1992 and May 1993, when provisions expire that prohibit adult applicants for citizenship under the amnesty program from receiving benefits for themselves.

That state has beefed up its efforts to go after deadbeat dads and the unwed fathers of AFDC children. The AFDC recoupment rate for 1989-90 was a mere 5.9% in the Golden State. Since then, the state and counties have begun notifying credit agencies when support is overdue; garnishments of wages and tax rebates are being utilized more aggressively, as they should be.

It should be noted that while welfare advocates cite a lack of jobs as a cause of caseload increases. California's dependency rate grew in the 1980s even when unemployment declined significantly. California's dependency rate remained at 8.8% from 1979 to 1989, when the national rate fell from 6.5% to 6.1% and the state's AFDC benefits were the nation's second highest.

Expect the Wilson initiative, once it qualifies for the November ballot, to play a prominent role in the coming elections—presidential and state. The initiative, which also includes a number of budgetary reforms, is sure to come up as George Bush and the Democratic gaggle pass through California—especially since many provisions require federal waivers.

In his State of the Union address, the president pledged to support such waivers. His rationale—that "welfare was never meant to be a life style"—is one no doubt shared by many taxpayers. It is that belief, not poor-bashing—as New York Gov. Mario Cuomo has suggested—that explains the appeal of welfare reform.

With the retirement of Alan Cranston and the special election for the seat vacated when Mr. Wilson became governor, California has two competitive U.S. Senate races this year. Alll five Democrats in the Senate races have signed on to part of the initiative—usually the provision to lower benefits for newcomers—or its concept. One Democrat, Lt. Gov. Leo McCarthy, even repackaged the newcomer limit and displayed it in his own initiative proposal. As Gov. Wilson wryly noted, "I have notices that people who earlier would not have been caught dead saying anything like what they are saying now are saying yes, welfare does require reform."

AN INDUCEMENT TO ABORTION?

Indeed, the Democrat-controlled Legislature just might agree to enact some of Gov. Wilson's proposals in order to head off placement on the ballots.

And while many might expect this initiative to endear hard-line conservatives to Gov. Wilson, it might backfire. For one thing, the hard right hates him, no matter what he does. For another, the lack of a grant for additional children is considered an inducement to abortion by pro-life organizations. (In California, AFDC moms automatically are eligible for state-paid abortions.)

But Gov. Wilson does expect this initiative to appeal to California voters, for the simple reason that hard times and a history of runaway spending have left the state with the hard choice of cutting welfare or schools. It's either that or annual tax hikes.

Not even the most optimistic welfare advocate can believe that Californians would agree to pay higher taxes so the state can continue to boast the nation's fifth highest welfare benefits.

THE PASSING OF MAYOR MICHAEL M. POCOST OF ARDSLEY, NY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. GILMAN. Mr. Speaker, it is with great regret that I rise to inform my colleagues that during the recent holiday recess, we lost an outstanding, public-minded citizen. Michael M. Pocost, the distinguished mayor of the village of Ardsley, regrettably passed away on December 23, 1991.

Throughout his life, Michael Pocost was the personification of an individual seeking a better community for himself and for future generations. He was never reluctant to pitch in to make things just a little better for all of us. Michael's community activities, in addition to guiding Ardsley as mayor, demonstrates his strong sense of leadership.

Michael worked to better his community as a trustee of the village of Ardsley, and through his membership in the Ardsley Sector Volunteer Ambulance Corps, the Ardsley Recreation Commission, the Ardsley Planning Board, the Westchester County Citizens Consumer Advisory Council, the Westchester County Village Officials Associated, the Board of Governors of Yonkers Jewish Community Center, and the Advisory Board of the Ardsley Extension of Yonkers Jewish Community Center. He also served as the police commissioner and deputy mayor of Ardsley, prior to being elected mayor.

Michael Pocost chose to serve our country in the U.S. Air Force. He was a staff sergeant between 1954 and 1957. After completing his military service, his passion for the law and for judicial process continually inspired his career. Upon graduation from Brooklyn Law School in 1960, Michael was successfully involved in the general practice of law until 1966. He continued to rise to eminent posts as the administrator for the council of the city of New York, and as counsel to the vice chairman and majority leader, Thomas Cuite of the Council of the City of New York.

Michael's prominence in the business community helped him promote the economic development of his region. He served as the associate director of the New York State Petroleum Council, the Government Relations Attorney for the Mobil Oil Corp., the arbitrator for the Westchester County Better Business Bureau, and the executive vice president and chief administrative officer of the Metropolitan New York Retail Merchants Association.

His is a voice that will be sorely missed throughout the Hudson Valley region.

Mr. Speaker, I invite our colleagues to join me in expressing condolences to Michael's widow, Carol; to their daughters Ellen and Julie; and to Michael's sister Joanne.

With the passing of Michael M. Pocost, our Hudson Valley region has lost an outstanding community leader.

PROSPECTS FOR MULTILATERAL REFORM IN TRADE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. BEREUTER. Mr. Speaker, this Member wishes to call to the attention of his colleagues an excellent opinion article in the Washington Post of February 26, 1992, by Mr. John D. Macomber, Chairman and President of the U.S. Export-Import Bank. Mr. Macomber has brought exceptionally enlightened and aggressive leadership to this important export arm of the U.S. Government. In this article he describes what we still must tentatively define as a long-delayed but very important breakthrough in the practice by many export countries of using tied aid and mixed credits to promote their exports.

This use of tied aid and mixed credits has frequently put U.S. exporters at a large disadvantage with their competitor companies from nations that routinely use such tactics with large governmental bankrolls. Our Government has been forced to fight fire with fire by creating a relatively small warchest of our own to keep our industries, commodity producers, and exporters competitive, and to keep pressure on other nations to abandon these costly and anticompetitive tactics. Negotiations to establish acceptable definitions of mixed credit and tied aid, to set rules for their use, and to ultimately reduce or eliminate these tactics, have primarily been conducted through the Organization for Economic Cooperation and Development [OECD]. Those negotiations, which at times seem endless or futile, now perhaps are finally showing promise because of the persistence and priority attached to this issue by the Bush administration. Mr. Speaker, this Member encourages his colleagues to examine the attached article for the details of this important trade issue and offers his continued encouragement and commendations to the negotiators and to Mr. Macomber and the U.S. Export-Import Bank.

[From the Washington Post, Feb. 26, 1992]

AIDS TO TRADE

(By John D. Macomber)

The major industrial trading countries of the world, and the United States in particular, have made an important breakthrough in free trade: The practices that have been a thorn in the side of American exporters—tied aid and mixed credits—appear to be on the way out.

"Tied aid" is aid given with strings attached: The financing of a deal in the developing country is linked to purchase of exports from the donor country. "Mixed credits" refers to a combination of subsidized loans and an aid grant to sweeten the deal.

These practices have put U.S. exporters at a serious disadvantage in bidding on overseas business. They are market-distorting actions that drive up the price of doing business and divert real aid monies to capital projects that would be commercially viable in their own right.

That's why it is good news that negotiators representing countries in the Organization for Economic Cooperation and Development have now agreed to dramatically curb the use of tied aid for commercial purposes and also are taking steps to greatly reduce the use of mixed credits. The action on tied aid, led by the United States, is the culmination of a two-year negotiating effort. If carefully implemented—and the odds are that it will be—the OECD agreement will significantly lower a major trading barrier for American firms. While precise figures are almost impossible to come by, a recent Ex-Im Bank study identified about $1 billion of specific export deals that were effectively off limits for American companies in 1990 because of tied aid offered by other governments in support of their exporters. Other studies have put the total volume of tied aid anywhere from $4 billion to $6 billion. By whatever measure, it is an attention-getting problem.

Most of the "spoiled markets" have historically been in the Pacific Basin, although tied aid certainly has not been limited to that region. Some countries had been so hooked on these cheap credits that it was almost impossible to have a normal business transaction with them.

What came out of the recent negotiations with regard to mixed credits? The most important step was to make a clear distinction between commercial transactions and those eligible for aid. In brief, when the agreement goes into effect, it will be against the OECD trading rules to offer other than traditional market-rate export credits for a deal that is considered a commercial transaction. And the higher-income developing countries will be ineligible for tied-aid credits. So low-interest loans, which are an essential ingredient of aid, will go to the projects and countries that really need them and not for commercial projects.

In addition, a process for clarifying and working out differences has been agreed to. Clearly, this will not be all smooth sailing—and a healthy degree of skepticism is certainly not inappropriate—but the indications are that within the next 12 to 18 months most of the major issues should be worked out.

One of the more fascinating questions is why the United States and its supporters were successful in achieving what some consider a big breakthrough after years of frustration. After all, the problems our exporters have had with this unfair trade practice have been well known and complained about for years. Here's my list of reasons why:

(1) The administration takes the issues seriously. This is a direct reflection of the fact that exports are important not only to the companies involved but to our national economic well-being. Promoting American export sales has short-term benefits and long-term implications. Our national strategic interest is well served by our companies' having meaningful market shares in foreign countries.

(2) Treasuries around the world played a larger role by asserting the obvious to their respective commerce and trade agencies. To wit, there is not enough money to carry out appropriate and needed aid programs and at the same time subsidize business deals that really do not need it.

(3) There was some fear that the Americans might in frustration adopt a more commercial edge to their aid programs. The well-publicized cooperation between our Agency for International Development and Ex-Im Bank to offer tied aid for "commercial" deals caught the attention of our trading partners. And so did the recent Bentsen/Boren/Byrd/Baucus bill that, among other things, would put AID in the capital projects business in a big way. None of the OECD members would have welcomed that.

There are probably other reasons as well that we'll not know about. But the point is that for whatever reasons, American companies should have one less trading barrier to cope with. And that is good news for all of us.

A TRIBUTE TO ANDREA VELASQUEZ

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Ms. Andrea Velasquez, a former officer of the Central Intelligence Agency who was recently named director of business development for Psych/Care in Miami, FL. In a Miami Herald article entitled "Former CIA Officer Takes on New Assignment in Health Care," Charles Rabin reports on the great successes of Ms. Velasquez. I wish to commend the following article to my colleagues:

Four years ago, Andrea Velasquez was working in Central America as an officer for the Central Intelligence Agency.

"I wanted to go into international business," she said.

These days, she's drawing on her past experience but playing it a little safer.

In October, Velasquez was named director of business development for Psych/Care Inc., a medical benefits company based in Miami. "It's challenging because the field is just exploding," she said.

Her travels as a CIA agent helped her make contacts that have been useful in her new work, Velasquez said.

"We have a possibility of going international," she said. "I recently met with the government of Costa Rica, because they are trying to revamp their health care system."

Psych/Care provides employee assistance and managed mental-health care programs to 150,000 subscribers in Florida and 37 other states. Companies purchase benefits packages that cover drug abuse, stress and psychiatric care.

"We know people have been looking at sky-rocketing costs, and we feel our product is a way of controlling a significant amount of it," said Jose M. Sanchez, president of Psych/Care's parent company, the Vincam Group. "Most large companies are trying to cut back costs through benefits. We say, don't cut benefits, just manage them better."

Despite the recession, Velasquez said the company is growing at about 2,500 subscribers per month.

"Actually, the economy has helped us because health care costs are going wild," she said.

In 1988, the government passed a law requiring federal agencies to have an effective method of dealing with employees who have drug problems. Federally funded businesses, Velasquez said, have been the main contributor to the growth of the industry.

Employee-assistance programs soon caught on with private companies, she said, because "it made sense." To date, Velasquez said, 60 percent of Fortune 500 companies have employee-assistance programs.

Psych/Care is an affiliate of the Vincam Group, one of the fastest-growing Hispanic firms in the United States. Vincam offers human resource management services.

As director of business development, Velasquez's primary concerns are finding new business for the company and developing a marketing strategy.

"We're planning on going after self-insured companies," Velasquez said. "It's an untapped market and a logical extension."

After graduating with a marketing degree from the University of Georgia in 1983, Velasquez's road to Psych/Care took several turns.

Her first job out of school was for Boyle Midway Inc. in Atlanta, where she handled export accounts and inventory control. By 1985, she had been recruited into the CIA, serving as a general operations support manager for a large Central American station.

In the next three years, she received two promotions and a letter of commendation from a U.S. ambassador. She left the service in 1988 after marrying a foreign national and thereby losing her security clearance.

Then it was on to United Gardens of Miami, where she was responsible for marketing Colombian flowers in the United States. After a year there, she joined American Biodyne, a Psych/Care competitor, in Miami. She stayed with American Biodyne until her recent appointment.

"We think she's doing a spectacular job," Sanchez said. "The management process we had was just limping along until she joined us."

Velasquez is married and the mother of an 18-month-old son, Ricky.

Mr. Speaker, I am delighted to bring attention to the accomplishments of Ms. Velasquez, and I would like to wish her much success in her position as director of business development at Psych/Care.

FDA AND CONGRESS SUFFOCATE SMALL BUSINESS

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. IRELAND. Mr. Speaker, last January I stood in the well of the House and suggested to Congress that as a New Year's resolution we devote our best efforts to the protection and promotion of our Nation's 20 million small businesses. To meet this new resolve, I asserted that it was necessary for each and every one of us to scrutinize the legislation that comes before us and analyze the cumulative effect our actions will have on the future success and survival of small business.

Currently, Government regulation is weighing heavily on the backs of our Nation's small business men and women, and each new law and regulation adds to that burden, making it increasingly difficult for small businesses to lead us on the road to economic recovery. Today, Mr. Speaker, I would like to provide an example of why approaching our legislative responsibilities with a consideration for small business is so crucial.

Mr. Speaker, we, as Members of Congress, often pass legislation in the good faith that we are helping and protecting the American people, but closer examination of some of these good intentions reveals that their net result is not always positive. Less than 2 years ago, Congress passed the Nutrition Labeling and Education Act, a law that on its face promised only good things: Helping consumers make healthier food choices; creating clear and understandable labels for consumers; and encouraging manufacturers to produce new, healthier foods.

Congress passed this legislation without much question or concern. The NLEA passed by voice vote under suspension of the rules quickly and painlessly. The House-Senate conference report was pushed through during the waning days of the 101st Congress with little debate.

But this hurry-up enactment may have an excruciating impact on thousands of our Nation's small businesses and millions of their workers. A more careful examination of this law and its effects may have avoided this potential disaster.

The NLEA requires that the Food and Drug Administration formulate rules regulating the labeling of foods in a more uniform and accurate way, but the FDA's proposed regulations, published in the Federal Register on November 27, 1991, will be economically devastating for small businesses as they incur overwhelming costs in their struggle to comply.

Mr. Speaker, I would like to share with the Congress the comments I submitted regarding the FDA's proposed rules in an effort to illustrate how congressional inattention combined with zealous administrative regulation can work to damage a vital source of this Nation's innovation, growth, and job creation—small businesses:

COMMITTEE ON SMALL BUSINESS,
Washington, DC, February 21, 1992.

Re Docket No. 91N–0219.

Hon. DAVID A. KESSLER,
Commissioner, Dockets Management Branch (HFA-305), Food and Drug Administration, Rockville, MD.

DEAR DR. KESSLER: I am writing to comment on the proposed rules to amend the food labeling regulations published in the Federal Register (Vol. 56, No. 229) on November 27, 1991.

Let me begin by saying that I agree with the objectives of increased consumer awareness and future health benefits to be met by food label reforms. My concern, however, is that small businesses would be forced to bear an unfair economic burden as a consequence of the FDA's proposal.

Small business today is the victim of myriad regulations that our government has imposed. Each new regulatory measure adds to the weight that is preventing many small businesses from keeping their heads above water. In economic hard times, it is our nation's small businesses that offer the key to recovery. Easing regulation is one important and simple way we can enable small business to fulfill their role as innovators and job creators. With these points in mind, I respectfully urge the FDA to seriously consider the following comments.

I

The intricacy of the label regulations will determine to a great extent the ability of small enterprises to comply. They do not have the resources or the time to rifle through reams of paper in an effort to decipher and determine the regulations that apply to their business. Thus, to enable small businesses to comply in a legal and timely fashion, it is important that the regulations be phrased in simple and concise language. Such an effort would be in vain, however, if small business owners are unaware that the current regulations are to change. For this reason, I also encourage the FDA to develop a dissemination plan to make small businessmen, who cannot keep abreast of every change in government regulation, aware of the new requirements.

Under the general topic of intricacy, I would like you to consider an additional point. Compounding the difficulties small businessmen and women face in their efforts to comply with the final label reforms is a detailed and prescriptive interim rule regulating cholesterol and fat level claims. This proposal seems superfluous given the FDA's existing authority to take regulatory action against false and misleading claims. It will take enough effort and resources to make the transitions prescribed by the final regulations. It appears to me both unnecessary and unjustifiable to propose costly interim rules as well.

II

I commend the FDA's conclusion in its regulatory impact analysis that the "proposals will have a significant adverse impact on a substantial number of small entities, including small businesses." But it is your responsibility under the law, when recognizing this negative impact, to take the next step and give small businesses the special consideration they need and deserve.

This is precisely the purpose of the Regulatory Flexibility Act (P.L. 96–577). It requires that federal agencies, upon determination that their regulations will have a significant economic impact on a substantial number of small entities, perform an analysis that examines alternative, less onerous ways for small businesses to comply with intrusive regulations.

The FDA failed in its regulatory impact analysis to isolate small businesses, analyze their specific needs, and offer alternatives appropriate to their unique situation. Instead, the FDA analyzed options irrespective of firm size, and this will not suffice. The law requires the FDA to undertake a proper regulatory flexibility analysis, and it is crucial that the FDA does so before the publication of any final rules.

III

It is incredible to me that the only special consideration small business has been afforded throughout this regulatory process has been a narrow exemption offered by the Congress. The inclusion of an exemption for businesses selling food with gross receipts of less than $500,000, or with food sales less than $50,000, in the NLEA recognizes only a tiny portion of the small businesses which will suffer under these regulations. It ignores thousands more who, without our help, will have to comply with the same rules as multimillion dollar corporations. It is blatantly unfair to expect that small businesses, often operating on a small margin, can spread the extra costs of compliance in the same way a big business can in their effort to dilute the adverse economic impact.

The National Association of Specialty Foods Trade provided an excellent example of just how differently small and large businesses will be economically affected under the FDA's proposed rules. As you know, in their testimony at the FDA's public hearings, the NASFT estimated that the fixed compliance cost per item a company sells will be $6,250. Using this figure, a small company ($1,000,000 sales) that sells 30 items, will incur fixed conversion costs of 18.75% of sales. This percentage is devastating to small companies that often survive on profits of less than 3% of sales. For even a medium-sized company ($50,000,000 sales) that sells the same number of items, the fixed costs of conversion would be considerably less burdensome, only .38% of sales.

NASFT's calculations are based on estimated fixed costs and are, therefore, conservative estimations. When one considers that the per-unit cost decreases as the volume of goods sold increases, the discrepancy in costs incurred by a small versus a large company becomes even greater. It is obvious that high-volume companies are able to absorb the costs of compliance in a way that is not possible for low-volume producers; to subject them to uniform regulations under the law is unreasonable. Clearly, some kind of flexibility needs to be offered to small businesses.

Fortunately, the law provided an avenue of relief for small businesses by granting the Secretary the authority to extend the date of compliance if "undue economic hardship" will result. As the previous examples illustrates, such an impact is likely for small businesses. I urge the Secretary to exercise his authority to its fullest by esablishing an extended compliance time for all small businesses.

As several sources stated during the FDA's public hearings on the subject, it will be virtually impossible for the good industry to make the required transition in six months' time. The National Food Processors Association estimated that "about 50 million new food packages and labels will need to be produced each hour, 24 hours a day without interruption, for six months" if a May, 1993, compliance date is mandated. The costs of compliance cannot be absorbed by the food producers and retailers, and the demand cannot be absorbed by the label printers, designers, and content analysts.

In addition, a short compliance period will result in heightened competition between businesses for the services required to make the label changes. Big business will have an unfair advantage in such a game, forcing small businesses to expend even more time and resources as they search for companies that are willing and able to render such services at an affordable cost. Even label suppliers, whose businesses will boom as a result, have expressed concern stating they do not possess the capability to fulfill the anticipated demand for at least two years after the final regulations are enacted.

Allowing small businesses more time to make the changes would have the effect of relieving some of the economic and demand pressures on all industries involved in the label reform process and, as the FDA recognized in its proposed rules, the savings arguably outweigh the heath benefits gained if a 6-month compliance time is required. Staggering compliance time by size would have the additional benefit of reducing unfair competition between small and large businesses as they vie for the services of designers, printers, and analysts.

When defining small business and assessing the "undue economic hardship" endured, I feel that the FDA must consider firm size as well as industry and volume of sales. I recommend the FDA consult with the Small Business Administration in its efforts to determine what constitutes a small business. I would be pleased to lend any assistance I can, as well, to make this process fair and accurate.

IV

An additional concern I have is the application of the proposed regulations to the food service industry. To detail the numerous differences between the packaged food industry and the food service industry would overstate the obvious. Likewise, to suggest that what is appropriate regulation for one industry can fairly apply to the other defies logic.

For example, descriptive terms that commonly appear on restaurant menus, such as "light", "healthy", and "fresh", are used and understood in a different context than the same adjectives appearing on the label of a packaged food. The FDA's regulations would require restaurants to have their meals analyzed to determine whether the terms they use to describe them meet the definitions formulated by the FDA—definitions which do not match the intended and interpreted connotation of the word as it appears on the menu. Instead of participating in this inane process, restaurants will more likely omit these terms from their menu entirely. The absence of these terms from menus contributes to a dearth of information rather than to increased consumer awareness.

Further, the economic impact resulting from the required menu changes under the FDA's proposal will be unbearable. Ninety-nine percent of this nation's more than 285,000 eating and drinking establishments qualify as small businesses under the SBA's definition. I have to agree with the National Restaurant Association that the FDA has seriously underestimated the magnitude of the costs associated with their regulations. The NRA estimates that 262,000 restaurants will be affected and that approximately 414,000 different menus will need to be changed. These figures are significantly higher than those offered by the FDA's regulatory impact analysis, translating into a greater cost of compliance to the industry overall.

Finally, it seems to me that these points are moot under Congressional intent and the law. Even if prior law provides the FDA with some authority to regulate restaurants under previous schemes, the intent of Congress was not to include them under the new, more ambitious program. However, artfully the NLEA was crafted to work with the prior laws, we cannot be blind to the fact that Congress specifically repeated the "subparagraph (5)" restaurant exemption throughout P.L. 101-535. An honest, straightforward reading of the law would suggest Congress actually meant to exclude, or thought it was excluding, restaurants from the new regulatory scheme. Indeed, the report accompanying the bill (101-538) accedes this fact (page 22) unless specific disease claims are made by food service companies.

Given the costs, the illogic of applying the same rules to vastly different enterprises, and given the plausible, defendable position that Congress did not intend to include restaurants in the scope of the law, it seems reasonable to assert that the FDA has exceeded Congressional intent and the bounds of good government by insisting on including them.

V

Overall, it is counterproductive to attempt to aid and protect consumers if, in the process, that same attempt hurts and even destroys small businesses. Consumers will not benefit from increased prices and decreased competition in the marketplace as businesses struggle to cover costs. This will undoubtedly result if the final rules do not reflect sympathy for the plight of small businessmen and women by granting them some leeway.

In President Bush's State of the Union address, he recognized the role small business will play in America's economic recovery and emphasized the importance of access to capital for their growth and survival. Expensive regulations drain small businesses of this valued capital. Would it not be simpler to ease costly government regulation of small business rather than to develop new, perhaps more expensive, ways to offer increased access to capital?

In the present economic climate, the last thing we should do is impose more financial pressures on small businesses operating on a thin economic margin. I strongly urge you to do your part to ensure that small businesses are able to thrive and flourish, making our economy stronger as a result. I hope that the points and suggestions I have made will help you meet this goal. Thank you for your time and consideration.

Sincerely,

ANDY IRELAND,
Member of Congress.

POLITICS OF HATE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. HOYER. Mr. Speaker, the Anti-Defamation League has recently released its 1991 audit of anti-Semitic incidents. This year's total of 1879 separate incidents of anti-Jewish vandalism and harassment represents the highest number ever recorded by the ADL and an 11-percent increase over 1990. The report shows that the number of physical assaults against Jews doubled in 1991, and that college campuses were host to more than 100 anti-Semitic incidents. Incidents of the most serious kinds of vandalism, such as arson, bombings, and cemetery desecration, increased by 29 percent.

The New York Times of February 23 includes an article entitled "Colorado Klansman Refines Message for the '90s," describing one of the new breed of "savvy, clean-cut disciples" the Klan is cultivating to promote a kinder, gentler image, one that does not hate blacks but simply "loves whites." Meanwhile the annual report of Klanwatch, a private non-profit group that monitors white supremacist activity, notes that the number of such hate groups increased significantly in 1991.

Just last month, in the Bronx, two black schoolchildren were stopped by a group of older whites who punched them, smeared their faces with white paint, and chopped off some of the younger one's hair. The incident sparked a number of retaliatory incidents in which members of the white and Hispanic community were also victims of bias attacks. And while the police and the local community rallied to find the perpetrators and to mollify race relations, the inner scars of the young victims were likely to endure long after the bruises faded and the paint was scrubbed away.

Mr. Speaker, such statistics and stories have no place in our society. They grow from, and nourish, the politics of hate.

Racism, anti-Semitism, intolerance: these are the watchwords of the politics of hate. The politics of hate are cheap and immoral; they prey on our weaknesses and corrupt our potential. The politics of hate feed on ignorance and fear: They offer false security by laying blame on others, by seeking solace in anger, by lashing out at the vulnerable. The politics of hate use mighty words to mask their own cruel worthlessness. Yet in troubled times, their message often garners undue notice.

If we are to remain true to our values, to the principles of justice and equality that form the bedrock of this Nation, we must take a vigilant and forceful stand against the politics of hate and those who spread its poison. We must tackle the problem at beginning and end, simultaneously—exposing and condemning its advocates, while inoculating those susceptible to its call.

Responsibility lies at every level. Political leaders and figures of authority should personally identify themselves with principles of tolerance and decency, demonstrating by example their commitment to the cause. Legislators should devise and support specific legislation against discrimination. Law enforcement agencies should endeavor to identify and prosecute those whose crimes are driven by hate. Judicial authorities should promote the nondiscriminatory administration of justice. And educational, cultural, social and media groups should fight negative stereotypes by providing accurate information and fostering positive dialog.

Mr. Speaker, we cannot legislate the values that lie in the hearts of men and women. But we can teach our children, whose world this will become, that strength lies in diversity, that tolerance breeds compassion, that respect for one another is a virtue. By promoting such ideals in the young, we invest in their ability to tackle the demands, explore the challenges, and meet the opportunities that lie ahead. Moreover, we encourage them to work with, and trust, one another. Education and a sense of shared convictions are potent antidotes to hatred. We must strive to make intolerance intolerable.

VIVIAN IRENE TAYLOR: A SELFLESS SERVANT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. TOWNS. Mr. Speaker, today I want to acknowledge the efforts of a woman who celebrated her 70th birthday on January 7, 1992, Mrs. Vivian Irene Taylor. Mrs. Taylor is a native of Providence, RI. She is the fourth of nine children, the grandmother of seven and the great-grandmother of three.

In 1985, Mrs. Taylor retired from 23 years of service with Blue Cross/Blue Shield where she worked in subscriber service. Throughout her life and during her retirement she has labored tirelessly in voluntary capacities. She has served in various positions for the American Legion Auxiliary including: past State president; past unit president; past historian; and past vice president. She is the first black woman to hold any of these offices.

Mrs. Taylor has also served on the board of directors for John Hope Settlement House, where she is still a board member. In addition she serves as a volunteer to the Rhode Island Veterans' Hospital and Nursing Home; and the St. Martin de Porres Senior Citizen Center. In her busy schedule she also finds time to tutor elementary children, in addition to serving as a church usher. For leisure she bowls once a week. I am proud to highlight the achievements of this immensely talented and generous woman, and honored to say happy 70th birthday.

AFTER MAASTRICHT: EUROPE'S GREATER OPPORTUNITY FOR UNITED STATES

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Ms. KAPTUR. Mr. Speaker, I would like to share with my colleagues a recent article by Ben Palumbo, former staff director of the House Democratic Caucus, that appeared in the February 20, 1992 issue of Roll Call. His findings and analysis of our Nation's relationship with Europe are insightful and forward-looking.

[From the Roll Call, Feb. 20, 1992]

AFTER MAASTRICHT: EUROPE'S GREATER OPPORTUNITY FOR UNITED STATES

(By Benjamin L. Palumbo)

What was the meaning of the summit that the 12 nations of the European Community held in Maastricht in the Netherlands in December 1991?

The waning of nationalism? The end of ideology? Acceptance of a new international economic reality? victory for the farsighted statesmen, from both sides of the Atlantic, who believed in a united Europe even as it lay devastated, depleted, dependent?

Symbolically, it was all of the above. And more. Imagine that the Franco-Prussian War of 1870 began a political "Ice Age" in Europe.

That it unleashed glaciers which expanded inexorably, accelerated by the two World Wars, until they blanketed Europe, leaving the continent prostrate, its politics frozen into a left-right ice mold.

But then imagine the first hint of a thaw: a tiny drop of water created by the warmth of the US Marshall Plan. The drop turned into a rivulet with the formation of the European Coal and Steel Community in 1951, and, by the time of the signing of the Treaty of Rome in 1957 creating the European Economic Community, the glaciers began their long retreat.

Today the Ice Age is over, and throughout Europe a new political spring is evident as the success of the Maastricht summit and the near-completion of the economic integration plan targeted for later this year attest.

Unfolding before us is one of the greatest events of our time, perhaps eclipsing the collapse of communism.

We Americans seem unable to grasp fully what has happened. Perhaps this is because it does not have the dramatic impact of the fall of the Berlin Wall, and we tend to suffer from a certain impatience with things that take time.

Also, we are still mostly an untraveled lot. Too many of our citizens haven't seen the rebirth of Europe; nor have America's media given adequate coverage to this phenomenon. To the extent we have thought at all about international relations, we have for too long been focused on the Cold War, the Middle East, and, lately, our trade problems with Japan. In fact, we seem today to be mesmerized by the Japanese challenge.

But the rise of a united Europe is an event of far greater importance to the United States than the frictions evident in our relationship with Japan.

The aggregate numbers are striking. In 1991, the flow of visitors between the US and the EC was 14.1 million; between the US and Japan, 4.3 million. Two-way-investment between the US and the EC totaled $417.9 billion; between the US and Japan, $104.5 billion. Two-way trade between the US and the EC was $190 billion; between the US and Japan, $132 billion.

Very few Americans know we have a trade surplus with Europe, while everyone knows we have a deficit with the Japanese.

The figures cited above do not include those for the United States and the six member countries of the European Free Trade Area (EFTA): Austria, Finland, Iceland, Norway, Sweden, and Switzerland. As EFTA is on the verge of joining the single market of the EC, the imbalance is even greater. Without EFTA, the EC is big enough—340 million well-educated, highly skilled, healthy, productive people. With EFTA, we will be looking at a free market of almost 400 million people with whom our relationship has been longer, deeper, and closer than with any other part of the world; with whom our economic and trade relations have been easier; and from whom we have absorbed much of what we are in law, language, culture, and economics.

It is not Japan bashing to recall both these numbers and the depth of our European relationships. Rather, it is a summons to reality. The point is that the opportunities and the challenges for the US are greater with Europe than with Japan. And dealing with Japan's far more closed economy and anti-competitive economic arrangements may be accomplished more easily by cooperation between the US and the EC than by uncoordinated retaliatory measures.

For example, anti-trust has been rooted in our history for almost a century. The EC is now vigorously applying what it calls "competition policy" against excessive market concentrations. Our mutual interests, our deep interdependence, our shared understandings should allow us to negotiate an agreement on rules of competition for all to play by, as indeed the EC has already proposed.

Should the Japanese wish to participate, well and good. But should we agree and they opt out, the consequences would be serious. A binding agreement between the US and the EC resting on a vigorous anti-trust policy would, by definition, be the rules for the richest market in the world—650 million consumers. Thus, the US/EC rules would be everyone's rules; those who ignored them would do so at great cost.

The significance of the Maastricht summit is that the ability of the EC to act and negotiate as a unit has taken a quantum leap. This is not to say that a monolith has been created. Its political and economic leaders will no more march in lock-step than do our own. But just as the effect of our Constitution was to strengthen the central government by diminishing but not eliminating, the power states held under the old Articles of Confederation, the effect of Maastricht is similar.

The 1957 Treaty of Rome was the product of far-sighted politicians who ached to end the European cycles of war and destruction, and who pulled their business leaders along. But the single European act of 1986 which strengthened the institutions of the EC, and the establishment of the goal of a truly integrated economy by 1992, were examples of Europe's business leadership reacting to the threat of international competition and pushing their political leaders along.

What is important to us is that the competition about which they are most concerned is not American but Japanese; not because the American competition is weak, but because Europeans and Americans have a more common understanding about the rules of competition and how economic activity should take place.

The Maastricht summit reflects an enormous determination to achieve European unity. It sets goals for monetary union, and a single currency. It establishes a framework for a common foreign policy and ultimately a common defense policy. And it does all this while carefully preserving the rights of the EC's member-states through requirements for a weighted majority or unanimity on important decisions.

The skeptics have been confounded. Now the oblivious must awaken to this new European reality and seek a partnership in which we together face the world's problems.

OPPOSITION TO GROWTH PLANS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. ANDERSON. Mr. Speaker, I rise to oppose all three so-called growth plans being offered on this floor today. My decision is not an easy one to make, nor will my rationale be popular among my colleagues. There is much in these plans that I find attractive, but I am not free to pick and choose individual elements. As a long time Member of this House, I fully understand the necessity and difficulty of bringing a comprehensive package to the floor. But today my understanding cannot persuade my vote.

The unrelenting pressure of our staggering budget deficit looms over these proceedings. Though we have not told the American people yet, Congress no longer controls the purse strings of this Nation. Fully two-thirds of this year's Federal spending will go to pay for entitlements and interest payments on the debt, spending that is entirely beyond the control of either the authorizing or appropriating process. We sit on our hands while this Government spends $390 billion more than we take from the taxpayers. In the last decade, this Nation has sold its children, and probably its grandchildren, into the servitude of debt from which they will not easily recover.

Congress as a body, and particularly we as Democrats, are confronted with a simple, and immensely disagreeable, fact, There will not be any shifts in defense dollars to domestic programs unless the President agrees. He is extremely unlikely to do so. Today, we face the reality imposed by the budget agreement of 1990, a budget agreement which many of us supported. The President might be under attack by conservatives in his own party for raising taxes in that budget agreement, but he holds the high ground in this debate.

The so-called peace dividend has been the great liberal hope, a giant pot of money taken from the hands of the missile and tank builders to be spent on education and infrastructure. No one has told the American people that, according to the Congressional Budget Office, we are going to need an extra $135 billion over the next 5 years just to keep our nondefense discretionary spending at levels above the slow but unrelenting erosion of inflation. No one has told the American people that, even with strict adherence to the budget agreement, the deficit falls only to $174 billion in 1996 and then starts to rise again. We are the perpetrators of a great myth. One day the American people will not be deceived by the overstated, grandiose claims of this body.

Our efforts today are the embodiment of a contradiction. We seek to stimulate the economy without adding to the deficit. The most elementary of economics tells us it cannot be done. The President and Congress, both Democrats and Republicans, need to make a basic choice: we can either bust the budget and pump some money into this lagging economy or we can give up on this idea of fiscal stimulation. To resort to a cliche, we cannot have our cake and eat it too.

Many are attracted to cutting the defense budget and spending the savings. We are all eager to give the American taxpayer a break. But the question begs: is this responsible? The various economic plans which revolve in dizzying speed around this Chamber violate two of the most fundamental principles I have held since entering public office. First, you do not raise taxes in the middle of a recession. Second, you do not cut taxes facing a $390 billion budget deficit. Is it any wonder that Congress is mistrusted by a clear majority of Americans? Do we consider the legacy we leave today for our children and our children's children? Have we reached such lows of political debate that we scramble to show the citizens of this Nation who can be the least responsible?

With our deficit, real measures, like a deep targeted investment tax credit, are too costly to be considered by this House. So we toy at the fringe. The plan coming out of the Ways and Means Committee holds probably the most sensible of changes to the Tax Code; the indexation of capital gains to exclude the false appreciation of inflation. But in this political season, the very issue of capital gains threatens to become one rich versus poor, or, more appropriately, the rich versus the middle class.

We were elected by the American people to serve, not to deceive. I may stand lonely in my views, but the American people must be told the truth. We have promised, and delivered, a world of painless expenditures. The result is our deficit. For years now, I have supported budget pacts and summits and plans and agreements that promised long-term reductions in the debt. The result is that I have watched the public debt spiral to heights ungraspable both by the people and by the Members of this body. I challenge anyone in this body to explain the word trillion in plain English. I simply cannot be induced to support another piece of legislation that stands in basic conflict with the long-term good on this Nation. We must put an end to the gimmickry, for if we do not our irresponsibility will lead us further down the road of impotence than we have already traveled. Though I stand in opposition to my party, I must vote against all the bills laid before me today.

INTRODUCTION OF THE SPENDING PRIORITIES REFORM ACT OF 1992—H.R. 4315

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. FAWELL. Mr. Speaker, $120,000 for animal waste disposal research in Michigan to address the conflicts between the producers and the general public; $700,000 for acquaculture in Stoneville, MS to determine the causes of off flavor in channel catfish and develop treatments to reduce the incidence of off flavor in ponds; and $2,000,000 for a riverfront park in Charleston, WV; and $13,000,000 for construction of certain Federal and non-Federal facilities at America's Industrial Heritage Park, PA.

These projects, whatever their merit, received funds through the back door of the appropriations process for fiscal year 1992. They are the reason why I became a porkbuster. One of my greatest frustrations in Congress has been trying to stop expenditures such as these, which are often tucked into massive spending bills, in the middle of the night, without hearings, without debate, and often without even a printed bill. Because attempts to attack these expenditures one by one have had only limited success, we adopted a new strategy—comprehensive legislation to rid the budget of porkbarrel projects all at once.

Today Senator HANK BROWN, Congressman TIM PENNY, and I will be introducing the Spending Priorities Reform Act of 1992, also known as Porkbusters II. This measure will rescind the unobligated balances for 642 projects, worth $1,540,363,400, which were funded in the fiscal year 1992 appropriation bills.

The bill is the result of extensive research by our Porkbusters Coalition, a bipartisan group of Members of the House and Senate, and 14 different taxpayer groups. As its name implies, porkbusters aims to eliminate Federal projects which bypass Congress' established budget procedures. The group has developed a list of seven tests for wasteful spending. Projects which tripped at least three of these evidences of wasteful spending were included in the bill.

These seven objective criteria include: the project was never the subject of a congressional committee or subcommittee authorization hearing; it lacks specific legislative authorization—congressional rules, often waived, require authorization legislation prior to appropriation; the expenditure was added at the last minute in a House-Senate Conference; the project has no relationship to the act under which it was funded, or the agency under which it is administered; the project was not competitively awarded; it is of purely local interest, without national or regional importance; and it was earmarked in violation of the process prescribed by law.

The criteria we employ are essentially the rules Congress is supposed to abide by in funding Federal projects. These rules are there for a reason—to protect Congress from itself. Careful review, debate, and comparison of competing spending proposals forces Congress to set priorities and discard ill considered proposals.

Last year, we introduced a similar bill, H.R. 2643, S. 1288, to rescind unobligated balances for 325 projects from the fiscal year 1991 appropriations cycle which tripped at least three of our tests. Although we were not able to get a vote on this measure, we believe it had a significant impact in terms of bringing national attention to the issue of wasteful government spending and bringing pressure to bear on Congress to reform its free spending ways.

This year, armed with experience and a great deal of grassroots support for the effort, we are again ready to roll up our sleeves and work for passage of this legislation. The American people are rightly exasperated with a Congress which is wasting their hard-earned tax dollars on parking garages and theater renovations. They are demanding an end to pork barrel spending.

This is not to say all of the projects on our list have no merit. Many do have laudable purposes. But do they have as much merit as 10 other projects which were never considered? We will never know because there was no competitive bidding, no hearings, and no debate on the relative merits of these projects. In these days of extremely limited budgetary resources, it is vitally important that funding decisions be based on merit, not on whether a project happens to be in the district of a powerful Member of Congress.

Our group does not claim to be infallible; there are surely projects out there we neglected to include. And, it may be that after further review, some of the projects which were originally included in our list may prove to have actually passed the tests. I am sure we will be hearing from the sponsors of these projects—I welcome their input into this process.

Our aim is to see that established congressional rules and procedures for appropriating Federal funds for specific projects are followed. In light of the fact that this year the Federal deficit is expected to reach $401 billion and we will spend $294 billion to service our $4 trillion national debt, it is the least we should be doing.

HONORING JUDGE JOHN C. TRACEY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mrs. MORELLA. Mr. Speaker, I am pleased to have this opportunity to recognize Judge John C. Tracey and his work on behalf of children. On February 27, 1992, the judge celebrates his 60th birthday and his retirement from the bench of the Sixth District Court of Maryland.

During his tenure in the judiciary, Judge Tracey has been an outstanding advocate for children. He is a founder of the Montgomery County Boys Home, established in 1964, and became the first president of the Home's Board of Directors. The program, now the Boys' and Girls' Homes of Maryland, serves 1,400 children.

Judge Tracey has also served on the Maryland Task Force on Permanency Planning, as well as other bodies dealing with juvenile and family law. He is an advocate for the needs of children in the courts and a staunch supporter of the establishment and development of the court appointed special advocate [CASA] program in Montgomery County. CASA is a nationwide movement of community volunteers who speak for abused and neglected children in court. Patrons of the local program include the National Council of Jewish Women, Junior League of Washington, IBM, and the Gannett Foundation.

As a member of the National Council of Juvenile Court Judges, Judge Tracey secured from the council the final funding needed to begin the Montgomery County CASA project. The county now has 83 active volunteers. Children who have a CASA tend to spend less time in court and less time in the foster care system than those without a volunteer advocate. The recognition and respect Judge Tracey has given to the program and its volunteers has given CASA volunteers a sense of the importance of their work.

Children trust him, confide in him, and write him letters. They sense his interest in their future well-being. On behalf of the children and others whose lives have been touched and made better because of the work of Judge Tracey, I thank him for his dedication, courage, and compassion.

KAREN GIEVERS RECEIVES FLORIDA BAR AWARD FOR PRO BONO WORK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, Ms. Karen Gievers, the president of the Dade County Bar Association, was recently chosen as one of 20 Florida lawyers to be honored for their pro bono work. In addition to Ms. Gievers duties with the Dade County Bar, she is the president of Operation Safe Drive and its lobbyist at the Florida State Legislature. Despite her busy schedule, she sets aside 25 percent of her time to do pro bono work. The Miami Herald highlighted the work of Ms. Gievers in an article by staff writer, Marti Ostrander. That article follows:

Karen Gievers of Kendall gets up at 5:30 a.m. She is at her law firm, Karen A. Gievers P.A., in downtown Miami by 8 a.m. She rarely leaves until 8 p.m.

When Florida's Legislature meets, her job moves her to Tallahassee, where her work days are even longer.

She is president of Operation Safe Drive and its Tallahassee lobbyist. She is also president-elect of the Dade County Bar.

Gievers specializes in civil litigation and in public service. She estimates that 25 percent of her time is spent helping the poor solve their legal problems for free.

"I want to help somebody else," she said. "I have the time."

Gievers was recently chosen one of 20 Florida lawyers—and the only one from Dade—to receive the Florida Bar President's Pro Bono Award for providing free legal service to the poor.

Pro bono means "for the good of the public." The purpose of the awards, created in 1981, is to encourage more Florida lawyers to help the needy, said Paige Miller, coordinator of public service programs of the Florida Bar.

Gievers, originally from California, moved to Miami in 1969.

She started college at Miami-Dade Community College, received her bachelor's degree from Florida International University and graduated from the University of Miami Law School in 1978.

Gievers has donated more than 1,300 hours of pro bono services to minors in the past 12 years.

Her goal, she said, is "to get children into permanent homes because if they don't have permanence in their life they can't learn as well in school, they don't develop self-confidence and are not able to interact with other children, thus preventing them from realizing their potential."

She has two children of her own: Donna, 19, a sophomore at Tulane University, and Dan, 21, a senior at the University of Southern California.

She lives in Kendall with her children's two dogs.

Gievers has been involved in two major cases involving pro bono work.

In October 1990, she filed a class-action suit to order the Department of Health and Rehabilitative Services to stop holding children in temporary foster care illegally, and to restructure the state's foster-care program.

Children in need don't always have to be taken away from their families, nor should case workers handle more than 15 children at any one time, Gievers said.

She said she wants to change the focus of foster home care to get children "in permanent places and homes," she said.

Gievers was also the court appointed curator for the estate of Ronnie DeSillers.

She stepped in to try to sort out the finances after Ronnie's mother, Maria DeSillers, was criticized by state regulators for using money donated for her son's liver transplants for a BMW, jewelry and rent for her apartment.

She spent the money after Ronnie died of liver failure.

The job took more than 700 hours of free legal service, Gievers said.

After paying Ronnie's medical bills, there was $135,000 left in the fund.

Gievers suggested that the money be donated to the Governor's Transplant Life-line For Children.

I commend Ms. Gievers for her extraordinary commitment to helping those in need in south Florida. It is fitting that she be honored as she has by the Florida Bar Association. Her work is an inspiration to many others who have the resources and talent to give back to the community.

THE WILDERNESS MANAGEMENT ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. VENTO. Mr. Speaker, today I have introduced three bills, the National Forest Wilderness Management Act, the National Parks and Public Lands Wilderness Management Act, and the National Wildlife Refuge Wilderness Management Act. Ever since the passage of the Wilderness Act of 1964, Congress has acted on a great many wilderness bills, enlarging the National Wilderness Preservation System from 9.5 million acres 25 years ago to over 95 million acres today. Those bills focused on designating new wilderness areas. The proposed Wilderness Management Acts I am introducing substantively deal with how well we are taking care of existing wilderness areas. They would not designate a single new acre of wilderness, but instead would be the first comprehensive legislation to strengthen the management programs that protect the wilderness that we already have designated. Such legislation is urgently needed. Congressional oversight hearings and U.S. General Accounting Office studies have determined that the condition of the National Wilderness Preservation System is deteriorating. These investigations discovered that many wilderness areas are suffering from erosion, polluted lakes and streams, invasion of non-native species, unnecessary structures and improvements, garbage, air pollution, and violations of wilderness laws and regulations. These impacts could be prevented or alleviated by better management.

This legislation would strengthen the wilderness management programs in the Forest Service, the National Park Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service which are the four Federal agencies that manage America's wilderness system. Its provisions include:

First, creating a Director or Division Chief of Wilderness within the Washington headquarters of each agency to provide wilderness leadership.

Second, giving wilderness management its own budget lien item in the budgets of each agency along with measurable output targets to prevent misuses that have been documented with wilderness funding.

Third, establishing a national wilderness monitoring system to measure the condition of the wilderness resource.

Fourth, requiring that each wilderness have a wilderness management plan within 2 years of its designation.

Fifth, creating a national wilderness academy to train wilderness managers.

Sixth, strengthening wilderness research by establishing a wilderness research institute and by providing State universities with wilderness research grants.

Seventh, strengthening and defining the management of national forest special management areas such as national recreation areas, making them showcases that stand out from general national forest lands.

Eighth, improving the management of the Frank Church-River of No Return Wilderness, the largest wilderness in the lower 48 States, by consolidating it from 6 national forests into 1 national forest and designating it the Nation's first all wilderness national forest.

The debate over designating wilderness often has been heated. Few, however, can object to doing a better job of protecting the national wilderness already designated. All Americans, no matter what their environmental politics, should support protecting the wilderness system already in place. The American people worked hard and made sacrifices to create this system. It deserves quality management.

"GOOD NEIGHBOR" SON THOMAS

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. ROWLAND. Mr. Speaker, we live in an age that often seems faster paced, less friendly, and more isolated from our neighbors than when I was growing up.

But if you think neighborliness is a thing of the past, I recommend that you read a series of articles appearing regularly in the Waycross, GA. Journal-Herald about special people who truly deserve to be called good neighbors.

One of our citizens who was recently recognized as a "good neighbor Sam" is Son Thomas of Patterson, GA.

For more than a half century, Mr. Thomas has reached out to help his neighbors, especially the young people who regularly found his cotton gin and his side yard as welcome places to play and socialize. According to Mrs. Kitty Smith, who brought Mr. Thomas to the attention of the Journal-Herald, he often joined the youngsters to keep down the fighting and cussing and ended up taking the whole crowd to the Patterson Pharmacy for cold drinks. The Thomas method of youth development, she says, has helped many good young people become good adults.

The story is told about two poor youngsters, regulars around the cotton gin, who were recruited by Mr. Thomas to help him with deliveries, and who were always treated to a meal on the way back. Years later, a well-dressed man approached Mr. Thomas, saying "you don't remember me, but you kept my brother and me from starving when we were boys."

Once, some 50 years ago, a next-door fire threatened the home that Mrs. Smith and her husband had just occupied. Mr. Thomas quickly took charge, she recalls, organizing volunteers to move their belongings to safety and then moving it all back in again after the danger had passed. She says Mr. Thomas still knows about his townspeople's good times and bad times and is available whenever anyone needs help. He is still blessing lives, she says.

Son Thomas and his wife Aline are truly good neighbors, and like good neighbors everywhere are inspirations to us all.

Incidentally, the Thomas's have two fine sons. The older is Jim, an attorney in Savannah. The younger is LINDSAY, our esteemed colleague in the House of Representatives.

CELEBRATING THE 50TH ANNIVERSARY OF THE NAVAL CONSTRUCTION BATTALION CENTER IN DAVISVILLE, RI

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. REED. Mr. Speaker, I rise today in recognition of the 50th anniversary of the Naval Construction Battalion Center [CBC] in Davisville, RI, and the return of the Seabee statue which stands in front of the center.

CBC Davisville was established in 1942 as the Davisville Advanced Base Depot, the first of its kind in the world. During World War II, CBC Davisville was known as the home of the Seabees, the name by which the proud men and women of CBC Davisville have always been known.

The spirit and skill of the Seabees carried our country forward to victory during World War II. Working under enemy fire, Seabees built the airfields, and docks, and roads which gave our marines and sailors the foundations of victory.

An example of the many projects that the Seabees played a significant role in planning and supporting is Project Reindeer during World War II. This project involved the construction of a U.S. naval communications facility on the island of Diego Garcia, located in the middle of the Indian Ocean, which is some 11,000 miles from Davisville.

During the Vietnam conflict, an estimated 8,000 packages of material a month were sent from Davisville to locations all over the world. On June 25, 1971, the Secretary of the Navy recognized CBC Davisville's contributions with the Meritorious Unit of Commendation.

Frank J. Iafrate, a native Rhode Islander, used a bee as the Seabee emblem to symbolize both the industriousness of the workers and the strength of their sting. The CBC Davisville Seabee holds tools to symbolize workmanship, and a gun to symbolize military strength.

Later, a statute of the Seabee, based on Mr. Iafrates' insignia, was constructed in honor of the men and women who served their Nation as Seabees. Over the years the Seabee statue, which stands outside the CBC Davisville base, has become an important Rhode Island monument.

In celebration of the 50th anniversary of CBC Davisville, the Seabee statue was restored and returned to the community of North Kingstown. The community's love of this monument was noted when the statue was removed for this work and rumor spread that the Seabee was gone for good. I contacted the Navy and I was assured that the Seabee statue will remain in North Kingstown as long as the community desires.

Mr. Speaker, like all Rhode Islanders, I am saddened by the impending closure of CBC Davisville. Many great men and women have served as Seabees and, tomorrow, Rhode Islanders gather to celebrate the return of the statue as well as the 50th anniversary of CBC Davisville. I know all my colleagues join me in saluting the work of these men and women and the tradition of the Seabee.

REAUTHORIZATION AND IMPROVEMENT ACT OF 1992

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. HERTEL. Mr. Speaker, in this 20th anniversary since enactment of the National Marine Protection, Research, and Sanctuaries Act of 1972, we are called upon to reauthorize title III of the act, which gives authority to the Secretary of Commerce to designate national marine sanctuaries. The primary mission of the National Marine Sanctuary Program is to preserve and restore areas of ocean, coastal and Great Lakes waters for their unique qualities.

As we take on this task, we must look at what history has taught us through the current site selection, evaluation, and designation process.

Yesterday, I introduced H.R. 4310, a bill entitled the "National Marine Sanctuaries Reauthorization and Improvement Act of 1992." This bill includes a number of provisions addressing the central issues of our reauthorization efforts, incorporates the suggestions of hearing witnesses from November 7, 1991, and serves as a vehicle for continuing reauthorization discussions and markups.

On March 11, 1992, the Subcommittee on Oceanography, Great Lakes and the Outer Continental Shelf will hold a joint hearing with the Subcommittee on Fisheries and Wildlife Conservation and the Environment to ensure that reauthorization of the National Marine Sanctuary Program gets underway. Additional thoughtful suggestions from the hearing will be incorporated into H.R. 4310.

As we begin this process, I ask Members of the House to review the summary and text of the bill printed in yesterday's RECORD and cosponsor H.R. 4310 as their endorsement that the National Marine Sanctuary Program deserves our continued support.

CONGRATULATIONS TO CARROLLTON HIGH DEBATE TEAM

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. GINGRICH. Mr. Speaker, I would like to take this opportunity to congratulate the Carrollton High School Debate Team which recently won the Georgia Class AAA Debate Championship. The team consists of Jason Berzsenyi, Bruce Johnson, Brent Thomason, and Greg Norman, and is coached by Richard Bracknell.

With the problems we currently face, it is refreshing to see a group of young people thinking about real solutions. If they continue to put the same hard work and determination into their work that they showed in winning the State championship, I am very optimistic about what the future holds for this country.

Again, congratulations to the Carrollton High School Debate Team. We are all very proud of you.

A TRIBUTE TO HAROLD C. "HAP" HARRIS, JR.

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the fine work and outstanding service of Harold "Hap" Harris. His dedication, humility, and love for his community and fellow man have earned him the distinguished Rabbi Norman F. Feldheym Award. This great honor is given annually to the most outstanding member of the Congregation Emanu El who possesses the generous and compassionate attributes of Rabbi Feldheym. He will be recognized and honored for his devotion at a ceremony on May 16.

Hap is a Redlands native, making his very first venture out of the Inland Empire to attend college at Dartmouth in New Hampshire. There, he was active in his fraternity, a member of the Reserve Officers Training Corps, and met his lovely wife, Holly. Upon graduation, Hap was given a commission as a second lieutenant in the U.S. Army Ordinance Corp. and served in the 182d Ordinance Battalion in Manheim, West Germany for 2 years.

Upon completion of his military obligation, Hap returned to the United States, married Holly, and settled back in his home State. Immediately, he began his retail career and quickly moved into the family business, the Harris Co.

Hap has been extremely active in the betterment of the communities that have supported Harris. He has been involved in everything from arts to health care, symphonies to hospitals. He has served on the boards of the American Heart Association, advisory board of the Junior League, and as treasurer of Goodwill Industries. Hap was also president and cochair of the centennial observance of Congregation Emanu El, chairman of the board of directors for St. Bernardine Medical Center and Foundation, and president of the Kiwanis Club. In addition, he is a member of the following boards: General Mail Merchants Association, the More Attractive Community Foundation, Inland Action, United Way Advisory Board, and Riverside Plaza Merchants Association.

The prestigious Rabbi Norman F. Feldheym Award will be presented in the spring as Congregation Emanu El celebrates its 101st anniversary. In addition, the annual commemorative journal will be dedicated to Hap.

Mr. Speaker, I ask that you join me, our colleagues, friends, and family in recognizing the dedication and service of an extraordinary man, Harold "Hap" Harris. Hap's contributions to both Congregation Emanu El and the community are certainly worthy of acknowledgement by the House today.

SWEET ALICE HARRIS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. DYMALLY. Mr. Speaker, I rise to pay tribute to Alice Harris of Watts, Los Angeles, who has been cited by the President as his 703rd Daily Point of Life. Sweet Alice, as she is affectionately called by all who know her, is far more than a point of light; far more than just another star in a galaxy of good smaritans. She is a source of light and energy which burns brighter than a thousand Suns. The glow of her warmth has been a source of comfort and inspiration to all who have passed through the portals of the Parents of Watts [P.O.W.] which she founded more than a quarter of a century ago.

Never one to forget the circumstances of her own youth, including having been a single teenage mother, she has reached out to troubled young people giving them the guidance they have often lacked at home. She has built the capacity of P.O.W. to be there for those who seek the help of any of its 15 programs. She has counseled bewildered and abandoned pregnant young teenagers and has connected them up with community organizations who adopt them and help them to get the emotional and medical support they need to enable them to bear healthy children. Sweet Alice has shown herself tough enough to mediate gang disputes and to persuade many of their wayward members to return to school. Young people whom she helps are not mere temporary recipients of her attention. She becomes a lifelong mentor. One of the most amazing accomplishments of P.O.W. is the fact that most of the young people who participate in one its programs end up going on to college.

The homeless, the unemployed, the drug addicted—all are beneficiaries of Sweet Alice's Parents of Watts programs which range from job training to language instruction.

In addition to P.O.W. Alice Harris has also founded the Black and Brown Committee which has played such a vital role in promoting harmony between blacks and Hispanics.

Mr. Speaker, Watts is indeed blessed to have such a sterling citizen as Alice Harris. How much better off all of our communities would be if they had a Sweet Alice amongst them. The President does well to honor her. She has long been one of my favorite people. Now all the Nation can know of her good works.

SAY NO TO FAST TRACK

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. JONTZ. Mr. Speaker, I rise today to express again my opposition to the consideration by Congress of a North American Free Trade Agreement, or any other trade agreement for that matter, on the fast track. Once more this week we heard U.S. Trade Representative Carla Hills say that a NAFTA would not result in a flow of jobs south of the border, but I am not convinced. Past events are probably a better gauge of the future than optimistic projections by the administration, and past events show jobs moving to Mexico.

Last year, just 2 weeks before this House voted to extend fast track, United Technologies closed an auto wire harness plant in Wabash, IN, and put 550 people out of work. Those jobs were moved to United Technologies plants in Mexico. That same company has also announced their intention to close yet another plant in Indiana, too.

General Motors has this week announced the closing of 12 plants with 16,000 layoffs. Part of GM's plan is to close their Moraine, OH engine plant and consolidate it with a plant in Mexico.

Surely, the attraction of Mexico for United States business is not Mexico's small consumer market but its large labor pool working for low wages in unregulated and unsafe work sites.

I believe, Mr. Speaker, that these recent events portend a massive movement of high-skill, high-paying jobs to Mexico if we agree to a free trade agreement that does not protect jobs at home. That is why I have introduced legislation, H.R. 4269, which would take such an agreement off the fast track. If we are going to negotiate the lowering of trade barriers, we must do that with the goal of improving our economy and retaining and creating good American jobs.

My bill would give the Congress adequate time to consider any proposed free trade agreement and all its ramifications by eliminating the time constraints in the 1988 Trade Act. H.R. 4269 would also allow amendment in the areas of labor and environmental standards, rules of origin, dispute resolution, or trade adjustment assistance.

Something as important to the well-being of the American people and the future of the American economy as a North American Free Trade Agreement should not be considered under limitations of fast track. The fast track procedure removes Congress as the elected representatives of the American people from its responsibility to assure that the agreements negotiated by the administration are indeed in the interest of the American people.

Mr. Speaker, my bill, H.R. 4269 would restore that authority to Congress. Thank you.

AN INTERNATIONAL PEACEKEEPING FORCE FOR HAITI?

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. BEREUTER. Mr. Speaker, in recent weeks the United Nations has undertaken major new peacekeeping responsibilities. In Yugoslavia, in El Salvador, and in Cambodia the United Nations is using international peacekeepers to bring a halt to long-standing civil wars. These efforts finally offer the prospect of stability to nations that have seen all too much suffering.

An editorial in the February 24, 1992, edition of Lincoln Journal suggests that such an international peacekeeping effort might also be appropriate for Haiti. The Organization of American States has apparently ruled out such an effort, but a U.N. operation may be exactly what is necessary. The Journal states: "If the U.N. is going into the business not only of peacekeeping but of rehabilitating sick nations, such ministrations could prove to be Haiti's only salvation."

Mr. Speaker, this body continues to focus on the symptoms of Haitian instability—the flood of immigrants. As this editorial correctly notes, we would do well to pay more attention to the root causes. This Member commends the Lincoln Journal editorial, entitled "In Haiti as in Cambodia," to his colleagues:

[From the Lincoln Journal, Feb 24, 1992]

IN HAITI AS IN CAMBODIA

That's not a peacekeeping force the United Nations is on the verge of sending to Cambodia. That's a government.

Secretary-General Boutros Boutros-Ghali has asked the Security Council to dispatch more than 20,000 troops and administration to the Southeast Asian country to implement the peace agreement signed last fall. The council likely will OK most if not all of his request this week.

Clearly Cambodia will need some kind of impartial outside presence if it is to emerge from years of conflict to become a peaceful, democratic and secure nation. Soldiers will have to be disarmed, elections monitored, returning refugees dealt with.

The U.N. project, however, would go beyond that. Its team would run much of the government, manage the police forces, produce video tapes about the importance of human rights and even monitor the news media to make sure they perform fairly. After a year or so, the nation presumably would be ready to go it alone.

In short, Cambodia would temporarily be recolonized. Not by an imperial power, but by the world through the U.N.

The venture will be pretty much an experiment. If it's successful, the technique of recolonization may be utilized elsewhere.

One candidate for such attention comes immediately to mind: Haiti, the wretched Caribbean nation that may be beyond governing itself. Some knowledgeable about hemispheric affairs have suggested that Haiti's only hope is a form of recolonization.

After years of dictatorship and corruption, Haiti's politics are a mess, its economy near a state of disaster, and its environment, too. Continued differences between Haiti's military and exiled President Jean-Bertrand Aristide cast serious doubt on the country's future.

At one point it appeared that the Organization of American States, which is trying to resolve Haiti's problems, might go so far as to send a military force to the island. That has not happened, and Haiti remains a dilemma. If the U.N. is going into the business not only of peacekeeping but of rehabilitating sick nations, such ministrations could prove to be Haiti's only salvation.

TRIBUTE TO DR. FLOYD WOOLCOTT

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. HUNTER. Mr. Speaker, I wish to recognize Dr. Floyd Woolcott of Borrego Springs, CA, on the occasion of his 20th consecutive year of practice in that community and the 54th year in his medical career.

At age 82, Dr. Woolcott still makes house calls. This is particularly significant since residents in Borrego Valley, centered in the 600,000 acre Anza-Borrego Desert State Park, are isolated in a radius of 50 miles from trauma care facilities.

The Borrego Springs population fluctuates between 3,000 during peak summer months to 8,500 in the winter months, a condition that makes it extremely difficult to encourage qualified medical practitioners to move their practices to this community.

Dr. Woolcott arrived in Borrego Springs in November 1971 after 3½ years as a general practitioner in Fairbanks, AK. His time in Alaska was preceded by a 22-year practice in Lake Oswego, OR.

Dr. Woolcott, in a newspaper interview, noted that he came to Borrego Springs as a transition into semiretirement, but it has never materialized.

The only period when the physician can take time off is during the summer months when winter visitors return home and the population shrinks. "This is the only time I can risk taking some time off," he observes.

Three years ago, even the summer months brought no respite. When the community's medical clinic was forced to close due to a loss of its parent organization, Dr. Woolcott, in conjunction with qualified personnel from the fire department, assumed the responsibility of providing emergency medical care throughout the summer.

While he has since been joined by a medical center staff of two doctors, two nurses, and an administrative support staff, Dr. Woolcott was the only medical representative in Borrego Springs for most of the 20 years he has served the community.

Among his many tasks as a doctor during that period of time, he has given injections to race horses and intravenous solutions to injured coyotes. He even recalls a time when he had to pull a sea captain's wisdom tooth in the absence of a dentist.

On April 10, 1992, residents in Borrego Springs are expected to rally for the fourth consecutive year, contributing to and participating in the Woolcott Invitational Golf Tournament, a fund-raising effort that helps offset overhead operating costs of the medical center.

Naming the annual benefit in honor of Dr. Woolcott serves as a continuing tribute by the community to their country doctor. For the past 3 years and today as well, Dr. Woolcott has continued to play a large role in helping organize the fund-raising activities. At a time when increasing numbers of Americans are forced to go without health insurance and health care costs continue to go through the roof, Dr. Floyd L. Woolcott demonstrates what selfless devotion to professional-medical ethics can accomplish.

Dr. Woolcott's example should provide health professionals everywhere with the inspiration to rise above the current professional-economic-political problems that plague them at every turn and return to the business of caring for people.

The occasion of Dr. Woolcott's 20th anniversary as the country doctor still making house calls in Borrego Springs at age 82, commands my deepest respect and admiration. I am pleased to endorse the interest and efforts of Borrego Springs residents as they engage in self-help programs such as the fourth annual Woolcott Invitational Gold Tournament in response to the growing health care problems in America.

REMEMBRANCE OF U.S.S. "HOUSTON" AND H.M.A.S. "PERTH"

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to ask that we remember the brave crews of the U.S.S. *Houston* and the H.M.A.S. *Perth* on the occasion of the 50th anniversary of their sinking.

The U.S.S. *Houston* and the H.M.A.S. *Perth* were part of a fleet whose mission was to stop or slow down the Japanese who were advancing southward through the South China Sea and Maccassar Straits in the early spring of 1942. Ships from many nations were put under the command of the Dutch for this mission. On February 27, 1942, the largest naval battle since Jutland in World War I took place in the Java Sea. At the end of over 7 hours of bitter fighting, the Japanese had sunk 13 of the Allied ships leaving only the H.M.A.S. *Perth*, a light cruiser, and the U.S.S. *Houston* afloat. *Houston* and *Perth* were ordered to disengage the enemy, head for the western Java port of Batavia, refuel, and proceed to the southern port of Tjilatjap and evacuate American troops from the island.

Arriving at Batavia during the early morning of February 28, the *Houston* and *Perth* found the port in complete chaos. The Dutch had already evacuated and hoses had to be jury-rigged to get only a portion of the fuel required.

Dutch air patrols reported no Japanese naval activity within 250 miles, so *Houston* and *Perth* left Batavia in the early afternoon, confident that they would be able to break through, evacuate the troops to Australia, and finally get much needed rest, repair, and replenishment of supplies and ammunition. About 11 p.m., just before reaching Sunda Straits at the western end of Java, *Perth* sighted and fired upon several *Fubuki* class Japanese destroyers. Turning down into Bantam Bay, *Houston* and *Perth* found 55 transports already unloading troops and a running battle ensued.

Houston and *Perth* headed for the open sea and found waiting for them 2 aircraft carriers, 4 cruisers, 13 destroyers, and an unknown number of torpedo boats. This superior Japanese group was fresh from victory, having lead the attack on Pearl Harbor the previous December. Despite the hopelessness of the situation, and despite being at the very end of their ammunition, the two cruisers took on the superior Japanese force in the proudest of naval tradition. So fierce was the battle put up by the *Houston* and *Perth* that, when questioning the survivors the next day, the Japanese did not believe them when they denied having battleships with them.

At about 11:30 p.m., the *Perth* took her fourth torpedo and went down. *Houston* fought on until shortly after midnight on the morning of March 1, 1942, when she took her fourth torpedo and lie dead in the water, out of ammunition, firerooms and powder magazines on fire, at the mercy of the Japanese. The Japanese formed a semicircle around *Houston*, turned searchlights on, and blasted her until she finally slid to her watery grave.

Of the 1,065-man crew, only 368 were to survive the sinking to be captured by the Japanese, many being machineguned in the water during the night by torpedo boats. An additional 79 of the crew would die horrible deaths during their 3½ years as prisoners of war of the cruel Japanese. The survivors were used as slave labor in such places as Java, Singapore, Burma, Thailand, French Indochina, and Japan. Many worked on the infamous Burma-Thai death railroad portrayed in the movie "Bridge on the River Kwai."

Mr. Speaker, I am proud to join in paying tribute to these brave men. They made the ultimate sacrifice for their country and should be remembered on this most solemn occasion.

FIFTY YEARS OF THE VOICE OF AMERICA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. BROOMFIELD. Mr. Speaker, beginning this week, the Voice of America [VOA] celebrates its 50th anniversary. Since its founding, VOA has played a vital role in promoting democracy and freedom around the world.

In February 1942, when VOA first began broadcasting, it pledged to its listeners that it would always tell the truth, whether good or bad. At first the news was mostly bad. The Axis Powers controlled large portions of Europe and East Asia, and the Allied forces were in retreat everywhere. But VOA stood out as a beacon of freedom and hope to those living under Axis occupation. When Allied forces emerged victorious in 1945, people who had lived under Axis occupation embraced the values of democracy and freedom and looked to the United States as the leader of the free nations and peoples of the world.

Unfortunately, the defeat of Nazi Germany and Japan gave way to the cold war. VOA combated Communist disinformation about the United States by telling those behind the Iron Curtain about American values, institutions, and U.S. foreign policy. In this way, VOA played an important role in the collapse of communism and the rise of democracy worldwide.

Now that the cold war is over, some people are saying that we don't need VOA, that the explosion of American culture and the spread of democratic values around the world makes VOA redundant and unnecessary. I strongly disagree.

While the collapse of communism is a positive development, it does not mean that the citizens of the former Communist States now enjoy full access to accurate and objective news and information. The media there are still learning how to function as free media should. Furthermore, there are still many parts of the world where people are denied access to objective news and information, particularly China, Cuba, Iran, and Iraq.

VOA not only provides objective news and information, it also educates its listeners about U.S. foreign policy positions and endeavors, plus American institutions and values. Although certain private U.S. media organizations, such as the Cable News Network and Time magazine, are developing a worldwide circulation, they cannot reach as large an audience as VOA can. Furthermore, while American pop culture is certainly spread around the globe, VOA can give foreign listeners a more indepth look at who and what we Americans are.

In its December 1991 report, the President's task force on U.S. Government International Broadcasting recommended an expanded role for VOA in our post-cold-war international broadcasting policy. The task force believes that VOA needs the resources to speak with a stronger voice to the Middle East, Africa, and Asia, and the capability to target specific countries if necessary. VOA needs more funding, not less, for it to become a truly global broadcaster, able to carry out new tasks.

Finally, VOA is staffed by a great diversity of talented people from all over the world who came to America because they believe in what this Nation stands for and are committed to seeing democracy take root in their former homelands.

I am well aware that affairs programs appear to be a luxury in these times of recession and budget deficits. Nevertheless, the Voice of America, with a budget this year of around $280 million, is one of our most cost-effective instruments for furthering American foreign policy goals and interests. I hope that the Congress, when considering funding levels for fiscal year 1993 programs, will give its full support to VOA.

TRIBUTE TO LT. COL. PAUL Q. TENHET II ON HIS RETIREMENT

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. HANSEN. Mr. Speaker, it is my honor to pay tribute to a dedicated Army officer and great American, Lt. Col. Paul Q. Tenhet II, who will retire this month from the service after nearly 26 years.

Since July 1987, Lieutenant Colonel Tenhet has been responsible for the preservation of law and order as the director of security at Tooele Army Depot, UT. His many duties have included the coordination and supervision of all law enforcement and base security, oversight of intelligence and personnel/classified information, crime prevention, physical security, and investigations. Through the years, he has provided staff supervision and technical support for the subordinate depot activities security functions.

Lieutenant Colonel Tenhet has no equal in the area of security operations. Without question, he has set the highest standard of personal integrity and professional conduct. He has earned the admiration and respect of his subordinates through competent and direct personal example.

The officers and personnel at Tooele speak highly of Lieutenant Colonel Tenhet. They have told me that he is 100-percent reliable and trustworthy. During his time there, he has singlehandedly reshaped the security operations of the entire depot complex into one of the finest in the entire Army.

One of the best examples of this is that, even though Tooele's security requirements have drastically increased in recent years due to its chemical munitions demilitarization program, Lieutenant Colonel Tenhet streamlined the security force by 18 percent without compromising security. The morale and training of his force has improved dramatically under his tenure. In the process, he reduced operating costs by over $1.1 million, thereby helping the depot to remain competitive.

It is difficult, Mr. Speaker, to comment adequately on an officer of Lt. Col. Paul Tenhet's caliber. He has given over 100 percent to the Army throughout his career. Lieutenant Colonel Tenhet's time in the service has been a credit, not only to himself, but to Tooele Army Depot and the entire U.S. Army. I wish him well in his future endeavors.

GROUP HEALTH PLAN FOR BOTH CURRENT AND FORMER EMPLOYEES OF AN EMPLOYER IN BANKRUPTCY PROCEEDINGS

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. RUSSO. Mr. Speaker, today I am introducing legislation to help prevent employees from losing their health insurance when their employer files for bankruptcy.

Under current law, employers providing health insurance are required to offer this insurance for up to 36 months to employees who have been laid off or had their hours reduced. Under these COBRA continuation provisions, the employee may have to pay the premium, but because the premium is based on a group rate, it is usually much cheaper than the premium they would otherwise have to pay for an individual health insurance policy.

Unfortunately, if an employer files for bankruptcy, in most instances the employer is exempt from the COBRA continuation provisions even though the employee would be responsible for the premuim. For example, former employees of Midway Airlines not only lost their jobs when their employer recently filed for bankruptcy, they also immediately lost their health insurance.

My legislation would protect these employees. It would eliminate the exemption from COBRA continuation provisions for employers filing for bankruptcy. This means that employees of a business that declares bankruptcy would be able to continue their group plan health insurance.

TRIBUTE TO WORLD WAR II HERO MIKLOS SZALAY

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to Miklos Szalay, a man I am proud to call my constituent. The story of his wartime bravery has been hidden from the world for 47 years. But now, as the cold war retreats into the history books, his courage and heroism is recognized even in his native Hungary.

In October 1944, Sgt. Arnold Silverstein of Baltimore was shot down over Hungary with his aircraft. Inside enemy territory the fate of this brave American Jew would have been sealed had his Nazi pursuers caught up with him. Yet he was able to elude his would-be captors and stay hidden until April 1945. Clearly, he did not act alone. Clearly, someone was watching over him and protecting him. That someone was Miklos Szalay and his family, who sheltered and hid this American soldier for 6 months while Nazi troops scoured the countryside for him.

As Szalay has said, "My father didn't like what the Germans did to the Jewish people. He didn't like the war." Still, who was this American to Miklos and his family? Why risk the wrath of the Wehrmacht and the Nazi troops who repeatedly came to the Szalay farm, particularly during the initial 10-day intensive search for Sergeant Silverstein? Later, prompted by seeing Miklos wearing a shirt made by his stepmother out of parachute material, soldiers captured and tortured Miklos to force him to admit his family was harboring an enemy pilot. He denied it, enduring the torture for the sake of a stranger. Thanks to Miklos and his family, the American pilot survived.

Nor was Sergeant Silverstein the only one rescued by Miklos and his family. In February 1945, a Hungarian Jewish refugee, Julius Kraus, escaped from a Nazi work camp and also hid at their farm.

Mr. Szalay has been honored by several American organizations. In 1985, the Air Force and the Jewish War Veterans of Massachusetts recognized his heroism. Letters or praise from various U.S. officials, including then-Vice President George Bush, are on his family room walls. But for the last 47 years, Miklos Szalay's heroic deeds have been untold and unrewarded by his native Hungary. Finally, last October, Hungarian President Arpad Goncz awarded his with a medal and certificate. Upon receiving the recognition Szalay declared, "We have a new government, and the new government's heart is in the right place."

Mr. Speaker, I ask my colleagues to join me in saluting Miklos Szalay. Mr. Szalay makes us all humble. We cannot help but ask ourselves whether, if the need ever arose, we would have the same courage and selflessness as Miklos Szalay. He serves as a lesson to us all—in humanity, in compassion, and in bravery.

LET'S LISTEN TO VICTIMS, NOT CRIMINALS

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. CAMPBELL of California. Mr. Speaker, the House barely passed a crime bill several weeks ago. The bill was clearly insufficient. The courts—charged with interpreting the law—have curbed excessive death penalty litigation and ridiculous appeals based on technicalities. The President—charged with enforcing the law—has proposed tough measures to fight crime. But the leadership of the Congress—charged with making new laws—has tried to turn back the clock on the war against crime.

Let's deal with just two issues, Mr. Speaker. First, habeas corpus. No one denies that accused persons deserve a full and fair adjudication of their cases. But when repeated appeals clog our system, when Federal courts continually have to review fair trials, and when courts have to open up long-settled criminal cases, our system of justice becomes a system of delaying justice.

We should adopt the President's "full and fair" adjudication standard.

Second, exclusionary rule reform. I have spoken about this before, but let me reiterate that courts should not hog-tie police who act in good faith in warrantless searches. Let anyone who disagrees with me read United States versus De Leon Reyna, involving a conscientious officer who caught a criminal with 1,200 pounds of cocaine. Let anyone who disagrees with me read Illinois versus Rodriguez, in which police—acting in reasonable reliance on the testimony of a battered and traumatized woman—arrested her attacker, who possessed cocaine. The Supreme Court allowed the evidence to be used—and we should make that approach part of our statutory law. Evidence obtained in good faith should be permitted to be used to convict criminals.

Mr. Speaker, the President asked us to pass a strong crime bill in the State of the

Union Address. Let's listen to victims, not criminals. Let's follow the President and truly fight crime.

INTRODUCTION OF INFANT MORTALITY AWARENESS DAY

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. HARRIS. Mr. Speaker, today I am introducing a House joint resolution to designate May 10, 1992 as "Infant Mortality Awareness Day." It is my hope that this commemorative legislation will make more Americans aware of our Nation's deplorable infant mortality rate.

As a member of the Task Force on Infant Mortality in the House Sunbelt Caucus, I am pleased to be the primary sponsor of legislation to help our babies. This legislation is an important part of the task force's goal to educate and inform the public about infant mortality. It is a special honor that the task force has chosen me to lead the drive for this commemoration.

This is the third time that I have sponsored this resolution. I am pleased to announce that again this year, the rate for infant mortality for the United States has dropped again. For 1989, the infant mortality rate was 9.8 infant deaths per 1,000 live births, down from 10.0 in 1988. Every percentage point downward means that we, as a nation, are succeeding in saving more children.

Nonetheless, the statistics about infant mortality are indeed sobering. It is expected that more than 38,000 infants will likely die this year before their first birthday. Each death represents a personal tragedy for one family. In addition, the international ranking of the United States on infant mortality has declined from sixth in the 1950's to 24th in 1989. While other nations have improved their standing, the United States has fallen farther behind.

When I first came to Congress, my home State of Alabama had one of the highest infant mortality rates in our country. Today, with the help of dedicated individuals, Alabama's rate is much lower. I would like to especially commend the efforts of Dr. Sandral Hullett and her staff at West Alabama Health Services in Greene County, AL for a job well done. I believe we need to redouble our efforts to ensure that fewer babies die.

One of the most promising solutions may be the Federal involvement in a new idea called the "Healthy Start Program." Birmingham, AL was recently chosen as a test site for the program. The idea of the initiative is to concentrate Federal resources in either a rural or urban setting where infant mortality rates are more than twice the national average. It is hoped that this increased funding will succeed in getting expectant mothers to seek prenatal treatment early during their pregnancy.

Finally, our Nation needs to ensure that healthy babies are a priority. For every dollar spent on prenatal care on high risk mothers, there can be a savings of more than $3. In many cases the initial investment by the State and Federal Government can be expensive. However, providing preventive care can yield savings from high risk infants. The expansion of the Medicaid Program to cover pregnant women and their infants up to 135 percent of the Federal poverty level will certainly help to ensure more care for our neediest citizens.

I hope this educational effort will make this year's Mother's Day a special day for our Nation's infants. The birth of healthy babies to healthy mothers should be the goal of all Americans.

WHITE RIVER VALLEY HIGH SCHOOL

HON. FRANK McCLOSKEY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. MCCLOSKEY. Mr. Speaker, I would like to take this time to commend the efforts of Mr. Don Terrell's senior class at White River Valley High School. During the 1991–92 school year, these 22 seniors have spent their weekends volunteering their labor to improve their community.

The program was initiated by Mr. Terrell in the hopes of easing the adjustment to a newer and larger school. What began in the teacher's senior English class as an extra credit program soon expanded to all of his classes. In the first year of the program, students volunteered 135 hours of their time for community service. This year, they hope to double that output by donating 300 hours.

Some of their activities have included working in the Monroe County Community Kitchen, assisting the Greene County Shrine Club and helping citizens with mental disabilties in Bloomington. Last fall, these young men and women cleaned yards for the area's senior citizens, donating over 50 hours of their time for senior citizens in and around Worthington. At Christmas, the students launched a food drive that ultimately donated 500 items to the area Salvation Army. This spring, the students will return to the Monroe County Community Kitchen and will be visiting an area nursing home and attempt to establish a reading program with the patients.

Furthermore, these students have come from many different backgrounds—some are members of the National Honor Society, one is married, one lives independently, and many are from broken homes. And because White River Valley High is the consolidation of three rural schools, some students have travelled over 30 miles to participate in the program. Despite these personal and geographical obstacles, these students have continued to make a difference in the lives of others.

In a time when our Nation's students are threatened by the increase in schoolyard violence and substance abuse, the work of the seniors at White River Valley High should serve as an indication of the promise our Nation's youth possesses, and the greatness they can achieve. We should applaud these efforts, and wish them continued success in the future.

A TRIBUTE TO COL. ROBERT R. ZOGLMAN

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. MURTHA. Mr. Speaker, I rise today to inform the Congress of the imminent retirement of Col. Robert R. Zoglman, a truly outstanding soldier of the U.S. Army. Colonel Zoglman has served this Nation faithfully and honorably for over 28 years. A native of Wisconsin, he enlisted in the Army and began his Service in the Intelligence Corps. While serving in Japan he applied for Officer Candidate School and was commissioned a second lieutenant of artillery. During the next 10 years, he served in a number of troop-leading assignments that took him to the Republic of Vietnam, Fort Campbell, KY, Fort Sill, OK, and for 5 years to Germany.

After a tour in Washington, Bob served as a battalion executive officer in the Republic of Korea and subsequently as the commander of the 3d Field Artillery Battalion, 1st Field Artillery Regiment, 2d Armored Division, Fort Hood, TX. Bob has served the last 6 years in the Washington area and for the last 4 years has been Chief of the Army Liaison Office to the Appropriations Committees. During that time the Army has been well served by this outstanding soldier's actions.

He has been no small part of a great number of the historic actions that have faced our country, not the least of which were Operations Just Cause and Desert Storm. On behalf of the Congress and the Nation, I wish to express my thanks to Colonel Zoglman and his family and wish him the best as he embarks on a new career.

TRIBUTE TO NATIONAL FOOTBALL FOUNDATION SACRAMENTO VALLEY CHAPTER'S SCHOLAR ATHLETES OF THE YEAR

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to 10 high school and 3 college members of the Sacramento community upon their acceptance as this year's National Football Foundation Sacramento Valley Chapter's Scholar Athletes of the year. These outstanding individuals deserve to be recognized for their dedication to the pursuit of excellence not only in their sport but also in their academic undertakings.

This ceremony will recognize the achievements of a very elite group of outstanding student athletes in the Sacramento Valley area. The 3 college students: Jason Edwards, University of the Pacific; Eric Palmberg, California State University, Sacramento; Michael Shepherd, University of California, Davis; along with the 10 high school students: Eric Belding, Bear River High School; Byron Deeter, El Camino High School; Eric Frostad, Roseville High School; Tim Griffin, Jesuit High School;

James Kidd, Elk Grove High School; Brian Marlette, Oak Ridge High School; Joe McKeen, Cordova High School; Zachary Stassi, Jesuit High School; Mike Stathem, Del Campo High School; Joseph Tanner, River City High School; and Eric Tennison, Roseville High School are to be congratulated for their outstanding achievements. It is through their commitment and skill that these individuals have made significant contributions to the entire Sacramento community.

Mr. Speaker, I commend the 1992 scholar-athletes for their many accomplishments. I am sure that my colleagues join me in saluting these invaluable members of the National Football Foundation and Hall of Fame for their expertise and their sportsmanship. It is through their hard work and sacrifice that these young men have met the challenge of excelling in two different environments head-on. I extend my best wishes for their continued success in all their future endeavors.

REQUEST FOR COSPONSORS OF RESOLUTION PROCLAIMING 1992 AS COLUMBIA RIVER BICENTENNIAL YEAR

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. AuCOIN. Mr. Speaker, in this year of the Quincentennial of Christopher Columbus's voyages, many of us may not realize that some of us here today might be sitting in Parliament in Ottawa were it not for the 17th century Yankee merchant seaman, Capt. Robert Gray.

During negotiations between Great Britain and the United States over settlement of the boundary dispute between the United States and Canada, Captain Gray's charts of his voyage up the Great River of the West—a river he named after his ship the Columbia in 1792—provided a powerful argument for the American claim to the Pacific Northwest. We won, and today the National Government of the old Oregon Country sits in Washington, DC as we do.

Captain Gray, sailing out of Boston, was not only the first American to carry the U.S. flag around the world. He was the first to cross the hazardous Columbia River bar on May 11, 1792. This epochal event merits national observance of its bicentennial year. Captain Gray's sailing is a significant part of our national historic heritage and has too long been neglected in our legacy of publicly recognized turning points that made this Nation what it is today.

As a member of the Pacific Northwest delegation sponsoring this legislation, I cordially invite my colleagues to join us in recognizing this historic event by becoming co-sponsors of our Joint Resolution requesting the President proclaim 1992 as Columbia River Bicentennial Year and May 11, 1992 as Captain Robert Gray Day.

INTRODUCTION OF THE BREASTFEEDING PROMOTION ACT OF 1992

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Ms. MOLINARI. Mr. Speaker, it is my pleasure today to introduce the Breastfeeding Promotion Act of 1992. The bill I am introducing will authorize the Secretary of Agriculture to utilize private funding to conduct a national campaign and educational program on breastfeeding. The conduct of the national campaign will depend upon an infusion of funds and in-kind contributions from the private sector.

This campaign is appropriately coordinated by the Secretary of Agriculture as he administers the special Supplemental Food Program for Women, Infants and Children [WIC]. Along with most of my colleagues in the House, I have been a strong supporter of the WIC Program. WIC has proven to be a cost-effective program that provides supplemental foods and nutrition education to low-income pregnant, postpartum, and breastfeeding women, infants, and young children up to 5 years of age who are found to be at nutritional risk.

Passage of the Breastfeeding Promotion Act is an important step toward reaching our national health goals. As you know, breastfeeding is the most convenient, economical, and beneficial way of feeding infants. It provides benefits for both the physical and emotional health of infants as well as their mothers.

The benefits for infants include protection from ear infections, diarrhea, and respiratory illnesses through the immunologic properties of breastmilk. Breastmilk is also the most complete and most easily digestible source of nutrition for infants

The benefits for mothers include enhanced self-esteem, more rapid postpartum recovery, and the creation of a special bond between mother and infant. Breastfeeding is also convenient because it requires no heating, mixing, or sterilization, and is less expensive than bottle feeding.

The Surgeon General and the leaders of the major health professional organizations have all endorsed breastfeeding as the preferred method of infant feeding.

Despite the advantages, only 54 percent of U.S. mothers in the general population were breastfeeding at hospital discharge, and 21 percent were breastfeeding at 5 to 6 months of age in 1988. The rates are even lower for WIC mothers. The current target for the U.S. population, as recently stated by the Surgeon General as one of her objectives for the year 2000, is to increase to at least 75 percent the proportion of mothers who breastfeed their babies in the early postpartum period, and increase to at least 50 percent the proportion who continue breastfeeding until their babies are 5 to 6 months old.

The reasons why women do not breastfeed are varied, but experience from past or ongoing breastfeeding promotion activities in several States has demonstrated that breastfeeding initiation and duration can be increased significantly. However, past breastfeeding promotion activities have concentrated primarily on professional and paraprofessional training in lactation management skills, and on individual counseling. One of the key issues about breastfeeding is that it is often misunderstood and perceived as being socially unacceptable. A national media campaign would help to counter some of those negative perceptions.

The purpose of the campaign is to increase awareness of, and knowledge about, breastfeeding as the preferred method of infant feeding among the general public; to foster the creation of a positive public climate with respect to the acceptability of breastfeeding; to increase awareness of health providers, policymakers, employers, educators, and community groups of ways in which they can promote breastfeeding; and to foster the creation of institutional mechanisms to continue breastfeeding promotion at the State and local levels after the campaign ends.

Mr. Speaker, I ask for the support from all my colleagues for the swift passage of this important legislation.

RECOGNIZING IMAD BABA OF HUMBLE, TX

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. FIELDS. Mr. Speaker, Parade magazine recently announced its all-America high school soccer team, and I am pleased that an outstanding young man living in my congressional district—Imad Baba—was again named to that team.

Imad, a midfielder on Humble High School's soccer team, is only a high school junior—and yet, this year was the third consecutive year in which he was named to Parade's all-America high school soccer team. And in fact, Imad was named not only to the magazine's all-America team, he was named Parade's player of the year. If, as we all hope, Imad is named to the magazine's all-America team next year, he will be the first athlete ever to be named to a Parade all-America high school team 4 years in a row.

In an article published in a recent issue of Parade magazine, Imad's soccer coach, Lanny Morton, was quoted as saying:

> What makes Imad such a great player—more than his technical skill with the ball—is his uncanny field sense. He knows what's going on all the time: Where the opponent is weak, where to exploit the defense, where his teammates are located. This ability led to his scoring half of our total goal production last year, when he was a sophomore.

Parade pointed out that this is why Imad was voted the most valuable offensive player in his district last year by opposing coaches.

Mr. Speaker, let me say that I am doubly pleased with the richly deserved recognition that has been accorded to Imad because not only does he reside in my congressional district, he also attends my alma mater—Humble High School.

I appreciate this opportunity, Mr. Speaker, to salute this amazing young man, and I know that you and all of my colleagues join with me in wishing him continued success, both in the classroom as well as on the soccer field, in the coming year. Thank you, Mr. Speaker.

IN RECOGNITION OF ROBERT W. MASHBURN, PROGRESSIVE FARMER'S 1992 MAN OF THE YEAR IN SERVICE TO MISSISSIPPI AGRICULTURE

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress, in the people's Chamber, to speak in honor of a great citizen of my State, Robert W. Mashburn.

Robert Mashburn is a true gentleman farmer whose love of the land is reflected in his devotion to its protection. He actually works the land in his operation of a model family farm in Bolton, MS. Robert is widely recognized as one of Mississippi's best conservation farmers. He is a pioneer in the production of low-tillage cotton, which greatly enhances the productivity of erodible land. He carefully follows a conservation plan in maximizing the yield from sloping, highly erodible land. He has made substantial investment in his farmland, including miles of terraces and other water-retention structures, in an honest cultivation of the soil.

Robert has been active in numerous professional farming organizations. He served as president of the Mississippi Soybean Association and is active with the American Soybean Association. He was president of the county farm bureau and works with the Mississippi and American Farm Bureau. He is also involved with the Southern Cotton Ginners Association, the National Cotton Council, and the Mississippi Cattlemen's Association. He was, in addition to this year's honor, named Mississippi Farmer of the Year for 1991 by the Mississippi Agri-News Network.

It is indeed a pleasure and an honor to recognize the achievements of Robert W. Mashburn. Please join with me in extending congratulations to this honored citizen of Mississippi.

A TRIBUTE TO REV. MANUEL T. SANCHEZ

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. SOLARZ. Mr. Speaker, only on a rare occasion do I rise to pay tribute to any one individual. But in regard to Rev. Manuel T. Sanchez, I do so without any hesitation. I am proud take this opportunity to take the floor to say a few words about Rev. Manuel T. Sanchez and his life's labor at the Antioch Pentecostal Church.

Manuel Sanchez was born in Puerto Rico on February 25, 1907. His faithful wife Pilar and he were blessed with 15 children. In 1927 he traveled to the United States with the intention of studying medicine, but in 1932 he decided to dedicate his life to the church.

On February 5, 1933, Manuel Sanchez received the blessing of funding and pasturing the Spanish Pentecostal Church. From this church, which later became the Antioch Pentecostal Church, many prominent ministers received their inspiration. Reverend Sanchez served his church ministry for 56 illustrious years and led it with an unsurpassed love and devotion.

In addition to his labor in his own church ministry, Reverend Sanchez dedicated himself to the founding of the Spanish Eastern District of the Assemblies of God. Adopting the idea of "Sweet Fellowship" as his motto, Reverend Sanchez practiced what he preached in his relationships with his fellow ministers. Reverend Sanchez served as the president of the Spanish Eastern District and was the great pioneer in enabling it to grow to what it is today.

Despite the great efforts Reverend Sanchez devoted to the Spanish Eastern District, when his obligations would have required he leave Antioch Pentecostal Church to devote full time to the council, his dedication to Antioch prevailed. Reverend Sanchez's tremendous love for Antioch made this an easy choice.

In March 1986, Reverend Sanchez retired and was awarded the title of "Pastor Emeritus." He died on October 24, 1991, leaving behind Antioch as a memory of his accomplishments. Today it is clear that the lessons of his life of good deeds and devotion to the church are carried on by the leadership of Rev. Manuel A. Alvarez.

I am proud to recognize the memory of Reverend Sanchez before my colleagues and fellow citizens.

TRIBUTE TO MR. ERIC ROBERT GREITENS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1992

Mr. CLAY. Mr. Speaker, I wish to acknowledge an outstanding young man in the First Congressional District of Missouri, Mr. Eric Robert Greitens, a student at Parkway North High School in St. Louis, MO.

Eric has been selected as a regional recipient of the sixth annual Amateur Athletic Union/Mars Milky Way High School All-American Award, which recognizes four young men and four young women for their exceptional scholastic, athletic and community service achievements. Eric was chosen from over 13,000 high school seniors nominated nationwide. As a regional recipient, Eric will be awarded a $10,000 scholarship to the college of his choice from M&M/Mars.

In recognition of his academic excellence, discipline and dedication, I enter the name of Eric Robert Greitens into the CONGRESSIONAL RECORD as one of the outstanding young men and future leaders of America.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 27, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 28

9:00 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 1200, to establish a goal for the development of a nationwide broadband communications system by the year 2015, to promote the efficient deployment of technologies capable of supporting multiple communications uses, and to permit local telephone companies to provide video programming, subject to specified anti-monopoly safeguards, and related issues.

SR-253

9:30 a.m.

Armed Services

To hold hearings on inventory management in the Department of Defense.

SD-192

10:00 a.m.

Finance

Social Security and Family Policy Subcommittee

To hold hearings on alleged illegal intrusions into personal Social Security records.

SD-215

Foreign Relations

To resume hearings to examine the strategic nuclear reduction in a post-cold war world.

SD-419

MARCH 2

2:00 p.m.

Armed Services

To hold hearings on military strategy, roles and missions, and United States force levels for Europe.

SD-192

Foreign Relations

To hold hearings on the nominations of Robert C. Frasure, of West Virginia, to be Ambassador to Estonia, Darryl Norman Johnson, of Washington, to be Ambassador to Lithuania, and Ints M. Silins, of Virginia, to be Ambassador to Latvia.

SD-419

MARCH 3

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense, focusing on Navy posture, and Marine Corps posture.
SD-192

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold oversight hearings on the implementation of the national school lunch program.
SR-332

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

Special on Aging
To hold hearings to examine the effects of fuel assistance and housing reductions on the elderly.
SD-628

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Agricultural Research Service, the Cooperative State Research Service, and the Extension Service.
SD-138

Finance
Business meeting, to mark up proposed legislation to encourage economic growth and recovery.
SD-215

Foreign Relations
To resume hearings on strategic nuclear reduction in a post-cold war world, focusing on the future of arms control.
SD-419

Joint Economic
To resume hearings to examine the 1992 economic report of the President and the nation's economic outlook.
SD-G50

2:00 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1101, to require the Federal Communications Commission (FCC) to prescribe standards for AM stereo radio broadcasting, an FCC rulemaking proposal relating to radio ownership rules, and other related issues.
SR-253

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for foreign assistance, focusing on multilateral development banks.
SD-138

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1755, to reform the concessions policies of the National Park Service.
SD-366

MARCH 4

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold joint hearings with the Joint Economic Committee's Subcommittee on Technology and National Security on the overall competitiveness of the U.S. economy.
SD-538

Joint Economic
Technology and National Security Subcommittee
To hold joint hearings with the Committee on Banking, Housing, and Urban Affairs on the overall competitiveness of the U.S. economy.
SD-538

10:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings to examine water resources infrastructure needs and impacts.
SD-406

Foreign Relations
Business meeting, to mark up S. Con. Res. 70, to express U.S. support for the protection of the African elephant, S. Con. Res. 80, concerning democratic changes in Zaire, S. Con. Res. 89, concerning the United Nations Conference on Environment and Development, to consider the International Covenant on Civil and Political Rights (Ex. E, 95th Congress, 2nd Session), and pending nominations.
SD-419

Labor and Human Resources
To hold hearings to examine comprehensive health reform proposals.
SD-430

Joint Economic
To hold hearings to examine United States agricultural competitiveness and how current trade talks might affect the farm industry.
B-352 Rayburn Building

2:00 p.m.
Armed Services
To hold hearings on proposed legislation authorizing funds for fiscal year 1993 for the Department of Defense and the future year defense plan, focusing on the unified commands military strategy and operational requirements.
SR-222

Foreign Relations
European Affairs Subcommittee
To hold hearings to examine U.S. policy toward Yugoslavia.
SD-419

Select on Intelligence
To resume hearings on S. 2198, to reorganize the United States intelligence community to provide for the improved management and execution of United States intelligence activities.
SH-216

MARCH 5

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense, focusing on Army posture.
SD-192

9:30 a.m.
Armed Services
To continue hearings on proposed legislation authorizing funds for fiscal year 1993 for the Department of Defense and the future year defense plan, focusing on the unified commands military strategy and operational requirements.
SR-222

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on proposed legislation authorizing funds for the Resource Conservation and Recovery Act, focusing on recycling provisions.
SD-406

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, the Blinded Veterans of America, WWI Veterans, Military Order of the Purple Heart, Association of the United States Army, Retired Officers Association, and Vietnam Veterans of America.
345 Cannon Building

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of State.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Interstate Commerce Commission, and the Office of Inspector General.
SD-138

Foreign Relations
To resume hearings on strategic nuclear reduction in a post-cold war world, focusing on arms control.
SD-419

Joint Economic
To hold hearings to examine new approaches to restructure the public sector to deliver more for less.
2359 Rayburn Building

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Consumer Product Safety Commission, the Office of Consumer Affairs, and the Consumer Information Center.
SD-116

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To resume hearings on S. 1755, to reform the concessions policies of the National Park Service.
SD-366

Select on Intelligence
To hold hearings on the nomination of Vice Adm. William O. Studeman, U.S. Navy, to be Deputy Director of Central Intelligence, and to have the rank of Admiral while so serving.
SH-216

MARCH 6

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on the alternative uses of agricultural commodities, focusing on impediments to commercialization.
SR-332

Joint Economic
To hold hearings on the employment-unemployment situation for February.
SD-628

MARCH 17

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine an overview of NASA's budget for fiscal year 1993.

SR-253

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD-138

MARCH 18

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine NASA's space station and launch issues.

SR-253

Select on Indian Affairs

To resume oversight hearings on the implementation of the Indian Gaming Regulatory Act (IGRA).

SH-216

MARCH 19

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Science Foundation, and the Office of Science Technology Policy.

SD-124

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Justice.

S-146, Capitol

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Highway Administration, Department of Transportation.

SD-138

MARCH 20

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Farmers Home Administration, the Federal Crop Insurance Corporation, the Rural Electrification Administration, and the Rural Development Administration.

SD-138

MARCH 25

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Neighborhood Reinvestment Corporation, and the National Credit Union Administration.

SD-116

Select on Indian Affairs

To hold hearings on S. 1752, to provide for the development, enhancement, and recognition of Indian tribal courts.

SR-485

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Communications Commission, and the Securities and Exchange Commission.

S-146, Capitol

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration, and the Research and Special Programs Administration, both of the Department of Transportation.

SD-138

MARCH 26

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Environmental Protection Agency, and the Council on Environmental Quality.

SD-G50

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 664, to require that health warnings be included in alcoholic beverage advertisements.

SR-253

MARCH 27

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Animal and Plant Inspection Service, the Food Safety and Inspection Service, and the Agricultural Marketing Service.

SD-138

APRIL 1

9:30 a.m.

Select on Indian Affairs

To hold hearings on proposed legislation to authorize funds for programs of the Indian Health Care Improvement Act.

SR-485

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Commerce.

S-146, Capitol

APRIL 2

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation.

SD-116

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Transportation Safety Board.

SD-138

APRIL 3

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Agricultural Stabilization and Conservation Service, the Foreign Agricultural Service, the General Sales Manager, and the Soil Conservation Service.

SD-138

APRIL 7

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.

SD-138

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.

S-146, Capitol

APRIL 8

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETs, American Ex-POWs, Jewish War Veterans, Non-Commissioned Officers Association, National Association for Uniformed Services, and Society of Military Widows.

SD-106

APRIL 9

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Aeronautics and Space Administration.

SD-G50

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Oceanic and Atmospheric Administration, and the Small Business Administration.

S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for Amtrak, and the Federal Railroad Administration, Department of Transportation.
SD-138

APRIL 29

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Information Agency, and the Board for International Broadcasting.
S-146, Capitol

APRIL 30

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development.
SD-G50

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Transit Agency, and the Washington Metropolitan Area Transit Authority.
SD-138

MAY 7

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Veterans Affairs, and the Court of Veterans Affairs.
SD-124

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Coast Guard, Department of Transportation.
SD-138

MAY 14

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Emergency Management Agency.
SD-124

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Aviation Administration, Department of Transportation.
SD-138

MAY 21

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Community Service, and the Points of Light Foundation.
SD-116

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the General Accounting Office.
SD-138

MAY 22

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development and certain related agencies.
SD-138

POSTPONEMENTS

FEBRUARY 27

10:00 a.m.
Environment and Public Works
To hold hearings on the President's proposed budget request for fiscal year 1993 for the Environmental Protection Agency.
SD-406

HOUSE OF REPRESENTATIVES—*Thursday, February 27, 1992*

The House met at 10 a.m.

The Reverend Tom Cox, Emmaus United Church of Christ, Vienna, VA, offered the following prayer:

O gracious and eternal God, let Your sovereign majesty now take possession of our hearts, that in all we do we may honor You, and trust utterly in Your care.

Thanks be to You for all who have loved this land, who have longed for freedom, justice and prosperity within our borders, and have given themselves for the fulfillment of their longings. Thanks be to You for all who have labored for a friendly world, and have spent themselves in their pursuit of peace. Speak through their memory, O God, and mercifully grant to us who would serve our Nation, grace and courage to further every cause of goodness and truth which they have served. To You, O God, be all honor and glory. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ECKART. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ECKART. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 285, nays 115, answered "present" 1, not voting 33, as follows:

[Roll No. 26]

YEAS—285

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Clement
Clinger
Coleman (TX)
Collins (IL)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
DeFazio
DeLauro
Dellums
Derrick
Dicks
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ravenel
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (WY)
Thornton
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—115

Allard
Allen
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Cox (CA)
Cunningham
Dannemeyer
DeLay
Doolittle
Dreier
Duncan
Emerson
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Hunter
Inhofe
Ireland
Jacobs
James
Kolbe
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Marlenee
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Murphy
Nussle
Paxon
Pursell
Ramstad
Regula
Rhodes
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stump
Taylor (NC)
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Broomfield

NOT VOTING—33

Alexander
Berman
Carr
Chapman
Collins (MI)
Crane
de la Garza
Dickinson
Dingell
Dixon
Dornan (CA)
Edwards (OK)
Gaydos
Holloway
Kolter
Kyl
Meyers
Mfume
Moakley
Murtha
Petri
Rangel
Ray
Riggs
Sanders
Savage
Scheuer
Sundquist
Thomas (GA)
Torres
Towns
Waters
Whitten

□ 1022

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. McNULTY). Will the gentleman from Florida [Mr. LEWIS] kindly come forward and lead the House in the Pledge of Allegiance.

Mr. LEWIS of Florida led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

□This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4113. An act to permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier U.S.S. *Lexington* to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorial.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2269. An act to temporarily extend the Defense Production Act of 1950.

THE REVEREND TOM COX

(Mr. SKAGGS asked and was given permission to address the House for 1 minute.)

Mr. SKAGGS. Mr. Speaker, it is my pleasure to introduce to the House this morning our guest pastor, Rev. Tom Cox, my pastor at the Emmaus United Church of Christ in Vienna, VA.

Tom is a native Minnesotan, a graduate of Harvard College and Union Theological Seminary, and founded the Emmaus Church back in 1964, and has been its only pastor since then.

It has been my pleasure and privilege to listen to his thoughtful sermons over the last several years, and I hope that the Members will make him welcome in the House today.

DEFENSE CUTS: NEW LEGISLATION

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, America has emerged the victor in the cold war, and now faces a new economic challenge. We must address the issue of economic conversion as we scale back our defense budget in the postcold war era.

California has been hit especially hard as the cold war has drawn to a close and every congressional district will feel the impact.

I support the defense cuts that were proposed by the President. I also believe that savings from reduced defense spending should go toward the reducing of our spiraling Federal deficit. For this reason today I introduce legislation expressing the sense of Congress that this and any future reduction in defense spending should be used for deficit reduction.

Even before the President announced new and deeper cuts in the defense budget it was estimated that as many as 800,000 jobs will be lost as a result of the current cuts in defense spending. I believe we must also spur the economy to balance the negative effects from reduced spending. To do this we must encourage increases in research and development in the technology and aerospace industry.

I am introducing legislation that will both permanently extend the research and experimental credits and to permanently reinstate the investment tax credits.

MIDDLE-INCOME AMERICANS, THIS ONE IS FOR YOU

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, there is a popular television commercial that says "This one is for you," and today with the tax bill for middle-income people we can truly say "This one is for you," because for the middle class this gives up to $800 back for two-wage-earner families over 2 years, significant amounts to many of our families. The President promised something like this and then jerked it back.

For the middle-income person, there is tax credit for student loan interest to help working families keep their children in college. There are liberalized IRA withdrawals for first time home buyers and for educational and medical expenses. To create jobs so essential there are incentives for investment, including enterprise zones for urban and rural areas to attract businesses to these areas. There is a temporary investment tax allowance for businesses to buy new equipment this year.

Finally, this is paid for honestly, by asking those couples earning approximately $200,000 a year to pay a slightly larger percentage of income tax and by imposing a surcharge of 10 percent on millionaires.

Tax fairness, investment, Mr. Speaker, for middle-income people, "This one is for you."

AMERICANS WANT AN ECONOMIC GROWTH PACKAGE

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, in the past few months, all of us have been asked to help get our economy on track. Americans have said many enlightening things.

Just as important is what they have not said. They have not asked us to invent a bad imitation of the President's proposals for the sole purposes of voting it down.

They also never asked for a bill meant solely for a Presidential veto so that our troubles can be continued.

I also never heard anyone ask for 55 cents a day for 2 years, in exchange for a permanent tax increase and an increase in the deficit, all in a package that would actually harm the economy, and do nothing for millions of teachers, law enforcement officers, firefighters, and senior citizens.

No. Mr. Speaker, Americans want an economic growth package that will spur this economy ahead. They do not care about elections, they care about taking care of their families.

Mr. Speaker, let us end this political charade, and, for once, work together on behalf of America. We will all be better off for it. Mr. Speaker, that is what we were sent here to do.

□ 1030

AN ECONOMIC PROPOSAL TO JUMP-START NATION'S TROUBLED ECONOMY

(Mr. BRUCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRUCE. Mr. Speaker, today, we will vote on an economic proposal that is designed to jump-start our Nation's troubled economy. With 8.9 million Americans unemployed and millions more that face economic uncertainty everyday, members of the Ways and Means Committee should be applauded for bringing this issue to the floor in such an expedient fashion.

The plan being introduced by Chairman ROSTENKOWSKI is comprehensive and far reaching. To list the positive points of the bill would take more time than I have here today, but there are certain aspects that I think are especially noteworthy.

It will begin to make the Tax Code equitable by providing middle income Americans with a refundable tax credit of up to $400. It will encourage children of working families to pursue a college education by offering a nonrefundable tax credit of 15 percent for interest paid on educational loans. And it makes permanent a number of important tax credits including research expenditures and the targeted jobs provision.

For these reasons and many more, I will support the chairman's package, and I urge my colleague to do the same. But, let it be made perfectly clear that we, as representatives of the people, have a responsibility and an obligation to do more. We must make a commitment to be active participants in the economic revitalization of this country. We must listen and work with businesses, labor organizations, and local and State governments to finish the work we have started here today. We are in this recession in no small part because of the policies of 12 years of Republican administrations. So no one should expect that we can fix all the problems in one day.

I have before this Congress two bills that will increase the rate of job creation for large scale construction work, and help keep existing jobs we have in the troubled coal industry. If we are serious about making real changes in our Nation's economic structure, then we must seriously consider proposals such as mine, and any other measure that promotes investment and commitment for the American worker.

HONEST ECONOMIC ANALYSIS NEEDED

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, later today we will hear the Democrats come to the floor touting all the wonderful economic benefits that will come from the tax package they will offer.

For their research and analysis of these benefits, they will rely on the Congressional Budget Office, because they own it.

Mr. Speaker, let us see what the Congressional Budget Office has done for us. In 1990 the Democrats were cobbling out their budget deal, the Congressional Budget Office made a $134 billion error in the projection of capital gains earnings. Once they had that error in the projection of earnings, they then complicated the matter further by applying a projection of future tax revenue from taxing those earnings that also never would materialize. That gave us an overprojection of the increased money for the Democrats to spend. They spent it, and as you can see, over the 5-year life of that agreement, we have generated an enormous amount of red ink in the form of increased deficit.

It goes as high as $200 billion by the end of the fifth year. What we need to do, Mr. Speaker, is make sure that there is some honest economic analysis behind all of the outrageous claims we will hear on the floor today.

NOW IS TIME TO EXERCISE LEADERSHIP

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today we come face to face with middle-class Americans. We will look them squarely in the eye and tell them whether or not we had the courage to help them when they needed us most. We can fulfill the promises we have made to them over the past year, promises of tax relief and fairness, or we can turn our backs. But either way, we cannot avoid the choice.

Today we can vote to return some of the hope that has been drained away from middle-class Americans during the past decade. We can restore some of the trust and confidence they have lost in Government. We can give them some real tax relief, we can restore fairness to the tax system, we can help create new jobs and we can prove to them that we are able to respond to their needs.

Today we can have an opportunity to assist working middle-class families cope with the effects of a recession that has left them devastated. This bill boosts the economy by helping first time home buyers, providing financial assistance for education, helping small business invest in the future.

Mr. Speaker, we cannot underestimate the importance of today's vote. Consumer confidence is at its lowest level in nearly 20 years. Major American manufacturers are laying off tens of thousands of workers. People are suffering from the debilitating effects of a 2-year recession. The people we represent need help now. They cannot wait any longer for it to trickle down.

If we are ever going to exercise leadership, now is the time, today is the day.

Vote for the Democratic alternative.

LINE-ITEM VETO AND CONGRESSIONAL SPENDING

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, in 1991 General Motors took a $4.4 billion loss and took drastic steps to reduce spending. They understood that they cannot survive unless they reduce spending.

Last year, however, the Federal Government took a loss of $268 billion, but Congress continues to spend on wasteful projects.

Last week Citizens Against Government Waste released its 1992 Congressional Pig Book, right here. This book highlights dozens and dozens of wasteful Federal spending projects and demonstrates the contempt Congress has shown to taxpayers.

Mr. Speaker, is it not about time that Congress spent only on what is absolutely necessary, not just desirable? We must balance our budget. We must bring the Federal spending under control, and the line-item veto is one of the best ways to do it.

Because the Democratic leadership in Congress will not give the President a line-item veto, I encourage the President to test it constitutionally and try it anyway. America needs a bold and drastic action to combat these difficult economic times. The line-item veto would be a bold step in the right direction.

ANNOUNCEMENT BY THE CHAIRMAN OF THE COMMITTEE ON RULES

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. I rise to notify members about the Rules Committee's plans for two measures: The budget resolution for fiscal year 1993 and H.R. 3732, the Budget Process Reform Act of 1991.

The Rules Committee hopes to meet next week, the week of March 2, on both bills.

We will meet, possibly as early as next Tuesday. In order to assure timely and fair consideration of the legislation on the floor, the Rules Committee may consider two rules that structure the offering of amendments.

I take this opportunity to advise Members who wish to offer an amendment to either the budget resolution or to H.R. 3732, the Budget Process Reform Act.

Members contemplating amendments to either measure should submit to the Rules Committee, in H-312 in the Capitol, 55 copies of the amendment, along with a brief explanation, no later than 5 p.m. on Monday, March 2, 1992.

Finally, for those contemplating amendments only to the budget resolution, the Rules Committee generally looks more favorably on substitutes during this debate. Cut-and-bite amendments to a budget resolution only duplicate choices that will be made again later during the authorization and appropriations process.

I have sent two "Dear Colleague" letters in this morning's mail: One regarding H.R. 3732 and the other on the budget resolution for fiscal year 1993.

We appreciate the cooperation of all Members in this effort to be fair and orderly in granting rules.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I am happy to yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I just want to ask the chairman, because I am a little confused. I noticed this reference in an earlier letter that the gentleman sent out.

When will the budget resolution be available from the committee, from the Committee on the Budget, so that Members might look at them in order to develop amendments?

Mr. MOAKLEY. I have been told that the Committee on the Budget is marking the bill up today.

Mr. GINGRICH. So the committee will presumably report later today. And do we have any idea when that print might be available for Members?

Mr. MOAKLEY. I do not know that.

Mr. GINGRICH. So if I might, Mr. Speaker, the House, I believe, may not be in session tomorrow or it may only be in pro forma session, and I believe it is only either not in session or pro forma session on Monday. So I just might point out to the chairman that I understand the process by which the Committee on Rules is gradually tightening its grip on the House.

But I would simply point out to the chairman that he is now proposing to

Members that they have to take that document that they may not be able to get until tomorrow and develop 55 copies by the end of business Monday even though most Members may not be in town on either Friday or Monday. Is that correct?

Mr. MOAKLEY. Well, the Chair is trying to give as much notice as possible. We spoke to the chairman of the Committee on the Budget, and he said that he was working on the budget today.

Mr. GINGRICH. If the chairman will yield further, just one last time, and I don't mean to nag him, but I would simply point out to the House that if I were the chairman of the Committee on the Budget I would love an arrangement by which no one would have time to truly offer an amendment, because they had never read my budget, but it seems to me if you are a Member of the House not on the Committee on the Budget that this particular schedule is remarkably disadvantageous to the average Member who will not be here and whose staff will not get access to the document, and I will later on today, and I wish the chairman of the Committee on the Budget, if he notices this dialog, would come to the floor and announce the time at which the committee print will be available so that Members might have an opportunity to look at it.

I would rather have the budget, frankly, postponed a week if that is what it took to actually allow Members to read the budget and actually decide in an intelligent way to offer amendments.

I understand the committee chairmen love to minimize the opportunity for the rest of the House to have any effect, but it does seem to me that giving Members a chance to read the budget before the Committee on Rules deadline is not inappropriate.

□ 1040

Mr. MOAKLEY. I have just been informed that the budget will be available at the committee offices tomorrow.

Mr. TRAFICANT. Mr. Speaker, will the chairman yield to me?

Mr. MOAKLEY. I am glad to yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Speaker, I want to rise in support of what was just stated on the floor. I think that every Member of this body should have at least 7 days to read thoroughly and to understand the budget of our country.

I think this. I do not know if it is in order, but I would like to ask unanimous consent that there be at least 1 week's availability for all Members of this House to read the budget before action for amendments or pending rules be considered.

Mr. Speaker, I put that in the form of a unanimous-consent request.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman's request is not in order.

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER

Mrs. COLLINS of Illinois. Mr. Speaker, I already have a request in for a special order of 60 minutes, and I ask unanimous consent to be vacated from that 60-minute special order and ask in lieu thereof to be granted a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

REQUEST THAT MEMBERS BE GIVEN 1 WEEK TO READ BUDGET PROPOSAL

The SPEAKER pro tempore. For what reason does the gentleman from Ohio rise?

Mr. TRAFICANT. Mr. Speaker, I rise for the purpose of offering a unanimous-consent request to the Congress.

Mr. Speaker, I ask unanimous consent that all Members be given 1 week to read next year's budget proposal from the Budget Committee and that no rule be recommended or considered until that 1-week reading opportunity is granted to all Members of the House.

Mr. BILBRAY. Mr. Speaker, I object.

The SPEAKER pro tempore. The Chair has the power of recognition and the Chair declines to recognize the gentleman for that purpose and the gentleman cannot challenge that denial.

POINT OF ORDER

Mr. TRAFICANT. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Speaker, I would like to know under what rule of the House such action by the Chair is taken.

The SPEAKER pro tempore. Clause 2, rule XIV.

Mr. TRAFICANT. Mr. Speaker, a further point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. TRAFICANT. I would like to know what would be necessary by a Member of the House who would in fact oppose such a ruling of the Chair.

Mr. DANNEMEYER. Mr. Speaker, the gentleman can achieve that objective, noble as it is, by electing a new Speaker. Join with us in doing that.

Mr. TRAFICANT. A further point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. TRAFICANT. I am not interested in electing a new Speaker, but I am interested in having the Members of this body be able to read this bill.

I would advise the Democrats to maybe take serious what this request is.

Mr. COX of California. Mr. Speaker, I would advise the gentleman that he can appeal the ruling of the Chair and ask for a vote of the House on the ruling.

REAL ESTATE INDUSTRY NEEDS HELP

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, today the House will take up some provisions dealing with the Tax Code of this country. A very important vote.

The Democratic leadership has the votes in the House and in the Senate to change the tax laws as they see fit anytime the spirit moves them, but they are in a classic conflict-of-interest position. If they change the tax laws and the perception is the economy is improving, to that extent they lessen the chance that a nominee of the Democratic Party is going to make it to the White House.

I would hope they would resolve and use this political power to help the country, rather than their party; but when I look at the provisions of the tax bill they propose to bring to the floor today, I shake my head in sadness at the stewardship of power they are exhibiting. They seem to be helping their party more than their country.

Specifically, if there is one industry in this country that needs help, it is the real estate industry. We put them in the tank in 1986 when we raised capital gains taxes to a level which can only be described as confiscatory.

Now this Democratic package is going to extend the depreciation schedule for real estate an additional 10 years.

With that kind of tender concern, it is almost inevitable that it is going to hurt real estate more than it helps.

THE NEED FOR MORE BREAST CANCER RESEARCH

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I was very moved by reporter Cokie Roberts op-ed piece in Sunday's Washington Post, entitled "One Woman in Nine" in which she told a very poignant true story of going to two women friends' funerals in their fifties who were buried on the same day, waked at the same funeral home, and left mourning children and their husbands.

This mirrors the epidemic of breast cancer that kills 45,000 women every year. We need a comprehensive approach to this disease. It is more of an epidemic than AIDS, yet moneys for AIDS research gets 15 times more moneys to find a cure than breast cancer, and by the way, I support AIDS research.

I am tired of the low priority given to this disease, although we have made two small gains in recent years.

The President recommended $800 million more for AIDS research, and I support that, but zero for breast cancer research.

Mr. Speaker, I am introducing a comprehensive bill to lick breast cancer finally. I will not stop until we have cured this disease.

Mr. Speaker, I urge all the Members of this body to cosponsor the bill and end this epidemic that is killing our women and injuring our families, their health and their sanity.

The aforementioned article follows:

[From the Washington Post, Feb. 23, 1992]

ONE WOMAN IN NINE

(By Cokie Roberts)

No one should ever have to go to two funeral masses in one day, except perhaps priests and altar boys. It's clearly not women's work. But recently in Washington that's exactly what a number of women and some of their spouses did, as we said goodbye to two more friends in their fifties snatched away by that master of misogyny, breast cancer.

As we comforted each other, statistics on breast cancer rates were not foremost in our minds. We murmured instead of the husbands left behind, of the nine handsome children these two good women had between them, of the not-yet-born grandchildren our friends would never hold. We mourned the waste, the decades of productive life denied them.

But the reality so stunned us as we stood on the eve of the services in the funeral home, with one friend in a room to the left, another in a room to the right, that we found ourselves calculating the casualties, tabulating the toll of women we knew killed by breast cancer. Grimly we recited the numbers that fill us with fear: Breast cancer now strikes one in nine women in this country. Thirty years ago it was one is 20. Those startling figures have moved women in Congress to push for action as they see females falling to an enemy more deadly than in any recent war.

In contrast, to the 47,356 U.S. combat deaths in all the years of the Vietnam War, an estimated 44,500 women lost the battle with breast cancer just last year. And any witness to the contest knows that "battle" is a tame word to describe the struggle . . . the diagnoses and drugs, tests and treatments that usually require years of superhuman determination and fortitude to withstand. But prying research dollars out of the federal budget for breast cancer, or extending Medicare coverage to mammograms requires almost as much muscle as battling the disease itself. Had it not been for the women in Congress, and forays into the field from top brass such as Marilyn Quayle, plus phalanxes of female staffers and lobbyists, what little money there is would not be there.

As the breast cancer statistics mounted in recent years the congresswomen intensified their efforts, first working to get mammograms covered under the 1988 catastrophic health insurance bill. Women of both parties guided the measure through their own committees, but one key subcommittee remained an all-male bastion. A female lobbyist who regularly worked that panel volunteered to ask a friendly congressman to introduce the mammogram language. "I can't do that," he protested, "I did the last women's thing, the guys will think I'm soft on women." "Fear not," the lobbyist replied, "Just tell them you're a breast man." He did and it worked.

But in 1989 the catastrophic law was repealed, and mammogram coverage with it. The women in Congress stubbornly insisted on restoring the benefit, by raising the issue constantly, until mammograms made their way into the budget agreement of 1990, although it had to be done at the expense of a White House proposal for serving preschoolers. Medicare now covers up to $55 for mammograms every two years, considerably less than the high-tech X-rays cost in many areas.

Money for breast cancer research has been equally hard to come by. As women in Congress watched—and in most cases applauded—the increases in funds for AIDS research and prevention they also cautioned their colleagues that AIDS money now outpaces all cancer dollars combined. The congresswomen fought for funds for the greater killer, and they succeeded in getting a significant increase for this year: $133 million for breast cancer. That's up more than $40 million from last year, but still only a small percentage of the total funding for the National Cancer Institute, which is almost $2 billion.

Though some congresswomen grumble that the breast cancer dollars would be greater if men got the disease, they carefully add that they do not want to set up a competition among cancers. No woman does. We all know too many people stricken with other forms of cancer. My own sister died of melanoma when she was even younger than my two friends, and one of my favorite men in the family was younger yet when he died of liver cancer on Christmas morning.

But breast cancer's toll on women, along with its mysteriously increasing incidence, puts it in a special category. The latest attempt at combat comes from Rep. Mary Rose Oakar, who is preparing legislation calling for full funding of the National Cancer Institute's research request to the president of $220 million and establishment of a national breast cancer center aimed at encouraging researchers to get into the field.

But as long as so few women make it to Congress, the success of any drive for more research money must rely on the kindness of congressmen. They cannot leave the country's concerns about breast cancer to the distaff side. If fears for their mothers, sisters, wives and daughters don't spur them to act, then the effect of the disease on the work force, on productivity, on health care costs should. Otherwise many more of us will be joining the mourners at two funeral masses in one day.

SHARE THE PEACE DIVIDEND WITH OUR VETERANS

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, the cold war has ended. It seems that everyone has a suggestion on how we should be spending the so-called peace dividend. As everyone rushes to get his or her fair share of the pie, one individual is being lost in the scuffle—the veteran.

Today, there are over 28 million living veterans. They and those before them protected over personal liberties. They are the reasons that the United States is the mightiest, wealthiest, most secure Nation on Earth today. They are the reasons that the United States has been and will continue to be the bastion of support and solace for those in a world searching for freedom and human rights.

The time was come to make sure that we keep our promises to those who have shouldered the burden of our Nation's defense. Therefore, before we start dishing out pieces of the peace dividend pie, we must first look toward helping those brave men and women who sacrificed so much to bring about the end of the cold war to share the peace dividend with those who made it possible.

LET'S GO FOR THE GOLD MEDAL IN THE TAX FAIRNESS AND ECONOMIC GROWTH PACKAGE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, on the Olympic scoring system, the Democratic tax fairness and economic growth package before us today, which I intend to support, is possibly a 5.7 or 5.8. It is good, but not good enough for the gold.

When the bill moves to the conference, as I hope it will with the other body, we have an opportunity to improve on its shortcomings and add to its strengths.

In that setting, I spoke yesterday on how important it is to retain the enterprise zone section which is in the Democratic bill.

I would like to see added to the bill a first-time home buyers, tax credit, which is not in the package today.

I hope that the senior Senator from Texas adds to the Senate version of the bill private health insurance reform and also universal deductibility of the individual retirement accounts. They both are very important, in the opinion of the gentleman from Kentucky now speaking.

Furthermore, Mr. Speaker, I am happy the Democratic proposal makes permanent low-income housing tax credits, revenue mortgage bond authority, research and development tax credits and targeted jobs tax credits. They are made permanent in the Democratic bill, and they, I hope, will stay permanent in the conference report.

We are sending a silver medal to the conference. Let us bring back the gold.

FALSE PREMISES IN DEMOCRATIC TAX PACKAGE

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, the Democrats will be bringing to the floor a tax bill that they advertise as a tax cut for the middle class and a tax increase for the wealthy. That is false. There is no cut in income taxes for anyone in this bill, H.R. 4287.

In fact, the wealthy are defined in this bill as every American who makes $85,000. Now, let us think about this for a minute, because the Republican plan is to reduce tax rates for everyone, and the Democrats are reducing income tax rates for no one. They are raising tax rates, creating a new fourth income tax rate for every American who makes $85,000. That includes virtually every small business in America. Ninety percent of small businesses are taxed as proprietorships.

It includes not people who make $85,00 year in and year out alone, but somebody who did not make much money last year and will not make much money next year, but sold a small business this year or sold the family farm and has $85,000 of income. That is because the Democrats deleted income averaging just a few years back.

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The Republicans are interested in reducing tax rates across the board; the Democrats are raising tax rates on people that they call wealthy, and they mean you.

NEITHER TAX PLAN IS GOOD ENOUGH FOR AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, both the Democratic and Republican plans have one thing in common, they are both losers, stone-cold losers, because under both plans jobs will continue to go overseas, taking our dollars, jobs and investment with them.

But today I want to ask if Members of Congress have turned into a bunch of masochists? It is evident. The big export of America this month is Mickey Mouse, and we are now importing electricity from Canada for all these 1,000 points of light we keep voting on around here.

I really believe it, American workers do not want another election day token tax cut, they want a job and they want an opportunity to keep that job.

I am asking Congress to vote both of these things down. The Democratic plan is a better plan, but not good enough for our country.

INTRODUCTION OF PAN AM FLIGHT NO. 103 RESOLUTION

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FEIGHAN. Mr. Speaker, it has now been 3½ years since the brutal terrorist attack claimed the lives of 259 passengers on Pan Am flight 103 over Lockerbie, Scotland.

After an exhaustive international investigation conducted by law enforcement agencies of the United States and the United Kingdom, indictments were issued in November for two Libyan agents wanted for the Pan Am 103 attack.

On January 21, 1992, the U.N. Security Council passed a resolution calling upon Libya to provide a "full and effective response" to United States and British requests to hand over these two individuals.

What followed has been a game of cat and mouse between Libya and the international community. Threatened with the possibility of international sanctions, Libya has pledged cooperation, but has not delivered the two suspects.

President Ronald Reagan once described Libya as a member of a modern-day Murder Incorporated. It seemed to be an apt analogy, especially after a recent press report that Libya had bumped off the triggermen responsible for the attack. Given their appearance on CNN last week, reports of the two agents' demise have been greatly exaggerated.

It is tremendously important that the administration continue to pursue this case—not just to bring those responsible to justice, but to trace the crime back to its intellectual authors, to make sure we know exactly which individuals were involved and whether they acted with the knowledge or complicity of one or more governments.

Today, I am introducing a resolution calling upon the President to pursue all aspects of the attack on Pan Am 103; including those responsible for financing, planning, and executing the attack. In addition, the bill calls for a campaign of multilateral economic sanctions to be imposed against Libya, if it continues its defiance of the Security Council resolution.

I include herewith a copy of the resolution to appear following my remarks.

H. CON. RES. —

Whereas on December 21, 1988, Pan Am Flight 103 was destroyed by a bomb which killed all 259 people on board and 11 people on the ground.

Whereas investigators believe that the bomb was concealed in a radio-cassette player and planted in a forward luggage compartment of Flight 103;

Whereas an international investigation of the bombing initially focused on the activities of Iran, Syria, and the terrorist group known as the Popular Front for the Liberation of Palestine-General Command (PFLP-GC), headed by a Syrian intelligence officer named Ahmed Jabril;

Whereas investigators originally believed that the attack was planned by Iran as retaliation for the accidental downing by the United States of an Iranian airliner in 1988 and that Iran had paid Ahmed Jabril to carry out this plan;

Whereas in October of 1988, West German police conducted a number of raids against PFLP-GC cells in West Germany, seizing a large cache of weapons, explosives, and a radio cassette player, and days after the raids, West German officials discovered in the car of a PFLP-GC member a second radio cassette player rigged as a bomb and equipped with a barometric trigger;

Whereas the discovery in Scotland of a microchip from the timing device of the bomb shifted the focus of the international investigation to the Libyan intelligence service which had purchased 20 such timers from a Swiss manufacturer in 1985 and 1986;

Whereas investigators first theorized that Libyan intelligence operatives carried out the attack after taking control of the operation from the PFLP-GC, they later concluded that the bombing was an operation backed by elements of the Libyan Government seeking retaliation for the 1986 United States military attack against Libya;

Whereas these agents used the knowledge and access gained from their official Libyan government status as representatives of Libyan Arab Airlines to facilitate the bombing of Flight 103;

Whereas on November 13, 1991, the United States issued 193-count indictments against two Libyan intelligence operatives, Abdel Basset Ali al-Megrahi and Lamen Khalifa Fhimah, in connection with the bombing of Flight 103;

Whereas on January 21, 1992, the United Nations Security Council passed a resolution urging Libya to provide a full and effective response to the requests of the governments of the United Kingdom, the United States, and France to surrender those individuals indicted for the bombing of Flight 103 and the bombing of Union des Transports Airiens Flight 772, which exploded over Niger in September 1989, killing 177 passengers; and

Whereas in 1979 and for each year thereafter Libya has been identified by the Secretary of State as a country that has repeatedly provided support for acts of international terrorism and has been the subject of bilateral sanctions imposed by the United States government: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the President should continue his efforts to pursue all those responsible for the bombing of Pan Am Flight 103, including the parties responsible for financing, planning, and carrying out the bombing;

(2) the President should take appropriate steps in the United Nations Security Council to secure the support of the United Nations in enforcing economic sanctions against Libya if the Libyan government refuses to comply fully with United Nations Security Council Resolution 731 (1991);

(3) the President should consider the following sanctions against Libya, to be implemented on a multilateral basis: cutting civilian air links with Libya; banning aircraft spare parts sales to Libya; banning government and commercial contracts with the government of Libya; ending oil purchases from Libyan sources; and banning the sale of all equipment and related technology used by the Libyan oil industry;

(4) the President should direct all appropriate United States agencies to continue to investigate the bombing of Flight 103 in order to identify all individuals and all governments in any way responsible for the

bombing, to bring all such parties to justice, and to seek compensation for the families of the victims of the bombing; and

(5) the President should take all necessary steps to implement fully the requirements of the Aviation Security Improvement Act of 1990, which was based on the recommendations of the President's Commission on Aviation Security and Terrorism.

THE RULE ON THE $1.4 TRILLION BUDGET

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. speaker, a few minutes ago, the Republican whip pointed out to the House and to the people who are paying attention to what is going on around here that we are going to have no time to review a $1.4 trillion budget.

The Committee on Rules is giving us until Monday to file amendments to that $1.4 trillion budget, and we are not going to be here tomorrow and Monday.

So, how can any Member of the House really review that budget and get amendments to the floor in time to make any positive changes to that big spending bill?

The people of this country are fed up with Congress, they are fed up with Washington, because we are blowing all this money and we are raising their taxes and we are here—they are, the Democrats, in charge of the Committee on Rules—they are bringing a $1.4 trillion budget to the floor of the House without giving anybody an opportunity to amend it.

I think that is tragic, and the American people ought to pay particular attention to what they are doing.

CLARIFICATION OF THE BUDGET DEFICIT

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, did you hear what the last gentleman from Indiana just said? We do not even get this until tomorrow to look at this budget.

Now, no nation in the history of civilization has ever been so successful at raising taxes as these United States of America. We are going to raise more than last year, as we did the year before that and that and that and that and that. We are going to raise over $1 trillion. But it is not enough.

We want to spend $1.4 trillion. So we are going to have a Federal deficit this year of somewhere between $380 billion and $400 billion-plus.

Now, get out your pencils, come on now, get out your pencils and write this down. Let us do a little arithmetic. We have the advantage of a leap year because there are 366 days in this year.

Divide that into $400 billion. and that is not the real budget, because we deducted all of our trust funds—the highway trust fund, Social Security, airways and airports trust funds.

But let us just take the $400 billion. That comes out to $1,093,000,000 today and Sunday and holidays.

How much is that per hour? It is $45.5 billion a day. How much per minute? It is $759,000 a minute. How much per second, Mr. Speaker? It is 1,650 bucks, this second, and this second, and this second, and this second.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair would remind our guests in the gallery that we are delighted to have them here but they are to refrain from responding either negatively or positively to any statements made on the floor.

AUTHORIZING QUORUM CALLS DURING DEBATE ON H.R. 4210, ECONOMIC GROWTH ACCELERATION ACT OF 1992

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that during the consideration of H.R. 4210 in the Committee of the Whole a quorum call be in order with not more than 15 minutes of debate remaining on each of the two amendments made in order by the rule, House Resolution 374.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ECONOMIC GROWTH ACCELERATION ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 374 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4210

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, with Mr. DERRICK in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, February 26, 1992, the amendment in the nature of a substitute consisting of the text of the bill H.R. 4210 had been disposed of.

Pursuant to the rule, no further amendment to the bill is in order except the following two amendments:

First, an amendment in the nature of a substitute consisting of the text of the bill H.R. 4200, as modified by the amendment printed in section 2 of House Resolution 374, to be offered by the gentleman from Illinois, [Mr. MICHEL], or the gentleman from Texas [Mr. ARCHER] or their designee; and

Second, an amendment in the nature of a substitute consisting of the text of the bill H.R. 4287, to be offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] or his designee.

Each amendment is considered as read, is not subject to amendment and is debatable for 1 hour, equally divided and controlled between the proponent and an opponent of the amendment. If more than one amendment in the nature of a substitute is adopted, only the last amendment adopted is considered as finally adopted.

It is now in order to debate the amendment in the nature of a substitute consisting of the text of the bill H.R. 4200, as modified by the amendment printed in section 2 of House Resolution 374.

AMENDMENT IN THE NATURE OF A SUBSTITUTE, AS MODIFIED, OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Chairman, I offer an amendment in the nature of a substitute, as modified.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment in the nature of a substitute, as modified, is as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Growth and Job Creation Act of 1992".

SEC. 2. TABLE OF TITLES.

TITLE I—ENHANCED ECONOMIC RECOVERY ACT OF 1992

TITLE II—FEDERAL INSURANCE ACCOUNTING ACT OF 1992

TITLE III—PENSION SECURITY ACT OF 1992

TITLE IV—ELIMINATE THE STATUTE OF LIMITATIONS ON THE COLLECTION OF DEFAULTED GUARANTEED STUDENT LOANS

TITLE V—EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES

TITLE I—ENHANCED ECONOMIC RECOVERY ACT OF 1992

SECTION 101. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Enhanced Economic Recovery Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 SHALL NOT APPLY.—Except as otherwise expressly provided, no amendment made by this title shall be treated as a change in rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

TABLE OF CONTENTS

TITLE I—ENHANCED ECONOMIC RECOVERY ACT OF 1992

Sec. 101. Short title, etc.

Subtitle A—Provisions Relating to Capital Gains

Sec. 111. Reduction in capital gains tax for noncorporate taxpayers.
Sec. 112. Recapture under section 1250 of total amount of depreciation.

Subtitle B—Provisions Relating to Passive Losses and Depreciation

Sec. 121. Passive loss relief for real estate developers.
Sec. 122. Special allowance for equipment acquired in 1992.
Sec. 123. Elimination of ACE depreciation adjustment.

Subtitle C—Provisions Relating to Real Estate Investments by Pension Funds

Sec. 131. Real property acquired by a qualified organization.
Sec. 132. Special rules for investments in partnerships.

Subtitle D—Provisions Affecting Homebuyers

Sec. 141. Credit for first-time homebuyers.
Sec. 142. Penalty-free withdrawals for first home purchase.

Subtitle A—Provisions Relating to Capital Gains

SEC. 111. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) DEDUCTION ALLOWED FOR CAPITAL GAINS.—

"(1) IN GENERAL.—If, for any taxable year, a taxpayer other than a corporation has a net capital gain, an amount equal to the sum of the applicable percentages of the applicable capital gain shall be allowed as a deduction.

"(2) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under paragraph (1) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by income beneficiaries (other than corporations) as gain derived from the sale or exchange of capital assets.

"(b) APPLICABLE PERCENTAGES.—For purposes of this subsection, the applicable percentages shall be the percentages determined in accordance with the following table:

"In the case of:	**The applicable percentage is:**
1-year gain	15
2-year gain	30
3-year gain	45

"(c) GAIN TO WHICH DEDUCTION APPLIES.—For purposes of this section—

"(1) APPLICABLE CAPITAL GAIN.—The term 'applicable capital gain' means 1-year gain, 2-year gain, or 3-year gain determined by taking into account only gain which is properly taken into account on or after February 1, 1992.

"(2) 3-YEAR GAIN.—The term '3-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 3 years.

"(3) 2-YEAR GAIN.—The term '2-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by 3-year gain, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 2 years but not more than 3 years.

"(4) 1-YEAR GAIN.—The term '1-year gain' means the net capital gain for the taxable year determined by taking into account only—

"(A) gain from the sale or exchange of assets held more than 1 year but not more than 2 years, and

"(B) losses from the sale or exchange of assets held more than 1 year.

"(5) SPECIAL RULES FOR GAIN ALLOCABLE TO PERIODS BEFORE 1994.—For purposes of this section—

"(A) GAIN ALLOCABLE TO PERIODS BEGINNING ON OR AFTER FEBRUARY 1, 1992 AND BEFORE 1993.—In the case of any gain from any sale or exchange which is properly taken into account for the period beginning on February 1, 1992 and ending on December 31, 1992, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 3-year gain.

"(B) GAIN ALLOCABLE TO 1993.—In the case of any gain from any sale or exchange which is properly taken into account for periods during 1993, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 2-year gain and 3-year gain, respectively.

"(6) SPECIAL RULES FOR PASS-THROUGH ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-through entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

"(B) PASS-THROUGH ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-through entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(7) RECAPTURE OF NET ORDINARY LOSS UNDER SECTION 1231.—For purposes of this subsection, if any amount is treated as ordinary income under section 1231(c) for any taxable year—

"(A) the amount so treated shall be allocated proportionately among the section 1231 gains (as defined in section 1231(a)) for such taxable year, and

"(B) the amount so allocated to any such gain shall reduce the amount of such gain."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Section 56(b)(1) is amended by adding at the end thereof the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION DISALLOWANCE.—Except with respect to gains realized on the sale, exchange, or other disposition of a direct or indirect interest in real estate or in a closely-held business, the deduction under section 1202 shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Subparagraph (B) of section 170(e)(1) is amended by inserting "the nondeductible percentage" before "the amount of gain".

(B) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), the term 'nondeductible percentage' means 100 percent minus the applicable percentage with respect to such property under section 1202(b), or, in the case of a corporation, 100 percent."

(4)(A) Paragraph (2) of section 172(d) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 221 (as redesignated by section 224(a) of this Act) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deductions for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 (as amended by section 224(c) of this Act) is amended by striking "reference" in the item relating to section 221 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for net capital gain) shall not be taken into account."

(8) Subparagraph (C) of section 643(a)(6) is amended—

(A) by inserting "(i)" before "there", and

(B) by inserting ", and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account" before the period at the end thereof.

(9) Paragraph (4) of section 691(c) is amended by striking "1202, and 1211" and inserting "1201, 1202, and 1211".

(10) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(11) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(12)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence.

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act of 1936, is amended by striking the last sentence.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Reduction in capital gains tax for noncorporate taxpayers."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after February 1, 1992.

(2) TREATMENT OF COLLECTIBLES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after February 1, 1993.

(B) SPECIAL RULE FOR 1992 TAXABLE YEAR.—In the case of any taxable year which includes February 1, 1992, for purposes of section 1202 of the Internal Revenue Code of 1986 and section 1(g) of such Code, any gain or loss from the sale or exchange of a collectible (within the meaning of section 1222(12) of such Code) shall be treated as gain or loss from a sale or exchange occurring before such date.

SEC. 112. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect to such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle. Notwithstanding any other provision of this chapter, in the case of a taxpayer other than a corporation, any amount treated as ordinary income under this subsection shall be subject to tax at a rate not in excess of 28 percent.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1968, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECITATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of section 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraphs (1) and by redesignating paragraph (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(11) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions made on or after February 1, 1992, in taxable years ending on or after such date.

Subtitle B—Provisions Relating to Passive Losses and Depreciation

SEC. 121. PASSIVE LOSS RELIEF FOR REAL ESTATE DEVELOPERS.

(a) TREATMENT OF REAL ESTATE DEVELOPMENT ACTIVITIES.—Subsection (c) of section 469 (relating to the limitation on passive activity losses and credits) is amended by adding at the end the following new paragraph:

"(7) REAL ESTATE DEVELOPMENT ACTIVITY.—The real estate development activity of a taxpayer shall be treated as a single trade or business activity that is not a rental activity."

"(b) DEFINITION.—Subsection (j) of section 469 is amended by adding at the end thereof the following new paragraph:

"(13) REAL ESTATE DEVELOPMENT ACTIVITY.—

"(A) IN GENERAL.—The real estate development activity of a taxpayer shall include all activities of the taxpayer (determined without regard to subsection (c)(7) and this paragraph) in which the taxpayer actively participates and that consist of the performance of real estate development services and the rental of any qualified real property.

"(B) REAL ESTATE DEVELOPMENT SERVICES.—For purposes of this paragraph, real estate development services include only the construction, substantial renovation, and management of real property and the lease-up and sale of real property in which the taxpayer holds an interest of not less than 10 percent.

"(C) QUALIFIED REAL PROPERTY.—For purposes of this paragraph, the term "qualified real property" means any real property that was constructed or substantially renovated in an activity of the taxpayer at a time when the taxpayer materially participated in such activity.

"(c) EFFECTIVE DATE.—The amendments made by this section are effective for taxable years ending on or after December 31, 1992.

SEC. 122. SPECIAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 is amended by adding at the end thereof the following new subsection:

"(j) SPECIAL RULE FOR EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—There shall be allowed, in addition to the reasonable allowance provided for by section 167(a), a depreciation deduction determined under paragraph (2) with respect to qualified equipment.

"(2) DETERMINATION OF ADDITIONAL ALLOWANCE.—

"(A) IN GENERAL.—The additional allowance shall equal 15 percent of the purchase price of the qualified equipment.

"(B) PURCHASE PRICE.—For purposes of paragraph (A), the purchase price of qualified equipment shall equal its cost to the taxpayer. In the case of self-constructed property that is qualified equipment under paragraph (4)(D), cost is determined on the date the property is placed in service.

"(3) WHEN ADDITIONAL ALLOWANCE MAY BE CLAIMED.—The additional allowance may be claimed in the tax year in which the qualified equipment is placed in service.

"(4) DEFINITIONS AND SPECIAL RULES.—

"(A) QUALIFIED EQUIPMENT.—For purposes of this subsection, the term 'qualified equipment' means property that—

"(i) is new property,

"(ii) is section 1245 property (within the meaning of section 1245(a)(3)),

"(iii) is—

"(I) acquired on or after February 1, 1992, but only if no binding contract for the acquisition was in effect before that date, or

"(II) acquired pursuant to a binding contract entered into on or after February 1, 1992, and before January 1, 1993,

"(iv) is placed in service before July 1, 1993, and

"(v) is not defined as disqualified property in regulations prescribed by the Secretary.

"(B) NEW PROPERTY.—For purposes of this paragraph, property is new property if the original use of the property commences with the taxpayer and commences on or after February 1, 1992. Except as otherwise provided in regulations, repaired or reconstructed property is not new property, regardless of the extent of the repairs or reconstruction.

"(C) ACQUIRE.—For purposes of this paragraph, a taxpayer is considered to 'acquire' property on the date the taxpayer obtains physical control or possession of the property, or on such other date as the Secretary may prescribe by regulations.

"(D) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—If a taxpayer manufactures, constructs, or produces property for the taxpayer's own use, the property shall be treated as 'qualified equipment' only if—

"(i) the property meets the requirements of clauses (i), (ii), (iv), and (v) of paragraph (4)(A), and

"(ii) the taxpayer begins manufacturing, constructing, or producing the property on or after February 1, 1992, and before January 1, 1993.

"(E) COORDINATION WITH SECTION 280F.—In the case of a passenger automobile (within the meaning of section 280F(d)(5)) that is qualified equipment under this subsection, the Commissioner shall adjust the limitations of section 280F(a)(1) to take into account the additional allowance under this subsection. Consistent with the overall purpose of section 280F, such adjustments shall be based on the threshhold cost at which the section 280F(a)(1) limitations begin to apply.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(b) BASIS ADJUSTMENTS.—Subsection (c) of section 167 is amended by adding at the end thereof the following new sentence: "If a taxpayer claims the additional allowance provided by section 168(j) with respect to qualified equipment in a taxable year, the basis of the qualified equipment is reduced under section 1016 by the amount of the additional allowance before the depreciation deduction under paragraph (a) is determined for that taxable year."

(c) ALTERNATIVE MINIMUM TAX.—Paragraph (1) of section 56(a) is amended—

(1) by inserting "or (iii)" after "(ii)" in subparagraph (A)(i), and

(2) by adding at the end thereof the following new clause:

"(iii) The additional allowance provided by section 168(j) for certain equipment shall apply in determining the amount of alternative minimum taxable income. The basis adjustment required for the additional allowance provided by section 168(j) shall be made before the depreciation deduction allowable in determining alternative minimum taxable income under this paragraph is determined."

(d) CROSS REFERENCE.—Subsection (e) of section 1016 is amended by adding at the end thereof the following new paragraph:

"(3) For the order in which basis adjustments should be made for depreciation in the case of property with respect to which the special additional allowance is claimed under section 168(j), see section 167(c)."

(e) EFFECTIVE DATE.—The amendments made by this section are effective February 1, 1992.

SEC. 123. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) GENERAL RULE.—Clause (i) of section 56(g)(4)(A) is amended to read as follows:

"(i) PROPERTY PLACED IN SERVICE AFTER 1989 AND PRIOR TO FEBRUARY 1, 1992.—The depreciation deduction with respect to any property placed in service—

"(I) in a taxable year beginning after 1989, and

"(II) prior to February 1, 1992,

shall be determined under the alternative system of section 168(g)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for property placed in service on or after February 1, 1992.

Subtitle C—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 131. REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) INTERESTS IN MORTGAGES.—The last sentence of subparagraph (B) of section 514(c)(9) is hereby transferred to subparagraph (A) of section 514(c)(9) and added at the end thereof.

(b) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—For purposes of section 514(c)(9)(B), except as otherwise provided by regulations, the following additional rules apply—

"(i) IN GENERAL.—

"(I) For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(II) Clause (v) of subparagraph (B) shall not apply to the extent the financing is commercially reasonable and is on substantially the same terms as loans involving unrelated persons; for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary.

"(ii) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—In the case of a qualifying sale out of foreclosure by a financial institution, clauses (i) and (ii) of subparagraph (B) shall not apply. For this purpose, a 'qualifying sale out of foreclosure by a financial institution' exists where—

"(I) a qualified organization acquires real property from a person (a 'financial institution') described in sections 581 or 591(a) (including a person in receivership) and the financial institution acquired the property pursuant to a bid at foreclosure or by operation of an agreement or of process of law after a default on indebtedness which the property secured ('foreclosure'), and the financial institution treats any income realized from the sale or exchange of the property as ordinary income,

"(II) the amount of the financing provided by the financial institution does not exceed the amount of the financial institution's outstanding indebtedness (determined without regard to accrued but unpaid interest) with respect to the property at the time of foreclosure,

"(III) the financing provided by the financial institution is commercially reasonable and is on substantially the same terms as loans between unrelated persons for sales of foreclosed property (for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary), and

"(IV) the amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property ('participation feature') does not exceed 25 percent of the principal amount of the financing provided by the financial institution, and the participation feature is payable no later than the earlier of satisfaction of the financing or disposition of the property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt-financed acquisitions or real estate made on or after February 1, 1992.

SEC. 132. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 131 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(H) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) investments in the partnership are organized into units that are marketed primarily to individuals expected to be taxed at the maximum rate prescribed for individuals under section 1.

"(II) at least 50 percent of each class of interests is owned by such individuals,

"(III) the partners that are qualified organizations owning interests in a class participate on substantially the same terms as other partners owning interests in that class, and

"(IV) the principal purpose of partnership allocations is not tax avoidance.

"(ii) EXCEPTION WHERE TAXABLE PERSONS OWN A SIGNIFICANT PERCENTAGE.—In the case of any partnership, other than a partnership to which clause (i) applies, in which persons who are expected (under the regulations to be prescribed by the Secretary), at the time the partnership is formed, to pay tax at the maximum rate prescribed in section 1 or 11 (whichever is applicable) through the term of the partnership own at least a 25 percent interest, the provisions of subparagraph (B) shall not apply if the partnership satisfies the requirements of subparagraph (E)."

(b) PUBLICLY TRADED PARTNERSHIPS; UNRELATED BUSINESS INCOME FROM PARTNERSHIPS.—Subsection (c) of section 512 is amended by striking paragraph (2) (relating to publicly traded partnerships), by redesignating paragraph (3) as paragraph (2), and by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

Subtitle D—Provisions Affecting Homebuyers

SEC. 141. CREDIT FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—Subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases a principal residence (within the meaning of section 1034), there shall be allowed to such individual as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the purchase price of the principal residence.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed $5,000.

"(2) LIMITATION TO ONE RESIDENCE.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return under section 6013, the credit under this section is allowable only if both the husband and wife are first-time homebuyers, and the amount specified under paragraph (1) shall apply to the joint return.

"(4) OTHER TAXPAYERS.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and the sum of the amount of credit allowed to such individuals shall not exceed the lesser of $5,000 or 10 percent of the total purchase price of the residence. The amount of any credit allowable under this section shall be apportioned among such individuals under regulations to be prescribed by the Secretary.

"(5) APPLICATION WITH OTHER CREDITS.—

"(A) GENERAL RULE.—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of any other credits allowable under this chapter.

"(B) CARRYFORWARD OF UNUSED CREDITS.—Any credit that is not allowed for the taxable year solely by reason of subparagraph (A) shall be carried forward to the succeeding taxable year and allowed as a credit for that taxable year. However, the credit shall not be carried forward more than 5 taxable years after the taxable year in which the residence is purchased.

"(6) YEAR FOR WHICH CREDIT ALLOWED.—Fifty percent of the credit allowed by subsection (a) shall be allowed in the taxable year in which the residence is purchased and the remaining fifty percent of the credit shall be allowed in the succeeding taxable year.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of the acquisition thereof.

"(2) FIRST-TIME HOMEBUYER.—

"(A) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual has not had a present ownership interest in any residence (including an interest in a housing cooperative) at any time within the 36-month period ending on the date of acquisition of the residence on which the credit allowed under subsection (a) is to be claimed. An interest in a partnership, S corporation, or trust that owns an interest in a residence is not considered an interest in a residence for purposes of this paragraph except as may be provided in regulations.

"(B) CERTAIN INDIVIDUALS.—Notwithstanding subparagraph (A), an individual is not a first-time homebuyer on the date of purchase of a residence if on that date the running of any period of time specified in section 1034 is suspended under subsection (h) or (k) of section 1034 with respect to that individual.

"(3) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—No credit is allowable under this section if—

"(A) the residence is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), or

"(B) the basis of the residence in the hands of the person acquiring it is determined—

"(i) in whole or in part by reference to the adjusted basis of such residence in the hands of the person from whom it is acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(d) RECAPTURE FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (determined without regard to subsection (e)) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—The provisions of paragraph (1) do not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period to which reference is made under paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence.

"(e) PROPERTY TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—The provisions of this section apply to a principal residence if—

"(A) the taxpayer acquires the residence on or after February 1, 1992, and before January 1, 1993, or

"(B) the taxpayer enters into, on or after February 1, 1992, and before January 1, 1993, a binding contract to acquire the residence, and acquires and occupies the residence before July 1, 1993."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) EFFECTIVE DATE.—The amendments made by this section are effective on February 1, 1992.

SEC. 142. PENALTY-FREE WITHDRAWALS FOR FIRST HOME PURCHASE.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 213 of this Act, is further amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR FIRST HOME PURCHASE.—A distribution to an individual from an individual retirement plan with respect to which the requirements of paragraph (7) are met."

(b) DEFINITIONS.—Subsection (t) of section 72 is amended by adding at the end thereof the following new paragraph:

"(6) REQUIREMENTS APPLICABLE TO FIRST HOME PURCHASE DISTRIBUTION.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a distribution if—

"(i) DOLLAR LIMIT.—The amount of the distribution does not exceed the excess (if any) of—

"(I) $10,000, over

"(II) the sum of the distributions to which paragraph (2)(E) previously applied with respect to the individual who is the owner of the individual retirement plan.

"(ii) Use of distribution.—The distribution—

"(I) is made to or on behalf of a qualified first home purchaser, and

"(II) is applied within 60 days of the date of distribution to the purchase or construction of a principal residence of such purchaser.

"(iii) Eligible plans.—The distribution is not made from an individual retirement plan which—

"(I) is an inherited individual retirement plan (within the meaning of section 408(d)(3)(C)(ii)), or

"(II) any part of the contributions to which were excludable from income under section 402(c), 402(a)(7), 403(a)(4), or 403(b)(8).

"(B) Qualified first home purchaser.—For purposes of this paragraph, the term 'qualified first home purchaser' means the individual who is the owner of the individual retirement plan, but only if—

"(i) such individual (and, if married, such individual's spouse) had no present ownership interest in a residence at any time within the 36-month period ending on the date for which the distribution is applied pursuant to subparagraph (A)(ii), and

"(ii) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(C) Special rule where delay in acquisition.—If any distribution from an individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(D) Principal residence.—For purposes of this paragraph, the term 'principal residence' has the meaning given such term by section 1034.

"(E) Owner.—For purposes of this paragraph, the term 'owner' means, with respect to any individual retirement plan, the individual with respect to whom such plan was established."

(c) Effective Date.—The amendments made by this section shall apply to distributions on or after February 1, 1992.

TITLE II—FEDERAL INSURANCE ACCOUNTING ACT OF 1992

SECTION 201. SHORT TITLE.

This Act may be cited as the "Federal Insurance Accounting Act of 1992".

SEC. 202. INSURANCE ACCRUAL ACCOUNTING.

Title V of the Congressional Budget Act of 1974 is amended as follows:

(a) The title of title V is amended to read "TITLE V—CREDIT AND INSURANCE ACCOUNTING REFORM".

(b) Following the title, insert "Subtitle A—Credit Accounting".

(c) Substitute the word "subtitle" for "title" wherever it appears.

(d) Following section 507, insert the following:

"Subtitle B—Insurance Accounting

"SEC. 550. PURPOSES.

"The purposes of this subtitle are to—

"(1) measure more accurately the cost of Federal insurance programs;

"(2) place the cost of insurance programs on a budgetary basis equivalent to other Federal spending;

"(3) improve the allocation of resources among insurance programs and between insurance and other spending programs; and

"(4) encourage the provision of Federal insurance in a manner that adequately protects the insured at the least cost to the Federal Government.

"SEC. 551. EFFECTIVE DATES.

"The definitions and changes in budget treatment and accounting shall be effective as of the following dates:

"(a) October 1, 1991, for: the deposit insurance activities of the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the National Credit Union Administration; and the pension guarantee program of the Pension Benefit Guaranty Corporation;

"(b) October 1, 1992, for all other insurance programs.

"SEC. 552. DEFINITIONS.

"For purposes of this subtitle, with respect to any Federal insurance program—

"(1) the term 'obligation' means a binding agreement by a Federal agency to indemnify a nonfederal entity against specified losses in return for premiums paid. This term does not include loan guarantees as defined in Subtitle A or obligations of social security, Medicare, and other social and medical insurance programs;

"(2) the term 'accrued cost' means the net present value of the insurance liabilities outstanding on the effective date and at the end of each successive reporting period;

"(3) the term 'accrual cost' means the increase or decrease in accrued cost during a fiscal year or from the beginning of a fiscal year to the time of the insured event, if one occurs during the fiscal year. Alternatively, for programs for which it is possible to make actuarial estimates, the accrual cost may be the estimated long-term average loss per fiscal year for periods of comparable exposure to risk of loss;

"(4) the term 'liquidating account' means the budget account for the accrued cost, as estimated on the effective date specified in section 551;

"(5) the term 'program account' means the budget account for the accrual costs, for all costs of administering the insurance program, and balances;

"(6) the term 'financing account' means the non-budget account that receives cost payments from the program account and the liquidating account, makes payments to the program account, includes all cash flows to and from the Federal Government, and holds balances;

"(7) the term 'insured event' means an event that results in an obligation of the Federal Government; and

"(8) the term 'Director' means the Director of the Office of Management and Budget.

"SEC. 553. OMB, CBO, AND AGENCY ANALYSIS, COORDINATION, AND REVIEW.

"(a) Director's Responsibilities.—For the Executive branch, the Director shall be responsible for the estimates required by this subtitle, in consultation with the agencies that administer insurance programs.

"(b) Delegation.—The Director may delegate to agencies authority to make estimates. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this subtitle.

"(c) Coordination With the Congressional Budget Office.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

"(d) Improving Cost Estimates.—The Director and the Director of the Congressional Budget Office shall coordinate the development of methods of estimating the costs of insurance programs. The Office of Management and Budget and the Congressional Budget Office shall have access to the agency data necessary to develop estimates of costs.

"(e) Accounting Support.—The Director shall coordinate the development by the Federal agencies that conduct insurance programs of such accounting methods and systems as are necessary to support accounting and budgeting for insurance programs on an accrual basis.

"SEC. 554. BUDGETARY TREATMENT.

"(a) Budget Accounting.—For any insurance program.—

"(1) Premiums and other income shall be credited to a finance account and available to finance program costs in the following priority:

"(A) administrative expenses, by reimbursement to the program account;

"(B) accrued costs, estimated as of the effective date specified in section 551, for insured events that occur during a fiscal year, before drawing on the resources of the liquidating account; and

"(C) accrual costs, before drawing on the resources of the program account.

"(2) Any balance of premiums and other income remaining after financing the program costs shall be paid to the program accounts.

"(3) All collections and payments by the financing accounts shall be a means of financing.

"(4) To the extent the accrued costs, estimated as of the effective date specified in section 551, for insured events that occur during a fiscal year, exceed the premiums and other income available in accordance with paragraph (1), an obligation equal to the amount of such excess shall be recorded in the insurance liquidating account. Such obligation shall be a charge, first, against any unobligated balances of the liquidating account and, second, against appropriations to the liquidating account for that year. Outlays from the liquidating account shall be made to the financing account at the time the insured event occurs. Any balances remaining in excess of accrued costs shall be transferred to the program account.

"(5) For any year in which there is an accrual cost that exceeds the premiums and other income available in accordance with paragraph (1), an obligation equal to such excess shall be recorded in the program account. Such obligation will be a charge, first, against any unobligated balances of the program account and, second, against appropriations to the program account for that year. An outlay in the amount of the obligation shall be made in the same fiscal year to the finance account for the program.

"(6) For the Bank Insurance Fund, any appropriations necessary under paragraphs (4) and (5) shall be repaid to the general fund from premiums and other income on a 15 year schedule as authorized under section 14 of the Federal Deposit Insurance Corporation Improvement Act of 1991. Premiums and other income available to the Bank Insurance Fund shall be available, first, to finance costs in the priority shown in paragraph (1) and, second, to finance these repayments.

"(b) Modifications.—No action shall be taken to modify an insurance program in a manner that increases its accrual cost unless budget authority for the additional accrual cost is appropriated in advance, or is available out of existing appropriations or from other budgetary resources.

"(c) Administrative Expenses.—All obligations for an agency's administration of an insurance program shall be displayed as distinct and separately identified subaccounts within the program account. To the extent that the administrative expenses of an insurance programs are authorized to be financed by premiums and other income, the financing account shall reimburse the program account for administrative expenses. The administrative expenses of the Resolution Trust Corporation shall be financed as authorized by section 501 of Public Law 101–73, in a program account established for the purpose, separate from the RTC Revolving Fund.

"SEC. 555. AUTHORIZATIONS.

"(a) Authorization of Appropriations for Costs.—There are authorized to be appropriated to each Federal agency authorized to conduct insurance programs, such sums as may be necessary to pay the accrued and accrual costs associated with such insurance programs. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, such appropriations shall be considered discretionary spending if the spending for a program was classified as discretionary spending by that Act. If such spending was not classified as discretionary spending, it shall be considered direct spending (entitlement authority).

"(b) Authorization to Establish Financing Accounts.—In order to implement the accounting required by this subtitle, the President is authorized to establish such non-budgetary accounts as may be appropriate.

"(c) Treasury Transactions With the Financing Accounts.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the insurance financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above. The authorities described above shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate an insurance program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code. Cash balances of the program, financing, and liquidating accounts in excess of current requirements shall be maintained in a form of uninvested funds, and the Secretary of the Treasury shall pay interest on these funds.

"(d) Eligibility and Assistance.—Nothing in this subtitle shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by, an insurance program.

"SEC. 556. EFFECT ON OTHER LAWS.

"(a) This subtitle shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this subtitle to the extent such provision is inconsistent with this subtitle. Nothing in this subtitle shall be construed to establish a limitation on any Federal insurance program.

"(b) The changes made by this subtitle shall be considered changes in budget concepts and definitions for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.".

SEC. 203. CONFORMING AMENDMENTS.

(a) Conforming Amendments.—

(1) The last sentence of section 3(2) of the Congressional Budget Act of 1974 is amended by adding "and accrual costs of insurance programs," after "programs,".

(2) Section 1105(a) of title 31, United States Code, is amended by inserting at the end thereof the following:

"(29) the accrued and accrual costs of insurance programs.".

(b) Effective Date.—These changes are effective upon enactment.

TITLE III—PENSION SECURITY ACT OF 1992

SECTION 301. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Pension Security Act of 1992".

(b) Table of Contents.—

Subtitle A—Amendments to Pension Plan Funding Requirements

Part 1—Amendments to the Internal Revenue Code of 1986

Sec. 311. Revision of additional funding requirements for plans that are not multiemployer plans.
Sec. 312. Correction to ERISA citation.
Sec. 313. Effective dates.

Part 2—Amendments to the Employee Retirement Income Security Act of 1974

Sec. 321. Revision of additional funding requirements for plans that are not multiemployer plans.
Sec. 322. Effective dates.

Subtitle B—Amendments to Title IV of ERISA

Sec. 331. Limitation on benefits guaranteed.
Sec. 332. Enforcement of minimum funding requirements.
Sec. 333. Definition of contributing sponsor.
Sec. 334. Recovery ratio payable under Corporation's guaranty.
Sec. 335. Elimination of the seventh revolving fund.
Sec. 336. Distress termination criteria for banking institutions.
Sec. 337. Variable rate premium exemption.

Subtitle C—Employer Liability, Lien, and Priority

Part 1—Amendments to the Employee Retirement Income Security Act of 1974

Sec. 341. Employer liability lien and priority amount.
Sec. 342. Liability upon liquidation of contributing sponsor where plan remains ongoing.

Part 2—Amendments to Title 11, United States Code

Sec. 351. Pension Benefit Guaranty Corporation permitted to be a member of an unsecured creditors' committee.
Sec. 352. Clarification of priorities in conformity with the Employee Retirement Income Security Act of 1974.
Sec. 353. Notice required where federally-insured pension plan is administered by the debtor or its affiliate.

Subtitle A—Amendments to Pension Plan Funding Requirements

Part 1—Amendments to the Internal Revenue Code of 986

SEC. 311. REVISION OF ADDITIONAL FUNDING REQUIREMENTS FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.

(a) Section 412(a) of the Internal Revenue Code of 1986 (26 U.S.C. 412(a)) is amended by striking "the excess of the total charges to the funding standard account" through the end of that sentence, and inserting "the largest of—

"(1) the lesser of—

"(A) the excess of the total charges to the funding standard account for all plan years (beginning with the first plan year to which this section applies) over the total credits to such account for such years; or,

"(B) the excess of the total charges to the alternative minimum funding standard account for such plan years over the total credits to such account for such years; or,

"(2) if applicable, the underfunding reduction requirement under subsection (1); or

"(3) if applicable, the solvency maintenance requirement under subsection (o).".

(b) Section 412(l) is revised to read as follows:

"(l) Underfunding Reduction Requirement for Plans That Are Not Multiemployer Plans.—

"(1) Underfunding reduction requirement.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the underfunding reduction requirement for such plan year is the sum of—

"(A) an amount equal to the product of the initial unfunded liability of the plan multiplied by the excess (if any) of (i) 30 percent, over (ii) the product of one quarter of one percent multiplied by the number of percentage points (if any) that the initial funding ratio of the plan exceeds 35 percent;

"(B) the charges to the funding standard account for normal cost under subparagraph (b)(2)(A) and for the amounts necessary to amortize any waived funding deficiencies under subparagraph (b)(2)(C);

"(C) the excess (if any) of—

"(i) the sum of charges to the funding standard account for plans years beginning after December 31, 1993, for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v) over—

"(ii) the sum of credits to the funding standard account for plan years beginning after December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 412(b)); and

"(D) the net of—

"(i) charges to the funding standard account for plan years beginning on or before December 31, 1993, for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v); and

"(ii) the sum of credits to the funding standard account for plan years beginning on or before December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 412(b)).

"(2) Definitions.—For definitions pertaining to this subsection, see subsection (o)(3).

"(3) Application to small plans.—For the application of this subsection to small plans, see subsection (o)(4).".

(c) Section 412 is further amended by adding at the end thereof the following new subsection (o):

"(o) SOLVENCY MAINTENANCE REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) SOLVENCY MAINTENANCE REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the solvency maintenance requirement for such plan year is the sum of—

"(A) the sum of:

"(i) all disbursements from the plan for the plan year, and

"(ii) an amount equal to the initial unfunded liability of the plan multiplied by the interest rate used by such plan (determined under subparagraph (b)(5)(A));

"(B) the charges described in section 412(l)(1)(B);

"(C) the amount described in section 412(l)(1)(C); and

"(D) the amount described in section 412(l)(1)(D).

"(2) LIMITATION ON SOLVENCY MAINTENANCE REQUIREMENT.—For plan years commencing after December 31, 1993, the amount required under paragraph (1) shall not exceed the sum of—

"(A) the amount required under 412(l); and

"(B) the product of—

"(i) the excess (if any) of—

"(I) the amount required under paragraph 1 over

"(II) the amount required under subsection (l); multiplied by—

"(ii) the applicable percentage.

"(iii) For purposes of subparagraph (ii), the applicable percentage is:

"For plan years commencing after:	**The applicable percentage is:**
December 31, 1993	20 percent
December 31, 1994	40 percent
December 31, 1995	60 percent
December 31, 1996	80 percent
December 31, 1997	100 percent

"(3) DEFINITIONS.—For purposes of this subsection and subsection (l)—

"(A) INITIAL UNFUNDED LIABILITY.—The term 'initial unfunded liability' means the excess (if any) of the amount necessary to satisfy the initial termination liability of the plan over the initial value of assets of the plan.

"(B) INITIAL FUNDING RATIO.—The term 'initial funding ratio' means the ratio of (i) the initial value of assets of the plan to (ii) the amount necessary to satisfy the initial termination liability of the plan.

"(C) INITIAL TERMINATION LIABILITY.—The term 'initial termination liability' means all liabilities with respect to employees and their beneficiaries under the plan in the meaning of section 401(a)(2) as of the first day of the plan year.

"(D) INITIAL VALUE OF ASSETS.—The term 'initial value of assets' means the value of the assets of the plan determined under section 412(c)(2) as of the first day of the plan year.

"(E) DISBURSEMENTS FROM THE PLAN.—

"(i) IN GENERAL.—The term 'disbursements from the plan' means benefit payments, including purchases of annuities or payment of lump sums in satisfaction of liabilities, administrative expenditures or any other disbursements from the plan or its trust.

"(ii) SPECIAL RULE FOR PURCHASES OF ANNUITIES AND PAYMENT OF LUMP SUMS.—In determining the applicable amounts attributable to purchases of annuities or the payment of lump sums under clause (i), the actual purchase or lump sum amounts paid by the plan or trust shall be multiplied by the excess (if any) of one over the initial funding ratio of the plan.

"(4) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection and subsection 412(l) shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding year had no more than 150 participants, the additional amounts required by the underfunding reduction requirement under subsection (l) or the solvency maintenance requirement under this subsection shall be equal to the product of—

"(i) the excess of such requirements (determined without regard to this subparagraph) over the funding deficiency (if any) under subsection 412(b), multiplied by—

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.".

(d) CONFORMING AMENDMENTS.—

(1) Section 412(b) is amended—

(A) by striking the last sentence of paragraph (2); and

(B) by striking "and for purposes of determining a plan's required contribution under section 412(l)" in subparagraph (5)(B) and inserting "under section 412(c)(7)(B)".

(2) Section 412(c) is amended by striking "has the meaning given such term by section 412(l)(7) and inserting "means all liabilities with respect to employees and their beneficiaries under the plan within the meaning of section 401(a)(2) (within such limitations as the Secretary may prescribe by regulation) determined by using the interest rate under section 412(b)(5)(B)".

(3) Section 412(m)(4)(B) is amended by striking "section 412" in subparagraph (i) and inserting "section 412 (b) or (l), whichever is greater".

(4) Section 401(a)(29) is amended—

(A) by striking "current liability" and "funded current liability percentage" and "unfunded current liability" and "412(l)" each time they appear and inserting instead, respectively, the terms "initial termination liability" and "initial funding ratio" and "initial unfunded liability" and "412(o)".

(B) By striking everything after the word "except" in subparagraph (E) and inserting "that in computing initial unfunded liability there shall not be taken into account an amount equal to the initial unfunded liability of the plan as of the beginning of the first plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987), reduced by an amount equal to the product of the amount necessary to amortize such pre-1988 initial unfunded liability in equal annual installments over a period of 18 plan years (beginning with the first plan year beginning after December 31, 1988) multiplied by the number of years (but not more than 18) beginning since December 31, 1988.".

(5) Section 404(a)(1)(D) is amended by striking "the unfunded liability determined under section 412(l)." at the end of the first sentence and inserting instead "the amount necessary to assure that the plan can satisfy all liabilities with respect to employees and their beneficiaries within the meaning of section 412(c)(7)(B) determined by using the interest rate under section 412(b)(5)(B)."

SEC. 312. CORRECTION TO ERISA CITATION.

(a) Section 404(g)(4) is amended by striking "enactment" and all that follows through the end of the paragraph and inserting "the transaction involved.".

SEC. 313. EFFECTIVE DATES.

The amendments made by section 311 shall effective for plan years beginning after December 31, 1993. The amendment made by section 312 shall take effect one day after the date of enactment of title II.

PART 2—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 321. REVISION OF ADDITIONAL FUNDING REQUIREMENTS FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.

(a) Section 302(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(a)(2)) is amended by striking "the excess of the total charges to the funding standard account" through the end of that sentence, and inserting "the largest of—

"(A) the lesser of—

"(i) the excess of the total charges to the funding standard account for all plan years (beginning with the first plan year to which this section applies) over the total credits to such account for such years; or,

"(ii) the excess of the total charges to the alternative minimum funding standard account for such plan years over the total credits to such account for such years; or,

"(B) if applicable, the underfunding reduction requirement under subsection (d); or,

"(C) if applicable, the solvency maintenance requirement under subsection (g).".

(b) Section 302(d) is revised to read as follows:

"(d) UNDERFUNDING REDUCTION REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) UNDERFUNDING REDUCTION REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the underfunding reduction requirement for such plan year is the sum of—

"(A) An amount equal to the product of the initial unfunded liability of the plan multiplied by the excess (if any) of (i) 30 percent, over (ii) the product of one-quarter of one percent multiplied by the number of percentage points (if any) that the initial funding ratio of the plan exceeds 35 percent;

"(B) the charges to the funding standard account for normal cost under subparagraph (b)(2)(A) and for the amounts necessary to amortize any waived funding deficiencies under subparagraph (b)(2)(C);

"(C) the excess (if any) of—

"(i) the sum of charges to the funding standard account for plan years beginning after December 31, 1993 for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v) over—

"(ii) the sum of credits to the funding standard account for plan years beginning after December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 302(b)); and

"(D) the net of—

"(i) charges to the funding standard account for plan years beginning on or before December 31, 1993 for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v); and

"(ii) the sum of credits to the funding standard account for plan years beginning on or before December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 302(b)).

"(2) DEFINITIONS.—For definitions pertaining to this subsection, see subsection (g)(3).

"(3) APPLICATION TO SMALL PLANS.—For the application of this subsection to small plans, see subsection (g)(4).".

(c) Section 302 is further amended by—

(1) redesignating subsection (g) as (h); and

(2) inserting after subsection (f) the following:

"(g) SOLVENCY MAINTENANCE REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) SOLVENCY MAINTENANCE REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the solvency maintenance requirement for such plan year is the sum of—

"(A) the sum of:

"(i) all disbursements from the plan for the plan year, and

"(ii) an amount equal to the initial unfunded liability of the plan multiplied by the interest rate used by such plan (determined under subparagraph (b)(5)(A));

"(B) the charges described in section 302(d)(1)(B);

"(C) the amount described in section 302(d)(1)(C); and

"(D) the amount described in section 302(d)(1)(D).

"(2) LIMITATION ON SOLVENCY MAINTENANCE REQUIREMENT.—For plan years commencing after December 31, 1993, the amount required under paragraph (1) shall not exceed the sum of—

"(A) the amount required under section 302(d); and

"(B) the product of—

"(i) the excess (if any) of—

"(I) the amount required under paragraph 1 over

"(II) the amount required under section 302(d); multiplied by—

"(ii) the applicable percentage.

"(iii) For purposes of subparagraph (ii), the applicable percentage is:

"For plan years commencing after:	The applicable percentage is:
December 31, 1993	20 percent
December 31, 1994	40 percent
December 31, 1995	60 percent
December 31, 1996	80 percent
December 31, 1997	100 percent

"(3) DEFINITIONS.—For purposes of this subsection and subsection (d)—

"(A) INITIAL UNFUNDED LIABILITY.—The term "initial unfunded liability" means the excess (if any) of the amount necessary to satisfy the initial termination liability of the plan over the initial value of assets of the plan.

"(B) INITIAL FUNDING RATIO.—The term "initial funding ratio" means the ratio of (i) the initial value of assets of the plan to (ii) the amount necessary to satisfy the initial termination liability of the plan.

"(C) INITIAL TERMINATION LIABILITY.—The term "initial termination liability" means all liabilities with respect to employees and their beneficiaries under the plan in the meaning of section 401(a)(2) of the Internal Revenue Code of 1986 as of the first day of the plan year.

"(D) INITIAL VALUE OF ASSETS.—The term "initial value of assets" means the value of the assets of the plan determined under section 302(c)(2) as of the first day of the plan year.

"(E) DISBURSEMENTS FROM THE PLAN.—

"(i) IN GENERAL.—The term "disbursements from the plan" means benefit payments, including purchases of annuities or payment of lump sums in satisfaction of liabilities, administrative expenditures or any other disbursements from the plan or its trust.

"(ii) SPECIAL RULE FOR PURCHASES OF ANNUITIES AND PAYMENT OF LUMP SUMS.—In determining the applicable amounts attributable to purchases of annuities or the payment of lump sums under clause (i), the actual purchase or lump sum amounts paid by the plan or trust shall be multiplied by the excess (if any) of one over the initial funding ratio of the plan.

"(4) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection and subsection (d) shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding year had no more than 150 participants, the additional amounts required by the underfunding reduction requirement under subsection (d) or the solvency maintenance requirement under this subsection shall be equal to the product of—

"(i) the excess of such requirements (determined without regard to this subparagraph) over the funding deficiency (if any) under subsection 302(b), multiplied by—

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.".

(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

(d) CONFORMING AMENDMENTS.—

(1) Section 302(b) is amended—

(A) by striking "and for purposes of determining a plan's required contribution under section 302(d)" in subparagraph (5)(B) in inserting "under section 302(c)(7)(B)".

(2) Section 302(c) is amended by striking "has the meaning given such term by subsection 302(d)(7) (without regard to subparagraph (D) thereof)" in subparagraph (7)(B) and inserting "means all liabilities with respect to employees and their beneficiaries under the plan within the meaning of section 401(a)(2) of the Internal Revenue Code of 1986 (within such limitations as the Secretary of the Treasury may prescribe by regulation) determined by using the interest rate under section 302(b)(5)(B)".

(3) Section 302(e)(4)(B) is amended by striking "section 412 of the Internal Revenue Code of 1986" in subparagraph (i) and inserting "section 412 (b) or (l) of the Internal Revenue Code of 1986, whichever is greater".

SEC. 322. EFFECTIVE DATES.

The amendments made by this part shall be effective for plan years beginning after December 31, 1993.

Subtitle B—Amendments to Title IV of ERISA

SEC. 331. LIMITATION ON BENEFITS GUARANTEED.

(a) Subsection (b)(1) of section 4022 of ERISA is amended by adding after "(7)" ", (8) and (9)".

(b) Subsection (b)(7) of section 4022 of ERISA is amended by—

(1) striking the period at the end and inserting in its place a semicolon; and

(2) by adding after paragraph (7) a new paragraph (8):

"(8)(A) Benefits under a new plan or any increase in benefits under a plan resulting from a plan amendment, which new plan or amendment was adopted or became effective after December 31, 1991, shall be disregarded unless:

"(i) The plan was fully funded for vested benefits for the plan year that the new plan or amendment was adopted or became effective, whichever is later, or became fully funded for vested benefits in a subsequent plan year; and

"(ii) The new plan or amendment was adopted or effective, whichever is later, at least one year prior to the date of plan termination.

"(B) For purposes of this section, a plan is 'fully funded for vested benefits' for any plan year if such plan has no unfunded vested benefits within the meaning of section 4006(a)(3)(E)(iii) as of the last day of such plan year.

"(C)(i) Except as provided in clause (ii), paragraph (7) and paragraphs (5)(B) and (5)(C) shall not apply to benefits described in subparagraph (A) of this paragraph.

"(ii) This paragraph shall not apply, and paragraph (7) and paragraphs (5)(B) and (5)(C) shall apply, to any new plan or plan amendment resulting from a collective bargaining agreement or amendment thereto entered and ratified on or prior to December 31, 1991.".

(c) Subsection (b) of section 4022 of ERISA (as amended by subsection (b) of this section) is further amended by adding a new paragraph (9):

"(9)(A) Notwithstanding paragraph (8), any plan provision or amendment adopted or effective after December 31, 1991, that creates or increases unpredictable contingent event benefits shall not be guaranteed.

"(B) For purposes of this section, an 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(i) age, service compensation, death or disability, or

"(ii) an event which is reasonably and reliably predictable (as determined under regulations prescribed by the corporation).".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective on December 31, 1991.

SEC. 332. ENFORCEMENT OF MINIMUM FUNDING REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 4003(c) of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303 (e)(1)) is amended by inserting after "title" the following: "and, in the case of a plan to which this title applies under section 4021, section 302 of this Act or section 412 of the Internal Revenue Code of 1986".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for installments and other payments required under section 302 of the Employee Retirement Income Security Act of 1974 or section 412 of the Internal Revenue Code of 1986 due on or after the date of the enactment of this Act.

SEC. 333. DEFINITION OF CONTRIBUTING SPONSOR.

(a) IN GENERAL.—Paragraph (13) of section 4001(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(13)) is amended to read as follows:

"(13) 'contributing sponsor' means, with respect to a single-employer plan, a person entitled to receive a deduction under section 404(a)(1) of the Internal Revenue Code of 1986 for contributions required to be made to the plan under section 302 of this Act or section 412 of such Code.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in section 9305 of the Pension Protection Act (Public Law 100–203; 101 Stat. 1330–351).

SEC. 334. RECOVERY RATIO PAYABLE UNDER CORPORATION'S GUARANTY.

(a) IN GENERAL.—Section 4022(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)(3)(B)) is amended—

(1) by redesignating clauses (i) and (ii) as clauses (ii) and (iii) respectively; and

(2) by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the outstanding amount of benefit liabilities does not exceed $20,000,000,".

(b) TERMINATIONS.—Clause (iii) of section 4022(c)(3)(B) of such Act (29 U.S.C. 1322(c)(3)(B)), as redesignated by subsection (a), is amended—

(1) by inserting ", or proceedings were instituted under section 4042," after "provided"; and

(2) by striking "in which occurs the date of the notice of intent to terminate with respect to the plan termination".

(c) CONFORMING AMENDMENTS.—Clause (i) of section 9312(b)(3)(B) of the Pension Protection Act is amended by—

(1) inserting ", or proceedings were instituted under section 4042," after "provided"; and

(2) striking "1990" and inserting "1994".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 9312(b)(3) of the Pension Protection Act (Public Law 100–203; 101 Stat. 1330–362).

SEC. 335. ELIMINATION OF THE SEVENTH REVOLVING FUND.

(a) TRANSFER.—Effective September 30, 1992, all assets and liabilities of the fund described in section 4005(f)(1) of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this section) shall be transferred to the fund established pursuant to section 4005(a) of such Act with respect to basic benefits guaranteed under section 4022 of such Act.

(b) REPEAL.—Section 4005 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning after September 30, 1992.

SEC. 336. DISTRESS TERMINATION CRITERIA FOR BANKING INSTITUTIONS.

(a) IN GENERAL.—Subclause (I) of section 4041(c)(2)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)(B)(i)(I)) is amended by inserting "Federal law or" before "law of a State".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan terminations under section 4041 of the Employee Retirement Income Security Act of 1974 with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after the date of the enactment of this Act.

SEC. 337. VARIABLE RATE PREMIUM EXEMPTION.

(a) IN GENERAL.—Clause (v) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by striking all that follows "not less than" and inserting "the maximum amount that may be contributed without incurring an excise tax under section 4972 of the Internal Revenue Code of 1986".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

Subtitle C—Employer Liability, Lien and Priority

PART 1—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 341. EMPLOYER LIABILITY LIEN AND PRIORITY AMOUNT.

(a) REVISED LIMITATIONS ON LIEN AND TAX PRIORITY AMOUNT.—Section 4068(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1368(a)) is amended—

(1) by striking "If any person liable to the corporation" and inserting "(1) Subject to paragraphs (2) and (3), if any person liable to the corporation";

(2) by striking "section 4062" and inserting "section 4062(a)(1)";

(3) by striking the comma after "belonging to such person" and inserting a period;

(4) by striking "except that such lien" and inserting the following:

"(2) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation before January 1, 1992, the lien established under paragraph (1)"; and

(5) by adding at the end the following paragraph:

"(3)(A) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation on or after January 1, 1992, the lien established under paragraph (1) may not be in an amount in excess of the sum of—

"(i) the amount of benefits attributable to the occurrence of unpredictable contingent events valued as of the date of plan termination arising at any time during the 3 years preceding the date of plan termination (to the extent not funded prior to plan termination), plus

"(ii) the greater of—

"(I) 30 percent of the collective net worth of all persons described in section 4062(a), or

"(II) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities under the plan as of the date of plan termination over the amount described in clause (i).

"(B) For purposes of this paragraph—

"(i) the term 'currently applicable percentage' means—

"(I) with respect to plan terminations initiated in calendar year 1992, 10 percent,

"(II) with respect to plan terminations initiated in any calendar year after 1992 and before 2012, the percentage determined under this clause with respect to plan terminations initiated in the preceding calendar year, plus 2 percent, and

"(III) with respect to plan terminations initiated in calendar years after 2011, 50 percent.

"(ii) The term 'amount of benefits attributable to the occurrence of unpredictable contingent events' means, with respect to any plan, the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)(B)(ii)), determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044.

"(C) In applying subparagraph (A), the corporation may disregard subclause (I) of clause (ii) thereof if the corporation determines, in its sole discretion, that disregarding such subclause (I) is cost-effective.".

(b) CONFORMING AND CLARIFYING AMENDMENTS RELATING TO AMOUNT ENTITLED TO PRIORITY TREATMENT IN INSOLVENCY AND BANKRUPTCY CASES.—Section 4068(c)(2) of such Act (29 U.S.C. 1368(c)(2)) is amended by inserting "(A)" after "(2)" and by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall apply—

"(i) in the case of terminations described in paragraph (2) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (2), and

"(ii) in the case of terminations described in paragraph (3) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (3).".

(c) CLARIFICATION OF BANKRUPTCY AND INSOLVENCY CLAIM.—Section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100–203, 101 Stat. 1330–361) is amended by adding at the end thereof the following new clause:

"(iii) Section 4068(c)(2) of ERISA (29 U.S.C. 1368(c)(2)) is amended—

"(I) by striking 'the lien imposed under subsection (a)' and inserting 'the liability to the corporation under section 4062(a)(1), 4063, or 4064'; and "(II) by inserting 'which is' after 'tax', and by inserting 'and assigned priority' after 'United States'.".

(d) EFFECTIVE DATES.—

(1) Section 4068(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(i) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act before January 1, 1992.

(2) Section 4068(a)(3) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(ii) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act on or after January 1, 1992.

(3) The amendment made by subsection (a)(2) shall be effective as if included in the enactment of section 11011(a) of the Single-Employer Pension Plan Amendments Act of 1986 (Public Law 99–272; 100 Stat. 253).

(4) The amendment made by subsection (c) shall be effective as if included in the enactment of section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100-203, 101 Stat. 1330-361).

SEC. 342. LIABILITY UPON LIQUIDATION OF CONTRIBUTING SPONSOR WHERE PLAN REMAINS ONGOING

(a) IN GENERAL.—Section 4062 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) is amended by adding at the end the following new subsection:

"(f) LIABILITY ON LIQUIDATION OF CONTRIBUTING SPONSOR.—

"(1) IN GENERAL.—In any case in which all or substantially all of the assets of a person who is a contributing sponsor of a single-employer plan are liquidated in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision of a State, and in the course of such liquidation another member of such person's controlled group remains a contributing sponsor of the plan or is liable for payment of contributions or installments under section 302(c)(11) of this Act or section 412(c)(11) of the Internal Revenue Code of 1986, such person shall be deemed liable under subsection (b) as if such plan had terminated under section 4041(c) in the course of such liquidation and as if the termination date were the date determined by the corporation as the date on which the liquidation was initiated.

"(2) APPLICABILITY OF OTHER PROVISIONS.—Any provision of this Act or any other provision of law that applies to liability under this section upon termination of a plan shall apply in the same manner and to the same extent to the liability established under this subsection. For purposes of this paragraph, the date referred to in paragraph (1) shall be deemed the date of plan termination.

"(3) TRANSFER OF LIABILITY PAYMENTS TO THE ONGOING PLAN.—The corporation shall pay to the plan amounts collected by the corporation in satisfaction of any liability established under this subsection in connection with such plan.

"(4) REGULATIONS.—The corporation may prescribe regulations under this subsection. Such regulations may—

"(A) prescribe rules governing—

"(i) the basis upon which the plan will continue as an ongoing plan maintained by other members of the controlled group,

"(ii) the determination of whether a liquidation referred to in this subsection has occurred, and

"(iii) the assignment of the corporation's claim to liability payments under this subsection to other members of the controlled group as a means of collecting such payments, subject to the transfer of such payments to the plan, and

"(B) provide alternative arrangements for making liability payments under this subsection.".

(b) CONFORMING AMENDMENT.—Section 4062(a)(1) of such Act (29 U.S.C. 1362(a)(1)) is amended by striking "subsection (b) and inserting "subsections (b) and (f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for liquidations initiated on or after the day following the date of enactment of title II.

PART 2—AMENDMENTS TO TITLE 11, UNITED STATES CODE

SEC. 351. PENSION BENEFIT GUARANTY CORPORATION PERMITTED TO BE A MEMBER OF AN UNSECURED CREDITORS' COMMITTEE.

(a) DEFINITION.—Section 101(41) of title 11 of the United States Code is amended by inserting "that guarantees pension benefits of the debtor or an affiliate of the debtor, or" after "governmental unit" the second time it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply with respect to cases commenced under title 11 of the United States Code before the day following of the enactment of title II.

SEC. 352. CLARIFICATION OF PRIORITIES IN CONFORMITY WITH THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PRIORITY AS EXPENSES ARISING BEFORE COMMENCEMENT OF CASE.—

(1) in subparagraph (F), by striking "or" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting a semicolon; and

(3) by adding after subparagraph (G) the following:

"(H) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period prior to the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; or

"(I) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is on or prior to the date of the filing of the petition.

"For purposes of subparagraph (I), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.".

(b) PRIORITY AS ADMINISTRATIVE EXPENSES ARISING AFTER COMMENCEMENT OF CASE.—Section 503(b) of such title 11 is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting "; and"; and

(3) by adding at the end the following;

"(7)(A) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period beginning on the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; and

"(B) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is after the date of the filing of the petition.

"For purposes of paragraph (7)(B), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.".

(c) EFFECTIVE DATE.—Sections 507(a)(7)(H) and 503(b)(1)(7)(A) of title 11 of the United States Code (as amended by this section) shall be effective as if included in section 9304(e) of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-348). Sections 507(a)(7)(I) and 503(b)(1)(7)(B) of such title (as amended by this section) shall be effective with respect to cases under such title which commence on or after the day following the date of the enactment of title II or cases under such title which are pending on the day following the date of the enactment of title II and in which claims for liability have not been resolved as of such date.

SEC. 353. NOTICE REQUIRED WHERE FEDERALLY INSURED PENSION PLAN IS ADMINISTERED BY THE DEBTOR OR ITS AFFILIATE.

(a) IN GENERAL.—Rule 2002(j) of the Bankruptcy Rules (11 U.S.C. Appendix) is amended by inserting before the period at the end the following: "; (5) to the Pension Benefit Guaranty Corporation in any case in which the debtor or an affiliate of the debtor maintains a pension plan to which title IV of the Employee Retirement Income Security Act of 1974 applies.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect one day after the date of enactment of title II.

TITLE IV—ELIMINATE THE STATUTE OF LIMITATIONS ON THE COLLECTION OF DEFAULTED GUARANTEED STUDENT LOANS

SEC. 401. Section 3(c) of the Higher Education Technical Amendments of 1991 (P.L. 102-26) is amended by striking out "that are brought before November 15, 1992".

TITLE V—EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES

SEC. 501. Chapter 83 of title 5, United States Code, is amended—

(1) in section 8342(a) by striking out "section 8343a or";

(2) by repealing section 8343a; and

(3) in the analysis by striking out the item relating to section 8343a.

SEC. 502. Chapter 84 of title 5, United States Code, is amended—

(1) by repealing section 8420a;

(2) in section 8424(a) by striking out "Except as provided in section 8420a, payment" and inserting in lieu thereof "Payment"; and

(3) in the analysis by striking out the item relating to section 8420a.

SEC. 503. The Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended by repealing section 807(e).

SEC. 504. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended in part K of title II by repealing section 294.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ROSTENKOWSKI. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The Chair will recognize the gentleman from Illinois [Mr. ROSTENKOWSKI] for 30 minutes.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on February 26, 1975, 17 years ago today, the House of Representatives passed a bill to provide an economic stimulus to a flagging economy. That bill was in response to President Ford's State of the Union challenge to Congress to pass a bill he could sign by April 1.

The conference agreement was approved by the House and Senate on

March 26 and was signed into law on March 29.

We have a chance today to repeat a bit of history and move a package forward that President Bush can sign into law.

For us to succeed, we need a bill that stimulates investment, creates new jobs, preserves existing jobs, and restores the confidence of the American people in their financial futures.

The Michel-Archer substitute provides that opportunity. it is progrowth, prohousing, prosavings, proinvestment, projobs, and profiscal responsibility.

Introduced as H.R. 4200, it contains the seven specific economic stimulus provisions President Bush challenged Congress to pass by March 20.

□ 1100

It is fully financed in each and every year without resorting to any tax increases. Unlike the Democrats' alternative, it meets every requirement of the Budget Enforcement Act.

It will stimulate individual savings and investment by reducing the extra tax burden this country—virtually alone among its international competitors—places on capital savings. We tax income when it is earned, and then we tax it again when the income is saved and invested.

Current tax rules lead people to hang on to assets long after they should be sold in the name of efficiency and economic self-interest, and the President's capital gains rate reduction in the Archer-Michel substitute will restart the engine of capital formation and stimulate new job-creating investment.

The Archer-Michel substitute will also help thousands of Americans fulfill the great American dream of owning their own home because it provides a credit of up to $5,000 for first-time home buyers. There is no such provision in the Rostenkowski Democrat alternative.

The credit has become an enormously important provision in this economic growth debate, just as the home buyer credit was in 1975, because today's proposed credit will create 700,000 jobs and make homes affordable for many middle income Americans. Buyers are holding off today in purchasing their home to see what we do. Helping to make the credit even more effective is our provision allowing the penalty-free withdrawal of IRA savings to make the down payment on that first home.

The Michel-Archer substitute would also promote immediate investment, jobs, and growth by providing an incentive for businesses to buy productive equipment and buy it right now.

The President's investment tax allowance would give businesses an extra 15-percent depreciation deduction in the first year.

Our substitute contains two other ideas to provide additional help to the real estate sector. It would restore full deductibility of losses for real estate developers, and it would remove unnecessary restrictions on pension fund investment in real estate.

It's no accident that real estate—and home ownership in particular—are focal points of the President's plan. Those are the sectors which have led the Nation out of every recession in recent memory, and they can again if we adopt this substitute.

Importantly, unlike the $93 billion tax increase alternative that Chairman ROSTENKOWSKI will offer later today, this is a package that can become law.

This substitute does have the potential for helping us reach a bipartisan compromise, and we're really very close already.

The Democrat alternative now includes six of the seven proposals—some identical, some modified—contained in the President's March 20 challenge. A large majority in this Chamber agree that those provisions—in some form—should be enacted now.

And that's exactly what we should do: Move ahead quickly where we have agreement, and not let our disagreement on controversial tax increases prevent us from enacting legislation that will put people back to work.

The President had the right idea. Now let's do our part.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to H.R. 4200, the Republican substitute for the President's original tax proposals.

This is the third version of the President's tax program. His first version contained the tax proposals presented in the President's budget and State of the Union Message. We rejected that version yesterday.

The second version was the bill, H.R. 4200, introduced on the President's behalf by the Republican leader and ranking minority member of the Ways and Means Committee. The third version is the substitute now before us which contains a further change to the President's capital gains tax cut for the wealthy.

I think we should vote on it right away, before the President and his Republican supporters change their minds again. As my distinguished counterpart, Senator BENTSEN, has said: "If the President keeps changing his proposals, even he won't make his March 20 deadline." To which I add: Instead of "Read my lips," it's "Watch my flips."

Let's review the chronology of the President's ever changing tax proposals. In his State of the Union Address, the President promised broad tax relief to the American people, including a tax cut for the middle class. The very next day, the President submitted his budget for fiscal year 1993 which contained 39 revenue proposals.

However, Republicans in the House read the President's budget with horror because the President proposed to tax credit unions, life insurance annuities, firemen, policemen, teachers, and other State and local government workers. Republicans then ran to the White House and said: "This won't do. We won't support it. This will have to change."

Within a week of submitting his budget, the President agreed to change his original plan, and asked the Republican leader and the ranking minority member of the Ways and Means Committee to introduce H.R. 4200, which includes only seven of the President's original proposals. Most regrettably, the President, and his Republican supporters decided to drop the tax cut promised just a week before to middle-class Americans across the country.

It took the President and his advisers 2 months to decide on his original economic growth package—and 1 week to drop the middle-class tax cut from the bill.

We were repeatedly told by Treasury Secretary Brady, by Assistant Secretary Goldberg, by OMB Director Darman, by the Republican leader, and by the President himself that H.R. 4200—let's call it Bush 2—was the bill the President wanted passed and on his desk by March 20. Gone was the middle-class tax cut—wait, the President said, for the second tax bill, or, as the President himself described it, wait for the political dance after the first bill is enacted.

Some Republican insiders were quoted in the press as saying the President never intended to give the middle class any tax relief at all. The promise of a middle-class tax cut, they said, was only for the New Hampshire primary. No wonder the American people are so cynical about government—when a middle-class tax cut is advertised in the State of the Union and on the campaign stump, and then dropped a week later in the bill introduced on the President's behalf by the House Republican leadership.

At the same time that he dropped the middle-class tax cut, the President and his Republican supporters made his capital gains cut for the wealthy even more generous. The annual $8,500 capital gains cut in the President's first proposal apparently wasn't good enough for his Republican supporters here in the House. So they increased the tax cut for the wealthy to $12,700 in Bush II.

Meanwhile, the middle class was told to be patient—just wait for the economic benefits from the capital gains cut to trickle down. Well, the middle class has been waiting for Republican promises to trickle down for the last 10 years—while the rich got richer, the poor got poorer, and the middle class just got squeezed.

And now the President and the House Republicans have changed the President's proposals again—let's call it Bush III. They asked for just one amendment, which was granted by the Rules Committee. No it was not to put the middle-class tax cut back in. No. You could have guessed it—they just had to liberalize capital gains one more time: hundreds of millions for the wealthy, hundreds of millions for the deficit, still nothing for the middle class.

In addition to my objections about leaving out the middle class, I am also concerned that Bush III leaves out several important provisions that are supported by strong majorities on both sides of the aisle in the House. These include broader real estate passive loss relief, repeal of the luxury tax on boats and other items, and important taxpayer bill of rights, pension and other tax simplification, and the permanent extension of various expiring provisions including the R&D credit, the low-income housing credit, the targeted jobs credit, mortgage revenue bonds, and employer-provided educational assistance. In addition, Bush III does not include urban and rural enterprise zones or any tax relief for student loans so that middle-class Americans can send their kids to college.

Finally, Bush III, the Republican substitute, should be rejected because it will increase the deficit by $28 billion over the next 5 years, and by even more in the years beyond. The budget gimmicks that have been used by the President and his Republican supporters, in an attempt to disguise the bill's real revenue losses, do not come close to fully funding the package—and won't, no matter how many times the package is revised.

Increasing the deficit in the long term as the Republican substitute does, is a failure of leadership and threatens the Nation's long-term economic growth and prosperity.

Mr. Chairman, for all the stated reasons, I strongly oppose the Republican substitute and urge my colleagues to reject it.

□ 1110

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, as far as I am concerned, we have but one priority; and that is to create jobs, good jobs with good benefits. We do this through the encouragement of investment and savings.

We also must control the deficit. I hear this, time and time again, as I go around the State of Washington. Not just from a parade of well-educated economists, but from people who live in places like Aberdeen, Forks, and Port Angeles, people out of work in the timber industry.

The Republican package meets the test of this priority to create jobs. It has within it an investment tax credit, first-time home buyer tax credit, and important real estate provisions, to help lead us out of this recession.

It encourages savings and investment at home through a capital gains reduction, expanded individual retirement accounts, and incentives to invest right here at home. It does not increase the deficit. It is fully funded each year.

On the other hand, our friends from the other side of the aisle do not create jobs, they do not encourage investment, and they do not control the deficit. They do raise taxes, and they do encourage class warfare.

I want to say this: Americans want jobs. I would rather put a paycheck in the pocket of someone who does not have a job than put $1 a day in the pocket of somebody who is working.

Where is the priority? People who are out of work are hurting. They are the ones to whom this situation is unfair, not those who are lucky enough to have a job.

The President's plan does create jobs. This plan puts Americans first, and it does not do it through isolationism or protectionism.

We also must do more, much more. Many of the provisions the chairman talked about in his package I favor very much. In fact, I helped author some of them. But we can do those later, once we have worked to jump start this economy.

We need to reduce the deficit through cutting wasteful spending. We need to adopt a North American free-trade agreement, and open markets to free trade and fair trade for all.

We need to amend the Endangered Species Act to get workers to work who have been thrown onto the unemployment rolls by a rigid, inflexible, unfair law that is not working for anybody.

I urge my colleagues to vote today to support the Michel-Archer substitute.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, in New York City there was once a clothing store, and there still is, by the name of Barney's. They had an interesting ad. Their ad said: "At Barney's, you can select; you don't have to settle."

Now, unfortunately, a tax law is not like a men's haberdashery. Here we are asked to settle, not select.

If you are forced into a position of accepting that which is offered as opposed to doing precisely what you want, these two bills give you ample reason to be concerned about our future.

But as I look at the Democratic version of the tax bill versus the Republican, I am struck by a couple of things. We tried mightily in our plan to make sure that it is paid for and that it is not ridden with gimmicks. We members of the Committee on Ways and Means recognized that things like the permanent extension of the R&D tax credit, permanently extending affordable housing, providing for a targeted tax credit, removing some of the luxury taxes that have been much maligned, and also having a rational capital gains was the way to go.

But the one thing we understood probably more than anything was that there were millions of people who had been left out of the Reagan-Bush revolution. Now, my Republican friends call this class warfare. It is class warfare in a way, and you have been winning. You have managed over the years to do a wonderful job of increasing the number of millionaires and billionaires. Sadly, the percentage of people who have been middle class have also been reduced.

Now, this middle class proposal that is in this bill is not what I want. I would have preferred to give money permanently to families with children and focus that relief on them. We were given every opportunity to pass that, but unfortunately not a majority on our committee were for it. I understand that the other body is interested, so those people who are concerned about the Democratic bill understand that when the House Democratic plan goes forward, we will be able to negotiate with our Senate friends to help families with kids. So there are many good things in the Democratic bill and many opportunities to make it better.

Now, what about the substitute before us today? The Republican Party was once a party that had a proud tradition. The tradition said that we are interested in fiscal responsibility. We want to make sure that deficits do not grow, that they diminish. They have sacrificed at the altar of electoral politics any sense of fiscal responsibility.

The President of the United States in a interview with David Frost said, "I will do anything I have to to win." Evidence of that is the Republican tax plan. It has nothing for the middle class. It says that it will create jobs. It may or may not create jobs. It will certainly create a much higher long-term deficit.

Who benefits and who does not benefit? The reason the Republicans do not like to talk about who benefits who does not benefit is because when you look at their plan, it is so hopelessly and unalterably weighted to wealthy Americans, that it puts any rational argument on its face that it is determined to help the broad bases of middle income people in this country.

The President said he wanted to deliver a $500 increase in the personal exemption for dependent children. Where is it? Where is it? He campaigned in New Hampshire and said "I am for this."

It is not in your plan. In your plan are a series of proposals that are designed to make the rich richer, the middle class poorer, and the poor destitute. It would be rejected for its unfairness alone. If unfairness is not one of the reasons for it to be rejected, then take a look at the gimmicks that are riddled in its plan to pay for itself.

□ 1120

It will increase the deficit long term. It will not create the jobs that it advertises it will create, and it will result in further exacerbating the income differentials that exist in this country.

Please, my colleagues, reject this plan. Recognize that all may not be perfect with the Democratic plan but it is an infinite improvement over what the Republicans have produced.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I come from the school that believes the best approach to stimulating a sustained economic recovery is to let monetary policy and low interest rates work, and do nothing that would cause these rates to rise again. That means keeping a lid on the Federal deficit and making only those changes in the tax laws that contribute to long-term growth and competitiveness. I only wish the Democrats shared this philosophy.

Predictably, but unfortunately, the Democrat approach to jump-starting the economy, H.R. 4287, is to raise taxes, shift $90 billion of tax burdens between groups without any thought to the negative economic effects, violate the Budget Enforcement Act, and use permanent tax increases to fund temporary tax cuts.

This will not create jobs. This will not stimulate the economy. This will not promote long-term growth. This will not control spending. Mr. Chairman, this is not leadership.

There is almost universal agreement from across the spectrum that whatever we do, we should not increase the deficit, start a bidding war that will rapidly get out of hand, transfer income from one group to another hoping this will stimulate the economy and create jobs, or adopt a package that is not disciplined or targeted toward investment. The Republican plan meets these mandates—the Democrat plan does not.

H.R. 4287 is bad tax policy and even worse economic policy. Our problem in this country is hardly that we overinvest and underconsume. Rather, it is exactly the reverse. H.R. 4287, which would dole out minuscule, consumption-oriented tax cuts while taking funds away from those taxpayers who have the capacity to save and invest, is an awful idea.

My constituents tell me they want jobs, not a 1-dollar-a-day tax cut. And they certainly do not support increased Federal borrowing to support a temporary tax cut.

I will support the Michel-Archer substitute. Adoption of this seven-point plan is a foundation for long-term growth. The proposal provides for a reduction in the capital gains tax rate, institutes an investment tax allowance to encourage new investment, simplifies the alternative-minimum tax system, and encourages real estate investment and home ownership through a modification to the passive loss rules and the establishment of a tax credit for first-time home buyers. This plan does not impose any new taxes that will negate its positive economic effects and further hamper economic growth. And this plan shows fiscal restraint that sticks to pay-as-you-go budgeting.

The measures contained in the Michel substitute, H.R. 4200, hold the promise of actually enhancing long-term economic growth and providing a boost in short-term business and consumer confidence. The Republican alternative isn't perfect, but it's far preferable to the Democrat tax-increasing alternative. I will support it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Chairman, I urge opposition to the Republican substitute and strong support for the Democratic bill that will be coming up after this coming vote. I would like to talk one moment about definitions, if I may.

We have been hearing from Members on the other side of the aisle that the Democratic bill is a bill that transfers money or income between groups. We have also heard that they talk about redistribution.

Let me tell my colleagues what that actually means when we talk about moving money or income from one group to another and redistribution. What it basically means is that we have a 10-percent surtax on people that make $1 million a year. Second, on people that make about $200,000 a year income, joint filers. We increase taxes on them from 31 percent to 35 percent. And we use that $55 billion tha we pick up annually for people in the middle-income group, 90 million taxpayers will then get about $800 to $1,000 over the next 24 months in credits on their income tax.

That is what we are really talking about when we are talking about redistribution. The reason we are doing this is not because of economic growth. It will not have any impact on growth. What it will have, however, is equity in the Tax Code. And as many of my colleagues, know, in 1981 and over the last decade, the Income Tax Code got to the point where the wealthier had lower taxes. The middle-income people had higher taxes.

We thought this was an opportunity, because President Bush talked about it in his State of the Union Message, to bring equity back to the Tax Code.

But the reason I want to speak on the floor is to talk a little bit about some of the growth initiatives that I am afraid my colleagues on the other side of the aisle seem to have forgotten about. These are some of the provisions that George Bush picked out of the Democratic proposals that were floating around over the last 2 years in the form of bills that had not been brought to the full committee.

One is that we have a capital gains proposal. It is a very good capital gains proposal that will help middle-income Americans because what our bill does, it provides for nontaxability of inflationary gains.

What that means is if we have 100-percent inflation on a piece of property over a 10-year period and the cost of that property $100,000 and now it is $200,000, our tax will only be on $100,000 and that is only fair because the inflationary gain, frankly, should not have been taxed at all. That is not appreciation of your property.

We have a venture capital proposal that helps small business ventures that want to start up; it provides capital gains for them.

It also provides for very small businesses expensing. They can buy machinery and equipment up to $25,000; instead of having to depreciate it, they can expense it.

We have a number of other growth-oriented provisons in this bill. I am afraid that what is going to happen for those Members that vote against this bill, they are going to have to go home and they are going to have to explain to their constituents, their business community, small businesses, why, why they did not support capital gains expensing up to $25,000, IRA's for first-time home buyers and for education and medical expenses.

It is my belief that this vote will be a critical vote, particularly for those that vote against this bill, because it is a very, very good piece of legislation.

Mr. Chairman, today I rise in support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992, drafted by the Ways and Means Committee over the past several weeks. It is a balanced, equitable package, offering both middle-income tax relief and growth and investment incentives, and it deserves strong support.

For over a year, there has been much discussion regarding the decline in progressivity of the Tax Code. Study after study has shown that, since the mid-1970's, while the rich have gotten richer, the middle class has seen its real income decline steadily. Democrats and Republicans alike appear to agree that this is a very real problem—the Democratic alternative, however, contains the broadest relief and most fair solution for a vast majority of U.S. tax return filers.

Restoring fairness in the code is an important first step. Equally important, however, is stimulating the economy by providing investment incentives and job assurance. With that in mind, I am particularly pleased that H.R.

4287 incorporates strong incentives for small businesses. It encourages capital formation for entrepreneurial ventures, and it helps already existing small companies expand by allowing more liberal expensing.

Small business is the engine for new job creation in our economy, but few people understand the magnitude of this statement. In 1988, for example, it is estimated that, while the United States added 3.6 million jobs to the economy, the Fortune 500 companies eliminated 400,000 jobs. Small business accounted for the difference. In the 10 years between 1976 and 1986, government data shows that 7 percent of U.S. companies created two-thirds of all new jobs during that period, and 85 percent of those firms had fewer than 100 employees.

Despite the importance of these small firms, a high cost and scarcity of capital for small, entrepreneurial firms over the past several years has put America at a disadvantage. The alarming slowdown in domestic capital investment has caused smaller firms to turn to investors from our major international competitors to fund their growth. This is simply unacceptable—we must enact the small business incentives in the Democratic alternative to buoy this important sector of our economy.

The Democratic substitute would provide middle-class relief, job creation, growth and investment incentives, measures to ensue that the wealthy pay their fair share of taxes, and simplification of the laws. My colleagues who do not vote for this package will have to answer why they object to a tax credit for student loan interest, penalty-free IRA withdrawals for first-time home buyers or for medical or educational expenses, expansion of the income exclusion for employer-provided transit passes and van pooling, a taxpayer bill of rights and other middle-income tax relief provisions.

Any Member voting against this bill will have to explain why he or she is voting against the enactment of growth incentives such as permanent extension of the research and development credit, the low-income housing credit, the targeted jobs tax credit, the exclusion for employer-provided educational assistance, and enterprise zones for urban and rural areas.

Finally, any Member voting against H.R. 4287 should explain why he or she is voting against progressivity and fairness. This package restores equity in the code by requiring that the wealthy pay their fair share of taxes. Any Member voting no should explain why he or she objects to a 10-percent surtax on millionaires and a $1 million cap on the corporate deduction for executive compensation.

This package is balanced; it is equitable; and it reduces the Federal deficit. It is time to give the American people the relief they have been asking for—vote for this Democratic alternative, and do something good for America and the economy.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, what this debate is about today is whether or not we are going to recognize that supply-side economics, that tax policy influences investment attitudes, and job creation should be the law of the land.

We learned this in 1981, when I was here and voted to reduce marginal tax rates for all Americans. And we created almost 20 million jobs for this country in the decade of the 1980's. We took that away in 1986 and 1990. The reality is, Congress has raised taxes 13 times since 1981, and I am proud to say I voted against every one of those tax increases.

But today the issue is, Shall we recognize again that tax policy influences investment decisions? The Republican alternative is not everything I would like in a proposal, but the capital gains provision is far more beneficial to the economy than the Democrat plan.

The Republican plan recognizes that real estate investment is necessary to bring this Nation out of recession, whereas in contrast, the Democrat plan, I could not believe it when I saw this, they would increase the depreciation schedule on real estate from 31.5 to 40 years.

I cannot imagine a more effective way to stop real estate investment and construction jobs in this country than to increase the depreciation schedule that the Democrat plan contains for real estate.

My State of California has a 1-percent unemployment rate higher than the rest of the country. One of the reasons is our construction industry is in trouble.

We need relief in California and across the country so that real estate can lead the recovery that everyone in the Nation wants.

Is there any wonder about whether or not the Republican alternative is more beneficial for job creation? Our proposal would create 593,000 jobs while the Democrat proposal would lead to a loss of 103,000 jobs. The Republican proposal would increase the Nation's output of goods and services by 476 billion through 1997, while the Democrat proposal would actually lead to a loss of 69 billion in output.

Mr. Chairman, I think the choice is clear and I ask for a vote on the Archer-Michel substitute.

□ 1130

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I rise today in support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992. Title V of this Democratic alternative bill is a most important provision, the taxpayer bill of rights of 1992. This is the second time that the Committee on Ways and Means and the Congress have attempted to pass comprehensive legislation to better protect the rights and procedural safeguards of taxpayers.

The very first provision of this taxpayer bill of rights establishes a new position of taxpayers' advocate within the IRS. This advocate is to be nominated by the President, confirmed by the Senate. But, most importantly, the advocate is required to report to the Congress, so that we who are held accountable for their actions might know what is going on at the IRS. The advocate is required to make reports directly to the Congress so that his voice on behalf of the everyday working American taxpayer will never be quietly swallowed up in the halls of the IRS bureaucracy.

Mr. Chairman, in addition to creating the position of taxpayer advocate, this bill makes changes in over 30 different areas of tax administration. As time is short, I will share with the Members just some of the most compelling examples of why this bill is essential.

Mr. SCHULZE. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I will be happy to yield to the gentleman, at the end of my time. I want to also say this bill was passed out unanimously by the Oversight Subcommittee and the gentleman from Pennsylvania——

Mr. SCHULZE. I was just wondering whether the gentleman from Texas [Mr. PICKLE] was going to say the things that were dropped behind closed doors and the things that were changed from that which was reported out of the subcommittee.

Mr. PICKLE. Mr. Chairman, I appreciate the gentleman's comments, and I will be happy to talk to him about that later on.

First, imagine, if you will, a 21-year-old secretary-bookkeeper, working at her first job for a small business. Her duties include making routine reports to the company president on the company's bank balances. In addition, she is authorized to sign checks, as a convenience to the president, who is frequently out of town on business. She never signs any checks without previous permission, and has no involvement with the company's financial and tax decisions. She is not a trained CPA, and isn't trained or expected to know all the facts about the company's tax obligations. This secretary certainly does not know that this company has not timely deposited its payroll taxes for the past 6 months. More importantly, she doesn't know, and has never been told that she can be held personally liable for those taxes. As a matter of fact, even if she learns these things, blows the whistle, and brings this matter to the attention of the IRS, she can be held personally responsible for all the taxes. Even if her boss says she wasn't responsible she can be held to be personally liable. Mr. Chairman, this isn't right and this taxpayer bill of rights corrects this problem.

Second, imagine that you receive a letter from the IRS questioning a deduction on your tax return, asking you for further substantiation, and telling you that, based on the information you supply, the IRS will make a final decision. You promptly respond by certified letter, and you hear nothing more. A couple of years pass, and, out of the blue, the IRS writes you, disallowing your deduction, and assessing tax, penalties, and interest. In checking into the matter further, you learn that the 2-year delay was the result of the IRS losing your file, because the person working your case was transferred, and the case wasn't promptly reassigned. In fact the IRS even admits its mistake, doesn't try to defend the situation, perhaps even apologizes for the delay. No matter, the IRS cannot abate the interest due to its own mistakes. You are expected to pay the cost of the IRS delays, which you did not cause, did not want, and could not have prevented. Mr. Chairman, this is not right, and this taxpayer bill of rights corrects this problem.

Third, imagine you are a small business owner, and you have settled a dispute with the IRS concerning the appropriate tax treatment of contributions you made to your company's employee pension plan. As part of this settlement you are now paying your tax in full, with interest, installments over the next 6 months. Unfortunately, the IRS agent handling your case accidently filed a lien against your company's assets, and had this lien publicly recorded. Your company's credit may be destroyed, your commercial loan agreements are now subject to immediate repayment, and your ability to remain in business is in grave jeopardy. The IRS admits it made a mistake, and that the lien never should have been recorded. Too bad, the IRS can't withdraw the lien until you pay your tax liability in full. Mr. Chairman, this is not right, and this taxpayer bill of rights corrects this problem.

Fourth, imagine you are divorced, and have filed your own separate return for the past several years. However, the IRS has audited the joint returns you and your spouse filed when you were married. The IRS has never notified you of the audit, the IRS has sent a notice of deficiency to your former spouse. The IRS has never even attempted to call or write you until today, when you get a letter telling you that your bank account has been levied and a lien has been placed on your house. You are further told that your time for administrative appeal has passed, and that you have no choice, but to pay the tax, penalty, and interest in full, and then sue the IRS in Federal district court for a refund. Mr. Chairman, this is not right, and this taxpayer bill of rights corrects this problem.

Fifth, imagine you receive a letter from the IRS asking why you didn't report $30,000 in additional income you supposedly received when you filed your tax return over two years earlier. Unfortunately, you've never heard of the company that supposedly paid you the money. You have no record of ever receiving any money. You have no way of contacting the company, and the information return the company filed doesn't even give you a phone number where they can be reached. So you call the IRS to explain the situation, and you are told that the IRS is entitled to the presumption that this third party return is correct, and that you are responsible for reconciling the discrepancy. Even worse, if you can't straighten the mess out then you must pay the tax, penalty, and interest. And even if you find out that the whole thing was the result of a malicious act by someone intent on harassing you, you can't even sue for damages because there is no Federal cause of action available to you. Mr. Chairman, this isn't right, and this taxpayer bill of rights corrects this problem.

Mr. Chairman, I could go on all day about the problems we found that taxpayers experience all too frequently: problems with installment agreements; problems that businesses encounter with inaccurate forms and instructions; problems with taxpayers getting erroneous information returns; and, the list goes on and on.

The taxpayer bill of rights addresses all these problems in 11 general areas. The bill:

First, establishes a taxpayers' advocate, nominated by the President, confirmed by the Senate, and reporting directly to the Congress, with expanded authority to issue taxpayer assistance orders to force the IRS to act on behalf of taxpayers;

Second, improves installment agreements by requiring prior notice of their cancellation, allowing for administrative appeals, and suspending certain penalties while they are in effect;

Third, expands the authority of the IRS to abate interest payments and gives taxpayers 45 days after receiving a notice of additional tax due to pay the tax without further interest;

Fourth, provides protection to spouses filing joint returns and requires the IRS to take all reasonable steps to notify both spouses of any deficiencies on the return;

Fifth, improves the procedures concerning liens, levies, and offers in compromise;

Sixth, requires the IRS to verify the accuracy of information returns, the inclusion of the payer's telephone number on such returns, and gives the taxpayer a civil cause of action if an information return is fraudulently filed;

Seventh, provides additional notice and protection for taxpayers who are determined to be responsible officers in Federal tax deposit situations;

Eighth, allows Federal courts to assess litigation costs against IRS employees whose arbitrary, capricious, or malicious actions required taxpayers to seek judicial relief;

Ninth, requires the IRS to improve its forms and notices concerning changes of address, divorce, and the payment of employee withholding and payroll taxes;

Tenth, requires the IRS to study and report on better ways to serve taxpayers with special needs, the taxpayer rights education program, and the misconduct of IRS employees, and also requires the IRS to conduct a pilot program for taxpayer appeals of collection and enforcement actions;

Eleventh, requires the GAO to study and report on the accuracy of IRS forms and notices, and the operations of the IRS employee-suggestions programs.

Mr. Chairman, I support H.R. 4287, and I think this taxpayer bill of rights is one of the most important aspects of this bill. At a time when partisan passions are running high, this taxpayer bill of rights is the result of true bipartisan work on the part of all the members of the Oversight Subcommittee. I know that this is not the cure for all taxpayer problems, and our efforts to protect the legitimate interests of taxpayers are by no means over. But, this is a good, responsible package and I strongly urge that it be favorably acted upon today.

Mr. ARCHER. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I just want to set the record straight and let everybody know the things which were removed which had been passed by the oversight subcommittee in the way of the taxpayers' bill of rights, one very basic right, which was to protect taxpayers who acted in good faith in reliance on initial guidance by the IRS.

When one goes to the IRS and says, "How do I handle this," and they say, "Do it this way," should one not be protected? Should one not be able to do it that way and have some sense of security? You're darned right. In the dark of the night it was taken out.

We equalized the interest rate on tax deficiencies and refunds. If the IRS is going to charge 8 percent, should they not pay 8 percent? It is just basic common decency to have that. They threw that out in the dark of night.

We wanted to expand access to attorneys' fees by taxpayers who prevail over the IRS. When the taxpayer is proven right, why should not the taxpayer be allowed to recover attorneys' fees? As a matter of fact, they had to show that they were justified. All the IRS had to do was show that they were justified in pursuing the case. They threw that out. What happens to the poor guy who was up against the IRS?

The other thing was to allow taxpayers to serve as their own counsel in successfully litigating against the IRS to recover a reasonable amount for their time that they put into fighting this thing with the IRS. In the dark of night, behind closed doors, that was thrown out.

How can the American people have faith in the bill when they have destroyed their faith in this system?

Mrs. KENNELLY. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, the gentleman from Pennsylvania [Mr. SCHULZE] is correct, he did not get all in the bill he wanted. I may say to him that we have the taxpayers' bill of rights in our version. I do not believe they have anything in their version. All the points the gentleman mentioned, some of them can be discussed.

Let me simply say to the gentleman, with respect to some of the points, I admit we did not get them all. I wish we could get them. We may get them later on. But at least this is a very important bill.

I would say to the gentleman we could have gotten some of the things he wanted but we would have done damage to the reporting requirement particularly on the 1099. So I would say that the steps we have taken are tremendously important.

Mrs. KENNELLY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in strong support of the Democratic alternative. Conventional wisdom inside the beltway seems to say Congress probably should not pass any tax legislation. But, my colleagues, I suggest that is wrong. I think there is a real probability we can stay in a recession for many, many months without some significant action from Congress.

Clearly, I think the Democratic proposal is the more responsible and will lead to our economy responding faster. What does it do? It is promiddle class, it is probusiness, and it is clearly the most fiscally responsible of the two alternatives. It restores passive losses, that fatal flaw in the 1986 Tax Code that led to literally billions of dollars of equity losses in all of American's homes.

It restores capital gains to eliminate inflation, the effects of inflation, when one sells property. Finally, the middle-income tax cut. There are those who say $400 is insignificant. I would suggest to my colleagues that to a large majority of Americans a $400 reduction in our tax bill is significant to us.

Clearly, the Democratic alternative is the most responsible. It does increase taxes on the very highest of the incomes to pay for the tax reductions for the middle-class Americans. I would urge my colleagues to support the Democratic alternative.

□ 1140

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise today to support the Michel-Archer plan for economic recovery. It is far from the plan that I would have preferred, but it is sure better than the soak-the-rich, ignore-the-unemployed alternative of the Democrats.

H.R. 4200, Michel-Archer, would reduce the alternative minimum tax, stimulate the real estate industry, enact a new investment tax allowance, cut the tax on capital gains. The Democrat plan, by contrast, raises taxes $95 billion, creates a new higher tax bracket, increases the deficit by $30 billion in the next 2 years, and deliberately pits the rich against the poor.

The central tenet of the Democrats' economic plan seems to be tax the rich, bust the budget, raise the deficit, beat the President. Well, that is not much of an economic policy, and the American people are going to see through that charade, because they realize that higher taxes on the haves, the people who have the money to create the investment, to create the jobs, that higher taxes on them could well end up just hurting the have nots.

Remember that the luxury tax which was designed to punish the rich when they bought their fancy yachts and airplanes ended up putting 9,000 workers out of work. How many people are you going to put out of work this time?

Our main emphasis ought to be putting people back to work in a position to buy a home, putting people in a position to save for the future. H.R. 4200 helps to meet those goals.

The Democrat plan increases the deficit $30 billion in the next 2 years. It denies first-time home buyers the $5,000 tax credit that the President wants to help jump-start home sales and construction and retail sales.

Mr. Chairman, we need investment. We need jobs. We do not need envy and class warfare. The rest of the world is throwing off the politics of envy and class warfare. It is time that we did that here, too.

We should pass H.R. 4200 and deal with the problems of the people, not with Presidential politics.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. Mr. Chairman, today this House has the opportunity to improve the lives of millions of Americans. We could set the groundwork for economic growth, or we could succumb to political pressure and vote for a permanent tax increase to pay for some temporary benefits while adding $30 billion to the Federal deficit over the next 3 years.

Mr. Chairman, I oppose the Democratic alternative to H.R. 4210, and I support the Republican alternative. The Democratic plan offers little assistance to most taxpayers, especially in light of the long-term effects that it will have on the Federal deficit.

Adding to an already high Federal deficit in this manner is unthinkable. It could actually take jobs away from people.

On the other hand, the Republican substitute offers business incentives that will create jobs. It offers incentives that will help the real estate industry. It offers tax credits to first-time home buyers that will help families. It is a plan that can be enacted quickly to spark the economy and provide a base for long-term growth.

As a candidate for Congress in 1990, I talked about my opposition to the tax-and-spend ways of the Democrats. Regrettably, now as a freshman Congressman, I am witnessing firsthand the tax-and-spend ways of the Democratic-controlled Congress. My Democratic friends continue to fail to get the message.

The American people want jobs. The American people want to earn an honest living. They do not want, instead, a dollar a day in tax breaks.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, today we will vote on an economic growth package to jump start the economy. The choice is clear.

The Michel-Archer substitute is a solid plan that will jump start the economy, create jobs, and help small businesses and American families. The Democrats have proposed a disastrous prescription for the economy—raising taxes on 90 percent of our Nation's small businesses.

Small businesses are the backbone of the American economy. They provide more than 80 percent of our Nation's jobs. A tax increase on small businesses will guarantee fewer jobs and higher unemployment.

The Democrat tax plan will not stimulate economic growth. It increases the deficit, increases taxes, and penalizes the fruits of free enterprise.

If Congress does not approve the Michel-Archer growth package, it will be responsible for blocking an important opportunity to jump start the American economy and end the recession. That would be a terrible loss for small businesses, American workers, and American families.

Let us not blow this opportunity, Mr. Chairman. Let us pass the Michel-Archer economic growth plan.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong support of the Michel-Archer substitute for economic growth.

It includes the President's seven-point economic growth plan.

Economic times are tough in California and my constituents are looking to Congress for help. They do not want smoke and mirrors or long political speeches. They want jobs and investment and they want opportunity, and they do not want more taxes. And more deficits.

Michel-Archer has the jobs. Cutting the tax on capital gains and providing an investment tax allowance means a lower cost of capital for American businesses and more jobs for American workers.

In addition to job creation, a lower capital gains tax puts the United States on more competitive footing with our global trading partners, many of whom, like Japan, Hong Kong, Germany, and others, have little or no tax on capital gains.

Michel-Archer also has the opportunity. The opportunity to own a home, once a cornerstone of the American dream, would be brought back within reach for many with tax credits of up to $5,000 for first-time homebuyers, as well, as by allowing first-time home buyers to make penalty-free withdrawals from their IRA accounts to help cover the cost of a downpayment.

I first introduced the IRA first-time home buyers proposal over a decade ago. Now, more than every, its passage is critical to boosting the construction and housing industry, providing jobs for Americans while also helping to combat the often unreachable opportunity to own a home.

One thing that Michel-Archer does not have is the taxes. The Federal Government must not borrow its way out of the recession and the Congress cannot tax and spend its way to a healthy economy. Reforming the Federal Government and cutting back on wasteful spending will create the money to pay for the economic growth package in H.R. 4200.

I urge my colleagues to accept the President's challenge to Congress and support the progrowth initiatives of Michel-Archer. This bill is one part of a real solution to some very real economic problems.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, during the recess, I was pleased to have the opportunity to submit a statement to the Committee on Ways and Means in support of several proposals to stimulate encomic growth.

Too many of our constituents are suffering from the economic situation, and we want to be able to help those in need. However, more importantly, we must not enact a tax package that is detrimental to our economy. The Democratic substitute provides a small temporary benefit of $400 in tax relief for middle-class families, less than 54 cents per day for each person, and this proposal permanently increases taxes without providing any incentive for growth.

The Republican growth proposal, which includes policies which encourage research and development and enhances business investment through tax credits, focuses on the need to create additional jobs. With several million Americans out of work, it is vitally important that we offer those unemployed Americans a means to reenter the work force.

Let us not forget that the 54 cents per day tax cut will not help those Americans who don't have a job to begin with. Instead we should focus on incentives to stimulate small business and the creation of jobs, not the creation of tax cuts.

Therefore, I am pleased that among many the growth incentives included in the Michel-Archer substitute is a $5,000 tax credit for first-time home buyers along with penalty-free IRA withdrawals to help with the purchase of a first home.

The availability of affordable housing in my region of New York has deteriorated to the point where young couples must commute to their jobs for several hours a day. The Michel-Archer substitute provides a needed incentive for young people to own their homes.

Let us also not forget that home-building is one of the more important factors in our economy. Not only does the home construction provide jobs for carpenters, plumbers, and others, it provides jobs for the Americans who make washers, dryers, and refrigerators and all the materials that go into home construction.

It is also of importance to note that the Michel-Archer proposal includes several provisions to provide relief for our small businessmen. In particular, the provision for an investment tax allowance and for passive loss relief.

Mr. Chairman, I hope that my colleagues will bear in mind that we in the Congress represent all of our constituents, not just our political parties. Let us work together and vote for a package that will create jobs for all of the American people.

Mrs. KENNELLY. Mr. Chairman, I yield 1 minute to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Chairman, the purposes of this legislation are accurately described by its title, the Tax Fairness and Economic Recovery Act of 1992.

These purposes would be accomplished in the United States by the changes that the legislation proposes in the national tax system.

But, because of provisions in or under the laws establishing the Federal relationships of some of the insular areas associated with the United States to our nation that are within the jurisdiction of the Committee on Interior and Insular Affairs, changes in the Federal Internal Revenue Code will automatically change the local tax codes of insular areas.

Because of the President's deadline for congressional action and the schedule that it has required for this legislation, I have not suggested impeding this bill's progress by proposing that its impacts on insular tax systems and economies be studied before it is considered on this floor.

More importantly, the distinguished chairman of the Committee on Ways and Means, our colleague DAN ROSTENKOWSKI, has recognized the potential implications for the insular areas and promised to cooperate with the Committee on Interior and Insular Affairs as this legislation progresses on any necessary provisions to coordinate the Federal and insular tax systems.

I intend for the Subcommittee on Insular and International Affairs, which I am privileged to chair, to study this matter and propose actions, if they are found to be necessary, either through this or other legislation.

I look forward to working with Chairman DAN ROSTENKOWSKI, in this regard and appreciate his willingness to cooperate so that necessary changes in the national system also accomplish worthwhile purposes in insular areas.

□ 1150

Mrs. KENNELLY. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I rise in support of the Democratic bill and opposed to this substitute.

Let me say, Mr. Chairman, that I think all of us in this country want to focus on growth. In my judgment, that is the most important thing that we can do, which is making the pie get bigger. To this Member, frankly, it is far more important to make the pie bigger than to redistribute the pieces of the pie at this point in time, but I have to tell you that I do not think the Republican proposal meets that bill. Instead, it seems to be a package of giveaways to friends on that side of the aisle.

If we really want to increase growth, there are proposals that we can do. I would be for indexing all capital gains, savings, and borrowings, and that indeed we shift the balance in this country from too much consumption, too much borrowing and toward more savings and investment over the long run.

Alas, such a proposal is in neither bill, but the Democratic proposal comes closer, even though it focuses on equity, to doing things for real growth than the Republican proposal does, and I urge my colleagues to vote for it.

Mrs. KENNELLY. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentlewoman for yielding me this time.

It is not infrequent that we forget why we are here and what we are debating, because the debate sometimes gets so shrill.

The fact is, this country is in serious trouble. It has had a long recession that came and stayed here. A lot of people are out of work. A lot of people who are working are concerned about whether they will be able to continue to work. They want some leadership. They want some help. They want people in this House of Representatives, and on the other side of the Capitol, to begin working as a team to see if we can do some things to strengthen this country's economy.

Now, we have some differences of opinion and when we debate these kinds of issues, people say, "Oh, that is partisan, it is destructive."

No; it is not. It is debate, and debate generally should produce a good result.

There are some things in this bill today that I do not like. But I must say that there are plenty of common areas that the Republicans and Democrats both believe we ought to do. But those things are in both of the bills we are talking about today.

We are talking about jobs and economic growth, but now we have a philosophical difference on some points. Let me describe what I think that difference is. Many of us believe the economic engine for this is the middle class, the people who work doing the best they can for their country, themselves, their families, and their communities. We believe they represent the economic engine for economic growth and prosperity in this country. They have found in the last decade that they have been squeezed like lemons. The very, very wealthy have got much wealthier and the middle-income people have been squeezed like lemons. So we propose a tax on upper income folks, a modest tax on millionaires' incomes and on a couple earning over $200,000 a year and use the money from that to give the middle-income groups in this country a break.

We believe $800 for a couple over 2 years is not insignificant. It might seem insignificant to some people who have much more money than that, but it is going to be very helpful to the middle-income people in this country who have seen their incomes squeezed and their tax burdens increased, particularly because of the Social Security tax increase. We believe that is the road to economic health in this country.

Mrs. KENNELLY. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I rise in opposition to the Republican alternative today and urge its defeat.

Although productivity in this country remains dead in the water year after year, the Bush administration and too many of us in Congress are prepared to play economic politics again today.

Although real family disposable income has been stagnant for 20 years, the Bush administration and too many of us in Congress are prepared to play economic politics again today.

Although the standard of living of American families remains no better in 1992 than it was in 1972, the Bush administration and too many of us in Congress are prepared to play economic politics again today.

The people we represent deserve better than this. We can do better. We won't do better as a nation by adopting either of the plans before us today. America might be better off if we rejected both alternatives and did nothing. America certainly would be better off if we rejected both plans and did the unthinkable in an election year: Tried to work together to develop a comprehensive, bipartisan approach—not a quick fix to get our economy moving today—it already is moving—but a game plan that rejects political gamesmanship and budget gimmickery to address the real economic challenges that face our country.

First and foremost, we must significantly increase productivity in America. How? By investing in research and development, in human capital, in modernizing plants and equipment, and in our infrastructure—our transportation systems, our water and sewer systems.

We must increase net savings, and not just encourage Americans to move their money from taxable investments to tax-free investments.

We must reduce the Federal deficit which now equals close to three-fourths of aggregate savings in the United States.

We must continue to bring down the cost of capital for businesses and families, with a special focus not on short-term interest rates, but on long-term rates.

We must expand exports dramatically. There are growing markets for U.S. goods well beyond our borders, and we spend entirely too little effort trying to gauge those markets and to penetrate them.

We must promote a new era of cooperation between labor and management and between business and Government. We came to this country in different boats, but we're in the same boat today, and that boat is in danger of sinking. Paul Tsongas is right. We can't be projobs and antibusiness.

There are plenty of other things we need to do—most of them are just plain, old-fashioned common sense. They involve preserving our manufacturing base, renewing our commitment to quality, reining in the cost of health care, stemming our growing penchant for litigation, and more. These are issues which, frankly, cannot be addressed in a single tax bill or, indeed, solely by the Government.

Let me conclude by acknowledging today that we face several temptations: To use the recession either as a cover to make our favorite changes in the Tax Code, to worsen the budget deficit, or to gain some political advantage as November approaches.

The choice is ours—the Members of this House. Our best choice today is to reject the proposals of both parties and resolve to leave well enough alone or to put aside our differences and try to work together to restore long-term economic growth in the United States.

Ms. LONG. Mr. Chairman, while I applaud efforts of my colleagues to create a package which provides middle-income tax relief and economic growth incentives, I cannot support either of the substitutes being considered on the floor today.

The substitute offered by Representatives MICHEL and ARCHER contain some laudable proposals. I support the provisions which allow businesses to accelerate depreciation, provide passive loss relief for real estate developers, and the measure allowing early withdrawals from individual retirement accounts [IRA's] for first-time home buyers. Clearly, these measures would stimulate economic growth.

Unfortunately, these are not the only proposals in the Michel-Archer substitute. When taking as a whole, this plan offers extremely little for middle-income families, while providing a huge windfall to those individuals who have annual incomes of over $100,000. Their plan offers huge tax breaks for the wealthy and increases the Federal deficit. Congress should be working to make the tax burden more equitable and to reduce the deficit. The Michel-Archer substitute moves in the opposite direction.

While the Rostenkowski-Gephardt substitute addresses the tax fairness issue by providing relief to middle-income families, unfortunately, I cannot support this measure either. Like the Michel-Archer substitute, there are some very appealing measures contained in the Rostenkowski-Gephardt proposal. I support economic growth incentives, such as indexing capital gains which will not add to the deficit in the long run, modifying passive loss rules, accelerating the depreciation schedule, repealing certain luxury taxes, and permanently extending the research and development tax credits. I also applaud my colleagues for remembering middle-income families and providing these families with much needed tax relief. As appealing as these provisions may be, I cannot support this proposal.

I gave my word to the constituents of my congressional district that I would not support measures in this Congress which raise taxes. If I voted for the Rostenkowski-Gephardt proposal to place a 10-percent surtax on annual incomes of $1 million and to raise the highest income tax rate from 31 to 35 percent, I would be breaking my pledge. In these days, when the public believes that politicians will cynically say anything to get elected and then promptly ignore their own words, I believe that it is critical that I keep my word.

Mr. GILCHREST. Mr. Chairman, there is nothing especially difficult about the decision before us. We had one bill which contained certain limited incentives for investment and does so without raising taxes or increasing the deficit. Now we have another proposal which contains a larger group of tax breaks, but which raises taxes and increases short-term borrowing.

The majority party has argued again and again that Republican proposals favor the rich, that they are not fair. The fact is that Republican proposals stimulate the sort of investment which is critical for job creation. Is job creation unfair? Are investment and economic growth unfair?

And what about the Democrat proposal? It certainly contains a lot of temporary tax breaks, most of which I support. But rather than having the courage to pay for these through spending cuts, they use a combination of—no surprise—tax increases and increased short-term borrowing. If tax increases and deficit spending were the formula for economic growth, the 1990 budget agreement should have caused a boom, not a recession.

Of course, the majority will say their package moves toward fairness. I guess once everyone is unemployed, when all wages fall, when no one can create wealth anymore, there will be a strange fairness to that. The Democrat package hurts everyone alike; I suppose that is fair. It hurts the wealthy and upper middle class with taxes, it hurts working Americans by putting their jobs at risk, and it hurts the unemployed by reducing their chances of finding a job. Is this the sort of fairness we want?

Mr. Chairman, I urge my colleagues to oppose the Rostenkowski substitute; it is the sort of fairness we could use a lot less of. Let's vote this down and take up legislation which will bring back economic growth.

Mr. KYL. Mr. Chairman, in 1990, the House passed one of the largest tax increases in our Nation's history and sent a weak economy spiraling into recession.

Despite the proponents' talk of tax fairness and soaking the rich at the time, it was the middle class and the poor who ultimately paid the price in terms of lost jobs, lower wages, and uncertainty over their futures.

Mr. Chairman, the American people had better beware because the air is filled once again with talk of tax fairness and soaking the rich.

One of the reasons to beware is the very centerpiece of the legislation offered by the Democrat caucus: A temporary tax credit of $200 for single taxpayers and $400 for married couples in each of the next 2 years.

It is an anemic response at best to the Nation's economic problems. Even the winner of the Democrat Presidential primary in New Hampshire has said he would veto it were he the President.

What's worse than anemia, though, is that it is a set up for a big tax increase in another 2 years. In 2 years, another election will be looming, and there will no doubt be great temptation to extend the credit. But, the extension will have to be paid for, and there won't be any way then to limit the tax increases to only the wealthy. The Joint Committee on Taxation estimates that the proposed new higher income tax rate of 35 percent would have to apply beginning at incomes of $38,400 for individuals, $64,000 for couples.

Just like before, the Democrat caucus aims at the wealthy, but ends up hitting the middle class.

To carry along the proposal, the caucus did include some positive features with respect to individual retirement accounts, passive loss reform, extensions of a number of existing credits—like the targeted jobs tax credit, mortgage revenue bonds, and the exclusion for employer-provided educational assistance. It drops the proposed tax on annuities and the proposed elimination of the deduction for interest paid on corporate-owned life insurance.

But, the Democrats' substitute is flawed even in some of these areas. For example, while the passive loss reforms might provide some relief, many of the same taxpayers would be hurt by the raising of the top effective individual income tax rate to 40 percent. It also requires slower depreciation of real estate, something that will depress real estate prices—the last thing many areas of the country can stand.

And, since 90 percent of American small businesses are unincorporated and taxed as individuals, the higher income tax rate imposed by the Democrats' bill represents a major impediment to economic recovery and growth. You just don't raise taxes to stimulate the economy.

The Democrats' substitute repeals the luxury tax, except for the automobile industry. The industry tax was supposed to soak the rich and make them pay through the nose for their expensive planes, cars, boats, jewelry, and furs. The problem, as many of us had warned at the time, was that the rich don't have to pay the luxury tax if they don't buy the goods, and that is exactly what happened. They stopped buying. Only those people employed by the boat, plane, and automobile manufacturing and sales companies, and those employed by the fur and jewelry companies paid—they paid with their jobs. If the luxury tax was ill-conceived for the boat, plane, fur, and jewelry industries, why is it good for the auto industry?

The substitute also allows prospective indexing of capital gains earned by individuals. For years, the Democrats have criticized capital gains reform as something only for the rich. Does the inclusion of the indexing provision mean that the Democratic leadership finally sees the light? That American firms can't compete when our major trading partners tax capital gains at much lower rates, if at all? That lower capital gains taxes produce new jobs? And that most of the benefits of capital gains reform go to average Americans?

The point really is that the Democrat caucus didn't craft legislation to address the Nation's economic problems. It put together a hodgepodge of as many different tax provisions as the leadership found necessary to attract enough votes for their plan, knowing full well that it would be vetoed by the President.

The plan of the Democrat caucus is not fair. It is not sound economic policy. It permanently raises taxes on almost 2 million American families, adds $30.2 billion to the deficit over the next 3 years, and violates the Budget Enforcement Act.

The National Center for Policy Analysis concluded that it would actually result in 100,000 jobs being lost. It ought to be defeated.

By contrast, the Republican alternative is a good start, but just a start. The Council of Economic Advisors estimates that it would create 500,000 new jobs by the end of the year. It includes solid incentives to quickly stimulate the economy, including a capital gains tax cut, a tax credit for first-time home buyers, super IRA's, passive loss reform, and an investment tax allowance.

I don't think it goes far enough, but there is no way to remedy that problem under the rule. We're simply allowed an up-or-down vote on the Democrats' bill and the Republicans alternative. No amendments.

If the leadership is going to restrict the House to consideration of just one economic recovery package this year, then we need to do more. For example, we need to outright repeal the luxury tax which has cost thousands of people their jobs. We need to increase the dependent deduction, and extend the R&D tax credit.

There are some good things in both the Democrats' and Republicans' packages to be sure, and if the leadership were really interested in working together, we could produce a bill that would pool the good, eliminate the bad, speed economic recovery, and put people back to work. But, that is not the choice before us today.

Our only choice is between a bill that provides minimal temporary tax relief for some at the expense of others and sets people up for big tax increases in the future, and a bill which will get us on the road to economic recovery.

Mr. Chairman, this House should not make the same mistake it made in 1990. Tax increases in the name of fairness and soaking the rich were not the solution to the Nation's economic problems then, and they are not the solution now. I urge adoption of the Republican substitute.

Mrs. ROUKEMA. Mr. Chairman, in these times when America is no longer in a cold war but engaged in an economic war of global proportions, the people should demand straight talk from its elected officials. This is no time for politics as usual. But our actions so far on this tax bill are unfortunately mostly politics, not sound economic policy.

I will vote for the Republican bill not because I support it in every detail. I do not. I will vote for it because it is the lesser of the three evils we have before us.

My overriding concern is that we pass a tax bill as soon as possible, one that will pass my save and invest in America test. Evidence is everywhere that our industrial base and productive capacity that provide good jobs are badly eroding. The recession alone doesn't have Americans depressed and anxious. It's the fact that good jobs are disappearing. It's GM eliminating 74,000 jobs. It's IBM eliminating 20,000 jobs. Our competitive edge is disappearing along with the jobs. People are asking, "Where are the new jobs?" "Are we going to be flipping hamburgers rather than working the production lines?"

Such a tax package should do no further violence to our budget deficit while providing stimulus for capital investment and economic recovery. In general terms, our Republican bill meets those objectives. But there are at least two serious flaws—perhaps not fatal flaws—but flaws nevertheless.

Specifically, this package is overly generous in its treatment of the capital gains rate reduction, which I support. When combined with the alternative minimum tax, the passive loss provisions may go too far, re-creating egregious loopholes. The result may be land and paper swaps not productive investments.

In addition, I believe we should have gone further in extension of the investment tax credit.

A near fatal flaw is the projections of the revenue assumptions and the consequences to the budget deficit. Republicans should not be part of this smoke and mirrors accounting. This is not the fiscally responsible and fiscally conservative party I have known.

Yes, a bad bill would be worse than no bill at all, as some Members and noted economists have observed. But, we are at the beginning of the legislative process. We still have a reasonable expectation that we can get a save and invest in America bill passed by both Houses and signed by the President. If we fail in this, if the President is unable to effectively use his Executive leadership to guide through a bill to promote economic growth and restore our competitive edge in the global economy, then the American people will hold both parties accountable in November.

This is no time for politics as usual. It's the time for bold action.

Mrs. KENNELLY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 27]

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

☐ 1217

The CHAIRMAN. Four hundred fourteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

☐ 1220

The gentlewoman from Connecticut [Mrs. KENNELLY] has 2 minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 8 minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. chairman, I rise in strong support of the Michel-Archer-Bush real economic growth package and in strong opposition to the Rostenkowski tax hike and the Gephardt tax mistake.

Mr. Chairman, I wonder if any of my colleagues read the excellent debate that appears in the current, that is the March 1992, issue of Commentary magazine entitled, "Is America on the Way Down?" Edward N. Luttwak of the Center for Strategic and International Studies says yes, while Robert L. Bartley of the Wall Street Journal says no. Both raise very interesting points regarding the strengths and weaknesses of our system. And though I side with Bartley, Luttwak does make a compelling case, especially when he hits on a central truth regarding our disastrous shortage of capital. Luttwak writes:

> Obviously, it is possible to invest without saving, if others lend the necessary money. And of course the United States has borrowed hugely in recent years, and also absorbed a vast amount of foreign investment. Yet given the size of the American economy, even the huge inflow of money from abroad could not possibly remedy the disastrous difference between our rate of savings and those of our competitors.

Indeed, as Luttwak points out, from 1970 to 1989, total U.S. savings fluctuated between 12.1 percent and 14.1 percent of the gross domestic product, as opposed to 22.9 percent and 22.7 percent for the European Community average, and 38.9 percent and 34.9 percent for Japan.

Fortune magazine made much the same point in its current cover story, "How American Industry Stacks Up." Author Andrew Kupfer writes:

> The rapidity with which the Japanese adapt technology to manufacturing processes is a big reason why their productivity growth has outstripped America's by more than a third since 1979. (The other reason, which reflects Japan's higher savings rate, is a fourfold edge in capital formation.) Europe's productivity growth, savings, and investment have also outpaced America's—and that rate should pick up as European unification advances.

In its article "Can America Compete?" the Economist magazine states, "The biggest reason to doubt whether America can stay so competitive is its low level of investment. Last year capital spending by American businesses accounted for only 9 percent of the country's GNP, compared with almost 20 percent in Japan and 13 percent in Germany."

The problem is clear. Americans save and invest too little. But what can we do to increase saving and investment?

I know that several of my Democrat colleagues, including my colleague from Ohio, Mr. PEASE, seem to believe that saving simply means putting money in a savings account at a financial institution. But saving is much more than that. In its recent special report on pension fund saving, the American Council for Capital Formation defines saving as "simply the difference between after-tax income and the amount of money spent on consumption. The money saved can be invested in the stock market, deposited in a bank or saving institution, or used to finance a real investment such as an addition to the family home." Stanford Economist John Shoven points out that households save in several ways, including making mortgage payments on a house. According to the Federal Reserve's flow of funds accounts, which is one of the two primary sources for statistics on savings, even the purchase of consumer durables—refrigerators, washing machines, et cetera—is considered investment, and thus counts toward savings. As we all learned in our introductory economics class, saving must equal investment. So what is good for saving is good for investment.

We on the Republican side of the aisle have always advocated a reduction in the capital gains rate as one way to increase saving and investment capital. This, in turn, will create jobs, most of which will be in small businesses, which have always acted as the economy's engine. Indeed, as a result of the Reagan tax cuts, between 1983 and 1990 more than 18 million new jobs were created, even while the Fortune 500 companies pared their payrolls. You on the Democrat side of the aisle have always pooh-poohed this notion, preferring instead to wallow in your pitiful pseudo-Marxist class warfare theories, where ideological purity is more important than actual results. But let me offer you a real-life example of how this lack of investment capital translates into lost jobs and less growth. You Japan-bashers who also oppose a lower capital gains tax—my colleagues from Missouri, Mr. GEPHARDT, and Ohio, Mr. TRAFICANT, among others—take particular note. This is again from Mr. Luttwak's article.

> As soon as the suitably Korean-born chief developer of digital High-Definition (HD) TV revealed that the suitably small company he works for had totally overtaken the Japanese giants and their merely analog HD-TV, the company's owners, General Instrument, let it be known that it would not even try to raise the capital needed to produce and market the new invention, preferring to license production to established TV manufacturers, i.e., the Japanese TV giants.
>
> In a manner literally pathetic, for pathos is the emotion evoked in the spectators to an inevitable downfall, a company spokesman hopefully speculated that if 20 million HD-TV sets were sold annually, its royalties at $10 per set could amount to as much as $200 million a year, a nice bit of change as they say—but truly mere change as compared to the $20-25 billion that the actual producers would earn each year, largely, no doubt, by exports to the United States.

Luttwak concludes: "But that is by now standard operating procedure, given our bootless capitalism-without-capital."

I wonder how many American jobs could have been created with enough investment capital to allow those HD-TV's to be manufactured here, and not there? I wonder if reducing the capital gains tax could increase the amount of available capital for this and other projects? I wonder if this story gives pause to my colleagues on the other side of the aisle?

I am proud to say that the Michel-Archer-Bush growth package will address this most serious economic issue. Probably the bill's most important feature is that it reduces the capital gains tax rate for individuals. It is a basic economic principle that if you lower the cost of something people will buy more of it. Cutting the capital gains tax will reduce the cost of saving and investment and will therefore result in more of it. One benefit of this policy is that it would also result in increased Government revenues, as it has always done in the past.

I think it is also important that my class-warfare colleagues on the other side of the aisle understand that capital is the single most important determinant of real wages. According to National Center for Policy Analysis, "About 98 percent of the variation in real wages over the past 37 years can be explained by the capital-to-labor ratio alone, without reference to any other economic factor." Further, the NCPA found that, "For every 10 percent increase in the average amount of capital per worker, the real wage rate increases by 11.9 percent."

In short, the middle class can't reap the rewards of capitalism without adequate capital, and we can't have more capital without increasing the rate of return on investment, and the best way to increase the rate of return on investment is to lower the capital gains tax. If you really want to help the middle class, this is the best way to do it.

The Michel-Archer-Bush plan would also increase saving and investment by making it easier for people to buy that all-important first home. Remember, as I have already pointed out, buying a home is saving. The Michel-Archer-Bush plan would allow individuals taxpayers to withdraw up to $10,000 from their individual retirement account without penalty for the first purchase of a principal residence. Moreover, it would establish a temporary tax credit for first-time home buyers equal to 10 percent of the purchase price up to a maximum of $5,000. This, of course, would also increase saving and investment. The immediate effect would be to put people back to work in the home-building industry, which would have an impact on suppliers of home products, such as washing machines, dryers, refrigerators, electric fixtures, plumbing fixtures, et cetera. This would have a beneficial ripple effect throughout the whole economy.

As a result of these and other changes, the Michel-Archer-Bush growth package would create 500,000 new jobs.

Now I noticed that Mr. ROSTENKOWSKI's plan also reduces capital gains, but it is clear his heart, and those of his Democrat colleagues, is not in it. I can hear Al Jolson singing in the background now:

You made me cut cap gains,
I didn't want to do it,
I didn't want to do it.

Didn't want to do it indeed. So the Democrats decided not to do it. What they gave with one hand they took away with the other. The Democrats would create a permanent 35-percent bracket for individual taxpayers with taxable incomes above $85,000 for single filers; $125,000 for heads of households; and $145,000 for joint returns. They also would increase the alternative minimum tax rate to 25 percent from 24 percent and impose a 10-percent surtax on millionaires. Now I don't know about your State, Mr. Chairman, but $125,000 is not the income of a wealthy family in southern California, and anyone who has spent any time there knows this is true.

So what the Democrats have offered us, Mr. Chairman, is not a tax cut, it is a $90 billion income redistribution scheme. And the most laughable part of the Democrats package is their candy-bar tax cut for the middle class. As President Bush said, the tooth fairly is more generous. This temporary 2-year credit is an insult to working Americans not only because it is a transparent election year sop, but because it also assumes that Americans are more concerned with their own self-interest than opportunity. The vast majority of Americans understand that their interests are advanced by a growing economy, and if some folks get rich in the process, more power to them. Indeed, this is the one point that Democrats seem unable to grasp—all Americans want the opportunity to get rich themselves, and they certainly don't mind using the capital of people who are already rich to help them do it. Isn't this what the American dream is all about?

The result of the Democrat tax hike is predictable. It is estimated that the Rostenkowski plan would actually result in job loss totaling 100,000. This is an antirecession package? This is growth? This is pro-middle-class?

But here is the big question: What has happened to the once-great Democratic Party of Andrew Jackson, who thought the people instinctively right and moral, and big government, of the kind he could see growing up in Washington and the kind we have here today, instinctively immoral?

Mr. Chairman, the only way we are going to set the foundation for long-term economic growth is to increase the availability of investment capital. And there is only one plan we will consider today that will do that. The Michel-Archer-Bush plan. Vote "yes" on Michel-Archer-Bush, vote "no" on Rostenkowski and Gephardt.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL].

(Mr. FAWELL asked and was given permission to revise and extend his remarks.)

Mr. FAWELL. Mr. Chairman, I rise in opposition to H.R. 4287, the Democrat economic growth package.

Mr. Chairman, the Democrat plan claims to provide, first, help to the middle class, and second, incentives for job creation and savings. These are laudable ends.

As a practical matter, I don't like the Democrat plan for $93 billion on new taxes, which are forever, and the 2-year refundable tax credits which do little for the middle class and nothing for job creation or savings. On the other hand, the Republican plan zeros in more exclusively to target job creation and to stimulate the economy.

But, more important, the Democrat plan ignores the deficit, especially in the first 2 crucial years of the 6-year plan—when it really counts. Too often, I've seen this Congress load up the deficit in the current year, when new legislation is passed, amidst promises to offset the newly created deficit with offsetting savings in later years. Somehow, the current year deficits are always for real and the offsetting savings in later years never materialize.

The Democrat plan increases the deficit $9.6 billion in fiscal year 1992 and another $12.6 billion in fiscal year 1993. Their promise is that if the refundable tax credits are not extended beyond fiscal years 1992 and 1993, they will be sure to use excess taxes available from the $93 billion dollar tax increase to make up for these deficits. Of course, no one believes that. As usual, the newly created deficits for fiscal years 1992 and 1993 will be stacked onto the $400 billion plus deficits already planned for those 2 fiscal years. Compliments of the Democrats. Send the bill to our children and grandchildren who will have to eventually pay these deficits.

Some things never change. But they should. The Democrats appear to be as oblivious as ever about the national debt and deficits. For the last 23 years, Congress has failed to balance a budget. It will add over a half trillion dollars of new debt to the $3.6 trillion dollar debt in fiscal year 1992. In addition, in fiscal year 1992, the biggest program of our budget will be roughly $300 billion incurred on that national debt. That ought to be enough to sober any prodigal profligator—which is what Congress is—but apparently Congress is not yet ready for reform. Maybe next year.

In short, the Democrats' intention in this bill is good. But like the alcoholic whose promises to stop drinking are no longer respected, so too have Congress' pledges to stop spending at the expense of posterity, lost all credibility.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the Archer-Michel bill which most closely reflects the tax changes recommended by our December hearings as having the greatest potential to stimulate economic growth and create jobs.

While the democratic form of government requires legislators to alter, adjust, and refine executive branch initiatives to assure they serve the interests of all the people and while the Democratic Party, in violation of our constitutional commitments, has denied us the right to reform and improve the fine basic bill the President sent to the Hill. I support this proposal enthusiastically and remind my colleagues on the other side of the aisle that if we pass this bill, we can then get into a bipartisan part of the process and adopt the passive loss reforms and other changes we prefer in conference and send a truly excellent bill forward to the President.

This bill is funded and by not increasing our deficit, will not slow the economy and cost jobs.

This bill helps people buy homes and so will create thousands of jobs. This bill rewards small manufacturers for buying the new machinery and equipment they need to stay competitive. It is a targeted, sound series of tax changes that will stimulate the economy.

Mr. Chairman I urge my colleagues to support it.

Mrs. KENNELLY. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I want to set the record straight—the Democratic alternative is a growth bill.

The Democratic alternative would permanently extend both the mortgage revenue bond program and the low-income housing tax credit. According to the National Association of Home Builders, these two programs will create 619,000 jobs over the next 5 years. These are real, proven programs that have bipartisan support.

In contrast, the much-heralded first-time home buyer tax credit, again according to the National Association of Home Builders, will create only 415,000 jobs.

In addition, the first-time home buyer tax credit is a temporary 1-year program while permanent extension of the MRB and tax credit programs will provide housing opportunities in all economic times.

Finally, a first time home buyer tax credit does little to make housing more affordable to the average American family in the long run while the MRB and tax credit programs facilitate long-term affordability.

Support proven, job-creating, housing programs than enjoy the support of more than 330 Members, not short-term gimmicks. Support the Democratic alternative.

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has 7 minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield the balance of my time to the respected minority leader on our side, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, let me say to the members of the committee that I did not request this quorum call. I am happy to see as many Members on the floor currently as there are. I thought earlier on, when there were just a handful of us on the floor in the House, that it was rather demeaning to the whole legislative process to have as important a measure as this attended by so few Members. But let me way that it is a manifestation of the mechanism by which we are considering this bill in the first place.

I look at my dear friend, the gentleman from Kentucky [Mr. NATCHER], and some others like the gentleman from Florida [Mr. BENNETT] who can remember the days when an important bill like this came forward with an opportunity for a substitute, and an amendment, and an amendment to the amendment, and an amendment to the substitute, working off both propositions in a way which required every Member to be on the floor and participate in the debate and offer the amendments. We would use the teller aisle here to telescope those debates. It would not take that long, but in the end we had a product in which all of us were participants in the process.

Unfortunately, we do not have that today, and that is why there were so few Members on the floor. Take it or leave it, in one way or another Members have already made up their minds.

The chairman of the Ways and Means Committee earlier seemed overly agitated over our having pared down the President's full menu of proposals addressed in his State of the Union Message to seven specifics that relate directly to the creation of jobs, long-term, permanent jobs. Now, what is wrong with that?

Spreading a dollar a day or four bits a day around the electorate for some minuscule, temporary political gain that will not create one job. It is a temporary, feel-good kind of thing out there. We are giving some people something. But what? We are not giving them jobs.

I look at the kind of things that will create jobs in my district, and it requires an investment of $100,000 to $125,000 per worker to create jobs to produce the kinds of things that we would like to have produced.

Some Members want to equate the Democratic kind of give-away with the President's suggestion that consideration be given to a $500 increase in the family deduction for children. Let me just say that we recognize this as a very costly proposition that cannot possibly be paid without a drastic $24 billion reduction in spending from some quarter.

That is why we say we will consider that proposal later when we can have the time to debate what expenditures to cut or eliminate to give us the wherewithal to reorder our priorities. And, yes, I will concede that it may come from a further reevaluation of our defense expenditures that may or may not reflect what has come to be regarded as the so-called peace dividend.

But that is for another day. We are talking now today about what it is that creates jobs. And after listening yesterday to hours of fulminations, and condemnations, and equivocations, and rhetorical abominations, I thought it would be refreshing to just review a few plain facts, and here they are.

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Today we are finally considering the short-term economic stimulus plan the President outlined in his State of the Union Address and which he asked Congress to complete by March 20. This overall program had two parts. This is the first part.

The plan consists of just seven provisions which, if enacted, will put a considerable number of Americans back to work. Not all of them, but a considerable number. We have got to start from someplace.

Let me briefly sketch out again these seven provisions.

No. 1, first-time home buyers will receive an income tax credit of 10 percent of the purchase price of a new or existing home up to $5,000, spread over a 2-year period.

Now, the National Association of Home Builders estimates this provision alone will create 700,000 new jobs. Home construction does create jobs for builders, carpenters, plumbers, architects, landscapers, persons dealing in appliances, and on and on.

No. 2, first-time home buyers will also be allowed to make a $10,000 penalty-free withdrawal from their IRA adding to the job creation impact of the home buyer tax credit.

No. 3, business is provided an investment tax allowance which allows an enhanced first-year depreciation of 15 percent of the purchase price of newly acquired equipment. This investment incentive increases cash-flow and lowers the cost of capital for businesses purchasing new equipment.

We have had it in the past in a more expansive form. Maybe it is not as grandiose this time, but it is a good proposition.

No. 4, the capital gains tax rate is cut to an effective rate of 15.4 percent for taxpayers now subject to a 28-percent rate and an 8.25-percent rate for taxpayers now subject to the 15-percent rate.

Capital gains for one-time sales of family farms, or businesses, or personal residences, are not subject to the alternative minimum tax, and depreciation recapture is taxed at a maximum rate of 28 percent.

A lowering of the capital gains rate unlocks old investments. It provides the small business community with startup capital and small businesses are where most of the new jobs are created in our economy. Let us face it.

No. 5, the passive loss rules are amended so that persons active in real estate development are treated as any other business person. They can trade off gains and losses for tax purposes.

No. 6, the alternative minimum tax is simplified by requiring only one computation for depreciation for alternative minimum tax purposes. The current calculations penalize capital intensive companies. Those are the ones who produce so many of our jobs that we are looking for.

No. 7, we propose to remove impediments to allow more efficient investing by pension funds in commercial properties.

Now, I mentioned just the seven. I want to address if I might, just a moment or two, some on my side who say, we do not go far enough. And I accept that.

But let me say to my friends on this side, every one of you, who I know do not want to be in a position of raising taxes. How can you provide some of these other things without raising taxes?

Now, it is either/or. And my position is that you ought to support what we are proposing here in the name of the President, without deviation.

Then, two, when we come to the other proposition on the other side of the aisle, I will tell you, I want some of you to look very closely at that very proposition. The distinction between the two parties, on who is raising taxes and who is holding the line or taking it out of a reduction of expenditures as the better route to follow, will become very clear.

So under the budget discipline which we must and do abide by, this package of incentives is the best of the proposals we will have the opportunity to vote on today. Not down the road a piece, but today.

I am not going to shut out the possibility that after we are done with this narrow package, we are not going to be considering other proposals for the balance of the year. Of course we are.

Unfortunately, the distinguished chairman of the Ways and Means Committee laid down the gauntlet and said there is only going to be one tax bill.

You know, there is nothing omnipotent about that kind of reasoning, I will tell you. Those members of the Committee on Ways and Means, and we have got good solid people on our side, I do not think would mind going to bat the second or third time if it is required.

Who is it for one person to dictate to this entire House one tax bill and none other? I will tell you, that is overexercising one's power, in my judgment, around here.

I would like to stress that our package is fully offset, year by year, with spending reforms and savings and, as I indicated, there are no tax increases in the bill, As I said, those are the simple facts.

I would like to think that maybe that was refreshing. But let me just add one more point. The American people do not want us to flimflam them, but are looking for us to frankly enact the kind of legislation that will, in the bottom line, create jobs. And our seven-point plan does create jobs.

I ask all Members to draw your own conclusions from the facts, vote right, and support this proposition.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as modified, offered by the gentleman from Texas [Mr. ARCHER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 264, not voting 4, as follows:

[Roll No. 28]

AYES—166

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Brewster
Broomfield
Browder
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clement
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Moran
Morella
Morrison
Myers
Nichols
Orton
Owens (UT)
Oxley
Packard
Pallone
Pastor
Paxon
Porter
Quillen
Ramstad
Ravenel
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Sangmeister
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Tanner
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Zeliff
Zimmer

NOES—264

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brooks
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)

Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Reed
Regula
Richardson
Ridge
Roe
Roemer
Rogers
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOT VOTING—4

de la Garza
Dickinson
Ray
Whitten

☐ 1254

The Clerk announced the following pair:

On this vote:

Mr. Dickinson for, with Mr. Ray against.

Mr. WISE changed his vote from "aye" to "no."

Mr. COX of California changed his vote from "no" to "aye."

So the amendment in the nature of a substitute, as modified, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider the amendment in the nature of a substitute consisting of the text of the bill H.R. 4287.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Chairman, pursuant to the rule, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. ROSTENKOWSKI: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Fairness and Economic Growth Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—No amendment made by this Act shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) UNDERPAYMENT OF ESTIMATED TAX.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1993 (March 16, 1993, in the case of a taxpayer subject to such section 6655) with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by this Act. The preceding sentence shall not apply to the amendments made by section 3101.

(e) TABLE OF CONTENTS.—

Section 1. Short title; etc.
Sec. 2. Treatment under pay-as-you-go procedures.

TITLE I—MIDDLE CLASS TAX RELIEF

Sec. 1001. Credit for portion of social security taxes.
Sec. 1002. Credit for interest on education loans.
Sec. 1003. Penalty-free withdrawals for first home purchase, higher education expenses, and medical expenses.
Sec. 1004. Modifications of one-time exclusion of gain from sale of principal residence.
Sec. 1005. Treatment of employer-provided transportation benefits.
Sec. 1006. Extension of deduction for health insurance costs of self-employed individuals.

TITLE II—JOB CREATION, GROWTH, AND INVESTMENT INCENTIVES

Subtitle A—Temporary Investment Incentives

Sec. 2001. Temporary increase in amount of expensing for small businesses.
Sec. 2002. Special depreciation allowance for certain equipment acquired in 1992.

Subtitle B—Capital Gain Provisions

Sec. 2101. Indexing of certain assets acquired on or after February 1, 1992, for purposes of determining gain.
Sec. 2102. 50-percent exclusion for gain of individuals from certain small business stock.

Subtitle C—Real Estate Provisions

PART I—MODIFICATION OF PASSIVE LOSS RULES

Sec. 2201. Modification of passive loss rules.

PART II—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

Sec. 2211. Real estate property acquired by a qualified organization.
Sec. 2212. Special rules for investments in partnerships.
Sec. 2213. Title-holding companies permitted to receive small amounts of unrelated business taxable income.
Sec. 2214. Exclusion from unrelated business tax of gains from certain property.
Sec. 2215. Treatment of pension fund investments in real estate investment trusts.

Subtitle D—Extension of Certain Expiring Tax Provisions

Sec. 2301. Research credit.
Sec. 2302. Low-income housing credit.
Sec. 2303. Targeted jobs credit.
Sec. 2304. Qualified mortgage bonds.
Sec. 2305. Qualified small issue bonds.
Sec. 2306. Employer-provided educational assistance.
Sec. 2307. Excise tax on certain vaccines.
Sec. 2308. Certain transfers to Railroad Retirement Account.

Subtitle E—Modifications to Minimum Tax

Sec. 2401. Repeal of preference for contributions of appreciated property.
Sec. 2402. Elimination of ACE depreciation adjustment.

Subtitle F—Repeal of certain luxury excise taxes; imposition of tax on diesel fuel used in noncommercial motorboats

Sec. 2501. Repeal of luxury excise taxes other than on passenger vehicles.
Sec. 2502. Tax on diesel fuel used in noncommercial motorboats.

Subtitle G—Urban Tax Enterprise Zones and Rural Development Investment Zones

Sec. 2601. Statement of purpose.

PART I—DESIGNATION AND TAX INCENTIVES

Sec. 2602. Designation and treatment of urban tax enterprise zones and rural development investment zones.
Sec. 2603. Technical and conforming amendments.
Sec. 2604. Effective date.

PART II—STUDIES

Sec. 2611. Studies of effectiveness of tax enterprise zone incentives.

TITLE III—REVENUE INCREASES

Subtitle A—Treatment of Wealthy Individuals

Sec. 3001. Increase in top marginal rate under section 1.
Sec. 3002. Increase in individual minimum tax rate.
Sec. 3003. Surtax on individuals with incomes over $1,000,000.
Sec. 3004. 2-year extension of overall limitation on itemized deductions for high-income taxpayers.
Sec. 3005. 2-year extension of phaseout of personal exemption of high-income taxpayers.
Sec. 3006. Disallowance of deduction for certain employee remuneration in excess of $1,000,000.

Subtitle B—Administrative Provisions

Sec. 3101. Individual estimated tax provisions.
Sec. 3102. Corporate estimated tax provisions.
Sec. 3103. Disallowance of interest on certain overpayments of tax.

Subtitle C—Other Revenue Provisions

Sec. 3201. Clarification of treatment of certain FSLIC financial assistance.

Sec. 3202. Increase in recovery period for real property.
Sec. 3203. Increase in mileage requirement for moving expense deduction.
Sec. 3204. Taxation of precontribution gain in case of certain distributions to contributing partner.
Sec. 3205. Conform tax accounting to financial accounting for securities dealers.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

Sec. 4101. Simplification of earned income credit.
Sec. 4102. Simplification of rules on rollover of gain on sale of principal residence.
Sec. 4103. De minimis exception to passive loss rules.
Sec. 4104. Payment of tax by credit card.
Sec. 4105. Modifications to election to include child's income on parent's return.
Sec. 4106. Simplified foreign tax credit limitation for individuals.
Sec. 4107. Treatment of personal transactions by individuals under foreign currency rules.
Sec. 4108. Exclusion of combat pay from withholding limited to amount excludable from gross income.
Sec. 4109. Expanded access to simplified income tax returns.
Sec. 4110. Treatment of certain reimbursed expenses of rural mail carriers.
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SEC. 2. TREATMENT UNDER PAY-AS-YOU-GO PROCEDURES.

Any change in budget authority, outlays, or receipts resulting from the provisions of (or amendments made by) this Act shall not be considered for purposes of calculating the deficit increase or estimated deficit for any year under section 252 or 253 of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE I—MIDDLE CLASS TAX RELIEF

SEC. 1001. CREDIT FOR PORTION OF SOCIAL SECURITY TAXES.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CREDIT FOR PORTION OF SOCIAL SECURITY TAXES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 20 percent of the taxpayer's social security taxes for the taxable year.

"(b) LIMITATION.—The amount of the credit allowable under subsection (a) to any taxpayer for any taxable year shall not exceed $200 ($400 in the case of a joint return).

"(c) SOCIAL SECURITY TAXES.—For purposes of this section—

"(1) IN GENERAL.—The term 'social security taxes' means, with respect to any taxpayer for any taxable year—

"(A) the amount of the taxes imposed by subsections (a) and (b) of section 3101 on amounts received by the taxpayer during the calendar year in which the taxable year begins,

"(B) the amount of the taxes imposed by section 3201(a) on amounts received by the taxpayer during the calendar year in which the taxable year begins,

"(C) 50 percent of the taxes imposed by subsections (a) and (b) of section 1401 on the self-employment income of the taxpayer for the taxable year, and

"(D) 50 percent of the taxes imposed by section 3211(a)(1) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

"(2) COORDINATION WITH SPECIAL REFUND OF SOCIAL SECURITY TAXES.—The term 'social security taxes' shall not include any taxes to the extent the taxpayer is entitled to a special refund of such taxes under section 6413(c).

"(3) SPECIAL RULE.—Any amounts paid pursuant to an agreement under section 3121(l) (relating to agreements entered into by American employers with respect to foreign affiliates) which are equivalent to the taxes referred to in paragraph (1)(A) shall be treated as taxes referred to in such paragraph.

"(d) YEARS TO WHICH SECTION APPLIES.—This section shall only apply to taxable years beginning after December 31, 1991, and before January 1, 1994."

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Credit for portion of social security taxes.

"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1002. CREDIT FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. INTEREST ON EDUCATION LOANS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM CREDIT.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for the taxable year shall not exceed $300 with respect to each individual whose qualified higher education expenses were financed by any qualified education loan to which such interest relates.

"(2) HIGHER LIMIT FOR TAXPAYERS WITH LARGE AMOUNTS OF EDUCATION LOAN INTEREST.—

"(A) IN GENERAL.—If the taxpayer's education loan interest percentage for the taxable year is at least 10 percent, paragraph (1) shall be applied by substituting the higher limit for '$300', determined in accordance with the following table:

If the education loan interest percentage is:	**The higher limit is:**
At least 10 but less than 11	$350
At least 11 but less than 12	400
At least 12 but less than 13	450
At least 13	500.

"(B) EDUCATION LOAN INTEREST PERCENTAGE.—For purposes of subparagraph (A), the taxpayer's education loan interest percentage is the percentage which the amount of interest paid by the taxpayer during the taxable year on qualified education loans bears to the taxpayer's modified adjusted gross income for such year.

"(3) PHASEOUT OF BENEFIT.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds the applicable limit, the dollar limitation otherwise applicable under this subsection for the taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to such limit as such excess bears to $25,000 ($12,500 in the case of a married individual filing a separate return).

"(B) APPLICABLE DOLLAR AMOUNT WHERE PARENT OF STUDENT CLAIMING CREDIT.—For purposes of subparagraph (A), if the qualified education loan was used to pay the qualified higher education expenses of an individual other than the taxpayer or his spouse, the applicable dollar amount is—

"(i) $45,000, in the case of a return of an unmarried individual,

"(ii) $75,000, in the case of a joint return, and

"(iii) $37,500 in the case of a married individual filing a separate return.

"(C) APPLICABLE DOLLAR AMOUNT WHERE STUDENT OR FORMER STUDENT CLAIMING CREDIT.—For purposes of subparagraph (A), if the qualified education loan was used to pay the qualified higher education expenses of the taxpayer or his spouse, the applicable dollar amount is—

"(i) $30,000, in the case of a return of an unmarried individual,

"(ii) $50,000, in the case of a joint return, and

"(iii) $25,000 in the case of a married individual filing a separate return.

"(4) CREDIT NOT TO EXCEED TAX ON EARNED INCOME FOR TAXPAYERS UNDER AGE 23.—If the taxpayer has not attained age 23 (or, in the case of a joint return, if neither the husband or wife have attained age 23) before the close of the calendar year ending with or within the taxable year, the credit allowed by subsection (a) for such taxable year shall not exceed the amount equal to the percentage of the taxpayer's regular tax liability for such taxable year which is the same as the percentage of the taxpayer's modified adjusted gross income for such taxable year which is attributable to earned income (as defined in section 911(d)(2)).

"(c) LIMITATIONS ON TAXPAYERS ELIGIBLE FOR CREDIT.—

"(1) CREDIT ALLOWED TO TAXPAYER ONLY IF NOT CLAIMED AS PERSONAL EXEMPTION BY ANOTHER TAXPAYER.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(2) CREDIT ALLOWED TO PARENT, ETC. ONLY IF DEPENDENT IS STUDENT AND PERSONAL EXEMPTION CLAIMED FOR DEPENDENT.—If the qualified education loan was used to pay the qualified higher education expenses of an individual other than the taxpayer or his spouse, no credit shall be allowed by this section for the taxable year with respect to interest on such loan unless—

"(A) a deduction under section 151 with respect to such individual is allowed to the taxpayer for such taxable year, and

"(B) such individual is at least a half-time student with respect to such taxable year.

"(d) LIMIT ON PERIOD CREDIT ALLOWED.—

"(1) IN GENERAL.—In the case of a qualified education loan used to pay the qualified higher education expenses of the taxpayer or his spouse, no credit shall be allowed by this section for any taxable year after the first 5 taxable years (whether or not consecutive) with respect to which the taxpayer or his spouse (as the case may be) is not at least a half-time student.

"(2) PERIODS OF INTEREST DEFERRAL NOT COUNTED.—For purposes of paragraph (1), an individual shall be treated as a half-time student during any period during which payment of interest on any qualified education loan is deferred under Federal or State law.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(B) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means qualified tuition and related expenses of the taxpayer, his spouse, or a dependent for attendance at an eligible educational institution (as defined in section 135(c)(3)), reduced by the amount excluded from gross income under section 135 by reason of such expenses.

"(B) QUALIFIED TUITION AND RELATED EXPENSES.—The term 'qualified tuition and related expenses' has the meaning given such term by section 117(b), except that such term shall include any reasonable living expenses while away from home.

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' has the meaning given to such term by section 86(b)(2).

"(4) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(5) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) CARRYOVER.—If the amount of interest which may be taken into account by the taxpayer under subsection (a) for the taxable year exceeds the amount necessary to produce the maximum credit under this section for such year, such excess shall be treated as interest paid by the taxpayer during the succeeding taxable year on a qualified education loan.

"(2) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.

"(g) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) for any taxable year after the application of subsections (b), (c), and (d) exceeds

"(B) the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under sections 21, 22, and 25,

such excess shall be carried to the succeeding taxable year and shall be allowable under subsection (a) for such succeeding taxable year. The limitations of subsections (b), (c), and (d) shall not apply to the amount allowable in any succeeding taxable year by reason of the preceding sentence.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.—No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year for which the credit was originally determined."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Interest on education loans."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1003. PENALTY-FREE WITHDRAWALS FOR FIRST HOME PURCHASE, HIGHER EDUCATION EXPENSES, AND MEDICAL EXPENSES.

(a) FIRST HOME PURCHASE.—

(1) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR FIRST HOME PURCHASE.—A distribution to an individual from an individual retirement plan with respect to which the requirements of paragraph (6) are met."

(2) DEFINITIONS.—Subsection (t) of section 72 is amended by adding after paragraph (5) the following new paragraph:

"(6) REQUIREMENTS APPLICABLE TO FIRST HOME PURCHASE DISTRIBUTION.—For purposes of paragraph (2)(D)—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a distribution if the distribution meets the requirements of clauses (i), (ii), and (iii).

"(i) DOLLAR LIMIT.—A distribution meets the requirements of this clause to the extent that the amount of the distribution does not exceed the excess (if any) of—

"(I) $10,000, over

"(II) the sum of the distributions to which paragraph (2)(D) previously applied with respect to the residence (whether or not such distributions were from the individual retirement plan of the owner).

"(ii) USE OF DISTRIBUTION.—A distribution meets the requirements of this clause if the distribution—

"(I) is made to or on behalf of a qualified first home purchaser, and

"(II) is applied within 60 days of the date of distribution to the purchase or construction of a principal residence of such purchaser.

"(iii) ELIGIBLE PLANS.—A distribution meets the requirements of this clause if the distribution is not made from an individual retirement plan—

"(I) which is an inherited individual retirement plan (within the meaning of section 408(d)(3)(C)(ii)), or

"(II) any part of the contributions to which were excludable from income under section 402(a)(5), 402(a)(7), 403(a)(4), or 403(b)(8).

"(B) QUALIFIED FIRST HOME PURCHASER.—For purposes of this paragraph, the term 'qualified first home purchaser' means the individual who is the owner of the individual retirement plan or who is a child (as defined in section 151(c)(3)) of such owner, but only if—

"(i) such individual (and, if married, such individual's spouse) had no present ownership interest in a residence at any time within the 36-month period ending on the date on which the distribution is applied pursuant to subparagraph (A)(ii), and

"(ii) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from an individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(D) PRINCIPAL RESIDENCE.—For purposes of this paragraph, the term 'principal residence' has the meaning given such term by section 1034.

"(E) OWNER.—For purposes of this paragraph, the term 'owner' means, with respect to any individual retirement plan, the individual with respect to whom such plan was established."

(b) EDUCATIONAL EXPENSES.—Paragraph (2) of section 72(t) is amended by adding after subparagraph (D) the following new subparagraph:

"(E) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR HIGHER EDUCATION EXPENSES.—A distribution from an individual retirement plan (other than from an individual retirement plan referred to in subclause (I) or (II) of paragraph (6)(A)(iii)) to the owner of such plan if such distribution is used within 60 days of the date of the distribution to pay qualified higher education expenses (as defined in section 23(e)(2))."

(c) MEDICAL EXPENSES.—

(1) IN GENERAL.—Subparagraph (A) of section 72(t)(3) is amended by striking ", (B),".

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse.".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C), (D), or (E)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after February 1, 1992.

SEC. 1004. MODIFICATIONS OF ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) AGE LIMITATION NOT APPLICABLE TO DISABLED INDIVIDUALS.—

(1) IN GENERAL.—Paragraph (1) of section 121(a) (relating to one-time exclusion from sale of principal residence by an individual who has attained age 55) is amended to read as follows:

"(1)(A) the taxpayer has attained the age of 55 before the date of such sale or exchange, or (B) the taxpayer is permanently and totally disabled (as defined in section 22(e)(3)) as of such date, and".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 121(d) is amended by striking "the age, holding, and use requirements" and inserting "the requirements".

(b) INDEXATION OF DOLLAR LIMIT.—Subsection (b) of section 121 (relating to limitations) is amended by adding at the end thereof the following new paragraph:

"(4) COST-OF-LIVING ADJUSTMENTS.—In the case of a sale or exchange in a calendar year beginning after 1991—

"(A) the $125,000 amount set forth in paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) thereof, and

"(B) the $62,500 amount set forth in paragraph (1) shall be increased by ½ of the increase determined under subparagraph (A).

If any increase determined under subparagraph (A) is not a multiple of $100, such increase shall be rounded to the nearest multiple of $100."

(c) TREATMENT OF FARMLAND SOLD WITH RESIDENCE.—Subsection (d) of section 121 is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF FARMLAND SOLD WITH RESIDENCE.—If—

"(A) a parcel of farmland on which is located a residence with respect to which the taxpayer meets the holding and use requirements of subsection (a) is sold with such residence,

"(B) the taxpayer meets the holding requirements of subsection (a) with respect to such farmland, and

"(C) the taxpayer meets requirements similar to the requirements of section 2032A(b)(1)(C) with respect to such farmland,

notwithstanding paragraph (5), the taxpayer shall be treated as meeting the use requirements of subsection (a) with respect to so much of such parcel as does not exceed 160 acres."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1991.

SEC. 1005. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $160 per month in the case of qualified parking.

"(3) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least 1/2 of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(5) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2))."

(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to benefits provided after December 31, 1991.

(2) PARKING LIMIT.—The limitation of subparagraph (B) of section 132(f)(2) of the Internal Revenue Code of 1986 (as amended by this section) shall only apply to benefits provided for months beginning after the date of the enactment of this Act.

SEC. 1006. EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "December 31, 1992".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 110 of the Tax Extension Act of 1991 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

TITLE II—JOB CREATION, GROWTH, AND INVESTMENT INCENTIVES

Subtitle A—Temporary Investment Incentives

SEC. 2001. TEMPORARY INCREASE IN AMOUNT OF EXPENSING FOR SMALL BUSINESSES.

Subsection (b) of section 179 is amended by adding at the end thereof the following new paragraph:

"(5) TEMPORARY INCREASE IN LIMITATION.—In the case of any taxable year beginning in 1992 or 1993, paragraph (1) shall be applied by substituting '$25,000' for '$10,000'."

SEC. 2002. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after February 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after February 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before February 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after February 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before July 1, 1993.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after February 1, 1992, and before January 1, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after February 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2)."

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.—The deduction under section 168(j) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending on or after such date.

Subtitle B—Capital Gain Provisions

SEC. 2101. INDEXING OF CERTAIN ASSETS ACQUIRED ON OR AFTER FEBRUARY 1, 1992, FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED ON OR AFTER FEBRUARY 1, 1992, FOR PURPOSES OF DETERMINING GAIN.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 1 year, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) SPECIAL RULE FOR RECAPTURE GAIN.—

"(A) IN GENERAL.—Paragraph (1) shall not apply for purposes of determining the amount of recapture gain on the sale or other disposition of an indexed asset, but the amount of any such recapture gain shall increase the adjusted basis of the asset for purposes of applying paragraph (1) to determine the amount of other gain on such sale or other disposition.

"(B) RECAPTURE GAIN.—For purposes of subparagraph (A), the term 'recapture gain' means any gain treated as ordinary income under section 1245, 1250, or 1254.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) any stock in a corporation, and

"(B) any tangible property (or any interest therein),

which is a capital asset or property used in the trade or business (as defined in section 1231(b)) and the holding period of which begins on or after February 1, 1992.

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) COLLECTIBLES.—Any collectible (as defined in section 408(m)(2) without regard to section 408(m)(3)).

"(C) OPTIONS.—Any option or other right to acquire an interest in property.

"(D) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (i)(3)).

"(E) STOCK IN FOREIGN CORPORATIONS.—Stock in a foreign corporation.

"(F) STOCK IN S CORPORATIONS.—Stock in an S corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis or is authorized for trading on the national market system operated by the National Association of Securities Dealers other than—

"(A) a passive foreign corporation (as defined in section 1296), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset shall be determined by dividing—

"(A) the CPI for the calendar year preceding the calendar year in which the disposition takes place, by

"(B) the CPI for the calendar year preceding the calendar year in which the taxpayer's holding period for such asset began. The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-thousandth.

"(3) CONVENTIONS.—For purposes of paragraph (2), if any asset is disposed of during any calendar year—

"(A) such disposition shall be treated as occurring on the last day of such calendar year, and

"(B) the taxpayer's holding period for such asset shall be treated as beginning in the same calendar year as would be determined for an asset actually disposed of on such last day with a holding period of the same length as the actual holding period of the asset involved.

"(4) CPI.—For purposes of this subsection, the CPI for any calendar year shall be determined under section 1(f)(4).

"(d) SHORT SALES.—

"(1) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 1 year, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) multiplied by the applicable inflation ratio. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date on which the holding period for the asset begins and the closing date for the sale shall be treated as the date of disposition.

"(2) SHORT SALE OF SUBSTANTIALLY IDENTICAL PROPERTY.—If the taxpayer or the taxpayer's spouse sells short property substantially identical to an asset held by the taxpayer, the asset held by the taxpayer and the substantially identical property shall not be treated as indexed assets for the short sale period.

"(3) SHORT SALE PERIOD.—For purposes of this subsection, the short sale period begins on the day after property is sold and ends on the closing date for the sale.

"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"(1) ADJUSTMENTS AT ENTITY LEVEL.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

"(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

"(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

"(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

"(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year determined without regard to this section exceeds the entity's net capital gain for such year determined with regard to this section, and

"(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

"(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

"(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

"(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets (determined without regard to the requirement that the holding period begin on or after February 1, 1992) bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(3) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) OTHER PASS-THRU ENTITIES.—

"(1) PARTNERSHIPS.—

"(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners (but only for purposes of determining the income of partners who are not corporations).

"(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

"(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants (but only for purposes of determining the income of participants who are not corporations).

"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—This section shall not apply to any sale or other disposition of property between related persons (within the meaning of section 465(b)(3)(C)) if such property, in the hands of the transferee, is of a character subject to the allowance for depreciation provided in section 167.

"(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(i) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) A substantial improvement to property.

"(B) In the case of stock of a corporation, a substantial contribution to capital.

"(C) Any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation ratio shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) GAINS AND LOSSES FROM INDEXED ASSETS NOT TAKEN INTO ACCOUNT UNDER LIMITATION ON INVESTMENT INTEREST.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended by adding at the end thereof the following new sentences:

"Gain from the sale or other disposition of an indexed asset (as defined in section 1022) held for more than 1 year shall not be taken into account for purposes of the preceding sentence. The preceding sentence shall not apply to gain from the sale or other disposition of any such asset if the taxpayer elects to waive the benefits of section 1022 in determining the amount of such gain."

(c) RECAPTURE OF ENTIRE AMOUNT OF DEPRECIATION UNDER SECTION 1250.—Section 1250 (relating to gain from dispositions of certain depreciable realty) is amended by adding at the end thereof the following new subsection:

"(i) RECAPTURE OF ENTIRE AMOUNT OF DEPRECIATION IN CASE OF PROPERTY TO WHICH SECTION 1022 APPLIES.—

"(1) IN GENERAL.—In the case of any taxpayer other than a corporation—

"(A) subsection (a) shall be applied with respect to any disposition of section 1250 property to which section 1022 applies as if it read as follows:

" '(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

" '(1) the depreciation adjustments in respect of such property, or

" '(2) the excess of—

" '(A) the amount realized (or, in the case of a disposition other than sale, exchange, or involuntary conversion, the fair market value of such property), over

" '(B) the adjusted basis of such property, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.', and

"(B) in the case of any disposition described in subparagraph (A), subsections (e) and (f) shall not apply and appropriate adjustments shall be made in the provisions of subsection (d).

"(2) SPECIAL RULES FOR CERTAIN ENTITIES.—For purposes of paragraph (1), the following shall not be treated as a corporation:

"(A) An S corporation.

"(B) A regulated investment company.

"(C) A real estate investment trust.

"(3) COORDINATION WITH SECTION 453(i).—Subsection (i) of section 453 shall be applied without regard to this subsection."

(d) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets acquired on or after February 1, 1992, for purposes of determining gain."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins on or after February 1, 1992.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired on or after February 1, 1992, from a related person (as defined in section 465(b)(3)(C) of the Internal Revenue Code of 1986) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

(f) ELECTION TO RECOGNIZE GAIN ON READILY TRADABLE SECURITIES HELD ON FEBRUARY 1, 1992.—

(1) IN GENERAL.—If a taxpayer other than a corporation holds any readily tradable security on February 1, 1992, the taxpayer may elect to treat such security as having been sold on the last business day before such date for an amount equal to its closing market price on such last business day (and as having been reacquired on such last business day for an amount equal to such closing market price).

(2) TREATMENT OF GAIN OR LOSS.—

(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the last business day referred to in paragraph (1).

(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(3) ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary may prescribe and shall specify the readily tradable securities for which such election is made. Such an election, once made with respect to any readily tradable security, shall be irrevocable.

(4) READILY TRADABLE SECURITY.—For purposes of this subsection, the term "readily tradable security" means any stock or other security which, as of February 1, 1992, is readily tradable on an established securities market or otherwise.

SEC. 2102. 50-PERCENT EXCLUSION FOR GAIN OF INDIVIDUALS FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN OF INDIVIDUALS FROM CERTAIN SMALL BUSINESS STOCK.

"(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(b) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a corporation which is originally issued on or after February 1, 1992, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (d) and (e), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (d).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) IN GENERAL.—Stock issued by a corporation shall not be treated as qualified small business stock if such corporation has purchased or purchases any of its stock within the 2-year period beginning 1 year before the date of the issuance of such stock.

"(B) WAIVER WHERE BUSINESS PURPOSE.—Subparagraph (A) shall not apply where the issuing corporation establishes that there was a business purpose for the purchase of the stock and such purchase is not inconsistent with the purposes of this section.

"(C) MEMBERS OF AFFILIATED GROUP.—For purposes of this paragraph, the purchase by any corporation which is a member of the same affiliated group (within the meaning of section 1504) as the issuing corporation of any stock in any corporation which is a member of such group shall be treated as a purchase by the issuing corporation of its stock.

"(c) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation if—

"(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after February 1, 1992, and before the issuance did not exceed $100,000,000, and

"(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts to be received in the issuance) does not exceed $100,000,000.

"(2) AGGREGATE CAPITALIZATION.—For purposes of paragraph (1), the term 'aggregate capitalization' means the excess of—

"(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

"(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term 'short-term indebtedness' means any indebtedness which, when incurred, did not have a term in excess of 1 year.

"(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—In determining whether a corporation meets the requirements of this subsection—

"(1) stock and debt of any subsidiary (as defined in subsection (d)(4)(C)) held by such corporation shall be disregarded, and

"(2) such corporation shall be treated as holding its ratable share of the assets of such subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

"(d) ACTIVE BUSINESS REQUIREMENT.—For purposes of this section—

"(1) IN GENERAL.—For purposes of subsection (b)(2), the requirements of this subsection are met for any period if during such period—

"(A) the corporation is engaged in the active conduct of a trade or business,

"(B) substantially all of the assets of such corporation are used in the active conduct of a trade or business, and

"(C) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

such corporation shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) ELIGIBLE CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(i) any corporation predominantly engaged in a disqualified business,

"(ii) any corporation the principal activity of which is the performance of personal services,

"(iii) a DISC,

"(iv) a corporation with respect to which an election under 936 is in effect,

"(v) any regulated investment company, real estate investment trust, or REMIC, and

"(vi) any cooperative.

"(B) DISQUALIFIED BUSINESS.—The term 'disqualified business' means—

"(i) any banking, insurance, financing, or similar business,

"(ii) any farming business,

"(iii) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A, and

"(iv) any business of operating a hotel, motel, or restaurant or similar business.

"(4) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consist of stock or securities in other corporations which are not subsidiaries of such corporation.

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns at least 50 percent of the combined voting power of all classes of stock entitled to vote, or at least 50 percent in value of all outstanding stock, of such corporation.

"(5) WORKING CAPITAL.—For purposes of paragraph (1)(B), any assets which—

"(A) are held for investment, and

"(B) are to be used to finance future research and experimentation or working capital needs of the corporation,

shall be treated as used in the active conduct of a trade or business.

"(6) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets is real property which is not used in the active conduct of a trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a trade or business.

"(7) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces income described in section 543(d) shall be treated as an asset used in the active conduct of a trade or business.

"(e) STOCK ACQUIRED ON CONVERSION OF PREFERRED STOCK.—If any stock is acquired through the conversion of other stock which is qualified small business stock in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(f) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity shall be treated as gain described in subsection (a) if such amount meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(g) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer of stock to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift, or

"(B) at death.

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if a qualified small business stock is transferred for other stock, such transfer shall be treated as a transfer to which this subsection applies solely with respect to the person receiving such other stock.

"(B) LIMITATION.—This section shall apply to the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain (if any) which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was transferred.

"(h) BASIS RULES.—

"(1) STOCK EXCHANGED FOR PROPERTY.—For purposes of this section, in the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) BASIS OF S CORPORATION STOCK.—For purposes of this section, the adjusted basis of stock in an S corporation shall in no event be less than its adjusted basis determined without regard to any adjustment to the basis of such stock under section 1367.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups or otherwise."

(b) EXCLUSION TREATED AS PREFERENCE FOR MINIMUM TAX.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(8) EXCLUSION FOR GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK.—An amount equal to the amount excluded from gross income for the taxable year under section 1202."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(2)(B)(ii) is amended by striking "and (6)" and inserting "(6), and (8)".

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(2) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 shall not be taken into account."

(4) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 and" after "except that".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued on or after February 1, 1992.

Subtitle C—Real Estate Provisions

PART I—MODIFICATION OF PASSIVE LOSS RULES

SEC. 2201. MODIFICATION OF PASSIVE LOSS RULES.

(a) GENERAL RULE.—Subsection (c) of section 469 (relating to passive activity losses and credits limited) is amended by adding at the end thereof the following new paragraphs:

"(7) TAXPAYERS ENGAGED IN THE REAL PROPERTY BUSINESS.—

"(A) IN GENERAL.—In the case of a taxpayer engaged in the real property business, the determination of what constitutes an activity and whether an activity is a passive activity shall be made by treating the taxpayer's rental real property operations, undertakings, and activities in the same manner as nonrental trade or business operations, undertakings, and activities.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to—

"(i) any interest held as a limited partner, and

"(ii) any rental activity with respect to any real property originally placed in service after the date of the enactment of this paragraph (whether or not by the taxpayer).

"(C) 20 PERCENT OF ITEMS REMAIN SUBJECT TO LIMITATION.—Notwithstanding subparagraph (A), 20 percent of the items of income, gain, loss, deduction, or credit allocable to any real property rental activity shall continue to be treated as items allocable to a passive activity. Any amount disallowed by reason of the preceding sentence shall be treated as an amount allocable to a former passive activity for purposes of applying subsection (f) (as modified by subparagraph (D) of this paragraph).

"(D) TREATMENT OF SUSPENDED LOSSES.—For purposes of applying subsection (f) with respect to any rental activity which is treated as not being a passive activity by reason of this paragraph, the holding and renting of each separate property shall be treated as a separate activity which may not be aggregated with rental activities with respect to other properties or with other real property operations.

"(8) INDIVIDUALS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), an individual is engaged in the real property business if—

"(A) such individual spends at least 50 percent of such individual's working time in real property operations; and

"(B) such individual spends more than 500 hours during the taxable year in real property operations.

"(9) REAL PROPERTY OPERATIONS.—For purposes of paragraph (8), the term 'real property operations' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, brokerage, appraisal, and finance operations.

"(10) WORKING TIME.—For purposes of paragraph (8), the term 'working time' means any time spent as an employee, sole proprietor, S corporation shareholder, partner in a partnership, or beneficiary of a trust or estate.

"(11) CLOSELY HELD C CORPORATIONS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), a closely held C corporation is engaged in the real property business if—

"(A) 1 or more shareholders owning stock representing more than 50 percent (by value) of the outstanding stock of such corporation materially participate in the aggregate real property activities of such corporation; or

"(B) such corporation meets the requirements of section 465(c)(7)(C) (without regard to clause (iv)) with respect to the aggregate real property activities of such corporation."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 469(c) is amended to read as follows:

"(2) PASSIVE ACTIVITY INCLUDES CERTAIN RENTAL ACTIVITIES.—Except for rental activities treated in the same manner as nonrental trade or business activities pursuant to paragraph (7), each rental activity is a passive activity without regard to whether or not the taxpayer materially participates in the rental activity."

(2) Paragraph (4) of such section 469(c) is amended to read as follows:

"(4) MATERIAL PARTICIPATION NOT REQUIRED FOR PARAGRAPH (3).—Paragraph (3) shall be applied without regard to whether or not the taxpayer materially participates in the activity."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

PART II—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

SEC. 2211. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale out of foreclosure by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale out of foreclosure by a financial institution where—

"(I) a qualified organization acquires foreclosure property from a financial institution and the financial institution treats any income realized from the sale or exchange of the foreclosure property as ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the foreclosure property immediately before the acquisition referred to in clause (iv), and

"(III) the value (determined as of the time of the sale) of the amount pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property does not exceed 25 percent of the value of the property (determined as of such time).

"(iii) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a member of an affiliated group (as defined in section 1504(a)) which includes an institution referred to in subclause (I) but only if such other corporation is subject to supervision and examination by the same Federal or State agency as the institution referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II).

"(iv) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured."

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) Effective Date.—The amendments made by this section shall apply to acquisitions on or after February 1, 1992.

SEC. 2212. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) Modification to Anti-Abuse Rules.—Paragraph (9) of section 514(c) (as amended by section 2211) is amended by adding at the end thereof the following new subparagraph:

"(I) Partnerships not involving tax avoidance.—

"(i) De minimis rule for certain large partnerships.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) interests in such partnership were offered for sale in an offering registered with the Securities and Exchange Commission,

"(II) at least 50 percent of each class of interests in such partnership is owned by individuals who are not disqualified persons, and

"(III) the principal purpose of partnership allocations is not tax avoidance.

The Secretary may disregard inadvertent failures to meet the requirements of subclause (II).

"(ii) Disqualified persons.—For purposes of this subparagraph, the term 'disqualified person' means any person described in clause (iii) or (iv) of subparagraph (B) and any person who is not a United States person."

(b) Repeal of Special Treatment of Publicly Traded Partnerships.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) Effective Date.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

SEC. 2213. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) General Rule.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) Conforming Amendment.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2214. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) General Rule.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property if—

"(A) such property was acquired by the organization from—

"(i) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(ii) the conservator or receiver of such an institution,

"(B) such property is designated by the organization within the 6-month period beginning on the date of its acquisition as property held for sale,

"(C) such sale, exchange, or disposition occurs before the date 30 months after the date of such properties acquisition, and

"(D) while such property was held by the organization, such property was not substantially improved or renovated and there were no substantial development activities with respect to such property."

(b) Effective Date.—The amendment made by subsection (a) shall apply to property acquired on or after February 1, 1992.

SEC. 2215. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) General Rule.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

"(3) Treatment of trusts described in section 401(a).—

"(A) Look-thru treatment.—

"(i) In general.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) Certain related trusts not eligible.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2)) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) Coordination with personal holding company rules.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (H), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) Treatment for purposes of unrelated business tax.—If any qualified trust holds 10 percent or more (by value) of the interests in any real estate investment trust described in subparagraph (D), any income of such qualified trust attributable to its interests in such real estate investment trust shall be taken into account under part III of subchapter F of this chapter under rules similar to the rules applicable to income attributable to interests in partnerships.

"(D) Description of real estate investment trusts.—

"(i) In general.—A real estate investment trust is described in this subparagraph if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if—

"(I) interests in such trust are not readily tradable on an established securities market, or

"(II) interests in such trust are so tradable but such trust is predominantly held by qualified trusts.

"(ii) Predominantly held.—For purposes of clause (i)(II), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own at least 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) Qualified trust.—For purposes of this paragraph (D), the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) Effective date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle D—Extension of Certain Expiring Tax Provisions

SEC. 2301. RESEARCH CREDIT.

(a) In General.—Section 41 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) Conforming Amendment.—Paragraph (1) section 28(b) is amended by striking subparagraph (D).

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2302. LOW-INCOME HOUSING CREDIT.

(a) Extension.—

(1) In general.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(2) Effective date.—The amendment made by paragraph (1) shall apply to periods after June 30, 1992.

(b) Election To Determine Rent Limitation Based on Number of Bedrooms.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election. Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act, and, once made, shall be irrevocable.

SEC. 2303. TARGETED JOBS CREDIT.

(a) In General.—Subsection (c) of section 51 (relating to amount of targeted jobs credit) is amended by striking paragraph (4).

(b) Effective Date.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after June 30, 1992.

SEC. 2304. QUALIFIED MORTGAGE BONDS.

(a) In General.—Paragraph (1) of section 143(a) (defining qualified mortgage bond) is amended to read as follows:

"(1) Qualified mortgage bond defined.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue."

(b) Mortgage Credit Certificates.—Section 25 is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(c) TREATMENT OF RESALE PRICE CONTROL AND SUBSIDY LIEN PROGRAMS.—Subsection (k) of section 143 is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF RESALE PRICE CONTROL AND SUBSIDY LIEN PROGRAMS.—

"(A) IN GENERAL.—The interest of a governmental unit in any residence by reason of financing provided under any qualified program shall not be taken into account under this section (other than subsection (m)), and the acquisition cost of the residence which is taken into account under subsection (e) shall be such cost reduced by the amount of such financing.

"(B) QUALIFIED PROGRAM.—For purposes of subparagraph (A), the term 'qualified program' means any governmental program providing second mortgage loans—

"(i) which restricts the resale of the residence to a purchaser qualifying under this section and to a price determined by an index that reflects less than the full amount of any appreciation in the residence's value, or

"(ii) which provides for deferred or reduced interest payments on such financing and grants the governmental unit a share in the appreciation of the residence,

but only if such financing is not provided directly or indirectly through the use of any private activity bond."

(d) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) PROGRAMS.—The amendment made by subsection (c) shall apply to qualified mortgage bonds issued and mortgage credit certificates provided on or after the date of the enactment of this Act.

SEC. 2305. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) is amended to read as follows:

"(B) BONDS ISSUED TO FINANCE MANUFACTURING FACILITIES AND FARM PROPERTY.—Subparagraph (A) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

"(i) any manufacturing facility, or

"(ii) any land or property in accordance with section 147(c)(2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

SEC. 2306. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 103 of the Tax Extension Act of 1991 is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after June 30, 1992.

SEC. 2307. EXCISE TAX ON CERTAIN VACCINES.

(a) TAX.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund, and

(4) whether additional vaccines should be included in the vaccine injury compensation program.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 2308. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

Subtitle E—Modifications to Minimum Tax

SEC. 2401. REPEAL OF PREFERENCE FOR CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking "(6), and (8)" and inserting "and (7)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions in taxable years beginning after December 31, 1991.

(d) ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—The Secretary of the Treasury or his delegate shall develop and implement a procedure under which the value of donated property would be determined for Federal income tax purposes prior to the charitable transfer.

SEC. 2402. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service on or after February 1, 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending after such date.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

Subtitle F—Repeal of Certain Luxury Excise Taxes; Imposition of Tax on Diesel Fuel Used in Noncommercial Motorboats

SEC. 2501. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.

"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.

"Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1991, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and not of $100, such amount shall be rounded to the next highest multiple of $100).

"(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator for a potential customer while the potential customer is in the vehicle.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) SEPARATE PURCHASE OF VEHICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(5) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on February 1, 1992.

SEC. 2502. TAX ON DIESEL FUEL USED IN NON-COMMERCIAL MOTORBOATS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered motorboat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered motorboat", and

(B) by striking "such vehicle" and inserting "such vehicle or motorboat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL NAVIGATION.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) USES IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(i) a vessel employed in the fisheries or in the whaling business, and

"(ii) a motorboat in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(II) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation."

(c) RETENTION OF TAXES IN GENERAL FUND.—

(1) TAXES IMPOSED AT HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered motorboat."

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered motorboat."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1992.

Subtitle G—Urban Tax Enterprise Zones and Rural Development Investment Zones

SEC. 2601. STATEMENT OF PURPOSE.

It is the purpose of this subtitle to establish a demonstration program of providing incentives for the creation of tax enterprise zones in order—

(1) to revitalize economically and physically distressed areas, primarily by encouraging the formation of new businesses and the retention and expansion of existing businesses,

(2) to promote meaningful employment for tax enterprise zone residents, and

(3) to encourage individuals to reside in the tax enterprise zones in which they are employed.

PART I—DESIGNATION AND TAX INCENTIVES

SEC. 2602. DESIGNATION AND TREATMENT OF URBAN TAX ENTERPRISE ZONES AND RURAL DEVELOPMENT INVESTMENT ZONES.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Designation and Treatment of Tax Enterprise Zones

"Part I. Designation of tax enterprise zones.

"Part II. Incentives for tax enterprise zones.

"PART I—DESIGNATION OF TAX ENTERPRISE ZONES

"Sec. 1391. Designation procedure.

"Sec. 1392. Eligibility and selection criteria.

"Sec. 1393. Definitions and special rules.

"SEC. 1391. DESIGNATION PROCEDURE.

"(a) IN GENERAL.—For purposes of this title, the term 'tax enterprise zone' means any area which is, under this part—

"(1) nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone, and

"(2) designated by—

"(A) the Secretary of Housing and Urban Development in the case of an urban tax enterprise zone, and

"(B) the Secretary of Agriculture, in consultation with the Secretary of Commerce, in the case of a rural development investment zone.

"(b) NUMBER OF DESIGNATIONS.—

"(1) AGGREGATE LIMIT.—The appropriate Secretaries may designate in the aggregate 35 nominated areas as tax enterprise zones under this section, subject to the availability of eligible nominated areas. Not more than 10 urban tax enterprise zones may be designated and not more than 25 rural development investment zones may be designated. Such designations may be made only during the calendar years 1993, 1994, and 1995.

"(2) ANNUAL LIMITS.—

"(A) URBAN TAX ENTERPRISE ZONES.—The number of urban tax enterprise zones designated under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 5,

"(ii) in calendar year 1994 shall not exceed the sum of 3 plus the carryover amount for such year, and

"(iii) in calendar year 1995 shall not exceed the sum of 2 plus the carryover amount for such year.

"(B) RURAL DEVELOPMENT INVESTMENT ZONES.—The number of rural development investment zones designated under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 12,

"(ii) in calendar year 1994 shall not exceed the sum of 7 plus the carryover amount for such year, and

"(iii) in calendar year 1995 shall not exceed the sum of 6 plus the carryover amount for such year.

"(C) CARRYOVER AMOUNT.—For purposes of subparagraphs (A) and (B), the carryover amount for any calendar year shall be equal to the amount by which—

"(i) the limitation under such subparagraph for the preceding calendar year, exceeds

"(ii) the number of designations made under paragraph (1) for the type of tax enterprise zone to which such subparagraph relates in such preceding calendar year.

"(3) ADVANCE DESIGNATIONS PERMITTED.—For purposes of this subchapter, a designation during any calendar year shall be treated as made on January 1 of the following calendar year if the appropriate Secretary, in making such designation, specifies that such designation is effective as of such January 1.

"(c) LIMITATIONS ON DESIGNATIONS.—The appropriate Secretary may not make any designation under subsection (a) unless—

"(1) the local governments and the State in which the nominated area is located have the authority—

"(A) to nominate the area for designation as a tax enterprise zone, and

"(B) to provide assurances satisfactory to the appropriate Secretary that the commitments under section 1392(c) will be fulfilled,

"(2) the local governments and the State in which the nominated area is located—

"(A) have designated a governmental official with responsibility for making allocations under section 1397A (relating to overall limitation on zone incentives), and

"(B) have established procedures to ensure that allocations under section 1397A are made in a manner designed primarily to increase economic activity in the tax enterprise zone over that which would otherwise have occurred,

"(3) a nomination of the area is submitted in a reasonable time before the calendar year for which designation as a tax enterprise zone is sought,

"(4) the appropriate Secretary determines that any information furnished is reasonably accurate, and

"(5) the State and local governments certify that no portion of the area nominated is already included in a tax enterprise zone or in an area otherwise nominated to be a tax enterprise zone.

"(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a tax enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 15th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided for in their nomination, or

"(C) the date the appropriate Secretary revokes the designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—

"(A) IN GENERAL.—The appropriate Secretary shall revoke the designation of an area as a tax enterprise zone if such Secretary determines that the local government or the State in which it is located—

"(i) has significantly modified the boundaries of the area, or

"(ii) is not complying substantially with the State and local commitments pursuant to section 1392(c).

"(B) APPLICABLE PROCEDURES.—A designation may be revoked by the appropriate Secretary under subparagraph (A) only after a hearing on the record involving officials of the State or local government involved.

"SEC. 1392. ELIGIBILITY AND SELECTION CRITERIA.

"(a) IN GENERAL.—The appropriate Secretary may make a designation of any nominated area under section 1391 only on the basis of the eligibility and selection criteria set forth in this section.

"(b) ELIGIBILITY CRITERIA.—

"(1) URBAN TAX ENTERPRISE ZONES.—A nominated area which is not a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the most recent census data available) of not less than 4,000.

"(B) DISTRESS.—The nominated area is one of pervasive poverty, unemployment, and general distress.

"(C) SIZE.—The nominated area—

"(i) does not exceed 12 square miles,

"(ii) has a boundary which is continuous, or consists of not more than 3 noncontiguous parcels, and

"(iii) is located entirely within 1 State.

"(D) UNEMPLOYMENT RATE.—The unemployment rate (as determined by the appropriate available data) is not less than 1.5 times the national unemployment rate.

"(E) POVERTY RATE.—The poverty rate (as determined by the most recent census data available) for not less than 90 percent of the population census tracts (or where not tracted, the equivalent county divisions as defined by the Bureau of the Census for the purposes of defining poverty areas) within the nominated area is not less than 20 percent.

"(F) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

"(2) RURAL DEVELOPMENT INVESTMENT ZONES.—A nominated area which is a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the most recent census data available) of not less than 1,000.

"(B) DISTRESS.—The nominated area is one of general distress.

"(C) SIZE.—The nominated area—

"(i) does not exceed 10,000 square miles,

"(ii) consists of areas within not more than 4 contiguous counties,

"(iii) has a boundary which is continuous, or consists of not more than 3 noncontiguous parcels, and

"(iv) except in the case of nominated areas located in 1 or more Indian reservations, is located entirely within 1 State.

"(D) ADDITIONAL CRITERIA.—Not less than 2 of the following criteria:

"(i) UNEMPLOYMENT RATE.—The criterion set forth in paragraph (1)(D).

"(ii) POVERTY RATE.—The criterion set forth in paragraph (1)(E).

"(iii) JOB LOSS.—The amount of wages attributable to employment in the area, and subject to tax under section 3301 during the preceding calendar year, is not more than 95 percent of such wages during the 5th preceding calendar year.

"(iv) OUT-MIGRATION.—The population of the area decreased (as determined by the most recent census data available) by 10 percent or more between 1980 and 1990.

"(E) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

"(c) REQUIRED STATE AND LOCAL COURSE OF ACTION.—

"(1) IN GENERAL.—No nominated area may be designated as a tax enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a tax enterprise zone, the governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in the area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both governments and private nongovernmental entities, may not be funded from proceeds of any Federal program, and may include—

"(A) a reduction of tax rates or fees applying within the tax enterprise zone,

"(B) an increase in the level, or efficiency of delivery, of local public services within the tax enterprise zone,

"(C) actions to reduce, remove, simplify, or streamline government paperwork requirements applicable within the tax enterprise zone,

"(D) the involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area,

"(E) the giving of special preference to contractors owned and operated by members of any minority,

"(F) the gift (or sale at below fair market value) of surplus land in the tax enterprise zone to neighborhood organizations agreeing to operate a business on the land,

"(G) the establishment of a program under which employers within the tax enterprise zone may purchase health insurance for their employees on a pooled basis,

"(H) the establishment of a program to encourage local financial institutions to satisfy their obligations under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by making loans to tax enterprise zone businesses, with emphasis on startup and other small-business concerns (as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a)),

"(I) the giving of special preference to qualified low-income housing projects located in tax enterprise zones, in the allocation of the State housing credit ceiling applicable under section 42, and

"(J) the giving of special preference to facilities located in tax enterprise zones, in the allocation of the State ceiling on private activity bonds applicable under section 146.

"(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the appropriate Secretary shall take into account the past efforts of the State or local government in reducing the various burdens borne by employers and employees in the area involved.

"(4) PROHIBITION OF ASSISTANCE FOR BUSINESS RELOCATIONS.—

"(A) IN GENERAL.—The course of action implemented under paragraph (1) may not include any action to assist any establishment in relocating from 1 area to another area.

"(B) EXCEPTION.—The limitation established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if the appropriate Secretary—

"(i) finds that the establishment of the new branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where the existing business entity conducts business operations, and

"(ii) has no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

"(d) SELECTION CRITERIA.—From among the nominated areas eligible for designation under subsection (b) by the appropriate Secretary, such appropriate Secretary shall make designations of tax enterprise zones on the basis of the following factors (each of which is to be given equal weight):

"(1) STATE AND LOCAL CONTRIBUTIONS.—The strength and quality of the contributions which have been promised as part of the course of action relative to the fiscal ability of the nominating State and local governments.

"(2) IMPLEMENTATION OF COURSE OF ACTION.—The effectiveness and enforceability of the guarantees that the course of action will actually be carried out.

"(3) PRIVATE COMMITMENTS.—The level of commitments by private entities of additional resources and contributions to the economy of the nominated area, including the creation of new or expanded business activities.

"(4) AVERAGE RANKINGS.—The average ranking with respect to—

"(A) the criteria set forth in subparagraphs (D) and (E) of subsection (b)(1), in the case of an area which is not a rural area, or

"(B) the 2 criteria set forth in subsection (b)(2)(D) that give the area a higher average ranking, in the case of a rural area.

"(5) REVITALIZATION POTENTIAL.—The potential for the revitalization of the nominated area as a result of zone designation, taking into account particularly the number of jobs to be created and retained.

"SEC. 1393. DEFINITIONS AND SPECIAL RULES.

"For purposes of this subchapter—

"(1) URBAN TAX ENTERPRISE ZONE.—The term 'urban tax enterprise zone' means a tax enterprise zone which meets the requirements of section 1392(b)(1).

"(2) RURAL DEVELOPMENT INVESTMENT ZONE.—The term 'rural development investment zone' means a tax enterprise zone which meets the requirements of section 1392(b)(2).

"(3) GOVERNMENTS.—If more than 1 local government seeks to nominate an area as a tax enterprise zone, any reference to, or requirement of, this subchapter shall apply to all such governments.

"(4) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

"(5) NOMINATED AREA.—

"(A) IN GENERAL.—The term 'nominated area' means an area which is nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone under this subchapter.

"(B) INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to the area.

"(6) RURAL AREA.—The term 'rural area' means any area which is—

"(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(B) determined by the Secretary of Agriculture, after consultation with the Secretary of Commerce, to be a rural area.

"(7) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) the Secretary of Housing and Urban Development in the case of urban tax enterprise zones, and

"(B) the Secretary of Agriculture in the case of rural development investment zones.

"(8) STATE-CHARTERED DEVELOPMENT CORPORATIONS.—An area shall be treated as nominated by a State and a local government if it is nominated by an economic development corporation chartered by the State.

"PART II—INCENTIVES FOR TAX ENTERPRISE ZONES

"SUBPART A. Enterprise zone employment credit.
"SUBPART B. Investment incentives.
"SUBPART C. General provisions.

"Subpart A—Enterprise Zone Employment Credit

"Sec. 1394. Enterprise zone employment credit.
"Sec. 1395. Other definitions and special rules.

"SEC. 1394. ENTERPRISE ZONE EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the enterprise zone employment credit determined under this section with respect to any small employer for any taxable year is 7.5 percent of the qualified zone wages paid or incurred during such taxable year.

"(2) LIMITATION.—The amount of the enterprise zone employment credit of any small employer for any taxable year with respect to any tax enterprise zone shall not exceed the employment credit amount allocated to such employer for such taxable year under section 1397A with respect to such zone.

"(b) QUALIFIED ZONE WAGES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified zone wages' means any wages paid or incurred by a small employer for services performed by an employee while such employee is a qualified zone employee.

"(2) COORDINATION WITH TARGETED JOBS CREDIT.—The term 'qualified wages' shall not include wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer if any portion of such wages are qualified wages (as defined in section 51(b)).

"(c) QUALIFIED ZONE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified zone employee' means, with respect to any period, any employee of a small employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within a tax enterprise zone in a trade or business of the employer, and

"(B) the principal place of abode of such employee while performing such services is within such tax enterprise zone.

"(2) CREDIT ALLOWED ONLY FOR FIRST 5 YEARS.—An employee shall not be treated as a qualified zone employee for any period after the date 5 years after the day on which such employee first began work for the employer (whether or not in a tax enterprise zone).

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified zone employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services in a tax enterprise zone) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1992 at the same time and in the same manner as under section 415(d).

"(4) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified zone employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1), and

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)).

"(d) SMALL EMPLOYER.—For purposes of this section, the term 'small employer' means, with respect to any taxable year, any employer if the average number of individuals employed full-time (within the meaning of the last sentence of section 44(b)) during such taxable year by such employer does not exceed 100.

"(e) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"SEC. 1395. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) WAGES.—For purposes of this subpart, the term 'wages' has the same meaning as when used in section 51 except that paragraph (4) of section 51(c) shall not apply.

"(b) CONTROLLED GROUPS.—For purposes of this subpart—

"(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

"(2) the credit (if any) determined under section 1394 with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

"(c) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"Subpart B—Investment Incentives

"Sec. 1396. Enterprise zone stock.

"Sec. 1397. Additional first-year depreciation allowance.

"SEC. 1396. ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction an amount equal to the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of enterprise zone stock.

"(b) LIMITATIONS.—

"(1) CEILING.—

"(A) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed whichever of the following is the least for the taxable year:

"(i) $25,000.

"(ii) The enterprise zone stock amount allocated under section 1397A to the taxpayer for such taxable year.

"(iii) The excess of $250,000 over the amount allowed as a deduction under this section to the taxpayer for all prior taxable years.

"(B) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under subparagraph (A)—

"(i) the amount of such excess shall be treated as an amount paid to which subsection (a) applies during the next taxable year, and

"(ii) the deduction allowed for any taxable year shall be allocated among the enterprise zone stock purchased by such person in accordance with the purchase price per share.

"(2) AGGREGATION WITH FAMILY MEMBERS.—The taxpayer and members of the taxpayer's family (as defined in section 267(c)(4)) shall be treated as one person for purposes of clauses (i) and (iii) of paragraph (1)(A), and the limitations contained in such clauses shall be allocated among the taxpayer and such members in accordance with their respective purchases of enterprise zone stock.

"(c) DISPOSITIONS OF STOCK.—

"(1) GAIN TREATED AS ORDINARY INCOME.—Except as otherwise provided in regulations, if a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a), the amount realized on such disposition—

"(A) shall be recognized notwithstanding any other provision of this subtitle, and

"(B) to the extent such amount does not exceed the amount allowed as a deduction under subsection (a) with respect to such stock, shall be treated as ordinary income.

"(2) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disposed of.

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(3) EXCEPTION FOR TRANSFERS AT DEATH.—This subsection shall not apply to a transfer at death.

"(d) DISQUALIFICATION.—

"(1) ISSUER OR STOCK CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer—

"(A) the issuer of such stock ceases to be a qualified issuer (determined without regard to subsection (f)(1)(C)), or

"(B) the proceeds from the issuance of such stock fail or otherwise cease to be invested by the issuer in qualified enterprise zone property,

then, notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (c) as disposing of such stock during the taxable year during which such cessation or failure occurs at its fair market value as of 1st day of such taxable year.

"(2) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation shall not fail to be treated as a qualified issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a tax enterprise zone designation.

"(e) Enterprise Zone Stock.—For purposes of this section,

"(1) In general.—The term 'enterprise zone stock' means stock of a corporation if—

"(A) such stock was acquired on original issue from the corporation, and

"(B) such corporation was, at the time of issue, a qualified issuer.

"(2) Proceeds must be invested in qualified enterprise zone property.—Such term shall include such stock only to the extent that the amount of proceeds of such issuance are used by such issuer during the 12-month period beginning on the date of issuance to acquire qualified enterprise zone property.

"(3) $5,000,000 limit.—Not more than $5,000,000 of stock of such corporation and all related persons may be enterprise zone stock.

"(f) Qualified Issuer.—For purposes of this section—

"(1) In general.—The term 'qualified issuer' means any domestic C corporation if—

"(A) such corporation does not have more than one class of stock,

"(B) such corporation meets the enterprise zone business requirements of paragraph (2),

"(C) the sum of—

"(i) the money,

"(ii) the aggregate unadjusted bases of property owned by such corporation, and

"(iii) the value of property leased to the corporation (as determined under regulations prescribed by the Secretary),

does not exceed $5,000,000, and

"(D) more than 20 percent of the total voting power, and 20 percent of the total value, of the stock of such corporation is owned by individuals or estates or indirectly by individuals through partnerships or trusts.

"(2) Enterprise zone business requirements.—

"(A) In general.—A corporation meets the enterprise zone business requirements of this paragraph for any taxable year if—

"(i) at least 80 percent of the total gross income of such corporation for the taxable year is derived from the active conduct of a trade or business within a tax enterprise zone,

"(ii) less than 10 percent of the average of the aggregate unadjusted bases of the property of the corporation during such taxable year is attributable to securities (as defined in section 165(g)(2)),

"(iii) substantially all of the use of the tangible property of the corporation (whether owned or leased) is within a tax enterprise zone,

"(iv) substantially all of the services performed for the corporation by the employees of such corporation are performed in a tax enterprise zone, and

"(v) no more than an insubstantial portion of the property of the corporation constitutes collectibles (as defined in section 408(m)(2)), unless such collectibles constitute property held primarily for sale to customers in the ordinary course of such trade or business.

"(B) Special rules.—

"(i) Rental real property.—For purposes of subparagraph (A), real property located within a tax enterprise zone and held for use by customers other than related persons shall be treated as the active conduct of a trade or business.

"(ii) Excessive property or services provided to or by related persons.—A corporation shall cease to meet the requirements of this paragraph if—

"(I) more than 50 percent (by value) of the property or services acquired by the corporation during the taxable year are acquired from related persons which do not meet the requirements of this paragraph; or

"(II) more than 50 percent of the gross income of the corporation for the taxable year is attributable to property or services provided to related persons which do not meet the requirements of this paragraph.

"(iii) New corporations.—In the case of a new corporation, clauses (i) and (ii) of subparagraph (A) shall not apply to the 1st taxable year of such corporation.

"(3) Qualified enterprise zone property.—The term 'qualified enterprise zone property' means property to which section 168 applies—

"(A) the original use of which commences with the qualified issuer, and

"(B) substantially all of the use of which is in a tax enterprise zone.

"(4) Related person.—A person shall be treated as related to another person if—

"(A) the relationship of such persons is described in section 267(b) or 707(b)(1), or

"(B) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of subparagraph (A), in applying section 267(b) or 707(b)(1), '33 percent' shall be substituted for '50 percent'.

"(g) Basis Adjustment.—For purposes of this subtitle, the taxpayer's basis (without regard to this subsection) for the enterprise zone stock shall be reduced by the deduction allowed under subsection (a) with respect to such stock.

"SEC. 1397. ADDITIONAL FIRST-YEAR DEPRECIATION ALLOWANCE.

"(a) In General.—In the case of any qualified zone property—

"(1) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 25 percent of the adjusted basis of such property, and

"(2) the adjusted basis of such property shall be reduced by the amount of such allowance before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(b) Qualified Zone Property.—For purposes of this section—

"(1) In general.—The term 'qualified zone property' means any property to which section 168 applies—

"(A) which is section 1245 property (as defined in section 1245(a)(3)),

"(B) the original use of which commences with the taxpayer in a tax enterprise zone, and

"(C) substantially all of the use of which is in a tax enterprise zone and is in the active conduct of a trade or business by the taxpayer in such zone.

"(2) Exception for alternative depreciation property.—The term 'qualified zone property' does not include any property to which the alternative depreciation system under section 168(g) applies, determined—

"(A) without regard to section 168(g)(7) (relating to election to use alternative depreciation system), and

"(B) after application of section 280F(b) (relating to listed property with limited business use).

"(c) Limitation.—The aggregate adjusted bases of property which may be taken into account under subsection (a) by any taxpayer for any taxable year with respect to any tax enterprise zone shall not exceed the additional first-year depreciation amount allocated to such taxpayer for such taxable year under section 1397A with respect to such zone.

"(d) Special Rules for Sale-Leasebacks.—For purposes of subsection (b)(1)(B), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

"(e) Coordination With Section 280F.—

"(1) Automobiles.—In the case of a passenger automobile (within the meaning of section 280F(d)(5)) which is qualified zone property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the allowance under subsection (a).

"(2) Listed property.—The allowance under subsection (a) shall be taken into account in computing any recapture amount under section 280F(b)(2).

"(f) Coordination With Section 169(j).—In the case of property for which a deduction would (but for this subsection) be allowable under section 168(j) and this section, section 168(j) shall not apply and this section shall be applied by substituting '40 percent' for '25 percent' in subsection (a).

"Subpart C—General Provisions

"Sec. 1397A. Overall limitation on zone incentives.
"Sec. 1397B. Regulations.

"SEC. 1397A. OVERALL LIMITATION ON ZONE INCENTIVES.

"(a) General Rule.—The allocating official of each tax enterprise zone shall make allocations of—

"(1) employment credit amounts,

"(2) enterprise zone stock amounts, and

"(3) additional first-year depreciation amounts.

"(b) Limitation on Aggregate Amounts Allocated.—

"(1) Limitation.—

"(A) In general.—No amount may be allocated under subsection (a) by the allocating official of any tax enterprise zone if such allocation would result in the zone limit for the calendar year of the allocation (or any succeeding calendar year) being reduced below zero.

"(B) Coordination with increase.—For purposes of applying subparagraph (A) to an allocation during any calendar year, it shall be assumed that no increase in the zone limit will be made under paragraph (2)(B) for any succeeding calendar year unless—

"(i) the allocating official provides assurances satisfactory to the Secretary that the zone will be entitled to such an increase for such succeeding calendar year, and

"(ii) the allocating official agrees to such recapture provisions as the Secretary may require in cases where the zone is not entitled to such increase.

"(2) Zone limit.—For purposes of this section—

"(A) Basic amount.—Except as otherwise provided in this paragraph, the zone limit for any tax enterprise zone for any calendar year is—

"(i) $13,000,000 in the case of an urban tax enterprise zone, and

"(ii) $5,000,000 in the case of a rural development investment zone.

"(B) Increase in limit for certain State or local expenditures.—

"(i) In general.—The amount of the zone limit for any tax enterprise zone for any calendar year shall be increased by the lesser of—

"(I) 10 percent of the limit determined under subparagraph (A), or

"(II) the amount determined under clause (ii) with respect to such zone for such calendar year.

"(ii) AMOUNT OF INCREASE.—For purposes of clause (i), the amount determined under this clause with respect to any tax enterprise zone for any calendar year is the sum of—

"(I) the State and local business incentives with respect to such zone for the preceding calendar year, and

"(II) the qualified State and local governmental expenditures with respect to such zone for the preceding calendar year.

"(C) CARRYOVER OF UNUSED AMOUNTS.—

"(i) IN GENERAL.—Before the end of any calendar year, the allocating official of any tax enterprise zone may elect—

"(I) to reduce the zone limit applicable to such zone for such year, and

"(II) to increase the zone limit applicable to such zone for the succeeding calendar year by an amount equal to such reduction.

"(ii) LIMITATION.—The increase in a zone limit under clause (i)(II) for any calendar year shall not exceed 70 percent of the zone limit otherwise applicable to the tax enterprise zone for such year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) STATE AND LOCAL BUSINESS INCENTIVES.—The State and local business incentives with respect to any tax enterprise zone for any calendar year is the sum of—

"(i) the aggregate of property tax or sales tax abatements provided during State or local fiscal years ending in such calendar year with respect to otherwise taxable property or sales in such tax enterprise zone,

"(ii) the aggregate grants made by any State or local government during such fiscal years to startup and other small business concerns in such tax enterprise zone, plus

"(iii) 5 percent of the total outstanding balance (as of the close of such fiscal years) of loans made by any State or local government to startup and other small business concerns in such tax enterprise zone.

No amount shall be taken into account under the preceding sentence if such amount consists of assistance which would be prohibited under section 1392(c)(4) (relating to prohibition of assistance for business relocations). No loan shall be taken into account under clause (iii) unless the State or local government bears the risk of any default with respect to such loan.

"(B) QUALIFIED STATE AND LOCAL GOVERNMENTAL EXPENDITURES.—

"(i) IN GENERAL.—The qualified State and local governmental expenditures with respect to any tax enterprise zone for any calendar year shall be the excess (if any) of—

"(I) the specified expenditures during State or local fiscal years ending in such calendar year with respect to such zone, over

"(II) the adjusted base period expenditures for such zone.

"(ii) SPECIFIED EXPENDITURES.—For purposes of this subparagraph, the term 'specified expenditures' means—

"(I) any expenditures by any State or local government for the acquisition, construction, repair, or maintenance of public improvements or facilities in the tax enterprise zone, plus

"(II) any expenditures by any State or local government for police or fire protection to the extent allocable to the tax enterprise zone.

"(iii) ADJUSTED BASE PERIOD EXPENDITURES.—For purposes of this subparagraph, the term 'adjusted base period expenditures' means, with respect to any calendar year—

"(I) the aggregate specified expenditures during State or local fiscal years ending in calendar year 1991 with respect to the tax enterprise zone, increased by

"(II) the cost-of-living adjustment for the calendar year for which the increase is being determined (as determined under section 1(f)(3) by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) of such section).

"(iv) ADJUSTMENT FOR CERTAIN CAPITAL EXPENDITURES.—For purposes of clause (iii)(I), the appropriate Secretary may disregard any expenditures if such Secretary determines that such expenditures were unusual and not recurring and that inclusion of such expenditures would not be consistent with the purposes of this section.

"(C) DETERMINATIONS BY APPROPRIATE SECRETARY.—The amount of the State and local business incentives and qualified State or local governmental expenditures with respect to any tax enterprise zone for any calendar year shall be determined by the appropriate Secretary with respect to such zone and certified to the Secretary of the Treasury or his delegate.

"(D) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning given such term by section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

"(c) ALLOCATION PREFERENCE FOR SMALL BUSINESS CONCERNS.—In making allocations under subsection (a), the allocating official of each tax enterprise zone shall give preference to small business concerns (as defined in subsection (b)(3)(D)).

"(d) OPERATING RULES.—For purposes of this section—

"(1) EMPLOYMENT CREDIT AMOUNT.—Any allocation of an employment credit amount—

"(A) shall specify the employer and taxable year to which such allocation applies, and

"(B) shall reduce the zone limit for the calendar year in which such taxable year begins by 67 cents for each dollar of the amount so allocated.

"(2) ENTERPRISE ZONE STOCK AMOUNT.—Any allocation of an enterprise zone stock amount—

"(A) shall specify the stock purchases to which the allocation relates, and

"(B) shall reduce the zone limit for the calendar year in which such taxable year begins by 35 cents for each dollar of the amount so allocated.

"(3) ADDITIONAL FIRST-YEAR DEPRECIATION AMOUNT.—Any allocation of an additional first-year depreciation amount—

"(A) shall specify the adjusted basis of the property to which such allocation applies, and

"(B) shall reduce the zone limit for the calendar year in which the property is placed in service by 1.5 cents for each dollar so allocated.

"(e) RETROACTIVE ALLOCATIONS NOT EFFECTIVE.—

"(1) IN GENERAL.—No retroactive allocation under subsection (a) shall be effective.

"(2) RETROACTIVE ALLOCATION.—For purposes of subsection (a), the term 'retroactive allocation' means any allocation of—

"(A) an employment credit amount after the beginning of the taxable year to which such allocation applies,

"(B) an enterprise zone stock amount after the stock involved is acquired, or

"(C) an additional first-year depreciation amount after the property involved is placed in service.

"(f) ALLOCATING OFFICIAL.—For purposes of this section, the term 'allocating official' means the official designated as provided in section 1391(c)(2) as the official responsible for making allocations under this section.

"SEC. 1397B. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including—

"(1) regulations limiting the benefit of this part in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government, and

"(2) regulations preventing avoidance of the provisions of this part."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Designation and treatment of tax enterprise zones."

SEC. 2603. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ALTERNATIVE MINIMUM TAX.—

(1) ENTERPRISE ZONE STOCK.—Subsection (b) of section 56 (relating to adjustments to the alternative minimum taxable income of individuals) is amended by adding at the end thereof the following new paragraph:

"(4) ENTERPRISE ZONE STOCK.—Section 1396 shall not apply."

(2) ADDITIONAL FIRST-YEAR DEPRECIATION.—Subparagraph (A) of section 56(a)(1) (relating to adjustments in computing alternative minimum taxable income), as amended by section 2002, is amended—

(A) in clause (i), by striking "or (iii)" and inserting ", (iii), or (iv)", and

(B) by adding at the end thereof the following new clause:

"(iv) ADDITIONAL FIRST-YEAR DEPRECIATION FOR QUALIFIED TAX ENTERPRISE ZONE PROPERTY.—The allowance provided by section 1397(a) for qualified zone property shall be allowed."

(b) ENTERPRISE ZONE EMPLOYMENT CREDIT PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end the following new paragraph:

"(8) in the case of a small employer (as defined in section 1394(d)), the enterprise zone employment credit determined under section 1394(a)."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO ENTERPRISE ZONE EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—

(A) by striking "the amount of the credit determined for the taxable year under section 51(a)" and inserting "the sum of the credits determined for the taxable year under sections 51(a) and 1394(a)", and

(B) by striking "TARGETED JOBS CREDIT" in the subsection heading and inserting "EMPLOYMENT CREDITS".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) the enterprise zone employment credit determined under section 1394(a)."

(d) OTHER AMENDMENTS.—

(1) Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions)

is amended by adding at the end the following new paragraph:

"(26) ENTERPRISE ZONE PROVISIONS.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation."

(2) Paragraph (1) of section 1371(d) (relating to coordination with investment credit recapture) is amended by inserting before the period at the end the following "and for purposes of sections 1394(e)(3)".

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (23); by striking the period at the end of paragraph (24) and inserting "; and"; and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 1396(g), in the case of stock with respect to which a deduction was allowed under section 1396(a).".

SEC. 2604. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this part shall take effect on the date of the enactment of this Act.

(b) REQUIREMENT FOR REGULATIONS.—Not later than the date 4 months after the date of the enactment of this Act, the appropriate Secretaries shall issue regulations—

(1) establishing the procedures for nominating areas for designation as tax enterprise zones,

(2) establishing a method for comparing the factors listed in section 1392(d) of the Internal Revenue Code of 1986 (as added by this part), and

(3) establishing recordkeeping requirements necessary or appropriate to assist the studies required by part III.

PART II—STUDIES

SEC. 2611. STUDIES OF EFFECTIVENESS OF TAX ENTERPRISE ZONE INCENTIVES.

(a) IN GENERAL.—The Secretary of the Treasury and the Comptroller General shall each conduct studies of the effectiveness of the incentives provided by this subtitle in achieving the purposes of this subtitle in tax enterprise zones.

(b) REPORTS.—The Secretary of the Treasury and the Comptroller General shall each submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) not later than July 1, 1996, an interim report setting forth the findings as a result of such studies, and

(2) not later than July 1, 2001, a final report setting forth the findings as a result of such studies.

TITLE III—REVENUE INCREASES

Subtitle A—Treatment of Wealthy Individuals

SEC. 3001. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $35,800	15% of taxable income.
Over $35,800 but not over $86,500.	$5,370, plus 28% of the excess over $35,800.
Over $86,500 but not over $145,000.	$19,566, plus 31% of the excess over $86,500.
Over $145,000	$37,701, plus 35% of the excess over $145,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $28,750	15% of taxable income.
Over $28,750 but not over $74,150.	$4,312.50, plus 28% of the excess over $28,750.
Over $74,150 but not over $125,000.	$17,024.50, plus 31% of the excess over $74,150.
Over $125,000	$32,788.50, plus 35% of the excess over $125,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $21,450	15% of taxable income.
Over $21,450 but not over $51,900.	$3,217.50, plus 28% of the excess over $21,450.
Over $51,900 but not over $85,000.	$11,743.50, plus 31% of the excess over $51,900.
Over $85,000	$22,004.50, plus 35% of the excess over $85,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $17,900	15% of taxable income.
Over $17,900 but not over $43,250.	$2,685, plus 28% of the excess over $17,900.
Over $43,250 but not over $72,500.	$9,783, plus 31% of the excess over $43,250.
Over $72,500	$18,850.50, plus 35% of the excess over $72,500.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,000	15% of taxable income.
Over $3,000 but not over $5,000.	$450, plus 28% of the excess over $3,000.
Over $5,000 but not over $7,000.	$1,010, plus 31% of the excess over $5,000.
Over $7,000	$1,630, plus 35% of the excess over $7,000."

(b) CONFORMING AMENDMENTS.—

(1) Section 541 is amended by striking "28 percent" and inserting "35 percent".

(2)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting "1992", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1991".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1989" and inserting "1991".

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1991".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1991".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1991".

(F) Clause (ii) of section 135(b)(2)(B) is amended by inserting ", determined by substituting 'calendar year 1989' for 'calendar year 1991' in subparagraph (B) thereof" before the period at the end thereof.

(G) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1991".

(H) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3002. INCREASE IN INDIVIDUAL MINIMUM TAX RATE.

(a) GENERAL RULE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "24 percent" and inserting "25 percent".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 897(a) is amended by striking "21" in the heading of such paragraph and in subparagraph (A) and inserting "25".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3003. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3004. 2-YEAR EXTENSION OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS.

Subsection (f) of section 68 (relating to overall limitation on itemized deductions) is amended by striking "1995" and inserting "1997".

SEC. 3005. 2-YEAR EXTENSION OF PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS.

Subparagraph (E) of section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking "1995" and inserting "1997".

SEC. 3006. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) COVERED EMPLOYEE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'covered employee' means any employee of the taxpayer who is an officer of the taxpayer.

"(B) EXCEPTION FOR EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.—The term 'covered employee' shall not include any employee-owner (as defined in section 269A(b)) of a personal service corporation (as defined in section 269A(b)).

"(C) FORMER EMPLOYEES.—The term 'covered employee' includes any former employee who had been a covered employee at any time while performing services for the taxpayer.

"(3) EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) REMUNERATION.—For purposes of subparagraph (A), the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(ii) amounts referred to in section 3121(a)(19), and

"(iii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132.

"(4) TREATMENT OF CERTAIN EMPLOYERS.—

"(A) IN GENERAL.—All employers treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 414 shall be treated as a single employer for purposes of this subsection.

"(B) CLARIFICATION OF OFFICER DEFINITION.—Any officer of any of the employers treated as a single employer under subparagraph (A) shall be treated as an officer of such single employer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Administrative Provisions

SEC. 3101. INDIVIDUAL ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Paragraph (1) of section 6654(d) (relating to amount of required installment) is amended—

(1) by striking "100 percent" in subparagraph (B)(ii) and inserting "115 percent", and

(2) by striking subparagraphs (C), (D), (E), and (F).

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

(2) SPECIAL RULE FOR 1ST INSTALLMENT IN 1992.—The amendment made by subsection (a) shall not apply for purposes of determining the amount of the 1st required installment for any taxable year beginning in 1992. Any reduction in an installment by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st succeeding required installment by the amount of such reduction.

SEC. 3102. CORPORATE ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(1) by striking "90 percent" each place it appears in paragraph (1)(B)(i) and inserting "95 percent",

(2) by striking "90 PERCENT" in the heading of paragraph (2) and inserting "95 PERCENT", and

(3) by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting in lieu thereof:

"In the case of the following required installments:	**The applicable percentage is:**
1st	23.75
2nd	47.5
3rd	71.25
4th	95."

(2) Clause (i) of section 6655(e)(3)(A) is amended by striking "90 percent" and inserting "95 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 3103. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If the taxpayer files a claim for credit or refund of any overpayment of tax imposed by this title—

"(A) no interest shall be allowed under subsection (a) on such overpayment if such overpayment is refunded within 45 days after the day on which such claim is filed, and

"(B) if such overpayment is not so refunded, interest shall be allowed under subsection (a) on such overpayment but only for periods after the date on which such claim is filed."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after July 1, 1992.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after July 1, 1992.

Subtitle C—Other Revenue Provisions

SEC. 3201. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending after on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

SEC. 3202. INCREASE IN RECOVERY PERIOD FOR REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) is amended by striking the items relating to residential rental property and nonresidential real property and inserting the following:

"Low income housing	27.5 years
Residential rental property other than low income housing.	31 years
Nonresidential real property.	40 years."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 168(e) is amended by adding at the end thereof the following new subparagraph:

"(C) LOW INCOME HOUSING.—The term 'low income housing' means any property with respect to which the credit under section 42 is allowable."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service by the taxpayer after February 12, 1992.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1995, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before February 13, 1992, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before February 13, 1992.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

SEC. 3203. INCREASE IN MILEAGE REQUIREMENT FOR MOVING EXPENSE DEDUCTION.

(a) GENERAL RULE.—Paragraph (1) of section 217(c) (relating to conditions for allowance of moving expense deduction) is amended by striking "35 miles" each place it appears and insert "75 miles".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid or incurred after the date of the enactment of this Act.

SEC. 3204. TAXATION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

(a) GENERAL RULE.—Subpart C of part II of subchapter K of chapter 1 (relating to distributions by a partnership) is amended by adding at the end thereof the following new section:

"SEC. 737. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

"(a) GENERAL RULE.—In the case of any distribution by a partnership to a partner, such partner shall be treated as recognizing gain in an amount equal to the lesser of—

"(1) the excess (if any) of (A) the fair market value of property (other than money) received in the distribution over (B) the adjusted basis of such partner's interest in the partnership immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution, or

"(2) the net precontribution gain of the partner.

Gain recognized under the preceding sentence shall be in addition to any gain recognized under section 731. The character of such gain shall be determined by reference to the proportionate character of the net precontribution gain.

"(b) NET PRECONTRIBUTION GAIN.—For purposes of this section, the term 'net precontribution gain' means the net gain (if any) which would have been recognized by the distributee partner under section 704(c)(1)(B) if all property which—

"(1) had been contributed to the partnership by the distributee partner within 5 years of the distribution, and

"(2) is held by such partnership immediately before the distribution,

had been distributed by such partnership to another partner.

"(c) EXCEPTIONS.—

"(1) DISTRIBUTIONS OF PREVIOUSLY CONTRIBUTED PROPERTY.—If any portion of the property distributed consists of property which had been contributed by the distributee partner to the partnership, such property shall not be taken into account under subsection (a)(1) and shall not be taken into account in determining the amount of the net precontribution gain. If the property distributed consists of an interest in an entity, the preceding sentence shall not apply to the extent that the value of such interest is attributable to property contributed to such entity after such interest had been contributed to the partnership.

"(2) COORDINATION WITH SECTION 751.—This section shall not apply to the extent section 751(b) applies to such distribution."

(b) BASIS ADJUSTMENTS.—

(1) Section 732 is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENT FOR GAIN RECOGNIZED UNDER SECTION 737.—If gain is recognized by a partner under section 737 by reason of any distribution, appropriate adjustments in the adjusted basis of the distributed property other than money shall be made to reflect the gain so recognized."

(2) Subparagraph (A) of section 734(b)(1) is amended by striking "section 731(a)(1)" and inserting "section 731(a)(1) or 737".

(c) OTHER TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 704(c)(1) is amended by striking out "is distributed" in the material preceding clause (i) and inserting "is distributed (directly or indirectly)".

(2) Subsection (c) of section 731 is amended—

(A) by striking "and section 751" and inserting ", section 751", and

(B) by inserting before the period at the end thereof the following: ", and section 737 (relating to recognition of precontribution gain in case of certain distributions)".

(3) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 737. Recognition of precontribution gain in case of certain distributions to contributing partner."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after February 14, 1992.

SEC. 3205. CONFORM TAX ACCOUNTING TO FINANCIAL ACCOUNTING FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—If any dealer in securities holds any security or hedge at the close of any taxable year—

"(1) such dealer shall recognize gain or loss in the same manner as if such security or hedge were sold on the last business day of such taxable year, and

"(2) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) any security held for investment, and

"(2) any hedge of a security described in paragraph (1).

Any security or hedge shall not be treated as described in paragraph (1) or (2), as the case may be, unless such security or hedge is clearly identified in the dealer's records as being described in such paragraph before the close of the day on which it was acquired (or such earlier time as the Secretary may by regulations prescribe).

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from and sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness described in section 165(g)(2)(C);

"(D) derivative financial instrument in securities, including any option, forward contract, short position, and any similar financial instrument in securities (but not including any futures contract); and

"(E) notional principal contract and any similar financial instrument, including currency swap, option and forward contract on a notional principal contract, but not including any commodity-linked notional principal contract.

"(3) HEDGE DEFINED.—The term 'hedge' includes any long or short position in securities and commodities, including futures contracts, and any similar financial instrument, purchased, entered into or assumed by a dealer in securities in order to reduce the dealer's risk of loss with respect to securities.

"(d) SECTION 263A SHALL NOT APPLY.—The rules of section 263A shall not apply to securities and hedges to which subsection (a) applies.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Marked-to-market inventory method for dealers in securities.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary,

(C) the change in method of accounting shall be implemented by valuing the securities and hedges to which the amendments of this section apply at their fair market values on the last day of the first taxable year ending on or after December 31, 1992, and

(D) 10 percent of any increase or decrease in value by reason of subparagraph (C) shall be taken into account in each of the 10 taxable years beginning with the first taxable year ending on or after December 31, 1992.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

SEC. 4101. SIMPLIFICATION OF EARNED INCOME CREDIT.

(a) GENERAL RULE.—Section 32 (relating to earned income credit) is amended by striking subsections (a) and (b) and inserting the following:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed $5,714.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of $5,714, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(b) PERCENTAGES.—For purposes of subsection (a)—

"(1) IN GENERAL.—Except as otherwise provided in this subsection—

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
"1 qualifying child	23	16.43
"2 or more qualifying children	28.8	20.58.

"(2) TRANSITIONAL PERCENTAGES.—

"(A) In the case of a taxable year beginning in 1992:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
"1 qualifying child	17.6	12.57
"2 or more qualifying children	22.2	15.84.

"(B) In the case of a taxable year beginning in 1993:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
"1 qualifying child	18.5	13.21
"2 or more qualifying children	23.3	16.64."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 32(i)(2) is amended—

(A) by striking "subsection (b)(1)" in clause (i) and inserting "subsection (a)", and

(B) by striking "subsection (b)(1)(B)(ii)" in clause (ii) and inserting "subsection (a)(2)".

(2) Paragraph (3) of section 162(l) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(3) Section 213 is amended by striking subsection (f).

(4) Subparagraph (B) of section 3507(c)(2) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) of not more than the percentage (in effect under section 32(a)(1) for an eligible individual with 1 qualifying child) of earned income not in excess of the amount of earned income taken into account under section 32(a)(1), which

"(ii) phases out between the amount of earned income at which the phaseout begins under subsection (a)(2) of section 32 and the amount of earned income at which the credit under section 32 is phased out under such subsection for an individual with 1 qualifying child, or".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4102. SIMPLIFICATION OF RULES ON ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) RULES RELATING TO MULTIPLE SALES WITHIN ROLLOVER PERIOD.—

(1) Section 1034 (relating to rollover of gain on sale of principal residence) is amended by striking subsection (d).

(2) Paragraph (4) of section 1034(c) is amended to read as follows:

"(4) If the taxpayer, during the period described in subsection (a), purchases more than 1 residence which is used by him as his principal residence at some time within 2 years after the date of the sale of the old residence, only the first of such residences so used by him after the date of such sale shall constitute the new residence."

(3) Subsections (h)(1) and (k) of section 1034 are each amended by striking "(other than the 2 years referred to in subsection (c)(4))".

(b) TREATMENT IN CASE OF DIVORCES.—Subsection (c) of section 1034 is amended by adding at the end thereof the following new paragraph:

"(5) If—

"(A) a residence is sold by an individual pursuant to a divorce or marital separation, and

"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,

for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 4103. DE MINIMIS EXCEPTION TO PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended—

(1) by striking subsection (m),

(2) by redesignating subsection (l) as subsection (m), and

(3) by inserting after subsection (k) the following new subsection:

"(l) DE MINIMIS EXCEPTION.—

"(1) IN GENERAL.—In the case of a natural person, subsection (a) shall not apply to the passive activity loss for any taxable year if the amount of such loss does not exceed $200.

"(2) EXCEPTION FOR ITEMS ATTRIBUTABLE TO PUBLICLY TRADED PARTNERSHIPS.—This subsection shall not apply to items treated separately under subsection (k) (and such items shall not be taken into account in determining whether paragraph (1) applies to the taxpayer for the taxable year with respect to other items).

"(3) ESTATES ELIGIBLE.—For purposes of this subsection, an estate shall be treated as a natural person with respect to any taxable year ending less than 2 years after the death of the decedent.

"(4) MARRIED INDIVIDUALS FILING SEPARATELY.—

"(A) IN GENERAL.—This subsection shall not apply to a taxpayer who—

"(i) is a married individual filing a separate return for the taxable year, and

"(ii) does not live apart from his spouse at all times during such taxable year.

"(B) LIMITATION.—Paragraph (1) shall be applied by substituting '$100' for '$200' in the case of a married individual who files a separate return for the taxable year and to whom this subsection applies after the application of subparagraph (A)."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 58 is amended by inserting "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (4) of section 163(d) is amended by striking subparagraph (E).

(3) Subsection (d) of section 163 is amended by striking paragraph (6).

(4) Subsection (h) of section 163 is amended by striking paragraph (5).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4104. PAYMENT OF TAX BY CREDIT CARD.

(a) GENERAL RULE.—Section 6311 is amended to read as follows:

"SEC. 6311. PAYMENT BY CHECK, MONEY ORDER, OR OTHER MEANS.

"(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) checks, money orders, or any other commercially acceptable means that the Secretary deems appropriate, including payment by use of credit cards, to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment so received is not duly paid, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

"(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a guaranteed credit card transaction) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer thereof, or

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee, and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

"(d) Payment by Other Means.—

"(1) Authority to prescribe regulations.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable,

"(B) specify when payment by such means will be considered received,

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

"(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

"(2) Authority to enter into contracts.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the government and is further authorized to pay any fees required by such contracts.

"(3) Special provisions for use of credit cards.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

"(A) except as provided by regulations, subject to the provisions of section 6402, any refund due a person who makes a payment by use of a credit card shall be made directly to such person, notwithstanding any other provision of law or any contract made pursuant to paragraph (2),

"(B) any credit card transaction shall not be considered a 'sales transaction' under the Federal Truth-in-Lending Act (15 U.S.C. 1601 et seq.),

"(C) all nontax matters as defined by regulations prescribed under paragraph (1)(C), including billing errors as defined in section 161(b) of such Act, shall be resolved by the person tendering the credit card and the credit card issuer, without the involvement of the Secretary, and

"(D) the provisions of sections 161(e) and 170 of such Act shall not apply."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

"Sec. 6311. Payment by check, money order, or other means."

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4105. MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.

(a) Eligibility for Election.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(i) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(b) Computation of Tax.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(1) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(2) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(c) Minimum Tax.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4106. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) General Rule.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Simplified Limitation for Certain Individuals.—

"(1) In general.—In the case of an individual to whom this subsection applies for any taxable year, the limitation of subsection (a) shall be the lesser of—

"(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year (determined without regard to subsection (c)).

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

"(2) Individuals to whom subsection applies.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200, and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) Definitions.—For purposes of this subsection—

"(A) Qualified passive income.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) Creditable foreign taxes.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

"(C) Payee statement.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) Estates and trusts not eligible.—This subsection shall not apply to any estate or trust."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 4107. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) General Rule.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) Application to Individuals.—

"(1) In general.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) Exclusion for certain personal transactions.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

"(3) Personal transactions.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes)."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4108. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.

(a) In General.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

(b) Effective Date.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1992.

SEC. 4109. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX RETURNS.

(a) General Rule.—The Secretary of the Treasury or his delegate shall take such actions as may be appropriate to expand access to simplified individual income tax returns and otherwise simplify the individual income tax returns.

(b) Report.—Not later than the date 1 year after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on his actions under subsection (a), together with such recommendations as he may deem advisable.

SEC. 4110. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) In General.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Treatment of Certain Reimbursed Expenses of Rural Mail Carriers.—

"(1) General rule.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4111. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) of the Internal Revenue Code of 1986 (relating to separate purchase of article and parts and accessories therefor) is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

SEC. 4201. TAXABILITY OF BENEFICIARY OF QUALIFIED PLAN.

(a) IN GENERAL.—So much of section 402 (relating to taxability of beneficiary of employees' trust) as precedes subsection (g) thereof is amended to read as follows:

"SEC. 402. TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST.

"(a) TAXABILITY OF BENEFICIARY OF EXEMPT TRUST.—Except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

"(b) TAXABILITY OF BENEFICIARY OF NONEXEMPT TRUST.—

"(1) CONTRIBUTIONS.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section.

"(2) DISTRIBUTIONS.—The amount actually distributed or made available to any distributee by any trust described in paragraph (1) shall be taxable to the distributee, in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(5) (relating to amount not received as annuities).

"(3) GRANTOR TRUSTS.—A beneficiary of any trust described in paragraph (1) shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

"(4) FAILURE TO MEET REQUIREMENTS OF SECTION 410(B).—

"(A) HIGHLY COMPENSATED EMPLOYEES.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under this subsection, include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), this subsection shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan.

"(C) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) RULES APPLICABLE TO ROLLOVERS FROM EXEMPT TRUSTS.—

"(1) EXCLUSION FROM INCOME.—If—

"(A) any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution,

"(B) the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and

"(C) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(2) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any eligible rollover distribution, the maximum amount transferred to which paragraph (1) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to paragraph (1)).

"(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(4) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' means any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust; except that such term shall not include—

"(A) any distribution which is part of a series of substantially equal periodic payments (not less frequently than annually) made—

"(i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and his designated beneficiary, or

"(ii) for a specified period of 10 years or more, and

"(B) any distribution to the extent such distribution is required under section 401(a)(9).

"(5) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer resulting in any portion of a distribution being excluded from gross income under paragraph (1) to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B) shall be treated as a rollover contribution described in section 408(d)(3).

"(6) SALES OF DISTRIBUTED PROPERTY.—For purposes of this subsection—

"(A) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(B) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(C) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money, the taxpayer may designate—

"(i) the portion of the money or other property which is to be treated as attributable to the amount not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution.

Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(D) TREATMENT WHERE NO DESIGNATION.—In any case where part or all of the distribution consists of property other than money and the taxpayer fails to make a designation under subparagraph (C) within the time provided therein, then—

"(i) the portion of the money or other property which is to be treated as attributable to the amount not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution,

shall be determined on a ratable basis.

"(E) NONRECOGNITION OF GAIN OR LOSS.—In the case of any sale described in subparagraph (A), to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (1), neither gain nor loss on such sale shall be recognized.

"(7) SPECIAL RULE FOR FROZEN DEPOSITS.—

"(A) IN GENERAL.—The 60-day period described in paragraph (3) shall not—

"(i) include any period during which the amount transferred to the employee is a frozen deposit, or

"(ii) end earlier than 10 days after such amount ceases to be a frozen deposit.

"(B) FROZEN DEPOSITS.—For purposes of this subparagraph, the term 'frozen deposit' means any deposit which may not be withdrawn because of—

"(i) the bankruptcy or insolvency of any financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State.

A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (3) (without regard to this paragraph) such deposit is described in the preceding sentence.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(i) an individual retirement account described in section 408(a),

"(ii) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(iii) a qualified trust, and

"(iv) an annuity plan described in section 403(a).

"(9) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTION AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, the preceding provisions of this subsection shall apply to such distribution in the same manner as if the spouse were the employee; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution.

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).

"(e) OTHER RULES APPLICABLE TO EXEMPT TRUSTS.—

"(1) ALTERNATE PAYEES.—

"(A) ALTERNATE PAYEE TREATED AS DISTRIBUTEE.—For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

"(B) ROLLOVERS.—If any amount is paid or distributed to an alternate payee who is the spouse or former spouse of the participant by reason of any qualified domestic relations order (within the meaning of section 414(p)), subsection (c) shall apply to such distribution in the same manner as if such alternate payee were the employee.

"(2) DISTRIBUTIONS BY UNITED STATES TO NONRESIDENT ALIENS.—The amount includible under subsection (a) in the gross income of a nonresident alien with respect to a distribution made by the United States in respect of services performed by an employee of the United States shall not exceed an amount which bears the same ratio to the amount includible in gross income without regard to this paragraph as—

"(A) the aggregate basic pay paid by the United States to such employee for such services, reduced by the amount of such basic pay which was not includible in gross income by reason of being from sources without the United States, bears to

"(B) the aggregate basic pay paid by the United States to such employee for such services.

In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code.

"(3) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

"(f) WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, when making an eligible rollover distribution, provide a written explanation to the recipient of the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' has the same meaning as when used in subsection (c) of this section or paragraph (4) of section 403(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (c)(8)(B)."

(b) REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.—Subsection (b) of section 101 is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 55(c) is amended by striking "shall not include any tax imposed by section 402(e) and".

(2) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(e)) is hereby repealed.

(3) Paragraph (4) of section 72(o) (relating to special rule for treatment of rollover amount) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(4) Paragraph (2) of section 219(d) (relating to recontributed amount) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(5) Paragraph (20) of section 401(a) is amended by striking "qualified total distribution described in section 402(a)(5)(E)(i)(I)" and inserting "distribution to a distributee on account of a termination of the plan of which the trust is a part, or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan".

(6) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(7) Subclause (IV) of section 401(k)(2)(B)(i) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(8) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution."

(9) Section 402(g)(1) is amended by striking "subsections (a)(8)" and inserting "subsections (e)(3)".

(10) Section 402(i) is amended by striking ", except as otherwise provided in subparagraph (A) of subsection (e)(4)".

(11) Subsection (j) of section 402 is hereby repealed.

(12)(A) Clause (i) of section 403(a)(4)(A) is amended by inserting "in an eligible rollover distribution" before the comma at the end thereof.

(B) Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 402(c) shall apply for purposes of subparagraph (A)."

(13)(A) Clause (i) of section 403(b)(8)(A) is amended by inserting "in an eligible rollover distribution" before the comma at the end thereof.

(B) Paragraph (8) of section 403(b) is amended by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4), (5), (6), and (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(14) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(15) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(16) Paragraph (1) of section 408(a) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(17) Clause (ii) of section 408(d)(3)(A) is amended by striking "of a qualified total distribution (as defined in section 402(a)(5)(E)(i))" and inserting "(as defined in section 402(c)(1))".

(18) Clause (ii) of section 408(d)(3)(A) is amended—

(A) by striking "the entire amount received (including money and any other property) represents the entire amount in the account or the entire value of the annuity and", and

(B) by striking "the entire amount thereof" and inserting "the entire amount received (including money and any other property)".

(19) Subparagraph (B) of section 408(d)(3) (relating to limitations) is amended by striking the second sentence thereof.

(20) Subparagraph (F) of section 408(d)(3) (relating to frozen deposits) is amended by striking "section 402(a)(6)(H)" and inserting "section 402(c)(7)".

(21) Subclause (I) of section 414(n)(5)(C)(iii) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(22) Clause (i) of section 414(q)(7)(B) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(23) Paragraph (2) of section 414(s) (relating to employer may elect to treat certain deferrals as compensation) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(24) Subparagraph (A) of section 415(b)(2) (relating to annual benefit in general) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(25) Subparagraph (B) of section 415(b)(2) (relating to adjustment for certain other forms of benefit) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(26) Paragraph (2) of section 415(c) (relating to annual addition) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(27) Subparagraph (B) of section 457(c)(2) is amended by striking "section 402(a)(8)" in clause (i) thereof and inserting "section 402(e)(3)".

(28) Section 691(c) (relating to coordination with section 402(e)) is amended by striking paragraph (5).

(29) Subparagraph (B) of section 871(a)(1) (relating to income other than capital gains) is amended by striking "402(a)(2), 403(a)(2), or".

(30) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(31) Paragraph (1) of section 871(k) is amended by striking "section 402(a)(4)" and inserting "section 402(e)(2)".

(32) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(33) Subsection (b) of section 1441 (relating to income items) is amended by striking "402(a)(2), 403(a)(2), or".

(34) Paragraph (5) of section 1441(c) (relating to special items) is amended by striking "402(a)(2), 403(a)(2), or".

(35) Subparagraph (A) of section 3121(v)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(36) Subparagraph (A) of section 3306(r)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(37) Subsection (a) of section 3405 is amended by striking "PENSIONS, ANNUITIES, ETC.—" from the heading thereof and inserting "PERIODIC PAYMENTS.—".

(38) Subsection (b) of section 3405 (relating to nonperiodic distribution) is amended—

(A) by striking "the amount determined under paragraph (2)" from paragraph (1) thereof and inserting "an amount equal to 10 percent of such distribution"; and

(B) by striking paragraph (2) (relating to amount of withholding) and redesignating paragraph (3) as paragraph (2).

(39) Paragraph (4) of section 3405(d) (relating to qualified total distributions) is hereby repealed.

(40) Paragraph (8) of section 3405(d) (relating to maximum amounts withheld) is amended to read as follows:

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property received in the distribution."

(41) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(42) Paragraph (4) of section 4980A(c) (relating to special rule where taxpayer elects income averaging) is amended to read as follows:

"(4) ONE-TIME ELECTION FOR CERTAIN DISTRIBUTIONS.—If the taxpayer elects the application of this paragraph for any calendar year, paragraph (1) shall be applied for such calendar year as if the limitation under paragraph (1) were equal to 5 times such limitation determined without regard to this paragraph. No election may be made under this paragraph by any taxpayer if this paragraph applied to the taxpayer for any preceding calendar year."

(43) Subparagraph (C) of section 7701(j)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) PHASEOUT OF PRIOR TRANSITIONAL RULES.—

(A) In the case of any lump sum distribution in any taxable year beginning after December 31, 1992, paragraph (5) of section 1122(h) of the Tax Reform Act of 1986 shall apply to the phaseout percentage of any lump sum distribution which would have been eligible for the election of those provisions.

(B) For purposes of this paragraph—

In the case of distributions during calendar year:	The phaseout percentage is:
1993	60
1994	50
1995	45
1996 and thereafter	0.

SEC. 4202. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	300
More than 55 but not more than 60	260
More than 60 but not more than 65	240
More than 65 but not more than 70	170
More than 70	120

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If in connection with the commencement of annuity payments under any qualified employer plan the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1992.

SEC. 4203. REQUIREMENT THAT QUALIFIED PLANS INCLUDE OPTIONAL TRUSTEE-TO-TRUSTEE TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

(a) GENERAL RULE.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting after paragraph (30) the following new paragraph:

"(31) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(A) IN GENERAL.—A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that if the distributee of any eligible rollover distribution—

"(i) elects to have such distribution paid directly to an eligible retirement plan, and

"(ii) specifies the eligible retirement plan to which such distribution is to be paid (in such form and at such time as the plan administrator may prescribe),

such distribution shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan so specified.

"(B) LIMITATION.—Subparagraph (A) shall apply only to the extent that the eligible rollover distribution would be includible in gross income if not transferred as provided in subparagraph (A) (determined without regard to sections 402(c) and 403(a)(4)).

"(C) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this paragraph, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A).

"(D) ELIGIBLE RETIREMENT PLAN.—For purposes of this paragraph, the term 'eligible retirement plan' has the meaning given such term by section 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it is a defined contribution plan, the terms of which permit the acceptance of rollover distributions."

(b) Employee's Annuities.—Paragraph (2) of section 404(a) (relating to employee's annuities) is amended by striking "and (27)" and inserting "(27), and (31)".

(c) Exclusion From Income.—

(1) Qualified trusts.—Subsection (e) of section 402 (relating to taxability of beneficiary of employees' trust), as amended by section 3201, is amended by adding at the end the following new paragraph:

"(4) Direct trustee-to-trustee transfers.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(2) Employee annuities.—Subsection (a) of section 403 is amended by adding at the end the following new paragraph:

"(5) Direct trustee-to-trustee transfer.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(d) Written Explanation.—Paragraph (1) of section 402(f) (as amended by section 3201) is amended to read as follows:

"(1) In general.—The plan administrator of any plan shall, before making an eligible rollover distribution, provide a written explanation to the recipient of—

"(A) the optional direct transfer provisions provided pursuant to section 401(a)(31), and

"(B) the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution."

(e) Effective Date.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 1992.

PART II—INCREASED ACCESS TO PENSION PLANS

SEC. 4211. SALARY REDUCTION ARRANGEMENTS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) Salary Reduction Arrangements.—

(1) In general.—Paragraph (6) of section 408(k) (relating to salary reduction arrangements) is amended to read as follows:

"(6) Employee may elect salary reduction arrangement.—

"(A) Qualified arrangements.—A simplified employee pension shall not fail to meet the requirements of this subsection for a year merely because, under the terms of the pension, the employees may participate in a qualified salary reduction arrangement.

"(B) Certain employers not eligible.—This paragraph shall not apply with respect to any year in the case of a simplified employee pension maintained by an employer with more than 100 employees who were eligible to participate (or would have been required to be eligible to participate if a pension was maintained) at any time during the preceding year.

"(C) Qualified salary reduction arrangement.—For purposes of this paragraph, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer which meets the requirements of subparagraphs (D), (E), and (F) and under which—

"(i) an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the simplified employee pension on behalf of the employee, or

"(II) to the employee directly in cash, and

"(ii) the amount which an employee may elect under clause (i) for any year may not exceed a total of $3,000 for any year.

An arrangement meets the requirements of clause (ii) only if, under the arrangement, the employer may not place a limit on the percentage of compensation an employee may elect to contribute.

"(D) Nonelective contributions.—An arrangement meets the requirements of this subparagraph if, under the arrangement, the employer is required (without regard to whether the employee makes an elective contribution) to make a contribution to the simplified employee pension on behalf of each employee eligible to participate for the year in an amount equal to 1 percent of the employee's compensation (not in excess of $100,000) for the year.

"(E) Arrangement may be only plan of employer.—

"(i) In general.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or amounts were accrued, for any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

"(ii) Service credit.—A qualified plan maintained by an employer shall provide that, in computing the accrued benefit of any employee, no credit shall be given with respect to any year for which such employee was eligible to participate in a qualified salary reduction arrangement of such employer.

"(F) Rules relating to matching contributions.—

"(i) In general.—An arrangement meets the requirements of this subparagraph only if, under the arrangement, the employer is required to make a matching contribution described in clause (ii) to the simplified employee pension on behalf of each employee who makes elective contributions under subparagraph (C)(i)(I).

"(ii) Rates of matching contributions.—The level of an employer's matching contribution shall be equal to the sum of—

"(I) so much of the employee's elective contribution as does not exceed 3 percent of the employee's compensation, plus

"(II) an amount equal to 50 percent of so much of the employee's elective contribution as exceeds 3 percent of the employee's compensation but does not exceed 5 percent of the employee's compensation.

"(G) State and local governments not eligible.—This paragraph shall not apply to a simplified employee pension maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof.

"(H) Qualified plan.—For purposes of this paragraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

"(I) Compensation.—For purposes of this paragraph, the term compensation has the same meaning as in section 414(q)(5)."

(2) Conforming amendment.—Subparagraph (B) of section 408(k)(7) is amended by striking "paragraph (2)(C)" and inserting "paragraphs (2)(C) and (6)(H)".

(b) Cost-of-Living Adjustments.—Paragraph (8) of section 408(k) is amended to read as follows:

"(8) Cost-of-living adjustments.—

"(A) In general.—The Secretary shall adjust each of the following amounts at the same time and in the same manner as under section 415(d):

"(i) The $300 amount in paragraph (2)(C).

"(ii) The $200,000 amount in paragraph (3)(C).

"(iii) The $3,000 amount in paragraph (6)(C)(ii).

"(iv) The $100,000 amount in paragraph (6)(D)(i).

"(B) Exceptions.—

"(i) Coordination with section 401(a)(17).—The amount described in clause (ii) of subparagraph (A) (as adjusted under such subparagraph) shall not exceed 100 percent of the amount in effect under section 401(a)(17).

"(ii) Base period.—The base period taken into account under section 415(d) for the amounts described in clauses (iii) and (iv) of subparagraph (A) shall be the calendar quarter beginning October 1, 1991."

(c) Reporting Requirements.—

(1) In general.—Section 408(l) is amended by adding at the end thereof the following new paragraph:

"(2) Qualified salary reduction arrangements under simplified employee pensions.—

"(A) In general.—The employer maintaining any simplified employee pension established pursuant to a qualified salary reduction arrangement under subsection (k)(6) shall each year prepare, and provide to each employee eligible to participate in the arrangement, a description containing the following information:

"(i) The name and address of the employer and the trustee.

"(ii) The requirements for eligibility for participation.

"(iii) The benefits provided with respect to the arrangement.

"(iv) The time and method of making elections with respect to the arrangement.

"(v) The procedures for, and effects of, withdrawals from the arrangement.

"(B) Time report provided.—The description under subparagraph (A) for any year shall be provided to each employee during the 30-day period preceding the first date during such year on which the employee may make an election with respect to the arrangement."

(2) Conforming amendment.—Section 408(l) is amended by striking "An employer" and inserting—

"(1) In general.—An employer".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to years beginning after December 31, 1991.

(2) Transition rule.—The amendments made by this section shall not apply to a simplified employee pension which was in effect on the date of the enactment of this Act and which maintained a salary reduction arrangement on such date, unless the employer elects to have such amendments apply for any year and all subsequent years.

SEC. 4212. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) General Rule.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) State and local governments not eligible.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This subparagraph shall not apply to a rural cooperative plan."

(b) Effective Date.—The amendment made by this section shall apply to plan years beginning on or after December 31, 1992, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 4213. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or his delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

PART III—MISCELLANEOUS SIMPLIFICATION

SEC. 4221. MODIFICATION TO DEFINITION OF LEASED EMPLOYEE.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under any significant direction or control by the recipient."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1992, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 4222. SIMPLIFICATION OF NONDISCRIMINATION TESTS APPLICABLE UNDER SECTIONS 401(k) AND 401(m).

(a) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(1) by striking "such year" and inserting "the plan year", and

(2) by striking "for such plan year" and inserting "the preceding plan year".

(b) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(1) by inserting "for such plan year" after "highly compensated employee", and

(2) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii).

(c) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the average deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the average deferral percentage of nonhighly compensated employees determined for such first plan year."

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(d) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) AND 401(m) NONDISCRIMINATION TESTS.—

(1) SECTION 401(k).—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end thereof the following new paragraph:

"(11) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount not less than—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to employer contributions.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other qualified plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement."

(2) SECTION 401(m).—Section 401(m) (relating to the nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

"(ii) meets the notice requirements of subsection (k)(11)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

SEC. 4223. DEFINITION OF HIGHLY COMPENSATED EMPLOYEE.

(a) GENERAL RULE.—Subsection (q) of section 414 (defining highly compensated employee) is amended to read as follows:

"(q) HIGHLY COMPENSATED EMPLOYEE.—

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who, during the year or the preceding year—

"(A) was a 5-percent owner, or

"(B) received compensation from the employer in excess of $50,000.

The Secretary shall adjust the $50,000 amount specified in subparagraph (B) at the same time and in the same manner as under section 415(d).

"(2) SPECIAL RULE FOR CURRENT YEAR.—In the case of the year for which the relevant determination is being made, an employee not described in subparagraph (B) of paragraph (1) for the preceding year (without regard to this paragraph) shall not be treated as described in such subparagraph for the year for which the determination is being made unless such employee is a member of the group consisting of the 100 employees paid the highest compensation during the year for which such determination is being made.

"(3) 5-PERCENT OWNER.—An employee shall be treated as a 5-percent owner for any year if at any time during such year such employee was a 5-percent owner (as defined in section 416(i)(1)) of the employer.

"(4) SPECIAL RULE IF NO EMPLOYEE DESCRIBED IN PARAGRAPH (1).—

"(A) IN GENERAL.—If no employee is treated as a highly compensated employee under paragraph (1), the employee who has the highest compensation for the year shall be treated as a highly compensated employee.

"(B) EXCEPTION.—This paragraph shall not apply to any plan—

"(i) which is maintained by an organization exempt from tax under this subtitle,

"(ii) which provides a nonforfeitable right to 100 percent of an employee's accrued benefit,

"(iii) which covers a fair cross section of employees, determined on the basis of their compensation, and

"(iv) which was in effect on February 1, 1992, and at all times thereafter.

"(5) COMPENSATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'compensation' means compensation within the meaning of section 415(c)(3).

"(B) CERTAIN PROVISIONS NOT TAKEN INTO ACCOUNT.—The determination under subparagraph (A) shall be made—

"(i) without regard to sections 125, 402(e)(3), 402(h)(1)(B), and 414(h)(2), and

"(ii) in the case of employer contributions made pursuant to a salary reduction agreement, without regard to sections 403(b) and 457.

"(6) FORMER EMPLOYEES.—A former employee shall be treated as a highly compensated employee if—

"(A) such employee was a highly compensated employee when such employee separated from service, or

"(B) such employee was a highly compensated employee at any time after attaining age 55.

"(7) COORDINATION WITH OTHER PROVISIONS.—Subsections (b), (c), (m), (n), and (o) shall be applied before the application of this section.

"(8) SPECIAL RULE FOR NONRESIDENT ALIENS.—For purposes of this subsection, any employee described in subsection (r)(9)(F) shall not be treated as an employee."

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 414(r) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

"(F) Employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(2) Paragraph (2) of section 414(s) is amended to read as follows:

"(2) EMPLOYER MAY ELECT TO TREAT CERTAIN DEFERRALS AS COMPENSATION.—An employer may elect to include all of the following amounts as compensation:

"(A) Amounts not includible in the gross income of the employee under section 125, 402(e)(3), 402(h)(1)(B), or 414(h)(2).

"(B) Amounts contributed by the employer under a salary reduction agreement and not includible in gross income under section 403(b) or 457".

(3) Paragraph (17) of section 401(a) is amended by striking the last sentence.

(4) Subsection (l) of section 404 is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4224. MODIFICATIONS OF COST-OF-LIVING ADJUSTMENTS.

(a) IN GENERAL.—Section 415(d) (relating to cost-of-living adjustments) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A), and

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) METHOD.—

"(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall provide for adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(B) PERIODS FOR ADJUSTMENT OF DOLLAR AMOUNT.—For purposes of paragraph (1)—

"(i) IN GENERAL.—The adjustment with respect to any calendar year shall be based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year over such index as of the close of the base period.

"(ii) BASE PERIOD.—For purposes of clause (i), the base period taken into account is—

"(I) for purposes of subparagraph (A) of paragraph (1), the calendar quarter beginning October 1, 1986, and

"(II) for purposes of paragraph (1)(B), the last calendar quarter of the calendar year preceding the calendar year in which the participant separated from service.

"(3) ROUNDING.—Any amount determined under paragraph (1) (or by reference to this subsection) shall be rounded to the nearest $1,000, except that the amounts under sections 402(g)(1), 408(k)(8)(A)(i) and (iii), and 457(e)(14) shall be rounded to the nearest $100."

(b) EFFECTIVE DATE.—The amendments made by this section apply to adjustments with respect to calendar years beginning after December 31, 1992.

SEC. 4225. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1992.

SEC. 4226. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively, and by adding after paragraph (7) the following new paragraph:

"(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

"(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

"(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the accrued liability of participants accruing benefits under the plan is at least 90 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

"(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

"(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure period described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) REQUIREMENTS RELATING TO ELECTION.—The requirements of this subparagraph are met if—

"(i) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) at least 425 days before the 1st day of the election period.

"(ii) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

"(F) OTHER CONSEQUENCES OF ELECTION.—

"(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plans years beginning after the close of the last election period for such plan.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

"(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(H) PROCEDURES IF ALTERNATIVE FUNDING LIMITATION REDUCES NET FEDERAL REVENUES.—

"(i) IN GENERAL.—At least once with respect to each fiscal year, the Secretary shall estimate whether the application of this paragraph will result in a net reduction in Federal revenues for such fiscal year.

"(ii) ADJUSTMENT OF FULL-FUNDING LIMITATION IF REVENUE SHORTFALL.—If the Secretary estimates that the application of this paragraph will result in a more than insubstantial net reduction in Federal revenues for any fiscal year, the Secretary—

"(I) shall make the adjustment described in clause (iii), and

"(II) to the extent such adjustment is not sufficient to reduce such reduction to an insubstantial amount, shall make the adjustment described in clause (iv).

Such adjustments shall apply only to defined benefit plans with respect to which an election under this paragraph is not in effect.

"(iii) REDUCTION IN LIMITATION BASED ON 150 PERCENT OF CURRENT LIABILITY.—The adjustment described in this clause is an adjustment which substitutes a percentage (not lower than 140 percent) for the percentage described in paragraph (7)(A)(i)(I) determined by reducing the percentage of current liability taken into account with respect to participants who are not accruing benefits under the plan.

"(iv) REDUCTION IN LIMITATION BASED ON ACCRUED LIABILITY.—The adjustment described in this clause is an adjustment which reduces the percentage of accrued liability taken into account under paragraph (7)(A)(i)(II). In no event may the amount of accrued liability taken into account under such paragraph after the adjustment be less than 140 of current liability."

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking "provide—" and all that follows through "(iii) for" and inserting "provide for".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4227. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER AGE 59½.—Section 401(k)(7) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) merely by reason of a distribution to a participant after attainment of age 59½."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

SEC. 4228. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) GENERAL RULE.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

"(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots."

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: "Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1992.

SEC. 4229. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) of the Internal Revenue Code of 1986 (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1993, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1995.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 4230. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election."

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(14) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d) with respect to months after 1991."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4231. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) DEFINITION OF COMPENSATION.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by adding immediately after paragraph (2) thereof the following new paragraph:

"(3) DEFINITION OF COMPENSATION FOR GOVERNMENTAL PLANS.—For purposes of this section, in the case of a governmental plan (as defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3)—

"(A) any elective deferral (as defined in section 402(g)(3)), and

"(B) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of an employee under section 125 or 457."

(b) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(c) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end thereof the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(15) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan."

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking the word "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting the words ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(d) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(e) REVOCATION OF GRANDFATHER ELECTION.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end thereof the following new sentence: "An election made pursuant to the preceding sentence to have the provisions of this paragraph applied to the plan may be revoked not later than the last day of the 3rd plan year beginning after the date of enactment with respect to all plan years as to which such election has been applicable and all subsequent plan years; provided that any amount paid by the plan in a taxable year ending after revocation of such election in respect of benefits attributable to a taxable year during which such election was in effect shall be includible in income by the recipient in accordance with the rules of this chapter in the taxable year in which such amount is received (except that such amount shall be treated as received for purposes of the limitations imposed by this section in the earlier taxable year or years to which such amount is attributable)."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendments made by subsection (e) shall apply with respect to election revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), such plan shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 4232. USE OF EXCESS ASSETS OF BLACK LUNG BENEFIT TRUSTS FOR HEALTH CARE BENEFITS.

(a) GENERAL RULE.—Paragraph (21) of section 501(c) is amended to read as follows:

"(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(i) the purpose of such trust or trusts is exclusively—

"(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

"(II) to pay premiums for insurance exclusively covering such liability,

"(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

"(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits; and

"(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(I) the purposes described in clause (i),

"(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

"(III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

"(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the lesser of—

"(i) the excess (if any) (as of the close of the preceding taxable year) of—

"(I) the fair market value of the assets of the trust, over

"(II) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person, or

"(ii) the excess (if any) of—

"(I) the sum of a similar excess determined as of the close of the last taxable year ending before the date of the enactment of this subparagraph plus earnings thereon as of the close of the taxable year preceding the taxable year involved, over

"(II) the aggregate payments described in subparagraph (A)(i)(IV) made from the trust during all taxable years beginning after the date of the enactment of this subparagraph.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

"(D) For purposes of this paragraph:

"(i) The term 'Black Lung Acts' means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to that pneumoconiosis.

"(ii) The term 'qualified investments' means—

"(I) public debt securities of the United States,

"(II) obligations of a State or local government which are not in default as to principal or interest, and

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States.

"(iii) The term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"(iv) The term 'incidental expenses' includes legal, accounting, actuarial, and trustee expenses.".

(b) Exception from Tax on Self-Dealing.—Section 4951(f) is amended by striking "clause (i) of section 501(c)(21)(A)" and inserting "subclause (I) or (IV) of section 501(c)(21)(A)(i)".

(c) Technical Amendment.—Paragraph (4) of section 192(c) is amended by striking "clause (ii) of section 501(c)(21)(B)" and inserting "subclause (II) of section 501(c)(21)(A)(ii)".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4233. TREATMENT OF EMPLOYER REVERSIONS REQUIRED BY CONTRACT TO BE PAID TO THE UNITED STATES.

(a) In General.—Subparagraph (B) of section 4980(c)(2) (defining employer reversion) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iii) any distribution to the employer to the extent that the distribution is paid within a reasonable period to the United States in satisfaction of a Federal claim for an equitable share of the plan's surplus assets, as determined pursuant to Federal contracting regulations."

(b) Effective Date.—The amendment made by subsection (a) shall apply to reversions on or after the date of the enactment of this Act.

SEC. 4234. CONTINUATION HEALTH COVERAGE FOR EMPLOYEES OF FAILED FINANCIAL INSTITUTIONS.

(a) Enforcement of Continuation of Health Plan Requirements of Successors of Failed Depository Institutions.—Subsection (f) of section 4980B (relating to continuation of coverage requirements of group health plans) is amended by adding after paragraph (8) the following new paragraph:

"(9) Special rules for successors of failed depository institutions.—

"(A) In general.—Except as provided in subparagraph (B), any successor of a failed depository institution—

"(i) shall have the same obligation to provide a group health plan meeting the requirements of this subsection with respect to former employees of such institution in the same manner as the failed depository institution would have had but for its failure, and

"(ii) shall be treated as the employer of such former employees for purposes of this section.

"(B) Tax not to apply if FDIC or RTC provide continuation coverage.—Subparagraph (A) shall not apply if the Federal Deposit Insurance Corporation or the Resolution Trust Corporation are, outside of their respective capacities as successors of a failed depository institution, providing a group health plan meeting the requirements of this subsection to former employees of a failed depository institution.

"(C) Successor.—For purposes of this paragraph, an entity is a successor of a failed depository institution during any period if—

"(i) such entity holds substantially all of the assets or liabilities of such institution, and

"(ii)(I) such entity is a bridge bank, or

"(II) such entity acquired such assets or liabilities from the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or a bridge bank.

"(D) Failed depository institution.—For purposes of this section, the term 'failed depository institution' means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver or conservator has been appointed."

(b) Treatment of Depository Institution Failures as Qualifying Events for Retirees of Such Institutions.—

(1) In general.—Subparagraph (F) of section 4908B(f)(3) is amended—

(A) by striking "A proceeding" and inserting "(i) A proceeding",

(B) by striking the period at the end and inserting ", or", and

(C) by inserting after clause (i) the following new clause:

"(ii) the appointment of a receiver or conservator for a failed depository institution from whose employment the covered employee retired at any time."

(2) Conforming amendment.—Subclause (III) of section 4980B(f)(2)(B)(i) is amended—

(A) by inserting "OR FAILURES OF DEPOSITORY INSTITUTIONS" after "PROCEEDINGS" in the heading, and

(B) by inserting "and failures of depository institutions" after "proceedings".

(c) Effective Date.—The amendments made by this section shall apply as if included in section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 as of the date of the enactment of such Act.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 4301. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) General Rule.—Subchapter K (relating to partners and partnerships) is amended by adding at the end thereof the following new part:

"PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to large partnerships.
"Sec. 772. Simplified flow-through.
"Sec. 773. Computations at partnership level.
"Sec. 774. Other modifications.
"Sec. 775. Large partnership defined.
"Sec. 776. Special rules for partnerships holding oil and gas properties.
"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) General Rule.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes, and

"(10) the credit allowable under section 29.

"(b) Separate Computations.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) Treatment at Partner Level.—

"(1) In general.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) Income or loss from passive loss limitation activities.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) Income or loss from other activities.—

"(A) In general.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) Deductions for loss not subject to section 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) Treatment of net capital gain or loss.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) Minimum tax treatment.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) General credits.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) Operating Rules.—For purposes of this section—

"(1) Passive loss limitation activity.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) APPLICABLE NET AMT ADJUSTMENT.—

"(A) IN GENERAL.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) TREATMENT OF CAPITAL GAINS AND LOSSES.—

"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be) shall be excluded.

"(B) ALLOCATION RULES.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in a large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) GENERAL RULE.—

"(1) TAXABLE INCOME.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) ELECTIONS.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership; except that the election under section 901 shall be made by each partner separately.

"(3) LIMITATIONS, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

"(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of a large partnership—

"(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If a large partnership has income from the discharge of any indebtedness—

"(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

"(2) in determining the income tax of any partner of such partnership—

"(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

"(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of a large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

"(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

"(b) DEFERRED SALE TREATMENT OF CONTRIBUTED PROPERTY.—

"(1) TREATMENT OF PARTNERSHIP.—In the case of any contribution of property to which this subsection applies—

"(A) the basis of such property to the partnership shall be its fair market value as of the time of such contribution, and

"(B) section 704(c) shall not apply to such property.

"(2) TREATMENT OF CONTRIBUTING PARTNER.—

"(A) IN GENERAL.—In the case of any partner who makes a contribution of property to which this subsection applies—

"(i) such partner shall recognize the precontribution gain or loss from such property as provided in this paragraph, and

"(ii) appropriate adjustments to the basis of such partner's interest in the partnership shall be made for the amounts recognized under this paragraph.

"(B) CHARACTER.—The character of any gain or loss recognized under this paragraph shall be determined by reference to the character which would have resulted if the property had been sold to the partnership at the time of the contributions; except that any gain or loss recognized under subparagraph (C)(i) shall be treated as ordinary income or loss, as the case may be.

"(C) TRANSACTIONS AT PARTNERSHIP LEVEL.—

"(i) DEPRECIATION, ETC.—If any partnership deduction for depreciation, depletion, or amortization is increased by reason of an increase in the basis of any property under paragraph (1), the contributing partner shall recognize so much of the precontribution gain with respect to such property as does not exceed the increase in such deduction. If there is a precontribution loss, a similar rule shall apply to any decrease in such a deduction.

"(ii) DISPOSITIONS.—

"(I) IN GENERAL.—Except as otherwise provided in this clause, any precontribution gain or loss with respect to any property (to the extent not previously taken into account under this paragraph) shall be recognized by the contributing partner if the partnership makes any disposition of the property.

"(II) DISTRIBUTIONS TO CONTRIBUTING PARTNER.—No gain or loss shall be recognized under subclause (I) by reason of any distribution of the contributed property to the contributing partner (and subparagraph (D)(ii) shall not apply to any such distribution). In any such case, no adjustment shall be made under section 734 on account of such distribution and the adjusted basis of such property in the hands of the contributing partner shall be its adjusted basis immediately before the contribution properly adjusted for gain or loss previously recognized under this paragraph.

"(iii) YEAR FOR WHICH AMOUNT TAKEN INTO ACCOUNT.—Any amount recognized under this subparagraph shall be taken into account for the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

"(D) TRANSACTIONS AT PARTNER LEVEL.—

"(i) IN GENERAL.—If the contributing partner makes a disposition of any portion of his interest in the partnership, a corresponding portion of any precontribution gain or loss which was not previously taken into account under this paragraph shall be recognized for the partner's taxable year in which the disposition occurs. The preceding sentence shall not apply to a disposition at death.

"(ii) TREATMENT OF CERTAIN DISTRIBUTIONS.—If—

"(I) the amount of cash and the fair market value of property distributed to a partner, exceeds

"(II) the adjusted basis of such partner's interest in the partnership immediately before the distribution (determined without regard to any adjustment under subparagraph (A)(ii) resulting from such distribution),

the contributing partner shall recognize so much of any precontribution gain as does not exceed such excess.

"(iii) SPECIAL RULE.—Except as provided in clause (ii)(II), any basis adjustment under subparagraph (A)(ii) resulting from any gain or loss recognized under this subparagraph shall be treated as occurring immediately before the disposition or distribution involved.

"(E) SECTION 267 AND 707(b) PRINCIPLES TO APPLY.—No loss shall be recognized under subparagraph (C)(ii) or (D) by reason of any disposition (directly or indirectly) to a person related (within the meaning of section 267(b) or 707(b)(1)) to the contributing partner.

"(F) TREATMENT OF CERTAIN NONTAXABLE EXCHANGES.—

"(i) SECTION 1031 AND 1033 TRANSACTIONS.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is an exchange described in section 1031 or a compulsory or involuntary conversion within the meaning of section 1033—

"(I) the amount of gain or loss recognized by the contributing partner under such subclause (I) shall not exceed the gain or loss recognized by the partnership on the disposition, and

"(II) the replacement property shall be treated as the contributed property for purposes of this paragraph.

For purposes of the preceding sentence, the term 'replacement property' means the property the basis of which is determined under section 1031(d) or 1033(b), whichever is applicable.

"(ii) CONTRIBUTIONS TO CONTROLLED PARTNERSHIP.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is a contribution of the property to another partnership which is a controlled partnership—

"(I) the rules of subclause (I) of clause (i) shall apply, and

"(II) the partnership shall be treated as continuing to hold the contributed property so long as the other partnership continues to be a controlled partnership and continues to hold such property.

For purposes of the preceding sentence, the term 'controlled partnership' means any partnership in which the partnership making the disposition owns more than 50 percent of the capital interest or profits interest.

"(3) PRECONTRIBUTION GAIN OR LOSS.—For purposes of this subsection—

"(A) PRECONTRIBUTION GAIN.—The term 'precontribution gain' means the excess (if any) of—

"(i) the fair market value of the contributed property as of the time of the contribution, over

"(ii) the adjusted basis of such property immediately before such contribution.

"(B) PRECONTRIBUTION LOSS.—The term 'precontribution loss' means the excess (if any) of the amount referred to in clause (ii) of subparagraph (A) over the amount referred to in clause (i) of subparagraph (A).

"(4) CONTRIBUTIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any contribution of property (other than cash) which is made by any partner to a partnership if—

"(A) as of the time of such contribution, such partnership is a large partnership, or

"(B) such contribution is to a partnership reasonably expected to become a large partnership.

This subsection shall not apply to any contribution made before the date of the enactment of this part.

"(c) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

"(1) IN GENERAL.—In the case of a large partnership—

"(A) any credit recapture shall be taken into account by the partnership, and

"(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

"(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

"(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

"(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

"(d) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

"(e) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to a large partnership and shall not be taken into account by the partners of such partnership:

"(1) The credit provided by section 34.

"(2) Any credit or refund under section 852(b)(3)(D).

"(f) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any large partnership—

"(1) all interests in such partnership shall be treated as held by disqualified organizations,

"(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

"(3) subparagraph (D) of section 860E(e)(6) shall not apply.

"(g) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of a large partnership—

"(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

"(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

"SEC. 775. LARGE PARTNERSHIP.

"(a) GENERAL RULE.—For purposes of this part—

"(1) IN GENERAL.—Except as otherwise provided in this section or section 776, the term 'large partnership' means, with respect to any partnership taxable year, any partnership if the number of persons who were partners in such partnership in such taxable year or any preceding partnership taxable year beginning after December 31, 1992, equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

"(2) ELECTION FOR PARTNERSHIPS WITH AT LEAST 100 PARTNERS.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

"(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

"(2) EXCLUSION.—For purposes of this part, the term 'large partnership' does not include any partnership if substantially all the partners of such partnership—

"(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

"(B) are retired partners who had performed such substantial services, or

"(C) are spouses of partners who are performing (or had previously performed) such substantial services.

"(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

"(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, the term 'large partnership' does not include any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

"(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

"(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—

"(1) IN GENERAL.—For purposes of this part, the term 'large partnership' shall not include any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

"(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES WHERE PART APPLIES.—

"(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of a large partnership, except as provided in paragraph (2)—

"(A) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

"(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without respect to paragraph (1) of section 613A(d), and

"(C) paragraph (3) of section 705(a) shall not apply.

"(2) TREATMENT OF CERTAIN PARTNERS.—

"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Part IV. Special rules for large partnerships."

SEC. 4302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER D—TREATMENT OF LARGE PARTNERSHIPS

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any large partnership other than in its capacity as a partner in another partnership which is not a large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If a large partnership is a partner in another partnership which is not a large partnership—

"(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

"(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and—

"(i) if such netting results in a net increase in income, by treating such net increase as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, or

"(ii) if such netting results in a net decrease in income, by treating such net decrease as an overpayment equal to such net decrease multiplied by such highest rate, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by a large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A. Adjustments by Secretary.

"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.

"Sec. 6246. Restrictions on partnership adjustments.

"Sec. 6247. Judicial review of partnership adjustment.

"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) COORDINATION WITH SUBPART A.—

"(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES

"Sec. 6255. Definitions and special rules.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) LARGE PARTNERSHIP.—The term 'large partnership' has the meaning given to such term by section 775 without regard to section 776(a).

"(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

"(1) DESIGNATION OF PARTNER.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

"(2) BINDING EFFECT.—A large partnership and all partners of such partnership shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Treatment of large partnerships."

SEC. 4303. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end thereof the following new sentence: "In the case of a large partnership (as defined in sections 775 and 776(a)), such information shall be furnished on or before the first March 15 following the close of such taxable year."

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return."

SEC. 4304. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply in the case of the partnership return of a large partnership (as defined in sections 775 and 776(a)) or any other partnership with 250 or more partners."

SEC. 4305. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1992.

(b) SPECIAL RULE FOR SECTION 3304.—In the case of a partnership which is not a large partnership (as defined in sections 775 and 776(a) of the Internal Revenue Code of 1986, as added by this part), the amendment made by section 3304 shall only apply to partnership taxable years ending on or after December 31, 1998.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 4311. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end thereof the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) GENERAL RULE.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) FAILURE TO FILE PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) LIMITATIONS PERIOD.—

"(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

"(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

"(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

"(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

"(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c)."

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end thereof the following new subsection:

"(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4312. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

"(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

"(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4313. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) SUSPENSION OF STATUTE WHERE UNTIMELY PETITION FILED.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) SUSPENSION OF STATUTE DURING BANKRUPTCY PROCEEDING.—Section 6229 is amended by adding at the end thereof the following new subsection:

"(h) SUSPENSION DURING PENDENCY OF BANKRUPTCY PROCEEDING.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter."

(c) TAX MATTERS PARTNER IN BANKRUPTCY.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary."

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 4314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) IN GENERAL.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1 YEAR LIMITATION ON ASSESSMENT.

(a) IN GENERAL.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If" and inserting the following:

"(f) SPECIAL RULES.—

"(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4316. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) IN GENERAL.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) SPECIAL RULE IN CASE OF EXTENSION OF PERIOD OF LIMITATIONS UNDER SECTION 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) IN GENERAL.—Subsection (a) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

"(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice and demand (or notice of computational adjustment) is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph."

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

"(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice and demand (or notice of computational adjustment) referred to in subsection (a)(3)(A).

"(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4318. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates,", and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 3317, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 3317, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 3317, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item."

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) UNDER PARAGRAPH (1)(A) or (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end thereof the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive.

Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4319. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition."

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end thereof the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion."

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(2) Paragraph (3) of section 6512(b) is amended by adding at the end thereof the following new sentence:

"In the case of a credit or refund relating to an affected item (within the meaning of section 6229), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d)."

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6234(c)—

"(i) the legal residence of the petitioner if the petitioner is not a corporation, and "(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation."

(2) The last sentence of section 7482(b) is amended by striking "or 6228(a)" and inserting ", 6228(a), or 6234(c)"

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking "or section 6228(a)" and inserting ", 6228(a), or 6234(c)".

(2) Subsection (o) of section 6501 is amended by adding at the end thereof the following new paragraph:

"(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4320. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF PREMATURE PETITIONS.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 4321. BONDS IN CASE OF APPEALS FROM TEFRA PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4322. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM TEFRA SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end thereof the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

Subtitle D—Foreign Provisions

PART I—SIMPLIFICATION OF TREATMENT OF PASSIVE FOREIGN CORPORATIONS

SEC. 4401. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) EXEMPTION OF FOREIGN CORPORATIONS FROM ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING COMPANY RULES.—

(1) ACCUMULATED EARNINGS TAX.—Subsection (b) of section 532 (relating to exceptions) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) a foreign corporation, or",

(B) by striking ", or" at the end of paragraph (3) and inserting a period, and

(C) by striking paragraph (4).

(2) PERSONAL HOLDING COMPANY RULES.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(c) TREATMENT OF CERTAIN SERVICE CONTRACTS UNDER SUBPART F.—

(1) Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end thereof the following new subparagraph:

"(F) PERSONAL SERVICE CONTRACTS.—

"(i) Amounts received under a contract under which the corporation is to furnish personal services, if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract.

"(ii) Amounts received from the sale or other disposition of such contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For purposes of the preceding sentence, the attribution rules of section 544 shall apply, determined as if any reference to section 543(a)(7) were a reference to this subparagraph."

(2) Clause (iii) of section 904(d)(2)(A) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end thereof the following new subclause:

"(V) any income described in section 954(c)(1)(F) (relating to personal service contracts)."

SEC. 4402. REPLACEMENT FOR PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—Part VI of subchapter P of chapter 1 (relating to treatment of certain passive foreign investment companies) is amended to read as follows:

"PART VI—TREATMENT OF PASSIVE FOREIGN CORPORATIONS

"Subpart A. Current taxation rules.

"Subpart B. Interest on holdings to which subpart A does not apply.

"Subpart C. General provisions.

"Subpart A—Current Taxation Rules

"Sec. 1291. Stock in certain passive foreign corporations marked to market.

"Sec. 1292. Inclusion of income of certain passive foreign corporations.

"SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN CORPORATIONS MARKED TO MARKET.

"(a) GENERAL RULE.—In the case of marketable stock in a passive foreign corporation which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) BASIS ADJUSTMENTS.—

"(1) IN GENERAL.—The adjusted basis of stock in a passive foreign corporation—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock , and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign corporation which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) CHARACTER AND SOURCE RULES.—

"(1) ORDINARY TREATMENT.—

"(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign corporation, shall be treated as ordinary income.

"(B) LOSS.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign corporation to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock, shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign corporation.

"(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign corporation, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1293.

"(e) COORDINATION WITH SECTION 1292.—This section shall not apply with respect to any stock in a passive foreign corporation—

"(1) which is U.S. controlled,

"(2) which is a qualified electing fund with respect to the United States person for the taxable year, or

"(3) in which the United States person is a 25-percent shareholder.

"(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN CORPORATIONS.—In the case of a foreign corporation which is a controlled foreign corporation (or is treated as a controlled foreign corporation under section 1292) and which owns (or is treated under subsection (g) as owning) stock in a passive foreign corporation—

"(1) this section (other than subsection (c)(2) thereof) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock, shall be treated as a disposition by the United States person of the stock in the passive foreign corporation.

"(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) TRANSITION RULES.—

"(1) INDIVIDUALS BECOMING SUBJECT TO U.S. TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1992, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign corporation owned (or treated as owned under subsection (g)) by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.

"(2) MARKETABLE STOCK HELD BEFORE EFFECTIVE DATE.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a United States person on the first day of such person's first taxable year, beginning after December 31, 1992—

"(i) paragraph (2) of section 1294(a) shall apply to such stock as if it became marketable during such first taxable year; except that—

"(I) section 1293 shall not apply to the amount included in gross income under subsection (a) to the extent such amount is attributable to increases in fair market value during such first taxable year, and

"(II) the taxpayer's holding period shall be treated as having ended on the last day of the preceding taxable year for purposes of allocating amounts under section 1293(a)(1)(A), and

"(ii) such person may elect to extend the time for the payment of the applicable section 1293 deferred tax as provided in subparagraph (B).

"(B) ELECTION TO EXTEND TIME FOR PAYMENT.—

"(i) IN GENERAL.—At the election of the taxpayer, the time for the payment of the applicable section 1293 deferred tax shall be extended to the extent and subject to the limitations provided in this subparagraph.

"(ii) TERMINATION OF EXTENSION.—

"(I) DISTRIBUTIONS.—If any distribution is received with respect to any stock to which an extension under clause (i) relates and such distribution would be an excess distribution within the meaning of section 1293 if such section applied to such stock, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which the distribution is received.

"(II) REVERSAL OF INCLUSION.—If an amount is allowable as a deduction under subsection (a)(2) with respect to any stock to which an extension under clause (i) relates and the amount so allowable is allocable to the amount which gave rise to the applicable section 1293 deferred tax, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of the tax for the taxable year for which such deduction is allowed.

"(III) DISPOSITIONS, ETC.—If stock in a passive foreign corporation is disposed of during the taxable year, all extensions under clause (i) for payment of the applicable section 1293 deferred tax attributable to such stock which have not expired before the date of such disposition shall expire on the last date prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which such disposition occurs. To the extent provided in regulations, the preceding sentence shall not apply in the case of a disposition in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the person acquiring such stock in such transaction shall succeed to the treatment under this section of the person making such disposition.

"(iii) OTHER RULES.—

"(I) ELECTION.—The election under clause (i) shall be made not later than the time prescribed by law (including extensions) for filing the return of tax imposed by this chapter for the first taxable year referred to in subparagraph (A).

"(II) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this subparagraph, any loan by a passive foreign corporation (directly or indirectly) to a shareholder of such corporation shall be treated as a distribution to such shareholder.

"(C) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this paragraph, see section 6601.

"(D) APPLICABLE SECTION 1293 DEFERRED TAX.—For purposes of this paragraph, the term 'applicable section 1293 deferred tax' means the deferred tax amount determined under section 1293 with respect to the amount which, but for section 1293, would have been included in gross income for the first taxable year referred to in subparagraph (A). Such term also includes the tax imposed by this chapter for such first taxable year to the extent attributable to the amounts allocated under section 1293(a)(1)(A) to a period described in section 1293(a)(1)(B)(ii).

"(3) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a regulated investment company on the first day of such company's first taxable year beginning after December 31, 1992—

"(i) section 1293 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1293(c)(3) if section 1293 were applied without regard to this subparagraph.

"(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN PASSIVE FOREIGN CORPORATIONS.

"(a) PASSIVE FOREIGN CORPORATIONS WHICH ARE U.S. CONTROLLED.—

"(1) TREATMENT UNDER SUBPART F.—

"(A) IN GENERAL.—If a passive foreign corporation is United States controlled, then for purposes of subpart F of part III of subchapter N—

"(i) such corporation, if not otherwise a controlled foreign corporation, shall be treated as a controlled foreign corporation,

"(ii) the term 'United States shareholder' means, with respect to such corporation, any United States person who owns (within the meaning of section 958(a)) any stock in such corporation,

"(iii) the entire gross income of such corporation shall, after being reduced under the principles of paragraph (5) of section 954(b), be treated as foreign base company income, and

"(iv) sections 970 and 971 shall not apply.

Except as provided in regulations, the preceding sentence shall also apply for purposes of section 904(d).

"(B) SPECIAL RULES.—If any taxpayer is treated as being a United States shareholder in a controlled foreign corporation solely by reason of this section—

"(i) section 954(b)(4) (relating to exception for certain income subject to high foreign taxes) shall not apply for purposes of determining the amount included in the gross income of such taxpayer under section 951 by reason of being so treated with respect to such corporation, and

"(ii) the amount so included in the gross income of such taxpayer under section 951 with respect to such corporation shall be treated as long-term capital gain to the extent attributable to the net capital gain of such corporation.

"(2) U.S. CONTROLLED.—For purposes of this subpart, a passive foreign corporation is United States controlled if—

"(A) such corporation is a controlled foreign corporation determined without regard to this subsection, or

"(B) at any time during the taxable year more than 50 percent of—

"(i) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of the stock of such corporation,

is owned directly or indirectly by 5 or fewer United States persons.

"(3) CONSTRUCTIVE OWNERSHIP RULES FOR PURPOSES OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B), the attribution rules provided in section 544 shall apply, determined as if any reference to a personal holding company were a reference to a corporation described in paragraph (2)(B) (and any reference to the stock ownership requirement provided in section 542(a)(2) were a reference to the requirement of paragraph (2)(B)); except that—

"(A) subsection (a)(4) of such section shall be applied by substituting 'Paragraphs (1), (2), and (3)' for 'Paragraphs (2) and (3)',

"(B) stock owned by a nonresident alien individual shall not be considered by reason of attribution through family membership as owned by a citizen or resident alien individual who is not the spouse of the nonresident alien individual and who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules other than attribution through family membership), and

"(C) stock of a corporation owned by any foreign person shall not be considered by reason of attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules and subparagraph (A), other than attribution through partners).

"(b) TAXPAYERS ELECTING CURRENT INCLUSION AND 25-PERCENT SHAREHOLDERS.—

"(1) IN GENERAL.—If a passive foreign corporation which is not United States controlled is a qualified electing fund with respect to any taxpayer or the taxpayer is a 25-percent shareholder in such corporation, then for purposes of subpart F of part III of subchapter N—

"(A) such passive foreign corporation shall be treated as a controlled foreign corporation with respect to such taxpayer,

"(B) such taxpayer shall be treated as a United States shareholder in such corporation, and

"(C) the modifications of clauses (iii) and (iv) of subsection (a)(1)(A) and of subparagraph (B) of subsection (a)(1) shall apply in determining the amount included under such subpart F in the gross income of such taxpayer (and the character of the amount so included).

For purposes of section 904(d), any amount included in the gross income of the taxpayer under the preceding sentence shall be treated as a dividend from a foreign corporation which is not a controlled foreign corporation.

"(2) QUALIFIED ELECTING FUND.—For purposes of this subpart, the term 'qualified electing fund' means any passive foreign corporation if—

"(A) an election by the taxpayer under paragraph (3) applies to such corporation for the taxable year of the taxpayer, and

"(B) such corporation complies with such requirements as the Secretary may prescribe for purposes of carrying out the purposes of this subpart.

"(3) ELECTION.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph with respect to any passive foreign corporation for any taxable year of the taxpayer. Such an election, once made with respect to any corporation, shall apply to all subsequent taxable years of the taxpayer with respect to such corporation unless revoked by the taxpayer with the consent of the Secretary.

"(B) WHEN MADE.—An election under this subsection may be made for any taxable year of the taxpayer at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believes that the corporation was not a passive foreign corporation.

"(4) 25-PERCENT SHAREHOLDER.—For purposes of this subpart, the term '25-percent shareholder' means, with respect to any passive foreign corporation, any United States person who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of section 958(b), 25 percent or more (by vote or value) of the stock of such corporation.

"SUBPART B—INTEREST ON HOLDINGS TO WHICH SUBPART A DOES NOT APPLY

"Sec. 1293. Interest on tax deferral.

"Sec. 1294. Definitions and special rules.

"SEC. 1293. INTEREST ON TAX DEFERRAL.

"(a) TREATMENT OF DISTRIBUTIONS AND STOCK DISPOSITIONS.—

"(1) DISTRIBUTIONS.—If a United States person receives an excess distribution in respect of stock to which this section applies, then—

"(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer's holding period for the stock,

"(B) with respect to such excess distribution, the taxpayer's gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

"(i) the current year, or

"(ii) any period in the taxpayer's holding period before the first day of the first taxable year of the corporation which begins after December 31, 1986, and for which it was a passive foreign corporation, and

"(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

"(2) DISPOSITIONS.—If the taxpayer disposes of stock to which this section applies, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

"(3) DEFINITIONS.—For purposes of this subpart—

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1291 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1291 so applied.

"(B) CURRENT YEAR.—The term 'current year' means the taxable year in which the excess distribution or disposition occurs.

"(b) EXCESS DISTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess distribution' means any distribution in respect of stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

"(2) TOTAL EXCESS DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'total excess distribution' means the excess (if any) of—

"(i) the amount of the distributions in respect of the stock received by the taxpayer during the taxable year, over

"(ii) 125 percent of the average amount received in respect of such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer's holding period before the taxable year).

For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B).

"(B) NO EXCESS FOR FIRST YEAR.—The total excess distributions with respect to any stock shall be zero for the taxable year in which the taxpayer's holding period in such stock begins.

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary—

"(A) determinations under this subsection shall be made on a share-by-share basis, except that shares with the same holding period may be aggregated,

"(B) proper adjustments shall be made for stock splits and stock dividends,

"(C) if the taxpayer does not hold the stock during the entire taxable year, distributions received during such year shall be annualized,

"(D) if the taxpayer's holding period includes periods during which the stock was held by another person, distributions received by such other person shall be taken into account as if received by the taxpayer,

"(E) if the distributions are received in a foreign currency, determinations under this subsection shall be made in such currency and the amount of any excess distribution determined in such currency shall be translated into dollars,

"(F) proper adjustment shall be made for amounts not includable in gross income by reason of section 959(a) or for which a deduction is allowable under section 245(c), and

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign corporation.

For purposes of subparagraph (F), any amount not includible in gross income by reason of section 551(d) (as in effect on January 1, 1992) or 1293(c) (as so in effect) shall be treated as an amount not includable in gross income by reason of section 959(a).

"(c) DEFERRED TAX AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any distribution or disposition to which subsection (a) applies, an amount equal to the sum of—

"(A) the aggregate increases in taxes described in paragraph (2), plus

"(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on such increases in tax.

Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year.

"(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined by multiplying each amount allocated under subsection (a)(1)(A) to any taxable year (other than the current year) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever applies.

"(3) COMPUTATION OF INTEREST.—

"(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) on any increase determined under paragraph (2) for any taxable year shall be determined for the period—

"(i) beginning on the due date for such taxable year, and

"(ii) ending on the due date for the taxable year with or within which the distribution or disposition occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

"(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(C) SPECIAL RULE.—For purposes of determining the amount of interest referred to in paragraph (1)(B), the amount of any increase in tax determined under paragraph (2) shall be determined without regard to any reduction under section 1294(d) for a tax described in paragraph (2)(A)(ii) thereof.

"SEC. 1294. DEFINITIONS AND SPECIAL RULES.

"(a) STOCK TO WHICH SECTION 1293 APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, section 1293 shall apply to any stock in a passive foreign corporation unless—

"(A) such stock is marketable stock as of the time of the distribution or disposition involved, or

"(B)(i) with respect to each of such corporation's taxable years which begin after December 31, 1992, and include any portion of the taxpayer's holding period in such stock—

"(I) such corporation was U.S. controlled (within the meaning of section 1292(a)(2)), or

"(II) such corporation was treated as a controlled foreign corporation under section 1292(b) with respect to the taxpayer, and

"(ii) with respect to each of such corporation's taxable years which begin after December 31, 1986, and before January 1, 1993, and include any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part (as in effect on January 1, 1992) with respect to the taxpayer.

"(2) TREATMENT WHERE STOCK BECOMES MARKETABLE.—If any stock in a passive foreign corporation becomes marketable stock after the beginning of the taxpayer's holding period in such stock, section 1293 shall apply to—

"(A) any distributions with respect to, or disposition of, such stock in the taxable year of the taxpayer in which it becomes so marketable, and

"(B) any amount which, but for section 1293, would have been included in gross income under section 1291(a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(3) ELECTION TO RECOGNIZE GAIN WHERE COMPANY BECOMES SUBJECT TO CURRENT INCLUSIONS.—

"(A) IN GENERAL.—If—

"(i) a passive foreign corporation first meets the requirements of clause (i) of paragraph (1)(B) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(ii) the taxpayer holds stock in such company on the first day of such taxable year, and

"(iii) the taxpayer establishes to the satisfaction of the Secretary the fair market value of such stock on such first day,

the taxpayer may elect to recognize gain as if he sold such stock on such first day for such fair market value.

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign corporation first meets the requirements of subclause (I) of paragraph (1)(B)(i) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(II) the taxpayer holds stock in such corporation on the first day of such taxable year, and

"(III) such corporation is a controlled foreign corporation without regard to this part,

the taxpayer may elect to be treated as receiving a dividend on such first day in an amount equal to the portion of the post-1986 earnings and profits of such corporation attributable (under regulations prescribed by the Secretary) to the stock in such corporation held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under section 1293(a)(1)(A) only two days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of the corporation beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the corporation was a passive foreign corporation.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount treated as a dividend under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph.

"(b) RULES RELATING TO STOCK ACQUIRED FROM A DECEDENT.—

"(1) BASIS.—In the case of stock of a passive foreign corporation acquired by bequest, devise, or inheritance (or by the decedent's estate), notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this paragraph).

"(2) DEDUCTION FOR ESTATE TAX.—If stock in a passive foreign corporation is acquired from a decedent, the taxpayer shall, under regulations prescribed by the Secretary, be allowed (for the taxable year of the sale or exchange) a deduction from gross income equal to that portion of the decedent's estate tax deemed paid which is attributable to the excess of (A) the value at which such stock was taken into account for purposes of determining the value of the decedent's gross estate, over (B) the basis determined under paragraph (1).

"(3) EXCEPTIONS.—This subsection shall not apply to any stock in a passive foreign corporation if—

"(A) section 1293 would not have applied to a disposition of such stock by the decedent immediately before his death, or

"(B) the decedent was a nonresident alien at all times during his holding period in such stock.

"(c) RECOGNITION OF GAIN.—Except as otherwise provided in regulations, in the case of any transfer of stock in a passive foreign company to which section 1293 applies, where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of property for gain recognized under the preceding sentence.

"(d) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign corporation—

"(A) the amount of such distribution shall be determined for purposes of section 1293 with regard to section 78, "(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in section 1293(a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904 and not below zero) the increase in tax determined under section 1293(c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248.

"(e) ATTRIBUTION OF OWNERSHIP.—For purposes of this subpart—

"(1) ATTRIBUTION TO UNITED STATES PERSONS.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign corporation as owned by a United States person, and

"(B) except as provided in paragraph (3) or in regulations, shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—If 50 percent or more in value of the stock of a corporation (other than an S corporation) is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-PERCENT LIMITATION NOT TO APPLY IN CERTAIN CASES.—For purposes of determining whether a shareholder of a passive foreign corporation (or whether a United States shareholder of a controlled foreign corporation which is not a passive foreign corporation) is treated as owning stock owned directly or indirectly by or for such corporation, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(C) FAMILY AND PARTNER ATTRIBUTION FOR 50-PERCENT LIMITATION.—For purposes of determining whether the 50-percent limitation of subparagraph (A) is met, the constructive ownership rules of section 544(a)(2) shall apply in addition to the other rules of this subsection.

"(3) PARTNERSHIPS, ETC.—Except as provided in regulations, stock owned, directly or indirectly, by or for a partnership, S corporation, estate, or trust shall be considered as being owned proportionately by its partners, shareholders, or beneficiaries (as the case may be).

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"(5) SUCCESSIVE APPLICATION.—Stock considered to be owned by a person by reason of the application of paragraph (2), (3), or (4) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"(f) OTHER SPECIAL RULES.—For purposes of this subpart—

"(1) TIME FOR DETERMINATION.—Stock held by a taxpayer shall be treated as stock in a passive foreign corporation if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign corporation. The preceding sentence shall not apply if the taxpayer elects to recognize gain (as of the last day of the last taxable year for which the company was a passive foreign corporation) under rules similar to the rules of subsection (a)(3)(A).

"(2) APPLICATION OF SUBPART WHERE STOCK HELD BY OTHER ENTITY.—Under regulations—

"(A) IN GENERAL.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of subsection (e)—

"(i) any transaction which results in the United States person being treated as no longer owning such stock,

"(ii) any disposition of such stock by the person owning such stock, and

"(iii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign corporation.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) in respect of stock which the taxpayer is treated as owning under subsection (e).

"(C) COORDINATION WITH SECTION 951.—If, but for this subparagraph, an amount would be taken into account under section 1293 by reason of subparagraph (A) and such amount would also be included in the gross income of the taxpayer under section 951, such amount shall only be taken into account under section 1293.

"(3) DISPOSITIONS.—Except as provided in regulations, if a taxpayer uses any stock in a passive foreign corporation as security for a loan, the taxpayer shall be treated as having disposed of such stock.

"SUBPART C—GENERAL PROVISIONS

"Sec. 1296. Passive foreign corporation.

"Sec. 1297. Special rules.

"SEC. 1296. PASSIVE FOREIGN CORPORATION.

"(a) IN GENERAL.—For purposes of this part, except as otherwise provided in this subpart, the term 'passive foreign corporation' means any foreign corporation if—

"(1) 60 percent or more of the gross income of such corporation for the taxable year is passive income,

"(2) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent, or

"(3) such corporation is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2), either as a management company or as a unit investment trust.

A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.

"(b) PASSIVE INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c) without regard to paragraph (3) thereof.

"(2) EXCEPTIONS.—Except as provided in regulations, the term 'passive income' does not include any income—

"(A) derived in the active conduct of a banking business by an institution licensed to do business as a bank in the United States (or, to the extent provided in regulations, by any other corporation),

"(B) derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation,

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income, or

"(D) any foreign trade income of a FSC.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3).

"(3) TREATMENT OF INCOME FROM CERTAIN ASSETS.—To the extent that any asset is properly treated as not held for the production of passive income for purposes of subsection (a)(2), all income from such asset shall be treated as income which is not passive income.

"(c) LOOK-THROUGH IN CASE OF 25-PERCENT OWNED CORPORATION.—If a foreign corporation owns (directly or indirectly) at least 25 percent (by value) of the stock of another corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, such foreign corporation shall be treated as if it—

"(1) held its proportionate share of the assets of such other corporation, and

"(2) received directly its proportionate share of the income of such other corporation.

"SEC. 1297. SPECIAL RULES.

"(a) UNITED STATES PERSON.—For purposes of this part, the term 'United States person' has the meaning given to such term by section 7701(a)(30).

"(b) CONTROLLED FOREIGN CORPORATION.—For purposes of this part, the term 'controlled foreign corporation' has the meaning given such term by section 957(a).

"(c) MARKETABLE STOCK.—For purposes of this part—

"(1) IN GENERAL.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part, and

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value.

"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign corporation which it owns (or is treated under section 1291(g) as owning) shall be treated as marketable stock for purposes of this part. Except as provided in regulations, a similar rule shall apply in the case of any other regulated investment company.

"(d) OTHER SPECIAL RULES.—For purposes of this part—

"(1) CERTAIN CORPORATIONS NOT TREATED AS PASSIVE.—A corporation shall not be treated as a passive foreign corporation for the 1st taxable year such corporation has gross income (hereinafter in this paragraph referred to as the 'start-up year') if—

"(A) no predecessor of such corporation was a passive foreign corporation,

"(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the start-up year, and

"(C) such corporation is not a passive foreign corporation for either of the 1st 2 taxable years following the start-up year.

"(2) CERTAIN CORPORATIONS CHANGING BUSINESSES.—A corporation shall not be treated as a passive foreign corporation for any taxable year if—

"(A) neither such corporation (nor any predecessor) was a passive foreign corporation for any prior taxable year,

"(B) it is established to the satisfaction of the Secretary that—

"(i) substantially all of the passive income of the corporation for the taxable year is attributable to proceeds from the disposition of 1 or more active trades or businesses, and

"(ii) such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the taxable year, and

"(C) such corporation is not a passive foreign corporation for either of such 2 taxable years.

For purposes of section 1296(c), any passive income referred to in subparagraph (B)(i) shall be treated as income which is not passive income and any assets which produce income so described shall be treated as assets producing income other than passive income.

"(3) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If a foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust.

"(4) TREATMENT OF CORPORATION WHICH WAS A PFIC.—A corporation shall be treated as a passive foreign corporation for any taxable year beginning before January 1, 1993, if and only if such corporation was a passive foreign investment company under this part as in effect for such taxable year.

"(5) SEPARATE INTERESTS TREATED AS SEPARATE CORPORATIONS.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this part, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(e) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of section 1296(a)(2)—

"(1) IN GENERAL.—Any tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF VALUE.—

"(A) IN GENERAL.—The value of any asset to which paragraph (1) applies shall be the lesser of—

"(i) the fair market value of such property, or

"(ii) the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A)(ii) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in the last sentence of section 1296(b)(2)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this part.

"(f) ELECTION BY CERTAIN PASSIVE FOREIGN CORPORATIONS TO BE TREATED AS A DOMESTIC CORPORATION.—

"(1) IN GENERAL.—For purposes of this title, if—

"(A) a passive foreign corporation would qualify as a regulated investment company under part I of subchapter M if such passive foreign corporation were a domestic corporation,

"(B) such passive foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this title on such passive foreign corporation are paid, and

"(C) such passive foreign corporation makes an election to have this paragraph apply and waives all benefits which are granted by the United States under any treaty and to which such corporation would otherwise be entitled by reason of being a resident of another country,

such corporation shall be treated as a domestic corporation.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4)(A), and (5) of section 953(d) shall apply with respect to any corporation making an election under paragraph (1).

"(g) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

"(1) TAX-EXEMPT ORGANIZATIONS.—In the case of any organization exempt from tax under section 501—

"(A) this part shall apply to any stock in a passive foreign corporation owned (or treated as owned under section 1294(e)) by such organization only to the extent that a dividend on such stock would be taken into account in determining the unrelated business taxable income of such organization, and

"(B) to the extent that this part applies to any such stock, this part shall be applied in the same manner as if such organization were not exempt from tax under section 501(a).

"(2) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign corporation is owned (or treated as owned under section 1294(e)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(A) section 1293 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1293) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(B) subpart A shall not apply with respect to such stock, and

"(C) in determining whether section 1293 applies to any distribution in respect of such stock, such stock shall be treated as failing to qualify for the exceptions under section 1294(a)(1).

"(h) INFORMATION FROM SHAREHOLDERS.—Every United States person who owns stock in any passive foreign corporation shall furnish with respect to such corporation such information as the Secretary may prescribe.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations—

"(1) providing that gross income shall be determined without regard to section 1293 for such purposes as may be specified in such regulations, and

"(2) to prevent avoidance of the provisions of this part through changes in citizenship or residence status."

(b) INSTALLMENT SALES TREATMENT NOT AVAILABLE.—Paragraph (2) of section 453(k) is amended by striking "or" at the end of subparagraph (A), by inserting "or" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) stock in a passive foreign corporation (as defined in section 1296) if section 1293 applies to such sale,".

(c) TREATMENT OF MARK-TO-MARKET GAIN UNDER SECTION 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF GAIN RECOGNIZED UNDER SECTION 1291.—For purposes of determining a regulated investment company's ordinary income—

"(A) notwithstanding paragraph (1)(C), section 1291 shall be applied as if such company's taxable year ended on October 31, and

"(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign corporation during the portion of the calendar year after October 31 shall be taken into account in determining such company's ordinary income for the following calendar year.

In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR CERTAIN LOSSES ON STOCK IN PASSIVE FOREIGN CORPORATIONS.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year."

(3) Subsection (c) of section 852 is amended by inserting after "October 31 of such year" the following: ", without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after December 31 of such year,".

(d) Treatment of Certain Previously Taxed Amounts.—Subsection (e) of section 959 is amended—

(1) by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of amounts included in gross income under section 1293 (as in effect on January 1, 1992).", and

(2) by striking "Amounts Previously Taxed Under Section 1248" in the subsection heading and inserting "Certain Previously Taxed Amounts".

SEC. 4403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) General Rule.—

(1) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or a foreign personal holding company".

(2) Section 312 is amended by striking subsection (j).

(3) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)" and inserting "or a passive foreign corporation (as defined in section 1296)".

(4) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(5) Clause (ii) of section 465(c)(7)(B) is amended to read as follows:

"(ii) a passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met, or".

(6) Subsection (b) of section 535 is amended by striking paragraph (9).

(7) Subsection (d) of section 535 is hereby repealed.

(8) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(9) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(10) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(11) Paragraph (2) of section 751(d) is amended by striking "subsection (a) of section 1246 (relating to gain on foreign investment company stock)" and inserting "section 1291 (relating to stock in certain passive foreign corporations marked to market)".

(12) Subsection (b) of section 851 is amended by striking the sentence following paragraph (4)(B) which contains a reference to section 1293(a).

(13) Subsection (d) of section 904 is amended by striking paragraphs (2)(A)(ii), (2)(E)(iii), and (3)(I).

(14)(A) Subparagraph (A) of section 904(g)(1) is amended to read as follows:

"(A) Any amount included in gross income under section 951(a) (relating to amounts included in gross income of United States shareholders)."

(B) The paragraph heading of paragraph (2) of section 904(g) is amended by striking "AND FOREIGN PERSONAL HOLDING OR PASSIVE FOREIGN INVESTMENT COMPANY".

(15) Section 951 is amended by striking subsections (c), (d), and (f), and by redesignating subsection (e) as subsection (c).

(16) Paragraph (1) of section 986(c) is amended by striking "or 1293(c)".

(17) Paragraph (3) of section 989(b) is amended by striking ", 551(a), or 1293(a)".

(18) Paragraph (5) of section 1014(b) is hereby repealed.

(19) Subsection (a) of section 1016 is amended by striking paragraph (13) and by redesignating the following paragraphs accordingly.

(20) Paragraph (3) of section 1212(a) is amended—

(A) by striking subparagraph (A),

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(C) by amending subparagraph (D) to read as follows:

"(C) for which it is a passive foreign corporation."

(21) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(22) Subsection (d) of section 1248 is amended by striking paragraphs (5) and (7).

(23)(A) Subsection (a) of section 6035 is amended by striking "foreign personal holding company (as defined in section 552)" and inserting "passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met".

(B) The section heading for section 6035 is amended by striking "**foreign personal holding companies**" **and inserting** "**closely held passive foreign corporations**",.

(C) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking "foreign personal holding companies" in the item relating to section 6035 and inserting 'closely-held passive foreign corporations".

(24) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(25) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) Constructive dividends.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed."

(26) Section 4947 and section 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(b) Clerical Amendments.—

(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(3) The table of parts for subchapter P of chapter 1 is amended by striking the item relating to part VI and inserting the following:

"Part VI. Treatment of passive foreign corporations."

SEC. 4404. EFFECTIVE DATE.

(a) General Rule.—Except as otherwise provided in this section, the amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1992, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

(b) Denial of Installment Sales Treatment.—The amendment made by section 3402(b) shall apply to dispositions after December 31, 1992.

(c) Basis Rule.—The amendments made by this part shall not affect the determination of the basis of any stock acquired from a decedent in a taxable year beginning before January 1, 1993.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 4411. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) General Rule.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(f) Gain on Certain Stock Sales by Controlled Foreign Corporations Treated as Dividends.—

"(1) In general.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) Same country exception not applicable.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) Clarification of deemed sales.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.".

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act

SEC. 4412. AUTHORITY TO PRESCRIBE SIMPLIFIED METHOD FOR APPLYING SECTION 960(b)(2).

(a) GENERAL RULE.—Paragraph (2) of section 960(b) is amended by adding at the end thereof the following new sentence: "The Secretary may prescribe regulations requiring the use of simplified methods set forth in such regulations for determining the amount of the increase referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4413. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1992.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—

(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 4414. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) SECTION 902 CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

"(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—

"(1) IN GENERAL.—If—

"(A) any foreign corporation is a member of a qualified group, and

"(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

"(2) QUALIFIED GROUP.—For purposes of paragraph (1), the term 'qualified group' means—

"(A) the foreign corporation described in subsection (a), and

"(B) any other foreign corporation if—

"(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

"(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

"(iii) such other corporation is not below the sixth tier in such chain,

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding "or" at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation."

(B) Subparagraph (B) of section 902(c)(4) is amended by striking "3rd foreign corporation" and inserting "sixth tier foreign corporation".

(C) The heading for paragraph (3) of section 902(c) is amended by striking "WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION" and inserting "WHERE FOREIGN CORPORATION FIRST QUALIFIES".

(D) Paragraph (3) of section 902(c) is amended by striking "ownership" each place it appears.

(b) SECTION 960 CREDIT.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

"(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B))."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) SPECIAL RULE.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

PART III—OTHER PROVISIONS

SEC. 4421. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) ACCRUED TAXES TRANSLATED BY USING AVERAGE RATE FOR YEAR TO WHICH TAXES RELATE.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

"(a) FOREIGN INCOME TAXES.—

"(1) TRANSLATION OF ACCRUED TAXES.—

"(A) IN GENERAL.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

"(B) EXCEPTION FOR TAXES NOT PAID WITHIN FOLLOWING 2 YEARS.—

"(i) Subparagraph (A) shall not apply to any foreign income taxes paid after the date 2 years after the close of the taxable year to which such taxes relate.

"(ii) Subparagraph (A) shall not apply to taxes paid before the beginning of the taxable year to which such taxes relate.

"(C) EXCEPTION FOR INFLATIONARY CURRENCIES.—To the extent provided in regulations, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency determined to be an inflationary currency under such regulations.

"(D) CROSS REFERENCE.—

"For adjustments where tax is not paid within 2 years, see section 905(c).

"(2) TRANSLATION OF TAXES TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

"(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of such taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

"(3) FOREIGN INCOME TAXES.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States."

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

"(c) ADJUSTMENTS TO ACCRUED TAXES.—

"(1) IN GENERAL.—If—

"(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

"(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

"(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

"(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—In making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1). Any such taxes if subsequently paid shall be taken into account for the taxable year in which paid and no redetermination under this section shall be made on account of such payment.

"(3) ADJUSTMENTS.—The amount of tax due on any redetermination under paragraph (1) (if any) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

"(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

"(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period."

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to foreign taxes) is amended by adding at the end thereof the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment."

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period."

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after December 31, 1991.

SEC. 4422. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1992, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4423. MODIFICATION OF SECTION 1491.

(a) GENERAL RULE.—So much of chapter 5 (relating to tax on transfers to avoid income tax) as precedes section 1492 is amended to read as follows:

"CHAPTER 5—TREATMENT OF TRANSFERS TO AVOID INCOME TAX

"Sec. 1491. Recognition of gain.
"Sec. 1492. Exceptions.

"SEC. 1491. RECOGNITION OF GAIN.

"In the case of any transfer of property by a United States person to a foreign corporation as paid-in surplus or as a contribution to capital, to a foreign estate or trust, or to a foreign partnership, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor."

(b) CONFORMING AMENDMENTS.—

(1) Section 1057 is hereby repealed.

(2) Section 1492 is amended to read as follows:

"SEC. 1492. EXCEPTIONS.

"The provisions of section 1491 shall not apply—

"(1) If the transferee is an organization exempt from income tax under part I of subchapter F of chapter 1 (other than an organization described in section 401(a)),

"(2) To a transfer described in section 367, or

"(3) To any other transfer, to the extent provided in regulations in accordance with principles similar to the principles of section 367 or otherwise consistent with the purpose of section 1491."

(3) Section 1494 is hereby repealed.

(4) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(5) The table of chapters for subtitle A is amended by striking "Tax on" in the item relating to chapter 5 and inserting "Treatment of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 4424. MODIFICATION OF SECTION 367(b).

(a) GENERAL RULE.—Paragraph (1) of section 367(b) is amended to read as follows:

"(1) IN GENERAL.—In the case of any transaction described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a general condition for nonrecognition by 1 or more of the parties to the transaction, income shall be required to be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This subsection shall not apply to a transaction in which the foreign corporation is not treated as a corporation under subsection (a)(1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1993.

Subtitle E—Treatment of Intangibles

SEC. 4501. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) General Rule.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

“SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

“(a) General Rule.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined by amortizing the adjusted basis (for purposes of determining gain) of such intangible ratably over the 14-year period beginning with the month in which such intangible was acquired.

“(b) No Other Depreciation or Amortization Deduction Allowable.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

“(c) Amortizable Section 197 Intangible.—For purposes of this section—

“(1) In general.—Except as otherwise provided in this section, the term ‘amortizable section 197 intangible’ means any section 197 intangible—

“(A) which is acquired by the taxpayer after the date of the enactment of this section, and

“(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

“(2) Exclusion of self-created intangibles, etc.—The term ‘amortizable section 197 intangible’ shall not include any section 197 intangible—

“(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

“(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

“(3) Anti-churning rules.—

“For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

“(d) Section 197 Intangible.—For purposes of this section—

“(1) In general.—Except as otherwise provided in this section, the term ‘section 197 intangible’ means—

“(A) goodwill,

“(B) going concern value,

“(C) any of the following intangible items:

“(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment,

“(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

“(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

“(iv) any customer-based intangible,

“(v) any supplier-based intangible, and

“(vi) any other similar item,

“(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

“(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and

“(F) any franchise, trademark, or trade name.

“(2) Customer-based intangible.—

“(A) In general.—The term ‘customer-based intangible’ means—

“(i) composition of market,

“(ii) market share, and

“(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

“(B) Special rule for financial institutions.—In the case of a financial institution, the term ‘customer-based intangible’ includes deposit base and similar items.

“(3) Supplier-based intangible.—The term ‘supplier-based intangible’ means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

“(e) Exceptions.—For purposes of this section, the term ‘section 197 intangible’ shall not include any of the following:

“(1) Financial interests.—Any interest—

“(A) in a corporation, partnership, trust, or estate, or

“(B) under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract.

“(2) Land.—Any interest in land.

“(3) Computer software.—Any—

“(A) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and

“(B) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

For purposes of the preceding sentence, the term ‘computer software’ means any program designed to cause a computer to perform a desired function; except that such term shall not include any data base or similar item.

“(4) Certain interests or rights acquired separately.—Any of the following not acquired in a transaction (or series of related transactions) referred to in paragraph (3)(B):

“(A) Any interest in a film, sound recording, video tape, book, or similar property.

“(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

“(C) Any interest in a patent or copyright.

“(5) Interests under leases and debt instruments.—Any interest under—

“(A) an existing lease of tangible property, or

“(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

“(6) Treatment of sports franchises.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

“(f) Special Rules.—

“(1) Treatment of certain dispositions, etc.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortizable section 197 intangibles acquired in such transaction or series of related transactions are retained—

“(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and

“(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f) shall be so treated for purposes of the preceding sentence.

“(2) Treatment of certain transfers.—

“(A) In general.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

“(B) Transactions covered.—The transactions described in this subparagraph are—

“(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

“(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

“(3) Treatment of amounts paid pursuant to covenants not to compete, etc.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

“(4) Treatment of franchises, etc.—

“(A) Franchise.—The term ‘franchise’ has the meaning given to such term by section 1253(b)(1).

“(B) Treatment of renewals.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

“(C) Certain amounts not taken into account.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

“(5) Treatment of certain reinsurance transactions.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

“(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

“(B) the amount required to be capitalized under section 848 in connec*COM003*tion with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

“(6) Treatment of certain subleases.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

“(7) Treatment as depreciable.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a character subject to the allowance for depreciation provided in section 167.

“(8) Treatment of certain increments in value.—This section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

“(9) Anti-churning rules.—For purposes of this section—

“(A) In general.—The term ‘amortizable section 197 intangible’ shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1) (or for which depreciation or amortization would not have been allowable but for this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

"(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

"(ii) the intangible was acquired from a person who held such intangible at any time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary.

"(B) Related person defined.—For purposes of this paragraph—

"(i) Related person.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(ii) Time for making determination.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

"(C) Acquisitions by reason of death.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(D) Special rule for partnerships.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this paragraph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(E) Anti-abuse rules.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to prevent avoidance of the purposes of this section through related persons or otherwise."

(b) Modifications to Depreciation Rules.—

(1) Treatment of certain property excluded from section 197.—Section 167 (relating to depreciation deduction) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Treatment of Certain Property Excluded From Section 197.—

"(1) Computer software.—

"(A) In general.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

"(B) Computer software.—For purposes of this section, the term 'computer software' has the meaning given to such term by the last sentence of section 197(e)(3); except that such term shall not include any such software which is an amortizable section 197 intangible.

"(2) Certain interests or rights acquired separately.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B) or (C) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary."

(2) Allocation of basis in case of leased property.—Subsection (c) of section 167 is amended to read as follows:

"(c) Basis for Depreciation.—

"(1) In general.—The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

"(2) Special rule for property subject to lease.—If any property is acquired subject to a lease—

"(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

"(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease."

(c) Amendments to Section 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(2) Other payments.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

"(3) Renewals, etc.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(d) Amendment to Section 848.—Subsection (g) of section 848 is amended by striking "this section" and inserting "this section or section 197".

(e) Amendments to Section 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking "goodwill or going concern value" and inserting "section 197 intangibles".

(2) Paragraph (1) of section 1060(d) is amended by striking "goodwill or going concern value (or similar items)" and inserting "section 197 intangibles".

(f) Technical and Conforming Amendments.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

"(g) Cross Reference.—

"(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

"(2) For amortization of goodwill and certain other intangibles, see section 197."

(2) Subsection (f) of section 642 is amended by striking "section 169" and inserting "sections 169 and 197".

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking "193, or 1253(d) (2) or (3)" and inserting "or 193".

(5) Paragraph (3) of section 1245(a) is amended by striking "section 185 or 1253(d) (2) or (3)".

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Amortization of goodwill and certain other intangibles."

(g) Effective Date.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) Election to have amendments apply to property acquired after July 25, 1991.—

(A) In general.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) Election.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) Election to have amendments apply to property acquired in all open years.—

(A) In general.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after the date referred to in subparagraph (B),

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) shall be applied with respect to the taxpayer by treating the date referred to in subparagraph (B) as the date of the enactment of such section,

(iii) subsection (f)(9) of such section 197 shall not apply with respect to any property acquired by the taxpayer on or before July 25, 1991, and

(iv) in applying subsection (f)(9) of such section 197 with respect to property acquired by the taxpayer after July 25, 1991, and on or before the date of the enactment of this Act, the modifications to such subsection contained in clauses (ii) and (iii) of paragraph (2)(A) shall apply.

(B) DATE.—For purposes of subparagraph (A), the date referred to in this subparagraph is the first day of the first taxable year in a series of consecutive taxable years all of which are open years. For purposes of the preceding sentence, a taxable year is an open year if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of any tax for such taxable year had not expired before July 25, 1991 (determined without regard to subparagraph (C)(iii)).

(C) EFFECT OF ELECTION.—

(i) 17-YEAR AMORTIZATION PERIOD.—If an election under this paragraph applies to the taxpayer, section 197(a) of the Internal Revenue Code of 1986 shall be applied with respect to all property to which the amendments made by this section apply and which are acquired by the taxpayer on or before the date of the enactment of this Act by substituting "17-year period" for "14-year period".

(ii) NO INTEREST ALLOWED ON REFUNDS.—No interest shall be payable on any refund of tax resulting from the provisions of this paragraph.

(iii) EXTENSION OF STATUTE.—If the assessment of any deficiency of tax attributable to an election under this paragraph is barred on the date of the enactment of this Act or at any time within the 2-year period beginning on the date on which such election is made by any law or rule of law, such deficiency may, nevertheless, be assessed if such assessment is made within such 2-year period. If credit or refund of any tax attributable to an election under this paragraph is barred on the date of the enactment of this Act or at any time within the 2-year period beginning on the date on which such election is made by any law or rule of law, such credit or refund may, nevertheless, be allowed or made if claim therefore is made within such 2-year period.

(D) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(E) SPECIAL RULE FOR CERTAIN ACQUISITIONS IN CLOSED YEARS.—If—

(i) an election under this paragraph applies to the taxpayer,

(ii) there was an agreement between the taxpayer and the Internal Revenue Service with respect to the amortization of any intangibles which were acquired by the taxpayer before the date referred to in subparagraph (B), and

(iii) as of February 14, 1992, there was an active dispute between the taxpayer and the Internal Revenue Service by reason of the Internal Revenue Service taking a position inconsistent with such agreement,

the amortization of such intangibles in open years shall be made in accordance with the agreement referred to in clause (ii).

(4) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on February 14, 1992, and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) or (3) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

SEC. 4502. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

"(A) capital is not a material income-producing factor for the partnership, and

"(B) the retiring or deceased partner was a general partner in the partnership."

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking "sections 731, 736, and 741" each place they appear and inserting ", sections 731 and 741 (but not for purposes of section 736)", and

(B) by striking "section 731, 736, or 741" each place it appears and inserting "section 731 or 741".

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking "sections 731, 736, and 741" and inserting "sections 731 and 741".

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying after February 14, 1992.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring after February 14, 1992, if a written contract to purchase such partner's interest in the partnership was binding on February 14, 1992, and at all times thereafter before such purchase.

Subtitle F—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

SEC. 4601. DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.

(a) GENERAL RULE.—Paragraph (4) of section 1361(c) is amended to read as follows:

"(4) DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.—For purposes of subsection (b)(1)(D), a corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights to distributions and liquidation proceeds. The preceding sentence shall apply whether or not there are differences in voting rights among such shares."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 4602. AUTHORITY TO VALIDATE CERTAIN INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end thereof the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 4603. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 is amended by adding at the end thereof the following new sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end thereof the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1991.

SEC. 4604. OTHER MODIFICATIONS.

(a) TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.—Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders."

(b) S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.—

(1) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 1361 is amended by striking paragraph (6).

(B) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end thereof the following new paragraph:

"(8) An S corporation."

(c) ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.—

(1) IN GENERAL.—If—

(A) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(B) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1991,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 1362(d) is amended—

(i) by striking "subchapter C" in the paragraph heading and inserting "accumulated",

(ii) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(iii) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(B)(i) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(ii) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."

(iii) The section heading for section 1375 is amended by striking "subchapter c" and inserting "accumulated".

(iv) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(C) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

(d) ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply in the case of decedents dying after the date of the enactment of this Act.

PART II—ACCOUNTING PROVISIONS

SEC. 4611. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which such election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end thereof the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 4612. SIMPLIFIED METHOD FOR CAPITALIZING CERTAIN INDIRECT COSTS.

(a) GENERAL RULE.—Subsection (i) of section 263A (relating to regulations) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following:

"(3) regulations providing that allocations of costs of any administrative, service, or support function or department may be made on the basis of the base period percentage of the current costs of such function or department.

For purposes of paragraph (3), the term 'base period percentage' means, with respect to any function or department, the percentage of the costs of such function or department during a base period specified in regulations which were allocable to property to which this section applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

PART III—PROVISIONS RELATING TO REGULATED INVESTMENT COMPANIES

SEC. 4621. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) GENERAL RULE.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding "and" at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) TECHNICAL AMENDMENTS.—

(1) The material following paragraph (3) of section 851 (as redesignated by subsection (a)) is amended—

(A) by striking out "paragraphs (2) and (3)" and inserting "paragraph (2)", and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking "subsection (b)(4)" each place it appears (including the heading) and inserting "subsection (b)(3)".

(3) Subsection (d) of section 851 is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(4) Paragraph (1) of section 851(e) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(5) Paragraph (4) of section 851(e) is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking "851(b)(4)" in subparagraph (A) and inserting "851(b)(3)", and

(B) by striking "851(b)(4)(A)(i)" in subparagraph (B) and inserting "851(b)(3)(A)(i)".

(9) Section 1092(f)(2) is amended by striking "Except for purposes of section 851(b)(3), the" and inserting "The".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 4622. BASIS RULES FOR SHARES IN OPEN-END REGULATED INVESTMENT COMPANIES.

(a) ADDITIONAL REPORTING REQUIREMENT.—Section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new subsection:

"(f) ADDITIONAL INFORMATION REQUIRED WITH RESPECT TO OPEN-END REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If any person is required under subsection (a) to make a return regarding the gross proceeds from any disposition of stock in an open-end regulated investment company, such return shall include for each such disposition—

"(A) the basis of the stock disposed of (determined by reference to the average basis of all of the stock in the account from which the disposition was made immediately before the disposition), and

"(B) the portion of such gross proceeds attributable to stock held for more than 1 year and the portion not so attributable.

Determinations under subparagraph (B) shall be made on a first-in, first-out, basis and determinations of basis and holding period shall be made in such manner as the Secretary may prescribe.

"(2) OPEN-END REGULATED INVESTMENT COMPANY.—For purposes of this subsection, the term 'open-end regulated investment company' means any regulated investment company which is offering for sale or has outstanding any redeemable security (as defined in section 2(a)(32) of the Investment Company Act of 1940) of which it is the issuer.

"(3) INFORMATION TRANSFERS.—To the extent provided in regulations, there shall be such exchanges of information between brokers as such regulations may require for purposes of enabling brokers to meet the requirements of this subsection.

"(4) APPLICATION OF SUBSECTION.—This subsection shall not apply with respect to stock in any account—

"(A) which was established before January 1, 1994, or

"(B) which includes any stock not acquired by purchase."

(b) BASIS FOR INCOME TAX PURPOSES.—Section 1012 of such Code is amended—

(1) by striking "The basis" and inserting "(a) GENERAL RULE.—The basis", and

(2) by adding at the end thereof the following new subsection:

"(b) SPECIAL RULES FOR STOCK IN OPEN-END REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—In the case of any disposition of stock from a covered account—

"(A) the basis of such stock shall be determined by reference to the average basis of all of the stock in such account immediately before such disposition, and

"(B) the determination of which stock in such account is so disposed of shall be made on a first-in, first-out, basis.

"(2) COVERED ACCOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'covered account' means any account of stock in an open-end regulated investment company if section 6045(f) applies to such account.

"(B) ELECTION OUT.—The term 'covered account' shall not include any account if, on the taxpayer's return for his first taxable year in which a disposition from such account occurs, the taxpayer elects to have this subsection not apply to such account."

(c) TECHNICAL AMENDMENT.—Section 6724 of such Code is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN REPORTS WITH RESPECT TO STOCK IN OPEN END REGULATED INVESTMENT COMPANIES.—For purposes of sections 6721(e)(2)(B) and 6722(c)(1)(B), the amount required to be reported under section 6045 shall be determined without regard to subsection (f) thereof."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to returns and statements required for calendar year 1994 and subsequent calendar years.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to dispositions on or after December 31, 1993.

SEC. 4623. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If—

"(A) a common trust fund transfers substantially all of its assets to a regulated investment company in exchange solely for stock in such company, and

"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

"(2) BASIS RULES.—

"(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

"(B) PARTICIPANTS.—The basis of any stock in a regulated investment company which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged.

"(3) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

PART IV—TAX-EXEMPT BOND PROVISIONS

SEC. 4631. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 4632. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end thereof the following new clause:

"(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirments of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

SEC. 4633. AUTOMATIC EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.

Subsection (c) of section 148 (relating to temporary period exception) is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.—If—

"(A) at least 85 percent of the available construction proceeds (as defined in subsection (f)(4)(C)) of a construction issue (as defined in such subsection) are spent as of the close of the initial temporary period (determined without regard to this paragraph), and

"(B) the issuer reasonably expects (as of the close of such period) that the remaining available construction proceeds of such issue will be spent within 1 year after the close of such period,

then such initial temporary period shall be extended 1 year."

SEC. 4634. AGGREGATION OF ISSUES RULES NOT TO APPLY TO TAX OR REVENUE ANTICIPATION BONDS.

Section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(f) TAX OR REVENUE ANTICIPATION BONDS TREATED AS SEPARATE ISSUES.—For purposes of this part, if—

"(1) all of the bonds which are part of an issue are qualified 501(c)(3) bonds or bonds which are not private activity bonds, and

"(2) any portion of such issue consists of tax or revenue anticipation bonds which are reasonably expected to meet the requirements of section 148(f)(4)(B)(iii),

then such portion shall, subject to appropriate allocations specified in regulations prescribed by the Secretary, be treated as a separate issue."

SEC. 4635. REPEAL OF DISPROPORTIONATE PRIVATE BUSINESS USE TEST.

(a) IN GENERAL.—Subsection (b) of section 141 (relating to private business tests) is amended by striking paragraph (3) and by redesignating paragraphs (4) through (9) as paragraphs (3) through (8), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 141(d) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(2) Paragraph (2) of section 142(c) is amended by striking "section 141(b)(6)" and inserting "section 141(b)(5)".

(3) Subsections (k)(3) and (m)(1) of section 146 and section 149(f)(4)(B)(i) are each amended by striking "section 141(b)(5)" and inserting "section 141(b)(4)".

SEC. 4636. EXPANDED EXCEPTION FROM REBATE FOR ISSUERS ISSUING $10,000,000 OR LESS OF BONDS.

Subparagraph (D) of section 148(f) (relating to exception for governmental units issuing $5,000,000 or less of bonds) is amended by striking "$5,000,000" each place it appears (including the heading) and inserting "$10,000,000".

SEC. 4637. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

SEC. 4638. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraph (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 4639. CLARIFICATION OF INVESTMENT-TYPE PROPERTY.

Subparagraph (D) of section 148(b)(2) is amended to read as follows:

"(D) any investment-type property, or".

SEC. 4640. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

(b) SMALL ISSUER EXPANSION.—The amendment made by section 4636 shall apply to bonds issued in calendar years beginning after the date of the enactment of this Act.

(c) INVESTMENT-TYPE PROPERTY.—The amendment made by section 4639 shall take effect as if included in the amendments made by section 1301 of the Tax Reform Act of 1986.

PART V—ELECTION OF ALTERNATIVE TAXABLE YEARS

SEC. 4641. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) LIMITATION ON TAXABLE YEAR WHICH MAY BE ELECTED.—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) LIMITATION ON TAXABLE YEAR WHICH MAY BE ELECTED.—An election may be made under subsection (a) only if the annual financial statements of the entity used for credit purposes or provided to shareholders, partners, or other proprietors, if any, are based on a fiscal year ending in the same month as the taxable year elected."

(b) EFFECT OF ELECTION.—Subsection (c) of section 444 (relating to effect of election) is amended to read as follows:

"(c) EFFECT OF ELECTION.—If an entity makes an election under subsection (a), then—

"(1) in the case of a partnership or S corporation, such entity shall make the payments required by section 7519(b) for each taxable year for which an election under this section is in effect,

"(2) in the case of a partnership or S corporation making or changing an election under subsection (a), such entity shall make the initial payment required by section 7519(c) for the 1st taxable year for which such election is in effect, and

"(3) in the case of a personal service corporation, such corporation shall be subject to the deduction limitations of section 280H."

(c) PERIOD OF ELECTION.—Paragraph (2) of section 444(d) (relating to period of election) is amended by striking subparagraph (B) and inserting the following:

"(B) NO FURTHER ELECTION WITHOUT CONSENT.—Except as provided in subparagraph (C), if an election is terminated under subparagraph (A), or paragraph (3)(A), the partnership, S corporation, or personal service corporation (or any successor) may not make another election under subsection (a) without the consent of the Secretary.

"(C) SPECIAL RULE FOR ENTITIES CHANGING SECTION 444 YEAR.—An entity with respect to which an election under subsection (a) is in effect on the date of enactment of this subparagraph may terminate such election and elect a new taxable year under this section without the consent of the Secretary, if such election is made before December 31, 1993."

(d) TIERED STRUCTURES.—Paragraph (3) of section 444(d) (relating to tiered structures, etc.) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN STRUCTURES WHICH INCLUDE TRUSTS.—An entity shall not be considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust which has a taxable year which is a calendar year holds an ownership interest in such entity."

(e) REGULATIONS.—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations to prevent the carryback of a net operating loss arising in any short taxable year created pursuant to an election or termination of an election under this section to any preceding taxable year."

SEC. 4642. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

(a) REQUIRED PAYMENT.—Subsection (b) of section 7519 (relating to required payment) is amended to read as follows:

"(b) REQUIRED PAYMENT.—For purposes of this section, the term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to—

"(1) the excess of the product of—

"(A) the adjusted highest section 1 rate, and

"(B) the net base year income of the entity, over

"(2) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the end of the 1st required taxable year ending within such year plus 2 percentage points."

(b) INITIAL PAYMENT.—Section 7519 (relating to required payments for entities electing not to have required taxable year) is amended by redesignating subsections (c) through (g) as subsections (d) through (h), respectively, and by inserting after subsection (b) the following new subsection:

"(c) INITIAL PAYMENT.—

"(1) IN GENERAL.—For purposes of this section, the term 'initial payment' means, with respect to the 1st applicable election year of an entity, an amount equal to 75 percent of the amount of the payment determined under subsection (b) for such applicable election year.

"(2) SPECIAL RULE FOR ENTITIES CHANGING SECTION 444 YEAR.—In the case of an entity described in section 444(d)(2)(C), the term 'initial payment' means, with respect to the 1st new applicable election year of such entity, an amount equal to 75 percent of the amount by which—

"(A) the amount of the payment determined under subsection (b) for such applicable election year, exceeds

"(B) the amount of the payment determined under subsection (b) which would have been required with respect to the terminated applicable election year but for such termination."

(c) TERMINATION OF ELECTIONS.—Subparagraph (A) of section 7519(d)(2) (relating to termination of elections, etc.), as redesignated by subsection (b), is amended by inserting after "year" the following: "and the partnership or S corporation does not elect a new applicable election year".

(d) DATE REFUND PAYABLE.—Paragraph (3) of section 7519(d) (relating to date on which refund payable), as redesignated by subsection (b), is amended in the matter preceding subparagraph (A) by striking "on the later of" and inserting "by the later of".

(e) APPLICABLE PERCENTAGE.—Subsection (e) of section 7519 (relating to net base year income), as redesignated by subsection (b), is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(f) DEFINITIONS AND SPECIAL RULES.—Subsection (f) of section 7519 (relating to other definitions and special rules), as redesignated by subsection (b), is amended to read as follows:

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DEFERRAL PERIOD.—Except as provided in regulations, the term 'deferral period' means, with respect to any taxable year of the partnership or S corporation, the months between—

"(A) the beginning of such year, and

"(B) the close of the 1st required taxable year ending within such year.

"(2) YEARS.—

"(A) BASE YEAR.—The term 'base year' means, with respect to any applicable election year, the 1st 12-month (or 52- to 53-week) taxable year of the partnership or S corporation preceding such applicable election year.

"(B) APPLICABLE ELECTION YEAR.—The term 'applicable election year' means any taxable year of a partnership or S corporation with respect to which an election is in effect under section 444.

"(3) REQUIREMENT OF REPORTING.—Each partnership or S corporation which makes an election under section 444 shall include on any required return or statement such information as the Secretary shall prescribe as necessary to carry out the provisions of this section.

"(4) NET REQUIRED PAYMENT BALANCE.—The term 'net required payment balance' means the excess (if any) of—

"(A) the aggregate of the required payments under this section for all preceding applicable election years plus any initial payment, over

"(B) the aggregate amount allowable as a refund to the partnership or S corporation under subsection (c) for all preceding applicable election years.

Notwithstanding the preceding sentence, an initial payment shall not be taken into account for purposes of computing the net required payment balance until the 19th month following the due date of the initial payment."

(g) ADMINISTRATIVE PROVISIONS.—Subsection (g) of section 7519 (relating to administrative provisions), as redesignated by subsection (b), is amended to read as follows:

"(g) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, any payment required by this section shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C.

"(2) DUE DATE.—

"(A) ANNUAL REQUIRED PAYMENTS.—The amount of any payment required by this section, other than any initial payment, shall be paid on or before May 15 of the calendar year following the year in which the applicable election year begins.

"(B) INITIAL PAYMENT.—The amount of any initial payment required by this section shall be paid on or before September 15 of the calendar year in which the 1st applicable election year begins.

"(3) INTEREST.—For purposes of determining interest, any payment required by this section shall be treated as a tax; except that interest shall be allowed with respect to any refund of a payment under this section only with respect to the period from the latest date specified in subsection (d) for such refund to the actual date of payment of such refund.

"(4) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any person to pay on the date prescribed therefor any amount required by this section, other than an initial payment, there shall be imposed on such person a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of the amount of the payment required under this section over the amount (if any) of such payment paid on or before the date prescribed therefor.

"(B) INEFFECTIVE ELECTION.—In the case of any failure of a partnership or S corporation to make an initial payment required by this section on the date prescribed therefor, such entity shall be treated as having failed to make an election under section 444.

"(C) NEGLIGENCE AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by this section shall be treated as a tax.

"(D) WILLFUL FAILURE.—If any partnership or S corporation willfully fails to comply with the requirements of this section, section 444 shall cease to apply with respect to such partnership or S corporation."

(h) REGULATIONS.—Paragraph (2) of 7519(h) (relating to regulations), as redesignated by subsection (b), is amended to read as follows:

"(2) there is no base year described in subsection (f)(2)."

SEC. 4643. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS ELECTING ALTERNATIVE TAXABLE YEARS.

(a) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Subsection (b) of section 280H (relating to carryover of nondeductible amounts) is amended to read as follows:

"(b) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Any amount not allowed as a deduction for a taxable year pursuant to subsection (a) shall be allowed as a deduction in the succeeding taxable year."

(b) MINIMUM DISTRIBUTION REQUIREMENT.—Paragraph (1) of section 280H(c) (relating to minimum distribution requirement) is amended to read as follows:

"(1) IN GENERAL.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid during the deferral period of the taxable year (determined without regard to subsection (b)) equal or exceed the lesser of—

"(A) 110 percent of the product of—

"(i) the applicable amounts paid during the preceding taxable year, divided by the number of months in such taxable year, and

"(ii) the number of months in the deferral period of the taxable year, or

"(B) 110 percent of the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

If such preceding taxable year is a taxable year of less than 12 months due to a change of taxable year, then subparagraph (A)(i) shall apply to the applicable amounts paid during the preceding 12-month (or 52- to 53-week) taxable year (if any).".

(c) DISALLOWANCE OF NET OPERATING LOSS CARRYOVERS.—Subsection (e) of section 280H (relating to disallowance of net operating loss carrybacks) is amended by striking "to (or from)" and inserting "from".

(d) DEFERRAL PERIOD.—Subparagraph (A) of section 280H(f)(3) (defining deferral period) is amended by striking "section 444(b)(4)" and inserting "section 7519(f)(1)".

SEC. 4644. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after December 31, 1991.

PART VI—OTHER PROVISIONS

SEC. 4651. CERTAIN GRANTOR TRUSTS TREATED AS ESTATES FOR CERTAIN PURPOSES.

(a) CHARITABLE SET-ASIDE.—Subsection (c) of section 642 (relating to deduction for amounts paid or permanently set aside for a charitable purpose) is amended by adding at the end thereof the following new paragraph:

"(7) TREATMENT OF CERTAIN GRANTOR TRUSTS.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'estate' includes any trust—

"(i) all of which was treated under section 676 as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under the decedent's will (or, if there is no such trust, which is the trust primarily responsible for paying debts, taxes, and expenses of administration).

"(B) LIMITATIONS.—

"(i) YEARS TO WHICH SUBPARAGRAPH (A) APPLIES.—Subparagraph (A) shall apply only with respect to taxable years which end after the date of the decedent's death and which begin before the date which is 3 years and 9 months after the date of such death.

"(ii) LIMITATION ON SET-ASIDES.—In the case of a trust treated as an estate under paragraph (1), paragraph (2) shall not apply to any amount permanently set aside for a purpose described in such paragraph unless the terms of the governing instrument require that such amount shall be actually paid for such purpose before the close of the last taxable year for which such trust is treated as an estate under this paragraph."

(b) PASSIVE LOSS RULES.—Paragraph (4) of section 469(i) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF CERTAIN GRANTOR TRUSTS.—For purposes of this paragraph, the term 'estate' includes, with respect to any taxable year, any trust treated as an estate under section 642(c)(7)(A) for such taxable year. In the case of any such trust, in addition to any reduction under subparagraph (B), there shall be a similar reduction for the amount of any exemption allowable under paragraph (1) (without regard to paragraph (3)) to the actual estate of the decedent."

(c) EXEMPTION FROM TRUST THROWBACK RULES.—Section 665 is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN GRANTOR TRUSTS.—If any trust is treated an an estate under section 642(c)(7) for any taxable year, for purposes of this subpart—

"(1) any undistributed net income of such trust for such taxable year, and

"(2) any taxes imposed on such trust for such taxable year,

shall be disregarded."

(d) CONFORMING AMENDMENT TO SECTION 6654.—Subparagraph (B) of section 6654(l)(2) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) all of which was treated under section 676 as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under the decedent's will (or, if there is no such trust, which is the trust primarily responsible for paying debts, taxes, and expenses of administration)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4652. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1991.

SEC. 4653. REPEAL OF SPECIAL TREATMENT OF OWNERSHIP CHANGES IN DETERMINING ADJUSTED CURRENT EARNINGS.

(a) GENERAL RULE.—Paragraph (4) of section 56(g) (relating to adjustments) is amended by striking subparagraph (G) and by redesignating the following subparagraph as paragraph (G).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to ownership changes after the date of the enactment of this Act.

Subtitle G—Estate And Gift Tax Provisions

SEC. 4701. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4702. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(a)(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) TREATMENT OF CERTAIN REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust with respect to which the decedent was the grantor during any period when the decedent held the power to revest in the decedent title to such portion shall be treated as a transfer made directly by the decedent."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4703. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end thereof the following new clause:

"(v)(I) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end thereof the following new subsection:

"(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 4704. TREATMENT OF PORTIONS OF PROPERTY UNDER MARITAL DEDUCTION.

(a) ESTATE TAX.—Subsection (b) of section 2056 (relating to limitation in case of life estate or other terminable interest) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIFIC PORTION.—For purposes of paragraphs (5), (6), and (7)(B)(iv), the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(b) GIFT TAX.—

(1) Subsection (e) of section 2523 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(2) Paragraph (3) of section 2523(f) is amended by inserting before the period at the end thereof the following: "and the rules of section 2056(b)(10) shall apply".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

(B) EXCEPTION.—The amendment made by subsection (a) shall not apply to any interest in property which passes (or has passed) to the surviving spouse of the decedent pursuant to a will (or revocable trust) in existence on the date of the enactment of this Act if—

(i) the decedent dies on or before the date 3 years after such date of enactment, or

(ii) the decedent was, on such date of enactment, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

The preceding sentence shall not apply if such will (or revocable trust) is amended at any time after such date of enactment in any respect which will increase the amount of the interest which so passes or alters the terms of the transfer by which the interest so passes.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to gifts made after the date of the enactment of this Act.

SEC. 4705. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 4706. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

Subtitle H—Excise Tax Simplification

PART I—FUEL TAX PROVISIONS

SEC. 4801. REPEAL OF CERTAIN RETAIL AND USE TAXES.

(a) In General.—Section 4041 is amended to read as follows:

"SEC. 4041. SPECIAL MOTOR FUELS AND NONCOMMERCIAL AVIATION GASOLINE.

"(a) Special Motor Fuels.—

"(1) In general.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or a motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(2) Rate of tax.—The rate of the tax imposed by this subsection shall be the aggregate rate of tax in effect under section 4081 at the time of such sale or use.

"(3) Certain fuels exempt from tax.—The tax imposed by this subsection shall not apply to gasoline (as defined in section 4082), diesel fuel (as defined in section 4092), kerosene, gas oil, or fuel oil.

"(4) Reduced rates of tax on certain fuels.—

"(A) Qualified methanol and ethanol fuel.—

"(i) In general.—In the case of any qualified methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.4 cents per gallon less than the otherwise applicable rate (6 cents per gallon less in the case of a mixture none of the alcohol in which consists of ethanol), and

"(II) the Leaking Underground Storage Tank Trust Fund financing rate applicable under paragraph (2) shall be 0.05 cent per gallon.

"(ii) Qualified methanol or ethanol fuel.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(iii) Termination.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(B) Natural gas-derived methanol or ethanol fuel.—

"(i) In general.—In the case of natural gas-derived methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.75 cents per gallon, and

"(II) the deficit reduction rate applicable under paragraph (2) shall be 1.25 cents per gallon.

"(ii) Natural gas-derived methanol or ethanol fuel.—The term 'natural-gas derived methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(C) Other fuels containing alcohol.—

"(i) In general.—Under regulations prescribed by the Secretary, in the case of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), the Highway Trust Fund financing rate applicable under paragraph (2) shall be the comparable rate under section 4081.

"(ii) Later separation.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which clause (i) applies, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(iii) Termination.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(D) Liquefied petroleum gas.—The rate of tax applicable under paragraph (2) to liquefied petroleum gas shall be determined without regard to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.

"(5) Exemption for off-highway business use.—No tax shall be imposed by paragraph (1) on liquids sold for use or used in an off-highway business use (within the meaning of section 6420(f)).

"(b) Noncommercial Aviation Gasoline.—

"(1) In general.—There is hereby imposed a tax on gasoline—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation unless there was a taxable sale of such gasoline under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed by section 4081.

"(2) Rate of tax.—The rate of the tax imposed by paragraph (1) on any gasoline is the excess of 15 cents a gallon over the sum of the Highway Trust Fund financing rate plus the deficit reduction rate at which tax was imposed on such gasoline under section 4081.

"(3) Noncommercial aviation.—For purposes of this subsection, the term 'noncommercial aviation' means any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Such term includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) Exemption for fuels containing alcohol.—No tax shall be imposed by this subsection on any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)).

"(5) Exemption for certain helicopter uses.—No tax shall be imposed by this subsection on gasoline sold for use or used in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

"(6) Registration.—Except as provided in regulations prescribed by the Secretary, if any gasoline is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this subsection that a tax imposed by this subsection applies to the sale of such gasoline unless the purchaser is registered in such manner (and furnished such information in respect of the use of the gasoline) as the Secretary shall by regulations provide.

"(7) Gasoline.—For purposes of this subsection, the term 'gasoline' has the meaning given such term by section 4082.

"(8) Termination.—Paragraph (1) shall not apply to any sale or use after December 31, 1995.

"(c) Exemption for Farm Use.—

"(1) In general.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes (determined in accordance with paragraphs (1), (2), and (3) of section 6420(e)).

"(2) Termination.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, paragraph (1) shall not apply after September 30, 1999.

"(d) Exemptions for State and Local Governments, Schools, Exportation, and Supplies for Vessels and Aircraft.—

"(1) In general.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use, or used, in an exempt use described in paragraph (4), (5), (6), or (7) of section 6420(b).

"(2) Termination.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, after September 30, 1999, paragraph (1) shall not apply to exempt uses described in paragraph (4) and (5) of section 6420(b).

"(e) Exemption for Use by Certain Aircraft Museums.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used in an exempt use described in section 6420(b)(11)."

(b) Certain Additional Purchasers of Fuel Treated as Producers.—

(1) In general.—Subparagraph (C) of section 4092(b)(1) is amended to read as follows:

"(C) Reduced-tax purchasers treated as producers.—Any person to whom any fuel is sold in a sale on which the amount of tax otherwise required to be paid under section 4091 is reduced under section 4093 shall be treated as the producer of such fuel. The amount of tax imposed by section 4091 on any sale of such fuel by such person shall be reduced by the amount of tax imposed under section 4091 (and not credited or refunded) on any prior sale of such fuel."

(2) Conforming amendment.—Subsection (b) of section 4093 is amended by inserting "(as defined in section 4092(b) without regard to paragraph (1)(C) thereof)" after "producer".

SEC. 4802. REVISION OF FUEL TAX CREDIT AND REFUND PROCEDURES.

(a) Refunds to Certain Sellers of Diesel Fuel and Aviation Fuel.—

(1) In general.—Paragraph (2) of section 6416(b) is amended by striking "4091 or 4121" and inserting "4121 or 4091; except that this paragraph shall apply to a person selling diesel fuel or aviation fuel for a use described in the first sentence if such person meets such requirements as the Secretary may by regulations prescribe".

(2) Limitations on amount of tax only highway trust fund financing rate to be refundable.—Paragraph (2) of section 6416(b) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to the taxes imposed by sections 4081 and 4091 with respect to any use to the same extent that section 6420(a) does not apply to such use by reason of paragraph (1) or (2) of section 6420(c)."

(b) Consolidation of Refund Provisions; Repeal of Consent Requirement for Refund of Fuel Taxes to Cropdusters, Etc.—Section 6420 (relating to gasoline used on farms) is amended to read as follows:

"SEC. 6420. CERTAIN TAXES ON FUELS USED FOR EXEMPT PURPOSES.

"(a) In General.—Except as otherwise provided in this section, if any fuel on which tax was imposed under section 4041, 4081, or 4091 is used in an exempt use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel the amount equal to the aggregate tax imposed on such fuel under such sections.

"(b) Exempt Uses.—For purposes of this section, the term 'exempt use' means—

"(1) in the case of diesel fuel, use other than as a fuel in a diesel-powered highway vehicle or a diesel-powered motorboat,

"(2) in the case of aviation fuel, use other than as a fuel in an aircraft,

"(3) in the case of gasoline or aviation fuel, use in an aircraft other than in noncommercial aviation (as defined in section 4041(b)),

"(4) use by any State, any political subdivision of a State, or the District of Columbia,

"(5) use by a nonprofit educational organization (as defined in section 4221(d)(5)),

"(6) export,

"(7) use as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)),

"(8) use on a farm for farming purposes (within the meaning of subsection (e)),

"(9) use in an off-highway business use (within the meaning of subsection (f)),

"(10) use in qualified bus transportation (within the meaning of subsection (g)),

"(11) use by an aircraft museum (within the meaning of subsection (h)),

"(12) use in a nonpurpose use (within the meaning of subsection (i)),

"(13) use in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met, and

"(14) use in producing a mixture of a fuel if at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)) and if such mixture is sold or used in the trade or business of the person producing such mixture.

"(c) Limitations on Amount of Payment.—

"(1) No refund of leaking underground storage tank trust fund taxes in certain cases.—Subsection (a) shall not apply to so much of the taxes imposed by sections 4081 and 4091 as are attributable to a Leaking Underground Storage Tank Trust Fund financing rate in the case of—

"(A) fuel used in a train, and

"(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

"(2) No refund of deficit reduction tax on diesel fuel used in trains.—Subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to a deficit reduction rate in the case of diesel fuel used in a diesel-powered train.

"(3) No refund of portion of tax on diesel fuel used in certain buses.—

"(A) In general.—Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under subsection (a) with respect to diesel fuel used in qualified bus transportation (within the meaning of subsection (g)(1)) shall be 3.1 cents per gallon less than the aggregate rate of tax imposed on such fuel by section 4091.

"(B) Exception for school bus transportation.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in transportation described in subsection (g)(1)(B).

"(C) Exception for certain intracity transportation.—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

"(i) which is available to the general public, and

"(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

"(D) Qualified local bus.—For purposes of this paragraph, the term 'qualified local bus' means any local bus—

"(i) which has a seating capacity of at least 20 adults (not including the driver), and

"(ii) which is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)) to furnish such transportation.

"(4) Alcohol fuels.—

"(A) In general.—In the case of a fuel used as described in subsection (b)(14) and on which tax was imposed at regular tax rate, the rate of tax taken into account under subsection (a) with respect to the fuel so used shall equal the excess of the regular tax rate over the incentive tax rate.

"(B) Regular tax rate.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(C) Incentive tax rate.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(D) Termination.—This paragraph shall not apply with respect to any mixture sold or used after September 30, 1995.

"(5) Gasohol used in noncommercial aviation.—If—

"(A) tax is imposed by section 4081 at the rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

"(B) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(b)),

the payment under subsection (a) shall be equal to 1.4 cents (2 cents in the case of gasohol none of the alcohol in which consists of ethanol) per gallon of gasohol so used.

"(d) Time for Filing Claims; Period Covered.—

"(1) General rule.—Except as provided in paragraphs (2) and (3), not more than one claim may be filed under this section by any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) Exceptions.—

"(A) In general.—If as of the close of any quarter of a person's taxable year, $750 or more is payable under this section to such person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter or any prior quarter of such taxable year (and for which no other claim has been filed), a claim may be filed under this section with respect to fuel so used (or qualified diesel powered highway vehicles so purchased).

"(B) Time for filing claim.—No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

"(3) Special rule for gasohol credit.—

"(A) In general.—A claim may be filed for gasoline used to produce gasohol (as defined in section 4081(c)(1)) for any period—

"(i) for which $200 or more is payable by reason of subsection (b)(14), and

"(ii) which is not less than 1 week.

"(B) Payment of claim.—Notwithstanding subsection (a), if the Secretary has not paid a claim filed pursuant to subparagraph (A) within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

"(e) Use on a Farm for Farming.—For purposes of subsection (b)(8)—

"(1) In general.—Fuel shall be treated as used on a farm for farming purposes only if used—

"(A) in carrying on a trade or business,

"(B) on a farm situated in the United States, and

"(C) for farming purposes.

"(2) Farm.—The term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(3) Farming purposes.—Fuel shall be treated as used for farming purposes only if used—

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

"(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

"(C) by the owner, tenant, or operator of a farm, in connection with—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

"(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

"(4) Certain farming use other than by owner, etc.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the fuel, except that

"(B) if the person so using the fuel is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the fuel, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such fuel on a farm for farming purposes.

"(f) OFF-HIGHWAY BUSINESS USE.—For purposes of subsection (b)(9)—

"(1) IN GENERAL.—The term 'off-highway business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(B) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(2) USES IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(A) a vessel employed in the fisheries or in the whaling business, and

"(B) a motorboat in the active conduct of—

"(i) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(ii) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation.

"(g) QUALIFIED BUS TRANSPORTATION.—For purposes of subsection (b)(10)—

"(1) IN GENERAL.—Fuel is used in qualified bus transportation if it is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)).

"(2) LIMITATION IN THE CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

"(h) USE BY AN AIRCRAFT MUSEUM.—For purposes of subsection (b)(11)—

"(1) IN GENERAL.—Fuel is used by an aircraft museum if it is used in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

"(2) AIRCRAFT MUSEUM.—For purposes of this subsection, the term 'aircraft museum' means an organization—

"(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

"(B) operated as a museum under charter by a State or the District of Columbia, and

"(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

"(i) USE IN A NONPURPOSE USE.—For purposes of subsection (b)(12), fuel is used in a nonpurpose use if—

"(1) tax was imposed by section 4041 on the sale thereof and the purchaser—

"(A) uses such fuel other than for the use for which it is sold, or

"(B) resells such fuel, or

"(2) tax was imposed by section 4081 on any gasoline blend stock or product commonly used as an additive in gasoline and the purchaser establishes that the ultimate use of such blend stock or product is not to produce gasoline.

"(j) ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (d), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $102, or

"(B) in the case of a truck or van, $198.

"(4) ORIGINAL PURCHASER.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) EXCEPTION FOR CERTAIN PERSONS NOT SUBJECT TO FUELS TAX.—The term 'original purchaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) TREATMENT OF DEMONSTRATION USE BY DEALER.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) VEHICLES TO WHICH SUBSECTION APPLIES.—This subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1995.

"(6) BASIS REDUCTION.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.

"(k) INCOME TAX CREDIT IN LIEU OF PAYMENT; OTHER SPECIAL RULES.—

"(1) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

"(A) PERSONS NOT SUBJECT TO INCOME TAX.—Payment shall be made under this section only to—

"(i) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(ii) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a payment of a claim filed under paragraph (2) or (3) of subsection (d).

"(C) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—

"For allowances of credit against the income tax imposed by subtitle A for fuel used by the purchaser in an exempt use, see section 34.

"(2) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax with respect to which a payment is claimed under this section shall, insofar as applicable and not inconsistent with this section, apply in respect of such payment to the same extent as if such payment constituted a refund of overpayments of such tax.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(3) COORDINATION WITH SECTION 6416, ETC.—No amount shall be payable under this section to any person with respect to any fuel if the Secretary determines that the amount of tax for which such payment is sought was not included in the price paid by such person for such fuel. The amount which would (but for this sentence) be payable under this section with respect to any fuel shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any other provision of this title, to any person with respect to such fuel.

"(4) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(l) FUELS—For purposes of this section, the terms 'gasoline', 'diesel fuel', and 'aviation fuel' have the respective meanings given such terms by sections 4082 and 4092.

"(m) TERMINATION.—Except as otherwise provided in this section, this section shall not apply to any liquid purchased after September 30, 1999. The preceding sentence shall not apply to taxes attributable to any Leaking Underground Storage Tank Trust Fund financing rate."

SEC. 4803. AUTHORITY TO PROVIDE EXCEPTIONS FROM INFORMATION REPORTING WITH RESPECT TO DIESEL FUEL AND AVIATION FUEL.

(a) RETURNS BY PRODUCERS AND IMPORTERS.—Subparagraph (A) of section 4093(c)(4) (relating to returns by producers and importers) is amended by striking "Each producer" and inserting "Except as provided by the Secretary by regulations, each producer".

(b) RETURNS BY PURCHASERS.—Subparagraph (C) of section 4093(c)(4) (relating to returns by purchasers) is amended by striking "Each person" and inserting "Except as provided by the Secretary by regulations, each person".

SEC. 4804. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Sections 6421 and 6427 are hereby repealed.

(2) Section 34 is amended to read as follows:

"SEC. 34. EXCISE TAXES ON FUEL USED FOR EXEMPT PURPOSES.

"There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the excess of—

"(1) the aggregate amount payable to the taxpayer under section 6420 (determined without regard to section 6420(k)(1)) with respect to—

"(A) exempt uses (as defined in section 6420(b)) during such taxable year, and

"(B) qualified diesel-powered highway vehicles purchased during such taxable year, over

"(2) the portion of such amount for which a claim payable under section 6420(d) is timely filed."

(3) Subsection (c) of section 40 is amended by striking "subsection (b)(2), (k), or (m)" and inserting "subsection (a)(4) or (b)(4)"

(4) Paragraph (2) of section 451(e) is amended by striking "section 6420(c)(3)" and inserting "section 6420(e)(3)".

(5) Clause (i) of section 1274(c)(3)(A) is amended by striking "section 6420(c)(2)" and inserting "section 6420(e)(2)".

(6) Sections 874(a) and 1366(f)(1) are each amended by striking "gasoline and special" and inserting "taxable".

(7) Paragraph (2) of section 882(c) is amended by striking "gasoline" and inserting "taxable fuels".

(8) Subsection (b) of section 4042 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(9) Subsection (b) of section 4082 is amended by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(10) Section 4083 is amended to read as follows:

"SEC. 4083. CROSS REFERENCE.

"For provision allowing a credit or refund for gasoline used for exempt purposes, see section 6420."

(11) Subsections (c)(2) and (d)(2) of section 4091 are each amended by striking "section 6427(f)(1)" and inserting "section 6420(b)(14)".

(12) Paragraph (1) of section 4093(c) is amended by striking "by the purchaser" and all that follows and inserting "by the purchaser in an exempt use (as defined in section 6420(b) other than paragraph (14) thereof)."

(13) Subparagraph (C) of section 4093(c)(2) is amended by striking "section 6427(b)(2)(A)" and inserting "section 6420(c)(3)(A)".

(14) Clause (i) of section 4093(c)(4)(C) is amended to read as follows:

"(i) whether such use was an exempt use (as defined in section 6420(b)) and the amount of fuel so used,".

(15) Section 4093 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Use by Producer or Importer.—If any producer or importer uses any taxable fuel, then such producer or importer shall be liable for tax under section 4091 in the same manner as if such fuel were sold by him for such use."

(16) Subsection (f) of section 4093, as redesignated by paragraph (15), is amended to read as follows:

"(e) Cross Reference.—

"For provision allowing a credit or refund for fuel used for exempt purposes, see section 6420."

(17) Section 6206 is amended to read as follows:

"SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE FUEL TAX REFUND CLAIMS.

"Any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if—

"(1) it were a tax imposed by the section to which the claim relates, and

"(2) the person making the claim were liable for such tax.

The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing the claim under section 6420."

(18) Subparagraph (A) of section 6416(a)(2) is amended by striking "(relating to tax on special fuels)" and inserting "(relating to special motor fuels and noncommercial aviation gasoline)".

(19) Paragraph (2) of section 6416(b) is amended—

(A) in the matter preceding subparagraph (A) by striking "subsection (a) or (d) of section 4041" and inserting "section 4041(a)", and

(B) in subparagraph (F) by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(20) Paragraph (9) of section 6504 is amended to read as follows:

"(9) Assessments to recover excessive amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206."

(21) Subsection (h) of section 6511 is amended by striking paragraphs (5) and (6), by redesignating paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) For limitations in the case of payments under section 6420 (relating to certain taxes on fuels used for exempt purposes), see section 6420(d)."

(22) Subsection (c) of section 6612 is amended by striking "6420 (relating to payments in the case of gasoline used on the farm for farming purposes) and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems)" and inserting "and 6420 (relating to certain taxes on fuels used for exempt purposes)".

(23) Subsection (a) of section 6675 is amended by striking "section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes)" and inserting "section 6420 (relating to certain taxes on fuels used for exempt purposes)".

(24) Paragraph (1) of section 6675(b) is amended by striking ", 6421, or 6427, as the case may be,".

(25) Section 7210 is amended by striking "sections 6420(e)(2), 6421(g)(2), 6427(j)(2)" and inserting "sections 6420(k)(3)(B)".

(26) Section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by striking "section 6420(e)(2), 6421(g)(2), 6427(j)(2)," each place it appears and inserting "section 6420(k)(2)(B)".

(27) Sections 7605 and 7609(c)(1) are each amended by striking "section 6420(e)(2), 6421(g)(2), or 6427(j)(2)" and inserting "section 6420(k)(2)(B)".

(28) Paragraph (1) of section 9502(b) is amended by striking "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting "section 4041(b) (relating to taxes on noncommercial aviation gasoline)".

(29) Paragraph (2) of section 9502(d) is amended by striking "fuel used in aircraft" and all that follows and inserting "fuel used in aircraft, under section 6420 (relating to certain taxes on fuels used for exempt purposes)."

(30) Paragraph (1) of section 9502(e) is amended by striking "4041(c)(1) and".

(31) Subparagraph (A) of section 9503(b)(1) is amended to read as follows:

"(A) section 4041 (relating to special motor fuels and noncommercial aviation gasoline),".

(32) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) Certain additional taxes not transferred to highway trust fund.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041, 4081, and 4091 shall be taken into account only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(33)(A) Clause (i) of section 9503(c)(2)(A) is amended to read as follows:

"(i) the amounts paid before July 1, 1996, under section 6420 (relating to certain taxes on fuels used for exempt purposes) on the basis of claims filed for periods ending before October 1, 1995, and".

(B) For purposes of section 9503(c)(2)(A)(i) of the Internal Revenue Code of 1986, the reference to section 6420 shall be treated as including a reference to sections 6420, 6421, and 6427 of such Code as in effect before the enactment of this Act.

(34) Clause (ii) of section 9503(c)(2)(A) is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "taxable fuels".

(35) Subparagraph (D) of section 9503(c)(4) is amended by striking "section 4041(a)(2)" and inserting "section 4041(a)".

(36) Subparagraph (A) of section 9503(e)(5) is amended by striking "section 6427(g)" and inserting "section 6420(j)".

(37) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4041 (relating to special motor fuels and noncommercial aviation gasoline) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such section,".

(38) Subparagraph (A) of section 9508(c)(2) is amended by striking "equivalent to—" and all that follows and inserting the following: "equivalent to—

"(i) amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes), and

"(ii) credits allowed under section 34,

with respect to so much of the taxes imposed by sections 4041, 4081, and 4091 as are attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such sections."

(39) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 34 and inserting the following:

"Sec. 34. Excise taxes on fuels used for exempt purposes."

(40) The table of sections for subchapter B of chapter 31 is amended by striking the item relating to section 4041 and inserting the following:

"Sec. 4041. Special motor fuels and noncommercial aviation gasoline."

(41) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by striking the item relating to section 4083 and inserting the following:

"Sec. 4083. Cross reference."

(42) The table of sections for subchapter B of chapter 65 is amended by striking the items relating to sections 6421 and 6427 and by striking the item relating to section 6420 and inserting the following new item:

"Sec. 6420. Certain taxes on fuels used for exempt purposes."

(43) The table of sections for subchapter A of chapter 63 is amended by striking the item relating to section 6206 and inserting the following new item:

"Sec. 6206. Special rules applicable to excessive fuel tax refund claims."

SEC. 4805. EFFECTIVE DATE.

The amendments made by this part shall take effect on January 1, 1993.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 4811. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) In General.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4812. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) In General.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4813. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) In General.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4814. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) In General.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, or".

(b) Clarification of Authority To Permit Removal of Beer Without Payment of Tax for Use as Distilling Material.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) Removal for Use as Distilling Material.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) Effective Date.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4815. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) In General.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) Conforming Amendments.—

(1) Subsection (a) section 5681 is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Subsection (c) of section 5681 is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4816. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) In General.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

(b) Conforming Amendments.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "UNMERCHANTABLE".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) Effective Date.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4817. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) In General.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

(b) Effective Date.—The amendment made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4818. DOMESTICALLY-PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) In General.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

"(g) Removals for Use of Foreign Embassies, Legations, Etc.—

"(1) In general.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) Other rules to apply.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4819. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) In General.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) Removals for Destruction.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4820. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) In General.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4821. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) In General.—Part II of subchapter G of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) Clerical Amendment.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 5418. Beer imported in bulk."

(c) Effective Date.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 4831. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) In General.—The first sentence of section 4222 (relating to registration) is amended to read as follows: "Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article by or to any person who is required by the Secretary to be registered under this section and who is not so registered."

(b) Effective Date.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 4832. REPEAL OF EXPIRED PROVISIONS.

(a) Piggy-Back Trailers.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) Deep Seabed Mining.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

Subtitle I—Administrative Provisions

PART I—GENERAL PROVISIONS

SEC. 4901. SIMPLIFICATION OF DEPOSIT REQUIREMENTS FOR SOCIAL SECURITY, RAILROAD RETIREMENT, AND WITHHELD INCOME TAXES.

(a) IN GENERAL.—Subsection (g) of section 6302 (relating to deposits of social security taxes and withheld income taxes) is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY, RAILROAD RETIREMENT, AND WITHHELD INCOME TAXES.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection—

"(A) employment taxes attributable to payments on Wednesday, Thursday, or Friday of any week shall be deposited on or before the following Tuesday, and

"(B) employment taxes attributable to payments on Saturday, Sunday, Monday, or Tuesday of any week shall be deposited on or before the following Friday.

"(2) SMALL DEPOSITORS.—

"(A) IN GENERAL.—If any person is a small depositor for any calendar quarter, such person shall make deposits of employment taxes attributable to payments during any month in such quarter on or before the 15th day of the following month.

"(B) SMALL DEPOSITOR.—For purposes of this subsection, a person is a small depositor for any calendar quarter if, for each calendar quarter in the base period, the amount of employment taxes attributable to payments made by such person during such calendar quarter was $12,000 or less. For purposes of the preceding sentence, the base period for any calendar quarter is the 4 calendar quarters ending with the second preceding calendar quarter.

"(C) CESSATION AS SMALL DEPOSITOR.—A person shall cease to be treated as a small depositor for a calendar quarter after any day on which such person is required to make a deposit under paragraph (3).

"(3) LARGE DEPOSITORS.—Notwithstanding paragraphs (1) and (2), if, on any day, any person has $100,000 or more of employment taxes for deposit, such taxes shall be deposited on or before the next day.

"(4) SAFE HARBOR.—

"(A) IN GENERAL.—A person shall be treated as depositing the required amount of employment taxes in any deposit if the shortfall does not exceed the greater of—

"(i) $100, or

"(ii) 2 percent of the amount of employment taxes required to be deposited in such deposit (determined without regard to this paragraph).

Such shortfall shall be deposited as required by the Secretary by regulations.

"(B) SHORTFALL.—For purposes of this paragraph, the term 'shortfall' means, with respect to any deposit, the excess of the amount of employment taxes required to be deposited in such deposit (determined without regard to this paragraph) over the amount (if any) thereof deposited on or before the last date prescribed therefor.

"(5) DEPOSIT REQUIRED ONLY ON BANKING DAYS.—If taxes are required to be deposited under this subsection on any day which is not a banking day, such taxes shall be treated as timely deposited if deposited on the first banking day thereafter.

"(6) EMPLOYMENT TAXES.—For purposes of this subsection, the term 'employment taxes' means the taxes imposed by chapters 21, 22, and 24.

"(7) SUBSECTION TO APPLY ONLY TO REQUIRED DEPOSITS.—This subsection shall not apply to employment taxes which are not required to be deposited under the regulations prescribed by the Secretary under this section.

"(8) REGULATIONS.—The Secretary may prescribe regulations—

"(A) specifying employment tax deposit requirements for persons who fail to comply with the requirements of this subsection,

"(B) specifying circumstances under which a person shall be treated as a small depositor for purposes of this subsection notwithstanding that such person is not described in paragraph (2)(B),

"(C) specifying modifications to the provisions of this subsection for end-of-quarter periods, and

"(D) establishing deposit requirements for taxes imposed by section 3406 which apply in lieu of the requirements of this subsection."

(b) CONFORMING AMENDMENT.—Section 226 of the Railroad Retirement Solvency Act of 1983 is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts attributable to payments made after December 31, 1992.

SEC. 4902. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) Subparagraph (B) of section 3121(a)(7) (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5);"

(2) Subparagraph (B) of section 209(a)(6) of the Social Security Act is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) The second sentence of section 3102(a) is amended—

(A) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(B) by striking "$50" and inserting "$300".

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1992, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid in calendar years after 1992.

SEC. 4903. SPECIAL RULE FOR CORPORATE ESTIMATED TAXES WHERE NO LIABILITY FOR PRECEDING YEAR.

(a) GENERAL RULES.—Paragraph (1) of section 6655(d) (relating to amount of required installments) is amended—

(1) by striking the last sentence of subparagraph (B), and

(2) by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES.—

"(i) Clause (ii) of subparagraph (B) shall apply only if the preceding taxable year was a taxable year of 12 months and the corporation filed a return for such preceding taxable year.

"(ii) If—

"(I) the requirements of clause (i) are met with respect to the preceding taxable year,

"(II) the return for such preceding taxable year does not show a liability for tax, and

"(III) the requirements of clause (i) are met with respect to the second preceding taxable year,

clause (ii) of subparagraph (B) shall be applied by substituting 'second preceding' for 'preceding' and, if the return for the second preceding taxable year does not show a liability for tax, no addition to tax shall be imposed under subsection (a) for the taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4904. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) GENERAL RULE.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end thereof the following new clause:

"(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1990.

SEC. 4905. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 6724(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any statement of the amount of payments to another person required to be made to the Secretary under—

"(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

"(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.)."

(2) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting a comma, and by inserting after subparagraph (S) the following new subparagraphs:

"(T) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(U) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person."

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more in any calendar year" after "distributions".

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end thereof the following new sentence: "No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

"(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722."

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(U)."

(3) Subsection (a) of section 6693 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(T).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1992.

SEC. 4906. USE OF REPRODUCTIONS OF RETURNS STORED IN DIGITAL IMAGE FORMAT.

(a) IN GENERAL.—Paragraph (2) of section 6103(p) (relating to procedure and recordkeeping) is amended by adding at the end thereof the following new subparagraph:

"(D) REPRODUCTION FROM DIGITAL IMAGES.—For purposes of this paragraph, the term 'reproduction' includes a reproduction from digital images."

(b) STUDY.—The Comptroller General of the United States shall conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document. Not later than 1 year after the date of the enactment of this Act, a report on the results of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 4907. REPEAL OF REQUIREMENT TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 6112 is amended by redesignating subsection (c) as subsection (d).

(2) Subsection (c) of section 6111 (as in effect before the amendment made by subsection (a)) is hereby transferred to section 6112 and inserted after subsection (b).

(3) Paragraph (1) of section 6112(b) is amended to read as follows:

"(1) any tax shelter, and".

(4) Subsection (c) of section 6112 (as added by paragraph (2)) is amended by adding at the end thereof the following new paragraph:

"(5) YEAR.—For purposes of this subsection, the term 'year' means—

"(A) the taxable year of the tax shelter, or

"(B) if the tax shelter has no taxable year, the calendar year."

(5) Section 6112 is amended by adding at the end thereof the following new subsection:

"(e) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) rules for the aggregation of similar investments offered by the same person or persons for purposes of applying subsection (c)(4),

"(2) exemptions from the treatment of an investment as a tax shelter, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section in the case of foreign tax shelters."

(6) Section 6707 (relating to failure to furnish information regarding tax shelters) is hereby repealed.

(7) The table of sections for subchapter B of chapter 61 is amended by striking the item relating to section 6111.

(8) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6707.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply with respect to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1986, as in effect on the day before such date) required to be registered under such section 6111 before such date of enactment.

SEC. 4908. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 4909. REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.

(a) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(b) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end thereof the following new subsection:

"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and "(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(c) CONFORMING AMENDMENTS.—

(1) Section 1366 is amended by striking subsection (g).

(2) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(3) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4910. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

PART II—TAX COURT PROCEDURES

SEC. 4911. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4912. AWARDING OF ADMINISTRATIVE COSTS.

(a) RIGHT TO APPEAL TAX COURT DECISION.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) PERIOD FOR APPLYING TO IRS FOR COSTS.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) for reasonable administrative costs only if the prevailing party files an application for such costs before the 91st day after the date on which the party was determined to be the prevailing party under subsection (c)(4)(B)."

(c) PERIOD FOR PETITIONING OF TAX COURT FOR REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 4913. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking "petition" and inserting "motion".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 4914. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

SEC. 4921. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

"(1) joint filing of Federal and State income tax returns,

"(2) single processing of such returns,

"(3) joint collection of taxes (other than Federal income taxes), and

"(4) such other provisions as may enhance joint tax administration.

"(b) SERVICES ON REIMBURSABLE BASIS.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

"(c) AVAILABILITY OF FUNDS.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

"(d) STATE TAX AUTHORITY.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Cooperative agreements with State tax authorities."

TITLE V—TAXPAYER BILL OF RIGHTS

Subtitle A—Additional Safeguards To Protect Taxpayers' Rights

PART I—TAXPAYERS' ADVOCATE

SEC. 5101. ESTABLISHMENT OF POSITION OF TAXPAYERS' ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 is amended by adding at the end thereof the following new subsection:

"(d) OFFICE OF TAXPAYERS' ADVOCATE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayers' Advocate'. Such office shall be under the supervision and direction of an official to be known as the 'Taxpayers' Advocate' who shall be appointed by the President, by and with the advice and consent of the Senate. The Taxpayers' Advocate shall be entitled to compensation at the same rate as the Chief Counsel of the Internal Revenue Service.

"(2) FUNCTIONS OF OFFICE.—

"(A) IN GENERAL.—It shall be the function of the Office of Taxpayers' Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate such problems, and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) ANNUAL REPORTS.—Not later than December 31 of each calendar year after 1991, the Taxpayers' Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on its activities during the fiscal year ending during such calendar year. Any such report shall—

"(i) identify the 20 most serious problems which taxpayers have in dealing with the Internal Revenue Service,

"(ii) contain recommendations for such administrative and legislative action as may be appropriate to resolve such problems, and

"(iii) include such other information as the Taxpayers' Advocate may deem advisable.

Any such report may, before its submission, be furnished to the Secretary for comment, but the final determination of the matters to be included in such report shall be made by the Taxpayers' Advocate.

"(3) RESPONSIBILITIES OF COMMISSIONER OF INTERNAL REVENUE SERVICE.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayers' Advocate."

(b) CONFORMING AMENDMENTS.—Section 7811 (relating to taxpayer assistance orders) is amended—

(1) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayers' Advocate", and

(2) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayers' Advocate".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TRANSITIONAL RULE.—The first appointment by the President of the Taxpayers' Advocate shall be made without regard to the requirement for the advice and consent of the Senate if the individual so appointed is the head of the Office of the Taxpayer Ombudsman on the date of the enactment of this Act.

SEC. 5102. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) Paragraph (2) of section 7811(b) (relating to terms of taxpayer assistance orders) is amended by striking "cease any action" and inserting "cease any action, take any action".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

SEC. 5111. NOTIFICATION OF REASONS FOR TERMINATION OF INSTALLMENT AGREEMENTS.

(a) GENERAL RULE.—Subsection (b) of section 6159 is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy."

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 5112. ADMINISTRATIVE REVIEW OF DENIAL OF REQUEST FOR INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end thereof the following new subsection:

"(c) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for administrative review by the Appeals Division of the Internal Revenue Service of denials of requests for installment agreements under this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5113. RUNNING OF FAILURE TO PAY PENALTY SUSPENDED DURING PERIOD INSTALLMENT AGREEMENT IN EFFECT.

(a) GENERAL RULE.—Section 6651 (relating to penalty for failure to file tax return or to pay tax) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF INSTALLMENT AGREEMENTS UNDER SECTION 6159.—If an agreement is entered into under section 6159 for the payment of any tax in installments, the period during which such agreement is in effect shall be disregarded in determining the amount of any addition under paragraph (2) or (3) of subsection (a) with respect to such tax."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to installment agreements entered into after the date of the enactment of this Act.

PART III—INTEREST

SEC. 5121. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 days (10 days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any notice and demand given after the date 6 months after the date of the enactment of this Act.

SEC. 5122. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended by striking "ministerial act" each place it appears and inserting "ministerial or managerial act".

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended by striking "Assessments" and inserting "Abatement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

PART IV—JOINT RETURNS

SEC. 5131. DISCLOSURE OF COLLECTION ACTIVITIES.

(a) GENERAL RULE.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end thereof the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing of either of such individuals, the Secretary may disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5132. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

PART V—COLLECTION ACTIVITIES

SEC. 5141. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end thereof the following new subsection:

"(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—If the Secretary determines that the withdrawal of a notice of a lien filed under this section would be in the best interest of the taxpayer and the United States, the Secretary may withdraw such notice and this chapter shall be applied as if the withdrawn notice had not been filed. Any such withdrawal shall be made by filing notice thereof at the same office as the withdrawn notice.

"(2) NOTICE TO CREDIT AGENCIES, ETC.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall make reasonable efforts to notify credit reporting agencies, and financial institutions specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe."

(b) RETURN OF LEVIED PROPERTY IN CERTAIN CASES.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end thereof the following new subsection:

"(d) RETURN OF PROPERTY IN CERTAIN CASES.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that the return of such property would be in the best interest of the taxpayer and the United States, the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon; except that no interest shall be allowed under subsection (c)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5142. OFFERS-IN-COMPROMISE.

(a) GENERAL RULE.—Subsection (a) of section 7122 is amended by adding at the end thereof the following new sentence: "The Secretary may make such a compromise in any case where the Secretary determines that such compromise would be in the best interest of the United States.".

(b) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500" and inserting "$50,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART VI—ERRONEOUS AND FRAUDULENT INFORMATION RETURNS

SEC. 5151. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) GENERAL RULE.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number":

(1) Section 6041(d)(1).
(2) Section 6041A(e)(1).
(3) Section 6042(c)(1).
(4) Section 6044(e)(1).
(5) Section 6045(b)(1).
(6) Section 6049(c)(1)(A).
(7) Section 6050B(b)(1).
(8) Section 6050H(d)(1).
(9) Section 6050I(e)(1).
(10) Section 6050J(e).
(11) Section 6050K(b)(1).
(12) Section 6050N(b)(1).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1992 (determined without regard to any extension).

SEC. 5152. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) IN GENERAL.—If any person willfully files a false or fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the false or fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing), and

"(2) the costs of the action.

"(c) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within 6 years after the filing of the false or fraudulent information return.

"(d) INFORMATION RETURN.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.

"Sec. 7435. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to false or fraudulent information returns filed after the date of the enactment of this Act.

SEC. 5153. REQUIREMENT TO VERIFY ACCURACY OF INFORMATION RETURNS.

(a) GENERAL RULE.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) REQUIRED VERIFICATION OF INFORMATION RETURNS.—When making a determination of a deficiency based on an information return filed with the Secretary under chapter 61 by a third party, the Secretary shall take reasonable steps to corroborate the accuracy of such information return when such return is disputed by the taxpayer. Failure to comply with the preceding sentence shall not invalidate any notice of a deficiency or assessment of a deficiency."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART VII—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

SEC. 5161. NO PENALTY IF PROMPT NOTIFICATION OF THE SECRETARY.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by adding at the end thereof the following new subsection:

"(c) PENALTY NOT APPLICABLE WHERE PROMPT NOTIFICATION OF FAILURE.—

"(1) IN GENERAL.—A person shall not be liable for any penalty under subsection (a) by reason of any failure referred to in subsection (a) if—

"(A) such person is not a significant owner, or highly compensated employee, of the trade or business with respect to which such failure occurred,

"(B) such person notifies the Secretary (in such manner as he may prescribe) that such failure has occurred within 10 days after the date of such failure, and

"(C) such notification was before any notice by the Secretary to any person with respect to such failure.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) SIGNIFICANT OWNER.—The term 'significant owner' means—

"(i) any person holding an interest as a proprietor in a trade or business carried on as a proprietorship, and

"(ii) in the case of a trade or business conducted by a corporation or partnership, any person who is a 5-percent owner (as defined in section 416(i)(1)) in such corporation or partnership, as the case may be.

"(B) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' means any employee who receives compensation from the employer at an annual rate in excess of $75,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of failures after the date of the enactment of this Act.

SEC. 5162. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary may disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART VIII—AWARDING OF COSTS AND CERTAIN FEES

SEC. 5171. INTERNAL REVENUE SERVICE EMPLOYEES PERSONALLY LIABLE IN CERTAIN CASES.

(a) IN GENERAL.—Section 7430 is amended by adding at the end thereof the following new subsection:

"(g) PERSONAL LIABILITY OF INTERNAL REVENUE SERVICE EMPLOYEES IN CERTAIN CASES.—In any proceeding in which the prevailing party is awarded a judgment for reasonable litigation costs under this section, the court may assess a portion of such costs against any Internal Revenue Service employee (and such employee shall not be reimbursed by the United States for the costs so assessed) if the court determines that such proceeding resulted from any arbitrary, capricious, or malicious act of such employee."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 5172. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

(a) IN GENERAL.—Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end thereof the following new sentence: "Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of proceedings commenced after the date of the enactment of this Act.

PART IX—OTHER PROVISIONS

SEC. 5181. REQUIRED CONTENT OF CERTAIN NOTICES.

(a) GENERAL RULE.—Subsection (a) of section 7522 (relating to content of tax due, deficiency, and other notices) is amended by striking "shall describe the basis for, and identify" and inserting "shall set forth the adjustments which are the basis for, and shall identify".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices sent after the date 6 months after the date of the enactment of this Act.

SEC. 5182. TREATMENT OF SUBSTITUTE RETURNS UNDER SECTION 6651.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new subsection:

"(h) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

Subtitle B—Form Modifications; Studies

SEC. 5200. DEFINITIONS.

For purposes of this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(2) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(3) TAX-WRITING COMMITTEES.—The term "tax-writing Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART I—FORM MODIFICATIONS

SEC. 5201. EXPLANATION OF CERTAIN PROVISIONS.

(a) GENERAL RULE.—The Secretary shall take such actions as may be appropriate to ensure that taxpayers are aware of the provisions of the 1986 Code permitting payment of tax in installments, extensions of time for payment of tax, and compromises of tax liability. Such actions shall include revising the instructions for filing income tax returns so that such instructions include an explanation of—

(1) the procedures for requesting the benefits of such provisions, and

(2) the terms and conditions under which the benefits of such provisions are available.

(b) COLLECTION NOTICES.—In any notice of an underpayment of tax or proposed underpayment of tax sent by the Secretary to any taxpayer, the Secretary shall include a notification of the availability of the provisions of sections 6159, 6161, and 7122 of the 1986 Code.

SEC. 5202. IMPROVED PROCEDURES FOR NOTIFYING SERVICE OF CHANGE OF ADDRESS OR NAME.

The Secretary shall provide improved procedures for taxpayers to notify the Secretary of changes in names and addresses. Not later than December 31, 1992, the Secretary shall institute procedures for timely updating all Internal Revenue Service records with change-of-address information provided to the Secretary by taxpayers.

SEC. 5203. RIGHTS AND RESPONSIBILITIES OF DIVORCED INDIVIDUALS.

The Secretary shall include in the Internal Revenue Service publication entitled "Your Rights As A Taxpayer" a section on the rights and responsibilities of divorced individuals.

SEC. 5204. PENALTIES UNDER SECTION 6672.

(a) PUBLIC INFORMATION REQUIREMENTS.—The Secretary shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the 1986 Code, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(1) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(2) the development of a special information packet.

(b) BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—

(1) VOLUNTARY BOARD MEMBERS.—The penalty under section 6672 of the 1986 Code shall not be imposed on volunteer members of any board of trustees or directors of an organization referred to in section 501 of the 1986 Code to the extent such members are solely serving in an honorary capacity and do not participate in the day-to-day or financial operations of the organization.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of the 1986 Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of the 1986 Code with regard to honorary or volunteer members of boards of trustees or directors of tax-exempt organizations.

(c) PROMPT NOTIFICATION.—To the maximum extent practicable, the Secretary shall notify all persons who have failed to make timely and complete deposit of any taxes of such failure within 30 days after the date on which the Secretary is first aware of such failure.

SEC. 5205. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary from any taxpayer and the Secretary cannot associate such payment with any outstanding tax liability of such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

PART II—STUDIES

SEC. 5211. PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS.

(a) GENERAL RULE.—The Secretary shall establish a 1-year pilot program for appeals of enforcement actions (including lien, levy, and seizure actions) to the Appeals Division of the Internal Revenue Service—

(1) where the deficiency was assessed without actual knowledge of the taxpayer,

(2) where the deficiency was assessed without an opportunity for administrative appeal, and

(3) in other appropriate circumstances.

(b) REPORT.—Not later than December 31, 1992, the Secretary shall submit to the tax-writing Committees a report on the pilot program established under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5212. STUDY ON TAXPAYERS WITH SPECIAL NEEDS.

(a) GENERAL RULE.—The Secretary shall conduct a study on ways to assist the elderly, physically impaired, foreign-language speaking, and other taxpayers with special needs to comply with the internal revenue laws.

(b) REPORT.—Not later than December 31, 1992, the Secretary shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5213. REPORTS ON TAXPAYER-RIGHTS EDUCATION PROGRAM.

Not later than August 1, 1992, the Secretary shall submit a report to the tax-writing Committees on the scope and content of the Internal Revenue Service's taxpayer-rights education program for its officers and employees. Not later than December 31, 1992, the Secretary shall submit a report to the tax-writing Committees on the effectiveness of the program referred to in the preceding sentence.

SEC. 5214. BIENNIAL REPORTS ON MISCONDUCT BY INTERNAL REVENUE SERVICE EMPLOYEES.

During December of 1992 and during December of each second calendar year thereafter, the Secretary shall report to the tax-writing Committees on all cases involving complaints about misconduct of Internal Revenue Service employees and the disposition of such complaints.

SEC. 5215. STUDY OF NOTICES OF DEFICIENCY.

(a) GENERAL RULE.—The Comptroller General shall conduct a study on—

(1) the effectiveness of current Internal Revenue Service efforts to notify taxpayers with regard to tax deficiencies under section 6212 of the 1986 Code,

(2) the number of registered or certified letters and other notices returned to the Internal Revenue Service as undeliverable,

(3) any follow-up action taken by the Internal Revenue Service to locate taxpayers who did not receive actual notice,

(4) the effect that failures to receive notice of such deficiencies have on taxpayers, and

(5) recommendations to improve Internal Revenue Service notification of taxpayers.

(b) REPORT.—Not later than December 31, 1992, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5216. NOTICE AND FORM ACCURACY STUDY.

(a) GENERAL RULE.—The Comptroller General shall conduct annual studies of the accuracy of 25 of the most commonly used Internal Revenue Service forms, notices, and publications. In conducting any such study, the Comptroller General shall examine the suitability and usefulness of Internal Revenue Service telephone numbers on Internal Revenue Service notices and shall solicit and consider the comments of organizations representing taxpayers, employers, and tax professionals.

(b) REPORTS.—The Comptroller General shall submit to the tax-writing Committees a report on each study conducted under subsection (a), together with such recommendations as he may deem advisable. The first such report shall be submitted not later than December 31, 1992.

SEC. 5217. INTERNAL REVENUE SERVICE EMPLOYEES' SUGGESTIONS STUDY.

(a) GENERAL RULE.—The Comptroller General shall conduct a study of the Internal Revenue Service employee-suggestion programs. Such study shall include a review of the suggestions which were accepted and rewarded by the Internal Revenue Service, an analysis as to how many of the suggestions were implemented, and an analysis of why other suggestions were not implemented.

(b) REPORT.—Not later than December 31, 1992, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Is there a Member opposed?

Mr. CRANE. Mr. Chairman, I am in opposition.

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. ROSTENKOWSKI. Mr. Chairman, the Democratic substitute provides a clear alternative to both the President's original tax proposals and the Republican substitute

The Democratic substitute is more fully described in Ways and Means Committee Print 102-35, the technical explanation of H.R. 4287, available from the U.S. Government Printing Office. This technical explanation is to be considered the legislative history of H.R. 4287.

One word summarizes our substitute: Fairness.

When the substitute passes, our tax system will be more fair and progressive. Middle-class people—the economic bedrock of America—will pay less. The richest 1 percent of all Americans will pay more.

Only within the beltway do people claim that a $400 tax cut is trivial. For my constituents in Chicago and millions like them around the country, $800 over the next 2 years means a lot.

Earlier in the debate, I heard one Republican Member describe our middle-class tax relief as equivalent to a candy bar a day. But when you're sitting around the kitchen table trying to figure out how to pay your family bills, 800 bucks means a lot. It will help make a car payment, or buy a month's groceries, or a new washing machine, or pay on a student loan. These things are not trivial at all to middle-class people who are being squeezed.

These are hard-working people—trying to pay their bills and make ends meet. They are the victims of the recession and the victims of the neglect of the last 12 years. Many of them fear losing their jobs. Millions of them are already out of work. Millions more have taken part-time jobs because they have no alternative. Tell them that $800 doesn't mean anything.

The tax relief in the Democratic substitute provides the broadest possible relief to the middle class. Over 80 percent of the American people—92 million taxpayers and their families—would benefit.

We have just defeated the Republican substitute, as endorsed by President Bush, because it contained tax cuts in five figures for the rich, and gave nothing to the middle-class. That is not what we are about. Democrats have come up with a substitute to help middle-class Americans, not the wealthy.

Let's be clear whose taxes will be raised under the Democratic substitute. The middle-class tax cut is financed by increased taxes only on the wealthy—the richest 1 percent of our population. And that is only fair. The substitute adds a new top rate of 35 percent for individuals with incomes over $100,000, and couples with incomes over $185,000.

We also add an additional 10-percent surtax on millionaires. The substitute also says that a business cannot pay an executive more than $1 million and deduct it. Why should the enormous salaries paid to business executives be subsidized by middle-class Americans who are struggling to pay their bills and many of whom are out of work? I know how the people in the neighborhoods of Chicago feel about that.

My Republican colleagues say taxing millionaires is wrong. We Democrats say: It is only fair.

Let me emphasize once again: The permanent tax increases in the Democratic substitute only tax the top 1 percent of all taxpayers in the country. No one who makes less than $100,000 will pay more.

The revenue generated by the increased taxes on the wealthy will also fund several important incentives to create jobs, and promote economic growth and investment. Economic growth and prosperity is not a partisan issue.

The Democratic substitute also promotes fairness by ending the taxation of illusory gains that are actually nothing more than inflation. In addition, the Democratic substitute targets a 50-percent exclusion for certain venture capital investments to encourage investment in growth-oriented businesses that help create jobs.

The Democratic substitute also helps real estate, farmers, and small businessmen—by liberalizing the real estate passive loss rules, the minimum tax and depreciation allowances, and allowing small businessmen and farmers to writeoff up to $25,000 of new equipment in each of the next 2 years.

In addition, the Democratic substitute contains many important provisions that were left out of the Republican substitute, but which are supported by hundreds of Members on both sides of the aisle:

Some 239 Members have sponsored a permanent R&D credit—it's here in the Democratic substitute.

Some 331 Members have sponsored a permanent credit for low-income housing—it is here in the Democratic substitute.

Some 397 Members have sponsored a permanent mortgage bond program—it is here in the Democratic substitute.

Some 283 Members have sponsored a permanent targeted jobs credit—it is here in the Democratic substitute.

Some 308 Members have sponsored a permanent exclusion for employer-provided education—once again it's here in the Democratic substitute.

Some 326 Members have sponsored passive loss relief—it is here in the Democratic substitute.

Some 217 Members have sponsored a permanent small issue, farmer bond program—it is here in the Democratic substitute.

Hundreds of you support the taxpayer bill of rights—it's here in the Democratic substitute.

The Democratic substitute also establishes urban enterprise zones and rural investment zones to encourage revitalization of our towns and communities.

Finally, the Democratic substitute repeals most of the luxury taxes that have generated considerable controversy and criticism. These luxury taxes were included in the 1990 budget agreement only because the President rejected broad tax increases on the wealthy that would have been simpler and fairer. The Democratic substitute only reaffirms our past position and traditional principles.

Unlike the Republican substitute that we've already rejected, the Democratic substitute will decrease the deficit by $14 billion over the next 6 years under congressional scoring. Under the administration's own scoring, the Democratic substitute would decrease the deficit by $35 billion. It's high time, Mr. Chairman, we stop passing off debts to our children and grandchildren. Deficit reduction is essential for our Nation's long-term economic growth and prosperity.

Mr. Chairman, I urge my colleagues to support the Democratic substitute and make the tax system fairer for middle-class Americans across the country. They are the economic bedrock of our Nation and the hardest hit by the current recession. Most important, they have been neglected long enough—12 long years—by successive Republican administrations. This is their turn. Vote for the working men and women of America. Vote for the Democratic substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. ARCHER. Mr. Chairman, over the past several days, I have tried to think positively about passing a bill the President can sign into law, one which will get this economy moving and put Americans back to work.

I have tried to seek bipartisan cooperation. I truly believed that we had some hope for compromise, given the agreement which clearly exists on the President's March 20 initiative. I am about to get discouraged.

If the Rostenkowski substitute prevails, we cannot possibly have a bill signed into law by the end of March. This measure is not an effort at compromise. It is a train engineered to go nowhere.

The President has to veto anything that looks like this, not because it is not what he proposed, but because it represents the wrong thing to do if we are concerned about jobs and economic growth in this country.

When you strip away all the rhetoric, the Rostenkowski substitute is nothing more than a good old-fashioned tax increase.

It proposes $93 billion in permanent tax increases over the next 6 years to pay for temporary election year tax cuts for some, but not all, taxpayers. In contrast, the President's plan does not raise taxes by $1.

The Democrats temporary 2-year tax credit amounts to so little it will not be noticed in a worker's pay check. The amount of 27 cents a day per person in a family of four won't stimulate the economy.

It will be of no help to those unemployed workers who are paying taxes on their benefits, to millions of senior citizens living on their savings and Social Security benefits, or to State and local government employees who are not covered by Social Security.

But the tax increases to pay for it will hit a lot of American families and small businesses hard. And what will happen after these 2 years? Will Congress raise taxes on middle-income Americans in an election year in 1994 by allowing this temporary reduction to expire? Not likely but when they continue the reduction they'll have to pay for it with even more tax increases.

The Joint Committee on Taxation estimates that the Democrats 30-percent tax bracket would then have to begin at $38,400 for a single person and $64,000 for a married couple. Those thresholds for the 35-percent tax rate are below the levels where the current 31-percent rate takes effect. Do not be fooled. Tax increases on a larger and larger portion of middle-income families are just around the corner.

I object to the Democrats tax bill not just because it has higher tax rates. It contains a number of other provisions which are just as wrong. For example, the Democrats increased the 35-mile test for moving expense deductions, hurting those who must move to take a new job.

They are going to raise $500 million from people who have to move to find new employment. I guess that's the Democrats' idea of a jobs bill. Their substitute also fails to provide badly needed help for real estate.

The President proposed a $5,000 tax credit for first-time homebuyers. They left it out for reasons I still don't understand. It would create 700,000 jobs and help many American families fulfill their dreams of owning their own homes.

Instead, the Democrat alternative would depress real estate values by lengthening the depreciation schedules for commercial property from 31½ to 40 years, and residential real estate from 27½ to 31 years.

They would also extend the limitation on itemized deductions and the phaseout of personal exemptions, resulting in real top marginal rates in excess of 40 percent. This is a direct assault on the deduction of mortgage interest and real estate taxes.

One of the most outrageous aspects of the Democrat's substitute is that it destroys the fiscal disciplines of the budget law.

It loses over $30 billion in the first 2 years by their own scorekeeping. The law that says we must pay as we go is thrown out the window.

They destroyed that precious discipline of the 1990 Budget Act because the Democrat plan could not comply with the law without triggering a massive cut in entitlement programs.

According to the National Center for Policy Analysis, there is a sad consequence to this substitute's policies that increase taxes and throw fiscal discipline to the wind.

Instead of creating jobs and economic growth, it would actually lead to a net loss of more than 100,000 jobs over the next 6 years.

Unfortunately, our best hope for enacting a real jobs bill is to defeat the Rostenkowski substitute. Let us go back to the Ways and Means Committee where this time we can work together to craft a bill the President can sign into law. Moving this substitute forward according to some politically motivated veto strategy is only going to delay getting Americans back to work.

We can do better than that.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FAZIO].

□ 1310

Mr. FAZIO. Mr. chairman, when House Democrats began fashioning our economic recovery bill, we based our efforts on three principles:

First, we wanted to provide tax relief to the middle class.

Second, we wanted to provide additional incentives for savings and investment.

And third, we wanted to do it all without adding to the crushing Federal deficit.

We have accomplished each one of these goals. The program that the Democrats bring to the floor today is a strong first step toward regaining our economic strength. It is a solid down payment on correcting our past mistakes, the riverboat gamble of supply side economics, and it lays the groundwork for our long-term recovery.

But we compromised where possible. We even compromised on capital gains. A lot of Democrats do not like it, but we are moving this country forward. We need to compromise. It is required that we reach agreement.

So we indexed capital gains to inflation.

We have also repealed some of those luxury taxes that Republicans cannot stand. But we stuck to our bedrock principles, it is true, on the question of tax fairness, on asking millionaires to pay a little extra so people who sit up nights worrying about how to make ends meet, do not have to worry any longer. We have stuck to our guns because they deserve to be heard here and represented.

Mr. ARCHER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for yielding this time to me. Mr. Chairman, I rise in strong opposition to a bill that permanently increases taxes to fund temporary tax cuts, that will force small businesses to lay off employees in order to pay increased taxes required by this bill, and that will increase the deficit, slow the economy, and cost us jobs.

In order to provide a temporary $300 tax cut to some Americans, this proposal would permanently raise taxes on a large segment of the population. It would raise the deficit by at least $30 billion in each of the next 2 years and thereby boost unemployment as the economy slows and more and more jobs are destroyed.

Small business, the backbone of our economy and the key to our recovery, would be severely hurt by this substitute. The significant tax increase on small businessmen and women called for in this measure inevitably would lead to additional layoffs and business closures. To the majority of small business owners who pay taxes at the individual rate, this bill constitutes a body blow that could be fatal in this soft economy.

And, who among us believes for 1 minute that the new tax revenues will be set aside to reduce the deficit in the third year of the plan? Never has Congress shown such discipline. If Congress had, the deficit would not be $400 billion. No, these new tax revenues will then be available to fund new programs, new spending, and a higher deficit.

Mr. Chairman, there are provisions in this bill that I long have supported. Take, for example, the low-income housing tax credit and the favorable tax treatment of mortgage revenue bonds. These are two excellent and relatively low-cost programs that produce important results, namely badly needed affordable housing. The research and development tax credit and favorable treatment for employer-provided educational assistance are two other provisions that I strongly believe will help this country complete more effectively in the 21st century.

Unfortunately, these good programs are lumped in with an enormously expensive raft of flotsam and jetsam that the American people have not asked for. I strongly urge rejection of the substitute and thank my colleague for the time.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. CRANE], a respected number of the Ways and Means Committee.

Mr. CRANE. Mr. Chairman, I want first of all to express appreciation to our minority leader for his valiant efforts here in promoting fiscal and tax sanity on the floor; but perhaps more importantly to make a reference to something that has been unique, I think, to all of our experience for Members serving in this body. Starting last year, for the first time, we have had an honest-to-goodness forthright upfront Socialist serving with us.

Now, we know that we have some fundamental disagreements with socialism as an economic system. It means confiscatory taxes, government-run economies, redistribution of income, the cardinal principles of the Socialist Party platform.

What was interesting was when the left-wing organization, Americans for Democratic Action, recently rated the Congress of the United States on the first session of the 102d Congress, I was proud to see I got a zero on their rating, but the thing that was fascinating was I checked our Socialist collegue's rating. He got a 95.

Now, 39 of our Members on your side of the aisle tied him and 16 of them got 100's. Of course, the ADA applauded that.

Now, I submit to you that there is apparently some confusion on your side of the aisle as to what free markets are about and what direct investment as a means of creating private-sector jobs are about. The proposal before us today does not accomplish that. Quite the contrary, it would have a devastating impact. If you look at the National Center for Policy Analysis breakdown, this proposal we have under debate at the moment would cost us over 100,000 jobs in the next 5 years, whereas the Republican initiative would have increased jobs by almost 600,000 a year.

Admittedly, I come from a partisan perspective. As you know, our great leader was Abraham Lincoln. Let me just quote in conclusion from Abraham Lincoln, because it has counsel in the statement that all of us as Americans should heed. He said:

> You cannot strengthen the weak by weakening the strong. You cannot help small men by tearing down big men. You cannot help the poor by destroying the rich. You cannot lift the wage earner by pulling down the wage payer. You cannot keep out of trouble by spending more than your income. You cannot further the brotherhood of man by inciting class hatreds. You cannot establish security on borrowed money.

To which I say, amen.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I rise in proud support of the chairman's bill. It is not perfect. As I said earlier today, it is silver, not gold, but it could come back as a gold bill. I hope it retains the enterprise zone feature. I hope we add to it universal deductability for IRA's. I would like to see the first-time homebuyer tax credit added to it in conference.

Again, it is a good bill. The gentleman from Illinois should be congratulated for sending over to the conference with the Senate a bill that can be brought back as an even better bill.

Mr. JACOBS. Mr. Chairman will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to my friend, the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I thank the gentleman for yielding to me.

It is an interesting thing, I have served on the House Ways and Means Committee now, I think, for 18 years. I have never found it possible to vote for a substitute or a bill reported by my committee. That is either a good or a bad record, but this time I find a substitute I can and should support, and it is the one the gentleman is speaking in favor of, namely, that of the gentleman from Illinois [Mr. ROSTENKOWSKI].

Hallelujah. There will be more rejoicing in heaven if one sinner repents.

Mr. MAZZOLI. Well, Mr. Chairman, I am sure the gentleman can rejoice in that.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise to strongly oppose the Democrat alternative.

To my Democrat colleagues from Texas, let me tell you a story about one section of your bill. Section 5153, a vital section dealing with taxpayer rights has been changed and you may never live it down.

A hard-working Texas house painter, Ramon Portillo, took on the IRS when they were blatantly wrong. Based on an unverified third party report, the IRS said Portillo earned far more money than he claimed. IRS did nothing to verify the third party's report.

The case went to Tax Court, where the IRS initially won because their determinations are presumed correct, unless the taxpayer can prove his innocence. How can someone prove a negative fact that they never received additional income?

Finally, Ramon Portillo won the day in the U.S. court of appeals where the court found that the IRS should verify its information before taking harsh action against taxpayers.

The Commissioner of the IRS testified before the Ways and Means Oversight Subcommittee in favor of codifying the appeals court decision to require the IRS to verify third party reports. Despite the fact that our subcommittee, on a bipartisan basis, codified the Portillo case, you Democrats added one sentence.

The change was made behind closed doors in secret session. You chose to ignore the appeals court, to ignore the plight of Ramon Portillo, and to perpetrate a fraud on every American taxpayer. You added a sentence, not to codify the Portillo case, but to overturn it. The fine print says that failure by the IRS to comply shall not invalidate any notice or assessment of a deficiency.

In other words, if Ramon Portillo went back to court, the failure of the IRS to corroborate third party reports would not invalidate their claims against him. He would have lost his case.

Behind closed doors, you Democrats have crafted a sham, a fraud, a deception, a lie. While piously claiming to represent the little man you have instead thrown him to the wolves. Shame, shame, shame.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Maine [Mr. ANDREWS].

Mr. ANDREWS of Maine. Mr. Chairman, well, far from a lie, this is a straightforward piece of legislation that does not take an end run around taxation like the boat tax did in years past, but it is straightforward. The boat tax that was in effect during this past year has cost the State of Maine half of our boatbuilding jobs and manufacturing jobs. This bill repeals that unfair boat tax. It decides to tax people straightforward, stand up and be counted, be fair and honest.

The Joint Economic Committee told us that the boat tax resulted in the loss of 7,600 boat manufacturing and retail jobs in 1991. Let us support this bill for being straightforward.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, while I recognize this is not the answer completely to the problem that exists among our unemployed today, what they need is jobs, but I would not want to leave this House of Representatives and not act in support of this substitute bill that is being proposed to us. To leave here without at least coming up with some hard answers to the problem, doing something at least for that depleted middle class, would be a great mistake, so I am all for it, but I want to see it move forward and provide some mechanism for jobs for people who have not reached the middle class yet and have left that stage of our society.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Well, Mr. Chairman, we have all heard the $400 a year tax cut minimized or mimicked, really, on this floor, I guess mostly by the people who do not really need it.

□ 1320

If the President were now proposing such a tax cut as he did once, I think we would see on all the minority Members up here buttons saying "Vote 'yes' on a middle-income tax cut."

Instead, today, we are voting "no."

You know, it is not a question of either/or, growth or equity; middle-income taxpayers need tax equity and everyone in this country needs economic growth. The Democratic package, Mr. Chairman, is the only one that does both plus some deficit reduction. The Republican package is silent on tax equity and on deficit reduction.

So, I urge today support of the Democratic substitute.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. IRELAND].

Mr. IRELAND. Mr. Chairman, I thank the gentleman for yielding time to me.

This is a devastating bill for small business. It raises taxes on 90 percent of small businesses in America.

Mr. Chairman, my colleagues simply cannot have it both ways. They cannot say they are for small business, and then turn around and vote for the Rostenkowski proposal.

That proposal claims to help small business by reducing taxes for corporations, but it will not even touch 90 percent of our Nation's small businesses.

Why? Because they are not incorporated; they pay taxes as individuals.

By raising individual tax rates, the Democrats have, in fact, targeted the most successful and productive small businesses for tax increases.

The result? Fewer jobs from the only job-producing segment of our economy, and slower economic recovery for the country.

What is more, extending for 6 months the right of the self-employed to deduct 25 percent of their health insurance costs is not good enough. The deduction must be raised to 100 percent, the same treatment corporations have enjoyed for years and it must be made permanent.

Mr. Chairman, the Democrat proposal will be devastating to small business: You know it, I know it, small business knows it and the people of this country know it.

Remember, it's easy to go home and pay lip service to small business, but it's voting "no" to the Democrat proposal today that really counts.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. MCGRATH], a member of the committee.

Mr. MCGRATH. Mr. Chairman, this week, I received a letter from an old friend, thanking me for attending an auction at my old Catholic grammar school. The note suggested that the youngsters present looked up to a Member of Congress who had graduated from their school.

I have not received many of those messages lately. More typical is the statement made by an unemployed young father at a recent Ways and Means hearing in the district I represent. He told the district I represent. He told the Committee of the pain his family faced. His wife and he skipped meals, and they could not afford a pair of sneakers for their growing son.

That young man was not seeking a handout or a 50 cents a day tax credit. If he does not find a job this year, he will not even be eligible for the Democrats' tax credit. Maybe next year, the majority will propose a tax credit based on unemployment benefits received.

We cannot afford to redistribute wealth that does not exist. We should be acting to help secure employment and business opportunities for Americans.

At our committee hearings last December, I pointed out several legitimate economic proposals which enjoyed broad bipartisan support. Some of those items are in all three of the competing plans before us and others are pending in the Ways and Means Committee.

A dozen serious capital gains tax reduction proposals have been introduced by Republicans and Democrats over the last year. Some are targeted toward new businesses, venture capital, and long-term investment. Others are broader; all have bipartisan support.

Three hundred twenty-one House Members and 39 Senators have cosponsored legislation to offer relief to real estate investors from the passive loss rules we enacted in 1986; 261 House Members and 78 Senators have supported expanding availability of tax deferred individual retirement accounts.

Penalty-free IRA withdrawals have been proposed for first-time home buyers, higher education, and displaced timber workers. Capital gains exclusions and rollovers are proposed farmers who sell their property. Most Ways and Means members have cosponsored two enterprise zone bills. Half of the House has supported repeal of certain luxury taxes.

Last November, the House unanimously supported renewal of research and development tax credit, the low-income housing tax credit, and a variety of other economic stimulus measures.

My question to this body is why we must bicker when we have so much in common?

Today, we ardently debate economic stimulus packages of $25 to $50 billion over 5 years. At the same time, the Federal Government will take over $400 billion from the economy in 1992 alone, simply to cover the Federal deficit. One year's interest on our national debt is four times higher than the tax relief some are proposing over 5 years. The deficit and accumulated national debt have rendered the Federal Government impotent in providing any true economic stimulus.

This debate will increase public contempt for the House. That problem concerns me far more than losing a 2-day partisan dispute. Our constituents are seeking honest leadership, and we are failing them, with politics as usual.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Tax Fairness and Economic Growth Act of 1992, the Democratic substitute for the President's tax proposals.

The tax bill we pass today must pass three essential tests: It must make the tax system fairer; it must promote economic growth and investment; and it must be fiscally responsible. The President's proposals fail on all three counts while the Democratic package passes these key tests.

The Democratic substitute offers relief to middle-income families who have borne the brunt of the tax policies of the Reagan-Bush years—a refundable tax credit of up to $400 for joint filers, to offset the Social Security and Medicare payroll taxes they have paid. It also waives the penalty for early withdrawals from an IRA for first-time home buyers or for educational or medical expenses.

The bill also helps working families by permanently extending the Mortgage Revenue Bond Program. With homeownership rates declining for the first time in 40 years, especially among young families, this permanent extension is critical for keeping homeownership more accessible and affordable for young families.

The Democratic substitute further provides a tax credit for interest paid on student loans. Ever since we first came to the House in 1987, MARTIN LANCASTER and I have urged passage of the Student Loan Affordability Act, to restore the favorable tax treatment of scholarships and of interest on student loans. I am gratified that the Ways and Means Committee has responded to the 164 cosponsors of this proposal and has included tax credits for student loan interest in the Democratic package.

The bill's economic growth incentives include permanent extension of tax credits for research and development, low-income housing construction, liberalized depreciation and investment tax allowances, altered passive loss rules for active real estate participants, capital gains indexation, and a 50-percent exclusion for gains on venture capital investments in small businesses held at least 5 years.

The small business provisions are particularly critical. These entrepreneurial incentives for small business will ensure that they will have access to capital and can continue to grow. By targeting small business, we will help the job-creating sector of our economy to have a prosperous future.

Some have criticized these capital gains provisions, seeming to forget that this package aims to promote both equity and economic development. I too have criticized the President for portraying a capital gains break as an economic panacea and I too have voted against his ill-considered, one-shot capital gains proposals. But I have consistently said that it was economically desirable to restore a tax differential for capital gains if the provision was targeted toward long-term productive investment and if it was part of a broader package that promoted tax equity and did not increase the deficit. Fortunately, the Democratic package meets these tests.

Finally, a word about fiscal responsibility. The most disappointing aspect of the President's proposed grab bag of tax breaks was the fact that he had no conceivable way of paying for them. All the supply-side, blue-sky projections and the smoke-and-mirrors accounting, including the proposed reliance on accrual accounting, could not disguise this basic and fatal flaw. The Joint Committee on Taxation and Congressional Budget Office estimate that from 1992–97 the President's State of the Union proposals would lose $49 billion, while the official Republican substitute would lose $25.4 billion.

The Democratic substitute, by contrast, pays for all revenue losses from within the Tax Code, thus maintaining the pay-as-you-go principle and the discipline imposed by the 1990 budget agreement. In fact, CBO estimates that the substitute would gain $13.9 billion in revenue over the 1992–97 period, to be applied to deficit reduction.

Our observance of these fiscal constraints have limited the size of our bill. We have refused to get in a bidding war with the White House. We have kept to the high road of fiscal responsibility, recognizing that any economic recovery package that does otherwise will ultimately do more harm than good. But the Democratic package nonetheless manages to make some significant changes in the Tax Code that will offer relief to working Americans, create jobs, and promote the rebuilding of our economy. The Democratic package can make a real difference to our people and our economy, and I urge its passage.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in support of the Democratic substitute. When I first decided to run for this office I traveled my district and heard one overriding message: People wanted real relief from the pressures of a declining economy, expanding tax burden, and stagnant wages. They asked me over and over again, if they sent me to Congress, would I do something for them?

I made a pledge. I told them I would help—that their pain and their suffering were something that I would convey daily to my colleagues. Since then, I have devoted my efforts to delivering their message. When I took office, my first legislative proposal was a bill for middle-class tax relief. At the time I introduced it, almost a year ago, few people believed Congress would ever confront this issue. But the voice of the working middle class was impossible to ignore. The majority leader sat with me in a Connecticut living room and listened to the stories of those who had done everything right, had played by the rules, but found their dreams broken. It is their voice, and the voice of thousands more, that has brought this bill before us today.

Now we have the opportunity to restore people's faith and rebuild their dreams. The Democratic proposal is the first step toward a brighter economic future. It brings the middle class real tax relief. It restores fairness to the tax system, and it pays for itself.

Vote for those who need our help. Vote for those who have suffered for a decade. Vote for those who look to us for help. Vote for the Democratic substitute.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, today I rise in support of the Democratic alternative to H.R. 4210, the Middle-Income Tax Relief and Economic Growth Incentives. I would like to thank the Chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI for his responsiveness to the American people by working tirelessly to bring this alternative to the floor.

First of all, as the gentleman from North Carolina [Mr. PRICE] stated, it meets the three tests. First of all, we all know that there has been a redistribution of income in America. That redistribution over the last 12 years has been from middle America, average working Americans, to the wealthiest 1 percent in our Nation. Now, that is not the Democrats saying that; that is Kevin Phillips, one of the most conservative commentators in America, saying that. And he makes it pretty starkly clear that we have seen a radical shift of resources from middle America.

For the past decade, middle-income American families have seen their economic stability rocked in the face of Reagan-Bush tax policies that have given preferential treatment to the wealthy top percent. The Democratic substitute being offered here today, seeks to give real relief to hard working middle income families and pay for it by having the wealthiest taxpayers pay their fair share.

Some people say 50-cents-a-day or this bit per day; let me tell you that for the average American family making approximately $25,000 to $30,000 a year, they are paying $4,000 in taxes, approximately, ball park figures. This means if they get a $400 reduction, that is 10 percent of their taxes.

I, like many of my colleagues and constituents, was very disappointed when the President addressed this country with his economic growth proposal. It was clear to me, that the immediate task at hand, restoring the peoples confidence in our Government by reinvigorating the economy, was not forthcoming. The President's proposal offers no growth and investment incentives, does little to encourage the purchasing of existing real estate properties, and does not offer small businesses the real mechanisms to stimulate job production.

Further, the President's plan and the Republican substitute does the worst possible harm to the long-term health of this country by adding over $50 billion and $13.9 billion respectively, to the national debt by fiscal year 1997. In stark contrast, the Democratic alternative raises $13.9 billion over the same period of time. The alternative pays for itself.

Have we grown so callous, are we so into being rich that $400, 10 percent of a person's taxes, is something to sneeze at? I think not.

Mr. Chairman, this bill does not have everything I would like in it. I would prefer that a tax credit for first time homebuyers had been included in this bill. I believe that young people today could greatly benefit from a tax cut for purchase of a home. So many young couples struggle with the economic disadvantages to purchasing a home that the long-term benefits of home ownership seems an impossibility.

I think it is important, and very frankly I am going to try to work for it so that in the final bill that is passed and sent to the President, that is going to be in there because I think it is important for stimulus. Nevertheless, this alternative has the best interest of the middle-income family in mind.

The alternative provides a refundable tax credit of up to $400 for joint filers for 20 percent of Social Security and Medicare taxes paid in 1992 and 1993. It offers a home ownership incentive by waiving the penalty for early withdrawals from an IRA account for themselves or for a child. Furthermore, IRA withdrawal penalties will be waived to pay for medical and educational expenses. Students or their parents meeting certain income requirements would be eligible for a nonrefundable tax credit on the interest paid on student loans.

Tax credits due to expire which benefit middle and even lower income individuals would be made permanent by the Democratic substitute. The credits include mortgage revenue bonds, which State and local governments use to provide reduced rate mortgages for low- and middle-income first-time home buyers. The low-income housing tax credit which gives homebuilders and property owners the incentive to provide housing for low-income tenants. Employers who hire certain workers such as economically disadvantaged youths or people with disabilities will be eligible for the permanently extended targeted job tax credit.

The substitute further indexes the $125,000 exclusion for capital gains on the sale of a principal residence for those over 55, and eliminates the age requirement for people with disabilities. Encourages the use of public transportation while granting economic monetary by increasing the amount of employer provided transportation costs employees are able to exclude from income. The Democratic substitute yields all these middle-income benefits and more, by simply requiring that the wealthiest few pay their fair share in taxes.

In the spirit of fairness, the substitute restores tax equity to middle-income families by adding a fourth individual tax bracket of 35 percent for individuals with incomes of approximately $100,000 and $200,000 for married couples. For those fortunate enough to be at the highest rung of the economic ladder, a 10-percent surtax on income over $1 million will be imposed to finance the alternative.

It has become obvious by the mail we have all received that few industries have been able to survive this recession unscathed. When taxes on luxury boats went into effect, the impact on shipbuilders in this country was significant. Boat sales declined drastically and the livelihood of the entire industry chain was jeopardized. The same economic principals can be applied to other luxury retailers whose industries have been hard hit by the downturn in the economy. This legislation recognizes that the people employed in these industries are losing their jobs in droves and, therefore, repeals these taxes.

The Democratic substitute provides many needed incentives to get business back on track and stimulate growth. Over 300 members signed on to passive loss legislation that the President's proposal or the Republican substitute fail to adequately address. The substitute contains the major elements of the passive loss corrections bill which will contribute to the stabilization of rental real estate values.

The capital gains provisions in H.R. 4287 benefit small business by indexing newly purchased assets. Income gauged would be much more reliable so that, real not inflationary gains will be taxed, and taxed at the same 28 percent maximum rate on gains.

Mr. Chairman, we want to dispel the notion that "only the little people pay taxes." We are here today in an effort to ease the pain of the middle-income family, by offering the impetus to revitalize the sagging economy. America deserves no less.

This is a balanced bill, and it is fiscally responsible. It does not add to the deficit. I do agree that the biggest single problem confronting America is the deficit; sucking out $350 billion to $400 billion a year undermines our economic viability.

This bill is the only alternative that really reverses that trend.

Mr. Chairman, I urge my colleagues to support this as the only alternative that we can send to the President that makes sense.

Mr. ARCHER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would simply say to the previous speaker and to the American public, if this Rostenkowski Democrat substitute is fiscally responsible, why did it require a waiver of the Budget Act within its own language? It clearly violates the Budget Act, increases the deficit, or that waiver would not have been necessary.

□ 1330

Mr. Chairman, I yield a minute and a half to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman from Texas [Mr. ARCHER] for yielding this time to me.

Mr. Chairman, as my colleagues know, 2 years ago I heard the very same kinds of speeches that I am hearing today, the very same kinds of speeches, and what did they do when the budget summit agreement was passed? They raised America's taxes $181 billion, that was supposed to control the deficit, and we ended up last year with the largest deficit in U.S. history, $400 billion. And so what do they want to do now? They want to raise taxes again, only this time by $93 billion, and what are they going to give in exchange for it? They are going to give a temporary tax cut to middle-income Americans that will amount to a candy bar a day, a $93 billion tax increase for a temporary candy bar a day, and they say, "It won't raise the deficit."

Put money on this: It will raise the deficit. We are going to go deeper into the hole, and it is going to kill the future generations' ability to survive.

This bill, in my opinion, is wrong. It was wrong 2 years ago; it is wrong now. It will only cause more recession, more deficits, more unemployment, more economic problems, and more heartache. We cannot stand this. We must defeat this bill. No more tax increases, no more deficits.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Chairman, I rise in support of H.R. 4287 to say that there are two hidden jewels in here, and I ask my colleagues to take a look at them.

It does help repair the Federal-State-local partnership that has been tattered over the last 10 years. After hundreds of hours of hearings to which we have listened, Mr. Chairman, we have responded, and there are some good, commonsense provisions in here. State and local governments are big winners, school districts are big winners; two special areas. Small-issuer exception to arbitrage rebate was raised from $5 to $10 million. What does that mean? It means that 250 million additional dollars will be going to State and local governments to put back into schools, roads, bridges, and other infrastructure investments to create jobs and opportunity. It also repeals the 5 percent unrelated and disproportionate use test. Treasury testified that these two provisions will simplify the Tax Code and do no harm to tax policy.

Mr. Chairman, there are two big winners here. I ask support for the bill.

Mr. Chairman, I rise in support of H.R. 4287, the Democratic package to promote tax fairness, economic growth, and much needed simplification of the Internal Revenue Code.

I am particularly pleased the caucus included my proposals to simplify the maze of complex tax rules that State and local governments must comply with when issuing municipal bonds to finance public projects. Since the bill was introduced, I have received a continuous stream of letters from school districts around the country expressing their appreciation.

Specifically, the bill would raise the small-issuer exception to arbitrage rebate from $5 to $10 million. I would be surprised if many of you are very familiar with the archaic operation of the arbitrage rebate rules. Simply, a State or local government earns arbitrage when proceeds of a bond issue are invested in taxable securities while the issuer is awaiting to disburse funds subject to a construction contract. Arbitrage is the difference, or spread, between the tax-exempt rate of interest paid to bondholders and the taxable yield paid on the invested proceeds. The 1986 Tax Reform Act generally requires State and local governments to rebate all the arbitrage they earned to the Federal Government. One exception to the general rule is for small issuers of the tax-exempt bonds, issuers that expected to issue less than $5 million of tax-exempt bonds a year.

In 1989, the Treasury Department issued 250 pages of complex rules to implement the rebate requirement. In many cases, State and local governments are forced to expend tens of thousands of dollars to compute their rebate liability. Small municipalities simply do not have the resources or the expertise to comply with this overly complex set of rules. Consequently, it has become apparent that the $5 million threshold is inadequate. Increasing the small-issuer threshold to $10 million will generate $250 million for State and local governments. Under current law this money would be rebated to the Federal Government. Now, this money can be used by qualified local governments to fund the construction of public projects like schools, bridges and roads. In addition, the provision will save these local governments significant administrative costs.

The second provision repeals the 5-percent unrelated and disproportionate use test, a provision that places a limit on the use of governmental bond proceeds for purposes unrelated to the governmental activities being financed with the bonds. In testifying in support of the proposal, the Treasury Department stated:

> This requirement is often misunderstood by issuers and not easily administrable by the Internal Revenue Service. Repeal would accomplish significant simplification without sacrificing policy objectives.

This provision frees up an additional $200 million for State and local governments which would otherwise be expended for administration costs rather than for use on much needed public projects.

These provisions are two hidden jewels contained in H.R. 4287. While they fall far short of resolving the numerous administrative complexities of issuing public finance, they are an important step in the right direction. I look forward to continuing the process of tax simplification with my Ways and Means colleagues. This process will help to repair the Federal-State-local partnership, a partnership that was sorely neglected during the 1980's. Only then will we be able to meet the many social and economic challenges facing this Nation during the 1990's.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, this bill is not the bill that I wanted, but I am going to support it today because it is a first step toward atoning for the tax sins of the 1980's; $400 a year may not mean much to a millionaire. But I have got news for my friends and my colleagues in this House. It is a mortgage payment for working families, and there are a lot of them in Brookings, OR, and Bend, OR, and throughout this country, and I think we ought to pay attention to them.

Some Republican earlier today said that this substitute is class warfare. Well, let us get this straight. We have had class warfare throughout the 1980's, and the prisoners of war are what remains of the middle class, because they are the victims of the largest shift of revenue from the middle class to the superrich.

This bill's greatest strength is its move toward tax fairness. It is fair because it eases the tax burden on working people and working families. It states that millionaires will pay their fair share with a 10-percent surtax after the superrich have almost doubled their wealth over the last decade. This bill is fair because it limits tax breaks for corporate executives who have been taking multimillion dollar compensation packages while they close plants and throw their workers into unemployment lines. This bill is fair because it allows IRA's to be used for buying first homes or to pay for medical or educational expenses. It helps students pay off their loans. It helps stimulate the real estate market by restoring passive loss provisions.

Make no mistake. Much more needs to be done, and I want to see a $5,000 tax credit for first-time home buyers, and I think we will get that out of conference, but today we have a chance to take a solid first step.

The President challenged this Congress to respond. We are today. Let us start by passing this bill in the interest of fairness.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Chairman, I rise today to urge rank and file members of the majority to ask your colleagues from New Jersey what the voters think about raising taxes in the teeth of a recession.

Before you let your leadership take you down the same road that Gov. Jim Florio took the Democrats down in New Jersey, you should know the answer to this question.

If $2.8 billion in New Jersey State tax increases was unpopular in 1991, then a $90 billion Federal income tax hike is not going to be well received in 1992.

For those who do not fully understand what happened in New Jersey, I would caution you to be very careful.

Those elected officials who confuse tax increases with tax incentives do so at their own risk.

The Democrats on Ways and Means Committee have taken a page from Governor Florio's book. Their proposal is guaranteed to eliminate jobs, turn the lights out on growth, and raise taxes, just like Governor Florio did in New Jersey 2 years ago.

The process by which this bill was developed reflects Washington politics, not sound economic policy for the country.

The voters of New Jersey rejected this approach in 1991 and the voters of New Hampshire rejected this approach last week by supporting the only Democrat who said he would veto this bill, if it were presented to him—Paul Tsongas.

This is not an economic growth package. This is a tax bill that will result in the loss of 100,000 jobs and will create a permanent tax increase for all individuals with incomes over $85,000.

And what does the average American receive? Less than a dollar a day and continued uncertainty about the future of their jobs in a stagnant economy.

One of my majority colleagues from California was quoted recently in a national newspaper as saying that he is very uncomfortable with a package that puts money in the pocket of business. Who does he think creates the jobs and keeps our economy moving?

We should defeat this tax bill, which pretends to be an economic growth initiative, but is really a tax bill.

The process that produced this package is the same tired politics that the people are rejecting State by State at the ballot box. How many more States must vote against the status quo before the Democratic leadership in Congress hears the message?

In his State of the Union Message, the President called on Congress to send him an economic growth package by March 20 that would create 500,000 new jobs.

What he will get, if the Democratic leadership works its will here today, is a tax increase bill that will discourage job creation at a time when the single most important issue for the American people is jobs, jobs, jobs.

Mr. Chairman. We should defeat this tax bill, which pretends to be an economic growth initiative, but is not.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Chairman, I rise in support of H.R. 4287, the Democratic economic growth package. We are presently in the longest running recession since World War II. People are hurting. We have serious needs here in the United States. It's essential that we act now. We need to turn our economy around and invest in the long-term growth that will produce jobs for our working families.

We must commit to a national renewal. Right now, we spend more to defend Germany and Japan than they spend to defend themselves. That is wrong! This money should be spent here at home to rebuild our bridges and roads, to renew our education system, to provide affordable health care, and to invest for long-term growth.

The Democratic economic growth package is a step in the right direction. It contains important provisions for job creation, for stimulating economic growth and for making the Tax Code fairer.

Its provisions are building blocks for our economy. It makes permanent many of the expiring provisions—tried and true measures that put people back to work—help people afford health insurance—help first-time home buyers afford a mortgage—help workers continue their education—promote construction of badly needed low-income housing—and promote the research and development which is so essential to economic growth.

This bill also promotes the use of mass transit for a cleaner environment and less traffic congestion on our highways.

A vote for this bill is also a vote to reduce the cost of the S&L bailout—to stop S&L operators from ripping off the taxpayers. It eliminates double dipping—an egregious abuse whereby S&L operators have been taking billions of dollars of tax deductions when they have not lost any money. You and I can't take such deductions and neither should they. The S&L bailout is one of the biggest financial disasters in our Nation's history. It's essential that we act now to put an end to this ripoff.

In short, this bill has many proven measures for combatting the recession, bringing fairness to the Tax Code and getting our country moving again. I urge my distinguished colleagues to vote yes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I would like to express my support of H.R. 4287 and focus for a moment on the bill's provisions on passive losses for real estate. And we've heard during the debate today and from our constituents, we must do something to boost the value of real estate in order to help pull us out of this recession. Under the passive loss provisions in the bill, real estate professionals whose main business is real estate—defined as those who work more than 500 hours per year and over half their time in the real estate business—will be able to deduct losses from real estate against other income. This provision gives real estate professionals the same tax treatment as professionals in other businesses.

It is also important to realize what the bill does not do on passive losses. It does not extend the passive loss provisions to clearly passive investors who may simply be seeking a tax shelter through a real estate investment. The bill's passive loss provisions apply only to existing development and avoids the situation in which we create incentives to overbuild for tax reasons, and not as a result of real market demand. So we provide additional fairness in the tax code for real estate professionals, while at the same time not encouraging tax shelters and the type of overbuilding which could lead to another boom and bust cycle in the real estate market.

Mr. Chairman, my part of the country was, unfortunately, on the leading edge of the drop in real estate values which now afflicts so many other parts of the Nation. We have learned that a fall in real estate values hurts much more than just the real estate sector. As property values fall, the value of collateral held by banks falls, and then bank profitability falls. Before you know it, you have a full-scale credit crunch, and the small businessman, who may have nothing to do with the real estate industry, is having his line of credit revoked or is having a tough time getting a loan from his bank. If, as this bill provides, we do something to increase the value of real estate, we can help ease the credit crunch and spur economic growth.

I have long been an advocate of revision of the harsh passive loss rules that were enacted in 1986. We cut back too much in 1986 and it is clear that the Nation paid a stiff price for it. I am very pleased that the Democratic alternative which we are debating today provides much-needed relief in the passive loss area. The Democratic alternative has many provisions in it which argue for strong bipartisan support. The passive loss provision is certainly one such provision, and I urge my colleagues to support the bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I rise today in support of the Democratic alternative to the President's tax package. I do so with some hesitance because I spent the better part of last year arguing that we should not pursue any tax bill this year. That is also the same message that most economists tried to get through to Congress in hearings held by the Ways and Means and Budget Committees.

Nonetheless, the President has challenged Congress to pass a tax bill by March 20 and I feel we have an obligation to try to meet this deadline. However, we have no obligation to pass without change the President's tax package—a package that reverses many of the gains made by the Tax Reform Act of 1986 and which distributes most of its benefits to the wealthiest families in this country.

The Democratic alternative certainly contains provisions with which I do not agree. That is bound to be the case with any comprehensive tax proposal. Most especially, I question the wisdom of the capital gains indexing provision which centers 69 percent of its benefits on taxpayers earning over $100,000 per year. Yet, there are several reasons why we can feel comfortable with voting for the Democratic alternative.

First, the Democratic proposal provides a tax break for working middle-income families. The Republicans ignore middle-income families now, but promise that the check will be in the mail sometime in the future. The Democrats provide middle-income families a $400 tax break now.

Second, the Democratic plan contains several proposals designed to stimulate economic growth over the long haul. In addition to capital gains indexing which I question, the Democratic proposal does provide a narrowly targeted capital gains tax cut which encourages investment in newly formed businesses.

The Democratic plan also provides a temporary investment tax allowance to encourage investment in machinery and equipment, permanently extends the research and experimental tax credit to encourage the research necessary to put U.S. businesses back in the forefront of product development, and permanently extends the targeted-jobs tax credit to encourage employers to hire those who have the hardest time finding work. All of these proposals were included in the President's package and we Democrats have incorporated them into our package.

Third, the Democratic package is finally responsible. The Democratic package does not rely on accounting gimmicks to give the appearance that it is revenue neutral. The Democrats don't ignore the cost of a reduction in the capital gains tax cut like the President does. Our package recognizes all of the costs of the proposals and pays for them. We pay for them by raising taxes on the wealthiest families in this country.

Last, the Democratic package contains many proposals that continue the effort begun in 1986 to simplify the tax code. Lost in all of the discussion of middle-income tax cuts and economic growth proposals are the various simplification proposals that will make life a little easier for many businesses and families. A taxpayer's bill of rights will ensure that taxpayers get fairer treatment from the IRS.

These proposals are not as sexy as refundable tax credits or alternative minimum tax relief, but they will ease some of the compliance nightmares that taxpayers currently face with the Tax Code. These proposals have been developed with the assistance of the taxpayers affected and, for the most part, have received bipartisan support.

The President challenged Congress to pass his proposals by March 20. We are doing our part today. We have reviewed his proposals, taken those that make sense, and added proposals that we feel must be part of a responsible tax package. Six of the seven proposals the President wants enacted by March 20 are in this bill. Seventeen of the proposals which the President wants to do sometime in the future are in this bill. The Democratic proposal is responsive to the President but it also takes into consideration the concerns and priorities of middle-income Americans.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, it is tragic that these tax bills have now come to be political statements that the parties are going to depose over, but I do hope that for the voters and for the taxpayers they might take a look at these two bills, find out which one tries in some way to make the tax system more equitable by providing refunds to them, try to find out which ones make the targeted jobs credit a permanent one so that it will encourage our entrepreneurs to hire our young, find out which one makes the low-income housing credit a permanent one since this has provided over 90 percent of the low-income housing, and which one has what is called an enterprise zone with a weed and see program to go into the poorer communities and those that are hit the hardest with unemployment, drug addiction and crime, and to weed out those criminals to make certain that our streets are safe, but at the same time to provide educational, health, and recreational benefits for the people that are in these districts using the enterprise zone, which is something that the Secretary of HUD had asked for.

□ 1340

Mr. ARCHER. Mr. Chairman, I yield 1½ minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for yielding time to me. I appreciate the opportunity to rise in opposition to the Democrat alternative.

We can debate economic policy here in the Congress until the cows come home, but, unfortunately for the American people, it is not going to change what the Democrats here in Congress believe. They are going to continue to support legislation that raises taxes and increases spending. What we really need is the kind of incentives to create jobs.

I only have a short minute, so I am going to move to something that has bothered me for some time. Every time we raise this issue of creating incentives to investment we are stuck with this notion, a knee-jerk notion that it is a tax break for the rich.

I want to share with the Members the comments of a lady from my home State, from Dubois, WY, and a rancher that went with them. Here is what they have done: They have owned and operated the Circle Up Camper Court for the last 27 years. Never have they taken out more than $30,000 a year but instead have put their money back into this property. Twila Blakeman writes this:

> We started this business and built it from nothing. For nearly three-quarters of our adult life we have put almost everything we had into this business. This was our savings, our retirement, and our pension plan. Now the government wants one-third of it right off the top.

These are not wealthy people. They are the backbone of the country.

Yesterday I pointed out in the Washington Post that a member of the Democrat leadership said, "I am uncomfortable with a package that puts money in the pockets of business."

Mr. Chairman, that is what creates jobs. I am hopeful that we will provide some relief for these people and people like them who are trying to make and create jobs.

Mr. ARCHER. Mr. Chairman, I yield a minute and a half to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, now that the Democrats have defeated President Bush's economic growth package that he sought in the State of the Union Message, they are bringing to the floor this tax-hiking, job-killing, deficit-creating affront to economic common sense. They call it a middle-class tax cut and a tax increase on the rich.

That is absolutely false. Joe Isuzu could not have done a better job of hogwashing the American people. When the Democrats call this a tax increase on the wealthy, C-SPAN ought to put a little sign under them that says, "He's lying." If false advertising laws applied to the Congress, we could lock them up.

There is no cut in income tax rates for any American in this bill. There is a tax increase on people that the Democrats call the wealthy. A previous Democrat speaker said that this bill will not tax working Americans. They do not consider the wealthy to be working Americans, and they consider the wealthy to be anyone who makes $85,000 a year.

Now, in their speeches sometimes they say they are talking about millionaires, but what they are talking about in this bill is anyone who makes $85,000 a year. Do you own a drycleaners'? Are you own a trucking company? Are you a college teacher? Are you a salesman? You are not a working American, according to the Democrats. Anyone, any small business in America—and I should hasten to add that 90 percent of those small businesses are taxed as proprietorships—anyone who makes $85,000 is the rich.

Who else is taxed by this bill? Are you unemployed and looking for a job? The small business that might hire you is going to be taxed out of business by this bill. When the Democrats say they want to raise taxes on the rich, they mean they want to raise taxes on you.

The CHAIRMAN. The time of the gentleman from California [Mr. COX] has expired.

The gentleman from Illinois [Mr. ROSTENKOWSKI] has 9½ minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 10 minutes and 15 seconds remaining.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I rise in opposition to the substitute.

Mr. Chairman, I rise in opposition to the bill. Since Thanksgiving, committee after committee has taken testimony about the state of the economy. Time and time again witnesses warned against a bidding war.

When each side tries to outdo the other with promises of tax relief or tax fairness, the deficit will grow quickly and dramatically.

If we ignore that threat to deficit reduction today, the economy will slow down even further and yet more people will lose their jobs. It is an act of cruelty to suggest to the American people that we're about to enact legislation that will put them back to work.

The hearings also revealed a consensus as to what Congress should do, and that is to avoid inflicting further damage on the economy. If this bill passes today, we will have to rely upon the Senate to curb our excesses, fix our mistakes. That strategy is riskier than junk bonds.

If this house is going to ignore the recommendations of expert witnesses, why call them in the first place? Why pretend to seek advice from knowledgeable sources when its quite clear that political posturing will be given greater weight than sound economic principles?

The taxpayers' money was spent to hold those hearings and it is quite clear that the money was wasted.

Mr. ARCHER. Mr. Chairman, I yield 1 minute and 50 seconds to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, real fairness means putting economic growth and job creation and enhancing our national productivity and competitiveness before tax equity, which is nothing more than a code word for the politics of envy and class warfare. And make no mistake about it, redistribution of wealth is the Democrats' chief purpose here. They have admitted as much, speaker after speaker.

Their package lacks the incentives for small business, the engine of U.S. economic growth and jobs creation. It would permanently raise taxes on almost 2 million American families to pay for a gimmicky, one-time, election year tax cut of less than $1 a day. If we want tax fairness and an immediate trickle down for the middle-class Americans, we can first restore and expand the tax preferability of IRA investments to encourage savings over consumption, such as Senator BENTSEN and the President have both proposed. We can enact the investment tax credit for first-time home buyers to jump start the economy and allow thousands of Americans to realize the American dream of home ownership, and, last, we can significantly reduce capital gains taxes to help entrepreneurs attract the private venture capital necessary to grow a business or to help an existing small business expand.

Mr. Chairman, we must reject the Democrat proposal that unfairly penalizes success and wealth creation. What possible moral or economic justification can there be to impose higher income taxes on those taxpayers who already pay their fair share of taxes? And when will the liberal professional politicians who run this place, the same ones who resolutely refuse to get serious about wasteful Government spending, deficit reduction, excessive governmental regulation, or congressional accountability and reform, realize that their rich-bashing tax policies will eventually destroy the passion and spirit for achievement that has made America the greatest civilization in human history?

Mr. ARCHER. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has 8½ minutes remaining, and the gentleman from Illinois [Mr. ROSTENKOWSKI] has 9½ minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to remind my colleagues why they should support the Democratic substitute.

Its principal virtue is that it achieves greater fairness for the middle class.

When this substitute passes, our tax system will be more fair and progressive. Middle-class people—the economic bedrock of America—will pay less. The richest 1 percent of all Americans will pay more. We will have returned to the time-honored tradition of taxing people based on their ability to pay.

Middle-class people have been ignored for far too long. They are the people who carry the load and on whose shoulders the greatness of this country lies. For the last 12 years, they have been told to be patient—just wait for the trickle-down miracle to occur. But all they have seen is their income decline and with it, their confidence in the future. That is not what this country is about—but it is very much what this debate is all about.

Democrats and Republicans have fundamentally different views over who should benefit and who should pay. But, we both want a vibrant economy for our country, and a brighter future for our people. We both want a higher standard of living and economic prosperity for our children.

The real issue here is: Who do you trust? Republicans feel that we should cut taxes on the wealthy and trust them to invest in activities that will enlarge the economic pie and create jobs. "Trust the wealthy" they say.

Democrats also want to enlarge the pie and create jobs—but from the bottom up—the way the country was built. "Trust the middle class," we say.

We have crafted a substitute which reflects our values and places our trust in the hard-working, middle-income Americans across this great country.

The wealthy, we say, have had a great ride for the last 12 years—the middle class have had 12 years of neglect. Now, it is their turn.

Stand tall for the middle class. Vote for the working men and women of America. Vote for the Democratic substitute.

Mr. DINGELL. Mr. Chairman, I rise today in reluctant support of the Democratic substitute to H.R. 4210, middle-income tax relief and economic growth incentives. I will vote for this legislation because the American people want us to move this process forward. Our people and their families are suffering. They have had enough talk, and they want action.

In his State of the Union Address, the President set a March 20 deadline for the Congress to pass his economic growth package. The trouble is we do not know what the President's plan is. The House leadership put the plan which the President outlined to the American public on the House floor for a vote. The Republicans were outraged. They refused to vote for it. It went down in flames. Even the President's own Secretary of Housing and Urban Development, Jack Kemp, commented that the proposal was full of accounting gimmicks. The bottomline, though, is that this package was nothing but smoke and mirrors which could not fool the American people.

Then, in an exercise of remarkable fiscal irresponsibility, the Republicans offered their own plan but refused to provide the resources necessary to pay for it. They proposed to increase our Federal budget deficit by more than $25 billion over 6 years by giving more tax breaks to the rich. Full of sound and fury, they insulted the intelligence of the American people by repackaging the same, tired, old trickle-down theories in the guise of growth. My people know better.

I believe that the Democratic substitute is, by far, the best of the three plans offered. In contrast to the two other proposals we have considered, it not only pays for itself, it would save the American taxpayers $14 billion. While it will not do all that I want done to promote the kind of economic growth we need in this country, it will help relieve the tax burden on our middle-income families and create jobs. I would have preferred a package which included greater job creation incentives rather than capital gains reductions.

I had asked that this legislation remove provisions in the Tax Code which discriminate against the sale of automobiles. Current depreciation provisions adversely and unfairly discourage the purchase of automobiles. Removing these provisions would have promoted the purchase of cars for business purposes and restore jobs.

Despite its faults, this legislation is to be credited with restoring a measure of fairness to our tax system. For more than a decade, our middle-class families have watched their purchasing power decrease and their tax burdens increase. Despite continued promises, the tax benefits received by the wealthiest Americans never trickled down to the middle class. This legislation begins to reverse this disturbing trend by raising the top income tax rate to 35 percent, and imposing a 10-percent surtax on millionaires.

My colleagues should support this bill. We must work together to address our Nation's pressing needs.

Mr. LEHMAN of California. Mr. Chairman, every time Congress decides to reinvent the Tax Code, either to simplify it or to provide for so-called economic relief, a great fraud is perpetrated on the American public. I voted against the 1986 tax reform package, not because there were not some very good provisions in it, but because with all of the political gimmicks it included to gain partisan advantage, the middle-income taxpayer ended up the loser. Today, I am voting against all of the economic tax packages for very much the same reason.

Looking at the choices we have been given, it is clear that none of the plans represent a new economic strategy. The Bush plan offers a smorgasbord of tax breaks but offers no way to pay for them, resulting in a deficit increase of $52 billion over 5 years. The Republican alternative includes only those tax breaks recommended in the President's State of the Union Address that benefit the wealthy, costing $25 billion over 5 years in increased deficit spending. The Democratic plan shortchanges the economy to provide 96 cents a day to each taxpayer. While it is deficit neutral, it provides a permanent tax increase as an offset that can only further exacerbate our current economic recession.

Regrettably, there are many provisions in these packages which I am inclined to support. Certainly, a capital gains cut for long-term investment would provide a shot in the arm to many businesses. The permanent extension of tax credits for mortgage revenue bonds, research and development, and low-income housing is something I have always encouraged. Liberalization of investment retirement accounts [IRA's] for first-time homebuyers, education and medical expenses is also a good idea. Incentives for real estate development should be considered. Increased exemptions for families would help those caught in the middle-income budget squeeze. These and other ideas, if packaged together not to appeal to certain partisan interest groups but to bring overall recovery to the economy, could do a lot of good for this country.

Instead, we are offering this country the choice between an increased deficit or higher taxes. These options would do far more to hurt the economy than any tax incentives would do to help it. The great fraud in these tax packages is the long-term price we are paying for a short-term gain. If we really want to help the economy, we need an economic strategy for the 21st century that creates jobs, helps businesses plan for the future, reduces the tax burden of the middle income and keeps Federal spending under control.

The greatest disservice we can do to the American public is to sell them down the river for short-term political gains. At a time when the American public wants less partisanship and more statesmanship, these plans offer the opposite. It is time to put our differences aside and come up with a strategy that helps the economy, not hurts it. I encourage my colleagues to oppose these packages and to ask the Member's of our leadership to go back to the drawing board.

Mr. FORD of Michigan. Mr. Chairman, I rise in support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992, and I urge my colleagues to vote in favor of this Democratic substitute.

I am deeply disappointed that the White House has chosen to play politics with our country's hard times and the suffering of millions of American families. If President Bush would concentrate more on unemployed and hard-pressed Americans than on the 30-second television commercial he plans to run in November, maybe we could work together to break this recession. Unfortunately, the President's plan, which this body just rejected, offered Americans little more than the same supply-side gimmicks that brought on this recession in the first place. The President can talk all he wants about cutting the capital gains tax rate and creating jobs. He can put up as much smoke and as many mirrors as he wants. The people in my district know who vetoed two unemployment benefits bills and who has presided over the worst job creation record in this country's modern history.

Mr. Chairman, 4,000 General Motors autoworkers in my district found out this week that their loyal service to their employer was being rewarded by having their jobs shipped to Mexico. President Bush's use of the economy as a political football is a slap in the face to these hard-working men and women. Unemployed and struggling Americans need a way to pay their bills and feed their families. George Bush has offered them a thousand points of light and more deficit spending.

As chairman of the House Committee on Education and Labor, I am pleased to see that H.R. 4287 includes several important provisions that will benefit students and institutions of higher education.

This bill includes a permanent extension of the exclusion from income of employer-provided educational assistance, a tax credit for student loan interest, and penalty-free withdrawals from individual retirement accounts [IRA's] used to pay for educational expenses.

These provisions will be a major help to students in alleviating the difficult task of financing postsecondary education. The employer-provided educational assistance provision enables employees not to count as income assistance received each year up to $5,250 to cover tuition, books, and fees. This enables many nontraditional students to improve their skills and train for new jobs while working full time. It is also available to laid-off workers affected by plant closings who need to retrain themselves for future employment.

The restoration of the student loan interest deduction in the form of a tax credit for all students in repayment recognizes the fact that a student loan is an investment by the student in his or her future—not a consumption for personal pleasure. This is an important change in tax policy which I believe will help reduce some of the mounting interest former students face today.

The ability to use penalty-free withdrawals from IRA's for education will help many middle-income families help to pay for the cost of education. Many families are struggling to finance postsecondary education for their children. These provisions will help some meet those challenges.

In addition, the bill contains a provision that would end the taxation of appreciated property gifts in the alternative minimum tax [AMT]. The decision to tax these gifts in the AMT has meant the loss of many important donations that would have provided financial aid to students, financed building and laboratory renovation, and endowed academic chairs at institutions of higher education.

Finally, the bill provides for a permanent extension of the research and experimental [R&E] tax credit, including the university basic research credit. Making this provision permanent will provide stability and will be a significant incentive for the private sector to invest in technological innovation.

Mr. Chairman, I support the Democratic substitute, but it is by no means a perfect bill. More needs to be done for the people in my district who are suffering from this recession. While I am pleased that we are finally concentrating on the middle class, what this bill does for the working and middle class is far from what can, and needs, to be done. While I am glad that this bill offers some fairness by placing permanent taxes on the wealthy, I am disappointed that its tax relief for the middle class is so little, and only temporary.

A tax break is good for some, but it does not help the hundreds of thousands of workers in Michigan who cannot find even temporary work. My people need jobs and relief, not tax write-offs. We need to concentrate on the type of job-creating economic programs Franklin Roosevelt used to put this country back to work. We need more public works, but all the President has offered us is more public debt.

I am also disappointed that this bill includes language that repeals the luxury tax on jewelry, boats, and furs, but not on automobiles over $30,000. I do not know many people in my district who are out buying mink coats. I do not know a lot of hard-working people who buy, sell and make cars.

This proposal is not perfect, but it is the only train leaving the station, and I cannot in good conscience vote against it. There are too many worth-while proposals here.

Mr. LEVINE of California. Mr. Chairman, I rise in support of the Democratic substitute tax reform bill.

The American people are justifiably frustrated by the failure of the Bush administration and Congress to pass legislation to respond to our current recession. The President must bear the lion's share of the responsibility for this inaction.

That he denied until this year that we were even in a recession illustrates just how out of touch he is with American economic reality and with the plight of regular hard-working Americans.

I am not so naive as to believe that the bill we have before us today will solve all of our economic problems. The fact is that this recession was 8 years in the making. It is the result of years of misdirected priorities on the part of the Federal Government and a rapidly changing business climate.

For nearly 5 years, I have warned that our failure to encourage adequate investment in plants and equipment, in worker training and in maintaining and modernizing our infrastructure would damage our economic competitiveness. I derive little pleasure from being able to say I told you so.

But, the fact is while business and government accumulated unprecedented levels of indebtedness during the 1980's, that spending was for mergers, acquisitions, and other nonproductive reasons. Little effort was devoted to strengthening our international competitiveness.

Today we take the first steps in righting the wrongs of the 1980's and getting our country back on track. We will help ease the tax burden on the middle class. We will reform the capital gains laws and make other tax changes designed to encourage greater investment. We make permanent the targeted jobs tax credit, one of the most effective Federal jobs programs ever created.

This legislation is not perfect. I do not like the idea of raising anyone's taxes during a recession. We need to keep money in consumer's and investors pockets, not tax it away.

I would have preferred that more be done to ease the tax burden on the middle class. While the $400 credit is a step in the right direction, it is simply not enough to make a significant difference in most families daily lives.

I would prefer a different approach to cutting capital gains taxes. My alternative would institute a sliding scale reduction which encourages long-term investment and discourages speculation and short-term profit taking.

And, the passive loss section of the bill should be extended to all long-term investors in rental real estate.

I overcome these objections because on balance the Democratic alternative recognizes that in order to end the recession and become more competitive in the international marketplace, we need to begin today preparing our economy for the economic battles of the 21st century.

That means increasing our investment in research and development, reinvigorating our housing and construction industries, helping economically depressed communities, and freeing up the long-term capital needed to facilitate the development and commercialization of the high-technology products that will capture tomorrow's trillion dollar global technology markets.

To achieve these goals, Congress must regard this legislation as a beginning, not an end. Congress needs to build on the foundation we lay today, not pass this bill and pretend our problems will all go away.

Our economy is undergoing a number of fundamental changes. While in past recessions, jobs lost would be restored in the future, the majority of the layoffs we have witnessed during this recession represent jobs lost forever.

In my own district thousands of aerospace and defense workers have lost their jobs. It is unlikely that the majority of those who have been laid off will find work in the defense sector.

Earlier this week, General Motors announced that it was laying off 16,000 workers. These are permanent, not temporary layoffs, and are the result of restructuring in our economy.

We, in Congress, need to understand the changes underway in our economy and find innovative ways of dealing with them. In the past I have offered a variety of legislative proposals to deal with these changes and ease the transition of our workers as they move from one job to another.

Among the proposals I have offered are:

Increasing Federal spending on job training. American workers must become lifelong learners. We must adapt to rapidly changing technology and economic conditions. That means we have to do a much better job of teaching working people skills necessary to succeed in the marketplace.

Close loopholes in our tax laws that allow foreign corporations to pay lower taxes than American companies.

Create a Technology Corporation of America [TCA] that will bring together business leaders, Government officials, and entrepreneurs to design an economic game plan for America's future. A TCA would provide both a national strategy as well as badly needed capital to innovative American companies. All of our successful international competitors have economic strategies. We are kidding ourselves if we believe we can be successful without one, too.

Protect vital American companies from being sold to foreign interests. We should give the President greater authority to stop foreign sales which are not in our national security interests and he must be willing to use that authority. We should also require an economic impact statement on important sales to foreign interests.

Reorder our Federal spending priorities. Today we spend 70 percent of Federal R&D on defense projects. We should move quickly to shift that balance to 50–50 percent.

Restructure the Federal Government to deal with the tough international competition of the 21st century. I have proposed that we change the Commerce Department into a Department of Industry and Trade, with a renewed mission to encourage American exports and industrial innovation. Creating a civilian version of the Defense Advance Research Projects Agency would be an important step in the right direction.

Help our defense firms shift to making products which can compete in the private sector. We should provide tax credits to defense companies to invest in new equipment and technologies, and tax credits to businesses which hire displaced defense workers.

Cut the Federal deficit. We must undertake this difficult task as both an economic necessity and a moral obligation to our children.

These are a few of the legislative initiatives I would hope to see from Congress during the current session to strengthen our economy. Their implementation would help get our economy back on track and lay the foundation for the future.

Today our economic preeminence is threatened as never before. The time has come for courageous political leadership.

Mr. HUGHES. Mr. Chairman, there is a crisis in America. Hard-working men and women fear for their jobs, fear for their children's future, and fear that no one in Washington can or will do anything about the economic problems that plague us today.

And I can understand those fears. Back in 1981, the President and many here in Congress offered America a miraculous promise—we'll cut your taxes and spur miraculous economic growth that will pay your bills for you.

Rather than leading us to the promised land of economic growth, this plan has left our economy to drown as the sea of red ink refused to remain parted and crashed down upon us. At the end of fiscal year 1991, the Federal debt stood at $3.67 trillion, interest payments on the debt came to $286 billion—43 percent of general fund revenues—and the annual deficit was $269 billion.

I voted against that 1981 tax cut because common sense told me that it would lead to the debt problem we face today. The one thing that Democrats and Republicans, economists and ordinary citizens, and even Presidents and Congressmen agree would help our economy is reducing the deficit.

The bottom line on all of the proposals before us this week—the President's budget, the Republican alternative, and the Democratic alternative—is that they add too much to our national debt and too few jobs to our economy. As a result, they are all bad for the country.

I believe that what the country needs and what the American people want is strong leadership from Congress and an economic plan that focuses our scarce resources on creating jobs in critical industries. Beyond that, we need a plan for restoring fiscal balance to the Federal budget and our economy—not a 50-cent-a-day tax break for the whole country.

Cutting the deficit makes sense, and it is the best capital investment program this Congress can pass. Every dollar of deficit spending is a dollar that was invested in a Treasury bill instead of in private business. Regrettably, all of the plans before us make the deficit larger, not smaller, and therefore I urge my colleagues to reject all of these proposals and ask the Ways and Means Committee to go back and develop a proposal that reduces the deficit.

Of the three proposals, the Democratic plan has the fewest faults, and there are many good provisions in the Democratic bill that I strongly support. Some of these use relatively inexpensive tax breaks to draw investment to critical areas in our economy, such as the tax exemptions for mortgage revenue bonds and industrial development bonds, the targeted 50 percent reduction in the capital gains tax on venture capital invested in startup companies, the research and experimentation tax credit, the 15-percent increase in first-year depreciation allowances on new equipment, and the increased cap on depreciation writeoffs for small businesses.

Another good provision that I worked hard to get passed is the repeal of the luxury tax on boats. The luxury tax has hurt the boat builders in my district, and repealing it will save jobs and reduce unemployment. Any lost revenue will be replaced by a tax on the diesel fuel that most of the bigger boats use.

The Democratic bill also cracks down on some corporate abuses. It limits the deduction for corporate salaries to $1 million. Companies can pay more to their executives if they want, but they should not be able to write those salaries off as a business expense. The second provision in this area came from a bill authored by my colleague from New Jersey, Representative FRANK GUARINI, to stop double-dipping—a loophole that allows the new owners of failed S&L's to take tax deductions for losses that have already been reimbursed by the Federal Deposit Insurance Program.

More reforms are needed, however. We need to limit the tax deductions that made so many leveraged buyouts possible in the 1980's, and we need to examine our laws that may actually encourage companies to shift jobs from the U.S. mainland to U.S. possessions or low-tax foreign countries. I am cosponsoring a bill, H.R. 4061, that proposes reforms in all of these areas.

Unfortunately, the sound provisions in the Democratic bill account for only a fraction of the cost of the overall plan. The vast majority of the cost of the Democratic bill goes to two items—cutting everyone's taxes by $200 for 2 years and providing across-the-board capital gains indexing. The $200 tax cut alone will add $46 billion to the national debt in 2 years and capital gains indexing may not cost much now, but it will grow increasingly expensive each year.

Despite my objections to the Democratic substitute, I must commend the Ways and Means Committee, for having the courage to raise other taxes to pay for the tax cuts in his bill. The President's budget and the Republican substitute both rely heavily on a bald-faced accounting gimmick for the Pension Benefit Guarantee Corporation to pay for $22 billion of their tax cuts.

While accrual accounting may be more accurate than cash accounting, it does not bring one single dollar of new funds into the Federal Treasury. We are in too much debt already, no matter how you count it. Even with this accounting gimmick, President Bush's own budget proposal for fiscal 1993 would lead to a deficit of $399 billion. Clearly, we cannot afford expensive tax breaks that are not offset by solid revenue raising provisions.

There are also good provisions in the President's bill and the GOP substitute, such as increased equipment depreciation allowances and a narrowly drawn passive loss provision. But I cannot understand why the Republican substitute does not contain measures to stop double dipping by S&L owners and to repeal the luxury tax, which is paid for by taxing marine diesel fuel.

In addition, I wonder why the Republican plan failed to extend the mortgage revenue bond, industrial development bond, research and experimentation credit, and several other important but relatively inexpensive economic growth incentive programs.

Finally, the President's proposal to loosen the current restrictions on investments in real estate by pension funds defy logic and recent history. As chairman of the House Aging Committee's Subcommittee on Retirement Income, I am very concerned that this proposal could lead to speculative or fraudulent investments in real estate that will cripple pension funds the same way those types of investments crippled many of our banks and savings and loans.

With our current deficit situation, we do not have the money to hand out across-the-board tax breaks. We must focus our scarce resources on creating jobs in the industries that will lead our economy into the next century. For example, I strongly support the targeted capital gains exclusion in the Democratic proposal for people who make long-term venture capital investments in small companies. Risk taking of this type creates jobs and provides vital funding to American entrepreneurs. In addition, I am also cosponsoring legislation to increase the depreciation writeoffs for American semiconductor manufacturers because of the intense international competition in this industry and the importance of semiconductors in products ranging from radios to cars to Patriot missiles.

However, all of the plans before us make an expensive mistake by including untargeted, across-the-board capital gains tax reductions that will significantly increase the deficit in the future. As long as we have a deficit, we cannot do much to change the amount of investment capital available, since any investment tax breaks are paid for by the Treasury borrowing the money from other investors.

Not only will these cuts increase the deficit in the future, they could exacerbate serious problems in our banking sector right now. According to the Wall Street Journal, $150 billion was withdrawn from bank and thrift accounts in 1990 while mutual fund deposits increased by $280 billion. At a time when banks are failing and everyone is concerned about the credit crunch from tighter bank lending policies, a generic capital gains incentive will encourage even more people to pull their money out of savings accounts because interest earnings from these accounts are fully taxed.

I hope the House will reject all of these proposals and ask the Ways and Means Committee to draft a new bill that contains the targeted growth incentives in the current bill but rejects the tax giveaways that will make a horrendous deficit even worse. We need a bill that reduces the deficit, repeals the luxury tax on boats, extends the proven growth incentives that are about to expire, relaxes the passive loss rules on real estate without reopening loopholes for tax shelters, and provides targeted tax incentives to create new jobs and make our industries more competitive in the years ahead.

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise in opposition to all three of the tax proposals currently under consideration. While I have supported some of the concepts being proposed today, none of the proposals we will vote on offers American families the type of help they are demanding. What we have here is too much political posturing and too few serious proposals for economic reform. The American public is looking to this body for short-term relief for our economic doldrums and a long-term plan for building a competitive economy. Instead, we have a compilation of quick fixes and budgetary gimmickry which solve nothing, and might actually make matters worse. America is hurting, and they're looking to us for answers.

The economic well-being of the country demands that whatever course we take, we should—above all else—not add anything to the Federal budget deficit. Last year, alone, we ran a $350 billion deficit, pushing the national debt up to $3.825 trillion, and we maintain a structural deficit of $200 billion is not going to come down anytime soon.

But this is not the only deficit facing America. We are also plagued by a domestic deficit of the unmet needs of the country—in education, infrastructure, health care, and social needs. Our Nation cannot afford another reckless tax plan that does not encourage the right kind of incentives in these areas.

The President's proposal, while portrayed as being revenue neutral, uses accounting gimmicks to create a facade of fiscal responsibility. I find this to be the epitome of political cynicism, assuming that the American people will not notice that they are increasing the deficit and paying for it with assumed future revenues. It is this kind of budgetary gamesmanship that tripled the national debt over the last 12 years.

Moreover, the administration's proposal for a reduction in the capital gains rate will not have the desired effect, and may actually result in more taxes to be paid on investments. The proposal taxes recaptured depreciation on real estate in such a way that investors are likely to pay 3 percent more under the administration's proposal than they would under current law. The President's passive loss provision is also very weak. It only applies to a narrow group of developers, not the average real estate professional who is simply trying to make ends meet in a stagnant market.

The real estate industry is the foundation for the tax base of every local community and State government in America. Since the 1986 Tax Reform Act, the industry has been decimated by an unsound tax policy and severe credit crunch. If local economies around the United States are going to rebound we need to make fundamental changes in our tax laws with regard to real estate. Our financial institutions' balance sheets are directly tied to the health and vitality of American real estate. The administration proposal fails to provide the necessary relief to this sector of the economy.

And, while I find certain aspects the Democratic package very appealing, I fear its enactment will do more harm than good. My main concern is that the package does not focus on creating jobs and stimulating growth in this economy. America needs a long-term economic policy that encourages home buying, provides incentives and assistance to send children to college, and creates an investment policy that makes us competitive with the world.

I recognize that we need to build more fairness into our tax code, but I believe we need to do it at a time when the economy is on firmer ground. Raising taxes in the current economic environment is just bad economic policy. It simply does not make sense to take more money out of the private sector to put into the Government coffers. Furthermore, the cost of the proposed temporary tax cut for some taxpayers—which, in all likelihood, will be permanent—is $45 billion over 2 years. Considering the small amount it will put in the pocket of the average American taxpayer—at best, 56 cents a day—it is not worth the increase in the deficit.

If we were to enact this proposal, we would essentially be borrowing $45 billion from our children, so that parents could have $200 to $400 more to spend this year. How many Americans would agree to take a couple hundred bucks from their kids' savings account, and let them pay it back 30 years later with compounded interest?

The Democratic proposal also does not repeal the completely useless user fee on boaters. This hidden tax is not a user fee at all, since boaters receive no service for their fee.

Nonetheless, there are many aspects of the Democratic plan which I support. It repeals the sales tax on boats, which has not hit high-income Americans, but has crippled workers in the boat building and related industries. The plan allows for tax deductions on the interest paid on student loans. It takes a good first step to reducing the capital gains tax rate. The sections related to restoring the passive loss provisions are vital to the real estate industry and are desperately needed. This provision should be passed in some form, this year, regardless of whether we pass a comprehensive tax package.

I still think there are good tax proposals which should be enacted into law, and am very willing to work with my colleagues, on both sides of the aisle, to see that occur. We need a tax credit for first time home buyers, so that young families can begin to attain the American dream and buy that first house. We should offer families a tax deduction for college tuition and student loans, to encourage young Americans to develop the skills they'll need to compete in a global economy. America desperately needs a capital gains rate reduction to spur investment and create new jobs in all sectors of our economy. And, I would support creative ideas to infuse more fairness in the current Tax Code and reverse the terrible inequities that were created in the 1980's.

But these proposals should not be coupled with gimmicks and election year politics. American families are looking to us, today, for responsible leadership. Let's not give them the same politics as usual. Let's surprise the pundits, let's surprise the newspaper editors, let's surprise the American public—let's do the right thing. Mr. Chairman, I urge rejection of these proposals.

Mr. CHAPMAN. Mr. Chairman, the Ways and Means Committee has presented the House with three options for an economic recovery package. One is the complete set of reforms proposed by the President in his State of the Union Message. The second is a slimmed-down version of the President's plan submitted by the House minority leader. The third is a proposal prepared by the Democratic members of the House Ways and Means Committee.

None of the three options is perfect. All have the same intention of stimulating growth, creating jobs and getting the American economy back on the move.

In the State of the Union plan, I like the permanent research and development tax credit. I like the increase in the personal exemption for taxpayers with children. The penalty-free IRA withdrawals for certain purposes is a good idea. But I cannot support the State of the Union package's increase in the deficit of $52 billion over 6 years.

In the House Republican plan, I like the tax credit for first-time home purchases. The plan includes good depreciation reforms. I frankly don't have a problem with any of its incentives for growth, but I don't like the fact that it ignores all of the President's proposals to help ordinary people, like the increased personal exemption. I think its sponsors ought to be ashamed of using budgetary gimmicks, also in the State of the Union plan, to reduce its deficit impact by changing deposit income and the Pension Benefit Guaranty Corporation from a cash basis to an accrual basis. Even with that gimmick, the House Republican plan increases the deficit by $25 billion over 6 years.

In the Democratic plan, I like the real passive loss provision included to put the real estate industry back on its feet. I strongly support the plan's middle income tax relief. I like the indexing of capital gains, and I hope that in the Senate it can be expanded to benefit existing holdings. I am not enamored with any proposal that increases tax rates. But if rate increases are the only method that can be supported by a majority to finance this package, increasing rates on the wealthiest Americans, those most able to pay, is probably the most fair way to go about it. I would personally prefer an import fee on oil and petroleum products, but I understand that proposal does not have the support of a majority at this time.

Most important, of the three options available to this House today, only the Democratic package provides for a deficit reduction of $13.9 billion. Only the Democratic plan attacks the most ominous cloud over the American economy, the Federal deficit.

None of these three proposals is perfect. But only the Democratic package is responsible. Both the State of the Union and the House Republican package increase the deficit. That is irresponsible.

While not perfect, I will support the Democratic alternative. We must move an economic recovery package forward, and I am confident that as this package winds its way through the legislative process, it will continue to improve.

I am also confident that the White House will not negotiate with the Congress until it is apparent that the process is about to reach a conclusion. Look back to last fall. The very Members who today say this bill is doomed said then that the dire emergency supplemental appropriations bill was doomed as well. As it turned out, the administration refused to negotiate until the bill reached conference. And at conference, ureka, a compromise was found and the President signed the bill.

Like last fall, the administration will not negotiate in good faith until this bill reaches conference. I am confident that through the legislative process, a compromise will be reached that will be supportable by all but the most right and left wing in this body. Let's move this process forward and bring an economic recovery package one step closer to real negotiations, one step closer to bipartisan support and one step closer to becoming law.

The American people need help. Let's show them good faith in continuing to make progress toward economic recovery.

Mr. OWENS of Utah. Mr. Chairman, politics and procedure have backed us into a corner. The real point of today's debate is not to pull us out of recession. The contribution of any tax bill we pass now will have only minuscule influence on our current economic distress. The point of today's efforts should be to establish a long-term, progrowth tax policy that will permit the rebuilding of America's manufacturing base, the retooling of our industrial capability and regaining our competitive standing in the world.

I strongly supported many of the President's proposals as outlined in his State of the Union Address. But some of those proposals, such as the tax on annuities, tax on credit unions, and recapture of depreciation, had some fundamental flaws. This was made clear by the resounding rejection of the President's original proposal by his own party. The Republican substitute, in spite of its shortcomings, was the most favorable alternative, in my view, and I take the time now to explain why and urge its passage.

My support for the Democratic substitute is contingent on the expectation that some aspects of the bill can be removed or altered in conference. I am pleased to see that the tax policy under discussion embraces many of the growth-oriented incentives I have advocated for some time. In particular, I strongly support the capital gains reduction, luxury tax repeal, and passive loss revisions of H.R. 4287. In addition, the permanent extension of the targeted jobs and R&D tax credits, as well as other progrowth provisions of the Internal Revenue Code, is long overdue.

But I supported the Republican alternative for a number of reasons. I want to see a $5,000 tax credit for first-time home buyers. I want to see software exempted from the 14-year amortization standard put forth in the Democratic substitute. This software provision is punitive to my State's software industry. We shouldn't cripple one of America's strongest industries in the name of tax simplification. The capital gains provisions of the Republican proposal are more comprehensive and more targeted to a greater portion of our manufacturing base. Ideally, I want to see accelerated depreciation of the costs of investment in all new plant and equipment, and I have today introduced legislation doing just that. In that sense, the Republican alternative doesn't go far enough to encourage investment.

In addition, I am already tired of the class-baiting language that has characterized this year's election-year debate. I want to reduce taxes for middle-income Americans as much as anyone. I do not want to raise anyone's taxes. But if we're going to raise taxes, it makes much better sense to put those revenues toward deficit reduction.

Let's not kid ourselves; this tax cut will not help the economy, and doesn't mean much to middle-income Americans either. Although it would be a symbolic gesture to redress the imbalances and inequities in the Tax Code, it won't really ease the burden. Absent considerable spending cuts, it will significantly increase the deficit without stimulating economic growth. A middle-income tax cut is unquestionably tempting for politicians. But our deficit condition is simply too serious. There will be too much pressure on us to make this tax cut permanent when it expires 2 years down the road.

Will we be willing to raise taxes again in 2 years, once our constituents and the media have entirely forgotten about the piddling middle-income tax cut of the Tax Reform Act of 1992? A tiny election-year gesture is no substitute for real deficit reduction and economic growth. The reduction of taxes on middle-income Americans today makes inevitable a significant tax increase for those same Americans the next few years.

That is not to say, however, that I have no reservations about the Republican package. The accrual accounting financing mechanism is a gimmick, no question about it. The Democratic alternative, in spite of its flaws, more nearly pays for itself in the long term.

But the Republican alternative costs less in its first 2 years, fiscal year 1992 and fiscal year 1993, than does the Democratic alternative. But all we have to do is look at the 1990 budget agreement to see that long term projections always prove overly optimistic. Economic conditions change rapidly. We operate in an ever changing political context. But I don't think that the Congress, media, or our constituents will have the patience to wait for 2 years, much less 5 years, for the revenue projections of the Democratic alternative to run their course. The short-term impact on the deficit will be to push it upward.

Mr. Chairman, our accumulating debt is crippling our economy. It undermines the quality of life for future generations. It is taking needed investment in infrastructure, education and research and development. Mr. Speaker, the deficits of the past generation are not only unfair to our children, they are bad economic policy.

We must eventually start capital budgeting by dividing the Federal budget into capital accounts and operating accounts, the former of which incorporates only growth-oriented Federal spending, the latter of which must absolutely be maintained in balance. We will address this related issue of spending priorities next week, and my vote for the Republican alternative today was consistent with my commitment to fiscal responsibility.

In addition, I supported the Republican substitute for the same reason I will vote for the Democratic alternative—to ensure that the process continues beyond the House of Representatives. Even if we find elements of the Democratic alternative distasteful, as I do, we should not be thinking of this session's special interest group ratings. Let us hold our noses, if we have to, and send it to the Senate and on to a conference committee, where it can be revised and, hopefully, improved.

Mr. Chairman, we must do what best promotes reinvestment in our Nation's economic growth and reduces deficit spending. I have reluctantly concluded that the Republican substitute better meet that standard. But getting some sort of tax incentive bill through the Congress is an important enough priority that it was inappropriate to derail this effort at its inception. I thus will support this bill on final passage, and am confident that further consideration will assure a better, more appropriate piece of legislation.

Mrs. BOXER. Mr. Chairman, for the last 15 years, middle-income working families have incurred an increasingly greater tax burden, while tax cuts enacted during that period benefitted only the very wealthy and the very poor. The fact is that most American families have paid more in taxes than they would have had the Tax Code remained unchanged since 1977.

For this reason, today I am voting in favor of H.R. 4287. It is a vote to restore some measure of fairness to middle-income families. However, it is not the vote that I had hoped to cast today.

I had hoped I would get to cast my vote to provide permanent and more significant middle class tax relief that truly restores equity to the Tax Code. Whether or not today's tax relief bill is signed into law by the President, Congress must soon return to complete its work to restore tax fairness to the middle class.

Mr. ENGEL. Mr. Chairman, the economy of this country is still in the doldrums and Congress needs to enact legislation to restore confidence in our future. As a front page Washington Post story indicated today, consumers are more concerned about the economy than they have been since 1974. The main reason for this is lack of leadership on the part of the administration. Middle class America does not believe the President has their best interests in mind. Looking at the package offered by the President at the State of the Union speech, and his subsequent withdrawal of the sections targeted for the middle class, I don't blame anyone for being skeptical of the President's policy goals.

Mr. Chairman, Congress must step up to fill the leadership void in America. I believe the

Democratic alternative responsibly addresses the economic malaise of our country and does it in a way that takes into account the pressing needs of the middle class. It:

First, provides a tax credit for amounts paid for Social Security by working Americans;

Second, provides a tax credit for interest on college loans that more and more middle class students are forced to take to finance their educations;

Third, waives penalties for early withdrawals from IRA's for first-time home buyers, and for medical and educational expenses;

Fourth, indexes the $125,000 exclusion for capital gains upon sale of a principal residence;

Most importantly, this legislation will reduce the Federal budget deficit by $13.9 billion over the 6-year period ending in 1997. The President's original plan loses $52 billion through 1997 and the second Republican plan loses $25.3 billion through 1997. The Federal budget deficit simply cannot be allowed to grow any larger. It is already eroding our standard of living and choking private investment in this country. The country simply cannot afford the fiscal irresponsibility of the President's plan.

Mr. HOAGLAND. Mr. Chairman, the House today is considering H.R. 4287, the Tax Fairness and Economic Growth Act of 1992, a bill designed to help to put the Nation's skittish economy on the road to recovery. In my home district of eastern Nebraska, we have been fortunate to have a relatively low unemployment rate and a high rate of job creation and growth. But people are worried nonetheless. More and more the economy requires that both parents work just to make ends meet. As cutbacks at Offutt Air Force Base take hold and as Nebraskans see the news of major plant closings elsewhere in the Nation, they fear for their jobs and our prosperity.

The American people have good reason to be worried. The Federal deficit this fiscal year has now ballooned to nearly $400 billion. That means that every taxpayer in America this year is paying $2,000 in interest on the national debt. In the last 3 years, our GNP has grown at the worst real growth rate for any administration since World War II. In the last 10 years, average working Americans have seen their real dollar income gradually reduced. At the same time, our national debt has increased to the unacceptable level of over $3 trillion. To quote from a House Budget Committee analysis, the $3.4 trillion level of debt proposed in the President's fiscal year 1993 budget is "55 percent of gross domestic product, more than double the level of 1980. This will be the highest ratio since 1955."

The huge debt and annual deficits are corroding our economy. The borrow-and-spend policies of the 1980's are bringing our economy to its knees. Corporations and government no longer save and invest. Instead they borrow and spend. We are caught in an economic downturn because of our collective lack of saving and investing. Economist Barry Bosworth of the Brookings Institution stated recently in testimony before a House subcommittee that two-thirds of all private savings in America are borrowed by the U.S. Government to meet present obligations. This money would otherwise be invested in the business sector, to increase productivity and create more jobs. These trends simply must be reversed.

Former Council of Economic Advisors Chairman Charles Schulze said, in 1988:

> We need to dispel the illusion that we have done enough so that the economy can grow its way out of the budget deficit. That deficit is still the Nation's number one economic problem.

That was 1988. There is no doubt that the deficit is still our No. 1 economic problem. It is like a silent cancer, eating away at our economic prosperity, our job opportunity, and our standard of living.

DEFICIT REDUCTION AND ECONOMIC GROWTH

An important reason I am supporting the tax bill before us is that it would make at least a small dent in the deficit by reducing it by almost $14 billion over 5 years. I would prefer that it be much more. But in contrast, estimates are that the President's bill would increase the deficit by $25.4 billion over 5 years.

In addition, the economic growth and job creation incentives in the bill, especially help for small businesses—like indexing capital gains to avoid paying tax on gains attributable to inflation—can help stimulate the economy and put people back to work. Working Americans are Americans supporting themselves and contributing to growth and prosperity in America.

HELP FOR SMALL BUSINESSES

Another excellent feature is section 2101 of H.R. 4287 which would create inducements for long-term, growth-oriented investments in small- and medium-sized businesses. We all know that small businesses are the engine of job creation. Section 2101 is modeled on bills I introduced in the last Congress and cosponsored in the current Congress—Senator BUMPERS introduced the companion Senate bill. It would exclude from taxation 50 percent of the gain on the sale of stock of small- and medium-sized companies when the stock is held for 5 years. This approach would give people more encouragement to invest directly in small and medium businesses. This approach would encourage people to hold the stock for 5 years, thus providing long-term, patient capital for new enterprises. It would revolutionize the flow of capital available to small- and middle-sized businesses, making them more likely to succeed. This provision targets businesses less likely to be able to raise capital from banks or in the capital markets.

TAX FAIRNESS FOR EDUCATION

Two provisions of this bill make it more likely that middle-class Americans will get a full education. We all know that the cost of a college education is going through the roof for most families. Tuition at a public college in 1991 was $5,000; at a private college, it was $12,000. Tuition, room and board at the University of Nebraska for a Nebraska resident was $4,800 in 1990. These are amounts that most families have to scrape to find. The economic growth package before us would give families a credit for interest paid on student loans and would make nontaxable tuition paid by employers for employees' education. These are two important provisions that address the real needs of American families.

ENDING THE DEDUCTIBILITY OF CORPORATE SALARIES OF OVER $1 MILLION

The bill also ends the ability of corporations to charge as a business expense salaries paid to executives in excess of $1 million. I applaud this measure at a time we have seen corporations pay their top executives salaries of millions of dollars while earnings decline. I am appalled at news reports of corporate executives taking home millions of dollars while letting employees go. For example, the Washington Post reported that Steven J. Ross, CEO of Time-Warner, last year earned $80 million while laying off 600 employees of the Time-Warner magazine division. The median household income is $34,000. In today's America, the average pay for a CEO is over 100 times the average pay of the average worker; 100 times. Financier J.P. Morgan said that no executive should make more than 20 times the pay of the average worker. If we look abroad, a Japanese CEO earns about 17 times more than the average worker; a German CEO earns about 23 times more. In America, the average CEO earns more than 100 times the pay of the average worker.

From 1979 to 1989, middle-class, working Americans saw their income reduced 8.7 percent. Parents are working more. Measured in hours on the job, 66.3 percent of working-couple families with children worked the combined equivalent of 1.5 or more full-time workers, up from 56.5 percent in 1979. With these hard economic facts at work, the Tax Code need not give corporations a tax deduction for salaries paid over $1 million. It is estimated that this provision will raise $1.9 billion over 5 years.

ENTERPRISE ZONES FOR DEPRESSED AREAS

The bill before us also includes tax incentives for 35 enterprise zones across the country. Under this proposal, 10 urban areas would be selected and given special tax incentives if, for example, they employ local people or invest in plants within the enterprise zone. This approach is important to cities like Omaha that have depressed areas in which businesses hesitate to invest. When this idea was proposed several years ago, I testified before the Ways and Means Committee in support of it. The city of Omaha has previously applied to the Federal Government for designation. Under the leadership of State Senator Paul Hartnett, the Nebraska Unicameral is now considering complementary legislation, with complementary State tax incentives, that would make Omaha more likely to receive a designation. So enactment of an enterprise zone bill will be welcomed in my district, particularly south and north Omaha, areas that need incentives like this to provide investment and job creation.

I hope my colleagues will join me in passing this bill. I have dealt with just a few features of this important and complex legislation. The provisions I describe are constructive and should help to deal with our economic ills. I do not agree with all aspects of the bill. But I intend to support it today so that we might keep the congressional process moving and make ultimate passage of an economic recovery bill more likely.

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong opposition to the Democratic tax package. My constituents want to see growth in the economy, not growth in their tax bills.

The American people will not be fooled by smoke and mirrors. This bill is a tax-and-borrow alternative to the President's economic growth package. Regardless of the bill's title, at its core is a tax increase on millions of American families and businesses.

In 1990, this Congress passed, and I voted against, a so-called deficit reduction package consisting of almost $150 billion in new taxes and $700 billion in new spending. That's not what I call deficit reduction, that's a tax-and-spend bill.

This year the majority is offering so-called temporary economic relief of about 55 cents a day in return for an immediate and permanent $77.5 billion tax increase and a $30 billion increase in the Federal budget deficit. That's not what I call economic relief, that's a tax-and-borrow bill.

Who does the majority think is really going to pay for those extra cents? Taxpayers might as well just put it on their credit cards because everybody pays for the Federal budget deficit and the resulting Federal debt sooner or later.

Americans need economic growth and jobs, so what does the Democratic alternative do? It raises taxes on almost 30 million small businesses across the United States. These small businesses normally account for over two-thirds of the new jobs created in this country. Higher taxes will choke these businesses and eliminate new jobs—a loss of 21,000 jobs compared to an increase of 500,000 jobs created by the Republican bill.

Rather than work together on a bipartisan package for the good of the country, it seems that American families, workers, and senior citizens will once again take a back seat to the political games of the majority.

The President will not sign a bill that increases taxes, and the American people do not want a bill that increases taxes. They want a bill that offers meaningful relief, economic growth and job creation.

I urge my colleagues to join me in opposing this Democratic tax bill. Then, I strongly urge my colleagues from both sides of the aisle to put partisan politics in the back seat and let the needs of our country drive Congress to enact a more responsible economic package without tax increases.

Mr. POSHARD. Mr. Chairman, I rise in support of the Democratic alternative to the middle income tax relief and economic growth incentives, H.R. 4210.

There is no secret to creating jobs in this country. Increased productivity depends upon the savings which fuel investment. Allowing small businesses to deduct up to $25,000 of the cost of new equipment, speeded up depreciation allowances, indexing capital gains, and research tax credits. These are all important incentives for spurring productivity. The creation of enterprise and investment zones will further enhance our productivity and investment opportunities and create jobs for many Americans.

The middle-income tax relief is long overdue for Americans who have carried the major share of taxes in this country. It is my hope, while this bill is not perfect, and falls short in many categories, that it will spur our economy in the future into additional growth and end this recession.

Mr. PORTER. Mr. Chairman, this Democratic substitute has many beguiling provisions that, standing alone, I support. These include tax credits for interest payments on student loans, a waiver on the penalty for early IRA withdrawals for first-time home buyers and for medical and educational expenses, capital gains indexation, and capital gains tax cuts. In addition, I see in a very favorable light the provisions which accelerate depreciation on certain corporate assets, revise passive loss rules, and repeal part of the counterproductive and job-killing luxury taxes. Making permanent the research and experimentation tax credit is also wise policy.

Unfortunately, all of these solid provisions to stimulate long-term economic growth through encouraging savings and investment, are sandwiched between a nonsensical dollar-a-day tax cut for so-called middle income taxpayers that will do absolutely nothing to help the economy and hardly be noticed by individuals, and a tax increase that only serves to remind Americans that the Democratic party believes in class warfare as a primary political tool. These two pieces of stale bread around the fresh core of sound economic policies, however, make the entire sandwich unedible.

It is perhaps the essence of sound analysis that the economy may well be better off if Congress does not fiddle with it—that whatever is done will probably only add to the deficit and further slow economic recovery and may also be too late to make any difference.

Mr. Chairman, our country dug itself into this economic hole by consuming greatly throughout the 1980's, running up inordinate amounts of Government, corporate, and personal debts, and refusing to listen as the red ink spilled on our childrens' futures, the leveraged buyout was substituted for antitrust enforcement, and plastic money became a way of life. We will not, unfortunately, find it easy to dig our way back out. No Government quick fix is going to give serious help to this economy. With a $380 billion deficit, we have stupidly lost the option of fiscal stimulus that is the classic prescription for recession. Our hope is that the American people gain an understanding of how our economy has arrived at this place and never allow these errors to be made again.

We must have the strength of purpose and the courage to rebuild our economic foundations by increasing domestic savings and investment, curbing Government spending and bringing our budget into balance, and putting in place not some silly, political quick fix, but sound policies that will create jobs and ensure long-term economic growth.

We must also reestablish our economic independence. Americans say how terrible it is to be dependent upon foreign oil. And it is. But how much worse it is, how much more compromising, to be dependent upon foreign capital. Instead of saving and investing during the last decade, our society consumed—often foreign-made goods—and allowed Japan and Germany and Great Britain and others to provide the capital needed for business expansion and job creation. Now we may well be in the position of needing them more than they need us. But whether or not this is literally true, the message must be loud and clear and the lesson learned: Save and invest more, consume less, never, never rely upon others to finance your business expansion.

An idea that I have offered, which would increase domestic investment—personal domestic investment—by $100 to $200 billion for the next 30 years, is highly relevant. The Congress is now stealing the Social Security reserve, money that should be accumulating, that was by law designed to be accumulating, to provide for retirements of the baby-boomers beginning in 2025 at the same good benefit levels as seniors in America now enjoy. That accumulated reserve should total $3 trillion—in 1990 dollars—over the next 30 years. Every year that the Congress runs large deficits, the future taxes needed to provide such good benefits increases and the chance of future retirees ever receiving them dwindles.

Now, Mr. Chairman, now is the time for Congress to turn control over this $3 trillion to those paying it—the American working man and woman—and allow them to save and invest it in their own individual Social Security retirement accounts. This would have no effect whatsoever on present and near-term future retirees whose good benefits are absolutely assured, but it would do wonders for the future of Social Security and it would do wonders for capital formation in our economy. It is so sound an idea that Congress and the White House will run from it, lacking the courage to ask people to look to the long term and the leadership to commit to bold solutions.

But people are hurting in America, Mr. Chairman, not just people at the economic margins, but Americans at every level—high and middle managers, professionals, the self-employed. The recession's scythe is cutting all of us down. Now is the time for strong leadership and bold initiatives, not for the political posturing and quick fixes exemplified by these shortsighted, economically ignorant proposals.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the tax relief plan offered by my good colleagues Mr. ROSTENKOWSKI and Mr. GEPHARDT.

While neither of the alternatives presented here today offers in my opinion a perfect solution to our current economic crisis, we have been presented with three very clearcut and different philosophies to guide our Nation out of the recession, and clearly the Democratic substitute stands head and shoulders above the President's proposal in terms of fairness for the broad majority of Americans.

President Bush, last month in his State of the Union Address before this body, challenged the Congress to give his economic plan full and fair consideration by March 20. Well, with all the double-speak and backtracking coming from the White House and from my colleagues on the other side of the aisle lately, I'm not quite sure what exactly the President's proposals are. But I am pleased to see, however, that Mr. GEPHARDT, acting in good faith, introduced President Bush's plan as he originally outlined during the State of the Union so it could be fully considered.

Unfortunately, rather than propose real change for middle-income Americans, President Bush and my Republican colleagues have chosen to stick another pin in their economic voodoo doll. For over a decade we've heard that tax breaks for wealthy Americans will somehow, someway, someday shower down upon middle- and low-income Americans. Tell that to the over 3,000 people who lined up in my district in Chicago on a frigid day last month to apply for only a few hundred low-wage jobs at a new hotel.

Now I'm not saying that the $400 in tax relief offered by the Democratic alternative to middle-income families is going to suddenly end all of the detrimental effects of the last decade's supply-side economic policies. But to people in my district, unlike some of the President's country club chums, $400 is a substantial sum of money which could mean the difference between paying rent one month, or eating the next. Further, it takes a major step in the right direction to restoring the public's confidence in the equity of our tax system. Under the Democratic plan, wealthy Americans, who benefited so greatly during the 1980's, will be called upon to help carry their fair share of the tax burden. This will be done by creating a new 35-percent tax bracket for individuals who earn over $85,000, as well as imposing a surtax on millionaires.

Along with the tax relief provisions, the Democratic alternative contains numerous growth incentives, such as making permanent the R&D tax credit and low-income housing tax credit, creating enterprise zones, and modifying the passive loss rule with regard to real estate investments. Many of these proposals the President actively supports. These will effect all sectors of the economy including manufacturing, real estate, and small businesses.

Mr. Chairman, I urge my colleagues to support this Democratic alternative to the President's tired collection of failed policies resurrected from the 1980's. We clearly need a new approach to our future. An approach that recognizes the difficulties faced by America's working men and women, not one which continues to funnel benefits in the overstuffed pockets of America's wealthy.

Mr. TALLON. Mr. Chairman, I will reluctantly, in an effort to keep the process alive, support the Democratic plan. Naturally, in any large bill, there are things in it that I like less than others. But there are positive things which will spur the economy in the short term, and some long-term items will encourage savings and investment. And the bottom line is that it pays its own way.

There are some very positive parts of the bill that encourage savings and investment. For example, the Democratic bill contains my proposal, contained in H.R. 2340, for allowing IRA funds to be withdrawn without penalty for first-time home purchases, and for medical and educational expenses. In addition, the Democratic bill provides for the indexing of capital gains, and for an increased depreciation allowance. These ideas are designed to lower the cost of investment, and were in the bill, H.R. 960, which I introduced with TOM DELAY some time ago.

I do not like the tax increases contained in the bill. I don't think you help the economy by punishing success. But there are two reasons I am going to kind of hold my nose and vote yes, whatever the political result might be. First of all, the message is clear that the Congress and the President have to act to get the economy moving again, and politics should be set aside. People are hurting, and the slow economy dramatically increases the Federal deficit.

At the same time, to increase the deficit in order to spur the economy is absolutely unacceptable, and just tells the world that we want to throw any sense of fiscal responsibility to the winds. That kind of irresponsibility will hand us inflation and higher interest rates, and stop any economic activity we create in its tracks. We need a real way to finance the bill.

The second reason is that the capital gains reductions in the bill will act to spur investment in a much more direct way than retaining relatively low rates for the wealthy. If the Democratic plan did nothing for investment in the way of indexing and capital gains, I could never support the new tax schedules.

The Republican plan will increase the deficit; the Democratic plan does not. I think, above all, that we need to be honest with the American people, and that we don't insult their intelligence by telling them there isn't a price for the changes we want to make.

Overall, the Democratic plan has solid plans for encouraging savings and investment, it will result in economic growth, and it is not antibusiness. It does work to give middle-class families a break, and after the 1980's increases in the payroll tax, I believe they deserve that, just to get back to where they were a decade ago.

The way the process runs up here is that everyone is for the easy things, the things that spread money out in all the congressional districts. When you get to the hard part, which is paying for the plan, then suddenly you find all these good ideas stand out there lonely, and the politicians have left them there in the cold.

In this bill, I plain just don't like the method of paying for it, and I won't tell you that hiking the tax for the wealthiest Americans is a terribly courageous stance, when we all know that cutting spending would be the more responsible approach. I will support it, however, because the Congress can't simply stand by and wring our hands while the economy flounders. But whatever we do, it has to be paid for, and only the Democratic plan does that.

Mr. SYNAR. Mr. Chairman, the House is voting on three different tax alternatives. I support H.R. 4287, the Tax Fairness and Economic Growth Act of 1992, as the best alternative since it did include a number of provisions that clearly will benefit many of my Oklahoma constituents. The package is not perfect; it does contain provisions with which I am not in total accord; and, there are particular provisions not part of the package that I want to see addressed in the near future.

Obviously, the Congress was working under a time constraint. The President requested consideration by March 20. In accelerating the legislative procedure, the deliberation process often suffers. That is why the package may lack perfection and not be inclusive of all provisions desired. On balance, however, the bill accomplishes more than either the President's proposal or the Republican alternative.

This alternative is a small step forward in addressing the inequities imposed upon the average working American through the tax policies of the 1980's. Tax fairness is essential to any tax system. In 1986 I voted against the Tax Reform Act precisely because I believed it did not treat middle income taxpayers fairly. That conclusion has been borne out over the past few years.

The middle income tax relief in this package does benefit my Oklahoma constituents. The average adjusted gross income in Oklahoma per tax return—that means of all individual, joint, and family tax returns—is only slightly over $26,000. Tax relief in the bill is a credit against Social Security taxes paid. This credit means that for most Oklahoma taxpayers the credit will mean an extra week's wages to take home.

The tax increases required to finance the tax credit for average Americans will be imposed on the wealthiest in America. Only the richest will be subject to increased taxes. Individuals earning over $85,000 adjusted gross income and joint filers earning over $145,000 adjusted gross income will face a tax increase. These increases will ensure that the burden of taxes is shifted to those most able to pay.

Included in the tax package are several provisions that directly assist working Americans in paying for health care, education, and the purchase of the "American Dream", the first home. The bill permits a penalty-free early withdrawal of IRA funds, of up to $10,000 to pay for a first-time home purchase, higher education, and medical expenses. There is also an extension of the 25-percent tax deduction for self employed persons for the payment of health insurance premiums. A credit is allowed for a portion of interest on student loans.

Deficit reduction is of major importance to all Americans. It is also critical to economic security. A lower deficit can increase the amount of capital for investment and ultimately assists in the creation of jobs. The Democratic tax alternative was the only proposal that complied with the pay-as-you-go requirements of the budget agreement over the 5-year period.

Both the President's proposal and the Republican alternative failed to comply with pay as you go and would have increased the deficit by $49 billion and $25 billion respectively over a 5-year period. By contrast, H.R. 4287, the Democratic alternative, would provide deficit reduction savings of nearly $14 billion over the same time period.

As noted above, these provisions, among others, will benefit the average working American. There are certain provisions not included in any of the tax packages submitted for a vote. One particular area of concern for me is the attention to the domestic energy industry. There are no significant provisions that would improve the outlook for the domestic industry. It is critical that the Congress address these matters in the near future. This is essential both to the economic and national security of our country.

I am pleased that the Democratic leadership has moved toward a more equitable tax policy with this bill. The tax package will benefit those hardest hit by the recession and will provide the impetus to address domestic problems in the budget debate.

Mr. COYNE. Mr. Chairman, I rise in support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992.

There are several provisions in this legislation which are essential if we are to stimulate economic growth.

The provisions that I refer to are: the permanent extension of the research and experimentation tax credit; the extension of the tax credit for low income housing; the extension of the targeted jobs tax credit; and the extension of small issue industrial development bonds.

The bill also extends employer provided educational assistance. This is important if we are to improve the skills of our work force and this is essential if we as a nation are to remain competitive in an ever expanding global economy.

As to the extension of the small issue industrial development bonds: from 1987 to 1990, small issue IDB's created an estimated 59,000 manufacturing jobs and these bonds were responsible for the retention of 73,000 jobs through the financing of approximately 1,100 projects. In Pennsylvania, for example, between 1987 and 1990, small issue IDB financing provided for the funding of 199 manufacturing projects, which created 7,827 new manufacturing jobs and was responsible for the retention of over 15,000 manufacturing jobs.

I could provide similar figures to indicate how effective, from an economic standpoint, each of these extenders is. Suffice it to say that the extension of these expiring provisions will create jobs and serve as a stimulus to local economies.

Mr. Chairman, I urge adoption of H.R. 4287, because of the economic stimulus it would provide.

Mr. GRADISON. Mr. Chairman, I am discouraged that today we are considering tax proposals to stimulate the economy instead of ensuring long-term economic growth. It would be regrettable indeed if the Democrats' bill, H.R. 4287, were to pass. In this time of economic trouble, the American people deserve better, much better.

The Democrats' package would increase Federal borrowing by over $30 billion in the next 2 years. This is likely to increase interest rates and certain to drive up the deficit. In my opinion, this is nothing less than irresponsible when we have just witnessed a disconcerting rise in long- and short-term interest rates. We are sending precisely the wrong message to the credit markets just when monetary policy, through lower interest rates, is showing signs of stimulating a recovery.

What we should be doing is controlling the Federal deficit and enacting changes that enhance long-term growth and higher living standards for all Americans. The Republican alternative comes closest to that goal.

The Democrats, on the other hand, are soaking the not-so-rich to pay for a small, temporary tax cut for parts of the middle class. This can not help the economy recover, and may actually hurt it. Twenty-five cents a day for a family of four will not create any jobs.

Partisan demagoguery is not what my constituents want. They want jobs, and long-term economic growth and prosperity. It is a shame that the Democratic leadership in the House has decided to squander this opportunity to make critical, fundamental reforms to enhance the long-run economic performance of this country.

Instead, the Democrats have decided to play partisan games with the economy. My constituents expect more, and deserve much better.

I urge my colleagues to vote no on H.R. 4287.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in support of the Democratic alternative to President Bush's proposed tax package. Given the current state of the economy and the difficulty so many American families are facing, I believe the time has come to take whatever measures are available to us to get the economy back on track. Although I initially favored the plan proposed by Senator BENTSEN, there is no doubt in my mind that the Tax Fairness and Economic Incentive Act of 1992 is far better than either the Republican package or that originally proposed by President Bush. This package has both short- and long-term benefits to stimulate our faltering economy.

The time has come for us to take the lead in economic policy. President Bush's proposals represent yet another tired version of supply-side, voodoo economics, which we all know from painful experience are a failure. Working Americans are not only still carrying the tax burden in this country, they are shouldering proportionally more of that burden, while the wealthiest members of our society are paying less and less. We must provide relief to the working Americans who have shouldered the tax burden for too long, and that relief must come sooner rather than later. These are the people who are feeling the squeeze of this seemingly endless recession which the President helped to create. Tax relief for working families is essential to boost consumer confidence and get the economy moving again. The Tax Fairness and Economic Incentive Act will not only provide tax relief for approximately 90 million working families, it will also encourage people to save. This initiative contains six tax relief provisions for working Americans. These provisions include: The refundable payroll tax credit, which will put up to $400 back into the pockets of married couples; waiving the penalty for withdrawals from IRA's for first-time home buyers, and for meeting medical and educational expenses; and a tax credit for interest on student loans. The Republican package makes only one provision, and the President's proposed package would make working Americans wait for a second package that may or may not be forthcoming.

Once we have alleviated the immediate distress of working Americans, over the longer term we must concentrate on ensuring that American industries are and can remain at the forefront of the world market. Competitive businesses mean more jobs and a strong economy. The Tax Fairness and Economic Incentive Act will stimulate growth in several ways. First, and most importantly, it provides incentives for new investments, thereby creating jobs. The President's proposed package would only benefit those who have already invested. Moreover, it grants a 2-year increase in expensing allowances for small businesses, thus increasing their chances of expansion and prosperity. The Republican proposal contains no provision to encourage a new generation of entrepreneurs. It also makes permanent the tax credit for research and development and employer-provided educational assistance. Emphasis on research and training will help to ensure the competitiveness of American businesses, keeping us on the leading edge of technology and working Americans in gainful employment. The Republican proposal makes no such provision. Additionally, it indexes capital gains to ensure no one will be forced to pay tax due to the effects of inflation. The Republicans have not offered any inflation-proofing provision, and instead seek only to improve the lot of those who have already invested. In addition, it provides a 50-percent exclusion for venture capital investments held for more than 5 years. This measure will improve the stability of the economy by encouraging people to invest over the longer term. Finally, this bill eases the compliance burden currently faced by many businesses by simplifying the tax law. Again, the Republican proposal makes no such provision. However, this bill is not intended to benefit businesses as such at the expense of other taxpayers; it caps the deduction for executive compensation at $1 million. Yet again, the Republican package makes no such provision. In terms of addressing the national debt, the Democratic plan not only pays for itself, it will actually reduce the deficit by $13.9 billion over the next 5 years. The President's proposal would not only not pay for itself, it would increase the deficit by $25.4 billion over the same period. Clearly, the Democratic alternative offers superior growth incentives.

While the President claims to understand the economic difficulties the American public currently faces, he has promised to veto the Democratic initiative that will provide the impetus needed to restore the economy. We can not wait; the American taxpayer can not wait; we must take the initiative and we must do so now. I give my unreserved support to this measure and urge my colleagues to do so as well.

Mrs. LLOYD. Mr. Chairman, the most important task before this Congress is to get the economy moving again. The American people are looking to us for leadership to strengthen the Nation's competitiveness and move us toward growth and expansion. We are at a time when far too many families with children are struggling under the weight of recession. Hard-working men and women fear for their future employment prospects. They are squeezed by the costs of housing and health care. They are struggling to pay their bills. Clearly, we must take prompt and sensible steps to create jobs, improve our competitive position in world trade, make long-term investments in the future, and stimulate national recovery.

This week the House is presented with different versions of economic growth packages. These measures follow on the heels of lengthy public hearings held by the Ways and Means and Budget Committees on the state of the U.S. economy. The committees heard from economic and tax policy experts from the public and private sectors, and witnesses representing business, labor, and State and local governments.

Some economists testified that opening up the budget agreement would be counterproductive to economic recovery and do more harm than good. I agree. I feel that in order to bring about true and meaningful economic reform we must confront our deficit problem head on. We have a true obligation to the taxpayers and the children of the Nation to make real efforts toward reducing the deficit. When looking at the alternative tax plans, this was my primary objective. I feel that substantive deficit reduction is the best course of action, and the only true option before us, at the present time.

Deficit reduction will make us more productive and competitive because the debt burden cripples the ability of the Congress and the American people to make necessary investments in education, health care, infrastructure, and other vital programs. Deficit reduction is the only sure and proven tool the Federal Government has to increase national savings and thereby strengthen investment and productivity and improve our standard of living.

With this said, it's important to look at the differences in the packages. H.R. 4210 contains all the President's tax proposals included in his State of the Union Address and his budget submission. Overall, the tax package increases the deficit by $5.2 billion in fiscal year 1992 and $52 billion through 1997.

While I support the intent of the President to increase the personal exemption for families with children, allow penalty-free IRA withdrawals for educational and medical expenses, deduct interest on student loans, provide a tax credit for first-time home buyers, and deduct the losses on the sale of a home, I feel that the cumulative debt burden from the package, which includes no offsetting spending cuts, would ultimately hurt economic recovery and fail to create jobs.

Moreover, I oppose the President's plan to tax credit unions with assets of over $50 million and to change the tax treatment of annuities and business-owned life insurance. Many residents of the Third Congressional District have let me know in no uncertain terms their strong opposition to these measures.

I also take strong issue to the President's move to mandate Medicare coverage for all State and local government employees. This would be extremely burdensome to State and local governments whose budgets are already stretched to the breaking point. We can ill afford to impose additional requirements on States without adequate funding to implement them. I have heard this complaint time and time again from my State representatives and it is one we must heed. Unfunded Federal mandates have got to stop.

The Republican substitute to the President's plan, would likewise increase the deficit by $5.8 billion in fiscal year 1992, and $25.3 billion through fiscal year 1997.

While I support its provisions to provide passive loss relief for real estate developers, a temporary investment tax allowance, accelerated depreciation for the alternative minimum tax for corporations, tax credits for first-time home buyers, and a waiving of penalties for IRA withdrawals for first-time home buyers, the added debt burden of the total package would be staggering.

Of the three packages, I feel that the Democratic alternative should be looked at as a starting point for further action. Like any omnibus tax package, it has good and bad components. Among its favorable aspects: It provides middle-class tax relief, liberalizes the passive-loss rules for individuals who are actively engaged in the real estate business, provides for permanent extensions of the R&D credit, the low-income housing credit, the targeted jobs credit, mortgage revenue bonds, the exclusion for employer-provided educational assistance, and small-issue manufacturing bonds. But, like the other plans, it would also add significantly to the national debt in fiscal year 1992.

While the Democratic plan is imperfect, we can use it as a starting point to go to conference with the other body and produce an even more effective tax fairness and economic growth package.

Mr. SKAGGS Mr. Chairman, as I examined the different tax packages this week, like many others, I wasn't very comfortable with the choices we have. Both the President's original package, and the Republican alternative to it, would continue the economic mistakes of the past dozen years, mistakes that have contributed so much to the economic troubles we now face. At the same time, I regret that the Democratic alternative, by trying both to stimulate the economy and to help middle-income taxpayers, does neither especially well. It is clearly superior to the President's proposal and the Republican alternative, and it is better than doing nothing at all, but it certainly is not as good a package as I would like to see.

It was reassuring that so many Members of the House, from both sides of the aisle, saw the President's program for what it was—awful; a loser in all respects. Over 6 years, it would have increased the deficit by at least $50 billion, and probably much more—that on top of the record deficits proposed by the President's budget. That's crazy, given the mountain of debt we already face and the obstacle it presents to long-term economic well-being.

Much of the increase in the deficit would result from the President's proposed cut in the capital gains tax. His capital gains cut was not targeted toward new investment in productive assets, and so would produce few positive results, while costing more than we can afford. The President offered himself a fig leaf in claiming that most Americans would benefit from his proposal—but the truly nickle-and-dime savings for middle-income folks didn't come close to his enormous giveaways to the wealthiest people in this country. America's middle class has already paid for too many tax cuts for those who least need them.

In short, the President's proposal embodies more of the fiscal irresponsibility we're already suffering from in this country. It's not the kind of leadership the country wants, needs, and deserves.

The Republican leadership's alternative wouldn't be much better. It has an even more open-ended capital gains tax cut, no middle-income tax relief, more accounting gimmickry, and another $25.3 billion added to the deficit by 1997.

The package offered by Chairman DAN ROSTENKOWSKI and Majority Leader DICK GEPHARDT is clearly far better.

To begin with, the Rostenkowski-Gephardt package makes some modest improvements in tax fairness. It includes a 2-year refundable tax credit for payroll taxes that will return $200 a year to single filers and $400 to married couples. And because this is a tax credit, not a deduction, the benefit goes to all working Americans, without being skewed as a deduction would in favor of the upper income brackets. The package provides a tax credit for interest on student loans, helping people get the education they need in today's job market. The Democratic alternative also allows for penalty-free withdrawals from individual retirement accounts for first-time home buyers, or to pay medical or educational expenses. These are not major changes, but for the many Americans struggling to make ends meet, they can make a real and important difference.

The Rostenkowski-Gephardt proposal advances the objective of tax fairness by recapturing some of the huge tax breaks given the wealthiest taxpayers in the 1980's. A new top tax rate of 35 percent would be created for individuals with incomes generally over $100,000 a year, and for couples over $200,000 a year. A 10 percent surtax would be imposed on taxable incomes over $1 million a year.

The package will also help strengthen our economy. It lets taxpayers exclude from income half of their gains from newly acquired stock in small businesses held for over 5 years. This will encourage patient capital investment in smaller enterprises where the vast majority of jobs are created.

The Democratic alternative makes permanent some economically important tax provisions that are otherwise expiring, including the tax credit for research and development, the targeted jobs tax credit, and the exclusion for employer-provided educational assistance. Most of these the President proposed to extend only temporarily, which is shortsighted. We know these provisions benefit the economy, and there's too much uncertainty involved in having to extend them every few years. The Democratic alternative also creates enterprise and investment zones to encourage development in both urban and rural areas that need help.

The Rostenkowski-Gephardt package does all this while increasing revenues by $13.9 billion over the next 5 years. That means a reduction in the deficit, not the increase in the deficit that the President and the Republicans are advocating.

But I don't want to oversell the Democratic package. It is far from perfect.

First, it suffers from trying to do too much, from trying to both increase tax fairness and stimulate the economy, and ultimately from not doing either as well as could be done with a bill focused on just one of these important goals.

Second, while it would not make the wildly irresponsible additions to the national debt that the President's proposal and the Republican leadership's alternative each would, the Democratic package itself might end up increasing future deficits. We have firm estimates of the effects over only the next 5 years. But the package would permanently index capital gains; by some rough estimates, if inflation goes way up and growth slows way down, this could cost as much as $20 billion or more a year by the end of this decade. That's a very troubling prospect.

So, I don't see this as a polished or perfect package. It is a starting point, and we must get started. As the legislative process moves along, I hope there will be improvements to address the problems I've mentioned.

Mr. MCCANDLESS. Mr. Chairman, I rise today seeking a better way to do things.

The last few days have seen some heated partisan rhetoric. Both sides of the aisle have launched verbal missiles at one another, stressing the relative values and faults of each side's economic growth plans.

Mr. Chairman, assaulting each other with verbal baseball bats is not the way to get things done. Nothing is sold by assault—not houses, or cars, or economic growth plans.

Many of the problems caused today are rooted in the process by which this bill was brought to the floor. A closed rule with one up-or-down vote on hundreds of proposals put most of us in an impossible position. None of these bills are perfect, but under the rule, we cannot make the necessary corrections. The end result of these votes is a political standoff, while the American people suffer.

Mr. Chairman, these ends do not justify the means. Overnight political polling is no substitute for long-term economic restructuring. We need a true package of economic growth, with ideas and proposals from both sides of the aisle if we are to take the country out of a recession.

Following the sustaining of the President's veto, I urge you to bring this measure back to the floor with an open rule; we are willing to work the late hours. We can pass a package of economic growth and have it enacted almost immediately, if you would just give us the chance.

Mr. BACCHUS. Mr. Chairman, I rise today to express my support for a tax credit for first-time home buyers. I would have preferred that the Democratic tax package include this important economic stimulus and it is my hope that the bill that comes out of the conference committee will include this vital measure.

It is important that we focus on tax proposals that promote economic growth as well as result in a more equitable balance in the tax burdens. A tax credit for first-time home buyers would provide a genuine stimulus to home building and buying.

We need such a stimulus. While many had hoped that our economy was improving, recent figures indicate that consumer confidence has plummeted to an alltime low. The availability of a tax credit for first-time home buyers would convince many people who have been sitting on the fence that now is the time to buy.

In past recessions, the homebuilding industry has been the catalyst for economic recovery. It can be again. But first we need the tax credit for first-time home buyers. No other measure has the potential to put so many people back to work so quickly. And as we all know, job creation leads to economic recovery.

Ms. SNOWE. Mr. Chairman, I rise in support of the Rostenkowski-Gephardt substitute amendment to H.R. 4210, with reservations.

In deciding how I should vote on the different packages brought to the House floor today, my overriding concern was to support legislation that provides for the immediate repeal of the 10-percent Federal excise tax on boats costing more than $100,000. The Rostenkowski-Gephardt amendment does this, while the Michel-Archer plan does not.

This is a critical issue facing my district, because this tax has resulted in hundreds, if not thousands, of Maine people losing their jobs, or facing the very real possibility of doing so as long as this terrible tax stays on the books.

Instead of ensuring that wealthy taxpayers paid their fair share of taxes, the boat tax has resulted in large numbers of highly skilled, middle-income workers being laid off from their jobs, at a time when finding new employment in Maine is extremely difficult.

Thus, at a time when the boat building industry in Maine is going through very difficult times, the Rostenkowski-Gephardt amendment sends this valuable industry a strong signal of its commitment to repeal this tax.

Although I was pleased to see that the President's long-term economic growth package repeals the tax, the boat building industry simply cannot wait until later this year for any such help from the Federal Government. They need the certainty of the tax's repeal now, and it is uncertain as to whether or not Congress will consider any additional tax measures in 1992.

Of additional importance to the people in my district was the middle-class tax relief program in the Rostenkowski-Gephardt amendment. It will provide struggling lower- and middle-income taxpayers with a 2-year, temporary tax credit, worth up to $200 for single individuals and $400 for married individuals, based upon their payroll taxes. Regrettably, the Michel-Archer plan does not contain any middle-class tax relief program.

When some of my colleagues claim that the middle class does not want a tax cut that only gives them $1 a day, they should know that the median taxable income in Maine for 1989 was $17,873. In fact, 60 percent of all Maine State income tax returns claimed taxable income of $22,961 or less that year.

For all of these Maine citizens, a $200 or $400 tax credit this year means a lot more to them than simply a dollar a day. An extra $200 or $400 could buy a month's worth of groceries, or pay for a car payment, or maybe even meet a month's rent or mortgage payment for many of the Maine people I represent.

Also, the Rostenkowski-Gephardt amendment allows small businesses to expense up to $25,000 of the cost of new equipment placed in service during 1992 and 1993.

This is a very important provision for small businesses, which are a critical component of Maine's economy. Indeed, more than 90 percent of all Maine businesses have fewer than 20 employees. This provision will be a significant help to our State's many small businesses.

While I have long argued that it is imperative for the Congress to approve an economic growth package, we must so so in a fiscally responsible fashion. We cannot allow an economic growth package to be an excuse for busting the budget.

The Rostenkowski-Gephardt amendment, over the next 6 years, is projected to reduce the budget deficit by $13.9 billion. While I am concerned about its impact on the deficit in the short term, the fact remains that it will reduce the deficit by almost $14 billion when fully implemented.

Having said that, I would oppose efforts by the Congress to use that extra $13 billion for higher Federal spending. These funds must be used to reduce the deficit. Using them for any other purpose should not, and cannot, be allowed.

In developing an economic growth package, I have long felt that the Congress needs to strike an appropriate balance between helping individual taxpayers and the private sector. A growth plan cannot help only individuals, or only businesses. It should have provisions designed to help both.

I know that some have recommended that the Congress not do anything in an effort to help stimulate the economy. They claim that the Congress will only make things worse, or that by the time Congress does take action, it will be too late and the economy will begin slowly, and slightly, recovering on its own.

Maine's economy needs help now. The people of Maine cannot wait, only to hope that the economy will get better by itself sometime later this year. Taking the risk that doing nothing, and counting on a prompt and robust recovery, it is a risk that I am not prepared to take on behalf of the thousands of Mainers who have lost their jobs during this recession.

While I have decided to reluctantly support the Rostenkowski-Gephardt package because it contains more of the basic elements that I believe we need, it does contain some provisions that concern me greatly.

For example, Democrats seem to enjoy noting that the economy has been in a recession for 18 months and consumer confidence is dropping. Yet, their alternative plan relies only on tax increases to offset the cost of their economic recovery package. Instead, I would have much rather seen some significant spending cuts in our $1.4 trillion Federal budget as an offset.

There was nothing that prevented the House majority leadership and the Ways and Means Committee from also including spending reductions in its economic growth plan. The committee has jurisdiction over a number of Federal spending programs, and it could have easily worked to develop a comprehensive list of spending cuts in order to offset the cost of its economic growth plans. Unfortunately, the committee's Democratic majority chose not to do this.

Indeed, although I will support the Rostenkowski-Gephardt amendment today, I expect the House Democratic leadership to bring legislation to the floor of the House this year that provides for serious spending reductions. If the Democratic House leadership does not meet this test, they will have failed the American people in a most tragic fashion and done a terrible injustice to our country and its economy.

Finally, I object to the fashion in which the House majority leadership has handled the process that got us to this point in time. At a time when the American people are increasingly frustrated by partisan gridlock in Washington, DC, the House leadership has acted in a strident, partisan fashion over the past several weeks.

The Ways and Means Committee Democrats did not even attempt to work with committee's minority. In a 3-hour open-and-shut meeting, the committee Democrats sent to the House floor a plan they purport to be the President's plan, and rejected the economic growth package that the President is asking the 102d Congress to adopt. This was done in two, straight, party-line votes.

Instead of trying to score short-term political points, congressional Democrats should be working, in good faith, to develop a short-term economic growth that President Bush can sign into law shortly.

Once that was finished, committee Democrats went behind closed doors to develop their alternative plan, without any effort to work in a bipartisan fashion with committee's minority members. Simply put, this kind of behavior, given the seriousness of the economic problems facing our Nation, is unacceptable.

In the final analysis, it is essential that the President and Congress engage in bipartisan negotiations in order to do what is best for this country to end the recession. This entails both the President and Democratic majorities in Congress setting aside any partisan differences, and forcing a compromise on this most critical issue.

The American people are waiting and watching. It is clear that something needs to be done sooner, rather than later. The Congress must rise to the occasion and meet this challenge.

Mr. MOODY. Mr. Chairman, our work here today is crucial for determining the future direction of the Nation's economic policy. There are two possible roads to travel:

First, the trickle-down road, which the President would have travel on still further. His guide post is the indiscriminate, across-the-board capital gains tax cut, the biggest boondoggle for America's wealthiest people.

Second, or, we can redirect that Nation's tax and economic policy to give the middle-class tax relief paid for by making the Nation's wealthiest people pay their fair share, investing economic growth, and renewing America's international competitiveness.

The President's approach can be summed up as follows: Give the richest Americans the largest tax breaks and all our economic problems will be solved.

The Democratic package offers us a different path. The Tax Fairness and Economic Growth Act of 1992 says loud and clear that we stand behind, and for, the middle class. Our approach is to create opportunities for the middle class and working families of this Nation.

The President's current proposal is classic trickle-down economics. After a decade of this policy, we know it doesn't work. To quote Business Week, "* * * the swelling tide of income for a few was supposed to lift all boats, but it didn't.

In my home State of Wisconsin, we see the results of 10 years of trickle-down economics:

The Briggs & Stratton plant has downsized; AMC-Chrysler has closed; Uniroyal is closing down; a Brunswick Motor plant and Lullabye furniture factory are both closing. Many of these firms are moving production to Mexico.

This means that workers who once earned $12 or $15 per hour are forced into jobs paying $6 or $7, if they can get any job at all.

Our plan gives the hard-pressed middle class, which has been squeezed by higher prices, lower wages, and increasing tax burdens, a tax cut of $400 per working couple. This is not a trivial amount. Only Washington insiders or top income earners would consider $400 to be nothing.

And this relief the middle-income earners is paid for in the Democratic alternative.

The Democratic package does more. It allows farmers to apply their one-time home-selling exclusion to their home quarter of farm land. This means that rural Americans will finally have the opportunity to take advantage of a tax break long available to urban and suburban homeowners.

The Democratic bill also has investment incentives for small and startup businesses that will result in new jobs—not minimum wage-paying jobs flipping hamburgers, but high-paying jobs in growth industries of the future, especially in high technology and cutting-edge firms. I am proud that I and Congressman BOB MATSUI authored this part of the Democratic package.

The Democratic alternative bill before us is a clarion call for the middle class. No more trickle down. No more wait until later. It says to the middle class, working families of America:

We hear you loud and clear. You need direct tax relief, you need good jobs, you need opportunities to educate your children.

This bill is the first installment on the promise. I urge my colleagues to support this bill.

Mr. WOLPE. Mr. Chairman, I rise in support of the H.R. 4287, the Tax Fairness and Economic Incentive Act of 1992.

Mr. Chairman, make no mistake about it, this tax bill offers no panacea for our Nation's economic foes. It has taken many years to dig the hole that we are now in, and there will be no quick or easy fix to our economic predicament.

In all candor, this is not the tax bill that I would have written. I would have preferred to see the dollars directed toward the middle-income tax cut dedicated, instead, to grants to State and local governments for immediate job creation, or for other public sector investments that are critical to our long-term economic growth: education, worker training, research and development, and our physical infrastructure. I am hopeful that when we turn to the fiscal year 1993 budget resolution, we will seize the opportunity presented by the collapse of the Soviet Union and the Warsaw Pact to redirect resources that have gone overseas for the defense of our allies to the rebuilding of America.

However, my reservations notwithstanding, the bill before us contains a number of very constructive elements that merit our strong support. First, $800 of lower taxes over 2 years will mean a great deal to the over 90 million families that have been hurt the most by the economic policies of the past decade. And, contrary to the Republican alternative, which would do no more than further enrich a few wealthy Americans, this legislation will ensure that those who reaped the benefits of the 1980's will finally begin to pay their fair share. The tax cuts in this legislation are paid for by a modest increase in taxes on the wealthiest Americans, rather than by the anticipated savings from the post-cold war defense budget. This means that defense savings will be available both for deficit reduction and critical investment here at home.

It is important to remember just how seriously the middle class suffered during the 1980's. Today the top 1 percent of the population—or slightly over 2½ million individuals—takes in more income than the bottom 40 percent—or 100 million Americans—combined. In 1980, fewer than 17,000 Americans reported incomes greater than half-a-million dollars; by 1989, however, there were 183,000 Americans with incomes in this range. This is the largest such increase in this century. At the same time, the income of middle-income families stagnated. These are the statistics that underlie the human misery that many Americans are experiencing. The bottom line is that we have witnessed an unprecedented concentration of wealth at the top, the poor are increasingly trapped in a cycle of poverty and despair, and the middle class is getting squeezed on all fronts. By taking action on the issue of tax fairness, we not only provide a small measure of relief, but we also signal our determination that middle-class working families will no longer be victimized by Federal tax policy.

Mr. Chairman, there are also many other important provisions in this legislation that will provide meaningful assistance to many families. A tax credit for student loan interest, a waiver of the penalty for early withdrawals from an IRA for first-time home buyers or for educational or medical expenses, and indexation of the $125,000 exclusion for capital gains on the sale of a principal residence for individuals over 55 years of age. These provisions will help American families send their children to college, and realize the dream of home ownership.

There are also significant economic growth measures in the Democratic alternative, incentives that will lead to greater investment in our economy, and to a more secure and prosperous future. The legislation provides for a targeted capital gains reduction in venture capital investments. It provides, as well, for the indexing of capital gains, so that only real profits, not inflationary gains, are taxes. It would also allow small businesses to expense up to $25,000 in depreciable business assets in 1992 and 1993, and provide a temporary investment tax allowance for new equipment purchased this year.

Finally, the Democratic substitute would reduce the deficit by $14 billion over the next 5 years, unlike the Bush budget, which would have added $49 billion to the deficit, and the Republican proposal, which would have added $14 billion to the deficit.

Mr. Chairman, as I said earlier, I don't regard this as perfect legislation. But by any standard, whether we focus on tax fairness, or economic growth, or fiscal responsibility, the House Democratic alternative is a much better piece of legislation than that which has been proposed by the President. It represents an important step in our efforts to provide both greater tax fairness and a foundation for long-term economic growth in which all Americans will be able to share.

Mr. ATKINS. Mr. Chairman, while I rise today in support of the Democratic tax plan, I wish to explicitly express my concern over a glaring oversight in our efforts to restore tax fairness which would affect a substantial portion of the middle class in the State of Massachusetts—those in the public service.

As it is now structured, tax relief is based on a 20-percent tax credit against Social Security payroll taxes. However, public and many Federal employees in Massachusetts do not pay Social Security taxes, but rather contribute to their own public pension system. If this bill is not amended, 400,000 public employees in Massachusetts and as many as 6.8 million across the country would be left out in the cold. Mr. Speaker, these are not millionaires. Many of these men and women are earning between $15,000 and $50,000—precisely the families that need tax relief the most. Left unamended, this would mean that a bank teller in Concord, NH who with his spouse has a combined income of $28,600 would receive $400 while a firefighter in Lawrence, MA, with a wife, two children and a combined income of $26,000 would receive not 1 cent in tax relief. To let this plan go forward unamended would deal an unfair blow to school teachers, maintenance workers, police, firefighters, and others who serve our communities.

I share the disappointment of Representative BRIAN DONNELLY and the rest of our delegation that we will not have the opportunity to correct this problem today. Fortunately, it is my understanding that there is a commitment to address this issue again in conference.

Mr. ROSTENKOWSKI. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 29]

"PRESENT"—409

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
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Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

☐ 1410

The CHAIRMAN. Four hundred and nine Members have answered to their name, a quorum is present, and the Committee will resume its business.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I live just a block south of Archer Avenue, and a little north of 95th Street in Chicago in the new Illinois Third Congressional District. Here, in the heart of middle America, people are hurting and need help now. The Democratic substitute for the President's tax proposals is not the greatest to come down the pike to benefit the middle class, but it's a start.

Over the course of the last few months, I have listened to my friends and Third District neighbors from Berwyn in the north, to Brighton Park in the east, to Tenley Park in the south, to Western Springs in the west. I hear we need to jump start the economy, create jobs, spur economic development, and build new homes—now. Middle America needs money to pay its bills and to help make ends meet—now. The Democratic $400 tax cut will help a little, and middle-class America can use all the help it can get—now. Under the Democratic proposal, individual retirement accounts have been opened up to permit people to withdraw their savings for medical bills, first homes, and other emergencies.

The Democratic bill helps people struggling to send their children to college. And remember, America needs well-educated individuals to lead us into the 21st century. This bill also promotes mass transit, brings fairness to the Tax Code, and promotes enterprise zones. As I said before, this bill is a very small step in the right direction, but a great man once said, a journey of a thousand miles starts with one small step. Let us start rebuilding our economy and creating jobs, jobs, jobs—now.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, yesterday, the Conference Board released the disheartening report that the consumer confidence index has plummeted in February to 46.3 percent. This is the lowest level since December 1974. January's unemployment data, the most recent available, showed that fewer Americans had jobs during he month and that those who did were working shorter hours and for less money.

If statistics don't tell the whole story, one need only look at specifics to confirm our economic concerns. Last Monday, General Motors announced that it will close 12 plants over the next 3 years, heightening national fears of the loss of American jobs in the face of international competition.

Inevitably, attention turns to Washington, both for leadership and for economic policies to lead us out of recession on a path to long-term growth. The debate over the last 3 months has centered on a major tax bill. Yesterday and today, in the House, we have the opportunity to respond.

Essentially, we have two choices. One approach would be to degenerate into rancorous, partisan debate, drawing battle lines and slicing the truth about the various competing proposals. The likely result of this is a Presidential veto, legislative stalemate, and no action. Consumer confidence, already at a decade long low, will plummet even further. Economically, the business decision makers would be paralyzed—unclear about the tax and economic ramifications of investment decisions. Consumers would be likely to remain constrained and wait out the Presidential election to see which direction we're headed. This approach is clearly a prescription for economic disaster.

The second approach is for the Congress and the President to work together to produce a tax bill which is fair, doesn't bust the budget, and produces long-term growth incentives. If we enact a sensible plan, I have no doubt that individuals and businesses will respond with increased investment, job creation, and consumer confidence.

We have a challenge. We need to act now to promote economic growth and lead us out of the recession. But the final result must be fiscally sound and economically productive. Otherwise, our actions could be counterproductive and it would have been better to do nothing.

As with all of my colleagues here in the House, I have studied the economic proposals before us at length over the last few weeks. As I have looked at these three proposals, I find that I can support many of the provisions in each. There are many fine ideas in the President's proposal, as there are in the Democratic substitute and in the Republican substitute. For these reasons, yesterday, I supported the President's plan. Today, I will support the Democratic plan and the Republican substitute.

The reason is simple. Constitutionally, a tax plan must originate in the House. Whichever bill we approve here today will be sent over for Senate action. Once the Senate works its will on the legislation, it will return to us through joint conference for our final approval. Since there is much that is sound in each of these proposals, I feel it is necessary that we begin the process of debate and action in earnest, to get the process going. Now is not the time to campaign for reelection; now is the time to place the interests of all Americans first.

Even so, I want to make it clear that these three votes I have cast do not amount to a blanket endorsement of any of the plans before us. There are significant problems with each. I cannot support on final passage the President's bill, as it would increase the deficit by some $50 billion. I find it difficult to support a Democratic bill that uses revenues from increased taxes on the wealthy for redistribution through a $1 per day taxpayer rebate, instead of redirecting those revenues to real progrowth initiatives. Finally, I am troubled by the smoke and mirrors approach of the Republican substitute, which relies on an accounting gimmick of changing from cash to accrual to pay for tax cuts. As a result, I am firm in my resolution to vote against final passage of any bill that comes back from conference with any of these fatal flaws.

In making my final decision, I will focus on provisions that are targeted, progrowth initiatives that are likely to have a direct effect on people's investment and consumption decisions. I feel it is important to outline which provisions in each bill now before us meet these criteria.

There are a number of features in both the Democratic and Republican bills that are positive. These include an investment tax allowance on new productive equipment, a waiver of the 10-percent penalty for premature withdrawal from an IRA for a first time home purchase, tax changes to encourage pension investment in real estate, and the permanent extension of a number of effective, targeted tax provisions, such as the R&D tax credit, deduction for employer-provided higher education, and the 25-percent deduction for health insurance costs of the self-employed and small businesses.

There are a number of features in the President's tax proposal that merit retention in a final bill. These include a tax credit for first time homeownership, the deductibility of losses from the sale of personal residences, and a deduction for the adoption of special needs children.

Similarly, there are many provisions found only in the Democratic proposal which should be in a final bill. These include the increase in expending of new purchase of equipment by small businesses, a broader passive loss provision which should help the beleaguered real estate industry, permanent extension of mortgage revenue bonds and low-income housing tax credits, the indexing of the one-time $125,000 exclusion on the sale of a home for those over 55, and a consistent treatment of amortization of intangibles.

Finally, there are provisions that are in none of these proposals that are critical for an effective progrowth package. One is an investment tax credit to spur new investment in productive equipment that will help us compete internationally. The other is a targeted capital gains cut. Both the Republican and Democratic plans have flaws. The Republican plan, for example rewards prior investments in paper transactions of stock instead of rewarding new investment in businesses. The Democratic plan's capital gains indexing excludes a broad range of small businesses. What we need is a capital gains proposal which targets new productive investment.

Enactment of the progrowth initiatives I have just outlined would send a strong psychological signal that we are looking to the future. It would have a direct impact on specific investment decisions that would lead to investment, hiring, and growth. And it can be done in a fiscally responsible way.

I do not expect that the final bill that comes out of conference will have all the features I have just outlined. I respect that other Members and the administration will have good faith differences of opinion on the efficacy of various components. But, I believe that if we work together—Democrats and Republicans alike—in a nonpartisan effort, we can produce a sound package. All Americans deserve no less.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise in opposition to the Democratic alternative.

Mr. Chairman, I rise in opposition to the Democratic alternative package allegedly for economic growth. This follows on the heels of the House defeat of the Republican package which I supported.

The reason for my votes were quite simple, I want to get our country out of the recession, and I believe the Michel-Archer proposal would have accomplished this.

It was quite plain to anyone watching that the sole purpose of the Democratic plan is politics. First, the plan is designed to be vetoed by the President. It has not been uncommon around here to hear members of the majority saying things like: "This is an opportunity to define what we stand for." That's funny, Mr. Chairman. I thought it was an opportunity to help Americans.

Second, no responsible economist has claimed that this plan would create jobs. In fact, many have said it would have the opposite effect. This is not a growth package. It is a redistribution package. As such, its main focus is to give money to some people who currently have jobs. In my view, this is a callous political attempt to curry favor with wage earners—while maintaining the anger of those who are out of work so that they will express their dissatisfaction during the election.

Also, 90 percent of businesses are not incorporated, and pay taxes as individuals. This will increase those business's taxes. I defy anyone to produce an economist who says raising taxes on businesses is progrowth. By the way, these tax increases are all permanent.

Finally, while this plan is said to pay for itself over 5 years, we have all played this game with the Democrats before. Taxes are raised in the beginning for future cuts down the road—cuts that never come. In fact, the act that these proposals amend is the perfect example.

In 1990, the budget agreement raised taxes $164 billion, in exchange for later cuts. Well, here we are just 16 months later, and beyond even my expectations, they are trying to raise taxes again.

In contrast, I supported the Republican plan that was progrowth, limited, and fiscally responsible. It contains a $5,000 tax credit for a first-time home buy and the use of individual retirement accounts for home buys.

It also contained provisions such as the investment tax allowances that help businesses create jobs. This is what Americans want, and what they need. They don't need charity or handouts, they need the opportunity to pull themselves up by their own bootstraps.

Most importantly, this is a bill that can be signed into law immediately, not a futile political exercise designed for confrontation.

Mr. Chairman, we are actually quite close to compromise, despite what the debate here would indicate. Many of the proposals are similar, and some are almost identical. I am hopeful the President will veto this bill, and we can begin serious work on economic recovery. The American people deserve nothing less.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I rise in opposition to the amendment as it does nothing but increase both taxes and the deficit.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in opposition to the Democrats' tax increase.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of the Rostenkowski-Gephardt Democratic alternative to the President's tax plan.

This comprehensive plan has been crafted to provide some needed economic stimulus to boost the economy. The measure will provide middle-class tax relief, stimulate job creation, growth and investment incentives; while ensuring that the wealthy pay their fair share of the taxes, simplifying tax laws, and instituting a new taxpayers' bill of rights to further address taxpayers' concerns in working with the Internal Revenue Service.

Despite the rhetoric of the Bush administration, with this initiative Congress is responding and we will respond with a bill that can pass and is the measure that the President should sign. The Democratic substitute is a bill that promotes the ideal of tax fairness and equity and the goal of promoting progressivity in our Tax Code.

This plan, which, unlike the Michel-Archer substitute, also includes the middle-class tax breaks, is fair because it provides a new tax bracket of 35 percent only on the most affluent of the affluent. This is especially relevant as we propose to modify some of the provisions of the Tax Reform Act of 1986. These changes in capital gains and passive loss deductions which are designed to resuscitate and stimulate the economy, must be balanced with changes in the rates of taxation to maintain fairness. In fact the new 35-percent tax bracket will cause these new incentives provisos to function more effectively.

This is the responsible and fair package. Unlike the Michel-Archer substitute, which follows the policy path of serving a three-course meal to the few and the most well to do. Meanwhile the middle-income Americans are directed to sit at empty tables, maybe some crumbs will come their way from the wealthy over fed tax eaters. Worse yet this GOP measure attempts to pay for the revenue lost with accounting gimmicks. Although the Rostenkowski substitute would increase the deficit in fiscal year 1992 as its provisions start working, it would reduce the deficit by $13.9 billion over the 6-year period through fiscal year 1997. Naturally it's tougher to vote for a pay-as-you-go tax cut but necessary. Therefore unlike the Michel-Archer substitute which would increase the deficit by $25.3 billion through fiscal year 1997 and will not provide middle-income tax relief, the Democratic substitute is the package for all Americans that will not further add to the burdens of our children and grandchildren.

Importantly, unlike the President's package and the Michel substitute, the Democratic alternative makes permanent the great portion of those provisions known as the extenders. These tax provisions: The low-income housing tax credit, the mortgage revenue bonds, the targeted jobs tax credit, the research tax credit and others, have earned a permanent place in the Internal Revenue Code, but have had to survive a political game of cat and mouse as if they were experimental and unknown clearly the Bush administration and GOP want that to continue. Unfortunately that policy only leads to the demise of such worthy tax policies.

I am pleased that this comprehensive proposal works to stimulate the housing markets through making permanent the mortgage revenue bond program, the housing tax credit and the new proposal to allow penalty-free IRA withdrawals of up to $10,000 for downpayments on first-time home purchases by either the homeowner or a relative. Although the Democratic alternative does not contain the tax credit for first-time home buyers, it will greatly stimulate the housing industry, which is an engine for the economy and has tremendous multiplyer effects. While the tax credit may be a positive idea, all the credits in the world do not a downpayment make. If the Bush administration would direct Secretary Kemp to address the shortcoming of the FHA finance reforms the historically most successful home ownership program in the Nation would greatly aid all perspective middle-income home purchasers.

Mr. Chairman, I have one overarching concern as we look at all these tax measures and that is that the national government can't expect the Internal Revenue Service and tax policy to be the sole vehicle for guiding or supporting people. We surely can't deal with every economic and social ill through the Tax Code and the tax expenditure phenomena. It is wasteful and doesn't work. Instead of creating a tax credit or exemption for policy purposes, the administration should be looking at working with programs that already exist in other Departments, such as Federal Housing Administration [FHA] mortgage insurance for the promotion of home ownership, to facilitate their goals.

Mr. Chairman, I support the Rostenkowski-Gephardt substitute, a real, balanced proposal for tax fairness and economic growth, and urge its adoption by the House of Representatives.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of the bill.

I have serious misgivings about each of the tax bills before the House; but if we are to stimulate growth, we must keep the process moving forward. I believe support for the House Democratic tax bill (H.R. 4287) is the best way to keep that process moving forward.

We need to reverse the results of a decade of Reaganomics in which the standard of living of the middle-class Americans has steadily declined. We need to do four things:

First, jump-start the economy with a jobs program;

Second, provide new or expanding businesses with low-interest loans and investment tax incentives;

Third, make long-term investments in education, health care, infrastructure, research, and debt reduction; and

Fourth, reverse the unfairness of Reaganomics, under which the rich got richer and the middle class got soaked.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in opposition to the pending Democratic alternative.

Mr. ARCHER. Mr. Chairman, I ask that the Chair take 30 seconds of my time to permit me to explain at this moment what I will offer as a motion to recommit under the rules, because it is a little bit different than the standard motion to recommit. It is not with instructions. However, in a last-ditch effort in hoping to work out some bipartisan agreement that the President can sign, my motion to recommit would send the bill back to the Committee on Ways and Means with a recommendation, not an instruction but a recommendation, that it amend the bill in an open and bipartisan manner with a view to producing legislation the President can sign that will provide economic stimulus and job creation incentives without increasing taxes or the deficit.

Mr. Chairman, I yield 5 minutes to the gentleman from Georgia [Mr. GINGRICH], the minority whip.

Mr. GINGRICH. Mr. Chairman, if I were only a Republican political strategist I would rejoice at this afternoon's vote on a massive Democratic tax increase. Every Democrat who votes yes is tying themselves to the McGovern-Mondale-Dukakis welfare state philosophy. Every Democrat who votes yes is voting against the philosophy of their party's current frontrunner.

Let me cite the current Tsongas ad which is on television. The narrator: "Some candidates want to give you a tax cut of 97 cents a day, but will that create jobs?" And then Paul Tsongas' voice: "Ninety-seven cents a day will not do a thing to our productive capacity. They are $400 billion in debt and they want to give us a tax credit that they are going to borrow from my children. I am not running to be Santa Claus, I am running to be President. That is a difference."

Now, who is "they"? Here is the analysis of the Democratic bill and the President's bill. The President's bill, according to the Council of Economic Advisers, creates 500,000 new jobs. According to the Council of Economic Advisers the President's bill, which was just defeated, would have created 500,000 jobs and helped end the recession.

What does the Democratic tax increase bill do the first year? According to the National Center for Policy Analysis, it kills 21,000 jobs.

Do the Members want to know why the American people by 77 percent favor term limitation? Because the President of the United States comes to this Chamber in the State of the Union and asks for a tax-cutting job-creating bill, and the Democratic leadership gives him a tax-increasing job-killing bill.

The New Hampshire primary had five candidates attacking Congress, three

Democrats and two Republicans. Together they received 264,000 votes and the two incumbent U.S. Senators got 35,000 votes.

In Maine, Jerry Brown's vehement anti-Congress message almost beat Tsongas' anti-welfare-state message. The two Senators received a trivial share of the vote, 8.3 percent.

In this anti-tax-increase, anti-welfare-state, anti-incumbent environment, the Democratic leadership has fashioned a massive tax increase job-killing bill that permanently raises taxes.

Let me just say I cannot just view this as a Republican strategist, although it will be a very effective vote for the rest of the year. As an American citizen I think this Congress is in a tragic mess. We had the President come to speak as President, not as Republican candidate. He asked us to help get out of a recession. We are going through a charade today. Every Democrat knows that this bill will be vetoed. Every Democrat knows this further deepens the recession. Every Democrat knows that while it may help their nominee in the fall, it is going to do so at the expense of American families and American workers and American jobs. The people are going to lose their homes while they are waiting around for the Congress to act.

Everyone knows that this charade today and next week in the other body leading to a veto is going to further lower public respect for this institution. We are going to do all this with the banking scandal about to blow up again, the Post Office about to be openly investigated, and we are going to go home and say "The Congress really is a useful institution." Every Member of their leadership knows there is not a prayer, none, of their bill being signed into law.

I would just say this. I have a longer speech about philosophy and about where we are going on the welfare state and what we are doing about economics. I was going to cite Paul Tsongas' New Hampshire speech, "No goose, no eggs," that the Democratic Party has to sooner or later learn when you kill business, you kill jobs.

□1420

You cannot love jobs and hate job creators, but forget that for a minute.

Let me offer a serious offer. Your leadership ought to consider pulling this bill. We ought to go back, close the door, and try to talk to each other. We ought to try to write a bill together. We ought to actually try to behave as if the country mattered. We ought to try to behave as though the American people mattered. We ought to try to behave as though all the speeches you gave on unemployment were sincere, that you really do care about trying to get those people back to work. We ought to try to pass a $5,000 tax credit so people can go out next week and buy a home. We ought to pass some kind of changes so businesses can invest in American jobs.

I think of the Michigan delegation. My God, how many more factories does General Motors have to close before you begin to figure this out? I think of western Pennsylvania. How many more steel mill workers have to be put off for life before you figure this out?

Now, I am prepared this afternoon to cancel my plans for 4 or 5 days and walk into a room, and I tried it last time, and it did not taste very good, but to go through this charade and have you by pure muscle in your whip system pass a bill most of your Members do not believe in so you can score a political point is a tragedy, and I think it weakens the Congress as an institution.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Missouri [Mr. GEPHARDT], the majority leader.

Mr. GEPHARDT. Mr. Chairman, members of the Committee, I listened carefully to my friend, the gentleman from Georgia, the distinguished minority whip. he cited Mr. Tsongas and his views on taxes.

I guess it is appropriate to cite the views of Pat Buchanan, who said in a TV ad that it was bait-and-switch, that the President said he was for middle-income tax relief, and now he is not, because it fell out of the bill. But let us not talk about that. Let us go to the serious comment that he made that this is political, that we ought to be bipartisan, that we ought to sit down and work out our differences.

Let me say to my friend this: That is what this place is about. We disagree with respect about what ought to happen on taxes now, and we have for some time. He and I and others here sat through the meetings of the budget summit in 1990. The issues have not changed. I do not impugn the motives of George Bush or the gentleman from Georgia [Mr. GINGRICH] or the gentleman from Illinois [Mr. MICHEL] or anyone on this side who says the way to trigger the economy is to give money to people at the top, to give tax breaks to people who have a lot of money. I respect your feelings. I respect your views. I disagree with them. That does not mean you are not for America doing well or that you are not for your State doing well or your people doing well. I respect that. I disagree.

I have fundamental disagreements, and many of us do, with what you want to do, but let us not confuse that with impugning motives.

The way we settle disagreements, the way we settled the disagreement on the unemployment bill is we come here and we pass legislation and we send it to the Senate, and then it goes to the President, and then a decision is made.

When we passed the first unemployment bill, the President said it was garbage. He scoffed at it. He said we did not need it. We passed it twice. He vetoed it twice. We tried to override his veto. We failed. That is the way the system works.

He finally signed the bill after some minor changes. I respect him for that. I am glad he signed it. It was the right thing for the country.

We can pass this bill today, and I pray and I hope that we will, and we will send it hopefully to his desk, and he may veto it, and then we will come back, and we will do it again. That is the way the Constitution set up this system, and it works.

Finally, let me say this to my friends: The question in this bill today is: Where does this money go? Who do you stand for and do you fight for?

I heard today about a woman by the name of Justina who works for a major law firm in New York City, 28 years old, the single mother of a 2½-year-old boy, who lives in the Bronx in a small apartment in a commercial area. Her son is in a play group in a private home, and she has to pick him up every day at 6 p.m. If she does not get there at 6, it costs her more. She is trying to make her life and her son's life work in New York City. She earns $30,000 a year. Between rent and carfare and medical insurance and utilities and food and daycare, she is barely scraping by.

Do not tell me that $400 a year does not make any difference to people, and do not say that $800 over 2 years does not help somebody.

I have not heard these words of concern about the amount of money when we are talking about $12,000 going to the wealthiest people in this country.

Stand up today and fight for the people we represent, the little people, the people who go to work every day and have made this country great.

You bet they need a tax cut. They have not had a tax cut, and if we pass this Democratic bill, we will stand for the people of this country.

Vote "yes" for the people of this country.

Mr. ARCHER. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. MICHEL], the respected minority leader.

Mr. MICHEL. First, Mr. Chairman and my colleagues, I want to thank the 14 Members on that side of the aisle who voted for our Republican substitute. Unfortunately, being 101 votes behind, we need a lot more than that to win anything around here. And if the Speaker is to close, we know the pressure is on the Democratic side to pass this substitute, and it is there in spades.

Much has already been said about the bill. I am not going to repeat the same arguments against it. It is enough to say that this proposal will raise taxes, lose jobs, and slow the economy, what might be called a triple play of economic irresponsibility.

But I think that two points have to be emphasized. First, the bill will bust the budget agreement. Now, no doubt the budget agreement had its share of detractors on both sides of the aisle, but the budget agreement is the only defense the country has against the majority's voracious appetite for spending.

If this bill becomes law, that defense will be gone.

And, second, and perhaps more importantly, the bill does raise taxes. No matter what the majority says, no matter how much rhetoric is bandied about, no matter how you look at it, this bill raises taxes, the substitute on the Democratic side, which prompts me to opine that the Democratic majority has got what it takes to take what you have got.

Clearly our Republican whip has said the majority's vision of the future continues to be welfare-state redistribution in a shrinking economy, a philosophy that reached its peak during the Jimmy Carter years.

The progress of Democratic economic policy has been simply from malaise in 1980 to malarkey in 1992.

Our proposal, on the other hand, was an honest effort to improve the economy and to create jobs. You rejected our proposal with a casual, thoughtless arrogance that marks those who have had too much power for far too long.

☐ 1430

This exercise serves no purpose. It is not going to help the economy. It will not create jobs. It will not provide real tax relief to families.

Mr. Chairman, as I said, your party has created economic policy by reading the popularity polls. We were sent here not to follow the polls, but to poll our conscience and vote for what is good for the country. Clearly, this bill is not good for the country. I urge my colleagues to reject this substitute now, give our Ways and Means Committee members on both sides of the aisle another opportunity to work together in a bipartisan way to craft the kind of proposition that will gain support.

Yes, it will have some detractors on both sides of the aisle, but eventually it will be the kind of thing the President would feel comfortable in signing. That is what we ought to do.

I urge my colleagues to reject this substitute and pursue that alternate course of action.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield my remaining time to the gentleman from Washington [Mr. FOLEY], the Speaker of the House of Representatives.

The CHAIRMAN. The Speaker is recognized for 3½ minutes.

Mr. FOLEY. Mr. Chairman, I certainly would like to say to BOB MICHEL that we understand that all Members of the House do not have a single opinion on any of the propositions that we are voting on today. He cited the fact that 14 members of the Democratic side voted for his alternative. I could cite in return that 13 of his members voted against it.

There is obviously a serious effort on the part of members to try to decide how we can best take action to bring about greater fairness in our tax system, to provide incentives for economic growth, to correct inequities that presently exist, and to move the country forward out of this recession into broader employment and economic opportunity for all our citizens.

I am troubled, as is the majority leader, when there seems to be not only a division here at the center aisle on the best approach to a problem, but about attitudes toward those who vote differently from ourselves.

We are not condemning the President of the United States for having views about how he wants to see a tax program received. We received him with great courtesy and attention, as we always do on both sides of the aisle, when he appeared here to give the State of the Union Address. He did not have any obligation to consult with us ahead of time about what he was going to say, and he did not. There was no bipartisan consultation. There was no prior discussion at the White House, as there has been on numerous occasions, for example, in reaching the country's highest decisions on foreign policy.

On these occasions, this President, as much as any I have served with, has chosen to bring people forward together, leaders of both parties, to discuss the issues and consult before he acts. I have given him public credit for that and will continue to do so. But on this he did not do that. He chose to keep his recommendations secret not only from his own party and his own Members but from the country as a whole. He had a right to do that. However, it seems all-the-more strange at this point to hear calls for bipartisanship, openness, consultation, and negotiations, when we have had none from the President on his proposals, or reflected in either of the previously voted alternatives.

The purpose of this body is not to withhold its support from all but the perfect, for no bill is perfect. It is to decide what is better, even the best, if it leads to nothing, can become the enemy of the good.

To govern is to choose. That is our responsibility and the choice, I think, is clear: The Democratic alternative offers greater justice, greater equity, better opportunity, and a better future for all Americans than the recommendations of the President or the Republican alternative which has just been rejected. But the worst choice, the worst choice would be to do nothing, and I appeal to Members here to recognize that fact.

Rather we enact the Michel substitute than do nothing.

My concern is that there may be some in this body who seek to do nothing, not because they think it is best, but because they think it is the most opportune position to take. I hope that is not true. I call on all Members of the Congress now, let us vote for the Democratic alternative. Let us enact this and send it to the Senate. We will have another opportunity when it comes back to us for final judgment before going to the President. Perhaps if the President is willing, negotiation and discussion can take place before that final vote comes. While I am willing to listen to whatever recommendations he may have to offer, we need to act for the country's sake. We need to act for the sake of the economy, for jobs and opportunity for our people and, yes, for the reputation of the Congress. We need to act. Let us make the choice now.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 210, not voting 4, as follows:

[Roll No. 30]

AYES—221

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce

Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Rose
Rostenkowski
Roybal
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thornton
Torres
Towns
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—210

Allard
Allen
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Carper
Carr
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dellums
Doolittle
Dornan (CA)
Dreier
Duncan
Dwyer
Early
Edwards (OK)
Emerson
English
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Mrazek
Myers
Nichols
Nussle
Obey
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Peterson (MN)
Petri
Pickett
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Russo
Sabo
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stump
Sundquist
Swett
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Traficant
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

de la Garza
Dickinson
Ray
Whitten

☐ 1454

The Clerk announced the following pair:

On this vote:

Mr. de la Garza for, with Mr. Ray against.

Mr. ENGLISH and Mr. HALL of Texas changed their vote from "aye" to "no."

Mrs. LOWEY of New York changed her vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. DERRICK, Chairman of the Committee on the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, pursuant to House Resolution 374, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ARCHER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARCHER moves to recommit the bill H.R. 4210 to the Committee on Ways and Means with the recommendation that it amend the bill in an open and bipartisan manner with a view to producing legislation the President can sign that will provide economic stimulus and job creation incentives without increasing taxes or the deficit.

POINT OF ORDER

Mr. ROSTENKOWSKI. Mr. Speaker, I have a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. ROSTENKOWSKI. Mr. Speaker, I make a point of order against the motion to recommit because it is a motion that is allowed neither under the rule, nor under the rules of the House.

Mr. ARCHER. Mr. Speaker, may I be heard on my motion before the Chair rules on the point of order made by the gentleman from Illinois [Mr. ROSTENKOWSKI]?

The SPEAKER. The gentleman from Texas [Mr. ARCHER] is recognized.

Mr. ARCHER. Mr. Speaker, under House Resolution 374, the rule providing for the consideration of H.R. 4210, one motion to recommit is allowed which may not contain instructions.

The motion to recommit which I have offered is in compliance with that proviso: I have offered a motion to recommit which does not contain instructions. It simply contains a recommendation that the Ways and Means Committee do certain things. The committee is under no mandate to do so as it would be if it were subject to instructions from the House.

And let me make very clear that there is a distinct difference between an instruction and a recommendation. According to Webster's New World Dictionary, an instruction is, and I quote, "a command or order," and in the plural, "details of procedure; directions."

A recommendation, on the other hand, is "the act * * * of calling attention to a person or thing as suited for some purpose; advice or counsel." In summary, Mr. Speaker, an instruction is a mandatory command, while a recommendation is a discretionary giving of advice.

Mr. Speaker, the Chair ruled yesterday that there is nothing in House rule 16, clause 4, that guarantees the right of the minority to offer instructions in a motion to recommit. Using that same logic, there is nothing in that clause which prohibits the minority from offering a recommendation in the motion to recommit.

It is true that House rule 17 does provide that pending the motion for the previous question or after it is ordered on the passage of a measure, it is in order for the Speaker, and I quote, "to entertain and submit a motion to commit, with or without instructions, to a standing or select committee." That rule clearly allows for only one of two types of motions to recommit: a straight motion and one with instructions.

However, we are not operating under rule 17 today since the rule does not allow for a previous question motion on the passage of this bill. Under the rule for this bill, House Resolution 374, the previous question is considered to have been automatically ordered. We are, therefore, clearly operating instead under House rule 16 which provides that, and I quote, "After the previous question shall have been ordered on a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution."

Nowhere in that rule is the Member confined to offering either a straight motion to recommit or one with instructions. It does provide that if a motion to recommit with instructions is offered, there shall be 10 minutes of debate on the motion. All that means is that such debate may not take place on a straight motion or on the motion to recommit with recommendation which I have offered.

Finally, I would emphasize, Mr. Speaker, that the motion to recommit under rule 16 was intentionally adopted in 1909, to provide the minority an opportunity to express its final position on a bill. While we are precluded by the rule from either amendatory or general instructions, this motion to recommit with recommendation is consistent with the original intent of the rule to give us a last chance to offer our position. I urge the Chair to allow this motion as the right of the minority.

□ 1500

The SPEAKER. Does the gentleman from Illinois [Mr. ROSTENKOWSKI] insist on his point of order?

Mr. ROSTENKOWSKI. Yes, I do, Mr. Speaker.

While the rule permits the Member to offer a motion to recommit, the rule specifically provides that the motion may not contain instructions. The pending motion to recommit contains recommendations, which are not permitted, and I ask the Chair to sustain the point of order.

The SPEAKER. Is there anything further the gentleman from Texas [Mr. ARCHER] wishes to add?

Mr. ARCHER. Mr Speaker, I simply wish to close by saying that I made the distinction between instructions and recommendations. The chairman of the committee is correct, that had it included instructions, it would have been out of order. It does not include instructions, and I again urge the Chair to overrule the point of order.

The SPEAKER. The gentleman from Illinois [Mr. ROSTENKOWSKI] makes a point of order against the motion to recommit H.R. 4210 offered by the gentleman from Texas [Mr. ARCHER] on the ground that it includes language recommending that the Committee on Ways and Means "amend the bill in an open and bipartisan manner with a view toward producing legislation the President can sign."

The motion to recommit a bill to a standing committee is addressed in specific and general terms in clause 4 of rule XVI and clause 1 of rule XVII. Both rules contemplate that the motion may in some circumstances include instructions. Clause 4 of rule XVI states that "with respect to any motion to recommit with instructions * * * it shall always be in order to debate such motion for 10 minutes * * *." Clause 1 of rule XVII states that pending the motion for the previous question the Speaker may entertain a motion to commit, "with or without instructions * * *."

Neither rule XVI nor rule XVII—nor any other rule of the House—recognizes a form of motion to recommit "with recommendation." Rule XVI and the precedents of the House do not admit motions other than those mentioned in and made in order by the rules of the House.

Moreover, the precedents hold that argument is not in order in a motion to recommit. On this point the Chair is guided by the ruling of Speaker Gillet on November 29, 1922, sustaining a point of order against a motion to recommit with instructions that included descriptive matter that might be construed as argumentative. That ruling is recorded in volume 8 of Cannon's precedents, at section 2749. Similarly, on June 3, 1882, Speaker Keifer held that a motion to recommit should not contain matter in the nature of debate, by preamble or otherwise. That rule is recorded in volume 5 of Hinds' precedents, at section 5589.

The cited precedents are consistent with the principle in clause 4 of rule XVI that the motion to recommit a bill or joint resolution after the previous question is ordered on final passage is rendered debatable only by the inclusion of instructions.

Finally the Chair would refer to the ruling of yesterday, February 26, 1992. The gentleman from New York [Mr. SOLOMON] made a point of order against House Resolution 374 on the ground that it violates clause 4(b) of rule XI, which provides that the Committee on Rules shall not report any rule or order of business that would prevent the motion to recommit from being made as provided in clause 4 of rule XVI. The Chair held that the Committee on Rules does not violate clause 4(b) of rule XI so long as it does not deprive the minority of the right to offer a simple motion to recommit. In making that ruling the Chair expressly stated that House Resolution 374 properly guaranteed a simple motion to recommit.

The motion to recommit offered by the gentleman from Texas [Mr. ARCHER] includes matter that might properly be construed as argument. As such, is not a proper motion and is held out of order.

The question is on the passage of the bill.

The question was taken; and the speaker announced that he was in doubt.

The SPEAKER. Those Members in favor of passage of the bill will rise.

The Chair will advise the Members that this is an affirmative vote on final passage of the bill.

Mr. ROSTENKOWSKI. Mr. Speaker, is it in order to ask for a rollcall vote at this point?

The SPEAKER. The gentleman is correct.

Mr. ROSTENKOWSKI. Mr. Speaker, I demand a rollcall vote.

The SPEAKER. The gentleman demands the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 221, nays 209, not voting 5, as follows:

[Roll No. 31]

YEAS—221

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
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Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
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Neal (MA)
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Owens (NY)
Owens (UT)
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
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Richardson
Rose
Rostenkowski
Roybal
Sanders
Sangmeister
Savage
Sawyer
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Skaggs
Slattery
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Smith (FL)
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Snowe
Solarz
Spratt
Staggers
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Studds
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Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
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Williams

Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—209

Allard
Allen
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Carper
Carr
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dellums
Doolittle
Dornan (CA)
Dreier
Duncan
Dwyer
Early
Edwards (OK)
Emerson
English
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
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Gilchrest
Gillmor
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Gingrich
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Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
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Hastert
Hayes (LA)
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Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
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Lewis (CA)
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Lightfoot
Livingston
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Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Mrazek
Myers
Nichols
Nussle
Obey
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Peterson (MN)
Petri
Pickett
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Russo
Sabo
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stump
Sundquist
Swett
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Traficant
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Bentley
de la Garza
Dickinson
Ray
Whitten

☐ 1533

The Clerk announced the following pair:

On this vote:

Mr. de la Garza for, with Mr. Dickinson against.

Mr. SKELTON changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 194

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Resolution 194.

The SPEAKER. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1662

Mr. ORTON. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 1662, the National Advertising Coordination Act of 1991.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. ORTON. Mr. Speaker, last summer, I cosponsored H.R. 1662, the National Advertising Coordination Act of 1991 because I believed consumers would be less confused by a consistent set of regulations to be applied to food labeling and advertising. Traditionally, the Federal Trade Commission has been more lenient in its regulation of food advertising than has the Food and Drug Administration in its regulation of food labeling. With greater and greater dependence on advertising for information, consumers must not be deceived or defrauded.

I still hold true to this belief. However, after the release of the proposed regulations to the Nutrition Labeling Enforcement Act of 1990 [NLEA], I am withdrawing my support for H.R. 1662. As I have indicated in the following official comment to the Food and Drug Administration, I believe the proposed regulations for NLEA need to be changed in order to reflect a more reasonable standard for the review of minerals, herbs, and vitamins. Until a more reasonable standard is proposed by the FDA, I will withhold my support for H.R. 1662.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 25, 1992.

To Whom It May Concern:

On September 12, 1991, I cosponsored H.R. 1662, the Nutrition Advertising Coordination Act of 1991. I chose to cosponsor this legislation in order to protect consumers against deceptive advertising claims that cost citizens millions of dollars each year.

On November 27, 1991, the Food and Drug Administration (FDA) issued its proposed regulations to implement the Nutrition Labeling and Education Act of 1990 (NLEA). After reviewing these regulations, I am still dedicated to the goal of protecting consumers against fraud and deception but I am also wary of governmental overprotection and the subsequent loss of freedom for the consumer.

The heart of my concern is exemplified by pages 60537–60548 of the Federal Register which details the scientific standards to be applied to dietary supplements. While I welcome consistent and reasonable standards for the review of products, I am afraid that this represents a consistently unreasonable standard.

Using what is essentially a scientific consensus standard is too strict for vitamins, minerals, and herbs. The base of scientific knowledge on the health benefits of vitamins and herbs is changing rapidly due to tremendous strides in biomedical research. The accessibility and cost of these products are likely to be adversely affected by unreasonably restrictive review standards. I, for one, would much rather see the FDA budget used to facilitate the advance of useful products rather than to bring progress to a halt with unnecessary red tape.

I urge you to reconsider the proposed scientific standard applied to dietary supplements. I am willing to provide you with any needed assistance and look forward to hearing from you in the future.

Sincerely,

WILLIAM H. ORTON,
Member of Congress.

HAITIAN REFUGEE PROTECTION ACT OF 1992

The SPEAKER. Pursuant to House Resolution 375 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3844.

☐ 1535

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3844) to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, February 26, 1992, 34 minutes remained in general debate.

The gentleman from Texas [Mr. BROOKS] has 16 minutes remaining in general debate and the gentleman from Florida [Mr. McCollum] has 18 minutes remaining in general debate.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I thank the gentleman for yielding me this time. When our country took action unilaterally to weaken our sanctions against the military government, the illegitimate government now in control in Haiti, and when we began to send back the people who fled that country, I think we sent a message that really does not reflect what most Americans believe our foreign policy should be about.

I do not think any of us have constituencies that welcome additional immigrants, legal or illegal, frankly, at this point in our history, during a recession. Certainly Americans, however, have to think back to the 1930's when Jews were fleeing Europe, and we were in a depression. It was so easy then for us to say "We simply have no room. We cannot help." But we have to learn from history.

We now look back on the Holocaust and understand the prices the entire world paid, but certainly those Jews and their families paid, because of the callousness or the disinterest of people who did not know better; who were not led to understand by people like us.

We are elected to lead. We are elected to provide moral leadership, and I believe this bill is a step in the direction of providing that. I am hopeful that all Members will join in supporting the effort, this humane effort, at preventing a minor holocaust at least and perhaps worst from occurring in Haiti.

Mr. Chairman, I rise in support of H.R. 3844, the Haitian Refugee Protection Act, a bill that will enable us to provide a temporary safe haven for the Haitian refugees already being held in our custody.

When last September's coup shook the island of Haiti, its democratically elected government was overthrown, its President was forced into exile, and the military took over. Over 1,500 Haitians were killed. As a result, over 13,000 Haitians have fled their country, fearing for their lives. Most of them escaped in small boats and headed for neighboring countries. Those who have attempted to find refuge here in America have been intercepted by the Coast Guard and taken to our naval base at Guantanamo Bay, Cuba. Over 3,500 of these people have been forced to return to Haiti.

Those forced to return to Haiti, where the military now rules with an iron hand, are singled out, fingerprinted and photographed upon arrival. Supporters of democracy and exiled President Aristede face torture, and even death. Our State Department claims to have no knowledge of these dangers, but how do they know? Our Ambassador to Haiti has left the dangers of Haiti behind him; he is safe, here in Washington, DC. Minimal staff remains in Haiti, and the American population still residing in Haiti, on which the State Department depends for its information, numbers only 50.

This reminds me of a similar incident during the late 1930's, before we entered World War II. The *St. Louis*, a ship of Jewish refugees fleeing the Nazi reign of terror in Germany, was not allowed to dock in Cuba. Its passengers were ultimately shipped back to the countries of Western Europe. Then, as now, the immigrants' plight received an outpouring of sentiment from the American people. And then, as now, there was no stance on their behalf; we did nothing but pressure countries on the brink of war to accept these unfortunate travelers.

I agree that we cannot afford to open our doors to all the poor people of every nation who want to enter the United States in order to better their lives. But H.R. 3844 is not an open-door policy for thousands of Haitian immigrants waiting to set sail for America. This bill affects a very small group of people and is only temporary. All it does is prevent us—for 6 months only—from returning those Haitian immigrants who were already in our custody on February 5. It will also require the administration to report on the fate of all the Haitians we send back, and it will deny admission to the United States to any Haitian who supported the overthrow of their democracy.

When we started sending Haitian refugees back to Haiti, we sent a message acknowledging and supporting the authority of the military thugs in power. Now it is time to send another message, and H.R. 3844 does this. This bill affirms that we Americans are true to our principles and tradition—that we advocate and support fairness, justice, and basic human rights.

I urge my colleagues on both sides of the aisle to support final passage of H.R. 3844, a statement of our humanitarian commitment as Americans to the plight of our Haitian neighbors.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. FISH], the ranking member of our full committee.

Mr. FISH. Mr. Chairman, I rise in support of H.R. 3844, the Haitian Protection Act of 1992.

We are all painfully aware of the series of events which has led this body to consider the bill before us today. First, in December 1990 we watched anxiously as the first free and democratic election in the history of Haiti resulted in the election of Jean-Bertrand Aristide. Less than a year after the elections—September 30 of last year—anti-Aristide forces violently removed Aristide from office. Since the coup, more than 15,000 Haitians have fled in hopes of reaching the United States.

The State Department maintains that no evidence has been found to confirm the allegations that repatriated Haitians are singled out for persecution. On the other hand, the Haitian Refugee Center, Amnesty International, Americas Watch and other groups assert that significant numbers of returnees are being harassed, injured or killed by anti-Aristide forces. Whether you support the position of the State Department, the position of the refugee and human rights groups or some position in between, it is clear that the political and economic climate of Haiti remains volatile and unstable.

I have asked myself if I, in good conscience, can be responsible for sending over 10,000 people back to such an environment. My answer is no.

The U.S. Embassy in Port-au-Prince is attempting to investigate all allegations of repression of returnees but the relatively small number of staff available makes quick, yet thorough determinations difficult. It is likely that people are sent back before there is assurance that it is safe to do so.

The recent agreement between Aristide and key Haitian legislators is encouraging but does not, itself, provide calm and stability in Haiti. The 6-month suspension in repatriations provided for in H.R. 3844 will allow time for the possible stabilization of the political climate and for a thorough investigation of claims of persecution. What can we possibly lose by waiting 6 months?

We have provided more extensive protection to numerous other nationals with unstable political situations: Poles, Salvadorans, Libyans, Liberians, Kuwaitis. The minimal protection provided in H.R. 3844 is not too much to ask for the Haitians.

I urge my colleagues to join me in supporting H.R. 3844.

□ 1540

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, this is a bill not only to provide protection to Haitian refugees, but to eliminate one of the most glaring hypocrisies in American foreign and immigration policy.

For much of the last decade, we have been beating up on the British in order to prevent them from forcibly repatriating to Vietnam Vietnamese boat people who have washed up on the shores of Hong Kong, while, at the same time, we are forcibly returning Haitian boat people coming to our country back to Haiti.

Is Haiti any less repressive than Vietnam?

I am glad the administration opposes involuntary repatriation for Hong Kong to Vietnam, but Haiti is, if anything, more repressive than Vietnam. Fifteen hundred Haitians have been killed since the coup. In Vietnam they throw you into a reeducation camp, but at least they do not kill you.

In terms of our immigration policy, any Cuban who comes to the United States fleeing Castro's tyranny is virtually guaranteed citizenship in America, whereas the Haitians attempting to escape the tyranny in their country are not even permitted to stay temporarily, until democracy can be restored. So to eliminate hypocrisy in American foreign and immigration policy and to restore decency to our policy, I urge adoption of this legislation.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman, ladies and gentlemen of the House, we all share the concern about the people in Haiti and elsewhere in the world to have freedom and to exercise a free economic system.

There are unquestionably Haitians who meet the statutory definition of a refugee, and no one is suggesting those people ought to be returned to Haiti. However, there are many, many Haitians who are being picked up at sea who are leaving simply for economic reasons. They have, the vast majority of them, the intent to come here for economic reasons.

The fact of the matter is the evidence is fairly clear for anyone who wants to look at the reality of the situation. They are not political refugees but economic refugees. The Haitians have the ability to go over an open border with the Dominican Republic, and if they so desired and were so worried about political persecutions, they could go there.

One hundred Haitians went to Venezuela feeling that might be a bypass into the United States. When they found out it was not a bypass, 73 of them went back to Haiti. There were other countries in the Caribbean where Haitians went to thinking they could get into the United States. When they found that that door was closed, they went back to Haiti.

One hundred fifty-people who have been repatriated have been interviewed by the U.S. Embassy. They found no substantiating evidence that there is any persecution; rather, there were contradictions in some of these reports.

The fact of the matter is we need to be fair to the millions of people from other nations who seek to immigrate to the United States for economic reasons or other reasons, and we should not have a special precedent being set here for Haitians who should be allowed to come into the United States under the framework of our immigration laws and policies. As much as we all feel for the Haitians and hope they have a good government, a sound, free government being reinstated in Haiti, we cannot be a nanny for the rest of the world.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. BERMAN], a distinguished member of the Committee on the Judiciary.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I thank the chairman of the subcommittee and the chairman of the full committee for reporting this bill out. I would like to respond to the previous speaker. They speak, the opponents of this bill speak, of economic refugees, of circumventing immigration laws, and letting people in line. This bill does not let people into this country. That is a bad argument. That is misinforming the House about what this measure does.

When you talk about economic refugees and people coming for other kinds of reasons, you have to square what you are saying about the wretched Haitian refugees leaving this country seized by a coup with a history of violence and oppression like hardly any other country in the world.

When a Pole came to this country during the height of the Communist control of Poland, no one asked that Pole whether he was an economic refugee or what would happen to him when he got back there. We never would have thought of sending a Polish emigre or a tourist who had overstayed his visa back to Poland, or from the Soviet Union, the same thing, from Vietnam, the same thing. No Nicaraguans were ever deported back to Nicaragua.

We are not talking about people in the United States. We are talking a 6-month stay of deportation from Guantanamo back to their country in an environment where there is absolutely no effective monitoring about what happens to these people.

Our foreign mission in Iraq could not find out whether they were building a nuclear arsenal. Does anyone think that we are going to be able to monitor, from our little Embassy in Haiti, what is happening to these people when they are sent back, with the Ton-Ton Macoutes and the other enforcers of oppression running around? This is a moral issue.

Compare it with what we have done with these other countries, and vote for this limited, excellent piece of legislation.

Mr. MCCOLLUM. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I wanted to respond to comments that have just been made by several speakers that imply a double standard that I do not think is well understood. We talk about countries like Cuba, for example, and in a situation like that, where the Soviet Union with some of the other peculiar circumstances around the world, this Nation has determined, because the evidence is there, to assume that everybody who gets away from those countries in those situations is a person who is eligible for asylum here and meets the political persecution, the fear-of-political-persecution standard. That is because, in the case of Cuba, for example, everybody who is returned back there gets persecuted, gets put in jail, something happens to them. We know that. So we do not have to distinguish.

In the case of Haiti, that is not true. We have a long history of people leaving Haiti and being repatriated, and we do not have a long history of the governments of Haiti locking them up, including this one, or oppressing them.

Our State Department has investigated since the return began, since Aristide left, and 159 separate cases, and they continue to investigate them, cases in many instances where various organizations have claimed there has been persecution, and in every one of the 159, they have got documented, and I have the documentation over here, where they have gone and checked out. There was no persecution involved in that situation.

So where we have had situations like in Haiti, we have been very, very distinct, and common, and ordinary in our practice and treated everybody the same. We have made the laws work of the Refugee Act, and that is what is so important, make the laws and the Refugee Act that are on our books today equal and fair and work where possible, which is 90 percent of the time, and send back those people to the countries they came from who are economic refugees and only keep those who are reasonably in fear of persecution. That is only going to work.

Otherwise, everybody will come over here who has an economic claim from every country where there is some war or disturbance. Take Yugoslavia, for example, we are not taking everybody from Yugoslavia.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, 30 seconds, this is impossible to talk about a human-rights issue.

The bill should not be on the floor, because events are moving so quickly. Father Aristide—and what is a priest doing running for office—still he is working out things. We should have waited a couple of weeks.

However, having said that and understanding that there are men of conscience on both sides, I must go with not setting a precedent that dovetails with forcibly repatriating Hmong tribespeople across the Laotian border, and the hapless, forgotten Vietnamese boatpeople in Hong Kong.

I have a letter that I circulated on October 3. I was only able to get three great Democrats on it, the gentleman from Texas [Mr. STENHOLM], the gentleman from New York [Mr. ENGEL], a great human-rights guy, and the gentleman from Georgia [Mr. JONES]. The next time I circulate a letter to stop the forcible repatriation of people from Hong Kong for a bloody $1,000-a-head back to Communist Vietnam, which I think is worse than Haiti, I want to see all of you great human-rights people on my letter, and for that reason I will vote with you, and then we will solve the Hong Kong problem.

God bless you.

□ 1550

Mr. MCCOLLUM. Mr. Chairman, for purposes of debate only I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise in very reluctant opposition to H.R. 3844, the Haitian Refugee Protection Act.

I have been to Haiti, Mr. Chairman. I have seen with my own eyes the effects of decades of gross economic mismanagement and political repression. I have seen with my own eyes the hunger, the disease, and the desperate poverty that is the daily lot of most of Haiti's people. And I watched with profound dismay when Haiti's fragile democracy was crushed by a military machine bent on violence and retribution.

I am gravely concerned about the welfare of Haiti's poor and of those Haitians who have left behind their homes and families to seek refuge in the United States. It is for this reason that I must oppose H.R. 3844.

Many of those who embark upon the uncertain voyage across the ocean have sold their land, their possessions, indeed their life savings, for a passage to the United States. Selling the promise of asylum in America has probably become big business in Haiti, leaving the desperate many at the mercy of the unscrupulous few. Yet we know that most of these refugees will never reach American soil and will instead find themselves back in Haiti, stripped of the resources they need to survive. Any incentive to attempt this fruitless journey is, in my mind, only a come-on to Haiti's poor to give away their meager assets for nothing. Haitians hearing news of this bill may fail to recognize that the moratorium applies only to refugees under United States supervision by February 5. The idea that gets across is more likely to be that repatriations will be suspended, period. H.R. 3844, then, would provide cruel encouragement for more Haitians to leave their villages believing in the empty promise of safe haven in the United States.

I further oppose this bill as it fails to authorize any funds to provide for Haitian refugees over the 6 months of the proposed moratorium.

At best, H.R. 3844 sends a clouded and confusing message to the people of Haiti. At worst, it may compound the humanitarian crisis threatening the future of Haiti's people. I urge you to join me in voting against this bill.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from New York [Mr. SCHUMER], the chairman of a great subcommittee.

Mr. SCHUMER. Mr. Chairman, I appreciate the gentleman yielding me this time. I urge support for this legislation.

Let me say first, Mr. Chairman, that 55 years ago there was a boat named the St. Louis off the shores of Cuba, ironically. There were hundreds of people on that boat. They asked for the same thing that these people are asking for today, not a handout, not a green card, not citizenship, just a place to stay while the trouble in their homeland subsided. They were sent home, many to their deaths, and America should not repeat that sad story.

The bill that has been crafted by the distinguished subcommittee chairman is a very narrow bill. It does not apply to anyone who flees from Haiti to Cuba after a date that is in the past already. It does not allow those who have been there any rights in the United States. All it does is say simply let them stay there until the clouds in Haiti abate.

Is that too much to ask for a Nation that has the Statue of Liberty at its entering harbor? Is that too much to ask when America is known as the beacon of freedom and people around the world look up to us? I argue not, and I argue for support of this bill.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I must oppose H.R. 3844, the Haitian Refugee Protection Act. This legislation is misnamed, mistimed, and misguided.

First, Haitian refugees are already protected by current immigration law and by the actions of the U.S. Government. Congress has established guidelines for determining refugees—guidelines that are in accord with the accepted international standard: A genuine refugee must have a "well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."

This standard—written into U.S. law by Congress—is individual. After prescreening, more than 5,000 Haitians have been allowed to pursue their individual claims of asylum. Haitians with credible claims of refugee status are already receiving the full protection due them under U.S. law.

Second, we are considering this legislation just as major progress toward a political solution to the Haitian crisis has been achieved. Under the leadership of the Organization of American States, with strong support from the United States, the democratically-elected President and parliamentary leaders reached agreement this weekend on a path to resolve Haiti's political future.

While it is not clear whether this agreement will in fact reverse the illegal coup, it is clear that diplomatic efforts are working. This body should not undermine those efforts by passing legislation which is likely to encourage many more Haitians to leave. In the words of President Aristide: "Haitians must try to stay in Haiti in order to continue nonviolent resistance."

Third, this legislation is misguided because it is not based on facts. No one doubts that there is politically motivated repression in Haiti. That is why thousands of Haitians have been allowed into the United States to pursue asylum claims.

But no one has produced any credible evidence that Haitians who did not have a credible claim for refugee status and were repatriated to Haiti have been persecuted for leaving. Not only does the State Department have no evidence of reprisals against repatriates, no one else does either. Not one human rights or refugee group has produced evidence of persecution of Haitian returnees. The alleged problem this legislation addresses simply does not exist.

For all these reasons, I oppose H.R. 3844 and urge my colleagues to vote against it.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the chairman for yielding me this time.

I rise reluctantly to oppose my articulate friend, the gentleman from Florida [Mr. McCOLLUM], a member of the Republican leadership, but let me say to my colleagues, if we adopt the reasoning behind the McCollum position, then we are adopting Britain's policy with respect to the boat people and we are going to see that policy thrown in our face when they attempt to get President Bush to acquiesce on forcible repatriation of boat people. If we do not go with the bill, and it is a good bill, we are going to be absolutely sucking the moral force out of President Bush's strong opposition to forced repatriation.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise in strong support of H.R. 3844, the measure to suspend the forced return of Haitian refugees for a 6-month period.

After visiting Haiti with a delegation of my colleagues last week, I am convinced that there is an atmosphere of intimidation which jeopardizes the safety of returning Haitians.

While our delegation was in Haiti, we had candid discussions with human rights groups that confirmed our worst fears—that reprisals are taking place against Haitians who oppose the Government installed by force in the September 30th military coup which removed Haiti's democratically elected leader, President Jean-Bertrand Aristide.

The State Department and the administration have shirked their responsibility to determine the truth about what is taking place in Haiti.

They prefer to look the other way as violations of human rights are reported by groups including Amnesty International and Americas Watch.

The United States has come to the aid of nations struggling for democracy around the globe. We have welcomed hundreds of thousands of refugees from Eastern Europe, from the Soviet Union, from Asia, and from Cuba.

Why is the administration now slamming the door in the faces of Haitian refugees, who are passionately struggling to restore democracy to their country?

The United States and Haiti have had a long-term relationship. During World War II, Haiti offered to assist the United States in the war effort. They responded positively to President Roosevelt's request that they convert their agricultural economy to the production of trees and plants that produce latex.

Clearing mahogany trees and other plants indigenous to their nation, the Haitians sacrificed their own rich soil to try to accommodate the needs of the United States.

Earlier this week, I held an open forum in my congressional district, and members of the Haitian community came forward to express their concern about the fate of their loved ones caught up in the political upheaval in their homeland.

How can I explain to Haitians living in my community that our Government simply applies a different standard to the Haitian people than to all other refugees?

Mr. Chairman, today Congress has an opportunity to send the administration a message: We do not accept this "double standard" which imposes suffering on the people of Haiti and hurts the cause of democracy. I urge my colleagues to support this legislation and reassert our Nation's moral leadership by standing up for democracy in Haiti.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. FASCELL], the distinguished chairman of the Committee on Foreign Affairs.

☐ 1600

Mr. FASCELL. Mr. Chairman, I rise in strong support of H.R. 3844, the Haitian Refugee Protection Act. I would like to commend our colleagues Mr. MAZZOLI, chairman of the Subcommittee on International Law, Immigration and Refugees, and Mr. BROOKS, chairman of the Judiciary Committee, for their expeditious action in reporting this legislation which attempts to address the tragic human consequences of last September's coup in Haiti which deprived the hapless Haitian people of their first-ever democratically elected government.

Just days after the coup and the forced exile of Haiti's democratically elected government, I came before the House to introduce a sense of the House resolution expressing support for democracy in Haiti. The resolution, which was passed unanimously by this House on October 2, 1991, called on the President to make United States support for democracy in Haiti clear and to suspend our economic and military assistance until democratic government is restored. It also called on the Organization of American States to take all appropriate action to restore democratic government and urged the Haitian military to respect the human rights of the Haitian people.

Mr. Chairman, as a result of the continuing efforts of the Organization of American States to reach a peaceful resolution to the Haiti crisis, a conference was held in Washington last weekend between President Aristide, Prime Minister-designate Theodore and leaders of Haiti's Parliament. This meeting produced a Protocol which outlines a method for resolving the current crisis. If this Protocol can be fully implemented, it will help resolve the situation which gave rise to the bill before us. But, as promising as the new agreement is, it will be some time before we can be certain it will be implemented. We still need this legislation to relieve the current situation and to establish a humane framework for United States policy toward Haitian refugees either in the event the Protocol fails to end the crisis or during the indefinite period it will take for the Protocol to be fully implemented.

In the 5 months since the coup, the Haitian people have suffered tremendously and continue to suffer. Thousands have sought refuge from increasing economic hardship and the continuing repression and violation of human rights by the Haitian military by taking to the sea in small, often unseaworthy boats in an attempt to reach the United States.

As of Tuesday, February 25, 1992, 15,826 Haitians have been picked up in such boats by the Coast Guard; 5,213 have been found by the Immigration and Naturalization Service to have a sufficient fear of persecution should they be returned that they have been given permission to enter the United States to pursue their claims for political asylum. Most others have been, or are scheduled to be, sent back to Haiti.

From the beginning, Mr. Chairman, I have urged the administration to treat these people fairly and humanely. While we must insist that those seeking entry to the United States do so legally, we must also insist that our laws be applied fairly and humanely to Haitians as well as to any other nationality seeking entry to the United States. There can be no discrimination, or appearance of discrimination, in the way we apply our laws. We must also make every effort consistent with our obligations under international law and in accordance with our country's long tradition of respect for human rights to determine whether an individual is fleeing from a well-founded fear of persecution for his religious, or political or other beliefs. As I noted, however, the INS has determined that is the case for some Haitians. But, I also note that many Haitians, like those thousands who have been leaving Haiti for years, are leaving for economic reasons. While we can certainly understand their desire and hope to better their lives and those of their children, the United States, despite our enormous generosity, simply cannot take all these people.

Moreover, Mr. Chairman, it has been established that of those Haitians who have been permitted to enter the United States to pursue their claims to political asylum, over 80 percent have chosen to reside in south Florida. The people of south Florida have traditionally welcomed waves of new arrivals; south Florida, as a result, is one of the most culturally diverse and dynamic parts of our country. Our generosity of spirit remains large; just last week I met with scores of representatives of church groups, voluntary agencies, and community groups whose hearts went out to the Haitians and whose energies and considerable abilities are again pledged to helping their follow men and women. But each asked me how are we to pay for all the services these people need and deserve. Mr. Chairman, I had no answer, because the Federal Government has not lived up to its responsibilities in providing funds, which have been authorized and appropriated, to local communities like Dade County which have been financially burdened by the results of our Federal immigration policies. Just to cite the example of Dade County schools—as of January 30, 1992, 26 percent of the elementary and secondary school population were born outside the United States. Haitians already form the third largest group of foreign born students. For each foreign born refugee student, Dade County incurs $588 in additional unreimbursed annual costs. The immediate cost of taking care of foreign born students is thus estimated to be $136 million; the long range cost is estimated to be $665 million. These are costs the county cannot afford and Dade taxpayers should not have to bear.

From the beginning, Mr. Chairman, I have argued that the solutions to Haiti's problems are to be found in Haiti, not in the United States. We must restore democracy there. That is why I supported the embargo, although I knew it would do serious harm to the Haitian economy and exacerbate the flow of people seeking to flee. That is why I urged President Bush to call on the United Nations or the Organization of American States to send a peacekeeping force to Haiti to help bring about the stability necessary for democracy to be restored. That is why I have urged the administration and the military regime in Port-Au-Prince to support the Protocol reached this past weekend in Washington which calls on the Haitian Parliament to concur in the dispatch to Haiti of a civilian observer group from the OAS.

Unfortunately, the process of restoring democracy to Haiti may yet require considerable time. The embargo has not proven an effective tool to convince the Haitian elites which have supported the coup and the continuing military repression. This bill attempts to send a message to these supporters of military rule and repression by denying them admission to the United States. We need also to look closely at their assets in the United States and whether it would be feasible to freeze them. The bill also addresses the human dimensions of the tragedy by suspending for 6 months the repatriation of Haitians who fled their country in the hopes the situation will be stabilized but also in order to allow us to know more about the human rights situation in Haiti and to be sure that those being returned are not subject to reprisals of any kind.

Much has been made of the lack of credible information about reprisals. But no one can assert with absolute certainty that there are no reprisals. The bill requires the State Department to report to Congress on the status of those who have been returned and, in so doing, to consult with those international human rights organizations which have been telling us that abuses have taken place. In addition, the bill provides for the admission of 2,000 refugees from Haiti each year. While this is a departure from past practice to leave specific allocation of numbers to a more informal consultative process between the Congress and the administration, I believe we are justified in mandating this to an administration which has been reluctant to grant refugee status, and the concomitant Federal financial benefits, the Haitians.

Mr. Chairman, I recognize that the bill before us does not solve the longer term problems of Haiti. That will require, in the first instance, a restoration of Haitian democracy, and over the longer term a firm commitment by the United States and other countries both in the hemisphere and beyond, to the economic development of Haiti. With democracy restored and the prospects of a brighter economic future, I believe the hard working and industrious people of Haiti will prefer to live and work in their own country rather than risk the perilous and illegal journey to the United States which so many have felt forced to undertake in recent months. I urge the adoption of this bill.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Chicago, IL, Mr. GUS SAVAGE.

Mr. SAVAGE. Mr. Chairman, I rise in support of this legislation and to commend Chairman BROOKS for proposing to keep the Haitian refugees from being forcibly returned to Haiti. I only wish that we would go further and not only keep them at Guantanamo Bay but treat them the same as the Cubans and as we have treated others and let them come to the United States.

There are international organizations, including Americas Watch, which have verified they are subject to persecution upon their return to Haiti. We accept others.

The only distinction I can see here is one of race. Our immigration policy in this country has been filled with racism in the past. At least this is one step forward. For that reason I support the legislation and commend the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this resolution. The principle we should operate on is that no helpless human being should be sent back to a tyranny, to a dictatorship. That is an issue of freedom versus tyranny. It goes to the soul of our country.

We are not saying we have to bring every refugee into the United States, but when it is possible, as we have, an alternative to keep them someplace else rather than sending them back to repression and to death and torture, we should go the extra mile to see if we can help these refugees. That speaks a lot to the soul of America.

That is why I am supporting this resolution.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to a distinguished member of the Committee on the Judiciary, the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. I thank the gentleman from Texas for yielding this time to me.

Mr. Chairman, I just want to ask one question: If there were 10,000 sheep that had gotten out of a pen and they belonged to a shepherd and a wolf had them, and the question was whether if the wolf let them go and they went back to the shepherd, would the shepherd kill them or run them off? Well, the smart shepherd would wait until he had all 10,000 of them back or kill the first boatload that came back?

The question these gentlemen are asking about the repatriation—whether or not violence is going to be exacted upon them—I think is premature. Sure, the smart people in Haiti want to do something about it. They are going to wait until they get all them all back, and then they are going to kill them. Then you are going to be the ones to have the blood on your hands.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to a distinguished Member from New York a long-time former member of the Committee on the Judiciary, now a member on the Committee on Ways and Means, and really the author, the instigator, the motivator, and the prime mover and shaker in this Haitian bill. I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. I thank my distinguished chairman for yielding this time to me, as well as my friend from Kentucky, for the leadership they provided on this bill.

I do hope that my friend from Florida [Mr. MCCOLLUM] might find some time so that we can have an exchange. This should not be a Republican or a Democratic issue. Certainly, when you talk about the different treatment that we have for Cubans, you would have to agree with me that this was a political decision that if they came from a Communist country we have to show our concern there. But if you take a look, and I have had a chance to go over the communication that the State Department has given you—take my word for it, I have been to Haiti, I have talked with the people from the State Department, I have talked with the people from our Embassy—when these poor wretched souls are finally dumped on the beaches of Haiti, they are greeted not just by the Red Cross people but they are greeted by soldiers. They are greeted by having their fingerprints taken, they are greeted by having their pictures taken.

We were able to hear, right in our Embassy, stories of the atrocities that have been committed on these people. It just seems to me that, as Americans, we could feel proud of ourselves if we were not trying to discuss some constitutional question, because I agree with the gentleman from Florida and I agree with the President that it should be we as Americans who determine who comes into our country and who does not come into our country.

But, for God's sake, there must be something on a higher level when people go out to sea in shark-infested waters, fleeing the terrors of an army that we ourselves have condemned.

The reason they are fleeing is because they believe in the principle that it was the United States of America that went there and taught them.

So, if we are talking about the new world order, if we are talking about providing democratic leadership in this hemisphere, why not send a message around the world that we are not going to send these people back to the terror from which they are trying to escape?

It would seem to me that this is something that should be nonpartisan. We are not asking you to take them into your home. We are not asking you to take them into your State. All we are saying is that you allow them to remain on a military base, which is tantamount to a concentration camp surrounded by barbed wire. If that is going to get you into political trouble, you should not be in this House.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Iowa [Mr. NAGLE].

Mr. NAGLE. Mr. Chairman, in the 30 seconds that I have all I can do is ask to revise and extend my remarks, but I would tell you that the failure of the administration to act on this occasion, even to someone sitting in the Middle West, not near an island and certainly not where they are going to land, is one of the most outrageous incidents of U.S. foreign policy being driven by domestic politics that I have ever seen.

As an American, I would be tempted to accuse the administration almost of racism for their policies here, but I will simply say that it is misguided, that the resolution should be adopted. If that Statue of Liberty is to mean anything, it should point to the south in our own hemisphere as well as to point toward Europe.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman and colleagues, for one brief, shining moment, the flame of democracy burned brightly in Haiti in December 1990. Seven months later, it was extinguished by repression. For the first time in the history of Haiti, the country had a freely elected president, whose tenure, last September, was crushed by the forces of Duvalierism and Macoute-ism.

The Haitian people seeking asylum in the United States do not flee a Communist country; they do flee repression in their own land.

I will speak about that later.

Maybe they are guilty of economic refugeeism, but it is a flight from destitution and desperation. They do not ask to stay, but they do want to go home in dignity. This bill will let them do so.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentlewoman from California [Ms. PELOSI].

□ 1610

Ms. PELOSI. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS] very much for yielding this time to me. I commend the chairman for his actions in bringing this legislation to the floor.

Mr. Chairman, it is an honor to participate with the gentleman from New York [Mr. RANGEL] and the gentleman from Kentucky [Mr. MAZZOLI] on this legislation that is as fundamental to us as the principles on which our country was founded.

As my colleagues know, the provisions of this bill are very modest. Frankly, it is a very modest response to what is happening. It is clear the Haitians are fleeing the political chaos in their country, and are being discriminated against and being treated worse then others in similar situations.

My time is limited, so, Mr. Chairman, I urge my colleagues to vote "aye" on this important legislation.

Mr. Chairman, I rise today in strong support of H.R. 3844, the Haitian Refugee Protection Act. This bill would delay for 6 months the forced repatriation of Haitian refugees in United States custody as of February 5. The bill also directs the State Department to report on the fate of repatriated Haitians and calls on the President and international organizations to convene a conference on the Haitian refugee crisis.

The administration's callous act in repatriating these Haitian refugees is a travesty of justice and the very principles for which this Nation stands. Our European forefathers first came here over 300 years ago to escape persecution and tyranny. Over the past 200 years, since the United States was established, we have opened our doors and served as a haven for people whose homelands have been experiencing political and civil turmoil. In this century alone, we have granted special consideration to refugees from a number of countries, including Cuba, Poland, Uganda, Afghanistan, Chile, Argentina and most recently, El Salvador, Liberia, Kuwait, and Lebanon.

It is clear that the Haitians fleeing the political chaos in their country are being discriminated against and treated far, far worse than others in similar situations. Unlike the Haitians, Cubans picked up by the United States Coast Guard in the same kind of boats in the very same waters are brought to the United States and, at the discretion of the Attorney General, are eligible for permanent resident status after 1 year. The Haitians are repatriated. There are reports of Coast Guard cutters picking up both Cubans and Haitians in the same trip and taking the Cubans to Miami, while taking the Haitians to Port-au-Prince. This is wrong and this is immoral.

The administration claims that the Haitians are fleeing Haiti for economic reasons, not out of fear of persecution. The administration cites interviews with Haitians they intend to repatriate, as well as stories about the calm manner in which the Haitians are being greeted upon repatriation. They also claim that they are not seeing evidence of retaliation.

For decades, the Haitian people lived under one of the most repressive regimes in the world. Their society was pervaded by the Tontons Macoutes, who rules first through violence, and then through silent intimidation based on the fear of their capacity for violence. For a short period of time under President Aristide, the Haitians got a respite from dictatorship. Now, after the military coup, there is evidence that the Tontons Macoutes are on the rise again. They are stalking the cities, they are stalking the countryside, and they are present and watching at the repatriation locations. Even the Haitian Red Cross, a supposed independent nongovernmental organization has been denied affiliation with the International Committee for the Red Cross, because it is currently subordinate to the illegal regime ruling Haiti.

We are so fortunate with our freedom in this country that it is difficult to understand a world where silence or acquiescence in the face of a threatening presence, either governmental or endorsed by the Government, may be the only route for survival. The Haitian people took a real risk by electing President Aristide. Now, many of them will pay for that risk. And, the United States is responding to their democratic yearnings by returning them to a world of uncertainty and potential persecution and retaliation.

We, who have been fighting for democracy around the world, who entered a war in the Persian Gulf to help liberate a country not even struggling for democracy, must do better than this. Until the efforts to restore the legitimately elected Haitian Government are successfully completed, we should not repatriate Haitian refugees who are fleeing persecution and retaliation.

Until we act positively, lives continue to be at stake. The repatriation is on-going. I commend our colleague, Chairman MAZZOLI, for bringing this bill promptly to the floor and urge my colleagues to support H.R. 3844.

I also urge them to support the Conyers amendment, which would grant temporary protective status [TPS] to Haitians. The Mazzoli bill is good, but because of the need to compromise in committee, it does not go far enough. We have granted TPS to others faced with armed conflict and persecution in their homelands. The Haitian people are no less valuable and no less endangered. The Conyers amendment would protect them by allowing them to stay in the United States until the President certifies to Congress that a democratically elected government has been restored to Haiti.

I urge my colleagues to vote yes today for these initiatives which are firmly in the American tradition of providing a refuge for those whose dreams are for the democratic freedoms we too often take for granted.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, the Haitian Refugee Protection Act does not address two main problems.

The first is: What will happen to the Haitian refugees if democracy is not restored in 6 months, 1 year, 2 years, 3 years?

I recently had 26 town meetings, and overwhelmingly the people I talked to are very concerned.

The fear that many Floridians have expressed to me is that this change in immigration policy will create additional waves of Haitians coming into Florida. I think we all understand this concern. If the Federal Government's policy encourages more Haitians to flee their homeland, who should be financially responsible for their support?

The base at Guantanamo Bay can only hold so many people, and the facilities there are nearing capacity. It's simply not humane to crowd the refugees on a black-tar airstrip in the heat of the summer.

The citizens of Florida, indeed in all of the States, are humanitarian by nature. No one wants to see human suffering because of religious or political persecution.

But, there are other steps that can be taken. The United States should encourage the United Nations and the Organization of American States to take a more active role in ensuring that the Haitians being repatriated are safe while both organizations work toward the restoration of democracy in Haiti. Again, as has been mentioned before, we have already taken in 35 percent of those that have left Haiti already since the revolution.

Two alternatives will be offered as amendments by my Florida colleagues, Congressman CLAY SHAW, and Congressman PORTER GOSS.

These amendments ensure that if Congress requires States like Florida to take in more refugees then Congress should also find a way to help State and local governments pay the associated costs of these refugees.

The State of Florida still has $150 million in unreimbursed costs associated with resettling Mariel Cubans. That was more than 10 years ago.

We should not let that happen again.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished chairman of the Subcommittee on International Law, Immigration, and Refugees, the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS] for yielding this time to me. Very briefly I would like to thank the gentleman from Texas for allowing us to bring this bill up.

I would like to very much thank my subcommittee. I could not have worked with greater people in getting us where we are today.

I would just remind the committee in the House what the bill does not do. It does not admit any people into the country who are not eligible to enter as refugees having passed the asylum screening process. It does not provide any immigration benefits or any kind of refugee benefits to any group of people. It is time limited. It is not open ended. This only is, very simply, a nonreturn policy. It simply says there are people who ought not to be returned today to Haiti. That is all this bill does.

Mr. MCCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I thank the gentleman from Florida [Mr. MCCOLLUM] for yielding this time to me.

Mr. Chairman, when one opposes a bill such as this, he is oftentimes accused of being uncaring and insensitive. I stand to oppose it, and I am neither uncaring, nor insensitive. It was debated in the Committee on the Judiciary, and there were many instances where shortcomings and flawed features of this bill were pointed out, and in the same breath it was said, "We're going to pass it, but we're not going to establish precedent."

I said then, and I say now, "I don't see how we can afford to avoid establishing precedent."

Perhaps we do not do so intentionally or willingly, but I think, with the passage of this proposal, we are unwittingly establishing precedent, Mr. Chairman, that we well may not be able to accommodate or afford.

Mr. MCCOLLUM. Mr. Chairman, I yield the remaining 2½ minutes to close debate on this side.

Mr. Chairman, there have been a lot of debate points made out here today, but I think that the most significant thing is an overview of this situation and for us to remember that.

First of all, we have been having the Haitian situation regarding the boat people for a long time. It is not new to the Aristide era. We have had Haitians leaving that island, and coming to the United States and trying to get here throughout the 1980's, and sometimes in large numbers. It has been our consistent policy of our Government to return and repatriate those that are truly economic refugees, and that has been, by far and away, the larger number from that island, as it has been from most of the Caribbean when they try to get here.

We have not changed the policies of this government one iota with respect to the situation of Haiti. We have not changed the policies of our Government with respect to any other part of the world because the Refugee Act and the asylum laws of this Nation are what guide us, and it is very important for us to maintain those. Those laws say that the only people we will take in here, other than through the normal, legal immigration process, whereby we do take in a lot of Haitians every year, the only way we will make an exception to that under our laws is if somebody is in reasonable fear of persecution for political, or religious, or race, or other reasons if they are returned to their homeland.

In the case of the Haitians since Aristide's departure, the unfortunate ouster of that democratic government, we have been screening on the island of Guantanamo the several thousand, the some 16,000, that have been picked up from Haiti by the Coast Guard cutters. Our Government has screened in 35 percent of those and given them the opportunity to have full legal claim to asylum to prove their case that they do fear persecution. There was the belief going overboard on the part of our Government that those 35 percent have a plausible possible claim. The others are being repatriated because, if they were not, we would be creating a magnet in this instance, and I think that is very, very wrong.

There is a big difference between the Cuban and Haitian situation. The Cubans consistently persecute those who are sent back. We have known that for years. That is why we never sent anyone back there. In the case of Haiti the record is clear. Persecutions have not historically existed, and they do not now. The Government has investigated over 159 cases since the Aristide overthrow occurred. Of those we repatriated, in every single case there has been no persecution shown despite reports that are out there. Every case investigated shows no persecution of those returned.

Let us keep and abide by the laws of this Nation. There are not similar cases to go with, except the history of Haiti. We need to have the U.S. immigration laws apply here, the refugee laws apply, and let us vote down this bill instead of encouraging more to come at a loss of life to them, a breach of the policies of this Government, and encouragement of thousands, yea millions, of those that are economic unfortunates who try to come here, and we just cannot absorb them all.

Mr. BROOKS. Mr. Chairman, I yield our remaining time to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

The CHAIRMAN. The gentleman from Missouri is recognized for 3½ minutes.

Mr. GEPHARDT. Mr. Chairman, I rise in strong support of this proposal to protect Haitian refugees from a forced return to their homeland where they face violence and persecution. This is not simply a matter of economic deprivation; it is a case of political persecution and a cause for action.

Supporters of this legislation do not dispute the fact that Haiti is economically depressed. Its economy is a catastrophe.

But President Aristide was not forced from office in a leveraged buyout or a bankruptcy.

His democratically elected government was ousted in a violent coup perpetrated by individuals who crave the days of dictatorship, and who repress Haitians committed to democracy with killings, beatings, arrests, surveillance, and intimidation.

His supporters are subject to arrest and murder for activities as commonplace as possessing campaign literature, teaching people to read, or even voting for the toppled President.

It is this pattern of outrageous behavior that is driving the Haitian people to refuge on the high seas and into the arms of U.S. personnel who have been ordered by our Government to send them home.

Haitian refugees being forcibly repatriated face harassment and subjugation upon their return. Refugees are greeted, as one critic has noted, with flashbulbs and fingerprints, not the kind of welcome one would expect for individuals fleeing economic deprivation.

And so, we are asking for a temporary halt in repatriation. We are asking that the Haitians be treated in the same way we treated the Kuwaitis and the Salvadorans when political persecution threatened those refugees in equally desperate hours. We are asking for a color-blind concept of political sanctuary that honors Haitians for their humanity, rather than singling them out because they are black.

It is a small effort. But it isn't too much to do, and it isn't too much to ask for people who yearn to breathe freely in their own country but cannot do so at this time of deep uncertainty for them and for Haiti.

□ 1620

Mr. Chairman, all of us pray that this country will be restored to democracy. It is not too much to ask America to give this short time for Haiti to be restored, for these people to be saved, and for the time to come when they can return to their country as a democracy. Let us vote for this legislation.

Mr. STOKES. I rise today in strong support of H.R. 3844, the Haitian Refugee Protection Act. This bill addresses the tragic plight of the Haitian refugees who are fleeing their homeland in fear of their lives. I commend the gentleman from Kentucky [Mr. MAZZOLI] for introducing this important legislation. I also commend my colleagues in the Congressional Black Caucus, Mr. RANGEL and Mr. CONYERS, who have played an important role in bringing this issue to the attention of Congress.

Mr. Chairman, in December 1990, we witnessed a milestone in history as the Haitian people, for the first time in 200 years, went to the polls in massive numbers to elect a president, a legislature, and municipal and local officials. Unfortunately, shortly thereafter a military coup ousted this democratically elected government. Immediately following the coup, hundreds of people were killed in the streets and countless human rights abuses were inflicted upon the Haitian people by the ruthless military forces.

The United States Embassy in Haiti acknowledged this dangerous situation citing "credible reports of indiscriminate killings, police harassment, illegal searches and looting of private homes and of radio stations, arrests without warrants, and detention of persons without charges and mistreatment of persons in the custody of Haiti's de facto authorities."

Mr. Chairman, since the military's brutal takeover, several thousand Haitians have fled their homeland for asylum in the United States. They have been intercepted by the Coast Guard and are now being detained in camps at Guantanamo Bay. The treatment of the Haitian refugees by the administration has been less than compassionate and stands in stark contrast to our recent reception of 2,000 Cubans who have been given at least temporary safe haven.

The events that have taken place in Haiti since last September constitute an extraordinary threat to the lives of any refugees forced to go back. Certainly those Haitians who fled the country as a result of the military coup will be targeted by the de facto government upon their return to Haiti. It is unconscionable that the administration would adopt a policy that would send these individuals back to a situation where their lives are in danger. No Haitian should be forcibly returned to Haiti until the democratically elected government has been restored and the safety of the refugees assured.

It is for these reasons that I support H.R. 3844. This bill would suspend for 6 months the forced repatriation of Haitian refugees in United States custody as of February 5. It also directs the President to set aside 2,000 refugee admission slots for Haitians in fiscal year 1992. Moreover, the bill requires the administration to report to Congress on the fate of refugees who were intercepted by United States personnel and returned to Haiti. Mr. Chairman, I support this moratorium because it is the right thing to do—it is the moral thing to do.

These asylum-seekers are entitled to be treated with dignity, compassion, and respect. The United States has a long and distinguished history of protecting those fleeing political persecution. Certainly we can provide at least temporary safe haven to our Haitian neighbors. Such action would be consistent with the humanitarian traditions of our great country. Justice requires that the administration's hasty repatriation program be halted. I urge my colleagues to support this measure.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in strong support of H.R. 3844, the Haitian Refugee Protection Act.

I am deeply saddened that we have found it necessary to stop the administration's forced repatriation of Haitian refugees through legislation. I had hoped that our President's alleged kinder and gentler personality would make one of its all too infrequent appearances during this tragic episode, but it was not to be. Apparently the administration does not believe the political situation in Haiti is serious enough to warrant declaring these men and women, and even innocent children, political refugees.

Never mind that the democratically elected President of Haiti Jean-Bertrand Aristide was overthrown by a military coup. Never mind that every Haitian citizen risks intimidation and takes his or her life in his hands when they go to the ballot box to exercise their right to vote. And never mind that incidents of atrocities have been documented by reliable international sources such as Amnesty International. The administration policy leaves one thinking why anyone would want to leave this Caribbean paradise.

The hypocrisy in this decision is glaringly evident. In the early 1980's, we opened our borders to hundreds of thousands of Cuban refugees fleeing the dictatorship of Fidel Castro. And it was not long ago that the administration was criticizing the British Government in Hong Kong for returning Vietnamese refugees to their homeland against their will. Yet when a few thousand Haitian refugees desire to enter the United States, the administration closes the door and turns out the light. H.R. 3844 will bar the repatriation of those refugees held by the United States on or before February 5 of this year.

Mr. Chairman, it is morally wrong to send these men and women back to Haiti to face a fate which we cannot effectively monitor. The administration has already recognized Haiti's political crisis by going along with OAS economic sanctions. Now we must go one step further by giving these political refugees asylum here in the United States. Shouldn't men and women of all nations fleeing political tyranny be given the same treatment by our country. Apparently, under current policy some refugees are more desirable than others. Apparently, some suffering is more desirable for our country to absorb than other suffering.

Mr. Chairman, I urge my colleagues to support H.R. 3844 and help end this most unfortunate tragedy.

Mr. WEISS. Mr. Chairman, I am in strong support of H.R. 3844, the Haitian Refugee Protection Act.

I would like to begin by recognizing my colleagues, Messrs. RANGEL and MAZZOLI, for the unyielding commitment and dedication that has given us the opportunity to act on a bill that offers thousands of Haitian refugees protection from the brutal repression that plagues the island of Haiti. But it is a sad day when Congress has to come to the floor to prevent an American President from returning innocent victims back to a country ruled through violence and repression. Unfortunately, the Bush administration has left Congress with no choice but to act on this legislation.

The tragic lesson of the St. Louis that carried European Jews back into the waiting arms of Hitler's Germany has obviously been lost on the President. And now, like those innocent Jews, millions of Haitians have been forced to pay the ultimate human price for another United States mistake.

Contrary to his opinion, the President's weak attempt at political asylum for a few, does not relinquish our greater responsibility for the many. It does not cleanse our conscience nor remove our involvement in the failure of this new democratic experiment. It buys nothing, and instead creates a dire humanitarian crisis in a political environment that, unlike Guantanamo Bay, the United States has little influence.

But H.R. 3844 can save the lives of thousands who face imminent danger if returned to Haiti. It would be a great step toward salvaging an already poor attempt at humanitarian assistance. And it can give us firm moral ground by which to tackle the larger problems of restoring democracy to Haiti.

The bill would require a prohibition on forced repatriation. It would allow 2,000 refugees to seek political asylum, and it would ban those responsible for the coup from seeking haven here in the United States. The bill would also require that Congress receive a full report on the welfare of repatriated Haitians and call upon the President to organize an international conference on the Haitian refugee issue.

Mr. Chairman, what we do here today cannot make up for the lives of those who have been returned into the hands of the Junta. It does not result in a jump in political polls, and it may not bode well with some voters. But it does allow the Congress to reverse a policy that is disingenuous and morally bankrupt. It does give us the chance to protect those who need protection whether they're economic or political refugees.

W.E.B. DuBois, the notable African-American scholar, once said that the first step in responsibility is responsibility. If we are to answer the call of the "New World Order," underwrite democracy around the world, and ensure that oppression will not stand in this hemisphere or any other, then we should begin by taking the responsibility to protect the very people Haitian oppressors mean to target.

Approve H.R. 3844 and approve a policy that is urgently needed. I would urge my colleagues to support this bill.

Mr. MINETA. Mr. Chairman, I rise today in strong support of H.R. 3844, the Haitian Refugee Protection Act.

I would also like to take this opportunity to thank the gentleman from Kentucky [Mr. MAZZOLI] as well as the gentleman from New York [Mr. RANGEL], for their leadership as this crisis has continued.

Mr. Chairman, ever since last September's military coup which ousted President Jean-Bertrand Aristide, thousands of refugees have left the island and have been intercepted by the U.S. Coast Guard. Currently, more than 7,400 are being held at the U.S. Naval Base at Guantanamo, Cuba.

Over 6,000 Haitians have already been repatriated to Haiti, and Amnesty International and Americas Watch have documented the persecution they potentially face.

Amnesty International has reported that, on November 15 of last year, a group of young men were arrested and severely beaten by authorities who suspected they were preparing to flee the country. They were forced to reveal the names of others who were preparing to leave.

In all, 40 young men were detained and no word of their whereabouts has been received.

Mr. Chairman, there can be no doubt that the threat of political persecution and human rights abuses in Haiti is real.

There is a clear principle of international law—which we are bound legally and morally to obey—that states that no refugee should be forced to return to his home country if he faces death or a loss of freedom.

I believe that standard has been met in this case, and for that reason I will vote for H.R. 3844. We can give no less consideration to refugees from Haiti than we give to refugees from any other nation.

I urge my colleagues to support the bill.

Mr. LEWIS of Georgia. Mr. Chairman, I rise to urge my colleagues to support H.R. 3844. We, in the Congress, must halt the force return of the Haitian refugees. We have a moral obligation to do so. The administration and the courts have made a mockery of the Nation's commitment to freedom. It is up to this Congress to extend freedom to those who cannot have it in their own country. We cannot allow ourselves to continue to mock the principles for which we stand.

After visiting Haiti last week, it was clear to me that the rule of law does not exist there. The police and the army do not protect people; they intimidate the people. Many elected officials and supporters of President Aristide told the delegation I traveled with that they live in constant fear.

We cannot and will not be satisfied until the legitimate government is restored to Haiti. We must continue to work with the OAS to reach that goal. Until then, we must stop the forced return of Haitian refugees. It is my feeling from the people we spoke with in Haiti—including elected officials, representatives of relief agencies, and church officials—that the refugees are not simple economic refugees. They have become refugees because of political oppression. There is a climate of fear, of political repression in Haiti. These refugees have sold everything they have, risked their lives to travel across shark-infested waters in flimsy boats, and have sought asylum upon our shores. We must not turn them away.

We must do what we can to help these innocent people. This bill is the humane thing to do. This bill is the right thing to do.

Mr. Chairman, I again urge my colleagues to support H.R. 3844.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in support of H.R. 3844, the Haitian Refugee Protection Act of 1992, and I urge the Members of this House to enact it into law in the compromise form reported by the Judiciary Committee.

Since the brutal military coup that overthrew the legitimate, elected government of Haitian President Aristide, the situation in Haiti has taken on alarming proportions.

The steady improvement in the human rights situation that we witnessed during the short period of democratic government ceased. Hundreds of lives were lost in the coup and its immediate aftermath, and even now, 5 months after the military assumed control, there are alarming reports of continued executions, arrests, imprisonment, and retribution.

The military coup also aborted any prospects for the kind of economic development that could lift Haiti from its desperate poverty.

We are called to pass the legislation because of a particular impact of the coup for the United States—an alarming increase in the number of Haitians who have fled their country, hoping to come to the United States. We have all watched the drama on our television screens—the scenes of overcrowded boats loaded with men, women, and children—their rescue from hazardous seas by the resolute seafarers of the U.S. Coast Guard—their incarceration in overcrowded conditions at Guantanamo Bay—and yes, Mr. Speaker, the involuntary repatriation of many of them to the control of the same brutal regime they had fled.

This drama has presented the administration and now, this House, with some substantial dilemmas.

Our laws have long recognized a valid distinction between refugees and economic migrants. What should our Nation do when political persecution and disorder combine with the worst poverty in the Western Hemisphere to prompt such an exodus?

Can we be confident that returnees suffer no retribution when an understaffed U.S. Embassy and a barely organized human rights network cannot undertake an active program of followups?

How can we provide for the safety of those who have fled conditions in Haiti without providing an incentive for even more to flee?

There may be no perfect answer to these dilemmas. But I commend the work of the subcommittee in placing before this House a compromise bill which deserves our support.

H.R. 3844 would halt the repatriation of the Haitians who were in United States custody as of February 5. This measure would end the return of the Haitians at Guantanamo into the hands of the military government. It would not end repression in that country, but it would stay the return of those Haitians who have already given evidence of their opposition to the coup by fleeing.

The bill would provide 2,000 refugee slots for Haitians, allowing the United States Embassy to allow that many Haitians to leave in an orderly and safe manner. This will allow many Haitians to reach the safe haven of our country within the framework of our existing immigration and refugee policy.

Admitting these individuals who qualify under refugee criteria would complement the process of legal immigration by those who have qualified under the normal family unification provisions of our immigration law—a process that has allowed more than 140,000 Haitians to immigrate to the United States in the last 10 years. This reflects the basic humanity and generosity of our immigration policy.

These measures Mr. Speaker, are a reasonable response to the crisis of the refugees while the administration, working with the OAS, continues its efforts to restore the democratic president of Haiti. An agreement involving President Aristide, a National Assembly vote free of military coercion, a new Prime Minister, an amnesty, and an OAS civil peace force is a step forward toward resolution of the crisis. Hopefully, when President Aristide is restored in office, the provisions of this bill will be rendered moot.

I know, however, that this bill does not satisfy all the appeals that we in Congress have received.

On one hand, the provisions to grant temporary protected status to all the Haitians who have left or will leave their country were deleted during consideration in subcommittee.

I understand that many dismiss the fears of a "magnet effect" as thinly disguised prejudice. It would be impossible, they say, for many Haitians to attempt a voyage to the United States. To these objections, I say—look at a map.

The distance from Haiti to Florida is just a little shorter than the distance between Vietnam and Hong Kong. Vietnam and Haiti are both poor. Yet in 15 years, between 850,000 and 900,000 Vietnamese left that nation by boat, and the United States granted admission to almost 600,000 Vietnamese refugees. The widespread lack of support for TPS in this House is not based on prejudice, but a justifiable caution.

On the other side of the spectrum, there are some who oppose this bill from a fear that Haitian refugees will require a disproportionate amount of welfare support in a society that cannot now afford generosity.

To them I answer that only those who indeed have a well-founded fear of persecution will be entering the United States. The bill does not provide for the admission of the many Haitians at Guantanamo Bay who have not been screened by the asylum examiners of the Immigration and Naturalization Service. Those who do not qualify for asylum or refugee status will remain temporarily outside the United States.

Mr. Chairman, in this world of harsh dilemmas and uncertainties, where malign realities assault the best of ideals, there is no perfect response to this situation. But I believe H.R. 3844 in its current form is both humanitarian and prudent. I urge it be passed.

Mr. COX of Illinois. Mr. Chairman, today I rise in support of H.R. 3844, the Haitian Refugee Protection Act. The bill will temporarily halt the repatriation of Haitian refugees fleeing from political violence.

We watched in horror last fall as the first democratically elected government in Haiti was toppled by a military-led coup. The free nations of the world cried out for an immediate restoration of the duly elected leader of this country, Jean-Bertrand Aristide. Congress spoke out with the passage of House Resolution 235, which denounced the coup and called for a return of the democratic government of Aristide. Unfortunately, that democracy, which survived for less than a year, has yet to be restored.

What upsets me the most is the fact that our President seems to be sending the wrong signals to the people of Haiti and to the world. I was disappointed and confused by the administration's proposals to weaken economic sanctions against the illegitimate government of Haiti. The administration, which has rightly spoken out so strongly against this government, seems by their actions to be legitimizing this government. First, by proposing the weakening of sanctions, in spite of the Organization of American States and second, by opposing this bill, the Haitian Refugee Protection Act, when political crimes have been cited by such groups as Amnesty International and American Watch.

Over the last months we have watched the battle between the President and the courts over returning thousands of Haitian refugees who are fleeing the terror of a government that gains its legitimacy through brute force. Hundreds, perhaps thousands, have been killed and tortured because of their outspoken support of the democratically elected Aristide. Unfortunately, the Supreme Court of this land saw fit to overrule a lower court ruling, blocking the administration's forced return of Haitian refugees until a Federal appeals court decides the pending legal question.

In the meantime, we continue to return those fleeing from the terror to a brutal military regime providing them with names and addresses,—names and addresses which make political dissenters easier to locate and punish. There are stories of U.S. Coast Guard ships conducting the screening process on board their boats, sending Cuban refugees to Miami without question and sending the Haitian refugees back to Port-au-Prince. This is not what the United States of America has stood for over 200 years, nor should it be what we will stand for today.

H.R. 3844 will temporarily halt the repatriation of Haitian refugees in United States custody since February 5. The bill requires the administration to report on the situation of those refugees returned to Haiti within 6 months of the enactment of the legislation, which is the length of the temporary halt on repatriations. In short, this bill will reestablish our Nation's decency in accepting political refugees fleeing for their lives. This bill is right, it is humane, and it is urgently needed.

We have spoken out against nations throughout the world for their failure to accept political refugees and yet, today, in our own backyard, we fail to practice our own high standards. Let us begin to live up to the high ideals we have lived up to for over 200 years by passing this legislation and sending a message to the illegitimate government of Haiti and to the world.

Mr. LAGOMARSINO. Mr. Chairman. I rise to oppose H.R. 3844, the Haitian Refugee Protection Act. I am convinced that existing laws and policies provide adequate protection to genuine Haitian refugees.

I agree that many Haitians face political persecution in the wake of the illegal September 30, 1991, coup. As the ranking Republican member of the Foreign Affairs Committee's Subcommittee on Western Hemisphere Affairs, I have heard eloquent testimony on the terrible repression since President Aristide was overthrown in a military coup. The State Department's own human rights report discusses these violations in detail. But that is not the issue before us today.

The question today is whether Haitians who do not have a credible claim to refugee status and have been repatriated to Haiti face reprisals. And the answer to that question, according to all evidence, is "No."

Some have criticized the State Department's repatriate monitoring system. I do not believe that is a fair criticism. The consular section of the Embassy in Haiti was increased to its full staff earlier this month. Embassy staff travel throughout Haiti, talking to relief workers, Haitians, and Americans.

The Embassy has personally examined many cases, including those involving the so-called "double-backers," Haitians who were repatriated in November and fled again claiming persecution. Their stories have not checked out.

I urge my colleagues to consider one fundamental fact: Just as the State Department has no evidence of reprisals against repatriates, neither do any of the human rights or refugee advocacy groups. Yet we do not criticize the positions taken by many of these groups despite their lack of evidence.

The facts show that many of the Haitians are more concerned with getting to the United States than they are with staying out of Haiti. Many of the Haitians who were relocated in other Latin American countries—including Venezuela and Honduras—chose to return to Haiti, at least in part because they were in third countries rather than in the United States. Furthermore, very few Haitians have crossed the porous land border with the Dominican Republic—an obvious and available path of escape for those genuinely afraid for their lives.

Mr. Chairman, we all feel sympathy for Haitians fleeing the terrible economic conditions in the poorest country in the hemisphere. But we cannot and should not make refugee policy based on allegations that do not have a basis in fact. I urge my colleagues to oppose H.R. 3844.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3844

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Haitian Refugee Protection Act of 1992".

SEC. 2. PROTECTION OF HAITIANS IN UNITED STATES CUSTODY.

The President shall provide that no Haitian in the custody or control of the United States as of February 5, 1992, whether on board United States Government vessels, at Guantanamo Bay, Cuba, or elsewhere, outside the United States will be involuntarily returned to Haiti until—

(1) 180 days after the date of the enactment of this Act, or

(2) 5 days after the date of submission of the final report under section 3(c).

whichever occurs later.

SEC. 3. DEPARTMENT OF STATE STUDY AND REPORT.

(a) STUDY OF HAITIANS RETURNED TO HAITI.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs, in conjunction with the United States Coordinator for Refugee Affairs, shall conduct a study concerning Haitians who were interdicted or rescued by United States Government vessels after September 29, 1991, and were returned to Haiti and concerning Haitians who were deported from the United States after such date. Such study shall assess their condition and circumstances in Haiti after their return, with particular attention to any violations of fundamental human rights.

(b) PARTICIPATION OF HUMAN RIGHTS ORGANIZATIONS.—In conducting such study the Assistant Secretary of State for Human Rights and Humanitarian Affairs shall use the resources, information, and expertise of internationally-recognized human rights organizations and such other sources as may be appropriate.

(c) CONGRESSIONAL REPORTS.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall prepare and submit to the Speaker of the House of Representatives and the President of the Senate a detailed preliminary report of the findings of the study under subsection (a) not later than 90 days after the date of the enactment of this Act, and a final report not later than 180 days after the date of the enactment of this Act.

(d) CONGRESSIONAL INQUIRIES.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall respond not later than 7 working days after receipt of a written request of a Member of Congress for information concerning the study or reports under this section.

SEC. 4. REALLOCATION OF 2,000 FEDERALLY FUNDED REFUGEE ADMISSIONS DURING FISCAL YEAR 1992 TO HAITI.

(a) IN GENERAL.—The President shall change the allocation of refugee admissions for fiscal year 1992 provided in Presidential Determination 92-2 (pursuant to section 207(a)(3) of the Immigration and Nationality Act) so as to provide for an allocation of at least 2,000 Federally funded refugee admissions to Haitian refugees of special humanitarian concern.

(b) USE OF CURRENT FEDERALLY FUNDED REFUGEE ADMISSIONS.—In changing the allocation of refugee admissions during fiscal year 1992 pursuant to subsection (a)—

((1) the total number of such refugee admissions shall remain the same;

(2) the 1,000 refugee admissions allocated to the category "Unallocated (funded)" shall be reallocated to refugees described in subsection (a); and

(3) the remainder of the refugee admissions reallocated under subsection (a) shall come from such other category (or categories) as the President specifies.

SEC. 5. CONGRESSIONAL STATEMENT.

The Congress urges the President and the Secretary of State to participate actively with the United Nations High Commissioner for Refugees and the governments of the member countries of the Organization of American States (OAS) in the convening of an international conference on Haitian refugees and displaced persons which seeks to adopt a comprehensive program of action to solve the Haitian refugee crisis in all its aspects, taking into account the concerns of all interested parties and the rights and welfare of Haitian refugees and displaced persons.

SEC. 6. CERTAIN HAITIANS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION.

(a) EXCLUSION.—During the period specified in subsection (c), an alien designated under subsection (b) shall be ineligible to receive any visa and shall be excluded from admission into the United States.

(b) DESIGNATED ALIEN.—An alien designated under this subsection is any alien who—

(1) is a national of Haiti, and

(2)(A) provided financial or other material support for, or directly assisted, the military coup of September 30, 1991, which over-threw the democratically-elected Haitian Government of President Jean-Bertrand Aristide; or

(B) provided financial or other material support for, or directly participated in, terrorist acts against the Haitian people after that coup.

(c) PERIOD OF EXCLUSION.—The period of exclusion specified in this subsection begins on the date of the enactment of this Act and ends on the date on which the President certifies to the Congress that democratically elected government has been restored in Haiti consistent with the Haitian Constitution.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those amendments printed in House Report 102-436. Said amendments shall be considered in the order and manner specified in the report, shall be considered as read, shall be debatable for 20 minutes, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

It is now in order to consider amendment No. 1 printed in House Report 102-436.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CONYERS:

Strike section 2.

At the end insert the following:

SEC. . TEMPORARY PROTECTED STATUS FOR HAITIANS.

(a) DESIGNATION.—During the period specified in subsection (c) of this section, Haiti is hereby designated under section 244(b)(1) of the Immigration and Nationality Act (relating to temporary protected status).

(b) ELIGIBLE HAITIANS.—Any alien—

(1) who is a national of Haiti who is present in the United States, or who is in the custody or control of the United States (including on United States Government vessels, at Guantanamo Bay, Cuba, or elsewhere outside the United States) at any time during the period described in subsection (c) of this section.

(2) who meets the requirements of section 244A(c)(1)(A)(iii) of the Immigration and Nationality Act, and

(3) who, during the period described in subsection (c) of this section, registers for temporary protected status to the extent and in a manner which the Attorney General establishes,

shall be granted temporary protected status for the duration of that period and section 244(a)(1) of the Immigration and Nationality Act shall apply with respect to such alien.

(c) PERIOD OF DESIGNATION.—The designation pursuant to subsection (a) shall be in effect during the period beginning on the date of enactment of this Act and ending on the date on which the President certifies to the Congress that democratically elected government has been restored in Haiti consistent with the Haitian Constitution. Subsections (b)(2) and (b)(3) of section 244A of the Immigration and Nationality Act do not apply with respect to the designation pursuant to subsection (a) of this section.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 10 minutes in support of his amendment, and a Member opposed will be recognized for 10 minutes.

Mr. MAZZOLI. Mr. Chairman, with the greatest of respect, I rise in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 10 minutes in opposition.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the amendment that I am offering is a simple, straightforward provision that follows from the remarks of the majority leader. I have the only provision that will be heard today on this bill that grants temporary protected status to Haitians fleeing violence and persecution in Haiti until such time as a democratic government is restored.

Why is the amendment needed? It is needed because there is an emergency. Haitians are dying on the seas, and they are being murdered and tortured in their country simply for supporting democracy. Haitians are willing to risk the sharks at sea rather than face their military at home. That should tell us what we need to know about the bravery and the desperation of Haitian refugees.

I ask for the support of the Members for this amendment because the bill before us without this provision is so limited, and I say this with all due respect to my colleagues on the Judiciary Committee, that it is a hollow mockery of its stated goal to protect Haitians. The reason is that, because this bill applies only to Haitians who left Haiti before Feburary 5, 1992, it will apply ultimately to practically no one. Last night Chairman BROOKS said there were about 3,000 refugees covered, but as we speak, Haitians are being forcibly returned to Haiti. We should treat them no differently than the way we treat other refugees.

Many of the Members of this body voted as I did to grant the same identical temporary status to Salvadorans in 1980. We should do no less for the Haitians and remember that never before in history have we turned refugees back to an illegitimate government.

Mr. Chairman, I urge support for this amendment.

Mr. MAZZOLI. Mr. Speaker, I yield myself 3 minutes.

Mr. Chairman, let me first of all pay tribute to my friend, the gentleman from Michigan [Mr. CONYERS]. We sit side-by-side in the committee, and we have fought many a fight and many a good cause together, as we have this one, and I want to salute him on all the good work he has done. It has certainly helped us in reaching this point.

Having said that, I do have to oppose the gentleman's amendment. I think the adoption of the amendment would really put us in jeopardy of getting anything through the other body, through the conference, and to the President for whatever its fate is at that point. I say that even though the original Mazzoli amendment or the original Mazzoli bill, H.R. 3844, did have temporary protected status in it. But after my very distinguished subcommittee met and after we had our hearing and after we meditated on this thing, it came to us that we had to change this bill to make it a more limited bill, a bill that could actually become law and actually work.

So I say, again with respect to the gentleman from Michigan, that his amendment, with the temporary protected status designation for all of the Haitians who are at Guantanamo or would be at Guantanamo, would have a magnet effect. I think it would constitute a reason for people to leave Haiti and to be rescued by the Coast Guard and taken to Guantanamo, because the gentleman's amendment applies not only to those on the island by February 5, which is the date in the bill before this committee, but also any time thereafter. So any Haitians who would leave Haiti today, for instance, and be in Guantanamo tomorrow or the day after would be covered by this bill. They are not covered by the committee bill.

Furthermore, unlike any other temporary protected status the gentleman from Kentucky has ever seen, the amendment offered by the gentleman from Michigan would not have any date certain connected with it. Every other TPS bill says it is good for a year, it is good for 18 months, or it is good for 60 days, or it gives an actual date. The gentleman's amendment is open-ended. It would apply to any Haitians covered today, covered tomorrow, or covered the day after.

I say again that we had this in our original bill. We thought about it, and felt it would be the ideal. But, I think in this case if we went for the ideal, we would be missing the mark because, as I said yesterday, in the course of general debate, we have to keep our eye on the sparrow, and the sparrow here is the Haitians who are at Guantanamo as of February 5. It is for them that we are trying to work our judgment, trying to protect them against being forcibly repatriated to Haiti.

So, Mr. Chairman, I urge the committee to support both the Subcommittee on Immigration, which I am honored to chair, and the full Committee on the Judiciary, in which the gentleman's amendment was offered and defeated. I hope that the committee will defeat the amendment and move forward with the bill as it is constituted today.

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Mr. CONYERS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I think we are all grateful to the gentleman from Kentucky [Mr. MAZZOLI] and the minority members of the subcommittee. They have done a very good job. However, in a very modest way and a conservative way, I think the amendment of the gentleman from Michigan [Mr. CONYERS] improves the bill.

This 6-month limitation is kind of frightening for the Haitians who are at Guantanamo. If the period is going to run, every morning they are going to wake up and think another day has passed, another week has passed, another month has passed. Yet all the amendment of the gentleman from Michigan [Mr. CONYERS] does is say that they can stay until democratic government has been restored to Haiti.

Mr. Chairman, this seems to me a perfectly reasonable and more humanitarian response than the very excellent bill provided by the subcommittee. I urge approval of the Conyers amendment.

Mr. Chairman, I rise today in support of H.R. 3844 and to express my appreciation to the chairman of the Immigration and International Law Subcommittee, ROMANO MAZZOLI, for his leadership on this issue. Chairman MAZZOLI has worked hard to craft a responsible approach to a problem that offers no easy answers.

While I respect and support the chairman's work on this bill, I believe the amendment offered by my friend and colleague, JOHN CONYERS, presents a more humanitarian and comprehensive approach to dealing with the needs of those Haitians who come to our shores.

By granting temporary protected status to Haitians until a democratically elected government has been restored in their country, the Conyers amendment recognizes that this restoration may take more than the 6 months allowed for in the committee bill.

The amendment also takes into account the fact that there may be more Haitians fleeing their country after the February 5 deadline set out in the committee bill. We need to have a policy for all Haitians, not just the ones with the good fortune to have come into United States custody before February 5.

We have provided temporary protected status to Salvadorans whose homeland was torn apart by civil war. The United States Government also routinely permits those escaping the Castro regime in Cuba to enter our country. Thus, we have established a tradition of providing refuge for immigrants from other troubled nations in our hemisphere. We should continue that tradition today by adopting the Conyers amendment.

Mr. MAZZOLI. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM], the distinguished ranking member.

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding. I want to thank the gentleman from Kentucky [Mr. MAZZOLI] right up front as the chairman of my subcommittee for being very gracious through this process and very deliberate. I think that the chairman's comments just made in opposition to this amendment are right on the mark with regard to the distinctions, with regard to the temporary protective status that is offered in this bill versus what we have done historically.

I would like to add to that with a couple of points. First of all, the gentleman offering this amendment, Mr. CONYERS, says something that I absolutely agree with. We should treat the Haitian refugees no different than we treat other refugees.

That, frankly, is what we are doing in this bill. Actually we are treating them fairer than we treat most other refugees, in a different way. As a matter of fact, we are treating them better in the process the Government is going right now at Guantanamo than we treat most refugees.

They are being treated as asylees under the administration's procedures, and that is what they would be treated as if this bill were passed. That is, they are being given the opportunity, if they have a plausible claim for reasonable fear of persecution if they are sent back home, which is our Refugee Act status and our asylum status, they are being given the right to come into this country and being paroled into this country and go before an immigration judge to have their case heard and to argue their point.

That is different. In a sense, that is better for them, in that sense of difference. It is a thing most refugees do not get. Most refugees we look at around the world, before we decide to bring them in here, are screened completely by the State Department, never see an immigration judge, never set foot in this country until that decision is fully made and adjudicated.

So in that sense they are being treated better. But they are not being treated any differently in any discriminatory fashion.

Second, if you adopted this amendment we would be doing far more than we are doing in this bill than simply a distinction with temporary protective status we have given other people.

What we are doing in the bill, if it were to pass, and what the administration is doing, is leaving the people at the island of Cuba at Guantanamo. They are not being brought into the United States at all, except the ones that have been prescreened that I mentioned. But everybody would come in who is there right now. Everybody would come to the United States if this amendment were to pass, economic refugee, plausible claim, or otherwise, they would all be brought here and they would all have work authorization. They would get into our work force.

What happens? We have a history of that. We do not have the manpower at Immigration Service to go and keep track of all those people. We do not authorize enough money. We do not have enough personnel. We cannot begin to know who does and who does not stay here.

That is the very magnet that people are talking about that is so fearsome if we bring everybody over here. The fact that you can stay here and the chances are you are going to get to stay here is the lure. That is why, quite frankly, I am opposed to this bill. But I am even more opposed to the amendment of the gentleman from Michigan [Mr. CONYERS], because he provides the magnet.

We cannot take in all the economic refugees from Haiti nor anywhere else. It would be nice if we could. I know conditions are bad down there. I am sympathetic to them. But this country cannot take them all here. We have to find other means of dealing with the problem. The means that are going on now are the fairest means. I do not agree with the bill, but it is certainly far preferable to what Mr. CONYERS is proposing, to bring them all here.

Mr. Chairman, I thank the gentleman for yielding.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I do it only to respond to my friend, the gentleman from Florida [Mr. MCCOLLUM], because at least he has been upfront and has put it on the table why he is opposed to temporary protective status. The gentleman gave all the reasons rather eloquently. He cannot come back now and say that this provision that we are currently debating, which allows only those in the country before February 5, 1992, is doing as much or more as we have done for other refugees. I would refresh his memory.

January 3, 1992, temporary protective status period was extended for another year for 6,761 Lebanese. On January 3, 1992, temporary protective status period was extended for another year for 4,393 Liberians. And 2,227 Palestinians under TPS can stay in the United States until 1996, and 40,000 Chinese.

So that is completely different from what the gentleman has pointed out. What I am trying to do is get them the same rights that we have granted Lebanese, Liberians, Palestinians, and Chinese.

Mr. MAZZOLI. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I think it is worth noting for the RECORD that were the amendment of the gentleman from Michigan [Mr. CONYERS] to be adopted, it would cover all Haitians, those at Guantanamo or those in this country, whether they are here because they passed the asylum prescreening or because they are here illegally. They would in any event receive this temporary protected status.

Furthermore, there is, as I mentioned earlier, no limit on when this status will be granted. There is no starting time and there is no ending time, unlike all other applications of temporary protective status.

The temporary protective status itself contemplates people being in this country. The very nature of the statute, the wording of it, the benefits conferred, the work authorities conferred and other kinds of support are contemplated only for people who are already in this country. You have here the bulk of the Haitians in Guantanamo. And, some are in some other South American countries.

So the very nature of the TPS statute is awkward when you deal with any except people already in this country. I think it is fair to say that the other body has before it a bill identical with the committee bill that was introduced by the senior Senator from Massachusetts. If we can match up with that bill, we can move our bill along more swiftly.

The CHAIRMAN. The Chair would advise Members that the gentleman from Michigan [Mr. CONYERS] has 6 minutes remaining, and the gentleman from Kentucky [Mr. MAZZOLI] has 3 minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. OWENS], who has worked so very hard on this subject matter.

Mr. OWENS of New York. Mr. Chairman, I rise in support of the amendment. Although the resolution is an honorable compromise, the amendment is closer to the tradition of compassion and generosity of the American people than the resolution.

I would like to remind Members that when the Soviets invaded Hungary, we brought more than 50,000 Hungarians into the country. We flew them over miles and miles of ocean and brought them here under temporary protective status. Within a year we blanketed them all in as permanent resident status.

More than 400,000 Cubans have been treated in a similar manner. There are many, many other examples that can be given.

This resolution is out of step with that practice, out of step with that spirit. We can resolve the problem of the Haitian refugees by using the tremendous power and influence of this Nation to regenerate and restore democracy in Haiti. That is what we can do to solve the problem.

Before Aristide was kicked out, the number of Haitians trying to get into this country had gone down to almost zero. That is the way to solve the problem, restore democracy and use our influence. Until we do that, it is an illegal government, it is a terroristic government, it is a bunch of military thugs. To send people back where they are fingerprinted and photographed, and there is only one reason they can be fingerprinted and photographed, is in order to intimidate them and later on to persecute them, so let us move in step with the amendment, which is more in step with our traditions in this country.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, in 1989 Haitian Jean-Bertrand Aristide wrote the following:

> Haiti is a prison. In that prison, there are rules you must abide by, or suffer the pain of death. One rule is: Never try to escape, for escape means a certain return to this prison, and worse cruelty, worse torture. If you dare to escape in your little boat, the corrections officers from the cold country to the north will capture you and send you back to eke out your days within your eternal prison, which is Haiti. If we live by its rules, we will certainly perish beneath its whip.

Since the overthrow of Haiti's first freely elected President, Jean Bertrand Aristide, by the Haitian military in September, 20,000 Haitians have sought refuge in the United States. Thousands of these people have been returned to Haiti. Although both Americas Watch and Amnesty International have documented that the military has unleased a widespread terror campaign on the population, the State Department claims there is no threat to refugees on their return. Of course, it has been hard for the United States mission in Haiti to document abuses; their personnel have been evacuated due to the "unstable political environment."

Haitians need refuge at this moment. We have answered the pleas of Salvadorans, Liberians, Lebanese, Kuwaitis, Afghans, Ethiopians, Chinese, Iranians, Cubans, and 11 other countries, including the Dominican Republic with either temporary protected status or similar relief. Why not Haiti? Since the passage of the 1980 Refugee Act, we have welcomed over 1 million refugees to our shores; 52 of those have been Haitians.

Human rights abuses are rampant. People's lives are at risk. President Bush is playing warden at the gates of Prison Haiti. Does Congress care plan on joining him?

Vote "yes" on the Conyers amendment. Give Haitians temporary protected status.

Countries that have received blanket protection from deportation: Lebanon, Kuwait, El Salvador, Somalia, Afghanistan, Ethiopia, China, Nicaragua, Iran, Uganda, Cambodia, Cuba, Chile, Czechoslovakia, Laos, Hungary, Romania, Dominican Republic, and Vietnam.

DISOBEY THE RULES

(By Jean-Bertrand Aristide)

Haiti is a prison. In that prison, there are rules you must abide by, or suffer the pain of death. One rule is: Never ask for more than what the prison warden considers your share. Never ask for more than a cupful of rice and a drink of dirty water each day, or each week. Another rule is: Remain in your cell. Though it is crowded and stinking and full of human refuse, remain there, and do not complain, That is your lot.

Another rule is: Do not organize. Do not speak to your fellow prisoners about your plight. Every time you get two cups of rice, another prisoner will go hungry. Every time another prisoner gets two drinks of dirty water, you go thirsty. Hate your fellow man.

Another rule is: Accept your punishment silently. Do not cry out. You are guilty. The warden has decreed it. Live in silence until you die. Never try to escape, for escape means a certain return to this prison, and worse cruelty, worse torture. If you dare to escape in your little boat, the corrections officers from the cold country to the north will capture you and send you back to eke out your days within your eternal prison, which is Haiti.

Fort Dimanche is Haiti. Fort Dimanche is Latin America today. Latin America and Haiti today are Fort Dimanche. Fort Dimanche spits out bullets and tear gas and death. It spews rules, regulations, law, order, decree, and death. It vomits on us a system of cruelty, repression, exploitation, misery, and death. If we live by its rules we will certainly perish beneath its whip.

I say: Disobey the rules. Ask for more. Leave your wretchedness behind. Organize with your brothers and sisters. Never accept the hand of fate. Keep hope alive. Refuse the squalor of the parishes of the poor. Escape the charnel house and move toward life. Fill the parishes of the poor with hope and meaning and life. March out of the prison, down the hard and pitiless road toward life, and you will find the parishes of the poor gleaming and sparkling with joy in the sunrise at the road's end. Children with strong bodies will run with platefuls of rice and beans to greet their starving saviors. That is your reward. Along that hard and pitiless road toward life, death comes as an honor. But life in the charnel house is a disgrace, an affront to human kind.

☐ 1640

Mr. MAZZOLI. Would the Chair advise the gentleman from Kentucky the amount of time remaining on both sides?

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] has 4 minutes remaining, and the gentleman from Kentucky [Mr. MAZZOLI] has 3 minutes remaining.

Mr. MAZZOLI. Mr. Chairman, is the gentleman from Kentucky correct that he has the opportunity to close debate?

The CHAIRMAN. The gentleman is correct.

Mr. MAZZOLI. Mr. Chairman, I have no other requests for time, and I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. WATERS]

Ms. WATERS. Mr. Chairman, I rise in support of the Conyers amendment to H.R. 3844. I would like to commend my good friend for his leadership on this issue.

This country's handling of the Haitian refugee crisis is cynical, hypocritical and mean-spirited. How can we remove our own Ambassador to Haiti in protest of human rights violation—and then repatriate refugees arguing that their human rights will not be infringed?

Between 1981 and President Aristide's inauguration, 24,000 Haitians left Haiti for the United States. Of these, only 11 were able to pursue asylum claims. The rest were returned to Haiti. During the same time period, this country admitted 75,000 out of 75,000 Cubans seeking asylum. Tragically, refugees have become a pawn in this country's foreign policy gamesmanship.

In the 5 months since Aristide's overthrow, 16,000 more Haitians have fled and been picked up by the United States Coast Guard. Clearly, these new refugees are fleeing political instability and oppression.

Nonetheless, the State Department continues to maintain that they are economic refugees, and thus, must return to Haiti.

What the Conyers amendment would do is grant temporary political status, or political asylum, that the fleeing Haitians deserve. We owe the brave men and women who have risked their lives in search of freedom the same humanitarian treatment that this country granted Liberians during the fall of Samuel Doe, Salvadorans during their civil war, and Kuwaitis during the gulf war.

The time for word games and political hypocrisy must stop. Support the Conyers amendment.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, once again I rise in strong support of this legislation. This situation is painfully reminiscent of the tragic and misguided policy of our Government when Jewish refugees were turned away from our shores as Hitler was gaining strength in their homeland.

Mr. Chairman, we cannot allow such a tragic mistake to be made again. Passage of this legislation is absolutely essential to ensuring that our Nation lives up to its promise of being the world's beacon of hope and freedom.

Mr. Chairman, I heard firsthand from a mother talking to a daughter on the telephone with gunshot sounds in the background. Let us not make this mistake again.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR], the distinguished whip of the House.

Mr. BONIOR. Mr. Chairman, I rise in support of this amendment and this bill and commend the chairman and the gentleman from Michigan [Mr. CONYERS] and all those who have worked so hard and passionately on this piece of legislation.

Mr. Chairman, the Bush administration says we should force Haitian refugees back to their homeland because there's no proof they will be mistreated.

No evidence, the State Department says.

But the administration does not tell us why they have not been able to gather any evidence.

It's because the level of violence and repression in Haiti is so great that most of the United States Embassy staff left the country.

We only have a handful of people in Port-au-Prince—the U.S. Ambassador did not return there until yesterday.

How can so few people monitor the thousands of refugees we have forced to return?

The administration doesn't know for sure—because they can't investigate.

But there are a few things we do know—without any doubt.

First of all, we know that the military coup in Haiti last September unleashed a wave of violence and terror—and that human rights abuses now rival the darkest days of the Duvalier dictatorship.

Hundreds of Haitians were murdered within days of the coup.

An estimated 1,500 have been killed by the military since then.

Arrests and beatings are commonplace.

Religious organizations, trade unions, student associations—all have been targeted by the military.

The repression has forced tens of thousands to flee the country in rickety boats.

Over the last few days, we've seen some encouraging signs. Perhaps democracy can be restored in Haiti over the next few months. We all hope it will.

But in the meantime, the violence and the brutality continues.

Mr. Chairman, that is what we know for certain.

What more proof do we need that the refugees at Guantanamo Bay are in danger if we force them to return home?

What more evidence do we have to gather?

Mr. Chairman, so many of us in this House can remember our own ancestors who came as refugees to America.

They came through Ellis Island. They walked off the ships in Galveston. They came through San Francisco and Boston and Savannah.

This country welcomed them. It sheltered them from the political winds—whether religious persecution in the 17th century—or Cossacks pillaging Russian towns in the 19th century.

Sometimes we made mistakes—like the time the United States turned back the *St. Louis,* that ship filled with Jewish refugees from Germany in 1939.

That was also a time when we were unable to monitor what was going on.

We found out later, when our troops walked through the gates of Auschwitz and Bergen-Belsen.

Let us not send the Haitian refugees back to the country they risked their lives to escape.

If we can't welcome them permanently, at least grant them a few months of safe haven in the tents of Guantanamo.

Mr. CONYERS. Mr. Chairman, I yield one-half minute to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Chairman, I rise today in support of the Conyers amendment and support of the bill. I believe that temporary protective status is appropriate in that it has been used in the past in nations where there has been armed conflict. Clearly one must define what is happening in Haiti as armed conflict, even though the arms are on one side and on the wrong side.

This Nation cannot afford to continue to send these persons back to these dangerous situations. Rather they must open the doors as they have done to others who have fled to America looking for this land of liberty to receive them.

I rise in support of the amendment, urge others to support it because it is the right thing to do.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the seriousness of this matter of life and death collides with our immigration policy, and we are acting in the absence of the executive branch declaring an emergency that would allow a safe haven, as they have done over the last 32 years in 20 different instances.

The forced repatriation of Haitians is no different from those other 20 cases. We have now the weight of what this country stands for. Is this a nation of fairness or not? Is this a matter of the poorest country in our hemisphere being denied the basic rights under the existing law as no one else has been denied?

Never before in the history of the United States have we repatriated people in a circumstance in which their government was declared illegitimate by our government.

There is a war going on. Criminal thugs of the military rule the country. The violence has been attested to by six human rights organizations.

We do not need any more facts. The burden is upon us.

Please, do not buy into a February 5 date. It is a wonderful attempt. I commend the gentleman from Kentucky [Mr. MAZZOLI] for bringing the vehicle to have this debate to the floor, but the solution in our heart of hearts is to grant temporary protective status to these desperate, heroic people who will be remembered long after anything we do here in this Chamber today.

I urge my colleagues to support the Conyers amendment.

Mr. MAZZOLI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, once again let me pay tribute to my friend from Michigan for the wonderful fight that he has fought in getting this bill to where it is today. I think it would not be here without having had his input and his urgency.

Let me also particularly name the people on our subcommittee who worked so hard late at night to get this bill reported: The gentleman from New York [Mr. SCHUMER], the gentleman from California [Mr. BERMAN], the gentleman from Texas [Mr. BRYANT], and the gentleman from Oregon [Mr. KOPETSKI]. And then on the minority side: The gentleman from Florida [Mr. MCCOLLUM], my long-time friend, the gentleman from Virginia [Mr. ALLEN], our new Member, and the gentleman from Texas [Mr. SMITH].

I am really proud to have worked with this subcommittee of very talented and dedicated people.

☐ 1650

Again I have to express my opposition to the gentleman's amendment. It would constitute, if passed, a magnet effect. It would, I think, encourage people to leave Haiti, and we are not in a situation on which there may be a return of the Aristide government, which could stabilize the situation in Haiti. I do not think we should do anything that would reverse that trend.

There is no date certain for either the start of this temporary protected status nor for the end of it, which would make it different than any other protected status arrangement that has ever been invoked. They have always had a starting date and an ending date.

Temporary protected status is a status granted to those already in the United States. The very nature of the statute, the wording of it, the benefits it confers, the opportunity for work authorizations, all those are implicitly designed for people in the United States already.

Of course, in this case the bulk of the Haitians who would be qualified under our bill, not to be sent back to their country at this time of woe, are not in the United States at this point.

Mr. SAVAGE. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to the gentleman from Illinois.

Mr. SAVAGE. Mr. Chairman, let me ask the gentleman, in the 1990 immigration bill, with which he is certainly familiar, he allotted 132,000 spaces for refugees coming to this country, correct, and 63,000 went to refugees from the Soviet Union, and obviously the Soviet Union is more democratized now than is Haiti, since we are sending them money to show that we approve of their democratization.

Mr. MAZZOLI. Mr. Chairman, if the gentleman would yield back for a moment, actually the gentleman will be happy to know that if this bill before him could ever be signed into law there is a refugee program created with Haiti for the first time in history. The gentleman from Kentucky has always felt that was very much of a blind spot in our refugee law, that we had 3,000 numbers for Cuba and none for Haiti. So now in our bill we have 2,000 numbers for visas, as a result I think of the gentleman's bill which was introduced last autumn. There will be refugee processing beginning in Port au Prince in short order.

Mr. SAVAGE. Mr. Chairman, if the gentleman will yield, what I was getting at is that he does not want it to be a magnet, but he is not worrying about it being a magnet for Europeans. He says it would be a magnet if we let some stay. It might cause others to come.

Mr. MAZZOLI. Under the circumstances in which we are dealing today it would be a magnet.

Mr. SAVAGE. Mr. Chairman, what would be wrong with it being a magnet for people from Haiti fleeing from persecution?

Mr. MAZZOLI. Mr. Chairman, I urge defeat of the gentleman's amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MAZZOLI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 96, noes 304, not voting 34, as follows:

[Roll No. 32]

AYES—96

Abercrombie
Ackerman
Anderson
Andrews (ME)
Atkins
Bennett
Berman
Blackwell
Bonior
Boxer
Bustamante
Clay
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Dixon
Downey
Early
Edwards (CA)
Engel
Espy
Evans
Fazio
Flake
Foglietta
Ford (TN)
Frank (MA)
Gejdenson
Gilman
Gonzalez
Hayes (IL)
Jacobs
Jefferson
Jones (GA)
Jones (NC)
Jontz
Kennedy
Kennelly
Kildee
Kopetski
Lantos
Lehman (FL)
Levin (MI)
Lewis (GA)
Lowey (NY)
Markey
Martinez
Matsui
McDermott
McNulty
Mfume
Mineta
Mink
Moakley
Moody
Moran
Nagle
Neal (MA)
Oakar
Oberstar
Olver
Owens (NY)
Owens (UT)
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (MN)
Rangel
Roe
Roybal
Sabo
Sanders
Savage
Scheuer
Schroeder
Serrano
Sikorski
Smith (IA)
Solarz
Stark
Stokes
Studds
Towns
Traxler
Vento
Washington
Waters
Weiss
Wheat
Wolpe
Yates
Yatron

NOES—304

Allard
Allen
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Bacchus
Baker
Barrett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Darden
Davis
DeFazio
DeLauro
DeLay
Derrick
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Eckart
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fascell
Fawell
Feighan
Fields
Fish
Franks (CT)
Frost
Gallegly
Gaydos
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Kanjorski
Kaptur
Kasich
Kleczka
Klug
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken
Machtley
Manton
Martin
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (NC)
Nichols
Nowak
Nussle
Obey
Olin
Oxley
Packard
Panetta
Parker
Patterson
Paxon
Payne (VA)
Pease
Perkins
Peterson (FL)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Ravenel
Reed
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stearns
Stenholm
Stump
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weber
Weldon
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—34

Alexander
AuCoin
Ballenger
Barnard
Boehner
Chandler
Coleman (TX)
Dannemeyer
de la Garza

Dickinson
Dicks
Dymally
Ford (MI)
Gallo
Geren
Hatcher
Herger
Kolter
Levine (CA)
Marlenee
Ortiz
Orton
Quillen
Ray
Richardson
Rostenkowski
Russo
Stallings
Tallon
Taylor (NC)
Thomas (CA)
Thornton
Torres
Whitten

□ 1714

The Clerk announced the following pair:

On this vote:

Mr. Ford of Missouri for, with Mr. AUCOIN against.

Mr. ENGLISH changed his vote from "aye" to "no".

Messrs. COYNE, DOWNEY, and McDERMOTT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The SPEAKER pro tempore (Mr. SKAGGS) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

HAITIAN REFUGEE PROTECTION ACT OF 1992

The Committee resumed its sitting.

The CHAIRMAN. It is now in order to consider amendment No. 2, printed in House Report 102–436.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SHAW: At the end insert the following new section:

SEC. 7. REIMBURSEMENT FOR STATE AND LOCAL GOVERNMENT COSTS.

There are authorized to be appropriated such sums as may be necessary to reimburse State and local governments for incremental costs associated with Haitians permitted to enter the United States under this Act.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. SHAW] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, very simply, an explanation of this amendment can be best understood as just being read.

There are authorized to be appropriated such sums as may be necessary to reimburse State and local governments for incremental costs associated with Haitians permitted to enter the United States under this Act.

Mr. Chairman, we have found from past experience that some 87 percent of the Haitians coming into the United States end up in the State of Florida. Under the estimates of Governor Chiles' office of the State of Florida, for 2 years each one of these refugees cost State and local governments in the State of Florida, and I will assume this is also across the country, some $5,000.

It is easy to understand when you start talking about the numbers that might come in, might very well come in and end up coming in under this particular statute, that that could be talking about many millions of dollars at a time when our State, as well as so many of the States across the country, are strapped for finances.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the distinguished gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I rise to join my colleague in support of this amendment. It is a very important amendment. Statistically, the gentleman has pointed out the costs that are involved. We are several hundred million dollars behind actual costs now for people already admitted, and the people of Florida have been extremely generous in trying to support the people who are in trouble, whether they are Haitians or others; but from a humanitarian standpoint, if we are going to extend the services, which we should, and I am talking primarily about health and education, then from the same humanitarian point of view, if not from fairness, we ought not to put that burden on the local taxpayers of Florida or Dade County or any other place. That is a Federal responsibility, and I would hope our colleagues would unanimously support this amendment.

Mr. SHAW. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. JOHNSTON]

Mr. JOHNSTON of Florida. Mr. Chairman, I rise in strong support of the Goss amendment and the Shaw amendment.

Floridians are feeling torn these days. While thousands of Haitians flee the poverty and violence of their own country, thousands of Floridians are out of work and suffer from an 8.7 percent unemployment rate. Hundreds of Floridians are victims of street crimes each day and there are 90.6 percent more Floridians on food stamps than there were in July 1989. And that is only second to New Hampshire.

For many immigrant groups, Florida has historically been the gateway to the United States. In the past 40 years, of the 2 million refugees entering the United States, nearly 1 million entered through Florida and almost 800,000 remained. We have recognized their struggles, welcomed them into our communities, and done the best we can to provide for them. We have done so with little assistance from the Federal Government.

The amount that States are reimbursed per refugee has decreased from $5,000 in 1985 to $1,300 in 1991. President Bush's 1993 budget proposal would decrease cash and medical refugee assistance from $8 million to $1.6 million. While many Floridians truly feel for the plight of the Haitians, the pain of the recession is immediate. It is difficult to continue extending a hand to others when the costs are incurred at their expense.

Immigration control is a Federal responsibility and until that responsibility is met, Floridians will be unable to share the American dream with Haitians and others like them who may have a valid claim to asylum.

Support the Goss amendment and restore Federal involvement in what is, rightfully, a Federal responsibility.

□ 1720

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Chairman, it is my understanding from the original bill, and I have given assurances to my colleagues, especially on the gentleman's side of the aisle, that tens of thousands of Haitians are not going to end up on our shores. Now the gentleman from Florida [Mr. SHAW] is saying that he would want to be reimbursed for those who do come here. I just want to make it abundantly clear, and I believe the gentleman would agree with me, that the legislation which the gentleman from Kentucky [Mr. MAZZOLI] drafted is carefully drafted and narrow and to the point, that these Haitians are going to be on a Government base, but that is in Cuba, not Miami. Does the gentleman from Florida have that understanding?

Mr. SHAW. Reclaiming my time, the gentleman is absolutely correct in his assessment of the legislation. I would, however, speculate that coming around July and August there is going to be tremendous pressure in this House if these Haitian refugees are still down in Guantanamo on the tarmac, that we are going to come back and decide whether that is actually humane and they may very well end up here. But the gentleman is absolutely correct. I do not want to mislead anyone in this House.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in support of his amendment.

Mr. Chairman, it is all too clear that Federal immigration policy does not address the impact of mass immigration on State and local entities. A mass influx of refugees means increased educational, social and economic burdens, burdens that are increasingly difficult for State and local governments to absorb.

My testimony at the Subcommittee on Immigration, having pointed this out, apparently fell on deaf ears.

Florida has experienced periods of mass immigration over the years, beginning with the Mariel boatlift in 1981. However, Federal compensation to Florida has decreased dramatically from 1983 to 1990. As a matter of fact, Florida is still owed $150 million for expenses incurred during the Mariel boatlift.

Now, I heard the discourse back and forth between the gentleman from Florida [Mr. SHAW] and the gentleman from New York [Mr. RANGEL]. But we still know that the next place for debarkation will be to Florida. The United States has already provided 4,800 refugees with the opportunity to seek political asylum. Many of these refugees will settle in Florida. It is simply not fair for the people of Florida to shoulder the entire cost of the Haitian refugee influx. The Federal Government must provide its share of resources to care for these refugees.

The Mazzoli bill sets a bad precedent. No matter how well intended it is. However, if Congress approves it, then Congress should shoulder it and be held accountable, not the State of Florida and its entities.

During the past 5 years the United States has provided haven for 95,000 Haitians, with tens of thousands of them settling in Florida. We have economic problems in Florida that we must resolve. Therefore, we cannot finance any further economic immigration from Haiti or anywhere else, for that matter. Political asylum we certainly will consider.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, I am opposed.

The CHAIRMAN. The gentleman from Texas will be recognized for 10 minutes.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I must oppose the gentleman's amendment. The amendment seems to imply that H.R. 3844 somehow permits Haitians to enter the United States. It does not. The legislation simply suspends for 180 days the return of less than 3,000 Haitians—who had to be in United States custody by February 5.

The bill has no effect on the administration's Refugee Asylum Program where refugees with plausible claims of political persecution are allowed to pursue their claims in this country. For this reason, the amendment is basically without effect on this legislation and should be voted down.

Mr. Chairman, I reserve the balance of my time.

Mr. SHAW. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, I think it is important for us to understand; I do not believe the gentleman from Florida [Mr. SHAW], in proposing this amendment, assumes there is going to be a wholesale entry of Haitians into the United States. We all want to give Haiti back to the Haitians and we hope that happens soon.

The problem is that under existing law some have already been cleared to come into the United States. Under the Refugee Authorization Act, theoretically that is supposed to be paid for by the United States. The problem is, as you have heard other speakers say, that is only in theory. We have had a great number of Haitians and other refugee groups come into the United States, come into Florida, for which Florida has paid the price. We pay for those items which the Federal Government should have been paying.

What the gentleman's amendment does is anticipate that any under existing law will be allowed to enter into Florida because that is where they come, Mr. Chairman, into Florida, will be paid for by the Federal Government. He is seeking, basically, to reaffirm what the Federal position should be and has not been in practice. And I commend the gentleman for that and hope all will support his amendment.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I want to correct the record, it is not 30 minutes, it is more like 3 and I will take even less than that.

Mr. Chairman, I would respectfully rise in opposition to the amendment of the gentleman from Florida, not because it is not a good amendment, but because it is extraneous. It is really unnecessary, because our bill, as the gentleman from New York pointed out, contemplates bringing no persons into this country. Therefore, there is no need to reimburse for costs that will never be expended in the first place.

Let me just reflect for the record, and I will sit down. That is, under existing law the Refugee Act of 1980 provides 100-percent Federal reimbursement for up to 36 months for refugees who are in the country and are here under admission through the Refugee Act. We have some 140,000 who are possibly to be admitted this year.

Under the Fascell-Stone Act of 1980, Haitian and Cuban refugees are to be treated exactly as those who come in under the 1980 act, which means that 100-percent reimbursement for 36 months. So, whether these individuals who get to Florida are admitted because they pass prescreening process or because some other way they come into the country later on, not under the auspices of our bill, but however they come in there is a coverage under existing law, either the 1980 Refugee Act or the Fascell-Stone Act to provide reimbursement.

So, I would just ask my friends and colleagues in the committee, we are trying to get a bill passed; the senior Senator from Massachusetts has introduced a bill in the other body, identical, verbatim, word for word with our bill.

We want to get something done for the people who need to be protected from being forcibly repatriated to a country in stress, a country in turmoil.

Mr. Chairman, I hope that we can keep our bill before you as it is today so that we can move that forward as quickly as possible and, hopefully, to the President's desk.

Mr. SHAW. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, very briefly, I know the hour is late and Members want to catch planes and get home to their districts. But very, very briefly, it is about time that the Federal Government looked to the States of Texas, California, Florida, Arizona, New Mexico, all of these border States that are taking in so many of the people from foreign countries, legally and illegally. It is time that we look at these States and say that we have got to pick up the tab for the expenses that we are causing these States. This is a small step. Admittedly, if none of these refugees come in under this particular bill, there will be zero expense. If there is expense, it is subject to appropriation. But this gives the Congress an opportunity to say if we cause the expense to the State—and we are not just talking about 8 months, as Mr. MAZZOLI quite properly spoke of, in existing law—we are talking about going on beyond that.

☐ 1730

Mr. Speaker, it is about time that we accepted responsibility as those that are responsible for the immigration laws of this country, that we also take some of the responsibility for the cost that we are shoving off onto all of the States. Congress will have an opportunity in just a few minutes to vote on this, and I urge passage of this amendment. It is vital, believe, to many of the States, not just the State of Florida.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SHAW].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 144, not voting 49, as follows:

[Roll No. 33]

AYES—241

Abercrombie
Allard
Allen
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
Atkins
Bacchus
Baker
Barrett
Barton
Bateman
Bennett
Bentley
Bilirakis
Bliley
Boehlert
Boucher
Boxer
Broomfield
Bunning
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Coyne
Crane
Cunningham
Darden
DeLauro
DeLay
Dellums
Dixon
Donnelly
Dooley
Doolittle
Dornan (CA)
Downey
Dreier
Duncan
Dwyer
Edwards (OK)
Emerson
English
Fascell
Fawell
Fazio
Fields
Fish
Ford (TN)
Franks (CT)
Gallegly
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodling
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Hobson
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Klug
Kolbe
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach
Lehman (CA)
Lehman (FL)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Machtley
Martin
Martinez
Mavroules
McCandless
McCollum
McCrery
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Michel
Miller (OH)
Miller (WA)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morrison
Mrazek
Murtha
Myers
Nagle
Neal (MA)
Nowak
Nussle
Oberstar
Olin
Olver
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Paxon
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Porter
Rahall
Ramstad
Ravenel
Regula
Ridge
Riggs
Rinaldo
Ritter
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Sangmeister
Santorum
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schulze
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Studds
Stump
Sundquist
Swett
Swift
Tanner
Thomas (WY)
Torricelli
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Volkmer
Vucanovich
Walker
Walsh
Waters
Weber
Weldon
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—144

Ackerman
Anderson
Andrews (TX)
Annunzio
Beilenson
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Carper
Carr
Chapman
Clay
Clement
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Cramer
DeFazio
Derrick
Dingell
Dorgan (ND)
Durbin
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Ewing
Feighan
Flake
Foglietta
Frank (MA)
Frost
Gaydos
Gephardt
Glickman
Gonzalez
Gordon
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Horn
Hubbard
Huckaby
Hughes
Jacobs
Jenkins
Kennelly
Kildee
Kopetski
Kostmayer
LaRocco
Levin (MI)
Lewis (GA)
Luken
Manton
Markey
Matsui
Mazzoli
McCloskey
McCurdy
McNulty
Meyers
Miller (CA)
Mineta
Morella
Murphy
Natcher
Nichols
Oakar
Obey
Owens (NY)
Owens (UT)
Patterson
Payne (NJ)
Perkins
Petri
Pickett
Pickle
Poshard
Price
Pursell
Rangel
Reed
Roberts
Roemer
Roth
Rowland
Roybal
Sabo
Sanders
Sarpalius
Savage
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shuster
Skelton
Slattery
Slaughter
Smith (IA)
Solarz
Spratt
Staggers
Stokes
Synar
Tauzin
Taylor (MS)
Thomas (GA)
Towns
Traficant
Valentine
Visclosky
Washington
Waxman
Weiss
Wheat
Wilson
Yates

NOT VOTING—49

Alexander
Anthony
Aspin
AuCoin
Ballenger
Barnard
Boehner
Burton
Chandler
Coleman (TX)
Dannemeyer
Davis
de la Garza
Dickinson
Dicks
Dymally
Ford (MI)
Gallo
Geren
Gingrich
Hatcher
Herger
Hoyer
Kleczka
Kolter
Laughlin
Levine (CA)
Lloyd
Marlenee
McDade
Neal (NC)
Ortiz
Orton
Quillen
Ray
Rhodes
Richardson
Rostenkowski
Russo
Smith (OR)
Stallings
Stark
Tallon
Taylor (NC)
Thomas (CA)
Thornton
Torres
Whitten
Williams

☐ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Williams for, with Mr. Ford of Michigan against.

Mr. AuCoin for, with Mr. Anthony against.

Mr. Thomas of California for, with Mr. Quillen against.

Mr. HAYES of Louisiana, Mr. TAUZIN, Mrs. SCHROEDER, and Messrs. WILSON, HUCKABY, OWENS of Utah, PETRI, and HUGHES changed their vote from "aye" to "no."

Messrs. RITTER, McDERMOTT, and MFUME, and Mrs. UNSOELD changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY CHAIRMAN OF THE COMMITTEE ON RULES

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Chairman, earlier today, I made an announcement regarding the Rules Committee's intentions regarding the budget resolution. In that announcement, amendments to the budget resolution were to be submitted to the committee by 5 p.m. on Monday, March 2. After discussions with the Budget Committee and after consultation with the minority, the Rules Committee will extend that time until Tuesday, March 3, at 10 a.m.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I do not believe Members heard what the gentleman from Massachusetts [Mr. MOAKLEY] just said. What the chairman of the Committee on Rules has just said is that Members of the House will have the opportunity to file amendments to the budget bill that will be coming before us on Wednesday. The gentleman will extend that time from Monday at 5 o'clock until Tuesday at 10 o'clock. As I understand it, the Committee on the Budget will not have the report ready until probably close to 5 o'clock on Monday. This at least will give us that opportunity to read the bill overnight.

Mr. Chairman, I want to thank the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Chairman, the gentleman is exactly right.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 102–436.

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Florida: At the end insert the following new section:

SEC. 7. SENSE OF CONGRESS.

It is the sense of the Congress that the President, in conjunction with the legitimate democratically-elected government of Haiti, should urge the United Nations Security Council and, as appropriate, the Organization of American States—

(1) to dispatch a peacekeeping force to Haiti—

(A) to provide security for human rights monitors,

(B) to provide protection for Haitians repatriated from abroad, and

(C) to assist in establishing a climate of security in Haiti in which the rights of all persons will be respected; and

(2) to send human right monitors to Haiti, under the aegis of an appropriate international human rights organization such as the United Nations Human Rights Commission or the Inter-American Human Rights Commission, to assess and report to the international community concerning internationally-recognized human rights in Haiti.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. SMITH] will be recognized for 10 minutes, and a

Member opposed to the amendment will be recognized for 10 minutes.

The Chair now recognizes the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the well-dressed gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I rise in support of H.R. 3844, the Haitian Refugee Protection Act. I recognize that this piece of legislation is not perfect, and in my opinion does not go far enough. However, it does go directly to the problem of the Haitian refugees, and due to the emergency nature of this situation, it is imperative that this body move forward with H.R. 3844. Since the September coup overthrew the democratically elected Government of President Jean-Bertrand Aristide, conditions have deteriorated rapidly in Haiti and are continuing to deteriorate. Human rights organizations and religious groups have continuously described the acute state of repression that exists in Haiti. The Organization of American States [OAS] has estimated that more than 1,500 innocent civilians have been killed since the coup, but since the military has blocked access to the morgue and rumors persist of mass graves, it is feared that the numbers are much higher.

With a crisis of this dimension, we often forget that behind those numbers are real people with real fears for their safety. Amnesty International documented an incident of a young boy being arrested for reportedly stopping to look at a picture of President Aristide. The soldiers scolded him for looking at the picture, then accused him of sticking it up himself. This was not only false, but impossible because the boy was too small to reach it, which became apparent when the soldiers tried to force him to take the picture down. Nonetheless, the soldiers severely beat him and he was imprisoned several hours before he was eventually released. This is just one of many incidents of harassment and intimidation.

The administration is well aware of the crisis in Haiti; yet the administration persists in claiming that these refugees are not fleeing political repression and persecution, but are economic refugees. Claims have been made that Haitians are only fleeing for the United States, and that this proves that they are economic refugees rather than political ones. In fact, reports show Haitians landing in Cuba, and tens of thousands fleeing into the Dominican Republic, which has in the past treated Haitians very poorly. I find it hypocritical that the administration has denounced the de facto government and its policies but considers Haitians fleeing this Government economic migrants and returns them to the control of the government that the United States does not recognize. Further, the Coast Guard picks up Haitians and immediately starts back to Port-au-Prince, but picks up Cubans and takes them to the United States. This policy is blatantly discriminatory and racist. Because Haitians are not fleeing a Communist country, they are not recognized as political refugees, and because they are black, they are told we cannot accept them. We cannot allow this policy to continue.

The State Department claims that there is no proof that anyone repatriated has been harmed, and that a system is in place to monitor those repatriated. That system consists of an embassy staff reduced to 30 or 40 that rarely leaves Port-au-Prince, and priests and other Americans placed around the countryside. There is in actuality no real system to monitor repatriated Haitians. Monitoring has been virtually impossible. Many of the refugees live in areas where communication and information gathering has been very difficult. Many of those repatriated go into hiding. Others fear to talk to foreigners. Haitians seen talking to reporters or foreigners are quickly picked up for questioning and harassed by local authorities. Even the monitors that the State Department relies upon have been imprisoned and harassed, clearly given the message of the consequences of reporting human rights abuses. If repatriated Haitians are not going to be targeted, why are they being fingerprinted and photographed by the defacto governmental authorities? People that are suspected of preparing to leave are beaten and imprisoned; why then would those having left, be safe? Without any effective mechanisms to monitor or protect repatriated Haitians, we cannot in good conscience continue this policy. I strongly urge support for the Conyers amendment that would grant temporary protected status to all Haitians. Until we can assure the safety of those persons returned, we must offer them the protection that international law requires.

The administration claims that granting this temporary protection would result in a magnet effect, giving the incentive to many more Haitians to take to the high seas in rickety, overcrowded and ill-provisioned boats. In fact, there are many Haitians right now that would risk leaving the country if they could. Those in the countryside fear being apprehended during the difficult voyage to the port cities where they could depart. Others do not have the money to pay the high price for a spot on those overcrowded boats. The military has cracked down upon the port cities attempting to prevent people from leaving. This crackdown can explain the decreasing numbers of refugees being picked up, not the repatriation policy. Haitians do not need a magnet effect to provide incentive to leave Haiti. The incentive is already there in the form of political repression and persecution.

Congress must rectify the failure of the executive branch to respond to the pleas of thousands fleeing repression and persecution. We must cease condemning to death Haitians willing to risk their lives for liberty by returning them to their persecutors. Let us send a message to the coup leaders, that the United States will not tolerate circumvention of the democratic process. More importantly, let us send a message of hope and support to the Haitian people.

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, I rise in support of the bill.

There can be reasonable differences on various amendments to the bill but there should be none on the core message intended to be sent by this bill.

The United States stands for freedom—a beacon for the entire world. It should shine in all directions, for those close as well as far.

In this vital regard, our policy towards Haiti has badly faltered. It is clear that the large majority of Haitian people desire freedom. I could see that when I visited Haiti 10 years ago. My son Andrew witnessed that firsthand when over 3 years ago he was on a private observer team viewing the Haitian election. The physical security of thousands of Haitians and the observer team was placed in jeopardy by a roving armed band simply because the Haitian people were trying to exercise a democratic right to vote.

U.S. Government policy since then has been at best confused. Indeed, for the people of Haiti, it has been tragic. Our recent retreat on the embargo is a vivid example.

We can do better. There may be no easy answer, but clearly use of the Presidential veto is an unsatisfactory policy. May this bill serve to tell the administration that inertia in the defense of freedom is not a defensible policy for the United States of America, inside as well as outside the hemisphere.

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. COSTELLO].

Mr. COSTELLO. Mr. Chairman, I rise today to voice my opposition to the administration's policy toward Haitian refugees. I also rise in strong support of the Haitian Refugee Protection Act, the bill which suspends the forced repatriation of Haitians seeking refuge from political repression and violence in their homeland.

Since the military coup ousted Jean-Bertrand Aristide, Haiti's first democratically elected President on September 30, about 15,000 Haitians have fled their homeland to escape acute, continuing repression and human rights violations in Haiti. Upon fleeing, thousands of Haitians have been intercepted by the Coast Guard and taken to the United States naval base at Guantanamo Bay, Cuba.

International law dictates that refugees seeking political asylum may not be returned to their homeland if there is a threat of persecution. The United States, however, has forced the repatriation of Haitian refugees despite the undeniable threat of political persecution upon return. Contrary to the administration's statements, the majority of detained refugees are not economic migrants, but political targets for the military regime.

Mr. Speaker, I question why United States policy toward Haiti has changed dramatically since the overthrow of a democratic government. According to the United Nations, the current military dictatorship is not the legal government of Haiti. The easing of the United States embargo gives the impression that the United States recognizes the current Haitian military dictatorship as a legitimate governing body.

In my own district of southwestern Illinois, the world-renown dancer and choreographer, Katherine Dunham, continues her hunger strike. Ms. Dunham, who is 82, spend much of her life and dancing career in Haiti. Now is St.

Mary's Hospital in East St. Louis, Ms. Dunham has been fasting since February 1, in opposition to the President's policy of repatriation of Haitian refugees.

I realize that opposing the President's policy may not be popular, especially in southwestern Illinois; however, it is the right thing to do. The administration has an arbitrary policy of denying political asylum to Haitian refugees. It is important that Congress act responsibly in upholding our national tradition of humanitarian protection of those in danger until the administration changes its policy.

I urge my colleagues to join me in support of the Haitian Refugee Protection Act, H.R. 3844. This bill suspends for 6 months the repatriation of Haitian refugees in United States custody by February 5, and instructs the administration to report on the fate of refugees returned to Haiti.

The current deportation process is inequitable and should be stopped immediately. Congress must take action now to support the struggle for democracy in Haiti.

Mr. SMITH of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I know the hour is late. These last two amendments to this bill are important and we certainly urge the attention of Members.

Mr. Chairman, this amendment which I am offering today is about returning Haiti to the Haitians. Only when President Aristide returns and democracy is restored can we start to think about any stability or economic development in this troubled country.

Mr. Chairman, one might ask our colleague, the gentleman from Ohio [Mr. HALL], the chairman of the Select Committee on Hunger, to tell you about this abject misery and disease on the island of Haiti which, if it goes unchecked, will give us some of the worst poverty and worst disease that this hemisphere has ever seen.

This immigration crisis we are now discussing before us today will be the tip of the iceberg if we ignore this country and this region.

Mr. Chairman, you heard the eloquent statements of the majority leader a few moments ago in this well in reference to this bill, talking about what the problems of human rights are on the island, the problems that are being faced by the Haitians who are there, and the repatriated Haitians who have already come.

Mr. Chairman, this amendment provides vital support to the agreement last weekend between President Aristide and Haitian parliamentary leaders to restore democracy in Haiti with Aristide as president. Acceptance by both sides of Mr. Theodore as Aristide's new prime minister finally cleared the way for the signing of the accords.

But just weeks ago when Theodore was first designated as the candidate, military thugs riddled his house with bullets, nearly killing him and his bodyguards. I wonder if my colleagues here would suggest that this amendment would get in the way of last week's agreement and if they are naive enough to believe that the Haitian military intends to carry it out.

This amendment basically does the following. It says that the President of the United States, with our sense of Congress, and that is all this is, a sense of Congress, should urge the U.N. Security Council and as appropriate the OAS to dispatch a peacekeeping force to Haiti to provide security for human rights monitors, to provide protection for Haitians repatriated from abroad, and to assist in establishing a climate of security in Haiti in which the rights of all persons will be respected, and to send human rights monitors to Haiti under the umbrella of some human rights organization designated as such, like the UNHRC or the Inter-American Human Rights Commission.

It is that simple. This is how we start on the road to getting Haiti back for the Haitians. The only way we will ultimately solve this refugee problem is if we restore the elected government and get Haiti back in the hands of the Haitians, who deserve their own country back.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I rise in support of the amendment. It is obvious that despite our best intentions, the solution of the Haitian problem and the inhumanity that goes on is not going to be solved here in the United States. It can only be solved in Haiti.

This amendment lays down a process and a policy which might make that possible.

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I support the amendment of the gentleman from Florida [Mr. SMITH]. I think it is well thought out. There is no question that the only way that Aristide can go back to Haiti is that the democratic institutions be allowed to develop their roots. This includes the Parliament that is there, the House of Deputies, as well as the Senate.

Mr. Chairman, this ruthless army has coerced the Parliament as well as they have the President, and I think you need this international peacekeeping force there in order for Haiti to regain its democracy.

□ 1800

Mr. SMITH of Florida. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding time to me.

I lived in Haiti for 3½ years. I taught English to Haitians; French and Creole to Americans.

I lived there during the early years of the Duvalier government, when Poppa Doc created the civil militia, the Ton Tons Macoutes, which literally means "uncle bogeyman." And they performed that function to intimate the army and the people, 300,000 of them, armed thugs, throughout the country.

The election of 1990 was all about getting rid of Macoutes and Duvalierism. And for one brief shining moment Haiti enjoyed democracy for the first time in its 200-year history.

Then the forces of Macoutes and Duvalierism crushed the Aristide government. During that 7 months there was no stream of refugees coming to the United States. They stayed in Haiti, hoping for democracy.

There is a beautiful Haitian song that says, "Haiti chevie pi bon pei pase ou nan point," beloved Haiti, there is no more beautiful country in the world than you.

The Haitians want to go back to their land. They do not want to stay here. This legislation makes it possible for them to return in dignity and, meanwhile, let us not hold them to our standard of due process of law. They are not a government of laws.

During the Duvalier government, law school was shut down. The jurists were chased out of the country. People hunted down.

We need to give them an opportunity to restore that brief moment of democracy.

There is a Haitian Creole proverb that says, "crayon de die pa gan gomme," the pencil of God has no eraser.

We cannot erase what the military did in September, but we can restore dignity to the Haitian people.

Mr. SMITH of Florida. Mr. Chairman, I yield myself such time as I may consume.

In closing, let me just say that Members would be amazed about the strong impact that this apparently negligible resolution can have over the tiny Haitian military of just 7,000 that brutally rules over a nation of 6 million people. I will stand on the words of the gentleman from Minnesota [Mr. OBERSTAR].

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment?

If not, the Chair recognizes the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding time to me.

I do not rise exactly in opposition, but I think it is needful for us to make clear to the House that this situation not only puts another lump or bulge onto a bill that we had hoped we could keep rather clean in order to match up with the other body. But even beyond that legislative situation, there is in the accord of February 22 of this year, signed by President Aristide and the Parliamentary Commission that negotiated this current settlement in article 5 of that, paragraph 8 suggests that both President Aristide and the Parliamentary Commission oppose and condemn any intervention by foreign military in the affairs of Haiti.

The gentleman's amendment is a sense of the Congress. It is not a statute. The gentleman calls them, and they are peacekeepers, not necessarily foreign military. But the fact of the matter is, there is an intervention. There is a movement into Haiti at a very sensitive time when President Aristide and the Parliament and Mr. Teodor and the OAS are trying to broker something other than using armed forces.

I only say that this could be counterproductive in a way, and I think it is just important to bring that to the attention of the committee before the committee works its wisdom on the gentleman's amendment.

Mr. SMITH of Florida. Mr. Chairman, I yield myself such time as I may consume.

Let me close by saying that while I understand what the gentleman from Kentucky has just said, the reality is that what we are asking the President to do is to talk with the United Nations and the Organization of American States about a force of peacekeepers, no armed security. That is not contemplated within this amendment. We are talking solely about the possibility.

Remember, even if Mr. Aristide is returned, there is no guarantee they will not force him out once again. So all we are asking is the President to start consulting with the United Nations and the Organization of American States. It is a sense of Congress, but it sends a very powerful message to the military that if they do not cooperate, then something else eventually could happen.

I urge approval of this amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I have no objection to the amendment now that I have heard all about it at great length.

Does the gentleman from Florida [Mr. MCCOLLUM] have any objection to the amendment?

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I have no objection.

Mr. SMITH of Florida. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4, printed in House Report 102-436.

AMENDMENT OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GOSS:

At the end insert the following new section:

SEC. 7. SENSE OF CONGRESS.

The Congress urges the President and the Attorney General to take all appropriate actions to ensure that no State is impacted, disproportionately, with respect to the provision of services for Haitian refugees and displaced persons entering the United States.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. GOSS] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I would say to my good friend, the gentleman from Florida [Mr. GOSS] that I have looked over this amendment. I think it is somewhat redundant, but it does represent a viewpoint. The gentleman from Florida [Mr. GOSS] and the gentleman from Florida [Mr. LEWIS] were very much concerned about it.

I do not think it does any harm. It is a sense of Congress, and I would see no objection to accepting it and going on to final passage.

Mr. GOSS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise in strong support of the Goss amendment.

Mr. Chairman, I support the amendment offered by my colleague, Mr. GOSS.

Many of the Haitian refugees that have been given the opportunity to seek political asylum, will settle in Florida. It simply is not fair for the people of Florida to shoulder the entire burden of refugees without help from the Federal Government. As a matter of fact, Florida is still owed for expenses incurred during the Mariel boatlift.

The message of the President must be clear. The Federal Government has a responsibility to share the cost of caring for Haitian refugees.

Mr. FOGLIETTA. Mr. Speaker, Congress must take the lead now to delay the repatriation of Haitian refugees. Congress must pass H.R. 3844, which cleared the House of Representatives on February 27, 1992.

The Bush administration has sent thousands of Haitian refugees back to their country to meet persecution. Clearly, this policy is wrong and immoral. We cannot force these refugees into an uncertain and dangerous future. This breaks the rules of political asylum and world refugee procedures.

We have to ask, "Would the treatment of these people be any different if they had been fleeing a Communist regime in Eastern Europe or if they were trying to get out of Cuba?"

The administration's policy sends the message that these people aren't important enough, that they are too poor, and that they are not from an influential part of the world. But I disagree. The refugees are important, and they are suffering, 2,000 people are being returned each week. At this rate, all refugees will be returned within 2 weeks, but this won't solve the problem.

These Haitians are yearning to breathe free, as everyone did who landed on these shores. But the words on the inscription at the base of the Statue of Liberty apparently do not apply to Haitians.

With passage of this bill, the House is asking for time, time for things to settle down. This is the least the refugees could hope for.

Unfortunately, I was called away to Philadelphia. I want to place on the RECORD that I would have voted "aye" on final passage.

Mr. GOSS. Mr. Chairman, as others have pointed out, H.R. 3844 has serious drawbacks. However, I believe all Members can find common ground around the proposition that the burden of caring for refugees and displaced persons who enter the United States should be equitably shared.

The amendment I have offered acknowledges the disproportionate burden which Florida and some other States have borne over the last decade in looking after many thousands of persons fleeing the turmoil of Central America and the Caribbean. The arrival in the United States of these desperate people with little more than their hopes and their needs has brought our foreign relations home in a very personal—and costly way.

Florida, along with many of our sister States, has met the challenge which our geography has thrust upon us. However, our response circuits are now on overload.

Let me be clear: We are not confronting compassion fatigue. Floridians have always done their part, but our social services delivery systems and supporting community infrastructure are stretched to capacity. With the economy faltering, new arrivals are no longer finding an employment environment that can readily absorb them as contributing members of our society. This means a prolonged period of Government assistance.

Immigration control is a Federal responsibility. However, the Federal Government has historically reimbursed State and local governments for only about half the calculable costs of resettlement and absorption of new arrivals. Based on my State's experience with the Mariel boatlift, the unreimbursed cost to our State and local governments of the latest Haitian arrivals is expected to be more than $5 million the first year. Moreover, we don't have the capability to accurately measure the longer term costs to our social and physical infrastructure—for which there is no local reimbursement formula.

Given all this, the amendment before us conveys the sense of Congress that the Federal Government should—as a basic policy approach—look at all methods that could be employed to ensure that no State bears a disproportionate impact of special immigration problems. As States continue to face serious budget shortfalls, the Federal Government should take steps to ensure that State and local taxpayers do not incur what is appropriately a Federal cost in attempting to provide services for Haitian and other refugees and displaced persons.

Mr. Chairman, we need national, not regional, solutions to national problems.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from Florida [Mr. GOSS].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MCNULTY] having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3844) to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti, pursuant to House Resolution 375, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 165, not voting 52, as follows:

[Roll No. 34]

AYES—217

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Atkins
Bacchus
Bennett
Berman
Bilbray
Blackwell
Bonior
Borski
Boxer
Brooks
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Clay
Clement
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hubbard
Huckaby
Hughes
Hunter
Hyde
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kildee
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Reed
Riggs
Rinaldo
Roe
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roybal
Sabo
Sanders
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swett
Swift
Synar
Thornton
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Weber
Weiss
Wheat
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—165

Allard
Allen
Applegate
Archer
Armey
Baker
Barrett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Boucher
Brewster
Broomfield
Browder
Bunning
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carr
Chapman
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Darden
DeLay
Doolittle
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fields
Franks (CT)
Gallegly
Gaydos
Gekas
Gilchrest
Gillmor
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Hobson
Holloway
Hopkins
Horton
Houghton
Hutto
Inhofe
Ireland
James
Johnson (TX)
Kanjorski
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Martin
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Myers
Nichols
Nussle
Oxley
Packard
Parker
Patterson
Paxon
Pease
Petri
Pickett
Porter
Pursell
Ramstad
Ravenel
Regula
Ridge
Ritter
Roberts
Rogers
Roth
Roukema
Sangmeister
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—52

Alexander
Aspin
AuCoin
Ballenger
Barnard
Boehner
Burton
Chandler
Coleman (TX)
Dannemeyer
Davis
de la Garza
Dickinson
Dicks
Dymally
Foglietta
Ford (MI)
Gallo
Geren
Gingrich
Hatcher
Herger
Hoyer
Johnston
Kleczka
Kolter
Laughlin
Levine (CA)
Lloyd
Marlenee
McDade
Moakley
Murphy
Ortiz
Orton
Peterson (MN)
Quillen
Ray
Rhodes
Richardson
Rostenkowski
Rowland
Russo
Sarpalius
Smith (OR)
Stallings
Tallon
Taylor (NC)
Thomas (CA)
Torres
Whitten
Williams

☐ 1829

The Clerk announced the following pairs:

On this vote:

Mr. Hoyer for, with Mr. Rowland of Georgia against.

Mr. Kleczka for, with Mr. Boehner against.

Mr. Williams of Montana for, with Mr. Thomas of California against.

Mr. Aucoin for, with Mr. Taylor of North Carolina against.

Mr. Orton for, with Mr. Marlenee against.

Mr. Ford of Michigan for, with Mr. Quillen against.

Mr. Ortiz for, with Mr. Gallo against.

Mr. SHAYS changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

☐ 1830

TITLE AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. BROOKS: Amend the title so as to read: "A bill to assure the protection of certain Haitians in the custody of the United States, and for other purposes."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3844, the bill just passed.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BALLENGER. Mr. Speaker, the House considered H.R. 3844. I was away from the House and could not be present for several votes. Had I been present, I would have voted "nay" on rollcall No. 32, "aye" on rollcall No. 33, and "nay" on rollcall No. 34.

1992 TRADE POLICY AGENDA AND 1991 ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

To the Congress of the United States:

In accordance with the provisions of section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1992 Trade Policy Agenda and 1991 Annual Report on the Trade Agreements Program.

GEORGE BUSH.

THE WHITE HOUSE, *February 27, 1992.*

LEGISLATIVE PROGRAM

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, on behalf of the Republican leader, I have asked for this 1 minute to engage the majority leader in a colloquy about the schedule, if the majority leader would be good enough to inform the House about the schedule for the rest of the week and next week.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, we are obviously finished today. There will be no votes on tomorrow.

On Monday, the House meets at noon, but there will be no legislative business.

On Tuesday, March 3, the House will meet at noon and will consider 12 bills on suspensions. Recorded votes on suspensions will be postponed until after debate on all suspensions, and I might add to the gentleman that in that this is a primary day in some States, we will try to work together to see that there are few, if any votes, advisable. After we hear the bills that are here, Members may better understand that there could be very few, if any, votes.

The suspensions are as follows:

H.R. 939, veterans' housing amendments.

H.R. 2184, Udall scholarship.

H.R. 2321, to establish the Dayton Aviation Heritage National Historical Park in Ohio.

S. 996, to terminate a reservation of use and occupancy at the Buffalo National River.

S. 1467, to designate the "Frank M. Johnson, Jr. Federal Building and U.S. Courthouse."

S. 1889, to designate the "Ewing T. Kerr Federal Building and U.S. Courthouse."

H.R. 2539, to designate the "Clarkson S. Fisher Federal Building and U.S. Courthouse."

H.R. 3818, to designate the "George C. Young U.S. Courthouse and Federal Building."

H.R. 3041, to designate the "L. Douglas Abram Federal Building."

H.R. 2475, to designate the "Mitchell H. Cohen U.S. Courthouse."

H.R. 2818, to designate the "Silvio O. Conte Federal Building."

H.R. 3118, to designate the "Theodore Roosevelt Federal Building."

On Wednesday, March 4 and the balance of the week, the House will meet at 2 p.m. on Wednesday. The House will meet at 11 on Thursday, and if we meet on Friday, to take up an House concurrent resolution with regard to the concurrent resolution on the budget for fiscal year 1993, subject to a rule, and H.R. 3732, the Budget Process Reform Act of 1991, again subject to a rule.

Mr. SOLOMON. Well, Mr. Speaker, if the majority leader could enlighten us, earlier the gentleman from Massachusetts [Mr. MOAKLEY], the chairman of the Rules Committee, had extended the time for filing amendments to the budget until 10 a.m. on Tuesday.

Under what time schedule which is in effect right now for the report to be filed on Monday, does the majority leader know that?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, we will be attempting to ask unanimous consent that the Committee on the Budget have until 8 p.m. on Monday, March 2, to file a report on the concurrent resolution on the budget.

Mr. SOLOMON. So the gentleman does intend to ask for that filing period of 8 p.m.

Mr. GEPHARDT. That is correct.

Mr. SOLOMON. Which would give the Members a chance to look at the report overnight.

Mr. GEPHARDT. That is correct.

Mr. SOLOMON. Well, I certainly thank the majority leader for answering our questions.

Mrs. BENTLEY. Mr. Speaker, will the gentleman from New York yield?

Mr. SOLOMON. I am glad to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, I would like to respectfully request the leadership that if any votes on suspensions are called for on Tuesday that they be carried over until Wednesday because of the primary vote in both Maryland and Georgia on Tuesday.

Mr. MFUME. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Maryland.

Mr. MFUME. Mr. Speaker, I would like to join the gentlewoman in making that request of leadership on both sides of the aisle, for the same reasons.

Mr. GEPHARDT. Mr. Speaker, if the gentleman yield further, let me say as I stated before, it is our great hope that votes will be avoided.

I would also, however, say that for the purpose of getting the budget finished next week, which we very much want to do, we need to get Members who are not engaged in primary elections on Tuesday to be here so that we can finish the work of the Rules Committee and in the Budget Committee and be able to move forward on Wednesday; but I would assure both my friends from Maryland and other States that have primaries that the leadership, and I would suspect the leadership on both sides, will do everything in our power to see that there are no votes on Tuesday.

Mr. SOLOMON. Mr. Speaker, as the majority leader has pointed out, of those 12 suspensions we have reviewed them over here. None of them are controversial, and I do not expect anyone on this side of the aisle to be asking for a vote on any of those 12 resolutions.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for stating that. That certainly is our view.

Mr. SOLOMON. and Mr. Speaker, I thank the gentlewoman for bringing up the question.

ADJOURNMENT TO MONDAY, MARCH 2, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON THE BUDGET TO HAVE UNTIL 8 P.M. MONDAY, MARCH 2, 1992, TO FILE REPORT ON CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEARS 1993 THROUGH 1997

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the committee on the budget have until 8 p.m., on Monday, March 2, 1992, to file a privileged report on the concurrent resolution on the budget for fiscal years 1993 through 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the subject of the special order today of the gentleman from Florida [Mr. BILIRAKIS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ORDER OF BUSINESS

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent to transpose my name in the special order calendar with the gentleman from Ohio [Mr. STOKES], and I do this with the concurrence of my colleague, the gentleman from Ohio [Mr. STOKES].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

[Mr. DORNAN of California, addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

□ 1840

TOY INJURY REDUCTION ACT, H.R. 3809

The SPEAKER pro tempore (Mr. McNULTY). Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, yesterday the Subcommittee on Commerce, Consumer Protection, and Competitiveness held a hearing on the Toy Injury Reduction Act, House Resolution 3809, which I have sponsored.

Balloons, marbles, and balls are familiar to all of us. So are toys with small parts. While these common toys seem innocent, they can be dangerous and even life threatening to young children. Many of us have probably given one of these toys to a young child without realizing the potential danger. In addition, many of us have probably given a toy intended for children over age 3 to a child under that age, unaware that the toy is not recommended for children under three because it contains small parts which may present a choking hazard. Like many consumers, we probably thought that the age recommendation label on the toy referred to an educational development level, not safety.

We are not alone. The CPSC reported 146 choking-related deaths from January 1980 through April 1989. The analysis showed that common everyday balloons were responsible for over 40 percent of those deaths. In addition, 32 children choked to death on another familiar toy, the ball. Another old favorite—the marble—was also associated with many deaths and injuries.

Unfortunately, Mr. Speaker, every year, new youngsters are added to the list of those that have been injured or choked to death on small toys and small parts of toys. According to the CPSC, in 1990 alone, 23 deaths and an estimated 164,500 injuries were associated with toys.

Some of these children's lives could have been saved and others could have been spared serious health consequences if their parents had been warned that the toy in question presented a hazard to their child.

Some toy companies voluntarily use labels; however, in many cases, age warning labels are so blandly written that they fuel the erroneous idea that the age level is more related to educational development than to safety. This fact is illustrated in a recent study entitled "The Impact of Specific Toy Warning Labels," published in the Journal of the American Medical Association.

During the study, toy buyers at a shopping mall were surveyed to evaluate the adequacy of various toy labels. The study found that the current voluntary labels used by manufacturers "may not by sufficiently explicit to alert buyers of toys with small parts to the potential choking hazards to children under 3 years of age." The study concludes that an explicit label warns of the hazards, "might substantially reduce inappropriate toy purchases without imposing any substantial cost on the consumer, the government, or the manufacturer."

The Toy Injury Reduction Act requires warning labels on toys that are intended for children between 3 and 6, but pose a hazard to younger children due to small parts, and on certain toys which have been associated with many tragedies: balloons, games of skill with small balls, and marbles.

According to the CPSC, in 1990, 19 children under the age of 3 died at the hands of toy balls. The legislation alleviates this hazard by requiring minimum choke proof size requirements for balls intended for children under age 3.

This bill does not require labeling of anything but toys. And toys should be labeled because they are specifically intended for, marketed to, and targeted to children.

Children are invited to play and use these potentially hazardous consumer goods. When parents are buying a toy, and there is no explicit warning of its hazardous properties, parents just assume that the items must be safe for children to use when in fact, the opposite is true.

Mr. Speaker, proper labels will serve to educate toy purchasers so that they will know which toys to buy for their children.

Well, Mr. Speaker a recent study by the CPSC showed that the labeling costs to industry will be minimal. The CPSC's analysis showed that the cost to the entire toy industry of these requirements is less than $500,000. They may spend more on their lobby efforts. Most importantly, how can this minimal cost compare with saving the life of even one child?

Mr. Speaker, we need to put an end to these senseless toy-related deaths at once. Just recently during the holiday season, we were reminded again by the U.S. Public Interest Research Group in a study entitled "Trouble in Toyland," of the hazardous toys sitting on store shelves. In just a quick survey in local Washington metropolitan stores, U.S. PIRG found 21 hazardous toys sitting on store shelves just begging to be bought and placed into the hands of a youngster in time for the holidays.

In conclusion, Mr. Speaker, too many children are dying at the hands of something that is supposed to provide entertainment, promote imagination, and facilitate education. I hope we can start on the road to reducing these unnecessary deaths by passing the Toy Injury Reduction Act.

RESOLVING THE SAVINGS AND LOAN CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. McCOLLUM] will be recognized for 5 minutes.

Mr. McCOLLUM. Mr. Speaker, I rise tonight to speak for a moment about the savings and loan crisis aftermath and what is going on now with the Resolution Trust Corporation in its refunding.

When we passed the law back a few years ago in 1989, called FIRREA, to resolve some of the thrift problems, I am very pleased to say I voted against that law. But when we passed that law back in 1989, part of the provision in that was to begin the funding process for the resolution of the institutions that were to be closed or merged or whatever that were failing. And in that process, Congress did a number of things, raised capital requirements and standards, also put some money out there.

Well, over the years since then we have allocated about $105 billion to the Resolution Trust Corporation for that purpose, and we are engaged in a process right now, through our committee, which will come to the floor shortly, allocating another $25 billion or so, maybe even a greater amount, but at least $25 billion, that will bring the total amount up to $130 billion that the RTC would have to use as loss funds for the losses incurred to the Government of the United States and to the taxpayers ultimately because of the failures of the savings and loans.

I do not think we need to lose all that money. And I think it was outrageous today in the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, upon which I sit, when the chairman and others decided on the committee that there would be no amendments allowed to a clean bill, they called it, to provide for further money to be allocated to the RTC, the $25 billion additional, plus lifting a reservation cap that comes into play the first of the month of April to keep some that is already there from being spent.

We need to make measures clear to the RTC, to the office of Thrift Supervision, to the other regulators in this matter that they are to go the least costly method possible in any of these resolutions; that we do not want them out here spending money willy-nilly to close institutions unnecessarily. That is what is about to happen if we let this reauthorization proceed. We are going to be spending billions and billions and billions of American taxpayer dollars that we do not need to spend. I would like to elaborate on why I am so concerned and what precisely was not allowed today, and I hope that the full committee will allow an amendment on this subject. Certainly, the floor, if not the committee, will be given a chance to vote on it.

We have to go back before the failures occurred to look at the action of the Home Loan Bank Board that oversaw the savings and loans back in the early 1980's. When we had failures, we did not have any money to do anything with them in the insurance fund. So, Home Loan Bank Board, in many people's opinions and in mine too, made a mistake. They went out and they said to very healthy, good, well-managed savings and loans that, "If you will take on these bad failing ones, since we do not have any money to close them down, we will give you a credit for 40 years of what we call goodwill, supervisory goodwill, and you can write that off over 40 years."

Well, to a lot of these well-managed institutions, that was a pretty good deal because they got new retail outlets and they got business in the area and they did not have bad things on their books that they could not take care of. They had 40 years.

Well, not, when FIRREA was passed, that law in 1989, Congress did away with that. They said, "You have got to pay that off in 20 years." Not only that, but within 5 years, on a phaseout program, "You can no longer count this supervisory goodwill toward capital."

At the same time, we passed a law that said, "You have got to have a certain minimum amount of 2 percent of capital on your books."

Well, there are at least 70 institutions today that are perfectly well managed that are about to be closed, those that have the supervisory goodwill, that would not be closed but for the fact that they cannot count that goodwill anymore as capital.

If we paid them—they have about $2 billion, now much goodwill they have—if we paid them off the $2 billion, they would be very healthy. They would be the best capitalized savings and loans in the country. But the fact of the matter is we are about to close them all. The way they close institutions when RTC and OTS get a hold of this is through a process that costs taxpayers about 15 to 20 percent of the total assets of those institutions.

The total assets of those 70 institutions is $180 billion. Fifteen to 20 percent of that ranges in the neighborhood of $27 billion to $36 billion it is going to cost to close them. That is not the least costly method of resolving these institutions. The least costly method is by paying $2 billion, paying off that supervisory goodwill and getting rid of it that way.

□ 1850

Mr. Speaker, we ought to have the privilege of doing it that way instead of the other way. We ought to give the power to the OTS and the RTC to do that. We have not done that, and the committee up to this point in time, the Committee on Banking, Finance and Urban Affairs, has ducked that issue. I think it is a terrible thing to duck. I do not know any good argument for doing that. The least costly method is that method.

Mr. Speaker, I yield to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman from Florida [Mr. MCCOLLUM] for yielding. I want to join him in his remarks.

Mr. Speaker, I was one of those on my side of the aisle that voted against this appropriation today of a large sum of money without any safeguards, without looking at what would be cost-effective to consumers, simply a willy-nilly approach of throwing bad money after more bad money. So, I commend the gentleman for taking this approach.

As the gentleman knows, it is not a favorable approach in our committee, but I have been of the firm belief for a long time that the RTC and OTS have mismanaged taxpayer dollars and ought to have some sort of basic discipline and guidelines under which they operate.

I thank the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman from Maryland [Mr. MFUME] for that very much.

I think my 5 minutes is probably about expired at this point, but I do thank my colleagues for listening to me. It is a problem, we need to resolve it, and, if we do not, it is going to cost multibillions of dollars.

INTRODUCTION OF LEGISLATION TO ENCOURAGE THE USE OF SAFER MEDICAL NEEDLES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, the AIDS epidemic continues to multiply and health care personnel to fight this public health care battle are essential. It is also essential that these health care workers be protected—to the maximum extent possible—from accidental exposure to HIV. Therefore, Representative RANGEL and I are today introducing a bill designed to provide a safer workplace for health care personnel in the years to come.

The bill basically will use the Tax Code to make it economical for health facilities to use safer needle devices. The tax provision will not take effect until 1997, so as to give manufacturers, marketers, and health care facilities time to develop the most reliable, low-cost, mass-produced safe needles possible. Using the Tax Code to place an excise tax on unsafe needles will ensure that there is a future mass market for safe needles, and this mass market will result in manufacturing economies of scale that should greatly reduce the price of currently available safe needles.

I would like to thank Congressman WYDEN, chairman, Subcommittee on Regulation, Business Opportunities and Energy for the very informative hearing held on February 7, 1992, on the needlestick issue. The information obtained at this hearing dramatized the need for quick legislative action to help solve the problem

GROWTH OF HIV AND HEPATITIS CASES

Individuals infected with HIV may require frequent and intensive health care intervention. It has been estimated by the CDC that 1.5 million Americans have contracted HIV. Of these approximately 206,000 have been diagnosed with AIDS. In addition there have been approximately 130,000 deaths due to AIDS.

It has been estimated that approximately 5 million health care providers in the United States alone are at risk for contracting diseases through exposure to infected blood and body fluids on a daily basis. According to the latest CDC statistics, approximately 29 health care workers have seroconverted to HIV positive after known occupational exposures. Three of these have gone on to develop AIDS.

It has also been estimated that 200,000 to 300,000 people annually acquire Hepatitis B [HBV]. Of these, approximately 10,000 cases occur in health care providers. It has been estimated that annually 5 to 10 percent become chronic carriers of the Hepatitis B virus. In addition approximately 2,500 individuals die annually due to acute infection with hepatitis B; this number includes 300 health care workers per year.

These infections are most frequently transmitted in the hospital setting by percutaneous exposure, most often due to needlesticks, or mucous membrane exposure.

It has been estimated that each needlestick costs between $350–$800 (this only reflects the cost of treating the initial needlestick only; i.e. testing, counseling, screening, prophylactic AZT treatment. It does not include the cost of treatment if disease develops). The direct cost of testing after accidental needlesticks approximates $750 million per year according to "MedPRO Month". It has also be estimated that the additional cost of transitioning one hospital with needle safety devices would be approximately one-twelfth of the annual cost of treating one AIDS patient.

SAFER NEEDLES ARE POSSIBLE

People who have not thought about it will probably laugh at the idea of making a safe needle. AIDS is not a laughing matter. Actually, many new products have been introduced into the market that attempt to make devices with needles safer to work with. These products either do not use needles at all or cover the end of the needle with some form of protective housing that extends past the needle when it is not in use. However, they are not being used due to the cost increase over the price of conventional needles.

Preliminary data from a recent New York study reviewing needleless IV catheters, as well as those with protective housings and phlebotomy equipment, indicates health care providers favor the new designs. It should be pointed out that standards for the use of this equipment are only now being developed.

In a study conducted by the New York State Department of Health in 1991, after implementation of devices using safer technologies, overall the number of sharps related injuries decreased 30.8–55.9 percent and IV related injuries decreased 75–93.8 percent. Data gathered by Dr. Janine Jagger, et al, at the University of Virginia suggest that "88 percent by needlestick injuries could potentially be eliminated by product redesign or substitution." (David Bell, M.D., Chief, HIV Infections Branch, Hospital Infections Program, National Center for Infectious Diseases, Center for Disease Control, statement before the Subcommittee on Regulation, Business Opportunities, and Energy, February 7, 1992)

Unless something is done about the price differential, every year millions of at-risk health care workers will suffer in silent agony after receiving a needlestick and many of those will die needlessly from infections like AIDS and Hepatitis B.

TYPICAL COST DIFFERENTIALS

Few health care facilities have this equipment due to the cost involved. As an example, for a hospital to transition to a needleless IV system can cost as much as $10,000 for each 100 beds. Currently IV systems with safety devices can cost as much as 2.5 to 6.5 times the current market rate for devices without safety features. What may not be apparent to health care facility administrators is that the decrease in injuries that will result will offset the incremental cost increase. This is significantly less than the cost of treating an individual for AIDS and/or Hepatitis B. For example, the estimated average cost of treating an adult with AIDS can range from $40,000 to $80,000 depending on the severity of illness.

Regardless of the size of the cost differential, this is a safety step which should be taken. As K. Seifert, director of sales, Bio-Plexus, Inc., stated in his testimony before the Subcommittee on Regulation, Business Opportunities, and Energy, on February 7, 1992, "In any other high risk occupation; no one would be asked to justify the cost of safety goggles compared to losing an eye. The risk from a needlestick is not to sight but to life * * *."

CONCLUSION

Mr. Speaker, this is a tax bill, but I expect—I hope—it will never raise a dime. It's purpose is to signal the marketplace that a change is needed to save lives. Its purpose is to get rid of unsafe devices in an area where we know how to provide safe devices. Passing this bill in 1992 could ensure that by the beginning of 1997, health care professionals would be free from the fear of contracting deadly diseases from blood borne pathogens.

The full text of the bill follows:

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 32 of the Internal Revenue Code of 1986 (relating to manufacturers excise taxes) is amended by inserting after subchapter D the following new subchapter:

"Subchapter E—Certain Medical Items

"Sec. 4191. Imposition of tax.
"Sec. 4192. Definitions and special rules.

"SEC. 4191. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable needle sold by the manufacturer, producer, or importer thereof.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

In the case of sales during calendar year:	The tax per needle is:
1997	10 cents
1998	6 cents
1999	2 cents

"(c) TERMINATION.—No tax shall be imposed by this section on any sale after December 31, 1999.

"SEC. 4192. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE MEDICAL ITEM.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable medical item' means any item—

"(A) which is—

"(i) a syringe, or

"(ii) an item which is designed to be part of an intravenous system and to which a standard prescribed under paragraph (2) applies,

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing, and

"(C) which does not meet the applicable standard prescribed under paragraph (2).

"(2) ANTI-NEEDLESTICK PREVENTION STANDARDS.—Not later than January 1, 1996, the Commissioner of the Food and Drug Administration shall prescribe safety standards for syringes, and such components of intravenous systems as such Commissioner deems appropriate, for purposes of preventing accidental needlestick injuries.

"(b) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subchapter—

"(1) UNITED STATES.—The term 'United States' has the meaning given such term by section 4212(a)(4).

"(2) IMPORTER.—The term 'importer' means the person entering the item for consumption, use, or warehousing.

"(3) CERTAIN USES TREATED AS SALES.—Any manufacturer, producer, or importer of a taxable medical item which uses such item before it is sold shall be liable for the tax imposed by section 4191 in the same manner as if such item were sold by such manufacturer, producer, or importer.

"(4) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to the tax imposed by section 4191."

(b)(1) Subsection (a) of section 4221 of such Code is amended by adding at the end thereof the following new sentence: "Paragraphs (2), (3), (4), and (5) shall not apply to the tax imposed by section 4191.".

(2) Paragraph (2) of section 6416(b) of such Code is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to the tax imposed by section 4191.".

(c) The table of subchapters for chapter 32 of such Code is amended by inserting after the item relating to subchapter D the following new item:

"Subchapter E. Certain medical items."

(d) The amendments made by this section shall apply to sales after December 31, 1996.

AFRICAN-AMERICAN HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 60 minutes.

Mr. STOKES. Mr. Speaker, each year during the month of February, our Nation celebrates Black History Month. I have reserved this special order today along with the chairman of the CBC, the gentleman from New York [Mr. TOWNS] so that the House of Representatives can join in this national observance. I want to thank my colleagues who have taken time from their busy schedules to join me for this special order. We take pride in the opportunity to highlight and pay tribute to African-Americans who have contributed so much to this great Nation.

Our celebration of Black History Month dates back to 1926, when Dr. Carter G. Woodson, who is known as the father of negro history, initiated the observance of Negro History Week. He chose the dates embracing the birthdays of Abraham Lincoln and Frederick Douglass in February for the opportunity to bring the achievements of African-Americans to the attention of the public. In 1972 the Association for the Study of Negro Life and History changed the name of Negro History Week to African-American History Week. And, in 1976, our Nation began its first month-long celebration of Black History Month.

Mr. Speaker, as we celebrate Black History Month, we celebrate an America more culturally enriched, intellectually developed, and technologically advanced because of the contributions of African-Americans.

The theme for the 1992 observance of Black History Month is "African Roots Explore New Worlds: Pre-Columbus to the Space Age." I want to use my time today to pay tribute to an individual who, in my opinion, best exemplifies this theme. An individual who, during his lifetime, not only brought a new dimension to African-American history, but enlightened the Nation and the world. That individual is the late author Alex Haley. We are deeply saddened by the recent passing of this literary giant.

Mr. Speaker, Alex Haley's 12-year search for his African ancestry produced a 1977 Pulitzer Prize winning novel, and a stirring television miniseries, "Roots: The Saga of an American Family."

In "Roots", Haley reached back seven generations to discover the birth of his great-great-great-great grandfather, Kunta Kinte, in the village of Juffure, on the Gambia River in West Africa. The saga recorded the kidnapping of Kunta Kinte into slavery; his passage across the ocean on a slave ship; and his sale to a Virginia slaveowner.

The book went on to describe the birth of Kunta Kinte's children; their passage from slavery to freedom following the Civil War; and the settling of the family in Alabama and Tennessee in the late 19th and 20th century.

Mr. Speaker, I am pleased at this time to yield to my distinguished colleague and friend, the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, this February is the 16th celebration of Black History Month. The idea of setting aside a period of time to acknowledge the heritage, achievements, and contributions of black Americans is attributed to Dr. Carter G. Woodson in 1926.

Dr. Woodson's contribution to American life and letters is enormous. The author of many scholarly books, his work has given us insights into how the Afro-American experience enriched American history. Dr. Woodson's work has served to shape our understanding of the American experience. The culture and experience of Afro-Americans is intertwined with our culture and identity as Americans.

In order to comprehend the contributions and achievements of Afro-Americans, information on the black experience in the United States had to be published. Dr. Woodson's most popular work, "The Negro in Our History," was published in 1922. Hitherto, the true facts of the Afro-American contributions to the discovery, pioneering, and development of the United States had not been adequately presented in the textbooks, media, and films.

Born of ex-slaves in the year 1875, 10 years after the Civil War, Dr. Woodson embodies so much of the courage and dignity at the heart of the Afro-American experience in the New World.

Self taught until the age of 17, he earned his Ph.D. from Harvard in 1912. He was an educator. His mission was to study and disseminate knowledge on African-American history. Understanding and appreciating the Afro-American experience not only enriches our national life, but it reminds all Americans of their ethnic roots and the uniqueness of the great American experience: the nurturing of mutual respect for differing traditions and backgrounds.

I find Dr. Woodson's life to be exemplary. He believed in the need and the value of understanding our history. He believed in the value of society's search for knowledge.

By offering the world an understanding of the richness of the African-Americans' history and culture, Dr. Woodson paved the way for generations of Afro-Americans. In the realms of government and community service, civil rights, arts, education, science, business, sport, and entertainment, Afro-Americans continue to contribute to American society. Talented men and women such as Booker T. Washington, W.E.B. Du Bois, Langston Hughes, Duke Ellington, Marian Anderson, Rosa Parks, Jackie Robinson, Dr. Martin Luther King, James Baldwin, Diana Ross, Toni Morrison, Thurgood Marshall, and Gen. Colin Powell continue to make great contributions. They have provided leadership. Their civic and cultural contributions continue to make history.

Mr. STOKES. Mr. Speaker, I thank the gentleman from Nevada [Mr. BILBRAY] for his remarks.

I yield to the distinguished gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I would first like to thank my colleague from Ohio Mr. LOUIS STOKES for calling this special order today in honor of African-American History Month. The need to know our heritage is at such a crucial point. 29 days, or the usual 28, just does not seem enough. We should make every month African-American History Month by learning about our ancestors, and ourselves, all year long.

Today I would like to pay a special tribute to one of our greatest revolutionaries. This sister was a pioneer journalist, activist, suffragist, and antilynching crusader of the late 19th and early 20th centuries. This great African-American was Mrs. Ida B. Wells-Barnett. Born Ida B. Wells in 1862, her parents were both slaves in Holy Springs, MS. In 1878, she lost both her parents, along with other siblings, to the yellow fever epidemic that had invaded the Mississippi Delta. She was left alone to raise her remaining brothers and sisters at the tender young age of 16.

Ms. Wells became a teacher in Memphis, TN, where she wrote articles in local and national black publications exposing the corruption and poor conditions in the Memphis school system. It was because of these writings that she was eventually fired from her teaching position. It was also during this time in the mid-1880's that Ms. Wells sued the railroad company for throwing her off a train when she refused to move out of the segregated ladies' car into the smoking car. She won the lawsuit and was awarded $500. The railroad appealed and in 1887, the Supreme Court reversed the decision.

The loss of her job as a teacher mounted with the loss of her court case prompted Ms. Wells to become a full time journalist with the Memphis Free Speech newspaper where she would be afforded the opportunity to speak out on such injustices. She soon became editor. She also became one of the major figures in the struggle for human rights in America, and in the women's suffrage movement along with Susan B. Anthony.

Using her pen as a weapon against injustice, Ms. Wells advocated self-help and voluntarism in the African-American community, while challenging the forces of race hatred and segregation.

A product of the Reconstruction era, she went on to become a major figure in journalism and in social and political reform. She prompted most of the African-American population in Memphis to move west after the lynching of three African-American grocers.

She encouraged a boycott of the street cars by the remaining African-Americans in the community, predating the Montgomery bus boycott in 1955.

A staunch advocate of freedom of the press, Ms. Wells was supported early in her career by the legendary Frederick Douglass, and celebrated throughout African-American communities nationwide for her courageous leadership of the antilynching movement.

She wrote stinging articles in retaliation for the growing number of lynchings that were being perpetrated against African-Americans. Mobs as large as 100,000 gathered together to beat, burn, and eventually murder innocent men, women, and children. Train schedules were printed and extra cars put on for the convenience of the crowds.

Her writing angered white people to the point that they physically destroyed her paper and press. She went to New York and stayed in exile from the South for 30 years. Outraged in 1894 at the 197 persons lynched that year, she organized the first national antilynching campaign.

As the organizer of the antilynching campaign, Ida B. Wells was very politically active in New York. She kept the pressure on elected officials to investigate the false claims that led to the murder of these innocent victims.

When the elected officials dropped the ball, she picked it up by exposing through her writings the horrendous crimes being committed in the name of law and order. On one occasion she chastised President McKinley face to face for not pushing through antilynching legislation.

By the late 19th century, her stature was on a par with that later attained by such eminent contemporaries as Booker T. Washington and W.E.B. DuBois. She died in Chicago, IL, on March 25, 1931.

The ideas and strategies of Ida B. Wells have directly, or indirectly, influenced the thinking of almost every major African-American leader who has come after her; from A. Philip Randolph to Malcolm X and Dr. Martin Luther King, Jr.

In recent times, the legacy of Ida B. Wells has been virtually forgotten. For years, her work as an antilynching activist was ignored by social scientists and the media alike. Today, however, Ida B. Wells is being rediscovered. In 1987, she was inducted into the Tennessee Newspaper Hall of Frame. In 1988, the Society of Professional Journalists inducted her into its national hall of fame. And in 1990, the U.S. Postal Service issued over 200 million copies of Ida B. Wells commemorative stamps.

Her work is being duplicated in grassroots community organizations around the country. It is a shame and a disgrace that today although lynchings have ceased in practice we still have cases of police brutality and unexplained incidence against many minorities. Because these actions have not totally dissipated we must all keep up the fight until all Americans are safe in this society.

As we honor Ms. Wells, we honor all of our ancestors who made it possible for all of us to be who, and where, we are today. So Mr. Speaker, I ask my colleagues to join me in saluting Ms. Ida B. Wells by recognizing the outstanding achievements of this great African-American woman.

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Mr. STOKES. Mr. Speaker, I thank the gentleman for his contribution.

I am pleased now to yield to the distinguished gentleman from New York [Mr. RANGEL], who distinguished himself so well in the well of this House this afternoon in his valiant fight on behalf of the Haitians.

I am pleased to yield to the gentleman from New York, my friend, Mr. RANGEL.

Mr. RANGEL. Mr. Speaker, I rise to commemorate Black History Month by paying special tribute to Katherine Dunham, one of America's preeminent performing artists. As a dancer and choreographer, she revolutionized modern dance in the 20th century by blending rhythms of America with those of Africa and the Caribbean.

First, I want to thank my friend, the gentleman from Ohio, Chairman LOUIS STOKES, who every year brings us to this well to allow other Members of Congress to share and raise our voices in recognition of the contributions that have been made by African-Americans, to join the ranks of our heroes and heroines.

Indeed, the gentleman from Ohio [Mr. STOKES] and his brother, Carl Stokes, the first African-American mayor of one of our great cities, are part of that living history in the contributions that we make, where people from all over have come to make this great Nation what it is today.

So we as black Americans during this month focus on extraordinary people and events as a way of educating our children and all Americans, so that someday we may celebrate them at all times, with one voice.

But as long as history has ignored the contributions of African-Americans, we must take this special time to come together and reflect on the patchwork of cultures that make America such a gorgeous mosaic. Most importantly, this is the time to celebrate who we are, as other Americans do remember the various backgrounds from which we sprang. As Americans we are indeed a glorious mosaic of nationalities, of colors and religions, who have come together to live in harmony.

I call on my colleagues to join with me in saluting Katherine Dunham. Today she lies, although in satisfactory condition, at St. Mary's Hospital in east St. Louis, on the 27th day of a fast. She entered this fast in protest to the treatment of the Haitian boat people which my colleague, Mr. STOKES, just mentioned. She pledged to take nothing but cranberry juice and water until our Government ceases and desists from deporting these unfortunate souls back to Haiti.

She is now 82, but she demonstrated her love for Haiti and the Haitian culture, and it inspired much of her work. She has had a love affair with Haiti beginning in the 1930's. She has done so many Broadway shows and movies, and her history of dancing and providing to art goes from Haiti to Harlem.

Mr. Speaker, it is indeed a great pleasure not only to read our history and the contributions that African-Americans have made, but to know that there are people that are still alive, and we have the honor to allow them not just to receive roses when they are gone, but to help them to smell those roses while they are alive.

When someone 82 years old can risk her life so that others might be aware of the consciousness that is so necessary for us to survive as a people and as a nation, then I feel that we ought to give her a lot of praise for what she has done.

When the question is asked, "What did you know about Haiti, and did you do anything about it," she, like us, Mr. Speaker, she knows and she has done something about it.

So let me join with others in praising the gentleman for his constant legislative contributions and in thinking enough about the problem to give us the opportunity to share our thoughts in the RECORD today.

Mr. STOKES. Mr. Speaker, I thank my distinguished friend from New York for his brilliant remarks regarding Black History Month and the contributions made here to this special order.

I am pleased at this time to recognize the gentleman who presided over the House this afternoon and did such an excellent job, we are all proud of him, the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman for the opportunity, and for his leadership in this House.

Mr. Speaker, I am happy to be part of this special order and to pay tribute this evening to the great people of African ancestry throughout both Baltimore City and Baltimore County, and those who perhaps are not of African ancestry but who have tried to reach out this month and in other months toward those who are in an effort to better understand and to realize and to hold high the very special contributions by people of color to this Nation.

We have a rather diverse area, like most metropolitan areas around this country. Baltimore City, Baltimore County, from East to West Baltimore, from Cantonsville to Randallstown, a number of organizations and individuals in their own way have brought about the commemoration of African-American history, not for the purpose of singling out just the month of February but for the purpose of using the month of February as a vehicle for the 11 months that follow.

□ 1910

The Eubie Blake Museum, the Baltimore Museum of Art, the Alvin Ailey Dance Theater of Maryland, Great Blacks in Wax Museum, the Arena Playhouse, the Walter's Art Gallery, Center Stage, the School Systems of both Baltimore City and Baltimore County, the African-American Newspaper, one of the oldest newspapers in this country, and the Baltimore Times, have taken this month as a vehicle for the other months to chronicle in detail the contributions of people of color in this country, people of African ancestry, in the arts, in the sciences, in education, in sports, in politics, in publishing, and in the ministry.

So, as we in our own way in our part of this Nation remember through a number of different activities the contributions that we think about this evening, we also remember the poignancy of individuals who words are stinging reminders of not just how far we have come, but how far we must go.

It was in fact Langston Hughes who said,

> I too sing America. I am the darker brother. When company comes, they send me to the kitchen to eat.

He said,

> Oh, but I laugh and eat well and grow strong. For tomorrow when company comes, they won't dare send me to the kitchen then, for they will look at me and see how beautiful I am and be ashamed, for I too am America.

Hughes' words were prophetic and he uttered even better than he knew. For even in the latter half of this century, there are many who have yet to learn that lesson.

So as we in the Greater Baltimore area go about the task that others have throughout this Nation, we remember and we are poised never to forget that the contributions of African ancestored Americans are really American contributions; that they are one and the same, and they ought to be remembered as such.

It was only a few years ago that the late Dr. Benjamin Mays of Morehouse College, shortly before his passing, said to us in another poignant statement that he or she who starts behind in the race of life would have to either run faster or forever remain behind.

So those great people who laid down and made their bodies bridges that we might run across, some of us, and get to the Congress and make contributions elsewhere, even though they are gone, they ran faster, and their sterling examples remind us that no daring is fatal, that the maximum hope is always close to the maximum danger, and that for the true believers, the darkness would be light enough.

And so I commend and salute them. I commend and salute Dr. Carter G. Woodson for providing the vision to begin this celebration many, many years ago. And I commend also and thank the people of Baltimore City and Baltimore County, who in their own special way have tried to bring special meaning to this month.

I thank the gentleman from Ohio for allowing me to participate in this special order.

Mr. STOKES. Mr. Speaker, I thank the distinguished gentleman from Maryland [Mr. MFUME] for his contribution.

Mr. Speaker, at this time I am pleased to yield to the distinguished gentleman from New Orleans, Louisiana [Mr. JEFFERSON].

Mr. JEFFERSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today to participate in this special order in observance of Black History Month. Organized by my distinguished colleague, the gentleman from Ohio, this special order is an integral part of our Nation's annual recognition of the history of its African-American citizens.

I commend Representative STOKES and Representative TOWNS, chairman of the Congressional Black Caucus, for their efforts to give Americans a better understanding of the contributions of African-Americans. Since Dr. Carter G. Woodson began the observance of Negro History Week in 1926, we have come a long way in elucidating the unique and noteworthy achievements of black Americans. Yet, there is still widespread ignorance about African-Americans and their contributions to America.

As the 20th century nears its close, it is appropriate to call the attention of Americans of all colors to the stellar contributions of this Nation's first African-American Supreme Court Justice. His life and his work are deeply rooted in the American ideals of freedom, justice, and equality. In this sense, this giant legal scholar and practitioner took all of us on a journey back to our roots of a true constitutional democracy in which the voice, the vote, and the aspirations of every American counts exactly the same. I speak, of course, of Hon. Thurgood Marshall, who has helped plant the seeds from which the revolutionary changes have grown in the way this Nation has sought to overcome the effects of slavery.

Today, the seeds sown by Justice Marshall have not only taken root, they are firmly embedded in American society. Many lawyers, particularly African-Americans, Hispanics, and women have been affected and inspired by this great man's contributions to the practice of civil rights law and by his persistent demands that this Nation make equality of opportunity a reality, not just an amorphous concept.

Thurgood Marshall, was born in Baltimore, MD, in 1908, and graduated with honors from Lincoln University in Pennsylvania and Howard University Law School. He began his career as a lawyer 59 years ago, when he was admitted to the Maryland Bar. Even as we speak, he continues his active love affair with the "jealous mistress" called the law.

From his first major case to desegregate the University of Maryland Law School, *Pearson* v. *Murray*, 169 MD. 469 (1935), to his distinguished tenure of the U.S. Supreme Court, Thurgood Marshall's mark on civil rights law and constitutional law has been indelible and enduring. Doors have been opened to blacks in education, employment, housing, voting, and public accommodations because of his stellar advocacy and brilliant litigation strategies.

Working with distinguished African-American lawyers such as Charles Hamilton Houston, William H. Hastie, Robert Carter, James Nabrit, Spottswood Robinson, Oliver Hill, Wiley Branton, Louis Redding, and many others, Thurgood Marshall conducted a concerted, intense assault on *Plessy* v. *Ferguson* (163 U.S. 537 (1896)) and its nefarious progeny. With each battle, legal segregation fell victim to justice unbridled and unleashed by Thurgood Marshall and the NAACP Legal Defense and Educational Fund [LDF] litigation team. By the time of the landmark *Brown* v. *Board of Education*, 347 U.S. 483 (1954), Marshall's litigation had eviscerated de jure segregation, leaving it too weakened to sustain the likes of Orval Faubus, George Wallace, Ross Barnett, and other arch segregationists. Although the enemies of democracy tried to halt the march of freedom and justice in America, there were no legal stanchions to support their brand of American apartheid.

Marshall's management of the LDF spawned numerous opportunities for young lawyers interested in civil rights litigation to secure solid practical training in civil rights law. I confess, Mr. Speaker, it inspired this speaker as well to become a lawyer. Women, Mexican-Americans, Puerto Ricans, as well as African-Americans, worked and learned well enough to form organizations similar to LDF, to address the needs of specific minorities and women. It is no exaggeration that without the LDF to serve as a model, devising litigation strategies to address the needs of Mexican-Americans, for example, would have been inordinately more difficult. So the roots for these vital organs of sound change in the legal system were established through the work of Justice Marshall.

With Thurgood Marshall's nomination to the U.S. Court of Appeals for the Second Circuit by President John F. Kennedy in 1961, he began a distinguished career as a public servant. After 4 years as an appellate judge, Marshall became U.S. Solicitor General, the first African-American to occupy this important position. There he continued his advocacy of civil rights, arguing successfully to uphold the Voting Rights Act of 1965 in *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966), and to overturn a California constitutional amendment prohibiting open housing legislation in *Reitman* v. *Mulkey*, 387 U.S. 369 (1967).

On October 2, 1967, Thurgood Marshall was sworn in as the 96th Justice of the U.S. Supreme Court, where he continued his full-time public service until his retirement last year. Today, he continues to hear assigned cases by designation by the Chief Justice.

How we miss his spirit, his lawyerly skills, his intelligence, and his sensitivity.

Thank you, Justice Thurgood Marshall, for your work in the law 59 years. Our lives have been transformed immutably, and we shall never forget your contributions to our Nation. Your commitment to justice, your character, your competence, and your life's work are like a good tree whose roots are firmly fixed; like a tree planted by waters. It is for succeeding generations to continue nuturing that tree, and to continue to ensure that its roots, our roots hold and grip the solid rock of opportunity that is and will forever be his continuing contribution to African-Americans and to all Americans.

□ 1920

Mr. STOKES. Mr. Speaker, I thank the gentleman from Louisiana for his very fine remarks. I want to once again express my appreciation to my friend and colleague from New York [Mr. OWENS] for yielding his time to me on this occasion and to also recognize him for the outstanding leadership he gave along with the leadership of the gentleman from New York [Mr. RANGEL] on behalf of the Haitians on this floor here today, along with the great fight he has waged on their behalf long before today throughout the trials and tribulations that they have encountered having come to our country.

Mr. Speaker, I yield to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, from the time that African people were first brought to this country in chains, they understood that education was the key to freedom and self-determination. African people have a heritage of valuing education; many ancient African kingdoms founded elaborate school systems and some even had universities.

In the South, African slaves struggled to learn to read, often in secret, because in some States a slave who knew how to read would be killed or severely beaten. The plantation masters feared that a slave who could read might teach other slaves, who would then revolt against their condition, making real the saying "a little education is a dangerous thing."

In the North, free African-American communities also placed a premium on education as a means for advancement and empowerment. This was no less true in the African-American community of Brooklyn, NY, whose 12th Congressional District I represent. According to Brooklyn historian Robert J. Swan, during the 18th and 19th centuries the schools in Brooklyn, which was then a city, were rigidly segregated. The first African-American schools in Brooklyn were founded by African-American religious leaders. Peter Croger inaugurated a day and evening school for recently freed slaves and freemen in January 1815 in his home on James Street. It soon closed due to a lack of competent teachers.

Brooklyn's Common School System, which initiated public school education in the city, was established in May 1816, but the system decided that African-American children could only be educated in segregated facilities. In 1818, 45 African-Americans were taught in a room of a white school, and after 1824 William Read, an African-American graduate of the New York African Free School, was hired as their teacher. But by 1827, these students were forced to give up their space in the white school.

In October 1827, Brooklyn's first African Free School was opened by Henry C. Thompson, the city's first African-American businessman and the President of the Brooklyn African Woolman Benevolent Society, and Abraham Brown. The two men purchased land in Brooklyn and erected a building for a schoolhouse and other African interests. William Read taught there until his death in 1830, when George Hogarth became its second and most famous teacher. Hogarth grew to prominence in the African Methodist Episcopal Church movement and was ordained a deacon in 1832. By 1836, he was elected general book steward of the A.M.E. Church.

As is the case with many predominantly African-American schools today, the African Free School faced numerous financial difficulties, and it received less than half of the State funds appropriated for it. Despite the funding problems, Hogarth continued to teach, unpaid, until about 1840 when he resigned to devote himself to his religious activities on a fulltime basis. Augustus A. Washington, the school's next teacher, taught for about 1 year. In September 1841, William J. Wilson, one of early Brooklyn's most respected African-American intellectual leaders, was appointed principal.

In 1834, some African-Americans from Manhattan sought refuge from racial tensions there and settled in Carrville, located in Brooklyn's ninth ward. By 1839, a second African Free School was opened in Carrville. This school was also met with operating difficulties and was taken over by the white district trustees of neighboring Bedford's school. This school had a few African-American teachers.

In December 1840, a meeting of the Kings County Bar, concerned with the intellectual improvement of Brooklyn's African-American community, appointed a committee consisting of Brooklyn's Mayor, Cyrus P. Smith, its corporation counsel, Joshua Van Cott, and Nathan B. Morse, a judge of common pleas, for "devising a plan for the better education and moral culture of the Negro population" of Brooklyn. Two months later three African-Americans, George Hogarth, Sylvanus Smith, and Henry Brown were appointed by Mayor Smith as district trustees of the African School, becoming Brooklyn's first African-American district trustees.

But African-Americans were ignored by the Brooklyn Board of Education, which was established in 1843; African-Americans were not allowed to be represented on the Board, the African Free Schools were denied their share of public education funds and the schools were excluded from the jurisdiction of the Board of Education. In 1845, after petitions from the former African-American trustees, the entire city was made a district for colored children and the African-American schools were brought under the jurisdiction of the Board of Education on separate but equal status with white schools.

It was assumed by African-American school administrators that as a result of this action which formalized separate but equal education, African-American schools would finally receive the funds necessary to uplift African-American educational standards, but such was not the case. A few improvements were made. A new school building was erected on Raymond Street near Willoughby Street for Colored School No. 1 in 1847 and a new building was opened in Weeksville for Colored School No. 2 in 1853. But these buildings were inadequate for education as soon as they were opened. They remained underequipped, underrepaired, understaffed, and African-American teachers were underpaid. These schools had to serve the needs of all of Brooklyn's African-American children. As late as 1883, the Board of Education would not allow African-American children to attend white schools which were geographically closer to where they lived, forcing them instead to walk miles to the nearest Colored School.

Brooklyn's schools were not officially desegregated until late 1883. The first African-American to be appointed to the Board of Education, Phillip A. White, introduced a resolution to desegregate the schools, and it passed in December 1883 by a vote of 14 to 11. But "de facto" segregation still prevailed, and the "Colored Schools" continued to exist, maintaining the designation until 1887, when the names of the three Colored Schools were changed to P.S. 67, P.S. 68, and P.S. 69.

Phillip A. White died in 1891 and was succeeded on the Board by T. McCants Stewart, a lawyer, politician, and close friend of T. Thomas Fortune, founder of New York City's African-American newspaper the New York Globe and a persistent crusader for equal rights for African-Americans in all areas of life. Under Stewart's leadership the African-American children of P.S. 68 were integrated with the new white school P.S. 83 at Bergen Street and Schenectady Avenue. Stewart's championship of racial equality and his political activism may have caused his removal from the Board of Education in 1894; shortly afterward, he emigrated to Liberia.

Stewart was succeeded on the board by Samuel R. Scrottron, entertainer Lena Horne's grandfather. Scrottron briefly succeeded in having an African-American Ph.D., William L. Bulkley, appointed to head a white department in P.S. 114 in Canarsie. However, the pressures of racial bigotry resulted in Bulkley's removal.

By the early 1900's it looked as though African-American children would finally be integrated into the white schools of Brooklyn, which was now a borough. Only one of the original colored schools remained in existence; the other two were forced to close due to the declining African-American population and health hazards. But de facto segregation reared its ugly head again in the 1920's. Southern African-Americans, looking for employment and an escape from racial oppression fled North to New York and to Brooklyn in record numbers, prompting white flight from the borough and reestablishing separate-but-equal education. Despite the 1954 Supreme Court decision that outlawed de facto public school education, Brooklyn's schools, like many urban public schools nationally, are once again underequipped, underfunded, dilapidated, and populated primarily by poor African-Americans and other poor students of color. In New York City the per pupil expenditure is $5,000 and going down as a result of budget cuts, thus ensuring that these urban schools remain unequal.

Despite various barriers throughout Brooklyn's history placed in the way of African-Americans' efforts to achieve a world class education, and the persistent savage inequalities that have made this goal almost impossible; despite education policies like the Bush administration's America 2000 education reforms that deliberately overlook the crises in public schools in poor communities such as those in my 12th Congressional District; African-Americans continue to insist that their children learn, and that the pubic schools meet their children's education needs.

Last year, in my capacity as the chairman of the Congressional Black Caucus Education Braintrust, I established a National Citizens Commission for African-American Education. The Commission will provide a critical review of existing national education policy while offering alternative national education policies and strategies for the benefit of African-American children. It will also provide national guidance to the African-American community for educational policies, strategies, programs and practical activities, as well as stimulate mobilizations for education in African-American communities all over America.

African-American parents of Brooklyn's past were clear on the fact that an education would save their children, and future generations of their young people, from growing up to become society's underclass laborers forever. Today's African-American parents in Brooklyn and elsewhere know that if we are to save African-American children from the fate of being obsolete drones in the work force of the next century, we need an overwhelming crusade to establish and maintain world schools for all children. Those early African-American Brooklyn pioneers who insisted on the best education available inspire us now as we press Federal, State, and local governments to provide funding and leadership for the massive national effort to end the savage inequalities of education opportunity.

Mr. STOKES. Mr. Speaker, I thank the gentleman from New York for his contribution to this special order.

Mr. Speaker, I yield to the gentleman from Oregon [Mr. KOPETSKI], and I am pleased to have him participate.

Mr. KOPETSKI. Mr. Speaker, I rise today to commemorate Black History Month by calling attention to several African-Americans who played important roles in the history of my home State of Oregon.

The theme for the observance of Black History Month for 1992 is "African Roots Explore New Worlds: Pre-Columbus to the Space Age." Oregonians are proud of the role African-Americans played in the exploration and settlement of Oregon and the Pacific Northwest. I want to highlight the lives of several of these African-Americans.

The first known African-American to land on Oregon's shores was Marcus Lopeus. Lopeus was a cabin man on the sloop *Lady Washington* during Capt. Robert Gray's first voyage to the Pacific Northwest in 1787–88. Unfortunately, in August 1788, Lopeus was killed by a band of Tillamook Indians as he and other members of the crew searched for drinking water. Captain Gray gave what is now known as Tillamook Bay the name "Murderers' Harbor" as a memorial to this tragedy.

An African-American slave, named York, was a member of the Lewis and Clark Expedition of 1804–06, the first Government-sponsored overland journey to the Pacific Coast and back. York proved to be a vital member of the expedition. He was lauded for his skill as a hunter, his knowledge of French, and his ability to live off the land. With the expedition party, York helped construct Fort Clatsop on the south side of the Columbia River. In one of the murals at our State capitol building in Salem, York is pictured with Lewis and Clark on the shores of the mighty Columbia River.

Sir James Douglas, known to fur traders as Scot West Indian, was the son of Scottish merchant John Douglas and a Creole woman of British Guiana. Mr. Douglas learned the fur trade as an apprentice, at age 16, to the North West Co., rising to second-class clerk when that company merged with the Hudson's Bay Co. in 1821. He rose quickly through the ranks of the Hudson's Bay Co. During the chief factor's absence in 1838–39, Douglas was placed in charge of Fort Vancouver and in 1839, he was promoted to chief factor. Hudson's Bay Co. obtained a royal grant to Vancouver Island in 1849, and 2 years later Douglas was appointed governor and vice admiral of the island. Under his leadership, agriculture and industry thrived in the newly settled region.

Early in Oregon's history, African-Americans also were mountain men, gold miners, cowboys, wealthy entrepreneurs, even founders of cities in the Oregon Territory.

In 1844, a wagon train pushed across the plains toward the Columbia River Valley. The expedition's leaders were Michael Simmons, an Irish immigrant, and an African-American, George Washington Bush. Mr. Bush had become wealthy from trading cattle in Missouri. The successful American claim against the British to the Puget Sound Territory was based on the Simmons-Bush settlement. But this brought Mr. Bush under the control of the Oregon Legislature laws, which excluded African-Americans from settling in the Oregon Territory. Mr. Simmons, elected to the legislature, sponsored a bill in 1854 to exempt Mr. Bush and his family from these laws, and asked Congress to grant him a homestead. Both bills passed, and in 1855 Congress granted Bush a 640-acre homestead between Tumwater and Olympia, WA, now called Bush Prairie in his honor.

During this celebration of Black History Month, I want to commend the efforts of the Oregon Historical Society which provided materials for schools through Oregon to help commemorate Black History Month. The Oregon Historical Society also held meetings with the Northwest African-American Writers' Workshops earlier this month to commemorate African-American authors, poets, and historians. In addition, the Oregon State Department of Transportation held a multicultural forum in Salem for its employees, celebrating and enhancing the national heritages coming together under our great roof of liberty and justice.

Mr. Speaker, I commend the Congressional Black Caucus for holding this special order today. I also want to thank Congressmen ED TOWNS and LOUIS STOKES, the gentleman from Ohio, for their efforts today recognizing the achievements of African-Americans.

Mr. STOKES. Mr. Speaker, I thank our distinguished friend and colleague for his interesting and articulate statement.

Mr. Speaker, I yield to the gentleman from Florida [Mr. HUTTO], a distinguished friend and colleague, and appreciate his participation in this special order.

Mr. HUTTO. Mr. Speaker, I thank the gentleman for yielding.

It is with great pride that I rise here today to participate in observance of Black History Month. Throughout our Nation's history many African-Americans have contributed in meaningful ways to our Nation's accomplishments. Today I wish to draw attention to a modern-day contributor, Nathaniel Smith, Jr., of Fort Walton Beach, FL.

Nate Smith had over 20 years of executive management experience in the U.S. Air Force. He gained extensive experience in management of time, money, and people while serving his country. These skills laid the foundation for his business success today. Nate and his wife, Jannie Vee, started Ver-Val enterprises as a small assembly shop in 1979. Originally, they operated out of their garage. Their initial work force consisted of Nate, Jannie, and his two daughters, Veronica and Valerie, from whose names the company's name was derived.

Since 1979, Ver-Val Enterprises has continued to grow and succeed. Nate, who is the company's president, works diligently to keep a solid business foundation. In fact, Ver-Val is recognized today as a key defense contractor. Over the past 11 years, Ver-Val has expanded their product line, and they now include design engineering, precision computer numeric controlled machining and metals fabrication.

In 1982-85, Ver-Val was involved in substantial plant expansion and in buying more complex machinery. These expansions enabled the company to compete for more sophisticated and larger programs.

Today Ver-Val is a dynamic company which has a reputation for providing superior products and reliable service. Ver-Val now has experienced management and has greatly diversified its products.

These honors and accomplishments are directly attributed to Ver-Val's president, Nate Smith. The company has received the Nation's Outstanding Minority Business Contractor of the Year Award. Nate personally has been recognized as the Minority Business Contractor of the Year for the Departments of Defense and Commerce in 1986. He was the Minority Federal Contractor of the Year for the Federal Government in 1986. He was the Regional Small Business Prime Contractor of the Year in 1985. He was the Small Minority Owned Business of the Year Award winner in 1984 for the Kennedy Space Center. The awards go on and on.

On the personal side, Nate is an active participant in his community. He is past president of the Regional Contractor Association, and past president of the Florida State Job Service Employer Committee. He is past president of the Economic Development Council in Okaloosa County, FL. He is a former member of the Private Industry Council in Okaloosa County, FL.

His appointed offices include membership in the Okaloosa Walton Community College Foundation. He is a delegate to the White House Conference on Small Business. He is a member of the board of the Florida Department of Commerce. He is a member of the Governor's commission on space and he is a member of the task force on economic development for the State of Florida.

During this time when we recognize and honor African-Americans in our Nation's history, I am proud to share with you the significant accomplishments of a modern-day hero. Nate Smith is a dynamic, enterprising American who has contributed to the success of America today. We in northwest Florida are exceptionally proud of Nate Smith.

☐ 1930

Mr. Speaker, again I want to thank the gentleman from Ohio [Mr. STOKES], for taking this special order here today.

Mr. STOKES. Mr. Speaker, I thank the gentleman for his participation also.

Mr. Speaker, I now yield to a distinguished friend and colleague from the State of Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Speaker, I thank the gentleman for yielding and would like to thank him for this opportunity afforded me today. I had intended today to speak about a great black man, W.E.B. DuBois, probably one of the greatest men who ever lived, and certainly one of my heroes, even in death. But because of the fact that we had someone pass in Philadelphia just this week who I feel was one of the great ones, I am pleased with the opportunity to offer this statement on the floor on behalf of the late Hon. John Allen.

Mr. Speaker, because February is the month that has been officially designated as Black History Month, I am so pleased with the opportunity to offer this statement in honor of the late John Allen.

This special order provides a valuable opportunity for us to celebrate the richness of our African-American heritage.

In the city of Philadelphia, there are numerous black Americans who have struggled throughout their lives paving the way for many of us to enjoy a greater quality of life. Philadelphia has long prided itself on being a city where many black Americans have made exceptional contributions to society.

Mr. Speaker, I would be remiss to pass up this opportunity to memorialize the late John Allen, who was a man of great conscience and integrity; a man who dedicated the greater part of his life helping his people. John made many sacrifices, thus it is more than fitting for me to dedicate my segment of this special order solely to him, indeed an envisionary.

John Allen is well known for being the founder of the renowned Freedom Theater in Philadelphia, which has long been regarded as one of the Nation's leading sites for the black performing arts.

John Allen was inspired to establish this institution because of a love of people. Since its inception, the institution has not only been referred to as a place that promotes a love for the arts but a love for the community. In 1966 in the midst of the civil rights movement, the Freedom Theater opened its doors—what a significant accomplishment.

John Allen was certainly a major figure in black history; one whose life was exemplary of the wonderful blessings yielded by hard work and dedication.

The lifestyle that John led was the type that should be emulated by our young people. He was dedicated to uplifting all people. He opened up the cultural facility in the area of north Philadelphia which is one of the city's most economically disadvantaged African-American neighborhoods. The facility exemplifies a successful attempt at revitalizing a community and introducing people to a certain culture of which they may not have otherwise been exposed. The emphasis that John placed on education, hard work, and community service was indeed his hallmark.

Even at the lowest points of his sickness, John continued to keep a positive attitude and fought on for excellence. He continued to harbor in his heart his vision of the Freedom Theater as a model for other African-American organizations wanting to improve the quality of life for thousands of people living in communities like north Philadelphia.

I am proud to relate to you how much of a special friend John was to me; no doubt he was an outstanding member of the African-American community who will be greatly missed.

Mr. Speaker, on behalf of the citizens of Philadelphia to John I say, God bless you, John. We love you. May your soul rest in peace.

Mr. STOKES. Mr. Speaker, I thank my distinguished friend and colleague for his contribution.

Mr. Speaker, I am pleased to yield to another friend and colleague who himself made history in the State of Tennessee a few years ago when he became the first African-American to be elected to the Congress from that State. I am pleased to yield to my distinguished friend, the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Speaker, I thank the gentleman from Ohio for yielding. It is a pleasure to join with my colleagues in the Congressional Black Caucus and other Members of this body to pay tribute in this month of February as we think in terms of all of the accomplishments of African-Americans. It is an honor for me to take part in this special order in observance of Black History Month, and again I want to thank the gentleman from Ohio [Mr. STOKES] for observing this by taking this special order and for really saying to the House of Representatives that we want these special orders not only this year, but the gentleman has also in the past led these special orders and been so great in thinking in terms of February as Black History Month.

Mr. Speaker, it is a pleasure and an honor for me to take part in special orders in observance of Black History Month. The theme, "African Roots Explore New Worlds: Pre-Columbus to the Space Age," provides me the opportunity to pay tribute to the accomplishments and contributions of one great American, a man who awakened the consciousness of every American—both black and white—Alex Haley.

In his novel "Roots: the Saga of an American Family," Mr. Haley set forth an emotional shot which deeply affected the hearts and educated the minds of an untolled number of people.

As the first black Member of this body from the State of Tennessee, I was touched by the grueling story of Haley's family, a story that could have been told about my own family and the families of many African-Americans. As a youth growing up in Memphis, TN, I prevailed the indignities of racial hatred and the abuses of our system of justice. It was in the very city that I represent here in Congress that the late Reverend Martin Luther King, Jr. a giant among men, the leader of the greatest American freedom movement since the American Revolution in 1776, was cut down by an assassin.

Mr. Speaker, just as Dr. King's senseless assassination made the people of this Nation and the world brutally aware of the deep-seated prejudices engrained in the American tradition, Alex Haley's literary masterpiece, "Roots," in a far less violent way, so too, brought us face to face with the horrors and repression that are part of our American heritage.

History books and oral stories have provided us with a vast understanding of the suffering caused by slavery. But not until "Roots" did this nation have a real look at the corrosive and dehumanizing side of slavery. Only by bringing this saga to the television screen did we as a Nation have a chance to realize the human essence of this debasing and humiliating way of life.

The overwhelming impact of Alex Haley's "Roots" has in a single, Pulitzer-prize winning achievement raised an extraordinary level of interest of people everywhere to the great continent of Africa, its past and its future, and the contributions of Americans whose forefathers came from those shores.

Alex Haley's "Roots" may not have ended discrimination or violence, or inequality, but it did heighten Americans' awareness of our past and our heritage.

In addition, "Roots" issued a challenge to the people of this country—both black and white. A challenge to understand the American legacy of injustice so that we may work together in order to create a more compassionate and richer America heritage—not one founded on inequality and embarrassment, but rather one grounded in brotherhood, equality, and fairness.

Alex Haley has rightfully earned all honor bestowed on him. This American literary champion serves as an inspiration of immaculate hope for those who share the belief that their humble origins must always be a part of their strength.

All of use owe a great deal to Alex Haley. It took his genius, his vision, his research, and his commitment to the betterment of humankind to open the eyes of many Americans who would not have otherwise heard or understood the powerful words of the Declaration of Independence: "that all men are created equal."

□ 1940

Mr. STOKES. Mr. Speaker, I thank my friend, the gentleman from Tennessee, for his eloquent remarks concerning Alex Haley.

Earlier in my remarks, Mr. Speaker, before I began yielding, I was talking of Alex Haley, and I wanted to go on.

"Roots" has been hailed as a triumph of faith, creativity, and scholarship, a unique contribution to American History, and an invaluable reaffirmation of the black heritage. The book sold 6 million copies in hardcover edition, millions more in paperback, and has been translated into 37 languages. Haley's moving account of the black experience in America has touched people of all races, all over the world.

Mr. Speaker, Alex Haley grew up in Henning, TN, where his maternal grandparents lived. In 1939 at the age of 17 he joined the U.S. Coast Guard. It was during his Coast Guard career that Alex Haley's talent as a writer was discovered. He wrote free lance articles, articles related to Coast Guard activities, and even wrote love letters for his shipmates while at sea. In 1949 he was selected and served as chief journalist for the Coast Guard.

Upon his retirement from the Coast Guard in 1959, Alex Haley became a full-time writer. He received writing assignments from Readers Digest and conducted interview for Playboy Magazine with individuals including Miles Davis, Muhammad Ali, Dr. Martin Luther King, Jr., George Rockwell, and Malcolm X.

Alex Haley's interview with Malcolm X, the former leader of the nation of Islam, led to the writing of his first book, "The Autobiography of Malcolm X." The book was published in 1965, shortly after Malcolm X was Slain, and sold more than 6 million copies in eight different languages.

It was in 1964 that Alex Haley signed a contract with Doubleday & Co. to write a book about the South before the 1954 Supreme Court school desegregation ruling. The proposed title of the book was "Before This Anger." The book project turned into a journey of half-a-million miles and years of arduous research, culminating with the publication of "roots."

Alex Haley also published "A Different Kind of Christmas" in 1988, which is the story of a slave's escape on the underground railroad.

Mr. Speaker, I will always remember my first meeting with Alex Haley. That meeting took place during my first trip to Africa in 1971. Alex approached me in the airport in Senegal and introduced himself. He explained that he was traveling to Gambia to research a book he was writing. We talked at great length about Haley's book, "Before This Anger," which later became "Roots."

From that point we became friends and over the years remained in touch with one another. I remember with pride when, at my invitation, Alex traveled to my congressional district in Cleveland to speak before the 21st District caucus. Alex Haley was a warm and gentle individual, who spoke with great affection of his family and heritage. I have also benefited from a close friendship with his brother, George W. Haley, a distinguished lawyer who serves as chairman of the U.S. Postal Rate Commission.

Mr. Speaker, Alex Haley passed away on February 10, 1992 at the age of 70. At the time of his death, he was completing two books; one is a book on Henning, TN; the other is the story of his paternal grandmother, Queen Haley. With the passing of Alex Haley, our Nation has lost a literary giant, a skilled historian, and a great human being. We extend our sympathy to his wife, My Haley, and his brothers, George and Julius.

Mr. Speaker, Alex Haley hoped that "Roots" would encourage African-Americans—and indeed all races—to explore and take greater pride in their heritage. Haley once said that "You can never enslave somebody who knows who he is." As we celebrate our 1992 observance of Black History Month, we celebrate an America that is richer and more culturally aware because of the undertakings and accomplishments of Alex Haley. Today, as we celebrate our "Roots," let us remember the contributions of this great American.

Mr. Speaker, I want to again thank my colleagues who are joining me in paying tribute to Black History Month.

Mr. GUARINI. Mr. Speaker, the theme for this year's observance of Black History Month is "African Roots Explore New Worlds: Pre-Columbus to the Space Age." From those who were present on the ships of Columbus to individuals like Guion S. Bluford, Jr., one of the first black astronauts, African-Americans have played an essential role in expanding our understanding of our world.

Education is one of the surest paths to great discoveries and has always been an integral part of the black experience in America. This is because education has been one of the primary means by which black Americans have fought to free themselves from oppression and discrimination. Today, this struggle is still being fought, most notably, by the large number of black educators in America. Their frontier is the classrooms and colleges of our Nation. In part, it is through their efforts, that high school completion and college enrollment rates for young blacks recently reached an all time high. Between 1986 and 1990, enrollment increases in historically black colleges outpaced enrollment increase in all U.S. colleges by 12 percent.

Black Americans may look to their heroes throughout history as excellent examples of how education leads to empowerment, in spite of overwhelming odds. For example, the black scholar, Carter Godwin Woodson, who first conceived of the idea of Black History Month in 1926, was largely self-taught until the age of 17, overcoming the discrimination and poverty he experienced as a youth. In an earlier period, Frederick Douglass, struggled to educate himself and others in spite of the fact that he was a slave. Later he founded a newspaper in Rochester, NY, which gave momentum to the abolitionist movement.

One of the greatest examples of how an education can empower an individual is that of Malcolm X. The young Malcolm X knew only suffering and discrimination. When he was 4, he watched his house burn to the ground as white firefighters looked on. Malcolm was involved in a tragic life of violence and crime when he was thrown in jail for burglary at the age 21. During this time, however, Malcolm began to educate himself in his prison cell, mostly through correspondence courses and by reading the dictionary from A to Z. Through his self-teaching efforts, Malcolm grew to become one of the most powerful spokesmen for black empowerment this country has ever known. His words, his ideas, and his mind would have a profound effect on our country.

Throughout our history, there have been countless people working to increase understanding and improve the lives of others. In my congressional district in Hudson County, NJ, members of the Hudson County's African-American community are working to educate and expand the horizons of our fellow countrymen. Glenn Cunnigham, former Jersey City Council president and a noted historian and Arnold McKinnon and Dennis Benjamin of Jersey City Cable Television recently teamed up to create a documentary detailing the historical struggles and accomplishments of black Americans in Hudson County. This program entitled "Hidden Footprints" has helped to educate the current residents of Hudson County as to the rich, and largely unrecognized, history of black Americans in my district. Through such efforts to better understand black history, African-American citizens as well as others can come to better understand this rich heritage.

The thirst for knowledge and the spirit of discovery are alive and well within the African-American community in our country. On this day, I wish to join my distinguished colleagues in celebrating black American history and recognizing the black Americans who are making history by educating and empowering the people of our Nation.

Mr. DELLUMS. Mr. Speaker, it gives me great pleasure to rise and speak before you today in honor of Black History Month.

The history of African-Americans in this country has, to say the least, been distorted. Many of us were taught in one or two brief history lessons about Africans who, in 1619, were brought to this country in chains and for the next 400 years were subjected to the worst forms of oppression ever known to man. What we were not told was that as early as 1311 Africans were coming to North America exploring unknown lands. We never learned that the King of Mali himself made a voyage across the Atlantic in 1312. Most importantly we were never informed of the fact that Christopher Columbus had heard about these African mariners and went to Africa to hear their stories before crossing the Atlantic. Yet, thanks to African-American historians, writers and educators like Dr. Carter G. Woodson, who in February 1926 organized the first Negro History Week, the precursor to Black History Month, we have been able to acquire true knowledge about our people.

Although, Black History Month is not the only time we choose to reflect on and learn about our heritage, it is during this time, unlike any other throughout the year, that we as a people come together on a more frequent basis to disseminate information about our history on a greater scale. February is a month when we can take our children to almost any museum, library or cultural activity and learn interesting facts about our forefathers and mothers. These are not only important history lessons for our children but they are significant reminders to us of the legacy we must uphold and continue to see progress beyond the 21st century.

Clearly Mr. Speaker, Black History Month is a time of reflection, celebration and pride for many African-Americans, but we are not the only recipients of this valuable experience. The country as a whole is enriched by Black History Month. During this time of year many people of various ethnicities and races are exposed to our heritage and culture through a variety of activities offered. This knowledge oftentimes gives them a greater appreciation of the many contributions African-Americans have made not only to this country but also the world. A better understanding between cultures leads to a stronger community; this is imperative if we are to move our Nation above and beyond the confines of racism.

As we come to the close of Black History Month, let us not come to an end in the search for truth and knowledge. We must never forget the legacy of struggle, survival and perseverance left to us by the great kings and queens of Africa as well as our own African-American forebears. The memories of Sojourner Truth, Harriet Tubman, Denmark Vesey, James Weldon Johnson, Lorraine Hansberry, James Baldwin, Martin Luther King, Jr., Malcolm X, Patricia R. Harris, and Congressman Mickey Leland should only serve to fuel our fires in the continued quest for solving the many problems our communities face. We must not reflect upon our great past and at the same time look upon our future with contempt. All of us must rise to the occasion and pull our people from the wells of despair and hopelessness. It is up to us and we must meet the challenge head on.

Ms. WATERS, Mr. Speaker, I would like to thank Representative LOUIS STOKES for providing members of the Congressional Black Caucus the opportunity to observe National Black History Month.

I would like to open with a quote from Frederick Douglass:

> If there is no struggle there is no progress. Those who profess to favor freedom and yet depreciate agitation, are [people] who want crops without plowing up the ground, they want rain without thunder and lightening. They want the ocean without the awful roar of its many waters. This struggle may be a moral one, or it may be a physical one, and it may be both moral and physical, but it must be a struggle. Power concedes nothing without a demand. It never did and it never will * * * [People] may not get all they pay for in this world, but they must certainly pay for all they get.

By December of this year, one of the most exciting and extraordinary movies in history will be available. Directed by the dynamic and talented Spike Lee, the upcoming film about the life and times of Malcolm X will cause us to struggle within ourselves, to struggle with each other and to struggle with our history.

Tackling history is never easy. It is particularly difficult when it is recent history. Witness the controversy in which the movie "JFK" has engaged us. Many wondered whether or not this was the time in which to make a film about Malcolm X? And beyond that, others wondered if Spike Lee was the one to produce and direct a film about him?

None of these questions deterred Spike Lee. Lee accepted the challenge of trying to present the life of a man that has been as highly controversial in his death as he was when he lived. Spike Lee had the vision and the commitment to try and capture the life of Malcolm X on film. Without a doubt, in its completed state, the movie will produce as much controversy as the man himself. I can not predict whether or not even I will agree with Lee's interpretation of Malcolm X's life. However, I do want to note what I feel is a courageous act on the part of Spike Lee.

I am pleased and proud to add my voice to the documentation of the life of Malcolm X. I am doubly proud to have lived and witnessed Malcolm X, though I did not know him personally. And, I am pleased that I have the privilege of calling his wife, Betty Shabazz, and his daughter, Attallah Shabazz, friends.

Who was Malcolm X? Why in 1992 is the discussion of Malcolm X one of the most highlighted discussions on college campuses of traditionally black institutions. Black students on other campuses are also discussing Malcolm X. All are attempting to establish their own relationship and understanding of the man, his life, his work and his teachings.

Each year, there are Malcolm X celebrations all over the country. The District of Columbia has one of the largest and most expensive celebrations of Malcolm X.

Revered and castigated, clearly, Malcolm X changed the political landscape of America forever. He provided a forum that forced us to confront who we are and what we have achieved as a nation and as a country.

For young black men today, Malcolm X stands as strong role model—a black man who felt good about himself and was proud of his heritage. Malcolm X had much respect for women and for committed relationships. He enjoyed being a father and was very devoted to his wife, Betty Shabazz. He understood that violence committed against ourselves serves only those who would just assume keep us down.

When Malcolm X entered the room a hush fell over the crowd. As he mounted the stage, the chills rose up the spine. Before speaking, his eyes would take in the entire audience as if he could hold the stare of each and everyone at the same time. And when he spoke, his voice riveted you to your chair. Malcolm was one of our greatest orators, one of our greatest thinkers, and he had a powerful vision for the black community.

He wanted African-Americans to be a strong, politically aware and active people. He organized voter registrations drives, promoted the organization of independent political organizations, and encouraged African-Americans to run as Independent candidates. He dreamed of African-Americans being politically mature. Malcolm X sought to change the entire political system in this country such that black people would be powerful enough to sweep all racists out of office.

Born in Omaha, NE, on May 19, 1925, Malcolm Little was one of eight children born to a West Indian woman and her Baptist minister husband. The violence of racism chased the Littles out of Omaha, burned their home in Lansing MI, and beat Malcolm's father nearly to death before leaving him on streetcar tracks to be killed.

After dropping out of school at the end of eighth grade, Malcolm Little drifted through life. He became known as Detroit Red, then Big Red. He dealt drugs, ran numbers, sold bootleg whiskey, pimped, pulled robberies. Eventually, he was caught, convicted, and jailed.

It was during his imprisonment at Concord State Prison in Massachusetts that Malcolm first learned about Elijah Muhammad and his street-tough theological and ethical teachings. These teachings inspired Malcolm to change his life. He worked to improve his vocabulary and reading skills. It was his habit of reading under the inadequate light of his prison cell which earned him the scholar's mark of wire-rimmed glasses.

It was after his release from prison that he met Elijah Muhammad. Muhammad could not help but be impressed by the critical mind, excellent oratorical and organizing skills of Malcolm X. Within a short amount of time, Muhammad named Malcolm X as his national representative and minister of Harlem Temple No. 7.

In April 1964, Malcolm X made a pilgrimage to Mecca. It was on this trip that he was exposed to white Muslims. Exposure to other countries and cultures proved to be transformative. He changed his name to El Hajj Malik el Shabazz to signify his new understanding of himself. World travel and his growing political sophistication forced Malcolm X to let go of his talk of white devils and developing a territory for African-Americans.

Previously, Malcolm X had been criticized for being violent and angry. He and Dr. Martin Luther King were often pitted against one another, philosophically. This was due, primarily, to Malcolm X's refusal to accept nonviolence as the means to empowering African-Americans. And, while he never did embrace nonviolence, he did begin to use conventional civil rights tactics such as boycotts and rent strikes.

Many of his thoughts and messages are very relevant to the crises facing our African-American community today. It is for this reason that we continue to salute Malcolm X.

He was assassinated 7 years ago on February 21, 1965. He is survived by his wife, Dr. Betty Shabazz, the director of communications and public relations at Edgar Evers College in Brooklyn; and his daughters, Attallah, Llyasah, Gamilah, and Qubilah.

Mr. CONYERS. Mr. Speaker, I thank you for this opportunity to join my esteemed colleagues in commemorating the history of African-American struggle and achievement. We have progressed as a people in every way since the first slaves were brought to America, and I truly believe that Black History Month gives Americans the opportunity not only to reflect upon the accomplishments of African-Americans, but to, through this reflection, somehow try and influence a group of young Americans who will carry on the traditions of black achievement, strength, and perseverance for years to come.

All Americans, black and white, benefited from the accomplishments of such inspirations as Dr. Martin Luther King and Ms. Rosa Parks, but none more so than young African-Americans. For them, the road has been paved by the brave and dedicated members of the civil rights movement—many of whom were young, many of whom lost their lives for their beliefs and their desire to be treated with respect, and with equality. Their simple desires caused a revolution, the fruits of which can be seen in African-American accomplishments today; for them, apathy was unheard of, complacency unknown. I am not saying that it has been easy for this new generation—prejudice is very much with us, and we see the cycle perpetuating itself everyday—but I am saying that, as the beneficiaries of the civil rights movement, they have the ability to continue the struggle for equality and to inspire others to achievement.

While the percentage of young black adults who completed 4 years of college doubled in the 1970's to 12.8 percent, this percentage has not improved in the last 12 years. And in the 1980's, the number of African-American students who earned degrees dropped—a 2-percent loss for bachelor's degrees, and a startling 34-percent drop for master's degrees. In fact, in the field of education alone, the number of master's degrees was cut in half. And, students who are enrolled in engineering and science courses, are even more rare—in just the last 10 years we have experienced a near 20-percent drop in the enrollment of African-Americans in these programs. Many may be wondering why, on a day when we are celebrating the accomplishments of African-Americans, I am relaying such sobering statistics. The answer is simple: Just as we have made great strides, we have suffered great setbacks, just as we have moved forward, we have been pushed backward. Just as we fought for desegregation of schools and educational equality for all, we have a President who wants to channel money into modern resegregation with his Schools of Choice Program.

In the 1970's, when the percentage of African-Americans attending college grew exponentially, three-fourths of the student financing was in the form of grants. The Pell Grant Program was credited with providing hundreds of thousands of men and women, of all races, the opportunity to pursue higher education. As many students are painfully aware, the Pell Grant Program was slashed under the Reagan administration, and continues to suffer under our current "Education" President, George Bush. Currently, the grant program provides a mere one-third of the total student financing available. Deprived of the chance to obtain a college education, thousands of our neediest young people are being sentenced to life devoid of real opportunity, devoid of hope. What do these young adults have to look forward to? A future of back-breaking manual labor, and jobs which lack the intellectual challenge they so desperately desired to find in higher education. And according to the latest statistics, the wages for those black adults who complete 4 years of college are nearly double those of their less fortunate counterparts. We are perpetuating an underclass of African-Americans for whom there is a diminishing chance of escape. As the proportion of Pell grants plummeted in the 1980's, the amount of guaranteed student loans increased. There are those who argue that guaranteed student loans are just as effective as Pell grants because GSL's are an entitlement. But one look at the state of higher education today tells quite a different story. Thousands of former students are economically unable to pay back these loans—this is especially true for the community colleges and vocational schools which provide their last best chance for minorities to obtain a degree. The administration's answer to these default rates is to exact punishment against the schools for the problem: as we speak, hundreds of schools have been notified that they will lose eligibility for all Federal student aid, including Pell grants. There is a solution to this vicious economic cycle: When the Higher Education Act comes before Congress this year, we will have the opportunity to make Pell grants an entitlement program. The House bill would make the expanded Pell program effective immediately, and increase the maximum grant allowance to $4,500. To be sure, this will be an expensive initiative; but I have introduced a bill that will help channel money into this, and other essential programs. My Budget Process Reform Act will tear down the budgetary walls, allowing Congress to delve into the bloated Defense budget and put some of those billions of dollars to work for the American people. Educating our poorest and neediest children was one goal of the civil rights movement, and many years later, we may finally be on the verge of recognizing a small part of that goal.

Mr. CLAY. Mr. Speaker, as we pause to celebrate and honor the many contributions of black Americans, I am reminded of how great it would be if this were done as a matter of course, rather than limited to the month of February. Yet, I can recall when this celebration was called Negro History Week.

I suppose some small consolation can be found in the fact that this celebration now goes on 300 percent longer as Black History Month.

It is at times such as these, though, that I feel a special need to recall the contributions of so many of my forebearers who fought and died for freedom and justice—the ones who paid extraordinary dues in order that those coming after them might share more fully in the bountiful harvests brought forth by the toil, sweat, tears, and travails of their efforts.

Some of these early pioneers for justice and equality were honed in slavery, all victims of discrimination, all schooled in life's realities, yet unwavering in their faith in mankind.

They believed more deeply in the promise of democracy than did the Framers of the Constitution who viewed them as less than human. They embraced the essence of the Constitution like no others in America, perhaps because they had no other choice, as their very survival depended upon adherence by the majority to the very tenets embodied in that document.

Among this group to whom I would like to pay special tribute are the millions of black men and women trade unionists who often faced public humiliation, firings, beatings, and even lynchings to have their voices heard in the trade union movement.

While most persons are familiar with the name of A. Philip Randolph, that gentleman who at the 1959 AFL–CIO convention in San Francisco introduced a resolution demanding that racially segregated local unions be eliminated, there were countless other black Americans who fought, struck, and organized their way into the labor movement.

It is very fitting that our theme today, "African Roots Explore New Worlds: Pre-Columbus to the Space Age," could easily refer to those African brickmakers in ancient Egypt who refused to mix straw with clay until changes were made in their working conditions. Here, in this country as far back as 1763, freed black chimney sweepers in Charleston, SC, organized and demanded higher wages from their white employers.

Black workers learned early on how to survive and secure better wages and better working conditions. This was accomplished by creating their own trade organizations when the white unions would not open their doors. In 1850 the American League of Colored Laborers organized in New York City. Frederick Douglass was named vice president and later became its president. There was also the Colored National Labor Union organized in 1869.

Then, beginning in the early 1920's the Brotherhood of Sleeping Car Porters led a 12-year battle against the George Pullman Co. and were finally victorious in having this major American company recognize their brotherhood as a legitimate union.

The gates were now open for other groups to organize low-wage service workers and they, too, gathered strength as unions.

To all of these strong men and women from the ancient Egyptians to today's leaders, black Americans all, we owe a debt of gratitude. They have continued to lead the fight that will ultimately assure that all Americans will be treated fairly and compassionately in the work place.

Mr. TOWNS. Mr. Speaker, it is my distinct pleasure to rise during this special order to commemorate Black History Month.

Carter G. Woodson, a noted historian, launched Negro History Week on February 7, 1926. Dr. Woodson also founded the Association for the Study of Negro Life and History in 1915 and began publishing the Journal of Negro History in 1916.

Dr. Woodson was a gentleman and a scholar. However, he knew that many people would not read the journal or join the association. He also knew that it was unlikely that they would be encouraged to learn about the history and contributions of blacks in America, Africa, and the Caribbean. Dr. Woodson initiated Negro History Week as a way to provoke discussion and interests in the accomplishments of blacks. He believed that the commemoration of 1 week, celebrated in the segregated churches and schools of the North and South, would have the profound impact of reinforcing the dignity and self-respect of an embattled people. We must not forget that black Americans, in the early part of this century, lived in a society which was so strictly segregated that it recalled the apartheid practices in present day South Africa. The need for the average black American to have a sturdy foundation was vital to emotional and physical survival. This knowledge would not be a cloak in which to hide, but a shield to repel the everyday arrows of life. Woodson knew that knowledge could form the bedrock of this foundation and so he founded Negro History Week as a way to provoke discussion and interest in the accomplishments of blacks within and outside of the black community. Today, in an age where heroes are few and villains are certain, knowing about the contributions of people of African descent to the development of world civilization gives a guidepost to the true meaning of courage and success. We cannot help but look at these people who lived their lives in dignity and determination under incredible circumstances and not be inspired. It reminds me of one time when I saw a picture of the Great Wall of China. It occurred to me that thousands of people over the course of decades built this wall without concrete or modern earth-moving equipment. They built this wall out of will and a dream. And then I thought of the difficulties facing America, and especially black America, and it occurred to me that if the ancient Chinese could build this wall without equipment which we would consider necessary today, then we who are rich in intelligence, talent, will, and a history of incredible accomplishments can build beautiful structures out of our own raw materials. That is the purpose of Black History Month—to remind black America of its awe-inspiring past—to steady our footsteps in the present path and give form to our collective vision of the future. In essence, the message is this—if the black Americans who lived under slavery, segregation and legalized discrimination survived and sometimes thrived, then we, who live today can accomplish great things.

We must learn and use history to understand how to turn our dreams into reality. I believe that each black person we know about who contributed to American history is like a brick in our great wall. It is only by viewing it—brick upon brick that we can envision the wall. Today, I offer you a brick—the rest of the wall is up to you—to us all.

DR. SUSAN MCKINNEY

Dr. Susan Smith McKinney of Brooklyn, NY. was the first black woman to graduate from medical school and practice medicine in New York State. She was the third black woman to become a doctor in America.

Dr. McKinney was the daughter of Sylvanus Smith, a Brooklyn merchant. She began her professional career as a public school teacher in Washington, DC. After a few years as a teacher, she decided to enter medicine. In 1870, 5 years after the conclusion of the Civil War, she graduated valedictorian of her class at the New York Medical College for Women. At a time when a woman in medicine was rare and a black woman in any profession was almost unheard of, this brave woman was determined to make her contribution to society by daring to break down barriers and defy odds.

She practiced for more than 25 years and maintained two offices, one in Manhattan and the other on Dekalb Avenue, Brooklyn. She was one of the founders of the Brooklyn Woman's Homeopathic Hospital and Dispensary. Dr. McKinney served on the staff of the hospital until 1895. She also served as the principal physician at the Brooklyn Home for Aged People.

In addition to fulfilling the extraordinary demands placed upon her as a physician, wife and mother, Dr. McKinney found time to take part in the cultural and religious life of the community. An accomplished musician, she was an organist and choir director for 28 years at the Bridge Street African Methodist Church in Brooklyn. Additionally, she contributed to the intellectual life of the community by lecturing frequently on women in medicine.

Dr. McKinney died in 1918. In 1974, the former Sands Junior High School in Brooklyn was renamed for Dr. Susan S. McKinney. I tip my hat to the memory of this brave and determined African-American woman. Her life and work epitomized the strength and purpose that can and must live in all of us.

Mr. ERDREICH. Mr. Speaker, I would like to take a few moments to acknowledge and commend the many outstanding contributions of black Americans, both to the State of Alabama and the Nation, during this year's observance of Black History Month.

The celebration of Dr. Martin Luther King Jr.'s birthday last month reminds us of his efforts to stir the conscience of our Nation. Our remembrance of his vision brings back memories of our tumultuous past, progressive present, and promising future.

Of course, there are many others who, in their own way, were just as great in their efforts to assure that black Americans are afforded all the rights and privileges guaranteed all citizens of these United States in the Constitution. Their combined determination opened American society to all, providing the opportunity to excel in all professions and fields. Because of that, all of us in this Nation have benefited.

Birmingham, AL, which I represent in the House, was a focal point of the civil rights struggle, and we in Birmingham are keenly aware of the importance of access to political and economic opportunity for all citizens. The people of Birmingham have made a concerted effort to overcome the images of the past, applying its lessons and messages to creatively serve present and future needs.

From our Nation's earliest history until today, there is no facet of our society that has not enjoyed the contributions of and leadership from African-Americans. Their successes span across education, science, industry, literature, music, sports, and the arts. This includes people like Mary McLeod Bethune, noted educational leader who became the first black woman to receive a major appointment in the Federal Government: Jesse Owens, world-class athlete and U.S. Olympian; Shirley Chisholm, the first black woman elected to Congress; Edward W. Brooke, the only black U.S. Senator since Reconstruction; Dr. Charles Drew, who developed the first plasma bank; Dr. Daniel Hale Williams, who performed the first successful open-heart surgery; and Percy Lavon Julian, who was the first scientist to synthesize cortisone.

They include Sidney Poitier, the first black to win an Academy Award for Best Actor; Ralph Bunch, U.N. Ambassador and first black to win the Nobel Peace Prize; Gwendolyn Brooks, the first black to win a Pulitzer; Douglas Wilder, the first black Governor; and Colin Powell, the first black to head the National Security Council, and now, Chairman of the Joint Chiefs of Staff.

Many Americans do not know the term "the real McCoy" refers to the numerous creations of inventor Elijah McCoy, or that George Washington Carver gave us over 300 products from the peanut, or that Garrett A. Morgan invented the traffic signal and the gas mask.

I find it appropriate that the National Black History Month theme for 1992 is "African Roots Explore New Worlds: Pre-Columbus to the Space-Age" for it is the forenamed people that have laid the groundwork to take our Nation into the future.

As we observe this year's Black History Month, let us commit ourselves to remember the positive contributions from the past and to continue to work for policies that provide all citizens a chance to share in the opportunities our Nation offers. Let us give Dr. King's dream a continuing reality for tomorrow and all the tomorrows to come.

Mr. WEISS. Mr. Speaker, it is with great pleasure that I participate today in commemorating Black History Month 1992. I would like to thank my esteemed colleague, Congressman LOUIS STOKES, for once again organizing a special order allowing us to share our thoughts and hopes during this special celebration.

History is understood not simply as a list of dates and events that happened but also as the spirit in which those things happened. Black History Month gives us a chance to pay tribute to and remember those African-Americans who, in the past, have been omitted from our Nation's history.

Dr. Carter Woodson, a renowned historian, recognized that a substantial part of our past was ignored, if not undermined, by historians and the public. In 1915 he created the Association for the Study of Negro Life and History to ensure that black Americans would be recognized for the part they played in building this Nation. In 1926, to broaden his audience, Dr. Woodson proposed the creation of a week, set aside each year, to recognize the vital role played by African-Americans in history.

As time went on, it was evident that a week was not long enough to educate the public and celebrate black Americans' contributions to our history. The week was expanded to a month and 1992 marks the 17th year we will remember, celebrate, and admire the accomplishments of black Americans.

A man of African descent was instrumental in Columbus' discovery of America in 1492. But how many history books tell us that it was a black man who was the captain of the *Nina*? How many people know that Matthew Hensen, a black American, reached the North Pole before Robert Perry? It is my hope that Black History Month will let African-Americans look at their rich heritage with a sense of pride and accomplishment and help recognize the pieces of history that were forgotten or omitted.

This month is a time to reclaim black history and reflect on the struggle African-Americans have endured for this country. At the start of the American Revolution, Crispus Attucks, a black man, was the first patriot to die for freedom at the Boston Massacre. During the Civil War, Harriet Tubman and Sojourner Truth, both black Americans, risked their lives to free slaves. The bravery shown by these people has not been surpassed by anyone in our Nation's history.

The struggle for equality and civil rights began when Rosa Parks, with dignity and determination, stood up to racial discrimination and fought for her rights and the rights of all black Americans. The struggle for civil rights was embodied by Martin Luther King, Jr., one of the leading spokespeople in the fight for racial equality. Dr. King was perhaps one of the most influential people in this century and he best exemplifies the impact African-Americans have had on history. Hopefully this month has helped move us a step closer to Dr. King's dream of equality.

African-Americans have contributed to all facets of our history including areas such as medicine, the arts, and music. In 1893 Daniel Hale Williams, a black doctor in Cook County Hospital, was the first person to perform open-heart surgery. Research done on plasma and blood transfusion by Charles Drew, an African-American from Washington, has been the key to saving millions of lives. These are just a few examples of the impact African-Americans have had on medical procedures and research.

African-Americans have been and continue to be a strong influence on the literary world. From the Harlem renaissance of the 1920's which produced such writers as Zora Neale Hurston and Langston Hughes to their contemporaries like the late Alex Haley, the author of the renowned work "Roots," Toni Morrison, and Paule Marshall, African-Americans have been making major strides in literature.

African-Americans prominence in the music world can be traced back to W.C. Handy, a black bandleader who is considered the father of the blues. There are many other great musicians like Duke Ellington and Louis Armstrong who are known as the country's leading jazz musicians and Billy Holiday and Ella Fitzgerald, two famous black female entertainers. Today, the music world is overflowing with the talent of numerous black artists who have become a dominant force in the industry.

No one can forget to mention our country's great African-American athletes like Jesse Owens who made Olympic history winning four gold medals at the 1936 games and Wilma Rudolph, the 1960 Olympic Gold Medal sprinter. We must also express our hope and pride in all of our 1992 Olympic athletes and wish them well in the upcoming games. Today, we can be proud that African-Americans are representing the United States in the Olympics and in playing fields around the world.

One more example of an outstanding African-American athlete is found in Ervin "Magic" Johnson who, after testing HIV positive, retired from the Los Angeles Lakers and is now a leader in educating our country's youth about AIDS and AIDS prevention. This contribution undoubtedly will prove to be even more outstanding than his contribution to the sports world.

It would be impossible to list all the black men and women who have contributed to history and even harder to mention those who continue to add their talent, intelligence, and rich diversity to our country. However, it must be said that we truly need not look further than our own Chamber for outstanding examples of the contributions African-Americans continue to make to our Government and our world.

By reclaiming black history, our Nation is both rectifying the omissions of the past and enriching our national heritage with the brilliance and the dignity of black America.

Mr. FASCELL. Mr. Speaker, I rise to join our colleagues in celebration of Black History Month. Every February we pause to reflect on the achievements and contributions which African-Americans have made to our Nation. Because it sometimes seems that the advances on the playing fields precede those in the rest of society and because this is an Olympic year, I would like to take a moment to honor some of our African-American Olympians.

At the 1936 Summer Olympics in Berlin, Jesse Owens inspired his country and thrilled the world with his Olympic performance. The 1936 Summer Olympics were filled with an atmosphere of racial and ethnic tension resulting from the policies of Adolf Hitler's government.

Using the Olympics as a platform for his politics, Hitler waged a propaganda war of hate. By the end of the 1936 Summer Olympics in Berlin, Owens had won four gold medals, the admiration of the German people, and inspired generations of young Americans as well as generations of future Olympians from other nations. Proving the strength of the human spirit, the partisan German crowd cheered loudly in salute of Owens during the medal ceremony for his victory in the 200-meter dash.

Among his teammates was our former colleague, the late Ralph H. Metcalfe. An ally of Chicago Mayor Richard Daley, he eventually broke with Daley's political machine and became a powerful voice for reform and civil rights. His athletic achievements, his work in local government, and his work in the House of Representatives benefited more than his constituency; they improved our Nation.

Jesse Owens and Ralph Metcalfe served as positive role models for young Americans and inspired them to believe that their goals were reachable. At the 1968 Mexico City Summer Olympics, Bob Beamon shattered the world record on his way to winning the gold medal in the long jump. Beamon's record, which was not broken until last year, served as a goal for athletes around the world for 23 years. Beamon's performance served as an inspiration and a goal for over two decades of athletes in the same way as the performances of Owens and Metcalfe. Today, he continues to serve as a positive role model helping young people reach their goals in his capacity as a Parks and Recreation Manager with the Dade County Department of Parks and Recreation.

The accomplishments of these Olympians contributed to our Nation by providing our youth, both black and white, with role models. They showed that in an environment free of inequality, people, regardless of race, can compete and be the best in their respective fields. That is the lesson which that German crowd taught us in 1936, and it is a lesson which applies to an arena far greater than athletic competition. The achievements of these great athletes and the message of the German crowd is synonymous with Dr. Martin Luther King's vision of a society where people are only judged by the content of their character. As we continue to strive for Dr. King's dream, let us remember all these lessons.

Mr. PICKETT. Mr. Speaker, I thank the distinguished chairman of the Congressional Black Causus, Mr. TOWNS of New York, for requesting this special order to observe Black History Month, and to pay tribute to the millions of African-Americans—both the famous and not so famous—who have worked to make this Nation great and who are an integral part of our history.

It is ironic that this year's observance of Black History Month coincides with the death of Alex Haley, the renowned author and historian whose book "Roots" was so instrumental in creating an appreciation of black history in the United States. His talent and leadership will be sorely missed. It is fitting that the theme for Black History Month in 1992 is "African Roots Explore New Worlds: Pre-Columbus to the Space Age."

Black History Month is something in which all Americans can and should share because it is an important national observance. By recalling the enormous obstacles that blacks have had to overcome during our history, we are reminded that racial injustice must never again be part of the American experience. And this is particularly important right now, when some in our Nation have tried to revive bigotry and fan the fires of intolerance.

Thanks to Black History Month, Americans also find inspiration in the lives of men and women like Rosa Parks, Marian Anderson, George Washington Carver, Booker T. Washington, Andrew Young, Duke Ellington, Langston Hughes, and of course, Martin Luther King. These are just a few of thousands of blacks who through our Nation's history have made contributions to government, literature, arts, science and agriculture.

What makes their lives especially inspirational is that in many cases they made their contributions without being able to share fully in all that this Nation has to offer. Just think about the many young black Americans who fought and died for this Nation in World War I and World War II—before the civil rights movement opened the doors of opportunity to them. These unselfish Americans, though denied much, continued to make contributions for the good of their country anyway.

This sacrifice in the face of adversity is one of the most important lessons to be remembered in Black History Month, and it is one that perhaps illustrates best the pride, resolve, determination, and values of black Americans.

Again, I thank the distinguished chairman of the Congressional Black Caucus for requesting this special order, and I join him in urging all Americans to learn more about black history.

Mr. BACCHUS. Mr. Speaker, I rise today in celebration of Black History Month.

On these occasions, we remember places like Selma, Birmingham, Atlanta, and Washington.

We remember familiar names from the long struggle for equality, Martin Luther King Jr., Rosa Parks, Harriet Tubman, our distinguished colleague from Georgia, Congressman JOHN LEWIS, and many others.

Today I want to remember someone less well-known—a brave and gifted pioneer from the historic black community of Eatonville in central Florida.

Zora Neale Hurston, writer, anthropologist, and folklorist, made her way from small, impoverished Eatonville, following her dreams to New York City and Barnard College, where she studied anthropology.

Rather than pursue a life in traditional academia, she returned to Eatonville to become a chronicler of her times and her people.

Traveling throughout the South in the bitter thirties and forties, Ms. Hurston recorded a history of black culture, rich with images that remain timeless.

She once wrote, "Folklore is the boiled-down juice of human living."

She obviously found that juice in titles such as "Dust Tracks on a Road" and "Their Eyes Were Watching God."

She revealed to her readers the reality of African-American life.

For four decades she wove a tapestry about her people that had never been woven before.

The daughter of a tenant farmer, she knew as well as anyone the pain and suffering of African-Americans in the United States.

But from her mother who urged her to "jump at the sun," she learned the spirit that was the essence of the civil rights movement.

Her words tell of black life with a sense of pride, dignity, and an undying spirit.

Had she lived longer, Zora Hurston had only begun to see successes won by the civil right movement, fought by blacks and whites together in the streets, courtrooms, and in the Congress.

Were she alive, she surely would have found precious images to record the courage displayed in these battles.

Stetson Kennedy, president of the Florida Folklore Society, put it best when he said:

> The songs Zora sang in praise of her people bespeak the common humanity of us all.

As another admirer put it, Zora Hurston was a

> Shooting star which lit up the night skies * * * flashing across the heavens during the thirties and forties in a dazzling literary display that had all the world watching.

Mr. Speaker, I grew up just a few miles away from Zora Neale Hurston's hometown of Eatonville. I stand here today not only to remember her essential role in the telling of the history of the South.

But also to honor the many fine African-Americans who, like her, dreamed of freedom on the smaller battlefields like Eatonville for more than a century.

To Zora Neale Hurston and the many African-American citizens we are saluting today, your pride, spirit, and struggle are an inspiration to us all.

Ms. PELOSI. Mr. Speaker, I rise in proud celebration of Black History Month, which gives us an opportunity to celebrate the accomplishments of black Americans throughout our Nation.

This year's theme for the observance of Black History Month is "African Roots Explore New Worlds: Pre-Columbus to the Space Age." The African contribution to the New world is significant and African roots can be celebrated in many aspects of our lives.

Each year people from throughout the Bay Area attend a Gospel Mass and march through the city of San Francisco to commemorate the birth of Martin Luther King, Jr. I recently attended a labor and community breakfast in San Francisco on Reverend King's birthday. Dr. King was an untiring champion of civil rights for all peoples. By changing the conscience of our Nation he helped increase the strength of African roots.

The activities in San Francisco provide an opportunity to unite different segments of the community that have been instrumental in founding the civil rights movement. They also serve as a bridge between the remarkable history of black Americans and the young people who will lead us into the future.

I am hopeful that these young people will have increased educational and employment opportunities as we move toward a more just society where all peoples are on equal footing. The Civil Rights Act of 1991, despite its faults, will bring down more barriers of discrimination and racism that deny blacks equal opportunity to participate in American society. History will look back on us favorably if we work to improve the future for tomorrow's leaders.

Part of the San Francisco celebration is the presentation of the winning essays from the annual Martin Luther King, Jr. Essay Competition. I would like to end my remarks, Mr. Speaker, by presenting to my colleagues the inspiration offered by the winning essays from this competition. Here are contributions from the younger generation with the promise of developing into writers of the stature of Alex Haley, or historians in the tradition of Dr. Carter G. Woodson, the man who has deservedly been called the father of black history.

Reaching the Dream of Dr. Martin Luther King, Jr.

(By Tamika Jones, 11th Grade, Lowell High School)

Dr. King's Dream is a roadmap of Human and Civil Rights set forth for all races, creeds, and colors to follow. In reaching for the Dream of Dr. Martin Luther King, youth of today must become involved in various school, community and church organizations in order to make a difference in our society. We must start with "self" to make sure that this Dream stays alive and accomplishes the goals he so graciously set forth for all mankind. To reach for Dr. Martin Luther King's dream, I devote time to improving the black community. For the past four years I have participated in the Beta Nu Chapter Xinos, and African American youth group sponsored by the National Sorority of Phi Delta Kappa, Inc. We are an assortment of gifted teens from the Bay Area. Our main goal is to contribute in making a more loving world. To accomplish our goal we encourage each other to do our best in school. We all know that education is the key that opens doors of opportunity and to success. We also act as a support group. We make every effort to lend a helping hand and a shoulder to cry on in times of need. If we're not there for our brothers and sisters, why should anyone else be?

We must cater to the needs of real people. When holidays such as Thanksgiving and Christmas come around, care baskets filled with food are donated to a needy family. Neither the children nor the elderly are forgotten. Presents are passed out to the youngsters at schools. The seniors of Laguna Honda Convalescent Home are showered with joy-filled carols and wishes of happy holidays from the youth group to which I belong.

In reaching for the dream of Dr. Martin Luther King, African Americans must love their neighbors as themselves, not just in words but also in action. All races must be treated equally; no more homeless, no more prejudice in the world and a good health plan and an excellent child care program for all Americans.

Reaching for the dream of Dr. Martin Luther King means keeping drugs out of the schools, neighborhoods, and homes. We must encourage our youths to obey their parents, to join positive organizations, to belong to worthwhile groups, to be a gang for love and peace, to strive to be the best in school and to have strong minds and determination, then we all succeed.

Reaching for His Dream

(By Jamé Scott, Fourth Grade, Cleveland Elementary)

Dr. Martin Luther King Jr. had a dream. A dream of freedom! A dream of peace! He didn't care what color you were, he wanted everyone to be treated fair. He believed in equality and justice for all. He believed so strongly in his dream that he sent out to change the world, by changing unfair laws. Dr. Martin Luther King, Jr. and Rosa Parks started by protesting. They were beaten and thrown in jail, but they never gave up. He continued to struggle to achieve his dream in a peaceful way. He lived his dream by setting an example for others, and now we must continue the dream.

Some things have changed, thanks to his dream. I wish Dr. King was still alive to see the changes and to help make things better. I would like to march against drugs, the homeless and police brutality. He would talk to people about AIDS and he would get the gang leaders together to stop killing each other. Dr. King would be happy to talk with Nelson Mandela who was released from prison after 27 years, just last year. They would work together to stop the apartheid. Dr. King would be happy that the Berlin Wall came down. He would help stop hunger in all nations. I know this sounds like a dream, but that's what reaching for his dream is all about. Peace, love and justice for all.

My grandmother told me, "Everything starts off as a dream. You just be the best you can be, believe in yourself and one day you can have your moment in the sun." I have a dream! My dream is to become a child psychologist. I have to be a good student, a good person and a good Christian. This means I will obey the rules of my family, school, and the community. Through my teachings. I will set my own standards, principles and goals and I will try to achieve them. I'd also like to organize a group of children to go and read to the senior citizens and ill children in the hospital.

Thanks to Dr. King and his dream, I feel all dreams are possible. Keep reaching for the Dream!

Reaching His Dream

(By Heather A. Bias, Eighth Grade, Dr. Martin Luther King, Jr. Academic Middle School)

Everyday, I am reminded of the victories and glories caused by Dr. Martin Luther King's fight for freedom. Because of his strength, he has brought the whole world into one classroom. I look around the from and see to the right of me, Asians. To the left of me I see Afro-Americans. In the front of me I see Jews and behind me there are Muslims. And where is this classroom you ask? In a proud school named after a proud man, Dr. Martin Luther King, Jr. He fought, he protested, he saw hope in a hopeless world. He did all this to fulfill a dream: A dream of a country where all people are equal; where no man or woman is judged by the color of their skin but by the content of their heart; where peace, love and justice are the words we live by.

This dream is being fulfilled everyday by the students at Dr. Martin Luther King, Jr. Academic Middle School. We have learned that there are not many races, but one race, the human race. Everyone who is alive belongs to this race. Therefore, we must all be treated the same. We have learned that though it is important to know where you come from, it is even more important to know where you're going and to strive for your dreams.

Everyday Martin Luther King helps me reach my goals. Whenever I think I can't do something and I'm just about to quit, I think of all the times when Martin Luther King could have quit, but didn't. He was one against the wind and he constantly fought to get what he wanted. Like the time I went to a National swim meet in Virginia. I took a look around at my competition and I almost gave up all hope of winning. But as fast as lightning, something told me not to give up. Something told me that somewhere, someone before me had a dream and didn't quit until it was fulfilled. Just that thought gave me strength to try to win, to go for the goals and fulfill my dream! Though Martin Luther King died over 25 years ago, we still work to keep his dream alive!

A Dream To Be Shared

(By Tiffany Tischell McFarland, seventh grade, Dr. Martin Luther King, Jr., Academic Middle School)

Dr. Martin Luther King, Jr. was a good man and lots of potential and courage, and a mountain range of determination. I am enthusiastic too. I have a cascade of courage, and a waterfall of determination! I do think I can make a difference. The small unnoticed things I do now could some day add up to more important deeds, or may lead me to bigger dreams to fulfill. Even if I don't achieve all my goals in life, I feel that I will have tried my utmost to put all my efforts into it.

As a child I do the small things, not to be noticed but just to get myself started on being outgoing. I join in on a lot of extra curricular activities, after and during school. Mostly, I join these activities to extend my knowledge into a rainbow, such as learning of people's backgrounds, ways of understanding and different ways of learning. I also love being the leader of many things and being the first to do something just as Martin Luther King was a leader in the Civil Rights march. King was remembered as someone special and that's how I want to be remembered.

When I am in the middle of a conversation where people are being discriminated against, I tell people to stop because we are all equal in our Heavenly Father's eyes. We can't choose the way we come into this world. The only thing we can control is what we make of ourselves, the way we act, and how we respect ourselves and others.

I help in my community. In my homeroom we had a food drive for the homeless just in time for Christmas. I was very involved in it. I am the homeroom representative.

I am proud. I think that way, feel that way, live that way, and will achieve all things that way! I will lead myself on the road of success, remembering always Dr. King's dream.

Mr. MAZZOLI. Mr. Speaker, it is my pleasure and privilege to join my colleagues today in honoring the rich heritage of African-Americans. It is a fitting occasion since February is Black History Month.

Black History Month, which was first celebrated in 1976, is a significant reminder of the vital role African-Americans have played in our Nation's history. It brings to mind the many contributions African-Americans have made—often at a great personal sacrifice—to our country's development.

This year I am pleased to note the special contributions of two great African-Americans: Muhammad Ali of Louisville, KY, and Alex Haley, the prize-winning author.

Muhammad Ali, the three-time world heavyweight boxing champion, was born in Louisville and celebrated his 50th birthday earlier this month. He was arguably, the greatest boxer to ever step in the ring, winning the championship three times. He is one of the greatest athletes in the history of American sports, and one of the world's most recognizable celebrities.

Alex Haley, who died on February 10 at the age of 70, wrote "Roots," a history of his family's experience and more broadly the experience of African-Americans in the United States. As a book and later as a much heralded television mini-series, "Roots" had incalculable impact on Americans of all colors. Mr. Haley was scheduled to speak in Louisville on February 15, 1992 at the annual Louisville YMCA black achievers banquet.

Mr. Speaker, in addition to honoring the achievements of great African-Americans of the past, Black History Month is also a celebration of the present and the future.

I would like to acknowledge one organization in the Third District which recognizes and fosters African-Americans. The intergovernmental black history committee, founded in 1981 and composed of representatives from Federal, State and local government, calls attention to the contributions, both past and present, of African-Americans in the workplace, in the community and in the country. A senior member of my Louisville staff, Brenda Sweatt, is a member of this committee.

Mr. Speaker, I hope Black History Month encourages a greater awareness on every American's part of the fundamental and worthwhile contributions to the United States of America of African-Americans. And, I hope the month helps bring about an America of equality and opportunity for all its citizens.

Mr. FAZIO. Mr. Speaker, I join my colleagues today in this special order to recognize the accomplishments of African-Americans and their contributions to our Nation's history.

In 1926, Dr. Carter G. Woodson, the African-American scholar and historian, established the observance of Negro History Week. The son of former slaves, Dr. Woodson realized which way in which historians had traditionally promoted the myth of white superiority and, as a result, distorted and eliminated the African-Americans presence in their work. He therefore set aside a period in February—the week containing the birthdays of Frederick Douglass and Abraham Lincoln—to stimulate awareness of the role of the African-American and to begin correcting this imbalance. February 1992 marks the 16th observance of Black History Month, the expanded version of Dr. Woodson's week of commemoration.

Black History Month gives all Americans the opportunity to appreciate and understand the involvement of African-Americans in America's history and society. Arising from a legacy of slavery and oppression, African-Americans have made ongoing contributions to America's agriculture and industry. There is no area in which their ongoing presence and contributions are not felt—be it the military, government, education, literature, the sciences, entertainment, the arts, sports, or social reform—all while struggling for quality and freedom, and fighting to counteract the effects of the racism that continues to pervade our society.

Race politics are going to play a big role in this year's election. We are going to see the race card played over and over in an attempt to divide us as Americans, and thereby win votes. But Black History Month provides us all with the opportunity to focus on the cohesiveness and diversity that have made our country what it is. We need to focus on this occasion both as a celebration of how far we have come and a recognition of how far we have yet to go.

Mr. Speaker, I would like to close my remarks my commending the distinguished gentleman from New York, [Mr. TOWNS], the chairman of the Congressional Black Caucus; and the distinguished gentleman from Ohio, [Mr. STOKES] for calling this special order. I also thank my other colleagues for their participation today.

Mr. HATCHER. Mr. Speaker, as our country observes Black History Month, we are reminded of the numerous contributions black Americans have made to the development of this Nation and this world. Today I would like to introduce to my colleagues several of the south Georgia blacks who have enriched our history.

Georgia enjoys a particularly rich past that grew from many challenges. From its origins as a penal colony, to the headquarters of the civil rights movement, to home of the 1996 summer Olympics, Georgia moves forward with the determination shown by my constituent Alice Coachman of Albany, GA, in winning a gold medal in the 1948 Olympics.

South Georgians have also excelled in many other endeavors. This and every month of the year we must appreciate the unselfish efforts of heroes like Lt. Henry O. Flipper, who paved the way for blacks in military leadership.

Born a slave in Thomasville, GA, in 1856, Lieutenant Flipper overcame numerous obstacles to become the first black graduate of the U.S. Military Academy at West Point on June 15, 1877. After graduation, he made significant achievements in military and civilian arenas. He served as a calvary officer, a surveyor, a cartographer, a civil and mining engineer, a published author, newspaper editor, special agent for the U.S. Department of Justice, Assistant Secretary of the Interior, a pioneer in the Nation's oil industry, and a college instructor.

Like many other black heroes, Lieutenant Flipper did not receive the recognition he deserved in life, though I am sure recognition was not his motivation. Flipper and countless others were driven by the desire to create a better world for future generations and a chance to give all Americans the opportunity to fulfill their dreams. Unfortunately, my district recently added another hero to our rolls. On February 25, 1991, Serviceman James E. Worthy of Albany, GA, was lost in a Scud missile attack during the Persian Gulf war. The courage and distinction of Serviceman Worthy and all those who served should never be forgotten.

The term "Black History" is not only the study of blacks in history but also the study of blacks in American and international history. An often forgotten aspect of American history are the contributions in labor and agriculture of former slaves. We must remember the sons and daughters of the South and their years of dedication to a Nation that often seemed uninterested in them.

History is not reserved for names and events we can easily recite. The schools and churches that toiled selflessly to keep the black family strong and composed during bleak periods in our past also belong to history. In Thomasville, GA, the Bethany Congregational Church, an institution listed on the National Register of Historic Places, recently celebrated its 101st year of service. Like many black churches around our Nation, this church stands as a cornerstone of our community.

As America prepares to enter a new century, we must chart our course for the future with the events of past in mind. Black Americans have played an important role in the development of our Nation. This and every month we should remember these contributions.

Mrs. MORELLA. Mr. Speaker, it is with great pride that all Americans should recognize this month of February as Black History Month. Regardless of race or color, we all have benefited from the many contributions made by African-Americans in the fields of science, medicine, and technology.

In our everyday life, we are in constant interaction with inventions and other contributions first developed and created by African-Americans. These African-American innovators are numerous. There is Dr. Kenneth Clark, a renowned psychologist recognized for his pioneering studies on the effects of segregation. Dr. Clark's seminal research helped to influence the Supreme Court in its 1954 landmark case of Brown *v.* Board of Education, which outlawed segregated schooling. There is Dr. Charles Drew, a pioneer in the preservation of blood. Through Dr. Drew's innovations with blood plasma, thousands of lives during World War II were able to be saved. There is Dr. Percy Julian who left a legacy of life-saving and health-restoring discoveries. Dr. Julian's inventions and breakthroughs provided relief for millions of Americans suffering from rheumatoid arthritis, and glaucoma, among others. There is also Garrett A. Morgan, the inventor of both the traffic signal and the gas mask.

These examples are but a few of the many African-Americans who have been instrumental in maintaining our Nation's superiority in technology and competitiveness. History has proudly documented the numerous scientific, medical, and technological achievements of African-Americans. Inspired by the accomplishments of these and many other African-Americans, Black History Month heralds those achievements while also challenging our Nation's youth to similar feats of great glory.

Mr. Speaker, I urge all my colleagues to join with me in celebrating Black History Month.

Mr. RAY. Mr. Speaker, I rise today to participate in this special order commemorating Black History Month.

Earlier this month, it was my pleasure to help host the Third District's fifth annual Black History Month observance. I was joined in the program by the distinguished chairman of the Congressional Black Caucus, Mr. EDOLPHUS TOWNS of New York.

Mr. Speaker, I have come to look forward to this annual gathering to commemorate Black History Month. This month has been set aside throughout this country to recognize the individuals, organizations, and communities that have played key roles in America's history. It is entirely fitting that we have this annual event and pay tribute to those individuals who and those institutions which have contributed their efforts and dedicated their existence to the improvement of our blessed Nation.

The United States is the oldest, most enduring Government in the world. It is a democracy which has representative government and the power to change, to adapt, to meet new needs and new challenges. One of those challenges has been the creation of better race relations. This annual meeting has made a contribution toward this goal.

Mr. Speaker, I mentioned in my speech that there is a long list of men and women who have dedicated their lives to the cause of racial harmony and equity in America. The list includes the names of John Lewis, John F. Kennedy, Martin Luther King Jr., Benjamin Mays, Eleanor Roosevelt, Colin Powell, and John Amos. Each of these persons and many, many others—some black, and some white—some rich, some poor—some living and some departed—each tried or are currently trying in their own special way to work for a better America. This spirit continues to flow through many of us and our young people. And it will continue to bolster our free and democratic society.

It was a pleasure to have with us at the observance someone who has played an integral role in this development and who continues to be a moving force in helping others—Congressman EDOLPHUS TOWNS. New York is fortunate to have him as a representative, but we in Georgia should be proud of this gentleman too, for Congressman TOWNS has roots in this great State. His grandparents had a home in Reidsville, GA, and he spent many of his summers there.

Congressman TOWNS and I entered the House of Representatives the same year, following the elections of 1982. He came to Congress via the circle route, having been born in Chadbourn, NC, and having been active in the politics of New York. Congressman TOWNS is a spiritual and intellectual leader in Congress and was a welcome addition to our list of former speakers. Some of those fine individuals include Congressman JOHN LEWIS from Atlanta, former whip Bill Gray, Congressman MIKE ESPY from Mississippi, and Congressman LOUIS STOKES.

Mr. Speaker, I appreciate the opportunity to participate in this tribute to Black History Month, and thank Congressman TOWNS for his assistance in the wonderful observance in the Third District.

GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order of today.

The SPEAKER pro tempore (Mr. ABERCROMBIE). Is there objection to the request of the gentleman from Ohio?

There was no objection.

LONG-TERM HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes.

Mr. BILIRAKIS. Mr. Speaker, as the chairman of the Republican Research Committee's task force on the elderly, I believe long-term health care is an issue that deserves serious debate in the House of Representatives. Health care reform is a subject of national debate these days, but little has been said about long-term care, an issue that is on the minds of almost every senior citizen.

Long-term care services include medical, social, personal, and supportive services needed by people who have lost some capacity for self-care because of a chronic illness or condition. While these conditions occur in all age groups, the elderly are the largest group of individuals where these conditions result in both functional impairment and physical dependence on others for an extended time period.

My congressional district in Florida, which includes Clearwater, Dunedin, New Port Richey, and Holiday, has one of the highest percentages of older Americans over the age of 85. As you can well imagine, most of my constituents insist that any health care reform package must address the issue of long-term care.

Currently, the elderly face significant expenses for long-term care, especially nursing home care. Many times, nursing home care involves catastrophic expenditures that result in the impoverishment of many seniors. Private insurance coverage for long-term nursing home care is very limited and public support under the Medicaid Program is available only after people have first experienced financial catastrophe and have depleted their resources and income on the cost of their care.

In addition, very little coverage exists for home and community-based services which seniors and their families often prefer over institutional care.

In 1988, $53 billion was spent for nursing home and home care, which are two major categories for long-term care services. This figure represents about half of Medicare's total level of current spending. The greatest portion of this spending is for nursing home care.

About $43 billion was spent for nursing home care in 1988. Public programs, primarily Medicaid, paid almost 50 percent of the Nation's total nursing home bill. Many people needed long-term care become eligible for Medicaid because of the high cost of nursing home care, currently averaging $30,000 annually.

On the other hand, national spending for home care is very limited. In 1988, less than $10 billion, or 18 percent of total long-term care costs, was spent for home health services. Of this total, 70 percent was paid by public programs.

As the chairman of the elderly task force, I believe long-term care is an issue that must be addressed by Congress. In my opinion, 1992 is the appropriate time to do so—health-care reform is a top priority of the Congress.

Late last year, I introduced H.R. 3951, a comprehensive health reform package which included several provisions designed specifically to benefit older Americans. One section provides a one-time physical examination for new Medicare beneficiaries. I believe this is essential because it mandates preventive health care for seniors and it encourages medical professionals to provide medical screening services to older Americans. It also allows seniors the opportunity to discuss their dietary needs, physical activities and prescription drug use with a physician.

H.R. 3951 also includes long-term health care legislation that I have consistently introduced in the House of Representatives since the 100th Congress. H.R. 1535, the Elderly Americans' Economic Security Act, allows more families to remain together and delays expensive institutionalization of loved ones by giving primary care givers certain tax incentives.

In addition, the legislation encourages medical professionals, such as doctors and nurses, to donate services to homebound patients by granting them a tax deduction in the form of an extension of the charitable contribution for their services. Health providers who provide services to homebound patients cannot be immediate family members.

Finally, the bill allows certain withdrawals from individual retirement accounts [IRA's] for the purpose of funding long-term care. In this way, an individual may decide to spend his retirement savings for long-term care expenses if he believes it is necessary without suffering tax penalties.

I firmly believe long-term health care should be an important aspect of the health-care reform debate. Seniors must continue to be assured by Congress that this issue is as important as health care access and cost containment for health care. The Pepper Commission's recommendations for long-term care reform encouraged a public-private insurance model for financing long-term health care benefits. However, I believe my legislation is a good beginning and gives families and medical professionals quick financial relief when they provide care to elderly relatives.

The task force's purpose of to encourage more extensive debate on the issue of long-term care, including the financial concerns of the long-term health bills that have been introduced in the House or Representatives. It is my hope and the hope of the task force that Congress will place more emphasis on long-term care in the coming year, especially as our population continues to grow older and wiser.

Mr. LAGOMARSINO. Mr. Speaker, during debate on repeal of the Medicare Catastrophic Coverage Act of 1988, an overwhelming message was sent to Congress. That message was that seniors really wanted and needed long-term health care coverage. I don't think Congress heard the message clearly enough because we have not yet delivered what the people asked us to do.

Since our elderly population is continuing to grow and at the same time living longer lives, we must find a way to provide less costly long-term-care insurance for our seniors. Many of today's seniors live on fixed incomes and would face the possibility of bankruptcy should they be stricken with an unforeseen illness requiring a prolonged stay in the hospital or care in a nursing home facility. This is unconscionable and we cannot allow this to happen.

The Pepper Commission, which was established by the Medicare catastrophic legislation, and was retained when the law was repealed, had as one of its chief tasks to report to Congress on how to provide effective, affordable long-term health care coverage for the elderly.

While a recommendation was made, there was a one major flaw in the plan—how do we finance it.

As health care costs continue to escalate, it becomes even more essential to accomplish this objective. The vast majority of seniors I hear from tell me their No. 1 concern is the need to make cheaper long-term-care insurance a reality.

Hopefully, we will reach a consensus and enact legislation to address this issue once and for all.

Mrs. BENTLEY. Mr. Speaker, I want to thank my good friend from Florida, Mr. BILIRAKIS, for organizing this special order around an issue of great concern to our senior community—the issue of long-term care. This is certainly one issue that cannot be excluded from the current debate taking place about our health care system.

As a member of the Select Committee on Aging, I am acutely aware of the fact that the elderly segment of our population continues to increase as a percentage of the total population. Today there are nearly 31 million Americans over the age of 65—and by the year 2010, there will be close to 40 million. In addition, according to a recent GAO study, "The projected number of disabled elderly in the future could range anywhere from 14 to 27 million"; it goes on to say that, "The costs of long-term care for the elderly are projected to almost triple from $42 billion in 1988 to over $120 billion by 2018." But to truly understand the enormity of these figures, we must recognize that the average cost of a year's stay in a nursing home is $33,000. That's a number that many Americans faced with caring for a loved one can easily relate to.

As my colleagues here today will remember, the "Grandaddy" of the long-term-care initiative was the 550-page Pepper Commission report that was released in 1990. In that report, a variety of separate recommendations were outlined, many of which touched on the pressing need for long-term care. This included making disabled persons eligible for social insurance for both home and community based care, including adult day care and respite care; setting up a nursing home program to provide a floor of financial protection in order to prevent impoverishment; and covering users of nursing homes for the first 3 months of care, with a modest co-pay only.

However, in laying the foundation for a comprehensive health coverage program the Pepper Commission, quite obviously, anticipated resulting deficiencies. Accordingly, they specifically noted that "private long-term care insurance will fill gaps not covered by this plan." In addition, they urged Tax Code revisions to encourage the development of private long-term-care insurance in an effort to fill these gaps. These included treating premiums paid, and benefits received, as health insurance for tax purposes. However, many people were quite critical about the way in which the report appeared to gloss over the issue of how long-term-care plans should be constructed using an employer, rather than a Federal Government model.

There were, of course, some other marginal problems with the report. The price tag of the Pepper package was a bit steep, to put it mildly, and the financing mechanisms somewhat nebulous. One of our colleagues on the Budget Committee actually described the $70 billion price tag as being "beyond the outer boundary for serious discussion." As such, the scramble for an acceptable, all-encompassing reform package that improves delivery and access, while lowering costs, continues; in concert with a spirited national debate that includes doctors, hospitals administrators, insurance companies, HMO's pharmaceutical firms, State and local government officers, and political pollsters.

The bottom line is that caring for oneself, or one's family, in their later years, has become one of the greatest worries of most Americans. And as our senior population expands, we must also ensure that opportunities for defrauding and manipulating this segment don't expand as well. While Medigap and long-term-care insurance policies are welcome in order to fill our health care financing gap, unfortunately the temptation for some to take advantage has, and will, continue to occur. Thus, it is imperative that we keep an eye fixed toward ferreting out any abuse of the elderly, and through the cooperative efforts of the insurance industry, keep potential abuses to a minimum.

Clearly, we must continue to encourage and spur on companies to develop a strong long-term-care insurance market, while at the same time providing consumers with the confidence and the education that the market will be free from abuse. Only then will families and individuals invest their hard-earned dollars for future health care needs.

Mr. JAMES. Mr. Speaker, first, I would like to thank my distinguished colleague from Florida, Congressman BILIRAKIS, for his leadership in spearheading this effort to bring attention to the long-term-care crisis in this country.

The number of senior citizens throughout the Nation is expected to more than double by the year 2050. In Florida alone, it is estimated that by the year 2000 there will be approximately 3.87 million people over the age of 60. Assuming these numbers are realized, there is no doubt there will be an increased demand on our long-term-care resources.

How are we going to meet the demand for long-term care today and the increased demand tomorrow? This is a question Congress has been struggling to answer for years.

Obviously, Mr. Speaker, there are no short, simple answers. And while I am not an expert on the myriad problems facing health care by any means, I think that one aspect of any long-term-care solution can be found in the fastest growing health care delivery system today: home health care.

Home care is a great alternative to institutionalization. Why? Ask the patients. At one home health agency in Florida's fourth congressional district, Volusia Home Care, the nurses and therapists tell my staff how much the patients' attitudes and dispositions improve when they receive care in their homes, surrounded by loved ones and belongings.

Mr. Speaker, there are other reasons that home health care is beneficial, and one springs to mind that we in Congress should pay particular attention to: cost effectiveness.

Medicare reimburses home care agencies somewhere in the neighborhood of $65 a day for a nursing visit, a little higher for therapists, and considerably less for visits of nursing assistants. In many cases, the latter group, nursing assistants, or home health aides, are all that are needed to change a patient's bandage and check vital signs.

Now think about this, Mr. President: In some areas, hospital stays can cost upward of $400 per day. Seems to me that we can analyze more carefully some of these cases and see if some patients can get quality care in the home instead of in the hospital. It would save the Government millions and millions of dollars, and patients, on the whole are eminently happier in the home setting.

As I've said, there aren't any simple answers, but I believe home health care is one way that a long-term-care campaign can truly be sustained.

So in conclusion, Mr. Speaker, I think we in Congress should take a long, hard look at some alternatives to the conventional health care wisdom. And as I've said tonight, I think home health care should be a key component of any long-term health care plan.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. McCOLLUM) to revise and extend their remarks and include extraneous material:)

Mr. McCOLLUM, for 5 minutes, today.

Mr. HASTERT, for 60 minutes each day, on March 3, 4, and 5.

(The following Members (at the request of Mr. MFUME) to revise and extend their remarks and include extraneous material:)

Mr. HUTTO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, on February 28.

Mr. STOKES, for 5 minutes each day, on March 3, 4, and 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. McCOLLUM) and to include extraneous matter:)

Mr. HEFLEY in two instances.
Mr. CRANE.
Mr. McDADE.
Mr. PACKARD.
Mr. SAXTON.
Mr. GRADISON.
Mr. GALLO.
Mr. ZIMMER.
Mr. McGRATH.
Mr. DORNAN of California.
Mr. DUNCAN.
Mr. SCHIFF.
Mr. HORTON.
Mr. GUNDERSON.
Mr. GILMAN in three instances.
Mr. HASTERT.
Mr. GREEN of New York.

Mr. BURTON of Indiana.
Mrs. BENTLEY in two instances.
Mr. WALSH.
Mr. YOUNG of Florida.

(The following Members (at the request of Mr. MFUME) and to include extraneous matter:)

Mr. HOCHBRUECKNER.
Mr. MCCURDY.
Mr. LANTOS.
Mr. MAZZOLI.
Mr. TALLON.
Mr. ECKART.
Mr. APPLEGATE.
Mr. RAHALL.
Mr. TORRES.
Mr. DOWNEY.
Mr. FORD of Michigan.
Mr. KILDEE.
Mr. SLATTERY.
Mr. BILBRAY.
Mr. NEAL of Massachusetts.
Mr. EDWARDS of California.
Mr. BORSKI.
Mr. GUARINI.
Mr. VOLKMER.
Mr. MOODY.
Mr. TORRICELLI.
Mr. GEREN of Texas.
Mr. WAXMAN.
Ms. LONG.
Mr. DARDEN.
Mr. WILLIAMS.
Mr. ABERCROMBIE.
Mr. MARKEY.
Mr. ACKERMAN.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2212. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

ADJOURNMENT

Mr. RANGEL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 46 minutes p.m.), under its previous order, the House adjourned until Monday, March 2, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2906. A letter from the Assistant Secretary for Force Management and Personnel, Department of Defense, transmitting the Department's Defense Manpower Requirements Report for fiscal year 1993, pursuant to 10 U.S.C. 115(b)(3)(A); to the Committee on Armed Services.

2907. A letter from the Secretary of the Air Force, transmitting notification that four major defense acquisition programs have breached the unit cost by more than 25 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

2908. A letter from the Secretary of the Navy, transmitting notification of the proposed transfer of the obsolete aircraft carrier *Lexington* [AVT 16] to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, TX, pursuant to 10 U.S.C. 7308; to the Committee on Armed Services.

2909. A letter from the Secretary of Housing and Urban Development, transmitting the biennial President's Report on National Urban Policy, pursuant to 42 U.S.C. 4503(a); to the Committee on Banking, Finance and Urban Affairs.

2910. A letter from the Chairman, Federal Housing Finance Board, transmitting the Board's report on comparability of pay and benefits, pursuant to Public Law 101–73, section 1206 (103 Stat. 523); to the Committee on Banking, Finance and Urban Affairs.

2911. A letter from the Chairman of the Board, National Credit Union Administration, transmitting the Administration's report on comparability of pay and benefits, pursuant to Public Law 101–73, section 1206 (103 Stat. 523); to the Committee on Banking, Finance and Urban Affairs.

2912. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting the annual report of the Corporation for 1991, pursuant to 42 U.S.C. 8106(a); to the Committee on Banking, Finance and Urban Affairs.

2913. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–160, "D.C. Health Occupations Revision act of 1985 Temporary Licensure of Social Workers Temporary Amendment Act of 1992", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2914. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–162, "Illegal Dumping and Operating an Open Dump Fine Increase Amendment Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2915. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–161, "Education in Partnership with Technology Corporation Establishment Act of 1986 Capitalization Amendment Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2916. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–159, "D.C. Depository Act of 1977 Amendment Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2917. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–158, "Florida Avenue Baptist Church Equitable Real Property Tax Relief Temporary Act of 1992", pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2918. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–157, "D.C. Unemployment Compensation Act Temporary Amendment Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2919. A letter from the President, Chesapeake and Potomac Telephone Co., transmitting the C&P Telephone Co. statement of receipts and expenditures for the year 1991, pursuant to the Act of April 27, 1904, ch. 1628 (33 Stat. 374, 375); to the Committee on the District of Columbia.

2920. A letter from the Cochairman, Indian Nations At Risk Task Force, Department of Education, transmitting a copy of the final report of the task force, entitled "Indian Nations At Risk: An Educational Strategy for Action"; to the Committee on Education and Labor.

2921. A letter from the Chairman, Harry S. Truman Scholarship Foundation, transmitting the Foundation's annual report for 1991, pursuant to 20 U.S.C. 2012(b); to the Committee on Education and Labor.

2922. A letter from the Chairman, National Council on Disability, transmitting a report on the reauthorization of the Rehabilitation Act; to the Committee on Education and Labor.

2923. A letter from the Secretary of Education, transmitting the final reports for four Department of Education advisory committees; the Intergovernmental Advisory Council on Education, the Special Study Panel on Education Indicators, the National Learning Center, and the National Council on Vocational Education; to the Committee on Education and Labor.

2924. A letter from the Deputy Assistant General Counsel, Department of Energy, transmitting a notice of a meeting related to the International Energy Program to be held on February 18 and 19, 1992, at the OECD, in Paris, France; to the Committee on Energy and Commerce.

2925. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to United Arab Emirates (Transmittal No. DTC–6–92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2926. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Switzerland (Transmittal No. DTC–46–91), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2927. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Turkey (Transmittal No. DTC–7–92), pursuant to 22 U.S.C. 2776(c), (d); to the Committee on Foreign Affairs.

2928. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Japan (Transmittal No. DTC–3–92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2929. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Japan (Transmittal No. DTC–4–92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2930. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on certain Chinese firms engaged in missile technology proliferation activities, pursuant to Public Law 101–510, section 1702(a) (104 Stat. 1743); to the Committee on Foreign Affairs.

2931. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 4095, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2932. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 1989, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2933. A letter from the Chairman, Federal Maritime Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1991, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2934. A letter from the General Counsel, Legal Services Corporation, transmitting a report on its activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2935. A letter from the Marshal of the Court, Supreme Court of the United States, transmitting the annual report on administrative costs of protecting Supreme Court officials, pursuant to 40 U.S.C. 13n(c); to the Committee on the Judiciary.

2936. A letter from the Assistant Attorney General, transmitting a draft of proposed legislation to amend the Civil Liberties Act of 1988 and for other purposes; to the Committee on the Judiciary.

2937. A letter from the Chairman, Board of Directors, Panama Canal Commission, transmitting a draft of proposed legislation to authorize expenditures for fiscal year 1993 for the operation and maintenance of the Panama Canal and for other purposes; to the Committee on Merchant Marine and Fisheries.

2938. A letter from the Postmaster General, transmitting a copy of the 1991 Comprehensive Statement on Postal Operations which discusses postal programs and policies, pursuant to 39 U.S.C. 2401(g); to the Committee on Post Office and Civil Service.

2939. A letter from the Administrator, Environmental Protection Agency, transmitting the final report on the nonpoint sources of water pollution reduction activities and programs, pursuant to Public Law 100-4, section 316 (101 Stat. 590); to the Committee on Public Works and Transportation.

2940. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and inspector general, and for other purposes; to the Committee on Science, Space, and Technology.

2941. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation entitled, "Veterans' Home Loan Improvement Act of 1992"; to the Committee on Veterans' Affairs.

2942. A letter from the Assistant Secretary of the Army (Civil Works), transmitting the Secretary's recommendations relating to the Cochiti Dam, NM, project; to the Committee on Appropriations and Public Works and Transportation.

2943. A letter from the Secretary of Energy, transmitting the second annual report by the Department on its activities relating to the Defense Nuclear Facilities Safety Board for calendar year 1991; jointly, to the Committees on Armed Services and Energy and Commerce.

2944. A letter from the Acting Administrator, Federal Aviation Administration, transmitting the study of potential use of engine condition monitoring systems on aircraft, pursuant to Public Law 101-508, section 9117(b) (104 Stat. 1388-365); jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

2945. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to authorize the imposition of recreation user fees at water resources development areas administered by the Department of the Army; jointly, to the Committees on Public Works and Transportation and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CONYERS: Committee on Government Operations. H.R. 3732. A bill to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into three categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes; with an amendment (Rept. 102-446, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

H.R. 2056. Referral to the Committee on Merchant Marine and Fisheries extended for a period ending not later than March 6, 1992.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HALL of Texas:

H.R. 4330. A bill to ensure that U.S. firms are accorded priority in the construction of the superconducting super collider; to the Committee on Science, Space, and Technology.

By Mr. CHANDLER (for himself, Mr. DICKS, Mr. SWIFT, Mrs. UNSOELD, and Mr. MORRISON):

H.R. 4331. A bill to amend the Forest Resources Conservation and Shortage Relief Act of 1990 to modify the basis for a determination by the Secretary of Commerce to increase the volume of unprocessed timber originating from State lands that will be prohibited from export, and for other purposes; jointly, to the Committees on Foreign Affairs, Agriculture, and Interior and Insular Affairs.

By Mr. DE LUGO:

H.R. 4332. A bill to make technical corrections regarding the effect of provisions relating to the eligibility of certain insular areas for assistance under the HOME Investment Partnerships Act, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GALLO:

H.R. 4333. A bill to amend title II of the Social Security Act to prohibit the buying and selling of Social Security account numbers; to the Committee on Ways and Means.

By Mr. GEREN of Texas (for himself, Mr. CLINGER, Mr. EMERSON, and Mr. PARKER):

H.R. 4334. A bill to amend title 49, United States Code, relating to deregulation of intrastate trucking; to the Committee on Public Works and Transportation.

By Mr. HASTERT:

H.R. 4335. A bill to amend title 23, United States Code, relating to motor carrier transportation, and for other purposes; jointly, to the Committees on Public Works and Transportation and the Judiciary.

By Mr. JACOBS:

H.R. 4336. A bill prohibiting the manufacture, sale, delivery, or importation of certain motor vehicles and rail cars that do not have seat belts, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. TORRES:

H.R. 4337. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KILDEE (for himself and Mr. FORD of Michigan):

H.R. 4338. A bill to suspend certain compliance and accountability measures under the National School Lunch Act; to the Committee on Education and Labor.

By Mr. MARKEY (for himself, Mr. MOAKLEY, Mr. STUDDS, Mr. ATKINS, Mr. EARLY, Mr. DONNELLY, Mr. KENNEDY, Mr. MAVROULES, and Mr. FRANK of Massachusetts):

H.R. 4339. A bill to amend the Federal Water Pollution Control Act to provide for improvement of the quality of Boston Harbor and adjacent waters; to the Committee on Public Works and Transportation.

By Mr. WILLIAMS:

H.R. 4340. A bill to provide employment opportunities to unemployed individuals in high unemployment areas in projects to repair and renovate vitally needed community facilities, and for other purposes; to the Committee on Education and Labor.

By Mr. PACKARD (for himself, Mr. RIGGS, and Mr. CUNNINGHAM):

H.R. 4341. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research and experimental credit and to reinstate the investment tax credit; to the Committee on Ways and Means.

By Mr. PENNY (for himself, Mr. SMITH of New Jersey, Mr. MONTGOMERY, and Mr. STUMP):

H.R. 4342. A bill to amend title 38, United States Code, to expand job assistance programs for Vietnam era veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MARKEY (for himself, Mr. HENRY, Mr. BONIOR, Mr. KOSTMAYER, Mr. SIKORSKI, Mr. SCHEUER, Mr. STUDDS, Mr. WAXMAN, Mr. WYDEN, Mr. UPTON, Mrs. KENNELLY, Mr. KENNEDY, Mr. FORD of Michigan, Mr. MILLER of California, Mr. BROWN, Mr. DELLUMS, Mr. STOKES, Mr. ANDREWS of Maine, Mr. ATKINS, Mr. AUCOIN, Mr. BEILENSON, Mrs. BOXER, Mr. CARR, Mr. CONYERS, Mr. DEFAZIO, Ms. DELAURO, Mr. DE LUGO, Mr. DWYER of New Jersey, Mr. FALEOMAVAEGA, Mr. FRANK of Massachusetts, Mr. GILCHREST, Mr. GOODLING, Mrs. JOHNSON of Connecticut, Mr. KILDEE, Mr. KOLTER, Mr. KOPETSKI, Mr. LEACH, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. MCHUGH, Mr. MAVROULES, Mr. MFUME, Mr. MINETA, Mrs. MORELLA, Mr. MRAZEK, Ms. NORTON, Mr. OLVER, Mr. OWENS of Utah, Mr. PALLONE, Ms. PELOSI, Mr. PURSELL, Mr. SANDERS, Mrs. SCHROEDER, Ms. SLAUGHTER, Mr. SOLARZ, Mr. TRAFICANT, Mr. TRAXLER, Mr. WALSH, Mr. WEISS, Mr. WOLPE, and Mr. YATES):

H.R. 4343. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; jointly, to the Committees on Energy and Commerce.

By Mr. RAHALL (for himself and Mr. MILLER of California):

H.R. 4344. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to extend the Abandoned Mine Reclamation Program, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SAWYER:

H.R. 4345. A bill to provide assistance to States to enable such States to raise the quality of instruction in mathematics and science by providing equipment and materials necessary for hands-on instruction; to the Committee on Education and Labor.

H.R. 4346. A bill to establish a national Albert Einstein Teacher Fellowship Program for outstanding secondary school science and mathematics teachers; to the Committee on Education and Labor.

By Mr. SOLOMON:

H.R. 4347. A bill to amend title 38, United States Code, to change the date for the beginning of the Vietnam era for the purpose of veterans benefits from August 5, 1964, to December 21, 1961; to the Committee on Veterans' Affairs.

By Mr. STAGGERS:

H.R. 4348. A bill to authorize appropriations for fiscal years 1993 through 1996 to carry out the Solid Waste Disposal Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STARK (for himself and Mr. RANGEL):

H.R. 4349. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on sales on syringes and intravenous systems which do not meet antineedlestick prevention standards; to the Committee on Ways and Means.

By Mr. SYNAR (for himself, Mr. DURBIN, Mr. RITTER, Mr. OWENS of Utah, Mr. ANDREWS of Texas, Mr. LEVINE of California, Mr. JACOBS, Mrs. COLLINS of Illinois, and Mr. HANSEN):

H.R. 4350. A bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the manufacture, sale, promotion, and distribution of tobacco and other products containing tar, nicotine, tobacco additives, carbon monoxide, and other potentially harmful constituents, and for other purposes; to the Committee on Energy and Commerce.

By Mr. THOMAS of California (for himself, Mrs. JOHNSON of Connecticut, Mr. MATSUI, Mr. STARK, Mr. LOWERY of California, Mr. TOWNS, Mr. LEVINE of California, Mrs. MORELLA, Mr. DOOLITTLE, Mr. CUNNINGHAM, Mr. GALLEGLY, Mr. CONDIT, Mr. POSHARD, Mr. LEHMAN of California, Mr. RIGGS, Mr. DIXON, Mr. LANTOS, Mr. FAZIO, Mr. MARTINEZ, Mr. LEWIS of California, and Mr. LAGOMARSINO):

H.R. 4351. A bill to revise the eligibility requirements applicable to emergency and extended unemployment compensation benefits; to the Committee on Ways and Means.

By Mr. TORRICELLI:

H.R. 4352. A bill to provide support for enterprises engaged in the research, development, application, and commercialization of advanced critical technologies through a private consortium of such enterprises; jointly, to the Committees on Science, Space, and Technology, Energy and Commerce, and Banking, Finance and Urban Affairs.

By Mr. WILSON (for himself and Mr. BRYANT):

H.R. 4353. A bill to prohibit exports of unprocessed timber and wood chips to any country that does not provide reciprocal access to its markets for finished wood products and paper produced in the United States; to the Committee on Foreign Affairs.

By Mr. GILMAN (for himself and Mr. MANTON, Mr. FISH, Mr. DORNAN of California, Mr. HOCHBRUECKNER, Mr. MCGRATH, Mr. MCNULTY, and Ms. MOLINARI):

H.J. Res. 427. Joint resolution to designate March 17, 1992, as "Irish Brigade Day"; to the Committee on Post Office and Civil Service.

By Mr. DINGELL:

H.J. Res. 428. Joint resolution to authorize the President to proclaim the last Friday of April 1992 as "National Arbor Day"; to the Committee on Post Office and Civil Service.

By Mr. GUARINI (for himself and Mr. FROST, Mr. FASCELL, Mr. GALLO, Mr. FUSTER, Mr. SCHUMER, Mr. MCGRATH, Mr. STOKES, Ms. LONG, Mr. FAWELL, Mr. FLAKE, Mr. LAGOMARSINO, Mr. UPTON, Mrs. MINK, Mr. INHOFE, Mr. PRICE, Mr. MORRISON, Mr. LIVINGSTON, Mr. GALLEGLY, Mr. OWENS of New York, Mr. RANGEL, Mrs. COLLINS of Illinois, Mr. BILIRAKIS, Mr. BENNETT, Mrs. PATTERSON, Mr. JEFFERSON, Mr. ROYBAL, Mr. EMERSON, Mr. WHITTEN, Mr. ANDREWS of New Jersey, Mr. FAZIO, Mr. HYDE, Mr. ENGEL, Mr. DE LUGO, Mr. TRAFICANT, Mr. DELLUMS, Mrs. BOXER, Mr. LANTOS, Mr. BEVILL, Mr. SOLOMON, Mr. FISH, Mr. TOWNS, Mr. HORTON, Mr. WOLF, Mr. MARTINEZ, Mr. MCMILLAN of North Carolina, Mr. MCMILLEN of Maryland, Mr. GREEN of New York, Mr. DE LA GARZA, Mr. PAYNE of New Jersey, Mr. HUGHES, Mr. JONES of Georgia, Mr. RAVENEL, Mr. MANTON, Mr. LENT, Mr. PAYNE of Virginia, Mr. ROE, Mr. SCHEUER, Mr. RAHALL, Mr. TORRICELLI, Mr. PICKETT, Mr. QUILLEN, Mr. YATRON, Mr. RICHARDSON, Mr. LEHMAN of Florida, Mr. NAGLE, Mr. YOUNG of Florida, Mr. WALSH, Mr. CARDIN, Mr. HAYES of Louisiana, Mr. MCNULTY, Mr. HARRIS, Mr. NEAL of Massachusetts, Mr. VANDER JAGT, Mr. MAZZOLI, Mr. TALLON, Ms. PELOSI, Mr. JACOBS, Mr. WAXMAN, Mr. BROWDER, Mr. ROSE, Mr. MILLER of Washington, and Mr. DEFAZIO):

H.J. Res. 429. Joint resolution designating May 3, 1992, through May 9, 1992, as "Be Kind to Animals and National Pet Week"; to the Committee on Post Office and Civil Service.

By Mr. MORAN (for himself, Mr. DICKS, Mr. FAZIO, Mr. HOYER, Mrs. BOXER, Mr. MCMILLEN of Maryland, Ms. NORTON, Mr. LEHMAN of California, Mrs. BYRON, Mr. MATSUI, Mr. WHEAT, Mrs. MORELLA, Mr. DWYER of New Jersey, Mr. ACKERMAN, Mr. BARNARD, Mr. BORSKI, Mr. CARDIN, Mr. CHAPMAN, Mr. DIXON, Mr. DYMALLY, Mr. ERDREICH, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. GUARINI, Mr. HAYES of Illinois, Mr. HOBSON, Mr. KOSTMAYER, Mr. LANTOS, Mr. MCCLOSKEY, Mr. MFUME, Mrs. MINK, Mr. RAY, Mr. SAXTON, and Mr. WOLF):

H.J. Res. 430. Joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. TORRES (for himself and Mr. MCCANDLESS):

H.J. Res. 431. Joint resolution designating the week beginning April 19, 1992, as "National Credit Education Week"; to the Committee on Post Office and Civil Service.

By Mr. FEIGHAN:

H. Con. Res. 284. Concurrent resolution expressing the sense of the Congress that the President should pursue a multilateral initiative designed to bring to justice those responsible for the bombing of Pan Am Flight 103 over Lockerbie, Scotland, on December 21, 1988; to the Committee on Foreign Affairs.

By Mr. GILLMOR:

H. Con. Res. 285. Concurrent resolution expressing the sense of the Congress that the President has the authority to, and should, implement the indexation of the basis of assets for purposes of determining the amount of gain which is subject to taxation; to the Committee on Ways and Means.

By Mr. KOSTMAYER:

H. Con. Res. 286. Concurrent resolution expressing the sense of the Congress that an economic recovery program should include expenditures for certain State and local programs; to the Committee on Interior and Insular Affairs.

By Mr. GILLMOR:

H. Res. 383. Resolution to amend the Rules of the House of Representatives to prohibit the Committee on Rules from reporting rules waiving the germaneness requirement; to the Committee on Rules.

By Mr. GUNDERSON (for himself, Mr. STENHOLM, Mr. NAGLE, Mr. YATRON, Mr. RIGGS, Mr. MILLER of Ohio, Mr. JOHNSON of South Dakota, Mr. HERGER, Mr. MOODY, Mr. HORTON, Mr. HOUGHTON, Mr. BORSKI, Mr. KLUG, Mr. SENSENBRENNER, Mr. OBEY, Mr. PETERSON of Minnesota, Mr. WALSH, Mr. CONDIT, Mr. CAMPBELL of Colorado, Mr. MCDADE, Mr. PETRI, Mr. DORGAN of North Dakota, Mr. PANETTA, Mr. HOPKINS, and Mr. STAGGERS):

H. Res. 384. Resolution expressing the sense of the House of Representatives that the President should terminate certain current Generalized System of Preference petitions from Central and Eastern European Countries; to the Committee on Ways and Means.

By Mr. PACKARD (for himself, Mr. RIGGS, and Mr. CUNNINGHAM):

H. Res. 385. Resolution expressing the sense of the House of Representatives that any future reduction in defense spending should be used for deficit reduction; to the Committee on Government Operations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

329. By the SPEAKER: Memorial of the 21st Legislature of Guam, relative to an exemption to the pest control fees charged to residents of Guam by the USDA; to the Committee on Agriculture.

330. Also, memorial of the Senate of the Commonwealth of Kentucky, relative to hon-

oring Gabor Roszik; to the Committee on Foreign Affairs.

331. Also, memorial of the Legislature of the State of Hawaii, relative to Federal trust obligations; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 53: Mrs. VUCANOVICH and Mr. FOGLIETTA.

H.R. 74: Mr. DOOLEY.

H.R. 78: Mr. WELDON.

H.R. 118: Mr. EWING, Ms. HORN, Mr. GEJDENSON, and Mr. RICHARDSON.

H.R. 576: Mr. DYMALLY, Mr. POSHARD, Mr. LIGHTFOOT, Mr. EVANS, Mr. DOOLEY, and Mr. LIVINGSTON.

H.R. 617: Mr. RAY, and Mrs. LLOYD.

H.R. 640: Mr. ALLEN.

H.R. 722: Mr. HORTON, Mr. RAMSTAD, and Mr. MURPHY.

H.R. 723: Mr. HORTON, Mr. RAMSTAD, and Mr. MURPHY.

H.R. 747: Mr. MCMILLEN of Maryland and Mr. ATKINS.

H.R. 816: Mr. HANSEN and Mr. ORTON.

H.R. 945: Mr. ORTON, Mr. DIXON, Mr. CONYERS, Mr. BROWDER, Mr. BORSKI, Mr. LIGHTFOOT, and Mr. ROTH.

H.R. 1063: Mr. BROOKS and Mr. WILSON.

H.R. 1076: Mr. BATEMAN, Mr. QUILLEN, Mr. LIPINSKI, Mr. MORAN, Mr. FROST, Mr. CAMP, and Mr. ENGEL.

H.R. 1145: Mr. GALLO and Mr. MFUME.

H.R. 1188: Mr. AUCOIN and Mr. KOLTER.

H.R. 1200: Mr. PACKARD.

H.R. 1241: Mr. PAXON, Mr. FAWELL, Mr. SCHIFF, Mr. SHAYS, Mr. HOYER, and Mr. ROTH.

H.R. 1257: Mr. MILLER of Ohio and Mr. RAMSTAD.

H.R. 1300: Mr. CLEMENT.

H.R. 1303: Mr. VANDER JAGT, Mr. KLECZKA, Mr. WILSON, Mr. DONNELLY, Mr. MAZZOLI, Mr. RAHALL, Mr. STARK, and Mr. GORDON.

H.R. 1348: Mr. TANNER.

H.R. 1354: Mr. DOWNEY, Mr. ROE, Mr. CONYERS, and Mr. PRICE.

H.R. 1393: Mr. SAVAGE.

H.R. 1405: Mr. OWENS of Utah.

H.R. 1500: Mr. EVANS, Mr. DOOLEY, Ms. KAPTUR, Mr. ASPIN, Mr. MCMILLEN of Maryland, and Mr. ATKINS.

H.R. 1536: Mrs. VUCANOVICH.

H.R. 1573: Mr. PETERSON of Florida and Mr. HAYES of Louisiana.

H.R. 1598: Mr. MCDADE, Mr. LEWIS of Florida, and Mr. SYNAR.

H.R. 1633: Mr. ENGLISH and Mr. BACCHUS.

H.R. 1774: Mr. MCMILLEN of Maryland and Mrs. COLLINS of Michigan.

H.R. 1969: Ms. HORN, Mr. ATKINS, Mr. COLEMAN of Texas, Mr. CONYERS, Mr. MORAN, Mr. MRAZEK, Mr. WAXMAN, and Mr. MCCLOSKEY.

H.R. 1987: Mr. LAROCCO, Mr. ANDREWS of New Jersey, Ms. PELOSI, Mr. PERKINS, Mr. FRANK of Massachusetts, Mr. MCCLOSKEY, and Mr. STAGGERS.

H.R. 2104: Mr. BOEHNER.

H.R. 2363: Mr. DEFAZIO, Mr. DOWNEY, Ms. NORTON, Mr. OLIN, Mr. TORRES, Mr. PALLONE, Mr. RITTER, and Mr. STAGGERS.

H.R. 2419: Mr. WALSH.

H.R. 2522: Mr. ATKINS.

H.R. 2540: Mrs. MEYERS of Kansas.

H.R. 2541: Mr. BRYANT.

H.R. 2565: Mr. JONES of North Carolina and Mr. FASCELL.

H.R. 2569: Mr. PACKARD.

H.R. 2595: Mr. PACKARD.

H.R. 2598: Mr. ALLEN.

H.R. 2693: Mr. COX of California.

H.R. 2773: Mr. BARTON of Texas.

H.R. 2796: Mr. GINGRICH.

H.R. 2915: Mr. ALLEN.

H.R. 3105: Mr. ACKERMAN and Mr. CHAPMAN.

H.R. 3138: Mr. STARK, Ms. ROS-LEHTINEN, and Mr. REED.

H.R. 3146: Mr. ALLEN.

H.R. 3164: Mr. WILSON, Mr. HERTEL, Mr. ROYBAL, Mr. BILBRAY, Mr. PACKARD, and Mr. SUNDQUIST.

H.R. 3171: Mr. FEIGHAN.

H.R. 3198: Mr. WEBER.

H.R. 3281: Mr. COYNE.

H.R. 3317: Mr. BAKER and Mr. ZELIFF.

H.R. 3373: Mrs. VUCANOVICH, Mr. SHARP, and Mr. HAYES of Illinois.

H.R. 3395: Mr. KLUG.

H.R. 3420: Mr. RIGGS, Mr. ROWLAND, Mr. WEBER, Mr. KOPETSKI, Mr. COLEMAN of Missouri, Mr. TAYLOR of North Carolina, Mr. ORTON, Mr. GLICKMAN, Mr. SKELTON, and Mr. SUNDQUIST.

H.R. 3441: Mr. SANTORUM.

H.R. 3462: Mr. FROST, Mr. VENTO, Mr. DURBIN, Mr. STUDDS, Mr. LAFALCE, Mr. RANGEL, and Mr. CAMPBELL of California.

H.R. 3470: Mr. HOBSON.

H.R. 3510: Mr. ANDREWS of New Jersey.

H.R. 3516: Mr. BLAZ and Mr. RITTER.

H.R. 3534: Mr. JEFFERSON, Mr. LEHMAN of Florida, Mrs. MINK, Mr. SERRANO, Mr. TOWNS, and Ms. WATERS.

H.R. 3536: Mr. JEFFERSON, Mr. LEHMAN of Florida, Mrs. MINK, Mr. SERRANO, Mr. TOWNS, and Ms. WATERS.

H.R. 3636: Mr. STOKES.

H.R. 3654: Mr. BILBRAY, Mrs. BYRON, Mr. CLEMENT, Mr. ECKART, Mr. HALL of Texas, Mr. HARRIS, Mr. HEFNER, Mr. HUGHES, Mr. HUTTO, Mrs. KENNELLY, Mrs. LLOYD, Mr. MCCURDY, Ms. OAKAR, Mr. ORTON, Mr. PETERSON of Florida, Mr. PICKETT, Mr. RAHALL, Mr. RICHARDSON, Mr. SAWYER, Mr. SPRATT, Mr. SWIFT, and Mr. WAXMAN.

H.R. 3732: Mr. YATES, Mr. SERRANO, Mr. KOPETSKI, Mr. BRUCE, Mr. VALENTINE, Mr. MOLLOHAN, and Mr. STAGGERS.

H.R. 3736: Mr. WISE, Mr. KOPETSKI, Mr. AUCOIN, Mr. SANDERS, Mr. PERKINS, Mr. BILBRAY, Mr. ATKINS, and Mr. RIGGS.

H.R. 3741: Mr. RITTER, Mr. SCHIFF, Mr. HEFLEY, Mr. EMERSON, Mr. MACHTLEY, and Mr. FROST.

H.R. 3764: Mr. GOODLING.

H.R. 3781: Mr. MARTIN, Mr. LENT, Mr. ANDREWS of Texas, Mr. ENGLISH, Mr. RAHALL, Mr. CRANE, Mr. TOWNS, Mr. WALSH, Mr. SUNDQUIST, Mr. JACOBS, Mr. LEHMAN of California, and Mr. CAMPBELL of California.

H.R. 3785: Mr. GUARINI and Mr. HOAGLAND.

H.R. 3799: Mr. SHAYS.

H.R. 3846: Mr. COUGHLIN.

H.R. 3876: Mr. THOMAS of California.

H.R. 3938: Mr. TOWNS, Mr. OWENS of New York, and Mr. FOGLIETTA.

H.R. 3969: Mr. ALLEN.

H.R. 3975: Mr. STAGGERS, Mr. FLAKE, Mr. DOWNEY, and Mr. CLAY.

H.R. 4002: Mr. GEPHARDT, Mr. WEISS, and Mr. FROST.

H.R. 4016: Mr. FAZIO, Mr. ROYBAL, Mr. ANDERSON, and Mr. TORRES.

H.R. 4020: Mr. GOODLING.

H.R. 4032: Mr. GOSS.

H.R. 4034: Mr. ABERCROMBIE, Mr. WAXMAN, and Mr. ATKINS.

H.R. 4045: Mr. MINETA, Mr. SANDERS, and Mr. MAVROULES.

H.R. 4063: Mr. BILBRAY.

H.R. 4083: Mrs. UNSOELD, Mr. OWENS of Utah, Ms. OAKAR, Mr. KOSTMAYER, Mr. APPLEGATE, Mr. JACOBS, Mr. RINALDO, Mr. GONZALEZ, Mr. ROGERS, Mr. BILBRAY, Mr. WOLPE, Mr. COLEMAN of Texas, and Mr. SANGMEISTER.

H.R. 4099: Mr. HANCOCK, Mr. THOMAS of Wyoming, and Mr. STUMP.

H.R. 4100: Mr. LANTOS and Mr. STAGGERS.

H.R. 4111: Mr. DE LUGO, Mr. MCNULTY, Mr. OLIN, Mr. FROST, Mr. HATCHER, Mr. HUGHES, and Mr. OWENS of New York.

H.R. 4189: Mr. POSHARD.

H.R. 4190: Mr. BREWSTER, Mr. MILLER of Ohio, Mr. FROST, and Mr. MOLLOHAN.

H.R. 4206: Mr. MARKEY, Mr. WEISS, Mr. DE LA GARZA, and Mrs. SCHROEDER.

H.R. 4211: Mrs. JOHNSON of Connecticut, Mr. BENNETT, Mr. MURPHY, Mrs. SCHROEDER, Mr. DORNAN of California, Mr. JACOBS, Mr. FRANK of Massachusetts, Mr. TAYLOR of Mississippi, Mr. FIELDS, Mr. SANTORUM, Mr. ALLEN, Mr. BERMAN, Mr. ROHRABACHER, Mr. ZELIFF, Mr. HUTTO, Mr. SHAYS, Mr. COX of California, Mr. DUNCAN, Mr. ZIMMER, and Mr. TAYLOR of North Carolina.

H.R. 4220: Mrs. LLOYD, Mr. HOLLOWAY, and Ms. LONG.

H.R. 4221: Mrs. JOHNSON of Connecticut and Mr. AUCOIN.

H.R. 4230: Mr. MURPHY and Mr. FROST.

H.R. 4234: Mr. BARNARD, Mr. SLATTERY, Mr. LEHMAN of California, Mr. MORAN, Mr. RIDGE, Mr. LEWIS of Florida, and Mrs. JOHNSON of Connecticut.

H.R. 4256: Mr. EMERSON, Mr. KLUG, AND Mr. BRUCE.

H.R. 4268: Mr. DELAY, Mr. CAMPBELL of California, Mr. GINGRICH, Mr. CAMPBELL of Colorado, Mr. WEBER, Mr. CUNNINGHAM, and Mr. ZIMMER.

H.R. 4277: Mr. MARTINEZ, Mr. MURTHA, and Mr. FROST.

H.R. 4287: Mr. MCNULTY.

H.R. 4288: Mr. LIVINGSTON.

H.J. Res. 239: Mr. HAYES of Illinois and Mr. MACHTLEY.

H.J. Res. 318: Mr. KILDEE, Mr. ROSE, Mrs. JOHNSON of Connecticut, Mr. TRAXLER, Ms. PELOSI, Mr. NEAL of North Carolina, Mr. GILMAN, Mr. MORAN, Mr. MONTGOMERY, Mr. UPTON, Mr. MARTINEZ, Mr. LEWIS of California, Mr. MOORHEAD, Mr. WHEAT, Mr. STAGGERS, Mr. BONIOR, Mr. PETERSON of Florida, Mr. PRICE, Mr. MACHTLEY, Ms. OAKAR, Mr. CARR, Mr. PARKER, Mr. VALENTINE, Mr. RAY, Mr. SOLOMON, Mr. SCHUMER, and Mr. DELLUMS.

H.J. Res. 336: Mr. ESPY, Mr. HORTON, Mr. WEISS, Mr. SOLARZ, Mr. MCMILLEN of Maryland, Mr. ROE, Mr. FALEOMAVAEGA, and Mr. DE LUGO.

H.J. Res. 351: Mr. KOPETSKI.

H.J. Res. 355: Mr. SAVAGE.

H.J. Res. 358: Mr. ERDREICH, Mr. SKEEN, Mr. HATCHER, Mr. SERRANO, Mr. ESPY, Mr. GEJDENSON, Mr. MCGRATH, Mr. NAGLE, Mr. GONZALEZ, Mr. ATKINS, Mr. MURPHY, Mr. KOPETSKI, Mr. OWENS of Utah, Mr. RICHARDSON, Mr. LAROCCO, Mr. LEVINE of California, Mr. TOWNS, Mr. MCMILLEN of Maryland, Mr. LIPINSKI, and Mr. MORAN.

H.J. Res. 388: Mr. CLEMENT, Mr. MFUME, Mr. HENRY, Mr. ERDREICH, Mr. TALLON, Mr. LEVIN of Michigan, Mr. TRAXLER, Mr. FOGLIETTA, Mr. HORTON, Mr. WAXMAN, Mr. CALLAHAN, Mr. MCDADE, Mr. FASCELL, and Mr. TRAFICANT.

H.J. Res. 408: Mr. APPLEGATE, Mr. ROE, Mr. TOWNS, and Mr. GUARINI.

H.J. Res. 409: Mr. POSHARD, Mr. MCMILLEN of Maryland, Mr. FALEOMAVAEGA, Mr. GUARINI, Mr. CLEMENT, Mr. ERDREICH, Mr. JEFFERSON, Mr. BRUCE, Mr. ROE, Mr. SKEEN, Mr. BUSTAMANTE, Mr. HORTON, Mr. MARTINEZ, Mr. DEFAZIO, Ms. NORTON, Mr. MURPHY, Mr.

PALLONE, Mr. THORNTON, Mr. KOPETSKI, Mr. TORRES, Mr. MAZZOLI, Mrs. KENNELLY, Mr. CHAPMAN, Mr. ANTHONY, Mr. BREWSTER, Mr. SAWYER, Mr. BURTON of Indiana, Mr. ANNUNZIO, Mr. NATCHER, Mr. AUCOIN, Mr. SAVAGE, Mr. ROEMER, Mr. LUKEN, Mr. HUGHES, Mr. MOAKLEY, Mr. HEFLEY, Mrs. UNSOELD, Mr. DORGAN of Dakota, Mr. FEIGHAN, Mr. ROYBAL, Ms. LONG, Mr. DARDEN, Mr. HYDE, Mr. BALLENGER, Mr. DE LA GARZA, Ms. PELOSI, Mr. MCCLOSKEY, Mr. HARRIS, Mr. FASCELL, Mr. HOAGLAND, Mr. COX of California, Mr. ROBERTS, Mr. BOEHLERT, Mr. GILMAN, Mr. THOMAS of Wyoming, Mr. ROSE, Mr. WISE, Mr. MONTGOMERY, Mr. GEPHARDT, Mr. JONTZ, Mr. ALEXANDER, Mr. MCNULTY, Ms. DELAURO, Mr. APPLEGATE, Mr. LEVIN of Michigan, Mr. ZIMMER, Mr. LEWIS of California, Mr. BONIOR, Mr. HAYES of Illinois, Mr. DURBIN, Mr. JENKINS, Mr. WAXMAN, Mr. COSTELLO, Mrs. MINK, Mr. DWYER of New Jersey, Mr. FOGLIETTA, Mr. OWENS of New York, Mr. LIPINSKI, Mr. SANGMEISTER, and Mr. DELLUMS.

H.J. Res. 416: Mr. HORTON, Ms. NORTON, Mr. TOWNS, Mr. LIPINSKI, Mr. ROE, Mr. FALEOMAVAEGA, Mr. SOLOMON, Mr. POSHARD, and Mr. HAMILTON.

H.J. Res. 417: Mr. KOPETSKI, and Mr. GUARINI.

H. Con. Res. 92: Mr. BARNARD, Mr. AUCOIN, Mr. KLUG, and Mr. KOSTMAYER.

H. Con. Res. 130: Mr. CHAPMAN.

H. Con. Res. 224: Mr. MACHTLEY, Mr. COSTELLO, Mr. SOLOMON, Mr. WHEAT, and Mr. MURPHY.

H. Con. Res. 256: Mr. KILDEE, Mr. MCDERMOTT, Mr. SKAGGS, Mr. ORTON, Mr. FALEOMAVAEGA, Mr. LANTOS, Mr. TOWNS, Ms. HORN, Mr. ATKINS, Mr. RHODES, Mr. ROYBAL, and Mr. SANDERS.

H. Con. Res. 264: Mr. SOLOMON and Mr. LIPINSKI.

H. Res. 315: Mr. COBLE and Mr. GOSS.

H. Res. 332: Mr. PETRI, Mr. ARMEY, Mr. WALSH, Mr. CAMP, Mr. MCCANDLESS, Mr. GOODLING, Mr. SCHIFF, and Mr. MOORHEAD.

H. Res. 333: Mr. LIPINSKI.

H. Res. 350: Mr. KILDEE, Mr. STAGGERS, Ms. KAPTUR, Mr. KENNEDY, Mr. KOSTMAYER, and Mr. MOODY.

H. Res. 359: Mr. TORRES.

H. Res. 372: Mr. ACKERMAN, Mr. TRAXLER, Mr. SCHEUER, Mr. FRANK of Massachusetts, Mr. MACHTLEY, Mr. FASCELL, Mr. ARMEY, Mrs. MEYERS of Kansas, Mr. RHODES, Mr. SOLARZ, Ms. MOLINARI, Mr. BEILENSON, Mr. LIPINSKI, Mr. PORTER, Mr. LANTOS, Mr. KOSTMAYER, Mr. KOPETSKI, Mr. WALSH, Mr. FALEOMAVAEGA, Mr. MCNULTY, Mr. LEHMAN of Florida, and Mr. FROST.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1662: Mr. ORTON.

H. Res. 194: Mr. SKEEN.

PETITIONS, ETC.

Under clause 1 of rule XXII,

141. The SPEAKER presented a petition of the Legislature of Rockland County, NY, relative to the deportation of Haitian refugees; which was referred to the Committee on the Judiciary.

SENATE—*Thursday, February 27, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Is anything too hard for God?—Genesis 18:14.

Almighty God, this penetrating question, addressed to Father Abraham, answers itself. Nothing is too hard for God! The question is eminently relevant to our situation today, surrounded as we are by crises—local, national, and global—as the Senate debates and decides imponderable issues under the cloud of a national election, as constituents and special interests register their concerns and demands, as Senators, political parties and unnumbered caucuses struggle with controversy, help them hear this timely question as Abraham heard it: "Is anything too hard for God?"

Having heard it, enternal Father, give them grace to respond affirmatively to the question and to look to the God for whom nothing is impossible, to guide them through the labyrinth of issues confronting them. Let the light of truth illuminate them and lead them to equitable solutions.

In the name of Jesus, Light of the World—the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC., February 27, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WOFFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, an inquiry to the Chair. Am I correct in my understanding that the Journal of the proceedings has been approved, and the time for the two leaders reserved for their use later in the day?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators, an agreement was reached last night regarding the disposition of the then-pending matter and other matters. It is printed on page 2 of the Calendar of Business. In brief summary, it provides that when the Senate completes its morning business at 11:15 this morning, it will return to consideration of S. 479.

At that time, Senator SASSER will be recognized to make a budget point of order against the pending amendment, and the Senator from Arizona [Mr. MCCAIN] will then be recognized to make a motion to waive the Budget Act.

There will then be 2 hours and 10 minutes of debate on the motion to waive the Budget Act.

On the completion of that debate or the yielding back of some portion of that time, the Senate will vote on the motion to waive the Budget Act.

If the motion to waive the Budget Act carries—that is, if it prevails by 60 or more votes—then the remainder of the agreement will become inoperative. There will then be no further agreement. The amendment will be before the Senate, subject to second-degree amendment or such other action as is permitted under the rule.

If, however, the motion to waive the Budget Act does not prevail, that is, if it attains less than the required 60 votes, the agreement will then go into effect. There will then be a maximum of five other amendments, including the managers' technical amendment, all but two of those amendments having time agreements as indicated in the agreement.

Following disposition of this bill, pursuant to that agreement, the Senate will then proceed to the consideration of the nomination of Barbara Franklin to be Secretary of Commerce, and during the day there will also be a vote on a motion to invoke cloture on the motion to proceed to H.R. 1426, a bill to recognize the Lumbee Indian Tribe of North Carolina.

So, Mr. President, Senators should be prepared for at least one and, more likely, several votes throughout the day today.

Mr. President, I thank my colleagues, and I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:15 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. KOHL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin [Mr. KOHL] is recognized.

Mr. KOHL. I thank the Chair.

(The remarks of Mr. KOHL, pertaining to the introduction of S. 2270 and S. 2271, are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

GUNS

Mr. KOHL. Mr. President, I have here an article entitled "In the Line of Fire: The Power and Prestige of a Gun." This article appeared on the front page of the Sunday February 2 edition of the Washington Post. This article examines a problem pervading our Nation's Capital—as well as many other communities—which is the frightening growth of gun-related violence in our cities and on our streets.

In the article, the Washington Post polled Lorton Prison inmates serving time on weapons charges. These inmates explained how easily they could obtain firearms in the District where, except for handguns bought before September 1976 and registered before February 1977, possession is illegal. They purchased their weapons on the black market and in States that do not require background checks of gun buyers.

Mr. President, the sad truth is that in 1991, 383 of the District's 489 murders were committed with guns. These statistics confirm the inmates' indifference to the value of their own lives and the lives of others. Of course, there is no panacea for this deadly problem. However, the Brady bill, which requires mandatory background checks and waiting periods for gun purchasers, is a small but important step toward keeping guns out of the hands of criminals and drug traffickers.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. President, I ask unanimous consent that the Washington Post article "In the Line of Fire" be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A CRAZED FASCINATION WITH GUNS

(By Sue Anne Pressley and Keith Harriston)

Richard Paul Vernon is 20 years old, with a chiseled face and cold, dark eyes. In the sixth grade, he managed to get his first gun. Now he belongs to the younger generation of inmates at the Lorton prison complex, a group recognized as the most brutal, the most quick-tempered and the most gun-crazy.

"I'm just a gun freak," Said Vernon, an inmate convicted of drug charges whose arsenal included the latest and most stylish of semiautomatic weapons. "When I had an Uzi, I was just waiting for somebody to [mess] with me."

Donnell Hunter, 21, used to rob people. It was so easy. All he had to do was show his gun and victims—well-dressed, well-educated people who normally might snub him—would cower and beg and cry like small children.

"They panicked," he said with a smile. "They'd beg me not to shoot them. They'd give me what I wanted. 'Just please, please don't shoot me.'"

Keith Corbett, 29, has been shot four times in 10 years. He pulls up a pants leg and reveals his "battle scars," two gunshot wounds on the shin, five on the knee. Corbett of course, always fired back; he preferred to use his 9mm semiautomatic, the weapon he called his "9."

"The drug game had started escalating. The money was coming twice as nice. You have to have a gun," he said. "It was just like American Express—you never leave home without it."

These are the followers of a deadly way of life, a culture of guns that has gripped parts of the Washington area for five years, claimed thousands of victims and terrorized a population. In the same way, sociologists say, they reflect what has long been an American fascination with firearms, but a fascination gone crazy. In a Washington Post poll and in interviews, these are men who compared shooting to sexual intercourse, said they competed with each other in the power of their weapons and calmly proclaimed that it's no big deal to aim a gun at another person and fire. They can justify death with a shrug: "It was either him or me."

With these men, words such as guilt, remorse and shame rarely figure into their stories, and many seem to have come to terms with the knowledge that they too could die an early and violent death. To them, the benefits of carrying a gun outweigh any drawbacks—gun possession, after all, can carry a maximum sentence of just one year, and "having a body under my belt," as one inmate put it, only enhances a man's reputation on the streets.

During a recent six-week period, 114 inmates at the District's Lorton prison complex who were serving time on a variety of gun-related charges took part in a Washington Post poll that sought to learn more about this culture of violence and guns. They included armed robbers, admitted drug dealers and Ricky Wages, 24, who "can't remember all the people I shot." How much of what they said was true, how much concealed, how much exaggerated is uncertain, but a clear image emerged of men who seem drawn repeatedly to this dangerous world.

In answers to 39 survey questions, and in comments made during less-structured interviews, these convicted felons often tried to compare themselves to characters in a romanticized version of the Wild West. But in reality, theirs is more of a gangsterlike existence, rife with vendettas, ambushes and shootouts—and with a updated twist. Now the criminals have high-tech weapons, whole arsenals, that can spray a street corner from the window of a car, win them a strange brand of outlaw respect and make taking another's life as quick and impersonal and unreal as it is in a movie.

"Times have changed. It's the easy way out," said Anthony Briscoe, 29, a convicted drug dealer. "You don't have to get a black eye, busted lip or knocked out. Now, it's the 9 millimeter, and I'm going to show you how to get knocked out and not ever get back up."

What emerged from these talks with prisoners was a sense of the brutal logic of the streets: Carry a gun and be ready to use it, or die. Eight of 10 said the main reason they possessed a gun was to protect themselves or to do business. But it is clear that guns these days are not just about drug turf or revenge. Now a gun can be a business tool, a power source, a pastime, an expression of style.

"Guns is like a fashion show," said Earle C. Woodrow, 21. "He's got a .32. He's got a .38. He's got a 9. Who's got the best, the prettiest? Everybody tries to outdo each other. If I've got a 9 with a 13-shot clip, somebody else'll get a 9 with an 18-shot clip. If I've got a nickle-plated 9, then they'll get a nickle-plated with a pearl handle."

In this context, the gun also has become something personal, a symbol of a terrible sort of power for a group that might not have felt very powerful in other facets of life. Prison officials have noted this influence with concern.

"Because of an inability to acquire power as we would normally understand it—through education, through love, through meaningful employment—it's 'pick up the gun,'" said Walter B. Ridley, director of the D.C. Department of Corrections. "There's also a whole lack of spiritual involvement that has allowed for an insensitivity to human life. You put them all together—the gun, the power, the insensitivity—and you have the violence."

Richard Paul Vernon got his first gun when he was 11—a .38-caliber revolver that he slipped out of his grandmother's house. There was no particular reason for the sixth-grader to be walking around armed. "It was just the thought of having a gun," he said. "I was just happy to have a . . . gun."

Earle C. Woodrow was 15 and dealing drugs when an older man approached him one day, pointed a .38 and relieved him of about $1,000. The experience was a turning point; after that, Woodrow always carried a gun—first, a .38 of his own, then a .45 semiautomatic, a submachine gun, a 9mm. Before long, he was carrying two guns, just in case someone else made the mistake of trying to rob him.

"I told myself nobody was going to do that again," said Woodrow, who recently was paroled on a drug-related conviction. "I was going to shoot them, or they could shoot me. I always had a problem with somebody trying to take something from me."

According to the poll, the median age at which the inmates managed to obtain a first gun was 16—a time when most teenagers are worried about getting a license to drive. More than half said that they initially sought out a gun simply because they wanted one and not for any specific reason. Keith Corbett, for example, was 17 when he and a couple of friends found a .32 and began taking it to parties. "It was all curiosity then," he said. "We felt like we had something that none of our friends had. That was the thing, to show off."

One by one, the inmates who participated in the poll took seats in straight-back chairs in various meeting rooms at Lorton and told stories of first guns and shootings, and lives of crime; how easy it was to get a handgun in a city that strictly bans them; how easy it was to shoot and kill with barely a regret. The inmates were selected randomly, and many of them declined to take part in the survey or did not want their names used. Their racial makeup reflected the population at Lorton, which is 97 percent black.

Court records show only an incomplete picture of the prisoners' deeds. But Inspector Phillip O'Donnell, who heads the D.C. police rapid deployment unit, said that although some of the inmates may have exaggerated their exploits to bolster their reputations, much of what they described reflects what his officers routinely confront on the streets.

"There're some neighborhoods that are pretty violent," O'Donnell said. "Everybody thinks they need a gun and will use it, especially the younger guys in their late teens and early twenties. It sure is scary."

The inmates talked about their crimes in a generally easy manner, some with a lingo that focused on "beefs," or disputes, and then getting "a burner," or gun, to settle the score. About half were high school dropouts, and about one in five had a ninth-grade education or less. But there were many who were articulate about their exploits, talking glibly about living the sort of lives that could end each day in violent death.

There was Roland Garris, 23, who enjoyed walking around with $10,000 in his pocket and the knowledge that he could take care of any enemy with his "street-sweeper," a semiautomatic shotgun, or his MAC-10, a semiautomatic pistol. There was James Tanner Jr., 25, whose nickname used to be the "Hit Man." There was Robert Muschette Jr., 22, who said he liked to have "a personal relationship" with his gun.

"I went to sleep with it. I went to the bathroom with it. When I called upon that gun for service, I didn't want it to let me down."

Again and again, they mentioned the same neighborhoods, where there are pockets known for their toughness—River Terrace in Northeast, Parklands in Southeast, Petworth in Northwest. There were guns stashed in bushes, they said. Guns tucked in shoes. Three in 10 said that all or most of their friends had guns when they were teenagers; more than half said that all or most of their friends had guns at the time they were last arrested. Some ventured that they also were influenced early on by tough-guy images from Hollywood. "I remember watching Charles Bronson blow people away," Muschette said, "and thinking, 'Wow.' "

Apparently, there also was always a deep-seated hunger for the trappings of success—the brand names, the possessions—and a willingness to do whatever was necessary to obtain them. Many of the inmates spoke of deliberately choosing an outlaw's life; a routine job was not considered an option.

"When I was small, when I was in school, there were things I wanted that my mother couldn't get me," Earle C. Woodrow said. "I like expensive things—tennis shoes, sweat suits, cars, jewelry, clothes. I like to dress. I wanted Nikes and my mother didn't get me Nikes. I wanted the name-brand stuff.

"They've got to give us jobs, you know. You can't even get McDonald's jobs anymore. Leaves you nothing but to hustle, and things are expensive. Leather coats and nice things are expensive. They gotta give you a reason. Any time you can make $400 or $500 in an hour, you can't go back to $5 or $6.

"It's like the value system," he said. "I like the Gucci, the Fendi. Till the day I die, I've got to have that stuff."

The first person Ricky Wages shot, he says, he killed.

That night, Wages said, he watched an account of the crime on the 11 o'clock television news. "I had no remorse," he said. "I didn't lose no sleep. I don't think about it now. He was after me."

The truth about carrying a gun, the inmates said, is that the weapon then becomes so easy to use. "A gun promotes itself," said Tyrone M. Ward, 35. "If you got it, you think about using it. It brings thoughts to the mind."

Three out of four inmates said they had been shot or shot at, the poll showed, with the median age being 18. Seven of 10 admitted they had fired a gun at another person—here, the median age was 17—and more than half said they managed to inflict injury. Nearly everyone had a shooting story to tell.

Maurice Carlos Thompson, 21, had a story about the consequences of poor aim; Roland Garris about what happended when he pointed a loaded and cocked gun at police. Robert Muschette Jr. enjoyed "the sound effect" of his .38-caliber revolver. Ricky Wages liked to wear a black ski mask as he zeroed in on his victims.

Many of the inmates spoke in almost eager tones as they recounted their shooting stories. Shooting a gun was "exciting," they said. Shooting a gun was "fun." A gun made them feel "like John Wayne."

Anthony Briscoe said his street reputation was enhanced when he returned to his old life after serving a previous term for assault with intent to kill. The word on the street, he said, was that "If Tony has a gun, he will use it." James Tanner Jr. spoke almost fondly of his feelings of control when he had a gun in his hands. "There are very few people," he said, "who are really in control of something."

In Ricky Wages's case, the shooting reported on the television news was never solved by police, Wages said. "I got away with it." This is his version of what happened, and it supports what many of the inmates said about recent shooting incidents—that they have gone beyond issues related strictly to drug wars.

Wages said he learned from one of his friends that a man was planning to hunt him down, and rob and kill him. Wages didn't know the man, he said, but remembered seeing him at two District go-gos, the Black Hole on Georgia Avenue NW and Breeze's Metro Club on Bladensburg Road NE. With several friends, Wages went looking for his adversary and quickly found him on "a drug street" in the Parklands neighborhood of Southeast Washington. Wages pulled his ski mask over his face, he said, as he made his approach.

"I drove up in my 300-ZX and started shooting at him," he said. "I just shot him. I pointed my gun straight at his head." The man was killed, he said.

Another time, he said, he shot a man standing on a corner of 10th Street NE after the man had slapped a girl at Breeze's Metro Club and tried to take a drunken swing at Wages; the man was wounded, but survived. Yet another time, Wages said, he was shot at himself while walking into a Riverdale bowling alley by the brother of a girl-friend he had "beat up." Court records, however, show that Wages has never been charged in a shooting death, and he denies his guilt in the case of his one gun-related conviction—for shooting a man in the groin over a $75 drug debt.

"My favorite gun was the 9 millimeter," he said, describing the various firearms he liked to use. "It was better one-on-one. It would never lock on me. The Uzi would lock on me."

Maurice Thompson's story was a case of standing on the wrong street. On a July evening in 1990, he and four friends were on Benning Road SE when they noticed a Nissan Pathfinder coming their way. At first, they paid no attention. But suddenly, someone inside the vehicle opened fire on the crowd, and Thompson took a bullet in the chest, an injury that sent him to D.C. General Hospital for a week. "From that day on," he said, "I said I was going to buy me a gun to protect myself. . . . All I was just thinking about was, 'Get back.'"

Thompson later learned that the shooter had intended to hit someone else in the crowd. He might have let it go at that, except that he heard that the shooter "played a big guy," bragging to some friends that "I shot the dude Moe that be on Benning Road." When he got out of the hospital, Thompson paid a friend $150 for a .380 semiautomatic, tracked the man to the parking lot of a nightclub and opened fire. Apparently, no one was wounded.

"If he had come to me and said, 'That was my fault . . . . I didn't mean to hit you,' I might have said, 'Yeah,' and I might have said, 'No,'" Thompson, 21, said. But under the circumstances, he said, if he didn't retaliate, he'd be viewed as "a sucker."

Robert Muschette Jr., the inmate who aspired to "a personal relationship" with his guns, said he felt a foolishness of another sort the day he found himself bored and alone in his living room. He idly pulled his gun from his shoulder holster, took aim at his reflection in a nearby wall mirror and squeezed the trigger. To his surprise, he found that the gun had been loaded. A baseball-size hole shattered the glass where his reflection had been, and Muschette was shaken in a way that none of his other shooting exploits had touched him.

"I had actually shot myself in the head," said Muschette, who recently was paroled on a gun-related conviction. "I freaked. Afterwards, I didn't tote my gun around as much."

Guns long have been a criminal's option, but since the mid-1980s and the explosion of the crack cocaine trade, the gun culture has taken on a more urgent and deadly aspect. The inmates tell of making so much money, of being beset by so many trigger-happy rivals, that they were afraid not to have a gun.

"There were the Jamaicans, the New York boys and the Washington, D.C., boys," James Tanner Jr. said. "When you're in that business, everybody has a gun. That's the only way you'll be respected. It's like, 'Don't mess with him, he'll shoot you.'"

Ricky Wages said he sold cocaine all over the city in 1989 and made about $5,000 a week, money he lavished on his daughter and girlfriend, on the expensive clothing he liked, and on the 300-ZX that took him to at least one of his victims. His arsenal included a 9mm Glock, a .380 semiautomatic and a submachine gun. "I didn't feel tough when I carried a gun," he said. "I just felt safe."

These days, a simple .22-caliber is not enough. The rise of the high-powered semiautomatic weapons has given a new ease to dispensing death—a crowd can be sprayed from a car window, a shooter can shoot again and again—and has created a fresh rivalry among outlaws for the latest, most stylish weapons.

That times have changed is obvious; inmates laugh when asked if anyone on the streets engages in fistfights anymore. Virtually all the prisoners surveyed said that as teenagers growing up, it was more important for a man to be a good fistfighter than the owner of a gun. Now, that attitude is reversed—almost nine out of 10 vote for the gun.

"If you fight with your fists now, you might as well stay in the house or move away," Reggie Crawford, 38, said "Nowadays, if a kid doesn't like what you have on, he'll kill you. . . . Without that pistol, he's nobody, a puppy. With that pistol, he's a full-grown pit bull."

As the illegal drug trade has exploded in the District, so has the illegal gun market. Getting a handgun in a city with the strictest of gun-control laws has become a simple matter of putting out the word and waiting. Ray W. Matthews, a self-described drug dealer, remembers how easy it was to buy a .32 handgun on the street from a gun salesman who worked his neighborhood near Minnesota Avenue and East Capitol Street SE. "He just walked up to me and asked me," Matthews, 26, said "It cost $50. It was brand new. It was still in the box."

This recent combination—the drugs, the quick money, the high-powered weapons—has created a younger criminal who is more brutal and much more dangerous, many inmates said. Some of the older prisoners, convicted murderers themselves, spoke of this group with something akin to moral indignation.

"They look at life with no kind of values," Craven E. Kemp, 33, said. "I think the younger generation, they came into the drug scene different than we did. They work a little bit, make a little money, get a little authority.

"You get a 16-year-old out there who never had to work [hard in the drug trade] and he feels like everybody is lower than him because he's insecure. So he shoots his people to show he has the power. When I was selling, you never hurt the person out there selling for you. The worst you might do is fight them. But you wouldn't kill somebody over $300."

"When we were coming up," said Lawrence E. Griffin, 42, who is serving a sentence for felony murder, "we may have done wrong. But we tried to do right by the community. We were hustlers. These young people are rustlers. Now they will rob your grandmother."

A GALLERY OF GUNS

Interviews with Lorton inmates revealed a violent culture that often assigns social rank by the power of the gun a criminal carries. Over the past five years, revolvers—usually six-shot handguns in which pulling the trigger both cocks and fires—have been supplanted by semiautomatics—high-capacity weapons that fire, eject spent shells and reload as fast as the trigger can be squeezed. This results in a rapid stream of bullets in just a few seconds. And because the rounds are contained in a magazine, the weapon can be completely reloaded instantaneously.

Common handguns

.38 Special—Capacity: Six rounds. Comment: Once the standard firearm for most law enforcement agencies, revolvers do not eject spent shells and require longer time to reload.

.38 Taurus—Capacity: Five rounds. Comment: Short-barreled revolver with more angled grip; some models hold six rounds.

Colt .45—Capacity: Nine rounds. Comment: Semiautomatic pistol, often erroneously called a ".45 automatic"; some models have smaller capacity.

Widely used semiautomatics

9mm Glock—Capacity: 17 rounds. Comment: On average, can fire 17 shots in less than 10 seconds. Standard firearm used by D.C. Police. Some models hold 19 rounds.

.32 Pistol—Capacity: Six rounds. Comment: Very small, easily concealed handgun; weighs 22 oz. and barrel is just under three inches long.

Beretta—Caliber: .380. Capacity: 13 rounds. Comment: Compact, lightweight 23 ounces, handgun with high capacity, also capable of firing entire magazine in less than 10 seconds.

Assault-type weapons

Uzi Pistol—Caliber: 9 mm. Capacity: 20 rounds (larger magazines available). Comment: Although widely publicized, very few actual Uzi weapons are seized on D.C. streets. On the street, "Uzi" has come to be generally applied to any of several types of semiautomatic weapons with large capacities.

MAC 10—Caliber: .45 or 9 mm. Capacity: 20 to 30 rounds. Comment: Classified as a machine gun in U.S. because semiautomatic version was easily converted to fully automatic, meaning it would continue firing as long as the trigger was held down.

Streetsweeper—12-gauge shotgun. Capacity: 12 shells. Comment: A marriage of shotgun and a revolver, producing high firepower. For example, a no. 5 magnum load shell contains about 210 pellets, meaning that without stopping to reload, a shooter could spray a city block with at least 2,500 pellets.

Mr. KOHL. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California [Mr. SEYMOUR].

TWENTY-THREE DAYS LEFT TO RESPOND

Mr. SEYMOUR. Mr. President, I rise today to remind this body that during the President's State of the Union speech, he challenged the U.S. Senate and the House of Representatives to move forward with an economic growth package. Throughout the year of 1991, I can recall in this body a lot of Bush bashing, bashing of certain business interests—just a lot of general bashing, nobody was doing anything about this recession we were in and a lot of finger pointing.

It reminds me, Mr. President—my wife, Judy, and I have six children. I recall once coming home—we had been away and the kids had been taking care of themselves. We walked into the House, and a window was broken. I said to the kids, "Who did that?" And each one of the kids said, "Not me, I wasn't even near there. I didn't do it." All the finger pointing. "It wasn't me."

So as we look at this recession and the U.S. Senate's inaction, it reminds me of those kids: "Not me; it is not my fault."

We have been pretty good at saying to the President "Show us leadership, show us a package." And he did in his State of the Union Address, a very specific package. He challenged us to this March 20 deadline. Now we have, not 25, not 24, but 23 days left to respond to that challenge. He has a specific proposal. What do we have? What have we done other than finger pointing for over a year? And now as we approach this deadline we still do not have a package.

I introduced a resolution, Mr. President, a couple weeks ago. It was a pretty simple idea. It said, Senators, if you do not come up with a package by March 20, you do not get paid.

Now, I have to admit that there was a dearth of cosponsors to join me in that resolution. But I do not believe the Senate has yet caught the sense of urgency, the sense of hurt, of the people who are unemployed in my State. Our jobless rate is now 8.1 percent. California has never hurt in a recession like they have with this one. In fact in 1991 we lost more than 600,000 jobs. That is more than the entire population of the State of Delaware.

So people are hurting out there. When you are unemployed, the unemployment rate for you is 100 percent. We have to do something. The something we ought to do ought to be based upon one simple question: Will it create jobs? Nothing fancy, no political pandering for handouts, enough of the middle-class tax cut, for example, that a family can go down and buy themselves an ice cream cone at Baskin-Robbins once a week. No pandering in the political year. Do something that creates jobs. This program does that.

I can tell you I was in the private sector in my own business when the first-time home-buyer tax credit was last used, and it not only put young people into housing, it created jobs. It created jobs. Every dollar spent in new construction is turned seven times in the economy. And so here is a package. And while we wait and wait and wait for the Senate to act, the clock keeps running.

Mr. President, the time for posturing and pointing fingers is over. The time for action is now. The people who are hurting so much out there deserve nothing less. I am not here to say it should be a Republican plan or a Democrat plan. It should be a plan, some kind of plan. At least get the ball out of our court and stop the finger pointing to others.

So I close, Mr. President, by suggesting to you that it is time for us to stop pointing fingers. Let us put the finger this way. It is our job to come up with a package. We have failed in that endeavor to this point.

I hope, sincerely I hope, Mr. President, that very soon now we will have a package on this floor to debate as we come closer and closer to the deadline of March 20.

I thank the Chair. I yield the remainder of my time.

The PRESIDING OFFICER (Mr. ROBB). Who seeks recognition? The Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. I thank the Chair.

FIRST ANNIVERSARY OF THE END OF THE GULF WAR

Mr. LIEBERMAN. Mr. President, as we prepare to mark the first anniversary of the end of the gulf war at midnight tonight, it is time to reflect on what the conflict meant for America, how it influenced our world, and what lies ahead for Iraq, the Middle East, and for us all.

Many people have naturally looked back from the vantage point of time and asked, "Was the war worth its cost? Was it, in other words, a just war?" Some, I am afraid in their review, have begun some revisionist history. They have begun to belittle the successes of Desert Storm, magnified its shortcomings, and decided it was wrong to go to war on January 16, 1991. But it is my view that those who claim the war was not worth waging are just as wrong as some who argued against the war before it began. Listen, if you would, to these arguments, outlined in an essay published in October 1990:

"War in the volatile region would disrupt world oil supplies and markets, and poison Western interests in the region." We now know that the war helped safeguard oil supplies, and stabilized prices. As long as Saddam Hussein held on to Kuwait, speculation kept oil prices outrageously and artificially high. Without the gulf war, Saddam would be calling the shots on oil, and our embargo of Iraq would pale in comparison to the stranglehold he would have exerted on the economy of the world. Our current recession would be a flatout depression were it not for the liberation of Kuwait and the defeat of Saddam Hussein 1 year ago.

Another prediction from that essay: "If there is war, your men won't be able to walk the streets of the Arab world safely for 200 years," warned a Palestinian intellectual in Baghdad. Mr. President, I can tell you, as someone who has been privileged to walk the streets in the Arab world since the end of the war, that prediction was absolutely wrong.

A third prediction: "Returning transport planes would turn military hangars from Georgia to California into charnel houses of flag-draped coffins." Thank God that prediction was more in error than any other. Our losses were lower than the most optimistic of projections, thanks to the excellence of our equipment, the genius of our military leaders, and most of all the courage and ability of our fighting men and women.

So, Mr. President, from my vantage point 1 year later, I cannot help but look back on Desert Storm and feel pride in what we accomplished. America is stronger than ever. Iraq has lost much of its capacity to wage war. Kuwait is liberated. The gulf region is secure.

And the Arab nations and Israel are engaged in an historic dialog about peace—a dialog, despite its frustrations, that was hardly imaginable before the start of the gulf war.

On the eve of this first anniversary, I suggest that we should take time to say thank you once again to all the veterans of Desert Storm and to their families, as well, who gave such unbridled support from the homefront.

And we should say a quiet prayer for all those who fell in battle, who purchased with their blood a safer world for us all. Without their heroism, we could never have confronted this aggressive, evil power and conquered it as we did 1 year ago. There is little we can do to repay our debt to them. But we can, as Lincoln said, "be dedicated here to the unfinished work which they * * * have thus far so nobly advanced."

Mr. President, I look forward to returning to his Chamber tomorrow to discuss the unfinished work of the gulf war: ridding the world of the rest of Iraq's chemical, biological, nuclear, and ballistic missile capabilities, protecting the people of Iraq from widespread, horrific human rights abuses and, finally, eliminating the brutal leadership of Saddam Hussein himself.

There is much to be done to complete the tasks that remain before us. But as we prepare to forge on, let us pause on this anniversary of Desert Storm to be thankful for all the great and good work that it accomplished and that it has brought about for America and the world.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, parliamentary inquiry. Do I have time?

The PRESIDING OFFICER. Under the previous order, the Senator is to be recognized for up to 30 minutes.

Mr. DOMENICI. I suggest the absence of a quorum for a moment or two.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized under the previous order for up to 10 minutes.

Mr. DECONCINI. Mr. President, am I to speak under the order in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. DECONCINI. I thank the Chair.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 2272 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2273 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. Mr. President, I told the Senate that we had three other lesser bills, and they were going to the Banking Committee.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 10 minutes and 2 seconds remaining.

Mr. DOMENICI. I am going quickly on these, and I will then yield to my friend from California.

(The remarks of Mr. DOMENICI and Mr. SEYMOUR pertaining to the introduction of S. 2274, S. 2275, and S. 2276 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, might I ask a question of the Senator from Maine. How much time has the Senator under the order?

The PRESIDING OFFICER. The Chair informs the Senator from New Mexico the Senator from Maine controls 15 minutes under the previous order.

Mr. DOMENICI. I have a problem in that Senator MACK, who has worked diligently on the matter that I spoke to, would like to speak for 5 minutes and we do not have any additional time. Would it be possible that he could use 5 minutes out of the time of the Senator from Maine?

Mr. COHEN. I think I can accommodate the Senator.

Mr. DOMENICI. I thank the Senator very much.

Mr. COHEN. Mr. President, I yield the Senator 5 minutes.

Mr. MACK. I thank the Senator.

The PRESIDING OFFICER. Without objection the Senator from Florida is recognized for up to 5 minutes under time controlled by the Senator from Maine under the previous order.

Mr. MACK. I thank the Chair.

(The remarks of Mr. MACK pertaining to the introduction of S. 2274, S. 2275, and S. 2276 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Maine has 11 minutes and 10 seconds remaining on the time allocated under the previous order.

The Senator from Maine is recognized.

Mr. COHEN. I thank the Chair.

(The remarks of Mr. COHEN pertaining to the introduction of S. 2277 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Maine has 5 minutes and 4 seconds remaining.

Mr. COHEN. Mr. President, I yield the remainder of my time to the Senator from Alaska.

The PRESIDING OFFICER. Senator STEVENS is recognized for up to 5 minutes 35 seconds.

Mr. STEVENS. Thank you very much, Mr. President. I am indebted to the Senator for his courtesy.

TRIBUTE TO HILARY LINDH

Mr. STEVENS. Mr. President, I come to the floor today to tell the Senate that for the first time in my State's young history, an Olympic athlete has brought home to Alaska a medal from the winter Olympic games.

Along with Alaskans, and all Americans, I want to recognize Hilary Lindh of Juneau, who skiied to a silver medal victory in the women's downhill competition. She is one of only 11 Americans to have received a medal in the XVI Winter Olympiad.

Hilary joins the ranks of other Alaska pioneers who have provided Alaskans with the inspiration to help them not only to achieve but to excel in reaching their goals.

Through dedication to the ideals of good sportsmanship and hard work, Hilary has met challenges and overcome obstacles in order to reach the Olympic level and success.

Against tough competition, Hilary beat the odds and provided some thrilling moments for those who were able to watch her perform on the slopes of Val D'Isere, France.

I think all Alaskans feel a special sense of sharing in these accomplishments of Hilary Lindh. And those of us who have known her parents, Craig and Barbara Lindh, and her grandparents, Federal Judge Robert and Connie Boochever, and the late Axel and Jeanne Lindh, people who have helped nurture her interest and her talent and provided the love and support necessary for her success real, I really want to congratulate them, too.

Mr. President, I commend Hilary Lindh for the honor she has brought to our Nation and to our State and to her family through her triumph at the Olympic games. I hope her performance will be an inspiration to more young Americans to take on the task of training, of working hard and dedicating themselves to representing our country in these winter Olympic games. Thank you very much.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Arkansas

[Mr. PRYOR] is recognized for up to 15 minutes.

SDI CONTINUES TO ESCALATE: THE STAR WARS GRAVY TRAIN

Mr. PRYOR. Mr. President, this morning I would like to discuss a Government program that continues to escalate at a record-setting pace despite the job layoffs in the country, plant closings, and harsh economic times. I am speaking about SDI, the strategic defense initiative or, as it is popularly known, star wars.

Despite other cutbacks in overall defense spending and even cancellation of some programs, the Pentagon is asking the Congress for another $5.4 billion for star wars. This is a 30-percent increase, Mr. President, over last year and, remember, last year we gave this particular program a 40-percent increase over the previous year.

Why does this particular program continue to grow so rapidly? What exactly are its costs? What are its benefits? Mr. President, who are the people who are really benefiting from this enormous open money sack? In the coming weeks and months, Mr. President, I am going to be shining some light on some of the very darker corners of the star wars program.

I am going to, for example, review the overreliance on the contractors and the subcontractors. We are going to be looking at the Pentagon oversight, and especially the lack of oversight. We are going to be studying some conflicts of interest, Mr. President. We are also going to be talking about the role in star wars of the advisory committees. We are going to be looking at the involvement of something called the Defense Science Board and asking who makes up the Defense Science Board, what input do they have into the decisions on star wars and what do their particular economic interests have to do with those decisions?

Mr. President, who has set the star wars' goals? Who is auditing its spending? Who is monitoring its contracting and its contractors? At best, star wars is an unproven, but a very rich research program. At worst it is a typical effort by the Pentagon to keep its contractors busy and profitable.

One concern I have is that the ratio of qualified Government personnel to private contractors is totally out of balance with SDI. This raises real questions of accountability and control. For example, the office in charge of contracts at SDI, the SDI Organization, SDIO, has only 14 employees. These 14 people last year awarded $700 million in contracts. There is no way, Mr. President, that 14 people can adequately ensure that these hundreds of millions of dollars are spent according to all the Federal procurement regulations. Clearly, they cannot adequately coordinate or monitor these contracts nor the contractors.

Now we find that the contract office is forced to rely upon other contractors to assist in the evaluation and the selection of future contractors who are going to be awarded the contracts. Contractors and contractors and contractors. Layers and layers of contractors are helping to decide which other contractors get the jobs.

Let me, Mr. President, give another example of what happens when we create an invisible bureaucracy from contractors feeding from the open money sack. In one contract awarded in 1989, the contractors took 107 round trips from Washington, DC, to 20 other cities to perform management support. What was management support, Mr. President?

What were the destinations for some of these 107 round trips? Honolulu, London, Reno, Moscow, Orlando, San Francisco, San Diego, Los Angeles. The total cost to the taxpayers, a mere $166,000.

This was just a very, very small part of this contract and an infinitesimal amount of the daily travel which contractors say today is necessary to support SDI.

Mr. President, in June 1988, another contractor was busy. Where was this contractor going? Sunnyvale, CA. A nice place. Magna, UT. A very nice place. But this contractor took time out to avoid any future competition by writing his own sole-source justification to extend his own contract. That contractor is still today at work for SDI and he has no competition whatsoever for whatever role he cares to perform.

Another contractor, Mr. President, in December 1989 took time out after traveling to India to draft a report to Congress—not a Federal employee, but a private contractor—drafting a report to Congress that is required under law from one SDI division; the congressional descriptive summary for the fiscal year 1991 budget request; and the program management agreement for the Air Force, DOE, and SDIO. Yes, a private contractor, not a Department of Defense official, is helping to draft the request from Congress for the SDI budget.

Mr. President, on another contract awarded in July 1989 on a sole-source basis, no competition, the contractor proposed spending $56,761 on travel. The SDI officials thought this was too high. They entered into extensive negotiations and finally, after several days of negotiation, they achieved a reduction in this $56,761 travel program. They reduced it by $36 in the travel budget. Included in this travel were trips of six contractor employees to Sweden. These trips to Sweden, including hotels and meals amounted to $23,000. So much for meals on wheels, Mr. President.

Mr. President, unfortunately, this is only the tip of the iceberg. While this travel by contractors accounts for several millions of dollars each year, I think it is a good indication that the star wars budget is not being driven by research funding but it is being driven, Mr. President, by the typical DOD desire to keep its contractors busy and rich.

Mr. President, SDI is one of the most complex systems ever to be dreamed up by DOD. Despite the efforts by leading researchers and scientists, DOD is still uncertain as to the final design of SDI. SDI is far from ready for realistic testing and does not deserve the rapid growth in its budget, certainly not at a time when other critical services go begging and citizens of our country are overtaxed.

In summary, Mr. President, I believe that rushing to spend this amount of money in any way we can on star wars is a bad idea. This will only lead to more of the kind of contractor waste and abuse of tax dollars that I have mentioned earlier.

In the coming weeks, Mr. President, I am going to review SDI and ask some very basic and I think some very revealing questions. Where has all the money gone, Mr. President, thus far that we have appropriated for SDI? Who controls the SDI purse strings? Who decides which contractor ultimately gets the money? Who else do star wars contractors work for? Where are the other conflicts of interest in this open money sack?

Finally, Mr. President, the bottom line question: Who is really getting a ride today on the great star wars gravy train?

Mr. President, I thank the Chair for recognizing me and I yield the floor.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run by Congress stood at $3,825,891,293,066.80, as of the close of business on Tuesday, February 25, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

ROBERTO D'AUBUISSON

Mr. HELMS. Mr. President, a favorite sport of the Washington Post is dancing on the graves of people whom the newspaper has gleefully maligned with false and unsubstantiated charges. So the Washington Post's venomous journalism was no surprise last week when the news of Roberto D'Aubuisson's death reached Washington. The spleen of the Washington Post was vented again.

True enough, Roberto D'Aubuisson was not popular with the leftwing press, nor with ultraliberal politicians and U.S. diplomats whose careers are pockmarked with distortions of fact, and compromises with Communists and communism. I remember a hearing conducted by the Senate Foreign Relations Committee during which a former United States Ambassador to El Salvador was publicly exposed for his falsehoods. Needless to say, the Ambassador had leveled unconscionable and repeated misrepresentations against Roberto D'Aubuisson.

I mention all of this to emphasize that Mr. D'Aubuisson was enormously popular and highly respected by the people of his country. His funeral this past Saturday was attended by a multitude of Salvadorans who came to pay their respects to a leader whose life was claimed by cancer on February 20.

Mr. President, the Washington Post's obituary was a strange, mean-spirited review of the prejudices and contrived misrepresentations by newspapers and other D'Aubuisson critics. Predictably the newspaper chose to include quotes attributed to me which, of course, I never made. But that is journalism as practiced by the Washington Post.

Roberto D'Aubuisson will nevertheless be remembered for his key role in moving El Salvador away from the socialism that had so pulverized the economy and the stability of El Salvador. Roberto believed in a free market economy and, thanks to him and President Cristiani, the Salvadoran economy is now beginning to thrive again.

Mr. D'Aubuisson was a fighter, an army major who led his country in its fight against communism. But he was also a man who used constructive principles to serve the best interests of his country.

Today, there is growing recognition of Roberto's role in bringing peace to El Salvador. Rank and file ARENA members stuck with President Cristiani throughout the negotiations with the Communist FMLN clearly because the President had Roberto's support.

President Cristiani eloquently described Roberto D'Aubuisson's contribution to El Salvador after the signing of the recent peace accords. He said that Roberto was "one of the fundamental people in seeing to it that we are now enjoying democracy. * * *" The President added that "an enormous part of the population loves—D'Aubuisson—a lot and listens to him and respects his points of view."

Mr. President, on at least three occasions I formally requested two U.S. Secretaries of State and a Director of the CIA to provide me with credible evidence that the vicious charges against Roberto D'Aubuisson were accurate. All three acknowledged that no such evidence exists.

Yet the falsehoods and misrepresentations continued—and were ghoulishly included in reports of the death of Roberto D'Aubuisson. The people of El Salvador knew Roberto D'Aubuisson. His critics did not. He may have been a convenient target for unconscionable attacks—but the people of El Salvador knew better. They turned out in droves this past Saturday to honor a man whom they respected and trusted, and who had served them and their country faithfully and well.

THE 100TH ANNIVERSARY OF A. RIFKIN CO.

Mr. SPECTER. Mr. President, today I am pleased to call to the attention of my colleagues the exemplary achievements of A. Rifkin Co., a Pennsylvania manufacturer now celebrating its 100th year of operations. Since 1892, the Rifkin family and their company have served as shining examples of the wonders of the American dream.

Like my family, the Rifkin family fled the oppression of czarist Russia in 1891 for opportunities in the United States. Soon thereafter, they settled in Wilkes-Barre, PA. In 1892, the family founded A. Rifkin & Co. and began the manufacture of clothing for farmers, factory workers, and miners. The company also sold wholesale dry goods.

In the years that it manufactured and sold work clothing, the company boasted as its customers the major food, gasoline service station, and chemical companies in the area surrounding Wilkes-Barre. The products of A. Rifkin & Co. quickly became familiar throughout Pennsylvania.

Later, in the unusual circumstances surrounding the banking industry during the Great Depression, there emerged significant demand for night deposit bags. At the request of a nearby bank, during the 1930's, A. Rifkin & Co. began manufacture of the product which is now the basis of its operation: the locking zipper bag.

Since 1965 called A. Rifkin Co., the company founded by a small group of enterprising Russian immigrants currently employs 220 people in Wilkes-Barre, has a sales force of nearly 50 nationwide, and supplies some 30,000 customers.

The success of the Rifkin family and their company is worthy of commendation. In that regard, I wish to extend my heartiest congratulations to A. Rifkin Co. on the occasion of its 100th anniversary with the hope that the company will enjoy the same success in the next 100 years that it did during the past 100 years.

TRIBUTE TO DONALD INGWERSON

Mr. McCONNELL. Mr. President, I rise today to honor a great American from the Commonwealth of Kentucky, Donald Ingwerson. Mr. Ingwerson was recently named National Superintendent of the Year by the annual convention of the American Association of School Administrators. This is no small honor Mr. President. Superintendents from 49 States and several other countries were considered for this prestigious award.

Donald Ingwerson has been the leader of the State's largest school district for 11 years. He has successfully led Jefferson County through many tough times, including recently steering the district through the landmark Kentucky Education Reform Act. Among the innovations Mr. Ingwerson has brought to his position are the nongraded primary program; tougher academic standards for student athletes; take-home computers; magnet schools; extended school services; a regional drug-abuse center; and participatory management for teachers.

With contributions such as these, it is obvious Mr. President that Donald Ingwerson is a wonderful choice for this particular honor. Candidates were evaluated using various criteria: creativity in meeting students' needs; a commitment to upgrading administrative skills; good communications skills; and knowledge of and involvement in community and national activities. Mr. Ingwerson serves as a marvelous example not only to the city of Louisville but to the entire education community.

I believe that Mr. Ingwerson says it best when he describes his personal philosophy of education:

> Every child can learn * * * I guess what I'm really trying to do with my philosophies is to eliminate the excuses. I'm trying to help everyone understand that failure to learn is unacceptable, that Louisville is a community of learners, and that each of us has a responsibility to expect the best of others and then help them achieve it.

Mr. President, those thoughtful words demonstrate a vision which is unfortunately unique in our society.

I ask all of my colleagues to join me in offering congratulations to a man who has dedicated his life to furthering the educational possibilities of our Nation's young people.

Mr. President, I ask that the following article which appeared in the Louisville Courier Journal be inserted into the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Louisville Courier, Feb. 22, 1992]

INGWERSON IS SUPERINTENDENT OF THE YEAR

(By Holly Holland)

Donald Ingwerson, superintendent of Jefferson County's public schools, yesterday was named national Superintendent of the Year at the annual convention of the American Association of School Administrators in San Diego.

Ingwerson, now in his 11th year as head of the state's largest school district, said he told the audience at the awards ceremony that he felt as though he'd won the Kentucky Derby.

"This is such a special occasion and I really wanted the people to know how it felt," he said in a telephone interview from San Diego, adding that he considers the honor the highlight of his career.

"This is an award for Louisville. I just happen to be the vehicle. . . . I just think it's a recognition on the part of the nation that many of the things in Louisville are good."

In addition to the award, Ingwerson received a gold medallion and a $2,000 U.S. Savings Bond. A $10,000 scholarship will be presented in Ingwerson's name to a student at the high school Ingwerson attended in Bern, Kan.

Ingwerson's award "speaks well for our entire state," said school board member Allen Rose, who nominated him. "To go through the education reform that we have in this state and now to have the best superintendent in the country sends a message that we can do things in Kentucky."

Ingwerson was chosen from among school administrators representing 49 states and several overseas schools. Other finalists were Robert Henley, of Independence, Mo.; Jean McGrew, of Glenview, Ill.; and Karen Woodward, of Anderson, S.C.

Gary Marx, the association's senior associate executive director, said the panel of judges—representing business, government and education—are anonymous and do not offer public comments about their choices. Candidates were evaluated using four criteria: creativity in meeting students' needs; good communication skills; a commitment to upgrading administrative skills, and knowledge of and involvement in community and national activities.

This is the fifth year of the competition.

Marx said the judges based their decision on personal interviews of the four finalists and materials submitted with their applications. They did not consider current education issues in the community or accept comments from the public.

That policy angered some local residents who wrote to the association to criticize Ingwerson's handling of a divisive student-assignment plan that the school board approved on Dec. 19. Ingwerson and the school board have said that the plan, which calls for voluntary integration, was necessary to ensure compliance with the Kentucky Education Reform Act. Critics believe it will lead to re-segregation.

"To think that there isn't some group out there with no more response to public concern and outcry than that . . . it's no wonder people are cynical," said Judy Munro-Leighton, a Brown School parent who wrote to the association in December.

"If they couldn't find a better person than him, they shouldn't have bothered."

Jim Hill, an assistant professor of political science at the University of Louisville, who wrote to the association earlier this month, said he had hoped for a different outcome.

"What really disturbs me is that a system that was once regarded as the best example of desegregation in the country, to see it in turmoil and pain and to award the person who inflicted that pain . . . is just an outrage," he said.

But school board, chairman Laken Cosby said the body of Ingwerson's work is what should have been considered, not his involvement in one controversial event.

"I think Don, over the past nine or 10 years, has really brought stability to this school district," Cosby said. "Now I realize that there have been problems recently related to school desegregation and busing, and that there are people who disagree with his stance in that area. . . . But I think that the majority of people in the community will support the plan once it's explained to them.

"This issue of school desegregation and busing would create problems anywhere in the country. And so you cannot make a judgment of whether he is the best superintendent based on the recent controversy we've had on school desegregation."

Ingwerson, 58, came to Louisville in 1981 from the Orange (Calif.) Unified School District. Innovations that he has brought to the Jefferson County Public Schools include the non-graded primary program; together academic standards for student athletes; take-home computers; magnet schools; extended school services; a regional drug-abuse center; and participatory management for teachers.

In his application, Ingwerson wrote that "my personal philosophy of education has been a simple one: Every child can learn . . . I guess what I'm really trying to do with my philosophy is to eliminate the excuses. I'm trying to help everyone understand that failure to learn is unacceptable, that Louisville is a community of learners, and that each of us has a responsibility to expect the best of others and then help them achieve it.

". . . It's one thing to have 92,000 students, but quite another to take care of them one-by-one, and it's the one-by-one we need to be about in education."

REINVENTING GOVERNMENT

Mr. ROTH. Mr. President. I would like to take this opportunity to bring to the attention of my colleagues a fascinating new book that is generating a great deal of interest in the press and in public policy circles.

The book is "Reinventing Government," by David Osborne and Ted Gaebler. The underlying premise of this book is one I have addressed here previously. It is that the American people are extremely frustrated with the way Government in this country operates.

They do not want more Government, but they do want better Government. They do not really believe that the choice is less service or more taxes, because they do not believe that they are yet receiving full value for the taxes they already pay. And the American public is right, as both I and the authors of this new book agree.

Authors Osborne and Gaebler propose to tackle this problem by squarely addressing its root causes. They derive their understanding of the problem by first examining successful examples of efficient, effective Government action across this country.

It was by studying the common threads running through those successes that they were able to understand the true nature of the problem, and the proper remedies. And interestingly, several of their most important recommendations are addressed in legislation I introduced a year ago—S. 20, the Federal Program Performance Standards and Goals Act.

The fundamental problem is that Government does not focus on results. As the authors point out, we create programs to address problems, but our attention is fixated on inputs and process. Congress debates how much to spend on a program, and it tightly regulates how that money will be spent. It imposes a dense thicket of bureaucratic controls that stifle any effort at programmatic innovation or flexibility. Congress does all of this in the name of accountability, but it ignores the one aspect of accountability our citizens most care about—results. What is the program actually supposed to accomplish? What outcomes is it achieving? Is the agency really responsive to public needs and expectations?

In becoming results-oriented, government organizations should transform themselves from being rule-driven, to being mission-driven. The authors quote Gen. George S. Patton as advising, "Never tell people how to do things. Tell them what you want them to achieve and they will surprise you with their ingenuity." And as the authors themselves emphasize, "Clarity of mission may be the single most important asset for a government organization." By more precisely defining an agency's mission, we can trim much of the procedural redtape that strangles innovation and responsiveness. Accountability for the tax dollar remains, but the emphasis is shifted from how it is spent, to what it accomplishes.

This new attention to mission and results also means seeing the public as customers. Customer satisfaction, then, becomes one of a program's most important goals. This can mean actually surveying and reporting citizen-customer satisfaction levels with program services. It can also mean using Government vouchers to choose a preferred service delivery entity. As the authors have characterized it, it is the difference between the GI bill's education voucher approach and the VA hospital approach. I think there is little doubt which approach has generated the more satisfied customers.

These reforms, in turn, lead to another lesson—the need to inject competition into service delivery.

The book makes the point that it is competition that makes any organization—public or private—efficient and responsive. A private business that has a monopoly will be less efficient than a Government program that faces stiff competition. There are a number of ways Government programs can be sharpened through competitive pressures, and the book cites several examples.

The book goes on to advocate a variety of other reforms, all aimed at making Government more efficient and effective in achieving the results that the taxpayers have a right to expect. Governmental decisionmaking can be decentralized, and thereby make quicker and more responsive, when organizations are held accountable for results. Federal grants programs should instill more results-oriented competition. When programs can retain a reasonable portion of the funds they save or generate, managers become much more innovative and entrepreneurial. Government is most effective when it steers, rather than rows, by creating market-oriented incentives to achieve specific goals. And there are ways to reform the governmental decisionmaking process so that the long-term results of today's decisions are considered.

In his recent column about this book, Washington Post columnist David Broder wrote:

> It is my strong hunch that "Reinventing Government" is going to be a landmark in the debate on the future of public policy.

Already, the Joint Economic Committee has scheduled a hearing for March 5 on the ideas and reforms advocated by the book's authors. Those ideas are neither liberal nor conservative. They address how Government should operate, not what it should do. And in that regard, the book speaks to the fundamental frustration the American people feel toward the Federal Government—something the Congress has too long ignored.

ECONOMIC CONVERSION

Mr. KENNEDY. Mr. President, as we downsize our defense program to meet the changing needs of the 1990's, it is essential that we structure an economic conversion program that serves to stimulate economic growth while providing necessary transition assistance to the discharged military personnel, displaced defense workers, and impacted communities and companies. On February 21, Senator PELL and I held a press conference to release a new OTA report on the issue, entitled: "After the Cold War: Living With Lower Defense Spending." This report provides an excellent analysis of the problems and opportunities involved in economic conversion, and sets forth a wide range of policy options for congressional consideration. I commend it to the attention of all Members of Congress. I also wish to call attention to a stimulating article on the subject by Senator PELL, entitled: "Diversification Is the Real Solution." I ask unanimous consent that this article from the Providence Sunday Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Sunday Journal, Feb. 16, 1992]

DIVERSIFICATION IS THE REAL SOLUTION

(By Claiborne Pell)

President Bush's proposed cancellation of the Seawolf submarine brings home all too painfully Rhode Island's dependence on defense industries. It also demonstrates the risks of exposing a major sector of the state's economy to the dictates of a corporate policy that may not accord high priority to Rhode Island interests.

The Electric Boat Division of General Dynamics Corporation, builder of the Seawolf, employs some 7,000 Rhode Islanders—4,000 at Quonset Point and 3,000 at Groton. Together, they account for about two percent of the Rhode Island work force and make Electric Boat the state's largest private employer.

For several years I have been trying to alert the management of General Dynamics to the fact that the world was bound to change and that they should start planning for a future in which there would be a decreased demand for submarines. In part, this was based on my long-standing conviction that the communist world was bound to fall of its own ineptitude.

That conviction gathered strength as the 1980s merged into the era of perestroika in what was then called the Soviet Union. It seemed increasingly clear to me that there was a real possibility of substantial worldwide force reductions and that these would almost certainly result in cutbacks at Electric Boat.

In July 1989, I conveyed these thoughts to the then-chairman of General Dynamics, Stanley Pace. Why couldn't General Dynamics establish a modest planning program to anticipate the cutbacks, I asked. Why not start then to manufacture commercial products to assure that a facility like Electric Boat could stay in business. While Mr. Pace was not hostile to the idea, his response was not very positive. The problem was, he said, that General Dynamics was an expert at building weapons and accustomed to doing business with just one customer—the US government—and that it would have to revamp its corporate philosophy and rebuild its corporate structure if it were going to complete in commercial markets.

I introduced the Defense Diversification and Adjustment Act in February 1990, one provision of which echoed the suggestion I gave to Mr. Pace. That was a requirement that defense contractors set aside a modest portion of revenues to support planning for diversification. While that section of the bill was not enacted, other provisions were, providing $200 million in adjustment assistance for displaced workers and communities impacted by shutdowns, I am very pleased that those funds are now available to help workers facing layoffs.

It had been my hope when I introduced that legislation that we would never get to the position that we now find ourselves in, and that General Dynamics, with or without government prodding, would plan for a diversified future. With the accession of William A. Anders to the chairmanship of General Dynamics last year, many of us hoped that a new era and a more flexible philosophy might be at hand. However, last Oct. 30, in a speech to a conference of defense industrialists, Mr. Anders laid out a General Dynamics strategy for survival in the new era that rejected diversification. The policy did not bode well for Electric Boat than; without the Seawolf, it bodes worse.

The bottom line for General Dynamics' corporate survival, Mr. Anders declared, is to assure a good return to the stockholders. But to assure a good return to stockholders at a time of declining markets and excess production capacity, he said, the corporation must be prepared to take drastic steps, including "rightsizing," the industry's buzzword for shrinkage and trimming the business down to fit the market. This can even include divestiture of whole divisions of the corporation, as in the case of General Dynamics' sale of Cessna, a manufacturer of commercial aircraft, to Textron.

General Dynamics also considered diversification, Mr. Anders said, both in terms of shifting to non-defense production within existing divisions of the corporation, or acquiring new non-defense subsidiaries. But after a brief review, he said, the corporation rejected both, deciding it should "focus on what we know best, our core defense competencies."

Mr. Anders is an able businessman, a former Rhode Island resident and Textron executive, whose distinguished career also included services as an astronaut and US Ambassador to Norway. I acknowledge that his policy may make sense from his vantage point. If the defense industrial base is to be preserved, the corporation must survive and it will need to be very lean in order to continue to attract investors.

But having granted that point, I must say that a ledger book strategy for survival does not reflect any sense of public responsibility, which in the circumstances the taxpayers have a right to expect. This, after all, is a corporation whose net sales totaled nearly $75 billion in government business during the last decade alone and whose executives and stockholder prospered in the process.

Now that their fortunes have changed, it seems terribly incongruous that their strategy for survival is cast solely in terms of keeping the stockholders happy. Nowhere in Mr. Anders' address was there any mention of an obligation to the thousands of people whose jobs are at stake or to the communities whose economic survival is on the line.

I am very pleased to note that the management of the Electric Boat Division now appears to be moving on its own volition in another direction, and only hope that their efforts won't be too little or too late. Roger E. Tetrault, general manager of Electric Boat, has expressed to me what sounds like a far more flexible view of diversification than that suggested by the parent corporation's survival strategy.

In testimony before the House Armed Services Committee field hearing in Newport in December, Mr. Tetrault declared: "Electric Boat is constantly monitoring the environment for new business opportunities including commercial diversification."

But he makes clear there are limitations. Diversification can be helpful in taking up slack, he says, but it cannot be counted on to substitute for the main mission of Electric Boat, which is to build submarines.

He also warns that diversification does not yield immediate results, since it may take three or four years before there can be any impact from a new product line. And he reminds us that because Electric Boat is a high-technology, high-quality and high-cost producer, it is apt to be limited to diversifying to these high standards. "We can make plowshares, but they will be expensive plowshares," he states.

Notwithstanding the caveats, Electric Boat has already had some success. Last fall, the division won a multi-million-dollar contract to construct large-scale components for a new waste-treatment and -disposal system being built for Boston Harbor. Regrettably, however, the fabrication work is being done at EB's South Carolina plant, although the engineering work is being done at Groton. But the contract award was a significant breakthrough, I believe, considering the degree to which it departs from the pervasive philosophy of General Dynamics.

There are other non-defense prospects for using Electric Boat's unique capability for modular construction of large components of high-technology equipment. One intriguing possibility is the construction of electrical generating plants that use energy resulting from thermal differences in deep seawater. Another, still in the speculative stage, is participation in a national consortium to construct a huge new cruise ship, called Phoenix World City, which is the brainchild of Norwegian shipping magnate Knut Ulstien Kloster.

There are some additional steps that the Navy could take to throw business to Electric Boat. One would be to shift submarine overhaul work out of government shipyards presently run by the Navy and divert it to EB. Another, which I find most intriguing, would be to rebuild the Trident submarine fleet to launch conventional weapons instead of nuclear warheads.

Realistically, however, we must face the fact that there is no certainty that any of these prospective ventures can kick in enough vigor to be of much help, given the time constraints now imposed by the Bush administration's budget. While everyone seems to concede that the Seawolf as a long-term program is indeed terminated, the question remains as to whether the second and third Seawolves, already funded by Congress, will be rescinded, as the President recommends.

If Congress does not concur in that recommendation, and Electric Boat bids successfully on both boats, the third Seawolf probably would be ready for delivery in 1998, when the next generation of submarines, designated the Centurions, is expected to go into production. But even under this scenario, work at Quonset Point, which handles the initial phases of construction, could dry up in 1995, unless supplemental work has been found.

If Congress sustains the President's recommendation to rescind the two Seawolfs—a step which I and my colleagues from Rhode Island and Connecticut will be opposing with all the force we can muster—Electric Boat faces a desperate future, no matter how much non-defense work has been found.

Under this worst scenario, work at Quonset Point will dry up by early 1993, and shrinkage of the workforce will be accelerated as the single Seawolf and the last of the Tridents are assembled at Groton for delivery in 1996–97. By that time, as my colleague Senator Chafee has suggested, the work force will have been reduced to "somebody painting numbers on the hulls."

We can only surmise whether an earlier commitment to diversification could have led to a different outcome.

A TRIBUTE TO SENATOR S.I. HAYAKAWA

Mr. STEVENS. Mr. President, it is with great personal regret that I announce to the Senate that my dear friend, Sam Hayakawa, former Senator from California, former president of California University, has passed away. He served with great distinction, I feel, in the Senate. And at a time of great personal loss in my life, Sam Hayakawa took it upon himself to spend night after night after night with me. I will miss my dear friend, and as I said, it is with regret that I make this announcement to the Senate.

I ask unanimous consent that a portion of the news report concerning the passing of our former colleague be printed in the RECORD. I do admit that I have deleted those portions of the report which were not complimentary to my late good friend, and included only the positive ones.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FORMER SENATOR, COLLEGE PRESIDENT S.I. HAYAKAWA DIES AT 85

GREENBRAE, CA.—S.I. Hayakawa, the soft-spoken semantics professor whose dramatic 1968 confrontation with student protesters launched a political career that took him to the U.S. Senate, died Thursday, a hospital spokeswoman said. He was 85.

Marin General Hospital spokeswoman Andrea Kloh said he died about 1 a.m. He had been hospitalized with bronchitis, but she did not have the exact cause of death.

Hayakawa, who lived in nearby Mill Valley, was an internationally known semanticist for nearly three decades.

But his name leaped into the headlines in December 1968 when, on his first day as acting president of San Francisco State College, he scrambled onto a sound truck brought on campus in violation of his rules and yanked the wires from two rooftop speakers to temporarily silence leaders of a student strike.

Newspaper and television photographs of that scene transformed the owlish 5-foot-3 professor with the trademark tam-o'-shanter into a national celebrity. Though a lifelong Democrat, he became a folk hero among conservative critics of the student protests that were sweeping the nation's campuses in the late 1960s.

He retired as president of the college, renamed San Francisco State University, in 1973 and attempted to run for the U.S. Senate the following year.

In recent years, Hayakawa has been active in pushing to make English the official state language and eliminate bilingual education, saying that learning to speak good English is "the most rapid way of getting out of the ghetto."

Samuel Ichiye Hayakawa was born July 18, 1906, in Vancouver, British Columbia. He was educated at the University of Manitoba and McGill University, both in Canada, then received his Ph.D. at the University of Wisconsin in 1935.

He taught at several schools, including the University of Chicago, before coming to San Francisco State in 1955.

Among his books were "Language in Action," 1941; "Language in Thought and Action," 1947; and "Our Language and Our World," 1959.

Mr. HOLLINGS. Mr. President, on this side of the aisle, Sam Hayakawa had the highest deal of respect. I remember his diligent leadership with respect to the English language, and many, many other things. He was quite an erudite scholar in his own right, heading up the university on the west coast.

I worked with him closely. I had not heard he had been ill in any fashion. I am sorry, and join in the sympathy extended to his family and colleagues.

MAMIE AND IKE

Mr. STEVENS. Mr. President, as many of my colleagues know, I take issue with the idea of revisionist history. It is not truly history if it is based on popular perceptions and attitudes rather than what actually happened.

Equally as appalling is the idea of changing or revising history based on little or no factual information. It is unfortunate that sometimes a change in a historical story begins to be accepted as fact, to the detriment of those involved. In a February 14 article in the Wall Street Journal, my friend, Bill Ewald, illustrates how one unproven statement made 30 years ago is still trying to become part of history, even though there is nothing to substantiate it.

The story concerns President Dwight D. Eisenhower. While Eisenhower has the respect of all Americans as a great general as well as President, he holds a special place in Bill's heart. Bill was a member of Eisenhower's White House staff and later authored a book about the Presidential years.

Bill's Wall Street Journal article refutes the allegations that General Eisenhower asked his boss, Gen. George C. Marshall, for permission to divorce his wife, Mamie Doud Eisenhower. Researchers have never found proof of that purported request. But it makes a good story for those looking for a bit of scandal or gossip.

It is a popular pastime these days to dredge up—or make up—information about the personal lives of people in the public eye. Such information, or misinformation, sells supermarket tabloids and attempts to weaken the credibility of political candidates and others.

The 30-year-old allegation about General Eisenhower belongs in the same category as the tabloid headlines.

Mr. President, I ask unanimous consent that Bill Ewald's article setting aside the misinformation about a great general and President be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 14, 1992]

MAMIE AND IKE, TOGETHER AGAIN

(By William Bragg Ewald, Jr.)

In the early 1960s, Harry Truman told his biographer Merle Miller that Gen. Dwight Eisenhower had written his superior, Gen. George C. Marshall, immediately after the war in Europe to ask permission to divorce his wife, Mamie, and marry his British secretary and driver, Kay Summersby. And, Truman went on, Gen. Marshall exploded: If Ike should try such a thing, Gen. Marshall would "bust him out of the Army" and make the rest of his life "a living hell."

For researchers everywhere, after the Truman blast became public in the early 1970s, it became a question whether Truman, in his old age, made up the story or whether there was a smoking gun. Everyone, myself included—especially myself, since I had worked on the Eisenhower memoirs from 1961 to 1964—combed both archives and memories to find the letter. While we didn't find the letter, we did find a letter from Gen. Eisenhower to Gen. Marshall that is quite revealing, especially given the current presidential campaign.

The letter, written from Germany and dated June 4, 1945, reads: "Now that the time is approaching for my arrival in the United States I want to discuss with you one subject in which I must confess that my own conviction is somewhat colored by personal desire. It involves the possibility of enunciating some policy whereby certain personnel in the occupation forces could bring their wives to this country. What I have in mind is something about as follows. . . .

"In the event that no policy of any kind could be approved by the War Department at this time, the personal question would become whether this whole Command, or public opinion, would resent my arranging to bring my own wife here. This is something that of course I cannot fully determine, but my real feeling is that most people would understand that after three years continued separation at my age, and with no opportunity to engage, except on extraordinary occasions, in normal social activities, they would be sympathetic about the matter."

It is unthinkable that Ike could have written a (never-substantiated) letter purportedly asking Gen. Marshall for permission to divorce Mamie at virtually the same time he was almost pleading for Mamie's presence in Europe.

Those who worked for Eisenhower are unanimous in praising his integrity. He tried to do the right thing, and he did this in his marriage as in other aspects of his life. His letter to Gen. Marshall proves this.

If Eisenhower ever saw Kay Summersby as a threat to his marriage—and absolutely no one except Ike himself could have answered that question—the record shows that he responded as those who knew him would have expected. He asked that his wife, Mamie, be sent to his side.

Eisenhower had huge and impressive hands. This has been observed by many people. I will never forget a visit my wife, Mary, and I paid to the Eisenhowers' Gettysburg farm shortly after Ike's death. Mrs. Eisenhower was a woman of great charm. She adored the general with the most selfless devotion and almost childlike enthusiasm. After we had talked with her about her bereavement, as we were about to leave, she turned from her sorrow to contemplate the stairwell. "I never see the bannister," she said, "without seeing Ike's hand resting on it."

For couples everywhere, one of life's greatest accomplishments is a long-enduring, mutually supportive, loving and happy marriage. The Eisenhowers had such a relationship. It is a good lesson for Valentine's Day.

TRIBUTE TO GUTHRIE J. SMITH

Mr. HEFLIN. Mr. President, it is with great pride that I bring to the attention of my colleagues the career accomplishments of an outstanding public servant from Alabama, my friend Guthrie J. Smith, long-time mayor of the city of Fayette. He has held elective office in Fayette for 44 consecutive years, during which he has proven instrumental in promoting the thriving business community that exists there today.

Mayor Smith's tenure as an elected official is the longest service of any active city official in the State of Alabama. He became the dean of Alabama mayors in 1988, when he was elected to an eighth term. He was elected president of the Alabama League of Municipalities in 1965, and has served as a member of the executive committee of the Alabama League of Municipalities and a member of the Small Cities Council of the National League of Cities. Mayor Smith currently serves as a member of numerous committees of the Alabama League of Municipalities, the National League of Cities, and the Sunbelt Conference.

In 1936, Guthrie Smith made a seminal study of the development of Alabama's tax system and used this study as the basis for his master's degree thesis. He was elected president of the Birmingham-Southern College student body, and was a member of Omicron Delta Kappa, Kappa Phi Kappa, and Pi Gamma Mu national honor societies. Smith was awarded a graduate fellowship to the department of economics at the University of Virginia and served as president of Pi Kappa Alpha social fraternity.

Guthrie Smith has used his extensive academic and business experiences to enable Fayette County and the city of Fayette to prosper. In the past 14 years, industry in Fayette has spent over $88 million on improvements to existing industry. Since 1948, the city's assets have grown to over $15 million. The city of Fayette has constructed a 350-acre industrial park, a 100-acre recreation facility, aptly named Guthrie J. Smith Park, the Fayette Civic Station, and a $2 million sewer treatment expansion project. All improvements made since 1978 are fully paid for. Federal and State grants received have totaled over $5,500,000 since then. The mayor played a key role in bringing such industries to Fayette as Simon and Mogilner, Sterilon Industries, HPI, Arvin Industries, Quality Tooling, and American Olean Tile Co.

Guthrie Smith distinguished himself in military service to his country during World War II. He was selected for the Counter Intelligence Corps and was awarded a battlefield commission in Europe in 1944. Since then, Mayor Smith has served as a public speaker for meetings, conferences, and banquets throughout Alabama and the rest of the South. He is widely recognized as an articulate spokesman for good city government, civic duty, and industrial development.

Among Mayor Smith's numerous awards and honors are his membership in the Alabama Senior Citizens Hall of Fame and the Faith and Patriotism Society Award. He and his family have lived in Fayette since his honorable discharge from the service, where he has served in many leadership roles in the First United Methodist Church. His dedication, loyalty, and devotion to family, church, and community have served as inspirations to the people of Fayette.

In these trying times of economic woes and severe budgetary constraints, we in the Federal arena can look to Mayor Guthrie Smith's leadership as an example of what government and business can accomplish when working together for the good of a community. If, as former House Speaker Thomas P. "Tip" O'Neil said, "all politics is local," then we can say that the relationship between Fayette and its growing business community, the crowning achievement of Mayor Smith, is politics at its best. I congratulate him on his many years of service to his community, State, and country.

I ask unanimous consent that an article on Mayor Smith's 1936 master's thesis be printed in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Alabama Municipal Journal, November 1988]

MAYOR'S THESIS ADDED TO PERMANENT COLLECTION

A thesis written in 1936 by Mayor Guthrie Smith of Fayette has been added to the permanent collection of historical works in the office of the State Commissioner of Revenue. James Sizemore, State Revenue Commissioner, asked for a copy of the thesis after Mayor Smith mentioned to Mr. Sizemore that they seemed to share many of the same views on tax reform in the state. In brief ceremonies, Mr. Sizemore placed the bound copy of the thesis with the Department's permanent collection of documents on fiscal policy. Mr. Sizemore noted that Mayor Smith's thesis contains many facts that still hold true today.

"Trends in the Tax System of Alabama," was written by Mayor Smith to fulfill requirements for a master's degree at the University of Virginia. The book traces the history of the tax structure in Alabama from 1819 to 1936.

"And as young college people do, I made some recommendations," Mayor Smith said.

"The way of securing revenue is topsy turvey," he noted. "There is no planned system of taxation in this state—there wasn't back then. The state has always been heavily dependent on the sales tax which is regressive."

Mayor Smith also noted that Alabama has been "behind the times on ad valorem taxes" pointing out how Eastern states have always put more emphasis on property taxes than Southern states. Mayor Smith says this fact can be attributed to economic forces which came into play during and after the Civil War.

Earmarking of funds is another problem Alabama has historically had with the tax system, according to Mayor Smith. "Earmarking was a major fault even then. Earmarking ties the legislature's hands. Whether a particular area [of state government] needed revenues or not, they got the funds anyway."

Mayor Smith is a 1931 graduate of Birmingham Southern College and attended the University of Virginia on a fellowship. After successfully completing the requirements for the master's degree in economics, Mayor Smith worked as an underwriter with the Travelers Insurance Company in Washington, DC. He served in counterintelligence in the European Theatre during World War II and he received a battlefield commission in 1944.

In 1948, he was elected to the Fayette City Council and served until 1955 when he was appointed by the council to fill the unexpired term of the mayor. After 40 years of continuous municipal service, Mayor Smith was recently reelected by his constituents to serve another term.

Mayor Smith is the senior Past President of the Alabama League of Municipalities and currently serves on the League's Executive Committee. He has also distinguished himself in various capacities with the National League of Cities, serving as a member of the Small Cities Advisory Council and as a member of the Finance, Administration and Intergovernmental Relations Committee.

In a March, 1937 review of Mayor Smith's thesis in the Montgomery Advertiser, Judge Walter B. Jones said that he did not "recall any single book or writing in Alabama that contains within its covers as much valuable information as to our tax system and explanation of how it works than Mr. Smith's thesis. He discusses all the fundamental problems of taxation in Alabama, and the constitutional limitations upon the legislature, the wise use made of permanent and continuing appropriations, the non-uniformity in the administration of county tax affairs in our sixty-seven counties, and the habit of every legislature to add to the list of property changes exempt from taxation."

Judge Jones added in the same review that "(a) thesis such as Mr. Smith's should not remain practically unknown in the library of a great university in a sister state. The thesis is worthy of preservation in book form."

Fifty-two years later, the thesis is now in book form.

SPACE STATION FREEDOM REPORT BY GAO

Mr. GARN. Mr. President, earlier today I was informed that the General Accounting Office was issuing a report on the NASA budget, prepared at the request of some of our colleagues, which calls into question the funding needs of the space station Freedom. I asked my staff to review this report, examine the facts uncovered by the GAO, and to examine the analysis employed by that agency.

My staff responded by giving me a copy of this report and said: "What facts, and what analysis?"

Mr. President, I am appalled by this 2-page letter which is not only verbose, rambling, and repetitive, but states a conclusion that "NASA is overcommitted relative to likely resources" on the basis of pure speculation and predictions of what the Congress might do in future years with the Federal budget. This isn't even an opinion based on accounting principles, or the conclusions of any investigation: GAO now has gotten in crystal ball gazing. Frankly, I'd stick with my ouijaboard and tarot cards, they're probably as accurate, and sure doesn't cost the $487 million that the GAO wants to stay in this type of business.

Mr. President, our Nation is confronting critical choices and must address serious program requirements if we are to maintain our leadership in space and in other high-technology areas. The budgetary pressures and constraints on domestic discretionary spending are both real and daunting. But that is what Senators and Congressmen are elected to do, to carefully evaluate program needs, and then make such choices and decisions based on the merits of issues before us. I submit that it is of little benefit for GAO to predict how this process will come out, since indeed, it is the Congress, though our own actions, which will determine the future for NASA programs and our Nation.

Mr. President, I ask unanimous consent that this GAO report be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GENERAL ACCOUNTING OFFICE,
Washington, DC, February 19, 1992.

Hon. ALBERT GORE, Jr.,
Chairman, Subcommittee on Science, Technology and Space, Committee on Commerce, Science and Transportation, U.S. Senate.

Hon. RICHARD J. DURBIN,
Chairman, Task Force on Defense, Foreign Policy, and Space Committee on the Budget House of Representatives.

To assist in your preparation for an accelerated budget resolution, schedule, we are providing information from our ongoing review of the National Aeronautics and Space Administration's (NASA) 5-year program plans.

NASA is overcommitted relative to likely resources—in short, it is chasing too much program with too few dollars. We estimate that if the current federal budget allocation for domestic discretionary spending continues to be constrained, NASA program plans will have to be reduced $13 billion to $21 billion through fiscal year 1997.

As you know, caps mandated by the 1990 budget summit agreement allow domestic discretionary spending to grow by only the rate of inflation for this next several years. Further, congressional appropriators are restricted to their 602(b) allocation of domestic discretionary funding for the Departments of Veterans Affairs, Housing and Urban Development, and Independent Agencies. This restriction may not allow inflation-sized increases for NASA. NASA's funding will depend on the actual size of the allocation and the needs of other agencies. For example, Congress was able to provide only a 3-percent increase to NASA for fiscal year 1992. Projecting from the fiscal year 1992-enacted NASA budget of $14.3 billion, the Congressional Budget Office (CBO) estimates that full inflation increases would provide a 1993–97 funding baseline totaling $79.5 billion. Flat budgets would provide $71.5 billion.

For fiscal year 1992, the administration proposed a 13-percent increase for NASA over its 1991 funding level (from $13.9 billion to $15.7 billion) and a total 1992–96 program of $91.5 billion. Congress, in turn, approved only a 3-percent increase for fiscal year 1992 over 1991 (from $13.9 billion to $14.3 billion) and directed NASA to plan for a 3- to 5-percent growth rate (including inflation) in the near future. The President's fiscal year 1993 NASA budget submission complied with this guidance, proposing about a 5-percent increase (from 14.3 billion to $15 billion). Unfortunately, the President's fiscal year 1993 budget submission omitted the out-year funding profiles that would reflect the future implications of the request or any view of proposed progress in further limiting out-year funding requirements.

Preliminary NASA planning estimates show continued growth in agency programs, with a fiscal year 1993–97 funding estimate of $92.4 billion. These planning estimates will serve as the baseline from which NASA will formulate the fiscal year 1994 and subsequent year budgets. However, the $92.4 billion estimate exceeds level budget estimates by about $21 billion and the CBO baseline by about $13 billion. We believe this figure indicates overly optimistic planning, given the present outlook for NASA funding. We also believe that it tends to obscure civil space priorities and delay tough decisions and trade-offs. The failure to bring the civil aeronautics and space program within fiscal realities may perpetuate the instability of NASA's programs, invite cost growth, and risk the erosion of public confidence. Further, the omission of out-year funding profiles in the President's budget makes it difficult for Congress to understand the future implications of its current budget decisions. The enclosure compares NASA's funding projections for fiscal years 1993 through 1997 with flat budgets and the CBO baseline.

We are continuing our review of NASA's 5-year program plan, as you requested, and will keep you advised on the progress of this work.

MARK E. GEBICKE,
Director, NASA Issues.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

May I advise the Senator that under the previous order, we were to close morning business at 11:15.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I be permitted to speak as if in morning business for no longer than 5 minutes.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Mr. President, reserving the right to object, and I will not object, I want to serve notice on my colleagues that I will object to any further reopening this morning of morning business. There is an order I think pending to raise a point of order at 11:15. I want to accommodate my friend from New York, but beyond that I will be compelled to object.

The PRESIDING OFFICER. Without objection, the Senator from New York will be recognized for 5 minutes.

Mr. D'AMATO. Mr. President, I thank my distinguished colleague from Tennessee for being so gracious, and I thank the Chair.

WHY NO BANK CREDIT

Mr. D'AMATO. Mr. President, for some time now, the Congress of the United States, more importantly, the American people, have been saying how is it, why is it, that we cannot get credit from banks? Mr. President, I am talking about creditworthy people, people who have ongoing businesses, that are making profits, that are having loans called in.

So we set about finding out how we can reduce interest rates. Indeed, interest rates have been coming down. Banks today pay, in some cases, less than 4 percent—on savings deposits. Certificates of deposit, the banks' cost of money, has been brought to an all-time low as a result of many factors in the monetary policy. We reduced their reserve requirements, and their capital requirements in certain cases as it relates to loans that they put out. We have cut the discount rates again to give them a greater spread.

As they say, it has not borne fruit. The private sector has not benefited. Real estate loans, forget about it; even on apartment houses that are newly constructed and leased, even on commercial projects that are leased, it is impossible to get mortgages today. Oh, yes, there has been some benefit by the refinancing of those single-family homeowners where the mortgage rates have come down and so they refinance. There has been some impact. But not the kind there should be.

Mr. President, yesterday, I came across information, at a hearing in the Appropriations Committee about this very issue. I had the pleasure of hearing the testimony of a distinguished professor, Dr. Roger Brinner, who pointed out why the Federal Reserve policy and the policy of the U.S. Treasury is not working. While we are bringing down interest costs, the banks are making unprecedented profits and they are not making loans to the American people. We have an obligation to do something about that.

I have to tell you that the Secretary of the Treasury has been remiss, and that Alan Greenspan has been remiss. They are acting in a way which is not consistent with the tragedy that is in America today, the deep problem of not permitting credit to flow. And we are not going to have an economic recovery unless the banks begin to make the loans.

Why are they not making loans? I will tell you why. Because, Mr. President, they are able to go out and purchase long bonds, U.S. bonds that we sell for 30 years, which have incredibly disproportionate interest returns and yields to them, yields of 7½ percent. As long as the Treasury continues to sell 30-year bonds in this market, it will attract all of the capital of these banks. Why should banks risk money in the private sector and maybe get a return of 8 percent, 8½ percent, and have to set aside capital to back that up when they don't have to set-aside any capital and get a 7½-percent return?

Mr. President, we have the ability to correct this injustice. I say that the Treasury and the Federal Reserve policy has been one which has enriched the banks and has done very little to open the credit gates for America, for the business community, for the small investor who needs that capital so that he can expand his or her business, to those who need to finance that real estate project which is not speculative.

I have shown that there is a disproportionate yield as it relates to the 3-month bill and the spread is growing. It is larger today than at any time in history. If you are a banker, why would you invest in anything that had risk when you could get as high a yield, by buying bonds and not to have to set-aside capital requirements?

Now, what is the answer? The answer is simple. The answer is that the Treasury should not put out the 30-year bond, and should go to short-term bonds as Professor Brinner and others have said.

I ask unanimous consent that a Wall Street Journal, January 6, 1992, article by Constance Mitchell and David Wessel be printed in the RECORD, along with an article from Business Week, November 25, 1991, which says: "While acting forcefully to lower rates, Washington could also get banks lending again" if they were to stop this practice of purchasing long-term bonds.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 6, 1992]

WILL 30-YEAR T-BOND BECOME EXTINCT SPECIES?

(By Constance Mitchell and David Wessel)

Can the government really save taxpayers money and at the same time stimulate business activity by curbing sales of 30-year Treasury bonds?

In Washington and on Wall Street, government officials, economists and bond dealers are hotly debating the pros and cons of a move to eliminate—or at least sharply reduce—sales of long-term Treasury bonds.

What's behind the debate is the unprecedented gap between long-term and short-term interest rates at a time when the economy is slumping. Short-term rates have plunged; long-term rates haven't.

"It's foolish for the government to issue long-term bonds" at rates that are as much as 3½ percentage points higher than it costs the Treasury to sell short-term securities, says James Tobin, Nobel laureate economics professor at Yale University and a former economic adviser to President John F. Kennedy. His advice: stop selling 30-year bonds, at least until the economy is back on track and the spread between long-term and short-term interest rates has narrowed.

MISGUIDED SHIFT?

But on Wall Street, Robert Giordano, economist at Goldman, Sachs & Co., warns that abandoning sales of 30-year bonds would be "misguided." He says the Treasury "is about to get railroaded" into curtailing or eliminating the long bond "on dubious grounds."

The idea of curtailing sales of 30-year Treasury bonds surfaced more than a month ago when Treasury Secretary Nicholas Brady told Congress that the Treasury is "taking a look at" the amount of long-term bonds it sells, adding that "the question really is how much effect would you have on this huge market if you shifted your emphasis."

In the past two weeks, officials in Washington say the Treasury has grown increasingly serious about curtailing, though not eliminating, sales of 10-year and 30-year bonds, both to save the taxpayers' money and to nudge down long-term interest rates. It is being pressed to curb 30-year bond sales by members of Congress and academic economists who say the government should take every opportunity available to save borrowing costs. The Treasury is likely to make a decision before February's quarterly refunding of the federal debt, when the government is slated to sell more than $37 billion of Treasury notes and bonds.

SLOWLY FALLING YIELD

Since the Treasury began selling 30-year bonds in the early 1960s, the Treasury's long-term bond has become the most-actively traded security in the world. It's considered the bellwether security for the entire bond market; its yield is used as a benchmark from which yields on other long-term securities are determined by the market. Because the long bond, as it is known on Wall Street, is far more volatile than other fixed-income securities—its price moves further up or down with swings in interest rates—it is a favorite for speculators who like to make big bets on interest rate changes.

But economists and the Bush Administration are frustrated at how slowly yields on 30-year Treasury bonds have fallen, even though the Federal Reserve has been aggressively pushing down short-term interest rates. In the past 12 months, for example, the Fed has driven down the federal funds rate, which banks charge each other for overnight loans, to 4 percent from 7 percent. In response, yields on three-month Treasury bills have fallen 2.7 percentage points to just under 4 percent.

But yields on the 30-year Treasury bond have fallen just three-quarters of a percentage point to about 7.5 percent. In fact, the gap between yields on short-term and long-term securities is now the widest it has even been. Part of the problem is that long-term bonds reflect investors' inflation expectations. Long-term rates in turn directly influence mortgage rates and corporate borrowing costs.

Proponents of paring back sales of 30-year bonds argue that reducing the supply of long-term bonds would give them a scarcity value, causing their yield to decline and their price to rise.

Burton Malkiel, a Princeton University economist and a student of markets and interest rates, suggests that a substantial move by the Treasury to curb its sale of 30-year bonds could reduce long-term interest rates by as much as one-half a percentage point.

And since institutional investors are showing strong demand for short-term and intermediate-term Treasurys, the shift probably would not cause shorter-term rates to rise very much, says Maria Ramirez, president of Maria Ramirez Capital Consultants Inc. Ms. Ramirez adds that eliminating the 30-year bond would make U.S. debt management comparable to other major countries, where bonds with maturities longer than 10 years are rare.

Mr. Malkiel, like many others, believes that reducing sales of 30-year bonds might help stimulate economic activity, cutting long-term rates and thus allowing corporations and consumers to replace high-interest-rate debt with lower-rate debt. With lower debt service, consumers and corporations would have more to spend on goods and services. "It's the long rate that is important in terms of mortgage financing," he explains. "I am absolutely convinced if there were 7% mortgage rates, you'd get quite a pop in home sales. You might even see some residential construction."

Lacy Hunt, chief economist at Carroll McEntee & McGinley Inc., a bond dealer in New York, says that financing the budget deficit by having the government sell fewer long-term bonds and shifting Treasury sales to shorter-term securities could save taxpayers billions a year in financing costs.

Based on the Treasury's recent sales of 12 billion in long-term bonds each quarter, the Treasury should be offering about $50 billion of new 30-year bonds over the next 12 months. At current rates, those 30-year bonds would carry a 7.5% coupon.

Mr. Hunt estimates that if the Treasury instead halted its sales of 30-year bonds and took up the slack of 30-year bonds and took up the slack by selling more securities ranging from thee-month bills to five-year notes-at an average interest rate of 5%-the Treasury could save $1.25 billion in interest payments in the first year. If the Treasury merely halved its 30-year bond issuance to $25 billion a year, taxpayers would save $625 million in the first year.

Mr. Hunt also recommends that the Fed simultaneously shift a portion of its $260 billion investment portfolio of U.S. Treasury securities form short-term bills to long-term bonds, while continuing to use monetary policy to keep short-term interest rates from rising. The Fed's increased purchases of long-term Treasury bonds would help drive down long-term interest rates, he says.

But opponents of the idea of eliminating 30-year bonds doubt that the Treasury would achieve its objectives. In a 15-page research report, Mr. Giordano of Goldman Sachs said that a shift away from long-term bonds is "unlikely to lower long-term interest rates appreciably, save the government much, if any, money or help the private sector." Goldman is one of the biggest government bond dealers on Wall Street. Many dealers oppose a curb on 30-year bonds, which they say would increase uncertainty about the Treasury's borrowing plans and, perhaps, reduce dealers' profits.

Among other things, Mr. Giordano notes that past efforts by the Treasury to influence interest rates by manipulating the supply of bonds failed. He notes that the last time in Treasury stopped selling long-term bonds, in 1967–72, the shape of the yield curve, or gap between long and short-term rates, "was only marginally flatter than in other periods."

At the time, the Treasury, by law, couldn't sell securities with a coupon higher than 4¼%. Since market rates were higher than that, the Treasury essentially was shut out of the long-bond market.

In the early 1960s, during the Kennedy Administration, the Fed tried to influence rates in an experiment that came to be called "Operation Twist." At the time, the U.S. economy looked soft, which argued for lower interest rates. But a high balance of payments deficit was putting pressure on the dollar; higher rates would help prop up the U.S. currency. In an effort to bring down long-term rates while nudging up short-term rates, producing a "twist" in the yield curve, the Fed purchased long-term notes and bonds and sold bills. Many viewed the plan as unsuccessful.

Other economists at Goldman Sachs argue that the Treasury should sell more 30-year bonds to take advantage of long-term interest rates they consider low by historical measures. They believe long-term yields won't fall much lower.

S.G. Warburg & Co., another primary dealer of government securities, also is against the idea of limiting sales of 30-year bonds. "We don't recommend it," says Lawrence Leuzzi, head of the firm's government securities group. "I don't believe that public debt management policies that reign over $3 trillion on debt should be based on interest-rate speculation."

Mr. Leuzzi says the Treasury's argument is flawed partly because the supply is just one of several reasons yields on the long-term bonds are relatively high. "I believe that more important that supply, they are a function of inflation expectations and global credit demand," he says. These are issues, he says, that can't be fixed by shifting supply.

YIELD COMPARISONS

[In percent]

	⅓	½	52 week	
			High	Low
Corp.-Govt. Master	6.62	6.58	8.30	6.53
Treasury:				
1 to 10 years	5.56	5.47	7.61	5.47
10 plus years	7.53	7.45	8.69	7.45
Agencies:				
1 to 10 years	6.19	6.17	7.93	6.16
10 plus years	7.86	7.81	8.92	7.81
Corporate:				
1 to 10 years:				
High Qlty	7.19	7.15	8.96	7.10
Med Qlty	7.77	7.74	10.01	7.71
10 plus years:				
High Qlty	8.34	8.34	9.55	8.34
Med Qlty	8.83	8.80	10.19	8.80
Yankee bonds[1]	7.87	7.85	9.39	7.79
Current-coupon mortgages:				
GNMA 7.50 percent	7.49	7.48	9.10	7.49
FNMA 7.50 percent	7.56	7.59	9.58	7.56
FHLMC 7.50 percent	7.43	7.45	9.37	7.43
High-yield corporates	13.08	13.11	18.26	12.80
New tax-exempts:				
10-yr G.O. (AA)	5.80	5.70	6.55	5.70
20-yr G.O. (AA)	6.40	6.40	7.10	6.40
30-yr revenue (A)	6.65	6.68	7.55	6.65

[1] Dollar-denominated, SEC-registered bonds for foreign issuers sold in the United States.

Note.—High quality rated AAA–AA; medium quality A–BBB/Baa; high yield, BB/Ba–C.

Source: Based on Merrill Lynch Bond indexes, priced as of midafternoon Eastern time.

[From Business Week, Nov. 25, 1991]

A SPARK FROM TREASURY COULD FIRE UP THE ECONOMY

(By Karen Pennar and Christopher Farrell)

It's a tired refrain we keep hearing from Washington: The economic recovery is being held hostage to politics and a yawning budget deficit. To apply defense savings elsewhere in the economy, last year's budget agreement would have to be reopened. To enact tax cuts, offsetting savings would have to be found. But is policy really so paralyzed? Perhaps not.

Without even entertaining congressional debate, there are some things that the U.S. Treasury and banking regulators could try to get the economy moving.

First, the government could shorten the maturity of its debt. Inflation has come down under 4%, and short-term interest rates are at their lowest levels in 15 years. Today, three- and six-month Treasury bills are yielding less than 5%, and five-year notes are paying 6.63%. The 30-year long bond, meanwhile, is yielding around 7.9%. That reflects an inflation premium paid investors because they fear inflation will rise.

SPENDING BOOM

The Treasury should tell the world that it believes prices will remain stable by announcing that it will issue mostly short- and medium-term debt, and sticking to that. What would happen? Long-term rates would fall, providing needed stimulus, and the interest bill on future debt would shrink. "Long bonds would go to 7% almost overnight," says William H. Gross, managing director at Pacific Investment Management Co., which manages $35 billion in bonds. "It would be a shot heard around the world."

Joseph Rosenberg, chief investment officer of Loews Corp. in New York, suggests that Treasury substitute four- to five-year notes for 30-year bonds at its quarterly refundings, thereby saving taxpayers at least $500 million in interest costs annually. Rosenberg, who urged the Treasury to take such a step in a recent article in *The Washington Post*, says the "real beneficiary of all this would be the U.S. economy." Lower long-term rates would unleash a rush of mortgage lending and a capital-spending boom.

The Treasury's action could be reinforced by the Federal Reserve Board, which could instruct its traders in New York to buy up the highest-yielding, longest-dated bonds in the course of their market dealings. "I think it would be a wonderful step," says economist James K. Galbraith of the University of Texas at Austin. "Keynes says about the most useful thing a central bank can do in a recessionary environment is purchase long-term debt."

While acting forcefully to lower rates, Washington could also get banks lending again. Profit-pinched banks have been loath to pass lower rates on to their customers. At the same time, banks are so busy writing off mistakes of the 1980s that they are unwilling to risk making new ones. Finally, regulators have pressured banks to build up capital and be cautious.

One quick, painless, and not very costly way to boost bank profits would be for the government to pay interest on more than $20 billion in idle reserves that banks keep to back up deposits. David D. Hale, chief economist at Kemper Securities Group Inc. in Chicago, says that if banks were paid the current T-bill yield on reserves, it would boost their profits by more than $1 billion. If they were paid interest on reserves, he argues, banks wouldn't feel compelled to earn profits by keeping their prime lending rate so high.

Interest on reserves might help, says Albert M. Wojnilower, senior, adviser at First Boston Corp., but there are plenty of banks that are already profitable. Instead, he argues, banking regulators should impose broad growth targets for bank loans and other assets and ensure that banks meet those targets. "Banking is like a utility," he says. "You expect an electric company to generate electricity."

LOUD AND CLEAR

These ideas aren't entirely new, and they've had a mixed reception in the past. The U.S. Treasury, which sold $1.5 trillion in securities last year, has long held to the view that the smooth functioning of the government securities market requires that investors be able to choose from a predictable and broad spectrum of maturities. Some Reagan Administration officials floated the idea of shortening debt maturities in 1981, but they got nowhere. In the early 1960s, the Fed tried to bring long rates down by buying up long bonds in the open market, with limited impact. And even the force of law, embodied in the Community Reinvestment Act, hasn't prevented bankers from discovering ways to cut off some borrowers.

There are no guarantees that what investors and lenders fear—a return of inflation and a new cycle of bad loans—won't come to pass. Periodic spikes in prices, such as October's 0.7% jump in producer prices, only fan such worries. But there is a better chance of success if the government commits itself to low inflation and low interest rates with a policy that is loud, clear, and sustained. The aim is to change expectations and thereby boost confidence, spending, and borrowing. It won't happen overnight, and it won't happen if the government says one thing and does another. But inaction won't get the economy off dead center. These relatively easy measures just might.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO. Mr. President, I thank the Senator for having made available 5 minutes. I am going to continue to pursue this matter. It is important in order to get credit to America which desperately needs it. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 479, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 479) to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological and leadership of the United States.

The Senate resumed consideration of the bill.

Pending:

McCain amendment No. 1696, to grant legislative line item veto rescission authority to the President of the United States to reduce the Federal budget deficit.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. SASSER. I thank the Chair.

Mr. President, I rise this morning to raise a point of order against the pending amendment because it violates section 306 of the Congressional Budget Act of 1974.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I move to waive section 306 of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I yield myself such time as I might consume.

Throughout Eastern Europe, indeed, much of the world——

Mr. McCAIN. Could I interrupt and ask for a parliamentary inquiry as to the provision of time under the unanimous-consent agreement? I appreciate the indulgence of my friend.

The PRESIDING OFFICER. Under the previous order, the time is 2 hours, equally divided.

Mr. McCAIN. Between myself and the distinguished President pro tempore?

The PRESIDING OFFICER. The Senator from Arizona and the majority manager of the bill.

Mr. McCAIN. Under the rules, I believe that the President pro tempore should be allowing time to Senators.

Mr. SASSER. Mr. President, parliamentary inquiry. I was under the impression under the previous order I would be controlling time on our side for those seeking to sustain the point of order.

The PRESIDING OFFICER. The order provides division of time under the usual form. The Senator making the motion, and the majority manager controls the time.

Mr. SASSER. I thank the Chair.

Mr. McCAIN. In other words, 2 hours, equally divided, between the maker——

The PRESIDING OFFICER. Two hours, equally divided.

The Chair would inquire whether the majority manager——

Mr. BYRD. Mr. President, I ask unanimous consent that the time be equally divided between Mr. McCAIN and Mr. SASSER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Thank you.

Mr. President, I yield myself such time as I might use.

Throughout Eastern Europe and, indeed, much of the world, people are struggling and fighting for democracy. They are struggling and have struggled to throw off the yoke of totalitarianism. In this time, when people are seizing back the rights of representative government, all-powerful rulers, it is ironic, indeed, that Members of this body are seeking to give away the powers of this Congress, powers for which our forefathers fought and died, powers that are given to us under the Constitution, powers that are transmitted to us through that Constitution by the voters of this country.

The amendment before us seeks to make a fundamental shift in power from the Congress to the Chief Executive, to the Presidency.

The amendment seeks to change what happens if no one acts after the President sends Congress a rescission proposal under current law. The rescission dies after 45 days and the appropriated funds become available.

Under the amendment that is offered here today, the rescission would take effect unless—unless—the Congress stopped it within 20 days.

Under the amendment being offered here today, in order to prevent a rescission from taking effect, Congress would have to adopt and the President sign a joint resolution disapproving the rescission.

The sponsors of the amendment claimed that Congress could restore the funds with a majority vote. But, Mr. President, that begs the question. Since the President, would have just sent up the rescission he would be very unlikely to sign a joint resolution of disapproval—he would more likely veto it, and Congress would thus need a two-thirds vote of both Houses to pass the resolution without the President's signature.

It would reduce this body and our colleagues on the House side, the elected Representatives of the people, to no more than rubber stamps to the Chief Executive on matters dealing with the purse.

As the President pro tempore of the Senate warned so eloquently yesterday, the amendment before us today has very dire constitutional implications. The amendment seeks to give the President the functional equivalent of a line-item veto without having to pass a constitutional amendment, enhancing the President's veto power. This is a back-door approach, Mr. President, to amend the Constitution of the United States that has served this country so well for over two centuries, that has given us a constitutional government that is the envy of the world and that peoples all over the globe now are struggling to emulate.

The distinguished President pro tempore of the Senate has made this point so ably that I shall not belabor it here today.

Mr. President, the amendment conflicts with the constitutional principles of separation of powers. Giving the President this power would yield additional legislative powers to an already powerful executive. The President would be able to direct the writing of legislation under the threat of rescission any time he has 34 Senators on his side.

The amendment would also threaten the constitutional principle that the power of the purse—one of the few checks and balances Congress has on the Presidency short of impeachment—is vested with the Congress. The power of the purse is the power that legislatures in the English-speaking world have jealously guarded for centuries and generations, as the President pro tempore as effectively detailed yesterday.

It is a well-known fact that political power follows the power of the purse.

As a practical matter, the procedure that is being offered today would not balance the budget. After accounting for expenditures required by law, such as interest on the national debt and entitlements, so-called mandatory payments, the remaining discretionary expenditures subject to rescission amount to a very small portion of the overall budget. The proposal would apply to appropriations bills and not to authorization measures, not to revenue proposals.

The administration itself has consistently made the case that the appropriated portion of the budget is not the cause of our deficit problem.

The matter in the pending amendment, I might say parenthetically, Mr. President, is clearly within the jurisdiction of the Budget Committee pursuant to the standing order on the referral of the budget-related legislation. The Budget Committee has not reported either the pending bill or the pending amendment.

Under section 306 of the Congressional Budget Act, a point of order lies against legislation dealing with matters within the Budget Committee's jurisdiction if the Budget Committee has not reported it out. Under section 904(c) of that act, the votes of 60 Senators will be necessary to waive that point of order, as my colleagues know.

This is not the first time this matter has come before the U.S. Senate. The Senate has spoken on this amendment before, twice in the last 3 years to be precise. The Senate has wisely rejected attempts to waive the Budget Act for amendments that are nearly identical to that one before us today.

On November 9, 1989, the Senate voted 51 to 40 against waiving the Budget Act for a Coats amendment to enhance the President's powers of rescission. In other words, the proponents of the amendment fell 20 votes short of what they needed to consider the amendment under the rules.

Again, on June 6, 1990, the Senate voted 50 to 43 to reject a motion to waive the Budget Act for a McCain amendment identical in substance to the earlier Coats amendment. That day, the proponents fell 17 votes short of what they needed under the rules.

The proponents of the amendment make no secret of the fact that they are merely attempting to press the President into exercising a line-item veto, without a change in the Constitution and without a change in the law.

Mr. President, such a move by the President of this country would be a naked power grab of the most blatant kind. Such a move would fly in the face of the plain language of the Constitution. As the distinguished President pro tempore so ably explained yesterday, the history of the Federal Convention of 1787 very plainly demonstrates that the Founders did not intend to give the President such power.

Those who argue that the President already has a line-item veto point to article I, section 7, clause 3 of the Constitution, which states:

> Every Order, Resolution, or Vote to which the Concurrence of the Senate and House Of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Advocates of the President's inherent line-item veto power argue that this clause allows the President to veto parts of bills because it provides power for the President to veto votes.

This position runs contrary to the history of the provision in the Federal Convention of 1787. The clause was added on August 15 and 16, 1787. At the close of debate on August 15, 1787, James Madison noted that the reference to bills in what would become the second clause of section 7 might create a loophole for resolutions. According to Madison's notes of debate at the Convention:

> Mr. Madison, observing that if the negative of the President was confined to bills; it would be evaded by acts under the form and name of Resolutions, votes et cetera, proposed that "or resolve" should be added after "bill" in the beginning of section 13, with an exception as to votes of adjournment et cetera—after a short and rather confused conversation on the subject, the question was put and rejected, the States being as follows,
>
> New Hampshire no. Massachusetts aye. Connecticut no. New Jersey no. Pennsylvania no. Delaware aye. Maryland no. Virginia no. North Carolina aye. South Carolina no. Georgia no.

Edmund Randolph proposed a revision of the proposed language the next day. Madison's notes recount:

> Mr. Randolph having thrown into a new form the motion, putting votes, Resolutions et cetera, on a footing with Bills, renewed it as follows "Every order resolution or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment and in the cases hereinafter mention) shall be presented to the President for his revision; and before the same shall have force shall be approved by him, or being disapproved by him shall be repassed by the Senate and House of Representatives according to the rules and limitations prescribed in the case of a Bill."
>
> Mr. Sherman thought it unnecessary, except as to votes taking money out of the Treasury which might be provided for in another place.
>
> On [the] Question as moved by Mr. Randolph
>
> New Hampshire aye. Massachusetts: not present, Connecticut aye. New Jersey no. Pennsylvania aye. Delaware aye. Maryland aye. Virginia aye. North Carolina aye. South Carolina aye. Georgia aye.
>
> The Amendment was made a Section 14 of Article VI.

The history of the constitutional provision cited by the advocates of the President's inherent line-item veto power thus shows that the Framers meant merely to ensure that joint resolutions and other legislative vehicles—not strictly bills—would be constrained by the same requirements as bills.

Many of the Framers who participated in the 1787 Convention went on to serve in the first Congress, which sent the President as its first appropriations bill an omnibus appropriations bill to fund all of the Government. Similarly, had James Madison believed that the language he called for at the Convention empowered the President to exercise a line-item veto, then surely he would have exercised it himself when he was President.

In sum, Mr. President, the President has no authority to exercise a line-item veto. If he does so in the face of the plain constitutional language to the contrary, he will engender a constitutional crisis of the first order.

Mr. President, in conclusion, I simply state that a point of order plainly lies against the amendment pending before us today under section 306 of the Congressional Budget Act of 1974. I urge all Senators to vote against waiver of that point of order.

Mr. President, I also designate the President pro tempore to control such time as I might have remaining under my control under the unanimous-consent request.

I urge all Senators to reject the motion to waive the Budget Act for the pending amendment.

Mr. BYRD. If the Senator will yield, Mr. President, I thank the distinguished Senator for his statement, I thank him for the position he has taken consistently, and I thank him for yielding the time.

The distinguished Senator indicated that, under the amendment the thrust would be directed toward the appropriations committees and appropriation bills.

May I say to the distinguished Senator that I have an amendment which, if the waiver is granted, I will offer to the amendment by Mr. MCCAIN. My amendment will put the authorizing committees, as well, under the tent, so that if there is going to be a line-item veto, it will not be just directed toward appropriations alone but it will be directed toward authorizing bills, as well. It will be across the board.

Mr. SASSER. I thank the distinguished Senator for that explanation. I agree with him. I do not expect this amendment to be successful. I expect this amendment to be soundly defeated, as have amendments similar to it on prior occasions. And I am sure that after our colleagues listened yesterday to the very extensive and exhaustive and, I might say, eloquent explanation made by the distinguished President pro tempore in opposition to this amendment, I expect that this amendment today will be defeated as soundly, if not more so, than those that have preceded it in prior years.

The distinguished President pro tempore, I think, raises a very valid point here. The proponents of this amendment are advancing under the guise of seeking to reduce the Federal budget deficit. The problem that we encounter here is that this amendment would really impact only on the appropriated accounts, and a cursory review of the history of the Federal budget over the past 30 years would indicate very quickly that the problem is not the appropriated accounts. The massive growth in the Federal spending has occurred in the so-called mandatory accounts, the so-called entitlement areas and, of course, they would not be impacted at all by the amendment offered by the distinguished Senator from Arizona.

Also, it would not impact on the problem of the interest on the debt. That has become the fastest growing component of the Federal budget, I am sorry to say.

So what we are being asked to do here in the final analysis is really to do damage to a well-established constitutional principle that springs from Anglo-American history, that is time-proven, and that has been proven by over 200 years of experience in this country, and proven by many centuries of experience by our friends across the Atlantic in the British Isles.

There was an old saying that was popular around here a few years ago that went something like this, and in the vernacular it was: "If it ain't broke, don't fix it." And this budget process of ours is not broken to the point that it needs this sort of Rube Goldberg, jury-rig fix which, in my view, would make matters only worse and give the people of this country even less control over their own affairs than they have at the present.

Mr. President, I am going to yield the floor at this time and, as I said earlier, the distinguished President pro tempore will control the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I cannot help but comment on the statement of my distinguished friend from Tennessee that the budget process is not broken sufficiently. Anyone who looks at our $4 trillion debt and thinks that the system is not broken, I suggest might take another look. And that view is certainly not shared by the overwhelming majority of the American people who, for generations to come, will have to shoulder the burden of this broken budget process.

I would like to yield as much time as he may consume to the Senator from Indiana.

Mr. COATS. Mr. President, I thank the Senator from Arizona for yielding time. I also will save most of my remarks for closing.

Let me take this particular opportunity to just explain to our colleagues exactly what it is we are looking at here, because I think there are some misconceptions within the Chamber and among certain Members as to what this bill actually does, and what it does not.

It does not gut the ability of Congress to control the power of the purse. It does not take away our ability to exercise spending authority, to make decisions about how we ought to spend the taxpayers dollar.

What it does is attempt to right an imbalance that in this Senator's opinion was created in the 1974 Budget Act, which in response to an exercise of impoundment which was exercised by then President Nixon in an attempt to control what he felt was excessive Federal spending, the Congress enacted a provision which was designed to restore, in Congress' view, some balance between the legislative branch and the executive branch.

But what we have seen since 1974 is the creation of a significant imbalance. Because in attempting to restore a so-called balance, we took away from the executive branch a power that it had exercised for nearly 200 years under our Constitution. In doing so, what we found is that the Congress tipped the scales dramatically in its own favor and literally wrote the executive branch out of the ball game.

Because what happens now is that legislation is sent to the President on a take-it-or-leave-it basis, an all-or-nothing basis. Massive appropriations bills, appropriating hundreds of billions of dollars, are laid on the President's desk and the President has no authority whatsoever to look at that legislation and say: I like 85 percent of it; I like 95 percent of it; I like 99.9 percent of it; I just am not willing to accept what I think is a totally unnecessary line item of spending that was clearly attached for the benefit of a few, or perhaps even one Member of Congress because they happen to be in a position to attach that.

There was no hearing, no debate, no separate public discourse or Senate discourse on the item, and no accountability, no vote; simply an item stuck in to benefit a small purpose. That is not what the Federal Government is about, and that is not what I think it should be about.

I think the misconception comes at this point, because I think Members think, well, if we give the President authority under the McCain-Coats legislation, then the President will simply line that item out, and that is the end of it, and the Senate and the House—the Congress—will have no recourse. That is not true.

That is not what the legislation propounds. The legislation simply attempts to restore a balance wherein the Congress can send the President anything they want, and the President can look at this and simply say: I will take all of it except A, B, and C.

And the President then sends back in a message to Congress those items that he does not think appropriate, and the Congress then can overturn the President's decision by simply voting a resolution of disapproval. And in doing so, it can restore that item that it had attached to that bill in the first place.

Now, of course, the President has veto power over that, like he has veto power over anything else that we send him. What will this do? It simply will force Congress to justify its spending; it will force Congress to debate and to put light on its spending; it will force Members to come to the floor or to the committees, or whatever, and simply say: I think this is a priority; let me tell you the merits of this particular project.

If he can convince, or she can convince, 50 of his or her colleagues, then that item will be restored.

So it creates a balance that was lost in 1974. It creates a new balance of equity between the two branches. It does not deny any Member of Congress the right to attach anything he wants to any bill that he wants.

I suspect that what will happen is that, knowing that the Executive has the ability to line-item, Members will be a little more careful about which items they ask to be attached to bills. And they will select those items they deem justifiable in the eyes of their colleagues, justifiable in the eyes of their constituents, justifiable in the eyes of the American people, because they know there might be some light shed on that particular item.

Annually, this body goes through public embarrassment as the media and the American public hold us up to ridicule for items that are attached to bills that have no relationship to that appropriation whatsoever, that are obviously self-serving. It becomes the butt of jokes on late-night talk shows, and it denigrates this institution.

If we cannot enact a simple procedure whereby we exercise some restoration of balance and restraint on the way in which we spend taxpayers' money, particularly at a time when we are running an annual deficit of $300-and-some billion—and some say more, depending on how you account for some items—and our national debt is approaching $4 trillion; if we cannot exercise some element of restraint, then I think this institution is incapable of dealing with some of the bigger questions that admittedly have to be answered.

Senator McCAIN and I have never intimated or claimed that this legislative line-item veto will solve all of our deficit problems. It will not solve all of our deficit problems. It only affects a certain portion of spending. It does not do anything to entitlement spending or mandatory programs.

It is not an insignificant amount. GAO has estimated that in the 5-year period in the mid-eighties, had the President had this authority, we would have saved $70 billion. That is not an insignificant amount.

Will that balance the budget? No. Will that eliminate our national debt? No. But it is a start. It is a step in the right direction; it is a first step. If we cannot take the first step, how can we take bigger steps? At some point, this institution is going to have to face up to the music; they are going to have to look at that debt. They are going to have to stand and face future generations and explain why it is that we are saddling them with so much debt.

We do not have the political will or the political courage to do this as an institution right now. But I hope that we will at least have the political courage and the will to take a small step in restoring what I believe in some equity to the process. It is almost as if we are addicted to spending, and we need something to save us from ourselves.

So the legislation that is before us, S. 196, which I introduced on January 3, 1991, along with Senator McCain and nearly 30 of our colleagues here in the Senate, the Legislative Line-Item Veto Act of 1991, requires that the President determine that his rescission that he sends forward will help balance the budget, reduce the Federal deficit, or reduce the public debt, and will not impair any essential Government functions. Do not let anyone be laboring under the misconception that this is going to impair an essential Government function, because the President specifically has to certify before he sends his rescission that it does not do so, and that the rescission will not harm the national interest.

It is a pretty rigid test. It does not mean the President can willy-nilly take out some of the important programs we feel are essential to the operation of this Nation and the functioning of this Government. Do not let anybody come down to the well of this House and vote, thinking that this is going to take out Social Security; this is going to take out needed veterans' benefits; this is going to deny poor, indigent women and others needed Government benefits. That will not be the case under this.

We know what this will do. This will stop the pork barrel that has been held up to ridicule every year in the media and among the public; that is the butt of talk show jokes that ridicule and denigrate this very institution.

That is what we are after.

There is a procedure set out, a reasonable procedure, that will ensure that this institution, this body, will responsibly handle the request in an expedited period of time.

There are procedures set out that will ensure that we do not play the usual games in maneuvering the legislation so that we do not have an up-or-down vote on the very item in question; so that the amendments are not procedurally fuzzed up so that the public does not know what we are doing. There are expedited procedures so we do not tie up this Senate on items that some might consider trivial in endless hours of debate.

It is a bill that was forged with tough, hard negotiations between Members of this body who have been active on this issue for a considerable period of time, who each had their own ideas about how we might begin to fashion some reasonable response to a public clamoring that we do something about excess spending in this body.

We gathered together in a number of sessions, and we hammered out a proposal; we ran it by constitutional experts and others; we sought the very best advice that we could get. And we came up with S. 196.

And that is the issue that we are voting on here today. That is the issue that Members need to be aware of, the procedures that are set out here and the fact that this is not an egregious usurpation of legislative authority. It is simply a restoration of equity and balance, and frankly, it is a way to save us from ourselves.

It is embarrassing to me. It is embarrassing to my constituents. It is embarrassing to the American public how we spend their tax dollars and at the same time go back and tell them we are in dire straits, that the national debt and the deficit prevent us from passing programs that many think are needed, that address very real concerns of this country.

But, no, we do not have the funds to be able to do that. And yet we have the funds to fund a whole list of items that GAO said totals in the billions of dollars. We have the ability to do that. The public looks at those and says, "That is the most self-serving piece of legislation I have ever seen. What does that do for the national interest? What does that do for national priorities? What does that do for future generations in terms of their ability to pay back this national debt?"

If we cannot take this small step today, then I do not know what larger steps we will ever be able to take. So I am urging my colleagues to carefully look at this legislation, see it for what it is, and come down here and have the courage to take that first step toward fiscal responsibility.

Mr. President, I thank the Senator from Arizona. As I said yesterday, he has been a tireless crusader for this cause. He has encouraged me when I thought maybe we do not need to go ahead, because each time we bring it up we just cannot seem to muster the necessary majority. He has said, no, we need to stay on this, we need to keep going, we need to keep making the point because at some point the American people will become so outraged over our inability to get any kind of control or fiscal sanity in this situation that they will demand that their Senators come down and support this effort. So let us keep going.

I appreciate the incentives and bucking up that he has given me to keep my eyes focused on the goal, keep focused on the problem, and keep pursuing this effort. And I thank him for his invaluable help and his persistence. It has been a joy to team up with him on this. I think we can assure our colleagues that we are going to keep talking about this, keep raising this question until this body and the American public insists that it face up to its responsibilities in a responsible way.

Mr. President, I thank the Senator for the time. I am hoping to reserve some for final argument before we vote.

The PRESIDING OFFICER. Who yield time?

Mr. McCAIN. Mr. President, I yield 5 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

Mr. SMITH. I thank the Senator from Arizona for yielding.

I want to commend him and Senator Coats for their leadership on this very important issue. The line-item veto is something that the American people support. It is something that is necessary to move this budget process off center and away from a $4 trillion national debt, which we now have at our disposal, which our children now are going to be forced to pay for and their children as well; as a matter of fact, probably their grandchildren and the grandchildren beyond that before this $4 trillion debt is paid off.

This is only one small way to deal with it. The process is broken as Senator McCain commented a few minutes ago in response to Senator Sasser, the process is very much broken. The American people know that it is broken, and the line-item veto is one way to deal with it.

It was said on the floor yesterday that some of us who are out here in favor of a line-item veto would not support that veto were we to have a Democrat in the White House. Let me go on the record as saying I support it if there is a Democrat in the White House. I hope that does not happen in the near future, but, if there is a Democrat in the White House, I will still support the line-item veto because the President ought to have that authority because he can make decisions that the Congress apparently does not have the courage to make in terms of budgetary matters.

What this amendment will do, the amendment of Senator McCain and Senator Coats, will, frankly, make the Congress do one very simple thing: vote in the light of day on many of the projects that we are so intent on funding with borrowed money. We are going to have to be held accountable. That is the issue.

If there were a rollcall vote, would we spend $1.7 million for a facility to study how to genetically alter africanized honey bees to make them less aggressive? Would we spend $1.7 million on that if there were a vote? I do not think so. The line-item veto, even with a Democratic President, I think, would line that out.

If there were a rollcall vote, Mr. President, would we spend $225,000 to build an onion storage facility at the University of Georgia? I do not think so.

If there were a rollcall vote, would we spend $1 million to refurbish a sports stadium in New Orleans?

And if there were a rollcall vote, would we spend $5 million on a parliament building in the Solomon Islands?

How about $25,000 to study the location for a new House of Representatives gymnasium? Mr. President, would we spend $25,000 for that if there were a rollcall vote?

All of these items and many more like them, hundreds of millions of dollars more like them, would be lined out by any President of the United States, but they will not be lined out by this Congress.

It is morally wrong, as Senator MCCAIN said yesterday, to tell a veteran or a person on Medicare or a child that needs a vaccination that we cannot find money for that when projects like this are being funded every year in this Congress. It is morally wrong. How do we tell 17,000 workers that are going to be laid off at General Motors that their Government appropriated $140,000 for swine research in Minnesota? That is what we are doing.

This Nation is in debt. Every child born as we speak right now is $13,000 in debt. My advice to all of the American people to pay your debt today because it is going up. It is going to be more than $13,000 by the time the debate on this matter is finished. A family in New Hampshire unable to make ends meet, or in Arizona or Indiana or West Virginia does not need to go out all night on a spending spree, and neither should their Government.

Yesterday Senators listened to a very detailed and exhaustive argument against the line-item veto. Senators should be aware that this amendment would in no way amend the Constitution of the United States nor be in direct conflict with the Constitution of the United States. All arguments against the line-item veto amendment in the Constitution are null and void. This amendment is not about that issue at all. I could go out and argue against tax increases until I am blue in the face, but if the body is not debating a tax increase, then the discussion would be pointless. Similarly, the argument we have heard against amending the Constitution are also groundless. This debate is about enhanced rescission power. Every year the President sends a list of recommended rescissions to the Congress, and every year the vast majority of those rescissions are totally ignored by the Congress. The McCain-Coats amendment would simply allow those rescissions to take effect.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SMITH. Mr. President, I ask unanimous consent for 2 additional minutes.

Mr. McCAIN. I yield 2 additional minutes to the Speaker.

The PRESIDING OFFICER. The Senator from New Hampshire has 2 additional minutes.

Mr. SMITH. I thank the Senator from Arizona.

It is no more complicated than that. Yet we were told that many of the pork items commonly mentioned were not line items at all; they are simply in committee reports that are nonbinding. And that is the truth. If that is the case, what is all the opposition about? The fact is, every year there are dozens of lime items that could be rescinded.

This Senator will state right now that I will support this proposal for the line-item veto, and I might add I would support that if the distinguished chairman of the Appropriations Committee were President of the United States. I would trust him to have the line-item veto. I think it is important that the line-item veto be there for the President, and if it is, I think we can get a handle on this wasteful spending. It is a small start, but it is a small start and a big start at the same time. It might be one small step for the Senate, but it is a big step, a giant step, for the people of the United States of America.

I thank Senator MCCAIN for his leadership on this issue and appreciate the opportunity to be able to speak in favor of his amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank the Senator from New Hampshire for his years of effort on behalf of fiscal sanity and I am grateful for his remarks. I think they contribute enormously to this debate.

Mr. President, it is my understanding under the unanimous-consent agreement that Senator DECONCINI was allowed 10 minutes. I see he is here. I think it is appropriate, if he cares to, that he proceed at this time. I also, if I could, would ask the distinguished chairman of Appropriations Committee, I think it is appropriate that he, obviously, speak last in this debate. I am more than eager for him to do so.

I wonder how much time he would need at the end so we could possibly balance it out. Would 10 minutes be agreeable? Or would he care to discuss that?

Mr. BYRD. Mr. President, I think 10 minutes would be ample for me at the end.

Mr. McCAIN. Yes, sir.

Mr. BYRD. I am prepared to go somewhat longer and I hope I will be able to do so, but 10 minutes at the end will be fine.

Mr. McCAIN. I thank the distinguished chairman and I will try to balance the time so there is 10 minutes available at the end for summary. I thank the Chair.

Mr. DECONCINI. Does the Senator yield the floor?

Mr. McCAIN. I yield.

The PRESIDING OFFICER. Senator DECONCINI is recognized.

Mr. DECONCINI. Mr. President, I thank my colleague, Senator MCCAIN, for yielding the floor.

Under the order I understand I do have 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. DECONCINI. I am sorry to have to rise in opposition to my colleague's efforts, to impose a constitutional change through statutory procedures. As the distinguished President pro tempore has pointed out on a number of occasions—and certainly last evening was a remarkable statement of why we have the system we have and how important it is to us—it is really important to look at the practical aspects of the so-called line-item veto.

We all like to think how great that is. Just give it to a President and let him strike everything he wants. After all, 40-some Governors have it and look how wonderful their States are.

Look how wonderful their States are and you will see a lot of problems in their States. You will see legislators and you will see former Governors—as the former Governor of Oregon, Senator HATFIELD pointed out very clearly. Some 26 years ago, I believe, when he was Governor—what did they do? They padded their budgets, exactly what they do in the State of Arizona.

Democrats and Republicans will tell you just pad it and put extra stuff in there so we are just playing a game here.

The important thing is, in my judgment, that in representing your State you have to determine what you are going to do for your constituents. Let me just give an example so nobody is under any pretense that this is partisan, Democratic or Republican.

When Jimmy Carter was elected President in 1976 and took office in 1977, what did that nice man do? He was indeed a very nice man and good President, with the exception of this particular area of great concern to me. He immediately came up with a hit list of water projects, 18 of them. One of them happened to be the Central Arizona project, which is our lifeblood. Thanks to the distinguished chairman of the Interior Committee—and Appropriations Committee—and others around here, they have felt that the commitment made by Carl Hayden and Barry Goldwater should be maintained. And during the Carter administration and the Reagan administration, there were attempts to completely cut that project out and every year the Congress insisted on full funding of that project.

Had a line-item veto been in place, Jimmy Carter would have struck that project along with 17 others.

When President Reagan submitted his budget, in the early eighties, it called for a reduction and actually an elimination of the cost-of-living increase for Social Security. Guess who saved that for the Social Security recipients? The Congress of the United States; Democrats and Republicans said no. We put it back in.

If you had the true line-item veto that included entitlements, the President would have struck that. Then we would have had to override a veto.

That is really what this is in this process here today. This legislation sets up a veto fight, though it is a 20-day time period and then another 20-day time period to adopt it by a majority, then the President vetoes it and it comes back and Congress has to have a two-thirds vote to override.

So, look, for example, at the Barry Goldwater Science Center at Arizona State University. It was an appropriation that the Senate decided was important, and the House went along with, in honor of Barry Goldwater and to improve education in engineering for the people in my State, and for anybody else who comes to the State of Arizona. We invested taxpayers' dollars to get better engineers.

President Reagan, in the White House, and the OMB, said that it was a bad project. It was even listed as a "pork barrel" project. That building is up now, students are going there, they are learning about engineering and they are contributing to our society. With a line-item veto that project would have been wiped out.

There are a host of these different kinds of projects. In the veterans area, veterans job-training programs. Who has increased and maintained them every year? It has been the Congress. And who has been opposed to it? It has been the administrations, including Democratic administrations. That would certainly be a candidate for line-item veto.

Agent Orange. The Bush administration opposed the increase of specific moneys added to the medical care account for treatment of the victims exposed to agent orange from the Vietnam war. Congress put it in. The administration opposed it, but they did not have the line-item veto.

If they really are opposed to something, all they really have to do is veto the bill. We know that so well, in this body, with 24 of 25 veto messages from the President who occupies the White House now. Not one of his veto messages has been overridden.

The Office of National Drug Control Policy, is a program near and dear to me. For the last several years the Congress, over the objections of OMB, has funded moneys out of the Office of National Drug Control Policy for State and local governments; $32 million last year. We decided that we should fund this for high-drug-intensity areas. There are five of them.

One of them happens to be the Southwest, which includes the States of Arizona, California, Texas, and New Mexico. And that little bit of money goes to local law enforcement to work with the Federal law enforcement. For reasons I do not know, the drug czar, OMB, and the White House, each say no. If there was a line-item veto that would have been struck and we would not have had that.

The drug czar special forfeiture fund is another one. It provided 75 new border patrol agents and $10 million for residential drug treatment. This was something that had not been proposed by the administration and, in fact, they said in their testimony they could not afford it. It was not a bad idea. They could not afford it.

Had that $10 million not been there, drug addicted women with children would not be living together in treatment centers today in Tucson, AZ. That is the reality of it. The counternarcotics R&D—$20 million the administration said we do not need to spend—would have been line-item vetoed. Additional IRS agents to go after drug dealers for a grant total of $6 million.

United States-Mexican border facility, $200 million this Congress has put in to improve the construction account and build improvements of border facilities. The administration opposed it. OMB testified in my subcommittee that we should not have these because they are not on a priority list. And we said no, they are on a priority list and we are going to do them. And they are under construction right today. Line-item veto would have wiped them out.

That new port of entry being built in Nogales, AZ, and Douglas, AZ, would not have been there if the line-item veto was in.

Native American construction programs: The Bush and Reagan administrations have consistently provided zero funding for a number of important programs for Indian country. Congress consistently funded—and my dear friend, and I am deeply obligated to him for his willingness to consider these projects on a one-by-one basis as they come up in the Interior Appropriations Committee—has continuously funded hospital construction for Indians, when the administration has zeroed them out.

The BIA elementary school construction program again zeroed out by the administration and Congress funded it.

Impact aid—where the administration sought to eliminate impact aid part B. We happen to be a State that has 70 percent of our State owned by the Federal Government, including Indian lands, we get a little bit of assistance on that impact aid for those students. The administration says, no; Congress funds it.

These are the kind of things that would be cut by a line-item veto. Do not let anybody kid you.

Community service block grants, again something the administration has consistently not funded. We have felt it is important. We have funded it.

The food banks, the rural housing, services to migrant workers, poverty fighting programs, the list goes on and on all part of community services block grants.

The Turquoise Trail, is an outstanding project that was put in by my colleague from Arizona to bring transportation and economic development; it was on the hit list of the administration to be wiped out.

Let us talk about a program that is not in Arizona for just a minute. How about Amtrak? We like Amtrak in Arizona but it only comes once in a while and it is not so crucial to us as it is to the Northeast. But there are a lot of Republican and Democratic Senators that Amtrak is absolutely fundamental to their economic development. New York is a good example. They have to have Amtrak and those Senators add money to the budget. And this Senator adds his vote for that money when the administration calls for zeroing it out. That would be a target of any line-item veto.

It goes on and on, Mr. President.

James Kilpatrick, a staunch conservative, states that a line-item veto would give "more power than Presidents ought to have."

President Taft, a Republican, said that remedies such as those suggested here are "A temptation to its sinister use by a President eager for continued political success."

How many people want the OMB Director to call them and say, "Senator, you know we have a base in your State that is threatening to be closed, and I'm sure looking at it as favorable as I can. By the way, Senator, I need your vote on the Clarence Thomas nomination, or the Robert Bork nomination, or the John Tower nomination." Do not let anybody be fooled, Democrat or Republican, you give that kind of power to the President and they are not babes in the woods. They are going to use it, and use it to get what they want. And they are going to take the heart out of our capabilities to represent our constituents.

The PRESIDING OFFICER. Who yields time? The Senator from Arizona.

Mr. McCAIN. I yield myself such time as I may consume.

Mr. President, I would like to begin by thanking the many groups who made this effort possible. These groups include Citizens Against Government Waste and its 450,000 members, the National Taxpayers Union and its 200,000 members, the United States Business and Industrial Council and its 1,500 members, Citizens for a Second Economy and its 250,000 members, and the Coalition for Fiscal Restraint, known as CoFIRE, and 83 of its member businesses and organization. Their hard work and dedication has made this effort possible and has offered encouragement to me and Senator COATS, and letters by the hundreds of thousands have poured into this body in support of fiscal sanity.

I also thank the President pro tempore for his outstanding scholarship outlining our Anglo-American political heritage. I comment his statement to all of our Members to read as a very profound and scholarly document and one of the continuing contributions that he makes to the knowledge and information for not only Members of this body but all Americans.

But we are not here to debate Anglo-American history. What we are talking about, Mr. President, is what has happened to out Federal budget since 1960.

Let me say it again. In 1960, the Federal debt held by the public was $236.8 billion. In 1970, it was $283.2 billion. In 1980, it was $709.3 billion. In 1990, it was $2.4 trillion, and it is expected to surpass $4 trillion within the next year.

Mr. President, the system is broken. It has to be fixed. What are we doing to our children and our children's children by amassing a $4 trillion debt?

I think it is interesting to look at those numbers and see what happened around 1974 because what this is all about is not a change in the Constitution. It is clearly a revision of the 1974 Budget Control and Impoundment Act which up to that point the President of the United States had exactly the authority that we are trying to give him with this bill.

Last night the President pro tempore made a few interesting comments, many interesting comments about those who support the line-item veto. He stated, and I quote, "The average citizen who is concerned about spiraling budget deficits cannot be expected to understand the intricacies of appropriations bills." He also stated, "Or they are just engaging in demagoguery by using the item veto to avoid tough political decisions and knowingly playing upon the ignorance of honest souls who are uniformed concerning the complexities of the appropriations and budget process."

Mr. President, I wonder if that applies to three of the Democratic Presidential candidates who have all announced their support of the line-item veto.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. McCAIN. Yes.

Mr. BYRD. It does.

Mr. McCAIN. Pardon me?

Mr. BYRD. It does. I so stated yesterday, including the present President in the White House and his predecessor.

Mr. McCAIN. I thank the Senator for filling me in on that, particularly since we have letters that I know the distinguished chairman has heard me quote. Senator Paul Tsongas, a Democratic candidate for President supports the line-item veto. He believes that it is an effective way of reducing waste in Government. I remind my colleagues that Senator Tsongas was a Member of this body for some time.

Governor Clinton: "I strongly support the line-item veto because I think it is one of the most powerful weapons we could use in our fight against out of control deficit spending."

And we also know that Gov. Jerry Brown, a former Governor of the State of California, strongly supports the line-item veto.

I do not believe that they are engaging in demagoguery and I do not believe they are ignorant or uninformed. I think they are informed, and I think as Presidents of the United States, the job that they are seeking, they would feel great comfort in having the ability to bring the out of control spending under control.

Mr. President, the average citizen, in my view, is not ignorant nor uniformed. The average citizen knows when his or her pocket has been picked. The American public supports line-item veto because they are well informed about the intricacies of runaway spending, out of control deficits, and ever-increasing tax burdens. The American public knows the score.

Mr. President, they are being informed on a regular basis with publications such as one recently published called the "Congressional Pig Book Summary." I am embarrassed by that document. I think all of us should be because many of the items that are listed there are clearly not necessary.

As my friend from Indiana mentioned, we are now the butt of jokes on late night talk shows. I resent that, too. I think the body deserves better, and we can deserve better, and will receive better if we enact some kind of fiscal sanity. The American public may not be well versed in the intricacies of Anglo-American history but they know full well the Earl of Kent's court would never have proposed a study of cow flatulence.

I again want to thank the President pro tempore for his eloquent discourse on our Anglo-American history, but as I mentioned, we are not here to debate ancient Anglo-American history. Senator COATS and I are here to solve a problem that affects every American today. Our effort is not, as the chairman of the Appropriations Committee characterized, quack medicine or snake oil. I believe it is an effort to reform a system that is broken.

I will again bring to the attention of the Senate $3.7 trillion of public debt as irrefutable evidence of that. The constitutional criticisms of the amendment are unfounded. As I mentioned before, we are not amending the Constitution, we are amending the 1974 Budget Control and Impoundment Act. I would have liked for us to have simply an up-or-down vote on the issue rather than it be subject to the Budget Act, but obviously that is within the rules of the Senate.

Mr. President, we are not capable of following a simple law which says, and this is our law: "No funds may be appropriated for any fiscal year or for the use of any armed force or obligated or expended for procurement R&D," et cetera, "unless funds, therefore, have been specifically authorized by law."

Mr. President, last year we added $6.3 billion of unauthorized spending to the Defense appropriations bill which for the first time cause me to vote against the Defense appropriations bill. Mr. President, the reason why I did so is because we spent money like $10 million on a small college in Pennsylvania to study the effects of stress on the military which was over one-third of that college's budget; and at the same time the very, very same time we are telling tens of thousands of dedicated young men and women who joined the military for a career on a voluntary basis that we cannot afford to keep them, so they have to leave.

Mr. President, $6.3 billion would pay for the personnel and operating costs of 195,000 enlisted personnel in the Air Force for 1 year. Or it would pay for the operating costs of up to 16 carrier battle groups for 1 year. Or it would pay for the operating costs of eight to nine fully armored Army divisions. Or it would pay for the operating costs of 14 to 15 light infantry divisions for 1 year. Or it would pay for the total operation of the soon to be closed Williams Air Force Base in Arizona for 50 years.

I resent again what we are doing to these young people, many of them minorities in our society, who sought a military career as a way to better themselves in our society and we are telling them we cannot afford to keep them.

Mr. President, this is a chance for Congress to change the score. This is a chance for Congress to succeed where it has failed over and over again. And here is a chance for substantive reform, reform that 600 years in the future may cite as a major improvement in our republican system of government.

Let me remind you that in modern economic history, every time Government spending exceeds roughly 19 percent of GNP, we have found ourselves in recession. Now Government spending consumes 24 to 25 percent of our gross national product. We have to give Americans a fighting chance and we have to eliminate the wasteful and unnecessary spending.

Let me quote, Mr. President, and I will not take too much longer, from the preamble to the U.S. Constitution. It states:

> We the People of the United States, in Order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

To secure the blessings of liberty to ourselves and our posterity. The Congress over the last 30 years has failed in its constitutional obligation to secure the blessings of liberty for posterity.

This debate is not about ancient history. This debate is about the future of our children. I ask my colleagues to consider the future of their children and the future of our country and vote to waive this point of order so that we will not lay this unconscionable burden which is now $13,000 for every man, woman, and child in America and enact the line-item veto.

Finally, Mr. President, let me say I do not expect to win this vote. We are able to count. We may do better than some people think because the heat is on. But I do not expect to win this vote. I believe that there is a great opportunity here, and I have some optimism that the President of the United States, following this failure again, would go ahead and exercise the line-item veto on some item and then take it to the courts and to the American people.

There is no doubt every poll shows that well over 70 percent of the American people support the line-item veto. Every one of them that I know is fed up with the wasteful and inefficient spending practices of our present budget process.

I hope that the President will veto it. I believe he will, and then we will allow the courts and the people of the United States a decision in this process. I have some confidence that it may come out in the proper direction. If it does not, I do not see how we are worse off than we are today.

Mr. President, I want to thank again the President pro tempore of the Senate for all his courtesy and his eloquent depiction of his view of this debate, and I want to thank all my colleagues for their support.

Mr. President, I ask unanimous consent to add Senator GRASSLEY as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. I yield 5 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. McCAIN. Mr. President, may I ask the time remaining on both sides?

The PRESIDING OFFICER. The Senator from Arizona controls 24 minutes and 40 seconds, the Senator from West Virginia controls 41 minutes and 37 seconds.

Mr. McCAIN. I yield 7 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 7 minutes.

Mr. BROWN. I thank the Chair.

I rise in strong support of the line-item veto. I want to express my gratitude to the distinguished Senator from Arizona for his leadership on this issue as well as his great efforts to bring this issue to fruition.

I also want to acknowledge the heavy burden and the strong work of the distinguished Senator from West Virginia. The distinguished Senator from West Virginia is in a tough spot. He is faced every day with requests from Members of this body for appropriations. He is faced with the tough job of trying to sort those out and set priorities.

I believe that this measure makes sense. I believe the line-item veto is an important change that must take place. I think one may well reasonably ask, why change the system? The distinguished Senator from West Virginia has made an eloquent plea against change in this regard.

I must say, Mr. President, I believe the facts are quite clear that this Nation has to change. We can no longer afford to go on as we have. Whether Democrat or Republican or liberal or conservative, every American has to be concerned about the fact that the biggest part of our budget today is not defense, not welfare, not assistance but interest on the national debt.

Americans are required to work longer and harder simply to pay interest on past debts than at any time in our history. That is a tragedy. It is a tragedy for Americans, not only working men and women in this country, but a tragedy for our children and grandchildren who inherit an enormous debt that overhangs our country.

We need change. This Nation, if it is to survive, needs a change. The fact is we consume most savings that cap the formation of public deficits instead of being willing and able to reinvest it in our future and the future of our children. There is no question that we have to change the way we budget because it will consume our future if we do not.

Much has been said in this debate about the heritage we have and of which we are all so proud. But, Mr. President, I believe if there is one message, if there is one thought, if there is one common thread that underlies our proud heritage of government and our Anglo-Saxon heritage from Great Britain, the British Parliament, that has followed us down though this Constitution, it is this: Americans have been suspicious of concentrations of power. We did not like it when King George ruled us. The one common thread we set up when we established this Constitution was to divide power, to make sure someone could not abuse power. Power corrupts. Absolute power corrupts absolutely. What we have seen is an overconcentration of power in the appropriations process, and this begins to break it up. It is in the very spirit of the American tradition.

Third, Mr. President, I thing it is important to examine what happens in our society with insider trading. Insider trading in the stock market puts people in jail. But what does it do with regard to appropriations? The simple fact is that many of the items for which this country appropriates money have not seen the light of day, have not been authorized, have had no hearings, are not subject to competitive bid. What we are suggesting with the line-item veto is that we end the practice of insider trading in Congress. This allows items that have not had hearings, have not been open to the light of day to be itemized and brought out and provide a separate vote.

That light of day is what we are talking about. We are talking about giving people the opportunity, the chance to take a careful look at what is passed. We are all aware of the process. We are all aware that things get rolled into large bills. It becomes very difficult to get a separate vote on them or to take them out.

This line-item veto means one thing—not an advantage to Democrats or Republicans because it is nonpartisan both in the support it has and the impact it will have. It means better and more efficient use of the taxpayers' dollars. It means an end to insider trading. It means an opportunity to bring to the light of day how we spend our money, and ultimately it means a break for the hardworking men and women of this country who will have an opportunity to at least have a fair shake when appropriations of their money are made—at least have an opportunity to have a hearing, at least have an opportunity to make a comment.

We ought to end the insider trading. We ought to follow our concern about having limited Government. We ought to change the devastating path that we are on with regard to deficit spending.

Mr. President, I intend to vote for the line-item veto and continue to work for it. I believe before this decade is out, we will see a constitutional amendment for a line-item veto pass, not only because it is the right thing to do but because it is essential if America is to have the future we all want for our children and grandchildren.

I yield back the remainder of my time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I wonder if I can inquire how much time remains on each side?

The PRESIDING OFFICER. The Senator controls 18 minutes and 50 seconds; 41 minutes and 37 seconds on the other side.

Mr. SPECTER. I would request 5 minutes and may not use all of it.

Mr. COATS. The Senator is speaking on behalf of the amendment?

Mr. SPECTER. Absolutely.

Mr. COATS. That is what I assumed. I have a number of requests, and Senator McCAIN controls the time. I do not see him on the floor. I wonder if the Senator could take 3 minutes and then perhaps I can track Senator McCAIN down and see what other requests he has.

Mr. SPECTER. I would be glad to start there.

Mr. COATS. Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 3 minutes.

Mr. SPECTER. Mr. President, I support the line-item veto because I strongly believe that the deficits which are being incurred are a national scandal. We are living on a credit card and are imposing these burdens on future generations, and, simply stated, it is categorically wrong.

I happily supported and voted twice on this floor for constitutional amendments for a balanced budget, have supported a line-item veto in previous votes, and have sponsored and supported constitutional amendments for a line-item veto.

These are difficult matters to implement but I believe it is urgent that we do so. In my legal opinion, Mr. President, there is a constitutional basis for the President to exercise the line-item veto without a constitutional amendment. I think he has the authority to do that at the present time.

I have been on the Appropriations Committee for my entire tenure in the Senate. I believe that it is appropriate for the President to exercise a line-item veto, and then to bring it back to the Congress. I would favor an approach which would allow the Congress to override the line-item veto by the simple majority. But there is no reason ultimately why expenditure items in these complicated budgets should not be submitted to the light of day.

I know that structure is not contained in this bill, but we are exploring this subject. I have no illusions as to the passage of this amendment at the present time, but this is an ongoing effort to bring some responsibility into our budgeting process.

I recall very well President Reagan's speech where he had a continuing resolution on the agenda which had been presented to him; it was in the 1988 State of the Union speech. He had the bill precariously positioned on the edge of the podium, I think for dramatic effect, wondering whether it is was going to fall off.

The next year the Appropriations Committee did appropriate separately on 13 bills, which is the minimum that the Congress can do. But beyond that, it is entirely fair and appropriate that the Chief Executive of the United States, the President, shall have the authority to strike a given item, just as the Governors in more than 40 States have that authority, and then in the light of day let it come back to the Congress, let it come back to the Senate, let the Senators who are the proponents thereof stand on this floor and justify this expenditure in the light of a national deficit which approaches $4 trillion.

I prize the independence of the Senate and I prize the separation of powers. I was unwilling to give a commission the authority to decide which military bases were to be closed.

I opposed fast track, and I am a zealous guardian of the constitutional prerogatives of the Senators in terms of independence of the Senate. But when it comes to the expenditures which have been authorized and appropriated by the Congress, we have gone too far. It is more than enough is enough. If they are justified, we can bring them back to the floor and authorize the expenditures. But I very strongly support the concept of the line-item veto and urge my colleagues to express the same sentiment on the forthcoming vote.

I thank my colleague from Indiana for yielding the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask the Chair to inform me when I have only 15 minutes left.

The PRESIDING OFFICER. The Chair will so inform the Senator.

Mr. BYRD. Mr. President, the Policraticus of John of Salisbury, completed in 1159, we are told, "is the earliest elaborate mediaeval treatise on politics." In it, we find a reference to the House of Caesar and an account of the means by which each in this line of Roman rulers came to his end. Julius, as we know, was done to death at the hands of Brutus, Cassius, and others as they gathered on the Ides of March where the Senate was meeting. When Caesar saw those about him with their daggers drawn, he veiled his head with his toga and drew down its folds over his eyes that he might fall the more honorably.

Nero, the sixth in line from Julius, after he had heard that the Senate had condemned him to death, begged that someone would give him courage to die by dying with him as an example. When he perceived the horsemen drawing near, he upbraided his own cowardice by saying, "I die shamefully." So saying, he drove the steel into his own throat and thus, says John of Salisbury, came to an end the whole House of the Caesars.

Here, now, we see the proposal before us, the legislative branch being offered the dagger by which, with its own hands, it may drive the steel into its own throat and thus die shamefully.

I say to Senators, beware of the hemlock. Let us pause and reflect for awhile lest the "People's Branch" suffer a self-inflicted wound that would go to the heart of the constitutional system of checks and balances. I am talking about the power over the purse, a power vested by the Constitution in the legislative branch.

Let the Constitution speak:

> Art. I, Sec. 1: All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.
>
> Article I, Sec. 8: The Congress shall have Power to lay and collect Taxes * * * to pay the Debts and provide for the common Defense and general Welfare of the United States. * * *
>
> Article I, Sec. 9: No Money shall be drawn from the Treasury, but in consequence of Appropriations made by Law.

This is the power over the purse. And it is a power not vested in the Executive; it is a power vested by the Constitution in the legislative branch, and only in the legislative branch. Only in the legislative branch.

Read the Constitution, those who have not read it lately. Read the Constitution and dispute with the Framers of the Constitution as to where the power of the purse was reposited, is reposited, and will be reposited as long as that Constitution endures.

We Senators—100 in number, like the original Roman Senate, which had 100 Senators—are members of the legislative branch. And each of us swore a solemn oath upon entering this body to support and defend the Constitution of the United States against all enemies, foreign and domestic, "so help me God"—the Constitution of the United States which, under article I, invests the legislative branch with the power over the purse.

That oath, which we all took—and which some of us have taken many times, each time upon reentering this office—is set forth in rule III of the "Standing Rules of the Senate." Perhaps we ought to read that oath again from time to time.

Now, if all legislative power is vested in the legislative branch—which it is—then only the legislative branch can make the laws.

If no money shall be drawn from the Treasury but in consequence of appropriations made by law, and only the legislative branch can make the law, then it surely follows, as night follows day, that only the legislative branch can appropriate moneys.

The power to raise and appropriate money is the "power over the purse." To raise money and to appropriate money can only be done by law, and since only the Congress, under the Constitution, can make the law, then only Congress has the power over the purse. That power flows specifically and directly from the Constitution to the legislative branch.

If each of us has sworn an oath before God and man to "support and defend" the Constitution of the United States, then how can any one of us seriously propose to disregard and undermine that Constitution by attempting to shift that power over the purse away from the legislative branch to the other end of Pennsylvania Avenue, where the Chief Executive has his office?

In the first place, I submit that it is not within our power to do it, under the Constitution as now written. The people have that power, because only the people can amend the Constitution.

In the second place, we, as members of the legislative branch, should oppose any proposal—any proposal—to shift the power over the purse from the legislative to the executive. Why? Because it would radically unbalance the delicate system of checks and balances that are the very heart—the very heart—of our republican form of Government.

How important is the power over the purse in our system of checks and balances? James Madison—not Robert C. Byrd; James Madison—is universally regarded as the Father of the Constitution. Let him be heard on the question; let James Madison be heard. Friends, Senators, countrymen, lend James Madison your ears:

> This power over the purse may, in fact, be the most compleat and effectual weapon with which any Constitution, can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure. (Federalist number 58.)

Madison was reflecting the wisdom of the Framers of the Constitution, who vested the power over the purse in the legislative branch, where it has reposed for over 200 years. And now there are those among us who would appear to say: "We are wiser than the Framers of the Constitution. The power over the purse should be shifted from the legislative branch to the Executive by giving the President a line-item veto."

To this I can only say, "Forgive them, Lord, they know not what they do."

The 55 delegates who composed the Federal Convention had themselves been British subjects prior to the Revolution. Alexander Hamilton and Robert Morris were born English subjects; the father of Franklin was an English immigrant; and James Wilson—one of the most farsighted men in the whole Convention—was born near St. Andrew's, Scotland. They were very well versed in the development of the unwritten English Constitution, and were thoroughly conversant with the story of sacrifice by Englishmen long before their own time in the struggle to establish representative government.

The Framers knew that the power over the purse had been securely vested in the British Parliament only after 500 years of contest and strife, and that the price had been paid in blood that had flowed, often from the point of the sword.

They knew—if we do not know—that "the cornerstone of English liberty"—the Magna Carta—had been signed by a reluctant King John at Runnymeade on June 15, 1215. They knew that among the 63 clauses of that charter was one that prohibited the levying of taxes without the consent of the prelates and greater barons.

The Framers of the Constitution knew that King Edward I had been forced to accept the "Confirmation of the Charters" in November 1297, the sixth clause of which prohibited the levying of taxes "but by the common assent of the realm," making it henceforth necessary that representatives of the middle class—the middle class, which we hear so much about these days—be summoned to all Parliaments.

This was a fact of great importance in that the control of the purse was to provide a power which Parliament would frequently use to force Kings to grant concessions. Edward II reigned from 1307 to 1327, and on two occasions during his reign, the representatives in Commons seized the chance to demand a redress of grievances before they granted taxes on personal property.

I wish that some of us who live in Fairfax County could do the same with those who continue to raise the taxes on our property, and that we could demand a redress of grievances before the county supervisors grant an increase in taxes on real property.

Edward III ruled from 1327 to 1377, 50 years. In his day it was becoming customary to place conditions on money grants, so that to obtain funds from Parliament, the King had to agree to the attached conditions. Parliament often insisted that the money granted would be spent only for specific purposes. So here, over 400 years before the Constitutional Convention met in Philadelphia, was the beginning of the modern system of appropriations.

Our constitutional Framers were not unaware of these lessons of history. And I wish that we politicians, like our constitutional Framers, were more aware of the lessons of history.

They knew that by the time of Henry IV, who ruled from 1399 to 1413, the custom had developed that the raising of revenues should originate in the House of Commons. Henry had failed in 1407 when he tried to proceed with a money grant first through the House of Lords. The Commons refused to accept this derogation of their liberties.

Madison and the other Framers knew of the Petition of Rights, to which Charles I had been forced to assent in 1628 before Parliament would vote the funds that he needed. Charles had attempted to raise money through a forced loan in 1627, which, in effect, was taxation without parliamentary sanction. The Petition of Rights asked, among other things, that no man should be compelled to make or yield any gift, loan, benevolence, or tax without common consent by act of Parliament.

Charles consented but he had no intention of carrying out his part of the agreement. After the funds had been appropriated, he continued his autocratic rule. Parliament passed a bill which took control of the military forces out of the King's hands and gave Parliament the power to appoint all militia commanders. When Charles refused to sign the bill, Parliament made it into an ordinance. Charles issued a royal proclamation ordering the people to disobey the ordinance of Parliament. On the same day, May 27, 1642, both houses of Parliament declared that their ordinance must be obeyed. On August 22, 1642, Charles raised the royal standard on the summer green near Nottingham. The civil war had begun. But Parliament controlled the purse strings and created the New Model Army, the first national standing army which, under the leadership of Fairfax and Cromwell, defeated Charles' main army in June 1645.

On January 6, 1649, the House of Commons passed, on their own authority, an "act" creating a High Court of Justice for the trying of Charles Stuart, King of England, for treason and other crimes. The court found the King guilty; declared him a tyrant, traitor, and public enemy of the good people of the nation; and ordered that he be "put to death by the severing of his head from his body." On January 30, 1649, Charles I was executed in front of his palace at Whitehall.

Following the period of the Commonwealth and the Protectorate, came the restoration with Charles II ruling from 1660 to 1685. Then followed the arbitrary rule of James II, who, in 1688, was forced to flee in December to France where he found refuge at the court of Louis XIV and never saw England again. Whig and Tory leaders invited William of Orange and Mary, the daughter of James II, to become joint rulers of England. The throne was declared vacant, and in 1689 William III and Mary were declared joint sovereigns, but only after they had agreed to accept a Declaration of Rights prepared by Parliament. This document was followed by a Bill of

Rights adopted by Parliament in December 1689, which limited the powers of the King of England in certain ways, among which was no levying of taxes except by act of Parliament. The crown rested on Parliamentary title and the supremacy of Parliament was at last assured.

The men who sat at the Constitutional Convention in 1787 knew full well that from the moment when the sole right of the Parliament to tax the nation was established by the English Bill of Rights, and when the practice was settled of voting only annual appropriations to the crown, Parliament became the chief power in the kingdom. It was impossible permanently for the king to suspend the sessions of Parliament, or to offer serious opposition to its will, when either course must end in leaving the government without money, breaking up the military and naval forces, and rendering the public service impossible.

The power over the purse was the basic guarantee undergirding the rights and liberties of Englishmen, and the long and painful history of the unwritten Constitution of the Motherland was a guiding light to the Philadelphia convention members as they prepared a written Constitution for the American republic.

With the experience of seven hundred years as a lamp unto our feet, let us not cavalierly cast aside the lessons of the past by lending voice or vote to a massive shift of power from the legislative to the executive, which would be the pernicious result of a line item veto. Byron said it best: "A thousand years scarce serve to form a state; an hour may lay it in the dust."

Mr. President, to concede to the Executive the authority to excise from appropriation bills line items, either by specific vetoes or by specific rescissions, would be an event of far-reaching consequences. The system of checks and balances established by the Constitution would be seriously altered and impaired. The Executive would be greatly strengthened while the legislative branch would be correspondingly weakened.

The influence of the President in the governmental system has already exceeded the fondest hopes of men like Hamilton, who desired a powerful Executive. Two factors have especially contributed to this phenomenon, both of which were unforeseen by the Constitution's framers: (1) the emergence and growth of political parties and party patronage, with the President as titular head of his own party; and (2) the expansion of the means of communication through the advent of television and radio and the ready access to these media by the President, enabling him, from his "bully pulpit," to go over the heads of the Congress and appeal directly to the people. A power to veto or rescind items, provisions, and sections of appropriation bills would enable a President to control Congress.

How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has 15 minutes and 18 seconds remaining.

Mr. BYRD. I thank the Chair.

Benjamin Franklin at the Convention signaled the danger of an absolute veto when he said—now this is Benjamin Franklin from Pennsylvania—"No good law whatever could be passed without a private bargain with him." Franklin was referring to the governor of Pennsylvania, but the observation on the absolute veto would apply with equal force to a line-item veto power vesting in the President.

Individual members of the Senate and House would be forced to bargain with the President in order to obtain local appropriations. Log-rolling in Congress would be shifted to the oval office, and "pork" would be the main course on the White House menu during all seasons, with the American people paying the cost in more ways than one. Two of the constitutionally conferred powers which help to make the Senate the unique body that it is—the treaty power and the confirmation power—could be greatly compromised, thus vitiating the checks and balances ensured by these powers. For a Senator to exercise his own conscience and reflect the views of his own constituents on a given treaty or nomination could risk the loss of appropriations for roads, education, public housing, flood prevention, or health research facilities in his own state. To argue that the president would not use such a "big stick" on Members of Congress, is to ignore political reality. The President would be assured of dominance over a subservient Congress, a circumstance which, to the Founding Fathers, who, while possessing a profound conviction that the powers conferred on Congress were powers to be most carefully circumscribed, would have been anathema.

Presidents Grant, Reagan, Bush, and others have advocated a line-item veto, but President Taft expressed an opposing view: "The veto power does not include the right to veto a part of a bill. * * * I think the power to veto items in an appropriate bill might give too much power to the President over congressmen."

Those were the words of President Taft.

Those who advocate a line-item veto cite the fact that 43 of the States have it. That is perhaps one of the weakest arguments of all in support of this amendment. Such an analogy is not compelling. It is interesting but it is not relevant. It is a valid argument only if we are willing for Congress to have its influence reduced to the status of a State legislature and give up its primary responsibility for spending policies.

The principle of separation of powers is more sharply drawn at the national level than at the State level. State constitutions and State governments deal with local problems or, at the most, problems common to the immediate region. Here, we are dealing with the Federal Constitution, a Constitution which binds together 50 States and the District of Columbia in a common bond and as a Republic based on a system of separation of powers distributed among three equal branches acting under checks and balances that operate, each against and with the other. The Government of the Nation must decide and implement policy, not for just a single State but, rather, for 50 States and territories. Congress, unlike a State legislature, must provide for the common defense and general welfare of the United States; wrestle with international policies affecting trade, commerce, immigration, alliances, treaties, and finance; raise and support armies and maintain a navy; establish post offices and national highways; and formulate fiscal and monetary policy that will keep the economy strong and interest rates stable. Only the Federal Government has the power to affect our relationship with what was the Soviet Union or to send men and planes to Saudi Arabia to protect that country against an invasion by Saddam Hussein's army. Only the Federal Government has the capacity to defend the Nation against hostile navies. Only the Federal legislature has the power to regulate commerce with foreign nations, establish a National Interstate Highway System, and provide for the general welfare of the United States.

The Governors, in their convention, have asked that the President be given the line-item veto, the same power that 43 Governors have. What utter folly. You would think they would have read the Constitution at least once in their lives and that they would have taken the time to study some little bit of history and, if not that, at least that they simply use common sense. Yet, they are the first to stand in line for their checks from the Federal Government which they use to balance their State budgets.

Moreover, most State legislatures meet for only brief periods during a year or every 2 years and lack the budget, oversight, and policymaking tools that are more within the realm of the executive. Under such circumstances, the responsibility is more upon the executive to do the budget paring—which burden, incidentally, is made easier, as I have indicated, by the flow of Federal moneys into the State, siphoned through the congressional pipeline that runs from Washington.

Mr. President, a study of the discussions involving the veto power which took place at the Constitutional Convention will find no mention whatsoever of a line-item veto, nor was there any reference to such in any of the Federalist papers written by Madison, Hamilton, and Jay, explaining the Constitution and advocating its ratification by the States. The convention debates on the veto revolved mostly around the issues of whether it should be an absolute or qualified negative; whether the votes necessary to override should be two-thirds or three-fourths of both Houses; and whether the negative should be vested in the executive alone or jointly, as, for example, in the executive and the judiciary. As Hamilton later explains in the Federalist No. 73:

> The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community, against the passing of bad laws, through haste, inadvertence, or design.

Mr. President, how much time do I have remaining.

The PRESIDING OFFICER (Mr. PRYOR). Seven and a half minutes remain.

Mr. BYRD. Mr. President, the Framers, in their wisdom, decided against giving to the Executive an absolute veto. Yet, a line-item veto would essentially amount to an absolute veto. Only in rare instances has Congress overridden the President's veto, even when he has chosen to veto a bill of general interest to the country at large. To expect two-thirds of both Houses to override a veto of appropriation items of interest only to a few States is quite unrealistic. Additionally, on many occasions, provisions are included in legislation which, if they stood alone, would be vetoed, but, because they are part of a bill containing other provisions that the President wants, he declines to exercise the veto power. Yet, the bill, stripped of the provisions objectionable to the President, would no longer be what the Congress intended or envisioned when it voted to give its approval. The altered bill, which then the President would sign, would become a law different from the legislation which Congress passed. To thus place in one man's hands the power to revise and amend a bill or resolution by striking language therefrom, would be to make the President a super legislator. Clothing a President with such legislative power would be counter to the letter and the spirit of article I, section 1, of the Constitution, which vests all legislative powers in the Congress. The Framers clearly intended that the President's choice be limited either to a veto of the whole bill or to letting it become law.

Now I turn briefly to the politics of the so-called line-item veto. I say "so-called" because there is much disagreement as to what is meant by the word "item" when it is used in this context. The proposal for a line-item veto is not something new; it has been around for a long time—long before Mr. Bush, long before Mr. Reagan, who was perhaps its most passionate devotee among the Presidents, came to town. The item veto came into being during the Civil War, first in the provisional constitution of the Confederate States of America. It was then adopted by Georgia in 1865 and by Texas in 1866. Following the Civil War, almost every new State admitted to the Union adopted the item veto, and most of the older ones did likewise. As the States adopted the line-item veto, the agitation for engrafting such a veto onto the Federal Constitution has increased, and it has thus been a matter of debate, beginning with the advocacy by President Grant, down to the present time.

Many who support the line-item veto are well-intentioned people who see it as an elixer for the disease of bloated Federal deficits. Others who have not taken the time for serious thought and study of the matter simply think it is a good idea. Still others, who ought to know better, advance it as a panacea for deficit paring when, in reality, they are playing the demagog by attempting to shift to the President a responsibility which is theirs, as members of the legislative branch, but which they lack both the will and the courage to carry out. The proposal for a line-item veto at the national level has its appeal. And it is understandable that it would rank high in the polls. But the average American, who must concern himself with raising a family, with holding a job, or with seeking a job and standing in the unemployment line, or advancing himself in his job, and putting the daily bread on the table, has neither the time nor the inclination perhaps to examine and sift through the crosscurrents of history and arcane political theory in order to fully familiarize himself with the pros and cons of the line-item veto debate.

I do not think we should expect him to do all of that, when I am sure most Senators themselves have never taken the time to do it. It thus becomes our responsibility, as Members of the Senate and House, to do what we can to inform the Nation of the impracticality and the unwisdom of such a proposal as a line-item veto. Madison's words, as contained in the Federalist No. 63, are most worthy of repeating here.

Listen to Madison. Listen to his words as they roll across the centuries down to us:

> There are particular moments in public affairs when the people, stimulated by some irregular passion * * * or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn * * * in these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to * * * suspend the blow meditated by the people against themselves, until reason, justice and truth can regain their authority over the public mind? What bitter anguish would not the people of Athens have often escaped if their government had contained so provident a safeguard against the tyranny of their own passions? Popular liberty might then have escaped the indelible reproach of decreeing to the same citizens, the hemlock on one day, and statues on the next.

Mr. President, Madison was illustrating the utility of a Senate in the establishment of a due sense of national character. And, in so doing, he was providing the measure of our duty as Senators to the States and to the people.

Let us, then, do our duty, forgetting not that the power over the purse, in Madison's words, is "the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."

Mr. MCCAIN. Mr. President, may I ask the question how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Arizona has 14 minutes and 35 seconds.

Mr. MCCAIN. On the other side?

The PRESIDING OFFICER. Seven seconds remain on the other side.

Mr. MCCAIN. I yield 3 minutes to the Senator from Idaho [Mr. CRAIG].

Mr. BYRD. Mr. President, would it be agreeable to ask consent for some additional time on both sides?

Mr. MCCAIN. I will be glad to.

Mr. BYRD. I would like 10 minutes in closing. I am willing to have the other side have an additional 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I yield 5 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank my colleague from Arizona for yielding on an issue of utmost importance to this body.

For a good number of years the Nation as a whole has spoken out to the fiscal irresponsibility, or I should say the lack of fiscal discipline that the Congress of the United States has demonstrated for a good number of years. They have in their wisdom asked for a variety of choices to legislative approaches or to constitutional change that might reinstate a discipline long forgotten.

A line-item veto in the form of a constitutional amendment was proposed. It has been proposed and remains very popular in the minds of many citizens. But today my colleagues from Arizona and Indiana have introduced a legislative approach, one that I think is worthy of the consideration of this body in absence of our willingness or our ability to produce a constitutional amendment.

Most assuredly, it will not be as long lasting, at least in first blush. But it gives the Congress of the United States an opportunity to work much more closely with the executive branch in dealing with budgetary problems.

For a long time I have laughed, sometimes quietly—most times quietly—over the fact that legislators find it very easy to blame an Executive for the woes of our budget; for the deficit spending that has gone on progressively here for 25 to 30 years, when in fact article I, section 1 as my colleague from West Virginia just mentioned, really gives no budgetary responsibility to the executive. We only find it, since the budget acts of the midseventies, opportunistic to argue that in fact budget deficits are the responsibility or the lack of foresight on the part of the executive. It is simply not true by law or by Constitution.

But I do believe it is now time to allow those kinds of legislative efforts that will not stand alone to be judged openly, instead of tucked neatly away for the service of one's individual interest and, oftentimes, one's individual State.

My State has been a recipient of that kind legislation over the years and my citizens on occasion have been pleased with it but I think when given recognition of the fact that the historic clock of Government is now ticking more loudly than ever before, as it relates to a time when interest on debt in this country will be the second-largest item in the budget that we will have to deal with, that the citizens of this country will wipe clean from Government those who have refused to stand for fiscal responsibility and will replace them with citizens who believe in that kind of responsibility and will vote accordingly with what they have pledged on the campaign trail.

A time for an approach to change is at hand and I believe the approach today that is offered in the legislative line-item veto is but a small, though important, measure in providing greater checks and balances to the lack of fiscal discipline that this body and the other one have so continually demonstrated over the years. Clearly, an up-or-down vote—let the citizens judge because I do believe it is workable. I think we can decide individually and collectively, issue by issue, if necessary, how the budget ought to be treated. My guess is that within a reasonably short time, the budget process will learn to reconfigurate itself and craft in a way legislative appropriations that will be more palatable and more acceptable to the general public toward a more balanced budget, toward more fiscal responsibility. Those are the issues that are at hand.

Our Constitution is a tough document to change, as well it should be. But I think our citizens speak out today more loudly than they ever have. They are unhappy, and they have reason to be unhappy. They watch this Congress spend this Nation toward bankruptcy, oh, all in the name of something good, but absolutely with no care of fiscal responsibility.

Today, this amendment offers up a small modicum of an approach toward just that, allowing us to divide up, to separate, and for our President to become or the executive branch to become a greater participant in the business of budgeting for our Government and for the citizens of this country.

I strongly support this legislative effort, this amendment. I think it is appropriately placed, and I would certainly hope that a majority of the U.S. Senate could stand in support of a legislative line-item veto.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. SIMPSON. I thank my colleague from Arizona, Mr. President, and I admire him greatly for pursuing something he deeply believes in, and that is his strength. When Senator JOHN MCCAIN is on an issue, he gives it his absolute fullest vigor and enthusiasm and intellect and brings all of those to the cause. I commend, too, my colleague from Indiana, Senator COATS, for his tireless work on this issue, and for his cogent arguments today.

Obviously, we have had a very compelling debate. I do support the line-item veto authority. It has been said again and again that 43 Governors have it, that 43 States have recognized that line-item veto authority is essential in maintaining a balanced budget. A very good friend of mine, a Democrat from Wyoming, Ed Herschler, Governor for 12 years, used it vigorously and in most cases quite appropriately.

I know better than to debate historical issues with the distinguished chair of the Appropriations Committee, our remarkable and respected colleague, the President pro tempore. One word, "respect," would summarize his service to the country.

I have listened with great interest to the historical facts surrounding this issue, and I just wanted to add one further one that I think is most interesting. We should remember that the veto authority of the Presidency has never at any point been set in stone as having a particular form.

My colleagues well know—and Senator BYRD spoke of it, he spoke of President Washington, but I am sure my colleagues know—President Washington sought to avoid having to veto legislation at all costs. It was his view that it was an emergency measure to be used only in dire circumstances. Indeed, the Presidents which followed Washington seemed to adhere to a view that the veto could only be applied on constitutional grounds. Simply vetoing a bill because the Chief Executive disagreed with it was considered to be of dubious constitutionality and maybe a little in bad taste, too. But it was Andrew Jackson in his vetoing of the rechartering of the bank of the United States who established the principle the President could merely, because he disliked the piece of legislation, refuse to sign it.

The exact nature of the veto power of the President has never been beyond dispute. No one can say with absolute certainty just what authority of that type the Constitution granted to the President. When Abraham Lincoln employed a pocket veto during his tenure, he was widely criticized for a usurpation of authority.

So these uses of the veto power were at one time considered unthinkable. And now we see them as no way inconsistent with constitutional veto authority.

We do hear all the time around here, "Why do you people not get serious about balancing the budget?" We hear a lot of talk about how deficits have skyrocketed during the last decade.

One would think that the President alone has been voting on budgets during all of that time and just taking us to doomsday. He has not been. In fact, he has no say.

In my time here, I have seen enough where his budget comes up here and the first thing that is often said, at least in the other body, is "dead on arrival." They add 20 percent to it over there, try to get us to take off 10, and we play that game and the American public apparently swallowed it.

So the President does have no say under current practice as to the particulars which are contained in appropriations bills. There is a choice of two options: either sign it or veto it. If he want to keep funding the many necessary tasks of Government, he has to now swallow—or better yet, gag on—every pork barrel project which Congress chooses to include.

There are a lot of people who say this is a time of fiscal crisis and we need to take meaningful and drastic action to reduce the budget deficit. This is said at the same time as we all in this Senate, every single one of us, work like dogs to include our own favorite spending projects in the appropriations bills and to ship them down to the White House for signature.

It seems that many want to blame the President for the soaring deficit. I have heard some thrilling debate on that in the last days—and I have seen many charts. But they recoil at the thought of his having the means to do one single thing about it.

So I ask my colleagues, is that not curious? If this is truly the man, the evil man, the man at 1600 Pennsylvania Avenue who is totally responsible for this runaway spending activity in our country's budget, what on Earth then is to be feared by giving him line-item veto authority? What is the fear?

So I suggest that the reaction of this Senate to the Presidents having line-item veto authority is proof that that authority is really something to be feared—plain f-e-a-r—around here; that the man in the Oval Office is not indifferent and he would use that line-item veto to attack many of our favorite projects. I think it is time to call the bluff.

We have a national debt of $4.145 trillion—$4.145 trillion—and a budget for 1 year of $1.5 trillion, and a deficit of $365 billion, or pick your number, and that is the result of the current practice that the President must swallow congressional spending whole, or not at all. Surely, our Government will not work less effectively if there were a middle road for the President—and therefore the budget—to take.

I thank Senator MCCAIN, and encourage him in his effort.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired.

Mr. MCCAIN. I yield myself 7 minutes.

Mr. President, I thank my friend from Wyoming for his kind words and, more important, for his eloquent statement on behalf of this very important issue.

I also again would like to express my appreciation to my friend from Indiana. I believe we are now in our 10th year of waging this battle together. I must say things look a lot better now than they did 10 years ago. I say that with mixed emotions because the urgency of this issue is dramatically exacerbated by the incredible deficit that is now burdening the American people that my friend from Wyoming just referred to.

Mr. President, I ask unanimous consent that letters from the Citizens Against Government Waste, Citizens for a Sound Economy, the United States Business and Industrial Council, National Taxpayers Union, International Mass Retail Association, and Cofire, [Coalition for Fiscal Restraint], be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COUNCIL FOR CITIZENS
AGAINST GOVERNMENT WASTE,
Washington, DC, February 24, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the Council for Citizens Against Government Waste (CCAGW), I am writing to express our support for the legislative line item veto act, which you and Senator Coats plan to offer in the near future. We salute your leadership on this important issue, as well as your protest against unauthorized defense spending.

CCAGW has long supported your legislation to give the President the same authority which 43 governors now exercise. The line item veto is an essential tool to enable the President to control the spending machine in Washington.

The legislative line item veto would lead to the elimination of egregious pork barrel spending as revealed in CCAGW's 1992 Pig Book, with 59 items worth $372 million. In addition, it would help attack the more than 850 items of pork worth $8 billion which CCAGW uncovered in the 1992 appropriations bills.

With a federal deficit expected to reach an unprecedented $400 billion next year, the line item veto could not be more timely.

Senator McCain, the 450,000 members of CCAGW fully endorse your valiant fight to eliminate government waste. Your continued efforts to put this nation's fiscal house in order demonstrate that you are a true friend to American taxpayers.

Sincerely,

THOMAS A. SCHATZ,
Acting President.

FEBRUARY 24, 1992.

Senator JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of our 250,000 members, Citizens for a Sound Economy (CSE) thanks for your leadership in adopting the line-item veto. As you know, CSE will use this "KEY VOTE" to calculate eligibility for our annual Jefferson Award program and will report each senator's veto on your amendment to CSE members in their respective states.

This budget process reform has very broad support. In fact, the top four presidential candidates in New Hampshire—George Bush, Pat Buchanan, Paul Tsongas, and Bill Clinton—all support the line-item veto. As you know from your constituent mail and town hall meetings, taxpayers are sickened to read about pork-barrel programs that squander the money they send to Washington, especially when this country faces a record deficit of $399 billion this year. The General Accounting Office (GAO) recently estimated that a line-item veto could save more than $70 billion over a five-year period. The GAO based its findings on the Office of Management and Budget's "Statements of Official Policy," and it assumed the president would veto every spending measure he opposed. With a presidential line-item veto, even more wasteful programs than the $70 billion already identified might be eliminated.

The share of the gross federal debt borne by the average family of four will reach a record $64,000 this year. Part of that burden could have been erased if Congress had instituted a line-item veto earlier. It is high time that Congress adopt this budget process reform and grant the President the veto authority that 43 governors already possess. Thank you once again for your leadership in helping make the line-item veto a reality.

Sincerely,

PAUL BECKNER,
President.

U.S. BUSINESS & INDUSTRIAL COUNCIL,
Washington, DC, February 25, 1992.

DEAR SENATOR: This week, Senator John McCain will offer an amendment to an appropriate piece of legislation which will specifically grant the President the power of the Line Item Veto.

On behalf of the 1,500 member CEOs of the United States Business and Industrial Council, I urge you to take this important step to provide fiscal sanity to the federal budgeting process.

Forty-three of our nation's governors have a line-item veto. It is hard to imagine a company where the CEO would have as little control over his corporate budget as the President of the United States has over the Federal budget—unfortunately, the process of submitting a budget to Congress amounts to tossing it into an abyss, never to be heard from again.

As the deficit and the national debt continue to climb, the need for fiscal reform like the line item veto becomes more and more evident. We urge you to give the President the power to control federal spending that is, apparently, out of control.

Sincerely yours,

JOHN P. CREGAN,
President.

NATIONAL TAXPAYERS UNION,
Washington, DC, February 25, 1992.

Hon. DAN COATS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COATS: On behalf of the National Taxpayers Union's 200,000 members I want to thank you and Senator Coats for offering a line item veto amendment, which would allow the President to cut wasteful port barrel spending.

As you know, an all too common Congressional tactic is to attach parochial, pork barrel appropriations to must-pass legislation that the President has little choice but to sign. Since most of these provisions are neither the subject of debate nor vote, many Members of Congress do not realize they exist. The McCain-Coats line item veto would allow the President, Republican or Democrat, to draw attention to pork barrel provisions and force their proponents to justify them. Meritorious provisions would stand under Congressional scrutiny, and the rest would be eliminated.

Additionally, the line item veto would make the President more accountable on the issue of wasteful spending. Many Presidents repeatedly criticize Congress on its spending. By giving line item veto authority to the President, Congress would be telling him to work actively rather than rhetorically to trim wasteful spending.

Although the discretionary account of the federal budget is by no means the largest, it is an area of tremendous waste and abuse. Our national debt is now over $3.8 trillion, and recent projections for the FY92 deficit are $400 billion. Clearly Congress needs to reevaluate its spending practices and take strong steps to restore fiscal discipline. The line item veto is one of those steps, and would be an important sign to taxpayers and voters nation-wide that Congress is finally taking our fiscal crisis seriously.

Again, thank you for sponsoring this amendment. It is my hope that all Senators will support this crucial measure.

Sincerely,

JAMES D. DAVIDSON,
Chairman.

INTERNATIONAL MASS
RETAIL ASSOCIATION,
Washington, DC, February 25, 1992.

DEAR SENATOR: The International Mass Retail Association (IRMA), on behalf of the mass retail industry—discount and off-price stores, warehouse clubs and other price-competitive mass retail stores—strongly supports legislation to give the President the same deficit—fighting tool available to nearly all the nation's governors: a line-item veto.

IMRA represents over 100 major discount retail chains accounting for approximately $150 billion in sales last year. IMRA's membership includes stores in every state; IMRA members employ literally millions of Americans. The highly competitive and efficient mass retail industry operates at a low mark-up and provides quality merchandise at affordable prices to most Americans.

IMRA supports efforts by Senators McCain and Coats to offer a line-item veto amendment to S. 479, the National Cooperative Research Act Extension of 1991, and urges your support for the McCain-Coats amendment. IMRA and its members firmly believe a line-item veto is a useful step in restoring spending discipline and reasserting control over budget deficits, an extremely serious issue both for economic recovery and future growth.

As noted in a General Accounting Office study released January 22, a line-item veto could have pared about $70 billion from Federal spending between 1984 and 1989. Although not a substitute for increased Congressional efforts to curb the rate of growth in Federal spending, it would be a constructive start. With bipartisan support, a line-item veto can become a reality this year.

Once again, please support the McCain-Coats amendment.

Sincerely,

ROBERT J. VERDISCO,
President, IMRA.

COALITION FOR FISCAL RESTRAINT,
Washington, DC, February 14, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR: The more than eighty undersigned member-organizations of the Coalition for Fiscal Restraint (COFIRE) are deeply concerned over flaws in the current budget process.

As evidence, this year federal spending will exceed 25 percent of GNP for the first time since World War II, and the federal deficit will reach a record $362 billion, contributing further to the immense burden of debt we are leaving to future generations.

We believe that one step in reforming the process which has contributed to this persistent deficit spending would be for Congress to place more responsibility for fiscal restraint on the Executive Branch.

It is for this reason that we are writing to urge your support for the Legislative Line Item Veto Act (S. 196) whose sponsors plan floor action early this year. A brief summary of S. 196 is enclosed.

This proposal would give the President enhanced rescission authority, retaining for Congress the power to reject presidential rescissions by a simple majority vote in both houses with such rejections then subject to the constitutional veto process.

On our behalf and on behalf of the vast majority of Americans who favor placing this burden on the Executive Branch, we urge your vote in support of S. 196 when its sponsors, Senators Coats and McCain, bring it to the Senate floor in the near future.

Respectfully,

MICHAEL MONRONEY,
Chairman, COFIRE.

(Note: Members of the Coalition for Fiscal Restraint endorsing this letter are listed on succeeding pages.)

Karen Meredith, President, American Association of Boomers.

Dean Kleckner, President, American Farm Bureau Federation.

Samuel A. Brunelli, Executive Director, American Legislative Exchange Council.

J. Patrick Boyle, President and Chief Executive Officer, American Meat Institute.

Richard Lewis, President, American Pulpwood Association.

James L. Ziegler, Chairman of the Board, American Rental Association.

David Miner, Chairman, Americans for a Balanced Budget.

Grover G. Norquist, President, Americans for Tax Reform.

Charles E. Hawkins III, Senior Vice President, Associated Builders and Contractors.

Joe M. Baker, Jr., Executive Vice President, Association of Wall and Ceiling Industries-International.

George W. Mervin III, President, Automotive Service Association.

Richard L. Lesher, President, Chamber of Commerce of the United States.

Thomas A. Schatz, Acting President, Citizens Against Government Waste.

Peter Roff, Executive Director, Citizens Against a National Sales Tax/VAT.

Paul N. Beckner, President, Citizens for a Sound Economy.

Art Kelly, Vice President, CNP Action, Inc.

Eric Licht, President, Coalitions for America.

Jeffrey C. Smith, Executive Director, Commercial Weather Services Association.

Barbara Keating-Edh, President, Consumer Alert Advocate.

Gary D. Engebretson, President, Contract Services Association.

John M. Martin, Executive Vice President, Dairy and Food Industries Supply Association.

Frank L. Jensen, Jr., President, Helicopter Association International.

Robert N. Pyle, President, Independent Bakers Association.

E. Linwood Tipton, President, International Ice Cream Association.

Robert J. Verdisco, President, International Mass Retail Association.

W. Don Ladd, Vice President, Marriott Corporation.

The Honorable John R. Block, President, National-American Wholesale Grocers' Association.

Walter E. Galanty, Jr., President, National Association of Brick Distributors.

W. Dewey Clower, President, National Association of Truck Stop Operators.

David E. Strachan, Executive Vice President, National Candy Wholesalers Association.

Robert E. Barrow, Master, National Grange.

Donald A. Randall, Executive Vice President, National Independent Dairy-Foods Association.

Edwary N. Delaney II, President, National Tax Equality Association.

Lewis K. Uhler, President, National Tax Limitation Committee.

James D. Davidson, Chairman, National Taxpayers Union.

Benjamin Y. Cooper, Senior vice President, Printing Industries of America.

Wayne J. Smith, Executive Director, United Bus Owners of America.

George S. Dunlop, President, United Fresh Fruit and Vegetable Association.

John P. Cregan, President, United States Business and Industrial Council.

Paul Cardamone President, United States Federation of Small Business

Other COFIRE member-organizations which endorse this letter are as follows:

American Amusement Machine Association.

American Conservative Union.

American Cyanamid Company.

American Furniture Manufacturers Association.

American Iron and Steel Institute.

American Trucking Association.

Amway Corporation.

Armstrong World Industries.

Baroid Corporation.

Beer Drinkers of America.

Chocolate Manufacturers Association.

Committee for Private Offshore Rescue and Towing.

Composite Can and Tube Institute.

Coors Brewing Company.

Eckerd Drug Company.

FMC Corporation.

W.R. Grace and Company.

Eli Lilly and Company.

Koch Industries.

Medford Corporation.

Milk Industry Foundation.

National Association of Convenience Stores.

National Association of Home Builders.

National Association of Manufacturers.

National Cattlemen's Association.

National Cheese Institute.

National Confectioners Association.

National Food Brokers Association.

National Limousine Association.

National Printing Equipment and Supply Association.

National Private Truck Council.

Nestle Holdings, Inc.

New England Machinery, Inc.

Reynolds Metal Company.

Sears, Roebuck and Company.

The Seniors Coalition.

Sun Company.

Sybra Corporation.

Truck Renting and Leasing Association.

Valhi, Inc.

Walgreen Company.

White Consolidated Industries, Inc.

Whitman Corporation.

Mr. MCCAIN. Mr. President, again, I would like to thank all those organizations, including Cofire [Coalition for Fiscal Restraint], some 83 different organizations, who have expressed their support.

Mr. President, I would also like to respond to the comments of the senior Senator from Arizona [Mr. DECONCINI] who spoke earlier about numerous projects in our State of Arizona which he believes would not be funded if the President had a line-item veto.

Let me say that I do not share that point of view. All the projects listed, I believe, should and would stand on their own substantial merit. But far more important than that, this amendment is not about projects, it is about process; it is about repairing a badly broken process. I am confident that the needs of the people of my State or any State in the Union can be met through an open and above-board process as dictated, in my view, by the Constitution—including hearings, authorization, appropriations, and signature by the President.

We do not need to rely on any back room deal or horse trading or anything else. And our children cannot afford the deficits that result from these deals. Let us bring balance to our fiscal affairs. That is all our amendment does.

Alexander Hamilton said in Federalist 73:

> When men, engaged in unjustifiable pursuits, are aware that obstructions may come from a quarter which they cannot control, they will often be restrained by the bare apprehension of opposition from doing what they would with eagerness rush into if no external impediments were to be feared.

Your amendment will restore the balance of power that served our Nation so well. I will restore the President to his rightful role in our system of checks and balances. The Framers of the Constitution understood the importance of that balance, and so should we.

Anyone who needs help in attaining that understanding should look at the growth of our debt: 1960, $236.8 billion; 1970, $283.2 billion; 1980, $709.9 billion; 1990, $2.4 trillion, soon to be $4 trillion—$13,000 in debt for every man, woman, and child in America. If anyone believes that the system under which we operate is not broken, I do not think they understand very well what the system is doing to the American people.

I would like to again quote from the letter from President Bush, which I appreciate very much; he says:

> Billions upon billions of dollars have been wasted over the years on programs of a parochial nature with dubious value to the American taxpayer. The line-item veto approach, whether instituted through the constitutional amendment I have previously proposed or through your statutory initiative, is the best way to prevent future wasteful spending and to rein in deficit spending.
>
> I appreciate and fully support your amendment.
>
> Sincerely,
>
> GEORGE BUSH.

Mr. President, I express again my hope and guarded optimism that after the failure of this vote, the President of the United States will seize the first opportunity, the first appropriations bill that comes across his desk, to exercise the line-item veto and take it to the courts.

I do not have confidence that that case will either win or lose, but I do know this: If it loses, I do not see that we are any worse off than we are today with this very flawed and broken system. If he wins, that will be an affirmation of the belief that I and a substantial number of constitutional scholars—and I do not include myself in that group of constitutional scholars, the belief that the President already has that constitutional right. So I hope he will do that.

I do appreciate the fair and honest debate that has taken place. It is always a great educational experience in observing the scholarly and, indeed, enlightened views and opinions of our distinguished chairman of the Appropriations Committee.

Again I would like to thank Senator COATS and all those who have supported this amendment including the 28 cosponsors.

Mr. President, I yield the remainder of the time to Senator COATS of Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized. The Chair will advise the Senator that 7 minutes and 50 seconds remain on this side.

Mr. COATS. Mr. President, I am new to the Senate and I do not know all the procedures. Is it customary for the proponents or opponents to close debate on the amendment? Or is there no custom?

The PRESIDING OFFICER. There is no custom with respect to——

Mr. MCCAIN. If I might mention, if the Senator will yield for 1 second, Senator BYRD and I were in agreement in earlier discussion that he would close the argument for 10 minutes.

Mr. COATS. I certainly have no problem with that and will be happy to close out our side of the debate and then the remaining 10 minutes will be Senator BYRD'S.

Mr. President, I want to begin my closing remarks by complimenting Senator BYRD for what is truly a prodigious effort on the floor of the Senate. The amount of research and the shear time invested in preparation for his defense of the power of the purse is an awesome feat and his physical endurance in standing on his feet for more than 7 hours yesterday is something that many of us respect. I do respect it.

But I also need to say I respectfully disagree with the conclusions reached by the distinguished Senate from West Virginia that this amendment before the Senate today denies the constitutional right to this legislative body to control the power of the purse. I think a fair reading of the amendment does not result in that conclusion. It does not destroy the power-of-the-purse authority granted to this body by our Constitution, nor does it shift that power to the executive branch. It does not destroy the separation of powers doctrine. It partly restores the separation of powers. It partly restores the balance of power that I think our Founding Fathers and our Constitution intends.

The reform embodied in this amendment would be nothing more or less than return the budget process to the practice of 185 years of American history.

Congress grabbed the power of unlimited political pork in 1974, not at the Battle of Hastings, and it has abused that power ever since.

Our President is annually blackmailed by Congress every time an appropriations bill is sent to the White House—given no option other than accept the entire bill or reject the entire bill, no option to exercise any power whatsoever in terms of how the taxpayers' dollars will be spent. As I indicated earlier in my remarks, the President's exercise of a line-item veto under this measure simply returns the line item to this body where it has every right and every power to restore it.

Mr. President, many feel the legislative branch, this Senate and the House of Representatives has forfeited its claim to exclusive control of spending by an abuse of the power that it granted itself in the Budget Act of 1974. Many feel that our current system is a mockery of the process that our Founding Fathers intended.

A vote to defend political pork at this sober economic moment in particular threatens to make this institution a laughingstock. This should be the subject of Senator BYRD'S concern, because I know he loves the Senate and I know he cares about this institution more deeply probably than anyone else.

Opposing budget reform and spending restraint extinguishes our credibility before a watching Nation. It reveals an institution that has misplaced its sense of shame. Expressions of outrage over the deficit without an equal passion for change is hypocrisy.

This Congress has no right to pained concern about our debt when it remains frozen in the ice of our own indifference. At a time when we have $300 billion, on a annual basis, and are approaching a $4 trillion national debt, that we cannot even institute a reform as simple as this to stop an addiction to irresponsible pork barrel spending is not a tribute to this institution. I think it is an embarrassment to this institution.

The measure that Senator MCCAIN and I have offered will put an end to the irresponsible practice of attaching and hiding pure self-serving pork barrel measures to massive spending bills and sticking it to the President and the American people.

If the Senate cannot take this small step today, the Senate will never be able to exercise fiscal discipline. The distinguished Senator from West Virginia, in one of his eloquent statements, made reference to those who support the line-item veto by quoting our Lord's words when he said, "Father, forgive them; for they know not what they do."

I think far more appropriate would be for the 100 Members of this Senate to turn to our children and our grandchildren, and future generations to come, and say, "Forgive us for what we have done; for saddling you with a burden of debt which you may never be able to climb out from under."

A simple piece of reform is what is at issue here today. Those who like the status quo; those who say "If it ain't broke, don't fix it; it is working just fine"; those who say we do not need to take any steps, any measure to change the way we currently do business; those should vote against this amendment.

Those who feel that the system is broke; that it is not delivering what the American people are asking us to deliver; that it is not exercising fiscal responsibility, that we have the responsibility to exercise it; those that feel that we ought to reform the way in which we spend the taxpayers' dollars will support the measure that Senator McCAIN and I have offered.

Mr. President, it has been a good debate. It has been a constructive debate. As I said in the bargaining, I respect the prodigious effort of the President pro tempore of the Senate, the distinguished Senator from West Virginia. He has laid a record, a historical record, a record of research, of commitment, and precedent.

I respectfully disagree, and ask my colleagues to support this small measure of reform.

I yield the floor.

The PRESIDING OFFICER. The Chair would inform the Senator from Indiana that all time on his side has been utilized.

Mr. HELMS. Mr. President, in this debate the opponents of a line-item veto have made some fascinating contradictory arguments.

On the one hand, they have argued that the Coats-McCain amendment is not a solution to our budget problems because it affects only a tiny portion of the budget. Therefore, they contend, we should not pass it. Then they turn around and argue that this proposal would fundamentally change the balance of power between the executive and legislative branches because it would give the President so much power.

Then the opponents argue that Congress is simply trying to pass the buck to the President by giving him the line-item veto. They argue that Congress must control our budget problems by "having the courage to make tough choices." In the same breath, they turn around and blame the President, specifically President Reagan, for the budget deficits we are facing today.

Mr. President, with all due respect, they cannot have it both ways. Let me first address the argument that has been made that Congress appropriated less money during the Reagan administration than the administration requested. As a matter of fact, my staff has compared the appropriations bills during those years with the budget requests.

To make such a comparison is not as easy as it would seem, but I think we came up with pretty accurate results. We found that when you compare the budget estimates with each appropriation bill as passed by Congress, that Congress appropriated approximately $17 billion more than was requested by the administration.

However, when you exclude the requests for defense appropriations, which Congress consistently underfunded, Congress appropriated approximately $130 billion more than requested. So let's discard the notion that Congress has been so frugal in the budget process during the Reagan years.

So I guess it is put-up-or-shut-up time for Congress, Mr. President. All of us can manufacture excuses for what we do or what we fail to do. But if we are unwilling at this crucial time to accept a discipline that will be difficult—some will even say it is impossible—then we are saying there is no remedy. And I say there is. I call upon my colleagues in the Senate and the House publicly to acknowledge the real danger in which our debt-hobbled Nation finds itself. I call upon my colleagues to forswear political and partisan interests as the Congress once again addresses this vital issue of a line-item veto. The interest that should matter most to all of us at this moment in history is our national survival as an economically and fiscally healthy United States of America.

Mr. SANFORD. Mr. President, before we rush to institute a line-item veto under the pretense of reducing the deficit, perhaps the current administration should show its commitment to deficit reduction by submitting balanced budgets to Congress.

When President Reagan began his first term in 1981, the Federal debt was less than $1 trillion. This year, after 8 years under President Reagan and almost 4 years under President Bush, the Federal debt will exceed $4 trillion. These Presidents together have had almost 12 consecutive years to put Federal spending on a proper path to balance the Federal budget. Instead of getting the job done, they have called for a constitutional amendment to require them to balance the Federal budget, and they have called for line-item veto authority to help them balance the Federal budget.

Instead of submitting balanced budgets to Congress, the White House has for almost 12 years used the constitutional amendment and line-item veto as a gimmick.

We have heard many Senators speak of the need for the line-item veto as a means of reducing the Federal deficit. It will hardly make a dent. Whatever might be said in behalf of the line-item veto, it cannot be said that it is an answer to, or would have much effect on, the rising debts and deficits. Our job of fiscal responsibility requires tougher action.

To maintain that the line-item veto is an appropriate budgeting tool and balances the powers between the executive branch and Congress is a farce. The President has in his power several means of controlling the budgetary process which he seems reluctant to use. Before we rush to institute a line-item veto under the pretense of reducing the deficit, perhaps the administration should show its commitment to deficit reduction by submitting balanced budgets to Congress.

The budget for fiscal year 1993, which President Bush submitted to Congress in January, increases the national debt by $464 billion. Surely, if he is serious about controlling the debt he would start by balancing the budget before he submits it to Congress and the Nation. He does not need a line-item veto to take out his own lines. He can simply do what neither he nor President Reagan have ever done, send Congress a balanced budget.

The claim has been made by Members of this body that the line-item veto would save significant U.S. taxpayer dollars. I believe that such statements are made only to appeal to the urgency of the deficit issue without developing substantive policy measures.

Is the President really in a position to judge whether congressional budget additions are worthy projects? The President can stand in Congress and laugh at grants for peas, lentils, peach, and catfish research, and he may be right, but maybe he is not, and who is the best one to sense what is helpful for neglected regions and small communities, the local Congressman, the Senator, or some White House budget staffer who writes a memo to go into the President's line-item veto message?

I will stick with the people's elected Representatives.

The truth is that most of those congressional items ought to be cut. Who knows better than a Member of Congress how crucial project funding may be to a local area? To allow the administration, with relatively little contact with small constituencies, to decide what is important to communities across the United States would be a gross misrepresentation of the American public.

Touting the line-item veto as a necessary tool for providing balanced budgets is a great fallacy, and another in a series of budgetary gimmicks. The administration already has extreme influence in the budgetary process. It submits its budget to the Congress yearly, setting the national spending priorities and the stage for policy discussions. If now the administration claims it needs the line-item veto as a tool to balance the budget, I would like the administration to answer why, if it feels balanced budgets are so important, does it not submit balanced budgets to Congress.

If the administration is so committed to fiscal restraint, then the administration should prove its commitment by developing a budget which implements spending reductions. If there is so much fat in the budget that can be so easily dismissed, then the President should come forward with those suggested cuts as part of his budget submission. Instead, this President, who now so much wants the line-item veto authority, submitted a budget that will add $464 billion to the national debt.

In addition, if the President is serious about controlling the budget deficit by attacking the spending bills, he may use his general veto authority and power of rescission. Although these two methods require much more interaction with Congress and may pose political dilemmas for the President, they are avenues that do exist and could be useful if the President were to utilize them. Presidents Carter and Reagan used rescission successfully. Two-thirds of the dollar amount Carter rescinded was accepted by Congress.

My last, but most important objection, with the line-item veto is that it would radically upset the balance of power between the President and Congress. I suppose very few hard-working people, struggling with their own problems, care much about a power dispute between Congress and the President. But the balance of power, with not one branch too strong, was essential to the Founding Fathers, and it is important today to the best interests of citizens. It cannot be disputed that if the line-item veto were instituted, the President would use it to exert extraneous pressure on Members of Congress, for example, to hold local waste treatment projects hostage in order to get support of his veto of child care legislation.

Senator Charles Mathias spoke eloquently to what this kind of shift of power might mean. "For example," he said, "if President Reagan does not like my position on the issue of school prayer, and if he acquires the power to kill funds for the program that I have long supported to save the Chesapeake Bay * * * then the President * * * has a hostage. He can hold the Chesapeake for the ransom of my support * * * for State-sponsored prayer in school or any other subject that he might want my support on. * * * In my opinion it would destroy the balance that exists between * * * the executive and legislative branches."

Mr. President, we should take seriously these words from our former colleague from Maryland. Most local citizens and all local and State governments will be badly served by giving the President line-item veto authority over local projects. The line-item veto would muffle the public's voice and put a very long distance between the American people and Federal spending choices.

For the reasons I have discussed, I urge each one of my colleagues to carefully consider the line-item veto proposal before us. We cannot allow ourselves to be influenced by political situations and the current budgetary crisis into altering the balance of power our Founding Fathers were so enlightened to incorporate in our system of government. If we want to correct our Federal deficit we should do so with the tools at hand; and the President should begin by submitting honest and balanced budgets.

Mr. DURENBERGER. Mr. President, I rise to speak in opposition to this amendment which would grant to the President a line-item veto.

My record on this issue is clear and consistent. This is the ninth time in my Senate career that I have had to vote on a line-item veto. On each of the eight previous occasions, I have voted against this idea. And I will do so again.

Mr. President, with the Federal budget deficit at $400 billion, many of my colleagues think the line-item veto will provide the silver bullet that will restrain Federal spending. If I believed that, I would long ago have supported this idea. But no one seriously believes that granting the President the authority to line-item veto projects like the Lawrence Welk Museum will do anything to resolve our fiscal woes.

I would be far more inclined to consider supporting a line-item veto, if we concurrently had in place a statutory or constitutional requirement that Congress annually report a balanced budget. In that case, if Congress sent the President a deficit financed budget, it makes sense to give the President the authority to pick and choose which congressional spending projects should be eliminated to meet the legal requirement of a balanced budget.

But since we do not have the courage to adopt a balanced budget law, I cannot support this proposal.

Mr. President, it is just not possible for this Senator, or any Senator, to add to the history and analysis of the constitutional derivation of the veto power presented by the distinguished Senator from West Virginia [Mr. BYRD].

But I would like to take a moment to explain why I oppose the idea of a line-item veto. In my view, it is simply a matter of shifting the balance of power that existed in our triparte Government for more than 200 years. A shift that will permanently change the shape of our democracy.

Mr. President, in 20 of the last 24 years, the American public has lived with divided Government, with Republicans controlling the White House and Democrats the Congress. Both parties have had to work together, to compromise, in order to adopt legislation we believed to be in the best interests of our country. In some of those bills, compromise was only achieved because components of such bills contained measures important to a particular State or region of the country.

But I would suggest to all of my colleagues, especially my colleagues on this side of the aisle, that if we adopt the line-item veto, we will create a self-imposed legislative gridlock. And we will have shifted an extraordinary amount of authority from the legislature, from the Representatives and Senators of the 50 States, into the executive.

Mr. President, the current occupant of the White House is a Republican, and I would surely hope that President Bush will remain in the White House through 1996. If that happens, and if the line-item veto is adopted, I and my 42 Republican colleagues should be comfortable in knowing that it will be unlikely that our legislative proposals will be line-item veoted.

But one day, it is possible a Democrat will occupy the White House. And if that unlikely event occurs, I would suggest that all of my Republican colleagues will face the threat that their State's interests may be targeted for vetoes. The line-item veto will allow all future Presidents to pick and choose items to veto not on merit, but solely on the basis of political partisanship. A Democratic President might find it politically useful to my 1994 Democratic opponent to line-item veto a nursing home project critical to my Minnesota constituents.

Mr. President, I suggested earlier that this institution is founded on legislative compromise. There is always give and take in crafting legislation. That has been our tradition for more than 200 years. Yet why should any Senator, especially a Senator in the party that does not control the White House, compromise on anything if he knows that the President can pick and choose to veto those parts of a bill that the Senator supports.

Instead of compromise, I can assure you that we will see endless filibusters. Senators will block legislation until they receive guaranteed assurances from the White House that the items important to their States will not be line-item vetoed. Is that what our colleagues want? More filibusters, more cloture petitions, more endless debate. That is exactly what will result if we adopt this proposal.

Mr. President, I urge my colleagues to reject this amendment and to get on with the serious business of governing a nation that is looking with greater skepticism at how we conduct the people's business.

Mr. HATFIELD. Mr. President, the chairman of the Appropriations Committee has virtually exhausted the arguments that can be made against this proposal. I support his position absolutely, and have just one brief suggestion to make.

I suggest that the advocates of this proposal take better advantage of the existing rules and procedures of the Senate to advance their cause. There is still unlimited debate in the Senate. Senators can exercise their rights under the rules to take all the time they want to examine bills and reports, raise objections, offer amendments, and round up votes. I am confident that the proponents of this proposition, and their capable staffs, are fully able to identify provisions of appropriations bills and reports that they find objectionable, and craft amendments to resolve those objections. Let them offer those amendments, and let us vote.

In those rare occasions when the Senate is faced with a conference report on an appropriations measure with no amendments remaining in disagreement to which further amendments might be adopted, thus forcing the Senate to an up or down vote on the entire measure, let me suggest this to the proponents. Presumably, they speak on behalf of the President. I should say as an aside that the principal sponsors of this proposal presume that the President will always be a Republican. But in any event, the proponents put great faith in the executive branch. Let the proponents encourage the President, then, to come forward with rescission proposals pursuant to title X of the Budget Act. I understand the President will do just that in the next day or so in regard to certain matters funded in fiscal year 1992 defense appropriations bill. That rescission message will be referred to the Appropriations Committee. If I read the Budget Act correctly, after 25 days the measure can be discharged on the petition of 20 Senators. Then the rescissions can be debated and voted on, and if the measure passes, the funds are rescinded.

So there is a mechanism the proponents of this matter can pursue to achieve their purpose. Of course, it means they must take the responsibility themselves, and not rely on the President to take it on for them, but I have every confidence that they will not shirk from that responsibility.

Mr. WOFFORD. Mr. President, the Federal budget deficit is a serious problem. It is reducing our national savings and eroding our Nation's ability to compete internationally. Unless we overcome that deficit our children and grandchildren will not enjoy the better world we hope to leave.

But the line-item veto would not be a solution. A Federal line-item veto would probably have little impact as a deficit reduction measure because much of the Federal budget, particularly entitlements, interest payments and taxes, would not be subject to it. In 1993, only 35 percent of Federal spending will be discretionary spending and, therefore, subject to a Presidential line-item veto. And by excluding revenues, which the President estimates to be over $1.1 trillion in 1993, the line-item veto could merely result in more tax loopholes as special interests seek to make up for lost Federal spending. Honest, serious deficit reduction will require a comprehensive approach to all aspects of the budget—not just discretionary spending.

For over 10 years, the Bush and Reagan administrations have claimed the need for the line-item veto to bring the deficit under control. But this is just smoke and mirrors. They seek to place the blame solely on the Congress—when the fact is that this administration has not once proposed a balanced budget or proposed a realistic solution to the budget deficit.

The net effect of a line-item veto would not necessarily be budget savings. Rather, it would provide a preference for executive spending priorities over legislative priorities. And as the current administration has shown—those priorities are often wrong. The President's 1993 budget proposal is full of examples of program cuts that would hurt the people of Pennsylvania and all States. He would for example eliminate trade adjustment assistance for workers dislocated from jobs because of foreign competition and mass transit assistance for cities with populations over 500,000. He proposed major cuts in the HOME Program, which creates new affordable housing opportunities, and the low-income housing weatherization program, which helps people afford to stay in their homes.

I do not agree with all congressional spending decisions. Some blame for our deficit of course lies in this body. However, the line item veto proposal ignores the President's participation in creating the increased Federal deficits. All the line item veto would do is transfer power from the legislative branch of Government to the executive branch without any guarantee of a more effective Government or reduced budget deficits.

Finally, the State experience with line-item vetoes has not always been positive. The line item veto is the power that a majority of State Governors have to reduce or eliminate individual provisions in bills offered by their State legislatures. The House Budget Committee concluded in 1984 that the power of the line-item veto on the States has given rise to significant political strife and, at times, threatened the shutdown of Government services.

Both the Congress and the President need to be involved in serious budget reduction. I cannot support a proposal, such as the line-item veto, that would reduce the accountability of Members of Congress to solve the budget deficit, shift the constitutionally established separation of powers sharply in favor of the President, and not necessarily get us any budget savings.

Therefore, I urge my colleagues to vote against the pending amendment.

Mr. HOLLINGS. Mr. President, I rise today in support of efforts to grant the President line-item veto power. It is an excellent discipline to control wasteful and unnecessary appropriations and thereby reduce the Federal deficit. My amendment, a statutory, separate enrollment line-item veto is identical to a measure previously considered by the 99th Congress as well as legislation reported favorably by a bipartisan vote out of the Senate Budget Committee on July 25, 1990, and I prefer this approach. However, it's time to stop splitting hairs and get this valuable tool to the President.

Currently, 43 States have, in one form or another, a line-item veto allowing the Chief Executive to limit legislative spending. As a former Governor who inherited a budget deficit in a poor State, I can testify that a line-item veto is invaluable in imposing fiscal restraint.

The fiscal problems of our Nation are well-known. We face annual deficits now approaching $500 billion and a total debt of $3.8 trillion. For years now, we have been toying with freezes, asset sales and sham summits, but the deficit and debt continue to grow.

Mr. President, the taxpayer, as well as the Congress, have grown weary of the smoke and mirrors and are past ready for a serious deficit reduction package. If ever there was a problem that needed to be attacked from every possible angle, it is this deficit. The President said in his State of the Union Address that he was willing to take the heat and make tough decisions with a line-item veto. Let's hold him to the commitment and make the line-item veto part of a deficit reduction measure.

Mr. BIDEN. Mr. President, I am a supporter of the line-item veto, one which is truly structured like a veto. I voted with Senator SASSER on the point of order made against the proposal by Senators COATS and MCCAIN because their approach is not a line-item veto, but a different creature called an enhanced recission. The differences between the two approaches are important.

As I noted earlier, I shared the stated beliefs of the Attorney General that the President does not have the authority now to veto individual items in bills. Suggestions from some quarters that the President should simply assert this authority and spark a court battle is political mischief of the worst type.

So there should be agreement that legislative action is needed for the President to gain the authority to eliminate specific items in appropriations bills. A variety of proposals have been made in this area, ranging from a constitutional amendment to the enhanced recission that was recently before the Senate.

A constitutional amendment is perhaps the most difficult approach to establish this authority and one that should be looked to only as a last resort. I believe we should first look to a statutory approach, which would be faster and, if properly structured, do no damage to the constitutional relationship between Congress and the Executive.

The amendment we voted on was a statutory approach, but flawed because it granted the President too much authority and veered away from a true veto response to congressional action. The McCain amendment would have allowed the President to reduce, not just eliminate specific items. With this authority, the President would be allowed to rewrite appropriations bills, a power that would dramatically alter our traditional system of checks and balances.

I have supported a 2-year trial of allowing the President to take specific items in an appropriations bill and veto them. Congress would be able to vote to override that veto. It is a much simpler approach than the enhanced recission in the McCain-Coats amendment. And if it proves to be a failure, as some fear, the authority could be allowed to lapse.

A statutory line-item veto will help restore responsibility to the Federal budget process. A line-item veto will help increase accountability on the part of the Congress and the President. Estimates of the savings that could result from a line-item veto differ, but they could add up to billions of dollars. It is no cure-all for deficits and debt, but it is a step in the right direction and one that I believe must be taken.

With deficits racing toward $400 billion annually, the need for additional spending controls cannot be denied. But under the claim of fiscal responsibility, I cannot support an approach that would make such a dramatic shift in authority to the executive branch. I hope in the future we can develop a workable line-item veto.

Mr. McCONNELL. Mr. President, I rise today in support of the line-item veto. As a cosponsor, I believe that the Coats-McCain amendment will help Congress restore some fiscal responsibility to the budget process that is presently lacking. This amendment will force the Congress to justify all of its spending requests and, I truly believe will eliminate frivolous and wasteful spending by the Congress.

This legislation will not compromise the budget process, it will enhance it. The line-item veto enables the President, 20 days after the enactment of an appropriations bill, to identify wasteful and unnecessary spending items and to notify Congress of his intention to eliminate such items. The real punch of this proposal is to force this body to justify its spending priorities by voting to overturn the President's rescissions.

Mr. President, it is high time that Congress end its spending spree. The American people can no longer afford to pay for our fiscal irresponsibility.

Mr. President, it strikes me as odd that Congress has only a limited supply of tax dollars to draw from, yet Members insert an unlimited number of wasteful spending items. The General Accounting Office has estimated that some $70 billion in unnecessary pork funding has been tucked away in appropriation bills between fiscal years 1984 and 1989. We have spent ourselves into a tremendous deficit, all in the name of good public policy. Mr. President, this level of deficit spending is not good public policy.

This legislation is long overdue. I urge my colleagues to support this common sense legislation.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair. How much time do I have?

The PRESIDING OFFICER. The Senator from West Virginia has 10 minutes 7 seconds.

Mr. BYRD. Mr. President, I have just been asked by Mr. BUMPERS for 3 minutes. I yield 3 minutes to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 3 minutes.

Mr. BUMPERS. Mr. President, I thank the distinguished Senator.

Mr. President, the line-item veto is very popular across the country. If you vote against the line-item veto, you do so at some political risk; we all know that. Yet I am not persuaded, and I will never be persuaded. On the contrary, I am convinced we would not be here today debating this issue at all if Jimmy Carter were President; if Bill Clinton were President, or if Fritz Mondale were President we would not be here debating the line-item veto.

I remember when President Reagan promised the people of this country he was going to balance the budget. All of a sudden, we have $100 billion, $200 billion, $250 billion deficits; all of a sudden, he said, "If I only had the line-item veto." Then next, he said, "I cannot spend a dime. The Congress did not appropriate it."

I tell you, we could not have spent a dime in this country that did not have Ronald Reagan's, or George Bush's signature, on it either. The President has the veto. There is 4 trillion dollars' worth of indebtedness in this country, and Congress is culpable to some extent, but I promise Ronald Reagan and George Bush signed for every dime of it; their names are on every penny of it.

So, Mr. President, I am not persuaded at all on the constitutionality of the line-item veto. On the contrary, I think it is unconstitutional. Even if it were not, there is not any question that Congress would figure a way to circumvent it.

Finally, Mr. President, if I were seeking a $15 million biotech startup project at the University of Arkansas, and let us say a Republican Senator has a project with a similar startup cost, we will say, in Texas, maybe Senator GRAMM, and the President is going through the bill. He is going to say we have to cut some money out of this budget. Who do you think is going to get vetoed? You do not have to be a rocket scientist to figure that out, do you?

Of course, the line-item veto is a massive transfer of power to the President of the United States, and people will stand up and wax eloquent on the floor of the U.S. Senate, saying: Oh, if we only had a line-item veto. Everybody here knows it will not make a dent in the budget deficit. It is all entitlements, defense, and so on.

People will walk down into the well of that Senate in the year 1992, and they will vote for billions for SDI; billions for the B-2 bomber; billions for the space station; billions for the super collider; $30 billion to spy on the Soviet Union, which does not even exist anymore; and then go home and say: Oh, if we only had the line-item veto.

Mr. President, I do not enjoy standing up here and saying things that I know are unpopular with our own people in my home State. But I did not come here to abdicate my responsibilities to the Constitution or commonsensical Government.

I remember when Lyndon Johnson called Harry Byrd, Sr., into his office during the time the civil rights bill was being considered, and said, "McNamara wants to close that naval base down there in your State." And Senator Harry Byrd, Sr., could not wait to get back over here and vote for the civil rights bill.

I am not going to vote for this massive transfer of power.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. Mr. President, what is driving the debt is in large measure something that the line-item veto will never touch; that is, entitlements spending and mandatory spending. Yet, what this amendment is directed to is the appropriations bills.

If this amendment were to be adopted, the President would not be using the red pencil; faceless, nameless bureaucrats—unelected bureaucrats—would be using the red pencil.

Our friends on the other side who offer this amendment are asking the American people to give up a lot; namely, the most important power that the people have through their elected representatives. We ought to think a long time before we turn an elected President—unelected by the people; he is elected by electors who are elected by the people—turn an elected President into a king.

This measure would effectively strip the authorizing committees—indirectly, of course—of power, as well. The President could simply negate any authorized program by striking its funding. This is a sham argument, crafted to take the focus off the real problem. The real problem is the lack of political will on the part of the White House and the Congress to cut entitlements or raise taxes, or both, and really do something about the deficits.

A number of times, Senators have referred here to the occasion when President Reagan stood before a joint session and held up the conference report and slammed it down on the desk and talked about how big and how heavy it was. That was the State of the Union Address in January 1988.

President Reagan carried on a great deal about the size of that package. Well, why was it sent to him in one package? Because in the fall of 1987, after the stock market crash, Congress had entered into summit negotiations with the Reagan administration, and the administration then insisted that all appropriations measures—all of them—and the reconciliation measure be submitted to the President concurrently.

That is the way we did it. We put them all into one package. It was at the administration's own request.

But Mr. Reagan went on at great length about his desire for line-item veto authority, so that he could line out portions of the bill in these kinds of bills.

He went on to say that he would send to the Congress a list of items that he would delete from the appropriations portions of the 1987 summit agreement. Well, 2 months later, President Reagan sent such a list to Congress. I have the President's proposal here. It is printed as House Document No. 100–174.

Let me read the President's message:

To the Congress of the United States:

I ask the Congress to consider the rescission or repeal of the wasteful, unnecessary, or low priority spending projects that were included in the full-year fiscal 1988 Continuing Resolution (P.L. 100–202). These are the projects that, if I were able to exercise line-item veto authority, I would delete. They consist of Congressional directives and amendments concerning activities which are unnecessary and for which my Administration has not requested funds. It is my hope that the funds appropriated for these projects will not be spent as directed and can instead be spent on worthwhile projects or retained by the Treasury to lower the deficit. Accordingly, I am informally asking that the Congress review these projects, appropriations, and other provisions line by line and either rescind or repeal them as soon as possible. I reserve the option of transmitting at a later date either formal rescission proposals or language that would make the funds available for more worthwhile purposes, for any or all of these items.

Since I assumed this office, the Congress has appropriated billions of dollars for questionable purposes, much of it in the context of massive spending bills passed in great haste that not even Congress had an adequate chance to evaluate. Because current law so severely restricts my ability to impound or not spend appropriated funds, I again appeal to the Congress to provide the Chief Executive with permanent line item veto authority. In the meantime, I urge your prompt attention to this request for legislative action in order to avoid these unnecessary expenditures of taxpayer dollars.

The details of these projects are set forth in the attached letter from the Director of the Office of Management and Budget.

Signed Ronald Reagan, White House, March 10, 1988.

Well, here they are. How much did they amount to? How much did this list of items amount to that the President said he would delete if he were given the line-item veto? $969.6 million. It says Total Wasteful Items, $969.6 million. That is a lot of money, to be sure. But in the context of Federal budgets that are in the nature of over $1 trillion, $969.6 million in budget authority is two-tenths of 1 percent of the 1988 total discretionary appropriations. There you are. That is what President Reagan would have deleted, because they were "wasteful items" in his words—two-tenths of 1 percent. That speaks for itself, Mr. President.

That should speak for itself as to how effective this so-called elixir of all of our budget problems would be. This is what the amendment's sponsors call "budget reform."

Mr. President, I ask unanimous consent that a table providing a summary of wasteful items earmarked in the fiscal year 1988 full-year continuing resolution be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SUMMARY OF WASTEFUL ITEMS EARMARKED IN THE FISCAL YEAR 1988 FULL-YEAR CONTINUING RESOLUTION (PUBLIC LAW 100–202)

[In millions of dollars]

Agency	Budget authority fiscal year 1988	Outlays fiscal year 1988	Total Federal project cost [1]
Candidates for rescission:			
Department of Agriculture	116.4	116.4	156.0
Department of Commerce	17.0	8.2	34.3
Department of Defense-Civil	49.4	33.3	1,971.7
Department of Education	6.4	0.6	14.1
Department of Energy	182.3	84.6	419.8
Department of Housing and Urban Development	1.0	.9	1.4
Department of the Interior	7.4	1.5	7.4
Department of Justice	2.0	.2	2.0
Department of Transportation	85.2	17.1	786.1
Department of the Treasury	8.4	8.3	8.4
General Services Administration	19.0	20.0	20.0
Other Independent Agencies	45.0	45.0	45.0
Subtotal, candidates for rescission	539.5	336.1	3,466.2
Candidates for repeal or amendment:			
Department of Agriculture	4.0	4.0	152.0
Department of Commerce	1.7	.2	1.7
Department of Defense-Military	252.2	155.0	252.2
Department of Education	4.3	2.0	4.3
Department of Health and Human Services		1.0	46.0
Department of Housing and Urban Development	6.0	6.0	6.0
Department of the Interior	4.9	4.1	4.9
Department of Transportation			119.2
Department of the Treasury	135.0	132.0	135.0
Small Business Administration	5.0	85.0	85.0
Other Independent Agencies	17.0	13.8	17.0
Subtotal, candidates for repeal or amendment	430.1	403.1	823.3
Loan asset sales:			
Department of Housing and Urban Development		158.0	
Small Business Administration		643	
Subtotal, loan asset sales		801.0	
Total:			
Department of Agriculture	120.4	120.4	308.0
Department of Commerce	18.7	8.4	36.0
Department of Defense-Military	252.2	155.0	252.2
Department of Defense-Civil	49.4	33.3	1,971.7
Department of Education	10.7	2.6	18.4
Department of Energy	182.3	84.6	419.8
Department of Health and Human Services		1.0	46.0
Department of Housing and Urban Development	7.0	164.9	7.4
Department of the Interior	12.3	5.6	12.3
Department of Justice	2.0	.2	2.0
Department of Transportation	85.2	17.1	905.3
Department of the Treasury	143.4	140.3	143.4
General Services Administration	19.0	20.0	20.0
Small Business Administration	5.0	728.0	85.0
Other Independent Agencies	62.0	58.8	62.0
Total, wasteful items	969.6	1,540.2	[2]4,289.5

[1] Includes both funded and unfunded portions.

[2] In addition, the closing of small post offices would, if the prohibition were repealed, result in savings to the public in fiscal year 1988 of $15,000,000. This would increase to an annual savings of $240,000,000 in 20 years.

Mr. BYRD. Mr. President, I thank my colleagues on the opposing side for their courtesies, as well. They have put up a good fight, and I respect them for their viewpoints. I hope that the Senate will resoundingly defeat the motion to waive the Budget Act.

The PRESIDING OFFICER. The question now is on agreeing to the motion offered by the Senator from Arizona to waive section 306 of the Budget Act.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER (Mr. DODD). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 44, nays 54, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—44

Bond
Boren
Brown
Burns
Chafee
Coats
Conrad
Craig
D'Amato
Danforth
Daschle
Dole
Domenici
Exon
Garn
Gorton
Graham
Gramm
Grassley
Hatch
Helms
Hollings
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Robb
Roth
Seymour
Shelby
Simpson
Smith
Specter
Symms
Thurmond
Wallop
Warner

NAYS—54

Adams
Akaka
Baucus
Bentsen
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Inouye
Jeffords
Johnston
Kennedy
Kerry
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Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Stevens
Wellstone
Wirth
Wofford

NOT VOTING—2

Harkin
Kerrey

The PRESIDING OFFICER. On this question, the yeas are 44, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The motion to waive the point of order made by the Senator from Tennessee, [Mr. SASSER] having failed, the Chair now rules on the point of order.

The amendment by the Senator from Arizona affects title X of the Budget Act and the process by which the budget authority may be rescinded. This is a matter within the jurisdiction of the Budget Committee proposed to a bill not reported by that committee. Therefore, the amendment violates section 306 of the Budget Act. The point of order is well taken. The amendment falls.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank all Senators who voted against the motion to waive the Budget Act.

Mr. President, there has been some considerable amount of discussion in the press and here on the floor to the effect that the President ought to go ahead and exercise a line-item veto.

Mr. President, I hope that the President will not be led into that thicket of confrontation. The vote here, I think, today, expresses the view of the Senate. There is too much confrontation already between the executive and the legislative branches. And I hope that the President will not be persuaded by hotheads to just go ahead, exercise the line-item veto, and have a court test.

Well, he can do that. But what we need is less confrontation, Mr. President, between the White House and the Congress—less confrontation. If the President were to make this attempt, it would ensure a good deal of bitter confrontation. God help the Nation if that should ever be done and if the court should uphold the President. I do not believe that a court in its right mind would ever do that.

I yield to the distinguished Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to compliment the Senator from West Virginia on the work he has done in the last 24 hours. And on the point he has just raised, note for him what maybe a number of Members on the floor do not know.

The present Attorney General, whom I think is a fine man and is a first-class Attorney General and a man of great integrity, when, before the Judiciary Committee, for his confirmation hearing, volunteered to make the point that he was not unwilling to take stands on controversial issues and he was his own man, volunteered—and I am paraphrasing—that he had done a great deal of work on the issue of whether there was an inherent line-item veto right that the President presently has, as the Constitution is presently drafted. And he said he is not only certain he does not, but that he feels very strongly that he does not, based on his research.

So I would hope that the President, if he is considering what some of his political advisers apparently have suggested to him to test this, that he go to his chief law enforcement officer, the man in which he said he has allowed to reside the greatest amount of confidence on matters of legal weight and importance, and ask his Attorney General, the Justice Department, for a judgment.

I am confident that if he does, that the Attorney General will respond as the honorable man that he is, exactly how he did in the committee—that there is no such inherent right in the Constitution presently possessed by the President.

I thank the Senator from West Virginia for both his comments and for yielding.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Delaware, chairman of the Judiciary Committee. I did not know about the statement that the distinguished Senator has just alluded to. I am reassured greatly upon hearing of that statement. And I am all the more pleased that I voted for the confirmation of the Attorney General.

Mr. President, I yield the floor.

Mr. SHELBY. Mr. President, I ask unanimous consent to proceed as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama is recognized.

(The remarks of Mr. SHELBY pertaining to the introduction of S. 2278 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BIDEN. Mr. President, I am shortly going to send an amendment to the desk on the legislation that is before us. The distinguished Senator from Massachusetts, who is in the midst of having to chair a hearing, would like to speak to a matter unrelated to this legislation for a few minutes and I will be delighted to yield for that purpose, for what he has to say I think is important.

AMENDMENT NO. 1699

(Purpose: To encourage cooperation and participation in joint ventures for production)

Mr. BIDEN. Mr. President, in the interest of time, what I would like to do is send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] (for himself and Mr. BROWN) proposes an amendment numbered 1699.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, strike lines 12 through 22 and insert the following:

"SEC. 7. (a) IN GENERAL.—Section 4 of this Act applies to a joint venture for production only if the joint venture—

"(1) provides substantial benefits to the United States economy including, but not limited to, increased skilled job opportunities in the United States, investments in long-term production facilities in the United States, participation of United States entities in the joint venture, or the ability of the United States entities to access and commercialize technological innovations or to realize production efficiencies; and

"(2)(A) whose principal facilities for the production of a product, process, or service are located within the United States or its territories; or

"(B) whose principal facilities for the production of a product, process, or service are located within a country whose antitrust law accords national treatment to United States entities that are parties to joint ventures for production.

"(b) MEANING OF NATIONAL TREATMENT.—For the purposes of this section, a foreign country accords national treatment to United States entities that are parties to joint ventures for production if it accords treatment no less favorable with respect to the application of its anti-trust laws to United States participants in joint ventures for production than would be accorded to its domestic participants in joint ventures for production in like circumstances.

Mr. BIDEN. Mr. President, as I said, whenever the Senator from Massachusetts is ready, I will yield to him.

By way of brief explanation, the distinguished Senator from Colorado will speak very shortly.

I believe the administration and I have worked out a compromise to the amendment to this legislation, a piece of this legislation that was very controversial. I think we have reached not only satisfactory agreement but an agreement that meets what were the stated desires of the Senator from Colorado and myself that the purpose of this legislation from the outset was designed to benefit American workers; that the end result of this is to put America in a more competitive position and to move in a direction that allows American corporations who would otherwise be inclined to go into a joint venture agreement with other high technology companies but would be fearful that if we were wrong in their reading of the antitrust laws they would be subjected to treble damages, knowing that treble damages in some cases can in effect cause a company not only to suffer but go bankrupt if they are wrong, that we have this overall legislation for the purpose of putting—not in any way bringing down the shield of antitrust laws that protect the consumer, but giving companies, encouraging companies to stay within the law but not be as fearful of trying something new in consortia with other companies to move forward.

My concern is at the same time the purpose is of benefiting American companies and workers that we not also inadvertently put up, in effect, unfair trade barriers; that we not be protectionist in this process. So, on that one hand, we have a goal of protecting and enhancing American jobs and workers, capabilities and American companies, because of the nature of the international market these days and the competition from abroad and, on the other hand, in doing that, making sure we are not overly protectionist in the way in which we proceed.

So that is what the Senator from Colorado and I have been wrangling about—we never wrangle, actually. I think he is one of the brightest guys in this Chamber. That is what we have been discussing, talking about. I have hours and hours of discussions, my staff as well as his and with the administration as well.

What I will shortly speak to in more detail, after I yield, with the permission of the Senator from Colorado, to my friend from Massachusetts—in not much more detail, 5 minute's worth—is the outlines of that agreement whereby I believe we have satisfied the intent of the bill and also satisfied the concerns of those who believe that there is a concern of protectionism, if you will, in this legislation. Maybe that is an oxymoron. I am not sure. At any rate, with that, I see my friend from Massachusetts is ready.

I ask unanimous consent, Mr. President, that the Senator from Massachusetts, since we have a time agreement, be given 10 minutes on his own time, not to come out of the time of the 15 minutes allotted to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. By way of clarification, it is 30 minutes on this amendment, Mr. President, 15 minutes per side, not to come out of that 30 minutes.

The PRESIDING OFFICER. The correction is so noted.

Mr. KERRY. I thank the distinguished Senator from Delaware. I appreciate his courtesy. I have two statements I wish to make on different topics, if I may.

WE CAN CONTROL CRIME AND DRUGS

Mr. KERRY. Mr. President, I was disturbed this morning to see reports that the President's drug summit in San Antonio is proceeding on about the same level of success as his trip earlier this year to Japan.

I was disturbed to hear President Fujimori of Peru call the administration's antidrug strategy in Latin America a "failure" and say that "millions of dollars have been wasted and there has not been any results."

I was disturbed to see that the United States remains in fundamental disagreement with the Presidents of Colombia and Bolivia about the proper role of the military in fighting the drug war in South America.

I was disturbed by all of these things, Mr. President, but I was not surprised. I was not surprised because you do not have to travel to South America or even to San Antonio to know that the administration's drug war is not succeeding, is not real. Yes, there has been progress in reducing casual drug use; progress that has resulted not from drug interdiction, but from drug education; progress that started to reverse itself this past year when cocaine use rose in every category for the first time since 1985.

The fact is that while the drug war generals are meeting in San Antonio, those on the front lines are engaged in a nonstop fire fight on the streets and in the schools of this country. What happened at Thomas Jefferson High School in Brooklyn yesterday said more about drugs, guns, kids, education, cities and our Nation's future than anything the President has said or will say in Texas this week.

The fact is that despite the hundreds of millions of dollars we are pouring into the Andean drug strategy, coca leaf production is not down, it is up; cocaine manufacturing is up; cocaine traffickers have established new bases of operations throughout our hemisphere; cocaine remains widely available on our streets; the price of cocaine is coming down and the purity of cocaine is going up.

I doubt that any Senator would quarrel with the goals of the Andean strategy. International cooperation in the drug war is essential. Sharing intelligence and going after money laundering operations is vital. Targeting drug kingpins and seizing drug shipments is important.

But the only bottom line that really counts is whether we are reducing the amount of drug use and drug-related violence in the United States. I, for one, believe that we are more likely to make progress against drugs by helping the police in Boston and New York and Chicago in Hartford than by funding corrupt militaries in Lima, La Paz, and Bogota. We get more value for our drug dollars by helping a student stay off or kick drugs here at home, than by trying to buy off the coca farmers of northern Bolivia or central Peru.

The time has come for the President to come down from his mountain top and pay a visit to the real world. The fact is that this is not a hopeless task; we can control the epidemic of crime and drugs, but we are not going to do it at politically motivated drug summits.

We have to do it day by day, step by step, street by street, classroom by classroom, right here in America. That is our job. It does not make sense to be funding interdiction and eradication instead of funding education, law enforcement, and drug treatment here at home.

That, Mr. President, is what leadership is all about, and I regret that we have yet to see that kind of leadership at this summit.

VIETNAM INSERTED INTO CAMPAIGN

Mr. KERRY. Mr. President, I also rise today—and I want to say that I rise reluctantly, but I rise feeling driven by personal reasons of necessity—to express my very deep disappointment over yesterday's turn of events in the Democratic primary in Georgia.

I am saddened by the fact that Vietnam has yet again been inserted into the campaign, and that it has been inserted in what I feel to be the worst possible way. By that I mean that yesterday, during this Presidential campaign, and even throughout recent times, Vietnam has been discussed and written about without an adequate statement of its full meaning.

What is ignored is the way in which our experience during that period reflected in part a positive affirmation of American values and history, not simply the more obvious negatives of loss and confusion.

What is missing is a recognition that there exists today a generation that has come into its own with powerful lessons learned, with a voice that has been grounded in experiences both of those who went to Vietnam and those who did not.

What is missing and what cries out to be said is that neither one group nor the other from that difficult period of time has cornered the market on virtue or rectitude or love of country.

What saddens me most is that Democrats, above all those who shared the agonies of that generation, should now be refighting the many conflicts of Vietnam in order to win the current political conflict of a Presidential primary.

The race for the White House should be about leadership, and leadership requires that one help heal the wounds of Vietnam, not reopen them; that one help identify the positive things that we learned about ourselves and about our Nation, not play to the divisions and differences of that crucible of our generation.

We do not need to divide America over who served and how. I have personally always believed that many served in many different ways. Someone who was deeply against the war in 1969 or 1970 may well have served their country with equal passion and patriotism by opposing the war as by fighting in it. Are we now, 20 years or 30 years later, to forget the difficulties of that time, of families that were literally torn apart, of brothers who ceased to talk to brothers, of fathers who disowned their sons, of people who felt compelled to leave the country and forget their own future and turn against the will of their own aspirations?

Are we now to descend, like latter-day Spiro Agnews, and play, as he did, to the worst instincts of divisiveness and reaction that still haunt America? Are we now going to create a new scarlet letter in the context of Vietnam?

Certainly, those who went to Vietnam suffered greatly. I have argued for years, since I returned myself in 1969, that they do deserve special affection and gratitude for service. And, indeed, I think everything I have tried to do since then has been to fight for their rights and recognition.

But while those who served are owed special recognition, that recognition should not come at the expense of others; nor does it require that others be victimized or criticized or said to have settled for a lesser standard. To divide our party or our country over this issue today, in 1992, simply does not do justice to what all of us went through during that tragic and turbulent time.

I would like to make a simple and straightforward appeal, an appeal from my heart, as well as from my head. To all those currently pursuing the Presidency in both parties, I would plead that they simply look at America. We are a nation crying out for leadership, for someone who will bring us together and raise our sights. We are a nation looking for someone who will lift our spirits and give us confidence that together we can grow out of this recession and conquer the myriad of social ills we have at home.

We do not need more division. We certainly do not need something as complex and emotional as Vietnam reduced to simple campaign rhetoric. What has been said has been said, Mr. President, but I hope and pray we will put it behind us and go forward in a constructive spirit for the good of our party and the good of our country.

I thank our distinguished manager of the bill and the Senator from Delaware.

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION

The Senate continued with the consideration of the bill.

Mr. BIDEN. Parliamentary inquiry, Mr. President. Are we back now on the amendment sent up——

The PRESIDING OFFICER. Pursuant to the unanimous-consent request, we are now back on the amendment offered by the distinguished Senator from Delaware.

The Senator from Delaware has the floor.

Mr. BIDEN. Mr. President, the amendment I am offering is cosponsored by Senator BROWN and has the support of the administration.

This amendment ensures that the changes in antitrust law made by this legislation—

Will provide the benefits to the U.S. economy and American workers that are the reason for this bill; and

Without in any way discriminating against our trading partners that provide fair treatment to American business.

Along with Senator LEAHY and Senator THURMOND, I am an original cosponsor of S. 479. This legislation is a simple—but extremely important—antitrust measure designed to improve the competitiveness of American business, and the job opportunities and skills of American workers.

For companies deciding whether to work with other firms in a joint venture, this bill will clarify the potential antitrust penalties they may face as a result of their participation. Greater certainty under the law will, in turn, spur participation by American companies in joint ventures.

In other words, Mr. President, without this bill, the threat of heavy antitrust penalties will continue to deter companies that might otherwise join in lawful manufacturing ventures.

With this legislation, companies will know for certain the antitrust standards and the potential penalties they may face as a result of their participation in a joint venture.

By making the law more certain, and by encouraging American firms to join together in manufacturing ventures, this bill helps American businesses share the heavy investment burdens needed to compete successfully in high-tech industries.

The American economy and American workers will be the direct beneficiaries of this change.

To qualify for the antitrust treatment provided by the act, companies must notify the Justice Department of their joint venture. This notice will heighten the scrutiny directed at joint ventures covered by the act, and will give the Justice Department the means to strictly enforce the antitrust law, should these ventures restrain trade.

The amendment I offer now with Senator BROWN, my distinguished Judiciary Committee colleague, ties the benefits of the bill to manufacturing ventures that either—

Locate their factories here in the United States; or

In foreign countries that give fair and equal treatment to American businesses.

In either case, a manufacturing venture will fail to be covered by the bill unless it provides clear and direct benefits to our economy. Qualification under this standard will turn on whether a joint venture can show—

The creations of skilled jobs here in the United States;

New investment in manufacturing plants in the United States; and

Improvements in the ability of United States business to commercialize new technology.

Mr. President, this bill and the amendment I am offering are needed to respond to America's recent decline in the world economy. During the past two decades, an ever-increasing perception has taken hold—

That American firms are producing second-rate products;

That American firms are less able than their foreign counterparts to commercialize high-technology products; and

That we are losing ground to the rest of the world.

Consider, for example, America's recent experience in the semiconductor industry. In 1980, America's share of the global semiconductor market was 57 percent. Nine years later, it had been cut to just 36 percent.

Accordingly to a report of the National Advisory Committee on Semiconductors each percentage point drop in the U.S. share of the world semiconductor market costs America—

Nearly 3,000 semiconductor industry jobs lost;

Some $130 million in lost wages to American workers; and

A $59 million reduction in spending for research and development.

The purpose of the amendment I have offered along with Senator BROWN is to make certain that the change in antitrust treatment achieved by this bill works to halt the decline of the semiconductor industry and other American business interests.

The estimated 63,000 semiconductor jobs lost through the 1980's, and the corresponding lost wages approaching $3 billion can only be remedied by legislation that is directly linked to American jobs and the American economy.

Senator BROWN and Attorney General Barr have cooperated with me in producing an amendment that will create American jobs without unfairly discriminating against our trading partners.

My amendment keeps U.S. antitrust law free of any discriminatory impact—yet guarantees this legislation will make our economy more competitive.

Joint ventures that locate their factories in the United States—creating jobs and helping business—will receive the benefits of the Act.

Joint ventures located in countries that treat American business fairly also will be covered by the bill, so long as the foreign venture provides significant benefits to our economy.

Greater certainty in antitrust treatment will allow American business to better compete against foreign companies.

And American workers will be provided with skilled jobs that otherwise would not exist.

Mr. President, the amendment I am offering with Senator BROWN represents an intelligent and balanced accommodation of the competing interests touched by this legislation.

Mr. President, I want to thank Senator BROWN and Attorney General Barr for their hard work and cooperation in reaching an agreement on this amendment. I also want to thank the distinguished manager of the bill, Senator LEAHY, for his longstanding efforts on behalf of this legislation. And I would like to thank Senator THURMOND, the distinguished ranking member of the Judiciary Committee, for his sponsorship of this bill and his efforts on its behalf.

Mr. President, as I indicated, along with Senators LEAHY and THURMOND, I am the original cosponsor of this bill. The legislation is simple but extremely important: Antitrust measures designed to improve the competitiveness of American business and job opportunities and skills for America.

Some thought that the Biden portion of the legislation came in conflict with not that objective, but with the notion of whether or not we would be protected in growing concerns and stated concerns of both the administration and the Senator from Colorado, representing the view of many, as well as our friends in the European Community. And so I think we have worked out all of the kinks.

I want to thank Senator BROWN and Attorney General Barr for their very hard work and cooperation in reaching an agreement on this amendment. I also want to thank the distinguished manager of the bill, Senator LEAHY, for his longstanding effort on behalf of this legislation. I would like to thank Senator THURMOND, our distinguished ranking member of the Judiciary Committee, for his sponsorship of this bill and his efforts on its behalf.

I will not take any more of the Senate's time. I know we have been on this bill a long time, based on the last amendment in particular. And I know we are about ready to go to a third reading after this amendment and a couple—or maybe several—technical amendments.

Without further ado, Mr. President, I will yield back the remainder of my time, and yield to my friend from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I ask unanimous consent that Tom Forbord, a congressional fellow from the Department of State, be allowed floor privileges during the consideration of S. 479.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Mr. President, I rise in support of S. 479, and the amendment we are now considering, which will bring joint production ventures under the scope of the National Cooperative Research Act of 1984. The act now provides that the rule of reason standards applied to joint research and development ventures if legal action is taken against them.

The economic prosperity and national security of the United States depend on the ability of American firms to remain at the frontier of new technology. Research and development are critical to achieve and sustain a technological edge. It's tough to compete with an arm tied behind us. This provision removes those bonds and allows two-fisted international competition.

We want joint production ventures under the scope of the National Cooperative Research Act because of the successful experience we have had with joint R&D ventures. Since its enactment, companies have filed more than 230 notifications for joint research and development ventures involving everything from chipmaking and steelmaking processes to superconductors. Many experts in the semiconductor field credit the act for the U.S. world leadership in semiconductor manufacturing technology.

Some opponents had argued that the NCRA would foster anticompetitive activities. This has not been the case. Assistant Attorney General James Rill testified:

> The Department [of Justice] has been managing the implementation of NCRA since its passage. We have found it to be highly successful and we believe its extension to joint production ventures would have similar results.

Former Commerce Secretary Robert Mosbacher testified:

> To my knowledge, the NCRA has not resulted in abuse; indeed, it seems to be working very well. To date, none of the many research and development ventures registered under NCRA has been struck down as anticompetitive under the anti-trust laws.

American scientists and engineers are the world's best innovators. They continue to make scientific breakthroughs and invent new and improved products.

For example, the Colorado Center for Advanced Ceramics at the Colorado School of Mines conducts cutting-edge research leading to new uses for ceramics and ceramic composites. That same school is the home of the Advanced Steel Processing and Products Research Center. Its focus on steel manufacturing and materials processing is generating innovations that could be used by American Steel fabricators and the U.S. auto industry.

The University of Colorado at Boulder received international recognition in biochemical research when Thomas Cech was awarded the 1989 Nobel Prize for his research in chemistry. He opened up a new scientific field, RNA enzymology, which offers the possibility of biotechnological cures for a host of virus-caused human illnesses, including cancer, AIDS, and even the common cold.

CU also has taken a major step toward helping the United States maintain a competitive edge in technological innovation through the Optoelectronic Computing Systems Center. The center works to develop optoelectronic devices and systems for computing, signal processing, and artificial intelligence, to prepare students for careers in optoelectronics and to transfer technology efficiently to U.S. industry.

Good ideas and technological breakthroughs, however, are not sufficient to achieve success in global markets. World technological leadership depends on the ability to convert research and development advances into commercial production. The actual production of new products requires large investment of capital and the investment of resources which may be beyond the financial capability of any company.

I congratulate Senators BIDEN, LEAHY, and THURMOND for their leadership in developing this legislation. Every political speech given anywhere in America talks about how to make America more competitive. This bill will do exactly that.

S. 479, with the amendment the Senate is now considering, will remove antitrust uncertainty for joint ventures that benefit U.S. workers, U.S. business, and U.S. competitiveness in global markets.

If the bill remains in the current form, the President's top trade and foreign affairs advisers will recommend a veto. With this amendment, they will recommend that he sign the bill.

This amendment requires that there be substantial benefit to the U.S. economy and lists some examples of such benefits.

This list is illustrative only and is not exhaustive. Benefits can take many forms and we are not requiring a venture to show any particular type of benefit.

The amendment is also intended to eliminate any possible discrimination against foreign participation in joint ventures. This amendment ensures that all ventures meeting the substantial benefit test receive equal treatment under U.S. antitrust laws whoever the parties and wherever located. Nothing hinges on the nationality of the participants.

The national treatment requirement is not a limitation on foreign participation in joint ventures that will enjoy the benefits of the bill. Nor is it some kind of reciprocity requirement for foreign participation.

Rather, it is to encourage a country where a venture is located to give national treatment under its antitrust laws to any U.S. participants in joint ventures.

Mr. President, I ask unanimous consent that four letters that relate to this subject be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, July 17, 1991.
Hon. JOSEPH R. BIDEN,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We understand that the Committee may soon take up S. 479, the "National Cooperative Research Act Extension of 1991." As you know, the Administration has proposed similar legislation, introduced by Senator Thurmond (by request) as S. 1163, the "Cooperative Production Act of 1991." These bills, which would extend the National Cooperative Research Act of 1984 ("NCRA") to joint production ventures, could significantly enhance U.S. competitiveness while continuing fully to guard against conduct that likely would be anticompetitive. We urge the Committee to report favorably a bill that combines the best features of S. 479 and S. 1163.

We understand that amendments to this legislation may be offered in Committee or perhaps subsequently that would limit the coverage of the amended NCRA, insofar as joint production is concerned, to joint ventures (i) whose principal production facilities are located in the United States; and (ii) which have less than 30 percent foreign ownership. We also understand that an amendment may be offered that substitutes for the 30 percent foreign ownership limitation a requirement that each party to the joint venture make a substantial commitment to the United States economy, as evidenced by various indicia. We are writing to express our very serious concerns regarding such limitations, which would undermine the very benefits the NCRA amendments are seeking to achieve. Such limitations also would fundamentally change the nature of antitrust law and sharply conflict with the joint efforts of the President and the Congress to open up markets to free trade and investment without conditions or performance requirements pertaining to nationality. If a bill containing such limitations were presented to the President for his signature, we would, unfortunately, have to recommend that he veto the legislation, notwithstanding our strong support for the underlying provisions of the bill.

EXTENSION OF THE NCRA TO JOINT PRODUCTION VENTURES

Both S. 479 and the Administration's proposal would extend the coverage of the NCRA to joint production ventures. NCRA coverage would reduce any unwarranted antitrust uncertainty regarding such ventures by ensuring the application of the antitrust rule of reason in any antitrust challenge to such a venture. Under the rule of reason, full account must be taken of all relevant circumstances in the markets affected by a joint venture, including any procompetitive efficiencies that the venture will generate. NCRA coverage also would permit the parties to joint production ventures to limit any possible antitrust liability to actual, rather than treble, damages by notifying the antitrust enforcement agencies of their venture. Eliminating unwarranted antitrust deterrence of potentially procompetitive cooperative production would benefit U.S. businesses and U.S. consumers alike.

DENIAL OF NCRA COVERAGE TO CERTAIN JOINT VENTURES

As noted above, the goal of the proposed NCRA amendments is to improve U.S. competitiveness in the global marketplace by removing antitrust uncertainty and unwarranted antitrust deterrence of beneficial joint production ventures. The proposed NCRA amendments recognize the potential procompetitive efficiencies of cooperative production for innovations—especially high technology innovations—which are taking place so rapidly around the world and which may require cooperation among companies to reap their full benefits. American companies should be able to take advantage of these innovations quickly and efficiently, wherever they occur and with whomever they choose. Creating a more conducive environment for American firms to engage in such cooperation ultimately will lead to more jobs for U.S. citizens as well as to higher quality products at lower costs.

Never has liability under our antitrust laws or those of our competitors been predicated upon the nationality of the company involved. The proposed limitations, in contrast, would effectively allow different levels of antitrust liability to be imposed on companies depending on factors that are irrelevant to antitrust analysis. This approach to antitrust law is unfair and denies American companies the very benefits they are seeking in areas where cooperation could be most helpful—for example, areas in which foreign firms currently may have access to technology unavailable to U.S. firms. As we seek to remove barriers to efficient and beneficial cooperation, we should not at the same time interject the government into industry's private decisionmaking by using discriminatory antitrust treatment to discourage possibly beneficial cooperative ventures with foreign firms.

Equally objectionable is any provision that would require that principal joint venture production facilities be located in the United States, or that each party to the joint venture demonstrate a substantial commitment to the U.S. economy, as a condition of equal and nondiscriminatory treatment under the antitrust laws. Like a foreign ownership limitation, such a provision would introduce irrelevant criteria to antitrust law as well as disserve this legislation's basic purpose—to facilitate procompetitive joint ventures of benefit to U.S. firms and U.S. consumers alike—because it would limit and distort investment options, including those available to American companies. Any such requirement, particularly a requirement of a "substantial commitment to the United States economy," would also disserve the legislation's basic purpose by resulting in great uncertainty as to whether a given joint venture would be entitled to the protections of the legislation.

Legislation that would result in explicit or implicit discriminatory antitrust treatment of joint ventures with foreign ownership or foreign facilities also would send the wrong signal to our trading partners, with whom we are vigorously negotiating freer trade and investment opportunities and expecting the same high standards of nondiscriminatory treatment to be given to American companies as we provide foreign-owned companies here. Such legislation could be perceived as being inconsistent with our obligations under the Bilateral Investment Treaties; treaties of Friendship, Commerce and Navigation; and other international agreements. Moreover, consistent with the negotiating objectives established by Congress, we are seeking greater access for U.S. investment worldwide. We are urging the Japanese to revise their antimonopoly law and more effectively enforce it in the Structural Impediments Initiative; negotiating with Mexico and Canada on a North America Free Trade Agreement and considering similar trade and investment opportunities with other countries in our hemisphere; and pressing countries worldwide in the Uruguay Round negotiations under the General Agreement on Tariffs and Trade to drop barriers to international trade and investment. We urge your Committee not to adopt amendments to the NCRA that would be perceived by our trading partners as inconsistent with our international obligations, or be a possible barrier or cause for retaliation with respect to future trade opportunities.

Sincerely,

Nicholas F. Brady, Secretary of the Treasury; Carla A. Hills, U.S. Trade Representative; Dick Thornburgh, Attorney General; Robert A. Mosbacher, Secretary of Commerce.

DELEGATION OF THE COMMISSION OF THE EUROPEAN COMMUNITIES,
February 25, 1992.
Hon. HANK BROWN,
U.S. Senate,
Washington, DC.

DEAR SENATOR: I am writing to you in relation to S. 479, the National Cooperative Research Act Extension of 1992, which I understand will be debated on the Senate floor as soon as today. In conjunction with my colleague, the Ambassador of Luxembourg, I wrote to a number of Senators in June last year expressing the European Community's serious concerns about aspects of this legislation. In this letter I would like to supplement these by drawing your attention to our misgivings about this bill from an antitrust perspective.

As has been stated before the basic philosophy underlying the bill, namely to reduce the antitrust liability for production joint ventures is one which we fully comprehend and support. Indeed, you will be interested to know that the Community has had for many years rules and policies in place which either find that certain types of cooperation agreements do not restrict competition or, to the extent that they do, exempt them from a prohibition. Several of these types of cooperation agreements do also apply to production joint ventures.

The Commission is presently considering the publication of a so-called "Notice" in which it will announce a further relaxation of its application of the competition rules to joint ventures, including production joint ventures.

While we seem to have similar objectives in mind, there are nonetheless serious differences in our approach. In a nutshell, the Community makes no distinction between whether the production joint venture's principal production facilities are located within the EC or not; nor do we mandate that the relaxation of antitrust rules for such ventures is dependent on whether the parties make a substantial commitment to our economy. In brief, we make no distinction whatsoever between the nationality of the owners, the relative importance of the production operations nor the location of the facilities in applying our laws in this or indeed in any other area of antitrust policy.

By contrast Section 7 of S. 479 introduces discriminatory provisions. These would have the effect of setting up two—track antitrust law enforcement dependent on whether the parties to the deal have principal production facilities in and commitments to the US economy or not. This is a highly damaging approach for the following reasons.

Firstly, if the US introduces discrimination into its antitrust laws other jurisdictions, including the EC, will be obliged to reflect on a mirror-image approach. By establishing a precedent in this area, the US will have sowed the seeds of business uncertainty, in complete contradiction to the aims of the bill which are to encourage business cooperation and technology transfer.

Secondly, the EC and the US have just signed and are implementing an antitrust cooperation agreement. The provisions of S. 479 are in contradiction with the philosophy of cooperation which underlies this important agreement.

Thirdly, it would be immensely damaging if the Senate were to pass a discriminatory piece of antitrust legislation at the very moment that serious attention is being given, in both the EC and the US, as to how to ensure that certain other industrialized countries follow our example by implementing and enforcing an effective antitrust policy. Two track discriminatory antitrust policies send the wrong message to those who shelter behind closed markets; instead of discriminating in the US market efforts should be concentrated instead of getting recalcitrant countries to ensure fair competition in their markets.

In summary, I would urge you to delete the discriminatory provisions of section 7 of S. 479 when the bill comes to the Senate floor for debate.

Yours sincerely,

ANDREAS VAN AGT,
Head of Delegation.

OFFICE OF MANAGEMENT AND BUDGET,
Washington DC, February 26, 1992.

STATEMENT OF ADMINISTRATION POLICY

S. 479—National Cooperative Research Extension Act of 1991—Leahy of Vermont and 12 others

S. 479 would extend the antitrust treatment now applicable to joint research and development ventures under the National Cooperative Research Act (NCRA) to joint production ventures which are often procompetitive and efficient. This extension of NCRA treatment would remove unwarranted antitrust uncertainty from such ventures. However, because discriminatory conditions that serve no antitrust purpose have been added to S. 479, the Attorney General, the Secratary of Commerce, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative would recommend that the bill be vetoed if presented to the President in its current form.

The Administration would not object to enactment of S. 479 if it were amended as proposed by Senator Brown because this amendment effectively eliminates discrimination. However, any amendment which continues to impose requirements with discriminatory effects would not cure the defects in the bill.

As currently drafted, the bill would condition equal treatment under the antitrust laws upon (1) location of principal joint venture production facilities in the United States; and (2) demonstration of a "substantial commitment" to the U.S. economy by each party to the joint venture. These conditions would:

Change fundamentally the nature of antitrust law by imposing additional sanctions on certain joint ventures for no antitrust reason. Instead, treble damages would be assessed for lack of a U.S. manufacturing presence or sufficient "commitment to the U.S. economy." Such a policy would be unfair and contrary to the way our antitrust laws have historically been applied.

Undermine the legislation's basic propose of reducing antitrust uncertainty by inviting extensive litigation over the meaning and application of the conditions.

Conflict sharply with the joint efforts of the President and the Congress to open up markets to trade and investment without conditions or performance requirements, and could provoke similar differential treatment of U.S. firms abroad.

Undermine the expected benefits of the legislation by limiting and distorting companies' investment and partnership options. American companies would be deterred from participating in promising ventures in areas where cooperation could be most helpful—for example, areas in which foreign firms currently may have access to technology unavailable to U.S. firms, yet may not have a sufficient manufacturing presence in or "commitment" to the U.S. economy.

The Brown amendment is an acceptable alternative to the objectionable provisions of S. 479.

OFFICE OF THE ATTORNEY GENERAL,
Washington DC, February 26, 1992.

Hon. HANK BROWN,
Ranking Minority Member, Subcommittee on Technology and the Law, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR BROWN: This responds to your request for the views of the Administration regarding a substitute amendment to S. 479, the "National Cooperative Research Extension Act of 1991" which you will offer along with Senator Biden. The Administration would not object to enactment of S. 479 if the substitute amendment is adopted.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

WILLIAM P. BARR,
Attorney General.

Mr. BROWN. Mr. President, not to push my luck, but I would like to add my voice of thanks to the distinguished Senator who heads our Committee on Judiciary. I believe good legislation is the product of not only thoughtful consideration but a willingness to work with others.

I had expressed a concern as this bill went forward that we faced the danger of retaliation by some of our trading partners. There were real threats to that effect from people representing the European common market, concern expressed by the administration.

In that process of raising those concerns, the distinguished Senator from Vermont and the distinguished Senator from Delaware were willing to work with us to work out a solution which I believe makes it clear this bill will not engender retaliation by our trading partners. The bottom line of this bill is about jobs, joint ventures that can add jobs for this country, and to develop a response to the new technological age of this nation. I believe it is a legislative victory, as well, because thoughtful people have taken time to work out the real problems.

I would just like to add one other concern. This is a step forward in indicating the determination of the United States to put ourselves on a competitive footing, and one of many steps that this Senate will be taking in the years ahead that will begin to insist on fair trade; which will begin to insist that we have reciprocal trading relationships; that we end a process which developed after World War II where this Nation allowed other nations to develop barriers to our products and our processes while we left ourselves open.

There is an element in this amendment that suggests that America from now on is going to insist on reciprocity, and on fair treatment. I must say I hope it is only the beginning salvo in an effort on this Senate's part to insist on fair treatment for Americans in the international marketplace.

I yield the floor.

Mr. LEAHY. Mr. President, I yield myself 1 minute on the bill. I just want to compliment both the Senator from Delaware and the Senator from Colorado. I have the highest regard for both of them in the work they have done in putting this compromise together. I am proud to work with both of them on it.

I urge acceptance of the amendment.

Mr. THURMOND. Mr. President, I want to commend Senator BIDEN and Senator BROWN for their time and efforts in reaching this compromise amendment to S. 479. I believe that this amendment addresses the major concerns of those who have expressed problems with S. 479, including the administration.

Our debate today about the need for legislation to encourage joint ventures is especially urgent because of the difficult economic times in which we find ourselves. It is, therefore, important that we take great care to fashion legislation that provides every appropriate competitive advantage to American companies, that fosters job creation, and that provides the best trading environment for our American companies. Mr. President, I believe the Brown-Biden amendment does that. It strikes an appropriate balance between antitrust and trade, and in doing so, it offers an approach that ensures the creation of additional jobs through the encouragement of production joint ventures.

Mr. President, I strongly urge all my colleagues to support the Brown-Biden amendment and to vote for S. 479.

Mr. RIEGLE. Mr. President, I am opposed to this amendment. The amendment weakens the provisions of the bill requiring firms to demonstrate a commitment to the U.S. economy. I realize that this is a compromise amendment with the administration but I believe it goes in the wrong direction. If we are to grant antitrust relief to American companies, it should be for the benefit of the American economy and American workers. I would like to be recorded as voting "no" on this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? Is all time yielded back on the amendment?

Mr. BIDEN. We yield the remainder of the time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1699) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1700

(Purpose: Technical Amendment)

Mr. LEAHY. Mr. President, I have some technical amendments that I believe have been cleared. I have one on behalf of myself and Mr. THURMOND and Mr. METZENBAUM.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. THURMOND, and Mr. METZENBAUM, proposes an amendment numbered 1700.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 15, strike "1991" and insert "1992".

On page 7, line 24, strike "and" and insert "or".

On page 8, line 3, strike "and".

On page 8, strike lines 5 and 6 and insert the following:

(C) in paragraph (2)—

(i) by striking "production or" each place it appears; and

(ii) by striking "other than the marketing of proprietary information developed through such venture, such as patents and trade secrets, and" and inserting the following: "other than—

"(A) the marketing of proprietary information, such as patents and trade secrets, developed through such venture formed before enactment of the National Cooperative Research Act Extension of 1991, or

"(B) the licensing, conveying, or transferring of intellectual property, such as patents and trade secrets, developed through such venture formed after enactment of the National Cooperative Research Act Extension of 1991, and"; and

On page 11, line 15, insert "and the Federal Trade Commission" after "the Department of Justice".

Mr. LEAHY. Mr. President, I note again, so people will understand the broad coalition here, this is on behalf of myself, Mr. METZENBAUM, and Mr. THURMOND. I understand that there are no objections to this amendment. I ask for its adoption.

Mr. METZENBAUM. Mr. President, as I have said repeatedly, I think the National Cooperative Research Extension Act of 1991 is a bad bill. In an effort to limit its reach, I have proposed three amendments which have been made part of this bill. I thank the sponsors of the bill for working with me to improve the bill even though I continue to oppose it.

The first amendment would make the bill prospective only. As originally drafted the bill would have extended lenient antitrust treatment for production joint ventures currently in the market. This bill is supposed to encourage the creation of joint ventures, therefore, it makes no sense to protect joint ventures that have already plunged forward.

The second amendment would limit those provisions of the bill which would extend its protection to existing production facilities. As with the previous amendment, I don't see why existing production facilities should be grandfathered into the more lenient antitrust treatment when the whole point of the bill is to encourage new and more efficient production. For that reason I proposed, and the sponsors accepted, an amendment to limit its special antitrust treatment to facilities which are used for the production or processing of a new product or technology.

Both these previous amendments were accepted during committee consideration. I have proposed a third amendment which the sponsors have accepted as part of the manager's amendment. This amendment concerns language in the original National Cooperative Research Act.

I supported the original legislation in 1984, but at the time made clear my concern that the extension of the act beyond research and development would be unwise. The bill we consider today extends protection to production, an unnecessary extension that I oppose. I likewise would strongly oppose extending the protections of this legislation to marketing; the next and final step in bringing a product to market.

The current law, however, provides that certain intellectual property which results from a research and development joint venture can be marketed within the protections of the act. I think the use of the term "marketing of proprietary information" in 15 U.S.C. 4301(b)(2) is unclear and unnecessarily broad. I have therefore proposed that more specific language be used. Pursuant to my amendment, intellectual property from future research and development or production joint ventures may be licensed, conveyed or transferred. These terms more accurately describe how intellectual property moves from one party to another. To use the term "marketing" would be to include more activity than is required for such transfers. The sponsors have accepted this limiting amendment.

I ask unanimous consent that these remarks appear before the adoption of the manager's amendment.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Vermont?

If not, the question is on agreeing to the amendment.

The amendment (No. 1700) was agreed to.

Mr. RIEGLE. Mr. President, I rise in support of S. 479, the National Cooperative Research Act Extension of 1991. I believe that this bill is an important part of our long-term economic growth strategy and will improve our international competitiveness.

As many have pointed out, the United States is good at inventing. Where we fall behind is in commercialization and manufacturing. Yet, it is these areas of commercialization and manufacturing that define international economic competition and drive economic growth. Over the long term our economy will grow to the extent that we spur innovation and productivity. This means we need to concentrate on developing new and improved goods and services and the utilization of new and improved manufacturing processes.

This bill will help by allowing firms to join together in cooperative arrangements that are often so important for successful technological innovation and commercialization. It does so by establishing a procedure under which firms may notify the Department of Justice and Federal Trade Commission of their cooperative ventures and thereby qualify for a single-damage limitation on civil antitrust liability. The bill builds upon the successful experience of the National Cooperative Research Act of 1984—extending the provision of that act which covered cooperative research ventures to cover joint production ventures as well.

As part of our ongoing efforts to improve competitiveness, the bill also requires an annual report by the Free Trade Commission and a triennial report by the Secretary of Commerce. The report by the Commerce Secretary will include a description of the industrial technologies most commonly pursued by joint ventures for research and development, a description of the areas of production most commonly engaged in by joint ventures for production, and an analysis of the trends in the competitiveness of U.S. industry in those areas. This report will be especially useful in monitoring and improving our international competitiveness.

JOB CREATION

I would like to draw my colleagues' attention to one particular provision of the bill that is important for job creation. The bill requires that the protection under this act applies only to a joint production venture:

> * * * whose principal facilities for the production of a product, process, or service are located within the United States or its territories; and in which each of the parties to the joint venture makes a substantial commitment to the United States economy, as evidenced by investments in the United States such as long-term production facilities and by significant contributions to employment in the United States.

The Bush administration objects to that language. They believe that United States firms shouldn't be required to show a substantial commitment to the United States in order to qualify for this antitrust relief, but should be allowed to run off to Mexico or elsewhere with American jobs if they feel like it.

Last year, the Senate passed the Telecommunications Equipment Research and Manufacturing Competition Act of 1991, S. 173. That bill allowed the Bell Telephone Cos. to manufacture equipment through a manufacturing affiliate, which they were prohibited from doing under the modified final judgment that broke up AT&T. As a condition of allowing the Bell Telephone Cos. to establish a manufacturing affiliate, we required that:

> * * * such manufacturing affiliate shall conduct all of its manufacturing within the United States and, except as otherwise provided in this paragraph, all component parts of customer premises equipment manufactured by such affiliate, and all component parts of telecommunications equipment manufactured by such affiliate, shall have been manufactured within the United States.

Both business and labor supported that provision. Here was a perfect example of us working together to strengthen the American economy. Yet, President Bush is determined to play the spoiler. He threatens to veto that bill over that job creating provision. Once again, President Bush is showing through his actions that no matter what his lips say, American workers are not his priority.

Ms. MIKULSKI. Mr. President, I speak today in support of this necessary piece of legislation, and in support of American jobs.

The Research Cooperation Extension Act is important to America's future competitiveness. Our economy is increasingly based on information: Researching it, analyzing it, and applying it to products that keep our economy going. This bill brings American law up to date, by allowing companies to cooperate both on research and on product development.

American research in high technology areas provides the foundation for many of the new products here and across the world. But our antitrust laws, designed a half-century ago to prevent robber barons and monopolists from stifling new small businesses, are actually hurting some of the innovations they were meant to encourage.

American scientists and engineers have to be able to share their information. Rather than having two software experts working alone on the same program, we need to have them be able to share their knowledge and move faster to complete their work—probably making the program better than it would have been. Small companies with good ideas but a little short of capital should be able to pool their resources with others to develop telecommunications innovations that otherwise would go undiscovered or be produced overseas.

That is why the Congress established the Research Cooperation Act 8 years ago. That law allows limited and fair cooperation in research that does not stifle competition. However, we are a country that wins Nobel research prizes, but loses markets. We have the greatest higher education and research system in the world. But we let the Japanese and the Europeans develop the products that our research made possible.

This bill helps Americans take the next step—to go from research to producing products based on that research. It makes antitrust rules more reasonable for businesses pooling their talents to create high technology products and jobs. But it still protects small businesses from unfair practices that push little guys out of the market.

Rather than forcing our engineers and businessmen to live by laws half a century old while other countries cooperate to create jobs, the Research Cooperation Extension Act modernizes business law. American companies will be able to cooperate, fairly, to create the next generation of products. They will not have to fear arbitrary antitrust suits that subject them to treble damages. Instead, these businesses can focus their capital and energy on creating new products, not fighting legal battles. And the bill requires that this cooperation have substantial benefits to the American economy, or it will not fall under this law.

I urge my colleagues to vote for this bill and to vote for American jobs.

Mr. DIXON. Mr. President, I support S. 479, the National Cooperative Research Extension Act of 1991. I am particularly pleased that the legislation contains a provision I originally proposed on the Defense Production Act.

Section 7 of S. 479 is almost identical to a provision of the Defense Production Act, which I authored. The concept then remains eminently clear and simple. In joint production ventures, it is reasonable and appropriate to require that the principal production facility be located in the United States.

The administration opposes this provision. They opposed it in the Defense Production Act. Once again, the administration is shortsighted.

The purpose of offering the kind of incentive contained in section 7 of S. 479, is to promote jobs here at home. It is a carrot and stick approach to economic development.

If a foreign-owned joint venture wishes to locate its principal production facility somewhere other than the United States, then why should we reward them with the benefits provided for in this legislation? Why reward those involved in the joint venture with antitrust benefits if they do not invest in facilities and jobs in the United States?

The administration wants to give something for nothing.

What section 7, and its antecedent, my provision in the Defense Production Act, will do, is provide the kind of incentives to foreign-owned joint ventures that will have tangible results here at home. It means investment in the United States in facilities, workers, and communities.

The domestic production facilities language of S. 479 means jobs. Those who oppose it cannot be taken seriously when they claim to be working to bring jobs to their State.

I cannot understand the administration's opposition to section 7. I didn't understand their objections when I first proposed it on the Defense Production Act. It didn't make sense then, and it doesn't make sense now.

I urge my colleagues to vote for S. 479, with the domestic production facilities language. America needs this legislation, now more than ever.

I thank my colleagues.

Mr. HOLLINGS. Mr. President, I rise today in support of S. 479, the National Cooperative Research Act Extension of 1991.

At the end of World War II, this Nation faced yet another challenge to our fundamental principles of freedom and democracy. Forty-five years of commitment and sacrifice by this Nation resulted in the reconstruction and restoration of democracy in Asia and Western Europe and culminated in the collapse of the Soviet empire and the liberation of Eastern Europe. Now at the end of the cold war, we face yet another challenge. An economic challenge, a trade war, a no-holds-barred struggle for market share that threatens our standard of living.

Just as winning the cold war required this Nation to abandon its tradition of isolationism, winning the trade war will require the courage to break with the failed policies of the past. Our blind adherence to free-trade policies have weakened our manufacturing base and sent 2 million American jobs offshore in search of low wages and regulators who look the other way when companies pollute.

Mr. President, the time has come for this Nation to end its crusade to convert the rest of the world to economic clones of ourselves. How can a nation that has posted over $1 trillion in trade deficits, hold itself out as the model that others should follow? How long will we persist with this naive endeavor to convince others to implement tough antitrust laws, asking them to abandon the Government-directed export policies that have served them so well? Do we really expect the Japanese to break up the Keiretsu structure, which has allowed them to capture market share long before they realize a profit? Instead, we must adopt a trade policy that is both aggressive in addressing predatory trade practices, but is also bold and creative.

S. 479 will remove the chains that have shackled American entrepreneurs from exploiting new technologies. It simply extends the National Cooperative Research Act from the laboratory to the shop floor. It would permit American companies to enter into joint production ventures without the threat of treble damages resulting from an antitrust suit hanging over their head like a "Sword of Damocles."

Japanese firms develop technologies under the auspices of an industrial group with an unlimited supply of patient capital willing to nurture the development of new technologies. Japanese firms also participate in consortiums with the encouragement of its Ministry of Trade and Industry.

In this country, our entrepreneurs face a shortage of patient and affordable capital. Few firms are able to get the capital necessary to convert basic research into a finished product. This legislation will enable American firms to join together not only to share the research and development costs, but also to share the costs of production.

This act does not exempt these ventures from the antitrust laws, it simply applies the rule of reason standard to joint production, so that if an antitrust action were brought against a venture, a court could weigh the competitive benefits of the venture. In addition, it limits antitrust recovery to simple damages rather than treble damages.

The fact is, our antitrust laws are the product of an era in which our economy was dominated by a few giant domestic trusts. Now faced with vigorous foreign competition, the concentration of domestic competition is not the problem it was even 25 years ago. MIT's Lester Thurow has clearly identified these changing circumstances:

> The United States can no longer afford the luxury of several firms developing the same technologically sophisticated product. These firms will face fierce competition from a limited number of Japanese competitors who developed their technology through MIT-sponsored R&D.

The fate of the semiconductor industry is an example of the decline that faces our high technology manufacturers that are touted as the industries that will lead us into prosperity in the next decade. Semiconductors are the building blocks upon which other high technology industries will be created. The semiconductor industry was characterized by innovation and entrepreneurship, an industry which American firms once dominated. Unfortunately, U.S. companies have steadily lost market share to Asian competitors who targeted the industry and pooled their resources together to attack the American market.

Now is the time for us to fight back. The first step was the National Cooperative Research Act Extension which allowed joint research and development to go forward without the threat of treble damages. This act laid the foundation for the formation of Sematech. Now we must take it a step further and allow our companies to band together to share the costs of production so that we can regain our economic prowess.

Unfortunately, the administration has chosen to oppose this bill because it contains a provision that a venture's principal production facilities be on U.S. soil and that foreign participants in these ventures which receive special treatment make a substantial commitment to the U.S. economy. A perfectly reasonable requirement. It simply provides that in order to receive a benefit from the loosening of our antitrust laws, a company must create some jobs in this country.

The administration, in its opposition to this, once again shows its hostility to the American worker. The administration has said it will veto this legislation in order to defend a company's right to produce offshore and further reduce our standard of living. All in the name of an outdated 18th-century theory of free trade.

Mr. President, let us hope that the passage of this legislation will mark the beginning of a new era in which our Government enables industry to meet the competitive challenge from abroad rather than contribute to our economic decline.

Mr. SPECTER. Mr. President, I am pleased to lend my support to S. 479, the National Cooperative Research Act, which I have cosponsored, as I did during the 101st Congress. This legislation is especially vital to the future economic strength of our Nation.

Since 1984, when the National Cooperative Research Act was first enacted, many companies have taken advantage of its provisions by establishing joint ventures for research and development. This act has clarified antitrust liability for such joint ventures and removed the threat of treble damages which had previously stifled not only unlawful anticompetitive behavior but also legal joint ventures because of the uncertainty surrounding the possibility of being liable for treble damages.

S. 479 extends the protection accorded to joint ventures for research and development to joint ventures for production. This is a perfectly logical next step, and it is one that I strongly support.

We all know that our Nation is currently in the grips of severe economic dislocation. Our manufacturing base has been especially hard hit. I know of this dislocation only too well from the experience of my own State, Pennsylvania, which has lost many well-paying jobs in manufacturing. Recently, I held a series of hearings throughout Pennsylvania under the auspices of the Judiciary Committee. At these hearings, the depths of the problems faced by our manufacturing industries was brought home in great detail. In addition, I spend a great deal of time traveling throughout Pennsylvania, and I come face to face all the time with the burdens faced by our manufacturers, especially from foreign competition supported by cheap foreign labor and weak foreign environmental laws and workplace rules but strong barriers to U.S.-made goods.

I believe that this legislation will create many new, well-paying jobs in the manufacturing sector in our Nation. Companies will be able to enter into joint production ventures without the sword of treble damages hanging over them. It is extremely expensive to build state-of-the-art manufacturing facilities in all industries today. Stimulated by this bill and the lessened risk of antitrust damaged, manufacturing ventures will be started to provide jobs and the accompanying economic benefit to our Nation.

I am pleased therefore to support S. 479. I want to compliment Senator LEAHY for his perseverance on this bill, Senator THURMOND for his leadership on our side, and Senator BIDEN and Senator BROWN for working through some of the controversial aspects of this bill and arriving at a compromise that all interested parties in the Senate and the administration can support.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? At the moment, there is not a sufficient second.

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I had not understood that some time had been reserved on the bill. I yield back all time reserved on the bill.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the committee amendment in the nature of a substance, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—96

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—1

Metzenbaum

NOT VOTING—3

Dixon
Harkin
Kerrey

So the bill (S. 479) as amended, was passed, as follows:

S. 479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Cooperative Research Act Extension of 1992".

SEC. 2. JOINT VENTURES.

SEC. 2. The National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.) is amended—

(1) by inserting after section 1 the following:

"SEC. 1A. FINDINGS AND PURPOSE.

"(a) The Congress finds that—

"(1) technological innovation and its profitable commercialization are critical components of the United States ability to raise the living standards of Americans and to compete in world markets;

"(2) cooperative arrangements among nonaffiliated firms in the private sector are often essential for successful technological innovation and commercialization; and

"(3) the antitrust laws may inhibit cooperative innovation arrangements because of uncertain legal standards and the threat of private treble damage litigation.

"(b) It is the purpose of this Act to promote innovation, facilitate trade, and strengthen the competitiveness of the United States in world markets by clarifying the applicability of the rule of reason standard and establishing a procedure under which firms may notify the Department of Justice and Federal Trade Commission of their cooperative ventures and thereby qualify for a single-damage limitation on civil antitrust liability.";

(2) in section 2(a)(6) by—

(A) striking "and development" and inserting ", development, or production";

(B) redesignating subparagraphs (D) and (E) as subparagraphs (E) and (G), respectively;

(C) inserting after subparagraph (C) the following new subparagraph:

"(D) the production or testing of any product, process, or service,";

(D) striking "or" after the comma in subparagraph (E), as redesignated;

(E) inserting after subparagraph (E), as redesignated, the following:

"(F) the collection, exchange, and analysis of production information related to activity of the joint production venture, or";

(F) striking "and (D)" and inserting "(D), (E), and (F)" in subparagraph (G), as redesignated; and

(G) by amending the matter following subparagraph (G) to read as follows:

"and may include the establishment and operation of facilities for the conducting of research, development or production; the integration of existing facilities where those facilities are used for the production or processing of a new product or technology pursuant to the joint venture; and the prosecuting of applications for the patents and the granting of licenses for the results of such venture, but does not include any activity described in subsection (b).";

(3) in section 2(b)—

(A) in the matter before paragraph (1) by striking "and development" and inserting ", development, or production";

(B) in paragraph (1) by striking "conduct the research and development that is the" and inserting "carry out the";

(C) in paragraph (2)—

(i) by striking "production or" each place it appears; and

(ii) by striking "other than the marketing of proprietary information developed through such venture, such as patents and trade secrets, and" and inserting the following: "other than—

"(A) the marketing of proprietary information, such as patents and trade secrets, developed through such venture formed before enactment of the National Cooperative Research Act Extension of 1992, or

"(B) the licensing, conveying, or transferring of intellectual property, such as patents and trade secrets, developed through such venture formed after enactment of the National Cooperative Research Act Extension of 1992, and"; and

(D) in paragraph (3)(B) by striking "and development" and inserting ", development, or production";

(4) in section 3 by—

(A) striking "and development" the first place it appears and inserting ", development, or production"; and

(B) striking "and development" the second place it appears and inserting ", development, product, process, or service";

(5) in section 4 by striking "and development" and inserting ", development, or production" each place it appears in subsections (a)(1), (b)(1), (c)(1), and (e);

(6) in section 4(e), by—

(A) inserting a dash after "if";

(B) designating the matter after such dash as paragraph (1);

(C) striking the period at the end of paragraph (1) as designated by subparagraph (B) and inserting "; and"; and

(D) adding at the end thereof the following:

"(2) in the case of a claim against a joint venture for production, the joint venture satisfies the requirements of section 7.";

(7) in section 5(a) by striking "and development" and inserting ", development, or production";

(8) in section 6 in the section heading by striking "and development" and inserting ", development, or production";

(9) in section 6—

(A) in subsection (a) by inserting "and, after enactment of the National Cooperative Research Act Extension of 1992, any party to a joint production venture, acting on such venture's behalf, may, not later than 90 days after entering into a written agreement to form such venture," after "whichever is later";

(B) in subsection (a)(1) by striking "identities of the parties to such venture, and" and inserting "identity of each party to such venture, including, in the case of a corporation, the nation in which it is incorporated and the location of its principal executive offices, and the nation of incorporation and the location of the principal executive offices of any corporation that directly or indirectly owns or controls a majority of the shares of such corporation, and"; and

(C) in subsections (d)(2) and (e) by striking "and development" and inserting ", development, or production" each place it appears; and

(10) by adding at the end thereof the following new section:

"APPLICABILITY TO JOINT VENTURES FOR PRODUCTION

"SEC. 7. (a) IN GENERAL.—Section 4 of this Act applies to a joint venture for production only if the joint venture—

"(1) provides substantial benefits to the United States economy including, but not limited to, increased skilled job opportunities in the United States, investments in long-term production facilities in the United States, participation of United States entities in the joint venture, or the ability of the United States entities to access and commercialize technological innovations or to realize production efficiencies; and

"(2)(A) whose principal facilities for the production of a product, process, or service are located within the United States or its territories; or

"(B) whose principal facilities for the production of a product, process, or service are located within a country whose antitrust law accords national treatment to United States entities that are parties to joint ventures for production.

"(b) MEANING OF NATIONAL TREATMENT.—For the purposes of this section, a foreign country accords national treatment to United States entities that are parties to joint ventures for production if it accords treatment no less favorable with respect to the application of its antitrust laws to United States participants in joint ventures for production than would be accorded to its domestic participants in joint ventures for production in like circumstances.

"REPORTS ON JOINT VENTURES AND UNITED STATES COMPETITIVENESS

"SEC. 8. (a) PURPOSE.—The purpose of the reports required by this section is to inform Congress and the American people of the effect of this Act on the competitiveness of the United States in key technologies and areas of production.

"(b) ANNUAL REPORT BY THE FEDERAL TRADE COMMISSION.—Within 1 year after the date of enactment of this subsection, and by that date in each succeeding year, the Commission shall submit to Congress a report including—

"(1) a list of joint ventures filing under this Act during the preceding 12-month period, including the purpose of each joint venture and the identity of each party to the joint venture as described in accordance with section 6(a)(1); and

"(2) a list of enforcement actions, if any, brought against joint ventures filing under the Act by the Department of Justice and the Federal Trade Commission during the preceding 12-month period for violations of the antitrust laws.

"(c) TRIENNIAL REPORT BY THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall submit to Congress a triennial report, the first report to be submitted within 3 years after the date of enactment of this subsection, that includes—

"(1) a description of the industrial technologies most commonly pursued by joint ventures for research and development for which filings were made under this Act during the preceding 3-year period, and an analysis of the trends in the competitiveness of United States industry in those technologies;

"(2) a description of the areas of production most commonly engaged in by joint ventures for production for which filings were made under this Act during the preceding 3-year period, and an analysis of the trends in the competitiveness of United States industry in those production areas; and

"(3) an update of the report submitted by the Secretary under subsection (d) to reflect changes in foreign laws or practices.

"(d) REVIEW OF FOREIGN LAWS.—Within 1 year after the date of enactment of this subsection, the Secretary of Commerce shall submit to Congress a report on the treatment of United States corporations or other business entities under the laws relating to joint research and development and joint production ventures, or similar arrangements, of each foreign nation or community of nations whose corporations or other business entities have filed under this Act.

"(e) INTERAGENCY COOPERATION.—The Federal Trade Commission, the Office of the United States Trade Representative, and the Office of Science and Technology Policy, as well as other Federal departments and agencies, shall provide such information and assistance in the preparation of the reports under subsections (c) and (d) as the Secretary of Commerce may request.

Mr. THURMOND. Madam President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. For what purpose does the Senator from Vermont rise? The Chair has an announcement.

Mr. LEAHY. Madam President, I was going to take about 2 minutes on the bill, the Leahy-Thurmond bill that just passed.

The PRESIDING OFFICER. The Senator may proceed.

Mr. LEAHY. Madam President, I commend the Senate for passing this and thank the Senators who joined with us in getting it passed. We are in an era where our competitors in Europe and in Japan are using the competitive tools of the 1990's and the next century, and many times we use the competitive tools of the 1940's and the 1950's.

This legislation will allow us, especially in our high technology fields, to go into the next century and be competitive with Europe and be competitive with Japan. It means when a company like IBM in Essex Junction, VT, needs $35 million in order to expand a high-tech chip factory it can work with others in doing that. It means finally we are saying we are going to be competitive, we are going to use today's tools not yesterday's tools.

It is a good piece of legislation. It will in the future put thousands and thousands of Americans to work using American innovation, not as has been in the past when we invent the item and the Europeans and the Japanese produce it. Now we can both invent it and produce it. Additional thousands of Americans will work with good-paying jobs as a result of this legislation.

I commend all Senators who worked on it, and I yield the floor.

Mr. THURMOND. Madam President, it has been a pleasure working with the distinguished Senator from Vermont on this bill. He has done a good job on it. I think it is going to bring great benefit to the people of this country. I wish to commend Ms. Patricia Vaughn, my antitrust attorney on the Judiciary Committee, for her fine work on this legislation.

Mr. LEAHY. Madam President. I thank the distinguished Senator. I must say it has been a pleasure working with him and his staff. It has been a long ride to get here. We made a good pair and I am glad we won.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of Barbara Hackman Franklin, of Pennsylvania, to be Secretary of Commerce.

The Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF COMMERCE

The legislative clerk read the nomination of Barbara Hackman Franklin, of Pennsylvania, to be Secretary of Commerce.

Mr. HOLLINGS. Madam President, today the Senate is considering the nomination of Barbara Franklin of Connecticut to be Secretary of Commerce. Ms. Franklin has a wealth of experience in Government and in the corporate world where she served as a director of several major corporations.

Ms. Franklin's nomination comes at a critical time for this Nation. The fall of the Berlin Wall and the triumph of democracy over communism in the former Soviet Union and Eastern Europe is a monumental achievement in our time. But we cannot now afford to bask in the glow of our victory in the cold war; for if we do, we face the prospect of winning the war yet losing the peace. After 40 years of commitment and sacrifice, the time has come for this Nation to turn its attention to revitalizing our own economy and restoring a sense of fiscal responsibility to this Government.

The Secretary of Commerce is at the forefront of promoting and protecting American industry in its struggle to compete in a world where our competitors use their governments to aggressively capture market share.

The President has challenged the Congress to pass his economic growth package before March 20. I agree with the President that it is imperative that we stimulate economic growth. We cannot, however, revitalize our economy without addressing our failure to pursue an assertive trade policy. Over the last decade, we have witnessed the steady erosion of our manufacturing sector. Basic industries such as steel, autos, textiles, machine tools, consumer electronics, and semiconductors created the industrial wealth that allowed this Nation to provide the leadership which held together the Western alliance. These industries once stood as examples of American strength and manufacturing prowess. They are now threatened by an onslaught of imports that are being dumped on our shores. Real income has not grown since 1973, instead, income growth has been shipped offshore, along with the millions of manufacturing jobs that we have lost to low-wage countries around the world. Despite being first in productivity, the United States now ranks 10th in wages. Behind these statistics, behind our Washington rhetoric, lies the human toll that the loss of our manufacturing base has exacted. It was high-wage manufacturing jobs that made it possible for each succeeding generation to live a little better than the last, to buy a home, own a car, to send their children to college. Now, if we continue to refuse to pursue an aggressive trade policy, then the only legacy that we will leave to succeeding generations is a lower standard of living.

The principal responsibility of the Secretary of Commerce should be to preserve our manufacturing base, to protect it from predatory trade practices, to assist it in developing new technologies and to foster a spirit of cooperation between business and Government. In today's competition for international markets, governments play a key role in developing an industry's competitive advantage. In Japan, the Ministry of International Trade and Industry orchestrates that nation's export machine.

But, it is not just what agencies like MITI do for their industries, it is also what they do not do to their industries that gives them their competitive edge in the international marketplace. Japanese corporations do not worry about antitrust laws; they do not worry about Hart-Scott-Rodino filings. Instead, the Japanese Government actively encourages the collusive and monopolistic machinations of the keiretsu.

The newly industrializing nations of Asia have no choice but to emulate this model. Look at the Chabeol in Korea, in which only a handful of industrial concerns dominate that economy. The Japanese economic powerhouse has accomplished in east Asia what the Japanese military could not do. They have created an east Asian economic powerhouse.

In Europe, the nations that comprise the European Economic Community are not binding together in 1992 for free trade. Instead, they are joining forces to combat the economic offensive being launched by Japanese exporters.

In order to capture market share in high-tech industries, the Europeans subsidize the development of high-technology products like the Airbus. In order to preserve a vital industry they negotiate tough agreements with Japanese automakers that place strict limits on their imports.

In this country, administration officials think industrial policy is some pejorative term that shouldn't be used in front of the children. And yet we have an industrial policy—it is called USDA. There is no question that our farmers are the most efficient in the world, but it is no coincidence that programs such as the Commodity Credit Corporation and targeted export assistance have provided our farmers with billions of dollars in export help, while quotas under section 22 have shielded certain commodities from import competition. Our pursuit of industrial policy is not just limited to agriculture.

The oil industry prospered under the protective quotas put in place by the Eisenhower administration. We must put an end to these games of semantics. We have an industrial policy, it is a policy designed to ensure our standard of living; it is comprised of minimum wage, Social Security, Medicare, clean air, clean water, OSHA, and unemployment compensation. We do not want a level playing field, we do not want to be fair. We want instead to protect a standard of living that is second to none.

Using Government to promote industry and protect a standard of living is not some Kennedy School theory of industrial policy. It is instead an idea that is at the core of our Constitution. It was Madison who wrote that "* * * it should never be forgotten that the great object of the Convention was to provide, by a new Constitution, a remedy for the defects of the existing one; that among these defects was that of the power to regulate foreign commerce, that in all nations this regulating power embraced the protection of domestic manufacturers. * * *" As a consequence, article I, section 8 of the Constitution grants to the Congress alone the power to regulate foreign commerce.

The Congress has in turn delegated to the Commerce Department the power and the authority to meet head-on the challenges of international competition. Ms. Franklin has assured the Commerce Committee that she will vigorously enforce our laws against dumping and subsidization; laws which serve as a shield against the predatory trade practices that threaten our economic security. We have discussed with her the discretion she has to change the administrative practices that have instead shielded the predatory pricing behavior of our competitors, rather than preventing the injurious effects they have on our industry and our employment. She has also said she will be the ally for American businesses and American workers in the administration. We have had enough of administration officials that lecture industry on the virtues of a form of social Darwinism known as free trade. We need a Commerce Department that provides constructive assistance, that will keep American jobs at home rather than shipping them to low-wage countries abroad.

If she is confirmed, she will be at the helm of an agency which has an enormous impact on every aspect of our life, from the oceans to the atmosphere, from protecting our basic industry to luring foreign tourists to Myrtle Beach. This is an enormous challenge, and I believe that Ms. Franklin will meet it. I urge my colleagues to vote for this nomination.

Mr. DODD addressed the the Chair.

The PRESIDING OFFICER. The senior Senator from Connecticut.

Mr. DODD. Madam President, I rise to urge my colleagues to approve the pending nomination of Barbara Franklin as Secretary of Commerce. And I want to commend the Senator from South Carolina [Mr. HOLLINGS] for bringing this nomination to the floor so quickly.

Madam President, today our economy is in turmoil. This week's report on consumer confidence is only the latest statistic to prove it. We are going through a structural change in our economy that will hold back growth for years.

Madam President, there are many economic statistics which should warn us about the times we are in. It is truly unnecessary, I believe, to recite all the difficult problems we face, whether one is from New England or the South, Midwest, or Far West.

I can point to a number of things that would help to bring about our economy. An investment tax credit, research and development tax credits, tax relief for the middle class—these are all measures which I believe would help turn this economy around.

But more than anything else, Madam President, this country needs leadership.

It is for this reason, Madam President, that when we evaluate a nominee for the position of Secretary of Commerce, we must ask ourselves one question: Does this nominee have the experience and leadership this country needs?

Madam President, as someone who has had the pleasure of knowing Barbara Franklin for many years now, I am confident that the answer to that question is "yes."

Madam President, I happen to feel that Barbara Franklin, based on my knowledge of her, and my awareness of her work over the years, more than fulfills the qualifications of someone who wants to be the next Secretary of Commerce. This country needs a person of her talent and ability.

Barbara's career is, indeed, a career of firsts. She was one of the first women to graduate from Harvard Business School, in 1964. She established the first Government relations department at Citibank. And in 1971, she directed the first program ever initiated by the White House to recruit women for high-level Government positions.

In 1973, she was nominated and confirmed as one of the first Commissioners of the U.S. Consumer Product Safety Commission. For her work in child safety as part of that commission, she was honored by a number of national organizations, including the American Academy of Pediatrics. Currently, she serves as an adviser to the Comptroller General of the United States.

Over the course of her career, Barbara has served for four Presidents. However, Barbara has managed to strike a delicate balance between the private sector and public service. She has worked closely with the private sector, having sat on the board of a number of major corporations. And for the past 8 years, she has managed Franklin Associates, an internationally-recognized consulting firm she founded in 1984.

Barbara has also developed close ties with a number of other private organizations. After leaving the Consumer Product Safety Commission, Barbara became senior fellow of the Wharton School of the University of Pennsylvania. She has also chaired the audit committee of the American Institute of Certified Public Accountants, and was recently elected to the board of trustees of the Committee for Economic Development, an organization of business leaders and university presidents.

Barbara is a member of a number of other economic organizations, including the New York Economic Club, the Women's Economic Roundtable, and the National Women's Economic Alliance.

You do not have to go very far to find high praise of Barbara Franklin, Madam President. In October 1990 the American Management Association named her one of the 50 most influential corporate directors in the Nation. And in a headline in its January 15, 1992, edition, the Financial Times called her "The woman to do business with."

You could also ask anybody in the State of Connecticut, Madam President. As a resident of Bristol, CT, Barbara has gained respect throughout the State for her thoughtful manner and her single-minded determination. I know the people of Connecticut are very proud that one of their own may soon be the Secretary of Commerce.

There is no question, Madam President, that Barbara Franklin will do an excellent job as the Secretary of Commerce. It is a critical position, and we should have someone of talent and ability and experience in both the public and private sector to hold that position during these difficult days.

So, Madam President, I stand before my colleagues this afternoon and state with full confidence that this nominee will serve this country well, she will serve this President well, and she will serve this Congress well.

The issues of international trade and encouraging innovative businesses to take advantage of creative ideas—someone in a position like that has to do what they can to expand those opportunities for those industries and businesses.

Finally, Madam President, I would add one personal note. I have had the pleasure of knowing Barbara and her husband, Wallace Barnes, for several years. In October 1988 I served with her as a delegate to the United Nations. And in the spring of 1990, I had the pleasure of traveling with her husband on a trade mission to eastern Europe.

Madam President, I know there will be those who will express some concerns about whether or not there is enough commitment, enough determination in this nominee. I can speak from personal experience. This is not a nomination which I support in the abstract. I know Barbara Franklin. I know her family. I know her to be a tenacious and a hard worker, a person of complete and total dedication, a person of significant knowledge and experience.

I know Barbara not only as the tough, business-oriented advocate but as a charismatic and reliable person, with tremendous honesty and a wealth of integrity. I have no doubt that she will make a tremendous addition to the Cabinet and I urge the Senate to quickly confirm her nomination.

Mr. THURMOND. Madam President, I rise today in strong support of the nomination of Barbara Hackman Franklin to be Secretary of Commerce.

Ms. Franklin has an impressive and varied background in the public, private, and academic sectors. Following her graduation with distinction from Pennsylvania State University, and her receipt of a masters degree from the Harvard Graduate School of Business Administration, she was an analyst and then a manager for the Singer Company in New York City. She next went to Citibank, working in corporate planning and heading the Government relations department.

With regard to Government service, in 1971, Ms. Franklin served as a staff assistant to President Nixon. In 1973, she became a Commissioner at the Consumer Product Safety Commission where she was vice chairman from 1973 to 1974 and from 1977 to 1978. She also served as an alternate representative and public delegate to the United Nations in 1989.

Following her years of service in Government, Ms. Franklin became a senior fellow at the Wharton School of the University of Pennsylvania in 1979. Subsequently, she became Director of the Wharton Government and Business program. She currently is the president and chief executive officer of Franklin Associates in Washington, DC.

At present, Ms. Franklin is a member of the board of directors of the following major corporations: Aetna Life & Casualty; the Dow Chemical Co.; Westinghouse Electric Corp.; Automatic Data Processing, Inc.; Black & Decker Corp.; Nordstrom, Inc.; and Armstrong World Industries. Additionally, she serves on the board of trustees at Pennsylvania State University and on the board of regents at the University of Hartford in Connecticut.

Throughout her career, Ms. Franklin has served on numerous Government advisory panels and boards. She has served as an advisor to the Departments of Labor and Defense, and to the General Accounting Office. She has been a member of the Advisory Committee for Trade Policy and Negotiations and of the State Board of Education in Pennsylvania.

Ms. Franklin has honorary doctorates from Drexel University in Philadelphia and Bryant College in Providence, RI. Other honors include her selection by the American Management Association as one of the 50 most influential corporate directors in the United States and a distinguished alumna award from Pennsylvania State University. She is widely published in the areas of business, public health, and consumer safety.

If confirmed, and I am sure she will be, Ms. Franklin will have to grapple with a wide variety of issues including our huge trade deficit, the National Weather Service, the National Oceanic and Atmospheric Administration and tourism. With regard to trade, we must open foreign markets to our products. In shaping our trade policy, I am sure that Ms. Franklin will respond to the needs of American industries, especially those like the textile industry that have been hard hit by foreign imports. I look forward to working with her in this regard.

Madam President, I commend President Bush for nominating Ms. Franklin. She is a nominee of high qualifications, with great achievements in various areas. I believe Ms. Franklin will be resoundingly successful as the Secretary of Commerce. I urge my colleagues to vote in favor of her confirmation.

I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Presiding Officer for her usual courtesy.

Madam President, I take the floor today with some reluctance. I take absolutely no satisfaction in opposing nominations, particularly when the nominee is a very good person who will act with integrity and responsibility, such as in this case.

Nevertheless, I will oppose this nomination, just as I did when the nomination was considered in Commerce Committee.

As I indicated at Mrs. Franklin's hearing, the Commerce Department is an important agency—at least on paper. It is in charge of export promotion, export controls, prosecuting unfair trade practice cases, and leading Federal efforts on behalf of critical technologies. These are all areas that will determine America's ability to compete in the global marketplace in the next century.

Equally important, the Department is at something of a crossroads in each of these areas where strong leadership will be required.

Our laws against unfair trade practices—dumping and subsidies—are literally on trial in Geneva. The draft Uruguay round text, offered December 20 by GATT Director General Arthur Dunkel, would result in major weakening of those laws and thereby our ability to insist on market discipline in the trading system. The Senator from Texas [Mr. BENTSEN], the chairman of the Finance Committee, made exactly this point in a very thoughtful statement on this floor 2 weeks ago.

We—along with many others in the House and Senate—are very concerned that the administration lacks the will to press for revision of the Dunkel text in these areas. The lead negotiator on dumping has come from the Commerce Department, and it is Commerce that will have to enforce whatever we agree to. We badly need a strong leader at Commerce to stiffen the administration's spine in Geneva and fend off those in other agencies that would sell out our manufacturing base by allowing these laws to be gutted.

Commerce also administers our export control program, which is currently in a state of turmoil, at exactly the worst time. With the breakup of the Soviet Union, our enemy of more than 40 years is suddenly preoccupied with more local matters—to wit, their survival. We desperately need to bring our export control apparatus up-to-date and to enable our manufacturers to export their products to the new republics and capture that market share. I can guarantee that the Germans are not waiting for us.

In the midst of these rapid changes, the two key position in the department are vacant—the Under Secretary for Export Administration for nearly a year, and the Assistant Secretary for a shorter period. As a result, the center of decisionmaking in this area has shifted, quite logically and quite clearly, to the State Department and the Defense Department, at the very time we need someone who will speak for American exporters and American workers.

Third, our export promotion effort, despite administration claims to the contrary, continues to be in disarray. A recent report by the General Accounting Office found that our efforts lack coherence, focus, and centralization. GAO concluded:

> The Government's present approach to export promotion lacks coherence because no overall strategy exists to guide agency efforts.

They said:

> Without an overall strategy, the U.S. Government does not have reasonable assurances in today's highly competitive economic environment that its export promotion resources are being most effectively used to emphasize sectors, regions, and programs with the highest potential return.

I have introduced legislation—S. 1721—to address some of these problems, but the fact remains that much will depend on clear and determined leadership at the top of the Commerce Department.

Fourth, the Department's efforts to support critical technologies risk being dissipated in a misguided ideological battle over industrial policy.

For example, last year Congressman MINETA and I proposed moving $10 million of National Institute of Standards and Technology money into a new program of loans to help commercialize the advanced technology that NIST grants are developing. Our basic R&D is the best in the world; yet we often fail to translate it into quality products in the marketplace. Therefore, it seemed to me that Congressman MINETA's and my approach was very reasonable and very responsible and rather modest.

The administration threatened to veto the entire NIST budget over this single item. It was "industrial policy," they roared. I say it's shoot-yourself-in-the-foot policy. Our idea is precisely the kind of self-help we have to begin, if we are to compete effectively.

That was a decision made by OMB and probably John Sununu. The Commerce Department did not make it, but neither did they fight it. When the Commerce Committee held its hearing on Barbara Franklin, I asked her about this. I asked for her thoughts about the relationship between Government and industry. She did not have any. She wanted to know what I thought.

Well, I am glad to tell her, but that is not the point. We should have a Secretary of Commerce—and a President—whose answers show their determination to deal with the challenges facing us here and abroad. What is so difficult about responding to the change around us, with new approaches and ideas aimed directly at building the long-term economic strength of our country?

It is particularly important, Madam President, that this kind of determination be in place at the top. There are many good people in the Commerce Department. My staff and I work with them every day. But we all know that Government works on many different levels, and there are many critical discussions and decisions that occur at the Cabinet level that simply cannot be handled by staff and other decisions that are made in a more informal context, outside the Cabinet—perhaps within White House councils. But if the Secretary of Commerce is not there and is not there with the right approach and with the right zeal, and with the right commitment standing up for the Department that she represents, and willing to take on the President, even, if that is necessary, or the President's closest advisers, and risk her reputation—then that person should not be Secretary.

I recall Secretary Mosbacher's effort in 1989, on behalf of HDTV. He was right on that, Madam President, but he was crushed by the ideological iron triangle of John Sununu, Richard Darman, and Michael Boskin. But making the fight was critically important, because by doing so he put this issue on everyone's screen and altered the parameters of the policy debate in the process. That effort, along with numerous other pressures from many of us in the years since then, contributed to the President's national technology initiative—a truly modest step forward, but a clear break with the past rigidity of refusing to do anything on behalf of critical technologies.

But that is precisely why we need a Secretary who is a fighter, including one who is prepared to fight with the President himself on occasion. That does not require an expert in the Department's many diverse fields—expertise can be learned or brought along. But it does require commitment, vision, and a bulldog determination to challenge ideology.

I understand the argument—and it has been put to me, and I understand it even better—that it is unrealistic to expect a President to appoint a secretary whose views and priorities differ from his. I understand that and I acknowledge that much of my concern about this nomination relates to the President's lack of vision and even lack of concern about the problems I have discussed. The country is facing the worst competitiveness crisis in its history, and the President does not even seem to be aware of it. Worse, he sees little or no role for the Government in dealing with it.

A telling moment for me came when I read Fortune's December issue, which contained a special report on what various CEO's want America to do. CEO after CEO—Steve Jobs, Andrew Grove of Intel, Joe Gorman of TRW—called on the Government to lead—to determine what our national priorities are and to mobilize Government resources to achieve them. One or two of them even used the dreaded words, "industrial policy."

President George Bush's paragraph stood in sharp contrast. His vision was for companies to keep on doing what they do best. His goal was to get out of their way. No vision. No leadership.

My concern is that a hands off policy is no longer adequate to meet our competitive challenges. Moreover, it is out of synch with the American people and even contradicts what business and industry leaders are saying everywhere I look:

We have to cope with a global market, not just a domestic one;

They are saying: That market has competitors who are very, very good, sometimes better than we are;

They are saying: That market also has a growing number of countries that use government policies, subsidies, infant industry protection, advantageous patent laws—to literally create comparative advantage for their companies;

The are saying: That market has countries that have figured out what their goals are; and those goals, more often than not, are to capture market share from us in the critical technologies that will run economies of the future: semiconductors, computers, advanced ceramics, telecommunications, robotics, and we know the list.

Continuing the status quo is just not good enough to succeed in the modern environment.

And it is the Commerce Department that will inevitably be at the center of addressing all these problems. For that reason, Madam President, I have no choice but to demand a leader and a fighter for Secretary.

We simply have to have strong hands at Commerce's helm, someone who will lead creatively, manage effectively, and resist efforts from others in the administration to remove this agency's remaining teeth.

In reviewing Mrs. Franklin's record and her answers to my questions, it is clear that she is very dedicated and eager to run the agency very well.

But I was disappointed. Her views are more than familiar to me. Indeed, they echo exactly the President's philosophy and policies in the areas of concern to the agency.

No hint that she seems willing to look beyond. No hint of questioning the President's policies, even as I suggest it would be very difficult to define just what the President's policies are. So what is it she wants to follow, or does she only want to follow, or does she want to help create critical technologies and the economic future for our country?

All of this sounds like another refrain of this administration's stubborn—and I suggest blind—attachment to staying the course.

Unless we deal promptly and effectively with our weaknesses, we will not be able to sustain our position of world leadership. That is clear.

While we still have the chance to secure the future, to restore long-term prosperity, and to promise our people real hope for a good life, we should do everything in our power to seize that opportunity.

I am under no illusions about this administration. They still seem to think we are on the right path, and that a little tinkering will do. But the American people know that we are in danger of permanent economic decline, and they said so quite clearly in New Hampshire.

The American people are hurting now, but most of all they are worried that their country and their own lives will slip to a point of no return over the long run.

What is more, our country's business leaders are calling on Government to assert itself, to work aggressively with industry, and to put the tools, like the Department of Commerce, to use.

I have no illusions about the likelihood of this nomination being rejected, and I do not intend to take more of the Senate's time. As Senators, each of us must define our responsibility for ourselves and ultimately justify that to our electorate.

Given the situation our country is in right now, I have concluded that every possible avenue should be taken to convince this administration to change, and not stay, the course. My vote on Barbara Franklin is one way to press for that change.

Mrs. Franklin is no doubt—no doubt, at all—a woman of competence and integrity with a tremendous background. She will be a capable steward of the status quo, but there is no sign that she has been charged to apply the independence and to chart the new efforts which are vital to meeting the challenges facing this country here and abroad.

For me, Madam President, this nomination asks us to accept the continuation of policies and views that are demonstrating no leadership and no vision on where we should be headed in manufacturing, trade, and our country's economic condition.

Accordingly Madam President, I will vote against Ms. Franklin.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I want to speak to the nomination of Barbara Franklin as Secretary of Commerce. She is someone I know personally, with whom I have had significant business discussions, and I want to encourage the Senate to vote to support her nomination.

My good friend from West Virginia—an articulate spokesman on behalf of business in this country; a leader in the Senate; a leader in the country—makes some very important points in his discussion about the things that he would like to see happen. I agree with him fully. I do not agree with President Bush's policies on how to stimulate business and encourage trade. But that does not in any way detract from my support of Barbara Franklin.

The President has the right to recommend, and we have the right to accept or reject. But the President is, by far and away, the leader on selecting his Cabinet people. Once again, we do not have to agree at all. But we are committed to challenge any recommendation the President makes if we disagree.

I look at this in terms of this person, her qualifications, her ability to learn the things that she does not yet know about this job; I look at her basic character and her quickness of mind. And Barbara Franklin, in my view, deserves the full support of this Senate.

I noted with the distinguished chairman of the Commerce Committee, in front of whom I appeared on behalf of Barbara Franklin, that she was recommended by the committee with only one dissenting vote; and Senator ROCKEFELLER indicated his concerns and misgivings.

The nomination moved over here fully supported. I just want to say, Barbara Franklin and I know each other, because she served, until now, on the board of ADP, a company that I helped found over 40 years ago. She served after my leaving there to come to the U.S. Senate. But I still have many friends in the management of the company and on the board of the company, and I checked with them to see what Barbara Franklin's performance has been like. Without reservation, every one of them was very enthusiastic about her capacity to serve in this very important task.

We have a variety of people and views on that board, distinguished business leaders like Laurence Tisch, the chairman of CBS; the chairman of Toys R Us, Joe Califano—Joe Califano, who many of us knew as Secretary.

Person after person said they felt Barbara Franklin was competent, skilled, intelligent, energetic, forceful, that she would do as good a job as could be done. Still, at the same time, let us face facts. If she works for the country but at the direction of the President of the United States, she is not going to go there and change his position.

I asked her to be more aggressive about making certain that American business is represented in overseas markets, to make sure that not only were the large companies that often had their own capacity to penetrate markets and register their presence, but the smaller companies, to help them find ways to do business in distant markets and to try to be creative and innovative in that regard. She assured me, in our discussions over the last couple weeks, that she would be very energetic in that capacity.

So, Madam President, I stand fully supportive of Barbara Franklin. I believe she will be an excellent Secretary of Commerce based on what I know of her, and I encourage the Senate to enthusiastically endorse this nomination.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I will be very brief, but I want to join those who urge the Senate to support the nomination of Barbara Hackman Franklin to become the Secretary of Commerce. I think if one looks at her record, they will find a record of a woman who has really pushed the influence for women on the national scene and in business in whatever she has done.

She was named, in October 1990, by the American Management Association as one of the 50 most influential corporate directors in the Nation. She held directorships in seven of the largest American corporations—Aetna Life and Casualty, Black and Decker, the Dow Chemical Co., for instance. She was one of the first women to ever graduate from Harvard Business School.

I have known Ms. Franklin since she came to the Government as part of President Nixon's staff. She initiated the White House program to recruit women to high level Government positions, and, as has been stated, she became one of the first Commissioners of the then newly created U.S. Consumer Product Safety Commission. She has held positions with several administrations, but particularly with this administration, at the United Nations Assembly, and, I might add, there she dealt with a subject also that was very near and dear to my heart as an Alaskan when she dealt with the original U.S. resolution that was submitted to the United Nations to bring about the abolition of driftnets. While she was in that capacity, we succeeded in achieving that goal.

I do believe that she deserves the full support of the Senate and that all of us will be very proud of her service as Secretary of Commerce.

Mr. SPECTER. Madam President, I strongly support the nomination of Barbara Franklin to be Secretary of Commerce. I do so after having examined her record very thoroughly and having discussed with her in some detail the current trade problems facing the United States.

At the outset, I state my Pennsylvania concern for Mrs. Franklin on the basis of her being a resident and voting citizen of Pennsylvania from Lancaster. Her undergraduate degree was awarded by Penn State.

Beyond my own concerns about a Pennsylvania nominee, I believe she is extremely well qualified to be Secretary of Commerce. There has already been a recitation of her educational and professional background, but it is worth noting that she is the first woman to graduate from the Harvard Business School, and she has a very distinguished record in business with her corporate directorships, which I shall not repeat, and her work as assistant vice president for corporate planning for Citibank in 1969.

She has similarly had a very extensive record in Government, which has been detailed already. She served as Commissioner of the Consumer Product Safety Commission for some 6 years. As well, she is currently serving her fourth term as a member of the President's Advisory Task Force for Trade Policy and Negotiations. She was a senior fellow at the Wharton School of the University of Pennsylvania, where she served as director of its government and business program for some 8 years.

I have heard my distinguished colleague from West Virginia comment about the United States facing difficult competitive position in world markets and the President apparently not being aware of it. I agree with the distinguished Senator from West Virginia about the seriousness of a competitive position, but I strenuously disagree with his assertion that the President is not aware of that problem. The President is actively pursuing a policy to try to improve the United States' competitive position, and it is not an easy policy to pursue given the problems of competitiveness which we face and the fact that we have too long ignored some of the essential requirements of competitiveness, of productivity and of research and development. I believe the President is striving mightily to put the United States in a better competitive position. In any event, the Senator's is a political argument which I think does not bear on the qualifications of this nominee.

I am frank to say, Madam President, that I have not been satisfied with some of the trade policies of the administration in prior years. For instance, in 1984, President Reagan overturned the ruling of the International Trade Commission which had found in favor of the steel industry. Senator Heinz and I visited every one of the Cabinet officers, and found support for the ITC ruling from then Secretary of Commerce Mac Baldrige, and support from the great Representative Bill Brock. When we got to then Secretary of State Shultz and then Secretary of Defense Weinberger, it was clear that American trading interests would be sacrificed for foreign policy and defense policy.

Similarly, I have been concerned about the so-called fast track procedure which abrogates certain congressional responsibilities in trade legislation, namely, the ability to offer amendments on the floor. These matters and others were discussed by this Senator in some detail with Ms. Franklin. I believe that she is a fighter. I believe she will be tenacious, and I believe she understands what has to be done for American trade policy.

I discussed with her, for example, my findings from a series of hearings on trade in Pennsylvania, in Allentown, Harrisburg, Pittsburgh, and Philadelphia. There is great concern about the lack of reciprocity in global trade. There is no reason why our markets ought to be open to foreign competitors when their markets are not open to us.

It may be that because Ms. Franklin is petite, attractive, and perhaps quiet, that some do not recognize her tenacity, toughness, and resolve. All of these are important qualities for the Secretary of Commerce. I believe she will bring those qualities to the position.

I urge my colleagues to support this very worthwhile nominee for this important position. I thank the Chair. I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH, Madam President, I want to first express my appreciation to our chairman, Senator HOLLINGS, for his characteristic efficiency and courtesy in holding hearings for both the new Secretary of Transportation and the new, soon-to-be Secretary of Commerce.

It is a great pleasure to work with Senator HOLLINGS. We worked well for years now, and there are matters on which we sometimes disagree. There are many, many matters on which we agree, but whether we are in agreement or disagreement it truly is a pleasure to work with my friend from South Carolina.

The case for Barbara Franklin has been very well made by people who have known her much longer than I have known her, and people who have worked with her in a variety of capacities. Senator DODD, who has a political history, as a matter of fact, relating to Barbara Franklin and her husband, and Senator DODD being on the other side of the political fence from Ms. Franklin, has been very, very energetic in his support for the nominee both before the Commerce Committee and here on the floor of the Senate.

Senator LAUTENBERG, who has known her in a business capacity, known her because she has been a director of a board of a business in which he has a history, has been equally supportive before for her before the committee, and now on the floor of the Senate. Senator STEVENS, who has known her in Government, has been equally supportive. And the words that have been used are quite expressive of the person they know. They have called her experienced and determined and tenacious. All of these expressions of support for exactly the kind of person who should be serving in the Government of our country.

I am not going to reiterate the life story of Barbara Franklin because it has been told by several Senators who have spoken on her behalf, but only say that it is an impressive life history, and that she is indeed highly qualified for this position.

The vote in the Senate Commerce Committee was unanimous, except for Senator ROCKEFELLER, who voted against her in committee and who is the only Senator so far to speak against her nomination on the floor of the Senate.

I think it is important to recognize that Senator ROCKEFELLER has characterized her as—and I think that these are words that he used—a good person, dedicated, and eager.

So he, too, reaffirms the personal qualifications that have been expressed by people who have known her for a long period of time.

The criticism by Senator ROCKEFELLER, and really the one point—and it is a significant point that he makes—goes not against the nominee, but goes instead against the trade policy of the Bush administration. Senator ROCKEFELLER has taken this as an opportunity to criticize the policies of the Bush administration with respect to international trade by opposing the nominee.

But I think that it is important to recognize that every President is going to attempt to nominate people for his or her administration who fit in with the philosophical view of the administration. No President knowingly is going to put in place a Secretary of Commerce or anything else, somebody who holds an entirely different view of the world.

So we have to presume that Barbara Franklin does agree, as a matter of policy, with the Bush administration. What else is new? We will not expect anything else.

Both in committee and here on the floor, by Senator ROCKEFELLER, strong points were made. They are debatable points. They are debatable points relating to trade philosophy. This is an election year. Ultimately the American people are going to decide exactly the points that have been debated by the Senator from West Virginia.

The American people will be presented with two clearly contrasting points of view with respect to international trade, and with respect to the relationship between Government and American business. We do not know how the people are going to decide, but there are two different views.

The administration's basic view is different from the basic philosophical position taken by the Senator from West Virginia; that he has said, in effect, we need new approaches. He has said that there have to be new approaches concerning the relationship between Government and business. He has said that the role of the Federal Government is to lead. He has referred with apparent approval to the phrase "industrial policy." He has called for a basic position in the executive branch—for what he calls vision relating to America's competitive position in the world.

There are people, good people, who believe that the Federal Government should be much more aggressive in relating itself to the private sector. There are good people who believe that there is a kind of wisdom in Washington, that people here are experienced, they are well trained, and they have a vision relating to how the country should operate; that if we have the right plan in Washington, that if we convene the right planners here in Washington, the brain power exists here in our Nation's Capital to map out a new business strategy for America. And if the rest of the country will only follow us, we will be doing better in international competition. That is a point of view. But it is not the point of view of President Bush. It is not the point of view of this President and, therefore, it is not the point of view of anybody who serves President Bush in the cabinet.

The President believes that the strength of the country is not in Washington, DC. The President believes that the wisdom of the country is not monopolized in Washington, DC. The President believes that the role of the Federal Government is not to plan out the economic future of America, not to devise an industrial policy. The President believes that the marketplace—namely, the country as a whole—is where economic decisions are best made. That is his philosophical position, and we would expect that to be the philosophical position of Barbara Franklin.

So the concern expressed is a basic policy concern. It is a debatable policy concern. It is debatable by good people on both sides of the argument. And clearly, it is going to be debated in the context of a Presidential campaign. The American people can then make a choice. Do they believe that the Federal Government does have the wisdom to chart for us the course for the country? Or do they, instead, believe that the strength of the country and wisdom of the country is diverse and decentralized and is held by the American people as a whole and not by planners in Washington, DC?

Let us not decide that issue, which will be decided by the votes on the floor of the Senate today. The question is not the overall relationship between business and Government. The question is the capability of Barbara Franklin to do the work of the Secretary of Commerce. Those who have known her well, and those who heard her testify before the Commerce Committee, are convinced that she can do that work, and she can do it with enormous skill and energy. Therefore, I support her nomination.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. (Mr. LIEBERMAN). The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, today the Senate is considering the nomination of Barbara Franklin of Connecticut to be Secretary of Commerce. Ms. Franklin has a wealth of experience in government and in the corporate world where she served as a director of several major corporations.

Ms. Franklin's nomination comes at a critical time for this Nation. The fall of the Berlin Wall and the triumph of democracy over communism in the former Soviet Union and Eastern Europe is a monumental achievement in our time. But we can not now afford to ask in the glow of our victory in the cold war; for if we do, we face the prospect of winning the war yet losing the peace. After 40 years of commitment and sacrifice, the time has come for this Nation to turn its attention to revitalizing our own economy and restoring a sense of fiscal responsibility to this Government.

The Secretary of Commerce is at the forefront of promoting and protecting American industry in its struggle to compete in a world where our competitors use their governments to aggressively capture market share.

The President has challenged the Congress to pass his economic growth package before March 20. I agree with the President that it is imperative that we stimulate economic growth. We cannot, however, revitalize our economy without addressing our failure to pursue an assertive trade policy. Over the last decade, we have witnessed the steady erosion of our manufacturing sector. Basic industries such as steel, autos, textiles, machine tools, consumer electronics, and semiconductors created the industrial wealth that allowed this Nation to provide the leadership which held together the Western alliance. These industries once stood as examples of American strength and manufacturing prowess. They are now threatened by an onslaught of imports that are being dumped on our shores. Real incomes has not grown since 1973; instead, income growth has been shipped offshore, along with the millions of manufacturing jobs that we have lost to low-wage countries around the world. Despite being first in productivity, the United States now ranks 10th in wages. Behind these statistics, behind our Washington rhetoric, lies the human toll that the loss of our manufacturing base has exacted. It was high-wage manufacturing jobs that made it possible to reach succeeding generation to live a little better than the last, to buy a home, own a car, to send their children to college. Now, if we continue to refuse to pursue an aggressive trade policy, then the only legacy that we will leave to succeeding generations is a lower standard of living.

The principal responsibility of the Secretary of Commerce should be to preserve our manufacturing base, to protect it from predatory trade practices, to assist it in developing new technologies, and to foster a spirit of cooperation between business and government. In today's competition for international markets, governments play a key role in developing an industry's competitive advantage. In Japan, the Ministry of International Trade and Industry orchestrates that nation's export machine.

But, it's not just what agencies like MITI do for their industries, it is also what they don't do to their industries that gives them their competitive edge in the international marketplace. Japanese corporations do not worry about antitrust laws; they don't worry about Hart-Scott-Rodino filings. Instead, the Japanese Government actively encourages the collusive and monopolistic machinations of the keiretsu.

The newly industrializating nations of Asia have no choice but to emulate this model. Look at the Chabeol in Korea, in which only a handful of industrial concerns dominate that economy. The Japanese economic powerhouse has accomplished in East Asia what the Japanese military could not do. They have created an East Asian economic powerhouse.

In Europe, the nations that comprise the European Economic Community are not binding together in 1992 for free trade. Instead, they are joining forces to combat the economic offensive being launched by Japanese exporters.

In order to capture market share in high-technology industries, the Europeans subsidize the development of high-technology products like the airbus. In order to preserve a vital industry they negotiate tough agreements with Japanese automakers that place strict limits on their imports.

In this country, administration officials think industrial policy is some pejorative term that shouldn't be used in front of the children. And yet we have an industrial policy—it's called USDA. There is no question that our farmers are the most efficient in the world, but it is no coincidence that programs such as the Commodity Credit Corporation and targeted export assistance have provided our farmers with billions of dollars in export help, while quotas under section 22 have shielded certain commodities from import competition. Our pursuit of industrial policy is not just limited to agriculture.

The oil industry prospered under the protective quotas put in place by the Eisenhower administration. We must put an end to these games of semantics. We have an industrial policy, it is a policy designed to ensure our standard of living; it is comprised of minimum wage, Social Security, Medicare, clean air, clean water, OSHA, and unemployment compensation. We don't want a level playing field, we don't want to be fair. We want instead to protect a standard of living that is second to none.

Using government to promote industry and protect a standard of living is not some Kennedy School theory of industrial policy. It is instead an idea that is at the core of our Constitution. It was Madison who wrote that

> * * * it should never be forgotten that the great object of the convention was to provide, by a new constitution, a remedy for the defects of the existing one; that among these defects was that of the power to regulate foreign commerce, that in all nations this regulating power embraced the protection of domestic manufactures. * * *

As a consequence, article I, section 8 of the Constitution grants to the Congress alone the power to regulate foreign commerce.

The Congress has in turn delegated to the Commerce Department the power and the authority to meet head-on the challenges of international competition. Ms. Franklin has assured the Commerce Committee that she will vigorously enforce our laws against dumping and subsidization, laws which serve as a shield against the predatory trade practices that threaten our economic security. We have discussed with her the discretion she has to change the administrative practices that have instead shielded the predatory pricing behavior of our competitors, rather than preventing the injurious effects they have on our industry and our employment. She has also said she will be the ally for American businesses and American workers in the administration. We have had enough of administration officials that lecture industry on the virtues of a form of social Darwinism known as free trade. We need a Commerce Department that provides constructive assistance, that will keep American jobs at home rather than shipping them to low-wage countries abroad.

If she is confirmed, she will be at the helm of an agency which has an enormous impact on every aspect of our life, from the oceans to the atmosphere, from protecting our basic industry to luring foreign tourists to Myrtle Beach. This is an enormous challenge, and I believe that Ms. Franklin will meet it. I urge my colleagues to vote for this nomination.

Mr. President, it is my hope and intent that this nomination be passed with a voice vote. There is virtually unanimous support for Barbara Franklin, and the comments to follow are not in criticism of Barbara Franklin. I want to comment on points made by the Senator from West Virginia.

I first thank my distinguished ranking member and former chairman of our committee, Senator DANFORTH of Missouri. We have worked very closely together over the years. It has been a distinct privilege. I have learned from him. He is a good teacher. Last fall my distinguished colleague from Missouri educated the distinguished President of the United States on civil rights. It was actually a 2-year educational course, but there is no question in my mind that this distinguished humanist and minister, as well as distinguished Senator, changed the President's mind, and I would like to do the same on the issue of trade.

Let me offer some self-criticism of this Congress. Commerce denotes just that—trade. But commerce has turned out to be a many-splendored thing, and commerce policy is parceled out all over the Government.

We do not have, in a sense, a singular trade policy, and this is a dangerous shortcoming. That is why I speak out as a chairman of the Commerce Committee, in that we have moved from military threats and a preoccupation with military security to economic threats and economic security. Our foreign policy is like a three-legged stool. The first leg is our values as a country, and these values are very secure.

The Senator from Missouri reaffirmed our values in the civil rights field, and I joined behind his leadership in support of his position. Likewise with our values the world around for freedom, for self-determination, for equal justice under the law, for nondiscrimination, these are well known.

The second leg of that three-legged foreign policy is our military strength, and that has just been demonstrated a year ago in Desert Storm. So we have two secure legs with respect to our values as a country, and our military strength. But the third leg, the economic leg, should it shatter or bend or break, then this great power, the United States of America, will falter.

The President crows that "we are the one remaining superpower. What is the matter with you Americans? You ought to be proud to sacrifice your jobs." Sheer nonsense. We must protect our economic strength. Instead, that strength has been diminished terribly and threatened ultimately, because we learned the wrong lesson coming out of World War II. At that time, we had the only industry. America was fat, rich, and happy.

Long ago, on behalf of a predominant textile industry in my own State, I had the role of testifying before the International Tariff Commission as to the violations of various agreements, the dumping of imported textiles into our country. Incidentally, Tom Dewey was representing the Japanese at that time. This goes back to the 1950's.

The rationale then was, look, you have these emerging economies in Europe and out in the Pacific rim. We are trying to promote competitive capitalistic free enterprise there, or they will go the way of democracy. What do you expect them to make? Not the computers and the airplanes. "Governor," they would tell me, "we will make the computers and airplanes. Let them make the textiles, and let them make the shoes, so they can economically get on their feet."

I had to acknowledge that was a reasonable approach. We had to build up those economies. They had to build basic industries in their own nations. I could understand that, and I went along at that particular time. But now, after 35 years of concessionary trade policies, it is clear that Uncle Sam is being treated like Uncle Sucker. What's more, we are being undermined within by what you might call a fifth column, which I will get to shortly.

After World War II, our multinationals were sent overseas to complement the Marshall plan. They disseminated their technology and methods. We used to sell Fords and Chevrolets in downtown Tokyo not long before World War II. But after World War II, only Nissan and Toyota were licensed to use American technology. At first, the Japanese did not produce high-quality cars.

But they kept improving and improving and improving on their skills and techniques using our technology, and our methods of quality control, and now everyone readily agrees they have a high-quality product. Meanwhile, our multinationals discovered the benefits of operating overseas, where they are not encumbered by U.S. regulations and laws. That is why I say, by way of self-criticism, that Congress has driven up the U.S. cost of production. We run around here like children telling U.S. industry to get off the golf course, to make long-term investments, but meanwhile we burden industry with untold regulations and rules.

Look at the antitrust laws, the merger laws and the SEC quarterly reports. If you build up a corporation for a long-term investment, the sharks come in, take over the company, and sell it off.

We legislate all these rules and regulations—clean air, clean water, minimum wage, Social Security, Medicare, Medicaid, plant-closing notice, safe workplace, safe machinery. Just look at the list. Everybody runs down on the floor and votes, aye, aye, aye, on regulation, but still pontificates that the American Yankee traders have to be more competitive and hardworking.

Let me go right to that point. The most productive industrial worker in the world is in the United States. Go over to the Department of Labor, go to the international economic section of the United Nations. Their statistics show that the United States industrial worker is No. 1, Netherlands No. 2, West Germany No. 3, and Japan is No. 8. The worker in Japan only produces 82 percent of what the United States industrial worker produces. So what is the trouble? The trouble is with the Government here in Washington that is not producing and not competing.

So, after the war, the multinationals went overseas, with the bankers financing them, and we had foreign investment tax credits to encourage them to produce overseas. We wanted to spread capitalism. It was a policy of "let us get the jobs out of the United States and into the foreign lands" to spread democracy and capitalism, and the policy has worked.

Heaven's above. With the fall of the wall, the dissolution of the Soviet empire, the capitalistic successes in Japan, Taiwan, Korea, Hong Kong, Thailand, Indonesia, we are very fortunate. We have accomplished what we set out to do. But we are frustrated because we did not understand that when those banks and multinationals started producing abroad and shipping back to the United States, they would start shouting free trade, free trade, free trade so that they would be allowed to continue dumping. Them the foreign countries picked up that "free trade" chant.

The State Department always led the way, selling off America's industrial backbone in order to buy friends abroad. We have heard that argument many times over the last 45 years.

The Congress, in frustration with President Carter, resorted to putting in a provision requiring that the economic counselor in our Embassies would report directly to the Secretary of Commerce and not to the Secretary of State.

We have been trying to rein in a State Department that seemed determined to sell out everything in this country. They would grin and bow and scrape to our allies, and they'd talk about our special relationships.

So, now, at this moment, we have an adversary in the State Department, we have an adversary in the multinationals that have no allegiance to America. You have the adversary, in the big American banks who lend the majority of their money outside of the United States, not in the United States. And then when the foreign governments threaten to default on these loans they turn to the Government and say bail us out, negotiate a free trade agreement with big debtors like Mexico. And then, of course, you have got the retailers. And whenever we argue for a textile bill, I go down to Bloomingdale's and I go to Hermann's and I bring back ladies' blouses, and I show the one made in Taiwan and the one made in New Jersey. And I show how they both sell for the same price, so there is no savings to the consumer thanks to free trade. The retailers simply make a bigger markup. Nonetheless, the retailers say "look out for the consumers, the consumers." Then, of course, you have the Council on Foreign Relations in New York and the Trilateral Commission.

I say to the distinguished Presiding Officer, you will get an invitation from the Trilateral Commission. They will want you to come up to New York and they will give you a grand dinner, and you will sit around with the heads of banks, and everybody will be bowing and scraping about America's special relationships. And, of course, all you have got to do is parrot the buzzword—free trade, free trade, free trade. And then you get accepted into the cozy establishment fraternity. That is why you have some of the best candidates out on the stump advocating free trade. They still cannot get it through their minds.

Tsongas is coming around on trade issues. He has not gotten around yet. He is saying that a Democrat has to be pro business. Heavens above, is that news? You cannot get elected the Governor of South Carolina unless you are pro business. You cannot get elected Governor of North Carolina or Georgia unless you are pro business. So what is new?

Democrats are finally catching on up north. But Tsongas still talks of free trade. And they talk of winners and losers, and he essentially referred to the textile industry as a loser, and then his staff had to correct that statement.

The point is that the Trilateral Commission grinds out these canned editorials along with the Council on Foreign Relations, the New York Times, and the Washington Post.

In 1990, when we debated the textile bill, we got the annual statement of the Washington Post. It turns out that the Post took in a billion bucks, and $800 million of it was made from retail advertising.

So it is obvious. If retail advertising is the bread and butter at the Post, no wonder they are hollering for "free trade" on behalf of the retailers. It's a full-court press. And the Japanese and multinationals fund the think tanks, which trumpet free trade, free trade, free trade.

So the misunderstanding of the Chief Executive, the President of the United States, is understandable. We confront a real, selfish, greedy multinational corporate leadership, all looking at their own pocket. They have no patriotism, these multinationals, or loyalty to the United States of America, and the rest are all in there for the buck. And we can free trade ourselves to the poorhouse.

I testified back in the 1950's—back then we were worried that 10 percent of the domestic consumption in textiles would be represented in imports.

Now, in this Chamber and in the galleries, 66 percent of the clothing is imported. Eighty-six percent of the shoes are imported.

I just had a visit from the Chairman of Smith-Corona. I remember bringing that industry to South Carolina. Boy, did we have productivity. They tried their best to hold on, but they had to move to Singapore. Cummins Gears from Stuttgart to South Carolina and now to Mexico. Pratt and Reed was making pianos in Liberty, South Carolina, has now gone to Mexico. United Technologies, not long ago in South Carolina, has now gone to Mexico. And, incidentally, while I am on that point, General Motors is not announcing the closing of 21 plants and letting go 74,000 employees on account of bad times in the United States. They are announcing it on account of good times in Mexico.

One of the largest employers in Mexico is General Motors. They have 41 plants this minute. Wake up, U.S. Senate. Wake up, U.S. Government, and understand that the Yankee trader is much smarter than you give him credit for. He is getting ahead of the curve. He is going south of the border. They do not have to worry about $4-plus minimum wage. There is no clean air and no clean water and no housing and no Social Security and no plant-closing notice, no safe workplace, and so on.

You set up shop in Mexico and just bring the finished products back over the border, and you make a killing. And all you have to do is hire one of those Washington lawyers to handle any problems.

On that point, Japan is better represented than the people of America in Washington today. Japan's 100 United States lobbying firms earn over 113 million bucks. Read Pat Choate's book, "The Agents of Influence."

So we are sold out by these consultants, lawyers, and the State Department and the retailers and the multinationals and the big banks and the think tanks all babbling "free trade, free trade," while we are going broke.

Now, Mr. President, as you know, I facetiously wish I was Mao Tse-Tung so I could reeducate the American people. I would get them reeducated quickly. Not having that authority, I have to go back to the real authority, to the days of the Constitution and the Founding Fathers. And I will never forget David Ricardo on trade. Let us talk about that for a minute, because Ricardo was talking at a time when nations had a natural comparative advantage, Mr. President, and you could not produce anything anywhere. No, no. Each country had its advantage, and it was Great Britain who had all the industrial capacity. And as long as Britain could cry "free trade" and sell that idea, boy, they were fat, rich, and happy, the great United Kingdom.

Big difference today. You can produce anything anywhere. Making Fiat automobiles in the Ivory Coast in Africa, electric subassemblies in Singapore. Smith-Corona, by the way, only has 1,200 employees left in the United States. They are the last of the Mohicans.

Everything else is moving abroad. America no longer makes watches. I brought Elgin watch out of Illinois down to South Carolina, Mr. President. We named the town Elgin. But there is no watch made in America; 100 percent, that is gone.

Eighty-five percent of 35-millimeter cameras, 100 percent of VCR's and radios come from abroad. The last of the TV's left St. Louis. Zenith, it has gone to Mexico this past year.

Now, you can produce anything anywhere. You can produce it in Mexico, Singapore, Africa, anywhere. But Ricardo—going back to the history of comparative advantage—he corresponded with Alexander Hamilton. He said, "Now, as a little fledging United States, you have got your freedom. You should trade back with the mother country with what you produce best—your raw materials and farm products. We, in turn, will trade back with what we produce best—manufactured goods. There will be no tariffs, there will be no barriers." Free trade, free trade. Like monkeys on a string here that you see on the Senate floor.

Alexander Hamilton wrote a book. There is one copy left that I know of under lock and key over here in the Library of Congress. "Reports of Manufacturers" is its title. I cannot read the book here now. We are out of time and ready to vote. But, in short, Hamilton told the British, "Bug off." He said we are not going to remain your colony. We are going to build up our industrial backbone. And the very first bill that passed the U.S. Congress, July 4, 1789, was a tariff bill; protectionism. Fifty percent tariff on 30 articles, iron, textiles, going right on down the list.

Madison supported that bill. He was not in the Congress at the time. But to quote from Madison in the Federalist Papers, talking about the Constitution, he said, and I quote:

> It should never be forgotten that the great object of the Convention was to provide, by a new Constitution, a remedy for the defects of the existing one; that among these defects was that of the power to regulate foreign commerce, that in all Nations this regulating power embraced the protection of domestic manufacturers.

You do not have to go just to the Federalist Papers. You look in the Constitution itself, article I, section 8, which precedes the power of the Congress to declare war. Article I, section 8, says the Congress alone may regulate foreign commerce. It did not say deregulate foreign commerce. It said regulate.

So I really get a feeling of embarrassment when our distinguished President runs around and says we do not want to start a trade war, we do not want to have a trade policy or industrial policy.

Industrial policy? Heavens above, you ask the agriculture boys if they have an industrial policy, winners and losers. We picked agriculture as a winner. I believe in it.

Old Franklin Roosevelt used the Government. He put in the price support program to get America's agriculture out of the dust and dirt and into production, and then he put on protective quotas.

It is really to the benefit of all society—the common good. We have industrial policy with respect to other industries, for instance, the Defense Department and the defense industries. They are winners. We have been putting in all our research money. Now we are changing it. You and I are looking at it. Senators are trying to change the billions in research that now goes to DARPA in the Defense Department; we want to get it into the private sector. But defense was a winner. Now the economy has got to be a winner.

But right now Ambassador Hills, she is picking winners in intellectual property, financial services, and other things over there in Geneva trade negotiations. The losers are the textile industry and the steel industry, even high-technology industries like semiconductors, industries that have been saved by our laws against dumping but now are declared losers.

The trade war. Mr. President, most respectively, the trade war is in the fourth quarter. When they ask me who I am for for President I say I am for Coach Lou Holtz. He knows how to make three touchdowns in the last 3 minutes. We need that kind of leadership. And that is what the Senator from West Virginia is trying to communicate to the American people. It is not just a small difference in policy.

We are learning from the distinguished Senator from Missouri. He educated the President of the United States on human rights and civil rights. And the Senator from West Virginia and the Senator from South Carolina are now trying to educate the President and this new Secretary on competitive reciprocal trade. It is fundamental. That has to be understood.

We ought to take a page from old Roosevelt in the days of the Depression. In order to keep the banks open, he temporarily closed the doors. In order to save the farms, he temporarily plowed under the crops.

Today, in order to remove a trade barrier, you have to raise a barrier and then remove them both.

That is economically sound. If we did not have any barriers, we could really compete like gangbusters. We have, as I say, the most productive industrial worker in the world. But that is the goal and not the policy. Just like peace on Earth, good will toward men. Peace is the goal, but heavens knows you will never attain it with running around limply demonstrating and flapping your wings and laying on the ground and rolling everywhere.

George Washington, the Founding Father, said, "The best way to preserve the peace is to prepare for war."

The best way to get that free trade, as a goal, is to demand competitive reciprocal trade. Cordell Hull called it a reciprocal free trade policy.

Lincoln used it. At the very beginning days of the Civil War, building the transcontinental railroad, some said: "Buy the steel from England."

Lincoln said: "No; we are going to build the steel plants. When we get through, we will have the railroad and the steel." President Eisenhower imposed oil import quotas to encourage domestic production. As I noted during Ms. Franklin's hearing, there are 27,000 tariffs in the schedule—27,000 of them. Go look at the register.

So I do not bash Japan. Japan and other competitors are using their governments in a common sense manner. They have pioneered the MITI approach in the Pacific rim. And EC-92 is repeating that same approach. They are not organizing for free trade; they are organizing for the trade war.

I will give a simple example so people can understand. People just do not really appreciate the fact that if we get in 1,000 Toyotas in Portland, OR, we will inspect 5 or 10 in a couple of hours, put them on flatbeds, send them to Hartford and Charleston, and we will sell all those Japanese cars. Yet, you put a Ford on the dock in Tokyo and it takes them 4 months to inspect it. And then they will change the rules after another 4 months.

You think that is bad. Put a car on the dock in LeHavre, France; any foreign car. Inspection will take 1 year; they will not buy a 1992 Toyota until January 1, 1993.

You cannot build a car in Great Britain unless it is 45 percent domestic parts. They are trying to pass, in the European Community now, an agreement requiring 75 percent European content.

We are going to have to emulate that. The big debate in the 1984 Presidential race was the content bill. We were trying to save Detroit then.

They said protectionism, it was going to wreck the economy, like it did in the days of Smoot-Hawley. Mr. President, I wish we had the distinguished Senator from Pennsylvania, Senator Heinz, with us. Ten years ago, he and I tried to educate them. I will use his statistics and figures.

The denigration of Smoot-Hawley is a bum rap. Smoot-Hawley was passed in June 1930, 8 months after—not before—the crash in October 1929. It did not cause any crash. The truth of the matter is, Smoot-Hawley affected less than 1 percent of our GNP overall, and only a third of the trade. And within 3 years, by 1933, we got a positive balance of trade under Cordell Hull's Reciprocal Trade Acts. We maintained it until this crowd came to town here 12 years ago hollering free trade and turning us into a debtor Nation.

It is nonsense to suggest that Smoot-Hawley started the crash and started the Depression. Senator Heinz had a distinguish record on that particular score, and it is historically accurate, and they know it. But it's covered up in a deluge of editorials, and lobbyists paid by the hour.

We need a Secretary of Commerce who understands that she has all kinds of authority and powers. Here in this U.S. Senate, we work against American business and we protect the foreign importer. We have protectionism in the United States for the foreigners, for the foreign manufacturer. We passed the exporters' sales price offset, which is used in calculating the margin of dumping when an article sold in the United States is being sold at less than fair value, in other words, cheaper here than in the protected home market.

That Toyota Cressida sells for $23,000 in downtown Washington this minute. It sells for $31,000 in Tokyo this minute. If it is nighttime there, you can wake them up. They will sell you one quick.

What do you have? You are buying cars around here, imports, at $8,000 and $10,000 less than cost. Let me buy a Ford or Chevrolet at $8,000 or $10,000 less than cost, and I will run around hollering quality, too. Bash Japan? I want to stop the bashing of the United States, and bash Washington here, and get this crowd awakened to the competition that we are in.

We are in a serious jam here with our Commerce Department in the improper interpretation of our laws against dumping. Then when you try to make it categorical, they will attack you. They are protecting the big banks, the multinationals, the consumers, the retailers, and propogating the idea that there is such a thing as free trade. Henry Clay, years back, said "There is not now and never will be free trade—it is like the cry of a baby in the crib for something they wished they had but never would occur." We live in a very economically competitive world, and one dimension of comparative advantage—in fact, to this Senator, the most significant dimension—is government.

These governments are coming in and building up strong, because they know that if they are not economically strong, they are not going to do anything for their people.

So I do not bash Japan, and I am certainly not bashing the nominee, Ms. Franklin. She is outstanding. She is capable. She is brilliant. She has unquestioned integrity. She is deserving of the appointment. But she is not deserving of an uncompetitive, do-nothing trade policy.

She served on these business boards, just like Bob Mosbacher did. He came in here from the business world. Man, he just smiled. He said: You are right. Yes, you are right. Oh, you are right; you are right.

And then, by gosh, he got his clock cleaned by the U.S. Trade Representative, by Boskin and Darman, as Senator ROCKEFELLER pointed out.

I will never forget Truman. He might not have known how to run a haberdashery, but he knew how to run a government. When he was sworn in at the death of Roosevelt, he had Wild Bill Donovan from Intelligence come upstairs. He said "Mr. President, here is the intelligence report, and here is what you have to do."

The Secretary said, "Oh, no; that is against our security interests." The Secretary of Defense would say, "No; that is not our policy."

Truman said, "I am telling you, by Executive order, I am going to get you all together right underneath me here in this White House," and he instituted the National Security Council with Defense and State, and all these other entities underneath him. He said, "You all just fuss it out; hammer it out; and give me a couple of alternatives, and I will make a choice. Not more than three."

Mr. President, out of that, we got the Marshall plan; we got the Truman doctrine; the Atlantic Charter; the North Atlantic Treaty Organization. We got visionary government, in foreign policy, from a gentleman who had a tough time running a business, but knew how to get us moving together.

This President has no idea in the Lord's world of that. He has this country going in all directions and running around hollering, "Do not start a trade war. Let us keep sending the jobs to Mexico; I want NAFTA, the Northern American Free Trade."

I voted for free trade with Canada because we have relatively the same standard of living. But down in Mexico, they have not had a free election, much less free trade. And they have none of our nettlesome regulations. If you want to see all the rest of America's industry forced to go down, then vote for a Mexican Free Trade Agreement.

We should know that there has to be a change in mindset in this country. We must end this nonsense of running around and just professing, almost a soul-like thing, "I'm for free trade, I'm for free trade." Look here, I am for protectionism.

The President of the United States pledged to preserve, protect, and defend. And then, couple days later, somebody said "protectionism," and they were almost knocked over, "Oh, we cannot have protectionism."

They do not know the fundamentals of the Founding Fathers in building up this economic industrial giant, the United States. Now we are into global competition, and if we cannot use the people's Government to do anything other than add to the cost of production and frustrate competition, then we are going to run all of our business out of the United States. This crowd is into the capitalistic free enterprise productive society, and we cannot afford a new Secretary of Commerce not enforcing the dumping laws, taking the free trade zones. That is within her authority.

Do you know what they do over there? We manufacture golf carts, E-Z Go and Club Car. They manufacture them in Augusta and up in Clinton SC. I can tell you right now that they have a Japanese engine in the golf carts. So they go to Newman, GA, grant their application for a free-trade zone up there so they can bring in the Japanese engines to get 800 jobs up at Newman. Meanwhile, they eliminate 1,500 jobs down in Augusta, and they have the gall to say they are promoting commerce. It is a total adulteration. We had better wake up. The problem is not the recession; it is international competition. It is the lack of a trade policy in one sense or, rather, reverse trade policy that protects foreign manufacture, that protects foreign imports and harms the domestic manufacturer. I do not say that lightly. Smith-Corona is going out of business, and they do not do anything down there at the Department of Commerce.

I will never forget when Zenith won its case, went all the way to the White House. The White House reversed it on national security grounds. So Zenith does not make TV's in the U.S. anymore. They say, "We are not in the business of hiring Washington lawyers to go all the way through the legislative lawyers to go all the way through the legislative provisions and then have the White House change them. I will never forget Houdaille, from Florida. They went all through the legal hurdles, won everything all the way to the Supreme Court. Then they went before the Cabinet. The Cabinet was just about to have a unamimous vote to support the decision against Japan, which had stolen the Houdaille technology. In comes President Regan. He said, "I just talked to Nakasone. We have a special relationship and we are going to reverse that decision."

So American business is constantly coming and knocking on the door. If we do not get these facts out on top of the table, the American people will never understand. Yes, we are in trouble on account of wasteful spending in the national Government—not just congressional spending. Every dollar spent since President Bush has been in office has President Bush's name on it. So let us not start that ying-yow, or pointing fingers, "No, you did it,' no, you did it,' no, you did it." We both have done it. We have not paid any bills in heaven knows how long.

The first thing we do every weekday is go down and borrow a billion dollars from the bank to pay interest on the debt. Interest costs keep the doors open around here, but if I had that $200 billion that they have added on in just carrying charges on the debt, I could take Senator ROCKEFELLER's $60 billion health program and give President Bush his $100 billion health program and we would still have a surplus.

We are spending that $200 billion, but we are not getting anything for it. We are just buying our own reelection. That is what is going on. So that is half of the problem.

But the other half of the problem is lack of a trade policy. As chairman of the Commerce Committee of the U.S. Senate, I feel this responsibility very keenly, and I am trying my best to awaken this Government at every particular turn to correlate and coordinate and let us get a competitive trade policy. We know how to do it for our national security; we must now do it for our economic security. Whenever we pull together and work together and sacrifice together, there is no force on Earth that can stop us, Mr. President.

I appreciate the time to address the Senate on this important subject. Adlai Stevenson said, "Now is the time to talk sense to the American people." That is why Paul Tsongas has become popular. He is talking sense, and the others are running around telling how much they love everybody. Everybody is for education.

Do you know I have 37 Japanese plants in South Carolina. Do you know we have more West German industry in South Carolina than all the other 49 States combined? We are not against Japan. I have out a welcome mat for them. We are against this Washington Government not protecting its industrial backbone and not enforcing our trade laws.

We are going to have to meet the competition, Mr. President. I hope that I am as successful as the distinguished Senator from Missouri was on changing the President's mind on civil rights. I hope I can change the President's mind on trade policy. If he can come back home and not give us this pollster nonsense—I hear, "Yeah, I understand, I see, yeah, I sympathize, I get the message". That is nonsense. We want to get a policy and get competing in leading this country. Tell him to shoot all the pollsters and get out there on his own and he will start winning.

Mr. President, I urge the confirmation of Mrs. Barbara Franklin as the Secretary of Commerce.

Mr. HATFIELD. Mr. President, I rise to support the nomination of Barbara Franklin to be Secretary of Commerce. Let me first commend the distinguished chairman of the Commerce Committee, Senator HOLLINGS, and the ranking minority member, Senator PACKWOOD, for so expeditiously handling the hearings.

Mr. President, no issue is of greater importance than our economic health. This is a critical period for both American families and the Federal Government, and growth is necessary. The choice for Secretary of Commerce cannot be made without this goal in mind, and I am happy to say that President Bush has made an excellent selection. Barbara Franklin brings with her a lifetime of business experience which will serve as her foundation as she continues her work on the Nation's behalf. With over two decades of involvement in Government at various levels and her well-known organizational skills, she is qualified to take the helm of a department that is integral to the productivity of so many areas in this country, especially in my own State of Oregon.

As Secretary Franklin undertakes her new position, I encourage her to continue to be a strong advocate of business. And as a representative of a State with a large fishing industry, I encourage her to take a strong interest in the effort to ban drift nets as well as other fishing concerns. The Department of Commerce oversees a number of other programs and issues of great importance as well, and I encourage Secretary-designate Franklin to approach this challenge with the enthusiasm and intellect she has displayed in her past actions.

Mr. DOLE. Mr. President, in these turbulent economic times, the position of Secretary of Commerce has taken on added importance.

In my opinion, the qualifications for an effective Commerce Secretary are these:

Someone who will be a strong advocate for the interests of America's business men and women.

Someone with experience, who knows the pressures of meeting a payroll and making a profit.

Someone who will fight for our manufacturers and merchants.

Someone who is an expert on the competitive global marketplace.

Someone who knows their way around the bureaucratic jungle.

I have no doubt, Mr. President, that Barbara Franklin more than meets those qualifications, and will make an outstanding Secretary of Commerce.

She will bring to the Commerce Department a vast array of experience—both in Government and in the private sector.

Her Government service includes 6 years as a member of the U.S. Consumer Product Safety Commission, and four terms as a member of the President's Advisory Committee for Trade Policy and Negotiations.

U.S. Presidents have continually turned to Barbara Franklin for good reason: Simply put, she is one of the most influential and respected businesswomen in America.

She is president and CEO of Franklin Associates, her own internationally recognized management consultant firm.

Her reputation is such that seven of America's largest and best known corporations have prevailed upon her to become a member of their board of directors.

Many of us in this Chamber had the pleasure to work with Malcolm Baldrige of Connecticut, who was President Reagan's first Secretary of Commerce.

Upon Barbara Franklin's confirmation, the Commerce Department will once again be led by a Secretary from Connecticut, and I anticipate that she will serve with the same skill and leadership as did Malcolm.

Mr. GORTON. Mr. President, I am pleased to lend my support today to the nomination of Barbara Franklin to be the Secretary of Commerce. President Bush is to be commended for sending forth such a worthy nominee for this important position in our Government. Ms. Franklin has extensive public and private sector experience which will serve her well in her new capacity.

Ms. Franklin was one of the first women to graduate from Harvard Business School. She began her business career at the Singer Co. and later at Citibank. Her distinguished private sector career was recognized first by President Nixon when in 1971, she was appointed by the President to direct a program to recruit women for high-level Government positions. In 1973, she was nominated by the President to serve as a Commissioner of the Consumer Product Safety Commission [CPSC]. While I was not in Washington, DC at that time, my more senior colleagues tell me that she did an excellent job in that capacity. After leaving the CPSC, Ms. Franklin was the director of the Government and business program for 8 years at the Wharton School of the University of Pennsylvania. She has served for four terms as a member of the President's Advisory Task Force for Trade Policy and Negotiations.

Mr. President, I have had the opportunity to meet with Ms. Franklin and have discussed a wide range of important issues to Washington State in particular and to the Nation as a whole. I found her to be an intelligent and highly capable woman. She has my complete confidence and I am sure that she will serve all of us well in her soon to be capacity as Secretary of Commerce.

Mr. LIEBERMAN. Mr. President, I rise to support the nomination of Ms. Barbara Franklin to be the next Secretary of Commerce.

Ms. Franklin is clearly a very able candidate. She is an accomplished advocate of the business community, holding directorships at seven of the largest and best known American corporations, including the board of Aetna Life and Casualty Co., one of the most important businesses in the State of Connecticut. I understand that she gets high marks for her work with Aetna.

Barbara Franklin brings to the job a special expertise in trade. She has served on the President's Advisory Committee for Trade Policy and Negotiations. She is also very familiar with Government work, getting her start in the White House in 1971 and serving as Vice Chairman of the Consumer Product Safety Commission on two different occasions.

I want to take a moment to commend Senator HOLLINGS for the thorough hearing he conducted on her nomination. The distinguished chairman of the Commerce Committee is, among other things, a leading spokesman on trade issues. He and his fine staff, particularly Loretta Dunn, have made certain that the administration strongly consider the interests of domestic manufacturers as they develop trade policy.

I hope and believe that Barbara Franklin will act as an advocate for American exporters. Her predecessor, Bob Mosbacher, made a real effort to reach out to American business as they pursue overseas markets.

I am proud to claim Barbara Franklin as at least a part time resident of Connecticut. Her husband, Wallace Barnes, is a good friend and very successful businessman in the State. We are lucky to have them both.

Mr. SIMPSON. Mr. President, I rise in support of the nomination of Barbara Franklin to be Secretary of the Department of Commerce.

We are all so well aware of the growing importance of issues surrounding trade and competitiveness. Indeed, they have never been a focus of more debate than they are right now. It is absolutely crucial that our Government do more than it ever has before to make it possible for American business to succeed.

I ask my colleagues to consider what qualities they would most want in a Secretary of Commerce. I would feel that the ideal candidate for the position would have both Government and top-level business experience. It would normally be too much to ask, but would it not also be fortuitous if the private-sector experience not only involved traditional corporate service, but also work with consumer protection organizations?

We are so very fortunate to have in Barbara Franklin someone with all of these fine qualities. While she was a staff assistant to the President from 1971 to 1973—she helped to recruit women into high-level positions in the Federal Government. She knows how things work at the highest level of the executive branch.

Barbara Franklin understands American business. She has served with distinction on the corporate boards of companies like Armstrong, Nordstrom, Black and Decker, Westinghouse, and Aetna. She also understands the American consumer. She performed admirably as a Commissioner of the U.S. Consumer Product Safety Commission from 1973 to 1979.

Barbara Franklin has always been a zealous promoter of women in public service. She was a founding member of the Women's Forum of Washington, 1982, and a founding member of Executive Women in Government, 1973. She has been a member of the advisory board of governors of the National Women's Economic Alliance, and has been a member of the Women's Economic Round Table. So, in addition to her substantial Government and business expertise, she will bring a unique and valued set of contacts and perspectives to the Department of Commerce.

Barbara Franklin is the youngest-ever recipient of the Penn State Distinguished Alumni Award.

Barbara Franklin's personality reflects what her résumé implies. She is intelligent, strong, sensitive, a woman of great strength and good humor—not afraid to be a pioneer or an iconoclast. She has a remarkable understanding of the need for our tax policy to reflect our goals in trade and in economic growth.

We are indeed fortunate to have the opportunity to have our Department of Commerce benefit from Barbara Franklin's many remarkable qualifications and talents, and I urge the Senate to confirm her nomination.

Mr. WARNER. Mr. President, I rise this afternoon to congratulate Ms. Barbara Franklin who has been nominated by the President to be the next Secretary for the Department of Commerce.

Mr. President, Ms. Franklin has served in our Government as a Commissioner at the United States Consumer Product Safety Commission, and she has held various positions in the private sector. Her extensive experience in the business world provides her with the background she needs to serve as the next Secretary of the Department of Commerce.

I wish Ms. Franklin much success as she begins to confront the challenges of being the next Secretary. Ms. Franklin is a role model for many people, and I am confident she will be an excellent Secretary of Commerce.

Mr. SYMMS. Mr. President, I am glad we are debating the President's nomination of Barbara Franklin to be Secretary of Commerce. I have no doubt President Bush selected her for her tremendous qualifications, and I will support the nomination.

However, upon Ms. Franklin's likely confirmation by this Senate, I intend to discuss with her a very important issue facing American businesses and their employees.

Mr. President, I am concerned that at the very time we strive to maintain the employment rate in the United States and attract outside investment to our country, the Taiwan Relations Act of 1979 has been used to preclude high-level Government representatives from the United States and the Republic of China, on Taiwan, from discussing problems relating to these issues on an official basis. On numerous occasions, U.S. businessmen have complained of the inability of getting high-level official representation to assist on problems affecting their business interests.

Mr. President, I believe recognition is a separate issue from having Government representatives visit one another to discuss matters of mutual interest on an official basis. We should not forget Taiwan holds the largest reserves in the world and is one of our most important trading partners. And, after all, trade is clearly recognized as a key to our domestic economic development and jobs are important to all of us.

The Washington Post lauded the Republic of China on their recent democratic elections. As the leader of democracy worldwide, we want to encourage these developments.

I hope that in her capacity as Secretary of Commerce, she will pursue this important economic matter and work toward reversing the United States' current position allowing United States and Taiwanese authorities to officially meet and discuss issues of mutual benefit.

The PRESIDING OFFICER. Is there further debate? If not, the question is: Will the Senate advise and consent to the nomination of Barbara Hackman Franklin to be Secretary of Commerce?

The nomination was confirmed.

Mr. HOLLINGS. I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

RECOGNITION OF THE LUMBEE TRIBE OF CHERAW INDIANS OF NORTH CAROLINA

MOTION TO INVOKE CLOTURE ON MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours of debate on the motion to invoke cloture on the motion to proceed to the consideration of H.R. 1426.

The Chair recognizes the distinguished Senator from Hawaii [Mr. INOUYE].

Mr. INOUYE. Mr. President, may I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, is the time limit 2 hours equally divided?

The PRESIDING OFFICER. The Senator is correct.

Mr. INOUYE. Mr. President, I ask unanimous consent that the time be changed to 40 minutes equally divided. I have conferred with the Republicans and they concur.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

Mr. INOUYE. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. INOUYE. Mr. President, I am pleased today to speak on behalf of H.R. 1426, a bill to provide Federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina. My distinguished colleague from North Carolina, Senator SANFORD, has sponsored an identical measure in the Senate, S. 1036.

Mr. President, this legislation is long overdue—perhaps even 100 years overdue. The Lumbee Tribe of Indians began their efforts to seek Federal recognition in 1888, 104 years ago. There is no better time than now—in this year of commemoration of the Native people of the Americas—for the Congress to provide this long-awaited justice to the Lumbee Tribe of North Carolina.

This legislation will accomplish that long overdue justice by establishing a formal Government-to-Government relationship between the Government of the United States and the Government of the Lumbee Indian Tribe. This is the same status that the United States has conferred on over 500 other Indian tribes and Alaska Native villages. This status provides recognition of the sovereign authority of a unique community of Native American people to govern themselves and to maintain their cultural, social, religious, and economic identity.

Mr. President, there are some in this body who would argue that we in the Congress should defer to the Department of the Interior to decide the issue of whether or not the Lumbee Indian Tribe is actually a tribe within the meaning of certain regulations that have been written by officials at the Bureau of Indian Affairs.

At the outset, I must point out that these regulations have been written and revised without the benefit of congressional authorization or a Federal statute. When they were first promulgated in 1978, officials testified that the BIA would be able to process 20 applications for recognition each year. However, in the 14 years since the rules were finalized, the Department has recognized only 8 tribes. It has denied recognition to one or two others. This means that only 10 or so applications have actually been processed in 14 years. During that same period of time, Congress has recognized 16 tribes, some restored to recognition and some newly recognized.

The Lumbee Tribe did petition for recognition to the BIA. After many years and at great expense to the tribe, the BIA informed the tribe in 1989 that they are ineligible for the process because of a 1956 act of Congress.

That act acknowledged the existence of the Lumbee Indians and their history, but fell short of granting full Federal status to the tribe, leaving the tribe in a legal limbo. While the Congress officially recognized and designated the tribal members as the Lumbee Indians, the Congress also added language, at the request of the Department of the Interior, to deny the tribe eligibility for services provided by the BIA. Ironically, the effect of this language, according to the 1989 solicitor's opinion, also has the effect of denying the tribe access to the administrative acknowledgment process.

During the era of the Federal policy of termination in the 1950's, the Congress also enacted two other bills that are very similar to the 1956 Lumbee Act—one with respect to the Pasqua Yaqui Tribe of Arizona and the other regarding the Ysleta Del Sur Tribe of Texas, formerly known as the Texas Tiwas.

In both cases the administration said the tribes were not eligible for the Federal acknowledgment process so the Congress—not the administration—has since provided recognition to these two tribes. In doing so, the Congress did not amend the previous acts affecting the status of these tribes to allow them access to the administrative process. The Congress simply provided recognition. We can do no less for the Lumbee Tribe. To treat them differently would be to treat them unfairly. I believe they have been treated unfairly for a long, long time.

There are some who might argue that Congress does not have the capacity to judge the information presented to us to determine whether a group is a tribe or not. This is simply not accurate. We have listened to expert testimony—the same experts on whom the Bureau of Indian Affairs must also rely. Those experts tell us that the Lumbee Tribe is a tribe deserving of Federal recognition and that the Lumbee Tribe meets all of the seven criteria established in the regulations. Why then should the Congress require the tribe to go through an expensive and time consuming process? We have the information and we are as well qualified to judge its merits as are the employees of the BIA.

Granting Federal recognition status is not new to the Congress. As I mentioned, we have been engaged in this process for over 200 years under the Indian commerce clause of the U.S. Constitution where Article I gives Congress plenary power over Indian affairs. The Congress has always had the authority and the power to recognize a particular community of Indian people as an Indian tribe and to deal with that tribe on a Government-to-Government basis. The Congress has never expressly delegated the authority to recognize tribes to the Bureau of Indian Affairs at the Department of the Interior.

The Congress has given a general delegation of authority to the Secretary to manage Indian affairs and it is under that general authority that regulations were promulgated by the Secretary for the administrative recognition of Indian tribes. However, there was never any assumption that promulgation of such rules would preempt the power of the Congress, acting in accordance with its best judgment, to exercise its authority to grant recognition when appropriate.

The case of the Lumbee Tribe of North Carolina is an appropriate case for congressional recognition. There are many reasons for this, not the least of which is a suspected institutional bias against the Lumbee Tribe by officials within the Department of the Interior. It is interesting that a former Assistant Secretary for Indian Affairs in the Reagan administration has communicated his belief that the Congress should recognize the Lumbee Tribe; during his tenure at the Department of the Interior, this same official presented the administration's opposition to legislation to recognize the Lumbee Tribe.

My suspicion is that the administration continues to object because they consider it a matter of money. There is no question that the Lumbee Tribe is large—there are about 40,000 members. The Lumbee Tribe is the largest tribe seeking Federal recognition, and will, when recognized, be the third largest Indian tribe in the Nation. In my view that is why recognition of the tribe has been so difficult to accomplish.

The Lumbee Tribe has been recognized by the State of North Carolina since 1885 and as a State-recognized tribe is eligible for Indian programs operated by the Department of Housing and Urban Development, the Department of Labor, and the Department of Education. However, as I mentioned, because of the language of the 1956 act, the tribe is not eligible for the services and programs of the Bureau of Indian Affairs and the Indian Health Service. Issues related to the cost of providing such services are addressed in the bill by creating a separate budget for the Lumbee Tribe that would then be submitted to the Congress.

In my view this is a fair bill. It takes nothing away from any other tribe in the country. The House passed the measure by a vote of 253 to 164. The Senate Select Committee on Indian Affairs, by a vote of 9 to 5, recommended that the bill be passed. This is a fair bill and it is a bill whose time has come.

Those who object to this bill on the grounds of cost need to understand the great cost to the Lumbee Indian people of continued inaction on the part of the United States. This inaction not only results in the denial of services, but ever so much more important, it results in the denial of status, a recognition status that the Lumbee people so desire because it affects their standing in the entire Indian community. They, like all other tribes, desire only to protect their culture, their religion, their very identity. Federal recognition will provide the tribe with the ability to exercise the sovereignty to assure that protection.

Some have asserted that Indian tribes oppose this legislation. That is true. There are not many, but there are some. Others argue that the tribe should be required to pursue the Federal acknowledgment process. But I have addressed that issue. Others oppose congressional recognition because they do not believe the Lumbee Tribe is an Indian tribe. The Select Committee has held extensive hearings on this measure and we are convinced that the Lumbee Tribe is an Indian tribe that meets all rational criteria for Federal recognition.

Mr. President, I should like to point out that the Lumbees have been recognized by the State of North Carolina since 1885, and until desegregation in 1971 funded a separate school system operated and attended exclusively by tribal members. This is nothing new. These Indians have been recognized not only by the Congress of the United States but by the State of North Carolina.

The tribe is descendent aboriginally from the Cheraw and other Sioux speaking tribes in the area, and is currently named for the Lumbee River which bisects the Indian community. The Lumbee Tribe has been recognized as a self-governing people by the State of North Carolina, as I indicated, since 1885, and first sought Federal recognition in 1888. Since that time 10 bills have been introduced before the Congress enacted the 1956 Lumbee Act.

And so I would like to point out that these Indians have waited a long time. I realize that there are a few Indian tribes that oppose this, but I am sad to report to you, Mr. President, that the major reason for opposition is the fact that the Lumbees number 40,000 at this time and since the Congress and Government of the United States have not been forthcoming and generous in carrying out our trust responsibility and thereby appropriating sufficient funds to assist them in their health and social services and education, they are afraid by adding 40,000 eligible Indians the small pie would be made smaller.

I realize the concern of our fellow Americans, the first Indians, but I would hope the fact that the Lumbees are Indians, recognized as such by the State of North Carolina, recognized by this Congress, should entitle these people not only to Federal recognition but to give them all of the rights and privileges other recognized Indians receive.

So I hope that the Members of this body will vote in favor of proceeding with the consideration of this measure.

The PRESIDING OFFICER. Is there further debate on the measure?

Mr. INOUYE. Mr. President, without taking time off either side, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislate clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANFORD. Mr. President, would the Senator from Hawaii yield me 10 minutes?

Mr. INOUYE. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has consumed 8 minutes; 12½ minutes remain.

Mr. INOUYE. I am happy to yield 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. SANFORD. Mr. President, I want to thank on behalf of these citizens of North Carolina the distinguished Senator from Hawaii, who has in a very forceful way presented the case for the recognition of the Lumbee people that now is a case that is at least 100 years old. There is no question that we have made these people not only second-class citizens, but by preventing them from going through the regular recognition process, have made them second-class Indian citizens.

The time has come for us to say to these people that this Nation through its Congress does indeed recognize their roots, their heritage, and the fact that they have come from and remain an honorable Indian tribe.

I look forward to the passage of this bill, which provides for full recognition of the Lumbee people.

I certainly hope that we will be permitted by this body to go forward. That of course is the purpose of this cloture vote, to get permission to move forward for a deliberation and decision on the legislation itself. I regret that a cloture vote is even necessary because, while there may be some dispute over how to recognize the Lumbees, there is no dispute that some act of Congress is necessary.

I would like to note for the RECORD that the Congressional Budget Office has determined that this legislation will not affect direct spending or receipts, and therefore our pay-as-you-go procedures do not apply.

The Senator from Hawaii has already laid out all of the facts, and has so well stated the sense of justice that would prevail if we were able to pass this legislation now, to recognize these people.

In beginning debate on the motion to invoke cloture on the motion to proceed to the consideration of the Lumbee Recognition Act, I would like to commend the Lumbee people for the tenacity and patience they have shown for more than 100 years.

Mr. President, I am filled with regret. The U.S. Senate has the responsibility of correcting injustice within the law whenever possible. Before us now is legislation that does just that. However, for reasons unknown to me, some have chosen to make this a partisan fight. This is grossly unfair to the Lumbee people. I say this because the Lumbees simply have no other recourse to obtain recognition except to obtain congressional action. This congressional action can either recognize them or simply make them eligible for the administrative process from which they are precluded by statute. Clearly, congressional action of some sort is required.

It is beyond me that given this fact, a cloture vote is required. I repeat, the Lumbees cannot go through the traditional recognition process. Therefore, to deny them the opportunity for congressional action on this bill is to leave them out in the cold.

However, let me remind you Mr. President, that this bill passed the House of Representatives with support from both sides of the aisle—including the support of the ranking member of the House Interior Committee and two of the four Republican Representatives from North Carolina. In the Senate Select Committee on Indian Affairs, the committee voted to favorably report out this legislation with support on both sides of the aisle. Finally, the Republican administration of Governor Martin in North Carolina strongly supports H.R. 1426. In fact, I understand that the Governor's office has placed calls to several Members on the other side of the aisle, in an effort to squelch the false allegation that this is partisan legislation. I ask unanimous consent that Governor Martin's letter of support be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF NORTH CAROLINA,
OFFICE OF THE GOVERNOR,
Raleigh, July 30, 1991.

Hon. DANIEL K. INOUYE,
Chairman, Senate Select Committee on Indian Affairs, Washington, DC.

DEAR SENATOR INOUYE: I have asked James S. Lofton, Secretary of the North Carolina Department of Administration to represent me at the Joint Hearing regarding S. 1036, the Lumbee Recognition Bill, which will be held on August 1. Secretary Lofton will be accompanied by Henry McKoy, Deputy Secretary of the Department of Administration, Patrick O. Clark, Chairman of the North Carolina Commission of Indian Affairs, and A. Bruce Jones, the commission's executive director.

I fully support the passage of S. 1036 and am requesting the support of the Senate Select Committee on Indian Affairs. The State of North Carolina has recognized the Lumbee Tribe as a separate and viable Indian entity since 1885. The passage of S. 1036 will entitle the Lumbee to enjoy the same rights, privileges and services enjoyed by other federally recognized tribes in the nation and will, further, be a major step toward rectifying the inequities suffered by the Lumbee people for centuries.

I thank you for your attention to this matter and will appreciate your favorable consideration of my request.

Sincerely,

JAMES G. MARTIN.

RESOLUTION

Whereas, the Lumbee Indians are descendants of the coastal Cheraw tribe and related to Siouan-speaking people, and have continually inhabited their aboriginal territory which is now Robeson County, North Carolina;

Whereas, the first documented contact with Europeans occurred in the early 1500's, and the Lumbee Indians have maintained a separate and distinct culture and community since European contact;

Whereas, at the time of first contact with Europeans the Lumbee held their land in common, and in the early 1700's, Robert, King of the Cheraw, and fourteen headmen deeded tribal land to white settlers, and between that time and the organization of the United States under the Constitution of 1789 the Tribe lost all its common lands. Today, individual tribal members hold free title to large acreage of land in Robeson County;

Whereas, local communities, State of North Carolina statutes, Indian tribes, federal officials, the National Congress of American Indians, Congress and the Department of Interior recognize the Lumbee as Indians;

Whereas, the Lumbee tribe has an established enrollment process and membership criteria which is based on direct descendants from the Tribe's base roll developed from the special Indian census of Robeson County, North Carolina (1900–1910), and school and church records. And, in 1912, a Department of Interior study concluded that the large majority of Lumbee had ¾ or more Indian blood.

Whereas, the Lumbee Tribe has functioned as a cohesive, political organization and exhibits traditional forms of leadership by passing down the leadership role through family ties. Currently, the Lumbee Tribe is governed by the Lumbee Regional Development Association Board (LRDA) which exerts political authority over its members;

Whereas, the LRDA Board is elected by and composed of Lumbee Indians;

Whereas, in 1956, the Congress enacted the Lumbee Act, 170 Stat. 254, which recognized the Lumbee Indians, but provided no services by the United States, made no federal Indian statutes applicable to the Lumbee, and may by virtue of the federal Indian statute prohibition made the Lumbee ineligible for federal recognition through the administrative process;

Whereas, the Lumbee Recognition bill amends the 1956 Lumbee Act by making the Lumbee eligible for Bureau of Indian Affairs and Indian Health Service programs, and corrects and completes the legislative process of recognition that Congress began in 1956;

Whereas, the Lumbee Recognition bill contains no appropriations to the Lumbee Tribe, and thus will not affect the budgets of presently federally recognized Indian tribes;

Whereas, the Lumbee Recognition bill provides for no delivery of services from the Bureau of Indian Affairs or the Indian Health Service until Congress directly appropriates money specifically to pay for those services and such money shall not be administered by the Bureau of Indian Affairs; and

Whereas, The Lumbee Recognition bill is not a circumvention of the administrative recognition process because the Lumbee Act was enacted in 1956 and the federal administrative process was established in 1978, now

Therefore, be it

Resolved by the North Carolina Commission of Indian Affairs, That the Board support federal recognition of the Lumbee Indians through the Lumbee Recognition bill.

Mr. SANFORD. In addition, I regret that two more false allegations have been made regarding this legislation. I understand that some Members have said that H.R. 1426, if passed, would cost $200 million and would establish another Federal reservation.

Nothing could be further from the truth. This bill authorizes no money, and in fact, it expressly prohibits the Lumbees from inclusion in the budget from Indian programs at the BIA. The bill requires the Lumbee to be a separate line item in the Interior appropriations process. It is up to Congress to determine to what extent services would be funded, if at all. I would like to reiterate that the Lumbees request for recognition is not driven by money, otherwise, they would not have agreed to take on the appropriations process each year rather than receive a definite percentage of funds included in the process. At this time, I ask unanimous consent that resolutions from tribes who support this legislation be included in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SANFORD. Mr. President, the original cost estimate for this bill done by the Congressional Budget Office simply plugged in the number of Lumbees into a generic formula. The national average spent on a federally recognized Indian is approximately $3,000. However, the figure yielded in this equation for the Lumbee is erroneous, and CBO agrees with me.

According to CBO, the cost of extending services to the Lumbee would be substantially less than the generic formula would yield because as a State recognized tribe—which the Lumbees have been since 1885—they are already receiving some services from the State and Federal Government. In addition, CBO recognizes the fact that the Lumbee would not need certain costly services such as those associated with a reservation. I would like to quote from a letter written by Mr. James L. Blum of the Congressional Budget Office to Chairman INOUYE:

> The exact amount of the additional cost to the federal government resulting from H.R.

1426 is difficult to predict because the nature of services and programs provided would be negotiated by the tribe and the Secretary of the Interior and would be based on the specific needs of the tribe. The cost of some services would be low (or zero) because the tribe has no land base and thus has no need for certain types of services (for example, real estate services or reservation law enforcement), or because the tribe already receives such services.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 26, 1991.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1426, the Lumbee Recognition Act, as ordered reported by the Senate Select Committee on Indian Affairs on November 20, 1991.

H.R. 1426 would grant federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina. The act would make the tribe and its members eligible for all services and benefits provided to federally recognized Indians upon the appropriation of funds for these purposes.

The act would require the Secretary of the Interior and the Secretary of Health and Human Services to work with the tribe to develop a needs assessment and budget for services necessary for the tribe. It also would require the tribe to organize and adopt a constitution and by-laws, and would direct the Secretary of the Interior to assist the tribe in this effort. The act would require the tribal roll to be open for a 180-day period before adopting a constitution. H.R. 1426 would authorize the appropriation of funds necessary to carry out the provisions of the act.

CBO estimates that the average annual cost of services and benefits provided nationally to American Indians and Alaska Natives is about $3,000 per year. If the national average were applied to the Lumbee Tribe, providing services to the tribe and its members as a result of federal recognition could cost the federal government $110 million to $120 million annually. CBO estimates that the cost to the federal government to provide services to the Lumbee Tribe would be less than the national average, however, since the Lumbee Tribe is recognized by the State of North Carolina. As state-recognized American Indians, members of the Lumbee Tribe are already eligible for and receiving some federal services and benefits, including job training and education funding. As a result, CBO estimates that H.R. 1426 could result in annual costs to the federal government of $80 million to $90 million annually, assuming the necessary funds are appropriated. CBO's estimate is based on a tribal enrollment of about 40,000 members.

The exact amount of the additional cost to the federal government resulting from H.R. 1426 is difficult to predict because the nature of services and programs provided would be negotiated by the tribe and the Secretary of the Interior and would be based on the specific needs of the tribe. The cost of some services would be low (or zero) because the tribe has no land base and thus has no need for certain types of services (for example, real estate services or reservation law enforcement), or because the tribe already receives such services. However, the tribe may be able to negotiate the provision of other services at a higher than average rate.

Based on information from federal agencies, CBO estimates that it would cost between $100,000 and $150,000 to review and verify the tribal roll in fiscal year 1992, as required in Section 4(b)(1) of the act.

Enactment of H.R. 1426 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply. Also, enactment of H.R. 1426 would result in no cost to state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The staff contact is Patricia Conroy.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer, Director).

The allegation that this bill provides for a reservation is absolutely false. This bill does not establish a new Federal reservation. The bill makes absolutely no provision for a reservation, nor does it allow for or anticipate a land claim. Under BIA regulations, in cases where there is no reservation, the land is officially referred to as a "tribal service area." This simply puts limits on the area where services are conducted.

Finally, I return to the fact that the issue before us is justice. The simple fact of the matter is that the Lumbees are barred by statute from the normal administrative process established in 1978. For the Lumbees to become federally recognized, whether it is done legislatively or administratively, it requires an act of Congress. In 1989, an Associate Solicitor for Indian Affairs, ruled that the 1956 Lumbee Act precluded them from participation in the administrative process. I ask unanimous consent that a copy of this opinion be printed in the RECORD.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, DC, November 20, 1989.

To: Secretary.
From: Solicitor.
Subject: Interpretation of the Lumbee Act.

Congress is currently considering legislation, H.R. 2335, which would extend Federal recognition to the Lumbee Indians of North Carolina. The purpose of this memorandum is to provide you with background on how the Department, and the Solicitor's Office in particular, has interpreted previous legislation involving the Lumbees, the Act of June 7, 1956 (70 Stat. 254) ("1956 Act").

In 1972, the Associate Solicitor, Indian Affairs, advised the Commissioner of Indian Affairs that the 1956 Act had terminated our authority to provide services to individuals who had been certified under the Indian Reorganization Act (IRA) as "Indians" having ½ degree or more Indian blood. In 1975 the Court of Appeals for the D.C. Circuit overruled the Associate Solicitor's position and held that the 1956 Act did not terminate the individual rights acquired by the survivors of the 22 individuals who had been certified under the IRA. *Maynor v. Morton,* 510 F.2d 1254 (D.C. Cir. 1975). Staff attorneys in the Solicitor's Office initially read the *Maynor* decision narrowly and informally advised that the 1956 Act was still a bar to the Department acknowledging the tribal existence of the Lumbee Indians as a tribe.

In 1976 representatives of the "Hatteras Tuscaroras", a group of apparent Indian descendants in Robeson and adjoining counties (the area covered by the 1956 Act), requested a meeting to discuss federal recognition of them as an Indian tribe. Under Secretary, and formerly Solicitor, Kent Frizzell, noted that the *Maynor* decision did not deal with the status of persons not certified as Indians prior to the 1956 Act and that the "1956 Act remains a bar to extending [BIA services and] benefits to any other individuals Indians of Robeson or surrounding counties." Under Secretary Frizzell concluded that: "Congress must modify the 1956 Act before any federal recognition and services can be extended generally to a group such as the Hatteras Tuscaroras."

In 1978 when the Department was developing its revised proposed acknowledgment regulations, counsel for the Lumbees submitted a brief arguing that the 1956 Act was not a bar to administrative consideration of a petition from the Lumbees for acknowledgment as an Indian tribe. The Department's staff accepted counsel's position and proceeded to provide technical assistance to the Lumbees in the development of the documentation for their petition on the assumption that Department would be able to consider the petition under our regulations. It was not essential initially, however, to resolve the issue as to the effect of the 1956 Act. The development of essential factual information through a documented petition was a necessary predicate for either legislative or administrative action. Our regulations require that if the Secretary can not acknowledge the tribal existence of a petitioner that he advise the petitioner what alternatives, if any, may exist for group, or at least some members of it, to acquire services and benefits as Indians, such as legislation or enrollment in other tribes.

In the last Congress, the Senate Select Committee on Indian Affairs conducted an oversight hearing on the acknowledgment process. Dr. Adolph Dial, spokesman for the Lumbees at that hearing and accompanied by counsel for the Lumbees, noted that:

"[T]he [BIA's Acknowledgement] Branch's recommended preliminary findings must be reviewed by the Solicitor's Office and the Assist Secretary for Indian Affairs before it is published. Some people believe that the Lumbee Act passed by Congress in 1956 is legislation prohibiting the Federal relationship within the meaning of the recognition regulations. *The Solicitor's Office at the Department of the Interior has never taken a position on this issue.* If the Solicitor's Office agrees with that interpretation of the Lumbee Act when asked to review the recommended preliminary findings, then all the years of work and delay by the Lumbee Tribe and the Branch will have been for naught". . . [Emphasis added.] *Oversight Hearing On Federal Acknowledgment Process: Hearing Before the Select Committee on Indian Affairs,* S. Hrg. 100-823, 100th Cong., 2d Sess. 32 (1988).

Shortly after the hearings, the Select Committee considered S. 2672, a bill similar to H.R. 2335 which would extend Federal tribal recognition to the Lumbees. In testifying on the Senate bill, former Assist Secretary Ross Swimmer stated:

"The 1975 decision of the U.S. Court of Appeals for the D.C. Circuit In Maynor v. Morton (510 F.2d 1254) and a 1979 decision of the Comptroller General (58 Comp. Gen. 699) would seem to indicate that [the last sentence of Section 1 of] the 1956 Act is not a bar to action as to any of the six petitioners in Robeson and adjacent counties under 25 CFR Part 83, although that specific issue was not mentioned in either decision. However, a legislative statement to that effect would remove any doubt and we recommend that such a statement be enacted." S. Rpt. 100-579, 100th Cong., 2d Sess. 15 (September 30, 1988).

Immediately prior to the hearing on the Senate bill, the Associate Solicitor, Indian Affairs, considered the effect of removing the last sentence of Section 1 of the 1956 Act which reads:

"Nothing in this Act shall make such Indians eligible for any services performed by the United States for Indians because of their status as Indians, and none of the statutes of the United States which affect Indians because of their status as Indians shall be applicable to the Lumbee Indians." 70 Stat. 254.

The Committee apparently believed that the effect of removing this language would be to render the Lumbees a recognized tribe and eligible for Federal services. The Associate Solicitor concluded in a September 26, 1988, memorandum, a copy of which is attached, that it would not have such an effect since the 1956 Act did not recognize the Lumbees as a tribe.

The Associate noted further that: "[C]onsistent with the Department's recent testimony on the proposed Lumbee legislation, deleting the sentence as proposed by the Committee would remove any doubts as to whether the Lumbee Indians may apply for recognition under the Department's acknowledgement procedures. Because the language in the Act is similar, if not identical, to language used in many of the termination statutes, it has been argued that the Act prohibits a Federal relationship. Deleting the last sentence of Section 1 of the Act of June 7, 1956 would confirm that the Lumbee Indians may apply for Federal acknowledgment under 25 CFR part 83."

While the Lumbees submitted their documented petition on December 17, 1987, and supplemented it in February 1988, it was still waiting its turn to be reviewed for obvious deficiencies when Assistant Secretary Swimmer testified. In connection with that review and continued interest by representatives of the Lumbees in legislation like S. 2672 and H.R. 2335, questions as to whether the Department was precluded by language in the 1956 Act from considering the Lumbee petition continued to be raised.

At the time of the hearing on H.R. 2335, the Associate Solicitor, Indian Affairs, was well along in his review of the Lumbee issues, although he had not issued his final conclusion. When asked by Congressman Gejdenson whether the Department had ruled on whether the Lumbees were eligible for the acknowledgment process or were precluded by the 1956 Act, Deputy Assistant Secretary Hayes, the Department's witness, replied that it had not. Subsequent to the hearing, several members of Congress wrote the Department wanting to know the Department's position on the effect of the 1956 Act. As a result, the Associate Solicitor concluded his review and issued his opinion of October 23, 1989, a copy of which is attached.

The Associate concluded that the 1956 Act was legislation terminating or forbidding the Federal relationship and that, therefore, the Bureau was precluded by its own acknowledgment regulations from considering the Lumbee petition. He went on to note that his decision cleared the way for Congress to act on Department's recommendation to amend the 1956 Act to allow administrative consideration of the Lumbee petition or to enact H.R. 2335. His reference to H.R. 2335 was not intended or made as a recommendation in favor of that bill but rather as a simple recognition of the alternatives before Congress.

I hope that this adequately explains the course of the Department's and my office's consideration of the Lumbee legislation. If you have questions, please don't hesitate to call on us.

MARTIN L. ALLDAY.

Mr. SANFORD. Mr. President, clearly, this is a matter at which point only Congress has exclusive jurisdiction, and a responsibility to act fairly and judiciously. The House of Representatives has already made a ruling on this matter. It is the obligation of the Senate to do the same. I appeal to my colleagues to do the decent and fair thing and vote to invoke cloture to allow debate on the merits of the bill.

EXHIBIT 1

[Governors' Interstate Indian Council, Inc.]

RESOLUTION NO. 3

Whereas, the Lumbee Tribe of North Carolina submitted a petition for federal recognition to the federal acknowledgement branch of the United States Department of the Interior pursuant to 25 C.F.R., Part 83 on December 17, 1987; and

Whereas, Congressman Charles Rose introduced House Bill 5042 into the United States House of Representatives and Senator Terry Sanford introduced Senate Bill 2672 into the United States Senate for their consideration and passage into law; and

Whereas, the North Carolina Commission of Indian Affairs, pursuant to North Carolina General statute §143B-407, which states that the Commission will ". . . provide for official State recognition by the Commission of such groups; and to initiate procedures for their recognition by the federal government"; and

Whereas, the Lumbee Tribe has, since 1888, pursued federal recognition by the United States of America and has been recognized by the state of North Carolina since 1885 as a separate and viable Indian entity.

Now, therefore, be it resolved by the Governors' Interstate Indian Council at its 39th Annual Meeting in Nashville, Tennessee, that it does hereby support and endorse the efforts of the Lumbee Tribe to gain federal recognition.

Adopted August 12, 1988.

[Ysleta del Sur Pueblo]

Whereas, the U.S. Congress has exercised its authority by restoring or extending the Federal relationship to tribes subject to termination-era legislation, such as 1956 Lumbee Act, without relegating any tribe through Interior's federal acknowledgement process.

Be it therefore resolved, that the Tribal Council hereby support extending the Federal relationship to the Lumbee, and

Be it further resolved, that the Tribal Council memorializes the Congress of the United States to adopt the "Lumbee Recognition Act" as proposed in H.R. 1426 and S. 1036.

[Wampanoag Tribal Council of Gay Head, Inc.]

RESOLUTION

Whereas, the Wampanoag Tribal Council of Gay Head, Inc. is the governing body of the Gay Head Wampanoag Tribe, a Federally Recognized Tribe; and,

Whereas, the Lumbee Tribe of North Carolina has sought federal recognition from Congress for more than one hundred years, but has been denied due to the large size of the tribe and the cost of providing services to tribal members;

Whereas, the Department of the Interior has studied the history of the Lumbee Tribe at the request of Congress on three occasions (1912 Pierce, 1915 McPherson, and 1933 Swanton reports) and has concluded that the Lumbee are Indian descended from the Cheraw and other coastal North Carolina tribes, and function as a separate, self-governing people;

Whereas, the Lumbee Tribe of North Carolina is subject to a 1956 federal act, 70 Stat. 254, which recognizes it as Indian and also precludes the application of general Indian statutes to it;

Whereas, the Associate Solicitor for Indian Affairs has determined that the 1956 Lumbee Act makes the Lumbee Tribe ineligible for administrative recognition under 25 C.F.R. Part 83;

Be it hereby resolved, that the Gay Head Tribe of Wampanoag Indians supports the immediate enactment of federal legislation that would extend full federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina.

Certification: The motion was made and duly seconded to adopt the above resolution at a meeting of the Officers and the Board of Directors of the Wampanoag Tribal Council of Gay Head, Inc. on October 24, 1990, there being a quorum present.

[Tunica-Biloxi Indians of Louisiana]

RESOLUTION NO. 02-91

Whereas, the Lumbee Tribe of North Carolina has sought federal recognition from Congress for more than one hundred years, but has been denied due to the large size of the tribe and the cost of providing services to tribal members; and

Whereas, the Department of the Interior has studied the history of the Lumbee Tribe at the request of Congress on three occasions (1912 Pierce, 1915 McPherson, and 1933 Swanton reports) and has concluded that the Lumbee are Indians descended from the Cheraw and other coastal North Carolina tribes, and function as a separate, self-governing people; and

Whereas, the Lumbee Tribe of North Carolina is subject to a 1956 federal act, 70 Stat. 254, which recognizes it as Indian and also precludes the application of general Indian statutes to it; and

Whereas, the Associate Solicitor for Indian Affairs has determined that the 1956 Lumbee Act makes the Lumbee Tribe ineligible for administrative recognition under 25 C.F.R. Part 83, now therefore be it

Resolved, that the Tunica-Biloxi Indian Tribe supports the immediate enactment of federal legislation (Bills H.R. 2335 and S. 901) that would extend full federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina.

[Tribal Council of the Penobscot Nation]

Whereas, the Penobscot Nation is a federally recognized, sovereign Indian tribe whose seat of government is located at Indian Island, Maine; and

Whereas, the Penobscot Nation did not receive federal recognition until 1979 and knows full well the situation of being a state recognized tribe; and

Whereas, the Lumbee Tribe now has before Congress two legislative documents, H.R.

2335 and S. 901 which seek federal recognition for the tribe; and

Whereas, the Lumbee Tribe is constrained under other federal legislation from seeking federal legislation through the Federal Acknowledgment Process; and

Whereas, the people of the Penobscot Nation fully recognize the people of the Lumbee Tribe as Indian people; and

Now, therefore be it resolved, that the Penobscot Nation Governor and Council strongly urges Congress to favorably resolve this issue and extend full recognition to the Lumbee Indians with all the rights and privileges belonging to that status.

Be it further resolved, that this Resolution shall be effective immediately and that copies of this Resolution be sent forthwith to all concerned parties.

[Governing Body of the Little Shell Tribe of Chippewa Indians of Montana]

RESOLUTION NO. LS–91–03

Whereas, the Little Shell Tribe of Chippewa Indians of Montana presently has pending before the Department of the Interior a petition for Federal acknowledgment under 25 CFR Part 83; and

Whereas, the Little Shell Tribe fully recognizes the Lumbee Tribe of North Carolina as an independent Indian people; and

Whereas, the Lumbee Tribe is subject to a 1956 act of Congress that recognized the Lumbees as Indian but precludes the delivery of Federal Indian services and the application of general Indian statutes to them; and

Whereas, in 1989 the Associate Solicitor's Office determined that because of the 1956 act the Lumbee Tribe is not eligible for Federal acknowledgment under 25 CFR Part 83; and

Whereas, the only two other Indian tribes (Pascua Yaqui and Ysleta del Sur Pueblo) subject to a preclusive act like the 1956 Lumbee Act have since been recognized by the Congress; and

Whereas, there are presently pending in the Congress bills to extend the full Federal relationship to the Lumbee Tribe; and

Whereas, the numerous studies done over the last hundred years by the Department of the Interior fully document the tribal status of the Lumbee Indians;

Be it therefore resolved, that the Little Shell Tribe of Chippewa Indians supports enactment of the pending Lumbee recognition bills and urges Congress to act expeditiously on the same.

[Narragansett Indian Tribe of Rhode Island]

RESOLUTION NO. TC 91–20

Whereas, the Narragansett Indian Tribe of Rhode Island is a Federally Recognized and Acknowledged Tribe; and

Whereas, the Narragansett Indian Tribal Council is the Governing Body of the Tribe; and

Whereas, the Lumbee Tribe of North Carolina has sought federal recognition from Congress for more than One hundred (100) years, but has been denied due to large size of the tribe and the cost of providing services to tribal members; and

Whereas, the Department of Interior has studied the history of the Lumbee Tribe at request of Congress on three occasions (1912 Pierce, 1915 McPherson, and 1933 Swanton reports) and has concluded that the Lumbee are Indian descended from the Cheraw and other coastal North Carolina tribes, and function as a separate, self-governing people; and

Whereas, the Lumbee Tribe of North Carolina is subject to a 1956 federal act, 70 Stat. 254, which recognizes it as Indian and also precludes the application of general Indian statutes to it; and

Whereas, the Associate Solicitor for Indian Affairs has determined that the Lumbee Act makes the Lumbee Tribe ineligible for administrative recognition under 25 C.F.R. Part 83;

Now, therefore be it resolved, by the Narragansett Indian Tribal Council that the Narragansett Indian Tribe fully supports the immediate enactment of federal legislation that would extend full federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina.

[Miami Nation of Indians of the State of Indiana, Inc.]

MIAMI COUNCIL RESOLUTION VII

Whereas, the charter of the Miami Nation of Indians of the State of Indiana calls for the tribal government to advance the mental, social, and moral well-being of said tribe, and to promote the mutual protection of the membership and to improve our general welfare;

Whereas, the Tribal Council of the Miami Nation of Indiana has established the achievement of federal recognition of the tribe as a goal of the highest priority; and

Whereas, the Council of the Miami Nation of Indians of Indiana seeks to strengthen tribal governance, welfare, and economic development to further said Charter goals and prepare for federal recognition of the tribe;

Now, therefore be it resolved that the Miami Tribal council being the governing body of the Miami Nation of Indians agrees to authorize Arlinda Locklear, Esquire to present the rebuttal evidence to the Branch of Acknowledgement. Bureau of Indian Affairs on behalf of the Miami Nation of Indians on or before June 17, 1991.

RESOLUTION NO. 120690–02 OF THE MASHANTUCKET PEQUOT TRIBAL COUNCIL, THE GOVERNING BODY OF THE MASHANTUCKET PEQUOT TRIBE, LEDYARD, CT

Whereas the Lumbee Tribe of North Carolina has sought federal recognition from Congress for more than one hundred years, but has been denied due to the large size of the tribe and the cost of providing services to tribal members;

Whereas the Department of the Interior has studied the history of the Lumbee Tribe at the request of Congress on three occasions (1912 Pierce, 1915 McPherson, and 1933 Swanton reports) and has concluded that the Lumbee are Indian descended from the Cheraw and other coastal North Carolina tribes, and function as a separate, selfgoverning people;

Whereas the Lumbee Tribe of North Carolina is subject to a 1956 Federal act, 70 Stat. 254, which recognizes it as Indian and also precludes the application of general Indian statutes to it;

Whereas the Associate Solicitor for Indian Affairs has determined that the 1956 Lumbee Act makes the Lumbee Tribe ineligible for administrative recognition under 25 C.F.R. Part 83: Now, therefore be it

Resolved, That the Mashantucket Pequot Tribal Council supports the immediate enactment of federal legislation that would extend full federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina.

RESOLUTION NO. 1116/91

Whereas the Fond du Lac Reservation is a sovereignty, possessed of the jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac reservation; and

Whereas it is the sovereign obligation of the Fond du Lac Reservation under the Treaty of 1854 and the Indian Self-Determination Act, P.L. 93–638, 25 U.S.C. section 450 et seq., to assume responsibilities of Self-Government; and

Whereas the Lumbee Indian Nation of North Carolina has pursued federal recognition as an Indian tribe for over thirty years; and

Whereas the Fond du Lac Band of Lake Superior Chippewa have for the past several years supported the Lumbee Tribe of North Carolina in their efforts to become a federally recognized tribe.

Whereas the House has adopted a law granting federal recognition to the Lumbee Tribe of North Carolina which is known as H.R. 1426 "Lumbee Recognition Act"; and: Now, therefore , be it

Resolved, That the Fond du Lac Band of Lake Superior Chippewa hereby states its continuing support for federal recognition of the Lumbee Tribe of North Carolina; and be it further

Resolved, That the Fond du Lac Reservation Business Committee, the Governing Body of the Fond du Lac Band of Lake Superior Chippewa, hereby directs its Chairman, Robert B. Peacock, to make this support known to the Minnesota Representatives in the Senate and request their support in the approval of the "Lumbee Recognition Act," S. 1036.

LUMBEE RECOGNITION RESOLUTION NO. 10/20/88

Whereas Great Lakes Inter-Tribal Council, Inc. is a consortium of the eleven (11) Federally recognized Tribes located within the State of Wisconsin, and

Whereas the member Tribes acknowledge the right of Indian people to achieve and maintain Federal Recognition for their Tribes and support the effort of those Tribes who are not currently recognized but desire to achieve this status, and

Whereas Great Lakes Inter-Tribal Council, Inc. is familiar with the long struggle of the Lumbee people to achieve recognition status for their Tribe, this being their inherrent right as Indian people, so: Therefore be it

Resolved, The eleven (11) member Tribes of the Great Lakes Inter-Tribal Council, Inc. hereby express their support to the Lumbee Indians of North Carolina in the Tribe's quest to secure Federal recognition, and be it further

Resolved, The right to be recognized as an Indian Tribe by the Federal government is an inherrent right of Indian people that must not be questioned or withheld when applied for.

POARCH BAND OF CREEK INDIANS,
Atmore, AL, August 16, 1988.

Mr. DANIEL INOUYE,
Chairman, Select Committee on Indian Affairs,
Hart Senate Office Building, Washington, DC.

DEAR MR. INOUYE: The Poarch Creek Indians has enjoyed many years of friendship with the Lumbee Tribe of North Carolina. On July 14, 1988, H.R. 5042 was introduced to provide federal recognition for the Lumbee Indians. This initiative is a result of the Lumbees' years of effort to acquire acknowledgment as a federally recognized tribe.

While it has been the official position of this Tribe that only those tribes who can meet the criteria of the federal acknowledgment process should be afforded government to government relations with the federal government, the Poarch Creek Indians Concur with their friends that special consideration should be extended.

The Lubbees' extensive involvement over a long period of time in Indian affairs represent a compelling reason for Congress to consider expediting the recognition process. The size and cohesiveness of the group is another factor supporting special consideration.

Unfortunately, the Lumbees' situation is complicated by the disparity between the means and standards and procedures of federal agencies. The BIA has not enjoyed the resources to perform a timely and efficient job in evaluating petitions for federal recognition. It is not surprising that the Lumbees assert that the administrative burden and cost of processing their petition is extreme.

While the Poarch Creek Indians would caution Congress regarding other groups using legislative recognition as a vehicle for circumventing established administrative procedures, Congress should consider a special appropriation for the BIA to accelerate its review process. Additional measures ought to be examined by Congress to expedite the acknowledgment process for the Lumbers as well as other tribal groups.

We appreciate your continued efforts to address the multitude of problems which exist in Indian country. The concern of the Select Committee on Indian Affairs regarding this unique problem is greatly appreciated. If we can be of further assistance, please feel free to contact me.

Sincerely,

EDDIE L. TULLIS,
Tribal Chairman.

Washington, DC, September 19, 1991.

Hon. GEORGE MILLER,
Chairman, House Interior and Insular Affairs Committee, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MILLER: The National American Indian Council is writing to you to let you know that N.A.I.C. supports H.R. 1426, the Lumbee Federal Recognition Legislation.

The Lumbee Tribe has been seeking justice from the US Congress for over 100 years and its time Congress did the right thing. The Lumbees are ineligible for the B.I.A. Administrative Process for Federal Recognition and should not be subjected to a dual process. No other tribe has since the 1978 process was established.

The Congressional Lumbee Act of 1956 should be amended to correct the injustice done to this tribe based on termination policies of the 50's.

The National American Indian Council board of directors have unanimously endorsed legislative recognition of the Lumbee Tribe. Support this legislation so that no Lumbee child will ever again be ridiculed by white and black peers because this countrie's government does not recognize his heritage and people who have sent Lumbee soldiers to every major war conflict in this country's history.

May the Great Spirit guide your heart in this deliberation.

Sincerely,

LEE ANN TALLBEAR,
Executive Director.

THE UNITED METHODIST CHURCH,
Lakeland, FL, October 4, 1991.

Hon. BOB GRAHAM,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: I am writing to ask your support for legislation which is designed to give full Federal recognition to the Lumbee tribe in North Carolina. In the House (HR Bill 1426) the legislation was passed on September 26 by a vote of 263 to 154.

While I am the United Methodist Bishop of the Florida Area, United Methodists of the Southeastern United States have a great concern for issues affecting our Native American friends, and have across the years supported various missions/social outreach efforts on behalf of the Lumbee people in North Carolina.

Attached is a Resolution adopted by the Third SEJ Native American Conference held in September in Lake Junaluska, North Carolina.

Your favorable consideration of this Bill will be most appreciated.

Thanking you very much, I am

Sincerely yours,

H. HASBROUCK HUGHES, Jr.

MENOMINEE INDIAN TRIBE OF WISCONSIN
RESOLUTION NO. 88-85

Whereas, the Menominee Tribal Legislature is the governing body of the federally recognized Menominee Indian Tribe of Wisconsin; and

Whereas, the Menominee Tribal Legislature recognizes and supports the efforts of the Lumbee Tribe of North Carolina to seek federal recognition; and

Whereas, the Menominee Indian Tribe of Wisconsin through its elected governing body, realizes that the Lumbee Tribe of North Carolina may be legislatively granted federal recognition by the United States Congress; and

Now, Therefore, Be It Resolved by the Menominee Tribal Legislature representing the Menominee Indian Tribe of Wisconsin, hereby requests the House Interior Committee and the Senate Select Committee to give proper and due consideration towards the efforts of the Lumbee Tribe of North Carolina to gain federal recognition.

NINILCHIK TRADITIONAL COUNCIL,
Ninilchik, AK, January 24, 1990.

ADOLPH BLUE,
Chairman, LRDA,
Pembrooke, NC.

DEAR CHAIRMAN BLUE: I am happy to offer, on behalf of the Ninilchik Traditional Council, full support for the Lumbee recognition bills, which would extend full federal recognition to the Lumbee Tribe.

Your representatives were very moving and earnest in their testimony before the Senate Select Committee and made quite an impression on our staff person, Gary Oskolkoff, who was also in attendance.

We empathise with your plight as we are also making an effort to obtain, once again, our full federal recognition which was taken away from us four years ago due to what we have been told was, a clerical error.

We have also contacted the appropriate congressional reps on your behalf.

Sincerely,

D.L. OSKOLKOFF,
Executive Director.

QUINAULT INDIAN NATION,
Tamolam, WA, August 22, 1988.

HON. DANIEL K. INOUYE,
Chairman, Senate Select Committee on Indian Affairs, Washington, DC.

DEAR CHAIRMAN INOUYE: The Quinault Indian Nation supports serious Congressional considerations and enactment of S. 2672, the "Lumbee Recognition Act of 1988."

Under normal circumstances, the Quinault Nations's policy of Federal recognition of Indian Tribes has been to support the Federal acknowledgement process. We, in fact, provided written correspondence for the recent Senate Select Committee on Indian Affairs Oversight hearing on the Federal Acknowledgement Project encouraging expanded Federal support for this operation.

The Lumbee Tribal situation, however, requires special Congressional consideration. I do not doubt that the present Lumbee Tribe represents the descendants of American Indian people who originally inhabited rural North Carolina. State and Federal attempts to disperse, relocate, and destroy these people are historically documented as another sad chapter of this country's past. The Lumbee Tribes resistance and resilience against these overwhelming odds is remarkable.

I am concerned that the size of the Lumbee Tribal enrollment will become a key factor in Federal acknowledgement considerations. The financial commitment involved in the Federal acknowledgement of the Lumbee Indian people should rest with Congress rather than a timid bureaucracy. The realization in Section 4(a) provision of this impact on the Indian Affairs bureaucracy requiring specific additional appropriations to serve the Lumbee people is sensitive to the concerns of other tribes regarding further diminishment of limited resources.

Therefore, I support passage of S. 2672, the Lumbee Recognition Act.

Sincerely,

JOSEPH B. DELACRUZ,
President.

SEMINOLE TRIBE OF FLORIDA,
Hollywood, FL, January 2, 1990.

Hon. MORRIS K. UDALL,
Chairman, House Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR CHAIRMAN UDALL: I am writing as Chairman of the Seminole Tribe of Florida to register the views of our Tribe on the above-captioned bill, which would extend federal recognition to the Lumbee Indians.

The Seminoles and Lumbees share a special bond as tribes from the eastern coast of this country. As you know, history does not speak as clearly about many of the coastal tribes. These are the Native Americans who first sacrificed their lands and lives to European settlement centuries ago, but have since been largely forgotten as the United States grew up around them.

The Seminoles and the Lumbees have maintained a cordial relationship for many years. The National Congress of American Indians has passed a resolution in support of the Lumbee recognition effort. The majority of the tribes of United Southeastern Tribes, including the Seminoles, would like to see Congress recognize the Lumbees.

The Seminole Tribe of Florida does not seek to deny the rights of other tribes seeking Federal recognition through the administrative process. The Lumbees have also submitted their petition to the Department of Interior. But since it appears the Lumbees are not eligible to be recognized under the administrative process, this legislation is clearly needed. We strongly encourage the Committee to approve this bill.

SHO NAA BISHA,
JAMES E. BILLIE.

SMALL TRIBES ORGANIZATION
OF WESTERN WASHINGTON,
Sumner, WA, September 23, 1988.

Senator DANIEL EVANS,
Washington, DC.

DEAR SENATOR EVANS: We urge your support of S.B. 2672, a bill to provide Federal recognition to the Lumbee Tribe of North Carolina.

It is not controverted that the Lumbee are descendants of North Carolina Tribes and have maintained a distinct Indian community since the time of white contact.

The tribe has been recognized by the State of North Carolina since 1885.

The American Indian Policy Commission (1977) documented that, "The Federal Government's most callous treatment of American Indians during this century flared during the 1950's and 1960's." During this period, there was an errant attempt to disavow its responsibilities to tribes through legislation.

The Lumbee Act of 1956 recognized the tribe, but did not furnish benefits. This deficiency should be corrected. Only Congress can lift this statutory restriction, and should do so.

Indian policy should be applied equitably to all Indian tribes. When inconsistencies and oversights in the Indian policy of the United States are exposed, they should be corrected.

Thank you for your consideration of this matter.

Sincerely,

Donald Mechals, Tribal Chairperson, Chinook Indian Tribe; Cecile Maxwell, Tribal Chairperson, Duwamish Tribe; Karen Boney, Tribal Chairperson, Snoqualmie Tribe (Sdukqalbix); Patrick Clements, Executive Director, Small Tribes Organization of Western Washington; John Barnett, Tribal Chairperson, Cowlitz Indian. Tribe; Robert Woodley, Tribal Chairperson, Snohomish Tribe of Indians; Joan Ortez, Tribal Chairperson, Steilacoom Tribe.

I yield the floor.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. SANFORD. Yes, to the leader.

The PRESIDING OFFICER. He yields back to the chairman of the committee.

The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum, and ask that the time not be taken from either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, the pending order of business before the Senate is whether the Congress will legislatively confer Federal recognition on the Lumbee Indian Tribe of North Carolina.

The fact of the matter is that we're debating the wrong issue. The Senate should be debating whether it will continue to permit the existence of two recognition processes: The current administrative recognition process within the Interior Department—which operates according to established criteria, or the legislative recognition process—operates without any established criteria. The continued existence of two recognition processes is a proven formula for unfairness. It is especially unfair to those petitioners who are frustrated with the administrative process but are unable to muster the political support necessary to move a recognition bill through the Congress.

At the same time, I have great compassion for the Lumbees who literally waited years for the Interior Department to act on their petition, only to be told later that their petition had been legislatively barred from further administrative consideration. What other choice do the Lumbees have if overcoming the bar means that they then have to marshall additional resources to confront a Federal recognition process that is costly, protracted, and cumbersome? What are the Lumbees to do when faced with an administration that has heretofore refused to even acknowledge that the recognition process at the Interior Department is flawed?

I am neither for or against the Lumbee petition. In fact, I do not believe that we have the resources in the Senate to determine if the Lumbee Tribe meets the criteria employed by the Interior Department. While the administration has indicated its strong opposition to the bill and may veto it if it is sent to the President, the administration has chosen to ignore the issue of reform. I feel like a petitioner myself in waiting for the administration to face reality and to begin working cooperatively with the Congress on legislation to reform the Federal recognition process.

In 1978, 1983, 1988, 1989, and 1991 the Select Committee on Indian Affairs held oversight hearings on the Federal recognition process. At each of these hearings the record has clearly shown that the current administrative process for Federal recognition of certain Indian groups is a very costly and protracted one. There needs to be consistency and fairness in the Federal recognition process, which has too often been characterized by inconsistency and the lack of fairness. That is why I have repeatedly introduced legislation to reform the current process. The parameters on any future reforms, in my view, must be the existence of only one Federal recognition process with firm timelines and an endpoint for the consideration of all petitions. Until such legislation is enacted, the Members of this body will continue to find themselves rendering judgment on more and more individual recognition bills.

One would think that after so many oversight hearings on the Federal recognition process, especially within the past few years, the administration would get the message that the system is flawed and in need of reform. Incredibly, despite numerous hearings on this issue and various legislative alternatives that have been offered by members of the select committee over the past few years, the administration's response has been to ask for additional time so that they could more fully develop their own proposed revisions to the existing recognition process.

The administration has run out of time. Hopefully, this debate will spur the administration into action. I will do all I can to see that legislation reforming the Federal recognition process is brought to the full Senate before the end of the session.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum, the time not be taken away from the quorum call.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent to proceed as in morning business for not to exceed 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHY JAPAN BASHING HURTS ALL AMERICANS

Mr. WALLOP. Mr. President, a few years ago in Detroit, two white auto workers used a baseball bat to beat an Asian-American to death. His murderers blamed Vincent Chin for the problems of domestic car companies. Never mind that Mr. Chin was of Chinese descent and had no relation whatsoever to Nissan, Toyota, or Mitsubishi; these disillusioned workers were mad, and Vincent Chin happened to be nearby.

Mr. President, there is a striking similarity between the unwarranted blaming of Vincent Chin and the current round of Japan bashing. No; it is not as blatant. The politicians, if nothing else, recognize the importance of finessing their remarks; so they may couch their blame in subtler terms. One Democratic Presidential candidate demands that the Japanese reduce their surplus by 20 percent, down to zero, in 5 years, or else. He tells them there are two ways to do it: "Buy more or sell us less." As if curtailed access to inexpensive, high quality products will somehow help American consumers and manufacturers. After all, are not the largest purchasers of Japanese auto parts America's big three automakers?

The Presidential challengers—from Pat Buchanan on the far right, the Senator from Iowa on the Democratic left—are improvising the old tune of America first.

There is the TV plot depicting one democratic candidate guarding a hockey net while warning the Japanese that "if we cannot sell in their market, they cannot sell in ours." A variation on the theme most of us probably employed back in the sandbox. Or the more soft-spoken Democrat Paul Tsongas who cracks, "the cold war is over, and Japan won." Another popular theme: the myth of America in terminal demise and Japan, "The Rising Sun," on the ascent. From many who should know better we hear subtle to outright blame of Japan for our recession.

All this political rhetoric is not only wrong, but dangerous. With it, we risk doing real damage to the Japanese-American alliance, our most important alliance in this post-Soviet era. Maybe we all need reminding that together America and Japan account for close to 40 percent of the world's GNP, that America, not Japan, is the world's largest exporter, and that Japan is the biggest buyer of our goods in the world. Since 1985, United States exports to Japan have more than doubled, to $48 billion in addition to 55 billion dollars' worth of goods purchased from American companies in Japan. To put it simply: the United States exports more to Japan than it does to Germany, France and Italy combined.

But our political rhetoric against Japan—whether it claims "America first," "economic nationalism," or otherwise—is dangerous for another reason. Its racist undertones are evident. Why do we hear so much about the Japanese "buying up America" when Japanese investment is still only 60 percent of total British investment in the United States? Adjusted for Japan's and Britain's populations that means the average Briton owns nearly four times as much of America as the average Japanese. And why are there anti-Japanese protests in Louisville when Toyota's plant expansion there will mean 200 new American jobs in the local economy? The racist element, whether overt or implied, is there. And it is ugly. And inevitably anger aimed at Japan hits Asian-Americans—a grievous legacy which found its roots in our deeming Japanese-Americans enemy aliens in World War II.

And this racism is compounded by hypocrisy. Americans complain about Japanese firms building plants here, plants which create jobs. But then we gripe about American firms building plants in the Philippines or Mexico. Why? Because it takes jobs away from Americans. We overlook the fact that investments are a positive-sum game, a win-win scenario. It is good for all the world's countries to invest in each other.

America does many things well—excelling in the aircraft, software, pharmaceutical, telecommunications, and agriculture industries, to begin a long list. Across the board, we are the most innovative most productive country in the world. But when we allow ourselves to seek scapegoats in though economic times, we all suffer, we are all demeaned by it. We hurt others without reason and hurt ourselves without knowing. Because America is bettered by the contributions of those Americans of Asian descent—I think of our olympic champion, Kristi Yamaguchi—and because all of us benefit by Japanese investment in this country which now employs 600,000 Americans and buys a huge portion of America's debt, "every stroke our fury strikes is sure to hit ourselves at last," to quote William Penn.

I do not suggest that Japan is above reproach. Far from it. Only an arrogant and stagnant nation would so claim itself. And while remarks by a few Japanese politicians were unfair and unfortunate, they are no more indicative of Japanese sentiment than those spoken by some politicians here in the United States are of American sentiment. But before we castigate Japan's markets as impenetrable and their trade practices as beyond repair, we would do well to go beyond the theatrics, beyond the symbols and concentrate on the real problems. And there are problems—whether they be licensing requirements that are unnecessarily stringent or a distribution system which is outmoded. Let us also not presume that problems of access are in Japan alone. Please look at the vastly more protectionist policies of Europe and E.C. 1992. Are these barriers more acceptable because they are white barriers? I reject that notion.

But let us look at what Japan is really doing. One thing is certain: Japan does import a lot, so its markets are by no means closed. And those imports are clustered in a striking way. Japan exports very little food, raw materials or fuels, but imports a lot of these. By contrast it imports relatively few motor vehicles or other machinery, but it exports a lot. What that suggests is that Japan follows the principle of comparative advantage: exporting what it is good at making, and importing what it lacks. Is this, after all not the reason countries trade in the first place? Certainly they do not do it to put themselves at a disadvantage. They trade with one another so they may more efficiently utilize the resources which they do possess; so they may import goods which they cannot produce efficiently—providing greater choice to their consumers; and so they may expand the markets for the goods which they do produce.

I also suggest that if each of the world's trading countries insisted on a perfect balance, all trade with the Third World and the developing countries would cease immediately.

A trade deficit is all too often taken as conclusive proof of unfairness. But let us allow the consumers, American and Japanese, to decide what a good buy is. And while it may be easy to construe Japan as a villain, such attempts are short-sighted and illusory. I think it is time to stop looking at Japan as the enemy and start recognizing it as one of America's vital trading partners and allies. In so doing may we both enjoy the fair judgment and continued economic prosperity which will surely result.

Mr. President, I ask unanimous consent that a piece from the Washington Post of February 3, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD:

THE FALLOUT FROM JAPAN-BASHING

(By Frank H. Wu)

In a demonstration of the principle that the only way to get rid of temptation is to yield to it, politicians faced with the country's economic problems in an election year have given in to scapegoating. They have led the country to blaming Japan for our woes. Although most people who criticize Japan do not mean to make an issue of race, they don't realize that hatred of Japan blurs into hostility toward some of their fellow citizens.

On occasion, sentiments directed against Japan are voiced with express racial prejudice. Television commentator Andy Rooney, for example, has admitted, "I'm vaguely anti-Japanese. Don't ask me why. Just prejudice, I guess. I'm very comfortable with some of my prejudices and have no thought of changing them now."

More often, Japan becomes a symbol for anything Asian, including Asian Americans. When a public figure uses the epithet "Jap" and then apologizes because he had no idea the term is anything other than an abbreviation, he probably also does not understand that it implies Asian Americans.

Along this line, during the last recession, Rep. John Dingell (D-Mich.) complained that American jobs were being lost to "little yellow men." His statement could have meant that domestic workers had their livelihood threatened by overseas competition, but it just as easily might have referred to white employees meeting Asian-American colleagues. It would not have helped much if he had paused to add, "The little yellow men who are Americans are okay, though."

Invitably, anger aimed at Japan hits Asian Americans. That has been true ever since Japanese Americans were deemed enemy aliens in World War II. But Asian Americans did not realize that they still had to worry, and about trade imbalances, until a few years ago, when in Detroit, two white auto workers used a baseball bat to beat an Asian American to death. His murderers blamed Vincent Chin for the problems of domestic car companies.

Perhaps forgetting the Japanese American internment, people have explained to me that I must recognize that many Americans are still angry about World War II and Vietnam, and that helps explain their frustration at foreign competition. Needless to say, I am not persuaded that they should be angry with me. After all, Chrysler chairman Lee Iacocca, who is proud of his Italian ancestry, is not called upon to apologize for the fact that Italy was an Axis power nor held to account for its contemporary political affairs—and rightly so.

The popular worries about the rise of Asia and the decline of the West seem to take Asian Americans as an example of both trends. When people say that America is becoming a colony of Japan and then post signs in a neighborhood with a large Asian-American population saying that the last American to leave should turn out the lights, their concern is no longer about relationships among countries.

While Japan and Asian Americans are treated as akin to one another, Japan and European nations are dealt with differently. It sounds even-handed if far-fetched to warn against any foreign interest trying to take over the American economy. But alarms are not sounded over the conduct of all multinational companies, only Japanese-based ones, even when others are doing more or less the same thing.

In the last decade of foreign investment, British companies bought up more than their Japanese counterparts. In Cleveland, where I live, the British Petroleum skyscraper is an imposing presence on the downtown public square, apparently without bothering anyone very much. I wonder if the same would be true if a Japanese petroleum building were there instead.

None of this is to suggest that Japan is above criticism, whether for its trade practices and ambitions in Asia, or its own racism and antisemitism, or numerous other reasons. To the contrary, if attacks on Japan do not become attacks on Asian Americans, and if policies treat Japan like other countries, then legitimate criticism will not degenerate into Japan bashing.

Mr. WALLOP. Mr. President, the purpose of this is to counsel Americans that this current round of Japan bashing is beginning to result in certain very dangerous racial incidents. This morning there was a businessman of Japanese descent in Ventura, California who stepped through his door and was murdered, I believe primarily because he was of Japanese descent.

I think it ill behooves our country to have politicians of either side lapse into very politically comfortable but very damaging language in the process of trying to conduct these campaigns.

This is a warning I hope is heeded.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. WALLOP. I am happy to yield.

Mr. INOUYE. I commend my dear friend from Wyoming for his courageous and thoughtful statement. I congratulate the Senator.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

Mr. INOUYE. Under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE LUMBEE TRIBE OF CHERAW INDIANS OF NORTH CAROLINA

MOTION TO INVOKE CLOTURE ON MOTION TO PROCEED

The Senate continued with the consideration of the motion to invoke cloture on the motion to proceed.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, on the time allocated to Senator DOLE or his designee, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. WALLOP. Mr. President, I have just come from a meeting in Senator SIMPSON's office with the Wind River Tribes of Wyoming who expressed their vehement opposition to this piece of legislation.

When inquiring why, they made three very specific points, the first of which is that there is an established procedure for acknowledgment or, as it is called, a procedure by which tribes are able to qualify as tribes and associated status. Their view is that has worked well, that process, and that it ill behooves a tribe which has not been able, or a group which has not been able to be acknowledged as a tribe to step in front of the system, go to the head of the line, as it were, when others are seeking to qualify themselves under the terms and conditions that have existed for 5 years.

More importantly they view this as a significant threat to their funding, to programs that are not only traditional but are underway and needed. And they believe, I think correctly, that there is not going to be a large addition to the funding through the Bureau of Indian Affairs for the Native American peoples of this country.

I think that is fair supposition on their part. It seems very unlikely that there will be large increases in funding. So whatever funding is available will be diluted to the extent that this becomes the large tribes in America overnight not having qualified for acknowledgment under procedures that have existed.

On top of it, I think it is fair to characterize their view that the acknowledgment procedure protects the inherent integrity of the status of Native Americans and that to run across the corner of that and establish by legislative fiat a group of people as Native American is an abuse of the system and fundamentally will dilute the value of that acknowledgment for all other native American people who have qualified under the existing procedures.

So Mr. President, I rise in opposition to this legislation for reasons that the tribes of Wyoming have expressed and for similar kinds of reasons that the Senator from Wyoming feels and wishes to express on his own.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

Who seeks recognition?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator is recognized.

Mr. NICKLES. Mr. President, I would urge my colleagues to vote against cloture, and I do that with great reluctance because I have the greatest respect for Senator INOUYE and his chairmanship of this committee, and I want to acknowledge his leadership in this committee because he has done an outstanding job. He has actually taken the Special Committee on Indian Affairs and really has had a real interest in helping Indians throughout the United States, and I will say including the State of Oklahoma. He has been kind enough to be in my State to talk to Indians, travel around our State to talk to many of the tribal leaders and also to some of the other Indians in our State, to talk about how we can make things better.

We happen to have more Indians in my State of Oklahoma than any other State in the Nation. I am particularly interested and appreciative of his leadership.

I do not support this bill. That does not mean that I oppose recognition. There is difference. I oppose this process. I think most of my colleagues, whether they may or may not be aware, but in 1978 the administration—and that goes back to the Carter administration—worked out with Indian tribal leaders a method of Federal recognition. It is called the Federal acknowledgment process. They set up a process so Congress would not be recognizing tribes because we do not really have expertise, and many times we might not make some of the right decisions concerning eligibility and, tribal recognition is a very important thing. And so, anyway, it was agreed upon to do this through the Federal acknowledgment process.

This is bypassing that process, and says, well, we are going to acknowledge the Lumbees by Congress. And then I am also bothered by the fact that we said, well, we are going to fund it outside of BIA; we are going to fund it directly.

I happen to be the ranking Republican on the Interior Subcommittee, and I do not know where we are going to get the money. I am really concerned about that. And I will talk about that just for a moment. But my main concern is how we recognize tribes. So my comments do not just apply to Lumbees, but they apply to almost any tribe.

You might say, Who cares whether or not we have tribal recognition? Certainly, if they are Indians, are we not going to recognize them? And Congress has recognized tribes in the past. But Congress has made mistakes in the past. And I might say, once a tribe is recognized, it is very hard to make a change in that, as I have learned in my State, as well.

I have a statement of administration policy, and I will just read it into the RECORD.

It says:

> The Administration strongly opposes S. 1036, because the bill would statutorily acknowledge the Lumbee Tribe of Cheraw Indians (North Carolina), as an Indian tribe. If S. 1036 is presented to the President, the Secretary of the Interior would recommend a veto.
>
> In 1978, the Department of the Interior established in regulation a Federal "acknowledgment" process to ensure that all petitions for acknowledgment as an Indian tribe would be evaluated in an objective and uniform manner. The process, developed with the support of the Indian community and Congress, provides each petitioning group the opportunity for an unbiased, detailed review of its petition.
>
> Federal acknowledgement establishes a perpetual government-to-government relationship between the tribe and the United States and has major political, social, and economic implications for the petitioning tribe and Federal, State, and local governments.
>
> S. 1036, however, would circumvent this process. To do so may erroneously acknowledge a group as an Indian tribe, thereby entitling the group to numerous Federal programs and benefits afforded only federally recognized tribes. Recognition through legislation would be unfair to all other groups seeking Federal acknowledgment. It would also undermine the administrative process that was designed to eliminate the need for ad hoc determinations through legislation.

Mr. President, I think that statement of Administration Policy states it very well. Again, I am bothered by the process.

And I might mention, too, that there are a lot of groups or subgroups within certain tribes that would like to be recognized. And you might say, Why? Well, one reason is because of the benefits. The benefits are estimated at being $2,000 or $3,000 per person. That may be part of it.

But in a lot of cases, these are subgroups of an existing tribe. They want to be recognized, in some cases, because, well, they feel as sovereign tribes they can have their own laws dealing with various things such as gaming; such as waste disposal.

In my State, in Oklahoma, we have had some tribes talk about being recipients of waste that is generated all across the country. Now, my State, again having more Indians than any other State, having something like 39 different tribes, I am kind of concerned if we have 39 different groups wanting to say, "Well, we want to be the waste disposal for the entire country"; and saying, "Well, we don't have to comply with State law."

We have a dispute going on right now where one group is talking about having some type of health facility that did not comply with mental health regulations, and so on. You might have some that deal with waste disposal; you would have a lot dealing with gaming. And we have a big issue right now because a lot of tribes wanted to go from what we call class 2 into class 3 gaming, the high-stakes gaming, Las Vegas-type gaming. They want to do that on an unlimited basis.

So you can see, if somebody says, "Well, if we can be recognized as a tribe, then we might be able to have certain advantages, like going into high-stakes gaming." And again, I am not sure that is the right decision to be made. But I do think that Federal recognition does confer benefits, as nation to nation, and therefore we ought to be careful and make sure we do not make a mistake.

And I might mention, too, you would think by now we would know most of the tribes. I understand the Lumbees are in a different situation. I also understand in 1956 there was legislation that passed that would prohibit—that would actually prohibit—them from recognition. I think that is wrong. And if the chairman of the Indian Affairs Committee would like to, I would be happy to support a substitute amendment that would eliminate that restriction so they could go through the Federal recognition or acknowledgment process like any other tribe, as several other tribes are petitioning to do right now.

Right now, they are barred statutorily from recognition. That is a mistake, and we need to change that. And I will be happy to support that. The administration would be happy to support that. My guess is that could become law in a very short period of time.

Now, concerning one other matter, and this is a very important matter, because my guess is that the reason the Lumbees really want to be recognized is because they believe they will receive more money.

I am the ranking Republican on the Interior Subcommittee. I do not know if we are going to have any new money in the Interior bill whatsoever. Last year, we had growth in the Interior bill of about 1 percent. I understand the cost of this. If it equals $2,000 to $3,000 per person, as estimated by the BIA—we are talking about as much wealth as $3,000 per person and you are talking about 50,000 Indians—that is as much as $150 million.

I heard Chairman INOUYE say, well, many of these people are already receiving benefits, so it would not be all incremental, new. But in all likelihood it would be significant. I do not know. If it is not $150 million, maybe it would be $100 million; maybe $120 million; maybe $80 million.

In our bill, we may not have $80 million more to spend than we had last year. And I would question, with the needs that we have—and I will tell you we have very large needs, if you are talking about Indian health care, Indian education. A lot of our health care facilities in Indian hospitals and clinics are pathetic. They are not poor, they are pathetic. We need significant improvement. They have been ignored for years.

Again, I compliment Senator INOUYE because he has helped us try to put some energy and efforts and dollars in making some improvements there. But there could be an enormous demand.

And I might mention this does not go through the BIA. This goes outside the BIA. The BIA now has a budget of about $1½ billion, but this could be a cost of almost 10 percent of that.

It does not go through the BIA. It goes into a direct appropriation directly to the tribe. We do not do that for hardly any other tribes. We have a lot of tribes that would love to have direct appropriations, but most of them do not. Some of them are talking about it. And we are actually trying that now in a couple cases where tribes have petitioned so they could have bypassed the BIA. But most of the funds for Indian assistance go through the BIA. This would bypass the BIA.

Again, I will just tell my colleagues that this bill, as presently drafted, is strongly opposed by the administration. I am sure that they would veto it. So I hope that we would not do that.

I hope that we would not vote for cloture. And if cloture is not invoked, then maybe we could pass a substitute amendment by myself and others that would allow the recognition and acknowledgement process to proceed, and the Lumbees could go forward just as any other tribe or any other proposed tribe would petition the Federal Government.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

The Senator from Hawaii has 9 minutes remaining.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, if I may, I would like to respond to my dear friend from Oklahoma.

First, the State of North Carolina, by an act of their legislature and approval by the Governor, recognized the Lumbees as a Government entity in 1885. Since that time to this moment, the State has recognized the Lumbees as a viable Indian tribe. Accordingly, the State has conferred upon them benefits, financial and otherwise.

At this juncture, I ask unanimous consent that a letter from the honorable James G. Martin, Governor, the State of North Carolina, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF NORTH CAROLINA,
OFFICE OF THE GOVERNOR,
Raleigh, NC, July 30, 1991.

Senator DANIEL K. INOUYE
Chairman, Senate Select Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR INOUYE: I have asked James S. Lofton, Secretary of the North Carolina Department of Administration to represent me at the Joint Hearing regarding S. 1036, the Lumbee Recognition Bill, which will be held on August 1. Secretary Lofton will be accompanied by Henry McKoy, Deputy Secretary of the Department of Administration, Patrick O. Clark, Chairman of the North Carolina Commission of Indian Affairs, and A. Bruce Jones, the commission's executive director.

I fully support the passage of S. 1036 and am requesting the support of the Senate Select Committee on Indian Affairs. The State of North Carolina has recognized the Lumbee Tribe as a separate and viable Indian entity since 1885. The passage of S. 1036 will entitle the Lumbee to enjoy the same rights, privileges and services enjoyed by other federally recognized tribes in the nation and will, further, be a major step toward rectifying the inequities suffered by the Lumbee people for centuries.

I thank you for your attention to this matter and will appreciate your favorable consideration of my request.

Sincerely,

JAMES G. MARTIN.

Mr. INOUYE. This letter says:

I fully support the passage of S. 1036 and am requesting the support of the Senate Select Committee on Indian Affairs. The State of North Carolina has recognized the Lumbee Tribe as a separate and viable Indian entity since 1885. The passage of S. 1036 will entitle the Lumbee to enjoy the same rights, privileges and services enjoyed by other federally recognized tribes in the nation and will, further, be a major step toward rectifying the inequities suffered by the Lumbee people for centuries.

Mr. President, the Lumbees began the process, seeking recognition in 1888.

They have been waiting for 104 years. In 1956, after much consideration by the Congress of the United States, an act was passed which had intended to recognize the Lumbee Tribe. However, because of a provision in the bill, although the recognition was granted and the books will show that the Lumbees are recognized as a viable Indian tribe, also, it is indicated in one of the provisions that they may not receive any benefits that are accorded to federally recognized Indian tribes, and, as such, they were denied the opportunity of participating in the recognition process which was passed in 1978.

This is a matter of equity. There is no question, all anthropologists, social scientists, and historians concur that the Lumbees are Indians and are entitled to be recognized as such. I hope the Congress of the United States will rectify that bad situation.

This is not a situation where they are trying to get in front of the line while others have been waiting. They have been waiting for 104 years, and I would think 104 years is long enough, sir.

Mr. President, I have been advised that both sides are ready to yield back the remainder of our time.

The PRESIDING OFFICER. The Senator from Oklahoma has 6 minutes remaining.

Mr. NICKLES. Mr. President, I ask unanimous consent to have a letter printed in the RECORD by the Mississippi Band of Choctaws in opposition, as well as a letter by the Cherokees from the State of North Carolina in opposition.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MISSISSIPPI BAND OF
CHOCTAW INDIANS,
Philadelphia, MS, January 14, 1992.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR INOUYE: I am writing in reply to your Dear Tribal Leader letter of November 25 concerning H.R. 1426, the bill to provide federal recognition to the Lumbee Tribe of North Carolina. While I highly respect your position on this matter, I believe that Indian tribal governments need to take the positions that feel best for them on such controversial questions.

Although we have repeatedly received assertions, in correspondance from the Lumbees and their supporters, that the Lumbees are American Indians and their group is a tribe, I have not, in 33 years in tribal government, ever seen a report or other research that proves beyond a reasonable doubt that Lumbees are in fact American Indians with a history of self-government apart from a state-chartered corporation. In fact, it is my impression that the Lumbees have simply not been able to demonstrate historically or geneologically American Indian status. Should you know of any research which does demonstrate this, I would certainly like to examine it, and would ask that you disseminate the information to the tribes that received your November 25 letter.

It is our position that all groups should go through the FAP, and that the Solicitor's ruling denying the Lumbees access to the FAP was mistaken—and it would seem that the Lumbees would have a good legal basis on which to take the Solicitor to court. In the meantime, we would support the Senator Nickles/Congressman Rhodes approach assuring Lumbee access to the FAP.

Sincerely,

PHILLIP MARTIN,
Chief.

THE EASTERN BAND OF
CHEROKEE INDIANS,
Cherokee, NC, October 30, 1991.

Hon. DON NICKLES,
Hart Building, U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: As you know, one of the more controversial bills pending before the Indian Affairs Committee is the proposed legislation to grant federal recognition to the Lumbee Indians of North Carolina. The Eastern Band of Cherokee Indians has serious concerns about this legislation and we laid out our rationale in detail during testimony before the Committee. Contrary to claims by the Lumbees (and as you will note in our testimony), we do not oppose the bill for monetary reasons. Additionally, tribes from across the United States have enacted resolutions stating the same concerns we have always expressed; namely, that the granting of federal recognition to any group of Indian descendants by the Congress, absent the adoption by the Congress of *any* criteria, is a dangerous course to follow and will ultimately diminish the foundations of tribal sovereignty.

Many members of the Indian Affairs Committee have made statements supporting the concept of tribal sovereignty and we are grateful for that. We hope that Committee members understand our desire to protect sovereignty and to ensure there is a legal foundation to the establishment of a perpetual fiduciary government-to-government relationship. This is not anti-Lumbee any more than it is anti-Mowa or anti any of the other pending legislative recognition bills. Certainly it is a conservative view but with the make-up of the Supreme Court, all proponents of sovereignty must be vigilant in ensuring that criteria are met before the relationship is established. Resolutions from tribes in Arizona, California, Nevada, North Carolina, Oklahoma, Michigan, Washington, Montana, Idaho, New Mexico and South Dakota as well as from Inter-tribal Indian organizations including the Affiliated Tribes of Northwest Indians, the Montana-Wyoming Tribal Chairmen's Association, the United South and Eastern Tribes and both inter-tribal Pueblo groups have all said the same thing: there is a process with criteria that have been agreed to and all groups should go through it. If the process needs refinement, do it. We just testified before the Committee in support of S. 1315 to that end.

I am attaching a copy of the Minority and Additional Views from the House Interior Committee on this legislation. I have asked very little from Committee members but I am now making a personal request to you. Regardless of whatever your final position is on Lumbee, please personally read this letter and the attached views. I assume with your busy schedule that you have not been able to read our testimony so I do ask that you read the enclosed as it probably represents our last opportunity to ensure that you have fully reviewed our side of the issue.

Thank you Senator Nickles.

Sincerely,

JONATHAN L. TAYLOR,
Principal Chief.

Mr. NICKLES. Again, Mr. President, let me just state to my good friend, Senator INOUYE, I do not oppose recognition of this tribe if they would go though the process. I do oppose, and I am concerned about, bypassing the recognition process. I am very concerned, as a member of the Appropriations Committee, about two things. One, having the funding outside of BIA. We are giving this tribe, if they are recognized by this statute, direct-line appropriations in a manner that we do not do for any other tribe in the country. I have 39 tribes that would probably like to have direct appropriations. This would give the Lumbees a direct appropriation, but we do not do that for most tribes like the Choctaws, Chickasaws, Creeks, and Seminoles, and I could go on and on with tribes in my State that would love to have such funding. They do not get a direct appropriation.

We would be doing that. I would also say Senator BYRD and I on the Interior Appropriations Subcommittee have an excellent working relationship. We have done some pretty good work in trying to make improvements in Indian country. But we have so much work to do to improve the quality of health care and education and so on through the BIA, it is enormous. To have an addition that is going to be coming out of the Interior bill, which is close to being an entitlement, will make it very difficult for conditions in the entirety of Indian country. I do not know how in the world we could come up with these kinds of funds. Whether the figure would be $100 million, $150 million, $120 million—I have heard all kinds of estimates. I do not believe it is realistic to expect this kind of funding from Congress.

In this bill it authorizes, it does not appropriate, I recognize that; but it authorizes by telling us to provide such sums as we might be able to appropriate. Again, I do not know how we are going to come up with the necessary funding.

Again, I do not believe the Lumbees should have preferred appropriations status above that of other tribes in the country. This bill would do that. So, I hope we will have this tribe follow the procedures, go through the process like all other tribes and as a result, end up having a bill that the President can sign, and which hopefully the Lumbees could receive the Federal acknowledgment which they have been seeking for so long.

One final point I might mention, the substitute amendment which I am prepared to offer, would send the Lumbees through the Federal acknowledgment process on an expedited basis so they would not have any further delays. I heard my colleague say that the Lumbees have sought recognition for 104 years. I understand that. My proposed amendment would allow them to have a fair and thorough evaluation so that they could have an answer in the near future to their request for Federal recognition.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, if I may clarify a few things. This bill does not authorize, nor does it appropriate a penny. It says that with the passage of this measure, upon the verification of the tribal role, the Secretary of the Department of Health and Human Services will conduct a study to determine the needs of the Lumbees. Upon completion of this study, it will be turned over to the Secretary of the Interior, who, in turn, will conduct another study. Upon such studies, if justification can be found, a budget request will be made. That will be submitted to the administration, and the administration, in turn, may decide for or against approving this budget request.

If it does approve it, then it is submitted to the Congress of the United States, and the Congress of the United States, as we do every day, can either approve or disapprove. If the Congress of the United States should approve a certain sum of money, that money will not go to the Lumbees; it will go to the Secretary of the Interior. It will be at his discretion as to whether these funds will be used to extend services and privileges to the Lumbee Tribe.

So it is a long process. It is a process in which we will once again involve ourselves. So I hope we will bring about some justice here and rectify a bad situation that has existed for 104 years.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has 3½ minutes remaining. The minority has 2½ minutes remaining.

Mr. DURENBERGER. Mr. President, I rise in opposition to the cloture vote on the motion to proceed to H.R. 1426, the Lumbee Recognition Act.

Mr. President, this legislation provides that if recognized, the Lumbees shall be eligible for all services and benefits provided to native Americans because of their status as a federally recognized tribe. However, the members of the Lumbee Tribe shall not be entitled to such services until the appropriation of necessary funds.

Mr. President, we do require an appropriation for any other native American. Indeed, I know of several tribes in my own State would prefer to have a direct line to appropriations.

In addition, it may be very difficult for members of the Appropriations Committee to withhold funds from the Lumbee Tribe when other tribes receive annual funding. Very soon, then, although designed as an appropriation, this program could easily become an entitlement, one that would potentially cut into the limited funds available for tribes that are currently federally recognized.

Mr. President, there are more than 120 tribes awaiting Federal recognition at the Bureau of Indians Affairs. There is an acknowledged procedure by which these tribes may eventually be recognized. Certainly that procedure is not without flaw. But if we were now to recognize by legislative fiat this tribe, how long do my colleagues think it will be before all the tribes awaiting Federal recognition approach their elected officials and attempt to accomplish the same? In other words, Mr. President, I do not think it is fair to essentially push the Lumbees to the front of the recognition line.

Just today, Mr. President, I met with the Lower Sioux Indian Tribe from my own State of Minnesota. It appears that the tribe has outgrown the ability of the city of Redwood Falls to provide infrastructure and related support. Thankfully, Mr. President, the city and the tribe have combined their efforts and will likely be able to solve the near-term problems. I believe, though, that very soon they, or any of the other tribes in my State will be back for funding help.

Mr. President, for too long we in this country did not provide adequate services of help to our native American friends and although I can appreciate the desire of the Lumbees, I believe the Congress should be working to rectify those situations with the methods provided for under current law, not through the Congress.

Mr. SIMPSON. Mr. President, I rise in opposition to the motion to proceed, and I will vote to invoke cloture. I hear clearly the concerns raised by my able friend and colleague from North Carolina, Senator HELMS. He makes a very powerful case.

But, Mr. President, I think it also important for this body to know that currently recognized Indian tribes do not generally support this legislation. Just a few moments ago, I left a meeting with distinguished representatives from the Shoshone and Arapaho Tribes in Wyoming. They advise me that they oppose this legislation and are joined in their opposition by nearly all of the western Indian tribes.

The reason for their opposition is not that there will be less money to spread among the currently recognized tribes; but because the system that is in place to achieve Federal recognition works very well. It is fair, it is objective, and it has been working well for many years.

Mr. President, there is simply no good reason to make a special exception in this matter. I am persuaded by the arguments of the Senators from North Carolina and my friend Senator NICKLES from Oklahoma; but I am most impressed by the concerns expressed by my constituents, Mr. John Washakie, member of the Shoshone Business Council, and Mr. Alfred Ward, distinguished member of the Arapaho Business Council. Between them, these gentlemen represent over 12,000 enrolled American Indians who are my constituents. I hear their message most succinctly and I do appreciate having the benefit of their counsel and guidance on this matter.

So, Mr. President, I will be voting against invoking cloture on the motion to proceed and, if that motion passes, I will join my colleagues in working vigorously to defeat this legislation in the Senate.

Mr. SIMON. Mr. President, I rise today to speak in favor of legislation introduced in the House of Representatives, H.R. 1426, to provide Federal recognition to the Lumbee Tribe of North Carolina. Senator SANFORD has worked long and hard to see that the Lumbees receive Federal recognition. This bill seeks to correct a century-old injustice by making tribal members eligible for

Federal services approved and funded by Congress. After the Department of the Interior certifies the tribal roll, all laws that generally apply to Indians and Indian tribes would apply to the Lumbee Tribe. The bill requires the tribe to organize under a constitution and develop bylaws for its common welfare.

The Lumbee Tribe has sought Federal recognition for more than 100 years. During that time, Congress and the Department of the Interior have studied the tribe and at no time has Congress or the Department ever indicated that the Lumbees do not deserve Federal recognition. Rather, the issue always seems to be whether the Federal Government could afford the expense of recognition.

At a 1988 congressional hearing, Dr. William Sturtevant, a world-renowned expert on Indians of the Eastern United States who is employed at the Smithsonian Institution, summarized the tribe's record:

> It is clear that the Lumbee have those characteristics that identify an Indian tribe. Certainly anthropologists who have looked into the case over the last century or so agree that they are an Indian tribe; no anthropologist has denied it.

In 1885, the tribe was formally recognized by the State of North Carolina under the name Croatan Indians of Robeson County. Croatan Tribe leaders petitioned Congress in 1888 for assistance for a separate school system for the tribe established by the State. In 1899, the first bill was introduced in Congress to appropriate funds to educate the Croatan Indian children.

In my view, we cannot in good conscience allow a tribe of Indian people, acknowledged by all leading experts to be an Indian tribe, to be denied Federal recognition because of the failure of non-Indian governments to minutely record the tribe's presence and activities at the turn of the 18th century. There is no serious question about the Department of the Interior's ability to fairly judge its status.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I will just take a minute to indicate what has already been indicated by the Senator from Oklahoma. The administration does oppose this bill since it does circumvent the so-called acknowledgment process. I certainly appreciate the good work done by the Indian Affairs Committee, but I have been advised there are a multitude of resolutions that have been approved by tribes that support strict adherence to the process, and these tribes are in California, Arizona, Oklahoma, Michigan, Idaho, Washington, Montana, New Mexico, North and South Dakota, Florida, Nevada, and North Carolina, as well as, I understand, regional Indian organizations, including the affiliated tribes of Northwest Indians, the Montana and Wyoming tribal councils, the Southern Pueblos Governors' Council of New Mexico, and the United South and Eastern Tribes.

I do not know what the substitute is but it seems to me this is not an appropriate process. It seems to me maybe there is some way to accommodate the concerns of the Senator from North Carolina [Mr. SANFORD] and enable us to bring justice to the Lumbee Tribe, but I am not certain this is the way to do it. It is opposed by the administration. I urge my colleagues not to support the vote on cloture.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. I am prepared to yield back the remainder of my time, and so yield it back.

Mr. NICKLES. We yield back the remainder of our time.

CLOTURE MOTION

The PRESIDING OFFICER. All time has been yielded back. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislation clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to H.R. 1426, an act to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes:
>
> Daniel K. Inouye, David L. Boren, Bob Graham, Jeff Bingaman, Herb Kohl, John Breaux, J. Lieberman, Pat Leahy, Alan Cranston, J.J. Exon, Tom Daschle, Wendell Ford, Dale Bumpers, Charles S. Robb, Dennis DeConcini, Timothy E. Wirth, Christopher Dodd, Terry Sanford.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on the motion to proceed to consideration of H.R. 1426, a bill to recognize the Lumbee Indian Tribe of North Carolina, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The yeas and nays resulted—yeas 58, nays 39, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—58

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Cohen
Conrad
Cranston
Daschle
DeConcini
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Heflin
Hollings
Inouye
Jeffords
Johnston
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wirth
Wofford

NAYS—39

Bond
Brown
Burns
Chafee
Coats
Cochran
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Kassebaum
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—3

Dixon
Harkin
Kerrey

The PRESIDING OFFICER (Mr. WELLSTONE). If there are no other Senators wishing to vote, on this vote the yeas are 58, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. I thank the Chair.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 2297 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESPONSE TO "FROM DETERRENCE TO DENUKING"

Mr. REID. Mr. President, last week I received a white paper from Congressman LES ASPIN, chairman of the House Armed Services Committee, called "From Deterrence to Denuking: Developing with Proliferation in the 1990's."

Mr. President, I agree with one of the major premises of this paper: that the proliferation of nuclear weapons is now the chief security threat we face in the post-Soviet era. There is no doubt that there are too many nuclear weapons in the world. There is no doubt that the number of countries possessing these deadly weapons of mass destruction is growing, growing as we speak.

Besides the United States, several Republics in the former Soviet Union, Great Britain, France, and China are now nuclear powers.

In addition, a number of other countries are believed to possess the technology to produce nuclear weapons, namely Israel, India, Pakistan, and South Africa.

Mr. President, there are still other countries in pursuit of nuclear weapons: Iraq; North Korea, and in fact we have learned in the press recently that North Korea is very close; Libya; Iran; Argentina; Brazil, and possibly even Algeria.

There are four policies that Chairman ASPIN states need to be reconsidered: Institution of a comprehensive test ban, an end to production of fissile materials for bombs, removal of forward-based tactical weapons, and renunciation of first use of nuclear weapons.

It is the idea of a comprehensive test ban that I wish to address today. Chairman ASPIN poses the question: "If testing is no longer needed for modernization, what if any need is there for testing to maintain the safety of the remaining arsenal?"

Let me say that the problem in the world today is not nuclear testing. It is nuclear weapons.

Mr. President, to eliminate testing before we eliminate nuclear arms would not only undermine our country's military security, but also endanger our public safety. As long as arms exist, testing is necessary to ensure that those weapons may be safely stored. Let me give just one example.

In May 1990, Defense Secretary Cheney acknowledged a safety problem with U.S. nuclear artillery shells in Europe. The defects had been found in hundreds of W79 short-range nuclear artillery shells based in Germany, Italy, and the Netherlands. These are shells that can deliver a 10-kiloton nuclear blast, about two-thirds as big as the one at Hiroshima. The safety problems were confirmed through testing at the Nevada test site in 1988 and 1989. Because the problems were identified through testing, they were fixed, and accidents were prevented.

The use of nuclear weapons is a horrible thought, but it is that horror which has maintained the peace; it may be that horror which in the end causes the abandonment of war as an instrument of national policy, at least among those nations whose power is capable of world destruction.

However, as long as we rely upon those weapons to keep the peace, we must test them to maintain an effective and credible deterrence posture. We need to know that the weapons in our arsenal are safe and reliable. We need to know that they will survive an attack. We need to know their effect on our equipment and that of our enemy. It has been the testing program, which, by teaching us to create smaller, more accurate, and more efficient weapons, has enabled us already to substantially reduce the size of our nuclear arsenal.

Perhaps as importantly, we also need to test to know the future. We test nuclear weapons to verify computer modeling, maintain scientific vitality, and to avoid technological surprises. Almost every underground nuclear test has produced unexpected results not predicted by computer modeling. I would like to quote from a speech given by President Kennedy on March 2, 1962:

> We know enough about broken negotiations, secret preparations, and the advantages gained from a long test series never to offer again an uninspected moratorium. Some urge us to try it again, keeping our preparations to test in a constant state of readiness. But in actual practice, particularly in a society of free choice, we cannot keep top flight scientists concentrating on the preparation of an experiment which may or may not take place on an uncertain date in the future, nor can large technical laboratories be kept fully alert on a standby basis waiting for some other nation to break an agreement. This is not merely difficult or inconvenient. We have explored this alternative thoroughly and found it impossible of execution.

We must remember that the Nevada nuclear test site is a highly complex scientific operation, which involves literally hundreds of scientists and engineers and thousands of highly skilled technicians. You neither create nor deactivate such a facility with the wave of some magic wand. If we were to stop testing and then decide a year or two from now to begin again, where would we be?

I commend Chairman ASPIN for wanting to do something about nuclear proliferation. Indeed, the development of nuclear weapons by Third World countries is the most troubling and dangerous aspect of proliferation. We do not know what would have happened if Saddam Hussein had exploded a nuclear weapon in the atmosphere over the battlefield. We do not know what would have happened to our equipment. We think we know, but we are not sure. We need to test. It would be unsafe, impractical and unwise not to, and it would send a signal of complacency to Third World countries currently developing these weapons of mass destruction.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). The majority leader is recognized.

Mr. MITCHELL. Mr. President, I note the presence of the distinguished Senator from North Carolina, the principal author of the bill, with respect to which the Senate has just voted not to invoke cloture. There were 58 votes, 60 being required, and I wanted to yield to the Senator from North Carolina to ask for his suggestion on the best way to proceed with respect to the Lumbee bill.

Mr. SANFORD. Mr. President, a great many people worked diligently and long to get this legislation up, and to attempt to gain support for it. I regret that it became a partisan matter. It should not have been a partisan matter. It should not have been voted on on that basis.

The Governor of North Carolina, who is, as you know, a staunch Republican, and who served in the Congress, has very strongly endorsed the recognition of the Lumbee people in this fashion, strongly endorsed this legislation, and wrote a letter to Senator INOUYE, the chairman of the Select Committee on Indian Affairs urging that it be passed. So it was not a partisan matter. I am sorry that it took that turn particularly because the Lumbee people do not have the option of seeking recognition through the regular Federal acknowledgement process.

I am pleased that we got 58 votes. I might say, for the RECORD and for those who might be watching, that under our rules, we cannot take up a piece of legislation without unanimous consent. If we cannot get unanimous consent, it is necessary to have a cloture vote, and it is necessary to have 60 votes—not 60 percent of those present and voting, but 60 votes. We got 58. But we had three Senators that would have voted to invoke cloture, had they been here. Two of them are on the campaign trail for the Presidency. One of them is in a very tight primary race in Illinois. And they had justification for not being here. But had they been here, we would have had enough votes to have invoked cloture.

It occurs to me, Mr. President, that it would be wise, since the Lumbee people have waited 104 years to get to this point, that we might wait a few more weeks and attempt to have a vote when everyone is present, and maybe by this time we will have been able to convince people that this ought not to be a partisan vote anyhow. So I wonder it I may inquire of the leader, Mr. President, if we do attempt to bring it back up when the other three Senators are here, would he be willing to bring it to the floor?

Mr. MITCHELL. Mr. President, my answer to the Senator from North Carolina is, yes, I would. I believe this to be a matter of simple justice. I had a similar experience in Maine with respect to a tribe—we actually what we refer to them as a band—of Micmac Indians in northeastern Maine and Canada, who had, unfortunately, been excluded from legislation enacted some years ago, settling the rights of the various tribes in Maine, settling the rights of the various tribes in Maine, settling their claims against the United States.

I joined with Senator COHEN as the author of legislation to redress that in a situation that is not identical but in which the principle is the same. We felt strongly that it was a matter of simple justice, and I believe that, again, while this is not an identical situation, the same concept exists, and I believe that the recognition of the Lumbee is long overdue and, for that reason, I assure the Senator that at a future time, when the presence of all Senators is possible, I will attempt to bring the matter up and attempt to again obtain cloture.

Mr. SANFORD. I thank the leader.

Mr. MITCHELL. Mr. President, I will yield the floor now.

I know the distinguished Senator from Rhode Island seeks recognition, and I am going to discuss with the distinguished Republican leader the schedule for the remainder of this week and next week.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening, and I will shortly have an announcement, as I noted earlier, following the consultation with the distinguished Republican leader, on the schedule for the remainder of this week and the early part of next week.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, if the leaders wish to proceed on something now, I do not want to hold them up.

Mr. MITCHELL. No. I thank my colleague for the courtesy, but I am not ready to proceed now. It is no inconvenience whatsoever for him to proceed.

Mr. CHAFEE. I thank the distinguished majority leader.

CLIMATE CHANGE NEGOTIATIONS

Mr. CHAFEE. Mr. President, this afternoon in New York, the U.S. delegation to the ongoing international negotiations to develop a framework convention on climate change—these are the negotiations dealing with climate change, the global warming problem—the U.S. delegation made a statement that signals a major shift in the U.S. position at these talks.

For months, President Bush has been criticized for, among other things, denying that the threat of global climate change is a real and serious threat, and refusing to commit to what are known as targets and timetables.

This criticism has been strident, and in large part, Mr. President, unfair.

Three days ago, Senator DOMENICI and I wrote to President Bush urging that he direct our negotiators to undertake a new initiative in New York.

Mr. President, I ask unanimous consent that a copy of that letter that Senator DOMENICI and I wrote to the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEBRUARY 24, 1992.

Hon. GEORGE BUSH,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to congratulate you for your recent announcement in response to the global environmental threat of ozone depletion and to urge that you announce a similarly bold initiative to counter the threat of global climate change. Time is of the essence because the current session of the Intergovernmental Negotiating Committee for a Framework Convention on Climate change that is being held in New York City is scheduled to end this week.

It is our firm belief that you should direct the U.S. delegation to deliver a new message at the current meeting in New York City. A major announcement by you of a bold new initiative that commits the United States to specific actions which will have the effect of stabilizing emissions of greenhouse gases at 1990 levels by the year 2000 will give the negotiations the breakthrough that is needed to move the world closer to a meaningful climate convention.

Such an announcement will have the added benefit of silencing those thoughtful critics who have been pressing for such action. We recognize that there will always be carping critics who will continue to complain no matter what you do and will accuse you of promising "too little, too late" to combat the threat of global climate change. The carping critics should be ignored. The important thing is to move on with a meaningful convention.

We thank you in advance for your personal attention to this important matter and look forward to your decision.

With warm personal regards,
Sincerely,
PETE DOMENICI,
U.S. Senator.
JOHN H. CHAFEE
U.S. Senator.

Mr. CHAFEE. Mr. President, I believe that the U.S. position that I just referred to as having been announced today signals a breakthrough that is needed to move the world closer to a meaningful climate convention. The President directed his staff to announce a series of bold, new initiatives, to commit to a series of actions that will limit the U.S. greenhouse gas emissions starting immediately.

Mr. President, these are very, very significant undertakings by the negotiators in New York. Preliminary analyses suggest that these actions will have the effect of stabilizing greenhouse emissions at 1990 levels starting in the year 2000.

If that is true, the major obstacle to the signing of a convention in Rio de Janeiro this June has been eliminated. If the list of actions add up to stabilization, as I believe they will, the President will be able to hold his head high and take credit for moving the world closer to a meaningful climate convention.

The United States stated its intention to provide an even more exhaustive list of actions, along with preliminary estimates of what these new actions may mean for limiting U.S. greenhouse gases prior to the final negotiations that will be held in April.

I am encouraged by today's actions, Mr. President. I urge President Bush to press on. President Bush is to be congratulated for the actions that he has taken. He deserves all of our thanks.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPREME COURT DECISION IN FRANKLIN VERSUS GWINNETT COUNTY PUBLIC SCHOOLS

Mr. KENNEDY. Mr. President, in an important decision yesterday, in the case of Franklin versus Gwinnett County Public Schools, the Supreme Court ruled that a plaintiff who proves intentional sex discrimination in violation of title IX of the education amendments of 1972 can recover damages from the wrongdoer. These damages would not be limited by any cap such as the one included in the Civil Rights Act of 1991, which we passed last year.

The Court's decision in the Franklin case makes clear that unlimited damages for intentional discrimination also are available for race discrimination prohibited by title VI, disability discrimination prohibited by section 504 of the Rehabilitation Act of 1973, and age discrimination barred by the Age Discrimination Act of 1975. These statutes prohibit discrimination by institutions receiving Federal funds.

The Franklin decision is a major victory for women and girls across the Nation in the ongoing battle against sex discrimination. It puts school systems and institutions of higher education on notice that victims of intentional discrimination have real remedies under title IX. These remedies are especially important for students, for whom back pay is not available, and for teachers who suffer sexual harassment but not lost wages.

Yesterday's decision also highlights the inequities that remain in our antidiscrimination laws. Because of the cap on damages in the Civil Rights Act of 1991, students and teachers in public schools who suffer intentional sex discrimination can be made whole, but nurses in hospitals who suffer similar discrimination cannot be made whole because of the cap.

The Senate Labor and Human Resources Committee will soon consider the Equal Remedies Act, to eliminate these inequities in the remedies available under our civil rights laws. I urge my colleagues to support that legislation when it comes to the Senate floor.

ALBANIANS OF KOSOVA STRUGGLE FOR 3 YEARS UNDER MARTIAL LAW

Mr. PELL. Mr. President, later this week, the Albanians of Kosova will mark a somber anniversary. Three years ago on February 28, 1989, the Government of Serbia imposed a state of martial law on Kosova, home to 2 million ethnic Albanians. Although the 1974 Yugoslav Federal Constitution affirmed Kosova's autonomous status, the Government of Serbia ignored the law and abolished Kosova's autonomous status as well as its parliament. I believe it is important to commemorate this anniversary and, accordingly, I recently joined in introducing Senate Resolution 257, which calls attention to the plight of the Albanian population in Kosova.

Mr. President, in the past several months, much of our attention on the Balkans has focused on the conflict between Serbia and Croatia. Our concentration on that conflict is understandable: An estimated 10,000 lives have been lost in a war that has threatened both reform and stability in the region. However, I believe that the situation in Kosova is also a potential powder keg, and if ignited, it could lead to chaos not only in the former Yugoslavia, but in neighboring countries as well.

Even if the potential threat to regional security did not exist, however, I believe that from a human rights perspective, the Kosova situation deserves more attention than it has been receiving. During the last year, conditions have worsened, and some observers suggest that the Serbian Government has taken advantage of the war in Croatia, which has distracted international attention, to step up its brutalization of the Albanians of Kosova.

In its recently released human rights report for 1991, the State Department found that:

> In the autonomous province of Kosova, Serbian authorities intensified repressive measures against the majority Albanian population, eliminating virtually all Albanian-language schooling. They arrested and beat hundreds of Albanians on trumped-up charges and suppressed the Albanian community's attempt to organize a referendum on Kosova's future. In March, Serbian police and army troops in Belgrade used force to repress large-scale opposition demonstrations to demand the Serbian Government's ouster, resulting in two deaths and hundreds of injuries.

These actions by the Serbian Government are unjustified and unacceptable, and the United States must speak out more loudly against them.

Mr. President, a delicate cease-fire is holding in Croatia, and the United Nations Security Council recently voted to send a peacekeeping force to the region. These are hopeful signs, but much more needs to be done to ensure the peace in the former Yugoslavia. The issue of Kosova must be addressed in this context.

I would urge the administration to do so, and I would hope that the U.N. sponsored negotiations and the European Community sponsored peace conference on the former Yugoslavia will include representatives from Kosova, and that the issue of Kosova will figure prominently on the agenda.

REGARDING THE RECENT STATEMENT BY QUEEN NOOR

Mr. MITCHELL. Mr. President, last November, Her Majesty Queen Noor of Jordan gave an eloquent speech in London. The occasion was the first gathering of alumni in Europe from the American University of Beirut [AUB]. It was an historic event, enhanced significantly by the quality of Queen Noor's remarks.

The Queen is well known to all of us in the United States. Born in America Lisa Najeeb Halaby, the Queen is an avid urban planner and a tireless volunteer in her efforts to improve the quality of life in Jordan. She is well known for her work in the areas of social welfare, environmental protection, child care, women's development, art, and education. Queen Noor is a distinguished world figure with an impressive record of working to better conditions both within Jordan and between nations throughout the world.

Queen Noor's remarks to the AUB alumni were notable in two respects. She accurately captured the unique qualities and role of AUB. Describing the university as "an open, tolerant environment where ideas and dreams could be shared among students from many different social, political, religious, and ethic backgrounds," she said that it provides "a model of constructive and beneficial interaction between the Arab and Western worlds." I fully concur with this characterization, and with the Queen's assessment of the crucial role that the university and its graduates play in the international scene today.

In addition, I was struck by the hopeful tenor of her remarks about the changes under way in the Arab world. The most powerful trend, she argued, is a demand for more responsive political systems. The Queen noted the efforts of several Arab states to respond to this demand by incorporating pluralism, individual rights, democratic participation, and the accountability of public officials.

Queen Noor noted that the momentum for change in the Arab world, "grounded firmly in the burgeoning spirit of democracy, pluralism, and nation-building," is one instilled at AUB. I believe she is correct.

I urge my colleagues to read this eloquent and insightful speech by Queen Noor to understand why AUB, now in its 125th year, deserves both our congratulations and our appreciation. I ask unanimous consent that the full text of Queen Noor's speech be inserted in the CONGRESSIONAL RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY HER MAJESTY QUEEN NOOR AT THE FIRST A.U.B. ALUMNI EUROPEAN CONVENTION, LONDON, NOVEMBER 30, 1991

Mr. Chairman, Your Excellencies, Lords, ladies and gentlemen, I am particularly happy to be here tonight to celebrate with you this gathering of American University of Beirut alumni in Europe. As you and your fellow graduates around the world mark the 125th anniversary of the founding of A.U.B. this year, you venerate the traditions, the wisdom, and the legacy of an old and established institution and you honour the continuing vigour and relevance of an idea that is timeless and a spirit that is universal.

Although I did not attend A.U.B., I have long recognized the qualities that distinguish your university and its outstanding graduates.

My family association with A.U.B. became institutionalized in 1972 through my father who, as trustee and later as chairman of the board in the 1980's, so vigourously pursued his responsibilities to the university that it was sometimes frustrating for me that I could not attract any of his attention to my projects developing in Jordan. His enthusiasm probably matched any A.U.B. graduate's, though he had missed that unique experience, and so did I when my turn came.

The last time I visited A.U.B. in the mid-1970's, I entered and departed the campus under shellfire. The experience, a daily nightmare for the people of Beirut for so many years, impressed upon me the extraordinary courage and resilience of that intellectual haven. A.U.B. has always been an institution with a purpose and a mission, sustained by determination to succeed in the face of enormous threats and obstacles.

Since its founding in 1866, your alma mater has played a significant regional and international role. It has provided the best education available for several generations of Arab men and women. Throughout the past century, most A.U.B. graduates have continued on to assume leadership roles in their own countries in all fields. Most of you probably know that nineteen of your fellow alumni participated in the drafting of the U.N. Charter in 1945, five were among its signatories. At the recent Madrid Peace Conference, A.U.B. alumni were prominent among the Arab delegates and, appropriately, A.U.B. graduates excelled on the podium of peace and justice, their articulate and thoughtful words reaching hearts and minds around the world. As a woman, I share with many others great pride and admiration for A.U.B. graduate Hanan Mikhail Ashrawi's exceptionally eloquent contribution to the Middle East peace process.

Your university also has always provided an important meeting ground for interaction amongst all Arabs—an open, tolerant environment where ideas and dreams could be shared among students from many different social, political, religious, and ethnic backgrounds.

Perhaps more than any other institution in the region, the university has been as well a model of constructive and beneficial interaction between the Arab and Western worlds. It has provided a multi-dimensional window through which they have been able to discover the best in each other, to learn from one another and to affirm their mutual aspirations and ideals.

Just as A.U.B. is a symbol of the human dynamics we value within the Arab world, and between the Arabs and the West, College Hall is the symbol of A.U.B. If those who planted the bombs in College Hall sought to halt the process of reconciliation in Lebanon or the wider negotiations to bring justice and peace to all the people of the region, they have failed. And they will always fail, because they confront a will to build that is stronger than their urge to destroy. They confront a commitment to justice, freedom, and elightenment that is deeper and stronger than their intolerance and bitterness.

As H.G. Wells said many decades ago, "Human history becomes more and more a race between education and catastrophe." We are going to win that race.

The clock tower of College Hall may be temporarily missing from the skyline of Beirut, but the horizons of the Arab world remain illuminated by everything that A.U.B. has offered to the Arab people and to the world in the last 125 years.

The indomitable spirit of the American University of Beirut sustained hope and confidence in the future for so many tragic and traumatic years for Lebanon and the entire region.

That same spirit has brought you together here tonight and inspired A.U.B. alumni groups to rally throughout the Middle East and the rest of the world.

You are here to honour that spirit, to rebuild College Hall, and to affirm our joint commitment to life and learning. You are here tonight not to celebrate what A.U.B. has given you, but to demonstrate what you can give to A.U.B. For many decades, the Arab world looked to the university as a model of all that was excellent and exceptional in education, human development, and Pan-Arab progress. Today, in its moment of need, A.U.B. looks to you to affirm your commitment, conviction, and faith in this noble ideal.

And so we must continue to work together and support one another in our common national challenge—a challenge that demands that College Hall be rebuilt as quickly as possible, that classes continue as they always have, without interruption, that political reconciliation and stability in Lebanon continue to advance, and that the quest continues for justice and peace in the Middle East.

In the twelve and one-half decades since the founding of the American University of Beirut, the Arab world has witnessed extraordinary change. Much of this change has been positive for human development, including gains in literacy, life expectancy, standards of living, and access to essential human services.

In recent years, however, the developmental trend throughout the region has deteriorated, resulting often in violence and in widespread economic regression.

The problems and imbalances of the Middle East culminated recently in the gulf crisis, which for all of its destruction and waste, spurred the Arab people to the most serious questioning of our deteriorating national condition and the direction of our collective national destiny. The vast majority of Arab people opposed foreign military intervention and inter-Arab confrontation and war. Consequently, they sought to promote something more important—a more stable Arab order based on equity and cooperation, greater Pan-Arab integration, and balanced human development. These enduring sentiments and aspirations continue to motivate the national hopes and personal dreams of most Arabs today. Like the clock tower of College Hall, they can be momentarily felled, but never obliterated—damaged, but never destroyed.

In the Arab world, the most powerful trend in the last decade has been a demand for more responsive domestic political systems. Several Arab states are formulating new political structures based on pluralism, individual rights, democratic participation, and the accountability of public officials.

My own country of Jordan has been fortunate to make such change in a generally orderly and peaceful manner. Our recent political development is based firmly on our liberal democratic constitution. Its principles are reflected and detailed in the recently ratified Jordanian National Charter, drafted by a royal commission representing all political forces in the country. The charter commits the state and all its citizens to a pluralistic democracy based on respect for human and political rights.

Our progress is not ours alone, for we see ourselves as a testing ground and potential model for democratic transformation throughout the Middle East. This trend reflects a deeper, historic change in Arab attitudes. Driven by a renewed sense of realism and pragmatism, we are in the midst of deep and serious national reassessment, identifying the obstacles that have held us back, and articulating new and more realistic goals for the immediate future. The Arab national consensus is to develop a just, productive, and stable order at home before we can aspire to re-order the region, or contribute to historic change throughout the world. The foundation of the new Arab order must be democratic pluralism and respect for human rights which will release vital forces that have not been fully tapped in recent decades—forces of energy, intellect, confidence, creativity and national commitment.

We already see signs of this new Arab spirit. In several recently democratising Arab countries, scores of new political parties and publications have been established. Human rights organizations are increasingly active. The press is coming to life with debate and new ideas. Schoolchildren engage in discussions about the forms and values of democracy.

We also see it in the dramatic recent progress in negotiations to resolve the Arab-Israeli conflict. For the first time in half a century, we may be on the threshold of a truly new and rational regional order. We have an opportunity to shift the momentum in our region from warfare and waste to justice, reconciliation and peace, based on the application of international law and United Nations resolutions. If we can succeed in this endeavor, we shall have destroyed the single greatest obstacle that has stalled Arab political, economic and cultural development for nearly five decades.

The force that drives the new momentum for change in the Arab world is grounded firmly in the burgeoning spirit of democracy, pluralism, and nation-building. You recognize that spirit because you have carried it within you since your days as students at A.U.B. Many of us who did not attend A.U.B. also recognize it in the quality of the individuals A.U.B. graduated and their immense contribution to Arab development. Throughout the Arab world, it is hard to find a hospital, a university, a development bank, a successful engineering firm, or a planning ministry that does not count several A.U.B. graduates among its founders or its current managers.

If the new spirit I speak of permeates the Arab world today, it is in large part because A.U.B. graduates such as yourselves have been spreading throughout the Arab world for the last several generations. For here—in this spirit, in this room—is the ultimate worth of your university and its mission. And here—in your hearts and lives—is the indestructible ticking of the clock that adorned the tower of College Hall. For some ideas—like some clocks—can never be silenced. You are such an idea.

Today, you are called upon as never before to give life to the legacy you represent. You were fortunate to study at an institution that was driven by the commitment "that you may have life and have it abundantly." Your challenge today is to prove to that institution that it is fortunate to have your support, and to have it more abundantly. Now is the time to demonstrate the spirit that was instilled in you at A.U.B.—the spirit of humanity and hope that is so central to your university, your lives, your Arab nation, the future aspirations of your children, and the eternal promise of our human family.

Today, as never before, your university needs you more than you ever needed your university. This is the moment when all Arabs can help promote the growth and development of A.U.B., just as the university has always promoted the growth and development of the Arab world. This is the moment when you can recognise the gift that A.U.B. gave to you, to your countries, and to your Arab nation. This is the moment for you to recognise your alma mater, to repay it, to thank it, to honour it, and to perpetuate its great human mission. It is also the single greatest tribute that you can pay to the enduring legacy and mission of A.U.B., as well as to the bountiful promise of an Arab nation that has suffered, but not succumbed—a nation that rises again, like College Hall, like A.U.B. itself, like Lebanon, to rededicate itself to its mission of hope.

Thank you again for inviting me to share this occasion with you. May your personal and professional endeavors always reflect the strength and success of your university, and the blessings of God.

Thank you very much.

SENATOR HAYAKAWA

Mr. HELMS. Mr. President, all of us were saddened to learn of the passing earlier today of our former colleague, Sam Hayakawa of California.

Of the many unique Senators with whom I have had the honor of serving, Sam Hayakawa was among the most fascinating. His was a life of many careers—his time in the Senate being but one.

When he was elected to the Senate in 1976, S.I. Hayakawa was 70 years old. During his early years, he was a college professor in the Midwest. I believe he began his academic career in the 1930s at the University of Wisconsin, moved on to the Illinois Institute of Technology, and then to the University of Chicago.

Mr. President, during his years in Chicago, he developed a lifelong appreciation for jazz music and African art. In fact, he was widely known as an expert in both fields. He also carved out a national reputation as a semanticist. One of his books, "Language in Thought and Action" became a classic. For millions of American college students it is required reading.

In 1955, Dr. Hayakawa joined the faculty of San Francisco State College here he taught for the next 13 years. In 1969, he was selected by then-Gov. Ronald Reagan to be President of the college.

As president of San Francisco State, Dr. Hayakawa stood up to the radical students who saw college as an opportunity to participate in antiwar demonstrations instead of a place to get an education. I confess that I wish more college presidents had thought the same.

Indeed, it was his opposition to student radicals that made Hayakawa famous with patriotic Americans—which at the time was the large majority of the American public. It seems like it was just yesterday that Dot Helms and I saw him on the evening news shutting down a demonstration by pulling the wires out of the students' sound system. To Dr. Hayakawa, it was simple: Students who were in school to learn had a right to do so without being interrupted or disturbed by the campus radicals.

Sam Hayakawa came to the Senate in 1976. His campaign—in which he defeated a telegenic incumbent—was marked by the kind of humor and wit that so endeared him to so many of us here. Some of his commercials became classics—including one picturing the windshield wipers of an automobile going back and forth, back and forth, the message being that the incumbent had flip-flopped on the major issues of the day.

During the years we served together in the Senate, I had the privilege of serving with Senator Hayakawa on the Agriculture and Foreign Relations Committee. He could always be counted upon to bring—often with humor—a dose of reality to debate. He was often ahead of his time. I recall that in 1982, he brought before the Agriculture Committee a proposal to require able-bodied food stamp recipients to participate in Workfare—a proposal attracting a great deal of attention in this Presidential election year.

As a Senator, Sam Hayakawa stood by his convictions—even when they were not popular. Although he was of Japanese descent, he opposed vigorously the proposal to indemnify Japanese-Americans relocated during the Second World War. Despite California's large Hispanic population, he led efforts in the Senate to make English the official language of our Nation.

In 1982, Senator Hayakawa chose not to run for reelection. However, he was not yet ready to retire. He returned home to San Francisco, where he headed up "US English," a group dedicated to making English our national language.

Mr. President, Sam Hayakawa was one of those rare individuals who improved the lives of all those he touched. I feel privileged to have known him, and deeply regret his passing.

PUBLIC TELECOMMUNICATIONS ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 333, S. 1504, a bill to authorize appropriations for public broadcasting, and for other purposes.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION ON THE MOTION TO PROCEED

Mr. MITCHELL. Mr. President, in light of the objection by the distinguished Republican leader to immediately proceed to that bill, I now move to proceed to Calendar No. 333, S. 1504, and I send a cloture motion to the desk and ask that be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 1504, a bill to authorize appropriations for public broadcasting, and for other purposes:

Daniel K. Inouye, Wendell Ford, Harry Reid, Alan Cranston, Jay Rockefeller, Pat Leahy, George Mitchell, Joe Biden, Terry Sanford, Brock Adams, John Glenn, Tom Daschle, Al Gore, Timothy Wirth, Christopher J. Dodd, Joe Lieberman, Ernest F. Hollings, Slade Gorton.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the cloture motion just stated occur at 12 noon on Tuesday, March 3, and that the live quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there will be no rollcall votes tomorrow or Monday. The Senate will be in session only on a pro forma basis tomorrow. There will be no session on Monday. The next vote will be, in accordance with the order just obtained, at noon on Tuesday. It will be a vote on a motion to invoke cloture on the motion to proceed to the bill to fund the Corporation for Public Broadcasting.

We will then proceed from that time on. The regular caucuses will occur at 12:30 on Tuesday, March 3, shortly following the cloture vote just scheduled.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 501, Alan Greenspan, to be a member of the Board of Governors of the Federal Reserve System;

Calendar No. 502, Alan Greenspan, to be Chairman of the Board of Governors of the Federal Reserve System;

Calendar No. 503, Frank G. Zarb, to be a Director of the Securities Investor Protection Corporation;

Calendar No. 504, J. Carter Beese, Jr., to be a member of the Securities and Exchange Commission;

Calendar No. 505, William C. Perkins, to be a Director of the Federal Housing Finance Board;

Calendar No. 506, Lawrence U. Costiglio, to be a Director of the Federal Housing Finance Board;

Calendar No. 507, Marilyn R. Seymann, to be a Director of the Federal Housing Finance Board; and

Calendar No. 508, Daniel F. Evans, Jr., to be a Director of the Federal Housing Finance Board.

Nominations reported today by the Committee on the Judiciary:

Karen J. Williams, to be U.S. circuit judge;

Mary Little Parell, to be U.S. district judge;

Garland E. Burrell Jr., to be U.S. district judge;

Roderick R. McKelvie, to be U.S. district judge;

William B. Traxler, to be U.S. district judge;

David J. Jordan, to be U.S. attorney;

Jack W. Selden, to be U.S. attorney; and the nomination reported today by the Armed Services Committee:

Adm. David Jeremiah, to be Admiral and Vice Chairman, Joint Chiefs of Staff.

I further ask unanimous consent that the Senate proceed to their immediate consideration, and that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed en bloc, are as follows:

FEDERAL RESERVE SYSTEM

Alan Greenspan, of New York, to be a member of the Board of Governors of the Federal Reserve System.

Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System.

SECURITIES INVESTOR PROTECTION CORPORATION

Frank G. Zarb, of New York, to be a Director of the Securities Investor Protection Corporation.

SECURITIES AND EXCHANGE COMMISSION

J. Carter Beese, Jr., of Maryland, to be a member of the Securities and Exchange Commission.

FEDERAL HOUSING FINANCE BOARD.

William C. Perkins, of Wisconsin, to be a Director of the Federal Housing Finance Board.

Lawrence U. Costiglio, of New York, to be a Director of the Federal Housing Finance Board.

Marilyn R. Seymann, of Arizona, to be a Director of the Federal Housing Finance Board.

Daniel F. Evans, Jr., of Indiana, to be a Director of the Federal Housing Finance Board.

THE JUDICIARY

Karen J. Williams, of South Carolina, to be U.S. circuit judge for the Fourth Circuit.

Mary Little Parell, of New Jersey, to be U.S. district judge for the District of New Jersey.

Garland E. Burrell, Jr., of California, to be U.S. district judge for the Eastern District of California.

Roderick R. McKelvie, of Delaware, to be U.S. district judge for the District of Delaware.

William B. Traxler, Jr., of South Carolina, to be U.S. district judge for the District of South Carolina.

David James Jordan, of Utah, to be U.S. attorney for the District of Utah for a term of 4 years.

Jack W. Selden, of Alabama, to be U.S. attorney for the Northern District of Alabama.

DEPARTMENT OF THE NAVY

The following-named officer for reappointment as Vice Chairman of the Joint Chiefs of Staff under title 10, United States Code, section 154:

To be Vice Chairman of the Joint Chiefs of Staff

To be admiral

Adm. David E. Jeremiah, [redacted], U.S. Navy.

STATEMENT ON THE RECONFIRMATION OF ALAN GREENSPAN

Mr. SASSER. Mr. President, I rise to address the issue of the reconfirmation of Dr. Alan Greenspan to a second term as Chairman of the Federal Reserve. It has been written that the chairmanship of the Federal Reserve is the second most important position in the United States. Indeed, Nobel Laureate James Tobin told the Senate Banking Committee recently that the Federal Reserve made the most important decisions of political economy in the world.

Obviously, given current economic conditions, we cannot take lightly the vote we cast today. The Chairman of the Federal Reserve should be a competent, intelligent, knowledgeable, and experienced regulator. He should command the respect of the financial markets and be capable of moving quickly in time of crisis.

Mr. President, I think Chairman Greenspan easily meets these qualifications. In particular, he did a masterful job in keeping the financial markets from collapsing during the 1987 stock market crash.

Dr. Greenspan also displays the attributes of a tough bank regulator. Over the last 5 years, banks for which the Federal Reserve was primary regulator posed the lowest losses to the bank insurance fund—far lower than those of national banks.

However, on policy matters, Mr. President, I cannot be as complimentary. I think the Federal Reserve under Chairman Greenspan has taken liberties with the Glass-Steagall Act and developed interpretations that are not intended by Congress.

And most of all—and this is no secret—I disagree strongly with Dr. Greenspan's great concern about, and preoccupation with, inflation. I think the Federal Reserve kept interest rates too high for too long in the late 1980's in an unnecessary and destructive war against inflation.

Mr. President, I think monetary policy precipitated this 20-month recession and it certainly has not been effective in getting us out. The Federal Reserve's response to the recession has been laggard. To quote James Tobin, the Federal Reserve has been "too slow, too little, and too late."

Moreover, the Federal Reserve appears to have let us down on an implicit understanding of the 1990 budget agreement—at the time we agreed that monetary policy was to take the place of fiscal policy as the engine that would keep the economy moving.

Today, at a time when there would appear to be no downside in reducing rates further, the Federal Reserve is holding back. It is sending mixed signals when it should be sending a strong signal that it will do everything possible to bring the country out of its economic misery.

Mr. President, this is not an easy vote to cast. I am sure that I will continue to disagree strongly with many of the policies pursued by Dr. Greenspan as Chairman of the Federal Reserve. But today I will support his nomination for a second term because I believe that he is a capable, competent regulator of the banking industry and the financial markets.

Thank you, Mr. President. I yield the floor.

STATEMENT ON THE NOMINATION OF KAREN WILLIAMS

Mr. THURMOND. Mr. President, I rise today to voice my strong support for President Bush's nominee, Mrs. Karen Williams, of my home State of South Carolina, who was nominated to serve as a U.S. circuit judge for the Fourth Circuit Court of Appeals.

Mrs. Williams is a native of Orangeburg, SC, and a graduate of Columbia College, and the University of South Carolina School of Law where she graduated cum laude. In law school, Mrs. Williams was a member of the Order of the Coif, Order of the Wig and Robe, Law Review, and received the American Jurisprudence Award in Estate and Gift Taxation. After law school, Mrs. Williams joined the law firm presently known as Williams and Williams in Orangeburg, SC.

Mrs. Williams has been actively involved in her community serving as: Director of the Orangeburg County Mental Retardation Board; director of the Regional Medical Center Hospital Foundation, and as a member of the University of South Carolina School of Law Advisory Board and Law Partnership Board. As well, Mrs. Williams has contributed to the State and local bar associations by serving in such capacities as: A member of the Board of Commissioners on Grievances and Discipline for the State of South Carolina; a member of the probate code study committee, and a member of the business corporation code revision committee.

Mr. President, Mrs. Williams is a woman of ability, integrity, and independence. Her outstanding record speaks for itself. I believe that Mrs. Williams has the experience and temperament to become an outstanding judge on the fourth circuit. It was with considerable pride that I recommended Mrs. Williams to President Bush for this very important position, and it is with an equal amount of pride that I recommend her confirmation today. I strongly support her nomination and urge my colleagues to do the same.

Mr. President, I might add that Mrs. Williams, when confirmed, will be the first woman to serve as a judge on the Fourth Circuit Court of Appeals.

STATEMENT ON THE NOMINATION OF MS. MARY LITTLE PARELL

Mr. LAUTENBERG. Mr. President, I rise to support the confirmation of Mary Little Parell for a position on the U.S. District Court for the District of New Jersey.

An attorney who has operated at the most senior levels of government, private and corporate practice—her wealth of experience should enrich the court and the quality of judging.

Ms. Parell is an honors graduate of Bryn Mawr College. She graduated in 1972 from Villanova Law School, where she served as associate editor of the Law Review.

After law school, she joined McCarter and English, a large broad-based firm in Newark, NJ, where she became partner in 1980. Her practice was devoted to litigation, concentrating in the areas of insurance law, product liability and negligence, contracts, and family law.

In 1984, she joined the Governor's cabinet as commissioner of banking. As the chief of the State's banking department, she was intimately involved in all aspects of administrative law, including not only the promulgation and implementation of regulations, but the conduct of adjudicatory proceedings.

Ms. Parell presided over hearings on applications for new bank charters. She heard from witnesses and experts, and gained valuable experience in judging. From all indications, she distinguished herself in the eyes of the applicants and the attorneys who appeared before her.

In 1990 Ms. Parell joined the Prudential Property and Casualty Insurance Co. as vice president and general counsel. She is currently associate general counsel.

Throughout her career, Ms. Parell has demonstrated a commitment to public service within the bar and outside it. She chaired the State Bar's Committee on Rights of the Mentally Handicapped and remained deeply involved in the legal representation of the disabled.

She has given of her time to the YMCA of Newark, the New Jersey Historical Society, and community service activities of the Bryn Mawr Club.

She received a unanimous rating of qualified from the American Bar Association.

Mr. President, I would note that notwithstanding her varied career, Ms. Parell has not had occasion to practice criminal law. Yet a major part of her time will be spent presiding over criminal cases. She will have to address new and complex legal issues.

Based on her record and the input of those who know her, I believe she has the intelligence and the dedication to learn what she needs to know. And, more importantly, I believe she has the temperament, and the commitment to justice that will enable her to succeed and to serve the public well.

I am pleased to support the confirmation of Mary Little Parell as a district court judge for the District of New Jersey.

STATEMENT ON THE NOMINATION OF JUDGE WILLIAM B. TRAXLER, JR.

Mr. THURMOND. Mr. President, I rise today to voice my strong support for the nomination of Judge William B. Traxler, Jr., President Bush's nominee to be a U.S. district judge for the District of South Carolina.

Judge Traxler is a native of Greenville, SC, a graduate of Davidson College, and the University of South Carolina School of Law. During his undergraduate studies, he was a Dean's list student, and a member of the Scabbard and Blade Honorary Military Society. In law school, Judge Traxler was a member of the Law Review, Omicron Delta Kappa, and was the director of an American Bar Association grant which was administered by the law school.

After law school, Judge Traxler served in the office of the Governor of South Carolina as a part-time law clerk to the legislative affairs department. In 1973, he joined his father in the private practice of law in Greenville, SC. From 1975 until 1985, Judge Traxler served in the State district attorney's office as the chief deputy solicitor and later as solicitor for the Thirteenth Judicial Circuit. Since 1985, Judge Traxler has served as a resident judge, which is the highest trial court judge, for the Thirteenth Judicial Circuit in Greenville, SC.

He has received numerous awards from professional and civic groups. As well, Judge Traxler has made significant contributions to State and local bar associations throughout his legal career. He is married and has two children.

Mr. President, the American Bar Association found Judge Traxler to be "well qualified," it's highest rating, for this position. As well, numerous individuals have endorsed him as one of the best trial judges in South Carolina. I was very pleased to recommend Judge Traxler to President Bush to serve as a district court judge and I am confident that he will be an outstanding addition to the Federal bench in South Carolina. Mr. President, I will vote in favor of his confirmation and urge my colleagues to do the same.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

TRADE POLICY AGENDA AND TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT—PM 111

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with the provisions of section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1992 Trade Policy Agenda and 1991 Annual Report on the Trade Agreements Program.

GEORGE BUSH.

THE WHITE HOUSE, *February 27, 1992.*

MESSAGES FROM THE HOUSE

At 12:35 p.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the House had passed the bill (S.1579) to provide for regulation and oversight of the development and application of the telephone technology known as pay-per-call, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 2212. An act regarding the extension of most-favored nation treatment to the products of the Peoples Republic of China, and for other purposes.

The enrolled bill was subsequently signed by the President Pro Tempore [Mr. BYRD].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 120. A bill for the relief of Timothy Bostock (Rept. No. 102-257).

S. 800. A bill for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini (Rept. No. 102-258).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 343. A joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day".

H.J. Res. 350. A joint resolution designating March 1992 as "Irish-American Heritage Month".

H.J. Res. 395. A joint resolution designating February 6, 1992, as "National Women and Girls in Sports Day".

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S.J. Res. 35. A joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect Congressional and Presidential elections.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 139. A joint resolution to designate October 1991, as "National Lock-In-Safety Month".

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 210. A joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day".

S.J. Res. 214. A joint resolution to designate May 16, 1992, as "National Awareness Week for Life-Saving Techniques".

S.J. Res. 218. A joint resolution designating the calendar year 1993 as the "Year of American Craft: A Celebration of the Creative Work of the Hand".

S.J. Res. 224. A joint resolution designating March 1992 as "Irish-American Heritage Month".

S.J. Res. 233. A joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week."

S.J. Res. 239. A joint resolution designating February 6, 1992, as "National Women and Girls in Sports Day".

S.J. Res. 240. A joint resolution designating March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

S.J. Res. 244. A joint resolution to recognize and honor the National Conference of Commissioners on Uniform State Laws on its Centennial for its contribution to a strong federal system of government.

S.J. Res. 246. A joint resolution to designate April 15, 1992, as "National Recycling Day".

S.J. Res. 254. A joint resolution commending the New York Stock Exchange on the occasion of its bicentennial.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Karen J. Williams, of South Carolina, to be a judge of the U.S. circuit court.

Mary Little Parell, of New Jersey, to be U.S. district judge for the District of New Jersey.

Garland E. Burrell, Jr., of California, to be U.S. district Judge for the Eastern District of California.

Roberick R. McKelvie, of Delaware, to be U.S. district judge for the District of Delaware.

William B. Traxler, Jr., of South Carolina, to be U.S. District Judge for the District of South Carolina.

David James Jordan, of Utah, to be U.S. attorney for the District of Utah for a term of 4 years.

Jack W. Selden, of Alabama, to be U.S. attorney for the Northern District of Alabama for the term of 4 years.

By Mr. NUNN, from the Committee on Armed Services:

The following-named officer for reappointment as Vice Chairman of the Joint Chiefs of Staff under title 10, United States Code, section 154:

To be Vice Chairman of the Joint Chiefs of Staff

To be admiral

Adm. David E. Jeremiah, [redacted] U.S. Navy.

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 22, January 23, January 24, January 25, and February 5, 1992 at the end of the Senate proceedings.)

*In the Air Force there is 1 appointment to the grade of brigadier general (Rudolf F. Peksens) (Reference No. 457-2)

*Colonel Glen W. Van Dyke, ANG, to be brigadier general (Reference No. 672)

*In the Army there are 37 appointments to the grade of brigadier general (list begins with Richard A. Chilcoat) (Reference No. 730)

*Lieutenant General Thomas S. Moorman, USAF for reappointment in the grade of lieutenant general (Reference No. 818)

*Lieutenant General William H. Reno, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 820)

*Major General Thomas P. Carney, USA to be lieutenant general (Reference No. 821)

*In the Army Reserve there are 26 appointments to the grade of major general and below (list begins with Allen E. Chandler) (Reference No. 823)

*In the Marine Corps there are 7 promotions to the grade of major general (list begins with Jefferson D. Dowell, Jr.) (Reference No. 824)

*In the Marine Corps there are 11 promotions to the grade of brigadier general (list begins with Larry T. Garrett) (Reference No. 825)

**In the Air Force Reserve there are 13 promotions to the grade of lieutenant colonel (list begins with Janet S. Drew) (Reference No. 830)

**In the Army there are 9 promotions to the grades of colonel and below (list begins with James M. Norton) (Reference No. 831)

**In the Army there are 10 promotions to the grade of colonel (list begins with Jerry W. Black) (Reference No. 832)

**In the Army Reserve there are 47 promotions to the grade of colonel and below (list begins with James E. Brown) (Reference No. 833)

**In the Army Reserve there are 19 promotions to the grade of colonel (list begins with Emmett M. Ade) (Reference No. 835)

**In the Army there are 18 promotions to the grade of colonel (list begins with William V. Adams) (Reference No. 836)

**In the Army there are 43 promotions to the grade of lieutenant colonel (list begins with Robert L. Ackley) (Reference No. 837)

**In the Army Reserve there are 11 appointments to the grade of lieutenant colonel (list begins with Walter M. Braunohler) (Reference No. 838)

**In the Army there are 4 promotions to the grade of major (list begins with Brad A. Case) (Reference No. 839)

**In the Navy there are 6 promotions to the grade of major (list begins with Edward L. Spires) (Reference No. 840)

**In the Navy and Naval Reserve there are 29 appointments to the grades of commander and below (list begins with John G. Hannink) (Reference No. 841)

**In the Air Force Reserve there are 60 promotions to the grade of colonel (list begins with Douglas K. Acheson) (Reference No. 842)

**In the Air Force Reserve there are 261 promotions to the grade of colonel (list begins with Robert O. Amaon) (Reference No. 843)

**In the Army there are 318 promotions to the grade of major (list begins with William R. Addison) (Reference No. 846)

**In the Army there are 138 promotions to the grade of colonel (list begins with James E. Albritton) (Reference No. 847)

**In the Army Reserve there are 61 promotions to the grade of lieutenant colonel (list begins with John A. Atwood) (Reference No. 848)

**In the Army there are 74 appointments to the grades of captain and below (list begins with John G. Angelo) (Reference No. 849)

**In the Marine Corps there are 931 appointments to the grade of second lieutenant (list begins with Arnoux Abraham) (Reference No. 850)

**In the Navy there are 1,034 appointments to the grade of ensign (list begins with Michael Narciso Abreu) (Reference No. 852)

*Brigadier General John T. Coyne, USMCR to be major general (Reference No. 854)

**In the Army there are 5 promotions to the grade of colonel and below (list begins with Robert F. Gonzalez) (Reference No. 872)

**In the Army there are 3 promotions to the grade of lieutenant colonel (list begins with Francisco B. Iriarte) (Reference No. 873)

**In the Navy there are 48 appointments to the grade of lieutenant (list begins with Mason X. Dang) (Reference No. 874)

**In the Navy there are 24 appointments to the grade of lieutenant and below (list begins with Bruce W. Glasko) (Reference No. 875)

**In the Navy there are 247 appointments to the grade of captain and below (list begins with Paul R. Cox) (Reference No. 876)

**In the Navy there are 700 appointments to the grade of commander and below (list begins with John Geoffrey Speer) (Reference No. 877)

**In the Navy there are 307 appointments to the grade of lieutenant (list begins with Neal Adams) (Reference No. 878)

**In the Air Force Reserve there are 28 promotions to the grade of lieutenant colonel (list begins with Garnett T. Alexander, Jr.) (Reference No. 890)

**In the Army Reserve there are 31 promotions to the grade of colonel and below (list begins with Lucien A. Brundage) (Reference No. 891)

*Major General Alfred J. Mallette, USA to be lieutenant general (Reference No. 822)

*Colonel Bobby G. Hollingsworth, USMCR to be brigadier general (Reference No. 826)

Total: 4,569.

Mr. DIXON. Mr. President, for the Committee on Armed Services, I report favorably a nomination list in the Army which was printed in full in the CONGRESSIONAL RECORD of January 22, 1992, and ask, to save the cost of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators:

Army nominations beginning Thomas C. Ada and ending Molly S. Maguire, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 22, 1992.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KOHL:

S. 2270. A bill to amend the provision of title 5, United States Code, to provide that consultation with the private sector and ensuring practical application of research and development through Federal funds shall be used as criteria in performance appraisals of certain Federal employees, and for other purposes; to the Committee on Governmental Affairs.

S. 2271. A bill to provide that each agency shall include a competitiveness impact statement for research and development funding in budget requests, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DECONCINI:

S. 2272. A bill to amend the Internal Revenue Code of 1986 to permit penalty-free distributions from qualified retirement plans for unemployed individuals; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. CHAFEE, Mr. DANFORTH, Mr. MACK, Mr. RUDMAN and Mr. SEYMOUR):

S. 2273. A bill to amend the Internal Revenue Code of 1986 to stimulate economic growth by revitalizing the domestic real estate market, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. MACK, Mr. SEYMOUR and Mr. DANFORTH):

S. 2274. A bill to amend the National Housing Act to increase the limit for mortgages eligible to be insured by the Secretary of the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI (for himself, Mr. MACK, Mr. SEYMOUR, Mr. DANFORTH and Mr. D'AMATO):

S. 2275. A bill to require the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Housing Finance Board to study and report on the development of a secondary market for commercial real estate mortgages and to require the Resolution Trust Corporation to report on the impact of its commercial real estate securitization program; to the Committee on Banking, Housing, and Urban Affairs.

S. 2276. A bill to permit the Director of the Office of Thrift Supervision to relax capital requirements applicable to certain savings associations subsidiaries in limited circumstances; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COHEN (for himself, Mr. BOND, Mr. BROWN, Mr. SIMPSON, Mr. CHAFEE, Mr. MCCAIN, Mr. NICKLES and Mr. SEYMOUR):

S. 2277. A bill to amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SHELBY:

S. 2278. A bill to amend section 801 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, to require life imprisonment without parole, or death penalty, for first degree murder; to the Committee on Governmental Affairs.

By Mr. LEVIN:

S. 2279. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2280. A bill to extend until January 1, 1995, the suspension of duties on certain chemicals; to the Committee on Finance.

S. 2281. A bill to extend duty-free treatment to certain chemicals; to the Committee on Finance.

By Mr. HEFLIN:

S. 2282. A bill to direct the Secretary of Transportation to carry out a limited access highway project in the vicinity of Dothan, Alabama; to the Committee on Commerce, Science, and Transportation.

S. 2283. A bill to authorize appropriations for the purposes of carrying out the activities of the State Justice Institute for fiscal years 1993, 1994, 1995, and 1996, and for other purposes; to the Committee on the Judiciary.

By Mrs. KASSEBAUM:

S. 2284. A bill to permit insured banks to elect to forgo deposit insurance, provided such banks are subject to oversight by the Board of Governors of the Federal Reserve System; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. MIKULSKI:

S. 2285. A bill to amend the Public Health Service Act to revitalize the intramural research program of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER (for himself, Mr. WOFFORD, Mr. LIEBERMAN and Mr. KERRY):

S. 2286. A bill to provide support for enterprises engaged in the research, development, application, and commercialization of advanced critical technologies through a private consortium of such enterprises; to the Committee on Commerce, Science, and Transportation.

By Mr. GORTON:

S. 2287. A bill to amend the Forest Resources Conservation and Shortage Relief Act of 1990 to modify the basis for a determination by the Secretary of Commerce to increase the volume of unprocessed timber originating from State lands that will be prohibited from export, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROWN (for himself and Mr. MCCAIN):

S. 2288. A bill to amend part F of title IV of the Social Security Act to allow States to assign participants in work supplementation programs to existing unfilled jobs, and to amend such part and the Food Stamp Act of 1977 to allow States to use the sums that would otherwise be expended on food stamp benefits to subsidize jobs for participants in work supplementation programs, and to provide financial incentives for States and localities to use such programs; to the Committee on Finance.

By Mr. ROTH:

S. 2289. A bill to establish procedures to disclose to the public the cost to society of federal programs and regulations; and for other purposes; to the Committee on Rules and Administration.

By Mr. WIRTH (for himself, Mr. KERREY, Mr. RIEGLE, Mr. HARKIN, Mr. SIMON, Mr. BRYAN, Mr. CONRAD, Mr. SHELBY, Mr. REID, Mr. LEVIN, Mr. DECONCINI, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. DASCHLE, Mr. PRYOR, Mr. ADAMS, Mr. ROCKEFELLER and Mr. FOWLER):

S. 2290. A bill to require public disclosure of examination reports of certain failed depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SEYMOUR (for himself, Mr. CRANSTON and Mr. LIEBERMAN):

S. 2291. A bill to revise the eligibility requirements applicable to emergency and extended unemployment compensation benefits; to the Committee on Finance.

By Mr. ROTH (for himself and Mr. SYMMS):

S. 2292. A bill to amend the Internal Revenue Code of 1986 to allow an incremental investment tax credit on a permanent basis, and for other purposes; to the Committee on Finance.

By Mr. RIEGLE:

S. 2293. A bill to make emergency supplemental appropriations to provide a short-term stimulus for the economy and meet the urgent needs for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

S. 2294. A bill to amend the Internal Revenue Code of 1986 to promote long-term investment-led economic growth; to the Committee on Finance.

S. 2295. A bill to amend the Internal Revenue Code of 1986 to promote fairness within the tax code; to the Committee on Finance.

By Mr. AKAKA:

S. 2296. A bill to amend the Packers and Stockyards Act, 1921 to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRESSLER:

S. 2297. A bill to enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat program, by establishing a new national land remote sensing policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN:

S. 2298. A bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the sale and distribution of tobacco products containing tar, nicotine, additives, carbon monoxide, and other potentially harmful constituents, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SARBANES (for himself and Mr. Sasser):

S. 2299. A bill to amend title 31, United States Code, to assist State and local governments in financing urgent public needs caused by the recession by providing for Federal payments to those State and local governments, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

S. 2300. A bill to amend title 31, United States Code, to assist State and local governments in meeting urgent public needs by providing low-cost Federal loans to State and local governments, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SASSER (for himself and Mr. Sarbanes):

S. 2301. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991, the Federal Transit Act, and the Federal Water Pollution Control Act to provide assistance to States for certain infrastructure projects, and for other purposes; to the Committee on Environment and Public Works.

By Mr. RIEGLE (for himself and Mr. Coats):

S. 2302. A bill to require the Secretary of Energy to offer to enter into a Vehicle Fuel Efficiency Research Agreement, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KASTEN (for himself, Mr. Dole, Mr. Bumpers, Mr. Thurmond, Mr. Coats, Mr. Pressler, Mr. Daschle, Mr. Burns, Mr. Cochran, Mr. D'Amato, Mr. DeConcini, Mr. Dodd, Mr. Durenberger, Mr. Garn, Mr. Grassley, Mr. Hollings, Mr. Johnston, Mr. Levin, Mr. Lieberman, Mr. Lugar, Mr. Mack, Mr. Murkowski, Mr. Pryor, Mr. Riegle, Mr. Rockefeller, Mr. Rudman, Mr. Seymour, Mr. Shelby, Mr. Stevens, Mr. Reid, Mr. Roth, Mr. Domenici and Mr. Wallop):

S.J. Res. 262. A joint resolution designating July 4, 1992, as "Buy American Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PRESSLER:

S. Con. Res. 96. A concurrent resolution to express the sense of the Congress that the United States should recognize the independence of the Republic of Kosova, extend full United States diplomatic recognition to the republic and provide effective leadership in international bodies to protect democracy and human rights in Kosova; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 2270. A bill to amend the provision of title 5, United States Code, to provide that consultation with the private sector and ensuring practical application of research and development through Federal funds shall be used as criteria in performance appraisals of certain Federal employees, and for other purposes; to the Committee on Governmental Affairs.

S. 2271. A bill to provide that each agency shall include a competitiveness impact statement for research and development funding in budget requests, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEE TECHNOLOGY TRANSFER ACT AND FEDERAL RESEARCH AND DEVELOPMENT COMMERCIALIZATION ACT

Mr. KOHL. Mr. President, I rise to introduce two bills entitled the Federal Employee Technology Transfer Act and the Federal Research and Development Commercialization Act. These bills are designed to promote greater cooperation between business and government in the area of research and development. And that is something we desperately need.

Last year, a report was issued by a nonprofit, nonpartisan, private sector organization called the Council on Competitiveness, not to be confused with the White House Council on Competitiveness.

The council's executive committee is chaired by George M.C. Fisher, chairman of Motorola. The board includes representatives of Ford Motor Co., IBM, Xerox, BellSouth, the National Association of Manufacturers, and B.F. Goodrich, to name a few.

The report issued by the council last year was called "Japanese Technology Policy: What's The Secret?" It concluded that the Japanese Government takes a pro-active, leadership role in helping industry with the research, development, and commercialization of new technologies. In Japan, Government and industry work closely together to formulate science and technology policy. In America, Government and industry do not.

But through this report, the businessmen and women of this country are sending a clear message: If America is to remain internationally competitive, we must begin to forge a nexus between government and industry. American Government and industry must start working together in order to level the international playing field.

Some would call this industrial policy and reject it out of hand, but I believe the American people and the business community are weary of listening to ideological rhetoric while our industries are losing market share and our workers are losing their jobs.

I have chosen one particular area in which we should begin to focus our attention: the Federal research and development complex. For fiscal year 1993, the President's budget proposes to spend $76 billion. In the budget documents, the administration talks a great deal about the need to transfer Federal technology to the private sector, the need to spend more on applied research which can benefit industry, and the need to shift from defense research to civilian research. The budget claims to target more R&D dollars to civilian and industrial purposes.

But the numbers do not match the rhetoric. According to experts from the Congressional Research Service, the Office of Technology Assessment, and the General Accounting Office, only about $5 billion of that $76 billion is specifically targeted to R&D with commercial or industrial applications. In other words, less than 8 percent of our R&D budget will have any real effect on U.S. competitiveness. If the Nation's top priorities are to become more competitive, improve our economy, and get people back to work, the R&D budget will not get us there.

Furthermore, overall R&D spending in the United States is dropping, while it is rising in other nations, like Japan and Germany. A headline in the February 21 New York Times states: "Research Spending Is Declining in United States As It Rises Abroad." Industry is doing less research because of the recession, and the Federal research is not responding to fill in the gap.

Meanwhile, OTA says that we have lost our manufacturing sector to the Japanese with little hope of recovering it without drastic changes in the way we do business. CRS reports that we lag behind all of our competitors when it comes to transferring technology, planning R&D with industry, and commercializing our ideas. We have lost the VCR market. We are losing the market for high-definition TV. How many other technologies do we have to lose before we take action to turn this situation around?

At the very least, I would propose that we start by involving the private sector in Federal budget decisions related to research and development spending. The two bills I am introducing will help us do that.

The Federal Employee Technology Transfer Act requires that Federal employees who allocate Federal R&D dollars will be evaluated in their job appraisals on the extent to which they seek advice and input from the private sector. This will ensure that the Federal Government makes an effort, wherever possible, to reach out to the private sector and find out what business and industry needs to become more competitive.

The Federal Research and Development Commercialization Act requires agencies to submit competitiveness impact statements with their R&D budget request to OMB and Congress. When agencies request appropriations for R&D, they should at least consider what, if any, impact this spending will have on the economy.

Both of these bills are small steps toward forging a nexus between government and industry. But I believe that both bills will bring about a change in attitude throughout the Federal bureaucracy. If, indeed, our top priority is improving the Nation's competitiveness, then we are going to have to start thinking about what the Federal Government can do to help business and industry. We have to make it part of the bureaucratic mindset—to think about the economic impact associated with every Government action and every Federal spending decision.

These bills will move us a little closer to the development of working partnerships between business and Government. Hopefully, these partnerships will help restore America's competitive edge. It is through R&D and the commercialization of technology that new markets and new jobs will be made, and it is time to turn things around for America, and it's time to get Uncle Sam off the sidelines.

Mr. President, I ask unanimous consent that the text of these bills, as well as the article from the New York Times which I mentioned, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employee Technology Transfer Act".

SEC. 2. PERFORMANCE APPRAISALS FOR PRIVATE SECTOR CONSULTATIONS AND PRACTICAL APPLICATION FOR RESEARCH AND DEVELOPMENT.

(A) Performance Appraisal.—Section 4302a(c) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3)(A) In addition to the provisions of paragraph (1), an appraisal of the performance of employees described under subparagraph (B) shall take into account the extent to which such an employee—

"(i) consults and seeks advice from nongovernmental persons of relevant industries on the expenditure of Federal funds on applicable research and development; and

"(ii) ensures to the greatest extent possible that the expenditure of Federal funds on research and development shall have practical application beneficial to the national economy, without compromising the mission responsibility of the agency.

"(B) The provisions of subparagraph (A) shall apply to any employee who—

"(i) is covered by a performance appraisal system under this section; and

"(ii) holds a position with duties which include the awarding and administration of any loan, grant, contract, or other financial support involving the expenditure of Federal funds for research and development.".

(b) Senior Executive Service.—Section 4313 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "Appraisals"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) In addition to the provisions of subsection (a), an appraisal of the performance of a senior executive described under paragraph (2) shall take into account the extent to which such an executive—

"(A) consults and seeks advice from nongovernmental persons of relevant industries on the expenditure of Federal funds on applicable research and development; and

"(B) ensures to the greatest extent possible that the expenditure of Federal funds on research and development shall have practical applications beneficial to the national economy, without compromising the mission responsibility of the agency.

"(2) The provisions of paragraph (1) shall apply to any senior executive who—

"(A) is covered by a performance appraisal system under this subchapter; and

"(B) holds a position with duties which include the awarding and administration of any loan, grant, contract, or other financial support involving the expenditure of Federal funds for research and development.".

S. 2271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Research and Development Commercialization Act".

SEC. 2. COMPETITIVENESS IMPACT STATEMENTS IN BUDGET REQUESTS FOR RESEARCH AND DEVELOPMENT FUNDING.

(a) Agency Requests.—Section 1108 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) The head of the agency shall include in any appropriation request under this section that relates to research and development funding a competitiveness impact statement.

"(2) The competitiveness impact statement required under paragraph (1) shall be a statement as described under section 5421 of the Omnibus Trade and Competitiveness Act of 1988 (2 U.S.C. 194b; Public Law 100-418; 102 Stat. 1468) and shall include the impact of such funding on—

"(A) the extent that the value added to the economy by such funding would be domestic;

"(B) the extent that such funding would have on the related industries market share;

"(C) the ability of the United States firms engaged in the manufacture, sale, distribution, or provision of goods or services to compete in foreign or domestic markets; and

"(D) the international trade and public interest of the United States.

"(3) This subsection provides no private right of action as to the need for or adequacy of the statement required under this subsection.".

(b) President's Budget Submission.—Section 1105 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) The President shall include in the budget submitted under subsection (a), a competitiveness impact statement for each request relating to research and development funding.

"(2) The competitiveness impact statement required under paragraph (1) shall be a statement as described under section 1108(h)(2).

"(3) This subsection provides no private right of action as to the need for or adequacy of the statement required under this subsection.".

[From the New York Times, Feb. 21, 1992]

RESEARCH SPENDING IS DECLINING IN U.S. AS IT RISES ABROAD

(By William J. Broad)

American spending on research and development has begun to fall for the first time since the 1970's, even as foreign rivals increase their investments in research, a Federal science agency said yesterday.

The amounts spent on research by the Federal Government and private industry each fell, worrying many analysts. They fear that the nation is losing its edge in the international race for discoveries and innovations that can form the basis for new goods and services.

The National Science Board, in its biennial report on the health of the nation's research enterprise, said overall spending on research by the Federal Government, industry, universities and private patrons slowed during the second half of the 1980's and began to fall in 1989, ending an era of extraordinary growth.

RECESSION AND END OF COLD WAR

A Federal analyst, who spoke on the condition of anonymity, said the decline was caused by cutbacks in military research with the end of the cold war and by industrial reductions prompted in part by the recession.

Dr. James J. Duderstadt, president of the University of Michigan and chairman of the National Science Board, said in a statement that the decline, when coupled with educational woes, "should give us real concern for the continued vitality of our research enterprise."

He noted that the United States, despite the drop, still leads the world in overall spending on scientific research.

Yet analysts already edgy about America's status in the global contest for economic advantage expressed worry about the research decline. American spending is falling, they said, as similar investments by Japan and Germany are rising rapidly.

"Clearly it's another warning sign," said Kent H. Hughes, president of the Council on Competitiveness, a private group in Washington that seeks policies to promote industrial vigor. "Especially on the private side, I'd be concerned. That's the research closest to commercialization and marketable products."

Dr. Frank Press, president of the National Academy of Sciences, a federally chartered organization of scientists that advises the Government, agreed. "We especially need to ask why industrial research is down when for other countries it's going up," he said. "That's a matter of concern."

News of the overall drop came in a 487-page report, "Science and Engineering Indicators." Its author, the National Science Board, is the policy-making arm of the National Science Foundation, a Federal agency that supports science research and is responsible for monitoring the nation's overall scientific health.

The biennial report is meant to give decision makers in Government, industry and academia concise information about national trends in science spending, education, manpower and the various fruits of the research enterprise, including patents, scientific papers and new technologies.

In recent decades, the only other drop in overall science spending occurred in the early 1970's as the United States reduced space research after the Apollo moon landings and cut back on military research amid an early thaw in the cold war.

The new report shows that the United States, beginning in 1975, embarked on a spending spree that climaxed in 1989 with an annual national expenditure for research and development of $154.31 billion. After that peak, the amount for 1990 fell to $151.57 billion. The figures are in constant 1991 dollars to cancel the effects of inflation.

The report said that preliminary data suggest that the total for 1991 will be about the same as 1990. But a Federal analyst working on the data suggested that the 1991 total might go down further.

"The dip," said the Federal analyst, who spoke on the condition of anonymity, "is not simply in Federal dollars but in almost all sectors.

"The bottom line for industry is that they had tremendous growth in the first half of the 80's," the analyst said. "And now, with a change of expectations in profits and sales, and a certain amount of consolidation, there's been a slowing in research and development."

From a peak in 1989 of $78.83 billion, annual research spending by American industry dropped to $77.84 billion in 1990, according to the report. It was the biggest drop in three decades.

PROBABLY WILL GET WORSE

"It's bad news," said Erich Bloch, former director of the National Science Foundation. "And it probably will get worse. A couple of years ago, the leveling off had to do with restructuring. But the drop now has to do with the recession and restructuring."

Even before the decline, the rate of growth had fallen sharply. Between 1980 and 1985 the rate of annual growth for industrial research was 6.9 percent in inflation-adjusted dollars, the report said. Between 1985 and 1990, it fell to 1.2 percent.

The report also noted that the American share of the global market for high-technology goods had fallen from 40 percent in 1980 to 37 percent in 1988.

The report, which is required by Congressional legislation, is submitted by the National Science Board to the President, who in turn provides it to Congress. The current volume is the 10th in a biennial series begun in 1972.

In a preface to the report, Dr. Duderstadt of the National Science Board noted the rapid changes around the globe and warned that American research priorities and programs must be "refined and reshaped to adapt."

By Mr. DECONCINI:

S. 2272. A bill to amend the Internal Revenue Code of 1986 to permit penalty-free distributions from qualified retirement plans for unemployed individuals; to the Committee on Finance.

TAX TREATMENT OF QUALIFIED RETIREMENT PLANS

Mr. DECONCINI. Mr. President, this morning, the Labor Department reported that the number of unemployment claims climbed for the second straight week, with a total of 459,000 Americans applying for unemployment for the first time. Last week, the Arizona Department of Economic Security released its unemployment figures for January 1992, and, Mr. President, the news was not good. In fact, it was extremely bad news. Arizonans woke up on February 21, 1992, to a headline in the Arizona Republic which read "State Jobless Rate Climbs to 9.3%—Nine Year High Tops U.S. Mark By 2.2 Points."

For those who say economic recovery is just around the corner, the figures suggest otherwise. When Congress began the debate on extension of emergency unemployment insurance benefits last August, and President Bush was insisting that the recession was bottoming out, Arizona's unemployment rate had been hovering between 5 and 6 percent.

So some could look at Arizona and say unemployment was not getting any worse. I thought it was bad then and said so. That is why I have supported legislation to extend the unemployment compensation benefits. The President twice refused to enact emergency unemployment legislation, before finally signing a bill to extend theses benefits last November. Congress just recently extended those benefits a second time, because clearly, the economy is not recovering.

Now, 6 months later Arizona has one of the highest unemployment rates in the country, 2.2 percent higher than the national average. We all take pride in our States, Mr. President, but this is something that I am very sad to see happen to the beautiful State that I represent.

These charts shows the seasonally adjusted unemployment rates for each of the 15 Arizona counties. Since August 1991, each has experienced an increase in their unemployment rates. Some of the rural counties have been the hardest hit.

In Cochise County, in the southern part of our State, the unemployment rate in August was 6.9 percent; it went up in December to 9.9 percent and up again in January to 11.1 percent.

Mohave County has gone from 6.2 percent in August to 12.2 percent in January 1992.

Graham County, where my mother was born and my relatives still live, the unemployment rate has gone from 5.7 to 11.1 percent in the past 6 months.

These are not very encouraging economic statistics for the State of Arizona, or for the Nation, Mr. President. Some of these rural counties have been extremely hard hit as we can see by these figures. Even in Maricopa County, the most populous county, unemployment has gone from 4.6 in August to 8.3 percent—just about the national average today.

Pima County, where I live, has an unemployment rate that has gone from 3.6 to 6.7 percent, nearly doubled in 6 months.

The unemployment rates shown here are discouraging. The total unemployment figures for Arizona today is 149,400—149,400 people without work.

Mr. President, everyone has been hit hard by this recession. Many people are not eligible for unemployment and are not reflected in the State's unemployment rates. So the problem is surely greater than even these statistics would indicate.

According to a Rocky Mountain Behavior Research poll conducted in January, 15 percent of the Arizona households headed by adults of working age reported at least 1 unemployed member, a figure that has nearly doubled since 1988. That is indicated here. That is a staggering 156,000 households with someone looking for a job.

One of the reasons cited by experts for the increase in unemployment rates in Arizona is the number of individuals who are reentering the job market or who are newly unemployed. This suggests that the profile of the unemployed in this country is indeed changing, and changing dramatically.

Here is an article from the Arizona Republic dated February 6, 1991, "15.1 percent of Arizona families have member out of work."

More individuals are applying for unemployment benefits for the first time in their lives. Skilled workers and professionals who previously made $2,000–$3,000 a month are now struggling to make ends meet on unemployment insurance benefits of $169 per month. With house payments, health insurance costs, and automobile payments, these individuals cannot possibly make it in today's economy.

In January, I spoke on the floor about the unemployment problem in Yuma County in the State of Arizona. I specifically spoke of two families who had experienced unemployment firsthand. One of these individuals, Bob Secrist, told me that he had to withdraw funds from his individual retirement account just to pay his living expenses. In doing so, not only did he have to pay taxes on that amount of money, or will, when income taxes are due, he had to pay a 10 percent penalty as well. When interviewed by a Yuma newspaper, he said, why should our Government punish someone who is truly unemployed and looking for work from withdrawing from some savings they put aside while they were employed.

There are many stories similar to Bob Secrist's, in Arizona and all across this country I suspect. Therefore, today I am introducing legislation which will provide for the penalty-free withdrawal of funds from IRA's and other qualified retirement plans in cases of extended unemployment. My bill states that an individual who has received unemployment benefits for 12 consecutive weeks could use his or her retirement funds in order to meet day-to-day living expenses—paying the mortgage, the car payment, to buy groceries, to obtain medical care, or what have you.

Three months without a job can literally wipe out any savings someone may have.

My bill seeks to cushion the blow of unemployment for these individuals.

I ask unanimous consent that the entire text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following subparagraph:

"(D) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—Distributions made to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions on or after the date of the enactment of this Act.

Mr. DOMENICI. Mr. President, might I say to my friend from the neighboring State of Arizona that I first assumed he was going to come to the floor and engage in another litany of the negatives going on in America. I was wondering, knowing how positive he is normally, and constructive, why he would come to repeat what everyone knows, but I must say I even apologize for my thoughts because obviously he had something very constructive in mind.

I do think the IRA's have to be looked at anew in light of what is going on in the country. I joined with Senator SPECTER, and said we should use IRA's for first-time home buying and also for automobile purchases without penalty.

Some people wonder why we would do that since we are operating against the notion that we need more savings. But frankly it is a question of what does the Nation at large expend to get out of a recession? If you can get out of it a little early, it is certainly worth a few savings even though we are short of savings, because frankly we lose not only the human sufferings that go on and family problems, and we also lose a significant amount of revenue to the national Government, and we pay enormous bills in the unemployment periods of recession for food stamps and other things.

So whatever we can do to curb it and to get us out of it, I think we ought to seriously consider.

Mr. DECONCINI. If the Senator will yield for a response, I thank him for his comment.

I have been negative because I am frustrated. But I feel an obligation to also offer some proposals that might provide relief to the unemployed people of this country. I hope this legislation will do so. And I think the Senator will agree that people who are, indeed, employed should have incentives to save and contribute to their savings, IRA's.

Once they are in trouble, or if you want to use these funds to help stimulate the economy, the proposals of the Senator from Pennsylvania, which the Senator mentioned, should be considered. I hope the Senator from New Mexico might look at my proposal and concur that this is a legitimate means of relief. We need to try to be optimistic and help those who have been wise enough and prudent enough to save something for that rainy day. Because if you think about it, it is really a rainy day when you are suddenly unemployed, and you are willing to work but can't find a job.

By Mr. DOMENICI (for himself, Mr. CHAFEE, Mr. DANFORTH, Mr. MACK, Mr. RUDMAN, and Mr. SEYMOUR):

S. 2273. A bill to amend the Internal Revenue Code of 1986 to stimulate economic growth by revitalizing the domestic real estate market, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. MACK, Mr. SEYMOUR, and Mr. DANFORTH):

S. 2274. A bill to amend the National Housing Act to increase the limit for mortgages eligible to be insured by the Secretary of the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI (for himself, Mr. MACK, Mr. SEYMOUR, Mr. DANFORTH, and Mr. D'AMATO):

S. 2275. A bill to require the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Housing Finance Board to study and report on the development of a secondary market for commercial real estate mortgages and to require the Resolution Trust Corporation to report on the impact of its commercial real estate securitization program; to the Committee on Banking, Housing and Urban Affairs.

S. 2276. A bill to permit the Director of the Office of Thrift Supervision to relax capital requirements applicable to certain savings associations subsidiaries in limited circumstances; to the Committee on Banking, Housing and Urban Affairs.

REAL ESTATE MARKET IMPROVEMENT ACT OF 1992, TARGET FHA TO FIRST-TIME HOMEBUYERS ACT, SECONDARY MARKET FOR COMMERCIAL REAL ESTATE MORTGAGES ACT OF 1992, AND CREDIT AVAILABILITY ACT OF 1992

Mr. DOMENICI. Mr. President, strengthening the real estate market enhances the safety and soundness of our financial institutions, contributes to consumer confidence and helps our economy grow.

How?

Because real estate is a big part of our economy.

The real estate market is responsible for 25 percent of the gross domestic product. Two-thirds of all American families' wealth is in the form of real estate. It employs more than 8 million people. It is America's greatest tangible asset valued at $12 trillion.

The relationship between homebuilding and the business cycle is well known and with history as our guide we know that real estate has been a leading indicator in the recovery from eight recessions since WW II. Typically, homebuilding leads the country into recessions. It leads the country out of recessions.

However, as Alan Greenspan has recognized, this recession is different. In his opinion, the one unique factor threatening an economic recovery this year is the serious downward spiral in real estate values.

When the economy started to pick up last spring, homebuilding was not strong. Consequently, it can be said that real estate led us right out of the recovery.

Another relationship, though not as obvious, exists between the strength of our financial institutions and the real estate market. A stronger real estate market will improve the condition of our financial institutions, enhance credit availability for other small businesses, ease State and local budgets, and improve the overall economy.

We want the recession to end—and the sooner the better. But we can't get there from here without a strengthened real estate market.

The decline in the real estate market is comparable to the decline in the value of the stock market during the 1987 crash—about $500 billion. The difference is that in 1987, the stock market rebounded in 3 months later.

The difference in the stock market crash directly affected the roughly 1 percent of Americans who own stock. Sixty-four percent of all Americans own real estate.

The difference is that people expect the stock market to move up and down, but they didn't expect the real estate market to do anything but go up.

An investment in a home was a milestone toward providing economic security for the family. It was safe. It was a source of equity to finance the children's education and finally a source of retirement income.

The decline in real estate values has sharply reduced the net worth of many American families since two-thirds of all American families' wealth is in the form of real estate.

Reviewing these statistics, it is easy to understand that the decline in real estate values has contributed significantly to consumers' lost confidence.

None of us has been alarmist enough to characterize the real estate market as crashed. Some have said it is in a freefall, but semantics aside, we should all recognize that it is in serious trouble and demands our prompt and corrective action.

That is why the Republican Real Estate Task Force was formed and that is why we are introducing this bill today.

Our task force was formed in October by Republican Leader DOLE. In the months since then, the task force has solicited and received analyses and recommendations from over 40 real estate and financial organizations. We met with Chairmen of the Federal Reserve, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision. We held meetings in California and New Mexico.

I want to recognize all the hard work of the task force members. Senators SEYMOUR, MACK, CHAFEE, DANFORTH, RUDMAN, and MCCAIN. Without their ideas and dedication this legislation would not be possible.

We were extremely pleased that the President recognized the importance of real estate to the country's economic growth. In fact, the President's prescription for a real estate recovery includes many of the same elements as the Real Estate Task Force's recommendations and legislation. We differ on some of the details, but the important thing is that we all agree on the need to strengthen the real estate market.

The reason is not just for real estate's sake. It is for jobs, the health of our financial institutions, and the overall economy.

The elements in the Real Estate Market Improvement Act include capital gains tax cut; passive loss reform to end discrimination against real estate developers; $5,000 first-time home buyer credit; penalty-free withdrawal of IRA funds for down payments; casualty loss deduction for selling homes at a loss; extension of the mortgage revenue bond program to provide low-interest mortgages to first-time home buyers; continuation of the low-income housing tax credit and provisions to make it easier for pensions to invest in real estate; a tax cut in the cost in aid of construction for home building and a provision to simplify bookkeeping for banks dealing with real estate loans.

This might seem like a long list, but the problem of declining real estate values is very serious.

We need to act now.

This decline in real estate values is causing credit problems for financial institutions.

For example, in Texas where S&L losses have been the greatest, real estate accounted for about 75 percent of all thrift institution losses.

Financial institution regulators have required banks to write down or write off many real estate loans. Financial institutions have been required to increase loan loss revenues. This has contributed to the credit crunch.

The resulting tight credit is hurting small businesses because banks don't have the money to lend because of the high reserve requirements required for their real estate loan portfolio. The lending institutions are not in a position to make additional loans. These small businesses have to do with out the loans they need to expand. These firms doing without are the same firms that generate most of the new jobs in our economy.

If the real estate market is not stabilized soon it could weaken insurance companies and pension funds as well.

The two bills we are introducing today are designed to stabilize and strengthen the real estate market and the economy. One would go to the Finance Committee, the others would go to the Banking Committee.

Mr. President, it is easy in recessionary times to forget that recessions end. I think while our memories are short, facts are there indicating that since the Second World War, every few years America goes through a recession. Our economists and our best policy advisers have not been able to come up with an economic policy that eliminates recessions. Consequently, this Nation has to go through the throes of recession every 2 or 3 or 4 years. In the last case, our country enjoyed 6 years of sustained recovery before we experienced the present downturn.

Maybe we, some day, will be smart enough to, and capable of, adopting policies so that recessions will not occur. But it seems to me that when recessions do occur, as it is now—and, clearly, this is a serious recession—policymakers must keep historical perspective. This recession is not as deep as the last. The economic facts are not as bleak as the 1981–82 recession. Unemployment was higher and remained at a very high level for a very long time in 1981–1982. Almost every indicator we are looking at now was worse then than now.

That is the strange part of it. But I think it is easy to tell the American people that it is somebody's fault, and if somebody would just do what they ought to do, we could fix it.

People come to the floor and talk as if a magic wand is around to create jobs. The truth of the matter is that Congress has done very poorly in enacting antirecessionary packages in time to do any real good. The first two or three times we had a recession, Congress thought we would spend money and put people to work. We decided we would cut taxes and spend money. This time it is different, because we have a huge deficit already and fiscal tools are readily available. The deficit, in and of itself, is probably the cause of some of the longevity of this recession.

However, what we have found in looking at the history of trying to ameliorate or make better recessionary times through congressional action, that is, actions of the Government espoused by Congress, is of little avail. Most of the time we call for more spending, but by the time the money flows, believe it or not, the recession is already over. People are put to work on public works jobs on bridges, highways, courthouses, and the like only after the recession is over and private sector is providing jobs. That is the history of it. Nonetheless, it is assumed by some that leaders of the United States can, all of a sudden, find a way to put Americans back to work by waving our magic wand.

I wish we could. I am not so sure the Americans are asking us for that. What I think they are asking us for are some constructive policies that will begin to permit America to come out of this recession and grow at a sustained rate. They want some confidence in the future.

So I have tried, where I could, to suggest positive things, knowing full well that we creep along here in the Congress so slowly that even with the simple, constructive ideas of the Senator from Virginia, who is in the chair, and the Senator from California, the junior Senator from California, or the Senator from New Mexico, it still takes a long time to get them done.

Nonetheless, today I am going to introduce four bills; three bills will go to the Banking Committee, and I will describe them later very briefly. The other will go to the Finance Committee of the U.S. Senate.

Let me explain why I am here and what these bills are about. The distinguished Republican leader, Senator DOLE, asked me to chair a small task force of Senators from our side of the aisle to look at the issue of real estate in the United States. We studied the residential and commercial markets. We looked at real estate's impact on financial institutions and consumer confidence. We considered what could be done to reenergize that part of the American economy, which indeed was in free fall.

Real estate prices were falling so rapidly that we had not seen such a trend for maybe 50 or 60 years in the United States, or more. Houses stopped increasing in value. We even saw States where houses went down in value and were being sold at a loss by substantial numbers of people for the first time in modern history. The security that banks held, which was real estate in the past, and a very sound type of security that permitted them to loan money for people to start businesses, was in such a serious state of decay that it put the financial institutions in trouble. In fact, a substantial portion of the bank failures occurred because real estate values fell out from under the banks.

That does not have to do with the huge Texas thrift failures. Incidentally, the losses in Texas amounted to 75 percent of all of the failed thrift losses.

We talk about all these billions, and that is because of some very peculiar circumstances that came together, as we all know. But lending by the American banking system to people who needed money to expand businesses which cause growth and put people to work was at an all time low. Any way you measure it, lending still is very low, because the bank's security in the form of real estate is constantly at risk. Reappraisals show properties that have gone down from the time it was given as security and what to do about it becomes the talk around the President's office in the bank. What do you do about someone who is making the payments but the little shopping center is no longer worth the face value of the note and the mortgage? All of these things cry out for us to see if we can do something to stop that free fall.

Frankly, the free fall is caused by a lot of things. But I think it is fair to say that we made a conscious decision in 1986 when we rewrote the tax laws of America and supposedly adopted the most reform-minded laws on taxes in modern times. That will be questioned by many Americans, small American taxpayers, medium-size businesses, real estate people, they will all say it was not reform but, rather, the seeds of this recession that were planted in the pages of the Tax Reform Act of 1986.

I do not know who is right. But the truth of it is that we took value out of the real estate market in gobs with that bill. In fact, we were told by experts then: You are apt to be reducing by 25 to 30 percent the value of real estate in America by changing the tax laws.

I am not going to go into the whys and wherefores of the tax law change, other than to say that it is obvious and remains obvious that some of the changes were in order. Real estate, in general, received enormous subsidies from the American Tax Code and, thus, took on an atmosphere of almost irrational investment versus the rest of America's economic needs.

Nonetheless, by making these tax changes and by making them apply to existing transactions and investments we have put a lot of investments in jeopardy. We are going to try today with the bill we introduced on behalf of this task force—Senators CHAFEE, DANFORTH, MACK, RUDMAN, SEYMOUR, who is here, and myself—we are going to attempt to do some things that we think are desperately needed to shore up real estate values in our Nation.

Again, I want to try to make clear the relationship between real estate and joblessness and unemployment in America. Most of the time, Mr. President, we come to the floor and talk about America's growth and relate that to America's job market. We are very excited when the gross national product now called the gross domestic product, has grown 2.5 and 3 percent. If it grows 5 percent we are in a boom time. If it gets to 6 percent we are wondering about inflation ruining us, the economy is so hot, some people say.

Well, it just happens that real estate in its broad sense is about 25 percent of America's gross national product. It is not easy to measure, but it is thought to be between 20 and 25 percent.

It is logical that a set of activities called real estate, that comprises 25 percent of America's gross domestic product which is in a state of free fall, is having a monstrous effect on our ability to recover and grow. Growth means jobs—unless economics have been turned upside down—and I sometimes question whether economics, makes sense but I do not think our economics has been turned on its head yet. If the economy is growing, our people go back to work, jobs begin to appear, businesses begin to prosper. Growth is measured in the gross national product, and lack of growth is given the name "recession", and the measurements indicate we are in a recession.

As I said once, the American people don't take the time to tell us they are for growth but, they are. Because I will ask the two Senators who are here—neither of whom have been here as long as I, but long enough to get a lot of letters from constituents. And I ask if you ever got a letter from a constituent saying "I want a recession." And if you are in one, I wonder if you ever got a letter saying "I would like it to continue." I can attest to 19 years of letters—going on 20—maybe I am in the 20th—never got one, one that wanted recessions.

Now, today we are introducing a bill on capital gains that has been discussed ad infinitum. Frankly, this bill is not being introduced to help any particular group of taxpayers. Capital gains will help boost this economy through capital formation.

Growth-oriented activities in America are good for everyone.

If you do not have large quantities of capital in an economic system, then there is no growth. There is a reason that capital is the first word in our economic system—capitalism. For those people who do not think capital is necessary, maybe they ought to suggest we change the system. But nobody has any desire to charge the system. The whole world is trying to get their capitalistic system moving.

The Soviets finally ended up—the last phase of their revolution was to get rid of communism as a dictatorial institution. But they also wanted economic growth, which they call capitalism, and they are right to want capital.

So we preach that we are for capitalism but we forget that capital is necessary to grow. Capital gains is a tool to take advantage of profits made on the sale of capital assets, so that there will be a big incentive to put money in capital assets.

Most industrial nations have a capital gains differential, which may or may not be relevant to America. It is an effort to help American workers with jobs because, with capital comes growth and jobs.

We are going to reiterate in this bill, the need to allow penalty-free withdrawal for IRA's, and parents and grandparents can do that for their children or grandchildren, which we think adds a dimension to its size, passive loss for real estate professionals. This will end Tax Code discrimination against them.

This will be debated before long because some think we should not start down a passive loss tax shelter path. But let me suggest if we do not, we have just about committed the real estate business in America, real estate as a business, we have just about relegated it to a lesser business in this country because out-of-pocket losses are not allowable except in very restricted circumstances by definition. Yet in other businesses they are allowed. It is not a passive loss.

This bill includes a $5,000 first-time home buyer credit. A permanent extension of mortgage revenue bond. All of these provisions are similar to others but we have put the details in legislative form to articulate our opinion of best policy. We include the loss deduction for selling a house at a loss, which the President suggested.

None of us would ever think to say to the occupant of the Chair, who would have thought in your adult life and in mine, that we would ever even need to protect a homeowner from loss in case of sale? Never happened. Maybe occasionally. Everyone expected an investment in a house to go up. It was most people's nest egg and saving. Nonetheless, selling at a loss is happening in this free fall of real estate.

This bill is going to allow pensions to invest in real estate. There will still be tremendous safeguards put on pension funds to ensure they operate in a safe and sound manner. But if real estate is going to be shored up, more capital has to be made available and pension funds can help. When I visited the State of California, with Senator SEYMOUR, for informal hearings, it was indicated that the pension funds ought to be permitted to invest in real estate. All things being equal, and with appropriate safeguards it might help to bring in capital. We felt it was an excellent idea.

Uniform regulatory treatment of nonaccruing loans. A technical matter. But nonetheless it helps straighten out some of the problems and makes lending in real estate run smoother.

Repeal the income tax on the cost in aid of construction. Another very special and precise one. Controversial. Nonetheless, we feel that in these times, with real estate being under siege, we ought to not make it more expensive to provide infrastructure and utilities for subdivision housing, which are necessary.

We think we have a good bill. We think all of its provisions should be adopted one way or another. I frankly feel very remorseful that it seems to me that the Senate is going to go the way of politics. There will be a Democratic bill and we Republicans will not be able to support it. It does not accomplish what the President asked in his very urgent pleas to us. He asked us to do something quick and very precise, and not get dragged down by politics.

The President is not going to accept the bill, and many of these provisions will find their way into that bill. Even though some of us will ask that they be in there, it will not mean that we will accept it.

I hope if that is the route we go, that we come back after that process and enact some of these good measures.

Mr. President, the tax bill I have introduced today on behalf of the Republican real estate task force will strengthen the real estate market, bolster real estate values, improve the balance sheets of our financial institutions, increase real estate credit and increase construction and related housing jobs.

A good case I believe can be made that because of the economic benefits from this package, with increased jobs, increased revenues, reduced bank failures, and increased credit, that the direct costs of the package will be offset with economic growth.

Nonetheless, it is true that under current scorekeeping conventions, the provisions included in the bill are estimated without these secondary economic benefits. This is referred to as a static cost estimate, not a dynamic cost estimate.

I continue to support and will abide by the 1990 budget agreement and its pay-as-you-go provisions. Therefore, the costs of the task force recommendations, if they are to become law, must be offset so as not to increase the Federal deficit.

The task force recommendations did not attempt to identify pay-as-you-go offsets. Nonetheless, I believe the administration's 5-year static cost estimate of the task force recommendations—$21.2 billion—could be offset by a number of provisions. The Joint Tax Committee would likely estimate the 5-year costs at a higher level because of different assumptions about capital gains tax estimates.

First, important and critical reforms to the Pension Benefit Guarantee Corporation as recommended by the President along with the extension of one expiring provision concerning lump-sum payments to Civil Service retirees would more than adequately fund the administration's estimates of the task force recommendations.

Second, while I may not agree with all the recommendations in the President's recent budget submission, I must note that in addition to the PBGC offsets, the President's budget included an additional $27 billion in revenue offsets and nearly $30 billion in entitlement savings.

Finally, the Congressional Budget Office released this week its voluminous report entitled: "Reducing the Deficit, Spending and Revenue Options." While the CBO report does not endorse any option, it nonetheless has provided the Congress with a valuable service by listing in one document many possible options for deficit reduction. Again, I cannot endorse all the options listed in the CBO report but it is clear that sufficient offsets exist to fund the bill introduced today.

As the bill proceeds and receives the consideration due it, I will work with the committees of jurisdiction to clarify and identify the necessary offsets to fund this important bill.

INTRODUCTION OF THE REAL ESTATE BILLS REFERRED TO THE SENATE BANKING COMMITTEE

Mr. DOMENICI. Mr. President, Alan Greenspan yesterday at the Senate Banking Committee stated that we have not seen an abatement to the decline in real estate values. His message was that we have not reached rock bottom yet.

While most people are focused on the economic tax package related to real estate in the Finance Committee, there is much that can be done to stop the free fall of real estate values through the Banking Committee. If we act in time, maybe we can provide some assistance to stop the fall in prices.

RELATIONSHIP BETWEEN REAL ESTATE AND BANKING

There is a clear relationship between the strength of our financial institutions, the real estate market, and the strength of our economy. A strong real estate market will improve the conditions of our financial institutions, enhance credit availability, encourage homeownership, and create construction jobs.

Part of the credit crunch is related to the regulators requiring banks to write down or write off many real estate loans. The bank examiners view real estate loans as taboo. In today's market, the regulators are requiring banks to build large loan loss reserves against real estate loans.

As banks and thrifts are forced to build capital and loan loss reserves in relation to real estate, there are fewer resources to provide loans to businesses and home buyers. The current capital requirements distort lending decisions away from real estate and even provide a disincentive to not make real estate loans.

CREDIT AVAILABILITY

By January 1, 1994, thrifts will have to put aside 100 percent of capital against real estate development subsidiaries. Rather than meet the new capital requirements, thrifts have been dumping the real estate development subsidiaries.

This bill will give the Office of Thrift Supervision [OTS] some limited and temporary authority to relax the capital requirements against real estate. Without this bill, by 1994 nearly $900 million in capital will be pulled out of the economy for thrifts to keep real estate subsidiaries.

This bill will help relieve the credit crunch, stimulate the economy, and slow the rate of thrift failures. The amendment will free-up bank capital to be put back into the economy through business and mortgage lending rather than storing capital to meet regulatory requirements.

SECONDARY MARKET FOR COMMERCIAL REAL ESTATE

Bankers and regulators view residential mortgage lending as a less risky investment compared to commercial real estate. This is because we have a vibrant secondary market for residential real estate.

The secondary market for residential real estate has created liquidity and diversified risk in the home mortgage lending market. It has maintained an adequate flow of mortgage credit to homebuyers and stabilized mortgage price across the country. A secondary market for commercial real estate has not developed despite the apparent benefits for lenders and homeowners in the residential market.

The number one impediment to the creation of a secondary market for commercial real estate is the standardization of the securities product. This bill requires Fannie Mae, Freddie Mac, and the Federal Home Loan Banks to try to better understand the commercial real estate securitization process.

If progress can be made in understanding why standardization of commercial real estate mortgages has not occurred, then possibly a market will develop through the private sector.

FEDERAL HOUSING ADMINISTRATION [FHA]

Jump starting the homebuilding industry will help the economy rebound and increase construction jobs. This can best be addressed by bringing more first-time home buyers into the market.

The fundamental impediment for first-time home buyers is the downpayment. Most private sector mortgages want at least 20 percent in a downpayment or private mortgage insurance. However, for FHA borrowers the downpayment can be as little as 3 percent.

This bill stimulates the housing market by increasing the FHA mortgage amount of $125,000 for first-time home buyers in high cost areas. Nearly 33 percent of all first-time home buyers take advantage of a Federal guarantee to obtain a mortgage. This bill allows borrowers in high-cost areas to take advantage of the FHA Government guarantee.

These are three bills. The first is sponsored by Senators MACK, SEYMOUR, and DANFORTH, the second by Senators MACK, SEYMOUR, and DANFORTH, and the third by Senators MACK, SEYMOUR, DANFORTH, and RUDMAN.

These three bills address issues between the real estate industry and the banking businesses that we think need attention. Credit availability to the real estate endeavors in the country. And yes, a very exciting proposal: the creation of a secondary market for commercial real estate.

I think my friend from California will remember that two of the things most adamantly recommended by the California home builders and real estate experts was the creation of a secondary market for commercial real estate. The other was the availability of pension funds, under appropriate safeguards, for investment in real estate. We have both suggestions in our legislation. This is a banking one, and it is one of the smaller bills.

In addition, we have a Federal Housing Administration bill to address the fact that FHA loans are restricted in high cost areas by the $125,000 ceiling.

One of the ideas from the task force, through the Senator from California, is to provide an exemption from the $125,000 FHA cap for first-time home buyers in high cost areas.

Our $125,000 cap for FHA home financing, one of the finest tools for letting people finance housing. Few first-time home buyers in California qualify for an FHA mortgage because there is little housing that costs $125,000 or less.

Incidentally, 33 percent of all first-time home buyers use a Federal guarantee. But much of California can not use the FHA guarantee because of the ceiling. This bill writes in California and other high-cost States.

I thank the Senator from California for giving us this information and permitting us to be as clear on the subject as this bill is.

I send to the desk the bill which I first referred to, and I ask that it be referred to the appropriate committee. I believe it is Finance.

I send the other three en bloc to the desk to be referred, and I believe they are referrable to the Banking Committee. But that is the Parliamentarian's job; not mine.

I also ask unanimous consent that a detailed explanation of the bills be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Real Estate Market Improvement Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 code; table of contents.

Sec. 2. Findings and purposes.

TITLE I—INCENTIVES FOR REAL ESTATE INVESTMENT

Subtitle A—Incentives for Acquisition of Capital Assets

PART I—REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS

Sec. 101. Reduction in capital gains tax for individuals.

PART II—INFLATION ADJUSTMENT FOR INVESTMENTS

Sec. 102. Indexing of certain investments for purposes of determining gain.

Subtitle B—First-Time Homebuyers

Sec. 111. Penalty-free withdrawals from pension plans during 1992 for first-time homebuyers.

Sec. 112. Credit for first-time homebuyers.

Sec. 113. Casualty loss on sale of home; basis adjustment.

Sec. 114. Permanent extension of qualified mortgage bonds.

Sec. 115. Permanent extension of low-income housing credit.

TITLE II—INCENTIVES TO ENCOURAGE A STRENGTHENED REAL ESTATE MARKET AND TO ENCOURAGE FINANCING

Subtitle A—Reforms to End Discrimination Against Real Estate Professionals

Sec. 201. Passive loss equity for real estate professionals.

Subtitle B—Provisions Relating to Real Estate Investments by Pension Funds to Provide Capital and Credit for Long-Term Real Estate Investment

Sec. 211. Real property acquired by a qualified organization.

Sec. 212. Special rules for investments in partnerships.

Subtitle C—Other Provisions

Sec. 221. Treatment of contributions in aid of construction.

Sec. 222. Treatment of nonaccruing loans for tax purposes.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the real estate market is responsible for 25 percent of the gross domestic product, and is a vital sector for a healthy economy;

(2) two-thirds of all American families' wealth is in the form of real estate;

(3) real estate is America's greatest tangible asset and is valued at $12 trillion;

(4) the real estate industry employs more than eight million people, and produces about $575 billion in goods and services every year;

(5) the real estate industry provides over 70 percent of the tax revenues for local governments;

(6) according to some estimates, the provisions of the Tax Reform Act of 1986 lowered real estate values as much as 18 percent; and

(7) policies are needed now to stabilize the real estate market, including—

(A) a capital gains differential to increase the value of real estate, to unlock capital in a sluggish market, and to provide incentives for investment,

(B) allowing penalty-free withdrawals from individual retirement accounts (IRAs) to help first-time homebuyers to overcome one of the most significant barriers to homeownership—insufficient funds to make downpayments and to pay closing costs,

(C) allowing real estate professionals the same tax treatment as other individuals running small businesses to eliminate discrimination in the tax code against real estate professionals and to encourage people to retain, rather than default on, properties with depressed values,

(D) allowing a temporary $5,000 first-time homebuyer credit will help 1,200,000 families and will provide 415,000 new jobs in 1992 and 180,000 new jobs in 1993,

(E) making permanent the mortgage revenue bond program to help State and local governments run an even more efficient program than the one which has already helped 130,000 first-time homebuyers every year finance their first home at below market rates, and to provide, along with the extension of the low-income housing tax credit, between 100,000 and 120,000 new jobs,

(F) making permanent the low-income housing tax credit to recognize that since 1986 such credit has been used to help finance more than 365,000 low-income rental units and has been responsible for creating almost all low-income multifamily units renting for less than $450 per month,

(G) repealing the requirement to capitalize "costs in aid of construction" to lower the cost of homes in new subdivisions by as much as $2,000,

(H) modifying provisions relating to real estate investments by pension funds to provide a needed and logical source of capital and credit for long-term real estate investment, and modifying the casualty loss deduction to reflect current real estate market conditions, and

(I) providing treatment of interest on nonaccrual loans which is the same as bank regulatory treatment to avoid costly and unnecessary litigation with the Internal Revenue Service and to enhance credit opportunities for worthy real estate industry borrowers.

(b) PURPOSE.—The purpose of this Act is to revitalize the real estate market by—

(1) providing a capital gains differential,

(2) allowing penalty-free withdrawals from individual retirement accounts to aid first-time homebuyers with their downpayments,

(3) allowing a temporary $5,000 first-time homebuyer credit,

(4) extending mortgage revenue bond authority and the low-income housing tax credit,

(5) eliminating discriminatory tax treatment of taxpayers actively involved in the rental real estate business,

(6) revising provisions relating to real estate investments by pension plans and deductions for casualty losses,

(7) repealing the requirement to capitalize certain "costs in aid of construction", and

(8) providing uniform treatment of interest on nonaccrual loans.

TITLE I—INCENTIVES FOR REAL ESTATE INVESTMENT

Subtitle A—Incentives for Acquisition of Capital Assets

SEC. 101. REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. DEDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) DEDUCTION ALLOWED FOR CAPITAL GAINS.—

"(1) IN GENERAL.—If a taxpayer other than a corporation has a net capital gain for any taxable year, there shall be allowed as a deduction an amount equal to the sum of the applicable percentages of the applicable capital gain.

"(2) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under paragraph (1) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by income beneficiaries (other than corporations) as gain derived from the sale or exchange of capital assets.

"(b) APPLICABLE PERCENTAGES.—For purposes of this subsection, the applicable percentages shall be the percentages determined in accordance with the following table:

"In the case of:	The applicable percentage is:
1-year gain	15
2-year gain	30
3-year gain	45.

"(c) GAIN TO WHICH DEDUCTION APPLIES.—For purposes of this section—

"(1) APPLICABLE CAPITAL GAIN.—The term 'applicable capital gain' means 1-year gain, 2-year gain, or 3-year gain determined by taking into account only gain which is properly taken into account on or after February 1, 1992.

"(2) 3-YEAR GAIN.—The term '3-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 3 years.

"(3) 2-YEAR GAIN.—The term '2-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by 3-year gain, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 2 years but not more than 3 years.

"(4) 1-YEAR GAIN.—The term '1-year gain' means the net capital gain for the taxable year determined by taking into account only—

"(A) gain from the sale or exchange of assets held more than 1 year but not more than 2 years, and

"(B) losses from the sale or exchange of assets held more than 1 year.

"(5) SPECIAL RULES FOR GAIN ALLOCABLE TO PERIODS BEFORE 1994.—For purposes of this section—

"(A) GAIN ALLOCABLE TO PERIODS BEGINNING ON OR AFTER FEBRUARY 1, 1992, AND BEFORE 1993.—In the case of any gain from any sale or exchange which is properly taken into account for the period beginning on February 1, 1992, and ending on December 31, 1992, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 3-year gain.

"(B) GAIN ALLOCABLE TO 1993.—In the case of any gain from any sale or exchange which is properly taken into account for periods during 1993, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 2-year gain and 3-year gain, respectively.

"(6) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-thru entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(7) RECAPTURE OF NET ORDINARY LOSS UNDER SECTION 1231.—For purposes of this subsection, if any amount is treated as ordinary income under section 1231(c) for any taxable year—

"(A) the amount so treated shall be allocated proportionately among the section 1231 gains (as defined in section 1231(a)) for such taxable year, and

"(B) the amount so allocated to any such gain shall reduce the amount of such gain."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss, as the case may be, without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Section 56(b)(1) is amended by adding at the end thereof the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION DISALLOWANCE.—Except with respect to gains realized on the sale, exchange, or other disposition of a direct or indirect interest in real estate or a closely held business, the deduction under section 1202 shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Subparagraph (B) of section 170(e)(1) is amended by inserting "the nondeductible percentage" before "the amount of gain".

(B) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), the term 'nondeductible percentage' means 100 percent in the case of a corporation and 100 percent minus the applicable percentage with respect to such property under section 1202(b) in the case of any other taxpayer."

(4)(A) Paragraph (2) of section 172(d) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 220 is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deductions for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 220 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for net capital gain) shall not be taken into account."

(8) Subparagraph (C) of section 643(a)(6) is amended—

(A) by inserting "(i)" before "there", and

(B) by inserting ", and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account" before the period at the end thereof.

(9) Paragraph (4) of section 691(c) is amended by striking "1202, and 1211" and inserting "1201, 1202, and 1211".

(10) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(11) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(12)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence.

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act of 1936, is amended by striking the last sentence.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Reduction in capital gains tax for noncorporate taxpayers."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after February 1, 1992.

(2) TREATMENT OF COLLECTIBLES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after February 1, 1993.

(B) SPECIAL RULE FOR 1992 TAXABLE YEAR.—In the case of any taxable year which includes February 1, 1992, for purposes of section 1202 of the Internal Revenue Code of 1986 and section 1(h) of such Code, any gain or loss from the sale or exchange of a collectible (within the meaning of section 1222(12) of such Code) shall be treated as gain or loss from a sale or exchange occurring before such date.

PART II—INFLATION ADJUSTMENT FOR INVESTMENTS

SEC. 102. INDEXING OF CERTAIN INVESTMENTS FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF INVESTMENTS FOR PURPOSES OF DETERMINING GAIN.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by an individual of an indexed asset which has been held for more than 1 year, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) SPECIAL RULE FOR RECAPTURE GAIN.—

"(A) IN GENERAL.—Paragraph (1) shall not apply for purposes of determining the amount of recapture gain on the sale or other disposition of an indexed asset, but the amount of any such recapture gain shall increase the adjusted basis of the asset for purposes of applying paragraph (1) to determine the amount of other gain on such sale or other disposition.

"(B) RECAPTURE GAIN.—For purposes of subparagraph (A), the term 'recapture gain' means any gain treated as ordinary income under section 1245, 1250, or 1254.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) any stock in a corporation, and

"(B) any tangible property (or any interest therein),

which is a capital asset or property used in the trade or business (as defined in section 1231(B)) and the holding period of which begins after the date of enactment of the Real Estate Market Improvement Act of 1992.

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) COLLECTIBLES.—Any collectible (as defined in section 408(m)(2) without regard to section 408(m)(3)).

"(C) OPTIONS.—Any option or other right to acquire an interest in property.

"(D) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (i)(3)).

"(E) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(F) STOCK IN FOREIGN CORPORATIONS.—Stock in a foreign corporation.

"(G) STOCK IN S CORPORATIONS.—Stock in an S corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION, WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Paragraph (2)(F) shall not apply to stock in a foreign corporation, the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis or is authorized for trading on the national market system operated by the National Association of Securities Dealers other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)),

"(B) stock in a passive foreign investment company (as defined in section 1296), and

"(C) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset shall be determined by dividing—

"(A) the CPI for the calendar year preceding the calendar year in which the disposition takes place, by

"(B) the CPI for the calendar year preceding the calendar year in which the taxpayer's holding period for such asset began.

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-hundredth.

"(3) CONVENTIONS.—For purposes of paragraph (2), if any asset is disposed of during any calendar year—

"(A) such disposition shall be treated as occurring on the last day of such calendar year, and

"(B) the taxpayer's holding period for such asset shall be treated as beginning in the same calendar year as would be determined for an asset actually disposed of on such last day with a holding period of the same length as the actual holding period of the asset involved.

"(4) CPI.—For purposes of this subsection, the CPI for any calendar year shall be determined under section 1(f)(4).

"(d) SHORT SALES.—

"(1) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 1 year, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) multiplied by the applicable inflation ratio. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date on which the holding period for the asset begins and the closing date for the sale shall be treated as the date of disposition.

"(2) SHORT SALE OF SUBSTANTIALLY IDENTICAL PROPERTY.—If the taxpayer or the taxpayer's spouse sells short property substantially identical to an asset held by the taxpayer, the asset held by the taxpayer and the substantially identical property shall not be treated as indexed assets for the short sale period.

"(3) SHORT SALE PERIOD.—For purposes of this subsection, the short sale period begins on the day after property is sold and ends on the closing date for the sale.

"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"(1) ADJUSTMENTS AT ENTITY LEVEL.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

"(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations, in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

"(i) the determination of whether such distribution is a dividend shall be made without regard to this section, and

"(ii) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year determined without regard to this section exceeds the entity's net capital gain for such year determined with regard to this section.

For purposes of the preceding sentence, any amount includable in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

"(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

"(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(ii). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

"(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(3) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) OTHER PASS-THRU ENTITIES.—

"(1) PARTNERSHIPS.—

"(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners (but only for purposes of determining the income of partners who are individuals).

"(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

"(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants (but only for purposes of determining the income of participants who are individuals).

"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—This section shall not apply to any sale or other disposition of property between related persons (within the meaning of section 465(b)(3)(C)) if such property, in the hands of the transferee, is of a character subject to the allowance for depreciation provided in section 167.

"(h) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) A substantial improvement to property.

"(B) In the case of stock of a corporation, a substantial contribution to capital.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation ratio shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property."

(b) GAINS AND LOSSES FROM INDEXED ASSETS NOT TAKEN INTO ACCOUNT UNDER LIMITATION ON INVESTMENT INTEREST.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended by adding at the end thereof the following new sentences:

"Gain from the sale or other disposition of an indexed asset (as defined in section 1022) held for more than 1 year shall not be taken into account for purposes of the preceding sentence. The preceding sentence shall not apply to gain from the sale or other disposition of any such asset if the taxpayer elects to waive the benefits of section 1022 in determining the amount of such gain."

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of investments for purposes of determining gain."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions of any property the holding period of which begins after the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by subsections (a) and (b) shall not apply to any property acquired after the date of the enactment of this Act, from a related person (as defined in section 465(b)(3)(C) of the Internal Revenue Code of 1986) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

Subtitle B—First-Time Homebuyers

SEC. 111. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS DURING 1992 FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—Subsection (a) shall not apply to any taxpayer if the adjusted gross income of the taxpayer for the taxpayer's first taxable year beginning in 1991 exceeds—

(A) $100,000 in the case of married individuals filing a joint return,

(B) $50,000 in the case of a married individual filing a separate return, and

(C) $75,000 in the case of any other taxpayer.

(2) SPECIAL RULE FOR GRANDPARENTS AND PARENTS.—If a withdrawal is used to pay qualified acquisition costs of a first-time homebuyer who is the child or grandchild of a taxpayer, paragraph (1) shall be applied by reference to the adjusted gross income of the child or grandchild (and, if applicable, their spouse).

(c) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during the period beginning February 1, 1992, and ending on December 31, 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is used by the individual, not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs,

to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the child or grandchild of such individual.

(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in paragraph (1)(B) shall not exceed $10,000.

(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) QUALIFIED ACQUISITION COSTS.—The term "qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs associated with such qualified acquisition costs.

(B) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—

(i) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

(ii) PRINCIPAL RESIDENCE.—The term "principal residence" has the same meaning as when used in section 1034.

(iii) DATE OF ACQUISITION.—The term "date of acquisition" means the date—

(I) on which a binding contract to acquire the principal residence to which this subsection applies is entered into, or

(II) on which construction or reconstruction of such a principal residence is commenced.

(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in paragraph (1), and

(ii) by reason of a delay in the acquisition of the residence, the requirements of paragraph (1) cannot be met, the amount so paid or distributed may be paid into an individual retirement plan as provided in section 408(d)(3)(A)(i) of the Internal Revenue Code of 1986 without regard to section 408(d)(3)(B) of such Code, and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) of such Code applies to any other amount.

(D) DISTRIBUTION RULES.—Any qualified withdrawal shall not be treated as failing to meet the requirements of sections 401(k)(2)(B)(i) or 403(b)(11) of such Code.

(d) ORDERING RULES FOR INCOME TAX PURPOSES.—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

(A) first from amounts which are includible in gross income of the individual when distributed to such individual, and

(B) then from amounts not so includible.

SEC. 112. CREDIT FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—Subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases a principal residence (within the meaning of section 1034), there shall be allowed to such individual as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the purchase price of the principal residence.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed $5,000.

"(2) LIMITATION TO ONE RESIDENCE.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return under section 6013, the credit under this section is allowable only if both the husband and wife are first-time homebuyers, and the amount specified under paragraph (1) shall apply to the joint return.

"(4) OTHER TAXPAYERS.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and the sum of the amount of credit allowed to such individuals shall not exceed the lesser of $5,000 or 10 percent of the total purchase price of the residence. The amount of any credit allowable under this section shall be apportioned among such individuals under regulations to be prescribed by the Secretary.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of any other credits allowable under this chapter.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of the acquisition thereof.

"(2) FIRST-TIME HOMEBUYER.—

"(A) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual has not had a present ownership interest in any residence (including an interest in a housing cooperative) at any time within the 36-month period ending on the date of acquisition of the residence on which the credit allowed under subsection (a) is to be claimed. An interest in a partnership, S corporation, or trust that owns an interest in a residence is not considered an interest in a residence for purposes of this paragraph except as may be provided in regulations.

"(B) CERTAIN INDIVIDUALS.—Notwithstanding subparagraph (A), an individual is not a first-time homebuyer on the date of purchase of a residence if on that date the running of any period of time specified in section 1034 is suspended under subsection (h) or (k) of section 1034 with respect to that individual.

"(3) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—No credit is allowable under this section if—

"(A) the residence is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), or

"(B) the basis of the residence in the hands of the person acquiring it is determined—

"(i) in whole or in part by reference to the adjusted basis of such residence in the hands of the person from whom it is acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(d) RECAPTURE FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (determined without regard to subsection (e)) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—The provisions of paragraph (1) do not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period to which reference is made under paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence.

"(e) PROPERTY TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—The provisions of this section apply to a principal residence if—

"(A) the taxpayer acquires the residence on or after February 1, 1992, and before January 1, 1993, or

"(B) the taxpayer enters into, on or after February 1, 1992, and before January 1, 1993, a binding contract to acquire the residence, and acquires and occupies the residence before July 1, 1993."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) EFFECTIVE DATE.—The amendments made by this section are effective on February 1, 1992.

SEC. 113. CASUALTY LOSS ON SALE OF HOME; BASIS ADJUSTMENT.

(a) CASUALTY LOSS.—Paragraph (3) of section 165(c) is amended by striking the period and inserting ", or from the sale of a principal residence (within the meaning of section 1034)."

(b) $100 LIMITATION TO APPLY.—Paragraph (1) of section 165(h) is amended by inserting "or from each sale of a principal residence," after "theft,".

(c) BASIS ADJUSTMENT.—Section 1016 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INCREASE IN BASIS OF NEW PRINCIPAL RESIDENCE.—

"(1) IN GENERAL.—If—

"(A) the taxpayer sells property used by the taxpayer as his principal residence (within the meaning of section 1034) ('the old principal residence') and realizes a loss on the sale, and

"(B) the taxpayer purchases a new principal residence (within the meaning of section 1034) within the time period described in section 1034(a) (and taking into account any suspension of such period under section 1034 (h) or (k)),

the basis of the new principal residence shall be increased by the amount of the loss realized on the sale of the old principal residence, less the amount treated under regulations prescribed by the Secretary as a casualty loss arising from the sale of the old principal residence.

"(2) REGULATIONS.—The Secretary shall prescribe regulations for determining the amount that shall be treated as a casualty loss arising from the sale of the old principal residence."

(d) CROSS REFERENCES.—

(1) Subsection (m) of section 165 is amended by adding at the end thereof the following new paragraph:

"(6) For adjustments to basis of a new principal residence where a loss is claimed under this section on sale of a principal residence, see section 1016(e) and section 1034."

(2) Subsection (l) of section 1034 is amended by adding at the end thereof the following new sentence: "For adjustments to basis of the new principal residence on sale of the old principal residence at a loss, see section 1016(e)."

(3) The heading of paragraph (1) of section 1034 is amended by striking "REFERENCE" and inserting "REFERENCES".

(e) EFFECTIVE DATE.—

(1) CASUALTY LOSS.—The amendments made by subsections (a) and (b) apply to sales of principal residences on or after February 1, 1992.

(2) BASIS ADJUSTMENT.—The amendments made by subsections (c) and (d) apply to sales of principal residences on or after January 1, 1991.

SEC. 114. PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Paragraph (1) of section 143(a) (defining qualified mortgage bond) is amended to read as follows:

"(1) QUALIFIED MORTGAGE BOND DEFINED.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue."

(b) MORTGAGE CREDIT CERTIFICATES.—Section 25 is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

SEC. 115. PERMANENT EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods after June 30, 1992.

TITLE II—INCENTIVES TO ENCOURAGE A STRENGTHENED REAL ESTATE MARKET AND TO ENCOURAGE FINANCING

Subtitle A—Reforms To End Discrimination Against Real Estate Professionals

SEC. 201. PASSIVE LOSS EQUITY FOR REAL ESTATE PROFESSIONALS.

(a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY TREATED AS PASSIVE ACTIVITIES.—Section 469(c) (defining passive activity) is amended by adding at the end thereof the following new paragraph:

"(7) RULES FOR TAXPAYERS IN REAL PROPERTY BUSINESS TO END DISCRIMINATION.—

"(A) IN GENERAL.—If this paragraph applies to any taxpayer for a taxable year—

"(i) paragraph (2) shall not apply to any rental real estate activity of such taxpayer for such taxable year, and

"(ii) this section shall be applied as if each interest of the taxpayer in rental real estate were a separate activity.

Notwithstanding clause (ii), a taxpayer may elect to treat all interests in rental real estate as one activity.

"(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to a taxpayer for a taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(C) SPECIAL RULES FOR SUBPARAGRAPH (B).—

"(i) CLOSELY HELD C CORPORATIONS.—In the case of a closely held C corporation, the requirements of subparagraph (B) shall be treated as met for any taxable year if more than 50 percent of the gross receipts of such corporation for such taxable year are derived from real property trades or businesses in which the corporation materially participates.

"(ii) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of subparagraph (B), personal services performed as an employee (other than as an owner-employee) shall not be treated as performed in real property trades or businesses."

(b) CONFORMING AMENDMENT.—Section 469(c)(2) is amended by striking "The" and inserting "Except as provided in paragraph (7), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after February 1, 1992.

Subtitle B—Provisions Relating to Real Estate Investments by Pension Funds To Provide Capital and Credit for Long-Term Real Estate Investment

SEC. 211. REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) INTERESTS IN MORTGAGES.—The last sentence of subparagraph (B) of section 514(c)(9) is hereby transferred to subparagraph (A) of section 514(c)(9) and added at the end thereof.

(b) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—For purposes of subparagraph (B), except as otherwise provided by regulations, the following additional rules apply—

"(i) IN GENERAL.—

"(I) For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(II) Clause (v) of subparagraph (B) shall not apply to the extent the financing is commercially reasonable and is on substantially the same terms as loans involving unrelated persons; for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary.

"(ii) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—In the case of a qualifying sale out of foreclosure by a financial institution, clauses (i) and (ii) of subparagraph (B) shall not apply. For this purpose, a 'qualifying sale out of foreclosure by a financial institution' exists where—

"(I) a qualified organization acquires real property from a person (a 'financial institution') described in section 581 or 591(a) (including a person in receivership) and the financial institution acquired the property pursuant to a bid at foreclosure or by operation of an agreement or of process of law after a default on indebtedness which the property secured ('foreclosure'), and the financial institution treats any income realized from the sale or exchange of the property as ordinary income,

"(II) the amount of the financing provided by the financial institution does not exceed the amount of the financial institution's outstanding indebtedness (determined without regard to accrued but unpaid interest) with respect to the property at the time of foreclosure,

"(III) the financing provided by the financial institution is commercially reasonable and is on substantially the same terms as loans between unrelated persons for sales of foreclosed property (for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary), and

"(IV) the amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property ('participation feature') does not exceed 25 percent of the principal amount of the financing provided by the financial institution, and the participation feature is payable no later than the earlier of satisfaction of the financing or disposition of the property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt-financed acquisitions of real estate made on or after February 1, 1992.

SEC. 212. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 131 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(H) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) investments in the partnership are organized into units that are marketed primarily to individuals expected to be taxed at the maximum rate prescribed for individuals under section 1,

"(II) at least 50 percent of each class of interests is owned by such individuals,

"(III) the partners that are qualified organizations owning interests in a class participate on substantially the same terms as other partners owning interests in that class, and

"(IV) the principal purpose of partnership allocations is not tax avoidance.

"(ii) EXCEPTION WHERE TAXABLE PERSONS OWN A SIGNIFICANT PERCENTAGE.—In the case of any partnership, other than a partnership to which clause (i) applies, in which persons who are expected (under the regulations to be prescribed by the Secretary), at the time the partnership is formed, to pay tax at the maximum rate prescribed in section 1 or 11 (whichever is applicable) throughout the term of the partnership own at least a 25-percent interest, the provisions of subparagraph (B) shall not apply if the partnership satisfies the requirements of subparagraph (E)."

(b) PUBLICLY TRADED PARTNERSHIPS; UNRELATED BUSINESS INCOME FROM PARTNERSHIPS.—Subsection (c) of section 512 is amended by striking paragraph (2) (relating to publicly traded partnerships), by redesignating paragraph (3) as paragraph (2), and by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

Subtitle C—Other Provisions

SEC. 221. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) IN GENERAL.—Section 118 is amended by redesignating subsection (c) as subsection (d) and by striking subsection (b) and inserting the following new subsections:

"(b) CONTRIBUTIONS IN AID OF CONSTRUCTION.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides electric energy, gas (through a local distribution system or transportation by pipeline), water, or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) where the contribution is in property which is other than electric energy, gas, steam, water, or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) are not included in the taxpayer's rate base for rate-making purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which was the purpose motivating the contribution, and

"(ii) which is used predominantly in the trade or business of furnishing electric energy, gas, steam, water, or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the year of contribution or expenditure.

"(3) DEFINITIONS.—For purposes of this section—

"(A) CONTRIBUTIONS IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary; except that such term shall not include amounts paid as customer connection fees (including amounts paid to connect the customer's line to an electric line, a gas main, a steam line, or a main water or sewer line and amounts paid as service charges for starting or stopping services).

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33); except that such term shall not include any such utility which is not required to provide electric energy, gas, water, or sewerage disposal services to members of the general public (including in the case of a gas transmission utility, the provision of gas services by sale for resale to the general public) in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, the expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(c) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (b), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (b)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (b)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

SEC. 222. TREATMENT OF NONACCRUING LOANS FOR TAX PURPOSES.

The Secretary of the Treasury or his delegate, in consultation with the Comptroller of the Currency or his designee, shall, not later than 90 days after the date of the enactment of this Act, take such actions as are necessary so that any loan of a financial institution shall, during any period such loan is on nonaccrual status for Federal bank regulatory and financial accounting purposes, be treated in a uniform manner for purposes of the Internal Revenue Code of 1986 and Federal regulatory and financial accounting.

DESCRIPTION OF PROVISIONS IN THE REAL ESTATE MARKET IMPROVEMENT ACT

Section 101. Capital gains.

Purpose: A capital gains differential would increase the value of real estate, unlock capital in a sluggish market and provide incentives for investment.

Eligibility: All individual taxpayers.

Other specific provisions:

Provides a sliding-scale exclusion that is phased in over three years.

	Exclusion	Tax brackets	
		28 percent	15 percent
Holding period:			
3-yr gain	45	15.4	8.3
2-yr gain	30	19.6	10.5
1-yr gain	15	23.8	12.8

Provides prospective indexing for inflation for assets acquired after date of enactment.

No change in current law recapture rules. No recapture of straightline depreciation. Recapture would only apply to accelerated depreciation.

The sale, exchange of real estate or a closely-held business is not treated as a preference item for Alternative Minimum Tax purposes.

Effective date: Generally for dispositions of qualified assets after the date of enactment.

For the balance of 1992, the full 45 percent exclusion would apply to assets held more than 1 year.

For dispositions in 1993, assets would be required to have been held for more than 2 years to be eligible for the 45 percent exclusion and more than 1 year to be eligible for the 30 percent exclusion.

For dispositions in 1994 and thereafter, assets would be required to have been held more than 3 years to be eligible for the 45 percent exclusion.

Section 111. Penalty-free withdrawals from pension plans during 1992 for first-time homebuyers.

Purpose: Allowing homebuyers, parents and grandparents of homebuyers a penalty free withdrawal from IRAs would help first time homebuyers over come one of the most significant barriers to homeownership—making down payments and paying closing costs.

Eligibility: First time homebuyers with AGI less than:

$100,000 for married individuals filing jointly.

$50,000 for married individuals filing separately.

$75,000 for any other individual.

Other specific provisions:

Allows up to $10,000 penalty free withdrawals from IRAs, 401(k)s and other pensions by individuals, parents and grandparents to be used as a down payment of first time home.

Regular income tax due can be paid over a four-year period.

Effective date: Withdrawals made between February 1, 1992 and December 31, 1992.

Sec. 112. $5,000 non-refundable credit for first-time homebuyers.

Purpose: The tax credit would assist first-time homebuyers in entering the housing market to purchase homes. By encouraging such purchases during 1992, the credit would stimulate the housing industry.

Eligibility: All first-time homebuyers.

Including anyone who has not owned a home during the 3-year period prior to the date of purchase.

Other specific provisions:

Credit equal to 10 percent of the purchase price, up to a maximum of $5,000.

One-half of the credit allowed in 1992 and one-half in 1993.

Applicable to existing and new construction.

Effective date: Closing on or after February 1, 1992, and for all binding contracts entered into before December 31, 1992, and closed by June 30, 1993.

Section 113. Casualty loss on sale of home; basis adjustment.

Purpose: Gains and losses are not treated equally in the tax code. In a period of declining real estate values the tax code makes it even more painful for a family forced to sell their principal residence at a loss because the code denies a deduction. Allowing a casualty loss deduction would make it easier on the family budget to sell a house at a loss. The proposal would also update the tax code to recognize current real estate conditions.

Eligibility: Individuals who itemize, and sell a primary residence at a loss.

Other specific provisions:

Allow homeowners who sell homes at a loss to treat the capital loss as a casualty loss, thus allowing a partial deduction.

The marital deduction is:

Loss reduced by $100, and

Loss further reduced by 10 percent of the taxpayer's adjusted gross income.

The nondeductible portion of the loss may be added to the tax basis of a new residence purchased within a 2-year roll-over period.

Effective date: For sales on or after February 1, 1992.

Special rule for 1991 sales: Homeowners who sustained a loss on or after January 1, 1991 but before February 1, 1992, would be permitted to add the entire loss basis to the basis of a new principal residence purchased within the rollover period.

Section 114. Make permanent the mortgage revenue bond provisions.

Purpose: The mortgage revenue bond program has helped millions of first time homebuyers finance their first homes at reduced rates. A permanent extension would help state and local governments run more efficient programs.

Specific provisions:

State and local governments may use the proceeds of tax-exempt bonds to make loans to certain low and middle income families and individuals for the purpose of purchasing a home.

Authority is also granted to state and local government to issue mortgage credit certificates (MCCs), which provide individuals with a tax credit equal to a portion of the home mortgage interest paid by the purchaser.

Making this authority permanent will help states and local governments to run better programs.

Section 115. Make permanent the low income housing tax credit.

Purpose: The low income housing tax credit has helped finance more than 365,000 low-income rental units since 1986 and is responsible for creating between 95 and 100 percent of low-income multifamily units that rent for less than $450 per month. Provides needed incentives to create apartments for families with incomes below 60 percent of area median family income.

Encourages the private sector to construct and rehabilitate the nation's rental housing stock.

Specific provisions:

Owners of qualified low-income apartment buildings may claim the low-income housing tax credit in equal annual installments over a 10-year period as long as the buildings continue to provide low-income housing over a 15 year period.

The discounted present value of the installments of the credit is generally: 70 percent of the depreciable costs of new construction and substantial rehabilitations; and 30 percent of the cost of acquiring existing buildings which have been substantially rehabilitated.

The annual credit available for a building cannot exceed the amount allocated to the building by the designated State or local housing agency.

States are given the authority to allocate the credit at $1.25 per state resident.

Section 201. Passive loss reform to end discrimination against real estate professionals.

Purpose: Allowing real estate professionals the same tax treatment as other small businesspersons would eliminate the tax code's discrimination against real estate professionals and would encourage people to retain ownership, rather than default on depressed properties.

Eligibility: All real estate professionals.

Other specific provisions:

Repeals the irrebuttable presumption that real estate rental activities, are *per se* passive regardless of the taxpayer's participation.

Allows real estate activities to be treated like other trade or business activities which can be either passive or active. A trade or business is passive investment unless the taxpayer "materially participates."

Allows losses from the rental of real property to offset income from the taxpayer's nonrental real estate operations that are part of the same real estate development business.

Section 211. Real property acquired by pension funds and other qualified organizations.

Purpose: Removes overly broad restrictions on pension funds investing in real estate.

Increases the potential number of investors and the amount of capital invested in the real estate market thereby increasing liquidity. This should help stabilize real estate values.

Pension funds and educational institutions are a major source of investment capital for real estate. The debt-financing rules, which were designed to prevent abuses in transactions between taxable and tax-exempt persons are modified to enhance the efficient flow of capital.

Specific provisions:

Pensions, and educational institutions are generally subject to the unrelated business income tax (UBIT) for income earned from debt-financed investments like real estate.

Modifies these debt financing rules to permit pensions, other qualified trusts and educational institutions to invest in debt-financed real estate investments on commercially reasonable terms without being subject to the UBIT.

Provides a general exception to the sale and leaseback prohibition to allow a certain amount of flexibility by allowing a de minimis leaseback if no more than 10 percent of the leasable floor space in a building is leased back to the seller (or related party) and the lease is on commercially reasonable terms.

Provides modifications to allow seller financing on terms that are commercially reasonable.

Provides special rules for investments in real estate partnerships and provides a special exemption for property foreclosed on by financial institutions.

Section 231. Costs in aid of construction.

Purpose: To lower the price of new homes by as much as $2,000.

Specific provisions:

Builders extend gas, water and electric lines to new subdivisions. Builders either pay the utilities to install these lines, or the builders put in the lines and turn the property over to the utilities without charge.

Under current law, utilities must treat these CIACs as taxable income.

Restore the tax-exempt status of contributions in aid of construction.

Section 232. Treatment of nonaccruing loans for tax purposes.

Purpose: To conform the regulatory treatment of nonaccrual loans and the accrual of interest for federal income tax purposes. This would help reduce the taxpayers' disputes with the IRS thereby avoiding unnecessary and expensive litigation.

Specific provisions:

Requires the Treasury and the OCC to establish uniform procedures for allowing banks to treat nonaccrual loans for tax purposes in the same way that regulators require them to be treated for regulatory and financial reporting purposes.

Mr. RUDMAN. Mr. President, I am pleased today to introduce the Real Estate Market Improvement Act of 1992 along with my colleagues on the Republican Task Force on Real Estate. I would like to offer my special thanks to the chairman of the task force, Senator DOMENICI, for all of the time and hard work he has devoted to the task force and in developing this proposal.

The task force, appointed by the minority leader Senator DOLE last October, was charged with reviewing the current real estate industry in the United States. Of particular concern was the effect of the depressed real estate market on the economy, especially the construction and the banking industries. I should note that real estate has been one of the prime engines that has pulled the United States out of every economic slowdown since World War II. After numerous meetings with leaders from Government and industry, the task force released a list of interim recommendations in November. By the time our final report was completed in January, the task force had accomplished seven of its legislative and regulatory policy changes. Although some of the successes are relatively small in nature, I believe that as a whole, they will have a positive effect on the economy.

The Real Estate Market Improvement Act we are introducing today consists of 10 of the legislative reforms the task force believes would have the greatest stimulative effect on the economy and real estate market. Among the provisions in the bill are a cut in the capital gains tax rate, penalty free withdrawals from pension plans during 1992 for first-time home buyers, a $5,000 nonrefundable credit for first-time homebuyers, and overdue changes in the passive loss rules which discourage investment in real estate. If these proposals are enacted, they would have a stimulative effect on the entire economy and provide more stability in the real estate market.

Mr. President, the economy in my home State of New Hampshire is in shambles. Every day I receive numerous letters and phone calls from individuals in New Hampshire seeking action by Congress to provide some sort of relief from the bleak economy.

As of December, the New Hampshire unemployment rate has remained above the national rate for the 10th consecutive month. The national unemployment rate was 6.4 percent, while New Hampshire's was 7.8 percent. In the area of construction employment alone, New Hampshire has seen a drop of over 53 percent over the last 3 years compared to a nationwide drop of 8 percent. Over the last 2 years, New Hampshire has had the greatest welfare caseload increase, with a 133.7-percent increase in the Food Stamp Program and a 98.1-percent increase in the Aid to Families With Dependent Children [AFDC] Program. Clearly, something needs to be done to stimulate the economy and create jobs. I believe that the proposals embodied in this bill will begin to address many of the economic problems that face New Hampshire and this economy.

However, as the old phrase goes, "nothing in life is free." All of the economic packages that have been introduced come with a price tag, and this proposal is no different. The Real Estate Market Improvement Act is estimated to cost between $21.9 and $42.3 billion.

Although the task force has not recommended possible offsets to meet the pay-as-you-go requirements of the Budget Enforcement Act of 1991, clearly some spending of revenue offsets will be necessary. I firmly believe that the record deficits in the last decade are a main reason for the current recession. A reduction in the Federal budget deficit would be the greatest long-term stimulant to the economy. Indeed, reducing the Federal budget deficit has been one of my highest priorities during the past 10 years that I have served as a U.S. Senator. As a coauthor of the Gramm-Rudman-Hollings law, I believe it would be irresponsible and counterproductive to pass any sort of package that simply adds to the deficit. Although I do not support all of the offsets that the administration recommends, I believe that there are a number of possible options open for discussion. While it will not be easy to work out a compromise that is agreeable to everyone, I believe that it is possible to engineer an economic plan that will stimulate the economy and not add further to the Federal deficit.

It is my understanding that the Senate Finance Committee is marking up an economic bill today and I am hopeful they will give careful consideration to the items included in the Real Estate Market Improvement Act. I look forward to working with my colleagues on both sides of the aisle on this issue.

S. 2274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Target FHA to 1st-Time Homebuyers Act".

SEC. 2. PURPOSE.

The purpose of this Act is to target the resources of the FHA single family mortgage insurance program better to meet the needs of first-time homebuyers, low-income families, and minorities.

SEC. 3. INCREASE IN MORTGAGE LIMIT.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "For purposes of the preceding sentence," the first place it appears and inserting the following: "Notwithstanding the limitations contained in subparagraphs (A) and (B) of the preceding sentence, the Secretary may increase the maximum dollar amount limitations applicable to first-time homebuyers, as defined by the Secretary, in areas to which the preceding sentence applies, to an amount not to exceed the median one-family house price in the area. For the purposes of this paragraph,".

SEC. 4. NEW PROGRAMS.

(a) DEVELOPMENT OF PROGRAMS.—The Secretary of Housing and Urban Development (hereafter in this Act referred to as the "Secretary") shall develop programs designed to increase the percentage of mortgages insured under the National Housing Act (12 U.S.C. 1701 et seq.) that are executed by low-income, minority, and first-time homebuyers.

(b) REPORT.—Within 1 year after the date of enactment of this Act, the Secretary shall report to the Congress on the development and future implementation of the programs described in subsection (a).

(c) INTERIM PERIOD.—During the 2-year period beginning on the date of enactment of this Act, the Secretary shall take appropriate actions to increase the percentage of mortgages insured under the National Housing Act that are executed by low-income or minority homebuyers to 30 percent of all mortgages insured under such Act.

FEDERAL HOUSING ADMINISTRATION [FHA] SECTION-BY-SECTION ANALYSIS

SECTION 1: SHORT TITLE

Target FHA to First-Time Homebuyers Act

SECTION 2: PURPOSE

The purpose of this act is to target the resources of the FHA single family mortgage insurance program better to meet the needs of first-time homebuyers, low-income families, and minorities.

SECTION 3: INCREASE THE MAXIMUM MORTGAGE LIMIT

This section gives the Secretary of HUD the authority to increase the maximum mortgage amount for high-cost areas from $125,000 up to the median home price for a metropolitan statistical area (MSA). Only first-time homebuyers would be able to get an FHA guarantee at the higher ceiling level.

SECTION 4: NEW PROGRAMS

This section requires FHA to develop new programs to improve its ability to better serve low-income, minorities, and first-time homebuyers. HUD will be required to report to Congress within one year on how it plans to implement new programs. In the interim, FHA will have a goal of increasing its share of low-income and minority housing business from 15 percent to 30 percent within two years.

S. 2275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Secondary Market for Commercial Real Estate Mortgages Act of 1992".

SEC. 2. PURPOSE.

The purpose of this Act is to provide for a means to better understand the market impediments to developing a secondary market for commercial real estate mortgages.

SEC. 3. FINDINGS.

The Congress finds that—

(1) the secondary market for residential real estate mortgages has created liquidity and diversified risk in the home mortgage lending market, has maintained an adequate flow of mortgage credit to homebuyers, and has stabilized mortgage prices across the country;

(2) a secondary market for commercial real estate mortgages has not developed despite the apparent benefits for lenders and homeowners in the residential market;

(3) the major impediment to the creation of a secondary market for commercial real estate mortgages is the lack of a standardized securities product; and

(4) if progress can be made in the standardization of commercial real estate mortgages and securities, then possibly a market can be developed through the private sector.

SEC. 4. STUDY BY THE FNMA, FHLMC, AND FHFB.

(a) IN GENERAL.—The chairmen of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Housing Finance Board shall each conduct a study of the possibility of developing a secondary market for commercial real estate mortgages. In conducting the study, the chairmen shall focus in particular on—

(1) understanding market perceptions and the market's hesitancy to develop a secondary market for commercial real estate mortgages;

(2) the acquisition, development, and construction phases of the commercial real estate market; and

(3) ways to standardize security products for retail, office space, and other segments of the commercial real estate market.

(b) REPORT—Not later than 1 year after the date of enactment of this Act, the chairmen referred to in subsection (a) shall transmit to the Congress a report on the results of the study under subsection (a). The report shall include recommendations for legislation to develop a secondary market for commercial real estate mortgages.

SEC. 5. REPORT AND STUDY BY THE RTC.

(a) IN GENERAL.—The chief executive officer of the Resolution Trust Corporation (hereafter in this Act referred to as the "RTC") shall conduct a study that focuses on—

(1) efforts by the RTC to standardize its products:

(2) the success of the RTC in marketing its securities; and

(3) the reaction of the market to the commercial real estate mortgage secondary market.

(b) REPORT.—Within 1 year after the date of enactment of this Act, the chief executive officer of the RTC shall transmit a report to the Congress on the impact of its commercial real estate securitization program. Such report shall also contain the results of the study under subsection (a).

COMMERCIAL REAL ESTATE SECONDARY MARKET ACT OF 1992, SECTION-BY-SECTION ANALYSIS

SECTION 1: SHORT TITLE

Secondary Market for Commercial Real Estate Mortgages Act of 1992

SECTION 2: PURPOSE

The purpose of this Act is to provide for a means to better understand the market impediments to developing a secondary market for commercial real estate mortgages.

SECTION 3: FINDINGS

The secondary market for residential real estate has created liquidity and diversified risk in the home mortgage lending market, has maintained an adequate flow of mortgage credit to homebuyers, and has stabilized mortgage prices across the country.

A secondary market for commercial real estate has not developed despite the apparent benefits for lenders and homeowners in the residential market.

The number one impediment to the creation of a secondary market for commercial real estate is the standardization of the securities product. If progress can be made in understanding why standardization of commercial real estate mortgages has not occurred, then possibly a market will develop through the private sector.

SECTION 4: ANALYSIS BY FANNIE MAE, FREDDIE MAC, AND THE FEDERAL HOME LOAN BANKS

This Act requires Fannie Mae, Freddie Mac, and the Federal Housing Finance Board to study how to standardize a security product to help develop a secondary market for commercial real estate. The agencies will complete the studies within one year and report to Congress on the results.

The studies should focus on understanding market perceptions and hesitancy to develop a secondary commercial real estate market.

The study must divide the commercial real estate market into acquisition, development, and construction phases.

It should also look at ways to standardize security products for retail, office space, and other segments of commercial real estate.

The agencies should make recommendations on whether additional legislative authorities are needed to develop a secondary commercial real estate market.

SECTION 5: REPORT AND STUDY BY THE RESOLUTION TRUST CORPORATION

This bill requires the Resolution Trust Corporation (RTC) to study the impact of its commercial real estate securitization program. The study must force on its efforts to standardize its products, its success in marketing the securities, and the markets reaction to the commercial real estate secondary market.

S. 2276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Credit Availability Act of 1992".

SEC. 2. CAPITAL REQUIREMENT EXCEPTION FOR SOUND INSTITUTIONS.

Section 5(t)(5)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended by striking clause (iii) and inserting the following:

"(iii) EXCEPTION FOR SOUND INSTITUTIONS.—Notwithstanding clause (ii), for purposes of clause (i) the percentages listed in clause (iv) shall apply to any savings association that—

"(I) is either 'adequately capitalized' or 'well capitalized' as defined in section 38 of the Federal Deposit Insurance Act;

"(II) has a current MACRO rating from its primary regulator of 1, 2, or 3;

"(III) is an 'eligible savings association' as defined in paragraph (3)(B); and

"(IV) supports the credit needs of the communities it serves.

"(iv) APPLICABLE PERCENTAGES.—For purposes of clause (iii), the applicable percentage is as follows:

"For the following period:	*Applicable percentage:* *Applicable percentage:*
July 1, 1991-June 30, 1994	75
July 1, 1994-June 30, 1995	60
July 1, 1995-June 30, 1996	40
Thereafter	0.

"(v) DISCRETIONARY APPLICATION OF EXCEPTION.—The Director may, in his or her discretion—

"(I) restrict the exception provided by clause (iii) to savings associations that have a current MACRO rating of 3 from the primary regulator of the institution; or

"(II) included certain savings associations located in economically distressed communities among those savings associations to which clause (iii) applies.".

CREDIT AVAILABILITY ACT OF 1992, SECTION-BY-SECTION ANALYSIS

SECTION 1: SHORT TITLE

Credit Availability Amendment Act of 1992

SECTION 2: CAPITAL REQUIREMENT EXCEPTION FOR HEALTH THRIFTS

This bill provides a two year freeze to meet the capital requirements against real estate development subsidiaries for well capitalized and adequately capitalized thrifts.

The capital exemption will only apply to thrifts with MACRO ratings of 1, 2, or 3.

This bill will not change the standard that thrifts already meet the 25 percent capital requirement.

SECTION 3: DISCRETIONARY APPLICATION OF EXCEPTION

This bill gives the Director of the Office of Thrift Supervision the authority to deny the exception for MACRO level 3 thrifts or to apply the exemption for certain thrifts in economically distressed communities.

Mr. MACK. Mr. President, it is my purpose to support the previous comments with respect to this legislation. The proposal, I believe, is an excellent one. I have just returned from several hearings in my State over the past weekend where it was presented to me in very vivid and strong terms with respect to the problems the people of the State of Florida are facing as a result of present economic conditions.

There is a deep sense of concern for the future. Families are hurting. People have lost their jobs. The future does not look bright. There is a sense of anger about what is happening in the economy. And I think that this legislation that a group of us have worked on for some months now with respect to the economy is an excellent one. There are many different points to it. It is geared toward real estate.

I happen to be one of those who believes the real estate problem is, in fact, the economic factor that is driving down our economy and, if we are going to solve our economic problems, in fact a plan has to be geared to support real estate values or encourage investment in real estate.

So I will pick just two areas of the plan that has been put forward this morning.

Capital gains. This plan, I think, will be of great aid to real estate with a 15-percent rate. But one of the things is, it does not provide a negative incentive, if you will, in treatment of depreciation. It allows people to use the capital gains tax rate on all of their gain, as opposed to some other plans that have been put forward to treat depreciation in a different way an probably would put people in a 30-to-31 percent range instead of the 15 percent. So I think this is an excellent plan that has been put forward.

One other area I would stress is the treatment of passive loss. The passive loss rules that have been proposed in some other plans would not allow those incentives to go toward existing property. I make the claim that I think most of us in both the House and the Senate believe that tax incentives should not necessarily be done for the purpose of constructing additional buildings in our economy today. But we ought to see whatever incentive we provide under these new passive loss rules—that those incentives could go to encourage people to buy existing properties.

Just yesterday we had oversight hearings on the RTC, where we had a discussion about passive loss treatment. Under plans that have been proposed in the last several weeks, passive loss incentives would not be available for existing buildings. When we want to see that there is a sale of RTC properties, or FDIC properties, it seems to me it is vitally important that we have these passive loss rules apply to those kinds of purchases and those kinds of investments.

So, again, I rise for the purpose of strongly supporting the initiatives that have been put forward in this plan. The capital gains and passive loss rules are vitally important. There are many, many other aspects here that should strengthen real estate. That is the underlying cause for the economic problems we are dealing with today. Passage of this legislation would go a long way to get our economy moving again.

Mr. SEYMOUR. Mr. President, thank you very much.

I do not want to repeat Senator DOMENICI'S very fine description of the legislation we are introducing today. But I do want to commend him; I want to thank him for his leadership on a matter very critical to our Nation's economic health.

As chairman of the Senate's Republican Task Force on Real Estate, the Senator from New Mexico has displayed extraordinary courage and leadership. And I say courage, Mr. President, because as Senator DOMENICI stated at the outset of his remarks, in 1986, well-meaning as the U.S. Senate might be, the Senate passed the 1986 Tax Refrom Act, hoping that they would achieve equity in such a reform.

I can recall that time very clearly, Mr. President. As a State senator in the California State Legislature, we were trying to conform California's tax laws to the tax reform legislation passed by this body. On the floor of the California State Senate I argued that the Tax Reform Act of 1986 was a tax shift and a tax shaft.

In fact, I am mindful of attending the hearing of the Supreme Court the day before yesterday on California's proposition 13. Proposition 13, as Senators will recall was a property tax revolt to save California homeowners their property because property taxes were rising out of sight. One of the Judges said: "Now, there is not anything fair about taxation. There is nothing fair about it." In fact, he used an analogy: "If we taxed milk and you are a milk drinker, that is not fair to your."

So the notion that embodied the 1986 Tax Reform Act, in my opinion, was wrong. In fact it has contributed greatly to the recession we are now experiencing.

Real estate many times is thought about as, well, that is something that is owned by the rich guy, and the rich are the ones that benefit from real estate. Senator DOMENICI, correctly so, reminded us that 20 to 25 percent of our gross domestic product, our economy, is tied up in real estate.

I would argue, Mr. President, that real estate—specifically housing—is the most important asset that Americans have. It is their retirement. It is their nest egg. It is the American dream to own your own home. And typically, as statistics show, when it comes time to retire you take a look: What have I got? I have my pension; I have my Social Security; I have the equity in my home, the greatest asset I could possibly have.

In today's economy, with so many people about to go into retirement, many are taking a look at that equity in their home. And they see it going down. They are scared, and they should be scared, because two-thirds of this Nation's assets is in real estate and it has been threatened mightily.

So my point is, it is not the rich guy; as usual, it is the little person that drives this economy. And their investment in their home is threatened as is their investment in maybe a small rental property. Do you know what the 1986 Tax Reform Act did to owners of rental property? It said we do not care whether you really lose money. And losing money is pretty easy to define.

I pay my mortgage; I pay my bills; I make my repairs; I pay the rent. And whatever is left over, I have either a loss or I made a profit. So the 1986 Tax Reform Act says we do not care if you lose in that transaction. You cannot take your losses and deduct them from your income, as are able to do if you were in any other business.

Well, that is wrong. So fancy words, like passive losses, might seem to apply to the rich. But I suggest to you, Mr. President, that what we are talking about is the little guy, the individuals or family with a dream of retirement and having made an investment, they worked and saved very hard to protect that investment. It is now threatened.

Let me say also, Mr. President, that I had the opportunity to speak a little earlier about the economic growth package. One of the provisions in the bills we introduce here is the tax credit for first-time homebuyers. And why is that so important? It is so important because it will stimulate the economy and create jobs.

Every dollar invested into the construction industry, the construction of a home generates two and a half dollars in economic activity. That same dollar is turned seven times in the economy over a decade. You see, when you build a home, there is a lot that comes with it. You buy carpets; you buy drapes; you buy a refrigerator; you buy a washer; you buy a dryer; and maybe you buy some new furniture. You put in a lawn; you might build a wall around your property that gives you privacy and protection. As time goes on, you make repairs and general maintenance. You make all those investments. That creates jobs.

I was talking to a beer distributor yesterday from California. I said, "How is business?" He said, "Oh, gee, John; it is off 15 percent." I said, "No kidding? Where at?" He told me about the areas. He said, "You know, what really is wrong here is the construction industry is off, and the folks that work in the construction industry do not have as much money. Some of them are unemployed, and they are not drinking beer."

So my point is that it has an effect, a very major effect, when housing construction goes down. In fact, for 17 years, as a businessman myself—for 17 years—my economic predictor was rather simple. I do not think it took a Ph.D. to figure it out. When housing construction goes down, you are headed into a recession; when housing construction picks up, you are headed out of a recession. I also believe in a rather simple philosophy: If you want more of something, do not tax it; if you want less of something, tax it.

So with a tax credit, really what we are saying is that we want more people to own their home; we want more people to build up their nest egg for their retirement.

Let me close, Mr. President, by saying this is an extraordinarily important package.

Just one last thing on the capital gains tax because that, again, is perceived as something for the rich. There is a lot of Japan-bashing going on, and a lot of bashing of Americans by Japanese leaders, which I think is totally wrong. But one of the reasons our entrepreneurs, our business people, are having such a tough time competing with Japan is that in Japan the capital gains tax is 1 percent; 1 percent. And we are fighting here to get ours down to 15.4 percent. And so when the cost of capital is 4 times greater in this country than it is in Japan, it is no wonder we are having a tough time competing.

This is a good package. It commends Senator DOMENICI and I look forward to early consideration of the package by the Senate.

Thank you very much, Mr. President.

By Mr. COHEN (for himself, Mr. BOND, Mr. BROWN, Mr. SIMPSON, Mr. CHAFEE, Mr. MCCAIN, Mr. NICKLES, and Mr. SEYMOUR):

S. 2277. A bill to amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes; to the Committee on Labor and Human Services.

HOSPITAL COOPERATIVE AGREEMENT ACT

Mr. COHEN. Mr. President, the Commerce Department recently predicted that an estimated $817 billion will be spent on health care this year—a record 14 percent of our estimated gross national product. The United States currently spends more than any other nation in the world on health care—both as a percentage of GNP and on a per capita basis.

Ironically, at a time when American health care expenditures are skyrocketing, more and more Americans are going without needed care. As economist Lester Thurow has observed, "health care is becoming wealth care," as costs spin out of control and out of reach for millions of Americans.

The U.S. health care system is the most innovative and most technologically advanced in the world. It is also the most expensive. Advances in medical technology have dramatically improved methods for diagnosing and treating disease, saving millions of lives and dazzling health care professionals and consumers alike.

Unfortunately, however, this proliferation of expensive medical equipment has also contributed to an equally dazzling explosion in health care expenditures. In fact, the Institute of Medicine estimates that the use of new technologies and the overuse of existing technologies account for as much as 50 percent of our annual increase in health care costs.

More health care is not necessarily better health care, and we need to find a more efficient and cost-effective way to deliver these important but costly high-tech services.

Critics often cite lack of access to "big ticket" medical technologies as a major weakness of the Canadian health care system. However, while it may be true that Canada does not have enough Magnetic Resonance Imaging machines [MRI's] or open heart surgery centers to adequately serve its population, it is equally true that the U.S. may have too many.

America's health care providers are currently engaged in what amounts to a high-tech medical arms race. Every hospital in America wants to have the latest in high-tech machinery and sophisticated hardware, and then must make sure that the equipment is in constant use in order to pay for it.

This high-tech arms race has been a boon to what might be called the medical-industrial complex that manufactures and supplies the equipment.

And while greater production may hold down unit costs, the cost of operating the units is helping to push our system into bankruptcy.

The legislation I am introducing today with my colleagues Senators BOND, BROWN, SIMPSON, and CHAFEE, is intended to encourage hospitals to call a halt to the high-tech arms race and work together to build down their medical arsenals.

Entitled the Hospital Cooperative Agreement Act, the bill is intended to encourage hospitals to collaborate in order to develop more rational health care delivery systems built around the needs of the community, not the needs of the provider. It is also intended to demonstrate the extent to which cooperation between hospitals can not only help to contain costs, but also increase access and improve the quality of health care available in the community.

The Hospital Cooperative Agreement Act authorizes the Secretary of Health and Human Services, working in consultation with the Administrator of the Agency for Health Care Policy and Research, to award 10 5-year demonstration grants to hospitals wishing to enter into cooperative agreements to share expensive medical equipment or services.

Such agreements have the potential not only to reduce health care costs by eliminating unnecessary duplication of high-tech services or equipment, but also to enable smaller hospitals to share expensive equipment that couldn't be supported by one hospital alone—for instance a mobile CAT-scan or lithotriptor, which uses shock waves to dissolve kidney stones—thus increasing access to such services in rural areas. At least three of the demonstration grants authorized by my legislation are to be used to improve access or quality of care in rural areas.

The legislation also specifies that the grant funding may only be used to facilitate the cooperative agreements, not to purchase equipment. Finally, the bill provides an exemption from Federal antitrust law for each of the demonstrations so that hospitals will be able to enter freely into the cooperative agreements, as set out in the legislation.

Mr. President, hospitals across the country have begun to recognize that we simply cannot afford to sustain the 1980's era of unrestrained competition that promised a CAT-scan in every clinic and an MRI in every community hospital.

In my home State, the Maine Hospital Association has embarked upon a future directions project to determine how hospitals throughout the State can work together to share services and contain costs. Similar efforts are being undertaken in other areas of the country.

Seven hospitals in Denver have formed a consortium to study the feasibility of collaborating on the provision of cardiology services for the region. Ten hospitals in Rhode Island have created a network to share the costs and services of four MRI units, and several hospitals in Montana have joined forces to develop a mobile lithotripsy network.

However, while there is growing support for such efforts, hospitals still face significant obstacles to successful collaboration. Cautious administrators are fearful of antitrust implications, and collaboration on even the simplest of projects requires months of negotiation and trustbuilding to overcome such problems as turf battles and bruised institutional egos.

Enactment of my bill will help encourage hospitals to engage in cooperative agreements by clearly demonstrating the potential that collaboration holds not only for containing health care costs, but also for increasing access and improving quality of care. It will also facilitate the development of models or prototypes, making it easier for hospitals wishing to enter into such agreements in the future.

Mr. President, I urge my colleagues to join me in cosponsoring the Hospital Cooperative Agreement Act, and ask unanimous consent to include a summary of the bill as well as the text of the legislation in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hospital Cooperative Agreement Act".

SEC. 2. PURPOSE.

It is the purpose of this Act to encourage cooperation between hospitals in order to contain costs and achieve a more efficient health care delivery system through the elimination of unnecessary duplication and proliferation of expensive medical or high technology services or equipment.

SEC. 3. HOSPITAL TECHNOLOGY AND SERVICES SHARING DEMONSTRATION PROGRAM.

Part D of title VI of the Public Health Service Act (42 U.S.C. 291k et seq.) is amended by adding at the end thereof the following new section:

"SEC. 647. HOSPITAL TECHNOLOGY AND SERVICES SHARING DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a demonstration program under which the Secretary shall in fiscal year 1993 award ten 5-year grants to eligible applicants to facilitate collaboration among two or more hospitals with respect to the provision of expensive, capital-intensive services. Such program shall be designed to demonstrate the extent to which such agreements result in a reduction in costs, an increase in access to care, and improvements in the quality of care with respect to the hospitals involved.

"(b) ELIGIBLE APPLICANTS.—

"(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), an entity (or entities) shall be a licensed hospital (or hospitals) and shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) a statement that such hospital (or hospitals) desires to negotiate and enter into a voluntary cooperative agreement under which such hospital (or hospitals) is operating in one State or region for the sharing of medical technology or services;

"(B) a description of the nature and scope of the activities contemplated under the cooperative agreement;

"(C) a description of the financial arrangement between the hospitals that are parties to the agreement; and

"(D) any other information determined appropriate by the Secretary.

"(2) DEVELOPMENT OF EVALUATION GUIDELINES.—Not later than 90 days after the date of enactment of this section, the Administrator of the Agency for Health Care Policy and Research shall develop evaluation guidelines with respect to applications submitted under paragraph (1).

"(3) EVALUATIONS OF APPLICATIONS.—The Secretary, in consultation with the Administrator of the Agency for Health Care Policy and Research, shall evaluate applications submitted under paragraph (1). In determining which applications to approve for purposes of awarding grants under subsection (a), the Secretary shall consider whether the cooperative agreement described in each such application meets guidelines developed under paragraph (2) and is likely to result in—

"(A) the enhancement of the quality of hospital or hospital-related care;

"(B) the preservation of hospital services in geographical proximity to the communities traditionally served by the applicant hospital (or hospitals);

"(C) improvements in the cost-effectiveness of high-technology services by the hospitals involved;

"(D) improvements in the efficient utilization of hospital resources and capital equipment;

"(E) the provision of services that would not otherwise be available; or

"(F) the avoidance of duplication of hospital resources.

"(c) ALLOCATION OF GRANT FUNDS.—

"(1) IN GENERAL.—Amounts provided under a grant awarded under this section shall be used only to facilitate collaboration among hospitals and may not be used to purchase facilities or capital equipment. Such permissible uses may include reimbursements for the expenses associated with specialized personnel, administrative services, support services, and instructional programs.

"(2) GRANT AWARD AMOUNT.—Hospitals applying for grants under subsection (b) shall specify the desired grant award amount. The Secretary shall determine the appropriate amount in granting such awards.

"(3) CARE IN RURAL AREAS.—

"(A) IN GENERAL.—Not less than three of the grants awarded under subsection (a), shall be used to demonstrate the manner in which cooperative agreements of the type described in such subsection may be used to increase access to or quality of care in rural areas.

"(B) DEFINITION.—As used in subparagraph (A), the term 'rural areas' means those areas located outside of metropolitan statistical areas.

"(d) MEDICAL TECHNOLOGY AND SERVICES.—

"(1) IN GENERAL.—Cooperative agreements facilitated under this section shall provide for the sharing of medical technology or eligible services among the hospitals which are parties to such agreements.

"(2) MEDICAL TECHNOLOGY.—For purposes of this section, the term 'medical technology' shall include the drugs, devices, equipment and medical and surgical procedures utilized in medical care, and the organizational and support systems within which such care is provided, that—

"(A) have high capital costs or extremely high annual operating costs; and

"(B) are technologies with respect to which there is a reasonable expectation that shared ownership will avoid a significant degree of the potential excess capacity of such service in the community or region to be served under such agreement.

"(3) ELIGIBLE SERVICES.—With respect to services that may be shared under an agreement entered into under this section, such services shall—

"(A) either have high capital costs or extremely high annual operating costs; and

"(B) be services with respect to which there is a reasonable expectation that shared ownership will avoid a significant degree of the potential excess capacity of such services in the community or region to be served under such agreement.

Such services may include mobile services.

"(e) TERM.—The demonstration program established under this section shall continue for a term of 5 years.

"(f) REPORTS.—

"(1) IN GENERAL.—Grantees shall submit annual reports to the Secretary containing information on the demonstration projects funded under this section, as required by the Secretary.

"(2) TO CONGRESS,.—On the date that occurs 5 years after the establishment of the demonstration program under this section, the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the potential for cooperative agreements of the type entered into under this section to—

"(1) contain health care costs;

"(2) increase the access of individuals to medical services; and

"(3) improve the quality of health care.

Such report shall also contain the recommendations of the Secretary with respect to future programs to facilitate cooperative agreements.

"(g) RELATION TO OTHER LAWS.—

"(1) IN GENERAL.—Notwithstanding any provision of the antitrust laws, it shall not be considered a violation of the antitrust laws for a hospital to enter into, and carry out activities under, a cooperative agreement in accordance with this section.

"(2) DEFINITION.—For purposes of this subsection, the term 'antitrust laws' means—

"(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, commonly known as the "Sherman Act" (26 Stat. 209; chapter 647; 15 U.S.C. 1 et seq.);

"(B) the Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717; chapter 311; 15 U.S.C. 41 et seq.);

"(C) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, commonly known as the "Layton Act" (38 Stat. 730; chapter 323; 15 U.S.C 12 et seq.; 18 U.S.C. 402, 660 3285, 3691; 29 U.S.C. 52, 53); and

"(D) any State antitrust laws that would prohibit the activities described in paragraph (1).

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,500,000 for each of the fiscal years 1993 through 1997.

"(i) EFFECTIVE DATE.—If Agency for Health Care Policy and Research fails to establish guidelines pursuant to subsection (b)(2), the Secretary shall award grants under this section based on the criteria contained in subsection (b)(3).

By Mr. SHELBY:

S. 2278. A bill to amend section 801 of the act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, to require life imprisonment without parole, or the death penalty, for first degree murder; to the Committee on Governmental Affairs.

REQUIRED PENALTIES FOR FIRST DEGREE MURDER

Mr. SHELBY. Mr. President, today I introduced a bill to allow for the imposition of the death penalty or, in the alternative, to allow for the imposition of a sentence of life imprisonment, without parole, for first degree murder in Washington, DC.

I recently read an excellent article in the Washington Post written by U.S. Attorney Jay Stevens concerning current D.C. laws on the first degree murder. Mr. Stevens pointed out that while Washington, DC, has the highest murder rate in the Nation it also has "one of the country's most lenient penalties for first degree murder." Under the current law, the maximum sentence for a person convicted of first degree murder is life with parole after 20 years.

Mr. Stevens went on to point out that currently 40 States including Virginia and Maryland and the Federal Government authorize the death penalty or life imprisonment without parole for first degree murder. I believe that the Congress must get more actively involved in stopping the wave of violence afflicting our Nation's Capital. By implementing the death penalty or life imprisonment as the sentence for first degree murder, Congress can send a strong message to the ruthless killers living only blocks from this very floor—if you kill someone you will be justly punished.

Mr. President, the U.S. Congress has certain legal and constitutional responsibilities with regard to Washington, DC. The Federal Government provided over $699 million in direct Federal assistance to the District last year. The Framers of the Constitution created the District of Columbia in the U.S. Constitution under the auspices of the U.S. Congress. Regardless of home rule—the U.S. Congress has a major responsibility to protect the welfare of the District's residents and those who visit our Capital City.

Mr. President, I am sure you are aware that I have been personally touched by violence in this city. Tom Barnes, a personal friend and a member of my staff, was brutally murdered outside his house only 7 blocks from the Capitol just over a month ago. But, my reason for introducing this bill goes beyond Tom Barnes. I am offering this legislation on behalf of the 490 men, women, and children who were senselessly murdered in Washington, DC last year. This bill will provide hope that criminals will think twice before killing someone. I believe that justice should be swift and appropriate. The current justice system in the District of Columbia is neither swift nor sure. If criminals believe that they can commit heinous crimes and only receive slaps on the wrists, we will never be able to reduce crime on DC's streets. While some may doubt this, I believe that this bill will save lives. The time to act is now. I urge my colleagues to support this legislation. Mr. President, I ask unanimous consent that an article by Jay Stevens be printed following my remarks. Mr. President, I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEATH PENALTY OR LIFE IMPRISONMENT WITHOUT PAROLE FOR FIRST DEGREE MURDER IN THE DISTRICT OF COLUMBIA.

Section 801 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (D.C. Code 22–2404(a)), is amended—

(1) in subsection (a) by inserting ", without possibility of parole, or death" before the period at the end;

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

[From The Washington Post]

TOUGHER PENALTIES FOR MURDERERS

(By Jay B. Stephens)

After yet another record-breaking year of homicides in the nation's capital, the D.C. Council continues to ponder legislation introduced a year ago that would increase the current 20-year penalty for first-degree murder to life without parole. Although tougher murder penalties are only a partial response to the city's human carnage, they are needed to punish murderers more justly, to deter armed violence more effectively and to reflect more appropriately the value law-abiding citizens of this community place on human life. After a year of deliberation and a mounting body count, it is time to act.

Washington holds the dubious distinction of having both the highest murder rate in the nation and one of the country's most lenient penalties for first-degree murder. The District's per capita murder rate is more than 78 per 100,000 people; that is more than double the rate of New York City, Los Angeles, Houston or Philadelphia and more than 10 times the murder rate of most states. Homicides in our nation's capital reached 490 last year, outpacing the previous year's record of 483. And tragically, the District's 1991 homicide toll included nearly 50 victims who had not even reached their 18th birthday.

It is not just the number of homicides, but the cold, callous way in which many of them are committed—with total disregard for the value of human life—that compels stricter sanctions for first-degree murderers. Included in last year's grisly toll was a growing number of blameless citizens whose lives were snuffed out simply because they unfortunately crossed into the path of wanton, senseless violence.

Patricia Lexie was gunned down from a passing car as she drove through Washington on I-295 with her husband. Marcia Williams was killed in a hail of gunfire as she drove along North Capitol Street with her three young children. Jeanette Jenkins was abducted in Southeast Washington while returning from the grocery store to get diapers for her baby; she was raped, tied to a tree and beaten to death by two attackers who returned two days later to make sure she was dead.

The brutality of many of the killings we encounter as prosecutors defies belief. In one case prosecuted last year, Shardeen Britt and Urcella O'Connor were executed, and two other young mothers were shot at point-blank range by an assailant who broke into their apartment looking for his drug contact—all in view of their four terrorized young children. In another case, Evelyn Spanos, a 21-year-old college student, was abducted, raped, and because her abductor thought she might identify him, executed with a shotgun—while on her knees pleading for her life. And 18-year-old Marcus Herring, the witness to a murder who refused to take a bribe not to testify, was himself executed. These examples offer only a glimpse of the gruesome inhumanity encountered daily in this community.

The District of Columbia's current response to this carnage is to imprison for a mere 20 years those convicted of premeditated, first-degree murder. While capital punishment would be an appropriate sanction for many of these inhuman slayings, the District should, at a minimum, enact a mandatory sentence of life without parole for first-degree murder.

Washington is one of the few jurisdictions in the nation where a first-degree murderer is subject neither to the death penalty nor to life in prison without parole. Currently, 40 states—including Virginia and Maryland—and the federal government authorize the death penalty or a mandatory sentence of life without parole for first-degree killers. And in federal court in Washington, as well as in every other federal court in the nation, major narcotics traffickers face a mandatory sentence of life without parole. Surely cold-blooded killers convicted of ruthlessly taking the life of a human being deserve nothing less. It is time for the District's leaders to express this community's collective moral outrage over the city's violent death toll by enacting tough murder penalties here.

As prosecutors, we witness daily the quest for justice of grieving mothers and father left to pick up the pieces after their child is senselessly gunned down in an argument over a girlfriend, a radio or disrespectful words. We see the anger and frustration of friends and neighbors of victims shot down on our streets. And we understand the terrible dilemma of witnesses to brutal killings who want to do the right thing, but fear for their own lives. The government owes all these people a greater sense of justice and more respect for human life than that reflected in the District of Columbia's current 20-year penalty for first-degree murder.

Enactment of a tough penalty for first-degree murder would send a powerful and important message to law-abiding citizens that this community values human life, that convicted murders who have effectively sentenced their innocent victims to death will receive a just punishment. A tougher penalty for first-degree murder would also instill in the law-abiding people of this community a greater sense of confidence that with their help the criminal justice system can make a difference.

Not only does the District's 20-year sentence fail to punish adequately those who deliberately and with premeditation kill another human being, it fails effectively to deter crime and protect the safety of the people of this community. A mandatory sentence of life without parole would send a message to the gunmen who terrorize our neighborhoods that this community will not tolerate their violence. To those responsible for the human carnage the message would be unequivocal: If you are convicted of the ultimate crime, you can count on spending the rest of your life in prison.

This is not a time for indecision, inaction or political paralysis. Washington cannot expect to relinquish its title of murder capital of the nation as long as its penalty for first-degree murderers remains among the most lenient in the nation. Tougher murder penalties should be enacted now before Washington becomes mired in yet another record-breaking year of counting bodies.

By Mr. LEVIN:

S. 2279. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

LOBBYING DISCLOSURE ACT OF 1992

Mr. LEVIN. Mr. President, we have heard over and over again in recent years that the American public is losing confidence in our Government. One poll shows public approval of the Congress is down to 27 percent; another shows that it is all the way down to 18 percent. We don't have poll results on public confidence in political appointees in the executive branch, but chances are that it isn't much higher.

One of the reasons for this lack of confidence is the widespread belief that government today is too susceptible to the influence of well-connected and highly paid lobbyists. This belief has been fed by recent influence-peddling scandals—the Wedtech scandal, the HUD scandal, the savings and loan scandal, and others. As a result of these events, a recent New York Times poll revealed that more than 70 percent of Americans now believe that our Government is controlled by special interests. In short, lobbyists are seen as part of "the problem in Washington"—as representatives of special interests who are paid well to place their own narrow constituencies above the public interest.

Lobbying—that is, seeking to influence legislation and government policy—is a vital part of our participatory democracy. We deal every day with lobbyists for cities, counties, and States; lobbyists for public hospitals and private relief groups; lobbyists for police organizations and lobbyists for the Girl Scouts. Some lobbyists try to protect the jobs and benefits of our workers; others seek to improve the competitiveness of our industry. Some lobbyists work to keep our streets safe; some want to keep our air and water clean; others seek to reduce taxes.

As a 1986 report of the Senate Governmental Affairs Committee explains:

> [L]obbying is a tangible manifestation of the First Amendment freedom of petition for redress of grievances. Lobbyists provide information that government officials find important in the policymaking process.* * * [Lobbying] permits citizen participation in not only legislative affairs but also in administrative matters.

The fact that we cannot and would not want to ban or restrict lobbying does not mean that general information about paid lobbying activities shouldn't be disclosed. One of the reasons why the public is suspicious and distrustful of the relationship between lobbyists and Government officials is the cloak of secrecy that currently covers too many lobbyists and their activities. All too often, the public is informed about a lobbying effort only in the context of a scandal. All the beneficial, appropriate lobbying efforts don't make the news. So it is not surprising that many believe scandals to be typical of the conduct of lobbyists and public officials.

Effective public disclosure of lobbying activities can ensure that the public, Federal officials, and other interested parties are aware of the pressures that are brought to bear on public policy by paid lobbyists. Such public awareness should inform the public of the broad array of lobbying efforts on all sides of an issue. In some cases, it may alert other interested parties of the need to provide their own views and information to decisionmakers. It also may encourage lobbyists and their clients to be sensitive to even the appearance of improper influence.

Unfortunately, the lobbying disclosure laws on the books today are woefully inadequate to this task. Last year, the Subcommittee on Oversight of Government Management, which I chair, held a series of hearings on the lobbying disclosure laws.

In our first hearing, we learned that unclear statutory language and an absence of guidance as to who is required to register and what they are required to disclose have combined to prevent effective disclosure under the Foreign Agents Registration Act [FARA]. One witness succinctly described FARA as "anachronistic, incomprehensible, and unenforceable."

At our second hearing, we learned that the Lobbying Regulation Act has generally been unenforced and unenforceable almost since its enactment 45 years ago. The General Accounting Office reported that of 13,500 individuals and organizations listed in the book "Washington Representatives," only 3,700 were registered. Three-quarters of the unregistered representatives interviewed by GAO said that they contact Members and staff, deal with Federal legislation, and seek to influence actions of either Congress or the executive branch. Witnesses from groups as diverse as the ACLU, Common Cause, the Chamber of Commerce, and the American League of Lobbyists all agreed that this statute is seriously flawed.

At a third hearing, we learned that the lobbying laws basically don't cover executive branch lobbying—despite testimony from a number of lobbyists that they engage in extensive—and similar—lobbying efforts in both the legislative and executive branches. Moreover, numerous exceptions and limitations on coverage have severely limited disclosure even in the narrow areas of executive branch lobbying that are covered by existing provisions.

In short, we learned that the lobbying disclosure laws are badly broken and need to be fixed.

For these reasons, Mr. President, I am pleased to introduce the Lobbying Disclosure Act of 1992. If enacted, the Lobbying Disclosure Act would address the problems with the existing lobbying disclosure laws by replacing them with a single, uniform statute, covering the paid lobbying of Congress and the executive branch on behalf of both domestic and foreign persons.

The new statute would replace the Federal Regulation of Lobbying Act, the disclosure requirements of the so-called Byrd amendment, the provisions of the Foreign Agents Registration Act which apply to private persons and companies; and the HUD disclosure statutes. The provisions of the Byrd amendment prohibiting lobbying with appropriated funds would be left intact, as would the FARA provisions applicable to representatives of foreign governments and political parties.

This bill has three essential features: it would broaden the coverage of existing disclosure statutes to ensure that all professional lobbyists are registered; streamline disclosure requirements to make sure that only meaningful information is disclosed and needless burdens are avoided; and create a new, more effective and equitable system for administering and enforcing these requirements.

On the first point, the bill would require registration of all professional lobbyists—that is, anyone who is paid to make lobbying contacts with either the legislative or the executive branch of the Federal Government. People whose lobbying activities are only incidental to, and not a significant part of, their jobs would not be covered.

The bill would define lobbying contacts to include communications with Members of Congress and their staff, officers and employees in the Executive Office of the President, and ranking officials in other Federal agencies. Activities that don't constitute lobbying—such as communications by public officials and media organizations; requests for appointments or for the status of an action and other ministerial communications; communications with regard to ongoing judicial or law enforcement proceedings; testimony before congressional committees and public meetings; participation in agency adjudicatory proceedings; the filing of written comments in rulemaking proceedings; and routine negotiations of contracts, grants, loans, and other Federal assistance—are exempted from coverage.

On the second point, the bill would significantly streamline lobbying disclosure requirements by consolidating filing in a single form and a single location—one-stop shopping—replacing quarterly reports with semiannual reports; and authorizing the development of computer-filing systems and simplified forms. The bill would require a single registration by each organization whose employees lobby, instead of separate registrations by each employee-lobbyist. The names of the employee-lobbyists would simply be listed in the employer's registration forms.

In addition, the bill would simplify reporting of receipts and expenditures by substituting estimates of total receipts or expenditures by category of dollar value for the current requirement to provide a detailed accounting of all receipts and expenditures. This reporting would be more meaningful than the current system, because the types of receipts and expenditures to be disclosed would be more broadly defined. The bill would also eliminate the requirement of FARA and the Byrd amendment to list each official contacted and substitute a simpler requirement to identify the Federal agencies and offices, and the Houses and committees of Congress, that were contacted.

At the same time, the bill would close a loophole in existing law by requiring the disclosure of the identity of coalition members who are, in effect, clients, in that they contribute substantially—more than $5,000 in a semiannual period—to the coalition, help supervise its lobbying activities, and are likely to benefit directly if the coalition's lobbying efforts are successful. The bill would also enhance the effectiveness of public disclosure by requiring the disclosure of any foreign entity which supervises, directs, or controls the client, or which has a direct interest in the outcome of the lobbying activity. Any foreign entity with a 10-percent equitable ownership of a client would have to be disclosed.

Finally, the bill would improve the administration of the lobbying disclosure laws by designating the Office of Government Ethics as the responsible agency; requiring the issuance of new rules, forms, and procedural regulations after notice and an opportunity for public comment; making guidance and assistance, including published advisory opinions, available to the public; authorizing the creation of computer systems to enhance public access to filed materials; avoiding intrusive audits or inspections through an informal dispute resolution process; and substituting a system of administrative fines, subject to judicial review, for the existing criminal penalties for noncompliance.

Mr. President, a number of the key terms in this bill have definitions that are subjective, rather than objective, in nature. For example, a person whose lobbying activities "are only incidental to, and are not a significant part of," the services for which he or she is paid, is not a lobbyist and is not required to register.

This use of subjective standards is unavoidable, because many of the issues we are trying to address are simply not susceptible to simplistic legislative formulas. The path we have chosen is not to legislate every detail, but to create for the first time an administrative mechanism to provide full and effective guidance on how to comply. We anticipate the issuance of detailed regulations, advisory opinions, and published decisions to inform the lobbying community of what is expected.

Let me talk about how we intend the exception for incidental and insignificant lobbying activities to work. "Incidental," in my view, means that the activities are not a regular part of the person's responsibilities on behalf of the client. "Not a significant part of" the services provided means that lobbying activities are an insignificant part of the overall activities on behalf of the client.

What does this mean in practice? Let me give some examples of what is intended:

If you are a lawyer, and almost all of your work is litigation and counseling, but you have one client for whom you regularly contact officials, you would be required to register, because the definition works on a client-by-client basis. If your lobbying activities on behalf of a single client are significant, you are required to register for that client, regardless of the activities you may undertake on behalf of others.

If you are a lawyer, and you provide multiple services to a single client, including both lobbying activities and other services, you may well be required to register. If your lobbying activities are a regular part of your function—for example, if you regularly handle lobbying matters for the client, along with other matters—these activities are not "incidental" to the services you provide, and you are required to register.

If you are the Washington representative of a national organization, and only 5 percent of your time is spent on lobbying activities, you are required to register, because lobbying activities are a regular part of your job and would not qualify as "incidental to" the services you provide.

If you are a financial officer or an engineer in a corporation and you are brought to Washington on a one-time basis to explain a technical issue to covered officials, you are not required to register, because this lobbying activity would not be considered a regular or significant part of your services. However, if you were brought to Washington for an extended period—for example, to work on a specific piece of legislation over a period of several months—this would become a significant activity and registration would be required.

If you are with the regional affiliate of a national organization and come to Washington once a year to meet with your Congressman and others as part of a "week in Washington" program, you are not required to register, because this activity would not constitute a significant part of your overall responsibilities.

If you are the CEO of a corporation and you pick up the phone to call your Member of Congress, you would not be required to register, because a few contacts would not be considered a regular or significant part of the services you provide. However, if you work with covered officials on a regular or extended basis and become, in effect, your company's chief lobbyist, you would be required to register.

If you are a Washington lawyer and a client hires you specifically to make a single telephone call to a Congressman, you would be required to register, because unlike the CEO who makes a single phone call, you have been hired for the purpose of making this phone call. For this reason, the contact would be a significant part of the services provided, and you would be required to register.

If you are the Director of a local charity with no Washington office, and you come to Washington for a few days to lobby on a single issue—but do not engage in other lobbying activities—you would not be required to register, because that activity would not constitute a regular or significant part of your overall responsibilities.

Mr. President, this bill is the product of three public hearings; more than a year of investigation into the deficiencies in the existing disclosure statutes; and extensive comments from both government officials and the lobbying community about the proposed requirements. In the last month alone, my staff has received comments on the draft bill from more than 50 interested parties, many of which have been incorporated into the bill.

Overall, I am pleased to report that the reaction to the bill has been overwhelmingly favorable. The bill that we are introducing today achieves an important balance among the many interests involved. This bill takes a huge step in the right direction—the direction of government in the sunshine, the direction of public disclosure and accountability—without impinging on first amendment rights. I hope that my colleagues will join me in supporting this bill and taking this important step.

I ask unanimous consent that a copy of the section-by-section analysis and the bill be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LOBBYING DISCLOSURE ACT OF 1992

SECTION-BY-SECTION ANALYSIS

The Lobbying Disclosure Act of 1992 contains the following provisions:

Section 1 states the short title of the Act.

Section 2 contains the findings and purpose of the Act. The purpose of the Act is to provide for the disclosure of efforts by paid lobbyists to influence Federal officials, without in any way restricting the right of the public to express their opinions freely to such officials.

Section 3 provides definitions of the key terms used in the Act.

Five definitions—the definitions of "lobbyist", "lobbying contact", "lobbying activity", "covered legislative branch official" and "covered executive branch official" govern the basic applicability of the Act.

The term "lobbyist" is defined in subsection (9) to mean any individual who is paid by another to make "lobbying contacts"; it does not include individuals whose "lobbying activities" are "only incidental to, and not a significant part of" the services for which they are paid.

The term "lobbying contacts" is defined in subsection (8) to mean a communication with a "covered legislative or executive branch official" made on behalf of a client with regard to the formulation, adoption, modification, or implementation, of Federal legislation, regulations, or policies, or the position of the U.S. Government on any other matter in which it has or may have an interest, subject to certain exclusions, as described below.

The term "lobbying activities" is defined in subsection (7) to mean lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended for use in contacts, and coordination with the lobbying activities of others. Although grass roots communications are not "lobbying contacts" and do not by themselves require registration, they are included in the definition of "lobbying activities" if they are made in support of lobbying contacts by the registrant. Accordingly, the costs of such activities would be included in estimates of total costs.

Grass roots communications have the same definition in this statute as in regulations implementing 26 U.S.C. 4911(c)(3). These regulations, codified at 26 C.F.R. 4911, define grass roots lobbying communications as communications with the general public that refer to specific legislation, reflect a view on such a legislation, and encourage the recipients to take action with respect to such legislation.

The term "covered legislative branch official" is defined in subsection (3) to mean any Member of Congress, any employee of a Member of Congress or a Congressional Committee; and any other employee in the legislative branch who is compensated at the GS-16 level or higher.

The term "covered executive branch official" is defined in subsection (2) to include the President, the Vice President, any officer or employee of the Executive Office of the President, any other employee in the executive branch who is compensated at the GS-16 level or higher.

The following types of communications are excluded from the definition of "lobbying contacts": (A) communications made by "public officials" acting in their official capacity; (B) communications made by the media, except where representatives of a media organization seek to influence government actions directly affecting the interests of that organization; (C) communications made in speeches, articles, or through the media; (D) communications regarding individual casework on matters such as an individual's benefits or employment; (E) communications that are disclosed under the Foreign Agents Registration Act; (F) ministerial communications, such as requests for appointments or for the status of a Federal action; (G) communications with regard to ongoing judicial proceedings, criminal law enforcement proceedings, and any other proceedings that are required by statute to be conducted on a confidential basis (such as communications regarding so-called "black" programs); (H) testimony at congressional hearings and written responses to congressional requests for information; and (I) specified communications with executive branch officials.

Communications with executive branch officials that are excluded from the definition of "lobbying contacts" pursuant to paragraph (I) include: (1) participation in formal adjudications; (2) comments filed in public dockets and participation in public meetings; (3) written responses to written requests for information; (4) participation in federal advisory committees; (5) comments directed to officials designated in the Federal Register or the Commerce Business Daily to receive such comments; and (6) certain communications with officials (other than Executive Level I-V officials) serving in an agency component regarding routine matters within the jurisdiction of the component, such as communications regarding the negotiation, award, or administration of a contract, grant or loan; communications regarding the implementation of an ongoing program; communications regarding compliance with or the enforcement of an existing statute or regulation within the jurisdiction of the agency component; and other communications that are made on the record, in compliance with published agency procedures. Executive Level I-V positions are listed in 5 U.S.C. Sections 5312-5317, and include the ranking positions (such as Secretaries and Assistant Secretaries, Directors, Administrators and Commissioners) in Federal agencies.

As noted above, a person who makes lobbying contacts is not a lobbyist if his or her lobbying activities are "only incidental to, and not a significant part of" the services for which he or she is paid. This is a two-part test. "Incidental to" the services provided means that lobbying activities are not a regular part of the person's responsibilities on behalf of the client. "Not a significant part of" the services provided means that lobbying activities constitute an insignificant portion of a person's overall activities on behalf of the client. Both parts of the test must be met to qualify for the exemption.

Other key terms used in the Act are also defined in Section 3.

The term "client" is defined in subsection (1) to mean any person who employs or retains another person to lobby on its behalf. An organization whose employees conduct lobbying activities on its own behalf (so-called in-house lobbyists) is both the client and the employer of the lobbyists.

The term "Director" is defined in subsection (4) to mean the Director of the Office of Government Ethics.

The term "employee" is defined in subsection (5) to mean any officer, employee, partner, director, or proprietor of an organization, other than volunteers and independent contractors who are not regular employees.

The term "foreign entity" is defined in subsection (6) to mean a foreign country or a foreign political party, a person outside the United States (other than a U.S. citizen or a U.S. corporation), and a foreign partnership, association, corporation, or organization.

The term "organization" is defined in subsection (10) to mean a corporation, company, foundation, association, labor organization, firm, partnership, society, or joint stock company.

The term "public official" is defined in subsection (11) to mean an elected or appointed official of a Federal, State, or local unit of government, any organization of State or local elected or appointed officials, any Indian tribe, any national or State political party, or any Federal, State, or local unit of a foreign government.

Section 4 provides for the registration of lobbyists.

Subsection (a) requires lobbyists (or, as provided in subsection (d)(2), their employing organizations) to register with the Office of Government Ethics within 30 days after a lobbying contact is made.

Subsection (b) sets forth the contents of the registration. Each registration is to include: (1) basic information identifying the registrant; (2) basic information identifying the client; (3) the name of any organization, other than the client, that makes a substantial contribution (in excess of $5,000 in a semiannual period) toward the lobbying, exercises significant supervision or control over the lobbying, and stands to benefit directly if the lobbying is successful; (4) basic information regarding any foreign entity that supervises, controls or finances the lobbying activities, in whole or in major part; (5) a general statement of the issues on which the registrant expects to lobby; and (6) the name of each employee of the registrant who is expected to engage in lobbying contracts. The requirement in Paragraph (3) to disclose certain organizational contributors is intended to avoid evasion of the statutory disclosure requirements through the creation of lobbying coalitions which could mask the identity of the real parties in interest.

Subsection (c) requires registrants to terminate their registrations when they cease to represent a client. If a registrant fails to terminate, and can no longer be located or identified, the Director may terminate the registration.

Subsection (d) provides guidelines for the registration process.

Paragraph (1) provides that in the case of a registrant representing more than one client, a separate registration must be filed for each client represented.

Paragraph (2) provides that any organization that has one or more employees who are lobbyists is required to file a single registration covering all of its employee-lobbyists. This organizational filing is in lieu of individual registrations by each employee-lobbyist and should streamline the registration process.

Paragraph (3) provides guidance on compliance with subsection (b)(4), which requires the disclosure of any foreign entity that controls activities of the client in whole or in major part. Under Paragraph (3), a foreign entity is deemed to control the activities of a client in major part if the foreign entity holds at least 10 percent equitable ownership in the client.

Section 5 provides for the filing of semi-annual reports by registrants.

Subsection (a) requires each registrant to file a report on its lobbying activities during a semiannual period no later than 30 days after the end of such period.

Subsection (b) sets forth the contents of semiannual reports. Semiannual reports are to include: (1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration; (2) a list of the specific issues that were the subject of significant lobbying activities during the semiannual period; (3) for each issue listed, specified information about the issue and the lobbying contacts; and a good faith estimate of either (4) total receipts from the client, or (5) total costs incurred in connection with lobbying activities.

The list of specific issues to be disclosed pursuant to Paragraph (2) is intended to be more specific than the general statement of issues provided at the time of initial registration. For example, a general statement of issues might refer to "tax legislation", but the specific list should indicate whether the issues lobbied included the capital gains tax or the luxury tax.

The information to be provided on an issue-by-issue basis, pursuant to Paragraph (3), includes (A) a list of bill numbers and reference to specific executive branch actions that were the subject of the lobbying; (B) a statement of the Houses and Committees of Congress and the Federal agencies and agency components contacted; (C) a list of the individual employees who engaged in lobbying contacts; and (D) a description of the interest of a foreign affiliate in the issue. Unlike the Byrd Amendment and the Foreign Agents Registration Act, this provision would not require registrants to name any specific official who has been lobbied.

Paragraph (4) requires organizations that lobby on behalf of others (so-called "outside lobbyists") to provide a good faith estimate of total receipts from the client, "other than receipts for matters that are unrelated" to lobbying activities."

Paragraph (5) requires organizations that engage in lobbying activities on their own behalf, through their own employees (so-called "in-house lobbyists") to provide a good faith estimate of the total costs incurred in connection with such activities, by category of dollar value. This provision is intended to obviate the need for extensive accounting systems tracking every hour of time spent by a lobbyist, every messenger used, and every page of material xeroxed. As long as a registrant has a reasonable estimating system in place, and complies in good faith with that system, the requirements of the provision are met.

Subsection (c) sets forth specific rules regarding estimates of costs and receipts.

Paragraph (1) provides that estimates of costs and receipts of $200,000 or less shall be made by category of dollar value, and sets forth the categories to be used.

Paragraph (2) provides that estimates of costs and receipts in excess of $200,000 are to be estimated and rounded to the nearest $100,000.

Paragraph (3) provides that any registrant whose total costs or receipts are less than $500 in a semiannual period is deemed to be inactive and may comply with the reporting requirements by so notifying the Director.

Paragraph (4) provides that registrants who are already required to disclose their lobbying costs under the Internal Revenue code are not required to make a separate estimate under this statute, and may comply with the requirements of subsections (b)(4) or (b)(5) by including in their reports the same amount disclosed to the IRS.

Paragraph (5) provides that estimates of total costs or receipts are not required to include the value of contributed (i.e., volunteer) services. The cost of services provided by an independent contractor or agent of the registrant who is separately registered under the Act are also excluded, to avoid double-counting.

Section 6 establishes the administrative duties of the Office of Government Ethics. This Section requires the Director to (1) prescribe rules, forms, penalty schedules, and procedural regulations necessary for the implementation of the Act; (2) provide guidance and assistance on the registration and reporting requirements of the Act, including published decisions and advisory opinions; (3) make supplemental verifications and inquires to ensure the completeness, accuracy, and timeliness of registrations and reports; (4) develop filing, coding, and cross-indexing systems to minimize the burden of filing and maximize public access to information filed; (5) make copies of registrations and reports available to the public as soon as practicable; (6) preserve copies of registrations and reports for a specified period; (7) maintain a computer record of the information contained in such registrations and reports; (8) compile and summarize the information contained in such reports; (9) make compilations and summaries available to the public; (10) provide copies of all registrations, reports, compilations and summaries available to the Secretary of the Senate and the Clerk of the House for disclosure to the public by those offices; and (11) report to the President and the Congress on the implementation of the Act.

Section 7 establishes procedures for the informal resolution of alleged noncompliances.

Subsection (a) provides that whenever the Office of Government Ethics has reason to believe that a person may be in noncompliance with the requirements of the Act, the Director is required to notify the person in writing of the alleged noncompliance and provide the person with an opportunity to respond.

Subsection (b) provides for the informal handling of responses received pursuant to subsection (a).

If the person provides adequate information or explanation to determine that it is unlikely that a noncompliance exists, paragraph (1) provides that the Director shall not take any further action.

If the person agrees that there was a noncompliance and corrects the noncompliance, paragraph (2) provides that the Director shall treat the noncompliance as a minor noncompliance and assess a penalty, if appropriate.

If the information provided indicates that a noncompliance may exist, paragraph (3) provides for the Director to make a determination pursuant to Section 8.

Subsection (c) provides that if a person fails to respond to a notice under subsection (a), or if the response is inadequate to determine whether a noncompliance exists, the Director may make a formal request for specific additional information that is reasonably necessary for the Director to make a determination. Any request for information under subsection (c) must contain: (1) a description of the alleged noncompliance; (2) a sufficient description of the documentary material requested to permit such material to be readily identified; and (3) a reasonable return data.

Subsection (d) provides that information provided under subsection (c) shall not be made available to the public without the consent of the person providing the information, except to the extent that such information is (1) included in a new or amended report or registration; or (2) included in a written decision that is published after appropriate redaction to ensure that confidential information is not disclosed.

Section 8 establishes procedures for determinations of noncompliance in cases where information provided to OGE under section 7 indicates that a noncompliance may exist.

Subsection (a) requires the Director to notify the person in writing of his finding that a noncompliance may exist and, if appropriate, a proposed penalty assessment. In the case of a minor noncompliance, the Director must also afford the person a 30-day period in which to request an oral hearing and grant such a request for good cause shown. In the case of a significant noncompliance, the Director must afford the person an opportunity for a hearing on the record under the provisions of the Administrative Procedure Act, if requested within 30 days.

Subsection (b) provides that, upon the receipt of a written response, the completion of a hearing, or the expiration of the response period, the Director shall review the information received and make a final determination whether there was a noncompliance and a final determination of the penalty, if any.

Subsection (c) provides that if the Director makes a final determination that there was a noncompliance, he shall issue a written decision. Any such written decision shall: (1) include the noncompliance in a publicly available list of noncompliances, to be reported to the Congress on a semi-annual basis; (2) direct the person to correct the noncompliance; and (3) assess an appropriate civil monetary penalty. In the case of a minor noncompliance, the civil monetary penalty may not exceed $10,000, depending on the nature and extent of the noncompliance. In the case of a significant noncompliance, the amount of the civil monetary penalty must be more than $10,000, but no more than $100,000, depending on the nature and extent of the noncompliance.

Subsection (d) provides that if a person fails to comply with a directive to correct a noncompliance under subsection (c), the Director shall refer the case to the Department of Justice to seek civil injunctive relief. The relief to be sought in such a case is compliance with the statute—i.e., the filing of a compliant registration and/or report.

Subsection (e) provides guidelines for penalty assessments.

Under paragraph (1), no penalty may be assessed unless the Director finds that the person subject to the penalty knew or should have known that he or she was in noncompliance. In determining the amount of a penalty, the Director is to take into account the totality of the circumstances, including the extent and gravity of the noncompliance and such other matters as justice may require.

Paragraph (2) requires the Director to define minor and significant noncompliances. Significant noncompliances include a knowing failure to register and any other knowing noncompliance that is extensive or repeated.

Section 9 establishes procedures for addressing (1) registrations and filings that are more than 30 days late; and (2) failures to provide information. The procedures in this section parallel the procedures established for noncompliances under Section 8.

Subsection (a) requires the Director to provide any person who is alleged to have filed late or failed to provide information with notice and an opportunity to respond to the allegation.

Subsection (b) provides for the Director to make a final determination on the basis of the information received.

Subsection (c) provides for the Director to issue a written decision of any final determination of noncompliance. In the case of a late filing, the written decision must assess a civil monetary penalty of $200 for each week by which the filing was late, with a total penalty not to exceed $10,000. In the case of a failure to provide information, the decision must include the noncompliance in a publicly available list of noncompliances and assess a civil monetary penalty in an amount not to exceed $10,000.

Subsection (d) provides that in addition to the penalties under this Section, the Director may refer the case to the Department of Justice to seek civil injunctive relief. Such a referral might be made in a case where a person refuses to provide requested information, notwithstanding a penalty assessed under this provision. The relief to be sought in such a case would be compliance with the request for information.

Section 10 provides for judicial review of written decisions issued by the Office of Government Ethics under sections 8 and 9.

Subsection (a) states that any such written decision becomes final 60 days after notice is provided, unless it is appealed under subsection (b).

Subsection (b) states that any person adversely affected by a written decision may appeal such decision to the appropriate U.S. Court of Appeals within 60 days of receiving notice of the decision. In any such appeal, the findings of fact of the Director are conclusive, unless found to be unsupported by substantial evidence. Any penalty assessed or other action taken in the decision are to be stayed during the pendency of the appeal.

Subsection (c) provides for the recovery in an appropriate U.S. District Court of any penalty assessed in a final written decision. In any such action, no matter that could have been raised before OGE or on judicial review pursuant to subsection (b) may be raised as a defense, and the determination of amounts of penalties and assessments is not subject to review.

Subsection (d) provides for the recovery of attorneys fees by any person who substantially prevails on the merits in any appeal under this Section.

Section 11 provides two important rules of construction.

Subsection (a) provides that nothing in the Act shall be construed to prohibit, or to authorize the Director to prohibit, lobbying activities or lobbying contacts by any person, regardless of whether such person is in compliance with the requirements of the Act. The remedies for noncompliance with the Act include the assessment of an appropriate penalty; placement on a list of noncompliant persons; and directives to comply through the filing of new or amended registrations or reports or the disclosure of required information to OGE. No prohibition or bar on lobbying is intended or authorized.

Subsection (b) provides that nothing in the Act shall be construed to grant to OGE any general audit or investigative authority. The Director is authorized to request and receive information about possible noncompliances pursuant to the procedures established in Sections 7, 8 and 9. No other investigative authority is contemplated.

Section 12 repeals the Federal Regulation of Lobbying Act.

Section 13 amends the Foreign Agents Registration Act (22 U.S.C. 6121 et seq.) in three ways: (1) the applicability of FARA is limited to representatives of foreign governments and political parties; (2) the applicability of the so-called "lawyers' exemption" is clarified by establishing that the exemption applies to communications with agency officials only in the context of agency proceedings required by statute or regulation to be conducted on the record; and (3) the term "political propaganda" is eliminated from the Act, and replaced by the term "informational materials".

Section 14 amends the Byrd Amendment (31 U.S.C. 1352) to eliminate separate lobbying disclosure provisions in that provision. Applicants for Federal contracts, grants, and loans would still be required to certify that they had not lobbied for the contract, grant, or loan with appropriated funds. In addition, they would be required to name any registrant under the Lobbying Disclosure Act who had made lobbying contacts with regard to such contract, grant, or loan, on behalf of the applicant.

Section 15 would repeal the HUD lobbying disclosure provisions (42 U.S.C. 1490p(d) and 3537b).

Section 16 would establish that if any provision of the Lobbying Disclosure Act is found to be unconstitutional, such provision would be treated as severable, and the remainder of the Act would remain in effect.

Section 17 authorizes appropriations that are necessary to carry out the Act.

Section 18 provides effective dates for the Act.

Subsection (a) provides that the Act shall take effect one year after the date of enactment.

Subsection (b) provides that the repeals made in Sections 12, 13, 14, and 15 shall not effect ongoing proceedings or Federal recordkeeping requirements under the repealed provisions.

Subsection (c) provides that proposed regulations must be published for public comment not later than 270 days after the date of enactment.

S. 2279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lobbying Disclosure Act of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak investigative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

(b) PURPOSE.—The purposes of this Act are to—

(1) provide for the disclosure of the efforts of paid lobbyists to influence Federal legislative or executive branch officials in the conduct of Government actions; and

(2) afford the fullest opportunity to the people of the United States to exercise their constitutional right to petition their Government for a redress of grievances, to express their opinions freely to their Government, and to provide information to their Government.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "client" means any person who employs or retains another person for financial or other compensation to conduct lobbying activities on its own behalf. An organization whose employees conduct lobbying activities on its behalf is both a client and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the client is the coalition or association and not its individual members.

(2) The term "covered executive branch official" means—

(A) the President;

(B) the Vice President;

(C) any officer or employee of the Executive Office of the President; and

(D) any other official serving in a position described under section 101(f) (3) through (6) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(3) The term "covered legislative branch official" means—

(A) a Member of Congress;

(B) an employee of the Senate as defined under section 207(e)(7)(D) of title 18, United States Code;

(C) an employee of the House of Representatives as defined under section 207(e)(7)(C) of title 18, United States Code; and

(D) any other legislative branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(4) The term "Director" means the Director of the Office of Government Ethics.

(5) The term "employee" means any individual who is an officer, employee, partner, director, or proprietor of an organization, but does not include—

(A) independent contractors or other agents who are not regular employees; or

(B) volunteers who receive no financial or other compensation from the organization for their services.

(6) The term "foreign entity" means—

(A) a government of a foreign country or a foreign political party (as such terms are defined in section 1 (e) and (f) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 (e) and (f)));

(B) a person outside the United States, other than a United States citizen or an organization that is organized under the laws of the United States or any State and has its principal place of business in the United States; and

(C) a partnership, association, corporation, organization, or other combination of persons that is organized under the laws of or has its principal place of business in a foreign country.

(7) The term "lobbying activities" means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended for use in contacts, and coordination with the lobbying activities of others. Lobbying activities include grass roots lobbying communications (as defined in regulations implementing section 4911(c)(3) of the Internal Revenue Code of 1986) to the extent that such activities are made in direct support of lobbying contacts.

(8) The term "lobbying contact" means any oral or written communication with a covered legislative or executive branch official made on behalf of a client with regard to the formulation, adoption, modification, or implementation of United States Government legislation, regulations, or policies, or the position of the United States Government on any other matter in which the United States Government has or may have an interest, other than—

(A) communications made by public officials acting in their official capacity;

(B) communications made by the media, except where representatives of a media organization seek to influence covered legislative or executive branch officials on a matter directly affecting the interests of such organization;

(C) communications made in a speech, article or other publication, or through the media;

(D) communications made on behalf of an individual with regard to such individual's benefits, employment, or other similar matters involving only that individual;

(E) communications made on behalf of a foreign principal and disclosed under the Foreign Agents Registration Act (22 U.S.C. 611 et seq.);

(F) requests for appointments, requests for the status of a Federal action, or other similar ministerial contacts, provided that there is no attempt to influence covered legislative or executive branch officials;

(G) communications with regard to ongoing judicial proceedings, criminal law enforcement proceedings, and any other proceedings that are required by statute to be conducted on a confidential basis, provided that such communications are limited to matters that are subject to the proceedings;

(H)(i) testimony given before a committee, subcommittee or office of Congress or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee or office; and

(ii) written communications in response to specific written requests from such committee, subcommittee, or office; and

(I) communications with officials of a Federal agency if they are—

(i) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code;

(ii) limited to written comments filed in a public docket and participation in public meetings open to all interested parties;

(iii) made in writing in response to specific written requests from such officials;

(iv) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

(v) directed to officials specifically designated by the agency in the Federal Register, the Commerce Business Daily, or other similar publication, to receive such communications; or

(vi) limited to officials serving in an agency component (other than officials in Executive level I, II, III, IV, or V positions, as designated in statute or Executive order) and related exclusively to—

(I) the negotiation, award, or administration of a Federal contract, grant, loan, permit, license or patent for which the agency component is responsible;

(II) actions implementing an ongoing agency program for which the agency component is responsible;

(III) compliance with, or enforcement of, an existing statute or regulation for which the agency component is responsible; or

(IV) any other action for which the agency component is responsible, if such communications are made on the record, in compliance with published agency procedures.

(9) The term "lobbyist" means any individual who is employed or retained by another for financial or other compensation to perform services that include lobbying contacts, other than an individual whose lobbying activities are only incidental to, and are not a significant part of, the services for which such individual is paid.

(10) The term "organization" means any corporation (excluding a Government corporation), company, foundation, association, labor organization, firm, partnership, society, joint stock company, or group of organizations. Such term shall not include any Federal, State, or local unit of government (other than a State college or university as described under section 511(a)(2)(B) of the Internal Revenue Code of 1986), organization of State or local elected or appointed officials, any Indian tribe, any national or State political party and any organizational unit thereof, or any Federal, State, or local unit of any foreign government.

(11) The term "public official" means any elected or appointed official who is a regular employee of a Federal, State, or local unit of government (other than a State college or university as described under section 511(a)(2)(B) of the Internal Revenue Code of 1986), an organization of State or local elected or appointed officials, an Indian tribe, a national or State political party or any organizational unit thereof, or a Federal, State, or local unit of any foreign government.

SEC. 4. REGISTRATION OF LOBBYISTS.

(a) Registration.—No later than 30 days after a lobbyist first makes a lobbying contact, such lobbyist (or, as provided under subsection (d)(2), the organization employing such lobbyist), shall register with the Office of Government Ethics.

(b) Contents of Registration.—Each registration under this section shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name, address, business telephone number and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name of any organization, other than the client, that—

(A) contributes more than $5,000 toward the lobbying activities in a semiannual period;

(B) significantly participates in the supervision or control of the lobbying activities; and

(C) has a direct financial interest in the outcome of the lobbying activities;

(4) the name, principal place of business, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that directly or indirectly, in whole or in major part, supervises, controls, directs, finances, or subsidizes the activities of the client, and any other foreign affiliate of the client that has a direct interest in the outcome of the lobbying activity;

(5) a general statement of issues on which the registrant expects to engage in lobbying activities on behalf of the client and, to the extent practicable, a list of specific issues that have already been addressed or are likely to be addressed; and

(6) the name of each employee of the registrant whom the registrant expects to engage in lobbying contacts on behalf of the client.

(c) Termination of Registration.—Each registrant that ceases to represent a client shall terminate its registration as soon as practicable thereafter in a manner prescribed by the Director. Regulations developed under section 6 may provide for the termination by the Director of the registration of persons who have ceased to exist or cannot be located.

(d) Guidelines for Registration.—(1) In the case of a registrant representing more than one client, a separate registration shall be filed for each client represented.

(2) Any organization that has one or more employees who are lobbyists shall file a single registration for each client on behalf of its employees who engage in lobbying activities on behalf of such client.

(3) For purposes of subsection (b)(4), a foreign entity shall be deemed to control the activities of a client in major part if the foreign entity holds at least 10 percent equitable ownership in the client.

SEC. 5. REPORTS BY REGISTERED LOBBYISTS.

(a) Semiannual Report.—No later than 30 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which it is registered, each registrant shall file a report with the Office of Government Ethics on its lobbying activities during such semiannual period.

(b) CONTENTS OF REPORT.—Each semiannual report filed under this section shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(2) a list of the specific issues upon which the registrant engaged in significant lobbying activities on behalf of the client during the semiannual filing period;

(3) for each issue listed under paragraph (2)—

(A) a list of bill numbers and references to specific regulatory actions, programs, projects, contracts, grants and loans, to the maximum extent practicable;

(B) a statement of the Houses and Committees of Congress and the Federal agencies and agency components contacted on behalf of the client during the semiannual filing period;

(C) a list of the employees of the registrant who engaged in lobbying contacts on behalf of the client; and

(D) a description of the interest in the issue, if any, of any foreign entity identified under section 4(b)(4);

(4) in the case of a registrant lobbying on behalf of a client other than the registrant, a good faith estimate of the total amount of all receipts from the client (and any payments to the registrant by any other person to lobby on behalf of the client) during the semiannual period, other than receipts for matters that are unrelated to lobbying activities; and

(5) in the case of a registrant lobbying on its own behalf, a good faith estimate of the total costs that the organization and its employees incurred in connection with lobbying activities during the semiannual filing period.

(c) ESTIMATES OF COSTS.—For the purpose of this section, estimates of receipts or costs shall be made as follows:

(1) Receipts and costs of $200,000 or less shall be estimated by the following categories:

(A) At least $500 but not more than $10,000.

(B) More than $10,000 but not more than $20,000.

(C) More than $20,000 but not more than $50,000.

(D) More than $50,000 but not more than $100,000.

(E) More than $100,000 but not more than $200,000.

(2) Receipts or costs in excess of $200,000 shall be estimated and rounded to the nearest $100,000.

(3) Any registrant whose total receipts or total costs are less than $500 in a semiannual period (as estimated under subsection (b) (4) or (5), or (c)(4), as applicable) is deemed to be inactive during such period and may comply with the reporting requirements of this section by so notifying the Director, in such form as the Director may prescribe.

(4) In the case of registrants that are required to report or identify lobbying receipts or costs under sections 6033 and 6104 of the Internal Revenue Code of 1986, regulations developed under section 6 shall provide that the amounts required to be disclosed under such statutes may be reported (by category of dollar value) to meet the requirements of subsection (b) (4) and (5) of this section.

(5) In estimating total costs or receipts under this section, a registrant is not required to include—

(A) the value of contributed services for which no payment is made; or

(B) the cost of services provided by an independent contractor or agent of the registrant who is separately registered under this Act.

(d) EXTENSION FOR FILING.—The Director may grant an extension of time of not more than 30 days for the filing of any report under this section, on the request of the registrant, for good cause shown.

SEC. 6. ADMINISTRATIVE DUTIES OF THE OFFICE OF GOVERNMENT ETHICS.

The Director of the Office of Government Ethics shall—

(1) after notice and an opportunity for public comment, and consultation with the Secretary of the Senate, the Clerk of the House, and the Administrative Conference of the United States, prescribe such rules, forms, penalty schedules, and procedural regulations as are necessary for the implementation of this Act;

(2) provide guidance and assistance on the registration and reporting requirements of this Act, including, to the extent practicable, the issuance of published decisions and advisory opinions;

(3) review and make such supplemental verifications or inquiries as are necessary to ensure the completeness, accuracy, and timeliness of registrations and reports;

(4) develop filing, coding, and cross-indexing systems to carry out the purposes of this Act, including computerized systems designed to minimize the burden of filing and maximize public access to materials filed under the Act;

(5) make copies of each registration and report filed under this Act available to the public in electronic and hard copy formats as soon as practicable after the date on which such registration or report is received;

(6) preserve the originals or accurate reproduction of registrations until such time as they are terminated, and of reports for a period of no less than 2 years from the date on which the report is received;

(7) maintain a computer record of the information contained in registrations and reports for no less than 5 years after the date on which such registrations and reports are received;

(8) compile and summarize, with respect to each semiannual period, the information contained in registrations and reports filed during such period in a manner which clearly presents the extent and nature of expenditures on lobbying activities during such period;

(9) make information compiled and summarized under paragraph (8) available to the public in electronic and hard copy formats as soon as practicable after the close of each semiannual filing period;

(10) provide copies of all registrations and reports received under this Act and all compilations, cross-indexes and summaries of such registrations and reports to the Secretary of the Senate and the Clerk of the House of Representatives by computer telecommunication and other means as soon as practicable (but not later than 5 working days) after such material is received or created; and

(11) transmit to the President and the Congress periodic reports describing the implementation of this Act, together with recommendations for such legislative or other action as the Director considers appropriate.

SEC. 7. INFORMAL RESOLUTION OF ALLEGED NONCOMPLIANCE.

(a) ALLEGATION OF NONCOMPLIANCE.—Whenever the Office of Government Ethics has reason to believe that a person may be in noncompliance with the requirements of this Act, the Director shall notify the person in writing of the nature of the alleged noncompliance and provide an opportunity for the person to respond in writing to the allegation within 30 days or such longer period as the Director may determine appropriate in the circumstances.

(b) INFORMAL RESOLUTION.—If the person responds within 30 days or other time limit set by the Director, the Director shall—

(1) take no further action, if the person provides adequate information or explanation to determine that it is unlikely that a noncompliance exists;

(2) treat the noncompliance as a minor noncompliance and (if appropriate) assess a penalty under section 8, if the person agrees that there was a noncompliance and corrects such noncompliance; or

(3) make a determination under section 8, if the information or explanation provided indicates that a noncompliance may exist.

(c) FORMAL REQUEST FOR INFORMATION.—If the person fails to respond in writing within 30 days or other time limit set by the Director, or the response is not adequate to determine whether a noncompliance exists, the Director may make a formal request for specific additional information that is reasonably necessary for the Director to determine whether the alleged noncompliance in fact exists. Each such request shall be structured in a way to minimize the burden imposed, consistent with the need to determine whether the person is in compliance, and shall—

(1) state the nature of the conduct constituting the alleged noncompliance which is the basis for the inquiry and the provision of law applicable thereto;

(2) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be readily identified; and

(3) prescribe a return date or dates which provide a reasonable period of time within which the material so requested may be assembled and made available for inspection and copying or reproduction.

(d) NONDISCLOSURE OF INFORMATION.—Information provided to the Office of Government Ethics under this section shall not be made available to the public without the consent of the person providing the information, except that—

(1) any new or amended report or registration filed in connection with an inquiry under this section shall be made available to the public in the same manner as any other registration or report filed under sections 4 and 5; and

(2) written decisions issued by the Director under sections 8 and 9 may be published after appropriate redaction to ensure that confidential information is not disclosed.

SEC. 8. DETERMINATIONS OF NONCOMPLIANCE.

(a) NOTIFICATION AND HEARING.—If the information provided to the Office of Government Ethics under section 7 indicates that a noncompliance may exist, the Director shall—

(1) notify the person in writing of this finding and (if appropriate) a proposed penalty assessment and provide such person with an opportunity to respond in writing within 30 days;

(2)(A) in the case of a minor noncompliance, afford the person a 30-day period in which to request an oral hearing before an independent presiding official; and

(B) grant such a request made during such period for good cause shown; and

(3) in the case of a significant noncompliance, afford the person an opportunity for a hearing on the record under the provisions of section 556 of title 5, United States Code, if requested by such person within 30 days.

(b) DETERMINATION.—Upon the receipt of a written response, the completion of a hearing, or the expiration of 30 days, the Director shall review the information received under this section and section 7 and make a final determination whether there was a noncompliance and a final determination of the penalty, if any. If no written response or request for a hearing was received under this section within the 30-day period provided, the determination and penalty assessment shall constitute a final and nonappealable order.

(c) WRITTEN DECISION.—If the Director makes a final determination that there was a noncompliance, the Director shall issue a written decision—

(1) including the noncompliance in a publicly available list of noncompliances, to be reported to the Congress on a semiannual basis;

(2) directing the person to correct the noncompliance; and

(3) assessing a civil monetary penalty in an amount determined as follows:

(A) In the case of a minor noncompliance, the amount shall be no more than $10,000, depending on the nature and extent of the noncompliance.

(B) In the case of a significant noncompliance, the amount shall be more than $10,000, but no more than $100,000, depending on the nature and extent of the noncompliance.

(d) CIVIL INJUNCTIVE RELIEF.—If a person fails to comply with a directive to correct a noncompliance under subsection (c), the Director shall refer the case to the Department of Justice to seek civil injunctive relief.

(e) PENALTY ASSESSMENTS.—(1) No penalty shall be assessed under this section unless the Director finds that the person subject to the penalty knew or should have known that such person was not in compliance with the requirements of this Act. In determining the amount of a penalty to be assessed, the Director shall take into account the totality of the circumstances, including the extent and gravity of the noncompliance and such other matters as justice may require.

(2) Regulations prescribed by the Director under section 6 shall define minor and significant noncompliances. Significant noncompliances shall be defined to include a knowing failure to register and any other knowing noncompliance that is extensive or repeated.

SEC. 9. OTHER VIOLATIONS.

(a) LATE REGISTRATION OR FILING; FAILURE TO PROVIDE INFORMATION.—If a person registers or files more than 30 days after a registration or filing is required under this Act, or fails to provide information requested by the Office of Government Ethics under section 7(c), the Director shall—

(1) notify the person in writing of the noncompliance and a proposed penalty assessment and provide such person with an opportunity to respond in writing within 30 days; and

(2)(A) afford the person a 30-day period in which to request an oral hearing before an independent presiding official; and

(B) grant such a request made during such period for good cause shown.

(b) DETERMINATION.—Unless the Director determines that the late filing or failure to provide information was justified, the Director shall make a final determination of noncompliance and a final determination of the penalty, if any. If no written response or request for a hearing was received under this section within the 30-day period provided, the determination and penalty assessment shall constitute a final and unappealable order.

(c) WRITTEN DECISION.—If the Director makes a final determination that there was a noncompliance, the Director shall issue a written decision—

(1) in the case of a late filing, assessing a civil monetary penalty of $200 for each week by which the filing was late, with the total penalty not to exceed $10,000; or

(2) in the case of a failure to provide information—

(A) including the noncompliance in a publicly available list of noncompliances, to be reported to the Congress on a semiannual basis; and

(B) assessing a civil monetary penalty in an amount not to exceed $10,000.

(d) CIVIL INJUNCTIVE RELIEF.—In addition to the penalties provided in this section, the Director may refer the noncompliance to the Department of Justice to seek civil injunctive relief.

SEC. 10. JUDICIAL REVIEW.

(a) FINAL DECISION.—A written decision issued by the Office of Government Ethics under section 8 or 9 shall become final 60 days after the date on which the Office of Government Ethics provides notice of the decision, unless such decision is appealed under subsection (b) of this section.

(b) APPEAL.—Any person adversely affected by a written decision issued by the Office of Government Ethics under section 8 or 9 may appeal such decision, except as provided under section 8(b) or 9(b), to the appropriate United States court of appeals. Such review may be obtained by filing a written notice of appeal in such court no later than 60 days after the date on which the Office of Government Ethics provides notice of its decision and by simultaneously sending a copy of such notice to the Director. The Director shall file in such court the record upon which the decision was issued, as provided under section 2112 of title 28, United States Code. The findings of fact of the Director shall be conclusive, unless found to be unsupported by substantial evidence, as provided under section 706(2)(E) of title 5, United States Code. Any penalty assessed or other action taken in the decision shall be stayed during the pendency of the appeal.

(c) RECOVERY OF PENALTY.—Any penalty assessed in a written decision which has become final under this Act may be recovered in a civil action brought by the Attorney General in an appropriate United States district court. In any such action, no matter that was raised or that could have been raised before the Office of Government Ethics or pursuant to judicial review under subsection (b) may be raised as a defense, and the determination of liability and the determination of amounts of penalties and assessments shall not be subject to review.

(d) ATTORNEYS' FEES.—In any appeal brought under this section, in which the person who is the subject of such action substantially prevails on the merits, the court may assess against the United States attorneys' fees and other litigation costs reasonably incurred in the administrative proceeding and the appeal.

SEC. 11. RULES OF CONSTRUCTION.

(a) PROHIBITION OF ACTIVITIES.—Nothing in this Act shall be construed to prohibit, or to authorize the Director to prohibit, lobbying activities or lobbying contacts by any person, regardless of whether such person is in compliance with the requirements of this Act.

(b) AUDIT AND INVESTIGATIONS.—Nothing in this Act shall be construed to grant general audit or investigative authority to the Director, or to authorize the Director to review the files of a registrant, except in accordance with the requirements of section 7 regarding the informal resolution of alleged noncompliances and formal requests for information.

SEC. 12. REPEAL OF THE FEDERAL REGULATION OF LOBBYING ACT.

The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) is repealed.

SEC. 13. AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT.

The Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) is amended—

(1) in section 1—

(A) by amending subsection (b) to read as follows:

"(b) The term 'foreign principal' includes a government of a foreign country and a foreign political party."; and

(B) by striking out subsection (j);

(C) in subsection (o), by striking out "the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence" and inserting in lieu thereof "any activity which the person engaging in believes will, or which he intends to, in any way influence";

(D) in subsection (p) by striking out the semicolon and inserting in lieu thereof a period; and

(E) by striking out subsection (q);

(2) in section 2 (22 U.S.C. 612), by striking out "or by any other foreign principal" each place it occurs;

(3) in section 3(g) (22 U.S.C. 613(g)), by striking out "established agency proceedings, whether formal or informal." and inserting in lieu thereof "agency proceedings required by statute or regulation to be conducted on the record.";

(4) in section 4(a) (22 U.S.C. 614(a))—

(A) by striking out "political propaganda" and inserting in lieu thereof "informational materials"; and

(B) by striking out "and a statement, duly signed by or on behalf of such an agent, setting forth full information as to the places, times and extent of such transmittal";

(5) in section 4(b) (22 U.S.C. 614(b))—

(A) by striking out "political propaganda" and inserting in lieu thereof "informational materials"; and

(B) by striking "(i) in the form of prints or" and all that follows through the end of the subsection and inserting in lieu thereof "without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this section.";

(6) in section 4(c) (22 U.S.C. 614(c)), by striking out "political propaganda" and inserting in lieu thereof "informational materials";

(7) in section 6 (22 U.S.C. 616)—

(A) in subsection (a), by striking out "and all statements concerning the distribution of political propaganda";

(B) in subsection (b), by striking out ", and one copy of every item of political propaganda"; and

(C) in subsection (c), by striking out "copies of political propaganda";

(8) in section 8 (22 U.S.C. 618)—

(A) in subsection (a)(2), by striking out "or in any statement under section 4(a) hereof concerning the distribution of political propaganda"; and

(B) by striking out subsection (d); and

(9) in section 11 (22 U.S.C. 621), by striking out ", including the nature, sources, and content of political propaganda disseminated or distributed.".

SEC. 14. AMENDMENTS TO THE BYRD AMENDMENT.

Section 1352(b) of title 31, United States Code, is amended—

(1) in paragraph (2), by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof:

"(A) the name of any registrant under the Lobbying Disclosure Act of 1992 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

"(B) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).";

(2) in paragraph (3), by striking out all that follows "loan shall contain" and inserting in lieu thereof "the name of any registrant under the Lobbying Disclosure Act of 1992 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee"; and

(3) by striking out paragraph (6) and redesignating paragraph (7) as paragraph (6).

SEC. 15. REPEAL OF PROVISIONS RELATING TO HOUSING LOBBYIST ACTIVITIES.

(a) REGISTRATION OF HOUSING CONSULTANTS.—Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) is repealed.

(b) REGULATION OF HOUSING LOBBYISTS AND CONSULTANTS.—Section 536(d) of the Housing Act of 1949 (42 U.S.C. 1490p(d)) is repealed.

SEC. 16. SEVERABILITY.

If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 18. EFFECTIVE DATES.

(a) EFFECTIVE DATE.—The provisions of this Act (other than the authorization to publish proposed regulations for public comment) shall take effect 1 year after the date of the enactment of this Act.

(b) REPEALS AND AMENDMENTS.—The repeals and amendments made under sections 12, 13, 14, and 15 of this Act shall take effect as provided under subsection (a), except that such repeals and amendments—

(1) shall not affect any proceeding or suit commenced before the date this Act takes effect, and in all such proceedings or suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted; and

(2) shall not affect the requirements of Federal agencies to compile, publish, and retain information filed or received before the effective date of such repeals and amendments.

(c) REGULATIONS.—Proposed regulations required to implement this Act shall be published for public comment no later than 270 days after the date of the enactment of this Act.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2280. A bill to extend until January 1, 1995, the suspension of duties on certain chemicals; to the Committee on Finance.

S. 2281. A bill to extend duty-free treatment to certain chemicals; to the Committee on Finance.

EXTENSION OF DUTIES ON CERTAIN CHEMICALS

• Mr. BRADLEY. Mr. President, I rise to introduce legislation that will temporarily suspend the duties on a compilation of imported chemicals on behalf of Lonza, Inc., a company based in Fair Lawn, NJ. Joining me is my friend and colleague, Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 1529 and H.R. 1530 by Representative TORRICELLI.

Lonza manufactures and markets a diverse line of chemicals tailored to the performance requirements of specific segments of the chemical industry, principally inorganic, organic, and specialty chemicals. The chemicals have a wide range of usage; from serving as a nutrient supplement in baby food, to an antibacterial wound cleanser, to a combatant of alcoholism.

According to the International Trade Commission, no domestic producers have registered objections to the proposed suspension. The legislation enables Lonza, Inc., to import the chemicals at reasonable prices making its products more competitive in the international market and ultimately more affordable for consumers in the domestic market.

Mr. President, I ask unanimous consent that the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1, SUSPENSION OF DUTIES ON CERTAIN CHEMICALS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/92" and inserting "12/31/94" in each of the following headings:

(1) Heading 9902.29.49 (relating to benzethonium chloride).

(2) Heading 9902.29.59 (relating to 2,2-Bis(4-cyanatophenyl)propane).

(3) Heading 9902.29.62 (relating to paraldehyde, USP grade).

(4) Heading 9902.29.63 (relating to aminomethylphenylpyrazole (Phenylmethylamino-pyrazole).

(5) Heading 9902.29.67 (relating to 3-Methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-Tolylmethylpyrazolone)).

(6) Heading 9902.29.69 (relating to 3-Methyl-5-pyrazolone).

(7) Heading 9902.29.71 (relating to barbituric acid).

(8) Heading 9902.30.13 (relating to 4,4′-Methylenebis-(2,6-dimethly-phenylcyanate)).

(9) Heading 9902.30.29 (relating to 4,4′-Methylenebis-(3-chloro-2,6-diethylaniline)).

(10) Heading 9902.30.30 (relating to 4,4′-Methylenebis-(2,6-diisoprophylaniline)).

(11) Heading 9902.30.57 (relating to L-Carnitine).

(12) Heading 9902.30.59 (relating to acetoacetpara-toluidide).

(13) Heading 9902.30.63 (relating to acetoacetsulfanilic acid, potassium salt).

(14) Heading 9902.30.72 (relating to 1,1-Ethylidenebis-(phenyl-4-cyanate)).

(15) Heading 9902.73 (relating to 2,2′-Bis(4-cyanatophenyl)-1,1,1,3,3,3-hexafluoropropane (CAS No. 32728–27–1)).

(16) Heading 9902.30.74 (relating to 4,4′-Thiodiphenyl cyanate).

(17) Heading 9902.30.86 (relating to 6-Methyluracil).

(18) Heading 9902.30.92 (relating to ethyl 2-(2-aminothiazol-4-yl)-2-hydroxyiminoacetate).

(19) Heading 9902.30.93 (relating to ethy 2-(2-aminothizaol-4-yl)-2-methoxyiminoacetate).

(20) Heading 9902.36.06 (relating to metaldehyde).

(21) Heading 9902.39.11 (relating to hydrocarbon novolac cyanate ester).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 2281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DUTY-FREE TREATMENT OF CERTAIN CHEMICALS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

9902.31.12	Malonic acid (provided for in subheading 2917. 19.50)	Free	No change	No change.	On or before 12/31/94
9902.31.13	4,4,4–Trifluoroacetoacetic esters (provided for in subheading 2910.30.50)	Free	No change	No change.	On or before 12/31/94
9902.31.14	Calcium lactobionate (provided for in subheading 2918.90.50)	Free	No change	No change.	On or before 12/31/94
9902.31.15	Methyl-3-amino crotonate (provided for in subheading 2921.19.50)	Free	No change	No change.	On or before 12/31/94
9902.31.16	2-Chloro-N,N-dimethylethyiamine HCl (DMC) (provided for in subheading 2921.19.50)	Free	No change	No change.	On or before 12/31/94

9902.31.17	(Diethylamino) ethylchloride HCl (DEC) (provided for in subheading 2921.19.50)	Free	No change	No change.	On or before 12/31/94
9902.31.18	Dimethylamino isopropylchloride HCl (DMIC) (provided for in subheading 2921.19.50)	Free	No change	No change.	On or before 12/31/94
9902.31.19	4,4'-Methylenebis-(2,6-diethylaniline) lonzacure MDEA (provided for in subheading 2921.42.50)	Free	No change	No change.	On or before 12/31/94
9902.31.20	2-Amino-5-chlorobenzophenone (ACB) (provided for in subheading 2922.30.30)	Free	No change	No change.	On or before 12/31/94
9902.31.21	Tetramethylguanidine (provided for in subheading 2925.20.50)	Free	No change	No change.	On or before 12/31/94
9902.31.22	Cyanic acid-1,3-phenylenebis-(1-methylethylidenebis)-4,1-phenylene ester (provided for in subheading 2929.10.40)	Free	No change	No change.	On or before 12/31/94
9902.31.23	2-Methyl-5-ethyl pyridine (provided for in subheading 2933.39.20)	Free	No change	No change.	On or before 12/31/94
9902.31.24	Piperidinoethylchloride HCl (PIPEC) (provided for in subheading 2933.39.47)	Free	No change	No change.	On or before 12/31/94
9902.31.25	2-Amino-4-chloro-6-methoxy pyrimidine (provided for in subheading 2933.59.50)	Free	No change	No change.	On or before 12/31/94
9902.31.26	2-Amino-4,6-dimethoxy pyrimidine (provided for in subheading 2933.59.50)	Free	No change	No change.	On or before 12/31/94
9902.31.27	Morpholinoethylchloride HCl (MOCPRF) (provided for in subheading 2934.90.50)	Free	No change	No change.	On or before 12/31/94
9902.31.28	Chlorthalidone (provided for in subheading 2935.00.45)	Free	No change	No change.	On or before 12/31/94
9902.31.29	Eserine salicylate (provided for in subheading 2939.90.10)	Free	No change	No change.	On or before 12/31/94
9902.31.30	Lobeline (sulphate) (provided for in subheading 2939.90.50)	Free	No change	No change.	On or before 12/31/94
9902.31.31	D-Arabinose (provided for in subheading 2940.00.00)	Free	No change	No change.	On or before 12/31/94

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.●

By Mr. HEFLIN:

S. 2282. A bill to direct the Secretary of Transportation to carry out a limited access highway project in the vicinity of Dothan, AL; to the Committee on Commerce, Science, and Transportation.

DOTHAN, AL, HIGHWAY PROJECT

Mr. HEFLIN. Mr. President, I am pleased to rise today to introduce legislation directing the Secretary of Transportation to provide preliminary funding for a limited access highway project in the vicinity of Dothan, AL. This much-needed project will promote highway safety, economic development, and job creation while reducing fuel consumption, transportation costs, and commuting time for those traveling through this area.

When the Interstate System was created 36 years ago, Dothan was not included and as the system nears completion, this step toward linking the city with the rest of the United States through the Interstate System is vitally important for the future of the area.

Specifically, this bill directs the Secretary of Transportation to fund a preliminary study of a planned, four-lane, limited access highway from Ross Clark Circle in Dothan south to I-10 in northwest Florida. By fully expanding current U.S. Highway 231 south of Dothan to four lanes and upgrading it to interstate standards, there will ultimately exist a 35-mile interstate highway from Dothan to I-10. Another connector would link I-10 with Panama City.

For tourists traveling in the area, military service people driving to bases in the region, business people interested in locating here, and, of course, for local residents, this interstate spur promises to be an extremely valuable and wise investment in the future.

The bill follows:

S. 2282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DOTHAN, ALABAMA, HIGHWAY PROJECT.

(a) PROJECT DESCRIPTION.—The Secretary of Transportation shall carry out a highway project in the vicinity of Dothan, Alabama, for construction of a 4-lane, limited access highway of approximately 35 miles in length connecting Ross Clark Circle at its junction with United States Route 231 to Interstate Route 10 for the purpose of demonstrating methods by which connecting Dothan, Alabama, to the Interstate System will—

(1) increase highway safety by appreciably reducing congestion;

(2) increase safety by providing a route for necessary evacuation of individuals in emergency weather conditions;

(3) foster significant economic development and job creation by providing high speed, limited access motor vehicle transportation to an area in dynamic economic transition;

(4) appreciably decrease the use of local roads by through traffic, particularly by heavy trucks, and thereby promote highway safety;

(5) increase the efficiency and optimize the value of military installations in the region; and

(6) reduce transportation costs, fuel consumption, and employee commuter time by decreasing intraregional and interregional travel time.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), for preliminary engineering and design under subsection (a) $6,014,975 for Fiscal Year 1993.

(c) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the project under t'iis section shall be 100 percent and such funds shall remain available until expended. Such funds shall not be subject to any obligation limitation.

By Mr. HEFLIN:

S. 2283. A bill to authorize appropriations for the purposes of carrying out the activities of the State Justice Institute for fiscal years 1993, 1994, 1995, and 1996, and for other purposes; to the Committee on the Judiciary.

STATE JUSTICE INSTITUTE REAUTHORIZATION ACT OF 1992

Mr. HEFLIN. Mr. President, I rise today to introduce legislation that would reauthorize the State Justice Institute for 4 years through fiscal year 1996. Congress originally authorized SJI for 4 years in the State Justice Institute Act of 1984, then reauthorized it for another 4 years through fiscal year

1992. The bill I introduce today would authorize annual appropriations for SJI of $20 million in fiscal year 1993 and fiscal year 1994, and $25 million in fiscal years 1995 and 1996.

The mission of the Institute is to award grants to improve the administration of justice in the State courts. I had the privilege of introducing the original legislation establishing the Institute and its reauthorization legislation as well. I am delighted to introduce this new bill extending the Institute's life again. Since the time SJI actually became operational in early 1987, it has awarded approximately $50 million in grants to support nearly 500 projects to meet its congressional mandate.

SJI grants support educational programs for judges and court staff, demonstrations of new procedures and new technologies in the courts, research on important emerging issues in the law and the administration of justice, and technical assistance to help State and local courts discharge their responsibilities with both greater efficiency and greater justice.

SJI has taken a leadership role in helping the State courts cope with the overwhelming burden of their drug-related cases. Last November, in collaboration with the Department of Justice's Bureau of Justice Assistance, SJI convened a National Conference on Substance Abuse and the Courts. Teams from 33 States came to Washington to learn how to develop successful case management programs, design effective diversion, treatment and sentencing programs, and establish critically important working relationships with criminal justice agencies, treatment providers, and community resources. The conference enabled justice system leaders and other key officials to meet without the pressure of their day-to-day activities and work together to develop an action plan to implement back in their home jurisdiction. In order to help bring the action plans to fruition, SJI established a special March 1, 1992 deadline solely for proposals seeking funding to begin to implement those plans.

SJI also supported an indepth national search to identify successful court programs to handle drug cases and distribute information about them to judicial leaders nationwide. The Institute has also granted funds to American University to support an ongoing technical assistance program that brings leading experts to local courts to help them develop customized ways to improve the way they handle their drug caseloads.

SJI also plays a critical role in supporting improvements in the working relationship between the State and Federal courts in areas such as habeas corpus review, mass torts, and joint judicial planning. One of SJI's most important contributions in this area is its support of the State Judges Asbestos Litigation Committee. The Institute's grant enables judges hearing a significant portion of the 60,000 asbestos cases pending in the State courts to meet on a regular basis to discuss common issues, including case management practices, new trends in the litigation, and coordination with the asbestos cases pending in Federal court. An SJI grant also supports an analysis of the asbestos judges' case management procedures for the purpose of developing a manual for future State and Federal judges hearing mass tort cases.

The demand for SJI funds has grown significantly each year of its current authorization. The Institute has operated at a very modest funding level, and the bill I introduce today would provide only a limited increase to enable the Institute to respond to the State courts' great need for Federal assistance over the next 4 years. I encourage the Senate to continue its support of the Institute in order to enhance the State courts' ability to deliver effective justice in areas that are critically important to the Federal Government and the American public.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Justice Institute Reauthorization Act of 1992".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title $20,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, $25,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996. Amounts appropriated for each year are to remain available until expended.".

SEC. 3. INTERAGENCY AGREEMENTS.

Section 206(b) of the State Justice Institute Act of 1984 (42 U.S.C. 10705) is amended by—

(1) striking paragraph (3) and inserting the following:

"(3) Upon application by an appropriate State or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of State or local government other than a court.";

(2) redesignating paragraph (4) as paragraph (5); and

(3) adding after paragraph (3) the following new paragraph:

"(4) The Institute shall have authority to enter into contracts with Federal agencies to carry out the purposes of this title.".

By Mrs. KASSEBAUM:

S. 2284. A bill to permit insured banks to elect to forgo deposit insurance, provided such banks are subject to oversight by the Board of Governors of the Federal Reserve System; to the Committee on Banking, Housing, and Urban Affairs.

WHOLESALE BANK DEPOSIT INSURANCE ACT

• Mrs. KASSEBAUM. Mr. President, today I am introducing legislation allowing banks to keep their banking charter and Federal Reserve membership but forgo Federal Deposit Insurance Corporation insurance. In return for moving out of the FDIC safety net, such uninsured banks would be free to engage in a variety of currently prohibited activities.

In general, this legislation allows a bank to terminate voluntarily its federally insured status and affiliate with a securities firm with a minimum amount of firewalls. To avoid any confusion, such an insured bank could not accept deposits of less than $100,000. Such an uninsured bank will likely be called an uninsured wholesale bank because it will not be dealing with retail depositors. These uninsured banks will have to have capital levels that are at least 50 percent higher than the levels of insured banks.

These uninsured wholesale banks will be regulated by the Federal Reserve and subject to all the safety and soundness regulations of insured banks—including the prompt corrective action contained in the Riegle print. Their holding companies will be subject to the Bank Holding Company Act and subject to Federal Reserve oversight.

The Federal Reserve will have discretion over these uninsured wholesale banks' access to the discount window. It could limit the frequency of a wholesale bank's discount window borrowings, charge higher than normal interest rates for such loans, and place limitations on transactions with the bank's securities affiliate.

These uninsured wholesale banks would be able to affiliate and share personnel with a securities firm with a minimum amount of firewalls. The Federal Reserve would be free to establish any firewalls it deems necessary to protect the integrity of the discount window.

In terminating its insurance, the wholesale bank would be subject to an exit fee which the FDIC believes reflects the bank's pro rata share of the BIF fund's contingent liabilities.

At this time, it is unlikely many banks would be interested in giving up their insured status. Only those banks which do not now rely on insured retail deposits for their funding and which are highly capitalized are likely to seek to take advantage. To do so they will have to increase significantly their capital ratio.

Mr. President, this legislation was accepted by the Senate Committee on Banking, Housing, and Urban Affairs as part of last year's comprehensive banking bill and approved by the Senate. If we are going to debate banking reform seriously, we must confront squarely Federal deposit insurance. This bill addresses directly this difficult issue. Moreover, this bill provides a workable framework for our largest, best capitalized, and most sophisticated banks to compete shoulder to shoulder in the international capital markets, without threatening the network of small community retail banks that serve as the backbone of this Nation's economy.•

By Ms. MIKULSKI:

S. 2285. A bill to amend the Public Health Service Act to revitalize the intramural research program of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1992

• Ms. MIKULSKI. Mr. President, I am pleased to introduce the National Institutes of Health Revitalization Act of 1992.

I am a big fan of the National Institutes of Health [NIH]. I am very proud to have NIH in Maryland. I call it one of America's crown jewels and I want to make sure that NIH's future is a bright one.

I attended a town meeting at NIH last fall and heard the concerns of the people working there. What I learned at the town meeting, I have put together in the bill that I am introducing today. The bill addresses three basic problems NIH faces. First, it will help improve the recruitment and retention of researchers and support personnel. Second, it will start the process of updating the physical infrastructure. And third, it will start the process of improving procurement procedures for NIH.

NIH is one of the engines that drives our country's future competitiveness. It is a leader in biotechnology, contributing billions to our economy by stimulating new ideas and new jobs. We have incredible resources of facilities and people at NIH that are unprecedented in the world.

Our intellectual infrastructure at NIH includes scientists, highly trained doctors, lab technicians, and medical assistants. But we must also remember that a big part of the infrastructure is the clerical, law enforcement, and blue collar workers who keep the computers humming, the physical plant running, and the grounds fit and safe to walk on. They are just as important to the success of NIH and the success of our future as a world leader in medical research.

I went to NIH to hear the ideas and concerns of the folks that work there. It was pretty clear from the comments that the NIH is facing physical fatigue, and intellectual fatigue just keeping up with the everyday requirements that are placed on them. The people that attended the NIH town meeting had some good ideas that need to be incorporated into legislation so that NIH can continue to meet the needs of the nation.

People at the NIH town meeting told me that there is a problem in recruiting and retaining researchers and support personnel. Why is this so difficult? In part, it is because NIH competes with universities. The universities offer benefits packages, free tuition and other attractive benefits. NIH needs to have more flexibility to meet the needs of its own scientists. This bill will encourage the development of a child-care center, a sabbatical program, and other programs that are similar to those at universities.

Also, it is clear from listening to the program directors at NIH that they need more flexibility in using program money. There are currently about 5 different personnel systems for scientists alone that include different compensation systems, pay levels and benefits programs. My legislation will allow NIH to propose a single, simple personnel system that meets the needs of all its employees.

This simplified personnel system will also help in making sure that support personnel—trained procurement officers, firefighters, police and others will get the pay and attention they deserve.

At the same time, there is a program at NIH that has improved the recruitment of new researchers. It is the AIDS Loan Repayment Program. NIH will pay back certain student loans if the researcher agrees to come to NIH. Senator REID thought that expanding this program to all research at NIH would be a good idea, and so do I. This idea has been included in my bill.

Second, it was clear from the town meeting that the physical plant at NIH needs help. As computers and other new technologies have transformed the workplace, NIH's infrastructure, much of which is more than 40 years old, is in need of extensive repair. In many facilities, there is no room for the specialized equipment and large safety hoods that are required for the conduct of modern research. Most crucial is updating the Clinical Center.

The Clinical Center was evaluated in 1988. The choice is very simple. Update the building or build a new one. This bill gives NIH the help it needs in getting the Clinical Center combat ready for the 21st century.

Third, many at the town meeting I attended at NIH mentioned the problems they face getting the tools they need to do their research. This bill tries to address this problem in two ways.

It requires that procurement agencies act on NIH requests or they will be considered approved. This means that NIH will get an answer, either yes or no, in a reasonable amount of time. Requests will not disappear or hang on forever. People shouldn't have to wait half a year for a microscope when lives are at stake.

This bill also requires that GSA work with NIH to develop a streamlined procurement process that meets the requirements of the law. This will help GSA understand the needs of NIH better, and give NIH a more direct way of improving its procurement efforts.

Finally, I heard a great deal about the ethics rules that limit Federal employees from getting paid for speeches, writing textbooks, and other activities which they engage in on their own time. Congress is still trying to fix this problem. I promised at the town meeting that I would be working with Senator GLENN, chairman of the Governmental Affairs Committee as the Senate wrestles with how to solve the problem without making it worse. I have not included a provision on honoraria on this bill because I know that Senator GLENN intends to bring the issue to the Senate soon. But I want this issue to be resolved this year. Federal employees should not have to sit in limbo any longer.

I am proud to represent the NIH as the Senator from Maryland. I am proud of its contribution to our international competitiveness and its work in saving lives. I will work to get this bill passed so that NIH will continue to be one of America's crown jewels.

I ask unanimous consent that the text of the bill and a summary of its provisions be included in the RECORD at the conclusion of these remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Institutes of Health Revitalization Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title, table of contents.
Sec. 2. Purpose.
Sec. 3. Findings.

TITLE I—AUTHORITIES OF THE DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH

Sec. 101. Findings.
Sec. 102. Management of the intramural program.
Sec. 103. Expedited administration.

TITLE II—PERSONNEL

Sec. 201. Findings.
Sec. 202. Model integrated personnel system for NIH.
Sec. 203. Sabbatical and tuition reduction program.
Sec. 204. Expansion of loan repayment programs for research with respect to AIDs.
Sec. 205. Honoraria exemption.

TITLE III—WARREN GRANT MAGNUSON CLINICAL CENTER

Sec. 301. Findings.
Sec. 302. Renovation and replacement program.

TITLE IV—ACQUISITION OF LAND AND FACILITIES

Sec. 401. Findings.

Sec. 402. Acquisition of land and facilities
TITLE V—PROCUREMENT
Sec. 501. Study.
TITLE VI—GENERAL PROVISIONS
Sec. 601. Findings.
Sec. 602. Day care.

SEC. 2. PURPOSE.

It is the purpose of this Act to provide additional authorities to the Director of the National Institutes of Health to enable the National Institutes of Health to improve the functioning of its intramural research program, and to redress shortcomings and make needed improvements in its physical facilities and infrastructure.

SEC. 3. FINDINGS.

Congress finds that—

(1) for more than a century, the National Institutes of Health has provided health benefits to the American people and contributed significantly to mankind's knowledge about the life sciences;

(2) the intramural research program of the National Institutes of Health is a critical component of the Nation's biomedical research establishment;

(3) the continuance of excellence at the National Institutes of Health is in the Nation's interest, in that the intramural research program's efforts have resulted in innumerable contributions to the understanding of human health, and basic biological processes and disease states;

(4) the intramural research program is unique, unlike those of universities, in that it can respond in rapid fashion to public health emergencies without the delay inherent in preparation of applications for research funding;

(5) the intramural research program serves as a training ground for the most renowned scientists, who now form the cadre of biomedical researchers in universities and medical centers nationwide;

(6) the biomedical research priorities established in the intramural research program influence the research that is conducted at both public and private institutions, and research in certain areas would not be conducted if the National Institutes of Health intramural research program did not set the standard; and

(7) the National Institutes of Health is at the forefront of the Federal Governments involvement with the private sector in the endeavor to enhance our Nation's competitiveness in the world of science.

TITLE I—AUTHORITIES OF THE DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH

SEC. 101. FINDINGS.

Congress finds that—

(1) in order to maintain the integrity and ensure the future of the intramural research program of the National Institutes of Health, there must be clear direction, supervision, and support of that program by the Director;

(2) the intramural research program serves as the first line of scientific inquiry into areas of major public health consequences, and the initiation of research in the intramural program often serves as the impetus for initiation of similar or complementary research in the academic and industry setting;

(3) strong, visionary leadership from the Director of the National Institutes of Health, acting through the intramural research program, can shape the nature and future direction of biomedical research across the country and worldwide; and

(4) concerned Federal agencies should expedite requests from the National Institutes of Health pursuant to the implementation of this Act.

SEC. 102. MANAGEMENT OF THE INTRAMURAL PROGRAM.

Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (10), by striking out "and" at the end thereof;

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10), the following new paragraph:

"(11) exercise supervision, through the directors of the national research institutes, over the intramural research program of the National Institutes of Health; and".

SEC. 103. EXPEDITED ADMINISTRATION.

(a) REQUIREMENT.—The Secretary of Health and Human Services, Administrator of General Services, Director of the Office of Personnel Management, and Director of the Office of Management and Budget shall provide for the prompt handling of requests from the Director of the National Institutes of Health made pursuant to this Act, or an amendment made by this Act.

(b) APPROVAL.—Requests of the Director of the National Institutes of Health made pursuant to this Act, or an amendment made by this Act, and clearly identified as so by the Director who shall submit a copy of such request to the Secretary, if not acted upon within 90 days of the receipt of such request, shall be considered to be approved.

TITLE II—PERSONNEL

SEC. 201. FINDINGS.

Congress finds that—

(1) if the National Institutes of Health is to continue to meet the research challenges of the future, its ability to recruit and retain the highest quality scientists for its research programs must not be compromised;

(2) personnel mechanisms currently available within the Federal Government do not always provide the most suitable alternatives for ensuring that the National Institutes of Health can retain the best scientists and other staff; and

(3) employees at the National Institutes of Health are covered by a variety of personnel systems (including the Commissioned Corps of the Public Health Service, the Senior Executive Service, SBRS, the General Schedules under title 5 of the United States Code and a variety of National Institutes of Health excepted appointment authorities) which offer a complex and often confusing array of available compensation systems, pay levels, and benefits programs.

SEC. 202. MODEL INTEGRATED PERSONNEL SYSTEM FOR NIH.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 404. MODEL INTEGRATED PERSONNEL SYSTEM FOR NIH.

"(a) ESTABLISHMENT OF PERSONNEL SYSTEM.—Not later than 1 year after the date of enactment of this section the Secretary, acting through the Director of NIH, shall develop a proposed model integrated personnel system with respect to the personnel of the National Institutes of Health to enable the National Institutes of Health to recruit and retain the highest quality personnel to promote the conduct of efficient, effective and high quality research for the American public. The Director of NIH shall work with appropriate employee organizations and representatives to develop such a system.

"(b) REQUIREMENTS OF SYSTEM.—

"(1) IN GENERAL.—The proposed system developed under subsection (a) shall be designed as an integrated, excepted service system that would provide one type of appointment authority for all employees of the National Institutes of Health, including firefighters, security personnel and procurement officers, with salaries comparable to those prevailing in the private sector for comparable positions.

"(2) TRANSFER RIGHTS AND OTHER FEATURES.—The proposed system developed under subsection (a) shall include—

"(A) provisions to enable employees of the National Institutes of Health currently covered under other personnel systems to transfer to the new system without penalty;

"(B) a flexible benefits program that can be tailored to the needs of the employee; and

"(C) a performance management system (including promotions, portable retirement benefits from universities, rewards, and penalties) that is suitable to the research environment.

"(c) DIRECTOR'S STAFFING AUTHORITY.—Under the proposed system developed under subsection (a), the Director of NIH shall have authority for the staffing of the intramural research program of the Institutes. Such authority may be delegated by the Director of NIH to the directors of the national research institutes.

"(d) LOAN REPAYMENT PROGRAM.—As part of the proposed system developed under subsection (a), the Secretary may enter into agreements with appropriately qualified health professionals under which such health professionals agree to conduct, as employees of the National Institutes of Health, biomedical or clinical research in those areas of need so identified by the Director of the Institutes, in consideration of the Federal Government agreeing to repay, for each year of service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(e) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing the proposed system developed under subsection (a) together with the recommendations of the Secretary concerning the enactment of legislation to apply the proposed system to the National Institutes of Health.".

SEC. 203. SABBATICAL AND TUITION REDUCTION PROGRAM.

Part F of title IV of the Public Health Service Act (42 U.S.C. 288 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 490. SABBATICAL AND TUITION REDUCTION PROGRAMS.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of NIH, may with the approval of the chief executive officer of a State, establish and implement a scientific personnel exchange program with such State.

"(b) OPERATION.—The program established under paragraph (1) for a State shall permit National Institutes of Health scientists to elect to take sabbaticals at State institutions of higher learning, while continuing to be paid as employees of the Federal Government. To be eligible to permit a State institution to accept a scientist on such a sabbatical, the State involved shall offer the children of all intramural scientists at the National Institutes of Health the opportunity to attend such institutions in the State at the rate of tuition applicable to in-State students.

"(c) PLAN.—The chief executive officer of a State desiring to have a program of the type described in subsection (a) implemented in the State shall prepare and submit to the Secretary a plan for such program that shall include—

"(1) a description of the program to be implemented;

"(2) the limitations, if any, on sabbaticals under the program;

"(3) the limitations, if any, on the opportunity of children to attend State institutions; and

"(4) any other information determined appropriate by the Secretary.".

SEC. 204. EXPANSION OF LOAN REPAYMENT PROGRAMS FOR RESEARCH WITH RESPECT TO AIDS.

Section 487A of the Public Health Service Act (42 U.S.C. 288-1) is amended—

(1) in subsection (a), by adding at the end thereof the following new paragraph:

"(3) CONTRACTS FOR THE CONDUCT OF OTHER RESEARCH.—The Secretary, subject to paragraph (2), may enter into agreements with appropriately qualified health professionals under which such health professionals agree to conduct, as employees of the National Institutes of Health, biomedical or clinical research in those areas of need so identified by the Director of the Institutes, in consideration of the Federal Government agreeing to repay, for each year of service, not more than $20,000 of the principal and interest of the educational loans of such health professionals."; and

(2) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1), the following new paragraph:

"(2) CONDUCT OF OTHER RESEARCH.—There are authorized to be appropriated to enter into agreements under subsection (a)(3), $3,000,000 for each of the fiscal years 1992 through 1996.".

TITLE III—WARREN GRANT MAGNUSON CLINICAL CENTER

SEC. 301. FINDINGS.

Congress finds that—

(1) the proximity of the laboratory research and clinical investigations to the associated patient care at the Warren Grant Magnuson Clinical Center is unique and provides an indispensable biomedical research setting;

(2) such Clinical Center has been the site of major advances in the treatment and care of patients with chronic or life-threatening illnesses;

(3) an in-depth study of such Clinical Center utility infrastructure revealed a variety of serious deficiencies throughout the building;

(4) critical mechanical and electrical systems that provide electrical power, heating, air conditioning, and plumbing are old and do not meet today's research needs, with systems exceeding their useful life, becoming unsafe and functionally obsolete; and

(5) corrective action, while minimizing the impact on the research programs contained therein, will require many years, substantial new construction, and nearly complete renovation or abandonment of the existing facility.

SEC. 302. RENOVATION AND REPLACEMENT PROGRAM.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new part:

"PART I—RESTORATION AND RENOVATION OF FACILITIES AND INFRASTRUCTURE

"Subpart 1—Warren Grant Magnuson Clinical Center

"SEC. 499B. WARREN GRANT MAGNUSON CLINICAL CENTER RENOVATION AND REPLACEMENT PROGRAM.

"(a) ESTABLISHMENT.—To address the problems existing at the Warren Grant Magnuson Clinical Center (hereafter referred to as the 'Clinical Center'), the Director of NIH may establish and implement a program for the renovation of the existing Clinical Center facility or the construction of a replacement facility. The Director may conduct feasibility studies to determine the appropriate action to be taken concerning the Clinical Center.

"(b) TRANSFER OF LAND.—

"(1) IN GENERAL.—The Secretary, acting through the Director of NIH, is authorized to accept the transfer to the National Institutes of Health of not less than 25 acres of land from other Federal agencies. Such land shall be suitable for the construction of a new research hospital and clinical center. Such land may include land obtained from the Secretary of the Navy, located on the reservation of the National Naval Medical Center, in Bethesda, Maryland.

"(2) USE AGREEMENT AND MEMORANDUM OF UNDERSTANDING.—The Secretary, acting through the Director of NIH, may enter into a Use Agreement and a Memorandum of Understanding with the Administrators, Director, or Secretaries of the appropriate executive branch entity, to accomplish the transfer of property pursuant to paragraph 1.

"(c) REQUIREMENTS.—

"(1) FACILITIES.—Any facility renovated or constructed under this section shall be equipped with a state-of-the-art capacity for beds and necessary laboratories and be comparable to the current Clinical Center complex, with necessary amenities for employees, volunteers, research subjects and visitors, including cafeteria and vehicle parking facilities.

"(2) TRANSFER OF PERSONNEL.—If a new facility is to be constructed under this section, the Secretary may expend amounts necessary to transfer the personnel and administration of the current Clinical Center to the new facility upon its completion.

"(3) COMPLETION.—Notwithstanding any other provisions of law, the renovation or construction performed under this section shall be completed as soon as feasible.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section. Such funds shall be available beginning October 1, 1992, and shall remain available until expended.".

TITLE IV—ACQUISITION OF LAND AND FACILITIES

SEC. 401. FINDINGS.

Congress finds that—

(1) although a program of revitalization of certain of the oldest National Institutes of Health buildings has been initiated, many of these facilities are still in need of replacement or refurbishment, as such buildings are more than 40 years old;

(2) the infrastructure supporting many of the laboratory and clinical facilities of the National Institutes of Health needs replacement or refurbishment;

(3) although imminent collapse is not expected, failure of one or more of the central support or building systems would mean closing down significant elements of the intramural research program for an extended period of time;

(4) many benefits would accrue from redressing the facilities and infrastructure problems at one time rather than trying to address them piecemeal;

(5) infrastructure improvements are required, not only to allow the National Institutes of Health to continue its important role in maintaining United States preeminence in biomedical and behavioral research, but more importantly, to address deteriorating structural, electrical and plumbing problems that have the potential for affecting the safety and well-being of laboratory personnel and will severely hamper the continued conduct of high quality research;

(6) if the extent and pace of future growth is not planned and coordinated with the restoration and expansion of the supporting infrastructure, the ability of the National Institutes of Health to respond rapidly and effectively to new research initiatives will deteriorate; and

(7) construction of a consolidated office building to house the administrative staff of the National Institutes of Health who currently occupy space in a number of rental sites away from the Bethesda, Maryland, campus, should be given high priority and should be expedited.

SEC. 402. ACQUISITION OF LAND AND FACILITIES

Part I of title IV of the Public Health Service Act, as added by section 302, is amended by adding at the end thereof the following new subpart:

"Subpart 2—Acquisition of Land and Facilities

"SEC. 499C. PHYSICAL INFRASTRUCTURE FOR RESEARCH.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary, acting through the Director of NIH, may establish and implement a comprehensive program that is designed to provide for the replacement or refurbishment of less than adequate buildings, utility equipment and distribution systems (including the resources that provide electrical and other utilities, chilled water, air handling, and other services that the Secretary, acting through the Director, deems necessary), roads, walkways, parking areas, and grounds that underpin the laboratory and clinical facilities of the National Institutes of Health. Such program may provide for the undertaking of new projects that are consistent with the objectives of this section, such as encircling the National Institute of Health Federal enclave with an adequate chilled water conduit.

"(b) REQUIREMENTS.—

"(1) DESIGN OF PROGRAM.—In establishing the program under subsection (a), the Secretary shall ensure that such program is designed to modernize the existing research and clinical laboratory infrastructure of the National Institutes of Health in the shortest possible time consistent with good stewardship of Federal funds.

"(2) FUTURE EXPANSION.—In designing the program under subsection (a), the Secretary may make reasonable allowance for future expansion and usual employee amenities, such as cafeteria services and vehicle parking.

"(3) NONDISRUPTION OF OPERATIONS.—In carrying out the program established under subsection (a), the Director of NIH shall, to the extent feasible, plan renovations and construction in such a manner that significant elements of the research program at the Institutes are not significantly disrupted.

"SEC. 499D. LEASED FACILITIES.

"The Secretary, acting through the Director of NIH, may lease space as necessary to support the intramural research program of the National Institutes of Health or the related administrative needs in the area near the Bethesda, Maryland, campus or at any satellite facilities without regard to time limit or square foot limit normally required by the Administrator of General Services.

"SEC. 499E. ACQUISITION OF LAND.

"(a) In General.—The Director of NIH may purchase not to exceed a total of 300 acres of land for the establishment of a satellite campus in Maryland for the purpose of enhancing the intramural research capacity of the National Institutes of Health.

"(b) Study.—Prior to the purchase of land under subsection (a), the Director of NIH shall conduct a study concerning the expansion needs of the National Institutes of Health and the purpose for which the land is to be purchased. A report concerning such study shall be submitted for approval to the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the Committee on Labor and Human Resources of the Senate, and to the other appropriate committees of Congress.

"SEC. 499F. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this subpart. Amounts appropriated under this subsection shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which such amounts are appropriated.".

TITLE V—PROCUREMENT

SEC. 501. STUDY.

The Director of the National Institutes of Health and the Administrator of the General Services Administration shall jointly conduct a study to develop a streamlined procurement system for the National Institutes of Health that complies with the requirements of Federal Law.

TITLE VI—GENERAL PROVISIONS

SEC. 601. FINDINGS.

Congress finds that participation of women in the National Institute of Health research enterprise and its undertakings is essential to the continued growth of the intramural program and, to this end, efforts should be directed to provide accommodations such as child care so that more women, particularly at the child-rearing stage, can participate as scientists in the intramural research program and as subjects in research programs conducted at the research hospital and clinical center of the National Institutes of Health.

SEC. 602. DAY CARE.

Part G of title IV of the Public Health Service Act is amended by inserting after section 496 (42 U.S.C. 289e) the following new section:

"SEC. 496A. DAY CARE.

"(a) Provision of Funds.—The Director of NIH may establish a program under which the Director will provide assistance to day care providers in amounts equal to the amounts paid by employees of the National Institutes of Health to such providers to enable such employees to afford appropriate day care for their children.

"(b) Sliding Scale.—The amount of funds to be provided by the Director of NIH on behalf of an employee under subsection (a) shall be based on a sliding scale developed by the Director that takes into consideration the income and needs of the employee.

"(c) Fees.—The Director of NIH may assess a nominal fee to employees and day care providers who receive assistance under this section to be utilized to offset the cost of the administration, operation and upkeep of the day care assistance program.

"(d) Other Services.—The Director of NIH may provide for the availability of day care service on a 24-hour-a-day basis if the Director considers such appropriate to meet the needs of employees. In order to accommodate these needs, the Director is further authorized to enter into a rental or lease purchase agreements as needed.

"(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section. Amounts appropriated under this subsection shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which such amounts are appropriated.".

SUMMARY OF NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1992

1. PERSONNEL RETENTION AND RECRUITMENT

Direct NIH & OPM to report back to Congress with a plan to integrate the many different federal employee pay schedules currently used by NIH into one integrated civil service system. Study would cover scientists, support staff, maintenance staff and security.

Create a sabbatical exchange program to state universities that is developed and approved with the Governors of each state.

NIH will repay student loans for scientists who choose to work at NIH—based on AIDS loan repayment program.

Give NIH Director direct control over intramural program.

Require that NIH requests to OPM, OMB, GSA and HHS be handled in 3 months or the request will be considered automatically approved.

2. BUILDINGS AND FACILITIES

Authority to negotiate with the Navy for land at the Bethesda Naval Hospital grounds to build a replacement building for the Magnuson Clinical Center.

Authority to carry out needed improvements to Magnuson Clinical Center.

Create a comprehensive program to replace and refurbish buildings, equipment, systems, roads, walkways, parking, and other infrastructure needs for NIH programs.

Give NIH the authority to purchase 300 acres for a satellite campus.

3. PROCUREMENT

Joint study of NIH and GSA to streamline procurement process.

4. GENERAL PROVISIONS

Authority to start a day care center.●

By Mr. ROCKEFELLER (for himself, Mr. WOFFORD, Mr. LIEBERMAN, and Mr. KERRY of Massachusetts):

S. 2286. A bill to provide support for enterprises engaged in the research, development, application, and commercialization of advanced critical technologies through a private consortium of such enterprises; to the Committee on Commerce, Science and Transportation.

ADVANCED TECHNOLOGIES CAPITAL CONSORTIUM ACT OF 1992

● Mr. ROCKEFELLER. Mr. President, today I am introducing legislation which is one part of a larger strategy designed to help restore America's competitiveness. In introducing the Advanced Technologies Capital Consortium Act of 1992, I am joined by Representative TORRICELLI who is introducing the House version of the bill, and by Senators WOFFORD, LIEBERMAN, and KERRY.

We are taking this step because of our firm belief that America's ability to sustain its role of world leadership in the next century will depend on its economic strength more than its military strength. Economic strength, in turn, will be defined by critical technologies of the future. Indeed, as Desert Storm demonstrated, even military strength itself will depend increasingly on advanced technological capabilities.

Effectively, these technologies will become our infrastructure of tomorrow. They include:

Advanced communications and information technologies like computers, fiber-optics, opto-electronics, flat panel imaging, and new generation semiconductor manufacturing.

Advanced transportation technologies in aeronautics, smart highways, and magnetic levitation.

Advance materials like composites, ceramics and high-performance metals.

Governments have been supporting infrastructure for 5,000 years. Indeed, Mr. President, historians theorize that the development of organized agriculture led to the need for cooperative efforts to control irrigation, which is what started the idea of government. The United States itself is a good example of the use of Government to provide what economists call collective goods. We created a modern and efficient agriculture industry in the 19th century. We did the same thing with civil aviation in the 1920's and aerospace in the 1950's and 1960's. Our definition of infrastructure may change over time, but the Government's responsibility to provide it does not.

At the same time, it is important that Governments approach this responsibility with a coherent strategy rather than piecemeal. Right now, every time we pass a tax bill or an appropriations bill, every time EPA changes its environmental regulations, every time we continue or kill a defense program; we favor some industries or sectors over others. But we have no concept, no priorities beyond the good idea of the moment.

In response to that dilemma, a number of us have begun the process of trying to formulate just such a national economic strategy. It will include tax proposals, which are currently under discussion. I will have more to say about that on another occasion.

In terms of new initiatives, we are proposing a variety of measures to accelerate development and commercialization of critical technologies, including more funds for the Department of Commerce's Advanced Technology Program and DARPA's dual-use projects.

We will also be proposing funding for a number of items authorized last year in the defense bill, thanks to the efforts of the Senator from New Mexico, Mr. BINGAMAN, but not funded, including a manufacturing extension program cost—shared with the states, and the creation of critical technology application centers with States and industry. The latter would provide infrastructural services to small technology start-up companies.

I will also inform the Senator that I intend this year to press the issue of the so-called Mineta amendment which would provide National Institute of Standards and Technology funds for technology commercialization as well as research and development. I had hoped to add this provision to the NIST authorization that the Senate approved last November but was persuaded not to do so in the interest of enacting the legislation quickly. The administration had threatened to veto the entire authorization on the basis of this $10 million amendment on the grounds that it was industrial policy.

That, of course, is nonsense. The idea that there is in the innovation-manufacturing continuum a bright line, on one side of which lies generic, pre-competitive R&D and on the other side of which lies industrial policy, is ridiculous. There is no magic point at which research suddenly and miraculously becomes product-specific and proprietary. When the Advanced Technology Program of DARPA selected projects to support, they clearly are looking down the line to usable outcomes. To stop the government-support process at an arbitrary point for ideological reasons nullifies the effectiveness of the programs.

Finally, Mr. President, a complete national economic strategy will also address transportation, education, worker training, export promotion, and trade. I will also have more to say about those a the proper time.

The Advanced Technologies Capital Consortium Act, therefore, is only one part of this larger effort to restore American competitiveness, but it is important to see it as part of that coherent whole rather than isolation.

PURPOSE OF THE BILL

Having said that, let me discuss for a few moments the rational behind this particular bill. It is intended to deal with growing deficiencies in the domestic venture capital market:

Venture capital partnerships raised only $1.34 billion in 1991, continuing a consistent decline from the record $4.2 billion in 1987. Similarly experts believe the much larger angel market—private individual investors—estimated at about $41 billion annually between 1985 and 1987, has also been shrinking.

There is also evidence that venture capital investments are becoming more conservative—coming in later when projects are already established. Venture capitalists will doubtless argue that good ideas simply aren't appearing as frequently anymore, but a more objective analysis concludes that venture capitalists are becoming routinized and risk averse. Michael Schrage of the Washington Post has discussed this phenomenon in a column from September 6, 1991. Mr. President, I ask that the column be printed at the conclusion of my remarks.

No doubt, others will argue there is simply less capital available for investment, due to past tax legislation or current economic policies. There may well be some truth to that, Mr. President, and I hope the Finance Committee will address the question it its consideration of tax legislation.

Regardless of who is right in that argument, however, it is clear that domestic funds are not sufficiently available. At the same time, I am also concerned that foreign funds are available, but they come with strings attached, most commonly licensing of any technology developed. Good recent examples of this problem can be found in the biotechnology sector, which is replete with recent Japanese acquisitions.

Mr. President, if we cannot make domestic funds available, we risk literally selling off our innovations and technologies to our competitors, which will have devastating long-term consequences for our competitiveness.

The purpose of this bill is to address that threat by providing a domestic venture capital alternative.

This is not a new idea, although I am not familiar with it previously in the form of legislation. I first ran across it in the first report in 1989 of the National Advisory Committee on semiconductors, which recommended a capital consortium specifically for electronics. Michael Borrus of the Berkeley roundtable on the international economy prepared a paper for the NACS which laid out the spectrum of options for a consortium. Our bill is adapted from his ideas.

STRUCTURE OF THE ADVANCED TECHNOLOGIES CAPITAL CONSORTIUM

Although it utilizes some Federal funds, matched by private funds, the ATCC is organized and run by the private sector.

Its structure and organization is similar to Sematech's. The Secretary of Commerce is authorized to designate a consortium of private parties, including State or local governments, to control the funds and make the investments. This decisionmaking is entirely in the hands of the private consortium—the ATCC. Federal oversight is achieved through an advisory committee, like the one that supervises Sematech, and an annual audit. The advisory committee would set overall policy objectives but would not interfere in investment decisions.

The ATCC would invest in companies engaged in the research, development, application, or commercialization of critical technologies. Critical technologies are those listed by the National Critical Technologies Panel in its biannual report. Mr. President, I ask that the list of critical technologies from the 1991 report be printed at the conclusion of my remarks.

The bill would permit a broad range of investments, including loans, grants, and equity investments. The ATCC would be free to negotiate whatever conditions it thought appropriate with an investment recipient through memoranda of understanding with the recipient.

In that regard, I expect that the most common arrangement would be an equity investment, because it would permit the ATCC to share most fully in any profits.

As I indicated, there is a Federal contribution to the ATCC but the consortium members must collectively contribute an amount equal to the first year's Federal contribution. Since the bill authorizes $100 million for fiscal year 1993 and $200 million for each of fiscal year 1994 and fiscal year 1995, the private contribution would be $100 million, if Congress authorized and appropriated the full amount, and the Secretary allocated it.

Although the intellectual property developed as a result of ATCC investments could be made available to the consortium members, pursuant to the memorandum of understanding that negotiated the investment, it is made available to the Government only for its own use. The Government is precluded from selling it or making it available to others. That should help guarantee that the private parties reap the profits from their innovations.

Participation in the ATCC is limited to U.S.-owned companies or those that are incorporated in the United States and have a parent incorporated in a country that affords U.S.-owned companies comparable opportunities to participate in this kind of consortium, national treatment for local investments, and adequate and effective protection of intellectual property rights. This is the same language included in the NIST authorization recently sent to the President.

It is my expectation that companies will be interested in participating either because of the potential profit—from interest on loans or from equity investment—or the possibility of access to new intellectual property. The bill does not require either but leaves the relationship between investors and recipients to negotiation between the parties.

Mr. President, I believe the advanced technologies capital consortium is an innovative approach to a serious and growing problem. That problem is commonly identified as a competitiveness, a long, and frankly boring, word. We may be getting tired of the word, but we dare not get tired of the idea, because our ability to sustain our role of world leadership depends on it. To do that will require a national economic strategy—something America has done before, but which has been declared politically incorrect for the past 10 years. The failure of the Reagan and Bush administrations to put our economy on the proper footing to sustain itself into the next century is now becoming obvious to everybody. The public has certainly figured it out, and I do not expect Congress will be far behind. The administration will certainly resist, which means we will have a debate, one which, in my judgment, is long overdue. I look forward to that debate, Mr. President, and can assure Senators that the advanced technologies capital consortium will be an important part of it.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advanced Technologies Capital Consortium Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States does not have adequate institutional means to effectively identify, procure, and deploy needed technologies in a timely fashion;

(2) the United States makes insufficient investment in civilian research and development in comparison with its major foreign competitors;

(3) the United States is lagging behind its foreign competitors in the commercialization and diffusion of new technologies;

(4) in a number of cases, American industry has been overtaken in the international market by innovative products from foreign firms, and American firms have pioneered new technologies only to see their successful commercialization captured by foreign competitors;

(5) the productivity and rate of innovation of many American industries are lagging compared with historical patterns and with the performance of the same industries in other nations and are not sufficient to provide for a healthy economy;

(6) the American venture capital market has failed to provide sufficient funds to support innovation or commercialization of critical technologies;

(7) investment in American critical technologies by American entities is in the interest of American competitiveness and national security;

(8) with the increasingly global trade patterns that accompany world development and the penetration of United States markets by foreign competitors, the United States will have to provide for closer Government-industry cooperation in order to compete successfully; and

(9) Government-industry cooperation should include support for private venture capital investment.

(b) PURPOSE.—The purpose of this Act is to provide Government support for a private consortium that will invest in the research, development, and commercialization of critical technologies.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Advanced Technologies Capital Consortium" (hereafter referred to as the "ATCC") means a consortium of private enterprises, academic institutions, foundations, and State and local governments designated by the Secretary under section 4(b), and engaged in the research, development, application, and commercialization of critical technologies;

(2) the term "advanced critical technologies" means those technologies on the biannual list required to be issued by the National Critical Technology Panel in accordance with section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d));

(3) the term "intellectual property" means any invention or process patentable under title 35, United States Code, or any patent on such an invention; and

(4) the term "Secretary" means the Secretary of Commerce.

SEC. 4. FEDERAL FUNDING.

(a) IN GENERAL.—The Secretary shall make grants and loans to the ATCC to pay the costs of research, development, application, and commercialization of critical technologies through grants, loans, and investments made by the ATCC to enterprises engaged in such activities. Grants and loans to the ATCC shall be made in accordance with a memorandum of understanding entered into under section 5.

(b) DESIGNATION OF ATCC.—The Secretary shall designate 1 consortium as the ATCC.

(c) ELIGIBILITY.—To be eligible for designation as the ATCC, the consortium shall—

(1) be comprised of not less than 4 private sector persons and corporations described in section 3(1);

(2) contribute to the funding of the consortium an amount that is equal to or greater than the amount provided to the consortium by the Secretary in the first fiscal year following the date of enactment of this Act;

(3) consist of persons or corporations that the Secretary finds would serve the economic interest of the United States, as evidenced by—

(A) investments in the United States in research, development, and manufacturing (including the manufacturing of major components or subassemblies in the United States);

(B) significant contributions to employment in the United States; and

(C) agreement with respect to any technology arising from financial support provided under this Act—

(i) to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry; and

(ii) to procure parts and materials from competitive suppliers—

(I) made up only of entities that are United States-owned; or

(II) incorporated or chartered in the United States; and

(4) limit corporate membership in the consortium to companies that are either—

(A) United States-owned; or

(B) incorporated or chartered in the United States and have a parent company that is incorporated in a country that affords to United States-owned companies—

(i) opportunities comparable to those afforded to any other company to participate in any joint venture or consortium similar to that designated under this Act;

(ii) local investment opportunities comparable to those afforded to any other company; and

(iii) adequate and effective protection for the intellectual property rights of such United States-owned companies.

SEC. 5. MEMORANDUM OF UNDERSTANDING.

(a) CONTENTS.—The Secretary shall enter into a written memorandum of understanding with the ATCC which shall include the following provisions:

(1) CHARTER AND OPERATING PLANS.—The ATCC shall be required—

(A) to be a business corporation incorporated under the laws of a State or the District of Columbia;

(B) to have a charter agreed to by all participating members of the ATCC;

(C) to have an annual operating plan developed in consultation with the advisory committee established under section 6; and

(D) to appoint an executive director and such other staff as it considers necessary.

(2) PARTICIPATION AMOUNT.—The total amount of grants and loans provided to the ATCC by the Secretary under this Act may not exceed $200,000,000 in any fiscal year.

(3) CONSULTATIONS.—In making grant, loan, and investment decisions, the ATCC shall consult with and draw upon the expertise of the advisory committee established under section 6.

(4) INDEPENDENT AUDITOR.—The ATCC shall retain an independent commercial auditor—

(A) to make an annual determination of the extent to which Federal funding provided to the ATCC under this Act has been used in a manner that is consistent with the purposes of this Act and the ATCC's charter and annual operating plan; and

(B) to prepare and submit to the Secretary and the Comptroller General of the United States an annual report containing the findings and determinations of such auditor.

(5) INTELLECTUAL PROPERTY.—

(A) IN GENERAL.—Title to any intellectual property arising from Federal support provided under this Act shall vest in a company or companies incorporated in the United States. The United States may reserve a nonexclusive, nontransferrable, irrevocable paid-up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States, until the expiration of the first patent obtained in connection with such intellectual property.

(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from Federal support provided under this Act.

(6) EXPEDITIOUS TRANSFER OF TECHNOLOGY.—The ATCC shall take all necessary steps to maximize the expeditious transfer of technology owned or developed by the ATCC to its participating members in accordance with the agreement between the ATCC and such members for the purpose of improving manufacturing productivity of United States advanced critical technology firms.

(7) REQUIREMENTS FOR NEW CONSORTIUM MEMBERS.—Following designation of the

ATCC under section 4(b), a person or corporation may only become a member of the ATCC upon the approval of the Secretary. All such persons or corporations seeking membership in the ATCC shall be subject to the eligibility requirements and limitations applicable to original ATCC members under section 4(c).

(b) OTHER AUTHORITY.—Under the terms of the written memorandum of understanding, the ATCC may also—

(1) issue stock in an amount that is equal to not more than 20 percent of the sum of the capital contributed by the Federal Government and by the consortium;

(2) borrow funds from private sources, which borrowing shall be guaranteed by the Federal Government, under terms established by the Secretary and in such amounts as may be approved in an appropriations Act;

(3) make loans or other comparable transfers to or equity investments of not more than 50 percent of its initial startup capital in any company engaged in the research, development, commercialization, or marketing of innovations, goods, or services related to advanced critical technology; and

(4) engage in negotiations with any party to which the ATCC extends credit or in which it makes an equity investment under subsection (c), concerning the ownership or assignment of intellectual property or products developed by such party.

(c) CONSTRUCTION OF MEMORANDUM OF UNDERSTANDING.—A memorandum of understanding entered into under this section shall not be construed to be a contract for the purpose of any law or regulation relating to the formation, content, or administration of contracts awarded by the Federal Government and subcontracts awarded under such contracts, including section 2306a of title 10, United States Code, section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168), and the Federal Acquisition Regulation. Such provisions of law and regulation shall not apply with respect to the memorandum of understanding.

SEC. 6. ADVISORY COMMITTEE ON FEDERAL PARTICIPATION.

(a) ESTABLISHMENT.—There is established the Advisory Committee on Federal Participation in the Advanced Technology Capital Consortium (hereafter referred to as the "Advisory Committee").

(b) FUNCTIONS.—The Advisory Committee shall—

(1) advise the ATCC and the Secretary on appropriate technology goals for the activities of the ATCC and a plan to achieve those goals;

(2) conduct an annual review of the activities of the ATCC for the purpose of determining the extent of the progress made by the ATCC in carrying out the plan referred to in paragraph (1);

(3) on the basis of its determinations under paragraph (2), submit to the ATCC any recommendations for modification of the plan or the technological goals in the plan considered appropriate by the Advisory Committee; and

(4) review the activities of the ATCC and submit to the Secretary and the Committees on Commerce of the Senate and the House of Representatives an annual report containing a description of the extent to which the ATCC is achieving its goals.

(c) MEMBERSHIP.—The Advisory Committee shall be composed of 11 members, including—

(1) the Under Secretary of Commerce for Technology, who shall serve as the chairperson of the Advisory Committee;

(2) the Director of Energy Research of the Department of Energy;

(3) the Director of the National Science Foundation;

(4) the Director of the Defense Advanced Research Projects Agency;

(5) the Chairman of the Federal Laboratory Consortium for Technology Transfer; and

(6) 6 private individuals appointed by the President, including—

(A) 4 individuals who are eminent in the field of advanced critical technologies industries; and

(B) 2 individuals who represent small business concerns.

(d) TERMS OF MEMBERSHIP.—Each member of the Advisory Committee appointed under subsection (c)(6) shall be appointed for a term of 3 years, except that of the members first appointed, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years, as designated by the President at the time of appointment. A member of the Advisory Committee may serve after the expiration of the member's term until a successor has taken office.

(e) INDEPENDENCE.—No member of the Advisory Committee may be a member of the ATCC or be employed by the ATCC in any capacity.

(f) VACANCIES.—A vacancy in the Advisory Committee shall not affect its powers, but, in the case of a member appointed under subsection (c)(6), shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(g) QUORUM.—Six members of the Advisory Committee shall constitute a quorum.

(h) MEETINGS.—The Advisory Committee shall meet at the call of the chairperson or a majority of its members.

(i) COMPENSATION.—

(1) IN GENERAL.—Each member of the Advisory Committee shall serve without compensation.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of Advisory Committee duties, members of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(j) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) does not apply to the Advisory Committee.

SEC. 7. LIMITATIONS ON LOAN AND INVESTMENT AUTHORITY.

The aggregate amount of loans and investments by the ATCC to any 1 company may not exceed an amount equal to 50 percent of the total value of the assets of such company.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) $100,000,000 for fiscal year 1993;

(2) $200,000,000 for fiscal year 1994; and

(3) $200,000,000 for fiscal year 1995.

REPORT OF THE NATIONAL CRITICAL TECHNOLOGIES PANEL, MARCH 1991

MATERIALS

Materials synthesis and processing.
Electronic and photonic materials.
Ceramics.
Composites.
High-performance metals and alloys.

MANUFACTURING

Flexible computer integrated manufacturing.
Intelligent processing equipment.
Micro- and nanofabrication.
Systems management technologies.

INFORMATION AND COMMUNICATIONS

Software.
Microelectronics and optoelectronics.
High-performance computing and networking.
High-definition imaging and displays.
Sensors and signal processing.
Data storage and peripherals.
Computer simulation and modeling.

BIOTECHNOLOGY AND LIFE SCIENCES

Applied molecular biology.
Medical technology.

AERONAUTICS AND SURFACE TRANSPORTATION

Aeronautics.
Surface transportation technologies.

ENERGY AND ENVIRONMENT

Energy technologies.
Pollution minimization, remediation, and waste management.

[From the Washington Post, Sept. 6, 1991]

THE SLOW, SORRY DISAPPEARANCE OF VENTURE CAPITALISM

(By Michael Schroge)

Adam Osborne, the hyperbolic computer entrepreneur whose sense of humor frequently outstrips his business sense, loved to ask friends, "What do you get when you cross a lemming with a sheep?"

The answer: a venture capitalist. During the heady, excessive 1980s—when any fast-talking technologist with an MBA or a legible business plan could get venture funding (and did)—that was a pretty good joke. Now it's out of date.

In the 1990s, a venture capitalist is what you get when you cross a plucked chicken with an invertebrate. Venture Capital has become Wimp Capital.

The industry that helped create Intel Corp., Apple Computer Inc., Genentech Inc., Cetus Corp., Compaq Computer Corp., Lotus Development Corp., Sun Microsystems Inc., Calgene Inc. and dozens of other influential, innovative and vital companies has lost its nerve. Instead of seeding start-ups and nurturing them into new industries, most "venture" capitalists now have retreated into the less risky regions of late-round financing.

Instead of creating value, they've degenerated into portfolio managers. "There's conservative investing in the later rounds," says David Kelley, a partner in the seed capital venture fund called Onset, "but no one's really investing in start-ups."

According to the Venture Capital Journal, venture investments are at their lowest level in nearly a decade. Overall funding dropped by more than 40 percent from $3.4 billion in 1989 to less than $2 billion last year. "It'll be half of that this year, if that," asserts Kevin J. Kinsella, managing general partner of Avalon Ventures, a La Jolla, Calif.-based venture capital firm.

What's worse, start-ups—totally new ventures—are receiving a shrinking share of this resource. Where start-ups once received roughly 20 percent of the venture capital pie, they're now getting closer to 10 percent. So at the very time that dramatic technological change accelerates in fields ranging from biotechnology to new materials to software to new computer architectures, American venture capital is evaporating.

"The attitude has shifted away from start-ups," says Richard Schaffer, whose Computer Letter tracks venture capital investments in the silicon world. "People are more aware of the risk than the romance. The venture capitalists who still do start-ups do it because they're rich enough to afford it."

Where venture capital once was a high-octane fuel driving the creation and commercialization of new technologies, it is now more like a lawn sprinkler under water rationing. The impact is more on the margins than at the center.

By any measure, venture capital was essential to launching the semiconductor, biotechnology and the personal computer hardware and software industries. It reshaped the global technological landscape of the 1980s. Not only did venture capital bring new technologies and companies to life, those companies and technologies forced existing businesses to transform themselves.

So what happened? "Because of the spectacular successes," says Avalon's Kinsella, "venture capital exhibited all the qualities of Gresham's Law—bad money was chasing out the good. There were a lot of people playing in the game who had no business being there."

These sheep/lemming venture capitalists funded enterprises such as the 36th disk drive company and the 12th electronic spreadsheet software start-up.

"Start-up fratricide," says John Doerr, a partner at Kleiner, Perkins, Caufield & Byers, one of the most successful venture firms. These firms didn't invest; they binged. So returns to investors shriveled.

Conversely, the truly successful venture capitalists—raised huge multimillion-dollar megafunds. Venture capital became more institutionalized.

"It takes just as much time to manage a $150,000 seed investment as a $10 million late-round investment," says Computer Letter's Schaffer. Consequently, investment slid away from the riskier early-round financings to the safer haven of later investments.

Worst of all, the culture of venture capital changed. Instead of going out and helping create companies, too many venture capitalists sat back on their haunches and passively examined the "deal flow"—editing business plans, making phone calls and delegating due diligence to MBAs who thought they could get richer faster in Silicon Valley than on Wall Street.

"It's a damn tough business," says Kinsella, who specializes in start-ups. "You have to work at it. * * * You can't take August off. Most venture capitalists are not combing the halls of MIT, Stanford and Caltech looking for technology," he adds. "They're not reading the primary science journals. * * * They're looking for a nicely packaged, ribboned business plan."

The truly successful venture capitalists—people such as Arthur Rock (who helped launch Intel and Apple Computer) and the partners at Kleiner, Perkins (the firm that created Genentech and seeded Lotus and Sun Microsystems)—always have appreciated that venture capital means more than money. They've understood that the money has to be mixed with insight, operational expertise and the ability to help transform an entrepreneurial team into an organization that can sustain growth.

As Cabot Brown, a partner at Volpe, Welty & Co., a San Francisco-based investment banking firm, points out, the issue isn't the quantity of money in start-ups—it's the quality of those start-ups. "It's better to have fewer, better capitalized and smarter start-ups," he asserts.

Perhaps. But you would think that there would be a lot of older and wiser people given all the venture capital investments of the 1980s. You would think that we would have an emerging generation of venture capitalists who could give us both quantity and quality. The numbers suggest otherwise. Sure, there are still a few investments in biotechnology but, by and large, venture capital is likely to be less of a positive force in this decade than it was in the last.

The change isn't just cyclic; it's structural. Increasingly, aspiring entrepreneurs are forced to look to foreign investors. For Americans concerned about industrial investors. For Americans concerned about industrial competitiveness and economic growth, venture capital's inability to keep pace with technological opportunity offers an excellent reason to worry.•

• Mr. LIEBERMAN. Mr. President, I rise today to join Senator ROCKEFELLER as an original sponsor of the Advanced Technologies Capital Consortium Act of 1992, and would like to commend him for his hard work and continued dedication to increasing U.S. competitiveness through technological advancement. Simply stated, this legislation will help recharge emerging precompetitive American technologies, which have been seriously harmed by a critical lack of patient and cheap equity capital.

Mr. President, this legislation will provide equity capital to fund enterprises engaged in precompetitive basic and applied research, development, application, commercialization of advanced critical technologies through a private consortium, named the "Advanced Technologies Capital Consortium."

The state of U.S. technological superiority, productivity, and manufacturing is clearly in decline and indicators of that decline are actually visible. The U.S. merchandise trade deficit remains stubbornly high despite a significant downward change in the value of the dollar. Growth in productivity continues to be sluggish as compared to our major competitors. And, U.S. manufacturers, including defense manufacturers, are becoming increasingly dependent on foreign companies for an ever-increasing range of technological components and know-how.

Many firms—particularly small firms and startups—find it virtually impossible to obtain debt financing, and are being shut out of equity markets as well. In 1988, Americans invested $20 billion in new equities, but the Japanese invested five times that amount. Increasingly, U.S. high-technology firms engaged in precompetitive R&D, and unable to secure capital in this country, are turning to our major international competitors to fund their activities—funds which often come with significant technology transfer or production strings attached.

Mr. President, technological advancement can not be ignored. Technological advancement can drive an economy by creating new goods, services, industries, jobs, and capital. Technological advancement, when applied to existing systems, can improve productivity and the quality of products. And, Mr. President, technological advancement can help compensate for competitive disadvantages U.S. firms must face including comparatively higher costs of capital and labor.

Until recently it appeared the United States was the world leader in basic research and in many areas of applied research. That may no longer be the case. According to this past Tuesday's New York Times, "Japan has in fact expanded its industrial research so rapidly in the past decade that it now rivals the United States, and perhaps has already pulled ahead."

While this is a critical development, we must understand that research alone does not lead to improved productivity and economic growth. Research and development is merely the first step. It is commercialization—the process of moving products from our laboratories to our factories—that leads to increased productivity, continued economic growth, and the ultimate rise in our standard of living. But, Mr. President, this is also where we fail. We must, as our competitors do, aggressively support emerging technologies—with affordable and patient equity capital—so they can be transformed into commercially viable products for the international marketplace.

Our chief economic competitors are not afraid to do just that. According to the Council on Competitiveness, in 1988 the United States spent 0.2 percent of the total Federal Government R&D budget on industrial development—compared to 4.8 percent in Japan and 14.5 percent in Germany. Additionally, the Ministry of International Trade and Industry [MITI] is the most celebrated example of how the Japanese economic miracle came into being. We may not want to create an American MITI, but we certainly ought to be thinking about long-term blueprints for keeping America ahead of the high-technology curve. Senator ROCKEFELLER's advanced technologies capital consortium will go a long way toward reaching that goal by providing basic precompetitive venture or seed capital for emerging technologies.

Mr. President, at a time when America is struggling to face the economic challenges of the 1990's, the administration is still mired in out-of-date economic theory and conflicting policies. The White House says that the Federal Government has no business picking winners and losers, that the free market should reign supreme. I agree, the free market should reign supreme.

But what the administration seems to forget is that the Government is and always has been deeply involved in the economy. This type of activity is nothing new. That's how the railroads were built. That's how the highways were built. That's how the American aerospace industry and American agriculture have become the standards for

American excellence—all through direct Government support. In fact, the aerospace industry produces a larger trade surplus for the United States than any other manufacturing industry and agriculture is a big contributor to trade surpluses as well.

This legislation does not purport to replace the free market. Nothing could be further from the case. What this legislation says is that there is also a constructive role for the Government to play in technology policy—particularly in the precompetitive, precommercial, developmental stages of technological advancement.

At the same time the administration is pushing its policy of laissez-faire, the President's National Critical Technologies Panel, which is a part of the Office of Science and Technology Policy, has prepared a list if "22 Key Technologies considered essential for the United States to develop in the interests of the Nation's long-term security and economic prosperity." The report goes on to stress "the need for increased cooperation between government and corporations." In the prepared report, the National Critical Technologies Panel stated:

> In an environment of intensifying global competition, deployment of technology is becoming the strategic battlefield of the international marketplace.

If maintaining world class technological superiority—as the administration suggests—is critical to both our national defense and economic security, than we should not be debating whether or not the Federal Government should be supporting technological advancement; rather, we should be asking what is the best way for us to do so? How can we put the resources and leverage capacity of the Federal Government directly behind American industrial technologies to improve our industrial competitiveness over the long term? I believe this legislation directly and appropriately answers these questions.

To conclude, America must regain its lead in the civilian high-technology industry. What is at stake here is both the national and economic security of our Nation, and the standard of living of our people. Government initiatives should not be dismissed as interference. They should be viewed as support for American competitiveness and a strong economy. I appreciate the work Senator ROCKEFELLER has done on this issue, and I'm pleased to be able to join with him as an original sponsor of this important legislation.●

By Mr. GORTON:

S. 2287. A bill to amend the Forest Resources Conservation and Shortage Relief Act of 1990 to modify the basis for a determination by the Secretary of Commerce to increase the volume of unprocessed timber originating from State lands that will be prohibited from export, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FOREST RESOURCES AMENDMENTS ACT

● Mr. GORTON. Mr. President, the timber supply crisis in the Pacific Northwest shows no sign of subsiding. When that supply dries up, sawmills and pulpmills will shut down and many hard working families will be on the streets of small, rural, timber towns. Many of these towns are dependent, or have been dependent, on timber from public lands. Mills traditionally locate themselves near the forests that produce the type of logs they process and those located near public forests are slowly being suffocated by spotted owl restrictions.

In 1990, Congress passed the Forest Resources Conservation and Shortage Relief Act. That law directed the Secretary of Commerce to restrict the export of State timber and to increase those restrictions periodically if the economic conditions in the region merit an increase. Today, only 75 percent of State logs are restricted from export and the remaining 25 percent are available for export. The Secretary of Commerce has declined to increase the restrictions above 75 percent and I am introducing legislation today that will expand the Secretary's authority.

I remain convinced that the Secretary should use his authority to increase export restrictions on State logs to 100 percent. The entire Washington congressional delegation wrote to the Secretary urging him to take such an action. I will continue to push the Secretary to make this decision administratively. The bill I introduce today, the Forest Resources Amendments Act, will strengthen the Secretary's hand in making that decision and hopefully will serve as a catalyst.

Technically, the Forest Resources Amendments Act will allow the Secretary of Commerce to consider an increase or decrease in the amount of Federal timber under contract in the State of Washington when making his decision to increase the restrictions on State log exports. Currently, the law only allows the Secretary to consider an increase or decrease in the amount of State timber under contract. When considered in the aggregate, the amount of public timber under contract has decreased drastically.

The Forest Resources Amendments Act will also provide a legal extension of Washington State's regulations pertaining to the substitution by wood processors of restricted State logs for exported private logs. This legislation provides that those regulations will be in place in Washington State at least until the end of 1995.

Mr. President, I have long opposed any restrictions on the rights of private property owners to sell the products of their land in open markets. I oppose restrictions on the ability of private forestland owners to sell their logs to the market of their choice. I will oppose any attempt to extend today's legislation to restrict the export of private logs.

The Forest Resources Amendments Act is not the solution to the timber supply crisis in the Pacific Northwest. It is an incremental step intended to give interim relief to the communities and workers who depend on timber from State lands. The solution to this crisis lies solely with the supply of timber from public lands. The measure I introduce today only shuffles approximately 100 million board feet of timber to domestic mills. When we consider that timber sales from Federal land have traditionally averaged approximately 5 billion board feet per year, it becomes obvious that domestic mills need much more than 100 million board feet of timber to survive. The amount involved in today's legislation is important to the mills that will receive it. But it is only a small portion of the amount needed to prevent economic and social devastation in the Pacific Northwest.

Mr. President, I ask unanimous consent that the text of the bill appear in full in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Forest Resources Amendments Act of 1992".

SEC. 2. BASIS FOR INCREASING VOLUME OF PROHIBITED EXPORTS.

Section 491(c)(2) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c(c)(2)) is amended by inserting "and Federal lands, in the aggregate," after "public lands".

SEC. 3. REGULATIONS RELATING TO SUBSTITUTION.

Section 491(d)(3) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c(d)(3)) is amended—

(1) by striking "(A)" and inserting "(A)(i)";

(2) in the second sentence by striking "Such" and inserting "Subject to clause (ii), such"; and

(3) by adding at the end the following:

"(ii) Regulations issued under clause (i) by the Governor of a State (or his designee) that prohibit the substitution of unprocessed timber originating from public lands for unprocessed timber originating from private lands shall, upon the enactment of this clause, remain in effect, throughout the periods referred to in subparagraphs (B) and (C) of subsection (b)(2), as such regulations were in effect on August 16, 1991. After the end of such periods, such regulations shall remain in effect until such time as the legislature of such State enacts such requirements as it deems appropriate to supersede such regulations.".

SEC. 4. CONSISTENCY WITH TRADE AGREEMENTS.

The President is authorized, after suitable notice and a public comment period of not less than 120 days, to suspend the amendments made by this Act if a panel of experts has reported to the Contracting Parties to the General Agreement on Tariffs and Trade, or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that the amendments made by this Act are in violation of, or inconsistent with, United States obligations under that trade agreement.•

By Mr. BROWN:

S. 2288. A bill to amend part F of title IV of the Social Security Act to allow States to assign participants in work supplementation programs to existing unfilled jobs, and to amend such part and the Food Stamp Act of 1977 to allow States to use the sums that would otherwise be expended on food stamp benefits to subsidize jobs for participants in work supplementation programs, and to provide financial incentives for States and localities to use such programs; to the Committee on Finance.

ECONOMIC OPPORTUNITY ACT

Mr. BROWN. Mr. President, I rise today to introduce legislation that would allow Americans to exchange their welfare checks for paychecks.

The Economic Opportunity Act of 1992 increases the income of welfare recipients while reducing State costs and increasing Federal revenue. With enactment of this legislation, States would be encouraged to deliver welfare payments in the form of a paycheck by using the Work Supplementation Program.

Specifically, this legislation broadens the grant diversion activities offered in the Job Opportunities and Basic Skills Program [JOBS] to facilitate the transition of welfare recipients into long-term-employment positions.

The Work Supplementation Program combines the efforts of Government, business, and industry to bring welfare recipients into the working sector of our society. Unfortunately, there are several unnecessary restrictions on the program which block States from fully using this valuable tool.

The economic opportunity act of 1992 would eliminate barriers to employment through the Work Supplementation Program by:

First, allowing welfare recipients to be hired into existing vacancies through the Work Supplementation Program;

Second, allowing States the option of using food stamps along with AFDC benefits to convert to paychecks in work supplementation;

Third, ensuring welfare recipients will be better off working by requiring that their monthly income from a work supplementation job will be at least 125 percent of the welfare-related benefits they receive; and

Fourth, allowing States greater incentive to operate work supplementation programs by allowing them to share in the savings generated by the program.

Work supplementation has great potential, but that potential is buried under cumbersome restrictions. To date, these restrictions have so dampened State interest that as of 1990, only 17 States participate to varying degrees.

To unleash the human talent that exists in each and every one of us, we must give States more flexibility and incentives to be creative in bringing able-bodies Americans into the work force. The Economic Opportunity Act of 1992 would be an impetus for just such activity at the State and local level.

At a time when the United States needs the full contribution of each American, we must find new ways to bring those who have become economically disenfranchised back into the working sector of America.

By Mr. ROTH:

S. 2289. A bill to establish procedures to disclose to the public the cost to society of Federal programs an regulations, and for other purposes; to the Committee on Rules and Administration.

COMPETITIVENESS ENFORCEMENT ACT

• Mr. ROTH. Mr. President, Federal regulations are designed to result in public benefits. From increases in health and safety to reductions in pollution and market imperfections, the aggregate benefits from regulations developed in effective, efficient, and rational manner without imposing unnecessary restrictions upon the competitiveness, productivity, or economic growth in this country is substantial.

Unfortunately, a rational and efficient balancing between the benefits and costs of Federal regulations often eludes regulators, thus producing a devastating impact on the American economy. While much attention, of late, has been given in this body to proposals for tax relief, not enough has been paid to the hidden tax of Federal regulations which affect American workers in the form of reduced wages and employment, and households in the form of higher prices for goods and services.

There is a great deal of rhetoric regarding unfair trade practices by the Japanese but no one speaks of burdensome Federal regulations that place American enterprises and workers at a competitive disadvantage with respect to foreign businesses that are not subject to such constraints and burdens.

Efforts are also underway to resurrect an investment tax credit in order to rejuvenate the creative impulses of American businesses. Yet we do nothing about the current stranglehold by Federal regulations on existing and emerging technologies and markets that undermine the Nation's competitiveness, productivity, employment, and economic growth.

We talk ad nauseum about the need to reduce the deficit but find it politically difficult to cut Government waste and spending. Meanwhile, American businesses and consumers are racking up annual expenses of more than $400 billion or $4,000 per household in compliance costs with Federal regulations. If the Federal Government had to finance that cost borne by American taxpayers out of Federal revenues, individual income taxes would have to be doubled or corporate income taxes quintupled.

As I have previously mentioned in introducing S. 2172, this is not to suggest that every regulation is bad. It may be that every regulation by itself is good but that all the good regulations together produce the unintended consequence of frustrating our economy.

The key is being able to measure the costs and benefits and delete those regulations which are not cost effective. Since information is critical to an efficient and rational balancing of the costs and benefits or the decision to delete a particular regulation, I am introducing legislation today to establish procedures by which the cost to society of Federal programs and regulations are disclosed to the public.

First, my legislation would amend the standing rules of both the Senate and the House of Representatives to require every report accompanying a bill or joint resolution to contain two detailed evaluations—one prepared by the reporting committee and one by the administration—of the cost and benefits of any Federal program and related regulations by the appropriate committee. Although Senate rules already contain a requirement for estimates of affected individual and businesses and estimates of the economic impact of such regulations on the economy, the rules do not require an assessment of the economic impact of such legislation on competitiveness, productivity, employment, and growth of the Nation. Any Member could object to the consideration of a reported bill if the requirements of the rule are not met.

Second, my legislation would provide that the House of Representatives be governed by an identical rule.

Third, for any significant rule issued by an agency, one that will impose a cost to society of $10 million or more, would require an estimate of the total costs to society of such a rule, including costs for individuals, businesses, and State and local governments, for each year in which the rule would be in effect.

This provision will be enforced in the following manner: an agency proposing a significant rule, would be required to apply for a clearance number from the Director of the Office of Management and Budget. Only upon the determination by the Director that the agency has substantially complied with the requirements of this section would a clearance number be issued and the rule be allowed to take effect. For rules subject to a statutory or other deadline, the agency would be required to provide the Director at least 30 days to make the determination as to whether the agency has substantially complied with the evaluation requirements.

Mr. President, the quality of life in America depends on achieving national goals in a variety of areas that affects both individuals and American enterprises—health, safety, environment, civil rights, and a host of other areas. But all too often efforts to promote competitiveness, productivity, and economic growth are undermined by well-intentioned regulations that have unintended consequences. By requiring a cost-benefit evaluation of the cost to society of well-intentioned legislation and regulations that may have unintended consequences, my legislation will allow the public to make a determination for itself of costs that are ultimately borne by them.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Competitiveness Enforcement Act of 1992".

SEC. 2. Congress finds—

(1) that excessive federal regulation imposes a hidden tax upon American workers in the form of reduced wages and employment, and upon households in the form of higher prices for goods and services;

(2) that excessive federal regulation places American enterprises and workers at a competitive disadvantage with respect to foreign businesses that are not subject to such constraints and burdens;

(3) that federal regulation which imposes unnecessary constraints on existing and emerging technologies and markets undermines the nation's competitiveness, productivity, employment, and economic growth;

(4) that the annual cost of compliance with federal regulations is estimated in excess of $400 billion, or $4000 per household;

(5) that if the federal government had to finance the cost of federal regulations out of federal revenues, individual income taxes would have to be doubled or corporate income taxes quintupled;

(6) that federal regulations imposed on State and local governments cause uncontrollable increases in State and local taxes,

(7) that federal regulations have a disproportionate and substantial impact on small businesses, which historically have been the primary source of new jobs;

(8) that the risk to our nation's competitiveness, productivity, employment and economic growth caused by excessive federal regulations requires that the Congress, the Administration, and independent agencies adopt on-going procedures by which the societal costs of regulations may be estimated; and

(9) that the quality of life in America depends on achieving national goals in health, safety, environment, civil rights, and other areas in an effective, efficient, and rational manner and without imposing unnecessary restrictions upon our competitiveness, productivity, or economic growth.

SEC. 3. Rule 26.11 of the standing rules of the Senate are amended by striking subparagraphs (b) and (c) and inserting in lieu thereof the following:

"(b) Each such report (except those by the Committee on Appropriations) shall also contain—

"(1) a comprehensive evaluation, made by such committee, of the regulatory impact which would be incurred in carrying out the bill or joint resolution, which shall include (A) an estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses, (B) estimates of the economic impact of such regulation on the individuals, consumers, and businesses affected, (C) a determination whether the economic impact of the legislation would be favorable or unfavorable to competitiveness, productivity, employment, and economic growth of the nation, including an estimate of how significant such impact would be; (D) a determination of the impact on the personal privacy of the individuals affected, and (E) an estimate of the amount of additional paperwork that will result from the regulations to be promulgated pursuant to the bill or joint resolution, which estimate may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the bill or joint resolution could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill or joint resolution; and also

"(2) a comprehensive evaluation, prepared by the affected agencies under the direction of the Office of Management and Budget, which meets the requirements of clause (1); or

"(3) in lieu of such comprehensive evaluations, a statement of the reasons why compliance with the requirements of clause (1) or clause (2) is impracticable.

"(c) It shall not be in order for the Senate to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of subparagraphs (a) and (b) on the objection of any Senator."

SEC. 4. Rule XI of the rules of the House of Representatives is amended by adding at the end thereof a new clause 7 as follows:

"7. "(a) Each such report (except those by the Committee on Appropriations) shall also contain—

"(1) a comprehensive evaluation, made by such committee, of the regulatory impact which would be incurred in carrying out the bill or joint resolution, which shall include (A) an estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses, (B) estimates of the economic impact of such regulation on the individuals, consumers, and businesses affected, (C) a determination whether the economic impact of the legislation would be favorable or unfavorable to competitiveness, productivity, employment, and economic growth of the nation, including an estimate of how significant such impact would be; (D) a determination of the impact on the personal privacy of the individuals affected, and (E) an estimate of the amount of additional paperwork that will result from the regulations to be promulgated pursuant to the bill or joint resolution, which estimate may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the bill or joint resolution could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill or joint resolution; and also

"(2) a comprehensive evaluation prepared by the affected agencies under the direction of the Office of Management and Budget, which meets the requirements of clause (1); or

"(3) in lieu of such comprehensive evaluations, a statement of the reasons why compliance with the requirements of clause (1) or clause (2) is impracticable.

"(b) It shall not be in order for the House of Representatives to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of subparagraph (a) on the objection of any Member."

SEC. 5. Sections 3 and 4 shall be deemed adopted pursuant to the rule-making powers of the Senate and House of Representatives granted under Article I of the Constitution.

SEC. 6. (a) Each agency of the federal government shall, in connection with every significant rule it proposes, prepare an estimate of the total costs to society of such rule, including costs for individuals, businesses, and State and local governments, for each year in which the rule would be in effect.

(b) The Director of the Office of Management and Budget is authorized to promulgate regulations to carry out this section and may grant waivers from the requirements of subsection (a) consistent with the purposes of this Act.

(c) The term "agency" shall have the meaning given in section 3502 title 44, United States Code.

(d) The term "significant rule" means any regulation that is likely to result in:

(1) An annual cost to society of $10 million or more;

(2) A significant increase in costs or prices for consumers, individual industries, State and local government agencies, or geographic regions; or

(3) Significant effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-bases enterprises in domestic or export markets.

(e) Each agency shall apply to the Director of the Office of Management and Budget for a clearance number for every rule it proposes. Upon the Director's determination that the agency has substantially complied with the requirements of this section, the Director shall issue such a clearance number. Notwithstanding any other provision of law, no rule may take effect without a clearance number. For any rule subject to a statutory or other deadline, the agency shall provide the Director at least 30 days to make a determination under this subsection.

(f) This section shall take effect 90 days after the rule of enactment; provided, however, that this section shall not apply to any rule for which a general notice of proposed rule making was published prior to the effective date.●

By Mr. WIRTH (for himself, Mr. KERREY, Mr. RIEGLE, Mr. HARKIN, Mr. SIMON, Mr. BRYAN, Mr. CONRAD, Mr. SHELBY, Mr. REID, Mr. LEVIN, Mr. DECONCINI, Mr.

Lautenberg, Mr. Bingaman, Mr. Daschle, Mr. Pryor, Mr. Adams, Mr. Rockefeller, Mr. Fowler, and Mr. Glenn):

S. 2290. A bill to require public disclosure of examination reports of certain failed depository institutions; to the Committee on Banking, Housing and Urban Affairs.

BANK AND THRIFT DISCLOSURE ACT OF 1992

Mr. WIRTH. Mr. President, along with 17 of my colleagues, I am today introducing the Bank and Thrift Disclosure Act of 1992, legislation that would give the public access to more information about bank and thrift failures that are resolved at taxpayer expense.

Taxpayers are being forced to provide billions of dollars to resolve problems in the savings and loan industry. This spring, we will again have to consider a request for additional resources to fund the Resolution Trust Corporation's efforts to resolve thrift failures. The estimated cost of the S&L crisis has increased steadily in recent years, from $19 billion in August 1988, to more than $216 billion today. We may see it increase further before we're through. Even if the current estimates hold, we'll still have to pay hundreds of billions of dollars more to pay the interest on the funds borrowed to resolve the problem.

Fundamentally, I believe taxpayers are entitled to know why an expenditure of this scale became necessary. But today, when taxpayer money is spent on a failed thrift or bank, the taxpayers often have no idea why the institution failed, and have no means to obtain that information. We have an obligation to taxpayers to make more information available about bank and thrift failures that are resolved with public funds.

I made several efforts to do so last year. These efforts focused on settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and the examination reports of banks and thrifts. This material can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses. Unfortunately, under current law, this important information is not available to the public. I sought to make settlements and examination reports available in order to shed some light on how the S&L crisis developed.

Senator Garn and I debated this issue on the floor last year. We also discussed it in the Banking Committee and in several private meetings. We both wanted to make more information about financial institution failures available to taxpayers. We both wanted to protect the privacy of individuals who did not contribute to a failure. However, we disagreed on the best way to balance those concerns.

Near the end of last year's session, Senator Garn and I succeeded in reaching an agreement on the public disclosure issue. Neither of us thought it was perfect. But it is a good compromise and I think it would advance the goals we both sought. Our compromise was included in the Senate's version of the bank reform legislation. However, the provisions were dropped in conference.

I continue to believe disclosure is needed. Today I am introducing the Bank the Thrift Disclosure Act of 1992. This legislation is identical to the compromise that Senator Garn and I reached last fall and which the Senate passed as part of the bank reform legislation on November 21. It is also similar to an amendment I offered to the HUD, VA, and independent agencies appropriations bill that drew the support of a majority of the Senate on a cloture vote.

The public disclosure legislation has two principal parts. First, the legislation requires regulators to make available prior examination reports of a failed thrift or bank if taxpayer funds are used to cover the institution's losses or otherwise assist the institution. Second, the legislation prohibits the FDIC and RTC from entering into secret agreements to settle lawsuits arising from the failure of a bank or thrift if the deposit insurance system requires public funds.

The requirements of the legislation only apply when the deposit insurance system has received taxpayer funds. When the insurance fund is healthy and failures are addressed with the industry's deposit insurance premiums, the disclosure requirements would not apply. If a bank or thrift goes out of business, but it does not involve taxpayer funds, the requirements do not apply. Thus, disclosure is only required if taxpayer funds are used to rescue a bank or thrift.

Much of my discussions with Senator Garn centered on the need to protect the privacy of individuals who may be mentioned in examination reports of a failed bank or thrift but who did not contribute to an institution's failure. Although information about specific individual customers does not routinely appear in an examination report, I thought it was important that we go the extra mile and ensure that we protect the privacy of bank customers.

Information about individual customers such as their account balances, deposits, home loan, and so forth is not routinely included in examination reports. The reports that I have seen do not include this kind of material. Reports are far more likely to discuss overall problems in an institutions lending practices and controls than they are to single out individuals loans. The General Accounting Office currently has access to examination reports. I have a letter from the GAO that outlines the contents of examination reports. I would be happy to provide any Senator interested in an overview of what is included in a report with a copy of that letter and I ask unanimous consent that it be entered into the Record.

Nevertheless, in order to be absolutely sure that privacy is protected, a number of privacy safeguards are included in the legislation. First, regulators are directed to remove the names and other identifying information from an examination report for any customers who are not affiliated with the bank. So if you're a non-insider, in the unlikely event you happen to be named in an examination report, you're assured that your name will be deleted. Second, any information about insiders that is included in an examination report will be removed from the report before it is made public if that information is not relevant to the relationship between the institution and the insider.

Several important safeguards in other areas are also included in the legislation. For example, regulators will not be required to release information that could affect open insured depository institutions. Regulators will also be able to delay release of a portion of an examination report to avoid hindering an ongoing criminal investigation. In addition, the legislation allows regulators to delay release of portions of examination reports to avoid interference with a civil or administrative action.

Settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and a financial institution's examination reports can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses. Unfortunately, in many cases, the Government has entered into secret settlements and examination reports are kept secret even after an institution has failed.

FDIC and RTC lawsuits offer an important window into the actions of management, directors, legal representatives, and auditors and how they contributed to a bank or thrift failure. Even a public settlement partially closes that window as witnesses do not testify and documents are not filed as evidence as they would if the suit went to trial. But regulators should be able to settle these lawsuits to avoid costly and time-consuming litigation that often has an uncertain outcome and free up FDIC or RTC resources to pursue other cases.

Settlements can be in the best interests of taxpayers. And partially closing the window is the price we pay for pursuing settlements. But we shouldn't bring the shades down completely. That's why I think settlements should be available to the public. The public has a right to know about settlements if they are footing the bill for a bailout.

As long as settlements can be kept secret, public suspicion is inevitable.

The public doesn't have a high degree of confidence in our banking regulators right now and are unlikely to trust secret settlements that offer the appearance of backroom deals. Although the FDIC is no longer able to enter into secret settlements, the RTC faces no such prohibition and past FDIC settlements can remain secret. I believe taxpayers have a right to know about these settlements. But, just as importantly, I think disclosure of both settlements and examination reports will help stem the loss of public confidence in our financial regulators.

When this legislation becomes law, the public will be able to learn more about the S&L crisis and other financial institution failures that taxpayers are forced to resolve. This kind of disclosure requirement is important. The taxpayer has a right to know and that is reason enough to support the legislation. However, disclosure is more than just an obligation to the taxpayer, it offers important benefits as well. Public disclosure can act as a forceful deterrent. Both bankers and regulators should know that the public will examine their actions when banks fail and hold them accountable.

I am not surprised that some banking regulators have opposed this proposal. Some examination reports will, in retrospect, look bad after an institution has failed. I'm sure that there are reports that regulators hope will never see the light of day. Other reports, no doubt, will show examiner warnings that should have been heeded.

Lax supervision did play a role in the S&L crisis—the combination of deregulation of thrift activities and relaxed supervision of thrifts was perhaps the greatest mistake of the 1980's. But the blame for that shouldn't lie with the regulators. They were overworked at the time and requests for additional staff were ignored by an administration that felt a deregulated industry didn't need supervision, acting as if there were no such thing as Federal deposit insurance.

Some regulators have opposed similar disclosure efforts in the past, arguing that disclosure will lead to bank runs. For example, regulators opposed the change in FIRREA that required the bank regulators to publish their final orders on enforcement actions. They said there would be bank runs; they said the sky would fall in. It did not. And regulators opposed the change in the Crime Control Act of 1990 that required the bank regulators to publish all of their enforcement orders and agreements. They said there would be bank runs; they said the sky would fall in. It did not.

Other administration officials have understood the importance of the sunshine of public disclosure in regulation of the financial industry. For example, Securities and Exchange Commission, Chairman Richard Breeden, the White House's point man on the S&L cleanup when President Bush first took office has said:

> I would hope, we would learn from the disastrous experience of the thrift crisis as we move forward in developing both accounting and disclosure standards. *** I think public disclosure is the greatest disinfectant, one of the greatest disinfectants ever invented.

Last summer, I discussed this issue with Chairman Breeden during a Banking Committee hearing. He indicated that disclosure was an important issue well worth consideration and noted that he wasn't quite sure why examination reports are guarded more carefully than CIA documents. He concluded his comments with:

> I think the legacy of the thrift failures, 2,400 bank and thrift failures in the last decade has been too much secrecy and not enough sunlight. I think the pendulum needs to move somewhat in a measured way, the pendulum needs to move in the direction of greater disclosure.

Chairman Breeden also raised the issue of the value of disclosure of examination reports to securities underwriters in that it would help them meet their statutory obligations and perform due diligence in preparing a stock issue. While these benefits would only result from disclosure of reports for solvent institutions—which my legislation does not contemplate—it is important to note that investors, most of whom may have played no role in a thrift's failure, lose funds in bank and thrift failures and have a legitimate interest in what happened to the institution as well. Finally, Chairman Breeden noted that disclosure could also provide information that would help litigants to bring fraud actions under the securities laws.

Mr. Marshall Breger, the Chairman of the Administrative Conference of the United States, an independent agency that develops recommendations to improve the administration of Federal programs, including regulatory efforts, has said:

> The traditional approach to the oversight of financial institutions—namely heavy reliance on informal or "quiet" procedures to achieve legislative and regulatory policy goals—was satisfactory because the workload was under control and there was no apparent systemic problems that needed to be solved. But when significant failures erupt among regulated entities, and the day-to-day workings of the Federal agencies become front page news, traditional informal, nonadversarial, backroom approaches are no longer sufficient. Enhanced decisional regularity, procedural openness, and greater public accountability are now demanded. * * * I think sunlight, to quote Justice Brandeis, is indeed the best disinfectant.

I think Mr. Breeden, Mr. Breger, and Justice Brandeis are right. Sunlight is the best disinfectant. The prospect of disclosure offers a check against dangerous practices.

We should remember that banks are not a typical private business. They receive significant benefits from taxpayer support and guarantees. Deposit insurance and access to credit through Federal institutions such as the Federal Reserve and Federal Home Loan Banks are examples of the special support we give depository institutions. With this kind of Government backing, thrift and bank problems are a legitimate public concern.

When the insurance funds are healthy, losses are covered by private funds—the insurance premiums paid by banks and thrifts—and a degree of privacy is appropriate. But when the so-called safety net breaks down and tax dollars are tapped, we are in a different situation. Taxpayers have a right to know. And if a desire to avoid disclosure gives a thrift or bank another incentive to avoid excessive risks and fight harder to stay solvent, we will all benefit.

The disclosure requirements included in this legislation will introduce an important check into the bank and thrift regulatory process. At a time when taxpayer funds are being used to resolve bank and thrift failures, the public deserves and expects access to greater information about failed institutions than would ordinarily be available. My legislation would provide that increased access.

I have prepared a summary of the legislation and ask that it be printed in the RECORD for the information of interested Senators. A majority of the Senate has already voted in favor of disclosure of the type of information that the legislation requires to be released. The Senate has also already approved the legislation in its present form as part of a broader package. I urge my colleagues to join me in working to see the proposal enacted into law.

I would like to thank my colleagues who have cosponsored this legislation and I encourage others to join in the effort. I particularly appreciate Senator RIEGLE's past support of my efforts in this area and look forward to working with him on this and other matters before the Banking Committee.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY: BANK AND THRIFT DISCLOSURE ACT OF 1992

NEED FOR THE LEGISLATION

Settlements of lawsuits filed by the government against individuals and businesses involved in an institution's failure and the examination reports of financial institutions can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses.

Unfortunately, under current law, this important information is often not available to the public. The legislation would correct that and shed some light on how the S&L crisis developed. With the cost of resolving the S&L crisis now more than $200 billion plus interest, the public should have access to that information.

WHAT THE LEGISLATION DOES

The public disclosure legislation has two principal parts. First, the legislation requires regulators to make available prior examination reports of a failed insured depository institution if taxpayer funds are used to cover the institution's losses. Second, the legislation prohibits the FDIC and RTC from entering into secret agreements to settle lawsuits arising from the failure of an institution if the deposit insurance system requires public funds.

The requirements only apply when the deposit insurance system has received taxpayer funds. When the insurance fund is healthy and failures are addressed with the industry's deposit insurance premiums, the disclosure requirements would not apply.

If a financial institution goes out of business, but it does not involve taxpayer funds, the requirements of this legislation do not apply. The requirements also do not apply to open healthy institutions. Thus, disclosure is only required if taxpayer funds are used to rescue an insured financial institution.

PRIVACY EXEMPTIONS

As a practical matter, in most cases, examination reports do not contain information on individual customers. However, the legislation includes several exceptions in order to protect privacy.

Regulators are directed to remove the names and other identifying information of customers not affiliated (non-insiders) with the institution from an examination report.

Any information about institution-affiliated parties (insiders) will be removed from examination reports if it is not relevant to the relationship between the insider and the institution.

Regulators will also remove from examination reports the names of examiners and of any whistleblowers who provide information to federal banking agencies.

DISCLOSURE OF ADDITIONAL INSIDER INFORMATION

In most all cases, examination reports will not include a complete accounting of bad loans or losses. However, the FDIC and RTC will become aware of insider-caused losses as they dispose of assets acquired through financial institution failures. The legislation would require the FDIC and RTC to identify insider borrowers who have defaulted on loans made by a failed institution.

Regulators will also compile a list of all pending and settled lawsuits brought against parties that caused a material loss to the insurance funds or to a failed financial institution.

ADDITIONAL SAFEGUARDS

Safety and Soundness: Regulators can delay release of an examination report in order to protect the health of open insured institutions.

Ongoing Criminal and Administrative Proceedings: Regulators can delay release of portions of reports for up to five years to avoid hindering an ongoing criminal investigation, and for up to two years to avoid interference with a civil or administrative proceeding.

GENERAL ACCOUNTING OFFICE,
Washington, DC, October 18, 1991.

Hon. TIMOTHY WIRTH,
U.S. Senate.

DEAR SENATOR WIRTH: Since my testimony during the September 19, 1991, banking committee hearing on the Bank of New England, our staffs have been working together to better understand the implications of your proposal to publicly disclose examination reports on banks that have failed. We appreciate your objectives to apprise the public of (1) the regulator's assessment of the safety and soundness of a bank's operations prior to its failure; and (2) the names of those borrowers—particularly insiders—whose loans have caused losses to the bank, Bank Insurance Fund, and ultimately the taxpaying public.

We believe your first objective would be served through disclosure of the examination reports on failed banks. However, we do not believe publicly releasing examination reports would serve your second objective because they are exception reports—not a complete accounting of bad loans or bank losses.

Examination reports differ slightly among federal bank regulators, but basically reflect concerns regulators have identified during an examination about the safety and soundness of a bank's operations. The regulators' concerns may be based, for example, on their review of a sample of loans out of a bank's portfolio. The examination report would then include a narrative discussion of the deficient bank practices or conditions found from reviewing the sampled loans. The only loan information that would be included in the report would relate to those sampled loans with the deficient condition to illustrate the adverse effects of the deficiency on bank operations.

Federal bank regulators' examination reports typically contain the following:

(1) Letter to the Board of Directors: This two to three page letter briefly summarizes the examination results. The summary generally describes the examiners' overall conclusions relative to the safety and soundness of the bank's operations. The letter also usually includes the composite CAMEL rating assigned to the bank as a result of the examination.

(2) Summary of Findings: This detailed summary generally describes the extent of examination coverage and the examiners' conclusions related to each of the CAMEL components. The conclusions may include both positive and negative comments about the safety and soundness of bank operations. They may also include a discussion of improvements needed in bank operations. Narrative comments for each CAMEL component are usually complemented with various ratios relative to bank operations and the examiners' numerical rating.

(3) Appendixes: The appendixes generally include listings and descriptions of specific deficiencies found in bank operations. For example, the appendix relative to asset quality typically includes a description of sampled loans reviewed and found to be improperly valued or classified by the bank. The appendixes also include specific violations of law or regulation found by examiners including violations of Regulation O relating to insider activities.

As you can tell from what we described as typically being in an examination report, it includes specific concerns examiners have about the safety and soundness of bank operations, but does not provide a complete accounting of all bank problems. Further, the specific loans listed in the appendixes do not account for all problem loans and those listed may not necessarily result in losses to the bank. Likewise, law or regulation violations, like preferential loan terms to bank insiders, cited in the appendixes involve only those loans with violations that were identified by the examiners.

In view of the shortcomings of examination reports in identifying insiders whose loans have caused losses to failed banks, you might wish to consider requiring the FDIC to disclose the names of all directors, executive officers, major stockholders and their related interests, including family members and controlled organizations whose loans are 30 days or more past due. The FDIC strikes us as the most appropriate agency for this type of disclosure, since as part of its efforts to liquidate or sell failed institutions it identifies loans in non-performing status.

We hope this information about federal bank regulators' examination reports and the additional disclosure we suggest will be helpful to you in deciding how best to satisfy your objectives. If we can be of any further assistance, please call me.

Sincerely yours,
RICHARD L. FOGEL,
Assistant Comptroller General.

By Mr. SEYMOUR (for himself, Mr. CRANSTON, and Mr. LIEBERMAN):

S. 2291. A bill to revise the eligibility requirements applicable to emergency and extended unemployment compensation benefits; to the Committee on Financing.

EMERGENCY BENEFITS FLEXIBILITY ACT OF 1992

• Mr. SEYMOUR. Mr. President, I rise today to introduce the Emergency Benefits Flexibility Act of 1992. This legislation is designed to correct a serious deficiency in the operation of the Federal Emergency Unemployment Compensation [EUC] Program, a deficiency that has resulted in the denial of extended benefits to thousands of workers in my home State of California and in States across the Nation.

As my colleagues well know, last November we finally reached an agreement on the EUC Program, and it has brought much-needed relief to those hardest hit by the current recession. And as my colleagues know, given the diverse eligibility requirements for regular unemployment benefits that exist in each State, the EUC Program was not meant to guarantee extended benefits to each and every American who had exhausted their regular benefits. However, I strongly believe when we passed the temporary EUC Program, we intended to give the States the optimum flexibility to use this important program to reach out to as many people as possible to do the most good to the most people.

Unfortunately, the EUC Program has not lived up to our intent, and the result has been thousands of jobless being denied much-needed assistance, and State and local governments left trying to pick up the slack.

The failure of the EUC Program to fulfill its mission rests partly with Department of Labor regulations that interpret a provision in the Federal-State Emergency Unemployment Compensation Act of 1970 [FSEUCA]. This provision, section 202(A)(5) of the FSEUCA, sets out three different Federal wage eligibility standards that an unemployed person must meet to receive extended benefits. According to Department of Labor regulations, each

State must select only one of the three Federal wage eligibility standards.

California, for example, operates under the 40 times weekly benefit amount in the previous year. In other words, an unemployed worker is eligible for emergency benefits if he has earned 40 times his weekly benefit amount.

Like any standard of eligibility, there will be those that fall short, but no one realized just how many Americans be denied assistance because this is the first time that California and many other States have administered emergency benefits under the Labor Department's regulations. And in the case of California, we're talking about more than 12 percent of those who applied for emergency benefits being turned away. And that 12 percent consists mainly of seasonal workers in the agricultural and construction industries.

Mr. President, let me give an example of this deficiency: Leobuardo Guerrero is a Californian who resides in the Central Valley. Like many in this region, he is a farm worker without employment. For him, this recession hasn't been about declines in output or consumer confidence. Instead, his plight has been about Mother Nature at her worst behavior: It's been about 6 years of drought, a freeze in December 1990, and last year's white fly infestation.

Leobuardo has exhausted his regular unemployment benefits, and like thousands of his fellow coworkers, he applied for emergency benefits under the EUC Program we passed last November. But he was turned away because he didn't meet the Federal standard selected by California. He did not earn 40 times his weekly benefit amount during the previous year. His story is representative of thousands of seasonal workers who can't meet this standard.

However, Leobuardo would be able to receive Federal emergency assistance under the other Federal standard of one and a half times high quarter wages. But because California is restricted to choosing only one standard, he and thousands more must seek assistance under other State and local programs, and believe me they have. For example, Sacramento County officials reported that welfare demands are 64 percent higher than originally projected, and many of those applying are jobless construction workers who have been denied Federal emergency assistance.

In short, Mr. President, the inability of States to choose more than one Federal wage eligibility standard is not just working against thousands of America's jobless, it's also contributing to the already weakened fiscal strength of State and local governments. And let me emphasize that this problem is not unique to California. I have been informed that States including Connecticut, Texas, Oregon, and Illinois are also adversely affected by the current "one-standard only" limitation.

Mr. President, over the last 2 months C-SPAN has devoted a portion of its programming to many state-of-the-State addresses by our Nation's Governors, and there was a grim commonality to their messages. The rollcall of States experiencing budget deficits and declining revenues is more than 30. Hundreds of local governments are flirting with bankruptcy. Yes, all levels of government have an obligation to work in partnership to help the long-term unemployed. On that, all agree. However, I believe in these difficult times, it rests with the Federal Government to give States the flexibility to use the temporary EUC Program in a manner that is consistent with our partnership and in consideration of the difficult times our State and local partners face.

Given this, my friend and colleague from California, Senator CRANSTON, and most of the Members of the California delegation in the House of Representatives had strongly hoped that the Department of Labor would relax the current regulations limiting States to choose only one Federal wage eligibility standard, especially in light of the congressional intent behind the EUC bill we passed in November. However, Secretary Martin informed me that she lacked the power to make such a change, that the regulations reflected the intent of Congress when it passed the FSEUCA.

Therefore, I am here today to introduce legislation to amend the FSEUCA, to alter a previous Congress' intent to meet the intent of the current Congress, to do the most good for the most people.

My legislation, cosponsored by Senators CRANSTON and LEIBERMAN, simply allows the State to select more than one Federal wage eligibility standard, to give the States the flexibility to ensure that as many people as possible can participate in the EUC Program.

It is my understanding that at this time my good friend in the House of Representatives, Congressman BILL THOMAS, has introduced companion legislation, which already has 19 cosponsors.

Mr. President, it is also my understanding that the leadership of both the House Ways and Means Committee and the Senate Committee on Finance are committed to reforming the FSEUCA to ensure that it is more responsive to varying economic downturns and the diverse work force we have in our country. The inability of that system to respond to the current recession more than underscores the need of reform. It is my hope that such reform will be a priority during this session of Congress and if so, the respective committees seriously consider including this or similar legislation to provide for greater State flexibility.

However, my greatest concern is time, because that's one thing that people like Leobuardo Guerrero don't have. Economic recovery is not going to happen overnight. Despite signs of hope that recovery is on the horizon, many Americans need assistance now. So it is my hope that if a FSEUCA reform bill is not taken up soon, Congress will at least live up to its intent and give the States the flexibility to help, and the aid thousands need in these perilous times.

Mr. President, I wish to thank my colleagues from California and Connecticut, Senators CRANSTON and LEIBERMAN, and the Members of the California delegation and others who have cosponsored Congressman Thomas' legislation. I also want to express my thanks to the Governor of California, and the leadership of the California Employment Development Department for bringing this important matter to my attention.•

By Mr. ROTH (for himself and Mr. SYMMS):

S. 2292. A bill to amend the Internal Revenue Code of 1986 to allow an incremental investment tax credit on a permanent basis, and for other purposes; to the Committee on Financing.

INVEST TO COMPETE ACT OF 1992

• Mr. ROTH. Mr. President, the current recession is not going to go away by itself. And, it is without a doubt that since the days of the steam engine, the cotton gin, and the Model T Ford, America has relied upon mechanization and production equipment to fuel the creation of jobs. In our country's short income tax history since 1913, the Congress has often reenacted or reinvigorated some form of the investment tax credit—most recently in 1969 only to be repealed in the Tax Reform Act of 1986 in order to speed the growth of the economy. Today I rise to address and connect these two intertwined subjects—jobs and our investment in machinery—and introduce a new kind of investment tax credit. Indeed, a more efficient investment tax credit, designed to bring about the same kind of incentives to invest in our country at a fraction of the cost of the old program.

My approach is simple, but its effects would be dramatic on the current economy. For small businesses, the credit would be a flat credit—of 15 percent the first year and 10 thereafter—that would be both generous and very simple. Larger businesses would use the "incremental investment tax credit" similar to the one I first proposed last October. This credit would be modeled after the highly successful and proven formula that is known as the "research and experimentation credit" and is embodied in section 41 of the Internal

Revenue Code. By using this model, I believe that the Government will get the "most bang for the buck." In short, rather than providing for a flat 10-percent credit on all property as before—an expensive proposition—this proposal provides a 10-percent credit—15 percent in the first year to boost the economy—but only on the amount by which your business increases its investment in manufacturing and productive equipment. Thus, an "incremental investment tax credit." This idea would create a tremendous incentive for American companies to invest in their future. A future that includes a bright prospect for increasing technology and productivity in our ever-increasing global economy.

The primary difference between this new credit and the research and development credit is the kind of property that it applies to. The research credit applies to research expenses while this credit applies to equipment investment. The proper question to ask is "why encourage business to invest in equipment."

Let me turn to some important evidence. Lawrence H. Summers, former professor of political economy at Harvard University and currently the chief economist at the World Bank, together with Prof. J. Bradford DeLong of Harvard, have concluded that a close relationship exists between investment and growth. More specifically, they have concluded that, for a broad cross-section of nations, every 1 percent of gross domestic product [GDP] that is invested in equipment is associated with an increase in the GDP growth rate itself of one-third of 1 percent—a very substantial rate of return. Summers and DeLong conclude that investment in equipment is perhaps the single most important factor in economic growth and development. They have written that there are "at least three grounds for suspecting that equipment investment may have higher social returns than other forms of investment."

First, historical accounts of economic growth invariably assign a central role to mechanization. In other words, nations have been defined through economic history depending upon their industries' ability to seize the opportunity in manufacturing—and grow rapidly, or fail to continue to invest in manufacturing and stagnate and decline.

Second, is external economies or linkages as causes of growth. In other words, what particular nerves in the economy can be pinched in order to stir economic growth. Summers and DeLong note that manufacturing accounts for 95 percent of private-sector research and development in America, and within manufacturing the equipment sector accounts for more than half of research and development. Thus, these economists argue that it is plausible that equipment investment will give rise to especially important external economies.

Third, a number of countries have succeeded in growing rapidly by pursuing a government-led "developmental state" approach to development. In short, the argument is that countries that invest more heavily in and enjoy lower equipment prices should enjoy more rapid growth than those that do not.

After an extensive analysis of the correlations, Dr. Summers and J. Bradford DeLong, conclude in their paper that there is a strong association between rates of equipment investment and growth. And in the final analysis that is what is important. Without a strong and vibrant economy that can compete on the international level, we will slip into being a country of inefficiencies and mediocrity. What the Congress should be concentrating on is creating jobs by passing legislation that will stimulate the economy. It makes no sense to me for the Congress to pass higher taxes, like the luxury excise taxes passed last year, only to throw hard-working Americans, that want to work, into the unemployment line. What we should be doing, is repealing those taxes that cost jobs and tie Americans to a Government payment program that they do not want, and instead concentrate on passing high growth tax incentives, like this one.

I would like to emphasize the important role that taxes play in investment decisions that are made. Estimates by Stanford University Prof. John B. Shoven show that taxes account for up to one-third of U.S. capital costs. The Tax Reform Act of 1986 raised effective tax rates on equipment and structures for corporate taxpayers largely through the repeal of the investment tax credit, lengthening of recovery periods and a new alternative minimum tax system. In addition, an analysis by the accounting firm Arthur Andersen shows that for equipment that is technologically innovative or crucial to U.S. economic strength, our capital cost recovery lags badly behind our major competitors. Am I alone in noting that the United States is falling seriously behind Japan in savings and investing? Comparing the period from 1985–89 Japan invested a much larger portion of its GNP, 29.2 percent, as compared with only 17.2 percent in the United States. Even worse is the fact that in Japan, where the economy is just over one-half that of the United States, they are investing more in absolute dollar amounts than is the United States. In 1990, Japan's nonresidential fixed investment equalled $675 billion, while the comparable United States figure was only $524 billion, with a gross domestic product [GDP] equal to about twice that of Japan. Worse yet, from 1973 to 1988 saving and investment as a percent of GDP was lower for the United States than for any of our major competitors with the exception of the United Kingdom.

Even more dismal statistics were developed by Dr. Charles Steindel of the Federal Reserve Bank of New York to compare U.S. investment in productive manufacturing equipment over recent decades. The results are depressing. Dr. Steindel's figures show an average increase in industrial equipment of 4 to 5 percent for the thee decades ending in 1979, but falling to an abysmally low level of 1.6 percent for the decade of the eighties. This low level of productive equipment investment marks an era of slower growth and reduced U.S. competitiveness.

It is time that the Congress concentrate on the real problem at hand—the creation of new Jobs, rather than allowing more Americans to suffer the consequences of a Congress that is willing to stimulate only higher taxes and more income redistribution in a misdirected effort to somehow make the poor richer. Such schemes only serve to make the entire country poorer. Let's do something about the U.S. competitiveness problem that so many spend so much time talking about, but spend little time really trying to solve. I ask that my colleagues join me in my efforts to improve the United States ability to complete by cosponsoring this legislation. Mr. President, I ask unanimous consent that an explanation of the bill and the bill itself be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Invest To Compete (ITC) Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. INCREMENTAL INVESTMENT TAX CREDIT.

(a) ALLOWANCE OF CREDIT.—Section 46 (relating to amount of investment credit) is amended—

(1) by inserting before paragraph (1) the following new paragraph:

"(1) the regular credit,", and

(2) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively.

(b) DETERMINATION OF REGULAR CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment tax credit) is amended by inserting after section 46 the following new section:

"SEC. 46A. REGULAR CREDIT.

"(a) DETERMINATION OF CREDIT.—For purposes of section 46—

"(1) IN GENERAL.—The regular credit for any taxable year is an amount equal to 10 percent of the excess (if any) of—

"(A) the taxpayer's qualified net investment, over

"(B) the base amount.

"(2) SIMPLIFIED RULE FOR SMALL COMPANIES.—In the case of an eligible small business (as defined in subsection (h)), the regular credit for any taxable year is an amount equal to 10 percent of the lesser of—

"(A) the taxpayer's qualified investment, or

"(B) $100,000.

"(3) SPECIAL RULE FOR 1992.—In the case of taxable years beginning before January 1, 1993, paragraphs (1) and (2) shall be applied by substituting '15 percent' for '10 percent'.

"(b) REGULAR CREDIT PROPERTY.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'regular credit property' means any property—

"(A) which is tangible property to which section 168 applies,

"(B) which is placed in service after December 31, 1991, and

"(C)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer.

"(2) EXCEPTIONS.—The term 'regular credit property' does not include—

"(A) any residential rental or nonresidential real property (as defined in section 168(e)(2)),

"(B) any property to which the alternative depreciation system under section 168(g) applies (determined without regard to section 168(g)(1)(E)), or

"(C) any public utility property (within the meaning of section 168(i)(10)) if the taxpayer does not use the normalization method of accounting described in subsection (i)(2)(A).

"(3) REGULAR CREDIT PROPERTY TO INCLUDE PRE-EFFECTIVE DATE AND USED PROPERTY FOR CERTAIN PURPOSES.—For purposes of subsections (c)(1)(B) and (d)(5), the determination as to whether property is regular credit property shall be made without regard to subparagraphs (B) and (C) of paragraph (1) and subparagraph (C) of paragraph (2).

"(4) SPECIAL RULES FOR CERTAIN PROPERTY.—For purposes of paragraph (1), section 168 shall be applied—

"(A) without regard to subsection (f)(1) thereof, and

"(B) in the case of aircraft which is manufactured in the United States, owned by a United States person, and used predominantly in international traffic, without regard to subsection (g)(1)(A) thereof.

For purposes of subparagraph (B), aircraft shall be considered to be predominantly used in international traffic if less than 50 percent of its total use is in any single foreign country.

"(c) QUALIFIED NET INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The qualified net investment for any taxable year is the excess (if any) of—

"(A) qualified investment, over

"(B) the sum of the amounts determined by multiplying the amount realized from each regular credit property disposed of during the taxable year by the applicable percentage for the property.

"(2) QUALIFIED INVESTMENT.—

"(A) IN GENERAL.—The term 'qualified investment' means the applicable percentage of the basis of each regular credit property placed in service by the taxpayer during the taxable year.

"(B) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(B) and subparagraph (A), the applicable percentage shall be determined under the following table:

"In the case of property which is:	The applicable percentage is:
3-year property	33⅓ percent
5-year property	66⅔ percent
All other property	100 percent.

For purposes of this subparagraph, the terms '3-year property' and '5-year property' have the meanings given such terms by section 168(e).

"(C) COORDINATION WITH OTHER CREDITS.—Qualified investment shall not include—

"(i) the basis of any energy property, or

"(ii) the basis of any property which is attributable to qualified rehabilitation expenditures.

"(D) RECONSTRUCTION.—In the case of regular credit property the reconstruction of which is completed by the taxpayer, qualified investment shall only include that portion of the basis which is properly attributable to the reconstruction by the taxpayer.

"(E) COORDINATION WITH PROGRESS EXPENDITURES.—The amount which (but for this subparagraph) would be taken into account with respect to any regular credit property shall be reduced by the excess (if any) of—

"(i) the qualified investment taken into account under subsection (e) by the taxpayer or a predecessor of the taxpayer, over

"(ii) any portion of the qualified investment described in clause (i) taken into account under paragraph (1)(B).

"(3) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of paragraph (1)(B)—

"(A) IN GENERAL.—If, during any taxable year—

"(i) regular credit property ceases to be regular credit property with respect to the taxpayer, or

"(ii) any property to which subsection (e) applied ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which will be regular credit property when placed in service,

such property shall be treated as having been disposed of during the taxable year.

"(B) SPECIAL RULES FOR LEASES.—

"(i) IN GENERAL.—A taxpayer shall be treated as having disposed of regular credit property if the taxpayer leases such property in a lease to which paragraph (2) of subsection (g) does not apply.

"(ii) LESSEES.—If the regular credit is allowed to a lessee with respect to any property under subsection (g)(3), the lessee shall be treated as having disposed of such property if the lease terminates or the lessee sublets the property.

"(4) AMOUNT REALIZED.—For purposes of paragraph (1)(B), the amount realized shall be equal to—

"(A) in the case described in paragraph (3)(A)(i) or (B)(i), the fair market value of the property as of the time of cessation or lease,

"(B) in the case described in paragraph (3)(A)(ii), the increase in qualified investment with respect to the property for preceding taxable years under subsection (e), or

"(C) in the case described in paragraph (3)(B)(ii), an amount which bears the same ratio to the fair market value of the property as of the time of the disposition as the ratio determined under subsection (g)(3)(A)(ii).

"(5) EXCEPTIONS FOR CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1)(B) shall not apply to—

"(i) a transfer by reason of death,

"(ii) a transaction to which section 381(a) applies,

"(iii) a disposition with respect to which gain is not recognized under section 1031 or 1033, but only to the extent of an amount which bears the same ratio to the amount realized as the gain not recognized bears to the gain realized, or

"(iv) a transfer described in section 1041(a).

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1)(B), property shall not be treated as ceasing to be regular credit property with respect to the taxpayer by reason of a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as regular credit property and the taxpayer retains a substantial interest in such trade or business.

"(6) SPECIAL RULES FOR EXPENDITURES BEFORE 1992.—Qualified investment shall not include—

"(A) the basis of any property attributable to construction, reconstruction, or erection before January 1, 1992,

"(B) in the case of progress expenditure property, any qualified investment attributable to expenditures incurred before January 1, 1992, or

"(C) the basis of any property which is not progress expenditure property and which was acquired before January 1, 1992, but placed in service on or after such date.

"(d) BASE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'base amount' means the product of—

"(A) the fixed-base percentage, and

"(B) the average annual gross receipts of the taxpayer for the 2 taxable years immediately preceding the taxable year for which the credit is being determined (hereafter in this subsection referred to as the 'credit year').

"(2) MINIMUM BASE AMOUNT.—In no event shall the base amount be less than 50 percent of the qualified net investment for the credit year.

"(3) FIXED-BASE PERCENTAGE.—

"(A) IN GENERAL.—The fixed-base percentage is the percentage which the aggregate amount of adjusted depreciation allowances of the taxpayer for taxable years beginning after December 31, 1986, and before January 1, 1992, is of the aggregate amount of gross receipts of the taxpayer for such taxable years.

"(B) ROUNDING.—The percentage determined under subparagraph (A) shall be rounded to the nearest 1/100th of 1 percent.

"(C) SPECIAL RULES.—For purposes of this paragraph, rules similar to the rules of section 41(c)(4)(B) and (c)(5) shall apply.

"(4) SPECIAL BASE AMOUNTS FOR START-UP COMPANIES.—

"(A) IN GENERAL.—If there are fewer than 3 taxable years beginning after December 31, 1986, and before January 1, 1992, in which a taxpayer had both depreciation allowances and gross receipts, the base amount for the taxpayer shall be equal to 75 percent of the qualified net investment of the taxpayer for the credit year.

"(B) SUBSEQUENT TAXABLE YEARS.—If, for any 5-consecutive taxable year period ending after December 31, 1991, a taxpayer has both depreciation allowances and gross receipts in 3 of the taxable years in such period, then for the last taxable year in such period and any subsequent taxable year—

"(i) this paragraph shall not apply, and

"(ii) such period shall be substituted for the 5-taxable year period described in paragraph (3)(A).

"(C) DE MINIMIS AMOUNTS.—The Secretary may prescribe regulations providing that de minimis amounts of adjusted depreciation allowances and gross receipts shall be disregarded for purposes of this paragraph.

"(5) ADJUSTED DEPRECIATION ALLOWANCE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'adjusted depreciation allowance' means the applicable percentage (as defined in subsection (c)(2)(B)) of any amount allowable as a deduction under section 168 for depreciation with respect to regular credit property.

"(B) SPECIAL RULE FOR QUALIFIED LEASES.—In the case of any lessor or lessee of regular credit property subject to a qualified lease—

"(i) the adjusted depreciation allowances of the lessor shall be reduced by the portion of the lease payments received with respect to all qualified leases during the 5-taxable year period described in paragraph (3)(A) which, under regulations, is allocable to depreciation on regular credit property, and

"(ii) the adjusted depreciation allowances of the lessee shall be increased by the portion of the lease payments with respect to all qualified leases paid during such period which is so allocable.

"(C) QUALIFIED LEASE.—For purposes of this paragraph, the term 'qualified lease' means a lease of regular credit property to which subsection (g)(3) applies.

"(6) COORDINATION WITH RECAPTURE PROVISIONS.—

"(A) IN GENERAL.—If the amount under subsection (f)(1)(A) for the taxable year preceding the credit year exceeds the amount determined under subsection (f)(1)(B) for such preceding taxable year, the base amount for the credit year shall be increased by an amount equal to 10 times such excess.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), the excess described in subsection (f)(1) shall be computed without regard to any increase in the base amount for the preceding taxable year by reason of this paragraph.

"(e) PROGRESS EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (3), if an election under paragraph (5) is in effect for any taxable year, the qualified investment of the taxpayer for the taxable year shall be increased by the applicable percentage (as defined in subsection (c)(2)(B)) of—

"(A) in the case of progress expenditure property which is self-constructed property, the amount which is properly chargeable to capital account during such taxable year with respect to such property, and

"(B) in the case of any other progress expenditure property, the amount paid during the taxable year to another person for the construction of the property.

For purposes of this paragraph, the applicable percentage shall be determined (as of the close of the taxable year) on the basis of a reasonable expectation of what the character of the property will be when placed in service.

"(2) PROGRESS EXPENDITURE PROPERTY.—

"(A) IN GENERAL.—The term 'progress expenditure property' means any property which is being constructed by or for the taxpayer if—

"(i) the normal construction period for such property is 2 years or more, and

"(ii) it is reasonable to expect that such property will be regular credit property in the hands of the taxpayer when it is placed in service.

Clauses (i) and (ii) shall be applied on the basis of facts known as of the close of the taxable year of the taxpayer in which the construction begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).

"(B) NORMAL CONSTRUCTION PERIOD.—For purposes of subparagraph (A), the term 'normal construction period' means the period reasonably expected to be required for the construction of the property—

"(i) beginning with the date on which physical work on the construction begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and

"(ii) ending on the date on which it is expected that the property will be available for placing in service.

"(3) SPECIAL RULES FOR APPLYING PARAGRAPH (1).—For purposes of paragraph (1)—

"(A) COMPONENT PARTS, ETC.—Property which is to be a component part of, or is otherwise to be included in, any progress expenditure property shall be taken into account—

"(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the property, and

"(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) CERTAIN BORROWING DISREGARDED.—Any amount borrowed directly or indirectly by the taxpayer from the person constructing the property for the taxpayer shall not be treated as an amount expended for such construction.

"(C) LIMITATION FOR PROPERTY WHICH IS NOT SELF-CONSTRUCTED.—

"(i) IN GENERAL.—In the case of progress expenditure property which is not self-constructed property, the amount taken into account under paragraph (1)(B) for any taxable year shall not exceed the amount which represents the portion of the overall cost to the taxpayer of the construction which is properly attributable to the portion of the construction which is completed during such taxable year.

"(ii) CARRY-OVER OF CERTAIN AMOUNTS.—In the case of property described in clause (i), if, for the taxable year—

"(I) the amount which (but for clause (i)) would have been taken into account under paragraph (1)(B) exceeds the limitation of clause (i), then the amount of such excess shall be taken into account under paragraph (1)(B) for the succeeding taxable year, or

"(II) the limitation of clause (i) exceeds the amount taken into account under paragraph (1)(B), then the amount of such excess shall increase the limitation of clause (i) for the succeeding taxable year.

"(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—The determination under subparagraph (C)(i) of the portion of the overall cost to the taxpayer of the construction which is properly attributable to construction completed during any taxable year shall be made, under regulations prescribed by the Secretary, on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer established otherwise by clear and convincing evidence, the construction shall be deemed to be completed not more rapidly than ratably over the normal construction period.

"(E) NO PROGRESS EXPENDITURES FOR CERTAIN PRIOR PERIODS.—No amount shall be taken into account under this subsection for any period before the first day of the first taxable year to which an election under this subsection applies.

"(F) NO PROGRESS EXPENDITURES FOR PROPERTY FOR YEAR IT IS PLACED IN SERVICE, ETC.—In the case of any progress expenditure property, no amount shall be taken into account under this subsection for the earlier of—

"(i) the taxable year in which the property is placed in service, or

"(ii) the taxable year in which such property is treated as disposed of under subsection (c)(3),

or for any taxable year thereafter.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means any property if it is reasonable to believe that more than half of the construction expenditures for such property will be made directly by the taxpayer.

"(B) CONSTRUCTION.—The term 'construction' includes reconstruction and erection and the term 'reconstructed' includes reconstructed and erected.

"(C) ONLY REGULAR CREDIT PROPERTY.—Construction shall be taken into account for purposes of subsection (a) only to the extent that expenditures for such construction are properly chargeable to capital account with respect to regular credit property.

"(5) ELECTION.—This subsection shall apply to any taxpayer only if such taxpayer has made an election under this paragraph. Such an election shall apply to the taxable year for which made and all subsequent taxable years. Such an election, once made, may be revoked only with the consent of the Secretary.

"(f) RECAPTURE RULES.—

"(1) IN GENERAL.—If, for any taxable year, the base amount exceeds the qualified net investment of the taxpayer, then the tax under this chapter for such taxable year shall be increased by the lesser of—

"(A) 10 percent of such excess, or

"(B) the balance in the credit recapture account as of the close of the taxable year.

"(2) CREDIT RECAPTURE ACCOUNT.—

"(A) OPENING BALANCE.—The opening balance of the credit recapture account for its first taxable year shall be zero.

"(B) ACCOUNT INCREASED BY CREDIT ALLOWED.—The credit recapture account shall be increased each taxable year by the regular credit determined under this section for the taxable year.

"(C) VESTING OF CREDIT.—

"(i) IN GENERAL.—If the credit recapture account is increased under subparagraph (B) for any taxable year, the account shall be reduced in each of the 5 succeeding taxable years by an amount equal to 20 percent of such increase.

"(ii) CREDIT STOPS BEING VESTED WHEN RECAPTURED.—If an increase in tax under paragraph (1) for any taxable year is properly allocable to any portion of credit to which clause (i) applies, no reduction shall be made under clause (i) with respect to such portion for any succeeding taxable year. Any such increase shall be allocated to credits on a first-in first-out basis.

"(D) REDUCTION FOR TAX INCREASE.—The credit recapture account as of the beginning of any taxable year shall be equal to the balance as of the close of the preceding taxable year, reduced by any increase in tax for the preceding taxable year under paragraph (1).

"(3) CARRYBACKS AND CARRYOVERS ADJUSTED.—The carrybacks and carryovers under section 39 shall be adjusted by reason of any increase in tax under paragraph (1).

"(4) QUALIFIED NET INVESTMENT.—If the qualified net investment for any taxable year is less than zero, such investment shall be taken into account as a negative number in determining the excess under paragraph (1).

"(5) SPECIAL RULE FOR PROGRESS EXPENDITURES.—For purposes of paragraph (2)(C), any credit allowed under subsection (e) shall be treated as allowed in the taxable year in which the property is placed in service.

"(6) TAX.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A, B, D, or G.

"(g) SPECIAL RULES RELATING TO LEASED PROPERTY.—

"(1) IN GENERAL.—Except as provided in this subsection, qualified investment shall be determined without regard to the basis of any regular credit property subject to a lease.

"(2) EXCEPTION FOR SHORT-TERM LEASES.—

"(A) IN GENERAL.—In the case of a qualified short-term lease of regular credit property, the qualified investment of the lessor shall be determined by taking into account the basis of such property.

"(B) QUALIFIED SHORT-TERM LEASE.—For purposes of this subsection, the term 'qualified short-term lease' means any lease the term of which is less than the greater of 1 year or 30 percent of the property's present class life.

"(3) EXCEPTION FOR LONGER TERM LEASES.—

"(A) IN GENERAL.—If regular credit property is subject to a lease other than a qualified short-term lease, and the original use of the property begins with the lessee—

"(i) the property shall be treated as regular credit property of the lessee, and

"(ii) in determining qualified investment, the lessee shall be treated as having acquired such property for an amount which bears the same ratio to the fair market value of the property as the period of the lease bears to the present class life of the property.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)(ii)—

"(i) if the ratio for any property is 80 percent or greater, the ratio shall be treated as if it were 100 percent, and

"(ii) if any property is leased by a corporation which is a component member of a controlled group to another corporation which is a member of such group, the basis of the property shall be substituted for its fair market value.

"(4) DETERMINATION OF LEASE TERM.—For purposes of this subsection, the rules of section 168(i)(3) (relating to options and successive leases) shall apply in determining a lease term.

"(5) EXCEPTION FOR CERTAIN AIRCRAFT.—This subsection shall not apply to the leasing of any aircraft described in subsection (b)(4)(B).

"(h) DEFINITIONS AND RULES RELATING TO ELIGIBLE SMALL BUSINESSES.—For purposes of this section—

"(1) ELIGIBLE SMALL BUSINESS.—

"(A) IN GENERAL.—The term 'eligible small business' means, with respect to any taxable year, a taxpayer with qualified investment not greater than $200,000.

"(B) DISQUALIFICATION.—If the qualified investment of a taxpayer for any taxable year ending after December 31, 1991, exceeds $200,000, such taxpayer shall not be treated as an eligible small business for such taxable year or any subsequent taxable year.

"(C) PREDECESSORS.—Any reference in this paragraph to a taxpayer shall include a reference to any predecessor.

"(2) SPECIAL RULES FOR APPLYING SECTION.—If the credit for any taxable year is determined under subsection (a)(2) with respect to any regular credit property—

"(A) any disposition of such property shall not be taken into account for purposes of subsection (c)(1)(B) (relating to qualified net investment),

"(B) such credit shall not increase the credit recapture account under subsection (f)(2)(B), and

"(C) rules similar to the rules of section 50(a) shall apply to any disposition of such property, except that any lease treated as a disposition under subsection (c)(3)(B) shall be treated as a disposition for purposes of section 50(a).

"(i) SPECIAL RULES.—For purposes of this section—

"(1) RESEARCH CREDIT RULES APPLICABLE.—Rules similar to the rules of section 41 (f) and (g) shall apply.

"(2) CERTAIN RULES NOT TO APPLY.—

"(A) NORMALIZATION RULES.—Section 50(d)(2) shall not apply, but the regular credit under subsection (a) shall be allocated to public utility property (as defined in section 168(i)(10)) of the taxpayer on a pro rata basis and normalized under rules similar to the rules of section 168(i)(9).

"(B) ELIGIBLE PROPERTY.—Section 50(b) shall not apply.

"(C) LEASING RULES.—Section 50(d)(5) shall not apply, except that the rules of section 48(d)(6) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply."

(c) INCREASE IN INCOME TO REFLECT CREDIT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. REGULAR INVESTMENT TAX CREDIT.

"(a) GENERAL RULE.—The amount of the credit allowed by section 38 for any taxable year which is attributable to the regular credit determined under section 46A shall be included in gross income ratably over the 5-taxable-year period beginning with such taxable year.

"(b) RECAPTURED AMOUNTS.—If any increase in tax under section 46A(f)(1) or 50(a) is properly allocable (as determined under section 46A(f)(2)(C)(ii) or 50(a)) to any portion of any credit described in subsection (a) for any taxable year, subsection (a) shall cease to apply to such portion for any succeeding taxable year."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 50(c) (relating to basis adjustment) is amended by inserting "(other than regular credit property)" after "any property".

(d) CREDIT ALLOWED AGAINST MINIMUM TAX.—Section 38(c) (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

"(3) REGULAR CREDIT MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of a C corporation, the amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the regular credit not used against the normal limitation, or

"(ii) the sum of—

"(I) 25 percent of the taxpayer's tentative tax for the taxable year, plus

"(II) 25 percent of the amount determined under clause (i).

"(B) PORTION OF REGULAR CREDIT NOT USED AGAINST NORMAL LIMIT.—For purposes of subparagraph (A), the portion of the regular credit for any taxable year not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to the regular credit determined under section 46A, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph) reduced by the portion of the credit under subsection (a) which is not so attributable.

"(C) LIMITATION.—In no event shall this paragraph permit the allowance of a credit which would result in a net chapter 1 tax less than an amount equal to 10 percent of the amount determined under section 55(b)(1)(A) without regard to the alternative tax net operating loss deduction. For purposes of the preceding sentence, the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34)."

(e) APPLICATION OF OTHER RULES.—

(1) AT-RISK RULES.—

(A) Clause (ii) of section 49(a)(1)(C) (defining credit base) is amended by inserting "or regular credit property" after "energy property".

(B) Section 49(b)(1) is amended by adding at the end the following new sentence: "For purposes of section 46A(c)(1)(B), any increase during any taxable year in nonqualified nonrecourse financing with respect to any regular credit property shall be treated as an amount realized during such taxable year with respect to the disposition of such property."

(2) RECAPTURE RULES.—Subparagraph (A) of section 50(a)(5) (defining investment credit property) is amended by adding at the end the following new sentence: "Such term does not include regular credit property."

(f) CONFORMING AMENDMENTS.—

(1) Section 38(d)(3)(B)(i) is amended by striking "paragraph (1)" and inserting "paragraph (2)".

(2) Section 55(c)(1) is amended by striking "49(b)" and inserting "46A(f), 49(b),".

(3)(A) Section 280F(a) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) INVESTMENT TAX CREDIT.—The amount of the basis taken into account in determining qualified investment under section 46A with respect to any passenger automobile shall not exceed $12,800."

(B) Section 280F(b)(1) is amended—

(i) by inserting "and such property shall not be treated as regular credit property for purposes of section 46A for such taxable year" before the period, and

(ii) by inserting "OR CREDIT" after "DEPRECIATION" in the heading.

(C)(i) The heading for section 280F is amended by inserting "and credit" after "depreciation".

(ii) The item relating to section 280F in the table of contents for part IX of subchapter B of chapter 1 is amended by inserting "and credit" after "depreciation".

(4) Section 1033(g)(3)(A) is amended by inserting "with respect to which the regular credit determined under section 46A is or has been claimed or," before "with respect to which".

(5) Section 1371(d)(3) is amended by striking "49(b)" and inserting "46A(f), 49(b),".

(6) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 46 the following new item:

"Sec. 46A. Regular credit."

(7) The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Regular investment tax credit."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after December 31, 1991.

(2) TRANSITION PROPERTY.—The amendments made by this section shall not apply to—

(A) any transition property (as defined in section 49(e)) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990),

(B) any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of such Code (as so in effect), and

(C) any property described in section 46(b)(2)(C) of such Code (as so in effect).

This paragraph shall not apply for purposes of section 46A (c)(1)(B) and (d)(4) of the Internal Revenue Code of 1986.

(3) COMPUTATION OF BASE AMOUNT.—In the case of a taxable year beginning before January 1, 1992, and ending after December 31, 1991, the base amount under section 46A of the Internal Revenue Code of 1986 (as added by this section) shall be the amount which bears the same ratio to the base amount determined without regard to this paragraph as the number of days in the taxable year before January 1, 1992, bears to the total number of days in the taxable year.

INCREMENTAL INVESTMENT TAX CREDIT

(Proposal by Senator William V. Roth, Jr.)

CURRENT LAW

The investment tax credit was repealed as part of the 1986 Tax Reform Act. Prior to that, a regular investment tax credit of ten percent was available for a taxpayer's investment in tangible personal property and certain other tangible property, but not for buildings and structural components of buildings. In the case of ACRS three year property, the amount of the credit was generally equal to six percent. In addition, a reduction of the property's depreciable basis equal to fifty percent of the regular investment tax credit applied to the property. As an alternative to the basis reduction of fifty percent, an election could be made to decrease the regular investment tax credit percentage by two points. The total costs of new eligible property qualified for the credit, while used property could not exceed $125,000 in a single taxable year. In addition special rules applied for the "at-risk limitation," leased property and recapture of the credit. The amount of tax liability that could be offset by the investment tax credit in any year could not exceed $25,000 plus 85 percent of the tax liability in excess of $25,000. Credit in excess of this limitation could be carried back three years and forward 15 years.

REASONS FOR CHANGE

Real investment in machinery and equipment has declined since repeal of the investment tax credit in 1986. The economy has experienced three consecutive quarters of decline, after having over 90 consecutive months of unprecedented peacetime growth following the tax cuts of the Kemp-Roth Tax Act in 1981. Encouraging investment in new equipment and modernization of existing equipment will improve the long-term ability of the economy to achieve economic growth consistent with past rates of growth without inflationary pressures. Also, increasing aggregate demand by increased investment incentives constitutes an important element in a balanced program of economic recovery.

EXPLANATION OF PROVISION

Overview

The short title of the bill shall be "The Invest To Compete (ITC) Act of 1992." The bill provides for a permanent incremental investment tax credit that can also be used to reduce up to 25 percent of alternative minimum tax liability. In order to stimulate growth and investment in 1992, the credit would equal 15 percent of a taxpayer's qualified net investment over its base amount. This credit would be reduced to 10 percent for 1993 and succeeding years. The credit would generally be available for all types of tangible property which qualified for ITC prior to its repeal in 1986. Additionally, the bill contains specific provisions that would provide substantial benefits to small businesses.

Eligible property

Property eligible for the investment tax credit is defined as tangible property placed in service after December 31, 1991 to which the depreciation rules of section 168 apply. The property must be a self-constructed asset or acquired by the taxpayer where the original use of the asset begins with this taxpayer. Therefore, the credit would not apply to used property. Certain types of property which are excluded from the bill are: (1) residential rental or nonresidential real property; (2) property subject to the alternative depreciation system (e.g. property used predominantly outside the U.S. or by a tax exempt entity); and (3) any public utility property where the taxpayer is not using normalization.

Computation of the credit

The credit is computed by multiplying either 15 or 10 percent times the excess of the qualified net investment over the base amount. The concept of an incremental credit and the computations involved in this bill are similar to those already utilized in current law for the R&D credit. The qualified net investment basically represents a taxpayer's additions (net of disposals) of eligible property. The credit amount would be reduced for 3 to 5 year property to 33⅓ percent and 66⅔ percent respectively.

The base amount is the product of the fixed base percentage times a taxpayer's average gross receipts for the immediately preceding 2 years. The fixed base percentage is a fraction whereby the numerator is a taxpayer's depreciation for the years 1987 through 1991, and the denominator is the gross receipts of a taxpayer for the same period. The base amount cannot be less than 50 percent of a taxpayer's qualified net investment. Thus, the fraction to determine the base is described below:

1987–91: Avg. Depreciation 5 yrs. divided by Total Sales times Average Sales from previous 2 years equals Base Period Amount or 50% Qualified Net Investment

The base period amount is then subtracted from the amount of eligible investment property purchased that year to determine the amount which qualifies for the credit. The creditable amount is then multiplied by 10 percent (15 percent the first year) to determine the total tax credit.

Small business provisions

For a "small business" the credit is a flat credit and is greatly simplified. A small business is defined as a taxpayer with qualified investments (i.e. purchases of ITC property) that do not exceed $200,000. For a small business, the investment tax credit would equal the lesser of 15 percent (10 percent after 1992) times the qualified investment or $100,000. If a taxpayer's investments are greater than $200,000 in any taxable year after December 31, 1991, then it will no longer qualify as a small business.

Leasing provisions

To the extent property is subject to a short term lease, it will be included as part of the qualified investment for the lessor. A short term lease is defined as having a term of less than one year or 30 percent of the property's class life. If the lease term is greater than 80 percent of the property's class life, then the lessee would utilize the basis of this property in its computation of ITC. To the extent the lease term is between 30 and 80 percent of an asset's class life, there is a reduction in the amount of credit that would be available to the lessee.•

By Mr. RIEGLE:

S. 2293. A bill to make emergency supplemental appropriations to provide a short-term stimulus for the economy and meet the urgent needs for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

S. 2294. A bill to amend the Internal Revenue Code of 1986 to promote long-term investment-led economic growth; to the Committee on Finance.

S. 2295. A bill to amend the Internal Revenue Code of 1986 to promote fairness within the tax code; to the Committee on Finance.

ECONOMIC GROWTH AND RECOVERY LEGISLATION

• Mr. RIEGLE. Mr. President, it is finally becoming clear to all that we have serious structural economic problems in America—problems that have been building over a period of many years. This recession is different from past downturns. We are faced with the long-term decline of important industries. We see living standards stagnating—incomes for American workers have risen only because of longer working hours. We see rising unemployment that is not cyclical but structural—jobs that will never be coming back. My home State of Michigan just learned that General Motors will permanently lay off more than 9,000 workers. We see a deteriorating sense of economic security, both individually and as a nation. We see the plight of the homeless and others who have not shared in the illusionary growth of the 1980's. We see rising inequity in incomes over the past decade. We also see the fraying of the social fabric which has accompanied all of these problems—what I have called the "Clockwork Orange Society."

Not all of these problems are the result of the Bush recession. Most have their beginning decades ago. Yet, this recession, which has not been short and shallow as promised by the Bush administration, has heightened all of our long-term problems and given them new urgency.

LONG-TERM GROWTH STRATEGY

To deal with our current economic problems, we must think long-term and act immediately. Over the long-term our economy will grow to the extent that we actively spur innovation and productivity. We need to create an investment-led growth strategy. We must return our Nation to the path of long-term sustainable growth where investment in human resources, physical infrastructure, technology, and productive capacity leads to higher value added and higher income and national wealth; higher incomes and national wealth must then be plowed back into investment.

Our long-term strategy will require a number of elements. We must have sound macroeconomic policies that stimulate demand and promote price stability. We must have a capital formation policy that promotes savings and investment, without lowering our standard of living. We need policies to channel public and private investment into new products, services, processes, and markets and into the factors which promote innovation and productivity, including human resources, physical infrastructure, and technology development.

We must also have a trade policy and other policies that affect how our domestic market is organized to insure that American products and services can be sold to customers, both at home and abroad, on a competitive basis. This is crucial so that American businesses and workers can reap the benefits of their investments in productivity and innovation.

A long-term strategy also means paying close attention to productivity and innovation in our strategic industries. A general growth strategy is not enough. Without attention to specific industries, the overall economy could grow but the specific goals of high value-added, high standard of living, and economic and national security may not be met.

We must also turn our attention to the issue of fairness. To be viable and sustainable over the long-term any strategy will have to benefit all. We cannot afford another decade like the 1980's, where so-called trickle-down economics benefited only a few.

IMMEDIATE ACTIONS

We must begin immediately to take the first steps toward a long-term growth strategy. These first steps must also provide immediate help to the economy.

There are four principles which has guided my selection of immediate actions. First, any immediate short-term actions to stimulate the economy must lay the foundation for long-term investment-led growth. Second, the peace dividend should be used for investment in the form of both spending and tax incentives. Third, a large portion of spending should be in the form of immediate outlays to stimulate investment and economic growth, as well as addressing the suffering brought about by the Bush recession. Finally, any changes to restore progressivity and equity to the Tax Code should be part of revenue-neutral changes within Tax Code.

Following these principles, I am proposing an economic stimulus and growth package made up of the following items:

New investment spending and tax incentives, paid for with cuts in defense—$100 billion over 5 years—with immediate spending in the first years to be recouped in out-years.

Fifteen billion dollars in fiscal year 1992 for grants to State and local government to stimulate demand.

Twenty billion dollars in fiscal year 1992 supplemental appropriations for several key programs to increase public investment, stimulate demand, and aid victims of the Bush recession.

Twenty-five billion dollars over fiscal years 1993–97 in increased public investment.

Forty billion dollars over fiscal years 1993–97 in tax incentives to spur investment.

Changes in the Tax Code to benefit middle-class taxpayers, paid for through adding millionaire surcharge and fourth tier.

Any other changes to the Tax Code to be paid for by offsets.

Today, I am introducing three pieces of legislation which are central to this package. The first bill is an emergency supplemental for fiscal year 1992 to increase investment, stimulate demand and help those hurt by the Bush recession. I proposed spending $20 billion in supplemental appropriations to increase investments in six key areas: transportation, housing and community development, public works, human resources facilities construction, worker training, and economic conversion—both civilian and military.

Transportation programs will receive a total of $5.7 billion as part of this supplemental appropriations. Highway interstate maintenance will receive $1 billion, bridges will receive $1 billion, and the surface transportation programs established under the new highway bill will receive $500 million. This additional funding for all three of these programs will be exempt for the requirements for a State and local match. Airport improvement projects will receive $1 billion and another $1 billion will be used for FAA facilities and equipment. Transit programs will receive a total of $1.2 billion, including $400 million for rail modernization, $400 million for rolling stock and buses, and $400 million for compliance with the requirements of the Americans with Disabilities Act and the Clean Air Act. The additional funding for these transit programs will also be exempt from the requirements for a State and local match.

Housing and community development will receive a total of $6 billion under this bill. This includes $3.4 billion for Community Development Block Grant programs, $1.5 billion for public housing modernization, $1 billion for Farmers Home programs, and $100 million for low-income households weatherization programs.

Public works programs will receive a total of $4 billion. This includes $3 billion for EPA construction/State-revolving loan funds to build wastewater treatment facilities to meet the Clean Water Act standards, and $1 billion in Farmers Home wastewater loans and grants.

A total of $1 billion will go toward the renovation and repair of facilities used to meet human resources needs. This includes $60 million to the National Science Foundation for renovation of academic research facilities, $300 million to refurbish Job Corps training facilities, $30 million to repair Head Start facilities, $550 million for chapter 1 education facilities, and $60 million for library facilities.

Worker training programs under title III of the Job Training Partnership Act [JTPA] will receive $1.7 billion. This part of JTPA is specifically targeted at dislocated workers and thus will be of immediate help to those who have lost their jobs due to the Bush recession.

A total of $1.2 billion will be used to help spur the conversion of resource from defense to civilian uses. Part of these funds would also be available to communities and small firms hurt by civilian plant closings. To aid communities hurt by the loss of a major employer, either military or civilian, the Economic Development Administration will receive $400 million to be used for planning and adjustment assistance. The Small Business Administration will receive $400 million to help small businesses hurt by such closings. The National Institutes of Science and Technology will receive $200 million for technology research programs to aid scientists, engineers, and technicians in converting their skills from the defense to the civilian sector, while creating new scientific and technological information as a spur to increased innovation and productivity in the civilian economy. A total of $200 million will also go to the Labor Department to promote innovative responses to the dislocation of workers resulting from defense cutbacks.

This supplemental also includes $400 million for emergency aid to the victims of the Bush recession. This includes $300 million for FEMA emergency assistance to provide emergency food and shelter assistance to those who have lost their jobs and homes due to the Bush recession. It also includes $100 million for Community Services Block Grants to support social services for low-income families, which have been overwhelmed due the recession.

The second is a bill to provide tax incentives to promote productive investments by business—the Investment-led Growth Incentives Act of 1992. The cornerstone of my proposal is a 15-percent permanent incremental investment tax allowance targeted to new manufacturing equipment. Coupled with this is alternative minimum tax relief so that those manufacturers who need this allowance the most will be able to use it. One of the most distressing problems over the past two decades has our relatively low levels of investment in new plants and equipment. The United States invests less than the average of the other Group of 7 industrialized nations in a percent of GDP and less than Japan in absolute terms. How do we think we can compete with Japan when they out-invest us? This provision attempts to change that by providing an incentive for business to invest in new manufacturing equipment.

In am also including a venture and risk capital investment program. This provision is the same as S. 1932, as introduced by Senator BUMPERS and of which I am an original cosponsor. These provisions will provide an incentive for venture and seek capital formation, which is critical for long-term growth. We do not need a broad-based capital gains tax cut. We need targeted incentives to channel capital into the areas where it is needed—like starting new businesses. That is what these provisions do. I commend Senator BUMPERS for his leadership on this issue.

In addition, the Investment-led Growth Incentives Act of 1992 also includes a permanent R&E tax credit and an 18-month extension of R&E allocation rules. Research and development is one of the engines of economic growth. These provisions are needed to maintain that engine.

The third piece of legislation I am introducing today is the Tax Progressivity Act of 1992. This bill would grant middle-class Americans needed tax relief by providing a refundable tax credit equal to 20 percent of their Social Security taxes. This credit would be capped at $200 for an individual, $400 for a joint returns. The bill would pay for this credit by adding a fourth tier to the tax rates for those in the upper income brackets and by adding a millionaires surtax. This legislation is identical to H.R. 3730, introduced by Chairman ROSTENKOWSKI last year, except it is temporary.

There are also other proposals I will support as part of this package. I will support legislation to stimulate demand through a one-time $15 billion aid package to State and local governments, as proposed by Senators SASSER and SARBANES. Such an aid package should be targeted to investment activities of State and local governments. It is estimated that this aid package would create 450,000 jobs immediately—which is greater than the entire number of jobs the Bush proposal will create by 1997.

We must also amend the Budget Enforcement Act to remove the budgetary firewalls between defense and discretionary spending. I am an original cosponsor of legislation introduced by Senator SASSER to lift these walls. I support modifying the annual caps in order to take immediate actions to stimulate the economy and encourage investment. We must also modify annual caps. However, we must be sure to keep the 5-year cap in order to maintain budget discipline.

SENATE DEMOCRATIC TASK FORCE ON COMMUNITY AND URBAN REVITALIZATION

I have been speaking today as one U.S. Senator among many who firmly believe that the Federal Government must take immediate action to both jump start our stalled economy and put us on the path to long-term investment-led growth. I would like to close my remarks with some comments made not just in my capacity as Senator from Michigan but more particularly in my capacity as chairman of the Senate Democratic Task Force on Community and Urban Revitalization.

This task force was formed at the start of this year by Majority Leader GEORGE MITCHELL to increase the lines of communication between local political and civic leaders and the Senate and to refocus congressional attention on the challenges facing our local communities. The task force met in January with the members of its advisory committee, some two dozen of our most distinguished mayors, Governors, labor leaders, and business people. At that meeting, we heard from the advisory committee that the No. 1 priority for local communities was enactment of a Federal economic stimulus package that would put their residents back to work, help distressed governments provide needed services, and begin reinvesting in our domestic economy to promote long-term economic health. We resolved at that meeting to work with the advisory committee to push for the enactment of an economic recovery package that takes into account the needs of America's local communities and their residents.

After further consultation with the members of our advisory committee, the eight Senators on the task force agreed upon five basic principles that we believe should guide whatever economic recovery package the Congress enacts. These principles are completely consistent with the principles used to guide my crafting of the proposals I outlined today.

On Thursday, February 20, we sent letters transmitting those principles to Senator MITCHELL, the majority leader; Senator BYRD, chairman of the Appropriations Committee; Senator BENTSEN, chairman of the Finance Committee and Senator SASSER, chairman of the Budget Committee. Mr. President, I ask unanimous consent that copies of these letters be included in the RECORD.

CONCLUSION

To both develop and carry out an economic growth strategy for America will require teamwork—Team America where business, government, labor and citizens work together. Team America will require continuous involvement by many groups and individuals at many levels in an ongoing process.

We all agree that economic growth is primarily created in the private sector. However, creation and implementation of an economic strategy will also require an active role for Government—not the laissez faire ideology of the past decade. The Government is and must be a key participant. It must provide resources to and act as catalyst and facilitator of the process.

The package I have outlined today is only the first step. In the months and years ahead we will need to focus our attention on creating policies to insure long-term investment-led economic growth. It must be growth that benefits all Americans—not like the so-called growth of the 1980's, which benefited only a few. To return long-term sustained economic growth, all of us must play our part and work together to build our common future.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, February 20, 1992.

Senator GEORGE J. MITCHELL,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR MITCHELL: We are writing to call your attention to the urgent need for legislation to enable America's local communities and their residents to survive the current recession and to begin reinvesting in our domestic economy.

Unemployment lines continue to grow, and demands for emergency food and shelter are on the rise, but state and local governments are strapped for cash. As a result, they are cutting investments crucial to long-term economic health in order to meet immediate needs. Prompt federal action is necessary to prevent further damage to America's prospects for long-term economic health.

As you know, earlier this year you established a Task Force on Community and urban revitalization, which you asked Senator Riegle to chair. Also serving on the task Force are Senators Dixon, Dodd, Kennedy, Moynihan, Sarbanes, Sasser, and Wofford. The Task Force is assisted by an Advisory Committee composed of leading mayors, governors, labor representatives and business people. The primary purpose of the Task Force is to increase the lines of communication between local political and civic leaders and the Senate so that local leaders can help shape legislation that affects our nation's communities.

At the first meeting of the Task Force and Advisory Committee, discussion focused on the hardships the current recession is inflicting on local communities and their residents and the need for a federal initiative to get the economy moving. Advisory Committee members reported that cities and states are increasing the downward pressure on the economy because they are forced to raise taxes and cut spending to eliminate budget shortfalls. We also heard that three quarters of America's cities have postponed needed public works projects that would have provided jobs and long-term investment because there is no money to pay for them. Since that time, the U.S. Conference of Mayors has documented 4,543 projects that are "ready to go" if funding is made available.

The members of the Task Force and the Advisory Committee agreed at the conclusion of our first meeting that we should work together towards enactment of economic stimulus legislation that addresses the economic and fiscal crisis confronting local communities. After further discussion, we have agreed on five key principles that should guide an economic recovery package. We are transmitting these principles to you in an addendum to this letter because of the important role you will play in the passage of stimulus legislation.

In addition to these principles, we also call your attention to several bills which are consistent with these principles and should be carefully considered in crafting a stimulus package: S. 2137, introduced by Senator Kennedy; S. 2169, introduced by Senators Lautenberg and Moynihan; S. 2170 introduced by Senator Dodd; and legislation to provide grants and loans to state and local governments, to be introduced jointly by Senators Sasser and Sarbanes. These bills offer concrete plans to jump start the economy in a way that will help retain and create needed jobs and promote long-term investment in infrastructure and human resources.

We thank you for your attention to this important matter and hope we can work together to get America's economy back on track.

Sincerely,

Senators Donald W. Riegle, Jr., Chairman; Edward M. Kennedy; Harris Wofford; Daniel Patrick Moynihan; Alan J. Dixon; Paul S. Sarbanes; Jim Sasser; and Christopher J. Dodd.

SENATE TASK FORCE ON COMMUNITY AND URBAN REVITALIZATION

PRINCIPLES FOR A DEMOCRATIC ECONOMIC RECOVERY PLAN

An economic recovery plan should be sufficient to counter the estimated $35 billion in downward pressure imposed on the economy by state and local spending cuts and revenue increases necessary to meet state and local budget shortfalls.

The economic recovery plan should contain a significant fiscal component, oriented toward job creation and retention and long-term investment in infrastructure and human resources and needs.

The budget agreement should be amended so that the peace dividend can be directed to offset the cost of an economic recovery investment package.

A significant portion of the package should be spent immediately and targeted to distressed state and local governments. This money should be spent on "ready-to-go" programs and projects that create and retain jobs, build infrastructure and human resources, and address structural economic readjustments caused by the decline of major industries and the reduction in defense spending.

The remainder of the package should fund programs that build infrastructure and human resources to promote long-term economic well-being. Such programs include highway, mass-transit, and airport construction, water and environmental projects, housing and community development, health care, public safety, public educational facilities construction and educational services, and job training, especially for dislocated workers.●

By Mr. PRESSLER:

S. 2297. A bill to enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat Program, by establishing a new national land remote sensing policy, and for other purposes; to the Committee on Commerce.

LAND REMOTE SENSING POLICY ACT OF 1992

Mr. PRESSLER. Mr. President, today I am introducing legislation to revamp the Landsat Satellite Program. This legislation will accomplish two important public policy goals.

First, it will provide a permanent home for Landsat within NASA and the Department of Defense. Full commercialization of the Landsat Program cannot be achieved within the foreseeable future. This new home will provide a strong civilian satellite land remote sensing program which is vital to the national security of the United States.

Second, this legislation will define the Federal Government's Landsat data policy. This definition will ensure that data generated from land remote-sensing satellites funded by American taxpayers will be made available to users at prices that do not exceed the marginal cost of filing a specific request.

Mr. President, we need to act soon to correct the current policy of commercialization, or we could lose this priceless environmental research tool forever. In 1984, Congress passed the Land Remote-Sensing Commercialization Act, which was to have subsidized a private company to operate the Landsat system for a transition period, after which it was hoped the system would become commercially viable.

Commercialization was founded on the belief that a large commercial market for Landsat data would develop and commercial demand would then support the development, launching, and operation of future Landsat satellites.

That has never happened.

It was clear to many of us back in the early 1980's that commercialization would not work. But the only other political alternative was to terminate the program altogether. That would have been an even more tragic mistake. So I supported the 1984 act with some amendments even with the expectation and prediction that commercialization would fail. My overriding concern was to protect the technology. That has been preserved. As those of us who urged alternatives to commercialization predicted, the 1984 act caused data prices to skyrocket, scientific applications to decline dramatically, and the program faltered.

Before commercialization there were three general categories of users: private business, defense, and science. The latter has all but disappeared. Private sales have fallen drastically, as well. Defense simply pays the higher prices, adding to taxpayer cost.

We have ended up paying more for Landsat by subsidizing a monopoly. We tax private business to fund Landsat, then turn around and charge them again to purchase data. The Federal Government subsidizes the monopoly and then pays again to use that data. This legislation will restore the emphasis on availability to scientific researchers and other public interest users.

The goal of NASA's mission to planet Earth is to obtain a scientific understanding of the Earth on a global scale. This 15-year program will enable NASA to develop global models of the interaction of the Earth's atmosphere, oceans, and land.

Developing these models will require long-term, repeat measurements. By the time the first EOS platform is launched in 1998, integration of Landsat data could give global change researchers a 26-year head start in developing accurate global change models. Landsat data used as a baseline will improve the predictive global change models to be developed from EOS.

Mr. President, this legislation provides for the continuous civilian collection and utilization of land remote sensing data. This will provide a major benefit in studying and understanding human impacts on the global environment, in managing the Earth's natural resources, and in planning and conducting many other activities of scientific, economic, and social importance.

Mr. President, Senator GORE and I are united in the need to act quickly on this matter, and I look forward to swift Commerce, Science, and Transportation Committee action on this issue. We need action today to preserve this extraordinarily valuable 20-year investment. This legislation will firmly establish the Landsat Program as a complement to NASA's mission to planet Earth while ensuring that the United States preserves its leadership in land remote sensing.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Land Remote Sensing Policy Act of 1992".

TITLE I—DECLARATION OF FINDINGS, PURPOSES, AND POLICIES

SEC. 101. FINDINGS.

The Congress finds and declares that—

(1) the continuous civilian collection and utilization of land remote sensing data from space are of major benefit in studying and understanding human impacts on the global environment, in managing the Earth's natural resources, and in planning and conducting many other activities of scientific, economic, and social importance;

(2) a strong civilian satellite land remote sensing program is vital to the national security of the United States;

(3) the Federal Government's experimental Landsat system established the United States as the world leader in land remote sensing technology;

(4) the national interest of the United States lies in maintaining international leadership in civil satellite land remote sensing and in broadly promoting the beneficial use of remote sensing data;

(5) given the importance of the Landsat program to the United States urgent actions, including expedited procurement procedures, must be followed in order to provide data continuity;

(6) full commercialization of the Landsat program cannot be achieved within the foreseeable future, and thus should not serve as the near-term goal of national policy on land remote sensing;

(7) however, private sector involvement in land remote sensing is in the national interest of the United States;

(8) to maximize the value of Federal satellite land remote sensing programs to the American public, data generated from all land remote sensing satellites funded by the United States Government should be made available to users at prices that do not exceed the marginal cost of filling a specific user request; and

(9) the broadest and most beneficial use of land remote sensing data will result from maintaining policies of open skies and nondiscriminatory access to data.

SEC. 102. PURPOSES.

The purposes of this Act are to—

(1) maintain the United States worldwide leadership in civil satellite land remote sensing, preserve national security, and fulfill international obligations;

(2) provide for a comprehensive civilian program of research, development, and demonstration to enhance both the United States capabilities for remote sensing from space and the application and utilization of such capabilities;

(3) establish a comprehensive and sustainable satellite land remote sensing program that will ensure the routine acquisition and widespread availability of high quality land remote sensing satellite data to meet the needs of national security, global change research, and other interested users;

(4) enhance the scientific use of remote sensing data in studying the Earth and its processes by providing continuity of data which are sufficiently consistent in terms of acquisition geometry, land surface coverage, spatial resolution, and spectral characteristics with previous Landsat data to allow comparisons for change detection and characterization; and

(5) promote, and not preclude, private sector opportunities in civil satellite land remote sensing.

SEC. 103. POLICY OF UNITED STATES.

It shall be the policy of the United States—

(1) to preserve its right to acquire and disseminate unenhanced remote sensing data;

(2) to perpetuate existing United States' open skies and nondiscriminatory access to data civil satellite remote sensing policies;

(3) to preserve our national security, to honor our international obligations, and to retain in the Federal Government those remote sensing functions that are essentially of a public service nature; and

(4) to maintain a permanent, comprehensive Federal Government archive of global Landsat and other land remote sensing data for long-term monitoring and study of the changing global environment.

SEC. 104. DEFINITIONS.

For purposes of this Act:

(1) The term "Landsat system" means Landsats 1, 2, 3, 4, 5, 6, and any successor civil land remote sensing space systems operated by the United States Government, along with any related ground equipment, systems, and facilities.

(2) The term "Secretary" means the Secretary of Commerce.

(3) The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(4) The term "nondiscriminatory access to data" means without preference, bias, or any other special arrangement (except on the basis of national security concerns pursuant to section 505) regarding delivery, format, financing, or technical considerations which would favor one buyer or class of buyers over another.

(5) The term "unenhanced data" means land remote sensing data that are subject only to minimal data preprocessing.

(6) The term "data preprocessing" means—

(A) removal of system- and sensor-created distortions in land remote sensing data; and

(B) the very basic calibration of spectral response with respect to such data.

(7) The term "continuity of data" means the continued acquisition and availability of unenhanced data which are, from the point of view of the user, functionally equivalent or superior to the Enhanced Thematic Mapper data to be generated by Landsat 6.

TITLE II—OPERATION AND DATA DISSEMINATION OF LANDSAT SYSTEM

SEC. 201. RESPONSIBILITIES.

(a) OPERATIONS.—The Secretary, in coordination with the Administrator and the Secretary of Defense, shall be responsible for—

(1) completing and launching Landsat 6;

(2) arranging for the continued operation of Landsats 4 and 5 until Landsat 6 becomes operational; and

(3) acting expeditiously and fairly to modify any existing contracts which the Federal Government may have with private companies for the operation of Landsat vehicles and the marketing of unenhanced Landsat data that would otherwise prevent or inhibit the full implementation of this Act.

(b) RESPONSIBILITY OF ADMINISTRATOR AND THE SECRETARY OF DEFENSE.—The Administrator and the Secretary of Defense, jointly, will be responsible for ensuring the continued operation of the Landsat system commencing on the date that Landsat 6 is declared operational. In cooperation with the Secretary under the provisions of paragraph (3) of subsection (a), they shall ensure that any and all modifications to existing contracts and responsibilities required by this Act are accomplished in an expeditious and equitable manner, with the best interest of all parties being considered. Specifically, the Administrator and the Secretary of Defense will—

(1) provide for and oversee the full operation of the Landsat 6 system once the Landsat 6 satellite is declared operational;

(2) provide for the development, launch, and operation of a Landsat 7 system that will provide continuity of data after Landsat 6;

(3) prepare and submit to Congress, within 120 days following the date of the enactment into law of this Act, a comprehensive plan which addresses management and funding responsibilities, systems development and operations, data archiving and dissemination, and commercial considerations associated with the Landsat program. This plan will be consistent with all aspects of this Act, prepared in coordination with other appropriate Government agencies, and reviewed by the National Space Council;

(4) define alternatives and prepare a plan for providing continuity of data beyond Landsat 7; and

(5) with support of the Department of Energy and other appropriate agencies, prepare a coordinated technology plan designed to improve the performance and reduce the cost of future Landsat systems.

(c) DISCLAIMER.—The provisions of this section shall not affect the authority of the Administrator and the Secretary of Defense to contract for the operation of part or all of the Landsat system, so long as the Federal Government retains—

(1) ownership of such system;

(2) ownership of the unenhanced data acquired by the Landsat system; and

(3) authority to make decisions concerning operation of the system.

SEC. 202. DISSEMINATION OF UNENHANCED DATA.

(a) DISSEMINATION POLICY.—The Administrator and the Secretary of Defense shall implement a Landsat data dissemination policy, defined in the plan required by section 201(b)(3), that—

(1) ensures that existing Landsat data and future unenhanced data acquired by the Landsat system are routinely available to Earth and global change research scientists at costs that do not exceed the marginal cost of filling a specific user request;

(2) considers the reasonable and legitimate requirements of all segments of the satellite land remote sensing user community for access to unenhanced Landsat data; and

(3) ensures that copies of all unenhanced data acquired by the Landsat system are provided to the Secretary of the Interior for permanent preservation.

(b) AUTHORITY NOT AFFECTED.—The provisions of this section shall not affect the authority of the Administrator and the Secretary of Defense to contract for the dissemination of data acquired by the Landsat system, so long as—

(1) the Federal Government retains ownership of all unenhanced data acquired by the Landsat system;

(2) no exclusive marketing rights are extended to any contractor;

(3) the Federal Government retains the right to set pricing policy for unenhanced data; and

(4) all other requirements of this section are met.

SEC. 203. FOREIGN GROUND STATIONS.

The Administrator and the Secretary of Defense shall ensure that commitments existing on the date of the enactment into law of this Act to provide Landsat data to foreign ground stations, under terms of agreements between the Federal Government and nations that operate such ground stations are honored and, as appropriate, renewed.

TITLE III—LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

SEC. 301. GENERAL AUTHORITY.

(a) LICENSES FOR PRIVATE SECTOR.—(1) In consultation with other appropriate Federal agencies, the Secretary is authorized to license private sector parties to operate private remote sensing space systems for such period as the Secretary may specify and in accordance with the provisions of this title.

(2) In the case of a private space system that is used for remote sensing and other purposes, the authority of the Secretary under this title shall be limited only to the remote sensing operations of such space system.

(b) PROHIBITION.—No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply with the requirements of this Act, any regulations issued pursuant to this Act, and any applicable international obligations and national security concerns of the United States.

(c) REVIEW.—The Secretary shall review any application and make a determination thereon within 120 days of the receipt of such application. If final action has not occurred within such time, the Secretary shall inform the applicant of any pending issues and of actions required to resolve them.

(d) LIMITATION.—The Secretary shall not deny such license in order to protect any existing licensee from competition.

SEC. 302. CONDITIONS FOR OPERATION.

(a) REQUIREMENT TO HAVE LICENSE.—No person who is subject to the jurisdiction or control of the United States may, directly or through any subsidiary or affiliate, operate any private remote sensing space system without a license pursuant to section 301.

(b) LICENSE REQUIREMENTS.—Any license issued pursuant to this title shall specify, at a minimum, that the licensee shall comply with all of the requirements of this Act and shall—

(1) operate the system in such manner as to preserve and promote the national security of the United States and to observe and implement the international obligations of the United States in accordance with section 505;

(2) make unenhanced data available to all potential users on a nondiscriminatory basis;

(3) upon termination of operations under the license, make disposition of any satellites in space in a manner satisfactory to the President;

(4) promptly make available all unenhanced data which the Secretary of the Interior may request pursuant to section 502;

(5) furnish the Secretary with complete orbit and data collection characteristics of the system, obtain advance approval of any intended deviation from such characteristics, and inform the Secretary immediately of any unintended deviation;

(6) notify the Secretary of any agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities;

(7) permit the inspection by the Secretary of the licensee's equipment, facilities, and financial records;

(8) surrender the license and terminate operations upon notification by the Secretary pursuant to section 303(a)(1); and

(9)(A) notify the Secretary of any "value added" activities (as defined by the Secretary by regulation) that will be conducted by the licensee or by a subsidiary or affiliate; and

(B) if such activities are to be conducted, provide the Secretary with a plan for compliance with the provisions of this Act concerning nondiscriminatory access.

SEC. 303. ADMINISTRATIVE AUTHORITY OF THE SECRETARY.

(a) AUTHORITY OF SECRETARY.—In order to carry out the responsibilities specified in this title, the Secretary may—

(1) grant, terminate, modify, condition, transfer, or suspend licenses under this title, and upon notification of the licensee may terminate licensed operations on an immediate basis, if the Secretary determines that the licensee has substantially failed to comply with any provision of this Act, with any regulation issued under this Act, with any terms, conditions, or restrictions of such license, or with any international obligations or national security concerns of the United States;

(2) inspect the equipment, facilities, or financial records of any licensee under this title;

(3) provide penalties for noncompliance with the requirements of licenses or regulations issued under this title, including civil penalties not to exceed $10,000 (each day of operation in violation of such licenses or regulations constituting a separate violation);

(4) compromise, modify, or remit any such civil penalty;

(5) issue subpoenas for any materials, documents, or records, or for the attendance and testimony of witnesses for the purpose of conducting a hearing under this section;

(6) seize any object, record, or report where there is probable cause to believe that such object, record, or report was used, is being used, or is likely to be used in violation of this Act or the requirements of a license or regulation issued thereunder; and

(7) make investigations and inquiries and administer to or take from any person an oath, affirmation, or affidavit concerning any matter relating to the enforcement of this Act.

(b) RIGHT TO AN ADJUDICATION.—Any applicant or licensee who makes a timely request for review of an adverse action pursuant to subsection (a) (1), (3), or (6) shall be entitled to adjudication by the Secretary on the record after an opportunity for an agency hearing with respect to such adverse action. Any final action by the Secretary under this subsection shall be subject to judicial review under chapter 7 of title 5, United States Code.

SEC. 304. REGULATORY AUTHORITY OF THE SECRETARY.

The Secretary may issue regulations to carry out the provisions of this title. Such regulations shall be promulgated only after public notice and comment in accordance with the provisions of section 553 of title 5, United States Code.

SEC. 305. AGENCY ACTIVITIES.

(a) PRIVATE SYSTEMS.—A private sector party may apply for a license to operate a private remote sensing space system which utilizes, on a space-available basis, a civilian Federal Government satellite or vehicle as a platform for such system. The Secretary, pursuant to the authorities of this title, may license such system if it meets all conditions of this title and—

(1) the system operator agrees to reimburse the Government immediately for all related costs incurred with respect to such utilization, including a reasonable and proportionate share of fixed, platform, data transmission, and launch costs; and

(2) such utilization would not interfere with or otherwise compromise intended civilian missions of the Federal Government as determined by the agency responsible for such civilian platform.

(b) ASSISTANCE.—The Secretary may offer assistance to private sector parties in finding appropriate opportunities for such utilization.

(c) AGREEMENTS.—To the extent provided in advance by appropriation Acts, any Federal agency may enter into agreements for such utilization if such agreements are consistent with such agency's mission and statutory authority, and if such remote sensing space system is licensed by the Secretary before commencing operation.

(d) DISCLAIMER.—The provisions of this section do not apply to activities carried out under title IV.

(e) AUTHORITY OF COMMISSION UNAFFECTED.—Nothing in this title shall affect the authority of the Federal Communications Commission pursuant to the Communications Act of 1934, as amended (47 U.S.C. 151 et seq.).

SEC. 306. TERMINATION.

If, by December 31, 1999, no private sector party has been licensed and continued in operation under the provisions of this title, the authority of this title shall terminate.

TITLE IV—RESEARCH AND DEVELOPMENT

SEC. 401. CONTINUED FEDERAL RESEARCH AND DEVELOPMENT.

(a) DIRECTOR TO CONTINUE PROGRAM.—(1) The Administrator is directed to continue and to enhance such Administration's programs of remote sensing research and development.

(2) The Administrator is authorized and encouraged to—

(A) conduct experimental space remote sensing programs (including applications demonstration programs and basic research at universities);

(B) develop remote sensing technologies and techniques, including those needed for monitoring the Earth and its environment; and

(C) conduct such research and development in cooperation with other Federal agencies and with public and private research entities (including private industry, universities, State and local governments, foreign governments, and international organizations) and to enter into arrangements (including joint ventures) which will foster such cooperation.

(b) ENVIRONMENT.—(1) In order to enhance the United States ability to manage and utilize its renewable and nonrenewable resources and in order to develop remote sensing technologies and techniques required to study the Earth and monitor its changing environment and provide for national security, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Defense and the Secretary of Energy are authorized and encouraged to conduct programs of research and development in the applications of remote sensing using funds appropriated for such purposes.

(2) Such programs may include basic research at universities, demonstrations of applications, and cooperative activities involving other Government agencies, private sector parties, and foreign and international organizations.

(c) RESEARCH AND DEVELOPMENT.—Other Federal agencies are authorized and encouraged to conduct research and development on the use of remote sensing in fulfillment of their authorized missions, using funds appropriated for such purposes.

(d) REPORTS.—The Administrator and the Secretary of Defense, in cooperation with other appropriate departments and agencies, shall develop and transmit to the Congress biennial reports which include—

(1) a compilation of progress in the relevant ongoing research and development activities of the Federal agencies; and

(2) an assessment of the state of our knowledge of the Earth and its atmosphere, the needs for additional research (including research related to operational Federal remote sensing space programs), and opportunities available for further progress.

TITLE V—GENERAL PROVISIONS

SEC. 501. NONDISCRIMINATORY DATA AVAILABILITY.

(a) MAKING DATA AVAILABLE.—Any unenhanced data generated by the Landsat system, or by any system operator under the provisions of this Act, shall be made available to all users on a nondiscriminatory basis in accordance with the requirements of this Act.

(b) INFORMATION.—The Administrator and the Secretary of Defense and any other system operator shall make publicly available the prices, policies, procedures, and other terms and conditions (but not necessarily the names of buyers or their purchases) upon which the operator will sell such data.

SEC. 502. ARCHIVING OF DATA.

(a) PUBLIC INTEREST.—It is in the public interest for the Federal Government—

(1) to maintain an archive of land remote sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) to control the content and scope of the archive; and

(3) to assure the quality, integrity, and continuity of the archive.

(b) DUTIES OF SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall provide for long-term storage, maintenance, and upgrading of a basic, global, land remote sensing data set (hereinafter referred to as the "basic data set") and shall follow reasonable archival practices to assure proper storage and preservation of the basic data set.

(c) CRITERION AND PROCEDURES.—In consultation with the Secretary of the Interior, the Administrator and the Secretary of Defense will include in the plan required in section 201(b)(3) the criteria and procedures by which—

(1) Landsat and other land remote sensing data will be added to the basic data set; and

(2) data in the archive will be made available to parties requesting data from the archive.

(d) REQUIREMENTS IMPOSED ON SECRETARY OF THE INTERIOR.—In determining the initial content of, or in upgrading, the basic data set, the Secretary of the Interior shall—

(1) use as a baseline the data archived on the date on which Landsat 6 is declared operational;

(2) take into account future technical and scientific developments and needs;

(3) consult with and seek the advice of users and producers of remote sensing data and data products;

(4) consider the need for data which may be duplicative in terms of geographical coverage but which differ in terms of season, spectral bands, resolution, or other relevant factors;

(5) include, as he or she considers appropriate, any and all unenhanced data generated by the Landsat system, which the Administrator and Secretary of Defense will promptly provide to the archive; and

(6) ensure that the content of the archive is developed in accordance with section 505.

(e) FOREIGN OPERATIONS.—Subject to the availability of appropriations, the Secretary of the Interior may request data needed for the basic data set from foreign ground stations, foreign system operators, and private system operators and pay to the providing system operator reasonable costs for reproduction and transmission.

(f) USE OF FEDERAL FACILITIES.—In carrying out the functions of this section, the Secretary of the Interior shall, to the extent practicable and as provided in advance by appropriation Acts, use existing Government facilities.

SEC. 503. NONREPRODUCTION.

Unenhanced data distributed by any private system operator under the provisions under title III of this Act may be sold on the condition that such data will not be reproduced or disseminated by the purchaser.

SEC. 504. RADIO FREQUENCY ALLOCATION.

(a) SPECTRUM.—As necessary and appropriate, the President (or the President's delegate, if any, with authority over the assignment of frequencies to radio stations or classes of radio stations operated by the United States) shall make available for nongovernmental use spectrum presently allocated to Government use, for use by any commercial remote sensing space systems licensed pursuant to title III of the Act. The spectrum to be so made available shall conform to any applicable international radio or wire treaty or convention, or regulations annexed thereto. As necessary and appropriate, the Federal Communications Commission shall utilize appropriate procedures to authorize the use of such spectrum for nongovernmental use. Nothing in this section shall preclude the ability of the Commission to allocate additional spectrum to commercial land remote sensing space satellite system use.

(b) APPLICATIONS.—To the extent required by the Communications Act of 1934 (47 U.S.C. 151 et seq.), an application shall be filed with the Federal Communications Commission for any radio facilities involved with the commercial remote sensing space system.

(c) CONGRESSIONAL INTENT.—It is the intent of Congress that the Federal Communications Commission complete the radio licensing process under the Communications Act of 1934 (47 U.S.C. 151 et seq.), upon the application of any private sector party or consortium operator of any commercial land remote sensing space system subject to this Act, within 120 days of the receipt of an application for such licensing. If final action has not occurred within 120 days of the receipt of such an application, the Federal Communications Commission shall inform the applicant of any pending issues and of actions required to resolve them.

(d) AUTHORITY NOT REQUIRED.—Authority shall not be required from the Federal Communications Commission for the development and construction of any United States land remote sensing space system (or component thereof), other than radio transmitting facilities or components, while any licensing determination is being made.

(e) INTERNATIONAL OBLIGATIONS.—Frequency allocations made pursuant to this section by the Federal Communications Commission shall be consistent with international obligations and with the public interest.

SEC. 505. NATIONAL SECURITY AND INTERNATIONAL OBLIGATIONS.

(a) NATIONAL SECURITY.—The Secretary of Defense shall act on all matters under this Act affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States and for notifying the Secretary promptly of such conditions.

(b) SECRETARY OF STATE.—(1) The Administrator and the Secretary of Defense shall consult with the Secretary of State on all matters under this Act affecting international obligations. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying the Administrator and Secretary of Defense promptly of such conditions.

(2) Appropriate Federal agencies are authorized and encouraged to provide remote sensing data, technology, and training to developing nations as a component of programs of international aid.

TITLE VI—PROHIBITION OF COMMERCIALIZATION OF WEATHER SATELLITES

SEC. 601. PROHIBITION.

Neither the President nor any other official of the Federal Government shall make any effort to lease, sell, or transfer to the private sector, commercialize, or in any way dismantle any portion of the weather satellite systems operated by the Department of Commerce or any successor agency.

SEC. 602. FUTURE CONSIDERATIONS.

Regardless of any change in circumstances subsequent to the enactment of this Act, even if such change makes it appear to be in the national interest to commercialize weather satellites, neither the President or any other official of the Federal Government shall take any action prohibited by section 601 while this title is in effect.

By Mr. BINGAMAN:

S. 2298. A bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the sale and distribution of tobacco products containing tar, nicotine, additives, carbon monoxide, and other potentially harmful constituents, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TOBACCO HEALTH AND SAFETY ACT

• Mr. BINGAMAN. Mr. President, today I am proud to introduce the Tobacco and Nicotine Health and Safety Act of 1992. My friend and colleague in the House, Representative SYNAR, joins me in taking this important step toward the demise of what may be one of the greatest killers of all time: tobacco.

I urge all my colleagues in the Senate to join this effort, but I know that such an expectation is unrealistic. That is a shame because before this day ends, more than 1,000 people will die from smoking cigarettes or chewing tobacco. Tomorrow another 1,000 or more will die. A thousand or more will die the next day. And they will continue to die until we make a serious commitment to addressing the dangers of tobacco use.

Indeed, the Surgeon General of the United States has named tobacco use the single most preventable cause of death and disability in our country. Every year tobacco products kill more Americans—about 430,000—than does alcohol and drug abuse, accidents, and suicides combined.

But aside from the personal loss of life, the economic and social costs of tobacco use are enormous. Estimates are that tobacco use costs our country more than $65 billion in lost productivity and health care expenses. And every day, more than 3,000 American teenagers—or 60 percent of all new smokers—start smoking.

Yet the manufacturer and sale of tobacco products remain virtually unregulated, and tobacco products are largely exempted from the laws we have established to protect the public from unsafe consumer products. All of this despite the fact that we now know without question that cigarettes and other tobacco products containing nicotine are highly addictive.

It is time for a change. It is time for the Federal Government to take an active role in regulating the manufacture and sale of tobacco products. It is time for the Federal Government to provide the American public with the facts they need to make informed decisions about the use of tobacco products.

As the Secretary of Health and Human Services, Dr. Louis Sullivan, has said:

> [I]f the adult smoking rate continues at present levels, at least five million of the American children who are alive today will die of smoking related diseases. That is a catastrophe which we must prevent.

Well, today is the day for the Federal Government to put its money where its mouth is. It is time for the Secretary, and the President of the United States—who in the past two State of the Union Addresses and on numerous other occasions has advocated for a greater focus on preventive health and pledged to increase the Federal Government's commitment to prevention—to work with us for a healthier, more productive America.

The Tobacco and Nicotine Health and Safety Act of 1992 will lay the foundation for the type of change we need, and it will lead to a healthier, more productive America.

The act will:

Provide the Secretary of the Department of Health and Human Services with the authority to reduce the levels of harmful additives or prohibit the use of those additives entirely;

Provide the Food and Drug Administration with the authority to regulate nontobacco products that contain nicotine, which shall be categorized as drugs;

Require that tobacco manufacturers fully disclose all chemical additives in tobacco products; and

Prohibit the distribution of free samples and coupons for cigarettes.

This is important legislation, and again I urge my colleagues to support it.

Finally, Mr. President, I want to commend the Coalition on Smoking or Health, which is the American Heart Association, the American Lung Association, and the American Cancer Society, and individuals across the country concerned about our Nation's health, for their efforts over the past several years, and today in particular, to bring the problems of tobacco use under control.

Today, the coalition asked Secretary Sullivan and the Congress to make tobacco control a part of our efforts to reform health care in America. I pledge to do all I can toward that laudable objective, and I urge my colleagues in the Congress and the administration to join this effort. I ask that the coalition's press release on their activities today and a statement by Scott Ballin, a member of the Coalition on Smoking or Health's steering committee, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEALTH GROUPS CALL ON ADMINISTRATION, CONGRESS TO MAKE TOBACCO CONTROL POLICY PART OF NATIONAL HEALTH CARE REFORM

WASHINGTON, February 27.—Three major American health organizations today called on the Administration and Congress to take immediate steps to include tobacco control policy measures as part of national health care reform.

The presidents of the American Heart Association, the American Lung Association and the American Cancer Society wrote to President Bush today asking the administration to support legislation that would give the Food and Drug Administration clear authority to take action against tobacco manufacturers and tobacco products for health and safety reasons. "The health of the American people can no longer be sacrificed for the profits of the tobacco industry. If tobacco is to remain on the market, it should be treated for what it is, an addictive drug," the letter stated.

In a joint statement today, W. Virgil Brown, M.D., president of the American Heart Association, John D. White, Ph.D., president of the American Lung Association, and Walter Lawrence, Jr., M.D., president of the American Cancer Society, said, "Our organizations believe that an aggressive federal commitment to tobacco control policies must be part of national health care reform. The president and Congress should not ask Americans to take responsibility for their health until they are willing to stand up to the tobacco industry with specific policy measures that will reduce tobacco-related death and disease in this country."

As part of this effort, The American Cancer Society, the American Heart Association and the American Lung Association, united as the Coalition on Smoking OR Health, today petitioned the Food and Drug Administration and the Federal Trade Commission to use their existing authority to regulate as "drugs" tobacco products that make health claims and use advertising and promotional campaigns to mislead consumers that some cigarettes are safer, healthier or less addictive than others. The Coalition filed petitions to Merit "Ultima," manufactured by the Philip Morris Company, "Jazz" cigarettes, imported from Argentina for sale and distribution in the United States by Bensen International, and all cigarettes which make implied or direct weight loss claims, especially those marketed to women.

"The FDA has said that it will respond to this nation's most serious public health problems, yet tobacco products continue to be the grave omission on the regulatory menu. This country's most important consumer health and safety agency cannot continue to drop the ball on this nation's most preventable cause of death," said Scott D. Ballin, a spokesperson for the Coalition and vice president for public affairs for the American Heart Association.

In its petitions, the Coalition states that, because of the addictive properties of nicotine, tobacco has been recognized as a serious drug abuse problem by the World Health Organization and the U.S. Public Health Service; the National Institute of Drug Abuse (part of the U.S. Department of Health and Human Services) has described cigarettes as the "most widespread example of drug dependence" in our nation.

The Coalition's petition to the FDA on "Ultima" states that, "Merit 'Ultima' is an obvious response to consumer concerns about the dangers associated with cigarette smoking, including nicotine addiction." The petition also says that Philip Morris attempts to play up the safety factors of "Ultima," but it fails to provide important information to consumers, such as chemical additives used to provide flavor, a listing of chemical constituents in tobacco smoke, such as arsenic and benzene, information about the need for smokers to smoke more of the product to satisfy their nicotine addiction, and information about the interaction with birth control pills or with preexisting conditions such as heart disease and stroke. The petition also states that, "Philip Morris has for many years recognized the important role that nicotine plays in the smoking habit." The petition references an internal Philip Morris document, which states that, "Nicotine and an understanding of its properties are important to the continued well being of our cigarette business," and that research into alternative products "is justified . . . as a defensive response to the antismoking forces criticisms of nicotine" and is "fundamental" to understanding "how it affects our customers, the smokers." The petition concludes that, if the FDA examines the marketing of "Ultima," "it will agree that Philip Morris intends to, and does, imply that the low-tar, low-nicotine aspects of the product reduce the health risks associated with cigarette smoking."

In its petition to the FDA on "Jazz" cigarettes, the Coalition states that advertisements for the product make claims such as, "No Reason To Quit Smoking," and, "Now You Can Enjoy The Luxury Of Smoking Without Worry." According to the petition, the packets of the so-called "Nicotine-free" cigarettes claim "Non-Tobacco," but the advertisements claim "Real Tobacco." "There is nothing on the packet or the advertisement to support any of the direct or implied health claims made. 'Jazz' cigarettes are marketed and sold with the intended purpose of convincing smokers and potential smokers that these products are safer and less addictive than conventional cigarettes," the petition states. The petition asks the FDA to use its authority to assert jurisdiction over "Jazz." "The Food and Drug Administration would not allow such unregulated, unsubstantiated practices to be carried out for a prescription drug such as Valium or Nicorette gum or the transdermal nicotine patches," the petition states.

In a third petition to the FDA, the Coalition asks that the agency take action against cigarette companies which manufacture, advertise and promote products which imply that use of the product will suppress appetite and help control weight. Petitioning the FDA to classify those products as "drugs" under the Food Drug and Cosmetic

Act, the Coalition states that the tobacco industry promotes such products to keep women smoking and to recruit younger female smokers. The petition references the 1990 Surgeon General's report which found that, lung cancer deaths are increasing steadily among women, smoking during pregnancy poses risks to the developing fetus, and smoking and oral contraceptive use dramatically increase the risk of cardiovascular diseases.

The Coalition on Smoking OR Health was formed in 1982 by the American Cancer Society, the American Heart Association, and the American Lung Association to more effectively inform federal legislators and other public officials of the health consequences of tobacco use. The three health organizations together represent more than six million volunteers throughout the United States.

STATEMENT OF SCOTT D. BALLIN

With the filing of today's petition and the introduction of legislation in both the House and the Senate, we are asking the Food and Drug Administration, the Federal Trade Commission, the Administration and the Congress to take off their political "blinders" and to carry out their role to effectively regulate and control the manufacture, sale, distribution, advertising and promotion of tobacco—this nation's single most preventable cause of death.

Smoking kills more than 430,000 Americans each year. Yet there is no existing public policy strategy to regulate tobacco products. The government can continue to turn a deaf ear to the millions of people who have died and the millions who will continue to die in deference to tobacco political interests. Collectively, tobacco companies represent one of this Nation's most irresponsible industries. Internal documents released during the Cipollone liability case prove that the tobacco industry knew long ago about the addictive effects of cigarette smoking and its relationship to disease. The tobacco industry has embarked on a long history of deception and manipulation to keep its products on the market in spite of the well known, well established fact that smoking kills. We've seen recent action on the part of the FDA with respect to silicone breast implants and food labeling. It's time for action on tobacco products.

How can we as a nation talk seriously about health care reform and controlling health care costs when we refuse to regulate tobacco? The tobacco industry has escaped regulation under every major health and safety law and is costing the country $65 billion a year in health care costs and lost productivity—that's $221 for every American.

The Coalition believes that two things must be accomplished if we are going to have a significant impact on reducing deaths and disability due to the use of tobacco products.

1. The FDA and the FTC must use their existing authorities to regulate cigarettes as "drugs" when implied health claims are made or when the advertising is deemed to be misleading and/or deceptive.

2. Legislation should be enacted that would give the FDA the authority to regulate tobacco products in a manner comparable to the way that other legal products are regulated.

Legislation is being introduced on Capitol Hill today to accomplished the second objective. That legislation has our full support.

Today as part of the effort to achieve the first objective, the Coalition is filing three petitions with the FDA and three with the FTC.

These petitions join a number of petitions currently pending at these two agencies. Today we ask for swift and immediate FDA and FTC action.

Let me outline for you what those petitions are about and what they seek to accomplish.

FOOD AND DRUG ADMINISTRATION

Since the 1930s, the FDA has had broad statutory authority to regulate products which make direct or implied health claims, imply that use of that product will mitigate disease or have an effect on functions or structure of the body. The FDA has only on rare occasions (primarily for political reasons) used that well established authority when it comes to tobacco products. Let me be very clear, the determining factor as to whether the FDA has jurisdiction over cigarette products as "drugs" is not whether the product is a cigarette or whether it contains tobacco, but rather the purpose for which the product is being marketed. If the product is sold with the intention of misleading consumers into believing that its use will guarantee safe smoking, keep them from being addicted, or help them lose weight, then the product is a "drug" under the FDC Act, subject to the FDA's full drug authorities.

The FDA petitions being filed today ask the FDA to take action in three areas.

First: To rule that the recently introduced Philip Morris product, Merit "Ultima," be classified as a "drug" under the FDC Act because of the low tar and low nicotine claims. These claims are nothing more than an attempt to mislead consumers into believing that they can reduce their risks of disease and addiction by smoking these products.

Second: To rule that "Jazz" cigarettes be classified as "drugs" under the FDC Act because of the health claims made about the safety of the product, the lack of nicotine in the product, and the claim that "Cigarettes without nicotine mean no health hazard."

Third: To rule that all cigarettes which convey the notion that use of the product will suppress appetite and help control weight through the use of subtle, but calculated advertising strategies, be classified as "drugs."

The details, both the factual grounds and the legal grounds are spelled out in the petitions.

FEDERAL TRADE COMMISSION

The Federal Trade Commission has the authority under Section 5 of the Federal Trade Commission Act to regulate misleading and deceptive advertising. It is our contention that advertisements for the three product areas I just mentioned are misleading and deceptive.

It is our belief that it is misleading for Merit "Ultima" and "Jazz" cigarettes (as well as other low tar and low nicotine products) to advertise in a manner that will, without scientific substantiation, mislead consumers into believing that they are smoking a "safer" cigarette and therefore reducing their health and addiction risks.

It is likewise misleading for tobacco companies to continue to use glamorous, thin, sexually attractive models and themes that send the message to American women that cigarette smoking will suppress appetite and help control weight gain.

Allowing such deceptions to continue is an insult to the government's mission to protect consumer's health.

Given the significant health hazards of tobacco, we believe that is a health travesty that cigarettes are even allowed to be sold in this country. However, if they are to remain on the market, it is incumbent upon the FDA and the FTC to use their authorities to ensure that consumers are protected to the greatest extent possible.

I want to end with a quote from FDA Commissioner David Kessler, which I think sums up the belief and hopes that our organizations hold and the reasons why we are announcing our actions today.

The Commissioner said:

"Above all we [the FDA] must stand for the principles that breathe life into the Federal Food, Drug and Cosmetic Act.

"Our society has judged that it is the purveyor of goods that must be responsible for ensuring that they are safe, effective and properly labeled.

"Congress has given the FDA the authority to deal with those who would shirk their statutory responsibilities. And I promise you, the FDA will not be a 'paper tiger.'

"The other fundamental principle that gives life to our statute is the FDA's positive duty to promote and protect the public health. This principle requires the agency to act promptly and efficiently in everything we do."•

By Mr. SARBANES (for himself and Mr. SASSER):

S. 2299. A bill to amend title 31, United States Code, to assist State and local governments in financing urgent public needs caused by the recession by providing for Federal payments to those State and local governments, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

S. 2300. A bill to amend title 31, United States Code, to assist State and local governments in meeting urgent public needs by providing for no-cost Federal loans to State and local governments, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. SASSER (for himself and Mr. SARBANES):

S. 2301. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991, the Federal Transit Act, and the Federal Water Pollution Control Act to provide assistance to States for certain infrastructure projects, and for other purposes.

STATE AND LOCAL ANTI-RECESSION FISCAL ASSISTANCE ACT OF 1992 AND ANTI-RECESSION LOAN ACT OF 1992 AND INFRASTRUCTURE STIMULUS ACT OF 1992

• Mr. SARBANES. Mr. President, I am pleased to join with my colleague, Senator JIM SASSER, chairman of the Senate Budget Committee, in introducing today three bills designed to bring to an end the longest recession since World War II and lay the foundations for growth in the future.

The recession and the economic stagnation that has persisted for the past few years is unlikely to end without a decisive shift in economic policy. On January 3, Senator SASSER and I outlined a proposal to boost the economy out of recession and help ensure more vigorous long-term growth. The three bills we are introducing today are part of that program.

Governments at all levels are economic actors and have traditionally played an important role as countercyclical stabilizers during recessions. By increasing spending when others are cutting back, governments can blunt the effects of recession and start the economy back on the road to recovery. However, in this recession State and local governments are contracting and therefore working against countercyclical stabilization. At the very least, fiscal policies should do no harm. I am gravely concerned that in this recession, fiscal policies are actually contributing to the downturn rather than helping to alleviate it.

The recession is forcing State and local governments to cut spending and raise taxes, taking money out of the economy when it is already shrinking. States in turn are cutting aid to localities, which are already being squeezed by the downturn. It is illogical for governments to be worsening the situation rather than helping it. Since the Federal Government is the only institution with the flexibility to offset this contractionary effect, we should act promptly.

Our plan would provide a carefully targeted combination of loans, grants, and waivers of Federal matching requirements that will help stem the downward spiral at the State and local level and fund the types of public investments that boost prospects for growth over the longer term.

The first bill, the State and Local Anti-Recession Fiscal Assistance Act of 1992, would provide $20 billion in antirecession grants to State and local governments. The money would be available to fund education, critical infrastructure and public works projects or to prevent layoffs of employees in critical areas; $10 billion would be available to States; $10 billion to local governments. The bill recognizes the critical importance of education to our long-term growth prospects, requiring that at least 30 percent of the money provided to States be used for education.

The second bill, The Anti-Recession Loan Act of 1992, would provide $10 billion in antirecession loans to States, local governments and school districts for calendar year 1992. The loans are intended to fund education, public works and infrastructure projects and to prevent layoff of critical personnel. They will help State and local governments meet urgent public needs. While the formula on which the loans would be allocated is based on population, the bill also specifies that priority should be given to local governments within the State with high unemployment rates, high incidence of poverty, and significant fiscal distress in meeting their public services as a result of the current recession.

The loans would be interest free, and borrowers would have 3 years to repay the principal. The bill recognizes that the current recession has created a temporary fiscal problem for our State and local governments. These governments can use loans to help meet the budgetary difficulties associated with the recession, and as the economy improves over the next 3 years, they will be better able to repay the loans.

The third bill, The Infrastructure Stimulus Act of 1992, would waive the State and local matching requirements on Federal aid to highway, mass transit and wastewater projects for fiscal year 1992 and fiscal year 1993 for governments that do not have the money to make the Federal match. For example, mass transit projects that receive 80 percent Federal funding currently require a local match of 20 percent before the project can proceed. The waiver would enable State and local governments to move forward on these mass transit projects using the 80 percent Federal funding.

Governors, mayors and other local officials say that there are numerous projects that are ready to go, but have been put on hold due to lack of funding. With the assistance provided in these three bills, these projects could begin immediately, putting people to work, generating business, and helping to put the local economies on the road to recovery.

The legislation we are introducing today is temporary, carefully targeted, and would put people to work and keep them on the job. We believe these proposals represent a thoughtful and balanced approach to combating the ongoing economic downturn. I hope others will join us in our effort to provide an effective response to the Nation's economic needs.

I ask unanimous consent that the text of the bills appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Anti-Recession Fiscal Assistance Act of 1992".

SEC. 2. FINDINGS.

(a) The Congress finds that—

(1) the current recession is the longest on record since the Great Depression;

(2) the unemployment rate is 7.1 percent and more than 16,000,000 Americans are unemployed, underemployed, or have given up looking for work altogether;

(3) 1 out of every 10 Americans now receives food stamps;

(4) State and local governments have, because of the current recession and as a result of constitutional and statutory constraints, raised taxes and cut spending by perhaps as much as $35,000,000,000, and these actions are procyclical in nature and constitute a significant fiscal drag on current economic growth; and

(5) the Federal Government has not provided a fiscal stimulus to combat the current recession nor provided countercyclical aid to distressed State and local governments that are curtailing essential educational, public safety, and public works to their citizens.

SEC. 3. ESTABLISHMENT OF PAYMENT PROGRAM.

Chapter 67 of title 31, United States Code, is amended to read as follows:

"CHAPTER 67—ANTI-RECESSION GRANT PAYMENTS

"SUBCHAPTER A—GENERAL PROVISIONS

"Sec.
"6701. Payments to State and local governments.
"6702. Authorization of appropriations.
"6703. Qualifications.
"6704. State allocations.
"6705. State government allocations.
"6706. County government allocations.
"6707. Other local government allocations.
"6708. Adjustments of county and other local government allocations.
"6709. Information used in allocation formulas.
"6710. Public participation.

"SUBCHAPTER B—PROHIBITIONS ON DISCRIMINATION

"Sec.
"6711. Prohibited discrimination.
"6712. Discrimination proceedings.
"6713. Suspension and termination of payments in discrimination proceedings.
"6714. Compliance agreements.
"6715. Enforcement by the Attorney General of prohibitions on discrimination.
"6716. Civil action by a person adversely affected.
"6717. Judicial review.

"SUBCHAPTER C—OTHER PROVISIONS

"Sec.
"6718. Audits, investigations, and reviews.
"6719. Reports.
"6720. Definitions and application.
"6721. Sunset provisions.

"Subchapter A—General Provisions

"§ 6701. Payments to State and local governments

"(a) PAYMENT.—Each State and unit of general local government shall receive an amount equal to the sum of any amounts allocated to that State or government under this chapter for each payment period. The Secretary of the Housing and Urban Development shall pay such sum out of the State and local anti-recession grants authorized under section 6702.

"(b) TIMING OF PAYMENTS.—Except as provided under the regulations of the Secretary, the Secretary shall determine allocations under this chapter—

"(1) for the first payment period after the date of the enactment of the State and Local Anti-Recession Fiscal Assistance Act of 1992, no later than 10 days after such date, and

"(2) for any subsequent payment period, no later than the 5th day of such period.

"(c) ADJUSTMENTS.—The Secretary shall adjust a payment to any State or unit of general local government to the extent that a prior payment was more or less than the amount required to be paid. However, the Secretary may only increase or decrease a payment to the government when the Secretary or the government demands an increase or decrease within 60 days after the end of the payment period for which the payment is made.

"(d) RESERVATION FOR ADJUSTMENTS.—The Secretary may reserve a percentage (of not more than 0.25 percent) of the amount under this section for payments to States and units of general local governments when the Secretary determines such a reserve is necessary to ensure the availability of sufficient amounts to pay amounts after a final quarterly allocation to States and units of general local governments in the State.

"§ 6702. Authorization of appropriations

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000,000 for fiscal year 1992 and $5,000,000,000 for fiscal year 1993 for the purposes of providing anti-recession grants to States and units of general local government.

"(b) RETURN OF UNEXPENDED FUNDS.—Any State or unit of general local government receiving grants allocated under this chapter shall return to the general fund of the Treasury any grant funds not expended as of January 31, 1993.

"(c) FISCAL YEAR 1993 APPROPRIATION.—The $5,000,000,000 authorized to be appropriated under this section for fiscal year 1993 shall be made available to States and units of general local government no later than 10 days after the beginning of the fiscal year.

"§ 6703. Qualifications

"(a) IN GENERAL.—Under regulations of the Secretary of Housing and Urban Development, a State and unit of general local government qualifies for payment under this chapter for a payment period only after establishing to the satisfaction of the Secretary that—

"(1) the government will expend the payments so received in accordance with laws and procedures applicable to the expenditure of revenues of the government;

"(2) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of grant funds, individuals in the occupation any part of whose pay is paid out of grant funds will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

"(3) if at least 25 percent of the costs of a construction project are paid out of grant funds, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 (46 Stat. 1494 et seq., popularly known as the Davis-Bacon Act), and the Secretary of Labor shall act on labor standards under this paragraph in a way that is in accordance with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (48 Stat. 948);

"(4) the government will use accounting, audit, and fiscal procedures conforming to guidelines prescribed by the Secretary of Housing and Urban Development (after the Secretary consults with the Comptroller General);

"(5) after reasonable notice to the government, the government will make available to the Secretary of Housing and Urban Development and the Comptroller General, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General reasonably requires to review compliance and operations under section 6718(f);

"(6) the government will make reports the Secretary of Housing and Urban Development reasonably requires, in addition to the annual reports required under section 6719(b);

"(7) the government will comply with the requirements of sections 6708 and 6714; and

"(8) the government will give priority to financing education, public safety, and public works programs that are being adversely affected by spending reductions caused by the 1990–1992 recession.

"(b) SANCTIONS FOR NONCOMPLIANCE.—(1) When the Secretary of Housing and Urban Development decides that a State or a unit of general local government has not complied substantially with subsection (a), or regulations prescribed under subsection (a), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current payment period and later payment periods until the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (a) and regulations prescribed under subsection (a).

"(2) Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the State or unit of general local government reasonable notice and an opportunity for a proceeding.

"(3) The Secretary may make a payment to the government notified under paragraph (1) only when the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (a) and regulations prescribed under subsection (a).

"§ 6704. State allocations

"(a) FORMULA ALLOCATION BY STATE.—For each payment period, the Secretary of the Treasury shall allocate to each State, out of the amount appropriated for the period under the authority of section 6702(a) of this title, an amount bearing the same ratio to the amount appropriated as the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

"(1) determine the amount allocated to the State under subsection (b) of this section; and

"(2) allocate the amount allocated to the State as provided under sections 6705 through 6707 of this title.

"(b) GENERAL FORMULA.—(1) The amount allocated to a State under this subsection for a payment period is the amount bearing the same ratio to $5,000,000,000 as—

"(A) the population of the State, multiplied by the need factor of the State (determined under paragraph (2)), multiplied by the relative income factor of the State (determined under paragraph (3)); bears to

"(B) the sum of the products determined under subparagraph (A) of this paragraph for all States.

"(2)(A) The need factor of a State for any payment period is equal to the sum of—

"(i) .5, plus

"(ii) .25, multiplied by the 1991 unemployment ratio, plus

"(iii) .25, multiplied by the net unemployment change.

"(B) For purposes of subparagraph (A)(ii), the 1991 unemployment ratio for any State is a fraction—

"(i) the numerator of which is the rate of total unemployment for the State for calendar year 1991, and

"(ii) the denominator of which is the rate of total unemployment for the United States for calendar year 1991.

"(C) For purposes of subparagraph (A)(iii), the net unemployment change is a fraction—

"(i) the numerator of which is the excess (if any) of the rate of total unemployment for the State for the last calendar quarter of 1991 over such rate for the last calendar quarter of 1988, and

"(ii) the denominator of which is the excess (if any) of the rate of total unemployment for the United States for the last calendar quarter of 1991 over such rate for the last calendar quarter of 1988.

"(D) For purposes of this paragraph, the rate of total unemployment for any period is the average total rate of civilian unemployment for such period (as determined by the Secretary of Labor).

"(3)(A) The income factor of a State for any payment period is equal to—

"(i) 1, minus

"(ii) .5, multiplied by the total taxable resources ratio.

"(B) For purposes of subparagraph (A)(ii), the total taxable resources ratio is a fraction—

"(i) the numerator of which is the average total taxable resources of the State for the most recent 3-calendar year period for which data is available, divided by the population of the State, and

"(ii) the denominator of which is the average total taxable resources for the United States for the period described in clause (i), divided by the population of the United States.

"(C) For purposes of this paragraph, the average total taxable resources for any period shall be the amount determined by the Secretary of the Treasury for statistical purposes.

"(D) In the case of the District of Columbia, this paragraph shall be applied by substituting average personal income for average total taxable resources.

"§ 6705. State government allocations

"(a) IN GENERAL.—The State government shall receive 50 percent of all grant allocations made to a State under section 6704 of this title.

"(b) ALLOCATION TO LOCAL GOVERNMENTS.—The chief executive of a State, with the concurrence of the State legislature, may allocate up to 20 percent of the State government's grant allocation under subsection (a) to units of general local government in the State. Such allocations to units of general local government shall be allocated pursuant to the allocation formula set forth under sections 6706 and 6707 of this title.

"(c) ALLOCATION FOR EDUCATION.—Not less than 30 percent of the State government's grant allocation under subsection (a) shall be used for financing current and capital higher or elementary and secondary educational programs administered by the State government, local school districts, or units of general local government in the State. Priority should be given to maintaining a system of State aid to local educational agencies that will help such agencies offset service reductions caused by the current recession.

"§ 6706. County government allocations

"(a) COUNTY AREA ALLOCATION.—The Secretary of Housing and Urban Development shall first allocate among county areas in a State 20 percent of all grant allocations made to the State under section 6704 of this title. Each county area shall receive an amount bearing the same ratio to 20 percent of the amount allocated to the State as the ratio of population of the county area is to the total population of all county areas in the State.

"(b) COUNTY GOVERNMENT ALLOCATION.—The Secretary shall allocate to the county government in each county area an amount equal to the allocation determined pursuant to subsection (a) of this section.

"(c) REALLOCATION OF GRANTS.—If a State does not have an established system of general purpose county governments, county government allocations under this section shall be reallocated to units of general local government pursuant to a formula set forth in section 6707 of this title.

"§ 6707. Other local government allocations

"(a) OTHER LOCAL GOVERNMENT ALLOCATIONS.—The Secretary of Housing and Urban Development shall allocate 30 percent of all grant allocations made to the State under section 6704 of this title to units of general local governments of a State for which allocations are not made under section 6706. Each unit of general local government to which an allocation is made under this section shall receive an amount bearing the same ratio to the total amount to be allocated to such other units of general local government as the population of the unit of general local government bears to the population of all such units of general local government in the State.

"§ 6708. Adjustments of county and other local government allocations

"(a) MAXIMUM AMOUNT.—(1) The amount allocated to a unit of general local government for a payment period may be not more than 50 percent of the amount of the—

"(A) adjusted taxes of the unit of general local government; and

"(B) transfers (except transfers under this chapter) of revenue to the unit of general local government from another government as a share in financing, or a reimbursement for, the carrying out of governmental duties and powers, as determined by the Secretary of Commerce for general statistical purposes.

"(2) When the amount allocated to a unit of general local government (except a county government, an Indian tribe, or an Alaska Native village) for a payment period would be less than $10,000 but for this paragraph or is waived by the governing authority of the unit of general local government, the Secretary of Housing and Urban Development shall add the amount for that period to the amount allocated to the county government in the county area in which the unit of general local government is located, instead of paying the amount allocated to the unit of general local government. The Secretary shall add the amount of allocation waived by a governing body of an Indian tribe or an Alaska Native village to the amount allocated to the county government in the county area in which the tribe or village is located.

"(b) PRIORITY OF ADJUSTMENTS.—When the Secretary makes an adjustment in an amount allocated to a county area or unit of general local government, the Secretary shall make adjustments in the following order:

"(1) Under subsection (a)(1) of this section.

"(2) Under subsection (a)(2) of this section.

"(c) FURTHER ADJUSTMENTS.—The Secretary shall make adjustments in the amounts allocated to county governments before adjusting amounts allocated to units of general local government.

"(d) REALLOCATIONS TO COUNTY GOVERNMENT.—(1) When the Secretary makes a reduction under subsection (a)(1) of this section in the amount allocated to a unit of general local government, the amount of the reduction—

"(A) if a unit of general local government (except a county government), shall be added to the amount allocated to the county government in which the unit of general local government is located; and

"(B) if a county government, shall be reallocated under subsection (e) of this section.

"(2) When a county government may not receive an additional amount under paragraph (1)(A) of this subsection because of subsection (a) of this section, the Secretary shall reallocate the amount of the reduction under subsection (e) of this section.

"(e) REALLOCATIONS TO OTHER LOCAL GOVERNMENTS.—The Secretary shall reallocate an amount referred to in subsection (d)(1)(B) or (2) of this section—

"(1) by adding the amount to the amounts allocated to other units of general local government in the State to the extent the units of general local government may receive the additional amount after adjustments under subsection (a) of this section; and

"(2) if a unit of general local government may not receive the reallocated amount because of subsection (a) of this section, by allocating the amount among units of general local government in the State on a prorated basis.

"§ 6709. Information used in allocation formulas

"(a) USE OF MOST RECENT INFORMATION.—Except as provided in this chapter, the Secretary of Housing and Urban Development shall use the most recent available information provided by the Secretary of Commerce and the Secretary of Labor before the beginning of the payment period to determine an allocation under this chapter. When the Secretary of Housing and Urban Development decides that the information is not current or complete enough to provide for a fair allocation, the Secretary may use additional information (including information based on estimates) as provided under regulations of the Secretary of Housing and Urban Development.

"(b) POPULATION DATA.—(1) The Secretary of Housing and Urban Development shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes.

"(2) The Secretary of Housing and Urban Development shall request the Secretary of Commerce to provide the population information provided to the Secretary of Housing and Urban Development as soon as practicable to include the final estimate of the number of resident individuals counted in the 1990 census or in subsequent revisions of the census. The Secretary of Housing and Urban Development shall use the estimates in determining allocations for the payment period beginning after the Secretary of Housing and Urban Development receives the estimates.

"§ 6710. Public participation

"(a) HEARINGS.—A State or unit of general local government expending payments received under this chapter shall hold at least one public hearing for each fiscal period of the government at which persons are given an opportunity to present written and oral views on the possible uses of the payments. The government shall give adequate notice of the hearing and hold the hearing at least 7 calendar days after receiving its quarterly grant allocation. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

"(b) DISCLOSURE OF INFORMATION.—By the 10th day before a hearing required under subsection (a)(1) is held, a State or unit of general local government shall—

"(1) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment; and

"(2) publish in at least 1 newspaper of general circulation the proposed use of the payment together with notice of the time and place of the hearing.

"(c) WAIVERS OF REQUIREMENTS.—Under regulations of the Secretary of Housing and Urban Development, a requirement—

"(1) under subsection (a) of this section may be waived when the cost of the requirement would be unreasonably burdensome in relation to the amount allocated to the unit of general local government to amounts available for payment under this chapter; and

"(2) under subsection (b)(2) of this section may be waived if the cost of publishing the information would be unreasonably burdensome in relation to the amount allocated to the government to amounts available for payment under this chapter, or when publication is otherwise impracticable.

"(d) EXCEPTION TO 10-DAY LIMITATION.—When the Secretary is satisfied that the unit of a State or unit of general local government will provide adequate notice of the proposed use of a payment received under this chapter, the 10-day period under subsection (b) may be changed to the greatest extent necessary to comply with applicable State or local law.

"(e) APPLICATION TO GOVERNMENTS WITHOUT BUDGETS.—The Secretary shall prescribe regulations for applying this section to units of general local government that do not adopt budgets.

"Subchapter B—Prohibitions on Discrimination

"§ 6711. Prohibited discrimination

"(a) GENERAL PROHIBITION.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a State or unit of general local government because of race, color, national origin, or sex if the government receives a payment under this chapter.

"(b) ADDITIONAL PROHIBITIONS.—The following prohibitions and exemptions also apply to a program or activity of a State or unit of general local government if the government receives a payment under this chapter:

"(1) A prohibition against discrimination because of age under the Age Discrimination Act of 1975.

"(2) A prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973 or titles I and II of the Americans with Disabilities Act of 1990.

"(3) A prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968 (popularly known as the Civil Rights Act of 1968).

"(c) LIMITATIONS ON APPLICABILITY OF PROHIBITIONS.—Subsections (a) and (b) do not apply when the government shows, by clear and convincing evidence, that a payment received under this chapter is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

"(d) INVESTIGATION AGREEMENTS.—The Secretary of the Treasury shall try to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

"(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

"(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a State or unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

"§ 6712. Discrimination proceedings

"(a) Notice of Noncompliance.—By the 10th day after the Secretary of Housing and Urban Development makes a finding of discrimination or receives a holding of discrimination about a State or unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

"(b) Informal Presentation of Evidence.—The State or unit of general local government may present evidence informally to the Secretary within 30 days after the government receives a notice of noncompliance from the Secretary of Housing and Urban Development. Except as provided in subsection (e), the government may present evidence on whether—

"(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6711(a);

"(2) the program or activity of the government violated a prohibition described in section 6711(b); and

"(3) any part of that program or activity has been paid for with a payment received under this chapter.

"(c) Temporary Suspension of Payments.—By the end of the 30-day period under subsection (b), the Secretary shall decide whether a State or unit of general local government has not complied with section 6711 (a) or (b), unless the government has made a compliance agreement under section 6714. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this chapter unless, within 10 days after the government receives notice of the decision, the government—

"(1) makes a compliance agreement under section 6714; or

"(2) requests a proceeding under subsection (d)(1).

"(d) Administrative Review of Suspensions.—(1) A proceeding requested under subsection (c)(2) shall begin by the 30th day after the Secretary receives a request for the proceeding. The hearing shall be before an administrative law judge appointed under section 3105 of title 5. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether a State or unit of general local government is likely to prevail in showing compliance with section 6711 (a) or (b).

"(2) When the administrative law judge decides at the end of a proceeding under paragraph (1) that the State or unit of general local government has—

"(A) not complied with section 6711 (a) or (b), the judge may order payments to the government under this chapter terminated; or

"(B) complied with section 6711 (a) or (b), a suspension under subsection (b) shall be discontinued promptly.

"(3) An administrative law judge may not issue a preliminary decision that the government is not likely to prevail when the judge has issued a decision described in paragraph (2)(A).

"(e) Basis for Review.—In a proceeding under subsections (b) through (d) on a program or activity of a State or unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

"§ 6713. Suspension and termination of payments in discrimination proceedings

"(a) Imposition and Continuation of Suspensions.—(1) The Secretary of Housing and Urban Development shall suspend payment under this chapter to a State or unit of general local government—

"(A) if an administrative law judge appointed under section 3105 of title 5 issues a preliminary decision in a proceeding under section 6712(d)(1) that the government is not likely to prevail in showing compliance with section 6711 (a) and (b);

"(B) except as provided in section 6712(d)(2)(B), when the administrative law judge decides at the end of the proceeding that the government has not complied with section 6711 (a) or (b), unless the government makes a compliance agreement under section 6714 by the 30th day after the decision; or

"(C) when required under section 6712(c).

"(2) Except as provided in section 6712(d)(2), a suspension already ordered under paragraph (1)(A) continues in effect when the administrative law judge makes a decision under paragraph (1)(B).

"(b) Lifting of Suspensions and Terminations.—When a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

"(c) Resumption of Payments Upon Attaining Compliance.—The Secretary may resume payment to a State or unit of general local government of payments suspended by the Secretary only—

"(1) at the time and under the conditions stated in—

"(A) the approval by the Secretary of a compliance agreement under section 6714(a)(1); or

"(B) a compliance agreement under section 6714(a);

"(2) when the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6712(a);

"(3) when a United States court, a State court, or an administrative law judge (including a judge in a proceeding under section 6712(d)(1)) decides that the government has complied with sections 6711 (a) and (b); or

"(4) when a suspension is discontinued under subsection (b).

"(d) Payment of Damages as Compliance.—Compliance by the government under subsection (c) may include paying restitution to the person injured because the government did not comply with section 6711 (a) or (b).

"(e) Resumption of Payments Upon Reversal by Court.—The Secretary may resume payment to a State or unit of general local government of payments terminated under section 6712(d)(2) only when the decision resulting in the termination is reversed by an appellate court.

"§ 6714. Compliance agreements

"(a) Types of Compliance Agreements.—A compliance agreement is an agreement—

"(1) approved by the Secretary of Housing and Urban Development between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the State or unit of general local government that has not complied with section 6711 (a) or (b); or

"(2) between the Secretary and the chief executive officer.

"(b) Contents of Agreements.—A compliance agreement—

"(1) shall state the conditions the State or unit of general local government has agreed to comply with that would satisfy the obligations of the government under sections 6711 (a) and (b);

"(2) shall cover each matter that has been found not to comply, or would not comply, with section 6711 (a) or (b); and

"(3) may be a series of agreements that dispose of those matters.

"(c) Availability of Agreements to Parties.—The Secretary shall submit a copy of the compliance agreement to each person who filed a complaint referred to in section 6716(b), or, if an agreement under subsection (a)(1), each person who filed a complaint with a governmental authority, about a failure to comply with section 6711 (a) or (b). The Secretary shall submit the copy by the 15th day after an agreement is made. However, when the Secretary approves an agreement under subsection (a)(1), the Secretary may submit the copy by the 15th day after approval of the agreement.

"§ 6715. Enforcement by the Attorney General of prohibitions on discrimination

"The Attorney General may bring a civil action in an appropriate district court of the United States against a State or unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6711 (a) or (b). The court may grant—

"(1) a temporary restraining order;

"(2) an injunction; or

"(3) an appropriate order to ensure enjoyment of rights under section 6711 (a) or (b), including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

"§ 6716. Civil action by a person adversely affected

"(a) Authority for Private Suits in Federal or State Court.—When a State or unit of general local government, or an officer or employee of a government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

"(b) Administrative Remedies Required to Be Exhausted.—A person adversely affected must file an administrative complaint with the Secretary of Housing and Urban Development or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6711(d). Administrative remedies are deemed to be exhausted after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

"(1) issues a decision that the government has not failed to comply with this chapter; or

"(2) does not issue a decision on the complaint.

"(c) Authority of Court.—In an action under this section, the court—

"(1) may grant—

"(A) a temporary restraining order;

"(B) an injunction; or

"(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

"(2) to enforce compliance with section 6711 (a) or (b), may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

"(d) Intervention by Attorney General.—In an action under this section to enforce compliance with section 6711 (a) or (b), the Attorney General may intervene in the action when the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

"§ 6717. Judicial review

"(a) Appeals in Federal Court of Appeals.—A State or unit of general local government receiving notice from the Secretary of Housing and Urban Development about withholding payments under section 6702(b), suspending payments under section 6713(a)(1)(B), or terminating payments under section 6712(d)(2)(A), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition must be filed by the 60th day after the notice is received. The clerk of the court immediately shall send a copy of the petition to the Secretary and the Attorney General.

"(b) Filing of Record of Administrative Proceeding.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

"(c) Authority of Grant.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. When a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. The Secretary may make new or modified findings and shall certify additional proceedings to the court.

"(d) Review Only by Supreme Court.—A judgment of the court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

"Subchapter C—Other Provisions

"§ 6718. Audits, investigations, and reviews

"(a) Independent Audit.—(1) Except as provided in this section, a State or unit of general local government receiving a payment under this chapter shall have an independent audit made of the financial statements of the government by January 1, 1994, to determine compliance with this chapter. The audit shall be carried out under generally accepted auditing standards.

"(2) Paragraph (1) of this subsection does not apply to a government for a fiscal year in which the government receives less than $25,000 under this chapter. However, an audit of the financial statements of the government for that fiscal year that is required under State or local law is deemed to be in compliance with paragraph (1).

"(3) An audit of financial statements of government carried out under another law of the United States for a fiscal year is deemed to be in compliance with paragraph (1) for that year when the audit substantially complies with the requirements of paragraph (1).

"(b) Waiver by Local Government.—(1) A unit of general local government may elect to waive application of subsection (a)(1) of this section when—

"(A) the financial statements of the government are audited by independent auditors under State or local law at least once every 3 years;

"(B) the government certifies that the audit is carried out under generally accepted auditing standards; and

"(C) the auditing provisions of the State or local law are applicable to the payment period to which the waiver applies.

"(2) The election by the government shall include a brief description of the auditing standards used under the State or local law and specify the payment period to which the waiver applies.

"(c) Waiver by Secretary.—Under regulations of the Secretary of Housing and Urban Development, the Secretary may waive a requirement of subsections (a)(1) and (b) of this section for a unit of general local government when the Secretary decides that the financial statements of the government for the year—

"(1) cannot be audited, and the government shows substantial progress in making the statements auditable; or

"(2) have been audited by a State agency that does not follow generally accepted auditing standards or that is not independent, and the State agency shows progress in meeting generally accepted auditing standards or in becoming independent.

"(d) Audit Opinion.—An opinion of an audit carried out under this section shall be provided to the Secretary in the form and at times required by the Secretary.

"(e) Investigations by Secretary.—(1) The Secretary shall maintain regulations providing reasonable and specific time limits for the Secretary to—

"(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6716(b), a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

"(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

"(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6711 (a) or (b) or other provision of this chapter.

"(2) The maximum time limit under paragraph (1)(A) is 90 days.

"(f) Reviews by Comptroller General.—The Comptroller General shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for Congress to evaluate compliance and operations under this chapter.

"§ 6719. Reports

"(a) Reports by Secretary to Congress.—No later than March 31, 1993, the Secretary of Housing and Urban Development personally shall report to Congress on—

"(1) the status and operation of the antirecession grant program; and

"(2) the administration of this chapter, including a complete and detailed analysis of—

"(A) actions taken to comply with sections 6711 through 6715, including a description of the kind and extent of noncompliance and the status of pending complaints; and

"(B) the extent to which units of general local government receiving payments under this chapter have complied with sections 6703 and 6718 (a) and (b), including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under section 6718 (a) and (b).

"(b) Reports by States and Units of General Local Government to Secretary.—No later than June 30, 1993, each State and unit of general local government receiving a payment under this chapter shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

"(1) the amounts and purposes for which the payment has been appropriated, expended, or obligated; and

"(2) the relationship of the payment to the relevant functional items in the budget of the government.

"§ 6720. Definitions and application

"(a) Definitions.—In this chapter—

"(1) 'unit of general local government' means—

"(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

"(B) except under sections 6704(b), 6705, and 6706(a), the District of Columbia and the recognized governing body of an Indian tribe or Alaska Native village that carries out substantial governmental duties and powers;

"(2) 'payment period' means—

"(A) the period beginning 10 days after enactment of this chapter and ending on the last day of the calendar quarter in which such 10th day occurs; and

"(B) each subsequent calendar quarter beginning before January 1, 1993;

"(3) 'State' means any of the several States and the District of Columbia;

"(4) 'adjusted taxes of a unit of general local government' means the taxes imposed by the unit of general local government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) determined by the Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary) to exclude amounts properly allocated to education expenses;

"(5) 'finding of discrimination' means a decision by the Secretary about a complaint described in section 6716(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a unit of general local government has not complied with section 6711 (a) or (b);

"(6) 'holding of discrimination' means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, that a unit of general local government expending amounts received under this chapter has—

"(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

"(B) violated a prohibition against discrimination described in section 6711(b); and

"(7) 'Secretary' means the Secretary of Housing and Urban Development.

"(b) Treatment of Subsumed Areas.—When the entire geographic area of a unit of general local government is located in a larger entity, the unit of general local government is deemed to be located in the larger entity. When only part of the geographic area of a unit is located in a larger entity, each part is deemed to be located in the larger entity and to be a separate unit of general local government in determining allocations under this chapter. Except as provided in regulations prescribed by the Secretary, the Secretary shall make all data computations based on the ratio of the estimated population of the part to the population of the entire unit of general local government.

"(c) Boundary and Other Changes.—When a boundary line change, a State statutory or constitutional change, annexation, a governmental reorganization, or other circumstance results in the application of sections 6704 through 6708 in a way that does not carry out the purposes of sections 6701 through 6708, the Secretary shall apply sections 6701 through 6708 under regulations of the Secretary in a way that is consistent with those purposes.

"§ 6721. Sunset provisions

"Anti-recession grants made under this chapter shall not be made for any payment period beginning after December 31, 1992."

S. 2300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Recession Loan Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the current economic recession is the longest on record since the Great Depression;

(2) State and local governments, because of the current recession, are both raising taxes and curtailing essential spending, thereby following a procyclical fiscal policy which is deepening the recession;

(3) the "fiscal drag" caused by these State and local fiscal policies is conservatively estimated to be in the range of $35,000,000,000 per year;

(4) essential public services, both capital and current programs, are being curtailed as a result of the recession; and

(5) the Federal Government, as it has done in past recessions, should provide a countercyclical fiscal stimulus to offset these problems.

SEC. 3. ESTABLISHMENT OF ANTI-RECESSION LOAN PROGRAM.

Title 31, United States Code, is amended by adding after chapter 67 a new chapter as follows:

"Chapter 68—Anti-Recession Loans to State and Local Governments

"Sec.
"6801. Loan assistance by the Secretary of Housing and Urban Development.
"6802. Loan funds.
"6803. State government allocations.
"6804. Local government allocations.
"6805. School district allocations.
"6806. Loan limits.
"6807. Repayment terms.
"6808. Qualifications.
"6809. Information used in allocation formulas.
"6810. Public participation.
"6811. Prohibited discrimination.
"6812. Discrimination proceedings.
"6813. Suspension and termination of payments in discrimination proceedings.
"6814. Compliance agreements.
"6815. Enforcement by Attorney General of prohibitions on discrimination.
"6816. Civil action by a person adversely affected.
"6817. Judicial review.
"6818. Audits, investigations, and reviews.
"6819. Reports.
"6820. Definitions and application.
"6821. Sunset provisions.
"6822. Economic growth and stabilization study.

"§ 6801. Loan assistance by the Secretary of Housing and Urban Development

"(a) In General.—The Secretary of Housing and Urban Development (hereafter referred to as the 'Secretary') is authorized, subject to the terms and conditions of this chapter, to extend no-interest loans to State and local governments to assist them to combat public service reductions and deferment of essential public works projects as a consequence of the 1990–1992 recession.

"(b) Timing of Loan Issuance.—Loans made pursuant to this chapter may be made not earlier than 10 days after the enactment of this chapter, and not later than December 31, 1992.

"(c) Eligibility for Loans.—States, units of general government, school districts, and State or local instrumentalities created pursuant to State law are eligible to receive loans made under this chapter.

"(d) Loan Purposes.—State and local governments eligible for loans under this chapter may use such loans to enhance State and local economic stability and enhance the commercial, industrial, and employment base of State and local communities. Priority should be given to loans—

"(1) to construct, rehabilitate, substantially repair, or equip critical public works facilities, including highways, bridges, urban and rural mass transit facilities, urban development projects, higher education and local education facilities, waterways, waste water treatment works, jails, prisons, judicial buildings or other general government facilities, or capital projects deferred as a result of the 1990–1992 recession; and

"(2) to employ, at up to 100 percent of salary, critical government personnel who are subject to employment termination as a result of the 1990–1992 recession, including teachers at institutions of higher or elementary and secondary education, public safety personnel, including police, firemen, and corrections personnel, or other critical governmental personnel designated by the chief executive officer of the State or local government or school district receiving loan funds.

"§ 6802. Loan funds

"(a) In General.—The Secretary may issue notes and other obligations for purchase by the Secretary of the Treasury for the purpose of making direct loans under this chapter. The notes and obligations issued by the Secretary shall be secured by the obligations of the borrowers and the Secretary's commitments to make contributions under this chapter shall be repaid from the payment of principal only on the obligations of the borrowers and from funds authorized to be appropriated under this chapter. The notes and other obligations issued by the Secretary shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The Secretary of the Treasury may at any time sell any of the notes or obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or obligations shall be treated as public debt transactions of the United States.

"(b) Loan Authorization.—The Secretary may guarantee loans authorized under this chapter in an aggregate amount of not more than—

"(1) $7,500,000,000 in fiscal year 1992; and

"(2) $2,500,000,000 in fiscal year 1993.

"(c) Appropriations for State and Local Interest Subsidy and Potential Defaults.—There are authorized to be appropriated in fiscal years 1992, 1993, 1994, 1995, and 1996 such sums as may be necessary to defray the interest rate costs on bonds issued pursuant to this chapter, as well as the costs on any loans that are in default as a result of nonpayment by State and local governments.

"§ 6803. State government allocations

"(a) In General.—Of all loans authorized under this chapter, $3,000,000,000 shall be reserved for State governments or statewide instrumentalities created pursuant to State law to receive such loans.

"(b) Allocation.—States or their instrumentalities shall receive loans under this chapter in an amount that bears the same ratio as their resident population bears to the resident population of the United States.

"(c) Waiver.—If a State elects not to receive such a loan, it may allocate its loan apportionment to counties, school districts, or other local governments in that State.

"§ 6804. Local government allocations

"(a) In General.—Of all loans authorized under this chapter, $5,000,000,000 shall be reserved for counties and general purpose local governments or local instrumentalities created pursuant to State law to receive such loans.

"(b) Allocation.—The amount referred to in subsection (a) shall be allocated among State areas in the same ratio that their resident population bears to the resident population of the United States. Loans approved under this chapter shall be allocated by the Secretary to local governments upon application to the Secretary. The Secretary shall give priority to granting loans to local governments with high unemployment rates, high incidences of family and individual poverty, and fiscal distress in meeting their public services as a result of the current recession.

"§ 6805. School district allocations

"(a) In General.—Of all loans authorized under this chapter, $2,000,000,000 shall be available for allocation to local school districts or other instrumentalities created pursuant to State law to receive such loans.

"(b) Allocation.—Loans made available under subsection (a) shall be allocated to school districts in the same ratio that their elementary and secondary school population bears to the total elementary and secondary school population of the United States.

"(c) Waiver.—Not later than 30 days after the date of enactment of this chapter, a local school district or instrumentality created to receive school district loans shall notify the Secretary of its intention to apply for a loan authorized pursuant to this chapter. If the school district or instrumentality does not choose to apply for such a loan, its loan allocation shall be made available to other school districts or instrumentalities in the State in which it is located.

"§ 6806. Loan limits

"No State or local government or school district or instrumentality created pursuant to State law to receive loans under this chapter shall receive a loan unless it agrees to comply with the loan repayment terms set forth in section 6807.

"§ 6807. Repayment terms

"(a) In General.—A State, local government, or school district applying for a loan shall agree to repay a loan received under this chapter not later than 4 years after receipt of the loan. The recipient of a loan under this chapter shall pay only the principal of the loan and shall not be liable for any interest costs accruing to that loan.

"(b) Notification of Nonpayment.—If a recipient of a loan under this chapter determines that it cannot repay its loan within the time allocated pursuant to subsection (a), it shall notify the Secretary not later than December 31, 1995, of its inability to repay the principal of such loan.

"(c) Transfer of Funds to General Fund.—All loans made under this chapter when repaid shall be transferred to the general fund of the Treasury for the purposes of repurchasing the loan obligations made pursuant to this chapter.

"§ 6808. Qualifications

"(a) In General.—Under regulations of the Secretary a unit of government qualifies for a loan under this chapter only after establishing to the satisfaction of the Secretary that—

"(1) the government will establish a trust fund in which the government will deposit all payments received under this chapter;

"(2) the government will use amounts in the trust fund (including interest) during a reasonable period provided in the regulations of the Secretary;

"(3) the government will expend the payments so received, in accordance with laws and procedures applicable to the expenditure of revenues of the government;

"(4) if not less than 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

"(5) if at least 25 percent of the costs of a construction project are paid out of the trust fund, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 ((46 Stat. 1494 et seq.) popularly known as the Davis-Bacon Act), and the Secretary of Labor shall act on labor standards under this paragraph in accordance with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (48 Stat. 948);

"(6) the government will use accounting, audit, and fiscal procedures conforming to guidelines prescribed by the Secretary (after the Secretary consults with the Comptroller General);

"(7) after reasonable notice to the government, the government will make available to the Secretary and the Comptroller General, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General reasonably requires to review compliance and operations under section 6814; and

"(8) the government will make such reports as the Secretary reasonably requires, in addition to the reports required under section 6819.

"(b) Sanctions for Noncompliance.—

"(1) In general.—If the Secretary decides that a unit of government has not complied substantially with subsection (a) or regulations prescribed under subsection (a), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date on which the government receives the notice, the Secretary will withhold additional loan payments to the government until the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (a) and regulations prescribed under subsection (a).

"(2) Notice prior to action.—Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the unit of government reasonable notice and an opportunity for a proceeding.

"§ 6809. Information used in allocation formulae

"(a) Use of Most Recent Information.—Except as otherwise provided in this section, the Secretary shall use the most recent available information provided by the Secretary of Commerce and the Secretary of Education before the beginning of the loan payment period to determine an allocation under this chapter. When the Secretary decides that the information is not current or complete enough to provide for a fair allocation, the Secretary may use additional information (including information based on estimates) as provided under regulations of the Secretary.

"(b) Population Data.—

(1) Basis of determination.—The Secretary shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes.

"(2) Provision of estimates.—The Secretary shall request the Secretary of Commerce to provide the final estimates of resident individuals counted in the 1990 census or revisions of the census. The Secretary shall use the data in determining allocations for the payment period beginning after the Secretary receives the data.

"(c) Educational Data.—The Secretary of Education shall supply to the Secretary the most recent information on the number of elementary and secondary school students in each school district in the United States.

"§ 6810. Public participation

"(a) Hearings.—A unit of government expending payments received under this chapter shall hold at least 1 public hearing 10 days after applying for a loan under this chapter, at which persons are given an opportunity to present written and oral views on the possible uses of the loan. The government shall give adequate notice of the hearing.

"(b) Disclosure of Information.—Not later than 10 days after a hearing required under subsection (a) is held, a unit of government shall—

"(1) make available for inspection by the public at the principal office of the government a statement of the proposed use of the loan; and

"(2) publish in at least 1 newspaper of general circulation the proposed use of the loan and a notice of the time and place of the hearing.

"(c) Waivers of Requirements.—The requirements of subsection (a) may be waived when the cost of the requirements would be unreasonably burdensome in relation to the amount allocated to the unit of government to amounts available for payment under this chapter, as determined by the Secretary.

"§ 6811. Prohibited discrimination

"(a) General Prohibition.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a unit of general local government because of race, color, national origin, or sex if the government receives a loan under this chapter.

"(b) Additional Prohibitions.—The following prohibitions and exemptions also apply to a program or activity of a unit of government if the government receives a loan under this chapter:

"(1) A prohibition against discrimination because of age under the Age Discrimination Act of 1975.

"(2) A prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973.

"(3) A prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968 (popularly known as the Civil Rights Act of 1968).

"(c) Limitations on Applicability of Prohibitions.—Subsections (a) and (b) do not apply when the government shows, by clear and convincing evidence, that a loan received under this chapter is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

"(d) Investigation Agreements.—The Secretary shall undertake to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. Such agreement shall—

"(1) describe the cooperative efforts to be made (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

"(2) provide for immediate notification to the Secretary of actions brought by the United States Government or State agencies against a unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

"§ 6812. Discrimination proceedings

"(a) Notice of Noncompliance.—Not later than 10 days after the Secretary makes a finding of discrimination or receives a holding of discrimination about a unit of government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

"(b) Informal Presentation of Evidence.—The unit of government may present evidence informally to the Secretary not later than 30 days after the government receives a notice of noncompliance from the Secretary. Except as provided in subsection (e), the government may present evidence on whether—

"(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6811(a);

"(2) the program or activity of the government violated a prohibition described in section 6811(b); and

"(3) any part of that program or activity has been paid for with a loan received under this chapter.

"(c) TEMPORARY SUSPENSION OF PAYMENTS.—Not later than the end of the 30-day period under subsection (b), the Secretary shall decide whether the unit of general local government has not complied with subsection (a) or (b) of section 6811, unless the government has entered into a compliance agreement under section 6814. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this chapter unless, not later than 10 days after the government receives notice of the decision, the government—

"(1) enters into a compliance agreement under section 6814; or

"(2) requests a proceeding under subsection (d)(1).

"(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—

"(1) IN GENERAL.—A proceeding requested under subsection (c)(2) shall begin not later than 30 days after the Secretary receives a request for the proceeding. The hearing shall be before an administrative law judge appointed under section 3105 of title 5, United States Code. Not later than 30 days after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the unit of general local government is likely to prevail in showing compliance with subsection (a) or (b) of section 6811.

"(2) REMEDIES.—If the administrative law judge decides under paragraph (1) that the unit of general local government has—

"(A) not complied with subsection (a) or (b) of section 6811, the judge may order loans made to the government under this chapter to be terminated; or

"(B) complied with such provisions, a suspension under section 6812(a)(1)(A) shall be discontinued promptly.

"(e) BASIS FOR REVIEW.—In any proceeding under subsection (b), (c), or (d) on a program or activity of a unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a loan made under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

"§ 6813. Suspension and termination of payments in discrimination proceedings

"(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—

"(1) IN GENERAL.—The Secretary shall suspend loan payment or seek loan repayment under this chapter to a unit of general local government—

"(A) if an administrative law judge appointed under section 3105 of title 5, United States Code, issues a preliminary decision in a proceeding under section 6812(d)(1) that the government is not likely to prevail in showing compliance with subsection (a) or (b) of section 6811;

"(B) except as provided in section 6812(d)(2)(B), when the administrative law judge decides at the end of the proceeding that the government has not complied with subsection (a) or (b) of section 6811, unless the government enters into a compliance agreement under section 6814 not later than 30 days after the decision; or

"(C) when required under section 6812(c).

"(2) CONTINUATION OF ORDERS.—Except as provided in section 6812(d)(2), a suspension ordered under paragraph (1)(A) shall continue in effect when the administrative law judge makes a decision under paragraph (1)(B).

"(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—If a holding of discrimination is reversed by an appellate court, a suspension or termination of loans or loan repayments in a proceeding based on the holding shall be discontinued.

"(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a unit of government of loans suspended by the Secretary only—

"(1) at the time and under the conditions stated in a compliance agreement described in paragraph (1) or (2) of section 6814(a);

"(2) when the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6812(a);

"(3) when a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6812(d)(1)), that the government has complied with subsection (a) or (b) of section 6811; or

"(4) when a suspension is discontinued under subsection (b).

"(d) PAYMENT OF DAMAGES AS COMPLIANCE.—Compliance by the government under subsection (c) may include paying restitution to the person injured because of the government's noncompliance with subsection (a) or (b) of section 6811.

"(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume loan payments from a unit of government of payments terminated under section 6812(d)(2) only when the decision resulting in the termination is reversed by an appellate court.

"§ 6814. Compliance agreements

"(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

"(1) approved by the Secretary between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the unit of government that has not complied with subsection (a) or (b) of section 6811; or

"(2) between the Secretary and such chief executive officer.

"(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

"(1) shall state the conditions the unit of government has agreed to comply with that would satisfy the obligations of the government under subsections (a) and (b) of section 6811;

"(2) shall cover each matter that has been found not to comply, or would not comply, with subsection (a) or (b) of section 6811; and

"(3) may be a series of agreements that dispose of those matters.

"(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of the compliance agreement to each person who filed a complaint referred to in section 6816(b), or, if it is an agreement described in subsection (a)(1), each person who filed a complaint with a governmental authority, about a failure to comply with subsection (a) or (b) of section 6811. The Secretary shall submit such copy not later than 15 days after an agreement is made. However, if the Secretary approves an agreement under subsection (a)(1) after the agreement is made, the Secretary may submit the copy not later than 15 days after approval of the agreement.

"§ 6815. Enforcement by the Attorney General of prohibitions on discrimination

"The Attorney General may bring a civil action in an appropriate district court of the United States against a unit of government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of subsection (a) or (b) of section 6811. The court may grant—

"(1) a temporary restraining order;

"(2) an injunction; or

"(3) an appropriate order to ensure enjoyment of rights under section 6811, including an order suspending or terminating loan payments made under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

"§ 6816. Civil action by a person adversely affected

"(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.—If a unit of government, or an officer or employee of a unit of government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

"(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.—A person adversely affected must file an administrative complaint with the Secretary or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6811(d). Administrative remedies are deemed to be exhausted 90 days after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

"(1) issues a decision that the government has not failed to comply with this chapter; or

"(2) fails to issue a decision on the complaint.

"(c) AUTHORITY OF COURT.—In an action under this section, the court—

"(1) may grant—

"(A) a temporary restraining order;

"(B) an injunction; or

"(C) another order, including suspension or termination of loan payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

"(2) may allow a prevailing party (other than the United States Government) a reasonable attorney's fee to enforce compliance with subsection (a) or (b) of section 6811.

"(d) INTERVENTION BY ATTORNEY GENERAL.—In an action under this section to enforce compliance with subsection (a) or (b) of section 6811, the Attorney General may intervene in the action when the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

"§ 6817. Judicial review

"(a) APPEALS IN FEDERAL COURT OF APPEALS.—A unit of government receiving notice from the Secretary about withholding loan payments under section 6813(a)(1)(B), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. Such petition shall be filed not later than 60 days after the notice is received. The clerk of the court shall immediately send a copy of the petition to the Secretary and the Attorney General.

"(b) FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action referred to in subsection (a). The court may consider only objections to the action of the Secretary that were presented before the Secretary.

"(c) AUTHORITY OF GRANT.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. When a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. The Secretary may make new or modified findings and shall certify additional proceedings to the court.

"(d) REVIEW ONLY BY SUPREME COURT.—A judgment of the court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.

"§ 6818. Audits, investigations, and reviews

"(a) INDEPENDENT AUDIT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, a unit of government expecting to receive a loan under this chapter shall have an independent audit made of the financial statements of the government at least once every 3 years to determine compliance with this chapter. The audit shall be carried out under generally accepted auditing standards.

"(2) COMPLIANCE SUBSTITUTE.—An audit of financial statements of government carried out under another law of the United States for a fiscal year shall be deemed to constitute compliance with paragraph (1) for that year when the audit substantially complies with the requirements of paragraph (1).

"(b) WAIVER BY A UNIT OF GOVERNMENT.—

"(1) GROUNDS FOR WAIVER.—A unit of government may elect to waive application of subsection (a)(1) in writing if—

"(A) the financial statements of the government are audited by independent auditors under State or local law at least once every 3 years;

"(B) the government certifies that the audit is carried out under generally accepted auditing standards; and

"(C) the auditing provisions of the State or local law are applicable to the payment period to which the waiver applies.

"(2) ADDITIONAL INFORMATION.—The election by the government under paragraph (1) shall include a brief description of the auditing standards used under the State or local law and specify the payment period to which the waiver applies.

"(c) SERIES OF AUDITS.—A series of audits carried out over a period of not more than 3 years covering the total amount in the financial accounts of a unit of general local government is deemed to be a single audit under subsections (a)(1) and (b).

"(d) AUDIT OPINION.—An opinion of an audit carried out under this section shall be provided to the Secretary in the form and at times required by the Secretary.

"(e) INVESTIGATIONS BY SECRETARY.—

"(1) REGULATIONS.—The Secretary shall promulgate regulations providing reasonable and specific time limits for the Secretary to—

"(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6816(b), a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

"(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

"(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of subsection (a) or (b) of section 6811 or other provision of this chapter.

"(2) TIME LIMIT.—The actions of the Secretary referred to in paragraph (1)(A) shall be completed not later than 90 days after the complaint is received.

"(g) REVIEWS BY COMPTROLLER GENERAL.—The Comptroller General shall carry out reviews of the activities of the Secretary, State governments, and units of general local government and school districts necessary for Congress to evaluate compliance and operations under this chapter.

"§ 6819. Reports

"(a) REPORTS BY THE SECRETARY TO CONGRESS.—Not later than January 31, 1993, the Secretary shall report to Congress on—

"(1) the status and operation of the Anti-Recession Loan Act of 1992 during calendar year 1992; and

"(2) the administration of this chapter, including a complete and detailed analysis of—

"(A) actions taken to comply with sections 6811 through 6815, including a description of the kind and extent of noncompliance and the status of pending complaints;

"(B) the extent to which units of government receiving loans under this chapter have complied with sections 6813 and subsections (a), (b), and (d) of section 6818, including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under subsections (a), (b), and (d) of section 6818;

"(C) the way in which loans made under this chapter have been used in the jurisdictions receiving them; and

"(D) any significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

"(b) REPORTS BY UNITS OF GOVERNMENT TO SECRETARY.—

"(1) IN GENERAL.—At the end of each fiscal year during which loan funds are expended, each unit of government receiving a loan under this chapter shall submit a statement to the Secretary. The statement shall—

"(A) be submitted in the form and at a time prescribed by the Secretary;

"(B) note the amounts and purposes for which the loan has been expended or obligated during the fiscal year; and

"(C) be made available to the public for inspection.

"(2) PROVISION OF COPIES.—The Secretary shall provide a copy of a statement submitted under paragraph (1) by a unit of government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in a manner and form prescribed by the Secretary.

"§ 6820. Definitions and application

"(a) DEFINITIONS.—For purposes of this chapter—

"(1) the term 'unit of general local government' means a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes;

"(2) the term 'State' means any of the several States and the District of Columbia, and the recognized body of an Indian tribe or Alaska Native village that carries out substantial duties and powers;

"(3) the term 'finding of discrimination' means a decision by the Secretary about a complaint described in section 6816(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a unit of general local government has not complied with subsection (a) or (b) of section 6811; and

"(4) the term 'holding of discrimination' means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, United States Code, that a unit of general local government expending amounts received under this chapter has—

"(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under a program or activity because of race, color, national origin, or sex; or

"(B) violated a prohibition against discrimination described in section 6811(b).

"§ 6821. Sunset provisions

"Authority to make loans pursuant to this chapter shall expire on December 31, 1992.

"§ 6822. Economic growth and stabilization study

"(a) IN GENERAL.—The Secretary shall conduct a study of the economic impact of the 1990–92 recession on the ability of State and local governments to maintain their economic stability, provide essential public services, and provide for the human and capital infrastructure to maintain and expand commerce and industry within their jurisdictions.

"(b) STATE AND LOCAL CONSULTATION.—In the course of conducting the study required by subsection (a), the Secretary shall consult with the public interest organizations representing the nation's States, cities, counties, townships, and school districts as to their views of the impact of the 1990–1992 recession on their respective jurisdiction's ability to provide essential public services.

"(c) REPORT TO CONGRESS.—Not later than July 1, 1993, the Secretary shall—

"(1) complete the study required by subsection (a); and

"(2) transmit a report of such study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.".

• Mr. SASSER. Mr. President, earlier this year the distinguished chairman of the Joint Economic Committee, Senator SARBANES and I proposed an economic recovery program to get the economy moving again and to put the country on a course for strong economic growth. Today, I rise to sponsor and introduce the legislation needed to implement that program.

Mr. President, when we announced our economic recovery proposal at the beginning of January the administration had just acknowledged that the recession was not ending and that something needed to be done. But even as the administration made this admission, it held out the hope that things were getting better and that a full scale economic growth package might be unnecessary.

Well I'm sorry to say, Mr. President, that we stand here today, 2 months and two administration proposals later, and the economy isn't much better. On Monday, General Motors made good on its pledge to cut back by announcing the first 12 of a planned 21 plant closings. Yesterday we learned that consumer confidence is at an 18-year low. Unemployment stands at 7.1 percent and other economic indicators lagging.

Mr. President, the House Ways and Means Committee and the Senate Finance Committee are currently working to draft an economic growth package on the revenue side. But while we wrestle with the economy's woes, State and local governments have already taken steps to combat recessionary pressures. Unfortunately, many of these steps tend to worsen the economy rather than improve it.

In response to the economic downturn, State and local governments have been forced to cut spending and raise taxes—thus taking money out of the economy when it is already contracting. In addition, States are cutting back severely on aid to local communities that are also feeling the recession's impact.

Mr. President, the Senate Budget Committee held hearings on the impact of the recession on local communities in January. We heard compelling testimony from leading mayors and county executives. Let me just note a few of the highlights of these hearings and later State-local studies.

State and local governments have been forced to raise taxes and cut spending by nearly $35 billion in the current fiscal year in order to balance their budgets.

Nearly 3 out of every 4 counties have had to cut services or employees to offset revenue shortfalls due to the recession. Half of these counties are experiencing severe budget shortfalls.

In a recent U.S. Conference of Mayors survey, 305 cities identified 4,543 capital construction projects that could be started immediately. If these projects were started they could generate some 280,000 new jobs as a result.

Mr. President, the legislation we are introducing here today is designed to address the contractionary nature of State and local government fiscal policies and to assist these governments in responding to the recession. The first proposal would provide antirecession grants to State and local governments who are hard-hit by the downturn. The bill would authorize $20 billion in calendar 1992 for grants to fund key infrastructure projects or prevent layoffs of State and local employees in critical areas.

The second bill would provide $10 billion in antirecession, interest-free loans for State and local governments. Again, the proceeds of these loans would be used for funding critical infrastructure projects and preventing the layoffs of critical personnel in such areas as education, public safety, and critical public works areas. The loans would have to be repaid within 3 years.

The last bill would waive State and local matching requirements for three programs: Federal aid for highways, mass transit, and wastewater treatment projects. The waiver would be in effect for 1992 and 1993 and would be available to governments that can demonstrate they do not have the money to meet the Federal match.

Taken together, these proposals represent a balanced approach to combating the ongoing economic downturn. They are designed to counter the fiscal contraction States and localities impose in the economy when they cut spending and raise taxes. And they will provide a targeted fiscal stimulus to the areas of our Nation that need it most.

Mr. President, the recession is about to enter its 20th month. As Congress considers ways to turn the economy around and put it on the path to solid future growth, I urge my colleagues to consider and cosponsor the bills introduced here today.•

• Mr. SASSER. Mr. President, today I rise to introduce the Infrastructure Stimulus Act of 1992. This measure is a key component of the Sasser-Sarbanes program to put the country back on the road to short-term economic recovery and long-term economic growth.

The Infrastructure Stimulus Act will help the Nation's ailing economy by providing short-term infrastructure grant assistance to State and local governments. The bill will allow them to start badly needed ready-to-go highway, mass transit, and wastewater treatment projects.

Many States and localities have put aside these projects in the current recession because they do not have adequate funding. For example, a recent survey by the American Association of State Highway and Transportation Officials finds that 21 percent of the States surveyed are having difficulty providing matching funds required for highway projects obligated under last year's Surface Transportation Act. In addition, the highway survey finds that 47 States have some ready-to-go projects that need an additional $3.3 billion of Federal funding to get started and put people back to work. Another survey performed by the State water pollution officials reveals that an additional $4 billion of wastewater projects could be initiated in fiscal year 1992 beyond what has already been appropriated. Again, these projects have completed the design and engineering phase and would be ready to construct in 1992. Finally, many transit agencies are teetering close to bankruptcy and are in desperate need of capital grant matching fund requirement waivers.

The Infrastructure Stimulus Act addresses these problems by increasing funding for the Federal aid highway and wastewater treatment grant programs and providing a temporary matching fund waiver for these programs. The bill also waives temporarily matching fund requirements for Federal transit administration capital construction projects.

The act increases the highway obligation ceiling by $3 billion in 1992 and allows each State to receive a 21 percent funding increase to repair the Nation's crumbling roads and bridges. For example, my own State of Tennessee would receive an additional $60.2 million during the current fiscal year to get badly needed bridge and highway projects underway.

Mr. President I request that a copy of S. 2301 be inserted in the RECORD along with a summary of the provisions of S. 2301 and letters of support from the American Public Transportation Association, American Road and Transportation Builders Association, Community Transportation Coalition Association of America, and Association of State and Interstate Water Pollution Control Administrators.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Infrastructure Stimulus Act of 1992".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The current recession is the longest recorded economic downturn since the Great Depression.

(2) In the face of legal constraints, State and local governments have had to raise taxes and cut spending by as much as $35,000,000,000 to meet the demands created by the current recession.

(3) As a result of the current recession, many State and local governments have not been able to meet infrastructure grant matching requirements under Federal programs, and have delayed starting highway, mass transit, and wastewater treatment, capital construction and maintenance projects.

SEC. 3. FEDERAL-AID HIGHWAYS.

(a) OBLIGATION CEILING.—Section 1002(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note) is amended—

(1) in paragraph (1), by striking "$16,800,000,000" and inserting "$19,800,000,000"; and

(2) in paragraph (2), by striking "$18,303,000,000" and inserting "$20,500,000,000".

(b) TEMPORARY MATCHING FUND WAIVER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Federal share of

any qualifying project approved by the Secretary of Transportation (hereafter in this subsection referred to as the "Secretary") under title 23, United States Code, shall be the percentage of the construction cost that the State requests, up to and including 100 percent.

(2) QUALIFYING PROJECT DEFINED.—For the purposes of this subsection, the term "qualifying project" means a project approved by the Secretary after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, or a project for which the United States becomes obligated to pay after such date of enactment, and for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

(3) APPLICABILITY.—The section applies to any qualifying project with respect to which the United States incurs an obligation, by way of a commitment, contingent commitment, full funding agreement, or otherwise, during the period beginning on October 1, 1991, and ending on September 30, 1993.

SEC. 4. MASS TRANSIT.

Section 12 of the Federal Transit Act (49 U.S.C. app. 1607c) is amended by adding at the end thereof the following new subsection:

"(n) TEMPORARY MATCHING FUND WAIVER.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Federal share of any qualifying construction project to be assisted under this Act shall be the percentage of the net project cost that the grantee requests, up to and including 100 percent, but not less than the applicable Federal share, as described in section 4, 9, or 18 of this Act.

"(2) QUALIFYING CONSTRUCTION PROJECT DEFINED.—For the purposes of this subsection, the term 'qualifying construction project' means a construction project approved by the Secretary after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, or a project for which the United States becomes obligated to pay after such date of enactment, and for which the Governor of the State or other official submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

"(3) APPLICABILITY.—This subsection applies to any project with respect to which the United States incurs an obligation, by way of a commitment, contingent commitment, full funding agreement, or otherwise, during the period beginning on October 1, 1991, and ending on September 30, 1993.".

SEC. 5. WASTEWATER TREATMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Paragraph (3) of section 607 of the Federal Water Pollution Control Act (33 U.S.C. 1387(3)) is amended to read as follows:

"(3) $3,800,000,000 for fiscal year 1992, of which not more than $500,000,000 shall be available for use by States for the purpose of providing assistance to small communities pursuant to this title and section 5(c) of the Infrastructure Stimulus Act of 1992".

(b) TEMPORARY WAIVER OF MATCHING REQUIREMENT.—

(1) In general.—Notwithstanding any other provision of law, the Administrator shall—

(A) with respect to each deposit to a water pollution control revolving fund that would be required to be made for each quarter described in paragraph (2), waive the requirement under section 602(b)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)(2); relating to deposits of State moneys in the water pollution control revolving fund of the State, and

(B) pay to each State, on a quarterly basis for the quarters described in paragraph (2), for deposit in the water pollution control revolving fund of the State, an amount equal to the amount of State moneys that would otherwise be deposited by the State pursuant to such subsection 602(b)(2).

(2) APPLICABILITY.—This subsection applies to any deposit made to a water pollution control revolving fund by a State for the first full quarter beginning after the date of the enactment of this section, and for the 3 succeeding quarters.

(c) TEMPORARY WAIVER FOR SMALL COMMUNITIES.—

(1) SMALL COMMUNITY DEFINED.—For the purposes of this subsection, the term "small community" means a municipality with a population of less than 10,000 individuals (as determined by the most recent decennial census conducted by the Bureau of the Census of the Department of Commerce).

(2) TEMPORARY WAIVER.—(A) Except as provided in subparagraph (B), the Administrator shall waive the requirements of section 602(b)(6) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)(6)) with respect to any treatment works that is owned or operated by a small community.

(B) The waiver described in subparagraph (A) shall not apply to the provisions of such section 602(b)(6) relating to the requirements of sections 511(c)(1) and 513 of the Federal Water Pollution Control Act (33 U.S.C. 1371(c)(1) and 1372, respectively).

(3) LOAN RATES.—Notwithstanding section 603(d)(1)(A), the period of a loan made to a small community shall be for a period not to exceed 30 years.

(4) APPLICABILITY.—(A) The provisions of paragraph (2) shall apply to any treatment works owned or operated by a small community during the period beginning on the first day of the first full quarter after the date of the enactment of this section, and ending on the last day of the third quarter following such quarter.

(B) The provisions of paragraph (3) shall apply to any loan made by a State to a small community pursuant to title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) during the period described in subparagraph (A).

INFRASTRUCTURE STIMULUS ACT OF 1992

The Infrastructure Stimulus Act of 1992 stimulates the nation's ailing economy by providing short-term infrastructure grant assistance to state and local governments. As a result of the current recession, many state and local governments have not been able to meet federal infrastructure grant program matching requirements, and have delayed starting highway, mass transit, and wastewater treatment capital construction and maintenance projects. Furthermore, several surveys indicate that many states and local governments have ready-to-go infrastructure projects that need additional funding. The bill addresses these problems by providing help in the following three areas:

FEDERAL-AID-HIGHWAYS

The bill increases funding for the federal-aid-highway program by $3 billion in fiscal year 1992 and $3.7 billion in fiscal year 1993. The highway obligation limitation would total $18.7 billion in 1992 and $19.4 billion in 1993. Each state's 1992 highway obligations would increase by 21 percent. The bill provides a temporary waiver of states' federal-aid-highway matching fund requirements. The waiver applies to projects obligated during the period of October 1, 1991 to September 30, 1993. The waiver is only applicable to projects for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary of Transportation, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

MASS TRANSIT

The bill waives matching fund requirements for mass transit discretionary and formula capital construction projects undertaken during the period of October 1, 1991 to September 30, 1993. The waiver applies to both urban and rural construction projects, and is only applicable to projects for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary of Transportation, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

WASTEWATER TREATMENT CONSTRUCTION GRANTS

A recent survey performed by states water pollution officials reveals that an additional $4 billion of wastewater projects could be initiated in fiscal year 1992 beyond what has already been appropriated. These projects have completed the design and engineering phase, would be ready to construct in 1992, but are not scheduled to receive funding in 1992. This legislation offers additional funding and flexibility for state to increase the number of wastewater construction projects beginning in 1992.

The legislation requests an additional $2 billion of funding for States in fiscal year 1992 for wastewater treatment construction projects. All of the additional funds would be allocated States through State Revolving Funds (SRFs). The funds would be used for projects that are "ready to go" and meet all SRF requirements except for two criteria. The legislation would temporarily waive state matching requirements for loans made to communities for the construction of wastewater facilities. Currently, states must provide a 20 percent match to the Federal contribution towards SRFs.

The legislation would also temporarily waive specific planning requirements and extend the repayment period for construction projects in small communities. Municipalities with populations of less than 10,000 individuals would be entitled to receive up to 25 percent of the additional funding. Given the small nature of projects in these areas and the lack of economies of scale, the costs of compliance have become excessive. This provision would help small communities overcome many affordability problems that now exist.

AMERICAN ROAD & TRANSPORTATION
BUILDERS ASSOCIATION,
Washington, DC, February 20, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The American Road and Transportation Builders Association (ARTBA) fully endorses your proposal to increase the obligation of highway funds and to reduce the non-federal matching requirements for both highway and mass transit projects over the next two years. This legislation has the beneficial effect of speeding the initiation of badly needed projects and allowing State and local governments—many of which are suffering from funding shortages—to move ahead rapidly.

For the past three years ARTBA has advocated substantially higher investments in transportation infrastructure. We were pleased that the Intermodal Surface Transportation Efficiency Act increased authorizations for Federal transportation programs to the maximum amount possible under current budget and revenue conditions.

Your proposal will permit these resources to be put to work more quickly at a time of great need.

The U.S. Department of Transportation has estimated that the United States needs to invest in excess of $40 billion a year in its highway system to meet current identified needs. A number of Bush Administration spokesmen, including the acting secretary of transportation, have emphasized the positive impact on employment of the highway program.

Improved transportation facilities are widely recognized as essential to long-term economic growth, productivity and stability in the United States. Their construction is a proven means of stimulating employment and retaining existing jobs in a time of recession. Your proposal is both necessary and timely.

The nearly 4,000 members of ARTBA are experienced in the full range of transportation planning, development and operation activities. They stand ready to participate in the accelerated transportation construction program that would be initiated by your bill. The transportation construction industry has ample capacity to immediately respond to your initiative. We commend you for its introduction.

Sincerely,

T. PETER RUANE,
President and CEO.

AMERICAN PUBLIC
TRANSIT ASSOCIATION,
Washington, DC, February 20, 1992.

Hon. JIM SASSER,
Senate Russell Office Building, Washington, DC. 20510–4201

DEAR SENATOR SASSER: On behalf of the members of the American Public Transit Association (APTA), I want to express my strong support for your legislation that temporarily waives the matching share for transit capital projects initiated by the close of FY 1993. This measure will stimulate the nation's sluggish economy by creating badly needed jobs and encourage the investment in the transportation infrastructure that allows us to better compete internationally. Transit projects create immediate construction jobs and spur economic development around newly constructed facilities.

As you are aware, the current state of the economy has adversely affected many of the revenue sources, such as sales and property taxes, that are used to pay for the state or local share of transit projects. In addition, the transit industry is just coming out of more than a decade of under investment, due largely to a 50% reduction in the federal program. Many states and localities raised taxes in recent years to fund these shortfalls, but it is increasingly difficult to further raise these taxes.

Transit is aggressively implementing the Americans with Disabilities Act and addressing new mandates under the Clean Air Act. High-occupancy transit service is a key element of any national effort to conserve energy, reduce vehicle pollution, and manage traffic congestion. There are, however, substantial costs associated with these new federal requirements and with the enhanced transit service that is needed to meet these goals.

I believe that your legislation, in conjunction with full funding of the programs authorized in the recently enacted Intermodal Surface Transportation Efficiency Act (ISTEA), will go far toward meeting the economic and transportation needs of the nation. We look forward to working with you to see that this legislation is enacted into law. Thank you for your support.

Sincerely,

JACK R. GILSTRAP.

COMMUNITY TRANSPORTATION
ASSOCIATION OF AMERICA,
Washington, DC, February 19, 1992.

Hon. JIM SASSER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SASSER: It has come to our attention that you are considering introducing legislation designed to enhance public and private investment in our nation's transportation infrastructure. Specifically, we understand that you are considering amendments to the Federal Transit Act that would waive local matching requirements for transit projects initiated during the next couple of years.

I wanted to take this opportunity to assure you of our full support for such an approach. The importance of increased investment in public transit is well understood, particularly in terms of the contribution to our nation's economy, use of energy resources, and sound environmental policy. In rural communities and smaller cities, transit plays an equally important role in assuring access to jobs, medical care and other basic services.

Your amendment would go a long way toward stimulating the economy, putting people back to work, and meeting communities' most basic mobility needs. There is a backlog of transit projects in both large and small communities that would immediately benefit from this proposal. The measure would also help to "level the playing field" between highway and transit investments, since similar waiver provisions for highway projects were included in the recently enacted surface transportation authorizing legislation, but omitted from the transit title.

On behalf of the entire CTAA membership, I wanted to express our support of your efforts and to offer our assistance as you proceed with these important legislative initiatives.

Sincerely,

DAVID RAPHAEL,
Executive Director.

ASSOCIATION OF STATE AND INTERSTATE WATER POLLUTION CONTROL
ADMINISTRATORS,
Washington, DC, February 21, 1992.

Hon. JIM SASSER,
Chairman, Senate Budget Committee, Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN SASSER: Thank you for consulting the Association of State and Interstate Water pollution Control Administrators (ASIWPCA) regarding projects in State water quality infrastructure programs that have: 1) Completed the design and engineering phase, 2) Would be ready to construct in the 1992 season, and 3) Would not otherwise receive funding under existing programs. The following estimate is based on a 19 State survey requested by the Senate Environment Committee including Arkansas, California, Colorado, Connecticut, Delaware, Florida, Illinois, Iowa, Kansas, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Vermont, and Virginia. The projects identified by the States will have significant environmental, public works and economic benefits. In providing this information:

The Association strongly recommends, as provided in your bill, that the State Revolving Loan Fund (SRF) be the vehicle. It is working well and the States are united in their desire that the SRF be the future municipal financing mechanism. With adequate capitalization, it can meet the needs in perpetuity. Projects are being constructed 50% faster than in the previous Construction Grant program.

If the objective is to stimulate the economy quickly, there are barriers in the current program which should be reconsidered as your bill recognizes, specifically:

State match requirements: States have severe financial constraints which may not enable them to match additional funds in FY92 or to do so in time for this construction season.

Affordability for small communities: To make such projects affordable, States need flexibility to extend the loan repayment period, to exempt them from costly and complex Construction Grant requirements, and to eliminate restrictions on funding collector sewers.

Total cost for projects meeting the three criteria outlined above: $2.4 Billion.

The percentage of the SRF allotment formula covered by the 19 reporting States: 58%.

Extrapolation nationally to include the remaining 42% [i.e. the other 31 States and the Territories]: $4.1 Billion.

The Association is pleased to provide this information and any other data needed to promote the environmental and economic well being of this nation.

Sincerely,

ROBERTA (ROBBI) SAVAGE,
Executive Director.•

By Mr. RIEGLE (for himself and Mr. COATS):

S. 2302. A bill to require the Secretary of Energy to offer to enter into a vehicle fuel efficiency research agreement, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ADVANCED FUEL EFFICIENCY RESEARCH AGREEMENT ACT

• Mr. RIEGLE. Mr. President, I rise today to introduce the Advanced Fuel Efficiency Research Agreement Act of 1992. This legislation will create an advanced research fuel efficiency agreement between the Federal Government and U.S. car manufacturers. Through this agreement, the best research and development assets of the U.S. Government and private industry will be used to develop the most advanced fuel efficiency technology possible.

Under this act, the Federal Government and the auto manufacturers will research and develop new and innovative technology to enhance the fuel efficiency of vehicles through cooperative multi-industrial teams, cost-sharing and other activities considered appropriate by the Secretary of Energy.

This is the same language that was accepted unanimously during consideration of the National Energy Security Act of 1992 but was later vitiated because of the objections of one Member.

As many Members know, Congress passed legislation in 1974 requiring U.S. automakers to make large increases in their new car fleet corporate average fuel economy standards. Since that time, the U.S. automakers have almost doubled their CAFE averages from 14 to about 28 miles per gallon. But, the lowest fruit has been picked and now the job gets much more difficult.

Some of these gains in fuel efficiency has been due to the development of new technologies by automakers. However, most of the improvement has come from vehicle downsizing. Since 1974, the weight of the average car has been reduced by 1,000 pounds.

Bills now pending in the Senate, such as S. 279, would mandate a 40-percent increase in each manufacturer's CAFE by 2001—up to 45 miles per gallon for cars and 35 miles per gallon for light trucks, vans and multipurpose vehicles. Proponents argue that such CAFE increases are possible without further downsizing.

As I have said many times before, steep CAFE increases would force automakers to build substantially smaller and lighter vehicles because there simply are no magic technologies that can meet the proposed fleet averages in bills now pending in Congress. With this act, we will make a real investment to develop the technology needed to increase fuel-efficiency without destroying the long-term viability of the U.S. auto industry. This amendment will allow the U.S. companies and the Federal to work together to develop the most fuel efficient cars in the world.

Obviously, if this technology was available now, it would have appeared in countries like Japan and West Germany which are totally dependent on foreign oil, and where the price of gasoline has historically been three to four times higher than in the United States. But, in fact, the new car fleet fuel economy in Japan and West Germany is in the same range as in this country—27 to 31 miles per gallon.

Without this technology, higher CAFE standards would put manufacturers in conflict with consumers. Because automakers would have to further reduce the size and weight of their vehicles and limit their production of larger models, most consumers would be limited to a choice of minicompact, subcompact and compact cars which may not meet their needs. Cars are available today in the 40 to 50 miles per gallon range, but they only appeal to 2 percent of car buyers. Auto-makers also would have to scale back or eliminate production of full and midsize vans and pickup trucks—the backbone of small businesses and farms as work vehicles.

Forcing automakers to produce and sell a mix of substantially smaller vehicles that do not meet the needs of most consumers would cause further declines in vehicle production, which could jeopardize tens of thousands of jobs at assembly and supplier plants, dealerships, and other industry related businesses.

Sharp reductions in the size and weight of cars and light trucks would increase the safety risks to motorists. Studies by the National Highway Traffic Safety Administration, Insurance Institute for Highway Safety, and the New England Injury Prevention Research Center all warn that a fleet dominated by small cars would lead to major increases in highway deaths and injuries.

Increasing fuel efficiency and developing alternative fuels to reduce our dependence on foreign oil is certainly an important national policy goal. Further fuel economy improvements will be made as vehicle manufacturers continue to broaden the application of known fuel efficiency technologies across their model offerings, and continue their efforts to develop vehicles powered by fuels other than gasoline. This joint Government and private sector effort to foster new technology makes sense as part of a national strategy to work with market forces to conserve energy and lessen the potential of global climate change.

The agreement's charge will be multifaceted. First, the consortium will develop materials and manufacturing techniques for advanced lightweight structural components for vehicles.

The agreement will encourage development of ancillary systems, including air-conditioning, heating, lighting, and windows that reduce the energy requirements of vehicles that have less adverse environmental impact than systems currently in use.

The agreement should spur development of a systems trade-off design for both electric, hybrid electric, and gasoline powered vehicles, including propulsion systems integration, heat engine types and sizes, battery and engine interfaces, control system requirements, and electrical component requirements.

The research and development should accelerate the evaluation of the feasibility of, the development of, and the integration into vehicles of advanced propulsion systems, including the automotive gas turbine engine and fuel cells. Additionally, the agreement should initiate a ceramic technology insertion program for near-term application in current engine designs in order to improve fuel efficiency and reduce vehicle emissions.

Under this act, the agreement will result in an advanced catalyst development program to consider new materials developments and alternative fuels utilization. Additionally, the amendment contains a section that ensures the activities of the agreement supplement current fuel efficiency research and development while not duplicating, displacing or reducing the amount of research of the big three auto makers.

Total funding for this agreement is set at $350 million for 3 years. The Federal share shall be 50 percent. It is a start of what hopefully will be a long relationship between the U.S. auto makers and the Federal Government's best laboratories.•

• Mr. COATS. Mr. President, I rise in strong support of the Advanced Fuel Efficiency Research Agreement Act, introduced today by my colleague, Senator RIEGLE. The bill will allow the Federal Government and U.S. auto manufacturers to enter a joint compact to develop technology that will create better automobile fuel efficiency.

Since the original corporate average fuel economy [CAFE] law passed in 1974, U.S. automakers have doubled their fuel efficiency. Although some gains were achieved through the development of new technology, most increases came from vehicle downsizing. Since 1974, the weight of the average car has been reduced by a quarter—some 1,000 pounds.

This bill is introduced today with the prospect of an attempt to radically raise CAFE standards looming on the horizon—despite the fact that no magic technologies exist to provide for such an increase. It may surprise some, but not even Congress can limitlessly command technological improvements.

Reaching any new level of fuel economy will once again require substantial reductions in both the weight and size of vehicles. The big three would be forced to limit production of many large automobiles, as well as scale back production of full and midsize vans and pick up trucks so crucial to farmers and small businesses.

Significant size reductions will limit consumer choices. The big three produce vehicles today that obtain over 40 miles per gallon. However, these vehicles represent less than 3 percent of U.S. sales. Such vehicles do not meet the needs of most customers.

In addition, smaller cars will severely limit transportation options for many Americans with specific needs. Senior citizens uncomfortable with smaller vehicles will be forced to make significant sacrifices, as will large families, church and charitable organizations needing midsize cars or vans, and car pool and van pool organizers.

If we force automakers to produce and sell a substantially smaller mix of vehicles that do not meet consumers demands, there will likely be further declines in vehicle production which will jeopardize tens of thousands of auto-related jobs.

Yesterday, General Motors, the world's largest auto maker, announced it will close a dozen plants around the country—a decision expected to effect over 16,000 workers. The announcement came as General Motors reported net losses of $4.5 billion for 1991. Clearly, at this critical time for our auto industry, the last thing Congress needs to do is add to the burden.

My own State of Indiana is third in the Nation in auto employment; 57,000 Hoosiers rely on the auto industry for their livelihood. Let me remind my colleagues that one in every seven jobs in the United States is tied to the motor vehicle or related industries.

We clearly need to increase fuel efficiency but we cannot achieve this through radical Government mandates. Instead, we need to concentrate our efforts on finding new technologies to increase fuel efficiency without significantly downsizing automobiles once again. Congress can help towards this goal, and the bill we introduce puts us on the right path.

First, the joint effort will help develop materials and manufacturing techniques for advanced light-weight structural components for vehicles.

Second, the agreement will encourage development of more energy efficient, environmentally responsible systems, including air conditioning, heating, lighting and windows.

Third, the agreement should spur development of a systems trade-off design for both electric, hybrid electric, and gasoline powered vehicles. Propulsion systems integration, heat engine types and sizes, battery and engine interfaces, control system requirements, and electrical component requirements are among the innovations meriting further investigation.

Fourth, research and development should speed the evaluation and help with the development of advanced propulsion systems. The agreement would also focus on near-term application of a ceramic technology insertion program.

This bill will supplement the extensive fuel efficiency research already underway by U.S. automakers. It will in no way duplicate or displace the research that has already been conducted.

I hope our colleagues will join us in this investment in the future of our auto industry.•

By Mr. KASTEN (for himself, Mr. DOLE, Mr. BUMPERS, Mr. THURMOND, Mr. COATS, Mr. PRESSLER, Mr. DASCHLE, Mr. BURNS, Mr. COCHRAN, Mr. D'AMATO, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. GARN, Mr. GRASSLEY, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MURKOWSKI, Mr. PRYOR, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. SEYMOUR, Mr. SHELBY, Mr. STEVENS, Mr. REID, Mr. ROTH, Mr. DOMENICI, and Mr. WALLOP):

S.J. Res. 262. Joint resolution designating July 4, 1992, as "Buy American Day"; to the Committee on the Judiciary.

BUY AMERICAN DAY

• Mr. KASTEN. Mr. President, I rise today along with 32 of my Senate colleagues to introduce a resolution that would designate July 4, 1992, as "Buy American Day."

I think it's important to recognize that America's workers and businesses—particularly small businesses—produce some of the best products in the world.

Our entrepreneurs are the most creative and ingenious in the world. They are constantly pushing the limits of imagination to create new products and services. Americans are taking the lead in a number of areas. Electronics is a good example.

With new inventions, we are dominating the markets for microprocessors, medical instruments, and telecommunications equipment. These are just a few of the many cases where new ideas are putting us ahead.

When it comes to developing new products, America is second to none.

A Japanese official said our workers are "lazy and uninspired." I think he's dead wrong.

Our workers are one of America's most valuable economic resources. They lead the world in productivity. The average productivity of the American worker is 25 percent higher than their Japanese counterpart. This has helped our Nation's manufacturing productivity rise at an annual rate of 3.5 percent in recent years.

More importantly, American workers provide the pride of craftsmanship that has helped put America on top.

This dedication to hard work and excellence has resulted in a tremendous abundance of quality American goods which benefit consumers all over the world.

Over the past 6 years our Nation's exports have expanded by 91 percent, which is more than three times the growth rate of Germany's exports and six times Japan's exporting growth rate. This has increased America's share of the world market and positioned us to become the world's largest exporter.

Mr. President, this Buy American Day resolution is not a call for protectionism. Rather, it's a call for Americans—and people all over the world—to recognize the accomplishments of our workers and businesses.

It's also a call to foreign companies who locate here in America to buy American goods and services—whether it's auto parts, machine tools, or financial services. If a foreign-based company sets up shop and sells products here in America, then it ought to give U.S. suppliers a fair chance.

Mr. President, this resolution designates July 4, 1992, as Buy American Day. As we celebrate Independence Day, I think its appropriate for us to also commemorate America's workers and businesses through the purchase of American-made goods and services.

I ask unanimous consent that an article by Mr. Lawrence B. Lindsey entitled "America's Growing Economic Lead" be entered in the RECORD immediately following my remarks:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 7, 1992]

AMERICA'S GROWING ECONOMIC LEAD

(By Lawrence B. Lindsey)

Two leading Japanese politicians, Prime Minister Kiichi Miyazawa and Speaker of the House Yoshio Sakurauchi have caused a firestorm by questioning the quality and work ethic of America's workers and this country's ability to compete in the world. But doubts about America are not confined to foreigners. Not too long ago, some American leaders warned that the country is at risk of a future of flipping hamburgers and sweeping up around Japanese computers.

Fortunately, the evidence is strong that those who are bearish about America's future are wrong about both the past and the future. But the pessimism about America is so widespread that talk of protectionism and a retreat from active involvement in international economic and political affairs is again fashionable. The facts suggest that those seeking a truly effective industrial policy should actually favor active American promotion of rapid world-wide economic growth in the context of free trade.

GROWING ADVANTAGE

Research by Andrew Warner of Harvard University and the Federal Reserve shows that, contrary to popular belief, America's advantage is in the production of high-technology capital goods, and that this advantage has been growing. A key reason for the recent boom in exports has been the rapid rise of world-wide spending on capital goods.

INDUSTRIAL GIANT

Back in the late 1960s, when by all accounts the U.S. was the world's industrial giant, manufacturing amounted to about 22% of real gross domestic product. Much of this manufacturing went into defense and the production of consumer goods from shirts to automobiles. Only 28% of the manufacturing base was devoted to capital goods such as computers, aircraft and industrial machinery, and only 20% of American capital goods were exported. The total value of U.S. capital-goods exports was just 1.4% of GDP.

Today, when some assert that the U.S. has lost its manufacturing base, manufacturing output has risen to 23% of real GDP. The share of the manufacturing base devoted to capital goods has risen to 38%. This capital-goods boom has been made possible by exports: About 45% of capital goods output is now sold abroad, more than double the proportion of the late 1960s. Capital-goods exports now amount to 4% of GDP.

Contrary to the pessimists' view, a major part of this improvement occurred during the 1980s, and particularly the late 1980s. During the 1980s, the growth in real exports amounted to one-fifth of the real growth of the economy. Inflation-adjusted growth in exports of capital goods out-paced overall growth by better than two to one. Since 1986, the story is even more striking. Nearly half of America's real economic growth over the past five years has been in exports.

Also contrary to the pessimists' claims, U.S. exports have become less based on farm and other primary goods and more focused on high technology. Capital equipment has risen to 41% of U.S. exports from 30% in the late 1960s, largely as a result of the world-wide investment boom: As other countries develop their economies, they purchase increasing amounts of American-made machines, computers and airplanes.

During the past two decades, the investment share of world product has risen to 26% from 22%. In dollar terms, gross world investment outside the U.S. in 1992 will be roughly $5 trillion.

We should hope that this process continues, not only for humanitarian reasons, but also to benefit the American economy. Each 1% in world investment spending produces a 1.5% increase in exports of capital goods, and almost a full point increase in total merchandise exports. Strikingly, not only does the relationship between world-wide investment and U.S. exports pass traditional statistical tests easily, the relationship stands up to a wide variety of mathematical and statistical specifications. In fact, the link between U.S. exports and world-wide investment shows some signs of having strengthened in recent years.

It is interesting to contrast the U.S. performance with that of Japan. There is no evidence of a statistical relationship between Japanese exports and world investment spending over the past quarter century. There does appear to be some improvement over time for Japan, although this improving trend does not pass statistical muster. Further, even at its highest, the sensitivity of Japanese exports to world-wide investment spending remained below America's.

One reason for the popularity of the pessimists' view is that America's strengths are not apparent in goods that consumers normally buy. To see them, one has to visit factories, construction sites and airport hangars—not your usual tourist stops.

The regional composition of investment also appears to be shifting in America's favor. Latin America as a whole and Mexico in particular are increasing their pace of investment. During 1989, the U.S. exported twice as many capital goods to Latin America as did Japan. The other area of potential investment in the years ahead is the former communist bloc, which could become a staggering source of future growth of U.S. capital goods exports.

The most urgent message of this analysis is that encouraging faster world-wide economic development might be the single most effective policy for promoting the growth of exports. The export-promotion policy that many suggest as an alternative to freer trade is a reduction in the exchange value of the dollar. This has three potential drawbacks. First, it's not clear that a country's monetary authorities can control the value of their currency. Second, if foreign-exchange markets perceive that devaluation is an intended policy of the U.S. government, interest rates in assets denominated in dollars might rise to offset the exchange-rate loss. Third, devaluation would reduce Americans' purchasing power and standard of living.

Recent history provides a good test of the relative efficacy of world-wide investment and exchange-rate depreciation. The late 1980s were a period not only of rapidly growing world-wide investment spending, but also of real dollar depreciation. During the five years following the Plaza Accord of 1985, the dollar fell 38% on a trade weighted basis. World-wide investment spending rose 38% over the same period. Over those five years, total U.S. merchandise exports rose $192 billion in inflation-adjusted terms. $106 billion of the additional merchandise exports, or 55%, was statistically associated with the rise of global investment.

COMMON-SENSE IDEAS

Let there be no mistake: Neither America nor any other country can expect to enjoy an economic free ride. Americans should continue their efforts to reform the nation's schools, increase the investment rate, encourage the natural entrepreneurship of the population and subject government spending and regulation to rigorous cost-benefit tests. But these are commonsense ideas that we would be well advised to undertake regardless of the international trading situation.

There may be some advantage in having Mr. Miyazawa and his countrymen think that America is in decline. It probably pays to be underestimated. But we would be foolish to underestimate ourselves. World economic trends are moving our way and we do not need to be protected from them. If anything, we need to reinforce them and to increase our exposure to them. The best industrial policy for America to pursue is active involvement in the world's affairs to promote global economic development and free trade.•

ADDITIONAL COSPONSORS

S. 55

At the request of Mr. METZENBAUM, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

S. 873

At the request of Mr. BOREN, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 873, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of interest income and rental expense in connection with safe harbor leases involving rural electric cooperatives.

S. 914

At the request of Mr. GLENN, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 1372

At the request of Mr. GORE, the names of the Senator from Alabama [Mr. SHELBY], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1451

At the request of Mr. BIDEN, the names of the Senator from Pennsylvania [Mr. WOFFORD] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1522

At the request of Mr. BOREN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment by cooperatives of gains or losses from sale of certain assets.

S. 1698

At the request of Mr. SARBANES, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 1698, a bill to establish a National Fallen Firefighters Foundation.

S. 1862

At the request of Mr. GRAHAM, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 1862, a bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

S. 1902

At the request of Mr. ADAMS, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1902, a bill to amend title IV of the Public Health Service Act to require certain review and recommendations concerning applications for assistance to perform research and to permit certain research concerning the transplantation of human fetal tissue for therapeutic purposes, and for other purposes.

S. 1989

At the request of Mr. ROCKEFELLER, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1989, a bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provision of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes.

S. 2204

At the request of Mr. DURENBERGER, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2204, a bill to amend title 23, United States Code, to repeal the provisions relating to penalties with respect to grants to States for safety belt and motorcycle helmet traffic safety programs.

S. 2205

At the request of Mr. LEAHY, the names of the Senator from Minnesota

[Mr. DURENBERGER] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2205, a bill to amend the Public Health Service Act to provide for the establishment or support by States of registries regarding cancer, to provide for a study regarding the elevated rate of mortality for breast cancer in certain States, and for other purposes.

S. 2232

At the request of Ms. MIKULSKI, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2232, a bill to make available to consumers certain information regarding automobiles.

S. 2250

At the request of Mr. SASSER, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2250, a bill to allow rational choice between defense and domestic discretionary spending.

S. 2254

At the request of Mr. MCCAIN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2254, a bill to provide tax incentives for businesses locating on Indian reservations, and for other purposes.

S. 2262

At the request of Mr. LEAHY, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 2262, a bill to make emergency supplemental appropriations to provide a short-term stimulus to promote job creation in rural areas of the United States, and for other purposes.

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Indiana [Mr. LUGAR], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 182

At the request of Mr. KASTEN, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Joint Resolution 182, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

SENATE JOINT RESOLUTION 222

At the request of Mr. DASCHLE, the names of the Senator from Nebraska [Mr. KERREY] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 222, a joint resolution to designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians."

SENATE JOINT RESOLUTION 233

At the request of Mr. WELLSTONE, his name was added as a cosponsor of Senate Joint Resolution 233, a joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week."

SENATE JOINT RESOLUTION 244

At the request of Mr. SIMPSON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 244, a joint resolution to recognize and honor the National Conference of Commissioners on Uniform State Laws on its centennial for its contribution to a strong federal system of government.

SENATE JOINT RESOLUTION 254

At the request of Mr. D'AMATO, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 254, a joint resolution commending the New York Stock Exchange on the occasion of its bicentennial.

At the request of Mr. BOND, his name was added as a cosponsor of Senate Joint Resolution 254, supra.

At the request of Mr. MOYNIHAN, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 254, supra.

SENATE JOINT RESOLUTION 255

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 255, a joint resolution to designate September 13, 1992 as "Commodore Barry Day."

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Kansas [Mr. DOLE], the Senator from New York [Mr. MOYNIHAN], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. PRESSLER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of Congress that the Commission on Broadcasting to the People's Republic of China should be appointed expeditiously, and make its recommendations and propose a plan to the administration and Congress no later than 365 days after enactment of the Foreign Relations Authorization Act for fiscal years 1992 and 1993 (P.L. 102–138).

SENATE RESOLUTION 249

At the request of Mr. D'AMATO, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Resolution 249, a resolution expressing the sense of the Senate that the United States should seek a final and conclusive account of the whereabouts and definitive fate of Raoul Wallenberg.

SENATE RESOLUTION 260

At the request of Mr. KASTEN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Resolution 260, a resolution opposing the taxation of cash buildup in life insurance annuities.

AMENDMENT NO. 1698

At the request of Mr. GRASSLEY his name was added as a cosponsor of amendment No. 1698 proposed to S. 479, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

SENATE CONCURRENT RESOLUTION 96—RELATIVE TO THE PERSECUTION OF ALBANIANS IN THE FORMER YUGOSLAVIA

Mr. PRESSLER submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 96

Whereas Kosova was constitutionally defined as a sovereign territory in the First National-Liberation Conference for Kosova on January 2, 1944, confirmed in the Constitution of the Socialist Federal Republic of Yugoslavia adopted in 1946;

Whereas the amended Yugoslav constitution of 1974 preserved the autonomous status of Kosova as one of the eight constituent units of the Yugoslav Federation;

Whereas efforts of the Government of Serbia to abolish the autonomous status of Kosova through an unlawful constitutional amendment on March 23, 1989, was done without the consent of the people of Kosova;

Whereas the elected Assembly of Kosova adopted a Declaration of Independence of Kosova on July 2, 1990, proclaimed the Republic of Kosova and adopted a constitution of the Republic of Kosova on September 7, 1990, based on principles of self-determination, equality and sovereignty;

Whereas a popular referendum was held in Kosova in September 1991, in which 87.01 percent of eligible voters participated and 99.87 percent of voters favored declaring Kosova independent of the Socialist Federal Republic of Yugoslavia;

Whereas the elected Government of Kosova functions as a government-in-exile because the Government of Serbia has forcibly prevented this freely-elected government the ability to function on the territory of Kosova;

Whereas the Government of Kosova has affirmed its commitment to observe internationally recognized obligations for the protection of human rights, including: the International Covenant of Civil and Political Rights; the International Covenant on Economic, Social, and Cultural Rights of the United Nations; the Final Act of the Conference on Security and Co-operation in Europe, the Charter of Paris for a new Europe and other documents of the Conference on Security and Cooperation in Europe relating to the Human Dimension, and the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms; including the protocols to that Convention;

Whereas the Government of Kosova has affirmed its willingness to accept and observe all commitments and obligations defined by the European Community as preconditions for the formal recognition of Yugoslav republics wishing to be recognized diplomatically as set forth in the Declaration on Yugoslavia adopted in the Extraordinary Ministerial Meeting of the European Community in Brussels on December 16, 1991;

Whereas at least 45 nations have extended diplomatic recognition to the Republics of Croatia and Slovenia.

Whereas the Government of Kosova has affirmed its support for the efforts of the United Nations and the European Community to resolve the continuing conflict between the Republics of Serbia and Croatia;

Whereas it has generally been the policy of the United States for over two centuries to recognize and extend full diplomatic relations to those nations whose people have freely expressed their sovereign wish for independence and recognition as a sovereign state;

Whereas the U.S. Congress has traditionally supported the rights of peoples to peaceful and democratic self-determination; and

Whereas pursuant to article VIII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development": Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United States—

(1) determines that Kosova has fulfilled criteria outlined for recognition of governments outlined by the United States;

(2) recognizes the independence of Kosova and should establish full diplomatic relations with Kosova;

(3) provide appropriate assistance, engage in trade, and take other steps to support the Government of Kosova and encourage the further development of democracy and a free market economic system;

(4) lead actively within appropriate United Nations and other international agencies to ensure removal of unwanted foreign forces from Kosova and an early end to martial law; and

(5) seek the inclusion of the Kosova question on the agenda of the United Nations Security Council, including a request for a factfinding mission to recommend observers of peacekeeping activities to restore peace and ensure a peaceful transition for an independent Kosova.

Mr. PRESSLER. Mr. President, today I am submitting a concurrent resolution to support Albanians in what I call the former Yugoslavia. Among other things, this resolution affirms the independence and calls for United States recognition of the Government of Kosova. It also calls for the United States to take the lead within the U.N. system to examine ways to remove unwanted occupation forces and end violations of human rights in Kosova. Ultimately this may require U.N. peacekeeping forces be deployed in Kosova.

In submitting this concurrent resolution I would be remiss if I did not commend the good efforts of Congressman Tom Lantos of California. Congressman Lantos has introduced a similar resolution in the House of Representatives—House Concurrent Resolution 224. He has been a leader in the cause of human rights since first coming to Congress and I am proud to join him in the effort to encourage the United States to recognize the independence of the Republic of Kosova.

Mr. President, an international presence in Kosova, not controlled by the regime in Belgrade, is almost certainly required to protect the Albanian majority from further persecution. They are the principal target of the Communist government in Belgrade.

Mr. President, this week marks the third shameful anniversary of Belgrade's declaration of martial law in Kosova. During these years, Albanians have been unable to use their language, they have lost their jobs, and they have been illegally detained—to cite just a few abuses. Even the limited rights Kosova's Albanians once enjoyed as a Republic of Yugoslavia have been stripped away. They have been forced to live as the chattel of the Belgrade bullies.

The Belgrade regime is experienced in crushing the hopes of citizens of the former Yugoslavia. In Kosova, it is determined to punish Albanians for the crime of asking for freedom and national rights, advocating independence from Yugoslavia and for seeking the possibility of republic status for Kosova or union with Albania.

Mr. President, Albanians in Kosova have decided to stand up to the Communist dictatorship in Belgrade and pave the way for democracy. In September 1991, the people of Kosova voted against confederation with Serbia and for independence despite attempts by the Central Government of Yugoslavia to suppress Kosova's referendum. Interference in this election was reported in the State Department's Human Rights Report for 1991.

Mr. President, I ask unanimous consent that a copy of the Summary of the State Department's Human Rights Report for 1991 on the former Yugoslavia be printed in the Record at the conclusion of my remarks.

The Government of Kosova has stated that it will abide by international covenants including the final act of the Conference on Security and Cooperation in Europe. The Government of Kosova has further stated that it will accept and observe all commitments and obligations defined by the European Community and the United States as preconditions for the formal recognition of republics of the former Yugoslavia.

Mr. President, the case for recognition of Kosova is simple. For centuries the United States has stood for the right of people to determine their own fate. The people of Kosova have expressed their desire for independence and freedom. We should support their declaration and do whatever is reasonable and prudent to help remove unwanted foreign forces from their territory.

Mr. President, the concurrent resolution I am submitting today urges possible stationing of U.N. peacekeepers in Kosova. If these forces are deployed in Croatia and Slovenia and not Kosova, the Belgrade authorities may redeploy military forces to crush Kosova the way they crushed Croatia.

In addition to this resolution, I am sending a letter to the Secretary General of the United Nations, Boutros-Ghali, to ask for deployment of peacekeeping forces to Kosova when the United Nations sends forces to Croatia and Slovenia.

Mr. President, the authorities in Belgrade have targeted Kosova because they think they can get away with it. They have seen America's refusal to recognize Croatia and Slovenia's Governments. This resolution will let the Albanians in Kosova know that the United States will not ignore their plight.

I urge my colleagues to cosponsor this concurrent resolution.

There being no objection, the material was ordered to be printed in the Record, as follows:

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1991

YUGOSLAVIA

The Yugoslavia of 1991 bears little resemblance to the one established by the 1974 Constitution that set up a Federal State comprising six republics (with two autonomous regions in the republic of Serbia) and a collective Federal Presidency as the supreme state organ. Effective civilian federal authority collapsed in 1991 as the republics and various independence movements decisively rejected that authority and escalating ethnic animosities propelled the country into a vicious armed conflict.

The Federal Government's attempts to introduce multiparty elections at the federal level and to advance economic reforms were blocked by republic governments. Several republics adopted legislation and new constitutions that gave primacy to republic-level rather than to federal laws and routinely ignored federal legislation. Blocked by Serbia in their attempts to restructure Yugoslavia as a loose confederation, the republics of Croatia and Slovenia on June 25 declared complete independence and sought international recognition. In walking out of the Federal Assembly (legislature), they effectively denied it a quorum. In October Serbia and its allies in the Federal Presidency assumed the right to act in the name of the Presidency and to take over the Federal Assembly's authority. Federal Prime Minister Markovic, a Croat, lost effective power and finally resigned in December after Serbian-dominated rump federal institutions sought his ouster. In December Stripe Mesic, the President of the Federal Presidency and a Croat, resigned his office.

The breakdown of federal authority seriously compromised the principle of federal civilian control over the Yugoslavia National Army (JNA) which, along with elements of other security and police forces, technically remained under federal civilian jurisdiction in 1991. After its nominal commander in Chief, the collective Federal Presidency, became paralyzed, the JNA allied itself squarely with Serbian politicians in the armed conflict with Croatia.

The size and activities of other military, paramilitary, and police units increased dramatically in 1991, including those of the Croatian army and the irregular units organized by Serbian resident of Croatia. The outbreak of fighting between these groups and the aggressive role of the JNA in support of these Serbs led to many civilian casualties, the displacement of hundreds of thousands of persons from the war-torn areas, and widespread brutality and disregard of the Geneva Conventions and other international norms.

In the economy, the workers' self-management system, which purported to enable workers to run their own enterprises through elected workers' councils, is being phased out. The Federal Government's economic reform program, aimed at converting to a market system and encouraging private enterprise, started promisingly in 1990 but collapsed under high inflation, plummeting production, and growing unemployment that were aggravated by the fracturing of the economy along republic and ethnic lines. The National Bank of Yugoslavia resorted to printing money and extending large credits to the Federal Government to finance its growing expenditures, primarily to support the military.

Respect for human rights deteriorated drastically in the deepening political crisis and the breakdown of civil order. Extreme interrepublic and ethnic animosities and the spread of armed conflict undid 1990's promising advances in human rights and brought about serious new human rights violations. The armed conflict claimed thousands of lives by year's end, including those of many civilian noncombatants. In the areas most affected by the fighting, there were widespread and credible reports of atrocities, including the massacre of villagers, the killing of prisoners, the use of human shields, and the taking of hostages. Such behavior was rarely punished. Croats and Serbs both fled areas of Croatia that came under the control of the other ethnic group.

In the autonomous province of Kosova, Serbian authorities intensified repressive measures against the majority Albanian population, eliminating virtually all Albanian-language schooling. They arrested and beat hundreds of Albanians on trumped-up charges and suppressed the Albanian community's attempt to organize a referendum on Kosova's future. In March Serbian police and army troops in Belgrade used force to repress large-scale opposition demonstrations to demand the Serbian government's ouster, resulting in two deaths and hundreds of injuries.

AMENDMENTS SUBMITTED

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION

BIDEN (AND BROWN) AMENDMENT NO. 1699

Mr. BIDEN (for himself and Mr. BROWN) proposed an amendment to the bill S. 479) to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States, as follows:

On page 10, strike lines 12 through 22 and insert the following:

"SEC. 7. (a) IN GENERAL.—Section 4 of this Act applies to a joint venture for production only if the joint venture—

"(1) provides substantial benefits to the United States economy including, but not limited to, increased skilled job opportunities in the United States, investments in long-term production facilities in the United States, participation of United States entities in the joint venture, or the ability of the United States entities to access and commercialize technological innovations or to realize production efficiencies; and

"(2)(A) whose principal facilities for the production of a product, process, or service are located within the United States or its territories; or

"(B) whose principal facilities for the production of a product, process, or service are located within a country whose antitrust law accords national treatment to United States entities that are parties to joint ventures for production.

"(b) MEANING OF NATIONAL TREATMENT.—For the purposes of this section, a foreign country accords national treatment to United States entities that are parties to joint ventures for production if it accords treatment no less favorable with respect to the application of its antitrust laws to United States participants in joint ventures for production than would be accorded to its domestic participants in joint ventures for production in like circumstances.

LEAHY (AND OTHERS) AMENDMENT NO. 1700

Mr. LEAHY (for himself, Mr. THURMOND, and Mr. METZENBAUM) proposed an amendment to the bill S. 479, supra, as follows:

On page 5, line 15, strike "1991" and insert "1992".

On page 7, line 24, strike "and" and insert "or".

On page 8, line 3, strike "and".

On page 8, strike lines 5 and 6 and insert the following:

(C) in paragraph (2)—

(i) by striking "production or" each place it appears; and

(ii) by striking "other than the marketing of proprietary information developed through such venture, such as patents and trade secrets, and" and inserting the following: "other than—

"(A) the marketing of proprietary information, such as patents and trade secrets, developed through such venture formed before enactment of the National Cooperative Research Act Extension of 1991, or

"(B) the licensing, conveying, or transferring of intellectual property, such as patents and trade secrets, developed through such venture formed after enactment of the National Cooperative Research Act Extension of 1991, and"; and

On page 11, line 15, insert "and the Federal Trade Commission" after "the Department of Justice".

SAN ANTONIO DRUG SUMMIT

BIDEN AMENDMENT NO. 1701

Mr. MITCHELL (for Mr. BIDEN) proposed an amendment to the joint resolution (H.J. Res. 414) regarding the San Antonio Drug Summit, as follows:

At the appropriate place, add the following: "Whereas, there is more cocaine than ever coming out of the Andes, we should redouble our efforts to reduce the influx of drugs.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, March 19, 1992, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 684, a bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 244-9863.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, February 27, 1992, to hold a hearing on Current Trends in Money Laundering.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 27, at 2:30 p.m. to hold a hearing on the crisis in East Timor and United States policy toward Indonesia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, February 27, 1992, at 2 p.m., to receive testimony on managing the defense builddown.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on the veterans programs budget for fiscal year 1993 on February 27, 1992, at 9:30 a.m. in room 418 of the Russell Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 27, 10 a.m. to hold a hearing on strategic nuclear reductions in a post-cold-war world.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on February 27, 1992, beginning at 2:30 p.m., in 485 Russell Senate Office Building, continuation on the President's Budget for fiscal year 1993 for Indian Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on February 27, 1992, at 10 a.m. on indications of global warming and solar variability.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study, be authorized to meet during the session of the Senate on February 27, 1992, at 2 p.m. on H.R. 1297, the Clean Vessel Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

READ ME DAY

• Mr. GORE. Mr. President, I rise today to recognize a very special day for students at East Hickman School in Lyles, TN. On Friday, April 24, 1992, these students celebrate "Read Me Day," the final event in a month-long program to promote reading by students. I would like to congratulate the students, teachers, parents, and everyone who participates in this wonderful program.

"Read Me Day" emphasizes the importance of reading in all aspects of our lives. The teachers at East Hickman school have developed a multidisciplinary teaching approach that reinforces reading and learning skills. The month long program incorporates many creative and imaginative activities to engage and challenge students. There are letter writing contests, poster contests and guest readers who share their favorite stories and poems with the students. The centerpiece of this program is the involvement of students, teachers, parents and members of the community to promote reading.

Since it began in 1986, "Read Me Day" has developed and grown a great deal. Today many schools across Tennessee are celebrating "Read Me Day" and developing programs for their students. I want to again congratulate everyone involved in this "Read Me Day" at East Hickman School in Lyles, TN.•

AMERICAN TAEKWONDO ASSOCIATION

• Mr. BOND. Mr. President, I rise today to pay tribute to the American Taekwondo Association.

The President's Council on Physical Fitness and Sports has selected American Taekwondo Association as one of the 55 fitness-sports activities in the Presidential Sports Award Program. The American Taekwondo Association has a membership of over 125,000 students and over 2,100 nationally certified instructors in over 600 schools and clubs in the United States, 13 of which are in the State of Missouri.

The American Taekwondo Association promotes courtesy, loyalty, respect, perseverence, honor, integrity, and self-control, as its credo. Furthermore, the universal appeal of the martial arts as a method of physical fitness transcends all barriers of age, race or sex. The youngest ATA black belt is 6 years old and the oldest is 76 years of age.

Missouri is the proud host for four annual American Taekwondo Regional Tournaments, held in Jefferson City, Rolla, Springfield, and Columbia. At these tournaments points can be accumulated toward a national or world championship title. These events bring numerous competitors, spectators and ATA dignitaries into the State of Missouri.

Mr. President, I commend all the American Taekwondo Association competitors for their hard work and dedication. And I would like to ask my distinguished colleagues to join me in recognizing March 22, 1992, as American Taekwondo Association Day.•

PUBLIC UTILITY HOLDING COMPANY ACT

• Mr. RIEGLE. Mr. President, on February 18, I placed a list of those people or groups who have sent me letters stating their support for reform of the Public Utility Holding Company Act and/or the amendment I offered regarding PUHCA reform. Since that time, I have received additional letters. For that reason, I would like to put in the RECORD a revised and corrected list of supporters of the amendment I offered and/or supporters of PUHCA reform generally.

The list follows:

MICHIGAN LETTERS

MAYORS

City of Detroit, Coleman A. Young, Mayor.

City of Eaton Rapids, MI, Larry L. Holley, Mayor.

City of Dowagiac, MI, James E. Burke, Mayor.

City of Hillsdale, MI, Nicholas L. Ferro II, Mayor.

City of Coldwater, MI, Louise Wallace, Mayor.

City of Hart, MI, Kalvin Klotz, Mayor.

City of Holland, MI, Neal Berghoef, Mayor.

CITY/VILLAGE MANAGERS

City of Saint Louis, MI, Larry A. Wernette, City Manager.

City of Harbor Springs, MI, Frederick W. Geuder, City Manager.

City of Marshall, MI, Chester E. Travis, City Manager.

Village of Chelsea, MI, Harry L. (Jack) Myers, Village Manager.

City of Coldwater, MI, William Stewart, City Manager.

City of Petoskey, MI, George Korthauer, City Manager.

Clinton Village Office—Clinton, MI, Kevin Cornish, Village Manager.

City of Portland, MI, Rex Wambaugh, City Manager.

MISCELLANEOUS CITY OFFICIALS: CLERKS/TREASURERS, ADMINISTRATORS, SUPERINTENDENT, COUNCILMEN, AND CONSULTANTS

City of Eaton Rapids, MI, Marietta White, City Clerk/Treasurer.

City of Marshall, MI, Terry Smith, Electrical Administrator.

Village of Union City, MI, James E. Spencer, Superintendent.

Union City, MI, Bradley C. Waite, Councilman.

City of Petoskey, MI, Frank McCune, Staff Consultant.

Village of Paw Paw, MI, Charles R. Cusamano, Clerk/Comptroller.

LARGE INDUSTRIES

Dow U.S.A., Dow Chemical, Midland, MI, W.S. Stavropoulos, President.

General Motors Corp., Detroit, MI (2/6/92), Gerhard Stein, Director of Energy.

UTILITIES IN MICHIGAN

Michigan South Central Power Agency, Litchfield, MI, J.P. Bierl, General Manager.

Wolverine Power—Cadillac, MI, Raymond G. Towne, Executive V.P. and General Manager.

Public Lighting Department, Detroit, MI, George Cascos, P.E., Deputy Superintendent.

Consumers Power, William T. McCormick, Jr., Chairman & CEO.

Mr. D. Wayne MacDonald, Utica Michigan, Consumers Power Area Manager.

Wisconsin Electric Power Company, Michael E. Nix—Washington D.C. Representative.

Wisconsin Public Power Inc. System, Sun Prairie, WI.

Michigan Public Power Agency, Kentwood, MI Gary L. Zimmerman, Jr.

Michigan Municipal Electric Association, Kentwood, MI, Gary L. Zimmerman, Jr.

Michigan Electric Cooperative Association, Lansing MI, Raymond G. Kuhl, Executive Vice President and General Manager.

Northern States Power Company, Elaine M. Ziemba—Executive Director, Federal Government Affairs, Jim Howard, Chairman and Chief Executive Officer.

MUNICIPALLY OWNED UTILITIES.

City of Niles, MI, Utilities Department (Board of Public Works), Brian B. Day, Manager.

City of Dowagiac, MI, Department of Public Services, Mel L. Lyons, Director.

The City of Traverse City, MI, Light and Power Department, Charles R. Fricke, Executive Director.

Grand Haven, MI, Board of Light and Power, Phil Trumpfheller, General Manager.

City of Charlevoix, MI, Edward Whitley, Electric & Water Superintendent.

Lansing Board of Water & Light, Lansing, MI, Joseph Pandy, Jr., General Manager.

City of Wyandotte, MI, Municipal Service Commission, Thomas A. Kuzmiak, President.

City of Wyandotte, MI, Department of Municipal Service, Ted S. Olszewski, Operations Officer.

Hillsdale, MI, Board of Public Utilities, Richard A. Kneen, President.

Hillsdale, MI, Board of Public Utilities, Ronald D. Neer, Vice Chairman, MSCPA, Director of Utilities.

Hillsdale, MI, Board of Public Utilities, David J. Lambert, CPA PC.

Coldwater, MI, Board of Public Utilities, Dwight Woodman, Director.

City of Zeeland, MI, Board of Public Utilities, David R. Walters, General Manager.

City of Marquette, MI, Board of Light and Power, David E. Hickey, Executive Director.

Bay City Electric Light & Power, Bay City, MI, Thomas L. Kasper, Director of Electric Utilities.

Kent County, MI, Board of Public Works, William R. Byl, Chairman.

City of South Haven, MI, Karl J. Dehn, Public Works Operations Manager.

Michigan Municipal Cooperative Group (MMCG), Joseph D. Wolfe, Chair, MMCG Steering Committee, Lansing, MI.

Board of Public Works, Holland, MI, Tim Morawski, P.E., General Manager.

COOPERATIVES

Presque Isle Electric Cooperative, Inc., Onaway, MI, A. Barkley Travis, Executive Vice President and General Manager.

Tri-County Electric Cooperative, Portland, MI, R.W. Matheny, General Manager.

O & A Electric Cooperative, Inc., Newaygo, MI, Robert L. Hance, General Manager.

Oceana Electric Cooperative, Hart, MI, Harry V. Ruth, General Manager.

The Western Michigan Electric Cooperative, James W. Stickney, General Manager.

Cherryland Electric Cooperative, Phillip C. Cole, General Manager.

Wolverine Power Supply Cooperative, Raymond G. Towne, Executive Vice President.

INDEPENDENT POWER PRODUCERS, CONSTITUENTS, SMALL BUSINESSES

Nordic Power, Inc.—Ann Arbor, MI, John A. Baardson, President.

Wolverine Worldwide, Inc., Rockford, MI, Mr. Harlan L. Schram, Corporate Energy Coordinator.

J.G. Northrup, Clark Lake, MI.

Coldwater Public Utilities customers' letters, E. Harold Munn, Jr., Charles Stearns, John Schroll, Walton Lane, David McKay, Stanley Reeder, Richard Straw, Julie M. Young, Steven Harris, and Sue Rubley.

Mr. Charles Downey, Okemos, MI, Mr. Paul N. Preketes, Rochester Hills, MI, Mr. Lawrence T. Schuster, Frankenmuth, MI, Mr. Phillip D. Flenner, PE, Mr. David T. Lathrop, Jackson, MI, Mr. John W. Hadder, Williamsburg, MI, Mr. James L. Fontaine, South Haven, MI, Jo Rand, Jackson, MI, Mr. Tim Kowaleski, Plymouth, MI, Mr. Brian K. Revels, Monroe, MI, DC Bishop, Mason, MI, and Mr. Jay P. Andreini, Kentwood, MI.

Also Ms. Karen A. McCarthy, Kentwood, MI, Mr. John Hutek, Sterling Hts. MI, Mr. Carl L. English, Jackson, MI, Mr. Tom Heikkinen, Jackson, MI, Mr. James M. Storey, Saginaw, MI, Mr. Douglas A. Buikema, Jenison, MI, Mr. Edgar L. Doss, Grand Rapids, MI, Mr. Gary Bultsma, Grand Rapids, MI, Mr. John G. Russell, Grand Rapids, MI, Mr. Timothy J. Pietryga, Kentwood, MI, Mr. Steven L. Ray, Rockford, MI, Mr. Steven Carrington, Grand Rapids, MI, Mr. Steven E. Schouten, Jenison, MI, and Mr. Charles B. Makus, Grandville, MI.

Also Terry W. Specker, Lansing, MI, Mr. Winston L. Lingar, Monroe, MI, Mr. Kelly M. Farr, Jackson, MI, Ms. M. Therese Bell, Grand Rapids, MI, Mr. Edward L. Thomas, Empire, MI, Ms. Jean M. Ewing, Traverse City, MI, Mr. Tom O'Masta, Rochester Hills, MI, Ms. Ann Marie Clark, Troy, MI, Mr. Kevin J. Keane, Flushing, MI, Mr. Roger D. Cody, Grand Rapids, MI and Ms. Patricia P. Parish, Williamston, MI.

LETTERS OF SUPPORT FROM OUTSIDE MICHIGAN

PUHCA Reform Coordinating Council, Washington, DC, L. Andrew Zausner, Coordinator.

Ad Hoc Committee for a Competitive Electric Supply System (ACCESS), Natural Gas Supply Association (NGSA), Electric Generation Association (EGA), National Independent Energy Producers (NIEP), Interstate Natural Gas Association of America (INGAA), and Utility Working Group (UWG).

Electricity Consumers Resource Council (ELCON), Washington DC, John A. Anderson, Executive Director.

Air Products and Chemicals, Airco Industrial Gases, Inc., American National Can Corp., Amoco Corp., Anheiser Busch Companies, Inc., Armco, Inc., Bethlehem Steel Corp., Cone Mills Corp., Dow Chemical, U.S.A., Eastman Chemical Co., E.I. Du Pont De Nemours & Co., FMC Corp., General Motors Corp., Hoechst Celanese Corp., LTV Steel Co., Owens Corning Fiberglas, A.E. Staley Manufacturing Co., The Timken Co., and Union Carbide Corp.

National Independent Energy Producers (NIEP), Washington DC, Steven D. Burton, General Counsel, Sithe/Energies Group, Chair, NIEP.

Ahlstrom Development Corp., American REF-FUEL, Bonneville Pacific Corp., CRSS Capital, Coastal Power Production Co., Cogen Technologies, Inc., Consolidated Hydro, Inc., Destec Energy, Inc., Duke Energy, Inc., Hadson Power Systems, Inc., Intercontinental Energy Corp., Sithe/Energy Group, U.S. Generating Company, Westmoreland Energy, Inc., and Wheelabrator Technologies, Inc.

American Iron and Steel Institute, Washington DC, Milton Deaner, President.

National Association of Regulatory Utility Commissioners (NARUC), Committee on Electricity, Washington DC, Ashley C. Brown, Chair, Committee on Electricity.

Chemical Manufacturers Association, Washington DC, Robert A. Roland, President.

Electric Generation Association (EGA), Washington DC, Carlos A. Riva, J. Makowski Associates, Inc. President.

ABB Energy Ventures, Inc., BHP-Utah International, Inc., BMc Strategies, Inc., Brown & Root Energy Development, Inc., Canadian Imperial Bank of Commerce, CMS Generation Company, CNG Energy Co., Cogentrix, Inc., Coopers & Lybrand, Diamond Energy, Inc., Dominion Resources, Inc., and Duke Energy Corp.

Also ENERGY Investors Management, Inc. Fru-Con Construction Corp., Gas Energy, Inc., HYDRA-CO Enterprises, Inc., LG&E Power Systems, Inc., J.Makowski Associates, Inc., Reading Energy Company, Source Cogeneration Company, Tenneco Independent Power Company, Texaco Cogeneration and Power Company, Thermo Electron, TransCanada PipeLines Limited, U.S. Generating Company, Zurn/NEPCO.

BHP-Utah International Inc., Washington DC (Member of EGA), Barbara W. Johnston, Washington Representative.

American Public Power Association (APPA), Washington DC, Larry Hobart, Executive Director.

Tenneco Gas, Washington DC (Member of EGA), Alex DeBoissiere, Washington Representative.

TransCanada PipeLines, Washington DC (Member of EGA) Leonard B. Levine, Director, U.S. Government Affairs.

Environmental Action, Takoma Park, Maryland.

Leon Lowery, Environmental Action, Dr. Mark Cooper, Consumer Federation of America, Sharon Newsome, National Wildlife Federation, Michael Marriotte, Nuclear Information and Resource Service, Marty Gelfand, Safe Energy Council, David Gardiner, The Sierra Club, Alden Meyer, Union of Concerned Scientists, David Hamilton, U.S. Public Interest Research Group, and Don Hellmann, The Wilderness Society.

Dominion Resources, Richmond, Virginia, Everard Munsey, Vice President, Public Policy.

Utility Working Group, Arlington, Virginia, Daniel V. Flanagan, Jr., Utility Working Group.

Arizona Public Service Company.

Baltimore Gas & Electric Company.

CMS Energy/Consumers Power.

Dominion Resources, Inc., Virginia Power.

Duke Power Company.

Energy Corporation, Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light, and New Orleans Public Service.

General Public Utilities Corporation, Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company.

Louisville Gas & Electric Company.

New England Electric System, Granite State Electric Co., Massachusetts Electric Co., Narragansett Electric Co., and New England Power Co.

Northern States Power Company, Northern States Power Company, Wisconsin.

Orange and Rockland Utilities, Inc.

Pacific Gas and Electric Co.

Portland Gas and Electric Co.

PSI Energy, Inc.

Sierra Pacific Power Company.

Alabama Municipal Electric Authority, Montgomery, Alabama, Robert W. Claussen, General Manager.

Riviera Utilities, Foley, Alabama, H. Sewell St. John, Jr., General Manager.

Public Service Commission of Yazoo City, Mississippi, R.D. Priest, Manager.

City of New Martinsville, West Virginia Municipal Electric Utility, William L. Drennen, Manager.

Cogen Technologies, Inc., Houston, Texas, Robert T. Sherman, Vice President.

Destec Energy, Inc., Houston, Texas, C.F. Goff, President.

Brown & Root Power, Houston, Texas, Richard L. Sitton, Vice President, Marketing & Strategy Planning.

J. Makowski Company, Inc., Boston, Massachusetts, John B. Howe, Director, Regulatory and Government Affairs.

Cogentrix, Inc., Charlotte, North Carolina, James E. Franklin, Sr. Vice President, Manager of Utility Marketing.

ElectriCities of North Carolina, Inc., North Carolina, Alice Garland, Director, Government Affairs.

Fru-Con Construction Corporation, Fru-Con Engineering, Inc., St. Louis, Missouri, Bradley Lambert, Vice President, Energy & Environmental Group.

City of Homestead, Florida, Alex Muxo, Jr., City Manager

Utility Board of the City of Key West, Florida, Robert R. Padron, General Manager.

Florida Municipal Power Agency, Orlando, Florida, John C. L'Engle, General Manager.

Fort Pierce Utilities Authority, Fort Pierce, Florida, Harry Schindehette, P.E., Director of Utilities.

City Utilities Commission, Corbin, Kentucky, George P. Rains, General Manager.

Frankfort Plant Board, Frankfort, Kentucky, Warner J. Caines, General Manager.

City of Bardstown, Kentucky, Charles J. Brauch, Mayor.

City of Falmouth, Falmouth, Kentucky, Dr. Peter Fullwood, Mayor.

City of Barbourville, Kentucky, Phillip E. Connley, Mayor.

National Steel Corp. Pittsburgh, Pennsylvania, Joseph Dudak, Director of Energy.•

OREGON'S ROLE IN THE OLYMPICS

• Mr. PACKWOOD. Mr. President, the Olympics. For most of us, those words conjure up images of super heroes, super athletes, the best of the best, the cream of the crop.

This year, Oregon was fortunate enough to have three young people participate in the winter Olympics. They were Tonya Harding, a figure skater from Portland; Monique Pelletier, an alpine skier from Hood River; and Richelle Reichsfeld, a speed skier from Welches, OR.

I do not for 1 minute believe that the United States could have had three better representatives at the Olympics, for reaching the Olympics is no easy thing to accomplish. These young people, through their own initiative and dedication—and usually with a great deal of help from their parents or guardians—chose to totally indulge themselves in a particular sport in order to become the best, and by becoming the best, earned a berth at the Olympic games. In order to achieve this, they make sacrifices like getting up 3 hours earlier than the rest of us so they can squeeze a few hours of practice in before school or work. They may put college or career on hold until after the Olympics. Some even live away from home for months at a time, if not longer. They suffer bumps and bruises and other more serious injuries, and make many, many other sacrifices, too numerous to mention here.

However, all of this must seem highly worthwhile when you are chosen for the Olympic team. Imagine the thrill when you find out that you have been selected to go to the Olympics to represent your country. Imagine the terror you must feel right before you step out on the ice rink, or ski down a steep, mogul-filled slope. The things that must go through these young people's minds, not to mention their parents or guardians and all the others who have helped them on their way. As they stand there, ready to perform in front of the world they must be thinking, "Well, this is it, am I good enough, can I win the gold?" In my mind, just by having reached the Olympics, they have already answered these questions, and the answer is a resounding, "yes."

Today I stand in awe of these young Oregonians and their dedication to their sport and their country, for they epitomize the spirit of the Olympics. They are the best of the best, the cream of the crop, they are Oregon's super heroes, and I salute their achievement.•

THE ANNIVERSARY OF THE INDEPENDENCE OF THE DOMINICAN REPUBLIC

• Mr. DODD. Mr. President, I rise to salute the proud people of the Dominican Republic who celebrate today the anniversary of that nation's independence. Today, on February 27, Dominicans throughout Connecticut and this Nation rejoice in the fierce determination and heroism of their forefathers, whose triumphant fight for freedom secured the sovereignty of their nation 148 years ago.

The history of the Dominican Republic is characterized by the efforts of its citizenry to achieve the dignity and self-government, of an independent nation and culture. Contiguous with Haiti, the Republic confronted years of pillaging and boundary skirmishes with its neighbor until Gen. Pedro Santana in 1844 became the nation's first President, finally enabling the tiny country to unify under one rule.

Internal discord, however, continued to plague the Republic whose economy could not keep pace with its newly won freedom. Patriots who believed that Spain, the nation of origin for many of its founding colonists, should resume control of the government, were at odds with those who believed that Republic's future would be more secure as a province of the United States. For a period of 2 years, from 1861 to 1863, the Dominican Republic became annexed to Spain. But, by popular vote in 1863, Dominicans overthrew the mantle of Spain's patronage, annulled the annexation and became, once and for all, an independent Republic.

Throughout the 20th century, the United States has enjoyed a cooperative and friendly relationship with the Dominican Republic. The nation's political and economic symbiosis has fostered a mutually enriching cultural exchange as well. I myself have benefited from the cultural exchange, Mr. President. I spent two of the finest years of my life as a Peace Corps volunteer in the Dominican Republic, in the tiny village of Moncion. I treasure the memories of that special place to this very day.

Today, on the 148th anniversary of Dominican independence, we celebrate the tireless struggle that shaped the course of history in our neighbor to the south. On this special day, I honor the Dominican Republic and Dominicans worldwide for their proud heritage.•

TRIBUTE TO GLEASON GLOVER

• Mr. DURENBERGER. Mr. President, it is my privilege to pay tribute to a very special person, Gleason Glover, who has devoted the past 25 years to the Urban League of Minneapolis.

On February 14, Gleason Glover left behind a legacy of work when he retired as president and CEO of the Urban League of Minneapolis. He launched many of the league's outstanding service programs, including Minnesota's first African-American alternative high school, the Street Academy, and summer employment programs, such as PASE. Gleason's range of concerns for inner city people encompassed more than just education and employment; he has shown concern for individuals, the persons behind the statistics. He has worked to meet people's needs by forming such programs as DAD [Decreasing Adult Dependency] and "After Today" Group Home which focus on strengthening family ties and mainstreaming misdirected juveniles into society.

Gleason Glover is a remarkable man. He has the courage to put his beliefs and values into practice during an uncertain time for our cities. But courage is not the only key to his success. Gleason's realistic view of problems help him keep matters in perspective. Knowing that our urban problems did not develop overnight, he understands that solutions are not going to come easily and readily.

The energy and vision which fuels this person's engine, will be immensely missed by the Minneapolis Urban League. He has served as the pillar of strength for the league. When he started in 1967, the Urban League had a staff of three and a half employees and an annual budget of $47,000. Since that time, the League's staff size has grown to over a 100, and the budget has increased to well over $3 million.

Gleason Glover's work has touched thousands of lives. As he said recently, "* * * once people tell you your problems you can't just let them go. You've go to deal with it." And deal with problems and people he has.•

COSPONSORSHIP OF S. 2250

• Mr. HATFIELD. Mr. President, I have joined with a number of my colleagues in cosponsoring S. 2250, which will amend the budget summit agreement and tear down the firewall between defense and nondefense domestic discretionary spending.

A great deal has happened in the world since that agreement was reached in the fall of 1990, and I believe it is time to reopen the debate on how to allocate our discretionary dollars to provide the greatest benefit to our Nation. Far too much of our Federal spending is not within our immediate control in the annual appropriations process; two-thirds of our spending is for mandatory programs. That makes it all the more important that we exercise extraordinary caution in allocating our discretionary resources, and not be bound by limits somewhat arbitrarily arrived at nearly 2 years ago.

Mr. President, I have always believed that our Nation's security depends as much on our education, our infrastructure, our health care programs, and our emerging technologies as much as it does upon our massive arsenal.

The President himself has opened this debate with a budget that proposes less for defense spending than he insisted upon in the Summit Agreement. The President allocates those savings to the deficit, while freezing funding for nondefense discretionary programs at current year levels. I believe our Nation might be better served if those savings, and others that may be realized as we proceed with the debate, are allocated to the nondefense discretionary programs that represent some of the best investments we can make.

The President has recognized this, too. While he proposes an overall freeze on nondefense domestic discretionary spending, he emphasizes within that total several programs, such as Head Start, that clearly yield great benefits. In other cases, such as the space station and the superconducting super collider, the benefit may not be so clearly perceived, but the point is that the President recognizes that increased spending in discretionary programs can be valuable.

Mr. President, I have held this view for a long time. As I was preparing for our Appropriations Committee hearings on the budget last week, I reviewed the record of the hearings I conducted as chairman in 1981. Eleven years ago, I was advocating the necessity for entitlement cost containment, reductions in defense spending, and increases for nondefense programs that benefit our Nation and our people. So I do not come to cosponsor this legislation as a recent convert, newly awakened by the speeches of recent days.

I have joined as a cosponsor of this legislation because these critical times require us to fully debate our national needs and how our Federal resources can address those needs to keep our future bright. Let us get on with it.•

IN PRAISE OF THE LIBRARY OF CONGRESS

• Mr. LIEBERMAN. Mr. President, the changes in the former Soviet Union seem, at times, overwhelming. What role the West should play in helping the people of the former Soviet Union make the transition to capitalism and democracy is a complicated question. That is why it is useful to have the advice of experts, as we decide what course of action to take.

I am submitting for the RECORD the statements of two of the most capable experts on the former Soviet Union for my colleagues' perusal. These two distinguished scholars work right down the street in the Library of Congress. They are the Librarian of Congress, Dr. James Billington, and Dr. John Hardt of the Congressional Research Service.

Their recent testimony before the Foreign Relations Committee offer us some very useful suggestions as to what we could do to help the people of the former Soviet Union. We are truly lucky to have them helping us with this most difficult issue.

The statements follow:

STATEMENT OF JAMES H. BILLINGTON, THE LIBRARIAN OF CONGRESS, BEFORE THE COMMITTEE ON FOREIGN RELATIONS

The changes in the former Soviet empire have been—as the President pointed out in his State of the Union address—of near biblical proportions; and the Secretary of State's recent travels have been near Homeric in sweep and serious in purpose. Yet our response as a nation so far has been hesitant in tone, trivial in content, and very nearly humiliating in its effects.

We are not even following the obvious course of national self-interest. We spent hundreds of billions of dollars in the long superpower confrontation because the government of the USSR was unaccountable to its people and posed three kinds of threats to us: (1) the special nuclear age threat of direct destruction by long-range missiles, (2) the geopolitical threat of dominating Eurasia, and (3) the ideological threat of broader global disruption through proxy powers and movements.

We have now seen the USSR liquidated—peacefully and at no cost to us—by a popularly-elected Russian government that has renounced all intention and most capability to threaten us in any of these ways. We face, however, a real danger that the nuclear and geopolitical threats could be revived by a rising authoritarian nationalism which could at any time overthrow Russia's fledgling democratic government and ignite the Balkanized tinderbox of the former USSR into a conflagration that could involve the Middle East and perhaps be impossible to contain.

Why, then, are we doing so little, so late to help Russia as it struggles to make irreversible the liberalizing changes we have always sought? Not, I believe, because our people are isolationist or our leaders indifferent, but because we simply have not yet understood what is happening in Russia and how important our response is for our own future leadership.

I believe that the unprecedented events of last August in Moscow represented not only the culmination of a transformation in Eastern Europe but also the harbinger of a new global politics for the 21st century—in which instant communications and broadened participation will make moral authority more important and the weapons and wiles of traditional *Realpolitik* less usable. But one need not agree with this hypothesis to recognize the simple fact that neither a 19th century balance of European powers nor a 20th century balance between two Northern Hemispheric superpowers will be able to guarantee peace in the multi-polar, multi-cultural world of the 21st century.

The new world began with the momentous events of August that broke up the last of the European empires into its multiple parts and created an adrenalin surge of pride and hope among the previously passive Russian people. On August 19 and 20, 1991, they formed an unarmed human wall in Moscow that successfully defended their first democratically elected government against an attempted putsch by the most ruthlessly effective political machine of the 20th century: the Leninist power structure of the Soviet Union. Suddenly, unexpectedly, and in the face of tanks, Russians overcame the old politics of fear reimposed from the top down for a new politics of hope improvised from the bottom up. The atheistic religion, repressive empire, and coercive economic system of Soviet Communism all faded away—thanks to raw, *Russian* courage in Moscow at a time when the leaders of other republics in Kiev, Minsk, Tbilisi, and Alma-Ata were still hedging their bets.

The August events in Moscow did not produce the traditional flames of a violent, secular revolution but rather the slow-burning inner fire of peaceful, spiritual change within individuals and small groups. The amazingly disparate group that spontaneously came together to defend Yeltsin's White House revived Russia's conscience, created a new political legitimacy, and, for a brief time at least, seemed to transcend the divisions within past reform movements: between Slavophile and Westernizer, Christian and Jew, elite intellectuals and ordinary workers.

Of course, such solidarity never lasts. Those sudden soaring summer hopes have predictably given way to a winter of discontent that makes the fledgling Russian democracy look in many ways like a weak Weimar Republic waiting for its Hitler.

But a situation that should sound an alarm calling for action has instead given rise to a fatalistic pessimism that ignores the depth of the human transformation that has taken place in Russia.

Preparations for a summit and measures to prevent the export of nuclear know-how from the USSR are commendable and necessary but not sufficient measures to deal with the dangers and opportunities that now exist.

Indeed, there may be a looming tragedy in our continued basic indifference towards a regime that is not just removing the greatest threat to America but attempting to install a basically American political and economic system. Presented with this peaceful transformation, we seem unable to mobilize even a small fraction of the aid we found for a Germany and Japan that fought us in bloody wars.

Our main excuse is that we have pressing economic problems at home and no money to give. We are right to work with others better off in these respects to provide more of the necessary financial and technical help. But we are still the richest of all in the food and pharmaceuticals that they need to get through this winter—and, most importantly, in the human resources to help with the human dimensions of their current crisis.

We are rationalizing our inactivity with the same essential argument that the putsch leaders used to justify their attempted takeover in August: Yeltsin is an inept leader; democracy is foredoomed in Russia; the economy is in free fall; and outsiders had better wait till the dust settles.

The most serious present problem for the Russians—their psychologically vulnerable human condition—is something that official America seems to understand the least, yet is in the best position to affect. Even more difficult for proud Russians than facing up to their economic and ethnic problems is accepting the internal humiliation of admitting to having lived a collective lie for three-quarters of a century. Boris Yeltsin has made that admission, tackled those material problems head on, and legitimized democratic and market ideals for ordinary Russians—three things that Gorbachev could never bring himself to do. Whatever the failings of Yeltsin and his program, there is no justification for treating him as an unworthy successor to Gorbachev—and now subjecting him to what could be the final humiliation of publicly begging abroad.

For what is at stake is not any individual leader but the political future of the entire young generation of Russian democratic reformers who have courageously begun the process of fundamental change and are now beginning to twist in the wind. They believe that U.S. policies helped force change in the 1980s and hope for U.S. leadership now. They see themselves as having accomplished a "great deed" (the Herculean *podvig* characteristic of saints as well as warriors in Old Russia.) They see us responding only with "little deeds" (the term *malye dela* is a particularly caustic Russian term of contempt). The partisans of a new putsch are regaining popularity by reviving the old Communist caricature that American talk about democracy is just the deceptive mask for a capitalist conspiracy to exploit, humiliate, and dismember Russia.

The social context of crippling inflation and a demoralized military makes anger more than hunger the greatest threat to a fragile democracy—and accounts for the increasingly violent and fascist tinge to the rising Russian nationalism. Clearly, if we wait till the dust settles, Russian democracy could be reduced to ashes, and the dust might turn radioactive and settle on us.

Of course, the current Russian commitment to democracy is not accompanied by any real historical experience or exposure to its institutions. And it is here that the West in general and the U.S.A. in particular have as yet unmobilized resources for sustaining hope and helping create new democratic institutions and market mechanisms in Russia and the other republics.

The Russians have produced in the past few years an amazing number of the kind of non-governmental associations that enable freedom to work in a large country: church parishes, political clubs and parties, economic cooperatives, cultural organizations, independent unions, advocacy groups, and the like.

What they especially need now is what America is uniquely equipped to give: (1) a continent-wide engagement of private and local organizations to establish direct links with counterpart organizations in the burgeoning civil society of the former USSR and (2) a crash program for bringing 50,000 Russians to the U.S.A. (if they promise to go back) for 4- to 6-week periods of living and working in the key institutions of a free society.

Such programs would link America with enduring forces of change that are working from the bottom up and are not dependent on leadership politics at the top. These activities could also be extended relatively easily to other former Soviet republics and former Communist states.

The adventure of engaging the American people as a whole with the Russian people as a whole would provide the recognition we have not yet given to both their achievement in August and their deepest continuing need. It is both more effective and less demeaning to bring Russians here and thus let them adapt our way to their needs rather than to send too many of our advisers over there.

Democratization was defeated in China because it had troops but no leaders. Russia now has leaders without troops—but the populace is thirsting for basic training in building a new type of society. We can help provide it if we begin bringing people from the Soviet Union in something like the thousands we were routinely bringing in every year from China up until the repression in Tiananmen Square. No major nationality in the modern world has had less exposure to America than the Russians.

We have a straightforward, practical need to launch a truly massive effort in this area because a democratic Russia is the best guarantee that the region will be stabilized, reform sustained, and missiles controlled. It is also a good investment because it would cost little now (almost nothing from the federal budget) and could yield vast results later—in facilitating access to what will surely be one of the great new markets of the early 21st century.

Authoritarianism under new banners seems likely unless larger numbers of Russians can gain some sense of how democratic and market institutions really work. We would then risk becoming (in a more visceral and dangerous sense than before) the external enemy—in part because we proved unwilling at a critical turning point in history to give more of ourselves to help others practice the ideals we had so long preached.

Our political will helped force the Soviets' internal changes in the 1980s; our model of an entrepreneurial democracy is what they are seeking to imitate in the 1990s; and our willingness to declare joint victory and celebrate our common humanity could provide a new kind of leadership for the 21st century.

The world is watching to see if the only surviving superpower has the magnanimity and imagination to act. If we do not seize the moment, America will have taken an inadvertent giant step towards becoming something it has never been before: a mere aggregation of selfish interests that is less than the sum of its parts. Far from providing moral leadership for an interdependent 21st century, we might even have to look back and wonder if we unwittingly have become what the Soviet Union was in the 20th century: A superpower only in the narrow military sense.

I believe that the American people need—and actually want—to give some kind of special bear hug to the Russians for ending the Cold War. Inviting them into our homes and work places during this period of reconciliation could help us rediscover the value of our own institutions even as it helps them develop theirs.

The White House would have to take the lead by appointing a very high-level leader to publicize and coordinate efforts already underway—and to mobilize a fresh nationwide campaign to link our thousand points of light with their thousand candles flickering in the wind. In so doing, the White House could point out that America offers fresh hope for the future in its valleys—and not just the recycled rhetoric of summits.

The Russians' unprecedented act of self-liberation requires some equally unprecedented form of recognition on our side if we are to sustain the moral authority that will be needed for leadership in the 21st century. And some form of bear hug may be a practical necessity for future peace. In some dark versions of Russian folklore, the savage bear was originally just an ordinary man. But, when he was denied the bread and salt of simple human hospitality by his neighbor, he retreated in humiliation to the forest and returned unexpectedly in a transformed state to take his revenge.

TESTIMONY BY JOHN P. HARDT[1]—CONGRESSIONAL RESEARCH SERVICE TO COMMITTEE ON FOREIGN RELATIONS

Highlights:

Economic performance in Russia is the worst since the World War II recovery period and promises to get worse. Reform measures to fight inflation have led to a fall of at least one half in average income since the aborted coup and the specter of large scale unemployment now looms ahead. If poor economic performance combines with political, social, and ethnic unrest an environment for another coup might emerge in April as winter stocks deplete, in June or in the Fall of 1992.

The Yeltsin-Gaidar program has the first valid opportunity for the necessary democratic and market and market transformation, free from constraints of the party, command economy, and police, more than any previous reform attempts. The able economic team is more committed to the type of reform required, judging from successful Western experience and acceptance by international organizations.

Even with full and appropriate commitment the Yeltsin-Gaidar program will not likely be successful without G-7 and international economic organization assistance, that is, substantial, timely and effective provision of materials (food, medicine), money, technical assistance and conditionality. For effective assistance significant dispersal and use of such aid critical by April. Delays escalate uncertainty and invite failure. Meaningful success indicators will be a stable ruble, secure and accessible food, and energy supplies, improvement in the quality of life (health, housing, environment), and access to foreign commerce through export earnings and creditworthiness.

Substantial foreign direct investment, especially in oil development, would positively support a well designed and externally supported reform program. Western investors will be there if there is an appropriate legal and regulatory framework in a successful reform process; investment could then be very profitable and generate Western exports and employment.

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[1] Associate Director and Senior Specialist in Soviet Economics at the Congressional Research Service, Library of Congress. Some personal observation from my trips on the House Trade Mission (August-September 1991), Joint Russian Foreign Ministry—Institute of National Strategic Studies, National Defense University delegation on Defense Industrial Conversion, (December 1991) and the U.S. Delegation to the European Parliament (Moscow, January 1992). The views herein are mine and not necessarily those of Delegation Chairman Sam Gibbons, other Members of Congress, the Congressional Research Service or the Executive branch. See *Report on Trade Mission to Europe and The Soviet Union*, October 21, 1991, Subcommittee on Trade of the Ways and Means Committee of the U.S. House of Representatives. See also Testimony to House Banking Committee, Subcommittee on International Development, Finance, Trade and Monetary Policies, February 5, 1992.

Without a better U.S. government-business support strategy we may not be competitive when contracting opens up in oil and other natural resources. Moreover, with better government support, the U.S. economy will benefit from jobs in the equipment and machinery export sector.

The independent sovereign successor states could benefit from the advantages of open competitive interrepublic trade. The international economic organizations and G–7 states may and should encourage both development of self determination and liberal economic environments. The danger of restrictive policies between Russia and the other states—especially the Ukraine—is evident. Too rapid transition in price liberalization would provide a very strong external shock to many new states, e.g., immediate raising of Russian oil to world prices.

Democratization requires consent of the governed, responsibility and participation of the parliament in economic policy. Yeltsin currently has emergency powers. A balance of consultation and oversight appears to have been struck so far. The choice should not be market now democracy later.

Timely assurance of a United States commitment to the Yeltsin program is critical but absent to date. Without U.S. commitment, the Russian program will not be timely, sufficient in volume, properly targeted or effectively coordinated. Moreover, the important role of the U.S. private sector will not be evident. Specifically the unique role United States could play would be to bring its influence on all major players to help assure Yeltsin's survival and success:

International economic organization membership, and programs could be more timely, conditioned on better economic and political conditionality, and more effectively coordinated.

U.S. targeted programs with private sector leadership could be more effective, facilitate more and better Western programs and provide more benefits to the United States through significantly decreased security threats, orderly reduction in defense allocations, increased commerce, jobs and profit.

The United States has a unique opportunity to effectively influence the programs of democratizated market development and expanded rule by law in Russia and the successor states. Without United States leadership and commitment, one of the best opportunities for development of democratic processes, private markets, and civil society in history may be lost.

Specifically, a cooperative partnership between the United States and Yeltsin's Russia could stimulate development in competitive markets and participatory democracy through direct private sector entrepreneurial activities fostering defense industrial conversion, improvement in the food and energy distribution systems and the quality of life (health, environment and housing). Such dynamic development could lead to renewal and reinvigoration of Russian society, a reduced threat environment, profit and jobs for the United States.

ECONOMIC PERFORMANCE AND PROSPECTS CREATE REGIME THREATENING CRISES

Economic performance in Russia is at its lowest point since the 1940-50s in terms of inflation, supplies of food, energy and all other commodities, balance of payments, debt position with the Western market economies, and the quality of life measures [health, housing, environment]. Public confidence in improvement is also very low. Moreover, the economic relations among the successor states to the Soviet Union, East and Central Europe have deteriorated and are largely on a barter basis. All the previous reform programs—some eight or nine under Gorbachev—led to declines in economic performance that preceded the current state of near collapse.[2]

The value and stability of the ruble has deteriorated throughout perestroika (1985-1991) and since the abortive coup of August 1991. Subsidies and wage inflation contributed to a budget deficit of 22 percent of GDP, inflation of 141 percent, the monetary overhang burgeoned as the printing presses ran ahead of plans and economic performance collapses.

Food, even with the record harvest of 1990 and especially with the average agriculture performance of 1991, has disappeared from many stores. Energy output plummeted and availability for domestic use and export was sharply restricted.

Health, environment and housing reached such crisis proportions so that some analysts used terms such as "ecocide", and "systemic homicide".

Extended debt burgeoned to unserviceable levels of close to $80 billion, exports plummeted with reduction of arms and oil sales. Russia and the successor states have no creditworthiness or liquidity necessary for normal commerce.

With the beginning of privatization and defense conversion the prospects of massive plant closings and unemployment could become a reality.

YELTSIN-GAIDAR ECONOMIC PROGRAM HAS THE NECESSARY SYSTEMIC PRECONDITIONS, APPROPRIATE MODEL AND QUALITY OF PROFESSIONAL STAFF TO HAVE THE BEST CHANCE FOR SUCCESS

Yeltsin told the public in his October 28, 1991 speech announcing the Yeltsin/Gaidar program (repeated in his January 16, 1992 speech) that the citizen's lot would get worse before it would get better but that by fall 1992 performance would improve and recovery would be underway. "Russia's gamble" may not succeed, but it is the best program to date, the best program for the current circumstances and has the best team of economists yet assembled to implement it. Moreover, Russia has valuable assets in resources and trained people that could be effectively utilized to improve overall performance and raise living standards. The analogy for the current program is a Chapter 11 bankruptcy; Russia is an enterprise with excellent assets but very poor management. Yeltsin/Gaidar have broken with, indeed largely destroyed, the old system [the Party is outlawed, the command economy structure has been eliminated, and the police regulation is being replaced by a rule of law].[3]

The program being developed is comprehensive and draws from experience of Central European countries and the unmatched success of the OECD countries. Success also requires simultaneity in implementation—not an easy but a necessary task. Gaidar and most Western professionals agree on the central requirements of a Russian economic program. As the program is in the process of full development one should stress the following necessary further developments:

Price liberalization should be accompanied by budget controls, economic stabilization including domestic convertibility, and an incomes policy, including wage control;

Privatization of trade, land, dwellings and large enterprises, including corporatization and restructuring prior to dispersal of assets, should proceed as soon as possible;

A legal and regulatory framework sufficient to discourage monopolies domestically and encourage investment from abroad must be established;

Defense industrial conversion to "quality of life" projects (housing, health, environment) and infrastructure, should accelerate and be effectively coordinated with the overall program so that income improvement may exceed cost of transitional unemployment;

A viable new Value Added Tax based tax system and effective tax collection should be implemented soon.

All of these should be in place and underway by March-April. This program could then be the basis of an IMF-World Bank-OECD-EBRD-EC accession process and assistance programs. The G–7 has eased the debt service burden by current agreement but could provide more relief by deferring interest as well as capital payments for a year or two. Gaidar's group indicates that they not only welcome conditionality but have invited the IMF to set up a supervisory team to assist and direct their central bank.

New legislation on foreign involvement provides legal protection for foreign investors—concession rights. If tax provisions can be kept favorable throughout the successor states, the door will be open for major direct foreign investment, e.g. in oil. The U.S. Energy Department-sponsored oil company meeting in Tyumen, West Siberia recently highlighted problems yet unresolved.

In this initial period the Russian citizens can expect to face "German prices with Indian wages" (some Russian estimates place income at one third the pre coup level) and uncertainty of food, energy and needed consumer goods supplies and employment. There appears to be, however, adequate food and energy in the system. With improved distribution and effective Western assistance extreme shortages during the winter can be avoided and available supplies should increase albeit at higher prices. While the defense conversion programs may either be a budget buster, or a creator of mass unemployment, or both, the "peace dividend" could lead to absorption of released defense assets in civilian programs and an increase in consumer income. If the program fails and the crisis deepens, the critical time for a new coup attempt probably is April 1992 as announced by some reactionary forces in the wings.

Yeltsin's popularity is still high according to respected pollster Tatyana Zaslavskaya. Yeltsin says he will stay the course on the Gaidar program. If he does, major Western assistance and investment may be expected, especially facilitating the monetary stabilization program and increasing oil output. There are no attractive alternatives. Russian equivocation is tantamount to capitulation to populism and would seriously worsen matters.

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[2] See Testimony of David Mulford, Undersecretary of Treasury, and John Williamson, Institute of International Economics to House Banking Subcommittee on International Development, February 5, 1992; "Russia's Economic Program", CRS Issue Brief, updated, February 14, 1992. John Hardt and Philip Kaiser; Donald Green, PlanEcon Report No. 9. December 9, 1991.

[3] S. Razin, "Ten Decrees that Shook the World." *Konsomolskaya Pravda*, November 9, 1991, p. 1. See *Current Digest of the Soviet Press*, Volume XLIII, No. 46, December 18, 1991 for English translation.

If the program goes forward with effective Western assistance and investment by Fall 1992, Yeltsin can say to Ivan Ivanovich "you are better off than before" because: the ruble is stabilizing, the opportunity to work is present, food supplies are more reliable, energy supplies are reliable, foreign economic relations are open, we are creditworthy and can import, quality of life is improving in health, housing and environment, relations with the common economic space of the successor states are moving toward the model of EC–1957.

While economic indications may be what economic policy makers look at, and positive results are necessary prerequisite of success, more than the measuring rod of money is needed. A sense of renewal must replace the feeling economic gloom, national insecurity and leadership incompetence and deception. Renewal may be measured by regeneration of natural treasures of environment, healthy people and families. The mighty engine of change that created a massive global military and police power must be turned to address the needs of people and help them fulfill their opportunities. In these qualitative areas are the sensitive indicators of effective change. These critical indicators would encourage the revolutionary to turn to a new form of democracy, morality and acceptance of market principles as pressed by Yeltsin since the coup. If the Yeltsin/Gaidar program is not successful then an unprecedented chance for democratic and market development may be lost, perhaps forever.[4]

Without Substantial, Timely, and Effective Provision of Western Assistance the Best of Domestic Programs is Unlikely to Meet the Critical Economic Performance Tests.

More food, medical and energy assistance targeted to key needs and leveraged to encourage reform (not another Winter aid program in 1993 of the same sort as this year) is needed.[5]

If *interest* payments on official debt can be deferred, by Russian estimates it would release over 9 billion dollars in the critical half year ahead for needed imports. The creditworthiness of the Russian and other successor states appears to be threatened under the present rules, but these rules are made by the G–7 countries in the Paris Club and could be modified.

Support for acceleration of IMF/World Bank programs with special attention to a stabilization fund and other IMF balance of payments loans for monetary stabilization, and targeted structural adjustment loans from the World Bank should be considered.[6]

Assistance is needed for further development of the democratic process, e.g., the Russian parliament, the elective process. Encourage Yeltsin to be patriotic not nationalistic or chauvinistic (following Russian sociologist Dimitri Likhachev), and avoid attempts to resurrect the Russian empire as "successor state".

The West could encourage cooperation among successor states on security, political and economic matters. A slower transition to world market price for oil would avoid a severe shock to the Ukrainian and other economies.

There appears to be a need for better coordination of Western assistance. A committee of expert advisors or overseers might be set up by the G–7 for continued oversight to elicit coordination, credibility, and both political and economic conditionality. This group might be headed by a former president of the World Bank and include several former prime ministers and ministers of finance from other G–7 countries. With a coordination role initially assumed by the IMF by virtue of its major initial role in monetary stabilization, a partnership with its Bretton Woods mate, the World Bank, might emerge as emphasis shifts to reconstruction and privatization. The coordinating capability of the World Bank might be enhanced by the presence of a former president heading a G–7 oversight or expert advisor group. Such a policy coordination group could provide leadership in developing political conditionality, and effective policy. A separate agency might be set up largely for information sharing, to report periodically to the G–7 or its policy coordination group.[7] These groups could provide continuity between summits and special meetings and might encourage accelerated membership, adoption of appropriate programs and early dispersal of funds.

EFFECTIVE DOMESTIC REFORM AND ADEQUATE WESTERN ASSISTANCE MAY ATTRACT SUBSTANTIAL FOREIGN INVESTMENT—PERHAPS THE CRITICAL MARGIN FOR ECONOMIC SUCCESS

The Western industrial nations' experience indicates that restructuring along the lines of the OECD model, if supported by a stable political consensus, is the only formula for developing a competitive economy capable of integrating into the global market and *attracting substantial foreign direct investment* in the near and long term. Rich, technically exploitable Russian, Kazakh, Ukrainian and other successor states' natural resources could be a special, early source of shared profits and substantial competitive exports that would attract significant investment if fundamental change were underway. Oil, gas, timber, and agriculture exports are specific areas of early potential.

In the oil field, production and exports have been falling precipitously, constraining growth and needed exports to Central Europe and the West for earning hard currency. Joint ventures or concessions as discussed with the multinationals would provide a legal and regulatory framework for gas and oil investments. The level could be in the tens of billions if favorable transformation and Western assistance programs are underway. Institutional and infrastructural development would facilitate favorable assessments of economic, commercial, and technical feasibility of contract and joint ventures. Of specific concern to the success of fundamental reform is the revival of oil exports—the major hard currency earner. A leading sector in foreign investment under favorable conditions would be oil and gas development. Implementation of several projects now under consideration—such as the development of Caspian oil fields in Azerbaijan by Amoco and in Kazakhstan by Chevron,[8] investment in the Yamal Peninsula in Arctic Wet Siberia by the European Community,[9] and cooperation on oil and gas with Japanese and South Korean entrepreneurs in East Siberia—could make energy an engine of growth for several of the republics and restore their ability to improve and revive their countries creditworthiness. But that will happen only if there is fundamental economic reform, including monetary stabilization, price liberalization, and privatization, and a political consensus between the Russian and the successor states. This would reinforce as well a continuation of "new thinking" in foreign policy, which could encompass arms agreements and cooperation in the Persian Gulf and elsewhere. Once these reforms are in place, supported and monitored by the G–7, there may even be a rush by energy multinationals and energy supply and service companies to get a piece of the action in the former Soviet Union.

If fundamental reform, new thinking, and other attributes of perestroika were common causes of Western governments and Russian and successor state leaderships, both sides would be more likely to intervene positively in order to foster commercial relations: commercial barriers such as tariffs, quotas, and restrictions would be reduced, credits and guarantees by governments would be expanded, a positive technology transfer policy might be adopted, and joint governmental-private commercial relations would tend to foster initiative and commerce. Trade agreements and treaties could be used to normalize those positive postures.

Foreign direct investment as a supplement to domestic investment may be a key to developing competitive markets in the successor states and integrating economies-in-transition into the global market. The major issues on controlling the flow of foreign direct investment have been the subject of several recent analyses of economies in transition, prepared by the OECD, the Group of Thirty, and the CSCE:

OECD REPORT

Drawing on country studies of Western industrial nations, an OECD model may be developed, with some general assessments and strategies that seem applicable to Russia and the successor states' domestic transformation. We also suggest an external liberal market model that would facilitate integration and provide for minimum dislocation from either collapse of traditional Eastern markets or commercial restrictions in Western Markets.[10]

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[4] Financial Times editorial, "Russia's Gamble, January 8, 1991.

[5] The fact sheet, *U.S. Assistance to the Former Soviet Union*, chronicles a coordinated effort—the two day western assistance meeting in Washington on January 23-24—that may go down in history as too little, too late, and insufficiently coordinated.

[6] An International Finance Corporation report stressing capital flight of over $14 Billion in 1991 is said to be pessimistic on the ability of its Bretton Wood partner organizations to launch Russian programs in 1991, *Financial Times*, February 13, 1992.

[7] Stanley Fisher "The West's Challenge: Coordinating Soviet Aid", *Economic Insight*, September/October 1991, pp. 2-5.

[8] Bill Hermann, Chief Economist, Chevron Corporation, at the American Foreign Service Association, (AFSA) Symposium on Oil and Foreign Affairs in the 1990s, Department of State, February 7, 1991 stated, "My experience with the Soviet oil industry goes back to the late 1970s, when the CIA was saying the Soviet Union would be a net *importer* of oil by 1985. My immediate response was, 'Gee, they know something we don't!' so our chief geologist and I sat down with their analysts, and after half a day, we concluded we were right and they were wrong. It turned out that was the case. We were optimistic then about Soviet oil production, and we still are—especially with respect to our Tenghiz project. We expect to sign an agreement on this soon—and if we do, we'll actually be producing oil within a few months after that, even though it's practically unheard of for any project in the oil industry to have that short a fuse between the signing of an agreement and production.

[9] John P. Hardt, European Regional Market: A Forgotten Key to Success of European Economies in Transition, CRS 91–113 RCO. John P. Hardt, Commercial Relations With the Soviet Union: Prospects for a Common United States-Japanese Policy, CRS 91–196 RCO. "Anglo-Soviet Group wins Gas Concession," *Financial Times*, August 12, 1991. John P. Hardt, Soviet Energy: an Engineer or a Brake on Commercial Relations in the 1990s? CRS Report 91–211 RCO, March, 1991. Joseph Riva, Russia and the Commonwealth of Independent States Oil Resources. CRS Report 92–78 SPR, January 16, 1992.

Sizable inflows of direct foreign investment are considered to be directly responsive to economic, institutional, and political factors that facilitate the creation of competitive markets. An international strategy for creation of competitive markets would require the following:

Establishment of the institution of private property.

A legal system to enhance economic efficiency and to specify and enforce property rights.

Regulatory reform to enhance microeconomic flexibility and economic efficiency.

Price liberalization and market formation of scarcity prices.

Liberalization of foreign economic relations and the establishment of convertibility.

A competitive capital market to efficiently allocate savings.

A labor market strategy to create a highly mobile labor force that can react to price signals.

Of development of the three Central European economies, the OECD assessment is that "foreign direct investment has not played the role anticipated for it. However, once the property rights question is clarified and enterprises and banks are reformed, the flood of foreign direct investment into these countries should be substantial."[11] This view could also apply to the successor states.

GROUP OF THIRTY ASSESSMENT

This major study relates the demand and supply of foreign investment and develops various responses to the sensitive issues of external financing and the transitional developments in Eastern Europe and its financial markets. As in the OECD model, emphasis is on comprehensive and simultaneous development of competitive markets with particular stress on rapid, fundamental change. The need for a congenial external environment is noted but not highlighted:

The countries of Eastern Europe have about two years—three, at the most—to make irrevocable changes in their economic systems. The reform process will undoubtedly last somewhat longer, but unless most of the fundamental reforms are in place early on, the whole process of transformation may be jeopardized and inflows of foreign capital inhibited. . . . Policy sequencing is potentially so problematic that it might be wise to press ahead as quickly as possible on several fronts. Consider, for example, the linkage between financial sector reform, monetary and credit policy, deregulation and privatization. . . . Although these interlocking conditions are complex and difficult to address, they should not be used as excuses for slowing the process of the economic transformation.[12]

This view of comprehensiveness and simultaneity, are central features of the Yeltsin-Gaidar program.

CSCE COMMUNIQUÉ

In its Bonn Communiqué of April 1990, the most comprehensive organization of East and West developed criteria for economic development, focusing on foreign direct investment. In 1991, the CSCE was given a larger role in coordinating and facilitating the development of competitive market economies, thus encouraging external financing of economic development in Eastern Europe. Although it was empowered only to monitor and inform within the wider framework interrelating security, human rights, and commerce, the CSCE represents all the major participants in transition and may particularly influence government facilitation of trade and investment and integrate public and private sector interests.[13]

Russia can Not Compete Effectively in Global Markets where Markets for Exports, Technology and Credit are Still Significantly Closed. While the West has opened its purses in providing assistance to the now post Communist countries, Western markets are still closed to many of the competitive exports of the former Soviet Union. The absence of open Western markets and the collapse of traditional markets impede aid and investment effectiveness.

Beyond technical and direct resource assistance is the requirement to improve external economic conditions to emulate the favorable environment created by the Marshall Plan where open market access and cooperative debt management encouraged technology transfer, and effective regional developments were deemed necessary.

Using the positive open market model for the development of the West European and Japanese economies, the United States provided fairly unrestricted market access, facilitated debt reduction incurred by the old regimes as a basis for entering capital markets, and encouraged technology transfer of processes and management that would foster productivity and facilitate competitive, open regional associations. The converse—restriction of Russian and successor state commercial and financial access to Western markets—may be viewed as a form of negative assistance creating barriers that diminish the effectiveness of aid. While active and early Russian and successor state involvement in the GATT process would be useful, progress to date on the Uruguay Round is not yet promising for the additional opening of markets.[14]

The European Community program for creating an internal market without barriers in a model not only for market reform in Russia and the successor states but for the external market within which the successor states may aim to integrate. Certain objectives for a process of change with specific thresholds providing short-term benefits and long-term commitments to openness would be significant: *market access, debt management, positive technology transfer programs, and regional cooperation.* Without opening of Western markets to the successor states, the effectiveness of any aid program under any contingencies of domestic reform may be substantially higher than they would be in an open, liberal Western market environment. Certain initial requirements appear essential;

MARKET ACCESS

All the elements of market opening in the Uruguay Round are relevant to the successor states reforming economies effectiveness in integrating into the Western market. Market access in agriculture is a likely important area among others, such as steel, textiles, and machinery.

DEBT AND MONETARY RESTRUCTURING

Some debt restructuring or relief and forgiveness of government debt may be appropriate in Lend Lease and Kerensky debt settlements. Limiting access to global financial markets because of the sins of the old regime may inhibit transitions to the market. Debt relief at the center must be resolved before healthy commerce can develop. Relief from capital charges still leaves the heavy burden of interest payments.

EXPORT CONTROLS: TECHNOLOGY TRANSFER

Cold War restraints may give way to global cooperation and willingness on the part of the successor states to establish safeguard regimes that will provide transparency and open and accessible information on some dual-use technologies. A positive policy of technology transfer might then be possible. A U.S. National Academy of Science panel on export controls recommended that "the United States and the other nations of the Coordinating Committee for Multilateral Export Controls (CoCom) change the basis of their technology transfer and trade relationship with the former Soviet Union and the East European countries from the 'denial regime' that existed for more than 40 years to an 'approval regime;'"[15] which has been accomplished in principle. The new export regime might be based on multilaterally agreed and verifiable end-use conditions. A new national safeguards system involving transparency and Western rights to on-site inspection may help change to a regime of approval or even facilitation. The new rules approved for reduced lists are very liberal in the context of past controls, but appear to fall far short of the modernization needs of the reforming economies. The "bikini conditions" or limited controls applied in German unification would not address the positive requirements of productivity increases from improved technology and management. Telecommunication restrictions may be a problem for U.S. firms.[16]

REGIONAL DEVELOPMENT

The proposed European energy authority has parallels with the Coal and Steel Community of Western Europe in the 1950s. Regional developments in infrastructure, health, and environmental pollution control and clean-up may also be beneficial.[17] *All* European regional cooperation takes on greater importance in the context of the collapse of the Russian market, which has had adverse effects on successor states and East and Central Europe. Some suggest that Western credits tied to purchases in Central and Eastern Europe for food, machinery, and other products might be made available to Russia. Note that the first credit of the EBRD was for purchases of Ikarus buses from Hungary.[18] Others suggest that Western agricultural credits might be tied to Russian purchases in Central Europe, e.g., meat from Poland and Hungary. Another transitional suggestion was for Russia to become a substantial, albeit temporary, market for excess European agricultural production. Jagdish Bhagwati and Padma Desai suggested a five-year, long-term credit arrangement for grain and meat from the European Community and the United States.[19] In the United States, with the waiver of the Jackson-Vanik Amendment, close to $4 billion in Commodity Credit Corporation credits has been made available but not fully subscribed.[20] Various subsidy approaches seem less attractive than the more direct approach of market opening.

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[10] Bloomestein and Marrese (OECD). Creating Conditions for the Development of Competitive Markets in Economies in Transition, in Paul Marer (editor) Transition to Market Economy in Central and Eastern Europe. Paris: OECD. 1991.

[11] Ibid.

[12] *Group of Thirty Report* by Richard A. Debs. Harvey Shapiro and Charles R. Taylor, Financing Eastern Europe, released June 20, 1991, c.f. Financial Services Volunteer Corps, Inc. Observations, Findings and Recommendations on Missions to Poland, Czech and Slovak Federal Republic, and Hungary. (33 reports); Selected papers from the IEWSS Conference on Money, Banking and Credit in Eastern Europe and the Soviet Union. May 15-18, 1991.

[13] *Bonn Communiqué* of Conference on Economic Co-operation in Europe. April 1990. The Parliament's Responsibility for Economic Development, Report of the East and Central European Interparliamentary Conference, Budapest, Hungary, March 22-24, 1991, released by the Commission on Security and Co-operation in Europe, June 1991.

[14] "Emerging market economies (EMEs) could double their share of world trade over the next ten to twenty years if the industrial countries provide market access to their products". The European Community would be the major beneficiary. Susan M. Collins and Dani Rodrik, Eastern Europe and the Soviet Union in the World Economy, Institute for International Economics, May 1991, No. 32.

[15] Finding Common Ground, U.S. Export Controls in a Changed Global Environment. Panel on the Future Design and Implementation of U.S. National Security Export Controls. Committee on Science, Engineering, and Public Policy of the National Academy of Sciences, National Academy of Engineering, Institute of Medicine. Executive Summary. National Academy Press, Washington, D.C., 1991. Gary K. Bertsch and Steven Elliot-Gower, Export Controls in Transition: Perspectives, Problems and Prospects. Duke University Press, 1991. Paul Freedenberg and Igor Khripunov, "Arms Control is Global Mission, New Trends Warrant New Proliferation System," *Defense News*, January 27, 1992.

[16] For recent contractual discussion see *Financial Times*, February 14, 1992.

[17] John P. Hardt, Can A European Regional Market Assist Economies in Transition? *Transition*, Vol. 2, No. 3, March 1991, World Bank.

The Marshall Plan period experience is useful to explicitly recall:

Market Access: The United States market was open and access was facilitated for West European recovering economies;

Debt and Monetary Restructuring: Unlike in the 1920s when the heavy debts of Imperial Germany, including war reparations, had to be fully serviced by the Weimer Republic, the London Accords relieved Germany in the 1950s of its heavy debt burden and policies for relieving the "dollar shortages" that followed.

Export Controls/Technology Transfer: "The Trading With the Enemy" legislation dating from 1915 aimed at Germany was waived for postwar Germany. Productivity teams promoted technology transfer.

Regional Development: Payments unions, and other regional commercial arrangements were introduced and facilitated currency convertibility.

Without Significant Changes in American Government-Business Approaches the Share of the United States in the Newly Emerging Market Economies May Well Be Reduced.

There is arguably a need to develop a U.S. government-business support strategy so that we can compete with the Japanese, Koreans, Germans, French and Italians (all are better positioned than we are if Russian and other successor state market and investment opportunities open up.) Most of the other Western enterprises have the following advantages or "better playing field": (1) greater networks of bilateral agreements, including investment and tax treaties to protect their national enterprises. The European countries have, in addition, the force of the European community and the EC accession process to add protection to European enterprises; (2) more facilitating mechanisms including credit guarantee facilities and commerce-promoting legislation (much of the U.S. legislation was put on the books during the Cold War). The United States has been slow to respond to commercial opportunities and persistent in continuing security protection based on the perceived military threat of the former Warsaw Pact forces; (3) more detailed government/private sector studies of successor state enterprises and sectors that would permit more rapid and prudent investment negotiations. Germany and Japanese joint government-industry studies in depth on various sectors of Russian and successor states economies place them in an informed position for future competition; (4) more *pro bono* assistance from lawyers, economists, engineers and other specialists that provide an inside track for future dealings. Even a casual survey in Moscow, Kiev and Alma Ata indicates the dominance of unpaid "advisors" supplied by all other Western countries to reforming economies in the successor states; (5) larger commercial, financial presence in Moscow and elsewhere, e.g., Japanese and Korean trading companies; German, French, Austrian, and Italian banks. Two European banks are especially active in research, consultations and negotiations: the Austrian bank-Credit Anstalt, the German Deutsche Bank are probably the best positioned banks. The trading companies of Japan and Korea appear to be especially well established if one judges by numbers and other external indicators.

This is not to say that U.S. multinationals are themselves not prepared to be informed and competitive in oil, food, pharmaceuticals and other sectors. The United States investment house Goldman/Sachs has just developed a key relationship with Russia. It is the government-business joint strategy and presence that is lacking.

Ironically, politically and socially Americans may be the preferred joint venture and investment partners, but commercially we appear to be least well positioned as a trading and investing nation.

BALANCING CENTRIFUGAL ETHNIC-SOVEREIGNTY FORCES WITH CENTRIPETAL INTEGRATIVE ECONOMIC FACTORS IS DIFFICULT BUT NOT YET IMPOSSIBLE

Transformation to a commonwealth or community of sovereign nations with healthy political and economic interrelations is possible and an economic necessity. Is Yeltsin a Russian patriot or nationalist? Will he draw on the rich Russian historical and cultural identity for positive development with the many ethnic minorities or use Russian nationalism or chauvinism as a tool to assure dominance over the Ukraine, the Tatars or others, placing short term Russian advantage over the possibility for longer term development, i.e. an "ugly Russian strategy." Recent Russian discussions with the successor states on shared economic and security policies have been more cooperative than confrontational. However, confrontation and protectionism is an ever present danger. Very strong ethnic and nationalist sentiments block any developments that seem to represent a revival of Soviet-Russian-centered dominance; even the modestly empowered Commonwealth of Independent states based in Minsk seems to be severely handicapped as an integrative mechanism.

Parallel programs by the World Bank and International Monetary Fund could facilitate the concurrent development of competitive market systems that could be linked by some clearing arrangements when new currencies are introduced, as in the Ukraine. Moreover, there is some utility in the fiscal and monetary discipline being exercised by those in Kiev if they have the economic power and the political legitimacy.[21]

Applications for membership in the IMF were received from Russia, Ukraine, Armenia, Azerbaijan, Kazakhstan, Kirgyzstan, and Moldova, and the Baltic states. They may all be members of the Bretton Woods institutions by mid-year. Others such as Belarus may also join soon. With membership will come programs. Certainly all the international organizations and the G–7 countries will encourage the development of open, competitive economies the conditions for an effective, albeit informal economic community. A formal Treaty of Rome-Eastern European Community may be de facto before it is de jure. If the big four—Russia, Ukraine, Kazakhstan and Belarus—can work together then all successor states may develop an economic modis vivendi. Or in time they may accede to the European Community first, then to their own regional group.

Democracy—Consent of Governed, the Elective Process, Parliamentary Oversight—Go Hand in Hand with Market Development and Rule of Law. Beyond the economic program will Yeltsin survive and be successful?

A central problem indeed is economic transformation but Yeltsin faces other tests that may doom his regime. Transformation to a pluralistic, democratic society with a rule of law and respect for individual rights is essential. Yeltsin has emergency powers that permit him to rule without full recourse to his parliament or popular will. Some elections have been postponed. He has taken the power of both the president and the prime ministership to himself. Will this be temporary or permanent? Is he Charles deGaulle or Pak Chun Yi? By taking the authority he must accept the responsibility, but will have to find ways to share authority and responsibility and be responsive to his electorate if the result is to be democracy.

The Speaker of the U.S. House of Representatives has asked the Special Task Force on the Development of Parliamentary Institutions in Eastern Europe (Frost Task Force) to visit Russia and Ukraine to assess needs and make recommendations; a visit by a Congressional Delegation from the House is tentatively planned for April, 1992. The Congressional Research Service has been requested by the Russian Legislature to support its parliamentary development. These parliaments have authority and responsibility in a democratic market development. Executives worry about the lengthy debates and process in exercising the separation of powers. Yeltsin may also be concerned about the populist tendencies of his parliamentary members, e.g., the tendency to favor funding all new programs and while supporting no new taxes. Yeltsin does have a requirement of referral to the parliament of the decrees he issues for approval. Most negative parliamentary responses have been honored. The difficult tests of will may be yet to come.

United States contribution to "Big Deeds" can be keyed to targeted, coordinated western programs spearheaded by the private sector and close cooperation with Russian leadership by the United States. More timely and long term commitments to assistance and investment programs could validate Yeltsin's programs, make more effective multilateral aid programs, encourage profitable private investment in an open market environment and facilitate productive bilateral programs. How would acceleration of international programs help the U.S.? How could bilateral assistance be an investment in our self interest and be within our budget constraints? We may target defense conversion, agriculture, oil and health:

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[17] John P. Hardt, Can A European Regional Market Assist Economies in Transition? *Transition*, Vol. 2, No. 3, March 1991, World Bank.

[18] Financial Times, April 1991.

[19] Jagdish Bhagwati and Padma Desai, "Making a Virtue of Moscow's Necessity." New York Times, November 12, 1990.

[20] Remy Jurenas, CRS, Issue Brief 90139, Soviet Food Shortages: U.S. Policy Options.

[21] Abraham Brumberg, "The Road to Minsk,", New York Review of Books, 30 January 1992, p. 21; Oleh Havrylyshyn and John Williamson, "From Soviet disUnion to Eastern Economic Community?" Institute of International Economics, October 1991, Number 35.

Targeted assistance to defense industrial conversion programs of direct interest to us in terms of reducing the threat, reducing our defense spending, and promoting development of a viable Russian economy that could generate imports from the United States—creating jobs and profit.

The policy and programs for conversion in the overall Yeltsin-Gaidar economic policy and program debate are not firmly developed. The contradictions in the current policy development are illustrated by the official pronouncements on conversion and the new Russian budget on January 23, 1992—*defense spending is sharply cut, procurement is halted, but the over ten million workers in the defense industrial complex will continue to be paid while encouraged to seek work elsewhere.*

This contradictory policy threatens to destroy rather than convert the defense industrial program to production for consumers and export. It could also doom the monetary stabilization program. Mikhael Bazhanov, the leading Russian official on defense industrial conversion, refers to the current status as "convulsion", not conversion.[22]

Targeted assistance in scaling down and shifting resources from military to civilian enterprises would benefit from advice drawn from those with Western experience.

An advisory committee might be set up to advise Russians on how to scale down military activity and effectively redirect resources to improving the quality of life, living standards and productivity measures. The principle needs are in understanding the concept of thorough privatization of converted resources and arranging targeted Western aid. Examples of other advice would include evaluation of resources—material and financial assistance in preparing for privatization, support in developing new employment creating activities in infrastructure, environment, health, housing and other sectors important to consumption and productivity.

Drawing on experience in the West European, Asian, and Marshall Plan conversion efforts, a private sector committee including leading American experts could be drawn on. Such groups of private sector advisers were very useful under the Marshall plan as well described by Henry Nau.[23] This defense conversion effort might be led by Americans and coordinated with all other Western assistance.

Targeted assistance to agriculture and the food chain to provide guidance on rapid privatization and demonopolization and help mobilize resources to improve vital food chain sectors such as storage, transport and food processing.

Priority should be given to rapid agricultural privatization and assistance in encouraging demonopolization and competitiveness through enterprise funds and U.S. private sector involvement. As the United States has exported close to $30 billion of agricultural products to the former Soviet Union from 1972-1990, this sector has a special commercial interest to the United States. International agencies may be encouraged to support regional environment, health, housing, communications, and infrastructure programs to facilitate competition and create employment in the rural areas.

In 1990, the Soviet Union, despite the second best harvest in history, was not able to supply adequate food to the official channels, especially in the major cities. The harvest was smaller in 1991, and shortages in meat, dairy products, and eggs have been especially evident in major Russian cities through official channels. However, there is not a food shortage, but a distribution problem. Russia and several of the successor states continue to produce more food in the field per capita then Western Europe, the critical problem is from field to market.

U.S. agricultural experts focus on privatization and demonopolization as the immediate keys. The proliferation of competitive sources of farm supplies (demonopolization) and an end to state ownership are required. The US government may provide technical assistance, training, farmer-to-farmer exchanges, and a facility for making available needed imports by imaginative bilateral and multilateral financing. Technical assistance may be provide in developing an extension service, commodity markets, market information, collection and analyses, farm credit, and improving the food transportation and distribution system. Training could be an integral part of the technical assistant program. Technical assistance, training, and farmer-to-farmer exchanges would be aimed at building bridges between the nascent private sector there and the private sector in US agriculture. Again a private sector advisory committee led by noted American authorities could draw on relevant experience and utilize the Marshall Plan private sector advisory approach that had such earlier success.

A proposal for Russian agricultural assistance by the United States that would not require substantial new funding authority and major expansion of cargo preference has been advanced by Carol Brookins using existing programs, and more access to OPIC.[24]

Carol Brookins calculated that the Soviets will need from the US about $3 billion in credits to purchase agricultural commodities in the 1991–92 season. While this proposal was initially designed for providing credit flows to the Soviet Union, it could be developed as an effective initiative for assisting Russia while strengthening the ties of U.S. agriculture with new Russian private sector counterparts.

A new initiative for Russian inclusion in the Overseas Private Investment Corporation (OPIC) and the Multilateral Investment Guarantee Agency (MIGA) may also be useful to explore; these agencies could provide private investment guarantees from the United States and the multilateral institutions.[25]

Fundamental reform and coordinated Western support might create an environment for foreign private enterprise involvement. An Enterprise Fund might be set up to absorb rubles and, continued with dollars, generate new investment. US companies in the earlier proposals of the American Trade Consortium discussed joint ventures that would improve harvesting methods/equipment, on-farm storage equipment, cleaning and drying facilities, more and better feed mixes, improved livestock strains, and forage production. Companies such as Archer Daniel Midlands, Mech, and RJR Nabisco have been involved in these discussions, which are suggestive of a much wider range of U.S. company involvement. The earlier agreement to tie consortium oil earnings of the Russian partner to financing the US company involvement in agriculture and health would facilitate this process.

Targeted Oil Exports Related to U.S. Energy Company Investment in Oil and Gas Fields. The U.S. companies agree that the precipitous fall in oil output and oil exports is likely to continue and create a server shortage in hard currency and oil supplies from Central Europe and the successor states unless substantial Western involvement occurs. However, bringing in in proven oil field and improving operating fields with Western technology, management, and investment could made Russia a major oil supplier to in the world market and generate many times the billions in investment requirement in the Russian, Kazakh and Azerbaijan oil industry. Indeed while output in Russian and the successor states could fall to under 10 million barrels a day in 1992, it could also rise to as much as 15 mbd if American levels of exploitation intensity and technology were fully applied.[26]

What is needed for mutually beneficial joint ventures parallels the conditions for successful reform and assistance: a stable political environmental, a stable ruble, a legal and regulatory framework, and privatization. These would provide a favorable environment for profitable investment, and the U.S. industry would prefer them in order to develop working relations with the Russians, Kazakh, and Azeri without government involvement in oil fields operations.

There is, however, a companion desire to have a "level playing field." As other Western national oil companies have government support in many ways, some U.S. government involvement would be desired by U.S. oil concerns to ensure competitiveness. A topic of discussion at various international energy meetings has been the perceived need to stimulate oil exports and U.S. firm profitability by facilitating large-scale oil investment through protective and facilitating legislation and create credit guarantees, including Limited Resource Project Financing through the Export-Import Bank guarantees with the repeal of the Stevenson and Byrd Amendments, which limit the level and use of credits, especially in energy projects. Limited Recourse Project Financing might not be helpful if the Russians view it as a form of collateralized financing and decline because they do not wish to open to all other Western oil companies a collateralization mechanism. Moreover, they are currently short of oil to put in to escrow. Still more innovative mechanisms are arguably needed to break the log jam on contract discussions in the short run. Both sides also need to look to the long run in order to project long term, mutually beneficial joint ventures and relations that endure over time.

The European Energy Charter has reached agreement between the European Community and the former Soviet Union. The EC may use some of its 400 million ECU to promote this agreement, especially in gas development. The legal and regulatory mechanisms set up by the European Energy Charter may be helpful in setting preconditions for U.S. oil contracts with successor state authorities. U.S. participation in this Charter is not clear in terms of its utility to U.S. private sector investment. By participating the U.S. may assure some voice in fashioning a legal and regulatory environment and encourage Europeans to open their markets to competitive Russian natural gas and facilitate reasonable pricing of gas to central Europe in lieu of continued reliance on coal and nuclear capacity.

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[22] Mikhael Bazhanov, Head of the Russian State Committee for Defense Industry Conversion, Interview on Russian Television, 1530, January 13, 1992.

[23] Henry R. Nau, *The Myth of America's Decline, Leading the World Economy Into the 1990s.* New York: Oxford Press, 1990, p. 104 passim. Cf. Janine R. Wedel, "Beware of Western Governments Bearing Gifts", *Wall Street Journal.* January 14, 1992.

[24] Carol Brookins, "A Proposal for Soviet Agricultural Assistance," World Perspectives: vol. 3, no. 5, (July 1, 1991).

[25] The Investment Guaranty Agreement between the United States and Poland of October 1989 might be a model. See Requirements for Membership in the Multilateral Investment Guarantee Agency (MIGA). Washington, D.C., August 1990.

[26] Joseph Riva, *Russia and the Commonwealth of Independent States Oil Resources.* CRS 92-78 SPR, January 16, 1992.

Targeted Health and Medical Standards Improvement by Developing a Private Sector Government Strategy. The general state of health and medical standards throughout the former Soviet Union has been low and is retrogressing to a performance level that is inferior by the standards of many developing countries. Moreover, the retrogression has been identified with the environmental crises throughout the region as well as alcoholism in some slavic regions.[27]

Some areas for medical aid that are urgent, life saving, simple and quick, especially with foreign assistance, could be the following which resulted from a recent survey by Professor Murray Feshbach of Georgetown University:

1. *Pharmaceuticals:* a. *Simple aspirin,* b. *Human insulin*—the shortage of which is causing extreme difficulties for diabetics; c. *Cardiovascular and Oncological,* as well as antisepsis medications, medications for Leukemia patients are also vital.

2. *Medical Equipment: Basic laboratory equipment*—blood diagnostic equipment [for example, recently 10 Finns having heart by-pass surgery in Estonia (cheap, but thought to be among the best of the "former" USSR), came down with Hepatitis C—now Finns are bringing their own blood or matched blood with them.] They do not need cat scans, per se, at this time; *Sterilizer Equipment*—to sterilize medical instruments, syringes, needles, etc. . . basic autoclaves, but only if training is offered, and nurses and doctors informed about the sheer necessity of this effort; *Hot Water*—50 percent to 68 percent in rural hospitals do not have hot water; *Single-Use Syringes and Disposable Needles*-quality multiple use syringes and needles are not needed if they could be properly sterilized, i.e., if they had hot water. Undoubtedly, disposable syringes would be better, but needs are basic—supply is about 500 million out of 6 billion demand per year. . . . Moreover, they have even issued instructions on how to re-use disposables; *Bed Sheets*—better supply and instructions not to reuse without washing; *Clean (Unpolluted) Vaccines*—DPT, anti-tubercular, typhoid—major epidemic of diphtheria possible.

Transformation of Yeltsin to an international player contributing to peace, cooperation, and prosperity. The test of continuing on the course of "new thinking", substantial reductions in military forces, and resolution of regional crises can be seen in measures to safeguard agreements on non proliferation of weaponry, settlement of outstanding issues such as the Japanese Northern Territories, etc. Western support will then be encouraged. His policy of peace may contribute to the prospects for Russian prosperity. His proposal of January 29, 1992 for a global system of control and nuclear build-down might be effective both in contributing to peace by reducing the threat, and to prosperity if a prudent market solution were found for defense industrial conversion. Yeltsin has shown himself to be a politician capable of learning from experience, changes and new environments; a man of considerable decisiveness and courage. Much depends on who he is and what he becomes. No one, perhaps including Yeltsin, seems to know the answer to the true Yeltsin identity question. However, his record to date suggest that one should not underestimate his ability to rise to challenges.

We should also bear in mind that a direct connection between our assistance and a prospective, successful reactionary coup may exist. Mr. Vladimir Lukin, chairman of the Russian parliament's foreign relations committee (the new Ambassador designate to the United States) predicted that the Russian government is likely to fall in the next few months, possibly in February due to the price liberalization policy and its effect on falling incomes.[28] These dire prediction and assessments may be overly dramatic but do highlight the time urgency of the availability of programs and advice from the United States, the IMF, World Bank and G–7.

The Congressional leadership response to the request of Boris Yeltsin for a closer Russian-United States partnership may be judged by a number of bipartisan, bicameral indicators of support, e.g., in the Senate a sense of Congress was a call through legislation authored by Senator Levin (D. Michigan) and Senator Dole (R. Kansas) cosponsored by Senators Mitchell, Bradley, Lugar, Nunn, Domenici, Boren, and Lieberman on policy toward the Former Soviet Union calling inter alia for, *the President immediately should begin consultation with Congress and should promptly prepare and transmit to Congress a comprehensive plan entitled "International Investment for Democracy" that would assist the Soviet republics to avoid social chaos and achieve economic and practical stability by articulating step-by-step actions that should be taken by such republics, acting together or individually, and the supporting actions that should be taken in response by the United States and other nations through international institutions.*[29]

LEARNING HISTORY FROM A DIFFERENT VOICE

• Mr. RIEGLE. Mr. President, I want the Senate to hear history from a different voice—the voice of our Nation's women. As a child in Flint I studied history from the traditional viewpoint, focusing on important political, military, and economic leaders like George Washington, Abraham Lincoln, and Franklin Delano Roosevelt. I also learned dates and events: the Declaration of Independence was signed in 1776 and the Civil War began in 1860 and ended in 1865. There is nothing necessarily wrong with this approach. Our children need to learn their country's and the world's history because, in the words of George Santayana, "Those who cannot remember the past are condemned to repeat it."

Santayana was right, and I would like to expand on his thought. Just as the failure to remember the past can have dire consequences, accepting one perspective of history as gospel can deny us a more complete picture and understanding of our past, potentially condemning us to make the same presumptions in our understanding of the future. That is why we should think about history from different perspectives—we must hear it in a different voice. National Women's History Month, March 1992, presents us with the opportunity to do this.

Women's history examines our Nation's past with a new, wide-angle lens. It does not rewrite history, but it does draw very different judgments about what has been important in history. This distinction stems from the fact that men and women see and understand the world in different ways. Carol Gilligan, a noted psychologist, calls this the different voice. The voice is characterized not by gender, but by theme, a theme that stresses the unique perspective of women's experience in America.

Let me give you an example from the 19th century of what I mean by the different voice. Mary Boykin Chesnut—not a household name—was a Confederate widow who lived through the Civil War. She is not known for participating at Gettysburg or Antietam, so she is not a prominent figure in the history books the way Lincoln or Robert E. Lee is. Mary Boykin Chesnut kept diaries. And for years male historians used her diaries to talk about the War: the battles and the strategies. But when women historians examined the diaries, Mary Chesnut spoke to them in a different voice that stressed the disintegration of the family—the tension between husbands and wives that the War caused and the level of oppression that black women suffered at the hands of slave masters who took these women at their will. This is a very different picture than the one I studied in school.

Another example is the tales of Western expansion as heard from the voices of men, as opposed to the voices of women. The men, in press accounts sent back east, described the miles they covered, equipment use and shortages—they dwelled upon the technical aspects of their journeys. The men also talked about their hostile contact with Native Americans; these encounters captured the American imagination at the time. But when we examine the diaries of the women who made the trek west a different picture emerges. They described relations with the indigenous people as being friendly. The technical aspects of their sojourns came in second to the more personal aspects of pioneer life: the friends and loved ones they left behind, the relationships among the traveling families, and the trials and joys of everyday family life as they journeyed and lived in the wilderness.

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[27] Murray Feshbach, "Ecocide in the U.S.S.R.: Health and Nature under Perestroika," 1992, Basic Books.

[28] "Financial Times," January 31, 1992.

[29] Amendment 1443 to a bill Conventional Forces in Europe Treaty Implementation Act of 1991. *Congressional Record*, November 25, 1991. S. 18055. See also David Obey, Remarks to Council on Foreign Relations, February 5, 1991. Same Nunn, "Aid and Moscow's Military," *The Washington Post*, July 15, 1991. Richard A. Gephardt, "Yes the West Should Help the USSR to Reform Its Economy, "*The Orlando Sentinel*, July 21, 1991, and "Help Russia, Help Ourselves, New York Times, February 12, 1992.

An interesting story from this era comes from my home State of Michigan. Dr. Anna Howard Shaw came to America from England when she was 2 years old in 1851. When she was 12, the family moved to northern Michigan, where her father had built a log cabin on 360 acres of land. Her father then returned to Massachusetts to raise money for the family he had left behind. Dr. Shaw's father was proud of his stake in the wilderness, hoping to make the place a great estate that he would eventually pass on to his son—a romanticized vision of northern Michigan at the time, I assure you. As Dr. Shaw wrote in her autobiography "The Story of a Pioneer," in reality the family was 140 miles from the nearest railroad, 40 miles from the nearest post office, and half-dozen miles from any neighbors save the wolves and the wildcats. Two very different views of life in the wilderness—two very different voices.

The theme for National Women's History Month 1992 is "Women's History: A Patchwork of Many Lives." Women like Mary Boykin Chestnut and Anna Howard Shaw have contributed their unique voices to our understanding of the past. During this month, let us recognize not only the tremendous contributions of women of the past, but those in the present whose voices influence our lives in substantial ways. Women like Janet Good, who retired in 1990 as acting director of equal opportunity for the Michigan Employment Security Commission. Ms. Good was a leader in organizing the Older Women's League in Michigan and devoted her efforts to ending sexual harassment in the workplace. Another voice, who influenced the law in 28 States, belongs to Virginia Cecile Bloomer Nordby; she was the principal drafter of the Michigan Criminal Sexual Conduct Act that other States adopted as a guide for their statutes. Other voices: Jan Bender, the Founding Mother of the Rape Crisis Center movement in Michigan; Jo Jacobs, a leader in the ongoing struggle to achieve gender equity in Michigan schools; and Dorothy Comstock Riley, the first women to serve on the Michigan Court of Appeals. Dorothy Riley, Jo Jacobs, Janet Good, Virginia Nordby, and Jan Bender were all inducted into the Michigan Women's Hall of Fame for 1991.

Mr. President, I urge my colleagues to listen to the voices of American women. They can teach all of us a few things about our world. Their voices can give us a new perspective on not only our country's past, but they can guide us on the impact and wisdom of our decisions in the future.•

ANTHONY: LEAP YEAR CAPITAL OF THE WORLD

• Mr. DOMENICI. Mr. President, on Saturday, the 29th day of February, the Southwest border town of Anthony, the "Leap Year Capital of the World," will host a birthday celebration for the hundreds and thousands of people around the world who were born on February 29—that unique day that rolls around only once every 4 years.

Anthony, a municipality straddling the New Mexico-Texas border, decided in February 1988 to throw a big party for the people born on February 29. The Anthony Chamber of Commerce organized the Worldwide Leap Year Birthday Club that now boasts an international membership of more than 70 leap-year babies ranging in age from almost 4 to nearly 90.

The birthday club was established to honor these unique people and to help promote this community of about 8,000 citizens. This year the town will mark this second quadrennial celebration with a 2-day festival.

I commend Anthony for commemorating the births of people who only have a real chance to celebrate their birthdays once every 4 years. Being born on such a day can be considered a curse when one is young, but perhaps is a blessing as one gets older. Nevertheless, the birthday club and festival are unique for their celebration of February 29 birthdays.

Credit should be given to the originator of the Leap Year Birthday Club—Mary Ann Brown, born February 29, 1932, who came up with the idea after discovering that her neighbor, Birdie Lewis, shared this birth date too.

Every person born on February 29 is eligible for membership in the birthday club. People who joined in 1988 are charter members, some of whom included 1988 leap year babies. Members live in States like New Mexico, Texas, Arizona, California, Kansas, Florida, New York, Virginia, Michigan, New Hampshire, and Wisconsin, in addition to such countries as Germany and South Korea. The oldest member is Bessie Lee Norris of Albuquerque, NM, who was born in 1908.

I commend my friends in Anthony for this leap year celebration and promotion of their great town. I would encourage all those who celebrate their birthday on February 29 to become members of this fine birthday club. If I had a leap year birthday, you can be certain I would join.

Mr. President, I invite my Senate colleagues to join me in saluting the members of the Worldwide Leap Year Birthday Club, all leap year birthday babies, and the citizens of Anthony—the Leap Year Capital of the World.•

SGT. HILBERT POTTER

• Mr. McCONNELL. Mr. President, last April I brought the Senate's attention to the plight of Sgt. Hilbert Potter, a soldier injured during Operation Desert Storm. I come to the floor to inform my colleagues that his recovery is swift and certain.

Sgt. Potter commanded a six-man squad of combat support engineers during that military operation. Tragically, on February 25, 1991 he lost his right leg to friendly fire.

Sgt. Potter, who is stationed at Fort Knox, is a determined and driven soldier. An article in today's Louisville Courier Journal details his road to recovery and highlights his hopes to play basketball in the near future. With the aid of a prosthetic leg, Sergeant Potter is already able to maneuver on the court.

Sergeant Potter describes best himself his attitudes toward rehabilitation: "I'm going to do it until I can do it." Mr. President, I do not doubt Sergeant Potter will do it—be it on the basketball court, or in the medical career he hopes to pursue.

My thoughts and prayers will continue to be with this brave American. It is the professionalism of soldiers like Sergeant Potter that guaranteed the success of Operation Desert Storm, and that contributes to the excellence of our Armed Forces.

I ask that a copy of the Courier Journal article appear in the Record following my remarks:

The article follows:

[From the Louisville Courier Journal, Feb. 27, 1992]

SOLDIER WHO LOST LEG IS PLAYING BALL AGAIN

(By Bill Wolfe)

After Hilbert Potter lost his right leg on the Desert Storm battlefield last year, he feared his days of running, dunking basketball were over.

But the Army sergeant returned to his Fort Knox home yesterday with a high-tech prosthetic leg and a high-spirited attitude that refuses to give up on his favorite sport.

Potter, 31, who played forward on his high school team in Easton, Md., said he can already "get up and down the court" on his artificial leg. And, while dunking is out of the question for now, "I'm not going to speak of the future," he said. "I'm going to do it until I can do it."

Potter said he isn't going to let the war injury, which came under "friendly fire" from the machine gun of a U.S. tank, destroy his life or change his optimistic outlook.

"I'm just happy to be back," Potter said after returning from two months of therapy at Fitzsimmons Army Medical Center in Aurora, Colo. "I think I'm at the last stage of my rehabilitation and recovery."

Potter has been in and out of hospitals since he was wounded on Feb. 25, 1991.

He says he is not bitter about his injury, which he characterizes as "just something that happened."

The injury is "teaching me to make adjustment to limits that I have with this leg," Potter said. He said he plans to "let life take its own course and I'll just follow in its footsteps."

Potter arrived at Louisville's Standiford Field in an Air Force medical plane yesterday and was greeted by his wife, Joy, their 6-year-old daughter, Amanda, and a crowd of reporters and photographers.

His new leg seemed to work perfectly as he easily negotiated the steep stairs down the plane.

But the limb had taken some getting used to. Potter "did a lot of falling" in his first days with the leg, and broke parts of it twice while running and playing basketball.

Potter said he expects to receive a medical discharge from the Army within the next few months and will move to Louisville.

He hopes to enroll at the University of Louisville and study to become a physical therapist—the result of his contact with therapists over the past year.

"The medical field never was my interest until I finally got to see it with my own eyes," Potter said. "This is something I really want to bear down on and go after."•

ORDER TO PRINT S. 12, THE CABLE TELEVISION CONSUMER PROTECTION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 12, the Cable Television Consumer Protection Act, as passed by the Senate on January 31, 1992, be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAN ANTONIO DRUG SUMMIT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 414 regarding the San Antonio drug summit just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 414) regarding the San Antonio drug summit.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. Is there further debate on the joint resolution? If not, the resolution is deemed read a third time and passed.

So the joint resolution (H.J. Res. 414) was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1701

Mr. MITCHELL. Mr. President, on behalf of Senator BIDEN, I send to the desk an amendment to the preamble and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BIDEN, proposes an amendment numbered 1701.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following: "Whereas, there is more cocaine than ever coming out of the Andes, we should redouble our efforts to reduce the influx of drugs.".

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1701) was agreed to.

The preamble, as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar order Nos. 399, 400, 402, and 404 through 411; that the committee amendments, where appropriate, be agreed to; that the joint resolutions be deemed read three times and passed, and the motion to reconsider the passage of these items be laid upon the table; that the preambles and title amendments, where appropriate, be agreed to en bloc; that the consideration of these items appear individually in the RECORD; and any statements appear at an appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL AWARENESS WEEK FOR LIFE-SAVING TECHNIQUES

The joint resolution (S.J. Res. 214) to designate March 16, 1992, through May 22, 1992, as "National Awareness Week for Life-Saving Techniques," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 214

Whereas the National Safety Council reported that about 850,000 Americans died in 1990 as a result of accidents and heart disease;

Whereas accidents are the leading cause of death for children and youth ages 1 to 24 years;

Whereas drowning and choking are a leading cause of accidental death in children under the age of 5 years;

Whereas Rescue Breathing and Cardiopulmonary Resuscitation, commonly referred to as CPR, are life-saving techniques that significantly reduce the incidence of sudden death due to accidents and heart disease;

Whereas it is critical that more Americans learn such basic life-saving techniques in order to reduce the number of deaths related to accidents and heart disease;

Whereas the opportunity to learn basic life-saving techniques is available to all Americans through the American Red Cross, the American Heart Association, the YMCA, and other national organizations; and

Whereas the death rate due to accidents and heart disease would be greatly reduced if more Americans received training in basic life-saving techniques: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 16, 1992, through May 22, 1992, is designated as "National Awareness Week for Life-Saving Techniques". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities designed to encourage training in life-saving techniques for Americans.

YEAR OF AMERICAN CRAFT: A CELEBRATION OF THE CREATIVE WORK OF THE HAND

The joint resolution (S.J. Res. 218) to designate the calendar year, 1993, as the "Year of American Craft: A Celebration of the Creative Work of the Hand," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 218

Whereas the twentieth century has witnessed an outpouring of creative craftsmanship and it is appropriate that we now pay tribute to excellence in craftsmanship;

Whereas the value of creative work of the hand through craft remains clear even as the most industrialized century of our history draws to a close;

Whereas peerless craftsmanship, once commonly associated with American industry, is now a theme of renewed importance and interest;

Whereas the traditional values of craftspeople such as dedication to the qualities of excellence, perseverance, self-discipline, and integrity, affirm the work of the hand invested with energy of mind and spirit and will serve as a continuing force in the improvement of life and culture;

Whereas craft is the hand print of all cultures and through craft we commemorate the multicultural heritage of our Nation and pay tribute to the artistic diversity that exists among all people;

Whereas craft forms the root of our cultural richness, variety, and vitality and serves as a material record that functions as a bridge between past and present;

Whereas craft is an art form that is easily accessible to many individuals;

Whereas Americans of all ages should be provided with opportunities to experience the pleasures of the creative work of the hand through craft;

Whereas the dedicated craftsperson is a role model worthy of emulation by our young;

Whereas craft, inspired by tradition, may be lost unless it is nurtured and unless the economic and social well-being of its practitioners is advanced; and

Whereas the Congress of the United States recognizes the artistry of today's American craftspeople: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. DESIGNATION.

The calendar year, 1993, is designated as the "Year of American Craft: A Celebration of the Creative Work of the Hand".

SEC. 2. PROCLAMATION BY THE PRESIDENT.

The President is authorized and requested to issue a proclamation calling upon the people of the United states to observe the Year of American Craft with appropriate ceremonies and activities.

SEC. 3. PROCLAMATIONS BY STATE OFFICIALS.

Each State Governor and each chief executive of each political subdivision of each State is urged to issue a proclamation or other appropriate official statement calling upon the citizens of such State or political subdivision to observe the Year of American Craft with appropriate ceremonies and activities.

SEC. 4. CEREMONIES AND ACTIVITIES.

The ceremonies and activities referred to in sections 2 and 3 should—

(1) bring attention to craft throughout America;

(2) recognize the breadth of the contributions made by the craft community in America; and

(3) demonstrate that craft, as an expression of values, is a link that joins humankind.

NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK

The joint resolution (S.J. Res. 233) to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 233

Whereas over one-half million dedicated men and women are engaged in the operation of emergency response systems for Federal, State, and local governmental entities throughout the United States;

Whereas these individuals are responsible for responding to the telephone calls of the general public for police, fire, and emergency medical assistance and for dispatching such assistance to help save the lives and property of our citizens;

Whereas such calls include not only police, fire, and emergency medical service calls but those governmental communications related to forestry and conservation operations, highway safety and maintenance activities, and all of the other operations which modern governmental agencies must conduct; and

Whereas America's public safety telecommunicators daily serve the public in countless ways without due recognition by the beneficiaries of their services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 12, 1992, is hereby designated as "National Public Safety Telecommunicators Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY

The joint resolution (S.J. Res. 240) to designate March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 240

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;

Whereas March 25, 1992 marks the one hundred seventy-first anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;

Whereas these and other ideals have forged a close bond between our two nations and their peoples; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1992 is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated with appropriate ceremonies and activities.

CELEBRATING GREECE'S GIFT OF INDIVIDUAL FREEDOM

Mr. PRESSLER. Mr. President, democracy is this Nation's most cherished ideal. Its enduring appeal provides a guiding light for people worldwide. People forced to live under repressive regimes, whose inherent rights to life and liberty were denied, nevertheless were inspired by the hope for democracy. That inspiration led them to seek change. Today, many are free for the first time in their lives.

We live in a world that has changed dramatically for the better during the past few years. It is a world in which democratic principles reign supremely. The democracy we cherish, however, is not of our own invention. For that system of government and way of life, we must give credit to the ancient Greeks. As one 19th century intellectual put it, "Except the blind forces of nature, nothing moves in this world which was not Greek in origin."

For these reasons, I was pleased to cosponsor Senate Joint Resolution 240 which passed the Senate today. This resolution designates March 25, 1992 as Greek Independence Day. I urge all Americans to join in recognizing this significant event.

Although the Greeks first brought democracy to the world, they were unable to ensure its continuation in their homeland. For a long time, democracy was lost to the people of Greece. Then, on March 25, 1821, the people of Greece threw off the chains of autocracy and returned to the democratic system they had created long before.

The experience of Greece teaches a valuable lesson, Mr. President. It is that we must help the emerging democracies of the world nurture their new freedom. We must not take democracy for granted in those countries. Indeed, we should not take it for granted even in our own country. The active commemoration of Greek Independence Day serves as a useful reminder of the virtues of democracy and the importance of preserving and protecting that way of life.

It is especially fitting to do so this year, when so much of the world for the first time is enjoying the fruits of the seeds planted in Greece so long ago.

The ancient Greeks developed the concept of democracy—the idea that the supreme power to govern is vested in the people. The founders of the United States of America used that idea in creating our own Nation. Later, Greek revolutionaries adopted the work of our Nation's founders as the basis for their interim government.

Democracy returned to and has endured in Greece not only because of its merits, but also because of the Greek spirit of determination. These attributes are evident in Greeks who have made their homes in the United States, including my home state of South Dakota. Greek immigrants have become respected medical researchers, educators, performers, and statesmen. In fact, they have made significant contributions in all walks of life. Many have taken their talents back to Greece, strengthening the bond between our two nations.

An excellent example of this can be found in the current United States Ambassador to Greece, Michael Sotirhos.

Ambassador Sotirhos and his wife, Estelle, have provided the United States with their diplomatic gifts in 2 posts. His 3-year record in Greece has been distinguished by the construction of the same bridges to all parties that marked his earlier service in Jamaica. Mike Sotirhos helped smooth the way for the renegotiation of the defense cooperation agreement between the United States and Greece. But perhaps most important, Mr. President, Ambassador Sotirhos and his family opened their hearts to the Greeks. Every week, in observing his Orthodox Christian faith, Ambassador Sotirhos attends a different church in Greece and Greeks respond to this action with friendliness and greater understanding toward the United States. His willingness to travel anywhere and mix with average Greek citizens has vastly improved bilateral relations. Indeed, Mike Sotirhos is one of the most effective non-career Ambassadors in recent history.

Mr. President, I proudly salute the Greek Americans in my home State, however few in number, and those throughout the United States. Each American can do the same by celebrating the ideals embodied in Senate Joint Resolution 240 on March 25.

When we celebrate Greek Independence Day 1992, we will do so in a world that is more democratic than perhaps at any time in history. However, the celebration of democracy and its unstoppable march into country after country by no means should allow us to become complacent. The struggle of the Greek people to restore democracy to their country in the last century is a reminder to us all: the preservation of freedom has a price.

My friend, Vice President Hubert Humphrey, spoke truthfully when he said: "* * * Democracy is a constant challenge; it requires the best of everyone. * * * It's a challenge for the future; it is not a status quo; it requires men of courage and men of boldness. * * * It is amazingly strong. It lives only where men are willing to think and study, plan and achieve, sacrifice and give."

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

The joint resolution (S.J. Res. 244) to recognize and honor the National Conference of Commissioners on Uniform State Laws on its centennial for its contribution to a strong Federal system of government, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. Res. 244

Whereas the United States is a Federal system of government in which the Congress has certain enumerated powers under the Constitution and all other powers are reserved to the States;

Whereas, through the joint efforts of the States and the legal profession, the National Conference of Commissioners on Uniform State Laws was founded in 1892 to provide legislation to promote uniformity of law between the States in those areas in which consistency would most serve the public interest and welfare;

Whereas the Uniform Partnership Act, the Uniform Limited Partnership Act, and the Uniform Fraudulent Transfers Act are all legislative proposals of the Uniform Law Commissioners which have been successfully utilized by the States;

Whereas the most notable of all uniform laws produced by the Conference, the Uniform Commercial code, has been universally accepted and applauded, and has provided immeasurable benefits to every American business and consumer through its provision of fair, efficient, and logical rules governing commercial transactions;

Whereas, while the Uniform Law Commissioners prepare uniform laws primarily for the States, the Congress has used the work of the Conference in drafting Federal legislation, in particular the provisions of the Uniform Fraudulent Conveyance Act included in the United States bankruptcy law, and the provisions of the Uniform Child Custody Jurisdiction Act included in the Parental Kidnapping Act of 1980; and

Whereas the Uniform Law Commissioners have no peer in the development, improvement, and codification of State laws: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby recognizes and commemorates the centennial of the National Conference of Commissioners on Uniform State Laws, and the President is authorized and requested to issue a proclamation calling upon the people of the United States in general, and the legal community in particular, to observe the centennial with appropriate ceremonies and activities from January 1, 1992 through December 31, 1992.

NATIONAL RECYCLING DAY

The joint resolution (S.J. Res. 246) to designate April 15, 1992, as "National Recycling Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. Res. 246

Whereas the United States generates over 180 million tons of municipal solid waste each year—almost double the amount produced in 1965, and amounting to about 4 pounds per person per day—and the amount is expected to increase 216 million tons of garbage annually by the year 2000;

Whereas the continued generation of enormous volumes of solid waste each year presents unacceptable threats to human health and the environment;

Whereas the Environmental Protection Agency expects that 27 States will run out of landfill capacity for municipal solid waste within 5 years and that a large percentage of currently operating landfills will close by the year 2000 either because they are filled or because their design and operation do not meet Federal or State standards for protection of human health and the environment, requiring that waste now disposed of in these facilities will have to be disposed through other means;

Whereas a significant amount of waste can be diverted from disposal by the utilization of source separation, mechanical separation and community-based recycling programs;

Whereas recycling can save energy, reduce our dependence on foreign oil, has substantial materials conservation benefits and can prevent the pollution control from extracting resources from their natural environment;

Whereas the revenues recovered by recycling programs offset the costs of solid waste management and some communities have established recycling programs which provide significant economic benefits to members of the community;

Whereas the current level of municipal solid waste recycling in the United States is low, although some communities have set a much higher rate;

Whereas to reach a goal of increased recycling, more materials need to be separated, collected, processed, marketed and manufactured into new products;

Whereas a well-developed system exists for recycling scrap metals, aluminum cans, glass and metal containers, paper and paperboard, and is reducing the quantity of waste entering landfills or incinerators and saving manufacturers energy costs;

Whereas recycling of plastics is in the early stages of development and considerable market potential exists to increase the recycling;

Whereas yard and food waste is an important part of municipal solid waste and a large potential exists for mulching and composting the waste which would save both landfill space and nourish soil, but only small amounts of this material is currently being recycled;

Whereas Federal, State and local governments should enact legislative measures that will increase the amount of solid waste that is recycled;

Whereas Federal, State and local governments should encourage the development of markets for recyclable goods;

Whereas Federal, State and local governments should promote the design of products that can be recycled safely and efficiently;

Whereas the success of recycling programs depends on the ability of informed consumers and businesses to make decisions regarding recycling and recycled products and to participate in recycling programs; and

Whereas the people of the United States should be encouraged to participate in educational, organizational and legislative endeavors that promote waste separation methods, community-based recycling programs and expanded utilization of recovered materials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 15, 1992, is designated as "National Recycling Day". The President of the United States is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

BICENTENNIAL OF NEW YORK STOCK EXCHANGE

The joint resolution (S.J. Res. 254) commending the New York Stock Exchange on the occasion of its bicentennial, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. Res. 254

Whereas, on May 17, 1792, the New York Stock Exchange was founded by twenty-four merchants and brokers who gathered under a buttonwood tree in lower Manhattan to establish a reliable market for the trading of securities;

Whereas the New York Stock Exchange has helped finance America's growth from its very beginning, significantly contributing to job creation and to the development of the Nation's industry and technology;

Whereas the New York Stock Exchange is both the Nation's and the world's best known symbol of America's free enterprise system;

Whereas the New York Stock Exchange has committed its energy and expertise to advance our Nation's free market philosophy to other countries around the world; and

Whereas the New York Stock Exchange is a quasi-public institution, dedicated to the promotion of individual and institutional investor protection, and to just and equitable principles of trade: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the New York Stock Exchange is hereby commended on the occasion of its bicentennial. The President is authorized and requested to issue a proclamation acknowledging and commending this occasion.

NATIONAL LOCK-IN SAFETY MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 139) to designate October 1991 as "National Lock-In Safety Month," which had been reported from the Committee on the Judiciary, with an amendment:

On page 2, line 3, strike "1991", and insert in lieu thereof "1992".

The amendment was agreed.

The joint resolution, as amended, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, as amended, and the preamble, are as follows:

S.J. RES. 139

Whereas professional locksmiths meet the security needs of all segments of society and take pride in their contributions to a safe environment;

Whereas throughout history locksmithing has been a profession that requires continuing education to keep pace with an evolving technology;

Whereas the demands of physical security in residential, commercial, industrial, and institutional settings require dedicated professionals who work by a code of high ethical standards to provide the best security available;

Whereas professional locksmiths continue to provide a wide range of security products and services, including automotive products, master-keying products and services, safes and vaults, electronic access control products, and high-security products and services for all types of structures;

Whereas professional locksmiths in the United States are represented by the Associated Locksmiths of America, Inc. (ALOA); and

Whereas "National Lock-In-Safety Month" will celebrate the long-standing locksmith profession and salute those locksmith professionals who accept the challenges of providing individuals and organizations with the security necessary to protect their property and give them peace of mind as they go about their daily activities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1992, is designated as "National Lock-In-Safety Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

The title was amended so as to read "Joint resolution to designate October 1992 as "National Lock-In Safety Month.""

GIRL SCOUTS OF THE UNITED STATES OF AMERICA 80TH ANNIVERSARY DAY

The joint resolution (H.J. Res. 343) to designate March 12, 1992, as Girl Scouts of the United States of America 80th Anniversary Day," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

IRISH-AMERICAN HERITAGE MONTH

The joint resolution (H.J. Res. 350) designating March 1992, as "Irish-American Heritage Month," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

The joint resolution (H.J. Res. 395) designating February 6, 1992, as "National Women and Girls in Sports Day," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

ORDER TO INDEFINITELY POSTPONE CERTAIN ITEMS

Mr. MITCHELL. Mr. President, I ask unanimous consent that Calendar order Nos. 398, 401, and 403 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO JENNIFER SMITH

Mr. MITCHELL. Mr. President, before concluding our business this evening, I want to note the fact that the Assistant Parliamentarian, Jennifer Smith, now seated in the Parliamentarian's chair, will be leaving the Senate after 4 years in her present position.

She will become counsel to the House Budget Committee. In behalf of all Members of the Senate, I want to express to Ms. Smith our gratitude for the superb manner in which she has performed her duties as Assistant Parliamentarian in these past 4 years. It is a difficult task, not well known to the public, but of critical importance to the operation of the Senate.

The Parliamentarian is called upon on numerous occasions each day in which the Senate is in session to make decisions regarding Senate procedures, some of them controversial and all of them important.

Ms. Smith has performed those duties with integrity, with intelligence, with impartiality. I have not ever heard a Senator of either party lodge any complaint to the contrary. I want Ms. Smith to know that we are very grateful for the service she has rendered, and we wish her the very best of success. Our loss is the House Budget Committee's gain.

BEST WISHES TO ASSISTANT PARLIAMENTARIAN SMITH

Mr. DOLE. Mr. President, let the RECORD reflect I certainly share the views expressed by the majority leader.

We appreciate your impartiality, your fairness. We wish you every success. We do not believe it will be the same on the Budget Committee. Nothing is quite the same as the Senate of the United States, but we appreciate your service. I hope this is not a self-imposed term limit. But in any event we wish you the best.

Mr. MITCHELL. Mr. President, I understand the Chair has an announcement?

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94-304, as amended by Public Law 99-7, appoints the Senator from Pennsylvania [Mr. SPECTER] to the Commission on Security and Cooperation in Europe, vice the late Senator from Pennsylvania Mr. Heinz.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator DOLE be recognized to address the Senate, and that upon completion of Senator DOLE'S remarks the Senate stand in recess.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Republican leader is recognized.

Mr. DOLE. Mr. President, I thank the majority leader and thank the Presiding Officer. I will be very brief.

Mr. President, I have four different statements.

SALUTE TO STROM THURMOND

Mr. DOLE. Mr. President, I would like to bring to the attention of my colleagues an outstanding newspaper article about an extraordinary man—our most distinguished colleague and friend from South Carolina, Senator STROM THURMOND.

Entitled "Almost 90, THURMOND STILL FIERY," THE ASSOCIATED PRESS ARTICLE FROM THE FEBRUARY 24 AIKEN, SC, STANDARD MAINTAINS THAT SENATOR THURMOND is "An institution in

South Carolina." I would add that Senator THURMOND is also an American institution.

And if you have ever been on the Senate floor during an important debate on promoting excellence in education, cutting wasteful Federal spending, protecting Americans from the horrors of violent crime, shielding children from the ills of pornography or the heartbreak of fetal alcohol syndrome, you know this article is on target when it says Senator THURMOND "can still draw more electricity from a crowd than orators a third his age."

Senator THURMOND draws that electricity not only with style but with substance. Last Saturday, before the Southern Republican Leadership Conference, our distinguished colleague crystallized his pitch for our President this way: "Do you know who to send a message to?" Senator THURMOND asked. "Send it to the Congress," he answered.

Mr. President, I know all my colleagues on both sides of the aisle are proud to count this patriot from South Carolina as one of this body's true legends. We applaud this gentleman's distinguished record which—fortunately for America and South Carolina—is still a work in progress.

Mr. President, I ask unanimous consent that the entire text of the Aiken Standard article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALMOST 90, THURMOND STILL FIERY

(By Bruce Smith)

CHARLESTON.—He's an institution in South Carolina. Almost 90, he is arguably the only politician in America who quotes Calvin Coolidge on the stump. But he can still draw more electricity from a crowd than orators a third his age.

U.S. Sen. Strom Thurmond showed his stuff again during a weekend speech to the Southern Republican Leadership Conference.

In a strong voice that belied his years, Sen. Thurmond attacked, in no specific order, Democrats, big government spenders, opponents of President Bush and those who would cut defense too deeply.

He was greeted with a standing ovation. It was a reception second perhaps only to that which Bush received during the conference the previous day.

But then again, no one had, as a day earlier, gone and slipped campaign posters under all the chairs so the crowd could hold them up for the benefit of the Washington press corps and the television cameras.

There were no cameras Saturday.

If reporters don't write a lot about Sen. Thurmond's campaign speeches, it's likely because he's been around campaigning, well, as long as anyone can remember. Before most folks were even born. Perhaps before the parents of most folks were born.

The former governor has served in the U.S. Senate for 37 years. He will turn 90 next December.

On Saturday, some reporters roamed the halls talking to political operatives while Sen. Thurmond was at the podium doing what he's been doing for years. And the fire was unabated.

"Can you think of anybody, anywhere who can even compare with President Bush?" he asked the crowd. "No one has even heard of any of these other people before. He's known worldwide."

He attacked those who would cut defense too deeply.

"We must keep a strong defense if we are going to keep this country free," he said to applause from several hundred party faithful.

He said Bush's proposals would help the economy if the Democratic congress would pass it.

"Do you know who to send a message to? Send it to the Congress," he said. The cheers and applause echo.

He accused the Democrats of wanting to put a "temporary" tax to balance their economic proposals. But Sen. Thurmond warned temporary would become permanent after the election.

"We don't need any more taxes permanent or otherwise. We have enough taxes," he said. More applause. "What we need to do is stop this big spending. You know that as well as I do."

More cheers. Again applause.

"We can't sit around. We can't get spoiled. We've got to act. It's going to take persistence. It's going to take determination."

He then quoted Coolidge on how nothing can take the place of persistence.

"I would urge you when you leave here and go back home that you be determined and persistent. And if you are and work it that way and get the people to work for you, we will re-elect one of the finest presidents this nation has ever had," he said.

Standing ovation.

WALSH KEEPS GOING AND GOING

Mr. DOLE. Mr. President, 9 months ago this week, I sent a letter to then-Attorney General Dick Thornburgh, suggesting that the time had come to close down the Office of Iran-Contra Independent Counsel, Lawrence Walsh.

Given the fact that the courts were overturning the convictions and throwing out the indictments won by Mr. Walsh, I concluded that the Justice Department could do a much better job, at a greatly reduced cost.

Today, Mr. Walsh, like the "Ever-Ready Rabbit" in television commercials, just keeps on going, and going, and going. And he keeps on spending and spending and spending tax dollars on a case that is going absolutely nowhere.

Today, despite the fact that nearly a year and a half ago, Mr. Walsh, himself, said that the end of his investigation was near, there is no sign that Mr. Walsh will "pull the plug" on his exercise in futility.

In fact, in a story in Monday's Washington Times, Mr. Walsh is quoted as saying that when it comes to his investigation, "It's perfectly clear we're talking [about] a long time. Months, Not weeks."

The article also revealed that Mr. Walsh has now turned over the day-to-day operation of the investigation to his deputy, and remains in Oklahoma 3 weeks out of 4, working on his book on the investigation.

And while Mr. Walsh fiddles with his book, his investigation—housed in some of the most expensive Washington, DC offices—continues to burn tax dollars.

Mr. Walsh himself, admits, that the investigation has cost at least $30 million. Others put the price tag much higher—perhaps as much as $100 million when you include costs to the Justice Department, the Federal courts, the CIA, and other agencies.

And while Mr. Walsh may have the luxury of an unlimited budget, those whom he is investigating do not. The Washington Times also reported that Joe Fernandez, a CIA officer, who was the subject of Mr. Walsh's investigation spent nearly $2 million to defend himself against charges that were eventually dropped.

Richard Secord could not afford his attorneys anymore, after his legal bills went over the $1.2 million mark, so he opted to plead guilty to a charge of making a false statement to Congress. His penalty: probation and a $50 fine.

Mr. President, what was obvious 9 months ago is more obvious now. The Justice Department can do the mop-up work needed to finish this investigation.

I, for one, think that Mr. Walsh should now have the opportunity to work full-time on his memoirs.

And if we are serious about tax relief, closing the doors of Mr. Walsh's taxpayer-funded luxurious multimillion-dollar operation would be a good first step.

Mr. BRYAN assumed the chair.

THREE YEARS OF MARTIAL LAW IN KOSOVA

Mr. DOLE. Mr. President, this week marks the third year of martial law in Kosova, a province in the former Yugoslavia with a population that is over 90 percent Albanian. While democracy and freedom have triumphed in the rest of Eastern Europe, the future of democracy and freedom in Kosova is uncertain—indeed, it is only a fading hope in the hearts of the 2 million Albanians who live there, in the police state created by hardliner Slobodan Milosevic, the President of Servia, part of the former Yugoslavia.

For more than 1,000 days, the Albanians of Kosova have suffered great hardship under the crushing weight of Milosevic's repression. For more than 1,000 days, Albanians have been forbidden to meet, to speak their minds, to express themselves politically or even culturally, to work peacefully, to earn a decent living. For more than 1,000 days, the Albanians have lived with minimal food and virtually no medical care. But, worst of all, for more than 1,000 days, the Albanians of Kosova have had to live in a state of absolute fear and terror.

You may ask, what has life been like for the Albanian people in Kosova during these past 3 years? I would like to share some facts with my colleagues:

Albanian children have been barred from secondary schools in Kosova, and only a small percentage of Albanian children may attend elementary school;

Over 100,000 Albanians have been fired from their jobs on political grounds;

Over 2,000 Albanian medical professionals, doctors and nurses, have been fired;

Nearly 250 civilians have been wounded by police during peaceful demonstrations;

One hundred and five people have been killed by police since January 1, 1989, including 16 children;

The assembly of Kosova was shut down and Kosova lost the political autonomy it had enjoyed for nearly three decades.

Mr. President, when I visited Kosova in July of 1990, I was shocked by the inhumane treatment of the Albanians by the Serbian authorities. I saw the police in action; People were being teargassed and clubbed by police. At the time, I did not believe that the situation could worsen; But, Mr. President, I was wrong. It has worsened and terribly so.

Living in Kosova is living in a nightmare. The situation has so deteriorated—politically, economically, physically—that I doubt any of us can imagine the true extent of the Albanian's' suffering.

Mr. President, it is important to remember why the Albanians are suffering. The Albanians of Kosova are suffering because they wanted, and still want, democracy and freedom. And, under Slobodan Milosevic's rule, wanting democracy and freedom is a crime punishable by death.

Kosova's political leaders—Dr. Rugova, Bujar Bukoshi—have pursued the goal of democracy peacefully, sometimes secretly; they have not resorted to violence. Nevertheless, these efforts to bring democracy at Kosova have been met with brutal violence and systematic repression.

Albanian representatives have no voice in Kosova or outside it. Because of Milosevic's opposition, Albanian representatives from Kosova are being excluded from the European Community sponsored peace conference on Yugoslavia—despite the fact that Albanians constitute the third largest ethnic group in what used to be Yugoslavia.

Mr. President, events in Slovenia, Croatia, Bosnia, and Macedonia have brought Yugoslavia to an end. Yugoslavia is dead. That is why it is absolutely critical that Albanian representatives from Kosova be allowed to participate in negotiations that will determine the future of the 2 million Albanians in Kosova.

Mr. President, 2 weeks ago, the distinguished Senator from New York, Senator D'AMATO, introduced a resolution. (S. Res. 257), regarding the plight of the Albanian people in Kosova; I am proud to be a cosponsor. In my view, the I resolution is important because it calls on the United States to:

First, press for the immediate inclusion of an Albanian representative from Kosova at the EC peace conference; second, condemn the Government of Serbia on this occasion of the third anniversary of the imposition of martial law on Kosova; third, urge the United Nations to immediately send observers to Kosova to monitor the situation there; and fourth, strongly support the aspirations of the Albanian people in Kosova for democracy and self-determination.

Mr. President, I urge my colleagues who have not familiarized themselves with Senate Resolution 257 to do so and to cosponsor this very important resolution. The United States must get more involved on the side of freedom and democracy in what used to be Yugoslavia. America is the leader of the free world and the Albanians of Kosova are looking to us to help lead them to freedom.

DEMOCRATIC REPORT ON THE NOMINATIONS PROCESS

Mr. DOLE. Mr. President, I have previously commented on the Democrat report on the nominations process, and today I would like to share some additional historical information to the debate on this issue.

History reflects the fact that the nominations process has long been a subject of some controversy. The 200-year debate, however, does allow us the opportunity to study the observations of the early American leaders—leaders who drafted our Constitution—leaders like James Madison.

In 1813, the Senate passed a resolution authorizing a committee to confer with the President on the subject of a nomination.

The father of the Constitution declined the opportunity to confer. Instead, he responded in a letter.

Madison wrote that in the cases of appointments to office and of treaties, the Executive and the Senate:

> * * * are to be considered as independent of and coordinate with each other.
>
> If they agree the appointments or treaties are made. If the Senate disagrees they fail.

That is how it was nearly 200 years ago. And that is how it is today. It is the President's duty to send up a nomination. It is the Senate's duty to confirm or not to confirm that nomination.

The Democratic report, however, chooses to ignore history in suggesting that the President immediately begin consulting with the Democrats in the Senate about the next Supreme Court nominee.

This proposal by the Democrats is simply an attempt to assert power which the Senate has never had and which I hope it never has.

Moreover, it ignores the plain language of the Constitution—language which excludes the Senate from the nomination process and only involves the Senate in the appointment process.

It is clear that the Constitution separates these two functions and only in the latter case is there Senate action required.

No President before or after Madison has surrendered the nomination power to the Senate. It is unlikely that this one can be persuaded to do so.

This report issued solely by Democrats in the Senate can be dismissed as historically unsustainable, and therefore irrelevant.

ORDERS FOR FRIDAY, FEBRUARY 28 AND TUESDAY, MARCH 3, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m., Friday, February 28; that on Friday, the Senate meet in pro forma session only; that at the close of the pro forma session, the Senate stand in recess until 11 a.m., Tuesday, March 3; that following the prayer, the Journal of proceedings be approved to date; and that following the time for the two leaders, there be a period for morning business, not to extend beyond 11:30 a.m., with Senators permitted to speak therein for up to 5 minutes each; with Senator MCCAIN recognized for up to 10 minutes and Senator SIMPSON or his designee for up to 5 minutes; that the time from 11:30 a.m., to 12 noon be for debate on the motion to invoke cloture on the motion to proceed to S. 1504, the Corporation for Public Broadcasting Authorization, with the time equally divided and controlled in the usual form; that on Tuesday, March 3, the Senate stand in recess upon conclusion of the vote on the motion to invoke cloture until the hour of 2:15 p.m., in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate recess until 10:30 a.m. tomorrow.

The motion was agreed to, and the Senate, at 7:10 p.m., recessed until 10:30 a.m., Friday, February 28, 1992.

NOMINATIONS

Executive nominations received by the Senate February 27, 1992:

DEPARTMENT OF STATE

JOSEPH GERARD SULLIVAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF

MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NICARAGUA.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

STEPHEN NORRIS, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 1994, VICE STEPHEN E. BELL, TERM EXPIRED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate February 27, 1992:

DEPARTMENT OF COMMERCE

BARBARA HACKMAN FRANKLIN, OF PENNSYLVANIA, TO BE SECRETARY OF COMMERCE.

FEDERAL RESERVE SYSTEM

ALAN GREENSPAN, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 14 YEARS FROM FEBRUARY 1, 1992.

ALAN GREENSPAN, OF NEW YORK, TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 4 YEARS.

SECURITIES INVESTOR PROTECTION CORPORATION

FRANK G. ZARB, OF NEW YORK, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1992.

SECURITIES AND EXCHANGE COMMISSION

J. CARTER BEESE, JR., OF MARYLAND, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 1996.

FEDERAL HOUSING FINANCE BOARD

WILLIAM C. PERKINS, OF WISCONSIN, TO BE A DIRECTOR OF THE FEDERAL HOUSING BOARD FOR A TERM OF 1 YEAR.

LAWRENCE U. COSTIGLIO, OF NEW YORK, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM OF 3 YEARS.

MARILYN R. SEYMANN, OF ARIZONA, TO BE A DIRECTOR OF THE FEDERAL HOUSING BOARD FOR A TERM OF 5 YEARS.

DANIEL F. EVANS, JR., OF INDIANA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM OF 7 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

KAREN J. WILLIAMS, OF SOUTH CAROLINA, TO BE U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.

MARY LITTLE PARELL, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

GARLAND E. BURRELL, JR., OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA.

RODERICK R. MCKELVIE, OF DELAWARE, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE.

WILLIAM B. TRAXLER, JR., OF SOUTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA.

DEPARTMENT OF JUSTICE

DAVID JAMES JORDAN, OF UTAH, TO BE U.S. ATTORNEY FOR THE DISTRICT OF UTAH FOR A TERM OF 4 YEARS.

JACK W. SELDEN, OF ALABAMA, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF ALABAMA FOR THE TERM OF 4 YEARS.

DEPARTMENT OF DEFENSE

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT AS VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF UNDER TITLE 10, UNITED STATES CODE, SECTION 154:

To be vice chairman of the Joint Chiefs of Staff

To be admiral

ADM. DAVID E. JEREMIAH, [redacted] U.S. NAVY.

EXTENSIONS OF REMARKS

FIFTY YEARS AFTER PEARL HARBOR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. CRANE. Mr. Speaker, the observation of the 50th anniversary of Pearl Harbor last year has led to some renewed concern about the possibility of Japanese aggression toward the United States in the future. I believe that such suspicions are unfounded and only serve to divide our two peoples and divert our attention away from the real modern day security threats of the Pacific region.

I submit to my colleagues the following article, by Margaret Calhoun that appeared in the Freedom Bulletin on December 12, 1991, which embraces a future of democracy and economic prosperity by promoting the breakdown of mutual suspicions in United States and Japanese relations.

FIFTY YEARS AFTER PEARL HARBOR, UNITED STATES-JAPANESE SUSPICION, NOT JAPANESE MILITARISM, IS GREATEST THREAT TO PACIFIC RIM

(By Margaret Calhoun)

The intense media interest in the 50th anniversary of the Japanese attack on Pearl Harbor has led in some quarters to fears of a resurgent Japanese nationalism directed into military aggression.

These fears, based largely on memories of Imperial Japan's behavior before and during World War II, cannot be substantiated by any factual examination of the present Japanese defense posture and defense spending or by Japanese territorial or political motivations.

The real threat to the region today is from formidable offensive forces maintained by the People's Republic of (North) Korea and the People's Republic of China. China has nine times as many tanks and ten times as many aircraft as Japan. North Korea's tank force is three times that of Japan's, its ships are four times greater in number and its Air Force twice as large.

The People's Republic of China has successfully tested hydrogen bombs, and further heightening Japanese concerns in the region is a North Korean defector's claim that North Korea may have a second underground base for the development of nuclear weapons, substantiated by recent French satellite photography.

Communist regimes still rule Laos and Vietnam, and a communist faction is likely to dominate any coalition government that emerges in Cambodia.

The Japanese defense budget is the third largest in the world, but it has no long-range bombers and few amphibious forces. The magnitude of the Japanese defense budget is due in part to the commanding strength of the yen and to the high cost of sophisticated defensive weapon systems, including an estimated $2.2 billion worth of U.S. products the Japanese are buying for fiscal 1991.

Japanese defense spending is a tiny percentage of the country's gross national product (GNP), and this despite strong U.S. government pressures on the Japanese to increase defense spending to more than one percent of GNP and to increase their defensive perimeter to 1,000 miles from the Japanese shore.

Pacifist, and especially anti-nuclear, sentiment, a legacy of Hiroshima and Nagasaki, still runs high in Japan. The Japanese appear content to abide by their U.S.-written constitution and its prohibition against the maintenance of other than strictly defensive military forces.

In fact, former Prime Minister Toshiki Kaifu found it exceedingly difficult to win permission from the Diet to send peacekeeping forces to the Persian Gulf in support of Desert Storm.

Ultimately, only minesweepers were deployed, in a limited capacity.

In discussions about Japan, many U.S. policymakers admit to resenting Japan's growing economic power and the expense of U.S. forces defending Japan. Yet at the same time, they express concern about latent Japanese militarism.

If the U.S. government does not choose to spend further resources to protect Japan, then it must concede, in the absence of a counterforce to the mainland Chinese, the North Koreans and other Asian communist regimes, the Japanese right to defend itself against potentially hostile neighbors.

An Oct. 16 article in the New York Times spoke of an escalating anti-Americanism, especially among Japanese youth; the phenomenon was described as kenbei. Kenbei reflects a growing concern in Japan over the decline of the American work ethic and morality and the quality of U.S. products. The sentiment is expanding, based on friction over trade, cultural differences and other points of disagreement. The Japanese perceive that Uncle Sam is bullying Japan on trade matters in a way inconsistent with the American standard of fair play and justice.

One August newspaper poll by the Tokyo-based Yomiuri reported that 24 percent of those polled regarded the United States as a security threat (rising to 33 percent among young respondents), while only 22 percent said they saw the Soviet Union as a threat, despite its evident political instability and challenges from the republics over control of nuclear weapons.

Such a skewed perspective is not beneficial to either country, especially when Japan and the United States are long-standing co-signatories of a mutual defense pact and major trading partners. Differences over trade matters should not confuse the shared outlook between the United States and Japan on many other issues.

American bitterness toward the Japanese which is based on memories of Pearl Harbor or resentment of modern Japan's economic vitality and competitiveness make no sense; it deflects attention that should be directed to countries with formidable military capability that may pose genuine threats to U.S. strategic interests or those of our allies.

Ignorance and fear of the Japanese is not conductive to intelligent and mutually beneficial foreign or economic policies. Japan-bashing, which borders on thinly veiled racism, exploits anti-Japan sentiment to create a political consensus for protectionism, giving the Japanese a pretext to deny markets to American interests. Legitimate trade disputes between the United States and Japan should not be confused with national security matters.

The Japanese in the post-World War II era have found their real national strength to be in the realm of business and international trade, and therein is the challenge to the United States and other competing industrialized nations. It is wrong to believe that military aggression inevitably follows economic hegemony. Impoverished nations historically have been more inclined toward foreign adventurism. No democracy has started a major war in the 20th century.

The risk of military confrontation will likely continue to emanate from dictatorships and regimes guided by expansionist ideologies. The Japanese know well from the Soviet Union's economic collapse the perils of military conquest and unsustainable defense expenditures.

DEFENSE PLANNING FOR A NEW WORLD: LET'S NOT MATCH CHAOS WITH CHAOS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. DORNAN of California. Mr. Speaker, I recently returned from a trip to the former Soviet Union and although I, along with everyone else in this Chamber, am very pleased that this former adversary is moving away from communism toward democracy, there are still very dangerous threats to further reforms inside this new federation, including a military coup. I can best term what I saw in this former military superpower as chaos. In response to such rapid and revolutionary changes, many here in Congress are intensifying their efforts to reduce our defense budget beyond cuts already planned by the administration.

Is this the proper and prudent way to respond to such change, such chaos? As President Bush said in his State of the Union Address: "* * * the world is still a dangerous place. Only the dead have seen the end of conflict. And though yesterday's challenges are behind us, tomorrow's are being born. * * * The reductions I have approved will save us an additional $50 billion over the next 5 years. By 1997 we will have cut defense by 30 percent—actually 37 percent—since I took office. These cuts are deep, and you must know my resolve: This deep, and no deeper."

Yesterday, during hearings on the Army's 1993 fiscal year budget, Army Chief of Staff Gen. Gordon Sullivan echoed the President's warning to those who call for even deeper defense cuts. In a recent editorial by General Sullivan, which I would like to include in its entirety at the end of my remarks, he cautions:

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"* * * we cannot repeat the mistakes of the past, when armistice was followed by reckless optimism and defense was purged as if the world was permanently safe." Note the word "reckless."

As we consider this year's defense budget, let us heed the warnings of President Bush and General Sullivan. Let's not match chaos with chaos. Let's not be reckless.

HOW THE ARMY SEES A NEW WORLD—WE'RE SMALLER AND NON-NUCLEAR, BUT DEFENSE IS STILL OUR MISSION

(By Gordon R. Sullivan)

The anniversary of the ground campaign to liberate Kuwait is a perfect time to reflect on what the end of the Cold War means for the U.S. Army. This week, Secretary of the Army Stone and I will testify before the House Armed Services Committee and talk about the Army's response to the new realities of international security.

We recognize that this is a period of transition, but we'll still focus on the guideposts that have served us well: The Army will be a trained and ready total force, serving the United States whether the task be an Operation Desert Storm, an Operation Just Cause, the counter-narcotics battle on the Andean ridge or disaster relief. Put simply, we are a strategic force capable of rapid, decisive victory anywhere in the world.

The international environment continues to change on a scale that seemed unimaginable only a few years ago. The precepts of the Cold War—ideological hostility, bipolar military competition, and the cohesive and capable Soviet military threat—are no longer valid.

But while no one can doubt that the demise of communism as an ideological force and the break-up of the Soviet Union and the Warsaw Pact are overwhelmingly positive events, there are good reasons to temper our optimism: high uncertainty inherent in the emerging global security environment and continuing threats to our vital national interests.

We all wish for a peaceful world, but history does not give us much cause for optimism. As former secretary of defense Robert McNamara observed recently, there were 124 wars leading to 40 million death between World War II and the Persian Gulf War. These conflicts were not the result of ideological differences between East and West but of the age-old causes of war—boundary disputes, economic conflicts and ethnic tensions. The end of the Cold War does not eliminate these sources of conflict; indeed, it may even exacerbate them.

What conditions could threaten the vital interests of the United States? The answers are conditional and circumstantial and will change over time. But certain conditions are likely to spawn conflict:

Ideology that is inimical to ours and that underwrites violent change.

Unfair or governmentally restricted competition for resources and markets that threatens our economic well-being.

Ethnic and religious differences compounded by disputes over land, resources and leadership roles.

The proliferation of modern military technology throughout the developing world.

Threats, in short, exist; one might wish them away, but they remain. To insist upon precise definition as a prerequisite for prudent planning is to ignore the conditions under which they exist, the ever-changing circumstances of people and nations, and the dynamics that propel us into an uncertain future.

International politics has a nasty habit of not behaving as even the most rigorous analysis would suggest it should.

The fundamental tenets of a new U.S. military strategy, to use military language, are these: strategic deterrence and defense, forward presence, crisis response and reconstitution of forces and industrial capacity. This strategy supports the enduring objectives of national security strategy by providing the capabilities needed to move rapidly to defend our interests in vital regions such as Europe, Northeast Asia and the Persian Gulf. It also allows the military services to meet our global responsibilities with smaller, more flexible military forces while permitting us to reconstitute a larger force if a more robust threat emerges.

The Army already has begun to reshape itself. The Cold War Army of five corps and 28 divisions will be reduced to four corps and 20 divisions by 1995. We already have eliminated four active divisions from the force structure—two in the United States and two in Europe. Ultimately, the Army will be organized into 12 active divisions, six National Guard divisions and two cadre divisions.

This force structure reflects the results of a deliberate process initiated in the late 1980s, and if it seems cautious, it is because it is cognizant of history. As President Bush observed in his State of the Union Address, we cannot repeat the mistakes of the past, when armistice was followed by reckless optimism and defense was purged as if the world were permanently safe.

There are major changes:

For example, today's Army is non-nuclear. For the first time in my career, it no longer has short- and medium-range nuclear weapons in the force.

During the Cold War, nearly half of the fighting strength of the Army was stationed overseas; the majority of the post-Cold War Army will be stationed in the United States.

And we will not longer plan for wars of attrition. The Army, in conjunction with air and naval forces, will conduct conventional operations based on a mature "Air Land Battle" doctrine that combines the attributes of versatility, deployability and lethality to overwhelm an adversary.

Still, it would be foolhardy to abandon capabilities that have been built and sustained over the past 20 years, and that's what we'll be arguing this week on Capitol Hill. Here are the most important points in our vision of tomorrow's Army.

We need to maintain the edge in warfighting that was demonstrated in Panama and the Persian Gulf. The key is the balanced integration of high quality personnel, capable equipment and competent warfighting doctrine.

We will continue to recruit outstanding men and women. We are reviewing our doctrine to incorporate the lessons of the last two years. Our modernization program will focus on improving the lethality of our early-deployment forces, on maximizing the effectiveness of our on hand equipment and on the leap-ahead technologies that will ensure our technological superiority in the decade ahead. Training holds it all together, and today we are back on the practice field, working hard at combat training centers that are the best in the world.

We need to reshape the force to accommodate the new strategic environment. By the end of this fiscal year, the active force strength will be reduced from a Cold War level of 780,000 to 640,700 soldiers—over 84,000 are coming out this year alone, most of them from Europe. By the end of fiscal 1993, the active component will be reduced by another 41,800 soldiers. National Guard and Reserve strength also will be reduced by over 200,000 and realigned to meet future requirements, and we will lose over 100,000 civilians from our workforce. By 1995, the total force will consist of 535,000 active soldiers and 567,400 reservists.

We need to preserve sufficient dollars for training, leader development and modernization while getting more out of the resources we have. And we should find new ways to do business—new strategic concepts for managing war reserve stocks, new business practices in our logistics base, restructuring of our major commands.

Between fiscal 1990 and fiscal 1992, Army budget authority declined over 14 percent. The proposed budget for fiscal 1993 reflects another decline of nearly 5.5 percent from fiscal '92. I am committed to retaining the necessary training tempo, leader development programs as well as the quality-of-life programs for our soldiers and their families.

Operations Desert Shield and Desert Storm validated our view that all components of the total army—active, National Guard and reserve—are critical to battlefield success. But to get the most out of our reduced force structure in the future, we need to strengthen the interrelationships of these components.

The point, after all, is basic. For over 200 years, the Army has responded to the challenges of change. Today, it is adapting to a changed world—with an unchanging idea: When we are called again, we will be ready.

THE RETIREMENT OF RICHARD J. KERR

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. McCURDY. Mr. Speaker, the nature of their work virtually ensures that the contributions made by U.S. intelligence officers to our country will not receive public recognition. With few exceptions, the names of the men and women who hold senior positions in our intelligence agencies are unfamiliar to most Americans, and their careers go unremarked upon except by those with whom they serve.

On March 2, Richard J. Kerr will retire after 32 years of dedicated public service with the Central Intelligence Agency [CIA]. Dick Kerr, who is currently Deputy Director of Central Intelligence, has had a distinguished career, and I did not want him to take his leave without publicly acknowledging his efforts on behalf of our Nation.

Dick began his association with the CIA as an analyst, and he brought an analyst's perspective to all of his assignments. His varied career included administration, military liaison, and coordination of intelligence community affairs. These experiences served him well not only within the CIA when he became Deputy Director for Intelligence, but later when he was appointed by Judge William Webster as the Deputy Director of Central Intelligence. In that position, and during his tenure as Acting Director of Central Intelligence, Dick had numerous opportunities to display his considerable talents as a manager and leader.

The members of the Intelligence Committee are particularly familiar with Dick's dedication to his work, as well as his keen intellect and sharp wit. We have appreciated his cooperative attitude toward oversight of intelligence activities by Congress, which was best reflected by his willingness to facilitate the committee's access to the information it needed to discharge its responsibilities in this area. We respected his professionalism and had confidence in his integrity.

Mr. Speaker, Dick Kerr has served with distinction in some of the most demanding and important positions in our Government. His was a career of high achievement which should be a source of great pride for him and his family. I want to wish Dick every success as he turns his attention to new challenges.

CONGRESSMAN HEFLEY CONGRATULATES BRIG. GEN. ROBERT L. STEWART ON HIS SERVICE TO THE U.S. ARMY

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. HEFLEY. Mr. Speaker, Gen. Robert L. Stewart, U.S. Army, Director of Plans, U.S. Space Command will be retiring. I would like to commend him for service to his country for the past 28 years in a wide variety of billets as an Army aviator and astronaut with the National Aeronautics and Space Administration and as a general officer.

General Stewart's duty as an Army aviator included a combat tour in Vietnam and flight testing of the AH–64 Apache helicopter. During his combat tour, General Stewart accumulated 1,035 combat flight hours and was subsequently awarded four Distinguished Flying Crosses, the Bronze Star, two Purple Hearts and 33 Air Medals. Later in his career, General Stewart attended the U.S. Naval Test Pilot School and was subsequently assigned to the U.S. Army Aviation Engineering Flight Activity at Edwards Air Force Base, CA. There, he was the senior test pilot on the AH–64 Apache and led the development of an electronic automatic flight control system for the UH–60A Blackhawk helicopter.

General Stewart's service as an astronaut with NASA began in 1978. He made vital contributions to the Shuttle Program through direct mission support and participation on two space flights. General Stewart was instrumental to the success of the first commercially sponsored experiment for the space transportation system—the continuous flow electrophoreses experiment. Also, General Stewart employed his superb engineering and test pilot skills while assisting the contractor's development of the shuttle's flight control system. During his two shuttle flights, he set numerous records—the first Army officer in space, the first astronaut to conduct untethered extravehicular activities—twice—and the first astronaut to evaluate refueling of satellites already in orbit. As a result of his activities, General Stewart received the Army Aviator of the Year Award, the American Helicopter Society's Feinberg Memorial and the American Institute of Aeronautics and Astronautics Herman Orbeth Award.

Following his selection as brigadier general, he was assigned deputy commander, U.S. Army Strategic Defense Command. As deputy commander, he was responsible for the Army's participation in the strategic defensive initiative and in the theater missile defense programs. Following that, General Stewart brought his space and missile defense expertise to U.S. Space Command as Director of Plans. At Space Command, he championed may initiatives to provide space to the tactical forces. The contribution of space systems to the success of our forces in Desert Storm is tribute to his efforts.

We in the U.S. House of Representatives owe Brigadier General Stewart a great deal for his contributions to space exploration and national defense. In light of these accomplishments, General Stewart's wife, Mary, should have a great deal of pride in contribution to the U.S. Army, her community and our country. We wish both General Stewart and his wife well in their future endeavors.

HONORING THERESE O'CONNOR

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ENGEL. Mr. Speaker, it is with great pleasure that I today recognize the retirement of Therese J. O'Connor after 20 years of dedicated service to St. Joseph's School for the Deaf in the Bronx, the last 6 as executive director of the school.

In order to teach children with learning disabilities, it takes a special person with unique talents. For the students of St. Joseph's School, Therese O'Connor has been such a person. She combined patience and firmness in a way that let her students know she was willing to help in any way possible, but she was not willing to allow them to sell themselves short or cut corners.

I had the opportunity to work with Therese O'Connor when local funding to St. Joseph's was threatened by budget cuts. What I saw at that time was not an administrator concerned with her future or well-being, but a human being consumed with concern for a group of vulnerable young people. We won that funding battle, just as Therese O'Connor has won countless battles over the past 20 years.

That, Mr. Speaker, is the legacy she leaves to the teachers, parents and students of St. Joseph's School: Hard work, dedication, and compassion can conquer any obstacle.

HADASSAH'S EIN KEREM HOSPITAL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GILMAN. Mr. Speaker, on a recent visit to Israel, the United States Ambassador to Jordan, Roger Harrison, was involved in a very serious traffic accident. Due to the outstanding quality of care at Hadassah's Ein Kerem Hospital, Ambassador Harrison is alive and well and has returned to his post in Amman. Upon arrival at the hosptial, Ambassador Harrison was in critical condition. His life was in danger. Upon his arrival, the Ein Kerem staff began resuscitation efforts which undoubtedly saved his life.

One week after the accident then United States Ambassador to Israel, William Brown said he visited with Ambassador Harrison and was elated to find him doing so well.

This incident was not the first time that the Hadassah hospitals have provided care to Americans on an emergency basis. On July 6, 1989, there was a terrible bus accident involving many American citizens. Due to the quick response and outstanding skill of Hadassah, many lives have been saved.

For many years, the Agency for International Development has supported Hadassah hospitals in Israel through the American Schools and Hospitals Abroad Program. We are proud of AID for supporting such a fine institution, which provides excellent care to both its own citizens and Americans.

Permit me to join Ambassadors Brown and Harrison in expressing my deep appreciation for the tremendous efforts of Hadassah Ein Kerem in their superb care for Ambassador Brown and for their continuing excellence in providing world-class healthcare.

BEARING ARMS AND HOUSING SOLDIERS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. EDWARDS of California. Mr. Speaker, I would like to share with my colleagues the third in a series of eight editorials that appeared in the Atlanta Constitution, commemorating the 200th anniversary of the Bill of Rights. This editorial gives a brief history of the second and third amendments of the Constitution, which deal with the right to bear arms and with the housing of soldiers. As you know, crime is a significant problem in our country. An increasing number of our citizens are falling victim to violence, and even death, caused by legally and illegally owned weapons. As the interpretation of the Constitution has evolved to reflect the changing times, we may need to look toward a stricter interpretation of the second amendment to protect our citizens.

Article II: A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Article III: No Soldier shall, in time of peace be quartered in any house, without consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

BEARING ARMS AND HOUSING SOLDIERS

This is the third in a series of editorials leading to the 200th anniversary Dec. 15 of the ratification of the Bill of Rights.

Nowhere in the Bill of Rights is the divergence between judicial and popular opinion greater than in the Second Amendment, which protects "the right of the people to keep and bear Arms."

The federal courts, in the few Second Amendment cases to come before them, have focused on the amendment's opening: "A well-regulated Militia, being necessary to the security of a free State . . ." The courts have thus concluded that what is protected is simply the existence of state militias.

The right to bear arms can be linked to the Third Amendment, which regulates the quartering of soldiers in private houses. At issue in both cases is the implied danger posed to civilians by government troops.

In 1791, Americans were understandably leery of standing armies. The Revolution had been fought against King George's professionals, many of whose officers were quartered in colonial homes against the will of the inhabitants. The war, indeed, began when the British marched to Concord, Mass., to seize arms in the possession of local militias.

Early drafts of the Bill of Rights make clear that "militia" meant ordinary citizens gathered together as an armed force. The idea was to give civilians the wherewithal to resist military tyranny.

Nowadays, only those on the radical fringes of society bear arms in order to protect themselves from the government. The mainstream gun lobby invokes the Second Amendment on behalf of hunters and those interested in resisting would-be criminals.

But no rights are absolute. The right to vote for congressional representatives (secured in Article 1 of the Constitution) does not give a person the opportunity to vote anywhere or any time or free from registration. Similarly, the right to bear arms, even understood expansively, could not mean the right to possess any weapon (a nuclear warhead?), to procure a handgun without a waiting period, or not to have to register a gun.

Indeed, the Second Amendment could be interpreted to *require* stricter limits on the types of weapons that can be owned, waiting periods for the purchase of all others and universal gun registration. The security of a free state, and a well-regulated militia, might well demand it.

BIOGRAPHY OF TECUMSEH

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the "Year of the American Indian." This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the "Year of the American Indian," and as part of my ongoing series this year, I am providing for the consideration of my colleagues a short biography of Tecumseh, a Shawnee known for his abilities as a warrior and statesman. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

TECUMSEH (SHAWNEE)

Tecumseh, the Shawnee warrior-statesman widely considered the greatest American Indian leader of all time, was a famed fighter against white settlers while still a young man in the Ohio River country. Warfare with whites was a family tradition: Tecumseh's father, also a chief, had died fighting frontiersmen in 1774 when Tecumseh was a boy of six. Two older brothers later fell in battles with colonial soldiers.

Daring and courageous warrior that he was (his name may be translated as "Shooting Star"), Tecumseh was noted for his humanity. He would not torture prisoners, nor allow his people to follow this widespread practice.

By the 1780's, Tecumseh was acknowledged as the leading Indian statesman of the Ohio area. Profoundly disturbed by the growing menace to Indian lands and life represented by white expansion, he worked out a great plan for his people's future. The only Indian hope, he believed, lay in uniting. He dreamed of a powerful confederation of tribes which would create a great Indian state centered around the Ohio Valley and the Great Lakes.

Tecumseh's surviving brother was a visionary who called himself Tenskwatawa the Prophet. In 1805, Tenskwatawa, who claimed to have had revelations from the spirit world, announced a new dogma to Shawnees and their allies. There must be, he proclaimed, no more intermarriage with whites, and Indians were to abandon all the white man's ways. Only when they returned to the old way of life would Indians find the peace and happiness their ancestors had enjoyed. Indian witchcraft and the white man's firewater were denounced alike.

Tenskwatawa's prophecy named his brother, Tecumseh, as the leader who would unite the Indians and guide their return to traditional ways. The two brothers established an Indian settlement on the Wabash River, near the mouth of the Tippecanoe. There Tecumseh settled more than 1,000 Shawnees, Delawares, Wyandots, Ottawas, Ojibwas, and Kickapoos as the beginning of his great alliance. Liquor was forbidden in the Indian villages, and tribesmen lived according to ancient patterns.

Tecumseh then traveled across the country, urging Indians from Florida to St. Louis to unite. The Shawnee chief was a magnificent figure whose impact was felt by Indians and non-Indians alike. A white observer of the period who heard him speak reported that Tecumseh's voice "resounded over the multitude . . . hurling out his words like a succession of thunderbolts."

To every American and British leader who would listen Tecumseh argued tirelessly that the U.S. Government had no right to buy land from a single tribe, since the entire Ohio Valley country had belonged to all the tribes in common. His repeated position was that the Treaty of Greenville, made in 1795, had guaranteed the tribes, as one people, all Ohio land which had not specifically been ceded to the whites.

The Northwest Territory's new Governor, William Henry Harrison, was all too conscious of these provisions protecting Indian interests in the Greenville Treaty, and was equally determined to undo them. He and Tecumseh, the area's two outstanding figures, met frequently. Harrison refused to recognize the Shawnee chief's arguments; Tecumseh refused to give up his plan for Indian unity. "It is my determination," he told Governor Harrison, "nor will I give rest to my feet until I have united all the red men."

Hoping to obtain British help, Tecumseh traveled frequently to Canada. He returned with gifts of ammunition, arms, and clothing from his friends, but could not yet be sure enough of English support, nor of complete Indian cooperation, to risk an open attack.

Meanwhile, Governor Harrison was steadily undermining the Greenville Treaty by making separate agreements with some 11 tribes. He dismissed Tecumseh's protests with the dubious logic that the Shawnees, Tecumseh's own people, had not been involved in these deals. Harrison recognized a formidable adversary in Tecumseh, whom he described in a letter to the Secretary of War as "one of those uncommon geniuses which spring up occasionally to produce revolutions." If the whites were any weaker, Harrison went on to say, Tecumseh might succeed in setting up a great empire within the United States.

In the spring of 1811, while Tecumseh was in the south attempting to persuade Creeks, Choctaws, and Chickasaws to join his alliance, Indians at Tippecanoe launched a series of thefts and other harassments of colonists. Harrison, taking advantage of Tecumseh's absence, sent some 900 soldiers to Tippecanoe.

In disobedience of Tecumseh's explicit instructions, Tenskwatawa ordered the Indians to attack, touching off the Battle of Tippecanoe. At its end, the Indians were defeated, scattered, and disillusioned as well, for they had believed the Prophet's claim that white men's bullets would be made harmless.

Tecumseh returned to find his alliance shattered, his hopes all but destroyed. He went to Canada as the War of 1812 was beginning, and the British, who greatly respected him, made the Shawnee chief a brigadier general. Resplendent in uniform, Tecumseh led white and Indian troops in four major battles against the Americans.

In October, 1814, the British made their last stand in the Battle of the Thames in Ontario. Tecumseh in the uniform of a British officer. Uniform, cap, and medal were added to this 1808 pencil sketch after the Shawnee chief was commissioned during the War of 1812. The red cap was ornamented with colored porcupine quills and a single, black eagle feather.

Allied English and Indian forces were completely defeated by Harrison (by then also a brigadier general) and his men. Tecumseh himself fell in the battle, at 45 finally defeated by his old adversary.

Perhaps he had felt the approach of death, for the great leader had changed from army uniform to Indian buckskins before the battle. His body was never found.

ANOTHER CALL FOR THE LINE-ITEM VETO

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. DUNCAN. Mr. Speaker, it has become readily apparent that this liberal Congress does not have the will or desire to restrain spending. This Government is too big, taxes too much, spends too much, and has been the primary cause of our current economic woes.

Americans would be shocked if they knew where their hard-earned tax dollars are going. It's just ridiculous.

If the line item is a useful tool for 43 Governors, then it most certainly will be useful for the President.

I want to bring to the attention of my colleagues, on both sides of the aisle, an informative editorial which recently appeared in the Wall Street Journal.

JUST DO IT

"I strongly support the line-item veto, because I think it's one of the most powerful weapons we could use in our fight against out-of-control deficit spending.

George Bush or Ronald Reagan didn't say that; Bill Clinton did. As one of 43 state Governors who now have and use the line-item veto, the Arkansan has made it a plank in his presidential campaign. He understands, even if Congress and most of the media still don't, that the line-item debate is about accountability in spending, not partisanship.

Former California Governor Jerry Brown also supports the item veto. Paul Tsongas calls it "an effective way of reducing waste in government." Republican Pat Buchanan as usual goes even further, saying, "I won't beg for a line-item veto. I will use the line-item veto the President already possesses." The National Taxpayers Union has found that the only presidential candidates who don't support the item veto are the two denizens of Congress, Senators Bob Kerrey and Tom Harkin. Could this be . . . a coincidence?

But the two Senators have a chance to make amends this week, when Senators John McCain of Arizona and Dan Coats of Indiana offer their annual item-veto amendment. They have 28 other co-sponsors, including Democrats Jim Exon of Nebraska and David Boren of Oklahoma.

More precisely, the Coats-McCain proposal would revive a President's power to "rescind," or delete, egregious spending items. That constitutional power has been dormant since 1974, when Congress steamrollered a President weakened by Watergate to eliminate the long-established power to impound funds. A President can still send up a package of pork for rescission, but the money is spent unless Congress votes not to; of course it never does. The Coats-McCain amendment would make the rescission itself automatic; Congress would have to override if it still wanted the most outrageous pork.

The threat this poses to logrolling-as-usual can be seen in the fanatic opposition it inspires in Democrat Robert Byrd and Republican Mark Hatfield. They are the two ranking Members of the Appropriations Committee, a.k.a. Pig Heaven. Mr. Byrd has lately devoted his energy to trying to move much of the U.S. Government out of Washington to his state of West Virginia.

Mr. Byrd will argue that every Senator likes pork, which is exactly why the item veto is needed. Like any addict, Senators need to be stopped before they spend again. An item veto puts the President back into the spending game in a way that restores accountability. It's true that an item veto couldn't touch entitlements, but it at least would give a President more bargaining power with the Senate's Big Byrds.

President Bush agrees with scholars who say the Constitution already gives him the power to use an item veto, and claims to be looking for the right item to strike. If he is serious, Mr. Bush has a great opportunity now. If he asserts his item-veto power, Congress will be forced to defend its pork in public. The matter would go to the courts, which might side with Congress, but that would leave matters no worse than they are now. Moreover, Mr. Bush would at least have focused public attention on the main problem, congressional spending.

Mr. Bush's tax-pledge reversal has left him with a credibility problem; the public won't believe his promises unless he shows he's also willing to act. Just do it, Mr. President.

U.S. CHAMBER OF COMMERCE SUBMITS THE "NATIONAL BUSINESS AGENDA"

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. McCURDY. Mr. Speaker, on Monday morning, February 24, 1992, almost 2,000 leaders of the American business community met at Constitution Hall to present leaders of the Federal Government with their recommendations on how America can prosper in a post-cold-war world.

This plan, the "National Business Agenda," was presented directly to President Bush by a fellow Oklahoman and the Chairman of the Board of Directors of the U.S. Chamber of Commerce, C.J. "Pete" Silas, at the National Business Action Rally.

I want to commend Mr. Silas, chairman and chief executive officer of Phillips Petroleum, for presiding over a new era in the chamber's history, one that reemphasized grassroots solutions.

By reaching out to the thousands of American communities with local chambers of commerce, the U.S. Chamber has developed an agenda that reflects local business concerns. It is based largely on the feedback received at six regional legislative action forums held by the U.S. Chamber last fall. The agenda includes recommendations on such issues as elementary and secondary education reform, access to health care, and rebuilding America's infrastructure.

And while I do not agree with every position taken in the chamber document, I am satisfied that the business community has brought many constructive ideas to the national debate on America's future.

C.J. "Pete" Silas gave up his chairmanship of the U.S. Chamber at the rally on Monday. The success of this event represents the crowning achievement of his 1-year tenure.

TRIBUTE TO ST. JOSEPH'S PARISH IN TILTONSVILLE, OH

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. APPLEGATE. Mr. Speaker, I rise today to pay tribute to the members of St. Joseph's Church in Tiltonsville, OH, who are celebrating their 75th anniversary as a Roman Catholic parish. Over the years the church has played an active role in the community; promoting better schools, improved public facilities and programs for the needy.

St. Joseph's parish was formally organized early in 1917 by Bishop James Hartley. Father John Queally, the parish's first pastor, initiated the plans for the building of the original church and recovery. The construction of the church was completed in May 1918 under the direction of Father Peter Crelly, the second pastor at St. James. The rectory, which was funded entirely by Father Joseph A. Weigand, was built adjacent to the church later that year.

In an attempt to raise the funds necessary to repair the church and rectory, Father Constantine Superfisky developed organizations in which the parishioners could participate. Father Connie, as he affectionately became known, remained pastor until 1977. The activities he organized ranged from the St. Joseph's Athletic Association to the Parent Teacher's Association which assisted with the creation of the St. Joseph's School. The school, opened in 1950 was the only Catholic school in Warren Township until it closed in 1983. Father Connie's fundraising efforts were a huge success and led to the active involvement which makes the church an invaluable asset to the community.

The rapid expansion of the parish was inevitable, by 1956 plans were initiated to build a church twice as large as the original. The first mass in the new church, designed to accommodate 500 people, was led by Father Connie on March 19, 1958.

In February 1964 St. Joseph's parish was divided and St. Lucy's parish at Yorkville was formed. At the same time the parish began to feel the effects of the Vatican Council II. Fortunately, these changes were gradual and the adjustments were well managed. Father Connie remained the central force within St. Joseph's until 1976, when his health began to fail. He passed away 2 years later but his contributions to his parish and the Ohio Valley will be remembered for many years to come.

A memorial fund was established in his name by his successor, Father Vincent J. Huger. He remained with the church for 7 years and continued to implement the reforms dictated by the Vatican II. He continued Father Connie's legacy of activity and community involvement establishing many innovative activities for the parish.

The current pastor, Rev. Thomas C. Petronek, has established several programs designed to expand the spiritual growth and well being of the people of St. Joseph's. The 75th anniversary of the parish will culminate in a huge celebration on March 1, 1992, featuring a jubilee mass presided over by the new bishop.

Mr. Speaker, it is my distinct privilege and honor to ask my colleagues to join me in acclamation of the St. Joseph's parish.

A DEDICATED PUBLIC SERVANT

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ZIMMER. Mr. Speaker, Joe Pucillo is one of the finest individuals in my district, and a shining example to the rest of us in public life. For more than three decades Joe has shaped and guided the Somerset County community of Franklin Township.

Joe has served Franklin Township well on its industrial committee, its planning board, an advisory council to the board of education, and as civil defense director. He has been a councilman, mayor, fire commissioner, and county freeholder.

Joe went door to door to collect donations so his local volunteer fire company could buy equipment. In the late 1950's he helped organize the township into fire districts. Now Franklin Township has 10 fire houses, $1 million of fire-fighting equipment and many families whose homes were saved from fire because of Joe's efforts.

Before Joe was a freeholder, all of the county's offices purchased supplies separately. Freeholder Pucillo suggested the county might save money if bulk purchases were made by a central office. His colleagues adopted the idea, but it was only one of many changes that Joe brought about.

When Joe moved to Franklin Township in 1948, it was a quiet, rural New Jersey community. Now 40,000 people live there, and Joe has touched all of their lives in one way or another.

On Saturday, this dedicated public servant will be honored by the residents of Franklin Township at a testimonial dinner. I would like the Members of this body to add their praise in recognition of a man who has achieved what we try to do every day. Through his public service, he made life better for those around him.

CONGRESSMAN KILDEE HONORS PEPPY ROSENTHAL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. KILDEE. Mr. Speaker, I rise today to honor an individual who has done so much to improve the quality of life for so many people in my hometown of Flint, MI, Mrs. Peppy Rosenthal. Mr. Speaker, Peppy has been a wonderful friend and a tremendous advocate for the needy in our community.

Born in the Ukraine in 1935, Peppy endured a most difficult and painful childhood. During World War II, the Nazis invaded Peppy's hometown and created a Jewish ghetto. Fortunately, Peppy and her family, which consisted of her mother and father, escaped the ghetto and hid from the Nazis in a farmer's barn. One night, while her father was searching for a new hiding place, the farmer told them that they would have to leave the barn soon. Peppy's mother went to find her husband. A short while later, Peppy's father returned, but she never saw her mother again. Peppy's mother had been killed by the Nazis. Peppy and her father lost all their relatives in the Holocaust. After the war, Peppy lived in displaced camps across Europe, finally settling in Italy. In 1950, Peppy and her family moved to Flint, MI to begin a new life. A few years later, she met Morrie Rosenthal and they married in 1956.

Mr. Speaker, it is very important to understand Peppy's childhood, because like so many others, it shaped the way she has viewed her life. Peppy understands the ugliness of prejudice and racism, she has felt the pains of hunger, and she knows the loneliness of being disenfranchised. During the early 1960's, Peppy became involved in the civil rights movement. She did not get involved because it was politically the right thing to do, she fought for civil rights because she knew that the injustice of one person, is an injustice to all people. She soon became close friends with Edgar Holt, Floyd McCree, and Helen Harris, people who shaped her life.

Peppy attended school at C.S. Mott Community College and the University of Michigan-Flint where she obtained her bachelor's degree in sociology. Soon after graduating, she worked as a home counselor for the Flint School System and then began working for Bob Leonard at the Genesee County Prosecutor's Office in the Consumer Affairs Division. In this office, Peppy distinguished herself as an advocate for the people of Genesee County. However, it was her most recent position with the Genesee County Community Action Agency that Peppy was most able to put her skills to work.

As the director of the Neighborhood Service Center, Peppy was responsible for helping the most economically vulnerable people in our community. Peppy greatly expanded the Summer Food Feeding Program in our community, including many of the black churches. Moreover, Peppy administrated the Temporary Emergency Food Program, a program which provided Federal commodities to the poor. The way she administered the program was so innovative that it has been copied by several food providers around the country. She helped to establish the women's shelter, a food bank, and a clothing center. Not only has she operated these programs to help the poor, she has hired welfare recipients who have become some of her best caseworkers at the G.C.C.A.A. Neighborhood Service Center. Peppy has been very active throughout the community serving on the boards of the Urban League of Flint, Urban Coalition, Flint Jewish Social Services, Flint Jewish Federation Community ARE, League of Women Voters, and the YWCA.

But Peppy's work goes deeper than these programs and boards, her most important attribute is being a tireless and relentless advocate for our community. Over the years, Peppy has repeatedly and successfully fought the U.S. Department of Agriculture to provide for more food for the poor. She has gone to court on behalf of clients to prevent them from losing their homes, and she has worked with local utilities to ensure that children and senior citizens would have water and heat. There is no question that Peppy has literally saved lives in this community. As an advocate for the poor, the elderly, and the children, she has cut through the bureaucracy of government. When a person comes to Peppy for help, they know she will do whatever it takes to help them. And when other social service providers in our community have a difficult problem with a client, they know to call Peppy because she will know exactly what to do. Peppy's phone calls on behalf of her clients are legend. Whether its calling her Congressman, mayor or State representative for help, or the local grocery store for excess food, Peppy knows how government works. But one thing is clear, she never asks for help for herself, but only for her clients. And her clients are from all over our community, black and white, labor and management, and young and old. Peppy is respected and loved in all communities.

Mr. Speaker, Peppy has recently retired from G.C.C.A.A. and we will all miss her in that position. She has touched so many lives in our community and has made Flint a better place to live. We look forward to seeing Peppy, and her grandson Jordan, making the rounds throughout the community. I know she will continue the fight for human dignity and justice, a fight she has fought so well all of her life.

ROBERT ENGLAND RETIRES AFTER 20 YEARS OF SERVICE TO THE MARITIME INSTITUTE OF TECHNOLOGY AND GRADUATE STUDIES

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mrs. BENTLEY. Mr. Speaker, I rise today to recognize Robert E. England upon his retirement after 20 years of service to the Maritime Institute of Technology and Graduate Studies.

An outstanding administrator, Robert England will retire from his position as residence director at the age of 68. Robert England's career is one marked by distinction and integrity. A lifelong resident of Baltimore, Bob served as a signal corpsman in the Army during World War II. While in the service, he was stationed at Attu and Kiska Islands off Alaska. From 1947 to 1972, he worked his way up from clerk to general manager at the Southern Hotel and later went to work for the Lord Baltimore Hotel.

It should be noted that these once premier hotels lost much of their standing about the same time Bob left. Many who know Bob credit him with the quality and service the hotels had become known for and attribute the lost stature of these Baltimore institutions to his departure.

However, the Maritime Institute of Technology and Graduate Studies in Linthicum Heights, MD, has had the good fortune of Bob's expertise and professionalism. Bob personifies the American work ethic and American dream. He established his reputation with hard work and dedication.

It is with utmost respect and admiration that I congratulate Robert England upon his retirement. To invest two decades of one's life to one particular job reflects a great deal of devotion and satisfaction with one's place in life. The contributions of Robert England to the Maritime Institute of Technology and Graduate Studies and to the maritime industry are unmistakable. Bob's hard work and dedication are a testimony to his fortitude of character and spirit.

Mr. Speaker, my fellow colleagues, it is with utmost respect and admiration that I commend Robert E. England upon a job well done. May God bless him with continued health and happiness in the years ahead.

CONGRESSMAN HEFLEY CONGRATULATES COL. TERRY M. McKENZIE ON HIS SERVICE TO THE U.S. AIR FORCE

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. HEFLEY. Mr. Speaker, Col. Terry M. McKenzie, Vice Director of Plans at Headquarters, U.S. Space Command [USSPACECOM], will soon be retiring after 26 years of dedicated service in the U.S. Air Force. I would like to acknowledge his distinguished military career.

Colonel McKenzie has demonstrated unsurpassed leadership and has made vital contributions to the security posture of the United States. Most notable have been his achievements in progressively more demanding leadership and management positions involving tactical command and control [C2], strategic defense, and space.

As an innovator in the tactical C2 mission area, Colonel McKenzie provided day-to-day management of all tactical air control systems in the United States, including 25 E–3 AWACS aircraft. He led a 300-person tactical control unit through 10 exercises, including a 5,000-mile deployment with an experimental mobility package that reduced airlift by half. Colonel McKenzie served as part of the cadre which developed initial E–3 organizational and operational plans.

In strategic defense, Colonel McKenzie was directly involved in formulating operational requirements and employment concepts for ballistic missile defense [BMD]. He guided the USSPACECOM's BMD management organization and orchestrated the Command's interaction with SDIO. Colonel McKenzie spearheaded development of the BMD Operations Concept briefing to the JCS and the briefing to Congress on Cheyenne Mountain Upgrade programs by the CINC. Also an expert in air defense operations, Colonel McKenzie led the development of the Government acceptance criteria for the first Region Operations Control Center and employment concepts for the OTH–B radar, North Warning System, and Seek Skyhook System.

Lastly, Colonel McKenzie's most recent senior staff assignments at USSPACECOM have contributed in establishing USSPACECOM as the primary DOD voice on military space issues. While at USSPACECOM, Colonel McKenzie excelled as the executive assistant to the Commander in Chief, directing his personal staff and ensuring effective execution of staff actions in the headquarters. He also served as the vice director of the plans directorate—a strategic planning staff developing policy, doctrine, and concepts for space.

His contributions to the space mission included guiding the requirements development for space systems and USSPACECOM's involvement in DOD's acquisition process. As the command's senior staff director for planning, programming, and budgeting activities, Colonel McKenzie planned and participated in preparation of USCINCSPACE congressional testimony and controlled interface with JCS/service legislative liaison organizations and congressional committee staffs. Colonel McKenzie's valuable leadership and decision-making includes daily contact on policy and strategy issues such as arms control, launch, space debris, and commercialization.

We on the Armed Services Committee and in the House of Representatives owe Colonel McKenzie a great deal. His endeavors throughout his career will have untold positive impacts on both our national security and space postures for years to come. Given Colonel McKenzie's successful military career, his wife, Pam, should have a great deal of pride in her contribution to the Air Force family, her community and our country.

Col. Terry McKenzie will be retiring on April 1, 1992. We wish both Terry and Pam well as they embark on a new chapter in their lives.

TERRORISM IN ANY FORM CANNOT BE CONDONED

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GILMAN. Mr. Speaker, I rise to inform my colleagues that yesterday morning a bomb exploded outside a building housing the Syrian mission to the United Nations in New York City. Across town, later that morning, another unexploded bomb was found with a note attached proclaiming "Free Syrian Jews."

As one of the cochairmen of the congressional caucus for Syrian Jewry, I want to express my condemnation of this action, and indeed, of all forms of terrorism. Syria's tiny Jewish community is held hostage by Syrian President Hafez El-Assad, and two Syrian Jews are currently in prison on scurrilous charges. Resorting to violence on their behalf, however, is not the answer.

This irresponsible act was immediately denounced by the Conference of Presidents of Major Jewish Organizations, the Council for the Rescue of Syrian Jews, the Jewish Community Relations Council of New York, and the National Jewish Community Relations Advisory Council. The congressional caucus for Syrian Jews joins them in condemning this bombing, and pledges to continue its efforts of freedom for Syria's Jews through diplomacy, public pressure, and other nonviolent means. Terrorism in any form cannot be condoned.

TRIBUTE TO BERT FEINBERG

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ENGEL. Mr. Speaker, it is with great honor that I pay tribute to the Riverdale Community Center on its 20th anniversary, and particularly the president of its board, Bert Feinberg.

Two decades ago, Bert and his neighbors realized that there was no place in their community for teenagers to enjoy safe and enjoyable activities. With the rising scourge of drugs and crime on the streets, someone had to do something to prevent the youth of Riverdale from falling into trouble and despair. Bert Feinberg, with a little help from his friends, has been that someone.

What started out as a group of kids playing ball in a courtyard has grown into a multiservice agency that serves over 3,500 people a year in programs for everyone from preschoolers to senior citizens. All the people who have contributed to the success of the Riverdale Community Center are to be commended for their hard work and dedication to the community.

They have all had the good fortune of working side-by-side with Bert Feinberg, whose activities in the community are certainly not limited to the community center. For all he has done at the center and as a member of Community Board 8 and the Riverdale Temple, his friends and neighbors say "thank you" to Bert Feinberg.

INTRODUCTION OF LEGISLATION EFFECTING THE TRUCKING INDUSTRY

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GEREN of Texas. Mr. Speaker, I am joined by Congressman WILLIAM CLINGER of Pennsylvania, Congressman MIKE PARKER of Mississippi, and Congressman BILL EMERSON of Missouri in introducing legislation today that would exempt private trucking operations from certain unreasonable intrastate trucking regulations.

State economic regulation of intrastate shipping has a direct impact on consumers. Over 42 States exercise some degree of economic regulation of intrastate trucking. Intrastate rates are consistently higher than interstate rates for similar cargoes and distances. It doesn't make sense to pay less to ship an item from California to Texas, than to ship an item from city to city within Texas, Pennsylvania, Mississippi, or any other State.

In some cases, companies have chosen to locate their facilities in adjacent States to take advantage of deregulated interstate regulations. This action has deterred economic development in most of these States.

The bill we are introducing today relates only to private trucking operations and private carriers. Other legislation is pending in the House Public Works Subcommittee on Surface Transportation that addresses other aspects of the intrastate trucking regulation issue.

Private carriers are restricted by most States from hauling goods for related companies—for example, parents, subsidiaries or affiliates, or outside companies. Many States prohibit private carriers from using leased trucks and drivers from the same source, thus requiring large capital investments to run a private fleet.

This legislation would allow private carriers to: Haul goods from related companies—parents, subsidiaries or affiliates—for compensation; use trucks and drivers leased from a single source—leasing company or other carrier;

lease their own trucks and drivers to other carriers; set up transportation subsidiaries that can haul for the parent or related companies without State regulation, and haul for other shippers under the same rules as common and contract carriers; and use vehicles and personnel that are dedicated by other carriers to the exclusive use of a company's private fleet.

Mr. Speaker, the cost of intrastate regulations to shippers and carriers has been estimated in the hundreds of millions of dollars. These costs are passed on to consumers.

The time has come for us to address the issue of intrastate trucking regulation. The time is now.

I hope that my colleagues will review this legislation and join us in supporting this important bill.

SOUTH AFRICA ON THE EDGE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. PORTER. Mr. Speaker, when I visited South Africa and saw first-hand the situation there, I was convinced that change in South Africa was inevitable. The change envisioned is the complete abolition of apartheid, the institution of a balanced democratic government which allows participation by all citizens, respect for human rights, and economic opportunity for everyone—in short equality and racial harmony.

Last week, the momentum for this type of positive change in South Africa encountered a major roadblock and all of the gains that have been made in the last several years have been put in jeopardy.

On February 19, the Conservative Party (CP) candidate Andries Beyers defeated the National Party (NP) candidate Theuns Kruger by 2,140 votes out of a total of 17,397 cast in a by-election in the town of Potchefstroom. This seemingly unimportant election outcome prompted the Conservative Party to claim that the ruling National Party and President F.W. de Klerk no longer have the confidence of white people of South Africa and can no longer represent whites at the Conference for a Democratic South Africa (Codesa). Codesa is presently in the process of preparing a draft constitution for South Africa that will be used as a blueprint for creating a new, non-segregated government for all South Africans.

In an incredible gamble, President de Klerk has made a bold move to reaffirm his authority to proceed with reforms by calling for a national, whites only referendum to determine who the whites want to negotiate on their behalf at Codesa. Mr. de Klerk announced that if the National Party lost this referendum, he and the National Party would resign, throwing the South African political situation into chaos. If the NP wins, President de Klerk will have a clear mandate to proceed and the type of change he envisions has a chance to become a reality. If, on the other hand, the Conservative Party prevails, a new constitution is almost certainly out of the question, and apartheid will, in affect, be reaffirmed. The frustration of continued exclusion from decision making that directly affects their lives may be too much for long suffering South African blacks, and civil war is a real possibility.

In the past several years the international community has begun to take steps to reincorporate South Africa into the community of nations. These steps have been directly tied to the progress South Africans have made toward improving the fairness and equity of their political and economic systems. The world has watched very closely for signs of improvement and extended support when they appeared. But it is crystal clear that the world will be just as quick to pull back and throw up a wall of isolation around South Africa if the commitment to progress does not continue.

The consequences of regressing are unmistakable. The international community and, based on history, the United States Congress, will respond quickly and decisively by withdrawing this support and isolating South Africa as never before. I have overhead other Members, including several in the Senate, suggest the possibility of reimposing United States sanctions on South Africa if progress stalls or moves backward. This would be a very unfortunate move, in my opinion, but it is one that I think very likely if progress in South Africa ceases.

The world has sent South Africa a repeating message: There is no future in segregation—not for the individuals who live in South Africa and not for South Africa as a nation. The vote there on March 17 will determine more than the fate of the constitutional negotiations. It will determine the future of South Africa and its place in the world community.

A TRIBUTE TO RAUL JULIA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. SERRANO. Mr. Speaker, today I rise to pay tribute to a highly talented individual who is the pride and joy of Puerto Ricans everywhere; Raul Julia. This internationally renowned Puerto Rican-born artist is presently here in Washington performing the title role in "Man of La Mancha" at the National Theater. Most recently he has been seen in the very successful film, "The Addams Family," in the role of Gomez, and will shortly be seen on screen again in the soon-to-be-released film "The Plague."

Mr. Julia is much admired both by critics and his acting colleagues for his exceptionally diverse artistic abilities. A complete entertainer, he can act, sing, and dance superbly. His has been a consuming, lifelong interest in theater. His very first role was the part of a devil in a play while in the first grade of school. He continued to perform in school productions as well as various amateur productions while studying for his bachelor's degree at the University of Puerto Rico and from graduation on, he was determined to dedicate himself fully to the acting profession.

Mr. Julia worked with various local theatrical groups and performed in nightclubs in Puerto Rico. In 1964, the actor Orson Bean watched him in a nightclub in San Juan and was so impressed that he urged him to move to New York City and study acting under the drama coach Wynn Handman. Mr. Julia soon won his first role as Astolfo in a Spanish production of "Life Is a Dream" by Calderon de la Barca.

For the next 12 years, his repertoire ranged from Shakespeare to Chekhov to musicals, first off-Broadway and, then in 1968, he made his Broadway debut as Chan in "The Cuban Thing." Mr. Julia enchanted public and critics alike with his commanding stage presence and his versatility. Excellent reviews ultimately led to four Tony nominations, including one in 1971 for best actor in a musical.

On stage, frequently under the direction of the late Joseph Papp, Mr. Julia performed in productions of "The Proposal," "Macbeth," "Titus Andronicus," "As You Like It," "The Taming of the Shrew," "King Lear," "Two Gentlemen of Verona," "The Cherry Orchard," "Othello," "Indians," "The Castro Complex," "No Exit," "Your Own Thing," "Paradise Gardens East," "Conerico Was Here to Stay," "The Persians," "The Emperor of Late Night Radio," "The Robber Bridegroom," "Via Galactica," "Dracula," "Betrayal," "Where's Charley?," "Nine," "Design for Living," "Arms and the Man," "The Threepenny Opera," and currently as Don Quijote in the well-received 25th anniversary production of "Man of La Mancha."

Mr. Julia made his film debut in 1971 in three productions: "The Organization Man," "Been Down So Long It Looks Like Up," and "The Panic in Needle Park." Other films include "The Gumball Rally," "The Eyes of Laura Mars," "One From the Heart," "The Tempest," "Compromising Positions," "Mack the Knife," "The Morning After," "Tequila Sunrise," "The Penitent," "Moon Over Parador," "Kiss of the Spider Woman," "Romero," "Presumed Innocent," "The Rookie," and "Havana."

Mr. Julia has been acclaimed for his ability to take on a broad range of roles. Successfully overcoming the stereotypical casting practices from which too many actors suffer, Mr. Julia has paved the way for Puerto Rican and other Hispanic artists by establishing that a performer's ability to succeed in a role is not dependent upon his or her ethnicity.

In addition, Mr. Julia is also active in the Hispanic Organization of Latin Actors [HOLA], which promotes the development of theater in the Spanish language and through which the preservation and advancement of Hispanic culture is promoted. Another organization to which Mr. Julia has devoted considerable time over the past two decades is the Hunger Project, whose aim is to eradicate world hunger by the year 2000.

This generous, gifted man has dedicated himself to bringing joy into our lives through his many talents as well as his contributions to the battle against the devastating hunger which plagues such a large percentage of the world's population. With his talent and his concern for the underprivileged, Mr. Julia is a great source of inspiration to Americans everywhere. His example will enable future generations to enjoy the benefits of an artistic environment in which every aspiring artist will have the opportunity to display his/her range of talents regardless of ethnic background.

Mr. Speaker, please join me today in expressing our gratitude to Mr. Julia for his contributions to the advancement of Hispanics, for his commitment to ending world hunger, and for providing us with countless hours of pleasure through his magnificent artistic performances.

RECOGNITION OF EMILY D. GRAHAM ON HER SCHOLARSHIP AWARD

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. COOPER. Mr. Speaker, I rise today to commend Emily Denise Graham on her selection as a regional recipient in the AAU/Mars Milky Way High School All-American Award.

Emily is a senior at Tullahoma High School in Tullahoma, TN. She has been recognized for her excellent academic record, her leadership abilities, and her involvement with several community service projects. As a regional recipient, Emily has received a $10,000 scholarship and is now competing for a $40,000 national award.

Emily is currently ranked second in her class, a member of the varsity track, cheerleading and swimming teams, active in drama and music, a leader in her church, and active in student government. She has been a positive influence in her school and her community, and is continuing her dedication to helping others by considering a career in medicine.

It's great to know that even in this day and age, there are many young men and women like Emily eager to learn and help. I'm sure her college years will be as positive as her early years, and I hope that all she will continue to share all she has learned with the people in her life.

Everyone who knows Emily is thrilled she has been selected as a scholarship winner. I'm sure her parents, teachers, and friends are very proud, and I wish Emily the best of luck in the national scholarship competition and in her future.

NATIONAL SCHOOL LUNCH PROGRAM

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. KILDEE. Mr. Speaker, today I am introducing legislation to delay the implementation of regulations carrying out the coordinated review effort under the National School Lunch Program for 1 year.

The 1989 reauthorization of the School Lunch Program included a new provision requiring the development of a unified system to ensure accountability through reasonable audits and reviews. A major component of this provision required that such activities be coordinated "in a manner that minimize[d] the imposition of additional duties on local food service authorities."

Congressional intent was to simplify an already burdensome system of audits and compliance activities and to reduce paperwork. A 1988 report by the National Center for Education Statistics [NCES] found that school meal reporting requirements accounted for 44 percent of the reporting burden on schools.

The committee has received numerous complaints from local school districts, State school food service authorities, and test pilot sites detailing their concerns that the regulations are overly complex, disorganized, punitive, and burdensome.

This legislation will ensure that there is adequate time to refine the instruments necessary to conduct the audits, address issues of equity and training, and complete successful field testing.

FUNDING THE BOSTON HARBOR CLEANUP

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. MARKEY. Mr. Speaker, I rise today to introduce legislation to provide Federal funding for the cleanup of Boston Harbor. This legislation, which I am introducing with my colleagues from Massachusetts, Mr. MOAKLEY, Mr. STUDDS, Mr. ATKINS, Mr. MAVROULES, Mr. KENNEDY, Mr. DONNELLY, Mr. FRANK, and Mr. EARLY, parallels legislation introduced in the Senate by Senators KERRY and KENNEDY. It would provide a major new commitment to cleaning up Boston Harbor over the next 5 years.

The legislation we have proposed today would provide $1 billion in Federal funding for the cleanup of the harbor over the next 5 years—approximately 20 percent of the total cost of the project.

President Bush made the water quality problems in Boston Harbor a major campaign issue in 1988. And although his proposals for $100 million in fiscal 1992 and 1993 are a good first step, this is only a drop in the bucket for a project that will cost over $6 billion. While the President brought national attention to Boston Harbor, he has not brought national funding in any significant amount. This bill will authorize funding the Federal Government's fair share to Boston Harbor.

The need for this legislation is clear: The Massachusetts Water Resources Authority estimates that water and sewer rates in the Boston area will increase over 30 percent each year. In 1992, rates for Boston ratepayers will be double the national average for major metropolitan areas and by 1998 they will have increased over 600 percent in 10 years. Within the next few years, water and sewer charges will even surpass property rates in some areas. This is a burden that simply can not be shouldered by Boston residents alone.

The benefits of the Federal funding we propose for the local economy are substantial. Using MWRA estimates, the $1 billion in Federal funding authorized by this Boston Harbor funding bill would mean a yearly reduction of $150 per household and a reduction of $4,500 over the 30 year life of MWRA bonds.

A study prepared by Cambridge Systematics, Inc., estimates that during the 1990's the project will provide approximately $3 billion to the Boston area economy—or $2 for every $1 spent locally. With one of the highest unemployment rates in the country, the estimated 4,000 jobs that would be created by the project would have a significant impact.

During the 1970's and 1980's, the Federal Government passed major clean water regulations and established Federal grant programs to assist States and localities in meeting these goals. Cities across the country received Federal matching grants representing between 55 and 75 percent of the cost of water and sewage treatment works.

Boston and a handful of other coastal cities did not receive these Federal grants because they were in the process of seeking a modification of the Federal regulations when the grant program ran out. The EPA eventually decided not to allow modifications in the clean water requirements, leaving those cities to build sewage treatment plants without the Federal grant program.

The legislation we are introducing today to provide $1 billion in Federal funds under the Clean Water Act for Boston Harbor will not bring Federal funds to Boston in amounts provided to other cities. But it represents a necessary and thoroughly fair Federal commitment to cleaning up one of the most beautiful and productive harbors in this country.

H.R. 4339

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Boston Harbor Cleanup Funding Act."

SEC. 2. BOSTON HARBOR.

Title V of the Federal Water Pollution Control Act is amended—

(1) by redesignating section 519 as section 520; and

(2) by inserting after section 518 the following new section:

"SEC. 519. BOSTON HARBOR AND ADJACENT WATERS.

"(a) The Administrator shall establish a grant program to make grants to the State of Massachusetts for use by the Massachusetts Water Resources Authority for constructing wastewater treatment works for the areas served by the Massachusetts Water Resources Authority.

"(b) The Federal share of any construction project described in subsection (a) of this section shall not exceed 75 percent of the cost of construction of the wastewater treatment work.

"(9c)(1) for the purposes of carrying out the grant program under this section, there are authorized to be appropriated $1,000,000,000 for fiscal years 1993, 1994, 1995, 1996, and 1997.

"(2) The amounts authorized by paragraph (1) shall remain available until expended.

"(3) The amounts authorized by paragraph (1) shall be in addition to any other amounts authorized to be appropriated under titles II and VI of this Act.".

THE PRESIDENT SHOULD TERMINATE CERTAIN GSP PETITIONS

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GUNDERSON. Mr. Speaker, I rise today to bring to the attention of my colleagues a matter of great concern and to ask the support of my colleagues in expressing the sense of the House of Representatives that the President should terminate certain current generalized system of preferences petitions from Central and Eastern European countries.

I believe that every Member of this body supports the efforts which have led to freedom for those Eastern European nations which were dominated for decades by the Soviet Union. We have already done a great deal to support those emerging democracies and I believe those efforts should continue.

However, the administration and specifically certain elements in the U.S. Department of State, in their enthusiasm to help these emerging democracies and in their obvious ignorance of the true state of American agriculture, have chosen to attempt to use the generalized system of preferences, the GSP Program, to reward certain of those emerging democracies with duty free access to the U.S. market.

GSP petitions which had been rejected on May 3, 1991 after a thorough investigation were opened for re-review on July 12, 1991, on Goya cheese, prepared or preserve mushrooms, grape wine, and other products.

The granting of these petitions would cause great harm to the affected elements of the U.S. economy but I will direct my remarks to the particular petition of which I have the most direct knowledge, and which has the potential to do the greatest harm to dairy farmers all over this Nation including my State of Wisconsin.

To anyone who has studied this issue and read the documentation, it is quite clear that the proponents of these petitions within our own Government, while well intentioned, are attempting to provide economic benefits to these emerging democracies, in this case, Hungary, through the GSP Program because straightforward foreign aid is very difficult in our current budgetary dilemma.

Granting GSP status to Goya cheese would in fact help Hungary which is a producer of this hard grating Italian-type cheese. But what has not been clear previously is that the principal beneficiary of granting GSP status of Goya cheese would be the European Community and South American countries, particularly Argentina and Uruguay, which ship twice as much Goya to the United States as Hungary. Therefore it should be obvious that not only do we run the very real risk of placing domestic cheese producers in jeopardy, we do so by benefitting countries other than the one which initiated the Goya cheese petition.

Moreover, recent testimony before the GSP Subcommittee of the Trade Policy Review Group revealed that the principal beneficiary of the Goya petition would likely be the American proponent of the Goya petition, the Duna Cheese Co., a Dutch-owned firm. If the Hungarian petition if approved, the American farmer would be put in the position of subsidizing not only the European Community, but a large Dutch trading company, all at a time when the income of American dairy farmers is at an all-time low.

Starting almost 1 year ago, we made a very strong case to Ambassador Carla Hills, the U.S. Trade Representative, concerning our objections and the obvious disadvantages of favorably considering this petition. On March 8, 1991, I wrote to Ambassador Hills stating in part:

> I strongly believe that duty-free treatment of Goya cheese would seriously dislocate domestic hard cheese products and negatively affect the Federal price support program and injure U.S. dairy farmers.

I also told Ambassador Hills then what those who are coming forward now to oppose this petitions will tell you, that is:

> Goya cheese is directly competitive with domestically produced Italian-type cheese. It is estimated that elimination of the 25 percent duty could undercut U.S. hard cheese by a minimum of 30 cents per pound, making it virtually impossible for U.S. manufacturers to compete against this imported product.

Those were the facts then and those are the facts today. That this matter was pushed forward for consideration again a mere 3 months after the petition's initial rejection is a clear indication that this matter is not being considered on its merits but on other foreign policy considerations. It is simply the manipulation of the law based on foreign policy considerations to the detriment of the American dairy industry.

We have under present GATT rules a cheese quota of 1½ percent of domestic production which equals 2,160 million pounds. We would advocate that those who seek to help Hungary, justifiably, pursue the same course of action which we have advocated with other new or emerging democracies. Thus, we believe strongly that the present quota, some of which is not used, should be reallocated to these emerging democracies. It is especially important that during this crucial time for discussion and negotiations of both a new GATT agreement and a North American Free-Trade Agreement [NAFTA] that our Government not randomly pursue policies which would totally undermine our present trade policies.

In our communications to Ambassador Hills we have noted that none of the items being re-reviewed are covered by a quota and could be imported in quantities that would severely hurt domestic interests. For instance, U.S. industry sources in whom we have great confidence indicate that granting GSP status on Goya cheese could result in as much as 50,000 to 100,000 tons of Goya from all sources entering the United States to compete with domestic product.

To put this into perspective, 50,000 metric tons of Goya cheese represents the equivalent of approximately 1 billion pounds of farm produced milk; 100,000 tons would represent 2 billion pounds milk equivalent. The milk production that would be displaced would be converted into additional dairy products sold to USDA's Commodity Credit Corporation [CCC] under the domestic price support program.

Recently, just a 1-percent surplus in domestic production caused a 30-percent drop in dairy prices received by farmers resulting in a 13-year record low price for fluid milk. Clearly the dairy industry in this country cannot financially weather the price drop a GSP decision of this magnitude could cause.

Industry analysts predict that approving this GSP request could result in as much as 2 billion pounds, milk equivalent, of additional CCC purchases. This would add over $200 million to the cost of the program. Part of any additional cost would add to the Federal budget deficit while part might be paid directly by dairy farmers under the dairy assessment program. I would remind you that those dairy assessments come from the farmer's milk check, in other words, directly off his bottom line.

Under the provisions of the Food, Agriculture, Conservation, and Trade Act of 1990, dairy farmers will be assessed for the projected cost of CCC dairy product purchases in excess of 7 billion pounds, milk equivalent. The Secretary of Agriculture recently projected CCC purchases for calendar year 1992 at 6.2 billion pounds, milk equivalent. It is easy to see that, should the Goya petition be allowed, there would be an almost immediate and direct impact upon the price of milk and on dairy farmer income.

Dairy farmers have already taken very strong and painful steps to bring their production in line with demand. The granting of this petition would have the effect of being extremely discouraging to farmers who have worked so hard to solve their own production management problems.

Should the Goya cheese petition be allowed, we believe that not only would there be immediate and devastatingly large duty-free shipments of Goya cheese into the United States from Hungary, Argentina, and Uruguay, but a number of other countries would shift production to Goya cheese in order to take advantage of this situation. It is clear that allowing Goya to enter this country duty free would without question spell the end for domestic production of Italian-type hard grating cheese.

Mr. Speaker and my colleagues, I hope that you will agree with me that this House resolution should be passed on a expedited basis to put this body on record in opposition to the re-review of these rejected GSP petitions.

And I want to make it clear to all concerned if we are unable to head off this ill-conceived effort, then the time may have come for us to take a serious look at this program. If the GSP Program is to be misused as it has been in this case to the detriment of American dairymen and workers, then it may very well be time that we in the Congress put a stake in the heart of what is fast becoming a monster.

TRIBUTE TO ROBERT H. WHITSTOCK

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ZIMMER. Mr. Speaker, I rise today to pay tribute to one of New Jersey's most spirited and admired citizens, Robert H. Whitstock.

As part of the Seeing Eye organization for 35 years, Bob has helped countless blind people gain greater personal independence through guide dogs, and he has been a major reason why the institution was recognized as one of President Bush's "Thousand Points of Light." But equally important, he has been a friend to the Seeing Eye's students and staff and, as one of only two blind employees, he has worked to prove that blindness is not a handicap.

Despite obstacles, Bob excelled as a student, graduating from Hamilton College in 1952 with honors. He then received a degree from Harvard Law School and became a member of the New York Bar. Before joining the Seeing Eye in 1957, he was a history instructor at the New York Institute for the Blind.

When he started work at the Seeing Eye, Bob once said that his predecessor, Morris Frank, "had accomplished miracles. And [he] didn't want to let people down by doing less."

Well, Bob Whitstock has performed his own miracles and, upon his retirement, I think it is safe to say that he never let anyone down. He is an inspiration to his profession and to anyone who has had the good fortune to know him.

I would like to thank Bob Whitstock for his tireless efforts and dedication to helping others, and wish him continued happiness and success.

VISITING NURSE ASSOCIATIONS' OF AMERICA WEEK, FEBRUARY 16–22, 1992

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mrs. BENTLEY. Mr. Speaker, as you may know, the week of February 16–22 marked the observance of Visiting Nurse Associations' of America Week. I am proud to report that the Visiting Nurse Association of Baltimore will be 97 years old this year and has made more than 1 million visits to over 100,000 patients.

Founded in 1895 by Evelyn Pope, a young graduate nurse, the Visiting Nurse Association [VNA] of Baltimore is Maryland's oldest and largest nonprofit home health care delivery organization and covers a five county region in central Maryland.

Throughout history, the VNA has endured the test of time and has seen Baltimore through the great Baltimore fire of 1904, tuberculosis, flu epidemics, typhoid fever, and now AIDS. With 500 employees, the VNA of Baltimore has grown tremendously from the early days when its first office opened over a candy shop on South Charles Street.

Regardless of race, color, creed, sex, age, or national origin, VNA is dedicated to, "the provision of efficient and effective health care services to patients in their homes." Their goal is, "to assist each patient to regain optimal health and independence, maintain their current level of function or experience a peaceful death." As long as costs can be supported by reimbursement sources, contributions and/or grants, the VNA is available to all citizens regardless of their ability to pay as a basic health resource.

Home health care has an important psychological benefit for both patients and family and helps to contain costs by allowing the patient to remain at home. The recipients of this service cut across all segments of society. The VNA provides a broad range of services from therapy services to maternal and child care services.

Health care is indeed a very important and current issue for many Americans today. The Visiting Nurse Association of Baltimore has sought to service others through giving of themselves. Their hard work and dedication truly is commendable.

Mr. Speaker, my fellow colleagues, it is with utmost respect and admiration that I ask you to join me in recognizing the Visiting Nurse Association. Throughout our Nation they have faithfully brought healing and compassion to countless individuals.

TRIBUTE TO MR. JOHN PAUL DOYLE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. PALLONE. Mr. Speaker, on Friday, March 6, a tribute is planned for a very special individual with the proceeds intended to benefit a very special cause. That evening in Eatontown, NJ, some of the many friends of Mr. John Paul Doyle of Brick, NJ, are planning a surprise event, which will also help raise funds for the establishment of the John L. and Sarah J. Doyle Annual Lecture at Rutgers University.

John Paul Doyle has been one of the most distinguished public officials in the State of New Jersey in general, and in the Ocean County area in particular, for some two decades. Mr. Doyle was elected to the State assembly in 1973, one of the first Democrats elected to the legislature from Ocean County in more than a half century. He was reelected eight times, serving until January of this year. During his tenure, Mr. Doyle distinguished himself as a leader on shore protection and environmental issues, initiatives to promote New Jersey's tourism industry, programs for the elderly and disabled, and tax relief issues. He also held the position of majority leader from 1982 through 1985 and deputy speaker in the 1990–91 session.

A graduate of Rutgers University and Rutgers Law School, Mr. Doyle has decided to give something back to his alma mater, the State University of New Jersey. Thus, he is working to create an annual lecture at the University's Eagleton Institute of Politics for students and political scientists. In addition, John Paul Doyle has dedicated the lecture series to his parents, his late father John L. Doyle, and his mother Sarah J. Doyle who resides in Brick. Further testifying to the closeness of the Doyle family, John Paul's brother and four sisters will be in attendance at next Friday's surprise tribute.

Mr. Speaker, it is a great loss that John Paul Doyle is no longer a member of the State assembly to serve the people of the State of New Jersey. But he continues to be an active member of the community, and the people of our State will continue to benefit from his work for years to come. I am proud to call him my friend, and I wish him many years of continued happiness and success.

CONGRATULATIONS TO HOLLYWOOD TEMPLE BETH EL

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. WAXMAN. Mr. Speaker, I ask you and my distinguished colleagues to join me in congratulating Hollywood Temple Beth El on their 70th anniversary. On January 26, 1922, Hollywood Temple Beth El was founded to serve the needs of the flourishing Jewish community in Los Angeles. For the past 70 years, it has fulfilled this duty through industry and perseverance and continues to be an asset and an inspiration in the Jewish community.

On April 5, 1992, Hollywood Temple Beth El will be celebrating its 70th anniversary. On this momentous occasion, the temple will be honoring two dedicated and committed members for their civic, humanitarian, and religious causes—Arthur and Frances Linsk.

The Linsks have been invaluable members of Hollywood Temple Beth El and assist the temple in maintaining its position as the nucleus of the community. Arthur Linsk is the current chairman of the board and past president of Hollywood Temple Beth El. His numerous philanthropic ventures include member of the board of Shriner's Hospital for Crippled Children, 33d degree Mason, and past master of Loyalty Lodge No. 529 F&AM.

Frances Linsk is currently a member of the executive board of Hollywood Temple Beth El and past president of the temple's sisterhood. Her outstanding performance in these positions has benefitted the temple and the community. She is also a past matron of Ionic Menorah Chapter for the Eastern Star.

Congratulations to Hollywood Temple Beth El in its 70 years of service to the community. May it continue to prosper and fulfill its goals of teaching spiritual and ethical values to young and old alike and providing an inspiration for civic welfare.

PUBLIC SERVICE RECOGNITION WEEK

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. HOYER. Mr. Speaker, today I rise to express my support for public service recognition week introduced today by my colleague, JIM MORAN from Virginia. This resolution would designate the week of May 4–10, 1992 as "Public Employees Recognition Week."

Every Member of Congress has public employees who police their streets, fight their fires, teach their children, and protect their environment. Many public employees work for significantly less money than their private sector counterparts, and many, like police officers and firefighters, take risks that the average worker never faces. Nevertheless, they continue in their work because they love it, and because they feel a special sense of duty and commitment to the society in which they live.

As a representative from a county with a significant number of Federal employees, not to mention the State, county, and local employees I deal with in my daily life, I can say that our public servants have earned my respect. These men and women truly embody the spirit of President John F. Kennedy's challenge to us during his inauguration over 30 years ago when he said, "Ask not what your country can do for you—ask what you can do for your country."

I know many Congressman will welcome the opportunity to support this resolution, and that we are all looking forward to the week of May 4. Our public employees serve the demands and aspirations of this country, and we should all be proud to say thanks, we are a better Nation for your service.

IT IS TIME TO KNOW THE NAMES OF THE MEMBERS WHO BOUNCED CHECKS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. BURTON of Indiana. Mr. Speaker, on October 3, I voted for, and the House passed House Resolution 236, which directs the Ethics Committee to investigate the operations of the House Bank and to determine whether specific Members of Congress repeatedly abused the banking privileges. Under House Resolution 236, the committee must compile a list of Members who abused the House Bank and determine what penalties are appropriate.

Mr. Speaker, it is now the end of February, and we still do not know the names of the Members who routinely and repeatedly bounced checks. As of today, the committee has not finished its investigation and no list of offending Members has been made available to the public or even to Members of Congress.

The American people want and deserve to know who these check kiters are. Until these names are disclosed, we're all being tarred with the same brush. This sentiment was expressed to me just last week by one of my constituents, Jim Frank from Greenwood, Indiana.

Mr. Speaker, it is time to disclose the names of the Members who routinely and repeatedly abused the banking privileges so we can restore integrity to the House of Representatives.

SYRIAN JEWRY

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GREEN of New York. Mr. Speaker, I rise today to condemn in the strongest possible terms the placing of a pipe bomb outside of the Syrian mission to the United Nations, and a second one in another New York neighborhood. As a longtime advocate of freedom for Syrian Jewry, I am deeply saddened by such senseless violence, which has no place amongst our cries for freedom for the 4,000 Jews held hostage in Syria. I am thankful that no one was hurt in the attack.

I am hopeful that we can soon achieve freedom for all Syrian Jewry. Their desperate plight demands our full and immediate attention, and their cause is done a profound disservice by those who have committed these senseless acts of violence.

THE NEED FOR A FEDERAL TECHNOLOGY POLICY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. TORRICELLI. Mr. Speaker, much of the debate over a tax fairness package this week has centered on the need to provide an immediate boost to the recession-plagued economy and immediate relief for working families. But we cannot ignore the need for legislation to address the structural deficiencies in our economy that have made this recession so devastating. Over the past 20 years, we have lost our technological edge. Unless we come up with a long-term strategy for addressing that problem, we will be unable to maintain our standard of living and meet our future domestic needs.

Statistics abound to demonstrate the extent to which the United States has lost its technological superiority. Our share of the global aerospace market—a market that we virtually created—has dropped from 79 percent in 1970 to 62 percent in 1988. In 1983, we held 81 percent of the computer equipment and software market, but that figure dropped to 61 percent in 1989. Of course, the most notable example of America's fall from technological superiority is the automobile market, where our global market share has dropped from 46 to 23 percent between 1965 and 1988.

Even more troublesome than looking at the past is looking at the future. The Commerce Department recently identified 12 emerging technologies that it said featured a combined U.S. market potential of $350 billion by 2000. Unfortunately, the report indicated that if current trends continue, the United States will fall behind Japan in most of them and trail the European Community in several of them.

America's ability to sustain its superpower status in the 21st century will depend on its economic strength. That strength will be defined by our ability to research, develop, and commercialize critical technologies. We cannot continue to rely on the invisible hand of the free market to maintain our preeminence in those technologies. Instead, we must foster greater cooperation between Government and industry in technology policy.

Today I am introducing the Advanced Technologies Capital Consortium Act. I am pleased to note that identical legislation is being introduced today in the Senate by Senator JOHN D. ROCKEFELLER.

This bill will provide Government support for a private consortium that will invest in the innovation and commercialization of critical technologies, which are those identified by the National Critical Technologies Panel in its biannual report. The following are the bill's major provisions:

Creation of an advanced technologies capital consortium [ATCC] to be made up of private enterprises, academic institutions, foundations, and/or State and local governments who are engaged in R&D of critical technologies.

The Secretary of Commerce would be directed to make grants and loans to the ATCC, which would be matched by the consortium on at least a 50–50 basis. This money would be used by the ATCC to invest in critical technologies by providing grants and loans to, or equity investments in, firms that are engaged in cutting edge research, development, application, or commercialization in critical technologies.

The ATCC would be comprised of at least four private sector corporations who are themselves engaged in critical technologies work. Participants would likely be large employers who already invest substantially in R&D in the United States. They would have to be either United States-owned or incorporated in the United States with a foreign parent from a country that treats U.S.-owned companies fairly. They would also have to commit to manufacturing in the United States any technology arising from ATCC support.

The bill would establish and advisory committee made up of key government officials, and modeled on the Sematech precedent, to advise the ATCC and the Secretary of Commerce on appropriate technology goals for the activities of the ATCC and a plan to achieve those goals.

The ATCC would invest pursuant to a agreements with the recipient firms which describe how intellectual property or profits would be shared if the new technologies are commercialized.

The ATCC would be directed to expeditiously transfer technology owned or developed by the ATCC to its participating members, who would use it to improve manufacturing productivity.

Funding for the ATCC would be authorized at no more than $200 million per year; $100 million would be authorized for the first year and $200 million for each of the next 2 years.

This legislation will help remedy our inability to effectively identify, develop, and deploy needed technologies in a timely fashion. In addition, it is designed to deal with growing deficiencies in the venture capital market.

We have the world's best research infrastructure, the result of billions of dollars of investment in Government labs and universities over the past 40 years. We have 15 million companies involved in every known discipline that can translate new research discoveries into useful products, processes and services. But what we lack—and what this legislation is designed to give us—is an available pool of venture capital to ensure that these resources are mobilized.

There are those who will immediately brand this legislation as a mechanism for picking winners and losers. But that argument fails to recognize that our Government needs to approach technology policy with a coherent strategy. Establishing a critical technologies list several years ago has helped us determine what is important. Now it's time to act in support of that list in a logical way.

Mr. Speaker, there is no longer any doubt that the Government must play a role in encouraging private R&D in critical technologies and industries. I believe that the best means of accomplishing this goal is to combine Government funding and advice with industry funding, experience, and profit motive. This approach will ensure that those technologies that are most important to America's competitiveness are researched, developed, and brought to market by American firms. I therefore urge my colleagues to support the Advanced Technologies Capital Consortium Act.

JEAN R. YAWKEY—A TRUE BASEBALL FAN

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. IRELAND. Mr. Speaker, it is with great sadness that I report to this House that Boston Red Sox majority owner Jean R. Yawkey died yesterday at the age of 83. Mrs. Yawkey passed away at the Massachusetts General Hospital in Boston 6 days after suffering a severe stroke. Jean Yawkey meant more to the Boston Red Sox, the Baseball Hall of Fame, the city of Boston and the city of Winter Haven, Florida, than I can put into words. She led a distinguished, quiet life dominated by impressive actions.

When long-time Red Sox owner Thomas A. Yawkey died in 1976, Mrs. Yawkey became the general partner of the syndicate which runs the team. During that time her beloved baseball club won the Eastern Division of the American League three times and lost their only World Series appearance during that period to the New York Mets in 1986. Jean Yawkey attended every Red Sox home game, cheered her team on and meticulously kept daily score in a custom-bound set of score cards. Even though it was reported that her health started to fail last year, she attended all home games. Since 1984 Mrs. Yawkey had been a director of the National Baseball Museum and Hall of Fame. She was the only woman ever elected to serve on that board. As was her husband before her, she was a well-known philanthropist and was beloved in both the Boston and Winter Haven communities.

Mr. Speaker, I had the great honor to be able to call Jean Yawkey a friend. Several times a season I would go to Boston and visit with her in her box and cheer for the good ol' Red Sox. I have had the privilege of working with and knowing the Yawkey family and all the Red Sox family since the team moved their spring training headquarters to Winter Haven many years ago.

As long as I remember the grace of Ted Williams at the bat, the splendor of Carl Yastrzemski in the field, the speed of Roger Clemens on the mound, the genius of Dick Williams in the dugout, I will also remember the beauty of the true devoted fan in the rooftop box, Jean Yawkey—for indeed the greatest baseball diamond in America is the true "field of dreams," Fenway Park. The great moments that Tom and Jean Yawkey have afforded millions of baseball fans over the years will, I am sure, continue with the ongoing Red Sox organization. My thanks to the Yawkeys for so many magical baseball moments over the years as well as for the many personal memories they afforded me. God bless Jean Yawkey.

TRIBUTE TO MRS. CAROLYN CHESNUT

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. DARDEN. Mr. Speaker, today I rise to recognize Mrs. Carolyn Chesnut on 50 years of service with Mount Vernon Mills, Riegel Textile Division, in Trion, GA. She will retire on March 27.

Mrs. Chesnut joined Mount Vernon Mills on February 18, 1942, during the heat of World War II. Her retirement comes on the brink of an expansion of manufacturing facilities which could result in the Trion Denim Mill becoming the world's largest denim manufacturer.

For 47 years, Mrs. Chesnut has worked in the personnel department of Mount Vernon, Riegel Division. For many years her responsibilities included orientation of new employees. The warm and special way in which she welcomed newcomers always made them feel right at home in the company's family of friends.

Mrs. Chesnut always has performed her duties with unfailing dedication and dignity, serving as a role model to all who know her. She is the recipient of the Zero Defects Achievement Award, the highest honor bestowed upon employees of Mount Vernon Mills, Riegel Textile Division, for outstanding performance.

Mrs. Chesnut's special story is told in the following article published in the February 26 edition of Trion Facts. At this time, I would like to share this story with my distinguished colleagues, and ask that they join me in wishing Mrs. Chesnut the best in her retirement years. She has more than earned it.

[From the Trion Facts, Feb. 26, 1992]

CAROLYN CLEVELAND CHESNUT COMPLETES 50 YEARS SERVICE

It's not been done more than five or six times within the whole of Riegel organization and to be listed with this distinguished list is indeed a singular honor. Beginning with your writer's earliest recollection of 50 year employees, C.H. McCullough moving up through people like Albert Croy, Ann Henderson, John Martin, Hobert Henderson, J.C. Woods, just to mention those within Trion's corporate limits, you are in distinguished company indeed and now we add the name of Margaret Carolyn Cleveland Chesnut. Remember the lady who signed you up for work, asked you all those questions about Combined Charities donations, home address, dependents and insurance and asked you to sign your work card, that's her. She's been doing that ever since 1945 when she first came into Personnel.

Let's not start there however because there is quite a bit more before that. She's a native of Gaylesville, Ala., where she now resides but between then and now she's established roots with just about every facet of the company that has been the recipient of her 50 years service. She is the daughter of the late Frank and Elsie Cleveland, came from a family of two brothers and two sisters (besides Carolyn). She finished High School at Gaylesville, came to Trion looking for a job and was hired the very first time she applied. She came to see Mr. Skip Henderson, was hired on the spot for the Glove Department of the General Office and went to work. After doing clerical and filing work she became Senior Clerk in 1945 in Shipping and Billing and transferred to Personnel Department where she became receptionist and interviewer and has been doing that now for the past 47 years.

After her father died, Carolyn's mother, Elsie, became the hostess for the fabulous Trion Inn where anybody and everybody who was connected with the Trion Company (before it became Riegel) stayed at one time or another. Glove Mill girls in large numbers occupied the top floor (which was off limits to boyfriends or any males for that matter) and she lived there for a time within easy walking distance of the work. The Personnel Department was located at that time out on the east side of the Finishing Plant facing the railroad tracks. Within its confines she was associated with and worked with such legendary figures as George Collette, John D. Taylor, Bob Powell, Sam Cook, two previous editors of the Trion Facts, Sarah Agnew (later Myers), Mary Jo Logan and then C.B. Bricker when he moved into Personnel and assumed the responsibility for the FACTS from Sarah, and of course our own J.V. "Shorty" Hawkins.

She married Judson Chestnut on June 25, 1949, they lived about one year at the Inn and then moved to the old Plaza Apartments just west of the General Office. Sometime in the 60s the old Plaza became history but before this happened, they moved back to Gaylesville where their son, George, was born and where they now reside. Thus began the commuting that must of a certainty established some kind of record in that field because she has been commuting to and from Gaylesville for about 34 years. The distance has been covered by a round trip through all kinds of severe weather, road conditions, ice storms and what have you but if it is possible to get into Trion at all, Carolyn makes it through, you can depend on that.

In her work at Personnel the direct responsibility for the Quarter Century Club has been on her shoulders, keeping the records up to date, an accurate list of active and inactive members filing employment records that are referred to very often by Riegel managers and staff people for vital information seeing that employees who earn merit pins are properly recognized and presented with their awards. The list of members is used to seat the club member during the Annual Quarter Century Banquet which incidentally is coming up shortly. Occasionally a long time member passes from the scene and must be recorded and proper sentiment sent to the family.

The Personnel was directly concerned with the huge Army-Navy E Awards in 1943 when the production lines of people at The Trion Company were recognized for outstanding war work and Personnel was responsible for listing the Personnel in service and arranging the details of the presentation. It was held out in the park in front of the Glove

Mill which is now offices of the Finishing Plant Manager and Production and Scheduling.

In 1945 the merger of the Trion Company and Riegel formed the Riegel Textile Corporation which existed until the consolidation with Mount Vernon in the mid 80s. The huge Centennial celebration in Trion recognized our progress from 1845 to 1945 and laid the burden of a lot of records and production work at the feet of Personnel and although not directly involved in the preparation she practiced and played a role in the acting out on the hillside at the Trion Golf Course, one of the biggest celebrations ever seen in Trion. She still found time for a lot of sports activities including being on the undefeated baseball team in 1945 and was pictured along with Gartrelle Duff, Roberta Langston, Dot LeCroy (Camp), Marvorine Bricker, Daphne Williams and also played softball, tennis for the Independent Girls teams. A busy young lady was Carolyn Cleveland Chesnut.

Carolyn's love of music, especially classical music, is one of her hobbies and this is easily understandable because Judson and Carolyn's son, George, is an accomplished pianist, extremely talented and gifted. George now resides in Atlanta where he is organist and Choir Director at an Episcopal Church. George has played background music for the Quarter Century Party and also performed a recital on several occasions including a concert in Trion at one time a few years ago at the First Baptist Church. George has taken numerous training on an accelerated basis for his music and is a master at the keyboard. She also loves her home and loves to work on the outside around the homeplace, plus she loves to read.

As a result of her dedication and loyalty, she was recognized in December 1972 and again in October 1974 as an Achievement Winner in Riegel's prestigious ZD Program and the Corporate Trip which came later from previous winners. She has achieved several perfect attendance years at Personnel which came as a direct result of that extra effort which could achieve it.

Throughout the years, Carolyn Chesnut has been a bulwark of efficiency and dedication. Coming to work through all kinds of difficulties, doing mountains of paperwork, playing sports on her own time, coordinating critical records of the elite merited group, she has seen numerous of Trion's most dedicated people retire from jobs on which a lifetime was spent and keeps the lifeline open on communication among these elite building blocks through the passing of time.

She has not only been a witness to history but also a vital working cog in its wheels, providing part of the glue that holds it together. She loves her company, is one of its most dedicated supporters and has earned her niche in history. Recently an article was written naming her as one of the three longest achievers in Riegel history, along with Sybil Williams and Harry Farrow. Harry and Sybil have since retired leaving her alone in the 50 year category. Sybil came to work only about two months after Carolyn in 1942 and Harry in June 1942 creating this exclusive threesome at which Carolyn stood at the head of the table.

Carolyn now joins an exclusive group of 50 year merited employees which is limited to less than 10 out of all the former Riegel/Trion Co. people which goes back to people like Mr. "Son" Wooten who had 58 years to his credit and was so recognized during Trion's fabulous Centennial celebration in 1945. Others include J.C. Woods, John Martin, Mr. C. H. McCullough, Hobert Henderson, Ann Henderson, Albert Croy, those that come to mind.

Carolyn is the only one of this group still actively working. She's a very special lady and has accomplished a very special job for over 50 years.

Congratulations to Carolyn Cleveland Chesnut on her Golden Anniversary with Riegel Mount Vernon. At this writing she is still actively working in Personnel and is planning an upcoming retirement later this Spring.

JOBS FOR THE 1990'S

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. WILLIAMS. Mr. Speaker, today I rise to introduce legislation to provide jobs for our Nation's unemployed. Currently, there are 7.1 million Americans unemployed. Future layoffs are being announced almost every week in our national news media. It is clear that America's workers need useful employment now.

My legislation will provide productive employment opportunities to unemployed individuals in the repair and rehabilitation of essential community and educational facilities; in the conservation, rehabilitation, and improvement of public lands; and in public safety, health, social services, and other activities necessary to the public welfare. Funds will be available to cover the necessary labor costs as well as for the acquisition of tools, equipment, and materials.

A summary of the legislation follows:

WILLIAMS' JOBS BILL DESIGN

This could produce 320,000 jobs at the fiscal year 1992 authorization level ($4.5B) and wage levels in the legislation. These jobs would start within 30 days after funds are allocated.

Out of the funds appropriated for this act, 80 percent shall be spent on government and private nonprofit jobs which will repair and rehabilitate public facilities; provide public safety, health, or social services; or rehabilitate or improve public lands and the environment. The mix of jobs within the 80 percent is to be determined locally, based on local needs. Of the remaining 20 percent, half goes to repair and renovation activities at elementary and secondary schools and half goes for higher educational facilities.

Allocations are made to local governments and Indian tribes with unemployment rates in excess of 6.5 percent, and funds flow directly to the administrative entity of the JTPA service delivery area in which the local government is located. An area of contiguous census tracts equaling a population of 10,000 or more, and with unemployment rate in excess of 6.5 percent, could also be eligible.

Not less than 75 percent of the funds shall be used for wages and benefits and not more than 10 percent shall be used for administration; the remainder shall be used for materials and supplies.

From the funds allocated for jobs with governments and nonprofits: 2 percent shall be reserved for Indian tribes; 5 percent for the Governor for State jobs within eligible jurisdictions; and 93 percent for eligible jurisdictions.

Wages shall be paid which are not less than the highest of the Federal, State, or local minimum wage or the prevailing wages for individuals employed in similar occupations. Wages may be supplemented from local resources.

The average Federal share of wages for jobs created under this Act cannot exceed 75 percent of the national "average weekly earnings of production or nonsupervisory workers on private, nonfarm payrolls" (a Bureau of Labor Statistics term of art, which annualized is about $18,900 and 75 percent is about $14,000).

The authorization is: $4.5 billion for fiscal year 1992 and an authorization for succeeding fiscal years of the product of 4 percent of the total number of unemployed individuals multiplied by 75 percent of the national "average weekly earnings of production or nonsupervisory workers on nonfarm payrolls" (thus, what we are saying is that we want an authorization to provide jobs for only 4 percent of the unemployed at wages that are only 75 percent of the average wage); [this multiple would yield: 8.9 million unemployed 4% $18,900 75% = $5 billion at a 7.1% unemployment rate].

RESTORING TAX CREDITS FOR SOLAR ENERGY

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ATKINS. Mr. Speaker, the Tax Fairness and Economic Growth Act does a great many things; it restores progressivity to the Tax Code and encourages economic growth. But I rise today because the bill does not do one of the things that I think is important for the future of this country: redirect resources toward renewable energy.

Our Tax Code currently favors the use of nonrenewable fossil fuels. About 2.5 billion dollars' worth of tax incentives were given last year to the fossil fuels industry. Renewable solar energy, however, received less than 2 percent of that. Furthermore, instead of creating more equity, the version being considered today makes the situation worse by allowing the solar energy investment tax credit to expire in June.

Reliance on imported oil has risen to over 50 percent. Imported oil also comprises the largest component of the U.S. trade deficit. The United States currently has the lead in several promising solar technologies, however, without continuing assistance, this advantage will vanish to our economic competitors. We have been struggling in this Congress to develop a comprehensive energy policy. We have also tried to stimulate the economy and provide jobs. Mr. Speaker, we must not forget there is a strong connection between our energy choices, a healthy environment, and a sustainable economy. According to a report of the Union of Concerned Scientists, the Natural Resources Defense Council, the American Council on an Energy-Efficient Economy, and the Alliance to Save Energy, renewable energy could make up half of our Nation's energy needs by the year 2030, but only if the Government becomes a leader in this area.

Mr. Speaker, the small initial subsidy represented by this tax credit aids this fledgling industry and provides a foundation for an economy built on renewable, clean energy. I would like to have seen these tax credits included in the bill. I hope this situation will be rectified and we can work to keep it in conference with the Senate.

NATIONAL MANUFACTURING WEEK POINTS UP NEED FOR TELECOMMUNICATIONS EQUIPMENT MANUFACTURING BILL

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. SLATTERY. Mr. Speaker, I rise today to recognize National Manufacturing Week. The skill and ingenuity of American manufacturers and workers has long been the envy of the world.

But we're all painfully aware that several critical sectors of our manfacturing economy have lost their competitive edge. As a nation, we must ensure that other industries do not experience the same fate that earlier befell our automobile, steel, and consumer electronics industries.

As we recognize American manufacturers this week, it is ironic that one sector—telecommunications—is not as strong as it could be. The restrictions imposed by the Modification of Final Judgment [MFJ] have prevented seven capable American corporations, and their workers, from designing, developing, or manufacturing telecommuncations equipment.

The irony is even more apparent when we see front-page headlines in the New York Times: "Research Spending Is Declining in U.S. As It Rises Abroad." This February 21, 1992, article, citing a National Science Board report, notes that, "American spending on research and development has begun to fall for the first time since the 1970's, even as foreign rivals increase their investment in research."

Last year, my colleague from Louisiana, Mr. TAUZIN, and I introduced legislation which would reverse this trend in a critical sector of our economy, telecommunications. This bill, H.R. 1527, would repeal the manufacturing restriction on the regional Bell companies, offering them the economic incentive to conduct research and development.

The Senate has already passed S. 173, a companion to H.R. 1527. On the occasion of National Manufacturing Week, I urge my colleagues to take action to strengthen a critical manufacturing sector of our Nation by supporting H.R. 1527.

AMERICAN HEART MONTH

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. STOKES. Mr. Speaker, I stand in support of American Heart Month. By a joint resolution in December 1963, Congress requested that the President issue an annual proclamation designating February as American Heart Month. In an Oval Office ceremony on Valentine's Day, the President signed this year's proclamation.

I urge my colleagues to join me in saluting the efforts of the Federal Government and the American Heart Association and its 3.5 million volunteers in battling this country's No. 1 killer—cardiovascular diseases, including heart attack and stroke. According to the AHA, the Nation's largest voluntary health organization dedicated to the reduction of disability and death from cardiovascular diseases and stroke, from 1979 to 1989 the adjusted death rate for coronary heart disease and stroke dropped 30 percent and 32 percent, respectively. However, the AHA points out that in spite of this drop in the age-adjusted mortality rate, in the same time frame, the actual number of cardiovascular deaths fell only 2.6 percent.

The research, prevention, and education programs of both the AHA and the National Institutes of Health have produced handsome results; however, much more needs to be done. The AHA reports that cardiovascular diseases claim a life in the United States every 34 seconds and more than one in four Americans suffer from one or more of these diseases at an estimated cost in 1992 of $108.9 billion in health care and lost productivity.

While I recognize the seriousness of all cardiovascular disease, I would like to highlight my grave concern about one of these diseases in particular—stroke. Stroke—a cardiovascular disease that affects blood vessels supplying oxygen and nutrients to the brain—is the third largest killer in the United States and a leading cause of disability.

The American Heart Association estimates that in 1992 stroke will strike 500,000 Americans, killing over 145,000. Moreover, some epidemiologists believe that there is a resurgence in the number of new cases of stroke. Research has shown that African-Americans are more prone to die or be disabled from stroke, possibly as a result of higher incidence of high blood pressure—the most significant risk factor for stroke. In fact the December 1991 edition of "Stroke," one of AHA's six scientific journals, reports two studies showing African-American stroke victims suffer more disability and recuperate at a slower rate than white patients.

The AHA reports that stroke survivors in the United States now number about 3 million; but, many of these victims confront mental and physical disabilities and extraordinary medical expenses. The AHA estimates that in 1992 stroke will cost the United States $16.7 billion in related health care costs and lost productivity.

Yet, the Department of Health and Human Services research investment against stroke totals only $94 million. The National Institute of Neurological Disorders and Stroke [NINDS], the Federal focal point for all neurological research, including research on stroke diagnosis, treatment, rehabilitation, and prevention; devotes only $60.295 million in the fight against America's third largest killer and chief cause of disability. However, I applaud the NINDS for conducting two studies in an effort to explain the disproportionate incidence and mortality rates from stroke between African-Americans and white Americans. Investigators are assessing stroke risk factors, including diet, smoking, and high blood pressure.

During the third year of the Decade of the Brain, I urge my colleagues to provide significant growth in funds to allow the NINDS to move toward the goal for stroke identified in the National Advisory Neurological Disorders and Stroke Council's June, 1990 Implementation Plan: Decade of the Brain, "prevention of 80 percent of all strokes and protection of the brain during the acute strokes within the Decade of the Brain." Increased resources for stroke research are vital in light of the scientific opportunity in this area and the Nation's growing older population. According to the American Heart Association, about 72 percent of stroke victims are 65 years of age of older.

RADIOACTIVE RUSSIANS

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. WALSH. Mr. Speaker, I rise to praise the efforts of relief organizations such as the Children of Chernobyl Relief Foundation, a group that provides aid to children who are suffering from the ravages of Chernobyl.

The children of Chernobyl Relief Foundation is a nationwide, humanitarian relief organization that specializes in aiding the children affected by the 1986 catastrophe. In less then 3 years this organization has arranged six major airlifts of medical supplies to the Ukrainian Republic. More importantly, the Children of Chernobyl Relief Foundation is the only major Chernobyl aid provider which has developed a system of meticulous safeguards, to make sure that the aid provided actually reaches its destination.

The need for a massive infusion of medical aid to the Ukraine is undeniable. As of January, the Ukrainian Ministry of Health reported that there was a critical shortage of basic medicine and food in hospitals. The administration's recent airlift of medical supplies to the region through its "Provide Hope" operation has temporarily eased the shortage of medical supplies. However, the need for continual airlifts of medical supplies to Ukrainian hospitals is imperative

There were thousands of children evacuated from the region most heavily contaminated by Chernobyl's radiation. A frighteningly large number of these children are already suffering from cancer, leukemia, thyroid disorders, birth defects, and other immune deficiencies. The world's response to Chernobyl and its victims has been spotty. The victims of Chernobyl, particularly the children who have been most severely affected by the explosion, can not be abandoned. I urge my colleagues to push for additional humanitarian relief to Ukraine and to exhort the administration to show more of a commitment to the children of Chernobyl.

A TRIBUTE TO ILLINOIS STATE REPRESENTATIVE MYRON OLSON

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. HASTERT. Mr. Speaker, on Saturday, January 25, 1992, the people of Illinois lost a dedicated public servant. Seventieth District State Representative Myron Olson collapsed at his home after shoveling a heavy weekend snow.

Myron and his wife, Rosemary, made their home in Dixon, IL, The boyhood home of another great American: President Ronald Reagan.

There must be something about Dixon and Lee County that produces the finest, because both men shared a great compassion for people, a contagious sense of humor, a tireless dedication to serving those in need, and a passionate love of America.

Clark Kelly, a seasoned political reporter for the Dixon Telegraph, summed up the feelings of so many in a front page tribute on January 27.

> Myron was a public servant in the truest sense of the word. He was a friend. He didn't ask your brand of politics. You came to him for help and if it was in his grasp, he helped. If it wasn't, he would turn you over to someone who could.
>
> Myron loved politics but he hated phoniness. He wanted to know where you stood up front. It didn't matter if you had a different opinion.
>
> I honestly believe Myron did not have an enemy in the world. With him, what you saw was what you got.
>
> Today, Myron is gone. There is an emptiness in my heart because guys like Myron only come around once in a lifetime.
>
> He left a legacy that those who come after him can build on, but try as they might they will never top him.
>
> I have lost a friend. God gained a public servant. I have no doubt He welcomed Myron on Saturday with open arms saying "well done thou good and faithful servant."

Dixon is a place where Americans still wave the flag with pride. On the day of Myron's funeral the huge flag on the courthouse lawn gently waved in the cold winter breeze at half staff in tribute to a fallen friend. Myron Olson's life was a credit to that flag and to the great Nation it represents. We are richer because we had the privilege to know him.

NATIONAL MARROW DONOR REGISTRY TOPS HALF A MILLION VOLUNTEERS

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. YOUNG of Florida. Mr. Speaker, there is good news to report today. The National Marrow Donor Program has reached a major milestone as the national donor registry has toppled half a million volunteers. They have taken the quick and simple blood test required to be listed in the registry to offer the living gift of life and hope to otherwise terminally ill patients throughout our Nation and the world.

When I began my work more than 6 years ago to establish this national registry, I was told by many medical experts and researchers that this program would never work and that we would never succeed in recruiting more than 50,000 donors. Proudly I report that in less than 4½ years, we have met and surpassed that pessimistic prediction 10 times over as we continue our work to build a national registry of 1 million volunteer donors.

As I have said so often, the secret to the success of this program is people, people who are willing to be part of this modern medical miracle that is saving lives every single day. More than 1,150 patients have found matched unrelated donors through the registry in the past 4 years and we are now facilitating an average of 40 transplants per month. Last month alone, a record 55 transplants were completed.

This is not only a national program that touches virtually every American community, but it is a global program which enables marrow to cross international boundaries several times each month.

Having sponsored and been involved with hundreds of donor recruitment and education drives throughout our Nation, I can tell you that the response to our life-saving message has been overwhelming. Whenever an individual or group learns about the program, they can't wait for their opportunity to roll up their sleeves and take the simple blood test that is required to join the registry.

Every individual involved with this program is a true American hero. This includes the medical researchers who pioneered and continue to perfect the marrow transplantation and tissue typing techniques, the doctors and nurses who care for our patients, the donor and transplant center coordinators who share the excitement of every donor and patient who have been matched for a transplant, the staff of the National Marrow Donor Program throughout our Nation who live this program every waking hour, the volunteers who have come forward to join the national registry and give hope to another human being, the patients who cling to the hope that a donor will be found and that their transplant will be a success and will help further the science, and finally the thousands of volunteers who have taken this program on as a cause and who have recruited donors in their places of work, their neighborhoods, and throughout their communities.

I think of the hundreds of families that initiated donor recruitment drives in their hometowns to give hope to a loved one. And I think of the thousands of other individuals who took on the cause to recruit donors simply because they wanted to help another person in need. Such was the effort that was begun last year by one woman in the small town of Longview, TX, which developed into a groundswell that has enveloped the entire State of Texas and its neighboring States. Called "Because I Care," this crusade has organized walks to raise funds for tissue typing and organized donor recruitment drives throughout the Southwest. It is symbolic of the great American spirit of voluntarism through which we have experienced so much success these past 4 years.

Mr. Speaker, my colleagues in the House can take great pride in the roll they have played in supporting the growth of the National Marrow Donor Program. They can be sure that the moneys we have appropriated for the program through the Navy and National Institutes of Health gave birth to the national registry and have provided it with its base of support. These funds have been wisely but frugally spent to be sure that the program gets the most for every dollar invested. The portion of these funds dedicated to donor recruitment programs has provided the boost that was needed to spur the growth of the registry. They also enabled the National Marrow Donor Program to devote special attention to the need to target minority groups to ensure that the registry reflects our Nation's great ethnic diversity. Less than 2 percent of the first 20,000 volunteer donors were minorities. Today they number more than 60,000, or 14 percent, with 20 percent of the new volunteers coming into the registry being from minority groups.

With more than 70 donor centers and 40 transplant centers, the National Marrow Donor Program continues to expand its reach across our country to meet the growing demand for donors and transplants. The program also continues to expand its technical base to bring on line the most sophisticated computer technology to expedite critical communications with transplant and donor centers, doctors, patients, and volunteers.

The record of success of this program is unparalleled and the results of the success are seen every day when another patient walks out of a transplant center cured of leukemia or any 1 of 60 other fatal blood disorders. But there remains much more to be done, because even though we match donors and patients at the rate of more than 1 per day, we need to match them at the rate of 24 per day if we are to treat every American patient in need of a transplant.

Continued Federal support will help us to achieve this goal by continuing to build the national registry. These funds will also help ensure that the registry continues to expand its ethnic diversity so that all racial groups are well represented and have the opportunity to find a matched donor.

Other support is required, however, and will continue to come from community wide efforts such as those held in all parts of our Nation from St. Petersburg, FL, to Longview, TX, to Spokane, WA, and to right here in our Nation's Capital. An important source of this support has come from American businesses and industries large and small. Many business executives who have learned of the program have agreed to undertake and sponsor donor education and recruitment drives for their employees. More than 500 businesses and corporations have joined these efforts. Among them are some of our corporate giants such as 3M, BP America, and General Mills. In my district alone, 25 businesses, including the Home Shopping Network which was one of the first corporate sponsors, have sponsored wide scale donor recruitment efforts.

Mr. Speaker, establishing and funding the National Marrow Donor Program has been one of the most rewarding experiences of my life. With the continued support of my colleagues in the House, and the volunteers throughout our Nation without whose energy and excitement it would not be possible, I soon will be able to report to you that we have reached our next milestone, that being a national registry of 1 million donors and a registry which enables us to find a donor for every patient in need of a transplant. This is a great cause that can unite our Nation and the nations of our world in this medical miracle which allows one human being to give the gift of life to another.

NATIONAL ASSOCIATION OF FEDERAL CREDIT UNIONS

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ABERCROMBIE. Mr. Speaker, 1992 marks the 25th anniversary of the National Association of Federal Credit Unions.

In my own State of Hawaii, more than half a million people—half the population of my State—are credit union members.

They are part of a nationwide movement founded not for profit, not for charity, but for service.

That credo of service is reflected in the way credit unions are managed in Hawaii and throughout the Nation.

Credit unions are owned by their depositors—share holders—and run by directors elected by those same depositors.

Credit unions are grassroots American democracy in action: One person, one vote.

Credit unions represent the communities they serve.

They are the communities they serve.

For that reason, Mr. Speaker, I invite my colleagues to join me in saluting the National Association of Federal Credit Unions on its 25th anniversary.

It delivers the message loud and clear: Twenty-five years of service to America's credit unions is 25 years of service to America.

AMERICANS ARE TIRED OF PARTISAN POLITICS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1992

Mr. PACKARD. Mr. Speaker, America has emerged the victor of the cold war, and it now faces a new economic challenge. We must address the issue of economic conversion as we scale back our Defense budget in the post-cold war era. California has been hit especially hard as the cold war has drawn to a close, and every congressional district in the Nation will feel the impact. We must now address how we will convert our military victory into an economic victory as we face these new economic challenges.

I support the Defense cuts that were proposed by the President. I believe that savings from reduced defense spending should go toward reducing our spiralling Federal deficit. For this reason, today I introduced legislation expressing the sense of Congress that this and any future reduction in Defense spending should be used for deficit reduction.

The economy has already been hit hard by the recession and by current Defense reductions. Thousands of workers have been laid off and are forced to take lower skill jobs or, worse, are forced to join the Nation's growing number of unemployed.

Even before the President announced new and deeper cuts to the Defense budget, the Defense budget project estimated that as many as 800,000 jobs would be lost as a result of the Defense cuts that are underway. Deeper cuts will force even more workers into an already weak job market.

Congress must implement legislation that will spur the economy and create jobs. I believe we can revitalize the economy and balance the negative impacts incurred from reduced Defense spending. By encouraging growth in the Defense and aerospace industry we can help to offset these negative impacts. Therefore, I am introducing legislation to both permanently extend the research and development credit and to permanently reinstate the investment tax credit. The tax credit allows a credit for 20 percent of a firms's investment in research and development. Their investment tax credit allows business a tax credit of 10 percent against the cost of investments such as machinery and equipment. Together, these two tax credits will help to foster the strong economic climate necessary to help the economy fill the gap created by decreased Defense spending.

I urge my colleagues to cosponsor these two pieces of legislation. The defense and aerospace industries can lead the Nation as we establish a high technology economic sector. A strong, vigorous domestic economy will allow America to compete in the global economy.

I also rise today in support of H.R. 4200 offered by the Republican leader, Mr. MICHEL, and Mr. ARCHER. I'd like to reiterate my distaste for partisan steamroll tactics that forced the Republicans to consider our proposal under a rule which will predetermine the outcome.

By denying us the motion to recommit, they have effectively stifled any real consideration of our proposal. You cannot formulate sound policy if you gag everyone who offers an alternative vision, I have no illusions about the importance of this debate, however, I am afraid that in this case the Democrat's partisan politics have prevailed over sound economic policy.

Instead of concentrating on the redistribution of wealth, like our friends across the isle, the Michel-Archer substitute concentrates on creating economic expansion. Congress must pass a budget that reinvigorates our economy and creates jobs. It is difficult to justify the democrat's attempt to sacrifice America's economic expansion under the guise of fairness. What the Michel-Archer substitute seeks to do is to reinvigorate the economy and create jobs. Our object should be to create and maintain incentives to make the economy grow.

I think it is interesting to note that the Democrats are working to pass a competing economic package that increases taxes on upper income taxpayers in order to finance a tax cut for middle-class Americans that would amount to just $1.09 per day per family. This hardly provides relief or creates growth. This proposal is simply an attempt to escalate the issue of tax fairness into class warfare in an election year. I find this appalling. Americans are tired of partisan politics. They want action.

THE NATURAL RESOURCE DAMAGE ASSESSMENT INITIATIVE

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. HOCHBRUECKNER. Mr. Speaker, as we discuss the administration's budget request for the U.S. Fish and Wildlife Service, I would like to highlight the importance of the natural resource damage assessment initiative.

As you know, the Environmental Protection Agency [EPA] has identified more than 33,000 hazardous waste sites in the United States. More than 1,200 are listed on EPA's National Priority List and are subject to all of the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA], commonly referred to as Superfund. The natural resource damage assessment provisions of CERCLA provide trustee agencies, such as the Department of Interior through the Fish and Wildlife Service, with the authority to claim damages from those responsible for injuring fish and wildlife or their habitat. This "polluter pays" concept puts the burden of cleaning up hazardous waste sites and restoring injured resources where it belongs—in the hands of those responsible for the contamination and not the taxpayer.

In fiscal year 1991, the Fish and Wildlife Service [Service] received an appropriation of $1.5 million to initiate a natural resource damage assessment program. This funding supported, in whole or in part, the efforts of approximately 75 permanent and temporary personnel and enabled the Service to initiate five high priority damage assessments. Additionally, these damage assessment personnel were responsible for negotiating more than $25 million in reparations from responsible parties to restore habitat impacted by toxic chemicals and to provide compensation for lost use. Additionally, as part of the settlements, the Service was usually reimbursed for all costs associated with conducting the assessments and settling the cases. This represents an outstanding return on the investment.

In fiscal year 1992, the Service proposed a $10 million natural resource damage assessment initiative to establish a revolving trust fund in order to build on the successes achieved with the congressional add. Ultimately, that proposal evolved into a $5 million Department of Interior initiative, but only after the Service's $1.5 million congressional add was offered as a decrease. The final result of this action is that the Service was left without funding to support the personnel already hired to initiate damage assessments and to negotiate settlements. Furthermore, the revolving fund was earmarked for all agencies in the Department of Interior to share and, ultimately, final congressional action reduced the fund to $4.3 million. Although the Service is in the process of appealing to the Department of Interior for a portion of the $4.3 million to support personnel, the outcome is uncertain. It will be impossible for the Service to attract and retain qualified personnel if a permanent funding base is not forthcoming and an unprecedented opportunity to restore injured natural resources at the polluters', and not the taxpayers', expense will be lost.

IRISH BRIGADE DAY, HOUSE JOINT RESOLUTION 427

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to draw the attention of my colleagues to a resolution I have introduced today, House Joint Resolution 427, which designates March 17, 1992 as Irish Brigade Day.

Throughout the history of our Nation, Irish-Americans have made vital contributions to the defense of liberty and freedom. My resolution recognizes the contributions of Irish-Americans to our Nation, both in fighting for our independence and assuring our Nation's survival.

In the early days of our Nation's struggle for survival, the officers and men of the Irish Brigade in the service of France volunteered to fight for American liberty in 1775, 3 years before the entry of France in our War for Independence.

Furthermore, the officers and men of the Regiment of Walsh of the Irish Brigade volunteered to serve as American Continental Marines with John Paul Jones on the *Bonhomme Richard* and fought for American liberty in our War for Independence at Savannah, GA. Additionally, Irish troops at Glouster Point, VA under Count Arthur Dillon of the Legion of Lauzin in the Army of Rochambeau closed the ring around Cornwallis at Yorktown, thus assuring victory for Washington and independence for the United States.

More recently in the 20th century, the U.S. Army Command and General Staff School at Fort Leavenworth, KS, in its hallway of combat leaders, has chosen Col. William "Wild Bill" Donovan of the 69th Regiment of New York (165th U.S. Infantry) as "The Epitome of Combat Leadership" in World War I.

A resolution proclaiming March 17, 1992, as Irish Brigade Day would be a fitting tribute to the sacrifices and contributions of these great American heroes and would honor our veterans and Irish-Americans who have sacrificed so much for our country.

Mr. Speaker, I request that the full text of House Joint Resolution 427 be inserted at this point in the CONGRESSIONAL RECORD, and I invite my colleagues to cosponsor this resolution.

H.J. RES. 427

Whereas the United States of America is a nation of immigrants and the contributions of Irish immigrants and their descendants to the defense of the Public liberty has been a hallmark of Irish Americans;

Whereas the officers and men of the Irish Brigade in the service of France volunteered to fight for American liberty in 1775, three years before the entry of France in our War for Independence;

Whereas the officers and men of the regiment of Walsh of the Irish Brigade volunteered to serve as American Continental Marines with John Paul Jones on the "Bonhomme Richard";

Whereas the Irish Brigade fought for American liberty in our war for Independence at Savannah, Georgia and Irish troops at Glouster Point, Virginia under Count Arthur Dillon of the Legion of Lauzin in the Army of Rochambeau closed the ring around Cornwallis at Yorktown, thus assuring victory for Washington and independence for the United States;

Whereas throughout history, the Irish military and naval contribution to the United States has included many noted heroes;

Whereas the predominantly Irish Thompson Battalion of Pennsylvania became the keystone of Washington's Continental Army and under Anthony Wayne, the Infantry Line of Pennsylvania was known as the "Line of Ireland";

Whereas the United States Army Command and General Staff School at Fort Leavenworth, Kansas in its Hallway of Combat Leaders, has chosen Colonel William "Wild Bill" Donovan of the 69th Regiment of New York (165th U.S. Infantry) as "the epitome of combat leadership" in World War I; and,

Whereas Irish-Americans continue the tradition of honorable military service in the defense of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 17, 1992, is designated as "Irish Brigade Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

THE INTRODUCTION OF HOUSE RESOLUTION CALLING FOR THE TERMINATION OF CERTAIN GSP PETITIONS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. HORTON. Mr. Speaker, I am pleased to rise today to join my colleagues Mr. GUNDERSON and Mr. STENHOLM and others in introducing this resolution calling on the President of the United States to terminate the current generalized system of preferences [GSP] proceedings for products considered and rejected in the 1990 GSP annual review and to reinstate the President's determination of May 3, 1991.

On July 12, 1991, the administration announced, as part of a trade enhancement initiative for Central and Eastern Europe, that recently rejected GSP petitions from Central and Eastern European countries would be reconsidered. This despite current regulations requiring a 3-year wait before rejected GSP petitions can be refiled absent specific intervention by the President.

The GSP Program is being used to achieve certain short term foreign policy goals at the expense of many American industries, including dairy and wine that are so vital to the economy of New York State.

I support United States efforts to assist the post-Communist countries of Central and Eastern Europe. But I do not think we ought to make unilateral trade concessions to do so. And this assistance ought not to be granted at the expense of American business and American jobs. Yet, that is exactly what granting GSP status to the Central and Eastern European countries will do.

The American dairy industry has been extremely hard hit recently. Last year dairy farmers received the lowest price for their milk in nearly 15 years. The dairy industry has been suffering for quite some time. Since 1980, New York State has lost approximately 30 percent of its dairy farms, and estimates are that we could lose another 10 percent unless the price of milk improves.

The U.S. wine industry suffers from a large trade imbalance. In 1989, this imbalance was in the order of $835 million. Increased excise taxes and Government regulations have already saddled the wine industry with additional costs and led to decreased sales. The excise tax alone will result in the industry paying an additional $1.5 billion to the Government over the next 5 years.

Granting GSP status to Hungary and the 130 other GSP nations would severely hurt the American dairy, wine, and other industries. It is neither a good precedent nor fair policy to reconsider GSP petitions less than 100 days after they were rejected.

Once again, I want to commend Mr. GUNDERSON and Mr. STENHOLM for the steadfast work on this issue. I hope the committee of jurisdiction will expediently report this bill to the full House and urge my colleagues to support this resolution so that we may send a strong, unmistakable message—American firms must have free and fair access to foreign markets in order for foreign companies to receive similar treatment from the United States.

SERVING IN CONGRESS—THEN AND NOW

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ECKART. Mr. Speaker, I rise today to take note of an article written by my friend and Ohio colleague, Congressman DON PEASE, which appeared in the February 13, 1992, issue of the Christian Science Monitor. As a retiring Member of Congress myself, I agree with many of the points raised by Congressman PEASE about the changing political climate and his frustrations with the job of a Congressman. I commend the article, which follows, to your attention.

[From the Christian Science Monitor, Feb. 13, 1992]

SERVING IN CONGRESS—THEN AND NOW

(By Don J. Pease)

As I begin my final year in Congress before retiring, I look back 15 years and realize how very much the "rules of play" for congressmen have changed.

Shortly after I assumed office in 1977, a senior colleague counseled me: "Don, pay attention to your constituent newsletters—they will re-elect you."

My colleague's advice reflected his experience as a congressman during the 1960s and 1970s. It was good advice, but even as it was given, it had already begun losing its relevancy. Today, it almost seems quaint.

Back then, three or four newsletters per year from one's congressman made a real impact. Today, the ways in which citizens learn about Congress and their representatives are vastly different.

Furthermore, citizen attitudes about the news they receive regarding Congress reflect critical social and economic changes in the United States.

From the 1950s into the 1970s, America was expanding and prospering. Federal revenue grew even faster than the nation's economy. Congress could enact new social programs without trimming back existing programs and without hiking the federal debt significantly. Presidents, both Republican and Democratic, cheerfully signed legislation creating the new programs. In times of recession, taxes could be cut and public works boosted.

In short, the news from Congress was mostly good, and it was reported to citizens mainly by the print media—newspapers and magazines—which had the time and space to provide depth and perspective to readers who in turn had the time and inclination to pay attention.

Politically, there was relative stability. Citizens generally identified with one major political party or the other. Local political organizations had active adherents and made a real difference in elections. Campaigns for Congress were straightforward, moderate in cost, and predictable.

Then a number of things occurred to profoundly affect how congressional campaigns are run and national laws are made.

Chief among them was the growth of television, which began to hit its stride in the 1970s as an influence on Congress. I can think of at least four ways TV has changed the political landscape.

For starters, it has helped distract Americans from former norms of civic responsibility. In some areas more than 54 cable TV channels now tempt citizens away from civic involvement and away from reading newspapers, magazines, and books that might give them more knowledge and perspective regarding public affairs. The average American family now watches roughly 50 hours of TV each week.

Second, the networks tend to trivialize news from Congress. Essentially, television is an entertainment medium, and that truth is manifest in network news broadcasts. Most Americans, especially young people, now get the bulk of their news from TV. In my view, they are poorly served by 30-minute newscasts in which each news item receives a minute or two of air time.

Third, 30-second TV commercials have, since the mid-1970s, become the dominant force in closely fought congressional elections.

When voters enter the booth on election day, they likely will have been influenced more by a two-week string of negative TV spots than by two years of legislative effort, personal campaigning, newspaper articles, newsletters, and candidate forums. It is not TV's fault that 30-second spots are so powerful, but the power has an immeasurable punch at the polls.

Finally, 30-second commercials pack a one-two punch, and the second is their enormous cost—a single spot on one station in a major media market can cost more than $10,000. Representatives and their challengers must reckon not only with the power of TV ads but with the necessity of raising hundreds of thousands of dollars to pay for them.

Mention of campaign fundraising calls to mind political action committees and the interest groups that organize PACs. Many members have turned to PACs for needed funds, thereby endowing them with greater importance.

Like television, PACs have developed over two decades into a major influence on Congress. Through the use of ever more sophisticated computer data banks, Americans are constantly encouraged to act according to pecuniary or "hot button" individual interests with little regard to community or national interests.

In contrast to earlier periods, interest groups are now a significant source of information to voters regarding Congress. To be sure, the information is fragmented, with each interest group reporting only congressional action and individual representatives' votes on issues of concern to its members. But information is conveyed. A member of Congress must assume that each vote cast gets reported back home to the constituents who care most about that particular vote.

To round out my contrasts with then and now, let me cite the informational role (often destructive, in my opinion) of radio talk show hosts; the decline of local political parties along with nearly all public-affairs organizations; the growth of two-worker and single-parent families for whom there is little discretionary time for civic involvement; and the plethora of recreational diversions that affluence has brought.

And, most especially, the change in the nation's economy. Growth rates have declined, family incomes have stagnated, the rapid escalation of federal revenue has ceased, federal deficits have skyrocketed, spending has become a "he-wins-you-lose" proposition. The political situation is anything but stable.

How do members of Congress react to these large changes in the atmosphere in which the legislative game is played? Two reactions stand out in my mind.

First, members of Congress are increasingly skittish. That is to say, members are cautious and careful. they are acutely aware, for example, that votes on certain issues—abortion, homosexuality, flag-burning, crime—can be turned into negative TV commercials. Too frequently "safe" votes win out over "right" votes.

Representatives prefer not to bring controversial bills to a vote in the House or, if a vote is unavoidable, they water bills down to make them less objectionable to interest groups. Major legislation (like last year's banking bill) crawls through months of work in committee because members are loath to make necessary compromises that might offend one group or another.

On issues of broad interest, such as tax increases, some members refuse to jeopardize their own careers for what others may consider the national interest. The 30-second negative TV spot syndrome makes it extraordinarily difficult for congressional leadership to corral a majority of votes on such legislation.

Besides being skittish, members of Congress cope with the new rules of the game by being adaptable.

Press aides assiduously pursue networks and local stations for appearances for their bosses. Representatives produce their own TV shows and mail them to local stations; they react instantly to breaking news with self-initiated satellite transmissions; they learn to comment on complex issues in 10-second sound bites.

At campaign time, members of Congress develop their own 30-second negative TV commercials to blunt the TV attack of opponents. They steel themselves to the notion of budgeting $20,000 for a media consultant; $25,000 for a pollster to guide the content of TV spots; and $400,000 and up to pay for air time.

If special-interest groups use increasingly sophisticated technology to target Congress, members adapt with modern technology of their own. In-office computers spew out "personal" replies when some group generates thousands of postcards on an issue. The name of anyone who ever writes to his or her representative goes into a massive data bank for future mailings.

Adaptability extends, of course, to campaign finance. If campaigns cost a half million dollars or more, then the money must be raised. Representatives, even those who hate raising money, become very good at it. Political action committee directors are cultivated, home-district PAC contacts are established, PAC "events" (at $300 to $1,000 per attendee) are organized by a representative's own fund-raisers or by hired professionals.

Nor do congressional fundraisers neglect the marvels of computer technology. Prospective large ($1,000) donors as well as smaller donors go into the computer not only from within a congressman's district, but also from the entire nation.

And so, with adaptability the watchword, the work of Congress goes on. Candidates run and the winners go to Washington. Congress organizers, hearings are held, decisions are made, legislation is enacted. The nation's problems get addressed (how well may be another question).

Still, I yearn on occasion for the times when problems were more tractable, when the nation's economy was growing, when federal fiscal resources were adequate, when voters were more engaged in the democratic process, when television, computers, special-interest groups, and fundraising were not so influential on elections and legislation.

The age-old question arises: It's change, but is it progress?

SOCIAL "INSECURITY"

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GALLO. Mr. Speaker, in the past year I have been contacted on more than one occasion by constituents who received commercial solicitations through the mail with their Social Security numbers printed on the envelopes.

Just last week, I read in an education publication that some states are using Social Security numbers as a student identifier on public computer networks which contain detailed personal as well as scholastic information concerning each student and his or her family. With the widespread and growing use of Social Security numbers as the key to unlocking a person's entire history, financial and otherwise, I feel the time has come to protect this private identifier from the fraud and abuse to which it may currently be prey.

My investigations into the matter of Social Security number protection reveal that although there are extensive rules governing when a person is obligated to disclose his or her number, there are no restrictions on the third party sale or disclosure of a person's Social Security number for commercial purposes. I believe this is a dangerous practice which not only violates a consumer's right to privacy, but also opens the system to abuse.

Today, I am introducing legislation to prevent potential misuse of the system. My bill would ban trade in Social Security numbers on the open market by making the unauthorized sale or disclosure of these numbers subject to criminal penalties. I respectfully request the support of my colleagues in making this practice illegal, as it should be.

A CONGRESSIONAL SALUTE TO BARBARA NYDEN RODSTEIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding woman and a remarkable achiever whom I greatly admire, Barbara Nyden Rodstein. On April 2, 1992, in recognition of her tireless efforts on behalf of the community, Barbara will serve as chair of the Southern California Conference for Women Business Owners.

Many know Ms. Nyden Rodstein as the founder, chair, and chief executive officer of the Los Angeles based Harden Industries, a domestic manufacturer of bath fixtures and accessories but, few know of the support and guidance she gives to others wishing to start out on their own. Established in 1982, Harden Industries quickly grew to become an international success with revenues exceeding $25 million. Its products are sold in 46 countries with distribution and sales offices in major cities around the world. Harden Industries has corporate headquarters and factories in Los Angeles and employs over 500 people worldwide.

One of the many ways in which Barbara gives her time and talents to the community is by serving as the only woman on the University of Southern California's entrepreneur advisory council. She is also the entrepreneur in residence at the University of California at Los Angeles [UCLA], where she shares her success story with future entrepreneurs. In addition, she has recently formed the Harden Entrepreneurial Learning Programs which offers H.E.L.P and direction to students.

Barbara's noteworthy contributions to her community have not gone unnoticed for she has received numerous awards and honors. In March of 1990, she received the 1990 Business Woman of the Year award from the National Association of Women Business Owners group. In May of 1991, she was honored by the Los Angeles Boy Scouts of America and in November of 1991 was chosen as the kickoff speaker for the National Entrepreneur Institute's President Forum event. She has been commended by the California State Senate, Los Angeles Mayor's office, the Los Angeles County supervisors, the Los Angeles City Council, and received a special note of recognition from President George Bush.

Barbara Nyden Rodstein has earned admiration and respect both as a business woman and as a community leader. She is identified as a symbol of success and hope. On this most deserving occasion my wife, Lee, joins me in extending this Congressional Salute to Barbara Nyden Rodstein, and we wish her all the best in the years to come.

A TRIBUTE TO BILL GRAHAM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. LANTOS. Mr. Speaker, on March 1, 1992, the Holocaust oral history project will honor the late Bill Graham, the great impresario who tragically lost his life in a helicopter crash last year. Today I ask my colleagues to join me in paying tribute to Bill, one of the great philanthropists and champions of artistic expression in this country.

Producing his first concert in 1965, Bill Graham established himself as an industry leader by setting the highest standards of ethics and excellence in the business. His undertakings were characterized by their diversity and their ability to electrify. In the course of his career, he brought us performances by Buddy Rich; Fats Domino; B.B. King; Ray Charles; Ravi Shankar; the Neville Brothers; Lynard Skynyrd; the Twyla Tharp Dance Company; Alvin Ailey American Dance Theatre; Rodney Dangerfield; Dough Henning; the Peking Opera; Le Cirque Du Soleil; Moscow Circus; Bob Dylan; the Rolling Stones; Crosby, Sills, Nash, and Young; George Harrison, Santana—the list goes on and on.

As the impressive list of his accomplishment shows, Bill was a man of extraordinary talent and incomparable drive. His mark on the world of entertainment will neither be matched nor forgotten. However, to fully understand and appreciate his life work as a purveyor of art and as a torchbearer for freedom of artistic expression, it is important to know the story of his youth, to know the world into which Bill was born. Indeed, to understand his past is to understand the vitality and force of his life.

Like many of those who will be remembering Bill during the Holocaust oral history project's celebration of his life, he was a survivor of Nazi horror. He was born in 1931, as Wolfgang Grajonca to Russian Jewish parents in Berlin. Two days after his birth, his father died in an accident and his mother, needing work, was forced to send Bill and the youngest of her five daughter to an orphanage.

Bill and his sister were in France as part of a student exchange program when the German armies invaded in 1939. With a Red Cross worker, he and his sister, along with 65 other children, fled France. Their grueling odyssey took them to Marseilles and Toulouse, across the Pyrenees to Barcelona, Madrid, and Lisbon, then on to Casablanca, Dakar, Bermuda, Cuba, and, finally, New York. Bill was 1 of only 11 children to survive the journey. His sister was among those who perished.

And so Bill escaped the terror of the Nazi regime, a time and place where freedom of expression was nonexistent, where artists and thinkers whose work did not extol the virtues of the Nazis and their perverted concept of culture were labeled degenerates, vilified, and murdered.

When I think of the culture Nazis fought to impose on Europe, the society they sought to dictate, the words of Hanns Johst, the celebrated Nazi poet, come to mind: "When I hear the word 'culture', I reach for my gun." That was the world Bill left behind.

But, as many survivors know, one never completely departs the world of tyranny once they inhabit it. Too often, escape is only physical; memories tether us to that world forever and the horror is never forgotten.

I imagine that it was the sad experience of his youth that fueled his drive to promulgate and promote free artistic expression in all of its forms. Indeed, the freedom of expression, thought by many to be a birthright, was something Bill never took for granted. He knew firsthand the intolerable alternative, and his life's work reflected that knowledge.

Mr. Speaker, when we gather next week in San Francisco to remember Bill Graham, there will be a great deal of sorrow. He was taken from us suddenly, and the abruptness of his death was a great shock to those who knew and loved him. But it will be more than sorrow filling the room. We are meeting to celebrate Bill's full and fruitful life: His fateful escape from tyranny, his unparalleled contribution to the field of entertainment, and his steadfast commitment to the cause of artistic freedom and expression. Bill Graham has graced us all, and we will never forget him.

BE KIND TO ANIMALS AND NATIONAL PET WEEK

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GUARINI. Mr. Speaker, over 50 percent of the households in our country own a pet. Those Americans who own a pet know that living with animals involves a great deal of responsibility. Animals depend on people and it is important for individuals to commit to caring for them properly and to guard against their cruel and irresponsible treatment. As in previous years, today, I am introducing a joint resolution to designate a week in May as "Be Kind to Animals and National Pet Week." This legislation will help promote kinder treatment of animals and show appreciation for those who work to help and protect them.

"Be Kind to Animals and National Pet Week" will recognize the efforts of veterinary medical professionals as well as animal protection organizations, State humane societies, and local animal care agencies throughout our country. By providing medical treatment, spaying and neutering services, and shelter for unwanted, abused, and abandoned animals, these individuals work every day to improve the health and welfare of our pets. Their dedicated services deserve to be honored.

"Be Kind to Animals and National Pet Week" will help raise public awareness of the need to treat the animals who depend on us responsibly. Children especially, must be taught in our schools and communities that as members of a humane and civilized society, we must provide for the animals we live with. As Americans we must renew our commitment to showing respect for all living creatures.

In addition to offering friendship and companionship, pets help people in many other ways. Studies show that senior citizens who own a pet visit their physicians less often and handle stress better. Growing up with a pet in the house has even been shown to enhance social skills and self-esteem in children.

In previous years, you and a majority of my colleagues supported legislation to establish the first week of May as "Be Kind to Animals and National Pet Week." I urge the support of my distinguished colleagues again and ask them to join me in passing this worthwhile resolution.

ABANDONED MINE RECLAMATION FUND

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. RAHALL. Mr. Speaker, today I along with the chairman of the Committee on Interior and Insular Affairs, George Miller, am introducing legislation to fulfill a commitment made to coalfield residents.

This commitment was one made by the Surface Mining Control and Reclamation Act of 1977. In this law we sought to address the plight of the people of the Appalachian Region, and those in coal mining regions of the Nation as a whole, whose lives are affected on a daily basis by the health, safety and environmental hazards associated with abandoned mine lands. Established by this law was an Abandoned Mine Reclamation Fund, financed by a reclamation fee assessed on every ton of mined coal. To date, under this program, many of the scars left over from past mining practices—the moonscapes, the burning refuse piles and old mine shafts—have been reclaimed. Lands are being contoured, revegetated and brought back to productive uses.

Yet, I am advised that when the existing authority to collect the reclamation fee expires at the end of fiscal year 1995, approximately $1.6 billion worth of high-priority health and safety threatening sites will remain unreclaimed.

The Bush administration recognizes this fact. Just this week, to its credit, the Interior Department transmitted to the Congress a draft bill to extend the authority to collect abandoned coal mine reclamation fees for an additional 2 fiscal years, through to September 30, 1997. As the transmittal letter from Assistant Secretary Dave O'Neal stated, much more remains to be done under this program and I agree with him.

However, what remains to be done cannot be accomplished by a simple 2-year extension. I am today proposing an extension of the fee collection authority through the year 2007. The amount of money raised under this proposal should allow us to reclaim and restore all of the most pressing sites, and to make some progress in addressing those which do not threaten public health and safety, but degrade the environment.

Also with this legislation I am seeking to accommodate one concern raised by the coal industry. At present, the coal industry is subsidizing the reclamation of abandoned non-coal mine lands. It is, in effect, paying for the past sins of the hardrock mining industry.

It is time, indeed long past the time, that we establish a new fund financed by the non-coal mining industry to provide for this type of abandoned mine reclamation. I am attempting to accomplish through legislation to reform the Mining Law of 1872.

The bill I am introducing today seeks to dedicate and refocus those fees paid by the coal industry to abandoned coal mine lands, rather than allowing this money to be used for non-coal projects once a State reclaims all eligible coal projects.

Mr. Speaker, I would also note that the program financed under this measure works to save coalfield citizens from the hazards associated with abandoned coal mine lands. But we must not forget the abandoned coal miner. And this gentleman from West Virginia certainly will not.

Finally, it is my intention to seek to include this measure in any national energy strategy legislation considered in the House of Representatives.

If we are to have a national energy policy it is my thought, and I am sure that of others, that we must balance energy development with social and environmental considerations.

THE NATIONAL BEVERAGE CONTAINER REUSE AND RECYCLING ACT OF 1992

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. MARKEY. Mr. Speaker, today I am introducing the National Beverage Container Reuse and Recycling Act of 1992. This legislation combats the problems of shrinking landfill space, skyrocketing waste disposal costs, misspent energy and natural resources, and litter-strewn roadsides by setting in place a national beverage container recycling program. If passed, this bill would save millions of dollars in energy costs, divert a significant portion of the solid waste stream, foster the growth of a recycling infrastructure, and help reverse the throwaway ethic our Nation has embraced. And, most importantly, it will be at no cost to taxpayers.

The 200 million tons of municipal waste our Nation generates yearly is shameful testimony to the throwaway ethic. Of that total, containers and packaging are not only the single largest component, they are also the most easily recovered and account for over two-thirds of waste recycled. We can conquer the problem of one-way, throwaway beverage containers and have already done so in the 10 States, including my own, that have in place container deposit systems much like those the beverage industry abandoned three decades ago. Under these programs, which are the law in California, Connecticut, Delaware, Iowa, Maine, Massachusetts, Michigan, New York, Oregon, and Vermont, the consumer pays a deposit on each container purchased and is refunded that amount when the container is returned for recycling or refilling. Consumers in the deposit law States have proven the effectiveness of such legislation by reaching recycling rates of as high as 95 percent.

With just 30 percent of the U.S. population, these 10 States account for most of the beverage containers recycled nationwide. Over 90 percent of all plastic containers recycling, over 70 percent of glass recycling, and nearly half of aluminum recycling takes place in the deposit law States. Furthermore, recycling in the remaining States has been facilitated by the recycling infrastructure created by the programs of deposit States.

Consumers—and voters—have demonstrated the popularity of deposit laws. A public opinion survey conducted by the General Accounting Office [AGO] revealed that 70 percent of Americans support national deposit legislation. Significantly, deposit laws are most popular among those consumers in the best position to judge—the residents of deposit law States like Massachusetts and Oregon. And despite tireless industry efforts, no State has ever repealed a deposit law.

Our legislation would challenge States to accomplish a 70-percent recycling rate for beer, wine cooler, and soft drink containers.

To meet this goal, which falls well below the recycling rates accomplished by most current deposit States, States have the flexibility to put in place deposit or curbside systems of any sort. The bill prescribes a 10 cent deposit law for States that do not take the initiative to reach the 70 percent goal. Under our legislation, unclaimed refunds from deposits—estimated by the Congressional Budget Office to total as much as $1.7 billion—would be available to assist States in other recycling programs.

Despite the environmental, consumer, and fiscal benefits of deposit legislation, the beverage and packaging industries continue to defend the status quo. For the last two decades, these groups have engineered the defeat of deposit legislation in numerous States. The arguments put forth by the beverage industry have varied over the last 20 years. Today, they say, it might harm curbside recycling programs. They say this even in the face of substantial evidence that demonstrates the value of deposit laws working in tandem with curbside programs.

The city of Seattle recently completed a study on the compatibility of its successful curbside system with a deposit law, which the State of Washington does not now have in place. The report concluded that "the presence of a bottle bill would increase recycling levels of beverage containers and reduce the city's overall solid waste management costs." A city of Cincinnati study and even an industry-funded Franklin Associates report have produced figures that support the same conclusion.

Most importantly, deposit laws can help subsidize the costs of curbside programs by providing States with a new source of revenue from unclaimed deposits. And finally, curbside programs, valuable as they are, are simply not an option in many parts of the country, especially in rural areas. In these cases, deposit systems represent the only chance for substantial recycling gains.

The beverage industry heralds its support for comprehensive recycling in advertisements that have appeared in many publications. But to them, comprehensive recycling excludes deposit legislation, the only approach that forces them to take an active role together with consumers and local governments in recycling. I agree that deposit laws alone are not the answer to our solid waste dilemma; comprehensive recycling means that the recycling battle must be joined on more than just one front.

As the 102d Congress prepares to consider one of the most critical issues it will face, the reauthorization of the Resource Conservation and Recovery Act [RCRA], deposit legislation must be considered a keypart of our overall approach to waste management issues.

I have joined with PAUL HENRY, who has championed deposit legislation in the House for years, and over 60 other Members including House Majority Whip BONIOR, Chief Deputy Majority Whip KENNELLY, and committee Chairmen FORD, MILLER, BROWN, DELLUMS, and STOKES in the introduction of this bill. We look forward to working with the members of the Energy and Commerce Committee when RCRA comes before the committee.

Finally, I urge my colleagues to support comprehensive recycling by cosponsoring the National Beverage Container Reuse and Recycling Act of 1992.

Mr. Speaker, I insert the text of the bill in the RECORD following my remarks:

H.R. 4343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Beverage Container Reuse and Recycling Act of 1992".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The failure to reuse and recycle empty beverage containers represents a significant and unnecessary waste of important national energy and material resources.

(2) The littering of empty beverage containers constitutes a public nuisance, safety hazard, and aesthetic blight and imposes upon public agencies, private businesses, farmers, and landowners unnecessary costs for the collection and removal of such containers.

(3) Solid waste resulting from such empty beverage containers constitutes a significant and rapidly growing proportion of municipal solid waste and increases the cost and problems of effectively managing the disposal of such waste.

(4) It is difficult for local communities to raise the necessary capital needed to initiate comprehensive recycling programs.

(5) The reuse and recycling of empty beverage containers would help eliminate these unnecessary burdens on individuals, local governments, and the environment.

(6) Several States have previously enacted and implemented State laws designed to protect the environment, conserve energy and material resources and promote resource recovery of waste by requiring a refund value on the sale of all beverage containers, and these have proven inexpensive to administer and effective at reducing financial burdens on communities by internalizing the cost of recycling and litter control to the producers and consumers of beverages.

(7) A national system for requiring a refund value on the sale and all beverage containers would act as a positive incentive to individuals to clean up the environment and would result in a high level of reuse and recycling of such containers and help reduce the costs associated with solid waste management.

(8) A national system for requiring a refund value on the sale of all beverage containers would result in significant energy conservation and resource recovery.

(9) The reuse and recycling of empty beverage containers would eliminate these unnecessary burdens on the Federal Government, local and State governments, and the environment.

(10) The collection of unclaimed refunds from such a system would provide the resources necessary to assist comprehensive reuse and recycling programs throughout the Nation.

(11) A national system of beverage container recycling is consistent with the intent of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

(12) The provisions of this Act are consistent with the goals set in January 1988, by the Environmental Protection Agency, which establish a national goal of 25 percent source reduction and recycling by 1992, coupled with a substantial slowing of the projected rate of increase in waste generation by the year 2000.

SED. 3. AMENDMENT OF SOLID WASTE DISPOSAL ACT.

(a) AMENDMENT.—The Solid Waste Disposal Act is amended by adding the following new subtitle at the end thereof:

"SUBTITLE K—BEVERAGE CONTAINER RECYCLING

"SEC. 12001. DEFINITIONS.

"(1) The term 'beverage' means beer or other malt beverage, mineral water, soda water, wine cooler, or a carbonated soft drink of any variety in liquid form intended for human consumption.

"(2) The term 'beverage container' means a container constructed of metal, glass, plastic, or some combination of these materials and having a capacity of up to one gallon of liquid and which is or has been sealed and used to contain a beverage for sale in interstate commerce. The opening of a beverage container in a manner in which it was designed to be opened and the compression of a beverage container made of metal or plastic shall not, for purposes of this section, constitute the breaking of the container if the statement of the amount of the refund value of the container is still readable.

"(3) The term 'beverage distributor' means a person who sells or offers for sale in interstate commerce to beverage retailers beverages in beverage containers for resale.

"(4) The term 'beverage retailer' means a person who purchases from a beverage distributor beverages in beverage containers for sale to a consumer or who sells or offers to sell in commerce beverages in beverage containers to a consumer.

"(5) The term 'consumer' means a person who purchases a beverage container for any use other than resale.

"(6) The term 'refund value' means the amount specified as the refund value of a beverage container under section 12002.

"(7) The term 'wine cooler' means a drink containing less than 7 percent alcohol (by volume), consisting of wine and plain, sparkling, or carbonated water and containing any one or more of the following: non-alcoholic beverage, flavoring, coloring materials, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives.

"SEC. 12002. REQUIRED BEVERAGE CONTAINER LABELING.

"Except as otherwise provided in section 12007, no beverage distributor or beverage retailer may sell or offer for sale in interstate commerce a beverage in a beverage container unless there is clearly, prominently, and securely affixed to, or printed on, the container a statement of the refund value of the container in the amount of 10 cents. The Administrator shall promulgate rules establishing uniform standards for the size and location of the refund value statement on beverage containers. The 10 cent amount specified in this section shall be subject to adjustment by the Administrator as provided in section 12008.

"SEC. 12003. ORIGINATION OF REFUND VALUE.

"For each beverage in a beverage container sold in interstate commerce to a beverage retailer by a beverage distributor, the distributor shall collect from the retailer the amount of the refund value shown on the container. With respect to each beverage in a beverage container sold in interstate commerce to a consumer by a beverage retailer, the retailer shall collect from the consumer the amount of the refund value shown on the container. No person other than the persons described in this section may collect a deposit on a beverage container.

"SEC. 12004. RETURN OF REFUND VALUE.

"(a) PAYMENT BY RETAILER.—If any person tenders for refund an empty and unbroken beverage container to a beverage retailer who sells (or has sold at any time during the period of 3 months ending on the date of such tender) the same brand of beverage in the same kind and size of container, the retailer shall promptly pay such person the amount of the refund value stated on the container.

"(b) PAYMENT BY DISTRIBUTOR.—If any person tenders for refund an empty and unbroken beverage container to a beverage distributor who sells (or has sold at any time during the period of 3 months ending on the date of such tender) the same brand of beverage in the same kind and size of container, the distributor shall promptly pay such person (1) the amount of the refund value stated on the container, plus (2) an amount equal to at least 2 cents per container to help defray the cost of handling. This subsection shall not preclude any person from tendering beverage containers to persons other than beverage distributors.

"(c) AGREEMENTS.—(1) Nothing in this subtitle shall preclude agreements between distributors, retailers, or other persons to establish centralized beverage collection centers, including centers which act as agents of such retailers.

"(2) Nothing in this subtitle shall preclude agreements between beverage retailers, beverage distributors, or other persons for the crushing or bundling (or both) of beverage containers.

"SEC. 12005. ACCOUNTING FOR UNCLAIMED REFUNDS AND PROVISIONS FOR STATE RECYCLING FUNDS.

"(a) UNCLAIMED REFUNDS.—At the end of each calendar year each beverage distributor shall pay to each State an amount equal to the sum by which the total refund value of all containers sold by the distributor for resale in that State during that year exceeds the total sum paid during that year by the distributor under section 12004(b) to persons in that State. The total of unclaimed refunds received by any State under this section shall be available to carry out pollution and recycling programs in that State.

"(b) REFUNDS IN EXCESS OF COLLECTIONS.—If the total of payments made by a beverage distributor in any calendar year under section 12004(b) for any State exceed the total refund value of all containers sold by the distributor for resale in that State, the excess shall be credited against the amount otherwise required to be paid by the distributor to that State under subsection (a) for a subsequent calendar year designated by the beverage distributor.

"SEC. 12006. PROHIBITIONS ON DETACHABLE OPENINGS AND POST-REDEMPTION DISPOSAL.

"(a) DETACHABLE OPENINGS.—No beverage distributor or beverage retailer may sell, or offer for sale, in interstate commerce a beverage in a metal beverage container a part of which is designed to be detached in order to open such container.

"(b) POST-REDEMPTION DISPOSAL.—No retailer or distributor or agent of a retailer or distributor may dispose of any beverage container labeled under section 12002 or any metal, glass, or plastic from such a beverage container (other than the top or other seal thereof) in any landfill or other solid waste disposal facility.

"SEC. 12007. EXEMPTED STATES.

"(a) IN GENERAL.—The provisions of sections 12002 through 12005 and sections 12008 and 12009 of this subtitle shall not apply in any State which—

"(1) has adopted and implemented requirements applicable to all beverage containers sold in that State which the Administrator determines to be substantially identical to the provisions of sections 12002 through 12005 and sections 12008 and 12009 of this subtitle; or

"(2) demonstrates to the Administrator that, for any period of 12 consecutive months following the date of the enactment of this subtitle, such State achieved a recycling or reuse rate for beverage containers of at least 70 percent.

If at anytime following a determination under paragraph (2) that a State has achieved a 70 percent recycling or reuse rate the Administrator determines that such State has failed, for any 12-consecutive month period, to maintain at least a 70 percent recycling or reuse rate of its beverage containers, the Administrator shall notify such State that, upon the expiration of the 90-day period following such notification, the provisions under sections 12002 through 12005 and sections 12008 and 12009 shall be applicable to that State until a subsequent determination is made under subparagraph (A) or a demonstration is made under subparagraph (B).

"(b) DETERMINATION OF TAX.—No State or political subdivision which imposes any tax on the sale of any beverage container may impose a tax on any amount attributable to the refund value of such container.

"(c) EFFECT ON OTHER LAWS.—Nothing in this subtitle shall be construed to affect the authority of any State or political subdivision thereof to enact or enforce (or continue in effect) any law respecting a refund value on containers other than beverage containers or from regulating redemption and other centers which purchase empty beverage containers from beverage retailers, consumers, or other persons.

"SEC. 12008. REGULATIONS.

"Not later than 12 months after the enactment of this subtitle, the Administrator shall prescribe regulations to carry out this subtitle. The regulations shall include a definition of the term 'beverage retailer' in a case in which beverages in beverage containers are sold to consumers through beverage vending machines. Such regulations shall also adjust the 10 cent amount specified in section 12002 to account for inflation. Such adjustment shall be effective 10 years after the enactment of this subtitle and additional adjustments shall take effect at 10 year intervals thereafter.

"SEC. 12009. PENALTIES.

"Any person who violates any provision of section 12002, 12003, 12004, or 12006 shall be subject to a civil penalty of not more than $1,000 for each violation. Any person who violates any provision of section 12005 shall be subject to a civil penalty of not more than $10,000 for each violation.

"SEC. 12010. EFFECTIVE DATE.

"Except as provided in section 12008, this subtitle shall take effect 2 years after the date of its enactment."

"(b) TABLE OF CONTENTS.—The table of contents for such Act is amended by adding the following at the end thereof:

"SUBTITLE K—BEVERAGE CONTAINER RECYCLING

"Sec. 12001. Definitions.
"Sec. 12002. Required beverage containers labeling.
"Sec. 12003. Origination of refund value.
"Sec. 12004. Return of refund value.
"Sec. 12005. Accounting for unclaimed refunds and provisions for State recycling funds.
"Sec. 12006. Prohibitions on detachable openings and post-redemption disposal.
"Sec. 12007. Exempted States.
"Sec. 12008. Regulations.
"Sec. 12009. Penalties.
"Sec. 12010. Effective date."

TRIBUTE TO BILL HALPIN, LONGTIME REPORTER IN SCRANTON, PA

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. MCDADE. Mr. Speaker, the people of northeastern Pennsylvania lost a dear and trusted friend when William "Bill' Halpin died on February 25, just days before his 65th birthday. Bill Halpin, whose 44-year career in journalism was marked by his uncanny ability to get a story, will be missed by his colleagues at the Scranton Times and the Tribune, and by his many friends and readers.

Bill Halpin was a credit to his craft, possessing all the necessary tools of his trade. He had a natural curiosity which drove him to get all the facts. He was tenacious, managing to dodge secretaries and unlisted phone numbers to get through to the people he needed to talk to before his deadline. He was versatile and quick study, enabling him to cover a wide variety of assignments. He presented the news clearly and objectively, not letting his own opinions dominate his stories.

Bill Halpin also had a knack for getting information that others could not, and took pride in his ability to earn a scoop. His colleagues observed that Bill seemed to know things almost before they happened. His reputation for fairness and his direct manner as an interviewer helped him cultivate sources who did not feel comfortable speaking to other reporters, sources who had confidence in his judgments and his integrity.

Whenever I received a call from Bill Halpin, I knew that the interview would be direct and to the point. He did not hesitate to ask tough questions, but he made sure that my responses were treated fairly in print. He came to each story with an open mind and a willingness to listen. I cannot recall any instances where I questioned the accuracy or the motives of Bill Halpin.

After serving in the Army, Bill began his journalism career as a part-time sportscaster in 1948 for WARM radio in Scranton while working full-time with the Internal Revenue Service. When WARM–TV was launched in 1954, Bill wore many hats, as a producer, director, news coordinator, and on-air personality. He moved to print journalism in 1965, taking a job with the old Scrantonian-Tribune before moving to the Scranton Times 3 years later.

He was assigned a variety of beats during his career—the courts, the police, city hall, and many others—and brought his readers closer to the subjects he covered. He explained and enlightened by not only getting answers to the questions his readers might ask, but also by using his insight to get more information.

Bill was a fine journalist, and also a devoted family man. He and his wife, Ann, raised four sons and eight daughters. He was also active in community sports, serving as basketball referee for high school, college and professional contests for 33 years, and as a high school football official for 28 years. For many years he was executive secretary of the Catholic basketball league, and served for one year as sports information director at the University of Scranton.

On behalf of all the citizens of northeastern Pennsylvania, I would like to extend our condolences to his wife, Ann Halpin; his sons, William Halpin Jr., Gregory Halpin, Anthony Halpin, and Thomas Halpin; his daughters, Barbara Lavelle, Grace Halpin, Ellen Dailey, Susan Kelly, Bernadette Phillips, Ann Slifer, and Mary Swift, his sister, Florence Siegel, and his 13 grandchildren.

TRIBUTE TO THE CITY UNIVERSITY OF NEW YORK CONSORTIUM FOR DEVELOPMENTAL DISABILITIES

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. DOWNEY. Mr. Speaker, on October 7, 1991, Public Law 102–119 to amend the Individuals with Disabilities Education Act was signed into law by the President. Through the able leadership and vision of my colleague MAJOR OWENS (D–NY), chairman of the Subcommittee on Select Education, section 9, subsection C of this law "Grants For Personnel Training" will provide funds for up to 5 grants to States to support the education and career advancement of human services workers providing care in public and private agencies to persons with mental retardation and developmental disabilities.

Mr. Speaker, section 9, subsection C was designed as a way to replicate the successful work of the City University of New York Consortium for Developmental Disabilities. The City University of New York [CUNY] has become a national leader in providing education opportunities for the workers who provide quality care to persons with mental retardation and developmental disabilities.

Through the leadership of Reaching Up, a not-for-profit organization formed to support the education and career advancement of direct care workers, CUNY, and the New York State Office of Mental Retardation and Developmental Disabilities, more that 1,000 student-workers at different CUNY colleges are taking courses in the developmental disabilities field. The CUNY consortium is creating the educational alternatives, career opportunities, and financial incentives that are necessary to improve the recruitment and retention of a highly motivated and a well-trained human services workforce.

Simply put, "The quality of life of the most vulnerable people in our society is inextricable linked to the quality of life of the workers who care for them." It is through this premise that CUNY has inaugurated this model program to help in the education and career advancement of direct care workers.

I commend the partners of the CUNY Consortium for their innovative program to reduce the catastrophically high turnover rates of direct care workers who provide the most basic assistance to persons who are mentally retarded, and I urge the replication of this model to other related fields such as mental health, day care, and home health care.

NATIONAL CREDIT EDUCATION WEEK

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thurday, February 27, 1992

Mr. TORRES. Mr. Speaker, today I am introducing, together with Congressman MCCANDLESS, a joint resolution designating the week of April 19, 1992, as National Credit Education Week. As chairman and ranking minority member of the House Banking Subcommittee on Consumer Affairs and Coinage, we believe that there is a strong need for increased consumer credit education.

The increasing sophistication and complexity of the financial marketplace necessitates that consumers be given simple and understandable information about financial products in order to make informed decisions. Educated consumers are better able to use credit wisely thus increasing economic stability and marketplace competition. During National Credit Education Week, volunteers will conduct programs classes, essay contests, and credit fairs in cities around the country to increase consumers' knowledge of credit choices, rights, and responsibilities.

While National Credit Education Week is an annual event, this is the first year that Congress has been asked to show our support through a joint resolution. Consumer groups, as well as associations of individuals employed in the credit industry, strongly support this resolution. A companion resolution has been introduced in the other body.

I sincerely hope that my colleagues will join us in support of this important resolution by signing on as cosponsors.

NEAL DENOUNCES DEPORTATION OF JOSEPH DOHERTY

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, I take this opportunity today to tell you that the American judicial system has borne a heavy blow, and the culprits sit in our White House and our Department of Justice. As witnessed by their forced repatriation of Joseph Doherty, they would have it so that the rights of a due process, that we in the United States hold up as a beacon to the world, would come only second to geopolitical considerations.

Joseph Doherty was interned for over 8 years without the right to a fair and speedy hearing; without the right to post bail. These actions were not the doings of some Middle Eastern potentate, but of our own Attorney General and President. Seven times the Attorney General blockaded Mr. Doherty's request for a hearing into his claim of political asylum. This was done despite the fact that, in 1983, a Federal court judge declared that Joe Doherty was squarely within the meaning of a "political offense exception to extradition." Let me remind you that this is a man that has committed no crime in the United States.

Northern Ireland is a war zone, but this administration chooses to greet the pleas for justice in the north, that have risen from the Irish-American community, with an attitude of callousness and ignorance.

When will the two faces of this administration's foreign policy be united so that we can look the people of the United States in the eye and say, yes, we are battling for liberty across the globe and not just where it is politically convenient, or lucrative? Northern Ireland remains as the last bastion of British domination and oppression. Thirty million Irish-Americans see our President time and again prop up the soiled history of British imperialism in Northern Ireland.

Now Joseph Doherty sits in a Belfast prison convicted of the same crimes for which the British will never stand trial. And our executive branch is an accomplice in this ignominious deed because they have not made the leaders of Britain equally accountable.

INTRODUCTION OF DEFICIT REDUCTION TRUST FUND ACT

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. WISE. Mr. Speaker, Americans are gravely concerned about the Federal budget deficit. This year's deficit will reach nearly $400 billion, which is more than $1,500 for each man, woman, and child in America. At the same time, our vital public infrastructure—roads, bridges, sewer systems—continues to decay, and we cannot afford to support the technological research upon which our future competitiveness depends.

I have introduced legislation that helps to reduce the budget deficit, but that also allows for vital investments in our country's future. My legislation establishes a trust fund called the deficit reduction account. This fund will accumulate money raised from new taxes or program savings and use it to reduce the deficit—and not for new spending.

But my legislation doesn't stop there. The interest from the deficit reduction account would be deposited into a companion account, the Build America Fund. After 5 years have passed, the accumulated interest and any subsequent interest from the deficit reduction account could be used for vital capital-intensive public investment programs that require assured long-term funding. Projects like highways, sewer systems, bridges, the space program, scientific research, and education programs such as Pell grants could receive additional funding from the Build America Fund.

This legislation will give the American people a double bang for their buck. First, it will involve no new spending and will yield true deficit reduction. Second, the interest accrued from the deficit reduction account will be devoted to genuine public investment that will help to make our country economically stronger. Furthermore, this proposal offers a reasonable compromise between those who wish to reduce the deficit and those committed to increasing long-term public investment.

Mr. Speaker, I encourage my colleagues in the House to consider this legislation seriously. In this time of severe budgetary constraint, the Deficit Reduction Trust Fund Act will establish a responsible means for achieving deficit reduction and increased public investment at the same time.

IN RECOGNITION OF ADAM LYLE HICKENBOTHAM, REGIONAL RECIPIENT OF THE SIXTH ANNUAL AAU/MARS-MILKY WAY HIGH SCHOOL ALL-AMERICAN AWARD

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. BILBRAY. Mr. Speaker, I rise today to honor an outstanding young man, Mr. Adam Lyle Hickenbotham, who has set an impeccable example for young people all over our Nation. Adam, a senior at Eldorado High School in Las Vegas, was recently selected as a regional recipient of the sixth annual AAU/Mars-Milky Way High School All-American Award. This award is part of an ongoing program that recognizes student achievers and encourages academic advancement through higher education. Adam is one of eight exceptional high school seniors selected as a regional recipient from across the country for their outstanding academic, athletic, and community service accomplishments.

As an exceptional student who is a member of the National Honor Society and who ranks first in his class, Adam has not only been selected as a National Merit Scholar semifinalist and been placed in the Academic Hall of Honor for academic achievement in over 13 various courses, but he has also received many awards for his success in math, including best paper from Eldorado High School in the Nevada prize exam.

As a member of the track and cross country varsity teams, Adam came in first in the freshman/sophomore championships, and he came in first six times in the Western Relays. He was awarded the Coach's Heart Award which is given each year to the team member that trains hardest during practice.

On top of all his academic and athletic responsibilities, Adam manages time in his hectic schedule to participate in several community service activities. He has done fundraisers for Opportunity Village and the Muscular Dystrophy Association, as well as volunteer work for the American Red Cross and the American Lung Society. Also, Adam spent over 200 volunteer hours planning and building a playhouse for the Stanford Elementary School kindergarten class in order to earn his Eagle Scout ranking.

The selection of the regional recipients was made by a panel of nationally recognized educators, Olympians, and community service achievers. Adam received a $10,000 scholarship for his college education. The eight recipients will now attend an awards banquet held in their honor where two national recipients—one man and one woman—of the AAU/Mars-Milky Way High School All-American Award will be named. Each will receive a $40,000 scholarship which may used for the college of their choice.

Adam Hickenbotham is a fine example of what our young people today are capable of becoming. I rise today to pay tribute to the accomplishments of an extremely gifted young man whom I am proud to say is a member of the Las Vegas community. Adam sets an example for what is attainable to young people everywhere through hard work, dedication, and desire. I urge my fellow Members to join me in congratulating Adam's awards that bring pride not only to our local community, but to the entire Nation.

TRIBUTE TO JAMES J. CUORATO

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. BORSKI. Mr. Speaker, I rise today to honor my constituent, Mr. James J. Cuorato, on his 50 years of Government service.

Mr. Cuorato began his Government service in March 1942 as a junior engineer aide with the Army Signal Corps in Philadelphia. His career at the Signal Corps was interrupted in 1948 by his induction into the U.S. Army. Mr. Cuorato was honorably discharged and returned to the Signal Corps until 1953.

Mr. Cuorato then transferred to Frankford Arsenal and the procurement field as a GS-7 procurement analyst. He progressed to a contract negotiator and a GS-13 supervisory contract specialist until the Frankford Arsenal was closed in 1976. While at the arsenal Mr. Cuorato was the administrative vice president of the Toastmasters Club, president of the Frankford Arsenal Management Association, and the civilian representative on the board of governors of the arsenal's officer's open mess.

Mr. Cuorato transferred to the Naval Air Warfare Center in Warminister in 1976 and has been responsible for supervision of the nine negotiators and contracting interns supporting the workload generated by the sensors and avionics technology directorate, the computer directorate, and miscellaneous support codes at the Center. He is the contracting officer for all of the Center's ADP procurements and is authorized to execute contracts of up to $10,000,000 in value.

In 1986, Mr. Cuorato was the winner of the Technical Director's Administrative Support Award as a culmination of the many individual letters of appreciation received from the departments that he supported. Since starting at the Center, Jim has received a total of 23 awards and commendations. Several of the commendations were at the secretariat level.

Mr. Speaker, I join his family, friends, and coworkers in honoring James Cuorato for his lifetime of dedication to Government service.

SUPPORT LOAN GUARANTEES FOR ISRAEL

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. McGRATH. Mr. Speaker, I am very disturbed by the recent comments made by the Secretary of State concerning Israel's request for a $10 billion loan guarantee from the United States.

I not only find the remarks by the Secretary before the House Subcommittee on Foreign Operations repulsive but what is especially offensive is the timing of his comments. Middle East representatives are again gathered here in Washington and have assembled at an even-keeled table. However, the Bush administration's unyielding policy toward the loan guarantee issue is insensitive and has tilted the bargaining table sharply toward the Arab delegates.

What the administration does not understand is that the mere threat of withholding the guarantee has an adverse effect on the peace process by linking a pure humanitarian effort with a strategy for reconciliation between several adversaries. I take exception to the statement by the Secretary of State and the President that the settlements in the West Bank and the Gaza Strip are an impediment to peace in the Middle East. For one, the number of refugees that have settled in these areas is very small. Labeling these settlements as a hindrance to the peace process is a feeble attempt to lay blame on an ally who is dedicated to tranquility in a region that has known war for centuries.

In addition, by delaying the guarantee, the administration continues to ignore the responsibilities this country has to the Jewish emigrees from the former Soviet Union. For decades, the United States, together with Israel, has been at the forefront of efforts to secure emigration for Jews who were unable to practice their religion in the Soviet Union. Now, after this struggle has borne fruit, should this Nation just turn its back on the thousands of Jewish emigrees? We must ensure that the Soviet Jews that have been granted freedom of passage to Israel be provided living conditions free from the instability and fear that had plagued their lives in the Soviet Union. The loan guarantee is merely another step in a process that this country has long committed itself. To bail out on the guarantee would be nothing less than an act of desertion by the United States.

Also, what the administration fails to accept is that stalling the guarantee also has an adverse effect on business in this country. The Israelis have agreed to purchase prefabricated structures built by American manufacturers to house the Jewish emigrees. With America's financial situation, especially our building trades, at a standstill, this purchase plan would have injected a much-needed boost to our economy.

Mr. Speaker, yet another fact the administration fails to realize is that the loan guarantee is just that—a guarantee; the United States is simply a cosigner on behalf of Israel. It is nothing more than a good will effort on behalf of the United States so that Israel may borrow using the most beneficial market rate. Yet, the White House has used this nominal request by Israel as a means to set policy and implement radical reorganization of our Middle East policy.

Finally Mr. Speaker, I believe that putting conditions on loan guarantees is another attempt to punish Israel. Those in Washington who advocate conditions for the guarantee continue to make no mention of the Arab boycott of Israel; the continued state of belligerency that the Arab nations have maintained against Israel since its inception; and the refusal of all Arab nations, with the exception of Egypt, to recognize Israel. Until these issues are resolved, I will continue to oppose any policy structured to condemn only Israel.

INTRODUCTION OF THE TOBACCO AND NICOTINE HEALTH AND SAFETY ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. SYNAR. Mr. Speaker, today I am introducing legislation to correct a serious omission in the regulatory authority of the Food and Drug Administration. While the FDA has jurisdiction to protect consumers from unsafe foods, drugs, cosmetics and medical devices, it is powerless to do anything about one of the deadliest consumer products—tobacco. It is time to correct this situation.

Each day 1,200 Americans die from cancer, heart disease, chronic obstructive lung disease, and stroke as a result of cigarettes. Some 50,000 scientific studies on the relationship between smoking and disease have been conducted. The results are conclusive. Tobacco use is the single most preventable cause of death. Tobacco products are implicated in the deaths of 434,000 people each year.

Although the FDA has the authority to regulate foods, drugs, cosmetics and medical devices, the first law establishing the agency did not list tobacco in the legislation's narrow definition of a drug. While the definition of what is a drug has been expanded several times since, cigarettes themselves have never been classified as drugs. However, in two court cases the FDA has been found to have indirect authority to regulate tobacco products when advertising implies that the product is intended for some purpose other than smoking pleasure. Specifically, when the product in question is being sold for the purpose of mitigating or preventing disease or is intended to affect the function or structure of the body, the FDA can regulate tobacco as a drug.

The FDA has exercised this limited authority in the past. For example, the agency classified a nontobacco cigarettelike device which delivered nicotine to the system of the user in a similar fashion and appearance to a cigarette as a drug because it was intended to satisfy a nicotine dependence and to affect the structure or, one or more functions of the body. Nevertheless, there are numerous petitions urging the FDA to take action on other tobacco products which have not been acted on.

Even if the FDA exercised its limited authority in every case, it would not be enough. The FDA still would not have the jurisdiction to regulate nicotine, additives, and other constituents in tobacco products, or sales of cigarettes to minors. Excluding tobacco products from the FDA's comprehensive regulatory scheme makes no sense.

Three-wheeled all terrain vehicles [ATV's] were implicated in far fewer deaths and yet the Consumer Product Safety Commission and the U.S. Justice Department acted swiftly to protect the public's safety by placing conditions on sales of the vehicle. When the EPA discovers that a pesticide may cause cancer in humans, it is quickly pulled from the market. When the FDA determines that a medical device poses health risks, such as the silicone breast implant, severe restrictions on its sale are proposed. In contrast, the sale, manufacture, and promotion of tobacco products continues unregulated despite the scientific evidence that the products cause death, disability, and disease.

The Tobacco and Nicotine Health Safety Act of 1992 would give the FDA the authority to regulate tobacco products in a manner consistent with other comparable products.

Specifically the bill would do the following:

Create a new section in the Food, Drug and Cosmetic Act authorizing FDA regulation of tobacco products.

Require tobacco manufacturers to fully disclose all chemical additives in tobacco products.

Give the FDA the authority to reduce the level of harmful additives or to prohibit the use of those additives altogether.

Prohibit the sale of tobacco products to any person under the age of 18.

There is simply no justification for treating tobacco differently than comparable consumer products. If tobacco is to remain on the market, it should be regulated by the FDA. Why should the FDA have the power to regulate nicotine in every circumstance except tobacco? Why should the tobacco industry be exempt from the FDA's disclosure and safety requirements regarding chemical additives? Why should the implied or direct health claims about tobacco products, which no agency requires be substantiated by medical science, be treated any differently than the implied health claims of corn flakes? The obvious answer to all of these questions is: It shouldn't. If anything tobacco deserves closer scrutiny than cereal or orange juice. The Tobacco and Nicotine Health Safety Act is long overdue.

I am pleased that my colleagues DON RITTER, DICK DURBIN, MIKE ANDREWS, and WAYNE OWENS are joining me in this effort.

HONORING LEO SKULNICK, BETTY SKULNICK, HERBERT PERLMAN AND MIMI SCHNALL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to recognize the accomplishments of Young Israel of Hillcrest Community under the leadership of its president, Kevin Leifer, and its spiritual leader, Rabbi Simcha Krauss. During the past few years the Young Israel of Hillcrest, in Queens County, has emerged as one of the foremost Orthodox congregations in the country. It is particularly fitting to pay tribute to this Young Israel at a time when it recognizes four outstanding individuals who tireless efforts in building the community, and overwhelming concern for the well being of others, exemplify the highest traditional values.

Leo "Mendy" Skulnick and his wife, Betty Skulnick, two distinguished members of Young Israel, have been designated as honorees in recognition of their years of selfless devotion to the people of Queens. Mendy Skulnick attended Yeshivas Shlomo Kluger and Rabbi Jacob Joseph in Manhatten and Yeshiva Torah Vadaath in Brooklyn. He holds a bachelor's and master's degree from City College. A master teacher, for more than 3 decades he has inspired the children of New York City to treat their classmates with kindess and concern as they pursue excellence.

Leo Skulnick's influence in Hillcrest itself is even more profound. As gabbai of the Young Israel, he walks in the footsteps of Aaron, the High Priest, engendering peace and good fellowship among all members of the community. These efforts are complemented by his capacity to extend a unique personal warmth that has touched the heart of innumerable individuals. Mendy's support and empathy bring joy at simchas and comfort in times of pain. His life truly exemplifies the maxim of Hillel, the sage: "Love your neighbor as yourself."

Mendy's success in these many undertakings is due in large part to the partnership and love of Betty. A noted educator, Betty Skulnick has taught in Flushing High School for more than a decade and a half. Her reputation for excellence is proclaimed by thousands of students from the Flushing, Corona, and Whitestone communities.

Herbert Perlman and Mimi Schnall, the Tzarchei Tzibbur awardees, have devoted their efforts and attention to the synagogue and community. Their ceaseless endeavors and willingness to sacrifice for others bring to mind the devotion of Abraham and Sarah, whose concern for humanity inspired others to work for the welfare of their friends and neighbors.

I ask my colleges in the House to join me in wishing mazel tov to Leo Skulnick, Betty Skulnick, Herbert Perlman, Mini Schnall and their families, and in extending our hopes that they have many more years of good health to continue their important work for the people of Hillcrest and all Queens.

INTRODUCTION OF THE WASTE MANAGEMENT ACT OF 1992

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. STAGGERS. Mr. Speaker, today, I am introducing the Waste Management Act of 1992.

This legislation is an opportunity for the Federal Government to take a significant step toward protecting our communities and our vital natural resources.

My bill will provide for a substantial reduction in waste. It will improve recycling efforts. It will support community-based recycling programs. Moreover, it will give States the right to refuse out-of-State waste.

Under this bill, a State with an approved State plan, with a certificate of compliance, is allowed to prohibit the transportation of solid waste into such a State. Generally, this will allow States to effectively take care of their own trash and give them the flexibility to determine what, if any, additional out-of-State waste they will accept. Many States, like West Virginia, are rightfully concerned about the amounts of garbage that are being dumped in their State. This legislation is designed to give States an opportunity to control their own destiny.

Currently, States cannot refuse out-of-State garbage because the interstate commerce clause of the Constitution has been used to classify waste and garbage as a commodity. My bill says that if a State is taking care of its own waste, then it should not be forced to take another State's garbage.

My proposal would authorize $250 million per year to be spent in a number of ways to promote management practices that protect human health and the environment. This would be done in a variety of ways, including source reduction and recycling of solid waste, source separation, and creation of new markets for recycled materials. This bill sets a goal of reducing municipal solid waste by 40 percent by the year 2001.

Under this legislation, communities will receive information and essential support to develop recycling programs. Education of the public about waste recycling and source reductions are critical to any effort to achieve meaningful results. One of the key aspects of my proposal is to provide for local boards of education to develop educational programs about solid waste, especially recycling.

This legislation also authorizes grants in the amount of $12 million a year for counties and communities to develop and implement recycling programs and to develop markets for recycled materials.

The Waste Management Act of 1992 is a blueprint for addressing the environmental problems confronting our communities. This legislation can improve the quality of life in our communities. It can help to secure a better future for our children and generations of Americans to come.

NOT BUSINESS AS USUAL

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. SAXTON. Mr. Speaker, I sat through all of the debate on the various economic proposals we had yesterday. And each time I went back to my office, I answered phone calls from constituents back in New Jersey who were expressing more and more disbelief at what we were doing down here. They viewed yesterday's debate as little more than a political charade.

After sleeping on it, I have come to the conclusion that I cannot go along with business as usual and cast the politically correct vote today—which would be to vote against the Democrats' bill and for our Republican bill.

This is not—or it least it should not—be a political issue. This is an economic issue. Our constituents are not looking for political answers, they are looking to economic answers—and neither of the major proposals before us contain those answers.

Surely, the Bush-Republican plan does propose some important first steps. But my constituents are looking for more than first steps and I have said from the outset that the White House proposal does not go far enough. The Democrat proposal is even shorter on economic substance.

My constituents are looking for answers not contained in either of these measures and I have decided to vote "no" on both.

Let's go back to work and come up with a meaningful, truly bipartisan economic package. My unemployed workers are looking for new jobs, not snow jobs.

TRIBUTE TO HON. TIBO CHAVEZ

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. SCHIFF. Mr. Speaker, I rise today to pay tribute to a great New Mexican: the Honorable Tibo Chavez, who died November 25 in Albuquerque at the age of 79.

To quote the Albuquerque Journal: "Judge, Lieutenant Governor, State senator, senate majority leader, political power, civil servant, author, historian—all are words that describe the distinguished career of Tibo Chavez."

Judge Chavez served the last 13 years of a very distinguished career as a district judge in his beloved Valencia County, where he was born 79 years ago.

He also served 22 years in the New Mexico State Senate, and served 4 years as Lieutenant Governor. As a State legislator, he was a moving force behind a number of important bills that benefited the entire State of New Mexico—the implied consent law—the State's first attempt to get drunk drivers off the streets—the Fair Employment Practices Act, the Commission on Aging, the Commission on Youth, and the State Monuments Designation Act.

Judge Chavez also established a scholarship in history at the University of New Mexico's Valencia Campus, funded with proceeds from two books he authored: "El Rio Abajo" and "New Mexican Folklore of the Rio Abajo."

Judge Chavez continued a long family tradition in New Mexico. His ancestors first came to the land of enchantment in the 1600's in the company of Gen. Diego De Vargas.

To again quote the Albuquerque Journal, "In politics, in the judiciary, in preservation of folk history and Hispanic culture, Chavez left a mark on New Mexico and will be missed."

Judge Chavez was a great New Mexican who gave a great deal to Valencia County and to the entire State. His many contributions will serve as a timeless monument to his memory.

SENATE—*Friday, February 28, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 28, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until the hour of 11 a.m. on Tuesday, March 3, 1992.

RECESS UNTIL TUESDAY, MARCH 3, 1992, AT 11 A.M.

Thereupon, at 10:30 and 45 seconds a.m., the Senate recessed, under the order of Thursday, February 27, 1992, until Tuesday, March 3, 1992, at 11 a.m.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

HOUSE OF REPRESENTATIVES—*Monday, March 2, 1992*

The House met at 12 noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY) laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 28, 1992.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on Monday, March 2, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We know Your many gifts, gracious God, and we specially give thanks for the gift of light, a light that brightens the darkness of the world and gives hope to the human soul. We know, too, O God, that our paths sometimes lead through the valley of the shadows and we lose our way and we cannot save ourselves and we are alone. May we open our spiritual eyes to glimpse Your light and see ourselves as we truly are, admit the shadows of our thinking and our action, and have our lives grow in wisdom and understanding and see the road illumined by the light of truth and love. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Kentucky [Mr. HUBBARD] please come forward and lead the House in the Pledge of Allegiance.

Mr. HUBBARD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MORE VIOLENCE IN THE DISTRICT OF COLUMBIA

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, another Washington, DC, tragedy has caused those of us in Congress to look again at the wisdom of the death penalty for crimes of a substantial nature in the District of Columbia.

Last night, the Sergeant at Arms of the U.S. House of Representatives, Jack Russ, was attacked by three men just five blocks from our Nation's Capitol. They robbed him, They beat him. They put a gun in his mouth and shot him. Fortunately, he turned his head as the gun went off and he is still alive, in stable condition.

We pray for Jack Russ' speedy and complete recovery.

Just last January 11, Tom Barnes, an outstanding young staff member of Senator RICHARD SHELBY of Alabama, was tragically shot near the U.S. Senate office buildings as he was walking from his condominium to a 7-Eleven convenience store. Tom Barnes died January 15.

Just what will it take here in the Nation's Capital of Washington, DC, for those of us in Congress to be convinced that we need to bring about the death penalty for substantial violent crimes committed in the District of Columbia?

Today, a family from Paducah, KY, is visiting Washington, DC, namely Rev. Jerry Hopkins, his wife, Lucyann, and their daughters, Sarah and Hannah. Only this morning, these constituents and friends of mine came to our office in the Rayburn Building. I took them to the House Chamber and parts of the Capitol. Mrs. Hopkins mentioned that they had a wonderful time last night walking around downtown Washington looking at the historical buildings and famous monuments. Reverend Hopkins said they saw the White House, the Washington Monument, the Lincoln Memorial, and other sights. And they hoped to go walking again tonight to other areas of the Capital City here in Washington.

Their Congressman urged them not to do it. This Congressman urged them to visit sights in the daytime but not at night because of the dangers in the city of Washington.

It is a tragedy.

In my own Kentucky district at least 90 percent of my constituents favor the death penalty. Yet, in Kentucky it has been 30 years ago today since anyone was executed for serious crimes in Kentucky.

Recently, we have had many serious crimes in Kentucky and we have many people on death row at the Kentucky State Penitentiary in my home district at Eddyville, KY. But the last prisoner to be electrocuted there was on March 2, 1962.

I say in closing, Mr. Speaker, with the House Sergeant at Arms Jack Russ being shot and almost killed, what will it take to bring about Congress' passing a law to impose the death penalty for serious crimes here in the Nation's Capital? We are embarrassed that Washington, DC, is known as a city where murders, robberies, rapes, and other crimes increase every year.

What is the answer? Why not give capital punishment a chance here in Washington, DC?

HEALTH CARE CHOICE AND ACCESS IMPROVEMENT ACT

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, it has been many long years, but the message has finally gotten through. Health care reform, an issue that has been of primary importance to southwest Florida and other parts of the Nation, has become a priority here in Washington. That in itself is good news, but now it's time to make some decisions. I have introduced legislation with Congressmen JAY RHODES and DENNIS HASTERT that will help apply the brakes to our skyrocketing health care costs. This legislation restores consumer choice through medical savings accounts and trims costs with malpractice reform. It gives out country's small businesses a fair shake through a low-cost group insurance plan. We encourage younger people to prepare for their long-term health care needs. This is responsible legislation whose effect could be immediate and whose concept is simple. By cutting waste and inefficiency, we save money, channeling those savings to individuals who are currently uninsured. We understand the problem—join us in being part of the solution.

THE BUDGET RESOLUTION FOR FISCAL YEAR 1993

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, later this week the House will take up the budget resolution for fiscal year 1993. This budget resolution, which controls spending for the fiscal year beginning

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

this coming October 1, will pose very difficult problems for this Congress because it does indicate to us that we cannot do everything we would like to do for the people of this great land.

We cannot fund every program—the meritorious programs—that we would like to fund for all of the people in States and localities of this land.

Nevertheless, I commend the chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA] and all the members on the committee for having come up with a very good work product. It makes tough decisions, but I am pleased to note that many programs which help the areas of Louisville and Jefferson County, which I represent, are noted in the budget document for increases in fiscal year 1993, including programs like maternal health and child health programs; women, infant, and children nutrition programs; and job training programs to give our people job skills and an opportunity to work.

I am reminded, Mr. Speaker, of the television ads which say, "Pay me now or pay me later." I am pleased that the budget which comes here to the Congress this week has adopted the philosophy of pay me now, which means put the money up now and prevent the later stresses and strains on society and the costs which inattention brings.

So I certainly believe we have an opportunity to benefit our communities and the country by paying serious attention to the budget document which comes before us later this week.

VIOLENCE IN THE NATION'S CAPITAL

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, some while ago, a young staff person from Senator SHELBY's office early in the evening went out to get a cup of coffee here on Capitol Hill. He never returned, for he was shot and killed a block from his residence.

Not long after that, a number of weeks ago, the chief of staff in my congressional office was apprehended on her front porch, a gun was put at her head. She was dragged for blocks. Only by the grace of God did she escape death.

Last evening on Capitol Hill, once again the Sergeant at Arms, a friend of all of us in this Chamber, Mr. Russ, was assaulted and shot by someone who approached him or some group of people who approached him attempting to rob him and subsequently shot him.

Again, by the grace of God, Mr. Russ is going to survive.

All of this reminds us again of the breakdown in this country of law and order. Why does this country consume 50 percent of the world's cocaine? Why is America the murder capital of the world? I do not know the answer to those questions. But something is fundamentally wrong at the bottom, and we have to fix it.

While we try to find the cause and try to discern some sort of remedy to put families back together and neighborhoods back today and teaching the value systems back together, we also, while we try to do that, we need some law enforcement.

My mother was killed several years ago in a high speed police pursuit.

□ 1210

She was an innocent victim driving down the street, killed by those fleeing from police. When I looked at the records of those fleeing from police I found the same old thing, people convicted of a crime, thrown in prison, they got out of prison, convicted of a crime again, and the second time they were given probation, not even sent back to prison. I frankly did not understand it then and I do not understand it now. Why do we not find those that commit violent crimes, punish them, and put them away and keep them off the street and make the street safe for innocent people?

Frankly, our law enforcement system does not work. There is a more pervasive problem, I understand, and we have to deal with that. But while we deal with that we also have to make sure that those that commit violent crimes are not put in the revolving door where they go in jail and come back out to kill more people.

One way or another we need a law enforcement system that works, that metes out justice in a manner that protects people in this country who are innocent victims.

EXPAND CAPITOL HILL POLICE JURISDICTION

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, I would like to identify and associate myself with the remarks by the gentleman from North Dakota [Mr. DORGAN] and the gentleman from Kentucky [Mr. HUBBARD]. It was just last week that I was sitting having a conversation with our Sergeant at Arms, Mr. Jack Russ, in relation to a jurisdiction problem as to what area the Capitol Hill Police would cover in regard to law enforcement.

Jack told me, "Pat, if you are a Member, if you are a staff member here on Capitol Hill and you are outside of our jurisdiction," which is just blocks, "you cannot call the Capitol Hill Police, or if in fact the Capitol Hill Police were here and they were witnessing a crime they cannot arrest anybody because of the jurisdiction problem."

He has a map down there in his office. I just went down there. We were commiserating with staff people about the near tragedy that occurred last night, and it was a tragedy. Everybody here knows that, but for a sudden impulse or a sudden reaction, Jack would have lost his life had he not really turned his head.

The least we can do, it seems to me, as a member of the Subcommittee on Personnel and Police in the Committee on House Administration, is expand that jurisdiction to protect our staff people and to protect our Members. Let us give the Capitol Hill Police the kind of policy they need to protect Members, staff members, and everyone else.

I know that we get into the jurisdiction problem and the overlapping and the oversight and the policy considerations. What does it take? What does it take, a personal loss of a Member, a staff member, and now the Sergeant at Arms, to wake us up? We need to move.

On behalf of all Members, get well, Jack. We are thinking of you.

JACK RUSS

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GEPHARDT. Mr. Speaker, the District of Columbia, like so many urban areas across this country, has been drenched in an acid bath of violence.

We cower behind locked doors at night, and to some extent, we've been dulled by the body counts and the carnage.

A few weeks ago, a young aide to Senator SHELBY was murdered; and, yesterday, the House of Representatives was touched by an especially brutal crime.

Shortly after 10 o'clock, three individuals robbed the House Sergeant at Arms, Jack Russ, and then they shot him in the face.

In spite of the seriousness of his injury, Jack is in stable condition in a nearby hospital and he is expected to recover.

We pray for Jack's recovery, and that his wife, Susan and his family feel the comfort of this community's concern for his health and well-being.

We also ask that when violence nearly takes someone we know, that our compassion will be extended to all who are victimized by crime, regardless of their status or position in life—because personal safety is the birthright of every American and the maintenance of civil peace is the first responsibility of Government.

WHAT IS WRONG AND WHAT IS RIGHT WITH AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota [Mr. DORGAN] is recognized for 60 minutes.

Mr. DORGAN of North Dakota. Mr. Speaker, I will not say I shall be brief with all of the information I have brought to the well, but I shall not read it all. I did want to take the well this afternoon and talk a little bit about what is wrong and what is right in this country.

I grew up in a small community of 300 people, went to a high school with 9 in my class, and all the time I was growing up and going to high school I knew one thing for certain, and that is when I got up in the morning and went off to school I knew viscerally that this country was No. 1. We were the best. We were the biggest. We could do things other countries could not do.

We won. We had won the Second World War. We had overcome a recession and a depression in the 1930's. We produced the best products. We produced more of them. We were No. 1. I know that instinctively, and every American knew that instinctively.

Now, however, things have changed. Not every American knows instinctively that we are the preeminent world economic power. There are questions about our economic leadership. We are now confronted with very tough challenges and tough competition from other countries, the Japanese, the Germans, the Koreans, and others, who proved to be very tough competitors in the international marketplace.

Why is this country in such a blue mood? Why is there such despondency in America about where we find ourselves? Is it because we can no longer instinctively and immediately say "We are No. 1, unchallenged," or is it because of something deeper than that? I think it is a combination.

We have, it seems to me, lost our place. We have lost our way. We have taken our attention from the kinds of things we used to do well and been dragged into a whole range of other areas. We have speculation and a whole range of things that have weakened this country. The American people understand that we are spending money that we do not have, often on things we do not need, and mortgaging the future of our children and our grandchildren. They see also that there is an increasing interest in buying a television set made from Japan.

□ 1220

Why? Because that is the consumer choice they determine is the best value at the best price.

While we spent a long while in a cold war and we became No. 1 in missiles, we are no longer No. 1 in VCR's and television sets, so we now build the best missiles in the world, but we do not sell any VCR's or television sets to amount to anything. Therefore, the jobs for mass production in those areas are not in this country. They are in other parts of the world.

The 1980's was a period that we have just finished in which there was an orgy of speculation. We went from attention to production to attention to speculation, junk bonds, leveraged buyouts, hostile takeovers. Everything was in play in this country, and it was the speculators, not the builders, that were driving the economic forces in America.

What was the result of that orgy of speculation? The ultimate result has been collapse. All during the 1980's, I insisted this was damaging the country, and it did. We ended up with the junk bonds here in the portfolio of the RTC. The fact is, the hood ornament of the failure of the 1980's was the fact that we ended up in the Federal Government owning junk bonds from the Taj Mahal Casino in Atlantic City. How did that happen? Well, Donald Trump, who does not like his name mentioned very often, so I will not, Donald Trump built the Taj Mahal, the biggest, glitziest casino in the world. He did it with junk bonds which he sold to some savings and loans. The savings and loans went belly up. The Federal Government took over the S&L assets, ergo, the Federal Government owns junk bonds in the Taj Mahal Casino.

Is there anything more symbolic of the failure of the excess speculation of the 1980's than having the American taxpayer end up owning junk bonds in a casino in Atlantic City?

The fact is the junk bonds themselves are nonperforming, because the casino was not doing as well as it had been projected to.

We have gone through this period of all of this speculation, and while the Japanese and Germans are figuring out how to build better tires and better toasters and better television sets and better VCR's, we have been not only making XM–1 tanks and F–16 fighters and B–2 bombers, but we have also been over here building casinos and floating junk bonds and floating more junk bonds for hostile takeovers, and the result has been that, rather than trying to expand the economic pie in this country and being better producers and better manufacturers, this country became a country whose economy was moving ahead on a bubble of speculation that was destined to burst, and it did. We were not paying attention to business quality. We were not paying attention to producing the best, finest products in the world. We were not paying attention to manufacturing methods. The result is we were outproduced, outpriced, and outpositioned on product quality.

We now find ourselves in trouble. The question is, How do we get out of it?

We have an educational system that is in some disarray. One of the reasons is probably pretty obvious. Not too far from the building where I speak today, we have had a debate by the school board about whether there should be metal detectors in the front doors of the schools to get the guns and knives out of the pockets of students as they enter the school. Who can learn in this school where you wonder whether your classmates have guns and knives? Learning there is not possible. Those kids, if they were able to learn, are going to learn 180 days a year, and their counterparts in Japan are going to be in school 240 days a year. How do they compete?

We have a lot of problems in education. We have to deal with time.

We have a lot of problems in the welfare system. The fact is that Pat Buchanan is right about almost nothing in my judgment, but even a stopped clock, I say, is right twice a day. I think he is dead right on the question of the welfare system. I do not agree with his remedy for it, but I certainly agree with his diagnosis. The welfare system in this country is a failure. It institutionalizes welfare. Rather than saying that the welfare system is a helping hand to say let us help you up and out of this situation, it becomes a handout and a handout and a handout that never stops. We have to change that system.

We have gone through a whole series of problems that have become institutionalized problems for this country. How do we get out of it?

First of all, let me say this: I think there is plenty wrong with Government, but I have got to tell you that there are people, I am sure, in your hometown and mine who, if a tornado came by tomorrow and went down the main street and wiped out blocks worth of buildings, there would be some folks in that town who would gather afterward and they would say, "that damn Government." Somehow they feel Government is responsible for every failure, including natural disasters. It is not true.

The fact is there are a lot of things happening that Government does not have very much to do with.

I will confess in my judgment there is a lot wrong with Government. I want to go through a few of the reasons I think people are upset and angry with Government. On this floor, there are all sorts of impulses to do good things, and I recognize all of those impulses, and some of them actually end up in law, and this law is an attempt to do something good for the country.

Let me give you some examples, and then let me tell you how it turns out. Some people say we should have a national commercial driver's license. Why? Because we have got people driving 18-wheel trucks down the road at a very high rate of speed. They get speeding tickets and drunk-driving tickets and on-and-on-and-on. In one State they lose their driver's license, and all they do is go to the next State and get a driver's license. We have examples of people getting 15 different driver's licenses after they get suspended, and they are hauling tons of metal down the road at 60 and 70 miles per hour, a danger to everybody in their path, and yet there has been no uniform requirement for a commercial driver's license for those kinds of drivers. Should there be a commercial driver's license? Absolutely, and I support that.

There is now a law that says you have got to have one if you are going to drive an 18-wheeler down the roads in this country. I want to make sure you know how to drive.

But what is the manifestation of the law that says you have got to have a commercial driver's license? Well, the manifestation of that law that plays out in regulation when some bureaucrat gets ahold of it and writes the regulation is that some farm-supply store on the main street of a town of 400 people sends a kid in a 2-ton truck 60 miles away to get a load of twine, and all of a sudden—if they do not have a CDL, a commercial driver's license—they are in violation. Some custom combiner that is going to have college kids drive a wheat truck for 30 days during the fall harvest—if they do not have a commercial driver's license—they are in trouble. We are trying to change that. April 1 is the date, and we are trying to get it changed by April 1 to allow a seasonal exemption for those kinds of drivers. They are not 18-wheel drivers. I am not suggesting that we should have an exemption for people that drive those big trucks, but the extension of this commercial driver's license to the employee that occasionally drives a truck, a small truck for the purposes of getting parts or certified seed or hauling twine, that makes no sense at all. It is crazy. It is driving people out there wild.

Let me give you another example: the Americans with Disabilities Act. It is a good idea. We ought to open up this country's opportunities to the 40 million disabled people. That makes sense. But about a week and a half ago, I was in a town called Stanley, ND. A woman asked me a question. She said, "I am on the township board, and we have a little one-room schoolhouse out there that we use for a township building. It is where we vote in our precinct. It is a one-room place where we vote. We have no handicapped people who vote in that little precinct. We are told now that we have got to get running water and we have got to enlarge the door if we are going to use that. We only use it three times a year. If we are going to use it for voting, we have got to have indoor plumbing and enlarge the door." They cannot do that. They are not going to do that.

That was not what was intended on the floor of this House when the ADA was passed. It is the sort of thing that drives people wild.

Drug testing for transportation workers. We have a guy smoking marijuana who jumps into a locomotive and steams down the tracks and hits an Amtrak train and kills people, because he is high on drugs. Yes, I support drug testing for those kinds of people involved in public safety issues, and I supported it here in Congress. But do you know what the manifestation of that is? Some little old guy in Valley City who drives a little minivan to haul a few people during the day around Valley City is told, "You have got to be drug tested." He almost goes crazy. "What do you mean me take a drug test? I have never even seen drugs," he says.

The extension of these things and the way they play out in the country drives people mad and justifiably so.

Swampbuster. The term means nothing to most people, I guess. It is a term in which the Federal Government tried to define what wetlands are. I think we ought to preserve wetlands. Why should we have farmers break up wetlands and plant wheat when we have a surplus of wheat and you lose the fragile wetlands that help duck and geese production and so on? I support that. But then what happens is the Federal Government defines a wetland as the low spots in a field that are wet 3 or 4 days every year but are cropped every year.

☐ 1230

So now what we have is geese and ducks flying south from Canada and they are going to stop at what the Government says is a wetland, but there is no water there because it is cropland.

You know, if not for the soundness of policy, we ought to change the law at least for the mental health of the ducks and geese who cannot drink where there is no water, for gosh sakes.

This makes no sense to have policies that are so out of tune as they are practiced out in the country at the lowest levels, so out of tune with reality.

I could go through a hundred examples of that. One of the best, we finally got it overturned, was a tax law that was passed awhile ago. It was determined that it would require contemporaneous record keeping by people who were driving out on the farm. It had to do with the gas tax exemption. It had to do also with the ability to write off the value of the vehicle as a business expense. So the suggestion was as the regulation was promulgated that when you get in your pickup truck to go check the cows in the north 40, you need to have a little notebook and a pencil and you write in there, here is the mileage. I went out to check the cows.

Well, you can imagine what happened. These fellows who hang guns in their pickups in the gun rack in the back window and wear tight belts and have overhanging stomachs, they go to drive that pickup out to look at the cows, they got off—I guess a better way to say is they got damn upset. They were furious that somebody was telling them that you have to have a notebook in their pickup truck so that when you take a little trip you can make a contemporaneous record of that.

Now, we repealed that because it made no sense. It just made no sense to require contemporaneous record keeping by farmers and ranchers who drive their pickups to go to the barn and check the cows; but it is what is driving people crazy about Government. It is the way the regulations and the rules smother initiative and the way they play out in the country in a manner that is not justifiable or does not meet any kind of a nod test.

While the Government is busy dealing with all these little issues, plumbing in a one-room shack, commercial driver's license for a college kid who is driving a grain truck, defining as type one wetlands some cropland that has no water on it—while the Government is busy intruding itself in the lives of all those people in an unfair way—it is off over here doing that and ignoring the broad range of things Government ought to be dealing with.

Why did we have an S&L crisis? Because we have regulators who were simply incapable of regulating. They came to town and their notion was that the Government is bad. Now we are going to get paid as regulators and we are going to decide to turn our cheeks and not watch, so you people, if you want to steal us blind, go right ahead. The S&L's want to load up on junk bonds? You want to buy Don Trump's junk bonds? Go right ahead. It is not a problem. We are regulators and we are the new breed of regulators. We do not care what you do, so just go ahead and do it to us, and they did it to us for a decade.

I can recall in the back west front of this Capitol in 1981 sitting behind Ronald Reagan when he gave his first inaugural address and he said that the problem in this country is Government.

Well, he sure took care of that. He appointed people to regulatory bodies who believed just as he did, the problem is Government, so we will not govern. We will not regulate.

Oh, they got paid all right. They just did not do their jobs.

The result is that in the financial industry we did not have anybody looking over their shoulders to find out what these people were doing, and the American people got robbed blind. We were stolen blind by people who should never have been able to do what they did, because the regulators refused to regulate.

Things have got to change. The Government has to step over here and start doing what it is supposed to do and stop messing with people's lives over here in areas where they should not be involved.

Wall Street. Well, it is not just S&L's and banks. What about Wall Street? What was their activity? Hostile takeovers, investment banking, junk bonds, LBO's they went crazy in the 1980's.

Was there anybody willing to step up and say, "Look, let's stop all this. This is ruining the country." No.

The Secretary of the Treasury came before my committee one day. I pointed out, here is a savings and loan that has over one-half of its assets in junk bonds. We have a carnival, a casino atmosphere up on Wall Street. Are you not going to step in? Are you not willing to concede that this is a problem?

The Secretary of the Treasury said, "Look, if there is a problem here, Wall Street will tell us what it is and give us some recommendations on how to solve it."

Yes, they really will. I mean, it is in their interest to solve all that?

The fact is it went on and on because regulators would not regulate. We did not have anybody willing to step in and say enough is enough, and the American public gets stuck with the bill, billions, tens of billions, in fact hundreds of billions of dollars now charged to us, our kids and our grandkids, because we would not regulate.

I will give you another example. Sam Skinner over in the Department of Transportation. Look at where we are going with airlines. Our airlines are going broke one after another. The airlines that you used to fly, they are not even here anymore. Eastern Airlines is gone; Pan Am, gone; TWA in bankruptcy; Continental in bankruptcy. I could go on down the list. They are either gone or they are in bankruptcy.

Now, why? Well, at least part of the reason is the Secretary of Transportation sat on his hands and said, "It's fine. You can just put airlines into play for speculative purposes, just like all other corporations are put into play. There is no problem."

So what happens is Carl Icahn buys TWA, loads it with debt. Other airlines are put into play loaded with debt.

Can you imagine an industry or company more sensitive to the economic situation of this country than airlines? And yet Secretary Skinner and the administration says it is fine, go ahead and load them up with debt.

I have not seen such incompetence in regulatory authority or lack of it in my lifetime.

Railroads. The ICC acts like it is not alive from the neck up. It just acts like it does not care. It has always been a stamp that says, "Made in the Offices of Big Railroads and We Approve." It has always been a stamp like that, but you would think one day they would wake up and probably try to promote a little competition and protect the consumers and the shippers, but it is not to be. The ICC is still the same old Interstate Commerce Commission. Whatever the railroads want, the railroads get.

One would think maybe or hope maybe that the Government that intrudes so much in people's lives in a manner that makes most people angry would spend some time over in the center part of regulations where they are supposed to regulate, the S&L's, the financial institutions in Wall Street, airlines, railroads, and do something good for people and give people the notion that Government is playing a constructive force in regulating the big economic interests that otherwise are harmful to people's interests.

Well, Government does not do that under the Reagan or Bush administration because they do not like Government, so they hold these jobs, not to do them well, but to avoid doing them.

The result is the public in this country is ill-served by people who claim to be regulators, but who refuse to regulate.

Now, what is the other problem that we have in this country? Aside from people being angry about Government intruding in their lives and snuffing out initiative and handcuffing them every time they turn around, the other fear that people have is they know deep in their hearts we are spending money that we do not have on things we do not need and mortgaging this country's future.

I brought with me today the budget of the United States. It is the budget that President Bush sent to Congress about a month ago, and I want to give you some information about this budget, because this budget was sent to us by a President who says, "I'm a conservative and we got to get Government in control."

In fact, this week President Bush was out campaigning and he says, "The problem is Washington."

I mean, it seems to me he must have forgotten. He has been Vice President for 8 years, now President for 4. It is very difficult for him to run against himself, but that is what he was doing this weekend.

So I want to submit his budget for some discussion. His budget on page 25 tells us what he proposes in spending and in taxes. It is interesting that if you take a look at what he proposes, again a conservative politician, he proposes the largest deficits in history.

Let us look at 1992. In 1992, President Bush proposes—that is the fiscal year we are in—deficits of $473 billion. That is $473 billion. That is a billion and a third a day, 7 days a week, every day all year.

Now, this is the book the President sends to Congress. it weighs close to 10 pounds and is almost 2,000 pages. I want to read for the American people what he proposes in fiscal policy, and let me say when I start this, do not believe I am suggesting the President is all wrong and Congress is all right, because that is not the case. Deficits are a joint responsibility of the President and this Congress, but the President would have us believe, "I am only the President. I have nothing to do with deficits."

There are three steps to the budget process.

□ 1240

First, the President, by law, sends this to the Congress. This is his proposal for a budget.

Second, Congress passes appropriations bills.

Third, the President either signs or vetoes those bills.

His signature is worth two-thirds of all of our votes in the House and the Senate.

So, for the President and the White House to suggest that they somehow have no responsibility for deficits is hogwash. It starts with them and ends with them.

But this Congress plays an enormous responsibility as well, and this Congress has failed; Republicans and Democrats have jointly failed. But the failure starts here.

Let me read it for you, page 25. And I am going to read it honestly, not the way it was presented. The way it is presented takes the Social Security surpluses and subtracts it first to get the deficit; but that is dishonest. Social Security is a tax from your paycheck that can go into only one place, the Social Security trust fund, it can be spent for only one purpose, Social Security.

We are now creating a surplus each year because we need it after the turn of the century when the baby-boomers retire.

The President subtracts it from the deficit in order to get a lower deficit. So he says this year the deficit is going to be $399.4 billion. He does that by taking $74 billion in revenue from the Social Security accounts and subtracting it. Actually, the deficit is going to be $473 billion. You cannot subtract Social Security surpluses, because that is destined to be used. We are saving that for another purpose.

So, if you look at 1992, 1993, 1994, 1995, 1996, and 1997, which is this year and the coming 5, President Bush proposes this: He proposes that in this year and the coming 5 we add $2.21 trillion to the debt. Let me say it again because a lot of people would say, "Well, that is not true, he is a conservative, he says he is for a balanced budget." In fact, he wants the Constitution amended to prevent him from doing this.

President Bush, on page 25, says: "I think we should have a fiscal policy that adds $2.21 trillion to the debt. It is irresponsible, reckless, and dangerous fiscal policy.

Congress, in most cases, is content to argue about the yardlines but not about the stadium. Congress says, and I assume will say it again this week—

and I do not intend to vote for it if that is the case—in our budget resolution, "Yes, well, we will talk about this range, but we want to talk about the p's and q's, change a few dots and a few t's." The fact is we will quibble about nuances around $400 billion.

Next year's budget deficit is proposed, in the President's budget, at $442 billion; that is for next year.

Will Congress say to the President, "No, we will not accept that"? No, my guess is Congress is going to nibble around the edges and come up with a budget resolution that is not radically different. The President will have failed dramatically in proposing this kind of irresponsible policy. And if Congress goes along with it, it will have failed, in my judgment. It will have failed the American people in saying, "Stop, we quit, it is over, we cannot spend what we don't have."

Now, if we spend money we do not have, is it a big deal? What if the budget deficit this year were $473 billion and the money was spent in medical research and we cured cancer? Would that not be a good deal? Sure it would. And I would not be here concerned about it.

If this were going for something useful, if we were curing cancer with these deficits, that would be one thing, but it is not. These are operating budget deficits year after year far out into the future. Our debt is now $3.6 trillion, and it will be $6 trillion by the time we reach 1998, and we simply cannot allow that to happen.

There is too much waste, and it is not just waste; there is plenty of that, but it is more than that. We have structural problems, we spend 24 percent of the GNP and raise 19 percent in revenue and charge 5 percent to somebody else.

I am chairman of a task force on waste, in the Democratic caucus, and we will be submitting our report. I worked on it about a year. I can tell you chapter and verse on waste. It makes your hair stand on end. There is way too much waste. But if we eliminated all of the waste that I have targeted in this task force report, it still does not deal with the structural problems.

One way or another we have to decide what we want, then whether we can afford it and how we are going to pay for it. Until we do that, we are going to continue to charge a major part of what we spend each year to our kids and our grandkids.

That is what people fear deep in their gut is wrong with the country. They know when we spend money we do not have, we mortgage our future. They know when you mortgage your future and you are trying to compete with tough competitors like the Japanese and the Germans and others, you do not win.

We win when we pay attention to details and pay attention to fundamentals. You have got to pay your bills; you have to pay some attention to education, you have got to be able to compete in education; you have got to stop all the extraneous speculation on junk bonds, hostile takeovers and all that sort of thing; you have to make the best products. You cannot win unless "made in the USA" means it is the best in the world. There is a whole range of things that I have put in a brochure which I have sent around which represent the menu of things I think we have to do.

We can do that if we have some leadership from the President, have some leadership from Congress.

We can do those things.

You know, I was reading the other evening and I wanted to put it in the CONGRESSIONAL RECORD, something about the Second World War, because I said after the gulf war that I thought President Bush ought to be credited for some real leadership in the gulf.

Now, he and I had a difference about whether we should extend sanctions longer or shorter. Once the decision was made in this Congress to do what the President was intending to do, all of us supported that. I was impressed with the President's ability to organize those resources, follow a plan and implement the plan. I have said it publicly and I will say it again, I was impressed and I thought it exhibited leadership.

Why is it that there is so much leadership in those kinds of circumstances and so precious little leadership on the other things that matter to this country, like deficits, like beginning to build again internally, having a domestic program and trade policies that work? Why is it there is so precious little leadership? And it probably has always been the case.

But I wanted to read some things from a book that I think is a wonderful book, entitled "The Glory and the Dream." A book written by Manchester, where he chronicles the Second World War from a period in the 1930's to the 1970's or 1980's in this country's history.

I was impressed by reading something, and I think it is probably useful to read. He talks about 1942. A lot of us, and I probably was not around yet at this point, the Axis destroyed 1,664 ships in 1942, the darkest days for the Allies; 1,664 ships the Axis had destroyed—7,790,000 tons of shipping.

And the German admiral calculated that if his wolf pack could average 700,000 sunken tons a month, Britain would starve. He was going to intercept the shipping from our country to Great Britain. It would have changed the whole complexion of the war. He was going to send all the U-boats to the American seaboard and attack that shipping, as he was very successful in doing. England would have starved, it would have changed the whole complexion of the war.

He talks here about the Germans building new U-boats every week. The figures for sunken tonnage continued to rise.

The British were very grim and the Americans told them to take heart. If there was no other way to win the battle of the Atlantic, the Americans would simply have to outbuild the U-boats.

It was at this moment that Henry Kaiser, an aggressive 60-year-old industrialist, entered American history. Kaiser had played roles in the building of Boulder Dam, Grand Coulee Dam, Bonneville Dam, and the Grand Shasta Dam, the Oakland-San Francisco Bay Bridge. And in March 1942, he had just acquired a shipyard in California and in Oregon. There he was introducing revolutionary new techniques for building ships, prefabrication and assembly of which would lead to mass production of ships, without a loss of quality.

Now, from the outset, Henry J. Kaiser's shipyards produced some real industrial triumphs. Beginning with an initial keel-to-delivery time of over 200 days, he cut the average work time on a Liberty ship to 40 days. September 1942, the 10th month of the war, he established a world record by launching the 10,000-ton Liberty ship, the *John Fitch*, just 24 days after laying the keel. By then he had 100 ships in the Atlantic. And that was only the beginning, it says. In 1944 he was launching a new escort aircraft carrier, *Edwin Week*. He and his fellow shipbuilders were turning out entire cargo ships in 17 days. During the first 212 days of 1945, they completed 247 cargo ships, better than 1 a day.

□ 1250

But Kaiser already turned his attention elsewhere. He said, "If I can make cargo ships, why couldn't we build cargo planes as well," and immediately he was surrounded by engineers and designers saying, "We ought to take a look at that," and they said, "It's probably an impossible dream," but mastering impossible dreams was something that Kaiser did not say no to, and he acquired a partner. His partner's name was Howard Hughes, and Hughes had done almost everything Kaiser had done, and he had done it in the area of flying, and they struck a bargain. They each put in 50 percent of the capital. They became celebrities. They were charismatic. But they were best represented as people who in their time were able to accomplish results.

The production miracle in this country, which is what it was, the production miracle was accomplished by thousands of hard-driving executives and millions of workers, some skilled, some unskilled, men, women, some young women fresh from the kitchen or the bargain counter, it says. American resources and American freedom had united them in a joint effort.

This book says:

> To a generation which has grown up, under the sound of supersonic booms, some miracles probably seem unimpressive now, but the aerospace designers are inclined to regard, for example, the B-17 Flying Fortress as merely quaint, like a World War I Spad or a DeHavilland Tiger Moth. But in the early 1940's the B-17 was a technological triumph.

To put the military production in perspective, it may be useful, in this book, to note that on May 10, when the Wehrmacht burst through the lowlands and the Ardennes, its historic blitzkrieg was supported by 3,034 aircraft, 2,580 tanks, 10,000 artillery pieces and 4,000 trucks. In the 5 years following the French collapse, here is what the Americans built:

Warplanes	296,429
Tanks (including self-propelled guns)	102,351
Artillery pieces	372,431
Trucks	2,455,964
Warships	87,620
Cargo ships	5,425
Aircraft bombs (tons)	5,822,000

At Tiran in 1943, Marshal Stalin from the Soviet Union proposed a toast. He said, "To American production, without which this war would have been lost."

Now I cite this passage in "The Glory and the Dream" simply to remember a time when this country was full of builders, and when this country was on a mission, a united mission, dealing with a national freedom and a national commitment to accomplish that mission, to build the capability to defend freedom in the world. And it produced, unlike any record of production in the history of mankind. This country is a country of builders and producers. Throughout history we have produced enormous projects and incredible accomplishments.

The Brooklyn Bridge. When the Brooklyn Bridge was built, everybody said, "It can't be built." It took 12 to 15 years to build it. It was an engineering marvel.

The production of the Second World War. We decided to build an interstate highway system in America, and now we link the entire country with interstate highways. Before that we forged west and linked the east coast and the west coast with railroads, which was a remarkable achievement.

Then we decided to put a man on the Moon, a remarkable achievement. An American stood on the Moon with an American flag.

This country is a country of builders, and what has happened? I mean why have we gotten off track? A couple of reasons, I think. We are snuffing out the flame of initiative in this country with terrible rules and terrible regulations that say:

> You can't build anymore. If you build, you've got to get approvals from 1,600 different jurisdictions, and every single one of them is going to tell you how to do it.

We are snuffing out initiative in this country, and, second, those who would be builders are now getting out of graduate school still just worried about pimples on their face and trying to figure out how to make their first $500,000 in investment banking enterprise, financing or selling financing for a hostile takeover, not to build a new product, but to take over something somebody else did, and take it apart, and ruin it and sell it in parts to make money. That is what has happened in this country. We do not have the initiative anymore, or the brains, or the best and brightest going into production, and we need to.

Mr. Speaker, I say to my colleagues, "You cannot, it seems to me, in this country lose our productive base, our manufacturing base, and retain the kind of economic strength this country must retain if it is going to be the preeminent world economic power."

It seems to me that this Presidential race that is going on in this country, which ought to be a thoughtful debate about a range of economic policies, too often and now has become a relatively thoughtless debate about extraneous issues. As my colleagues know, I have never met Gennifer Flowers. I could care less about Gennifer Flowers. But every American knows her, I guess. It is kind of sad, but why? Well, Gennifer Flowers is an issue in a Presidential campaign because some magazine that says, "Two-headed Martians give birth to twin calves in Idaho," says that we give her a hundred thousand bucks, and she tells her story about some candidate. So, it is big news. Do the American people know as much about some candidate's trade policy? About what they think we ought to do to respond to a trade deficit that is troublesome? No, I do not think so because that is not very interesting. Nobody did anything wrong. There is no sex, or violence, or scandal involved in that.

I ask my colleagues, "Wouldn't it be nice if we had a Presidential campaign in which the candidate says, 'Here's what we believe about this country's future, and here's the specific policies we would like to implement to get us there.'?"

Mr. Speaker, it is interesting. I mentioned this Federal debt and yearly Federal deficits. Not one story have I seen, with the exception of one instance in the front page of the Washington Post, about the dimension of this debt proposal, and yet this kind of fiscal policy will saddle this country with obligations and troubles far beyond the other policies that are being discussed on the campaign trail and far beyond the policies that are evaluated in minute detail by all these journals and newspapers. But there is almost no mention of it.

We could ask the American people, "What do you think the proposals for deficits are by President Bush in his budget?" Most people do not know. It is not reported on. This is not news. It would be news if it were Gennifer Flowers holding it up, if it had something more interesting in it, but it is not news because all it talks about is adding $2 trillion to an obligation our kids are going to have to pay, and it is adding an obligation to us that means we are not going to win in economic competition if we embrace this kind of approach.

Now the question of whether our children are going to have a future with jobs, and opportunity and growth is not a question of whether we embrace the Republican approach or the Democrat approach. I do not think Republicans are all wrong. I am a Democrat, but I do not think they are all wrong. I think they have got some good ideas. I do not think Democrats are all right despite the fact we have some good ideas. I do not believe the President is solely to blame.

But I will tell my colleagues this: "There is a lot wrong on that side and a lot wrong on this side, and a lot of policies coming from the White House are goofy."

What we ought to decide to do is get the best of what everybody has to offer and start insisting that there be some leadership. As my colleagues know, we have a lot of things that we could do together, if we would start deciding that we all belong to the same team. We compete with the Japanese, which I have mentioned a couple of times. When the Japanese compete in the private sector, they compete as a team. It is not just the company that is selling a VCR in this country. It is that company, it is the related supplier group of that company, it is that company's banker, and it is that company's government that is called the kiratsu. The Japanese kiratsu, that is that organization of interests that is designed to try to sell into this marketplace, is going to compete against one little American company out here who cannot talk to their other companies because that would violate antitrust, whose government is largely at odds with the company. We do not have a government and a series of companies deciding how to work together to win. They are fighting each other. They are trying to figure out how to battle each other rather than battling the other economic competitors, and, until we change that attitude and decide on a different strategy in a whole range of these areas, we are not going to win.

Now my hope is that this Presidential campaign produces a result in which finally we will hear descriptions from people about what they would like to do about this country's future. What do we do about health care? What do we do about trade policy? What do we do about fiscal policy? What kinds of policies can we initiate to encourage, once again, manufacturing and production of real jobs?

These people say, "Well, but we've produced all these jobs." Who cares? If we lose a $15 job and acquire a $4.35 job flipping hamburgers, has this country really produced anything very much? I mean that is what is happening. We are seeing our manufacturing base leave this country, and we are seeing the growth of frying hamburgers.

I have nothing against hamburgers. Hamburgers are just fine. But those are not long-term, well-paying jobs that are going to sustain families and provide a future that families can have some confidence about, and we have got to develop a policy in this country that decides we have a strategy, a strategy that we jointly work on together.

□ 1300

God forbid that somebody should ever suggest that we have an industrial policy, but we are one of the few countries in the world that does not have a plan. There is no plan. If we cannot decide the priorities, perhaps we should just take the Japanese plan. That is probably good enough. The Japanese certainly have a plan. They know what the priorities are. If we decide we cannot develop priorities, maybe we ought to just take a look at the priorities of our nearest competitor and say, "Yes, those are important for a manufacturing-based economy."

But the minute you mention industrial policy, you know what happens. The administration, which is dead set opposed to it, says, "Oh, what you want to do is develop a public policy that picks winners and losers in the private sector. We are against that." They continually say, "We are against that. We don't want the Government involved in picking winners and losers."

So I have asked the Trade Ambassador:

> Is there anything that we are threatened with the loss of that you think would hurt our country? For example, if a major segment of the communications industry went offshore and we lost the whole manufacturing capability there, or of the auto industry, whatever, is there anything the loss of which you think would irreparably weaken this country in the future?

Well, the answer is, "no," because to think that is to require that we do something in terms of establishing policies that would in their minds say we should pick winners and losers.

I am not suggesting we pick winners and losers. I am just saying it is about time this country had a plan. The plan ought to be to try to develop public policies to create an opportunity once again for us to maintain a manufacturing base with some decent jobs and give our producers and give our workers an opportunity to compete.

This country is a country whose people have demonstrated time and time again that given the opportunity, there is no finer work force in the world. The Japanese can say what they want about our work force, but they did not outproduce us in the 1940's and they would not today if we had policies in place that encourage production of the right things and have quality programs in this country to demonstrate to the rest of the world that "made in the USA" is the best you can get. Our production in the Second World War suggests that when we have a national purpose, we get national results as an American people. I suggest to Presidential candidates that they adopt the same national purpose to what I think is an economic emergency. I think when we talk about $6 trillion in debt, that is a national emergency, and I think it is time for us to ask of all our candidates, Republicans and Democrats, Presidential candidates and congressional candidates, "What is your plan? What do you want for this country? What would you do to put America back on track again?" Because the American people do not deserve pity; the American people deserve an opportunity. If we give them the opportunity with an economy that is growing, this country is going to do just fine.

REPORT ON BANKING COMMITTEE'S INVESTIGATION OF THE ATLANTA BRANCH BNL

The SPEAKER pro tempore (Mr. HUBBARD). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, today is a continuation of a series of special orders that for almost 2 years I have been giving with the indulgence of my colleagues concerning the Banking Committee's looking into various activities, among others principally the Banca Nazionale del Lavoro [BNL], the activities in Atlanta, GA, and the incredible pattern of those activities, aided and abetted by our national leaders and based upon what obviously shows today was a misdirected course.

The reason I continue these reports is that I will offer the documentation that will be the basis for the remarks that I will make chronologically, pointing out the series of actions that led to this incredible commitment by our Nation's leaders over the course of several years, to the extent of almost $4 billion of taxpayers' exposure to guaranteed letters of credit or loans that were facilitated through this Italian agency bank in Atlanta to Iraq. Also the reason for it is that we have always had a very definite legislative purpose. It has not been our practice, no matter what temporarily high-profiled publicity a certain issue might give rise to, such as 2 years ago the S&L scandals and the activities of some individuals that had been prominently paraded in our press.

We live in a world in which these images are forgotten less than 3 months after the event, or at least they are not pursued. But that is not our case. We have very specific reasons for first informing my colleagues. I promised I would do that the very first day of the last Congress, at which time I was officially elected chairman of the U.S. House of Representatives Committee on Banking, Finance and Urban Affairs, and I promised then that I would do what I had been doing through the years, even though at most I had been chairman of several subcommittees, and that is relate to my colleagues and report those activities that transcended my purely parochial responsibilities in representing a given geographic area or district of our country.

So I felt it would be more important to do so. It has not been done before, but there is nothing from the investigatory hearings we had in 1989, 1990, and 1991, not only with respect to S&L's but such things as the BCCI and the rest reported faithfully by this means in the RECORD to my colleagues. After all, I believe that that was inherently understood to be the intention of our committee system when our Congress was first organized, after the adoption of the Constitution in 1789. Of course, at that time the country was small, the representation was smaller in number, and we had a very different country, radically different and totally unimagined by succeeding generations, even in the early portion of this century.

Our objective is to obtain for this country its yet-to-be formulated regulatory oversight laws and structure that will give protection to the national interest from the improper activity of billions of this kind of money that is reported by so-called international banking or financial activities in our country.

□ 1310

It now amounts to somewhere around or better than $800 billion yearly. It is high velocity money, just a little chunk of it has high leverage. And there is no question the kind of crime we have, such as drug money laundering, and the like, would not be possible if we did not have a meshing in between the illegal activities in the narcotics trafficking and such things as financial activities in banking.

As a matter of fact, let me say parenthetically what I have said before to my colleagues, and that I opted to stay on this committee since I was assigned to it when I first came to the Congress about 30½ years ago. I opted to stay on it because it is my field of interest and also because I felt and feel that at the bottom of everything, all through history, certainly to the present day, but all through history at the bottom of everything are such things as banking and finance.

Today there is nothing that has not affected or influenced our country, from war to peace, so-called, to commercial and diplomatic intercourse with the other nations that is not founded in some way on banking or finance.

The hostage taking, for instance, at the bottom of the celebrated taking of the hostages was financing, involving $10 billion of one of our biggest banks, which had the power at the time. And I will go into that later in subsequent reports because it has never been reported to the Congress or to the people, that involved were about 10 billion dollars' worth of those moneys in this particular bank in the United States.

Of course, the rest is history because it was inextricably linked with the fallen Shah of Iran. Of course, it is tragic, but the fact remains that it was not until the Federal Reserve official in the Federal Reserve Bank in New York pressed a button, the same day that President Reagan was taking his oath of office, that by pressing that button and releasing several billion dollars in London of that money to Iran, at that moment the hostages were released.

The same thing happens with everything, including the Persian Gulf war. It was the presence of some 280 billion dollars' worth of Kuwaiti funds in our banks here that greatly influenced our policies. And also the fact that things are done that I cannot see, even though it is not strictly within the jurisdiction of our committee, the Committee on Banking, Finance and Urban Affairs. For instance, how many of my colleagues—maybe they do, maybe they know more than I have up until lately.

How many of the people out in my district I know are not aware, even editors and newspaper reporters, that we have entered into a 10-year treaty with this country that we liberated, so-called Kuwait. It is a 10-year treaty of defense.

How many of my colleagues realize what our stake still is in personnel, servicemen, American, and armament, still remaining in that Middle East sector. In other words, what I am saying is that at the bottom of all of that is financing. Because as my colleagues will remember, we were told by the President that the war would be mostly financed by our so-called fellow allies or U.N. members.

The truth of the matter is that in the last supplemental—dire supplemental emergency bill—we appropriated an installment of over $3 billion. That is taxpayer money for the so-called Desert Storm.

So at the bottom of everything is finances. And the fact that is we have, we are the only Nation of any particular industrial size that has no screening board. We do not even have sufficient regulatory oversight. Certainly the Federal Reserve Board, which is the one that has prime responsibility for this international flow of funds, cannot and does not even now.

We did amend the International Banking Act of 1978 this last year in the Banking Act, but our point is we are still trying to establish whether, as I do not think it was, those are sufficient and adequate safeguards to guard the national interest.

I want to continue the report on the BNL and the extensive use of the U.S. Government guaranteed export promotion programs for Iraq. These are export programs that are based on taxpayers guarantees. Of course, the taxpayer, at this point, is left holding the bag with over $3 billion, including some $200 million of the Export-Import Bank guarantees to Iraq.

BNL was by far the largest participant in the Commodity Credit Corporation, a program that helped to finance the sale of over $5 billion in agricultural commodities to Iraq. And it was the second largest participant in the Export-Import Bank that guaranteed the sale of over $300 million in goods to Iraq.

The committee's investigation of BNL, and let me point out at this time, the committee first began having hearings. In fact, it will be 2 years in October. And we do not go around making big news releases because we are interested in legislating. We are not out to make waves, as far as publicity is concerned. That determination is going to be made by the news disseminating media anyway.

I cannot tell my colleagues that I know what will or will not make news. Things that I thought did not, have; things that I thought would, have not. So from that standpoint, occasionally there will be a flash of interest in this, that, and the other thing. But the point is that the overriding need at this point for the country is to have some, even minimal grasp of, say, the direct asset acquisition by foreign interests of our banking resources.

We know, for instance, that at this point about 25 percent plus is Japanese acquired, but if that gets Members excited, remember that the Japanese interests and their direct acquisitions of either direct interest or direct assets are about 50 percent of the British investment in our country. We do not hear much about that. That is something else that is in the jurisdiction of someone else.

Nevertheless, the Committee on Banking, Finance and Urban Affairs has a responsibility of focusing on the needed legislation, trying to reach a level of consciousness among the majority of our fellow 434 Members to the importance of it and try to draft such legislation as is possible under our sort of compromise procedures as will be as near adequate as it is humanly possible to construct.

The committee's investigation of BNL participation in United States credit programs has led to a broader look at the United States policy toward Iraq because of the magnitude of the BNL scandal and the fact that it touched upon nearly all the elements of the United States policy toward Iraq. The BNL scandal sheds a revealing light on United States-Iraq relations.

I also want to remind my colleagues of what I said last week, that such banks as BNL, such banks as most of those that are involved in international interests and transactions in our country are government owned. BNL is owned by the Italian Government. So we have very delicate additional questions about national policy, not only our Nation's national policy but that other country's national policy and how these institutions fit in or did not into those policies.

During last week's special order I discussed the Eximbank program for Iraq.

I showed how the Eximbank was continually pressed by the State Department and even President Bush, at the time Vice President, but as I will indicate later, even after he took his oath of office as President in 1989, he was still pushing for Iraq's aid.

□ 1320

This is true, even though Eximbank is charged by law, and we have jurisdiction of the Eximbank that will be a reasonable assurance of repaying those debts. Therefore, I have asked the GAO to determine if the Eximbank violated its charter by granting credit to Iraq.

Today I will discuss the Commodity Credit Corporation's export promotion program for Iraq. I will illustrate how the Bush administration placed inordinate importance on the CCC program for Iraq and how the BNL scandal affected United States policy toward Iraq.

An October 1989 meeting between Secretary of State James Baker and Iraqi Foreign Minister Tariq Aziz illustrates that point. The main focus of that point turned out to be the BNL scandal.

During the early 1980's the United States policy toward Iraq was motivated by the fear of Iranian dominance of the Middle East.

There is another thing that is lost sight of, and I think is very little appreciated in our country. Iran is a non-Arabic country. It is not an Arabic country. Iraq is. We must remember the distinction, because apparently those that have gotten all the notoriety, from President Reagan to Colonel North and Security Adviser McFarlane, do not seem to realize that. They played into the hands of people and nations that have been at war, and still continue in a state of war, and have been in a state of war since 1949; this is, Israel and Iraq.

Unless we know that this Middle East is complex, complicated, but like any other section of the country, Middle Europe, or as they say in Germany, Mitteleuropa, or the Far East, we seem to be totally either averse or unaware or unwilling to be aware of the tremendous corpus of history that is there, so our perception cannot be a correct one.

I have always said, even since then, that had we had the correct perception of the country we would not have lost 54,000 soldiers in Korea and 58,000 in Vietnam. But that is neither here nor there. The only connection there is that we continue with these misperceptions in the Middle East.

If we think that we are looked upon as the saviors, let me assure the Members that in the Middle East the fixed, rooted perception, whether it is true or not is immaterial, the rooted perception is that we have stepped into the shoes of the two departed colonial powers, France and England. Be that whatever it is.

The logic that I report here is best spelled out in a 1984 memorandum to then Vice President Bush related to his efforts to have the Eximbank finance the Iraqi Aqaba pipeline project. I am not going to read from it, and I have a copy of the memorandum which I will place, together with all the documents, at the end of my discourse this morning.

I quote:

> The war between Iraq and Iran directly affects our vital interests in the Middle East, and particularly in the Persian Gulf.

This is Vice President Bush.

> Our objective is to bring the war to a negotiated end in which neither belligerent is dominant and the sovereignty of both is preserved.

Now, he is Vice President of a regime that in the meanwhile is also dealing through the so-called client states, even though sometimes client states become masters, such as Israel, with Iran, and therefore the big scandal that later erupted, and only a portion of that has been seen, of the aid of arms to Iran.

So we were foolish enough to think that we could be helping each one of the combatants without the other realizing it. It is absurd. Of course they knew. Therefore, no respect.

I will continue, and I quote:

> We believe victory by either side would have a serious destabilizing effect on the region.

I am going to repeat that:

> We believe victory by either side would have a serious destabilizing effect on the region. At this point Iran is the intransigent party, unwilling to negotiate in part because it believes it can win in the war of attrition. We must therefore seek means to bolster Iraq's ability and resolve to withstand Iranian attacks as well as to convince Iran that continuing hostilities is useless.

Have we learned anything? No. Today we have been involved in negotiations mostly to pay back some of the money that I spoke of that had gone out of Iran and led to the release of the last hostages.

If the Members think the release of the last hostages was just accidental, let me assure them that it was connected with our payment of something that had been demanded, and coincidental with that, also there is good reason to know that right now Iran is also being enabled to get some help through other countries for arms procurement.

Why is Iran building to such a tremendous point of arms ability? What is its goal in the Middle East, now that we have conquered Iraq and consider it a continuing enemy? Why is Iran being pumped up like these messages indicate we were doing with the case of Iraq on that occasion?

With that broad policy and strategy that I have just quoted in mind, the policymakers sought out a path to achieve those goals. Since the administration had a stated policy of prohibiting the sale of United States military hardware directly to Iraq, the options available to assist Iraq were limited. The administration chose to assist Iraq by providing financial assistance.

In determining how to assist Iraq financially, a March 16, 1983, internal State Department memo to Secretary of State George Shultz states, and I quote:

> There are two possibilities for the official credit for Iraq; (a) Eximbank program: (b) CCC blended credits or guarantees for agricultural exports.

An October 31, 1983, State Department cable shows the benefits of such a strategy, and I quote:

> In considering ways to build international confidence in Iraq's economic and financial future, we should give serious thought to offering Eximbank credits. New U.S. credits, in combination with our CCC credits, will demonstrate U.S. confidence in the Iraqi economy. This in turn could encourage other countries to provide similar assistance. Such concrete demonstrations of support could ease pressure on Iraq.

Increasing Iraq's access to credit allowed it to feed its people on borrowed money, thus freeing scarce foreign exchange, to purchase military hardware to fight the war against Iran.

As I said last week, the Eximbank was repeatedly pressured by the State Department to open its program to Iraq. On three separate occasions President Bush, then Vice President, intervened on behalf of Iraq and Eximbank. Luckily the Eximbank charter contained provisions that made it difficult to lend money to a nation like Iraq, so its exposure to Iraq was limited at the time Iraq invaded Kuwait, but for no other reason.

□ 1330

The same cannot be said of the CCC program. The CCC is a division of the U.S. Department of Agriculture and its Foreign Agricultural Service. The goal of the CCC program is to assist U.S. farmers to sell agricultural products abroad, that is, by granting credit to a nation that wants to purchase U.S. products.

The usual terms of CCC loans is 3, with some as long as 7 years. The CCC is required by regulation to allocate guarantees on the basis of the receiving country's needs, its market potential, and the likelihood that the loans would be repaid.

Despite these limitations, in 1988 and 1989, a whopping 20 percent of the total CCC program was dedicated to Iraq. Utilizing the CCC program as a means of bolstering Iraq's financial position was a great success. For instance, in 1983 at a time when United States officials feared that Saddam Hussein might be overthrown because of food shortages caused by the Iran-Iraq war, the United States sold $364 million in CCC-guaranteed agricultural products to Iraq. The program grew steadily, and by 1988 CCC-guaranteed sales of agricultural commodities to Iraq reached a $1 billion annual clip, Until recent times, the CCC program was poorly managed, and corruption by exporters and importing nations was not unusual.

The GAO, our Government Accounting Office, and the USDA inspector general have done almost a dozen reports on various problems with the CCC programs. Many of them concern Iraq.

The following provides a clear example of the magnitude of the problems encountered at the CCC. In September 1989, 1 month after the BNL scandal broke, the USDA Office of Inspector General admitted that the CCC had some several internal-control problems, and the Office of Inspector General wrote as follows:

> The GSM program was operating without the benefit of a compliance review process or program to assess the direction and impact the program has had on U.S. and foreign agricultural marketing activities. As a result, U.S. exporters are participating in a $6 billion program without CCC conducting a review or periodic check to make sure the program is operating in accordance with applicable laws and requisitions.

In the past several years, the Congress and the USDA have made many changes to improve the operation of the CCC program. In light of the Iraqi program, the committee is concerned whether the changes in regulating go far enough.

The CCC program for Iraq was rife with corruption. Demands for kickbacks and bribes were not unusual. For example, several Iraqi Government organizations that purchased United States agricultural commodities requested United States exporters to pay kickbacks in order to win an order. Typically, these kickbacks included cash, truck parts, and machinery. While the Iraqis admitted to this practice, the CCC never punished Iraq for any violation of the CCC regulations.

However, five BNL-financed tobacco exporters did plead guilty in 1990 to violating regulations of the CCC program by paying kickbacks to various Iraq entities totaling $1,027,241, and another scheme used by the Iraqis to extract money from United States exporters was to levy a stamp tax on United States agricultural imports. On several occasions, the Iraqis were caught engaged in that scheme, but escaped without punishment.

A third scheme involved the use of foreign-sources commodities. In September two tobacco exporters pleaded guilty to violating regulations of the CCC program by selling Iraq foreign tobacco, claiming it was American tobacco. Maybe they could not tell the difference between a camel.

Documents obtained by the committee showed that the CCC program for Iraq continued to increase despite grave concerns among various Government agencies about the ability of Iraq to repay its debts. For example, documents show that beginning in 1985 the Federal Reserve Board, of all people, the Treasury Department, and the Export-Import Bank voted at different times against increases in the CCC program for Iraq. They feared that Iraq was not creditworthy and would not be able to repay the bills that it owed the United States.

In one meeting in the fall of 1988, and I have a memo and minutes here, as I said, at the end of the presentation, a Federal Reserve official warned Iraq only repaid creditors when they were offered greater lines of credit. He called the CCC program for Iraq a Ponzi-type scheme. One of the reasons that Iraq was able to obtain ever larger credit was the inadequate country-risk analysis process used by CCC to determine which nations were likely to repay their debts and how much could prudently be loaned to a nation.

A March 1990 USDA memo states:

> While our formal method for establishing country program limits is not yet operational, the consensus of my staff prior to our consultation with Iraq last fall was for a maximum program level of $800 million.

One of the best illustrations of the absurdity of the situation involved the Export-Import Bank, and again, as I said last week, Iraq was often in arrears or in default in its Eximbank program; in fact, Iraq was suspended from Eximbank programs between 1986 and 1987 because of nonpayment, but during that same period, the CCC approved $1 billion in credit for Iraq. How could one Government agency grant credit to Iraq, while another located less than a mile away was being stiffed?

Obviously foreign policy drove the CCC program, not the Iraqis' ability to pay. This is illustrated by the fact that the CCC program was over 15 times that of the Eximbank program, or at least for Iraq.

Because the CCC program lacked tough standards for granting credit, the administration found it easier to use the CCC program for Iraq as a foreign policy tool at the expense of the United States taxpayers.

As stated earlier, Iraq's finances were clearly not in good shape. To illustrate Iraq's precarious financial position, look at the comments in an October 5, 1989, cable to the State Department from Ambassador April Glaspie:

> Economic and commercial officers met October 3 to exchange information and views on Iraq's payment problems, the security situation, the BNL affair, and the November Baghdad International Fair. With the exception of the agricultural commodity exporting countries, that is, Australia, Canada, and the U.S.A., virtually all reported continuing payments problems. Australia, Denmark, Germany, Greece, Ireland, Italy, New Zealand, the Netherlands, Norway, and the United Kingdom reported new or continuing payments arrears on Iraqi debt.

Again, I enclose here at the end the memo from which I am quoting.

Concerns about Iraq's creditworthiness intensified when on August 4, 1989, FBI and Customs Service agents raided the Atlanta branch of BNL and uncovered $4 billion in unauthorized loans to Iraq including $900 million guaranteed by the CCC.

In order to better understand the CCC program for Iraq and its policy implications, let us take a look at the January 16, 1985, State Department cable that reported on a meeting between a representative of the Department of Agriculture and Mr. Hassan Ali, the Minister of Trade of Iraq, and the cable stated, and I enclose this also at the end of my presentation:

> Minister Ali took the occasion of USDA visit to express his government's gratitude for the leading role the Department of Agriculture had played in developing United States-Iraq economic cooperation.

USDA staff, in turn, expressed pleasure with the smooth operation of the CCC program and noted United States readiness to expand cooperation in the agricultural field with Iraq.

□ 1340

In response to a request for additional information on the state of Iraqi finances, Mr. Ali stated:

> The U.S. did not make such credit available because of Iraq's "lovely brown eyes".

He went on the state that:

> * * * U.S. laws and political constraints would not permit the availability of such credits if Iraq suffered from corruption, poor production, nonutilization of the credits made available serious bilateral political problems or doubts about its willingness to meet its full obligations.

Iraq was given the impression that it was an important partner of the United States and the CCC program was symbolic of that policy. In spite of Iraq's always dubious financial condition and continued corruption in its CCC program, the United States continue to expand cooperation in the agricultural field. By 1988 the CCC program for Iraq had grown to over $1 billion, but the events of 1989 made the color of Iraq's eyes turn red.

Because of Iraq's deteriorating financial position and the BNL scandal, 1989 turned out to be the watershed year for the CCC program for Iraq. Despite everything I have mentioned, when he was elected President Bush placed a renewed emphasis on improving relations with Iraq. He believed, as spelled out in National Security Decision–26 [NSD–26], that the best way to improve relations with Iraq was through expanded trade and the CCC program offered the single largest boost to that strategy.

Now, remember, behind all of this you have the National Security Adviser, Scowcroft, and the Deputy Secretary of State, Eagleburger, all of whom came from Henry Kissinger's stable known as Kissinger and Associates, which incidentally has had more influence with foreign potentates and ambassadors coming over than even the State Department sometimes.

Now, these two gentlemen were integral parts of Kissinger and Associates. They were integral parts in the stimulation of trade with Iraq. So now they are ensconced in these mighty powerful positions, and naturally they are going to reflect a continuation of what their boss, Henry Kissinger, who no longer has an official title, but lurks in the penumbra of power and has for many years.

So naturally, these are advisers. Presidents must depend on advisers, and when Presidents are not too sensitive or too aware or too deep in their understanding of events, I think it is safe to say and fair to say that we have had some who have not, that the role and the voices of these individuals become extremely powerful. Of course, their dealing was that added leverage in dealing with Saddam Hussein would be obtained because of these goodies we were providing him.

The thing that undid it was the B&L scandal that originated and in fact as late as just months ago, last year in fact, the administration through the Attorney General was still trying to keep us from having hearings on it.

President Bush and his advisers thought that expanded trade would give the United States added leverage in dealing with Saddam Hussein. As events showed, that was a grave miscalculation. The undoing of that strategy was the BNL scandal and Iraq's deteriorating financial condition.

I will now illustrate how the BNL scandal affected United States-Iraq relations by using the 1989 National Advisory Council [NAC] decision to grant Iraq a $1 billion in CCC credits. That decision also serves as a vivid example of how State Department and President Bush viewed the CCC program, first and foremost, as a foreign policy tool while delegating the issue of Iraq repaying billions in loans to secondary status.

Before embarking on that journey I will provide some background on the interagency process that determines how credit is allocated to foreign governments like Iraq.

NAC: ORGANIZATION AND FUNCTIONS

The National Advisory Council on International Monetary and Financial Policies [NAC] is responsible for the policies and practices of agencies that make, or participate in making foreign loans such as the International Monetary Fund, the World Bank, Export-Import Bank and the USDA's Commodity Credit Corporation [CCC]. In the case of CCC and Eximbank, the NAC seeks to assure that the credit extended by those entities is consistent with U.S. policies and objectives.

NAC: MEMBERSHIP

The members of the NAC include the Secretary of the Treasury—chairman; Secretary of State; U.S. Trade Representative; Secretary of Commerce; Chairman of the Board of Governors of the Federal Reserve System; Chairman of the Board of the U.S. Export-Import Bank; and the Director of the International Development Cooperation Agency. These high-level decisionmakers rarely participate directly in NAC decisions. Instead, a committee of alternates at the Assistant Secretary level has been empowered to act for their principals.

Under the alternates level lies the day-to-day apparatus that performs the work of the NAC called the staff committee. The staff committee is composed of economists and other professionals from NAC member agencies. They are often joined by representatives of other agencies of the U.S. Government such as the Departments of Defense [DOD], the Department of Agriculture [USDA], and the Office of Management and Budget [OMB]. The staff committee meets regularly or talks by phone to discuss CCC or Eximbank extensions of credit to foreign nations such as Iraq.

The NAC itself cannot override the decisions of the Eximbank and the CCC, but obviously in practical terms these agencies must heed advice of more powerful organizations such as the White House and the State Department.

On rare occasions a decision is so important that a NAC deputies committee meeting is called. The deputies committee is generally composed of the No. 2 person in each NAC agency. The question of whether to grant the $1 billion in loans to Iraq eventually was kicked up to the deputies committee.

THE FISCAL YEAR 1990 DECISION

Even though Iraq's financial condition had deteriorated steadily during 1989, the USDA, at the State Department's prodding, proposed a $1 billion CCC Iraq program for fiscal year 1990. Because of concerns about the BNL affair and Iraq's financial problems, a NAC staff committee voted in August 1989 to defer consideration of the Iraqi program until a later date.

The CCC understood that it would be difficult to get the entire $1 billion approved by the NAC, so in September 1989, it approached the NAC with a modified offer. CCC proposed an interim $400 million in CCC credits for Iraq. An additional $400 million was contemplated once Iraq was exonerated from responsibility for the BNL scandal. On October 4, 1989, the NAC unanimously approved that approach. That is when the trouble began—the NAC forgot that Iraq always wanted more not less.

Iraq considered the $400 million offer for CCC credit an insult. A November State Department memo spells out the Iraqi position on the $400 million offer. It states:

> The Iraqis rejected a USDA offer of a $400 million "interim" in early October because they believed so drastic a cut from the $1.1 billion fiscal year 1989 program would be viewed as a United States no vote of confidence in Iraqi debt policy.

The Iraqis were also worried that the United States would publicly announce its decision to limit Iraq to a $400 million interim program because such a decision could severely affect the perception of their creditworthiness.

The Iraqis immediately began to pressure the State Department, United States Embassy in Baghdad, and the United States farm community for a larger CCC allocation. They also sought a meeting between Secretary Baker and Foreign Minister Aziz to discuss the CCC program.

October 6, 1989, Secretary of State Baker met with Iraqi Foreign Minister Tariq Aziz. The main topic of the meeting was United States-Iraq relations and how the United States handling of the BNL scandal was jeopardizing that relationship. Notes from the meeting report Foreign Minister Aziz as saying:

> Finally, and most seriously, Aziz stated that lately there had been reports that "some American agencies" are trying to destabilize Iraq. The CCC program was being linked to the BNL Atlanta branch scandal of which Iraq had no part. The Minister made it clear that this was not a sign that the U.S. wanted improvement in relations. It is in fact a setback and the Government of Iraq (GOI) is very unhappy.

□ 1350

Mr. Aziz found a strong ally in Secretary Baker. A week after their meeting a cable from the U.S. Embassy in Baghdad reported:

> As a result of his conversation in Washington last week with Secretary Baker concerning the CCC credits, Foreign Minister Aziz has high hopes that the Secretary will seek to break the current impasse in the US/GOI negotiations.

Secretary Baker not only intervened personally on behalf of Iraq, he put the whole weight of the State Department behind Iraq. Mr. Baker and other State Department officials repeatedly referred to NSD–26 which stated that "the President wished to improve relations with Iraq" as the justification for pressuring other agencies of the NAC into approving the $1 billion CCC program for Iraq.

The State Department was intent on ignoring Iraq's poor financial condition. The agency was also intent on ignoring the BNL scandal despite the fact that the highest levels of the Iraqi Government were involved including the second most powerful man in Iraq—Saddam Hussein's son-in-law Hussain Kamil.

INTERVENTION LETTERS

In order to set the scene for the NAC consideration of the CCC program for Iraq, Secretary Baker wrote a letter to the Secretary of Agriculture, Clayton Yeutter, and then called him personally to express his conviction that Iraq should be given the benefit of the doubt and granted the full $1 billion CCC program for fiscal year 1990. The talking points for Mr. Baker's call to Mr. Yeutter state:

> On foreign policy grounds, we support a program of up to $1 billion, released in tranches, with periodic compliance reviews. With safeguards, I hope we can get this important program back on track quickly.

Convincing the Department of Agriculture to support the allocation of the full $1 billion to Iraq was the easy part. The next step was to convince the OMB and Treasury to drop their opposition to the $1 billion program for Iraq. This job was left to Deputy Secretary of State, Lawrence Eagleburger.

To their credit, the Treasury Department and OMB were opposed to the $1 billion program for Iraq based on Iraq's precarious financial condition and the smell of the BNL scandal. The Treasury Department had actually voted against the fiscal year 1989 program for Iraq because of creditworthiness concerns.

Iraq's shaky financial condition was not paramount on Mr. Eagleburger's mind. The talking points for Mr. Eagleburger's calls downplayed any such considerations. They state:

> The Secretary has determined that policy considerations warrant support for a full $1 billion program of CCC credit guarantees to Iraq. * * * The CCC program is crucially important to our bilateral relationship with Iraq.

Mr. Eagleburger topped off his efforts on behalf of Iraq by sending letters to OMB and Treasury. His efforts were crucial to eventually neutralizing OMB and Treasury opposition to the CCC program.

Finally, after much lobbying and back scratching, a November 3, 1989, meeting of the NAC alternates was held to consider the USDA's request for a new $1 billion CCC program for Iraq. Apparently still concerned over what was about to occur, the Treasury Department and Federal Reserve members formally moved to block a decision at that level. At the Treasury Department's request, it was decided to kick the decision up to the next level—the NAC deputies committee.

An internal State Department memo accused the OMB of instigating the Treasury and Federal Reserve and implied that OMB was taking its role as "the administration's watchdog against scandal" a bit too seriously.

Moving the decision on the Iraq program to the deputies committee level played right into the State Department's hands. Secretary Baker had already lobbied the Agriculture Department and Mr. Eagleburger had lobbied the Deputies at OMB and Treasury.

THE DEPUTIES MEETING

The NAC deputies meeting took place on November 8, 1989, Some of the more or less notable participants in the meeting were Robert Kimmitt, State Department; John Robson, the No. 2 man at the Treasury Department; Steve Danzansky, the White House; Jack Parnell the No. 2 man at USDA, Federal Reserve Board Governor Edward Kelly; and William Diefenderfer, the No. 2 man at OMB.

Mr. Robson opened the meeting by stating that there were two issues that should be addressed with respect to the CCC program for Iraq: First, the questions of Iraq's creditworthiness, and second, the implications of the BNL scandal.

The State Department's Mr. Kimmitt opened by stating that his "comments reflected the views of Secretary Baker who believed that the CCC program in Iraq was crucial to the U.S. bilateral relationship with Iraq. He noted that in NSD-26 the President called for improvement of United States-Iraq relations and bilateral trade offered the best means to achieve that goal."

Other NAC participants indicated that they had reservations about the program, but they offered no fatal objections. The NAC voted to approve the $1 billion for Iraq to be released in two $500 million tranches. Several safeguards were added to ensure that the CCC program's integrity would remain intact.

My next floor report will continue with the events that occurred after the NAC decision of November 6, 1989. That statement will show that President Bush and the State Department continued to champion the cause of Iraq despite numerous warning signs that Saddam Hussein was out of control and the revelation that BNL provided over $2 billion for a secret Iraqi technology procurement network which had responsibility for obtaining the technology necessary to build ballistic missiles and nuclear, chemical, and biological weapons. I will also discuss the issue of the pending $350 million CCC payment to BNL.

CONCLUSION

At the NAC deputies meeting on November 8, 1989, the State Department's Robert Kimmitt invoked the heavy hand of President Bush by stating:

> To abruptly terminate the CCC program in Iraq would clearly run counter to the President's intention and would furthermore, cause a deterioration in our relationship with the Iraqis.

Now I think that the American public and we in particular would find it hard to understand how deterioration of relations with such a country as Iraq would irreparably harm the United States national interest. The fact is that the miscalculations and the rather shifting, almost schizophrenic adoption of policies, if such can be called policies, led to a tragic denouement.

It ended up in the loss of tremendous loss of human life, over 200,000. Those are human beings, regardless. We reached the point where, incredibly, even our much publicized commanding general, on the eve of the skirmishes, pictured the Iraqis as subhuman beings. The result is still to be calculated.

Throughout the Muslin world, not just the Middle East but from one end to the other, we have engendered a tremendously deep hatred toward us. We are involved in something that we have not been disengaged as yet and will not be for the foreseeable future. But have we learned? No.

Once we stray from fundamentals, and this is what I always say and have always said on the committee, we cannot stray from basics except at our own risk.

Some time ago, I believe it was perhaps the second-to-last or the third-to-last speakership, Speaker O'Neill's regime, that the House suspended—and I did not realize it until it did not happen—the annual reading of the Farewell Message of President George Washington. It used to be the habit when I came, and I used to kind of marvel at the idea that that would be the case.

On the occasion, or on the Monday of the week that we used to celebrate George Washington's birthday, we would have the reading, even if there was no other business, we would have the reading of Washington's Farewell Address. That has been suspended. I am suggested to our present Speaker that he reinstall that.

I think it was very well founded, more than just having a ritualistic reading, because it gave us basics that are still true today as they were in his time. It is a vastly radical, hardly perceived world in that day and time, from what we live in today, but he did say in the speech what I think is now involving us, involved in this very tragic mistake, as it turned out to be.

Have we learned? No. As I said earlier, we are about to do the same with even Iran, which is still considered and certainly was during the time that this trade was fomented with Iraq, our real enemy, mostly because of the hostage taking and the like. But today it is more than ever because it has tremendous potential.

It is a non-Arabic country, but Muslim, and we must never forget that just 90 miles away from the Iraqi border is Russia. Along that Russian border is over 3 million Muslims. That is where Iran is directing its attention.

It now has probably the most substantial buildup of any in that area.

Remember, it is non-Arabic as a nation, but what about the other part of the world? Same thing with respect to China. It seems that in the case of China our policymakers for some time have gone on the theory that maybe they can have a gentler, kinder kind of communism there. Of course, it is an equally profound error.

Ever since the factors that led to the 1972 Nixon visit, and even then by the time the Chinese permitted President Nixon and his entourage to go to China—I was the one that reported it, and I do not remember anybody else mentioning it—but we had to guarantee them a downpayment of $10 million in gold, ostensibly to cover the cost of all that was involved in this tremendous entourage that President Nixon took.

But the reasons for the things that were done in 1972 no longer hold in China. Why? Because we have had at least three Secretaries of Defense, we have had two Presidents visit China, made commitments and receive deceptive assurances.

For instance, when 37 of our sailors died while patrolling the Persian Gulf and died as a result of a missile fired by, not Iran, but by Iraq, that missile was procured through China because we gave China, one of our Presidents, or Secretary of Defense, with great secrecy, provided China with the license to produce the so-called Silkworm missile. Then China, very much looking after its own national interests—and this is where I have been criticized and asked if I am an isolationist; I have said, of course, no, of course not. I never have been an isolationist. But I am a protectionist.

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Dog-gone right. I am a protectionist of the national interest. Everybody in our Nation looks out for No. 1 first and foremost, and they are expected to. We do not expect the country to go against its own national interest. Why should we? So, why should we then expect any of the other nations to ask us to yield on matters that now have to do with the basic independence and freedom, financial and economic, and our standard of life, which is what is at stake in the world today? But here was China selling to both sides also.

Mr. Speaker, I ask, "Why shouldn't they?" Even though our Presidents went over and came back—even Secretary Baker, as late as November 1991, came back and said, "Well, you know, the Chinese have given us assurance. They're not going to be selling any more of these armaments over to the Middle East," but the Chinese said, "Well, we will stop doing" what they denied just a year before.

But today where are we? Syria, whose President met with President Bush in Switzerland in 1990, when we were building up our expeditionary force, suddenly the Syrian leader becomes what? Less tyrannical? Less murderous than Saddam Hussein? No. But all of a sudden the enemy of our enemy is our friend, and it is this policy that is leading us constantly down a path that is detrimental to our national interest, and I think basically it is the disregard that our first President in his advice to us has given us, and I am going to quote:

> That nation which indulges towards another an habitual hatred or an habitual fondness is in some degree a slave to its affection, either of which is sufficient to lead it astray from its duty and its interests.

I will leave it with that, however I include for the RECORD various and sundry items relating to the subject of my special order today.

CREDITWORTHINESS ASSESSMENT OF IRAQ

Iraq will not be able to commit sufficient resources for foreign debt service over the next five years or longer:

The military absorbs a substantial share of Iraqi resources:

Long-term program for enhanced regional political power.

¼ of all adult males are on active duty in the armed forces.

Large military hardware purchases: fighters, etc.

Costly high-tech military production projects.

Military will absorb output of new civilian industries.

The "civilian" government also absorbs considerable resources:

Large, costly intelligence services and informer networks.

Costly government bureaucracies control most industry.

"Privatization" efforts are minimal.

Costly consumer price subsidies—including farm products.

Costly prestige projects—Basra and others.

The government fails to mobilize the private sector:

Military and government have first claim on resources.

Private business limited—by government—to small scale.

Government price controls constrain profits.

Traders forced to operate outside government FX system.

State banking system discourages private savings, investment.

The government's additional resources will be insufficient:

Oil revenues remain constrained by OPEC negotiations.

New industries: civilian FX contribution likely small.

Non-oil projects: will not be permitted to "stand alone".

Massive agricultural development is far off.

Iraq will make timely debt payments only to "favored creditors":

Iraq's debt strategy is not likely to change:

Iraq only repays those who offer larger amounts of new money.

Iraq attempts to force new money from creditors by defaulting, or threatening to default, on existing debt.

Iraq reschedules—on a bilateral basis—debts owed creditors who are unwilling to commit new money.

Iraq will not go to the Paris Club or otherwise adopt "normal" debtor-creditor relations.

Export credit agencies seek to reverse Iraq's strategy:

Only ECGD—backed by HM Treasury—provides MT project cover.

Other ECAs link ST cover to specific amounts of repayments.

ECA terms: pre-84 debt repaid first, post-83 debt rescheduled.

Political element to rescheduling negotiations: Italy & Japan.

Iraq's strategy toward Eximbank:

Iraq seeks small MT program as a "foot-in-the door."

Iraq will seek much larger Exim programs thereafter.

Iraq using U.S. exporters to lobby for new credit.

Iraq will maintain ST payments while MT is on Exim agenda.

Exim can expect Iraqi "Favored Creditor" status as long as:

Exim commits to consecutively larger lending programs.

Source: 1989 Eximbank.

Fm: SECSTATE WASH DC.
To: AMEMBASSY Baghdad Immediate
Info: Gulf War Collective Immediate
Subject: Secretary's October 6 Meeting With Iraqi Foreign Minister Tariq Aziz

1. Secret—entire text.

2. Summary: On October 6 Secretary Baker met with Iraqi Foreign Minister Tariq Aziz. Aziz emphasized his government's strong desire for the very best possible relationship with the United States, but said his government had received "signals" that this might not be the U.S. Government's attitude. He mentioned, (1) the negative remarks about Iraq intentions in the gulf made to other governments by U.S. officials, (2) USG-placed obstacles to Iraqi efforts to rebuild its economy technology transfer, and (3) congressional actions against Iraq. He also said "some American agencies" are trying to destablize Iraq. Finally, he complained about a USG decision to cut CCC credits for FYSG from over dols 1 billion to dols 488 million. The Secretary assured the Foreign Minister of our desire for good relations with Iraq. At the same time, the Secretary confirmed U.S. concerns globally about the transfer of sensitive technology related to proliferation. He also deserved that while the administration had opposed congressional moves to place sanctions on Iraq, the Congress had been influenced strongly by GDI's use of VW which did have a very negative impact. He asked for more details about alleged U.S. efforts to destabilize Iraq so that he could investigate it fully. Regarding CCC credits the Secretary said he understood the dols 400 million in credits now offered by USG was an interim commitment. The Fed and Treasury are worried about Iraqi involvement in the Atlanta BHL bank scandal and wish to defer commitment on the full level of CCC credits until their investigation is completed. Aziz said this was a banking problem and not one that involved the GDI. Aziz made clear a solution needed to be found quickly. Iraq is particularly worried about the impact of this decision on its ability to meet food import requirements in 1990. The Secretary said he would look into the matter immediately. The two sides also discussed briefly the Middle East peace process and Lebanon. End summary.

3. The Secretary warmly welcomed Iraqi Foreign Minister Tariq Aziz to the Department on October 6. We noted their inability to find a mutually acceptable time to meet in New York and said we appreciated Aziz willingness to come to Washington. The Secretary said the U.S. values its relationship with Iraq and wants to see it strengthen and broaden. Our dialogue on human rights will help. We also noted with pleasure Iraq's participation in CW conferences. Regarding the Stark claims, the Secretary welcomed Iraq's payment of wrongful death compensation and observed that this set the stage for early conclusion of the remaining claims. We ended his introductory remarks to again stress the U.S. desire for good relations saying there was all the potential to move the relationship in a positive direction.

4. Aziz responded with warmth that we had good relations with Secretary Shultz and many other senior American officials. He said we had always conducted his conversations in a friendly and open manner and hoped we could continue to do so with the Secretary. It leads to much better understanding. The Secretary encouraged him to do so. Aziz said we wanted to state clearly and unequivocally that Iraq wants good relations with the U.S. on the basis of mutual respect and understanding. He said he wanted it understood that while this had been stated in time of war when diplomatic relations were restored, he was saying it now after a ceasefire had brought the active fighting in the war to an end. We strongly believe he said, that good relations between us is in the best interests of the U.S. and of the region.

5. Aziz continued that he greatly appreciated the Secretary's assessment of bilateral relations; but frankly speaking in the spirit of friendship, Iraq has not seen "enough improvement" in the relationship since the ceasefire. In fact Iraq had received a number of signals which were rather disturbing. We listed four: (1) After the ceasefire the GOI got a number of reports from several capitals that senior U.S. diplomats were approaching officials in the gulf raising suspicion and fear regarding Iraqi intentions in the region. Aziz said this disturbed the GOI greatly because during the war we had discussed the gulf region in a frank manner. Iraq has said clearly that it wants to maintain the whole region intact—including the individual countries—and that it has no bad intentions against any of them. He stressed that Iraq's objective was and is good relations with them all, particularly Saudi Arabia and Kuwait. Hence, he said the GOI is perplexed and concerned about U.S. motivations.

6. Secondly, Aziz said the U.S seemed to have a negative approach to Iraqi post-war efforts to develop its industry and technological base. Aziz emphasized that the GOI had clearly stated that its current goals and objectives were to reconstruct and restore the economy. Our desire, he said, is to develop the country for our people—to raise their standard of living. Implying this massive effort was being misrepresented, Aziz declared that all this was being done for Iraq and her people. No objective directed against any other country in the region lay behind Iraqi development activities. Aziz then complained of a propaganda campaign against

Iraq in the U.S.—particularly by the Congress. He noted congressional moves to legislate economic and political sanctions.

7. Finally, and most seriously, Aziz stated that lately there had been reports that "some American agencies" are trying to destabilized Iraq. He said he had no details and had heard only the reports just as he was leaving Baghdad. He said he felt it was important to mention this to the Secretary. The Secretary indicated his surprise at such reports and said he would like more details as quickly as possible so he could look into it immediately. Aziz undertook to try to get more details.

8. Aziz closed with a final point on U.S.-Iraqi commercial relations. He noted that up to now this had been a very positive aspect of our bilateral relationship. The USG, he said, had allocated CCC credits of over dols 1 billion in FY89, making the U.S. Iraq's major supplier of agricultural products. He told the Secretary that he had just learned from the Iraqi agricultural team, now in Washington to reach agreement on a program of similar size for FY90, that the U.S. was prepared to agree to only dols 400 million in credits at this time. The CCC program was being linked to the BNL Atlanta branch scandal of which Iraq had no part. The minister made it clear this was not a sign that the U.S. wanted improvement in relations. It is in fact a setback and GOI is very unhappy.

9. The Secretary said he wished to respond to the minister's points. He said he heard the desire for better relations and that was the U.S. objective as well. He asked Aziz to note that the U.S. had been in the forefront in focussing on the POW repatriation issue at the UNSC during the meeting on renewing UNIIMOG's mandate. As to efforts to destabilize Iraq, the Secretary repeated that our desire is to improve relations with Iraq and he urged Aziz to give him further details as soon as possible. Regarding technology, the Secretary admitted the U.S. does have concerns about proliferation, but they are world wide concerns. He suggested that we work together on specific requests so the U.S. can understand Iraqi needs and objectives and Iraq can hear what concerns us. Regarding Aziz point on congressional criticism. The Secretary noted that the administration never supported sanctions on Iraq and that he personally had so testified. The Secretary added that congressional actions were limited to Iraqi use of CW during the war. Our position continues to be that we need to look forward, not backward.

10. Turning to CCC credits, the Secretary said he was aware that a problem existed. It was his understanding that the DOLS 400 million which the USG was now ready to approve is an interim allotment. The balance of the program was being held pending further investigations into the BNL banking scandal. He noted Iraq had received about DOLS 3 billion out of DOLS 4 billion of the unauthorized loans. The Fed and Treasury, he explained, want some restraint in further credits to Iraq until this banking problem is more thoroughly investigated. Aziz defended the GOI, arguing that they were not involved in any illegal actions. If the bank had willing to make loans under such good terms, any customer would have said it was the bank not the customer who had the problem. Aziz said he had met with the Italian Minister of Finance who said Iraq was not involved. If the Government of Italy is not taking action against Iraq, it is strange that the U.S. is. Iraq, he said, was always punctual with its payments to the U.S. He continued that Iraq was relying on U.S. cooperation in a number of areas and such actions to restrict programs called into question whether the U.S. would be a reliable trading partner. Food was a particularly explosive area because the Government must feed its people. We said the Iraqi delegation was very concerned that failure to agree to the full program now would force Iraq to search immediately for alternative suppliers and such suppliers may not be available. U.S. actions will sour relations, he concluded.

11. The Secretary asked if GOI is cooperating with the Fed investigation, indicating this was important to do. Acting Assistant Secretary Covey noted there were some concerns that there may have been some wrongdoing traceable to Iraqi officials. Aziz said that Iraqi Central Bank Governor and Minister of Finance had been in Washington, met with U.S. officials, and were told the GOI was not involved. If Iraqi officials were implicated, the GOI wanted to know immediately. He stressed Iraqi pride in rooting out corruption and said GOI would surely act on any information available to it. When the Secretary asked if GOI would make available any official implicated in the affair, he said he did not know. It would depend on the information. Aziz again repeated the urgency of solving this matter quickly. The Secretary said he wanted to find a way to solve it and the USG may need assurances from GOI that it will aid in the investigation. He assured Aziz that we would immediately look into what could be done and let him know what other U.S. agencies might need from GOI.

12. The Secretary said he had several subjects that he wished to raise. On the search for peace in the Middle East, we asked Iraq to consider supporting the Egyptian ten points. The Secretary said the U.S. is working hard to keep the peace process going. Both Egypt and Jordan are partners with Iraq, had been very helpful. Iraq's endorsement of the Egyptian ten points would be a big help. Aziz said Egypt had discussed the ten points with Iraq and Arafat, too, had recently been in Baghdad. The GOI, he said, was pleased and supported the joint efforts by Egypt and the PLO. Aziz noted that Iraqi support was well known in the region. It was, however, Iraqi policy to refrain from public statements on the peace process. A policy Iraq would maintain. Talk, particularly from parties not directly involved, may complicate the issue.

13. The Secretary raised Lebanon saying we strongly supported the Arab League tripartite committee effort and understood Iraq did too. He said he wanted to see all foreign forces leave Lebanon. We have supported a role for General Aoun in the process and hope he will stay committed to the AL effort. The Secretary said we had hopes that Iraq would too. We are encouraged, he concluded, by the initial reports coming out of Taif. Aziz affirmed that Iraq does indeed support the AL effort noting that when they had asked Iraq to stop sending arms to Lebanon Iraq had agreed. Iraq had advised Aoun to support the meeting in Taif. Aziz stressed the historic nature of the meeting—the first time Lebanese members of parliament had been able to discuss their problems under an Arab League umbrella and not under Syrian domination. Syria, after all, was a party in the Lebanese dispute. Aziz also said Iraq had encouraged the Christians to accept reform (the 50/50 formula). Times had changed and the old systems are no longer valid, we said. The question of the Syrian presence, however, had to be faced and resolved. A new government and new president could not function under Syrian domination. They would be hostages—just as Salim Al-Nuss and some other Lebanese officials are now in West Beirut. At a minimum, Aziz argued, there had to be a free environment in the capital. The Syrians, he said, do not have to withdraw immediately and President Hussein had told Asad this in Casablanca. Aziz concluded that Saddam Hussein had, at King Fahd's request, sent a message to Aoun October 5 urging him to cooperate with the AL committee and Saudi Arabia to achieve a successful outcome of the Taif meeting. Aziz said Iraq had great confidence in King Fahd and would give him all support possible.

14. Participants: Iraqi Foreign Minister Tariq Aziz, Iraqi appointed Ambassador in Washington, Mohamed Sadiq Al-Maskat, MFA International Organizations Director Riyadh Al-Gaysi, and Aziz Chef Du Cabinet Kamal Issa. The Secretary, under Secretary Bartholomew, Assistant Secretary Tutwiler, Policy Planning Director Ross. Acting HEA Assistant Secretary Covey, and HEA Deputy Assistant Secretary Edward W. Ghenm, Jr. (notemaker) comprised the U.S. side. Baker.

U.S. DEPARTMENT OF STATE,
Washington, DC, October 11, 1989.

MEMORANDUM FOR THE SECRETARY

Subject: CCC Credits for Iraq.

I have looked into the problems concerning USDA's Commodity Credit Corporation (CCC) program for Iraq. There are three distinct but related problem areas:

1. Creditworthiness.
2. Allegations of corruption in the operation of the Iraqi CCC program itself.
3. The Italian Banca Nazionale de Lavoro (BNL) agency office scandal in Atlanta.

CREDITWORTHINESS

The Fed, Treasury and EXIM have all been concerned about Iraq's credit record for several years. During the war years the Iraqis became notoriously bad creditors defaulting or unilaterally rescheduling billions of dollars of official and commercial credit and refusing to even discuss the matter in the Paris and London Clubs. Because of the extenuating circumstances and the country's substantial economic potential, not to mention the opportunity to profit from the war recovery program, this has never been a big stumbling bloc for Iraq's other major trading partners like Japan, France and West Germany.

Iraq's repayment record on the CCC program has been good. There is, however, some concern about the large amount of credit outstanding (about $1.7 billion) and heavy debt service (some $800 million a year), especially since Iraq already accounts for about 20 percent of the total CCC program. Despite these concerns by Treasury and the Fed, USDA has been disposed to continue the program at the $1 billion a year level, in part, not to unnecessarily anger the Iraqis and trigger a default that could jeopardize the whole CCC program.

Creditworthiness, therefore, while a legitimate concern, is not a major driving factor for reducing the Iraq CCC program. All other things being equal, USDA would continue on at the $1 billion plus level indefinitely and the Fed and Treasury would probably acquiesce.

Exim has refused to provide medium-term credit to Iraq until they agree to multi-debt rescheduling of official debt. The Bank's $200 million insurance program has also been "suspended" until the $6.2 million in arrears is repaid.

CORRUPTION

Several investigations (IRS, DOD, USDA, FBI) reportedly are looking to allegations of widespread and blatant "irregularities" in the CCC program for Iraq. Hard information is difficult to obtain, but apparently there has been substantial overpricing of some commodities (double and triple wholesale prices), diversion and trans-shipment of commodities outside Iraq and financing of non-U.S. origin goods. There is even one report that the Iraqis used the proceeds for arms purchases.

None of this, of course, has yet to be proven. Nor is it clear how long these investigations will take and whether or not indictments will eventually be handed down. And even if they are, if may never be clear how much, if any, Iraqi official complicity there was.

BANCA NAZIONALE DE LAVORO (BNA)

The unfolding BNA scandal is directly involved with the Iraqi CCC program and cannot be separated from it. Of the $4 billion of unauthorized loans involved, about $1 billion were CCC guaranteed. (*is trying to obtain the details from the U.S. attorney in Atlanta.) Treasury and the Fed, however, find it hard to believe that Iraqi Central Bank officials and others were not aware of what was going on given the apparent scale of loans, kickbacks, deeply discounted interest rates and other gross irregularities. Indictments of U.S. citizens are expected by the end of this year, although no legal moves against Iraqi officials are contemplated at this point.

It is also worth noting the president of Iraq's central bank and the finance minister reportedly have been arrested for unknown reasons in the past several days.

RESPONSE TO IRAQIS

Given the above apparent problems with the Iraq CCC program, it would seem wise to proceed with caution and prudence. We should not jump to conclusions before all the facts are known; nor should we continue with business-as-usual.

USDA, acting against the advice of the Fed and Treasury, but with the support of the other NAC members (including State), recently approved a "first tranche" of $400 million in FY 1990 CCC credits for Iraq—about one-third of the planned annual program or enough to keep the pipeline open until January at about the same volume as last year. They have told the Iraqis that approval of additional credits will depend on the outcome of the ongoing investigations into the BNA scandal and charges of corruption in the operation of the CCC program.

The Iraqis are taking an "all or nothing" approach, insisting that they have done nothing wrong and will be hurt badly if the annual CCC program is substantially cut. Iraq, in fact, is a consistent net importer of food and other commodities and undoubtedly benefits considerably by the CCC program. Certain painful adjustments would undoubtedly have to be made at a time when the government is hard-pressed for foreign exchange.

On balance, I think the USDA approach is prudent and proper under the circumstances. No options are foreclosed and, at least until the pipeline dries up, the Iraqis are not being prejudged until the facts are known and acted upon by U.S. authorities.

In the meantime, this situation should be kept under close policy review because the stakes are big. We need export markets, and Iraq is a large potential market and as the war-induced imports are replaced by commercial purchases, this market will undoubtedly increase in the next decade.

Once the facts are all known, it may be possible to correct the problem by building in safeguards against future possible abuses and then resuming the Iraq CCC program at previous levels. We will want, in any event, to avoid taking punitive action against the whole Iraqi government and population for the sins of some corrupt officials if they are brought to justice.

STATE,
Washington, October 27, 1989.

MR. SECRETARY: When this issue first emerged, ——— office was screaming caution on our involvement in this CCC exercise with Iraq. Ten different U.S. Government agencies were investigating various aspects of potential fraud in Iraq's past CCC program, and no one really knew just how far and deep the corruption went.

I was then reluctant to advise you to proceed with this matter until we had an opportunity to dig deeper into the potential corruption, and until the Department of Agriculture had an opportunity to follow through on my suggestion to devise a new CCC program with Iraq that would insulate us against corrupt elements.

I gather that a sanitized CCC program with Iraq is devised. In the meantime the top GOI ministerial team associated with the CCC program has been removed. You also now have a formal recommendation from ——— that we proceed on this matter.

Assuming that USDA finalizes a sanitized CCC program, I recommend that you assert to Yeutter the political and economic rationale for going forward with this whole program, by tranche, to the $1 billion level. If we are comfortable with a $400 million exposure, based on our new anticorruption safeguards, we ought to be comfortable with a billion dollar program.

[Confidential]

U.S. DEPARTMENT OF STATE,
Washington, DC, November 7, 1989.

BRIEFING MEMORANDUM

To: P—Mr. Kimmitt.
From: ———.
Subject: NAC Deputies Meeting on the CCC Program for Iraq November 8, 1989, at Treasury, 0900.

I. KEY POINTS

In early October, Iraq rejected USDA's offer of an "interim" FY90 program of $400 million in Commodity Credit Corporation (CCC) credit guarantees. At the urging of Secretary Baker, USDA has proposed a full, billion-dollar CCC program for Iraq with built-in safeguards to ensure Iraqi compliance with CCC obligations and cooperation with the U.S. Attorney's investigation of the Atlanta branch of the Italian-owned Banca Nazionale del Lavoro (BNL). On November 3 the National Advisory Council (NAC) declined to make a recommendation on the new USDA proposal, preferring instead to refer the decision to the policy level.

Our goal for the NAC Deputies meeting is to obtain NAC approval for USDA's full billion-dollar CCC program, with safeguards, for Iraq. Rapid action is crucial, because Iraq has already begun to explore alternate sources of supply.

II. INTERAGENCY POSITIONS

The Federal Reserve and Treasury, reflecting the views of OMB (which is not in the NAC), oppose a CCC program for Iraq. They note that Iraq has failed to make payments on some of its $30–40 billion debt to non-Arab creditors. They also support OMB's contention that allegations of Iraqi wrong doing in the BNL case, though not backed by evidence at this time, could eventually embarrass the Administration. USDA responded to OMB's specific concerns on BNL, but OMB (and Fed and Treasury) claimed to have continued, unarticulated "uneasiness" regarding the BNL case. OMB's concern stems from its post-HUD watchdog role. It is not clear whether a meeting between OMB and the USDA on 11/7 allayed OMB concerns.

State strongly backed USDA in the November 3 NAC. The other NAC members—AID, USTR, Commerce and EXIM—did not speak at the meeting. USTR reportedly is leaning against USDA's proposal. However, AID can generally be depended upon to follow State's lead and EXIM has privately indicated support, since it has its own short-term program of credit guarantees. The Commerce representative will support the State position if the argument is made on foreign policy grounds.

III. PROPOSED STRATEGY

The Deputy Secretary has laid the groundwork by calling Deputy Secretary Robson at Treasury to urge acceptance of the full program, and he plans a similar call to OMB. USDA briefed OMB November 6, emphasizing that the U.S. Attorney does not intend to indict Iraqi officials in the BNL case on the basis of the evidence to date. You should strongly urge, on policy and commercial grounds, that the NAC Deputies approve the full package, with safeguards, submitted by USDA.

[Confidential]

TALKING POINTS FOR NAC DEPUTIES MEETING, NOVEMBER 8, 1989

The CCC program is crucially important to our bilateral relationship with Iraq. State strongly supports immediate action by the NAC Deputies to approve the new program proposed by USDA.

In NSD-26, the President mandated that we seek to improve and expand our relationship with Iraq. At present, trade is central to that relationship and credits guaranteed by CCC finance a large part of that trade.

(In response to the point that Iraq cannot service existing debt and that we are digging ourselves into a hole by providing new credits:)

Iraq's record of repayment to us is good, and the Iraqis have told us we have priority over other creditors. Iraq has oil reserves second only to Saudi Arabia. In addition, we should not take action that would harm U.S. exporters.

(In response to the point that we should not go forward with a new program in light of the BNL scandal;)

On the basis of the evidence we have there is no reason to derail future programs. We have a pledge of Iraqi cooperation with an investigation into the NBL issue, in response to the Secretary's request to the Iraqi Foreign Minister. No investigating agency has put any specific questions to Iraq.

Past problems are a reason to make sure there are adequate safeguards in a new program—not a reason to stop the program in its tracks to the detriment of our foreign policy interests.

We support a program of up to one billion, released in tranches, with periodic compliance reviews. These safeguards should protect us if problems are uncovered in the future and help assure Iraqi cooperation in the investigation.

I urge immediate approval of the full program of CCC credit guarantees, with safeguards, proposed by USDA for Iraq.

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*State

U.S. DEPARTMENT OF STATE,
Washington, DC, November 6, 1989.

To: The Acting Secretary—Eagleburger.
Subject: CCC Program for Iraq.

ISSUE FOR DECISION

How to expedite approval of a full CCC program for Iraq.

ESSENTIAL FACTORS

The Secretary has determined that policy considerations warrant support for a full, $1 billion program of Commodity Credit Corporation (CCC) credit guarantees for Iraq, provided the program is protected by safeguards, such as disbursement in tranches, that would ensure Iraqi compliance with CCC obligations and cooperation with the investigation of the Atlanta branch of the Italian-owned Banca Nazionale del Lavoro (BNL). The Iraqis rejected a USDA offer of a $400 million "interim" in early October because they believed so drastic a cut from the $1.1 billion FY89 program would be widely viewed as a U.S. vote of no confidence in Iraqi debt policy. The Secretary telephoned Secretary Yeutter October 31 to urge that USDA propose a full program with adequate safeguards (Tab A).

USDA presented its new proposal for a full, billion-dollar program to the National Advisory Council (NAC) on November 3 (Tab B for membership and function of the NAC). The NAC declined to make a recommendation on the USDA proposal, electing instead, at Treasury's request, to bump the decision up to the political level; an Alternates' (Assistant Secretary level) meeting is to take place this week. Treasury and the Fed formally moved to block a decision in the NAC, acting at the behest of OMB. OMB, though not a member of the NAC, led the opposition to USDA's proposal at the November 3 meeting. Noting that OMB is administration watchdog against scandal, OMB complained of continued uncertainty regarding the Iraqi role in the BNL affair and that the Iraq CCC program was too big, given Iraq's recent failure to make timely payments on debt to some creditors. (OMB's real problem may be less with Iraq per se than with some serious accountability questions regarding the entire CCC program.) USDA responded to OMB, noting that the legal situation with regard to BNL remained unchanged, that there were no current plans to indict Iraqi officials, and that Iraq's record on repayment of CCC-guaranteed credits was spotless (Tab A). The NAC members, however, were content to kick the problem to a higher level. Only State spoke out in support of the USDA proposal.

Time is a factor. USDA has yet to register a single purchase by Iraq from U.S. commodity suppliers in FY90, and the Iraqis have begun to explore alternate sources of supply. A significant potential market for U.S. exporters is therefore at risk. USDA wants an Alternates' meeting as soon as possible, and it may take place as early as the afternoon of November 7.

RECOMMENDATION

That you telephone Treasury and OMB and urge that an Alternates meeting take place as soon as possible to approve USDA's proposed full program of CCC credit guarantees, with safeguards, for Iraq.

U.S. DEPARTMENT OF STATE,
Washington, DC, November 8, 1989.

To: The Acting Secretary.
Subject: Letter to Treasury Deputy Secretary Robson on a CCC Program for Iraq.

In your conversation earlier today, Department of the Treasury Deputy Secretary John Robson asked that you send him a letter outlining the policy reasons for which State strongly backed USDA's proposal for a full, billion-dollar program of Commodity Credit Corporation (CCC) credit guarantees, with safeguards, for Iraq. Attached is a letter for your signature that outlines those policy considerations. It essentially follows the talking points provided for your telephone conversation with Mr. Robson.

RECOMMENDATION

That you sign the attached letter to Deputy Secretary Robson.

Attachment—Proposed letter to Deputy Secretary Robson.

DEPARTMENT OF STATE,
Washington, DC, November 8, 1989.

Hon. JOHN E. ROBSON,
Deputy Secretary of the Treasury,
Washington, DC.

DEAR JOHN: Further to our discussion, on foreign policy grounds we support the Department of Agriculture's proposal for a full, billion-dollar program of Commodity Credit Corporation GSM-102 export credit guarantees in FY 90, with adequate safeguards, for Iraq.

In addition to the near-term benefits for agricultural sales, the CCC program is important to our efforts to improve and expand our relationship with Iraq, as ordered by the President in NSD-26. Iraq is a major power in a part of the world which is of vital importance to the United States. Our ability to influence Iraqi behavior in areas from Lebanon to the Middle East peace process to missile proliferation is enhanced by expanded trade. Also, to realize Iraq's enormous potential as a market for U.S. goods and services, we must not permit our displacement as a major trading partner.

With regard to the real concerns which arise from the investigation into the operations of the Atlanta branch of the Banco Nationale de Lavoro, we have received from the Government of Iraq a pledge of cooperation. Our intention is to hold Iraq to this commitment and to work with the Department of Agriculture to ensure that the problems with the program in the past are fully resolved in a new program. The safeguards proposed by USDA, including disbursement of the CCC guarantees in tranches, buttress the program and merit our backing.

I appreciate your support in this connection.

Sincerely,
LAWRENCE S. EAGLEBURGER,
Acting Secretary.

U.S. DEPARTMENT OF STATE,
Washington, DC, October 26, 1989.

To: The Secretary.
Subject: The Iraqi CCC Program.

ISSUE FOR DECISION

Whether to push for a full CCC program for Iraq.

ESSENTIAL FACTORS

Over the last five years USDA's Commodity Credit Corporation (CCC) has guaranteed some $4 billion in loans for U.S. agricultural exports to Iraq under its GSM program, which Iraq so far has repaid on schedule. This year, concern over possible Iraqi involvement in the scandal in the Atlanta branch of Italy's Banco Nazionale del Lavoro (BNL) caused USDA to withdraw its first, billion-dollar offer for FY 90 and put forward instead an "interim" program for $400 million. The Iraqis, believing so large a reduction would be widely viewed as a U.S. vote of no-confidence in their economy, rejected the 400 million. They hope we will come back offering the full program but also have begun to hedge their bet by looking into other sources of supply. Tariq Aziz raised the issue with you on October 6, and you promised to look into it personally.

Earlier this month, the President signed NSD-26, mandating pursuit of improved economic and political ties with Iraq. Since last year's cease-fire in the Gulf War, trade has become the central factor in this relationship. Iraq is now our ninth largest customer for agricultural commodities, and the U.S. is Iraq's largest supplier of non-military goods. Iraq has signalled the importance it places on the relationship by giving first priority to repaying CCC-guaranteed loans at a time when it faces severe financial difficulties. (Treasury and the Fed cite these difficulties—Iraq has failed to make some payments on its $30-40 billion debt to non-Arab creditors—in opposing any FY 90 CCC program for Iraq.) Our ability to influence Iraqi policies in areas important to us, from Lebanon to the Middle East peace process, will be heavily influenced by the outcome of the CCC negotiations.

USDA has looked into the BNL investigation and * * * has spoken with USDA and independently with the U.S. attorney's office in Atlanta. * * * believes the investigation is largely focussed on widespread, systematic banking fraud by persons working for BNL or under consulting relationships with BNL. It may also involve several high Iraqi officials, though this is unclear. USDA, which has come under pressure from U.S. exporters, is prepared to reopen talks with Iraq, but leans toward a partial offer. We doubt the Iraqis would accept this, unless it includes a U.S. commitment to complete the program early next year. In view of the evidence available, * * * believes that, to wall off a FY 90 CCC program from the BNL investigation, it is sufficient to exact Iraq's promise to cooperate in the investigation into past practices and to cooperate with USDA in establishing monitoring procedures and safeguards for future deliveries. The CCC contract could be discussed as a full program but include built-in, periodic reviews and related disbursement in tranches to ensure Iraqi compliance with CCC obligations and cooperation with the BNL investigation. In this regard, Tariq Aziz responded positively to your message of October 23 and—in an unprecedented step for Iraq—promised Ambassador Glaspie full cooperation in the BNL investigation. To date, no investigating agency has asked Iraq for help.

DISCUSSION OF OPTIONS

There is no point in going back to the Iraqis with a partial program they have already rejected, especially when it seems clear they would accept reviews and other reasonable safeguards. Offering a program of up to $1 billion would strengthen relations with Iraq, in line with NSD-26, and help U.S. exporters. * * * favor. * * * first instinct is to give USDA leeway in negotiations, but * * * supports on commercial grounds a program with safeguards, made available in tranches, that could go up to the full amount.

RECOMMENDATION

That you telephone Clayton Yeutter to urge that we go forward rapidly with a CCC program, with safeguards and to be made available in tranches, that could go up to the full $1 billion, provided the review process turns up no evidence of Iraqi wrong doing. Talking points attached.

TALKING POINTS

The CCC program is crucially important to our bilateral relationship with Iraq. We strongly support your effort to reinstitute it.

Obviously we should not go forward with the program if we have substantial evidence of a pattern of serious violations of U.S. law by high-ranking Iraqi officials. Our information about the investigation indicates that the prosecutor does not now intend to indict Iraqi officials.

On foreign policy grounds, we support a program of up to one billion, released in tranches, with periodic compliance reviews.

Given the allegations, we believe safeguards should be built in to ensure the alleged problems do not recur.

The Iraqi Foreign Minister, with whom I talked, has now pledged Iraq's cooperation with the investigation.

My legal adviser, Abe Sofaer, is prepared to work with USDA's lawyers to secure Iraqi cooperation in developing adequate safeguards for the Iraq CCC program.

With safeguards, I hope we can get this important program back on track quickly.

FUNCTION AND COMPOSITION OF THE NATIONAL ADVISORY COUNCIL

The National Advisory Council (NAC) was established by statutory authority to advise the President on general policy directives for the International Monetary Fund, the multilateral development banks, the Export-Import Bank and other agencies that participate in making foreign loans or engage in foreign financial, exchange or monetary transactions. It is composed of the Secretary of the Treasury, who is chairman of the Council; the Assistant to the President for Economic Affairs, who is Deputy Chairman; the Secretary of State; the U.S. Trade Representative; the Secretary of Commerce; the Chairman of the Board of Governors of the Federal Reserve System; the Chairman of the International Development Cooperative Agency; and the President of the Export-Import Bank. By Executive Order, the President has delegated to the Secretary of the Treasury most of the functions and responsibilities conferred on him in the setting up of the NAC.

In practice, the NAC meets weekly at the working level and generally makes its recommendations on the basis of a majority vote of the seven members routinely in attendance (Treasury, State, the Fed, AID USTR, Commerce and EXIM). In cases in which the NAC cannot or prefers not to make a decision, or on the strong request of one of its members, consideration may be moved up to the polity level through the convening of an NAC alternates' Meeting.

TALKING POINTS FOR CALLS TO TREASURY AND OMB

The CCC program is crucially important to our bilateral relationship with Iraq. State strongly supports action by the Alternates' meeting to approve the new program proposed by USDA.

We realize that Iraq has had problems paying its debts recently. However, the Iraqi economy survived the war in surprisingly good shape, and Iraq sits atop immense oil reserves. Its record on repayment of CCC-guaranteed loans is spotless.

Obviously, we should not go forward with the program if we have substantial evidence of a pattern of serious violations of U.S. law by high-ranking Iraqi officials. However, the most recent available information about the BNL investigation indicates that the prosecutor does not now intend to indict Iraqi officials.

On foreign policy grounds, we support a program of up to one billion, released in tranches, with periodic compliance reviews. These safeguards should protect us if problems are uncovered in the future and help assure Iraqi cooperation in the investigation.

Given the allegations, we believe safeguards should be built in to ensure the alleged problems do not recur.

The Iraqi Foreign Minister has promised the Secretary Iraqi cooperation with the BNL investigation.

With safeguards in place, we can get this important program back on track.

I urge that the NAC Alternates Meeting be convened as soon as possible to approve the full program of CCC credit guarantees, with safeguards, proposed by USDA for Iraq.

NATIONAL ADVISORY COUNCIL DEPUTIES MEETING, NOVEMBER 8, 1989

Treasury representative opened the meeting by stating that there were two issues that should be addressed with respect to the proposed extension of new CCC guarantees to Iraq in FY 1990: (1) the question of Iraqi creditworthiness and (2) the implications of the Banca Nazionale del Lavoro (BNL) investigation and the uncertainties it created for the proposed program for Iraq. He stated that the proposed FY 1990 program should be evaluated, first, on the basis of the agencies' judgment that the 1990 program was a responsible action from a programmatic standpoint, and, second, from the standpoint of having to defend the program to a hostile Congressional committee or the media if a worst case scenario—involving criminal conduct in connection with the program on the part of banks, exporters, or the Iraqis—came about. He indicated that this possible worst case scenario should be weighed against the agricultural, trade, and foreign policy considerations involved in a decision on whether to proceed with the program. He then referred the meeting participants to two background papers prepared by Agriculture which outlined 1) the status of the BNL investigation and 2) a country risk analysis of Iraq, and asked Agriculture for his comments.

Agriculture representative noted that the BNL investigation had, thus far, resulted only in allegations of violations and that the Department of Agriculture representative had advised the Department in writing that there was not an evidentiary basis for withholding approval of a new CCC transaction with Iraq. Furthermore, he said, many of these alleged violations were internal BNL bank matters not associated with the management of the GSM program for Iraq. He added that while eventually it might be proven that certain BNL bank officers had been engaged in violations of the banking laws, such possible violations would not necessarily implicate Iraqi officials or others directly connected with the CCC program. These possibilities had to be weighed against the value of one billion dollars in export sales—to a country, he noted, that accounted for 20 percent of all U.S. rice exports and was the tenth largest U.S. agricultural export market. He said that in his view the benefits of approving the program far exceeded the risks.

The Department of Agriculture continued by noting that Iraq normally entered the market at that time of the year. He added that the United States was already five weeks late in its export credit negotiations with Iraq, and, accordingly, there was a risk of our losing the market for our exports.

As to a worst case scenario, Agriculture representative said that his position would be that, based on all available evidence, the decision to go ahead with the GSM program was appropriate and correct. He stated that in this country innocence is assumed until proven otherwise and it was therefore improper to penalize the Iraqis for unproven allegations. Noting that the one billion dollar program was to be offered in two tranches, he suggested that if wrongdoing on the Iraqis' part were proven, the unused portion of the first tranche could be withdrawn and the second tranche not released. He summarized by noting that he had to make immediate buying decisions, and that third parties were willing to fill these agricultural needs at the expense of U.S. exporters. He concluded that there was a strong need to move ahead expeditiously with a FY 1990 GSM program for Iraq.

Department of State representative stated that his comments reflected the views of State, who believed that the GSM program in Iraq was crucial to the U.S. bilateral relationship with Iraq. He noted that in "National Security Decision 26" the President had called for improvement of the U.S. relationship with Iraq, and bilateral trade expansion offered a good means to achieve that end. He noted that Iraq was key to the achievement of our objectives in the Middle East, the Gulf, and Lebanon. To abruptly terminate the GSM program in Iraq would, he said, clearly run counter to the President's intention and would, furthermore, cause a deterioration in our relationship with the Iraqis. Any such deterioration, he contended, would create difficulties in ongoing discussions on other issues, e.g., the Middle East peace process, human rights, and proliferation of missile and chemical weaponry. He noted that Treasury had called to express its support for an ongoing GSM program in Iraq. He also noted that the Iraqi Foreign Minister had given assurances that Iraq would cooperate fully with the investigation. Finally, he stated that, despite possible future revelations, overwhelming foreign policy considerations led him to urge support of the proposal, based on information available at that time.

OMB representative said that, while he was aware that OMB was not a voting member of the NAC, his agency's mandate to oversee the management of Government programs had led him to request an interagency review of the GSM-Iraq program. He applauded Agri for bringing a potential problem to the attention of OMB, stated that he was satisfied that the allegations had been taken seriously, and indicated that he did not want to express an opinion on the issue. Noting that the decision on approval of the program would involve a balancing of risks, he expressed confidence that the eventual outcome would be prudent and correct.

Department of Commerce representative, noting Iraq's large external debt and questions surrounding its creditworthiness, voiced an uneasiness with the proposed program. However, noting the foreign policy concerns of State and the large export market that Iraq represented, he said that Commerce did not want to obstruct the proposal. In response to a question from Treasury, he said that his agency was not opposed to the program but felt that tranching and other safeguards were necessary.

Eximbank representative said that he viewed the NAC as a forum for consideration of political, not country creditworthiness, issues. He noted Eximbank had supported the CCC on its Iraq proposal in the past and would do so at this meeting. He also noted that Eximbank was currently open in Iraq with a short-term $200 million revolving line of credit. The Iraqis, he said, were currently delinquent by $12 million as of September 30, 1989, and Eximbank, therefore, would be reluctant to expand its exposure from the short-term facility.

AID/IDCA representative stated that since AID/IDCA was not active in Iraq, his agency had no position on the current proposal.

Federal Research Representative stated that, despite assurances on several points gained from the Agriculture Department papers, there was still more about the BNL affairs that had yet to be brought to light. He said that he was reassured, however, that the investigation had not yet revealed culpability on the part of the Iraqis. Nevertheless, he cautioned, it would be unrealistic to think that the entire BNL affair would be settled before the second tranche was released sometime in 1992.

Furthermore, Federal Reserve said, the BNL affairs notwithstanding, there was still the question of credit risk with respect to Iraq. While he stated that he understood the need to make a sale to a customer, it was just as important that the customer pay. He cautioned that extending 20 percent of the CCC's guarantee authority for a fiscal year to one country was not desirable in terms of risk management—especially when that country was engaged in unilateral debt reschedulings. Finally, noting the foreign policy considerations brought forward by State, Federal Reserve said that he, too, did not want to be obstructionist, but had reservations about a one billion dollar program.

U.S. Trade Representative stated that, while this transaction was risky from both the creditworthiness and domestic and international political angles, he thought it was reasonable to proceed, given the safeguards discussed.

Treasury representative, in summarizing the sense of the meeting, indicated that absent compelling agricultural export and foreign policy interests this proposed programs probably would not go forward. He stated further that the Committee's deliberations had been valuable insofar as they facilitated: 1) acknowledgement of the risks of proceeding with the proposed program for Iraq in the face of uncertainties as to the potential for future revelations of wrongdoing; 2) clarification of the point that resolution of the issue required a balancing of foreign policy and agricultural export interests; and 3) establishment of a record that showed that the risks involved in the transaction had been recognized and that the strong advice of the State and Agriculture had been that we should proceed. Thus, in the worst scenario, it could be shown that the NAC agencies had taken prudent steps to protect the integrity of the program. He then offered a number of suggestions as to actions that might be taken.

Agriculture representative responded that he agreed that building a record was appropriate and supported the suggestions that Treasury had made. Agriculture indicated that it should be recognized that there are significant controls in place and that the problems with BNL had been uncovered and disclosed to OMB because of them. NSC strongly seconded Agriculture point.

Treasury observed that the Middle East peace process was at a vital point and proceeding quickly with the proposed program would be helpful in that context. He added that he approved of the approach Treasury had suggested.

Based on the foregoing discussion, including the points suggested by Treasury that were subsequently accepted and reduced to writing (see attached), the NAC Deputies agreed that Agriculture should go forward with a FY 1990 GSM program for Iraq in up to two tranches of export credit guarantees, with each tranche not to exceed $500 million.

SUMMARY OF AGREED POINTS IN NAC DEPUTIES MEETING ON PROPOSED CCC PROGRAM FOR IRAQ, NOVEMBER 8, 1989

1. The Agriculture Department will designate senior officials to monitor the Iraq program through appropriate channels.

2. The Agriculture Department will suspend its program under specified conditions and will ensure the full cooperation of the government of Iraq in uncovering and dealing with any wrongdoing in connection with the program.

3. The Agriculture Department has reviewed the existing GSM procedures and is installing additional safeguards or controls needed to tighten the monitoring and enforcement of its guarantee programs and to raise the probability that irregularities will be detected at an early stage.

4. The State Department and Agriculture will send, for the record, letters to the Secretary of the Treasury, in his capacity as chairman of the NAC, outlining the agricultural, trade, and foreign policy reasons which make it important to proceed with the CCC program for Iraq.

5. Prior to commitment of a second tranche under the Iraq program, the Agriculture Department will submit a written report to the NAC detailing:

(a) the nature and operation of the safeguards and controls established in connection with the Iraq program in particular;

(b) the steps taken to tighten the monitoring and enforcement of its export credit guarantee programs; and

(c) developments in the investigations of the BNL scandal.

Any significant developments with respect to the BNL investigations that may have ramifications for the Iraq program will be reported to the NAC as soon as they become known.

DEPARTMENT OF STATE,
Washington, DC, June 12, 1984.

NEA Subject: Eximbank Financing for Iraqi Export Pipelines.

Attached is a background paper, prepared at the request of the Vice-President's staff, on the status of the proposed Iraqi oil export pipelines and suggested talking points for possible use by the Vice President in calling Eximbank Board Chairman William Draper concerning Exim financing.

CHARLES HILL,
Executive Secretary.

BACKGROUND PAPER: STATUS OF IRAQI EXPORT PIPELINES

Iraq has agreement in principle with both Jordan and Saudi Arabia to build separate oil export pipelines and has asked U.S. firms to take the lead in both projects. Both are moving forward slowly, however, because of delays in arranging financing as well as some apparent indecision on the part of the Iraqi and Saudi Governments.

Bechtel has detailed financial and technical discussions with an Iraq-Jordanian Joint Commission on the $1 billion 1 million barrel per day line to Aqaba. Recently, the Commission asked Bechtel to revise its proposal and maximize U.S. official and private participation and present the new version by June 25. In keeping with this request, Bechtel has now applied to Eximbank for a preliminary commitment of financing for up to $570 million in U.S. goods and services and has urged Exim to act on this request at its June 19 Board meeting (Eximbank would cover 85 percent of the amount, or up to about $500 million.) Bechtel is seeking financing for most of the remainder from Eximbank's French and British counterparts.

The Iraqi-Jordanian effort to maximize U.S. participation is in part due to concerns over possible Israeli interference with the planning, construction and operation of the line, which would terminate within a few miles of the Israeli port of Eilat. We have advised the Israelis of our interest in seeing this line operate and they have raised no military or political objections, but have noted the need for adequate environmental safeguards.

Iraq has also publicly and privately described this project as a major test of U.S. intentions toward it. Jordan enthusiastically supports this project which would provide additional employment and continuing revenues.

In the case of the proposed link to the Saudi East-West pipeline, Brown & Root has a contract with Iraq to design and manage this $800 million 500,000 b/d project. The company has prepared an application for Exim financing of its $35 million service contract but has delayed submitting it while it attempts to meet an Exim request for external, i.e., Saudi, guarantees. Construction of this line presents a number of potential problems to the Saudis and their commitment to it appears lukewarm at best; while they have not obstructed preliminary work, they have also not facilitated it, and there has been no sign of Saudi government willingness to provide financing.

Eximbank support is likely to be a crucial component, particularly for the Aqaba line. Exim's policy to date has been to disapprove medium and long term financing for U.S. goods and services for Iraq in the absence of external security arrangements because of doubts regarding repayment prospects. Following recent discussions with Exim Chairman Draper and his staff, however, Bechtel believes they are favorably disposed towards the project and Bechtel's application, which would include only about $50 million in Iraqi risk with the remainder backed by a Jordanian government guarantee. (All of Brown & Root's request would be for Iraqi risk.) The Aqaba project would be one of the largest single commitments ever made by the Bank and would far exceed its current exposure in Jordan.

While expressions of interest and support made to Eximbank at this time would necessarily focus on Bechtel's application regarding the line to Aqaba, we do not regard the two projects as mutually exclusive. Both would be beneficial.

Given the importance of these projects to our overall policies in the region, Deputy Secretary Dam is calling Mr. Draper to reiterate our foreign policy interests. (The Secretary has not been involved because of his previous association with Bechtel.) We understand that National Security Advisor McFarlane may also call Draper. A call by the Vice President would be particularly useful in confirming the Administration's support for these projects. (Suggested talking points for such a call are attached.)

TALKING POINTS: EXIM FINANCING FOR IRAQI PIPELINES

The war between Iraq and Iran directly affects our vital interests in the Middle East and particularly in the Persian Gulf.

Our objective is to bring the war to a negotiated end in which neither belligerent is dominant and the sovereignty of both is preserved. We believe that victory by either side would have a serious destabilizing effect on the region.

At the present time, Iran is the intransigent party, unwilling to negotiate in part because it believes it can win in a war of attrition. We must therefore seek means to bolster Iraq's ability and resolve to withstand Iranian attacks as well as to convince Iran that continuing hostilities are useless.

One such means would be the early initiation of construction and rapid completion and operation of additional export pipelines for Iraq's large oil reserves.

Eximbank could play a crucial role in our efforts in the region. Early and favorable action on applications for Exim financing for these pipeline projects would be clear and very welcome evidence of U.S. commitment to these objectives.

U.S. suppliers of services and equipment would benefit and with the completion of these pipelines, we would be less dependent on oil shipped through the Persian Gulf.

Finally, operation of a pipeline to Aqaba could contribute to stability in the region by promoting at least tacit cooperation in the region.

DEPARTMENT OF STATE,
Washington, DC, March 16, 1983.

To: The Secretary.
From: EB—Richard McCormack.
Subject: U.S. Credit Possibilities for Iraq.

ISSUE FOR DECISION

Whether to approve the attached cable (Tab A) outlining the limited possibilities for U.S. financial support for exports to Iraq.

ESSENTIAL FACTORS

In your February 14 meeting with Iraqi Minister of State Hammadi you undertook to provide Iraq information on official U.S. financing possibilities in support of U.S. exports to Iraq.

Iraq's financial position has gradually worsened since the beginning of the war in 1980 and is likely to grow more serious over the next six months. With reduced, although still substantial, aid from the Gulf, Iraq faces a current account short-fall of as much as $10 billion this year. This situation undoubtedly motivated Hammadi to mention to you that the U.S. should consider providing credits, loans and technical cooperation to support U.S. exports to Iraq, which have approached one billion dollars in each of the past two years.

ANALYSIS OF OPTIONS

There are two possibilities for U.S. official credit for Iraq: (a) Eximbank programs; (b) CCC blended credits or guarantees for agricultural exports. Secondarily, the U.S. attitude in the IMP could affect Iraq's ability to obtain access to IMP resources. Finally, although commercial bank financing is beyond USG control, we could take some minor steps in support of Iraq's prospects in private credit markets.

A. Eximbank Programs

Eximbank is discouraging the few inquiries from U.S. exporters regarding Iraq because of the war's effect on Iraq's economy. This decision was based upon the Export-Import Bank Act requirement that there be "a reasonable assurance of repayment". Other official credit agencies have informed Exim of payment and contract problems.

Equally problematic is section 520 of the Foreign Assistance Appropriations Act of 1979 which prohibits Eximbank funding to any government which harbors terrorists. L has concluded that if an Iraqi government entity were involved in an Eximbank transaction, then the question of whether Iraq was harboring terrorists would have to be decided. However, an area of ambiguity exists with respect to the issuance of FCIA insurance for the benefit of a U.S. exporter or U.S. bank where the importer is a private foreign national.

Section 520 language originated in a 1977 amendment proposed by Senator Heinz. With the Eximbank Act up for renewal this year, a section 520 case, on the heels of a Chafee Amendment determination for Argentina, could galvanize Congressional support to circumscribe the Administration's flexibility to ensure that Exim loans are consistent with our foreign policy. Because Heinz will be a key Senator on the Eximbank renewal we would hope to avoid a section 520 case. Given legislative requirements and Congressional sensitivity, we have asked Eximbank to refer any applications involving Iraq to State before taking action.

B. CCC Blended Credit Program

Based in part on the opinion of the AID General Counsel's office, L has concluded that there are no FAA or other pertinent statutes which specifically bar a CCC program for Iraq. In December, USDA approved $210 million in CCC credit guarantees for Iraqi imports of U.S. agricultural exports. State successfully opposed a proposal to raise the quantity of wheat in the package (and increase the total package to $250 million), citing the need to avoid further angering Canada, a non-subsidizing exporter of wheat. Canada has complained that our blended credit package with Iraq has affected their non-subsidized cash wheat market there. Although Agriculture has received Iraqi assurances that they will purchase the minimum amounts of Canadian wheat required under the long term agreement with the GOC, the Canadians have told us that the Iraqis have not signed any new contracts for wheat deliveries for this year and that old contracts also have not been picked up. We can expect further protest from Ottawa.

C. U.S. Vote in the IMF

IMF assistance may be appropriate for Iraq's current balance of payment problems. We could give no blanket commitment to support Iraqi applications, since our decisions are made on the viability of individual loans. Furthermore, legislation requiring that we "work in opposition" to any extension of IMF financial or technical assistance to any country that harbors terrorists would be an additional constraint. For these reasons and because we would not want Iraq to tell the IMF the U.S. in any way suggested it approach the Fund, we have not included this subject in the cable.

D. Commercial Financing

The Iraqis probably doubt disclaimers that the USG cannot swing loans for Iraq through friends in the private sector. We might remind the Iraqis that the private sector takes into account the state of political relations in making its credit determinations. We could offer to arrange consultations between Iraqi government financial officials and U.S. government and private international financial experts.

RECOMMENDATION

That you approve the attached cable which instructs U.S. Interest Section Chief Eagleton to inform the Iraqis what we have done on CCC credits, explains the constraints on Eximbank credits to Iraq and reiterates that the U.S. private sector is influenced by the overall state of our relations.

HOUSING CREDIT KEY TO ECONOMIC GROWTH PACKAGE

The SPEAKER pro tempore (Mr. HUBBARD). Under a previous order of the House, the gentleman from Florida [Mr. STEARNS] is recognized for 5 minutes.

Mr. STEARNS. Mr. Speaker, perhaps no element of President Bush's economic growth package was better received by the American public than his proposal to extend a refundable $5,000 tax credit to first-time home buyers. It was the type of commonsense, growth-oriented proposal needed to reinvigorate our Nation's economy. The housing market has led the American economy out of every recession in the postwar era, and we should be encouraged by the 5.6-percent increase in housing starts reported this January. This current expansion is promising, but the refusal of the leaders of the House of Representatives to include the housing credit in their tax legislation could smother hopes for recovery.

Millions of Americans will profit by establishing this incentive. After decades of increases, home ownership rates have stopped growing since the late 1970's. For Americans under age 39, home ownership rates declined by 10 percent since 1980. Older Americans often cannot find buyers for their homes and are unable to take advantage of their lifelong investment. And, millions of middle-age Americans are caught inbetween: With children who have difficulty getting started and parents unable to survive on fixed incomes. By passing a reasonable tax incentive for first-time home buyers, the Federal Government can improve mobility in the housing market and lessen the affordability burden on working Americans.

Creating this stimulus for first-time home buyers makes economic, fiscal, and social sense.

In Florida, construction employment has declined by 15.7 percent since December 1990. Nationally, housing production was at its lowest point in 1991 since World War II. The construction industry has broad impact in almost every sector of the economy—manufactured goods, retail and wholesale trade, real estate, and finance. By attacking unemployment with free-market incentives that directly improve Americans' lives, we can jump start the economy without spending our children further into debt. The $5,000 tax credit is an especially appropriate response to the affordable housing crisis since the most difficult obstacle to overcome for first-time home buyers usually is saving for a downpayment.

Of course, no major change in our Tax Code should be considered without closely evaluating its effect on the Federal budget deficit. A tax credit targeted at a high-growth area such as new home construction will produce $2.11 in economic activity for every dollar invested according to the School of Building Construction at the University of Florida. That will more than offset the revenue foregone by the Federal Government.

However, Congress should not rely exclusively on economic growth to close the budget deficit. We must cut wasteful spending. President Bush has recommended eliminating 246 programs, but that is just a start. The President needs a line-item veto to eliminate the searches for space aliens—yes, we actually spend money for that—and multimillion-dollar bike paths. Then we can direct our responses toward programs like the home buyers tax credit that truly benefit Americans.

Finally, we must consider the social impact of this proposal. If a good job is the greatest social program, a good home is a close second. Home ownership provides stability and increases the sense of community under which the American family has flourished. Stable communities provide a powerful core to allow Americans to fight crime and drug abuse in their neighborhoods while promoting education, responsibility, and social involvement. As young families have had to push back their dreams of owning a home, these advantages have been denied their children. Worse yet, the lack of affordable housing has moved families further away from the workplace, increasing congestion and pollution, and decreasing the amount of time they can spend with their children. These families, facing ever-increasing demands on their time and money, are the targets of the $5,000 tax credit.

Any good economic package must include the tax credit for first-time home buyers. But most of all, Congress must recognize that economic growth and not economic redistribution is the key to an economic turnaround. That is the message American families want to hear.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Dorgan of North Dakota, for 60 minutes, today.

Mr. Gonzalez, for 60 minutes, today and 60 minutes, on March 3, 9, 12, 16, 19, 23, 26, and 30.

Mr. Martinez, for 5 minutes, on March 3.

Mr. McDermott, for 30 minutes, on March 4.

Mr. Hoagland, for 30 minutes, on March 3.

Mr. Hoyer, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Goss) and to include extraneous matter:)

Mr. Cunningham.

Mr. Barton of Texas.

Mr. Michel.

Mr. Gingrich.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Anderson in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Brown in 10 instances.

Mr. Annunzio in six instances.

Mrs. Lloyd in 10 instances.

Mr. Hamilton in 10 instances.

Mr. de la Garza in 10 instances.

Mr. Mfume.

Mr. Foglietta.

Mr. Edwards of California.

Mr. Hoyer.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following title:

On February 26:

H.R. 355. An act to provide emergency drought relief to the reclamation States and for other purposes;

H.R. 476. An act to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers, and for other purposes;

H.R. 543. An act to establish the Manzanar National Historic Site in the State of California, and for other purposes; and

H.R. 3866. An act to provide for the designation of the Flower Garden Banks National Marine Sanctuary.

On February 27:

H.R. 2212. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 10 minutes p.m.), the House adjourned until tomorrow, Tuesday, March 3, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2946. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the act of August 30, 1890, and the act of March 4, 1907, to eliminate the provisions for permanent annual appropriations to support land grant university instruction in food and agricultural sciences; to the Committee on Agriculture.

2947. A letter from the Adjutant General, the Veterans of Foreign Wars of the United States, transmitting proceedings of the 92d national convention, pursuant to 36 U.S.C. 118 and 44 U.S.C. 1332 (H. Doc. No. 102–195); to the Committee on Armed Services and ordered to be printed.

2948. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the extent to which significant progress has been made toward ending the system of apartheid, pursuant to 12 U.S.C. 635(b)(9); to the Committee on Banking, Finance and Urban Affairs.

2949. A letter from the Administrator, Farmers Home Administration, transmitting a report on the use of private attorneys contracted to perform certain legal actions taken in connection with housing programs administered by the Farmers Home Administration; to the Committee on Banking, Finance and Urban Affairs.

2950. A letter from the District of Columbia Retirement Board, transmitting the Board's annual report for fiscal year 1990, pursuant to D.C. Code, section 1–734(a)(1)(C); to the Committee on the District of Columbia.

2951. A letter from the Acting Commissioner, National Center for Education Statistics, transmitting a copy of a report entitled, "International Mathematics and Science Assessment: What Have We Learned?"; to the Committee on Education and Labor.

2952. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislature to amend the National School Lunch Act and the Child Nutrition Act of 1966 to the Committee on Education and Labor.

2953. A letter from the Secretary of Energy, transmitting the Strategic Petroleum Reserve Annual/Quarterly Report; to the Committee on Energy and Commerce.

2954. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the 1992 International Narcotics Control Strategy Report, pursuant to 22 U.S.C. 2291(e)(6); to the Committee on Foreign Affairs.

2955. A letter from the Chairman, National Credit Union Administration, transmitting a report on activities under the Freedom of Information Act during calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2956. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a report on activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2957. A letter from the Chairman, Federal Election Commission, transmitting a report of activities under the Freedom of Information Act during calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2958. A letter from the Administrator and Chairman, Cost Accounting Standards Board, Office of Management and Budget, transmitting the second annual report of the Cost Accounting Standards Board, pursuant to Public Law 100–679, section 5(a) (102 Stat. 4062); to the Committee on Government Operations.

2959. A letter from the Secretary of Health and Human Services, transmitting the Department's annual report of activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2960. A letter from the Secretary of Veterans Affairs, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1991, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2961. A letter from the U.S. Office of Special Counsel, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

2962. A letter from the Chief Judge, United States Tax Court, transmitting the actuarial reports requested for the U.S. Tax Court Judges' Retirement and Survivor Annuity Plans for the year ending December 31, 1989, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

2963. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2964. A letter from the Secretary, Department of Commerce, transmitting the annual report on the effect of process patent amendments on domestic industries, pursuant to 35 U.S.C. 271 note; to the Committee on the Judiciary.

2965. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation entitled, The Federal Courts Improvements Act"; to the Committee on the Judiciary.

2966. A letter from the Secretary, U.S. Naval Sea Cadet Corps, transmitting the annual audit report of the Corps for the year ended December 31, 1991, pursuant to 36 U.S.C. 1101(39), 1103; to the Committee on the Judiciary.

2967. A letter from the Administrator, General Services Administration, transmitting a copy of a building project survey for Orlando, FL, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

2968. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to make permanent the authority to collect reimbursement from health insurers and others for nonconnected veterans; to the Committee on Veterans' Affairs.

2969. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to target entitlement for vocational rehabilitation benefits under chapter 31 to veterans with service-connected disabilities rated 30 percent or more; to adjust the basic military pay reduction for chapter 30 Montgomery GI Bill participants in proportion to the increased amount of assistance provided under such chapter; and for other purposes; to the Committee on Veterans' Affairs.

2970. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 26 and 38, United States Code, to make permanent certain income-verification and pension provisions of the Omnibus Budget Reconciliation Act of 1990; jointly, to the Committees on Veterans' Affairs and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of February 27, 1991]

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 3553. A bill to amend and extend the Higher Education Act of 1965; with an amendment (Rept. 102–447). Referred to the Committee of the Whole House on the State of the Union.

[Submitted March 2, 1991]

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 996. An act to authorize and direct the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River; and for other purposes (Rept. 102–448). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affair. H.R. 2321. A bill to establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes; with an amendment (Rept. 102–449). Referred to the Committee of the Whole House on the State of the Union.

Mr. PANETTA: Committee on the Budget. House Concurrent Resolution 287. Concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1993, 1994, 1995, 1996, and 1997 (Rept. 102–450). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of New Jersey:

H.R. 4354. A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to provide that Federal police officers be treated in the same way as other Federal law enforcement officers for purposes of that act; to the Committee on Post Office and Civil Service.

By Mr. LEVINE of California:

H.R. 4355. A bill to provide financial assistance to eligible local educational agencies to rebuild America's schools; to the Committee on Education and Labor.

H.R. 4356. A bill to increase the safety of America's schools; jointly, to the Committees on Education and Labor and the Judiciary.

H.R. 4357. A bill to amend the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471, et seq.) to establish the National Education Property Board, and for other purposes; jointly, to the Committees on Government Operations and Education and Labor.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

332. By the SPEAKER: Memorial of the Legislature of the Commonwealth of Puerto Rico, relative to Democratic Rights; to the Committee on Interior and Insular Affairs.

333. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to the Water Quality Act of 1987; to the Committee on Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. EDWARDS of Oklahoma introduced a bill (H.R. 4358) for the relief of Margueritte Kordahi, May Kordahi, Nouhad Kordahi, and Souad Natet Kordahi; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 78: Mr. Hobson, Mr. Ewing, and Mr. Dreier of California.

H.R. 299: Mr. Burton of Indiana and Mr. Packard.

H.R. 328: Mr. Solomon.

H.R. 720: Mr. English.

H.R. 784: Mr. Allen.

H.R. 1306: Mr. Jefferson.

H.R. 1472: Mr. Combest and Mr. Fields.

H.R. 2336: Mr. Atkins.

H.R. 2361: Mr. Peterson of Florida and Mr. Klug.

H.R. 3173: Mr. Peterson of Florida.

H.R. 3369: Mr. Johnson of South Dakota.

H.R. 3878: Mr. Applegate, Mr. Blackwell, Mr. Bruce, Mr. Dixon, Mr. Downey, Mr. Durbin, Mr. Dymally, Mr. Flake, Mr. Foglietta, Mr. Frost, Mr. Hayes of Illinois, Mr. Hochbrueckner, Mr. Lipinski, Mr. Mollohan, Mr. Peterson of Minnesota, Mr. Savage, Mr. Staggers, Mr. Stokes, Mrs. Unsoeld, Mr. Weiss, and Mr. Wilson.

H.R. 4028: Mr. Smith of Oregon, Mr. Taylor of Mississippi, Mr. Weber, Mr. Kolter, Mr. Jefferson, Mr. Lagomarsino, Mr. Emerson, Mr. Bunning, Mr. Gilchrest, Mr. Atkins, Mr. de la Garza, Mr. Ritter, Mr. Spence, and Mr. Traficant.

H.R. 4163: Mr. Guarini, Mr. Walsh, and Mr. Hayes of Louisiana.

H.R. 4168: Mr. Lantos.

H.R. 4220: Mr. Frost and Mr. Hamilton.

H.R. 4277: Mr. Edwards of California and Mr. AuCoin.

H.R. 4315: Mr. Stearns, Mr. Porter, Mr. Allard, and Mr. Hefley.

H.R. 4341: Mr. Rhodes and Mr. Rohrabacher.

H.J. Res. 81: Mr. Roth.

H.J. Res. 293: Mr. Reed, Mr. Richardson, Mr. Stump, Mr. Lagomarsino, Mr. Orton, Mr. Matsui, Mr. Hoagland, Mr. Foglietta, Mr. Sharp, Mr. Anthony, Mr. Gilman, Mr. Scheuer, Mr. Cooper, Mr. Riggs, Mr. Gilchrest, Mr. Kildee, Ms. Horn, Mr. Downey, and Mr. Wheat.

H.J. Res. 334: Mr. Dornan of California.

H.J. Res. 371: Mr. Bruce, Mr. Camp, Mr. Lancaster, Mr. Guarini, Mr. Hefner, Mr. Lagomarsino, Mr. Martinez, Mrs. Meyers of Kansas, and Mr. Perkins.

H.J. Res. 410: Mr. Eckart, Mr. Baker, Mr. Neal of North Carolina, Mr. Huckaby, Mr. Tallon, Ms. Kaptur, Mr. Obey, Mr. Valentine, Mr. Price, Mrs. Kennelly, Mr. Hoagland, Mr. Dwyer of New Jersey, Mr. Bruce, Mr. DeFazio, Mr. Frost, Mr. Serrano, Mr. Montgomery, Mr. Taylor of Mississippi, Mr. Coyne, Mr. Engel, Mr. Peterson of Minnesota, Mr. Hefner, Mr. Lipinski, Mr. Sisisky, Mr. Evans, Mr. Roe, Mr. Torricelli, Mr. Hughes, Mr. Kopetski, Mr.

GAYDOS, Mr. JOHNSTON of Florida, Mr. BACCHUS, Mr. OBERSTAR, Mr. DE LA GARZA, Mr. TRAFICANT, Mr. THOMAS of Georgia, Mr. BARNARD, Mr. HATCHER, Mr. SIKORSKI, Mr. WHEAT, Mr. HASTERT, Mr. GEREN of Texas, Mr. BREWSTER, Mr. GONZALEZ, Mr. BLACKWELL, Mr. COBLE, Mr. MARTINEZ, Mr. CARDIN, Mr. OWENS of Utah, Mr. HARRIS, Mrs. VUCANOVICH, Mr. HUNTER, Mr. LAGOMARSINO, Mr. ZIMMER, Mr. FALEOMAVAEGA, Mr. UPTON, Mr. FAZIO, Mr. NOWAK, Mr. POSHARD, Mr. ROBERTS, Mr. SHAW, Mr. RAMSTAD, Mr. QUILLEN, Mr. GREEN of New York, Mr. DUNCAN, Mr. GILLMOR, Mr. CAMP, Mr. MILLER of Washington, Mr. YOUNG of Alaska, Mr. BURTON of Indiana, Mr. GILCHREST, Mr. GILMAN, Mr. LEHMAN of California, Mr. NICHOLS, Mr. RAVENEL, Mr. RINALDO, Mr. IRELAND, Mrs. LLOYD, Mr. GALLO, Mr. WAXMAN, Mr. BEVILL, Mr. SAXTON, Mr. JACOBS, Mr. HYDE, Mr. CLINGER, Ms. SNOWE, Mr. MCGRATH, Mr. SMITH of New Jersey, and Mr. HOUGHTON.

H.J. Res. 411: Mr. MARTIN, Mr. SCHUMER, Mr. TALLON, Mr. JOHNSON of South Dakota, Mr. SPRATT, Mr. FASCELL, and Mr. OWENS of New York.

H. Con. Res. 224: Ms. HORN, Mr. LENT, and Mr. FALEOMAVAEGA.

H. Con. Res. 246: Mr. ABERCROMBIE, Mr. CONDIT, Mr. FROST, Mr. GORDON, Mr. HOCHBRUECKNER, Mr. KLECZKA, Mr. PALLONE, and Mr. MRAZEK.

H. Res. 385: Mr. ROHRABACHER.

EXTENSIONS OF REMARKS

OPPOSITION TO THE OMNIBUS CRIME CONTROL ACT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. GINGRICH. Mr. Speaker, I think that as we debate the Omnibus Crime Control Act, we should listen carefully to the views and opinions of those who are on the front line of our war on crime, those whose daily lives will be affected by the legislation which we enact.

Captain Bob Brown, as president of the Peace Officers' Association of Georgia, has recently written to me to express the unanimous opposition of the 11,000 members of his organization to H.R. 3371, the Omnibus Crime Control Act of 1991. It is their strong belief that this bill, as amended in conference, will seriously undermine law enforcement efforts at the local, State, and national levels.

The following is a list of the serious concerns which they have with H.R. 3371 in its present form. I urge my colleagues to take their views into consideration and enact a true crime control bill.

HOW THE CONFERENCE CRIME BILL WEAKENS EXISTING LAW

Elimination of penalty for attempted assassination or kidnapping of top executive officials. Section 103(a)(9) of the conference bill amends 18 U.S.C. 1751(c) so as to eliminate the penalty authorization for attempting to kill or kidnap the President, the Vice President, and Presidential or Vice-Presidential staff, except in cases involving attempted assassination of the President that comes dangerously close to succeeding.

Increased abuse of habeas corpus. Title II of the conference bill systematically overturns the Supreme Court's habeas corpus decisions that are favorable to law enforcement, including decisions concerning retroactivity, counsel, procedural default, and deference to state court determinations.

Broadening the exclusionary rule. Title III of the conference bill weakens the "good faith" exception for searches under warrants—adopted by the Supreme Court in United States v. Leon, 468 U.S. 897 (1984)—by authorizing suppression of evidence in various circumstances despite officers' reasonable reliance on a magistrate's authorization of the search.

Overturning of convictions on the basis of harmless error. Title IV of the conference bill automatically requires reversal of convictions on appeal where the trial court erroneously admitted incriminating statements by the defendant, even if the independent evidence of guilt is overwhelming and it appears beyond a reasonable doubt that the error could not have affected the outcome of the trial. This overturns the Supreme Court's decisions in Milton v. Wainwright, 407 U.S. 371 (1972) (holding that Massiah violation was harmless error), and Arizona v. Fulminante, 111 S.Ct. 1246 (1991) (applying harmless error analysis to involuntary statement claim).

Repudiation of antiterrorism treaties. Sections 803–05 and 827 of the conference bill undermine international conventions that the United States has signed relating to violence at airports and violence against maritime navigation or platforms. The sections contain drastically weakened "implementing legislation" which does not fulfill the United States' obligations under the conventions.

Narrowing of laws against counterfeiting. Section 829 of the conference bill proposes an extraterritorial counterfeiting offense which is substantially narrower than the existing counterfeiting provisions (18 U.S.C. 471, 473–74) that currently apply both domestically and extraterritorially.

Prohibition of cooperation among federal agencies in administering federal grant programs. Section 1107 of the conference bill would prohibit cooperative arrangements of the Bureau of Justice Assistance (BJA) and other federal agencies in administering grant programs. This would seriously impair the federal justice assistance program by barring utilization by BJA of the expertise and resources of other federal agencies—such as the Bureau of Justice Statistics and the Office of Juvenile Justice and Delinquency Prevention—in administering funding programs within their areas of competence.

Limiting consideration of relevant factors and promotion of prisoner litigation relating to prison assignments. Section 1401 of the conference bill bars consideration of "the social or economic status" of a criminal in deciding what prison to assign him to, though such factors are legitimately relevant to assignment decisions in some cases. For example, a prisoner's social status as leader of a gang may legitimately weigh against sending him to a prison where other gang members are confined, and a prisoner's poverty (economic status) may weigh in favor of an assignment that minimizes travel expenses for his family in visiting him. Section 1401 would bar consideration of such relevant factors. It would also open up new vistas of litigation for prisoners raising allegations that their prison assignments reflected improper consideration of "social or economic status."

Repeal of rules requiring revocation of release for criminals who illegally possess drugs. Under existing rules set out in 18 U.S.C. 3565(a), 3583(g), and 4214(f), offenders on probation, supervised release, or parole who illegally possess drugs must have their release revoked and must be sentenced or returned to prison. Section 1403 of the conference bill repeals these rules in cases where the offender's illegal possession of drugs is discovered through drug testing. It contains a language which presupposes that the offender may not be imprisoned despite a positive test showing that he has possessed and used drugs.

Early release from prison of drug abusing offenders. Section 1404 of the conference bill authorizes release of offenders from prison up to a year prior to completion of the sentence imposed by the court, where the offender is a drug abuser and has gone through drug treatment in prison. This undermines the determinate sentencing system and abolition of parole enacted by the Sentencing Reform Act of 1984, reduces incapacitation and deterrence, and unfairly gives drug abusing offenders a chance at early release which is denied to other prisoners who have not engaged in drug abuse.

Mandatory reduction of prison terms for drug abusing offenders. The current "boot camps" provision for federal offenders, 18 U.S.C. 4046, authorizes retaining in custody an offender who has completed a "boot camp" program until the end of his prison terms. In contrast, §1406(c) of the conference bill mandates the immediate release of drug abusing federal offenders who are placed in boot camps on completion of a 90 to 120 day program, where the offender would otherwise be subject to incarceration for up two years or more under the federal sentencing guidelines. (Offense level 15 offenders, who would be eligible for boot camp assignment, are subject to a guideline sentence of 18 to 24 months at the lowest criminal history category.)

Establishment of partisan commission to promote racial politics and de-incarceration policies. Section 1801 of the conference bill would establish a national commission on crime and violence with general responsibility for planning the nation's crime control efforts in the 1990's. A majority of the membership of the commission (12 out of 22) would be chosen by the Democratic leadership in Congress. The commission is directed to give "particular emphasis" to changes in correctional policy relating to the "disproportionate" incarceration of black males and other minority groups, and to consider decreased use of incarceration in favor of alternative sanctions.

Facilitation of trafficking in stolen motor vehicles and motor vehicle parts. Section 2003 of the conference bill (misnumbered 2002) eviscerates the existing law against tampering with identification numbers for motor vehicles and motor vehicle parts, 18 U.S.C. 511, by limiting liability to cases where intent to further the theft of a vehicle can be proven. For example, alteration in a chop shop of the identification numbers of stolen motor vehicles or their parts in order to facilitate fencing of the vehicle or parts would not be an offense, because the intent would not be to further the theft of a vehicle; the theft has already taken place in such a case.

MAJOR FEATURES OF CONFERENCE CRIME BILL

HABEAS CORPUS

The conference bill makes it easier for criminals to upset their convictions by overturning numerous Supreme Court decisions that are favorable to law enforcement. Offenders would be set free on the basis of rules that were initially announced years after their trials and appeals.

DEATH PENALTY

The conference bill provides procedures that would make it extraordinarily difficult to use the federal death penalty it purports to authorize. Jurors in capital murder cases would be instructed that they are free to disregard the evidence and to refrain from imposing the death penalty no matter how aggravated the crime. There would be no safeguards against the litigation abuse and delay

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

that has made it nearly impossible to carry out death sentence.

EXCLUSIONARY RULE

The conference bill is worse than current law in this area. Reliable evidence of guilt would be excluded in various circumstances even if the officers conducting a search reasonably relied on a warrant issued by a magistrate.

HARMLESS ERROR

The conference bill overturns Supreme Court decisions which uphold convictions if errors in the trial were harmless beyond a reasonable doubt. A criminal conviction would automatically be overturned on appeal if the trial court mistakenly admitted incriminating statements by the defendant, even if the independent evidence of guilt was overwhelming and the error could not have affected the outcome of the trial.

SEXUAL VIOLENCE AND CHILD ABUSE

The conference bill omits most of the anti-rape and anti-child abuse provisions proposed in pending bills. For example, it excludes House bill provisions that would double the maximum penalties for recidivist rapists and child molesters, increase penalties for drug sales to pregnant women, require testing of rapists for the human immunodeficiency virus (HIV) with disclosure of test results to the victim, require government payment of the cost of HIV testing for rape victims, expand restitution for rape victims and other crime victims, and correct jury selection rules that are biased against victims. It also omits a critical proposal of the President's violent crime bill to more regularly admit evidence in rape and child molestation cases that the defendant has committed offenses of the same type on other occasions.

TERRORISM

The conference bill rejects effective implementing legislation for antiterrorism treaties that both the Senate and the House of Representatives have passed. It substitutes inadequate provisions which do not meet the United States' obligations under the treaties.

PUBLIC CORRUPTION

The Senate bill contained critical tools for federal prosecutors to combat public corruption, including drug-related corruption and election fraud. These provisions have disappeared in the conference bill.

VIOLENT FIREARMS OFFENDERS

The conference bill excludes a Senate bill provision strengthening the prohibition of firearms possession by convicted felons. This undermines the Justice Department's efforts through "Project Triggerlock" to prosecute and imprison the most dangerous firearms offenders.

EQUAL JUSTICE

Finally, the House bill contains provisions proposed by the President (the "Equal Justice Act") to strengthen safeguards against racial discrimination against crime victims and defendants in the criminal justice process. These provisions, too, have simply disappeared in the conference bill.

REMEMBERING ALEX HALEY

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. CLAY. Mr. Speaker, I would like to insert for the RECORD an article appearing in Civil Rights Journal No. 530 published by the United Church of Christ's Commission for Racial Justice. The article written by Benjamin F. Chavis, Jr., pays tribute to writer and historian Alex Haley whose sudden death this month was mourned by all the world.

"ROOTS"—AN ODE TO ALEX HALEY

(By Benjamin F. Chavis, Jr.)

African American History Month 1992 witnessed the passing of a greater writer and historian. Alex Haley's contributions to African and American history were remarkable and the impact of his writings and research will have a long lasting imprint in the history of the United States.

Haley was born in Ithaca, New York in 1921 and was reared in the southern town of Henning, Tennessee. As the author of the Pulitzer Prize-winning book, "Roots: The Saga of an American Family," Alex Haley won the admiration of millions of persons through out the world. This bold African American writer with the stroke of his pen was able to shatter the false stereotypic view about the so-called impossibility of tracing African American genealogies back to Africa.

In fact, "Roots" was so successful that the book and television dramatization helped to inspire the establishment of thousands of community genealogical societies and family reunion clubs among African Americans. "Roots" also made a significant contribution to reminding all persons about the hideous and brutal nature of the American and European slave trade.

Although there were some who argued that "Roots" romanticized the awful pain and misery of slavery in the United States, we believe that Alex Haley should be given credit, praise and respect for getting as much of the slave reality as he did on prime time television for the entire nation to see. It has been reported that more than 130 million viewers tuned in to watch the ABC television broadcasts of "Roots" back in 1977.

Even before the publication of "Roots," Haley had made history with the publication of "The Autobiography of Malcolm X," which also became a best seller. With the renewed interest in the life and struggle of Malcolm X, we are thankful that Haley was able to help document the evolution of Malcolm into an international leader.

Dr. Dorothy Height described Alex Haley as "a modern prophet." We agree. A prophet does more than foretell the future. Haley, in the prophetic tradition of the African American liberation movement spoke and wrote about history by stressing its importance for the present. When millions of persons read and watched "Roots," a better national consciousness emerged concerning the urgency of doing more in the present to challenge the lingering vestiges of slavery, segregation and all forms of racial injustice.

Just about a month before Haley's death, national cable television networks rebroadcasted "Roots" to millions of other viewers. One way to pay tribute to the legacy of Alex Haley is to continue his work of researching the "truth" of the magnitude and details of the trade and slavery of African people.

As the nation observes the 500th anniversary of Columbus discovering "that he was lost," it would be a fitting ode to Alex Haley for a national inquiry into the truth of 500 years of exploitation of the peoples of Africa, North and South America, and of the Caribbean.

Alex Haley was 70 years old and died from a heart attack while preparing to lecture in Seattle, Washington. Haley enjoyed his work and took serious his labor of historical research. We thank God for the life and gifts of Alex Haley. We all understand better, due to the labor of Haley, the common roots of all humanity.

MYTH, REALITY, AND ENDANGERED SPECIES

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. MILLER of California. Mr. Speaker, as stories of the spotted owl controversy in the Pacific Northwest continue to dominate the Nation's press, attention has been unfairly given to exaggerated instances of conflict between implementation of the Endangered Species Act and societal needs or job security. Not only are cases in which the act has proven to be a success minimized, but conflicts are maximized.

Opponents to the reauthorization of the Endangered Species Act mislead the press with hundreds of instances of job loss based on preferential treatment to species rather than society. Proponents of this myth contend that the act protect species beyond either economics or job security, and lose sight of the provisions within the act to balance the needs of societal and species existence.

John Sawhill, president of The Nature Conservancy, recently wrote an intriguing commentary in the Wall Street Journal which clears up this myth. Contrary to common belief, less than one-tenth of one percent of all projects evaluated by the Fish and Wildlife Service in the last 5 years have actually been halted because of placing a species in jeopardy.

Recent history serves as evidence of the act's success. Habitat conservation plans in many areas have been a successful compromise between industry and species. Furthermore, many species listed on the act have made significant recoveries and have either been removed from the list entirely or upgraded from endangered to threatened status.

Abandoning the Endangered Species Act now disclaims the successes it has manifested. Although I recognize that the act may require some fine-tuning before its reauthorization, it is important to acknowledge its provisions for flexibility and compromise and its successes. Mr. Speaker, I urge my colleagues to take a few moments and read the following valuable article.

[From the Wall Street Journal, Thursday, Feb. 20, 1992]

SAVING ENDANGERED SPECIES DOESN'T ENDANGER ECONOMY

(By John C. Sawhill)

In an effort to prevent the reauthorization of the Endangered Species Act, the exploit-at-any-cost crowd has wildly exaggerated the act's impact on growth while consistently underestimating the economic value of a health environment.

Clearly, there have been well-publicized conflicts between the protection of certain species and development, the most prominent being the case of the northern spotted owl. But these kinds of disputes have been the exception, not the rule, since the act was passed in 1973.

In the past five years, some 34,600 development projects were evaluated by the U.S. Fish and Wildlife Service for their impact on endangered species. Only 23—less than one-tenth of one percent—were halted because they put species in jeopardy.

To put this in perspective, in the same period 29 airplanes crashed into commercial or residential buildings in the U.S. That means that a developer faced a greater chance during that time of having an airplane crash into something he built than having a project stopped by the Endangered Species Act.

Contrary to the impression left by a Jan. 15 editorial in this newspaper ("Species Act. Endangered"), most Americans don't seem to be buying the arguments of people who seek to devalue the importance of biological diversity. A new poll conducted by the bipartisan polling team of Tarrance/Greenberg-Lake shows that 66% of registered voters support the Endangered Species Act. Only 11% of voters oppose the act. There is strong support for the act even in regions where the most contentious conflicts have occurred.

Voters came down on the side of species even when presented with a stark choice between saving species or protecting local businesses and jobs—48% to 29%. Nearly a quarter of those polled did not want to make this choice.

Fortunately, we don't have to choose. Critics of the act have tried to frame the debate in "either-or" terms—either you're for jobs or for species, with no middle ground. But in emphasizing those isolated incidents where species protection threatens jobs, they ignore the many success stories associated with the act.

The truth of the matter is that the act works, for people as well as for animals and plants. For example, of the roughly 600 species that have been listed as threatened or endangered over the past two decades, only seven have become extinct. Nine species have recovered sufficiently to be removed from the list, and many others have made remarkable recoveries—animals like the bald eagle, American alligator, California gray whale, and peregrine falcon. The provisions of the act ensured that these magnificent creatures could survive in the wild.

Experience has shown that the confict-resolution mechanisms already found in the act can succeed. Perhaps the most promising of these mechanisms are Habitat Conservation Plans, or HCPs, which have resolved disputes by accommodating the interests of both business and the environment. For example:

An HCP was approved last summer to protect the endangered desert tortoise in the rapidly growing area around Las Vegas, Nevada. Working together, environmental groups, the development community and government agencies created a plan that set aside 400,000 acres for the tortoise in the outlying desert. Meanwhile, 22,000 valuable acres adjacent to Las Vegas were freed up for commercial and residential development.

In the Coachella Valley near Palm Springs, Calif., development plans with a potential value of $19 billion threatened the habitat of the endangered fringe-toed lizard. Under the terms of an HCP, a 15,000-acre preserve was set aside for the lizard, paving the way for construction in other parts of the valley. Developers found that property values and tax revenues went up because of the proximity to the lizard preserve.

Planning for an HCP is currently under way near Austin in Travis County, Texas. At risk are two endangered bird species and five other species that live in the Hill Country to the west of Austin, an area targeted for hundreds of millions of dollars of development projects. Current plans call for the creation of about 60,000 acres of preserves, with the remaining 820,000 acres in the area opened to development. The HCP will also help to safeguard the acquifer that provides the drinking water for three million people.

Of course, not every endangered-species conflict can be so neatly resolved. But even in cases that appear to involve a short-term economic sacrifice, protecting the diversity of species is really a long-term investment in the future.

This point is clearly articulated in the 1990 report of the President's Council on Environmental Quality, which flatly states, "Domestically and world-wide, it is a healthy environment that makes wealth possible."

The decline of species that led to the enactment of endangered-species legislation is an indicator that our environment is not healthy. And we are already feeling the economic consequences.

The spotted owl controversy in the Pacific Northwest provides a classic example. Far from being an impediment to growth, the plight of the owl reflects the destruction of a once-plentiful resource—the old-growth forest. As U.S. Judge William Dwyer wrote in his celebrated opinion last spring, owls are not responsible for the decline of the logging industry; rather, a combination of factors are at work, including overlogging, mechanization and exports.

Then there's the fishing industry. On any given day, a third of this country's shellfish waters are closed because of pollution. Since 1982, commercial landings of fish and shellfish along the southeast Atlantic and the Gulf of Mexico have dropped 42%. The populations of every fish species harvested commercially or recreationally in North American waters are at or near all-time lows.

And in the Everglades watershed, pollution, conversion of land, and the diversion of water for agricultural and residential uses has led to a malfunctioning of the entire ecosystem. Not only could this devastate the balance of life in the Everglades, but it also poses a direct threat to the long-term supply of fresh water for Miami and other rapidly growing cities of south Florida. What do the Journal's editorialists, who portray environmentalism as uneconomic, say on this one?

The depletion of species is an urgent alarm, a signal of the severe stresses on our environment. The Endangered Species Act seeks to answer that alarm. To turn back the clock, and return to the policies that have led us to the brink, would be more than foolhardy—it would violate one of our most basic commitments to our children and theirs.

HI-TECH VERSUS HUMAN SPYING

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. MICHEL. Mr. Speaker, our colleague, Mr. SHUSTER of Pennsylvania, ranking Republican member of the Permanent Select Committee on Intelligence, has written an incisive and informed article on the subject of HUMINT, that is, "human intelligence," as opposed to the use of high-technology, to gather information.

I commend the article for its reasoned and fair-minded approach to a difficult and important subject.

At this point I want to insert in the RECORD, "Hi-tech vs. Human Spying," by BUD SHUSTER, the Washington Times, February 11, 1992.

[From the Washington Times, Feb. 11, 1992]

HI-TECH VS. HUMAN SPYING

(By Bud Shuster)

Decades ago, pundits highlighted the U.S. love affair with technology. Certainly this has been true in the intelligence realm. We've long witnessed an ever-increasing focus on "technical" means of collection, partly at the expense of age-old "human" intelligence ("HUMINT") gathering via spies and agents.

Results often have been spectacular. But while its contribution will remain extremely important, the heyday of technical intelligence may have passed. During the 1980s, and with the Iraqi war, those advocates of a higher priority for human intelligence collection gained momentum.

Continuance of the overwhelming priority accorded technical collection has been undermined by a number of factors. These include increased awareness and countermeasures within target countries and groups; the pro-HUMINT-orientation of Republican administrations; discovery of sweeping Soviet intelligence coups based on HUMINT; communications innovations that help keep messages secure; congressional advocacy for HUMINT; uncontrolled inflation in the technical system costs; and worldwide political liberalization allowing better access to foreign lands and people.

As Gen. Norman Schwarzkopf noted, intelligence performance in the Iraqi war was outstanding over all. Specifically, he said: "We had very, very good intelligence support. We had terrific people. We had a lot of capabilities. However, gaps in prewar and postdeployment intelligence resulted from Iraq's fear of and countermeasures to communications, electronic and photo intelligence collection methods and from the limited availability of expensive satellite assets, which in turn facilitated deception. The most striking aspect of the Iraq experience may have been its proof that even a Third World country could implement highly successful denial and deception programs to foil technical intelligence collection. Many U.S. intelligence officials had rejected this possibility.

The allied victors' on-site inspection rights have given us a rare, detailed retrospective on our intelligence failures. There have been eye-opening relevations about assessment problems in areas such as Iraqi Scuds, chemical weapons and, most importantly, the Iraqi nuclear program. These demonstrate the folly of relying too heavily on technical collection. Serious underestimation of the Iraqi nuclear program meant that, had we opted only for an embargo, foregoing offensive action, Iraq might have acquired nuclear weapons allowing it to deter or retaliate against belated military pressure.

The nuclear issue dramatized the advantages of human intelligence. Several postwar defectors tipped off inspectors to previously unknown plant locations, equipment and documents. That provided concrete evidence about the broad scope and advanced status of Iraq's program. Defector-derived information also demonstrated that even when the purpose and location of a large military complex is known, wartime targeting of dispersed buildings can be guesswork if we lack an inside source.

Unfortunately, this bounteous HUMINT was largely unsolicited, provided after the war rather than before, at somebody else's initiative rather than our own. Deficiencies in clandestine HUMINT on Iraq typify those we have experienced with many other "difficult" targets. For example, almost all our recruited Cuban and East German "agents" were found to be "doubles," actually working for the other side. A lack of strong quality control and vigorous counterintelligence scrutiny has often proven the bane of U.S. clandestine human intelligence.

While well-publicized failures have dogged existing human intelligence efforts, in the past year we have begun improving the quality of our activities. Programs have been instituted to test more rigorously our spies and agents, to scrutinize clandestine HUMINT collection operations and hold program managers accountable. Analytical and technical experts are developing strategic targeting and new techniques that, it is hoped, will produce the necessary high-quality intelligence. These improvements have resulted, in part, from increased intelligence funding. Some believe that we could make greater strides by throwing more money at the problem. Many other deserving intelligence programs, however, are competing fiercely for limited funding that likely will decrease considerably in the future.

In sum, despite past fiascoes, there has been progress. Continuing efforts to improve clandestine HUMINT collection deserve strong support. The question is how can we most wisely effect needed reforms. Even in tough times, it is much easier for Congress to increase a funding line than successfully demand more elusive qualitative improvements. We should adopt the Missouri slogan: "Show me." Show me that these improvements are part of serious and ongoing effort. Once we are convinced that the money is being well spent, we can justify giving more. It is the means, rather than the end, that now should be debated.

LOWELL HOWARD

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. ROGERS. Mr. Speaker, I rise today to praise Mr. Lowell Howard of Middlesboro, KY. This gentleman has written an eloquent poem praising the Cumberland Gap in honor of the tunnel which will soon run through it. I would like to take a moment to share this poem with you.

CUMBERLAND GAP

To the gap in the Mountain the Pioneers came,
Seeking Adventure and new land to tame.

Like a child longing for his mother's hand,
They came to the Mountain Passage that lead to the Westward land.

This gap in the Mountain was their gateway to freedom in a land so vast and far,
It was their Pathway to follow a star.

These men and women with Courage true,
They were following a dream to start life anew.

They were destined to be builders, to shape with their hand,
To make possible a great nation of this American land.

They were to tame its vast wildness and chart its unexplored stream,
For they were the Pioneers of the American dream.

Again, I am honored to have men such as Mr. Lowell Howard in the Fifth District of Kentucky.

HONORING CHARLES CRISAFULLI, WORLD WAR II HERO

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. HORTON. Mr. Speaker, 50 years ago this month, Seaman Charles Crisafulli was killed while saving the life of his fellow shipmate aboard the U.S.S. *Truxton.* On this fateful day, February 18, 1942, Charles Crisafulli became the first resident of Oswego, NY, which I represent, to die in World War II. He died a hero.

Charles Crisafulli, a tailor in Oswego, was a naval reservist with the 15th Fleet Division when the Japanese bombed Pearl Harbor. Soon thereafter, he found himself serving aboard the U.S.S. *Truxton* on his way to the North Atlantic. Unfortunately, the *Truxton* encountered stormy weather, and gale-forced winds ripped the ship apart, killing 189 sailors. Charles Crisafulli was among those 189. But had it not been for his courageous efforts the number of dead would have been greater. He died while saving the life of one of his shipmates.

I think all of my colleagues will agree with me that Charles Crisafulli is an American hero in every sense. His bravery and valor are the epitome of military service.

Today, Charles Crisafulli's family, friends, and supporters are petitioning the Navy for a posthumous award of the Navy and Marine Corps medal for acts of heroism. It is my sincere hope that our Government will soon give Charles Crisafulli the tribute he so deserves.

Mr. Speaker, I request that the following article from the Syracuse Post Standard be included at the conclusion of my remarks.

[From the Syracuse (NY) Post-Standard, Feb. 18, 1992]

OSWEGO HONORS WORLD WAR II HERO

(By Andrew Smith)

OSWEGO.—Charles C. Crisafulli was on his way to the North Atlantic Ocean 50 years ago today. He never made it.

Crisafulli, 28, became the first city of Oswego resident to die in World War II. The city will honor him at 10 a.m. today at the park that bears his name at the foot of Ontario Street. Mayor Terry Hammill will read a proclamation in his honor.

"When he was killed, I was 16," said Frederick Crisafulli, one of his younger brothers. "He was one of my idols."

Charles Crisafulli was aboard the U.S.S. Truxton, one of two destroyers escorting the cargo ship U.S.S. Pollux from Boston. In high seas and fierce winds the night of Feb. 18, 1942, the ships ran aground off the coast of Newfoundland.

Gale-force winds ripped the ships apart and killed 189 sailors. Crisafulli died saving the life of another sailor, something Frederick Crisafulli found out only a year and a half ago, he said.

He was reading a Reader's Digest story about the disaster that named a survivor. Crisafulli got in touch with him and found out the circumstances of his brother's death.

After the ship ran around, it was leaning on its side by about 45 degrees. Men were in the water all around it. Crisafulli struggled to get one sailor out of the water, Frederick Crisafulli said, and with the help of two other men managed to put the sailor in the Truxton's radio shack.

That was the last anyone saw of Crisafulli.

"Evidently, a 40-foot wave washed him over and he was too weak to save himself," Frederick Crisafulli said. Charles Crisafulli's body was never found.

"He not only gave his life for his country, but he gave his life for a sailor," Frederick Crisafulli said.

Crisafulli is trying now to get his brother posthumously awarded the Navy Marine Corps Medal, an award for heroism that others on the Truxton received.

Charles Crisafulli was a naval reservist when the war began. He was with the Navy's 15th Fleet Division.

"He was already a second-class gunner's mate at that point," Frederick Crisafulli said.

For 38 years, he said, he didn't know his brother died a hero, but he always knew his brother was someone to respect.

Like his brother, Frederick Crisafulli enlisted in the Navy in 1943. He served in the Pacific and fought at Okinawa. He also was with the Marines in the Korean War, he said.

Before World War II, Charles Crisafulli was involved with the family. There were six brothers and three sisters, Frederick Crisafulli said, so the older siblings often acted as parents for the younger ones.

Charles Crisafulli was a tailor before the war, and he always brought his brothers and sisters gifts. Once he made sailor suits for Frederick and his brother Francis.

Frederick Crisafulli still misses his brother, 50 years later. The fact that his body never came home sometimes contributes to Frederick Crisafulli's wistful yearning.

"I always think I'm going to see him again," he said.

BIOGRAPHY OF SEQUOYA

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res 217, H.J. Res 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my on-going series this year, I am providing for the consideration of my colleagues a short biography of Sequoya, a Cherokee known for his abilities as a leader and teacher. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

SEQUOYA (CHEROKEE)

By the early 1820's, Cherokee Indians of the southeastern United States had reached a remarkable level of civilization. They were good farmers; owned plows, wagons, and thousands of livestock; they wove their own cloth for clothing; operated sawmills and grist mills, blacksmith shops and ferries; and had built roads, schools, and churches. They governed themselves, with a constitutional system they had patterned after that of the United States.

The tribe's outstanding achievement, in 1821, was the development of a system of writing the Cherokee language. It was the invention of Sequoya, a tribal member sometimes called George Gist.

Sequoya, who had grown up among the Cherokees, had been a hunter and fur trader until permanently crippled in a hunting accident. He had never gone to school, and could neither speak nor understand English. But he was by nature a thoughtful and talented man. Having observed the importance of reading, writing, and printing among whites, he pored over English letters in mission-school primers, and set out to develop a Cherokee alphabet.

Some of his tribesmen, frightened at the strange-looking symbols on which Sequoya was constantly at work, suspected him of witchcraft. His cabin and all his working papers were burned, and Sequoya left Cherokee country for the sake of his great project, settling for a time in Arkansas among those Cherokees who had emigrated west.

Twelve years after he had first dreamed of a Cherokee writing system, Sequoya returned to his people, bringing a written greeting from Cherokees in the west. He had succeeded in inventing an alphabet, made up partly of English characters (but with sounds differing from English) and partly of new ones of his own. The first Indian writing system north of Mexico ever devised without white help, it was a brilliant achievement that revolutionized Cherokee education.

Within a year, thousands of Cherokee Indians of all ages had learned to read and write their language. Parts of the Bible were printed in Cherokee in 1824, and in 1828, having acquired a press of their own, the tribe began publication—in Cherokee and English—a weekly newspaper, The Cherokee *Phoenix*. Sequoya was honored by the Cherokee Legislature with a silver medal and a lifetime pension, the first ever given by an Indian tribe.

Sequoya lived among the Arkansas Cherokees as a leader and teacher until 1842, when his thirst for knowledge led him on another search. This time he hoped to find a "lost" band of Cherokees supposed to have crossed the Mississippi many years before, and to look for similarities of speech and grammer among various tribes. He disappeared into the southwest, and was not heard from again.

Three years later, a Cherokee named Oono-leh, sent to look for Sequoya, wrote from Mexico City (in the Cherokee language) to the tribe that their most honored leader had died there in 1843.

TRIBUTE TO MARGUERITE ROSS BARNETT, EDUCATOR

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. CLAY. Mr. Speaker, the city of St. Louis, the State of Missouri, as well as all friends and supporters of higher education were greatly saddened on February 26 by the death of a truly outstanding educator—Marguerite Ross Barnett, the president of the University of Houston.

Dr. Barnett was named president of the University of Houston in May 1990, becoming the first black person and the first woman to hold that position. Before moving to Houston, she was chancellor of the University of Missouri at St. Louis.

I would like to insert for the RECORD an editorial from the February 27, edition of the St. Louis Post-Dispatch that speaks of the impact she made on the St. Louis community.

MARGUERITE ROSS BARNETT

Though she spent only four years in St. Louis, Marguerite Ross Barnett, who died Wednesday at age 49 of cancer, had a great impact on this area than most people can manage in a lifetime here. If her tenure as chancellor of the University of Missouri-St. Louis could be summed up in a single sentence, this would be it: She got things done.

And she started doing things literally the moment she got off the plane in June 1986 to take over at UMSL—or UM-St. Louis, as she insisted it be called. Ms. Barnett asked a small group of women who welcomed her at Lambert Field to be taken to the marker commemorating the U.S. Supreme Court's historic 1948 decision striking down racially restrictive covenants. She was told that there was no marker. There is now.

Things continued like that pretty much non-stop until Ms. Barnett left in August 1990 to become president of the University of Houston. As chancellor at UMSL—make that UM-St. Louis—Ms. Barnett did the usual bricks and mortar things: a science complex, a computer science building, a library. But what distinguished her was her success in getting the community involved in the university and making the university a participant in the community.

She persuaded corporations to contribute to the building program and to educational programs, too—something almost unheard of before she put her foot in the door of executive offices all over town. She arranged for the university to work with several public high schools in the region to improve students' chances of success at the college level. She increased scholarships by 300 percent.

Marguerite Ross Barnett deserves a marker. The most fitting one would be a resolve to strengthen and enlarge the partnerships she established.

TRIBUTE TO JOHNNY CASH, AN AMERICAN TREASURE

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. CUNNINGHAM. Mr. Speaker, it is fitting that the permanent RECORD of the Congress of the United States include a tribute to a true American treasure, country music legend Johnny Cash.

The "Man in Black" has long distinguished himself among singers and songwriters. Since the beginning of his career in 1954, Johnny Cash has written and sung stories of joy and sadness, of success and despair, of love gained and love lost, of loyalty and broken promises, of cowboys and convicts, of the compassionate hand of God and the trials of the working man.

They are songs we all know, on themes we are all familiar with, and lyrics we all relate to.

In his trademark deep baritone, Johnny Cash sings those hard luck songs. We listen and understand because we've been there; even more so, we know Johnny Cash has been there.

He was born the fourth of seven children to a poor farming family in backwoods Arkansas, raised on cotton-picking and country gospel churches, and the music of Hank Williams and the Carter Family. Young Johnny's gifts for song emerged early, in high school, he had his own program on Blytheville's KLCN Radio and won the $5 first prize in a local talent contest.

But instead of pursuing a musical career as his mother Carrie urged, in 1950 he enlisted in the Air Force. He bought his first guitar not in Arkansas, but in Germany where he was stationed. Upon his honorable discharge in 1954, Johnny Cash settled in Memphis, took a job selling appliances, and met guitarist Luther Perkins and bassist Marshall Grant.

They became Johnny Cash and the Tennessee Two and recorded the song "Cry, Cry, Cry" for Sun Records, Elvis Presley's new label. That 1954 song sold well over 100,000 copies, and the rest is country music history.

But by no means did success in country music come easy to him. It is no secret that Johnny Cash struggled with poverty in childhood, and with drugs and alcohol in the 1960's. There is also no doubt that he has conquered both.

In the 28 years since "Cry, Cry, Cry," Johnny Cash has accumulated a long list of hit records and awards, including seven Grammys and inductions into the Country Music Hall of Fame and the Rock and Roll Hall of Fame.

Let the permanent RECORD of the Congress of the United States show that Johnny Cash is indeed an American treasure, a man who has served his nation well, who exemplifies the best in the American tradition and sings the songs that chronicle the perseverance of the American spirit.

SEARCHES, SELF-INCRIMINATION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. EDWARDS of California. Mr. Speaker, this fourth editorial in a series of eight that recently appeared in the Atlanta Constitution examines the fourth and fifth amendments of the Bill of Rights. We in Congress must be aware of the threat posed to the fourth amendment as the Supreme Court, and even Congress, cut back on the exclusionary rule. I recommend that you read this editorial, as well as the others, to enlighten yourselves on the status fate of our Bill of Rights.

Article IV: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article V: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

[From the Atlanta Constitution, Dec. 11, 1991]

SEARCHES, SELF-INCRIMINATION

(This is the fourth in a series of editorials leading to the 200th anniversary December 15 of the ratification of the Bill of Rights.)

One of the main abuses with which American colonials charged King George III was his government's use of open-ended search warrants to dig up evidence against them. As a result, the Fourth Amendment of the Bill of Rights requires that federal warrants be issued only "upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Thirty years ago, the U.S. Supreme Court ruled that this ban on "unreasonable searches and seizures" was so important that it was also binding on state law enforcement officials. Today, by contrast, the court is less and less impressed by the Fourth Amendment's insistence that suspicion be specific and individualized.

In 1989, the court allowed U.S. Customs to test all its employees for drugs, even though there was no evidence that customs officials were prone to drug abuse. The same year, the court found it permissible to search anyone at an airport who fit a "drug courier profile." And last year, the court gave constitutional approval to sobriety checkpoints, where you need only be a driver to be stopped and interrogated.

This same lessening of regard for the rights of individuals in criminal justice can be found in the court's recent handling of the Fifth Amendment, which most famously protects a person from being "compelled in any criminal case to be a witness against himself." The drafters of the Bill of Rights understood that allowing people to be compelled to testify against themselves invited abuse to the point of torture.

This year, the court held that a forced confession is insufficient grounds for having a case dismissed on constitutional grounds. To gain dismissal, it must be proved on appeal that the confession caused a "harmful error"—that the verdict would likely have been "not guilty" without it.

This amounts to an open invitation to law enforcement authorities to force confessions in tough cases. Once the defendant is convicted, there's always a chance the appeals court will decide the "error" was "harmless."

But if personal rights are falling out of favor, property rights may be in for a revival. The court recently agreed to hear a South Carolina case relating to the Fifth Amendment's provision that "private property should not be taken for public use without just compensation." The case involves a beachfront management act prohibiting new buildings close to the shoreline.

The owner of some beachfront property argues that by restricting his use the state has illegally "taken" his property and owes him compensation. Should he prevail, much legislation critical to protecting the environment might be open to challenge.

This is one of five property-rights cases the court has taken to rule on this year. There's reason to fear it will begin turning the clock back a century, when the individual rights that mattered were not to speak and worship freely and to be protected from law enforcement abuse but to prevent public regulation of what you own.

IN RECOGNITION OF RAYMOND S. VOCCOLA

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Ms. DELAURO. Mr. Speaker, all of us in Congress are here because of our desire to serve the citizens of our States and districts. We feel privileged to have the opportunity to represent the American people. But we also realize that the Federal Government, which we serve, is just one element in the structure of this republic. Equally vital are the institutions, and the men and women, that serve America at the State and local levels. With this in mind, I would like to recognize the public service of a man who exemplifies, in his own community, the traditions of America's participatory democracy.

For years, Raymond S. Voccola has made a significant contribution to his community in Stratford, CT. As he steps down after a decade as the chair of that town's Democratic Committee, he deserves to know of our deep appreciation for his years of service.

During World War II, Ray distinguished himself as a member of the U.S. Army. Subsequently, through years of hard work, he was able to establish his own plumbing and heating business, which he has operated since 1960. Today we recognize this veteran and self-employed craftsman, however, primarily for his service to his town.

Ray has held numerous public posts. He has been a member of Stratford's Ordinance, Public Works, Finance, Airport, and Recreation Committees. He has served with great dedication on the town's pension board and has worked with the Water Pollution Control Authority. In other capacities, he has strongly supported local education and community development projects.

Ray's leadership skills are impressive. He was a town councilman for 18 years, and served as the council's majority leader. He also chaired Stratford's Building Need and School Building Need Committees. Finally, since 1982, he has been the town's Democratic chairman, making excellent use of his wide knowledge of, and deep dedication to, the Stratford community.

Over the course of his career, Ray has not only served the public but has encouraged others to follow his lead. Members of his own family—his wife, Margaret, and two sons—are among the many people who have been drawn into community service, inspired by his example.

Raymond S. Voccola's career has exemplified the American ideals of patriotism, along with a special combination of individual initiative and commitment to the public good. He has consistently worked to fulfill those ideals. As a veteran of World War II, a successful small businessman, and a local official, he has demonstrated an unwavering belief in the American system. In return, that system owes him a special debt of gratitude. On the occasion of his retirement from the chairmanship of the Stratford Democratic Town Committee, I remind the Congress of Raymond S. Voccola, whose devotion to his fellow citizens is an example and inspiration to all public servants. Such devotion has helped to make the United States the great Nation that it is.

TRIBUTE TO A GRADUATING NURSING CLASS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. TRAFICANT. Mr. Speaker, today I rise to pay tribute to the graduating class No. 78 from the Choffin Career Center in Youngstown, OH. These students recently celebrated the completion of their classes in a beautiful ceremony in the commons of the Choffin Career Center on January 31, 1992.

Today's nurses must absorb great amounts of information in dealing with modern medicine's miracle machines. But these same miracle machines would be just bells and whistles without the experience and knowledge of the nurse. These graduates, I know, have mastered the technical aspects of nursing, but also have been instilled with commitment and compassion in their course of study. As anyone who has experienced a long-term hospital stay knows, it is the nurses that one deals with several times a day, not the doctors. It is the nurses who use modern medicine's miracle machines with a human touch, easing the pain of being in the hospital.

Mr. Speaker, the kind of nurses that graduated from Choffin School of Practical Nursing cannot be found just anywhere. I know that these dedicated students will go on successfully to aid in the comforting of others.

Mr. Speaker, it gives me great pleasure to honor these newly graduated nurses as they go forth into the health care field:

CHOFFIN SCHOOL OF PRACTICAL NURSING CLASS NO. 78 GRADUATES

Deborah A. Barber,
Cheryl A. Beckman,
Sherri L. Berenics,
Barbara J. Bigley,
Lori A. Boyd,
Janet K. Bresnahan,
Lisa M. Bukofchan,
Frances L. Burns,
Madeline L. Cage,
Antionette D. Carey,
Lora P. Carter,
Vada L. Click,
Pamela S. Coller,
Linda J. Devine,
Merileen Ellison,
Lonnie J. Everly,
Christy A. Foltz,
Vicki L. Funkhouser,
Rachel M. Fusco,
Julia K. Gribben,

Sherry L. Hilderhoff,
Carol A. Hinton,
Ramona L. Humphrey,
Rochelle L. Jordan,
Chesta L. Kassinger,
Linda R. Kimble,
Dina M. Malloy,
Georgia A. McGuire,
Henrietta Peagler,
Fay E. Roberts,
Christopher A. Rodgers,
Theresa R. Rogers,
Cynthia A. Rosenberger,
Brenda L. Schell,
Christina S. Signor,
Cecile M. Swiskoski,
Autumn R. Tentler,
Deborah S. Waltermire,
Dianna L. Whipple,
Margaret Williams,
Terry J. Williams,

THE TAX FAIRNESS AND ECONOMIC GROWTH ACT OF 1992

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. SWIFT. Mr. Speaker, last Thursday, I voted for the Democratic budget package, the Tax Fairness and Economic Growth Act of 1992. I voted "yes" despite some reservations I have about the bill. Let me discuss some of those reservations first.

First of all, I am concerned about the real impact on the deficit in the out years. The revenue projections we have been given in the past have not always been accurate, and we must be careful to spend our limited dollars in the most effective way.

Next, while the bill provides some relief from the current passive loss rules for the real estate industry, it does not include a change in the passive loss regulations nor effective capital gains tax relief for timber growers. If others are favored, but not the tree farmer, for example, the danger is that investment will be directed away from reforestation, and that can have severe economic and environmental consequences.

While I was pleased that the bill repeals the luxury tax on boats, furs, jewelry and airplanes, I was disturbed that the boat user fee was not repealed, despite overwhelming support in the House for repeal of this onerous tax.

And I was disappointed that the bill didn't include raising the exemption for poll workers subject to the Social Security tax. I urge that serious consideration be given to these issues by the conference committee.

Having said that, I would also say that I strongly support the positive features of the bill, provisions that I have cosponsored and am pleased have been included in the bill. We all know that without a strong, stable, and economically healthy middle class, this country cannot survive as a democracy. Over the past 12 years, however, we have witnessed the erosion of the middle class. By adding a new tax rate for wealthy individuals and a surtax on millionaires, this bill will begin to reverse the trend that shifted the burden of taxation to the middle class.

Other provisions that will help strengthen our middle class are waiving the penalty for withdrawal of IRA funds for first-time homebuyers, or for medical or education expenses; and a tax credit for student loan interest.

An important improvement is the inclusion of a taxpayers bill of rights which will give the individual taxpayer a fair shake in dealing with the Internal Revenue Service.

Another measure, the indexing of capital gains, can be of real benefit to middle income taxpayers as well. I have never been philosophically opposed to capital gains tax reduction, but because in the past proposals have usually disproportionately benefited the wealthy, I have always insisted capital gains tax relief be coupled with measures that directly benefit the middle income taxpayer. In this bill, that is the case.

Also included in the bill are a number of useful measures to encourage growth in our economy such as the permanent extension of the Research and Development tax credit, low-income housing tax credit, targeted jobs tax credit, employer-provided educational assistance, the exclusion for employer-provided educational assistance, and mortgage revenue bonds. I have supported all of these because they have proven to be of value and they should be a permanent part of our Tax Code.

I voted for the Democratic tax bill because it represents a serious effort toward a fairer Tax Code. I recognize that there are problems yet to be resolved, and I look forward to the conference process to deal with those issues. But on balance, the positive features outweigh the negative. This bill is a good beginning.

THE REAL CLARENCE THOMAS IS REVEALED

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. CLAY. Mr. Speaker, I would like to insert for the RECORD a column written by Ms. Mary McGrory in response to the dissenting opinion of Justice Clarence Thomas in the Hudson versus McMillian decision where Thomas argued that there was no violation of a prisoner's eighth amendment rights even though the prisoner was beaten by guards while shackled. This column appeared in the February 27 issue of the Washington Post.

THOMAS WALKS IN SCALIA'S SHOES

(By Mary McGrory)

People thought that Clarence Thomas might not be much of a protector of the powerless—he had pretty much erased his past as a poor black and rejected the legal remedies proffered by the government. But he has exceeded dreadful expectations. In a disgusting dissent in the case of the beating of a shackled manacled prisoner he shows he doesn't subscribe even to a bedrock tenet of human decency: Don't kick a man when he's down.

His Senate confirmation hearings cost the country a great deal, due to the explosive allegations by Anita Hill. If he continues to reason the way he did in *Hudson* v. *McMillian* for the next 30 years or so, his tenure will cost even more. The outstanding mediocrity of his mind was evident in the little we were given about his record. The distortions and the denials of his personal life and the fatuous declarations of self-reliance boded ill for justice. But the hair-splitting pitilessness of his dissent is a new dimension.

At the confirmation hearings, he had an opportunity to explain why he wanted the job for which George Bush perjuriously claimed he was the best qualified. When Sen. Herbert H. Kohl (D-Wis.) asked him the question, he was ready. From his window at the U.S. Circuit Court of Appeals here, he could see criminal defendants being bused to court. He thought he could have been one of them, he said.

"So you feel you have the same fate, or could have. . . . So I walk in their shoes, and I could bring something different to the court."

But judging from the dissenting opinion in the case of a prisoner being beaten by prison guards—under the observing eye of a supervisor who merely cautioned the perpetrators "not to have too much fun"—he's going to bring the same old constitutional crankiness that is the principal contribution of Justice Antonin Scalia.

Scalia, a brilliant and compelling extremist on the limits of the Constitution, raised most of the points in oral argument that Thomas folded into their joint dissent in the case. The plight of handcuffed, shackled prisoners being kicked and beaten by guards moved such sticklers for the protection of authority as Chief Justice William H. Rehnquist and Justice Byron White to find for the prisoner, Keith J. Hudson, and to find his torturers' conduct a violation of Eighth Amendment sanctions against "cruel and unusual punishment." Justice Sandra Day O'Connor, hardly a radical, wrote the majority opinion.

But rookie Thomas, standing with Scalia, brushed aside individual rights in favor of a handkerchief-sized interpretation of the Constitution. Never mind the rights of the prisoner. The federal Constitution must not be stretched to cover matters that can be handled by the state. The injuries inflicted on Hudson were not "significant" enough to warrant invoking the Constitution, a document that should be whished into the vault when ordinary citizens come seeking redress.

Thomas makes some specious arguments about the uncongenial state of prisons at the time of the Founding Fathers. Prisons are meant to be harsh and unwelcoming. That's part of the punishment. But to go from there and say that the Constitution does not prevent guards from kicking and punching a handcuffed and manacled prisoner is too long a trip for the strictest constructionist. Americans have little sympathy for prisoners—Keith Hudson was doing 15 years for armed robbery—and generally think convicts get what they deserve.

To follow Thomas's reasoning, we would make our prison system a school for sadism, where guards can manhandle a prisoner at will as long as they don't meet the Scalia-Thomas test for "serious injury." With prison population at an all-time high and recidivism at a truly appalling rate, it would seem wiser to emphasize rehabilitation and education in our jails. But that's the kind of soft-headed thinking that conservatives frown on.

Hudson suffered minor bruises and swelling of his face, mouth and lip and a crack in his dental plate, and that just wasn't enough for Scalia and Thomas.

Says Sen. Arlen Specter (R-Pa.), one of Thomas's most vociferous defenders at the awful confirmation hearings, "I think he needs to mature a little."

Alvin J. Bronstein, the American Civil Liberties Union lawyer who was Hudson's court-appointed attorney, says the bad news is that Thomas has come on as Scalia's puppet. Worse news, of course, is that he reached his conclusions on his own.

Either way, it is a distressing debut for a man who was born an underdog and has forgotten all about what it was like. Far from identifying with the poor defendants who were on the bus that he saw from his window, Thomas seems more like the bus driver.

THE CSCE FACT-FINDING MISSION TO NAGORNO-KARABAKH

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. HOYER. Mr. Speaker, last November I introduced a resolution on the situation in Nagorno-Karabakh that called for the U.N. Security Council to consider whether U.N. peacekeeping forces should be sent to the region to maintain order. This week, the tragic conflict has taken a new turn, with the release of a CSCE report based on a mid-February factfinding mission to Baku, Yerevan, and Nagorno-Karabakh.

The investigators tried to take all sides and viewpoints into account. Their report's brief historical section describes the Soviet and Azerbaijani restraints on the religious and cultural rights of Armenians in Nagorno-Karabakh, which led them to call for unification with Armenia. The rapporteurs then discuss the different principles invoked by the parties in the ensuing conflict: Armenians argue for self-determination, while Azeris appeal to territorial integrity.

The report and its conclusions contain good news and bad news. To begin with the latter, it confirms what we have long known, namely, that Armenians and Azerbaijanis differ fundamentally in their interpretation of the nature of the conflict. Equally clear is that the violence carried out by the contending parties has not lessened after last fall's attempts by Russia and Kazakhstan to broker a cease-fire and negotiations, but has, in fact, intensified.

On the positive side, however, both Azerbaijanis and Armenians appear eager to settle the conflict. The CSCE factfinding mission was invited by the Azerbaijani and Armenian governments. The rapporteurs also came away with the impression that the Armenians of Nagorno-Karabakh, despite insisting on their right to self-determination, want the quickest possible solution to the problem by peaceful means. On the other side, the Azeris indicated a willingness to hold consultations, if not negotiations, with the Armenians of Karabakh. Baku also indicated a readiness to grant a degree of autonomy to the region if earlier resolutions about the incorporation of Nagorno-Karabakh into Armenia were withdrawn. Such autonomy and local self-government would entail cultural autonomy, the freedom to use native languages and to education in those languages, and religious freedom.

None of these developments and positions may be satisfactory to the contending parties. We will have to wait and see whether this conflict can be resolved. But in the meantime, it is critical to end the bloodshed. For that reason, I support the recommendations made by the CSCE factfinding mission, which include: an immediate cease-fire, an arms embargo to the region, the provision of humanitarian assistance by voluntary organizations to the inhabitants of Nagorno-Karabakh, the establishment of safe corridors for that purpose, the immediate exchange of all prisoners and hostages, and the return to families of their dead relatives.

I would go beyond the recommendations of the rapporteurs, however, in arguing, as I did in House Resolution 321 last November, that the U.N. Security Council consider whether to send U.N. peacekeeping forces to Nagorno-Karabakh. No negotiations will get off the ground while violence continues. In the interests of saving lives and promoting negotiations, I again urge that the internationalization of the conflict, having now begun with the involvement of the CSCE, broaden to embrace the United Nations and its mechanisms. Both Armenia and Azerbaijan are now members of that body, and its growing prestige and authority would be well engaged in Nagorno-Karabakh.

TRIBUTE TO THE U.S.S. "LEXINGTON"

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. DE LA GARZA. Mr. Speaker, as we today consider a measure to transfer the U.S.S. *Lexington* to Corpus Christi, I want to take this opportunity to say how happy I am she is coming to the bay and to south Texas. She is a carrier warmly welcomed by the community to her new home where she will begin her new life as a floating museum. I also want to add that for future generations she will serve as a reminder of the major role our Nation played during the Second World War as we sought to safeguard democracy, promote freedom, and make the world a safer and more secure place in which to live.

With her comes a significant history and extensive war experience. Launched in September 1942 and commissioned in February 1943, the U.S.S. *Lexington* played a dramatic and determining role in World War II.

She arrived for Pacific action in the summer 1943 making searches and flying sorties in the Marshalls, as well as covering the landings in the Gilberts where she promptly distinguished herself.

In early December the *Lexington* continued her mission. Although the results were impressive she found herself a casualty of conflict having been hit by a torpedo to starboard which knocked out her steering gear. She was reported sunk. This began her reputation as the ship with nine lives.

During subsequent fierce and intense fighting against the major centers of resistance in Japan's outer empire in the spring 1944, the *Lexington* was again announced as sunk although in this instance she remained untouched. Torpedo planes sought to sink her in June of that year, but again she emerged unhurt.

Next came the famed Marianas operation which provoked the Battle of the Phillippine Sea. The *Lexington* played a major role in this great victory which virtually knocked all Japanese naval aviation out of the war. With the planes went the trained and experienced pilots without whom our enemy could not continue air warfare at sea.

As the war escalated the *Lexington*'s planes continued to score important victories particularly in the Battle for Leyte Gulf, our Nation's climactic American naval victory over Japan. It was during this time that the *Lexington* was introduced to the kamikaze. Once again she was declared by the enemy as destroyed, and once again, although damaged, she proved the rumors false.

Throughout World War II the *Lexington* remained a force to be reckoned with, and we all owe her a great debt of thanks.

These, however, are but a few of the highlights of the *Lexington*'s illustrious career. After the war her planes continued to fly precautionary patrols over Japan, and dropped supplies to prisoner of war camps. She supported the occupation of Japan until leaving Tokyo Bay with homeward bound veterans.

Subsequent years have seen the *Lexington* continue to play a significant role in the defense of our Nation. It is important to note, however, that the role has not been solely confined to that of an attack carrier. She has also been actively involved in search and rescue missions as well as peacekeeping missions.

Most recently the *Lexington* has operated primarily out of her home port, Pensacola, qualifying student aviators and maintaining the high state of training of both active duty and Reserve naval aviators. Her work preparing the men vital to Navy and Marine Corps operations has been remarkable.

For all her valiant efforts the *Lexington* has received the Presidential Unit Citation and 11 battle stars for World War II services. With her comes quite a record of accomplishment, and again let me say how proud we are to welcome her. Because of the *Lexington*'s work and the work of those who served onboard her, America and the world are a safer place. It is indeed an honor to know that south Texas is now her home.

TRIBUTE TO THE 1992 SCHOLAR-ATHLETES

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to 10 high school and 3 college members of the Sacramento community upon their acceptance as this year's National Football Foundation Sacramento Valley Chapter's scholar athletes of the year. These outstanding individuals deserve to be recognized for their dedication to the pursuit of excellence not only in their sport but also in their academic undertakings.

This ceremony will recognize the achievements of a very elite group of outstanding student athletes in the Sacramento Valley area. The three college students: Jason Edwards, University of the Pacific; Eric Palmberg, California State University, Sacramento, Michael Shephard, University of California, Davis, along with the 10 high school students: Eric Belding, Bear River High School; Byron Deeter, El Camino High School; Eric Frostad, Roseville High School; Tim Griffin, Jesuit High School; James Kidd, Elk Grove High School; Brian Marlette, Oak Ridge High School; Joe McKeen, Cordova High School; Zachary Stassi, Jesuit High School; Mike Stathem, Del Campo High School; Joseph Tanner, River City High School; Eric Tennison, Roseville High School are to be congratulated for their outstanding achievements. It is through their commitment and skill that these individuals have made significant contributions to the entire Sacramento community.

Mr. Speaker, I commend the 1992 scholar-athletes for their many accomplishments. I am sure that my colleagues join me in saluting these invaluable members of the National Football Foundation and Hall of Fame for their expertise and their sportsmanship. It is through their hard work and sacrifice that these young men have met the challenge of excelling in two different environments head on. I extend my best wishes for their continued success in all their future endeavors.

IN HONOR OF THE WEST PHILADELPHIA CATHOLIC HIGH SCHOOL FOR BOYS 75 YEARS OF ACADEMIC EXCELLENCE

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today to pay tribute to a most special academic institution located in the heart of my congressional district. As West Catholic High School celebrates its 75th anniversary this week, I would like to take a moment to reflect on the glorious past of this beloved school.

The plan to establish a Catholic high school in west Philadelphia was pursued with great fervor by Bishop John J. McCort. After enlisting the support of the pastors of west Philadelphia and its outlying districts, Bishop McCort's dream was realized as ground was broken for the new school in 1915. In its first year, the West Philadelphia Catholic High School for Boys enrolled a total of 110 students. Five years later, enrollment had already increased to 450 students, and plans for expansion were underway. In 1926, the Brothers of the Christian Schools assumed the religious direction of the school, and saw the student body increase to nearly 2,900 students in 1952.

The tradition of West Catholic High is deeply rooted in the community of which it serves. Although the school's duration in years is highly impressive, it is the quality of West Catholic's administrators and teachers that render this institution with greatness. Any former student at West Catholic will testify about the personal concern and compassion shown by former teachers, as well as the overall quality of the education they received. Indeed the spirit of the school owes a great deal of its vitality to the leadership of those educators whose vision and dedication continue to make West Catholic High one of the finest schools in the Delaware valley.

Of course, there could be no school without students, and since 1915, West Catholic High has graduated a countless number of community, city, State, and national leaders. Graduates of West Catholic frequently reminisce about the companionship shared with fellow students in class, on the playing fields or basketball courts, and in extracurricular activities. In my mind, this seems to be the key to endurance for any benevolent institution—the time honored notion of working together.

I ask my colleagues to rise and join me in paying our greatest tributes to West Catholic High School.

A TRIBUTE TO BRENDA SHIELDS WADE AND ELAINE SHIELDS RAINES

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. MFUME. Mr. Speaker, I rise today to honor two of Maryland's most recent African-American female retirees. Mrs. Brenda Shields Wade and Mrs. Elaine Shields Raines are sisters. On Friday, February 28, 1992, these women will be honored by family, friends, and a host of admirers throughout the greater Baltimore area on the occasion of their retirement from the Chesapeake & Potomac Telephone Co. of Maryland.

Collectively, both Brenda and Elaine have been employed with this major corporation for over 50 years. During which time both were able to overcome the obstacles of sexism and racism to achieve occupational excellence; becoming executive managers for their firm and positive role models for their community. Twenty-seven years later, both women were afforded the opportunity to retire and pursue new goals, and both took advantage of it.

And, as a result of this opportunity, these women have chosen to pursue additional certification in the fields of education and human services. It is with the completion of this latest endeavor that both plan one day to give even more back to the community, by serving the needs of its children and its disadvantaged.

Mr. Speaker, like many who have attained much, both Brenda and Elaine came from humble beginnings. They are two of seven children, born to Bethlehem Steel worker, James C. Shields and his wife, Willeen. As products of this blue collar working family in Baltimore's innercity; they both entered the work force at the early age of 17. Being strong of character and possessing sound interpersonal and communication skills, these women were able to rise to the rank of management at the Chesapeake & Potomac Telephone Co.

They took advantage of company-sponsored educational opportunities as well as enrolling in evening and weekend programs at local colleges. These experiences enriched their contributions on their jobs and in their communities. Both women were active members of the board of trustees and the Sunday School at the Brown's Memorial Baptist Church in Baltimore as well as founding members of the Baltimore Washington Investors, Ltd.

While achieving all of the aforementioned accomplishments and more, both women maintained households, raised their children and supported their husbands.

Mr. Speaker, I am honored to pay tribute to these women who have contributed greatly to their employers, their communities, and their families. They are fine examples of the many accomplishments being made by women in corporate America, and African-American women in particular.

TRIBUTE TO MARGARET KOZUCH

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to Mrs. Margaret Kozuch of Summit Hill, PA, who has spent many years as an active and integral part of her community.

Mrs. Kozuch participates extensively in civic affairs, dedicating herself to the causes of her church, town, and the county of Carbon. She is on the Carbon County Parks and Recreation Commission, has served as den mother to the Boy Scouts of Troop No. 546, and has organized fund drives for many worthwhile projects. Mrs. Kozuch has held the position of chairman of the Carbon County Democratic Party and is the current party committeewoman of Summit Hill, a position which she has held for over 45 years. Through her involvement with St. Joseph's Church, Mrs. Kozuch has led the Guild of Catholic Women to assist in the church's functions. Mrs. Kozuch has given of herself to these and many other causes, all while raising her family and working for the department of labor and industry until her retirement. To recognize and honor her dedication to Summit Hill, Mrs. Kozuch will be presented with the prestigious Shamrock Award by the Panther Valley Irish-American Association.

I believe my colleagues will agree that Mrs. Kozuch deserves our commendation on the floor of the House for her untiring service to the people of Summit Hill. Mrs. Kozuch's compassion, charity, and devotion to her fellow citizens reminds us of our ability to enrich the lives of others by giving of ourselves.

A CONGRESSIONAL TRIBUTE TO REV. EDWARD BYNUM

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. DYMALLY. Mr. Speaker, I rise today to honor an unselfish servant of God, who has served the Greater Los Angeles and Watts area not for profit or fame, but because he truly cares for this community.

Rev. Edward Bynum initiated a small food program for his church, the Lighthouse Church of God and Christ, located in the Watts area of Los Angeles, to serve for 1 month. Today, thanks to his dedication and the generosity of his supporters, the Lighthouse Community Outreach project now serves thousands and thousands of families. In these recessionary times, when the needs of our people are greatest, it is outstanding leaders like Reverend Bynum who help offset these economic woes with their outpouring of service to the needy families in our communities.

I would like to share with you a few excerpts from an article written by Ralph Sutton for the Wave Newspaper of Los Angeles:

> "This one lady came to get food every day. One Sunday she came and testified, 'I came here every day, got this food and fed my children. I was able to save $900. I got a nice apartment for my children now, and I quit drugs.' She never came back to church, but we knew her life had been changed," said Bynum.
>
> "We established a small church in Compton called the House of Prayer. We also started holding outdoor services in Watts at Will Rogers Park. We liked the area because we could see how tremendous the needs of the people were," Bynum said. "If Jesus were here today, we believe he would be where the needs are the greatest."
>
> A lot of people think that we're giving away government surplus food and that it's free to us," Bynum said. "But, only the government-issued food is free. Everything else—like vegetables, bread and meat—you pay 10 cents a pound for."
>
> The Outreach Market now serves approximately 200,000 people annually. In addition, church members deliver groceries to shut-ins and they turn no one away.

So, Mr. Speaker, I stand before you to direct your attention to this man who has so humbly served his community. I am honored to have this occasion to make sure that Rev. Edward Bynum is properly recognized for his deeds.

A TRIBUTE TO CAPT. JAMES M. FOURNIER

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. COX of California. Mr. Speaker, I rise today to pay tribute to an outstanding official of the U.S. Congress, Capt. James M. Fournier has devoted over four decades of his life in service to his country. Jim Fournier has excelled in many fields: as a military officer, a sea captain, an engineer, and a general manager. He has succeeded in both business and Government. He is, I am proud to say, a good and loyal friend who has been with me since the beginning of my congressional career.

As my district representative and the chief of staff in my California office, Jim Fournier has become a beloved figure not only to the people who work for him but also thousands of southern Californians whom he has helped through difficulties with the Federal Government.

Although it would have been equally well-deserved, Jim did not earn the title of "Captain" by navigating the political waters of Washington, DC, or California. Rather, it was his long and outstanding service in the U.S. Coast Guard which earned him that designation. He began serving our Nation in 1954, when he was commissioned an ensign following graduation from the U.S. Coast Guard Academy. The next 30 years found Jim on Coast Guard cutters sailing to all four corners of the Earth, as well as on the vast network of waterways throughout the United States. Among his varied assignments, Jim captained icebreakers in the Antarctic and in the Arctic Circle; he commanded the Coast Guard's 8th District Field Office in New Orleans; and he managed the Coast Guard's Congressional Liaison Office in Washington, DC.

Jim Fournier's rapid advancement and stellar performance sailing under the flag of the United States earned him several national honors, including one of our Nation's top military service awards, the Legion of Merit. Although he would not be one to mention it, a listing of the other honors awarded to Captain Fournier is nothing short of amazing: Meritorious Service Medal, 2; the Coast Guard Commendation Medal, 2; Letter of Commendation, 2; National Defense Medal, 2; Antarctic Service Medal, 3; Arctic Service Medal, 4; and 11 other awards. In between his seagoing assignments, Jim found time to study engineering at the prestigious Rensselaer Polytechnic Institute and to do postgraduate work at John Carroll University.

Jim has often mentioned that the best import ever to sail to the United States from Canada is Lucille, his wife of nearly 30 years. I have had the pleasure of knowing Lucille for the past 4 years, and I agree with Jim completely. Jim and Lucille have three grown children, and for the past 2 years, Captain Jim has been grandpa Jim to his beautiful granddaughter, Renee.

Following his retirement from the Coast Guard and from private business in the field of engineering, Jim came on board with me right after my first election in 1988. He started from scratch and set up my district office in Orange County, finding office space, hiring the staff, and organizing the workload. He has served Orange County as the first line of assistance for thousands of constituents who have had problems with Federal agencies—from the IRS to the INS, from Santa Ana to our most distant and farflung Embassies around the world.

I well remember one especially poignant success that Jim achieved. Our constituents, Paul and Marci Mast of Laguna Hills, were seeking to adopt Rachel and Juliana, two orphaned Romanian babies. The Masts were devastated at the roadblocks they encountered in the U.S. bureaucracy. They weren't sure when, if ever, they would be allowed to bring their new daughters home to California. That's when they turned to my office for help. In the words of Marci Mast, Jim Fournier "worked on our problem with a passion that approached a vendetta." In less than a month, the Masts had their two beautiful girls at home with them in California. The creative energy that led to our success was typical of Jim Fournier—all day, every day.

Mr. Speaker, as my district representative, Jim Fournier has established an enviable record of caring service to the people of Orange County. His stewardship in that role will long be remembered, and should serve as a model for all of us in congressional service for years to come. As he sets his course for new challenges, I'm sure my colleagues will join me in saluting Jim Fournier, and thanking him for a job well done—for Orange County, for California, and for America.

THE 10TH ANNIVERSARY OF THE KEENE CAMERATA

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. BARTON of Texas. Mr. Speaker, I'd like to share with my colleagues the remarkable story of a small-town orchestra in my district.

Keene, TX—population 3,944—is a small town that is home to the Keene Camerata, a 35-member string orchestra. The Camerata is comprised of community members and students ranging from elementary to college levels. Their repertoire includes religious, classical, and semiclassical works. They perform regularly in the north Texas area. In 1988, the Keene Camerata traveled to Jamaica for a week of performances across the island.

Murgur Doroftei, founder and director of the Keene Camerata, emigrated to the United States from Romania in 1980. He and his family spent a few months in New York City before settling in Keene, TX, in the spring of 1981. A professional musician and composer, Mr. Doroftei was hired by Southwestern Adventist College as a music instructor. Although he was fluent in Russian and French, Mr. Doroftei did not speak much English. He did not let his language problem prevent him from organizing a full orchestra at Southwestern Adventist College. He named the orchestra the Keene Camerata.

The Camerata experienced growing pains in the beginning. Mr. Doroftei had a difficult time finding people who played wind instruments. After 2 years, Mr. Doroftei decided to disband the percussion and wind instrument sections and form the existing chamber string orchestra.

Mr. Doroftei faced another potential problem. He did not have a budget that would accommodate the expense of new music for the fledgling ensemble. As an acccomplished composer and arranger himself, he resorted to writing his own arrangements for string orchestra: Concertos, hymns, show tunes, and golden oldies. Today his collection numbers over 400 arrangements. This includes nearly 30 concertos for solo instrument and some 200 hymns and vocal solos.

The Keene Camerata celebrated their 10th anniversary on February 29, 1992, with a performance at 7:30 p.m. in Evans Hall on the campus of Southwestern Adventist College.

INTRODUCTION OF THE FAIRNESS FOR FEDERAL POLICE OFFICERS ACT

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 2, 1992

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to inform the House of a great injustice that is taking place, and of legislation I have introduced to correct it.

The many Federal buildings, lands, and military bases across the country rely on Federal police officers to enforce the law and protect public safety. Unfortunately, because of U.S. Office of Personnel Management, an entire class of Federal police officers have been denied the pay raise to Federal law enforcement officers that was passed in the Federal Law Enforcement Pay Reform Act of 1990.

OPM uses a very narrow interpretation of the legal definition of Federal law enforcement officers. By OPM's own admission, their interpretation excludes Federal employees who perform general police-type duties including maintaining law and order, protecting life and property, and guarding against or inspecting for violations of law. To me, these duties are the essence of law enforcement, yet OPM has precluded such employees from FLEPRA.

This problem was first brought to my attention by Mr. Michael Petrecz, the president of the Fraternal Order of Police for the GS–083 officers at the Philadelphia Naval Shipyard which borders my district, and where many of my constituents work. Mr. Petrecz showed me in great detail the many varied and dangerous duties of the police officers at PNSY. Those officers are responsible for everything from drug interdiction, to river boat patrols. Every day they are confronted with the same violence and danger that all of our inner city police face, and yet are told by our Government that they are not law enforcement officers.

For this reason, today I introducing the Fairness for Federal Police Officers Act. This legislation amends FLEPRA to provide that Federal GS–083 police series officers be treated as Federal law enforcement officers for the purposes of the 1990 pay raise. I believe that fairness dictates the passage of this legislation, and I would invite my colleagues to join me in sponsoring this legislation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 3, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 4

9:30 a.m.

Banking, Housing, and Urban Affairs

To hold joint hearings with the Joint Economic Committee's Subcommittee on Technology and National Security on the overall competitiveness of the U.S. economy.

SD–538

Joint Economic

Technology and National Security Subcommittee

To hold joint hearings with the Committee on Banking, Housing, and Urban Affairs on the overall competitiveness of the U.S. economy.

SD–538

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings to examine water resources infrastructure needs and impacts.

SD–406

Foreign Relations

Business meeting, to mark up S. Con. Res. 70, to express U.S. support for the protection of the African elephant, S. Con. Res. 80, concerning democratic changes in Zaire, S. Con. Res. 89, concerning the United Nations Conference on Environment and Development, to consider the International Covenant on Civil and Political Rights (Ex. E, 95th Congress, 2nd Session), and pending nominations.

SD–419

Governmental Affairs

Business meeting, to mark up pending legislation.

SD–342

Labor and Human Resources

To hold hearings to examine comprehensive health reform proposals.

SD–430

Joint Economic

To hold hearings to examine the long-term outlook for agricultural trade.

B–352 Rayburn Building

Joint Economic

Economic Goals and Intergovernmental Policy Subcommittee

To hold hearings to examine United States agricultural competitiveness and how current trade talks might affect the farm industry.

B–352 Rayburn Building

10:30 a.m.

Judiciary

Juvenile Justice Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Juvenile Justice Act, focusing on problems of overcrowding in youth detention centers and access to justice in the court system.

SR–385

2:00 p.m.

Armed Services

To hold hearings on proposed legislation authorizing funds for fiscal year 1993 for the Department of Defense and the future year defense plan, focusing on the unified commands military strategy and operational requirements.

SR–222

Foreign Relations

European Affairs Subcommittee

To hold hearings to examine U.S. policy toward Yugoslavia.

SD–419

Judiciary

To hold hearings on pending nominations.

SD–G50

Select on Intelligence

To resume hearings on S. 2198, to reorganize the United States intelligence community to provide for the improved management and execution of United States intelligence activities.

SH–216

MARCH 5

9:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense, focusing on Army posture.

SD–192

9:30 a.m.

Select on Intelligence

To resume hearings on S. 2198, to reorganize the United States intelligence community to provide for the improved management and execution of United States intelligence activities.

SH–216

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on proposed legislation authorizing funds for the Resource Conservation and Recovery Act, focusing on recycling provisions.

SD–406

Governmental Affairs

Federal Services, Post Office, and Civil Service Subcommittee

To hold hearings on S. 316, to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

SD–342

Labor and Human Resources

Children, Family, Drugs, and Alcoholism Subcommittee

To hold hearings to examine solutions for a new economy, focusing on jobs and families.

SD–430

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, the Blinded Veterans of America, WWI Veterans, Military Order of the Purple Heart, Association of the United States Army, Retired Officers Association, and Vietnam Veterans of America.

345 Cannon Building

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of State.

S–146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Interstate Commerce Commission, and the Office of Inspector General.
SD-138

Banking, Housing, and Urban Affairs
To hold hearings to examine Resolution Trust Corporation (RTC) operations, focusing on its affordable housing program.
SD-538

Foreign Relations
To resume hearings on strategic nuclear reduction in a post-cold war world, focusing on arms control.
SD-419

Joint Economic
To hold hearings to examine new approaches to restructure the public sector to deliver more for less.
2200 Rayburn Building

2:00 p.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Consumer Product Safety Commission, the Office of Consumer Affairs, and the Consumer Information Center.
SD-116

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To resume hearings on S. 1755, to reform the concessions policies of the National Park Service.
SD-366

MARCH 6

9:30 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on the alternative uses of agricultural commodities, focusing on impediments to commercialization.
SR-332

Joint Economic
To hold hearings on the employment-unemployment situation for February.
SD-628

10:00 a.m.

Finance
International Trade Subcommittee
To hold hearings on intellectual property rights protection and the "Special 301" provisions of the 1988 Trade Act.
SD-215

MARCH 10

10:00 a.m.

Foreign Relations
To resume hearings on strategic nuclear reduction in a post-cold war world, focusing on succession issues.
SD-419

MARCH 11

11:00 a.m.

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1101, to require the Federal Communications Commission (FCC) to prescribe standards for AM stereo radio broadcasting, an FCC rulemaking proposal relating to radio ownership rules, and other related issues.
SR-253

MARCH 12

9:30 a.m.

Rules and Administration
To hold hearings on S. 523, to establish the National African-American Memorial Museum within the Smithsonian Institution.
SR-301

10:30 a.m.

Rules and Administration
To hold hearings on S.J. Res. 259, providing for the appointment of Barber B. Conable, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution.
SR-301

11:00 a.m.

Rules and Administration
To hold hearings on proposed legislation authorizing funds for fiscal years 1993 through 1997 for the American Folklife Center of the Library of Congress.
SR-301

MARCH 17

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine an overview of NASA's budget for fiscal year 1993.
SR-253

10:00 a.m.

Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.
SD-138

MARCH 18

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine NASA's space station and launch issues.
SR-253

Select on Indian Affairs
To resume oversight hearings on the implementation of the Indian Gaming Regulatory Act (IGRA).
SH-216

MARCH 19

9:30 a.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Science Foundation, and the Office of Science Technology Policy.
SD-124

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 684, to strengthen the preservation of the Nation's historic heritage and resources.
SD-366

10:00 a.m.

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Justice.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Highway Administration, Department of Transportation.
SD-138

MARCH 20

10:00 a.m.

Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Farmers Home Administration, the Federal Crop Insurance Corporation, the Rural Electrification Administration, and the Rural Development Administration.
SD-138

MARCH 25

9:30 a.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Neighborhood Reinvestment Corporation, and the National Credit Union Administration.
SD-116

Select on Indian Affairs
To hold hearings on S. 1752, to provide for the development, enhancement, and recognition of Indian tribal courts.
SR-485

10:00 a.m.

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Communications Commission, and the Securities and Exchange Commission.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration, and the Research and Special Programs Administration, both of the Department of Transportation.
SD-138

MARCH 26

9:30 a.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Environmental Protection Agency, and the Council on Environmental Quality.
SD-G50

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 664, to require that health warnings be included in alcoholic beverage advertisements.
SR-253

MARCH 27

10:00 a.m.

Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the De-

partment of Agriculture, focusing on the Animal and Plant Inspection Service, the Food Safety and Inspection Service, and the Agricultural Marketing Service.

SD-138

APRIL 1

9:30 a.m.

Select on Indian Affairs

To hold hearings on proposed legislation to authorize funds for programs of the Indian Health Care Improvement Act.

SR-485

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Commerce.

S-146, Capitol

APRIL 2

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation.

SD-116

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Transportation Safety Board.

SD-138

APRIL 3

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Agricultural Stabilization and Conservation Service, the Foreign Agricultural Service, the General Sales Manager, and the Soil Conservation Service.

SD-138

APRIL 7

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.

SD-138

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.

S-146, Capitol

APRIL 8

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETs, American Ex-POWs, Jewish War Veterans, Non-Commissioned Officers Association, National Association for Uniformed Services, and Society of Military Widows.

SD-106

APRIL 9

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Aeronautics and Space Administration.

SD-G50

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Oceanic and Atmospheric Administration, and the Small Business Administration.

S-146, Capitol

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for Amtrak, and the Federal Railroad Administration, Department of Transportation.

SD-138

APRIL 29

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Information Agency, and the Board for International Broadcasting.

S-146, Capitol

APRIL 30

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development.

SD-G50

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Transit Agency, and the Washington Metropolitan Area Transit Authority.

SD-138

MAY 7

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Veterans Affairs, and the Court of Veterans Affairs.

SD-124

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Coast Guard, Department of Transportation.

SD-138

MAY 14

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Emergency Management Agency.

SD-124

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Aviation Administration, Department of Transportation.

SD-138

MAY 21

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Community Service, and the Points of Light Foundation.

SD-116

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the General Accounting Office.

SD-138

MAY 22

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development and certain related agencies.

SD-138

CANCELLATIONS

MARCH 5

2:00 p.m.

Select on Intelligence

To hold hearings on the nomination of Vice Adm. William O. Studeman, U.S. Navy, to be Deputy Director of Central Intelligence, and to have the rank of Admiral while so serving.

SH-216

HOUSE OF REPRESENTATIVES—*Friday, March 3, 1992*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We confess, O God, that we have been taught by the prophets of old, we have been reminded by the saints of history, we have been commanded by the Scriptures and all our traditions, and yet so often do we miss the mark and neglect the works of charity and justice. May we heed all Your word, O God, and all the treasurers of our faith to focus on what we ought to be, and what we ought to do, so we will be the people You would have us be and do those good things that honor You and serve every person. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Indiana [Mr. BURTON] please come forward and lead the House in the Pledge of Allegiance.

Mr. BURTON of Indiana led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

H.J. Res. 343. Joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day";

H.J. Res. 350. Joint resolution designating March 1992 as "Irish-American Heritage Month"; and

H.J. Res. 395. Joint resolution designating February 6, 1992, as "National Women and Girls in Sports Day".

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 414. Joint resolution regarding the San Antonio Drug Summit.

The message also announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 479. An act to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States;

S.J. Res. 139. Joint resolution to designate October 1992 as "National Lock-in-Safety Month";

S.J. Res. 214. Joint resolution to designate May 16, 1992, through May 22, 1992, as "National Awareness Week for Life-Saving Techniques";

S.J. Res. 218. Joint resolution designating the calendar year, 1993, as the "Year of American Craft: A Celebration of the Creative Work of the Hand";

S.J. Res. 233. Joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week";

S.J. Res. 240. Joint resolution designating March 25, 1992, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy";

S.J. Res. 244. Joint resolution to recognize and honor the National Conference of Commissioners on Uniform State Laws on its centennial for its contribution to a strong Federal system of government;

S.J. Res. 246. Joint resolution to designate April 15, 1992, as "National Recycling Day"; and

S.J. Res. 254. Joint resolution commending the New York Stock Exchange on the occasion of its bicentennial.

The message also announced that, pursuant to Public Law 94-304, as amended by Public Law 99-7, the Chair, on behalf of the Vice President, appoints Mr. SPECTER, to the Commission on Security and Cooperation in Europe, vice Mr. Heinz.

APPOINTMENT AS MEMBERS OF UNITED STATES DELEGATION TO ATTEND MEETING OF CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER. Pursuant to the provisions of section 276d of title 22, United States Code, the Chair appoints as members of the United States delegation to attend the meeting of the Canada-United States Interparliamentary Group the following Members on the part of the House:

Mr. GEJDENSON of Connecticut, chairman;
Mr. FASCELL of Florida, vice chairman;
Mr. HAMILTON of Indiana;
Mr. DE LA GARZA of Texas;
Mr. GIBBONS of Florida;
Mr. OBERSTAR of Minnesota;
Mr. LAFALCE of New York;
Mr. BROOMFIELD of Michigan;
Mr. HORTON of New York;
Mr. MILLER of Washington;
Mr. WALSH of New York; and
Mr. HENRY of Michigan.

THE COAL INDUSTRY RETIREE HEALTH BENEFIT ACT OF 1991

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, in a matter of weeks, a job crisis will hit the coal industry if Congress does not take swift action; 120,000 retired mineworkers stand to lose their health benefits when a Government-mandated UMWA trust fund runs out of money.

H.R. 4013, the Coal Industry Retiree Health Benefit Act, introduced by my distinguished colleague from Pennsylvania, JOHN MURTHA, would save these benefits. The legislation would provide a self-sufficient program for the provision of retiree health benefits in the coal industry. It establishes a new 1991 UMWA benefit fund to provide health care coverage to retired coal miners. These trust funds would be financed by an industrywide levy based on each employee hour worked in coal production. The coal industry, not taxpayers, would be providing funds for the benefits.

This tax will help cover the health care costs of those retirees who have been orphaned by their employers who are no longer in business.

While I realize that many of my colleagues' districts may not contain coal miners or coal companies, the districts still may be dependent on coal for energy and fuel. Roughly 58 percent of all electricity produced in the United States is generated by coal.

The current UMWA trust fund will have a deficit of $300 million in 1993 if no changes are made. Congress must act now rather than pay the consequences later.

I urge my colleagues to cosponsor H.R. 4013, the Coal Industry Retiree Health Benefit Act of 1991.

CONGRATULATIONS TO THE PRESIDENT

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, I want to congratulate President Bush on his statement this morning, and that is that he made a mistake 2 years ago when he signed on to the budget summit agreement with the

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Democrats which raised taxes by $181 billion.

He realizes that was a mistake, and he said this morning that now they are trying to raise taxes by $93 billion again in return for a middle-income tax cut that amounts to a candy bar a day.

I congratulate our President. He has learned a tough, tough lesson; that is, when you play with crocodiles, you get eaten.

A CALL TO END DRAFT REGISTRATION

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, 2 years ago, I told this House that it was time to end draft registration, and I thought I had a good case. The Berlin Wall had fallen, the Soviet Union had withdrawn from Afghanistan, and it was the right time to get rid of this relic of the cold war.

Elimination of draft registration made a good case then; it's beyond question now. There is no Soviet Union. Last year, our All Volunteer Forces went halfway around the world and defeated the fifth largest army in the world, and Defense Secretary Cheney went out of his way to say we did not need a draft.

Selective Service has for 13 years hidden a dirty little secret: Draft registration does nothing—nothing—to improve our military readiness. Even if we eliminated draft registration, we could have draftees lined up at the training bases weeks before there were training slots open for them. Not a single soldier would be on the front lines even an hour earlier just because we force young men to sign up in peacetime.

In 1980, Ronald Reagan said that in peacetime, "draft registration destroys the very values that our society is committed to defending," and warned that peacetime draft registration would actually decrease our military preparedness. It is still true.

Today I am introducing legislation to stop draft registration and save this country nearly $30 million a year. I urge my colleagues to join me in ending this waste of taxpayer dollars on a symbolic gesture that has outlived any usefulness it ever may have had. It is the easiest $30 million we will ever save.

FAIRNESS TO FLORIDA

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, no one likes to pay taxes, but when we do, we generally expect a corresponding level of service in return. But this is rarely the case for residents of Florida, whose tax dollars do not seem to buy much in Washington these days.

According to Florida Taxwatch, Florida ranks dead last among the 50 States in Federal grants received per capita. Even when you include the District of Columbia and the 5 territories, we are still last, 56th out of 56. That is a disgrace for the fourth fastest-growing State in the Nation.

That is not all. As a return of Federal taxes paid, Florida taxpayers paid $1.45 for each $1 returned to the State in Federal assistance. We are 44th in Medicaid, 50th in transportation, 48th in housing, 50th in job training, and the list goes on.

What does this mean for Floridians? Fewer services, more strain on State resources, and more anger toward a Federal Government that continually denies us a fair return on our tax dollar.

Mr. Speaker, it is budget time. How about a little fairness for Florida? We are part of the United States, too.

A BILL TO IMPOSE THE DEATH PENALTY IN THE DISTRICT OF COLUMBIA

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, another Washington, DC, tragedy has caused those of us in Congress to look again at the wisdom of the death penalty for crimes of a substantial nature in the District of Columbia.

Two days ago, the Sergeant at Arms of the U.S. House of Representatives, Jack Russ, was attacked by two men and a woman just five blocks from our Nation's Capitol Building. They robbed him. They beat him. They put a gun in his mouth and shot him. Fortunately, he turned his head as the gun went off and he is still alive, in stable condition.

We hear daily of similar crimes of violence here in the Nation's Capital, often within sight of the Capitol dome. On January 11, Tom Barnes of Senator RICHARD SHELBY's staff was shot just a block from his residence here on Capitol Hill. He died 4 days later. In December, Joey Lucas of my own staff heard gunshots outside his Capitol Hill residence only to learn the following day that a man had been shot and killed almost at his doorstep for 13 cents.

That same month, Keith Kellem, a young father of four and resident of Owensboro, KY, who had come to Washington to sell Christmas trees, was shot by a man stealing a Christmas tree. He survived the attack, but after nearly 3 months in the hospital he was returned to Kentucky yesterday, not to his family, but to Daviess County Hospital in Owensboro for further care. He appears to be permanently injured.

Members of Congress and their families and staffers have been mugged, shot, and raped in recent months. Citizens of our capital city live in constant fear. Their children are being killed for their jackets or their radios, and drug-related shootings are at an all-time high. Often the victims are innocent bystanders. Many times they are mere children.

Reports of murders and drive by killings have become routine news. In fact, Washington, DC, has the dubious distinction of having the highest murder rate in the Nation. It also has one of the Nation's most lenient penalties for first degree murder: life, with parole after 20 years. Washington, DC, has become a city out of control. Tourists fear to visit their own Capital City. This is a national disgrace.

For a number of years, I have been deeply concerned over the ever-rising murder rate in our Nation's Capital. In my opinion, outright lawlessness can no longer be tolerated in Washington, DC. Any criminal who attacks the rights and lives of others is a danger to society itself and must be severely dealt with.

We must accord every accused person his full rights, certainly. This is essential. But let us keep in mind that the rest of us have some rights too—the right not to be attacked by some thug out on bond after pulling three previous robberies, for example.

It seems clear to me that one really effective way to strike a hard blow at the appalling growth in crime and violence is to confront the offender with sure and stringent punishment. Just what will it take here in the Nation's Capital of Washington, DC, for those of us in Congress to be convinced that we need to bring about the death penalty or life without parole for first degree murder committed in the District of Columbia?

Today, I am introducing a bill, cosponsored by several colleagues, to allow for the imposition of the death penalty, or life imprisonment without parole, for first degree murder in Washington, DC.

SIMPLE LESSONS TO GET THE ECONOMY GROWING

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, there are only 17 days before the March 20 deadline, suggested by President Bush, for the U.S. Congress to take action to create new jobs in America. The 1990 budget summit agreement did great damage to our economy. Then the Democrats last week passed yet another huge tax increase which would do further damage if ultimately passed. Tens of thousands of jobs were lost because of the failed tax policies coming out of the 1990 agreement. The huge tax increases passed in 1990 lengthened one of the worst recessions in American history.

On the other hand, the 1980's gave us one of the longest periods of prosperity in our Nation's history and created millions of jobs. We now need to relearn the lessons of the 1980's and return this country to economic growth.

A recent Heritage Foundation report listed 7 simple lessons for economic growth.

First, economic growth is the best weapon against poverty;

Second, economic growth is stimulated by low taxes;

Third, the poorer get richer when the rich get richer;

Fourth, if the aim is to make the rich pay more actual taxes, cut their tax rates;

Fifth, raising taxes on the rich does not help the poor;

Sixth, increased Social Security taxes have wiped out the benefits of Reagan's tax cuts for many Americans, and

Seventh, hiking taxes does not lower the budget deficit, it raises it.

Mr. Speaker, biding by these seven powerful lessons will bring us out of this long recession, but we need to act now. As one of those who voted against the budget summit agreement in 1990, I am really pleased to see the ever-increasing support for tax cuts in this Chamber. It is not too much to ask to pass a jobs creation bill within the next 17 days.

□ 1210

IN HONOR OF COACH DON HASKINS' 600TH VICTORY

(Mr. COLEMAN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to congratulate University of Texas at El Paso Basketball Coach Don Haskins on winning his 600th victory. It came when the UT El Paso Miners beat the Wyoming Cowboys by one point in the Cowboys' own corral. This victory places Coach Haskins in a position that few can claim; he is 1 of only 12 NCAA division I coaches who have won 600 games during their careers.

Coach Haskins began his college coaching career in El Paso at what was then called Texas Western College [TWC] just before the 1961-62 basketball season. It was after his Miners brought home the 1966 NCAA basketball championship trophy that the name of the school officially changed to UT El Paso, or as we know it, UTEP.

Don Haskins, known throughout the desert Southwest as the Bear, can be found during the basketball season in his trademark open shirt and sports jacket and carrying a rolled-up program. The image of a gruff, short-tempered coach, Haskins stalks up and down the court, shouting to his players and the officials. The Bear is not at all like the image, in fact he helps friends and strangers, many times anonymously.

But Don Haskins will be remembered by the sports world more for his role in changing the face of college basketball than for his wins and losses. In 1966, the majority black TWC Miners beat the all white Kentucky team for the national championship. He said he could not enjoy winning that championship because he was already looking to the next season.

In his 4 decades he has seen 9 of his teams win at least 20 games; for 7 straight seasons—1983-84 to 1989-90—he took his teams to the NCAA tournament; he has won 4 Western Athletic Conference [WAC] postseason tournaments; he has won 6 WAC championships outright, and has been inducted into the Texas Sports Hall of Fame.

During his 30 years at UTEP, the list of big names to play for the Bear includes Jim "Bad News" Barnes, the first NBA draft pick in 1964; NBA Hall of Famer Nate "Tiny" Archibald; Nolan Richardson, basketball coach at the University of Arkansas; and current NBA standouts Tim Hardaway of the Golden State Warriors; Greg Foster, Washington Bullets, and Dave Feitel, New Jersey Nets.

The Bear hasn't stopped growling. The 1991-92 Miners are currently tied with Brigham Young University and the University of New Mexico for the WAC title. All three schools have 10-4 league records with two games left in the season.

He is not looking at his 600th victory as a career-stopper. The Bear is looking ahead to the WAC championships, and then to the next postseason tournament when the Miners bring another national award home to El Paso.

CONGRESS NEEDS TO PASS A TOUGH CRIME BILL

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, in recent weeks Congress has realized no one is immune from violence and crime. The majority leader said in the paper today that "We have been drenched in an acid bath of violence. We cower behind locked doors."

I do not know what that means. What it means is we need to do something. We need to get a tough crime bill through this House. Why do we not make changes here? The crime bill is not working, yet we continue to give more money to the District to do something that does not work.

This is not something that is impersonal to me. In my own office we have had three staff members victimized, two at gunpoint, in the parking lots of their own apartment houses. My wife and I have had several instances with area crime.

Frankly, I am pleased to hear that Members of this body are calling for tougher treatment of crime and criminals. This is our Nation's Capital. We should be able to walk the streets safely.

We do need to learn from what is happening here. We need to learn that to go easy on crime and criminals does not stop crime. In fact, it encourages it.

More especially, Mr. Speaker, we need to learn it is time for action, not just words and posturing, not just passing discussion about crime bills. We need real crime legislation. We need laws designed to protect citizens and their property. Anything else is a lesson lost.

GOOD REASONS FOR PRESIDENT BUSH'S LOW VOTER APPROVAL RATING

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, it is no accident that George Bush's approval rating today stands at just 40 percent—one look at the President's budget and anyone can understand voter's skeptism about whether this President stands for anything other than the interests of the wealthy.

The education President cuts 400,000 kids out of the Pell Grant Program. The kinder gentler President cuts Medicare for the elderly. The Desert Storm commander-in-chief cuts entitlements for veterans. And the same President out pressing the flesh for votes and talking about creating jobs offers a budget that sounds appealing on the stump but pales in comparison to the one offered by the Democrats.

BIG SPENDING LIBERALS JUST DO NOT GET IT!

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, out on the campaign trail, I see that the Democratic challengers are trying to woo voters by using a new tactic, by sounding Republican. I notice that each is attempting to portray themselves as a friend of the middle class. How are they doing it? Interestingly enough by offering a varied array of middle-class tax cuts. Imagine that?

Many on this side of the aisle have known that one of the main keys to economic growth is tax relief. Sadly, big spending liberal Democrats just don't get it. Despite the growing recognition that the tax and spending hikes in 1990 were a mistake which has forced economic hardship on the backs of nearly every American, liberal policymakers in Congress still resist the remedy of tax cuts. Their solution? Liberal Democrats are still convinced the Government must spend its way out of the recession. And to make things worse, last week in the House, they passed another huge tax increase.

As one of those who voted against the tax increase in 1990, the belated recognition by some Members of this body that high taxes and high Government spending hinder job creation and economic growth certainly is welcome news. I am pleased to see new converts. We now have 17 days until the March 20 deadline. Congress needs to adopt the Republican growth package immediately.

THE DIFFERENCE BETWEEN REPUBLICANS AND DEMOCRATS IS BECOMING CLEARER

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, people say they want us to define the difference between Democrats and Republicans. Last week we proposed and passed a Democratic middle-class tax cut, this week we will begin debating the budget. The difference is becoming clear.

The President's budget, crafted with a stale vision of the world, prepares us to fight against a Communist military threat that no longer exists.

The Democratic budget is the budget of tomorrow: It enables us to fight the economic wars that will define our quality of life, and the quality of life of our children.

Our budget leads the way in our most important economic battle—the campaign to convert our prolific defense production industry into domestic production industry.

It provides $1 billion to help convert military factories into factories that produce products for tomorrow's markets while retaining the high quality jobs that many Americans enjoy today, and while we plan to convert defense industries to domestic industries, the Democratic budget provides jobs to help America overcome the economic straightjacket the administration has put us in.

The Democratic budget creates over 150,000 more jobs than President Bush's budget. These high quality jobs will help our cities build mass transit and highways, hire more teachers, and bring health care to every American. And it does this with a smaller budget deficit than the President's $475 billion deficit and with fairness and compassion.

Mr. Speaker, the difference between Democrats and Republicans is becoming all too clear. The Republicans fight yesterday's battles, while the Democrats prepare America for the future.

□ 1217

COMPREHENSIVE PREVENTIVE HEALTH CARE ACT OF 1992

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. GILMAN. Mr. Speaker, recently U.S. News & World Report published a cover story on "Health Care Fraud." This article addressed an important problem with our Nation's health care system, the lack of coverage for prevention. Our Nation continues to be burdened by preventable illnesses, injuries, and disabilities. Health promotion and disease prevention offer the opportunity to contain health care costs, to prevent the premature onset of disease and disability, and to help all Americans achieve healthier, more productive lives, as well as the reduction of the number of health care frauds in our country.

My colleagues may be interested to learn that early in this session I introduced the Comprehensive Preventive Health Care Act of 1992, H.R. 4094. This measure provides for periodic health exams, screening and services under the Medicare Program, the Federal Employees Health Insurance Benefits Program, the Department of Veterans Affairs, health care system, and through our Nation's health clinics.

There are a number of proposals to heal our Nation's health care system, but no one proposal has received wide acceptance. The President included many of my preventive health care provisions in his health reform plan. It is essential that we include preventive health care in any national health care plan. People need to be educated more about prevention as an effective alternative to avoidable acute care, as well as a cost effective means of reducing our Nation's health care costs.

Mr. Speaker, I invite my colleagues to take a close look at H.R. 4094 and join me in my effort to produce a healthier nation.

MAKING AMERICA COMPETITIVE AND PRODUCTIVE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, how can we make American business competitive and productive without lapsing into protectionism? How can we level the trade playing field without limiting the game to one team?

There are two ways to do that, Mr. Speaker. One is to support the Attorney General's effort to redefine United States antitrust laws to apply to Japanese cartels, and Japanese kieretsu organizations which exclude United States-made products. Another way is to support majority leader GEPHARDT's efforts to reinstate Super 301, the provision of the 1988 trade bill which allows the President to retaliate against those countries which in trade matters do not treat us fairly.

All American industry and American workers, the greatest in the world, need is a fair opportunity, Mr. Speaker, and a level playing field. These two measures would give us that situation.

WHO CARES MOST ABOUT EDUCATION EXPENDITURES?

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, the question is who cares most about the service of our education dollar for the benefit of our youngsters, who cares most for the outcome of that expenditure of resources on behalf of our youngsters, the parents of those children or the union bosses at the National Education Association?

The President believes in the parents of the children. The President believes they are the best judge. He sent us an education bill that would have given those parents a choice.

That choice offended the National Education Association. They bullied, they cajoled, they reasoned with the Democrat majority on the Education and Labor Committee until today the union bosses at the National Education Association have totally taken any vestige of choice away from the American parent. It is not a matter of concern for the children. It is a matter of concern for what does your education dollar do for the National Education Association.

Make your choice: the children or the union. That is what that bill will be all about.

DEATH PENALTY NOT THE ANSWER

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, yesterday while I was at the hospital visiting Jack Russ, some Members took to the floor to call for the death penalty in the District. Jack seemed in remarkably good shape, ever generous and congenial after the outrageous and harrowing experience of being shot while walking his dog.

Members who think that the death penalty is what it takes had best look at data from their own districts. The States that have the death penalty have murder rates as high, yes, and often higher than States without the death penalty. A brutal sanction, abolished in all but a few mostly oppressive countries, one that does not deter and is applied only after killing is not good enough, my friends. Our people want us to prevent the killing.

Have Members taken a stand on stopping the slaughter? Where do those Members who trumpet the death penalty stand on the Brady bill? How did they vote on the assault weapons provision of the crime bill the day after the Killeen, TX massacre? How did they stand on strict liability on the assault liability referendum that was passed overwhelmingly by the people of the District of Columbia?

If we want to stop the killing, there are proven ways, and the death penalty, my colleagues, is not one of them.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit three sealed envelopes received from the White House at 4:40 p.m. on Monday, March 2, 1992 as follows:

(1) Said to contain H.R. 2212, An Act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, and a veto message thereon;

(2) Said to contain a message from the President whereby he transmits the Annual Report on Hazardous Materials Transportation for calendar year 1990;

(3) Said to contain a message from the President whereby he transmits the Agreement between the United States of America and the Republic of Finland on Social Security.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF FINLAND ON SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–196)

The SPEAKER pro tempore (Mr. MAZZOLI) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed.

To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95-216; 42 U.S.C. 433(e)(1)), I transmit herewith the Agreement between the United States of America and the Republic of Finland on Social Security, which consists of two separate instruments—a principal agreement and an administrative arrangement. The agreement was signed at Helsinki on June 3, 1991.

The United States-Finland agreement is similar in objective to the social security agreements already in force with Austria, Belgium, Canada, France, Germany, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation, and to help prevent the loss of benefit protection that can occur when workers divide their careers between two countries.

I also transmit for the information of the Congress a report prepared by the Department of Health and Human Services, providing explanation of the key points of the agreement, along with a paragraph-by-paragraph explanation of the provisions of the principal agreement and the related administrative arrangement. In addition, as required by section 433(e)(1) of the Social Security Act, a report on the effect of the agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the agreement is also enclosed. I note that the Department of State and the Department of Health and Human Services have recommended the agreement and related documents to me.

I commend the Agreement between the United States of America and the Republic of Finland on Social Security and related documents.

GEORGE BUSH.

THE WHITE HOUSE, *March 2, 1992.*

ANNUAL REPORT ON HAZARDOUS MATERIALS TRANSPORTATION, CALENDAR YEAR 1990—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce, the Committee on Merchant Marine and Fisheries, and the Committee on Public Works and Transportation:

To the Congress of the United States:

In accordance with the requirements of section 109(e) of the Hazardous materials Transportation Act (Public Law 96-633; 49 U.S.C. 1808(e)), I transmit herewith the Annual Report on Hazardous Materials Transportation for calendar year 1990.

GEORGE BUSH.

THE WHITE HOUSE, *March 2, 1992.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Recorded votes ordered on H.R. 939 and S. 2184, will be taken on Wednesday, March 4, 1992. Recorded votes ordered on the remaining bills considered under suspension of the rules will be taken after debate has concluded on those bills.

VETERANS' HOUSING AMENDMENTS

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 939) to provide eligibility to members of the Selected Reserve for the Veterans' Home Loan Program, as amended.

The Clerk read as follows:

H.R. 939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY OF SELECTED RESERVE.

(a) SELECTED RESERVE.—Chapter 37 of title 38, United States Code, is amended—

(1) in section 3701(b), by adding at the end the following:

"(5)(A) The term 'veteran' also includes an individual who is not otherwise eligible for the benefits of this chapter and who has completed a total of service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve.

"(B) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10, United States Code."; and

(2) in section 3702(a)(2), by adding at the end the following:

"(E) Each veteran described in section 3701(b)(5) of this title".

(b) FEES.—(1) Section 3729(a)(2) of such title is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) in the case of a loan made to, or guaranteed or insured on behalf of, a veteran described in section 3701(b)(5) of this title under this chapter, the amount of such fee shall be—

"(i) two percent of the total loan amount;

"(ii) in the case of a loan for any purpose specified in section 3712 of this title, one percent of such amount; or

"(iii) in the case of a loan for a purchase (other than a purchase referred to in section 3712 of this title) or for construction with respect to which the veteran has made a downpayment of 5 percent or more of the total purchase price or construction cost—

"(I) 1.50 percent of the total loan amount if such downpayment is less than 10 percent of such price or cost; or

"(II) 1.25 percent of the total loan amount if such downpayment is 10 percent or more of such price or cost.".

(2) Subparagraphs (A) and (B) of section 3725(c)(2) of such title are amended by inserting "(other than loans described in section 3729(a)(2)(D) of this title)" after "for each loan".

SEC. 2. ATTORNEY FEES IN CONNECTION WITH CERTAIN DEPARTMENT OF VETERANS AFFAIRS PROCEEDINGS.

(a) IN GENERAL.—Sections 5904(c) of title 38, United States Code, is amended—

(1) by striking out "In" at the beginning of paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (3), in"; and

(2) by adding at the end the following new paragraph:

"(3) A reasonable fee may be charged or paid in connection with any proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 37 of this title. A person who charges a fee under this paragraph shall enter into a written agreement with the person represented and shall file a copy of the fee agreement with the Secretary at such time, and in such manner, as may be specified by the Secretary.".

(b) EFFECTIVE DATE.—Paragraph (3) of section 5904(c) of title 38, United States Code, as added by subsection (a), shall apply with respect to services of agents and attorneys provided after the date of the enactment of this Act.

SEC. 3. DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a demonstration project under this section during fiscal years 1993 and 1994, at not fewer than two but not more than 10 regional offices, for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

(b) REPORT.—The Secretary shall transmit a report to the Congress no later than December 31, 1994, containing a description of the results of the implementation of the project carried out under this section and shall continue to make annual reports to the Congress with respect to the default rate and other information concerning the loans guaranteed under this section.

SEC. 4. ENHANCED LOAN ASSET SALE AUTHORITY.

(a) AUTHORITY.—Section 3720 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary is authorized, upon such terms and conditions as the Secretary deems appropriate, to issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of loans and installment contracts secured by real property made in connection with the sale of properties acquired under this chapter.".

(b) TREATMENT OF PROCEEDS.—Section 3733(e) of title 38, United States Code, is amended by inserting ", and the amount received from the sale of securities pursuant to the authority under section 3720(h)," after "subsection (a)(1) of this section".

SEC. 5. TECHNICAL AMENDMENT.

Section 5 of Public Law 102-54 (105 Stat. 268) is amended by striking out "3102" and inserting in lieu thereof "5302".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 939, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, H.R. 939 would enhance the home loan program for veterans and extend the program to members of the Reserves and National Guard who have served at least 6 years.

My colleagues will recall the role of the Reserves and National Guard units that were called to active duty during the Persian Gulf war. They proved they are the critical part of the total-force concept, and the individuals who served there are already entitled to home-loan benefits, because, Mr. Speaker, they are veterans now, those National Guardsmen and reservists who served in the Persian Gulf war.

This bill would extend the home-loan benefit to those who are called to active duty but who have served at least 6 years in the Reserve or National Guard.

I want to commend the gentleman from West Virginia [Mr. STAGGERS], the distinguished chairman of our Subcommittee on Housing and Memorial Affairs, for the leadership the gentleman has given us in bringing this bill to the floor. I am also grateful for the cooperation and leadership of my good friend, the gentleman from Arizona [Mr. STUMP], the ranking minority member of the full committee. I also want to thank the gentleman from Indiana [Mr. BURTON], the ranking minority member of the subcommittee, for his cooperation and leadership as well.

I think now it is a good time to mention, Mr. Speaker, that a dedicated and longtime member of the Committee on Veterans' Affairs, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], announced Sunday that he would not seek reelection. He certainly will be missed on this committee. He has been on there for many, many years, and he even served as ranking minority member. We will miss JOHN PAUL HAMMERSCHMIDT.

I want to thank the gentleman from Alabama [Mr. PAYNE] for helping draft this legislation.

Section 5 of the bill, as reported by the Committee on Veterans' Affairs, contained language that would have clarified a provision in title XXXVII so that waivers of debt or overpayments, like veterans' benefits themselves, would not be taxed. We recognized that this provision of the bill lies within the jurisdiction of the Committee on Ways and Means, and that committee asked for a referral of this bill.

For the past several months the two committees have attempted to work something out with the Internal Revenue Service. Unfortunately, we were not able to do so, so on February 12, the Committee on Ways and Means chairman ordered the bill reported with an amendment to section 5. For reasons which will be explained by the gentleman from West Virginia, we were unable to agree to the amendment, so section 5 has been dropped from the bill as we are considering it today.

I certainly want to thank the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], the ranking minority member, the gentleman from Texas [Mr. ARCHER], for their interest in trying to resolve the matter, and I also want to thank members of the Committee on Ways and Means.

I want to mention the committee staff of the Committee on Ways and Means who worked with our staff. We tried to solve this with the Internal Revenue Service. It was impossible to do.

Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. STAGGERS], the chairman of the Subcommittee on Housing and Memorial Affairs, for a detailed explanation of the bill.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would first like to thank and commend the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the full committee for his leadership and strong support of this measure. I would also like to thank the gentleman from Arizona [Mr. STUMP] and the gentleman from Indiana [Mr. BURTON], the ranking minority members of the full committee and subcommittee, for their efforts and support. The individual members of the committee have worked hard together to develop this legislation, and I would like to thank each of them for their excellent contributions.

Mr. Speaker, under current law, home loans guaranteed by the Department of Veterans Affairs are available to veterans with sufficient qualifying service since September 16, 1940; for unmarried surviving spouses of veterans who died from service-connected causes; for spouses of service personnel officially listed as missing in action, or captured, for more than 90 days; and for service personnel who have served at least 181 days.

H.R. 939 expands entitlement to the Department of Veterans Affairs Home Loan Guaranty Program to members of the Reserves and National Guard who have served at least 6 years. As demonstrated by the Persian Gulf war, the scope, size, and importance of missions assigned to Reserve components have increased dramatically.

Today, a substantial portion of the manpower and equipment of each of the services may be found in their Reserve components. The Armed Forces now depend heavily on reservists as a part of a total force comprising 1.5 million ready reservists in addition to more than 2 million active component members. During the Persian Gulf war, a total of about 228,000 reservists were ultimately activated in support of Operation Desert Storm. In his address to the Congress on March 6, President Bush declared that "* * * this victory belongs * * * to the regulars, to the Reserves, to the National Guard. This victory belongs to the finest fighting force this Nation has ever known in its history."

The change to afford home loan entitlement to reservists is needed at this time to recognize the expanded responsibilities of the Reserves in this Nation's defense. An overwhelming majority of reservists responded willingly to the call to active duty, but the recent callup did disrupt lives and, in many cases, caused real economic hardship. Many reservists will be reevaluating their participation in the Reserve components on the basis of their Desert Storm experience. Whether or not members of the Guard and Reserve continue to serve in the Reserve components depends in part on the relief and benefits that are made available to them. With the reduction of the active military forces, the Reserve components will be relied on to provide an adequate cost-effective total force. Hence incentives to recruit and retain reservists and National Guardsmen may become even more important, particularly in light of the personal sacrifices required of recently recalled reservists.

The Montgomery GI Bill Act of 1984 [MGIB] extended education benefits to certain reservists. The 6th QRMC reported that since the enactment of the MGIB, there are clear indications that it is having a positive impact on the quality and number of individuals joining the Reserves. The analysis maintains that reservists participating in the MGIB are more likely to remain in the Reserves than their nonparticipating counterparts. Studies indicated that the continuation rate for MGIB participants is 15.2 percent higher than that for Reserve members not participating. It is not unrealistic to expect that the opportunity to participate in the DVA home loan program would also have an effect on the numbers joining and staying in the Reserves.

There is another corollary benefit that may be realized from extending the home loan program to reservists. Reservists obtaining loans guaranteed by the Department of Veterans Affairs would be creditworthy. They are, generally, an older, more mature, and more stable group with long-time civilian job histories. Many are familiar with the costs and responsibilities of homeownership. Therefore, this group may help to financially stabilize the program through an influx of loan fees with fewer claims to be paid on their behalf.

Currently, veterans must pay a loan fee of 1.25 percent of the loan amount to the Department in order to obtain a guaranteed loan. Fees are lower, 0.75 percent and 0.50 percent with downpayments of 5 percent and 10 percent respectively. In recognition of the differences between veterans and active duty members of the regular Armed Forces, the fees to be charged reservists would be higher: 2 percent of the loan amount or 1.5 percent with downpayments of at least 5 percent and 1.25 percent with downpayments of 10 percent or more.

The bill would also permit attorneys to represent veterans and charge a reasonable fee in connection with any proceeding before the Department arising out of a loan guaranty indebtedness.

Mr. Speaker, statutes governing representations of claimants for veterans benefits have, for over 125 years, imposed limitations on amounts that may be paid to representatives, agents, and attorneys in connection with claims for benefits. The limitation was originally enacted during the Civil War to prevent so-called pension agents from employing sharp practices and collecting excessive fees simply for filling out applications for pensions. The legislative history and purpose of the attorney fee limitation was thoroughly researched in a paper prepared by the Library of Congress and published by this committee in 1987. See "Legislative History of the Ten Dollar Attorney Fee Limitation in Claims for Veterans Benefits," Committee on Veterans' Affairs, House Committee Print No. 8, 100th Cong. 1st Sess. (1987). In 1988, Public Law 100-687, the Veterans' Judicial Review Act amended the limitation by providing that no fee could be charged "in connection with a proceeding before the Department of Veterans Affairs with respect to laws administered by the Department" until after the Board of Veterans' Appeals "first makes a final decision in the case." Testimony presented during committee hearings held in 1986 and 1988 on the existing attorney fee limitation included reference to the VA's interpretation of the scope of the provision and the effect it had on veterans who were indebted to the United States as a result of VA programs.

Congressional intent with respect to limitations on payment of attorneys fees has been less clear in cases involving VA home loan guarantees than those involving veterans' claims for benefits. Following the establishment of the veterans' housing program in 1944, the law was amended to include a general authority for the Secretary to sue and be sued in any court of competent jurisdiction with respect to housing loan matters. As to housing matters properly before any such court, it appears that Congress never intended to regulate attorney fees in such matters, which did not pertain to claims for monetary benefits, the words of the attorney fee limitation in effect when the housing loan program was established.

Subsequent to the modifications of the attorney fee limitation enacted as part of the Veterans' Judicial Review Act, both the U.S. District Court for the Eastern District of Virginia and the VA general counsel construed the reach of the limitations. In a 1989 case, *Bahnmiller* v. *Derwinski*, 724 F. Supp. 1208 (E.D. Va. 1989), aff'd in part, dismissed and vacated in part, 923 F.2d 1085 (4th Cir. 1991), the court held that the fee limitation did not apply in debt collection proceedings outside of the VA's own administrative proceedings. This opinion was quickly adopted in a general counsel precedent opinion which also interpreted the fee limitation as being inapplicable to proceedings related to the collection of payments made by the VA in the case of a foreclosed mortgage. Conversely, the general counsel ruled that the limitation does apply to services performed by attorneys seeking administrative relief in the form of a waiver of the indebtedness under 38 U.S.C. 5302, formerly 3102. Although both the court opinion and the general counsel opinion are public documents, uncertainty and confusion about the scope of the statute is not uncommon, even among members of the bar.

A veteran confronted with VA efforts to collect a loan guaranty debt can raise several alternative defenses to such efforts—including applying for a retroactive release of liability, asserting State antideficiency statutes, or seeking waiver of the debt. However, the existing fee limitation can create an undesirable conflict for the veteran seeking legal assistance. An attorney may charge for services rendered in connection with nonadministrative, non-VA, proceedings challenging the VA's right to collect the debt or recover some part thereof, but he or she cannot legally bill the client for any services rendered in an effort to have VA waive the debt through its own administrative process. Given the nature of the VA home loan guaranty program, and the requirement that lenders who have made such guaranteed loans must avail themselves of State foreclosure proceedings, attorneys called upon to assist veterans in home loan debt collection proceedings must often enter into fee agreements and render substantial services before they are certain what defenses are available to a veteran and which defense is most likely to succeed.

In light of the confusion this may cause, and to avoid the conflict which an attorney inevitably faces when advising a client to pursue waiver of the debt—a service for which a fee cannot legally be charged—the committee believes a modification to the recently enacted fee limitation may be the best resolution of this conflict. However, the committee is very concerned that the advocates of attorney representation in other types of benefits proceedings may misinterpret the committee's intent in reporting this limiting departure from the traditional prohibition on paid representation in administrative proceedings. In this regard, the committee notes that several major veterans service organizations, which have traditionally provided free representation to veterans seeking waivers of indebtedness, have testified that they would have no objection to this legislative change. Notwithstanding this limited endorsement, given the historically nonadversarial nature of the claims adjudication process, the committee believes that there are compelling reasons to continue the prohibition on paid representation in other administrative proceedings before the Department, and would look with disfavor on any efforts to expand this limited exception to that prohibition.

The bill would permit attorneys to represent veterans and charge reasonable fees in connection with any waiver of debt collection proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 37 of title 38, United States Code. It would also require the filing of a fee agreement with the Department, as is now required when attorneys provide paid representation before the Court of Veterans Appeals. The committee expects that the Department will review such fee agreements and report to the Congress its findings regarding instances of excessive fees being charged to veterans in such cases.

H.R. 939 would also establish a 2-year pilot program on adjustable rate mortgages at 2 to 10 regional offices in fiscal years 1993 and 1994.

Adjustable rate mortgages [ARM's] have become commonplace in the home loan market. Testimony before the Subcommittee on Housing and Memorial Affairs on May 2, 1991, indicated that the Department of Veterans Affairs is the only major mortgage market participant without the authority to guaranty an ARM. The National Association of Homebuilders and the Paralyzed Veterans of America testified that they believe that it is necessary for the Department to provide for the guarantee of ARM's to make the program fully responsive to market developments. Volatile interest rate fluctuations reduce housing activity and adjustable rate mortgages are used most during such periods. Although interest rates have been stable recently, it is very difficult to predict when such volatility may again occur. The committee believes that a pilot program should be established to determine whether veteran borrowers would benefit from this type of mortgage which is often the preferred mortgage arrangement of nonveteran borrowers.

All the witnesses at the hearing who testified about ARM's advised that an ARM guaranteed by the Department should be circumscribed, with limits on yearly interest rate increases as well as a maximum cap over the life of the loan. Tailoring an ARM in a manner similar to those insured by the Federal Housing Administration [FHA] was also favorably mentioned by the Mortgage Bankers Association, the National Association of Homebuilders, and the Paralyzed Veterans of America. FHA's adjustable rate mortgage program allows interest rates to escalate no more than 1 percent per year with a cap of 5 percent over the life of the loan.

In 1987, the House of Representatives passed H.R. 2672 which included authority for the Department to run a demonstration program on ARM's. However, this legislation was not passed by the Senate. H.R. 5002 which passed the House in 1990 contained a similar provision.

H.R. 939 would require the Secretary to establish a demonstration ARM program in at least 2 but no more than 10 regional offices for 2 years, beginning in fiscal year 1993, in a manner similar to FHA's adjustable rate mortgage program. The reported bill would also require the Department to furnish the Congress with a report by December 31, 1994, containing a description of the results of this project and furnishing a yearly report with respect to the default rate.

Mr. Speaker, this demonstration project is not intended to put veterans in houses they can't afford. Rather, it is simply to test another financing option. If the Secretary determines that the default rate under the FHA program is at an unacceptable rate, the committee recognizes that the Secretary may find it appropriate to adopt underwriting standards that are stricter than those used by FHA.

Finally, the bill would benefit the VA's vendee loan sale program by authorizing the guaranty of certificates that are marketed and traded as securities.

In essence, H.R. 939 would permit the Secretary of the Department of Veterans Affairs to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37.

The mortgage loans in question are vendee loans that arise as an incident to the Department's Loan Guaranty Program. On some number of defaulted loans, it is less expensive for the Department to make partial payments on its guaranties and take over the residential properties than to no bid, that is—pay the entire guaranty amount and leave the properties with the mortgages/mortgagors. When the Department acquires properties, it resells them, and a substantial number are sold with purchase money mortgage financing—that is, with financing provided by the Department. These loans are known as vendee loans. The Department then sells the vendee loans in the secondary mortgage market.

Loans are pooled, securitizes, and then sold—usually three sales per year with an annual volume of about $800 million. The securitization vehicle is a special trust, which issues multiple-class passthrough certificates and elects to be taxed as a real estate mortgage conduit [REMIC]. Outside firms, selected through competitive bidding, assist the Department in setting up and operating each REMIC and in selling the certificates to investors.

The Department already provides a strong full faith and credit guaranty on the loans. However, under existing law, which dates back to 1945 before modern mortgage-backed securities were developed, the Department cannot directly guarantee the certificates even though they represent an interest in a pool of guaranteed vendee loans. This lack of a direct certificate guaranty prevents the Department from obtaining the best pricing on its securitized loans. According to the Department, a certificate guaranty promising timely payment of interest and principal would increase proceeds by decreasing the interest rate or yield that must be offered to investors by an estimated 10 basis points, one-tenth of 1 percent. On a volume of $800 million this could generate additional proceeds of approximately $5 million. The Department also indicates that loan sale expenses would decrease by about $400,000 yearly because a U.S. Government guaranteed security need not be registered with the SEC nor rated as to creditworthiness by commercial rating agencies.

Therefore, Mr. Speaker, a guaranteed certificate by the Department would offer the kind of simple, straightforward, full faith and credit promise that investors are familiar with in the case of Government National Mortgage Association [GNMA] certificates. According to the Department, adding this direct certificate guaranty of timely payment would result in no material increase in risk or cost to the Government.

Mr. Speaker, these enhancements to the Loan Guaranty Program will not be a cost to our taxpayers in spite of the information furnished by the Office of Management and Budget. On the contrary, if enacted, the Congressional Budget Office estimates that this bill will save $5 million in the first year and $27 million over a 5-year period.

This information which is being circulated by OMB is a prime example of why I voted against the summit agreement. OMB is allowed to play these kind of games. Two years ago OMB agreed that extending the Home Loan Guaranty Program to reservists and National Guardsmen would save money. How they are stating it would increase direct spending without sufficient offsets. Mr. Speaker, let me reiterate that the bill saves money—$27 million over 5 years. I personally resent the administration's attempt to derail this legislation through the use of misinformation at the 11th hour.

Because of the pay-as-you-go requirement of OBRA, I regret that we are unable to move the bill as reported by the Committee on Veterans' Affairs. Although H.R. 939 contains some excellent provisions to enhance the VA's Loan Guaranty Program, we had to drop a very important provision which clarified that waivers of debts or overpayments should be treated in the same manner as other veterans benefits for taxation purposes.

Although no data has been furnished by the Joint Tax Committee on how much money IRS may have collected on waivers in the past, they have estimated that the enactment of the committee provisions would result in a loss of revenue of $8 million in fiscal year 1992 and $89 million over the next 5 years. Unfortunately, no one can challenge this cost estimate. This estimate is just that—an estimate. To our knowledge, the IRS has never collected a penny from a veteran who had been granted a waiver. But, there is no way anyone knows what the loss of revenue will be if the Office of Management and Budget implements its policy to tax waivers. I know one thing. At a time when the Congress is considering tax breaks and can't find the money to exempt veterans from having to pay a tax on a debt waived by the VA, something is really wrong.

The Ways and Means Committee amended the waiver provision by limiting the tax exclusion to waivers of veterans' debts created as the result of defaults on VA-guaranteed home loans that were assumed by third parties. We are deleting the waiver provision as reported by the Ways and Means Committee. It would be difficult to explain to a veteran why a debt waiver in an assumption case is not taxable, but is taxable for a veteran who may have suffered the loss of his home because he lost his job.

□ 1235

Again, I firmly believe that a debt waived by the VA should not be taxed at a time when the administration is proposing tax relief for others.

I plan to pursue this matter at a later date. I have grave doubts about the cost estimates we have received from the Joint Committee on Taxation.

We need to enact the other provisions of this bill. Therefore, I urge favorable consideration to pass this important piece of legislation for the other veterans.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 939, as amended, a bill to amend title 38 with respect to housing loans for veterans and other purposes.

This bill expands entitlement to the VA Home Loan Guaranty Program to members of the National Guard and Reserve. It permits attorneys to represent and charge a reasonable fee in connection with any proceeding before the Department arising out of a loan guaranty indebtedness. It also establishes a 2-year pilot program on adjustable rate mortgages in at least two regional offices.

Yesterday, the committee received a cost estimate from OMB that differs from the Congressional Budget Office. The committee hopes that OMB and CBO can agree on scoring methodology so that we can resolve the cost-benefit issue.

This measure is the result of many hours of hard work. This bill, as reported by the VA committee, originally has a provision that came under the jurisdiction of the Ways and Means Committee. We could not agree with the amendment offered by that committee, so we dropped the provision. My good friend, SONNY MONTGOMERY, the chairman of the Committee on Veterans' Affairs, should be commended for his leadership in moving this legislation.

Mr. Speaker, I also want to commend HARLEY STAGGERS, chairman of the Subcommittee on Housing and Memorial Affairs, and DAN BURTON, the ranking member of the Subcommittee on Housing and Memorial Affairs for their unified achievement in H.R. 939.

Mr. Speaker, I urge my colleagues to consider favorably this veterans' housing legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to rise in strong support of H.R. 939, a measure to extend the home loan benefits enjoyed by retired active duty personnel to certain members of the National Guard and our Ready Reserves.

I would like to commend the gentleman from West Virginia [Mr. STAGGERS] for introducing this important measure, and the distinguished chairman of our Veterans' Affairs Committee, the gentleman from Mississippi [Mr. MONTGOMERY] and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their unceasing efforts on behalf of our Nation's veterans.

H.R. 939 will extend eligibility for our all important Veterans' Home Loan Program to individuals who have completed at least 6 years of service in the National Guard and Reserves, who were either honorably discharged, placed on the retired list, or transferred to the Ready Reserves or continue to serve with the selected Reserve.

In addition, we should note that this home loan measure will establish loan fees for reservists receiving loans and will permit attorneys to represent veterans in proceedings before the Department of Veterans Affairs arising out of any loan indebtedness involving the VA.

Mr. Speaker, it is all important to note that this bill also directs our Secretary of Veterans Affairs to establish and report annually on a 2-year pilot program, as the gentleman from Arizona noted, on adjustable rate mortgages to mortgages offered by the Federal Housing Administration.

Mr. Speaker, this measure will extend housing benefits already enjoyed by many retired active duty veterans, to many veterans in our selected Reserve who have also served their country faithfully and well.

Accordingly, Mr. Speaker, I strongly urge support for this measure and I urge my colleagues to join in its support.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama [Mr. HARRIS], a member of this committee.

Mr. HARRIS. Mr. Speaker, I thank the chairman for yielding me this time.

Let me first say, Mr. Speaker, what a pleasure it is to work with the chairman, the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman from West Virginia [Mr. STAGGERS], and all the members of the committee, as well as the gentleman from Arizona [Mr. STUMP], as we work in the interest of our veterans.

Mr. Speaker, I rise today to urge my colleagues to support H.R. 939. This bill will improve veterans' housing programs.

Since I serve on the Subcommittee on Housing and Memorial Affairs in the House VA Committee and have actively supported legislation to extend eligibility for VA home loan guaranty benefits to guardsmen and reservists, I am particularly pleased that this Congress will consider this issue today.

Although H.R. 939 contains many important changes to the VA housing programs, such as authorizing the VA to guarantee payments on certain certificates sold on the secondary mortgage market, I feel that the extension of VA home loan eligibility to National Guardsmen and reservists is a very important part of the bill and is long overdue.

As many of my colleagues are aware, the number of reservists and guardsmen that served in the Persian Gulf war was tremendous. My home State of Alabama had the highest percentage of reservists and guardsmen protecting our Nation. I believe these men and women should be able to enjoy the same benefits as their counterparts in the active service branches.

In addition, I am introducing legislation today that would allow members of the National Guard and Reserve who have served 20 years to be buried in national cemeteries. Just as H.R. 939, I believe this is a matter of fairness.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. PAYNE] who was the committee, although right now he is operating with the Committee on the Budget.

Mr. PAYNE of Virginia. Mr. Speaker, I would like to thank the chairman, the gentleman from Mississippi [Mr. MONTGOMERY], and the gentleman from West Virginia [Mr. STAGGERS], the chairman of the subcommittee, as well as the ranking minority member, the gentleman from Arizona [Mr. STUMP], the gentleman from Indiana [Mr. BURTON], and all the members of the Committee on Veterans' Affairs for including my bill, H.R. 1314, in today's package of veterans' housing amendments, H.R. 939.

My bill will improve the ability of our veterans to purchase a home by implementing a demonstration program so veterans will have access to adjustable rate mortgages on home loans through the Department of Veterans Affairs.

Mr. Speaker, the Department of Veterans Affairs is the only major participant in the housing market without an adjustable rate mortgage.

Passage of this legislation will establish a 2-year demonstration program modeled after the successful program that HUD has offered since 1984.

The HUD program is reasonable for borrowers because it allows for only a 1-percent adjustment per year, with a 5-percent cap over the life of the mortgage.

The bill directs the Department of Veterans Affairs to implement a 2-year adjustable rate mortgage program in at least 2 of their regional offices, but not more than 10.

I believe it will make the Veterans Housing Program more responsive to market developments and it will allow us to test and perfect how these mortgages can best be offered.

This bill is identical to legislation passed by the House in July of 1990.

Mr. Speaker, I congratulate the Committee chairman for including this very important mortgage product in the legislation before us today, and I am very pleased to be able to help ensure that the dream of becoming a home owner is more widely extended to our veterans.

Mr. Speaker, I urge my colleagues to support this legislation.

□ 1245

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. WATERS], a member of our committee.

Ms. WATERS. I thank the chairman for yielding.

Mr. Speaker, I rise in support of H.R. 939. I would like to commend the chairman of the Committee on Veterans' Affairs, SONNY MONTGOMERY and the chairman of the Subcommittee on Housing and Memorial Affairs, the gentleman from West Virginia, HARLEY STAGGERS, for their leadership on this legislation.

H.R. 939 addresses two separate crises among veterans, military personnel and their families. The first is a chronic lack of affordable housing for veterans. One-third of all homeless people are veterans. That is, up to one million homeless veterans roam the streets of this country. In addition, foreclosure rates for veterans continue to escalate. In States as diverse as Alaska, New Jersey, Pennsylvania, and Florida, VA foreclosure rates are frighteningly high.

The second crisis is the impending economic dislocation which will affect millions of military employees as they are separated from their careers. With the end of the cold war, our military budget will come down. Downsizing will continue into the indefinite future.

Policymakers cannot wait to assist our veterans make the transition from a military to a peacetime economy. We owe our veterans job training, education, health care and housing.

H.R. 939 affects both these important areas. By expanding eligibility for VA home loans to former members of the National Guard and the Armed Forces Reserves, we will help reservists with the task of buying a home.

While this is a significant step, there is so much more to be done. Our Government must be prepared to reward the individuals and families who have sacrificed to win the cold war, with a significant slice of the peace dividend.

I look forward to working with my colleagues to develop legislation to respond to the needs of this country's military families. They need us now more than ever.

Mr. Speaker, I would like to say to the administration, despite the budget agreement, the Reconciliation Act of 1990, despite the fact that I suppose this Congress agreed that we would not spend dollars that we could not identify and show where we would get the money from, I do not think this should be a question for our veterans. I think veterans should be our No. 1 priority, and I have to stand here today and say that I disagree with the administration. I am sorry the administration is not willing to support this bill; Mr. Speaker, we have a number of courageous people who are, and I am proud to be one of them.

Mr. HAMMERSCHMIDT. Mr. Speaker, I join my colleagues today in support of H.R. 939, the veterans' housing amendments.

This bill extends the same home loan benefits afforded retired active duty personnel, under the Department of Veterans Affairs [VA] Home Loan Guaranty Program, to those members of the National Guard and Reserve who have received an honorable discharge or who have served at least 6 years.

Since the creation of the Veterans' Home Loan Program in 1944, millions of veterans have received mortgage assistance to help them purchase a home.

The Persian Gulf war illustrated the critical role our Nation's Reserve Forces fill in our total force structure. Last year we adjusted the Home Loan Program to make all active duty Persian Gulf veterans eligible for loan guaranty benefits. It is only fitting that we extend the same benefits to our Nation's Reserve Forces.

I urge my colleagues to support H.R. 939.

Mr. SMITH of New Jersey. Mr. Speaker, I would like to take a moment to commend my Veterans' Affairs Committee colleagues for the hard work they put into securing today's House consideration of H.R. 939.

Chairman MONTGOMERY, Mr. STAGGERS, Mr. STUMP, and Mr. BURTON each deserve to be recognized for their efforts and have, once again, done a great service to America's veterans by shepherding this bill through both our committee and the Ways and Means Committee.

Mr. Speaker, among the provisions of the Veterans Housing Amendments of 1991 is language expanding the eligibility for the Department of Veterans Affairs Home Loan Guarantee Program.

On Veterans Day, 1991, I held a press conference calling attention to the benefits of the Home Loan Guarantee Program. At that time, I mentioned that legislation was under review in the Congress which would open up home ownership to members of the Selected Reserve by making these service men and women eligible for VA-backed mortgages.

Less than 4 months later, H.R. 939 is on the floor, ready for our examination.

Mr. Speaker, as Operations Desert Shield and Desert Storm so clearly indicated, our total force policy strongly depends upon the contributions of our Guard and Reserve forces. As we continue the drawdown of the Department of Defense, we will find that the National Guard and the Reserve component forces will be increasingly relied upon for meeting our defensive needs.

Consequently, Mr. Speaker, we must explore the criteria used in determining eligibility for each of our veterans benefits. With more reliance placed upon the Guard and the Reserve, it becomes evident that eligibility for benefits such as the Home Loan Guarantee Program must be provided to the personnel of the Selected Reserve.

I strongly urge the House to pass this bill without delay.

Mr. ROSTENKOWSKI. Mr. Speaker, H.R. 939 as reported by the Committee on Veterans' Affairs was sequentially referred to the Committee on Ways and Means because it contained a tax-related provision. That provision has been dropped from the bill. I would like to clarify for the RECORD the disposition of this tax-related provision.

H.R. 939 as originally reported by the Committee on Veterans' Affairs contained a provision which would have excluded from taxable income waivers of veterans indebtedness by the Department of Veterans Affairs. This provision would have violated the pay-go rules of the Budget Enforcement Act of 1990 because revenues lost by the provision were not offset by revenue increases or entitlement reductions. As such, the provision possibly would have caused sequestration.

Upon sequential referral of the bill, the Committee on Ways and Means narrowed the tax-related provision to comply with the pay-go requirements.

After the Committee on Ways and Means reported its amendment, Chairman MONTGOMERY requested that the tax-related provision be deleted from H.R. 939 altogether and that the bill be brought to the floor under suspension of the rules. I have acceded to Chairman MONTGOMERY's request. Consequently, H.R. 939 as before the House today contains no tax-related provision.

Since the tax-related provision was included in H.R. 939 at the behest of the Committee on Veterans' Affairs in the first instance, the Committee on Ways and Means does not oppose the deletion of this provision from the bill.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 939, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules are suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read:

A bill to amend title 38, United States Code, with respect to housing loans for veterans, and for other purposes."

A motion to reconsider was laid on the table.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL AND NATIVE AMERICAN PUBLIC POLICY ACT OF 1992

Mr. PASTOR. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2184) to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

The Clerk read as follows:

S. 2184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992.

SEC. 2. REPEAL OF PREVIOUS LEGISLATION.

The Morris K. Udall Scholarship and Excellence in National Environmental Policy Act, S. 1176, One Hundred Second Congress, is hereby repealed.

SEC. 3. FINDINGS.

The Congress finds that—

(1) for three decades, Congressman Morris K. Udall has served his country with distinction and honor;

(2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land, and water;

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

(4) it is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources.

SEC. 4. DEFINITIONS.

For the purposes of this Act—

(1) the term "Board" means the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(b);

(2) the term "Center" means the Udall Center for Studies in Public Policy established at the University of Arizona in 1987;

(3) the term "eligible individual" means a citizen or national of the United States or a permanent resident alien of the United States;

(4) the term "Foundation" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(a);

(5) the term "fund" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund established in section 8;

(6) the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965; and

(7) the term "State" means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified).

SEC. 5. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

(a) ESTABLISHMENT.—There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

(b) BOARD OF TRUSTEES.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of twelve trustees, eleven of whom shall be voting members of the Board, as follows:

(1) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(2) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the President pro tempore of the Senate, in consultation with the Majority and Minority Leaders of the Senate.

(3) Five Trustees, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; or

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(5) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.

(c) TERM OF OFFICE.—

(1) IN GENERAL.—The term of office of each member of the Board shall be six years, except that—

(A) in the case of the Trustees first taking offices—

(i) as designated by the President, one Trustee appointed pursuant to section 5(b)(2) and two trustees appointed pursuant to section 5(b)(3) shall each serve two years; and

(ii) as designated by the President, one Trustee appointed pursuant to section 5(b)(1) and two Trustees appointed pursuant to section 5(b)(3) shall each serve four years; and (iii) as designated by the President, one Trustee appointed pursuant to section 5(b)(1), one Trustee appointed pursuant to section 5(b)(2), and one Trustee appointed pursuant to section 5(b)(3) shall each serve six years; and

(B) a Trustee appointed to fill a vacancy shall serve for the remainder of the term for which the Trustee's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) TRAVEL AND SUBSISTENCE PAY.—Trustees shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(e) LOCATION OF FOUNDATION.—The Foundation shall be located in Tucson, Arizona.

(f) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this Act as the Board shall prescribe.

(2) COMPENSATION.—The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 6. PURPOSE OF THE FOUNDATION.

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a Program for Environmental Policy Research and an Environmental Conflict Resolution at the Center;

(5) develop resources to properly train professionals in the environmental and related fields;

(6) provide educational outreach regarding environmental policy; and

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

SEC. 7. AUTHORITY OF THE FOUNDATION.

(a) AUTHORITY OF THE FOUNDATION.—

(1) IN GENERAL.—(A) The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5. The Foundation shall have the authority to award scholarships, fellowships, internships, and grants and fund the Center to carry out and manage other programs, activities and services.

(B) The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships, and grants awarded under this Act.

(C) The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this Act for study in fields related to the environment and Native American and Alaska Native health care and tribal public policy. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation.

(2) SCHOLARSHIPS.—(A) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(B) An eligible individual awarded a scholarship under this Act may receive payments under this Act only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible individual awarded a scholarship under this Act. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) FELLOWSHIPS.—Fellowships shall be awarded to—

(A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, including law and medicine; and

(B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

(4) INTERNSHIPS.—Internships shall be awarded to—

(A) deserving and qualified individuals to participate in internships in Federal, State and local agencies or in offices of major environmental organizations pursuant to section 5; and

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5.

(5) GRANTS.—The Foundation shall award grants to the Center—

(A) to provide for an annual panel of experts to discuss contemporary environmental issues;

(B) to conduct environmental policy research;

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues; and

(D) for visiting policymakers to share the practical experiences of such for visiting policymakers with the Foundation.

(6) REPOSITORY.—The Foundation shall provide direct or indirect assistance from the proceeds of the Fund to the Center to maintain the current site of the repository for Morris K. Udall's papers and other such public papers as may be appropriate and assure such papers' availability to the public.

(7) COORDINATION.—The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution to be located at the Center.

(b) MORRIS K. UDALL SCHOLARS.—Recipients of scholarships, fellowships, internships, and grants under this Act shall be known as "Morris K. Udall Scholars".

(c) PROGRAM PRIORITIES.—The Foundation shall determine the priority of the programs to be carried out under this Act and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 6(a)(2), section 6(a)(3), and section 6(a)(4), not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 6(a)(5), section 6(a)(6), and section 6(a)(7) conditioned on a 25-percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center.

SEC. 8. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund" to be administered by a Foundation. The fund shall consist of amounts appropriated to it pursuant to section 10 and amounts credited to it under subsection (d).

(b) INVESTMENT OF FUND ASSETS.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund. Investments in public debt securities shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity.

SEC. 9. EXPENDITURES AND AUDIT OF TRUST FUND.

(a) IN GENERAL.—The Foundation shall pay from the interest and earnings of the Fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this Act.

(b) AUDIT BY GENERAL ACCOUNTING OFFICE.—The activities of the Foundation and the Center under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

SEC. 10. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—In order to carry out the provisions of this Act, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS-15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, United States Code;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to

carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board of Trustees, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); and

(7) make other necessary expenditures.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Fund $40,000,000 to carry out the provisions of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. PASTOR] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 2184, the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992.

This legislation is a fitting tribute to honor the legacy and achievements of our good friend, Mo Udall. For the past 30 years, Mo has worked tirelessly to serve the people of the Second Congressional District of Arizona, which I am now privileged to represent. Mo Udall was a leader in a number of public policy areas, but he will be especially remembered for his commitment to protecting our precious natural resources.

Mo Udall is undoubtedly a champion for protecting the rights of native Americans. He worked hard to restore dignity to a proud people. He was among the first to recognize that the native American struggle for self-determination be taken seriously. He fought to give native Americans the assistance they need for self-government and economic development.

This bill, which passed the U.S. Senate with the leadership of Senator DECONCINI last month, will continue Mo Udall's work on environmental issues and will help native Americans pursue careers in health care and public policy.

This is accomplished by establishing a Morris K. Udall Foundation. The Foundation is tasked with the mission of increasing the awareness and understanding of environmental issues, with an emphasis on research, training and educational outreach. Also, it has the mission of developing resources to train native Americans and Alaska Natives in health care and public policy areas.

The Foundation can award undergraduate scholarships, graduate fellowships or grants to individuals interested in pursuing careers related to the environment. Moreover, the Foundation is also authorized to award internships in Federal, State, and local agencies.

In order to carry out these ambitious goals, this legislation establishes a trust fund and authorizes the appropriation of funds to this trust fund. Under the 1992 Interior appropriations bill, the Congress appropriated $5 million for the Morris Udall Foundation, to be available on September 30, 1992. Enacting this legislation today will help get this worthwhile program started.

We have addressed this issue once before. Last session, both the Senate and the House passed similar legislation. The bill, S. 1176, was sent to the President over the Christmas holidays. Those circumstances will be discussed by a statement submitted by the Speaker.

This legislation repeals S. 1176 and reauthorizes the Udall Foundation. The Board of Trustees to the Foundation would be comprised of 12 individuals; 9 of those 12 individuals would be appointed by the President of the United States, with the advice and consent of the Senate. Recommendations from the House and Senate leadership, for Board membership, would be considered by the President.

In addition, a program for environmental policy research and an environmental conflict resolution at the Udall Center for Studies in Public Policy, on the campus of the University of Arizona, would also be established under this bill.

At a time when our Nation is confronted with pressing environmental concerns, it is essential that we enact this important legislation. S. 2184 would promote a better understanding of our environmental needs and would create programs to address them. Also, it would establish scholarships, grants, fellowships and internships in the natural resources, health care and public policy areas.

Mr. Speaker, Mo Udall deserves this honor and much more. Mo worked very hard throughout his long career of public service to help people and to make America a better place to live. Let's follow Mo's lead and continue his important work and aspirations.

I want to thank the chairman and the ranking Republican on the Education and Labor Committee for expediting consideration of this bill. I also wish to thank my colleagues, Congressman OBEY and Congressman RHODES and Senator DECONCINI for sponsoring and supporting this legislation. Without their assistance and that of their staffs, we would not be on the House floor today.

Mr. Speaker, I urge my colleagues to pay tribute to the distinguished Mo Udall, and to his lasting legacy, by joining me in supporting this legislation. I look forward to the President's signature and to the release of the appropriated funds so that the Udall scholarships can be awarded on a timely fashion. Let's honor Mo by passing this bill without hesitation.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

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Mr. Speaker, I rise in support of the legislation even though normally I would oppose a sole source grant, but, because of the stature of the man we honor and because of the honorable intent of the legislation, I strongly support it. As I understand it, the administration also supports the legislation at this particular time.

Mr. Speaker, the bill has two principal purposes. It establishes the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Foundation in Tucson, AZ, which is designed to increase awareness of the environment and develop resources, to train professionals in environmental and related fields, and, second, it creates a fund for the Morris K. Udall Scholarship which is designed to support study in fields related to the environment.

Again, Mr. Speaker, it is a privilege to honor someone of the stature of the gentleman we are honoring, former Congressman Mo Udall.

Mr. Speaker, I reserve the balance of my time.

Mr. PASTOR. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Education and Labor, the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I am pleased to rise in support of S. 2184, the Morris K. Udall Scholarship and Excellence in National Education Policy Act.

Mo served in this body for three decades representing people of his native Arizona. During that time Mo championed many causes—campaign finance reform, postal reorganization, and civil service reform—to name but a few.

But it was his commitment to the preservation of our Nation's natural resources and to the rights of native Americans and Native Alaskans, a commitment he fulfilled through his stewardship as chairman of the Committee on Interior and Insular Affairs, for which he is best remembered.

Mo authored and shepherded into law numerous bills protecting our environment, monumental legislation such as the Arizona Desert Wilderness Act of 1990 and the Alaska Lands Act of 1980. During the late seventies he was a leader with respect to strip mining legislation. Mo was also a leader with respect to virtually every important piece of Indian legislation considered during his years in Congress.

So, it is altogether fitting that we establish, in his honor, a national foundation with a mission to promote environmental awareness and enjoyment of our Nation's environmental resources, to award scholarships, fellowships, and grants for study in fields related to the environment and native American and

Alaska Native health care, and to award scholarships to outstanding undergraduate students—including native American and Alaska Native undergraduates—who intend to pursue careers in health care and tribal public policy.

Mr. Speaker, as you know, during the last session the House and Senate passed S. 1176, a bill very similar to the one we are now considering. That bill was presented to the President only to have him, on December 20, 1991, purport to pocket veto it. A statement by the Speaker discusses, in detail, this action by the President. I will not reiterate the legal arguments which have been made, but I want the record to show that I concur in the view that the President's action was inappropriate and ineffective.

Mr. FOLEY. Mr. Speaker, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation Act was presented to the President as S. 1176 of the 102d Congress on December 9, 1991. The President purported to pocket veto the bill on December 20, 1991, norwithstanding the pendency of the 1st session of the 102d Congress. Congress was in an intrasession adjournment from November 27, 1991, until 11:55 a.m. on January 3, 1992. See House Concurrent Resolution 260 of the 102d Congress, November 27, 1991. Under clause 2, section 7, article I of the Constitution, because the President did not return the bill with his objections within 10 days, Sunday excepted, after it was presented to him and the Congress did not "by their adjournment prevent its return," the bill became law "in like manner as if he had signed it."

It is not difficult to appreciate the substantive objections of the President concerning a possible conflict between certain provisions of S. 1176 and the appointment clause in section 2, article II of the Constitution. Such objections should, however, be communicated in a message returning the bill to the Congress.

In Kennedy versus Sampson, the U.S. Court of Appeals held that the pocket veto is not constitutionally available during an intrasession adjournment of the Congress if a congressional agent is appointed to receive veto messages from the President during such adjournment, 511 F.2d 430 (D.C. Cir. 1974). As the Congress formally declared 2 years ago when it adjourned the 1st session of the 101st Congress sine die:

First, clause 5 of rule III of the rules of the House authorizes its Clerk to receive messages from the President during periods when the House is not in session;

Second, the House intends by such rule to preserve until its adjournment sine die from the final regular session of a Congress the constitutional prerogative of the House to reconsider vetoed measures in light of the objection of the President;

Third, an order of the Senate authorizes its Secretary to receive messages from the President during periods when the Senate is not in session; and

Fourth, the Senate intends by such order to preserve until its adjournment sine die from the final regular session of a Congress the constitutional prerogative of the Senate to reconsider vetoed measures in light of the objections of the President.

See House Concurrent Resolution 239 of the 101st Congress, November 21, 1989. The joint leaderships considered the inclusion of a similar declaration in House Concurrent Resolution 260 of the 102d Congress to be unnecessary because that resolution provided for an intrasession adjournment to a date certain—and because such a declaration is merely descriptive in any event.

Successive Presidential administrations from 1974 to 1989 have, in accommodation of Kennedy versus Sampson, exercised the veto power during intrasession adjournments only by messages returning measures to the Congress. But President Bush asserted a pocket veto during the intrasession adjournment of August 1989—against a joint resolution moot on its face: House Joint Resolution 390 of the 101st Congress, authorizing the enrollment by hand of H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989, which had become Public Law 101–73 on August 9, 1989. That improper exercise of veto authority prompted a letter from the joint leaderships to the President, which was later inserted in the CONGRESSIONAL RECORD. See January 23, 1990, pp. H 3–4. The President's response to that letter, via his Attorney General, was also inserted in the RECORD at that point. That response relied almost exclusively on the *Pocket Veto* case, 279 U.S. 655 (1929), which does not address intrasession vetoes. Both letters are appended.

President Bush has also returned an enrolled bill with a memorandum of disapproval alluding to the pocket veto power—as opposed to conveying his objections by message under seal. In a memorandum of disapproval on H.R. 2712 of the 101st Congress, the Emergency Chinese Immigration Status Adjustment Facilitation Act of 1989, he asserted that the pocket veto power was available because the intersession adjournment of the Congress in November 1989 prevented a return veto. The memorandum went on, however, to acknowledge the judicial holdings to the contrary and returned the enrollment with a statement of objections. See for example, *Barnes* v. *Kline,* 759 F. 2d 21 (D.C. Cir. 1984), vacated and remanded as moot sub nom. *Burke* v. *Barnes,* 479 U.S. 361 (1987); *Kennedy* v. *Jones,* 412 F.Supp. 353 (D.D.C. 1976). Congress properly proceeded to reconsider the vetoed bill.

Now President Bush has once again asserted an intrasession pocket veto. This is extremely troublesome. It is not constructive to resurrect constitutional controversies once considered as settled.

I urge the Archivist to assign a public law number to S. 1176. I urge the administration to reconsider its assertion in correspondence from the Assistant Attorney General to the minority leader that section 2 of pending bill S. 2184, which proposes to repeal S. 1176, would have no legal effect. I urge the President to eschew the notion of an intrasession pocket veto power, in appropriate deference to the judicial resolution of that question.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I rise today in support of S. 2184, to establish the Morris K. Udall Scholarship and Excellence in National Policy Foundation. This legislation establishes a scholarship and foundation to increase the awareness and importance of our natural resources. However, this bill also recognizes the contributions of a man whose good humor and legislative skills worked tirelessly for the people of the State of Arizona and the Nation.

Mo Udall came to the U.S. House of Representatives in 1961 through a special election. I have known Mo personally for a long time. I had the pleasure to serve with him on the House Interior Committee while he was chairman. Mo is a leader in many areas, but he will be especially remembered for his commitment to protecting our natural resources. He will long be remembered for his landmark work on the strip mining bill of 1977 and the Alaska Lands Act of 1980. Most recently it was my pleasure to work with him on the Arizona Desert Wilderness Act of 1990.

S. 2184 attempts to capture Mo's spirit and pass to students, his love of nature by creating a foundation that will award scholarships, fellowships, and internships to outstanding students pursuing environmental studies. S. 2184 will provide energetic young people the resources to continue Mo's vision.

Many men and women are fortunate to have served in the Congress of the United States. Most serve with honor. Many serve with distinction. But only a handful leave the legacy that Morris K. Udall has left in his 30 years in Congress. I ask my colleagues to join with me in supporting passage of this legislation.

Mr. PASTOR. Mr. Speaker, I yield 1 minute to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, this bill is one in a series of fitting tributes that this House should give Mo Udall, a great friend to so many of us and one of the true giants of the Congress. A book compiled from the remarks of his associates during a special order last May will be printed in the next few months. And one of the greatest follow-up tributes to this man would be for this Congress to establish a new Arctic wilderness area in his honor, instead of drilling in the Alaska National Wildlife Refuge for oil.

It is fitting as well that a focus of this bill today would be the establishment of an environmental conflict resolution center. Mo was a master of reconciliation in Congress, a man who could serve in this body for 30 years, be a crusading and controversial idealog who challenged its systems and perks, yet be one of its most productive and creative legislators, a man who finished his service without an enemy, with thousands of devoted friends, and millions of admirers.

I hope Mo Udall's brilliant wit and unchallenged integrity and devotion to the beauty and wisdom of the natural world will be an inspiration to the students who receive these scholarships in his name. I am sorry that Mo himself cannot be present here today because of his illness, but, if he were here, he would surely joke, maybe complain, about all the fuss we have made on his behalf.

We all share the sincere hope that Mo's convalescence will continue, and that he will have a fruitful retirement and that this scholarship fund and national environmental policy center will perpetuate his legacy.

Mr. DERRICK. Mr. Speaker, I rise in reluctant opposition to the motion offered by the gentleman from Arizona [Mr. PASTOR].

Mr. Speaker, no Member of this House holds Mo Udall in higher esteem than I. It was an honor and a pleasure for me to serve in this body with Mo for more than 16 years. Since his retirement I have missed him, his wisdom, and his fantastic wit greatly; the House has not been the same since his departure. Frankly, it will never be the same because there is only one Mo Udall. Mo loves this institution dearly, and the institution obviously loves him too, both houses having passed S. 1176, the first M. Udall scholarship legislation, unanimously. I strongly supported S. 1176 because Mo deserves not only this honor but many, many more after three decades of loyal, dedicated service to his country.

However, it is with great regret that today I must reluctantly oppose the gentleman's motion, despite my reverence for Mo Udall, because, by passing S. 2184, the Congress will let pass a golden opportunity for a final judicial resolution of the longstanding question of when, if ever, a President may veto acts of Congress merely by slipping them into his pocket.

For the past two decades, Congress and the President have been feuding over when the President may use the pocket veto, which is absolute, to kill legislation, and when he must return vetoed bills to Congress for its reconsideration and possible passage over his veto. Congress believes the Constitution permits the President to use the pocket veto only after its final sine die adjournment, and that during all interim adjournments, the President must return bills he wishes to veto to their houses of origin for reconsideration.

The President believes he may use the pocket veto to kill legislation any time the house of origin is adjourned for more than 3 days when his constitutional 10-day period for review expires. The lower Federal courts have repeatedly rejected the President's position, and numerous constitutional scholars consider it without merit. But the issue remains viable because the Supreme Court last addressed the question squarely in 1929, well before the development of the year-round Congress.

The pocket veto issue has profound implications for Congress and its constitutional position vis-a-vis the President. Those implications exist without regard to any President, political party, or issue of the day. And I believe Congress errs by letting our feelings for Mo Udall prevent us from vindicating the institution he loves so much.

The circumstances surrounding the passage, presentation, and alleged pocket veto of S. 1176 clearly present the best opportunity for a judicial determination of this issue in decades. On December 9, 1991, during an intrasession adjournment, the Secretary of the Senate presented S. 1176 to the President. The President's review of S. 1176 revealed the existence of various constitutional defects in the legislation, so he decided to veto it. But rather than returning S. 1176 to the Senate with his objections within 10 days, as the Constitution requires, the President chose to keep the bill and announced that he had pocket-vetoed it, flouting the appeals court decision in *Kennedy* v. *Sampson,* 511 F.2d 430 (D.C. Cir. 1974). The Sampson court held that no opportunity for a pocket veto arises during an intrasession adjournment where the house of origin appoints agents to accept bills returned by the President, as it had in this case.

Moreover, unlike previous instances of impermissible pocket vetoes involving laws of limited duration or narrow purpose which did not lend themselves readily to extended litigation, the President's actions in this case adversely affect identifiable citizens who could maintain a protracted lawsuit.

Mr. Speaker, I have no doubt the Supreme Court would decide S. 1176 became a law when not signed or returned within 10 days, resolving this issue in Congress' favor once and for all. Congress could strengthen its case tremendously and even expedite a Court ruling by amending S. 1176 directly, correcting its constitutional defects, and adding provisions expediting judicial review. Congress included expedited review provisions in the original Gramm-Rudman-Hollings law, and they served our institutional interests well.

Mr. Speaker, the President could simply have returned S. 1176 to the Senate, issued a memorandum of disapproval outlining his objections, and claimed he had validly pocket-vetoed the bill. Presidents have followed this course on numerous occasions during interim adjournments over the last 20 years. Yet this time the President deliberately chose to confront Congress by not returning S. 1176, literally inviting a challenge. Obviously, the President has decided he wants the issue settled so he and his successors will know what the Constitution requires in this regard.

Mr. Speaker, under our governmental system of separated powers, a final judicial resolution of this constitutional question would represent the most definitive outcome of this impasse between Congress and the President. Although the courts have long held it is their province to say what the law is, Congress clearly has the power to enact legislation expressing its interpretation of the powers delegated to it in the Constitution, and those expressions are entitled to deference by the courts.

To invoke that power, I have sponsored again in this Congress legislation H.R. 849 to clarify the law governing the President's use of the pocket veto. My bill would declare simply that no adjournment of either House other than a final sine die adjournment enables the President to use the pocket veto. Any other construction of the relevant constitutional provisions unnecessarily deprives the people's representatives of the opportunity to reconsider vetoed bills in cases where they will meet again and could do so. I believe the language of H.R. 849 accurately restates current law and also reflects the Framers' original intent. I sincerely hope if Congress is not willing to move instantly and vigorously to protect its constitutional prerogatives in court when the need and the opportunity arise, then at least it will pass legislation to guide the courts in the event such a claim arises through the efforts of others.

Mr. Speaker, I understand the Arizona delegation's desire to enact this corrective legislation establishing the Morris K. Udall Scholarship and Educational Foundation in Tucson, AZ, as soon as possible. I also appreciate the fact that S. 2184 would repeal S. 1176, preserving Congress' position on the merits of the pocket veto issue for another day. However, I cannot in good conscience support S. 2184 because, although well-intentioned, the bill simply does not serve the interests of this institution well with regard to the pocket veto issue. Congress should give the President the lawsuit he has so deliberately sought, and no one would understand that better than Mo Udall himself.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PASTOR. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Arizona [Mr. PASTOR] that the House suspend the rules and pass the Senate bill, S. 2184.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PASTOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2184, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

DAYTON AVIATION HERITAGE PRESERVATION ACT OF 1992

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2321) to establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dayton Aviation Heritage Preservation Act of 1992".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to establish a unit of the National Park System in Dayton, Ohio, consisting of certain lands and structures associated with Wilbur and Orville Wright and the early development of aviation; and

(2) to create partnerships among Federal, State, and local governments and the private sector to preserve, enhance, and interpret for present and future generations the historic and cultural structures, districts, and artifacts in Dayton and the Miami Valley in the State of Ohio, which are associated with the Wright brothers, the invention and development of aviation, or the life and works of Paul Laurence Dunbar, and which, as a whole, represent a nationally significant resource.

TITLE I—DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK

SEC. 101. ESTABLISHMENT OF THE DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—There is established, as a unit of the National Park System in the State of Ohio, the Dayton Aviation Heritage National Historical Park (hereinafter in this Act referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of the following sites, as generally depicted on a map entitled "Proposed Dayton Aviation Heritage National Historical Park", numbered NHP-DAH 80,000, and dated February 1992:

(1) A core parcel in Dayton, Ohio, which shall consist of the Wright Cycle Company, Hoover Block, and lands between.

(2) Huffman Prairie Flying Field, Wright-Patterson Air Force Base, Ohio.

(3) The Wright 1905 Flyer and Wright Hall, Dayton, Ohio.

(4) The Paul Laurence Dunbar home, Dayton, Ohio.

SEC. 102. PROTECTION OF HISTORIC PROPERTIES.

(a) ACQUISITION OF PROPERTIES WITHIN THE PARK.—Within the boundaries of the park the Secretary shall acquire the Wright Cycle Company and Hoover Block, and may acquire other properties, or interests therein, referred to in section 101(b), by donation, purchase with donated or appropriated funds, exchange, or transfer.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with other Federal agencies, State and local public bodies, and private interests and organizations relating to the preservation, development, use, and interpretation of properties within the boundaries of the park in order to contribute to the appropriate use and management of such properties consistent with the purposes of this Act. Such agreements shall provide, whenever appropriate, that—

(1) the public may have access to any such property at specified reasonable times for purposes of viewing such property or the exhibits or attending programs established by the Secretary under this subsection; and

(2) the Secretary may make such improvements to any such property as the Secretary deems necessary after consultation with the Commission to enhance the public use and enjoyment of such property and programs.

SEC. 103. PARK GENERAL MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 complete fiscal years after the date of enactment of this Act, the Secretary, with the advice of the Commission, shall prepare and submit to the Congress a general management plan for the park which includes but is not limited to the information described in section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a-7(b)), and which takes into account the preservation and development plan developed under section 202.

(b) PARK PARTNERSHIPS.—The management plan shall identify partnership opportunities between the Secretary and other Federal, State, and local governments and the private sector for the development, use, and interpretation of properties within the park.

SEC. 104. STUDIES.

The Secretary shall study the following properties described in this section to determine the feasibility and suitability of including them within the park:

(1) Properties within the Wright-Dunbar Historic District.

(2) Wright Company Factory, Dayton, Ohio.

A report of the study of such properties shall be submitted as part of the general management plan required by section 103.

SEC. 105. GENERAL ADMINISTRATIVE FUNCTIONS.

(a) IN GENERAL.—The park shall be administered in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including, but not limited to, the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4).

(b) DONATIONS.—The Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purposes of managing the park.

(c) PROGRAMS.—The Secretary may sponsor, coordinate, or enter into cooperative agreements for educational or cultural programs related to the park as the Secretary considers appropriate to carry out the purposes of this Act.

(d) IDENTIFICATION AND MARKING OF SIGNIFICANT HISTORICAL SITES.—The Secretary may identify other significant sites related to the Wright brothers, the history of aviation, or Paul Laurence Dunbar in the Miami Valley which are related to the park, and, with the consent of the owner or owners thereof, may mark the sites appropriately and make reference to them in any interpretive literature. The Secretary may provide interpretive markers along transportation routes leading to units of the park.

(e) INTERPRETATION OF HUFFMAN PRAIRIE FLYING FIELD.—The Secretary may provide interpretation of Huffman Prairie Flying Field on Wright Brothers Hill, Wright-Patterson Air Force Base, Ohio.

SEC. 106. COOPERATION OF FEDERAL AGENCIES.

Any Federal entity conducting or supporting activities directly affecting the park shall—

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary; and

(2) conduct or support such activities in a manner which—

(A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to section 202(b)(9); and

(B) to the maximum extent practicable will not have an adverse effect on the historic resources of the park.

SEC. 107. COORDINATION BETWEEN THE SECRETARY AND THE SECRETARY OF DEFENSE.

Except in the case of properties subject to this Act which are under the control of the Secretary of Defense and which are affected by a national emergency declared by the President, at which time the decisions of the Secretary of Defense shall prevail, for those properties under the control of the Secretary of Defense, the Secretary of the Interior and the Secretary of Defense shall coordinate preservation efforts to the maximum extent practicable through a Memorandum of Agreement.

SEC. 108. ASSISTANCE.

(a) TECHNICAL AND PRESERVATION ASSISTANCE.—The Secretary may provide to any owner of property within the park, and to any organization having an agreement with the Secretary under section 102(b), such technical assistance as the Secretary considers appropriate to carry out the purposes of this Act.

(b) INTERPRETIVE MATERIALS.—The Secretary is authorized to publish interpretative materials for historic aviation resources in the Miami Valley.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE II—DAYTON AVIATION HERITAGE COMMISSION

SEC. 201. DAYTON AVIATION HERITAGE COMMISSION.

(a) ESTABLISHMENT.—There is established the Dayton Aviation Heritage Commission to assist Federal, State, and local authorities and the private sector in preserving and managing the historic resources in the Miami Valley, Ohio, associated with the Wright brothers, aviation, or Paul Laurence Dunbar.

(b) MEMBERSHIP.—The Commission shall consist of 13 members as follows:

(1) 3 members appointed by the Secretary, who shall have demonstrated expertise in aviation history, black history and literature, aviation technology, or historic preservation, at least one of whom shall represent the National Park Service.

(2) 3 members appointed by the Secretary from recommendations submitted by the Governor of the State of Ohio, who shall have demonstrated expertise in aviation history, black history and literature, aviation technology, or historic preservation, at least one of whom shall represent the Ohio Historical Society.

(3) 1 member appointed by the Secretary of Defense, who shall represent Wright-Patterson Air Force Base.

(4) 3 members appointed by the Secretary from recommendations submitted by the City Commission of Dayton, Ohio, at least one of whom shall reside near the core parcel of the park (as described in section 101(b)(1)).

(5) 1 member appointed by the Secretary from recommendations submitted by the Board of Commissioners of Montgomery County, Ohio.

(6) 1 member appointed by the Secretary from recommendations submitted by the Board of Commissioners of Greene County, Ohio.

(7) 1 member appointed by the Secretary from recommendations submitted by the City Council of Fairborn, Ohio.

(c) TERMS.—(1) Members shall be appointed for terms of 3 years. A member may be reappointed only 3 times unless such member was originally appointed to fill a vacancy pursuant to subsection (e)(1), in which case such member may be reappointed 4 times. A member may serve after the expiration of his term until a successor is appointed.

(2) The Secretary shall appoint the first members of the Commission within 30 days after the date on which the Secretary has received all of the recommendations for appointment pursuant to subsections (b) (2), (4), (5), (6), and (7).

(d) CHAIR AND VICE CHAIR.—The chair and vice chair of the Commission shall be elected by the members of the Commission. The terms of the chair and vice chair shall be 2 years. The vice chair shall serve as chair in the absence of the chair.

(e) VACANCY.—(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made, except that the Secretary responsible for such appointment shall fill any such vacancy within 30 days after receiving a recommendation for the position.

(2) A member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. A member may serve after the expiration of his term until his successor has taken office.

(f) QUORUM.—A majority of the members of the Commission then serving shall constitute a quorum, but a lesser number may hold hearings.

(g) MEETINGS.—The Commission shall meet not less than 3 times a year at the call of the chair or a majority of its members.

(h) PAY.—(1) Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(i) FACA.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(j) TERMINATION.—The Commission shall cease to exist on January 1, 2004.

SEC. 202. DAYTON HISTORIC RESOURCES PRESERVATION AND DEVELOPMENT PLAN.

(a) IN GENERAL.—Within 2 years after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a preservation and development plan which may include the Wright-Dunbar Historic District, the Dunbar Historic District, the Ed Sines House and the Daniel Fitch House, and the 45 sites identified in Appendix A of the document entitled "Study of Alternatives Dayton's Aviation Heritage, Ohio" published by the National Park Service. Within 90 days after the receipt of such plan, the Secretary shall approve such plan or return it with comments to the Commission. If the Secretary has taken no action after 90 days upon receipt, the plan shall be considered approved. If the Secretary disapproves a plan, the Commission shall submit a revised plan to the Secretary. The plan shall include specific preservation and interpretation goals and a priority timetable for their achievement. The Secretary shall forward copies of the approved plan to the Congress.

(b) CONTENTS OF PLAN.—The plan referred to in subsection (a) shall—

(1) set detailed goals for the preservation, protection, enhancement, and utilization of the resources of the district and sites referred to in subsection (a);

(2) identify properties which should be preserved, restored, developed, maintained, or acquired;

(3) include a tentative budget for the subsequent five fiscal years;

(4) propose a management strategy for a permanent organizational structure to enhance and coordinate such resources, and aviation-related properties, and institutions;

(5) recommend methods for establishing partnerships with Federal, State, and local governments and the private sector to foster development and to preserve and enhance such resources;

(6) propose transportation links, including pedestrian facilities and bicycle trails among historic aviation sites including an interurban between the district and the historic resources at Wright-Patterson Air Force Base;

(7) address the use of private vehicles, traffic patterns, parking, and public transportation;

(8) propose educational and cultural programs to encourage appreciation of such resources;

(9) establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of the properties among such resources;

(10) establish an index which shall contain documentary evidence of historical and cultural significance and which includes property in the Miami Valley associated with the Wright brothers, the history of aviation, or Paul Laurence Dunbar.

(c) CONSULTATION.—In developing the plan, the Commission shall consult with appropriate officials of any local government or Federal or State agency which has jurisdiction over historic aviation resources in the Miami Valley area. The Commission shall also consult with property owners and business, historic, professional, neighborhood, and citizen organizations affected by the actions proposed in the plan.

SEC. 203. GENERAL POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may deem advisable.

(b) DONATIONS.—Notwithstanding any other provision of law, the Commission may seek and accept donations of funds, property, or service from individuals, foundations, corporations, and other private entities and public entities for the purpose of carrying out its duties.

(c) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(d) MAIL.—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) USES OF ACQUIRED ASSETS.—Any revenues or other assets acquired by the Commission by donations, the lease or sale of property, or fees for services shall be available to the Commission, without fiscal year limitations, to be used for any function of the Commission.

(f) HISTORICAL AND CULTURAL PROGRAMS.—The Commission is authorized to carry out historical, educational, or cultural programs which encourage or enhance appreciation of the historic resources in the Miami Valley associated with the Wright brothers, aviation, or the life and works of Paul Laurence Dunbar.

(g) TECHNICAL AND PRESERVATION ASSISTANCE.—The Commission may provide technical and preservation assistance to owners of property within the districts, sites, and properties referred to in section 202(a) consistent with the purposes of this Act.

(h) OBTAINING PROPERTY.—(1) The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties except that the Commission may not acquire any real property or interest in real property otherwise than under paragraph (2).

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the districts, sites, and properties referred to in section 202(a)—

(A) by gift or device; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in such district and sites.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

SEC. 204. STAFF OF COMMISSION.

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission.

(b) ADDITIONAL PERSONNEL.—The Commission may appoint and fix the pay of such additional personnel as the Commission deems necessary. Such staff may include specialists in areas such as interpretation, historic preservation, black history and literature, aviation history and technology, and urban revitalization.

(c) TEMPORARY SERVICES.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(d) DETAIL.—Upon request of the Commission, the head of any Federal agency represented by a member on the Commission may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this Act.

(e) ADMINISTRATIVE SUPPORT.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) STATE AND LOCAL SERVICES.—The Commission may accept the services of personnel detailed from the State or any political subdivision of the State and may reimburse the State or such political subdivision for such services.

(g) INAPPLICABILITY OF CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE.—The director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for grade GS-15 of the General Schedule.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated annually to the Commission to carry out its duties under this Act $350,000, except that the Federal contribution to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out those duties.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2321, the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2321 would establish the Dayton Aviation Heritage National Historical Park in Dayton, OH. This bill was introduced by Representatives TONY HALL and DAVID HOBSON along with a number of Representatives from the State of Ohio.

Although many Americans know about the Wright brothers' flight over the beaches of Kitty Hawk, few are familiar with the important role played by the city of Dayton, OH, in aviation history. Dayton is where Wilbur and Orville Wright grew up, developed the technology for the first airplane, constructed and flew the world's first practical and maneuverable airplane, and established the world's first permanent flying school.

The purpose of H.R. 2321 is to preserve, enhance, and interpret the historic structures and artifacts in the Dayton area associated with the Wright brothers and the development of aviation. The bill is based on a study conducted by the National Park Service in 1990.

H.R. 2321 has undergone close review and extensive revision in the Interior Committee. The original park proposal included a significantly larger number of buildings and acreage. In the Interior Committee substitute, lands and structures were deleted from the proposed park boundary, leaving only those sites of primary historical significance.

Under the bill, as amended, the Dayton Aviation Heritage National Historical Park will consist of four sites: First, the Wright Cycle Co. and Hoover Block, where the Wrights developed the tools and skills to invent the airplane; second, the Huffman Prairie Flying Field, were the Wrights conducted hundreds of flying experiments; third, the home of Paul Laurence Dunbar, a prominent black writer who was a friend and business partner of the Wrights; and fourth, the 1905 *Wright Flyer*, the first practical airplane. All of these sites have already been designated as national historic landmarks, and together they tell the story of the invention of the airplane and the importance of the Dayton environment to that process.

The committee substitute scaled back the provisions establishing a Dayton Aviation Heritage Commission. The Dayton Aviation Preservation Commission created by the substitute is similar to other heritage preservation commissions established by Congress. The Commission proposed in the original bill had overly broad loan- and grant-making and land acquisition authority. The bill, as amended, provides a reasonable and appropriate role for the Commission and places a cap and matching requirement on the funds available for the operation of the Commission.

Mr. Speaker, the invention of the airplane is one of the most significant technological events of this century. Fortunately a number of structures and artifacts related to this invention remain intact in the Dayton area. The bill before us would preserve those structures and sites for the benefit of present and future generations. The bill as amended is reasonable in scope, responsible in cost, and consistent with precedents for park establishment. It has strong bipartisan support and I urge Members to support the bill.

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Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have real problems with H.R. 2321, a bill to establish the Dayton Aviation National Heritage Park in Dayton, OH. As originally introduced, this bill was basically an attempt to provide a much needed economic boost to Dayton, OH. While the bill before us today reflects an attempt to select the most justifiable role for the Federal Government in this project; the real question Members must ask themselves, is not whether this bill is more reasonable than the introduced one, but whether the sites proposed in the bill merit and require designation as a park area at all.

The answer to that question is quite simply, no. As the administration statement points out, the national significant sites included in this bill are already protected by a combination of other government and private entities. While some of these other entities are struggling financially, so is the Federal Government. It is precisely such proposals as this which continue to add to our $400 billion national deficit.

The multibillion in acquisition, construction, and operations backlog already facing the park system is well known. The Interior Committee continues to relentlessly pass legislation adding to that backlog. In the first session of this Congress, we passed about $170 million in new NPS obligations, excluding the $300 to $600 million California Desert Protection Act. While CBO tentatively estimates that this measure will cost only about $10 million in the next 5 years, it is notable that this bill writes a blank check for this park by authorizing such sums as necessary. Because of all the language in this bill dealing with future potential expansion of Federal responsibilities, I imagine the actual costs of this bill will be much higher.

Mr. Speaker, the reasons for the inconsistency between the intense debate on costs of the Steamtown authorizing legislation just a few weeks ago and this bill, which is likely to be even more costly, escape me. Unlike Steamtown, with this bill we have an opportunity to say no unnecessary obligations at the outset, and to make a policy statement that Congress does not believe that the park system should be used as an economic development tool. Rather, we should only call on participation of the Federal Government when absolutely required to save truly outstanding national resources. Such is clearly not the case with this project.

Mr. Speaker, I yield such time as he may consume to a consponsor of the bill, the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker. I rise in strong support of the Dayton Aviation Heritage Preservation Act. This legislation will promote our Nation's aviation heritage by establishing a national park that tells the story of the birth of aviation in this country.

I have joined with Congressman TONY HALL to support the creation of a national park that will tie four sites together in the Dayton area to bring to life the story of the Wright brothers and the place where they grew up, invented the plane, and learned to fly.

There is the Wright brothers bike shop where Wilbur and Orville Wright began experiments which led to the development of the airplane. And right next door, there is the Hoover building which housed the Wright's printing business. Also, the *Wright Flyer III*, the Wright brothers' third airplane which made over 50 flights, is also included in the park.

Mr. Speaker, I am particularly proud that the park features Huffman Prairie which is located in my congressional district. This is the site of the world's first flying field, the first turn in flight, and the first permanent flying school. This is where the invention first became functional, where the airplane became an airplane.

We in the Miami Valley are also proud that this is also the location of Wright-Patterson Air Force Base, where we can truly see how far we have come in the world of flight as F-16's roar over the first flying field.

I also want to say a word about Paul Laurence Dunbar and his connection to the Dayton Aviation Heritage Park. Dunbar was an outstanding black American poet, who was a good friend and business partner of the Wright brothers. In a time when we desperately need to promote harmonious race relations, I believe Dunbar's friendship with the Wrights is an important part of this story, needs to be part of the park, and part of our permanent history.

Finally, I believe this bill is a result of a true public-private partnership. There has been strong community support and strong emphasis on State and local responsibility. Community leaders have worked hard to preserve the sites. But, it will take the experience and expertise of the National Park Service to tie the sites together so the full story can be told.

I want to thank all those in the local community and here in Congress who have worked so hard to support the preservation of our aviation heritage.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HALL], who is the primary sponsor of this bill. He has marshaled our support, as well as support from his colleagues on the other side of the aisle on this project. He has done a good job, and I commend him for it.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of H.R. 2321, the Dayton Aviation Heritage Preservation Act, a bill I introduced with my colleague from the Dayton area, Mr. HOBSON.

The conquest of flight represents one of mankind's greatest technological triumphs. From ancient times, people dreamed of soaring like a bird through the air. However, it was up to two men from Dayton, OH, at the beginning of this century, to make that dream come true. The world has never been the same.

Great distances that once took days can be traveled in hours. Remote parts of the globe have been opened to exploration. Millions of lives have been saved by airlifting emergency food assistance. Modern warfare is now dependent on air power. All of this traces back to the creative genius of Orville and Wilbur Wright.

More than any other single place, Dayton, OH, was the location of many of the major events in aviation history. It was here that Orville and Wilbur Wright grew up. It was here that they conducted their aviation experiments and developed the technology for flying. It was here they constructed the world's first airplane. It was here they constructed and flew the world's first airplane capable of practical flight. And it was here they established the world's first permanent flying school. Following from the work of the Wright brothers, other inventors in Dayton developed technology that made commercial and military aviation possible.

A few steps from this Chamber, in the rotunda of the Capitol, a scene of the Wright brothers concludes the historical frieze that wraps around the base of the dome. Congress authorized the scene as a testament to the significance of the first flight in our history.

Today, the House of Representatives considers a measure that goes beyond a symbolic commemoration of the Wright brothers' work. The Dayton Aviation Heritage Preservation Act seeks to preserve for present and future generations the most important buildings and sites which remain intact on their original locations associated with the Wright brothers. The measure also seeks to preserve the numerous structures in the Dayton area where important developments occurred in the history of aviation.

Additionally, the act honors Paul Laurence Dunbar, one of the greatest black American poets. Dunbar was a friend and business partner of the Wright brothers and the Wrights printed many of Dunbar's earlier works. The friendship between these men of different races is a story that bears great meaning for our times.

To accomplish this, the measure establishes the Dayton Aviation Heritage National Historic Park as a unit of the National Park Service. The park consists of four sites, each containing a national historic landmark associated with the Wright brothers or Paul Laurence Dunbar. The measure also establishes the Dayton Aviation Heritage Commission to assist Federal, State, and local authorities and the private sector in preserving and managing historic resources in the Dayton area.

Though the goals of the bill are broad, the measure recognizes that Federal funding is extremely limited. For that reason, only a small percentage of the park will be owned and operated by the National Park Service. By creating a partnership between Federal, State, and local government and the private sector, relatively few Federal dollars are required. The Dayton community stands strongly behind this proposal and public and private leaders have committed non-Federal funding to ensure that the park succeeds.

The bill which is before the House today represents a compromise that helps fulfill Dayton's historic preservation goals under the Federal Government's severe budget limitations. I would like to thank Mr. VENTO, chairman of the Subcommittee on National Parks and Public Lands, and the subcommittee staff for their guidance during the difficult process of crafting this bill. I would also like to thank Mr. MILLER, chairman of the Committee on Interior and Insular Affairs, for his support. Additional thanks are due Mr. LAGOMARSINO for his assistance during subcommittee consideration.

This measure would not be possible without the help and support of numerous people and organizations in Dayton. I would like to mention the 2003 Fund Committee of Dayton, chaired by U.S. District Court Judge Walter H. Rice, for its leadership in promoting the Dayton Aviation Heritage Preservation Act.

I urge my colleagues to adopt the measure.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. First of all, Mr. Speaker, this is difficult for me because the Members who are sponsoring this bill, both Democrats and Republicans, are friends of mine, and I am a big admirer of the Wright brothers and what they accomplished. I also have very strong ties with the city of Dayton. I have a lot of friends over there. But unfortunately, this bill is too expensive and goes beyond what the National Park Service believes should be done in this area as far as making these sites national sites.

We have facing us this year, as last year, a deficit of approximately $400 billion. We have a $4 trillion national debt now, and the people of this country are very concerned about spending. They are very concerned about taxes.

The other day we talked about a $93 billion tax increase. About 2 years ago we raised taxes $181 billion. It is not because we do not have enough money. Ten years ago we brought in $500 billion in tax revenue. This coming year we are going to bring in $1.3 trillion in revenue, so we have almost tripled the amount of tax revenue. Yet we have almost a $400 billion shortfall in the deficit last year and this year staring us in the face.

The National Park Service came up with a plan for this project that would cost $1.25 million over 5 years, and they did not oppose that kind of an approach. This approach, according to them, is open ended and will cost $10 million over the next 5 years.

I would just like to read a few excerpts from the statement made by Don Castleberry, the Midwest Regional Director of the National Park Service, about this project. He says:

> We do not support enactment of H.R. 2321 as currently drafted because of the unsuitability of the majority of the sites in the bill, the potentially unconstitutional management structure of the proposed area, and the open-ended costs of such an arrangement to the Federal Government.

He goes on to say this:

> * * * the National Park Service completed both suitability/feasibility as well as alternatives studies evaluating the aviation-related resources in the Dayton area. Of the 5 sites found to be nationally significant, the Wright Cycle Company building, Huffman Prairie Flying Field, the Wright Flyer III (not including Carillon Historical Park), Hawthorn Hill, and the Paul Laurence Dunbar House, the study determined that only the Wright Cycle Company building was suitable for inclusion in the National Park System.

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He went on to say:

> Protection is assured for Huffman Prairie Flying Field by the United States Air Force, for the Dunbar House by the Ohio Historical Society, and for the Wright Flyer III by the Educational and Musical Arts, Inc.

He said:

> We believe, however, that the bill creates an overly complicated and costly framework for such a partnership. The Dayton community, including both public and private entities, has demonstrated both the desire as well as the ability to actively lead such a partnership and should be able to continue to do so without the creation of a Federally authorized and funded commission and a Federally authorized historic preservation district.

The bottom line is, the Park Service said they would go along with a plan that was limited, would cost $1.25 million over 5 years. This is open ended. It is going to cost at least $10 million. We cannot afford it right now.

We must prioritize spending, with all due respect to my colleagues from Ohio and my colleagues from across this country. We have to prioritize spending.

One subcommittee of the Committee on Appropriations, one subcommittee of the 13 appropriations subcommittees last year had 350 requests or had 350 Congressmen request over 3,000 special projects, 350 Congressmen asked for 3,000 special projects from 1 subcommittee of the 13 appropriations subcommittees.

That is the reason, one of the main reasons spending is out of control in this place. We have almost tripled revenues coming into the Treasury for the past 10 years, and we still have a $400 billion shortfall.

This project, much of it is worthy. I am a big supporter, like I said, of the Wright brothers. I think they made a tremendous contribution to this country and to the world. But we have got to prioritize spending.

If we continue on the trail we are on, we are going to bankrupt this country and the future generations of this country are going to pay the freight for what we are doing today.

I see some children in this place, very small children, and we are going to leave them a terrible legacy, a tremendous debt. They are not going to be able to live the quality of life that we have because we are not doing our job. So we need to prioritize.

For that reason, I do oppose this and will ask for a rollcall vote.

Mr. VENTO. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, it is interesting to hear repeated the testimony that occurred in subcommittee some 6 or 7 months ago when we first heard this measure in the House because we had, obviously, to listen to that testimony and craft the bill in response to the testimony of the regional director, Don Castleberry, at that time.

In fact, the sites that were selected that they said were of national significance and suitable are exactly the sites that we included in the legislation.

The bill, as initially introduced, had expanded in terms of the number of sites that we designated. Those were deleted in concurrence with the sponsors of the legislation. They have been very cooperative.

Obviously, there is no question about the national significance of the site in the Hoover block, and the Wright Brothers Cycle Shop, which would be purchased by the National Park Service. Nobody is arguing that.

The other sites are already in public ownership. We anticipate cooperative agreement for the utilization and for the identification of those sites. They are already national landmarks. There is no question about that.

The cost of the bill clearly in terms of the administrative responsibilities of the Park Service by virtue of designating this, according to the Congressional Budget Office, are $3.6 million to $6.8 million over a period of 5 years.

What the sponsors of this measure are asking is to preserve for future generations a very important part of our technological history and culture in terms of the Wright brothers, the invention of the airplane by the Wright brothers and others in aviation history that are depicted in the Dayton area. It is an urban area that has these resources. Amazingly they are still intact, and they still have historic fabric. They are still valid.

The point is that I understand the concern of the gentleman from Indiana about the budget, concerns about the deficit. The question is, Does that mean we have to disavow any interest in our culture, in our history as a people at the altar of a $400 billion deficit? Is that the legacy that we want to leave to our children, one that does not include the proud history of this particular community of the achievements of the American people in the 20th century? I do not think so.

I think that this has great value, great significance, great importance. I think this is a priority.

I think that this particular project and bill ought to be passed so it can compete in the appropriation and priority process around here which the gentleman is so concerned about with the budget. I do not think disavowing and making it impossible to preserve these resources through the one vehicle we have, the National Park Service, is really in the best interest of the people I represent or in the best interest of the people of this country.

If the gentleman has an argument with the budget process, the appropriations process, the proper forum, all they are asking to do is to compete for the dollars so that we can have projects that are worthy. This has been through the subcommittee process, through the full committee process. It is a good bill.

As it is presented, it is an efficient and cost-effective piece of legislation. To portray it any other way, I think is unfair to the authors and to the work that this subcommittee has done on this measure.

This is the only way that this is going to be preserved. We only have one resource or one agency that will manage this type of resource on a national basis for something of national significance. Vote "yes" on this and designate this important site.

Mr. LAGOMARSINO. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I do not want to belabor the point. I understand that the gentleman believes that this is a priority item, but that is a matter for the body as a whole to decide.

Some of the things that the gentleman mentioned, the Huffman Prairie Flying Field, will be preserved by the U.S. Air Force. The Dunbar House, by the Ohio Historical Society. The Wright Flyer III, by the Education and Musical Arts, Inc., according to this report. And the National Park Service was not opposed to making the main item a national historic landmark, and it was going to cost $1.25 million.

This is open-ended, going to cost $10 million.

I will say one more time that I think it is important that we start prioritizing around here because every Congressman, every Congressman has something they would like to have for their district. When we add all those up, a million here, a billion there, we are talking about real money. We have to do something to control spending. It is out of control.

I think we ought to prioritize.

Mr. LAGOMARSINO. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I do not want to prolong the dialog on this. I do think it is important to say that these sites are important to preserve in a park setting so that children of this country can visit them. We cannot visit the Huffman Prairie today as a tourist facility today. It is not prepared to do that. The Air Force had to work a cooperative agreement with the Park Service so that we can see the Wright Flyer, and behind it the F-16's taking off.

Near this is the Air Force Museum, which frankly is the largest single tourist attraction we have in Ohio. And coupled with this, there are even greater things for our heritage of the future.

I think this is a good way to spend resources.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further request for time, and I yield back the balance of my time

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2321, as amended.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

TERMINATING RESERVATION OF USE AND OCCUPANCY AT THE BUFFALO NATIONAL RIVER

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 996) to authorize and direct the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River, and for other purposes.

The Clerk read as follows:

S. 996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) in 1979 Harold and Margaret Hedges conveyed approximately 711 acres, including a homesite, to the National Park Service for addition to the Buffalo National River;

(2) Mr. and Mrs. Hedges retained a reservation of use and occupancy for a term of twenty-five years for use of their homes and approximately forty-two acres of adjacent land;

(3) on January 1, 1991, the house was destroyed by fire, apparently caused by arson;

(4) Mr. and Mrs. Hedges are now unable to use the remaining term of their use and occupancy reservation, without incurring extraordinary costs and expenses; and

(5) the most equitable resolution is to provide for the termination of their use and occupancy reservation, with an appropriate refund of the unused portion of the value of the reservation.

SEC. 2. DEFINITIONS.

As used in this Act, the term—

(1) "reservation" or "reservation of use and occupancy" means the reservation of use and occupancy retained by Harold and Margaret Hedges, pursuant to Buffalo National River Deed 922, including tracts 66-104, 66-111, and 66-112, executed on October 25, 1979, and valued at $19,148;

(2) "Secretary" means the Secretary of the Interior; and

(3) "unused term" means the period of time between January 1, 1991, and October 25, 2004, inclusive.

SEC. 3. TERMINATION OF RESERVATION OF USE AND OCCUPANCY.

(a) IN GENERAL.—Upon application by Harold and Margaret Hedges of Harrison, Arkansas, the Secretary is authorized and directed to terminate the reservation of use and occupancy at the Buffalo National River described in section 2.

(b) REFUND.—Upon termination of such reservation, the Secretary shall, notwithstanding any other provision of law, refund the value of the unused term of such reservation, determined on a pro rata basis.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

□ 1325

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 996, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 996, which passed the Senate on July 31, 1991, authorizes and directs the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River. The legislation, introduced by Senator DALE BUMPERS of Arkansas, clears up an unfortunate situation at the Buffalo National River where Harold and Margaret Hedges' home burned on January 1, 1991, in a fire that was probably caused by arson. The Hedges, who were early supporters of the Buffalo National River, had sold their home and land to the National Park Service in 1979. Subsequently their homeowner insurance was canceled because the insurance company claimed the Hedges no longer were the owners of the home and that they were renters. At that time, they reserved a 25-year term of use and occupancy of the property, so they could have lived there until 2004. They are seeking to be reimbursed for the years that they cannot occupy the house that burned. The amount of funds involved here is really quite small but nevertheless important to the party concerned.

It is clear from the Interior Committee's review of this matter that the issue here is the fair and just way of dealing with the Hedges' situation. I endorse S. 996 as a means to do just that and recommend the bill's adoption by the House.

Mr. Speaker, I reserve the balance of may time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to S. 996, a bill which would direct the Secretary of the Interior to compensate a private property owner for portions of an unused use and occupancy reservation at Buffalo National River. The problem with this bill is that it will result is the Federal Government spending about $7,000 to acquire an unused reservation on a house which burned to the ground over 1 year ago. While loss of the Hedges' residence is indeed unfortunate, the taxpayers should not be required to purchase something which no longer exists.

This bill is bad policy and, therefore, I oppose it and urge my colleagues to join me.

Mr. VENTO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from California [Mr. LAGOMARSINO] suggested that this would require the U.S. Park Service to purchase something that it does not need. The Park Service was the owner of the home. The fact is that they had an obligation, or there is inherent an obligation, to provide the actual structure which the use and occupancy or for which the term of use and occupancy will be permitted. That was obviously impossible to do unless they were to rebuild the house in an area, in a park, which is going to be designated as wilderness, on top of everything else.

Really what we are doing here, while it is simple and the amount of money is not very great, I think the principle is very important. I think we need to establish that in terms, because the homeowners were not able to even buy fire insurance because they did not own the property. The Park Service owned the property. So we have a unique situation.

I think it is important that we try and clarify the policy, so I am happy to rise in support of this and urge Members to support the measure.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 996.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

FRANK M. JOHNSON, JR. UNITED STATES COURTHOUSE

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1467) to designate the U.S. courthouse located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr. United States Courthouse," as amended.

The Clerk read as follows:

S. 1467

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION

The Federal Building and United States Courthouse located at 15 Lee Street in Montgomery, Alabama, shall be known and designated as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse."

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal Building and United States Courthouse referred to in section 1 shall be deemed to be a reference to the "Frank M. Johnson, Jr. Federal Building and United States Courthouse."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I am pleased today to rise in support of S. 1467, as amended. Frank Minis Johnson, Jr., born October 30, 1918, in Winston County, AL, was educated at Massey Business College, and received an LL.B from the University of Alabama in 1941.

He was a decorated World War II war hero, having served in the United States infantry in France and Germany. Twice wounded during the war, he was decorated with the Purple Heart with oak leaf cluster, the Bronze Star, and the Combat Infantryman's Medal.

In 1946, Frank Johnson began his legal career in private practice at the firm of Curtis, Maddox & Johnson. In 1953, he was appointed U.S. attorney for the northern district of Alabama; in 1955, he was appointed to the middle district of Alabama. In 1979, President Carter nominated him to be a U.S. circuit judge for the fifth Circuit.

In 1981, he was assigned to the newly created Eleventh Circuit Court of Appeals where he currently retains senior status.

Judge Johnson's outstanding career as a jurist is highlighted by his many courageous decisions involving several landmark cases dealing with equal rights for all citizens of Alabama. He ordered the integration of public schools and public accommodations, abolished the poll tax, allowed the civil rights march from Selma to Montgomery, and ordered the first comprehensive statewide school desegregation program.

It is indeed fitting, and a truly deserving tribute, that the U.S. courthouse and Federal building, at 15 Lee street in Montgomery, AL, be designated the Frank M. Johnson, Jr. Federal Building and U.S. Courthouse.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Speaker, I thank the gentleman from New Jersey for yielding time to me.

Mr. Speaker, I rise today to express my strongest support for S. 1467, which pays tribute to a long-time friend of mine from Alabama, U.S. circuit Judge Frank M. Johnson, Jr.

This legislation was introduced in the Senate by my good friend and colleague, Alabama's senior Senator HOWELL HEFLIN. It provides for the naming of the U.S. courthouse in Montgomery, AL, in honor of Judge Johnson. He is retiring after a very distinguished career on the Federal bench and we want to recognize his many accomplishments.

Judge Johnson is a native of Winston County, AL, which is in my district, and is a graduate of the University of Alabama School of Law. He became a U.S. district judge in Alabama in 1955, serving as Chief Judge from 1966 to 1979. Then, in 1979, he became a U.S. circuit judge for the old U.S. Court of Appeals, Fifth Circuit. Since 1981, he has served in this capacity for the eleventh Circuit.

During his tenure on the Federal bench, our Nation went through a very difficult time in which Judge Johnson played a major role in upholding and implementing the laws of the land.

The 1950's and 1960's saw the birth of the civil rights movement, the integration of schools and other public places throughout the South. Alabama was at the center of these profound changes and the transition was, at times, violent.

As an Alabama U.S. district judge, Frank Johnson used his wisdom, integrity, and deep commitment to the law to pioneer what was new territory for Alabama and the South. His rulings in a number of desegregation, voting rights, and legislative reapportionment cases changed a way of life and set our history on a new course.

In more recent years, he has taken on the battles of prisoners and the mentally ill.

He has always been courageous, evenhanded and dedicated to the law. His commitment to civil rights, equality, and justice for all people stands as a hallmark to his illustrious career.

Judge Johnson is truly a legend in his own time and will always be remembered for the role he has played in shaping our Nation's history.

I have known Frank Johnson personally for many, many years and I have the highest regard for him.

I feel that it would be most fitting and appropriate to designate the Federal courthouse in Montgomery, AL, in honor of Judge Johnson's many contributions to our Nation.

I urge my colleagues to support this legislation.

□ 1332

Mr. INHOFE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as has already been indicated, S. 1467 will designate the Federal building and U.S. courthouse in Montgomery AL, as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse."

Judge Johnson is a remarkable individual. During his military service in World War II, he saw combat in Normandy and Germany. He was decorated for gallantry and was discharged as a captain. Following his military service he practiced law with the firm of Curtis, Maddox and Johnson in Jasper, AL. His appointment to the bench in 1955 coincided with the beginnings of the civil rights movement. It was during his tenure and in his courtroom that many of the historic civil right cases were decided.

Thus, it is fitting that we honor him by naming a courthouse in Montgomery, AL—where the genesis of the whole civil rights movement began—after him. I urge my colleagues to support S. 1467.

Mr. Speaker, I reserve the balance of my time.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Speaker, Congress should act to honor a special man whose actions moved the Nation. During his 36-year tenure on the bench, Judge Frank M. Johnson of Alabama issued rulings that not only reshaped the South, but changed our Nation. Johnson, who is 73, has taken senior status on the Federal court.

It is fitting that the Federal courthouse in Montgomery be named for Judge Johnson. I'd like to share with my colleagues the judge's favorite quote, by Abraham Lincoln:

> I do the very best I know how, the very best I can; and I mean to keep doing so until the end. If the end brings me out all right, what is said against me won't amount to anything. If the end brings me out wrong, ten angels swearing I was right would make no difference.

We don't need a host of angels to attest to the correctness of the judge from Winston County, AL. His courageous, far-reaching rulings—almost by themselves—ended segregation in Alabama and gave meaning to our fundamental American principles, that all men are created equal, that this indeed is the land of opportunity for all.

I can think of no more fitting tribute than to name the building, in which so many of these decisions were rendered, after Judge Frank M. Johnson.

Mr. ROE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my chairman, Mr. ROE, for yielding time to me.

Mr. Speaker, I rise this afternoon with a great deal of pleasure and delight to urge my colleagues to support S. 1467. This bill would name the Federal courthouse in Montgomery, AL, after Federal District Judge Frank M. Johnson, Jr. The courthouse, which is located at 15 Lee Street in historic Montgomery, AL, would become the "Frank M. Johnson United States Courthouse."

It is fitting and appropriate that we honor this great American, Judge Frank M. Johnson, Jr. This man did more than any member of the Federal bench to change the South. He made the South something different and something special. He was the presiding judge during the Montgomery bus boycott of 1955 and 1956. He was the presiding judge during the freedom rides in 1961. He was also the presiding judge during the march from Selma to Montgomery.

Judge Johnson has been a courageous, fair, and tireless fighter for simple justice. As a nation and as a people, we are all indebted to this outstanding jurist. As a participant in the civil rights movement, I often testified in this courthouse before Judge Johnson. I knew back then that we would get a fair hearing because many of us saw Judge Johnson as a sympathetic referee in the struggle for simple justice.

In 1955, Judge Johnson was appointed by President Eisenhower to serve as a U.S. district judge for the Middle District of Alabama. In 1966, he became the chief justice for the Middle District of Alabama. Between 1979 and 1991, he served on the Eleventh Circuit Court of the U.S. Court of Appeals. He currently has senior status on the U.S. Court of Appeals.

Judge Frank M. Johnson, Jr., is one of the true heroes of the modern South. He did more to change the State of Alabama and the South than any person during this period. By changing Alabama, Judge Johnson helped to transform the South and the Nation.

Again, I urge my colleagues to support S. 1467. It is fitting and just that we do so.

Mr. HAMMERSCHMIDT. Mr. Speaker, S. 1467 designates the U.S. courthouse, located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr. United States Courthouse." Judge Johnson's career has been one of entire devotion to the rule of law and justice. This devotion is clearly evident in Judge Johnson's decisions in numerous landmark cases involving civil rights, voting rights, prison and mental health rights, and school desegregation. It is entirely fitting to name the courthouse in Montgomery in honor of Judge Johnson.

I urge my colleagues to support this bill.

Mr. SAVAGE. Mr. Speaker, S. 1467, as amended, is a bill to designate the U.S. Courthouse and Federal Building in Montgomery, AL, as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse."

Judge Johnson's career is one devoted to the rule of law and justice. The genesis of the civil rights movement began in Montgomery, Alabama. During that early period of Judge Johnson's tenure on the district bench many landmark cases came before him in his second floor courtroom in the U.S. courthouse. His decency and fairness, as well as his application of equal justice under law were known to all those who came before his bench.

Judge Johnson is truly deserving of the honor of having the U.S. Courthouse and Federal Building in Montgomery, AL, named in his honor.

Mr. INHOFE. Mr. Speaker, I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the Senate bill, S. 1467, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An Act to designate the Federal Building and the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the 'Frank M. Johnson, Jr. Federal Building and United States Courthouse'.".

A motion to reconsider was laid on the table.

□ 1340

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1467, the Senate bill just passed.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

EWING T. KERR UNITED STATES COURTHOUSE

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1889) to designate the U.S. courthouse located at 111 South Wolcott in Casper, WY as the "Ewing T. Kerr United States Courthouse," as amended.

The Clerk read as follows:

S. 1889

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) Ewing T. Kerr has dedicated 64 years of his life to the practice of law in the State of Wyoming;

(2) over a period of 36 years, as a Federal district judge, Ewing T. Kerr has embodied the spirit of public service and has been dedicated to upholding the law of the land; and

(3) Ewing T. Kerr deserves recognition, honor, and gratitude.

SEC. 2. DESIGNATION.

The Federal Building and United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, is designated as the "Ewing T. Kerr Federal Building and United States Courthouse".

SEC. 3. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the Federal Building and United States Courthouse referred to in section 1 is deemed to be a reference to the Ewing T. Kerr Federal Building and United States Courthouse.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to rise in support of S. 1889, as amended. This legislation would name the Federal building and U.S. courthouse located at 111 South Wolcott Street in Casper, WY, as the "Ewing T. Kerr Federal Building and United States Courthouse."

Ewing T. Kerr, born in 1900 in Bowie, TX, received a B.A. degree from the University of Oklahoma and a B.S. degree in education from Central State University in Oklahoma. While working as a school principal in Cheyenne, WY, he studied law, and was admitted to the Wyoming bar in 1927.

Judge Kerr's legal career, which spans several decades, was interrupted in 1943 when he joined the Army and served his country in North Africa.

Judge Kerr has served the public as the assistant U.S. attorney for Wyoming, attorney general for the State of Wyoming, and in 1955, as the third Federal judge from the State of Wyoming. At 91 years of age, Judge Kerr still maintains an active docket.

Judge Kerr is committed to public service, and to the legal system. All who have come before him have benefited from his wisdom and common sense.

S. 1889, as amended, is a fitting tribute to the outstanding dedication and public service of Ewing T. Kerr.

Mr. Speaker, I reserve the balance of my time.

Mr. INHOFE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a real pleasure for me to rise in support of S. 1889 which would designate the Federal building and courthouse in Casper, Wyoming as the "Ewing T. Kerr Federal Building and United States Courthouse." I cannot help but point out that although Judge Kerr has contributed greatly to the legal system in the State of Wyoming, he received his education in the great State of Oklahoma. I just want to assure my friend from Wyoming that we in Oklahoma are happy to have shared with you one of our own.

After receiving his university education in Oklahoma, Judge Kerr moved to Wyoming to teach school and eventually completed his legal education and was admitted to the Wyoming bar in 1927. His appointment to the bench came in 1955 where he still serves with distinction. In the years following his admittance to the bar and prior to his appointment to the bench, Judge Kerr established himself as a highly regarded member of the legal community. He was assistant U.S. attorney from 1929 to 1934 and in 1939 became the Wyoming State attorney general, a post he held until 1943.

Throughout his career, Judge Kerr has lived the life of community involvement. He has been involved with local chamber of commerce, charitable groups, and the Rotary Club as well as his church. Clearly, this is a gentleman that deserves to be honored on this way and I urge my colleagues to support S. 1889.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, Judge Kerr, 91 years old, was the third Federal judge for the State of Wyoming. Nominated by President

Dwight Eisenhower in 1955, Judge Kerr's career spans from the turbulent days of the civil rights movement to the energy boom of the 1970's and 1980's, to the environmental concerns of the 1990's. In addition to hearing cases in Wyoming's Federal court, he has heard cases in every State of the tenth circuit: Louisiana, California, New York, Florida, and Puerto Rico. Even today, nearly 37 years after he took the oath of office, Judge Kerr retains senior status, maintaining an active docket in his court.

In addition to his career of excellence on the Federal Bench, though, Judge Kerr has a long and distinguished career as an attorney and public servant. Born in Bowie, TX, in 1900, he earned a B.A. degree in economics and government from the University of Oklahoma and a B.S. degree in education from Central State University in Oklahoma.

After serving as principal of a junior high school in Hominy, OK, Judge Kerr moved to Cheyenne, WY, at the urging of his sister, who was teaching school there. After reading law while working as an elementary school principal in Cheyenne, Judge Kerr took the Wyoming bar examination in 1927 and began practicing law.

In 1929, Judge Kerr was appointed Assistant United States Attorney for Wyoming, and for the next 4 years he aggressively prosecuted Federal criminal offenses, including the famous Casper conspiracy prohibition law case. Then from 1939 to 1943, Judge Kerr was Wyoming's State attorney general. Among other duties in that important role, he argued two landmark water law cases before the U.S. Supreme Court—Nebraska versus Wyoming and Wyoming versus Colorado—cases which dominate water caselaw to this day.

Judge Kerr joined the Army in 1943 and was assigned to the allied military government in North Africa. Later, he supervised reestablishment of civilian courts in southern Italy.

Recognizing the need for another judge to help handle the rapidly growing caseload in Wyoming, Judge Kerr took senior status in 1975. Nonetheless, he continues to take an active role in the business of the Federal District Court of Wyoming.

Beyond professional and judicial business, Judge Kerr has lived a life of community involvement. Over the years, the local chamber of commerce, charitable groups, his Rotary Club, and his church have benefited from his energy and commitment. He also served as the chairman of the Wyoming Republican Party from 1945 to 1954, longer than any other state chairman.

As demonstration of the high regard in which Judge Kerr is held, every member of the Federal bench from Wyoming has written in support of naming the Casper, WY, courthouse in Judge Kerr's honor, and I have attached copies of those letters to my written statement.

This legislation recognizes the commitment and service of Ewing T. Kerr to Wyoming, the Nation, and our legal system. I can think of no finer tribute than naming this courthouse after him, and thank you for the timely attention to this bill in committee, and I encourage its prompt consideration on the floor of the House of Representatives.

Mr. HAMMERSCHMIDT. Mr. Speaker, S. 1889 designates the Federal building and U.S. Courthouse, located at 111 South Wolcott Street in Casper, WY, as the "Ewing T. Kerr Federal Building and United States Courthouse."

Ewing T. Kerr was born in Bowie, TX, in 1900. He received his education in Oklahoma and moved to Wyoming to teach school. While working as an elementary school principal in Cheyenne, Kerr read the law and was admitted to the Wyoming bar in 1927.

President Dwight D. Eisenhower appointed Kerr to the bench in 1955. During Judge Kerr's 37-year career, he handed down decisions in several landmark cases involving several civil rights and environmental laws.

Judge Kerr, at 91 years of age, still maintains an active docket in his courtroom and is also involved in various community and church activities. It is fitting and proper that we honor this outstanding public servant by naming a courthouse after him. I urge my colleagues to support S. 1889.

Mr. SAVAGE. Mr. Speaker, I rise in support of S. 1889, as amended. This legislation would honor a distinguished and dedicated jurist and public servant by having the Federal Building and U.S. Courthouse in Casper, WY, designated the "Ewing T. Kerr Federal Building and United States Courthouse."

Judge Kerr began his legal career in 1929 and today is 91 years of age, as he continues to take an active role in the business of the Federal court of Wyoming.

Judge Kerr argued two landmark water law cases before the United States Supreme Court, cases which still dominate water case law to this day.

A gentleman held in high regard by his peers and his many friends, judge Kerr is deserving of the honor of having the Federal building and U.S. Courthouse in Casper WY, named in his honor.

Mr. INHOFE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the Senate bill, S. 1889, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An act to designate the Federal Building and the United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, as the 'Ewing T. Kerr Federal Building and United States Courthouse'.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1889, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CLARKSON S. FISHER FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2539) to designate the Federal building and the U.S. courthouse located at 402 East State Street in Trenton, NJ, as the "Clarkson S. Fisher Federal Building and United States Courthouse."

The Clerk read as follows:

H.R. 2539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building and the United States Courthouse located at 402 East State Street in Trenton, New Jersey, shall be known and designated as the "Clarkson S. Fisher Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal Building and United States Courthouse referred to in section 1 shall be deemed to be a reference to the "Clarkson S. Fisher Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time so I may consume.

Mr. Speaker, I am pleased today to rise in support of H.R. 2539. Clarkson S. Fisher was born on July 8, 1921, in Long Branch, NJ. Following graduation from St Benedict's Preparatory School in Newark, NJ, Clarkson Fisher attended the University of Notre Dame in Indiana. However, his studies were interrupted by his service in the U.S. Army during World War II in the Pacific theater. Following his honorable discharge he resumed his studies at Notre Dame, graduating from there in 1947, and from Seton Hall Law School in 1951.

In 1964, he was appointed a judge with the Monmouth County Court. In 1970, President Nixon appointed him to the U.S. District Court for New Jersey. In

1979, he became chief judge and served with distinction for eight and one-half years.

Judge Fisher is widely respected by, not only his colleagues but also by legal scholars. His professional demeanor and his involvement with community and civic organizations describe a man whose contributions extend beyond his extensive legal endeavors.

In tribute to a distinguished career and gentleman, I urge my colleagues to approve this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. INHOFE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2539 designates the Federal building and U.S. courthouse located in Trenton, NJ, as the "Clarkson S. Fisher, Federal Building and United States Courthouse."

Judge Fisher has served the people of New Jersey with distinction since his first publicly held position in 1958 as a West Long Branch councilman. He also served one term in the New Jersey Assembly and served as a Monmouth County court judge from 1964 to 1966. In 1966, he was appointed to the New Jersey Superior Court and in 1970, he was appointed by President Richard M. Nixon to the U.S. District Court.

Throughout his career, Judge Fisher has been described as an extremely kind, even-tempered and gentlemanly person. He is an individual whose contributions reach beyond his legal career. Therefore, I am pleased to support H.R. 2539 and urge my colleagues to do the same.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I would like to take this opportunity to urge my colleagues to support my legislation, H.R. 2539, which, as has been said, designates the Federal building and U.S. courthouse located on East State Street in Trenton, NJ, as the new "Clarkson S. Fisher Federal Building and United States Courthouse."

Mr. Speaker, Judge Fisher has served with distinction. He has served with honor as the chief judge of the U.S. District Court for the District of New Jersey from 1979 until 1987. So many of his decisions, so many of them both during his tenure as chief judge and beforehand while serving as district judge, were looked upon by many in the legal profession with a tremendous amount of respect.

Mr. Speaker, my good friend, the gentleman from New Jersey [Mr. ROE], and my good friend, the gentleman from Oklahoma [Mr. INHOFE], have very adequately described his credentials, his background.

I just want to say that his devotion extended beyond his legal expertise to a very tightly knit family. He has been married to the former May Hoffman since 1949, and they have four sons. He is also very active in his parish, St. Michael's Roman Catholic Church, in Long Branch, NJ.

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Mr. Speaker, last month I received a letter of appreciation from Judge Fisher who now resides as a senior judge on the court in which he has served for 9 years as chief judge. In reading his letter, it became very clear to me that while Judge Fisher certainly did not ask for this honor to be bestowed upon him, did not in any way seek it, he was very grateful to his fellow Federal judges who advanced the idea to me.

I am hopeful that this designation will have quick approval so that the Trenton Federal Building and U.S. Courthouse can be appropriately named in honor of Judge Fisher.

Mr. Speaker, I would like to thank my two friends for their quick action on this bill.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I thank the chairman, the gentleman from New Jersey [Mr. ROE] for yielding this time to me.

Mr. Speaker, I also rise in support of this legislation designating the Federal building and courthouse located at 402 East State Street in the capital of New Jersey as the "Clarkson S. Fisher Building and U.S. Courthouse."

Mr. Speaker, this occasion is particularly special to me because I had the distinct honor of serving as an intern to Judge Fisher on the U.S. district court in Trenton in 1978 and 1979. The experience of serving a jurist of the caliber of Judge Fisher enhanced my career immensely.

I also take a certain added pride in noting that Judge Fisher is a native of Long Branch, NJ, which also happens to be my home town.

I should tell you that Judge Fisher is a Republican. He also happens to be ideologically very conservative, but that never stopped him when he was choosing interns or choosing law clerks to pick both Democrats and Republicans. In fact, I know of no one really who is as nonpartisan as Judge Fisher.

We also have a dinner every year honoring him by the clerks and interns who work for him, and it really is a great occasion for all of us to get together and joke with him. He has a tremendous Irish sense of humor.

Mr. Speaker, Judge Fisher is one of the most astute, able and honorable men to ever grace the Federal bench, in my opinion. For a young law student like myself, serving as his intern was an opportunity to observe his unique combination of legal reasoning and judicial fairness. It is because of men like Judge Fisher that to this day I remain confident in the honor of the men and women who serve on the Federal bench.

Judge Fisher has been a friend and mentor for many years. It is with great pride that I have an opportunity today to cast a vote in favor of naming the Federal building and courthouse in Trenton in his honor.

We should also know, Mr. Speaker and friends, that Judge Fisher was very instrumental in wanting to have the courthouse there. He really loved Trenton. At one time he was transferred to the Federal courthouse in Newark, and he always wanted to go back to Trenton because he figured that was his home. So this really is a fitting tribute in his honor.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 2539 designates the Federal building and U.S. courthouse, located at 402 East State Street in Trenton, NJ, as the "Clarkson S. Fisher Federal Building and United States Courthouse."

Clarkson S. Fisher was born on July 8, 1921, in Long Branch, NJ, where he lived until attending school in Newark, NJ. His college education at the University of Notre Dame was interrupted by World War II. Following his service in the U.S. Army, he completed his studies at Notre Dame and graduated from Notre Dame Law School in 1951. He was admitted to the New Jersey bar the same year.

His first appointment to the bench occurred in 1964 as a judge for the Monmouth County court. He was later appointed to the Superior Court of New Jersey in 1966.

President Nixon appointed him to the U.S. district court in 1970. From 1979 to 1987, Judge Fisher served as the chief judge for the district. In 1987 he took senior status.

In addition to being a distinguished and respected member of the court, Judge Fisher has served his community through various civic and church activities. It is most appropriate that we honor Judge Fisher in this way, and I urge my colleagues to support H.R. 2539.

Mr. SAVAGE. Mr. Speaker, I am pleased today to rise in support of H.R. 2539. This legislation is a just and fitting tribute to Clarkson S. Fisher, a man of distinction in both his legal career and private life.

Judge Fisher's career includes notable appointments in the New Jersey superior court and the U.S. district court. He is currently a senior judge on the U.S. court for the district of New Jersey. Judge Fisher deserves to be honored by having the Federal building and courthouse at 402 East State Street, Trenton, NJ, known as the "Clarkson S. Fisher Federal Building and United States Courthouse."

Mr. INHOFE. Mr. Speaker, I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 2539.

The question was taken; and—two-thirds having voted in favor thereof—

the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2539, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

L. DOUGLAS ABRAM FEDERAL BUILDING

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3041) to designate the Federal building located at 1520 Market Street, St. Louis, MO, as the "L. Douglas Abram Federal Building".

The Clerk read as follows:

H.R. 3041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 1520 Market Street, St. Louis, Missouri, shall hereafter be known and designated as the "L. Douglas Abram Federal Building". Any reference to such building in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "L. Douglas Abram Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to rise in support of H.R. 3041. This legislation would honor a brave and very courageous American: Federal Bureau of Investigation [FBI] Special Agent L. Douglas Abram.

Special Agent Abram would be honored by having the Federal building at 1520 Market Street in St. Louis, MO, being designated as the L. Douglas Abram Federal Building.

Special Agent Abram, a 14-year veteran of the FBI, was tragically killed in the line of duty on January 19, 1990. Abram was an outstanding credit to the FBI and the Nation.

He has earned a special place in this country's law enforcement history.

Special Agent Abram is survived by his mother Reva, his wife, Rebecca and his three children.

In tribute to Special Agent Abram's contributions to the FBI and this country, I urge my colleagues to approve this legislation.

Mr. INHOFE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as has already been noted by the chairman, the gentleman from New Jersey [Mr. ROE], H.R. 3041 honors L. Douglas Abram, an FBI special agent who died as a result of gunshot wounds he received in the line of duty by naming a Federal building in St. Louis, MO, after him. This is a fitting tribute to a man who made the ultimate sacrifice while performing his duties as a law enforcement officer. I urge my colleagues to give this measure their support.

Mr. SAVAGE. Mr. Speaker, H.R. 3041, is a bill to designate a Federal building in St. Louis, MO, as the "L. Douglas Abram Federal Building."

Federal Bureau of Investigation [FBI] Special Agent L. Douglas Abram was a brave individual who lost his life in the line of duty in a shoot-out that occurred while he attempted to serve a search warrant on suspected felons on January 19, 1990. He was the first FBI agent killed in the line of duty in the St. Louis area.

He was born on April 10, 1942. He graduated from the University of Arkansas in 1968. Special Agent Abram joined the FBI in 1976, and served with the FBI until his death.

Special Agent Abram will be remembered as a courageous, dedicated law enforcement officer. He deserves to be honored by having this Federal building in St. Louis, MO, named in his memory. I urge my colleagues to pass this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 3041 designates the Federal building, located at 1520 Market Street in St. Louis, MO, as the "L. Douglas Abram Federal Building."

L. Douglas Abram was a special agent with the FBI who lost his life in the line of duty on January 19, 1990. Special Agent Abram was attempting to serve a search warrant when he was fatally shot. He is survived by his mother Reva Abram, his wife Rebecca, and three children.

Fortunately, it is not often that we lose FBI agents. Special Agent Abram was the first in the St. Louis office and only the 40th in the Nation to lose his life. However, when it does happen, it is a tragic loss not only for the family but also for the Nation, because we have lost an individual who has willingly put his life on the line to protect and serve the citizens of this country. Therefore, it is most appropriate that we recognize the heroism and dedication of this public servant.

I urge my colleagues to support H.R. 3041.

Mr. INHOFE. Mr. Speaker, I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 3041.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3041, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MITCHELL H. COHEN U.S. COURTHOUSE

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2475) to designate the U.S. courthouse being constructed at 400 Cooper Street in Camden, NJ, as the "Mitchell H. Cohen United States Courthouse."

The Clerk read as follows:

H.R. 2475

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse under construction at 400 Cooper Street in Camden, New Jersey, shall be known and designated as the "Mitchell H. Cohen United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Mitchell H. Cohen United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to rise in support of H.R. 2475. This bill would provide a special tribute to a distinguished jurist from my home State of New Jersey: Judge Mitchell H. Cohen. This legislation would honor Judge Cohen's over 50 years of public service by naming the U.S. courthouse being constructed at 400 Cooper Street in Camden, NJ, as the "Mitchell H. Cohen United States Courthouse." This is appropriate because Cohen made many important contributions to the State of New Jersey as a jurist.

A short review of some of his accomplishments reflects this. He served on the Camden City Municipal Court, the Camden County Court, and the Superior Court of New Jersey. Judge Cohen's judicial career culminated when President Kennedy appointed him to the U.S. District Court for the District of New Jersey. He later became the chief judge at this court. Subsequently, he assumed senior status. Judge Cohen's focus was not restricted to the law.

He had an avid interest in music and theater, and he helped his community by participating in various civic and charitable organizations.

Judge Cohen passed away in 1991. Unfortunately, he did not live to see this legislation enacted. I urge my colleagues to approve this legislation so a great American will be honored.

Mr. INHOFE. Mr. Speaker, I yield myself such time as I may consume.

H.R. 2475 will designate the U.S. courthouse in Camden, NJ, as the "Mitchell H. Cohen United States Courthouse."

Mitchell Cohen began his public service career in 1936 as a city prosecutor for Camden. Later, he served as a judge in the Camden Municipal Court. In 1958, he began his service on the New Jersey County Court and in 1961 became a member of the New Jersey Superior Court. His appointment to the U.S. district court was made by President John F. Kennedy in 1962.

In addition to his judicial contributions, Judge Cohen also served the Camden community through his involvement in several civic and charitable organizations.

H.R. 2475 is a fitting tribute to Judge Cohen and I urge it's adoption.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. ANDREWS].

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Mr. ANDREWS of New Jersey. I thank the chairman, the gentleman from New Jersey, for yielding this time to me.

Mr. Speaker, I also thank the chairman of the subcommittee and the ranking member of the committee and all the members of the committee for their consideration of this bill.

Mr. Speaker, I would like to especially thank my colleague, our dean, the gentleman from New Jersey [Mr. ROE], chairman of the full committee, for his gracious cooperation.

Mr. Speaker, the chairman of our committee would have very much liked Judge Mitchell Cohen because just as the chairman of our committee, the dean of our delegation, has been a builder and trailblazer, so was Judge Cohen. As our dean has blazed trails for members of our delegation in areas of policy, politics and personal ethics, so did Judge Cohen. He was one of the builders of the legal community in the city and county of Camden.

When they look back, as young lawyers in the country do, at the giants of the profession, Judge Cohen certainly numbered among them. He set a tone of practice in the private practice of law where a person's word was always good, where a person's personal ethic was always enough to carry a transaction through, and where law was a profession, where the practice of law was a dignified profession and not simply another way of earning a living. He blazed a lot of trails for younger lawyers before he even took the bench.

When he took his seat on the Bench both in the Sate and the Federal levels, he served with great distinction. He was a person who was a judicious decision maker, he was kind to the lawyers who appeared before him, but he held the lawyers to high standards who appeared before him and demanded the best of them.

Mr. Speaker, he was a builder in our political community. It is worth noting that Judge Cohen was a Republican, but he was appointed by a Democratic President, President Kennedy. His commitment was to the law and not to any partisan political agenda.

Finally, he was a builder of a great family in our community, a family that contributed to the arts, to its religion, to charitable ventures, and not simply to itself.

As the family grew, so did the beneficence and contributions to the people of the greater Camden area.

So, it is with great pride and thanks to our chairman and all who played a role in this that I rise in support of H.R. 2475.

I thank my colleagues for their consideration and support.

Mr. HUGHES. Mr. Speaker, I rise today in support of H.R. 2475, legislation to designate the U.S. courthouse being constructed in Camden, NJ, as the "Mitchell H. Cohen United States Courthouse."

I had the pleasure of knowing Mitchell Cohen both personally and professionally for many years. Judge Cohen's record of public service, which spanned more than 50 years, is an inspiration to everyone involved in the practice of law. Mitchell Cohen was a lawyer's lawyer and an outstanding jurist.

After his admittance to the bar in 1930, Mitchell Cohen became the city prosecutor in Camden. In 1942, he served as a judge in the Camden Municipal Court, and he later served as a special deputy attorney general for New Jersey.

Judge Cohen went on to serve on the New Jersey County Court and the New Jersey Superior Court, before being appointed by President Kennedy to the U.S. District Court for the District of New Jersey in 1962. He became Chief Judge in 1973.

Mitchell Cohen left a long and distinguished legacy in the field of law and jurisprudence. He was a wonderful human being, and the decision to name the new courthouse in Camden after Mitchell Cohen is a fitting tribute to a great American.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 2475 designates the U.S. courthouse, being constructed at 400 Cooper Street in Camden, NJ, as the "Mitchell H. Cohen United States Courthouse."

Mitchell H. Cohen was born on September 11, 1904, in Philadelphia, PA. He attended Temple University and Dickinson School of Law, graduating in 1928. A dedicated public servant for over 50 years, Mitchell Cohen was appointed to the U.S. District Court for New Jersey in 1962 by President John F. Kennedy. He became chief judge in 1973.

Until his death in January of this year, Judge Cohen served his community and profession with distinction. I urge my colleagues to honor Judge Cohen by supporting H.R. 2475.

Mr. SAVAGE. Mr. Speaker, I strongly support H.R. 2475, legislation to honor Judge Mitchell H. Cohen by naming the U.S. courthouse under construction in Camden, NJ, after him. Cohen was born in Philadelphia, PA. He graduated from college at Temple University and the Dickinson School of Law. His outstanding career of public service includes service as the city prosecutor for Camden, NJ, as a judge on the Camden County Court and on the New Jersey Superior Court. The most important step in his legal career was his appointment to the U.S. District Court for the District of New Jersey. He later rose to be chief judge of this Court, before taking senior status.

This individual, who contributed so much to his State and Nation is most deserving of being honored by naming this new U.S. courthouse after him. I urge you to join me in support of this legislation.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 2475.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2475, the bill just passed.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from new Jersey?

There was no objection.

SILVIO O. CONTE FEDERAL BUILDING

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2818) to designate the Federal building located at 78 Center Street in Pittsfield, MA, as the "Silvio O. Conte Federal Building," and for other purposes.

The Clerk read as follows:

H.R. 2818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) Silvio O. Conte, during his 32 years in Congress, embodied the true spirit of public service;

(2) Mr. Conte dedicated his entire life toward helping those individuals less fortunate than himself; and

(3) Mr. Conte's presence in Congress will be sorely missed.

SEC. 2. DESIGNATION.

The Federal building located at 78 Center Street in Pittsfield, Massachusetts, is designated as the "Silvio O. Conte Federal Building".

SEC. 3. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the Silvio O. Conte Federal Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2818, legislation that would designate the Federal building located at 78 Center Street in Pittsfield, MA, as the "Silvio O. Conte Federal Building."

Silvio O. Conte had a very distinguished congressional career spanning 32 years. He wielded great power as the ranking Republican on the House Appropriations Committee. He also served on the Small Business Committee. Some of the many projects to which Conte contributed are the Patriot missile, the Polymer Research Center at the University of Massachusetts, and research funds for the Occupational Health and Safety Administration.

He will be best remembered for the special character traits that made him an outstanding representative for his constituents and won him bipartisan respect and friendship among his colleagues in Congress. Silvio Conte was a champion for education, a strong protector of our environment, and a man of humor and compassion.

Consequently, it is fitting and proper that this exceptional individual be honored by having the site of his primary district office for many years, the Federal building at 78 Center Street in Pittsfield, MA, named after him as the "Silvio O. Conte Federal Building." I urge your strong support for this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. INHOFE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill not only honors a great American but also a distinguished former Member of this body. The "Silvio O. Conte Federal Building" is a fitting tribute to a dedicated public servant and one that is sorely missed around here. Selecting the building where his primary district office was located for his namesake is very appropriate given that for 33 years, Sil helped the people of the First District of Massachusetts from that location.

Sil Conte was one of the rare individuals in Congress who had no enemies. Everybody loved and still loves Sil Conte.

I support H.R. 2818 and urge my colleagues to do likewise.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 2818, legislation to designate the Federal building on Center Street in Pittsfield, MA as the "Silvio O. Conte Federal Building."

It has been a little over 1 year since the Congress lost an outstanding legislator and a great friend. Rarely has this Chamber lost someone with his lust for life and sense of humor. We miss him still.

Silvio Conte was a product of western Massachusetts, the land in which he was born and where he lived his entire life. Born and raised in Pittsfield, Sil Conte called that historic New England town his home. After distinguished service in the Seabees in the South Pacific during World War II, Sil returned to his home State to attend Boston College. He was first elected to the Massachusetts State Senate at the age of 29.

From that early age on, Sil worked hard to serve his constituency well, and continued when he joined the U.S. Congress in 1958. He was a dedicated legislator, devoted to caring for the poor, hungry, and the elderly.

I am pleased to support this measure. I believe that designating this Federal building in Sil's hometown would mean a great deal to him.

Mr. INHOFE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I thank the chairman, the gentleman from New Jersey [Mr. ROE] for yielding this time to me.

Mr. Speaker, I am here to strongly support H.R. 2818, the bill before us, which names the Federal building in Pittsfield, MA, for my predecessor, Silvio Conte.

There is really no truly fitting memorial to Silvio. He was so powerful, so colorful, so caring. His work touched so many people in Massachusetts and throughout this Nation. This bill will provide a small but important tribute.

The people of my district remember Silvio not as a legislator or a politician, but as a friend. Silvio cared deeply for those he represented, for their needs and problems.

This friendship was earned through his never-ending advocacy, and made strong by all that he had in common with the land and people of western Massachusetts. Like our farmers and businessmen, Silvio had an independent spirit; like our factory workers and laborers, Silvio was hard working and determined; and like all of us who have walked the trails, driven the long and narrow roads, and climbed the mountains, Silvio loved the beauty of our land.

Silvio honored this friendship by fighting countless battles for all who asked for his help. And for those whose voices were often not loud enough to be heard all the way down here in Washington, Silvio would speak loudest on their behalf. The veterans, the poor, the elderly, the young, and the average taxpayer, all had a voice through Silvio—and he never forgot that they needed that voice more than the interest groups and big businesses.

Silvio knew that average taxpayers needed someone to fight waste and pork, and he often led the charge against unnecessary spending. He knew that the poor and elderly needed heat in the winter and he fought tirelessly for government assistance for home heating. Silvio knew that education in America was slowly deteriorating, and through his position on the Appropriations Committee, he always kept the student's needs in mind.

As I have come to know people that Sylvio knew here in Washington, I have heard many of the same stories. But for all the fun he brought to his colleagues here with the singing and the poems, I know it was unequaled to the caring and compassion he brought to the people of western Massachusetts. And for that he deserves far more than his name on a building, but in a small way, today we will acknowledge the work of a great man.

□ 1410

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from New Jersey [Mr. ROE] for yielding this time to me.

Mr. Speaker, I was not going to speak on this. There are a million reasons why Silvio Conte deserves this recognition and the accolades that have been given him today. But on a lighter note, he was one of the most entertaining and nicest guys in the U.S. House of Representatives.

One little thing I remember was when I played on the baseball team against the Democrats. Silvio Conte was our coach, and he was so enthusiastic, and he had his cigar and was standing over on the base pads. I was on second base, and I took too big a leadoff, and Silvio started hollering at me in his own inimitable way, and everybody in the place heard him, and I looked at him, and it distracted me from what I was doing there, and I got picked off second base, and it caused Congressman BONIOR to get three stitches in his leg because I spiked him going into second. So, there were some casualties because of that incident.

Mr. Speaker, I just wanted to say that I always enjoyed Silvio Conte, I think everybody did, and I think this is a great honor befitting him.

Mr. SAVAGE. Mr. Speaker, H.R. 2818 is legislation that would provide a special tribute to a great American by naming the Federal building in Pittsfield, MA, after Silvio O. Conte.

Silvio O. Conte was born in Pittsfield, Berkshire County, MA. He was the son of Italian immigrants. He studied at Boston College and then at Boston College Law School.

He then began his distinguished career. Congressman Conte served as a member of the Massachusetts State Senate, served as parliamentarian for two Republican State conventions, and was elected to the U.S. House of Representatives for the 86th Congress. He served in each succeeding Congress for 32 years.

Conte became the senior Republican member of the powerful House Appropriations Committee and also served on the Small Business Committee. A regent of the Smithsonian Institution, he was a strong supporter of its programs.

As a Congressman, Conte won great respect from his colleagues. He was known for his fine integrity and special commitment to the welfare of the elderly, sick, and poor.

The entire Massachusetts delegation supports this legislation. I urge you also to support this honor for Silvio O. Conte.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 2818 designates the Federal building, located at 78 Center Street in Pittsfield, MA, as the "Silvio O. Conte Federal Building."

This bill not only honors a great American, but also a distinguished former Member of the House. Unfortunately, time will not allow me to highlight all of Sil's accomplishments. However, I believe he will be best remembered for his vigorous and, at times, colorful work as the ranking Republican member on the Appropriations Committee.

In addition to Sil's wit on the floor, he was known for being a very snappy dresser. Frequently during floor consideration of appropriation bills, Sil would wear very colorful sport jackets which normally followed a nautical theme.

Without question, Sil's contribution to the House as an institution goes beyond his wit and choice of dress. He was an accomplished and dedicated legislator. The building which will be named for Sil was his primary district office for many years. It is fitting that it stand as one of many tributes to this great American.

I urge my colleagues to support H.R. 2818.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 2818.

The question was taken; and, two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

THEODORE ROOSEVELT FEDERAL BUILDING

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3118) to designate Federal Office Building No. 9 located at 1900 E Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building".

The Clerk read as follows:

H.R. 3118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Federal Office Building Number 9, which is occupied by the Office of Personnel Management and is located at 1900 E Street, Northwest, in Washington, D.C., is hereby designated as the "Theodore Roosevelt Federal Building". Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "Theodore Roosevelt Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to rise in support of H.R. 3118. This legislation would designate Federal Office Building No. 9 located at 1900 E Street, Northwest in Washington, DC, as the "Theodore Roosevelt Federal Building." This building is occupied by the Office of Personnel Management which requested the legislation in honor of the 100th anniversary of President Roosevelt's tenure as Civil Service Commissioner.

Although President Roosevelt is a towering figure in American history for other, more well-known aspects of his career, such as his successful role in foreign relations and his work as a naturalist, he made major contributions to creating our modern civil service and its basis on merit, not favoritism.

While Commissioner, Roosevelt added many more positions to the competitive service, the type and scope of the written tests were improved, a method of rating work experience was adopted, and unified civil service rules were adopted. To these improvements, as Commissioner, Roosevelt added his invaluable enthusiasm and energy and influence.

As President, Roosevelt continued to improve the civil service system by strengthening its commitment to merit principles and to being a professional agency.

For his many contributions to our civil service system, it is a fitting tribute to honor President Roosevelt by passing this legislation to name this Federal building after him. I urge my colleagues to approve this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. INHOFE. Mr. Speaker, I yield myself such time as I may consume.

H.R. 3118 designates the Federal Office Building No. 9 located at 1900 E Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building." The primary tenant in FOB 9 is the Office of Personnel Management.

As we all remember from history, President Roosevelt served as the Civil Service Commissioner from 1889 to 1895. It was during his tenure at the Civil Service Commission, that much of the groundwork for the modern merit system was established. Following his election to the Presidency in 1901, he continued his efforts to professionalize the civil service by encouraging stability and stronger merit principles to civil service.

As we commemorate the 100th anniversary of President Roosevelt's period of service as a Civil Service Commissioner, it is fitting that we name FOB 9 after him.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, as the principal sponsor of H.R. 3118, I want to commend the gentleman from New Jersey [Mr. ROE] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] the distinguished ranking Republican on the Public Works and Transportation Committee, for their cooperation in bringing this bill to the floor. Subcommittee Chairman SAVAGE and JIM INHOFE, the ranking minority member on the Public Buildings and Grounds Subcommittee, also played major roles in expediting action on H.R. 3118.

This bill designates Federal Office Building No. 9, at 1900 E Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building." The building is headquarters for the Office of Personnel Management which administers the modern civil service merit system.

To me, it is fitting and appropriate that the one person who served the

United States both as a Civil Service Commissioner and President should be honored with his name on the office building which houses the personnel responsible for directing merit system operations.

H.R. 3118 also will commemorate the 100th anniversary of President Roosevelt's service as a Civil Service Commissioner from 1889 to 1895. Under his aggressive leadership, much of the groundwork for the present merit system was put into place. Significant numbers of positions were brought into the competitive service. In addition, the type and scope of written tests improved, and unified civil service rules replaced the separate ones which had been in place in each agency.

As a vigorous and enthusiastic Civil Service Commissioner, Theodore Roosevelt brought high visibility to our service. As Commissioner and President, Theodore Roosevelt was instrumental in promoting, expanding, and sustaining the civil service merit system.

Mr. Speaker, this is noncontroversial legislation worthy of overwhelming bipartisan support.

Mr. SAVAGE. Mr. Speaker, H.R. 3118 would honor a great American, Theodore Roosevelt, by naming a Federal building in the District of Columbia after him. Theodore Roosevelt was born in New York, NY. He attended numerous colleges and universities including Harvard, Columbia, where he earned his degree, and Oxford.

His remarkable public service career included service as president of the New York Police Board, Assistant Secretary of the Navy, and Governor of New York.

Theodore Roosevelt brought great success to his job as Commissioner of the civil service. He dramatically reformed the service by increasing the number of positions subject to competition, providing unified civil service rules, making the service more professional, and basing the service more on merit.

He did not stop his interest in the civil service when he no longer was the Commissioner. Instead, as President he continued to make valuable contributions that improved the civil service.

President Roosevelt is the only individual who has served as Civil Service Commissioner and as President of the United States, so it is altogether appropriate to commemorate his reform of the civil service by naming Federal Building No. 9, located at 1900 E Street, Northwest, where the Office of Personnel Management is located, as the "Theodore Roosevelt Federal Building." I strongly support passage of this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 3118 designates Federal Office Building No. 9, located at 1900 E Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building."

Prior to serving as President, Theodore Roosevelt served as the Civil Service Commissioner from 1889 to 1895. It is in this capacity as Civil Service Commissioner that we honor him today. During his tenure with the Civil Service Commission, Roosevelt laid much of the groundwork for the modern merit system. His desire to elevate and professionalize the civil servant continued during his Presidency.

As we commemorate the 100th anniversary of President Roosevelt's period of service as a Civil Service Commissioner, it is fitting that we name the Federal office building, which houses the Office of Personnel Management, after him.

I urge my colleagues to support H.R. 3118.

Mr. INHOFE. Mr. Speaker, I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 3118.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GEORGE C. YOUNG U.S. COURTHOUSE AND FEDERAL BUILDING

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3818) to designate the building located at 80 North Hughey Avenue in Orlando, FL, as the "George C. Young United States Courthouse and Federal Building."

The Clerk read as follows:

H.R. 3818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building located at 80 North Hughey Avenue in Orlando, Florida, is designated as the "George C. Young United States Courthouse and Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "George C. Young United States Courthouse and Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3818 is a bill to designate the building located at 80 North Hughey Avenue, Orlando, FL, as the "George C. Young United States Courthouse and Federal Building."

George C. Young, born August 4, 1916, in Cincinnati, OH, moved to Daytona Beach, FL, at a very early age. He received his AB and LLB degrees with honors from the University of Florida.

During World War II, George Young served as lieutenant in the U.S. Navy in the Caribbean and Philippine theaters.

After the war, he practiced law in Jacksonville, FL. In addition, he served as the president of the Jacksonville Bar Association, and as a member of the board of governors of the Florida Bar.

In 1961, President Kennedy appointed Young as a U.S. district judge for the middle district of Florida. He has been a resident Federal judge in Orlando since 1964, and served there as chief judge from 1971 to 1981. In 1981 he assumed senior judge status.

For the past 30 years, George Young has served the judiciary with distinction. During his career he has made thoughtful, meaningful contributions to the judicial system. This bill today is a tribute to his outstanding career.

□ 1420

Mr. Speaker, I reserve the balance of my time.

Mr. INHOFE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3818 designates the building located in Orlando, FL, as the "George C. Young United States Courthouse and Federal Building."

George C. Young served as the resident Federal judge in Orlando, FL, from 1964 to 1971 at which time he became the chief judge for the Orlando district He took senior status in 1981 and still maintains an active docket in his court. Throughout his judicial career, the judge has had a reputation for fairness and evenhandedness among the members of the Central Florida Bar.

I am in full support of this bill and urge my colleagues to support it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman very much for yielding this time to me.

Mr. Speaker, I feel it a special privilege to come before the House today to speak on behalf of my bill, H.R. 3818, to designate the George C. Young U.S. Courthouse and Federal Building.

If the measure of a man can, at least in part, be taken by how much he has given to his community, then certainly Judge Young can be said to stand tall in central Florida. After graduating from the University of Florida, serving in the Navy during and shortly after

World War II and a distinguished career in private law practice, Judge Young was appointed by President Kennedy in 1961 as a U.S. district judge from the middle district of Florida which runs from Fort Myers through Tampa and Orlando and all the way to Jacksonville.

In 1964, Judge Young became the resident Federal judge in Orlando, serving for a time as the only Federal judge for the district and taking on an enormous caseload while earning a reputation for fairness and evenhandedness among the members of the central Florida bar. This was during a period of incredible growth for the Orlando area and the pressures on Judge Young were very great. In 1971, he became the chief judge for the Orlando district, and in 1984 took on senior judge status, a position that he holds to this day and that any of you who are familiar with the Federal court system know entails long hours and a large caseload. Altogether, George C. Young has served the people of the middle district of Florida as a Federal judge for more than 30 years.

In addition, Judge Young has served as a member of the board of governors of the Florida Bar, and as a trustee of the University of Florida Law Center Association. These, and a variety of other activities, have been the hallmark of a career of dedicated civil service and commitment to the community in which he has lived for nearly 75 years.

Further, I would like to add, as a personal note, that I have had the pleasure of working with Judge Young and have the high privilege of calling him a friend. I can assure you, Mr. Speaker, that Judge Young's résumé hardly does justice to his character, his integrity, his intelligence, and to his sense of service and loyalty to his country. The people of Orlando, the people of central Florida, and indeed, the people of Florida as a whole cannot begin to know, as I have come to know, how much they have benefited from Judge Young's service and experience on the bench and contributions to his community.

That is why, Mr. Speaker, I introduced H.R. 3818. I do not believe that there can be any higher tribute to Judge Young, no greater expression of gratitude from his community, than to have his name placed on a building that will house the work to which Judge Young has dedicated so much of his life. Indeed, I cannot imagine anything that would please Judge Young more than to have a courthouse in his community bear his name, so committed has he been to seeing to it that justice is done for the people of central Florida.

I therefore ask that my colleagues vote to approve H.R. 3818, so that the people of central Florida may be able to present to Judge Young a fitting tribute to his hard work and dedication.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 3818 designates the building, located at 80 North Hughey Avenue in Orlando, FL, as the "George C. Young United States Courthouse and Federal Building."

George C. Young was born on August 4, 1916 in Cincinnati, OH. He and his family later moved to Daytona Beach, FL, where he lived until attending Rollins College in Winter Park, FL. Following his freshman year at Rollins College, Young transferred to the University of Florida where he graduated with a law degree in 1940.

In 1941, Young enlisted in the U.S. Navy and served until 1945. Following his discharge, he practiced law in Florida until his appointment to the bench in 1961 by President John F. Kennedy. He served as chief judge from 1971 to 1981, taking senior status in 1981.

Throughout his legal career, Judge Young has been known for his fairness and consistency. As a tribute to his outstanding legal career, it is fitting and proper to honor Judge Young in this way. I urge my colleagues to support H.R. 3818.

Mr. SAVAGE. Mr. Speaker, I rise today in support of H.R. 3818. This legislation will designate the building at 80 North Hughey Avenue in Orlando, FL, as the "George C. Young United States Courthouse and Federal Building."

Throughout a distinguished career on the bench Judge Young has enjoyed a reputation for fairness, consistency, and excellence. Judge Young has the distinction of being an outstanding public servant, learned jurist, and civic leader.

It is fitting and proper that Judge Young be honored with the designation of the courthouse and Federal building in Orlando, FL, as the "George C. Young Courthouse and Federal Building."

Mr. INHOFE. Mr. Speaker, I thank the gentleman from Florida [Mr. McCOLLUM] for his very personal and fitting remarks, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 3818.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

DAYTON AVIATION HERITAGE PRESERVATION ACT OF 1992

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2321, as amended.

The Clerk read the title of the bill.

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that any votes on unfinished business be postponed until tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

□ 1430

UNITED STATES-CHINA ACT OF 1991—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-197)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 2212, the "United States-China Act of 1991," which places additional conditions on renewal of China's most-favored-nation (MFN) trade status.

The sponsors of H.R. 2212 believe they can promote broad economic and foreign policy objectives in China by placing conditions on the renewal of China's MFN status. They expect that the Chinese will improve respect for human rights, cooperate in arms control, and drop barriers to trade, given a choice between losing MFN and addressing these concerns.

Let me state at the outset that my Administration shares the goals and objectives of H.R. 2212. Upholding the sanctity of human rights, controlling the spread of weapons of mass destruction, and free and fair trade are issues of vital concern. My objection lies strictly with the methods proposed to achieve these aims.

There is no doubt in my mind that if we present China's leaders with an ultimatum on MFN, the result will be weakened ties to the West and further repression. The end result will not be progress on human rights, arms control, or trade. Anyone familiar with recent Chinese history can attest that the most brutal and protracted periods of repression took place precisely when China turned inward, against the world.

Recent agreements by the Chinese to protect U.S. intellectual property rights, to abide by the Missile Technology Control Regime Guidelines, to accede to the Nuclear Non-Proliferation Treaty by April, and to discuss our human rights concerns—after years of stonewalling—are the clear achievements of my Administration's policy of comprehensive engagement.

We have the policy tools at hand to deal with our concerns effectively and with realistic chances for success. The Administration's comprehensive policy of engagement on several separate fronts invites China's leadership to act responsibly without leaving any doubts about the consequences of Chinese misdeeds. Our approach is one of targeting specific areas of concern with the appropriate policy instruments to produce the required results. H.R. 2212 would severely handicap U.S. business in China, penalizing American workers and eliminating jobs in this country. Conditional MFN status would severely damage the Western-oriented, modernizing elements in China, weaken Hong Kong, and strengthen opposition to democracy and economic reform.

We are making a difference in China by remaining engaged. Because the Congress has attached conditions to China's MFN renewal that will jeopardize this policy, I am returning H.R. 2212 to the House of Representatives without my approval. Such action is needed to protect the economic and foreign policy interests of the United States.

GEORGE BUSH.

THE WHITE HOUSE, *March 2, 1992.*

The SPEAKER pro tempore (Mr. MAZZOLI). The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that further consideration of the veto message on the bill, H.R. 2212, be postponed until Wednesday, March 11, 1992.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

UNITED STATES SHOULD HELP DEFUSE CONFLICT IN AZERBAIJAN

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOODY. Mr. Speaker, today's New York Times, and Washington Times, and Friday's Washington Post, which I am inserting into the RECORD, carry horrifying eyewitness accounts of the massacre and mutilation of scores, perhaps hundreds, of defenseless Azerbaijani villagers by Armenian forces in the Ngorno-Karabagh enclave in Azerbaijan.

I visited Azerbaijan and Ngorno-Karabagh, probably the only Member of Congress to do so, to learn first hand what U.S. interests are and should be in that troubled, explosive area of the Caucasus.

First, our interests lie in stopping the killings so that peaceful solutions can be found. This powder keg situation could ignite a serious conflict, costing thousands of lives and destabilizing the fragile condition of the Commonwealth of Independent States—the former Soviet Union. We have a national interest in peace and economic growth in the region.

Second, the United States—and the rest of the West—are in direct competition with Iran for influence in the mostly Muslim and Turkic-speaking former Republics of the Soviet Union. The modern, progressive, and democratic leaders in those Republics look to us and to the Republic of Turkey for leadership.

If we default on our special ability and good offices to defuse the current escalating violence, or worse, side with Armenia simply because they are Christians and the Azeris are Muslim, we will handed Iran a great propaganda victory.

Our democratic and humanitarian traditions, and our future stake in the region, requires even handed United States engagement, not blind sanctions against the frequently victimized Azeris, as some of our colleagues advocate.

[From the New York Times, Mar. 3, 1992]

MASSACRE BY ARMENIANS BEING REPORTED

AGDAM, AZERBAIJAN, March 2 (Reuters)—The last of the former Soviet troops in the Caucasus enclave of Nagorno-Karabakh began pulling out today as fresh evidence emerged of a massacre of civilians by Armenian militants.

The Itar-Tass press agency said the 366th Motorized Infantry Regiment had started its withdrawal, in effect removing the last frail buffer separating the region's two warring ethnic groups, Armenians and Azerbaijanis.

The two sides made no attempt to interfere, it added.

Nagorno-Karabakh is within the republic of Azerbaijan, but most of its population is Armenian.

SHELLING OF TOWN REPORTED

The Azerbaijani press agency Azerinform reported fresh Armenian missile fire on the Azerbaijani-populated town of Shusha in Nagorno-Karabakh on Sunday night. It said several people had been wounded in another attack, on the settlement of Venjali, early today.

The republic of Armenia reiterated denials that its militants had killed 1,000 people in the Azerbaijani-populated town of Khojaly last week and had massacred men, women and children fleeing the carnage across snow-covered mountain passes.

But dozens of bodies scattered over the area lent credence to Azerbaijani reports of a massacre.

Azerbaijani officials and journalists who flew briefly to the region by helicopter brought back three dead children with the backs of their heads blown off. They said shooting by Armenians had prevented them from retrieving more bodies.

"Women and children had been scalped," said Assad Faradzhev, an aide to Nagorno-Karabakh's Azerbaijani Governor. "When we began to pick up bodies, they began firing at us."

The Azerbaijani militia chief in Agdam, Rashid Mamedov, said: "The bodies are lying there like flocks of sheep. Even the fascists did nothing like this."

TWO TRUCKS FILLED WITH BODIES

Near Agdam on the outskirts of Nagorno-Karabakh, a Reuters photographer, Frédérique Lengaigne, said she had seen two trucks filled with Azerbaijani bodies.

"In the first one I counted 35, and it looked as though there were almost as many in the second," she said. "Some had their heads cut off, and many had been burned. They were all men, and a few had been wearing khaki uniforms."

Ethnic violence and economic crisis threaten to tear apart the Commonwealth of Independent States, created by 11 former Soviet republics in December. The commonwealth has been powerless in the face of the ethnic hatred rekindled in the age-old dispute between Christian Armenia and Muslim Azerbaijan, which are members.

Four years of fighting in Nagorno-Karabakh have killed 1,500 to 2,000 people. The last week's fighting has been the most savage yet.

The 366th Regiment, based in Stepanakert, the capital of Nagorno-Karabakh, has been caught at the center of fighting in which at least three of its soldiers were killed late last month.

Speaking to his Parliament in Yerevan, the Armenian capital, President Levon Ter-Petrosyan criticized the withdrawal from the enclave of the commonwealth's last troops.

"This regiment, though not involved in military operations, was a stabilizing factor," Mr. Ter-Petrosyan said.

[From the Washington Post, Feb. 28, 1992]

NAGORNO-KARABAKH VICTIMS BURIED IN AZERBAIJANI TOWN—REFUGEES CLAIM HUNDREDS DIED IN ARMENIAN ATTACK

(By Thomas Goltz)

AGDAM, AZERBAIJAN, February 27.—Officials of the main mosque in this town just east of the embattled enclave of Nagorno-Karabakh said they buried 27 bodies today, brought from an Azerbaijani town inside the enclave that was captured Wednesday by Armenian militiamen.

Refugees fleeing the fighting in Khojaly, a town of 6,000 northeast of the enclave's capital, Stepanakert, claimed that up to 500 people, including women and children, were killed in the attack. No independent estimate of deaths was available here. The Agdam moseque's director, Said Sadikov Muan, said refugees from Khojaly had registered the names of 477 victims with his mosque since Wednesday.

Officials in Baku, the capital of Azerbaijan, estimated the deaths in Khojaly at 100, while Armenian officials in their capital, Yerevan, said only two Azerbaijanis were killed in the attack. An official from Baku said here that his government fears Azerbaijanis would turn against it if they knew how many had been killed.

Of seven bodies seen here today, two were children and three were women, one shot through the chest at what appeared to be close range. Another 120 refugees being treated at Agdam's hospital include many with multiple stab wounds.

The Armenians who attacked Khojaly Tuesday night "were shooting, shooting, shooting," said Raisa Aslanova, who reached Agdam Wednesday night. She said her husband and a son-in-law were killed and her daughter was missing.

Armenian officials in Yerevan said Azerbaijani soldiers, backed by tanks and several helicopters, launched an attack this morning on Askeran, an Armenian-populated town just inside Nagorno-Karabakh on the road between Khojaly and Agdam.

A cease-fire negotiated Wednesday night by visiting Iranian Foreign Minister Ali Akbar Velayati never took effect. Velayati called off a planned visit today to Nagorno-Karabakh and headed instead for Yerevan.

More than 1,000 persons have been killed in four years of fighting touched off by Armenian demands that predominantly Armenian Nagorno-Karabakh, an enclave surrounded and controlled by Azerbaijan, should become part of Armenia.

Among the refugees who fled here over the mountains from Nagorno-Karabakh were two Turkmen soldiers from former Soviet Interior Ministry forces who had taken refuge in Khojaly after deserting from their unit last Friday because, they said, Armenian noncommissioned officers had beaten them "for being Muslims."

The two deserters claimed their former unit, the 366th Division, was supporting the Armenian militiamen who captured Khojaly. They said they tried to help women and children escape. "We were bringing a group through the mountains when the Armenians found us and opened fire," said Agamehmet Mutif, one of the deserters. "Twelve were killed."

[From the Washington Times, March 3, 1992]

ATROCITY REPORTS HORRIFY AZERBAIJAN

(By Brian Killen)

AGDAM, AZERBAIJAN.—Dozens of bodies lay scattered around the killing fields of Nagorno-Karabakh yesterday, evidence of the worst massacre in four years of fighting over the disputed territory.

Azeri officials who returned from the scene to this town about nine miles away brought back three dead children, the backs of their heads blown off.

At the local mosque, six other bodies lay stretched out, fully clothed, with their limbs frozen in the positions in which they were killed. Their faces were black from the cold.

"Telman!" screamed one woman, beating her breast furiously over the body of her dead father, who lay on his back with his stiff right arm jutting into the air.

Those who returned from a brief visit by helicopter to Khojaly, captured by the Armenians last week, said they had seen similar sights—only more. One Russian journalist said he had counted about 30 bodies within a radius of 50 yards from where the helicopter landed.

Armenia has denied atrocities or mass killings of Azeris after its well-armed irregulars captured Khojaly, the second-biggest Azeri town in Nagorno-Karabakh, last Wednesday. Azerbaijan says 1,000 people were killed.

"Women and children had been scalped," said Assad Faradzhev, an aide to Karabakh's Azeri governor.

Mr. Faradzhev said the helicopter, bearing Red Cross markings and escorted by two MI-24 helicopters of the former Soviet army, succeeded in picking up only the three children before Armenian militants opened fire. "When we began to pick up bodies, they started firing at us," he said.

Mr. Faradzhev said they were on the ground for only 15 minutes.

"The combat helicopters fired red flares to signal that Armenians were approaching and it was time to leave. I was ready to blow myself up if we were captured," he said pointing to a grenade in his coat pocket.

Reuters photographer Frederique Lengaigne saw two trucks full of Azeri corpses near Agdam.

"In the first one, I counted 35, and it looked as though there were almost as many in the second. Some had their heads cut off and many had been burned. They were all men, and a few had been wearing khaki uniforms," she said.

In Agdam's mosque, the dead bodies lay on mattresses under a naked light bulb. People screamed insults at Azerbaijan's president, Ayaz Mutalibov, saying he had not done enough to protect Karabakh's Azeri population.

Hundreds of people crowded outside chanting Islamic prayers. Some wept uncontrollably and collapsed near their dead relatives, brought to the town by truck only minutes earlier.

Chilling film of dozens of stiffened corpses scattered over a snowy hillside backed accounts of the slaughter of women and children sobbed out by refugees who made it safely out of the disputed Caucasus enclave.

Azerbaijani television showed pictures of one truckload of bodies brought to the Azeri town of Agdam, some with their faces apparently scratched with knives or their eyes gouged out. One little girl had her arms stretched out as if crying for help.

"The bodies are lying there like flocks of sheep. Even the fascists did nothing like this," said Agdam militia commander Rashid Mamedov, referring to the Nazi invaders in World War II.

"Give us help to bring back the bodies and show people what happened," Karabakh Gov. Musa Mamedov pleaded by telephone to the Soviet army base in Gyandzha, Azerbaijan's second-largest city.

A helicopter pilot who took cameramen and Western correspondents over the area reported seeing some corpses lying around Khojaly and dozens more near the Askeran Gap, a mountain pass only a few miles from Agdam.

INTRODUCTION OF LEGISLATION TO AMEND BANKRUPTCY CODE WITH REGARD TO OIL AND GAS BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, today I am introducing legislation to amend the Bankruptcy Code to cure a problem which is arising far too often in the oil and gas business.

Farmout agreements are a traditional and standard practice in the oil business and are essential to financing the drilling of productive wells. Very simply, an owner of mineral rights may seek to transfer a portion of his interest in the wells to those who assist in developing the lease. Thus, a driller may transfer a portion of the oil and gas interest to an engineer or geologist in payment for services provided in sinking the well.

Under current application of the provisions of the Bankruptcy Code, such farmout agreements are not recognized as having transferred these interests from the estate of the developer, and consequently can be trapped in a bankruptcy proceeding should financial problems ensue. The effect of this action is to inhibit necessary drilling and development of oil and gas wells throughout the country. That is surely not the way to cut down on this country's growing dependence on foreign oil.

The legislation I am sponsoring today is a narrow and specific response to this critical problem. It would simply amend section 541(b) of the Bankruptcy Code by clarifying that farmout agreements in which interests are transferred in conjunction with the development of an oil and gas lease are not included in the debtor's estate in a subsequent bankruptcy proceeding. This straightforward amendment will go a long way to foster the continued development of our Nation's rich oil and gas resources.

I urge all Members to join in this effort.

GOVERNMENT OVERREGULATION HURTING AMERICAN CITIZENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. INHOFE] is recognized for 5 minutes.

Mr. INHOFE. Mr. Speaker, all too often we in this Chamber want to enact regulations to regulate the lives of people who could do it a lot better on their own.

I take no responsibility for the passage of the OSHA legislation, the Occupational Safety and Health Administration, or the EPA (the Environmental Protection Agency). In these pieces of legislation we have created more problems for the frail businesses in America than we have solutions.

It has been very frustrating to me to find as a Member of Congress that I spend better than 50 percent of my time helping people fight the bureaucracy that we set up in the first place to help individuals.

I have many times in talking to business groups, chambers of commerce throughout America, held up the manual that is used in the field by the OSHA inspectors and said that I can take this manual and shut down any business in existence in this room. They have taken me to task many times and I have been able to do that, because we have given to unelected bureaucracies the power of life and death over many of the businesses and industries throughout America.

We are particularly concerned about this right now because this is a time when we have a frail economy, not just in my State of Oklahoma, but throughout America. Here we are in Congress trying to do things and pass laws that are going to correct that situation.

Mr. Speaker, I had a call just a few days before this past Christmas from a young man named Keith Carter in Skiatook, OK. I recognize most of my colleagues do not know where Skiatook is. It is in the northern part of my district, a very small community.

Keith Carter developed a spray several years ago that you spray on horses. I do not know what it does, but obviously it is something you have a market for. He called me up right before Christmas and said the EPA had come in and put him out of business. Keith Carter had six employees. Those employees were planning for a very happy Christmas at that time, until they got the notice that their jobs would be terminated.

I asked him why he was put out of business. He said:

It is because they claim in Washington in the EPA office that I failed to notify them when I moved my office 5 years ago within the same State. I did not give the proper notice.

I asked him if they had no knowledge that he had moved. He said:

> Oh, yes, on a regular basis I have been communicating and sending my reports to the EPA, but I have been sending them to the regional office in Dallas, TX.

So here we had a bureaucracy that closed down a business a week or so before Christmas that employed six people because supposedly 5 years before they failed to give proper notice of changing the address of the business.

We checked into it and found in fact that is what had happened. He had been in communication with the district office or another regional office in Dallas, but not the Washington office.

We finally got that corrected after numerous conference telephone calls. Shortly after that he called me back and said:

> Congressman Inhofe, I have got another problem. I appreciate what you have done for me, but now I have another problem.

I said:

> What is that?

He said:

> Well, since they shut me down and reinstated me, they gave me a different registration number.
>
> And since we have a different registration number now, I can't use the 55,000 bottles that I had already silk-screened because they have the wrong registration number on it.

□ 1440

After a while we were able to correct that. Those bottles incidentally cost him 50 cents apiece. That is over $25,000 worth of inventory he had to destroy as a result of that one bureaucracy making a mistake.

If he had not called me, of course he would be out of business today.

I bring this up at this time because there is a bill that has been introduced that is H.R. 3642, that would start treating drugs or the FDA treating drugs or food as if they were drugs. The FDA would be in a position to recall products, to embargo products, to issue subpoenas, and to assess civil penalties against individuals.

I can only say that what this country does not need is another Gestapo bureaucracy like the EPA and OSHA. And we do not want that to happen to the FDA.

I urge my colleagues to oppose this and any other legislation that gives unelected bureaucrats the power of life and death over Americans and American business.

CHEAP HANDGUNS KILL, TOO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Florida. Mr. Speaker, while Congress has been concentrating on the Brady bill and legislation to control assault weapons, cheap, short-barreled, concealable, inaccurate handguns continue to be used in senseless killing after senseless killing.

In an excellent February 28 report on the comings and goings of George Jennings, the head of the first family of the "Saturday Night Special," Wall Street Journal reporter Alix M. Freedman adds more information to the volumes that justify legislation to ban cheap, easily concealable handguns.

Three companies control the cheap handgun industry. Three brands—the Raven .25, the Jennings .22, and the Davis .380—dominate this deadly market.

As Ms. Freedman wrote:

> The three companies that make the Raven, Jennings and Davis guns are all owned by members of the Jennings family. Every year, they churn out some 400,000 cheaply made Saturday Night Specials. While high-power weapons like the Tec 9, the AK-47 and the Mac 10 dominate the headlines in fleeting moments of mass murder, the Jennings family's small-caliber pistols are far more lethal by dint of their sheer numbers, rock-bottom prices and easy availability.
>
> ### BEGINNER'S WEAPON
>
> Selling for as little as $35, versus $600 for higher-quality weapons, these are the starter guns for the fearful, the criminal and, increasingly, the very young. To a startling degree, they also figure disproportionately in robberies and murders, piling up an alarming toll of casualties and an unending litany of violence.
>
> A five-month investigation by this newspaper followed these handguns from the factory to the middleman and ultimately to the street. The picture that emerges is of a volatile family empire that built itself on the mundane details of low-cost manufacturing and high-volume distribution and thrives on the advantages of government protectionism and de facto oligopoly. In many ways, this is such a typical business that it's easy to lose sight of the product's main feature: It kills.

After discussing the internal machinations within the oligopoly that dominates this part of the business, the article notes:

> For years the family companies operated as a friendly and informal cartel. But more recently, riven by internal feuds, they have begun invading one another's turf with new guns and cutthroat pricing. They also are expanding into higher-power weapons, 9-millimeter pistols that will sell in huge volumes at some of the lowest prices on the market.
>
> ### MOUNTING TOLL
>
> One likely result: a further escalation of the carnage and killing on the nation's meanest streets. The family's pistols sell in all sorts of neighborhoods throughout the U.S., but they exact their highest tolls in urban centers. "We have a fire burning, and these companies are throwing gasoline on it," says Josh Sugarmann of the Violence Policy Center, which studies violence prevention. "These people know what the inner-city gun buyer wants."
>
> The Jennings interests offer no apology. Dave Brazeau, general manager of Raven Arms, says that, for those customers who use the pistols illegally, "if it wasn't a gun, it would just be something else—a rock, a bow and arrow or a baseball bat."
>
> But it isn't a rock or a bat that kids on the street prefer these days. Recently, in a graffiti-stained stairwell at the Martin Luther King housing project in Harlem, a pudgy boy with a baseball cap shoved down over his round, smooth face embarked on a mission of revenge. A few days earlier someone had slapped his girlfriend. Now he was here to buy a gun—a Davis .380, which is deceptively powerful and easy to conceal in his pants pocket.
>
> He hands $70 in crumpled cash to a lanky, 16-year-old dealer and grabs a brown paper bag, heavy with the weight of black metal. "I got to go do something," the pudgy youth says. He spins on his heels, bolts down the stairs and is gone.
>
> "He's gonna shoot someone who smacked his girl," the teen-age dealers says. It is business as usual. In just a year the dealer, who calls himself Jerry and peddles only the Jennings family lines, says he has made $4,000 selling 50 small-caliber handguns—including seven to students at West Side High School, where he is an 11th-grader.
>
> "Here where I live, every young kid has a .22 or a .25," Jerry says. "It's like their first Pampers."
>
> The guns that leave the family's factories are first bought by wholesalers, who in turn sell the weapons to gun stores and pawnshops for legitimate trade. Often, though, the pistols are bought in bulk at retail by illegal dealers—particularly in states where gun laws are lax—and smuggled by bus or train to urban centers for resale on the street.
>
> Clearly, the criminals who use the guns are the ultimate abusers in this market. But the thriving trade has nonetheless redounded to the benefit of the Jennings family, helping its guns snap up market share and gain cachet with the young, turning some neighborhoods into virtual free-fire zones. For example:
>
> In December, police say, 15-year-old Mack Moton used a Raven to rob and murder three cocaine dealers in Brooklyn, N.Y., shooting each once in the temple. Mack, who awaits trial, says an accomplice pulled the trigger. Less than three years before, the boy used a .25-caliber to kill a man who had stabbed his grandfather.
>
> In Long Beach, Calif., 14-year-old Danny Jones stands outside a pawnshop and tells how he was just suspended from school after a Jennings .22 was found in his locker. Among his pals, Ravens and Jenningses "with pearly handles" are hot.
>
> On Jan. 21, 15-year-old Rasheen Smith stood on a rooftop of a New York housing project and allegedly aimed his Raven .25 at a cop and fired, hitting him in the ankle. "Damn! I wanted to bust him in the cabbage," Rasheen said, according to bystanders. Rasheen is awaiting trial. "In this neighborhood, they distribute guns like food stamps," says the wounded officer in an interview at the hospital.
>
> In 1990, in the Bronx section of New York, a five-year-old carried a Raven to kindergarten in his pocket. It was loaded.

For years, gun control opponents have argued that "Saturday Night Specials" are not a criminal problem. But information obtained by the Wall Street Journal indicates otherwise.

> The annual combined sales of Raven, Jennings and Davis may barely hit $20 million, a fraction of the size of the nation's No. 1 gun maker, Smith & Wesson Co. Yet the trio accounted for 22 percent of all handguns produced in 1990 in the U.S. and an even higher proportion of handguns used in crime. In the past two years the U.S. Bureau of Alcohol, Tobacco and Firearms has traced some 24,000

handguns sold after 1986 and used in murders and other offenses. The family's three brands accounted for about 27 percent of those traces, compared to roughly 11 percent for the much larger Smith & Wesson. Among the top 10 brands traced, Davis ranked first, Raven second and Jennings sixth.

In Houston last year, police seized almost 1,000 guns used in crimes, and the Raven .25, the Davis .380 and the Davis .32 were the top three guns. In Cleveland, police took in more than 2,000 handguns, and 154 of them were Ravens, making it the No. 2 brand.

Paradoxically, the ubiquitous Raven and the Jennings gun dynasty were born of a federal law meant to curb small-caliber weapons. After the assassinating of Robert F. Kennedy and Martin Luther King, Congress passed the Gun Control Act of 1968. The measure sought to reduce the availability of Saturday Night Specials, which then were largely imports, by cutting imports in half. Instead, it encouraged U.S. makers to jump into the market.

So, these guns are being produced because of a loophole in the 1968 Gun Control Act that encouraged the domestic manufacturing of handguns that Congress barred from entering this country.

Fortunately, a vehicle to close this loophole is before us: H.R. 1770, the Handgun Violence Prevention Act. My bill makes it unlawful to manufacture, assemble, transfer, or acquire any handgun that cannot be imported into this country.

One reason my bill is needed is the simple fact that "Saturday Night Specials" are inherently unsafe. The article notes:

All three of the firms, whose low-tech plants are located in nondescript industrial parks scattered outside Los Angeles, use the same spartan approach. Low costs and high production are key. For the big U.S. handgun merchants like Smith & Wesson and Sturm, Ruger, producing guns is a labor-intensive process that yields small quantities, one reason their average price is $600 a gun. Constructing just one Colt .45 requires about half an hour. It takes a mere three minutes to completely assemble a Raven, rivals of the company say.

"You can't become any more efficient than us," says Bruce Jennings.

Raven Arms, Jennings and Davis Industries use many of the same suppliers, and often the internal parts of their guns are similar. Unlike standard guns, which use stainless steel, the Raven and its offshoots are made from cheap materials, notably die-cast zinc alloy. Molds form the Raven's key components, the frame and slide. And because the gun is virtually complete when it comes out of those molds, Raven need employ only 20 or so workers.

the zinc alloy used by all three has a low melting point—it begins to distort at 700 degrees Fahrenheit, compared with 2,400 degrees for the stainless steel in quality guns, says a competitor who also uses the alloy. As a result, the Jennings family's wares typically won't withstand much use compared with better-quality guns.

While Davis, Jennings and Raven all have minimal safety devices that block the trigger from being pulled the pistols don't have other features, such as firing-pin blocks, that help prevent accidental discharge and that often appear on high-quality guns. Lance Martini, a firearms consultant who owns the Accuracy Gun Shop in San Diego, says he once took a tour of the Raven plant with George Jennings, who he says told him the only reason Raven takes the extra step of rifling the barrel on its pistols—a process that stabilizes the bullet path for accuracy—is to avoid federal restrictions on the sale of unrifled handguns.

Officials at the Bureau of Alcohol, Tobacco and Firearms say the Raven .25 fails the "drop test" and can discharge if it is loaded and dropped to the floor. But that isn't a violation of any law, since, under the Gun Control Act of 1968, the test applies only to imported revolvers, not U.S.-made pistols. In fact, there are no safety requirements for U.S.-made guns, giving them the status of one of the least-regulated hazardous products in America.

Let me reiterate that last statement: There are no safety requirements for U.S.-made guns. Imported handguns must pass the criteria established in 1968. Under H.R. 1770, domestically produced handguns that do not meet the import criteria could not be manufactured in the United States.

The article continues:

"On these guns," says Edward Owen, chief of the bureau's technology branch, "they don't do any more to them than they have to to make them work." The family has faced little legal fallout from product liability cases; it has vigorously fought those actions brought against it.

Despite periodic calls for gun control, actual restrictions are few, and are at the state level. Only a few states ban sales of models made by the Jennings companies. Maryland determined the Jennings .22 and .25 were "unreliable as to safety"; it also banned the family's other brands because of insufficient data. Furthermore, South Carolina and Illinois say the three brands can't be sold there because their zinc-alloy frames melt at less than 800 degrees.

Many gun store owners have decided on their own not to sell the cheap pistols, saying the quality is too poor, replacement parts are too hard to get and the dollar profit per gun is too small. In Los Angeles, at Turner's Hunting and Fishing, clerk Donald Bush nods toward the $79.99 Jennings .22 and says the store discourages sales of the pocket-pistols. "They tend to jam," he says. "We try to move people up to better quality and higher stopping power. This is a last-defense gun."

Rivals estimate that, all told, the Raven costs $13 to make but sells to wholesalers for $29.75—an enviable 100%-plus gross margin. The margins are estimated to be even better for Jennings and Davis, which sell at higher prices. Bruce Jennings won't comment on the estimates but says that when overhead and other costs are added, "all of a sudden the $12 to $13 gun is up to $30 to $35.

That is what you call cheap death.

Because of "family squabbles," other companies have been formed to build even more "Saturday Night Specials." Their purpose: sell more handguns for less. As Ms. Freedman wrote:

The internecine combat started when a nephew of George Jennings formed Sundance Industries in 1989 and began selling a clone of the Raven .25. The same year, Jim Waldorf, a buddy of Bruce's when they were in high school, started up Lorcin Engineering Co. in Mira Loma, Calif., setting his sights on Raven, too. Lorcin's plant manager: John Davis.

Sundance turns out only small volumes, but Lorcin is a bigger threat. It has brought uncharacteristic marketing flair to an industry that remains all but untouched by Madison Avenue. While Raven and Jennings avoid advertising, Lorcin heavily touts its .25-caliber pistol as "the world's most affordable handgun." It has introduced eye-catching innovations like neon-pink grips and camouflage guns.

It has also aggressively targeted the pawnshop trade. At a Cash America pawnshop, located across the street from the J.C. Napier housing project in Nashville, manager David Buck says he does a brisk business in Lorcins. Pointing to a display of the guns, priced at $45 each, he says simply: "They're low-dollar guns for poor folks."

Lorcin's sales have soared, apparently clipping Raven's wings. Raven's production, which peaked at about 15,000 pistols a month a few years ago, according to government statistics, later fell to about 8,000 a month, Mr. Waldorf estimates. Today, Lorcin begins shipping its new .380 pistol and is expected to introduce a .22-caliber in July. "The Jennings family has controlled the market for 20 years," declares Mr. Waldorf. "They're ripe to get picked."

In the face of their first serious competition in 20 years, the relatives that used to play—and price—together are bent on taking aim at one another.

Jim Davis is soon expected to introduce a .22 that will compete head-on with Bruce Jennings's best-seller. Bruce has just cut prices by 14% on his .380 to match the Davis price. Even George Jennings, who hasn't introduced a new product in two decades, considered coming in with a .22 that would have nudged up against his son's turf.

"This end of the market is collapsing," says a distressed Bruce Jennings. "We're just going to have a bunch of unprofitable companies."

"Now," says Lorcin's Mr. Waldorf, "it's a no-holds-barred free-for all." A simple truth motivates this flurry of activity, he says. "There are more poor people than rich people.

Cheap is synonymous with volume."

I now want to include two items that show the top pistol makers in the United States and the top crime handguns:

Top pistol makers

[Ranked by share of total pistol production in 1990 of 1.36 million units]

	Percent
Smith & Wesson	16.6
Sturm, Ruger	15.4
Davis	10.5
Jennings/Bryco	1.05
Beretta	9.2
Raven	8.7
Colt	6.9
Firearms Imp. & Exp	2.4
Arms Technology	2.3
Lorcin	2.2

Source: Bureau of Alcohol, Tobacco, and Firearms.

Top crime handguns

[Leading handguns used in crimes 1990–91. Data are based on completed traces of handguns sold after 1986]

Davis	2,676
Raven	2,671
Smith & Wesson	2,523
Taurus	1,717
Sturm, Ruger	1,199
Jennings/Bryco	1,164
Intratec	1,158
SWD	894
Beretta	879
Glock	860

Source: Bureau of Alcohol, Tobacco, and Firearms.

Finally, Mr. President, I encourage my colleagues to obtain a copy of the entire article and to read it in full. I hope that they will come to the same conclusion that I reached years ago.

Twenty-four years ago, Congress recognized that certain imported handguns served no legitimate purpose and enacted legislation that permitted the banning of these firearms. Even the Bush administration recognized that certain imported assault weapons served no legitimate purpose. If we recognize the unsuitability of imported handguns and imported assault weapons, it is time that we recognize the unsuitability of domestically produced counterparts.

My bill covers unsuitable domestically produced handguns. I urge my colleagues to take a look at H.R. 1770 and to cosponsor this important legislation.

TRANSIT TEMPORARY MATCHING FUND WAIVER ACT OF 1992

(Mrs. COLLINS of Michigan asked and was given permission to address the House for 1 minute.)

Mrs. COLLINS of Michigan. Mr. Speaker, today I am introducing the Transit Temporary Matching Fund Waiver Act of 1992. This legislation compliments the Intermodal Surface Transportation Efficiency Act of 1991, which was signed into law by President Bush in December 1991 Public Law 102-240.

Public Law 102-204 provides for an 80 percent Federal share for all major programs while States are required to match the projects with 20 percent. In order to stimulate the economy, provide jobs for Americans, and assist those many States that are financially strapped, the bill permits States to temporarily waive the match for highway projects.

This provision is commendable and indeed necessary for those States that cannot immediately meet their 20 percent match for highway projects. However, the law inadvertently omits to give waivers for the mass transit category of projects included in the legislation.

Mass transportation is the cornerstone for rebuilding our cities. It provides alternatives and options for people who live and work in cities. The decay of our urban infrastructure makes many residents prisoners of their own community.

My bill simply puts equity into the law by giving jurisdictions with mass transit projects the same options afforded to highway projects. If this option is not allowed, jurisdictions that cannot meet the match for mass transit projects will have to return the Federal funds. This would be a travesty.

Please join me in giving Americans an option and provide an even more efficient movement of people in the communities as well as give them access to jobs outside of major cities.

STRENGTHENING THE ECONOMY AND PROVIDING OPPORTUNITIES FOR AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wyoming [Mr. THOMAS] is recognized for 5 minutes.

Mr. THOMAS of Wyoming. Mr. Speaker, I appreciate the opportunity to discuss just briefly some of the things that we have been talking about here for a good long time and talking about them because they need to be talked about. And that of course is the area of strengthening the economy, of providing more jobs, of providing a stronger opportunity for people in this country to work and be gainfully employed in good jobs.

So that is the problem that we have talked about here for some time and with great intensity for the last several months, and I suspect we will continue to do so in the future. We will continue to do so because I think the real basic problem is a long-term problem, not a short-term jump start, although we would like to have that, too.

I suspect the problem involves more a matter of having a reduction in productivity in this country over a period of about 15 years, and that has been the case. We have for various reasons had a reduction in productivity. So it will take some time to recover that. I think there are two or three really long-term basic issues that we need to deal with.

One of them has to do with investments. Unfortunately, this country has had one of the lowest investments of any industrialized country in terms of savings. The savings has not been good. And certainly the Federal Government has not been a good example in terms of savings for financial responsibility. It takes increased savings because it takes more and more dollars to invest in a good job, thousands of dollars to provide one.

The second, of course, is an educational background so that we have an educated workforce that can in fact operate in the hightechnology industrial area that we need to compete.

And third, of course, an increase in our R&D, our research and development, to keep us as leaders in the world. These are the problems that we deal with. I have been disappointed, frankly, in the Congress, in that we seem to have dealt with a reaction to a poor economy or to a recession and to sort of have safety nets strung out all over the place instead of dealing with the real issue and that is providing jobs.

The best safety net, of course, is a job. There is need to have temporary safety nets, but the long-term problem requires that we have jobs.

□ 1450

I think we ought to be looking for solutions, not discussing issues. People in America want leaders in politics to have solutions, and that is what we ought to be talking about.

We have long been recognized, of course, as the most powerful country in the world. We still are. We need to continue to be in that position. Our people are the most successful. We have had the highest standard of living. We have had more things for more people and more personal freedom than any other country in the world.

One of the greatest shows of evidence of that is that practically all the world is changing from a centralized, controlled economy to a market economy such as ours, changing from totalitarian governments to democracies such as ours. We ought to be very proud, I think, of that, that we have in over 200 years developed a system that nearly everyone else in the world is beginning to follow.

So what do we do? It seems to me that we need to take a look at the elements that have allowed us to be the strongest nation in the world, the elements that have allowed us in 200 years to have more things for more people with more personal freedom at the same time. I think there are a number of things. Let me just talk about a couple of them.

One of them, I believe, is our vision of government in terms of how it applies to the private sector. It seems to me that less government is better than more. It seems to me the role of government is to provide an environment in which the private sector can prosper. The private sector, after all, is the only place where we can develop wealth, where we can develop long-term jobs and have enough of an engine to drive an economic apparatus so we then have the resources to do the social and cultural things we want to do.

Our Government, on the other hand, has gotten increasingly large and made it increasingly difficult, in my opinion, for the private sector to function. We have overregulation, we have overtaxation, and we have made it very difficult, particularly, for small businesses to prosper.

In my State of Wyoming, by far the largest employers in the aggregate are small businesses that employ less than 15. These are the kinds of businesses that we need to talk about, that we need to provide an environment in which they can prosper, not make it more and more difficult for them to do that. But we do not talk about that very much. We talk about additional regulations, and we talk about additional costs that we will have to shoulder in the private sector, when in fact we ought to be saying to ourselves, "What is our vision of government? What is it that we think government ought to do?"

I appreciate very much the opportunity to talk about that one segment of our economy.

CUSTOMS AUDIT OF HONDA

The SPEAKER pro tempore (Mr. BACCHUS). Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, October 16, 1991, the Subcommittee on Oversight of the Committee on Ways and Means examined the U.S. Customs Service audit of Honda. Honda had imported thousands of Honda Civics from Canada—during a 15-month period in 1989 and early 1990—without paying $1 in duty. Honda claimed that the Civics imported from Canada were duty free under the United States-Canada Free Trade Agreement because more than 50 percent of the Civics' components originated in either Canada or the United States. Customs did not agree with this position and challenged Honda. The Honda audit is very important because it is the first Customs audit under the FTA.

Part of the dispute between Customs and Honda involves, for example, the Civics' engine assembly. Honda purchased engine parts from hundreds of foreign and domestic sources. They also manufactured some of the parts themselves and then assembled the engines at their plant in Ohio. The engines were then shipped to Canada where they are installed in Honda Civics, which were then imported to the United States. Honda claimed that the engine was of U.S. origin. Customs took the position that it was not, because the engine was made up of mostly foreign parts.

The Customs audit went along fine until the press reported the leak of a confidential internal Customs memorandum indicating that the audit was complete and Honda owed the U.S. Treasury $17 million in duties. At the subcommittee's hearing, Customs and Treasury stated that the audit was not complete; that the media reports were inaccurate; and, in fact, the international document signed by the Customs Commissioner was wrong.

What is going on here? The public and Congress wonder.

Months passed while Treasury and Customs sorted out their position, and Honda hired everyone in town to make sure that if Treasury came out in their favor, Treasury was smart; if Treasury came out against Honda, then Treasury was wrong and ignoring congressional intent. Of course, now that Customs has come out against Honda, Honda says that this whole process has been politically motivated.

Yesterday, Customs announced the results of its audit of Honda. According to Customs, the Honda Civics did not qualify for duty-free treatment under the free trade agreement.

I commend the hard work done by the Customs and Treasury officials involved in this audit and the timeliness of their effort. Who knows how many more transplanted automobile manufacturers—or other manufacturers—are cheating on the duty they owe the United States?

Unfortunately, Customs' war with Honda is not over yet. By just looking at the number of people who have called, written, or personally met with me, committee members, and staff, I know Customs has a hard road ahead of them. Between the amount of attorney and lobbyist fees Honda has paid to date and their plan to drag this process out in the courts for years, I bet Honda will end up spending close to another $17 million.

I think that we all realize that the $17 million isn't the issue to Honda: It's that they end up with a good public relations spin on the case. I think they should stop the squawking and pay what they owe.

Two years ago, the Subcommittee on Oversight investigated tax noncompliance by foreign-owned/U.S. subsidiaries in the automobile and electronics industries. We did not find a pretty picture there either. The Internal Revenue Service [IRS] was badly outmanned and outgunned. Most of the foreign-owned corporations that we looked at paid little or no taxes. We managed to enact legislation that year amending section 482 of the Tax Code to give IRS a few more weapons to fight with. However, much more needs to be done.

The same issue is raised by the Honda case. How can we expect to compete with foreign producers if we let them import and sell their products in the United States without paying their fair share of duties and taxes?

Our committee will do everything within our power to ensure that our trade and tax laws are enforced to their fullest and that foreign-owned U.S. corporations do pay their fair share. The United States doesn't need to be a patsy any longer.

PRESIDENT'S VETO OF LEGISLATION IMPOSING CONDITIONS ON MOST-FAVORED-NATION STATUS FOR PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 60 minutes.

Mr. SKAGGS. Mr. Speaker, I am concerned and wish to address the House this afternoon with respect to the President's veto yesterday of H.R. 2212, legislation with respect to the objectives which the People's Republic of China must meet in order to qualify for nondiscrimination treatment under the trade laws of the United States. I disagree with the President's veto, strongly oppose the sentiment that informed that veto, and urge my colleagues in the House, when we have the opportunity next week, to vote to override that veto.

We take pride in this body in being representatives of the people of the United States, representatives that are probably in closer touch with the beliefs and feelings of the people of this country than any other entity in this capital. After the despicable and tragic events of June 3, 1989, known as the Tiananmen Square massacre, I was honored to participate with many other Members of this body in a march, I think unprecedented, from the Capitol of the United States to the Embassy of the People's Republic of China to protest what had occurred in Beijing a few days earlier. In 3 months we will mark the third anniversary of that tragedy, and I do not believe that the depth of feeling that moved us to make that march almost 3 years ago is any lessened across this land.

We have always had a kind of unique tension in this country between our ideals and the practicalities of government, especially in the areas of foreign policy, and that is certainly true in this instance as well, ideals reflecting ideas, the ideas of freedom and democracy and respect for individual rights that are the foundation of our form of government.

What do we learn from the last few years of the dramatic developments that have taken place around the world? I believe that they should have taught us of the power of the ideas and the ideals that this democracy of ours has stood for for more than 200 years, the revolutions in the countries of Eastern Europe that have so wonderfully transformed what used to be the appendage of the old Soviet Union into a new and wonderfully varied mix of new democracies and new, free economies; the vote in Nicaragua to embrace again a free political and economic system, and most remarkably of all, the changes that have occurred in the old Soviet Union as the constituent republics there have asserted a new mandate for freedom and democracy and open economics.

□ 1505

Those are remarkable developments in their own right. I think they are all the more remarkable, because the people in those countries over and over and over again have pointed to the inspiration that they have derived from the United States of America, from the founding documents of this country, our Declaration of Independence and our Constitution, as beacons that they looked to to inspire reform and change in their countries.

Now, we are called upon by the President of the United States in the context of our relationship, our trade relationship, with the People's Republic of China to be practical, not to give vent and form to those ideals that we hold so dear in this country, not to clamp down even prospectively on the awful human-rights practices and the immoral trade practices of the People's Republic, because it would be, according to the administration, counterproductive to our ends of liberalization and reform in the long haul. I think not.

I am caused to recall an incident that occurred in the spring of 1977 when I was traveling through the old Eastern Europe and was in Prague, Czechoslovakia, and I was approached one afternoon, and I was there as a tourist, I was approached one afternoon by a greying distinguished-looking gentleman, well dressed, if a little shabbily, who initially asked me if I wanted to exchange some money. I had the good judgment to decline that offer, which was more dangerous in those days, but we then became engaged briefly in conversation about his country and his concerns about his country.

That, as you may recall, was a time when President Carter had imposed very strict human-rights policies on United States international affairs, ones that were directed in part at the regime in Czechoslovakia.

This man spoke almost flawless English, was clearly well educated, and also clearly suffering in the current circumstances in Czechoslovakia. I asked him, "What do you think the United States should do under these circumstances? Should we pursue this policy of strict human-rights requirements in our relationship with your country even though, in doing so, it will cause suffering for your people, perhaps yourself, and have results that we can only hope may occur in the longer term?" And he paused for a moment. We were standing in the great open square near Wenceslas, and he said, "I would suggest to you that you recall your Presidents Washington and Jefferson, and especially your President Lincoln," and he proceeded to quote to me, a Czech citizen who I stumbled upon in downtown Prague, proceeded to quote to me the words of Lincoln's Gettysburg address, and he finished by saying, "Your country must, above all, stand true to your principles and your ideals. That is what will move the other peoples of the world to continue to look to the United States for inspiration, for moral support, for the wherewithal to continue their struggle," in regimes such as the one that then existed in Czechoslovakia to achieve freedom and democracy for themselves.

So I got a very clear and, I think, instructive message from that individual about the importance of this country remaining true to its own principles even when, as was the case then in Czechoslovakia, it would carry some short-term discomfort for the citizens of the country involved.

That is much the same situation that we also faced in dealing with sanctions against South Africa which have resulted now in enormous change in that regime. We hope that will continue.

It is argued in these circumstances that we ought to defer to the President's wisdom, especially in this aspect of policy that has serious foreign policy implications, but the problem is that I simply do not discern wisdom in the President's position and his rationale in this case.

Let us examine what this legislation that he has vetoed is about. What were the problems that we were trying to address? What are the remedies that this legislation uses to try to make the situation in China better?

It has been clear on the occasion of Tiananmen almost 3 years ago and subsequently that the current regime in China is fundamentally disrespectful of the rights of its citizens, fundamentally unconcerned with the conventions of human decency in the dealings of that government with its own people. Since the Tiananmen crackdown there have been secret trials of those that participated in the human rights demonstrations of that time resulting in the sentencing of many Chinese, in some cases, to years in prison and not to mention the executions that occurred after the Tiananmen Square massacre itself.

Living conditions that these individuals are suffering through in China are reported to be absolutely awful and degrading. There are also credible reports that the Chinese regime exploits prisoners to produce goods for export that are coming into this country.

I just came from hearings involving the head of the Customs Service of the United States who confirmed again the difficulty that we are having in excluding what we believe to be prison labor manufactured goods from being imported into the United States, notwithstanding that it is in violation of our law.

Chinese leaders since Tiananmen have continued to suppress free expression and the exercise of any kind of civil rights. They have continued to sell missiles and other armaments to countries in the Middle East and South Asia, and to quote from the committee report, if I may, Mr. Speaker, "The purpose of H.R. 2212 is to get at this whole complexion of behaviors and misdeeds by the current regime in the People's Republic of China," and it is, and I quote, "To send a strong message to the hard-line leaders of China that this behavior toward their own people and certain of their actions on the international front will not be tolerated by the United States."

The particular points in this legislation that has been vetoed by the President would require, in order for most-favored-nation status to be continued, an accounting by the Chinese Government of the citizens detained, accused, or sentenced as a result of their nonviolent expression of political beliefs during the events of 1989 and the release of citizens imprisoned for that conduct. It would require the Chinese Government to adhere to the joint declaration with respect to the future status and devolution of Hong Kong in 1997. It would require the Chinese Government to refrain from supporting or administering coercive abortions or involuntary sterilization. It would require that that Government not assist nonnuclear states in acquiring nuclear explosive capability, and to refrain from contributing to the proliferation of missile technology particularly in the Middle East and South Asia. It would require that Government to take steps to prevent prison-labor exports and to permit international inspection of places of detention to ensure against that practice.

□ 1515

And it would require the Chinese Government to moderate its position with respect to Taiwanese participation in GATT.

In addition, this legislation requires that China make significant progress in dealing with its human rights behavior, both in China proper and in Tibet.

The bill calls for progress in these areas, preventing gross violations of internationally recognized human rights, ending religious persecution, removing restrictions on freedom of the press and access to Voice of America broadcasts, terminating harassment of Chinese citizens resident in the United States, insuring access of international human rights monitoring organizations, insuring freedom from torture, and terminating bans on peaceful assembly and demonstration. That is what this legislation is about. It is eminently reasonable, clearly consistent with the best interests of the United States, particularly in light of the changes that have occurred around the world and the reasons that so many of the repressive regimes that we for so long have seen in our adversaries have now changed their forms of government, their forms of economics and have every reason now to be treated as our friends.

I would be absolutely baffling and dismaying if at the time that we commemorate the third anniversary of the Tiananmen Square massacre that we stand by as this country nearly ignores what the Chinese Government has been doing over these last several years and willy-nilly extends most-favored-nation trade status for another year.

I pray that Congress will act appropriately and decisively to override the President's veto. We must stand firmly with the Chinese people in behalf of the ideals and interests that we share with them, namely, economic and political freedom and reform.

It is really hard to fathom how we could seriously consider action on China trade that so glibly ignores that Government's human rights record and so casually forfeits the influence that we can bring to bear on behalf of reform.

Does anyone really believe that we gain effective leverage in these circumstances by being kinder and gentler?

A regime that so callously represses its own people with executions and prison is unlikely to respond intelligently to that kind of finesse.

Why should Americans care? First, for the last several years it has been demonstrated, as I have mentioned already, that it is important for us in this country to make common cause with reform movements around the world that promise more access for their people to their governmental institutions and success in reforming closed societies into open ones.

Second, we must act unequivocally to show the Chinese Government that we do not tolerate this kind of cynical policy of destabilizing the Third World with its sales of advanced weapons.

Finally, the American people do not want to play the fool by acquiescing in China's blatant violation of law in exploiting prison labor to make export goods or in pirating the intellectual property covered by United States patents and copyrights. Resorting to tactics like that, it is not surprising that the People's Republic has built up a trade surplus with the United States approaching $15 billion a year.

I do not know who the President believes he is kidding. I hope it is not this House. I hope that we will act next week to override the President's veto.

Mr. Speaker, I am pleased at this time to yield to my colleague, the gentleman from the great State of Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman very much for yielding to me.

Most often, Mr. Speaker, when we come to this floor we take some delight in being able to say to fellow Members that we take pleasure in responding to them and with them on an issue, but I am sure the distinguished gentleman from Colorado would agree that we take no pleasure at all today in the subject matter we have to address. On the contrary, what we find is an opportunity, yes, but an opportunity to discuss an issue which should have been laid to rest sometime ago, which should have stood as a beacon, if you will, and a measure of what this country stands for.

I am always interested to see the sound bites which occasionally crop up on television in which the President states with a great deal of vigor, at least verbal vigor, "This will not stand" with respect to human rights, with respect to a country invading another country, with respect to international law and provisions that need to be made by freedom-loving people on behalf of those who are oppressed and suffering injustice.

In this particular instance, we have an ironic phrase at best in the context within which we are discussing this issue about China, most favored nation. Most favored nation, indeed. One would think that most favored nation would refer at a minimum to a shared set of principles, not only in trade, but in relations with one another. We do not find that to be the case, Mr. Speaker, in this instance. The horrifying sight of armed troops slaughtering hundreds of peaceful students in Tiananmen Square was a turning point in Sino-American relations.

No American who witnessed the televised massacre can be comfortable with a China policy that fails to register our outrage clearly and meaningfully. With scenes of the dead and dying being brought into our living rooms, it is no longer possible to do business as usual with the tyrants responsible for the massacre.

This does not seem to have occurred to the President. I find it extraordinary and astounding that he can be so blind to this particular issue and that he can be so casual in his references to his ability to work diplomacy.

I assure you, Mr. Speaker, that I will outline what has taken place since the passage of this bill from the House to indicate the further deterioration and disrespect not only for the Presidency of the United States, but for the people of this country and those values that we espouse; yet business as usual is precisely the course taken by President Bush. With a proprietary air toward United States-China policy, the President has vetoed legislation that places conditions on the extension of most-favored-nation trade status to China. Most-favored-nation status grants a foreign nation the privilege of exporting its products to the United States on terms as generous as those accorded to any other nation. Just think of that.

These are not abstractions, Mr. Speaker. We are talking about the literal lives and deaths, literal quality of life of vast numbers of people, into the millions, and we are saying that we equate the trade policies of that country with those of our own as being founded, as resting upon those values similar to our own. Those trade privileges as accorded to any other nation, and if I can make an analogy, as to driving an automobile, this favored nation status is not a right. You are not entitled to have it as a matter of course. It is not a diplomatic nicety that is accorded to anyone who happens to enter the room. Like any other privilege, it is subject to conditions, to suspensions and to revocation.

I think it is especially important that we understand this. The Chinese Government is not entitled to a most-favored-nation trade status. It is something that has to be earned. It is something that has to be acknowledged as being recriprocal, mutually beneficial, and it is subject to conditions. It is subject to suspension and it is subject to revocation.

The strongest argument to be made against most-favored-nation condition is that the foreign trade brings economic development that benefits the people of China, that it provides leverage for the United States to persuade the Chinese Government to liberalize its policy and that it creates social and economic conditions which strengthen that democracy and the democratic movement within China.

□ 1525

On the surface these arguments sound reasonable. But they rest on the assumption that Chinese export goods are produced in much the same way as other nations' products.

I want to go over that very briefly again. The President maintains that foreign trade brings economic development that benefits the people of China, that it liberalizes its policies with respect to political dissidence within China, that it creates social and economic conditions which strengthen the democracy movement.

Information uncovered by Asia Watch last year revealed in painful detail that China's export drive is fueled by slave labor performed by prisoners, many of them pro-democracy activists and Tibetan patriots in Chinese gulag prisons.

May I say parenthetically, Mr. Speaker, that I attended the rally this past Saturday, in freezing weather conditions, across from the White House, as Tibetans and supporters of Tibetan freedom gathered from all over the Nation to make clear our commitment to the freedom, the territorial freedom under the Universal Declaration of Human Rights in the United Nations, make clear our support for that declaration and the resolution on human rights that is now before the world.

The invasion of Tibet is a perfect example of what happens when the Chinese Government understands that, with impunity, it can ignore the minimal conditions that are set for most-favored-nation trade status.

Since the House overwhelmingly supported the conference report, H.R. 2212, last November, the Chinese Government has undertaken the following actions. I want to point out, Mr. Speaker, this has taken place within the time that the President could have utilized for diplomatic negotiations. They have stepped up persecution of religious believers; they have further imprisoned pro-democracy activists; they have sold $250 million in missiles and dangerous nuclear technology to Middle Eastern countries, including Iran.

Although China has periodically agreed to stop such sales, it has not done so, and, Mr. Speaker, I maintain it will not do so so long as it understands that President Bush will do nothing to stop it, will do nothing to stop the trade status. There is no reason for them to live up to their word. Our trade deficit has nearly tripled, reaching $13 billion in 1991.

Chinese democracy leaders have told me explicitly that most-favored-nation status is by far the most effective means of bringing American influence to bear on human rights issues. If we can deny this trade status, it denies to the Chinese Government the capacity to say to its own people that it has world approval.

I also had the honor of meeting the Dalai Lama, the spiritual leader of Tibet's people. He made it clear that the Chinese government wants most-favored-nation status very badly and that it is the strongest lever in our hands to secure progress in the area of human rights.

Mr. Speaker, international trade can be a powerful tool for peace, prosperity, and mutual understanding. Where it serves those purposes, it should be encouraged and fostered; where it serves to strengthen the hands of tyrants, it should be curbed.

On every factual ground of factual history that has taken place since this House passed our resolution, Mr. Speaker, there is failure on the part of the administration to be able to carry through in any meaningful way on what it says it could do with most-favored-nation status as the basis for its diplomatic negotiations. There is one way and one way only that we can get this message through to the Chinese Government, and that is for us to overwhelmingly defeat the President's veto.

If there is anything that we can do to show that the United States is indeed serious about human rights and serious about our own domestic proposals with respect to trade, with respect to jobs, with respect to those conditions which will provide for a prosperous economy not only for ourselves but with our trading partners throughout the world, it is to see to it that this Presidential veto is overridden.

Mr. Speaker, I again thank the gentleman for yielding.

Mr. SKAGGS. I thank and congratulate the gentleman from Hawaii [Mr. ABERCROMBIE] for his fine remarks and his insight into the challenges that faces us in overriding the veto.

Mr. Speaker, no Member of this body has been a finer leader, nor more resolute in insisting that we do the right and proper thing in this circumstance than the gentlewoman from California [Ms. PELOSI]. This is her bill. All of us are grateful to her for the leadership she has demonstrated in the House and in this country on this issue.

Mr. Speaker, it is my privilege to yield to the gentlewoman at this time.

Ms. PELOSI. I thank the gentleman from Colorado [Mr. SKAGGS] for his kind words and, more importantly, I thank him for his leadership on this issue, which is fundamental to our country, to our very foundation.

I thank the gentleman for taking this special order today on a day that I think is a very sad veto by the President of the United States. I also wish to commend the gentleman from Hawaii [Mr. ABERCROMBIE] for his commitment and his grasp of this issue and the time that he took to help us educate the public as to why this is important to every American, whether it is on the basis of our principles and our democracy, whether it is on the basis of jobs, whether it is on the basis of nonproliferation, the safety of the world or the security of their own jobs.

It is particularly difficult for the gentleman from Colorado [Mr. SKAGGS] and the gentleman from Hawaii [Mr. ABERCROMBIE] to support this legislation, because they, like I, represent areas which benefit from the trade with China. But we do not benefit from trade with China that results in a very strong imbalance with China having a huge surplus while other parts of the country suffer from that United States deficit.

Mr. Speaker, yesterday, when the President vetoed the legislation—and, by the way, it was a bill that was very, very modest in its conditions—is it too much to ask that the Chinese rulers free the prisoners arrested at Tiananmen Square in order for them to have a $12 billion trade surplus for 1 year? Is it too much to ask the Chinese authorities not to sell M-9 and M-11 missiles to Syria and Iran?

If the administration is convinced that they are not doing this, making these sales of weapons, then this condition should be very easy for the Chinese Government to meet.

However, the President saw fit not to sign this bill, as I say, with its very modest objective conditions and with some further subjective conditions about significant progress that he would be in a position to make judgment about.

With his veto statement, President Bush has once again acceded to the wishes of the Chinese Communist leaders over the appeals of the pro-democratic advocates. President Bush is attempting to mislead the American people. He says that supporters of this bill wish to isolate China and will slow down reform there.

How can the President make such an outrageous statement when the bill has the support of leading dissidents, such as Fang Lizhi; Chai Ling, the young woman who was a leader in Tiananmen Square; Liu Binyan, called the Thomas Paine of Chinese letters; Shen Tong, author of the book "Almost a Revolution," about the springtime in China, the time of the demonstrations; and Li Lu, a leading advocate, who started as one of the leaders of the hunger strike in Tiananmen Square that spring.

The list goes on and on and on.

Do they not know about prodemocratic reform in China? Do they not know about repression in China?

The last thing they want to do is for the United States to isolate China.

Frankly, none of us wants most-favored-nation status to be revoked; we just want to use our leverage with it. Why can this President of the United States not join this Congress and this House in overwhelming numbers, 401 to 21, in sending a message to the Chinese regime that we are united in our call for an improvement in human rights, freeing of the prisoners, cessation of the sales of weapons to the Middle East and other unsafeguarded countries and stopping unfair trade practices as far as American workers are concerned?

It has never been the goal of this Congress to isolate China, and the President knows that.

President Bush says the bill calls for a long list of conditions. He knows there are only the two objective conditions I mentioned: free the prisoners; and do not sell M-9 and M-11 missiles to Syria and Iran.

With this veto message, President Bush is saying it is too much to ask the Chinese Government to do these two things.

Since the takeover of China by the Communists, there has been a debate in our country over who lost China. Now, faced with this opportunity to support reformers in the leadership struggle in China, President Bush has chosen instead to strengthen the hands of the hard-liners instead of the reformers in China.

☐ 1535

Mr. Speaker, I have said on the floor before that the Chinese Communist Congress will be coming up soon, in March and April. At that time there will be a struggle between the reformers and hard-liners. A signature by the President on this legislation would have sent the message very clearly in support of prodemocratic reform.

For a moment I would like to address some of the contentions made by the President in his veto statement. He says, for example, that he agrees with us on upholding the sanctity of human rights, and controlling the spread of weapons of mass destruction, of free and fair trade. He may agree with our priorities that we have set forth, but he is not willing to stand by us to make it happen. We are the leaders of this country. We have to make these decisions. If we do not make them, they will not be made, and this President was in a position to be great. Again he missed an opportunity. The President's policy, as far as China is concerned, has been a failure.

I remind the Speaker that it is nearly 3 years since the Tiananmen Square massacre. Students and others who spoke out for democracy there are still in jail nearly 3 years later. The very day of the Senate vote in the other body the Chinese Government, instead of releasing prisoners, as was our hope, tried and sentenced more dissidents for their activities in Tiananmen Square. The arrogance of this Government knows no end. It is only matched by the intransigence of our own President to respond to an opportunity to send a message.

The President says in his message that there is no doubt in his mind that, if we present China's leaders with an ultimatum most favored nation, the result will be weakened ties to the West and further repression. I mentioned this earlier. Mr. Speaker, and, as I said then, does he think that all of the prodemocracy advocates who support this legislation want repression to continue to increase in China and want ties to be cut off from the West? They do not, and to prove it I want to read a brief statement by Dr. Fang Lizhi, Shen Tong, Li Lu, Liu Binyan, Yu Dahai, Chai Ling Chen Yizi, Haiching Zhao, the president of the Independent Federation of Chinese Students, and Wan Runnan, president of the Federation for a Democratic China. They say that this was a letter that was written regarding the vote.

> We ask you to join your House colleagues and vote yes on the Conference Report on H.R. 2212 which places reasonable, flexible conditions on continued renewal of China's MFN status.
>
> We have intimate knowledge of China's repressive policies. Because of our convictions and our demands for respect for human rights and the rule of law in China, we have been forced to flee our homeland or face persecution. We know first-hand the scars of the intellectuals, embittered by years of suppression; feel ourselves the deep reservoir of discontent that seethes among Chinese students and workers; and cannot forget the friends that remain behind braving the rotten prisons, forced into the countryside, prevented from carrying out their work or constantly harassed.
>
> Every Senator is aware of the magnitude of continuing human rights abuses in China. Since 1989, these travesties have been widely covered by the media in every corner of this country. We have been overwhelmed by the response of the American people to the plight of people in our country and we ask that you reflect upon their sentiments when casting your vote on the Conference Report.
>
> President Bush's China policy has had little effect on the human rights situation in China. Rather than improving the situation, it has emboldened and strengthened the hardliners in the leadership. The President's meeting with Chinese Premier Li Peng capped the hardliners; bid for a comeback as they go into an important policy meeting next month. In the internal debates, the hardliners are bragging that even the person responsible for the massacre and continuing repression in China is acceptable to the U.S. government.
>
> We ask that you send a different signal to the Chinese people and to freedom-seeking people everywhere. Placing conditions on China's MFN status is the strongest and most important signal you can send both to the leadership and to the people of China.

As I said, Mr. Speaker, it was signed by the leading dissidents in the United States who have had to flee for their safety to the United States from China because of their well-founded fear of persecution.

I would like to also add one more thing. In our meeting this morning with Secretary Baker in the Committee on Appropriations he mentioned two things that I think bear mentioning. He said, "You all want to cut off MFN." Some of us do; some of us do not. What most of us would like to see is a thriving political, cultural, and diplomatic relationship with China based on principle and for us to step forward and use our leverage now to cut off MFN. He also said, and the President says in his statement, that he believes that recent agreements by the Chinese to protect intellectual property rights are attributable to the President's policy. Wrong again. The President's policy had little to do with that. What we had learned from the insiders that we have in China is that the message to those negotiators was compromise, compromise, compromise. I believe and say without any hesitation that it was the action of the Congress of the United States in both the House and the Senate to give overwhelming majorities in the vote for continuing MFN that put the pressure on China to compromise at the table and not to leave that table on the discussion of copyright and intellectual property laws without some agreement. They knew that, if they did not agree, their MFN was doomed.

Mr. Speaker, MFN means money to them. It means hard currency which enables them to continue their arrogant, repressive policies with independence. MFN means also recent actions of the President to sell satellite and computer technology to China means that they get more technology, hard currency and technology. That is what enables them to maintain their position of hard-line strength and repressive tactics in China.

So, Mr. Speaker, it is with regret that I have to say that the President vetoed this bill. I think his veto was wrong. I think his veto message is out of touch. Either he does not know, or—but he certainly should—what the truth is, but, if he does not know, it is up to us to tell the American people why it is important for them.

For every billion dollars it is about 10,000 jobs, at least, of American workers that are lost. So, we are talking about at least $12 billion in a trade surplus that China enjoys, 12 times 10, 120,000 jobs that we are giving to the Chinese leadership for their intransigence.

It is also the question of the hard currency in addition to American workers, so our constituents need to care about this because it is jobs, it is hard currency, it is our technological edge, our superiority that will slip away if we continue to put in the hands of the Chinese hard-liners. It is about our democratic principles, and it is about a safer world in which nuclear proliferation is not tolerated by any country no matter how large it is.

We went to war last year. The Secretary of State said it was for jobs. The President said it was for human rights and nuclear proliferation. All three of these issues weigh in on this bill. If it was important then when the issue had run away with us, why is it not important now when we can intervene at an early enough stage to make a difference for a safer, freer, and fairer world?

Mr. Speaker, I will conclude my remarks by thanking the gentleman from Colorado [Mr. SKAGGS] again for his leadership in taking this special order. I commend him for his courage because I know it is not easy coming from the district he represents. He has always stood on principle, and, once again, he has come to the floor on this issue, and I am grateful to him for it.

□ 1545

Mr. SKAGGS. Mr. Speaker, I thank the gentlewoman from California [Ms. PELOSI], and I commend her on her fine statement. It again demonstrates her understanding of the subject and her insight into what ought to be the underpinning of the United States policy here.

The gentleman from New York [Mr. SCHEUER] has requested time, and in yielding to him I would recognize the many years that he has stood strongly for human rights around the world in many difficult circumstances in his work as a Member of this body.

It is my privilege to yield to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I think the President, in vetoing this bill, demeaned himself, demeaned the House and the Senate, and demeaned the American people.

What are we? What kind of people are we? We are the kind of people that cherish freedom. We have laid the lives of young men and women in America on the line to preserve freedom, not just for ourselves but freedom for others around the world. We have stuck to our last. We have not compromised on the basic principles of freedom and decency.

Mr. Speaker, for 45 years our country was engaged in a contest between two superpowers for hegemony in the world. We could have compromised with the Soviets. We could have protected their sphere of influence, with an unwritten, unspoken deal that they could carry out their horrendous practices toward their own people in their own country, but we did not do that. We stuck to our last.

Ultimately the Soviet Union collapsed. It disappeared into thin air.

Why? Because of internal weaknesses within the Soviet Union, because of lack of confidence and esteem that their own people had for their repressive government, and finally, the Soviet Union disappeared. The fact that it did and the fact that the Soviets over the period of a year or two moved swiftly toward democracy and human rights is an enormous tribute to Mr. Gorbachev. He may not have hacked it in the field of economic sanity, but he did stand as a beacon for human rights, decency, and the ability of people to live decent lives.

Since the Soviet Union in effect disappeared, the entire Warsaw Pact, people who have known nothing but repression and intimidation and the most awful, repulsive behavior from their own governments, they have not just moved toward democracy, they have rushed toward democracy.

What reason do we have to think on this floor that the Chinese people do not have the same driving urge toward human rights and democracy that people around the world do? The arrogant, ruthless dictatorships of the world are a shrinking population. It is perfectly clear that people, when they have the choice, opt for democracy and freedom and individual rights.

I am positive in my soul that the Chinese people have deep yearnings for individual rights and freedom, and the right to live their own lives out from under the fear of persecution, repression, imprisonment, torture, and death.

There is nothing in the history of the Chinese people or any other people on Earth that indicates that some people are unlike us and that they do not have a predilection for the kinds of rights and civilized standards of conduct by governments that have been generally accepted in the West.

I have been to China quite a few times. I have enjoyed my trips there. I have enormous respect for the Chinese people, all 1.2 billion of them, who have made extraordinary progress; who have been the leaders of the civilized world for the last 5,000 years, excelling in the arts and sciences and humanities and poetry, long before the West achieved those levels of creativity.

I do not admire the leaders of China who have brought the infliction of widespread imprisonment, torture, death, and suffering to the Chinese people. I cannot accept the results of June 2 a couple of years ago in Tiananmen Square. That is anathema to me, and there is not one iota of evidence that the Chinese leadership, the elderly gentlemen who now control China, that they have ever had any sober second thoughts as to the rightness of their course.

I believe President Bush's views and sensitivities on foreign policy, certainly as applied to China, are as inadequate and as insensitive and as uncaring as his total lack of understanding of the suffering that the American people are going through. It is not on the same order of magnitude, of course, as the Chinese, but there is hurt and there is pain in this country out there and the President does not seem to have the remotest understanding of what his indifference to the plight of average Americans means to their lives.

I think he has little understanding as to what motivates the Chinese leadership. We have caviled to them, we have closed our eyes to their awful, unacceptable patterns of conduct toward their own people. We have gone above and beyond the call of duty in giving them respect when they do not deserve respect. We are condoning slave labor. We are condoning child labor. We are condoning the exceptionally offensive practices of the Chinese to export nuclear technology to developing countries that may be rich in oil but are not rich in compassion and understanding and a sense of democracy.

The administration has talked to them. We sent a Secretary of State over there to talk to them. He came back empty-handed. Our overly tolerant posture toward the Chinese has met with no response whatsoever. They have not ameliorated any of these despicable practices that degrade the human spirit and torture the human body, and I think it was a painful thing to the conscience of America to see the President veto this bill.

I hope that this body and the Senate will send a message loud and clear, and I hope that message will be understood by the Chinese people as one of deep sympathetic understanding for their plight and an emotional commitment that we are going to help them, come what may, toward the inevitable day when they break out in freedom, as the Russians have done and as the Warsaw Pact countries have done and as the Baltic countries have done. Love of freedom is an uneradicable component of the human condition.

□ 1555

I respect and revere those in China who have stood up for the rights of the Chinese people to live their lives in freedom and tolerance and decency, as human beings all over this planet have come to do.

Mr. Speaker, I want to congratulate my colleague from Colorado [Mr. SKAGGS] for having shown the initiative to have brought this special order. I join with the gentleman, and only wish that we will, by whatever means available, advance and accelerate the day when the great country of China, 1.2 billion strong, joins the rest of the civilized world in adopting those standards of government those standards of living together and respecting each other, that will see these despicable practices of torture, of death, and of imprisonment without trial, banished from the mainland of China and banished from the Earth.

Mr. Speaker, I thank the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I thank the gentleman from New York [Mr. SCHEUER] for his fine statement.

Mr. Speaker, in closing let me just ask the working people of this country to stop and think about this: We are going through some difficult economic times here at home, and I have a difficult time with that in mind of seeing how any person in this country who may be fearing for their own job security or is out there looking for work in this economy, could possibly tolerate an action by the President of the United States that for all practical purposes may well jeopardize thousands of jobs in this country in order to maintain a preferred trading status that sacrifices those jobs for goods made with prison labor in the People's Republic of China.

We have a choice in this case between foreign policy based on personalities, the President's personal relationship with the repressive and aging regime in China, or a foreign policy based on principles. America's principles are people's principles.

This legislation reflects an eminently reasoned and reasonable and moderate effort to right an enormous wrong, a blight on human rights and decent government on this planet.

Mr. Speaker, I hope that this House will stand for its beliefs for the Nation's best instincts, reject the President's expediency and reject the President's veto.

Mr. FAZIO. Mr. Speaker, I rise today to express my deep dismay over President Bush's decision to veto H.R. 2212, which lays out conditions for granting most-favored-nation trade status to China. Last summer, Congress went on record to send a clear message to China that the United States will not ignore its abhorrent human rights record, advanced weapons sales to countries around the world, and unfair trading practices with the United States.

The Chinese Government's brutal suppression of political dissidents is undisputed. We all recall the graphic violence and blatant disrespect for human life that took place during the government's massacre in Tiananmen Square. China has also refused to become a responsible member of the world community with regard to trade and arms control. Granting China unconditional most-favored-nation [MFN] status will only continue to reward China for its refusal to address these issues.

To those who say that cutting off MFN benefits to China will hurt United States economic interests, I ask: Are we really hurting ourselves by conditioning special trade benefits to a country that uses prison labor to produce products for international markets, and which has virtually no respect for United States copyrights and patents?

China has exploited these factors to accumulate a massive trade surplus with the United States and amass huge foreign currency reserves which effectively protect it from outside pressures. One analysis suggest that if the United States were to demand fair and balanced trade with China, our economy would have grown by as much as $25 billion in 1990 and created an additional 400,000 jobs. Yet, despite the unfair trade practices and human rights abuses that have been documented in China over the last several years, the President is only too willing to grant to China the same trade status that we give our best trading partners. Not only is unconditional MFN status for China a slap in the face to the American principle of respect for human rights, it is a slap in the face to American workers and businesses as well.

In adopting H.R. 2212, we give China an opportunity to take corrective action before MFN is revoked. The conditions outlined in this bill place China's MFN status in its own hands. If China makes progress on human rights, trade, and weapons proliferation, then it will be able to retain MFN status. If not, then MFN is automatically revoked. Unfortunately, the President has declined to do the right thing. Using MFN as leverage only works if the Chinese Government knows we are serious about taking this privilege away.

Mr. Speaker, I strongly urge my colleagues to join me in voting to override the President's veto of H.R. 2212 when the time comes. It is time to put some muscle behind our policies with China by conditioning MFN status on real improvements in China's trade and abusive human rights practices.

Mr. SKAGGS. Mr. Speaker, I would yield to the gentleman from Ohio [Mr. KASICH].

STATUS REPORT ON SERGEANT AT ARMS

Mr. KASICH. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I just wanted to take a few minutes to let the House know that I have had the opportunity to talk to our Sergeant at Arms Jack Russ just a few minutes ago.

As you all know, Jack was robbed and assaulted—shot with a gun—on Sunday night.

In a nutshell, what happened was Jack was approached from behind. He had a gun put to his head as the robbers took a watch and a wallet from him. They then put the gun in Jack's mouth, and, as one robber referred, said to the other one, "Let's waste this guy."

By the grace of God, Jack fortunately turned his head and the bullet went through his cheek. As he said to me just a few minutes ago, while it is going to be a difficult time for him and his wife Susan and their sons, Jack expects to have a full recovery from this assault.

I just want to take a second to say something about Jack Russ, who has been a close friend of mine for a number of years. I think it has been unfortunate at times that Jack has been the target of some criticism in this House, because frankly I think Jack kind of lives in a time warp in a way.

You see, Jack was brought up working in the House of Representatives at a time when Members respected one another, at a time that whenever Members had difficulty or got out of line, a powerful committee chairman could call the Members in and rebuke him privately, at a time when the Congress was able to discipline itself.

Jack was brought up under the school of respecting Members, when Members respected one another. We did not spend so much of our time trashing one another, at times out of legitimate concern, and at times though for political reasons.

Jack was here and is here presently to serve the House. He is a courageous man, he is an honest man, a decent man. To those who have had an opportunity to have a personal friendship with him, they stand tall behind Jack.

I know that Jack got calls ranging all the way from the President of the United States, who expressed his deep concern to Jack and wanted to know the details of the incident, all the way to Arnold Schwarzenegger, who called Jack wanting to know how he was feeling.

The bottom line is Jack represents a tradition in this House that I think the House has to move toward in order for us to respect ourselves and to respect this institution, and that is what Jack has been trying to do for so many years. He has been frustrated in many of his efforts, but he is truly a courageous guy.

Mr. Speaker, I know that all of his friends, last night and throughout today, have said their prayers of thanks to God for sparing the life of our dear friend. We wish him and his family the best. We wish Jack a very speedy recovery, and we anticipate that.

Mr. Speaker, I know that Jack would like to hear from all of his friends in the House and across the country. But he also wants them to know that he is going to have this full recovery, and that he will be back coming down this center aisle again with the President of the United States and being able to escort him to the podium and continue to serve Members as he has so well throughout his career.

PROBLEM WITH MUNICIPAL LIABILITY UNDER SUPERFUND

The SPEAKER pro tempore (Mr. BACCHUS). Under a previous order of the House, the gentleman from California [Mr. MARTINEZ] will be recognized for 5 minutes.

Mr. MARTINEZ. Mr. Speaker, before I cover the issue that I am going to talk about today, I would like to join in the comments just made by the gentleman from Ohio [Mr. KASICH] about Jack Russ.

Mr. Speaker, I do not think there is anyone in this House that does not understand that Jack has a most dedicated commitment to this House and to this institution, and it was sorely felt by all of us that such an incident had occurred. We were all concerned about how extensive his hurt was and how soon he would recover.

It is encouraging to hear by the words from the gentleman from Ohio [Mr. KASICH] that Jack will be all right. We have all said prayers for Jack, and our prayers go out to his family, too.

With that, Mr. Speaker, I would like to talk about a situation that is occurring across this country with a great number of cities.

Many years ago, when we moved from burning to burying our municipal waste, no one would have never thought that the cities, who at that time had the responsibility of making sure the waste was properly disposed of in a safe manner, would now be facing third-party lawsuits to the tune of millions of dollars. These cities, from Connecticut to New Jersey to California, performed their duty in what was considered to be a safe manner.

Let me tell you today of just one of these sites in my district, which is now referred to by the EPA as the operating industries site. In 1948, a sanitary landfill opened, operated by the Monterey Park Disposal Co., for the purpose of providing a site for the city of Monterey Park to dispose of their municipal garbage. This was the technology of the day—sanitary landfills.

The Environmental Protection Agency has sought to force industrial polluters to pay for the cleanup of hazardous wastesites like operating industries. But increasingly, these corporations are suing cities, towns, and small businesses in an attempt to make them pay a share of the cleanup costs—just because they contributed municipal trash to the site that in and of itself was not hazardous.

Now a conglomeration of companies, who have been sued by the EPA for cleanup costs at the operating industries site, have initiated third-party lawsuits against 29 cities in the Los Angeles area because they used that site for municipal waste. Most of that municipal waste was household refuse and was not of a hazardous nature. It only developed that characteristic after millions of gallons of liquid, some of it was illegally dumped, and the rest of it dumped by that conglomeration of companies, that are now trying to recover a great fraction of their cost at the expense of taxpayers.

Currently, a couple of cities in my district are being forced to accept settlements because they cannot afford to go to court. These settlements are for outrageous amounts—amounts that will basically bankrupt these cities. For instance, a city in my district, Monterey Park, is faced with a multimillion dollar settlement. As we all know, our local cities do not have budgets that can cover this large of a settlement. This means that valuable city services such as police and fire protection will be reduced.

We cannot afford to let our cities go bankrupt. Not at a time when we are forcing them to take on additional responsibilities through congressional mandates.

I joined several of my colleagues in introducing legislation that would address this problem. H.R. 3026, the Toxic Cleanup Equity and Acceleration Act, will fine tune the superfund law to speed cleanups by blocking these third-party suits over the generation and transportation of municipal solid waste.

But as is the custom in Congress, when the fight gets tough and somebody feels the constituent pressure is not that great, we do nothing.

There was an identical bill introduced in the Senate by Senators LAUTENBERG and WIRTH, and the Senate Environment Superfund Subcommittee held a hearing on this last summer. However, that was the last action taken on either the House or the Senate legislation to correct this problem.

There are those who are afraid to open up this law for amendments because they believe that mischief-makers will take this opportunity to offer unsatisfactory amendments. But we must not be afraid of these amendments. We must work to oppose them, while we simultaneously take the opportunity to correct the municipal liability problem.

There are some in Congress that do not want to open up the Superfund law to correct this situation because they believe that the administration will correct the situation.

Clearly this has not happened. Although the EPA established an interim municipal settlement policy in 1989 stipulating that the Federal Government will not sue municipalities or others who merely generated or transported municipal solid waste or sewage sludge under most conditions, they have not successfully addressed the problem of third-party lawsuits.

Moreover, when cities indicated they would like to settle with EPA, EPA has taken a couple of different stands. On one hand, they are reluctant to upset the companies who are now paying for cleanup costs. On the other hand EPA has taken the stance that they can't settle because they didn't think they should sue the city in the first place.

Of course, the EPA claims that local governments could protect themselves from these suits by reaching a settlement with EPA on cleanup costs at a site. The Superfund law exempts parties that settle with EPA from liability suits by other parties that may be liable.

But they have not yet aggressively pursued this relief for cities. Last August I attempted to rally support for this legislation by providing the citizens of the affected communities with information on H.R. 3026.

Many of them followed through with my suggestion to write to President Bush in support of H.R. 3026. It is my understanding that those of you who received a response, got a letter from EPA expounding on the way they were going to handle the situation without the need of legislation.

Well, in December, EPA Assistant Administrator Don Clay suggested a trial formula for how EPA would allocate costs at Superfund sites that included municipal disposal. This formula would have resulted in shifting billions of dollars of the cleanup costs to the cities and towns because it would have been based on volume. Sure it was the volume of waste but it was the liquid and commercial waste that caused this problem.

I again joined with a number of my colleagues in Congress in writing to the EPA Administrator, William Reilly, in opposition to this formula. Since that time, I understand that the EPA has met with members of ACCE [American Communities for Cleanup Equity] and other interested groups in an attempt to draft a new formula.

EPA has still not decided precisely what to do about the formula. They are expected to come out with a preferred option sometime this month, but they have dragged their heels on this for a long time, and I question whether their "guidance" will be published this month. I am even more doubtful that it will adequately address the problems that the cities have been facing with these lawsuits.

Since the President and the EPA do not seem to see the impact that these lawsuits have had on the cities, and the problems that the cities will face if they are forced to pay for a substantial portion of the cleanup cost, I believe that it is up to Congress to pass legislation that will assist our communities and citizens in their fight against these unfair lawsuits.

Now no one, not me and not the cities are saying that cities should exempt from paying for the cleanups if they dumped hazardous waste at the sites.

But it is a fact that municipal wastes are typically of minimal toxicity—around 0.002 to 1 percent. For that small percentage, should our cities and towns be forced to pay large amounts for cleaning up the site. I do not think so. In fact, some groups have stated that by placing hazardous wastes from the corporations in with the municipal waste, the municipal waste was able to cushion the hazardous wastes from spreading more quickly into our ground. The corporations probably do not want to acknowledge this possibility, because it would lessen the impact of their lawsuits.

This year Congress is expected to work extensively on revising the Resource Conservation and Recovery Act, commonly referred to as RCRA. This is the Nation's solid and hazardous waste management law. While the primary focus of this will be on promoting recycling, reducing toxins in the waste stream, ensuring safe disposal of various solid wastes, and regulating recycling of hazardous materials, I am hopeful that the members of the responsible committees are not blind to the problems that exist in the Superfund statute.

Whereas we must address the problems that exist in our environment, we must simultaneously not allow our local government to go bankrupt. I hope that my colleagues on the Energy and Commerce Committee are listening, and that they realize the importance of this legislation so that action will be taken to address the Superfund loophole that allows third-party lawsuits against local governments at a cost to the local taxpayer.

☐ 1605

THE BUDGET SUMMIT AGREEMENT

The SPEAKER pro tempore (Mr. BACCHUS). Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 60 minutes.

Mr. DELAY. Mr. Speaker, I take the well of this House to try and emphasize what is going on in this House as it relates to tax policy and budget policy and economic policy for the Nation.

We are seeing a repeat of 1990. We are seeing a repeat of what has been going on in this Chamber for so many years.

I think the American people need to realize and take a hard look at what is happening here.

If we go back to 1990, the so-called budget agreement of 1990, where we were promised spending reforms, if we would just raise $185 billion in taxes. We were promised a 5-year plan that would start us on a path of deficit reduction to maybe not a balanced budget in 5 years and by 1995, but certainly the deficit would be down to a controllable level.

And the whole reason for the budget summit that led to the budget agreement was that the real discipline that we had in this government under the name of Gramm-Rudman was about to impact the ability of this Congress to spend outrageous amounts of money. We were going to see across-the-board cuts happen because Gramm-Rudman dictated certain goals that we had to reach in spending. And if we did not reach those goals, there would be across-the-board cuts in spending by this Congress.

Yet no one wanted to approach that disaster, as they called it, of actually doing something and cutting spending by the Government. So we went into the budget summit. We came out with increased taxes, a promise of a 5-year plan whereby we would get the level of the deficit to a reasonable level.

Those of us that stood in this well time and time again, day in and day out, week in and week out, warning the President and this Congress that what they were doing was disastrous in the face of the recession, that one cannot raise taxes, one cannot increase spending in the face of a recession or one would lengthen the time of the recession and the depth of the recession. It would be disastrous.

We were a little wrong in our projections. We felt like that the budget agreement would get us to around $300 billion, maybe $350 billion in deficits. We were wrong. They are at $400 billion in deficits. Spending is going through the roof and what do we see happening?

Last week, once again, this Congress controlled by the Democrats raised over $90 billion in taxes and we are not even out of this recession yet. And what is going to happen this week? They are actually going to increase spending. They will come running down to the floor and say, "No, we are not increasing spending."

But what they are going to do is they are going to abrogate or they are going to bring down to this floor a proposal to abrogate the budget agreement and the spending restraints that were in the budget agreement by eliminating the firewalls to cut defense by even more than what the President wants to cut defense and use that money to shift over into domestic spending.

□ 1615

How does that increase spending? That increases spending because that raises the baseline. The baseline, basically, in everyday language, what we do here is we look at last year's spending and increase it from last year. Last year's spending is basically the baseline from which we work. So if you take domestic programs and increase the baseline, then you are indeed increasing spending and you are making the caps on spending that were set by the budget agreement floors. They are not floors. They are supposed to be ceilings, and we can reduce spending under those ceilings.

The Republicans have time and time again come to the floor, and unfortunately we are in a minority, and we have told the American people that in the face of a recession you have to create a climate for job creation. The way you create a climate for that is you leave more money in the pockets of the American family. You do not tax productivity, you do not punish those who want to risk their money by starting a new business or investing in stocks that allows corporations to raise capital to reinvest, or you do not penalize people for saving their money so that their capital can move in the market and be invested in efficient ways. We do that by cutting spending, not by a sham of taking from one group of Americans and giving to another group of Americans for every short period of time.

I would like to get into some of the details of that, Mr. Speaker. For years the Democrats in Congress have lamented the demise of the middle class. According to their version of the 1980's, working Americans were victimized by the inequitable tax policies of Ronald Reagan and George Bush.

This week, House Democrats passed their long awaited proposal to provide tax relief to the beleaguered middle class, a temporary, 2-year tax credit. Apparently the decade of trickle down economics was not as bad as the Democrats claim if the damage to the middle class can be repaired in just 2 years.

While the Democrats' tax credit is temporary, their method of financing is not. In exchange for a 2-year tax credit, the Democrats increase the top income tax rate from 31 percent to 35 percent. They increase the alternative minimum tax from 24 percent to 25 percent. They impose a 10-percent surtax on millionaires. They extend the phaseout of personal exemptions and itemized reductions, and prohibit businesses from deducting executive salaries over $1 million. If the Democrats are successful in stopping businesses from paying their executives over $1 million, who is going to pay the millionaire's tax?

The Democrats' proposal would provide an income tax credit totaling about $46 billion in exchange for a $78 billion tax increase on the rich. Then, according to the Joint Committee on Taxation, raising taxes on the rich will bring in the revenue necessary to pay for the Democrats' tax credit. However, there is a growing body of evidence which suggests that the estimates by the Joint Committee on Taxation are inherently flawed.

The Tax Reform Act of 1986 reduced the top income tax rate from 50 percent to 28 percent. But what has been forgotten is that this law provided a transition year in 1987, during which the top income tax rate was 38½ percent. According to the projections by the Joint Committee on Taxation, this higher rate would result in the rich paying more taxes in 1987. In fact, the tax return data from the IRS shows exactly the opposite. The rich paid fewer taxes in 1987. While the tax rate on taxpayers with incomes over $100,000 rose by 11.4 percent from 1986 to 1987, their tax payments decreased by ⅒ of a percent. For taxpayers with incomes over $1 million, the change was even more dramatic. The tax rate rose 25 percent, but tax payments fell by 31 percent.

When the lower tax rates of the Tax Reform Act of 1986 finally took effect in 1988, the amount of taxes paid by taxpayers making over $100,000 rose by 28 percent, while the amount of taxes paid by taxpayers making over $1 million rose by 72 percent.

As Larry Lindsey points out in his book, "The Growth Experiment," upper income taxpayers have enormous discretion over how and when they receive income, and over whether it will be exposed to taxation. Tax cuts that prompt them to take more income in taxable form will improve Government revenues. Tax increases will have the opposite effect.

The inherent flaws of the Joint Committee on Taxation's estimates were further revealed in 1989, when Senator BOB PACKWOOD asked the Joint Committee to estimate the revenue effect of a 100-percent tax on individuals that make over $200,000. The Joint Committee on Taxation said such a tax would raise $104 billion in the first year, and $299 billion by the fifth year. As Senator PACKWOOD noted, the Joint Committee on Taxation assumes people will work if they have to pay all of their money to the Government, they will work forever and pay all the money to the Government, when clearly anyone in their right mind will not.

Another problem with the Joint Committee on Taxation's revenue estimates stems from their reliance on data from the Congressional Budget Office. When preparing revenue estimates, they use the baseline economic forecasts prepared by CBO. However, CBO has seriously overestimated capital gains realizations every year since the passage of the Tax Reform Act of 1986. As the gentleman from Texas [Mr. ARMEY] recently noted, CBO overestimated capital gains realizations by over 100 percent, over about $130 billion in 1990 alone. Thus, revenue estimates prepared by the Joint Committee on Taxation have overstated capital gains tax revenue by as much as $20 billion to $30 billion a year. Ironically, their annual error is greater than the entire 6-year cost they attribute to the President's capital gains proposal.

While the Democrats have tried to frame the political debate in terms of tax fairness, the facts prove that the income tax code is already fair. In 1977, the year generally chosen by the Democrats as a basis of comparison, the top 20 percent of families paid 68 percent of all income taxes. The bottom 20 percent of families paid a minus three-tenths of 1 percent of all income taxes. In other words, they actually got money back from the government, largely as a result of the refund amount earned income tax credit. By comparison, in 1992 the top 20 percent of families are projected to pay 75 percent of all of the income taxes while the bottom 20 percent will pay a minus 1 percent of all income taxes.

Of course, rather than looking at the share of taxes paid by the rich, the Democrats like to focus in on the tax rates of the rich. They argue that while the rich may be paying more taxes, they are paying less as a percentage of their incomes. However, again the facts prove otherwise.

In 1977, the top 20 percent of families paid an effective income tax rate of 16 percent. In 1992 they will pay an effective income tax rate of 16.3 percent. In fact, they are the only group of families who have had an increase in their effective income tax rate.

So if the Democrats are wrong about the income tax burden, why do middle-income families feel so squeezed? The answer is Social Security taxes. While income taxes rose from 1977 to 1981, they have since declined almost back to their 1977 level.

□ 1625

Social Security taxes, however, have risen steadily from 5½ percent of gross domestic product in 1977 to 7 percent in 1992. That is an increase of almost 30 percent. Social insurance taxes have gone up by 30 to 40 percent for all families. Social insurance taxes are comprised of Social Security taxes, Medicare taxes, railroad retirement taxes, unemployment insurance tax, and Federal employee retirement contributions. By far, the largest component of these taxes is the Social Security payroll tax, representing over 70 percent of total. In 1977 the Social Security payroll tax was 9.9 percent on the first $16,500 in wages. In 1992, the tax rate is 12.4 percent on the first $55,500 in wages. That represents a 25-percent increase in tax rate and a 236-percent in the taxable wage base.

This year, 71 percent of all families will pay more Social Security taxes than income taxes. I want to repeat that: This year, 71 percent of all families will pay more Social Security taxes than their income taxes.

For the bottom 20 percent of families, that rate is 97 percent; 97 percent of the poorest Americans will pay more Social Security taxes than income tax, and despite the overwhelming evidence that Social Security payroll taxes are almost solely responsible for the rising tax burden on the middle class, the majority of this Congress is unwilling to address this issue directly.

Each party fears the other will accuse them of cutting Social Security benefits and, as a result, they engage in Social Security tax cuts by proxy.

As the Congressional Research Service has noted, increases in Social Security taxes were passed in 1977, but the following year income taxes were reduced to offset the impact of these hikes on individual taxpayers. Similarly, the earned income tax credit was enacted to offset the Social Security tax bite on low-income workers with children.

By linking their refundable income tax credit to the amount of Social Security and Medicare taxes an individual pays, the Democrats' proposal is designed to give the appearance of cutting the Social Security payroll tax. However, by capping that tax credit at $200 for individuals and $400 for couples, the potential economic benefit is reduced by 75 percent.

Thus, the Democrats' proposal is only a pale imitation of a real Social Security payroll tax cut. The belief that the income tax changes of the 1980's resulted in an inequitable distribution of the tax burden is a myth, a myth perpetuated not to justify cutting taxes on the middle class but as an excuse to raise taxes on the rich. This fact is clearly demonstrated by the House Democrats' cynical proposal to provide a temporary 2-year tax credit in exchange for a permanent tax increase.

The Democrats have, once again, revealed their true agenda, raising taxes, not providing tax relief for the beleaguered middle class that they profess to be concerned about.

As I opened my special order, I mentioned that they raised taxes last week. This week they are going to increase spending, but it is an interesting story.

I would like the gentleman from Ohio [Mr. KASICH] to relate to us what has been going on in the Committee on the Budget and what kind of proposal the Democrats are bringing to the floor of this House which is a nonbudget budget proposal in that we are getting all kinds of options.

If the gentleman would, I yield to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. First of all, I want to commend the gentleman from Texas, and I do not want to commend him like people come to the floor to commend people in these patting-each-other-on-the-back types of deals. I want to commend him for his great work on the Republican Study Committee, and the gentleman from Texas [Mr. DELAY], in the bottom line, has guts and should be recognized for his actions and his courage. He has been that way since he got here, and when he makes people mad just because they do not agree with him, and they get mad at him, he says, "That is life." He is not up here to get a gold watch for serving. He is up here to try to make a difference, and I believe the gentleman is making a difference. I very much prize my friendship with him as well.

The gentleman does know what happened in the Committee on the Budget. We now have a concept called the budget de jour and defense de jour.

The chairman of the Committee on Armed Services came to the Committee on the Budget with four different alternatives that he said should be included in the overall budget for our country, and then what the Committee on the Budget did is they passed two different budget numbers, plan A and plan B, so you have four different possible defense-number alternatives combined with two different Budget Committee alternatives, and it truly is a very bizarre way to operate.

The reason why I say this, and I want to be clear on this, is I think the American people are very, very frustrated with the lack of leadership. They do not want us to tell them what they want to hear, and they also do not want to be confused about the direction that we ought to go. What we have emerging from the Committee on the Budget is a two-direction budget, with a four-possible-direction defense plan, and at a time when people are crying for leadership, "Please, make some strong statements, tell us what direction we ought to go, do something about the massive Federal deficit."

Unfortunately, the Committee on the Budget, because of difficulties within the Democratic conference, is trying to accommodate everyone, and it just does not send the right signal and the right message.

Now, I want to make it clear that this is not an effort on my part to trash the chairman of the committee. I believe I knew where the heart of the chairman really is, and I think the chairman of the committee, in fact, does want to control Federal spending. I think it is the schizophrenic nature of the Democrat conference that has put the chairman, the gentleman from California [Mr. PANETTA], in this position as well as the schizophrenic nature of the Democratic conference that put the gentleman from Wisconsin [Mr. ASPIN] in a position where he had to propose four different plans.

But I must say to the gentleman from Texas that if the President sent up two separate budgets, four different tax proposals, in fact, as I watched the C-SPAN debate on the Committee on Ways and Means, the President had a package that the Democrats sent up here. I think the gentleman from Missouri [Mr. GEPHARDT] proposed the President's tax program. It was not accurately presented, but he presented what he thought was the President's version.

The Republicans in the House took a look at it. We made some modifications to that proposal, and for about 3 days we heard nothing about the fact that the President could not make up his mind which tax bill he wanted, while at the same time they delivered to us a historic budget de jour document where we really do not know what the position of the Committee on the Budget is, and it just, you know, what this does, this leaves people thoughout the country who watch the Committee on the Budget debate of which I do not think there are many that would have stayed tuned for a very long period of time, just shake their heads and say, "You know, this place, this Congress, is just incapable of making any hard choices and doing what is in the best interests of the country."

Let me say one word on behalf of the President's budget. The gentleman from Texas [Mr. DELAY] and the gentleman from Pennsylvania [Mr. SANTORUM] and the gentleman from Washington State [Mr. MILLER] and I put together a budget document, and we shared this budget document with the administration before the beginning of this year.

I must say, to the credit of Mr. Darman, he came to Capitol Hill, he met with us, and while he did not adopt all of the proposals that we had in our document, the administration did, in fact, incorporate a number of the proposals that the so-called Gang of Four had put together.

We are pleased with the fact that they are trying to freeze discretionary spending authority, although the gentleman from Texas and I would certainly like to see the outlay problem reined in. We must compliment the administration for at least adopting an idea that the gentleman from Texas and I offered last year, which was to freeze budget authority.

In the area of defense, the administration has made some hard choices on weapons systems, something they had not done before, and I think have put the defense numbers in a realistic posture, and, you know what is interesting, I must say to the gentleman from Texas, is the difference between what the administration proposes on defense cuts and where the administration are not significantly different in this first year.

□ 1635

So all this campaigning about this giant Defense Department slush fund out there that is going to be used to solve all our problems, the Democrats themselves have come to realize that if we cut too deep in defense, we will not only undermine national security at a time when we are making already dramatic cutbacks in defense, but beyond that we would be throwing massive amounts of people out of work in order to recognize the priorities of some liberals who would like to spend defense money on more social programs.

The interesting thing about that, I say to the gentleman, is that we could find ourselves in a position where we are cutting defense to provide more money for Head Start, while at the same time the kids who are in the Head Start Program are seeing their parents thrown out of work just for political reasons; but the administration moved in our direction on defense and also moved in our direction on entitlements where they are trying to means test Medicare part B in lower numbers that we have suggested and have adopted a number of other concepts, including doing away with the waivers on workfare programs instituted for performance-based budgeting.

But let me say clearly that we are not really fully happy with this proposal. We would have done more in the area of foreign aid and we would have had more comprehensive reform; but I think it is fair to say that we have gotten the attention of the administration in the area of foreign aid reform, and I believe that the gentleman would agree with me that the administration has made a commitment to take a look at the reform package that we have. We took it to the committee, all the Republicans in the Budget Committee supported it.

To make a long story short, for the first time since I have been in Congress and during this administration, four guys have been able to make an impact on the administration.

I think we ought to give the President great credit and I think we ought to give the Budget Director credit for having listened to us and giving us an opportunity to impact on making a better budget.

But let me make it clear, we have got a long way to go. We have a $400 billion deficit. As the gentleman from Texas knows, we are facing bankruptcy in this country if we do not get our act together.

I know the gentleman has agreed with me that we need to start almost immediately in fashioning a bold innovative plan for next year. The thinking at this point is what I think is a bold plan that we put together was listened to, but we need to go a lot longer.

I talked to the Budget Director today and told him as much and he said that he agreed that we needed to be more bold in terms of reducing deficits, and I believe him when he says he is concerned about it.

The gentleman from Pennsylvania [Mr. SANTORUM] and the gentleman from Texas [Mr. DELAY] and the gentleman from Washington [Mr. MILLER] will be retiring, which is a tragedy, but he will be here in spirit, and the gentleman from Ohio [Mr. KASICH] will come next year with an even more bold and innovative approach and with even less reason to compromise.

At this point, though, I think we have made great progress, I say to the gentleman from Texas. It is not perfect, but you have got to start somewhere. At least we have the attention of some people.

When we debate this whole budget business, Republicans ought to be able—nobody should be supporting this budget de jure policy. This is an absolute terrible way to be budgeting in this House, but the signal it sends is just business as usual and more of the same, more confusion, more catering to different interest groups and more politics, and it is terrible.

Mr. Speaker, I appreciate the gentleman taking this special order. I appreciate him being patient with my remarks, and again I want to commend him for his leadership.

Mr. DeLAY. Well, Mr. Speaker, at the risk of sounding like a mutual admiration society, I have to tell, through the Speaker, the constituents of the gentleman from Ohio that if it were not for the gentleman from Ohio, we would not be progressing toward a budget that actually would freeze domestic spending, cut defense spending, and bring reforms to the entitlements of this country, where the real spending is happening.

The gentleman from Ohio [Mr. KASICH] on his own by himself fashioned several budgets over the years.

Last year he got more votes than anybody else except for the budget that actually passed.

The gentleman has stood up to criticism, not only from Democrats, but criticism by his own colleagues on the Republican side of the aisle and he stood up for what he believed and he is starting to see the fruits of those labors.

The gentleman has real courage and the man, Mr. Speaker, is driving to force the Congress as well as the administration toward a meaningful reduction in the deficit and hopefully creating a future for our children and our grandchildren.

Mr. KASICH. Mr. Speaker, will the gentleman yield further?

Mr. DELAY. I am glad to yield to the gentleman from Ohio.

Mr. KASICH. I do, of course, appreciate the gentleman's comments, but let me say that the gentleman mentions the entitlement programs which are the big cost driver in the budget, not that the other items are not cost drivers as well, but if we are ever going to solve the problems of entitlements, we have got to control those factors that dramatically increase the cost of entitlements, and those are generally located in the area of medical reform.

We got about 30 bills that the Democrats have introduced, including pay-or-play and their national health insurance Canadian system and all that.

We have the President's document as well as the task force.

I must tell the gentleman that while I think the President's bill is a step in the right direction, much more cost containment must be done.

I want to say to the gentleman that this year we kind of put off our work in the area of medical care reform.

We have, as the gentleman knows, our own IRA plan, what we call the Medisave plan, to try to bring down the costs of medical care, but I will tell the gentleman, I personally believe that we have got to take on physicians, insurance companies, lawyers, and we have got to demand more out of patience in terms of copayments and their own ability to keep themselves happy.

We have got to tackle this problem, I say to the gentleman, because if we do not tackle the problems of the dramatically increasing costs of medical care, we cannot solve the problem of dramatically increasing Medicare and

Medicaid and the tremendous problems that we are all experiencing with the rising costs of medical care.

But let me say to the gentleman, it is going to take guts and I think we are going to have to provide that leadership and introduce our own package, if we do not see more in the area of cost containment.

It means that everybody is going to have to bite the bullet a little bit, but I think everybody is willing to as long as it is a fair package. That is ultimately the way we are going to get at the problem of dramatically increasing entitlement programs is to remove those cost drivers. It is going to take guts, but I cannot think of a better man to do it than the gentleman from Texas to get a handle on this problem.

Mr. DELAY. Well, Mr. Speaker, this gentleman is committed to follow the gentleman from Ohio in making those tough decisions and trying to provide the leadership, leadership that is totally absent in this House and over in the Senate.

I mean, the very idea, and I think it is the first time, I cannot remember, I have not been here very long, this is my eighth budget debate that I will be going through, I cannot remember the Budget Committee not coming down with one product, one budget to debate on this floor. Now, there have been substitutes, but as a product of the leadership of the Democrat side of this House to be a hodgepodge, as the gentleman says, the budget de jure, of coming with two different plans to pick from and four different plans for defense posturing of this country, is just outrageous. It is a perfect example of the lack of leadership in this House. This House is being led by consensus. It is amazing to me how they hold a Democrat caucus meeting and they come out with two different proposals, or they hold a Budget Committee hearing and they come out with two different proposals.

Where is the Speaker of the House? Where is the majority leader of the House? Where is the chairman of the Rules Committee? Where is the chairman of the Budget Committee? Those are the people who are supposed to be leading the majority party of this House, yet before they leave they always check the temperature of certain groups within their caucus. That is not the way to lead. The way to lead is to stand up for something and then follow through with that proposal. That is not what we are getting out of the budget.

I cannot wait for them to bring down this plan A and plan B budget that they passed out of the Budget Committee. I cannot wait for the American people, Mr. Speaker, to see what is going to happen in this Chamber this week, the majority of the House bringing down two plans saying, "We don't know. We don't know what we need to be doing in 1993. We don't know how we should be spending all the taxes that we are increasing and raising on the American people."

□ 1645

"We are just going to give you several options. It will be the 'cafeteria of budgets,' and we will give you several options and see what will happen."

I will tell you what will happen, probably: No budget will pass. And I hope one does not pass, so that the American people will see the lack of leadership in this House. But what is the ultimate outcome of this incredible lack of leadership? The American people are going to be hurt by the lack of leadership of this Congress. I hate to sound like a doomsday sayer, but you have got to look at the facts.

Mr. Speaker, the debt of this country is almost $4 trillion, and if you add all the liabilities of this Federal Government, pension plans and so forth, it amounts to almost $12 trillion.

Now, I read an illustration the other day by Larry Burkett of what $1 trillion is. I do not think the American people understand what $1 trillion is. But this is so illustrative of what $1 trillion is: If you take $1 million of thousand-dollar bills and tightly pack them together, they measure 4 inches high. If you take $1 billion of thousand-dollar bills tightly packed together, it measures 300 feet high. If you take $1 trillion of thousand-dollar bills tightly packed together, it measures 60 miles high, $1 trillion.

And we are $12 trillion in debt.

In fact, it takes all the taxes raised from all the Americans living west of the Mississippi just to pay the interest on our debt today, today. If we continue down this route that we are going, by 1995 it will take all the taxes collected from all the Americans in the United States just to pay the interest on the debt of the United States.

Now, what is the result of that? What can we do about it? We have, in my opinion, a window of 2 years that we have got to show some political stability and backbone in this Congress and out of the administration to come.

We have got to realize that the future of my daughter, who is going to college right now and who will be getting out by the that time, 1995, as it comes around, and she—and if she gets married—she and her husband will be looking for a job, and there will be no jobs because by that time the only way that the U.S. Government will be able to pay off the debts and pay the interest on the debt, and then we are looking in a very short period of time to the baby-boomers retiring and we are going to have to come up with an incredible amount of Social Security taxes, the only way we can pay those debts is to print more money—monetizing the debt they call it.

If you print more money to monetize the debt, what do you get? You get hyperinflation. When you get inflation in the realms of 20 percent, 30 percent, and it could go as high as 100 percent inflation, there are no jobs out there, friends. Your children will not be able to find a job. Your grandchildren will be paying the debts of this generation.

I think it is terribly immoral, and that is what we are talking about, that there does not seem to be a change in direction, for the climate to change so that jobs can be created, so people can keep more of their money in their own accounts rather than send it to an inefficient Government to spend on inefficient programs that have a very low success rate.

We are in the position today this year and next year to make a real difference if we can find some real leadership. We have got to cut spending. We do not need to raise taxes. We cannot raise taxes. It does not matter if it is on the richest of the rich or the poorest of the poor, you cannot take more money out of the private sector for inefficient government and expect things to change.

We have got to stop raising taxes, we have got to cut spending and bring more efficiency to Government so that we are not wasting good taxpayer dollars. We have got to put this country on the road to lower deficits and less spending and less taxing so that the American people can realize their dreams, they can get their job, they can make money, they can invest it, they can save it, they can provide for their own retirement, and they will not have to rely on Medicare or Medicaid or Social Security for their retirement.

These people that live in this country deserve better than what they are getting out of this House, and the only way they are going to be able to change things is to bring about a peaceful revolution and send a real message, not just a message to George Bush—that is all we hear about—the elected officials of this House of Representatives in a message from the American people. I hope they will get it.

Mr. Speaker, I was getting really overwhelmed here. But I just want to thank the gentleman from Ohio [Mr. KASICH] for coming down and helping me with this special order, and I hope the American people will finally realize what is going on in this Chamber, and I hope the American people understand that we cannot continue business as usual, we cannot continue to raise taxes, increase spending, and increase the debt on the children of America.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

THOUGHTS ON THE POSSIBLE TURNOVER OF LIBYAN TERRORISTS TO THE AFFECTED COUNTRIES

The SPEAKER pro tempore (Mr. BACCHUS). Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. I thank the Speaker.

Mr. Speaker, I do not intend to take the whole 5 minutes. This is something that I have been wanting to talk about since before we got out of session.

Basically, it revolves around the actions of the country of Egypt. I was dismayed today to read in the paper the controversy that now has cropped up with regard to the Libyan situation versus the British and the United States, our position on the terrorists, the turning over of these killers to the countries that are affected. I hope that the Egyptians will be consistent, with the courage they have shown in the past, as they work through this issue.

The purpose of my comments, though, is to step back just a little bit in time and to take just a moment to praise the country of Egypt, which has been a great ally of the United States. I would like to refer to two specific incidents in particular.

One was the courage of President Mubarak and the country of Egypt as they rallied with the United States in the gulf war behind the great actions of our President in an effort to stop Saddam Hussein.

President Mubarak exercised great courage and great commitment to his friendship with the United States in his efforts to support us.

Furthermore, the Egyptians also showed very great leadership in regard to the Arab-Israeli negotiations, the ongoing negotiations.

You might recall, at the beginning of those negotiations there were a number of stumbling blocks that had to be crossed. It was because of the actions of President Mubarak and the Egyptian Government that we were able to overcome those obstacles and to get what is going to be a very delicate, very difficult peace process under way.

Mr. Speaker, I look forward to the Egyptians continuing to play a role as a country interested in the long-term solution. I would hope they can in fact find the will to be able to work with us on resolving this most difficult problem regarding the Libyans and the terrorists who were responsible for the killing of innocent people. I hope they will work with us on that.

There is no reason that they will not ultimately support us, because the actions of President Mubarak and his Government have been beyond reproach. The President deserves to be praised. The Egyptian people deserve to be praised because of very difficult times when we reached forks in the road about where the world was going to go, whether they were going to follow the leadership of President Bush and the United States or whether they would run, hide in the weeds, follow the, what I think is, terrible policies of King Hussein of Jordan and basically walk away from responsibility. They did not do that.

□ 1655

They stood up strong and have provided great leadership, and I want to let it be known that I greatly appreciate the help of the Egyptian Government in being able to resolve many of the problems that the world has faced in very difficult times in a region that requires great patience and great courage.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore (Mr. BACCHUS). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Yesterday, Mr. Speaker, I reported on the Commodity Credit Corporation export promotion program that inured to the benefit of Iraq, and its arms buildup and its ability to wage war in the Middle East. I also illustrated, and I placed in the RECORD, which was printed and delivered to the Members, or accessible to the Members, today, the documentation that reflects these transactions and illustrated how the Bush administration used the CCC Program as a foreign policy tool, as well as the Export-Import Bank. I showed how the Banco Nacionale della Vordo, the Italian bank agency in Georgia, or, for brevity's sake, and BNL scandal, affected that program and, as well, the United States national policy, at least under this administration, toward Iraq. I also shed light on Secretary Baker and Deputy Secretary Eagleburger; that is, Deputy Secretary of State Eagleburger, in his role in prodding the National Advisory Council to approve the $1 billion in CCC Programs for Iraq in November 1989, and I revealed that, prior to the NAC decision, Secretary Baker met with the Iraqi Ambassador, Tariq Aziz, in October of that year to discuss the BNL scandal and the BCC Program.

Now we talk here about budget imbalances and the like. How in the world can we justify the parsimony with which the same administration and a good segment of the Congress, I must admit quite regrettably, deals with the domestic needs and our own ability to endure as a viable nation, let alone as a leader of the world when, so cavalierly, not thousands, or hundreds of thousands, or millions, but billions of dollars are paid for by the taxpayers, because all of these credit guarantees mean that, guaranteed by whom—the U.S. Government.

Well, what does that mean, the U.S. Government? The taxpayers. There is only one source of money for any government, and that is taxes, taxpayers.

So, Mr. Speaker, today I want to follow through and report on some of the events that occurred immediately after the NAC decision of November 6, 1989.

I also mentioned yesterday that we have learned nothing, apparently, through the years. As I said last week, we are like the old Bourbon kings. We learn nothing and forget nothing. But we are supposed to be a democracy, and the fact is that we have not learned anything because even today as I am speaking, not only on a Middle East level, but in far distant regions of the world, in the Far East, we are getting involved in the same kind of transaction in which directly and indirectly we are funding nations and activities that can very well imperil our national security tomorrow. Not next year, but tomorrow.

Now, as I said in yesterday's report, in November 1989, after intense lobbying by the State Department—and I have those documentations in today's RECORD—the NAC decided to approve a $1 billion CCC Program for Iraq.

It was decided at that time to offer the Iraqis in two tranches of $500 million each these guarantees, and under the protest this is the reason why Secretary Baker met with the ambassador, Aziz, who was saying, "Hey, look. We thought we were friends. What do you mean you're just going to let us have $500 million? We thought the deal was for a billion."

Actually it was more than that. The total amount of guaranteed credits just through the CCC alone, not including the Export-Import Bank, the RECORD will show amounted to $5 billion, of which the taxpayer has ended up holding the bag for over $2 billion. That is incredible, and yet it is true.

Now one reason is that our banking laws are of such a nature, and have been, that the national interest is not protected. The people, as in other areas, for instance interest rates, and I will not go into that now, but I am just using that as an illustration of how the American people are stripped naked from any defense in the very basic things such as the allocation of credit. Allocation of credit has been from the beginning of our nationhood the prime issue. It was the issue in the First Continental Congress, in the Second Continental Congress, and then after the adoption of the Constitution in 1789, and under the impulse of the Secretary of the Treasury, Alexander Hamilton, the formation of the first U.S. bank, that was a big issue.

Mr. Speaker, I say to my colleagues, "If you think mean things are being said about bankers as a class today, you ought to read what Thomas Jefferson said and a few of the other leaders of that day," and what was the issue? It was exactly that. Who is going to wield the power of allocation of credit to the Nation, to the people? And of course all through mankind's history that has been decided in a diverse manner and way.

But if we are talking about the greatest national interest, the greatest interest of the greatest number, then we have to go back to our roots, and we have to see how men like Jefferson did not capitulate as tragically as other leaders in the 20th century have particularly, and certainly since the adoption of the Federal Reserve Act of 1913, and more certainly in the latter two or three decades and when we emerged from the hot-shooting phase of World War II.

Mr. Speaker, I used to say, and we at the end of World War II used to say, "Well, there is no peace treaty," and there still is not, but we had other things happen. We had the emergence of some of the defeated and conquered nations who today financially are in positions of tremendous strength.

□ 1705

All through history when an individual, as well as the collective body known as a nation, forsakes its beginnings, forgets its hard beginnings, and it then sells or trades its inheritance "for a mess of pottage" in the words of the Scriptures, there is only one thing happening, and that is to the detriment of that nation's interest.

When we add to that the lack of vision, and again, in the words of the Testament, where a nation has no vision or where there is no vision, "a nation perishes."

We have gone down a dangerous road to the point where at this particular time, and with little incidents such as these Iraqi transactions, guaranteed by taxpayers, incredibly, and still going on, in fact, more than ever.

Let us look at the commitments the Export-Import Bank has made just within the last 6 or 7 months with Kuwait, with the tremendous wealth that Kuwait is supposed to have, and we will see that we have learned nothing.

But the banking laws, who would think, as so many of my citizens did not want to think just a few years ago, when they would ask me and say, "How come we have prime interest rates of 20 percent and 21 percent? We thought there was a law against usury." I would say, "No, there is not. On the national level, the limitation we had from the beginning of the Nation was done away with in 1865 with the National Currency Act of that year."

That was right after Lincoln died. When Lincoln died, that problem was the one that was uppermost in his mind, because he knew what the forces were and what was shaping up.

Nevertheless, be that as it might, it surprised many of my fellow citizens to discover that there was no such thing. In fact, it is the other way around. The States that had anti-usury or interest rate controls have, all with the exception of about two or three at the most, have been done in because of the Federal Government and its policies in removing any kind of interest rates.

Going back to the origins, and that big, big argument, who allocates credit, today who does allocate credit? Is it the Congress? Is it the President or the elected people who are supposed to be the agents of the people en masse? No, not at all. Those forces are now what they call, in fancy parlance, exogenous. They are not within the control of the people. Therefore, we do not have to be prophets to know we are in deep trouble.

To continue with this specific case, because it is revelatory of the malaise and of the illness, and at the bottom of it, the failure of the Congress, and rightly or wrongly, of the committees, such as the Committee on Banking, Finance and Urban Affairs that I have the honor to chair. It has been an anguishing at least 30 years that I have been here in the Congress, that I have belonged to the committee, and I cannot begin to tell the anguish over the almost demoralizing things that I could see palpably happening.

Fortunately, I had the sense of accountability to record that over the years in the record known as our CONGRESSIONAL RECORD. What I say now is in hindsight. It is what was obvious to anybody sitting on this committee charged with the sense of trust.

In law, down through the years in the American corpus of law we have the phrase known as "Cestui que trust." That is considered as the trust that one who has the power of making and manufacturing money, which under our fractional system the bankers do. A bank can manufacture through the issuance of credit 10 times the amount of money it actually has in deposits. It always has, through our fractional currency system or reserve system, fractional reserve system.

In our tradition that is known as a trust. It used to be, and the law is still there and that phrase is still there, that banks were chartered. If one wanted to form a national bank, one then applied to the Comptroller of the Currency, who incidentally is not appropriated for by the Congress. The Comptroller of the Currency operates on the fees and monies he derived from the examination of the banks under his jurisdiction, so they have tended to be quite independent all through the years. I have had a series of Comptrollers come before the committee. If we lose the control, it is not there. The reason I am particularly sensitive to the need for adequate legislation is that despite the amendments we tacked onto the banking bill last November in this area known as the international banking law area, the reason I am continuing this is because I do not think it is still sufficient to provide that oversight and that accountability that ought to be on the part of our regulatory authorities acting in the name of the national interest of over $800 billion of this kind of international moneys in our country, high-velocity money.

As I said yesterday, just a small chunk of it has high leverage, and it is at the bottom of the substantial drug money laundering, noxious and abomination that our country is flagellated with, and which sooner or later is going to have to be plugged if we want to have any real control on that kind of crime.

In fact, it was this type of a bank that was able to get its charters in an area that, as a result of the first International Banking Act in 1978, which followed the hearings in my city and my district in 1975 that I caused. In fact, they were the only ones. They were so regulatory in the practices then, which incidentally, now, have been so much publicized in the last 2 or 3 years, that were evident with this high-velocity money coming across the border at will, with no accountability or anything.

It took 3 years. It was not until 1978, 3 years after the 1975 hearings in San Antonio, that we finally got the first smithereen of an international banking law.

□ 1715

Can you believe that? It was not until 1978. Then I wanted to amend the law further. Because when we finally got it in 1978, I was not chairman, and I was not chairman of the subcommittee that had jurisdiction. I had a hard time persuading them to go to hearings in San Antonio, so I did not have much of what they call around here clout in shaping the final outcome, which was a watered down version of what I had first proposed.

Through the years since 1978, I have been bringing to the attention of the subsequent chairmen of the committees we need to reinforce that act. The only reason we got the modicum of amendments last year was because of in November the BCCI scandals. I doubt seriously if we could have gotten anything absent BCCI scandals.

But has it been adequately addressed? No. You still have agency banks like this Atlanta BNL. What is an agency bank? An agency bank is really a branch of an otherwise foreign headquartered bank. In this case, the BNL, the headquarters for the U.S. operation was in New York, where they had been operating for a few years. But then they obtained agency charters from the States of Georgia, Florida, Illinois, and California.

In the meanwhile, I was focusing on trying to get the Federal Reserve Board to give me some statistics on the flow of cash transactions, because I knew they were tied in to the illicit narcotics business. I could not get anything as an individual member of the Banking Committee.

It was not until the chairman in 1981, that finally, in the name of the committee, we got some information. And it was highly revelatory. Even though it was fragmentary, it was not as complete as it should have been, it was very revealing.

But even then we could not get the law amended to take care of what was obviously an intimate transaction between banking activities and particularly those that were not supervised by either the Federal Reserve, which is supposed to have prime responsibility, or the State chartering commissions.

In the case of the BNL in Georgia, the State commissioner, after the scandal, came to us and said, "Well, we did what we could, but we had no idea because they cooked the books."

When I said, "Well, what responsibility do you have toward dovetailing your auditing and examination with the Federal Reserve Board?"

"Well, it all depends," was the answer. And I get the same answer from the Federal Reserve Board.

But the net result is that even today there is no agency, State or Federal, that can give the American people the accounting that they ought to have, much less the committees that are charged with the responsibility of either the substantive legislative responsibility, such as the Banking Committee of the House of Representatives, and the one in the Senate. It is a responsibility that is inescapable, because in our case it is our cestui que trust.

It is a trust. It is not a job, it is a trust we hold in trust temporarily during the period of time in which our constituents say we choose you to represent us, and that is all.

Of course, we are going to rise and we are going to speak forth. I say with a great deal of sadness have we been helped? No. We started 2 years ago almost and could not get much attention, even on the committee level.

Then when the thing got hot after the newspaper started getting on the scandal, and then the Italian Government, because the other thing I brought out consistently, and what is ignored even here in our country, and that is these banks known as foreign banks, the overwhelming majority of them are owned by their respective governments. They are not like theirs. So the BNL is really owned by the Italian Government.

It was not until it hit home in Rome that the Italian Government was going to be exposed to an equal loss of around $2 billion, like the taxpayer in the United States, that then the Senate, to its glory in Italy, the Italian National Senate, with the distinguished chairman, Senator Carta, then contacted me.

But in the meanwhile, the Committee on Banking, which to its great honor and sense of responsibility acceded to my request and issued over 100 subpoenas, to the Federal Reserve Board, the State Department, MX Bank, the Agriculture Department, CIA, and what do we get? We get a letter, after I refused to meet privately with the Attorney General of the United States, saying, "Stop your investigation. We don't think you ought to continue these investigatory hearings."

I wrote him a letter and set forth the constitutional applicability in this case. This is our Attorney General. Thornburgh. Were we helped? No. Are we still obstructed? Yes. We still cannot get some of the subpoenaed documents.

Now, some of us, this great independent Federal Reserve Board, independent from everybody, from Congress, the President, all of a sudden says, as meek as a moaning kitten, "Oh, we cannot give you these documents, because the Attorney General says we shouldn't."

Well, to his everlasting glory, Senator Carta gave them to us. But we still have some that have been denied the Italians and been denied us, right now, as I speak.

So where are we? After all this great publicity, and outcry, and scandal, what? We still have the challenge of doing something about it.

I am proud to say that the Committee on Banking, Finance and Urban Affairs of the U.S. House of Representatives is committed to doing that, and will persist, and will continue. This is, of course, with the help and union of the majority, overwhelmingly, of the committee. In fact, the votes were unanimous. We got the required majority to issue the subpoenaes with no dissent. So that is our big comforting ray of hope.

But it seems to me that there should be no resistance, whether it is out of fear of embarrassment because of what happened 2 years ago. We understand that 2 years ago you had a different diplomatic format. We do not understand why anybody—Iraq or anybody else—would have the taxpayer exposed to billions of dollars worth of tax responsibility. That I do not understand now or at any time.

But I do understand the diplomatic dilemmas then. But what about now? You have the same dilemmas in other countries.

We are doing the same thing now with Iran, that just recently released the last hostages. The reason they did was again based on a banking matter, which was at the bottom of the whole trouble when the first hostages were taken in 1979. That was the $10 billion involving one of our biggest banks in our country, where the former Secretary of State went back on a stipend as a consultant, and naturally it involved the moneys that Iran and the revolutionary government of Iran felt was theirs and ought to go back.

So they did something that had not happened since the Middle Ages, they took hostages.

But has the American people ever been told? No. I did my best to get the chairman then to have an investigating committee. In fact, I was the first one after the hostage taking to recommend such things as a freezing of assets.

But even that was done through conniving on the part of that large bank that had this $10 billion exposure, even though that $10 billion exposure was really a syndicated exposure. That is a financial word meaning they had partners, foreign banks, all the way from Britain to France and everywhere else that were involved.

□ 1725

But the freezing of those assets was done in such a way that it was done to perpetuate not only the hostage difficulties but everything else going with it. And it was not until one of the last payments was made just recently and other yet to be determined goodies, such as arms, that the last hostages were released, but not until then.

As I said, at the bottom of everything is banking and finance, everything. So we had Secretary Baker hearing this Ambassador from Iraq saying, "How dare you do this to your buddies." And the Secretary said, "No, no, no, no, you are going to get this whole billion dollars this time."

Of course, the exposure turned out to be twice, over twice that amount. But on that particular occasion, the Iraqis were afraid of the revelations that were beginning to come out and which caused our attention.

How do my colleagues think I started the interest of the committee staff to look into this? Because in 1989, in the Wall Street Journal there was a little article saying about a letter of credit, $2 billion, Atlanta Bank. And I said, $2 billion, Atlanta. And I could not get any answers. But shortly after that the FBI suddenly decides that something has gone wrong and amiss in that Atlanta branch. And that is why I want to kind of regurgitate that a bit.

All we know is that we had high-ranking Iraqi officials making repeated trips to the U.S. Embassy in Baghdad and even to the United States to visit key administration policymakers. We had, once President Reagan took Iraq off of the list of terrorist nations in 1983, the sluice gates were open for what, American interests trade promotion with Iraq. And then with the very agile help of Mr. Kissinger and associates, we had over 80 of our leading corporations doing substantial business, forgetting that again, as in the case of government ownership of these banks, in these countries the minister of trade, or foment, or the economy, is also the minister of our equivalent of defense. In one particular instance there, for a couple of years, that happened to be Saddam Hussein's son-in-law. So that the credit base of the CCC and Eximbank credit guarantees were used to promote everything else, including the acquisition of chemicals used for atomic weaponry, nuclear weaponry, the Big Gun—the giant gun—the fellow that was developing that was assassinated in Belgium. He had gone a long way in assembling it, and a lot of that money came from the association of banks and consortiums that resulted from these guarantees of the BNL.

Lobbying by the U.S. agriculture community was also very intense. With a $500 million tranche in U.S. agricultural sales at stake, the members of the Committee on Agriculture bombarded the administration policymakers to ensure the release of the second installment of the $500 million of the CCC programs.

As the documents obtained by the committee indicate, and I include those in this day's speech, the Iraqis had a powerful ally in the State Department. At the end of 1989 and into 1990, indications that Saddam Hussein was becoming increasingly unstable were growing stronger. Among some of the other complaints, Saddam feared that Israel, the United States and several of the Arab emirates were engaged in a scheme to cripple Iraq financially.

Now, there is another thing we must keep in mind, sort of an overarching fact behind this whole thing. Iran, which at the time was at war with Iraq, is a non-Arabic country. Israel has been in a state of war with Iraq since before 1950, and is still in a state of war. These things should have made a difference while all of this scurrying and running about was going on, but it did not.

But Saddam Hussein says, "Wait a while, I think I am getting ganged up on."

Most of the major industrial nations had suspended their credit programs with Iraq, some of them because of Iraq's questionable ability to pay. Our law governing the Export-Import Bank, which our Committee on Banking, Finance and Urban Affairs had jurisdiction of, mandates that that is the key feature in extending these guarantees, the ability of that nation to repay. Unlike the Commodity Credit Corporation dictates a program, and this is the only thing that halfway saved the Export-Import Bank from getting a greater exposure.

As it was, even there on that level the taxpayers will be out, because of these guarantees to Iraq, on the Export-Import level, about $200 million.

Now, $200 million, some people do not think that is much. Well, I am old-fashioned enough to think it is a tremendous amount, horrendous amount. I still find it very difficult to accept the concept of a trillion dollars.

I used to think it was kind of mind-boggling to think of a billion dollars, but today it seems like, well, $200 million, more or less.

But I am chairman of the subcommittee on Housing and Community Development, and how do my colleagues think I feel when we cannot get this administration or even the leadership of our Congress to say, all right, we will provide what we should have provided in 1980, a reasonable modicum of help, which would be less than the taxpayers' exposures on the letter of credit to Iraq. For what? For community development. To once again pay attention to our crumbling infrastructures, our water systems, sewage systems.

The city of New York, for instance—alone—cannot attend the fact that it loses and wastes more water each day than it consumes because it has a delivery system that dates back 110 to 115 years ago, wooden pipes.

Now, the city of New York—and even with the help of the State of New York—does not have the resources. This is a national dilemma. We have taken this committee, in the name of the committee and the subcommittee this year, beginning on January 7, we started in Bridgeport, CT, where last year an effort was made by the city governors then to declare bankruptcy.

Can my colleagues imagine that? Today over 65 percent of our cities are in financial distress. And is this where the administration, the President and the Congress is targeting? No. We are having to fight, as if we are asking for the blood money that was so easily shed for countries like Iraq. Not to mention others, like believe it or not, China.

What are we going to do there, where the Chinese have just thumbed their nose at our distinguished leaders who go there. Secretary Baker was there just last November saying,

> Now, boys, you are not supposed to be selling those arms that we licensed you to make like the Silkworm missile, which was the one that Iraq and Iran got.

□ 1735

And incidentally, now that Syria is supposed to be a reformed nation, as of about 6 or 7 months ago Syria got 300 new, improved Scuds. From whom? North Korea. North Korea or China?

What about the Silkworm? How could China produce that? We gave them the license. We have had three Secretaries of Defense and three different Presidents go over there. I think what Secretary Baker thinks is that maybe they can get a more gentler and kinder Communist out of China.

I think it is tragic. I think it is a terrible travesty. I think it is almost criminal negligence, as I think these loan guarantees to Iraq should be considered. Just look where it has ended us up, in the loss of lives, war, an affront that is still there. We have not withdrawn totally from those sands, treacherous as they have been through the centuries. We still have considerable armament and personnel.

In Panama. We have forgotten about that. We have two-thirds of the troops in Panama that we had at the height of the invasion, and we had better not remove them. Drugs, we have had twice the volume of illicit drug trading through Panama than when old General Noriega was in charge. Why? Because we installed the President, and the First Vice President, and the Second Vice president, all of whom have been bankers in Panama involved in drug money laundering. We put them in charge of those people. We installed that government, and the reason we have over 15,000 soldiers there is that the moment we remove them, they are gone, and also no American life will be safe.

What about the Middle East? How much armament do we still have there in those sands? I ask my colleagues, if they want to know, call the research service and they will tell you. Substantial. How many forces do we still have there, active duty? I think quite a bit. Compared to the 540,000, more or less that we had at the peak, maybe not. But what does that mean? It means we are embedded in that dry quicksand of the Middle East, and at a cost to us. All of this cavalier nonsense that these other countries have saved and defrayed the cost is nonsense. I will remind my colleagues that in the last dire supplemental appropriation, emergency supplemental appropriation you voted for $300 billion plus for Desert Storm. That is just an installment. That is American taxpayers. That did not come from Germany and Japan and the other countries that are supposed to have contributed.

We are still mired. This time it is not wet quicksand, it is dry quicksand. But it is those sands that have buried empires before, hundreds, and hundreds of years through, and will likely bury us if we do not stop.

At the end of 1989 and late 1990 indications that Saddam Hussein had become increasingly unstable, because he was shaky there, were clear. Iraq's financial condition had deteriorated to the point where it started to accumulate arrears in its paybacks, and in particular the CCC program. The Eximbank, to its credit, suspended at that point in late 1989 for a temporary default on its obligations at the bank. But Iraq was also in arrears with other creditor nations, some of whom we had involved in helping Iraq. Iraq had driven itself to the brink of bankruptcy, and the second $500 million installment of the CCC program offered Iraq a financial oasis in that desert of angered creditors.

As the United States-Iraq relations deteriorated in 1990, remember that finally on August 2, I do not see how we could ever have thought that Saddam

Hussein would not think that his long protested claim to especially those areas in Kuwait were not going to be exerted if we had done everything to show that we are for him. The bad part is that on the other hand President Reagan was also lending assistance to its enemy, Iran. Remember Iran-Contra? And the TOW missiles we sent over? What cupidity could have governed the minds of our leaders to think either one of these contestants would not be cynical and knowledgeable of the fact we were aiding both sides?

The State Department and White House zeal to assist Saddam Hussein was clearly being accelerated during 1990. That is before August 2. I will report more on this at a later time because there is more documentation that needs to be placed in the RECORD, as I have done all along.

I would like to now discuss the important issue of the pending $350 million CCC payment to BNL and whether or not the taxpayer should be stuck with this bill. BNL was the largest participant in the CCC program, because for letters of credit you need your bank. Everybody needs a bank. As I pointed out, even at the beginning of our country, the first Continental Congress they had to charter the North American banks. The big issue was that the bankers did not want to come into Philadelphia unless they could charge interest rates that Jefferson said you are not going to get, and it was not until Jefferson said you are not going to get any more than 6 percent that they finally said all right, we will come in.

There is another, modern day sequel to that. All during World War II Franklin Roosevelt, waging world war, utilizing over 46 percent of our total gross national product for the conduct and the waging of the war and the winning of it, on the Federal level never paid more than 2 percent interest. How could that be done? Why is it the Government pays as much as, and it has reached the point where it was paying as much as 17 percent on long-term bills and notes? Preposterous. But why? There is a reason. It was not accidental, it was not happenstance. It is because at least Franklin Roosevelt had the leadership ability to surround himself with a Secretary of the Treasury who knew what to do. So when the first borrowing started with the bonds and the bankers said no, we are not going to get into that, you do not pay enough, what did Morganthau do? The President got excited and worried and said, "Secretary, what do we do?" He said that the Federal Reserve Board Act at that time provided what it said at the beginning of the Federal Reserve Board Act, which says that the Federal Reserve Board is to be the fiscal agent of the U.S. Treasury. Of course, it is no longer the fiscal agent of the U.S. Treasury. It is the other way around. Take any dollar you have got, or $5, or $10 and see what it says. It says, "Federal Reserve note." It used to be, "U.S. Treasury note." There is a big difference in that, and this is why we are now sunk in what a predecessor speaker said earlier today was this monstrous interest payback. Of course, our Government is paying compound interest.

In our history we had more noble, dedicated and truly loyal to the public interest leaders like Franklin Roosevelt. And I just want to make this note for my colleagues who will see in the RECORD what was said here previously about this egregious interest burden, that all during World War II in fact it did not even average 2 percent, it was below 2 percent, and there were reasons. That is they stood up to those who no matter how much they had will always want more.

□ 1745

Because the name of the game is always power, and when you deposit power to allocate credit to a certain segment of the country and that segment has to be the one that is in that business of making money, and then turn over the manufacturing of the money to them, because the Federal Reserve Board is not a Federal agency, it is not a Federal agency, I repeat, it is the creature of the commercial banking system of the United States. That is what it is pure and simple. That is the one that is making the decisions directly and indirectly.

So here we have BNL, the bank, through its agency. And what is an agency? An agency bank, unlike the definition of a branch, is that it does not do regular banking business. It does not take any deposits, thank God it does not. The Federal Reserve Board did not give full banking facilities to the BCCI. Other less fortunate countries, including England, which incidentally had not had a big, major bank failure in 100 years until BCCI, because once you part with that power and you remove it from the control of the people through its elected representatives and agents who, in a cestui que trust, hold that power.

None of us in our system has a quitclaim deed on our job, thank God. But do the people still remain? Well, I think that is what our big, and it used to be the $64 question, but that was during the Depression. That was before inflation. But that phrase is still good. That is the question. Well, that will be determined by us, maybe not individually, but certainly the majority here and now, right at the time that we are asked to reaffirm the basis upon which this country was founded 200 years ago.

The answer will be written as we go along, not in the year 2000. Year 2000 is today. What happens in 2000 and anytime after that depends on what we do or do not do now and tomorrow and the day after before 2000.

In February 1991, the Department of Justice, acting through the U.S. attorney's office for the Northern District of Georgia, indicted 10 defendants. Now, for months they were saying, "Look, give us time, but in the meantime, do not do anything. Do not dare have hearings. Do not do this. Do not do that. Above all, stop." And then I had to read Supreme Court decisions after Supreme Court decisions, because the Congress has abdicated its constitutional grants of power except one, maybe two, still remaining, and one of them is the power to know, and so Supreme Court decisions after Supreme Court decisions had hailed that notwithstanding a pending criminal investigation or criminal law procedure or another investigation elsewhere, the Congress has unimpeded and supreme right to know. It is investigatory power, in other words.

But the investigatory power is not unrestrained. We do not have the right, as some tried in the 1950's, to run roughshod just because we have the right to investigate.

We have rules now that we obey rigorously in the Committee on Banking and Urban Affairs to govern that, that we do not abuse anybody's right.

But the power to seek and obtain information is supreme, but information for what purpose, to legislate. You must have a legislative purpose, and that is what we are trying to do.

Mr. Speaker, with that, and noticing the arrival of our distinguished colleague, the ranking member of the Committee on Rules, I am including in the RECORD the documentation in support of the statements made here today, and will announce that these documents are at the end of this special order.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING, FINANCE
AND URBAN AFFAIRS,
Washington, DC, January 31, 1992.

Hon. EDWARD MADIGAN,
Secretary, Department of Agriculture, Washington, DC.

DEAR MR. SECRETARY: I am writing to you concerning Iraq's participation in the Department of Agriculture's Export Credit Guarantee Program and Intermediate Export Credit Guarantee Program, referred to as the GSM-102 and GSM-103 programs, respectively.

Specifically, I am interested in the status of the payment of the guarantees to the Banca Nazionale Del Lavoro (BNL) or its agency operation in Atlanta known as BNL-Atlanta, by the Agriculture Department's Commodity Credit Corporation (CCC).

Please provide the Committee with the following information:

1. A summary of all claims filed under the CCC guarantee programs for Iraq including the total U.S. exposure;
2. The total amount of all payments that have been made to date on claims that were filed under the CCC program for Iraq;
3. The total amount of all claims filed by BNL under the CCC program, including the original principal amount owed to BNL and the amount of accrued interest and the rate used to calculate the interest;

4. The total amount of all payments that have been made on claims under the CCC program that were filed by BNL; and

5. Any and all additional documents the Department of Agriculture has that are relevant to this matter.

Additionally, it has come to my attention that the Agriculture Department recently solicited opinions from various agencies regarding the payment of these guarantees. Please provide the Committee with all documents, including those generated by the other agencies, related to the Department of Agriculture's consideration of BNL claims.

Finally, please provide the Committee with the Agriculture Department's position concerning the payment of these guarantees.

Thank you for your prompt attention to this matter. If you have any questions, please call Ms. Debra Carr at 225-2924.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

OCT 89.

FM AMEMBASSY ROME.
TO SECSTATE WASHDC. TREAS DEPT WASHDC.
Subject: Banca Nazionale del Lavoro Concerns re Atlanta Branch.
Ref: Rome.

1. Confidential—entire text.

2. Summary: The chairman and the director general of Banca Nazionale del Lavoro (BLN) called on Ambassador to express their concerns about developments in the BNL-Atlanta affair. They suggested that the matter should be raised to a political level, and indicated their desire to cooperate fully with USG authorities while at the same time making it fairly clear they want to achieve some kind of damage control.

Ambassador said he would pass on their concerns but could not otherwise be helpful with or comment on a matter under criminal investigation. Separately, Treasury minister Carli has blocked an effort by opposition senators to conduct an investigation into the BNL-Atlanta affair. End summary.

3. The chairman of Banca Nazionale del Lavoro, Giampiero Cantoni, and the director general, Paolo Savona, called on the Ambassador on October 19. The meeting was at Cantoni's request, made during the return flight from the U.S. with President Cossiga. Both Cantoni and Savona had been in the U.S. with President Cossiga's delegation.

4. Cantoni expressed concerns about prospective developments in the BNL-Atlanta affair. He said BNL's U.S. lawyers were uring hime to raise the issue to a "political" level. He said that his U.S. lawyers thought that charges would be filed under the Rico Act and that BNL and/or Iraqi assets could be frozen. Savona was concerned about losing the CCC guarantee on roughly one billion dollars of BNL Atlanta's three billion dollar exposure. The men alluded to legislation under consideration in Congress providing for USG credits to Iraq being affected by the investigation/charges. Cantoni said FBI agents remained in the Atlanta branch, or had sealed the books. He also maintained that the ex-Atlanta branch manager Drogoul was available and willing to testify to appropriate officials.

5. Cantoni and Savona both made the point that they were willing and anxious to cooperate with USG authorities. They also said their U.S. lawyers would be in Rome on October 25.

6. The Ambassador said he would pass on the concerns of BNL and their willingness to cooperate to Washington, but that he was unable to comment or otherwise be helpful on a matter under criminal investigation.

7. On a separate note, Treasury Minister Carli responded negatively on October 24 to a request by opposition senators to conduct an investigation into the BNL-Atlanta affair. Carli said that a number of investigations by Italian and U.S. officials were underway. He also noted that bank secrecy laws impeded the bank of Italy from providing information to the Senate.

8. Comment:

The remarks on the need to raise this to a political level are interesting as the case has already become a political issue in Italy. The President has become involved as witnessed by the inclusion of Cantoni and Savona in his party in the U.S. Cantoni and Savona, while new to BNL, have close political connections, Cantoni to Craxi and the Socialists, and Savona to Cossiga (a fellow Sardinian) and to Carli, his mentor at the Bank of Italy and later at confindustria. The Treasury is the majority shareholder of BNL.

BNL is an upstart bank by Italian standards, dating only to 1913 and owing its growth to its role as the key bank for the Government in the 1920s and 30s. It continued to grow in the post-war period, but has been having problems in the past few years. The recently sacked chairman, Nerio Nesi, has been engaged in an effort to pare down the staff of the bank and separate out some functions while at the same time increase the bank's capital. To achieve the latter, he worked out a deal where by the state-owned insurance agency, ANA and the state pension system INPS would take the proceeds from the sale of shares in Crediop and invest them in BNL. The result will be a capital increase that will reduce the Treasury's ownership from 75 percent to 56 percent. INA's also making a subordinated loan. The capital increase was approved by the BNL board in mid-October, and is to be presented to the shareholders (Treasury, INA, INPS plus a scattering of other, mostly public, institutions) on December 13.

BNL's reputation within the Italian banking community and even among its own staff has been suffering for some time. The BNL-Atlanta affairs, even if contained, will aggravate BNL's problems. Not the least of these are loans to Latin American countries. BNL is said to be one of the two largest lenders to Mexico and has been active in South America as well.

SECCHIA.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING, FINANCE
AND URBAN AFFAIRS,
Washington, DC. February 25, 1992.

Hon. CHARLES BOWSHER,
Comptroller General, U.S. General Accounting Office, Washington, DC.

DEAR COMPTROLLER GENERAL BOWSHER: The Committee on Banking, Finance and Urban Affairs is conducting an investigation into the operations of the Banca Nazionale del Lavoro (BNL). Part of this investigation involves BNL participation in the Export-Import Bank (Eximbank) program for Iraq. The Committee requests your assistance with this investigation.

The Banking Committee has obtained numerous documents during its investigation that demonstrate that Iraq was not creditworthy, yet, was able to obtain Eximbank financing. The Export-Import Bank Act states that all transactions supported by the Bank shall ". . . in the judgment of the Board of Directors, offer reasonable assurance of repayment. . . The Committee is concerned that Eximbank extensions of credit to Iraq were approved in violation of this particular provision of its charter.

Accordingly, the Committee requests that the GAO investigate whether or not Eximbank extensions of credit to Iraq were property given the above mentioned provision in its charter. Please make sure to examine the decision-making process used by the Eximbank to grant credit to Iraq. In addition, please determine the role the State Department and other "outside factors" played in the decision to grant credit to Iraq.

Thank you for your time and consideration. The Committee looks forward to the results of your investigation.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 287, CONGRESSIONAL BUDGET FOR U.S. GOVERNMENT FOR FISCAL YEARS 1993, 1994, 1995, 1996, AND 1997

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 102-451) on the resolution (H. Res. 386) providing for the consideration of the concurrent resolution (H. Con. Res. 287) setting forth the congressional budget for the U.S. Government for the fiscal years 1993, 1994, 1995, 1996, and 1997, which was referred to the House Calendar and ordered to be printed.

REPORT ON PROHIBITION OF TUNA PRODUCTS SHIPMENTS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-198)

The SPEAKER pro tempore (Mr. BACCHUS) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

To the Congress of the United States:

Pursuant to the provisions of subsection (b) of the Pelly Amendment to the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1978(b)), I am reporting to you that the Secretary of Commerce reported to me that shipments of yellowfin tuna or products derived from yellowfin tuna harvested by Venezuela in the eastern tropical Pacific Ocean (ETP) have been prohibited from the countries of Costa Rica, France, and Italy since June 25, 1991.

The Secretary's letter to me is deemed to be a certification for the purposes of subsection (a) of the Pelly Amendment. Subsection (a) requires that I consider and, at my discretion, order the prohibition of imports into the United States of fish and fish products from Costa Rica, France, and Italy to the extent that such prohibition is consistent with the General Agreement on Tariffs and Trade. Subsection (b) requires me to report to the Congress within 60 days following certification on the actions taken pursuant to the certification; if all fish imports have not been prohibited, the report must state the reasons for so doing.

After thorough review, I have determined that sanctions against Costa Rica, France, and Italy will not be imposed at this time while we continue to work toward an international dolphin conservation program in the ETP. Costa Rica, France, and Italy will continue to be certified. I will make further reports to you as developments warrant.

GEORGE BUSH.
THE WHITE HOUSE, *March 3, 1992*.

THE DEFENSE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. BATEMAN] is recognized for 5 minutes.

Mr. BATEMAN. Mr. Speaker, that the world is changing is axiomatic, but the changes of the last several years have been monumental in every sense of the word. The bipolar world divided between the democratic West and the Soviet bloc provided a certain sense of stability in international relations and gave people on both sides an identifiable threat against which to shape their national security structures. With the fall of the Berlin Wall, dissolution of the Warsaw Pact and the subsequent transformations in the Soviet Union—especially the aborted coup attempt of August 1991—the world as most of us have known it no longer exists.

Today, the world is no longer composed of two diametrically opposed blocs led respectively by Washington and Moscow. It is a world of crumbling empires and newly formed or independent countries. Relationships among old allies are marked by economic competition rather than the convergence of interests predicated upon a common threat. What this has meant for the United States is the disappearance of an old adversary against which its Armed Forces have been structured. Now we face threats which we cannot readily identify or quantify. These threats range from large-scale conventional conflict similar to last year's war in the Persian Gulf to the ongoing effort to stem the flow of narcotics across our borders. Given the turbulence and instability that are the norm we can safely proceed only on the basis of future threats that are varied and significant.

The Bush administration has responded to changes around the world by proposing to reduce defense spending by 30 percent. The number of soldiers, ships, planes, and tanks would be reduced by roughly this amount and the remaining forces restructured to better respond to the new world order. Such reductions would take into account changing international conditions and permit the maintenance of forces large and capable enough to respond to the myriad potential dangers that will always exist in a turbulent world.

Unfortunately, many voices in Washington are calling for defense cuts as much as 50 percent. Presidential candidates who have given little or no thought to the issue are reiterating what has become the slogan of the left—cut defense. Such reductions, I believe, would not be in the country's best interest. Defense spending as a percentage of total Federal spending is already decreasing to the lowest level since the 1930's. The notion that our country cannot support a military of 1.6 million is born of the excess of negative thinking about this country that permeates a society which has good reason to take pride in the enormous success it has achieved.

Cuts in defense spending already implemented and the reductions proposed by the administration for fiscal years 1993–97 will reduce active duty personnel from 2.4 million to 1.6 million. There has been a freeze on civilian personnel by the Department of Defense since early 1990, and this plus the reduction planned by the administration will reduce Defense Department civilian personnel by 100,000. The cancellation, reduction, and stretch out of procurement programs because of past and current administration recommendations will cost close to a million jobs in defense industries and endanger the Nation's defense industrial base. The latter has enormous significance for our long-term national security.

Deeper cuts driven by immediate budget considerations implemented immediately will result in the loss of hundreds of thousands of defense related jobs and indirectly to nondefense related jobs. These cuts will decimate our defense industrial base and halt or reverse a recovery from the present recession, which has been significantly worsened by the defense spending reductions already implemented. Any such cuts can be achieved only at the expense of much larger reductions in the number of active duty personnel which will force large-scale, involuntary separations of our superb volunteer career military personnel. This will destroy the opportunity for a career in the military for the hundreds of thousands of young people and deny to minorities the upward mobility that our Armed Forces have made available. The social consequence of this is of major importance.

Clearly, the circumstances affecting our country today indicate an urgent need to focus more attention on domestic matters. This is something we can and should do. However, the degree to which an already reduced defense budget is being advocated as a cash cow to transfer spending but not to reduce it, is poor economic policy and even worse national security policy. Some seem to think that we can close our doors to the world and tend only to problems at home. These neo-isolationists ignore that our security and economic well-being are tied to our relations with other countries. When conflict breaks out abroad, it is likely that U.S. interests may be threatened even if hostile troops are not storming our shores.

Under the administration's proposed defense budget, defense spending will drop to its lowest level since the 1930's, in terms of percentages of Federal spending and gross national product. While a reduction in the size of the military is an appropriate response to changes abroad, I am concerned that a floodgate has been opened that won't be closed until the next crisis catches us unprepared. Defense spending is not the drain on the economy many portray it to be. In fact, the layoffs associated with defense cuts will far surpass those being implemented by General Motors, IBM, and the other consumer-oriented companies experiencing difficulties. I do not contend that defense spending should be used as a jobs program. I am stating that defense spending serves a function unmatched by any other Federal programs. It is the bulwark of our freedom and world peace. It does not deserve the constant denigration it receives by many in Congress.

Certainly, the defense budget should be reduced from its cold war level. That reduction, however, is already proceeding. Defense spending peaked in 1985 and has declined steadily ever since. The price of continuing this decline, I suspect, will be high if and when the next crisis abroad occurs. We are foolish if we act as if there will be none. The price of this folly would be paid in blood and money.

What does this mean for the U.S. defense budget? It means that the United States can and should maintain a military strong enough to respond to crises that threaten our interests. Naval and air forces and the Marine Corps should not be decreased as low as the 50 percenters want to go. They are the forces that are called upon to respond on short notice and in order to be effective must be deployable on a global basis. The quality of training and equipment, the technology of their weapons, and the industrial base essential to sustaining our forces over the long term must be safeguarded. Continued maritime superiority must remain a bedrock of our national security policy. Without the ability to control the seas, this maritime Nation cannot control its destiny. This should be unthinkable.

In conclusion, those who argue for defense reductions as a source of higher levels of spending elsewhere and the majority of those urging deeper cuts in defense do nothing to reduce the Federal deficit. All they do is guarantee the loss of jobs, cause greater turbulence in our economy, undermine vital elements of our defense industrial base, shatter the morale of our service men and women and destroy the confidence of our friends abroad and encourage those hostile to American interests.

□ 1755

INTRODUCTION OF HOUSE CONCURRENT RESOLUTION 233, ON POW/MIA AFFAIRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CAMP] is recognized for 5 minutes.

Mr. CAMP. Mr. Speaker, I rise today to call upon my colleagues for action on an important resolution. This bill sends to the President, and the American people, the message that Congress believes the POW/MIA issue is of the highest priority. It will display strong congressional support for current U.S. policy which includes the full resolution of the POW/MIA issue as one of the steps toward the suspension of the trade embargo and normalization of diplomatic relations with Vietnam. I am speaking of House Concurrent Resolution 233, a resolution that I introduced in November along with Mr. UPTON, Mr. MILLER of Washington, Mr. GOSS, and Mr. DORNAN.

This resolution makes a simple and reasonable request. It calls upon the President not to lift or modify the United States trade embargo currently in place against Vietnam, nor move toward the normalization of diplomatic relations with Vietnam, until the Select Committee on POW/MIA Affairs of the other body reports its findings. This committee is scheduled to conclude its work at the end of this year.

There are those who believe we should lift the economic embargo against the Socialist Republic of Vietnam before the other body has completed its work. I believe that is unfair to the people who served our Nation, and unfair to their families. We owe it to ourselves to get the answers before we resume a relationship with a nation that has never satisfactorily answered the question about missing Americans.

As the hearings by the committee of the other body have progressed, more allegations have surfaced that present more leads and, most importantly, more questions. Russian Gen. Oleg Kalugin's claims that United States prisoners of war were interrogated by KGB agents inside the Soviet Union years after Hanoi claims all living prisoners were returned is a startling example. Yes, the general's story has questions relating to credibility, but it does warrant careful examination. This is why the Select Committee must be allowed to complete its work.

Although the resolution suggests no direct linkage to human rights issues in Vietnam, we must not forget that the Socialist Republic of Vietnam remains one of the most repressive regimes in the world. There is no freedom of speech, freedom of the press, or freedom of association. The reeducation camps still hold many prisoners, and the vast majority of these are detained because they fought beside the United States during U.S. military involvements in Southeast Asia. It is important that, in accordance to the principles of freedom that our country represents, that we also use leverage to push the Government of Vietnam in the direction of providing greater freedom and human rights for its own people.

For far too long Mr. Speaker, we have been haunted by doubts over the fates of the 2,273 American servicemen who are unaccounted for in Southeast Asia. We owe it to these men who so bravely served their country, as we owe it to their families, to get the answers.

I invite my colleagues to join me, and the additional 70 Members who have already done so, as a cosponsor of House Concurrent Resolution 233. This bill enjoys the support of members of the National Vietnam Veterans Coalition, the American Legion, and the Vietnam Veterans of America. At this time, I would like to thank Tom Burch and Bonny Stilwell from the National Vietnam Veterans Coalition. Their assistance and support regarding this legislation has been invaluable. In closing, I ask that this important resolution be brought before the full House for action as soon as possible—our missing Americans, and their families, deserve nothing less.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. INHOFE, for 5 minutes, today.

Mr. THOMAS of Wyoming, for 5 minutes, today.

(The following Members (at the request of Mr. SKAGGS) to revise and extend their remarks and include extraneous material:)

Mr. PICKLE, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SMITH of Florida, for 5 minutes, today.

Mr. SKAGGS, for 60 minutes, today.

(The following Member (at the request of Mr. SKAGGS) to revise and extend his remarks and include extraneous material:)

Mr. BROOKS, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. KASICH, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BATEMAN, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. CAMP, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HUGHES, on H.R. 2475 in the House today.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous material:)

Mr. BAKER.

Ms. ROS-LEHTINEN.

Mr. BROOMFIELD.

Mr. GREEN of New York.

Mr. GINGRICH.

Mr. KOLBE.

Mr. SOLOMON.

Mr. MICHEL.

Mr. MCEWEN.

(The following Members (at the request of Mr. SKAGGS) and to include extraneous matter:)

Mr. YATRON.

Mr. NOWAK.

Mr. KILDEE.

Mr. STARK in three instances.

Mr. EDWARDS of California.

Mr. FASCELL in two instances.

Mr. OBERSTAR.

SENATE BILL AND JOINT RESOLUTIONS REFERRED

A bill and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 479. An act to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States; to the Committee on the Judiciary.

S.J. Res. 139. Joint resolution to designate October 1992 as "National Lock-in-Safety Month; to the Committee on Post Office and Civil Service.

S.J. Res. 214. Joint resolution to designate May 16, 1992, through May 22, 1992 as "National Awareness Week for Life-Saving Techniques"; to the Committee on Post Office and Civil Service.

S.J. Res. 218. Joint resolution designating the calendar year, 1993, as the "Year of American Craft: A Celebration of the Creative Work of the Hand"; to the Committee on Post Office and Civil Service.

S.J. Res. 233. Joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 240. Joint resolution designating March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; to the Committee on Post Office and Civil Service.

S.J. Res. 244. Joint resolution to recognize and honor the National Conference of Commissioners on Uniform State laws on its centennial for its contribution to a strong Federal system of government; to the Committee on Post Office and Civil Service.

S.J. Res. 246. Joint resolution to designate April 15, 1992 as "National Recycling Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 254. Joint resolution commending the New York Stock Exchange on the occasion of its bicentennial; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. CAMP. Mr. Speaker, I move the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 4 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 4, 1992, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2971. A letter from the Assistant Secretary, Department of Defense, transmitting the National Defense Stockpile Requirements Report for 1992, pursuant to 50 U.S.C. 98h–5; to the Committee on Armed Services.

2972. A letter from the Secretary, Department of Defense, transmitting the Defense Reserve Forces Policy Board's Annual Report for Fiscal Year 1991, pursuant to 10 U.S.C. 115(a); to the Committee on Armed Services.

2973. A letter from the General Counsel, Thrift Depositor Protection Oversight Board, transmitting the Board's report pursuant to section 21A(k)(9) of the Federal Home Loan Bank Act, as added by section 102(a)(3) of the Resolution Trust Corporation Funding Act of 1991; to the Committee on Banking, Finance and Urban Affairs.

2974. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the President's determination regarding certification of the 27 major illicit narcotics producing and transit countries, pursuant to 22 U.S.C. 2291; to the Committee on Foreign Affairs.

2975. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2976. A letter from the Secretary of Health and Human Services, transmitting a report of surplus real property transferred or leased for public health purposes in fiscal year 1991, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

2977. A letter from the Comptroller General, General Accounting Office, transmitting a report entitled "Financial Audit—Pension Benefit Guaranty Corporation's 1991 and 1990 Financial Statement," pursuant to 31 U.S.C. 9105; to the Committee on Government Operations.

2978. A letter from the Director of Public Affairs and Press Secretary, Department of Agriculture, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C 552; to the Committee on Government Operations.

2979. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1991, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2980. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the report under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2981. A letter from the Chairman, Federal Labor Relations Authority, transmitting a report under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

2982. A letter from the Chairman, Federal Reserve System, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1991, pursuant to 5 U.S.C. 552b; to the Committee on Government Operations.

2983. A letter from the Chairman, Federal Reserve System, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552; to the Committee on Government Operations.

2984. A letter from the National Endowment for the Arts, transmitting a copy of the Endowment's Special Review No. I–A–SR–92–2, results of its consulting services activities during fiscal year 1991; to the Committee on Government Operations.

2985. A letter from the Chairman, National Endowment for the Humanities, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2986. A letter from the Executive Secretary, National Security Council, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2987. A letter from the Railroad Retirement Board, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

2988. A letter from the Secretary, Resolution Trust Corporation, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552; to the Committee on Government Operations.

2989. A letter from the President, Thrift Depositor Protection Oversight Board, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

2990. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2991. A letter from the U.S. Attorney General, transmitting notification of a delay in the effective date of the notice-related provisions contained in subsections (a), (b), (c), and (e)(1) of section 2428 of the Immigration and Nationality Act, as amended (8 U.S.C. 12528); to the Committee on the Judiciary.

2992. A letter from the Acting Secretary of Transportation, transmitting a report on the relative cost of construction or reconditioning of comparable ocean vessels in shipyards in the various coastal districts of the United States, together with recommendation as to how shipyards may compete for work on an equalized basis; to the Committee on Merchant Marine and Fisheries.

2993. A letter from the Chairman, Merit Systems Protection Board, transmitting the Board's report for fiscal year 1991 listing the number of appeals submitted, the number processed to completion, and the number not completed by the originally announced date, pursuant to 5 U.S.C. 7701(i)(2); to the Committee on Post Office and Civil Service.

2994. A letter from the Chairman, Barry Goldwater Scholarship and Excellence in Education Foundation, transmitting the annual report of the activities of the Goldwater Foundation, pursuant to 20 U.S.C. 4711; to the Committee on Science, Space, and Technology.

2995. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled, "Comprehensive Child Welfare Services Amendments of 1992" to the Committee on Ways and Means.

2996. A letter from the Foreign Agricultural Service, Department of Agriculture, transmitting modifications to the Secretary's September 30, 1991, determination of the agricultural commodities and quantities programming during fiscal year 1992; jointly, to the Committees on Agriculture and Foreign Affairs.

2997. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of his determination that Israel is not being denied its right to participate in the activities of the International Atomic Energy Agency, pursuant to Public Law 99–88, chapter V (99 Stat. 323); Public Law 100–461, title I (102 Stat. 2268–3); jointly, to the Committees on Appropriations and Foreign Affairs.

2998. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of waiver and justification by the Secretary of State pursuant to section 502 of Public Law 102–140; jointly, to the Committees on Appropriations and Foreign Affairs.

2999. A letter from the Director, Office of Management and Budget, transmitting the 11th report on U.S. costs in the Persian Gulf conflict and foreign contributions to offset such costs, pursuant to Public Law 102–25, section 401 (105 Stat. 99); jointly, to the Committees on Armed Services and Foreign Affairs.

3000. A letter from the Assistant Secretary for Environmental Restoration and Waste Management, Department of Energy, transmitting notice that the report detailing the expenditure of fiscal year 1991 Environmental Restoration and Waste Management Funds will be delayed until June 10, 1992, pursuant to Public Law 101–189, section 3141(c)(1), (2) (103 Stat. 1680); jointly, to the Committees on Armed Services, Energy and Commerce, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. House Resolution 386. A resolution providing for the consideration of House Concurrent Resolution 287, a concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1993, 1994, 1995, 1996, and 1997 (Rept. 102–451). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. HORN:

H.R. 4359. A bill to amend title 11 of the United States Code with respect to executory contracts and unexpired leases involving airport terminals, aircraft gates, and related facilities, and to permit governmental units to serve on committees of creditors and equity security holders with respect to certain claims; to the Committee on the Judiciary.

By Mr. ENGLISH (for himself and Mr. DE LA GARZA):

H.R. 4360. A bill to amend the Soil Conservation and Domestic Allotment Act to require the Secretary of Agriculture to carry out a program to help ensure the safe and effective use of sludge to improve soil fertility; and for other purposes; to the Committee on Agriculture.

By Mr. ANDREWS of Texas:

H.R. 4361. A bill to create "Healthy American Schools" where children learn lifelong health and fitness skills vital to developing a smart body and smart mind and to empower every school with the ability to become a healthy school built on a firm foundation of "healthy mind and healthy body" curricula; to the Committee on Education and Labor.

By Mr. BENNETT:

H.R. 4362. A bill to direct the Secretary of the Navy to develop a second homeport on the East Coast of the United States for nuclear-powered aircraft carriers; to the Committee on Armed Services.

By Mr. BROOKS:

H.R. 4363. A bill to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons; to the Committee on the Judiciary.

By Mr. BROWN (by request):

H.R. 4364. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities; research and program management; and inspector general; and for other purposes; to the Committee on Science, Space, and Technology.

By Mrs. COLLINS of Michigan (for herself, Mr. ROE, Mr. TOWNS, Mr. PAYNE of New Jersey, and Mr. LIPINSKI:)

H.R. 4365. A bill to provide for a temporary matching fund waiver for certain mass transit projects; to the Committee on Public Works and Transportation.

By Mr. CONYERS:

H.R. 4366. A bill to establish national voter registration procedures for Federal elections, and for other purposes; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. DEFAZIO (for himself, Mr. AUCOIN, Mr. JONES of North Carolina, Mr. SABO, Mrs. SCHROEDER, Mr. CARDIN, Mr. EDWARDS of California, Mr. TOWNS, Mr. KOSTMAYER, Mr. OWENS of New York, and Mr. LIPINSKI):

H.R. 4367. A bill to amend the Military Selective Service Act to prohibit registration and to halt the activities of civilian local boards, civilian appeal boards and similar local agencies of the Selective Service System; to the Committee on Armed Services.

By Mr. HARRIS:

H.R. 4368. A bill to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HUBBARD (for himself, Mr. DELAY, Mr. ARMEY, Mr. ROBERTS, Mr. ROWLAND, Mr. CONDIT, and Mr. CAMPBELL of Colorado):

H.R. 4369. A bill to require the imposition of the death penalty or life imprisonment without parole for individuals convicted of first degree murder in the District of Columbia; to the Committee on the District of Columbia.

By Mr. LEHMAN of California (for himself and Mr. MILLER of California):

H.R. 4370. A bill to provide for the protection of the Bodie Bowl area of the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. MINK:

H.R. 4371. A bill to authorize the National Park Service to undertake the necessary feasibility studies to establish certain new units of the National Park System in the State of Hawaii; to the Committee on Interior and Insular Affairs.

By Mr. MURTHA (for himself, Mr. REGULA, and Mr. SCHULZE):

H.R. 4372. A bill to extend the provisions of the Steel Import Stabliziation Act for speciality steel and other purposes; to the Committee on Ways and Means.

By Mr. SENSENBRENNER (by request):

H.R. 4373. A bill to amend the Internal Revenue Code of 1986 to impose a penalty on a trustee of a retirement savings plan which permits trustee-to-trustee transfers of funds to another such plan if the trustee fails to make the transfer within 60 days; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 4374. A bill to amend the Internal Revenue Code of 1986 to accelerate the implementation of the existing tax on ozone-depleting chemicals and to provide that such tax shall apply to certain hydrochloroflurocarbons; to the Committee on Ways and Means.

By Mr. VOLKMER (for himself, Mr. MORRISON, Mr. OLIN, and Mr. MARLENEE):

H.R. 4375. A bill to authorize the Secretary of Agriculture to enter into challenge cost-share agreements, and for other purposes; to the Committee on Agriculture.

By Mr. GLICKMAN (for himself, Mr. MILLER of California, Mr. DURBIN, Mr. WOLPE. Mr. SLATTERY, Mr. HUGHES, Mr. MAZZOLI, and Mr. ENGLISH):

H.Res. 387. Resolution to create an Office of the Administration of the House of Representatives; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

334. By the SPEAKER: Memorial of the House of Representatives of the State of Maine, relative to honoring women in military service; to the Committee on House Administration.

335. Also, memorial of the House of Representatives of the State of Maine, relative to compensation for service-connected disabilities; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. CONDIT, Mr. LEWIS of Florida, Mr. NOWAK, Mr. RAY, Mr. SPRATT, and Mr. MCMILLAN of North Carolina.

H.R. 78: Mr. ALLEN.

H.R. 187: Mr. NOWAK and Mr. SIKORSKI.

H.R. 461: Mr. PACKARD and Ms. HORN.

H.R. 608: Mr. COLEMAN of Texas, Mr. JENKINS, Mr. UPTON, Mr. BROWDER, Mr. MAVROULES, Mr. HERTEL, Mrs. MINK, Mr. HOYER, Mr. TOWNS, Mr. DYMALLY, and Mr. LIVINGSTON.

H.R. 609: Mr. NEAL of Massachusetts, Mr. GEJDENSON, Mr. FLAKE, Mr. HOCHBRUECKNER, Mr. DE LUGO, Mr. HORTON, Mr. AUCOIN, Mr. DYMALLY, Ms. SLAUGHTER, and Mr. HAYES of Louisiana.

H.R. 617: Mr. LANCASTER, Mrs. PATTERSON, Mr. LUKEN, and Mr. ENGLISH.

H.R. 786: Mr. HOAGLAND, Mr. ROSE, and Mr. WILLIAMS.

H.R. 793: Mr. MCHUGH, Mr. HAYES of Illinois, Mr. WOLPE, and Mr. MORAN.

H.R. 815: Ms. NORTON.

H.R. 840: Mr. HORTON and Mr. SARPALIUS.

H.R. 1145: Mr. ROYBAL and Mrs. BOXER.

H.R. 1186: Mr. HENRY, Mr. CHAPMAN, Mr. CONYERS, Mr. OXLEY, Mr. HERGER, Mrs. COLLINS of Michigan, Mr. LIGHTFOOT, Mr. PICKETT, and Mr. PASTOR.

H.R. 1348: Mr. DOOLITTLE, Mr. FOGLIETTA, Mr. ROE, Mr. HEFNER, Mr. MORRISON, and Mr. QUILLEN.

H.R. 1411: Mr. GEREN of Texas, Mr. DORNAN of California, Mr. PETERSON of Minnesota, Ms. KAPTUR, Mr. ZELIFF, Mr. CARPER, Mrs. ROUKEMA, and Mr. TAYLOR of North Carolina.

H.R. 1450: Mr. OWENS of Utah.

H.R. 1572: Mr. ALLEN and Mr. TRAFICANT.

H.R. 1652: Mr. MCMILLEN of Maryland.

H.R. 1791: Mr. ROE.

H.R. 2083: Mr. DORGAN of North Dakota.

H.R. 2338: Mr. OLVER.

H.R. 2766: Mr. SIKORSKI.

H.R. 2806: Mr. SWETT, Mr. CAMPBELL of California, Mr. KOLTER, and Mr. JEFFERSON.

H.R. 2808: Mr. LIVINGSTON.

H.R. 2838: Mr. COX of Illinois, Mr. KOLTER, Mr. KOPETSKI, Ms. KAPTUR, Mr. SCHEUER, Mr. AUCOIN, Mr. SPENCE, and Mr. VOLKMER.

H.R. 2946: Mr. MARLENEE.

H.R. 2966: Mr. PRICE and Mr. ATKINS.

H.R. 3035: Mrs. VUCANOVICH.

H.R. 3042: Mr. BEVILL.

H.R. 3204: Mr. CAMPBELL of California, Mr. HYDE, Mr. SCHUMER, Mr. BEVILL, Mr. CLAY, Mr. DERRICK, Mr. FAZIO, Mr. FORD of Tennessee, Mr. FROST, Mr. HALL of Texas, Mrs. LLOYD, Ms. NORTON, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. SCHAEFER, Mr. SOLARZ, Mr. SPENCE, Mr. UPTON, and Mr. MARTINEZ.

H.R. 3216: Mr. ALLEN and Mr. UPTON.

H.R. 3217: Mr. PACKARD.

H.R. 3236: Mr. ANDREWS of Maine.

H.R. 3253: Mr. MOLLOHAN and Mr. DIXON.

H.R. 3344: Mr. RUSSO.

H.R. 3425: Mr. KILDEE, Mr. STEARNS, Mr. COSTELLO, and Mr. MCGRATH.

H.R. 3438: Mr. RANGEL.

H.R. 3439: Mr. RANGEL.

H.R. 3440: Mr. RANGEL.

H.R. 3441: Mr. RANGEL.

H.R. 3442: Mr. RANGEL.

H.R. 3472: Mr. SANTORUM.

H.R. 3516: Mr. LIVINGSTON.

H.R. 3544: Mr. GUARINI, Mr. LIPINSKI, and Mr. LANTOS.

H.R. 3592: Mr. LIVINGSTON.

H.R. 3605: Mr. RANGEL.

H.R. 3636: Mr. VOLKMER.

H.R. 3662: Mr. GILMAN, Mr. TAYLOR of North Carolina, Mr. OWENS of Utah, and Mr. DUNCAN.

H.R. 3702: Mrs. BOXER.

H.R. 3732: Mr. MANTON.

H.R. 3748: Mr. COLEMAN of Texas and Mr. WALSH.

H.R. 3781: Mr. PICKETT.

H.R. 3816: Mr. ROE.

H.R. 3825: Mr. KLUG, Mr. GINGRICH, Mr. HASTERT, Mr. MOLLOHAN, Mr. SAVAGE, and Mr. KOLBE.

H.R. 3826: Mr. FROST, Mr. LEHMAN of Florida, Mrs. LOWEY of New York, and Mr. MCDERMOTT.

H.R. 3849: Mr. COX of Illinois, Mr. LIPINSKI, Mr. DELLUMS, Mr. MCGRATH, and Mr. ROE.

H.R. 3918: Mr. HOCHBRUECKNER, Mr. SYNAR, and Mr. ANDERSON.

H.R. 3953: Mr. WOLPE, Mr. KOLTER, Mr. BACCHUS, Mr. OWENS of New York, Mr. MCMILLEN of Maryland, Mr. ATKINS, Mrs. BOXER, Mr. MARKEY, Mr. GILMAN, Mr. WELDON, Mr. MARTINEZ, Mr. ANDREWS of Maine, and Mrs. MORELLA.

H.R. 3961: Mr. HALL of Ohio and Mrs. SCHROEDER.

H.R. 4013: Mr. CRAMER and Mr. YATRON.

H.R. 4023: Mr. TORRICELLI and Mr. HAYES of Illinois.

H.R. 4100: Mr. DEFAZIO, Mr. OLVER, Mr. EVANS, Mr. ECKART, and Mr. PERKINS.

H.R. 4127: Mr. DORNAN of California, Mr. MCCANDLESS, and Mr. MOORHEAD.

H.R. 4130: Mr. LIVINGSTON, Mr. RAMSTAD, and Mr. LAGOMARSINO.

H.R. 4151: Mr. TOWNS.

H.R. 4161: Mr. JONTZ and Mr. JEFFERSON.

H.R. 4169: Mr. HUCKABY and Mr. RAVENEL.

H.R. 4178: Mr. LEVINE of California and Mr. ROE.

H.R. 4196: Mr. JAMES, Mr. LANTOS, Mr. GORDON, Mr. LAGOMARSINO, Mr. JENKINS, Mr. FROST, Mr. RITTER, Mr. HOCHBRUECKNER, Mr. ROGERS, Mr. HOYER, Mr. NEAL of North Carolina, Mr. TAUZIN, and Mr. ANDREWS of New Jersey.

H.R. 4207: Mr. BRUCE, Mr. PENNY, Mr. WEBER, Mr. INHOFE, Mr. SWETT, and Mr. KOPETSKI.

H.R. 4227: Mr. RANGEL, Mr. MATSUI, Mr. STARK, Mr. LEVINE of California, Mr. FAZIO, Ms. PELOSI, Mr. MILLER of California, Mr. BILBRAY, Mr. LANTOS, Mr. TORRES, Mr. DELLUMS, Mrs. MINK, Mr. TOWNS, and Mr. CONDIT.

H.R. 4271: Mr. MCDERMOTT, Mr. CARDIN, Mr. PASTOR, Mr. LENT, Mr. COLEMAN of Texas, Mr. TRAXLER, and Mr. SANDERS.

H.R. 4277: Mr. ROEMER, Mr. BROWN, and Mr. BONIOR.

H.R. 4280: Mr. EWING, Mr. BALLENGER, and Mr. MCCRERY.

H.R. 4285: Mr. ANDERSON, Mr. GALLEGLY, and Mr. FROST.

H.R. 4286: Mr. GORDON and Mr. LAFALCE.

H.R. 4293: Mr. HOCHBRUECKNER, Mr. LENT, Mr. TRAFICANT, Mr. RANGEL, Mr. SCHIFF, and Mr. ROE.

H.R. 4304: Mr. SABO and Ms. HORN.

H.R. 4319: Mr. BEREUTER and Mrs. JOHNSON of Connecticut.

H.J. Res. 143: Mr. BLILEY.

H.J. Res. 272: Mr. YATRON, Mr. ROGERS, Mr. LEWIS of Florida, Mr. HENRY, Mr. FISH, Mr. MCDADE, Mr. MRAZEK, Mrs. MORELLA, Mr. HORTON, Mr. HAMILTON, Mr. RAVENEL, Mr. NATCHER, Mrs. PATTERSON, Mr. WOLPE, Mr. NICHOLS, Mr. THOMAS of Wyoming, Mr. LIVINGSTON, Mr. MYERS of Indiana, Mr. WEBER, Mr. MURPHY, Mr. LAFALCE, Mr. STOKES, Mr. HUTTO, Mr. TAUZIN, Mr. DE LUGO, Mr. DIXON, Mr. MCCOLLUM, Mr. HYDE, Mr. DOOLEY, Mr. DARDEN, Mr. HUBBARD, Mr. DYMALLY, Mr. KILDEE, Mr. APPLEGATE, Mr. BOEHLERT, Mr. SUNDQUIST, Mr. MCDERMOTT, Mr. DICKS, Mrs. UNSOELD, Mr. SWIFT, Mr. TOWNS, Mr. MURTHA, Mr. HOUGHTON, Mr. BONIOR, and Mr. LEWIS of Georgia.

H.J. Res. 357: Mr. RANGEL.

H.J. Res. 371: Mr. NATCHER, Mr. OWENS of Utah, Mr. PAXON, Mr. TALLON, Mr. TRAFICANT, Mr. TAUZIN, Mr. TRAXLER, and Mr. YOUNG of Alaska.

H.J. Res. 388: Mrs. UNSOELD, Mr. DORGAN of North Dakota, Mrs. MEYERS of Kansas, and Mr. WEBER.

H.J. Res. 402: Mr. DOOLITTLE, Mr. MARTINEZ, Mr. BOUCHER, and Mr. SISISKY.

H.J. Res. 403: Mr. WEISS, Mr. HUGHES, Mr. ATKINS, Mr. TRAFICANT, Mr. BARRETT, Mr. MOORHEAD, Ms. MOLINARI, Mr. SOLOMON, Ms. NORTON, Mr. KLUG, Mr. FROST, Mr. LEWIS of California, Mr. GILMAN, Mr. SCHUMER, Mr. SISISKY, Mr. EVANS, Mr. KOPETSKI, Mr. ESPY, Mr. CAMP, Mr. DWYER of New Jersey, Mrs. VUCANOVICH, Mr. FASCELL, Mr. MCCLOSKEY, Mr. MARTIN, Mr. HOBSON, and Mr. LANTOS.

H.J. Res. 411: Mr. DWYER of New Jersey, Mr. MCGRATH, Mr. FROST, and Mr. SOLOMON.

H.J. Res. 423: Mr. MILLER of Washington.

H. Con. Res. 224: Mr. DINGELL.

H. Con. Res. 248: Mr. HERTEL and Mr. TAUZIN.

H. Con. Res. 271: Mr. OWENS of Utah, Mr. KOLTER, Mr. FROST, and Mr. JONTZ.

H. Con. Res. 277: Mr. WILSON, Mrs. VUCANOVICH, and Mr. MOORHEAD.

H. Con. Res. 281: Mr. ATKINS, Mr. WEBER, Mr. ACKERMAN, Ms. MOLINARI, Mr. SMITH of Florida, and Mrs. MORELLA.

H. Res. 234: Mr. DURBIN.

H. Res. 322: Mr. GORDON, Mr. KYL, and Mr. LAGOMARSINO.

H. Res. 331: Mr. DURBIN, Ms. HORN, Mrs. PATTERSON, Mr. MARTINEZ, Mrs. LLOYD, Mr. SARPALIUS, Mr. PAYNE of Virginia, Mr. WILSON, Mr. FROST, Mr. OWENS of New York, Mr. LIPINSKI, Mr. EVANS, and Mr. DWYER of New Jersey.

H. Res. 332: Mr. BEREUTER and Mrs. ROUKEMA.

H. Res. 376: Mr. GOSS, Mr. BOEHNER, and Mrs. ROUKEMA.

H. Res. 384: Mr. NUSSLE, Mr. EMERSON, and Mr. SPRATT.

SENATE—*Tuesday, March 3, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. To the Supreme Judge of the world, we today make our petitions, and the Senate will be led in prayer by the Senate Chaplain, the Reverend Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

To every thing there is a season, and a time to every purpose under the heaven * * *.—Ecclesiastes 3:1.

Eternal God, we thank You for the wisdom of Solomon concerning time. Deliver the Senate from the tyranny of the urgent, the squeaking wheel which demands attention while the engine is breaking down and the body disintegrating. In a society where everybody expects Government to solve every problem, individual or corporate, protect the Senators from the kind of intimidation which robs them of objectivity and diverts concentration on those issues to which they can and should address themselves.

Patient Lord, mindful of the cliches, "Haste makes waste," and "The hurrier I go, the behinder I get," save the Senators from majoring in the minors and minoring in the majors. Help them enjoy the exquisite leisure of God.

In the name of Jesus who was never in a hurry yet finished the cosmic work He came to do on schedule. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the order, the Senator from Arizona [Mr. MCCAIN] is to be recognized for up to 10 minutes and the Senator from Wyoming [Mr. SIMPSON] or his designee is recognized to speak for up to 5 minutes.

Is there morning business? Does any Senator seek recognition?

Mr. KERRY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. I thank the Chair.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

Mr. KERRY. Mr. President, I would like to say a few words this morning in support of the Corporation for Public Broadcasting reauthorization, S. 1504, which is the Public Telecommunications Act of 1991. I believe the most helpful way I could say a few words about this act and our effort to have cloture on it, Mr. President, would be to point out some of the contributions that public broadcasting has made to enriching the lives of Americans and particularly what it has done in Massachusetts.

We are very privileged to have in Massachusetts several public broadcasting radio stations, WBUR in Boston, WFCR in Amherst, and WGBH in Boston, and we have some of the most active and well-known operations in the entire public television system, WGBH television in Boston and WGBY television in Springfield.

Since public broadcasting service makes these stations available to viewers in every State, programs that have been produced by the WGBH Educational Foundation are now familiar to viewers throughout the entire country, and these shows have become staples upon which millions of Americans have come to rely for programming of the highest quality.

I am sure many of my colleagues are familiar with the wide range of television series that WGBH has given us: "Nova," "This Old House," drama on "Masterpiece Theater," special programs like the series on "LBJ" and the civil rights series on "The Prize" and "Front Line," which is one of the very few sources of serious news documentaries still available on public television. And the list goes on.

But WGBH, which produces these programs, Mr. President, does not stop at producing programs in the public interest. What sets this station and other public broadcasting stations apart from the commercial and cable television industry is the fact that public broadcasters have taken broadcast technology and found ways to adapt it to serve traditionally unserved audiences.

WGBH, for instance, pioneered closed captioning 20 years ago, giving millions of deaf and hard-of-hearing Americans access to television for the first time. Thanks to these efforts, today 100 percent of the prime time programs are captioned. With the same interests in mind for the 11.5 million Americans who are blind and visually impaired, WGBH adapted the new stereotelevision technology and in 1990 created Descriptive Video Service, which provides programs and actions and settings, for the first time allowing blind viewers access to this medium which has become so central to our lives.

WGBH continues to produce new uses for broadcast technologies. A good example is interactive "Nova." Using the science television series, it has created interactive video disks for students in middle schools. This allows them to direct their own exploration of topics in science. This powerful teaching tool takes broadcast technology directly into the classroom for hands-on learning.

Mr. President, there simply is not any equal for the public service role played by public television through stations like WGBH and WGBY. It is imperative that we assure our citizens continued equal access to this kind of quality. It is something that other media simply cannot match. Cable television is not a substitute. Indeed, many of the programs that are airing on cable came from public television, and cable reaches only 60 percent of our homes, leaving 30 to 40 million Americans without access to their programs. Many of our citizens simply cannot afford cable, and their only direct access to cultural educational resources is through public broadcasting.

So as we contemplate and confront the coming changes in the field of communication, I believe it is imperative that we reserve a place for this kind of public service. Frankly, that is the reason I inserted into the cable television bill language providing that direct broadcast satellite systems will reserve between 4 to 7 percent of their system capacity for public broadcasting stations.

Mr. President, there is no question that public broadcasting plays a special role in our society and in our schools, and whether it is through programs like "Sesame Street" or the "Civil War," all Americans have learned a great deal from it. I hope my colleagues will vote for cloture on the motion to proceed and will support the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

bill that is presented by the Commerce Committee.

The PRESIDENT pro tempore. The Senator from Arizona [Mr. McCAIN] is recognized under the order for up to 10 minutes.

Mr. McCAIN. I thank the Chair.

PARKING FOR DISABLED INDIVIDUALS

Mr. McCAIN. Mr. President, there is an old antiwar song that I remember from the sixties called "Where Have All the Flowers Gone?" A refrain that goes throughout that song is, "When will they ever learn?" I wonder, Mr. President, when the Congress is going to learn that we ourselves should subject ourselves to the same laws that we pass and impose on the American people, always for good reason.

Unfortunately, time after time we do not do so, and the subject I wanted to address this morning has to do with the Americans With Disabilities Act. In fact, the Congress of the United States is not only not in compliance, but it is making little effort to come into compliance with the law which places, although justifiably, a very heavy burden on the towns, cities, municipalities, and businesses throughout our country.

Mr. President, on January 26, 1992, the Americans With Disabilities Act mandated the removal of physical barriers in public and commercial facilities to promote access for the disabled. As one of the authors of that landmark act, I am calling on the Committee on Rules and Administration to promulgate and institute new guidelines to ensure that the Senate is in full compliance with the law of the land.

As businesses—especially small businesses—across the country attempt to comply with the law, I believe it is only appropriate for the Senate to be a leader in accessibility standards.

Last month, my office hired an individual who uses a wheelchair. Upon doing so, we reassessed the accessibility of my office and made several changes to make my office fully accessible. At the same time, however, I discovered that Senate and Capitol facilities in general are not fully accessible to the disabled.

The current situation is an egregious example of the Congress once again setting separate, much more lenient, standards for itself than we have imposed on the remainder of society. We must rectify this situation.

The Senate must lead by example. The public trust in this institution is at an all time low. Yet the Senate still acts as though no law applied to it.

Since coming to Congress, I have repeatedly called on the Senate to lead our Nation by example and live within the laws we pass. Last year, the Senate made great strides in this area when it adopted legislation to extend civil rights protections to Capitol Hill employees. I think that was a very positive and important step in the right direction.

However, Mr. President, the Senate must do more to comply with the ADA.

First, the Senate is operating in complete disregard of regulations that govern parking for disabled Americans.

The Uniform Federal Accessibility Standards, as promulgated by the Architectural and Transportation Barriers Compliance Board pursuant to the Architectural Barrier Act (Public Law 90–480) clearly sets forth standards for the number of parking spaces that must be designated for disabled individuals.

There is no justifiable reason for the Senate to be out of compliance with these regulations.

Mr. President, according to the Senate Parking Office, the Senate controls 4,029 parking spaces. Of those 4,029 spaces, 4 are designated for disabled parking. Specifically, there is one space per office building and one for the Senate side of the Capitol. There are also spaces under the control of the District Government near the U.S. Botanical Garden designated for use by the disabled.

The spaces near the Botanical Garden provide little in the way of access to the Capitol and our office buildings. I think that any Senator here would find the task of pushing a wheelchair around the Capitol Building and up Capitol Hill a daunting task.

Additionally, visual surveys by my staff have shown that on many occasions, automobiles that do not bear disabled plates have been parked in the three designated spaces.

The Uniform Federal Accessibility Standards mandates "if parking spaces are provided for employees or visitors, or both, that accessible spaces, complying with [paragraph] 4.6 shall be provided * * * in conformance with the following table." The table, Mr. President, calls on a Federal facility with 4,029 spaces to have 50 designated spaces. Four, the total amount the Senate currently offers, is clearly less than 50.

Mr. President, to be fair, the Parking Office has stated that the four designated spaces are for visitor use, and that employees who have documentation from a physician and a letter from a Senator will be accommodated to the best of the Parking Office's ability. However, we do not allow the private sector or other agencies to simply accommodate individuals.

The law is clear. The regulation governing private and public sector buildings is clear. The Senate, however, has wrongly chosen to ignore it.

I would like to point out, however, that the Senate has made considerably more progress than the other body in this area. According to maps provided to my staff by the Congressional Special Services Office, the House has zero spaces designated for disabled use.

I am very cognizant that the Senate Office Buildings are not new construction and that we have an obligation to preserve the architectural integrity of the Senate and the grounds. But I think my colleagues will agree that these reasons are not sufficient for the Senate to so blatantly ignore the law.

I cannot tell the small business owners located in a historic building in Phoenix, or Prescott, or Tucson, AZ, to ignore the law and simply accommodate the parking needs of disabled individuals on a case-by-case basis.

Second, the Congressional Special Services Office, the Office created to service the needs of disabled visitors to the Capitol, is itself inaccessible to many individuals with physical disabilities. Last year, the Architect of the Capitol correctly began to expand the office space of the Congressional Special Services Office. The work is just now being finished. The CSSO's large workload clearly merited this expansion.

However, it is an effrontery to the Senate and to every disabled American that this Office was expanded in a manner that made it inaccessible to many with mobility impairments.

The ADA states that alterations to existing places of public accommodation and commercial facilities must be made in a manner that makes those facilities accessible to the maximum extent feasible. Why then would the Special Services Office actually be expanded in a manner that makes it inaccessible?

There are still many areas where the Capitol and the Senate are lagging far behind, or even ignoring, Federal regulations. The Old Senate Chamber, for example, remains completely inaccessible to the physically disabled.

Additionally, signage directing disabled Americans to the location of accessible entrances on the Senate side of the Capitol is clearly lacking.

I am confident that the Rules Committee, under its able leadership, will do what is right to correct this situation. I hope they will act soon. I have written to the Rules Committee, and I believe that this will be corrected.

At the same time, this should not have happened to start with. We should bring ourselves into compliance, and we should make the American people fully aware that we are willing to live under the laws, rules, and regulations that we have passed and that are imposed on them.

Mr. President, I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Alabama [Mr. HEFLIN].

TVA'S NATIONAL FERTILIZER AND ENVIRONMENTAL RESEARCH CENTER

Mr. HEFLIN. Mr. President, a few weeks ago, I spoke on the Senate floor concerning my strong opposition to the administration's plan to eliminate funding for the Tennessee Valley Authority's National Fertilizer and Environmental Research Center located in Muscle Shoals, AL. I would like to reiterate my opposition today, with particular emphasis on the importance of the center to our competitiveness in world trade.

The TVA Center is one of the most successful and beneficial Government operations in existence. It has patented over 250 fertilizer process innovations which have led to 705 patent licenses. As the map next to me shows, these patented processes are being used today to produce fertilizer in 578 plants located in 39 States around the country. This is why three-fourths of the fertilizer used annually in the United States is made with technology pioneered by TVA scientists at TVA's National Fertilizer Center.

U.S. agriculture is a worldwide model of productivity and efficiency. Our farmers make up only one-tenth of 1 percent of the world's population, yet they produce 25 percent of the world's food supply. This productivity has permitted the United States to become the world's leading producer of agricultural goods, exporting more than 40 billion dollars' worth of agricultural products each year. In addition, before the establishment of TVA and its fertilizer center in 1933, the United States was highly dependent upon imported nitrogen fertilizers. Today, the center is credited with the fact that the United States is now the world's largest exporter of fertilizer and fertilizer technology.

America is preeminent in world agricultural trade today because of the investments in agricultural research we made in the immediate past. However, if we fail to invest today in our future economic well being, we will lose our competitive advantage.

As the graph next to me shows, our major economic competitors have been investing a much larger share of their national wealth on public investments such as research and development, and are enjoying a higher annual rate of productivity growth as a result. Given this fact, I believe it would be unwise to cut our investment in research and development at this time. It would not be desirable to risk losing our competitiveness in world trade.

The value of the taxpayer's investment in TVA's Fertilizer Center is impressive and documented. The accumulated total benefit to the economy has far exceeded the total cost of the program. Findings of a recent study concentrating on the savings attributable to selected fertilizer center innovations over a 48-year period revealed a benefit-to-cost ratio of 20.5 to 1. In other words, the center provided over $20 in benefits to the economy for each dollar of appropriated funds invested.

An alternative measure of the yield of this investment to the public is the internal rate of return, which was calculated to be 93.3 percent. Put another way, the money invested in the center over the 48-year period paid a yield to the economy equivalent to a savings account paying 93.3 percent interest annually. Either measure of benefits proves that the investment has been a wise one for U.S. taxpayers. Although these rates of return on research may seem high, these findings are fully consistent with those reported by other researchers for similar new technology and science-oriented agricultural research.

Mr. President, I believe it is important to point out that the TVA Fertilizer Research Center has been able to achieve these great successes with a relatively small budget of $34 million a year. The administration's so-called budget cut would only save $34 million in next year's budget, but this savings would be achieved at the expense of untold billions of dollars in future economic growth that would result from ongoing research that would be terminated. It would shortchange our long-term well-being for short-term benefit.

America cannot afford to lose productive public investments such as the fertilizer center, which produces a 20-fold return on the dollar. It would be unwise to reduce investment in long-term economic growth and forego this source of future income. This would only increase the budget deficit in coming years and increase our national debt.

In my judgment, the administration's proposal to cut the TVA Fertilizer Research Center from the budget is shortsighted and unwise. The President wants to cut sources of future economic growth just to make this year's budget look better.

I thank the Chair.

The PRESIDENT pro tempore. The Senator from Hawaii.

EXTENSION OF MORNING BUSINESS AND ORDER OF PROCEDURE

Mr. INOUYE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the time for morning business be extended to 12 noon today, with Senators permitted to speak therein for up to 5 minutes each; that the time from 12 noon to 12:30 p.m. be for debate on the motion to invoke cloture on the motion to proceed to S. 1504, with the time equally divided and controlled in the usual form; that the Senate stand in recess from 12:30 p.m. to 2:15 p.m. today; further that the vote on the motion to invoke cloture occur at 2:15 p.m. with the live quorum waived.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Missouri [Mr. BOND] is recognized for not to exceed 5 minutes.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 2306 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senator from Nebraska [Mr. EXON] is recognized for not to exceed 5 minutes.

Mr. EXON. I thank the Chair.

VIOLENT CRIME IN AMERICA

Mr. EXON. Mr. President, I listened with great interest to the very interesting remarks by my distinguished friend and colleague from South Carolina, Senator THURMOND, regarding the tragedies that unfortunately seem to be becoming commonplace in the immediate vicinity of the Capitol of the United States of America.

I say first, Mr. President, that I do not have the answers to this problem, but I believe that the voices that are calling for more attention to this problem must generate concern, debate, and hopefully some type of appropriate action by the Congress of the United States.

Mr. President, I feel that above and beyond the tragedies is that the events in the last few months or the last few years within a stone's throw of the Capitol of the United States of America is an extremely serious situation. It is multiplied throughout the United States, though, and it should not be simply stated that it is a local problem. It is a national problem.

I guess a fundamental concern that I have, Mr. President, is how long, though, are we going to tolerate and what should we do about the security of the Capitol of the United States itself, not just for the people that work here and live here and are elected to serve here, but probably, more importantly, the people of the United States who look at this as their mecca of all that is good about the United States of America, our democracy, and the system that we try and keep going from this place steeped in history.

I worry about the fact that, if this continues, then we are going to have more and more Americans, I am afraid, who will be afraid to even bring themselves and their children and their grandchildren to the Capitol of the United States.

Now, while I recognize the so-called rights of the government of the District of Columbia that we have given them over the years, I am not sure—in fact I do not believe—that just a simple single-bullet approach such as the death penalty is likely to solve the problem. This Senator has been an advocate of the death penalty for certain types of crime, of which murder would be one, for a long, long time. But I hope that we do not think just passing some piece of legislation that has been suggested in the Congress in recent days of mandating the death penalty is going to solve the problem. It might be a good Band-aid. It might be something that we could point to and say, look, we are doing something about this. But the facts of the matter are, as this Senator sees it, Mr. President, that the problem that we have is much, much deeper and goes far beyond any kind of a single-bullet approach as imposing the death penalty.

Last night on, I believe it was, "NBC News," there was a leadoff feature story with regard to the rise of violent crime in the United States. I do not remember for certain, Mr. President, whether the recent events, tragic events, in the area of the Capitol were particularly mentioned but probably that was the instigation for the story.

I would simply point out that the featured story on NBC News went directly to demonstrate how this is widespread to, of all places, Omaha, NE, where a principal of a high school was interviewed and the principal was talking about metal detectors—metal detectors, Mr. President, if you will—in the public school system of Omaha, NE. It is widespread. We had a very serious incident in Omaha in the last few days where a 5-year-old boy was walking home from school across from a recreational area and he was attacked by an 8-year-old boy with a knife, for reasons that no one has been able to understand. The cut that was inflicted came within an inch or 2 of the jugular vein and required 22 stitches from somewhere on the upper part of his head down to the base of his neck.

I simply cite this, Mr. President, to recognize that there is something wrong in our society. There is something wrong with our movies. There is a lot wrong with our television. And I do not want censorship. But I believe that the young people of today have been fed a steady stream that violence is a part of our society to the point it is beginning to hurt us.

Just let me close by saying, Mr. President, that of major concern to this Senator is the fact that for the most part there is something there that we overlooked. For the most part at least the black communities of our great United States of America and the fine citizens that live therein are proportionately suffering more and more severely from this problem than in other areas. Black-on-black crime of a violent nature is the highest by far on record and getting worse each and every day.

I am glad that the Senate is beginning to discuss this. I am glad that the House is doing likewise. But the problem is very deep. It is going to require a lot of time and attention, much more so than we have given in the past.

I thank the Chair and I yield back any remaining time.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from North Dakota [Mr. CONRAD] is recognized for not to exceed 5 minutes.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 2307 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DEFENSE BUDGET CUTS AND THE FUTURE OF THE DEFENSE INDUSTRIAL BASE

Mr. McCAIN. Mr. President, at an Armed Services Committee hearing last week, we received testimony on the potentially disastrous effect of the defense budget cuts on the defense industrial base. All the testimony indicated that many businesses will close, many people will lose their jobs, and that a good part of our defense manufacturing capability will wither away. No panel participant possessed nor knew anyone else that possessed a clear understanding of exactly how the defense industrial base and the economy will be affected; no one has yet studied the problem in adequate detail.

Two years ago, I introduced language into the fiscal year 1991 Defense Authorization Act requiring the Department of Defense to produce an annual report on the future of our defense industrial base and the impact of project terminations and cuts in defense spending on our national security. This report has now become a national imperative since it will provide Congress, industry, and the American people an understanding of the effects of defense spending trends in our Nation's economy. We received the first report this past November, and I recently forwarded to the Secretary of Defense various industry and academia reviews of this report, my concerns regarding the future of our defense industrial base, and words of encouragement to improve the Department's study of the issue.

KEY SUGGESTIONS FROM DEFENSE INDUSTRY EXPERTS

While the report is a fair first effort, I have solicited views of a wide range of defense industry experts—which I am submitting for the RECORD. The comments of these experts indicate that the report should be more analytically detailed rather than descriptive. The way the report is currently written encourages the perception that it is a subjective assessment rather than a concrete economic analysis based on hard data. Hence, the report needs much more detailed data to support its assessments of spending trends, their economic impacts, and their effect on production and surge capabilities.

Some of the experts believe that the report utilizes a flawed methodology. Among the methodological problems identified are the exclusion of second-tier contractors and suppliers from the assessment of industry health, a lack of sophistication in the analysis of corporate financial health, and the failure to distinguish defense and nondefense sectors within various corporations. With regard to the latter point, the failure to separate these sectors analytically will yield a seriously flawed picture of defense industry health. For example, the strong over-all commercial performance of a corporation could hide defense sector suffering within the corporation. The experts recommend utilizing more sophisticated computational models for assessing these key areas.

Perhaps most significantly, nearly all the experts were critical of the report's assumption that market forces will encourage individual companies to shift from defense production to commercial production and back again, when necessary. The experts point out that several market-disrupting factors make this highly improbable. Manufacturers' unfavorable cost/benefit assessments discourage conversion to defense production, as do DOD regulatory impediments. Extensive capital investments, extremely low profit margins, and excessive Government bureaucracy in specifications details and accounting standards are obviously unattractive to industry. Export limitations provide no incentive for conversion either since they will continue to severely restrict the potential market.

The experts expressed their concern that market forces will not operate freely in this closed future market, where DOD is the sole market and industry is an increasingly smaller, regulated group of suppliers. Once the industrial base shrinks to its new size, surviving companies will not be able to respond effectively to DOD needs in the event of a major crisis. We need to recall that in the 1980's the number of defense suppliers shrank drastically—in some estimates by 50 percent—in spite of the expansion of Government procurement. There is no indication that any company might wish to get back into defense supply given the parameters of the future market. Therefore, we must undertake efforts that reduce or eliminate some of these impediments to the operation of the free market. The experts suggest that the Defense Department can simplify its procurement and accounting requirements and procedures. They also encourage the Department to utilize commercially available technologies and products where possible. Further, they suggest that Congress may be able to raise some of the export restrictions on less-sensitive items.

ADDITIONAL CONCERNS REGARDING THE FUTURE OF THE DEFENSE INDUSTRIAL BASE

To supplement these expert commentaries on the report, I would like to express four concerns of my own regarding our approach to preserving an adequate industrial base for ensuring our national defense.

First, I am concerned that we may be stressing research and development at the expense of paying adequate attention to the problem of preserving our national production capability and capacity. I believe that the Secretary of Defense has chosen the right strategy in pursuing the development of effective high-technology weapons systems, but I fear—because of the contraction of the defense industry—that we may lose the capability to manufacture such systems. Most industry analysts indicate that much of the technical and cost risk in any given system comes during the initial effort to produce large numbers of the system, well after the research and development phase is completed. This issue needs to be thoroughly addressed in the Department of Defense report so that essential manufacturing capability is not sacrificed.

Second, I share with the Secretary of Defense the common belief that we must rely as much as possible on market forces in down-sizing our defense industries, but believe such reliance must be tempered by timely and accurate analyses of those areas where market forces are hindered or where market forces alone may not suffice. We must investigate the possible creation of selective centers of excellence to ensure that we preserve endangered technical and production bases for our defense market. In addition, I am uncertain we really have the capability to analyze and project our defense industry's future needs for systems integrators, major production facilities, and subcontractors.

Third, we need not only a strategy to ensure that we do not lose our high-technology edge, but also a strategy for upgrading existing weapon systems and munitions. This strategy must take into account the possibility that we may suffer cuts in defense spending that radically depart from the President's cautious and deliberate approach. It also requires a careful examination of the way the Department of Defense handles program terminations and the effect of those terminations on systems upgrades. This examination should certainly be part of the analysis of and planning for the future defense industrial base.

And last, while the reporting requirement does not specifically require an analysis of defense industry employment, it is clear that hundreds of thousands of skilled workers are going to lose their jobs after winning the cold war. We need to understand fully how the loss of these heroes will affect our defense industrial base, but we also require a strategy for helping these men and women make the transition to the civil sector. Many defense skills are not easily transferable; they are not dual-use skills. We may well need to consider the development of appropriate programs for the retraining of these individuals.

THE NEED TO FOCUS ON DEFENSE EMPLOYMENT AND THE ECONOMY

The Department of Defense is the body most capable of generating timely and accurate data on defense employment and the loss of defense jobs. It must break these data down by State and by sectors within the defense industry. It should forecast the rate at which defense-related unemployment will increase. And it should examine where Federal, State, and local programs may be necessary to help.

These issues are becoming critical to the people of Arizona and to every other State. This is why I believe that it is essential that the Department take immediate action to provide the kind of analysis and forecasting of defense employment and job losses that will help us understand what action should be taken and anticipate defense unemployment in ways that allow us to help the people involved. It is why I believe that it is equally important that we understand the impact of additional defense budget cuts on defense employment and the economy in general. We must use this understanding to avoid cuts the economy cannot absorb.

The Department of Defense must undertake a deeper study of the problems most analysts anticipate and discover others that they do not. The annual report should make very clear the implications and impacts of cuts in national defense spending on State economies and on our national industrial base. This report is vital to our successfully exploiting the peace dividend while not jeopardizing our national security.

America's security depends on more than just the quantity of tanks we can build, the number of troops we can rapidly deploy, or the amount of money we can allocate for our defense budget. It depends on the quality of our work force, the innovation of our designers, the sophistication of our technology, the flexibility of our manufacturers, and the vitality of our commerce. We must not jeopardize these national strengths with the poor execution of our defense budget cuts.

I ask unanimous consent that material pertinent to this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, February 20, 1992.

Hon. RICHARD CHENEY,
Secretary of Defense,
Washington, DC.

DEAR SECRETARY CHENEY: Two years ago, I introduced language into the FY 1991 Defense Authorization Act requiring that the Department produce an annual report on the future of our industrial base and the impact of project terminations and cuts in defense spending on our national security. (Section S 2509, pp. 125–126)

The Department issued the first report in response to that requirement in November, 1991. While I believe that this report is useful, I also believe that this subject has acquired such importance that it is critical that the Department, the Congress, defense industry, and the American people fully understand the trends in our defense industrial base and in our national security.

As a result, I asked some of our leading experts on the defense industrial base, and key defense industries, to comment on the Department's report. I have attached their replies to this letter, and they raise issues that I believe should be of concern to you and your staff.

While given experts and firms differ in their comments on the report, all raise a common question about what they feel is the failure to properly examine whether we will preserve the design and production resources we need, and express serious doubts about the data base and methodology used in the report. A number also express concerns about continuing over-regulation of the defense industry, and the need to preserve realistic profitability—rather than make cost the only consideration, regardless of whether the firm doing the bidding maintains suitable research and development capabilities.

I hope that you will fully examine these issues, not only to improve the next report, but also in the context of all of the Department's efforts to examine the defense industrial base. At the same time, I would like to express three concerns of my own.

First, I am concerned that we may be putting too much emphasis on research and development without adequate attention to the problems of preserving production capability. I believe that you have chosen the right strategy in pursuing high technology weapons systems, but I hear more and more concern from the defense industry that we will lose the ability to produce such systems, and that much of the technical and cost risk in any given system comes after development is finished and during the initial efforts to produce large numbers of the system.

Second, we share a common belief that we must rely as much as possible on market forces in downsizing our defense industries, but such reliance must be tempered with timely and accurate analysis of those areas where market forces alone may not suffice and where we may have to create selective centers of excellence to ensure that we preserve both a technical and production base. I am unsure if we really have the capability to monitor our needs for systems integrators, major production facilities, and sub-contractors.

Third, we not only need a strategy to ensure that we do not lose our high technology edge, we also need a strategy for upgrading existing weapons and munitions. Further, this strategy must take account of the fact we may well see cuts in defense spending that exceed the President's budget request. This requires a careful examination of the way the Department handles program terminations and program upgrades. This should definitely be part of our planning and analysis of the industrial base.

I would like to have your views, and those of your staff, on these issues, as well as the comments I have attached to this letter. I believe that we need to work together more closely to both ensure that we keep the industrial base we need, and to build a consensus based on a common understanding of the problems involved and exactly what the Department can do to solve them.

At the same time, I believe that we need to take a fundamentally different approach to our treatment of the men and women in the defense industry. The reporting requirement for the industrial base report does not specifically require an analysis of defense industry employment, but it is clear that hundreds of thousands of skilled workers and managers are going to lose their jobs after winning the Cold War.

We need to fully understand how this will affect our defense industrial base, but we also need a strategy for helping these men and women make the transition to the civil sector. Many defense skills are not easily transferable, and we may well need to provide programs for added training.

The Department of Defense is the only body capable of generating timely and accurate data on defense employment and the loss of defense jobs. It is the only body capable of breaking these data down by state and by element of the defense industry. It is the only body capable of forecasting the rate at which unemployment will increase, and where federal, state, and local programs may be necessary to help.

These issues are becoming critical to my state, to the people of Arizona, and to every other state. This is why I believe that it is essential that the Department take immediate action to provide the kind of analysis and forecasting of defense employment and job losses that will allow us to understand what action should be taken, and to anticipate defense unemployment in ways that allow us to help the men and women involved. It is why I believe that it is equally important that we understand the impact of additional defense budget cuts on defense employment, and use this understanding to avoid cuts the economy cannot absorb.

I am prepared to work closely with you to ensure that we develop the kind of analysis and reporting that can build a common understanding between the Department and the Congress. I appreciate the work that the Department has already done to improve our understanding of the defense industrial base, and it is my hope that we can make major additional progress during the coming year.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

DEFICIENCIES IN DOD'S 1991 DEFENSE INDUSTRIAL BASE REPORT, JANUARY 22, 1992

(Prepared for the office of Senator John McCain, by Loren B. Thompson, Ph.D., Georgetown University Global Security Project)

In November of 1991, the Department of Defense (DOD) completed a congressionally mandated assessment of the U.S. defense industrial base. The purpose of this brief is to describe the report, identify its key deficiencies, and recommend improvements. The brief was prepared in response to a request from Dr. Anthony Cordesman, defense aide to Senator John McCain.

REPORT BACKGROUND

Section 825 of the fiscal 1991 National Defense Authorization Act directed the Secretary of Defense to prepare an annual report on the defense industrial base, to be submitted to Congress no later than March 15 of each year. The main objectives of the report were to project the impact of DOD budgets and plans on the ability of the industrial base to meet national security needs, and to describe actions taken by DOD to improve the industrial base. The Secretary was also instructed to include in the report a financial analysis assessing the ability of U.S. businesses to:

Conduct R&D relating to critical defense technologies.

Maintain an adequate technology and production base to meet projected DOD requirements.

Expand production in response to a rapid increase in demand for critical technologies and end-use items.

Cope with reductions and terminations in major DOD procurement programs.

The Authorization Act listed several areas of concern that were to be considered in preparing the financial analysis of defense companies. These included trends in profitability, capital investment, R&D spending and debt burden; the consequences of mergers and acquisitions; the impact of program terminations; and the effects of dependence on foreign suppliers.

REPORT FINDINGS

The Defense Department missed the March, 1991 deadline for its first report. In November of 1991, it submitted to Congress a 50-page assessment of the industrial base. The second paragraph of the report's executive summary set forth its key finding: "DOD believes that the industrial base will be capable of meeting national security requirements as the new defense environment takes hold." This finding was based on an examination of trends in the five generic areas where DOD has conducted most of its major procurements: aircraft, missiles and space, electronics, ships and combat vehicles. Although the report found reasons for concern in several of these areas, it was generally sanguine about the ability of the industrial base to satisfy projected levels of demand for critical technologies and end-use items.

The report conceded that foreign investment in U.S. businesses and DOD dependence on overseas sources of supply could potentially pose national security problems. However, it cited benefits arising from "the trend toward internationalization and interdependence," and argued that only "an exceedingly small proportion of the items that are foreign sourced today" could be viewed as constituting significant vulnerabilities.

With regard to preserving the defense technology and production base, the report emphasized DOD plans to maintain stable R&D funding and noted the many steps taken pursuant to the Defense Management Review to promote efficiency and eliminate unnecessary requirements. It particularly stressed the importance of relying more heavily on "dual-use" technologies and breaking down the barriers between defense activities and the commercial sectors of the economy. Asserting that "free market forces will guide the industrial base of tomorrow," the report enunciated ambitious goals for reforming acquisition procedures and stimulating dual-purpose innovation.

MAJOR DEFICIENCIES

The senior management to the Defense Department appears sincere in its desire to reform the way DOD does business. Unfortunately, its assessment of the industrial base raises serious doubts about whether management possesses the data or the analytical tools to achieve its objectives. The report suffers from at least five fundamental deficiencies.

1. The report is superficial

The most striking deficiency of the defense industrial base report is its superficiality. The level of detail and sophistication is not unlike that of a graduate school term paper. The main body of the report is a mere 39 pages in length, not counting an 8-page executive summary and 11-page financial appendix. Within those 39 pages, subjects of great importance and complexity are "analyzed" in a few pages. Trends within the $400 billion electronics industry, for example, are addressed in three pages; the "missiles and space" industry is disposed of in five paragraphs.

The general tone of the report is descriptive rather than analytical, and the quality of descriptive content is not much better than what would be found in a good newspaper. The text is replete with judgments that are not supported by data or explanation. For example, the report states (on page ES-3) that planned aircraft procurements will be "sufficient to sustain an adequate military aircraft industry," although the report contains no criteria for determining adequacy other than the circular definition, "adequate at the procurement levels for which funds are available" (page ES-2). In effect, the report says that planned levels of procurement will be adequate to support planned levels of procurement.

2. The report's focus is too narrow

The basic focus of the defense industrial base report is on the ability of prime contractors to satisfy projected levels of demand for major military systems. The report does not address the subtier contractors and suppliers that support the primes nor does it confront the possibility of a crisis requiring a surge in production of military items. With regard to subcontractors and suppliers, the report essentially dismisses the problem of subtier erosion by stating that "the large number and diversity" of defense firms "preclude this report from addressing the condition of the entire industrial base in detail" (page ES-1). Nine pages later, the report concedes that "planned budget cuts will have a significant impact on some subcontractors and vendors, particularly those which are smaller, more highly specialized, and heavily dependent on defense sales" (page 1-2). Despite that admission, no effort is made to determine what impact this will have on the industrial base.

The problem of surge capability also receives no attention. For instance, the report's discussion of combat vehicle production concludes that "the existing level of capacity will not be required in the 1990s," and argues that "layaway or mothballing portions of the base is more cost effective than retention of private facilities at low, less efficient rates of production" (page ES-5). Cost effective it may well be, but in a national emergency this strategy might cause serious problems. The report offers no analysis of how quickly the work force or supplier base necessary to manufacture combat vehicle could be reconstituted in a crisis.

3. The report does not provide key data

The report says in the second paragraph of its executive summary that "the flexibility, vitality, and responsiveness of the industrial base should not be underestimated" (page ES-1). Regrettably, the authors seem to take the view that it should not be estimated at all; the report fails to provide a framework of data that would enable Congress to determine how resilient the industrial base actually is. For example, the report states that in assessing defense companies' financial health, "DOD is primarily concerned with the capability and responsiveness of their defense-oriented segments" (page 3–2). However, it does not report segment data for most of the companies it examines, instead relaying on corporate-level data that says little about the viability of key defense operations. The report is full of such omissions:

On page 3–20, it states that "the ability of military aircraft companies to adjust to budget reductions will depend increasingly on the health of the commercial transport market;" the report says nothing about that market's future development, despite the ready availability of projections.

On page 3–6, it states "the helicopter sector will be able to support DOD's production needs, and continued participation by the four domestic producers in the DOD industrial base is expected"; no data supporting this statement are provided.

On page 5–4, it states that "if the goals of the civil-military integration are achieved, a defense-unique industrial base would be necessary only in those areas where specialized defense capabilities are required"; no estimate of how extensive or critical said areas are is provided.

These statements reflect more than mere superficiality. They suggest that DOD lacks the data to conduct credible analyses on important issues such as financial trends, subtier erosion, economic impacts, surge capability, and so on. The report thus seems to confirm the fear of critics that DOD is making major policy decisions without knowing their long-term consequences.

4. The report employs poor methodology

The authorization act mandating the defense industrial base report specified that the report should include an analysis of the financial ability of defense companies to meet future DOD needs for critical technologies and end-use items. As a result, much of the report is an attempt to determine the profitability of defense contractors and assess the impact of program terminations on their future capabilities. Unfortunately, lack of necessary data and analytical sophistication result in a methodologically primitive assessment that does not yield meaningful results.

The report's authors do not appear to be conversant with any of the recent literature on how to calculate and compare corporate profits. At the very least, such calculations should determine companies' returns on investment (assets and/or equity) and compare them with those of alternative investments. They should also evaluate the relative risk involved in defense activities as opposed to alternatives, and adjust profit comparisons to account for the impact of different risk levels on companies' cost of capital. None of this has been done in the report. Instead it offers misleading comparisons of revenues, earnings and debt over a limited time period, for the most part using corporate-level data that thoroughly obscures the actual profitability of defense activities. Furthermore, it fails to compare the returns from defense activities with those available from alternative investments to determine whether companies have an incentive to remain in the defense business. The report's financial analysis is thus methodologically inept, and does not yield useful results.

5. The report is not candid

The executive summary of the defense industrial base report asserts that defense agencies "are collating industrial base data and assessing the industrial impacts of their decisions so that critical capabilities are not lost during this period of downsizing." However, on October 10, 1991, one month before the report was issued, DOD director of procurement Eleanor Spector told a technical symposium in Washington that:

"The department will continue to award to the contractor who offers the best value for the procurement in question. Such decisions are already complex enough. We will not further complicate them by trying to factor in the consequences of the selection of a contractor for the overall structure of the industry."

The seeming contradiction between these two statements underscores yet another deficiency in the industrial base report. The tone of the report suggests that in addition to the many things about the industrial base that DOD managers do not know, there are some things they do not want to know—i.e, things that would require them to become involved in shoring up declining sectors of the economy. For example, the report's discussion of the shipbuilding industry contains (on page 3–15) the following nonsequitur:

"The loss of suppliers and vendors has led to a number of sole-sourced items, including large diesel engines. Other key components, such as crankshafts and turbochargers for large diesel engines, now are available only from overseas. Despite these trends, an adequate industrial base is now in place to support DOD demands. * * *

This passage in effect says the U.S. cannot build certain classes of ships without foreign support, but denies that poses serious consequences for the industrial base. The report is full of similarly questionable statements about the aircraft industry, the electronics industry, and various other sectors of the industrial base. The author is seem intent on avoiding discussion of issues that would raise uncomfortable economic policy questions.

RECOMMENDATIONS

The 1991 defense industrial base report is not a competent effort. Its treatment of key issues is superficial, its analytical focus is too narrow, its data are incomplete, its methods are unsophisticated and its conclusions are unwarranted. I order to prepare a more adequate report, the Defense Department's senior managers must consider seriously the concerns that led Congress to mandate the preparation of an annual industrial base assessment. Assuming the necessary change in attitude at DOD, the following specific steps will greatly improve the report's informational value and policy relevance:

1. Broader Focus. DOD needs to develop a method for monitoring the health of key subtier contractors and suppliers. Until it extends its inquiry below the level of prime contractors, it will not be able to draw meaningful conclusions about surge capability, foreign dependence, trends in innovation and the like.

2. Better Data. DOD needs to establish a program for routinely collecting segment data on major defense contractors and evaluating their returns according to standard measures used in the financial community. A suitable model for such an effort is set forth in General Accounting Office publication NSIAD–87–175, "A Proposal for a Program to Study the Profitability of Government Contractors."

3. Improved Methodology. In the absence of a carefully conceived profit analysis such as that set out in the GAO publication, the Defense Department will not be able to offer definitive judgments on the adequacy of profit levels. However, even using existing public sources it is possible to collect much more segment data that the current report contains, and apply much more sophisticated measures of comparative profitability.

4. Greater Objectivity. The 1991 defense industrial base report carefully avoids addressing problems that might require extensive government intervention in the economy. This is certainly understandable, but as long as DOD's inquiries on the industrial base are limited by its policy preferences, it will be impossible to fully understand the condition of the defense industrial base.

The latter problem suggests that responsibility for the annual industrial base report might be more usefully vested in an agency that is insulated from political currents such as the GAO or Office of Technology Assessment. If DOD is to remain the responsible agent for preparing the report, it may be necessary for Congress to provide the Pentagon with a far more detailed road map of what it wants, to prevent a repetition of the 1991 report's deficiencies.

CENTER FOR STRATEGIC &
INTERNATIONAL STUDIES,
Washington, DC, February 3, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: Thank you for the opportunity to comment on the November Department of Defense Report on the Defense Industrial Base and for indulging me with some extra time to study it with care. Enclosed with this letter you will find my review of the report in detail.

In sum, I found the report to be lacking to a significant degree. We need much better analysis if we are to develop effective policies and investment strategies for the defense industrial base.

We are grateful for your continuing concern for this important element of our national security strategy. CSIS will continue to be active in this policy area and I look forward to working with you in the future in that regard.

Sincerely:

JAMES A. BLACKWELL, Jr.,
Director, Political Military Studies.

A REVIEW OF THE NOVEMBER 1991 DEPARTMENT OF DEFENSE REPORT TO CONGRESS ON THE DEFENSE INDUSTRIAL BASE

February 3, 1992.

James Blackwell,
Director, Political Military Studies, the Center for Strategic and International Studies, Washington, DC.

Overall, the November 1991 report by the Office of the Assistant Secretary of Defense (Production and Logistics), is the first attempt by DoD at assessing the ability of the defense industrial base to meet the demands of national security strategy. This was no easy accomplishment since in the past the department has resisted conducting such analyses and since the strategic environment has shifted so dramatically in very short order. However, the report falls short of addressing the details of the statutory requirement to consider the factors specified in the letter of the law. Moreover, since the submission of the defense Industrial Base Report, the president's budget request for 1993 has presented a significant number of new acquisition approaches and program terminations which, collectively could render portions of the report now invalid.

There are a number of strengths to this first effort. First, it is absolutely imperative to take a sectoral approach to the assessment of the defense industrial base, as the report does. DOD is involved in over 200 industrial sectors, as defined by the Commerce department, and the structure and performance of each sector varies greatly. DOD recognizes that its programs and budgets have different impacts across the spectrum of industrial sectors it is involved in. Future versions of the report should be expanded to consider sectors at least as important to defense such as ordnance, ammunition, computers and others.

The second strength to the report is that it recognizes that DoD programs and budgets cannot become a surrogate national industrial policy. The report rightly acknowledges that defense programs will become even less able to leverage national economic competitiveness as defense budgets continue to decline:

"* * * DoD's ability to foster U.S. industrial capabilities has diminished as industrial base issues increasingly center on non-defense concerns and as the defense budget—DoD's primary form of leverage—continues to shrink from recent peak spending levels." (p. 3–20)

While there are certain spin-off advantages to the commercial economy from defense investments, meeting the mission of the Defense Department—to win the nation's wars—must continue to be the sole function of defense industrial base policy.

But in spite of these strengths, the report is not an adequate assessment of the defense industrial base and is in need of major improvement if it is to be useful in making and implementing policy. For starters, in assessing the business health of the industry, the report oversimplifies the analysis by failing to disaggregate defense from non-defense businesses within a given corporation. The issue here is not the financial health of any particular company, rather it is the performance of the industries themselves in responding to defense needs. In many cases strong commercial performance in a large firm with both defense and non-defense enterprises can mask underlying weakness on the defense side. Diversified firms sometimes maintain defense components as a matter of corporate strategy (for cash, access to technology, or other reasons) even at a loss, yet such performance will not show up in the corporation's bottom line. The point in that simply comparing corporate annual reports can be akin to comparing apples to oranges unless a detailed analysis is made of the cost accounting procedures employed and reporting processes used. There is no explanation in the DoD report to demonstrate that such differences have been taken into account.

The report identifies two sectors in which the services have identified potential industrial base problems in the near future: Navy shipbuilding and Army combat vehicles (p. 3–1). In both cases the report argues that:

"* * * DoD believes that a sufficient industrial base capability to meet current and planned requirements will be retained in both cases. Even where facilities are not needed or cannot be economically operated under prevailing conditions, some potential for them to reenter the defense market to meet future needs will exist; and where necessary, those facilities can be retained in a mothballed status." (p. 3–1)

But this begs several questions.

First, it casts the DoD requirements in terms of current procurement programs. Since those programs soon go to zero it is trivial to conclude that the industry can meet a requirement of zero. The problem is that the report does not address the strategic requirements on the industry for the future. Nowhere does it mention what kind of industry structure will be needed for reconstitution purposes. Nor does it address how RDT&E programs can sustain industrial capabilities for future production.

Secondly, the report fails to cast the potential for later reentry into defense markets in terms of future costs and risks to do so versus present spending for "insurance" type programs. There are trade-offs among the programs mentioned—economic production rates, mothballing production facilities)—and others specified later in the report (expanded exports, product improvement, and low rate production for RDT&E purposes)—and each option has an associated cost and risk. These are complex optimization problems and the DoD report shows no evidence of having attempted them in this report.

Finally, the report is inconsistent with the conclusions of the March 1991 Joint Military Net Assessment of the Chairman of the Joint Chiefs of Staff. Without going into detail, the Chairman's report, on pages 5–3 through 5–11, expresses concerns with the abilities of the industrial base to meet future strategic needs, in contrast to the optimism of the November 1991 DoD report. Some examples from the Chairman's report illustrate the point:

"* * * there are concerns about the continued vitality and responsiveness of our resource base and the ability to compete with foreign countries." (p. 5–3)

"Defense contractors will likely downsize, diversify, be purchased by foreign firms, or cease operation, virtually eliminating excess and timely expansion capacity." (p. 5–4)

"In the future, the number of major contractors for shipbuilding, nuclear power propulsion units, and combat vehicles may shrink to unacceptably low levels." (pp. 5–4—5–5)

"The loss of sub-tier suppliers * * * is a threat to our ability to field state-of-the art weapons systems on a timely basis." (p. 5–5)

At a minimum, the DoD report should address the needs of the defense industrial base in terms of the requirements of strategy, as does the JMNA, even if it differs in the particulars of the assessment. At best the two documents should be consistent and complementary.

The DoD report cites programs such as MANTECH, facilities modernization and the Title III of the Defense Production Act as examples of the department's commitment to ". . . ensure that required capabilities are maintained." (p. 3–1). Indeed, later (p. 5–3) the report refers to a new initiative—the national defense manufacturing Technology Program—currently undergoing review in the Joint Strategic Planning Process, as a mechanism for sustaining that emphasis. But the real test here is the level of funding assigned to such programs to have confidence that the successes achieved (such as the Title III DPA projects cited on p. 4–4) will be expanded in the future. DoD's track record in funding such programs is dismal. The FY 92 request was a $200 million cut from the already low level of investment in FY 91. There is no information yet on funding requests for the FY 93–97 program years, but a healthy measure of skepticism is in order.

GENERAL DYNAMICS CORP.,
Arlington, VA, January 29, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Thank you for your recent letter seeking my assessment of the November 1991 Department of Defense Report to the Congress on the Industrial Base.

As you may know, this report has drawn some criticism as being too positive and not adequately focusing on future needs and requirements and the financial health of the defense industry. Although the report's conclusions may be correct as an assessment of today's industrial base, it does not adequately anticipate the impact to the industrial base of companies leaving the defense business. Further, it fails to address what is needed to maintain the viability of those firms which choose to stay.

The report's analysis focuses on industrial base issues raised by projected reductions in defense spending and concludes that survivability will depend in large measure on companies' ability to shift from defense to commercial production and then back again. This is too simplistic a conclusion.

The report recognizes the importance of DoD taking appropriate action to ensure continued availability of companies essential to technological or production capability. However, this cannot be accomplished without an attractive marketplace and DoD has an important role to play here. DoD must recognize that it must do its part to make the defense market an attractive place for those companies which remain. For example, R&D levels must be appropriately maintained or increased, contractors must be able to expect reasonable returns and reasonable risk and the government should take steps to discourage excess capacity and inefficiency.

The intent of this report was to address the issues raised by the reporting requirements in the 1991 National Defense Authorization Act. For the most part, the report accomplishes this narrow goal. However, more focus should be given to how the government can address the effect on the industrial base as excess capacity diminishes and how to retain financially strong suppliers with technological leadership.

Thank you for the opportunity to provide you with my thoughts.

Sincerely,

ALAN C. CHASE,
Senior Vice President,
Government Relations.

ARLINGTON, VA,
February 20, 1992.

MR. ANTHONY CORDESMAN,
Office of Senator JOHN MCCAIN,
Senate Russell Office Building, Washington, DC.

TONY: Enclosed please find papers prepared by our people in Bethpage.

After reading, I would appreciate a call to me, or the prime author of the paper—with your comments.

Author: Mr. Ron Smith, 516–346–3734, Grumman.

Thanks for everything.

GORDON OCHENRIDER.

COMMENTS ON "REPORT TO CONGRESS ON THE DEFENSE INDUSTRIAL BASE" NOVEMBER 1991

SUMMARY

The subject document is a restatement of DoD's "Laissez Faire" policy: let the industrial base evolve to one occupied by those strong enough to survive. It suggests that there really is not an industrial base problem because DoD investment levels in the 1990s will not be any lower than they were in the 1970s. Furthermore, companies can make up for lost business through commercial and foreign sales.

Most DoD aircraft, missile, ship, tank and vehicle manufacturers do not have complementing commercial product lines or an adequate foreign market. Because real unit costs of DoD products have been rising 3–10% per year for the last 30–40 years, each investment dollar in the 1990s will only buy one-sixth (on the average) of what it would buy in the 1960s. DoD has not altered specification standards to enable the use of commercial components and technology transfer policies to allow Defense products to be sold overseas.

Now that the Cold War is officially over, DoD has an opportunity to prevent wholesale departure of companies from the defense industrial base. This will require an active policy by DoD to:

Define missions and prioritize technology needs.

Convert many specifications to commercial equivalents where possible.

Adopt the Commerce Department's technology transfer policies.

Encourage teaming with NATO partners treating them as equal rather than secondary members.

Replace the "prototyping without production" policy with an economically viable R&D-to-Production Mix.

Streamline and reduce documentation requirements.

Develop a more flexible and constructive relationship with industry.

Recognize that free market forces do not apply to a monopsony, and formulate a clearly articulated Best Value policy.

These actions would mitigate past DoD practices which have segmented the private sector into two economies and corresponding technology bases: defense and non-defense. This has hindered the integration of the latest technological innovations into DoD procurements and has inhibited the commercial efficiency and profitability of firms that have significant weapon systems procurement programs with DoD. It has also contributed to a situation in which 70 percent of the total R&D investment of the federal government goes to support 6 percent of the GNP. This places the defense industries, and the nation, at a disadvantage with respect to international economic competition.

The DoD report ignores certain fundamental contradictions in the proposed policy. The proposed DoD policy:

1. Relies on firms being both commercial and military, but recognizes that historically dual-use firms have been driven away from DoD.

2. Presumes demand (money) will always attract enough suppliers and that these suppliers will be fully suited to meet DoD requirements on demand.

3. Disclaims DoD responsibility for integration of DoD and commercial use but relies on it happening.

4. Ignores the difference between dual-use technology and dual-use products.

5. Treats the manufacturing base as a subset of the technology base despite radical differences in skills, tools and resources between the manufacturing and research components.

COMMENTS ON "REPORT TO CONGRESS ON THE DEFENSE INDUSTRIAL BASE" NOVEMBER 1991

ANNOTATED COMMENTARY

Statement (ES–1/Line 8): "The nation's recent experience in Desert Storm showed that the industrial base has the ability to accelerate production on short notice, identify and modify alternate items for defense use, and divert capacity to expedite the delivery of emergency buys."

Comment: DoD assumes that the results of Desert Storm indicate that the industrial base has the ability to accelerate production on short notice. This hypothesis is correct, in the Desert Storm example, which benefits from an industrial base that is in production. Given the complexity and sophistication of today's weapon systems, start-up of a closed production line on short notice is impossible.

Statement (ES–1/Line 18): "The future composition of the industrial base will depend on actual DoD spending levels . . . and (defense-related firms') commitment to continue as defense suppliers."

Comment: This is true as far as it goes. Defense suppliers became decreasingly interested in defense business during the Reagan buildup years due to onerous DoD procurement policies, many of which are still being followed. In fact, from 1982 to 1987 some 100,000 suppliers departed from the industrial base from 138,000 to less than 40,000. In 1988 and 1989 there were 33 significant divestitures of defense electronics firms by multi-industry companies, with foreign firms among the buyers. It's clear that more and more companies are finding the DoD to be an unpleasant customer. There has to be a clear commitment by DoD to industry that would encourage defense firms to remain committed to it.

Statement (ES–1/Line 26): "DoD defines its industrial base as the capacity of industry to produce goods and services that DoD needs to meet its mission requirements."

Comment: This statement neglects to add "in a timely and economically viable fashion." Of the 10 significant segments of the GNP, national defense is the sixth largest contributing only 5.3% to the GNP. Furthermore, it is the only segment showing long term real decline since 1989 (−3.85% real). It is intuitively obvious that as the sector declines in size, its capacity to produce goods and services in an economically viable fashion will diminish. Furthermore, this definition ignores the relationship between private industrial capability and Government resources. In some cases the Government has now become industry's competitor. Government facilities are competing for and/or being given industry work, e.g. mods, overhaul, repairs, testing, design. A policy must be clearly articulated to assure industry support of the DoD mission requirements.

Statement (ES–2/Line 9): "In contrast to the commonly held perception that the DoD procurement budget will fall to historically low levels in the mid-1990s, current and projected defense spending will be maintained at roughly the levels that were experienced during the 1970s."

Comment: Procurement budget authority (in 1991 $) has been higher than the proposed 1993 level in 37 of the 42 years since the beginning of the Korean War (excepting 1955, 1956, 1974, 1975 and 1976). With estimated real declines of 3.5% per year in the future decade, it is expected that 1996 levels will be the lowest in 45 years. The "commonly held perception" is a truth.

Figure ES–1 (ES–3): "DoD Budget Trends"

Comment: The selection of the 1973–1993 time period truncates the timeline and omits further projected decreases in the Total Obligation Authority, especially in the 1995–1997 time span.

Statement (ES–3/Line 7): "The moderate increases in total aircraft procurement forecasted * * * will be sufficient to sustain an adequate military aircraft industry * * *. Commercial and export sales will be the primary means for aircraft industries to offset lower DoD sales."

Comment: Most industry watchers believe that there will be only three fixed wing prime contractors by the end of the decade (MDC, GD, Lockheed) and two helicopter primes (Sikorsky, Boeing or MDC (depending on the fate of the RAH–66)). Only one of the three is forecast to have both foreign and commercial aircraft sales during the period. The reason is DoD emphasis on quality vs. quantity; unit costs of fixed wing combat aircraft and helicopters have been rising at 6–10% per year in real terms since the late 1960s. Over a 30-year period, this means that the same procurement dollar will buy only 13% as many helicopters or only 6% as many Navy fixed wing aircraft or only 10% as many Air Force fighters. It is clear that companies cannot operate efficiently using only 6–13% of their capacity. One could also argue that rather than having the 12 aircraft firms of the '50's we only need 6–10% as many, or just one.

The study also treats the technology for all fixed-wing aircraft—from Tankers to Fighters to Airlifts—as fully interchangeable. This disregards numerous critical technologies required by the various aircraft types.

Statement (ES–4/Last Line): "over the long run, the Navy's shipbuilding program is projected to be cut in half, but an adequate industrial base is expected to remain responsive to DoD demand."

Comment: Like aircraft, real carrier and submarine unit costs have risen 2.4–3.6% per year over the last 30 years and lately have risen over 6% per year. Submarine production at GD will soon end, leaving only Newport News as a viable nuclear shipyard.

Statement (ES–6/Line 19): "(DoD's Critical Technologies Plan) explicitly addresses the manufacturing technologies required to transition a technology to a product that can benefit DoD."

Comment: DoD's "commitment" is paltry. In the 1991 budget Congress added $150 million to DoD's $265 million request for manufacturing technology. In the 1980's, DoD spent only about $200 million per year (1991$) on this technology (about 0.2% of its investment budget).

Statement (ES–7/Line 5): "* * * free market forces will guide the industrial base of tomorrow. The ability of the base to meet future DoD needs will depend in large measure on the ability of individual companies to shift from defense to commercial production—and then back again, when required."

Comment: This statement is the Administration's policy of "Laissez Faire." DoD is a monopsony, and its suppliers are controlled as an oligopoly. Free market forces are nonexistent in this economic/political environment. To make matters worse, the current policy is being enacted in an adversarial environment. The study does not cite any actual examples of companies which have shifted back to defense after successful commercialization, nor does it address the price premium such a contractor might command.

As Mr. Aspin stated in a recent speech, "This suggests there will be a kind of industrial triple somersault out of and back into the defense business. Why we should expect such a thing to happen is unclear. Why would anyone in their right mind go through the pain and expense of conversion and then go back to defense?"

Statement (ES–7/Line 21): "These actions are complemented by the preferential funding of those critical technologies that are most important to future forces."

Comment: DoD's 1991 Critical Technologies are, with five (out of 21) exceptions, common to so-called Commerce and National critical technologies. But the DoD bureaucracy has yet to put in place policies that enable commercial specifications to be applied to military use. So-called dual-use technologies are almost non-existent (only 10% of DoD's 35,000 standard specifications allow commercially developed products without exception). DoD relevancy requirements limit the pursuit of dual-use technologies, contrary to the stated objective of promoting commercialization.

DoD has recognized the shortcomings of its "Critical Technology" plan and is just now beginning to determine (through its seven Science and Technology thrusts) which technologies are needed for which missions. But it has yet to prioritize its missions in the context of the changes in threats and missions.

Statement (3–1/Line 16): "Even where facilities are not needed * * * some potential for them to reenter the defense market to meet future needs will exist; and where necessary, those facilities can be retained in a mothballed status."

Comment: This statement contradicts the historical reality that companies which exit the Defense market have not reentered. The concept of "mothballed status" is not specific. DoD cites no active plan for implementing such an initiative. This statement also fails to address the human resources required to operate such a facility. A mothballed plant is of no use if the entire workforce has been displaced.

Statement (3–1/Line 27): "For example, through an increased budget share to * * * (initiatives) * * * DoD is working to ensure that required capabilities are maintained.

Comment: The specific initiatives cited—increased budget share in RDT&E, Mantech, IMIP, Defense Product Act Title III—account for very nominal dollar amounts which are probably inadequate to "ensure that required capabilities are maintained." The projected R&D funds alone will not support the required capabilities without concurrent funding of a contracted business base for goods and services. An evidence of this is the recently announced Lockheed decision to defer construction of a new $60M facility for its Advanced Development Company.

Figure 3–1 (3–3): Shows aircraft procurement TOA rising in real terms from '91 on.

Comment: In the latest budget, aircraft TOA will decline by FY'96 to only 27% of its peak level of FY'85. This is more than the reductions that "effectively cut DoD aircraft purchases in half." The number of aircraft fixed wing combat units purchased in 1996 will be only 18% of 1985 levels. The validity of assumptions regarding TOA for Bombers (e.g., B–2) and aircraft/tankers (e.g., C–17) is questionable.

Statement (3–4/Line 9): "In contrast to Boeing's recent success, the five other military aircraft companies have experienced recent problems with contract work, resulting in less than desired financial performance."

Comment: This statement recognizes the economic reality of defense contracting profitability. This is in contrast to the balance of the report, which presumes that companies would desire to shift back to Defense (e.g. Pages ES–7). Furthermore, the implication that Boeing was financially successful in defense contract work contradicts its CEO's public statements.

Statement (3–5): "Although these contracts have been used for several major system development programs, cost overruns have had severe financial consequences. These contracts are no longer Government practice for significant development programs."

Comment: The study provides no detailed analysis of its Military Aircraft Company Financial Trends (Figure 3–3) to adequately assess the impact of cost overruns on fixed-price development contracts. The study assumptions must be analyzed to assure that the full long-term effects of the A–12, P–7, etc. development cost impacts are adequately addressed.

Statement (3–6, 3–7): "F–22 will provide * * *, AX will offer *–*–*, Comanche will give *–*–*"

Comment: The Navy's AX program may not be affordable as evidenced by DoD halving development in its proposed 1993–1997 plan, and DoD is already deferring production of the Comanche (LH). Only Lockheed, MDC, GD and Sikorsky are assured of meaningful production programs in the near term (through 1997). Of these, only MDC has prospects for sales from commercial programs.

Statement (3–9/Footnote): "LTV has not been included because it is now in Chapter 11 bankruptcy proceedings."

Comment: What is the purpose of excluding LTV from the sample of Missile and Space companies? The conclusion that the "contractors have shown considerable financial strength" is inevitable if any contractor exhibiting financial weakness is excluded.

Statement (3–10/Line 7): "Rockwell International accounted for half of this decline—both by implementing a corporate plan to develop commercial business and as a result of its declining B–1B sales."

Comment: The Rockwell International example cited by DoD may not be a true example of successful diversification. Much of Rockwell's commercial business is in the automotive sector, a core business which predates the acquisition of North American Aviation. This case should be examined more closely to understand the true governmental-to-commercial mix and the degree to which an active diversification strategy was implemented.

Statement (3–11/Line 16): "Alliant Techsystems and ESCO Electronics were recently spun off from larger electronics firms that wished to reduce their involvement in defense."

Comment: In fact, there were 33 significant divestitures of defense electronics firms by multi-industry companies in 1988 and 1989. Those companies saw that the defense industry was no longer attractive.

Statement (3–12/Last Line): "* * * the Navy has cut in half its planned buy of ships through FY97, to an average of less than ten per year."

Comment: The Navy funded 23 ships in FY90, 24 in 1992, but only 6 in 1993. The average annual buy for 1993–97 is 6, of which only half are warships.

Statement (3–15/Line 5): "* * * an adequate industrial base is now in place to support DoD demands and oversight of the (shipbuilding) sector will continue to ensure critical capabilities are maintained."

Comment: The statement is questionable given the precarious financial state of Electric Boat. Furthermore, the beneficial effects of DoD "oversight" of shipbuilding (or any other sector) is not evident.

Statement (3–20/Line 19): "Reduced dependence on DoD through expanded commercial or export sales will be an essential step for many defense-related firms in maintaining profitable businesses, * * *"

Comment: The report pervasively assumes effective diversification and shifting from defense to commercial production by defense firms. However, DoD cites only one historical example of such shifting via successful commercialization (Rockwell International) and even this example (Page 3–10) is questionable.

From 1986–90, foreign military sales accounted for less than 9% of U.S. military production. Since the DoD production outlays will drop (in real terms) by 38% in the period 1993–97 (to an average of $56B in '91$), foreign sales would have to become five times as large to make up the difference. This is an impossibility, since foreign defense budgets are also declining and countries are facing their own industrial base problems.

Statement (4–1/Line 6): "The globalization of defense-related business has been recognized by DoD and is an essential element of its international programs and acquisition policies."

Comment: On the international scene, DoD is not consistent in its statements and actions. It touts offsets yet restricts transfer of technology; it promotes foreign investment, yet will not allow it in specific cases; for example, due to political outcry the sale of a major share of McDonnell Commercial Company to Taiwan Aerospace is far from being concluded.

The entire international section deals only with those companies that have product approval for exports. Where new opportunities are concerned an enormous amount of scrutiny is given to the most casual of discussions. Sale of today's weapon systems, even to our closest Allied countries, is beset by DoD bureaucracy.

Statement (4–2/Line 30): "The defense industrial base depends on a national commitment to promote U.S. firms."

Comment: While the statement is true, active U.S. Government support of defense exports has been erratic as illustrated in the lack of a U.S. policy in support of U.S. contractor participation at international air and trade shows. Assistant Secretary of State Richard Clarke has commented that, "if the Administration is willing to allow defense sales, it should also be willing to promote them."

Statement (4–2/Last Line): "DoD efforts have only limited influence on the competitiveness of the domestic production base, particularly when defense purchases constitute a small and diminishing portion of the market. However, DoD continues to monitor international trends to assure that national interests are protected."

Comment: DoD influence is far more limited in the commercial segment of the production base than it is in the defense segment. Furthermore, the increasing practice of state support of domestic military companies (in Europe, for example) must be closely watched. Minimal U.S. government support of U.S. industries is no match for state supported industries (as in Europe) or in protected markets which lack true international competition.

Statement (4–3/Line 17): "Overseas sources are a vital asset to our national defense, however, there may be occasions when excessive reliance could lead to unacceptable risks * * *"

Comment: (Taken from the Center for National Security Studies of the Los Alamos National Laboratory study on "Reconstitution and the Defense Build-Down").

"* * * Questions about foreign sourcing raise a broader issue which industry staff seems to be facing more rapidly than Pentagon staff: the fact that in many cutting-edge technologies * * * the move from concept to R&D to prototype through product is occurring through the exploitation of a global, rather than a strictly national technology base. DoD needs first to comprehend the magnitude and character of the globalization of technology capabilities, and then learn how to adapt to a new situation of opportunities and potential threats inherent in a much different technology environment."

Statement (5-2/Line 4): "RDT&E spending will decline modestly in FY 91 and grow significantly in FY92 * * *"

Comment: DoD's tech base (excluding advanced development) is a small (less than $4B per year) fraction of the $40B RDT&E budget, and this $4B is a fraction (about 2.5%) of the total R&D spent in this country. In terms of R&D investment, the DoD tech base is insignificant, and declining. Since there are no significant dual-use technology applications, commercial developments cannot solve the DoD tech base problem . . . unless DoD accepts commercial standards, which it has not and appears to be unwilling to do.

Statement (5-2/Line 12): "* * * the future DoD RDT&E program will place greater emphases on incremental subsystem upgrades, as well as accelerated development and use of advanced manufacturing technologies."

Comment: The very next paragraph emphasizes an approach that depends on "breakthrough technologies" and "technology trump cards." Strategies based upon incremental upgrades are significantly different from those that are focused on breakthroughs. It would be valuable to the industry to have DoD clarify its position, or at least quantify its emphasis on these strategies if they so choose to employ both. Traditionally, incremental upgrades have been the responsibility of the Services, while the breakthrough, high-risk/high-payoff approach has fallen within the purview of DARPA.

Statement (5-2/Line 26): "The addition of Flexible Manufacturing underscores the importance of innovative processes. . . ."

Comment: The addition of Flexible Manufacturing to the 1991 DoD Critical Technologies Plan is a welcome and appropriate first step towards enhancing the integration of military and civilian manufacturing technology and industrial bases. It is encouraging that a broad-based input (including industry representatives) was solicited in the development of the National Defense Manufacturing Technology Plan. With the emphasis on manufacturing technology, it is difficult to reconcile some of the Administration's and DoD's objections to several provisions associated with manufacturing technology that appeared in Title VIII of the Senate Defense Authorization Bill. With all of DoD's stated emphasis on manufacturing technology, it would be of interest to explain the rationale behind the Administration's request for only $97M for DoD's FY '92 manufacturing technology program (down from $315M in FY '91).

A final comment on investments in advanced technologies focuses on the uncertainty and the discontinuous nature of the funding provided by DoD. The situation is a significant deterrent to any corresponding long-range commitment on the part of industry.

Statement (5-3/Line 13): "DoD will increasingly rely on the capabilities of the entire industrial base as defense budgets diminish. This integration must take place at many levels, including the development of dual-use technologies . . ."

Comment: This section recognizes that state-of-the-art product and process technologies are being developed by the private sector. It should be noted that of the 15 (out of 21) Defense Critical Technologies identified as having dual-use applications, Japan has significant capabilities in 11, and leads the U.S. in 5 of the 15 technologies. This situation makes it imperative that we develop a strategy that supports the development, application and deployment of the dual-use technologies. This strategy should include investments in education, worker training, export control, as well as technological and financial factors.

Statement (5-3/Line 27): "* * * access to a broad and healthy commercial sector will allow DoD to maintain the pace of innovation, leverage commercial technology investments, and improve the performance and affordability of its weapon systems."

Comment: Technical data rights are not treated in the report. It would be desirable to implement more fully the provisions of the Stevenson-Wydler Technology Innovations Act of 1980. Furthermore, efforts to implement the Federal Technology Transfer Act of 1986 and of 1989, which mandate greater efforts to transfer technology from the public to the private sector, should be encouraged and widely adopted as one of several mechanisms to integrate the defense and commercial technology bases.

Another data issue which should be addressed is retention of engineering design data and production tooling by the Contractor (in lieu of delivery to the Government). Such a policy would be essential to the concepts of mothballing or re-entry into the base.

Statement (5-5/Line 11): "This guidance will give impetus to the modification of other procurement regulations and will result in the adoption of procedures that are more consistent with commercial practice."

Comment: A significant inhibitor to attracting commercial organizations to participate significantly in DoD R&D programs is associated with the special accounting requirements set up by the military. These requirements are expensive and cumbersome to maintain. This system will require massive changes to achieve the results assumed in the report. DoD must also reduce its reliance on military specifications in favor of performance requirements, non-government standards and commercial item descriptions.

The DoD's directives cited in the report DoDI 5000.1 ("Defense Acquisition") and 5000.2 ("Defense Acquisition Management Policies and Procedures"), are beneficial initiatives which should encourage the use of commercially available products and procedures that are consistent with commercial practices, once DoD has revised lower level standards and specifications to enable use of such practices.

Statement (5-5/Line 11): "DoD has therefore undertaken a major effort to reduce its reliance on military specifications."

Comment: Regarding the efforts in DoD to reduce its reliance on military specification in order to qualify commercial type products, it is unlikely that DoD will accept components that do not meet stock, vibration, dust, etc., requirements for mission critical applications. Prior attempts by the government to implement streamlining and best value have met with limited success. It is difficult to evaluate proposals even when they all conform to a Mil Spec. How does the government evaluate "Best Value" when commercial is quoted?

Statement (5-5/Line 1): "Another important component of encouraging more commercial firms to do business with DoD is to reduce the unnecessary paper work associated with Government contracting."

Comment: Fraud, waste and abuse issues have increased the requirements for documentation, certification, pricing data, etc. It is hard to believe they will be waived.

Statement (Appendix A): "Stock prices are assessed from the period of January 15, 1991 to March 1, 1991. These arbitrary dates signify the beginning and ending of Operation Desert Storm, corresponding to a generally strong increase in the prices of defense industry stocks and the stock market as a whole."

Comment: To what degree does the use of stock prices during Desert Storm (15 January 1991 to 1 March 1991) affect the study results? What effect does this admittedly "arbitrary" assumption have on debt/equity calculations and can such a period be considered representative of a normal economy? The DoD should not be relating debt/equity to stock price movements because the correlation is not good.

HUGHES, SUBSIDIARY OF
GM HUGHES ELECTRONICS,
Los Angeles, CA, January 27, 1992.
Hon. JOHN MCCAIN,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: This is in response to your letter of December 10, 1991, to Gordon Merritt of Hughes Aircraft Company's Washington office. Your letter requested a review and assessment of Department of Defense's report on the Defense Industrial Base.

We believe that the Department of Defense report significantly understates the potential problem of maintaining a viable defense industrial base and seriously question some of the assumptions which appear to underlie the report. Principal among these questionable assumptions are:

The inference that industry will be able to shift to commercial sales and then shift back again to readily meet future DoD requirements.

The apparent assumption that an adequate view of the industrial base may be taken by examining only large prime contractors. While we agree that large contractors currently dedicated to defense business will for the most part remain available, although in a downsized fashion, it is not at all clear that critical subcontractors and suppliers will be similarly available.

The apparent assumption that foreign sourcing of components for DoD systems is acceptable without assurance of adequate domestic sources of supply.

The report also makes key observations regarding plans for future mitigation of the problem. While we agree with the thrust of the observations, we question DoD's ability, dedication and/or resource to carry them out. More specifically:

The report observes that International Sales are important to maintaining a viable industrial base. We agree, however, we see little change in the policy and regulatory structure of the United States which tends to impede these sales and certainly does not place our industry on an equal footing with foreign industries who are fully supported and in some cases, subsidized, by their governments.

DoD notes the importance of technology, critical technology and manufacturability of new technologies. We agree, this is an important objective. We question, however, that current apparent funding levels projected for this purpose are adequate.

The report's observations regarding the current and projected financial health of the industry are overly optimistic. The health of the industry as measured in terms of debt equity ratios has been declining over the last several years as predicted by the MAC Report and the Financial Executive Institute studies in 1986 and 1987. DoD's grudging approval of a 5 percent increase in progress payments in 1991 did little to alleviate this problem.

We agree that Department of Defense must work with industry to manage programs and limited resources as wisely as possible. To us, this means a far more efficient scheme of management and oversight. This is important, not only to conserve resources, but to encourage commercial companies and companies with "dual use" technologies to participate in defense-related efforts. While there has been some initiative in this area, much remains to be done, and DoD and Congress continue to impose regulations and requirements on the defense industry which are nonvalue-added and which further drive a wedge between defense and commercial suppliers.

The observation that current obligated balances will cushion the impact of the defense cutbacks over the next few years is unrealistic. The typical multi-year defense program begins with an intensive engineering phase, evolves to a production phase and concludes with a support phase. Thus different resources and different talents are utilized for each phase. As cutbacks have been occurring over the last two years, front end resources, namely engineering staffs, are already significantly impacted resulting in massive lay-offs of critical engineering talent. Over the next months and years this will be exacerbated by lay-offs in the production and support areas. While some of the engineering resource may be preoccupied by current and future research and development programs, we see no viable replacement for current manufacturing/support program activity. Thus our ability to maintain viable and available manufacturing resources at the prime and at the subcontract level is highly questionable.

We have prepared specific comments on the report itself which follow the order of the report (attached).

We welcome this opportunity to review the DoD report and would be pleased to participate in your efforts.

DONALD L. CASSIDY.

OBSERVATIONS REGARDING INDUSTRIAL BASE REPORT

REPORT REFERENCE AND COMMENT

Executive Summary—ES-1: Recent Desert Storm experience is not a valid test of industry's ability to provide sustained support to a future conflict.

Failure to address second and lower tier subcontractors is a major flaw in the report. This is where serious domestic industrial base erosion is most likely to occur.

Industrial Base Impacts—ES-2: Projection that "current and projected defense spending will be at the same levels experienced during the 1970s" appears unrealistic.

The assertion that the industrial base "is expected to meet all of the procurement needs of DoD and maintain R&D and production at proportional rates" is unfounded.

Aircraft—ES-3: The statement that "commercial and exports sales" for fixed-wing and helicopter industries "will be the primary means to off-set lower DoD sales" is unrealistic. The commercial and export markets are also significantly deflated with intense international competition often supported or subsidized by foreign governments.

Missiles and Space—ES-4: The statement that Missile and Space Sector contractors "strengthened financially between 1987 and 1990" is highly questionable together with the projection that these producers will be financially strong now and will remain so in the future. The fact is that most, if not all of these contractors are deeply in debt and are overfacilitized, thus carrying significant excess capacity as a financial burden.

Electronics—ES-4: The inference that electronics companies will be able to shift to commercial sales, and could readily meet expanded DoD requirements is unrealistic.

We agree that DoD needs "to modify its acquisition practices to stimulate commercial firms to conduct business with DoD," but fail to see concrete evidence of far reaching policy initiatives.

Ships—ES-4: The assertion that in spite of major cuts, "an adequate (ships) industrial base is expected to remain responsive to DoD demand" is highly questionable. The domestic industry is flat on its back and could not, even today, step up to increased demand.

Combat Vehicles—ES-5: Although phrased positively, the comments on combat vehicles are misleading. The fact is, the industrial base is all but gone, and we see no concrete evidence of plans to effectively mothball existing capacities.

Technology and Production Base: DoD's emphasis on technology is laudable. We are concerned, however, that focus on "critical" technologies may overlook less critical areas where we may now be or may become dependent on foreign sources. Further, we are concerned that sufficient money has not been allocated to manufacturing technology to assure that "critical technologies" are, in fact, producible.

Conclusions—ES-7: The conclusion that "DoD needs will depend in large measure on the availability of individual companies to shift from defense to commercial production—and the back again when required" is frightening. There is no evidence to support industry's ability to do this.

The conclusion that "DoD will take appropriate action to assure continued availability" where "DoD is the only or predominate market" might be comforting if one believed that resources were being allocated for this purpose or if one saw evidence of a real program. Neither appears to be the case.

The conclusion that "DoD must work with industry in managing programs and limited resources as wisely as possible" is laudable. We see little evidence, however, that DoD is addressing oversight efficiency in an aggressive manner. In fact, DoD continues to publish regulations and impose requirements on industry which are nonvalue-added and which further drive the wedge between defense and commercial suppliers.

The discussion on "dual use" technologies here and throughout the report is laudatory, however, in a practical sense, until the barriers to integrating defense and commercial technologies are removed, this objective will not be met.

Conclusions—ES-8: The comments that industry will receive benefits from DoD's "new progress payment policy" is an overstatement. DoD's new progress payment policy grudgingly gave an extra five percentage points on new contracts only. This increase may be taken away in 1992. At the same time, the progress payment increase was granted, payments were slowed and so the net affect on cash flow was hardly measurable.

The comment that the services in DLA are preparing production base analysis "from prime contractors to lower tiers" is encouraging. We have seen little evidence of such studies under way.

Reference to a national defense manufacturing technology plan is interesting, however it does not appear that there is any real money behind the plan.

Introduction—Industrial Responsiveness—1-2: More realistically addresses the problem at the subcontractor level than the Executive Summary does.

Industrial Responsiveness—2-1: More realistically addresses the budgetary environment.

Budget Composition—2-3: The comment that DoD's "obligated balance will cushion the impacts of the defense cut-backs over the next few years" is unrealistic. Even though we have obligated balances, industry's activity on programs is time dependent, that is heavy engineering resource up front with manufacturing and support resources at the end, we are already seeing significant cutbacks in our up-front resources, i.e. engineering, and have been suffering all along in manufacturing due to the overcapacity which was developed in industry as a result of disastrous second source programs and unrealistic budget projections of the 70s and 80s.

The comment that virtually all R&D conducted by defense related industries is supported by DoD is only partially correct.

A considerable amount of R&D is conducted at the subcontract level which will be increasingly relegated to commercial endeavor. Much of this may not be convertible to DoD needs.

Industrial Base Impacts—3-1: Comments that "facilities that may be idled,"—"represent a sizable public and private investment in equipment, knowledge and skills" is true. It is also to be noted that these represent an enormous investment on the part of industry which we must carry forward in our overhead rates (or write off against current earnings). In either case, this makes us uncompetitive with foreign industry and inhibits our ability to diversify.

The comment that "sufficient industrial base capability . . . will be retained," and/or that "facilities can be retained in a mothball status" may be true, but at very great cost to industry and government. Certainly industry cannot bear the entire cost of this. We see no evidence that current budgets realistically address this requirement.

The comment that "selective use of industrial base tools" such as industrial facilities modernization, etc., will maintain "required capabilities" does not appear practical. The amount of money available for these projects is extremely limited (versus the potential need.)

Aircraft—3-3: The comment that "the large fixed-wing industry is expected to remain competitive and to continue to support DoD demands into the next century" is questionable. Only Boeing supports this model and their business outlook is continually threatened by foreign competition. With the exception of Boeing, the industry is presently financially weakened and is under tremendous pressure.

Aircraft—3-6: The general comment that "commercial sales" will be "important in sustaining key subcontractors and suppliers" is highly optimistic. It presumes that there will be a continuing high level of commercial sales which is problematic, that domestic subcontractors will benefit which is questionable, and that there is a commonality at the subcontract and supplier level which is even more unlikely.

Electronics—3-10: The comment that electronics companies have "flexibility in adjusting to contractions" and that "hundreds of active producers will remain available to support defense needs" is highly questionable and not supported by more realistic comments that electronics companies are divesting defense segments and attempting to reduce involvement in defense.

Ships—3-13: The comment that the backlog of defense orders gives shipbuilders a cushion until 1993 or beyond, is highly questionable for reasons noted on page 4.

The observation that U.S. shipyards might become more internationally competitive if "OECD produces an agreement to limit government subsidies" is an enormous "*if*."

Ships—3-15: The comment that ships which accounted for 20 percent of 1989 procurement funding received only 3 percent of RDT&E awards, infers that U.S. ship technology is seriously lagging, which is probably the case.

Combat Vehicles—3-18: The comment that General Dynamics hopes to maintain tank capacity by FMS sales to Saudi Arabia, Egypt and other customers is dependent on U.S. Government ability and willingness to facilitate these sales.

New Industrial Base Possibilities—3-20: Concur in the comment that DoD alone cannot help expand the commercial side of defense industry, but DoD could and should relax certain current rules and policies such as Recoupment of Nonrecurring Costs which inhibit industry's ability to diversify.

International Environment—4-1: Concur in the comment that industry's "ability to compete effectively in world markets will be pivotable to their future," however, we see little cooperation between government and industry to enable such competition and, in fact, see continuing barriers including technology transfer policies and recoupment of nonrecurring costs policies.

Opportunities for U.S. prime contractors to increase their global market penetration" may appear viable to some, but in general, the world market will become increasingly competitive with U.S. industries vying with foreign companies who are subsidized and otherwise enabled by their governments.

International Environment—4-2: The inference that second and third tier components will be provided by foreign partners of U.S. prime contractors is disturbing. We believe this trend is increasing at significant rates and that in the event of a global conflict, U.S. defense systems might be reliant on foreign sources who are not allied with then current U.S. policy.

Foreign Purchases—4-3: We see little evidence of a concerted effort to gain comprehensive information on foreign-sourced items and to determine those cases where there is or may be excessive reliance on overseas sources.

This overseas reliance problem is exacerbated by "foreign sourcing" which clearly leads to foreign dependence.

We believe the problem of "foreign dependence" is much larger than the report would suggest.

Foreign Purchases—4-4: It is encouraging that the Defense Acquisition Board will address foreign dependence on new programs, but what about the programs that are in being today which have already gone through prior DAB approvals.

Preserving Technology and Production: Emphasis on RD&T alone will not ensure producible systems. To some degree, this might be solved by "emphasis on incremental system upgrades" and use of advanced manufacturing technologies" if, in fact, that happens.

The report implies DoD has an aggressive program addressing manufacturing technology. There is, however, serious question that monies will be made available in sufficient quantity to make this happen.

Dual Use Technology—5-3: The concept of dual use technologies is interesting, but it is problematical that such will actually happen and/or that access to a healthy commercial sector will do much to provide a viable defense industrial base.

REPORT TO CONGRESS ON THE DEFENSE INDUSTRIAL BASE—COMMENTS REQUESTED BY SENATOR MCCAIN

ASSESSMENT OF THE REPORT

We have assessed the Report from a perspective of fewer system primes as the base inevitably builds down. The remaining primes must maintain their technological superiority, core competencies, and an ability to reconstitute a production base or to provide a "system surge" capability.

The build down should be guided by free enterprise, as the Report suggests, plus strategies supported by policy imperatives.

The attached pages summarize the findings of the DoD Report relative to strategies and policies needed to support technological superiority, core competencies, and a production base.

In general, we find the report supportive in concept of the strategies needed to preserve the base, but it falls short of developing strategies or of being convincing that policies are or will be in place to carry out these strategies.

IMPROVEMENTS TO FUTURE REPORTS

The requirement to perform the analysis at planned investment levels permitted the report to be silent on issues that may arise at lower, and more likely investment levels. Without overburdening the analysis, a downside contingency case should be included.

TECHNOLOGICAL SUPERIORITY

Strategy: Maintain R&D Investment Levels.

Policy Imperatives: Allowability, Profitability, Incentives.

DoD Report: The report describes positive policy steps being taken—new progress payment policy, broader use of award fees, elimination of fixed price development, IR&D recovery—as well as priority attached to R&D funding levels (as a share of the budget).

Strategy: Design Teams.

Policy Imperatives: Prototyping, Product Improvement.

DoD Report: The report does not address maintaining design teams, but indicates an increased emphasis on incremental subsystem upgrades that would help sustain them; prototyping is not discussed.

Strategy: Leverage Commercial Technology.

Policy Imperatives: Dual Use.

DoD Report: The report indicates that "DoD has increased its commitment to dual use technologies" without specifics; it adds a caution that "dual use must be pursued carefully in order to achieve its benefits."

Strategy: International Co-Development.

Policy Imperatives: Technology Transfer.

DoD Report: The report talks to the importance of cooperation but not to removal of impediments (see CSIS Atlantic Partnership Study).

Strategy: Availability of Human Capital.

Policy Imperatives: National Education Goals, Programs, Incentives.

DoD Report: The report is silent on the educational needs of a technology workforce in the longer term.

CORE COMPETENCIES

(Strategies and Policy Imperatives, additive to those for technological superiority, that support system prime core competencies.)

Strategy: Preferred Suppliers.

Policy Imperatives: Procurement Practices; best value.

DoD Report: Policies related to supplier management are not addressed in the report.

Strategy: FMS for Defense System Production.

Policy Imperatives: Balance Export Controls.

DoD Report: Report cites benefits of FMS and notes complex policy issues involved without suggesting linkage of FMS policies to industrial base.

Strategy: Civil Applications.

Policy Imperatives: National Goals (e.g., Space).

DoD Report: Not addressed.

Strategy: Retain Critical Capabilities.

Policy Imperatives: Identify in National Security Policies.

DoD Report: Report states that DoD will take appropriate action to ensure continued availability of an essential technology or production capability for national security.

Strategy: Product Support.

Policy Imperatives: Computer-aided Acquisition & Logistics Support (CALS).

DoD Report: Shifting defense product support from government to industry to maintain core competencies is not addressed in the report.

RECONSTITUTE PRODUCTION BASE

(Strategies and Policy Imperatives, additive to those for technological superiority and core competencies, that support reconstitution of the production base.)

Strategy: Foster Strong Industrial Base.

Policy Imperatives: Support competitiveness.

DoD Report: The report recognizes the importance of competitiveness and the overall health of U.S. industry to future security needs. It does not address policies toward those ends.

Strategy: Dual Use Products (NDI)/Practices.

Policy Imperatives: DoD Acquisition Initiatives.

DoD Report: The report describes initiatives being taken to take advantage of commercial products and practices.

Strategy: Flexible Manufacturing.

Policy Imperatives: Funding and Investment Incentives.

DoD Report: The report describes the addition of flexible manufacturing to the DoD Critical Technologies list, the development of a National Defense Manufacturing Technology Plan (NDMTP), and funding support of related projects. It does not address investment incentives.

MOTOROLA INC.,
Washington, DC, February 7, 1992.
Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: Attached are the comments you had requested from Motorola regarding the Department of Defense Report on the Defense Industrial Base and the 1991 reporting requirements. We appreciated having the opportunity to review this document and to forward our conclusions on to you.

If there is anything else we can do, please don't hesitate to let me know.

Sincerely,

JOANN PICCOLO,
Director, Federal and State Government Relations.

COMMENTS ON REPORT TO CONGRESS ON THE DEFENSE INDUSTRIAL BASE, NOVEMBER 1991

This is in response to a request from Senator John McCain. This review focuses on the portions of the report with potential application to defense electronics.

These comments are organized into three segments: First, general comments on the report; second, more specific comments on Section 5, Preserving the Technology and Production Base; and third, comments on the extent to which the report appeared to comply with public law.

I. SUMMARY COMMENTS ON THE REPORT

We agree with DoD's fundamental strategy to preserve and develop advanced technologies even in the face of significant declines in force structure and attendant procurement outlays. From a public policy standpoint, we believe the Department and the Congress need to continually review the projected levels of defense spending against potential threats to national security, particularly since the current projections for FY 96 have the defense budget at 3.8 percent of GNP, the lowest share of GNP in over 50 years.

The report seems to dismiss the necessity to look in detail into the industrial base by generally concluding that adequately capability and capacity will remain in being. The presumption that conversion to commercial products and international sales will take up slack is probably incorrect. That unique industrial facilities and skills devoted to defense products will diminish or disappear in a shrinking market is inevitable.

DoD makes clear that neither the report nor any existing data base is capable of addressing the subject in specific detail. References were made to a forthcoming Department of Commerce study involving foreign sourcing and vulnerability on three Navy systems. It would be useful to evaluate the results of this study and determine what further action might be appropriate to confirm the general conclusions of the report.

The report relies heavily on an historic financial analysis of major segments of the defense industrial base. What seems of most concern is the future capability of the industrial base. The report contains little assurance in this area. Moreover, the financial analysis for commercial electronics firms appears to be at the corporate level rather than the defense business segments which comprise the industrial base. Most companies evaluate the financial health of their businesses on a segment-by-segment basis, making decisions as to resource investment and corporate support based on the specific contribution of those segments to the overall financial health of the corporation.

Several commercial electronics firms have attempted recently to seek buyers for their defense electronics business segments without success. This is cause for concern as to the level of support which these firms may be willing to provide these segments in an environment where buyers are being sought at "fire sale" prices.

The report is light on consideration of factors other than financial. For example, in the commercial electronics sector there are natural disincentives in terms of federal legal and regulatory compliance risks to a commercial company maintaining a fraction of its business in the defense segment. As the level of defense spending and concomitant participation from their defense business segments fall, corporations will tend to view continued participation in defense as less attractive in view of the current regulatory and compliance climate. DoD and the Congress are not insensitive to these issues and are working closely with industry to streamline various statutory and regulatory requirements. These major impediments persist, however, and will require continued attention.

The report's conclusion that the U.S. industrial base is adequate to support future defense needs seems to be based upon a premise that somehow things will work out considering the initiatives which DoD has undertaken to preserve technology and the production base. For example, DoD highlights the need for "integration" between defense and commercial production and technology. While the report appropriately mentions a number of DoD initiatives to remove some of the regulatory impediments to such integration, we believe that more emphasis needs to be given to this area. In the regard, we generally endorse the recommendations in the Center for Strategic and International Studies report entitled Integrating Commercial and Military Technologies for National Strength, An Agenda for Change, issued March 1991. Despite the best intentions of OSD to remove impediments, the regulatory system has, in our view, been less than fully responsive.

II. SPECIFIC COMMENTS

Reference Section 5. The report appears to place significant emphasis on the use of dual technologies and commercial products as a means to create a broader industrial base in the future for defense support. The problem, however, is that the Government has not made the types of changes to acquisition regulations or removed statutory impediments which would enable that to happen.

Reference Page 5-4, Last Paragraph. There is a statement made that DoD is "pursuing a multi-faceted program to enhance the Department's ability to buy and use commercial microcircuits * * *" What is this program? What is the strategy?

Reference Page 5-5. There is a general discussion about how DoD has changed its official preference from milspecs to commercial or NDI and about its efforts to review and modify existing specs. This is a commendable program which appears to be progressing well on all fronts.

Reference Page 5-6. The report suggests that the new DFARS 211 standard uniform contract will encourage more commercial firms to do business with DoD. That is questionable, however, because DoD has not really gone all the way to minimize contract clauses or ask Congress to reduce statutory requirements which are not compatible with commercial contracting. DoD also states that they are easing requirements for cost or pricing data and streamlining exemption procedures. We have not seen this regulatory revision released in final form. The first version released by the FAR Council did exactly the opposite of what was claimed as beneficial to enhance commercial product exemptions.

III. DEFENSE AUTHORIZATION ACT INDUSTRIAL BASE ANNUAL REPORT REQUIREMENTS

Our review of the DoD report is with the full benefit of hindsight in terms of developing world events since the time the report was requested by Congress. In light of developing circumstances, focusing on historic financial ability analyses needs to be supplemented not only with projections of future financial health, but also by considering other pertinent factors in more detail. Moreover, any report on the health of the defense industrial base would seem to be incomplete without the views of the corporations which make up that base.

In comparing the requirements of subsection (c), Analysis Considerations of the Authorization Act against the coverage in the report, it would appear that in a number of areas more detail and future trend analysis is required to bring the report into full compliance with the apparent congressional intent.

A final point not discussed in the report is that the DoD regulatory system seems incapable of responding to or reacting in any type of reasonable cycle time to the new dynamics of the world economic and national security environment. Attached are several examples. More than anything else, this system must be redesigned since the continuous operation of Parkinson's laws for over forty years have rendered the acquisition regulatory system almost paralytic.

PROGRESS REPORT

KEY FAR/DFARS CASES

1. Commercial Exemption for Cost or Pricing Data

Industry Proposes FAR Changes, Feb. 1989.
Proposed FAR Case, June 1989.
Industry Comments and Meeting with DoD, August 1989.
Section 824, P.L. 101-189, Nov. 1989.
Federal Register Notice, Sept. 1990.
CODSIA Comments, Nov. 1990.
Regulations Not Issued, Feb. 1992.

2. DFARS 211 Uniform Commercial Contract

Section 824, P.L. 101-189, Nov. 1989.
Draft Released, April 1990.
Federal Register Notice, July 1990.
Industry Comments, August 1990.
Interim Rule Effective, May 1991.
Significant Industry Comments Provided, June 1991.
Final Regulations Not Issued, Feb. 1992.

3. Technical Data Rights

Two Different Policies—Civilian/Defense, FAR, June 1987; DFARS, May 1987.
Section 808, P.L. 100-180, Fall 1987.
Interim Rule Followed by Industry Comments, April 1988.
Interim Rule Followed by Industry Comments, Oct. 1988.
Corrected Interim Rule, Dec. 1988.
Industry Meetings with DoD, Jan.-Apr. 1990
Federal Register Notice, Oct. 1990.
Hearings, Oct. 1990-Feb. 1991.
No Add'l Actions by Regulatory Bodies, Feb. 1992.

ROCKWELL INTERNATIONAL CORP.,
Arlington, VA, February 24, 1992.

Mr. TONY CORDESMAN,
Russell Senate Office Bldg., Washington, DC.

DEAR MR. CORDESMAN: Per your request, I am pleased to provide Rockwell's comments on the November 1991 DoD "Report to Congress on the Defense Industrial Base." The report has been roundly criticized in the defense community for its "Darwinian" approach to defense industry downsizing. In our view it is hard to argue with the basic message in the report—the U.S. currently has excess capacity in the defense industry due to drastically reduced demand for defense products; therefore the base will be sufficient to meet future, more limited, defense needs. The problem is the report is very short on specifics regarding how we effectively transition from today's excess capacity to a smaller industrial base that meets DoD's future needs.

We accept the fact that global geopolitical developments and budgetary pressures necessitate a restructuring and downsizing of our defense industrial base. We believe, however, that it is essential that this process result in a defense industrial base that is technologically superior and financially sound. The DoD report concludes:

"In a broad context, free market forces will guide the industrial base of tomorrow. The ability of the base to meet future DoD needs will depend in large measure on the ability of individual companies to shift from defense to commercial production—and then back again, when required. *In those cases where DoD is the only or predominate market and conditions demand that an essential technological or production capability be maintained for national security, DoD will take appropriate action to ensure continued availability*" (emphasis added).

In our view DoD, at this time, lacks both an adequate plan for identifying cases where "DoD is the only or predominate market" and adequate policies for taking "appropriate action."

We recently participated in the development of an industry statement on the defense industrial base, which further defines some of our views concerning this issue. The statement which I have attached was presented to the HASC Panel on the Structure of the U.S. Defense Industrial Base by Peter McCloskey, President of the Electronic Industries Association. It provides a number of suggested "appropriate actions" which DoD and Congress should consider.

Thank you for the opportunity to present our views.

Sincerely,

C.M. Jones.

STATEMENT OF PETER F. MCCLOSKEY, PRESIDENT, ELECTRONIC INDUSTRIES ASSOCIATION, ALSO ON BEHALF OF AEROSPACE INDUSTRIES ASSOCIATION, CONTRACT SERVICES ASSOCIATION, MANUFACTURERS' ALLIANCE FOR PRODUCTIVITY AND INNOVATION, NATIONAL SECURITY INDUSTRIAL ASSOCIATION, AND SHIPBUILDERS COUNCIL OF AMERICA

Mr. Chairman and members of the Panel on the Structure of the U.S. Defense Industrial Base, my name is Peter McCloskey, President of the Electronic Industries Association [EIA]. I am pleased to have the opportunity to offer this statement to you today on behalf of the major associations representing the U.S. defense industry.

In addition to EIA, these associations include the Aerospace Industries Association of America [AIA], Contract Services Association [CSA], Manufacturers' Alliance for Productivity & Innovation [MAPI], the National Security Industrial Association [NSIA], and Shipbuilders Council of America [SCA].

These associations represent the nation's major manufacturers of aircraft, aircraft engines, spacecraft, missiles, space launch vehicles, naval vessels, defense electronics, and heavy industry, as well as the firms which contribute components and services to these systems.

As this panel has properly recognized, there is not a single monolithic defense industrial base in our nation, but an array of defense industrial base sectors. Each of these sectors has unique characteristics, technological strengths, financial conditions, relationships with the Department of Defense and the need for analysis and decisionmaking as we embark on the restructuring of the defense base. While my statement provides a consensus view of our organizations on the defense industrial base issues before the Panel, I would request that each of the associations I am representing today be given a reasonable period of time to supplement this presentation with additional views providing their sector's analysis.

I want to begin by applauding Chairman McCurdy, and the Chairman of the House Armed Services Committee, Mr. Aspin, for the creation of this panel. By doing so a year ago, you anticipated the defense industrial base issues which will be at the center of the upcoming policy and budget debates. The work of the Panel is creating a substantive record that will both inform and guide this debate on the future of the defense industrial base.

The shift from the monolithic Soviet threat that defined our defense posture in the period since World War II to a series of ambiguous, ill-defined regional trouble spots has occurred with astonishing speed. These developments, in tandem with the tremendous budgetary and deficit pressures at the Federal level, are forcing the restructuring and downsizing of our national defense. The guiding principles in this process must be to ensure that the restructured U.S. defense base is technically superior and financially strong. If we succeed, we will have healthy, though downsized and less numerous, defense firms supporting a viable defense industrial base. This base, in turn, must support a national security program capable of meeting and overcoming future threats to our national interest.

If we are to succeed in this endeavor and avoid the mistakes of the past, all partners in the system must contribute in a coordinated and equitable fashion. The Armed Services Committees will have the principal leadership role in Congress, although important policies falling within the jurisdiction of other committees of Congress must be addressed as well. Clearly the Department of Defense, as well as other departments and agencies, can initiate certain administrative policies to contribute to a rational downsizing plan grounded in our strategic needs.

Industry bears an important responsibility, as well, to contribute to this effort. Significant steps in this regard have already been taken. In recent years we have consolidated internal operations, cut operating costs, and sought efficiencies through mergers with other firms. Quality programs to increase productivity have been developed, and industry has instituted training programs and internal procedures to ensure ethical behavior in the conduct of government contracting.

PRESERVING THE U.S. TECHNOLOGY BASE

Our preeminent technology is the keystone of our defense industrial base and national security program. Industry must have the incentives to continue the fundamental research and development that will sustain this technology base. This technology, in turn, is essential for the next generation of defense systems which will protect our security in the future. The Congress, led by the House Armed Services Committee, took a very important step last year in this regard with its passage of legislation that will lead to full cost recovery of independent research and development expenditures by fiscal year 1996. Congress and industry must monitor the implementation of this law to ensure that your intent is fully and faithfully carried out.

Historically, research and development for defense systems have been threat driven. The single Soviet threat is gone, yet we must push the development of technology to maintain our edge in order to deter new threats as they emerge and defeat them when armed force is necessary. Despite recent positive developments, we still face high technology weapons systems in the former Soviet Commonwealth States. In addition, we risk the continued export of new weapon technology, or the migration of weapon designers to Third World countries. As the threat evolves, future R&D must identify those technologies and generic advanced manufacturing processes which will be critical to the future base and continue to support them. Essential to this effort must be the willingness to DOD to competitively award basic and other R&D contracts to private sector firms, not merely to its own laboratories and other research facilities or to academic institutions which do not possess production capabilities.

REVITALIZING THE U.S. MANUFACTURING BASE

It is widely accepted that the United States has excelled at basic research but is far weaker in the manufacturing processes and procedures for turning this basic research into final products for the commercial marketplace. With disheartening frequency foreign firms have taken technology developed in the United States, transformed it into commercially marketable products, and sold it back to us. Loss of market share, entire industry sectors and United States jobs have resulted.

In order to regain market share, a viable manufacturing industrial base capable of quickly bringing competitive products to market should be strengthened. Greater awareness of manufacturing's role in the product design cycle, recognition and funding for manufacturing process technology, and emphasis on its importance is needed in achieving affordability goals. To foster advances in U.S. manufacturing processes for defense and commercial markets, increased cooperation in manufacturing technology planning and demonstration should lead to an increased emphasis on manufacturing processes up-front in the product development cycle. The Congress and DOD must sustain their support for the manufacturing technology programs in the services, for the industrial modernization incentives program, and for Title III of the Defense Production Act. We must support process technology to the same degree as we support product technology. In fact, many of the national critical technologies identified by the Executive Branch are process rather than product-oriented.

We are aware that the House Armed Services Committee has created a second panel on manufacturing, chaired by Congressman Hertel. We anticipate full committee attention to the recommendations of both panels. We will be working with Mr. Hertel, Chairman of the Manufacturing Panel, as well.

PRODUCTION POLICY ALTERNATIVES

The impending changes in our national defense program clearly will result in new approaches to acquisition policy. There will be fewer new program starts and many programs will experience smaller production runs. DOD has announced its intention to pursue an approach to acquisition that will emphasize reliance on R&D without ever transitioning systems to production. This approach has been described as "rollover," "prototyping," and other terms.

It is important to understand from the outset that there are two types of prototyping. The first is a technology demonstrator that takes the program through concept validation but never enters production. The second example of prototyping takes the validated concept and builds enough low rate initial production items to ensure that the laboratory concept functions in a real world environment. Major hurdles in system development are encountered in this movement from R&D to limited production. It is here that performance problems are identified and resolved, feedback is received from the user community and the mature system design is fixed before moving to full rate production. Minimally, prototyping must move through this second phase to permit the necessary evaluation and modification of the system. As Lockheed Corporation Chairman Dan Tellep stated recently, "Prototypes for prototypes' sake will just produce a lot of museum pieces."

Moreover, the use of prototyping or rollover raises major questions regarding program funding. Historically, contractors have invested significant resources of their own through their independent research and development programs and cost sharing with the government during the R&D phase. Theoretically, these investments are returned as profit earned in out-year production. In reality this frequently is not the case. With limited production or prototyping this will not be possible. The government, therefore, should expect to see contractors bid a fair price for these research contracts to ensure adequate capital for necessary investment.

Dual sourcing is another issue that must be examined in light of the new production environment. Mandatory dual sourcing was one facet of the broad policy push in the 1980's for competition as a means of controlling program costs. Work completed recently by the GAO examining a number of DOD dual source procurements found that they cost more money than they would save in terms of competition. Misapplied dual sourcing forces industry to maintain excess capacity at a time when we clearly must eliminate unneeded plant capability. Congress should ensure that the Department and the contractors have the flexibility they need to approach systems production wisely and economically.

DIVERSIFICATION OF DEFENSE FIRMS

It is widely assumed that there will be a natural progression of heavily defense-oriented companies toward commercially-oriented high technology activities. This model also often assumes recreation of comparably-placed jobs in the numbers and locations where defense manufacturing is currently being done. Some significant cautionary notes must be struck in this regard at the outset. First, this movement from defense to commercial is a perilous course. Due to the significant differences between defense business practices and those in the commercial world, previous diversification efforts frequently have resulted in program failures at huge cost to the sponsoring firms.

Second, certain capabilities which are unique to defense should be so identified and retained as an integral part of the national defense program. The theory that the defense base can be readily converted to a commercial base in order to spur our national economic growth, only to be reconstituted in a time of military need, is a siren song that must be avoided. Once transformed to a commercial base, technologies, production procedures and the skilled workforce unique to defense may not be reconstituted in a timely way to meet national security surge requirements.

Despite the weak track record of diversification, many defense firms are exploring commercial opportunities which will build on their existing technological and skill bases. To facilitate this trend the government must change the legislation and regulations which currently force an artificial separation between commercial and military business. Among these are the excessive complexity of military specifications, the treatment of private sector technical data rights, and excessive demands for cost and pricing data even in competitive procurement for commercial products. If the government is ever to realize the potential benefit of commercial technologies and product advances; it must come to rely on the same competitive market forces that firms and individuals depend on throughout our economy to ensure reasonable prices. It must reject the over-reliance on intrusive audits and burdensome demands for cost data that commercial firms will forever reject as a precondition for selling to the government.

Of particular importance is the need to address the accounting requirements and audit procedures which currently encumber the system. These requirements and procedures were greatly expanded in the last decade during the defense build-up. They have not only lengthened the acquisition cycle and imposed large, unjustified and unnecessary costs on industry and government, but also have induced firms to separate their commercial segments from their defense activities. As a starting point, audit and oversight staffing can be reduced proportionately to reductions in the procurement and research and development accounts. This must be done in a way that will encourage the appropriate degree of movement of technology between the defense and commercial sectors.

This issue is particularly important because in the future we will need the increased infusion of commercial technology into the defense base. We have already seen this in the case of computer chip technology. We will need the unimpeded movement of such technology in either direction between defense and commercial enterprises if we are to maintain our technological edge.

Additional actions which will lead to the accomplishment of this goal are detailed in the recent report by the Center for Strategic and International Studies, "Integrating Commercial and Military Technologies for National Strength", which should be included in the Panel's record. Industry commends to you this study done at the behest of Senate Armed Services Defense Industry and Technology Subcommittee Chairman Jeff Bingaman.

OTHER LEGISLATIVE REMEDIES

In addition to encouraging commercialization, a vital element of the effort to ensure a stable defense industrial base an to promote our nation's economic growth is an export-driven international defense trade policy. Congress can improve the environment for foreign sales, and in so doing bolster the defense industrial base, by eliminating the current government policy for recoupment of non-recurring costs which places an unfair surcharge on our defense export interests. Congress can further act through the reauthorization of the Export Administration Act to create a balanced export program that encourages dual use sales opportunities in world markets without jeopardizing sensitive technologies. Congress should work with the Administration and industry to implement an export credit guarantee facility for defense exports patterned after the Eximbank program for commercial products.

Another policy area outside the jurisdiction of the Armed Services Committee having tremendous impact on the defense industrial base is that of tax policy. Congress should act to offset the impact of the short-sighted decision made several years ago to phase out the completed contract method of tax accounting. This decision has had the effect of imposing a greater tax burden on defense contractors than on other industry sectors. Defense contractors, even those with long-term contracts who had never used the completed contract method, pay taxes as costs are incurred. DOD's procurement rules delay the payment of cash profit, however, until deliveries are made. Such deliveries generally occur years after the taxes have been paid. Congress can address this issue by changing the tax law to more closely match tax payments with the receipt of cash profit. Alternatively, the Department of Defense could offset the early tax payments made before receipt of profit payments by making partial profit payments to contractors as costs are incurred.

CONTRACT FINANCING AND REGULATORY ISSUES

DOD has within its authority a number of actions it can take administratively to permit a rational transition to a smaller defense program while preserving the essential elements of the defense industrial base. Leading the list in this regard is a complete overhaul and simplification of the progress payment system. A central principle of contracting with the government has been that the government would provide partial financing for work-in-process on large, long-term, military unique programs. Under current policy the government does not provide 100% financing on government contracts. Moreover, they do not recognize any interest expense as an allowable cost, even for that portion of the inventory which must be financed by the contractor. Although some may believe that the current progress payment rate of 85% means that the government is providing 85% of the financing for government contracts, this is not the case! Under the best of conditions, the coverage averages about 60%. In many, if not most cases the coverage ranges from 40% to 50%.

Among the changes that need to be made are: an increased rate that should be made permanent, the elimination of the delay between incurring cost and being paid by the government, the broadening of coverage to include all contracts for military unique items with the government, a serious consideration of other than cost-based progress payments, more frequent payments, and a simplification of the current complex procedures that delay payments and subject contractors to unjustified criminal penalties.

Fixed price development contracts, in whatever form, must be eliminated. DOD has made good progress in this regard in the aftermath of the services' improper use of this contract form in the last decade and the program terminations that ensued. Yet contractors are still faced with pressure to sign up to innovative variants of them. DOD should not use default terminations as a contractual action when the problem is principally with the contract type. Contractors should not have to litigate in order to receive fair and reasonable treatment at the hands of the government.

Finally, I want to call your attention to a growing financial problem for our companies called "unabsorbed burden." When contracts were originally priced, certain finance rates were developed based on an assumption of a given government business base. Obviously those business opportunities have been modified significantly, putting further financial pressure and risk on contractors. We believe DOD, or Congress should adopt an equitable approach which compensates for these unanticipated changes.

PUBLIC/PRIVATE SECTOR REDUNDANCY ISSUES

DOD must act to reduce the duplication that exists between private industry and the government's own defense industrial base. This redundancy is most significant in the areas of research, overhaul and repair, and other forms of long-term system support.

As Gordon England of General Dynamics pointed out in earlier testimony, it is entirely feasible in many cases for the U.S. private sector industrial base to replace the organic capability of the U.S. military or vice versa. Our concern is that DOD and the services will fight to preserve their internal organic capacity at the expense of the private sector. This can and will have damaging implications for the health of the industrial base and the concept of reconstitution. Congress must monitor and, when appropriate, eliminate this public/private sector industrial base redundancy to ensure the preservation of necessary private sector capacity.

CONCLUSION

In conclusion, Mr. Chairman, we have before us an array of policy options that will permit a rational and measured reduction in our resources committed to defense while seeking to preserve the core elements of the defense industrial base. Industry understands that this process will occur. As representatives of our companies have said in the past, the defense industry is not seeking, nor does it want, extraordinary relief from the government. What it does want is a business environment that is stable and predictable, and that offers the opportunity for a reasonable return on investment.

I have suggested a number of policies that will help to realize these goals while preventing irreparable harm to the defense industrial base as we build down. One such policy is support for long term R&D projects on the basis of the defense capability they will provide, even if the threat is not immediately defined. I cannot underscore enough the importance of preserving the financial health of the base during these times, and request Congressional support for the numerous financial health policies I have covered, including a permanent increase in progress payments and tax policy changes. Finally, elimination of the artificial barriers between commercial and defense operations and an export-driven trade policy for defense related goods and services also should be pursued.

If these policies are addressed in an aggressive and coordinated fashion we will be well on our way to defining the new down-scaled defense base. And we will downsize in a way that will retain our capability to deter aggression and to overcome it when military force is required.

The companies that comprise the associations I represent here today pledge their commitment to work with you and the members of your Panel in this effort, and again we thank you for the opportunity to present our views today.

Mr. Chairman, I would be glad to answer any questions.

TALLEY DEFENSE SYSTEMS, INC.,
Mesa, AZ, January 10, 1992.

Mr. GEORGE POOLE,
Talley Industries, Arlington, VA.

DEAR GEORGE: In accordance with Senator McCain's request to you for a review of the DOD report prepared in response to Senator McCain's request in 10 United States Code 2509, we have prepared the attached point paper. We feel there are areas the report misses. These areas are significant and, in our opinion, must be addressed to avoid national security problems.

The report fails to mention battlefield consumables, which constitute a critical product area provided by our industrial base. Among the classes of products, this segment is the most dependent on military funding. Using the analysis considerations called out in Senator McCain's requirement for the annual DOD report, much needs to be done to insure adequacy of the Defense Technology and Industrial Base [DTIB]. The DOD report indicates that free market forces will insure an adequate base after downsizing.

Our review indicates a failure in the report to consider the realities implicit in significant downsizing. A realistic treatment of the national needs to preserve an adequate DTIB is found in the July 1991 report published by the Congressional Office of Technology Assessment, entitled "Redesigning Defense." That report details issues of urgent need through changes to laws and regulations needed to assure preservation of an adequate DTIB during the ongoing downsizing.

In our review, we have detailed areas where we feel issues were missed in the DOD report, and areas that need changes in laws and regulations which will preserve critical parts of the DTIB. We are a developer/manufacturer working in the areas of battlefield consumables with a strong track record of new technology for America's most modern weapons systems. Our business and the jobs we bring to the State of Arizona are in jeopardy if the course of action detailed in the OTA report is ignored.

We appreciate the opportunity to provide comment on this vital topic. We would be pleased to provide additional information or answer any questions the Senator or his staff may have after reading our comments.

Yours truly,

WILLIAM W. MOGAN,
Director of Marketing.

Attachment.

This point paper critiques "The Report to the Congress on the Industrial Base," dated November 1991.

SUMMARY

Subject report offers conclusions that uncontrolled downsizing of the U.S. defense technology and industrial base [DTIB] will not hamper DOD in meeting future defense threats. Initiatives such as "dual use technologies"; "promotion of civil-military integration"; and "adoption of procedures more consistent with commercial practice" coupled with a free market economy are offered as sufficient to keep an adequate American DTIB as defense budgets decline. Such is not the case.

Serious errors are often rooted in flawed logic or incomplete information. The "Report to the Congress on the Defense Industrial Base" dated November 1991 contains both fundamental problems. Failure to acknowledge realities in America's defense technology and industrial base [DTIB] will lead to severe national security risk.

Maintaining a secure defense posture means preserving defense specific segments of our DTIB. Changes in Government procurement laws and regulations are required to insure DTIB preservation. A more thorough examination of the need to develop and implement a realistic policy is found in the Congressional Office of Technology Assessment [OTA] report "Redesigning Defense" published in July 1991. The OTA report weighs the issues and provides timely insight to needed actions. This paper echoes many of the concerns and suggestions offered in the OTA report.

The Report to Congress (subject report) fails to address battlefield consumables, a critical segment of our DTIB. This paper pinpoints logic deficiencies and omissions in subject report and suggests areas for action.

BUSINESS SECTORS

The congressional report addresses these business segments: Aircraft, missiles and space, electronics, ships, and combat vehicles.

These segments provide a distorted view of what is happening to American defense industries. Electronics is illustrative of the report's lack of candor. Pages 3-12 state "commercial" and "defense electronics" sectors portray a varied but "* * * relatively positive outlook."

America created the world's most powerful consumer electronics market. American manufacturers developed the products, the distribution systems, and the demand for an entire class of new technology. In less than 10 years Japan devastated American manufacturers. Virtually every electronics product now available in the U.S. originates in Japan. Other Pacific rim countries are following the Japanese lead into America's consumer market. U.S. firms active in electronics have declined significantly. The high rate of new product introduction means shorter production periods for recovering development costs. American firms, who have high overheads when compared to companies from other countries, are particularly hard hit.

Subject report addresses electronics and a few other product segments and then concludes that there will always be a base equal to our national needs. This conclusion ignores reality.

NATURE OF CONSUMABLES

Military combat operations involve destruction of enemy forces by warheads, munitions, bullets, and bombs * * * all energetic consumables. All of these critical products come from this segment of our DTIB most dependent on defense funding, not even considered in subject report.

Modern weapons are often rocket powered, or guided with precision servos powered by propellant. To maintain a superior force, consumables technology must continually move forward. This technology is independent of commercial market potential, but is dependent on commercial technology for raw materials and mounting pressure to comply with tightening environmental restrictions.

ROLE OF TECHNOLOGY

Tactics and technology work together to drive an army's effectiveness. Tactics can place forces in position to surprise and destroy the enemy. Technology multiplies effectiveness of forces. Technology impacts all areas of military hardware and tactics. Technology assists in intelligence gathering, which leads to tactics providing location and time advantages, giving the element of surprise.

Dramatic miniaturization in sensors and electronics allow the collection of direct intelligence from satellites and placement of terminal homing sensors on guided smart munitions. Using the intelligence available in modern microprocessors, munitions can be delivered with great precision, improving killing power.

The gulf war saw the effects of technology driven tactics. It also provided clear evidence of the high cost when forces are unable to counter technology

RATE OF TECHNOLOGY CHANGE

Technology is a perishable commodity. The rate at which technology is developed has increased dramatically over the past century. Previously, new items stayed new for many years. Today we see computerized design aids bringing products into being at a rate faster than ever before imaginable.

Much technology introduced today is dominant for only 30 months before pressure from the next generation of technology in the market.

This rapid rate of technological change makes it imperative that we maintain sufficient focus on technology in military areas. Some defense technology is driven by commercial markets. Electronics, aircraft and a few other industrial segments where there is a large, active commercial market, see defense and commercial technology running a parallel path. Within fully defense dependent areas such as energetic consumables, there is no commensurate commercial path.

Technology development in defense specific segments of America's DTIB must remain at a rate sufficient to maintain America's ability to field an effective defense as needed. DTIB technology is funded through direct development contracts and IR&D charged against production programs. Private IR&D will decline in proportion to production contract funding reductions.

Subject report alluded to the possibility of dual use technology useful in both commercial and military worlds. This is not possible in the area of defense energetic consumables. While there are common technologies that do work in both military and commercial aviation applications, there is no commensurate commercial market for most defense consumables. This differential is significant and demands attention by appropriate levels of Government. Failure to take timely action will result in serious national security deficiencies.

PROCUREMENT LAW

Current procurement policy provides no bureaucratic incentives to make exceptions to the competition in contracting act [CICA]. The OTA report details this issue. Currently, Government procurement centers are competing production orders for items developed by a given firm, to other companies with little or no development capability. In some cases, awards go to Government Owned, Contractor Operated Plants [GOCO's] that maintain no development staffs at all. The lack of technical staffs mean that there is no technology component associated with dollars placed into GOCO's or private firms lacking technical capability.

Firms with no technology capability will always have lower overheads than those with full technical staffs. Failure to change policy laws and regulations now to encourage preservation of firms with technology development capability will lead to precipitous erosion of the technology component of our DTIB. This is particularly so for battlefield consumables dealing with energetic materials such as propellants and explosives.

One hundred years ago the rate of technology change was low. After WW I an arsenal system was established to surge existing consumable designs. We were able to rely on facilities in layaway to produce what were at that time stable designs. Modern rates of technologies change make it unwise to rely on the past. We must maintain contractors with technical capability.

Energetic consumables may be the most critical area of our DTIB. The consumable and the delivery platform play together as a system. Delivery outdated ordnance with modern weapon platforms can result in loss of the technology advantages in the platform if the ordnance technology is outdated.

COMMERCIAL ROADBLOCKS

The precept that the DTIB will be able to support future defense needs alludes to several reasons including diversification into commercial areas and foreign sales. Neither of these potentials is realistic.

Non-military sales implies that defense firms have products and distribution networks in place and can shift assets immediately into nonexistent, unserved markets. Development of products and distribution channels takes time. Realities of the current economic situation make commercial diversification a nonstarter.

DOD regulations, and court decisions supporting them, provide the Government unlimited access to all financial records. Companies have to separate government and commercial operations to keep records properly. Most firms would choose to have them separate simply to avoid the burden of providing access to all financial records. The OTA report details these issues.

U.S. firms face serious competition in the smaller, foreign market. In many cases, national ownership of foreign defense companies and participation in their defense industries put U.S. firms in direct competition with the national leadership of competing countries. No equivalent U.S. policy supports American firms.

U.S. Government approvals are required for all international sales of defense products and technology. Page 4–2 of subject report discusses offsets and states, "Although the U.S. Government is not a party to these arrangements, it retains the right to review offsets as a part of its review and approval of proposed international defense cooperative programs."

The U.S. Government is a party to all offshore sales of American defense products. Regulations limit the payment of fees normal to firm from competing countries. U.S. Approval is required for each and every sale from an international partner or sovereign foreign government. In the international sale or use of a system containing U.S. content, the U.S. Government is a full party and, therefore, U.S. firms are not desired partners for many commercial international consortia.

TECHNOLOGICAL INVESTMENT DRIVERS

Technology creation is driven by payback potential for investment, need, and dedication of adequate intellectual assets. Central to technology advancement in consumables are assets in propulsion and energetic materials within private industry. There are a limited number of firms who supply these items. In some cases the items can also be manufactured in Government facilities (GOCO's).

The difference between GOCO's and commercial facilities is significant. Those commercial producers who maintain technical staffs must have production. Failing to have sustaining production placed into firms capable of technology development puts our important force multiplier in jeopardy. American managers of private firms simply cannot invest in technical staff maintenance when products their companies develop are put into GOCO facilities for production.

POLICY NEEDS

There are no segments of U.S. industry with adequate Government policy backing. Fundamental changes to America's industrial engine are needed urgently. American business schools train managers to maximize quarterly returns. Foreign firms and governments have taken the longer view. They have policies enabling their private firms to seek and capture permanent market share in the United States.

We must reverse the trend of the last 20 years or we will fall behind the rest of the world in our standard of living. Our DTIB can be a starting point in the development of new Government policies.

America has no active policy for promotion and protection of its industry. Our national industrial/commercial engine was founded in the era of the industrial revolution at the start of the 20th century. We operate as if the markets of the country and the world are in continuous expansion and the ability of American industry to create profits, capitol and jobs to fuel the cycle is limitless.

Japanese rebirth under our supervision led to the greatest commercial creation in world history. Japan prospers at the expense of American industry. Their new foundation, laid 50 years after America's, provided high leverage to replace American industrial leadership. In addition, we are seeing former Communist economies open. These emerging nations will be rebuilt a full 100 years after the beginning of the industrial revolution and the start of America's economic system development.

Failure to create a national industrial policy fully cognizant of the proactive efforts of not only the Japanese but the many new Governments now awakening. This failure will doom the U.S. to a continuously declining economic future.

Our national medical and retirement systems force American firms to carry higher prices into world markets. We have seen what lack of control can do in our economy with the deregulation of banking and accumulation of excessive debt at all levels. Servicing that debt has robbed our economy of its resilience.

10 U.S. Code 2509 calls out considerations for analysis of the industrial base. Mergers, acquisitions and takeovers within the DTIB ran at a high rate during the past five years. Debt was increased within defense, as within many other parts of the economy. Many firms are faced with debt from buying defense businesses that now face dramatic market declines. Because of the declining DOD budget, these firms have difficulty selling their defense subsidiaries or in finding ownership partners. In many cases, commercial segments of firms holding defense businesses are also in decline. The combined effect of declines in both sectors force managers to choose where they will keep technical staffs.

Failing to protect the defense sectors with managed awards to those firms capable of developing technology will force top managers holding portfolios of businesses to preserve commercial potentials. This is because they must choose to continue investments in staff and product development where they expect returns for their stockholders.

We must formulate new national industrial strategies capable of re-energizing American ability to create wealth in the changing world market for our population as a whole. Defense capability and the industrial base underpinning that capability provide the bedrock for our national security.

Production orders in consumables should be channeled to those firms with track records of developing technology to insure their continued diligence in pursuit of technology advancement. This segment of the defense base supplying energetic loaded consumables, with no commercial markets, must be treated with changes in the law as suggested in the OTA report. Inaction on this issue opens America to security risks.

CONCLUSION

Close attention should be paid to the OTA report called out earlier in this paper. It provides a fully staffed understanding of our national needs for a capable DTIB. The OTA report, coupled with a plan for change to our laws and regulations covering defense procurement, allows maintenance of adequate national security during the downsizing now in progress.

Use of the few contracts that will be awarded as a tool to maintain those firms capable of developing defense technology is imperative. These actions can maintain needed momentum in critical parts of our DTIB. This move to such a "Design Bureau" approach is similar to what is done in Europe. It is the optimal direction for the times facing America.

THE 100TH ANNIVERSARY OF THE WESTERN PENNSYLVANIA HOSPITAL SCHOOL OF NURSING

Mr. SPECTER. Mr. President, it is my distinct pleasure to bring to the attention of my colleagues the 100th anniversary of the Western Pennsylvania Hospital School of Nursing, headquartered in Pittsburgh, PA. To date there have been over 5,000 graduates of the school, many of whom have spent their professional careers helping to improve care for the people of western Pennsylvania.

The centerpiece of the centennial recognition is the 100th anniversary celebration weekend, April 24 to 26, 1992, sponsored by the School of Nursing's Alumni Association. It is certain to be a time of remembrance and celebration, and is expected to draw more than 1,000 alumni and guests.

One hundred years ago, nurses swept and mopped the floors of their units, dusted furniture, carried coal for heat, cleaned and filled kerosene lamps, planned patient menus, and washed hospital windows. They also worked 12 hour days 6 days a week. Over the past 100 years, much about nursing has changed, save nursing's commitment to excellence in patient care. During this time, the West Penn Hospital School of Nursing has educated nurses for service all over the world.

Therefore, Mr. President, it is with great delight that I offer my commendations to the Western Pennsylvania Hospital School of Nursing for its continuing dedication to educating nurses. The school's work over the past 100 years is certainly a great accomplishment and a necessary service for the evolving and ever more demanding health care profession. I ask that my colleagues join me today in offering the best wishes of the U.S. Senate to all those participating in the 100th anniversary of the Western Pennsylvania Hospital School of Nursing.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,829,058,789,074.10, as of the close of business on Friday, February 28, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

TRIBUTE TO OFFICER JAMES "DUKE" GIBSON, JR.

Mr. COATS. Mr. President, I rise today to pay tribute to an individual whose entire life was devoted to the service of others. James "Duke" Gibson, Jr., risked his own life many times as a member of the Evansville Police Department, Evansville, IN. He finally gave his life while rescuing the victims of a tragedy in which a C-130 military cargo plane crashed into an Evansville hotel on February 7, 1992. Words cannot pay adequate tribute to the sacrifice of Duke Gibson. There is no greater gift than the offering of one's life for the sake of others.

Duke Gibson, an Evansville native, began his career in law enforcement by becoming a member of the Evansville Police Department in 1974, where he diligently served for 17 years and 7 months before his untimely death on February 24, 1992. He chose to spend his entire career in the Patrol Division, where he could help the people of Evansville on a firsthand basis. He loved patrol work, and was well respected by the community members and his fellow officers.

There were many times during his police career that Duke Gibson put his life on the line. He was recognized for his bravery through letters of commendation and merit awards. These honors include a Commendation he received on May 23, 1977, for outstanding participation in the department's ride-along program; a Merit Commendation, which he received on February 3, 1977, for assisting in rescue efforts at a hotel fire; and the Bronze Merit Award, which he received in February 1979 for his assistance in the aftermath of an airplane crash at the Evansville Airport in 1977. These honors illustrate the commitment and courage that Duke Gibson showed throughout his police career. He is survived by his wife, Glee Gibson, and his three children, James, Sara, and Jacob.

The job of a law enforcement officer is more challenging today than ever before, and Duke Gibson accepted that challenge with pride and dedication. He will be sorely missed by the Evansville Police Department, as well as the citizens of Indiana. He is a true Hoosier hero and an inspiration to all Americans.

THE PASSING OF LONNIE O'CONNOR

Mr. MURKOWSKI. Mr. President, I rise today to honor and mourn the passing of Mr. Lonnie O'Connor. Lonnie was a resident of Nome, AK, and the president and CEO of the Bering Straits Native Corp.

He leaves behind many family members, including his wife Maggie and his four children, Kimberly, Dawn Marie, Floyd, and Harold. Lonnie leaves giant footsteps for his children to follow.

He worked for 20 years as an air traffic controller for the FAA. He was heavily involved in the regional corporation from its inception and encouraged and developed Native leadership. His passing leaves a gap in leadership that will be hard to fill.

Lonnie was also heavily involved in community service. He started the Iditarod Basketball Classic for other basketball enthusiasts in the area and participated in many other community activities.

I had the pleasure of meeting with Lonnie in December of last year when I took a trip to Nome. He met me at the airport and extended to me real Nome hospitality throughout my stay. He also ensured that I met with as many people of Nome as possible. He was enthusiastic about his community and about Alaska. I regret that he will not be here to see the many changes taking place in Alaska that he helped bring about, that will fall to his children.

There are many other great things that I could say about Lonnie O'Connor. His enthusiasm and dedication in every area of his life touched many people and renewed faith in the goodness of human nature. Lonnie was a thoughtful dedicated man who was successful in everything he did. He will be sorely missed by his friends and family in Nome and the State of Alaska.

THE 31ST ANNIVERSARY OF THE PEACE CORPS

Mr. DODD. Mr. President, today I would like to call to the attention of my colleagues a milestone recently reached by the Peace Corps. On Sunday, March 1, the Peace Corps celebrated its 31st anniversary.

It was 32 years ago this fall, that then-Presidential candidate John F. Kennedy asked an early morning crowd of University of Michigan students, "How many of you are willing to spend 10 years in Africa or Latin America or Asia working for the U.S. and working for freedom?" Their enthusiastic response gave birth to President Kennedy's pledge to create an agency to promote what became known as the "Three Aims" of the Peace Corps: to enable individual Americans to supply peoples of developing countries with needed technical skills and knowledge; to give these nations an opportunity for contact with Americans, thereby encouraging greater understanding of American society and culture; and to afford to volunteers a chance to learn, through firsthand contact, about other cultures and mores.

The enthusiasm of that crowd of students has now been shared by more than 130,000 Americans who have answered affirmatively President Kennedy's call to service as Peace Corps volunteers. Today, nearly 6,000 Peace Corps volunteers and trainees are serving in a record 85 countries throughout the world.

As the only Member of the Senate who is a returned Peace Corps volunteer, I take a special interest and pride in this unique agency. There is no question that the Peace Corps has had a profound impact on the lives of those who have had the opportunity to serve, as I have. The Peace Corps is unique in its ability to give volunteers a new perspective on the world. There is no question that it is impossible to finish a tour as a volunteer and come away complacent about or indifferent to the suffering of others.

I also believe the Peace Corps, while not single-handedly transforming the world as some early supporters believed possible, has had enormous success in tackling small pieces of the development problem around the globe. Mostly without fanfare, Peace Corps volunteers have been improving health systems, water supplies, food sources, nutrition, housing, forestation, education and the environment, have taught small business practices, and have helped to combat a multitude of special problems that confront the growing cities of the world. If people live longer and healthier lives in poorer countries today, and if children have more nutritious meals and better schooling, it is in no small measure a result of the contributions of fellow Americans who have given a few years of their lives to the cause of development and peace.

As we look to this truly remarkable decade, and the role of the Peace Corps, I am reminded of an ancient Chinese curse that says: "May you live in interesting times." I do not know what has invoked the anger of ancient Chinese dieties, but without question, these have been interesting times: confounding expectations, the Berlin Wall has come down; free and fair elections have taken place in Poland, Hungary, and Czechoslovakia; Germany now is a reunited country; the world has seen the transformation of the Soviet Union into independent states; and democracy has swept through almost all corners of our own hemisphere.

This changing international framework holds great challenge and opportunity for this country as a whole and especially for the thousands of Americans who bring personal meaning to our diplomacy through their Peace Corps service. How can the Peace Corps best keep pace with a rapidly changing world? At a minimum, we in the Congress must ensure that the Peace Corps has sufficient levels of support to enable it to continue to build, in a phased, programmatically sound manner, toward achieving the goal of a Peace Corps volunteer strength of 10,000.

By the end of fiscal year 1993, Peace Corps expects to have 7,200 volunteers and trainees working in 95 countries. Many countries, including the Baltic States and other former Soviet Republics, are waiting in line for volunteers. They have specifically requested these volunteers to assist them with their transition from state-run economies to free and democratic societies. These assignments will highlight the special value of Peace Corps volunteers as not only teachers but as cultural and personal links between very different worlds. The Peace Corps will need additional resources to respond to the requests for assistance from these newly independent States, so that it is not confronted with having to rob existing programs in other parts of the world in order to fund these new initiatives.

It is also important that the Peace Corps continue to respond creatively to a problem which will continue to grow: the demand for volunteers who are highly skilled in technical fields. As essential ingredient of the success of the Peace Corps is that it responds to the requests of host country governments rather than telling governments what they must accept. As developing nations have advanced, host nations have requested more and more highly skilled volunteers. The Associate Volunteer Program, begun in 1987, appears to be meeting host government requests for volunteers with in-demand technical skills, without compromising program goals, but it cannot substitute for generalist volunteers committed to extended service. Associate volunteers must only be seen as an augmentation of support to the volunteer. Technical training programs must be developed by the Peace Corps to equip volunteers with in-demand skills.

Mr. President, another important issue for the Peace Corps is the longstanding policy relating to the separation of the Peace Corps from the day-to-day conduct and concerns of U.S. foreign policy. Successive administrations of both parties have restated the Peace Corps' basic separation from U.S. foreign policy, but none as succinctly as former Secretary of State Dean Rusk who said: "To make the Peace Corps an instrument of foreign policy would be to rob it of its contribution to foreign policy." It is essential to the independence and the integrity of the Peace Corps, and to the safety of the volunteers that these policies be maintained, most especially in these changing times.

The Peace Corps must also strengthen its efforts to recruit minority volunteers. We have all talked about increased minority participation for many years, but even though 13 percent of all volunteers were from racial and ethnic minorities in fiscal year 1991, which marked a substantial increase, the fact remains that minorities have not shared equally in the experience of the Peace Corps.

Finally, Mr. President, I would like to see the Peace Corps expand its emphasis on the third goal through strengthened programs to help teach the American people what it has learned. With programs like Fellows/U.S.A., World Wise Schools, and Partners in Peace, the Peace Corps is moving in the right direction. The lack of knowledge of far too many Americans about the world beyond our borders has grave implications for our future competitiveness, for our national security, and even for our national budget. As historian Henry Steele Commager said, "We are no longer masters of our own dealings; every major problem that confronts us now is global and can be solved only through cooperation with other nations." The large pool of retired Peace Corps volunteers now living in virtually every city and town in this country are uniquely suited to "bringing the world back home." Their commitment, talents, and knowledge must be tapped to awaken America to our global interdependence and our global responsibilities.

Mr. President, we can be truly proud of the accomplishments of the Peace Corps over the last 31 years. And, it is clear that the Peace Corps continues to have an important mission to carry out in the coming decade. I know that my colleagues all join with me in celebration of this important anniversary.

REMARKS OF DR. JOHN BRADEMAS AND PROF. JOHN KENNETH GALBRAITH

Mr. MOYNIHAN. Mr. President, as one who had the privilege of a Fulbright Scholarship some years ago and as a Senator who represents a State adjoining Canada, I take pleasure in drawing to the attention of Members of the Senate an address delivered on October 9, 1991, at New York University by the distinguished economist, Prof. John Kenneth Galbraith of Harvard University, on the occasion of the meeting in New York City of members of the Foundation for Educational Exchange between Canada and the United States of America.

Professor Galbraith was introduced on this occasion by one of the members of the Board of the Foundation, the president of New York University and our distinguished former colleague in the House of Representatives, Dr. John Brademas.

Mr. President, I ask unanimous consent that the transcripts of Dr.

Brademas' introduction and Professor Galbraith's speech be inserted at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY PROF. JOHN KENNETH GALBRAITH

INTRODUCTION BY DR. JOHN BRADEMAS, PRESIDENT OF NEW YORK UNIVERSITY

I take great pleasure in welcoming all of you to our first lecture in the United States of the Canada-U.S. Fulbright Lecture Series. Sponsor of the series is the Foundation for Educational Exchange between Canada and the United States of America.

Forty-five years ago the Congress of the United States voted to establish the International Educational Exchange Program that bears the name of Senator J. William Fulbright of Arkansas. Two years ago I had the great privilege, as a member of the Onassis International Prizes Committee, of presenting one of four Onassis Prizes, of $100,000 each, to Senator Fulbright in recognition of his extraordinary creativity in having made possible a program which has, since its beginning, provided almost 200,000 scholars the opportunity as students, researchers and teachers to take part in the splendid program that bears the Senator's name. Included in this remarkable group are political leaders, supreme court justices, ambassadors, Nobel Laureates, university presidents, rectors, scholars, authors, teachers.

When our distinguished Ambassador from the United States to Canada, Edward Ney, telephoned me two years ago to advise me of the plan to create a United States-Canada Fulbright exchange program, I had not been aware that no Fulbright program with Canada existed; indeed, I was shocked to learn this fact. And one of the reasons I readily accepted Ambassador Ney's invitation to become a member of the commission that guides the exchange was my long-held conviction that we in the United States do not know enough about Canada. I have yet another confession. Although I grew up in Indiana and studied for four years at Harvard, it was not until I went to Oxford that I had ever met a real-live Canadian. I had never before even seen a Canadian and the one I came to know, you may be amused to learn, was John Turner, who, of course, went on to a political life himself.

A NATIVE OF CANADA, A UNITED STATES CITIZEN

I am now going to present to you a native of Canada, our distinguished speaker this morning. He is someone I have known for over 35 years. Born in Iona Station, Ontario, he became a United States citizen in 1937. He and I first became acquainted during the second Presidential campaign of Adlai Stevenson, on whose staff I worked in that campaign as his executive assistant in charge of research on issues. Part of my job entailed my being in touch with Governor Stevenson's trusted advisors, one of whom was our distinguished guest.

Paul M. Warburg, Professor of Economics Emeritus at Harvard University, our speaker is known all over the world for his development of Keynesian and post-Keynesian economics and the economics of the modern large firm as well as for his essays and writing on American politics and society. He earned his bachelor's degree at the University of Toronto in 1931, then a Master's and Ph.D. from the University of California. He taught at both California and Princeton until 1948 when he went to Harvard. There he has served on the faculty for 30 years. He has received some 40 honorary degrees, including ones from both Harvard and Oxford.

During the Administration of President Franklin D. Roosevelt, he served in the Office of Price Administration. During President John F. Kennedy's Administration, he served from 1961–63 as United States Ambassador to Indian. Ladies and gentlemen, I take great personal pleasure in presenting a distinguished Canadian and a distinguished American, Professor John Kenneth Galbraith.

ADDRESS OF PROF. JOHN KENNETH GALBRAITH

I must express my own pleasure at being here on this distinguished occasion, my pleasure at hearing that exceptionally truthful introduction from one of my oldest friends and my slight sense of concern that it has taken so long to have this marvelous fellowship-relationship established between Canada and the United States. Along with President Brademas, I confess that if anyone had asked me 10 or 20 years ago, I would have assumed that it already existed. I support the notion that one can have a certain bigamous relationship with more than one country. I still identify myself with my earlier years in Canada, my birthplace, the place of my education, and I'm not sure if there is not a value in this relationship.

I am reminded that when some 30 years ago, then-Prime Minister Mike Pearson was visiting President Kennedy at Cape Cod, there was on the agenda one of the oldest, most troublesome questions between the two countries, namely the relation of air flights and the granting of air flight permissions. The Canadians were very anxious for Trans-Canada Air, as it then was, and Canadian Pacific Air to have access to Los Angeles, San Francisco, and other American places of culture and rest. They were always asked, what do you have to give in return? The problem of the Canadian cities being only 100 miles from the border was [that] the American airlines [had] formed the delightful practice of going into Buffalo and Detroit and picking up the Canadian passengers there.

This almost came up to the President during Truman's days, and when Eisenhower came into office, it started all over again through the State Department. It got the attention of President Eisenhower just as he was leaving office. And so it was agreed that the matter would be taken out of the bureaucracy, out of the organization, and each country would appoint one man or person to finally resolve the matter. Kennedy said, "I'll appoint Kenneth Galbraith, who is just back from India and who always said he was a Canadian as well as an American." Mike Pearson said, "I'll appoint him too on the same terms."

In the ensuing negotiations, which were treated with some reticence at the time, I was the representative of both the Canadian government and the American government. I had hearings with the American carriers in Washington and the Canadian carriers in Ottawa. Then I struggled with extraordinarily difficult negotiations with myself. The long-range jets had made the whole idea of going into Buffalo to pick up Canadian passengers somewhat redundant, and, by judicious division of business, I gave the Canadians, as I recall, Los Angeles and the Americans San Francisco from Toronto and Montreal, and so forth and so on. I took this to the American carriers and they were willing (Pan Am was always objectionable). I took it to the Canadian carriers and they were delighted because anything was better than nothing.

I took it in to President Kennedy after about two or three weeks with a complete agreement. I still to this day remember his reaction. He said, "I had always thought it might be possible to teach a college professor something about politics, but I have now given up. The agreement that you have reached in two or three weeks with yourself is going to be taken seriously, although it indicates effort. Bring it back again in six months and say you have really done something." Well, I brought it back in a month. There was general approval of this particular form of negotiation, which I now strongly recommend to Secretary Baker for the Middle East.

CANADIAN IDENTITY

I must, in taking up my topic this morning, which is the Canadian identity as seen in the United States and as seen in Canada, begin on a slightly personal note. I was born and raised in Southern Ontario. If one thinks of the line going from Buffalo to Detroit or from Detroit to Buffalo, there was, about half way along that line on a north shore of Lake Erie, a place where the Scottish clans settled in great numbers in the beginning of the last century and where to an extraordinary extent they were under the aura and influence of Detroit.

Each autumn when the crops came in, and the leaves were beginning to fall, there was a great migration from the poorer farms and from the villages of that part of Ontario to Detroit to work for the winter in the bodyshops and the automobile assembly lines. And there was much more than that. There was also a feeling of a sense of responsibility for what happened in Michigan and the United States. Canadian elections, which as everyone knows are held at any particular time of the year, proceeded as usual. People who made this migration voted winter, spring, and summer in Ontario elections. Then when November came they voted in Michigan. I heard the statement many times that this was because they wanted the best people in office in both countries. In a dubious moment I once, with the rather prickled tendency of a scholar, said to an old friend of mine, "You know, this not legal, not right." His answer, I still remember, was if Roosevelt had lived, my friend would have wanted to vote for him.

The Detroit Free Press investigated this practice of voting on both sides of the river. Commenting on the arrangement that the would-be voter was given the voting rights of somebody who had recently died, a famous editorial once said that Franklin D. Roosevelt can indeed say, "I am the resurrection!". this attitude has an extraordinary effect on my up-bringing. I was not part of this particular process, but the notion that the two countries live in close association and with the sense of joint responsibility has always been uppermost in my mind. It was the truth that this same attitude pervaded much of the Scottish parts of Canada in my youth.

In the famous election of 1911, when the Tories campaigned against reciprocity, against a closer trade relationship between Canada and the United States, under the somewhat questionable slogan, "No truck or trade with the Yankees", the Scottish and the French united under Laurier. This was an interesting contest for my father, a political leader in Canada. In the United States he would have been called a political boss; in Canada he was certainly the permanent head of the Liberal Party in Elgin County in Southwestern Ontario. He was expected to be and took it for granted that he should be.

CLOSE U.S.-CANADIAN RELATIONSHIP

This Scottish-French involvement was a very controversial question because the

French in association with the Scotch and against the old family compact, the Church of England, the Toronto aristocracy as it was called, taught nothing so much as the close relationship of Canada and the United States. They emphasized the fact that it meant cheaper farm machinery from the United States and the opening of produce markets in the border cities of the United States, something that was very much wanted.

This was part of my experience both politically and socially. I think that I have not entirely escaped it to this day. But when one comes to the question, the real question of our time, one cannot doubt that a major mood in Canada has been the effort to find some different Canadian identity. The search for a common national identity. This has been an extraordinary effort and also in many ways an extraordinarily difficult effort.

Apart from Quebec, the two countries—Canada and the United States—have a common language and no separate identity associated with different manner of moods and expressions or thought. There is also from the Canadian side the fact that the American press and particularly American radio and television are equally available in Canada, equally followed in Canada and, therefore, while there is a distinguished Canadian national press, a distinguished radio and television system, it is in constant competition with the voices from over the border.

There is a certain identity associated with recreation, with sports and other forms of enjoyment. But these also are common as between the United States and Canada in a very substantial degree. The Canadians in some measure gave hockey to the world. But they gave it to the world in a form which was taken up by other countries. It was, of course, the United States that gave baseball to the world. But there is no sense of different identity there, and especially when one of the potential contenders in the world series this year, one of the most prominent contenders, will be a Canadian team from Toronto. So that has been washed out.

There is the further and more subtle fact that in the United States, subject to some resistance, which I must say I regret, there has been some past pride, past support, for the notion of the melting pot. The notion is that there is a republic, a country to which people from all parts of the world come and assume a new identity. The fact that the United States has this composite identity is in some degree parallel to the situation in Canada.

COMMON EDUCATIONAL EXPERIENCE

Finally, there has been an extremely important common educational experience. This has been deeper than most people realize. When I first went to Harvard in the early 1930s, there was almost equal division in graduate work, in government and economics, as between the Canadian graduate students who came to Harvard and those who had came from elsewhere in the United States. It was at that time almost impossible to hold a high position in the Canadian government, the Canadian civil service, unless one had a Harvard degree.

It was really an extraordinarily good thing. The Prime Minister, William Lyon MacKenzie King, was a Harvard Ph.D. A Dr. Clark, who headed the Civil Service was a Harvard Ph.D. One of the senior figures in the new Bank of Canada had done work at Harvard. Norman Robertson had been part of the Harvard community, studying government, Ken Eaton, Robert Bryce, and there were others. There had been a concentrated movement from Ottawa to Cambridge and now back to Ottawa. This was, from a Harvard point of view, a very good thing for the Canadians to have done. But again it was something that did not give a strong sense of a separate identity for either Canadians or Americans.

I should mention one other thing to which one could have turned. Literature has been an extremely distinguished field in Canada. Some of the most read people of our time—Robertson Davies, Margaret Atwood, Mordecai Richter and others—have given great support and substance to Canadian letters. One does think that this distinguished group of Canadian writers has an important part in the present Canadian identity.

The problem with that, however, is that they are so good that nobody is willing to concede them to Canada. Robertson Davies, for example, has an enormous audience in the United States. So does Margaret Atwood. If you look at the current New Yorker, you will see a fascinating piece there by Mordecai Richler on the idiosyncrasies of the French- and English-language dispute in Canada. If one is looking for writers as a source of a Canadian identity, one comes up against the hard problem that they are regarded as being equally possessed by the United States.

So what does remain? More than anything else, Canada has over the years developed a successful and balanced, substantially superior public administration, including a much more stable, competent welfare structure than we have in the United States. This is manifest in many different ways. It is manifest in the face that large Canadian cities are without the appalling trouble spots, the morass, that afflicts the larger cities in the United States. This is an extraordinary achievement. Nothing, I think, saddens those of us who live here in the great republic so much as the parts of our cities which are isolated in abject poverty and crime. The fact that Canadian cities have largely escaped or overcome that problem is an important part of Canadian identity.

One also hears this in other matters. Nothing is being more discussed in the United States at the present time than the Canadian health system. It uses a much smaller part of the GNP than does ours. It provides insured health care for everybody in Canada. Again, a much superior exercise in administration. I think this is something Canadians look upon as part of their own identity and rightly so. I also think this is true in other fields of administration, including competence in fiscal management, the quality of Canadian services, the superior role of the Canadian Armed Services. In relation to the Government of Canada, the latter have not asserted a power independent of the authority of democracy. In the famous comment of President Eisenhower, we cannot be quite sure that that has been true of the Pentagon.

CANADIAN LEADERSHIP IN PUBLIC ADMINISTRATION

So there is in public administration and government an area of Canadian identity of which all Canadians should be proud. It has also been one that has a rather significant dialectic, a rather significant area of conflict and consideration. This is something which we talk about much too little. It is the question of whether to have a self-controlled administrative unit as the national state, or whether one should surrender national identity to a larger trading area. There is an assumption that there is some magic in the larger trading area. This is something which economists are almost required to believe. Any good economist is obliged every morning to get up and just before breakfast pay obeisance to free trade, to the notion of larger free trade units. It is obligatory. An economist does not pass easily into heaven unless he or she has done that all his or her life.

But on the other hand, there is a strong case for free trade in countries that are of considerable size. They also have a very large advantage in this world. Japan is a prominent case. So are a number of the European countries. We talk much about European unity and the great advantages of the great European community. I do not doubt this, but we need to remind ourselves always that certain other countries, notably Austria, Switzerland, Sweden and Finland, that are outside of the EEC have had an even more successful economic development since World War II than the larger EEC countries or many of them. This is the dialectic. Should one have the undoubted advantages of the large free-trade area or should one have the manageability of the smaller, more completely administered and controlled economic community?

If I were living in Canada and voting there legally as distinct from the tendencies of my youthful past, I would be troubled. I would be somewhat less than enthusiastic about the free-trade pact than is common among the members of my profession. I would wonder if there is not within the higher competence of the Canadian government the need for a larger area of control, a larger area of effective administration than is available if too much is surrendered to the notion of completely liberal trade. I do not think this is a clear question. I think it is something that has to be debated. It is certainly part of the Canadian identity to manage these things at the higher level of competence than we do in this country.

FRENCH PRIDE IN THE FRENCH LANGUAGE

Finally there is the separate question of identity as regards Quebec. One does have the difference in language. There can be no doubt, as we can look at the emerging or recurring commitment to nationalism in Western Europe, that language is a prime source of identity. The pride, the sense of gratification that exists in French Canada in association with the French language, not with France but with the French language, cannot be doubted.

I think on the whole, however, that there is some tendency to exaggerate the role of the French commitment as a separate identity. Somebody who makes a speech about separatism, somebody who makes a speech proposing some new identification of the French culture, a further and more scrupulous abolition of the English stop signs in Montreal, always get more attention than the person who speaks for the communality, for the larger sense of community, that covers both the two languages.

There is a further fact to that has not been lost. Some of the discussion of the separation between the "two Canadas"—one dose not know quite how much—is of recreational rather than of real value. It is something that people enjoy. It is something that gives voice to people who do not have the depth of perception to talk about anything more important. We know from our own experience in the United States that we will always have certain issues which are important not for themselves but for the enjoyment they offer and for the way in which they give voice to the people who otherwise would not be heard.

Sometimes I wake up in the morning and see there is a dispute over flag burning and

I have to say I'm pleased. I know that it is attracting the attention of people whose attention I do want to see on any other subject and that nobody is going to be seriously damaged or hurt. I have to confess the same feeling of satisfaction when I hear discussions over prayer in schools. I was brought up in schools where there was a prayer every morning. It was sometimes by a teacher who had not mastered any set of words, it stated, "Our Father who art in heaven, mumble, mumble * * *". That would go on for half a minute and then she would say, "Amen". I cannot think this did me any great amount of damage. Certainly it did not inculcate any great depth of religious commitment. So when I read about prayers in schools in the United States, again I have this feeling of satisfaction. Once again there is this dispute which is once again recognized as recreational rather than real.

I have noticed over the years that when times are good in Canada, when unemployment is low, when things are otherwise quite happy, Quebec is almost certain to become an issue. The separate identity of Quebec and the Meech Lake Accord were in some measure a product of the wonderful prosperity of the 80s, when there was a need to capture attention. Now that Canada has suffered a recession, somewhat more severe than what we are experiencing, it is by no means certain that Quebec's separatism is so much an issue. To some extent that has slipped into the background as more urgent questions come to the fore. I do think Quebec, the French language and the French culture do more than anything else give a separate identity to my old country. I hope very much that it continues.

THE FRENCH VERY IMPORTANT TO CANADA

One cannot doubt for a moment that the French are very important to Canada. They are important culturally, important socially. There is the sense of a larger French religious commitment. Most important of all is the fact that the French contribution to Canadian politics has been unbalanced, far superior to the non-French contribution. If one were to pick out the great leaders of Canada since 1867, one would certainly be Sir Wilfred Laurier, another would be Pierre Trudeau and a third who would be a strong contender from a shorter term in office would have been St. Laurent.

It is evident that, with all else, Canada very much needs the cultural spread, the cultural difference that has been brought into Canadian politics by the French leaders. While one can have a certain amount of sympathy and desire as a minority on this continent to continue with its own language and culture, I hope that it does not lead to any separation. The economic problem of a separate Quebec will not be serious, but social and cultural problems for Canada from the loss of Quebec would be very, very sad indeed.

This brings me to the end. I conclude with a word of summary. I think the chief Canadian superiority is in the better management of Canadian affairs, as compared with our management in the United States. It will continue as part of the Canadian identify, and I very much hope that there will be continued union as between the two great French- and English-speaking cultures and that the combination of these will be the reward which we in the United States have from the association, the long association over the Canadian border. I would add one further word: I hope that this unity would also continue to bring the Canadian government people educated at my university but with a decent representation from NYU.

Thank you very much.

REMARKABLE VALOR

Mr. KOHL. Mr. President, I rise in recognition of the remarkable valor exhibited by the naval personnnel involved in the attempted rescue of Boatswain's mate third class Roger Dean Blair. I would especially like to single out the heroic efforts of Robin Smith, Capt. E.A. Caldwell, Capt. I. Pillot-Olive, Lieutenant Connolly, and Lt. Cmdr. T. Veeder.

On December 7, 1991, Roger Dean Blair was separated from his expedition party during a snow squall near Adak Island in the Alleutian chain. For 10 days, over 100 volunteers searched frantically for him. During the extraordinary effort, these people exposed themselves day and night to the deadly and treacherous weather familiar to the Pacific Northeast. In spite of the personal danger involved, they labored valiantly in an attempt to save their fellow man. On December 17, despite a determined struggle, the search was ended and Roger Dean Blair was pronounced dead.

But his death did not end our commitment to his family. Members of Family Service Center stayed with the family; the commander of the Naval Air Station, who participated in the search, delayed a holiday leave with his family so he could attend the memorial service; other officers helped the family deal with the myriad of forms and legal details; and everyone involved in the operation demonstrated a human concern and compassion for Roger and his family.

We are always quick to complain about what is wrong with America and our Government. These heroes should remind us of what is right. Many involved in the rescue knew little of Roger Dean Blair, they knew only that they were trying to help a shipmate. Their willingness to sacrifice their safety and security for their fellow man should be an example to us all. Their courageous actions exemplify the nobility and high honor of public service.

Too often we forget the many who have devoted their lives to serve the United States. Too often their brave acts go unnoticed and unappreciated. I would like to take this opportuntiy, on behalf of Mrs. Jana L. Blair and the United States of America, to thank those who partook in this rescue effort and to offer them our highest praise.

EARLE MESSERE: A LEADER IN SUBMARINE TECHNOLOGY

Mr. PELL. Mr. President, on March 6 in my home city of Newport, RI, a disginguished Rhode Islander who stands at the forefront of submarine technology will be honored as he prepares to assume a new position of higher responsibility.

Earle L. Messere has served since June 1982 as technical director of the Naval Underwater Systems Center [NUSC] in Newport and has won wide recognition for both his technical and managerial leadership and for the contributions he has made to major new developments in submarine warfare and submarine weapons systems.

He was recently selected to be technical director of the new Naval Undersea Warfare Center [NUWC] in Washington, DC, one of the Navy's five new major consolidated research and engineering commands created as a result of the Defense Base Closure and Realignment Act of 1990. Mr. Messere now will have technical direction of activities at NUWC facilities in the States of Washington, Nevada, Hawaii, California, Rhode Island, Connecticut, Florida, and Virginia as well as the Bahamas.

In his work at the Newport center, Mr. Messere participated in and led the transition of submarine combat systems from analog to digital computer technology and ushered in a new era of system integration and land-based testing prior to shipboard installation.

In recognition of these achievement, Mr. Messere has received a number of citations and awards, most notably the 1985 Meritorious Executive Presidential Rank Award, the Roger W. Jones award of American University's College of Public and International Affairs and the Navy's Meritorious Civilian Service Award.

Mr. Messere earned his bachelor of science degree in engineering mathematics with honors from the University of Rhode Island in 1956 and went on to earn advanced degrees from MIT and the University of Northern Colorado. He has been active in civic affairs, both in support to the University of Rhode Island and in advancing the contribution of science and technology to economic development of the state.

Mr. Messere and his family have lived for many years in Peace Dale, RI, which I hope he will continue to claim as his home base while he serves in Washington. I wish him well in his new assignment and urge him to come home often.

Mr. President, I ask unanimous consent that Mr. Messere's official biography be inserted in the RECORD at this point.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

EARLE L. MESSERE

Earle L. Messere, a member of the Federal Government Senior Executive Service, was selected as the Technical Director of the newly formed Naval Undersea Warfare Center (NUWC) in January 1992. Prior to assuming his present position, Mr. Messere served since June 1982 as Technical Director of the Naval Underwater Systems Center (NUSC), Newport, RI. As NUSC's Technical Director, he was responsible for the Center's technical programs and their planning, conduct, and staffing. He also acted for the NUSC Commander on all matters concerning science, engineering, and technology.

Mr. Messere began his Federal service in 1961 as an engineer in the Propulsion Division of the Naval Underwater Ordnance Station (NUOS), Newport, a forerunner of NUSC's Newport Laboratory. In the course of his career, he held positions of increasing importance, including Head, Controls and Guidance Section; Head, Exploratory Research and Development Branch; and Chief, Fire Control and Systems Division. When NUSC was established in July 1970, he was selected as head of the Combat Control Systems Department, where he did pioneering work on systems integration and the introduction of digital technology into combat systems. He held that position until May 1980, when he was named Deputy Technical Director of NUSC.

Mr. Messere earned a bachelor of science degree with honors from the University of Rhode Island in 1956, a master of science degree with honors in aeronautics and astronautics form the Massachusetts Institute of Technology in 1964, and a master of public administration degree with honors from the University of Northern Colorado in 1981. He has also taken graduate-level courses in control systems and electrical engineering at Rensselaer Polytechnic Institute and at the University of Connecticut. In July 1984, he received an honorary doctor of engineering degree from Southeastern Massachusetts University (now named the University of Massachusetts at Dartmouth).

Mr. Messere is a member of Tau Beta Pi, an engineering honor society; Phi Kappa Phi, and honor society for general scholarship; and Sigma Gamma Tau, a national honor society for aerospace engineering. Other professional associations include the Institute of Electrical and Electronic Engineers and the Naval Submarine League.

His professional memberships have included chairman, On-Site Test Group, Trident Command and Control Systems (CCS) Integration and Certification; member, Chief of Naval Material Ad Hoc Steering Group to review the "FOX" report on Navy computer development; member, Steering Committee to establish and guide a course of software acquisition at the Defense Management College; member, UYK-43 (Navy tactical computer) Specification Review Panel; and member, American Defense Preparedness Association.

In December 1990, he was selected as the Navy representative on the Federal Advisory Commission on Consolidation and Conversion of Defense Research and Development Laboratories. This commission was established to study the Department of Defense (DoD) laboratory system and provide recommendations to the Secretary of Defense on the feasibility and desirability of various means to improve the operation of the DoD laboratories.

In 1982, Mr. Messere chaired a special Naval Material Command research and development center's Mission Review Panel. The five member committee, consisting of Senior Executive Service members, examined the missions and functions of the then eight Navy research and development centers, with a view towards addressing warfare requirements and opportunities of the next 5 to 10 years.

During his career, Mr. Messere has been the recipient of many awards. He was nominated as the organization's candidate for the Arthur Flemming Award for Outstanding Public Service in 1966. In 1968, he received the activity's award for Excellence in the Area of Engineering and Science, and the NUSC Technical Director's Award in Excellence in 1972. In April 1982, he received the Knowles Award (Silver Medal) from the American Defense Preparedness Association.

He received the 1982 Admiral Charles B. Martell Technical Excellence Award presented by the National Security Industrial Association ASW Committee.

He received the prestigious 1985 Meritorious Executive Presidential Rank Award for his accomplishments as NUSC's Technical Director which "greatly enhanced the command's reputation for productivity and excellence." The award noted that his effective technical and managerial leadership contributed substantially to major new developments in submarine warfare and submarine weapon systems.

In 1986, Mr. Messere received the national Roger W. Jones Award for technical and managerial achievements at NUSC by the College of Public and International Affairs of American University. The award was for his "demonstrated qualities of strength, leadership, integrity, industry, and personal conduct of a level that has established and maintained a high degree of public confidence and trust."

He was selected in 1987 for the Navy Meritorious Civilian Service Award, the third highest honorary award under the Navy Incentive Awards Program. During 1987, he also received the Rhode Island Governor's Award for Science and Technology.

In 1989, he won the prestigious U.S. Navy Superior Civilian Service Award. In addition, Mr. Messere was presented with the Distinguished Executive Presidential Rank Award by President George Bush at ceremonies held at the White House. This is the highest honor that can be received by a member of the Federal Government's Senior Executive Service.

Mr. Messere is active in many professional and civic associations and, in 1982, was appointed by the Governor of Rhode Island to serve as a member of a special Strategic Development Commission. The commission was charged with designing and developing an economic "blueprint" for the state's future. In 1985, he was appointed by the Governor of Rhode Island to serve on the Advisory and Strategic Planning Committee for the Rhode Island Partnership for Science and Technology. The partnership is a major economic development initiative in the state that represents a combined effort on the part of state government, its major colleges, universities, and non-profit research facilities.

He has served as a trustee on the University of Rhode Island Foundation and as a member of URI's Marine Program Advisory Council, the College of Engineering Advisory Council, and the Patent Committee.

Mr. Messere lives with his wife, Barbara, in Peace Dale, RI. The Messeres have three children: Carolyn, Stephen, and Suzanne.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. KERRY). Under the previous order, the time for morning business is now closed.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, there will now be debate until 12:30 p.m. on the motion to proceed to S. 1504. The time will be equally divided and allotted in the normal fashion.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, we are here today to debate the motion to proceed to S. 1504, the Public Telecommunications Act of 1991.

This bill authorizes funding for the Corporation for Public Broadcasting for fiscal years 1994 through 1996 and for the Public Telecommunications Facilities Program for fiscal years 1992 through 1994.

The Committee on Commerce, Science and Transportation reported this bill out of committee without objection on October 3, 1991, and similar legislation was passed by the House on November 25, 1991.

Mr. President, S. 1504 has been on the Senate Calendar since November 19, 1991. Committee members sought consideration of the bill in November and were informed that there were Members who objected to consideration of the bill.

Since that time, we have not been informed as to which Members have holds and we have not been told specifically why there are objections to moving forward on this bill.

So, I stand here today, Mr. President, ready and willing to sit down with any Member to try to resolve any concerns he or she may have.

I cannot, however, be expected to work with Members who refuse to identify themselves or specify what their concerns are.

I believe that this authorization bill is important and should be approved by the full Senate. Accordingly, I see no need for further delay.

In 1967, the CPB was established by Congress. This law has as its goal: "* * * [to] help make public broadcasting available to all citizens * * *. And to afford maximum protection to such broadcasting from extraneous interference and control." In the 24 years since the adoption of the Public Broadcasting Act, public broadcasting has grown and matured.

Over the past 20 years, the Federal investment has enabled the CPB and the Public Broadcasting System to build a nationwide service reaching 86 percent of the American people with a public radio signal and 98 percent with a public television signal.

Even with the increased number of programming services, public broadcasting is largely responsible for much of the quality entertainment and educational video and audio programming available today.

This bill comes at a critical time for public broadcasting. Stations are finding it increasingly difficult to fund existing operations and programming, not to mention research and development.

The funding authorized in S. 1504 will ensure that the CPB can assist stations in the maintenance and expansion of current high quality programming, enhance program production, and further technological developments in the industry.

Public broadcasters will also be provided the resources necessary to continue expanding their educational services to viewers at home and to our schools and universities.

Accordingly, this legislation authorizes funding for the CPB in the amount of $310 million for fiscal year 1994, $375 million for fiscal year 1995, and $425 million for fiscal year 1996.

These funding levels are reduced from the levels originally proposed in S. 1504 as introduced.

Funding for the Public Telecommunications Facilities Program is also authorized in this bill.

This program provides funds for the construction of new stations and upgrading of existing stations. It helps to ensure that public broadcast service is available to unserved and underserved communities or segments of the population.

In addition, the Public Telecommunications Facilities Program provides funding for new telecommunications facilities to be used for educational purposes. This bill authorizes $42 million per year for fiscal years 1992, 1993, and 1994. This level of funding is necessary to overcome the effects of inflation and to permit an increase in the number of stations assisted.

Mr. President, I also want to note that public broadcasting, particularly public television, provides a tremendous amount of educational and informational programming to our schools and universities. In fact, public television is the primary source of educational programming in this country. Public television reaches virtually every school district, four out of five schools, two out of three teachers and three out of four students. Public television and PBS make available over 288,000 hours of programming to viewers in their homes, in schools, and universities each year.

In closing, I would like to note that S. 1504 represents a bipartisan effort by the committee. We have worked with both the Republicans and Democrats on the committee to bring a consensus bill before the full Senate. Moreover, I do not believe that there are any controversial provisions in this bill. A similar bill passed the House of Representatives on a voice vote. While I regret the need to have a cloture vote, I was left with no other choice in view of the unwillingness of Members to work with the committee.

And so, Mr. President, I urge my colleagues to permit the Senate to consider this legislation today.

Mr. HOLLINGS. Mr. President, today the Senate will consider the motion to proceed to S. 1504, the Public Telecommunications Act of 1991, which I have cosponsored. This bill authorizes much needed funding for the Corporation for Public Broadcasting and the Public Telecommunications Facilities Program. Passage of this measure will provide for the continued growth and development of the American system of public broadcasting, a vital part of our broadcasting industry.

I rise today to urge my colleagues to give the Senate an opportunity to consider this legislation. The Commerce Committee approved this legislation unanimously under the leadership of the Communications Subcommittee chairman, Senator INOUYE. Since this bill was reported, I have been frustrated by the fact that the Members who have objected to consideration of this bill have declined to identify themselves or put forth any concrete reasons for their objections. We have given Members over 3 months to come work with us, and it is now time for the full Senate to discuss this bill.

This Nation's public broadcast system is an important resource to our citizens. I believe that it is time to get on with the legislative process and consider S. 1504. I urge my colleagues to vote to let the Senate proceed to consideration of this legislation.

Mr. GORTON. Mr. President, this morning the Senate is considering to proceeding to debate a very important bill, the reauthorization of the Corporation for Public Broadcasting. I urge my colleagues to vote to allow the Senate to take up this legislation and debate it on its merits.

I have personally been a longtime supporter of public broadcasting and enjoy both National Public Radio and the many fine television programs that are available on public television. The vast majority of the programs I have seen have been educational, informative, and well produced. I know that some of my colleagues are troubled by certain programming and this is the time to air those views. I think that hearing these concerns will be useful to all of us and I urge my colleagues to allow the Senate to take up this legislation.

Mr. BRYAN. Mr. President, I rise today in support of S. 1504, the Public Telecommunications Act of 1991. The Senate Commerce Committee on which I sit reported this bill out in October. I would like to commend Senator INOUYE and his staffer Tony Cook for their fine work on this legislation.

In reauthorizing the Corporation for Public Broadcasting [CPB], Congress is reiterating its conviction that public television and radio stations constitute valuable community resources to address national and local concerns. CPB and the public broadcasting system reach 86 percent of the American public with radio signals and 98 percent with a television signal.

Public radio and television stations year in and year out demonstrate their local support. Federal support for public broadcasting has never exceeded 22 percent, and currently represents approximately 17 percent of all revenues.

Since its earliest days, public broadcasting has helped to address the educational needs of our Nation. CPB has expanded educational opportunity with high quality programming and innovative technology. Sixty-five percent of the daily public television schedule is comprised of instructional programming, reaching 29 million students and supplying them with educational materials to bolster their learning.

CPB has successful activities underway that reflect a commitment to community outreach. Special emphasis has been placed on adult illiteracy, development of positive programming for preschoolers, and development of new instructional programming for elementary and secondary schools specifically targeted to national educational goals.

In Nevada, KLVX–TV in Las Vegas provides French I and II classes through broadcasts to students in areas of Nevada in which neither student enrollment nor teacher allocation allow for a foreign language instructor. The station also provides channels for teacher in-service training.

KLVX–TV also has produced such programs as "Public Report," a local series which provides television coverage for minorities and culturally diverse groups in the community.

KNPB–TV in Reno has produced a series of 1-hour segments called the "Nevada Experience," which is designed to help the general audience develop an understanding of the history and cultures of Nevada.

KCEP–FM, a public radio station in Las Vegas is committed to serving the needs of African-Americans. KUNR–FM in Reno aired a series last year on water rights issues which included interviews with the native American community and the local ranching community.

In these ways, public radio and television are integral components of local communities throughout Nevada. I urge my colleagues to support S. 1504.

Mr. D'AMATO. Mr. President, I rise today in support of closing debate on the motion to proceed to consideration of S. 1504, the public broadcasting authorization.

Let me be clear that I too am dismayed by those few questionable programs that have found their way into the public broadcasting schedule over the years. But those programs represent a minuscule proportion of public broadcasting's total schedule. What about the 99.9 percent that are wonderful?

You know the programs that I am talking about. Programs such as "Mister Rogers Neighborhood" and "Sesame Street" for preschoolers. For adults "MacNeil/Lehrer," "Firing Line," "Wall Street Week," "Nature," "Nova," "The Civil War," "Great Performances," "Inside Washington," "Live from Lincoln Center," and on, and on, and on.

Then there are the programs you may not be familiar with: Public television's daytime schedule—math, science, history, English, geography, and foreign languages for classroom use in schools K through 12.

There are also college credit courses, and broadcast courses that permit viewers to earn a high school equivalence diploma. Do you know that some stations—certainly in my State—hold graduation exercises for people who have earned their high school diploma through courses on public television? These folks have no school from which to graduate, so their achievements are celebrated at the public television stations which made their high school equivalence diploma possible.

And literacy. We are all concerned about literacy. Do you know that public television not only offers programs that teach people to read and write, but that many stations go into their communities to locate volunteers who will work one-on-one with people determined to overcome their illiteracy? That is called "outreach." Public television also provides programs and outreach efforts relating to drug abuse, child rearing, and other social concerns.

The long and short of it is this: Public television has broadcast, over the years, some programs to which I object as much as any Member in this Chamber. But that list is very short indeed. On the other hand, the list of public television programs that educate, uplift, inform, and inspire is endless. That list of socially beneficial programs, coupled with outreach efforts of great social value, is the reason that I support S. 1504. I urge each of my colleagues to do the same, especially those who are concerned about the few bad apples in the barrel. I do not like bad apples any more than you do, but I also know a bountiful harvest when I see one. I ask Senators to support this motion to invoke cloture, so that we may proceed to consideration of S. 1504.

Thank you, Mr. President.

Mr. CONRAD. Mr. President, I rise today to support cloture for S. 1504, the Public Telecommunications Act of 1991.

Mr. President, for several years now I have been a member of Prairie Public Broadcasting, the largest organization which delivers both public radio and television to North Dakota. I, along with nearly 25,000 other North Dakotan families, believe so strongly in the services provided by Prairie Public Broadcasting that I contribute part of my personal finances to keep it operating. I intend to continue supporting public broadcasting in North Dakota with both my membership contributions and, also, with my vote today.

It would be very wrong for the U.S. Senate to deny reauthorization of funding for the Corporation for Public Broadcasting. Public broadcasting provides access for North Dakotans to nationally produced fine arts and educational programming, such as PBS' award-winning "Masterpiece Theater" and Ken Burn's amazing series on the Civil War, and outstanding radio news and commentary from National Public Radio.

Also through public broadcasting, North Dakotans are treated daily to local and regional news coverage that is more expansive and complete than commercial broadcasting stations allow. Each week on Prairie Public Radio, North Dakotans have a chance to hear conversations with the State's newsmakers on current issues, and analysis by journalists across the State on a program entitled "The Prairie Weekly." Last summer, I had the pleasure to appear on the daily talk and information program "College," which is produced at KFJM–FM, the public radio station located at the University of North Dakota. These quality programs give listeners in my State direct access to information, conversation, and news that is not available through any other medium.

S. 1504 will also authorize funds for the Public Telecommunications Facilities Program, which helps replace wornout and obsolete equipment for public radio and television stations. Last year, KEYA–FM, which is operated by Native Americans in Belcourt, ND, received a $23,435 grant to replace and acquire new radio equipment. This station provides the only public radio service to meet the needs of the native American population in the upper north-central region of North Dakota.

Mr. President, less than 20 percent of public broadcasting is supported by the Corporation for Public Broadcasting. The rest of the funds come from private donations, such as corporate contributions and membership fees. But without Federal funding, most of the public broadcasting stations in my State would either have to make substantial cuts in services or go out of business all together. I am one of those who pays the membership fees. I believe it is worth the money. I strongly support public broadcasting in my State, and I urge my colleagues to join me today in supporting cloture on S. 1504.

Mr. PRYOR. Mr. President, I feel compelled to come to the floor today to speak about reauthorizing the Corporation for Public Broadcasting [CPB]. Under normal circumstances, I probably would not speak on this matter, but the controversy surrounding the CPB reauthorization has brought to my attention the many fine things this organization does in the public interest.

I have long been a listener and viewer of CPB programs. Although I have not always agreed with some of the things I have heard or seen, I certainly do not feel funding should be withheld because of this. If we begin to require CPB programming to pass politically correct standards before authorizing funding, we will either get no programming at all or dull, unimaginative, censored pap.

CPB and the other organizations it partially supports, such as the Public Broadcasting Service and National Public Radio, provide many, many invaluable services to communities around the country. For example, KLRE/KUAR FM in Little Rock, supported by public funds, has dedicated itself to keeping the people of central Arkansas informed of local and global news as well as providing quality entertainment. I would like to list for my colleagues some of the benefits this station brings to its listeners.

In addition to broadcasting national public radio news and information programming, KLRE/KUAR's locally produced public affairs programming has won national recognition for excellence—programs focus on important community issues including teenage pregnancy, rural health care, education reform, adult illiteracy, and so forth.

Regularly scheduled programming, both national and local, highlighting various minority issues including a highly acclaimed local series featuring the contributions of African-American musicians.

A locally produced program, "The Arts Scene," which serves as an unique forum for local arts organizations to publicize and promote their activities.

It is the only broadcast outlet in much of Arkansas for classical music, opera, jazz, and other fine arts programming. Some of this programming is shared with high school arts and humanities classes.

A special broadcast series in conjunction with the "I Dream A World" exhibit which highlighted a group of black women who changed America. This series was done in cooperation with the Arkansas Arts Center.

Public service announcements for a variety of nonprofit community organizations are routinely broadcast. Also, KLRE/KUAR and its support group, the friends of KLRE/KUAR, work directly with various nonprofit organizations including homeless shelters, food banks, and so forth, in providing assistance to the community.

Broadcast of a weekly public affairs program that is produced by university broadcasting students.

In conjunction with Black History Month activities, KLRE/KUAR developed a curriculum guide for use in public schools.

KLRE/KUAR is currently involved in an expansion project which will place translators in several areas of the State that cannot now receive public radio.

KLRE/KUAR also sponsors a broadcast seminar for gifted and talented students in the public school system which allows them to obtain hands-on experience in radio news operations.

Mr. President, this is only one station in Arkansas, but I think it clearly exemplifies what similar CPB supported stations are doing around my State and across the country. Many lives are enriched by the CPB and I believe we are indeed fortunate for their presence.

Mr. INOUYE. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Hawaii has 8 minutes, 40 seconds remaining, and the opponents have 15 minutes.

Mr. INOUYE. Mr. President, I have been advised that there are no Members who are interested in making any statements or discussing this matter. So I will yield back my time.

RECESS UNTIL 2:15 P.M.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:15 p.m. today.

There being no objection, at 12:08 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. WOFFORD].

PUBLIC TELECOMMUNICATIONS ACT OF 1991

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 1504, a bill to authorize appropriations for public broadcasting and for other purposes:

Daniel K. Inouye, Wendell Ford, Harry Reid, Alan Cranston, Jay Rockefeller, Pat Leahy, George Mitchell, Joe Biden, Terry Sanford, Brock Adams, John Glenn, Tom Daschle, Al Gore, Timothy Wirth, Christopher J. Dodd, Joe Lieberman, Ernest F. Hollings, Slade Gorton.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1504, a bill to authorize appropriations for public broadcasting, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mr. ADAMS], the Senator from California [Mr. CRANSTON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Minnesota [Mr. WELLSTONE], are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. CRANSTON], would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—87

Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
McConnell
Metzenbaum
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Warner
Wirth
Wofford

NAYS—7

Craig
Dole
Helms
Lott
Nickles
Smith
Wallop

NOT VOTING—6

Adams
Cranston
Harkin
Kerrey
Mikulski
Wellstone

The PRESIDING OFFICER. On this vote, the yeas are 87, the nays are 7. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, the Senate has now voted by a margin of 87 to 7 to invoke cloture on the motion to proceed to the public broadcasting bill.

I note the presence of the distinguished Republican leader on the floor, and inquire whether it will be possible now for the Senate to proceed to that bill at this time.

Mr. DOLE. Mr. President, I think under the rules, we have 30 hours on the motion to proceed. It would be our intention to use at least a portion of that time to discuss the bill, the motion to proceed, and things of that nature relevant to the bill.

Mr. MITCHELL. Mr. President, I appreciate the Republican leader notifying us of his intention in that regard. I would ask only, if, at any time during the day, a decision is made to permit us to proceed, that he communicate that to me and to the managers so that we might be able to proceed in that regard.

Mr. President, I note the distinguished Senator from Hawaii is present as the majority manager, and I hope that he will be ready to proceed at any time during the day.

Mr. INOUYE. Any time.

Mr. MITCHELL. I thank my colleague.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. We are now on the motion to proceed.

The PRESIDING OFFICER. The Senate is proceeding under cloture.

Mr. DOLE. Mr. President, I am pleased we are beginning the debate on continued funding for the Corporation for Public Broadcasting. Any time the taxpayers are being asked to dig into their pockets during a recession for another $1.1 billion, they have a right to know how their money is being spent, who is getting it, who is not and what is it being used for.

It is the same kind of accountability we expect from the pentagon, from the Agriculture Department, from Health and Human Services, and, yes, even from Congress.

Earlier today I participated in a key Finance Committee markup of legislation designed to help revitalize America's economy. One thing is clear: There are no simple answers, and no painless solutions. Unfortunately, there is another strong push by the majority party to raise taxes again. But I do not believe the American people are demanding a tax hike. What they are demanding is that Congress slow down its spending machine that has jacked the Federal deficit through the roof. Above all, they want Congress to reexamine its priorities.

So in this climate of record deficits, unacceptable unemployment and a stagnant economy, no federally funded program should be given a red carpet ride through Congress, whether it is agriculture—which is pretty important to my State—or whether it is anything else that might be important to different States. I do not care what it is, or what it claims to be, no taxpayer-subsidized program is going to get a free ride, even if it claims to be art, journalism, or culture.

No doubt about it, as we head into this debate, there will be plenty of issues to talk about. As we proceed to the funding bill for the Corporation for Public Broadcasting, we will have ample opportunity to say what the debate is all about. But just as important, as we begin, let me tell you what this debate is not about:

It will not be about National Public Radio reporter Nina Totenberg. Her role in the Clarence Thomas and Anita Hill story has absolutely no bearing on future CPB funding. I am not certain who is spreading the myth that any questioning of CPB policies, programming, or funding is somehow a vendetta against Nina Totenberg, but nothing could be more wrong, or more naive. It is a red herring, designed to shift the focus away from the real issues, including the 50-percent increase in funding CPB is calling for—50-percent increase in funding.

This debate will not be about censorship. I, for one, do not want to control television programming, but we should make certain the American taxpayers are getting what they are paying for, and not getting what their tax dollars should not be paying for. In fact, if the public broadcasting programmers were doing a better job, we might not be here today. I have been a viewer of public television since it went on the air. I have even contributed during pledge drives. But I must say, as a frequent viewer and supporter, I have never been more turned off, and more fed up with the increasing lack of balance, and the unrelenting liberal cheerleading I see and hear on the public airwaves. But do not get me wrong: this debate has nothing to do with creating a conservative public broadcasting network, nothing would be more unwelcome. This phony argument—that conservatives want to take control of public television and radio—is another red herring, another gimmick designed to confuse the issues, and to hoodwink the taxpayers.

I do not want—and the American people do not want—to fund Government radio and TV based on ideology, whether it is conservative or liberal. But can anyone stand on this floor and claim that public broadcasting is not liberal?

Nobody can make that claim. It is. And that is the real test. Is it leading so heavily to one side it is starting to look like the *Titanic*? For example, when PBS announced its coverage of the 1992 Presidential elections would be handled by Bill Moyers—that great nonpartisan Democrat—and William Greider, two excellent journalists who also happen to be two excellent liberal Democrats, I knew the fix was in.

They are going to tell the American people, two liberal Democrats, what they ought to think about politics and what they ought to think about the Presidential election.

Oh, the critics will point to William Buckley's "Firing Line," or John McLaughlin's "One-On-One" as the ultimate proof of balance, or even quality. But the question is not how many rightwing and leftwing shows are on public TV or radio—how many crumbs are tossed to the extremists on both sides—the real question is, should the taxpayers be paying for any of it. Frankly, I resent the idea that any of us—Republican or Democrat, conservative or liberal—can be bought off by a few programs, or personalities—that is not the point, nor what we want to see with taxpayer-funded programming.

Let us face it, just because a program is aired on public television does not mean it is quality programming. That is the biggest myth about public TV and public radio. The self-proclaimed public broadcasting seal of quality should not be a smokescreen for one-sided political bias, offensive programming in the name of art and culture, or programming that may be very worthy, but just has no business being subsidized by the American taxpayer.

This debate will also not be about putting public TV and radio out on the street with a tin cup next week, next month, or next year, as some would have you believe. Despite all the hype that some liberals are spooning out to their constituencies, the upcoming debate will focus on funding for the years 1994, 1995, and 1996. The last time I checked, it is now 1992.

We are talking about 1994, 1995 and 1996, and we have been flooded with phone calls, "Why don't you act? We are going to be out on the street." This is 1992. 1994 is a couple of years away. We do not even have the budget for the United States of America yet. But they want to get theirs tucked away. The liberals want to get their money and run. But some folks are wringing their hands about locking in $1.1 billion 2 years from now.

This debate will not be about a Republican conspiracy, as some liberals would have you believe. In all my years in the Senate, I have never seen such advance hype, panic, misinformation, and propaganda, about a hold placed on a bill—a routine procedure and a fundamental right around here, as my friends on the other side of the aisle have demonstrated over and over again with Reagan and Bush nominations and other proposals when we were in the majority.

Unfortunately, more than one person called my office arguing that Republicans, by temporarily holding the bill—talking about funding in 1994, now, and 1995 and 1996—were somehow shortcutting the democratic process—that Republicans were using a sinister new tool, called secret holds, to derail democracy, tear up "Sesame Street" kill Big Bird, and starve the Cookie Monster. Sadly, even some members of the media, who are paid to know better, bought into the secret hold nonsense.

Let's face it, holds have been part of the Senate since day one. They are an essential tool to preserve the rights of the minority and the wide-open democracy of the U.S. Senate. One Senator can make a difference, and has the right to the opportunity to make a difference. But still, some reporters were running around here in a panic like they had just discovered holds, even though holds were put on two-thirds of the approximately 250 bills reported out of committee at the end of last session. Two-thirds of those bills were held temporarily.

By temporarily holding the bill, Republican Senators have ensured that this bill will be debated in the light of day, where it belongs, not waved through on some magic carpet.

You know, it is $1.1 billion—$1.1 billion is a lot of money. I think we have a right to know how it is going to be spent and who is going to spend it. This is not privileged legislation.

So, what will this debate be about? I have told you what it is not going to be about. It is going to be about accountability. Ask the American taxpayer. Ask someone who is out of work. Ask any of the Presidential candidates I have been watching on TV, Democrat or Republican. Why should not a piece of legislation, $1.1 billion, be subject to the same scrutiny as a $500,000 million grant for, say, Lawrence Welk's house? Everybody likes to make fun of Lawrence Welk's house. Or $100 billion defense cut? We have heard a lot in the public debates about accountability, about letting the American taxpayers know how we were spending their money.

So we want to find out, who gets these big salaries? How much are they paid? I bet nobody knows in the Senate, but we are going to find out this week how much some are paid. You will find out a lot about CPB that you did not know anything about because nobody has ever taken the time to look. And that is taxpayers' money. It is not their money. It is not our money. It is the money of taxpayers in Kansas and North Carolina and South Dakota and Pennsylvania. And they have a right to know how the money is being spent.

I read last week—in fact I got blasted myself by a self-styled porkbuster group in Congress for winning congressional approval for several essential projects in my home State of Kansas, including tornado sirens for 94 Kansas towns, funding for battered and abused kids, social services, and higher education projects and I do not quarrel with that. Everybody has a right to take shots at our projects, and I had every right to fire back—and I did. That's democracy. That is how it works.

Some folks on our side are going to fire some shots at this bill.

We may not kill it. We may not want to kill it. We may wound it, or may not want to wound it. But a little fresh air, a little sunshine—we talk about sunshine, letting the American people know how we are spending their tax dollars—might be a good thing for CPB and that tightly held organization. If their concerns don't stand up to scrutiny, fine. But if something in this bill cannot be defended, we are not here to be cheerleaders—for this bill or any other.

Mr. President, I suggest we look forward to vigorous debate. We are going to have a lot of people involved in this debate. We may have some amendments. We are going to try to enlighten people, the American people—a lot of others. There are a lot of good programs on the Corporation for Public Broadcasting. A lot of them say they are going to go off the air. A lot of them are big moneymakers. You will find out about those, too. They are not going to go off the air. They are not going to go anywhere. They are making big money. So I just suggest, for those who were so concerned that somehow this bill was being held, this bill that provides funding in 1994, let us ask the unemployed people whose funding runs out in May of this year. Is there anybody here saying we ought to fund unemployment compensation for 1994, 1995, and 1996? I have not seen them on the floor. Is this some priority here that deserves advance funding, 2 years in advance. We do not do it for any other program. Let us have a little fresh air, a little sunshine, and let us see what happens in the next 2 or 3 days.

It is an important piece of legislation. I think at one time public broadcasting played a very important role, and maybe still does. There is a lot of competition out there now. A lot of people are trying to make it on their own in broadcasting and television. They are not getting subsidies. They are not getting $1.1 billion. And they have a lot of public programs, too.

So let us just find out if this $1.1 billion is well spent, just what the taxpayers want in my State, in your State, or do they know about some of the things we are going to talk about in the next 30 hours?

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from North Carolina.

Mr. SANFORD. Mr. President, today as the Senate considers S. 1504, the Public Telecommunications Act of 1991, I would like to raise some danger flags about political intimidation and make some comments about the importance of public broadcasting.

We are going to be subjected to delay because of holds put on this legislation by seven Senators. This procedure is, indeed, the right of a Senator. It is indeed a proper safeguard and a proper use of senatorial authority that ought not to be diminished. But is it not interesting to note that the Senate, when given the chance to vote, chose, 87 to 7, to proceed?

I think that vote provides a strong indication that the Members of this body believe in public broadcasting and want to see it receive continued Federal support.

I have always been a strong supporter of public broadcasting. In fact, I served on the Carnegie Commission on Educational Television 25 years ago, which began as a commission with a vision for educational television and concluded with an original plan for American public television.

Recently, some have begun to question whether public broadcasting, particularly public television, is still a function worthy of Federal support. I would like to share a few of my thoughts on this subject today.

In 1966, the Carnegie Commission viewed public television as a force for excellence, to be operated without regard to commercial advertising appeal but also without an aversion to broad audiences. The commission recommended the creation of an independent, nongovernmental corporation, the Corporation of Public Broadcasting. This corporation was intended to create "a new and fundamental institution in American culture." I think that it did, Mr. President.

Today, the programs and service provided by CPB and public broadcasting television and radio stations are the embodiment of the concept of the Carnegie Commission. Programming supported by the Corporation for Public Broadcasting and public broadcasting stations spans a vast range of interests. This programming includes stirring documentaries about our country's history, including the "Civil War" and the "Eyes on the Prize"; in-depth news programming, such as the "MacNeil/Lehrer Newshour"; "All Things Considered," and "Morning Edition"; children's programming that continues to enjoy the trust of millions of parents, such as "Sesame Street," "Reading Rainbow," "Mr. Roger's Neighborhood" and programming that successfully utilizes the full educational potential of public television, such as "Square One TV" and "3-2-1 Contact."

Public broadcasting brings to us the theater, opera, and drama. It brings them to us in inner cities, in rural communities, and in many cases to people who otherwise would be unable to experience them. Eighty-seven million Americans are informed by public television each week through a network of more than 340 noncommercial stations. In addition, public broadcasting provides educational opportunities for college credit, as well as for elementary and secondary high school programs for supplemental instruction in grades K through 12.

Public broadcasting is the one place where program funding decisions are made without regard to marketplace pressures. And I think we should see to it, as intended, that these decisions are made without regard to political agenda pressures. Instead, the Corporation for Public Broadcasting and public broadcasting look for programming with such qualities as substance, depth, diversity, and social sensitivty—programming that makes a difference. The Corporation for Public Broadcasting and public broadcasting stations invest in programming that keeps the public well informed and provides a forum for ideas and philosophical differences.

In my State of North Carolina, public broadcasting stations provide an array of programs and services that are unavailable from other broadcasting sources. For example, in 1990, WCQS-FM in Asheville received a construction permit to serve the eastern band of the Cherokee Nation, providing the first public radio service to a native American reservation. The station also serves a rural, mountainous area with limited access to commercial or noncommercial electronic media.

Through funding from the Corporation for Public Broadcasting, stations in my State also provide educational outreach services, news and public affairs programming, and local cultural arts programs.

The Carnegie Commission on Educational Television foretold in 1966 some of these remarkable achievements. However, certainly, the Corporation for Public Broadcasting and the public broadcasting system across the country have exceeded the aspirations of the commission, and both have been true to the public purpose.

Of that public purpose, the commission wrote that:

> Through the diversified uses of television, Americans will know themselves, their communities, and their world in richer ways. They will gain a fuller awareness of the wonder and the variety of the arts, the sciences, scholarship and craftsmanship * * * and public television is capable of becoming the clearest expression of American diversity, and of excellence within diversity.

Thus, I believe the answer of whether or not public broadcasting is still important today is clear to the millions of American families who have experienced the enrichment of public television and radio in their education, their enlightenment and their entertainment.

It is also true, I am sorry to note, that the filibuster is designed to intimidate those who protect the independence of the many people who now make the balanced judgment on programming. They may not be perfect, but they are much better at making judgments than would be politicians with a political agenda.

Mr. President, I appreciate the opportunity to share my strong support for public broadcasting, and I urge my colleagues to support S. 1504 and to reauthorize the Corporation for Public Broadcasting.

Mr. President, I thank you and yield the floor.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. GORE] is recognized.

Mr. GORE. Mr. President, I, too, want to support the legislation. But before doing so, I want to compliment my colleague from North Carolina on the statement he just made. I was glad to be reminded that he was a member of the Carnegie Commission which came up with the blueprint for public television so many years ago.

I remember that report when it came out and it is looked back upon by one and all as a watershed, a real turning point after which the country decided we are going to have public broadcasting, television and radio, to make available to the children of this country and to all citizens of this country the kinds of information services on television and radio that are not provided by commercial stations.

I think this is one decision which is also looked back upon now as an extremely wise decision, an experiment that has been remarkably successful.

Mr. President, may I say from a political standpoint that I am sincerely surprised that the Republican side of the Senate has chosen to reverse its historic commitment to public broadcasting. This has never been a partisan issue. There has always been a strong bipartisan support for public broadcasting and also support for the principle that politicians ought not to try to dictate what the content of public broadcasting is.

Mr. SANFORD. Mr. President, if the Senator will yield on that point?

Mr. GORE. I will be honored to yield.

Mr. SANFORD. Mr. President, I do not think we are seeing a departure from bipartisan support. As a matter of fact, I think we have just seen a display of bipartisan support. I think it is a rather small band with some kind of ulterior motive that have forced this long delay on consideration because we did get 87 votes to go forward, meaning 87 people did not want to be on record as being perceived to be against this kind of programming that has meant so much to American people—parents, children, families, everybody. So I think probably we are going to see a continuation of Federal support for the corporation for public broadcasting and the public broadcasting system.

Mr. GORE. I think that is the case, but I want to try to smoke them out a little bit over there because there are no Democratic Senators holding up the public broadcasting bill.

Mr. SANFORD. Mr. President, if the Senator from Tennessee will yield, we might very well expect to see some kind of unrelated amendment. This news is a device for that. So I think we ought to be on the lookout for devices that have nothing to do with the value of public television.

Mr. GORE. Yes. But let me just make the point clearly, because while I agree with my distinguished colleague that the overwhelming majority of Republicans as well as Democrats support public broadcasting, I was going to get to that point, but I think it is true that the overwhelming majority of Republican Senators support public broadcasting as they always have and as Democratic Senators still do. Nevertheless, this brand new core of opposition to public broadcasting is on the Republican side of the aisle. It is not that way in the country.

Let me tell you, Mr. President, that in Tennessee when local communities get together to decide whether or not there is community support for the public broadcasting stations in their communities, it is not a partisan issue. There are as many Republicans as Democrats on those fundraising boards. In the community groups that make telephone calls and raise money to support these stations, there is nothing partisan about it, really. This is something upon which our country has agreed.

But now we have a group of Republican Senators saying they want to hold up public broadcasting. They want to drive a wedge between the public broadcasting service and the American people and try to intimidate the public broadcasting service to do what they want them to, whereas the independence of public broadcasting has always been one of its strengths.

I remember when a foreign country took objection to a film to be shown on the public broadcasting service called "The Death of Princess." I remember that well. It was, I do not know, 10 years ago, something like that. Americans in both political parties stood up and said: No way are we going to let some foreign country come in here and dictate the content of television programming put on public broadcasting.

Well, now we have a willful band of ideologues who want to do exactly what that foreign country was trying to do. They are going to try to blackmail the country by threatening to hold up the Public Broadcasting System and destroy the base of funding for public broadcasting unless public broadcasting will bend to their will.

I think it is ridiculous, and I think it is a mistake in terms of policy.

I would also venture the opinion, Mr. President, that it is a mistake in terms of politics, because the American people do not want to see public broadcasting made into a political football. This is not what the American people want to see. It has been that way.

I hope my distinguished colleague from North Carolina is correct that when they have to belly up to the bar and vote on it, they will hear the footsteps of their constituents in both political parties who say: Leave it alone; hands off. This is one thing that works in this country. It is doing a good job. Stop kicking it around like a political football.

Mr. President, I hope this legislation does move forward in a timely manner, and I expect that it will. But it is now clear that the Republican side of the aisle is going to try all kinds of political tricks, all kinds of parliamentary maneuvers, to try to kill public broadcasting, or at least that is what a minority on that side of the aisle would like to do. We will have all kinds of strategies thrown at us here.

What a disservice to the American people; when we find something that works and that is broadly accepted and supported in the country, they cannot resist making a political football out of it.

When Congress first authorized funding for the Corporation for Public Broadcasting in 1967, division was even broader. It was envisioned at that time that PBS would receive about half of its funding from the Federal Government. But nothing of the sort has ever happened. Through the years Federal support for public broadcasting has never reached more than 22 percent.

Nevertheless, the Congress through its vision and foresight in establishing the Corporation for Public Broadcasting has successfully provided the American people with a nationally interconnected, yet locally based public radio and television system unsurpassed anywhere in the world.

Funding for public broadcasting benefits Americans with a laundry list of excellent services. The American people have the ability to hold this system accountable. Most of the support comes from local communities.

There is high-quality programming and educational services; availability of expanded public radio; development of new technologies such as closed captioning for the hearing impaired, descriptive video, and public radio's reading service for the visually impaired; promoting newly emerging technologies such as interactive television and computers, digital audio broadcasting, and direct broadcast satellites which ensure that the public broadcasting radio and television signal is available to as many Americans as possible.

Today public broadcasting is a multifaceted and diverse endeavor of more than 700 public radio and television stations, as well as regional and national organizations, throughout the United States, Puerto Rico, the Virgin Islands, and American Samoa.

Public broadcasting is an efficient way for the Federal Government to improve education. How many Senators here have children who have watched "Sesame Street" and "Mister Rogers' Neighborhood"? I know my children have; every one of them. How many families will testify in a congressional hearing tomorrow on how valuable "Sesame Street" is, or "Mister Rogers' Neighborhood," or the other children's programs?

What kind of children's programming comparable to these are available on commercial broadcast stations? Every once in a while you will see a pretty good program there but nothing like these programs because by the nature of the beast it is used to sell products, and that has obviously an extremely valuable place in our society. But it does not fill the need for educational programming for children in the way that public broadcasting does.

So now we have a move from the Republican side of the aisle to hold "Sesame Street" and "Mister Rogers' Neighborhood" hostage for their ideological political agenda. Kick it around like a political football. Go right ahead. See whether it helps you or not. I venture to say it will not be politically beneficial when the American people understand that the Republican side of the Senate is trying to hold up public broadcasting in this manner.

These programs I have just mentioned make learning fun for preschool children and for their families. And these programs are popular with parents, I guarantee you, because I hear the positive impact of public broadcasting on education is quite evident in my home State of Tennessee where the public broadcasting station provides a variety of local programming and community outreach initiatives.

For example; one station, WDCN, in Nashville, channel 8, will participate this fall in the CPB-sponsored and supported "Sesame Street" preschool education program, which is designed to help child care providers support the educational goals of "Sesame Street" with art, play, and reading materials for interactive learning. This station and others also provide curriculum-based kindergarten through grade 12 instructional programming for 7 hours each school day, reaching approximately 300,000 student viewers in only one community, and many hundreds of thousands statewide, as well as home schoolers, adults, and community organizations.

There are some children who are educated at home now—a tiny minority—it is true. But parents who are involved in home schooling activities have found especially valuable some of these unique programs available on public broadcasting. Other parents, whose children are in the public schools or in private schools, supplement their learning agenda with these same programs.

This is something, as I said before, that is a tremendous success in our Nation.

After-school programming inspires school-age children to learn and addresses the underlying personal and social problems which create real hurdles to the ability of children to learn. For students in rural communities and small towns, the Satellite Education Resources Consortium, a recent innovation in satellite education, makes quality courses in math, science, and foreign languages available to thousands of high school students.

The Corporation for Public Broadcasting provided seed money for the initial planning and pilot semester of the Satellite Education Resources Consortium. That initial seed money was instrumental in the development of this important educational endeavor, and it is a success, Mr. President. It is a success today.

I heard recently from the Governor of Tennessee about how this program is operating in classrooms in my home State. I have heard from teachers at the local level, and I have heard from the Governor about the statewide perspective on it. This would not have been possible without the Corporation for Public Broadcasting. But ventures like this one are now made into a political football. I think that it is a disservice to the country.

On a widespread scale, classroom television provides instruction to some 29 million students in science, math, reading, and geography. For example, stations in Tennessee provide curriculum-based K through 12 instructional programming for 7 hours each school day. This educational programming reaches many hundreds of thousands of public and private school students in Tennessee, as well as adults and community organizations.

Another major outreach programming effort that received initial and continued Federal support through CPB is Project Literary U.S. [PLUS] which combats illiteracy among the 27 million functionally illiterate adults in this country.

Today, literacy task forces and 200 mentoring task forces, composed of thousands of volunteers, Republicans as well as Democrats, are still in operation nationwide helping individuals learn to read; yet another reason why this public broadcasting service has never been allowed to be made into a political football, until today.

Furthermore, Mr. President, in 1990, CPB and public broadcasting undertook a year-long effort focusing on environmental awareness. "Operation Earth" was carried to cities across America by capitalizing on the strong ties between local public television stations in the communities that they serve. In my home State of Tennessee, "Operation Earth" was supported by various public television stations through a variety of projects and programs which successfully raised environmental consciousness. For example, WLJT in Martin, TN, involved over 200 students in grades 6 through 12 in a project to express what "The Year of the Environment" meant to them. I praise CPB's substantial efforts to increase environmental awareness and urge its continued support.

Some on the other side of the aisle are specifically concerned that the public broadcasting system does not say that the Earth's environmental crisis is a hoax.

We have had explicit concerns raised about the fact that some public stations chose on their own initiative not to air some ridiculous program from another country that claimed the whole environmental crisis is a hoax. When we had documentaries on the Moon landing, should we have insisted that public broadcasting stations give equal time to some nut group that claims the Moon landing was staged on a movie lot in Hollywood? There are people who believe that. Does that mean that because those people vote, we have to use their ridiculous point of view as a standard by which to force public broadcasting to change its mind about what it thinks is proper programming?

The point is not that public broadcasting takes a particular point of view on this issue or that issue. The point is that they have the freedom to decide what represents quality programming. That is what this is all about.

Now we have this partisan effort to drag public broadcasting into politics and try to force public broadcasting to promote a right wing agenda. We have a lot of programming that public broadcasting has chosen to put on that sets forth a conservative point of view, from William Buckley to John McLaughlin, to other programming of that sort. And there is balance in public broadcasting. But it is not for me to determine what balance is, or what the content of their programming is. It is for those who are entrusted with it to exercise their independent editorial judgment.

It we start coming into this Chamber and seeking to review the editorial decisions made by those who decide what programming goes on, then it will not be long before we are seeing the right-wing insist that Mr. Rogers change his lesson plan to include a rightwing political agenda in "Mister Rogers' Neighborhood," or that "Sesame Street" come up with different characters because they did not meet the political or ideological litmus test. Leave them alone, Mr. President. They are doing a great job.

The American people appreciate what is being done by the public broadcasting service, and they are willing to give them the license to err a little bit this way or a little bit that way, because they realize that, being Americans, that is what freedom involves, to give them the chance to be independent and free.

But, no, the Republican side of the aisle is now supporting a willful band there that wants to hold public broadcasting hostage.

Mr. President, I hope you can see that this is an issue that I think is very important. I think public broadcasting is one important way that our Nation can improve U.S. education and literacy and the awareness of the challenges facing our country on a national basis. It is vital for inner city youth in need of educational support, for adults in need of literacy and job training, and for those in small and rural communities who too often cannot obtain the educational resources available in a big city, to provide them with the opportunity for success.

Mr. President, CPB's pioneering use of satellite technology has provided high-quality programming, education, and enjoyment to Americans in all walks of life. To those persons living in rural mountainous areas, where one cannot receive regular network television signals, or cable television, public television via satellite is a blessing indeed. To senior citizens and low-income individuals, high-quality programming from public television and radio provides news, cultural, scientific, and educational programming.

Public broadcasting is a highly developed nationwide telecommunications system. It brings together ideas, producers, technology, communities, and audiences. As we move into the next century, I am confident that public broadcasting is a cost-efficient way for the Federal Government to use advances in satellite technology to improve education and literacy on a broad scale. However, I believe that these results can be realized only with the Congress' full commitment, one that allows CPB to unleash its full potential to address the challenges ahead.

In closing, Mr. President, I hope we can restore the bipartisan support for public broadcasting which we have always had. I am very grateful that on the Commerce Committee we have strong bipartisan support; it has not been a partisan issue at all.

And I just hope that Republicans and Democrats alike, and independents in this country who are involved in raising community support for public broadcasting, those parents who understand in their own families how important public broadcasting is, and others who support public broadcasting, will send a message to those on the Republican side of the aisle here to quit playing games with public broadcasting.

We have enough problems in this country, without picking on one program that works and has the support of the American people, and trying to make a political hostage out of it. Let us move on with this legislation and give public broadcasting the ability to continue doing the excellent job they have been doing for Americans.

One final point: I commend the chairman of the subcommittee and the ranking member for the outstanding way in which this legislation has been handled and the restrained way in which they have responded to this unusual set of circumstances.

And also I offer thanks to the chairman of the full committee, Senator HOLLINGS, and the ranking member of the full committee, Senator DANFORTH; but essentially to Senator INOUYE, who has carried the burden the entire way for so many years on this. It is a pleasure for me, as a member of his subcommittee, to be able to work with him on this bill.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I thank my friend from Tennessee for his eloquent support of this measure, and I thank him for his kind words.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. INOUYE. Will it be appropriate to send to the desk an amendment in the nature of a substitute to the committee bill and ask for its immediate consideration?

The PRESIDING OFFICER. The Chair will inform the Senator that the Senate is considering a motion to proceed, and therefore it would not be timely to offer a substitute amendment at this time.

Mr. INOUYE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. INOUYE. Is there any special order on speakers?

The PRESIDING OFFICER. There is not.

Mr. INOUYE. Then may we proceed to the consideration of this measure?

The PRESIDING OFFICER. Is there further debate on the motion to proceed? The Chair would inquire, is there further debate? Is there objection on the motion to proceed?

The Chair will put the question.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, over the years I have had serious concerns about what has become an increasingly blatant effort by the Corporation for Public Broadcasting, the CPB, to use taxpayer money to air clearly biased programming over the public airways. In this year where the American people are outraged by the growing Federal deficit which will be burdening taxpayers for generations to come, it is more important than ever to scrutinize how the CPB issues its grants at the American public's expense.

The CPB was created in 1967 to provide a vehicle by which to air noncommercial educational programming on radio and television. In that year, the American people were facing a different situation in available programming than they are today. Commercial television offered only a few stations with limited programming. Viewers today now enjoy a nearly limitless variety of programs through broadcast stations, satellite, microwave, and cable.

The fact that greater programming, including educational programming, is now available through a number of ways does not necessarily obviate the need for programming available through public broadcasting. It does, however, highlight the importance of looking closely at the funding process to ensure that taxpayers' money is being used in accordance with the statute. This goes directly to the heart of the charge that public broadcasting is biased toward airing liberal, leftwing programming.

The Public Broadcasting Act of 1967 which provided for the creation of the CPB explicitly requires the CPB to "'facilitate the full development'—and I say full development—of educational broadcasting in which programs of high quality, obtained from diverse sources, [and make them] available to noncommercial educational television or radio broadcast stations, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature."

Let me repeat that: "* * * strict adherence to objectivity and balance in all programs or series of programs of a controversial nature."

Mr. President, I intend to talk a little bit about the fact that there has been program after program in which there has been no effort made to provide balance. I want to state again, I think that a purpose of public television should be to air controversial programs.

I do not expect them all to be confined to programs like "Sesame Street" which, by the way, has given an enormous contribution to generations of American children.

But when we have a program of a controversial nature, there has to be balance and the opposite view presented. I hope, Mr. President, and I believe, that if public television broadcasts rightwing and conservative views to the detriment of liberal views that I would be standing here with the same objections that I am voicing today.

Mr. President, all it takes is 1 week of watching the programs on the Public Broadcasting System to see that there is no adherence whatsoever to the statutory mandate to provide objectivity and balance in controversial programming. In the controversial political programming on PBS, the viewer is predominantly exposed to liberal, leftwing viewpoints without the benefit of alternative points of view.

In some instances controversial programs espousing one viewpoint are followed by a short, roundtable discussion in a thinly veiled attempt to fend off bias charges by offering one or two differing viewpoints. In my mind, Mr. President, a 2-hour program advocating one view, followed by a short discussion where maybe one participant has an opposing view is neither balanced nor objective. The taxpayers in this country know this and deserve better.

One program in particular did not even attempt to obscure its blatant bias. Instead, one of its codirectors slapped taxpayers in the face by stating that an alternative point of view was unnecessary.

Mr. President, I have twice watched a program called "Maria's Story." It is a program glorifying the life of an F.M.L.N. guerrilla in El Salvador. It painted her and the Communist guerrillas in El Salvador in the most heroic of depictions. It was an incredibly biased and nonobjective program that favored the F.M.L.N., and described them as being a group of saviors, and every member of the Government of El Salvador and anyone associated with them as cold-blooded murderers and killers. That was a program that was shown on PBS.

The codirector, whose name I copied from the program, Monona Wali, went on the air and stated, and I quote from the program: "The question comes up often. Isn't this really a piece of propaganda since it's a political film? Well, the closest comparison I can make is to the 'Diary of Anne Frank' where nobody asked, why isn't Hitler's point of view told in this book?"

Mr. President, there are arguments on both sides of the issue of the tragedy that took place in El Salvador over the last 12 years. In fact, one of the greatest successes that many of us on both sides of that issue, on both sides of the aisle, can appreciate and enjoy is the fact that there is a very, very strong likelihood of peace coming to that unhappy and strife-torn, and tragic nation.

But the fact is that there were outrages and abuses that took place on all sides. There were terrible tragedies that took place throughout that nation which unfortunately is the worst aspect of any civil war. And yet we were treated, the American people, with taxpayers dollars, to a program which was incredibly biased. And then the response as to why there was not any opposing viewpoint is to compare it to the activities of Hitler's Germany.

Mr. President, that is not fair. That is not what we want in American broadcasting. And that is not what we want with taxpayers' dollars.

Let me go back a second, Mr. President. I would not be talking about this if we were not talking about the expenditures of American taxpayers' dollars. If PBS were an independent corporation which was supported by voluntary contributions or subscriptions from companies, corporations, individuals throughout this country, Mr. President, I would have no problem. In my view, they could present almost any program that they wanted to within the bounds, of course, of restrictions on pornography, et cetera.

But we are talking about taxpayers' dollars and we are talking about programs that are clearly not balanced. I do not know how you get that balance, Mr. President. And that is what bothers me a great deal because at the same time that I am concerned about the bias that I have seen time after time, I am not interested in having any political appointees determining what is balanced. That is the dilemma that we face.

Even if a particular program was not created with public funding, the entity which airs the program, and is a grantee of taxpayer funds, in this case PBS, should be held accountable to the American people for ensuring that the objectivity mandate of the statute is met.

Mr. President, the American people do not routinely keep copies of the Public Broadcasting Act around the house. Many Americans are not aware of the complex funding structure which maintains, and effectively insulates, CPB from accountability. They are not aware that PBS and National Public Radio are independent entities unaccountable to Congress, yet are recipients of millions of dollars in grants each year.

To most Americans, public broadcasting is not the CPB. To them, public broadcasting thriving from their taxes is PBS. It is NPR. The medium is the identification, not the independent entity. The Independent Television Service was created by Congress in 1988. Yet, there is still no accountability for the money they spend.

That is why the American people are outraged by the fact that they turn to their local over-the-air broadcast station to find such liberal, leftwing programs as "Tongues United," which I will not even describe, "After the Warming," and "Maria's Story." To them it is unimportant that PBS was not statutorily created as was the CPB. To them it is irrelevant that PBS and NPR are merely grantees of Federal funding. What strikes them, and rightly so, is that their hard-earned tax dollars went toward funding either the actual program or the station which airs the program.

Mr. President, there are those who will eagerly turn around and say that the criticism of the CPB's failure to meet the statutory mandate to provide balanced programming is tantamount to censorship and an effort to deprive our children of access to Big Bird and Mister Rogers.

I know that the American people cannot be fooled so easily. I have always supported the educational programming on public television and I continue to do so today. My concerns have nothing to do with the educational programming which we all agree is of high quality and effectively serves the public interest.

Nor do my concerns stem from an interest in flooding the airwaves with only conservative viewpoints. On the contrary. I strongly support the mandate in the original act which sets out to provide diversity in programming and diversity in sources for programming. In my view, it would be just as outrageous to have a publicly funded system espouse only conservative viewpoints as it is for them to promulgate only liberal ones.

I do not believe that systems receiving Federal funding should become government mouthpieces. That was not the intention of Congress in establishing the CPB. For that reason, the inclusion of a mandate for balance and objectivity was crucial to ensuring that these systems did not become vehicles for the dissemination of propaganda for a particular party or ideology.

Nevertheless, it is not working as it was intended, Mr. President. The system is broken. The revelation that political programming on public stations is extremely biased has taken hold. It has even produced criticism from the print media which alleges intervention from Members of Congress advocating certain programs. The Wall Street Journal editorial of February 7, 1992, sarcastically entitled "Friends of Public Television", strongly suggests that the system mixes politics with programming, and recommends that alternative programming be left to the many other outlets available to viewers, and not public stations.

Mr. President, I ask unanimous consent that a copy of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal; Feb. 7, 1992]

FRIENDS OF PUBLIC TELEVISION

Public television to most people means an oasis of intellectually respectable programming. They think of Ken Burns's series on the Civil War, MacNeil-Lehrer, "Nature," "Mystery" or wonderfully acted dramatic series. But somewhere off in the far corners of American life, there are those who believe that public television's real mission is programs such as "Endangered Species: The Toxic Poisoning of Communities of Color" or "Tears: The Ho Chi Minh Trail."

A nice little flap has now developed around the decision by Senator Bob Dole and other

Republicans to hold up funding for the Corporation for Public Broadcasting until a good explanation is given for why federal money should underwrite efforts such as "Citizen Dhoruba," a documentary extolling the virtues of a former Black Panther convicted of shooting two New York policemen. This, of course, has raised cries and screams of censorship, but it's also given everyone a chance to have a closer look at the relationship between Congress's politics and public TV's politics.

Conservatives rail tirelessly at public TV's stream of left-wing documentaries, but sources in an around the Corporation for Public Broadcasting make a pretty good case that more than a little of this stuff is shoved down their throats by congressional Democrats.

The "alternative" documentaries are the fruit of an intensive lobbying campaign going back to 1988. At that time Rep. Henry Waxman (D., Hollywood) led the charge for authorization and funding of $24 million to support a small group of "independent" television producers, Independent Television and Video Service, who claimed their work was being given short shrift by public television.

Because Rep. Waxman is well connected in Hollywood—especially among the rich contributors to liberal Democratic election campaigns—he had no trouble attracting the support of his House colleagues, notably Rep. Edward Markey of Massachusetts, for the ITV effort. "We knew" one corporation source said, "that it was a time bomb."

The ITV project exists not only because of an explicit directive; Congress also ensured that it wouldn't be accountable in any real sense to oversight by the corporation. On receiving grant money in 1988 from the Corporation for Public Broadcasting—public television's bank—ITV went on to announce some 25 films, more than half of them with such suggestive and compelling titles as "An Act of War: The Overthrow of the Hawaiian Nation" or "Warrior: The Case of Leonard Peltier." The Committee for Media Integrity, which has been holding CPB's feet to the fire on this, notes that "Citizen Dhoruba" would be the fifth film glorification of the Panthers shown on public TV.

Somehow, public television has got to get over its identity crisis. The programs of which it can justly be proud and the basis of its good reputation such as "Masterpiece Theatre" or the others mentioned above, get much of their funding from corporations such as Mobil, General Motors, AT&T, PepsiCo and the like. Meanwhile left-wing Congressmen turn the Corporation for Public Broadcasting into a vanity press for the film-making wing of their party.

Examples? A six-part series called, "Imperial Masquerade," which depicted the United States as the leading imperialist warmongering entity in the world. (This had the misfortune to air the week the Berlin Wall fell.) "Making Sense of the '60s," which aired last year, was a six-part tribute to the radicals of that wondrous decade. The point about all these efforts is that there is no other point of view.

To the extent any evidence exists of what the actual viewing public wants from public television, it's on the air during pledge weeks. This "market test" makes it clear that what most of the public-TV audience will support is quality entertainment and information programming, not tendentious politics.

But Henry Waxman is a powerful congressional solon, whose insistence that millions be bestowed on film makers congenial to his own politics says as much as ever needed saying about the dangers of government control of information systems.

We continue to believe that the best option for the people who think "Citizen Dhoruba" is what America needs to watch is to start their own cable-TV network, as did the Lifetime network for women, Discovery for nature lovers, MTV for rap lovers, the Weather Channel or the Home Shopping Network. Surely if there is a sustainable audience for the Progressive Network, advertisers will come forward to try to sell them whatever it is they buy from the hateful marketplace.

Mr. McCAIN. Public trust in the CPB and its use of taxpayers' funds is eroding, beginning with this Senator. I do not know the answer to this problem. A solution which balances the concerns of keeping Congress out of editorial content decisions on the airwaves and need for Congress to effectively ensure that programming remain objective is difficult to strike. One thing is certain: The American people will not abide by a federally funded system which remains unaccountable for how funds are spent. For that reason, I included an amendment to the Public Telecommunications Act of 1991 which would require the CPB to include in its annual report to Congress the name of the programs that receive grants, a description of their content, the amount of each grant, and the names of the producers of the programs.

I believe, Mr. President, that the American taxpayers have a right to know how their money is being used and for what kind of programming. With the inclusion of this information in the annual report, Congress and the American people can begin to closely monitor the programs to ensure that the mandate of providing balanced viewpoints is met.

It is very important for us to know where the money goes, who it is to, and the nature of the programming. I do not view that, Mr. President, as intimidating in any way, or in any way censorship. It is not censorship and it is not the end of Big Bird. It is a simple accountability to the American people. Congress requires accountability in other areas. It should do so in this one as well. I hope that public mistrust of the CPB and public broadcasting generally can turn to a more positive perception and debate such as this will not have to occur again.

Mr. President, in the Wall Street Journal article the editorial talks about some of the very fine programs, the "Civil War," "MacNeil-Lehrer," "Nature," "Mystery," and many of the other programs that are aired on public television which all of us appreciate and enjoy so much. There is another side, however; programs such as "Endangered Species: The Toxic Poisoning of Communities of Color," "Tears: The Ho Chi Minh Trail," and other programs which cry out for balance. Of course, when these programs are criticized, such as "Citizen Dhoruba," a documentary extolling the virtues of a former Black Panther convicted of shooting two New York policemen, this has raised cries and screams of censorships. But it also has given everyone a chance to have a closer look at the relationship between Congress' politics and public TV's politics.

There is an allegation in this editorial, Mr. President, that the ITVS, the Independent Television Service, is being funded and directed by certain Members of Congress. I am not sure that this is true. I do not have enough information on it. But I think we should look very carefully as to whether that practice exists and will continue.

I think it is very important that we review the original intent of the CPB and determine whether as much as $24 million should support a small group of independent television producers. I believe this deserves scrutiny by the Committee and perhaps should be the subject of an amendment here to prevent further occurrences.

Is it not possible to have some programs produced in another way rather than by a small, select group of television producers? I think that we should look into that extremely carefully. Some of the programs that were produced with grant money awarded in 1988 are listed—"An Act of War," "The Overthrow of the Hawaiian Nation," "Warrior: The Case of Leonard Peltier," and other programs that show bias. Again, what bothers me more than anything else, is the fact that there is no opposite viewpoint presented.

A six-part series called "Imperial Masquerade" depicted the United States as the leading imperialist warmongering entity in the world.

Let me repeat, citizens' tax dollars paid for a six-part series called "Imperial Masquerade," which depicted the United States as the leading imperialist warmongering entity in the world. Perhaps this program did not get as much viewership as might have been expected since the Berlin Wall went down the week of this program's inauguration.

We need to make sure that everything done in the name of education is done in a fair and objective and balanced fashion. As I said at the beginning of my remarks, Mr. President, it is not clear to me exactly how we obtain this balance because we would defeat the whole purpose of public broadcasting if we began to impose censorship, and probably the best solution might be for the people of the Corporation for Public Broadcasting—not the board of directors, but those who actually work in it—to begin policing their own system, to make sure there is balance. If they had done that, it is clear to me this rather routine authorization would have gone through the Senate, maybe even under the Unanimous-Consent Calendar. But because of their failure in the view of many Americans to maintain that balance, we are now engaged in this debate, which, by the way, invites eventual proposals for some kind of censorship, which obviously I am opposed to, and to which I think most of the American people are opposed.

But again, we are talking about accountability. We are talking about what needs to be done in the interest of educating American people, which in the whole purpose, in a fair and balanced fashion.

I thank my friend from Hawaii, who has been one of the strongest advocates and supporters for the Corporation for Public Broadcasting, and fairness and balance because he is one of the most fair and balanced individuals I have had the privilege of knowing in my entire life.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRIME CONTROL

Mr. LOTT. Mr. President, today I have joined a number of my colleagues as a cosponsor in the Crime Control Act of 1992. I have given a lot of thought to this piece of legislation over the past year but especially during the last couple of months. It has come more to my realization and I think a lot of other people in this city and across America that in many places crime is absolutely out of control; certainly here in our Nation's Capital it seems to get worse by the very day.

We have had instance after instance where there have been random shootings in people's homes; where a young couple is driving through part of the city, and the wife is shot for no reason at all. It is armed robbery; it is rape; it is murder. And it is not just Washington, DC. This is true, unfortunately, in the cities and in the smaller towns all across America, including my State of Mississippi.

There has been a startling increase in crime in Jackson, MS; and incidents in Greenville, MS, where there has been a marked increase in crime, some of it—perhaps much of it—drug-related.

Mr. President, we must do something. I talked to my colleagues on both sides of the aisle this very day. And they say: I feel so frustrated. I want us to do something to be helpful in this city of Washington, DC, or in my own State or city. What more can we do?

It is a tremendous burden for leadership in Washington, DC. I know that the mayor of this city is working to try to deal with this problem. It is not just Washington, DC, that we are talking about. This is a problem of mayors, Governors, and law enforcement people all over America. There must be something more we can do.

I think that this matter is so serious that the mayor should take extraordinary steps to impose control in Washington, DC, and if need be, I think the Congress, in concert with the President, should step in to try to help this city get a grip on what is happening to its innocent citizens. This is no way for human beings to live. The crime, the drugs, and out-of-control situation we have in this city have reached a breaking point.

Somebody has to deal with the problem. It requires leadership in the executive branch of the cities and of the Federal Government. But we in Congress have a responsibility, also.

This is not something I want to emphasize again that is directed just at Washington, DC. It applies to all of us, although here in the District of Columbia, District police reported 487 murders during 1991, including these drive-by shootings I referred to, and other random acts of violence.

Since 1987, more than 3,000 men and women have been stabbed and gunned to death. I fully support Senator SHELBY's bill which would impose the death penalty or life without parole on those who are found guilty of first-degree murder. The statistics are horrifying. I think it is time that we act here, in the statehouses, in the city halls, to deal with this problem.

I have not been brought to this feeling just by the incident this week involving the Sergeant at Arms of the House of Representatives. That is just the last in a series of examples where people go out of their homes, get two blocks away, have a gun stuck in their mouth and a trigger pulled for no reason when the person has already been robbed, given up their pocketbooks or their watches.

So it is time that we do more.

The Congress dealt with crime legislation last year. It took us a full year. What started off as a pretty good bill passed in the Senate; it went to the House, then to conference. And what we have pending before us now in terms of a conference report is a crime bill with no teeth—no teeth. It will not help. It may even make things worse, because it is not real legislation to help deal with this problem.

The crime control bill of 1992 is one that we should support. It includes Senate provisions with regard to the death penalty. It has safeguards against delay and frivolous litigation in death penalty cases. The Federal courts are required to defer to State court decisions which are full and fair. It also addresses Federal death-row inmate litigation.

The bill would take the Federal death penalty from part of the language of the House bill. It has a comprehensive death penalty, which is less onerous on prosecutors and will assure the jury will impose the death penalty where warranted.

It also would expand the current law on the exclusionary rule. The people—the average working, taxpaying people that are threatened by this crime—do not understand that we have this rule that for technical reasons people go to jail; they get back out; they commit crimes again. Two instances lately: A person has been arrested twice for rape; and another one had been arrested twice for armed robbery, and they come back and do it again.

In too many instances, technicalities, rules that exclude good-faith evidence, are used to put these people back on the streets. We must tighten up on that.

We also must make changes in habeas corpus. There must be a limit to the number of appeals. There should be real death penalties, and there should be a limit on how many times you can go up through the court systems, again and again, to avoid what really should be done to a heinous criminal, with the taxpayers paying the price over and over again.

So I think that it is way past time that we add some additional teeth to our criminal laws in this country, and I think we should back it up with money. We have to put some real bite to go behind this bark. We talk about reordering priorities in the Federal Government. This is a place where we should spend some money.

We should help cities like Washington, DC, with additional funds for people on the streets. I think it would help in Washington, DC, if we could get the policemen back on the street, walking the beat. If we had policemen on more street corners in Washington, DC, fully prepared to deal with the criminals that they are having to face, then maybe the crime would not be so bad.

We have to put more money in the hopper for State and local law enforcement. We need more assistance for Federal law enforcement, but I am not talking about Justice Department lawyers in Washington, DC. I am talking about people out in America dealing with drugs and crime: The DEA; the FBI. And more assistance to U.S. attorneys, so that they can try these cases when they need be.

I also think that we should provide additional assistance for Federal prisons. We cannot allow Federal judges or any judges or prosecutors to use as an excuse for not prosecuting people that they do not have a place to put them. We are going to have to deal with this problem. We will have to put our money where our mouths are.

So, Mr. President, I urge my colleagues in the Senate to take a look at this new legislation that has been introduced; it is good legislation. And something more must be done. The time to do it is now.

The burden is on us. How long will we allow this to continue happening, and not even be able to pass a serious, tough crime package? A year is long enough. A year is too long, when you consider the fact that the criminal laws of this country have been used for the past 20 to 30 years, really, to protect the criminal, to the avoidance of the concerns of society, and without proper consideration for the victims.

Let us pass this legislation. Let us do it now. That is the least we can do in the Congress to help deal with the criminal problem in America today.

I yield the floor, Mr. President.

THE PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii [Mr. INOUYE].

Mr. INOUYE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the motion to proceed to S. 1504.

Mr. INOUYE. S. 1504 is the bill to authorize funds for the Corporation for Public Broadcasting?

The PRESIDING OFFICER. The Senator is correct.

Mr. INOUYE. Mr. President, I asked this question just so that those who are watching the proceedings will know that we are now debating the public broadcasting bill, and not the crime bill.

Mr. President, I wish to spend a few moments responding to the concerns expressed by my distinguished colleagues on the Republican side. First, my friends from Arizona and from Kansas both spoke eloquently of the need for balanced presentation.

Mr. President, I concur. In fact, in June of 1987—I think it would be well for all of us to remind ourselves—the Senate of the United States and the House of Representatives passed a measure that we refer to as the "fairness doctrine."

This bill said very simply: A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

Mr. President, this is the fairness doctrine. It was part of the rules of the Federal Communications Commission. But when the court suggested that these rules should be codified, the Congress responded as I indicated. In the summer of 1987, we passed the bill. It was sent to the President, and the President vetoed that measure. So, following the dictates of the President, in August of that year, a few weeks later, the Federal Communications Commission repealed their rule which required all broadcasters to air opposing views on subject matters of controversy.

The situation we have today is not of our making. In fact, Mr. President, I have a bill here, S. 217, that was introduced on January 15, 1991, by the chairman of the Commerce Committee, Mr. HOLLINGS, the ranking member of the Commerce Committee, Mr. DANFORTH, Mr. FORD, Mr. GORE, Mr. BREAUX, Mr. ROBB, Mr. GORTON, Mr. WIRTH, and myself, which would have done exactly what we tried to do in 1987, to require that a broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

When this measure was discussed by the committee, we were notified by the White House that the President would veto this measure if passed. That is the present situation.

The second matter of concern has been public funding. Yes, public broadcasting has been funded by taxpayer's money, but I do not wish the people of the United States to get the impression that we taxpayers are the only ones who are funding public broadcasting. In fact, public television is funded by taxpayers to the tune of 13.6 percent; 3.2 percent is funded by local governments; 19.2 percent by State governments; 6 percent by State colleges and universities; 2.4 percent by private colleges and universities; 4.7 percent by foundations; 15.9 percent by businesses; 21.9 percent by subscribers; 1.8 percent by auctions; about 8 percent from other sources.

Because we do have 13.6 percent of taxpayers' money, we are able to impose rules upon public broadcasting, such as the number of directors, the term of directors, and we place caps on their salaries. Without the public funding, I suppose the president of any one of these broadcast stations could be receiving pay that other broadcasters receive, like CBS, NBC, or ABC.

We have set very clear rules, such as equal opportunity rules, such as the requirement to carry children's television. So, all in all, I say, Mr. President, we are getting our money's worth. Public broadcasting is now reaching about 98 percent of all households. And if the people of the United States want the fairness doctrine, I hope they will write in to their Representatives and Senators and seek the immediate consideration of S. 217, a bill that would require a broadcast license to give reasonable opportunity for the discussion of conflicting views on issues of public importance.

I am in favor this. I am one of the coauthors. If the President is in favor of this, as suggested by my colleagues, then the President should so indicate, instead of telling us that this bill would be vetoed. Let us not confuse the people any further. If the President is for this bill, let us know. But, as of this moment, the record shows that he is against it. So I hope that the President will not come before us and say he is for equal opportunity for discussion of all sides and, yet, at the same time, tell us that he will veto a measure that will permit that.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from North Carolina.

Mr. HELMS. Mr. President, I commend the distinguished Senator from Hawaii on the tone of his efficacy of the pending legislation. Typically, he is factual. Having said that, I must say that I am mystified by some of the semantical exercises that I heard earlier on this floor today. Some of them, as lawyers say, are reductio ad absurdum.

I do not know of anybody who wants to kill Big Bird. When I listened to some of the Senators today, I wondered if Big Bird was the one that my grandchildren see on "Sesame Street," or whether he was a Presidential candidate. "Sesame Street" itself is not even a matter of contention in this legislative debate. But there are a lot of questions that I believe my friend from Hawaii would agree are legitimate.

Let me start back from the beginning. The original premise is that we have a duty to analyze carefully all authorization bills and all appropriations bills. Today, I had three groups of young people from North Carolina visit me. We talked about various problems, such as the cause of the economic distress, and other things of interest to the young people.

I mentioned, for example, that as of the close of business on Friday afternoon, the Federal debt stood at $3,829,058,789,074.10. You may say, what does that have to do with Big Bird or public broadcasting? It has one heck of a lot to do with it, and I am going to get into that question as I move along.

But the young people are beginning to realize that increased Federal spending, every time an appropriations bill comes up or an authorization bill comes up, the debt goes higher and higher. And the interest on the national debt for the last fiscal year cost the American taxpayers $5.5 billion a week.

You better believe that the people who some Senators exhort to write in to us are concerned about Federal spending. They are fed up with runaway spending.

Let's get down to the nitty-gritty. This bill is a $1.2 billion 3-year bill for the Corporation for Public Broadcasting, hereinafter to be called the CPB. This amounts to a 40- or 50-percent increase depending on how you calculate it. A 40-percent increase in Federal spending for that one entity.

Mr. President, the young people and their daddies and mamas and grandpas and grandmas, are asking with repeated emphasis and repeated frequency, when is all of this going to stop? Now, it is a fair question as to whether Congress should reward CPB with a 40-percent increase in funding. My good friends on the other side of the aisle may be able to make a case for it. But I doubt it, in this time of exigency.

For the most part, I would acknowledge PBS provides valuable service and PBS provides some quality programming. If anybody wants to know whether JESSE HELMS from North Carolina votes for Big Bird, I do. And I vote for "Sesame Street" and I vote for some of the other programs. But I vote "no" on some of the programming discussed earlier by Senator BOB DOLE and others. I think they are exactly right.

Mr. President, I hear all of this stuff about Republicans trying to put Big Bird out of business. Mr. President, the Republicans are not doing any such thing.

Furthermore, contrary to allegations that I heard earlier this afternoon, those who are concerned about this issue are not trying to intimidate anybody. As a matter of fact, I believe my good friend, whom I admire so much, DANNY INOUYE, will say it is the duty of the U.S. Senate to probe, examine, and question.

I cannot speak for any other Senator, but that is all I want to do. I am concerned about how the taxpayers' money is used. I can concerned about the necessity for balancing programming. These are the issues that are at question here. They are legitimate issues and legitimate questions. I think we ought to help PBS get its house in order, and I think before I am through I am going to demonstrate that there is a great deal of disorder in the Public Broadcasting Corporation.

Mr. President, we need more disclosure and accountability. The public has a right to know how the taxpayers' money is being spent.

Furthermore, balance is a legitimate question and you better believe there are millions of Americans out there who share the view that the programming on public television is not balanced.

Now, Big Bird is balanced as far as I could see him. We are not talking about Big Bird and we are not talking about "Sesame Street." We are talking about some of these commentators and some of these people who pick the issues and the spin that is put on these issues. That is what we are talking about. This is a legitimate discourse for this U.S. Senate, and I look forward to working with the managers of the bill as we jointly seek some solutions to the legitimate problems that I think I see very clearly.

Let us take a brief look at the finance and bias issues. The Corporation for Public Broadcasting in 1990 doled out $236 million to the PBS and NRP stations. How was that money spent? You are not going to find it in any record available to the U.S. Senate.

The PBS supporters claim that the PBS stations are in desperate financial condition and that they need more Federal funds. We hear that all the time from everybody who comes to Washington with his hands out. I have never seen anybody come to Washington and say give us less money.

Sometimes I want to get up on this floor and recite the story of Davy Crockett when he was a Member of the House of Representatives. A lot of people do not know that Davy served in the House of Representatives. A giveaway item was being considered by the House of Representatives way back then, and Davy listened with great interest because it was a stipend to be given to the widow of a naval officer. They got up and said how courageous this man was, and how entitled his widow is. And then Davy got up and asked a few questions.

He said, did the admiral receive his pay every month while he was in the service of his country? The answer was, "Yes."

He said, did the Government take care of his expenses? They said, "Yes."

He said, "Why, you know, if it were my money, Mr. Speaker, I would gladly, I would gladly furnish it, and I will give a month's pay to that lady from my own pocket, if every other Member of this House of Representatives would do likewise."

They were not interested in giving away their money which is the point that Davy Crockett made. The point is that when we give away money in the U.S Senate or the House of Representatives, we are not giving away our money. We are giving away the taxpayers' money.

Every once in a while I tip my hat to Davy Crockett because he made the point that has been long lost in the Congress of the United States, which is why we have that enormous figure in the Federal debt that I cited at the beginning.

As I said earlier, PBS supporters claim that stations are in desperate financial condition. But you know something, Mr. President, one director of a PBS station has a salary—and I know he must have a difficult time getting along with it, because it is only $304,000 a year. I am sure the Washington Post pays their reporters more than that. A pittance, $304,000 a year. There is also another PBS president with a salary of $242,000. Oh, yes, they are in desperate straits all right, desperate for some sort of foundation on which to defend such spending practices.

Mr. President, then there is the Children's Television Workshop. This is one of those so-called nonprofit groups that receives $4 million of the taxpayers' money. Now the Children's Television Workshop has an officer who receives a salary of $624,000 a year. But that is not all. He probably gets more than that in additional benefits. On top of that, this Children's Television Workshop is already sitting on $51 million in stocks and bonds. Oh, they are in desperate straits all right.

Then there is one of these public television stations in Pittsburgh where the president of that station, WQED, receives a salary of $175,000. But he also took home a second salary of $60,262, to be exact, from Q Productions, which is owned by his own station. An article in the Pittsburgh Press, I believe it was, reported that this subsidiary exists only on paper, and I am quoting, "exists only on paper and at least in recent years has produced no profit."

Is it fair to raise questions about that? I say, yes. And I plead guilty being one of those who insists that these questions be analyzed. Hopefully, some accord can be reached with those who defend the status quo with respect to public broadcasting.

But let me continue. There is an independent operation called ITVS, which is supposed to fund the production of some of the more controversial programs. We will get into that in just a minute. According to a report by the House of Representatives, this crowd spent $1.5 million on administrative costs and $100,000 on travel alone in addition. Boy, they must have run up a lot of frequent flier points.

The question is a legitimate question. Of course it is. I do not want to hear all of this defense of Big Bird and "Sesame Street" from the other side. We are not talking about that. We are talking about waste and extravagance of the taxpayers' money, and we ought to talk about it on every appropriation bill that comes up, every authorization bill that comes up. So these are just a few examples.

Mr. President, it is also a legitimate question to raise the issue of lack of accountability as to how Federal funds are spent by CPB and PBS. Now as I look at it—and maybe I can be persuaded that I am wrong about it—but as I look at it, the structure intentionally shields PBS, NPR, and other grantees—that is to say, the people receiving the money—from any responsibility for the programs produced or carried by the station. Legitimate question? You bet.

CPB claims that once it makes a grant it is out of their hands—you know, Pontius Pilate style. CPB claims that it cannot exercise any editorial control over the programs it funds. On the other hand, PBS and the other recipients of the money of the American taxpayers, act as though they are entitled to receive this money. They are untouchable, to hear them tell it.

And I say to that, horse feathers; horse feathers. This is a cop-out, pure and simple, and a convenient shield to deflect any legitimate criticism or inquiry, for that matter.

I can cite one example which I think is demonstrative. CPB gave a grant to a group called Point of View, which in turn bought a program called "Tongues Untied." Now this program, without any question whatsoever, blatantly promoted homosexuality as an acceptable lifestyle. It showed, what should I call it? I will be kind. It shows homosexual men dancing around naked. And they put that out on public television.

Now a lot of decent Americans called my office, and wrote my office, and wrote to me, and have grabbed me by the jacket as I went through an airport lobby and said, "What the hell is going on when the taxpayers are required to fund such garbage as that?"

And did CPB accept the responsibility, having distributed the program over the Government-funded satellite system, and about half of the local stations carrying it? Did the CPB in fact accept responsibility? No, indeed. There reaction was, there's nobody but us innocent chickens—and I am not talking about Big Bird. I am talking about these people who cover up, deny any responsibility, or any wrongdoing.

Let me quote you exactly what CPB said about this:

> The corporation provided funding for the series, "Point of View," which showcases the works of independent producers such as "Tongues Untied." By law, CPB is mandated to carry out its functions in ways that will most effectively assure the maximum freedom from interference with program content.

That is the Lord's truth. They did not give a darn about the content of this "Tongues Untied."

Let me continue with the statement:

> Accordingly—

How is this for pomposity?

> it is CPB's practice to make funding decisions without interference in the editorial freedom of the producers or the content of the program.
>
> The decision to release * * * a program over the satellite system is made by PBS not CPB, which is prohibited by law from playing a role in scheduling or distribution.

And that is the end of the quote.

Well, that statement is malarkey. It is the good 'ol shuffle game—where you shuffle over the responsibility to somebody else.

Mr. President, let's consider the suggestion by many that there is a liberal bias PBS and NPR. I would say hundreds of thousands of people resent a lot of the things going on with public television. They contend—and I think there is some validity to their conclusion—that PBS and NPR are dominated by what several visitors to my office have called leftwing radical programs. BOB DOLE is exactly right about this—there is certainly a definite lack of balanced programming, and that is a legitimate question.

Mr. President, the other side will get up and piously proclaim that, oh, we must not touch it. Why of course they like it the way it is, PBS and the public broadcasting programs are singing the songs of the liberals, including the ones in this Senate. They like it the way it is.

But there are a lot of Americans out there, and a few here, who say: Well, let us look at it and consider it. It is a legitimate question and I insist that it is our duty.

One final thing and I shall conclude, Mr. President. This business of whether the programming is balanced may be subjective but it also may be provable. That is for us to determine.

There was a story in the Washington Post, which I was surprised to see this morning. The Washington Post carried an article about a study conducted by the Center for Media and Public Affairs. They talked about the study. And I got to the office and I asked that a copy be obtained for me. And here it is.

The study reviewed 225 programs aired in 1987 and 1988. There was a 3-year analysis. And the conclusion by this Center for Media and Public Affairs went as follows. This report was referred to in the Washington Post, and I feel a little bit faint for having seen this there because I did not expect them to use it. I quote: "PBS documentaries lacked ideological balance. * * * The balance of opinion * * * consistently favored liberal positions. * * * These PBS documentaries failed to meet the standard of either diversity or balance." Those are the results and the conclusions of the researchers. They are not my opinions, even though I share them.

Mr. President, the report summarized its findings as follows:

> The preponderance [of PBS programs] questioned [the] justification for armed conflict and nuclear development, supported the primacy of environmental concerns over human needs [and] upheld liberal interpretations of constitutional rights ranging from gay rights to search and seizure provisions.

In short, this report makes a strong case that there is a serious leftwing bias at PBS. But we do not have to take anybody's word for it. The legislation at hand and the presentation by the distinguished minority leader of the U.S. Senate BOB DOLE, and others, requires us to decide for ourselves. At a little later time I will have more to say on this subject, but I think I have said enough for the time being.

For that reason, Mr. President, I thank the Chair and I yield the floor.

The PRESIDING OFFICER (Mr. PELL). The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I would like to take this time to address some comments made by my friend from North Carolina.

First of all, as I indicated in an earlier statement, in 1987 the U.S. Senate, together with the U.S. House of Representatives, passed a measure called the fairness doctrine, a bill that would have required broadcasters or licensees to cover controversial measures and subjects by permitting opposing views an equal opportunity. This would have provided a balanced presentation of controversial subjects.

However, the President of the United States, Mr. Reagan, for his reasons, decided to veto that measure, and soon thereafter the Federal Communications Commission, taking directions from the White House, repealed its own rules which then provided for fairness.

In January 1991, at the beginning of this session, several senior members of the Commerce Committee, together with the chairman of that committee, introduced S. 217, a bill that would have provided for fairness in the presentation of conflicting views. And this is what it says:

> A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

If my friends on the other side are so concerned about a balanced presentation of controversial matters all they have to do is to tell the President of the United States of their support and to plead with him not to veto this measure. He has already indicated that if this measure passes, it will be vetoed. So we have to, as some of my friends would say, either fish or cut bait.

On the matter of why the committee felt that significant sums should be authorized for public television, may I cite the following. Today, there are approximately 42 million children in this country between the ages of 2 and 13 years of age. These children attend schools 5 days a week, and by the time they reach the age of 18 they will have spend 13,000 hours in school, assuming they stayed in school until they were 18. That is an assumption that one cannot make because of the high dropout rate.

These children spend from 11 to 28 hours a week watching television. By the age of 18, they will have watched 15,000 to 20,000 hours of television. Keep in mind, 13,000 hours in school, and 20,000 hours before the TV set.

By the age of 3, studies indicate that children spend from 2 to 4 hours a day, on average, watching television—2 to 4 hours a day. Children spend more time watching television than any activity other than sleep.

I do not wish to embarrass ourselves by comparing our situation with that of Japan and Britain and Germany because we all know they spend more money on children's television. They spend more time and express their concern about what we feed the minds of our children.

There is another set of statistics that should frighten Americans. About 4 years ago a study was conducted by the

Department of Education and the following are the findings: 52 percent of Hispanic adults are functional illiterates; 47 percent of adult blacks are functional illiterates; 13 percent of adult whites are functional illiterates; 13 percent of high school graduates are functional illiterates. They can hardly read signs, directions on medicine bottles. And we are talking about high technology competition in this world and our children are not being prepared.

We have so few children's television programs that all we can refer to is the Big Bird. That is one of the few public television shows we can refer to, Sesame Street. We should be ashamed of ourselves.

Concerning the Children's Television Workshop that my friend from North Carolina spoke about, we provide only 3 percent of its funding. We are encouraging Children's Television Workshop to be a private enterprise. And in order to become a private enterprise they need to attract talent. And in this free enterprise system you do not get talent for $100,000. You want a good executive and fundraiser, you need to spend good money for him or her.

But, because we do provide funds for CPB and for public television and radio, we set caps, by law. And I think we are fortunate we are able to attract committed public citizens who are willing to give up their time and talent to work for that small amount. And all of them I know can easily get jobs paying five, six times the amount they receive from CPB, or public television or radio.

This measure, the CPB authorization bill, is long overdue. If we are concerned about children, then we should be concerned about the statistics that are presented to us: 20,000 hours before the TV set by the time children are 18. We are talking about literacy. And what sort of children's programs do we have? Since we have very little control over free over-the-air television, Saturday morning cartoons are considered children's television. Ask any parent if that is children's television. That is what they watch: violence all Saturday morning.

That is all we want to do: educate our children so that they are capable when their turn comes up to take over this Government. Imagine this country being run by a majority of men and women who are functionally illiterate.

Mr. President, that is not far-fetched. If we do not do something about it now, it will happen.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to beg the indulgence of my friend from Hawaii. It seems as though his piece of legislation, which stands on its own merits and which I support, is drawing a whole lot of—how can I say it—nonsubstantive and occasionally gratuitous criticism. It seems like as if this may be the opening shot of politics in this Presidential year.

I am sorry the Senator has now found himself in the position where he has had a number of our colleagues come to the floor and talk about crime and the crime bill on this legislation he has before the Senate. If not attaching it, using this as a vehicle to discuss it, although it still may be attached; Lord only knows. So I apologize to him for feeling somewhat compelled to come, as we say in our business, to set the record straight.

I acknowledge, at the outset, it does not directly relate to public television. But I would like to beg his indulgence for 5 or 10 minutes to discuss and speak to some of the things I have heard mentioned on the floor by some of our Republican colleagues relating to the crime bill and the crime problem in America.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. BIDEN. I will be delighted to.

Mr. INOUYE. Mr. President, I am well aware of the realities that we are confronting at this moment. We know that some of our friends on the other side of the aisle are preparing to submit to the Senate an amendment, a crime bill amendment, on this public broadcasting bill.

I am pleased that we have with us our Nation's foremost expert, the chairman of the Committee on Judiciary, to explain the situation as we see it at this moment; to tell us that we have on the desk a crime bill; to tell us what that crime bill proposes to do.

So I hope he will set the record straight, Mr. President.

CRIME BILL

Mr. BIDEN. Mr. President, I thank my colleague from Hawaii. I will attempt to be as brief as possible. We have an unusual situation. And that is our Republican colleagues are talking about their desire to have a crime bill. And they have spoken to us in the past about having the President's crime bill.

I would like to at least state where we are at this moment relative to crime legislation. Last year in this Congress—but last year—the President introduced a crime bill. And I, on behalf of a number of people, introduced the so-called Biden crime bill. We debated both those bills. We held hearings on both those bills. We had a vote in the full Senate on both those bills. Essentially, what passed was the Biden crime bill. We rejected the President's crime bill.

And then the House of Representatives took up the President's crime bill, debated it, and they introduced a crime bill as well. As the legislative process works, after months of debate and discussion, they voted, and they voted a crime bill that was not the President's crime bill.

Then we went to conference, and after weeks of delay on the part of my Republican colleagues, not allowing me to go to conference on an argument about ratios of the conferees, the number of Democrats to Republicans, et cetera, but finally thinking, I suspect—this is my subjective judgment—that we would have no time to pass a crime bill before we left last year, and not wanting to be seen doing what they were doing—that is, blocking a crime bill—they let me go to conference.

Lo and behold, the conference reached agreement and we passed a crime bill. The conference report came back to the Senate and we said: Let us now vote on what the police organizations have categorized—and I want to make sure I have it straight; I will paraphrase it for now—one of the toughest crime bills that has come before the United States Congress. Let me be precise here. It says:

> We call on Congress to adopt and for the President to sign this bill. It is the toughest anticrime legislation to emerge from the Congress in recent memory, and it should become law.

That is what the Fraternal Order of Police said, and other police organizations said similar things. The only outfit I know that openly opposed the conference report was the District Attorneys Association.

So we said: At least, let the Senate work its will and let us vote on what the House of Representives passed, what the United States Senate passed, and what the House and the Senate agreed upon in conference and compromised on, and what the House of Representatives passed; the conference report. Let us vote.

My hard-charging, anticrime Republican friends came to the floor and said: No; we will not let you vote. Notwithstanding the fact that a majority of the Members of the Senate present and voting voted for the crime bill conference report, notwithstanding that, it has not become law for one reason—they required us to have a supermajority, and required us to invoke cloture. That is the fancy Senate term for saying 50 percent is not enough; a majority of the Senators voting for something is not enough. You have to provide us a supermajority. You have to get above 60 votes.

Every newspaper in America got it right, conservative, liberal, moderate, or any other description. The headlines in every newscast were: Republicans kill tough crime measure; or Republicans kill crime bill.

And then the American public began to focus on this, and the polling organizations went out and said, who is best equipped to handle crime in America: This Republican President, President Bush; or the democratically controlled

Congress? And they said: A democratically controlled Congress.

So I guess my Republican friends started feeling the heat. The President came, in his State of the Union Message, and said: I want a crime bill. And the press basically laughed at him. They said: You have a crime bill. The Congress worked its will; a majority of the Members of Congress passed a bill that the police agencies—the police agencies—said is a tough crime bill.

So I have been speaking with the majority leader. It is, as we say in this body, a privileged matter. It is sitting at the desk, that conference report. I have tried to negotiate with my Republican colleagues, with the administration, and say: OK, you want to work something out; we know we cannot get 60 votes right now. You can thwart having a tough crime bill. You can thwart having a death penalty in law right now. You can thwart spending $700 million on prisons. You can thwart antiaging legislation. You can thwart $1 billion in aid to local police officers. You can thwart the Brady bill. You can stop these things. But please do not.

I will give more. What do you want?

The police need help. The American public needs help.

But, no; I did not hear a word. I am going to say something somewhat presumptuous and dangerous. I doubt whether there is any Member in this body on either side that says I will not negotiate in good faith and compromise to get something good. I do not expect a whole loaf. But no one would talk.

I say to my friend from Hawaii, to my great surprise this morning, my Republican friends walked to the floor and introduced a crime bill, and said we need a crime bill.

Guess what the crime bill has in it? It has almost all the Biden bill in it. It has the money for local police, the same number, that the President said he was opposed to.

It has the antigang legislation in it. The President said he would veto a crime bill possessing that. It has in the bill, money directly for local policy. The President said, "I do not want to do that." It has in the bill boot camps, our boot camp legislation the President said he would consider vetoing if it was in our bill. It has in the bill the Police Corps. The President said he would veto it if it were in our bill.

So what are these folks talking about? The President's crime bill did not pass here. A majority of Democrats did not vote for it, and some Republicans. It did not pass in the House, the Republican's crime bill. And now the Republicans have come into town, on the floor, and they have rejected the President's crime bill. What are we talking about? And guess what? They conveniently dropped the Brady bill, which is part of what passed both Houses and the President said he supported in the context of a tough crime bill. I guess the gun lobby wins again. The gun lobby comes in and says, "Tough crime bill. Drop out Brady."

So what do we have? We have a bill introduced here—and I have not had a chance to read it all. It is hundreds of pages. But I read the summary of the bill they passed out at the press conference, my Republican friends, for whom I have great respect, and I mean that sincerely.

First of all, it characterizes things that are in the Democratic crime bill or the conference report now that has passed both Houses—I mean it passed the House and is waiting for us to vote on, and they will not let us vote on it. It mischaracterizes the death penalty legislation. We have more death penalties in the bill than the Republican bill does. I am not suggesting that is reason to vote for this. But this is not something—there are over 53 death penalty bills in the Biden bill and that became part of the conference.

It says "Federal prisons" in this sheet they handed out to the press. If this is not what they call a side by side. It talks about what their bill has and what our bill has. It says they authorize new prisons, to which the administration is opposed, by the way, and it puts over here on the conference report, "no provision." We have $100 million for prison construction.

I will not bore my colleagues with a detailed point by point here. But we have to stop playing politics, Mr. President. People are dying. Under this administration, more people have been murdered than any time in our history—24,600 murders in America. Hard core drug users, the people who are murdering people, have increased every year under this administration.

The number of felonies—the list goes on and on. We have what the police characterize as one of the toughest crime bills to come out of the Congress in recent history sitting right there behind that marble facade at the desk. If we bring it up tomorrow and five Republicans change their vote to allow us to have cloture, that is the bill we will pass and send to the President tonight, and the President can have the tough crime bill he wants.

But what are they proposing? They are proposing this new bill. And they are going to show us something here. They are going to teach us a lesson, a political lesson. Let us assume their bill passed, Mr. President. It then has to go to the House of Representatives and debate it all over again. We have to go through the process of passing it there. Then it has to go to conference, Mr. President. Then we have to vote on it in conference. And then it comes back to the Senate, like this bill right before us. And then, if it has Brady in it because the House put Brady in—and they will—they will filibuster it again. They will not let us vote on it again. The gun lobby will win again.

What is this all about, Mr. President? It is all about a thing called habeas corpus. We say if someone is in jail, they basically get one chance to file a habeas corpus petition. They want to wipe out habeas corpus. We drastically change the way it is in the conference report that this body has passed, that body has passed, and is now before us again. They do not like that. They want to wipe it out. That is the crux of it—this and guns.

Mr. President, the way they talk about it, you would think habeas corpus was some person's name, a guy crouched in an alley hiding behind a garbage can ready to jump out and mug somebody. Habeas corpus means that whoever files a habeas corpus petition is already in jail, already behind bars, already arrested, already out of the public way, already in a position where they cannot harm the public. How is that going to affect crime in the streets?

In the meantime, while they dally over this, cops are being killed, police officers are in jeopardy, the Brady bill is not passed. The thing the police want as much as anything they have ever wanted for their own safety's sake, money to help local police officers, is stuck here because they will not let it pass. Money for new prisons is not going out. We are not building new prisons because they are holding up a bill, and 30 some States are under Federal court order, as they arrest somebody and put them in, to move another criminal out the door; there is not enough prison space. And they want a crime bill?

Let us assume for the sake of discussion, Mr. President, that they are right about habeas corpus. Is it not the fair thing to do, since they have included every other thing that I have here in my bill that is in the conference report, to pass what we have and fight over further changes in habeas corpus tomorrow, literally tomorrow? Pass this tonight and fight over habeas corpus tomorrow.

But who is tough on crime? Well, the record is clear. This administration has been abysmal on crime—white collar crime, violent crime, drug-related crime. Abysmal. It has the worst objective record of any President in the history of this country in terms of volume and has the audacity to talk about passing a crime bill. I wonder how, with straight face, people can come here to the floor and say, "We need a bill tough on crime. That conference report is procriminal."

If it is procriminal, why are the police agencies for it? Since when have police agencies come to us and said pass a bill, please, that anyone in their right mind, in good conscience can look at a constituent and say, "Well, you know those cops have turned procriminal. They want us to pass this legislation to help criminals because they are not occupied enough. I guess they want a bigger challenge." That is ludicrous.

Mr. President, I am prepared to vote on the conference report. Let us get a bill down to the President, put it on his desk, a bill, conference report that is before us.

Let me just read a few things that it has. It has the Brady bill, 5-day waiting period; death penalty for 53 crimes, for gun murders, for drive-by shootings, for rape and murder; $1 billion in aid for local and State law enforcement; tougher penalties for gun use during violent crime including the death penalty; provides aid to rural law enforcement, drug treatment, and prevention; boosts penalties for drunk driving when a child is present in the car while a drunk driver is driving; grants college scholarships to students who will commit 4 years of service as police officers; and provides in-service education opportunities; expands aid to victims of crime.

Let me stop there by the way. Kind of interesting. They include it and I have to make it clear. I do not want to say for certain I know what they have in the bill. But I am just reading from the Republican press release that has been put out. It says here as it relates to victims, it removes the existing cap on the crimes victim fund. I have tried to do that for 2 years. They oppose it. The reason why they do not have it in the conference report is the Republicans opposed it. Now they submit a bill that includes it. What is this game that we play?

The bill that is at the desk establishes background collection for day-care workers; and the death penalty for child-abuse murderers; establishes ten regional prisons to hold drug criminals; uses military bases for boot camp programs; increases the penalties and authorization for anticrime programs; provides $300 million to cities hardest hit by the drug crisis; permits good faith exception where there is a warrant issued and the police make a mistake in good faith; limits death row prisoners to one habeas corpus petition within 1 year.

That is what is at the desk right as we speak, I say to my friend from Hawaii. That could be passed tomorrow, except for a Republican filibuster, supported by the President of the United States of America, that filibuster. What do you think we are, silly here? Then they come forward and say, well, no, granted we do not like that bill now, but we do not want to filibuster crime. We want to help. And then they introduce a several hundred page bill that takes almost everything that is at the desk that they opposed before, they opposed 4 months ago, include it now in a Republican crime bill, eliminates the Brady bill, which both Houses have passed. But we are for being tough on crime and, they say with a straight face, we can pass this bill.

Look, the police agencies would like some of the things that are not in my bill or in the conference report. They prefer the Republican version of habeas corpus to the one that is in the bill. There are a few other things they prefer. But, Mr. President, we are talking about, to paraphrase the President on another matter when he went like this, he said the economy is getting better this much. That is all. It is getting better. I will not get off on that.

But, the difference between everything the police want and what is in the conference report is this much.

Mr. President, if this is about being given credit for who has what crime bill, I am prepared tomorrow, if we bring up the conference report, to call it the Thurmond-Dole Republican crime bill. I do not care what it is called. In the past, all the crime bills we passed have been Biden-Thurmond, Thurmond-Biden.

I do not care who gets credit, but I do care about one thing, Mr. President, about getting tough anticrime legislation. It is a crying shame that it sits there at that desk, literally beneath your feet, that this instant the majority leader could walk in, call up and we could vote in 5 minutes and it could be whistling its way—downtown is that way—downtown to land on the President's desk between his intellectual exchanges with Mr. Buchanan. And he could say I veto it, or I sign it and we would know where everybody stood.

But, Mr. President, I cannot stand silent. Again I apologize for speaking on this bill, but to hear people come to the floor and talk about an anticrime measure, tough anticrime measure, that contains a significant number of elements that they fought for just 4 months ago, contains provisions that the President said if they are in the bill that I put in, he would veto. And takes out one of the most hotly contested, strongly supported initiatives in the United States of America in the last several years—that is the Brady bill—rips it out, he reads it and then says—and it is all in the name of habeas corpus. He lives at 427 Washington Avenue, John Habeas Corpus. What are we talking about?

I apologize for my letting my frustration show, Mr. President. But I, as many Republicans as well, have worked very, very, very, very hard to produce a tough crime bill and we are at the summit, Mr. President. We are at the top of the mountain. It takes only five Republicans to say yes.

Let them vote on this, and we can vote up or down, Senate parlance, or we can have a vote and decide whether 51 Members of this body are for the tough crime bill that the police agencies support. And if they are, Mr. President, then there are no more hearings, there are no more House votes, there are no more Senate votes, there are no more press conferences, there is no more debate, there is no more discussion. It goes whistling downtown, and is placed on the desk of the President of the United States.

Then I want him to look at those police, and say I am vetoing this bill that would give you a billion dollars, that would increase the penalty for murder, for the death penalty for 53 crimes, that would turn around and build 700 million dollars' worth of prisons, that would in fact provide for a police court, that would in fact have some initiatives for antigang initiatives, that would in fact give some backbone to our anticrime effort. Veto it, Mr. President, if you will.

But once again, he is being protected by a loyal cadre of very disciplined, very bright, and very decent Republicans who are not even going to let us have this vote. They are not even going to let us vote on the crime bill.

So I hope if they bring up their crime bill, and I invite them to do that, we will then say all right, let us vote. Let us vote. Let us vote on that conference report that is before us. And we will see, Mr. President, who wants a crime bill.

In conclusion, Mr. President, it is a simple proposition. Since they have adopted almost everything I suggested to them a year ago, that they fought, there is only one really outstanding issue if they were willing to leave in the Brady bill, that is habeas corpus.

No one can deny that we have greatly proscribed the writ of habeas corpus. Let us pass this. If they want to proscribe it more, let us bring it up separately and do it.

But, for Lord's sake, do not deny the police in this country the protection of a 5-day waiting period for a handgun. Do not deny the police in this country $1 billion. Even if we do not appropriate all of that—we always have by the way—do not deny them the hundreds of millions of dollars in direct aid they need now for everything from Narco wear vests to antigang initiatives. Do not deny the cities, including this one, that are absolutely being buried in the debris that is the fallout of the drug epidemic in America. Do not do that.

Let us begin to fight crime. We can fight each other on enough things. We have enough things that we can provide for. If we can take up the time of the Senate—and I am not criticizing anyone for doing it, but I am making a point—and spend hours and hours on whether or not public broadcasting should have run a single program—a single program—I respectfully suggest, had Mr. Buchanan not run his ad, we might not be here debating this issue.

But I respect those who wish to debate it. If we can take up the time of the Nation to debate a single program and spend hours and hours on it, for Lord's sake, why can we not do something about the crime issue? We are that far, again to paraphrase the President, from equipping the police with more artillery and ammunition, figuratively speaking, to help us fight crime than we have at any time in recent history.

To paraphrase a character from a Shakespeare play, but for the want, not of a nail, but for the want of five Republican votes. But for the want of five Republican votes not to vote for this. Just five Republican votes to allow us to vote on the crime bill that has passed the Senate, that went to the House, passed the House, passed the conference, passed the conference report in the House, and is sitting there at the desk to be voted on. But for the want of five good people on the Republican side to allow us to vote.

I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I thank the Chair.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 2309 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EARTH IN THE BALANCE: ECOLOGY AND THE HUMAN SPIRIT

Mr. PRESSLER. Mr. President, I rise today to bring to the attention of our colleagues a recent New Republic review of Senator AL GORE's book, "Earth in the Balance: Ecology and the Human Spirit." I have read our distinguished colleague's book, and the review written by Roger Rosenblatt validates my own impression. The book is an impressive analysis of the relationship between man and nature. It is written by a man unequaled in all of Government for a personal understanding of Earth's ecological equilibrium.

Mr. President, as my chairman of the Science, Technology, and Space Subcommittee, I have worked closely with Al on a number of scientific and technical issues. On a number of topics, I often learn more from discussions with Al than listening to three panels of witnesses. As this review says, "the specific recommendations that he offers, his 'global Marshall Plan' are clear, sensible, and, for the most part, they seem to this nonscientist to lie within the world's reach."

I urge my colleagues to not only read this review, but to study closely the recommendations our colleague makes in this matchless book.

Mr. President, I ask unanimous consent to have this review printed in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

HEART AND SOIL

(Review by Roger Rosenblatt)

EARTH IN THE BALANCE: ECOLOGY AND THE HUMAN SPIRIT BY AL GORE

Senator Al Gore is a rare bird among politicians not only because he is interested in the survival of rare birds, but because he is concerned with the grimy particulars of process, unabashedly shows a religious streak, and is devoted to an issue that makes nightmares for campaign managers. The issue is "the environment," the mere sound of which inspires most voters to frenzies of nodding and yawning. Gore knows this from his experience as a presidential candidate in 1988; he was once derided by an opponent for sounding "as if I was running for national scientist." No matter. He has studied his subject. And the case he makes for environmental reform in this elegant book is persuasive.

I confess that I, too, usually wish for the threatened earth to open up and swallow me whenever someone starts in on the greenhouse effect or the ozone layer or chlorofluorocarbons. But Gore's book, which is politely addressed to dullards like myself, awakens converts, or at least it fills the indifferent with anxiety. The specific recommendations that he offers, his "global Marshall Plan," are clear, sensible, and, for the most part, they seem to this non-scientist to lie within the world's reach. Among his suggestions for achieving ecological balance are: tax incentives for technologies that improve the environment; building world training centers for environmental technicians; a redefining of gross national product to include the ecological costs of growth; and various regulations in such areas as automobile manufacture, to keep bad air from turning worse.

Gore's overall idea of linking environmental concerns to economic choice is both interesting in itself and goes counter to current American policy, which fairly ignores the environment as an economic matter. As he observes, "Anything that economists wish to forget about is called an externality and then banished from serious thought." What he urges is for us to begin placing the environment at the center of our economic planning. If businesses were taxed for the pollution they dumped into the atmosphere, there would be less pollution. Common sense; but he goes further. As things stand, says Gore, "we tax work and we subsidize the depletion of natural resources." What, he asks, if we lowered the tax on work and raised it for the polluters? That would not only help our natural resources, it would also affect our rising unemployment. Tax revenues would remain the same, more people would be working, and the country would be cleaner and safer.

Occasionally, though, Gore steps toward the deep end: one of his proposals is to have teachers and schoolchildren in different countries monitor the Earth on a daily basis to measure water and air pollution. given the state of American education, however, most teachers would be delighted simply to monitor their own classrooms. Still, the unusual strength of Gore's book lies in the kind of thinking that it exemplifies.

Such thinking is not merely senatorial. Gore's mind stretches far beyond matters of policy, which is appropriate to the subject: it is hard to reflect for long on the future of the planet without coming to reflect on ultimate questions. And so Gore states plainly that for people to appreciate fully the dangers of the environmental situation, they need finally to establish a spiritual state of mind. The spiritual, of course, is slippery ground for politicians. Usually those who say "spiritual" are selling bigotry, or themselves, or both. It is refreshing, for this reason, to hear a politician broach these matters in a mood of sympathy, tolerance, and intellectual curiosity.

In his introduction, Gore writes:

"I have . . . come to believe that the world's ecological balance depends on more than just our ability to restore a balance between civilization's ravenous appetite for resources and the fragile equilibrium of the Earth's environment; it depends on more, even, than our ability to restore a balance between ourselves as individuals and the civilization we aspire to create and sustain. In the end, we must restore a balance within ourselves between who we are and what we are doing." And in the book's riskiest chapter, called "Environmentalism of the Spirit," he puts the matter more boldly still:

"We routinely choose to indulge our own generation at the expense of all who will follow. We enshrine the self as the unit of ethical account, separate and distinct not just from the natural world but even from a sense of obligation to others—not just others in future generations, but increasingly even to others in the same generation; and not just those in distant lands, but increasingly even in our own communities. We do this not because we don't care but because we don't really live in our lives."

What Gore means by saying that we do not live in our own lives is, I believe, that we have lost a sense of privacy. He relates such a sense to the needs, the perils, and the beauties of the natural world; but the ideal of lost privacy suggests a more general complaint about modern life as a whole. To live one's own life is to go counter to the conspicuous introspection that passes for genuine feeling nowadays. It is the antithesis of encounter groups and grievance groups and men sitting in circles baying like hounds. It is to live really inwardly, that is, in the troubled, unsure, ambiguous quiet places.

Unconnected to ourselves, says Gore, we have lost our connection with the natural world. I remember a couple of years ago French farmers staged a protest demonstration by laying out slabs of wheat fields in the middle of the Champs-Elysées. The effect on the city was immediate and astonishing: citizens, including policemen who were there to keep fights from breaking out, began romping in the sudden fields, as if they had never been touched by the countryside before. Gore appeals to this buried affection for nature. There is, I have to admit, a New Age quality to his book, and there are passages at which I slightly cringed; but most of his thinking does not melt into air. Quite the contrary, it is grounded in something solid, if invisible.

He certainly goes all out: this is not a book by a politician who worries about a paper trail. Most of those who write on the environment tend to stay clear of mentioning God or formal religion, probably because they consider environmentalism a kind of religion in itself. Gore does not. He writes about God's designs and dominion over the natural world from the viewpoint of a traditional believer; and his quotations from the Bible leave one with the impression that he is devoted to it outside the purposes of research for his book. When he says that the land and the seas are sacred, he means sacred. Whether or not you like his term "spiritual triangulation" (I don't), the idea of recognizing and celebrating an alliance among God, human beings, and nature has a nice, old-fashioned daring.

This impressive book is not the work of somebody who is running for something. As I say, in the matter of the environment, and in higher matters as well, Gore is a believer. And *Earth in the Balance* is a plea for moral responsibility made by someone who understands both words in his bones. Good bones.

Mr. PRESSLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

Mr. INOUYE. Mr. President, in the presentation of his remarks by the distinguished Senator from North Carolina [Mr. Helms] he referred to an editorial in the Wall Street Journal.

I ask unanimous consent that a response by Mr. Ken Burns to that editorial dated February 13, 1992, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Florentine Films,
Walpole, NH, February 13, 1992.

Ned Crabb,
The Wall Street Journal,
New York, NY.

To the Editor: I would like to respond to the terribly misguided and myopic editorial about public television that ran in Friday's Wall Street Journal. The fact that your editorial complimented my work in the service of your lame arguments only makes this response imperative.

The editorial took aim at a series of shows funded by a new branch of PBS, the Independent Television Service. As an independent producer myself, I was delighted to learn about the funding made available by ITVS. Finally an institution has been created to foster the kind of challenging programming that independent filmmakers typically want to produce and often lack the means of doing so.

The initial roster of shows funded by ITVS seems promising, and cut across the political spectrum (if indeed, political bent is the primary means of judging a program, which I do not believe.) ITVS has funded an animated film for children based on Carl Sandburg's poem "Arithmetic," a documentary on elderly couples who have been together 50 years or more, and many other fascinating subjects. Hardly radical stuff. Indeed, your editorial completely failed to mention PBS's regular "conservative" programs, in many ways the back bone of the system, Firing Line, the McLaughlin Group, Wall Street Week, etc. etc.

What emerges from the editorial, however, is a sense that all public programming should fall under a narrow, safe definition of mainstream values, eschewing all investigation, controversy, opposing points of view. It seems to suggest that there is only one history, a history of the State that cannot even conceive of, let alone allow to democratically co-exist, alternative perspectives, points of view, and healthy disagreement. It seems clear that you would finally prefer no oppostion—a sentiment shared only by the many world-wide dictatorships we have all—The Wall Street Journal and PBS alike—struggled to eliminate. I cannot conceive how a dominant, confident mainstream, as you almost hysterically seem to suggest you represent, could in any way be threatened by an exposure to differing viewpoints in the marketplace of ideas. Perhaps you are not so confident, emperors beginning to sense a lack of clothes. The old argument that Government shouldn't fund this is ridiculous; the welfare state that so enriches your subscribers (and does such a lousy job with those who need welfare) enriches our intellectual landscape with the vigorous thinking all of these new programs, good and bad, generate.

I also detect a typical air of patronizing contempt for the very audience you sanctimoniously attempt to shield. The American public is not as gullible or taken in as you think. At its best, public television is a unique democratic institution. PBS offers a vital meeting place for Americans to see creative, thoughtful shows that are not dependent on the whims of advertisers or programmers concerned only with the bottom line. For almost twenty years, I have made films that I believe needed to be made, and I alone have controlled their content. I have chosen to work independently and solely within public television because I know that regardless of their form or content, my shows would have a home on a public television service that was tolerant, open-minded and unfettered. We should welcome the kind of shows that a funding source like ITVS can help make possible, and celebrate the kind of diversity that is only possible on public television.

Public television is too important a part of our national life to subject it to this kind of partisan and destructive posturing.

Sincerely,

Ken Burns.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. Kohl). Without objection, it is so ordered.

The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, the matter before us, of course, is the motion to proceed to the public broadcast bill. I would like to address that matter. I rise today to outline some very serious concerns that I have about the bill before us.

I do not need to remind my colleagues of the debt that faces our Nation at this time. That debt is rapidly approaching the $4 trillion figure. Nor do I need to remind my colleagues that we managed to pile $320 billion into our debt load last year for our children and our children's children to pay off.

There may be some type of irony here. There has been so much discussion on the floor regarding Big Bird. "Sesame Street" was so much a part of my family. My children grew up with it, and I have no problem whatsoever with the educational value of that program. Nor do I have any problem with many of the educational programs which were provided on public broadcast as well, specifically channel 11 in my home State of New Hampshire.

But I also must point out, Mr. President, that this debt is dampening our economic recovery. It is described by Federal Reserve Chairman Alan Greenspan as the most anemic he has ever seen. In other words, there is no recovery, and a large reason for that, a big reason for that, is the fact that we are piling more debt on and on. And ironically, those same children who were somewhat placated by watching Big Bird on television perhaps need to be placated, because if they realized or comprehended what this generation is doing to them with the debt that we are piling on them, they would be very angry and may in fact rise up and turn the television off.

And yet, we now find ourselves contemplating a bill that would give the Corporation for Public Broadcasting $1.1 billion over fiscal years 1994 through 1996; $1.1 billion, Mr. President. This represents a 50-percent increase in funding over the last 3 years. Has anybody else in America got a 50-percent increase in anything, especially income? Let us be honest. When so many vital programs are strapped for cash, when our Nation finds itself without the funds to address urgent needs, such as health care and our eroding educational system, it is really time to shovel millions of dollars in additional funding into television and radio programming?

I hear people in the educational area, of which I am a product—I am a former teacher, former school board member—I hear people tell them there is too much television; kids watch too much television. It seems to me to be the antithesis of what we want. I think most Americans would say no, we should not spend that much money.

Public television and radio is certainly responsible for many valuable programs. I have already talked about Sesame Street. My kids grew up watching it, as I said. PBS has made possible such popular programs as "Masterpiece Theater" and "Mystery," and they have also produced some very compelling documentaries, such as New Hampshire's Ken Burns' "Civil War" series.

But the success of these programs attests to the strength of our public broadcasting, which is why I must ask: Why does the Corporation for Public Broadcasting need a funding increase of 50 percent? Why?

Our seniors this year got a raise of 3.7 percent, Mr. President, over what they received last year. Some are trying to pay their rent and to provide food on the table with that bare subsistence of income from Social Security. But we are willing to give PBS and Bill Moyers a 50-percent increase.

We give our veterans a 3.7-percent increase, people who fought and were injured in our country's wars—3.7 percent over what they got last year—while we ask the taxpayers to boost public broadcasting by 50 percent. Is that right? Is this fair? Is it necessary? I think my constituents and I think the constituents of many of my colleagues would say no, it is not.

What does the Corporation for Public Broadcasting do with this money? Let me indicate a few examples. And I realize that these are only examples, and that every public broadcast station does not do this, and I understand that. And I want that to be understood by my colleagues and by anybody who may be watching, what I mean by that, and that the fact is that that is the case.

Congress has funded PBS and National Public Radio with millions of dollars which have been used to air programs condemning the United States, extolling Cuba, promoting the Black Panthers, and glorifying homosexuality.

Do the taxpayers of America, the seniors, the veterans, the people who got that bare 3-percent COLA last year, do you want your tax dollars spent for that? I do not mind tax dollars being spent for Big Bird and Sesame Street, and some of the fine programs that I just discussed, and they are commendable and admirable, but not those kinds.

Let me give you some examples. Balance is very important in public broadcasting. Since it is taxpayers dollars, there ought to be balance in programming, and I do not think we always have that.

On March 18, 1986, just days before a House vote on Contra aid, a controversial subject, a PBS Federal Frontline series aired a story called "Who's Running the War?" It portrayed the Contras as brutal killers of innocent civilians, including closeups of alleged atrocities. Not the other side; no balance. The other side was not shown, Mr. President.

In July 1991, right before a Senate vote on grazing fees, PBS aired a documentary produced by the Audubon Society, which claimed cattle grazing was destroying the open fields of the West. Maybe that is true; maybe it is not true. I do not support some of those grazing fees. That is my particular position. But why not show both sides, if it is being paid for by the taxpayers?

On April 16, 1991, PBS's Frontline aired "Election Held Hostage," which was the name of the story regarding the alleged October Surprise. The program was allegedly based on information from House Democrat staffers, which relied on discredited sources like Richard Brenneke. No balance; the other side was not shown.

In 1990, PBS aired "After the Warming," which was presented as a scientific program about the greenhouse effect. Science fiction might be more accurate. The program said half of Florida would be submerged in water, and 20 million people would die of starvation and floods. PBS refused to carry "The Greenhouse Conspiracy," which presented the other side of the issue. Perhaps somewhere in the middle is the truth of both of those. But why not show the other one? What are we afraid of? Why are we afraid to show the balance here?

In 1986, a documentary aired called "Cuba, in the Shadow of Doubt," of which the New York Times said, "At its best, the documentary has a romantic infatuation with Cuba; at its worst, it is calculated propaganda." That is the New York Times saying that.

In 1989, a PBS station aired "Days of Rage"—that was the name of it—extolling the virtues of the Palestinean intifada. An official of another PBS station called it propaganda and refused to carry it. Again, why do we show one side and not the other?

One more. A series of pro-Sandinista programs called: "Nicaragua: Report From the Front," from which a New York Times reviewer concluded: "Sandinistas are good; their opponents are bad. There is no middle ground." Again no balance; that was the side shown.

Mr. President, there exists a consistent pattern here of offering only one side. I do not have a problem with the programs. I do not have a problem with any of those programs, providing there is a balance. If the taxpayers are going to be expected to fund these programs, they should get their money's worth and they should get balance, and they are not getting either.

Furthermore, it is questionable whether public broadcasting needs this money at all. I know that is controversial, and I will get some letters from home on that one. But public television in particular has become big business, successfully soliciting corporate sponsorships and selling advertising.

The Children's Television Workshop alone takes in $100 million a year in licensing fees and magazine sales. Seventy major public television stations now advertise for such companies as Kraft Foods and Mercedes-Benz, and others. While public broadcasting becomes less and less public, I might ask you, Does it really need $1 billion in public funds? I do not think so.

Mr. President, national spending is spiraling out of control. The Corporation for Public Broadcasting consistently ignores a congressional mandate for balance and fairness. Public broadcasting has been transformed into big business. And given these factors, I do not believe the taxpayers can afford this bill.

Thank you, Mr. President.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii.

Mr. INOUYE. Mr. President, if I may just spend a few moments responding to my friend from New Hampshire? My friend brings up a very valid charge, if it were correct. I, too, favor balanced presentation of controversial subject matter. In fact, in 1987, the Congress of the United States, the U.S. Senate and the House of Representatives, passed a measure which we called the fairness bill. And that measure would have required the broadcaster, the one who holds the license to broadcast, to give every opportunity to persons with conflicting views to present themselves on controversial matters. In fact, these are the words that appeared in the bill:

> A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

That would have been a requirement to receive a license. However, the President of the United States, President Reagan, vetoed that measure. And a few months later, the Federal Communications Commission, which at that time had a rule requiring the fairness doctrine, decided to repeal that rule. So, today we do not have a fairness requirement in our laws. And, so, in January of 1991, the chairman of the Commerce Committee, together with senior members, Democrat and Republican, introduced S. 217, a measure that would carry out the intent of the fairness doctrine. The same wording:

> Broadcast licensees shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

But we have been, once again, advised that President Bush would veto this measure if this measure should pass.

So, those who are concerned about one-sided presentation of controversial matters should seriously look at S. 217, should call upon the President of the United States and suggest to him that the time has come for the incorporation of the fairness doctrine into our laws. Then you will have two-sided presentation; not just pro-Israel, but anti-Israel; not just pro-Palestine, but anti-Palestine; not just pro-environment, but anti-environment—if that is the case.

So it is easy to criticize. But here we have an opportunity to pass this measure. The committee is ready to proceed with this. But as long as the threat of a veto hovers over us, we cannot get too far with it.

Mr. President, I hope my friend from New Hampshire will consider cosponsoring S. 217. That would cure the problem that he speaks of.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

THE CRIME BILL

Mr. SIMPSON. Mr. President, I will not be speaking on the measure before us, but I did want to respond to some of the comments of my good friend from

Delaware, Senator BIDEN, if I could just briefly, some of the points made by our fine chairman of the Judiciary Committee. I very much say that; he is a good chairman. He has been very fair with the minority, and he tries in an extremely diligent way to care for our needs on the committee.

Today, too, he shows his loyalty to a bill—loyalty to a fault, I might admit here in this instance—presented as a conference committee compromise. but there are just a few points our distinguished chairman seems to have missed, and I think they are points that need to be brought clearly to the Senate.

We do not need to be distracted—diverted—by the money arguments. It is true, there is a whole bale of money in the bill "behind the marble facade," as the quote was made.

It is interesting that the chairman used that phrase: "marble facade." That, Mr. President, is what the conference proposal is—it is a facade. A procriminal rights bill hidden behind a huge pile of money—facade.

That is the problem.

I will not talk about all the differences. I do not believe any police agency is for is for that measure we came up with. This is why the groups will not vote for it, or not support it. The combined effect of three provisions in particular will not only enrage the public, but can put the lives of every officer on the line in even greater jeopardy. Here is how that would happen:

The habeas corpus rules are broadened. I can assure you that is true. Yes, I am well aware that these murderers and other violent criminals are in jail today. I hear that. I understand that. I practiced law for 18 years. The habeas provisions in this bill will make it even easier for capital convicts to avoid the death penalty for even longer periods. I am talking about the compromise bill. They will, thus, stay in jail to work their magic on the next two provisions of the compromise, or the conference agreement.

The exclusionary rule is being changed. There is not any question about that. This section of the conference proposal further weakens the ability to present evidence of wrongdoing.

Then the compromise bill does something that neither body approved of, and this is what conference committees on the crime bill usually do. The committee proposal overrules the harmless error rules that have been applied by the Supreme Court over a number of years.

I do not intend to take all the time on the floor to discuss and argue the intricacies and nuances of each of these provisions. I will trust my colleagues to ask independent, objective counsel to confirm what I am about to tell you would be the result if the committee proposal were by some weird chance—and it would have to be a weird chance—if it were to become law.

Convicted criminals will be able to use the expanded habeas review process to argue for reversals of sentences and, under the harmless error changes, to argue for new trials. The end result of that will be that some of those convicted criminals—murderers and those types—will end up with new trials, many years after the fact and, in all likelihood, plea bargain down to some lesser offense. The end result: It is very possible that some could even be back on the streets.

That may not be a likely result in many, or even most, of those cases. To be absolutely certain, we would have to be able to predict the future, and I think the entire Congress has dropped out of that particular role.

But, Mr. President, we can all pause to think about the combined effect of the changes in the committee proposal that the distinguished chairman of the Judiciary Committee so ably defends. Who among us wants to even take the risk that a murderer can be back on the streets? And money is not the answer.

It was a curious thing. It has been for me, as a member of the Judiciary Committee, to serve on two conference committees—many conference committees because of the Judiciary Committee membership. But the last two that have had to do with the crime bill have truly been almost of a dream world quality. The last one—and I am not suggesting or naming the chairman; I am not speaking in that sense; I am just speaking in ephemeral and extraordinary recollections—the last time we met, it was at halftime of the Dallas Cowboys-Washington Redskins game. We were told we must meet for a conference committee. It was a Sunday.

I said, "Is it really that vital?" I happened to be at the contest.

They said, "Yes, it is critical, and we are going to start."

So we all showed up. The sole purpose was for those on the other side of the aisle to prove that the President of the United States would not beat their brains in about failing to do something with a crime bill. The sole purpose, I think, then on the other side of the aisle was to prove that bill indeed had been a crime bill that had come from them and the poor Republicans were stumbling in the wilderness and unable to come up with anything.

So we went through a real ritual on that Sunday, which was done in good humor because it was so funny and so absurd. Because they just passed stuff. They took the worst of both bills and just kind of dumped it into a big pot and dragged the laundry through and said: That is the conference committee report.

That was not in the Senate version. We were given our usual way of expressing ourselves, and we did. But the House, it was absolutely a travesty. The conference committee has always been loaded with people who could not want a crime bill unless it is absolutely just toothless.

We have the ultimate toothless conference report. That does not serve America. And remember, the Chairman was speaking, if I recall, of the issue of a super majority and how that could be. If you will recall, the RECORD will disclose that on the cloture vote last year, only 49 Senators—not even a majority—voted to invoke cloture. It was that bad a bill. It could not even get close to 60. Everybody just kind of held on tight, put the clothespin over our nose, stepped down there and, it was that bad, we stepped away from it. And we should step away from it again because it is completely unworkable and would not do what we say it would do.

This bill that Senator THURMOND presents is the Republican bill, which is based upon a lot of work over the years—10 years. It is based on a lot of hearings. It is based on something that will work. It is based on something that the people would want. It has no bend, or no willingness to accept any of the absurd conference committee activities where we saw the worst of both worlds come into one bill. There is no reference in Senator THURMOND'S bill about gun control. That will come up in the individual amendment process.

We have all seen now how gun control works in the District of Columbia. They always, out here, kind of give you the saliva test. They say, now you are from Wyoming, I suppose you are not in favor of gun control. I say that is very correct. Out in our part of the world gun control is how steady you hold your rifle. So I have never been in favor of that.

Then they kind of give you a little paternalistic kicking, telling you to shape up and join the world and get sensible. And I do not in any way intend to cast aspersions on the most remarkable person who carries this issue, and that is Sarah Brady. Would that all Americans would listen to her. She is perfectly ready to speak to them and Jim Brady often accompanies her.

I was sad to see the other day that she was hooted from the stage. It was not in my State. Surely there is little place in America for that kind of activity when someone is talking about an issue as important, whichever side you are on, of gun control. Certainly that was a sad thing and she handled it with her usual grace and good humor. But that is certainly a disgusting procedure. Whoever was responsible for it should go back and read the Constitution and things about free speech and discussion of that type.

There is so much of that now. If somebody does not agree with you, they hoot you down. That is not America. I had a little hooting today myself.

I was speaking to a veterans group and told them I thought they made a grave mistake with regard to trying to and effectively killing off the rural health care initiative, trying to get Ed Derwinski, the Secretary of Veterans Affairs, fired. This is the VFW.

I happen to be a lifetime member of the VFW. I am very proud to be a member of the VFW. But I must say I am very troubled when I see that their entire activities, when they make their presentation to the Congress, is to tell their Members how bad Congress is and how we do nothing for them and this Government does nothing for them. I can tell you that offends me as a veteran, and it should offend many of us.

At one point in my remarks, there was hooting, a huzzahing I believe we used to call that, and the good chairman of the joint hearing, SONNY MONTGOMERY, a most unique and marvelous man, pulled that quickly back into perspective. I said hoot all you want, I am not through here yet.

If more people would do that, I think we would realize the purpose of great public discourse is to let the other side show up and then put in your two bits' worth and then repudiate theirs or let them repudiate you and let it stand in the arena of ideas and speech.

So, in the Senator's bill, we did not get into the issue of gun control. As I say, the toughest gun laws in the United States of America are right here in the District of Columbia, and they blow people away in batches every week. So obviously that is not a very sensible procedure. We will get into that. We need to do that debate, but it is also one that just polarizes issues, like most of the issues in America today.

So I simply say that this bill of Senator THURMOND'S is about criminal rights or criminal law reform, reform under the Thurmond proposal introduced today. I urge my colleagues not to be misled by the facade of money that hides the real impact of the committee proposal. We have much to do. I think we can do it.

Senator BIDEN I have watched come right into the opposing camp as we were gathered by the fires in the evening damp and say, here I am, what is it we can do to get a bill. That takes courage in the legislative process and I have seen him do that. So let us be about getting a crime bill that works instead of some pathetic thing, especially in an election year, which is just simply for the purpose of getting the heat off. These are the things that create the anxiety in the people of the United States about what we do.

So I ask that we turn our attention to that and get ourselves busy on a crime bill. Let the House come up with another one because, remember now, the last conference committee representing the House twice has repudiated the majority position of the House in certain instances.

I know that sounds hard to believe when a Democrat conference committee is overturning a majority vote of the Democrats in the House, but that has happened on several occasions. And, of course, that is not legislating, that is not democracy. I would say it if it were a Republican conference committee repudiating the majority Republican position in a legislative body.

So that is how bad it is and that is why we have to be about our work. And I will certainly pledge my part in that. I thank the Chair.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, this Senator hopes and believes that by tomorrow we will have agreed to this motion to proceed to S. 1504 and will be engaged in a debate on the substance of that bill.

In preparation for that debate, however, I have a few remarks on the bill itself which I would like to present to the Senate.

Perhaps the most significant is that 85 percent of all public broadcasting revenues comes from non-Federal sources, not from the Corporation for Public Broadcasting, 53 percent, more than half, from private donations and 30 percent from State and local government. These facts show the very strong and broad support for what public broadcasting provides to the people of the United States both through television and through public radio stations.

The bulk of the funding for the Corporation for Public Broadcasting goes toward community service grants which are used by television and radio stations to produce and acquire programming, to finance new production equipment and facilities, to watch community outreach services in connection with public service broadcasting, and to pay for satellite interconnection services.

The Corporation for Public Broadcasting is something of an umbrella organization. It differs from the Public Broadcasting Service, and National Public Radio, both of which are owned by member stations.

CPB helped, however, to establish both of those organizations. CPB provides grants to qualified public television and radio stations and also funds some program production. PBS buys programs and distributes them to public television stations, while NPR does the same thing with respect to public radio stations.

Perhaps the best way I can illustrate this, Mr. President, is to use the examples with which this Senator is most familiar, those which exist in the State of Washington. For example, if this bill is funded at the full $375 million, a little bit more than 1 percent of that, just under $4.5 million, will go to the State of Washington in community service grants for public television stations in Pullman, Seattle, Spokane, Tacoma, and Yakima. An additional more modest amount will go to public radio stations in those and other cities throughout the State of Washington.

Let us get very specific in this connection. What kind of services arise as a result of this kind of assistance?

"The Unquiet Death of Eli Creekmore," a KCTS–Seattle production aired nationally on PBS, won a national Emmy award. This was a documentary about child abuse, and it had a profound impact on the laws of Washington State, and I think elsewhere, together with its impact on agencies responsible for protecting children from abuse.

KCTS also participates in a partnership program with a neighboring school in its own area. The cornerstone of the relationship is a tutoring-mentoring project that has KCTS staffers working with students one-on-one once a week. The KCTS staff serves 123 school districts in Washington and British Columbia benefiting more than 360,000 students. It offers 32 weeks of instructional television each year during school hours for a total of 110 services with 1,000 individual programs.

KYVE in Yakima produces "Apple Bowl," a quiz series now in its 12th season, that brings together teams from 24 area high schools for academic competitions.

Community service grants are also used for radio stations like KSER–FM in Lynnwood, WA. It is a small station that provides public affairs programming, music, literature, drama, and 4½ hours a week of children's programming.

As my friends at KSPS in Spokane point out, millions of young people got their head start in school because of Big Bird and Ernie on "Sesame Street." This does not touch on the actual in-school programming public television provides thousands of schools across the country. Educational programming continues for adults who receive college credit for telecourses.

Mr. President, none of these programs has been controversial.

I have listened during the course of the afternoon to some of those who object to the balance of the many advocacy programs on PBS. They are not by and large criticizing the type of services which I have described to this point in my remarks, services which are helped by, I want to emphasize again, funding through the Corporation for Public Broadcasting which totals about 15 percent of the revenues received for public radio and public television stations across country. Yet it is an important 15 percent. It is a significant amount of money even in this Congress, and it is a question with which we should have serious concerns.

Mr. President, I share some of the concerns which have been expressed by critics here in the course of debate this afternoon. I believe the Corporation for Public Broadcasting and many of the station themselves can and should consider better balance in the type of advocacy programs they present.

I am not objecting, and I do not believe that a majority of Members of this body are objecting even, to some of the more radical presentations of views which are out of the mainstream. But the Corporation for Public Broadcasting should see to it that ideas out of the mainstream on the other side of the political spectrum, or within the mainstream, conservative as well as liberal, are also given a fair presentation through the corporation itself and by member stations.

The debate we will have tomorrow on these issues is a serious one. It is one about which Members will speak quite passionately. In my opinion that is a tribute to public broadcasting. It remains that public broadcasting really counts, that people do listen to it, and that they are influenced by it.

As a force for good, as an educational tool in this country, it has been absolutely first rate. It certainly serves literally millions of people in the United States.

But it is just because it has such an effect it is very important it be equally fair. If we can, during the course of the debate, without making major changes necessary to what is an important bill, cause that concern to be felt and heeded between the time of this debate and the next time a reauthorization bill comes before it, we will have provided a very real service to the people of the United States.

It is important that all concerns and all sides be heard not only in this debate but through the programs financed by the Corporation for Public Broadcasting as well.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I rise to support S. 1504, the reauthorization bill for the Corporation for Public Broadcasting. As a member of the Senate Commerce Committee which reported this bill, I urge my colleagues to support it.

I am proud of the extensive public broadcasting network we have in Nebraska. Nebraska was the first State to purchase a dedicated multichannel satellite transponder for statewide educational use involving all sectors of education. The Nebraska ETV Network has established crucial links to the public school and university system. It has also become highly regarded for producing programming for national distribution.

The Nebraska ETV and Radio Network is the single largest statewide resource for the presentation of education, culture, and the arts. The size of the audience in Nebraska for arts performance programming alone is equivalent to filling Nebraska's Big Red football stadium each and every week for the entire year. None of this would have been possible without the Federal Government effort. These services provided to the people of my State and our Nation depend on the continued support from Congress.

It is hard to imagine education in Nebraska without Nebraska Educational TV. It plays a critical role in bringing courses in subjects like the Japanese language, the humanities, and agriculture, as well as other services, to both young and old students in all areas of the State. Many of our rural schools would not be able to afford the kind of instruction they receive for their students without the Nebraska Educational TV Network.

However, the potential for educational TV has not yet been fully realized. More can be done and this bill will move our Nation toward reaching educational television's potential for our Nation's students.

Mr. President, I urge prompt support of my colleagues' passage of this bill.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELATIVE TO THE DEATH OF SAMUEL ICHIYE HAYAKAWA, FORMER SENATOR FROM THE STATE OF CALIFORNIA

Mr. SIMPSON. Mr. President, on behalf of Senator SEYMOUR and Senator CRANSTON, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 262, expressing our sorrow with respect to the death of our former colleague, S.I. "Sam" Hayakawa.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 262) to express the sorrow of the Senate upon the death of Samuel Ichiye Hayakawa, former Senator from the State of California.

Whereas, Senator Hayakawa had a long and distinguished career, coming to the United States in 1927, and earning a Ph.D. in English and American literature from the University of Wisconsin and joining the San Francisco State faculty in 1955; and

Whereas, he was promoted to permanent president of San Francisco State by Governor Ronald Reagan, and later served in the United States Senate from 1977–83; and

Whereas, he wrote nine textbooks on language and semantics including his acclaimed "Language in Thought and Action" in addition to numerous academic papers and articles on semantics, jazz history and mental retardation: Now, therefore, be it

Resolved, That the Senate has heard with deep sorrow and profound regret of the death of Senator Hayakawa and extends its expression of sympathy to his wife, Margedant, and his two sons and daughter.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 262) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 262

Whereas, Senator Hayakawa had a long and distinguished career, coming to the United States in 1927, and earning a Ph.D. in English and American literature from the University of Wisconsin and joining the San Francisco State faculty in 1955; and

Whereas, he was promoted to permanent president of San Francisco State by Governor Ronald Reagan, and later served in the United States Senate from 1977–83; and

Whereas, he wrote nine textbooks on language and semantics including his acclaimed "Language in Thought and Action" in addition to numerous academic papers and articles on semantics, jazz history and mental retardation; Now, therefore, be it

Resolved, That the Senate has heard with deep sorrow and profound regret of the death of Senator Hayakawa and extends its expression of sympathy to his wife, Margedant, and his two sons and daughter.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELATIVE TO PROTECTION OF CERTAIN HAITIANS IN THE CUSTODY OF THE UNITED STATES

Mr. INOUYE. Mr. President, I understand that the Senate has received from the House H.R. 3844, an act to ensure the protection of certain Haitians in the custody of the United States. On behalf of Senator KENNEDY, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The bill will be read for the first time.

The bill was read for the first time.

Mr. INOUYE. I now ask for a second reading.

Mr. SIMPSON. Mr. President, I object to that request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read on the next legislative day.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 517 through and including 528, and all nominations placed on the Secretary's desk in the Air Force, Army, Navy, and Marine Corps.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. I further ask unanimous consent that the Senate proceed to their immediate consideration, that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that motions to reconsider be laid upon the table en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed en bloc, are as follows:

IN THE AIR FORCE

The following officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of section 624, title 10 of the United States Code:

To be brigadier general

Col. Rudolf F. Peksens, [redacted] Regular Air Force.

The following officer for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, title 10, United States Code:

To be brigadier general

Col. Glen W. Van Dyke, [redacted] Air National Guard of the United States.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Thomas S. Moorman [redacted] U.S. Air Force.

IN THE ARMY

The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 611(a) and 624:

To be brigadier general

Col. Richard A. Chilcoat, [redacted] U.S. Army.

Col. Edward L. Andrews, [redacted] U.S. Army.

Col. Thomas E. Swain, [redacted] U.S. Army.

Col. John A. Van Alstyne, [redacted] U.S. Army.

Col. Arthur T. Dean, [redacted] U.S. Army.

Col. Robert L. Herndon, [redacted] U.S. Army.

Col. Robert S. Coffey, [redacted] U.S. Army.

Col. Ralph V. Locurcio, [redacted] U.S. Army.

Col. Daniel M. Kelleher, [redacted] U.S. Army.

Col. David K. Heebner, [redacted] U.S. Army.

Col. Howard J. von Kaenel, [redacted] U.S. Army.

Col. Morris J. Boyd, [redacted] U.S. Army.

Col. Robert R. Hicks, Jr., [redacted] U.S. Army.

Col. John P. Rose, [redacted] U.S. Army.

Col. Larry R. Ellis, [redacted] U.S. Army.

Col. Donald B. Smith, [redacted] U.S. Army.

Col. Lawson W. Magruder III, [redacted] U.S. Army.

Col. Stewart W. Wallace, [redacted] U.S. Army.

Col. Russell L. Fuhrman, [redacted] U.S. Army.

Col. David H. Hicks, [redacted] U.S. Army.

Col. Montgomery C. Meigs, [redacted] U.S. Army.

Col. Charles G. Sutten, Jr. [redacted] U.S. Army.

Col. James W. Boddie, Jr., [redacted] U.S. Army.

Col. James M. Wright, [redacted] U.S. Army.

Col. Billy K. Solomon, [redacted] U.S. Army.

Col. Paul J. Kern, [redacted] U.S. Army.

Col. Gerard P. Brohm, [redacted] U.S. Army.

Col. Charles C. Cannon, Jr. [redacted] U.S. Army.

Col. Henry S. Miller, Jr., [redacted] U.S. Army.

Col. Roger G. Thompson, Jr. [redacted] U.S. Army.

Col. James M. Link [redacted] U.S. Army.

Col. Randolph W. House, [redacted] U.S. Army.

Col. John Costello, [redacted] U.S. Army.

Col. Charles W. Thomas, [redacted] U.S. Army.

Col. Johnny M. Riggs, [redacted] U.S. Army.

Col. Peter J. Schoomaker [redacted] U.S. Army.

Col. Jack P. Nix, Jr [redacted] U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code. 1370:

To be lieutenant general

Lt. Gen. William H. Reno, [redacted] U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Thomas P. Carney [redacted] U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United Sates Code, section 601(a):

To be lieutenant general

Maj. Gen. Alfred J. Mallette [redacted] U.S. Army.

The U.S. Army National Guard officers named herein for appointment in the Reserve of the Army of the United States in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Allen E. Chandler, [redacted]

Brig. Gen. Daniel J. Hernandez, [redacted]

Brig. Gen. Charles H. Perenick, [redacted]

Brig. Gen. James F. Rueger, [redacted]

Brig. Gen. Nathaniel James, [redacted]

Brig. Gen. Larry E. Lee, [redacted]

To be brigadier general

Col. Robert J. Brandt, [redacted]

Col. James D. Davis, [redacted]

Col. Edward H. Gerhardt, [redacted]

Col. Tony G. Idol, [redacted]

Col. John F. Kane, [redacted]

Col. Allen F. McGilbra, [redacted]

Col. Felix E. Ocasio-Belen, [redacted]

Col. Bruce W. Vander Kolk, [redacted]

Col. James E. Walker, [redacted]

Col. Bernard M. Watson, [redacted]

Col. Jerry R. Wyatt, [redacted]

Col. Eugene S. Imai, [redacted]

Col. Noah D. Daniel, [redacted]

Col. Ernest T. Edwards, [redacted]

Col. Jerry W. Fields, [redacted]

Col. Edwards L. Goett, [redacted]

Col. Harold M. Goldstein, [redacted]

Col. Roger H. Greenwood, [redacted]

Col. Gary R. Truex, [redacted]

Col. Ronald P. Woodson, [redacted]

IN THE MARINE CORPS

The following-named brigadier generals of the U.S. Marine Corps for promotion to the permanent grade of major general, under the provisions of title 10, United States Code, section 624:

Brig. Gen. Jefferson D. Howell, Jr., [redacted] U.S. Marine Corps.

Brig. Gen. James A. Brabham, Jr., [redacted] U.S. Marine Corps.

Brig. Gen. Michael J. Byron [redacted] U.S. Marine Corps.

Brig. Gen. Charles E. Wilhelm, [redacted] U.S. Marine Corps.

Brig. Gen. Charles C. Krulak [redacted] U.S. Marine Corps.

Brig. Gen. Arthur C. Blades [redacted] U.S. Marine Corps.

Brig. Gen. Peter D. Williams [redacted] U.S. Marine Corps.

The following-named colonels of the U.S. Marine Corps for promotion to the permanent grade of brigadier general, under the provisions of title 10, United States Code, section 624:

Col. Larry T. Garrett, [redacted] U.S. Marine Corps.

Col. Frank Libutti, [redacted] U.S. Marine Corps.

Col. Terrence R. Dake, [redacted] U.S. Marine Corps.

Col. Leslie M. Palm, [redacted] U.S. Marine Corps.

Col. James L. Jones, Jr. [redacted] U.S. Marine Corps.

Col. John E. Rhodes, [redacted] U.S. Marine Corps.

Col. Michael J. Williams, [redacted] U.S. Marine Corps.

Col. Thomas L. Wilkerson, [redacted] U.S. Marine Corps.

Col. Peter Pace, [redacted] U.S. Marine Corps.

Col. Ray L. Smith [redacted] U.S. Marine Corps.

Col. Lawrence H. Livingston [redacted] U.S. Marine Corps.

The following-named colonel of the U.S. Marine Corps Reserve for promotion to the permanent grade of brigadier general, under the provisions of title 10, United States Code, section 5912:

Col. Bobby G. Hollingsworth, U.S. Marine Corps.

The following-named brigadier general of the U.S. Marine Corps Reserve for promotion to the permanent grade of major general, under the provisions of title 10, United States Code, section 5912:

John T. Coyne.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Janet S. Drew, [redacted] and ending Robert A. Snortum, [redacted] which nominations were received by the Senate and appeared in the Congressional Record of January 22, 1992.

Air Force nominations beginning Douglas K. Acheson, and ending Marie D. Fisher, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 1992.

Air Force nominations beginning Robert O. Amaoon, and ending Thomas G. Rundle, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 1992.

Air Force nominations beginning Maj. Garnett T. Alexander, Jr. [redacted] and ending Maj. Francis H. Zeck, Jr., [redacted] which nominations were received by the Senate and appeared in the Congressional Record of February 5, 1992.

Army nominations beginning James M. Norton, and ending Lewis R. Mackey, which nominations were received by the Senate on January 22, 1992, and appeared in the Congressional Record of January 24, 1992.

Army nominations beginning Jerry W. Black, and ending Robert Vickers, which nominations were received by the Senate on January 22, 1992, and appeared in the Congressional Record of January 24, 1992.

Army nominations beginning James E. Brown, and ending Anna R. West, which nominations were received by the Senate on January 22, 1992, and appeared in the Congressional Record of January 24, 1992.

Army nominations beginning Emmett M. Ade, and ending Gordon Westenskow, which nominations were received by the Senate on January 22, 1992, and appeared in the Congressional Record of January 23, 1992.

Army nominations beginning William V. Adams, and ending William A. Woodruff, which nominations were received by the Senate on January 22, 1992, and appeared in the Congressional Record of January 23, 1992.

Army nominations beginning Robert L. Ackley, and ending Craig P. Wittman, which nominations were received by the Senate on January 22, 1992, and appeared in the Congressional Record of January 23, 1992.

Army nominations beginning Walter M. Braunohler, and ending John C. Wright, which nominations were received by the Senate on January 22, 1992, and appeared in the Congressional Record of January 23, 1992.

Army nominations beginning Brad A. Case, and ending Harold D. Young, which nominations were received by the Senate on January 22, 1992, and appeared in the Congressional Record of January 23, 1992.

Army nominations beginning Thomas C. Ada, and ending Molly S. Maguire, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 1992.

Army nominations beginning William R. *Addison, and ending Robert J *Yates, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 1992.

Army nominations beginning James E. Albritton, and ending James Zarinczuk, which nominations were received by the Senate and appeared in the Congressional Record of January 24, 1992.

Army nominations beginning John A. Atwood, and ending Frank Ziemkiewicz, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 1992.

Army nominations beginning John G. Angelo, and ending Timothy J. Purdue, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 1992.

Army nominations beginning Robert F. Gonzales, and ending Michael A. Randolph, which nominations were received by the Senate and appeared in the Congressional Record of January 29, 1992.

Army nominations beginning Francisco B. Iriarte, and ending Donald T. Stuck, which nominations were received by the Senate and appeared in the Congressional Record of January 29, 1992.

Army nominations beginning Lucien A. Brundage, and ending Christopher T. Rores, which nominations were received by the Senate and appeared in the Congressional Record of February 5, 1992.

Marine Corps nominations beginning Arnoux Abraham, and ending Robert H. Willis, Jr., which nominations were received by the Senate and appeared in the Congressional Record of January 22, 1992.

Navy nominations beginning Edward L. Spires, and ending Lisa C. Hilderbrand, which nominations were received by the Senate on January 22, 1992, and appeared in the Congressional Record of January 24, 1992.

Navy nominations beginning John G. Hannink, and ending Anthony H. Carpenter, which nominations were received by the Senate on January 22, 1992, and appeared in the Congressional Record of January 23, 1992.

Navy nominations beginning Michael Narciso Abreu, and ending Joseph Salvator Zurzolo, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 1992.

Navy nominations beginning Mason X. Dang, and ending Jon S. Woods, which nominations were received by the Senate and appeared in the Congressional Record of January 29, 1992.

Navy nominations beginning Bruce W. Glasko, and ending Glen C. Crawford, which nominations were received by the Senate and appeared in the Congressional Record of January 29, 1992.

Navy nominations beginning Paul R. Cox, and ending Cathy L. Wagstaff, which nominations were received by the Senate and appeared in the Congressional Record of January 29, 1992.

Navy nominations beginning John Geoffrey Speer, and ending Mary Catherine Costa, which nominations were received by the Senate and appeared in the Congressional Record of January 29, 1992.

Navy nominations beginning Neal Adams, and ending Stanley D. Rhoades, which nominations were received by the Senate and appeared in the Congressional Record of January 29, 1992.

STATEMENT ON THE NOMINATION OF PETE SCHOOMAKER TO BRIGADIER GENERAL

Mr. SIMPSON. Mr. President, let me also just very briefly say how proud we are of a young man on this list—the Executive Calender unanimous-consent request—a fellow Wyomingite, for achieving the rank of general officer in the Army.

It is an occasion for special recognition. So I ask the Senate to recognize Col. Pete Schoomaker. We are very proud of him in Wyoming. He is a genuine, real American hero, and indeed, has a military record beyond comparison.

He has been involved in some military adventures that are the essence of what they make movies about in Hollywood.

When a fellow Wyomingite achieves the rank of general officer in the Army, it is an occasion for special recognition. So it is that I ask the Senate to recognize Col. Pete Schoomaker or "Coyote" as he is affectionately known by his close friends.

We are very proud of Pete Schoomaker in Wyoming. Pete is the genuine article, a real American hero. As I often like to say, "Many people can talk the talk, but very few can walk the walk." Pete is one of those very few who can "walk the walk."

Before volunteering for the Army, he was one of the best defensive tackles that the Wyoming Cowboys ever had—he took us to the Sun and Sugar Bowls. While at the University of Wyoming he was also a distinguished military graduate.

In the early stages of his career, Pete served as an armor officer in command and staff positions in both infantry and armored cavalry units. But it was in 1978 that he found his true military calling—in special operations.

Among these elite forces, he has held command responsibilities at all levels. He has also served as staff officer at J-SOC, the Joint Special Operations Command.

He has been a key player in operations such as Eagle Claw, Urgent Fury, Just Cause, and Desert Storm. Much of the work he has done is classified information.

Pete is a Ranger and is Special Forces qualified. He has been awarded the Combat Infantryman's Badge, the Master Parachutist Badge, and awards for valor and achievement such as two Bronze Stars, the Defense Superior Service Medal, and the Legion of Merit.

I would not be at all surprised if we didn't see Pete's name on future promotion lists as well.

Mr. President, on behalf of the people of Wyoming it is with a great sense of pride and admiration that I will be voting to confirm Colonel Schoomaker's promotion to brigadier general.

I know that the people of Wyoming have a great sense of pride and admiration for this special man. We are very proud of him.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

AUTHORIZING PRINTING OF CIRCLE OF POISON—SENATE RESOLUTION 263

Mr. INOUYE. Mr. President, on behalf of Senator LEAHY, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 263) authorizing the reprinting of the publication "Circle of Poison Publication."

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 263) was agreed to, as follows:

S. RES. 263

Resolved, That the Committee on Agriculture, Nutrition, and Forestry be authorized to reprint the publication "Circle of Poison: Devastation to Third World Workers by U.S. Pesticides" (Hearing 102-17).

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LITHUANIAN INDEPENDENCE

Mr. INOUYE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 239, relating to Lithuanian independence, just received from the House.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 239) congratulating the people of Lithuania for their successful peaceful revolution and their continuing commitment to the ideals of democracy.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 239) was agreed to.

The preamble was agreed to.

TORTURE VICTIM PROTECTION ACT

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 392, H.R. 2092, an act to carry out obligations of the United States under the U.N. Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing; that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table; and that statements with respect to passage of this bill be inserted in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. GRASSLEY. I appreciate the efforts Senator SPECTER has made to alleviate some of the concerns I have about this bill. He has added a statute of limitations, and established a threshold requirement that plaintiffs show they have exhausted their remedies at home. Nevertheless, I remain concerned about the basic effect of the bill, which is to open up U.S. courts to foreign lawsuits with no connections to the United States, and to involve the judiciary in the conduct of U.S.-foreign relations. With the hope that he can alleviate some of these concerns, I would like to ask the Senator from Pennsylvania some questions about his bill.

First, I would like to know why should this country open its already overburdened Federal courts to lawsuits that have absolutely no connection—neither parties nor subject matter—to the United States?

Mr. SPECTER. As explained in the committee report (S. Rep. 102-249) at 7, only defendants over which a U.S. court has personal jurisdiction may be sued. In order for a court to have personal jurisdiction over a defendant, that individual must have minimum contacts with the jurisdiction. Therefore, the alleged torturer must have sufficient minimum contacts with this country to satisfy the requirements of the Constitution. Because of this requirement, foreign nationals may not sue another foreign national with no connection to the United States under this act. The act is intended to deny torturers a safe haven in this country. If a torturer does not come to the United States and establish sufficient contacts, then he or she cannot be sued under this act.

Mr. GRASSLEY. Well, I am not a lawyer, but as I understand it, the minimum contacts test for individuals is easily satisfied: Mere physical presence is enough.

Mr. SPECTER. That may be so. Even if it is, that is not an argument against this bill. Realistically speaking, few suits would be filed against defendants over whom personal jurisdiction may constitutionally be exercised but who maintain no assets in this country. In addition, one reason for enacting this bill is to discourage torturers from ever entering this country. There is no question that torture is one of the most heinous acts imaginable, and its practitioners should be punished and deterred from entering the United States. The Senate has ratified the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, which obligates state parties to adopt measures to ensure that torturers within their territories are held accountable for their acts. This bill accomplishes that purpose in a manner consistent with the Constitution.

Mr. GRASSLEY. Will the bill involve the judicial branch of Government in foreign affairs?

Mr. SPECTER. I do not believe that it will. While it will allow a remedy for acts committed in foreign countries, torture is universally condemned by the family of nations. No nation officially supports or condones torture. Therefore, I do not expect that this act will entangle the judiciary in sensitive foreign policy matters.

Mr. GRASSLEY. What is the constitutional basis of this extension of Federal jurisdiction to these cases? What legal authority supports the Senator's position?

Mr. SPECTER. In response to the Senator's question, I would refer the distinguished Senator from Iowa to the committee report at 5-6, which specifies that article III of the Constitution grants authority to the Federal courts to hear cases "arising under" the "law of the United States." International law is part of the law of the United States. *The Paquete Habana*, 175 U.S. 677, 700 (1900). The "arising under" clause also allows Congress to confer jurisdiction over actions between foreign plaintiffs and foreign defendants. *Verlinden B.V.* v. *Central Bank of Nigeria*, 461 U.S. 480 (1983).

I understand that the Senator believes there was a direct U.S. connection in Verlinden. Even if there was, I think that such a connection would exist in cases under this act, as the defendant must have sufficient minimum contacts with the United States.

In addition to the article III basis, article I, section 8 of the Constitution authorizes Congress "to define and punish * * * Offenses against the Laws of Nations." (Emphasis supplied). This is a separate, independent, and wholly sufficient basis for establishing Federal jurisdiction, as the first Congress itself believed in enacting the provision of the Judiciary Act of 1789 that became the Alien Tort Claims Act, 28 U.S.C. 1350. I would point out that the courts have previously upheld the ability of foreign plaintiffs to bring an action against a foreign defendant under 28 U.S.C. 1350 for alleged torture occurring in another country. *See Filartiga* v. *Pena-Irala*, 630 F.2d 876 (2d Cir. 1980).

Mr. GRASSLEY. Will courts retain their discretion to decline jurisdiction over lawsuits under this bill? Will they be able to dismiss such suits in favor of a more convenient forum in another country?

Mr. SPECTER. The answer to both questions is yes. Nothing in this legislation is intended to or does affect the doctrine of forum non conveniens, which remains applicable to any lawsuit brought under this act.

Mr. GRASSLEY. How many lawsuits does the Senator expect will be filed under this new Federal cause of action? How will successful plaintiffs enforce their judgments?

Mr. SPECTER. Because a cause of action for torture in a foreign country has existed under 28 U.S.C. 1350 and was recognized under Filartiga in 1980, we have had some experience with people filing claims for torture in other countries. While exact figures are not known, I have been informed there have only been a few such cases brought since 1980. The number of such cases has not been very high, and I do not expect it to increase significantly because of this act.

The issue of the enforceability of judgments under the act raises concerns that can only be dealt with in particular cases and does not go to the desirability of enacting the legislation. In some instances, a defendant who is found liable may have assets in this country, in which case the judgment could be enforced easily. In other cases, the individual defendant may not have assets that could readily be attached, and enforceability would be uncertain.

Because this act provides a cause of action against the individual(s) responsible for the torture and not against the foreign state or Government, I do not foresee any successful efforts to enforce judgments obtained under this act against the foreign state or government.

Mr. GRASSLEY. How will evidence be collected in such a case? Is it not unrealistic to expect an American court to make full and fair factual findings concerning conduct which occurred 10 years ago in a foreign country? How will we compel witnesses to attend? What about real and physical evidence? What about the language barriers? It seems very impractical, unless the Senator is just providing victims of torture with a forum for getting default judgments that will be hard to collect.

Mr. SPECTER. Again, I believe that such matter can only be resolved on a case-by-case basis. There may be problems of proof in any particular case, but that will be a problem for each plaintiff or defendant to handle. Of course, the plaintiff continues to bear the burden of proof and must come forward with sufficient evidence to prove his or her case. If plaintiff cannot satisfy the burden of proof, then the case must be dismissed. This act is not designed to create a forum for default judgments. A defendant may also have difficulty obtaining evidence to defend him or herself in a particular case, but the court may be able to compensate for problems of proof in such a case. I do not believe that one can make an argument against enactment of this legislation based on problems that may occur in any particular case over proof.

Mr. GRASSLEY. I have no interest in protecting autocratic leaders of totalitarian governments, but I recognize the importance of sovereign immunity. Under this bill, could an individual ever be held liable for conduct which was within the scope of his actual or implied authority as an agent of his government? If so, does that not conflict with the Foreign Sovereign Immunities Act and the international law act of state doctrine?

Mr. SPECTER. I know full well the dedication of the Senator from Iowa in opposing totalitarian regimes. We have worked together to pass a civil remedy for victims of international terrorism and similar violations of international law. I do not believe that this act conflicts with the Foreign Sovereign Immunities Act, 28 U.S.C. 1330, 1332(A) (2)–(3), 1391(f), 1441(d), and 1602–1611 [FSIA], or the act of state doctrine.

As noted in the committee report at 7–8, the act does not override the FSIA and allow a suit against the foreign state. It only allows a suit against the individual(s) responsible for the torture, either by performing it or ordering it. Nor does this act override traditional principles of diplomatic immunity. In order to take advantage of the FSIA, a defendant would have to prove an agency relationship with the foreign state, which would have to "admit some knowledge or authorization of relevant acts." 28 U.S.C. 1603(b). All foreign states are officially opposed to torture and extrajudicial killing. Therefore, the FSIA would not normally provide a defense to an action under this Act. If an agency relationship with the foreign state can be proved, however, then the FSIA would operate to bar the suit.

The act of state doctrine does not provide a shield from liability under this act. This doctrine precludes U.S. courts from sitting in judgment on the official public acts of a sovereign foreign government. *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398 (1964). Because this doctrine applies only to public acts, and no foreign government commits torture as a matter of official policy, this doctrine cannot be violated by allowing a cause of action for torture. Again, if any sovereign state acknowledges that it engaged in torture or extrajudicial killing as a matter of official policy, then the act of state doctrine might bar a suit under this act. I think that such a circumstance under which a foreign government would acknowledge violating the universal taboo against torture or extrajudicial torture would be unheard of, and, therefore I would not expect the act of state doctrine to bar suits under this act.

Mr. GRASSLEY. How is this bill within the parameters of the U.N. Convention on Torture?

Mr. SPECTER. This act is fully consistent with the parameters of the U.N. Convention by denying torturers and those who commit extrajudicial killings a safe haven in this country by making such individuals legally accountable for their heinous acts committed in violation of international norms. In addition, the definition of "torture" in this bill includes word-for-word the understandings included by the Senate concerning the definition of torture in the Torture Convention when it ratified the convention. See committee report at 6–7.

Mr. GRASSLEY. Do international law doctrines of jurisdiction allow one state to involve itself judicially in disputes between aliens with minimal connections to the interfering state?

Mr. SPECTER. Under international law, the exercise of jurisdiction over torture cases is lawful and proper under the doctrine of universal jurisdiction, under which the courts of all nations have jurisdiction over offenses of universal interest, for example, torture, terrorism, and piracy. See committee report at 5 and note 3. In any event, the U.N. Convention on torture, which was ratified by the Senate in 1990, is a clear expression of the fact that international law condemns torture and extrajudicial killings and requires adherent states to adopt legally enforceable measures against tortures within their borders.

Mr. GRASSLEY. I thank my colleague from Pennsylvania for his forthright answers.

Mr. SIMPSON. I also want to thank my colleague from Pennsylvania for his accommodation and for taking the time to clarify some points about this legislation and to address these concerns. Our colleague from Iowa raises matters that, I think, are very important.

My primary concern was with the possibility that foreign nationals could come to our courts and file lawsuits against other foreign nationals when neither party has any real connection to the United States. If U.S. courts are free to exercise their discretion and refuse to entertain these suits under the doctrine of forum not convenience, as the distinguished Senator from Pennsylvania has indicated, then that concern has been addressed.

I am also encouraged to hear that, as a practical matter, this legislation will result in a very small number of cases, indeed. I trust that the parties will pay for the costs to U.S. taxpayers that this open door policy could generate.

Did I understand my colleague from Pennsylvania to say that these cases will not be accepted in U.S. courts unless a defendant has certain contacts with this country?

Mr. SPECTER. As I indicated in response to the questions of the distinguished Senator from Iowa, jurisdiction over an individual defendant can only be exercised if that defendant has sufficient contacts with the United States to satisfy the requirements of the Constitution. If the defendant does not have sufficient minimum contacts with the United States, then the court may not constitutionally exercise personal jurisdiction over the defendant.

Mr. SIMPSON. What provisions of the act ensure that an unsuccessful plaintiff will reimburse the costs of a civil action?

Mr. SPECTER. No provision of the act addresses this issue. Rather, the act incorporates current law, under which an unsuccessful litigant is generally billed for costs. If a plaintiff files a frivolous action or fails to research the facts or the law adequately, then the court may impose additional sanctions against the plaintiff under rule 11 of the Federal Rules of Civil Procedure. There is judicial authority awarding rule 11 sanctions to the Government to reimburse the costs to the courts of the frivolous action. This act does not disturb this authority.

Mr. SIMPSON. I thank my colleague from Pennsylvania.

Mr. SPECTER. I want to thank the distinguished Senator from Wyoming, our able assistant Republican leader, who chairs the Subcommittee on Immigration and Refugee Affairs for his courtesy and interest in this legislation and for working with me on this legislation. I also want to thank my distinguished colleague from Iowa, the ranking member on the Subcommittee on Courts and Administrative Practice, who has played a constructive role in the development of this legislation.

The PRESIDING OFFICER. Without objection, the bill is considered read the third time and passed.

So the bill (H.R. 2092) was passed.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURES INDEFINITELY POSTPONED—S. 313 AND SENATE RESOLUTION 95

Mr. INOUYE. Mr. President, I further ask unanimous consent that Calendars Nos. 382 and 332 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAR PRINT—S. 2295

Mr. INOUYE. Mr. President, on behalf of Senator RIEGLE, I ask unanimous consent that S. 2295 be star printed to reflect the change I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

INJUNCTION OF SECRECY REMOVED—TREATY DOCUMENT NO. 102-24

Mr. INOUYE. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Second Supplementary Extradition Treaty with Spain—Treaty Document No. 102-24—transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Second Supplementary Treaty on Extradition between the United States of America and the Kingdom of Spain, signed at Madrid on February 9, 1988. I also transmit for the information of the Senate the report of the Department of State with respect to this Supplementary Treaty.

The Second Supplementary Treaty supplements and amends the Treaty on Extradition between the United States of America and Spain, signed at Madrid on May 29, 1970, as amended by the Supplementary Treaty on Extradition, signed at Madrid on January 25, 1975 and is designed to update and standardize the conditions and procedures for extradition between the United States and Spain. Most significant, it substitutes a dual criminality clause for a current list of extraditable offenses so that, *inter alia*, certain additional narcotics offenses will be covered by the Treaty. The Second Supplementary Treaty also provides a legal basis for temporarily surrendering prisoners to stand trial for crimes against the laws of the Requesting State.

This Supplementary Treaty further represents an important step in combatting terrorism by excluding from the scope of the political offense exception serious offenses typically committed by terrorists, e.g., murder; voluntary manslaughter; voluntary assault and battery inflicting serious bodily harm; kidnapping; abduction; hostage-taking; illegal detention; the illegal use of explosives, automatic weapons, and incendiary or destructive devices or substances; attempt or participation in such offenses, as well as conspiracy or illicit association to commit such offenses. It also excludes from the reach of the political offense exception a murder or other willful crime against the person of a Head of State or a member of the first family of a Contracting Party, as well as any offense for which both Contracting Parties have a multilateral treaty obligation to extradite the person or submit the case to prosecution.

The provisions in this Supplementary Treaty follow generally the form and content of extradition treaties recently concluded by the United States. Upon entry into force, it will supplement and amend the existing Extradition Treaty and Supplementary Extradition Treaty between the United States and Spain.

The Supplementary Treaty will make a significant contribution to international cooperation in law enforcement. I recommend that the Senate give early and favorable consideration to the Supplementary Treaty and give its advice and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *March 3, 1992.*

TRIBUTE TO FORMER SENATOR HAYAKAWA

Mr. SIMPSON. Mr. President, if I may just make a brief comment about our dear, departed friend, Sam Hayakawa. He was a very congenial and stimulating man, and he was here when I came to the Senate. I found him to be a very energetic and spirited person, who loved the Senate and loved the institution and seemed to thrive here. He took part in so many of our activities, and he will be greatly missed.

I just want to wish his family well. I did not know them well, but I certainly came to know him well as a very marvelous, bright, earthy gentleman, who certainly brought great pleasure to others and was a very fine man.

May he rest in peace.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

MORNING BUSINESS

Mr. INOUYE. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERPRETIVE CENTER AT BOWERMAN BASIN

Mr. GORTON. Mr. President, last year's Interior appropriations bill failed to live up to a longstanding commitment by the Department of Interior to the people of Grays Harbor County, WA. It neglected to include funding for a year-round interpretive center at Bowerman Basin in the city of Hoquiam. Despite my efforts, and those of my House and Senate colleagues from the State of Washington, the importance of this project was overlooked. I stand before you today to say that the interpretive center will be a priority for this Senator in this year's appropriations cycle.

In 1988 Congress passed legislation that authorized the U.S. Fish and Wildlife Service to purchase 63 acres of land owned by the city of Hoquiam for the purpose of establishing the Grays Harbor National Wildlife Refuge. The city of Hoquiam agreed to transfer the land, but one of the conditions for this sale was the commitment by the Fish and Wildlife Service to construct and staff year round an interpretive center. Today, nearly 5 years later, this condition still has not been met.

Construction of the interpretive center will help rebuild a struggling community; Grays Harbor County is classified as an economically distressed region. Its unemployment rate is 10.9 percent. This is due, in large part, to the fact that the supply of timber from the nearby Olympic National Forest has dropped from an average harvest of 112 million board feet over the past 5 years to a projected level of 2 million board feet last year by reason of the controversy over the spotted owl. For a community that relies on Federal timber as much as Grays Harbor County, this reduction of 99 percent can lead to only one conclusion: certain economic failure.

The creation of the refuge left the city of Hoquiam with only 12 of its approximately 75 acres of industrial land. This cost the city the leases of two businesses located on the site, and the resulting business and occupational taxes, as well as several other businesses that could have been located on the land. In an effort to counteract their losses, one of the city's prime diversification efforts is directed at promoting tourism. If Bowerman Basin is to be a viable tourist attraction, the promised interpretive center is essential.

Construction of the interpretive center is of vital importance to the people of Grays Harbor County. The first step will be to secure funding for planning and design. While I cannot make any promises with Federal money, this will be a priority for this Senator this session. The people of the city of Hoquiam, and indeed those of Grays Harbor County at large, put their faith in Congress when they agreed to the creation of a wildlife refuge on the city's prime industrial land. I will work to prove that this faith was not misplaced.

IN PRAISE OF CYRUS VANCE

Mr. MOYNIHAN. Mr. President, Monday's New York Times contains an eloquent and much deserved tribute to one of this Nation's finest public servants: Cyrus Vance. The article, by Leslie Gelb, praises former Secretary of State Vance as a "deeply tenacious, deeply moral man." I know that my Senate colleagues share my sense of respect and gratitude for all that Cyrus Vance has done to promote the cause of peace and the interests of the United States in the world and I ask unanimous consent that Mr. Gelb's article be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 2, 1992]

VANCE: A NOBEL LIFE

(By Leslie H. Gelb)

Cyrus Vance guards himself with smiles, manners and friendliness. So the warlords of Serbia and Croatia were surely disarmed into believing they could stare down his efforts to arrange a cease-fire between them—as they had done many times before with other mediators.

But like so many committed to conflict and killing, the warlords had misjudged and underestimated this deeply tenacious, deeply moral man.

Earlier this month, the haters and leaders of haters of the former Yugoslav nation formally agreed to stop killing each other. And the United Nations Security Council, which had dispatched Cyrus Vance to the scene months ago, voted to deploy some 14,000 troops to keep the peace.

The New York establishment lawyer used no magic or guile, no outlandish promises or prevarications, no table-pounding or theatrics, to do his job. He knew these tricks well, as practiced by other recent American Secretaries of State. But he did not believe that tricks produced lasting results. And as a man of the old school, they were not his way.

Rather, Mr. Vance wore the haters down as he had often done before in places like Cyprus in 1967, where he kept Greece and Turkey from each other's throats, and in the Camp David accords of 1978, when he played such a critical role in keeping Israel and Egypt at the bargaining table.

Each time, as in Yugoslavia, he bore down on them relentlessly with the simple credo: Killing is wrong—and most decidedly not in your real interest.

"I explained to the leaders of the Serbs and Croats," he said in a recent interview in his midtown New York office, "that they had to choose between settling for less and continuing to kill each other. I explained that more killing would not lead to a durable solution. I explained that they were only damaging themselves and their people, and that they were only putting off the day when they would do what they knew they would have to do—live and work together."

Mr. Vance's words of reason and humanity were not new to me. His life and mine have intertwined many times in politics and friendship. He gave me great honor when he asked me to run the State Department's Bureau of Politico-Military Affairs during the Carter Administration.

Perhaps the words were not novel to the Serbs and Croats either. But they had to note something special about the man who was saying to them: He was an absolute mule in the pursuit of agreement. His oratory would never be overwhelming, but he would never tire of pressing for common ground.

Cy Vance's stubbornness would prove a match for their fiery nationalism. And his morality, coming as it did more from bone marrow than the mind would prove as strong as their mutual historical hatreds.

Also, he was not above tossing in reminders that failure to stop the killing would lead to a cutting off of all outside aid and commerce. And he would wait and wait until pressures for settlement grew inside and outside Yugoslavia, and help these pressures along.

"In almost every conflict, the natural tendency is to look at the other side as evil," he said. "That's human nature. On the other hand, you need to find solutions to political problems that lead to killing."

But Mr. Vance, a Navy officer in World War II and a former Deputy Secretary of Defense, was quick to point out that not all disputes can be resolved by reason and compromise because some adversaries are simply too evil. "There are extreme cases like Hitler and probably Saddam Hussein with whom you cannot negotiate. But even with Saddam we probably should have given talks more time.

The Vance guideline in Yugoslavia and almost everywhere else has been that adversaries should be treated as adversaries, not devils. And even with the worst of adversaries, "you have to listen to them" and "keep looking for that point beyond which it's against their interests to keep on disagreeing and fighting."

Cyrus Vance always proceeds as a lawyer, not a philosopher. He would be the last to pretend otherwise. His persuasive power rests in his rectitude, in stubbornly knowing what is right and in stubbornly knowing that killing is almost always wrong.

This is what sets him apart from so many leaders who fear to fail even in pursuit of peace and so abandon the quest. Is this not a Nobel quality?

HANS BETHE ON STAR WARS

Mr. MOYNIHAN. Mr. President, last week the Committee on Foreign Relations was privileged to hear the testimony of Dr. Hans Bethe of Cornell University, one of the most distinguished figures of the nuclear age. Dr. Bethe was head of the theoretical physics division at Los Alamos and was standing next to Dr. Oppenheimer at Alamogordo when the first nuclear test took place. He won a Nobel Prize in physics in 1967. His service to this country has been so extensive and important that it is scarcely within my power to describe it.

During Dr. Bethe's testimony I had occasion to solicit his views on the star wars concept. Five years before President Reagan made his now famous speech about an antimissile shield that would render nuclear missiles impotent and obsolete Dr. Bethe warned me that such a proposal was coming. He has continued to study this issue closely and has strong feelings on the subject which I think will be of interest to the Senate. Ambassador Paul Nitze, another of our Nation's most distinguished public servants, was also present and contributed his important insights as well.

I ask unanimous consent that my exchange with Dr. Bethe and Ambassador Nitze be printed in the RECORD at this point, along with a Washington Post editorial of February 27, 1992, on the same subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEARING BEFORE THE COMMITTEE ON FOREIGN RELATIONS, FEBRUARY 25, 1992

Senator MOYNIHAN. I recall that 15 years ago, Dr. Bethe, you and Mrs. Bethe very graciously came to lunch, and you tried to warn me against something I never heard of. I really didn't know what you were talking about. It turned out to be Star Wars.

You described, as I recall, having met with a Soviet physicist in a conference in Rome or some such place and you both agreed that there were those people who thought one could have a small nuclear device explode in space and send out a laser beam that would zap something on the other side of the universe. You both agreed that it was crazy but that there were plenty of crazy people in both our countries and they were likely to try it. You were not wrong.

But now we are further down in our notions. Brilliant Pebbles I think is the most recent formulation.

Do you think we should pursue this kind of anti-missile technology at this level? I know that you thought at the grand level it would not prove coherent, and it did not. But might it at a lower level? Did you have any thoughts for us on this?

Dr. BETHE. I have a strong opinion on Star Wars. I thought it was misconceived from the beginning, and by now I think there is no reason at all to pursue it or to pursue any variation of it.

Senator MOYNIHAN. Or to pursue any variation of it.

Dr. BETHE. The Brilliant Pebbles, in contrast to the X-ray laser, are likely to be technically feasible. But I am terribly nervous about having 1,000 such devices cruising about above the atmosphere. One of them might hit an asteroid. They tell me and I think they are right that they have precautions against that. But I believe that the only thing that should be done is research. That should continue. But we should not deploy any of these devices.

Senator MOYNIHAN. Did I hear you correctly when you said that it might hit an asteroid?

Dr. BETHE. Yes.

Senator MOYNIHAN. I thought for a moment you had said "astronaut." But it might be both or either, for that matter, if it comes to it.

May I say to the Chairman and to my colleague, Senator Robb, that in 1977, Hans Bethe on our back porch in upstate New York, said one of these days some crazy scientist is going to come along to you fellows in the Senate and say I have a plan whereby we put these nuclear weapons in place all over the atmosphere and at a certain point we detonate them and they produce a laser and it goes zap. And he said it's coming and when it comes, tell those people they are loony.

Well, it came, just as he predicted. In 1945, he wrote that the Soviets could have the bomb in 5 years; they got it in 4. After our luncheon in 1977 we got Star Wars in 5, I think.

We could have saved ourselves a lot of grief, it seems to me, if we had listened to you in the first place. You know, the people who built these bombs know something about how they work. Dr. Bethe, you've even suggested you could go down into the basement and turn uranium into reactor fuel. It is not that much of a technical feat.

But you would keep the research going on the general principle that you ought to know as much physics as you can but leave it on the ground and not deploy any Brilliant Pebbles or Sullen Sods or whatever.

Dr. BETHE. I think we should not deploy any of this. I think even if they are effective, everybody has agreed that they are no good against a strong enemy like the Soviet Union used to be. I think it would be a mistake to deploy such devices against accidental launch of Third World countries.

Is that the answer you wanted?

Senator MOYNIHAN. Yes. I wanted your view, but that was the question I wanted answered. Yes.

Does Ambassador Nitze have a different view?

Ambassador NITZE. I think the terms involved are very confusing and are not precisely defined. With respect to the interception of shorter-range ballistic missiles, for instance, such as the Patriot missile, which was used during the Gulf War, I think that is an important thing which one should continue to develop.

Dr. BETHE. [Nods affirmatively.]

Senator MOYNIHAN. I think you are getting agreement from your colleague at the table. But those are ground-based or at least based within the atmosphere.

Ambassador NITZE. They are ground based, the Patriot missile. I think most of the devices which might be used against, for instance, shorter-range things, such as SCUDS, would be ground-based. But there are some that are not.

The man who really invented Brilliant Pebbles—I forget his name—now works at Los Alamos and he believes that one ought to go for something which he calls "burros," being the stupidest animal around. Instead of having these bright interceptors, you have ones with low capability but which would be very good against shorter range missiles, which would be in the lower atmosphere. I think he may be right about that.

So if there are ways and means of dealing with the shorter range threats, which the Saddam Husseins or the Iraqis and so forth are capable of, I think we ought to be willing to deploy those in the event the technology works out.

So it's a question of I want to know precisely what it is that we are talking about when we say don't do it or do do it.

Senator MOYNIHAN. Dr. Bethe does not seems to disagree with that.

Dr. BETHE. I agree that it would be good to have an effective means against shorter-range missiles. Brilliant Pebbles is not the right thing, and I believe some knowledgeable people think that we can have such a device. When we see one, I am in favor of it.

Senator MOYNIHAN. Thank you very much.

[From the New York Times, Feb. 27, 1992]

DON'T RUSH TO DEPLOY ABM'S

When Iraqi Scuds began slamming into Israel and Saudi Arabia, they sent a shudder through Americans. How long would a new nuclear-armed Iraq take to build missiles capable of reaching the United States? Sensing the anxiety, Congress wants to deploy anti-missile defenses on the ground, starting in 1996.

But why rush into a costly deployment when U.S. intelligence indicates that the danger from renegade third world nations is still on the distant horizon? Further research is surely justified, but there is no compelling reason now to install anti-missile defenses.

True, such defenses could also offer some protection against an accidental or unauthorized launch of missiles from Russia. But the quicker, cheaper way to reduce that risk is to negotiate deep cuts in offensive missiles and take the rest off hair-trigger alert. Once that is done, the U.S. could try to work out ways to deploy defenses in cooperation with Moscow.

Limited anti-missile defenses could protect the nation against only some dangers. They could detect a few ICBM's traveling over the North Pole and destroy them with ground-based anti-missile missiles. But far more elaborate and expensive defenses would be needed to protect against missiles launched from a submarine offshore. And such defenses would be useless against airplanes or cruise missiles, or against bombs smuggled into the U.S. in a suitcase.

Buying antiballistic missiles is like buying insurance against lightning but not against fire or theft. And even limited ABM defenses would cost billions more than any other Pentagon program in history.

If Washington nevertheless decides that defenses are worth the price, it will need Moscow's consent. That's because an effective limited defense can work only against a minimal offense. That requires deep cuts in missiles. But Moscow might balk at such cuts because defenses could negate the retaliatory capability of remaining offenses, endangering deterrence.

Hard-liners in Washington want to take advantage of Moscow's weakness and deploy defenses unilaterally. But nothing would revive Moscow's military-industrial complex or restore hard-line rule quicker than such a threat.

Some Star Wars enthusiasts see in recent statements by Boris Yeltsin, the Russian President, a willingness to cooperate on defenses. He called for the U.S. and Russia "to develop, then create and jointly operate a global defense system."

But their excitement seems premature. Mr. Yeltsin's idea of cooperation is much more comprehensive than anything Washington seems ready to embrace. Strategic Defense Initiative officials have expressed interest in buying critical technologies from the Russians. But the Administration has yet to allow the sale even of personal computers to Russia, never mind sharing S.D.I. technology, subsidizing Russia's protection or consulting over use of its own ABM's.

Mr. Yeltsin was also careful to insist that any defensive system "strengthen stability against a background of sharp cuts in strategic offensive arms." That condition won't be easy to satisfy. But by deploying ABM's without satisfying it, Washington will endanger, not defend, the peace.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United

States submitting sundry nominations, a treaty, and a withdrawal which were referred to the appropriate committees.

(The nominations, treaty, and withdrawal received today are printed at the end of the Senate proceedings.)

REPORT ON HAZARDOUS MATERIALS TRANSPORTATION MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 112

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 2, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying reports; which was referred to the Committee on Commerce, Science and Transportation:

To the Congress of the United States:

In accordance with the requirements of section 109(e) of the Hazardous Materials Transportation Act (Public Law 96-633; 49 U.S.C. 1808(e)), I transmit herewith the Annual Report on Hazardous Materials Transportation for calendar year 1990.

GEORGE BUSH.

THE WHITE HOUSE, *March 2, 1992.*

AGREEMENT BETWEEN UNITED STATES AND REPUBLIC OF FINLAND ON SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 113

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 2, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Finance:

To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95-216; 42 U.S.C. 433(e)(1)), I transmit herewith the Agreement between the United States of America and the Republic of Finland on Social Security, which consists of two separate instruments—a principal agreement and an administrative arrangement. The agreement was signed at Helsinki on June 3, 1991.

The United States-Finland agreement is similar in objective to the social security agreements already in force with Austria, Belgium, Canada, France, Germany, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation, and to help prevent the loss of benefit protection that can occur when workers divide their careers between two countries.

I also transmit for the information of the Congress a report prepared by the Department of Health and Human Services, providing explanation of the key points of the agreement, along with a paragraph-by-paragraph explanation of the provisions of the principal agreement and the related administrative arrangement. In addition, as required by section 433(e)(1) of the Social Security Act, a report on the effect of the agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the agreement is also enclosed. I note that the Department of State and the Department of Health and Human Services have recommended the agreement and related documents to me.

I commend the Agreement between the United States of America and the Republic of Finland on Social Security and related documents.

GEORGE BUSH.

THE WHITE HOUSE, *March 2, 1992.*

REPORT ON HARVEST OF YELLOWFIN TUNA—MESSAGE FROM THE PRESIDENT—PM 114

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

Pursuant to the provisions of subsection (b) of the Pelly Amendment to the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1978(b)), I am reporting to you that the Secretary of Commerce reported to me that shipments of yellowfin tuna or products derived from yellowfin tuna harvested by Venezuela in the eastern tropical Pacific Ocean (ETP) have been prohibited from the countries of Costa Rica, France, and Italy since June 25, 1991.

The Secretary's letter to me is deemed to be a certification for the purposes of subsection (a) of the Pelly Amendment. Subsection (a) requires that I consider and, at my discretion, order the prohibition of imports into the United States of fish and fish products from Costa Rica, France, and Italy to the extent that such prohibition is consistent with the General Agreement on Tariffs and Trade. Subsection (b) requires me to report to the Congress within 60 days following certification on the actions taken pursuant to the certification; if all fish imports have not been prohibited, the report must state the reasons for so doing.

After thorough review, I have determined that sanctions against Costa Rica, France, and Italy will not be imposed at this time while we continue to work toward an international dolphin conservation program in the ETP. Costa Rica, France, and Italy will continue to be certified. I will make further reports to you as developments warrant.

GEORGE BUSH.

THE WHITE HOUSE, *March 3, 1992.*

MESSAGE FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House had passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3844. An act to assure the protection of certain Haitians in the custody of the United States, and for other purposes; and

H.R. 4210. An act to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

MEASURES REFERRED

The following bill was read the first and second time by unanimous consent, and referred as indicated:

H.R. 4210. An act to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families; to the Committee on Finance.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 3844. An act to assure the protection of certain Haitians in the custody of the United States, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2687. A communication from the Deputy Assistant Secretary of Defense (Installations), transmitting, pursuant to law, a report describing the extent to which commercial and industrial type functions were performed by Department of Defense contractors for fiscal year 1991; to the Committee on Armed Services.

EC-2688. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report on the implementation of a reduced Departmental force structure in conjunction with a lessening of world tensions; to the Committee on Armed Services.

EC-2689. A communication from the Secretary of the Navy, transmitting, pursuant to law, notice of a breach of the Unit Cost threshold of a major defense program acquisition cost; to the Committee on Armed Services.

EC-2690. A communication from the Chairman of the Board of Directors, Panama Canal Commission, transmitting, a draft of proposed legislation to authorize expenditures for Fiscal Year 1993, for the Panama Canal Commission to operate and maintain the Panama Canal and for other purposes; to the Committee on Armed Services.

EC-2691. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-2692. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, the annual report of the Visiting Committee on Advanced Technology of the National Institute of Standards and Technology for calendar year 1991; to the Committee on Commerce, Science and Transportation.

EC-2693. A communication from the Acting Secretary of Transportation, transmitting, pursuant to law, the annual report on the relative cost of construction or reconditioning of comparable ocean vessels in shipyards in the various coastal districts of the United States, together with recommendations as to how shipyards may compete for work on an equalized basis for calendar year 1991; to the Committee on Commerce, Science and Transportation.

EC-2694. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2695. A communication from the Deputy Assistant General Counsel, Department of Energy, transmitting, pursuant to law, a notice of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2696. A communication from the Assistant Secretary of the Interior, transmitting, a draft of proposed legislation to amend the Surface Mining Control and Reclamation Act of 1977, as amended, to extend authority to collect abandoned mine reclamation fees; to the Committee on Energy and Natural Resources.

EC-2697. A communication from the Secretary of Labor, transmitting, pursuant to law, a quarterly report on the expenditure and need for worder adjustment assistance training funds under the Trade Act of 1974; to the Committee on Finance.

EC-2698. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to amend the Social Security Act to authorize recovery of supplemental security income overpayments from social security benefits; to the Committee on Finance.

EC-2699. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to amend part D of title IV of the Social Security Act to authorize financial incentives for more effective child support enforcement programs, to provide for the charging of fees for State child support enforcement services, and for other purposes; to the Committee on Finance.

EC-2700. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to provide for equity in the Medicare Supplementary Medical Insurance Premium; to the Committee on Finance.

EC-2701. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to amend title XIX of the Social Security Act to add requirements concerning health insurance coverage of children by absent parents; to the Committee on Finance.

EC-2702. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to amend the Social Security Act to enable recipients of aid to families with dependent children to set aside savings in order to achieve self-sufficiency through self-employment or other means to improve their ability to obtain and retain employment or for the purchase of a home; to the Committee on Finance.

EC-2703. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to reduce costs in the Medicare program, and for other purposes; to the Committee on Finance.

EC-2704. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to amend the Social Security Act to specify the purposes and duration of emergency assistance under part A of title IV; to the Committee on Finance.

EC-2705. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled "Enterprise for the Americas Initiative: A Vision for Economic Growth in the Western Hemisphere"; to the Committee on Foreign Relations.

EC-2706. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on programs, transactions and other relations conducted or carried out by any agency of the U.S. Government with respect to Taiwan; to the Committee on Foreign Relations.

EC-2707. A communication from the Inspector General of the Department of Commerce, transmitting, pursuant to law, a report on the Department's Compliance with, and the Effectiveness of, the Anti-Lobbying Act; to the Committee on Governmental Affairs.

EC-2708. A communication from the Environmental Protection Agency, transmitting, pursuant to law, the annual report summarizing actions taken under the Program Fraud Civil Remedies Act for the year ending September 30, 1991; to the Committee on Governmental Affairs.

EC-2709. A communication from the Chairman of the Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, the annual report of the Commission for the Calendar year 1991; to the Committee on Governmental Affairs.

EC-2710. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-151 adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2711. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-157 as adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2712. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-158 as adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2713. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-159 as adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2714. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-160 as adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2715. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-161 as adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2716. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-162 as adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2717. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2718. A communication from the Director of Public Affairs and Press Secretary, Department of Agriculture, transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2719. A communication from the Assistant Secretary of the Treasury (Management), transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1729. A bill to amend the Public Health Service Act to require drug manufacturers to provide affordable prices for drugs purchased by certain entities funded under the Public Health Service Act, and for other purposes (Rept. No. 102-259).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN:

S. 2303. A bill to amend title IV of the Social Security Act to require full funding of the job opportunity and basic skills training program under part F of such title, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. SIMON, Mr. DIXON, and Mr. METZENBAUM):

S. 2304. A bill to amend title 18, United States Code, to permanently prohibit the possession of firearms by persons who have been convicted of a violent felony, and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. SIMPSON, Mr. GRASSLEY, Mr. SPECTER, Mr. BROWN, Mr. DOLE, Mr. GRAMM, Mr. LOTT, Mr. D'AMATO, Mr. STEVENS, Mr. WALLOP, Mr. MCCAIN, Mr. NICKLES, Mr. DOMENICI, Mr. MCCONNELL, Mr. GARN, Mr. BOND, Mr. COATS, Mr. MURKOWSKI, Mr. ROTH, Mr. MACK, Mr. CRAIG, Mr. SMITH, Mr. BURNS, Mr. SEYMOUR, Mr. WARNER, and Mr. HELMS):

S. 2305. A bill to control and prevent crime; to the Committee on the Judiciary.

By Mr. BOND (for himself, Mr. RIEGLE, Mr. DURENBERGER, Mr. CHAFEE, Mr. COHEN, Mr. DANFORTH, Mr. DOMENICI, Mr. MCCAIN, and Mr. SIMPSON):

S. 2306. A bill to amend the Social Security Act to provide for the designation of certain health insurance plans as qualified plans, and for other purposes; to the Committee on Finance.

By Mr. CONRAD:

S. 2307. A bill to amend the Internal Revenue Code of 1986 to provide a temporary special depreciation allowance permanent for certain farm-processing equipment, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2308. A bill to amend the Federal Water Pollution Control Act to provide for improvement of the quality of Boston Harbor and adjacent waters; to the Committee on Environment and Public Works.

By Mr. PRESSLER:

S. 2309. A bill to require the Federal Communications Commission to use all available methods and procedures to free radio spectrum for new, emerging technologies and services; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN:

S. 2310. A bill to reduce the authorized number of officers of the United States Secret Service Uniformed Division from 1,200 to 1,000; to the Committee on Environment and Public Works.

By Mr. SARBANES:

S.J. Res. 263. A joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMPSON (for himself, Mr. SEYMOUR, and Mr. CRANSTON):

S. Res. 262. A resolution to express the sorrow of the Senate upon the death of Samuel Ichiye Hayakawa, former Senator from the State of California; considered and agreed to.

By Mr. INOUYE (for Mr. LEAHY):

S. Res. 263. A resolution authorizing the reprinting of the publication "Circle of Poison"; considered and agreed to.

By Mr. WARNER:

S. Con. Res. 97. A concurrent resolution to commemorate the 50th anniversary of the Battle of Midway; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. MOYNIHAN:

S. 2303. A bill to amend title IV of the Social Security Act to require full funding of the job opportunity and basic skills training program under part F of such title, and for other purposes; to the Committee on Finance.

WORK FOR WELFARE ACT OF 1992

• Mr. MOYNIHAN. Mr. President, in his State of the Union Address the President returned once again to an issue which has concerned American Presidents for some three decades:

> Ask American parents what they dislike about how things are in our country, and chances are good that pretty soon they'll get to welfare.
>
> Americans are the most generous people on earth. But we have to go back to the insight of Franklin Roosevelt who, when he spoke of what became the welfare program, warned that it must not become "a narcotic" and a "subtle destroyer" of the spirit.
>
> Welfare was never meant to be a lifestyle; it was never meant to be a habit; it was never supposed to be passed from generation to generation like a legacy.
>
> It's time to replace the assumptions of the welfare state, and help reform the welfare system.

Just recently the President's re-election campaign has produced a television advertisement entitled "Agenda." The President returns to his State of the Union theme, pledging: "to change welfare and make the able bodied work. * * *"

Today I am introducing a bill to do just that. It can be on the President's desk by March 20.

The citations in President Bush's State of the Union Address were from President Roosevelt's State of the Union of 1935. FDR was not addressing the subject of welfare as we know it today. He was referring, as he stated, to the then gigantic "relief rolls" which cared for able-bodied men and their families in the depths of the Great Depression. Probably a quarter of the work force was then unemployed. He was proposing a giant public works program.

What we now call welfare is title IV of the Social Security Act which was enacted later in 1935. Originally designed as a "widow's pension," it has since become a vast program supporting single parent, female headed households. There are at present twice as many AFDC cases as unemployment cases. AFDC supports some 4.4 million adults at this time, along with 9 million children, over 13 million Americans in all.

In 1988 the Family Support Act, overwhelmingly passed by Congress and signed by President Reagan changed the terms of the AFDC program. A new social contract was put in place. Society will help the dependent in return for a concerted effort by dependents to help themselves. Welfare was to be temporary; welfare was to lead to work.

Title II of the act created the Job Opportunities and Basic Skills Training Program [JOBS].

The terms of the JOBS Program are simple and direct. All able-bodied adult recipients of AFDC must enroll or lose their benefits. The exceptions are mothers with children under age 3, or, at State option, under age 1.

The program has been coming along. There are now some 500,000 adults in the JOBS pipeline, with about half that number actually in education or jobs programs. Current expenditures, including day care, are $1.5 billion per year.

Indeed, while denouncing welfare in New York City yesterday Vice President Quayle visited and approved America Works, a private-for-profit job training and placement corporation. This is paid for by the JOBS Program.

However, Federal funds for JOBS are capped at $1 billion, and the State match is such that in the current recession many states are not using all the Federal funds available.

The Work for Welfare Act of 1992 would respond to this emergency by: eliminating the cap on Federal funds, and eliminating State matching requirement beyond current outlays.

The additional funding will come to $4.5 billion, including some $1.4 billion for day care.

The bill answers the President's call for action. As of the date of enactment, signing up for JOBS becomes part of signing up for welfare.

The legislation includes a designation by the Congress of the additional spending as an emergency requirement within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985. We trust the President will agree.

The script for the President's new television advertisement "Agenda" ends with this stage direction: Pic of Bush at desk with female assistant handing him something to sign.

Here indeed is something to sign. I would hugely welcome the President's support for this bipartisan measure. We had as much and more from President Reagan.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Work for Welfare Act of 1992".

SEC. 2. FULL FUNDING OF JOB OPPORTUNITY AND BASIC SKILLS TRAINING PROGRAM.

(a) IN GENERAL.—Section 402(a)(19) of the Social Security Act (42 U.S.C. 602(a)(19)) is amended—

(1) in subparagraph (B)(i), by striking "and State resources otherwise permit"; and

(2) in subparagraph (E)(i), by striking "and State resources otherwise permit".

(b) REMOVAL OF FEDERAL PAYMENT LIMITATION AND IMPOSITION OF STATE MAINTENANCE OF EFFORT.—Section 403(k) of such Act (42 U.S.C. 603(k)) is amended—

(1) in paragraph (1)—

(A) by striking "of the applicable percentages (specified in such subsection)"; and

(B) by striking "but such payments" and all that follows through "the State";

(2) by striking paragraphs (2), (3), and (4) and by inserting after paragraph (1) the following new paragraph:

"(2) In order to receive the payments described in paragraph (1), each State must maintain its payments in any fiscal year under this part at or above the level of such payments as of fiscal year 1991.";

(3) by redesignating paragraph (5) as paragraph (3); and

(4) by adding at the end the following new paragraph:

"(4) The State's expenditures for the costs of operating a program established under part F may be in cash or in kind, fairly evaluated.".

(c) REMOVAL OF CERTAIN PAYMENT LIMITS AND MANDATED STATE PARTICIPATION RATES.—Section 403(l) of such Act (42 U.S.C. 603(l)) is amended—

(1) in paragraph (3)(A)—

(A) by striking "Notwithstanding paragraph (1), the" and inserting "The";

(B) by striking "(in lieu of any different percentage specified in paragraph (1)(A))";

(C) in clause (iv), by striking "11" and inserting "40";

(D) in clause (v), by striking "15" and inserting "50"; and

(E) in clause (vi), by striking "20" and inserting "50";

(2) in paragraph (3)(C), by striking "(in lieu of paragraph (1)(A))";

(3) in paragraph (4)(B)(i), by striking "40" and inserting "50"; and

(4) by striking paragraphs (1) and (2) and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(d) REPEAL OF STATE MATCH REQUIREMENT FOR SUPPORTIVE SERVICES.—Section 402(g) of such Act (42 U.S.C. 602(g)) is amended by striking paragraph (3)(A) and inserting the following:

"(3)(A) In the case of amounts expended for child care pursuant to paragraph (1)(A) by any State to which section 1108 does not apply, there shall be no requirements for State resources for purposes of section 403(a), except that no such State shall expend amounts for child care in any fiscal year less than the amount such State expended in fiscal year 1992.".

(e) TIME LIMITATION.—Section 482(b) of such Act (42 U.S.C. 682(b)) is amended by adding at the end the following new paragraph:

"(4) For all individuals required to participate in the program pursuant to section 402(a)(19)(C), the State agency shall conduct the assessment, develop the employability plan, and refer the individuals to a program component (as required in this subsection) within 60 days of the date upon which the individual is found eligible for such program.".

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to expenditures made after September 30, 1992.

SEC. 3. EMERGENCY DESIGNATION.

(a) EMERGENCY DESIGNATION.—Pursuant to sections 251(b)(2)(D)(i) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Congress hereby designates all direct spending amounts provided by this Act (for all fiscal years) and all appropriations authorized by this Act (for all fiscal years) as emergency requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EFFECTIVENESS.—Notwithstanding any other provision of law or any other provision of this Act, none of the preceding sections of this Act shall take effect unless, not later than the date of the enactment of this Act, the President submits to the Congress a written designation of all direct spending amounts provided by this Act (for all fiscal years) and all appropriations authorized by this Act (for all fiscal years) as emergency requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.●

By Mr. LAUTENBERG (for himself, Mr. SIMON, Mr. DIXON, and Mr. METZENBAUM):

S. 2304. A bill to amend title 18, United States Code, to permanently prohibit the possession of firearms by persons who have been convicted of a violent felony, and for other purposes; to the Committee on the Judiciary.

STOP ARMING FELONS ACT [SAFE]

● Mr. LAUTENBERG. Mr. President, today, along with Senators SIMON, DIXON, and METZENBAUM, I am introducing legislation, the Stop Arming Felons Act, or the SAFE Act, to close two loopholes in current law that allow convicted violent felons to possess and traffic in firearms.

The bill would abolish a procedure by which the Bureau of Alcohol, Tobacco and Firearms can waive Federal firearm restrictions for individuals otherwise prohibited from possessing firearms. In addition, the bill would end a practice by which States are restoring the firearm rights of individuals convicted of violent felonies.

In essence, Mr. President, this bill stands for two propositions.

First, convicted violent felons should not be allowed to possess firearms.

Second, taxpayers should not be forced to pay $10,000 so that a convicted felon can possess these deadly weapons.

Mr. President, it's hard to believe that many Americans would disagree with these propositions. They're not exactly radical. To the contrary, they're really just common sense.

Surely, someone who has demonstrated his or her willingness to commit a crime of violence should not be entrusted with highly dangerous, deadly weapons.

And if someone violates basic social norms, and is convicted of committing a felony, surely law-abiding taxpayers should not be forced to pay $10,000 so he or she can later possess firearms.

Unfortunately, the law in this area has drifted far from common sense.

Under federal law, any person convicted of a crime punishable by a term of imprisonment exceeding 1 year is prohibited from possessing, receiving, shipping interstate, or transporting interstate, any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

In short, felons cannot possess firearms.

However, Mr. President, there are two gaping loopholes. I call them the "guns for felons loopholes".

First, if all the felon's basic civil rights have been restored under State law—that is, rights like the right to vote, the right to hold public office, and the right to sit on a jury—then the conviction is wiped out and all firearm rights are restored. This is true unless the restoration of rights explicitly maintains the firearm ban.

Many States now automatically restore the civil rights of convicted felons. Sometimes, the restoration is effective immediately after the felon serves his or her sentence. Sometimes, the felon must wait a few years.

As a result of this loophole, which was added with little debate in 1986, even persons convicted of violent crimes can legally obtain firearms. That's wrong.

First, and most obviously, it endangers public safety. But in addition, it impedes Federal prosecutors' efforts to help State and local law enforcement agencies crack down on violent offenders. Prosecutors report that it's a very serious problem.

Our bill would close this loophole. Under the legislation, persons convicted of violent felonies would be banned from possessing firearms, regardless of whether a State restores other rights.

Let me turn now to the second guns for felons loophole.

Even if a felon's civil rights have not been restored under State law, the felon can still apply to the Federal Bureau of Alcohol, Tobacco, and Firearms [ATF]. Upon application, ATF performs a broad-based field investigation and background check. If the Bureau believes that the applicant does not pose a threat to public safety, it can grant a waiver.

Since 1985, well over 2,000 waivers have been granted.

Mr. President, this relief procedure has an interesting history. It was first established in 1965 not to permit common criminals to get access to guns, but to help out a particular firearm manufacturer, called Winchester. Winchester had pleaded guilty to felony counts in a kickback scheme. Because of the conviction, Winchester was forbidden to ship firearms in interstate commerce. The amendment was approved to allow Winchester to stay in business.

Because it was drafted broadly, however, the waiver provision applied not only to corporations like Winchester, but to common criminals. Originally, waivers were not available to those convicted of firearms offenses. But the loophole was further expanded in the 1986 McClure-Volkmer bill, which allowed even persons convicted of firearms offenses, as well as those involuntarily committed to a mental institution, to apply for a waiver.

Between 1988 and 1990, ATF processed about 3,000 applications at taxpayer expense. While some applications are withdrawn or disposed of easily, many require a substantial amount of scarce time and resources. ATF officials perform investigations that can last weeks, including interviews with family, friends, and the police.

In the late 1980's, the cost of processing and investigating these petitions worked out to about $10,000 for each waiver granted.

It's hard to imagine a more outrageous waste of hard-earned taxpayers dollars.

Mr. President, from 1985 to 1991, ATF spent well over $20 million to process and investigate applications for relief. That's more than $20 million to put guns in the hands of convicted terrorists, thugs and the like, while pressing domestic needs have gone unmet and our budget deficit has skyrocketed.

Of course, Mr. President, giving firearms to convicted felons is more than a problem of wasted taxpayer dollars and misallocated ATF resources. It also threatens public safety.

Under the relief procedure, ATF officials are required to guess whether a given convicted felon can be entrusted with deadly weapons. Needless to say, it is a difficult task. Even after Bureau investigators spend long hours investigating a particular criminal, there is no way to know with any certainty whether he or she is still dangerous.

Officials are now forced to make these types of guesses, knowing that a mistake could have tragic consequences for innocent Americans; consequences that could range from serious bodily injury to death.

Mr. President, thrusting this heavy responsibility on ATF officials is not fair. It's not fair to the innocent Americans whose safety is at risk. And it's not fair to the officials themselves.

What happens when convicted felons get their firearms rights back? Well, some apparently go back to their violent ways. Those granted relief subsequently have been rearrested for crimes ranging from attempted murder to rape and kidnaping.

Mr. President, this simply has got to stop. Our bill would eliminate the relief procedure altogether. As we see it, taxpayers shouldn't be forced to pay a single cent to arm a felon.

Mr. President, I appreciate that many Americans are very concerned about any effort that could lead to unreasonable restrictions on the rights of law-abiding citizens to get access to guns for sporting or other lawful purposes. So I want to emphasize something: this is an anticriminal bill. And a protaxpayer bill.

It's in no way an attack on the right of law-abiding citizens to possess firearms.

I also want to emphasize that we are not criticizing the many dedicated men and women who work for ATF. To the contrary, the role they play is vitally important, and they deserve our appreciation and support. The problem in this case is not with the Bureau itself, but with the law that they are obligated to implement.

Mr. President, firearm violence has reached epidemic proportions. And we have a responsibility to the victims and prospective victims to take all reasonable steps to keep this violence to a minimum. Keeping firearms away from convicted violent felons is the least these innocent Americans should be able to expect.

I urge my colleagues to support the legislation, and ask unanimous consent that a copy of the bill be printed in the Record, along with other related materials.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stop Arming Felons (SAFE) Act".

SEC. 2. RESTORATION OF CIVIL RIGHTS AFTER CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by striking the period at the end and inserting ", or such restoration of civil rights occurs following conviction of a crime of violence (as defined in section 924(c)(3)).".

SEC. 3. ADMINISTRATIVE RELIEF FROM CERTAIN FIREARMS PROHIBITIONS.

(a) In General.—Section 925(c) of title 18, United States Code, is amended—

(1) in the first sentence by inserting "(other than a natural person)" before "who is prohibited";

(2) by striking the second and third sentences;

(3) in the fourth sentence—

(A) by inserting "person (other than a natural person) who is a" before "licensed importer"; and

(B) by striking "his" and inserting "the person's"; and

(4) in the fifth sentence, by inserting "(i) the name of the person, (ii) the disability with respect to which the relief is granted, and, if the disability was imposed by reason of a criminal conviction of the person, the crime for which and the court in which the person was convicted, and (iii)" before "the reasons therefor".

(b) Applicability.—The amendments made by subsection (a) shall apply to—

(1) applications for administrative relief and actions for judicial review that are pending on the date of enactment of this Act; and

(2) applications for administrative relief filed and actions for judicial review brought after the date of enactment of this Act.

[From the Washington Post, Sept. 25, 1991]

Why Are We Rearming Felons?

In this era of budget shortages and service cut-backs, it is ludicrous that the federal government is spending money to help rearm convicted felons, but because of a congressional directive, that is being done. A sensible federal law bars convicted felons from possessing, shipping, transporting or receiving firearms or ammunition, but an amendment adopted in the '60s creates a loophole so that the secretary of the Treasury can grant relief in cases where the applicant "will not be likely to act in a manner dangerous to public safety." The Violence Policy Center, which studied the operation of this law and recently released a report, says that the loophole was created as a favor to the Winchester firearms company whose parent corporation, Olin Mathieson had pleaded guilty to felony counts in a kickback scheme. Without the amendment, Winchester would have gone out of business.

Despite this narrow intent, the amendment is broad enough to accommodate individuals, and they have been applying by the thousands for relief. To make matters worse, Congress amendment the law again in 1986 creating a right to appeal an adverse decision to the U.S. District Court. Thus while the secretary had been free to withhold relief in almost every case, there is now what amounts to a presumption that this privilege will be restored and that he has to have a good reason for turning down each applicant.

In the past six years, the Treasury's Bureau of Alcohol, Tobacco and Firearms has had to process about 10,000 applications for relief. Some are easily disposed of, but most require a full field investigation of the applicant, including interviews with family, neighbors, employers and the like. About one out of four requests is granted. To BATF's credit, its judgment has proved wrong in only 2.6 percent of the cases. But the task of deciding who is not likely to pose a danger to the community at some time in the future is a formidable one, given the frequency with which supposedly reformed and nonviolent criminals disappoint the psychiatrists, parole boards and others who thought they would do no further harm.

As far as we are concerned, the fewer felons walking around armed, the better. Why is it wrong to decide that no one convicted of a felony can own a gun again? Why is it important that this privilege be restored? Felons lose other rights as a consequence of conviction—the right to vote or run for office, for example—which in most cases can only be restored by a pardon. Why is the privilege of owning a firearm easier to regain? Congress made a mistake in creating this loophole in firearms regulation, and that mistake was compounded in 1986. Legislators now considering the crime bill should reassess this law.

[From the Washington Post, Nov. 27, 1991]

Four Million a Year To Rearm Felons

Congress, reluctant for so long, to buck the National Rifle Association, has come to understand the importance of controlling firearms. Whether or not the measure becomes law this year, both houses have now voted for a waiting period before the purchase of a handgun, and the Senate was even willing to prohibit the sale of certain kinds of semiautomatic assault weapons. Another proposal to limit gun possession, first suggested by the Washington-based Violence Policy Center, was offered too late for inclusion in the crime bill will be introduced by its sponsors, Rep. Edward Feighan (D-Ohio) and Rep. Lawrence Smith (D-Fla.), when Congress returns in January.

By statute, the Treasury's Bureau of Alcohol, Tobacco and Firearms is required to process applications submitted by convicted felons seeking to have their right to own guns restored. In general, such individuals are prohibited from possessing, shipping, transporting or receiving firearms, but a special exception was created to allow the federal government to restore these rights in some circumstances. The loophole was created to save the Winchester Firearms Co.—whose parent company had been convicted in a kickback scheme—from bankruptcy. Unfortunately, the law is broad enough to encompass individuals who are found "not likely to act in a manner dangerous to public safety," and because special appellate rights have been granted to applicants who are turned down, BATF must take every application seriously and be able to justify every ruling.

How does a federal agency go about deciding which felons, of the 10,000 who have applied for restoration of gun rights, would constitute a danger to society if allowed to own a firearm? By full field investigations, involving interviews with family, friends, neighbors and business associates of the applicant, by reviewing criminal records and parole histories and by relying on the expert judgment of professionals trained to assess an individual's potential for violence—if, indeed, that can be done. All this takes a great deal of time and costs the taxpayer about $4 million a year.

The idea of the government's making a special effort to rearm convicted felons is difficult to fathom. The continued expenditure, in tight budget times, of millions of dollars to implement this program is impossible to justify. Both situations should be remedied by the passage of the Feighan-Smith bill early next year.

FELONS GRANTED RELIEF FROM DISABILITY UNDER FEDERAL FIREARMS LAWS—TEN CASE STUDIES

(By Josh Sugarmann, Executive Director, Violence Policy Center)

(Excerpted from the upcoming Violence Policy Center study, "Putting Guns Back Into the Hands of Criminals: 100 Case Studies of Felons Granted Relief From Disability Under Federal Firearms Laws," to be released in March 1992.)

In September 1991 the Violence Policy Center, a non-profit educational foundation that conducts research on firearms and violence in America and works to develop violence-reduction policies and proposals revealed that the federal Bureau of Alcohol, Tobacco and Firearms (ATF) was spending millions of taxpayer dollars annually to help convicted felons, including those involved in drug dealing, violent crimes, and terrorism, legally regain the privilege of possessing firearms.

Under federal law, convicted felons automatically lose the privilege of owning firearms. Yet as the result of a 1965 amendment to the Federal Firearms Act of 1938, convicted felons can apply to ATF for "relief" from the "disability" of not being able to possess a gun. The 1965 law was passed as a congressional favor to firearms manufacturer Winchester, a division of Olin Mathieson Corporation. In 1962 Olin Mathieson pleaded guilty to felony counts stemming from a kickback scheme involving Vietnamese and Cambodian pharmaceutical importers. Because of its parent company's conviction, Winchester could no longer ship firearms in interstate commerce. The law was enacted to allow Winchester to stay in business and specifically excluded those convicted of firearms crimes.

Because of its broad wording and loose, interpretation by ATF, the law soon became a convicted felons' second-chance club. Under the law, relief can be granted if: "the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest." In 1986, as the result of the National Rifle Association-drafted McClure-Volkmer firearms de-control bill, relief privileges were extended to those who had been convicted of crimes involving a firearm, involuntarily committed to a mental institution, or who had violated the Gun Control Act of 1968. McClure-Volkmer also added wording expanding the ability of federal courts to overturn decisions by ATF to deny relief.

In the last decade, ATF has processed more than 22,000 applications for relief. Between 1985 and 1990, approximately one third of those seeking relief were eventually granted it (see Chart One and Two on the next page). (Of those not granted relief, ATF estimates that a third drop out at some point during the process and that a third are denied relief.)

CHART 1.—APPLICATIONS RECEIVED, 1985–90

	1985	1986	1987	1988	1989	1990	Total
Year:							
Applications received	1,584	1,584	1,179	1,083	891	940	7,261

Source: ATF Public Affairs Office.

CHART 2.—RELIEF GRANTED BY TYPE, 1985–90

Type of relief granted	1985	1986	1987	1988	1989	1990	Total
Firearms	584	474	294	258	298	256	2,164
Explosives	4	3	1	2	2	1	13
Firearms and explosives	33	4	18	19	20	6	130
Total	621	481	313	279	320	263	2,307

Source: ATF Public Affairs Office.

Since 1985, the relief from disability budget has steadily climbed from $2.7 million in fiscal year 1985 to $4.2 million in fiscal year 1991 (see Chart Three below).

CHART 3.—RELIEF FROM DISABILITY PROGRAM BUDGET FIGURES, 1985–91

	Full-time employees	Cost
Fiscal year:		
1985	43	$2,751,000
1986	41	2,516,000
1987	35	2,575,000
1988	43	3,065,000
1989	43	3,094,000
1990	46	3,470,000
1991	NA	4,270,000

Source: ATF Public Affairs Office.

ATF estimates that for those granted relief from 1985 to 1989, the recidivism rate—overall—is 2.6 percent. Those most recently granted relief, not surprisingly, have the lowest recidivist rates, while those granted relief earlier in the decade—with more time to once again commit a crime—have the highest rates (see Chart Four below). The agency offers no specifics as to the subsequent crimes committed.

CHART 4.—THOSE GRANTED RELIEF WHO ARE SUBSEQUENTLY REARRESTED, 1985–89

	Relief granted	Number rearrested	Percentage rearrested
Year:			
1985	386	14	3.6
1986	491	23	4.7
1987	327	8	2.5
1988	259	2	0.8
1989	318	0	0
Total	1,781	47	2.6

Source: ATF Public Affairs Office.

The names of those granted relief are printed in the Federal Register along with the court of conviction. The crimes committed are not printed. In 1989 the Violence Policy Center requested copies of the conviction records and ATF investigations under the Freedom of Information Act (FOIA). After a year of protracted negotiations, the agency refused to release the documents. The Violence Policy Center then independently obtained the original court records of randomly chosen applicants. A random sample of 30 cases of the thousands of names that appear in the Federal Register yielded drug dealing, sex crimes, and terrorism.

Robert Christopher Gunn pleaded guilty in February 1980 to two counts of delivery of a controlled substance, narcotics or cocaine and was sentenced to three to 20 years for each charge. In 1989, having been released from prison, he received his relief.

In 1976, 19-year-old John Wayne Young pleaded guilty in Minnesota to aggravated assault and aggravated robbery. Young had a history of sex-related offenses dating back to the age of 13. In 1989 he received his relief.

In February 1981 Jerome Sanford Brower pleaded guilty in federal court to charges of conspiracy to transport explosives in foreign commerce with intent to use unlawfully, violating the Arms Export Control Act, and unlawfully transporting hazardous material in foreign commerce. Brower had been part of an international terrorist plot masterminded by former CIA agents Edwin Wilson and Francis Terpil. In 1976, Brower, a federally licensed explosives dealer, met with Wilson and Terpil and agreed to supply explosives for an unspecified "operation" in Libya. In June, after meeting with Libyan officials, Terpil drafted a "secret proposal" outlining a six-month terrorist training program to be conducted for the Libyans. Brower transported explosives to Libya and instructed the Libyans in defusing the explosive devices. Brower was eventually allowed to plead guilty and received a four-month prison sentence and was fined $5,000. He received his relief four years later.

Soon after releasing this information, the Violence Policy Center filed an appeal with ATF regarding its FOIA request for the original investigative reports. In December 1991, having won its appeal, the Violence Policy Center reached an agreement with ATF to receive 100 consecutive cases from a specified time period. For all cases the names, locations, and much of the time frame have been deleted by ATF. Since then, the Violence Policy Center has received 30 cases, ten of which have been summarized for this excerpt.

The following information is taken from the upcoming Violence Policy Center report, "Putting Guns Back Into the Hands of Criminals: 100 Case Studies of Felons Granted Relief From Disability Under Federal Firearms Laws," to be released in March 1992. In addition to full summaries of all 100 cases obtained by the Center under the FOIA from ATF, the study will include a history of the relief from disability program as well as recent federal court decisions affecting the granting of relief to convicted felons under state laws.

RELIEF FROM DISABILITY TEN CASES

Cases are taken from ATF investigative reports received by the Violence Policy Center under the Freedom of Information Act. Where dates or names can be ascertained, they are given. Missing names of applicants, victims, cities, states, and incomplete time frames reflect deletions in the documents made by ATF. All applicants cited were granted relief.

Armed robbery

Applicant served a term of 18 months for armed robbery in the second degree. He was released after one year, and placed on probation for a period of one year which was completed in January 1980. Applicant had robbed a clerk at a K-Mart department store of $5,740 using a loaded 38 caliber revolver. Restoration was sought so that the applicant could go hunting. ATF acted on the request in 1989.

Burglary

In 1975 applicant pleaded guilty to burglary. The applicant and a juvenile had been arrested after they had broken into a mining company garage and attempted to take tools valued at approximately $3,000. In a pre-investigation interview with an ATF agent, applicant admitted that he had failed to list two other convictions on his application, one for burglary and the other for brandishing a firearm. Both had occurred in approximately 1980. The applicant stated that he hadn't listed additional convictions because he couldn't remember the exact dates. The applicant stated that with regard to the brandishing a firearm charge, he had come home drunk one night and got in an argument with his now ex-wife and her sister. He then went to the closet, took out an unloaded gun and asked his sister-in-law to leave his house. In his recommendation, the investigating agent stated that although the applicant's neighbors, co-workers, and references endorsed relief, "the fact that the applicant was not truthful in completing his application by withholding past convictions [and] is a recidivist, one conviction was for Brandishing a Firearm, and the date of his last conviction has been less than ten years, it is felt a denial of this application would be appropriate." Following a letter from the applicant after denial, the decision was apparently reversed. A 1989 letter from ATF stated that, "After careful review of our investigative report and other pertinent documents concerning your application, we have decided to grant your application for restoration. . . ."

Conspiracy to receive and transport in interstate commerce an illegally taken big horn sheep

Applicant pleaded guilty to conspiracy to receive and transport in interstate commerce an illegally taken Big Horn sheep and received five years imprisonment, with all but 90 days suspended. Applicant was placed on probation for five years, was required to perform 500 hours of community service, pay restitution of $16,000, and was fined $10,000. Applicant was released from probation in September 1988. Applicant was a licensed guide and outfitter who booked undercover U.S. Fish and Wildlife agents on a hunting trip where a Big Horn sheep was illegally shot and killed. Application for relief was made so that while applicant was acting as a guide in remote areas he could protect his clients from bear attack and be able to dispose of seriously wounded animals. ATF acted on the application in 1989.

Drinking and driving—homicide

The applicant was convicted of felony homicide and causing bodily injury by intoxicated use of a motor vehicle and was sentenced to a term of five years probation. The applicant has struck on oncoming motorcycle, killing the driver and seriously injuring the passenger. The applicant was released from probation in April 1987. In 1989 ATF acted on the applicant's relief application. Restoration was requested so that the applicant could hunt with family members.

Drinking and driving—injury

Applicant was found guilty of one count of Assault in the Third Degree With a Motor Vehicle and was sentenced to a five-year term of imprisonment with a one-year mandatory minimum in physical custody. It is unclear how much time was actually served. Applicant was released from final parole in January 1984. The conviction stemmed from the applicant's vehicle colliding head-on with another vehicle. According to witnesses, the applicant had been very drunk, and his car crossed the center line and hit an oncoming vehicle occupied by three people. During the course of the investigation additional arrests or convictions for the years 1967 to 1978 were discovered that had not been listed on the application, including: juvenile burglary, disorderly conduct, minor in possession of alcohol, and driving while under the influence. The applicant, who had stopped drinking since the accident, sought relief so that he could hunt. ATF acted on the request in 1989.

Drug distribution

Applicant pleaded guilty to conspiracy to distribute a schedule II controlled substance. On three separate occasions applicant had been surveilled by special agents of the Drug Enforcement Administration supplying ounce quantities of cocaine to another person. The cocaine was intended for street use, as evidenced by its low quality. Although applicant was initially suspected of being part of a large cocaine ring, DEA agents concluded that he was a low level user and supplier of cocaine. Applicant received a suspended prison term of five years, was placed on probation, ordered to perform community service, and required to pay a fine of $2,100. ATF acted on applicant's relief application in 1989. Applicant applied for relief to pursue his hobby of target shooting.

Drug Distribution

Applicant was found guilty of conspiring with four others to possess with intent to distribute 13.4 grams of 100 percent pure cocaine. Applicant was sentenced to five years in federal prison and was placed on parole. In August 1979 parole was terminated early. In 1989 AFT acted on applicant's relief request. Applicant applied for relief so that he could posses a firearms collection bequeathed to him by his father.

Firearms violation—illegal sale of machine guns

Applicant, Sherman Dale Williams, pleaded guilty to two counts of illegal transfer of machine guns and was sentenced to three years probation. Applicant was a gun collector who stated that he had four machine guns, two of which were registered as required by law, and two of which were not. Applicant eventually sold the guns to undercover Bureau of Alcohol, Tobacco and Firearms (ATF) agents for a total of $500. A federal search warrant was served and three more unregistered machine guns and five improvised destructive devices were recovered from the applicant's home. In interviewing the applicant's neighbors, one, who had know him for 15 years, said that he was "the type of neighbor that always keeps to himself" and that he was unsure whether the applicant would be a threat to the community if he were able to possess a firearm. He described the applicant as kind of strange acting, but was unable to say exactly why he felt this way. Another neighbor, who had known the applicant for 12 years stated that he did not like the applicant and that he had a reputation as a crook. He added that it would not surprise him if the applicant already had guns. One female neighbor who had known the applicant for 14 years stated that he was a "recluse" type that kept to himself. She stated that she was unable to comment further on him and added "that she preferred . . . if he were allowed to own firearms, [that the applicant] did it somewhere else and not in her neighborhood." The investigating agent noted that, "She was unable to express why she felt this way." Additional information obtained during the investigation revealed that in 1977 the applicant had possessed and sold a 22 caliber pistol to an undercover ATF agent in the presence of an informant. The U.S. Attorney's office declined to prosecute. When reminded of this incident by the investigating agent, the applicant explained that he had acted as the middleman in the transaction and had never actually touched the firearm. The agent to whom the handgun had been sold stated that the applicant did handle the weapon and took an active part in the transaction. Local law enforcement personnel, including the chief, three detectives, and a detective sergeant felt that if Williams were granted relief he would be a threat to the community. The officers, however, had no documentation (police reports, police contacts, or intelligence information sheets) to substantiate their fears. In his recommendation, the investigating agent noted that, "During this investigation, the law enforcement community and a few neighbors expressed great concern [regarding Williams'] being granted relief, however, no documentable reasons for denying him his relief were produced. Because of this lack of documentation, I have no choice but to recommend that [he be] granted relief."

Manslaughter

Applicant entered a plea of guilty to one count of voluntary manslaughter. Applicant had killed his cousin with a 16-gauge shotgun. He and his cousin had both been intoxicated at the time. Applicant stated that his cousin had beaten him severely and had threatened to kill him prior to the shooting. Applicant served approximately 24 months and was granted parole on November 11, 1976. ATF acted on his relief application in 1989.

Sexual abuse of a child

The applicant, 34 years old in 1989, was arrested pursuant to a complaint filed by his ex-wife. Applicant was arrested and charged with First Degree Felony, Rape of a child. The applicant pleaded guilty to Sexual Abuse and was sentenced to an indeterminate term of not less than one year nor more than 15 years. The sentence was suspended and the defendant placed on probation for 18 months with the stipulation that he spend one year in work release. The facts of the case, as determined by the local police department, were found to be as follows. The applicant's 14-year-old stepdaughter by a previous marriage was visiting his home. A "rough-house" type of play turned into a "tickling incident" and ultimately led to the applicant masturbating onto the girl's stomach. The girl later told her mother who made the complaint to the police. ATF acted on the application in 1989, noting that the felony conviction was five years old and nonviolent.

REMAINING TWENTY CASES—NOT DETAILED

Bribery and Fictitious Claims by a Government Contractor.

Conspiracy and Mail Fraud.

Drinking and Driving—Injury.

Driving While License Suspended.

Drug Distribution (5).

False statements to a Government Agency.

False Statements on a Federal Loan Application.

Firearms Violation—Illegal Possession of a National Firearms Act (NFA) Weapon.

Grand Larceny.

Illegal Planting, Cultivating, and Harvesting of Marijuana.

Robbery (armed with metal pipe).

Stolen Property—Transport, Receiving, or Concealing (2).

Theft by Failure to Make Required Disposition.

Tax Evasion (2).•

• Mr. SIMON. Mr. President, I rise today to introduce the Stop Arming Felons or "SAFE" Act, a bill to correct a dangerous legislative loophole.

Mr. President, taxpayers are paying millions of dollars each year so that convicted felons may obtain firearms. In an age of increasing violent gun crimes, not to mention an ever widening budget deficit, that just doesn't make sense.

Millions of dollars have been spent because a 1965 gun control statute has required the Bureau of Alcohol, Tobacco and Firearms [BATF] to process gun ownership applications submitted by convicted felons. While in general the 1968 Gun Control Act prohibits persons convicted of crimes punishable by imprisonment for a term exceeding 1 year from possessing a firearm, this 1965 loophole can grant relief from gun disabilities to those individuals who "will not be likely to act in a manner dangerous to public safety." Amazingly, an application for relief isn't always necessary: several States automatically restore gun privileges to felons upon the completion of their sentence. This is possible because Congress made it even easier for felons to receive firearms in 1986. The 1986 McClure-Volkmer amendments placed the responsibility for determining gun disabilities after conviction upon the State where the proceedings were held.

Certainly, this wasn't the intention of Congress when it passed the exemption in 1965. In fact, it was passed as a favor to the Winchester Firearms Co., whose parent organization had been found guilty of a kick-back scheme. Without the amendment, the company would have gone bankrupt. The language of the amendment was, however, sufficiently broad enough to allow individuals to apply.

According to the Washington Post, some 22,000 such applications for exemption by individuals have been processed by BATF in the past decade—at a taxpayer cost of approximately $4 million a year. This means that from fiscal years 1985 to 1991, BATF spent well over $20 million to investigate gun possession applications submitted by felons. Not only is the process costly it's also very laborious. Because the applicants' eligibility is dependent upon the laws of the State where they were convicted, BATF agents must be familiar with 50 different statutes. Furthermore, many of the numerous applications for relief require a background check and an extensive investigation of the former felon. These time-consuming, often tedious investigations are performed by agents who would otherwise be investigating violent crimes.

Who is ultimately relieved because of the loophole? A random survey done by the Violence Policy Center found that the gun relief went to individuals like former felon Robert Christopher Gunn, who pleaded guilty to two counts of delivery of a controlled substance and received a 3- to 20-year sentence for each count. In 1989, he was released from prison and granted firearms disability relief from BATF. 1989 was also the year that John Wayne Young received a restoration of his firearms privileges. In 1976, he had pleaded guilty to aggravated assault and aggravated robbery—his record of sex-related offenses dated back to his 13th year. Even Jerome Sanford Brower, who had been part of an international terrorist plot and had pleaded guilty to charges of "conspiracy to transport explosives in foreign commerce with intent to use unlawfully," was granted relief by BATF.

Perhaps the most disturbing case of them all has been that of Idaho felon Baldemar Gomez. He had been convicted of second-degree murder, voluntary manslaughter and battery on a correctional officer, However, because Idaho was one of the States that automatically restored convicts' civil rights upon their release from prison, in the words of Assistant U.S. Attorney Kim Lindquist, "When Baldemar walked out of the penitentiary, someone could have been standing there and handed him a shotgun and it would have been entirely legal * * *" In 1987, Gomez was rearrested during a drug raid and was convicted of violating the Gun Control Act. However, this conviction was overturned by the U.S. Court of Appeals because of Idaho's automatic relief provision. In response to the Gomez case, the Idaho legislature changed its law so that felons must wait 5 years after their sentence and then get State approval in order to own a firearm.

Unfortunately, the list doesn't end with Gunn, Young, Brower or Gomez. Former felons such as these are given the privilege of obtaining and possessing firearms every day—all at the taxpayers' expense. An average of one in four requests to BATF are granted, and to date, an average of 2.6 percent of relieved felons have been rearrested for other crimes. A computer criminal history check has shown that 47 individuals who were granted relief by BATF during the period of 1985–1989 were subsequently rearrested. Ten of these 47 individuals were rearrested for offenses involving firearms, such as the possession of firearms in drug crimes, malicious wounding, and unlawful use of a weapon. However, there are many other criminal charges among the 47 rearrests that could have also involved the use of a firearm, but the computer criminal history check could not make the distinction in these instances. In any case, it is apparent that these charges were violent in nature. Among these are crimes such as aggravated assault, robbery, kidnapping, wanton endangerment, rape and attempted murder.

Fortunately, we can eliminate this dangerous loophole by passing the "Felon Firearm Prohibition Act." Our act can put an end to this unnecessary expense and put the agents at BATF back to work on the investigation of violent crimes—not convicted felons. Specifically, the bill would prohibit individuals—including felons and fugitives from justice—from applying to BATF for firearms disability relief. Furthermore, States would be prohibited from restoring firearm privileges to violent felons. In several States, such as Illinois, this provision is already on the books.

How would this bill affect Illinois? Illinois law currently allows the State police to grant firearms privileges to non-violent felons. Forcible—or violent—felons may not apply for relief. Because our proposed bill and the current Illinois firearm privilege restoration procedures are so similar, Illinois would benefit from this bill, because the residents of Illinois would no longer have to fund the BATF relief procedure through their taxes.

I feel confident that most of my colleagues will support this measure. While many of us have differed in the past over issues such as controlling assault weapons and passing a handgun waiting period, I think we can all agree that convicted felons should not be applying to the Federal Government for firearms relief at the taxpayers' expense—nor should violent felons be getting relief from the States. This is simply common sense. I urge all of my colleagues to join me in this effort.•

By Mr. THURMOND (for himself, Mr. HATCH, Mr. SIMPSON, Mr. GRASSLEY, Mr. SPECTER, Mr. BROWN, Mr. DOLE, Mr. GRAMM, Mr. LOTT, Mr. D'AMATO, Mr. STEVENS, Mr. WALLOP, Mr. MCCAIN, Mr. NICKLES, Mr. DOMENICI, Mr. MCCONNELL, Mr. GARN, Mr. BOND, Mr. COATS, Mr. MURKOWSKI, Mr. ROTH, Mr. MACK, Mr. CRAIG, Mr. SMITH, Mr. BURNS, Mr. SEYMOUR, Mr. WARNER, and Mr. HELMS):

S. 2305. A bill to prevent and control crime; to the Committee on the Judiciary.

CRIME CONTROL ACT OF 1992

Mr. THURMOND. Mr. President, the average American today understands the problem of violent crime ravaging our cities and towns. Recently, even the U.S. Senate has become painfully and acutely aware of violent crime. Just weeks ago, a young man—who had moved to Washington to work for our colleague from Alabama, Senator SHELBY—was murdered only blocks from here. A 17 year old was charged with the murder. Another Senator recently witnessed the abduction of his wife at gunpoint just eight blocks from where I stand. Just this past weekend, the Sergeant of Arms for the U.S. House of Representatives, Jack Russ, was shot in the face at point blank range by an assailant who robbed him. Reportedly, the assailant forced the muzzle of the pistol into the mouth of his victim and then pulled the trigger. This is an outrage.

Despite the violence we and other Americans witness every day, some in Congress tried unsuccessfully last November to force upon us a crime bill which actually would have expanded the rights of violent criminals. The partisan crime conference produced a procriminal conference report that is unacceptable. It is still being held at the desk.

It is clear to every American that the growth of violence can be largely attributed to a criminal justice system which has become soft on heinous criminals, failing to impose swift, effective punishment. Those who commit violent offenses no longer expect to be held accountable for their actions. Incredibly, there was still an effort to shove through Congress a feeble conference report which would continue this trend by siding with the criminal.

As every Member of the Senate knows, I have fought for a tough crime bill for a number of years. I have always worked with my colleagues in the spirit of bipartisanship in an effort to enact a true crime bill. For example, even during the crime conference 2 years ago—when House conferees forced a retreat on many tough criminal law reform measures significantly weakening the bill—I supported the crime bill that was reported.

Last year, the House and the Senate each passed a major crime bill. Both the Senate and the House bills contained proposals on the death penalty, habeas corpus reform, the exclusionary rule and firearms waiting periods. Yet, many of these proposals are significantly different and, unbelievably, a number even expand the rights of criminal defendants.

Prior to last year's crime conference, I had expressed a strong belief that there was an effort to stack the deck in favor of death penalty opponents and in favor of a weak crime bill. Unfortunately, I was correct. The conference was unfairly balanced, and rigidly scripted by the majority, where the views of Republican conferees were ignored and summarily dismissed. Although the bill that was eventually reported is being called a "compromise" by some, it has been proven to be no such thing. With remarkable consistency, the partisan conference committee rejected the tougher option on the major points and opted instead for provisions that handcuff law enforcement and reduced the safety of law abiding citizens. The Attorney General has recommended that this sham bill be vetoed and President Bush has written the Senate Republican Leader stating his intention to veto the measure if it ever reaches his desk.

For example, the most troubling provision in the partisan conference report is the habeas corpus language. Although the Senate passed tough habeas corpus reform by a vote of 58 to 40 as part of S. 1241, this conference report adopts the liberal House language on this subject. It systematically reverses over 14 Supreme Court decisions favorable to law enforcement and, according to the Department of Justice, will throw the prison doors wide open for thousands of dangerous criminals throughout the Nation. Standing alone, this provision is enough to compel the Senate to reject this conference report.

Although the conference report authorizes the death penalty for over 50 Federal offenses, the trial procedures make it extremely unlikely that the death penalty would ever be imposed. Furthermore, the habeas proposal contained in the report renders the death penalty meaningless since virtually no sentences will be carried out. The conference report also rejects the tough exclusionary rule measure and instead rolls back court decisions to the detriment of law enforcement. It substantially narrows the good faith exception to the exclusionary rule. Unbelievably, the partisan report also contains a broad provision which mandates automatic reversal of criminal convictions based on improper admission of a defendant's statements or confession at trial. This new rule applies even in cases where it is shown beyond a reasonable doubt that the error was a harmless error and could not have affected the outcome of the case. It overturns the Supreme Court case of Arizona versus Fluminante which correctly allows the harmless error rule to apply to confessions by criminals. According to the Department of Justice, the result of this "pro-criminal" provision will be the release of an untold number of murderers and other violent criminals.

Thanks to the diligent work of our Nation's prosecutors and victims groups who contacted Members of Congress, this fraud bill was stopped before it could be adopted. In addition, the few organizations which rushed to embrace this weak bill are now rethinking their positions in support of the measure. As we all know, the measure narrowly passed the House on November 27 by a vote of 205 to 203 after much partisan arm twisting. However, an effort to shove the "pro-criminal" bill through the Senate failed. In fact, the measure's proponents could not even muster up enough votes to make the bill the pending business.

Some in Congress may doubt whether a crime bill will be enacted into law this year. Nevertheless, I remain committed to passing a crime bill which provides law enforcement the assistance it deserves and which truly makes the urgently needed reforms to our criminal justice system. In furtherance of this objective, I consulted with the Department of Justice and several of my Republican colleagues in an effort to develop a true compromise measure. The result, a bill which I am introducing today, is a tough proposal which takes the best provisions from the Senate and House bills rather than the weaker provisions.

The need for this new conference report proposal is apparent because, rightfully, the "pro-criminal" report is going nowhere and no efforts to address this stalemate have been initiated by the majority. This new compromise proposal, which I am introducing as a bill, is a tough, true proposal that President Bush would sign into law today. It is a "deal maker"—not a "deal breaker." It is a sincere step to get a tough crime bill. It puts aside the rhetoric and comes through with the substance. Rather than the weak death penalty, habeas corpus, and exclusionary rule provisions adopted by the conference, this measure contains the tough Senate habeas reform. It contains the streamlined House death penalty and exclusionary rule proposals which prosecutors and law enforcement truly desire. In addition, it contains the enhanced and mandatory penalty provisions for firearms and sex offenses contained in the original bills.

This tough, true reform measure contains most of the remaining provisions in the Democrat proposal. For example, it contains the additional money proposed in the partisan conference report. It contains the anti-gang grants, the same terrorism provisions, improvements to the crime victims' fund, and child abuse background checks. It also provides all of the additional money for Federal law enforcement and $1 billion for State and local law enforcement block grants. This bill also provides an additional $500 million for prison construction. Finally, it adds a death penalty provision for aggravated murders in the District of Columbia.

In short, this tough version of the conference report contains virtually everything in the partisan conference report except for the provisions which expand the rights of criminals. In place of these provisions, this measure inserts the tougher passed versions on the death penalty, habeas corpus, and exclusionary rule. It also drops the unacceptable pro-criminal provision on confessions.

The question before the Senate is, "Does it now have the courage and wherewithal to back up what it has promised the Nation and send this bill to the President?" I urge the Senate to pass this measure. It is time to pass a true, tough crime bill. Furthermore, I call upon those who enthusiastically supported the partisan conference report to support this measure as well. It does just what they claim to support—and more.

In closing, I would like to stress that this proposal is not a new piece of legislation. Everything contained in this bill is familiar to those who have been involved in the crime debate. With the exception of the $500 million for more prisons and the D.C. death penalty, this bill contains only provisions which passed in either the House or Senate crime bills. This is not a new bill—it is a tough resolution of the Senate and House bills. it embodies a true conference report which should have been reported last November. It provides additional aid to our Nation's law enforcement while also striking at the heart of the violent, invidious crime plaguing our Nation's streets.

The American people are demanding that the Congress pass real reform. Anything less is not acceptable.

Mr. President, I ask unanimous consent that the bill be printed in its entirety immediately following my remarks and that an outline of the measure appear in the RECORD as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Crime Control Act of 1992".

(b) TABLE OF CONTENTS.—The following is the table of contents for this Act:

Sec. 1. Short title and table of contents.

TITLE I—DEATH PENALTY

Sec. 101. Short title.
Sec. 102. Death penalty procedures.
Sec. 103. Conforming amendment relating to destruction of aircraft or aircraft facilities.
Sec. 104. Conforming amendment relating to espionage.
Sec. 105. Conforming amendment relating to transporting explosives.
Sec. 106. Conforming amendment relating to malicious destruction of Federal property by explosives.
Sec. 107. Conforming amendment relating to malicious destruction of interstate property by explosives.
Sec. 108. Conforming amendment relating to murder.
Sec. 109. Conforming amendment relating to killing official guests or internationally protected persons.
Sec. 110. Murder by Federal prisoner.
Sec. 111. Conforming amendment relating to kidnapping.
Sec. 112. Conforming amendment relating to hostage taking.
Sec. 113. Conforming amendment relating to mailability of injurious articles.
Sec. 114. Conforming amendment relating to presidential assassination.
Sec. 115. Conforming amendment relating to murder for hire.
Sec. 116. Conforming amendment relating to violent crimes in aid of racketeering activity.
Sec. 117. Conforming amendment relating to wrecking trains.
Sec. 118. Conforming amendment relating to bank robbery.
Sec. 119. Conforming amendment relating to terrorist acts.
Sec. 120. Conforming amendment relating to aircraft hijacking.
Sec. 121. Conforming amendment to Controlled Substances Act.
Sec. 122. Conforming amendment relating to genocide.
Sec. 123. Protection of court officers and jurors.
Sec. 124. Prohibition of retaliatory killings of witnesses, victims, and informants.
Sec. 125. Death penalty for murder of Federal law enforcement officers.
Sec. 126. Death penalty for murder of State or local law enforcement officers assisting Federal law enforcement officers.
Sec. 127. Implementation of the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.
Sec. 128. Amendment to Federal Aviation Act.
Sec. 129. Offenses of violence against maritime navigation or fixed platforms.
Sec. 130. Torture.
Sec. 131. Weapons of mass destruction.
Sec. 132. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 133. Death penalty for civil rights murders.
Sec. 134. Death penalty for murder of Federal witnesses.
Sec. 135. Drive-by shootings.
Sec. 136. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
Sec. 137. Death penalty for rape and child molestation murders.
Sec. 138. Protection of jurors and witnesses in capital cases.
Sec. 139. Inapplicability to Uniform Code of Military Justice.
Sec. 140. Death penalty for causing death in the sexual exploitation of children.
Sec. 141. Murder by escaped prisoners.
Sec. 142. Death penalty for murders in the District of Columbia

TITLE II—HABEAS CORPUS REFORM

SUBTITLE A—GENERAL HABEAS CORPUS REFORM

Sec. 201. Short title.
Sec. 202. Period of limitation.
Sec. 203. Appeal.
Sec. 204. Amendment of Federal Rules of Appellate Procedure.
Sec. 205. Section 2254 amendments.
Sec. 206. Section 2255 amendments.

SUBTITLE B—DEATH PENALTY LITIGATION PROCEDURES

Sec. 211. Short title for subtitle B.
Sec. 212. Death penalty litigation procedures.

SUBTITLE C—EQUALIZATION OF CAPITAL HABEAS CORPUS LITIGATION FUNDING

Sec. 221. Funding for death penalty prosecutions.

TITLE III—EXCLUSIONARY RULE

Sec. 301. Admissibility of certain evidence.

TITLE IV—FIREARMS AND RELATED AMENDMENTS

Sec. 401. Increased mandatory minimum sentences for criminals using firearms.
Sec. 402. Increased penalty for second offense of using an explosive to commit a felony.
Sec. 403. Smuggling firearms in aid of drug trafficking.
Sec. 404. Prohibition against theft of firearms or explosives.
Sec. 405. Increased penalty for knowingly false, material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 406. Summary destruction of explosives subject to forfeiture.
Sec. 407. Elimination of outmoded language relating to parole.
Sec. 408. Enhanced penalties for use of a firearm in the commission of counterfeiting or forgery.
Sec. 409. Mandatory penalties for firearms possession by violent felons and serious drug offenders.
Sec. 410. Receipt of firearms by nonresident.
Sec. 411. Prohibition against conspiracy to violate Federal firearms or explosives laws.
Sec. 412. Prohibition against theft of firearms or explosives from licensee.
Sec. 413. Prohibition against disposing of explosives to prohibited persons.
Sec. 414. Increased penalty for interstate gun trafficking.
Sec. 415. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.
Sec. 416. Possession of explosives by felons and others.
Sec. 417. Possession of an explosive during the commission of a felony.
Sec. 418. Disposition of forfeited firearms.
Sec. 419. Definition of serious drug offense.
Sec. 420. Definition of burglary under the armed career criminal statute.

TITLE V—JUVENILES AND GANGS

SUBTITLE A—INCREASED PENALTIES FOR EMPLOYING CHILDREN TO DISTRIBUTE DRUGS NEAR SCHOOLS AND PLAYGROUNDS

Sec. 501. Strengthened Federal penalties.

SUBTITLE B—ANTIGANG PROVISIONS

Sec. 511. Grant program.
Sec. 512. Conforming repealer and amendments.
Sec. 513. Criminal street gangs.

Subtitle C—Juvenile Penalties

Sec. 521. Treatment of violent juveniles as adults.
Sec. 522. Serious drug offenses by juveniles as armed career criminal act predicates.
Sec. 523. Certainty of punishment for young offenders.

Subtitle D—Other Provisions

Sec. 531. Bindover system for certain violent juveniles.
Sec. 532. Gang investigation coordination and information collection.
Sec. 533. Clarification of requirement that any prior record of a juvenile be produced before the commencement of juvenile proceedings.

TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

Sec. 601. Terrorism civil remedy.

Sec. 602. Providing material support to terrorists.
Sec. 603. Forfeiture of assets used to support terrorists.
Sec. 604. Alien witness cooperation.
Sec. 605. Territorial sea extending to 12 miles included in special maritime and territorial jurisdiction.
Sec. 606. Assimilated crimes in extended territorial sea.
Sec. 607. Jurisdiction over crimes against United States nationals on certain foreign ships.
Sec. 608. Penalties for international terrorist acts.
Sec. 609. Authorization of appropriations.
Sec. 610. Enhanced penalties for certain offenses.
Sec. 611. Sentencing guidelines increase for terrorist crimes.
Sec. 612. Extension of the statute of limitations for certain terrorism offenses.
Sec. 613. International parental kidnapping.
Sec. 614. State court programs regarding interstate and international parental child abduction.
Sec. 615. Foreign murder of United States nationals.
Sec. 616. Extradition.
Sec. 617. Gambling devices on United States ships.
Sec. 618. FBI access to telephone subscriber information.

TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

Sec. 701. Definition of sexual act for victims below 16 years of age.
Sec. 702. Increased penalties for recidivist sex offenders.
Sec. 703. Restitution for victims of sex offenses.
Sec. 704. HIV testing and penalty enhancement in sexual abuse cases.
Sec. 705. Payment of cost of HIV testing for victim.

Subtitle B—Victims' Rights

Sec. 711. Restitution amendments.
Sec. 712. Victim's right of allocution in sentencing.
Sec. 713. Right of the victim to an impartial jury.
Sec. 714. Mandatory restitution and other provisions.

Subtitle C—Crime Victims Fund

Sec. 721. Crime victims fund.
Sec. 722. Percentage change in crime victim compensation formula.
Sec. 723. Administrative costs for crime victim compensation.
Sec. 724. Relationship of crime victim compensation to certain Federal programs.
Sec. 725. Use of unspent section 1403 money.
Sec. 726. Underserved victims.
Sec. 727. Grants for demonstration projects.
Sec. 728. Administrative costs for crime victim assistance.
Sec. 729. Change of due date for required report.
Sec. 730. Maintenance of effort.
Sec. 731. Delayed effective date for certain provisions.

Subtitle D—National Child Protection Act

Sec. 741. Short title.
Sec. 742. Findings and purposes.
Sec. 743. Definitions.
Sec. 744. Reporting by the States.
Sec. 745. Background checks.
Sec. 746. Funding for improvement of child abuse crime information.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

Sec. 751. Short title.
Sec. 752. Establishment of program.
Sec. 753. State compliance.

Subtitle F—Domestic Violence

Sec. 761. Domestic violence grants.
Sec. 762. Report on battered women's syndrome.

Subtitle G—Other Provisions

Sec. 771. Inducement of minor to commit an offense.
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TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1992".

SEC. 102. DEATH PENALTY PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.
"3600. Application in Indian country.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381;

"(2) an offense described in section 1751(c) if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President;

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B);

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or

"(6) any other offense for which a sentence of death is provided if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense or who is mentally retarded.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant's participation in the offense, which was committed by another, was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) NO SIGNIFICANT CRIMINAL HISTORY.—The defendant did not have a significant history of other criminal conduct.

"(5) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(6) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) CONDUCT OCCURRED DURING COMMISSION OF SPECIFIED CRIMES.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339A (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 921); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use of attempted or threatened use of a firearm (as defined in section 921), against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with sections 1 and 2 of title 3; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591 (3), (4), or (5), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm (as defined in section 921) to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant. The information presented by the Government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591 (2) or (6), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591 (3), (4), or (5), an aggravating factor required to be considered under section 3592(d) is found to exist,

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) AFFIRMANCE.—If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal,

it shall affirm the sentence.

"(2) REMAND.—In a case in which the sentence is not affirmed under paragraph (1), the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor required to be considered under section 3592 remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors.

"(3) STATEMENT OF REASONS.—The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) SPECIAL BARS TO EXECUTION.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) REPRESENTATION OF INDIGENT DEFENDANTS.—This section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) has occurred. This section shall not affect the appointment of counsel and the provision of ancillary legal services under section 408(q) (4), (5), (6), (7), (8), (9), and (10) of the Controlled Substances Act (21 U.S.C. 848 (q) (4), (5), (6), (7), (8), (9), and (10)).

"(b) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005. At least 1 counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) Representation After Finality of Judgment.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within 10 days after receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order—

"(1) appointing 1 or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel;

"(2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation.

Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) Standards for Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under this section, at least 1 counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least 1 counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet the standards prescribed in the 2 preceding sentences, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) Applicability of Criminal Justice Act.—Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(f) Claims of Ineffectiveness of Counsel.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§ 3599. Collateral attack on judgment imposing sentence of death

"(a) Time for Making Section 2255 Motion.—In a case in which a sentence of death has been imposed, and the judgment has become final as described in section 3598(c), a motion in the case under section 2255 of title 28 shall be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(c). The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) Stay of Execution.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the motion under that section is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of the decision to do so, the defendant waives the right to file a motion under section 2255 of title 28.

"(c) Finality of Decision on Review.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was—

"(A) the result of governmental action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 3600. Application in Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has made an election that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) Technical Amendment.—The part analysis for part II of title 18, United States Code, is amended by adding after the item relating to chapter 227 the following new item:

"228. Death penalty procedures .... 3591.".

SEC. 103. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 104. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18, United States Code, is amended by striking the period at the end and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 that the offense directly concerned—

"(1) nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack;

"(2) war plans;

"(3) communications intelligence or cryptographic information;

"(4) sources or methods of intelligence or counterintelligence operations; or

"(5) any other major weapons system or major element of defense strategy.".

SEC. 105. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 106. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 107. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 108. CONFORMING AMENDMENT RELATING TO MURDER.

Section 1111(b) of title 18, United States Code, is amended to read as follows:

"(b) Within the special maritime and territorial jurisdiction of the United States—

"(1) whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life; and

"(2) whoever is guilty of murder in the second degree shall be imprisoned for any term of years or for life".

SEC. 109. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18, United States Code, is amended by striking the comma after "title" and all that follows through "years".

SEC. 110. MURDER BY FEDERAL PRISONER.

(a) Offense.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) Offense.—Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) Definitions.—For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

SEC. 111. CONFORMING AMENDMENT RELATING TO KIDNAPPING.

Section 1201(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 112. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.

Section 1203(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 113. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 114. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Section 1751(c) of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, by death or imprisonment for any term of years or for life.".

SEC. 115. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

SEC. 116. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine in accordance with this title, or both, and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

SEC. 117. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The penultimate paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 118. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

SEC. 119. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Section 2332(a)(1) of title 18, United States Code, as redesignated by section 601(b)(2), is amended to read as follows:

"(1) if the killing is murder as defined in section 1111(a), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 120. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1473) is amended by striking subsection (c).

SEC. 121. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by striking subsections (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q) (1), (2), and (3), and (r).

SEC. 122. CONFORMING AMENDMENT RELATING TO GENOCIDE.

Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 and imprisonment for life" and inserting "death or imprisonment for life and a fine of not more than $1,000,000".

SEC. 123. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) in subsection (a), as designated by paragraph (1)—

(A) by striking "commissioner" each place it appears and inserting "magistrate judge"; and

(B) by striking "fined not more than $5,000 or imprisoned not more than five years, or both" and inserting "punished as provided in subsection (b)"; and

(3) by adding at the end the following new subsection:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years; and

"(3) in any other case, imprisonment for not more than 10 years.".

SEC. 124. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b), as redesignated by paragraph (1), the following new subsection:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

SEC. 125. DEATH PENALTY FOR MURDER OF FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by striking "be punished as provided under sections 1111 and 1112 of this title, except that" and inserting ", in the case of murder (as defined in section 1111), be punished by death or imprisonment for life, and, in the case of manslaughter (as defined in section 1112), be punished as provided in section 1112, and".

SEC. 126. DEATH PENALTY FOR MURDER OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS ASSISTING FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by inserting ", or any State or local law enforcement officer while assisting, or on account of his or her assistance of, any Federal officer or employee covered by this section in the performance of duties," after "other statutory authority".

SEC. 127. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at the airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 128. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

SEC. 129. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) OFFENSE.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 2280. Violence against maritime navigation

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of an offense described in paragraph (1), (2), (3), (4), (5), or (6); or

"(8) attempts to commit any act prohibited under paragraph (1), (2), (3), (4), (5), (6), or (7),

shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to commit any act prohibited under subsection (a) (2), (3), or (5), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured, or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) DELIVERY OF PROBABLE OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he or she has on board the ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action the master should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his or her intention to deliver such person and the reason therefor. If the master delivers such person, the master shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) DEFINITIONS.—As used in this section—

"(1) 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship that has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance that is likely to destroy the fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or attempted commission of an offense described in paragraph (1), (2), (3), or (4); or

"(6) attempts to do anything prohibited under paragraphs (1), (2), (3), (4), or (5);

shall be fined under this title, imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to do anything prohibited under subsection (a) (2) or (3), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) DEFINITIONS.—As used in this section—

"(1) 'continental shelf' means the seabed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.

"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date on which the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date on which the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 130. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§ 2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 113A the following new item:

"113B. Torture .... 2340.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 131. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction (as defined in the amendment made by subsection (b)) gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, as amended by section 601(b), is amended by adding at the end the following new section:

"§ 2339A. Use of weapons of mass destruction

"(a) OFFENSE.—Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—As used in this section—

"(1) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(A) a destructive device (as defined in section 921);

"(B) poison gas;

"(C) a weapon involving a disease organism; and

"(D) a weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(c), is amended by adding at the end the following new item:

"2339A. Use of weapons of mass destruction.".

SEC. 132. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (a), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (b) the following new subsection:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder (as defined in section 1111(a)), be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113.".

SEC. 133. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting "the death penalty or" before "imprisonment".

SEC. 134. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;".

SEC. 135. DRIVE-BY SHOOTINGS.

(a) OFFENSE.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 931. Drive-by shootings

"(a) OFFENSE.—Whoever knowingly discharges a firearm at a person—

"(1) in the course of or in furtherance of drug trafficking activity; or

"(2) from a motor vehicle,

shall be punished by imprisonment for not more than 25 years, and if death results shall be punished by death or by imprisonment for any term of years or for life.

"(b) DEFINITION.—As used in this section, the term 'drug trafficking activity' means a drug trafficking crime (as defined in section 929(a)(2)), or a pattern or series of acts involving one or more drug trafficking crimes.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following new item:

"931. Drive-by shootings.".

SEC. 136. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) Whoever, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.".

SEC. 137. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

"§ 2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item relating to section 2245 and inserting the following:

"2245. Sexual abuse resulting in death.
"2246. Definitions for chapter.".

SEC. 138. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by striking the period and inserting: ", except that the list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person.".

SEC. 139. INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

SEC. 140. DEATH PENALTY FOR CAUSING DEATH IN THE SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following new sentence: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 141. MURDER BY ESCAPED PRISONERS.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, as amended by section 110, is amended by adding at the end the following new section:

"§ 1119. Murder by escaped prisoners

"(a) OFFENSE.—A person who, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another person, shall be punished as provided in sections 1111 and 1112.

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1119. Murder by escaped prisoners.".

DEATH PENALTY FOR MURDERS IN THE DISTRICT OF COLUMBIA

SEC. 142. Title 18 of the United States Code is amended—

(a) by adding the following new section at the end of chapter 51:

"§ 1118. Capital punishment for murders in the District of Columbia

"(a) OFFENSE.—It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in subsections (d)-(1).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2 of this title) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm as defined in section 921 of this title.

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than one year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(i) while such public servant was engaged in the performance of his or her official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set fourth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's quilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have twelve members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighted by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

"(i) Findings of Aggravating and Mitigating Factors.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) Finding Concerning a Sentence of Death.—If the jury specifically finds under subsection (i) that one or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specifically found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) Special Precaution To Assure Against Discrimination.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victims, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) Imposition of a Sentence of Death.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"(m) Review of a Sentence of Death.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated with an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) Implementation of Sentence of Death.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the Court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) Special Bar to Execution.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) Conscientious Objection to Participation in Execution.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) Appointment of Counsel for Indigent Capital Defendants.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005 of this title, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(r) Representation After Finality of Judgment.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) Standards for Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under subsections (q)–(r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least three years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) Claims of Ineffectiveness of Counsel in Collateral Proceedings.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) Time for Collateral Attack on Death Sentence.—A motion under section 2255 of title 28, United States Code, attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning given in section 513 of this title, including the District of Columbia;

"(2) 'Offense', as used in paragraphs (2), (5), and (13) of subsection (e), and in paragraph (5) of this subsection, means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'Drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2) of this title, or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'Robbery' means obtaining the property of another force or threat of force;

"(5) 'Burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'Sexual abuse' means any conduct proscribed by chapter 109A of this title, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'Arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'Kidnaping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'Pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'Public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116 of this title.

"(y) When an offense is charged under this section, the government may join any charge under the District of Columbia Code that raises from the same incident."; and

(b) by adding the following at the end of the table of sections for chapter 51:

"1118. Capital punishment for murders in the District of Columbia.".

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

SEC. 201. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1992".

SEC. 202. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 203. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 204. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"RULE 22. HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate or probable cause is not required.".

SEC. 205. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence."; and

(5) by adding at the end the following new subsection:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

SEC. 206. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second paragraph and the penultimate paragraph; and

(2) by adding at the end the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

Subtitle B—Death Penalty Litigation Procedures

SEC. 211. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1992".

SEC. 212. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) APPLICATION OF CHAPTER.—This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) ESTABLISHMENT OF APPOINTMENT MECHANISM.—This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) OFFER OF COUNSEL.—Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing 1 or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) PREVIOUS REPRESENTATION.—No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) NO GROUND FOR RELIEF.—The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) STAY.—Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) EXPIRATION OF STAY.—A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court;

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) LIMITATION ON FURTHER STAY.—If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed 60 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) REVIEW OF RECORD; HEARING.—Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) ADJUDICATION.—Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§ 2261. Application to State unitary review procedure

"(a) IN GENERAL.—For purposes of this section, the term 'unitary review procedure' means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) OFFER OF COUNSEL.—A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) APPLICATION OF OTHER SECTIONS.—Sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, the start of the 180-day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or the prisoner's counsel.

"§ 2262. Limitation periods for determining petitions

"(a) IN GENERAL.—The adjudication of any petition under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) A Federal district court shall determine such a petition or motion within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 20 days of the filing of the application unless a responsive pleading is required, in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The Supreme Court shall act on any application for a writ of certiorari relating to such a petition or motion within 90 days after the application is filed.

"(b) APPLICATION OF SECTION.—The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the redetermination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) RULE OF CONSTRUCTION.—The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) NO GROUND FOR RELIEF.—The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) REPORT.—The Administrative Office of the United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

"§ 2263. Rule of construction

"This chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases .... 2256.".

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

SEC. 221. FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after section 511 the following new section:

"FUNDING FOR DEATH PENALTY PROSECUTIONS

"SEC. 511A. Notwithstanding any other provision of this part, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

TITLE III—EXCLUSIONARY RULE

SEC. 301. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence that is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 223 of title 28, United States Code, is amended by adding at the end the following new item:

"3509. Admissibility of evidence obtained by search or seizure.".

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly uses, carries, or otherwise possesses a firearm, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 10 years;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years; or

"(iii) knowingly uses, carries, or otherwise possesses a firearm that is a machinegun or destructive device, or that is equipped with a firearm silencer or firearm muffler, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 30 years.

"(B)(i) In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years for a violation of subparagraph (A)(i), to imprisonment for 30 years for a violation of subparagraph (A)(ii), and life imprisonment for a violation of subparagraph (A)(iii).

"(ii) In the case of a third or subsequent conviction under this subsection, or a conviction for a violation of subparagraph (A)(ii) that results in the death of another person, a person shall be sentenced to life imprisonment.

"(C) Notwithstanding any other law, a term of imprisonment under this subsection shall run concurrently with any other term of imprisonment imposed for the underlying crime.

"(D) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.".

SEC. 402. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten" and inserting "20".

SEC. 403. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 136, is amended by adding at the end the following new subsection:

"(j) Whoever, with the intent to engage in or to promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3) of this section),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 404. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 403, is amended by adding at the end the following new subsection:

"(k) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned not less than 2 nor more than 10 years, fined in accordance with this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned not less than 2 nor more than 10 years, fined in accordance with this title, or both.".

SEC. 405. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B) by striking "(a)(6),"; and

(2) in paragraph (2) by inserting "(a)(6)," after "subsection".

SEC. 406. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Any"; and

(2) by adding at the end the following new paragraphs:

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 407. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein."; and

(2) in subsection (e)(1) by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

SEC. 408. ENHANCED PENALTIES FOR USE OF A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, as amended by section 401, is amended in subparagraph (A) by inserting "or during and in relation to any felony punishable under chapter 25" after "United States,".

SEC. 409. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) ONE PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony or a serious drug offense (as defined in subsections (e)(2) (A) and (B) of this section), a sentence imposed under this paragraph shall include a term of imprisonment of not less than 5 years" before the period.

(b) TWO PRIOR CONVICTIONS.—Section 924 of title 18, United States Code, as amended by section 404, is amended by adding at the end the following new subsection:

"(l)(1) Notwithstanding subsection (a)(2), any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section) committed on occasions different from one another shall be fined as provided in this title, imprisoned not less than 10 years and not more than 20 years, or both.

"(2) Notwithstanding any other law, the court shall not suspend the sentence of, or grant a probationary sentence to, a person described in paragraph (1) with respect to the conviction under section 922(g).".

SEC. 410. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)(C) by striking "and";

(2) in paragraph (8)(C) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 411. PROHIBITION AGAINST CONSPIRACY TO VIOLATE FEDERAL FIREARMS OR EXPLOSIVES LAWS.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 409(b), is amended by adding at the end the following new subsection:

"(m) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 404(b), is amended by adding at the end the following new subsection:

"(l) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 412. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 411(a), is amended by adding at the end the following new subsection:

"(n) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 411(b), is amended by adding at the end the following new subsection:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

SEC. 413. PROHIBITION AGAINST DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 414. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 412(a), is amended by adding at the end the following new subsection:

"(o) Whoever, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

SEC. 415. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 416. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 417. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

Section 844(h) of title 18, United States Code, is amended—

(1) by striking "carries an explosive during" and inserting "uses, carries, or otherwise possesses an explosive during"; and

(2) by striking "used or carried" and inserting "used, carried, or possessed".

SEC. 418. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) the Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) if the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel or rare or because of its association with some historical figure, period, or event, the Secretary may sell the firearm, after public notice, at public sale to a dealer licensed under chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed of pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, who shall destroy or provide for the destruction of such firearm; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 419. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by adding "or" at the end of clause (ii); and

(3) by adding at the end the following new clause:

"(iii) an offense under State law that, if it had been prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) as that Act provided at the time of the offense, would have been punishable by a maximum term of 10 years or more;".

SEC. 420. DEFINITION OF BURGLARY UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) the term 'burglary' means a crime that—

"(i) consists of entering or remaining surreptitiously within a building that is the property of another person with intent to engage in conduct constituting a Federal or State offense; and

"(ii) is punishable by a term of imprisonment exceeding 1 year.".

TITLE V—JUVENILES AND GANGS

Subtitle A—Increased Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

SEC. 501. STRENGTHENED FEDERAL PENALTIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

Subtitle B—Antigang Provisions

SEC. 511. GRANT PROGRAM.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

(1) by inserting after the part heading the following subpart heading:

"Subpart I—General Grant Programs"; and

(2) by adding at the end the following new subpart:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) AUTHORIZATION.—The Administrator may make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) PARTICULAR PURPOSES.—The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug-related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools.

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(3) To develop within the juvenile justice system, including the juvenile corrections system, innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(4) To reduce juvenile drug and gang-related activity in public housing projects.

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to—

"(A) identify drug-dependent or gang-involved juvenile offenders; and

"(B) provide appropriate counseling and treatment to such offenders.

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic, or artistic enrichment that also teach that drug and gang involvement are wrong.

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention, and treatment programs for juveniles who are likely to participate in drug trafficking, drug use, or gang-related activities.

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls' and boys' clubs, scout troops, and little leagues.

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers.

"(10) To provide education and treatment programs for juveniles exposed to severe violence in their homes, schools, or neighborhoods.

"(11) To establish sports mentoring and coaching programs in which athletes serve as role models for juveniles to teach that athletics provides a positive alternative to drug and gang involvement.

"(c) USE OF FUNDS.—Of the funds made available to each State under this section in any fiscal year, 50 percent shall be used for juvenile drug supply reduction programs and

50 percent shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) PURPOSE.—(1) The purpose of this section is to—

"(A) provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs;

"(B) replicate and demonstrate such programs to serve as national, regional, or local models that could be used, in whole or in part, by other public and private juvenile justice programs; and

"(C) provide technical assistance and training to public or private organizations to implement similar programs.

"(2) In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) AUTHORIZATION OF GRANTS AND CONTRACTS.—The Administrator may make grants to, or enter into contracts with, public or private nonprofit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this section.

"(c) ALLOCATION OF APPROPRIATIONS.—Of the amounts appropriated for this subpart, 20 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 and subsection (a). Grants made under this section may be made for amounts of up to 100 percent of the costs of the programs or projects.

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) PURPOSE.—The purpose of this section is to—

"(1) provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime-, drug-, and alcohol-related challenges faced by juveniles residing at or near ports of entry into the United States and in other international border communities, including rural localities;

"(2) replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) provide technical assistance and training to public and private organizations to implement similar programs.

"(b) AUTHORIZATION OF GRANTS AND CONTRACTS.—The Administrator may make grants to, or enter into contracts with, public or private nonprofit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles residing at or near ports of entry into the United States or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) ALLOCATION OF APPROPRIATIONS.—Of the amounts appropriated for this subpart, 5 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 and subsection (a). Grants made under this section may be made for amounts of up to 100 percent of the costs of the programs.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 234. There are authorized to be appropriated $100,000,000 for fiscal year 1992 and such sums as are necessary for fiscal year 1993 to carry out this subpart.

"ALLOCATION OF FUNDS

"SEC. 235. Of the amounts appropriated for this subpart for any fiscal year, the amount remaining after setting aside the amounts required to be reserved to carry out sections 232 and 233 shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States.

"(2) Of the funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles residing in the State bears to the population of juveniles residing in all the States.

"APPLICATION

"SEC. 236. (a) IN GENERAL.—Each State applying for a grant under section 231 and each public or private entity applying for grants under section 232 or 233 shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) REGULATIONS.—To the extent practicable, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the regulations governing applications required under subpart I of this part and subpart II of part C, including the regulations relating to competition.

"(c) COORDINATION OF ASSISTANCE.—Each application described in subsection (a) shall include a detailed description of how the funds received under this subpart will be coordinated with assistance provided under subpart I of this part and part C of this title and assistance provided by the Bureau of Justice Assistance under the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Programs (42 U.S.C. 3750 et seq.).

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 237. The procedures and time limits imposed on the Federal and State governments under sections 505 and 508 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755 and 3758) relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 512. CONFORMING REPEALER AND AMENDMENTS.

(a) REPEAL OF PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is repealed, and part E of title II of that Act is redesignated as part D.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and by striking "(other than part D)"; and

(B) by striking paragraph (2); and

(2) in subsection (b) by striking "(other than part D)".

SEC. 513. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 25 the following new chapter:

"CHAPTER 26—CRIMINAL STREET GANGS

"Sec.

"521. Criminal street gangs.

"§521. Criminal street gangs

"(a) ENHANCED PENALTY.—Whoever, under the circumstances described in subsection (c), commits an offense described in subsection (b), shall, in addition to any other sentence authorized by law, be sentenced to a term of imprisonment of not more than 10 years and may also be fined under this title. A sentence of imprisonment imposed under this subsection shall run consecutively to any other sentence that is imposed.

"(b) OFFENSES.—The offenses referred to in subsection (a) are—

"(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(2) a Federal felony crime of violence;

"(3) a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.); and

"(4) a conspiracy to commit an offense described in paragraph (1), (2), or (3).

"(c) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

"(1) that the offense described in subsection (b) was committed by a member of, on behalf of, or in association with a criminal street gang; and

"(2) within 5 years prior to the date of the offense, the offender had been convicted of—

"(A) an offense described in subsection (b);

"(B) a State offense that—

"(i) involves a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(ii) is a crime of violence for which the maximum penalty is more than 1 year's imprisonment;

"(C) a Federal or State offense that involves the theft or destruction of property for which the maximum penalty is more than 1 year's imprisonment; or

"(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'criminal street gang' means a group, club, organization, or association of 5 or more persons—

"(A) whose members engage, or have engaged within the past 5 years, in a continuing series of any of the offenses described in subsection (b); and

"(B) whose activities affect interstate or foreign commerce; and

"(2) the term 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent felony or controlled substances felony.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following new item:

"26. Criminal street gangs .... 521".

Subtitle C—Juvenile Penalties

SEC. 521. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNDESIGNATED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh undesignated paragraphs as subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as designated by subsection (a), is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, as designated by subsection (a), is amended to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), a juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless the juvenile has requested in writing upon advice of counsel to be proceeded against as an adult.

"(2) With respect to a juvenile 15 years and older alleged to have committed an act after his or her 15th birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 924 (b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, that such a transfer would be in the interest of justice.

"(3) A juvenile who is alleged to have committed an act after his or her 16th birthday which if committed by an adult would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844 (d), (e), (f), (h), (i) or 2275 of this title, subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), and (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this subsection or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, as designated by subsection (a), is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end the following new paragraph:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

SEC. 522. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, as amended by section 422, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking "and" at the end of clause (iii) and inserting "or"; and

(3) by adding at the end the following new clause:

"(iv) any act of juvenile delinquency that, if it were committed by an adult, would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

SEC. 523. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following new part:

"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1601. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electric monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse, including alcohol abuse, and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

"SEC. 1602. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I—

"(1) shall prepare the application required under section 1602; and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1603. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1601(a) to carry out the projects described in the application submitted by an applicant under section 1602 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1602 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1601(b) for young offenders.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1604. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1602(b).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1601 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 45-day requirement in this section upon finding that the State is unable to satisfy the requirement of the preceding sentence under State statutes.

"SEC. 1605. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated for this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders in the State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State for the purposes specified under section 1601 the portion of those funds that bears the same ratio to the aggregate amount of those funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified under section 1601.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for the fiscal year will not be used by the State or that a State is not eligible to receive funds under section 1601, the Director shall award such funds to units of local government in the State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1602(a) for the fiscal year for which the projects receive assistance under this part.

"SEC. 1606. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1601. Grant authorization.
"Sec. 1602. State applications.
"Sec. 1603. Review of State applications.
"Sec. 1604. Local applications.
"Sec. 1605. Allocation and distribution of funds.
"Sec. 1606. Evaluation.

"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(24) The term 'young offender' means an individual 28 years of age or younger.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1054(a), is amended by adding at the end the following new paragraph:

"(10) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out projects under part P.".

Subtitle D—Other Provisions

SEC. 531. BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) in paragraph (20) by striking "and" at the end;

(2) in paragraph (21) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-olds in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 931 of title 18, United States Code.".

SEC. 532. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by July 1, 1993.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1992 such sums as are necessary to carry out this section.

SEC. 533. CLARIFICATION OF REQUIREMENT THAT ANY PRIOR RECORD OF A JUVENILE BE PRODUCED BEFORE THE COMMENCEMENT OF JUVENILE PROCEEDINGS.

Section 5032(j) of title 18, United States Code, as designated by section 521(a), is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 until".

TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

SEC. 601. TERRORISM CIVIL REMEDY.

(a) REINSTATEMENT OF LAW.—The amendments made by section 132 of the Military Construction Appropriations Act, 1991 (104 Stat. 2250), are repealed effective as of April 10, 1991.

(b) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (a), is amended—

(1) in section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) as section 2332 and amending the heading for section 2332, as redesignated, to read as follows:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332, as redesignated by paragraph (2), the following new section:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin;

"(2) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act; and

"(4) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property."; and

(4) by inserting after section 2332, as redesignated, the following new sections:

"§ 2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902 (i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i), (k), (l), (n), and (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) General Venue.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) Special Maritime or Territorial Jurisdiction.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, any civil action under section 2333 against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) Service on Witnesses.—A witness in a civil action brought under section 2333 may be served in any other district where the defendant resides, is found, or has an agent.

"(d) Convenience of the Forum.—The district court shall not dismiss any action brought under section 2333 on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy that is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) In General.—Subject to subsection (b), a suit for recovery of damages under section 2333 shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) Calculation of Period.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of the defendant's whereabouts, shall not be counted for the purposes of the period of limitation prescribed by subsection (a).

"§ 2336. Other limitations

"(a) Acts of War.—No action shall be maintained under section 2333 for injury or loss by reason of an act of war.

"(b) Limitation on Discovery.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the attorney for the Government may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any objections raised by the Government in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(c) Stay of Action for Civil Remedies.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

"(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

"§ 2337. Suits against Government officials

"No action shall be maintained under section 2333 against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within the officer's or employee's official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within the officer's or employee's official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.".

(c) Technical Amendments.—(1) The chapter analysis for chapter 113A of title 18, United States Code is amended to read as follows:

"Chapter 113A—Terrorism

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(2) The item relating to chapter 113A in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"113A. Terrorism .... 2331".

(d) Effective Date.—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

SEC. 602. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) Offense.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2339. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than 10 years, or both. For purposes of this section, material support or resources includes currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) Technical Amendment.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(b)(1), is amended by adding at the end the following new item:

"2339. Providing material support to terrorists.".

SEC. 603. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.

(a) Civil Forfeiture.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any property, real or personal—

"(i) used or intended for use in committing or to facilitate the concealment or an escape from the commission of; or

"(ii) constituting or derived from the gross profits or other proceeds obtained from,

a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).".

(b) Criminal Forfeiture.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) Any property, real or personal—

"(A) used or intended for use in committing or to facilitate the concealment or an escape from the commission of; or

"(B) constituting or derived from the gross profits or other proceeds obtained from,

a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).".

SEC. 604. ALIEN WITNESS COOPERATION.

(a) Amendment of Chapter 224 of Title 18.—Chapter 224 of title 18, United States Code, is amended—

(1) by redesignating section 3528 as section 3529; and

(2) by inserting after section 3527 the following new section:

"§ 3528. Aliens; waiver of admission requirements

"(a) In General.—Upon authorizing protection to any alien under this chapter, the United States shall provide the alien with appropriate immigration visas and allow the alien to remain in the United States so long as that alien abides by all laws of the United States and guidelines, rules and regulations for protection. The Attorney General may determine that the granting of permanent resident status to such alien is in the public interest and necessary for the safety and protection of such alien without regard to the alien's admissibility under immigration or any other laws and regulations or the failure to comply with such laws and regulations pertaining to admissibility.

"(b) Alien With Felony Convictions.—Notwithstanding any other provision of this chapter, an alien who would not be excluded because of felony convictions shall be considered for permanent residence on a conditional basis for a period of 2 years. Upon a showing that the alien is still being provided protection, or that protection remains available to the alien in accordance with this chapter, or that the alien is still cooperating with the Government and has maintained good moral character, the Attorney General shall remove the conditional basis of the status effective as of the second anniversary of the alien's obtaining the status of admission for permanent residence. Permanent resident status shall not be granted to an alien who would be excluded because of felony convictions unless the Attorney General determines, pursuant to regulations which shall be prescribed by the Attorney General, that granting permanent residence status to the alien is necessary in the interests of justice and comports with safety of the community.

"(c) Limit on Number of Aliens.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed 200 persons in any fiscal year. The decision to grant or deny permanent resident status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.

"(d) Definitions.—As used in this section, the terms 'alien' and 'United States' have the meanings stated in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).".

(b) Technical Amendment.—The chapter analysis for chapter 224 of title 18, United States Code, is amended by striking the item relating to section 3528 and inserting the following:

"3528. Aliens; waiver of admission requirements.

"3529. Definition.".

SEC. 605. TERRITORIAL SEA EXTENDING TO 12 MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 606. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code is amended—

(1) in subsection (a), by inserting after "title" the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, territory, possession, or district"; and

(2) by inserting at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of the State, territory, possession, or district within which it would lie if the boundaries of the State, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 607. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code, is amended by inserting at the end the following new paragraph:

"(8) Any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 608. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.

Section 2332 of title 18, United States Code, as redesignated by section 601(a)(2), is amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting "20"; and

(B) in paragraph (3) by striking "three" and inserting "10"; and

(2) in subsection (c) by striking "five" and inserting "10".

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in each of the fiscal years 1992, 1993, and 1994, in addition to any other amounts specified in appropriations Acts, for counterterrorist operations and programs:

(1) for the Federal Bureau of Investigation, $25,000,000;

(2) for the Department of State, $10,000,000;

(3) for the United States Customs Service, $7,500,000;

(4) for the United States Secret Service, $2,500,000;

(5) for the Bureau of Alcohol, Tobacco, and Firearms, $2,500,000;

(6) for the Federal Aviation Administration, $2,500,000; and

(7) for grants to State and local law enforcement agencies, to be administered by the Office of Justice Programs in the Department of Justice, in consultation with the Federal Bureau of Investigation, $25,000,000.

SEC. 610. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) International Economic Emergency Powers Act.—(1) Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(2) Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting "$1,000,000".

(b) Section 1541 of Title 18.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "5 years".

(c) Chapter 75 of Title 18.—Sections 1542, 1543, 1544, and 1546 of title 18, United States Code, are each amended—

(1) by striking "$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "10 years".

(d) Section 1545 of Title 18.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "10 years".

SEC. 611. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than 3 levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 612. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) In General.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following new section:

"§ 3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32, 36, 112, 351, 1116, 1203, 1361, 1751, 2280, 2281, 2332, 2339A, or 2340A of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1572 (i), (j), (k), (l), and (n)), unless the indictment is found or the information is instituted within 10 years next after such offense shall have been committed.".

(b) Technical Amendment.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3285 the following new item:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 613. INTERNATIONAL PARENTAL KIDNAPPING.

(a) In General.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1204. International parental kidnapping

"(a) Offense.—Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title, imprisoned not more than 3 years, or both.

"(b) Definitions.—As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) Rule of Construction.—This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) Technical Amendment.—The chapter analysis for chapter 55 of title 18, United States Code, is amended by adding at the end the following new item:

"1204. International parental kidnapping.".

SEC. 614. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

SEC. 615. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) In General.—Chapter 51 of title 18, United States Code, as amended by section 141(a), is amended by adding at the end the following new section:

"§ 1120. Foreign murder of United States nationals

"(a) Offense.—Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

"(b) Approval of Prosecution.—No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) CRITERIA FOR APPROVAL.—No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) ASSISTANCE FROM OTHER AGENCIES.—In the course of the enforcement of this section and notwithstanding any other law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1120".

(2) The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 141(b), is amended by adding at the end the following new item:

"1120. Foreign murder of United States nationals.".

SEC. 616. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "The provisions of this chapter"; and

(2) by adding at the end the following new subsections:

"(b) SURRENDER WITHOUT REGARD TO EXISTENCE OF EXTRADITION TREATY.—This chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies in writing that—

"(1) evidence has been presented by the foreign government that indicates that, if the offenses had been committed in the United States, they would constitute crimes of violence (as defined under section 16); and

"(2) the offenses charged are not of a political nature.

"(c) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

SEC. 617. GAMBLING DEVICES ON UNITED STATES SHIPS.

Section 5 of the Act of January 2, 1951 (commonly known as the "Johnson Act") (15 U.S.C. 1175), is amended—

(1) by inserting "(a) IN GENERAL.—" before "It shall be unlawful"; and

(2) by adding at the end the following new subsection:

"(b) APPLICATION OF SUBSECTION (a).—

"(1) EXCEPTION.—Except as provided in paragraph (2), subsection (a) does not apply to the repair, transportation, use, or possession of a gambling device on a vessel documented under chapter 121 of title 46, United States Code, when the vessel is on a voyage—

"(A) on the high seas; or

"(B) on waters that are within the admiralty and maritime jurisdiction of the United States but out of the jurisdiction of any State.

"(2) VOYAGES AND SEGMENTS BEGINNING AND ENDING IN THE SAME STATE OR POSSESSION.—The exception stated in paragraph (1) does not apply to the repair, transportation, possession, or use of a gambling device on a vessel that is on a voyage or segment of a voyage—

"(A) that begins and ends in the same State or possession of the United States,

"(B) during which the vessel does not make an intervening stop in another State or possession of the United States or a foreign country,

if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute that prohibits such repair, transportation, possession, or use.".

SEC. 618. FBI ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—

"(1) NAME, ADDRESS, AND LENGTH OF SERVICE ONLY.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, and length of service of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of the provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section) under circumstances giving reason to believe that the communication concerned international terrorism (as defined in that section) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.

"(2) NAME, ADDRESS, LENGTH OF SERVICE, AND TOLL BILLING RECORDS.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, length of service, and toll billing records of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section).".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

SEC. 701. DEFINITION OF SEXUAL ACT FOR VICTIMS BELOW 16 YEARS OF AGE.

Section 2246(2) of title 18, United States Code, as redesignated by section 137(a)(1), is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "and" at the end of subparagraph (C) and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or to arouse or gratify the sexual desire of any person;".

SEC. 702. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) PENALTY.—Chapter 109A of title 18, United States Code, as amended by section 137(a), is amended—

(1) by redesignating section 2246 as section 2247; and

(2) by inserting after section 2245 the following new section:

"§ 2246. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, as amended by section 137(b), is amended by striking the item relating to section 2246 and inserting the following:

"2246. Penalties for subsequent offenses.
"2247. Definitions for chapter.".

SEC. 703. RESTITUTION FOR VICTIMS OF SEX OFFENSES.

Section 3663(b)(2) of title 18, United States Code, is amended by inserting "or an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim".

SEC. 704. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL ABUSE CASES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, as amended by section 702(a), is amended—

(1) by redesignating section 2247 as section 2248; and

(2) by inserting after section 2246 the following new section:

"§ 2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) Testing at Time of Pre-Trial Release Determination.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed 6 months and 12 months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as is feasible. The person shall not be released from custody until the test is performed.

"(b) Testing at Later Time.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed 6 months and 12 months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) Termination of Testing Requirement.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) Disclosure of Test Results.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) Effect on Penalty.—The United States Sentencing Commission shall amend the sentencing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that the offender was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) Technical Amendment.—The chapter analysis for chapter 109A of title 18, United States Code, as amended by section 702(b), is amended by striking the item relating to section 2247 and inserting the following:

"2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.
"2248. Definitions for chapter.".

SEC. 705. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by inserting before the period at the end "and the cost of up to 2 tests of the victim for the human immunodeficiency virus during the 12 months following the assault".

Subtitle B—Victims' Rights

SEC. 711. RESTITUTION AMENDMENTS.

Section 3663(b) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(b) Suspension of Federal Benefits.—Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection—

"(A) the term 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 712. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1) by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before ", or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) Definitions.—For purposes of this rule—

"(1) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code; and

"(2) 'victim' means an individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of 18 years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present.".

SEC. 713. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

SEC. 714. MANDATORY RESTITUTION AND OTHER PROVISIONS.

(a) Order of Restitution.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may order" and inserting "shall order"; and

(B) by adding at the end the following new paragraph:

"(4) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (h), and (i), as redesignated by section 711(b)(1);

(6) by redesignating subsection (g), as added by section 711(b)(2), as subsection (d); and

(7) by adding at the end the following new subsections:

"(e)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(f) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(g) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(h)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(i) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(j) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(k) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(l) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive restitution, in the same manner as a judgment in a civil action.

"(m) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) Procedure for Issuing Order of Restitution.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

Subtitle C—Crime Victims Fund

SEC. 721. CRIME VICTIMS FUND.

(a) Elimination of Fund Ceilings and Sunset Provision.—Section 1402 (c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is repealed.

(b) Allocations.—

(1) Generally.—Section 1402(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(2)) is amended to read as follows:

"(2) The Fund shall be available as follows:

"(A) Of the total deposited in the Fund during a particular fiscal year—

"(i) the first $10,000,000 shall be available for grants under section 1404A;

"(ii) the next sums deposited, up to the reserved portion (as described in subparagraph (C)), shall be made available to the judicial branch for administrative costs to carry out the functions of that branch under sections 3611 and 3612 of title 18, United States Code; and

"(iii) of the sums remaining after the allocations under clauses (i) and (ii)—

"(I) 4 percent shall be available for grants under section 1404(c)(1); and

"(II) 96 percent shall be available in equal amounts for grants under sections 1403 and 1404(a).

"(B) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000.

"(C) The reserved portion referred to in subparagraph (A) is $6,200,000 in each of fiscal years 1992 through 1995 and $3,000,000 in each fiscal year thereafter.".

(2) Conforming cross-reference.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(iv)" and inserting "(i)".

(c) Amounts Awarded and Unspent.—Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Except as provided in paragraph (2), any" and inserting "Any";

(B) by striking "succeeding fiscal year" and inserting "2 succeeding fiscal years";

(C) by striking "which year" and inserting "which period"; and

(D) by striking "the general fund of the Treasury" and inserting "the Fund"; and

(2) by striking paragraph (2).

SEC. 722. PERCENTAGE CHANGE IN CRIME VICTIM COMPENSATION FORMULA.

Section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "40 percent" and inserting "45 percent".

SEC. 723. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) Creation of Exception.—The last sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) Requirements of Exception.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) The Director may permit not more than 5 percent of a grant made under this section to be used for the administration of the crime victim compensation program receiving the grant.".

SEC. 724. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 725. USE OF UNSPENT SECTION 1403 MONEY.

Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(1)) is amended—

(1) by striking "or for the purpose of grants under section 1403 but not used for that purpose,"; and

(2) by adding at the end the following: "The Director, in the Director's discretion, may use amounts made available under section 1402(d)(2) for the purposes of grants under section 1403 but not used for that purpose, for grants under this subsection, either in the year such amounts are not so used, or the next year.".

SEC. 726. UNDERSERVED VICTIMS.

Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by adding at the end the following new paragraph:

"(6) In making the certification required by paragraph (2)(B), the chief executive shall give particular attention to children who are victims of violent street crime.".

SEC. 727. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 728. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(A)), as amended by section 726, is amended—

(1) in paragraph (1) by inserting ", except as provided in paragraph (7)" after "programs"; and

(2) by adding at the end the following new paragraph:

"(7) The Director may permit not more than 5 percent of sums provided under this subsection to be used by the chief executive of each State for the administration of such sums.".

SEC. 729. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended—

(1) by striking "December 31, 1990" and inserting "May 31, 1993"; and

(2) by striking "December 31" the second place it appears and inserting "May 31".

SEC. 730. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 731. DELAYED EFFECTIVE DATE FOR CERTAIN PROVISIONS.

Sections 721(b), 722, 723, and 728, and the amendments made by those sections, shall take effect with respect to the first fiscal year that begins after the date of enactment of this Act for which the Director certifies that there are sufficient sums in the Victim Assistance Fund and the Victims Compensation Fund, as of the end of the previous fiscal year, to make the allocations required under such sections and amendments without reducing the then current funding levels of programs supported by such Funds.

Subtitle D—National Child Protection Act

SEC. 741. SHORT TITLE.

This subtitle may be cited as the "National Child Protection Act of 1992".

SEC. 742. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) more than 2,500,000 reports of suspected child abuse and neglect are made each year, and increases have occurred in recent years in the abuse of children by persons who have previously committed crimes of child abuse or other serious crimes;

(2) although the great majority of child care providers are caring and dedicated professionals, child abusers and others who harm or prey on children frequently seek employment in or volunteer for positions that give them access to children;

(3) nearly 6,000,000 children received day care in 1990, and this total is growing rapidly to an estimated 8,000,000 children by 1995;

(4) exposure to child abusers and others who harm or prey on children is harmful to the physical and emotional well-being of children;

(5) there is no reliable, centralized national source through which child care organizations may obtain the benefit of a nationwide criminal background check on persons who provide or seek to provide child care;

(6) some States maintain automated criminal background files and provide criminal history information to child care organizations on persons who provide or seek to provide child care; and

(7) because State and national criminal justice databases are inadequate to permit effective national background checks, persons convicted of crimes of child abuse or other serious crimes may gain employment at a child care organization.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes to the Department of Justice and other interested parties.

SEC. 743. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this Act;

(2) the term "background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance;

(3) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(4) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(5) the term "child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(6) the term "child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, legal residence address, a brief description of the child abuse crime or offenses for which the person is under indictment or has been convicted, and any other information that the Attorney General determines may be useful in identifying persons under indictment for, or convicted of, a child abuse crime;

(7) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children;

(8) the term "domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State;

(9) the term "exploitation" means child pornography and child prostitution;

(10) the term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition;

(11) the term "national criminal background check system" means the system of information and identification relating to convicted and accused child abuse offenders that is maintained by the Attorney General under this subtitle;

(12) the term "negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child;

(13) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm;

(14) the term "provider" means:

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(15) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services;

(16) the term "sex crime" means an act of sexual abuse that is a criminal act;

(17) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children; and

(18) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 744. REPORTING BY THE STATES.

(a) IN GENERAL.—An authorized agency of a State shall report child abuse crime information to the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS TO THE NATIONAL CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis to the national criminal background check system;

(B) establish guidelines for the reporting of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this subtitle; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of child abuse crime case dispositions in computerized criminal history files for all child abuse crime cases in which there has been an entry of activity within the last 5 years; and

(B) continue to maintain such a system.

(c) EXCHANGE OF INFORMATION.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of information and technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim of a crime.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 743, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 745. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and other criminal justice recordkeeping systems and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), including procedures for carrying out the purposes of this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime;

(ii) is not certain to include arrest information; and

(iii) should not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a)—

(i) at a minimum, state whether the background check information set forth in the identification document required under subparagraph (A) is complete and accurate; and

(ii) be limited to the information reasonably required to accomplish the purposes of this subtitle;

(F) that no qualified entity may take action adverse to a provider, except that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care, on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge;

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the providers;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check; and

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this subtitle, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this subtitle and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) RECORDS EXCHANGE.—The Attorney General may exchange Federal Bureau of Investigation identification records with authorized agencies for purposes of background checks under subsection (a) and may by regulation authorize further dissemination of such records by authorized agencies for such purposes.

(e) REGULATIONS.—(1) The Attorney General shall by regulation prescribe such other measures as may be required to carry out the purposes of this subtitle, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

SEC. 746. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 744 of the National Child Protection Act of 1992 with the Attorney General for the purpose of implementing the National Child Protection Act of 1992.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currently of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history records in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1992, 1993, and 1994.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 744 of this Act.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

SEC. 751. SHORT TITLE.

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

SEC. 752. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(1) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(c) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months' imprisonment.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints for child care services providers.

SEC. 753. STATE COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this subtitle.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with this subtitle 3 years after the date of enactment of this Act shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

Subtitle F—Domestic Violence

SEC. 761. DOMESTIC VIOLENCE GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 523(a), is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following new part:

"Part Q—Domestic Violence Intervention

"SEC. 1701. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance may make grants to 10 States for the purpose of assisting States in implementing a civil and criminal response to domestic violence.

"SEC. 1702. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to encourage increased prosecutions for domestic violence crimes;

"(2) to report more accurately the incidences of domestic violence;

"(3) to facilitate arrests and aggressive prosecution policies;

"(4) to provide legal advocacy services for victims of domestic violence; and

"(5) to improve the knowledge of health professionals regarding domestic violence and facilitate cooperation between health professionals, social service providers, and law enforcement personnel to better assist victims of domestic violence.''.

"SEC. 1703. APPLICATIONS.

''(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

''(b) REQUIREMENTS.—An application under subsection (a) shall include—

''(1) a request for funds for the purposes described in section 1702;

''(2) a description of the programs already in place to combat domestic violence;

''(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

''(4) statistical information, if available, in such form and containing such information that the Director may require regarding domestic violence within that State.

''(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

''(1) a description of the domestic violence problem within the State targeted for assistance;

''(2) a description of the projects to be developed;

''(3) a description of the resources available in the State to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

''(4) an explanation of how the requested grant will be used to fill those gaps; and

''(5) a description of the system the applicant will establish to prevent and reduce domestic violence.

"SEC. 1704. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

''(a) STATE MAXIMUM.—No State shall receive more than $2,500,000 under this part for any fiscal year.

''(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

''(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

''(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

''(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 1703(c).

"SEC. 1705. AWARD OF GRANTS.

''The Director shall consider the following factors in awarding grants to States and shall give preference to States that have—

''(1) a law or policy that requires the arrest of a person who police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated a civil protection order;

''(2) a law or policy that discourages dual arrests;

''(3) laws or statewide prosecution policies that authorize and encourage prosecutors to pursue domestic violence cases in which a criminal case can be proved, including proceeding without the active involvement of the victim if necessary;

''(4) statewide guidelines for judges that—

''(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only 1 spouse has sought a restraining or protective order;

''(B) require any history of abuse against a child or against a parent to be considered when making child custody determinations; and

''(C) require judicial training on domestic violence and related civil and criminal court issues;

''(5) policies that provide for the coordination of court and legal victim advocacy services; and

''(6) policies that make existing remedies to domestic violence easily available to victims of domestic violence, including elimination of court fees and the provision of simple court forms.

"SEC. 1706. REPORTS.

''(a) REPORT TO DIRECTOR.—Each State that receives funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 1703(c).

''(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part containing—

''(1) a detailed statement regarding grant awards and activities of grant recipients;

''(2) a compilation of statistical information submitted by applicants under section 1703(b)(4); and

''(3) an evaluation of programs established under this part.

"SEC. 1707. DEFINITIONS.

''For the purposes of this part:

''(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

''(2) The term 'domestic violence' means any act or threatened act of violence, including any forceful detention of an individual, that—

''(A) results or threatens to result in physical injury; and

''(B) is committed by an individual against another individual (including an elderly individual) to whom the individual is or was related by blood or marriage or otherwise legally related or with whom the individual is or was lawfully residing.''.

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 523(b), is amended by striking the matter relating to part Q and inserting the following:

''PART Q—DOMESTIC VIOLENCE INTERVENTION

''Sec. 1701. Grant authorization.
''Sec. 1702. Use of funds.
''Sec. 1703. Applications.
''Sec. 1704. Allocation of funds; limitations on grants.
''Sec. 1705. Award of grants.
''Sec. 1706. Reports.
''Sec. 1707. Definitions.

''PART R—TRANSITION; EFFECTIVE DATE; REPEALER

''Sec. 1801. Continuation of rules, authorities, and proceedings.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 523(d), is amended by adding at the end the following new paragraph:

''(11) There are authorized to be appropriated $25,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out projects under part Q.''.

SEC. 762. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of battered women's syndrome and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

Subtitle G—Other Provisions

SEC. 771. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.

(a) FINDINGS.—The Congress finds that—

(1) children are our most important and yet most fragile human resource;

(2) too many young people are induced or forced into performing criminal acts by adults;

(3) the greatest effort must be taken to eliminate crime in our neighborhoods and our schools;

(4) an equal resolve must be taken to punish individuals who attempt to use America's youth as pawns in their criminal enterprises; and

(5) adequate penalties can be implemented to eradicate the exploitation of minors to commit offenses.

(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§21. Inducement of minor to commit an offense

''(a) IN GENERAL.—Except to the extent that a greater minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed.

''(b) LIMITATION.—In the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

''(c) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as a circumstance in aggravation the severity of the offense sought by the adult.

''(d) DEFINITION.—For the purposes of this section the term 'minor' means a person less than 18 years of age.''.

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

''21. Inducement of minor to commit an offense.''.

SEC. 772. DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE.

Section 438(a)(4)(B)(ii) of the General Education Provisions Act (20 U.S.C.

1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records maintained by a law enforcement unit of the education agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

SEC. 773. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Education, shall, by contract with an appropriate entity with expertise in college campus security, provide for a national baseline study to research the effectiveness of campus sexual assault policies for institutions of postsecondary education.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of sexual assault occurring on college and university campuses, and to whom the allegations are reported (including campus authorities, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to campus authorities which are reported to criminal authorities;

(3) the percentage of campus sexual assault allegations compared to noncampus sexual assault allegations which result in eventual criminal prosecution;

(4) State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of campus policies and practices in protecting the legal rights and interests of sexual assault victims and the accused, including consideration of—

(A) practices that might discourage the reporting of sexual assaults to local criminal authorities, or result in any form of obstruction of justice, and thus undermine the public interest in prosecuting perpetrators of sexual assault; and

(B) the ability of campus disciplinary hearings to properly address allegations of sexual assault;

(6) whether colleges and universities take adequate measures to ensure that victims are free of unwanted contact with alleged assailants;

(7) the grounds on which colleges and universities are sued in civil court regarding sexual assaults, the resolution of these cases, and measures that can be taken to prevent future lawsuits;

(8) the ways in which colleges and universities respond to allegations of sexual assault, including an assessment of which programs work the best;

(9) recommendations to redress concerns raised in the report; and

(10) any other issues or questions the Attorney General, with the concurrence of the Secretary of Education, deems to be appropriate to the study.

(c) REPORT.—The Secretary of Education shall review the results of the research required by this section and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate by September 1, 1995, coordinating that report with the report and dissemination required under section 485(f)(4) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(4)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $200,000 for the contract required by subsection (a).

SEC. 774. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

TITLE VIII—EQUAL JUSTICE ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Equal Justice Act".

SEC. 802. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.

(a) GENERAL RULE.—The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition or execution of the death penalty or any other penalty.

(b) DEFINITIONS.—For purposes of this title—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) the term "State" has the meaning given in section 513 of title 18, United States Code; and

(3) the term "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

SEC. 803. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial prejudice or bias in statements before the jury.

SEC. 804. FEDERAL CAPITAL CASES.

(a) JURY INSTRUCTIONS AND CERTIFICATION.—In a prosecution for an offense against the United States in which a sentence of death is sought, and in which the capital sentencing determination is to be made by a jury, the judge shall instruct the jury that it is not to be influenced by prejudice or bias relating to the race or color of the defendant or victim in considering whether a sentence of death is justified, and that the jury is not to recommend the imposition of a sentence of death unless it has concluded that it would recommend the same sentence for such a crime regardless of the race or color of the defendant or victim. Upon the return of a recommendation of a sentence of death, the jury shall also return a certificate, signed by each juror, that the juror's individual decision was not affected by prejudice or bias relating to the race or color of the defendant or victim, and that the individual juror would have made the same recommendation regardless of the race or color of the defendant or victim.

(b) RACIALLY MOTIVATED KILLINGS.—In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

SEC. 805. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) SECTION 241.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) SECTION 242.—Section 242 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in", and by striking "such inhabitant" and inserting "such person".

TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

SEC. 901. SHORT TITLE.

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1992".

SEC. 902. GRANTS TO STATE AND LOCAL AGENCIES.

Section 1001(a)(5) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

SEC. 903. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)(1)) is amended by striking "1991" and inserting "1992".

SEC. 904. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(f)) is amended by striking "No" and inserting "Except for grants awarded to State and local governments for the purpose of participating in multi-jurisdictional drug task forces, no".

Subtitle B—Retired Public Safety Officer Death Benefit

SEC. 911. RETIRED PUBLIC SAFETY OFFICER DEATH BENEFIT.

(a) PAYMENTS.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsection (a) by inserting "or a retired public safety officer has died as the direct and proximate result of a personal injury sustained while responding to a fire, rescue, or police emergency" after "line of duty";

(2) in subsection (b) by inserting "or a retired public safety officer has become permanently and totally disabled as the direct result of a catastrophic injury sustained while responding to a fire, rescue, or police emergency" after "line of duty"; and

(3) in subsections (c), (i), and (j) by inserting "or a retired public safety officer" after "public safety officer" each place it appears.

(b) LIMITATIONS.—Section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) is amended—

(1) in paragraph (1) by striking "the public safety officer or by such officer's intention" and inserting "the public safety officer or the retired public safety officer who had the intention";

(2) in paragraph (2) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer"; and

(3) in paragraph (3) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer".

(c) NATIONAL PROGRAM.—Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a-1) is amended by inserting before the period "or retired public safety officers who have died while responding to a fire, rescue, or police emergency".

(d) DEFINITIONS.—Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) by striking "and" after paragraph (6);

(2) by inserting "; and" at the end of paragraph (7); and

(3) by adding at the end the following new paragraph:

"(8) 'retired public safety officer' means a former public safety officer who has served a sufficient period of time in such capacity to become vested in the retirement system of a public agency with which the officer was employed and who retired from such agency in good standing.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to death or injuries occurring after the date of enactment of this Act.

(f) IRWIN RUTMAN PROGRAM.—Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended by inserting before section 1201 the following new section:

"NAME OF PROGRAM

"SEC. 1200. The program established under this part shall be known as the 'Irwin Rutman Retired Safety Officer's Benefit Program'.".

Subtitle C—Study on Police Officers' Rights

SEC. 921. STUDY ON POLICE OFFICERS' RIGHTS.

The Attorney General, through the National Institute of Justice, shall conduct a study of the procedures followed in internal, noncriminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly and effectively. The study shall examine the adequacy of the rights available to law enforcement officers and members of the public in cases involving the performance of a law enforcement officer, including—

(1) notice;

(2) conduct of questioning;

(3) counsel;

(4) hearings;

(5) appeal; and

(6) sanctions.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to the Congress a report on the results of the study, along with findings and recommendations on strategies to guarantee fair and effective internal affairs investigations.

Subtitle D—Community Policing

CHAPTER 1—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 931. SHORT TITLE.

This chapter may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 932. PURPOSES.

The purposes of this chapter are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 933. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subchapter A and the Law Enforcement Scholarship program established in subchapter B and shall have authority to promulgate regulations to implement this subtitle.

SEC. 934. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subchapter A or the Law Enforcement Scholarship program under subchapter B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this chapter;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subchapter A, meet the requirements of section 940; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subchapter B, meet the requirements of section 948.

Subchapter A—Police Corps Program

SEC. 935. DEFINITIONS.

For the purposes of this subchapter—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 937;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 940.

SEC. 936. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(3) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to pay educational expenses incurred while in attendance at an institution of higher education—

(1) in a course of education leading to the award of a baccalaureate degree, including attendance at such an institution that does not itself award such a degree if the courses taken there are acceptable for credit toward a degree at an institution that does award such a degree, and including, in the discretion of the Director, such expenses incurred prior to enrollment in the Police Corps program; and

(2) for graduate and professional study.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 938, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 938; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (C) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 938.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section, the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 937. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to the State Police Corps plan, including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this Act, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 939, and such a participant shall be subject to the same benefits and obligations under this chapter as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 939, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this subchapter that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, an institution of higher education—

(A) as a full-time student in an undergraduate program leading to the award of a baccalaureate degree; or

(B) for purposes of taking a graduate or professional course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 938. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subchapter.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 940 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 939. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 938 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 936, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 936(d)(1)(C) shall not apply.

(d) LAYOFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 936, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 936(d)(1)(C) shall not apply.

SEC. 940. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 937;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since July 10, 1991; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 941. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subchapter $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

Subchapter B—Law Enforcement Scholarship Program

SEC. 942. SHORT TITLE.

This subchapter may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 943. DEFINITIONS.

As used in this subchapter—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 944. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 951, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this chapter in the State compared to the shortage of law enforcement personnel and the need for assistance under this subchapter in all States.

SEC. 945. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—Each State receiving an allotment pursuant to section 944 shall use

such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State receiving an allotment under section 944 the Federal share of the cost of the activities described in the application submitted pursuant to section 948.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subchapter shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 944 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this subchapter.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subchapter and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subchapter.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 944 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 944 shall ensure that each scholarship recipient under this subchapter be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this subchapter shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 946. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this chapter shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subchapter may use such scholarship for educational expenses at any institution of higher education.

SEC. 947. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subchapter if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subchapter.

SEC. 948. STATE APPLICATION.

Each State desiring an allotment under section 944 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subchapter is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subchapter;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subchapter and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subchapter;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subchapter;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 949. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subchapter shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subchapter, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 950. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this subchapter shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this chapter in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this chapter may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subchapter.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.— Except as provided in paragraph (2), each individual awarded a scholarship under this subchapter shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subchapter shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 951. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subchapter.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 945(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 945(a)(1)(B) and (2).

Subchapter C—Reports

SEC. 952. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subchapter A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including

service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subchapter B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subchapter B; and

(5) describe the progress of the programs authorized by this chapter and make recommendations for changes in the programs.

(b) Special Report.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subchapter B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

CHAPTER 2—COP-ON-THE-BEAT GRANTS

SEC. 961. SHORT TITLE.

This chapter may be cited as "The Cop-on-the-Beat Act of 1992".

SEC. 962. COP-ON-THE-BEAT GRANTS.

(a) In General.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 761(a), is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following new part:

"Part R—Cop-on-the-Beat Grants

"SEC. 1801. GRANT AUTHORIZATION.

"(a) Grant Projects.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups to establish or expand cooperative efforts between police and a community for the purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities that have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) Model Project.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in the community.

"SEC. 1802. APPLICATION.

"(a) In General.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In an application under paragraph (1), a single office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) General Contents.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1801;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) Comprehensive Plan.—Each application shall include a comprehensive plan that contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1803. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) Allocation.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) Administrative Cost Limitation.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) Renewal of Grants.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1802(c).

"(d) Federal Share.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1804. AWARD OF GRANTS.

"(a) Selection of Recipients.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) Need and Ability.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1802(c).

"(2) Community-wide Response.—Evidence of the ability to coordinate community-wide response to crime.

"(3) Maintain Program.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"(b) Geographic Distribution.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 1805. REPORTS.

"(a) Report to Director.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1802(c).

"(b) Report to Congress.—The Director shall submit to the Congress a report by October 1 of each year containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients; and

"(2) an evaluation of projects established under this part.

"SEC. 1806. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"(2) The term 'Director' means the Director of the Bureau of Justice Assistance.".

(b) Technical Amendment.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 761(b), is amended by striking the matter relating to part R and inserting the following new part:

"Part R—Cop-on-the-Beat Grants

"Sec. 1801. Grant authorization.
"Sec. 1802. Application.
"Sec. 1803. Allocation of funds; limitation on grants.
"Sec. 1804. Award of grants.
"Sec. 1805. Reports.
"Sec. 1806. Definitions.

"Part S—Transition; Effective Date; Repealer

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) Authorization of Appropriations.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 761(c), is amended by adding at the end the following new paragraph:

"(12) There are authorized to be appropriated $150,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out projects under part R.".

Subtitle E—Rural Crime Prevention Strategy

SEC. 971. FINDINGS.

The Congress makes the following findings:

(1) The traditional supportive roles of the family, church, school, and community have declined in importance as a positive social factor influencing the prevention and control of crime in rural areas. As a result in recent years rural areas have experienced a marked increase in crime rates. This increase is taking its toll on rural law enforcement practitioners who are already encumbered by numerous characteristics that are unique to their rural circumstances.

(2) Compounding the increase in crime rates, rural police unlike their urban counterparts, are likely to encounter a multitude of nontraditional police tasks such as fire and railroad emergencies, search and rescue missions, animal control problems, livestock theft, wildlife enforcement, illegal distilleries, illegal crop farming and drug manufacturing, rural drug trafficking, and toxic dumping.

(3) These problems are further exacerbated by the rural officer's distinct disadvantage with respect to the lack of adequate training to manage these varied assignments, the low degree of specialization of job tasks, unique job stress factors, and inadequate data resources. Inadequate rural crime statistics and data analysis capabilities further frustrate the rural police organization's ability to cope with the nature, extent, and trends of rural crime.

(4) Rural law enforcement agencies are at a critical juncture, and strategic planning and action are imperative. The Domestic Chemical Action Group convened by the National Institute of Justice in October 1990 has recommended that rural police receive training in various safety issues related to the identification, investigation, and seizure of illicit drug and chemical laboratories located in rural areas. Without such specialized training officials will face a high probability of explosions endangering police personnel and the community. National Institute of Justice sponsored research of environmental crime in major urban areas, including Los Angeles, has revealed the lack of police training in the identification, investigation, and clean-up of toxic and hazardous waste areas. It can be said with certainty that this recognized need for hazardous materials training is equally critical for rural police organizations.

SEC. 972. STRATEGY TO ADDRESS RURAL CRIME.

The purpose of this subtitle is to address the growing problems of rural crime in a systematic and effective manner with a program of practical and focused research, development, and dissemination designed to assist States and units of local government in rural areas throughout the country in implementing specific programs and strategies which offer a high probability of improving the functioning of their criminal justice systems.

SEC. 973. NATIONAL INSTITUTE OF JUSTICE NATIONAL ASSESSMENT.

(a) IN GENERAL.—The Director of the National Institute of Justice (referred to in this subtitle as the "Director") shall conduct a national assessment of the nature and extent of rural crime in the United States, the needs of law enforcement and criminal justice professionals in rural States and communities, and promising strategies to respond effectively to those challenges, including—

(1) the problem of clandestine drug laboratories; changing patterns in their location and operation; safety and liability issues for both law enforcement officers and the community in the identification, investigation, seizure, and clean-up of clandestine laboratories;

(2) other environmental crimes, such as the dumping of hazardous and toxic wastes; the pollution of streams, rivers, and ground water; and access of rural communities to the expertise necessary to successfully identify, investigate, and prosecute such crimes;

(3) the cultivation of illegal crops, such as marijuana, including changing patterns in location and techniques for identification, investigation, and destruction;

(4) the problems of drug and alcohol abuse in rural communities, including law enforcement and criminal justice response and access to treatment services;

(5) the problems of family violence and child abuse, including law enforcement and criminal justice response and access to services for victims of such crimes;

(6) the problems of juvenile delinquency and vandalism as they affect rural communities;

(7) the access of law enforcement and criminal justice professionals in rural communities to the services of crime laboratories, the Automated Fingerprint Identification System, and other technological support;

(8) the access of law enforcement and criminal justice professionals in rural communities to professional training and development and the identification of models for the delivery of such training; and

(9) the special problems of drug abuse in jurisdictions with populations of 50,000 or less.

(b) FINAL REPORT.—The Director shall submit the national assessment to the President and Congress not later than 12 months after the date of enactment of this Act.

(c) DISSEMINATION OF REPORT.—Based on the results of the national assessment and analysis of successful and promising strategies in these areas, the Director shall disseminate the results not only through reports, publications, and clearinghouse services, but also through programs of training and technical assistance, designed to address the realities and challenges of rural law enforcement.

SEC. 974. PILOT PROGRAMS.

(a) IN GENERAL.—The Director may make grants to local law enforcement agencies for pilot programs and field tests of particularly promising strategies and models, which could then serve as the basis for demonstration and education programs under the Bureau of Justice Assistance Discretionary Grant Program.

(b) TYPES OF PROGRAMS.—Pilot programs funded under this section may include—

(1) programs to develop and demonstrate new or improved approaches or techniques for rural criminal justice systems;

(2) programs of training and technical assistance to meet the needs of rural law enforcement and criminal justice professionals including safety;

(3) a rural initiative to study and improve the response to traffic safety problems and drug interdiction;

(4) an ongoing program to assist law enforcement professionals in dealing with the hazards of clandestine drug laboratories;

(5) victim assistance information to assist departments in beginning and maintaining strong programs to assist victims and witnesses of crime;

(6) emergency preparedness information for community groups concerned about disaster preparedness on the family and community level; and

(7) a program targeted at communities of less than 50,000 stressing the need for production of public safety through extensive partnership efforts between law enforcement, other local government agencies, businesses, schools, community and social organizations, and citizens.

SEC. 975. FUNDING.

There are authorized to be appropriated $5,000,000 to carry out the national assessment and pilot programs required by this subtitle.

Subtitle F—National Commission to Support Law Enforcement

SEC. 981. SHORT TITLE.

This subtitle may be cited as the "National Commission to Support Law Enforcement Act.".

SEC. 982. FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review 25 years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 983. ESTABLISHMENT OF COMMISSION.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this subtitle as the "Commission").

SEC. 984. DUTIES.

(a) IN GENERAL.—The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 985. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from among national law enforcement officers, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) One shall be appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate.

(B) One shall be appointed by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(4) Two Members of the House of Representatives, appointed by the Speaker and the Minority Leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the Majority Leader and the Minority Leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

SEC. 986. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this subtitle.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 987. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this subtitle, hold hearings, sit and act at the time and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this subtitle. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 988. REPORT.

Not later than the expiration of the 18-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 989. TERMINATION.

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 988.

SEC. 989A. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (42 U.S.C. 3721 note) and section 211(B) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (42 U.S.C. 3721 note; 104 Stat. 2122) are repealed.

Subtitle G—Other Provisions

SEC. 991. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, aggressive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1992, 1993, and 1994.

SEC. 992. AUTHORIZATION OF APPROPRIATIONS FOR BUREAU OF JUSTICE ASSISTANCE DISCRETIONARY GRANTS.

Section 1001(a)(6) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(6)), as amended by section 1054, is amended to read as follows:

"(7) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out chapter B of subpart 2 of part E of this title.".

SEC. 993. LAW ENFORCEMENT FAMILY SUPPORT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 962(a), is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as 2001; and

(3) by inserting after part R the following new part:

"PART S—FAMILY SUPPORT

"SEC. 1901. DUTIES OF DIRECTOR.

"The Director shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Bureau and by grant recipients.

"SEC. 1902. GENERAL AUTHORIZATION.

"The Director is authorized to make grants to States and local law enforcement agencies to provide family support services to law enforcement personnel.

"SEC. 1903. USES OF FUNDS.

"(a) IN GENERAL.—A State or local law enforcement agency that receives a grant under this part shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency that receives funds under this part shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency that receives funds under this part may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

"SEC. 1904. APPLICATIONS.

"A law enforcement agency desiring to receive a grant under this part shall submit to the Director an application at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Director or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this part.

"SEC. 1905. AWARD OF GRANTS; LIMITATION.

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Director shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Director may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency for a period not to exceed 5 years. In any application from a State or local law enforcement agency for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Director shall review the progress made toward meeting the objectives of the program. The Director may refuse to award a grant if the Director finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 10 percent of grant funds received by a State or a local law enforcement agency may be used for administrative purposes.

"SEC. 1906. DISCRETIONARY RESEARCH GRANTS.

"The Director may reserve 10 percent of funds to award research grants to a State or local law enforcement agency to study issues of importance in the law enforcement field as determined by the Director.

"SEC. 1907. REPORTS.

"(a) REPORT FROM GRANT RECIPIENTS.—A State or local law enforcement agency that receives a grant under this part shall submit to the Director an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"(b) REPORT FROM DIRECTOR.—(1) The Director shall submit to the Congress a report not later than March 31 of each fiscal year.

"(2) A report under paragraph (1) shall contain—

"(A) a description of the types of projects developed or improved through funds received under this part;

"(B) a description of exemplary projects and activities developed;

"(C) a designation of the family relationship to the law enforcement personnel of individuals served; and

"(D) a statement of the number of individuals served in each location and throughout the country.

"SEC. 1908. DEFINITIONS.

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 962(b), is amended by striking the matter relating to part S and inserting the following:

"PART S—FAMILY SUPPORT

"Sec. 1901. Duties of director.
"Sec. 1902. General authorization.
"Sec. 1903. Uses of funds.
"Sec. 1904. Applications.
"Sec. 1905. Award of grants; limitation.
"Sec. 1906. Discretionary research grants.
"Sec. 1907. Reports.
"Sec. 1908. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALS

"Sec. 2001. Continuation of rules, authorities, and privileges.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 962(c), is amended by adding at the end the following new paragraph:

"(13) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out part S, of which not more than 20 percent may be used to accomplish the duties of the Director under section 1901, including administrative costs, research, and training programs.".

SEC. 994. MANDATORY LITERACY PROGRAM.

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration or systemwide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill; or

(C) is under a sentence of death.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy and the names and types of tests that were used to determine disabilities affecting functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a systemwide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies that elect to establish a program described in subsection (a) for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(e) DEFINITION.—For the purposes of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General may make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for reintegration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section, the term "life skills" includes self-development, communication skills, job and financial skills development, education, interpersonal and family relationships, and stress and anger management.

SEC. 995. TRAUMA CENTERS AND CRIME-RELATED VIOLENCE.

(a) AMENDMENT OF PUBLIC HEALTH SERVICE ACT.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended by adding at the end the following new part:

"PART D—REIMBURSEMENT FOR UNCOMPENSATED TRAUMA CARE

"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence due to crime. Grants under this subsection may be made only to such trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING PENETRATION WOUNDS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma center unless the trauma center demonstrates a significant incidence of uncompensated care debt as a result of treating a population of patients that has been served by the center for the period specified in subparagraph (B) for trauma, including a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the trauma center involved is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center involved is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 1213(c).

"SEC. 1242. PRIORITIES IN MAKING GRANTS.

"In making grants under section 1241(a), the Secretary shall give priority to any application—

"(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 5-year period specified in section 1241(b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"SEC. 1243. COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.

"The Secretary may not make a grant under subsection (a) of section 1241 unless the trauma center involved agrees that—

"(1) the center will continue participation in the system described in subsection (b) of such section throughout the two fiscal years immediately succeeding the fiscal year for which a grant is received;

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A); and

"(3) the center will establish a trauma registry not later than 6 months from the date on which the grant is received that shall include such information as the Secretary shall require.

"SEC. 1244. GENERAL PROVISIONS.

"(a) APPLICATION.—The Secretary may not make a grant under section 1241(a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"(c) LIMITATION ON AMOUNT OF GRANT.—The Secretary may not make a grant to any single trauma center in an amount that exceeds $2,000,000 in any fiscal year.

"(d) CONSULTATION.—Grants shall be awarded under section 1241(a) only after the Secretary has consulted with the state official responsible for emergency medical services, or another appropriate state official, in the State of the prospective grantee.

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

(b) TECHNICAL AMENDMENTS.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended—

(1) in the heading for part C, by inserting "REGARDING PARTS A AND B" after "PROVISIONS";

(2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

(3) in section 1232(a), by striking "this title" and inserting "parts A and B".

SEC. 996. STUDY AND ASSESSMENT OF ALCOHOL USE AND TREATMENT.

The Director of the National Institute of Justice shall—

(1) conduct a study to compare the recidivism rates of individuals under the influence of alcohol or alcohol in combination with other drugs at the time of their offense—

(A) who participated in a residential treatment program while in the custody of the State; and

(B) who did not participate in a residential treatment program while in the custody of the State; and

(2) conduct a nationwide assessment regarding the use of alcohol and alcohol in combination with other drugs as a factor in violent, domestic, and general criminal activity.

SEC. 997. NOTICE OF RELEASE OF PRISONERS.

Section 4042 of title 18, United States Code, is amended—

(1) by striking "The Bureau" and inserting "(a) IN GENERAL.—The Bureau";

(2) by striking "This section" and inserting "(c) Application of Section.—This section";

(3) in paragraph (4) of subsection (a), as designated by paragraph (1)—

(A) by striking "Provide" and inserting "provide"; and

(B) by striking the period at the end and inserting "; and";

(4) by inserting after paragraph (4) of subsection (a), as designated by paragraph (1), the following new paragraph:

"(5) provide notice of release of prisoners in accordance with subsection (b)."; and

(5) by inserting after subsection (a), as designated by paragraph (1), the following new subsection:

"(b) NOTICE OF RELEASE OF PRISONERS.—(1) Except in the case of a prisoner being protected under chapter 224, the Bureau of Prisons shall, at least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, cause written notice of the release or change of residence to be made to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside.

"(2) A notice under paragraph (1) shall disclose—

"(A) the prisoner's name;

"(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

"(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

"(3) A prisoner is described in this paragraph if the prisoner was convicted of—

"(A) a drug trafficking crime (as defined in section 924(c)(2)); or

"(B) a crime of violence (as defined in section 924(c)(3)).

"(4) The notice provided under this section shall be used solely for law enforcement purposes.".

(b) APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES.—In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.

TITLE X—ILLEGAL DRUGS

Subtitle A—Drug Testing

SEC. 1001. DRUG TESTING OF FEDERAL OFFENDERS ON POST-CONVICTION RELEASE.

(a) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4).".

(2) The chapter analysis for chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3608. Drug testing of Federal offenders on post-conviction release.".

(b) DRUG TESTING CONDITION FOR PROBATION.—

(1) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(A) in paragraph (2) by striking "and";

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of the controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. In addition, the Court may decline to impose this condition for any individual defendant, if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant. A defendant who tests positive may be detained pending verification of a drug test result.".

(2) DRUG TESTING FOR SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4), the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court), for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4).".

(3) DRUG TESTING IN CONNECTION WITH PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4), the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4).".

(c) REVOCATION OF PAROLE.—Section 4214(f) of title 18, United States Code, is amended by inserting after "substance" the following: ", or who unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of parole,".

SEC. 1002. DRUG TESTING IN STATE CRIMINAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751 et seq.) is amended by adding at the end the following new section:

"DRUG TESTING PROGRAMS

"SEC. 523. (a) PROGRAM REQUIRED.—It is a condition of eligibility for funding under this part that a State formulate and implement a drug testing program for targeted classes of persons confined in, or subject to supervision in, the criminal justice systems of the State. Such a program must meet criteria specified in regulations promulgated by the Attorney General under subsection (b). Notwithstanding the preceding sentence, no State shall be required to expend an amount for drug testing pursuant to this section in excess of 10 percent of the minimum amount that the State is eligible to receive under subpart 1.

"(b) REGULATIONS.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall promulgate regulations to implement this section to ensure reliability and accuracy of drug testing programs. The regulations shall include such other guidelines for drug testing programs in State criminal justice systems as the Attorney General determines are appropriate, and shall include provisions by which a State may apply to the Attorney General for a waiver of the requirements imposed by this section, on grounds that compliance would impose excessive financial or other burdens on such State or would otherwise be impracticable or contrary to State policy.

"(c) EFFECTIVE DATE.—This section shall take effect with respect to any State at a time specified by the Attorney General, but not earlier than the promulgation of the regulations required under subsection (b).".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 522 the following new item:

"Sec. 523. Drug testing programs.".

Subtitle B—Precursor Chemicals

SEC. 1011. SHORT TITLE.

This subtitle may be cited as "The Chemical Control and Environmental Responsibility Act of 1992".

SEC. 1012. DEFINITION AMENDMENTS.

(a) REFERENCES TO LISTED CHEMICALS IN SECTION 102.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and inserting "list I chemical" and by striking "critical to the creation" and inserting "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting "list II chemical" and by striking "that is used as a solvent, reagent or catalyst" and inserting ", which is not a list I chemical, that is used"; and

(4) in paragraph (40) by striking the phrase "listed precursor chemical or a listed essential chemical" and inserting "list I chemical or a list II chemical" both places it appears.

(b) REFERENCES TO LISTED CHEMICALS IN SECTION 310.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)(A) by striking "precursor chemical" and inserting "list I chemical";

(2) in subsection (a)(1)(B) by striking "an essential chemical" and inserting "a list II chemical"; and

(3) in subsection (c)(2)(D) by striking "precursor chemical" and inserting "chemical control".

(c) OTHER AMENDMENTS TO SECTION 102.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine";

(3) in paragraph (39)(A) by striking "or exportation" and inserting ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semicolon and inserting "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may by regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semicolon and inserting "which the Attor-

ney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

(7) by adding at the end the following new paragraph:

"(42) The terms 'broker' and 'trader' mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing together a buyer and a seller, or a buyer or seller and a transporter.".

SEC. 1013. REGISTRATION REQUIREMENT.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b) by inserting "or list I chemicals" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemicals" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES ACT.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that the registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) Maintenance of effective controls against diversion of listed chemicals into other than legitimate channels.

"(2) Compliance with applicable Federal, State and local law.

"(3) Prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law.

"(4) Past experience in the manufacture and distribution of chemicals.

"(5) Such other factors as may be relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or a list I chemical" after "controlled substance" each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by striking "(c) The" and inserting "(c)(1) The"; and

(B) by adding at the end the following new paragraph:

"(2) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in section 303(h) shall be considered.";

(2) in subsection (d)—

(A) in paragraph (3) by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e) by striking "and 307" and inserting ", 827, and 310"; and

(4) in subsections (f), (g), and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) in the case of a person who is a regulated person, to distribute, import, or export a list I chemical without the registration required by this title.".

SEC. 1014. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by striking "(b) Each regulated person" and inserting "(b)(1) Each regulated person";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person.".

SEC. 1015. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, REPORTING, RECORDKEEPING, AND OTHER REQUIREMENTS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and by title II.".

(b) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) PENALTY FOR IMPORTATION OR EXPORTATION.—Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title;

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 10 years, or both.".

SEC. 1016. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) ADVANCE NOTICE.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 1015(a), is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day advance notice requirement of subsection (a) apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as regular customers if the Attorney General finds that the action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day advance notice requirement for exports of specific listed chemicals to specified countries if the Attorney General determines that the advance notice is not required for effective chemical control. If the advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day advance notice requirement for the importation of specific listed chemicals if the Attorney General determines that the requirement is not necessary for effective chemical control. If the advance notice requirement is waived, importers of such listed chemicals shall be required to submit either reports of individual importations or periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 1015(b), is amended by—

(1) striking "or" at the end of paragraph (3);

(2) striking the comma at the end of paragraph (4) and inserting "; or"; and

(3) by adding after paragraph (4) the following new paragraph:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 1018(d) (1) or (2) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported,".

SEC. 1017. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended:

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P), (Q), (R), (S), (T), (V), (X), and (Y) as subparagraphs (O), (P), (Q), (R), (S), (T), (U), and (X), respectively;

(3) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane."; and

(4) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)".

SEC. 1018. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)(1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer";

(2) in subsection (b)(2)—

(A) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(B) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 1019. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act (21 U.S.C. 880(a)(2)) is amended to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where a person registered under section 303 (or exempt from such registration under section 302(d) or by regulation of the Attorney General) or a regulated person may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such an activity are maintained.".

SEC. 1020. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 1012, is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount of multiple transactions".

SEC. 1021. MANAGEMENT OF LISTED CHEMICALS.

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) OFFENSE.—It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

"(b) PENALTY.—(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, or less than 10 years in the case of a willful violation.

"(4) The court may order that all or a portion of the earnings from work performed by a convicted offender in prison be withheld for payment of costs assessed under paragraph (2).

"(c) SHARING OF FORFEITED ASSETS.—The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) AMENDMENT OF TITLE 11, UNITED STATES CODE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 1022. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Part B of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131 et seq.) is amended by adding at the end the following new section:

"SEC. 428. DISCLOSURE OF INFORMATION TO THE ATTORNEY GENERAL.

"Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 424(b)) under this part or section 1921 of the Social Security Act (42 U.S.C. 1396r-2) shall be provided to the Attorney General. The Secretary shall—

"(1) transmit to the Attorney General such information as the Attorney General may designate or request to assist the Drug Enforcement Administration in the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) and other laws enforced by the Drug Enforcement Administration; and

"(2) transmit such information related to health care providers as the Attorney General may designate or request to assist the Federal Bureau of Investigation in the enforcement of title 18, the Act entitled 'An Act to regulate the practice of pharmacy and the sale of poison in the consular districts of the United States in China', approved March 3, 1915 (21 U.S.C. 201 et seq.), and chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).".

SEC. 1023. REGULATIONS AND EFFECTIVE DATE.

(a) REGULATIONS.—The Attorney General shall, not later than 90 days after the enactment of this Act, issue regulations necessary to carry out this subtitle.

(b) EFFECTIVE DATE.—The amendments made by this subtitle shall become effective on the date that is 120 days after the date of enactment of this Act.

Subtitle C—Interdiction

SEC. 1031. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following new section:

"§2237. Order to land or bring to

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'aircraft subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation where the nation of registry has consented or waived objection to the enforcement of United States law by the United States;

"(2) the term 'bring to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state;

"(3) the term 'Federal law enforcement officer' has the meaning stated in section 115; and

"(4) the terms 'vessel of the United States' and 'vessel subject to the jurisdiction of the United States' have the meanings stated in the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

"(b) FAILURE TO LAND AIRCRAFT.—(1) It is unlawful for the pilot, operator, or person in charge of an aircraft that has crossed the border of the United States or an aircraft subject to the jurisdiction of the United States that is being operated outside the United States to refuse to obey the order to land made by an authorized Federal law enforcement officer who is enforcing—

"(A) the laws of the United States relating to controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(B) chapter 27 or section 1956 or 1957 of this title.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, after consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated by Federal law enforcement officers to the pilot, operator, or person in charge of an aircraft.

"(c) FAILURE TO BRING VESSEL TO.—It is unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring the vessel to on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(d) RULE OF CONSTRUCTION.—This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or any other law that the Customs Service enforces or administers or the authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(e) CONSENT OR WAIVER OF OBJECTION.—Consent or waiver of objection by a foreign nation to the enforcement by the United States of its laws under this section may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(f) PENALTY.—A person who intentionally violates this section shall be fined under this title, imprisoned not more than 3 years, or both.

"(g) FORFEITURE.—Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred or alleged to have been incurred under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. Any vessel or aircraft that is used in a violation of this section is also liable in rem for any fine or civil penalty imposed under this section.

"(h) DELEGATION OF AUTHORITY.—The Secretary of the Treasury and the Secretary of Transportation may delegate Federal law enforcement officer seizure and forfeiture responsibilities under this section to other law enforcement officers.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Order to land or to bring to.".

SEC. 1032. FAA REVOCATION AUTHORITY.

(a) IMMEDIATE REVOCATION OF REGISTRATION.—Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by adding at the end the following new paragraph:

"(3)(A) The registration of the aircraft shall be immediately revoked upon the failure of the operator of the aircraft to follow the order of a Federal law enforcement officer to land an aircraft as provided in section 2237 of title 18, United States Code. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for the aircraft.

"(B) The Administrator shall establish procedures for the owner of the aircraft to show cause—

"(i) why the registration was not revoked, as a matter of law, by operation of subparagraph (A); or

"(ii) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subparagraph (A), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subparagraph (A).".

(b) REVOCATION OF AIRMAN CERTIFICATE.—Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429(e)) is amended by adding at the end the following new subsection:

"(d)(1) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that—

"(A) the person, while acting as the operator of an aircraft, failed to follow the order of a law enforcement officer to land the aircraft as provided in section 2237 of title 18, United States Code; and

"(B) the person knew or had reason to know that the person had been ordered to land the aircraft.

"(2) If the Administrator determines that extenuating circumstances existed, such as safety of flight, which justified a deviation by the airman from the order to land, paragraph (1) shall not apply.

"(3) Subsection (c)(3) shall apply to any revocation of the airman certificate of any person for failing to follow the order of a Federal law enforcement officer to land an aircraft.".

SEC. 1033. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) AIR INTERDICTION AUTHORITY.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 96. Air interdiction authority

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft subject to the jurisdiction of the United States over the high seas and waters over which the United States has jurisdiction. Any order issued under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 5 of title 14, United States Code, is amended by adding at the end the following new item:

"96. Air interdiction authority.".

SEC. 1034. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) CIVIL PENALTY.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 667. Civil penalty for failure to comply with a lawful boarding or order to land

"(a) INTENTIONAL FAILURE TO COMPLY.—The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) NEGLIGENT FAILURE TO COMPLY.—The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who negligently fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) LIABILITY IN REM.—A vessel or aircraft used in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable in rem for a civil penalty assessed under this section.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"667. Civil penalty for failure to comply with a lawful boarding or order to land.".

SEC. 1035. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end the following new subsection:

"(i) As used in this section, the term 'authorized place' includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches; and

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act or regulations issued thereunder or section 2237 of title 18, United States Code, any location outside the United States, including a foreign country location at which United States Customs Officers are permitted to conduct inspections, examinations, or searches.".

SEC. 1036. CUSTOMS CIVIL PENALTY PROVISIONS.

The Tariff Act of 1930 (19 U.S.C. 1202 et seq.) is amended by inserting after section 590 the following new section:

"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER TO LAND OR TO BRING TO.

"(a) INTENTIONAL FAILURE TO COMPLY.—The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act or section 2237 of title 18, United States Code, is subject to a civil penalty of not more than $25,000, which may be assessed by the appropriate customs officer.

"(b) NEGLIGENT FAILURE TO COMPLY.—The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act or section 2237 of title 18, United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

SEC. 1037. INFORMATION EXCHANGE AND ASSISTANCE.

Section 142 of title 14, United States Code, is amended—

(1) by inserting "(a) EXCHANGE OF INFORMATION.—" before "The";

(2) in subsection (a), as designated by paragraph (1)—

(A) by inserting "and international organizations" after "with foreign governments"; and

(B) by inserting "maritime law enforcement, maritime environmental protection, and" after "matters dealing with"; and

(3) by adding at the end the following new subsection:

"(b) Use of Personnel and Facilities.—The Coast Guard may, when so requested by the Secretary of State, use its personnel and facilities to assist any foreign government or international organization to perform any activity for which such personnel and facilities are especially qualified.".

SEC. 1038. ASSISTANCE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

(a) In General.—Section 149 of title 14, United States Code is amended to read as follows:

"§ 149. Assistance to foreign governments and international organizations

"(a) In General.—The President may, upon application from the foreign governments or international organizations concerned, and whenever in the President's discretion the public interest renders such a course advisable, utilize officers and enlisted members of the Coast Guard to assist foreign governments or international organizations in matters concerning which the Coast Guard may be of assistance.

"(b) Detail of Personnel.—(1) Utilization of members may include the detail of such members.

"(2) Arrangements may be made by the Secretary with countries to which such officers and enlisted members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions.

"(3) While detailed under this subsection, officers and enlisted members of the Coast Guard shall receive the pay and allowances to which they are entitled in the Coast Guard and shall be allowed the same credit for all service while so detailed, as if serving with the Coast Guard.".

(b) Technical Amendment.—The chapter analysis for chapter 7 of title 14, United States Code, is amended by amending the item relating to section 149 to read as follows:

"149. Assistance to foreign governments and international organizations.".

SEC. 1039. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.

Section 481(c)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c)(4)) is amended by inserting ", and archipelagic waters" after "territorial sea".

Subtitle D—Rural Drug Crime

SEC. 1051. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) Establishment.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, may establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) Task Force Membership.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1052. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1051(b)(5) with jurisdiction to enforce the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this subtitle.

SEC. 1053. RURAL DRUG ENFORCEMENT TRAINING.

(a) Specialized Training for Rural Officers.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) Authorization of Appropriations.—There is authorized to be appropriated $1,000,000 in each of the fiscal years 1992, 1993, and 1994 to carry out subsection (a).

SEC. 1054. AUTHORIZATION OF APPROPRIATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) Authorization of Appropriations.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating paragraph (6), relating to part N of title I of the Omnibus Crime Control and Safe Streets Act 1968, as paragraph (8) and removing it to follow paragraph (7), relating to part M of that title I; and

(2) by redesignating paragraph (7), relating to part O of that title, as paragraph (9) and amending the paragraph to read as follows:

"(9) There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O.".

(b) Amendment Of Base Allocation.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(a)(2)(A)) is amended by striking "$100,000" and inserting "$250,000".

SEC. 1055. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) In General.—The Director of the Office for Treatment Improvement (referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) Requirements.—To receive a grant under this section, a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) Application.—

"(1) In general.—To be eligible to receive a grant under this section, an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) Coordinated applications.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) Prevention Programs.—

"(1) In general.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) Regulations.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) Special Consideration.—In awarding grants under this section, the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) Duration.—Grants awarded under subsection (a) shall be for a period of not to exceed 3 years, except that the Director may establish a procedure for the renewal of grants under subsection (a).

"(g) Geographic Distribution.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992 and 1993.".

SEC. 1056. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

Subtitle E—Grant Programs

SEC. 1061. DRUG EMERGENCY AREAS.

Section 1005(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(c)) is amended by striking subsection (c) and inserting the following new subsection:

"(c) Declaration of Drug Emergency Areas.—

"(1) Presidential declaration.—(A) If a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare the State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or by any other law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, to protect property and public health, and to promote safety.

"(2) Procedure for declaration.—(A) A request for a declaration by the President designating an area to be a drug emergency area shall be made in writing by the Governor of a State or the chief executive officer of a local government and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) A request under subparagraph (A) shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that Federal assistance is necessary for an effective response to save lives, protect property and public health, and promote safety.

"(C) The President shall not limit declarations under this subsection to highly populated centers of drug trafficking, drug use or drug-related violence, but shall consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor or chief executive officer shall—

"(i) take appropriate responsive action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (quantitative goals, where possible) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review a request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving the application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) Federal monetary assistance.—(A) The President may make grants to State or local governments of up to $50,000,000 in the aggregate for any single major drug-related emergency.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year, except that the President, on application of a Governor of a State or chief executive officer of a local government, and, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) A State or local government that receives Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) Nonmonetary assistance.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) Issuance of implementing regulations.—Not later than 90 days after the date of enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) Audit by comptroller general.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of the assistance based on the goals contained in the application for assistance.

"(7) Authorization of appropriations.—There are authorized to be appropriated for each of fiscal years 1992, 1993, 1994, 1995, and 1996 $300,000,000 to carry out this subsection.".

SEC. 1062. DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION.

(a) Community Partnerships.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new subpart:

"*Subpart 4—Community Coalitions on Substance Abuse*

"Grants to Combat Substance Abuse

"Sec. 531. (a) Definition.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that includes—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) Grant Program.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) Community Participation.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) Application.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such an application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan described in subsection (b)(5) and to report on the plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) Priority.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—(1) Each coalition that receives Federal funds under this section shall submit an annual report to the Attorney General and the appropriate State agency that evaluates the effectiveness of the plan described in subsection (b)(5) and contains such additional information as the Attorney General or the appropriate State agency may prescribe.

"(2)(A) The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

"(B) The review described in subparagraph (A) shall—

"(i) evaluate the grant program established in this section to determine its effectiveness;

"(ii) implement necessary changes to the program that can be done by the Attorney General; and

"(iii) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new item:

"Subpart 4—Community Coalition on Substance Abuse".

SEC. 1063. GRANTS FOR SUBSTANCE ABUSE TREATMENT.

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 993(a), is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following new part:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"SEC. 2001. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities.

"SEC. 2002. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency.

"(b) DRUG TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the drug treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the prison treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, half-way house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the drug treatment program.

"(3) To qualify as an aftercare program, the head of the drug treatment program, in conjunction with State and local authorities and organizations involved in drug treatment, shall assist in placement of drug treatment program participants with appropriate community drug treatment facilities when such individuals leave prison at the end of a sentence or on parole.

"(d) STATE OFFICE.—The office designated under section 507 of this title (42 U.S.C. 3757)—

"(1) shall prepare the application as required under section 2002; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2003. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 2001 to carry out the projects described in the application submitted under section 2002 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 2002 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 2004. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2002 for the fiscal year for which the projects receive assistance under this part.

"SEC. 2005. EVALUATION.

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 993(b), is amended by striking the matter relating to part T and inserting the following:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2001. Grant authorization.
"Sec. 2002. State applications.
"Sec. 2003. Review of State applications.
"Sec. 2004. Allocation and distribution of funds.
"Sec. 2005. Evaluation.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), as amended by section 523(c), is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(25) The term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 993(c), is amended by adding at the end the following new paragraph:

"(14) There are authorized to be appropriated $100,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the projects under part T.".

SEC. 1064. DRUG TESTING UPON ARREST.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1063(a), is amended—

(1) by redesignating part U as part V;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following new part:

"Part U—Grants For Drug Testing Upon Arrest

"SEC. 2101. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance is authorized to make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing, implementing, or continuing a drug testing project when individuals are arrested and during the pretrial period.

"SEC. 2102. STATE APPLICATIONS.

"(a) General Requirements.—To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) Mandatory Assurances.—To be eligible to receive funds under this part, a State must agree to develop or maintain programs of urinalysis or similar drug testing of individuals upon arrest and on a regular basis pending trial for the purpose of making pretrial detention decisions.

"(c) Central Office.—The office designated under section 507 of this title (42 U.S.C. 3757)—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2103. LOCAL APPLICATIONS.

"(a) In General.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 2102(c).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 90 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested in the application.

"(b) Distribution to Units of Local Government.—A State that receives funds under section 2101 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 90 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 90-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 2104. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) State Distribution.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of individuals arrested in the State bears to the number of individuals arrested in all the participating States.

"(b) Local Distribution.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State the portion of such funds that bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified in the State's application.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for a fiscal year will not be used by the State or that a State is not eligible to receive funds under section 2101, the Director shall award the funds to units of local government in the State, giving priority to the units of local government that the Director considers to have the greatest need.

"(c) Federal Share.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2102 for the fiscal year for which the projects receive assistance under this part.

"(d) Geographic Distribution.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 2105. REPORT.

"A State or unit of local government that receives funds under this part shall submit to the Director a report in March of each fiscal year in which funds are received under this part regarding the effectiveness of the drug testing project.".

(b) Technical Amendment.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1063(b), is amended by striking the matter relating to part U and inserting the following:

"Part U—Drug Testing for Individuals Arrested

"Sec. 2101. Grant authorization.
"Sec. 2102. State applications.
"Sec. 2103. Local applications.
"Sec. 2104. Allocation and distribution of funds.
"Sec. 2105. Report.

"Part V—Transition; Effective Date; Repealer

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

(c) Authorization of Appropriations.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1063(d), is amended by adding at the end the following new paragraph:

"(15) There are authorized to be appropriated $100,000,000 for the fiscal years 1992, 1993, and 1994 to carry out projects under part U.".

Subtitle F—Other Provisions

SEC. 1071. STRENGTHENED FEDERAL PENALTIES RELATING TO CRYSTALLINE METHAMPHETAMINE.

(a) Large Amount.—The first sentence of section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) by striking "or" at the end of clause (vii);

(2) by inserting "or" at the end of clause (viii); and

(3) by inserting after clause (viii) the following new clause:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline in form.".

(b) Smaller Amount.—The first sentence of section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) by striking "or" at the end of clause (vii);

(2) by inserting "or" at the end of clause (viii); and

(3) by inserting after clause (viii) the following new clause:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline in form.".

SEC. 1072. ADVERTISEMENTS OF CONTROLLED SUBSTANCES.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance, but does not include material that—

"(1) merely advocates the use of a similar material or advocates a position or practice; and

"(2) does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.".

SEC. 1073. INCREASED PENALTIES FOR DISTRIBUTION OF CONTROLLED SUBSTANCES AT TRUCK STOPS AND REST AREAS.

(a) In General.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"Sec. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) punishable—

"(1) by a term of imprisonment, or fine, or both, up to twice that authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 1 year.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of—

"(A) a term of imprisonment of not less than 3 years and not more than life imprisonment; or

"(B) a term of imprisonment of up to 3 times that authorized by section 401(b) for a first offense, or a fine up to 3 times that authorized by section 401(b) for a first offense, or both; and

"(2) at least 3 times any term of supervised release authorized by section 401(b) for a first offense.

"(c) Probation shall not be granted in the case of a sentence imposed under subsection (b).

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning stated in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) with the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2716(6))) operating in commerce (as defined in section 12019(3) of that Act (49 U.S.C. App. 2716(3)) and located adjacent to or within 2,500 feet of a highway on the National System of Interstate and Defense Highways or the Federal-aid primary system.".

(b) TECHNICAL AMENDMENTS.—(1) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "409," before "418," each place it appears.

(2) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by inserting after the item relating to section 408 the following new item:

"Sec. 409. Transportation safety offenses.".

(c) SENTENCING COMMISSION GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (a), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) 2 levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(2) in no event less than level 26.

(d) IMPLEMENTATION OF SUBSECTION (c).—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (c) so as to achieve a comparable result.

(e) OFFENSES THAT COULD BE SUBJECT TO MULTIPLE ENHANCEMENTS.—The guidelines referred to in subsection (d), as promulgated or amended under that subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to that subsection is subject to not more than 1 such enhancement.

SEC. 1074. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791(c) of title 18, United States Code, is amended—

(1) in subsection (c) by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A) by inserting "or a controlled substance in Schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C)" after "a firearm or destructive device";

(3) in subsection (d)(1)(B) by inserting "marijuana or a controlled substance in Schedule III, other than a controlled substance referred to in subparagraph (C)," before "ammunition,";

(4) in subsection (d)(1)(C) by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,"; and

(5) in subsection (d)(1)(D) by inserting "(A), (B), or" before "(C)".

SEC. 1075. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.

(a) HEADING FOR SECTION 3.—The Anti-Smuggling Act (19 U.S.C. 1701 et seq.) is amended by inserting the following new heading for section 3:

"SEIZURE AND FORFEITURE OF VESSELS, VEHICLES AND OTHER CONVEYANCES".

(b) AMENDMENT OF SECTION 3.—Section 3 of the Anti-Smuggling Act (19 U.S.C. 1701 et seq.) is amended—

(1) by striking "(a) Whenever" and inserting "(a) VESSELS, VEHICLES, AND OTHER CONVEYANCES SUBJECT TO SEIZURE AND FORFEITURE.—Whenever";

(2) by striking "(b) Every" and inserting "(b) VESSELS, VEHICLES AND OTHER CONVEYANCES, DEFINED.—Every";

(3) in subsections (a) and (b) by inserting ", vehicle, or other conveyance" after "vessel" each place it appears; and

(4) by amending subsection (c) to read as follows:

"(c) ACTS CONSTITUTING PRIMA FACIE EVIDENCE OF VESSEL, VEHICLE, OR OTHER CONVEYANCE ENGAGED IN SMUGGLING.—For the purposes of this section, prima facie evidence that a vessel, vehicle, or other conveyance is being, has been, or is being attempting to be employed in smuggling or to be employed to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, that a vessel has become subject to pursuit under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or is a hovering vessel, or that a vessel fails at any place within the customs waters of the United States or within a customs-enforcement area to display lights as required by law; and

"(2) in the case of a vehicle or other conveyance, that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

SEC. 1076. CLOSING OF LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 1077. UNDERCOVER OPERATIONS—CHURNING.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (26 U.S.C. 7608 note) is amended to read as follows:

"(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act and shall cease to apply after December 31, 1994.".

SEC. 1078. DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding at the end the following new subsection:

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief, including injunctions, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 1079. CONFORMING AMENDMENTS CONCERNING MARIJUANA.

(a) LESS THAN 50 KILOGRAMS.—(1) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by striking "less than 50 kilograms of marihuana" and inserting "less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana".

(2) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking "with respect to less than 50 kilograms of marihuana" and inserting "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana".

(b) 100 OR MORE PLANTS.—Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking "except in the case of 100 or more marihuana plants" and inserting "except in the case of 50 or more marihuana plants".

SEC. 1080. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.

Subsections (d) and (f) of section 5038 of title 18, United States Code, are amended by striking "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), and (3)).".

SEC. 1081. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER RICO.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

SEC. 1082. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) SECTION 401(b)(1) (B), (C), AND (D) OF THE CONTROLLED SUBSTANCES ACT.—Subparagraphs (B), (C), and (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(b) SECTION 1010(b) (1), (2), AND (3) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1), (2), and (3) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(c) SECTION 1012(b) OF THE CONTROLLED IMPORT AND EXPORT ACT.—Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony drug offense have become final".

(d) SECTION 401(b)(1)(A) OF THE CONTROLLED SUBSTANCES ACT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For the purposes of this subparagraph, the term 'felony drug offense' means".

(e) SECTION 102 OF THE CONTROLLED SUBSTANCES ACT.—Section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended by section 1012(c)(7), is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than 1 year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

SEC. 1083. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) SECTION 401(b)(1) OF THE CONTROLLED SUBSTANCES ACT.—Subparagraphs (A) and (B) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.".

(b) SECTION 1010(b) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1) and (2) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) are amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.".

(c) SECTION 419(d) OF THE CONTROLLED SUBSTANCES ACT.—Section 419(d) of the Controlled Substances Act (21 U.S.C. 860(c)), as redesignated by section 501(1), is amended by striking "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(d) SECTION 420(e) OF THE CONTROLLED SUBSTANCES ACT.—Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking "An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section.".

SEC. 1084. CONFORMING AMENDMENT TO PROVISION PUNISHING A SECOND OFFENSE OF DISTRIBUTING DRUGS TO A MINOR.

Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting "3 years".

SEC. 1085. LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence." and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony punishable by a maximum term of imprisonment of 10 years or more and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

SEC. 1086. LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by law, a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater sentence is otherwise authorized by law, a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

SEC. 1087. DRUG PARAPHERNALIA.

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended to read as follows:

"(d) The term 'drug paraphernalia' means any equipment, product, or material of any kind that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, weighing, testing, analyzing, packaging, repackaging, storing, containing, planting, propagating, cultivating, growing, harvesting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this title, including—

"(1) kits designed for use or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

"(2) kits designed for use or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

"(3) isomerization devices designed or intended for use in increasing the potency of any species of plant that is a controlled substance;

"(4) testing equipment designed or intended for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances;

"(5) scales and balances designed for use in weighing or measuring controlled substances;

"(6) containers and other objects designed or intended for use in storing or concealing controlled substances;

"(7) hypodermic syringes, needles, and other objects designed or intended for use in parenterally injecting controlled substances into the human body; and

"(8) objects intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, crack cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

"(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

"(B) water pipes;

"(C) carburetion tubes and devices;

"(D) smoking and carburetion masks;

"(E) roach clips (that is, objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand);

"(F) miniature spoons with level capacities of one-tenth cubic centimeter or less;

"(G) champer pipes;

"(H) carburetor pipes;

"(I) electric pipes;

"(J) air-driven pipes;

"(K) chillums;

"(L) bongs;

"(M) ice pipes or chillers;

"(N) wired or extra-width cigarette papers; and

"(O) cocaine freebase kits.".

SEC. 1088. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding at the end the following new paragraph:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph.

SEC. 1089. DRUG DISTRIBUTION TO PREGNANT WOMEN.

Subsections (a) and (b) of section 418 of the Controlled Substances Act (21 U.S.C. 859 (a) and (b)) are amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age".

SEC. 1090. DRUGGED OR DRUNK DRIVING CHILD PROTECTION.

(a) APPLICATION OF STATE LAW IN AREAS WITHIN FEDERAL JURISDICTION.—Section 13(b) of title 18, United States Code, is amended—

(1) by striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, commonwealth, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

(b) COMMON CARRIERS.—Section 342 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following new subsection:

"(b)(1) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such an offense shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused 10 years, and an additional fine of not more than $1,000, or both, if a minor (other than the offender) was present in the common carrier when the offense was committed.

"(2) For the purposes of paragraph (1), the term 'minor' means a person less than 18 years of age.".

SEC. 1091. PENALTIES FOR DRUG DEALING IN PUBLIC HOUSING AUTHORITY FACILITIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 1092. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following new subsection:

"(c) The Attorney General may bring a civil action against any person who violates this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 1093. INCREASED PENALTIES FOR DRUG DEALING IN "DRUG-FREE" ZONES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "one year" and inserting "3 years"; and

(2) in subsection (b) by striking "three years" each place is appears and inserting "5 years".

SEC. 1094. ANABOLIC STEROIDS PENALTIES.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following new subsection:

"(b)(1) Whoever, being a physical trainer or adviser to a person, attempts to persuade or induce the person to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, imprisoned not more than 2 years (or if the person attempted to be persuaded or induced was less than 18 years of age at the time of the offense, 5 years), or both.

"(2) As used in this subsection, the term 'physical trainer or adviser' means a professional or amateur coach, manager, trainer, instructor, or other such person who provides athletic or physical instruction, training, advice, assistance, or any other such service to any person.".

SEC. 1095. PROGRAM TO PROVIDE PUBLIC AWARENESS OF THE PROVISIONS OF LAW THAT CONDITION PORTIONS OF A STATE'S FEDERAL HIGHWAY FUNDING ON THE STATE'S ENACTMENT OF LEGISLATION REQUIRING THE REVOCATION OF THE DRIVER'S LICENSES OF CONVICTED DRUG ABUSERS.

The Attorney General, in consultation with the Secretary of Transportation, shall implement a program of national awareness of section 333 of Public Law 101-516 (104 Stat. 2184) and section 104(a)(3) of title 23, United States Code, which shall notify the Governors and State Representatives of the requirements of those sections.

SEC. 1096. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.

Section 5122(c) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(c)) is amended by inserting "or local governments with the concurrence of local educational agencies" after "for grants to local educational agencies".

SEC. 1097. MISUSE OF THE WORDS "DRUG ENFORCEMENT ADMINISTRATION" OR THE INITIALS "DEA".

Section 709 of title 18, United States Code, is amended by inserting the following new paragraph before the paragraph beginning "Shall be punished":

"Whoever, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration,".

TITLE XI—PUBLIC CORRUPTION

SEC. 1101. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1992".

SEC. 1102. PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following new section:

"§226. Public corruption

"(a) STATE AND LOCAL GOVERNMENT.—

"(1) HONEST SERVICES.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of the State or political subdivision shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) FAIR AND IMPARTIAL ELECTIONS.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(A) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(B) through paying or offering to pay any person for voting;

"(C) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(D) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title, imprisoned not more than 10 years, or both.

"(3) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in paragraphs (1) and (2) are that—

"(A) for the purpose of executing or concealing a scheme or artifice described in paragraph (1) or (2) or attempting to do so, a person—

"(i) places in any post office or authorized depository for mail matter, any matter or thing to be sent or delivered by the Postal Service, or takes or receives therefrom any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(ii) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(iii) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(iv) uses or causes the use of any facility of interstate or foreign commerce;

"(B) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed affect, interstate or foreign commerce; or

"(C) in the case of an offense described in paragraph (2), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have any authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(b) Federal Government.—Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or a person who has been selected to be a public official shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) Offense by an Official Against an Employee or Official.—

"(1) Criminal offense.—Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States or of a State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal a scheme or artifice described in subsection (a) or (b), shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) Civil action.—(A) Any employee or official of the United States or of a State or political subdivision of a State who is discharged, demoted, suspended, threatened, harassed, or in any manner discriminated against because of lawful acts done by the employee or official as a result of a violation of this section or because of actions by the employee on behalf of himself or herself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action and obtain all relief necessary to make the employee or official whole, including—

"(i) reinstatement with the same seniority status that the employee or official would have had but for the violation;

"(ii) 3 times the amount of backpay;

"(iii) interest on the backpay; and

"(iv) compensation for any special damages sustained as a result of the violation, including reasonable litigation costs and reasonable attorney's fees.

"(B) An employee or official shall not be afforded relief under subparagraph (A) if the employee or official participated in the violation of this section with respect to which relief is sought.

"(C)(i) A civil action or proceeding authorized by this paragraph shall be stayed by a court upon certification of an attorney for the Government that prosecution of the action or proceeding may adversely affect the interests of the Government in a pending criminal investigation or proceeding.

"(ii) The attorney for the Government shall promptly notify the court when a stay may be lifted without such adverse effects.

"(d) Definitions.—As used in this section—

"(1) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) any person who has been nominated, appointed, or selected to be an official or who has been officially informed that he or she will be so nominated, appointed, or selected;

"(2) the term 'person acting or pretending to act under color of official authority' includes a person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official;

"(3) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201 and also include any person acting or pretending to act under color of official authority;

"(4) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

(b) Technical Amendments.—(1) The chapter analysis for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"226. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 1103. INTERSTATE COMMERCE.

(a) In General.—Section 1343 of title 18, United States Code, is amended—

(1) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) Technical Amendments.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by amending the item relating to section 1343 to read as follows:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 1104. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) Offenses.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Offense by Public Official.—A public official who, in a circumstance described in subsection (c), directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State,

shall be guilty of a class B felony.

"(b) Offense by Person Other Than a Public Official.—A person who, in a circumstance described in subsection (c), directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence the public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence the public official to do or to omit to do any act in violation of the official's lawful duty,

shall be guilty of a class B felony.

"(c) Circumstances in Which Offense Occurs.—The circumstances referred to in subsections (a) and (b) are that the offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) Definitions.—As used in this section—

"(1) the terms 'controlled substance' and 'controlled substance analogue' have the meanings stated in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; and

"(D) any person who has been nominated or appointed to a position described in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed.".

(b) TECHNICAL AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(3) The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following new item:

"220. Narcotics and public corruption.".

TITLE XII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

SEC. 1201. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 1202. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title, imprisoned not more than 1 year, or both, and in all other cases," after "shall"; and

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "10"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "6".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," each place it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 1203. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "6".

SEC. 1204. VIOLENT FELONIES AGAINST THE ELDERLY.

(a) OFFENSE.—Subchapter D of chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

"§3587. Mandatory sentence for felony against individual of age 65 or over

"(a) PENALTY.—Upon any plea of guilty or nolo contendere or verdict or finding of guilty of a defendant of a crime of violence under this title, if any victim of the crime is an individual who had attained age 65 on or before the date that the offense was committed, the court shall sentence the defendant to imprisonment—

"(1) for a term of not less than one-half of the maximum term of imprisonment provided for the crime under this title, in the case of a first offense to which this section applies; and

"(2) for a term of not less than three-fourths of the maximum term of imprisonment provided for the crime under this title, in the case of a second or subsequent offense to which this section applies.

"(b) TERMS OF PUNISHMENT.—Notwithstanding any other law, with respect to a sentence imposed under subsection (a)—

"(1) the court shall not give the defendant a probationary sentence;

"(2) the sentence shall be served consecutively to any other sentence imposed under this title; and

"(3) the court shall reject any plea agreement that would result in the imposition of a term of imprisonment less than that which would have been imposed under subsection (a) in connection with any charged offense.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'crime of violence' means—

"(A) a felony that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) a felony that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

"(2) the term 'victim' means an individual against whom an offense has been or is being committed.".

(b) TECHNICAL AMENDMENTS.—(1) The subchapter analysis for subchapter D of chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3587. Mandatory sentence for felony against individual of age 65 or over.".

(2)(A) Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

(i) by adding at the end of the first paragraph in paragraph (1) (after "record.") the following new sentence: "Neither the defendant nor the court may waive a presentence investigation and report unless there is in the record information sufficient for the court to determine whether a mandatory sentence must be imposed pursuant to title 18, United States Code, section 3581."; and

(ii) in paragraph (2)(D) by inserting "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed" after "offense".

(B) Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking "*In General.*—The" and inserting "*In General.*—Except as provided in title 18, United States Code, section 3581, the".

SEC. 1205. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

SEC. 1206. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

Subtitle B—Civil Rights Offenses

SEC. 1211. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results"; and

(3) by inserting "and may be fined under this title, or both" before the period.

(b) Deprivation of Rights.—Section 242 of title 18, United States Code, is amended—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(4) by inserting "and may be fined under this title, or both" before the period.

(c) Federally Protected Activities.—The first sentence of section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(5) by inserting "and may be fined under this title, or both" before the period.

(d) Damage to Religious Property.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) Fair Housing Act.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) by striking "not more than $1,000," and inserting "under title 18, United States Code,";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(3) by striking "not more than $10,000," and inserting "under title 18, United States Code,";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under title 18, United States Code, or imprisoned"; and

(6) by inserting ", or both" after "life".

Subtitle C—White Collar and Property Crimes

SEC. 1221. RECEIPT OF PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) Robbery.—Whoever"; and

(2) by adding at the end the following new subsection:

"(b) Receipt of Proceeds.—Whoever receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 1222. RECEIPT OF PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) Extortion.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§ 880. Receipt of proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property that was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both."; and

(2) in the chapter analysis, by adding at the end the following new item:

"880. Receipt of proceeds of extortion.".

(b) Kidnapping.—Section 1202 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) Violation of Section 1201.—Whoever"; and

(2) by adding at the end the following new subsections:

"(b) Violation of State Law.—Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

"(c) Definition.—For purposes of this section, the term 'State' has the meaning stated in section 245(d).".

SEC. 1223. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code, or" before "the Antitrust Civil Process Act".

SEC. 1224. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 1225. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'savings and loan association' means—

"(1) any Federal savings association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation; and

"(2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.".

SEC. 1226. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666.".

SEC. 1227. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.

(a) In General.—Part VI of title 28 of the United States Code is amended by adding at the end the following:

"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION

"Sec.
"3701. Definitions.
"3702. Unlawful sports gambling.
"3703. Injunctions.
"3704. Applicability.

"§ 3701. Definitions

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participate; and

"(B) a league or association of persons or governmental entities described in subparagraph (A);

"(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization, including an entity or organization described in section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5)), that has governmental authority within the territorial boundaries of the United States, including lands described in section 4(4) of such Act (25 U.S.C. 2703(4));

"(3) the term 'person' has the meaning given that term in section 1 of title 1;

"(4) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which 1 or more professional athletes participate; and

"(B) a league or association of persons or governmental entities described in subparagraph (A); and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Palau, or any territory or possession of the United States.

"§ 3702. Unlawful sports gambling

"It is unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact; or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on 1 or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on 1 or more performances of such athletes in such games.

"§ 3703. Injunctions

"A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of the violation.

"§ 3704. Applicability

"(a) EXCEPTIONS.—Section 3702 does not apply to—

"(1) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity, to the extent that the scheme actually was conducted by that State or other governmental entity prior to August 31, 1990;

"(2) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity if—

"(A) the scheme is authorized by law; and

"(B) a scheme described in section 3702 (other than parimutuel animal racing or jai alai) actually was conducted in that State or other governmental entity during the period beginning September 1, 1989, and ending August 31, 1990, pursuant to the law of the State or other governmental entity; or

"(3) parimutuel animal racing or jai alai.

"(b) INDIAN LANDS.—Except as provided in subsection (a), section 3702 shall apply on lands described in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).".

(b) TECHNICAL AMENDMENTS.—The part analysis for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

"176. Federal Debt Collection Procedure .... 3001";

and

(2) by adding at the end the following item:

"178. Professional and Amateur Sports Protection .... 3701".

SEC. 1228. CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in 1 or more computer programs (including any tape, disk, or other medium embodying such programs); or"; and

(4) in subparagraph (D), as redesignated by paragraph (2)—

(A) by striking "or" after "recording,"; and

(B) by inserting ", or a computer program" before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A) by striking "or" after the semicolon;

(2) in subparagraph (B) by striking "and" at the end and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in 1 or more computer programs (including any tape, disk, or other medium embodying such programs); and".

(c) DEFINITIONS.—Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) the term 'computer program' has the meaning stated in section 101 of title 17, United States Code.".

SEC. 1229. FINANCIAL INSTITUTIONS FRAUD.

(a) FEDERAL DEPOSIT INSURANCE ACT.—Section 19(a)(2)(A)(i)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(2)(A)(i)(I)) is amended by striking "or 1956" and inserting "1517, 1956, or 1957".

(b) FEDERAL CREDIT UNION ACT.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

(c) CRIME CONTROL ACT OF 1990.—Section 2546 of the Crime Control Act of 1990 (28 U.S.C. 522 note; 104 Stat. 4885) is amended by adding at the end the following new subsection:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

SEC. 1230. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by adding "or" at the end of paragraph (d); and

(3) by inserting after paragraph (d) the following new paragraph:

"(e) intentionally uses, discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511 (b) and (c), 2511(e), 2516, and 2518, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, having obtained or received the information in connection with a criminal investigation, with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 1231. THEFTS OF MAJOR ART WORKS.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§668. Theft of a major art work

"(a) THEFT FROM MUSEUM.—Whoever steals or obtains by fraud any object of cultural heritage held in a museum commits a class C felony.

"(b) EXHIBITION OR STORAGE BY MUSEUM.—A museum that exhibits to the public or holds in storage any stolen object of cultural heritage knowing that such object is stolen commits a class C felony.

"(c) LIMITATIONS.—Notwithstanding section 3282, the statute of limitations for an offense under this section is 20 years.

"(d) FORFEITURE.—The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'museum' means an organized and permanent institution, essentially educational or aesthetic in purpose with professional staff, that owns and utilizes tangible objects, cares for them, and exhibits them to the public during a regularly scheduled period; and

"(2) the term 'stolen object of cultural heritage' means a stolen object that is—

"(A) registered with the International Foundation for Art Research, Smith International Adjustors, or any equivalent registry; and

"(B) reported to law enforcement authorities as having been stolen.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end the following new item:

"668. Theft of a major art work.".

SEC. 1232. MILITARY MEDALS AND DECORATIONS.

Section 704 of title 18, United States Code, is amended—

(1) by striking "not more than $250" and inserting "under this title"; and

(2) by adding at the end "For the purposes of this section, the term 'sells' includes trades, barters, or exchanges for anything of value.".

SEC. 1233. MOTOR VEHICLE THEFT PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Motor Vehicle Theft Prevention Act".

(b) MOTOR VEHICLE THEFT PREVENTION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 160. Motor vehicle theft prevention program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with States and localities, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State or locality to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such a person that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner or with the consent of the owner.

"(2) MORE THAN 1 SET OF CONDITIONS.—The Attorney General may establish more than 1 set of conditions under which participating motor vehicles may be stopped. If more than 1 set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) MOTOR VEHICLES FOR HIRE.—

"(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) TYPE OF NOTICE.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) PARTICIPATING STATE OR LOCALITY.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality shall agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program and with the conditions under which motor vehicles may be stopped under the program.

"(h) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following new item:

"160. Motor vehicle theft prevention program.".

(c) ALTERATION OR REMOVAL OF MOTOR VEHICLE IDENTIFICATION NUMBERS.—

(1) BASIC OFFENSE.—Section 511(a) of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to section 160 of title 23 shall be fined not more than $10,000, imprisoned not more than 5 years, or both.".

(2) EXCEPTED PERSONS.—Section 511(b)(2) of title 18, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to section 160 of title 23 if that person is the owner of the motor vehicle or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or the owner's authorized agent;

"(ii) State or local law; or

"(iii) regulations promulgated by the Attorney General to implement section 160 of title 23.".

(3) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d) For purposes of subsection (a), the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to section 160 of title 23 for the purpose of obstructing its visibility.".

(4) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(A) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 511 the following new section:

"§ 511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, without authorization under section 160 of title 23 shall be fined not more than $5,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to section 160 of title 23.".

(B) Technical Amendment.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by inserting after the item for section 511 the following new item:

"511A. Unauthorized application of theft prevention decal or device.".

SEC. 1234. KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.

(a) Offense.—Chapter 1 of title 18, United States Code, as amended by section 771(b), is amended by adding at the end the following new section:

"§ 22. Stolen or counterfeit nature of property for certain crimes defined

"(a) Establishment of Element of Offense.—Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, the element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) Definition.—For purposes of this section, the term 'official representation' means a representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) Technical Amendment.—The chapter analysis for chapter 1 of title 18, United States Code, as amended by section 771(c), is amended by adding at the end thereof the following new item:

"22. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 1235. MAIL FRAUD.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 1236. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly, and with intent to defraud, effects transactions, with 1 or more access devices issued to another person, to receive anything of value aggregating $1,000 or more during any 1-year period;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;";

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 1237. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) Offenses.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new sections:

"§1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a) False Statement or Report.—(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and, with the intent to deceive, knowingly makes any false material statement or report or willfully overvalues any land, property or security—

"(A) in connection with reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person; and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardizes the safety and soundness of an insurer.

"(b) Misuse of Money.—(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce; or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that if the embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardizes the safety and soundness of an insurer, the term of imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined under this title, imprisoned not more than 1 year, or both.

"(c) False Entry of Fact.—(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to—

"(A) deceive any person about the financial condition or solvency of such business; or

"(B) deceive any officer, employee, or agent of such person engaged in the business of insurance, insurance regulatory official or agency, or agent or examiner appointed by such official or agency to examine the affairs of such person,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardizes the safety and soundness of an insurer, the term of imprisonment shall be not more than 15 years.

"(d) Influencing, Obstructing, or Impeding Administration of Law.—Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined under this title, imprisoned not more than 10 years, or both.

"(e) Engaging in Insurance Business After Conviction.—(1)(A) A person who has been convicted of an offense under this section, or of a felony involving dishonesty or a breach of trust, who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined under this title, imprisoned not more than 5 years, or both.

"(B) Whoever is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if the person has the written consent of an insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) Definitions.—As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance; or

"(B) the reinsuring of risks underwritten by insurance companies,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who are or who act as officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia or any territory or possession of the United States;

"(B) commerce between any point in a State and any point outside the State;

"(C) commerce between points within a State through any place outside the State; and

"(D) all other commerce over which the United States has jurisdiction;

"(3) the term 'insurer' means—

"(A) a business that is organized as an insurance company under the laws of a State, whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to supervision by the insurance official or agency of a State; or

"(B) a receiver or similar official or any liquidating agent for such a company, in his or her capacity as such,

and includes any person who is or acts as an officer, director, agent, or employee of that business; and

"(4) the term 'State' includes a State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"§1034. Civil penalties and injunctions for violations of section 1033

"(a) CIVIL PENALTY.—The Attorney General may bring a civil action in an appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation that the person received or offered for the prohibited conduct, whichever amount is greater. If the offense contributed to the insolvency of an insurer that has been placed under the control of a State insurance regulatory agency or official, such penalty shall be remitted to the regulatory official of the insurer's State of domicile for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy that is available by law to the United States or any other person.

"(b) INJUNCTION.—If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy that is available by law to the United States or any other person.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by adding at the end the following new items:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

(c) MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.—

(1) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by inserting "or" at the end of subparagraph (C); and

(C) by adding at the end the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;".

(2) LIMITATIONS.—Section 3293(1) of title 18, United States Code, is amended by inserting "1033," after "1014,".

(3) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce; or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person of the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033.".

SEC. 1238. INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000, imprisoned not more than 10 years"; and

(B) by striking "not more than $1,000,000" and inserting "not more than $5,000,000"; and

(2) in the second sentence—

(A) by striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000, imprisoned not more than 20 years"; and

(B) by striking "not more than $5,000,000" and inserting "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services).".

SEC. 1239. COMPUTER ABUSE AMENDMENTS ACT OF 1992.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1992".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to 1 or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to 1 or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) a fine under this title, imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) A person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless the action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) Reporting Requirements.—Section 1030 of title 18 United States Code, as amended by subsection (d), is amended by adding at the end the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under subsection (a)(5).".

(f) Definition.—Section 1030(e)(1) of title 18 United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) Prohibition.—Section 1030(a)(3) of title 18 United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

SEC. 1239A. NOTIFICATION OF LAW ENFORCEMENT OFFICERS OF DISCOVERIES OF CONTROLLED SUBSTANCES OR LARGE AMOUNTS OF CASH IN WEAPONS SCREENING.

Section 315 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Discoveries of Controlled Substances or Cash in Excess of $10,000.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations requiring employees and agents described in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers—

"(1) a controlled substance the possession of which may be a violation of Federal or State law; or

"(2) an amount of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.".

Subtitle D—Sentencing and Procedure

SEC. 1241. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 1242. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

SEC. 1243. REVOCATION OF PROBATION.

(a) In General.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) Mandatory Revocation.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) Mandatory Revocation for Possession of Controlled Substance or Firearm or Refusal To Cooperate in Drug Testing.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 1244. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d) by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place it appears and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) Mandatory Revocation for Possession of Controlled Substance or Firearm or for Refusal To Cooperate With Drug Testing.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm (as defined in section 921) in violation of Federal law or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing imposed as a condition of supervised release, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) Supervised Release Following Revocation.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) Delayed Revocation.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

SEC. 1245. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) Petty Offenses.—Subsection (a)(3) does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 1246. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after "misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403.".

SEC. 1247. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release.".

SEC. 1248. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in the second sentence by striking "place him on probation, or commit him to official detention" and inserting "place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)";

(2) by redesignating subsection (d) as subsection (e); and

(3) by adding after subsection (c) the following new subsection:

"(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than 18 years old, beyond the earlier of—

"(A) the date on which the juvenile becomes 21 years old; or

"(B) the maximum term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between 18 and 21 years old—

"(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond 5 years; or

"(B) in any other case beyond the lesser of—

"(i) 3 years; or

"(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.".

SEC. 1249. IMMUNITY.

Section 6003(b) of title 18, United States Code, is amended—

(1) by striking "or" before "Deputy Assistant Attorney General" and inserting a comma; and

(2) by inserting "or one other officer or employee of the Criminal Division designated by the Attorney General" after "Deputy Assistant Attorney General,".

SEC. 1250. EXTENDED SERVICE OF MEMBERS OF THE SENTENCING COMMISSION.

Section 992(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) Subject to paragraph (2)—

"(A) no voting member of the Commission may serve more than 2 full terms; and

"(B) a voting member appointed to fill a vacancy that occurs before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of that term.

"(2) A voting member of the Commission whose term has expired may continue to serve until the earlier of—

"(A) the date on which a successor has taken office; or

"(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.".

Subtitle E—Immigration-Related Offenses

SEC. 1251. EXPLOITATION OF ALIENS.

(a) OFFENSE.—Chapter 1 of title 18, United States Code, as amended by section 1234(a), is amended by adding at the end the following new section:

"§23. Exploitation of aliens

"(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

"(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

"(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

"(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought by the Attorney General in a civil action before a United States district court.

"(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, as amended by section 1234(b), is amended by adding at the end the following new item:

"23. Exploitation of aliens.".

SEC. 1252. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 1251 shall be covered into the Fund and shall be used for the purposes of this section.

(b) DISTRIBUTION OF MONIES IN THE FUND.—(1) Ninety percent of the monies covered into the Fund in any fiscal year may be used by the Attorney General—

(A) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony; and

(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 (104 Stat. 5052) that have not been funded.

(2) Ten percent of the monies covered into the Fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)); and

(B) modifying a plan described in section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1330) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

SEC. 1253. ALIENS CONVICTED OF FELONY DRUNK DRIVING.

Section 241(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)) is amended—

(1) by redesignating clause (iv) as clause (v);

(2) by inserting after clause (iii) the following new clause:

"(iv) DRIVING UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE.—An alien who is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party is deportable."; and

(3) in clause (v), as redesignated by paragraph (1), by striking "and (iii)" and inserting "(iii), and (iv)".

Subtitle F—United States Marshals

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the "United States Marshals Association Establishment Act".

SEC. 1262. ESTABLISHMENT AND PURPOSE OF ASSOCIATION.

(a) ESTABLISHMENT.—There is established the United States Marshals Association (referred to in this subtitle as the "Association"). The Association is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Association are—

(1) to elevate and strengthen public knowledge of law enforcement in general, and the United States Marshals Service in particular;

(2) to promote the exchange of information among private and public institutions and individuals about law enforcement and justice systems issues;

(3) to organize symposia, studies, and research in carrying out paragraphs (1) and (2);

(4) to study the history of law enforcement;

(5) to produce, sell, and distribute educational materials on law enforcement and justice systems issues;

(6) to accept and administer private gifts or property for the benefit of, or in connection with, the activities and services of the United States Marshals Service; and

(7) to promote law enforcement.

SEC. 1263. BOARD OF DIRECTORS OF THE ASSOCIATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Association shall have a governing Board of Directors (referred to in this subtitle as the "Board"), which shall consist of not less than 3 nor more than 20 members, each of whom shall be a United States citizen and be knowledgeable or experienced in law enforcement matters. The Director of the United States Marshals Service shall be a nonvoting member of the Board, ex officio. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—

(1) INITIAL APPOINTMENT.—The members of the Board first appointed shall be appointed by the United States Marshals Association, a nonprofit corporation in existence before the enactment of this Act, which is organized under the laws of the State of Virginia.

(2) SUBSEQUENT APPOINTMENT.—The members of the Board appointed after the appointment of Directors under paragraph (1) shall be appointed in the manner provided in the bylaws of the Association.

(3) ADVICE OF DIRECTOR.—A member of the Board may be appointed with the advice of the Director of the United States Marshals Service (referred to in this subtitle as the "Director").

(4) TERMS.—The members of the Board shall be appointed for terms of 4 years. A vacancy on the Board shall be filled in the manner in which the original appointment was made. No person may serve for more than 2 consecutive terms as a member of the Board.

(c) CHAIR.—The chair of the Board shall be elected by the Board from its members to a 2-year term.

(d) QUORUM.—A majority of the membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the chair at least twice each year. If a member of the Board misses 3 consecutive regularly scheduled meetings, the member may be removed from the Board as provided in the bylaws of the Association, and that vacancy may be filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Association.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Association by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Association and the provisions of this subtitle; and

(C) carrying out such other actions as may be necessary to carry out this subtitle.

(2) The following limitations apply with respect to the appointment of officers and employees of the Association:

(A) Officers and employees may not be appointed until the Association has sufficient funds to pay them for their services. Officers and employees of the Association shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the maximum rate of pay payable under section 5376 of title 5, United States Code, for a position classified above grade GS-15 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board, who—

(i) shall serve, at the direction of the Board, as its chief operating officer; and

(ii) shall be knowledgeable and experienced in matters relating to law enforcement.

(h) Advisory Council.—The chair of the Board may appoint an Advisory Council of up to 15 members to advise the Association on its activities under this subtitle. Members of the advisory council have no vote in matters before the Association.

SEC. 1264. MEMBERSHIP.

(a) Eligibility.—Eligibility for membership in the Association shall be limited to persons and organizations demonstrating support of the stated purpose, goals, and functions of the Association. Categories of membership shall be as follows:

(1) Regular member, which shall be limited to individuals actively or formerly employed in the United States Marshals Service.

(2) Associate member, which shall be limited to individuals who are qualified by training or experience in Federal, State, local, or foreign law enforcement.

(3) Honorary member, which shall be limited to individuals who have an outstanding record of service in the public or private sector.

(4) Corporate member, which shall be limited to nongovernmental public, private, or nonprofit organizations which support the purposes of the United States Marshals Association.

(5) Sponsoring member, which shall be limited to Federal or State government entities.

(b) Application.—Persons may apply or be nominated for membership in the Association. Any such application shall be made in writing on the form provided by the Association.

(c) Sponsorship.—Applicants or nominees for membership in any category except that of sponsoring member must be proposed by a regular member. Acceptance of applicants or nominees for membership shall be determined by a majority vote of the Board.

(d) Dues for Members.—Membership dues shall be established by the Board. Dues must accompany a prospective member's application. No dues shall be required in the case of honorary members or sponsoring members.

(e) Voting.—A member may vote in matters for which the vote of the Association is required, and may serve on the Board.

(f) Suspension or Expulsion of Members.—A member of the Association may be suspended or expelled for nonpayment of dues in arrears for at least 60 days, for good cause, or for other reasons by a vote of two-thirds of the Board in accordance with procedures prescribed in Robert's Rules of Order. No member who has been suspended or expelled from the Association may be readmitted to membership for a period of 1 year, and readmission thereafter shall require the consent of two-thirds of the Board.

SEC. 1265. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.

(a) In General.—The Association—

(1) shall have perpetual existence;

(2) may conduct business throughout the States, territories, and possessions of the United States;

(3) shall have its principal offices in the State of Virginia or such other place as may be determined by the Board; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Association.

(b) Service of Process.—Service of process on the agent required under subsection (a)(4) or the mailing of process to the business address of the agent shall constitute service on the Association.

(c) Seal.—The Association may use the seal, insignia, or badge of the United States Marshals Service, and other materials unique to the United States Marshals Service, only with the express written permission of the Director.

(d) Powers.—To carry out its purposes under section 1262, the Association shall have, in addition to the powers otherwise given it under this subtitle, the usual powers of a corporation acting as a trustee in the State of Virginia or wherever else the Association is incorporated. The Association shall have the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the members of the Board shall not be personally liable, except for gross negligence;

(6) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Association.

(e) Acceptance of Gifts.—A gift, devise, or bequest may be accepted by the Association even though it is encumbered, restricted, or subject to the beneficial interests of private persons if any current or future interest therein is for the benefit of the Association.

SEC. 1266. ADMINISTRATIVE SERVICES AND SUPPORT.

The Director may provide personnel, facilities, and other administrative services to the Association, including reimbursement of expenses under section 1262, not to exceed the then current Federal Government per diem rates, until the date that is 5 years after the date of the enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 1267. VOLUNTEER STATUS.

The Director may, notwithstanding section 1342 of title 31, United States Code, accept voluntary services of the Association in the performance of the functions of the Association under this subtitle.

SEC. 1268. RESTRICTIONS.

(a) Financial Interests.—No part of the income or assets of the Association shall inure to any member or officer of the Association or member of the Board or be distributed to any such person. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers or the Association or reimbursement for actual necessary expenses in amounts approved by the Board.

(b) Prohibition on Loans.—The Association shall not make any loan to any member of the Board or to any officer or employee of the Association.

(c) Prohibition on Stock.—The Association shall have no power to issue any shares of stock or to declare or pay any dividends.

SEC. 1269. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) Audits.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101 et seq.), the Association shall be treated as a private corporation established under Federal law.

(b) Report.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the Congress a report of its proceedings and activities during the year, including a full and complete statement of its receipts, expenditures, and investments.

(c) Relief With Respect to Certain Association Acts or Failures To Act.—If the Association—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 1262(b); or

(2) refuses, fails, or neglects to discharge its obligations under this subtitle, or threatens to do so,

the Attorney General of the United States may petition the appropriate court for such equitable relief as may be necessary or appropriate.

SEC. 1270. LIABILITY OF THE UNITED STATES.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Association, nor shall the full faith and credit of the United States extend to any obligation of the Association.

SEC. 1271. NONDISCRIMINATION.

(a) Employment Practices.—Notwithstanding section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)) or section 101(5)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(5)(B)), the Association and any agent of the Association shall be considered to be an employer for purposes of title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990 if the Association is engaged in an industry affecting commerce and meets the minimum employee requirements set forth in those Acts.

(b) Membership Practices.—

(1) Prohibited practices.—It shall be unlawful for the Association, on the basis of the race, color, religion, sex, national origin, age, or disability of an individual, to—

(A) fail or refuse to accept the individual into membership;

(B) expel the individual from membership;

(C) suspend the membership of the individual; or

(D) discriminate against the individual with respect to any of the benefits or obligations of membership.

(2) ENFORCEMENT.—

(A) RIGHT OF ACTION.—Any person may bring a civil action to enforce paragraph (1) in any appropriate United States district court. Any such action may be dismissed for just cause.

(B) INJUNCTIVE RELIEF.—In any civil action brought under this paragraph, the court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate.

SEC. 1272. ACQUISITION OF ASSETS AND LIABILITIES OF EXISTING ASSOCIATION.

The Association may acquire the assets of the United States Marshals Association, a nonprofit organization organized under the laws of the State of Virginia before the enactment of this Act.

SEC. 1273. AMENDMENT AND REPEAL.

The Congress expressly reserves the right to repeal or amend this subtitle at any time.

Subtitle G—Other Provisions

SEC. 1281. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4 (b) or (c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) and (c)),

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 211 of title 18, United States Code, is amended by inserting after the item relating to section 3238 the following new item:

"3239. Optional venue for espionage and related offense.".

SEC. 1282. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

"'Livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, and the carcasses thereof;".

SEC. 1283. COURT TO BE HELD AT LANCASTER.

Section 118(a) of title 28, United States Code, is amended by inserting "Lancaster," before "Reading".

SEC. 1284. AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A UNITED STATES ATTORNEY'S OFFICE IN PHILADELPHIA, PENNSYLVANIA.

(a) AUTHORIZATION.—There is authorized to be appropriated $35,000,000, to remain available until expended, to plan, acquire a site for, design, construct, build out, equip, and prepare for use an office building to house the United States Attorney's Office in Philadelphia, Pennsylvania, notwithstanding any other law.

(b) SITE SELECTION.—The site of the office building constructed pursuant to subsection (a) shall be at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center and shall be approved by the Attorney General after notification submitted to the Congress as required by law.

SEC. 1285. AWARD OF ATTORNEY'S FEES FOR EMPLOYEES OF DEPARTMENT OF JUSTICE.

Section 519 of title 28, United States Code, is amended—

(1) by striking "Except" and inserting "(a) IN GENERAL.—Except"; and

(2) by adding at the end the following new subsection:

"(b) AWARD OF FEES.—

"(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

"(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as a result of such investigation.

"(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such an inquiry, the Attorney General shall consider—

"(A) the sufficiency of the documentation accompanying the request;

"(B) the need or justification for the underlying item;

"(C) the reasonableness of the sum requested in light of the nature of the investigation; and

"(D) current rates for legal services in the community in which the investigation took place.".

SEC. 1286. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000; and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of this section—

(1) the term "criminal offense" means—

(A) any Federal criminal offense involving a controlled substance;

(B) racketeering;

(C) money laundering; and

(D) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs;

(2) the term "money laundering" means an offense under section 1956 or 1957 of title 18, United States Code; and

(3) the term "racketeering" means an offense under section 1951, 1952, or 1955 of title 18, United States Code.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney; and

(2) the office of the local prosecuting attorney,

for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary to implement this section within 90 days after the date of enactment of this Act.

(e) EFFECTIVE DATE.—This section shall become effective on the date that is 60 days after the date of the promulgation of regulations under subsection (d).

SEC. 1287. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS AND REPORT TO CONGRESS ON ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) REPORT TO CONGRESS.—Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", which report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under paragraph (7)(B)."; and

(3) by adding at the end the following new subparagraph:

"(D) a report for the fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

SEC. 1288. DNA IDENTIFICATION.

(a) FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.—

(1) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)), as amended by section 531, is amended—

(A) by striking "and" at the end of paragraph (21);

(B) by striking the period at the end of paragraph (22) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(23) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (referred to in this title as 'DNA') for identification purposes.".

(2) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and

Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at the laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis issued by the Director of the Federal Bureau of Investigation under section 1288(b) of the Crime Control Act of 1992;

"(B) DNA samples obtained by and DNA analyses performed at the laboratory will be made available only—

"(i) to criminal justice agencies, for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; and

"(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) the laboratory and each analyst performing DNA analyses at the laboratory will undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1288(b) of the Crime Control Act of 1992.".

(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1992, 1993, 1994, 1995, and 1996 there are authorized to be appropriated $10,000,000 for grants to the States for DNA analysis.

(b) QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—

(1) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(A) Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory directors. The advisory board shall include as members scientists from State and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(B) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(C) The standards described in subparagraphs (A) and (B) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(D) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(2) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under paragraph (1) shall be considered to be an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date that is 5 years after the date on which initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

(c) INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may establish an index of—

(A) DNA identification records of persons convicted of crimes;

(B) analyses of DNA samples recovered from crime scenes; and

(C) analyses of DNA samples recovered from unidentified human remains.

(2) CONTENTS.—The index established under paragraph (1) shall include only information on DNA identification records and DNA analyses that are—

(A) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1288(b) of the Crime Control Act of 1992;

(B) prepared by laboratories and DNA analysts that undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1288(b) of the Crime Control Act of 1992; and

(C) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(i) to criminal justice agencies, for law enforcement identification purposes;

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; or

(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) FAILURE TO MEET REQUIREMENTS.—The exchange of records authorized by this subsection is subject to cancellation if the quality control and privacy requirements described in paragraph (2) are not met.

(d) FEDERAL BUREAU OF INVESTIGATION.—

(1) PROFICIENCY TESTING REQUIREMENTS.—(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under subsection (b). Not later than 1 year after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this subparagraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(B) For each of the 5 years following the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate an annual report on the results of each of the tests described in subparagraph (A).

(2) PRIVACY PROTECTION STANDARDS.—(A) Except as provided in subparagraph (B), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(i) to criminal justice agencies for law enforcement identification purposes; or

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged.

(B) If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) CRIMINAL PENALTIES.—(A) Whoever—

(i) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(ii) willfully discloses such information in any manner to any person or agency not entitled to receive it,

shall be fined not more than $100,000.

(B) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $2,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out subsections (b), (c), and (d).

SEC. 1289. SAFE SCHOOLS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1064(a), is amended—

(1) by redesignating part V as part W;

(2) by redesignating section 2201 as section 2301; and

(3) by inserting after part U the following new part:

"PART V—SAFE SCHOOLS ASSISTANCE

"SEC. 2201. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance, in consultation with the Secretary of Education, may make grants to local educational agencies for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) MODEL PROJECT.—The Director, in consultation with the Secretary of Education, shall develop a written safe schools model in a timely fashion and make such model available to any local educational agency that requests such information.

"SEC. 2202. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to fund anticrime and safety measures and to develop education and training programs for the prevention of crime, violence, and illegal drugs and alcohol;

"(2) for counseling programs for victims of crime within schools;

"(3) for crime prevention equipment, including metal detectors and video-surveillance devices; and

"(4) for the prevention and reduction of the participation of young individuals in organized crime and drug and gang-related activities in schools.

"SEC. 2203. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a local educational agency shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—An application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 2202;

"(2) a description of the schools and communities to be served by the grant, including the nature of the crime and violence problems within such schools;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information in such form and containing such information that the Director may require regarding crime within the schools served by such local educational agency.

"(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

"(1) a description of the crime problems within the schools targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce crime problems.

"SEC. 2204. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 2203(c).

"SEC. 2205. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director, in consultation with the Secretary of Education, shall consider the following factors in awarding grants to local educational agencies:

"(1) CRIME PROBLEM.—The nature and scope of the crime problem in the targeted schools.

"(2) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 2203(c).

"(3) POPULATION.—The number of students to be served by the plan required under section 2203(c).

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 2206. REPORTS.

"(a) REPORT TO DIRECTOR.—Local educational agencies that receive funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 2203(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part, which report shall contain—

"(1) a detailed statement regarding grant awards and activities of grant recipients;

"(2) a compilation of statistical information submitted by applicants under section 2203(b)(4); and

"(3) an evaluation of programs established under this part.

"SEC. 2207. DEFINITIONS.

"For the purpose of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary and secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1064(b), is amended by striking the matter relating to part V and inserting the following:

"PART V—SAFE SCHOOLS ASSISTANCE

"Sec. 2201. Grant authorization.
"Sec. 2202. Use of funds.
"Sec. 2203. Applications.
"Sec. 2204. Allocation of funds; limitations on grants.
"Sec. 2205. Award of grants.
"Sec. 2206. Reports.
"Sec. 2207. Definitions.

"PART W—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2301. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1064(c), is amended by adding at the end the following new paragraph:

"(16) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out projects under part V.".

TITLE XIII—TECHNICAL CORRECTIONS

SEC. 1301. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) TESTING OF CERTAIN SEX OFFENDERS FOR HUMAN IMMUNE DEFICIENCY VIRUS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of";

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)";

(3) in subsection (e) by striking "or (e)" and inserting "or (f)"; and

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but"; and

(ii) by striking "this subsection," and inserting "this subsection"; and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a(b)) is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "subsection (a) (1) and (2)"; and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section"; and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "section 515(a) (1) or (3)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)), as amended by section 902, is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M,," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(3) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(3)) is amended by striking "and N" and inserting "N, O, P, Q, R, S, T, U, V, and W".

(f) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 1201 (42 U.S.C. 3796)—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),"; and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)";

(ii) by striking "personal"; and

(iii) in the first proviso by striking "section" and inserting "subsection"; and

(2) in section 1204(3) (42 U.S.C. 3796b(3)) by striking "who was responding to a fire, rescue or police emergency".

(g) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(h) Table of Contents.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant";

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications"; and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(i) Other Technical Amendments.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) (42 U.S.C. 3722(c)(2)(E)) by striking "crime,," and inserting "crime,";

(2) in section 302(c)(19) (42 U.S.C. 3732(c)) by striking the period at the end and inserting a semicolon;

(3) in section 602(a)(1) (42 U.S.C. 3769a(a)(1)) by striking "chapter 315" and inserting "chapter 319";

(4) in section 603(a)(6) (42 U.S.C. 3769b(a)(6)) by striking "605" and inserting "606";

(5) in section 605 (42 U.S.C. 3769c) by striking "this section" and inserting "this part";

(6) in section 606(b) (42 U.S.C. 3769d(b)) by striking "and Statistics" and inserting "Statistics";

(7) in section 801(b) (42 U.S.C. 3782(b))—

(A) by striking "parts D," and inserting "parts";

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E";

(C) by striking "403(a)" and inserting "501"; and

(D) by striking "403" and inserting "503";

(8) in the first sentence of section 802(b) (42 U.S.C. 3783(b)) by striking "part D," and inserting "subpart 1 of part E or under part";

(9) in the second sentence of section 804(b) (42 U.S.C. 3785(b)) by striking "Prevention or" and inserting "Prevention, or";

(10) in section 808 (42 U.S.C. 3789) by striking "408, 1308," and inserting "507";

(11) in section 809(c)(2)(H) (42 U.S.C. 3789d(c)(2)(H)) by striking "805" and inserting "804";

(12) in section 811(e) (42 U.S.C. 3789f(e)) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance";

(13) in section 901(a)(3) (42 U.S.C. 3791(a)(3)) by striking "and," and inserting ", and"; and

(14) in section 1001(c) (42 U.S.C. 3793(c)) by striking "parts" and inserting "part".

(j) Conforming Amendment to Other Law.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 1302. GENERAL TITLE 18 CORRECTIONS.

(a) Section 1031.—Section 1031 of title 18, United States Code, is amended—

(1) by redesignating subsection (g), as added by Public Law 101–123, as subsection (h) and removing it to the end of the section; and

(2) in subsection (h), as redesignated by paragraph (1), by striking "a government" and inserting "a Government".

(b) Section 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) Section 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions".

(d) Section 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma that follows a comma.

(e) Elimination of Obsolete Cross Reference.—Section 3293(1) of title 18, United States Code, is amended by striking "1008,".

(f) Part I Part Analysis.—The item relating to chapter 33 in the part analysis for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

SEC. 1303. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) Contraband in Prison.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) Money Laundering.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act (21 U.S.C. 863)".

(c) Requirements for Governmental Access.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(d) Programs Receiving Federal Funds.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) Offenders With Mental Disease or Defect.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "section 4241(e), 4243(f), 4244(e), 4245(e), or 4246(e),".

(f) Continuing Criminal Enterprises.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(g) Sentencing Commission.—Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) Firearms.—Section 924(e)(2)(A)(i) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96–350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(i) Erroneous Citation in Crime Control Act of 1990.—Section 2596(d) of the Crime Control Act of 1990 (104 Stat. 4908) is amended, effective as of the date of enactment of that Act, by striking "951(c)(1)" and inserting "951(c)(2)".

SEC. 1304. OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212 by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213 by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709 by striking the seventh and thirteenth paragraphs;

(4) in section 711 by striking the second paragraph;

(5) by striking section 754 and amending the chapter analysis for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006 by striking "Reconstruction Finance Corporation," and by striking "Farmers' Home Corporation,";

(7) in section 658 by striking "Farmers' Home Corporation,";

(8) in section 1013 by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160 by striking "white person" and inserting "non-Indian";

(10) in section 1698 by striking the second paragraph;

(11) by striking sections 1904 and 1908 and amending the chapter analysis for chapter 93 by striking the items relating to those sections;

(12) in section 1909 by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391 and amending the chapter analyses for chapters 105 and 115, respectively, by striking the items relating to those sections;

(14) in section 2257 by striking subsections (f) and (g) that were enacted by Public Law 100–690 (102 Stat. 4488);

(15) in section 3113 by striking the third paragraph; and

(16) in section 3281 by striking "except for offenses barred by the provisions of law existing on ugust 4, 1939".

SEC. 1305. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104(a)(3) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2(a)(3)) is amended by striking "issuer" and inserting "domestic concern".

SEC. 1306. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting "(b)(5)".

SEC. 1307. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4) by striking "association or persons" and inserting "association of persons";

(2) in section 1956(e) by striking "Evironmental" and inserting "Environmental";

(3) in section 3125—

(A) in subsection (a)(2) by striking the quotation marks; and

(B) in subsection (d) by striking "provider for" and inserting "provider of"; and

(4) in section 3731, in the second undesignated paragraph, by striking "order of a district courts" and inserting "order of a district court".

TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1401. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1992".

SEC. 1402. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated $345,500,000 for fiscal year 1992 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include—

(A) not to exceed $45,000,000 to hire, equip, and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of State and local overtime, equipment, and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip, and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations.

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train, and equip no fewer than 500 full-time equivalent Border Patrol officer positions.

(B) $20,000,000 to hire, train, and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses.

(5) For the United States Marshals Service, $10,000,000.

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip, and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs.

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel, and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title.

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

TITLE XV—FEDERAL PRISONS

SEC. 1501. AUTHORIZATION OF APPROPRIATIONS FOR NEW PRISON CONSTRUCTION.

There is authorized to be appropriated for fiscal year 1993 to the buildings and facilities account, Federal Prison System, Department of Justice, $500,000,000 for the planning of, acquisition of sites for, and the construction of new penal and correctional facilities, such appropriations to be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for that fiscal year.

SIDE-BY-SIDE COMPARISON: MAJOR PROVISIONS IN THE CRIME BILLS

Issue	Crime Control Act of 1992	Conference report
Death penalty litigation	Senate passed version. Safeguards against delay and frivolous litigation in death penalty cases. Federal courts are required to defer to State court decisions which are full and fair. Also addresses Federal death row inmate litigation.	Expands the rights of death row inmates by overturning 15 Supreme Court decisions favorable to States on habeas corpus. Its loopholes broadly defeat its limitation of one appeal. It puts the power to regulate compliance with the proposed "reform" in the hands of groups opposed to the death penalty rather than with the courts. Does nothing to thwart, and actually increases, frivolous claims by Federal death row inmates.
Federal death penalty	House version. Comprehensive death penalty which is less onerous on prosecutors. Ensures that jury will impose the death penalty when warranted.	Weakened Senate version which gives juries a standardless discretion to refrain from imposing the death penalty. The entire death penalty is worthless since death sentences would rarely be carried out due to the liberal habeas proposals contained in the bill.
District of Columbia death penalty	Permits the imposition of the death penalty for aggravated murders in the District of Columbia.	No provision.
Exclusionary rule	Expands current law. Authorizes admission of evidence in both warrant and nonwarrant cases where the court determines that the evidence was obtained in objectively reasonable "good faith" compliance with the law.	Narrows the existing "good faith" exception for warrant cases. Eliminates the exception for warrantless searches which is the law in two Federal circuits.
Admissibility of confessions	Keeps current law	Overturns 2 Supreme Court decisions. Automatically reverses all convictions where a court erroneously admits a criminal confession obtained in technical violation of the law even in cases where the court finds that the evidence of guilt is overwhelming and the admission of the confession would not affect the outcome of the trial.
Racial safeguards	Requires administration of death penalty and other penalties without regard to race of defendant or victim. Prohibits racial quotas for imposing the death penalty. Prohibits all appeals to racial bias by prosecutor and defense attorney.	No provisions.
Federal prison construction	Authorizes $500,000,000 for construction of new Federal prisons.	Do.
State and local law enforcement grants.	$1,000,000,000 for grants to State and local police $150,000,000 for cops-on-the-beat.	Same provisions.
Federal law enforcement	$345,000,000 for Federal law enforcement plus an additional $75,000,000 targeted at terrorism.	Do.
Victims	Removes existing cap on the crime victims fund. Mandates and expands restitution to cover additional expenses, protects victims right to an impartial jury.	Contains only provisions related to the crime victims fund.
Firearms penalties	Provides tough mandatory minimum penalties for use of firearms in Federal crimes of violence and drug trafficking crimes.	Increases penalties for these offenses if using a semiautomatic firearm.

AUTHORIZATIONS

	Millions
Anti-gang grants	100
Juvenile alternative punishment	200
Federal counter terrorism:	
FBI	25
State Department	
BATF	2.5
FAA	2.5
Grants to States	25
Federal law enforcement:	
U.S. attorneys	45
Marhsals	10
BATF	15
Judiciary	20

AUTHORIZATIONS—*Continued*

	Millions
Public defenders	12
State and local law enforcement	1,000
Police corps	100
Law enforcement scholarships	30
Rural crime study	5
Rural drug training	1
Rural drug grants	50
Missing Alzheimer	1
Parental kidnapping	.25
National child protection	20
Domestic violence grants	25
Campus assault study	.25
Cop-on-beat grants	150
Boot camps grants	200
Law enforcement family support	5
Prison literacy	10
Trauma center grants	50
Rural drug treatment	25
Drug emergency areas	300
Community anti-drug grants	15
Prison drug treatment	100
Arrestee drug testing	100
U.S. Attorney's Office	35
DNA identification grants	10
FBI DNA Program	2
Safe schools	100
Federal prison construction	500
Total (billions)	3.555

CRIME CONTROL ACT OF 1992

Derivation of the Provisions of the Proposed Crime Control Act of 1992 from the Crime Bills Passed by the Senate (S. 1241) and the House of Representatives (H.R. 3371 as Originally Passed):

TITLE I—DEATH PENALTY

Sections 101–141 (federal death penalty procedures, authorizations, and related amendments): House bill title XXIII.

[Note: The death penalty title of the House bill was drafted after Senate passage of S. 1241 and incorporates all positive features of the federal death penalty provisions in titles II–IV and other titles of S. 1241.]

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General habeas corpus reform

Sections 201–06 (generally applicable habeas corpus reforms): Senate bill title XI, subtitle A.

Subtitle B—Death penalty litigation procedures

Sections 211–12 (special habeas corpus procedures for capital cases): Senate bill title XI, subtitle B.

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

Section 221 (states to receive funding for capital habeas litigation equal to federal funding of capital defense resource centers): Senate bill §4923 and House bill §1108.

TITLE III—EXCLUSIONARY RULE

Section 301 ("good faith" exception admitting evidence where conduct of officers was objectively reasonable): House bill §1720.

TITLE IV—FIREARMS AND RELATED AMENDMENTS

Section 401 (increased penalties for using firearm in federal crime of violence or drug trafficking crime): Similar to Senate bill §1213 as applied to gun use during federal crimes; Senate bill §1212 and House bill §2001 also provide certain penalty increases for gun use in federal crimes.

Section 402 (increased penalty for second offense of using explosive to commit felony): House bill §2002.

Section 403 (smuggling firearms in aid of drug trafficking): House bill §2003 and Senate §1223.

Section 404 (theft of firearms or explosives): House bill §2004 and Senate bill §1224.

Section 405 (increased penalty for false statement in firearms purchase): House bill §2005 and Senate bill §1226.

Section 406 (summary destruction of explosives subject to forfeiture): House bill §2006 and Senate bill §1229.

Section 407 (elimination of outmoded parole language): House bill §2007 and Senate bill §1232.

Section 408 (enhanced penalties for using firearm in connection with counterfeiting or forgery): House bill §2008 and Senate bill §1234.

Section 409 (mandatory penalties for firearms possession by violent felons and serious drug offenders): House bill §2009; encompasses Senate bill §1235.

Section 410 (receipt of firearm by non-resident): Senate bill §1237; House bill §2010 is similar.

Section 411 (firearms conspiracy): House bill §2011 and Senate bill §1238.

Section 412 (theft of firearms or explosives from licensee): House bill §2012 and Senate bill §1239.

Section 413 (prohibition of disposing of firearm to person disqualified from firearms possession): House bill §2013.

Section 414 (increased penalty for interstate fund trafficking): House bill §2014.

Section 415 (prohibition of possession or trafficking in stolen firearms that have moved interstate): House bill §2015; encompasses Senate bill §1233.

Section 416 (possession of explosives by felons and others): House bill §2017 and Senate bill §1228.

Section 417 (possession of explosive during commission of felony): Senate bill §1221.

Section 418 (disposition of forfeited firearms): Senate bill §1231).

Section 419 (definition of serious drug offense): Senate bill §4911.

Section 420 (definition of burglary for armed career criminal purposes): Senate bill §1241.

TITLE JUVENILES AND GANGS

Subtitle A—Increased Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

Section 501 (enhanced penalties for using minors in drug trafficking near schools): Senate bill §1501.

Subtitle B—Antigang Provisions

Sections 511–12 (juvenile drug trafficking and gang prevention grants): Senate bill §§1511–12.

Section 513 (criminal street gangs offense): House bill §1703.

Subtitle C—Juvenile Penalties

Section 521 (broadened adult prosecution for serious juvenile offenders, including presumption in favor of adult treatment for juvenile gang leaders): Senate bill §§1521 and 4633.

Section 522 (treating certain highly serious drug crimes by juveniles as armed career criminal predicate offenses): Senate bill §1522.

Section 523 (intermediate sanctions grant program for young offenders): House bill §§601–04.

Subtitle D—Other Provisions

Section 531 (funding objective of establishing effective bindover systems for adult prosecution of most serious violent 16 and 17 year old offenders): House bill §1723.

Section 532 (Attorney General and Secretary of Treasury to develop national strategy to coordinate federal gang investigations): House bill §1715.

Section 533 (clarification of requirement of production of juvenile record prior to commencement of proceedings): House bill §1931.

TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

[Note: Section 119–20, 127–32 of the proposed Crime Control Act of 1992 (CCA), relating to certain terrorist offenses, are included in the death penalty title (title I) of the CCA, because they may result in a capital sentence in cases where death results. Their derivation is listed here along with the antiterrorism provisions in title VI of the CCA.]

Section 119 (death penalty for terrorist murders abroad of United States nationals): Senate bill §525 and House bill §2319.

Section 120 (conforming amendment to aircraft piracy provision): Senate bill §203(b) and House bill §2320.

Section 127 (implementing legislation for convention against terrorist acts at international airports): Senate bill §501 and House bill §2327.

Section 128 (amendment to Federal Aviation Act relating to aircraft piracy): Senate bill §502 and House bill §2328.

Section 129 (implementing legislation for conventions concerning terrorist acts directed against maritime navigation or maritime fixed platforms): Senate bill §§511–16 and House bill §2329.

Section 130 (implementing legislation for the convention against torture): Senate bill §521 and House bill §2330.

Section 131 (offense of using weapons of mass destruction): Senate bill §522 and House bill §2331.

Section 132 (homicides and attempted homicides in firearms attacks on federal facilities): Senate bill §523 and House bill §2332.

Section 601 (civil remedy for terrorism): House bill §§1734–35, as amended to ensure non-interference with criminal prosecutions of terrorists.

Section 602 (offense of providing material support to terrorists): Senate bill §531.

Section 603 (forfeiture of instrumentalities and proceeds of terrorist offenses): Senate bill §532, as amended to correct technical defects in drafting.

Section 604 (admission to U.S. of aliens cooperating in investigations): Senate bill §§541–43.

Section 605 (extended territorial sea included in special maritime and territorial jurisdiction of U.S.): Senate bill §517 and House bill §1716.

Section 606 (assimilated crimes in extended territorial sea): Senate bill §518 and House bill §1717.

Section 607 (jurisdiction over crimes against U.S. nationals on certain foreign ships): Senate bill §519.

Section 608 (increased penalties for manslaughter and aggravated assault committed abroad by terrorists against U.S. nationals): Senate bill §524.

Section 609 (funding authorizations for antiterrorism operations and programs): Senate bill §561.

Section 610 (increased penalties for certain offenses likely to be committed by terrorists): House bill §1951.

Section 611 (sentencing guidelines increase for terrorist crimes): House bill §1952.

Section 612 (extension of statute of limitations for certain terrorist offenses): House bill §1953.

Section 613 (international parental kidnapping): House bill §§1421–22; different formulation in Senate bill §§4101–03.

Section 614 (state court programs regarding international and interstate parental child abduction): House bill §1423 and Senate bill §4104.

Section 615 (foreign murder of U.S. national): Senate bill §3202; more limited provision in House bill §1713.

Section 616 (extradition of persons committing crimes of violence against U.S. nationals in foreign countries): Senate bill §3202.

Section 617 (provisions concerning gambling devices on U.S. ships): Similar to §202 of H.R. 3866 as passed by both Houses of Congress; House bill §1722 also has provisions concerning gambling on ships.

Section 618 (FBI access to telephone subscriber information in counterintelligence investigations): House bill §1706.

TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

Section 701 (broadened definition of sexual act for victims below 16): House bill §1431.

Section 702 (doubling maximum penalty for recidivist sex offenders): House bill §1724.

Section 703 (restitution for victims of sex offenses): House bill §521(c).

Section 704 (HIV testing and penalty enhancement in sex offense cases): House bill §1532.

Section 705 (payment of cost of HIV testing for rape victims): House bill §1532.

Subtitle B—Victim's Rights

Section 711 (expansion of scope of restitution and authorization of suspension of federal grants, contracts, loans, and licenses to enforce compliance with restitution orders): House bill §521(a)-(b).

Section 712 (victim's right of allocution in sentencing): House bill §1954.

Section 713 (protection of victim's right to an impartial jury by equalizing number of defense and prosecution peremptory challenges): House bill §1959.

Section 714 (mandatory restitution and other provisions strengthening enforcement of restitution): Senate bill §2003.

Subtitle C—Crime Victims Fund

Sections 721–31 (removal of cap on crime victims fund and other amendments affecting victims programs): House bill §§501–11.

Subtitle D—National Child Protection Act

Sections 741–46 (national background check system for determining whether applicants for child care positions have records as child abusers or molesters): S. 1966; both House bill §§ 1441–45 and Senate bill §§3601–06 contain provisions for establishment of national informational system on child abusers.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

Sections 751–53 (state programs to require convicted child molesters to keep authorities informed of their location for 10 years following release from custody): House bill §§1401–03.

Subtitle F—Domestic Violence

Section 761 (domestic violence grant program): House bill §§1821–22.

Section 762 (report on battered women's syndrome): Senate bill §4903.

Subtitle G—Other Provisions

Section 771 (offense of inducing minors to commit crimes, including mandatory penalties): Senate bill §3503.

Section 772 (authorizing disclosure of arrest records by campus police): House bill §1727.

Section 773 (national baseline study on campus sexual assault): House bill §1714.

Section 774 (sense of Congress that history of drunk driving should be considered in child custody and visitation decisions): Senate bill §1804.

TITLE VIII—EQUAL JUSTICE ACT

Section 801 (short title): House bill §1601.

Section 802 (requirement that death penalty and other penalties be administered without regard to the race of the offender or victim; prohibition of racial quotas for imposing the death penalty and other penalties): House bill §1602.

Section 803 (safeguards against racial bias against defendant or victim through inquiry on voir dire, change of venue, and prohibition of prejudicial statements): House bill §1603.

Section 804 (for federal capital cases, requiring instructions and juror certifications guarding against racial bias, and making racial motivation of murder aggravating factor permitting consideration of death penalty): House bill §1604.

Section 805 (extension of protection of 18 U.S.C. 241–42 to all persons in U.S., rather than just "inhabitants"): House bill §§1605 and 1707 and Senate bill §4646.

TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

Sections 901–04 (raising BJA funding to $1 billion, continuing 25% state matching funds level, and waiving four-year limitation on duration for grants supporting multijurisdictional task forces): Senate bill §§101–04.

Subtitle B—Retired Public Safety Officer Death Benefit

Section 911 (extending public safety officer death benefit program to officers in retirement status who are killed while responding to emergency): House bill §1211.

Subtitle C—Study on Police Officers' Rights

Section 921 (study of police disciplinary investigations, procedures, and sanctions): House bill §1221.

Subtitle D—Community Policing

Sections 931–52 ("Police Corps" program to pay for college educations for prospective police officers and program of scholarships for in-service officers): Senate bill §§801–31; similar programs in House bill §§1271, 1231–33.

Sections 961–62 (community policing—cop on the beat grant program): House bill §§101–03.

Subtitle E—Rural Crime Prevention Strategy

Sections 971–75 (national assessment, information dissemination, assistance, and pilot programs to combat crime in rural areas): Senate bill §§3901–05.

Subtitle F—National Commission To Support Law Enforcement

Sections 981–89A (national commission to support law enforcement): Senate bill §§2201–10.

Subtitle G—Other Provisions

Section 991 (grant program to protect and locate missing patients with Alzheimer's disease and related dementias): Senate bill §3001.

Section 992 (funding authorization for correctional options grant program): House bill §1802.

Section 993 (law enforcement family support grant program): House bill §§1241–42.

Section 994 (prisoner literacy and life skills grant programs): Senate bill §4301.

Section 995 (funding program for trauma centers in high crime areas): House bill §§1506–07.

Section 996 (study of alcohol and crime): House bill §311.

Section 997 (notification to law enforcement authorities of release of federal prisoners).

TITLE X—ILLEGAL DRUGS

Subtitle A—Drug Testing

Section 1001 (drug testing of federal offenders on post-conviction release): House bill §1504.

Section 1002 (drug testing in state criminal justice systems): House bill §711.

Subtitle B—Precursor Chemicals

Sections 1011–23 (provisions strengthening control of precursor chemicals): Senate bill §§3101–14.

Subtitle C—Interdiction

Sections 1031–39 (provisions strengthening interdiction efforts, including criminal penalties, civil penalties, and forfeiture for failure to land aircraft or bring-to vessel, broadened authority for FAA, Coast Guard, and Customs Service, and measures facilitating international cooperation in interdiction): Senate bill §§4402–14, with incorporation of elements of House bill §1719.

Subtitle D—Rural Drug Crime

Section 1051–54 (rural drug enforcement task forces, cross-designation of federal officers, rural drug enforcement training, and funding authorizations for rural law enforcement agencies): House bill §§1809–11, 1823; Senate bill §§1601–04 are similar.

Sections 1055–56 (rural drug treatment grant program and clearinghouse): Senate bill §§1621–22.

Subtitle E—Grant Programs

Section 1061 (drug emergency areas program): Senate bill §§1701–02 and House bill §§801–02.

Section 1062 (community substance prevention program): Senate bill §4921.

Section 1063 (prisoner substance abuse treatment grant program): House bill §§301–04.

Section 1064 (grant program for pre-trial drug testing): House bill §§702–02.

Subtitle F—Other Provisions

Section 1071 (increased penalties for trafficking in "ice"): Senate bill §1612.

Section 1072 (prohibition of advertisements proposing transactions involving schedule I controlled substances): House bill §1512; similar provision in Senate bill §4906.

Section 1073 (drug-free zone enhanced penalties for drug trafficking in or near truck stops and safety rest areas): House bill §1511; similar provision in Senate bill §1641.

Section 1074 (enhancement of penalties for drug trafficking in prisons): Senate bill §4652 and house bill §1503.

Section 1075 (strengthened provisions relating to forfeiture of vehicles used in smuggling): Senate bill §4653.

Section 1076 (closing loophole for illegal importation of small drug quantities): Senate bill §4654.

Section 1077 (extension of "churning" authority in undercover operations): Senate bill §4655.

Section 1078 (authority for civil penalties and injunctions against drug paraphernalia violations): Senate bill §4656.

Section 1079 (conforming amendments concerning marijuana): Senate bill §4658.

Section 1080 (conforming amendment adding certain drug offenses as requiring fingerprinting and records for recidivist juveniles): Senate bill §4659.

Section 1081 (clarification of narcotic or other dangerous drug under RICO): Senate bill §4660.

Section 1082 (conforming amendments to recidivist penalty provisions in drug laws): Senate bill §4661.

Section 1083 (elimination of outmoded parole language): Senate bill §4662.

Section 1084 (increased mandatory penalty for drug distribution to youth by recidivist): Senate bill §4663.

Section 1085 (life imprisonment on third conviction for highly serious violent crime or drug crime): Senate bill §2508, with amendment concerning predicate violent offenses.

Section 1086 (longer mandatory prison terms for drug offenses involving exploitation or endangerment of minors): Senate bill §2509.

Section 1087 (strengthened definition of prohibited drug paraphernalia): Senate bill §4904.

Section 1088 (mandatory penalties for drug offenses in prisons): Senate bill §2402.

Section 1089 (enhanced penalties for drug distribution to pregnant women): House bill §1505.

Section 1090 (enhanced penalties for drugged or drunk driving that endangers, injures, or kills minors): Senate bill §§1082–03.

Section 1091 (drug-free zone enhanced penalties for trafficking in or near public housing projects): Senate bill §4902; House bill §1502 is similar.

Section 1092 (Attorney General may bring civil actions for penalties, injunctions, and evictions in relation to drug premises): Senate bill §2101.

Section 1093 (increased mandatory penalties for trafficking in drug-free zones): House bill §1705.

Section 1904 (offense for coaches, etc., to induce others to use steroids): House bill §1501.

Section 1095 (awareness program concerning highway fund reduction for states that fail to revoke driver's licenses of convicted drug abusers): House bill §1508.

Section 1096 (DARE grants amendment): House bill §1807.

Section 1097 (prohibition of misuse of initials "DEA"): House bill §1807.

TITLE XI—PUBLIC CORRUPTION

Section 1101–04 (provisions strengthening federal laws against public corruption, including increased penalties, more adequate basis of federal jurisdiction, protection of whistleblowers, and specific provisions relating to election fraud and drug-related corruption): Senate bill §§4801–05.

TITLE XII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

Section 1201 (addition of attempt liability for robbery, kidnaping, smuggling, and property damage offenses): House bill §1271.

Section 1202 (increase in maximum penalty for assault): Senate bill §2501.

Section 1203 (increase in maximum penalty for manslaughter): Senate bill §2502.

Section 1204 (mandatory penalties for violent crimes against elderly): Senate bill §4001.

Section 1205 (increased penalty for travel act violations): Senate bill §2504 and House bill §1708.

Section 1206 (increased penalty for conspiracy to commit murder for hire): Senate bill §2505.

Subtitle B—Civil Rights Offenses

Section 1211 (increased maximum penalties for serious violent acts in violation of criminal civil rights statutes): Senate bill §2503.

Subtitle C—White Collar and Property Crimes

Section 1221–22 (receipt of proceeds of postal robbery, extortion, or kidnapping): Senate bill §§4621–22 and House bill §§1702, 1701.

Section 1223 (conforming addition to obstruction of civil investigative demand statute): Senate bill §4623.

Section 1224 (conforming addition of predicate offenses to financial institutions reward statute): Senate bill §4624.

Section 1225 (definition of S.&L. in bank robbery statute): Senate bill §4625 and House bill §1710.

Section 1226 (conforming definition of one year period in 18 U.S.C. 1516): Senate bill §4626 and House bill §1711.

Section 1227 (sports lottery and gambling provisions): S. 474; similar provisions in House bill title XXI.

Section 1228 (criminal sanctions for violation of software copyrights): Senate bill §4905.

Section 1229 (financial institutions fraud): Senate bill title XXXVII.

Section 1230 (prohibition of disclosure of wiretap information with intent to obstruct, impede, or interfere with criminal investigation): Senate bill §4913(a).

Section 1231 (theft of major artworks): Senate bill §4914.

Section 1232 (strengthening provision prohibiting unauthorized trafficking in military medals and decorations): House bill §1725.

Section 1233 (motor vehicle theft prevention act): Senate bill title XXIX.

Section 1234 (knowledge requirement for stolen or counterfeit property): Senate bill §4651 and House bill §1704.

Section 1235 (extension of mail fraud statute to mail carried by private interstate carriers): House bill §1301.

Section 1236 (amendments to statute concerning credit card fraud): House bill §1302; Senate bill §4912 is similar.

Section 1237 (insurance-related crimes): House bill §1303; similar provisions in Senate bill title XXXVIII.

Section 1238 (increased penalties for trafficking in counterfeit goods and services): Senate bill §2507.

Section 1239 (computer abuse amendments): Senate bill §4909.

Section 1239A (notification concerning drugs and cash discovered in airport security screenings).

Subtitle D—Sentencing and Procedure

Sections 1241–44 (imposition of sentence; technical amendment to mandatory conditions of probation; revocation of probation; supervised release after imprisonment): House bill §§1901–04 and Senate bill title XXXIV.

Section 1245 (authorization of probation in certain petty offense cases): Senate bill §4612 and House bill §1941.

Section 1246 (trial by magistrate in petty offense cases): Senate bill §4613; encompasses House bill §1942.

Section 1247 (authority of magistrate to revoke supervised release imposed by the magistrate): Senate bill §4614 and House bill §1943).

Section 1248 (availability of supervised release for juvenile offenders): Senate bill §§4615.

Section 1249 (authority for designated Justice Department Criminal Division officer to grant immunity): House bill §1921.

Section 1250 (extended service of members of sentencing commission): S. 1963 as passed by Senate.

Subtitle E—Immigration-Related Offenses

Section 1251 (civil penalties for inducement of aliens to commit aggravated felonies): Senate bill §4702.

Section 1252 (criminal alien identification and removal fund): Senate bill §4703.

Section 1253 (adds as basis of deportation commission by alien of drugged or drunk driving offense resulting in death or serious injury to other): Senate bill §4919.

Subtitle F—United States Marshals

Sections 1261–73 (establishment of United States Marshals Association): Senate bill title XLII.

Subtitle G—Other Provisions

Section 1281 (optional venue for espionage and related offenses): House bill §1721 and Senate bill §4631.

Section 1282 (definition of livestock): Senate bill §4632 and House bill §1712.

Section 1283 (place of holding court at Lancaster): Senate bill §1004.

Section 1284 (authorization of funding for U.S. Attorney office construction in Philadelphia): Senate bill §1003.

Section 1285 (award of attorney's fees for Department of Justice employees): Senate bill §4918.

Section 1286 (requirement of reporting of large cash bail posting to IRS and prosecutors): Senate bill §2802.

Section 1287 (audit requirement for law enforcement agencies receiving asset forfeiture funds; reporting concerning administrative and contracting expenses paid from Department of Justice asset forfeiture fund): Combines Senate bill §4924 and House bill §1808.

Section 1288 (DNA identification program): House bill §§1001–06.

Section 1289 (safe schools grant program): House bill §§401–03, as amended to delete mandatory bilingualism feature.

TITLE XIII—TECHNICAL CORRECTIONS

Sections 1301–07 (technical corrections, including correction of erroneous and obsolete designations and cross-references, redundant provisions, and typographic, grammatical, and spelling errors): House bill title XXII.

TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES

Sections 1401–02 (authorizations of funding, primarily relating to drug enforcement, for DEA, FBI, INS, U.S. Attorneys, U.S. Marshals Service, BATF, federal courts, and federal defender services): Senate bill §§ 1001–02.

TITLE XV—FEDERAL PRISON CONSTRUCTION

Section 1501 (authorization of $500 million for federal prison construction): New provision.

Mr. SEYMOUR. Mr. President, I rise today to join my good friend and colleague from South Carolina, Senator THURMOND, as an original cosponsor of the Crime Control Act of 1992. When I look at this legislation being introduced today, and the history behind it, I am reminded of the words of W.E. Hickson, who penned the famous lines:

Tis a lesson you should heed,
  Try, try again.
If at first you don't succeed,
  Try, try again.

This simple axiom has many examples here in Congress, but it is most applicable to the crime legislation being introduced today. This bill is yet another round of what seems to be an endless fight over the reform of Federal habeas corpus.

As my colleagues know all too well, the Federal habeas corpus process is a statutory right given to convicted criminals to ensure that the judicial process that led to their conviction was fair. But for death row inmates, habeas corpus means endless delay, volumes of litigation, and the joy of seeing the legal system work against the wishes of the juries or judges that sentenced them to death. And for the families and friends of slain crime victims, habeas corpus means no finality, endless pain, and the horror of a legal system that fails to impose society's ultimate sentence.

The bottom line is simple: There is no such thing as an enforceable death penalty without habeas reform that promotes finality and fairness, not frivolous litigation with no end in sight.

In the last 8 years, each Congress has enacted major anticrime and antidrug bills. And all are necessary elements in our battles against violent crime and drug trafficking. But each of these crime bills dodged the issue of habeas corpus reform, leaving it to the next Congress to make the tough choices on habeas corpus reform.

During the 101st Congress, a bipartisan majority in the Senate agreed to tough, meaningful reform of the habeas process, only to see their efforts scuttled at the 11th hour of the 101st Congress.

Last year, as we all know, another strong, bipartisan majority passed true habeas reform, only to see the majority party attempt to steamroll a conference report that stripped the Senate's habeas provisions and replaced them with the House-passed procedures that are reform in name only.

Just how bad is the conference report's so-called habeas reform package?

Bad enough to reverse 14 years of responsible Supreme Court decisions, including the landmark Teague ruling, that limit endless delays and frivolous appeals in death penalty cases.

Bad enough to allow condemned prisoners to delay a full year before applying for Federal habeas corpus.

Bad enough to reject the Senate's proposal that habeas petitions for condemned criminals be limited to new claims that have not been fully and fairly heard in State courts.

Bad enough to cause the attorney general of the State of California to announce that these provisions are a "fraud on the people of California and most particularly on the crime victims of the State of California."

In short, Mr. President, these provisions contain enough loopholes, legal trapdoors, and other broad definitions to promote new, unnecessary litigation, rather than finality and fairness.

Despite all of this, Democrats claim they've offered comprehensive reform of the habeas system.

Reform for who? Law enforcement? The leaders of law enforcement don't think so. Thirty-one of the Nation's attorneys-general—16 Republicans and 15 Democrats—concluded last November that the conference report's habeas provisions were a sham. Furthermore, every district attorney in my State were united in an unprecedented show of support for the Senate's habeas provisions.

Indeed, the need for true habeas reform is not a partisan issue in my State. I challenge anyone to try to justify to the citizens of California why no death row inmate in California has been put to death since capitol punishment was allowed in 1976. Try to explain to them why, nationally, only 3 percent of those sentenced to death since 1976 have been executed.

Californians have lost faith. They're fed up. Frankly, so am I. The people of California have even gone so far as to oust two State associate justices and the chief justice of the California Supreme Court because of their refusal to effectively enforce capitol punishment. And those who support the conference report rightly deserve the scorn of law-abiding Californians because that report denies my State the ability to truly enforce capitol punishment.

So let's be clear about the rhetoric that's being passed around here. The Democrats' conference report does not reform the habeas process. It deforms it. Indeed, the Democrats aren't kidding when they say their conference report is a tough crime bill. The problem is its tough on law enforcement.

That's why the conference report to the bill we passed last year is on a fast track to nowhere. And that's why my colleagues and I are here today. We're here to introduce a crime control bill that contains the true habeas reform provisions we passed last year. We're here today to say we do not intend to duck the issue of habeas reform. We're not here to say we'll just leave it to the 103d or 104th or 105th Congress to get the job done. We're here to say that we of the 102d Congress intend to get the job done on habeas reform. We're here to put an end to never-ending, often-frivolous appeals that have made the death penalty a nonexistent punishment.

Just as important, the legislation does not ignore those provisions in the conference report that are worthy of enactment. This bill does not lose sight of being a comprehensive crime reform bill. In fact, the Crime Control Act of 1992 includes the following: Enhanced maximum penalties for using minors in drug trafficking in drug-free zones; enhanced penalties for certain offenses likely to be committed by terrorists; increased sentencing guidelines for terrorist crimes; $1 billion for grants to State and local law enforcement, including $150 million for programs to put more cops on the beat; $345 million for our dedicated Federal law enforcement officers, as well as an additional $75 million for antiterrorist activities.

I can go on and on, but the point here should be clear: The Crime Control Act doesn't ignore worthy provisions that were adopted in the conference report. We don't intend to turn our back on innovative new programs to reduce gang-related crime and drug trafficking, new or enhanced penalties to punish violent offenders, or technical loopholes in the law that need to be closed.

Nor does the Crime Control Act ignore the worthwhile provisions that ended up not in the conference report but the conference roundfile for no justifiable reason.

Indeed, the Crime Control Act includes important Senate and House provisions that passed with bipartisan support, but were ignored in the conference committee. Those that support the conference report will tell you that this is the most comprehensive crime legislation ever considered by Congress; however, they have come up with a half-filled glass of reforms, asking the American people only to look at the part that's filled. I urge my colleagues to look at what was tossed out by the conference committee as well, and ask, "Why?" Indeed, if I had to grade the conference report, I'd give it an "I" for "incomplete."

Why did the conference committee leave out a provision I authored that makes a much needed technical change in the Armed Career Criminals Act? This change—which passed by voice vote—ensures that violent, repeat offenders serve the mandatory minimum sentence of 15 years under the Armed Career Criminals Act. This provision has the strong support of local, State, and Federal law enforcement, and the bipartisan support of the California congressional delegation.

Why did the conference committee fail to include important changes in penalties that involve the criminal exploitation of children? These provisions would increase penalties for distributing drugs to minors, trafficking in drug-free zones, and create a new offense that I authored that strikes at those who induce minors to commit crimes.

Why did the conference committee fail to include the House crime bill's provisions that double the maximum penalty for recidivist rapists and other sex offenders, and the House bill's provisions that allow for restitution for victims of sex offenders?

Why did the conference committee fail to include the House crime bill's provisions that require HIV testing of sex offenders, and penalty enhancements for HIV-infected sex offenders who risk infection of their victims?

Why did the conference committee fail to include another provision I authored that imposes fines on those who use aliens to commit aggravated felonies, with the fines used to identify and deport criminal aliens? This provision was passed by voice vote, and had real, bipartisan support.

Again, I can go on and on and question the acts of the conference committee, and the point is clear: In the Democrats' rush to steamroll a crime bill through the Congress, the need for a tough, comprehensive crime bill took second place behind the desire to put forward a modest, watered-down proposal that addresses some issues, but not all, raises more questions than answers, and will handcuff—rather than help—law enforcement.

The American people don't deserve second-best when it comes to enacting measures to combat violent crime and drug trafficking in our schools, our parks, and our neighborhoods. That's why we're here to introduce a bill that, in my view, represents the best of the best. It represents the better options of both House and Senate crime bills, including many that were left out by the conference committee. It takes no consideration of which Senator or House Member authored which provision.

The standard for inclusion in this bill is simple: It represents tough measures that cut across the spectrum of crime. From white collar crime to drug-related crime, from terrorists to gangs, from naked violence on our streets to domestic violence in our homes, this is a truly comprehensive crime control bill.

So I ask my colleagues to finish what we started last year. Let's send the American people a crime control bill that all can be proud. And with respect to habeas corpus, let's finish what was started many years ago: to institute habeas reforms that make the death penalty enforceable, not unobtainable. I've said it once before and I'll say it until we finish: The No. 1 cause of death for a thug on death row must not be old age.

The writing's on the wall. Those who support the conference report must face one simple fact: The so-called violent crime control act contained in the conference report is dead. So let's not try to force the conference report through this Congress. Why waste time? The American people will not be fooled by such misguided legislation that has been labeled a crime bill compromise. Sure it's a compromise. Law enforcement, crime victims and their survivors, and law-abiding citizens—all are compromised by the conference report.

Instead, let's send the Crime Control Act of 1992 to the House of Representatives and then, send it to the President. After all, our job was to reach an agreement on comprehensive legislation that will help, not handcuff law enforcement in their fight against heinous criminals.

Let's get the job done.

Mr. HATCH. Mr. President, today I rise to support as a cosponsor the Crime Control Act of 1992, which was introduced today by the distinguished ranking minority member and former chairman of the Judiciary Committee, Senator STROM THURMOND. The Crime Control Act of 1992 stands in marked contrast to the 1991 conference committee crime bill, a bill rammed through conference by the other side at the end of the last session. A close comparison of the two bills demonstrates that the conference bill is a cynical attempt ostensibly to fight crime even as it ties the hands of law enforcement authorities and opens the prison cell doors. Indeed, the conference bill would let vicious, violent, convicted criminals out on the street that the Crime Control Act would keep behind bars.

Let me just briefly compare for you some of the more salient provisions of the Crime Control Act and the liberal conference bill.

DEATH PENALTY

Under this Republican Crime Control Act, the jury is directed to impose the death penalty for enumerated offenses if aggravating factors outweigh mitigating factors. In contrast, under the conference bill, the jury has standardless discretion to refrain from imposing the death penalty, regardless of the aggravating factors. Moreover, the Republican Crime Control Act contains several safeguards to prevent litigation abuse and delay in the implementation of the death penalty. The conference bill contains no such safeguards. Additionally, the conference bill enacts a unanimity requirement for the first time for the jury recommendation on the death penalty. Thus, when only one juror declines to impose the death sentence, regardless of the facts of the case, the sentence is prohibited. Underscoring this problem is the fact that the Supreme Court already prohibits the prosecutor from objecting to seating jurors who are opposed to the death penalty in the first place. Finally, although the conference bill adopts new death penalties, its procedures are so convoluted that the penalty will seldom be returned and virtually never carried out.

HABEAS CORPUS

The Crime Control Act does not change existing retroactivity standards previously established by the Supreme Court. In contrast, the conference bill makes almost all criminal law decisions of the Supreme Court retroactively applicable to overturn earlier convictions and sentences that had been imposed in conformity with then-existing law. No criminal conviction would ever be final under the conference bill. Convicted criminals—even those with life sentences—could invoke any subsequent change in the law that was favorable to them to have their convictions overturned. This is the ACLU criminal agenda.

While the Republican Crime Control Act provides for a 1 year time limit on habeas filings by State and Federal prisoners, the conference bill provides no time limits on habeas filings except for those by State prisoners in capital cases.

Further, the conference bill rejects the Republican Crime Control Act provision that habeas cases could only be brought for claims that have not been fully and fairly litigated already by the States; overturns at least 14 Supreme Court cases that limit frivolous appeals and endless litigation in death penalty cases; and allows death-row inmates who do not even dispute their guilt to file endless challenges to their sentence.

HARMLESS ERROR AND APPELLATE REVIEW

In contrast to the Republican Crime Control Act, which maintains the harmless error standards established by the Supreme Court, the conference bill provides for automatic reversal of conviction on appeal where a trial court erroneously admits a confession elicited in violation of the 5th or 14th amendments, even if independent evidence of guilt is overwhelming and it appears beyond a reasonable doubt that the erroneous admission could not have affected outcome of the trial, overturning the Supreme Court's decisions in *Miltin* v. *Wainwright* (1972) and *Arizona* v. *Fulminante* (1991).

EXCLUSIONARY RULE

In contrast to the Republican Crime Control Act, the conference bill narrows the good-faith exception to the exclusionary rule; expands the criminals' rights to challenge the admissibility of incriminating evidence used against them; reverses the Leon presumption that police officers are entitled to rely on a magistrate's authorization to search; and reverses the Fifth Circuit good faith exception that applies in warrantless searches and is broader than the Leon exception. The conference bill will let out on the street vicious, violent, criminals who would be convicted under this Republican Crime Control Act.

GANG WARFARE

This is an issue that is of particular concern to me because of the rise of gang warfare in Salt Lake City. This Republican Crime Control Act increases the mandatory penalties for drug distribution to minors; for using minors in drug trafficking; and for drug distribution to minors by recidivists. The conference bill contains no such provisions. The Republican Crime Control Act establishes a new offense of inducing minors to commit crimes, creates a presumption in favor of adult prosecution for leaders of juvenile gangs and other criminal activities involving drug trafficking or firearms, treats certain highly serious drug crimes by juveniles as predicate offenses for armed career criminal purposes, creates a new offense covering the commission of serious violent crimes and drug crimes as part of the activities of a street gang, adds certain serious drug crimes to the list of offenses requiring fingerprinting and the retention of records for recidivist juvenile offenders, extends the range of sanctions authorized for juvenile offenders to include postincarceration supervised release, directs the executive branch to develop a national strategy to coordinate Federal investigation of gangs, and requires inclusion of information on gang violence in uniform crime reports. Most of these provisions of the Republican crime control bill have no counterparts in the conference bill; the few provisions in the conference bill that are similar are weakened or watered down.

SEXUAL VIOLENCE

This Republican Crime Control Act doubles the maximum authorized penalties for repeat sex offenders and authorizes restitution for victims of sex offenses—sexual assault, child molestation, and child sexual exploitation—whether or not physical injury results. The liberal conference bill contains no such provisions.

VICTIMS' RIGHTS

This Republican Crime Control Act makes the award of restitution for crime victims mandatory, and adopts other reforms enhancing the scope of restitution and enforcement of restitution orders. In addition, the Crime Control Act protects the victim's right to an impartial jury by equalizing the number of peremptory challenges accorded to the defense and the prosecution in felony cases. The conference bill contains none of these victims' rights provisions.

In sum, the Republican Crime Control Act is a step in the direction of fighting crime and recognizing victims rights; and the conference crime bill is a step in the direction of criminal rights and thwarting law enforcement.

Mr. GRASSLEY. Mr. President, I strongly support the proposed Crime Control Act of 1992 and am pleased to be a cosponsor. Almost 1 year ago, President Bush challenged this body to produce a tough crime bill within 100 days. We have not met that challenge. On the streets of our Nation's cities and towns, the crime continues.

It is well past time to do something meaningful about the crime problem. This bill will accomplish a great deal. It will reduce abuse and delay in the imposition of the death penalty. By implementing the Powell Committee recommendations, defendants accused of capital crime will have experienced counsel represent them, while at the same time, time limits will be imposed to reduce the endless litigation involved.

The bill will permit the death penalty to be imposed for a number of serious crimes. To protect our citizens, and to express the community's moral consensus that certain crimes can only properly be punished by death, capital punishment is necessary. Drive by shootings, shootings in furtherance of drug trafficking, murder for hire, and terrorist violence against American nationals abroad, for example, all fully warrant the death penalty.

Additionally, the bill makes the death penalty a meaningful punishment through its reforms of habeas corpus. These days, about as many people on death row die from natural causes as are executed. Through the abuse of habeas corpus proceedings, convicted criminals convert their death sentences into life sentences. This needs to change. Time limits on filings will insure that justice, rather than delay, prevails. With delay tactics, the victim's family suffers the hurt. This bill will let them heal sooner and go on with their lives. And the bill makes necessary changes in habeas corpus for noncapital cases as well.

I also support the bill's provisions as they affect the exclusionary rule. The exclusionary rule is not mandated by the Constitution. Rather, it is a judge-made rule. And its effect is to let guilty people be freed because of the police officer's mistake. So long as the officer conducts the search and seizure in good faith, evidence obtained from the search should be admitted.

I am also pleased that the bill contains my civil remedy for victims of terrorism. This civil remedy will enable victims of terrorist acts to recover monetary damages from international thugs, and hopefully will make terrorists think again before committing violent acts against Americans.

The bill unfortunately contains a prohibition on sports lotteries. I believe that States should be free in this difficult economic climate to pursue revenue options of their own choosing. Nonetheless, this provision was introduced as a separate measure, and I am awaiting the opportunity to offer an amendment which would give the States the right to be exempt from the reach of this onerous prohibition.

Overall, however, this bill makes a substantial contribution to reducing crime. Meaningful reform of capital punishment, habeas corpus, and the exclusionary rule will help to make our Nation safer. It cannot happen too soon.

Mr. DOLE. Mr. President, for too long, Congress has treated crime as a political issue. But let us face it—crime knows no political boundaries. It is an issue of every day survival, in every State in America, and that includes the streets in the very neighborhood we work in.

This week, the House of Representatives' chief law enforcement officer was robbed at gunpoint and shot in the face. In January, a Senate staffer on his way to buy a cup of coffee was murdered in cold blood. Three months ago, a Senator's wife was abducted at gunpoint by a convicted rapist on parole.

Crime should not have to hit that close to home to get Congress moving on this urgent national priority. As lawmakers, we are not used to living in terror—but for millions of Americans, it is a fact of life.

Let us face it, Congress has spent far too much time waging a phony class warfare battle, all at the expense of a real war—the war in America's streets. It is time to get our priorities straight—it is time for Congress to demonstrate the same outrage over capital offenses as it shows over capital gains.

No matter how hard President Bush pressed for a tough anticrime bill, no matter how many law enforcement organizations asked for help, no matter how many law abiding men and women said "Please make our homes, streets, and schools safe,"—no matter how many millions of Americans voted for President Bush because they wanted his approach to the issue—Congress' attitude about the war on crime has been one of wake me when it's over.

Today, Mr. President, we are issuing a wake-up call. It is time to stop treating crime legislation like it is some esoteric tax issue, or partisan litmus test. That is why today we are introducing what I believe is the most comprehensive and toughest anticrime legislation ever introduced—legislation, which, if passed, would be signed by the President immediately, and on the books this year.

What Republicans have done, under the leadership of Senator THURMOND, is to take the toughest parts of the bill passed by the Senate last year, and the toughest parts of the bill passed by the House and joined them together.

The differences between this bill and the bill reported out of the conference committee are many and dramatic.

Polls continue to reflect that an overwhelming majority of Americans strongly support the death penalty. And our bill provides effective standards and procedures for imposing a Federal death penalty for the most heinous Federal crimes. The conference bill offers only flawed and ineffective provisions.

Americans are sick of a judicial system that allows murderers to escape punishment and waste millions in tax dollars by dreaming up new grounds for appeals, long after their guilt has been determined. Our bill includes effective habeas corpus reforms to stop this perversion of our judicial system. The conference bill, on the other hand, is actually weaker than existing law.

Through creation of a good faith exception to the exclusionary rule, our bill will also stop obviously guilty criminals from going free on technicalities or minor police errors. Again, the conference bill is weaker than existing law, and will punish law-abiding citizens for minor technical errors made by the police.

Our bill increases penalties for those who peddle drugs to minors, or who use minors in drug trafficking. The conference bill does not.

Our bill also comes out very strongly against those who perpetrate crimes of violence against women—an epidemic which the conference bill ignores.

Mr. President, it is the intention of the Senate Republicans to do everything possible to see that this bill becomes law.

With the exception of allowing the use of capital punishment for convicted murderers in the District of Columbia, none of these provisions are new to this body. We have debated them before. We have passed many of them before. It is time to stand up and be counted—once and for all. The American people are demanding action—we owe them, and ourselves, nothing less.

Let us pass this bill, not in 100 days, not in 50 days. Look at the headlines around Capitol Hill, and ask yourself, why do we need to wait 1 more day? Let us pass it now.

Mr. MCCAIN. Mr. President, it is imperative to the safety of the citizens of this Nation that Congress act quickly on passing this legislation, S. 2305, the Crime Control Act of 1992.

One year ago, President Bush presented Congress with the challenge of passing a crime bill within 100 days. Nearly 12 months later, Congress is still telling the American people that it is unable to do so. This is unacceptable, Mr. President. Congress must rise above petty politics and do its duty. Our streets are unsafe. Gang violence is quickly becoming the norm rather than the exception. Our children's lives are in jeopardy. Congress must respond.

This legislation introduced by my colleague, Senator THURMOND, offers the American people strong laws to protect them from the escalating crime they have come to fear. This comprehensive package contains several provisions which will go a long way toward ensuring our citizens the safety and relief they deserve.

First, the bill contains strong habeas corpus reform provisions which will curb the abuse of habeas corpus that obstructs the use of the death penalty and undermines the criminal justice process in every type of criminal case.

Next, it establishes a general good faith exception to the exception to the exclusionary rule which admits evidence where the court determines that the conduct of officers in carrying out a search and seizure was objectively reasonable.

The bill also contains a provision which subjects convicted felons to tougher, mandatory penalties for possession of firearms.

In addition, the bill has an expanded section addressing the issues involving juveniles and gangs. This section includes provisions which would increase mandatory penalties for using minors in drug trafficking, increase mandatory penalties for drug distribution to youths by repeat offenders, increased penalties for inducing minors to commit crimes, and broadened adult prosecution for juvenile gang leaders.

This bill also addresses several issues facing both women and children. Specifically, it increases penalties for repeat sex offenders, provides restitution for victims of sex crimes, requires testing of sex offenders for the human immunodeficiency virus [HIV] with disclosure of the test results to the victim, and enhanced penalties for HIV-infected sex offenders who risk infection of their victims.

Mr. President, this is only a partial list of the provisions in this bill. I am confident that this comprehensive package will put law-abiding citizens back in charge of their communities, and our Nation. I strongly encourage my colleagues to support this measure. The American people can wait no longer.

By Mr. BOND (for himself, Mr. RIEGLE, Mr. DURENBERGER, Mr. CHAFEE, Mr. COHEN, Mr. DANFORTH, Mr. DOMENICI, Mr. MCCAIN, and Mr. SIMPSON):

S. 2306. A bill to amend the Social Security Act to provide for the designation of certain health insurance plans as qualified plans, and for other purposes; to the Committee on Finance.

INSURANCE SIMPLIFICATION AND PORTABILITY ACT OF 1992

Mr. BOND. Mr. President, the crisis in health care which we face today demands reform. It is my hope that this Congress will make health care reform its top priority. The families, children, individuals, and businesses who suffer under the current system cannot afford to wait. I believe that broad changes are needed in our health-care system to guarantee that everyone has affordable access to health care. Americans must also have the right to choose freely their own doctor and hospital and we must have an effective, but fair, program to cut health costs. Finally, we must have malpractice reform that eliminates the $15 billion we spend annually on defensive medicine and we must reduce wasteful administrative costs.

Last year I coauthored the Health Equity and Access Improvement Act with Senator CHAFEE and others which among other things provides tax credits to individuals and families for the purchase of health insurance—up to $1,200 for families with incomes below $32,000—tax credits for small businesses for health insurance, 100 percent tax deductibility of health insurance premiums for the self-employed, expansion of community health centers, and assistance to small businesses to purchase insurance.

Today, I am here to introduce the Health Insurance Simplification and Portability Act. I am proud to say that this is one of the few bipartisan health bills to be introduced and that signals the importance of these reforms to the future of our health system. While I have worked hard on the broader issues of health care reform, today I am going to focus on one set of those problems.

One very large problem that we must address is the huge administrative costs of our health care system. There is a blizzard of paperwork that is a nightmare for patients, for hospitals, for doctors, and for businesses in this country. Everyone would agree that a solution must be found that reduces these costs and the burden they are placing on our health care system and the ability of people to afford it. A study published in the New England Journal of Medicine estimated that we spend between $96 and $120 billion each year in administrative costs. These costs are escalated by the unwieldy inefficient paperwork blizzard billing system that has evolved in this country.

There is a solution for the wasteful paperwork blizzard and it looks very much like the ATM card like one uses to access a bank account that we are all familiar with. It is a simple card that holds your health insurance information and makes a simple process for a computer to fill out those forms and send them electronically to the insurance company. It is simple and the technology to implement it is available today if we could only take the steps necessary to put the program in place. That is what my bill would do.

Some of the savings that would be achieved by reducing these horrendous administrative costs and hassles would be used to enact some very important consumer protections for health insurance.

Unfortunately, we now have a system that has allowed some unscrupulous insurance companies to try only to insure healthy people. To me, we do not have any need for insurance companies that run when someone gets sick, or cancel a policy, or jack up rates. It is time that the health-insurance industry gets the message that they are going to have to swallow some bitter pills of reform because unless they become part of the solution there are plenty of folks around who would prefer simply to eliminate them as part of the problem.

Last month, I held a series of roundtable meetings around my State to discuss this mess we have in health care. I heard from a family whose child was born with hydrocephalus which has resulted in serious health problems for their son. Their son is now 14 years old but 9 years ago their family went bankrupt because their son's costly medical expenses eliminated their ability to get any company to insure him.

Another couple in the St. Louis area has a son that was born with a defective heart valve. The birth of their son was not covered because the father was forced to find new employment 5 months into his wife's pregnancy and the new plan wouldn't pay because it was a pre-existing condition. Their second insurance plan that they have been forced to purchase under their previous employer's plan under COBRA just ran out the first of February and their son still has a series of surgeries that he must undergo if he is to live.

We also heard from a man who had colon cancer 4½ years ago and cannot find an insurance company who will insure this condition now even though his cancer is in remission.

I can cite as an example a friend who had cancer 1½ years ago only to see, after the successful operation and treatment, his insurance premiums go from $172 a month to $930 a month.

But to fix these problems, we need a system to compel insurers to make some fundamental changes in the way they do business. To accomplish this, I am proposing legislation to establish minimum consumer-protection standards that health insurance plans must meet to become a qualified plan. These standards are very simple and straightforward.

Qualified plans would:

First, lower administrative costs, require less paperwork. Insurers would use a new paperless computerized billing and data exchange system that will cut wasteful costs from the excessive paperwork and hassle that results from the existing claims and paperwork nightmare that no one likes.

Second, guarantee acceptance. Insurers could not exclude individuals on the basis of their medical condition.

Third, guarantee renewability. Insurers would be prohibited from unilaterally canceling insurance.

Fourth, limit the variation in premiums. No longer could an insurer drastically hike premiums when a person develops a very expensive illness.

Fifth, eliminate the pre-existing condition waiting period. Insurer would not be able to exclude coverage for any medical condition if that individual had had continuous coverage under a previous insurance plan.

Sixth, limit out-of-pocket costs. In short, insurers would have to fully protect consumers from costs exceeding $3,000 or 10 percent of their income in a year.

My legislation would create an independent Health Insurance Standards Commission to oversee the implementation of the Qualified Plan Program and make recommendations to the Secretary for additional standards for qualified plans that would further reduce administrative costs, protect consumers, and seek ways to implement effective long-term management of health costs.

Under this proposal, insurers would be subject to a 25-percent excise tax on the gross premiums of any insurance plans which do not meet these consumer protection standards and participate in the program to reduce administrative costs.

Both goals—lowering administrative costs and extending the basic consumer-protection standards to qualified health insurance plans—are efforts which I believe are achievable this year and work whether you support a market-based formula for health reform or whether you prefer a pay or play approach. Both goals must be achieved because these are problems in the system that must be fixed. Creating an electronic billing system and the resulting administrative savings, plus savings we could get from the added ability to reduce billing fraud through such a standardized system, are estimated to be somewhere between $50 and $80 billion. The fact that the consumer-protection standards must be applied should be self-evident.

I want to thank Senator RIEGLE for cosponsoring this bill and for working with us to put these vital consumer-protection standards in place. I look forward to working with him in the days to come to further this effort. I also want to thank Senators CHAFEE, DURENBERGER, DANFORTH, MCCAIN, COHEN, DOMENICI, and SIMPSON for joining in support of this bill and for their important leadership on so many health issues.

Americans want health reform and it's time Congress got to work.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Insurance Simplification and Portability Act of 1992".

TITLE I—QUALIFIED HEALTH INSURANCE PLANS

SEC. 101. QUALIFIED HEALTH INSURANCE PLANS.

(a) REQUIREMENT.—The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new title:

"TITLE XXI—HEALTH INSURANCE

"PART A—GENERAL PROVISIONS

"SEC. 2101. DEFINITIONS.

"As used in this title:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

"(A) in the case of a health insurance plan offered in a State with a program meeting the requirements of this title, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

"(B) in the case of a health insurance plan certified by the Secretary under section 2121(a)(2), the Secretary.

"(2) COMMISSION.—The term 'Commission' means the Health Insurance Standards Commission established under section 2111.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract or health maintenance organization group contract, multiple employer welfare arrangement, or any other health insurance arrangement, including an employment-related reinsurance plan. Such term does not include—

"any of the following that is offered by an insurer—

"(i) accident only, dental only, or disability income only insurance;

"(ii) coverage issued as a supplement to liability insurance;

"(iii) worker's compensation or similar insurance; or

"(iv) automobile medical-payment insurance.

"(5) HEALTH MAINTENANCE ORGANIZATION.—The term 'health maintenance organization' has the meaning given the term 'eligible organization' in section 1876(b) of this Act.

"(6) INSURER.—The term 'insurer' means any person that offers a health insurance plan.

"(7) QUALIFIED HEALTH INSURANCE PLAN.—The term 'qualified health insurance plan' means a health insurance benefit plan that—

"(A) meets the Federal standards and guidelines described in part C; and

"(B) is accredited by the appropriate State insurance commission for the State involved according to standards promulgated by the Secretary under part B.

"PART B—HEALTH INSURANCE STANDARDS COMMISSION

"SEC. 2111. ESTABLISHMENT OF HEALTH INSURANCE STANDARDS COMMISSION.

"(a) IN GENERAL.—The Secretary shall establish a commission, to be known as the 'Health Insurance Standards Commission', to carry out the activities described in section 2112.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Commission shall be composed of 15 members to be appointed by the Secretary not later than June 1, 1992 in accordance with this subsection. The members of the Commission shall annually elect a member to serve as the chairperson of the Commission.

"(2) MEMBERS.—Individuals appointed by the Secretary under paragraph (1) shall be appropriately qualified independent experts with respect to the provision and financing of health care, and shall include physicians, registered nurses, registered pharmacists, consumers of health care, employers, third party payors, a representative from the American Standards Committee (ASCX-12) of the American National Standards Institute, individuals skilled in the conduct and interpretation of health economics research, and individuals having expertise in the research and development of technological and scientific advances in health care.

"(3) NOMINATIONS.—In determining those individuals to appoint to the Commission under paragraph (1), the Secretary shall seek nominations from a wide range of groups including—

"(A) national organizations representing physicians, including medical specialty organizations and registered professional nurses, registered pharmacists and other skilled health professionals;

"(B) national organizations representing hospitals, including teaching hospitals;

"(C) national organizations representing the manufacture of health care products;

"(D) national organizations representing the business community, health benefit programs, labor and the elderly;

"(E) national organizations for standards development; and

"(F) consumer organizations.

"(4) TERMS.—Individuals shall be appointed to the Commission for a term of three years, except that the Secretary shall, with respect to the initial members of the Commission, provide for the appointment of such initial members for shorter terms in a manner to insure that, on a continuing basis, the terms of not more than seven members expire in any one year.

"(5) COMPENSATION.—While serving on the business of the Commission (including travel time) a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for individuals under level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from the home or regular place of business of the member, a member may be allowed travel expenses, as authorized by the Chairperson of the Commission.

"(c) ADMINISTRATIVE POWERS.—Subject to such review as the Secretary determines necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of such personnel (not to exceed 25 individuals) as may be necessary to enable the Commission to carry out its duties;

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies and from experts from the private sector;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission;

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as the Commission determines necessary with respect to the internal organization and operation of the Commission.

"SEC. 2112. DUTIES AND ACTIVITIES OF COMMISSION.

"(a) RECOMMENDATION FOR IMPLEMENTATION OF TITLE.—

"(1) IN GENERAL.—Not later than September 30, 1992, the Commission shall prepare and submit to the Secretary a report containing the recommendations of the Commission concerning regulations for the implementation of the requirements of this title, including the long-term plan and uniform standards described in subsection (b)(1).

"(2) PUBLICATION OF REVISIONS.—The Secretary shall, not later than 60 days before the promulgation of final regulations under this title, cause to have published for public comment in the Federal Register the recommendations of the Commission under paragraph (1).

"(b) UNIFORM COMPUTERIZED BILLING SYSTEM AND STANDARDS FOR ELECTRONIC DATA INTERCHANGE.—

"(1) IN GENERAL.—The Commission shall develop a long-term plan for the implementation of computerized billing, eligibility, and any other activity that the Commission determines to be appropriate and uniform standards for electronic data interchange, to be applied as provided for in paragraph (6). Such long-term plan and standards shall include—

"(A) online communications standards;

"(B) specific designs for a standardized electronic uniform claim form;

"(C) the standards and plan for electronic data interchange and other measure derived from the Secretary's Work Group on Electronic Data Interchange;

"(D) any other standards or requirements determined appropriate by the Secretary; and

"(E) a plan to incorporate all insurance plans into the computerized system and standards including self-insured plans.

"(2) ELECTRONIC DATA INTERCHANGE.—The Commission shall acquire from the American National Standards Institute reports concerning the progress of such Institute in developing electronic data interchange. Based on such reports, the Commission shall, on an annual basis, adopt additional electronic data interchange standards, if necessary, and incorporate such additional standards into the implementation plan referred to in paragraph (1).

"(3) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this title, the Commission shall make recommendations to the Secretary concerning components of the long-term implementation plan and uniform standards for electronic data interchange developed under paragraph (1), based on the feasibility of health insurance plans to be able to comply as a qualified health insurance plan under part C.

"(4) REVIEW.—Taking into consideration the recommendations of the Commission, the Secretary shall review the proposed requirements of the Commission under paragraph (3) and determine the appropriate requirements necessary for the implementation of efficient, cost effective computerization under paragraph (1) and for requiring that a health insurance plan meet such requirements in order to be a qualified health insurance plan under this part.

"(5) PUBLICATION OF REQUIREMENTS.—The Secretary shall cause to be published for public comment in the Federal Register, not later than—

"(A) three months after receiving recommendations from the Commission under paragraph (2), the proposed requirements of the Secretary with respect to the computerization and standards for electronic data interchange and the proposed requirements of a qualified health insurance plan; and

"(B) six months after receiving recommendations from the Commission under paragraph (2), and after such consideration of public comment on the proposals under subparagraph (A) as is feasible in the time available, the final determinations of the Secretary with respect to the requirements of the computerization and standards for electronic data interchange and the requirements of a qualified health insurance plan.

"(6) REQUIREMENTS.—A system established under this section should—

"(A) use online communication for health providers to access in determining a patient's eligibility for benefits under the patient's health insurance plan;

"(B) provide each member covered under a qualified health insurance plan with a plastic card or other similar form of identification that shall serve as the mechanism to supply health insurance identification numbers and other information as the Secretary may determine appropriate to the health provider; and

"(C) not be a mandatory requirement with respect to a health provider whose place of business is located in a whole-county nonmetropolitan Health Professional Shortage Area as defined in section 332 as a condition of such provider's participation in a qualified health insurance plan.

"(7) MEDICARE AND MEDICAID.—A system established under this section shall apply with respect to particpants under titles XVIII and XIX.

"(c) RECOMMENDATION FOR REVISIONS IN STANDARDS.—

"(1) IN GENERAL.—The Commission shall annually recommend to the Secretary revisions that should be made in the standards and requirements that a health insurance plan must meet, in addition to those described in part C, to be accredited as a qualified health insurance plan under this part, revisions that should be made in the long-term plan for implementation and uniform standards for electronic data interchange, and changes in the requirements for qualified health insurance plans with respect to additional components of the long-term plan for implementation and uniform standards for electronic data interchange that should be required of such plans based on the feasibility of such plans to comply. In making such recommendations, the Commission shall take into consideration the need to maintain broad coverage of quality medical services, the need to implement effective long-term management practices with respect to health care costs including the ability to manage the price, utilization and quality of health care services, the need to reduce administrative costs to insurers and health providers, and the need to reduce billing fraud. Such recommendations shall include any measures necessary to further reduce the administrative costs of health care, where feasible, by requiring—

"(A) additional efforts to reduce the costs of claims processing and billing through the standardization and automation, including the use of smart cards or other technology; and

"(B) simplified utilization review by processes that may include the implementation of the use of a uniform clinical data set.

"(2) ANNUAL REVIEW BY SECRETARY.—Taking into consideration the recommendations of the Commission under paragraph (1), the Secretary shall annually review the requirements with respect to qualified health insurance plans and determine appropriate revisions in such requirements necessary to maintain the efficient and effective delivery of medically appropriate and necessary care that is of high quality and the reductions in administrative costs. Such standards may not include the setting of minimum benefits.

"(3) PUBLICATION OF REVISIONS.—The Secretary shall cause to have published for public comment in the Federal Register, not later than—

"(A) May 15 of each fiscal year referred to in paragraph (1), the proposed revisions of the Secretary in the standards or requirements with respect to qualified health insurance plans for such fiscal year, including, the report of the Commission under paragraph (1) ; and

"(B) July 15 of each fiscal year referred to in paragraph (1), and after the consideration of the public comment under subparagraph (A) as is feasible in the time available, the final determinations of the Secretary with respect to such revisions.

"(d) COLLECTION AND REVIEW OF INFORMATION.—

"(1) APPROPRIATE USES OF HEALTH RESOURCES.—In order to identify patterns of medically appropriate uses of health resources, the Commission shall collect and review information concerning medical and surgical procedures and services, including regional variations, giving special attention to treatment patterns for conditions that appear to involve excessively costly or inappropriate services not adding to the quality of care provided.

"(2) EFFECTIVENESS OF COMPUTERIZED BILLING SYSTEM.—The Commission shall collect and review data concerning the effectiveness and efficiency of the current health insurance claims billing system and the proposed computerized billing under subsection (b).

"(3) COST-CONTAINMENT METHODS.—The Commission shall collect and review data concerning methods of health care cost-containment that maintain high quality care and the right of the patient to choose their doctor or hospital.

"(4) ADMINISTRATIVE REQUIREMENTS.—In collecting and assessing information under this subsection, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and reviewed either by its staff or under other arrangements made in accordance with this paragraph;

"(B) carry out, or award grants or contracts for, original research and experimentation and demonstration projects, including clinical research, where existing information is inadequate for the development and use and valid guidelines for the Commission; and

"(C) adopt procedures permitting any interested party to submit information with respect to unnecessary administrative burdens on business, hospitals, physicians or consumers arising from health care administration, medical and surgical procedures and services (including new practices, such as the use of new technologies and treatment modalities) and information on proposed methods of health care cost-containment that maintain high quality care and the right of the patient to choose their own doctor or hospital, which information the Commission shall consider in making reports and recommendations to the Secretary and Congress.

"(5) ACCESS TO INFORMATION.—The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies.

"(j) ADMINISTRATION.—

"(1) ANNUAL REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress, a report concerning the functioning and progress of the Commission and the status of the Commission's work.

"(2) ACCESS.—The Secretary shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon its request.

"(3) EXPENSES.—In order to carry out its duties under this part, the Commission is authorized to expend reasonable and necessary funds as mutually agreed upon by the Secretary and the Commission. The Secretary shall be reimbursed for such funds by the Commission from the appropriations made with respect to the Commission.

"(4) AUDIT.—The Commission shall be subject to periodic audit by the General Accounting Office.

"SEC. 2113. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this part.

"PART C—STANDARDS FOR QUALIFIED HEALTH INSURANCE PLANS

"SEC. 2121. APPLICATION OF REQUIREMENTS

"(a) PLAN UNDER STATE REGULATORY PROGRAM OR CERTIFIED BY THE SECRETARY.—An insurer offering a health insurance plan in a State on or after the effective date applicable to the State under subsection (b) shall be treated as meeting the requirements of this title if—

"(1) the Secretary determines that the State has established a regulatory program that provides for the application and enforcement of standards meeting the requirements for qualified plans under this part; and

"(2) if the State has not established such a program or if the program has been decertified by the Secretary under section 2122, the health insurance plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the requirements of this part.

"(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as specified in paragraph (2) and provided in paragraph (3), the standards established under part B to meet the requirements of this part shall apply to health insurance plans offered, issued, or renewed in a State on or after January 1, 1994.

"(2) EXCEPTION FOR LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

"(A) requiring State legislation (other than legislation appropriating funds) in order for insurers and health insurance plans to meet the standards under the program established under subsection (a), and

"(B) having a legislature which does not meet in 1993 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(3) REQUIREMENTS APPLIED TO EXISTING POLICIES.—In the case of a health insurance plan in effect before the applicable effective date specified in paragraph (1) or (2), the requirements referred to in this part shall not apply to any such plan, or any renewal of such plan, before the date which is 2 years after such effective date.

"(c) REPORTING REQUIREMENTS OF STATES.—Each State shall submit to the Secretary, at intervals established by the Secretary, a report on the implementation and enforcement of the standards under the program established under subsection (a)(1) with respect to health insurance plans offered to small employers.

"SEC. 2122. PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.

"(a) IN GENERAL.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet and enforce the standards established under this part. If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards and requirements after such an opportunity, the Secretary shall decertify such program and assume responsibility under section 2121(a)(2) with respect to plans in the State.

"(b) GAO AUDITS.—The Comptroller General of the United States shall conduct periodic reviews on a sample of State regulatory programs to determine their compliance with the standards and requirements of this title. The Comptroller General of the United States shall report to the Secretary and Congress on the findings of such reviews.

"SEC. 2123. GENERAL REQUIREMENTS FOR QUALIFIED HEALTH INSURANCE PLANS.

"(a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—Each insurer shall register with the applicable regulatory authority for each State in which it issues or offers a health insurance plan to small employers.

"(b) GUARANTEED ELIGIBILITY.—

"(1) IN GENERAL.—No insurer may exclude from coverage any eligible employee, or the spouse or any dependent child of the eligible employee, to whom coverage is made available by an employer.

"(2) WAITING PERIODS.—Paragraph (1) shall not apply to any period an eligible employee is excluded from coverage under the health insurance plan solely by reason of a requirement applicable to all employees that a minimum period of service with the employer is required before the employee is eligible for such coverage.

"(c) GUARANTEED ACCEPTANCE.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an insurer that offers a health insurance plan to employers located in a State must meet the standards adopted by the State described in paragraph (3).

"(2) GROUNDS FOR REFUSAL TO RENEW.—An insurer may refuse to renew, or may terminate, a qualified health insurance plan under this part only for—

"(A) nonpayment of premiums;

"(B) fraud or misrepresentation; or

"(C) failure to maintain minimum participation rates (consistent with subparagraph (B)).

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—An insurer shall ensure that a health insurance plan issued to an employer be renewed, at the option of the employer, unless the plan is terminated for a reason specified in paragraph (2) or in subsection (c)(2)(A).

"(2) TERMINATION OF EMPLOYER BUSINESS.—An insurer is not required to renew a health insurance plan with respect to an employer if the insurer—

"(A) elects not to renew all of its health insurance plans issued to employers in a State; and

"(B) provides notice to the applicable regulatory authority in the State and to each employer covered under a plan of such termination at least 180 days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any health insurance plan to an employer in the State during the 5-year period beginning on the date of termination of the last plan not so renewed.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), a health insurance plan offered to an employer by an insurer may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a health insurance plan offered by an insurer may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A health insurance plan issued by an insurer shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII, title XIX, or other health benefit arrangement including a self-insured plan which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a health insurance plan issued to a small employer by an insurer, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

"SEC. 2124. REQUIREMENTS RELATED TO RESTRICTIONS ON RATING PRACTICES.

"(a) LIMIT ON VARIATION OF PREMIUMS BETWEEN BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—The base premium rate for any block of business of an insurer may not exceed the base premium rate for any other block of business by more than 20 percent.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to a block of business if the applicable regulatory authority determines that—

"(A) the block is one for which the insurer does not reject, and never has rejected, employers included within the definition of employers eligible for the block of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon their claims experience, health status, industry, or occupation;

"(B) the insurer does not transfer, and never has transferred, a health insurance plan involuntarily into or out of the block of business; and

"(C) health insurance plans offered under the block of business are currently available for purchase by employers at the time an exception to paragraph (1) is sought by the insurer.

"(b) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A BLOCK OF BUSINESS.—For a block of business of an insurer, the highest premium rates charged during a rating period to employers with similar demographic characteristics (including age, sex, and geography and not relating to claims experience, health status, industry, occupation, or duration of coverage since issue) for the same or similar coverage, or the highest rates which could be charged to such employers under the rating system for that block of business, shall not exceed an amount that is 1.5 times the base premium rate for the block of business for a rating period (or portion thereof) that occurs in the first 3 years in which this section is in effect, and 1.35 times the base premium rate thereafter.

"(c) CONSISTENT APPLICATION OF RATING FACTORS.—In establishing premium rates for health insurance plans offered to employers—

"(1) an insurer making adjustments with respect to age, sex, or geography must apply such adjustments consistently across employers; and

"(2) no insurer may use a geographic area that is smaller than a county or smaller than an area that includes all areas in which the first three digits of the zip code are identical, whichever is smaller.

"(d) LIMIT ON TRANSFER OF EMPLOYERS AMONG BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—An insurer may not transfer a employer from one block of business to another without the consent of the employer.

"(2) OFFERS TO TRANSFER.—An insurer may not offer to transfer a employer from one block of business to another unless—

"(A) the offer is made without regard to age, sex, geography, claims experience, health status, industry, occupation or the date on which the policy was issued; and

"(B) the same offer is made to all other employers in the same block of business.

"(e) LIMITS ON VARIATION IN PREMIUM INCREASES.—The percentage increase in the premium rate charged to an employer for a new rating period (determined on an annual basis) may not exceed the sum of the percentage change in the base premium rate plus 5 percentage points.

"(f) DEFINITIONS.—In this section:

"(1) BASE PREMIUM RATE.—The term 'base premium rate' means, for each block of business for each rating period, the lowest premium rate which could have been charged under a rating system for that block of business by the insurer to employers with similar demographic or other relevant characteristics (including age, sex, and geography and not relating to claims experience, health status, industry, occupation or duration of coverage since issue) for health insurance plans with the same or similar coverage.

"(2) BLOCK OF BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'block of business' means, with respect to an insurer, all of the employers with a health insurance plan issued by the insurer (as shown on the records of the insurer).

"(B) DISTINCT GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), a distinct group of employers with health insurance plans issued by an insurer may be treated as a block of business by such insurer if all of the plans in such group—

"(I) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the insurer;

"(II) have been acquired from another insurer as a distinct group; or

"(III) are provided through an association with membership of not less than 25 small employers that has been formed for purposes other than obtaining health insurance.

"(ii) EXCEPTION ALLOWED.—Except as provided in subparagraph (C), an insurer may not establish more than one distinct group of employers for each category specified in clause (i).

"(C) SPECIAL RULE.—An insurer may establish up to 2 groups under each category in subparagraph (A) or (B) to account for differences in characteristics (other than differences in plan benefits) of health insurance plans that are expected to produce substantial variation in health care costs.

"(g) FULL DISCLOSURE OF RATING PRACTICES.—

"(1) IN GENERAL.—At the time an insurer offers a health insurance plan to an employer, the insurer shall fully disclose to the employer all of the following:

"(A) Rating practices for small employer health insurance plans, including rating practices for different populations and benefit designs.

"(B) The extent to which premium rates for the employer are established or adjusted based upon the actual or expected variation in claims costs or health condition of the employees of such employer and their dependents.

"(C) The provisions concerning the insurer's right to change premium rates, the extent to which premiums can be modified, and the factors which affect changes in premium rates.

"(2) NOTICE ON EXPIRATION.—An insurer providing health insurance plans to employers shall provide for notice, at least 60 days before the date of expiration of the health insurance plan, of the terms for renewal of the plan. Such notice shall include an explanation of the extent to which any increase in premiums is due to actual or expected claims experience of the individuals covered under the employer's health insurance plan contract.

"(h) ACTUARIAL CERTIFICATION.—Each insurer shall file annually with the applicable regulatory authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of the insurer and methods used by the insurer in establishing premium rates for employer health insurance plans—

"(1) the insurer is in compliance with the applicable provisions of this section; and

"(2) the rating methods are actuarially sound.

Each insurer shall retain a copy of such statement for examination at its principal place of business.

"SEC. 2125. ADDITIONAL REQUIREMENTS FOR QUALIFIED HEALTH INSURANCE PLANS.

"(a) IN GENERAL.—To be accredited as a qualified health insurance plan under this part and for purposes of the Internal Revenue Code of 1986, a health insurance plan shall meet the standards and requirements under section 2112 and this section.

"(b) LIMITS ON OUT OF POCKET COSTS.—

"(1) IN GENERAL.—Except as provided under paragraph (2), to be accredited as a qualified health insurance plan a health insurance plan may not require, with respect to benefits received in any plan year, the payment of a deductible amount that exceeds—

"(A) with respect to benefits payable for items and services furnished to any employee with no family member enrolled under the plan, for a plan year beginning in—

"(i) the first calendar year that begins more than 1 year after the date of enactment of this part, $250; or

"(ii) a subsequent calendar year, the amount described in clause (i) for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

"(B) with respect to benefits payable for items and services furnished to any employee with a family member enrolled under the plan, for a plan year beginning in—

"(i) the first calendar year that begins more than 1 year after the date of enactment of this part, $250 per family member and $500 per family; or

"(ii) a subsequent calendar year, the amount described in clause (i) for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limitation of deductions computed under subparagraph (A)(ii) or (B)(ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(2) WAGE-RELATED DEDUCTIBLE.—Notwithstanding paragraph (1), qualified health insurance plan may provide for any other deductible amount instead of the limitations described under—

"(A) paragraph (1)(A)(ii), if such amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the employee in the plan year; or

"(B) paragraph (1)(B)(ii), if such amount does not exceed (on an annualized basis) 1 percent per family member or 2 percent per family of the total wages paid to the employee in the plan year.

"(c) LIMITATION ON COPAYMENTS AND COINSURANCE.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), to be accredited as a qualified health insurance plan a health insurance plan may not—

"(A) require the payment of any copayment or coinsurance for an item or service in an amount that exceeds 20 percent of the cost of the item or service; or

"(B) require the payment of any copayment or coinsurance for items and services after the employee has incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit as defined in subsection (e).

"(2) EXCEPTION FOR MANAGED CARE PLANS.—If a qualified health insurance plan establishes reasonable classifications of participating and nonparticipating providers of items and services, the plan may require payments in excess of the amount permitted under paragraph (1) in the cases of items and services furnished by nonparticipating provider. Classifications of participating and nonparticipating providers of items and services shall be considered reasonable if the plan has been accredited by the appropriate State insurance commission.

"(3) EXCEPTION FOR IMPROPER UTILIZATION.—A qualified health benefit plan may provide for copayment or coinsurance in excess of the amount permitted under paragraph (1) for any item or service that an individual obtains without complying with any reasonable procedures established by the plan to ensure efficient and appropriate utilization of covered services. Such procedures shall be considered reasonable if the plan has been accredited by the appropriate State insurance commission.

"(d) LIMIT ON OUT-OF-POCKET COSTS.—

"(1) DEFINITION.—As used in this section, the term 'out-of-pocket costs' means, with respect to an employee in a plan year, amounts payable under the plan as deductibles and coinsurance for items and services provided under the plan and furnished in the plan year on behalf of the employee and family covered under the plan.

"(2) OUT-OF-POCKET LIMIT.—As used in this section, the term 'out-of-pocket limit' means—

"(A) with respect to a plan year beginning in the first calendar year that begins more than 1 year after the date of enactment of this part, $3000; or

"(B) with respect to a subsequent calendar year, the limit described in subparagraph (A) for the previous plan year increased by the percentage increase in the consumer price index for all urban consumers (as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the out-of-pocket limit computed under subparagraph (B) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(3) FLEXIBLE OUT-OF-POCKET LIMIT.—To be accredited as a qualified health insurance plan a health insurance plan may provide for an out-of-pocket limit other than that described in paragraph (2) if, for a plan year with respect to an employee and the family of the employee, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the employee in the plan year.".

TITLE II—TAX PENALTY ON NONCOMPLYING INSURERS

SEC. 201. EXCISE TAX ON PREMIUMS RECEIVED ON HEALTH INSURANCE POLICIES WHICH DO NOT MEET CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to taxes on group health plans) is amended by adding at the end thereof the following new section:

"SEC. 5000A. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH INSURANCE.

"(a) GENERAL RULE.—In the case of any person issuing a health insurance plan, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of title XXI of the Social Security Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such title.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 25 percent of the gross premiums received during such taxable year with respect to health insurance plans which are not qualified plans under title XXI of the Social Security Act issued by the person on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any accident and health insurance contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) DEFINITIONS.—For purposes of this section:

"(1) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract or health maintenance organization group contract, multiple employer welfare arrangement, or any other health insurance arrangement, including an employment-related reinsurance plan. Such term does not include—

"(A) self insured plans other than multiple employer welfare arrangements; or

"(B) any of the following that is offered by an insurer—

"(i) accident only, dental only, or disability income only insurance;

"(ii) coverage issued as a supplement to liability insurance;

"(iii) worker's compensation or similar insurance; or

"(iv) automobile medical-payment insurance.

"(2) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(3) PERSON.—The term 'person' means any person that offers a health insurance plan to a small employer, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.".

(b) NONDEDUCTIBILITY OF TAX.—Paragraph (6) of section 275(a) of such Code (relating to nondeductibility of certain taxes) is amended by inserting "47," after "46,".

(c) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000A. Failure to satisfy certain standards for health insurance.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) NONDEDUCTIBILITY OF TAX.—The amendment made by subsection (b) shall apply to

taxable years beginning after December 31, 1991.

Mr. RIEGLE. Mr. President, I am pleased to cosponsor the Health Insurance Simplification and Portability Act with my colleague from Missouri, Senator BOND, and many others. This legislation is a necessary first step toward comprehensive reform of our health care system.

Skyrocketing health insurance costs for those who have coverage—and the growing number of Americans with no health insurance—are signs that our health care system must be reformed. That is the goal of HealthAmerica, comprehensive legislation to reform the health care system, that I have introduced with Senators MITCHELL, KENNEDY, and ROCKEFELLER.

The legislation introduced today focuses on two areas in particular: reducing administrative costs and reforming the private health insurance market. A strong consensus has emerged in these areas, with every major proposal, including HealthAmerica, addressing them. But I want to stress that this is only a small step and our work together will not be complete until we develop a system that provides all Americans with the security of having health care coverage and ensures that health care costs will not continue to soar.

Senator BOND recently testified before the Finance committee in February on his legislation and we agreed that we need to have universal access in this country. I want to continue working with my distinguished colleague on this goal and on developing a strong program to control costs. Efforts to comprehensively reform the health care system do not have to be partisan. I chaired a bipartisan working group of Senate Finance and Labor and Human Resources Committee members from July 1989 to January 1991.

The goals of this legislation are to simplify the health insurance system and protect consumers by reducing administrative costs and establishing national minimum standards for insurance. I have cosponsored S. 2306 because these goals are consistent with HealthAmerica, although I do not agree with every provision in the bill.

REDUCING ADMINISTRATIVE COSTS

This legislation takes a significant step toward reducing administrative costs. Public and private insurance and billing costs totaled almost $80 billion in 1991. Insurance administration accounts for $43.6 billion, while provider billing costs account for the remainder. We can greatly reduce this burden and cost on providers, insurers, and users of health care by simplifying administration through the development of a system for uniform reporting of billing and medical records. Right now there are over 1,200 insurers with many different billing forms that providers and users of health care must file and there is simply too much duplication of effort.

I have been working with the chairman of the Finance Committee, my distinguished colleague Senator BENTSEN, in strengthening provisions to reduce administrative costs in his legislation S. 1872, which was favorably reported out of the Finance Committee today as part of the economic growth package. I am very pleased he has agreed to go farther in this area and adopt many of my recommendations, which I know the Senator from Missouri agrees, goes a long way in reducing administrative costs.

In the revised version of S. 1872, as part of its first annual report, an independent Commission of health care experts would, in consultation with the Secretary of Health and Human Services who has been a leader in this area, recommend a national model uniform claims form and uniform standards for the collection of medical and billing records to be used by all insurers and providers. The Commission would develop a strategy and schedule for implementing national use of these forms and standards, taking into account the need for patient confidentiality and special implementation issues, including those of providers in rural areas. The Commission would consider the use of electronic cards or other technology that allows expedited access to medical records and insurance information.

NEED FOR INSURANCE REFORM

There is a strong precedent for federal action in the area of insurance market reform. Two years ago, the Congress enacted reforms in the Medigap supplementary health insurance market to protect seniors and disabled citizens. This Congress, I cosponsored legislation with Senators PRYOR and DASCHLE to enact similar reforms, S. 846, in the long-term care private insurance market.

We need insurance market reform because many insurers now exclude individuals from coverage who have certain conditions, like diabetes or cancer or cancel their policies. Risks need to be spread, and rates must be affordable, predictable, and stable. While S. 2306 takes significant steps in this area, it does not go far enough in limiting premium variation as we do in HealthAmerica and I want to continue working with Senator BOND in this area.

Michigan is a good example for the rest of the country in illustrating why insurance reforms are important and also why much more must be done to improve this country's health care system. Blue Cross/Blue Shield of Michigan, which covers close to 50 percent of Michigan citizens, is required by State law to sell a policy to all individuals who want the coverage. The plan also provides a single rate for everyone in the community, called community rating, regardless of age, sex, occupation. We would move to this system in HealthAmerica.

Under community rating, risks are spread over more people and rates are more affordable. In Michigan, the Blue Cross policies range from as low as about $2,000 in some regions to $4,100 for a family. But even though the rates are more affordable than most other States—for example, West Virginia's rates are between $7,000 and $10,000 for a family policy—many people simply cannot afford these prices. We need a comprehensive health care program that guarantees coverage for all Americans at affordable rates.

While insurance reform is important, without cost containment, all insurance reform does is more evenly distribute the cost of care which is currently too high. And it only provides additional access to care for those who can afford it. Millions can't afford care at any cost.

NEED FOR COMPREHENSIVE REFORM

Health care costs have recently been reported to exceed $800 billion and are now 14 percent of the GNP. At the same time, 1 million individuals and families lose health insurance coverage annually, totalling over 35 million. In Michigan, close to a million people have no health insurance—300,000 of them are children and millions more are afraid of losing their coverage if they lose their job. Those who do have health insurance are finding their rates rising sharply and their coverage reduced by rising deductibles, copayments, and diminished benefits.

I commend Senator BOND for his leadership in this area and want to continue working with him to comprehensively reform the health care system.

Mr. DANFORTH. Mr. President, I rise today in enthusiastic support of the legislation introduced by my friend and colleague, KIT BOND. Once again, as he has proven in so many other areas, he is making a valuable contribution to the debate over health care reform.

In Missouri, when you ask health care providers what they dread most about the practice of medicine in this country, they usually have two responses. The first is the need to remove the hassle factor from everyday practice, the forms, the different insurance schemes, the administrative cost. The second is the onslaught of malpractice litigation which burdens them psychologically and financially.

Senator BOND has taken an innovative and aggressive strategy to address the first concern. Providers and patients are drowning in a sea of paperwork, which unnecessarily adds to the cost of health care. Everyone has acknowledged this fact, and numerous efforts are being made to standardize forms and reduce billing costs. In fact, the Uniform Claim Form Task Force, cochaired by the American Medical Association and the Health Care Financing Administration has developed HCFA-1500 claims forms which should lower the cost and the hassle of billing for physician and outpatient services. Blue Cross/Blue Shield of America and the Travelers Insurance Co. have agreed to cochair a group to increase the use of electronic claims as well.

Yet, all of these efforts are voluntary. The secret to administrative savings is universal use of the same form or the same billing methodology. Senator BOND would insure near universal compliance by requiring that computerized, electronic billing be developed and utilized. Providers that participate will be spared unnecessary hassle. In addition, the system will reap enormous administrative savings.

Administrative overhead for both the public and private sector totaled almost $80 billion in 1991. This is about 12.2 percent of total health spending. Much of this money is spent on claims processing and general administration. Senator BOND'S legislation would cut much of the fat that exists in this $80 billion. If we are ever to get our health costs under control, we must start first with the inefficient and unnecessary administrative costs that plague our mammoth health care system.

In addition, I share Senator BOND'S desire to curb the insurance industry's effort to avoid risk rather than insure it. His provision dealing with guaranteed acceptance, guaranteed renewability and limited premium variation are badly needed to protect those who have become ill in our society. Employees are being tied to their jobs if they or members of their family become sick. Others cannot even obtain insurance because of illness. This situation is unacceptable, and my colleague from Missouri has attempted to remedy it.

Again, I am proud to join my colleague from Missouri in introducing this badly needed piece of legislation.

By Mr. CONRAD:

S. 2307. A bill to amend the Internal Revenue Code of 1986 to provide a temporary special depreciation allowance, to make such allowance permanent for certain farm-processing equipment, and for other purposes; to the Committee on Finance.

TEMPORARY SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN FARM PROCESSING EQUIPMENT

Mr. CONRAD. Mr. President, today I am introducing legislation that will help American farmers and spur economic growth by encouraging farmers to invest in processing ventures that add value to their commodities.

Over the past several months, we have heard a lot about the national recession and the problems of our economy as a whole. There is no question that the problems facing our national economy are severe. For more than a decade, we have run up huge deficits while failing to invest in our future, and now we are suffering the consequences: The longest recession since the Great Depression; unemployment at 7.1 percent, underemployment even higher; consumer confidence at dismally low levels; stagnant and declining real wages.

No one knows better than the occupant of the chair the difficulty and the strain facing our national economy and the hurt that is being felt across the country. People's incomes are not growing fast enough to meet their families' needs.

Mr. President, rural America has suffered even more than the rest of the country. Yet in the last few months we have heard very little about the problems faced by rural Americans. The 1980's was the first decade in this century in which the rural/urban income gap widened instead of narrowed.

In 1991 the farm parity ratio, the ratio of prices received by farmers to prices paid by farmers, dropped to its lowest level ever. In North Dakota, rural employment dropped 5.1 percent from 1980 to 1990. Nationally, the rural poverty rate, at about 17 percent, is significantly higher than the urban rate. In North Dakota, my home State, almost 1 in 4 rural families is living in poverty.

A North Dakota State University study completed last year found that under current conditions, one-third of the grain farmers in my State will be forced out of business—1 in 3. More than half of all rural counties lost population between 1980 and 1990. In North Dakota, the population dropped 8.8 percent during the 1980's.

What could be more clear? The people are leaving. They are leaving because there is a lack of opportunity. They are leaving because there is economic hardship. Statistics like these are unacceptable. We cannot expect our country to grow and prosper and compete if the rural economy is left to decline.

Agriculture is the backbone of the rural economy, yet low incomes and prices are crippling American farmers. Meanwhile, processed products made from raw commodities command very high prices. For example, a 16-ounce box of cereal in a supermarket here in Washington can easily cost $4. Yet, there are just a couple of cents worth of the raw commodity in that cereal box. That means there is about a 6,000-percent markup between the price the farmers receive for their grain and the prices consumers pay for the finished product—a 6,000-percent markup.

Capturing just a small fraction of this value-added markup, Mr. President, would go a long way toward revitalizing the rural economy. But many farmers cannot risk the capital necessary to start up farmer-owned processing plants because these plants will not yield a profit for several years.

The legislation I am introducing today helps to solve this problem by making it a little easier for farmers to invest in these ventures. Specifically, it modifies the investment tax allowance passed by the House last week in two ways. First, it makes permanent the allowance for investments by majority farmer-owned processing ventures that add value to raw agricultural commodities. That will encourage the long-term development of value-added processing of agricultural commodities in rural areas, and provide long-term benefits to the rural economy.

Second, it allows majority farmer-owned partnerships, S corporations, and cooperatives to pass through to the farmer owners the value of any deduction for equipment integral to the processing of raw agricultural commodities into intermediate or final products.

This means that in the initial years of a startup venture, when the processing plant has little or no income, that the farmer-owned cooperative can pass the value of its unused deduction for plant and equipment investments directly to the farmer owners, making their investment a little cheaper in the shortrun.

Not only will this change provide direct benefits to farmers by encouraging them to reap the profits of value-added processing, but my bill will contribute to the economic recovery of rural America by generating new manufacturing ventures and employment in rural America and by diversifying the economic base of rural America.

When the economic growth package reaches the Senate floor, Mr. President, I urge my colleagues not to forget rural America, and I hope they will be supportive of my efforts to add this legislation as an amendment to the economic growth package.

I ask unanimous consent that a copy of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT.

(a) IN GENERAL.—Section 168 of the Internal Revenue Code of 1986 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after February 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after February 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before February 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after February 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before July 1, 1993.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after February 1, 1992, and before January 1, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after February 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

"(3) SPECIAL RULES FOR FARM-PROCESSING EQUIPMENT.—

"(A) IN GENERAL.—In the case of qualified farm equipment—

"(i) clauses (iii) and (iv) of paragraph (2)(A) shall not apply,

"(ii) subparagraph (C)(i) of paragraph (2) shall be applied without regard to the phrase ", and before January 1, 1993", and

"(iii) the allocation rules of subparagraph (D) shall apply.

"(B) QUALIFIED FARM EQUIPMENT.—For purposes of this paragraph, the term 'qualified farm equipment' means property—

"(i) which is qualified equipment (without regard to clauses (iii) and (iv) of paragraph (2)(A)),

"(ii) which is used as an integral part of the processing of raw agricultural commodities into intermediate and final products, and

"(iii) which is held by an individual or by an eligible entity.

"(C) ELIGIBLE ENTITY.—For purposes of this paragraph, the term 'eligible entity' means—

"(i) a cooperative organization described in section 1381(a),

"(ii) an S corporation more than 50 percent of the stock of which is held by individuals who produce raw agricultural commodities which are to be processed using the qualified farm equipment held by the entity, or

"(iii) a partnership or other pass-thru entity more than 50 percent of the capital or profits interests of which are held by individuals who produce raw agricultural commodities which are to be processed using the qualified farm equipment held by the entity.

"(D) SPECIAL ALLOCATION RULES FOR COOPERATIVES.—In the case of an eligible entity described in subparagraph (C)(i)—

"(i) the entity may, at its election, allocate all or a portion of the deduction allowable under paragraph (1) to its patrons, and

"(ii) any portion so allocated shall be treated as having been allowed to the entity for purposes of section 1245.

The Secretary shall prescribe such rules as may be necessary to carry out the purposes of this subparagraph."

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR CERTAIN EQUIPMENT.—The deduction under section 168(j) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending on or after such date.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2308. A bill to amend the Federal Water Pollution Control Act to provide for improvement of the quality of Boston Harbor and adjacent waters; to the Committee on Environment and Public Works.

IMPROVEMENT OF WATER QUALITY OF BOSTON HARBOR

• Mr. KERRY. Mr. President, I ask unanimous consent that S. 2308, which I am introducing today with my senior colleague from Massachusetts [Mr. KENNEDY] be printed in the RECORD at the appropriate point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOSTON HARBOR.

Title V of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1361 et seq.) is amended—

(1) by redesignating section 519 as section 520; and

(2) by inserting after section 518 the following new section:

"BOSTON HARBOUR AND ADJACENT WATERS

"SEC. 519. (a) The Administrator shall make grants to the Massachusetts Water Resources Authority for constructing wastewater treatment works for the areas served by the Massachusetts Water Resources Authority.

"(b) The Federal share of any construction project described in subsection (a) of this section shall not exceed 75 percent of the cost of construction of the wastewater treatment works.

"(c)(1) For the purposes of carrying out the grant program under this section, there is authorized to be appropriated, for the period beginning on the first day of fiscal year 1993, an amount equal to $1,000,000,000.

"(2) The amount described in paragraph (1) shall remain available until expended.

"(3) The amount described in paragraph (1) shall be authorized to be appropriated in addition to any other amounts authorized to be appropriated under title II or VI of this Act.".•

By Mr. PRESSLER:

S. 2309. A bill to require the Federal Communications Commission to use all available methods and procedures to free radio spectrum for new, emerging technologies and services; to the Committee on Commerce, Science and Transportation.

EFFICIENT SPECTRUM MANAGEMENT ACT OF 1992

Mr. PRESSLER. Mr. President, we are witnessing dramatic growth in newly emerging wireless technologies. Many of these spectrum-based technologies will revolutionize both wired and wireless communications. Over the next few years, I believe, we will see a wholesale switch in the way Americans communicate with one another.

By the end of this decade, data and voice communications which now predominantly travel over the traditional wire network will switch to the radiospectrum. Phone calls will no longer move over wires to a location, but will travel over the spectrum directly to individuals.

New wireless technologies will allow personal communication networks [PCN's] to emerge. This will offer the possibility for consumers to have one phone with a single phone number that could be used anywhere in the world.

This technology is important to my State of South Dakota where ranchers and farmers spend their workday miles from a traditional phone. Personal communication devices, which could be as mobile as a watch, will allow them to be in contact whether they are in their tractor or on horseback.

Users of portable, palm-size computers will be able to access databases or communicate with other computers without plugging into a wired network. In fact, new technology now being developed by McCaw Cellular will enable a spectrum-based computer system to download data from remote databases with the efficiency of a continuous fiber optic link.

With the promise these new technologies offer, there is a problem.

The spectrum they would use already is congested.

This is not a new development. From the time communications tools were first introduced, the radio spectrum has been crowded. Although there were comparably few services or users in the early days of wireless communications services, the spectrum was crowded in what was then the most usable range of frequencies. As technology has opened up new frequencies, new services have evolved to fill available bands.

In the last 2 years we have witnessed an explosion in the applications for use of new spectrum technologies, despite the fact that most usable radio frequencies below the 3 gigahertz range already have been allocated.

In fact, during recent hearings in the Communications Subcommittee, FCC Chairman Al Sikes testified that in the last 2 years alone the FCC has received 6 times the number of applications received during the preceding decade.

Applications for new and innovative technologies, such as PCN's or wireless point to point computer data communications, will compete with incumbent technologies for usable frequencies. Spectrum policymakers have the unenviable job of accommodating incumbent users while encouraging emerging technologies.

This job, however, is vital to the international competitiveness of the United States.

Japan, Britain, and France all have designated spectrum-based technologies as critical, and are moving quickly to make frequency available to support their development. We must also act quickly and decisively to free new spectrum for use by developing domestic mobile radio companies. Only in this way can we ensure foreign rivals do not gain an advantage in the development of wireless technology.

There are three different types of solutions to ease spectrum crowding: technological, economic, and legislative.

Advances in digital compression technology have reduced the number of channel bandwidths required for incumbent users, and have increased the channel capacity of individual channels. As this technology is adopted by existing users it will free up some spectrum.

An economic solution to crowded radio waves is the auctioning of spectrum. It is argued that the free market distribution of spectrum would force users to bid on only that spectrum they will most effectively use.

A visionary legislative proposal introduced by Senator INOUYE, would transfer 200 megahertz of federally controlled spectrum back to private uses. I believe this transfer of spectrum is a vital first step toward building the communications infrastructure this Nation will need to develop over the next decade. In addition to this far-sighted legislation, I am introducing today another legislative solution to facilitate the growth of emerging technologies despite a crowded spectrum.

The purpose of this legislation is to ensure the Nation's spectrum will be available and open to unleash new technologies providing instant personal communications to all areas of the country. Whether it is AM radio waves longer than football fields or light waves smaller than the human hair, new technology is creating innovative uses of the spectrum of frequencies.

George Gilder points out a simple fact that will soon govern the use of spectrum. As technology allows us to use higher frequencies, more information can be transferred, smaller antennas are needed, and cheaper and more effective communications result. Gilder is correct. In fact, we will soon see new digital cellular technology resulting in a tenfold increase in the current capacity of the cellular infrastructure.

The challenge we as policymakers face will be to ensure that both our Nation's wired and wireless infrastructure will be built to encourage new technology and their deployment to all of America.

Under current FCC policy, spectrum allocations are generally made on a primary basis to a specific service or technology. Other services or technologies which might meet different consumer demands within the allocated spectrum band are either prohibited or are allowed to be offered or to operate only on a secondary basis. This means that these operators have no protection from interference from the primary operators. For this reason, many new and emerging technologies and consumer services which would be secondary operators are discouraged from entering the marketplace.

Section 1 of my legislation would bring about the adoption of a policy allowing compatible technologies to operate on a co-primary basis with other operators within given spectrum bands.

This policy change would encourage the earlier introduction of new services, allowing consumer demand to ultimately determine the highest and most efficient use of the spectrum, further encouraging technological upgrades and service improvement by the initially licensed users of the spectrum. Most significantly, such a policy would increase the supply of usable spectrum.

Section 2 of this legislation would allow license transfers for other compatible purposes, thereby further strengthening the benefits obtained through the co-primary usage policy.

Why is this change needed? Because, under current Commission policy, radio licenses may be transferred only via sale of the underlying transmission assets and only for the use contemplated in the original license. This is true even if the demand for services outlined in the original license has considerably diminished or changed in character.

Section 3 would direct the Commission to encourage the development and introduction of new technologies that would result in a more efficient use of valuable spectrum supply through the mechanism of reclassifying older technologies as secondary uses within given spectrum bands. Due consideration to equipment amortization requirements and minimal disruption of user operations can be accommodated through appropriate transition safeguards adopted by the Commission.

To further promote the most efficient use of the spectrum and to encourage the transition from older to newer technologies, the Commission should induce existing and prospective spectrum users to adopt techniques and technologies which are more spectrum efficient. Such action would effectively increase the supply of usable spectrum. Section 4 would accomplish this objective.

Section 5 says that the Commission's pioneer preference plan should be strengthened in a fashion which assures that true innovators gain an opportunity to obtain sufficient spectrum to capitalize on innovations. Provision should be made to award preferences beyond the local and regional level where the level of innovation and investment warrants broader deployment for fair economic returns.

To insure that adequate opportunity exists for broad access to precious spectrum resources by a range of economic interests, section 6 specifies that the Commission should specify a maximum amount of spectrum which could initially be licensed to any one legal entity, including affiliates within a given spectrum band.

Subsequent requests for additional spectrum by such an entity could be considered on the merits, taking into account the degree to which the initially licensed spectrum was being efficiently and effectively utilized. This would ensure that no single large service provider swallows up spectrum and limits competition from other entities.

Consistent with the intent of this act, section 7 would specify that the Commission should identify and adopt any other provisions or modifications to its procedures that will accelerate the allocation and assignment of spectrum for new technologies and services.

The challenge we as policymakers face is to ensure that the Nation's communications infrastructure will be able to handle the flow of information these new technologies will produce. For this reason, we need to open up the spectrum to encourage developments in mobile communications.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Efficient Spectrum Management Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Commission has a responsibility under the Communications Act of 1934 to determine the appropriate use of the part of the electromagnetic spectrum that is not reserved for use by the Federal Government;

(2) the electromagnetic spectrum is a valuable national resource for communications of all kinds;

(3) to achieve the greatest possible public benefit, the Commission must have an efficient and effective spectrum allocation and licensing process;

(4) streamlined spectrum allocation and license assignments, including reallocation and reassignment, will—

(A) speed the development of new competitive telecommunications technologies and services;

(B) improve the capability of the United States telecommunications infrastructure;

(C) keep United States firms on the leading edge of the fast-developing world market for wireless products and services; and

(D) improve the productivity and competitiveness of the United States economy; and

(5) the Commission should be directed to take appropriate steps, consistent with the public interest, to streamline and improve its spectrum allocation and license assignment processes.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "allocation" means an entry in the National Table of Frequency Allocations of a frequency band for the purpose of its use by one or more radio communication services;

(2) the term "assignment" means an authorization given to a station licensee to use specific frequencies or channels; and

(3) the term "Commission" means the Federal Communications Commission.

SEC. 4. SPECTRUM ALLOCATION AND ASSIGNMENT.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Commission shall initiate a rulemaking process to—

(1) designate co-primary uses of the spectrum where it is technically and economically feasible;

(2) permit the transfer of assigned licenses among authorized co-primary uses;

(3) reclassify older technologies as secondary uses where new technologies are a higher and better use and the needs of the users of the older technology can be accommodated appropriately;

(4) create spectrum utilization standards to encourage the migration from older to newer technologies;

(5) strengthen a pioneer's preference to reward innovative technology development in the licensing process;

(6) designate a maximum amount of spectrum permissible to be initially licensed to any one legal entity within a given frequency band; and

(7) adopt any other provisions or modifications to its procedures that will streamline the allocation and assignment of spectrum for new technologies and services.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Commission shall report to the Congress whether additional legislative authority is needed to implement the procedures described in subsection (a) or other procedures that will make the spectrum allocation and licensing process more efficient and effective.

By Mr. SARBANES:

S.J. Res. 263. A joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week"; to the Committee on the Judiciary.

PUBLIC SERVICE RECOGNITION WEEK

• Mr. SARBANES. Mr. President, I rise today to introduce a resolution designating the week of May 4–10, 1992, as Public Service Recognition Week. I have introduced similar resolutions in previous Congresses to honor the public servants who so diligently and faithfully serve our Nation at the State, local, and Federal level.

Mr. President, these are not easy times to be in public service. Increasing fiscal pressures have forced government at every level to cut back or eliminate basic services. The current recession, the longest in the post-war era and Federal fiscal policy over the last decade, have had a particularly severe consequence on State and local governments. These economic pressures have forced our States and municipalities to lay off thousands of employees. Those who have not been laid off are being asked to provide the same services with fewer available resources. In fact, the severity of the fiscal crisis is such that I currently have legislation before the Senate to provide emergency grants and loans to State and local governments to assist them in meeting urgent public needs.

Nationwide, there are 9 million city and county workers, 4 million State employees, and 5 million Federal civilian and military employees. These public servants perform our Nation's most critical and important tasks. They protect our Nation, educate our children, and keep our food and drinking water safe. They come to the aid of victims of fire, flood, crime, and natural disasters, maintain our bridges and roadways, and ensure safe air travel. They explore our oceans and the frontiers of space and conduct vital research necessary for advances in science and medicine.

The collective mission of our public servants is integral to preserving our health, safety, and standard of living. Yet public servants are rarely recognized for their efforts unless there is a discontinuity or reduction in the government services to which the public is accustomed. Consequently, public servants do a thankless job—and in these times it is a job they are forced to do under increasingly adverse conditions. Despite these pressures, and efforts by some in government to minimize their value and attack them publicly, they continue to carry out their responsibilities in a professional, committed, and expert fashion.

For their dedication in the face of adversity and for their steadfast and uncompromising commitment, I salute the public servants throughout this country and commend them for the excellent work they do. By setting aside a week as Public Service Recognition Week, we recognize their important achievement and pay tribute to their invaluable contribution. While theirs is often a tireless and thankless job, their level of performance is a standard to which the rest of us may aspire. I am pleased to have the opportunity to introduce this resolution, and I urge my colleagues' support.•

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 4, a bill to amend titles IV, V, and XIX of the Social Security Act to establish innovative child welfare and family support services in order to strengthen families and avoid placement in foster care, to promote the development of comprehensive substance abuse programs for pregnant women and caretaker relatives with children, to provide improved delivery of health care services to low-income children, and for other purposes.

S. 153

At the request of Mr. COATS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 153, a bill to authorize States to regulate certain solid waste.

S. 267

At the request of Mr. REID, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 267, a bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State.

S. 792

At the request of Mr. LAUTENBERG, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 792, a bill to reauthorize the Indoor Radon Abatement Act of 1988 and for other purposes.

S. 846

At the request of Mr. PRYOR, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 846, a bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies.

S. 1032

At the request of Mr. DANFORTH, the names of the Senator from Indiana [Mr. COATS] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 1032, a bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes.

S. 1175

At the request of Mr. KERRY, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 1175, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoners or taken captive by a hostile foreign government or its agents or a hostile force before April 25, 1962, and for other purposes.

S. 1198

At the request of Mr. LEVIN, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Arkansas [Mr. PRYOR], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1198, a bill to provide that the compensation paid to certain corporate officers shall be treated as a proper subject for action by security holders, to require certain disclosures regarding such compensation, and for other purposes.

S. 1324

At the request of Mr. METZENBAUM, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1324, a bill to amend the Public Health Service Act to generate accurate data necessary for continued maintenance of food safety and public health standards and to protect employees who report food safety violations, and for other purposes.

S. 1357

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1423

At the request of Mr. DODD, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1648

At the request of Mr. MCCAIN, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1648, a bill to amend title VII of the Public Health Service Act to reauthorize and expand provisions relating to area health education centers, in order to establish a Federal-State partnership, and for other purposes.

S. 1704

At the request of Mr. WALLOP, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1704, a bill to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

S. 1725

At the request of Mr. DIXON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1725, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the first voyage to the New World by Christopher Columbus and to establish the Christopher Columbus Quincentenary Scholarship Foundation and an Endowment Fund, and for related purposes.

S. 1838

At the request of Mr. PRYOR, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1838, a bill to amend title XVIII of the Social Security Act to provide for a limitation on use of claim sampling to deny claims or recover overpayments under Medicare.

S. 1851

At the request of Mr. ROCKEFELLER, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 1851, a bill to provide for a Management Corps that would provide the expertise of United States businesses to the Republics of the Soviet Union and the Baltic States.

S. 1866

At the request of Mr. KENNEDY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 1872

At the request of Mr. DURENBERGER, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1872, a bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes.

S. 1883

At the request of Mr. HOLLINGS, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1883, a bill to provide for a joint report by the Secretary of Health and Human Services and the Secretary of Agriculture to assist in decisions to reduce administrative duplication, promote coordination of eligibility services and remove eligibility barriers which restrict access of pregnant women, children, and families to benefits under the food stamp program and benefits under titles IV and XIX of the Social Security Act.

S. 1968

At the request of Mr. PACKWOOD, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1968, a bill to put an end to congressional perks and privileges.

S. 1989

At the request of Mr. ROCKEFELLER, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1989, a bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provision of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes.

S. 2085

At the request of Mr. PRYOR, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2085, a bill entitled the Federal-State Pesticide Regulation Partnership.

S. 2183

At the request of Mr. SHELBY, the names of the Senator from Wisconsin [Mr. KASTEN], the Senator from Florida [Mr. MACK], the Senator from Delaware [Mr. BIDEN], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 2183, a bill to prohibit the Secretary of Veterans Affairs from carrying out the Rural Health Care Initiative.

S. 2204

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 2204, a bill to amend title 23, United States Code, to repeal the provisions relating to penalties with respect to grants to States for safety belt and motorcycle helmet traffic safety programs.

S. 2208

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2208, a bill to amend the Congressional Budget Act of 1974 to provide for truth in budgeting with respect to intragovernmental transaction involving trust funds.

S. 2250

At the request of Mr. SASSER, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2250, a bill to allow rational choice between defense and domestic discretionary spending.

S. 2254

At the request of Mr. MCCAIN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S.

2254, a bill to provide tax incentives for businesses locating on Indian reservations, and for other purposes.

S. 2278

At the request of Mr. SHELBY, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 2278, a bill to amend section 801 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, to require life imprisonment without parole, or death penalty, for first degree murder.

SENATE JOINT RESOLUTION 18

At the request of Mr. SIMON, the names of the Senator from North Dakota [Mr. CONRAD], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 18, a joint resolution proposing an amendment to the constitution relating to a federal balanced budget.

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the names of the Senator from Indiana [Mr. COATS], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 234

At the request of Mrs. KASSEBAUM, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 234, a joint resolution expressing the sense of the Congress regarding the Government of Kenya's November 14 through 16, 1991, suppression of the democratic opposition and suspending economic and military assistance for Kenya.

SENATE JOINT RESOLUTION 241

At the request of Mr. SPECTER, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 241, Designating October 1992 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Kansas [Mr. DOLE], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 247

At the request of Mr. DOLE, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Joint Resolution 247, a joint resolution designating June 11, 1992, as "National Alcoholism and Drug Abuse Counselors Day."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the names of the Senator from Utah [Mr. HATCH], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 257

At the request of Mr. LAUTENBERG, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of Senate Joint Resolution 257, a joint resolution to designate the month of June 1992, as "National Scleroderma Awareness."

SENATE CONCURRENT RESOLUTION 17

At the request of Mr. HATCH, the names of the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Concurrent Resolution 17, a concurrent resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the names of the Senator from Pennsylvania [Mr. WOFFORD], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. SIMON, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Tennessee [Mr. GORE], the Senator from Vermont [Mr. JEFFORDS], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Concurrent Resolution 80, a concurrent resolution concerning democratic changes in Zaire.

SENATE CONCURRENT RESOLUTION 87

At the request of Mr. GORE, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Concurrent Resolution 87, a concurrent resolution expressing the sense of the Congress that the President of the United States should lead the United States delegation to the United Nations Conference on the Environment and Development.

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. KERRY, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Concurrent Resolution 89, a concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

SENATE RESOLUTION 91

At the request of Mr. METZENBAUM, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Resolution 91, a resolution expressing the sense of the Senate regarding human rights violations against the people of Kashmir, and calling for direct negotiations among Pakistan, India and Kashmir.

SENATE RESOLUTION 246

At the request of Mr. DOLE, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of Senate Resolution 246, a resolution on the recognition of Croatia and Slovenia.

SENATE CONCURRENT RESOLUTION NO. 97—RELATING TO THE COMMEMORATION OF THE 50TH ANNIVERSARY OF THE BATTLE OF MIDWAY

Mr. WARNER submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 97

Whereas the Battle of Midway appeared to pit United States forces against overpowering odds, and the massive attack by superior enemy forces against a scarred and numerically inferior opponent was intended to secure a dominant position for the enemy across the Pacific;

Whereas Admirals Spruance and Fletcher had steamed their forces northwestward, away from Hawaii and then, against seemingly overwhelming odds, our naval aviators, soldiers, sailors, and marines hurled themselves into a maelstrom of fire, and it was only through the unrelenting tenacity of their attack and their indomitable courage that they could have achieved this triumph and started our Nation on the long and difficult road to victory;

Whereas with the Battle of Midway, the initiative in the Pacific passed to the United States; and

Whereas the Battle of Midway is considered by many historians to be the greatest naval battle ever fought: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commemorates the 50th anniversary of the Battle of Midway on June 4, 1992;

(2) salutes the vision and dedication of those Americans who planned and participated in this heroic battle;

(3) reveres the memory, bravery, and spirit of those who fought and perished in this heroic battle; and

(4) honors the sacrifices and devotion of those gallant men who fought in the Battle of Midway and who, in a single master stroke, reversed the tide of war in the Pacific.

• Mr. WARNER. Mr. President, I rise today to recall an event that shifted the tide of a war which changed the face of our world. Fifty years ago, an outnumbered American fleet fought back the advancing Japanese navy to win the Battle of Midway, a decisive and defining battle of the war in the Pacific.

Six months after Pearl Harbor, Japanese forces were implementing a plan to capture several Aleutian Islands and Midway Atoll to use as early-warning outposts and a possible staging area for further raids on Pearl Harbor. To that end, the Japanese commander, Admiral Yamamoto had assembled a massive armada that greatly outnumbered available American forces.

That plan was to be thwarted by the careful strategic planning of Admiral Nimitz and the superb tactical execution of Admirals Spruance and Fletcher, who succeeded in repelling the advancing Japanese navy and decimating their forces, sinking four aircraft carriers.

American victory at Midway, in the face of daunting odds, not only kept the Japanese off Midway, but prevented them from proceeding with further success in the Pacific, and proved to be a turning point in World War II. The outcome of that war determined the complexion of the globe.

Mr. President, today, I am introducing legislation to commemorate the 50th anniversary of the Battle of Midway. I hope many of my colleagues will join me in honoring those who fought, and especially those who died in that historic and heroic battle.

SENATE RESOLUTION 262—RELATIVE TO THE DEATH OF FORMER SENATOR SAMUEL ICHIYE HAYAKAWA

Mr. SIMPSON (for Mr. SEYMOUR for himself and Mr. CRANSTON) submitted the following resolution; which was considered and agreed to:

S. RES. 262

Whereas, Senator Hayakawa had a long and distinguished career, coming to the United States in 1927, and earning a Ph.D. in English and American literature from the University of Wisconsin and joining the San Francisco State faculty in 1955; and

Whereas, he was promoted to permanent president of San Francisco State by Governor Ronald Reagan, and later served in the United States Senate from 1977–83; and

Whereas, he wrote nine textbooks on language and semantics including his acclaimed "Language in Thought and Action" in addition to numerous academic papers and articles on semantics, jazz history and mental retardation: Now, therefore, be it,

Resolved, That the Senate has heard with deep sorrow and profound regret of the death of Senator Hayakawa and extends its expression of sympathy to his wife, Margedant, and his two sons and daughter.

SENATE RESOLUTION 263—AUTHORIZING THE REPRINTING OF THE PUBLICATION "CIRCLE OF POISON"

Mr. INOUYE (for Mr. Leahy) submitted the following resolution; which was considered and agreed to:

S. RES. 263

Resolved, That the Committee on Agriculture, Nutrition, and Forestry be authorized to reprint the publication "Circle of Poison: Devastation to Third World Workers by U.S. Pesticides" (Hearing 102–17).

NOTICE OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests on S. 21, to provide for the protection of the public lands in the California Desert, and H.R. 2929, the California Desert Protection Act of 1991.

The hearing will take place Saturday, April 4, 1992, beginning at 8:30 a.m. and concluding at approximately 6 p.m. The hearing will be held at the Palm Desert High School gymnasium, 43–570 Phyllis Jackson Lane, in Palm Desert, CA.

A number of witnesses representing a cross-section of views and organizations will be invited by the subcommittee to testify. Time will also be set aside to accommodate as many other individuals as possible who would like to make a brief statement of no more than 1 minute in support of or opposition to these measures. Those wishing to make such a statement should contact Karen Finney in Senator CRANSTON'S Los Angeles office at (310) 215–2186, or Mark Shaffer or Colleen Adamson in Senator SEYMOUR'S Sacramento office at (916) 557–2733, no later than 5 p.m. on March 20.

Although the subcommittee will attempt to accommodate as many individuals desiring to speak as time permits, it may not be possible to hear from all those wishing to testify.

Written statements may also be submitted for the hearing record. It is only necessary to provide one copy of any material submitted for the record. Comments for the record may be brought to the hearing or submitted to the Subcommittee on Public Lands, National Parks and Forests, room 304 of the Dickson Senate Office Building, Washington, DC 20510.

For further information, please contact Erica Rosenberg or David Brooks of the subcommittee staff at (202) 224–7933.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Thursday, March 12, 1992, in SR–301, to hold a series of hearings. Beginning at 9:30 a.m., the committee will receive testimony on S. 523, to authorize the establishment of the National African-American Memorial Museum within the Smithsonian Institution. At 10:30 a.m., the committee will hear testimony on Senate Joint Resolution 259, providing for the appointment of Barber B. Conable, Jr., as a citizen regent of the Smithsonian Institution, and on any other joint resolution(s) naming Smithsonian citizen regents that have been referred to the committee by the date of the hearing. At 11 a.m., the committee will receive testimony on the request from the Library of Congress to reauthorize the American Folklife Center for fiscal year 1993 through fiscal year 1997.

Individuals and organizations who wish to submit a prepared statement on any of these matters for insertion in the hearing record are requested to contact Carole Blessington of the Rules Committee staff on 224–0278.

For further information regarding these hearings, please contact Ms. Blessington.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 3, 1992, at 10:30 a.m., to consider economic growth legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, March 3, 1992, at 2:30 p.m., in open session, to receive testimony on military strategy, roles and missions, and U.S. force levels for Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., March 3, 1992, to receive testimony on S. 1775, a bill to reform the concessions policies of the National Park Service, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Tuesday, March 3, at 9:30 a.m., for a hearing on the subject of: contracting problems at RTC [Operation Western Storm].

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DON'T LEAVE OUT THE SELF-EMPLOYED IN THE HEALTH REFORM DEBATE

• Mr. PRYOR. Mr. President, everyone is desperately searching for ways to reform our health care system. The President and many in Congress are prescribing elaborate proposals that are aimed at eliminating all or most of the ailments plaguing our system.

There may not be a simple way to solve every problem, but there are a few, workable steps that we can take right now.

Leading the list of these remedies is a proposal that tackles one of the greatest inequities confronting America's small businesses. And not surprisingly, it is another injustice in our Internal Revenue Code.

This inequity lies within the fact that some of our Nation's richest corporations are allowed to deduct 100 percent of their health care costs, while struggling self-employed business people cannot. That is right, while the Donald Trumps of this Nation can deduct 100 percent of their health care costs, self-employed businesses can deduct only a quarter of this amount.

This tax policy, by any definition, is not fair and must be changed.

Today, over 35 million are uninsured. In my State alone, nearly half a million men, women, and children have no health insurance and must live in constant fear and uncertainty. In fact, one out of five Arkansans has no insurance.

Millions of our uninsured are self-employed business owners. They are aspiring entrepreneurs—the type of people who have the boldness—and willingness—to undertake new business risks and opportunities.

These hard-working citizens lack health insurance coverage for one simple reason: they cannot afford it. They cannot afford the double-digit increases of their insurance premiums. They cannot afford the skyrocketing charges of health care providers and manufacturers. And they cannot afford to pay for health insurance because they are being discriminated against by the Tax Code.

The National Federation of Independent Business [NFIB] estimates that many of the estimated 4.8 million uninsured self-employed business owners would be able to purchase health insurance IF these business persons had access to the same 100 percent tax deduction that Lee Iacocca and his company receives. What is more, reforming the Tax Code in this way should also help the 4.6 million employees of the self-employed. In other words, a simple change in the Tax Code could decrease the number of uninsureds, not by the thousands, but potentially by the millions.

Mr. President, I have long supported increasing the 25 percent tax deduction for self-employed persons to 100 percent. For this reason, I was extremely pleased that the distinguished chairman of the Finance Committee, Senator BENTSEN, incorporated this change as a provision in S. 1872, the Better Access to Affordable Health Care Act of 1991.

Senator BENTSEN must be praised for his leadership in crafting a bill that will finally put the small business owner on equal footing with the largest corporations. His proposals will go a long way toward eliminating discriminatory tax and insurance underwriting practices.

I look forward to working with Chairman BENTSEN on building on this important foundation and on enacting health care cost containment measures and other insurance market reform protections that will further increase access to insurance for millions of Americans.

Financing this change to our discriminatory tax law will not be cheap. Few things worthwhile ever are. Having said this, we can and we must achieve this goal this year. Frankly, Mr. President, we should not be addressing this problem in grandiose floor statements, but trying to solve this problem now.

The self-employed tax reform provision will benefit even greater numbers of people if we combine it with a commitment to true cost containment. I believe that it is time to get the spiraling cost of prescription drugs under control and finally make the pharmaceutical industry to pay their fair share. We should not hesitate to target other major contributors to our health care inflation crisis.

Mr. President, there is something else we can do for our millions of self-employed citizens. There are millions of Americans who work in jobs that they would like to leave to start up new businesses on their own. However, they are afraid to leave their jobs that offer health insurance because they are petrified of not having access to any affordable insurance for themselves and their families. They know that, once they are out on their own, they will become victimized by insurers' underwriting practices.

No one has any idea how many opportunities and jobs were lost because of our warped insurance system. It seems that we can start to address this by building onto Chairman BENTSEN's antijob lock legislation a requirement that insurers cover these people as long as they previously have had insurance. In the upcoming days and weeks, I will be working with Senator BENTSEN and my other Senate colleagues to see if we can incorporate this provision into law as well.

Mr. President, it is long past time that we eliminate the many health care inequities that confront, on a daily basis, millions of self-employed persons. Let us not allow this year to pass without enacting a 100-percent deduction for our self-employed businesses, taking some significant strides toward true health care cost containment, and addressing the discriminatory insurance practices that victimize too many of our Nation's citizens and small businesses.•

RECOGNIZING INNOVATION AT TAMMANY SCHOOL LEWISTON, ID

• Mr. SYMMS. Mr. President, Tammany Elementary, like schools in rural and urban areas throughout our Nation, is facing significant challenges.

Today, I want to bring to the attention of our colleagues here in the Senate the extraordinary commitment to progress at Tammany, which has no smaller goal then to make their school one of the flagship schools in our Nation.

Tammany Elementary in Lewiston, ID has brought together parents, administrators and teachers from the school as well as teachers and specialists from Lewis and Clark State College, the University of Idaho and elsewhere in the Nation.

Mr. President, I ask that an article written recently by Elaine Williams of Lewiston, ID Tribune be printed in the RECORD for the convenience of our colleagues and their constituents.

President Bush has called for all Americans to be "Points of Light" in their communities whether they work in warehouse or the White House. The innovators at Tammany have tried to meet that challenge.

While the solutions planned by Tammany may not address each challenge faced by every elementary school, they have taken a bold step by objectively identifying the problems and directing their efforts to solving them in as efficient, albeit atypical, manner as possible.

The article follows:

TAMMANY SCHOOL SEEKS TIES TO INDUSTRY

(By Elaine Williams)

One reason graduates of American public schools have been falling far below industry's expectations for new employees is the two groups do not communicate well.

"I don't think the school cannot give them (businesses) what they want. It's just we don't know what they're looking for," said Vickie L. McGuire, a second-grade teacher at Tammany School.

The Tammany School District recently submitted a $9.24 million proposal to the New American Schools Development Co. in Virginia that would create a closer relationship between industries and the school and address other problems facing American education.

Tammany is competing with about 1,000 schools to win one of 20 spots in the research phase of the project for the 1992–1993 school year. A group of fewer than 10 schools will be selected to implement reforms starting in the 1993–1994 school year.

"What we're doing, we're doing as well as everyone else in Idaho and in the nation. We're being told the nation as a whole is not measuring up in competition with the rest of the world," said Superintendent Robert J. Farris.

One of the biggest limitations in the Tammany School District is space. Voters rejected a bond issue for expansion last year.

The New American Schools Development Co. proposal includes $4.75 million for a high school that may have rooms that students from all levels could use, including a gymnasium and a science room.

"That might give us more of a sense of identity that we don't currently have and that might translate into more support for the school," Farris said.

District patrons now pay a $300,000 tax to cover tuition for 120 students at Lewiston High School.

The secondary curriculum would focus on tech-prep classes that teach everyday applications of academic subjects. For example, English classes might teach resume and business letter writing while math classes might require students to solve a problem using a T-square and a computer.

In addition, students would have the opportunity to participate in internships with local businesses.

The school would also provide a strong curriculum for students who plan to go to a four-year college. Students in the tech-prep program would also be prepared for college, Farris said.

The plan includes seven major elements, many of which would dramatically expand the services of the district.

The faculty and staff at Tammany fully support the program, said Marye K. Barker, a second-grade teacher. "Transitions are always hard even if they're good, but that's a small thing."

The changes include:

Preschool. The school would teach children between ages 3 and 5. This program would help children by providing an effective learning environment and intensifying the family's involvement with the school.

Non-traditional calendar. School would begin in early August and end in late June. Students would attend school for 45 days followed by 10 days of vacation. The plan does not lengthen the school year. The two-week breaks could be used for enrichment activities such as field trips and extra studying time for students having academic problems.

"The calendar would help because they (students) wouldn't be away from school as long so they wouldn't have to be retaught," McGuire said.

However, it might be harder for teachers to complete university courses because they wouldn't have 2½ months in the summer without school, Barker said. That problem could be resolved if the University of Idaho or Lewis-Clark State College offered classes at alternative times, Barker added.

On-site health center. The goal of the center would be to provide better health care for students.

Sometimes families of children in Lewiston who have health problems such as impaired vision or hearing are not able to afford glasses or hearing aids, said Susie L. Church, a public health nurse at the Idaho North Central District Health Department.

"One of the things we're finding is children are coming to school with health problems that are preventing them from learning," Church said.

Child care. The service would address the needs of single-parent and two-income households. Children left alone are vulnerable to loneliness, fear and isolation, the proposal said.

"I don't know how many parents need to drop off a student, but have no place to take them," McGuire said.

Parent involvement. Volunteer parents would go to the homes of families and give suggestions for approaches to discipline and in-home educational activities. The program would also include meetings for parents to share experiences.

"I think right now school is an unknown to a lot of parents. They don't know what happens at school," McGuire said.•

"SMALL BUSINESS' BEST FRIEND? SMALL BANKS"

• Mr. SIMON. Mr. President, some weeks ago, the Chicago Tribune carried an editorial page piece by Joseph D. Mathewson, president of Mid-America National Bank in Chicago. He is also the former Republican county commissioner in Cook County and a person who is highly regarded by people of both political parties. Mr. Mathewson writes about the special contribution that small banks make.

What he says makes so much sense that I believe it is worth putting it into the RECORD, and I urge my colleagues in both Houses to read his statement.

The simple reality is that while the large banks do perform a very vital function in our society, the same is true of small banks, particularly in encouraging small businesses. The huge banks simply do not have the financial incentive to help small business as do the small banks.

I ask to put the Joseph Mathewson statement into the RECORD at this point.

The statement follows:

[From the Chicago Tribune, Nov. 1, 1991]

SMALL BUSINESS' BEST FRIEND? SMALL BANKS

(By Joseph D. Mathewson)

Why would anyone want to undermine small business?

Small business leavens the economy and indeed the life of these United States.

Small businesses, continually fermenting, create most of the new jobs, in sharp contrast to the endless restructuring of big businesses that inevitably reduce employment.

Small business is almost as sacrosanct as the flag, motherhood and apple pie. When did you last hear a politician malign or even question small business?

The typical small business gets started with a modest investment by an entrepreneur or his uncle. Once small businesses are up and running, their principal financial support is—not surprisingly—small banks.

Even in the current recession, credit has been readily available to small businesses. As the nation settled into the downturn, the National Federation of Independent Business reported in the fourth quarter of 1990 and again in the first quarter of this year that owners of small businesses (except in New England and those that deal in real estate) had "little difficulty in obtaining loans."

Even loan rates remained constant. "The concern over credit availability seems without much basis," said the federation's chief economist, William Dunkelberg. That continues to be true.

One reason for this, of course, is the fact that small banks are healthier than large banks, whose woes are well known. Again in 1990 small banks reported a higher return on assets than large banks, smaller loan charge-offs and higher ratios of capital to assets. These same long-term trends hold true this year.

Small banks are willing to make smaller commercial loans than large banks, often as small as $500 or $1,000. The operators of small banks (who are often also their owners) strive to give their best service to small businesses because these small enterprises are the lifeblood of the small banks. Officers of small banks spend countless hours listening to the hopes, ideas and dreams of small business owners, striving to shape their aspirations into bankable propositions. Sometimes it can't be done, but quite often—with patience—it can.

"Small banks are necessary," says Stuart Meyer, an associate professor of entrepreneurship in the J.L. Kellogg Graduate School of Management at Northwestern University. "Small banks provide a recycling function for savings."

So why does the Bush administration strenuously push new banking legislation that would encourage consolidation of banks? The stated objective is to create more large banks, which would be accomplished in part by absorbing small banks, especially the healthier ones, into large interstate behemoths. If unlimited interstate branching becomes the law, and the costly "too big to fail" doctrine is preserved, a study by the U.S. Treasury suggests that only about 3,000 of today's 12,500 banks would survive.

In fact, the number of survivors would probably be even fewer if the administration's plan to eviscerate federal deposit insurance coverage is also adopted. The combination of these blows would clear the banking field of all but the largest players.

As even the strongest community banks are absorbed in this scenario, their stable cadre of career officers would in time be replaced by an endless procession of eager, ambitious young officers who are merely passing through, gaining experience as they climb the large holding company's corporate ladder. Small companies' supportive links to their bankers would be seriously diminished.

Large banks and large bank holding companies cannot take the time or trouble to nurture small business. Their principal target will always be the large account, the large customer. Also, their local lending officers have limited authority and discretion, bound by rules issued from some remote headquarters. Borrowers feel the difference, and pay the price.

As community banks vanish, who would listen to the dreams and hopes of small business owners and provide financing to make them come true?

Who would create the jobs that small businesses used to?•

PRESCRIPTION DRUG COST CONTAINMENT ACT OF 1991

• Mr. COHEN. Mr. President, last November I joined my colleague, Senator PRYOR, the distinguished chairman of the Senate Special Committee on Aging, in introducing S. 2000, the Prescription Drug Cost Containment Act of 1991, to address the rising costs of prescription drugs.

As the cost of prescription drugs has risen, so have the profits of the drug industry. In fact, drug company profits for 1990 were three times that of other industries. These inflationary practices continued as the general rate of inflation remained at 3.1 percent for 1991 and prescription drug inflation climbed to 9.4 percent.

The high cost of prescription drugs now represents the highest out-of-pocket medical expenditure for three out of four elderly Americans. A few weeks ago renowned commentator, Andy Rooney, focused his "Sixty Minutes" segment on the many perks and gifts that are offered by many pharmaceutical companies to doctors, as incentives to prescribe their brands of medicine. Mr. Rooney's attention to this matter shows the growing concern and anger over some of the drug companies' activities that are helping to push drug prices beyond the reach of too many Americans. I would like to submit a copy of Mr. Rooney's remarks for the RECORD on behalf of my colleague, Senator PRYOR, and myself.

The remarks follow:

A FEW MINUTES WITH ANDY ROONEY: "DRUG COMPANIES"

Every day is Christmas in a doctor's office and the Drug Companies are Santa Claus bringing presents. This is a collection of stuff that was sent to just two doctors by drug companies trying to get them to prescribe their brands of medicine.

We got all sorts of samples, pills, and nostrums of various kinds. Doctors get a lot of nice leather notebooks, calendars. They get pens, pencils. This is a pen the doctor is supposed to hang around his neck. Would you go to a doctor that had something hanging around his neck that said "Real Orange Taste"?

Or would a doctor keep something like this on his desk all day that said "Zantax 300"? This is for looking at slides. This is a coffee warmer pushing "Seldane."

This looks like a tube of something called "Lotrisome" * * * but look at it. It's a flashlight. Lots of flashlights. This is a little light that you put on your bed or something.

These are audio tapes on financial planning for doctors. I did a tape for doctors offices. I argued about something with Bill Buckley and got paid for it.

In Washington, Senator David Pryor claims that drug companies spend ten billion dollars a year to sell their drugs and only nine billion on research.

We don't know if that's true but we do know that you shouldn't invite Senator Pryor and the president of any drug company to the same dinner party.

I know a doctor who works in an office with five other doctors and a staff of about 14 people. He told me that a different drug company comes in twice a week to those offices and caters a complete sitdown lunch for everyone in the office.

Drug companies sometimes offer doctors money for every patient they can switch to their brand of pills. The drug companies, of course, claim it's research, not bribery.

These pharmaceutical companies, trying to get doctors to prescribe their medicine, will fly a group of them to a fancy resort for the weekend, give them a lecture for an hour or so, and the rest of the time the doctors can go out and play. They call it "Continuing Education."

Drug companies are making big bucks in this country and the price of medicine is going up so fast that a lot of people who need it can't pay for it. Maybe they ought to stop spending a fortune on junk like this and reduce their prices.

President Bush gave his health speech the other day and he talked about the kind of health care people want. Well, I can tell him what we want. We all want the kind of health care he gets. If the President faints, there are two doctors taking his pulse before he hits the floor. That's the kind of health care we all want.●

TO RUSSIA, WITH FOOD

● Mr. SIMON. Mr. President, Kim Tilley, of my staff, gave me an article from Washington Jewish Week about Washington attorney, David Shapiro, and what he is doing in Russia.

It is American enterprise and compassion at its best.

As a nation, frankly we are not providing the leadership we should be in the situation that the Eastern European nations face. Our national leadership is being timid, when we should not be.

I ask to insert this article into the RECORD, which I hope will be of inspiration to all of us.

The article follows:

TO RUSSIA, WITH FOOD

(By Ellen Bernstein)

An unlikely scene took place days before Christmas in an icy warehouse in St. Petersburg, Russia. David Shapiro, a hard-nosed, burly Washington lawyer who made his name in civil-liberties and anti-trust cases, came face to face with 80 directors of charitable organizations in St. Petersburg.

Shapiro, the influential court-appointed examiner in the Eastern Airlines bankruptcy case, came to St. Petersburg to start a law firm to help bring American-Russian joint ventures into the city. But along the way, he got sidetracked by Mayor Anatoly Sobchak, who many consider a political reformer and rising star in Russian politics. Desperate to stave off hunger this winter, Sobchak urged Shapiro to organize a massive relief operation.

If all goes well, Shapiro's food bank—Russia's first—will aid thousands of children and the sick and elderly in St. Petersburg.

"We've got a law office in the city, and the city asks us to help the people who are hungry. It's the least we can do," Shapiro said bluntly, speaking by phone from a limousine stalled in heavy District traffic.

Later, from a speaker phone in his law office at Dickstein, Shapiro & Morin, Shapiro gave details of his plans for a Russian food bank. His firm was built on a $200 million antitrust decision won by Shapiro in the 1960s. The class action suit, then the largest consumer case in history, broke up a pharmaceutical price-fixing cartel.

Through a characteristic bulldog persistence, not to mention some powerful Washington connections, Shapiro has managed to shake loose a few Department of Defense plans to ship tons of powered milk obtained from the Department of Agriculture. The milk is destined for school-children and is expected to arrive in St. Petersburg this week.

COPING WITH SHORTAGES

But Shapiro's long range relief plans for the city have entailed several trips to St. Petersburg, then shuttles between Paris and Brussels, trying to convince a skeptical European Community to funnel food surpluses through a Russian food bank. The Commonwealth of Independent States (the former Soviet Union) has been plagued with food shortages and skyrocketing prices since price supports were lifted in early January.

"The Russians have been standing on food lines for years, and the products are poor," said Bill Bowling, a recognized expert in nonprofit food banks who was recruited early on by Shapiro. Bowling is the director of the Atlanta Community Food Bank and a national board member of Mazon, a Jewish group aiding the hungry. "What's different now is the shifting to a market economy. Everyone is very nervous about the future," he said.

The European Community is understandably nervous too. They want assurances that St. Petersburg officials are prepared to distribute the food and protect keep it off Russia's infamous black market. "If the food got into the black market, it would be curtains for the food bank," Shapiro said.

"There has to be strict accountability. You can screw up once, but you can't screw up twice," said Shapiro, a formidable man of 63, who can be heard pacing briskly around his office during phone conversations.

Shapiro's fast work and determination have been lauded by charitable organizations in the United States, which are also confronting formidable obstacles in arranging for transport planes from the U.S. Department of Defense. The President has been politically hamstrung by an anti-foreign aid climate. But this week he is expected to authorize $100 million in Federal transportation assistance, despite a New Hampshire poll indicating that only 17 percent of voters favor giving aid to the former Soviet Union.

"What is unique is that he's gotten food in Western Europe, working through an E.C. humanitarian organization [the European Federation of Food Banks]. They don't have the same transportation problems as we do," said Anne Heyninger, the senior program officer with Citizens Democracy Corps, a quasi-governmental agency in Washington that encourages private sector organizations and individuals to assist countries in Eastern Europe and the Soviet Union.

"Personally, I think we need more entrepreneurial thinkers like David who take the initiative and personal responsibility for doing what they can do. He's good at breaking through the bureaucracy," said Bowling.

At a mass meeting of organizers at 6 a.m. in an 18,000 square meter warehouse near the port of St. Petersburg, Shapiro delegated mind-boggling tasks. "You do warehouses. You do the ships. You do the KGB [recruited to run security])," he told agency directors, church leaders and city officials in a no-nonsense business style unheard of in the Soviet Union.

But a few days later, Shapiro had to start all over again. Nothing had been done because no one believed it would ever happen, said Bill Haddad, chairman of a pharmaceutical association supplying medical relief to Russia. He is working closely with Shapiro on the food bank.

IN THE WEE HOURS

"He doesn't take no for an answer. He'll call you up at 6 a.m. with ways to solve problems," said Haddad, also vice chairman of Schein Pharmaceuticals. Haddad, Bowling and Shapiro had finished a meeting at 2 a.m. in a St. Petersburg hotel room. They had called it a night, but Haddad and Bowling were awakened by a knock on their door at 3:30 a.m. "We knew it was David with some idea to solve a roadblock. But he walked away, probably ashamed he came by. He called us again at six."

The head of the new Russian food bank, a former political dissident stood up at dinner one evening and toasted Shapiro. He praised him for cutting through the bureaucracy and skepticism in the city. "We have been conditioned not to trust anybody, and we don't believe anything until we see it in operation. I toast you," he said turning to Shapiro, "because through you we learned to trust."●

A CRUCIAL VOTE

• Mr. DECONCINI. Mr. President, last week, President Frederick W. de Klerk of South Africa, set the date of March 17 for a crucial referendum. In light of his political party's surprising defeat in a parliamentary bielection, de Klerk determined that he needed a renewed mandate from the minority white electorate to continue his talks with the black South African majority about the transformation of the new South Africa.

This is a high stakes gamble. De Klerk has stated that if he does not receive the mandate he desires, he will resign from the presidency and new, national elections will have to be held. This could result in a Conservative Party government coming to power and could usher in a period of political uncertainty or even civil war. Clearly the black majority, having had a small taste of what their lives could be with the removal of the horrendous policy of apartheid, will vigorously reject turning back the clock. However, that is apparently what the racist, small-minded conservatives see in their vision of South Africa.

I have not been a strong supporter of President de Klerk. While I admire the courage he has demonstrated in removing the legal underpinnings of apartheid and releasing political prisoners such as Nelson Mandela, I find it difficult to congratulate someone for doing something that should have been done years ago.

At the same time, the question he has posed—albeit only to the white electorate—is a simple, straight-forward one: "Do you support continuation of the reform process which the state President began on February 2, 1990, and which is aimed at a new constitution through negotiation?"

That is the crucial question. If the conservatives boycott the referendum, as they are threatening, then de Klerk should proceed in his negotiations with the African National Congress and other parties to the CODESA talks.

All South Africans deserve a better, nonracial future. The black majority deserves the right to be political and legal equals with their fellow South Africans. And the white minority deserves to know what the vision of a new South Africa under a majority government holds in store for them. That is the crucial issue and one which I hope the people of South Africa will rationally address in the March 17 crucial vote.•

DON'T RAISE TAXES, COLLECT THEM

• Mr. SIMON. Mr. President, one of the most creative people in the United States today is Dr. Harvey F. Wachsman, who is both a neurosurgeon and a trial lawyer.

In the New York Times recently, he had an article suggesting a means of more accurately collecting revenue in the Nation.

One way of collecting additional revenue would be a value-added tax that our colleague, Senator FRITZ HOLLINGS, has been talking about for some time. That would make tax cheating less possible. But we have to acknowledge that we are a long way from passing a value-added tax.

The Wachsman proposal is intriguing enough that I have asked the head of the Internal Revenue Service to give me an evaluation of it. It could be implemented rather quickly, and it does seem to me it has the potential for raising a sizable additional amount of revenue.

I ask to insert the Wachsman article into the RECORD at this point.

The article follows:

[From the New York Times, Feb. 22, 1992]

DON'T RAISE TAXES, COLLECT THEM

(By Harvey F. Wachsman)

GREAT NECK, NY.—The story is all too familiar: budget-makers in New York and around the country struggle to balance their budgets, often cutting services for those in need.

What our leaders have been slow to realize, however, is that we could balance every government budget in America without new taxes—probably with money to spare—if we put into place a system to collect all the taxes already owed.

According to the Federal Reserve, the Government loses $100 billion each year to the underground economy: businesses and individuals who don't report transactions and fail to pay sales or income taxes. New York State estimates that it loses more than $3.5 billion a year.

While no tax collection effort will ever be perfect, a system could be implemented on a local, state or national basis, with readily available technology, that would result in the collection of the underground dollars.

We should require every retail business, from grocery stores and coffee shops to specialty and department stores, to install a new type of computerized meter—small, portable, inexpensive and battery-operated. The cost of these machines would be reimbursed through a special tax credit.

The computers, which are secure against tampering, would register every transaction and the amount of sales tax collected. A record in the form of a small receipt could be printed for transmittal to state finance departments and the Internal Revenue Service daily, quarterly, annually or at any other interval. Eventually, the information could be sent by modem.

Officials at the New York City Department of Taxation and Finance, the State Treasurer's Office in New Jersey, the Nassau County Executive and the Revenue Commissioner of Connecticut have all reviewed this system, reacted enthusiastically and are considering using it.

Of course, the problem with enforcing tax collection has always been compliance. To prevent businesses from avoiding a sales tax by accepting cash payments without entering them on this new system, customers would receive coded receipts every time they bought anything. Every $50 worth of these receipts could be redeemed for tickets in a new lottery. Customers would insist on having their purchases registered so they could enter the lottery, with a chance at winning cash prizes.

In addition, customers could be offered a $1,000 reward for turning in any business that broke the law. They could do this confidentially, as is common practice in law enforcement. Thus, attempts by merchants to conspire with customers to evade taxes would be risky. Penalties for violators could be made severe enough to deter evasion.

While no system is foolproof, the combination of the lottery and the bounty would go a long way toward halting unpaid taxes.

The system would also improve income tax collections. A business owner who had to report sales accurately would have difficulty misrepresenting his income. Since he would have to detail expenses more carefully, he would begin to report the full salaries of employees being paid off the books. These employees, in turn, would be obliged to pay their income taxes.

The design of the meter is flexible enough that this system could be used by every type of business, from service firms to major corporations. It could also be replicated to record wholesale transactions. For example, when a diner bought a supply of lettuce, the transaction would be electronically recorded. When the lettuce supplier bought its shipment from the farm, that transaction would also be recorded. I.R.S. audits would become unnecessary because it would become virtually impossible for taxpayers to overstate their expenses.

Businesses that don't pay their taxes are stealing from the rest of us. And we all pay for it. In this economic and political environment, we should not overlook a system based on fairness, whose entire premise is to ensure that everyone pays what they owe.•

AMERICAN-RUSSIAN CULTURAL EXCHANGE FOUNDATION

• Mr. BAUCUS. Mr. President, as we all know, one of the pressing questions we must soon answer is how we are going to aid the countries of the former Soviet Union. I want to bring to the attention of my colleagues an example of how a group of Montanans recently approached that issue.

Last week, an Aeroflot cargo plane took off from Billings, MT, loaded with medical supplies, food, clothing, and books bound for Siberia. The flight capped months of effort by Montanans who joined together as the American-Russian Cultural Exchange Foundation.

Directors of the foundation put in endless hours cutting through redtape to make this exchange possible. A few who deserve special recognition are Tom Asay, Jerry Dernbach, Jim Preston, and Sheryle Shandy. And a big thank you goes to the people in the Billings area who donated whatever they could spare to help families in the Tom River Basin of western Siberia.

When the Russian plane left Montana on Thursday, it carried more than half a million dollars of material that is badly needed by a country that is fighting escalating rates of disease caused by poor water systems and lack of basic health care. It also carried the best wishes of Montanans and the promise of future exchanges.

When we here in Congress get bogged down in the politics of foreign policy, and find it impossible to agree, we should take a moment to look at the way Montanans practice the commonsense approach. They see folks who need help, reach deeply into their hearts and pocketbooks, and then act. These are America's true good will ambassadors. They deserve our thanks and congratulations.•

FLORIDA SHERIFF'S ASSOCIATION REJECTS SPORTS GAMBLING BILL

• Mr. MACK. Mr. President, before the last session ended, the Senate Judiciary Committee reported favorably S. 474, the professional and amateur sports protection bill. This legislation will prevent the spread of sports gambling and will promote the integrity of athletic competition. The bill is widely supported, with a total of 62 cosponsors, including myself.

This legislation has attracted broad and positive interest from across the country, particularly in Florida. Currently, legislation is pending before the State legislature to authorize sports gambling. This legislation has provoked opposition from a number of groups including, religious, educational, and law enforcement organizations. The Governor of Florida has promised to veto the measure if passed by the legislature.

One sports gambling opponent is the Florida Sheriff's Association, which has passed a resolution urging the State legislature to reject any sports gambling bill. Mr. President, I ask that the text of the Sheriff's Resolution be printed in the RECORD following my remarks. In addition, I urge the Senate to take up S. 474 at the earliest possible date.

The resolution follows:

FLORIDA SHERIFF'S ASSOCIATION—RESOLUTION 92-1

Whereas, our Sheriffs are sworn to protect our citizens and uphold the laws of the State of Florida; and

Whereas, illegal sports gambling and related criminal activity have a negative impact on our society; and

Whereas, the Sheriffs of Florida historically have opposed the legislation of gambling; and

Whereas, legalization of sports gambling sends the wrong message to young people about athletic competition; and

Whereas, sports gambling threatens the character and integrity of team sports; and

Whereas, sports gambling threatens public confidence in team sports; and

Whereas, the Sheriffs are calling upon all Floridians to oppose the legalization of sports gambling; Now, therefore, be it

Resolved, That the Sheriffs of the State of Florida hereby unanimously oppose the legalization of sports gambling.

Adopted this 14th day of January 1992.•

IN RECOGNITION OF FLORENCE CRITTENTON SERVICES

• Mr. SEYMOUR. Mr. President, I rise today in recognition of 25 years of service to children provided by the Florence Crittenton Services of Orange County, Inc. and in honor of the dedication of their new residence for abused children.

The Valley View children's residence in Fullerton will be formally dedicated on February 28, 1992. This residence marks yet another landmark in the Crittenton story, which began back in 1897 with the formation of the Florence Crittenton Mission.

The Florence Crittenton Services as we know the organization today was incorporated on June 8, 1966. The six-bed home for pregnant teens in Santa Ana was joined by the Fullerton facility in 1974. Currently, a total of 50 teens and 35 infants are cared for in the organization's various residential settings. In addition, the Diagnostic Shelter Care Program and the Independent Living Program provide services for abused and neglected infants and children.

The Valley View residence will add five units to accommodate up to 88 adolescent girls and up to 35 infants at a new site on Harbor Boulevard in Fullerton. In the near future, a school will be built on the same campus to help these young people learn to be productive, independent adults.

I would also ask my colleagues to join me today in recognizing the work of the executive director of Crittenton, Dr. Agnes Trinchero. Her leadership in the area of children's services is well known not only in Orange County and California but throughout the United States.

In celebrating their silver anniversary, Crittenton Services has its eye on the future. I would like to state for the RECORD this statement from "The Crittenton Story":

> We have a dream for our 50th Anniversary. Instead of opening new doors, we hope that all of us will have learned to cherish our children so much that no child will suffer abuse and no child will be without a home. If that were to happen, then there would be no need for another Crittenton! It is our dream!

Mr. President, I have worked closely with the Florence Crittenton Services of Orange County for many years, and I ask my colleagues to join me in extending the gratitude and respect of the U.S. Senate to this superb organization for a job well done.•

COMMISSION ON BROADCASTING TO CHINA

• Mr. D'AMATO. Mr. President, I rise today to cosponsor Senate Concurrent Resolution 91 calling for the expeditious assembly of the Commission on Broadcasting to the People's Republic of China. There is ample reason to heed this call.

The success of Radio Free Europe in liberating Eastern Europe should be noted as an outstanding precedent. RFE played an integral role in replacing the cold war with the new world order and unprecedented global cooperation. This cause can be enhanced if there is a swift and concerted effort to dismantle the aggressive and repressive policies pursued not only by the PRC, but also by Laos, North Korea, and Vietnam. Consider the volatility of current leadership in these nations:

In the People's Republic of China the Beijing government began holding trials in February 1991, for a number of prominent students and intellectuals who participated in the Tiananmen protests. The sentences that were handed down ranged from 2 years to life imprisonment.

Also, throughout the 1980's China delivered Silkworm missiles to Iran and Iraq, fueling their conflict and adding to the instability of the Persian Gulf region. Reports allege that the PRC continues to export short- and intermediate-range missiles as well as nuclear technology to the area.

Reports, such as those in the spring of 1991, continue to allege that the PRC was delivering M-11 missiles to Pakistan and M-9 missiles to Syria.

In February 1992, CIA Director Gates testified that despite its recent signing of an accord banning the production of nuclear bombs on the Korean Peninsula, North Korea has continued development and is "a few months to a couple of years" away from possessing nuclear weapons.

Given the Tiananmen crisis in China and the collapse of communism in Eastern Europe and the Soviet Union, the leadership in Vietnam has retreated into hard-line Communist Party politics. There are suggestions that social repression will reemerge. The position of the Vietnamese boat people has also been a problem.

The reaction of Lao Communists to the dissolution of the Soviet Union has been nearly identical to that of Vietnam. The Pathet Lao have reaffirmed their commitment to the Socialist path, remaining steadfast in their antidemocratic attitudes.

The evidence then, is compelling. These regimes will not unilaterally relinquish their grip on power. The world cannot afford to interrupt the current transition toward global cooperation and interdependence. Broadcasting to the People's Republic of China will hasten the onset of democracy and human rights. I strongly urge the removal of any remaining obstacles to the assembly of this commission and, hence, the liberation of all Asia.•

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending exceeds the budget resolution by $6.4 billion in budget authority and by $5.9 billion in outlays. Current level is $3 billion above the revenue target in 1992 and $3.5 billion above the revenue target over the 5 years, 1992–96.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $354.1 billion, $2.9 billion above the maximum deficit amount for 1992 of $351.2 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 3, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1992 and is current through February 28, 1992. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated February 25, 1992, there has been no action that affects the current level of budget authority, outlays or revenues.

Sincerely,
ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., AS OF FEB. 28, 1992

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level [1]	Current level +/− resolution
On-budget:			
Budget authority	1,270.6	1,277.0	+6.4
Outlays	1,201.6	1,207.5	+5.9
Revenues:			
1992	850.4	853.4	+3.0
1992–96	4,832.0	4,835.5	+3.5
Maximum deficit amount	351.2	354.1	+2.9
Debt subject to limit	3,982.2	3,734.3	−247.9
Off-budget:			
Social Security outlays:			
1992	246.8	246.8	
1992–96	1,331.5	1,331.5	
Social Security revenues:			
1992	318.8	318.8	
1992–96	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS FEB. 28, 1992

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			853,364
Permanents and other spending legislation	807,567	727,184	
Appropriation legislation	686,331	703,643	
Continuing resolution authority	13,992	5,454	
Mandatory adjustments [1]	(1,041)	1,105	
Offseting receipts	(232,542)	(232,542)	
Total previously enacted	1,274,306	1,204,844	853,364
ENACTED THIS SESSION			
Emergency unemployment compensation extension (Public Law 102–244)	2,706	2,706	
American Technology Preeminence Act (Public Law 102–245)			[2]
Total current level	1,277,012	1,207,550	853,364
Total budget resolution	1,270,612	1,201,600	850,400
Amount remaining:			
Over budget resolution	6,400	5,950	2,964
Under budget resolution			

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the concurrent resolution on the budget (H. Con. Res. 121).

[2] Less than $500,000.•

ANTI-SEMITISM MONITOR

• Mr. SIMON. Mr. President, even as unprecedented numbers of people throughout the world take their first strides toward freedom and democracy, the uncertainty of the ever-shifting grounds on which they stand threatens to undermine the cause of liberty for all.

I am speaking of the escalating number of hate crimes, directed against minorities throughout the world, borne from fear and political unrest.

We hail the democratization of the former Soviet Union and its Eastern European counterparts, but we must beware of the omnipresent threat to the rights of minorities. The staggering problems facing the citizens of the Commonwealth of Independent States, as well as those Eastern European countries formerly aligned behind the Iron Curtain, cannot be dismissed lightly. Rampant inflation, food shortages, and political instability add to the chaotic nature of the evolving political scene in these countries.

In this kind of fear-filled situation, people look for someone to blame for their troubles. They need a scapegoat. And who serves this role better than a minority?

Whether it be Jews in St. Petersburg, foreigners in Dresden, or Asian-Americans in Detroit, minorities everywhere often face a double-edged sword. Like their countrymen, they are confronted with the troubling times. But, unlike their fellow citizens, they are the focus of accusations and abuse.

I believe what we are seeing is the backlash of democracy. As individual liberties and freedoms are extended to those who had previously lived under the yoke of tyranny and oppression, the people are quick to assert their new-found rights. This assertion of democracy and equality, however, often comes at the expense of those less able to speak for themselves, those shrouded among the masses: The minorities.

In a previous statement a few weeks ago before the Senate, I quoted Thomas Jefferson, who said, "Eternal vigilance is the price of liberty." In these times of turmoil and strife, as people everywhere struggle toward the democracy we hold so dear, our vigilance is put to the test. While we continue to encourage the democratization of formerly Communist nations, we must ensure that the rights of the majority do not come at the expense of the minority. Democracy for some or most just will not work; we must demand democracy for all and nothing less.

We must be especially attentive to the nationalistic fervor brewing in many of the East European and central Asian republics. Self-determination and independence are values we applaud. Nevertheless, too often history tells the story of nationalism subverted for more vile causes, such as racial and ethnic purity.

To best ensure that the rights of minorities are protected from encroachment by the majority, I propose to keep the topic close at hand. Over the course of this 102d Congress, I will regularly report on the status of anti-Semitism and other hate movements throughout the world. Because of the present political and economic situation in Eastern Europe and the former Soviet Union, I will focus my attention on their successes and failures in protecting their citizens from hate. This is not an attempt to implicate or single out any one group as more responsible for the intolerant climate we live in today. Rather, what I strive for is a better understanding of the history and nature of these movements so that we can eliminate them and ensure true democracy and freedom for all. Developing a true democracy takes time, patience, and courage. We are still working on our own Government even 200 years after gaining independence. As leaders of the world's foremost democratic nation, it is our responsibility to provide leadership to these countries as they move toward democracy.

In looking toward the former Soviet Union and Eastern Europe, we cannot forget that we too are part of the problem. Anti-Asian sentiments, racial movements, and anti-Semitism are definitely problems that must be addressed in our own backyard.

And so, though we cannot help but feel excited by the prospects of former foes beating swords into plowshares, we must not be premature in our declarations of democracy. For it will not be until we can claim freedom for everyone, whether they be in the minority or the majority, that we can truly declare liberty and justice for all.•

WISCONSIN RUSSIAN WINTER CAMPAIGN

• Mr. KOHL. Mr. President, I rise today to commend and urge support for the Hands Across the Heartlands Wisconsin Russian Winter Campaign, a very worthy and important project currently going on in my home State of Wisconsin. This project will send food, medicine, milk, soap, and other items necessary for daily living to the economically desperate people of Russia. Coordination for the project is provided by the Wisconsin Association of CIS Sister Cities, the Physicians for Social Responsibility, the Methodist Church of the United States, and the National Russian Winter Campaign, which was organized by James Garrison and former Foreign Minister for the Soviet Union Eduard Shevardnadze.

The Wisconsin Russian Winter Campaign has been encouraging Wisconsinites to donate food, medical supplies, and labor in order to help out their campaign. It is my understanding that the public response to their appeal has been outstanding and their goals have been greatly exceeded. I believe that this shows how generous and caring the people of Wisconsin are toward others.

I would now like to share with you part of a letter given to me by Mayor Jim Brundahl of Wauwatosa, WI, that was written by Joanie Hayes, also of Wauwatosa, on the subject. She writes:

> It's been pointed out to me by more than one person that we have tons of people right here that need help, so I've spent an entire weekend thinking about this. I've sat at my kitchen table, looking at my stocked shelves and full refrigerator, wondering how I would cope with no food. I've watched my daughter, Jenny, go off to work at McDonald's, thinking how fortunate we are to be able to drive up to a window and get a bag of food. I know that there are food pantries, church food kitchens and welfare offices here to help people who really need it, but nothing like this exists in Russia. I can't imagine waiting in line 3 hours for anything, let alone for one or two items of food. I turned on my T.V. and discovered that approximately ⅓ of all Russian hospitals have no electricity or running water. Then I heard that this is National Snack Food month in the United States. That's when I decided that maybe we who have so much could share with another country who has so little, just this once.

Joanie's concern for the severity of conditions in Russia is borne out by the statistics. Over 4,000 people in Russia die each day because of the lack of basic medical supplies and equipment. The tragedy is that while the doctors can diagnose almost any health problem, lack of supply handcuffs their ability to do anything about it. Doctors have resorted to using razor blades to perform simple operations such as appendectomies. In fact, one of the leading causes of AIDS in Russia is doctors having to reuse needles on patients. The needle supply is so low that doctors and hospitals must scrape the rust out of needles and resharpen them for later use.

Mr. President, as we all know, Russia is currently undergoing shock therapy to reform their economy from a centrally controlled economy to one that is driven by free markets and democracy. Unfortunately, this transition is causing a great deal of pain and suffering amongst the peoples of Russia and threatens the very life of this delicate and precarious fledgling democracy. Projects such as this are important in helping the Russian people through this difficult time. It is also a good way to show the people of Russia that the cold war is now truly over and that the United States is prepared to help them jump start their economy and help preserve democracy in Russia. Even more importantly, this project has brought the people of Wisconsin and the people of Russia together, forming bonds of friendship and trust which can go a long way in healing the wounds of the cold war.

Finally, I would like to give special notice to the individuals who are responsible for organizing this entire effort. They are Dr. Monk Elmer of Appleton, WI, Tom Hennessy, also of Appleton, and Willow Harth of Madison, WI.●

THE 150TH ANNIVERSARY OF THE INCORPORATION OF THE CITY OF SOMERVILLE

● Mr. KERRY. Mr. President, today, March 3, 1992, marks the 150th anniversary of the incorporation of the city of Somerville, MA. Since 1630, when John Woolrich came across Charlestown Neck to settle in what would become Somerville, this "City of Hills" has occupied a proud part in the history of our country.

In 1639, Squa Sachem, a wise woman who ruled the rich and powerful tribe of Pawtucket Indians, deeded the land which would become Somerville to the town of Charlestown., John Winthrop, Massachusetts' most famous early Governor, had his residence there, at Ten Hills Farm. One of the earliest hostile acts of the American Revolution took place in Somerville, when British soldiers seized the powder and munitions stored in the old powder house on Quarry Hill on September 1, 1974, and one of the first acts of union occurred when the first truly national flag, the Great Union Flag, bearing 13 stripes, was unfurled over Prospect Hill. Paul Revere rode through Somerville on his famous ride and the men and boys of Somerville took an active part in the Revolution.

Although most of the residents of Somerville were farmers, brickmaking and stone quarrying were important early industries. In 1793, Middlesex Canal, the first canal of any considerable length in the country, was built through the northern part of Somerville and barges carried cotton for the mills, merchandise, and lumber from Concord, NH to Boston.

Following the lead of their Revolutionary forebears who resented paying taxes to the King of England, in 1841 the citizens of what was then part of Charlestown decided they were not getting their money's worth from the taxes they were paying, most of the money going to the more heavily settled area of Charlestown across Charlestown Neck. So they petitioned the legislature and on March 3, 1842, the Governor approved the incorporation of the town of Somerville. A grand party was held, with 300 ladies and gentlemen dancing till "some hours after the witching time of night."

When President Lincoln issued his first call for troops on April 15, 1861, Somerville again responded to her country's call and on April 19, the Somerville Light Artillery left to join the Grand Army of the Republic. The monument to that company in the Old Cemetery is said to be the first public monument to the memory of those who died in that terrible war.

After the war, Somerville grew and prospered. It became a city on January 1, 1872, on its 100th anniversary, there 126 industries in the city, and over 102,000 citizens lived in its 4.2 square miles, at that time the greatest population density of any city in the country. Somerville was named an All-American City in 1972, and today, under the capable leadership of Mayor Michael E. Capuano and the board of aldermen, it continues to prosper.

I ask my colleagues to join me in saluting the city of Somerville today on its 150th anniversary.●

ORDERS FOR TOMORROW

Mr. INOUYE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Wednesday, March 4; that following the prayer, the Journal of the proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day; and that there be a period for morning business not to extend beyond 12 noon, with Senators permitted to speak therein for up to 5 minutes each, with the following Senators to be recognized for the times specified.

The time from 10 to 10:45 a.m. under the control of the majority leader, or his designee: Senators DOMENICI and GRAMM for up to 15 minutes each, and Senator SIMPSON or his designee for up to 5 minutes.

I further ask unanimous consent that at 12 noon there be 2 hours remaining under cloture on the motion to proceed to S. 1504, with the time controlled as follows: 10 minutes under the control of Senator INOUYE, and 110 minutes under the control of the Republican leader or his designee; further, that when all time is used or yielded back the Senate without any intervening action or debate proceed to vote on the motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. INOUYE. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess until 10 a.m. as a further mark of respect to our late colleague, S.I. Hayakawa.

There being no objection, the Senate, at 7:10 p.m., recessed until 10 a.m., Wednesday, March 4, 1992.

NOMINATIONS

Executive nominations received by the Senate March 3, 1992:

DEPARTMENT OF JUSTICE

WAYNE A. BUDD, OF MASSACHUSETTS, TO BE ASSOCIATE ATTORNEY GENERAL, VICE ANTHONY KEATING II, RESIGNED.

THE JUDICIARY

ALVIN A. SCHALL, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT VICE EDWARD S. SMITH, RETIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. CHARLES C. MCDONALD, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. GEORGE L. BUTLER, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. JOHN M. LOH, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. RONALD W. YATES, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. DONALD SNYDER, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. STEPHEN B. CROKER, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. CHARLES J. SEAROCK, JR., [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF MAJOR GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. WILLIAM E. JONES, [redacted] REGULAR AIR FORCE.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. MICHAEL C. COLLEY, [redacted] U.S. NAVY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. (SELECTEE) WILLIAM J. FLANAGAN, JR., [redacted] U.S. NAVY.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

NURSE CORPS

To be colonel

HANSEN, PHYLLIS J. [redacted]

To be lieutenant colonel

HUGHES, DENNIS C., [redacted]
KRAUSSMAN, JAMES P. [redacted]

To be major

MEEKS, JOHN E. [redacted]
PEGUES, JIMMIE N. [redacted]

JUDGE ADVOCATE

To be lieutenant colonel

SECHREST, DARRELL L. [redacted]

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE, WITH A DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be lieutenant colonel

BUTLER, ROBERT K. JR. [redacted]
DENNIGHOFF, GEORGE W., [redacted]
HEINEN, WILLIAM J. [redacted]
LEESON, MARK W., [redacted]
SODERBERG, ROLF C. [redacted]
STEEN, BRAD H. [redacted]
SWALLOW, SCOTT C., [redacted]

To be major

*CORDERO, HILARIO [redacted]
DENNINGHOFF, GEORGE W., [redacted]
FLANAGAN, DAVID J., [redacted]
*GREENE, BENNIE E., [redacted]
PFEIFER, LAWRENCE E. [redacted]
SHERRILL, WILLIAM L. JR. [redacted]

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE, WITH A DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

MEDICAL CORPS

To be major

*CAREY, STEPHEN C., [redacted]
*DELORENZO, RICHARD J. JR. [redacted]
*FLYNN, WILLIAM J. [redacted]
LOCKER, BRIAN K., [redacted]
*MCCUE, JOHN F., [redacted]
*THOMAS, CRAIG R., [redacted]
*WILLIAMS, RONALD D., [redacted]
*WONG, RONALD D., [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICER IDENTIFIED WITH AN ASTERISK IS ALSO BEING NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

ARMY

To be lieutenant colonel

ROBERT G. ALBRECHT, JR., [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

GREGORY B. BOZEMAN, [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

*DELORES J. SHACK, [redacted]

MEDICAL SERVICE CORPS

To be major

DONALD L. BERRY, [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO BEING NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

ARMY

To be lieutenant colonel

INA J. CLAWSON, [redacted]

MEDICAL CORPS

To be lieutenant colonel

*NICHOLAS E. CAVITT, [redacted]
*DONALD L. TRIPPELL, [redacted]

To be major

*ELLIOTT I. CLEMENCE, [redacted]
*PATRICIA A. VINOCUR, [redacted]

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 593(A); AND 3385:

ARMY PROMOTION LIST

To be colonel

BROWN JOHNNY D., [redacted]
FORTNER, CARL R. JR., [redacted]
HERRERA, JUAN F., [redacted]
LANDRY, STAFFORD J. JR., [redacted]
LEWIS, CHESTER, [redacted]
MORGAN, ROBERT M., [redacted]
SMITH, JACKIE W., [redacted]
WINCHELL, RONALD E., [redacted]

CHAPLAIN CORPS

To be colonel

MIZZELL, JOE B., [redacted]

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

HARAN, MICHAEL M., [redacted]

MEDICAL CORPS

To be colonel

MURRAY, JOHN J., [redacted]

ARMY NURSE CORPS

To be colonel

ROBERTS, LINDA S., [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

ARFLACK, NORMAN E., [redacted]
BERRIOS, JOSE, [redacted]
BRAND, EDWIN J., [redacted]
GORMAN, MICHAEL A., [redacted]
HALL, ROBERT M., [redacted]
IRVINE, JOHN C., [redacted]
MILLS, THOMAS D., [redacted]
SMITH, JERRY W., [redacted]
SNODGRASS, DANNY C., [redacted]
TALBERT, JOHN H. JR., [redacted]

MEDICAL CORPS

To be lieutenant colonel

ANGSTMAN, GREGORY L., [redacted]

IN THE ARMY

THE FOLLOWING NAMED CADETS, GRADUATING CLASS OF 1992, UNITED STATES MILITARY ACADEMY, FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, 533 AND 4353:

DAVID A. ABKE, [redacted]
EARL E. ABONADI, [redacted]
ROBERT C. ACKERMAN, [redacted]
PETER C. ADAMOYURKA, [redacted]
ALEX J. ADELMAN, [redacted]
JEFFREY A. AGEE, [redacted]
FREDERIC AHN, [redacted]
JOHN S. AITA, [redacted]
TERRENCE F. ALGER, II, [redacted]
CRAIG J. ALIA, [redacted]

PETER M. ALLEN, [redacted]
DANIEL P. ALOISI, [redacted]
MARK R. AMATO, [redacted]
MARK M. AMBROSE, [redacted]
VICTOR A. AMES, [redacted]
NEAL A. AMODIO, [redacted]
JAMES F. ANDERSON, JR, [redacted]
JOHN G. ANDERSON, [redacted]
THOMAS L. ANDERSON, II, [redacted]
STACY R. ANSELMI, [redacted]
JOEL K. AOKI, [redacted]
GLENN E. ARNOLD, [redacted]
MICHAEL J. ARNTSON, [redacted]
PAUL M. ARRAMBIDE, [redacted]
WILLIAM M. ARTIGLIERE, [redacted]
HAROLD W. ASKINS, III, [redacted]
ANDREW G. AULL, [redacted]
STEVEN E. BACH, [redacted]
CORBIN K. BACKMAN, [redacted]
BRETT E. BAGWELL, [redacted]
LANCE M. BAILEY, [redacted]
JOHN T. BAIR, [redacted]
CRAIG R. BAKER, [redacted]
DAVID A. BALAN, [redacted]
JAMES S. BALL, [redacted]
BETHANY L. BALLARD, [redacted]
YOUNG H. BANG, [redacted]
JAMES J. BANKEY, JR, [redacted]
NATHAN H. BANKS, [redacted]
KENNETH C. BARAN, [redacted]
GUY R. BARATTIERI, JR, [redacted]
DANIEL D. BARBER, [redacted]
BALLARD C. BARKER, [redacted]
LEROY R. BARKER, JR, [redacted]
KELLY S. BARNES, [redacted]
MARY J. BARNES [redacted]
TROY D. BARNES, [redacted]
SKIP D. BARNETT [redacted]
SHANNON S. BARRY, [redacted]
MATTHEW P. BARTLETT, [redacted]
NATHAN E. BARTO, [redacted]
ALEXANDE J. BASSE, [redacted]
KEVIN L. BATES, [redacted]
RYAN D. BATES, [redacted]
DANIEL H. BATH, [redacted]
MICHAEL J. BATTLES, [redacted]
MICHAEL A. BAUMEISTER, [redacted]
JENNIFER R. BEAN, [redacted]
JOHN C. BEATTY, [redacted]
WILLIAM E. BEATY, [redacted]
DEANNA L. BEAUVAIS, [redacted]
WILLIAM V. BECK, [redacted]
GREGORY S. BECKMAN, [redacted]
ALEC C. BEEKLEY, [redacted]
JEFFREY F. BELLINGER, [redacted]
SCOTT P. BELVEAL, [redacted]
JEFFREY W. BENCIK, [redacted]
SHARON S. BENNETT, [redacted]
JAMES J. BENTS, [redacted]
JOSEPH B. BERGER, III, [redacted]
JEFFERY J. BERKMEYER, [redacted]
SEAN C. BERNABE, [redacted]
PAUL T. BERQUIST, [redacted]
DAVID L. BESHEARS, JR, [redacted]
ERIC S. BETTS, [redacted]
JASON N. BEYER, [redacted]
DON M. BICE, II, [redacted]
DAVID P. BIRON, [redacted]
ANDREW D. BLAKE, [redacted]
MATTHEW B. BLITCH, [redacted]
MICHAEL D. BLOMQUIST, [redacted]
MARC E. BOBERG, [redacted]
JENNIFER C. BOGGS, [redacted]
JOHN A. BOJESCUL, [redacted]
THOMAS R. BOLEN, [redacted]
STEPHEN A. BOLTJA, [redacted]
GREGORY S. BONDS, [redacted]
ROBERT G. BOOZE, [redacted]
DAVID W. BORGOGNONI, [redacted]
DAVID T. BOROWICZ, [redacted]
PAULA K. BOSTWICK, [redacted]
KIMBERLY A. BOWERS, [redacted]
MATTHEW M. BOWMAN, [redacted]
JOHN M. BOYER, [redacted]
JOSE R. BRACERO, JR, [redacted]
JENNIFER A. BRADAC, [redacted]
TRACEY L. BRAME, [redacted]
MATTHEW F. BRANTLEY, [redacted]
AMY L. BRATTON, [redacted]
JEFFREY P. BRAY, [redacted]
TREVOR J. BREDENKAMP, [redacted]
DAVID S. BREWSTER, [redacted]
WILLIAM L. BRICE, JR, [redacted]
DAVID A. BRILES, [redacted]
LANCE E. BROEKING, [redacted]
DAVID A. BROWN, [redacted]
DOUGLAS C. BROWN, [redacted]
IVAN E. BROWN, [redacted]
JEFFREY V. BROWN, [redacted]
KILE D. BROWN, [redacted]
KIMBERLY J. BROWN, [redacted]
KYLE M. BRUNER, [redacted]
MARC A. BRUNNER, [redacted]
SEAN P. BUCHHOLTZ, [redacted]
MATTHEW P. BUKOVAC, [redacted]
EMILY C. BURGESS, [redacted]
HEIDI K. BURGHART, [redacted]
FRED J. BURPO, [redacted]
WILLIAM M. BURRIS, [redacted]
GUY M. BURROW, [redacted]
CURTIS A. BUZZARD, [redacted]
BENJAMIN B. CABLE, [redacted]
ENRICO J. CACCIATORE, [redacted]
JENNIFER L. CAHILL, [redacted]
GIORGIO F. CALDARONE, [redacted]
GERALD V. CAMMACK, II, [redacted]
SCOTT A. CAMPBELL, [redacted]
WILLIAM J. CAMPBELL, III, [redacted]
JEROME M. CAP, [redacted]
DAVID R. CAPPS, [redacted]
PETER G. CAREY, JR, [redacted]
BRIAN D. CARLOCK, [redacted]
CHARLES A. CARLTON, [redacted]
JOSEPH R. CARMEN, [redacted]
CHRISTOP F. CARR, [redacted]
RICHARD Q. CARROLL, [redacted]
KEVIN W. CARRUTH, [redacted]
KEDRAN J. CARTER, [redacted]
JASON F. CARTWRIGHT, [redacted]
CHRIS A. CASTILLON, [redacted]
STEPHEN J. CAVOLI, [redacted]
STEVEN J. CHALOULT, [redacted]
LANCE F. CHAMBERS, [redacted]
MICHAEL D. CHANDLER, [redacted]
EDWARD Y. CHING, [redacted]
HANG J. CHO, [redacted]
JOO E. CHO, [redacted]
YONG U. CHOI, [redacted]
DANA J. CHRISTIAN, [redacted]
ERIK L. CHRISTIANSEN, [redacted]
DANIEL Y. CHUN, [redacted]
GREGG T. CLARK, [redacted]
JASON R. CLARK, [redacted]
KEVIN B. CLARK, [redacted]
MATTHEW P. CLARK, [redacted]
ANDREW D. CLARKE, [redacted]
GREGORY J. CLEVELAND, [redacted]
SEAN D. CLEVELAND, [redacted]
SEAN T. CODE, [redacted]
CHRISTOP M. COGLIANESE, [redacted]
BARAK COHEN, [redacted]
GAIL C. COLBERT, [redacted]
MARK A. COLBROOK, [redacted]
LARRY L. COLEMAN, JR, [redacted]
CRAIG W. COLLAR, [redacted]
LIAM S. COLLINS, [redacted]
ANDREW A. COLLUM, [redacted]
RICHARD M. COLUCCIELLO, [redacted]
SEAN M. CONDRON, [redacted]
CHRISTOP L. CONNOLLY, [redacted]
PATRICK R. COOK, [redacted]
MARK L. COOMES, [redacted]
DANIEL W. COOPER, [redacted]
JIMMY L. COOPER, [redacted]
ADRIAN A. CORDOVI, [redacted]
DANIEL P. CORE, [redacted]
CLARK M. CORNELIUS, [redacted]
JAMES T. CORRIGAN, [redacted]
CORY N. COSTELLO, [redacted]
MARC E. COTTLE, [redacted]
MATTHEW H. COULTER, [redacted]
MARK E. COURTENAY, [redacted]
JAMES W. CRICHTON, III, [redacted]
GERALD F. CROOK, [redacted]
CHRISTOP J. CROSBY, [redacted]
MICHAEL J. CROSSETT, [redacted]
DAVID D. CROSSLEY, [redacted]
TOBIN M. CROWDER, [redacted]
ANN G. CUNNINGS, [redacted]
MATTHEW W. CURRIE, [redacted]
DAVID M. CURRY, [redacted]
CRAIG A. CUTLIP, [redacted]
DOUGLAS W. CUTRIGHT, [redacted]
CHRISTOP W. DAILEY, [redacted]
JOHN C. DAMM, [redacted]
BENJAMIN C. DANIELSON, [redacted]
LAURIN J. DARNELL, [redacted]
MICHAEL L. DAUER, [redacted]
PAUL G. DAVIDSON, [redacted]
ANTONIO C. DAVIS, [redacted]
EDWARD D. DAVIS, [redacted]
JASON D. DAVIS, [redacted]
JEFFREY S. DAVIS [redacted]
TOYA J. DAVIS, [redacted]
MARK A. DAWKINS, [redacted]
CURTIS L. DECKER, [redacted]
ROLLAN J. DEGEARE, [redacted]
FRANK A. DEGEORGE, [redacted]
GUILLERM J. DELOSSANTOS, [redacted]
HAROLD C. DEMBY, [redacted]
JOHN M. DENNING, JR, [redacted]
MARK J. DERBER, [redacted]
MICHAEL C. DEROSIER, [redacted]
ROSE N. DEVEREUX, [redacted]
DAVID R. DICKISON, [redacted]
REBECCA L. DIECK, [redacted]
JOSEPH F. DILLON, [redacted]
MATTHEW A. DIMMICK, [redacted]
BRIAN K. DIVEN, [redacted]
MICHAEL S. DOHENY, [redacted]
CHRISTOP T. DONAHUE, [redacted]
MICHAEL C. DONAHUE, [redacted]
BRIAN C. DONOVAN, [redacted]
DANIEL L. DORCHINSKY, [redacted]
ERIK H. DOWGOS, [redacted]
CHRISTOP T. DREW, [redacted]
KEVIN P. DRISCOLL, [redacted]
GERALD R. DULL, [redacted]
PERCY E. DUNAGIN, III, [redacted]
PETER M. DUNAWAY, [redacted]
JOHN L. DUNCAN, [redacted]
KRISTEN M. DUNCAN, [redacted]
SCOTT M. DUNDERDALE, [redacted]
CHARLES T. DURAY, [redacted]
ROBERT L. EASON, [redacted]
ANTHONY J. EBERT, [redacted]
RANDALL D. ECCLESTON, [redacted]
EZRA A. ECKHARDT, [redacted]
MARSHALL V. ECKLUND, [redacted]
RAYMOND G. EDGAR, JR, [redacted]
ROBERT T. EDMONDSON, [redacted]
WILLIAM B. EGER, [redacted]
STEPHEN K. EHRENBERG, [redacted]
KARL P. EIMERS, [redacted]
MATTHEW L. ELAM, [redacted]
DANIEL P. ELLIOTT, [redacted]
DEBORAH M. ELLIS, [redacted]
MARC C. EMERY, [redacted]
MELISSA J. EMMONS, [redacted]
MICHAEL A. EMONS, [redacted]
JOHN B. ENDE, [redacted]
CHAD E. ENDERS, [redacted]
ARTHUR B. ENDRES, [redacted]
MICHAEL T. ENGLE, [redacted]
JOSEPH F. ENGLISH, [redacted]
ANTHONY E. ENRIETTO, JR, [redacted]
ROSS A. ERZAR, [redacted]
CHRISTOP B. EWING, [redacted]
DAVID L. EWING, [redacted]
ANDREW F. FARNSLER, [redacted]
MATTHEW H. FATH, [redacted]
NATHAN R. FAWKES, [redacted]
GRANT D. FAY, [redacted]
TODD R. FEEMSTER, [redacted]
KYLE E. FEGER, [redacted]
MELISSA D. FEIT, [redacted]
DANIELA C. FERCHMIN, [redacted]
THOMAS A. FEUERBORN, [redacted]
DARREN E. FEY, [redacted]
TROY C. FIGGINS, [redacted]
KURT A. FILOSA, [redacted]
RODNEY J. FISCHER, [redacted]
DARREN P. FITZGERALD, [redacted]
SEAN S. FITZGERALD, [redacted]
JAMES R. FITZGIBBON, III, [redacted]
JAMES D. FLANDREAU, [redacted]
DAVID E. FLIEG, [redacted]
BRIAN K. FLOOD, [redacted]
CRAIG R. FLUHARTY, [redacted]
ROBERT J. FOLTYNOWICZ, [redacted]
JAMES S. FORBES, [redacted]
KENNETH A. FORET, JR, [redacted]
STUART F. FOWLER, [redacted]
KEVIN M. FRANK, [redacted]
TIMOTHY M. FREDERICK, [redacted]
JOSEPH J. FRESCURA, [redacted]
JOSEPH L. FREY, [redacted]
JAMES A. FRICK, [redacted]
LAKEISHA R. FRIESON, [redacted]
JOHN S. FROST, JR, [redacted]
ERIC C. FRUTCHEY, [redacted]
JAMES L. FRY, JR, [redacted]
MATHEW J. FRY, [redacted]
PETER L. GABRIEL, [redacted]
JEIN K. GADSON, [redacted]
KEITH A. GALLEW, [redacted]
JACOB L. GARCIA, [redacted]
PAUL N. GARCIA, [redacted]
STACE W. GARRETT, [redacted]
JAMES E. GAYLORD, JR, [redacted]
MARCIA J. GEIGER, [redacted]
JAMES C. GEISER, [redacted]
CHARLES A. GIBBS, [redacted]
BRENDON S. GIBSON, [redacted]
JASON C. GILES, [redacted]
NORMAN W. GILL, III, [redacted]
JAIME L. GILLIAMSWARTZ, II, [redacted]
EXTER G. GILMORE, III, [redacted]
JEFFREY S. GLOEDE, [redacted]
JOHN K. GOERTEMILLER, [redacted]
ROMEO GONZALES, [redacted]
JAMES T. GORMAN, [redacted]
WILLIAM D. GOSS, [redacted]
GREGORY P. GOSSELIN, [redacted]
ANGELA E. GOWDY, [redacted]
KATHERIN E. GRAM, [redacted]
JOEL W. GRAY, [redacted]
SHARETTE K. GRAY, [redacted]
PETER N. GREANY, [redacted]
ALEX N. GREEN, [redacted]
HERBERT L. GREEN, [redacted]
QUINCY J. GREENE, [redacted]
STEPHEN C. GREENE, [redacted]
SCOT W. GREIG, [redacted]
IRIS M. GRIFFITH, [redacted]
RHETT B. GRINER, [redacted]
CINDY M. GRODACK, [redacted]
FRED J. GROSPIN, [redacted]
JAMES D. GUENTER, [redacted]
BARTHOLO A. GUTIERREZ, [redacted]
DOUGLAS B. GUTTORMSEN, [redacted]
JENNIFER J. GWINN, [redacted]
GREGORY W. HAAS, [redacted]
ANDREW S. HAGER, [redacted]
GERALD W. HAHN, [redacted]
YOUNG P. HAHN, [redacted]
ALLEN D. HAIGHT, [redacted]
MICHAEL P. HAIGHT, [redacted]
JEFFREY T. HAJEK, [redacted]
ERIC R. HALL, [redacted]
JOHN D. HALL, [redacted]
LEE F. HALL, [redacted]
MARIE L. HALL, [redacted]
CHARLES A. HALLMAN, [redacted]
CHRISTOP D. HAMEL, [redacted]
ROBERT G. HAMILL, [redacted]

RODERICK J. HAMMOND, [redacted]
PHILIP L. HANCOCK, [redacted]
DAVID C. HANEY, [redacted]
THOMAS D. HANSBARGER, [redacted]
EARL C. HANSON, [redacted]
MICHAEL P. HANSON, [redacted]
THOMAS J. HARDIN, [redacted]
GARRICK M. HARMON, [redacted]
SCOTT A. HARMON, [redacted]
DAVID L. HARRIS, [redacted]
RICHARD E. HARRIS, II, [redacted]
KY B. HARROD, [redacted]
ANITA B. HARVEY, [redacted]
STUART A. HATFIELD, [redacted]
JOHN R. HAUBERT, IV, [redacted]
SHAUNA M. HAUSER, [redacted]
CORINA HAUSHERR, [redacted]
WILLIAM F. HAUSMAN, [redacted]
ALBERT L. HAWKINS, III, [redacted]
BRADLEY B. HAWKINS, [redacted]
SHAWN L. HAWKINS, [redacted]
KWASI L. HAWKS, [redacted]
BRANDON C. HAYES, [redacted]
JAMES E. HAYES, III, [redacted]
JASON R. HAYES, [redacted]
JOHN D. HAYES, [redacted]
JOHN T. HEAD, III, [redacted]
ROBERT R. HEBERT, II, [redacted]
GALEN W. HEDLUND, [redacted]
NEIL R. HEDTKE, [redacted]
THOMAS D. HEINOLD, JR, [redacted]
DAVID J. HEJL, [redacted]
RONALD B. HILDNER, [redacted]
TERESA L. HILL, [redacted]
TERRANCE E. HILL, [redacted]
WILLIAM M. HILTON, [redacted]
TIMOTHY P. HIMES, [redacted]
BURL S. HINKLE, [redacted]
MARK J. HOEPNER, [redacted]
JASON T. HOFFMAN, [redacted]
MARC F. HOFFMEISTER, [redacted]
DIERK C. HOHMAN, [redacted]
THOMAS P. HOLLIDAY, JR, [redacted]
CARL J. HOLLISTER, [redacted]
GLENN C. HOLLISTER, [redacted]
STACEY R. HOLLYER, [redacted]
LANCE G. HOMAN, [redacted]
EDWARD E. HORNE, [redacted]
MICHAEL P. HOSIE, [redacted]
DERK S. HOSKIN, [redacted]
NELSON S. HOWARD, [redacted]
WILLIAM R. HOWARD, [redacted]
PATRICK V. HOWELL, [redacted]
CHRISTOP P. HSU, [redacted]
HELMUT W. HUBER, [redacted]
DANA L. HUCKBODY, [redacted]
HARRY B. HUDICK, [redacted]
PETER P. HUDSON, [redacted]
CAROLYN M. HUGHES, [redacted]
JAY S. HULETT, [redacted]
WAYNE A. HUNT, [redacted]
PATRICK L. HURLEY, [redacted]
HARLAN L. HUTCHESON, [redacted]
PATRICK F. HYMEL, [redacted]
JOONGBI IM, [redacted]
JAMES P. ISENHOWER, III, [redacted]
BRIAN T. JACKSON, [redacted]
LATONYA C. JACKSON, [redacted]
THOMAS J. JACOBS, [redacted]
GREGORY K. JACOBSEN, [redacted]
JEFFREY P. JAGIELSKI [redacted]
JACK A. JAMES, [redacted]
MICHAEL E. JAMES, [redacted]
FRANK E. JENIO, [redacted]
JASON M. JENKINS, [redacted]
MELVIN C. JENKS, [redacted]
JAMES JENNINGS, [redacted]
MICHAEL S. JENSEN, [redacted]
MICHELE L. JENSEN, [redacted]
SCOTT R. JERALD, [redacted]
GEOFFREY J. JERAM, [redacted]
JEFFREY H. JOHNSON, [redacted]
KARIN A. JOHNSON, [redacted]
LINDA M. JOHNSON, [redacted]
PAUL L. JOHNSON, [redacted]
TODD C. JOHNSTON, [redacted]
DAVID E. JONES, [redacted]
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JAMES J. JORDANO, [redacted]
JEFFREY H. JULKOWSKI, [redacted]
WILLIAM H. KACZYNSKI, [redacted]
DARRELL J. KAIN, [redacted]
SCOTT C. KAINE, [redacted]
PETER J. KALAMARAS, [redacted]
JOHN W. KARAGOSIAN, [redacted]
THOMAS A. KARINSHAK, [redacted]
KIM T. KAWAMOTO, [redacted]
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DAVID R. KERSHAW, [redacted]
DONALD S. KETTERING, [redacted]
JOSIAH L. KIBE, [redacted]
CHRISTOP J. KIDD, [redacted]
JOEL E. KIEFER, [redacted]
CHARLIE H. KIM, [redacted]
JIN W. KIM, [redacted]
SALLY J. KIM, [redacted]
SANFORD J. KIM, [redacted]
SANG H. KIM, [redacted]
SUK K. KIM, [redacted]
TODD G. KING, [redacted]
HOWARD C. KIRK, IV, [redacted]
JAMES M. KISIEL, [redacted]
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JEREMY S. KLAGES, [redacted]
KEVIN M. KLOPCIC, [redacted]
STEPHEN G. KNEELAND, [redacted]
RICHARD W. KNIGHT, [redacted]
AARON K. KNUDSEN, [redacted]
GRETCHEN H. KOBELT, [redacted]
ANDREW W. KOLOSKI, [redacted]
BRIAN J. KOUBA, [redacted]
JOHN C. KOWALEWSKI, [redacted]
DAVID R. KRAMER, [redacted]
EDITH E. KRAUSE, [redacted]
JEANINE E. KRUGER, [redacted]
ROBERT M. KULIS, [redacted]
MICHELLE L. KURBIEL, [redacted]
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DAVID M. LACY, [redacted]
STEPHEN W. LADD, [redacted]
CHRISTOP S. LAGULLO, [redacted]
DUNCAN LAMB, [redacted]
SUSAN M. LAMBRECHT, [redacted]
JOHN C. LAMPHERE, JR, [redacted]
PAUL A. LANDT, [redacted]
JOSEPH E. LANGENDERFER, [redacted]
MARY K. LANGENDORF, [redacted]
MICHAEL W. LANIER, [redacted]
ERIC D. LARKIN, [redacted]
THOMAS L. LARSON, [redacted]
MELANIE A. LAUBEN, [redacted]
DAWNE E. LAUGHLIN, [redacted]
GREGORY M. LAW, [redacted]
JOSEPH P. LAZZARI, [redacted]
BARTON C. LEATHERWOOD, [redacted]
KANG M. LEE, [redacted]
RANDALL G. LEE, [redacted]
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KERRY A. LEFRANCIS, [redacted]
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JASON LERNER, [redacted]
BOBBY V. LEWALLEN, JR, [redacted]
NICHOLAS G. LEWIS, [redacted]
WILLIAM I. LEWIS, JR, [redacted]
CORRENA A. LIEDING, [redacted]
DOUGLAS C. LIGOR, [redacted]
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DENEIL LOGIUDICE, [redacted]
DAVID T. LONDON, [redacted]
DEBORAH L. LONG, [redacted]
MICHAEL J. LOOS, [redacted]
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SIDNEY J. LOYD, [redacted]
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JOHN S. LYERLY, [redacted]
THOMAS J. LYNCH, [redacted]
JOHN I. LYONS, [redacted]
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MARY F. MACE, [redacted]
MATTHEW J. MACHON, [redacted]
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MARSHALL J. MALINOWSKI, [redacted]
DAVID S. MALLORY, JR, [redacted]
DENNIS M. MALONE, [redacted]
JOSEPH P. MALONEY, VII, [redacted]
PETER C. MANZA, [redacted]
MONICA L. MANZO, [redacted]
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KYLE J. MARSH, [redacted]
JAMES P. MARSHALL, [redacted]
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KEVIN A. MCKENNA, [redacted]
BENJAMIN D. MCKENZIE, [redacted]
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EDWARD J. MCMANUS, [redacted]
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VANCE C. MCMURRY, [redacted]
FRITZGER F. MCNAIR, [redacted]
CHRISTOP W. MEAD, [redacted]
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MARK A. MEMBRINO, [redacted]
CHRISTOP M. MENDES, [redacted]
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GERARDO V. MENESES, [redacted]
KARL T. MESSMER, [redacted]
GARRET K. MESSNER, [redacted]
JOHN L. MILES, III, [redacted]
BERNARD P. MILLER, II, [redacted]
CHARLES N. MILLER, [redacted]
JASON J. MILLER, [redacted]
JOHN M. MILLER, [redacted]
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KEVIN R. MILLS, [redacted]
DANIEL D. MINER, JR, [redacted]
RONALD J. MINTY, JR, [redacted]
BILLY M. MIRANDA, [redacted]
MARK S. MISTAL, [redacted]
DARREN S. MITCHELL, [redacted]
KOREY O. MITCHELL, [redacted]
RUSSEL T. MIZELLE, [redacted]
JOHN A. MOBERLY, [redacted]
BRADLEY F. MOCK, [redacted]
ROBERT J. MOLINARI, [redacted]
MARK E. MOLONEY, [redacted]
CHRISTOP A. MONACO, [redacted]
JOHN B. MONROE, [redacted]
JON L. MONROE, [redacted]
ALEX S. MONTOYA, [redacted]
KING S. MOON, [redacted]
LANCE D. MOORE, [redacted]
MATTHEW R. MOORE, [redacted]
VINCENT P. MOORE, [redacted]
MARK J. MORAN, [redacted]
EDMUND J. MORGAN, III, [redacted]
SEAN M. MORGAN, [redacted]
JASON R. MORRIS, [redacted]
ROBERT B. MOSELEY, III, [redacted]
DEWEY A. MOSLEY, [redacted]
DAVID B. MOULDER, [redacted]
JOHN W. MULLENS, III, [redacted]
JOSEPH T. MUNKO, [redacted]
JENNIFER L. MURTAGH, [redacted]
JOHN H. MYERS, [redacted]
VINCENT MYSLIWIEC, [redacted]
JOHN E. MYUNG, [redacted]
CHRISTOP P. NAVOA, [redacted]
BRONSON NEAL, [redacted]
DAVID R. NEHRING, JR, [redacted]
LANDY T. NELSON, JR, [redacted]
MICHAEL J. NERI, JR, [redacted]
MELISSA C. NEWCOME, [redacted]
DAVID M. NEWMAN, [redacted]
JOHN P. NEWMAN, [redacted]
HAN T. NGUYEN, [redacted]
JENNIFER A. NIBLICK, [redacted]
DEMETRIO J. NICHOLSON, [redacted]
HEATH J. NIEMI, [redacted]
T. B. NINNESS, [redacted]
SCOTT E. NOBLE, [redacted]
MICHAEL E. NOEL, [redacted]
MATTHEW H. NUHSE, [redacted]
ALVARO V. OBREGON, [redacted]
ROBERT A. OBRIEN, IV, [redacted]
CHARLES F. ODONNELL, IV, [redacted]
GERALD J. ODONNELL, [redacted]
CHARLES H. OGDEN, IV, [redacted]
THOMAS OGDEN, [redacted]
STEVEN J. OH, [redacted]
GREGORY S. OLINGER, [redacted]
EDRIAN OLIVER, [redacted]
THOMAS W. OLSEN, [redacted]
CRAIG T. OLSON, [redacted]
JOEL C. OLSON, [redacted]
PATRICK K. OLSON, [redacted]
GEORGE A. ONEAL, [redacted]
WILLIAM P. ONEILL, [redacted]
STANNUS P. ORR, [redacted]
JENNIFER A. OSGOOD, [redacted]
GARY L. OSTENDORF, [redacted]
SHON R. OWENS, [redacted]
MICHAEL T. OZERANIC, [redacted]
WESLEY P. PADILLA, [redacted]
JOHN M. PAGANINI, [redacted]
STEPHEN E. PAGANUCCI, [redacted]
SANGWOO PAK, [redacted]
JAMES R. PAPENBERG, [redacted]
MARK F. PARCELLS, [redacted]
JOHN J. PARENTE, [redacted]
DANIEL D. PARK, [redacted]
STEVEN K. PARK, [redacted]
ALANNA M. PARRINELLO, [redacted]
DAVID A. PARSONS, [redacted]
CHERYL A. PASSARELLI, [redacted]
ANDREW J. PASTERCHICK, [redacted]
MATTHEW P. PASULKA, [redacted]
JACQUELI L. PATTEN, [redacted]
JOHN S. PAYNE, II, [redacted]
THOMAS W. PAYNE, [redacted]

AMANDA M. PEARSON, [redacted]
WILLIAM E. PEARSON, JR [redacted]
ISAAC B. PEAY, III [redacted]
LAWRENCE E. PENN, III [redacted]
CELESTIN J. PEREZ [redacted]
MARC A. PEREZVENERO, [redacted]
THOMAS W. PERKINS [redacted]
ANDREW J. PERO [redacted]
JAMES S. PETERSON [redacted]
MICHAEL C. PETERSON, [redacted]
JAY J. PETTY [redacted]
DENNIS L. PHILLIPS, II [redacted]
JO D. PHILLIPS [redacted]
ROBERT T. PHILLIPS [redacted]
KENNETH D. PICKETT [redacted]
JUSTIN E. PIERCE [redacted]
DANIEL V. PILLITIERE [redacted]
CLINTON J. PINCOCK, [redacted]
JOHN R. PIPPY [redacted]
AARON C. PITNEY [redacted]
WILLIAM R. PITTMAN, IV [redacted]
CHRISTIA L. PLOCH [redacted]
JOHN A. POLHAMUS, [redacted]
FRANK A. POMETTI [redacted]
ANGELA P. POWELL [redacted]
JAMES S. POWELL [redacted]
CHRISTOP S. PRENTICE [redacted]
ARTHUR F. PRESSEL, II [redacted]
BERNARD A. RADCLIFFE [redacted]
ERIC C. RANNOW, [redacted]
JOHN E. RANSFORD [redacted]
SCOTT M. RANSOM, [redacted]
TIMOTHY J. RAUSCH, [redacted]
STEPHEN P. RAWLES [redacted]
JOEL D. RAYBURN [redacted]
MARK R. READ, [redacted]
ALTON T. REAL [redacted]
JOHN H. REESE [redacted]
JASON M. REHERMAN, [redacted]
CHAD A. REIMAN, [redacted]
RICHARD F. RICHKOWSKI, JR, [redacted]
DARIN T. RICHTER [redacted]
WILLIAM S. RIELLY [redacted]
MARK R. RIGBY, [redacted]
MICHAEL E. RITTER, [redacted]
AARON D. ROBERSON, [redacted]
JULIE A. ROBERT [redacted]
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DALE A. ROBISON, [redacted]
PAUL W. ROBYN, [redacted]
BRADLEY W. ROCKOW, [redacted]
ARMANDO RODRIGUEZ, [redacted]
CAROLINA RODRIGUEZREY, [redacted]
KAREN J. ROE [redacted]
JASPER L. ROGERS, JR [redacted]
STEPHEN C. ROGERS, JR [redacted]
THEODORE J. ROGERS [redacted]
JOHN L. ROPER [redacted]
CRAIG P. ROSE, [redacted]
CRAIG S. ROSEBERRY [redacted]
DOUGLAS G. ROSS, [redacted]
LESLIE D. ROTENBERRY [redacted]
BLAINE E. ROTH [redacted]
JAMES D. ROUSE [redacted]
WILLIAM L. RUDDOCK, [redacted]
AVERILL RUIZ [redacted]
ERIC G. RUSELINK [redacted]
AMY M. RUSILOSKI, [redacted]
NOEL L. RUSSELL [redacted]
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CARLETON A. RUST, [redacted]
PHILIP J. RYAN [redacted]
BRUCE A. RYBA, [redacted]
JOHN A. SABATINI [redacted]
JOHN R. SADLER, JR [redacted]
JUAN M. SALDIVAR, JR [redacted]
GENE A. SALKOVSKY, [redacted]
ROBERT M. SALLEY [redacted]
GAIL E. SANDERS [redacted]
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DEIDRE M. SISSON [redacted]
ROSALYNN G. SLEASE [redacted]
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TORRENCE J. SMITH [redacted]
TODD M. SNELL [redacted]
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WALTER G. THOMAS, [redacted]
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JOHN L. THROCKMORTON, [redacted]
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AARON P. TIPTON, [redacted]
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MONTE A. TOMASINO, [redacted]
WILLIAM M. TORPEY, [redacted]
LAURA L. TORRES, [redacted]
CORY H. TOUARD, [redacted]
PETER W. TRAVIS [redacted]
BRIAN TRIBUS, [redacted]
THOMAS T. TRINTER [redacted]
RYAN M. TRITSCHLER [redacted]
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DOUGLAS L. TRUAX, [redacted]
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JEFFREY M. VAJDA [redacted]
JOHN T. VALLELY [redacted]
REID E. VANDERSCHAAF, [redacted]
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DEBORAH M. VANN, [redacted]
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JACK E. VANTRESS [redacted]
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JONATHAN W. VERNAU, [redacted]
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SON P. VO, [redacted]
GLENN J. VOELZ, [redacted]
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EDWARD J. VOZZO, [redacted]
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NATHANIE F. WALLACE, [redacted]
STEVEN M. WALTER, [redacted]
CHRISTIA J. WALTERS [redacted]
EDWARD W. WALTERS, III, [redacted]
JAMES E. WARD, [redacted]
KERMIT D. WARD, [redacted]
SAMUEL J. WARF, [redacted]
PAUL A. WARMUSKERKEN, [redacted]
CHRISTOP W. WATERS, [redacted]
TIMOTHY T. WATERS, [redacted]
MICHAEL J. WEATHERWAX, [redacted]
JEFFERY A. WEAVER [redacted]
KRISTINA E. WEBER, [redacted]
JOHN B. WEISNER, [redacted]
JAMES D. WELLS, JR [redacted]
THERESA R. WELSH, [redacted]
BRIAN J. WEST, [redacted]
MARK A. WHITE, [redacted]
RICHARD L. WHITE, [redacted]
LARRY L. WHITLEY, JR [redacted]
WILBERT E. WHITTEN [redacted]
JOHN K. WICKISER, [redacted]
THOMAS A. WIERS, [redacted]
JODI L. WIESE [redacted]
STEPHEN M. WILBUR, [redacted]
DAVID A. WILKINS, [redacted]
PATRICK B. WILKISON, [redacted]
JAMES R. WILLCOX, [redacted]
ELIZABET L. WILLIAMS [redacted]
MICHAEL P. WILLIAMS, [redacted]
MYREON WILLIAMS, [redacted]
SCOTT M. WILLIAMS, [redacted]
TRISTAN R. WILLIAMS [redacted]
JACK W. WILLIAMSON, [redacted]
NEIL J. WILLIS [redacted]
KEVIN M. WILSON, [redacted]
MICHAEL J. WILSON, [redacted]
INGRID L. WINSLOW, [redacted]
LARRY N. WITTWER, [redacted]
ERIC J. WOLF, [redacted]
DESI L. WYATT, [redacted]
DONALD S. YAMAGAMI, [redacted]
WILLIAM M. YANEK, II, [redacted]
GARTH G. YARNALL, [redacted]
ROBERT A. YEAGER, [redacted]
PETER C. YOON, [redacted]
BRIAN E. YOUNG, [redacted]
ERICKA A. YOUNG, [redacted]
PETER J. YOUNG, JR [redacted]
AARON B. YOUNT, [redacted]
RICHARD L. ZELLMANN, [redacted]
ROY F. ZINSER, III [redacted]
NEAL J. ZUCKERMAN, [redacted]
JOSEPH J. ZWIRECKI [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate March 3, 1992:

AIR FORCE

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

To be brigadier general

COL. RUDOLF F. PEKSENS, [redacted] REGULAR AIR FORCE.

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374. TITLE 10, UNITED STATES CODE:

To be brigadier general

COL. GLEN W. VAN DYKE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. THOMAS S. MOORMAN, [redacted] U.S. AIR FORCE.

ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be brigadier general

COL. RICHARD A. CHILCOAT, [redacted] U.S. ARMY.
COL. EDWARD L. ANDREWS, [redacted] U.S. ARMY.
COL. THOMAS E. SWAIN, [redacted] U.S. ARMY.
COL. JOHN A. VAN ALSTYNE, [redacted] U.S. ARMY.
COL. ARTHUR T. DEAN, [redacted] U.S. ARMY.
COL. ROBERT L. HERNDON, [redacted] U.S. ARMY.

COL. ROBERT S. COFFEY, [redacted] U.S. ARMY.
COL. RALPH V. LOCURCIO, [redacted] U.S. ARMY.
COL. DANIEL M. KELLEHER, [redacted] U.S. ARMY.
COL. DAVID K. HEEBNER, [redacted] U.S. ARMY.
COL. HOWARD J. VON KAENEL, [redacted] U.S. ARMY.
COL. MORRIS J. BOYD, [redacted] U.S. ARMY.
COL. ROBERT R. HICKS, JR., [redacted] U.S. ARMY.
COL. JOHN P. ROSE, [redacted] U.S. ARMY.
COL. LARRY R. ELLIS, [redacted] U.S. ARMY.
COL. DONALD B. SMITH, [redacted] U.S. ARMY.
COL. LAWSON W. MAGRUDER, III, [redacted] U.S. ARMY.
COL. STEWART W. WALLACE, [redacted] U.S. ARMY.
COL. RUSSELL L. FUHRMAN, [redacted] U.S. ARMY.
COL. DAVID H. HICKS, [redacted] U.S. ARMY.
COL. MONTGOMERY C. MEIGS, [redacted] U.S. ARMY.
COL. CHARLES G. SUTTEN, JR., [redacted] U.S. ARMY.
COL. JAMES W. BODDIE, JR., [redacted] U.S. ARMY.
COL. JAMES M. WRIGHT, [redacted] U.S. ARMY.
COL. BILLY K. SOLOMON, [redacted] U.S. ARMY.
COL. PAUL J. KERN, [redacted] U.S. ARMY.
COL. GERARD P. BROHM, [redacted] U.S. ARMY.
COL. CHARLES C. CANNON, JR., [redacted] U.S. ARMY.
COL. HENRY S. MILLER, JR., [redacted] U.S. ARMY.
COL. ROGER G. THOMPSON, JR., [redacted] U.S. ARMY.
COL. JAMES M. LINK, [redacted] U.S. ARMY.
COL. RANDOLPH W. HOUSE, [redacted] U.S. ARMY.
COL. JOHN COSTELLO, [redacted] U.S. ARMY.
COL. CHARLES W. THOMAS, [redacted] U.S. ARMY.
COL. JOHNNY M. RIGGS, [redacted] U.S. ARMY.
COL. PETER J. SCHOOMAKER, [redacted] U.S. ARMY.
COL. JACK P. NIX, JR., [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1360:

To be lieutenant general

LT. GEN. WILLIAM H. RENO, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. THOMAS P. CARNEY, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. ALFRED J. MALLETTE, [redacted] U.S. ARMY.

THE UNITED STATES ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. ALLEN E. CHANDLER, [redacted]
BRIG. GEN. DANIEL J. HERNANDEZ, [redacted]
BRIG. GEN. CHARLES H. PERENICK, [redacted]
BRIG. GEN. JAMES F. RUEGER, [redacted]
BRIG. GEN. NATHANIEL JAMES, [redacted]
BRIG. GEN. LARRY E. LEE, [redacted]

to be brigadier general

COL. ROBERT J. BRANDT, [redacted]
COL. JAMES D. DAVIS, [redacted]
COL. EDWARD H. GERHARDT, [redacted]
COL. TONY G. IDOL, [redacted]
COL. JOHN F. KANE, [redacted]
COL. ALLEN F. MCGILBRA, [redacted]
COL. FELIX E. OCASIO-BELEN, [redacted]
COL. BRUCE W. VANDER KOLK, [redacted]
COL. JAMES E. WALKER, [redacted]
COL. BERNARD M. WATSON, [redacted]
COL. JERRY R. WYATT, [redacted]
COL. EUGENE S. IMAI, [redacted]
COL. NOAH D. DANIEL, [redacted]
COL. ERNEST T. EDWARDS, [redacted]
COL. JERRY W. FIELDS, [redacted]
COL. EDWARD L. GOETT, [redacted]
COL. HAROLD M. GOLDSTEIN, [redacted]
COL. ROGER H. GREENWOOD, [redacted]
COL. GARY R. TRUEX, [redacted]
COL. RONALD P. WOODSON, [redacted]

MARINE CORPS

THE FOLLOWING NAMED BRIGADIER GENERALS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

BRIG. GEN. JEFFERSON D. HOWELL, JR., [redacted] U.S. MARINE CORPS.
BRIG. GEN. JAMES A. BRABHAM, JR., [redacted] U.S. MARINE CORPS.
BRIG. GEN. MICHAEL J. BYRON, [redacted] U.S. MARINE CORPS.
BRIG. GEN. CHARLES E. WILHELM, [redacted] U.S. MARINE CORPS.
BRIG. GEN. CHARLES C. KRULAK, [redacted] U.S. MARINE CORPS.
BRIG. GEN. ARTHUR C. BLADES, [redacted] U.S. MARINE CORPS.
BRIG. GEN. PETER D. WILLIAMS, [redacted] U.S. MARINE CORPS.

THE FOLLOWING NAMED COLONELS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

COL. LARRY T. GARRETT, [redacted] U.S. MARINE CORPS.
COL. FRANK LIBUTTI, [redacted] U.S. MARINE CORPS.
COL. TERRENCE R. DAKE, [redacted] U.S. MARINE CORPS.
COL. LESLIE M. PALM, [redacted] U.S. MARINE CORPS.
COL. JAMES L. JONES, JR. [redacted] U.S. MARINE CORPS.
COL. JOHN E. RHODES, [redacted] U.S. MARINE CORPS.
COL. MICHAEL J. WILLIAMS, [redacted] U.S. MARINE CORPS.
COL. THOMAS L. WILKERSON, [redacted] U.S. MARINE CORPS.
COL. PETER PACE, [redacted] U.S. MARINE CORPS.
COL. RAY L. SMITH, [redacted] U.S. MARINE CORPS.
COL. LAWRENCE H. LIVINGSTON, [redacted] U.S. MARINE CORPS.

THE FOLLOWING NAMED COLONEL OF THE U.S. MARINE CORPS RESERVE FOR PROMOTION TO THE PERMANENT GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

COL. BOBBY G. HOLLINGSWORTH, U.S. MARINE CORPS.

THE FOLLOWING NAMED BRIGADIER GENERAL OF THE U.S. MARINE CORPS RESERVE FOR PROMOTION TO THE PERMANENT GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

IN THE AIR FORCE

JOHN T. COYNE.

AIR FORCE NOMINATIONS BEGINNING JANET S. DREW, [redacted] AND ENDING ROBERT A. SNORTUM, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

AIR FORCE NOMINATIONS BEGINNING DOUGLAS K. ACHESON, AND ENDING MARIE D. FISHER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

AIR FORCE NOMINATIONS BEGINNING ROBERT O. AMAON, AND ENDING THOMAS G. RUNDLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

AIR FORCE NOMINATIONS BEGINNING MAJOR GARNETT T. ALEXANDER, JR., [redacted] AND ENDING MAJOR FRANCIS H. ZECK, JR. [redacted], WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1992.

IN THE ARMY

ARMY NOMINATIONS BEGINNING JAMES M. NORTON, AND ENDING LEWIS R. MACKEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 24, 1992.

ARMY NOMINATIONS BEGINNING JERRY W. BLACK, AND ENDING ROBERT VICKERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

ARMY NOMINATIONS BEGINNING JAMES E. BROWN, AND ENDING ANNA R. WEST, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 24, 1992.

ARMY NOMINATIONS BEGINNING EMMETT M. ADE, AND ENDING GORDON WESTENSKOW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

ARMY NOMINATIONS BEGINNING WILLIAM V. ADAMS, AND ENDING WILLIAM A. WOODRUFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

ARMY NOMINATIONS BEGINNING ROBERT L. ACKLEY, AND ENDING CRAIG P. WITTMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

ARMY NOMINATIONS BEGINNING WALTER M. BRAUNOHLER, AND ENDING JOHN C. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

ARMY NOMINATIONS BEGINNING BRAD A. CASE, AND ENDING HAROLD D. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

ARMY NOMINATIONS BEGINNING THOMAS C ADA, AND ENDING MOLLY S MAGUIRE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

ARMY NOMINATIONS BEGINNING WILLIAM R * ADDISON, AND ENDING ROBERT J * YATES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

ARMY NOMINATIONS BEGINNING JAMES E ALBRITTON, AND ENDING JAMES ZARINCZUK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

ARMY NOMINATIONS BEGINNING JOHN A ATWOOD, AND ENDING FRANK ZIEMKIEWICZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

ARMY NOMINATIONS BEGINNING JOHN G ANGELO, AND ENDING TIMOTHY J PURDUE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

ARMY NOMINATIONS BEGINNING ROBERT F. GONZALES, AND ENDING * MICHAEL A. RANDOLPH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

ARMY NOMINATIONS BEGINNING FRANCISCO B. IRIARTE, AND ENDING DONALD T. STUCK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

ARMY NOMINATIONS BEGINNING LUCIEN A. BRUNDAGE, AND ENDING CHRISTOPHER T. RORES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1992.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING ARNOUX ABRAHAM, AND ENDING ROBERT H. WILLIS, JR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

IN THE NAVY

NAVY NOMINATIONS BEGINNING EDWARD L SPIRES, AND ENDING LISA C HILDERBRAND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 24, 1992.

NAVY NOMINATIONS BEGINNING JOHN G. HANNINK, AND ENDING ANTHONY H. CARPENTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

NAVY NOMINATIONS BEGINNING MICHAEL NARCISO ABREU, AND ENDING JOSEPH SALVATORE ZURZOLO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

NAVY NOMINATIONS BEGINNING MASON X. DANG, AND ENDING JON S. WOODS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

NAVY NOMINATIONS BEGINNING BRUCE W. GLASKO, AND ENDING GLEN C. CRAWFORD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

NAVY NOMINATIONS BEGINNING PAUL R COX, AND ENDING CATHY L WAGSTAFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

NAVY NOMINATIONS BEGINNING JOHN GEOFFREY SPEER, AND ENDING MARY CATHERINE COSTA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

NAVY NOMINATIONS BEGINNING NEAL ADAMS, AND ENDING STANLEY D RHOADES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

WITHDRAWAL

Executive message transmitted by the President to the Senate on March 3, 1992, withdrawing from further Senate consideration the following nomination:

U.S. AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF MAJOR GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624, WHICH WAS SENT TO THE SENATE ON FEBRUARY 5, 1992:

To be major general

BRIG. GEN. C, JEROME JONES, [redacted] REGULAR AIR FORCE.

EXTENSIONS OF REMARKS

BOYD CRAWFORD: A DISTINGUISHED STAFFER, AN AMERICAN PATRIOT

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. BROOMFIELD. Mr. Speaker, 60 years ago, a young Washingtonian, Boyd Crawford, began his career in this great institution as a secretary for a Michigan Republican, Representative Clarence J. McLeod.

When he retired 38 years later in 1970, Boyd left behind a legacy of dedicated service to the institution and the Nation he loved.

Boyd spent 31 of his 38 years in Congress as leader of the Foreign Affairs Committee staff, a record that I am confident will not soon be broken. His continuous service as leader of the committee staff under seven consecutive committee chairmen, two Republicans and five Democrats, reveals more than I could ever say about his professionalism and his administrative ability.

Boyd joined the committee in 1939, and thus was among those who helped shape our foreign policy during World War II. He was also among those present at the creation of America's post-war foreign policy, including the Marshall plan, which Boyd helped guide through the committee and the House.

His service was inspired by the same sense of bipartisanship that characterized our foreign policy during the war years and for the first two decades of the cold war.

Those of us who worked with Boyd during those years were saddened to hear of Boyd's recent death at 85 years of age. Boyd lived long enough to see the collapse of the Soviet Union and the end of the cold war, an outcome that he had worked mightily to achieve.

His wife of 64 years, Gertrude Galloway Crawford of Annandale, and his family should know that many of us in Congress have lost a good friend and that America has lost a great patriot.

CONGRESSIONAL SALUTE FOR GEORGE TROUTMAN

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. OBERSTAR. Mr. Speaker, as chairman of the Aviation Subcommittee of our Public Works and Transportation Committee I have had the opportunity to work with many fine individuals in both the public and private sector. One of the most outstanding has been George Troutman, vice president of Bell Helicopter Textron, Inc. He is a man of rare energy, ingenuity, and achievement.

In 1943, at age 17, George enlisted as a private in the U.S. Army Air corps. He completed flying school, serving as a B'OM003*0924 pilot during World War II and a B–29 pilot during the Korean war. He then became a research and development officer, worked in our guided missile and space programs and retired in 1965 from the USAF. Following that, George represented General Dynamics and, later, General Electric in Washington before joining Bell Helicopter 1981.

George retired from Bell on December 31, 1991, and on January 1, 1992 the Fort Worth Star Telegram published a most interesting article regarding his remarkable achievements. I would like to share that with the many Members of Congress who know and respect my friend George Troutman.

[From the Fort Worth Star-Telegram, Jan. 1, 1992]

LOBBYIST COMES IN FOR LANDING—TOP PROPONENT OF BELL HELICOPTER'S V–22 RETIRES

(By Ron Hutcheson)

WASHINGTON.—In the summer of 1980, George Troutman came to Fort Worth to learn about a strange aircraft that flies like an airplane and hovers like a helicopter.

Nearly 12 years later, the outcome of that trip is one reason the V–22 Osprey has survived repeated Pentagon attempts to cancel the $1.8 billion development project.

Troutman said he was so impressed by Bell Helicopter Textron's plans for the tilt-rotor aircraft that he signed on as the company's chief Washington lobbyist. The Georgia native, who retires today at age 66, has played a major role in persuading Congress to keep the V–22 alive despite objections from Defense Secretary Dick Cheney.

After a quarter of a century as a lobbyist for various defense contractors, Troutman is leaving an industry in turmoil with plans for a more tranquil life on his 204-acre farm in Maryland. He will be replaced by John Zugschwert, former executive director of the American Helicopter Society.

In an era of declining Pentagon budgets, when most defense companies are cutting spending and staff, Troutman is a living reminder that times were not always so tough for the military-industrial complex.

As a lobbyist, he was a master of the grand gesture, the kind of splashy event that requires money and imagination.

In 1986, he persuaded his company to throw a massive party in the Smithsonian Air and Space Museum that drew scores of top-ranking military and government officials.

In 1987, when then-House Speaker Jim Wright led a congressional delegation to the Soviet Union, he popped up in Madrid, Spain, for an impressive display of trans-Atlantic lobbying. Greeting the lawmakers on a stopover, Troutman treated the delegation to front-row seats at a bullfight and a four-course dinner with Flamenco dancers.

But his biggest coup came in 1990, when Troutman staged one of the most unusual publicity stunts in congressional history. Overcoming naynayers within his own company and stubborn resistance from federal bureaucrats, Troutman arranged to land one of Bell Helicopter Textron's experimental aircraft on the parking plaza in front of the U.S. Capitol.

The XV–15, a tilt-rotor aircraft that helped pave the way for the more sophisticated V–22, awed lawmakers and tourists with a noontime flight demonstration. The attention-getting event required three months of planning and approval from at least eight federal offices or agencies, including the Secret Service and the Federal Aviation Administration.

Despite his flamboyance, Troutman has carefully avoided personal publicity, refusing almost all requests for on-the-record interviews.

"The last thing any good Washington guy wants is high visibility," he explained yesterday, after agreeing to talk on his last day at the office.

Troutman, who previously lobbied for General Dynamics and General Electric, said he expects even tougher times ahead for the industry.

"The defense industry, in my view, is going to have an enormous shakeout. All the companies are going to be working very hard to get pieces of whatever business is still coming," he said. "The state of the industry in general is going to go down, and it will keep on going down. There will be a bottom somewhere."

Troutman, who carried the title of vice president of Washington operations for Bell, said he always viewed his job in more simple terms.

"Lobbying is no more and no less than being a salesman," he said. "If you sell yourself first and your idea has merit, you can probably sell it."

The former Air Force pilot started selling defense products in 1965, when he joined General Dynamics after retiring from a 22-year military career. His primary task in that first job was to keep government money flowing to the Fort Worth-built F–111 long after the Pentagon had soured on the troubled fighter.

The F–111 was the mainstay of the Fort Worth plant until General Dynamics developed the F–16 fighter.

"It was tough," Troutman said. "If we hadn't been able to persuade the Congress of the value of the F–111 to the military, the GD plant would have closed. I doubt that we would ever have seen the F–16."

In 1975, Troutman left General Dynamics for General Electric, where he helped promote the company's aircraft engines. He joined Bell Helicopter Textron in January 1981.

"I came really, I think, because of the tilt-rotor, because it was so fascinating," he said. "You can see the potential for the thing."

Troutman said he is virtually certain that Cheney will again call for canceling the V–22 in the 1993 defense budget. He said he is equally certain that Congress will reject Cheney's proposal and support the project.

"No question about it—it will go ahead," he said. "The V–22 has a life of its own."

As for his own plans, Troutman said he is considering consulting work, other job offers

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and the possibility of raising fish and exotic game on his farm. He said he is particularly interested in tilapia, a perchlike fish that is served in some restaurants.

"Legend has it, it's St. Peter's fish," he said. "It's on the menu at the Carriage House in Fort Worth."

But as he cleaned out his desk yesterday, Troutman seemed in no hurry to make up his mind.

"I've never really known what I wanted to do when I grow up," he said. "I'm grown up, and I'm still not sure."

DOCTOR'S COLUMN MAKES GREAT CASE FOR HEALTH CARE REFORM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. STARK. Mr. Speaker, the March 1 Tri-Valley Herald of Pleasanton, CA, contained an excellent guest column by Dr. Edward B. Clark. The doctor has served the Tri-Valley area for over 25 years in the private practice of obstetrics and gynecology. His editorial is worth reprinting here.

I would especially note the growing recognition by many physicians that a national single payor system with capitated or budgeted payments would reduce the interference of paraprofessionals in the practice of medicine and give doctors greater clinical freedom to practice medicine, rather than practice bureaucracy:

WE NEED TO REFORM HEALTH CARE

(By Edward B. Clark, M.D.)

Choice and opportunity have been available in the development of good health care in this country. Currently, many have no access to health care. Most of us are becoming distressed over the ever-increasing costs of care and decreasing choice of providers. There has definitely been a shift from health care being a right into being a privilege.

Members of my family have now lost both the choice and the opportunity for health care. My son and brother have lost both through loss of employment and changing employment, respectively. Our daughter, in the latter part of her second pregnancy, can no longer have her current physicians because of an employer decision to change to a more affordable insurance plan.

A comprehensive plan that incorporates universal coverage and controls costs at an affordable price needs to be considered now. It needs to fit our social values and behavioral patterns.

We all need to examine and prioritize what we think are the most necessary elements for promoting good health. Preventing disease (sanitation, environmental safety, immunization), early recognition of disease (screening programs) as well as treating acute and chronic conditions should be considered in providing those components to everyone. Activities which are self destructive or demonstrate poor health habits should cost each individual through higher premiums or greater deductibles.

Financing a health care program should be budget neutral. The increased costs of universal coverage could come from decreasing administrative costs. All funds could flow through a single payer, which would markedly reduce the paperwork. Capitation of payments to provider groups would reduce "managed care" by paraprofessionals, which physicians resent, and simultaneously limit expenditures. Limitation of medical options are also resented especially in view of the liabilities involved. However, the physician actually has more freedom to prioritize in his best medical judgment which cases need more attention.

* * * * *

Currently, patients, physicians and hospitals that are insulated by health insurance act as though they have a blank check through a bank with infinite resources. Doctors and hospitals are paid more when more procedures or tests are carried out. Patients in turn have come to expect that any treatment or test that is available is theirs for the asking. No thought is given to costs or relevance to decision making for better care.

Limits on capitation should be established that allow certain basic care to take place and when it is exceeded the consumer would pay more and the provider receive less. Those providers that are most cost efficient would be rewarded with greater income and patients that utilize less would have lower personal costs.

A great concern is that quality of care would diminish. There are many examples of medical care actually improving through better use of medications, better utilization of capital equipment and less unnecessary hospitalizations and surgery. Of course, there would have to be increased emphasis on the definition of quality and then assurance of its attainment.

Most authorities in medical economics state that any change in health-care legislation will be incremental at best. They also state that comprehensive reform is needed but during an election year our politicians are fearful of alienating a group that might prevent their election. Hopefully enough people will consider the needs of our entire society and be creative enough to entice the majority of us to establish this much needed reform.

Only bold leadership, thoughtful consideration and painful decisions can overcome the powerful influence of the status quo. Comprehensive reform in health care can only be accomplished through serious commitment by us all.

FREDERICA WILSON, HONORED PRINCIPAL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Frederica Wilson, who has been honored by the Dade County Public School System as being one of its best administrators. She was one of seven candidates chosen to compete for an award.

As principal of Skyway Elementary, Ms. Wilson has developed several award winning programs which brought the school up to a national fifth in attendance. She was recently featured in the Miami Herald for her extraordinary dedication and commitment to education. The article "Skyway Principal's Philosophy—Reach Out and Hug Someone" by Ana Acle reveals why she is so admired and loved by students and colleagues. The article follows:

Frederica Wilson walks out of her office at Skyway Elementary and is almost instantly surrounded by her students.

Tiny arms stretch around her waist or legs—depending on the size of the child—and squeeze her. "That's a daily ritual," she said. "Every child receives a hug first thing in the morning and last thing before they leave home."

For 12 years Wilson has been principal of Skyway in Carol City. She has won numerous awards in the past, but this is the first time she is nominated for principal of the year. "I'm honored," she said.

When Wilson began her first year as principal, attendance at the school was one of the lowest in the county. Within a few years, Wilson's programs brought the school up to fifth in attendance.

Wilson has managed to turn Skyway into a world where children are encouraged to dream about achieving their goals. "College, drug-free and bilingualism are our main goals," said Wilson, who talks to the children in Spanish when she enters a classroom. The children answer in Spanish.

Upstairs in the fourth and fifth grade classrooms, students attend "college." Wilson calls it Skyway University. Like college, teachers are addressed as "professor" and each subject is taught in a different room.

Mr. Speaker, I commend Frederica Wilson for her outstanding achievements as teacher and administrator. Her devotion to education is an inspiration to all teachers and principals in Dade County and around the Nation.

UNDERMINING THE RIGHT TO COUNSEL

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. EDWARDS of California. Mr. Speaker, this editorial, the fifth in a series that appeared in the Atlanta Constitution, indicates that, "most of the ground rules of criminal and civil procedure laid out in the sixth and seventh amendments are straightforward and uncontested." However, one of the most important rights in the sixth amendment, the right to counsel in criminal cases, is being dramatically eroded. Providing competent counsel in these cases will eliminate unnecessary delays at all stages of criminal litigation, and particularly in the Federal habeas corpus cases that this body recently addressed. I hope that this editorial will explain and highlight the need for competent counsel as well as further informing us about the sixth and seventh amendments.

Article VI: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Article VII: In suits at common law, where the value of controversy shall exceed $20, the right of trial by jury shall be preserved and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

[From the Atlanta Constitution, Dec. 12, 1991]

UNDERMINING THE RIGHT TO COUNSEL

(This is the fifth in a series of editorials leading to the 200th anniversary Dec. 15 of the ratification of the Bill of Rights.)

Most of the ground rules of criminal and civil procedure laid out in the Sixth and Seventh amendments are straightforward and uncontested. Of course juries must be impartial and defendants must be informed of the charges against them. The Seventh Amendment's guarantee of jury trials in civil cases may be anachronistic, but it's here to stay.

One current Sixth Amendment conundrum involves squaring a defendant's right to be "confronted with the witnesses against him" with the desire to protect children in child-abuse cases from being intimidated or traumatized by having to testify against their alleged abusers. The U.S. Supreme Court has yet to establish clear guidelines here.

A milestone in Sixth Amendment jurisprudence was Gideon v. Wainwright (1963), which established the right to counsel in all state felony cases. Indigent defendants in such cases now had to be provided with lawyers at public expense.

In the decade following Gideon, the right to counsel was extended to an array of legal proceedings. Since then, unfortunately, the court has reversed field.

In 1989, the court denied defendants the right to counsel after direct appeal: when petitions for habeas corpus are filed alleging constitutional violations. The implications of this were dramatically demonstrated last session, when the court denied a writ of habeas corpus to a man sentenced to death because his lawyer had filed the petition three days late.

Since there was no right to counsel at this stage of appeal, the court found the claim of inadequate representation to be without merit. In dissent, Justice Harry Blackmun accused the court of creating "a Byzantine morass of arbitrary, unnecessary and unjustifiable impediments to the vindication of federal rights."

Indeed, the court has erected so many procedural barriers to filing habeas petitions as to require defense lawyers to possess an encylopedic grasp of a rapidly shifting body of law. Yet most petitioners are represented by appointed counsel with little experience in death-penalty litigation. They are made to pay the price for inadequate representation by ill-equipped lawyers they had no part in hiring.

The worst betrayal of Gideon is the willingness of courts to allow indigents, who constitute upwards of two-thirds of all felony defendants, to be so badly represented. Public defenders in places like Fulton County are so overburdened they can do little more than "meet 'em and plead 'em." In rural areas, counties press civil practitioners into criminal work and pay them a pittance.

A right to counsel cannot entitle poor people to the best lawyering money can buy. But certain minimum standards of representation ought to be enforceable. Nothing so undermines the Sixth Amendment's right to counsel as inadequate funding for indigent defense.

EDUCATIONAL GUIDELINES COULD WORK, WITH STATE, LOCAL INPUT

HON. JAMES P. MORAN, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. MORAN. Mr. Speaker, the congressionally mandated National Council on Education Standards and Testing recently released their report stating that a national system of student assessments is a goal toward which the educational community should work. I agree. Challenging our students to attain an acceptable level of academic achievement is not an unrealistic proposition.

For the past decade we have recognized that American schools are in need of a renewed commitment by those involved at every level. The Federal Government must invest more money, the States must review their priorities, local educators must closely examine their current methods and consider reform, and students must be held to world class standards.

Mr. Mel Bergheim of the Alexandria Gazette-Packet points out that the debate over these achievement levels is often misplaced. The Federal Government does not, and should not, put itself in a position of dictating a specific curriculum or test. However, as I stated above, there is a serious need for national standards that should be adhered to by local school systems regardless of how they choose to measure their students performance.

I submit Mr. Bergheim's article dated January 23, 1992 for the RECORD.

[From the Gazette Packet, Jan. 23, 1992]

EDUCATIONAL GUIDELINES COULD WORK, WITH STATE, LOCAL INPUT

(By Mel Begrheim)

Should we have national standards for public schools and related tests of student achievement?

Those who answer "yes" argue that we need a common basis for setting curriculum content and comparing progress, or lack of it, from place to place and over time.

Those who answer "no" worry that the disparities in resources available to school systems and the diversity of student populations—such as the high proportion of minorities in cities like Alexandria compared to the relative homogeneity of suburban counties like Loudoun—defy setting uniformly applicable standards.

And still to be answered is a question that especially bothers opponents of national standards: Who will set them? People who agree with Sen. Jesse Helms? Those who belong to People for the American Way?

Evidence that the country is closely divided on the issue surfaced Jan. 6 when PBS telecast a debate, in the form of a courtroom trial, on the question, "Do we need a national report card?"

After the "trial," viewers were invited to vote on the question by dialing one of two toll-free numbers. Of 15,528 respondents, 47.5 percent voted "yes", 52.5 percent, "no."

The format of the program, the first of three in a weekly series called "Education on Trial," was adversarial, implying that the answer had to be yes or no, guilty or not guilty.

This approach left no room for charting a middle course between prescribing uniform national standards with little room for local variation, and setting disparate state and local standards disparate state and local students with little commonality from one place to another.

Instead, why not take a middle course that would encourage developing educational guidelines at the national level in a format permitting state and local people to set their own goals and priorities?

There is actually a model in place for such an approach, which was developed and refined over the last 15 years in the field of public health.

The Centers for Disease Control, in close collaboration with other agencies of the U.S. Public Health Service, the American Public Health Association, and state and local public health officials, developed model standards for the attainment of local objectives related to the promotion and protection of health.

The singular feature of these standards is that they are presented in workbook form, enabling each community to set its own principles and timetable for achieving its objectives within carefully defined, specific national goals. Communities are urged, but not required, to try to achieve their objectives by the year 2000.

Here are two more or less randomly selected examples of the format:

"By——[year] reduce deaths caused by alcohol-related motor vehicle crashes to no more than—[number] per 100,000 people. . . . Note: the community may wish to develop specific population targets, for example, by age, race, sex, income, disabling conditions, etc. for community-relevant populations."

"By——[year] the community will be served by a system that assures access to health care services for control of chronic diseases and conditions, e.g. hypertension, diabetes, arthritis."

The emphasis in the standards is on applying the resources needed to improve health or on measuring the health status outcomes of community effort.

Note that though the standards are set nationally, each community is free to work out its own scenario and to add to, or choose among, the guidelines it will work on. Further, each community must decide for itself who should set the goals and how to achieve them.

Note also that though a federal agency, in this instance the Centers for Disease Control, took the lead in developing the standards, state and local public health officials were significant partners, as was the American Public Health Association, a national, private, professional organization, which promulgates the standards.

As one who was deeply involved in developing the public health standards in the 1970s and has observed the local education scene since the 1960s, I believe this approach can be adapted to public schools.

To the National Council on Standards and Testing, established by Congress to address this important issue in the so-called crisis in public education, I say:

Why not try the medicine that has been prescribed for public health?

THE CREATION OF A HOUSE ADMINISTRATOR

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. GLICKMAN. Mr. Speaker, the House of Representatives has recently experienced an intolerable rash of management problems. While the specific problems may seem unrelated, they all stem from a lack of professional management at the top. I am not criticizing the performance of the current officers of the House, but the lack of a professional manager responsible for running a tight ship around here.

Today we are introducing a resolution to amend the House rules to create a House Administrator. This person would be the manager of the House, appointed by the Speaker, in consultation with the minority leader, and approved by the House, on the basis of his or her experience in running a major institution, whether public or private, according to modern business practices. The Administrator's task will be to plan, coordinate and direct all the administrative support operations of the House.

The Administrator will report to the Committee on House Administration, which will put many aspects of running the House in bipartisan hands, thus avoiding allegations of one party concealing something from the other. Since both parties are held accountable for the actions of the House, both should share in the oversight and management functions.

The resolution also establishes an auditor of the House, who will be appointed by the chairman of the House Administration Committee, with the approval of the Speaker and the minority leader. The auditor will conduct financial audits to see whether financial systems are working and will also pursue allegations of fraud, waste, or abuse, in much the same manner as the Inspectors General in Federal agencies. The Inspectors General have proven their worth time and time again in various agencies and the same concept could work here in the House.

Running the Capitol complex has become a huge operation. We are a city within a city. We have dozens of buildings, a police force, restaurants, shops, mass transit system, library and research service, television station, car wash, post office, first aid stations, doctors office, ambulance service, hair salons, credit union, printer, paint shop, furniture factory, moving company, and more.

Unfortunately, the House is managed the same way it was run decades ago, and all Members, as a group, end up paying the price for our failure to bring operations into the modern world. Without effective management controls, the House could be spending millions of dollars unnecessarily. The current system is accountable to no one, yet every one of us is held accountable when something goes wrong.

We are responsible for how tax dollars are spent. We are held accountable for any aspect of this operation that does not pass the test of public scrutiny.

The recent revelations over the House bank, restaurants, the Post Office, and services viewed as perks have focused scrutiny on practices that would not stand up to normal business standards and do not meet the professional and ethical standards of the overwhelming majority of House Members. These unfortunate events reflect the fact there is no one professional administrator overseeing the operation of an enterprise with about 25,000 employees and a budget of almost $1.8 billion.

Why perpetuate this system just because that is the way it has always been done? Many of these practices make no sense in 1992, much less in the 20th century. For example, the Sergeant-at-Arms pays the salaries of Members, while the Clerk of the House pays the salaries of all other House employees. Why the division? Because serving in Congress used to be a part time job, and Members were paid on the per diem basis. In order to get their $8 a day back in the 1800's, Members would sign a chit to draw from the now-defunct House bank. The Speaker, who was the payroll agent for Members, requested the Sergeant-at-Arms assist him, and the Sergeant-at-Arms has paid Members' salaries ever since.

Almost every person I asked, when trying to find out why this was the case, replied, "Oh, that's the way it has always been done," as if that was the response I was looking for. This kind of an attitude is unacceptable if the House as an institution is to operate with any kind of responsibility.

Now is the time to take action to create effective, modern systems of congressional management and delegate management authority to a professional, not a politician. We should be able to focus our attention on important issues of policy, such as health care and creating jobs, not on whether the barber shop is charging enough for a haircut or if there is favoritism in the assignment of parking spaces.

We are introducing this proposal to prevent future problems in the House and to ensure that tax dollars are being spent in a prudent manner. However, the main purpose for this proposal is to liberate us, to free up Members of Congress from the day to day operational details and professionalize their handling so we can do what we were elected to do and focus our efforts on providing health care to Americans, to improve our country's educational system, to get Americans working again, and to get this economy back on its feet.

INTRODUCTION OF THE PROTECTION OF THE BODIE BOWL AREA IN CALIFORNIA

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. LEHMAN of California. Mr. Speaker, today I am introducing a piece of legislation which will protect the integrity of a very important landmark in the State of California and my congressional district: the Bodie State Historic Park and its surrounding lands.

Bodie, a former gold mine district and preserved authentic ghosttown, was designated a National Historic Landmark in 1961 and a California State Historic Park in 1962. It is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey. The National Park Service listed Bodie as a priority one endangered National Historic Landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historic Landmarks" and recommended protection of the Bodie area.

The legislation that I am introducing today at the recommendation of a resolution passed by the California State Legislature on September 4, 1990, will attempt to preserve the ghosttown character, ambience, historic buildings, and scenic attributes of the town of Bodie by withdrawing the public lands around the historic park from further mineral entry or patent.

Bodie was settled around 1859, when William Bodey discovered gold at Bodie Bluff. Seeking their fortune, many followed him to Bodie and established a mining town which in the form of the ghosttown as it stands today, gives an outlook to the history of old time mining towns and offers reminders of the vibrant characters who made it unique.

The town of Bodie rose to prominence with the decline of mining along the western slope of the Sierra Nevada. Prospectors crossing the eastern slope in 1859 to "see the Elephant"—that is, to search for gold—discovered what was to be the Comstock Lode at Virginia City, and started a wild rush to the surrounding high desert country.

By 1879 Bodie boasted a population of about 10,000 and was second to none for wickedness, badmen and the "the worst climate out of doors." Killings occurred with monotonous regularity, sometimes becoming almost daily events. Robberies, stage holdups, and street fights provided variety, and the town's 65 saloons offered many opportunities for relaxation after hard days of work in the mines. One little girl, whose family was taking her to the remote and infamous town, wrote in her diary: "Goodbye God, I'm going to Bodie." The phrase came to be known throughout the West.

Only about 5 percent of the buildings Bodie contained during its 1880 heyday still remain. Today, it stands just as time, fire, and the elements have left it—a genuine California gold mining ghosttown in a state of "arrested decay" which courts over 200,000 visitors per year. It is my hope that this legislation will continue to promote, protect and preserve the integrity of this area and its rich history for generations to come.

BIOGRAPHY OF JOHN ROSS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a short biography of John Ross, Principal Chief of the Cherokee Nation, who is known for his efforts in defending the rights of Cherokees to their ancestral lands, and who led the Cherokees to Oklahoma in the Trail of Tears in 1838. This biography publication entitled "Famous Indians, A Collection of Short Biographies."

JOHN ROSS (CHEROKEE)

In October of 1828, a blue-eyed, fair-skinned man stood before the General Council of the Cherokee Indian tribe, raised his right hand, and pledged: "I do solemnly swear that I will faithfully execute the office of Principal Chief of the Cherokee Nation, and will, to the best of my ability, preserve, protect and defend the Constitution of the Cherokee Nation."

John Ross, the man who took the oath of office so much like that of incoming Presidents of the United States, had much white ancestry. But his Scottish immigrant father, while having the boy educated by white teachers, had brought up "Tsan-Usdi" (Little John) as an Indian among Indians. John Ross considered himself a Cherokee, grew up to marry a Cherokee girl, and was to devote his life to leadership of the people he loved.

By the time Ross took his oath as President Chief of the new Cherokee Government, the tribe had gone far toward civilization. They were accomplished farmers, cattlemen, and weavers; had built roads, schools, and churches, and, through the invention by their great tribesman Sequoya of a Cherokee alphabet, were largely literate. In 1926 the Cherokee Nation formed a government patterned after that of the United States, its capital at New Echota, Ga.

John Ross was the logical choice as Principal Chief, for he had been a tribal leader since 1813, when he had fought under General Jackson and his men against the Creeks. As president of the Cherokee National Committee from 1819 to 1826 he had promoted the education and mechanical training of the Indians, and worked in development of the new government.

But the Cherokees' "golden age" was to be a brief one, for as early as 1802 the Federal Government had promised the State of Georgia that Indians would, in time, be removed from their lands. In 1822 the House of Representatives voted to take away Cherokee land titles. To this move the Cherokee Council responded by voting to make no more treaties with the United States. Neither persuasion, threats, nor the bribery attempts of two commissioners, sent to the tribe from Washington, could change Cherokee resistance.

But Georgia continued to maintain that the Indians were only tenants on their lands, and between 1828 and 1831 the Georgia legislature ruthlessly stripped the Cherokees of all their civil rights. When gold was discovered on tribal lands, Cherokee fate was sealed: answering demands of the Georgia legislature, the U.S. Congress appropriated $50,000 for removal of the tribe.

John Ross worked tirelessly in defending the right of Cherokees to their ancestral lands, and headed several delegations to Washington, but without success. His own home was confiscated, and for a time he was imprisoned. The tribal newspaper, the Cherokee Phoenix, was suppressed.

In 1835, under the Treaty of New Echota, all Cherokee lands east of the Mississippi were ceded and the tribe was given 2 years to move to Indian Territory (Oklahoma). No official of the Cherokee Nation had been a party to the removal agreement, and some 16,000 Cherokees signed a petition to Washington declaring that their tribesmen had been tricked by white negotiators at New Echota. The petition and all Ross's pleas were ignored by President Jackson.

Although about 2,000 Cherokees had gone west after 1836, the remaining 15,000 stayed on, hopeful that Ross would succeed in his fight. In May, 1838, Gen. Winfield Scott and 7,000 men arrived in Cherokee country and herded the Indians into stockades in preparation for forced removal. The following October they were released, and to Ross fell the sad task of leading his people from their homes.

More than 4,000 Cherokees died of exposure, hunger, and sickness during the terrible 6-month-long trip west. Ross's wife was among them, and the Cherokee leader buried her in Little Rock, Ark. The journey to the West became known among the Cherokees as Nuna-da-ut-sun'y—"The Trial Were They Cried." History records it as "The Trail of Tears."

In Indian Territory the new migrants, joining Cherokee "old Settlers," eventually marshaled their forces, formed a new constitution, and at a national Cherokee convention elected John Ross, Principal Chief of the United Cherokee Nation in its new capital at Tahlequah, Okla. Although dissensions caused by the Civil War led the Federal Government to depose him for a time, he was returned to office. The Cherokee chief—statesman to the end—continued to lead his people until he died in 1866, while in Washington working on a treaty to continue the Cherokee Government.

PRESCRIPTION DRUG COSTS CAUSE CONSTITUENTS HEART ACHES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. STARK. Mr. Speaker, there is hardly a day when I don't hear from a constituent about skyrocketing costs of needed pharmaceutical drugs. Whether it's in a personal letter, a phone message, or running into someone at the grocery store back in my congressional district, this is the No. 1 issue for many Americans.

The magazine "Consumer Reports" recently reported that for 75 percent of senior citizens, prescription medications are the highest health care costs in their daily lives. I can believe it. When outrageous price increases in pharmaceutical drugs become a primary barrier to access to health care, the Congress and the administration must take steps to address the problem. I've noted in recent weeks many of the major pharmaceutical drug companies have taken the pledge, committing to hold their price increases to below the consumer price index [CPI]. Merck, Dupont, Dupont-Merck, and Hoffmann-LaRoche are some of the companies taking the pledge. I applaud these steps, and call for others in the industry to follow suit.

The enclosed letter from a constituent in San Lorenzo, CA, makes a clear case for further reform. I recommend it to my colleagues:

SAN LORENZO, CA.

I feel you should check out Marion Laboratories and their drug Cardizem, 60 milligrams, 100 tablets. I paid the following:

Kaiser:

12/90—$41.00.

8/1/91—$41.00.

9/7/91—$55.05 ($14.00 increase in 1 month).

12/24/91—$56.70 ($15.70 increase in 4 months).

10/91—$61.25 ($20.25 increase in 6 months).

This increase started just about the time the company started advertising (a lot) on television—offering a free quarterly magazine called "Cardisense"—to anyone who called their 800 number. We are paying for their advertising. It's not fair! It's excessive!

C.F.

DR. RUTH DOUGLAS OF SOUTH GRANVILLE, NY: A CULTURAL TREASURE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. SOLOMON. Mr. Speaker, there are a great number of enormously talented people in the 24th Congressional District, and I'd like to tell you about one of them.

A friend of mine, James N. Ayres of Granville, NY, wrote to me and said "We think of Dr. Ruth (Douglas) as being a community treasure." And so she is. After retiring in 1967 as chairman of the music department of Mount Holyoke College in Massachusetts, she has been a voice teacher, musical director, and conductor in the South Granville area, enriching the entire community in incalculable ways.

Ruth Douglas graduated from Mount Holyoke in 1923, and immediately jointed the college's music department. She eventually rose to head the department, and continued to study voice and piano and perform as a soloist with the choir and glee club. She also studied in Berlin.

The glee club she directed gave numerous performances in New York City, occasionally in joint concerts with other schools.

Her sabbatical leaves and summers were spent increasing her musical knowledge. She visited Manila, Japan, India, England, Germany, Switzerland, Moscow, and many Iron Curtain countries, where she learned that music was an international language transcending differences in culture and political systems.

In 1987, she was awarded the De Witt Clinton Distinguished Service Award from Grand Lodge, Free and Accepted Masons of New York. The award was in recognition of her "outstanding service to the community which exemplifies the ancient Masonic teaching of concern for the well-being of Mankind and of belief in the worldwide brotherhood of Man." Specifically, the award was for her long contribution to the cultural life of her community. It was characteristic of her to give credit instead to the members of her chorus.

Dr. Douglas is active in other areas as well. She has been a regent of the Captain Israel Harris Chapter of the Daughters of the American Revolution. And everyone who knows her agrees that she is very well-informed about current affairs.

Her 90th birthday will be March 19. On March 22 her many friends and admirers will hold a community celebration in her honor.

Mr. Speaker, I would ask this body to rise today to pay its own tribute to a very special person, Dr. Ruth Douglas of South Granville, NY.

LAURA SIMS AND THE COBBS CREEK SKATE HOUSE IN THE PARK A WINNING COMBINATION

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today to pay tribute to a truly unique woman who is the very definition of persistence and dedication. In 1971, Mrs. Laura Sims had a vision of a neighborhood ice skating rink, because she wanted a place for her children and their friends to skate. Some 14 years later, Mrs. Sims saw her dreams turn into reality with the opening of the Cobbs Creek Skate House in the Park. I would like to take a moment to reflect on this truly remarkable woman, and demonstrate to my colleagues that one concerned citizen can certainly make a difference.

The 200- by 85-foot-rink at Cobbs Creek Parkway and Walnut Street was initially proposed in 1971 by Mrs. Sims and other west Philadelphia parents who were tired of taking their children out of the neighborhood for ice skating. Needless to say, as in a great many of our Nation's neighborhoods, interest in ice skating was very high, and parents began driving caravans of west Philadelphia children to other city and suburban skating rinks. Soon the carloads became busloads, and the idea of opening a neighborhood ice rink was brought before the Fairmount Park Commission. After years of negotiations and appropriations, the Cobbs Creek Skate House in the Park opened in February 1985. I enjoyed the great pleasure of attending this joyous occasion with Mrs. Sims.

Some would think that after the years of hard work it took to open the ice rink, Laura Sims might have relaxed, but this could not be further from the truth. Laura Sims has worked exceedingly hard over the last 7 years in a new capacity—to see that the Cobbs Creek Skate House is utilized, year round, to its fullest potential. Her hard work has paid off, and the rink has become one of Philadelphia's finest recreation centers. Her many activities range from the initiation of the public school skating program in which 10 area schools have utilized the rink since its construction, to the establishment of arts and crafts programs for seniors. Under the guidance of Laura Sims, the Cobbs Creek Skate House in the Park has become the pulse of the Cobbs Creek community.

In addition to her multitude of duties at the ice rink, Laura Sims has helped revitalize the Cobbs Creek neighborhood through a variety of beautification projects.

I firmly believe that it is people like Laura Sims that still make our cities pleasant places to live. Her pride in her neighborhood, her city, and her country are clearly seen through the fruits of her labor. One need look no further than the smile on her face to see a woman who is happiest when others are happy. I ask my colleagues to rise and join me in paying our greatest tributes to this wonderful woman. God Bless Laura Sims.

GLORIA FISHER, HONORED PRINCIPAL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Gloria Fisher, who has been honored by the Dade County public school system as being one of its best administrators. She was one of seven candidates chosen to compete for an award.

As principal of Seminole Elementary, a school where one-third of the students do not speak English as a first language, she began an extensive reading program to help students advance to their level by fourth grade. Ms. Fisher was recently featured in the Miami Herald for her extraordinary dedication and commitment to education. The article "Seminole Elementary is Run by 'Angel of God'" by Jon O'Neill reveals why she is so admired and loved by students and colleagues. The article follows:

At Seminole Elementary, Gloria Fisher runs a "no-frills" school.

But she runs it well enough to be tapped as one of seven nominees for this year's Principal of the Year Award. Fisher is the nominee from Dade Schools Region III.

"I'm very flattered by this," Fisher said. "It's always an honor to be selected for an award by your peers."

Those who work for Fisher, and those she works for, have no doubt she deserves the accolade.

"She's an angel from God," said Jo Lynn Reinertson, who teaches prekindergarten at Seminole, 121 SW 78th PL. "She cares about the kids and the teachers and she always supports us. She's fantastic."

Fisher is "a strong leader," said Julia Menendez, director of operations for Region III. "She gets people motivated and gets things done. She knows how to overcome difficulties."

For Fisher, the main job as a principal is to get children to understand they must be responsible for their own actions. She sees it as the best way to build a foundation for their future.

"They have to know they have choices," she said. "They know there are rules and consequences when they break the rules. When they make a bad decision, they are punishing themselves."

Fisher is also committed to reading. At Seminole, more than one-third of the school's 600 students don't speak English as a native language. So Fisher and the teachers began an intensive three-year reading program, focusing on the primary grades.

"If the kids aren't reading up to their level by fourth grade, we're in deep trouble," she said. "We have to prepare them to go into the world, and that starts with reading."

Fisher, 60, was born in New York City and got her degree in fine arts from the University of Havana. She studied in New York and Cuba, finally moving to Miami with her first husband in 1960.

She started as a substitute teacher at North Beach Elementary, then moved to Riverside for five years and to the old Merrick Elementary as a visiting teacher. Her next job was as part of the human relations group at a region office. She has also worked as school psychologist and a personnel coordinator.

But her heart was in the schools and in 1975 she became principal of Banyan Elementary, where she stayed for 13 years and presided over the opening of a gifted center there. She moved to Seminole in 1988 and set about her first task: more parent participation.

"There was no parental involvement," she said. "Now, I have a great PTA. We don't have a lot of money here, but they're always pitching in to help and back me up."

Fisher loves being a principal.

"This is where it's at for me," she said. 'Out here, with the kids, the teachers and the parents, is where you can really make a difference."

Mr. Speaker, I commend Gloria Fisher for her outstanding achievements as teacher and administrator. Her devotion to education is an inspiration to all teachers and principals in Dade County and around the Nation.

CONGRATULATIONS TO WESTINGHOUSE SCIENCE WINNERS

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. HOCHBRUECKNER, Mr. Speaker, I am honored to have this opportunity to extend my heartiest congratulations to two young men in my congressional district who were recently named finalists in the 50th annual "Westinghouse Science Talent Search." They were among 12 young people in the district who had been named semifinalists. The people of the First Congressional District of New York are very proud of this dazzling dozen.

Kurt Steven Thorn, 16, of Wading River selected a project in marine biology/geochemistry in the Science Talent Search. He theorized that the history of water pollution is detectable in the growth lines in hard clam shells. using a synchrotron x ray fluorescence microprobe at the Brookhaven National Laboratory, Kurt measured trace element concentrations and found a correlation.

The son of Dr. and Mrs. Craig E. Thorn, he is first in his class at Shoreham Wading River High School and plans to study molecular biology at Princeton. He was also a finalist at the 1991 International Science and Engineering Fair.

Edward John Newman, 17, of Nesconset entered a physics project in the Science Talent Search. His objective was to design, build, and test a bicycle wheel with better aerodynamic characteristics than those of wheels now on the market. He developed a four-spoke composite wheel with adjustable, asymmetrical, airfoil-shaped spokes and through extensive testing showed it to outperform more standard wheels.

The son of Mr. and Mrs. Edward Newman, Edward is a student at St. Anthony's High School in South Huntington and plans to study engineering at Virginia Polytechnic Institute. For the past 3 years he has designed the highest rated bridge in the Brookhaven National Bridge Building contest.

In addition to these two outstanding young men, 10 others made it to the rank of semifinalist, 8 of them from 1 high school. The eight students from Ward Melville High School in East Setauket are Stephen Kao, John Tyler Lopez, Matthew Aaron Mausner, Gabriel Louis Rozengarten, Kenneth Thomas Shelden, Joshua Benjamin Silverman, Tessa Cartwright Warren, and Virginia Yvonne Youngblood. Also semifinalists were Jonathan Craig Spier of Comsewogue High School and John Joseph Emmel of Westhampton Beach High School.

OPPOSITION TO THE OMNIBUS CRIME CONTROL ACT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. GINGRICH. Mr. Speaker, I believe that crime is running rampant in America. It's destroying our families, our neighborhoods, and our cities. This crime crisis deeply effects all levels of our society. It is imperative that we support our law enforcement agencies and personnel in their battle against crime in our communities.

Moreover, we must listen carefully to the opinions of law enforcement personnel concerning the laws which we, as Members of Congress, debate and enact. It is for this reason I consider a letter by Alvin Arrowood, III, president of the Kermit C. Sanders Lodge No. 13 of the Fraternal Order of Police so important.

His letter expresses not only his own personal feelings, but also the convictions of the more than 300 fellow law enforcement officers he represents, regarding the serious concerns which they have with H.R. 3371 in its present form. I urge my colleagues to take these views into consideration and enact a true crime control bill.

FRATERNAL ORDER OF POLICE,
Marietta, GA, February 12, 1992.

Hon. NEWT GINGRICH,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN GINGRICH: I am writing you as the representative of over 300 law enforcement officers of the Kermit C. Sanders Lodge #13, to voice our concerns over a bill now before the Senate. That being Cong. Rec. H11691, Nov. 26, 1991, or HR 3371.

First, it is our understanding that this legislation is supported by Mr. Dewey Stokes, the President of the National Fraternal Order of Police, and that he has purported to speak for the national law enforcement community. The fact is that he does support the bill but that he speaks only for Dewey Stokes and not for the entire law enforcement community nor for the entire membership of the Fraternal Order of Police. I believe that if polled the vast majority of the law enforcement community would state that he does not speak for them. He has asked for no input from our community on this legislation and has apparently aligned himself with Senators that have historically been enemies of the law enforcement community and preservation of the judicial system as it was intended, those being Senators Ted Kennedy and Joseph Biden. They are using Mr. Stokes' endorsement as a blanket approval of this putrid and disgusting piece of legislation by the law enforcement community in order to get it through. It gives more rights to the criminals and takes rights and enforcement tools away from law enforcement. This does not cause just one segment of law enforcement to suffer but reaches into every aspect, from the patrol officer on the street to the prosecutor who tries the case to the corrections officer who maintains control in the prisons.

Please allow me to discuss some of the bad aspects of the bill. It eliminates the death penalty for attempted assassination of top executives of the government, there is increased abuse of habeas corpus, it broadens the exclusionary rule, it allows the overturning of convictions on the basis of harmless error, it repudiates antiterrorism treaties, it narrows laws against counterfeiting, it prohibits cooperation among federal agencies in administering federal grant programs, it limits consideration of relevant factors and promotion of prisoner litigation relating to prison assignments, it repeals rules requiring revocation of release for criminals who illegally possess drugs, it allows early release from prison of drug abusing offenders, it mandates reduction of prison terms for drug abusing offenders, it establishes a partisan commission to promote racial politics and de-incarceration policies, and it facilitates trafficking in stolen motor vehicles and motor vehicle parts.

These are just a few of the areas that attack the gains that have been made by the law enforcement community to combat crime and criminals over the past few years. This bill completely negates any rights of victims and gives those added rights to the criminals. Our system has become so bogged down in technicalities that are in favor of the criminals that officers almost have to have an attorney with them on patrol in order to make an arrest. It is time we treated criminals like what they are, criminals. When a person commits a crime and the officer makes a harmless error in the investigation does that make the criminal any less guilty? Of course not, but he usually gets off. If he doesn't he spends a minimum amount of time in a country club existence. He has more opportunities in prison than most persons on the outside.

I fully understand that this bill commits a large sum of money to state and local law enforcement agencies. However, those monies are yet to be funded and even if they were the problems that the bill itself would cause would negate those funds because we would have to be using it to find ways to make up for the new inadequacies in the system.

As I sit and read the information on the bill I am completely amazed that this "thing" has actually made it this far through the process. I am appalled that it has come to this. Most of all I am frightened that if this bill actually passes and becomes law that I will have to deal with it on a daily basis. Our jobs are made most difficult by what has transpired in the past similar to this. Please don't make our jobs more difficult and your family's security more threatened by supporting this bill. I and my organization would be more than willing to discuss this matter with you at any time. We request that you please reply to this correspondence.

Fraternally,
ALVIN L. ARROWOOD III,
President.

IN MEMORY OF PHYLLIS JEAN GRAHAM

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. McEWEN. Mr. Speaker, I rise today to say a few words in honor of Phyllis Jean Graham of Columbus, OH.

During the past district work period, while we were all back home and this Chamber was quiet, Mrs. Graham passed away after a valiant battle with lung cancer that lasted over 4 years. She was a dedicated and successful mother, grandmother, legal secretary, businesswoman, wife, and Godly woman. She truly touched and brightened the life of every person who knew her.

Her husband of over 32 years, the Honorable District Court Judge James L. Graham, recently delivered remarks in remembrance of her passing. Mr. Speaker, I would like to take this opportunity to enter his remarks in the RECORD, as they are truly a testimony to the spiritual beauty and lifetime of achievement of Phyllis Jean Graham:

TRIBUTE TO PHYLLIS JEAN GRAHAM

JANUARY 10, 1941–DECEMBER 22, 1991

We have come here this afternoon to celebrate the life of a remarkable woman who touched the lives of many people. At first it didn't seem possible that I could speak here, but as the days passed and things came into better focus, it didn't seem possible not to. Yes, the pain of saying goodbye is sometimes overwhelming but most of the time I have been sustained by a sense of peace and gratitude, even joy, which I think you'll understand better when I have finished, so if I have a problem just bear with me—it will be temporary.

Phyllis Jean Bryant was born on January 10, 1941 in northeastern Kentucky—a part of Appalachia—near the little town of Louisa. She was the first of four children born to the marriage of Monville Bryant and Emagene Davis. Her father worked in the coal mines when there was work. Times were hard and money was scarce. She attended a little four room school. Sometimes her mother had to sew her school dresses out of flower sack material. Her aunt was the schoolteacher. But Phyllis said she never got any breaks from Aunt Ollie, she expected more from Phyllis than the other children and she got it. Notwithstanding the financial hardships, Phyllis remembered her childhood in Kentucky as a happy time, playing with her sisters Dianna and Carolyn and her brother Jarold and her many cousins. She loved to tell stories of their adventures on her Grandpa Davis's farm—material that Mark Twain could have put to good use. And if there was a Tom Sawyer among them, it was Phyllis. Yes, Phyllis was a tomboy, but she was respected for it. For instance, at school there was a girls softball team, but the boys played baseball. Guess who the boys chose as their pitcher?

The family moved to Ohio when Phyllis was about 10 years old and finally settled on a small farm in Madison County near West Jefferson. Both parents worked, and Phyllis, as the oldest child, was expected to help with the farm work, the house work and the care of the younger children. In her early teens, it was not unusual for Phyllis to arise at 5:00 a.m. to fix breakfast for her father, get the other children ready for school, then catch the bus herself. After school she would do house work, farm chores, and watch the younger children until their bedtime and then turn to her homework. Nevertheless, she was an outstanding student, loved and respected by her classmates and teachers at West Jefferson High School.

In June of 1956, Phyllis applied for her first job—a summer job as a waitress at George's Drive-In, a popular drive-in restaurant on the west side of Columbus. She was only 15 so I think she may not have been entirely truthful about her age—but she was hired. Now in those days waitresses in drive in restaurants were called "car-hops" because they took the food out to the customers' cars on trays and they usually wore snappy uniforms. Well, the first day she started work, this car-hop attracted the intense interest of a 17 year old counter boy named Jim. I didn't waste any time asking her for a date but she turned me down—several times—but I persisted and finally she agreed and thus began a relationship that lasted 35 years.

Within a few months we were going steady and before a year had passed we were sure we loved each other and planned to marry as soon as Phyllis graduated. As you might imagine, our parents viewed all of this with some alarm, thinking this was a teenage infatuation. But it was much more than that. In the meantime, I graduated and started college, and sure enough on June 18, 1959, a week after Phyllis graduated from high school, we were married. Phyllis was 18 and I had just turned 20. We had a beautiful church wedding which we planned and paid for ourselves, but we underestimated the cost and slept in the car on the third night of our honeymoon. We arrived home with $3.50 to buy our first groceries—bologna and bread as I recall.

Phyllis went to work to support us and I finished up college that summer and started law school that fall. The next spring we decided that Phyllis should begin looking for a job as a legal secretary. As a first year law student, I didn't know much about the Columbus legal community but I immediately recognized the name of one of the lawyers who called her in for an interview. His name was Paul Herbert, a renowned trial lawyer who had also served as Lt. Governor of Ohio. As I drove her downtown to the interview, I told her what I knew about Mr. Herbert and by the time we got there, she refused to get out of the car, convinced that this great and powerful man would give short shrift to a teenager with a Kentucky accent and no experience as a legal secretary. Well, she finally did get out and she got the job and she soon won her way into Paul's heart. In fact the Herberts more or less adopted us while I was a law student. I will never forget the times we spent sitting at the bridge table in their wonderful house on the Olentangy with a fire crackling in the fireplace and the little girl from Louisa, Kentucky matching wits in cards and conversation with the master trial lawyer 40 years her senior.

Phyllis became an outstanding legal secretary. I doubt that she had an equal in this city. Two years later, Paul was elected to the Supreme Court of Ohio. Phyllis stayed with the law firm and later worked for Tom Herbert and Bob Holmes and it was the same story all over again—they all came to love her like a daughter and Bob and Tom both went on to become justices of the Supreme Court of Ohio where Bob Holmes continues to serve with distinction. So in her career as a legal secretary Phyllis worked for three justices of the Supreme Court of Ohio.

When I left the fine law firm I was with and began my own practice in 1969, Phyllis was my secretary, bookkeeper, paralegal—actually she was my partner—probably the senior partner. In fact, throughout our marriage, she has been the family business and financial manager. From her little office in the back of our home, she ran everything, including the farming of 400 acres. When we bought our farm on Roberts Road, which she loved, I told her I was too busy to build a house—so she did it herself. Phyllis was a competent businesswoman. She made wise decisions, she dealt with others with fairness and integrity, her accounts were always in order. For Phyllis, money was to be used to feed, clothe and educate her children, pay for the work of the church, to share with loved ones who needed it and invested wisely for the future security of her children and grandchildren. She rarely, if ever, spent anything on herself.

The 1960's were child bearing years; the 1970's were child rearing years; and the 1980's were grandchild bearing years. The challenges, the jobs, the adventures and accomplishments and, yes, the occasional setbacks and heartbreaks of those years would fill many chapters of a book. Our first daughter, Lisa, was born in September, 1961 while we were still in law school. Karen entered our lives in 1964; our son, Jim, in 1967 and our lovely little surprise, Laura, was born almost 8 years later in October, 1974. Lisa and our wonderful son-in-law, Greg Miller, began presenting us with grandchildren in 1985; first Rachel, then Sarah in 1988, Kristen in 1989, and Deborah in 1990. If you asked Phyllis what her most precious possessions were, those eight names—Lisa, Karen, Jim, Laura, Rachel, Sarah, Kristen and Deborah would be her instant reply.

The first priority in Phyllis' life was her role as a mother. She gave herself to it completely, she was a devoted and tireless mother. I would say that she was specially gifted in this area, and that her gifting enabled her to nurture not only her own children, but many others as well, children and adults. Her sister, Dianna, told me yesterday that she was a mother to her and Carolyn when they were growing up and then smiled and said, "and of course she never stopped."

When we look at Phyllis' ability to nurture other people, her capacity to love them unconditionally, to encourage them and bring out the best in them, we are approaching very near to the thing which was at the center of her being—the hub from which everything else radiated like the spokes of a wheel. That center, that hub, was her relationship with God and her faith in His Son, Jesus Christ.

Phyllis' faith had its roots in her early childhood in Kentucky. She became a Christian when she was still a little girl. She knew she was a Christian not because she was born into a Christian family, not because she attended a church, but because even at that early age she made a decision to accept God's gift of salvation and eternal life, by inviting Jesus Christ into her heart and committing herself to follow Him. That was a commitment she kept for the rest of her life.

There may be some here who did not know of the spiritual dimension of Phyllis' life—I think not many. But if that be the case and if you have perhaps felt that there was something special about her, something that drew you to her, the feeling that she really cared about you—it was her relationship with the Creator of the universe and the love of His son, Jesus Christ, that streamed out from her heart and energized her very being.

Phyllis was a child of God. She was a devoted student of the Bible. She was diligent in prayer. She was a leader of a home fellowship group, within the church. She was a spiritual mentor and counselor to many. She had the radiant beauty of a Godly woman. She had a burden for people who were hurting: the lonely, the bereaved, those suffering as a result of failed relationships. And God used her effectively as the instrument of His love to heal such people.

Eight and one-half years ago it finally sank into my thick skull what it was that was so special about this woman I loved. I had spent twenty-five years looking for significance and fulfillment in my career, in success, recognition, money, power, possessions, and yet feeling very empty in the midst of great success—as the world measures success. Yet here was Phyllis quietly and steadily accomplishing things of real and lasting significance and finding great fulfillment. When you're pursuing the agenda I was pursuing, you always think just a little more is what it will take to make you truly happy, and I had pushed my agenda to the point that it threatened our relationship. This began my own search, a search for answers to the most important questions in life—questions I had effectively swept under the rug twenty-five years before while I was in college. Questions like: Is there a God? What is the purpose of life? If God is good, why is there pain and suffering and death? Who is Jesus Christ? I found convincing answers to these questions in the same place Phyllis had been finding them all along, right here in this book: the Bible.

So eight and one-half years ago our relationship took on a radical new dimension as we became partners in a spiritual sense, completing the missing link in God's design for marriage. I wouldn't trade those last eight and one-half years for anything.

Phyllis was faithful to God and God was gracious to Phyllis, even in her death. As most of you know, four and one-half years ago we learned that Phyllis had lung cancer. She had surgery and radiation treatments. The doctors gave her only a few months to live—a 6% chance of surviving one year. But she beat the odds and while she had some limitations, she did reasonably well. In many ways, these past four years have been the most productive and most fulfilling years of her life. We now know that the radiation treatments caused irreversible damage to her heart.

Saturday night Phyllis was with the people she loved best, her mother, her sisters, her children and her grandchildren. She died peacefully, painlessly and unexpectedly Sunday morning in the house she built on the land she loved. The work she did here will go on and on, like the ripples on the surface of a pond, in the many lives she touched and in the role she modeled for others to follow. And we know that at this very moment she is with the Lord happily awaiting our arrival.

Sometime before 700 B.C. God inspired one of the Hebrew authors of the Book of Proverbs to record a description of a Godly woman. I think it describes in an uncanny way the lady we honor today and I would like to conclude by reading it as a tribute to her.

If you can find a truly good wife, she is
 worth more than precious gems!
Her husband can trust her, and she will rich-
 ly satisfy his needs.
She will not hinder him, but help him all her
 life.
She finds wool and flax and busily spins it.
She buys imported foods, brought by ship
 from distant ports.

She gets up before dawn to prepare breakfast
for her household, and plans the day's
work for her servant girls.
She goes out to inspect a field, and buys it;
with her own hands she plants a vineyard.
She is energetic, a hard worker,
And watches for bargains. She works far into
the night!
She sews for the poor, and generously gives
to the needy.
She has no fear of winter for her household,
for she has made warm clothes for all
of them.
Her husband is well known, for he sits in the
council chamber with the other civic
leaders.
She is a woman of strength and dignity, and
has no fear of old age.
When she speaks, her words are wise, and
kindness is the rule for everything she
says.
She watches carefully all that goes on
throughout her household, and is never
lazy.
Her children stand and bless her; so does her
husband. He praises her with these
words:
"There are many fine women in the world,
but you are the best of them all!"
Charm can be deceptive and beauty doesn't
last, but a woman who fears and
reverences God shall be greatly
praised.

Amen.

JAMES L. GRAHAM,

DECEMBER 29, 1991.

HAPPY 84TH BIRTHDAY TO PETER DESIBIO

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. McGRATH. Mr. Speaker, I would like to take this opportunity to wish a very happy 84th birthday to one of my closest friends and advisers, Peter DeSibio of Inwood, NY.

Uncle Peter as he is well known to his friends and family, is a well respected leader in his community. He has worked tirelessly for numerous charities and neighborhood events. Early in my political career, he took me under his wing and his advice and counsel has proved invaluable.

Among Uncle Pete's accomplishments have been his long-time support and involvement with his parish, Our Lady of Good Council in Inwood; he has also been active with Yeshiva South Shore. His work with youth groups and child care led to the naming of a local daycare center as the Peter J. DeSibio Five Towns Child Care Center. He has also been active with events to maintain Franklin Hospital. This work and countless other projects have made Uncle Pete a respected community leader for over 50 years.

I am proud of my relationship with Peter DeSibio. I wish him my very best and remain confident that Uncle Pete will continue making contributions to his community in the years to come. Congratulations, my friend.

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM: A NATIONAL EXAMPLE FOR COST CONTAINMENT AND QUALITY CARE

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. KOLBE. Mr. Speaker, it's become a cliche by now, but it's no less true: the American health care system is in crisis. This year, health care costs will consume 14 percent of the U.S. gross national product. The average American family will spend $4,300 of family income on health care this year. Despite this enormous expenditure, nearly 36 million Americans were uninsured in 1991. And even more startling—10 million of those uninsured are children.

I am convinced we must once again marry health care to the market system if we are ever going to find a rational system. And so, I applaud the President's reform proposal outlined just a few weeks ago. President Bush's Comprehensive Health Reform Program is headed in the right direction and contains the essential elements for a successful solution to this Gordian knot.

In his plan the President specifically addressed how we can make public health care programs more efficient. As an example of this efficiency at work, President Bush pointed to Arizona's Medicaid program, known as the Arizona Health Care Cost Containment System [AHCCCS, pronounced access]. The President's plan states:

> Until 1982, Arizona was the only State that did not participate in Medicaid. County governments provided acute and long-term care for the poor. In 1982, Arizona established a Medicaid program and obtained a waiver to operate this through the Arizona Health Care Cost Containment System [AHCCCS].
>
> AHCCCS is unique in that all care is provided through coordinated care arrangements. There is no fee-for-service option. Arizona contracts with participating health care organizations [HCOs] through a bidding/negotiation process. Modest savings have been achieved—estimated by HCFA at 5.7 percent in the fourth year of the program compared to fee-for-service alternatives.

Arizona's AHCCCS program provides service to nearly 420,000 Arizonans needing health care. There are 14 provider organizations that contract with the State and 70 percent of all doctors in Arizona are registered providers with AHCCCS.

A 1989 study conducted for HCFA found that AHCCCS was less expensive, provided higher quality of care for children and had better access to routine care than traditional Medicaid. Over the program's first 5 years, the average per capita costs for AHCCCS increased at a rate of 23 percent while those for traditional Medicaid increased 37 percent. As for consumer confidence, according to 1991 Gallup Poll, 85 percent—nearly 9 out of 10 Arizonans—believe increased AHCCCS funding should be a high or medium State priority.

Mr. Speaker, as Congress examines the proposed solutions for national health care reform, progress already made at the State level needs to be closely examined. Successful, innovative programs like AHCCCS are shining examples for Federal reform. AHCCCS is living proof that Federal mandates and socialized medicine are not necessary to achieve affordable, quality, government-sponsored health care. I urge my colleagues to study the Arizona AHCCCS program and support the President's proposal to allow States more flexibility to experiment with similar cost containment systems.

TRIBUTE TO CLARK DONATELLI

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. MACHTLEY. Mr. Speaker, it is my distinct honor and privilege to rise today in recognition of a young man that I, along with many Rhode Islanders, have come to greatly admire and respect. This man participated in the Winter Olympic Games as a member of the U.S. Hockey Teams of 1988 and 1992. His name is Clark Donatelli of North Providence, RI.

At a very young age, Clark had a dream and dedicated himself to being the best hockey player possible. As a member of the hockey teams of Moses Brown and then following at Boston University, Clark distinguished himself as an outstanding player and as a team leader.

Most recently, this young man had the unique opportunity to represent the United States for a second time as a member of the Olympic Hockey Team in the 1992 Winter Games. As team captain, Clark's impressive performance on the ice truly served as an inspiraiton to his teammates, as each individual player under his leadership, tirelessy displayed their unyielding effort for our country.

But Clark's accomplishments transcend athletics. He is a young man with strong personal character and integrity. I am truly impressed by his dedication and loyalty to being the best he can be both on and off the ice. Certainly Clark, who has accomplished so much in such a short period of time, represents excellence in every sense of the word. For his excellence as an American Olympian and as someone who represented the United States and Rhode Island with great pride and enthusiasm, I am truly honored to have the opportunity to join with Clark's family, friends, and fellow Rhode Islanders in recognizing his outstanding personal achievements.

INTRODUCTION OF LEGISLATION REGARDING BANKRUPTCY PROCEEDINGS

HON. JOAN KELLY HORN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Ms. HORN. Mr. Speaker, Lambert St. Louis International Airport, TWA's hub airport, is located in my district. Lambert employs 52,900 directly and indirectly in the metropolitan region, generating $3.9 billion annually. TWA controls 74 percent of the gates at Lambert.

This past January, TWA filed for bankruptcy protection under chapter 11. While we remain optimistic about the chances of TWA under reorganization, we are also realistic that current law would allow nearly three-quarters of the airport's gates to be tied up in bankruptcy court.

Today I am introducing legislation to address issues of great importance to the St. Louis metropolitan area, as well as any community which may face a major bankruptcy proceeding.

We have seen what happens when a carrier fails. Today, at Atlanta's airport, once hub to Eastern Airlines, concourse C is dark. It has been closed down for the past 14 months while the Eastern bankruptcy proceedings continue. Until that is finalized, these valuable gates serve only as paper assets in the negotiations.

My legislation amends the Bankruptcy Code to prevent this from happening in St. Louis or other hub airports affected by bankruptcies. The goal of my bill is to allow airports to continue to operate and serve the public with full transportation services in the case of a major airline shutdown. At the same time, it allows communities in the vicinity of an affected airport to protect against a major economic impact.

This goal is supported by the second section of my bill. Currently, government entities, including State and local governments and pension guarantors, are prohibited from sitting on creditor committees in bankruptcy cases. My bill simply provides that these civic entities are no less deserving of a voice than any other major debtholder.

Mr. Speaker, I ask my colleagues to support this legislation and hope that we can move forward with these and other bankruptcy reforms this year.

TRIBUTE TO CHARLES MILHEM

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. TRAXLER. Mr. Speaker, I rise to pay special tribute to Charles Milhem who is being honored by the American Amusement Machine Charitable Foundation as the Coin-Operator Man of the Year, on March 15, 1992 at its annual appreciation dinner in San Antonio, TX. Chuck is a good friend, a successful businessman, and a person of outstanding integrity and honesty.

Chuck's career in recreational products began when Larson Boats, a division of the Brunswick Corp. offered him a job, he jumped at the chance and thus began his 30-year love affair with the world of recreational games. At Brunswick, he was soon promoted to their international division on bowling. The game was a growing phenomenon and Chuck represented Brunswick around the world, introducing the sport. And, when the corporation combined its bowling and billiards division, Chuck returned to an early love, the game of pool. He was there when air-hockey was born and he was tapped to market the new concept.

Chuck's work ethic was instilled early in life. His father, a carpenter, took a lot of pride in his work and it left an impression on young Chuck. His long-standing career in the marketing and promotion of recreational products gives credence to his motto, You have to feel good about what you're doing.

Chuck's career was destined for yet another change. In 1979, he was named president of Valley Recreation in Bay City. His experience and expertise in organizing and working with people and his enthusiasm for billiards eventually brought about the Valley National Eight Ball Association which today has close to 50,000 sanctioned players. VNEA is also concentrating on junior leagues in Boys and Girls Clubs across the country.

Chuck was naturally drawn to the Boys and Girls Clubs of Bay County because of his early and fond association with a neighborhood Boys Club where the values he learned at home were reinforced. He credits his early experience with the Boys Club for much of his success in life. It's been my pleasure to present Chuck with awards in 1988 and 1990 from the Boys and Girls Clubs in appreciation of his love and friendship. Needless to say, recreational games are in abundance at the local club.

Chuck's distinguished awards are many and include the 1991 Industry Service Award from the Bowling and Billiard Institute of America, [BBIA] as well as awards of appreciation in 1984 and 1990 for service as a director and in 1989 for faithful and progressive leadership as president. In 1990, the Billiard Congress of America presented him with the president's award for outstanding contributions to the billiard industry.

Chuck is devoted to his lovely family—Florence, his wife of 35 years and their daughters, Laurel and Janice, who credit Chuck's teaching of strength, dignity, and love for their successful careers.

Please join me in congratulating Charles Milhem as Man of the Year and in recognizing his leadership and very significant contributions to the recreation industry and his community.

A TAXING SOLUTION TO THE OZONE HOLE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. STARK. Mr. Speaker, the ozone hole has again forced itself to the front pages as one of the leading environmental dangers confronting us. The need to accelerate getting rid of chlorofluorocarbons or CFC's has even been recognized by President Bush who called for a faster phaseout of CFC's.

The Congress enacted a tax on CFC's in 1989 to help switch industries off of CFC's and spur development of alternatives. The Wall Street Journal on February 12 attributed much of the 42-percent drop below 1986 production levels to the tax on CFC's. Taxes have clearly worked to move companies away from CFC's to other products or production methods.

We can and must do more. I am introducing legislation today which advances the scheduled phase-in for the CFC tax. If we can move the time frame ahead on the ban, we must also advance the time frame on the tax.

Additionally, the legislation imposes a tax on hydrochlorofluorocarbons of HCFC's. HCFC's should not be counted on as a solution by industry to the CFC problem. They should be seen as a temporary substitute that must pay a price for being an ozone destroyer as well. HCFC's have always been known to damage the ozone. However, their destructive power has been underestimated in the past. Recent studies show HCFC's to be much more damaging than originally expected. The Washington Post on February 23 discussed a report by the Institute for Energy and Environmental Research showing HCFC's to be three to five times more damaging than previously suspected. To protect the ozone, tough action must be taken on HCFC's.

Using taxes to speed up the switch from CFC's and HCFC's to alternatives is an approach that is strongly supported by environmental organizations. These include Friends of the Earth, National Resources Defense Council, Environmental Defense Fund, National Wildlife Federation, and the Center for International Environmental Law—U.S.

It is clearly the policy of the Federal Government to act on CFC's. We must use all tools available. Let us strengthen a proven tax to get rid of these destructive chemicals as fast as possible.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATIONS TO TAX ON OZONE-DEPLETING CHEMICALS.

(a) ACCELERATION OF IMPLEMENTATION OF EXISTING TAX.—

(1) IN GENERAL.—Paragraph (1) of section 4681 of the Internal Revenue Code of 1986 (relating to amount of tax) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) BASE TAX AMOUNT.—For purposes of subparagraph (A), the base tax amount is—

"(i) $3.10 plus

"(ii) in the case of any sale or use of an ozone-depleting chemical in a calendar year after 1992, $1 for each year after 1992 (including the year in which such sale or use occurs)."

(2) REPEAL OF PHASE-IN FOR CERTAIN CHEMICALS.—Subsection (g) of section 4682 of such Code is hereby repealed.

(b) CERTAIN HCFCS MADE SUBJECT TO TAX.—

(1) IN GENERAL.—Subsection (a) of section 4682 of such Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF CERTAIN HCFCS.—For purposes of paragraph (1)(A), a substance is described in this paragraph if—

"(A) such substance is listed in section 602(b) of the Clean Air Act (as in effect on the date of the enactment of this paragraph), or

"(B) such substance is an isomer of a substance so listed."

(2) TAXED AT 50 PERCENT OF BASE RATE.—Subparagraph (A) of section 4681(b)(1) of such Code is amended by adding at the end thereof the following new sentence:

"Notwithstanding the preceding sentence, in the case of a substance described in section 4682(a)(3), the tax imposed by subsection (a) per pound shall be 50 percent of the base tax amount."

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 4682(a)(1) of such Code is amended by inserting "or is described in paragraph (3)" after "paragraph (2)".

(B) Paragraph (3) of section 4682(d) is amended—

(i) by striking "and subsection (g)" in subparagraph (B)(i)(I),

(ii) by striking "and other chemicals" in subparagraph (C)(i) and inserting ", chemicals described in subsection (a)(3), and other chemicals",

(iii) by redesignating clause (iii) of subparagraph (C) as clause (iv) and by inserting after clause (ii) the following new clause:

"(iii) APPLICATION TO CHEMICALS DESCRIBED IN SUBSECTION (a)(3).—In applying subparagraph (B) to chemicals described in subsection (a)(3)—

"(I) subparagraph (B) shall be applied by substituting '1991' for '1986' each place it appears, and

"(II) rules similar to the rules of clause (ii)(II) shall apply."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) FLOOR STOCKS TAXES.—

(A) IN GENERAL.—If any ozone-depleting chemical is held on the date of the enactment of this Act by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax on such chemical in an amount equal to the excess of—

(i) the amount of the tax which would be imposed by section 4681 of the Internal Revenue Code of 1986 on such chemical if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred on the day after the date of the enactment of this Act, over

(ii) the tax (if any) previously imposed by such section 4681 on such chemical.

(B) DUE DATE.—The taxes imposed by this paragraph shall be paid on or before the date 6 months after the date of the enactment of this Act.

(C) APPLICATION OF OTHER LAWS.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4681 of the Internal Revenue Code of 1986 shall apply to the floor stocks taxes imposed by this paragraph.

(D) OZONE DEPLETING CHEMICAL.—For purposes of this paragraph, the term 'ozone-depleting chemical' has the meaning given to such term by section 4682(a) of such Code (as amended by this section).

(E) REPEAL OF EXISTING FLOOR STOCKS TAXES.—Subsection (h) of section 4682 of such Code is hereby repealed.

PARADISE CAN BE LOST

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mrs. MINK. Mr. Speaker, paradise is more than an abstraction to the people of Hawaii, because we sincerely believe it describes our beautiful islands. But as we all know too well, paradise can be lost. Lost through lack of foresight. Lost through greed. Lost through simple human weakness.

And unfortunately, we have lost too much of Hawaii's beaches, waters, mountains, and verdant valleys to reckless development and pollution. We have seen overgrazing, nonnative species, runoff, and other fallout of our own neglect strip away centuries of God's handiwork and leave in its place eroded hillsides, barren reefs, and unforgiving pavement.

Mr. Speaker, I have today introduced a bill to authorize the National Park Service to undertake necessary feasibility studies to establish certain new units of the National Park system in the State of Hawaii.

I ask the Congress to authorize such studies for areas on the islands of Maui, Lanai, Molokai, and Kauai, because these areas have environmental, cultural, or historical significance of national importance that deserve preservation.

All are under present or potential jeopardy because of encroaching development.

Each represents a unique resource to the community and Nation that I consider irreplaceable.

And together as park units in Hawaii they would reiterate to the citizens across this country that the National Park system continues to be a vital and attentive guardian of the best of our natural treasures.

My bill describes the specific areas I have in mind for the National Park Service to investigate: The shoreline area on Maui Island known as North Beach; the mountaintop of central-Lanai Island; Anini Beach and the north shoreline of Kauai Island, and Molokai Island's northern coastline from the present National Historic Park boundary at Kalaupapa Settlement to Halawa Valley.

I know these are just names of unknown places today in these halls of Congress, Mr. Speaker. But like each and every one of our National Park units now in existence, they have special relevance and meaning to the surrounding community disquieted by their possible loss from public use, enjoyment, and contemplation.

It is my fervent hope that the feasibility studies this bill authorizes lead to further evaluation by the National Park Service, and that these areas then satisfy all appropriate criteria for National Park status.

I ask my House colleagues to join in this effort, and thank you Mr. Speaker for the courtesy of this time to speak.

A CONGRESSIONAL SALUTE TO GROVER CLEVELAND ELEMENTARY SCHOOL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to the Grover Cleveland Elementary School, its principal, Lue Dean Magee, the staff, teachers, students, and parents of this excellent educational institution. Grover Cleveland Elementary is the first elementary school of the Long Beach Unified School District to qualify for the Blue Ribbon School Award. This award program recognizes the outstanding performance of students in the 1989–90 school year with respect to the California Achievement Performance Tests [CAPS]. Although funding for the Blue Ribbon School Program has been discontinued, I feel that the accomplishments of Grover Cleveland Elementary warrant this congressional salute.

Cleveland School is located in the beautiful city of Lakewood. It enrolls approximately 800 students in its prekindergarten through fifth grade. The Cleveland School's motto is "Learning for Success—A Commitment to Excellence." Their mission is to ensure the educational success of all students by stressing high expectations, a commitment to excellence, and a comprehensive and innovative academic program, demonstrating the belief that all students can learn and become responsible and productive members of our society.

An example of Cleveland School's innovative curriculum is the Aerospace Technology Magnet Program, which enables third, fourth, and fifth grade students to study state-of-the-art computers and other high-tech equipment in science labs. Cleveland also initiated an Olympics magnet, where students compete in Olympic games representing the nations of the world. In addition, Cleveland is the home of one of the LBUSD's [Long Beach Unified School District] Deaf and Hard of Hearing Centers.

Parents in the community have played an important role in the implementation of the school's instructional programs and are supportive of the school's disciplinary procedures. Cleveland's PTA is responsible for a multitude of parental activities, including the school carnival, the talent show, book fairs, and Grandparent's Day.

My wife, Lee, joins me in commending the Grover Cleveland Elementary School for its stellar performance. We wish Ms. Magee, her staff, the teachers, students, and parents all the best in the years to come.

TRIBUTE TO OLLA M. PARREOTT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. PALLONE. Mr. Speaker, this Thursday, March 5, 1992, a retirement dinner is planned for a very special lady who has been a vitally important part of our community for more than a quarter of a century. Mrs. Olla M. Parreott of Asbury Park, NJ, is being honored for her 27 years of service as a primary school teacher in the Asbury Park School District.

Olla M. Parreott, (nee Stradford), was born in Lancaster, SC, and graduated from the North Carolina Central University. After her marriage to the Reverend Brother David J. Parreott—himself a major figure in the community—she moved to Asbury Park. After several years working as a homemaker and doing part-part work for the Internal Revenue Service and with a local law firm, Mrs. Parreott decided to get into teaching. She began at the

Bangs Avenue School, then went to the Bond Street School and finally to the Bradley School where she has taught third grade for many years. After 27 years and 5 months working with the young people of her community, Mr. Parreott has decided to retire.

Mr. and Mrs. Parreott have been married for 34 years. Their two sons, David Parreott III and Derrick B. Parreott have both entered the clergy. Olla Parreott has always managed to find the time to serve her church and her community. She is a member of St. Stephen A.M.E. Zion Church, Asbury Park, the president of the Local Laity Council at St. Stephen, a member of the Goodwin choraleers, and a teacher at the Sunday school. She is also a member of the alliance for a drug free Asbury Park, a past member of Pop Warner and little league and a former den mother.

Mr. Speaker, Olla Parreott's years of service to her community have benefited the lives of hundreds of youngsters from Asbury Park. Her former students and fellow teachers certainly are well aware of this. With all of the dangers and difficulties faced by kids growing up in the cities today, the positive influence of a woman like Olla Parreott can and does make a real difference for young people—often the stark difference between hope and despair. Thanks to the work of Olla Parreott, generations of young people in Asbury Park received the vision of hope.

A TRIBUTE TO CWO MORRIS GOLDMAN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to Morris Goldman of Forest Hills, Queens. Mr. Goldman is the command supervisory staff administrator of the 77th U.S. Army Reserve Command. He will celebrate his 70th birthday with a party in Great Neck, NY, on Sunday, March 8.

Mr. Goldman has over 50 years of combined military and Federal service. His distinguished military career began at the age of 18 when he enlisted with the 100th Infantry Division in 1942 and was assigned to the communications section of the 3d Battalion, 397th 1st Regiment. He received a Purple Heart for his valor in World War II after being wounded during an attack in Rimling, Germany. By the time the war ended, Goldman had advanced to sergeant major of the 3d Battalion.

In 1947 he became a member of the 77th Infantry Division. In 1951, he was appointed a warrant officer and received a dual status position as the senior civilian responsible for the day-to-day operations of the division's headquarters. By 1954, he had established himself as the senior civilian technician and principal assistant to whomever was the commanding general.

Mr. Goldman's many military awards include the Legion of Merit, the Bronze Star Medal with Oak Leaf Cluster, Purple Heart, Meritorious Service Medal with two Oak Leaf Clusters, the Army Commendation Medal, the Army Achievement Medal, Good Conduct Medal, National Defense Medal, Armed Forces Reserve Medal, Victory Medal, the Combat Infantryman's Badge, a Presidential Unit Citation, the AME Ribbon with three Battle Stars, and the Order of Saint Barbara.

Mr. Speaker, I call on all my colleagues in the House of Representatives to join me in congratulating CWO Morris Goldman on the occasion of his 70th birthday.

THE SHOOTING OF JACK RUSS AND THE DEATH PENALTY

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Ms. NORTON. Mr. Speaker, yesterday, while I was at D.C. General Hospital visiting House Sergeant at Arms, Jack Russ, some Members took to the floor to call for the death penalty in the District. Jack seemed in remarkably good shape, ever generous and congenial, after the outrageously harrowing experience of being shot while walking his dog in Garfield Park.

Members who think that the death penalty is an answer had best look at the data from their own districts. States that have the death penalty have murder rates as high, yes, and often higher than States without the death penalty.

A brutal sanction, abolished in all but a few mostly oppressive countries, one that does not deter, and is applied only after a killing, is not good enough, my friends. Our people want us to prevent the killing. Have you taken a stand on stopping the slaughter? Where do those who trumpet the death penalty stand on the Brady—national hand gun control—bill? How did you vote on the assault weapon provision of the crime bill the day after the unprecedented Kileen, TX, massacre in October? Where do you stand on the strict liability assault weapon referendum passed overwhelmingly by the people of the District of Columbia last November? I'm afraid there is a remarkable and irrational correlation between votes that keep guns in the hands of thugs and votes in favor of the death penalty.

Virtually no part of this country has escaped today's horrific crime wave—small bucolic towns and big dangerous cities alike. The killing must be stopped, and stiffer penalties, including life in prison without the possibility of parole, must be applied. But let us not add to the madness of the killing the insanity of a remedy that will not stop the killing. If you want to stop the killing there are proven ways—and the death penalty is not one of them.

CONGRESSMAN KILDEE CONGRATULATES LAPEER COUNTY CLERK MARY ELLEN THICK

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. KILDEE. Mr. Speaker, it is a privilege for me to rise before you today to recognize the lifelong achievements of Mary Ellen Thick. On January 31, 1992, Mary Ellen retired from her post as the Lapeer County clerk after 44 years of tireless public service.

Mary Ellen Thick was born to Harry and Mary Best, on June 18, 1929, in Metamora, MI. A lifelong resident of Lapeer County, Mary Ellen graduated from Lapeer High School in 1947. In 1948 she married Jack A. Thick and their union produced three children, Phillip, Mary, and Gary.

It was inevitable that Mary would become involved in government, given her family's history of commitment to public service. Her father, Harry Best, served as the Metamora Township supervisor and as a Lapeer County road commissioner. Mary Ellen's brother, Harold, recently retired after serving as the Metamora Township supervisor for 25 years. Mary Ellen continued the family's tradition when she began working for Lapeer County on January 2, 1948.

In 1957, she became deputy to Lapeer County Clerk Lyle Stewart. In 1975 she was named to the clerk's post to complete Stewart's term. In 1976, Mary Ellen made her mark in history when she successfully ran for the office of clerk, becoming the county's first elected female clerk.

Having served Lapeer County through 11 presidential races and local elections too numerous to count, Mary Ellen has now chosen to elect herself a well-deserved rest. She will be dearly missed by all of those who had the pleasure of working with her.

Mr. Speaker, I ask you and my colleagues to join with me in honoring Mary Ellen Thick. She may be officially departing from the public eye, but she will never be forgotten. The dedication and professionalism she has displayed over the years will continue to set the standard for public servants for years to come.

MORE BLATANT WASTE

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. ROEMER. Mr. Speaker, since I was sworn into this body last year I have done my best to help cut spending and save taxpayers dollars from being wasted. This has been a difficult task, because far too often Congress spends large sums of money on projects that this country simply cannot afford.

A perfect example was the vote on February 25, to spend upward of $70 million dollars on the "Steamtown National Historic Site." Without any authorizing authority, Congress expends these many millions of dollars on a project of highly questionable value and significance.

Mr. Speaker, I truly regret that we did not have a roll call vote on this issue. This spending should not have proceeded on a project whose value was so highly contested in the current poor economic atmosphere. This is the time for difficult choices, and the taxpayers do not want to hear that the Government is funding multimillion dollar theme parks while we are asking them to tighten their belts.

We in Congress need to send a message to the people we represent, telling them that we are spending their tax dollars intelligently. I am afraid that the message they are getting is just the opposite, and they are justifiably angry with this institution.

Our authorization process was established for the proper conduct of business, but this process has too often been ignored. It is time to end these blatant examples of pork-barrel excess. We have a duty to the American taxpayer, and, Mr. Speaker, one would think an obligation to use common sense.

THREE GIRL SCOUTS EARN COVETED "GOLD AWARD"

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. NOWAK. Mr. Speaker, it is always a genuine pleasure to recognize the accomplishments of one's constituents. Such a case recently was brought to my attention by Ms. Ann Marie Przybyl, program services director of the Girl Scout Council of Buffalo and Erie County, Inc., who advised me that the Girl Scout Gold Award—the highest award achievable in Girl Scouts—was presented to three young women from the 33d Congressional District of New York, which I am privileged to represent.

This award, according to Ms. Przybyl, "reflects a progression of skill building, leadership development, and career exploration activities; and includes the design, development, and carrying out of a special Gold Award project." The award was presented to Diane Bittermann of Lancaster, NY, and Kimberly S. Gengler and Lori Ray of Depew, NY.

Ms. Przybyl described their respective projects in this way:

> Diane decided to gain first hand experience in what she thought would be her career choice of education while she served her church community as a religious education teacher. She taught a fourth grade class of 25 students which involved developing lesson plans, tests, and report cards.
>
> Kimberly ran a neighborhood-wide book drive, utilizing her computer skills to develop informational flyers and posters about the project. As the number of donations grew, she organized her troop to help sort and deliver the donations. An estimated 4,500 books and magazines were distributed among the following charities: Brothers of Mercy, Williamsville View Manor, City Mission, Children's Hospital, St. Benedict's Elementary School, Depew High School, the Native American Center, and Haven House.
>
> Lori organized a clothing drive for Haven House, a center for battered women and children. As an incentive for participating in the drive, Lori developed program links for Girl Scout troops. What makes her commitment to this project unique is that it is conducted year-round, not just a one-time drive.

These three young women should be commended for their achievements, and I am delighted to offer my sincere congratulations.

I would also like to thank Ms. Przybyl for bringing this to my attention.

TRIBUTE TO JUDGE IRVING R. KAUFMAN

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. GREEN of New York. Mr. Speaker, I rise today to speak in memory of my constituent, Judge Irving R. Kaufman, who died early last month in Manhattan at the age of 81.

Irving Kaufman was appointed to the Federal bench by President Harry S. Truman in 1949. At the time of his death, Judge Kaufman was serving on the U.S. 2d Circuit Court of Appeals in New York, to which he was appointed by President John F. Kennedy in 1961. He was chief justice of the court for 7 years.

Judge Kaufman was Chairman of the President's Commission on Organized Crime during the Reagan administration. The judge also received the Presidential Medal of Freedom, the Nation's highest civilian honor, from President Reagan in 1987.

During his 30-year tenure on the Federal bench, Judge Kaufman wrote landmark decisions in first amendment, civil rights, and criminal cases. He would have wanted to be remembered as the judge who was the first to desegregate a public school in the North, and gave innovative decisions in antitrust cases. A firm believer in freedom of the press, in 1971 the judge was the dissenting opinion on a three-judge panel which decided not to disclose the Pentagon Papers to the public. The Supreme Court later concurred with his decision.

I join my colleagues in extending our sympathy to Judge Kaufman's wife, Helen, his son, and four grandchildren.

BODIE PROTECTION ACT OF 1992

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. MILLER of California. Mr. Speaker, today I join Congressman RICHARD LEHMAN in introducing the Bodie Protection Act of 1992. This legislation will help protect the Bodie National Historic Landmark which, ironically, is threatened by the activity that made it famous—gold mining.

Located east of Yosemite National Park, the town of Bodie resembles its heyday in the 1880's when Bodie was a thriving mining town. Many buildings, shops, and houses along with their furnishings still stand. When times grew tough, the miners departed, leaving their personal belongings behind. Today, Bodie is a historic ghost town managed by the California State Department of Parks and Recreation. Rangers give tours of the town, providing visitors a glimpse of what life was like when 10,000 people once lived in Bodie.

Yet, the quiet ghost town is threatened by renewed interest in gold mining on the Federal lands surrounding the Bodie State Historic Park. In the National Park Service's 1990 and 1991 report on damaged and threated national historic landmarks, Bodie is listed as a priority 1 endangered landmark. In addition, the California State Legislature adopted a resolution asking the Congress to protect the historic, cultural, and natural resource values of Bodie. In response, the legislation we are introducing prohibits mining on approximately 6,000 acres of Federal land surrounding Bodie. Valid existing rights are protected.

Mr. Chairman, in addition to the California State Legislature, many organizations, including the National Trust for Historic Preservation, Wilderness Society, Sierra Club, Natural Resources Defense Council, and the National Audubon Society have expressed their interest in this legislation. I look forward to the bill's adoption.

SIXTH DISTRICT CONGRESSIONAL ARTS CAUCUS CONDUCTS ART CONTEST

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. BAKER. Mr. Speaker, last year the Sixth District Congressional Arts Caucus conducted an art contest for high school students in my district. This contest was very successful with 26 schools submitting 47 pieces of art. The first place winner of the contest is now studying at the College of Art in Memphis where she is using her prize money contributed by the Greater Baton Rouge Fair Foundation and presented by J.H. Martin, its chairman. I would like to thank Mr. Martin and the Fair Foundation for its generous contribution toward the making of this successful event.

The judges, Marty Blade, instructor of art at Southern University, Gail Hood, associate professor of art at Southeastern University, and Michael Crespo, director of the School of Art at Louisiana State University, had many outstanding works of art from which to select the winners. I would like to thank the judges for their generosity in giving of their time and expertise. I was proud of the level of achievement displayed by the art students of the Sixth Congressional District. Their hard work has been rewarded and I plan to continue supporting the arts caucus.

I would also like to thank Carol Gikas, executive director of the Louisiana Arts and Science Center, for allowing us to use their lovely facility for the art display.

Most importantly, I would like to commend Patricia Comeaux, chairman, and her committee members, Katherine Allen, Marilyn Bateman, Carolyn Blackwood, Susan Grey, Virginia Noland, Mary Ann Sternberg, Jane Thomas, and LeAnne Weill, for a job well done.

RESTORATION OF DEMOCRACY IN HAITI

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. FASCELL. Mr. Speaker, the Haitian Refugee Protection Act of 1992, which was passed by the House last week, contained an amendment, offered by our colleague, Mr. SMITH of Florida, which calls on the President to urge the United Nations or the Organization of American States [OAS] to organize a peacekeeping force to be sent to Haiti. I strongly supported this amendment because I believe the solutions to the crisis facing Haiti and the plight of thousands on Haitians seeking to flee their beleaguered country lie in Haiti itself, not in the United States.

Within 48 hours of the tragic coup which deprived Haiti of the fruits of its first-ever democratically elected government, I brought to the House floor a resolution which was passed by the House and which called on the international community to "take all appropriate action to restore democratic government in Haiti."

Five months later and despite world wide condemnation and the imposition of an embargo by the OAS, democracy has still not been restored in Haiti. However, the agreement reached February 23 in Washington in talks under the auspices of the OAS between President Aristide, Prime Minister-Designate Theodore and a delegation of Haitian Parliamentarians is a promising step in the right direction. All sides represented at the talks compromised and signed a protocol setting out an agreed method for resolving the crisis. The next step is ratification of the protocol by the Haitian Parliament and the installation of Mr. Theodore as Prime Minister. But, the key to successful implementation of the protocol and the ultimate restoration of democracy is the acquiescence of the army, which was not represented at the talks. Progress toward a resolution of the crisis and restoration of democracy will only be possible with the agreement of the very same people who perpetrated the coup and have since been engaged in systematic repression of groups and individuals who opposed the coup or who were simply supporters of the ousted President. Despite the offers of amnesty and the lifting of the embargo and the prospect for renewed economic assistance, the odds for securing army agreement are long at best. As long as the Haitian Army continues to oppose the diplomatic efforts of the OAS and thwart implementation of the protocol reached in Washington, it is hard to envisage the shape of a political accommodation which would restore democracy and end the suffering of the Haitian people.

In these circumstances, Mr. Speaker, it is time for U.S. diplomacy to flex its muscles in a final attempt to bring about a peaceful resolution of the crisis. We must do everything in our power to secure implementation of the Washington protocol. The leaders of the Haitian Armed Forces, and their supporters in the Haitian elite, must be under no illusions whatsoever about the American position—illusions do exist, I am sorry to say, as a result of the recent weakening of the embargo. We must make clear that a return to democracy in Haiti is our top priority in the hemisphere and that the United States, in conjunction with either the United Nations or the Organization of American States will be ready, if an accommodation is not found, to support the dispatch of a multinational peacekeeping force to Haiti to create the conditions in which democracy can be restored.

Mr. Speaker, in October of 1991, I called for the use of all appropriate means by the international community to restore democracy. In early February of this year, I urged Secretary Baker publicly to support the sending of a multinational peacekeeping force and I joined our colleagues from South Florida in a letter to President Bush urging him to call on the United Nations or the OAS to organize such a force. And last week, Mr. Smith's amendment to the same effect passed the House without opposition. This clear message to the Haitian Army now needs to be repeated forcefully and insistently by the administration. There must be no misunderstanding in Port-Au-Prince: the Haitian coup will not stand.

LIFE BEFORE ROE V. WADE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. EDWARDS of California. Mr. Speaker, millions of people throughout the world were dismayed last month to read about a 14-year-old Irish girl, raped by her friend's father, who was barred by an Irish court from traveling to England for an abortion. Americans should remember that before Roe versus Wade was decided in 1973, American law imposed many of the same restrictions contained in current Irish law.

President Bush wants to reverse Roe versus Wade and the Rehnquist Supreme Court is preparing to do just that. H.R. 25, the Freedom of Choice Act will enact Roe into law. It deserves overwhelming support:

[From the Washington Post, Mar. 2, 1992]

LIFE BEFORE ROE V. WADE

The case of the 14-year-old Irish girl, allegedly raped by her friend's father, who was barred from traveling to England for an abortion, has been settled. Last week the Supreme Court of Ireland lifted the order of a lower court and allowed the girl to make the trip. The case has caused much political turmoil in Ireland, where abortion is banned by both statute and constitutional provision, and it may lead to changes in the law. But it was much discussed here as well, where the girl and her family won great sympathy and the Irish law much criticism.

What many Americans have forgotten is that before *Roe v. Wade* was decided in 1973, this country had laws very similar to those now in force in Ireland. Some women here were shocked to learn that Ireland not only prohibits abortion but forbids advertising, counseling or even the dissemination of information on where the operation can be obtained abroad or how much it will cost. Yet in the '60s that was exactly the situation here. No abortions, except in some states to save the life of the mother, no ads, not even an organized network (though there was a clandestine one) for providing information. By 1973 four states had legalized the procedure, and another 13 had allowed it in cases of rape and incest and where the mother's health or life was in jeopardy. The rest—33 states and the District of Columbia—prohibited abortion, and of that group only Mississippi allowed an exception in the case of rape.

Some Americans in a position of power want this country to return to the pre-*Roe* era and are counting on the Supreme Court's giving them that opportunity via state legislation. During the 1988 campaign, Vice President Quayle, for example, repeatedly made this point. He was asked by a 12-year-old girl if he could justify an abortion for her if she had been raped by her father. He said no. When asked what he would advise his own wife if she became pregnant after rape, he said he would tell her to carry the child. He was asked whether the woman raped by Willie Horton should have had an abortion if she had become pregnant, and he said that would be wrong.

This is the position of absolutist abortion opponents. The debate here will soon move from the academic to the very personal. Hypotheticals—a 12-year-old incest victim, a vice president's wife, a Maryland rape victim—could become as real as the Irish girl in last month's case. As the Irish consider changing their laws on abortion, Americans are hard pressed to hold on to the reforms already won.

MR. AND MRS. PATRICK NEE CELEBRATE 40TH WEDDING ANNIVERSARY

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. MOAKLEY. Mr. Speaker, I ask you to join me in congratulating Mr. and Mrs. Patrick Nee on the occasion of their 40th wedding anniversary. Anne and Patrick were married on March 1, 1952 in Sacred Heart Church, Newton, MA.

Patrick was born in Roxbury, MA., to Anne and Patrick Nee formerly of County Galway, Ireland. He was the youngest of their five children. After high school, Patrick enrolled in the U.S. Marine Corps and saw active duty during World War II.

Anne was born in Connemara, County Galway, Ireland, to Mary and Patrick Trayers. She was 1 of their 13 children. Anne emigrated to Boston soon after completing school.

Anne and Patrick married and settled in the Dorchester area of Boston. They are the parents of three children: Anne, Mary, and Patrick, Jr.

Their love and respect for each other has sustained them through good times and bad times. Their home has been a welcoming and caring place for friends and family. Their generosity, kindness, and commitment to their marriage and children should be saluted.

NATIONAL GUARD AND RESERVE BURIAL BILL

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. HARRIS. Mr. Speaker, today I introduced legislation to correct a problem that I believe is very unfair to our Nation's National Guardsmen and Reservists.

At present, under title 38, National Guardsmen and Reservists are not eligible to be buried in national cemeteries with exception to an in-service death. I feel that this exemplifies an extreme lack of appreciation for the men and women who have dedicated their lives to our country.

The National Guard and Reserves had approximately 142,600 men and women who served in Operation Desert Storm. I hope that this fact alone proves what an important part that National Guardsmen and Reservists play in our Armed Forces. It is time to make a change in some of the rules to include this brave and devoted group of people.

Therefore, I have introduced a bill which would extend national cemetery burial rights to National Guardsmen and Reservists who have served 20 years in good standing. These men and women who have spent 20 years of their life as a member of the reserve or guard deserve this honor.

I ask my colleagues to support this measure. It is strictly a matter of fairness.

SENATE—*Wednesday, March 4, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. As we address our petitions to the Supreme Governor of the world, the Senate will be led in prayer by the Reverend Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For what the law could not do, in that it was weak through the flesh, God sending his own Son in the likeness of sinful flesh, and for sin, condemned sin in the flesh: That the righteousness of the law might be fulfilled in us, who walk not after the flesh, but after the Spirit.—Romans 8:3, 4.

Almighty God, the Bible is quite precise that there are things law cannot do—not because the law is wrong, but because of human weakness. Not even God's perfect law can produce a just and orderly society because of the inadequacy of the flesh. Help those who legislate to comprehend this. They say the right words, mean what they say, make great promises which they plan to keep; but fragile humanity frustrates their best intentions. Drugs, violence, killings challenge as they increase, and leadership, having done all it can, faces a futile task. Until we remember that God can do what law cannot.

Gracious Heavenly Father, facing as we do the limitations of law, the weakness of sinful flesh, give us grace, people and leaders, to open our hearts to God's love and power and grace, to God's infinite adequacy. Help us to humble ourselves before the Lord, acknowledge our need, resist self-justification and excuses, and open our hearts to the mighty work of the Holy Spirit in ourselves and our society.

In the name of Jesus, Friend of sinners and Saviour from sin. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized under the standing order.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved and that the time for the two leaders has been reserved?

The PRESIDENT pro tempore. The Senator is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning there will be a period for morning business extending until 12 noon. The time between 10 a.m. and 10:45 a.m. will be under the control of the majority leader or his designee. In the remaining period of morning business, Senators GRAMM of Texas, and DOMENICI will be recognized for 15 minutes each, and during that time other Senators will be permitted to speak to address the Senate as well. At 12 noon, there will be 2 hours for debate on the motion to proceed to S. 1504, the Corporation for Public Broadcasting legislation. Of that time, 10 minutes will be under the control of Senator INOUYE; 110 minutes will be under the control of the Republican manager of the bill or his designee.

When all that time is used or yielded back, a rollcall vote will occur on the motion to proceed to the legislation.

It is my hope that we can complete action on this bill today.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been made, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMPREHENSIVE LEGISLATION FOR ECONOMIC GROWTH AND TAX FAIRNESS

Mr. MITCHELL. Mr. President, yesterday the Senate Finance Committee reported to the Senate comprehensive legislation for economic growth and tax fairness. I commend Senator BENTSEN, the author of the legislation, for the skillful leadership he demonstrated in drawing up the legislation and gaining majority support within the committee for it.

The bill includes each of the seven proposals made by the President in his so-called priority tax package. There are some modifications to each of those proposals, but, in concept, each of the seven points proposed by the President is included in this plan.

The principal difference between the President's plan and Senator BENTSEN's plan is that the President's plan would increase the deficit by $27 billion over a 5-year period because, while providing certain tax incentives, it offers no mechanism to pay for those. The result would be increased borrowing and an increase in the deficit of $27 billion over a 5-year period.

By contrast, Senator BENTSEN's bill includes the seven incentives but pays for them by an increase in tax rates on the top one-half of 1 percent of all American taxpayers, and since the amount raised by that increase is more than needed to pay for the incentives, the balance provides a tax reduction for middle-class American families.

I emphasize that the increases in rates included in the Senate bill affect only the top one-half of 1 percent of all taxpayers; 99.5 percent of all American taxpayers will be unaffected by the rate increase. Under Senator BENTSEN's plan, an individual with a taxable income of $150,000 and a couple filing a joint return with taxable income of $175,000 would be subject to the tax rate increase, and those above that level. Anyone below that would not be affected by the tax rate increase. I emphasize, also, that we are talking about taxable income. In terms of total income, it is about $200,000 for a single taxpayer and about $225,000 for a couple filing a joint return.

The President has repeatedly stated in the past week that the Democratic bill will affect taxpayers making $35,000 and above. That is simply incorrect. There is no basis for such a statement. The bill will apply only to taxpayers whose taxable income is $150,000 and above for single taxpayers, $175,000 and above for joint returns.

In addition, Mr. President, I point out on the subject of taxes that in the President's budget, the President himself has proposed a large number of tax increases. That budget was submitted to the Congress about a month ago, and there are many proposals by the President to increase taxes on many Americans. They are all contained in the budget. The budget is a public document available for every Member of the Senate to read and every member of the American public to see. No one should be under any illusion about tax increases. In his budget, the President has proposed a large number of tax increases on a large number of Americans for a variety of purposes.

Mr. President, I believe that we must act and act promptly to deal with the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

economic problems confronting our country. I believe what we should be striving for is economic growth and fairness in our tax system. Senator BENTSEN'S bill achieves both.

In a spirit of bipartisanship, Senator BENTSEN'S bill accepts and incorporates each of the provisions proposed by the President as his growth package. Some are modified in ways which I believe improves them, but each is included. They are investment tax allowance, changes in the corporate alternative minimum tax, passive loss relief, changes in the rules governing pension investments and real estate, a tax credit for first-time home buyers, a differential in the taxation of capital gains provided for a lower tax rate on capital gains as opposed to taxes on ordinary income, and a penalty-free withdrawal from individual retirement accounts for home purchases.

Those are all included in the Senate bill. They all make sense in one form or another. Therefore, we believe the President should enthusiastically support this bill.

I emphasize the only difference is that while the President's bill would increase the deficit by $27 billion by not providing any mechanism to pay for these incentives, Senator BENTSEN'S bill does not increase the deficit and it pays for them by increasing tax rates on the very top one-half of 1 percent of all Americans. The balance that that raises over and above what is needed to pay for the tax incentives is provided in the form of tax relief. That is a reduction in taxes for a large number of middle-income American families.

We think it is fair. We think it promotes economic growth. We think it is what the country needs. We hope very much that the President will see his way clear to sign the bill.

Mr. President, I yield the floor and I designate Senator DASCHLE to control the remainder of the time that is available to me.

The PRESIDENT pro tempore. The Senator from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. Mr. President, I yield myself such time as I may consume.

The PRESIDENT pro tempore. The Senator is recognized for such time as he may consume.

Mr. DASCHLE. Mr. President, first let me commend the majority leader for a very excellent statement. He speaks very eloquently and convincingly for so many of us on the floor as we address this issue. He has touched on a number of the salient points that many of us hope to make over the course of the next week or 10 days.

I think it is imperative that people understand our desire to work with the administration, to work with those on the other side of the aisle who clearly want what we want: a plan, an approach, a strategy to get this country moving again.

Let me also commend the chairman of the Senate Finance Committee for a remarkable demonstration of leadership in what he has been able to do over the course of the last couple of weeks. I must say in the time I have been in the Senate I do not know that I have ever seen a clearer demonstration of leadership, a clearer demonstration of ability to bring sides together as he so capably exhibited over the last couple of weeks. He convincingly demonstrated again yesterday his ardent desire to work with all sides to accommodate the needs of this country, to accommodate the concerns of the administration, to accommodate the many concerns that all of us have with regard to addressing this problem effectively.

Were he here, I would personally again draw attention to the fact that were it not for his leadership, I doubt that we would be at this point today.

As we look to the debate about this issue over the course of the next week or so—and I am sure that within a week we will have the opportunity to come to the floor to take up for consideration the bill passed by the Finance Committee yesterday—I hope that four points in particular will be kept in mind.

The first of the four is a point made so well by the majority leader just moments ago. This truly is an effort on the part of Democrats to work with the administration on those issues the administration feels are the cornerstone, the crux of what would move this country forward. It is the kind of approach that, through tax changes, would assist our industries and our whole economy in coming up with the means and financial tools with which to address the problems we all know exist.

The President has made a substantial investment over many years in his advocacy of a capital gains reduction. This bill has a capital gains reduction. The President has talked about the need for an investment tax allowance. This bill has an investment tax allowance. There has been talk about the need for AMT changes, enhancement and simplification of the alternative minimum tax. This bill has alternative minimum tax simplification and enhancement.

Easing of the passive loss rules is something realtors and home builders and a broad array of investors have come forth to discuss and advocate as one way to get the real estate industry turned around. They have argued that, if we cannot deal with the real estate industry, we will not be able to deal with the savings and loan industry or the whole financial community; that, if we are going to get this economy moving again, a very significant step has to be in the area of changing the passive loss rules; that perhaps we overreacted in 1986 by not only changing accelerated depreciation but by putting in place the passive loss rules which had a devastating effect in some sectors of the economy, especially real estate. As a result, this bill addresses the passive loss rules.

This bill contains a $5,000 credit for first-time home buyers, something the President spoke so passionately about in his State of the Union Address. He spoke of the need to encourage home buyers to get out there and invest for the first time in something they believe would be the American dream, something we have associated with the American dream throughout history.

The next provision supported by the President and included in this bill is one that has broad-based appeal in the Senate—the expanded deduction for contributions to an individual retirement account. Everyone realizes the need for savings. Everyone realizes the impact the IRA contribution deduction has had in the past on encouraging people to save. This bill has perhaps the finest individual retirement account program that we could fashion. So it responds to that need for savings. It tells investors it is time once again to save. We are going to put an emphasis, a premium, on the need to save in the future.

Finally, we have included provisions to promote real estate investment through pension funds. The President advocated this step in his plan, as well.

So, Mr. President, in elaborating on each and every one of these provisions, I am simply making as strong a case as I can that there are a large number of similarities between what the President has proposed and what the Democrats are proposing with regard to moving the economy ahead. Using tax tools, to the extent that we can, to the extent we can afford to use them, is something we both understand and both want to do. We both realize this is a very significant aspect of our overall strategy to get this economy moving again.

The second point that needs to be made, however, is that, in spite of all the similarities, there are two significant differences. And, again, the majority leader addressed those quite well.

The first of the two differences is that we pay for our plan. There is no easy way to do this. That is why we have a $400 billion anticipated budget deficit this year.

It is not easy to come up with revenue for expenditures, either tax expenditures or direct expenditures, and no one knows that better than the President pro tempore who is faced with these challenges each and every year in the Appropriations Committee. But we did come up with a mechanism to pay for all the tax tools that we have incorporated in this economic strategy. It probably ought not to be much of a surprise to anyone that the President has chosen not to pay for the proposals he has advocated.

Yesterday, in a very enlightening exchange between the majority leader, on the one hand, and our tax accountants, attorneys, and staff in the Finance Committee, on the other hand, it was clear that the revenue from the accrual accounting changes the President is using as a means to generate somewhere in the vicinity of $17 billion, if I recall, is simply not there. Everyone acknowledged that before the Finance Committee yesterday. It is not there. It is created out of thin air.

There is no $17 billion to be generated from any kind of accounting change, No. 1; and No. 2, it robs us of funds we are going to need in the future. So, for the President to use that approach is understandable but unacceptable.

He took some heat, of course, in the course of the last few weeks in the primaries. I noticed with some interest this morning in the Wall Street Journal that the President was quoted as saying he now regrets some of the decisions he made a couple of years ago as part of the so-called budget agreement.

Interestingly, he regrets them not because of the pressure to reduce the deficit. At that time he made some very compelling statements about the need to reduce the deficit. But, today in the Wall Street Journal, he said he regrets the fact that he agreed to the tax increases in the budget agreement because, he said, "Look at all the flak it is taking."

Then the paper quotes him as saying: "Anytime you get hammered on something, I guess you want to redo it." I do not know what that means. But, I tell you, that is not a very good demonstration of leadership.

Anytime you get hammered on something you want to redo it? If that were the gauge by which we decided what was right and what was wrong—that is, by how many times we got hammered on something—I wonder what this country would do faced with the difficulties, the challenges, that we have on a weekly basis in this country. We get hammered each and every day for making tough decisions, and making policy in this country.

Now, to say it is time to redo it because you are getting hammered is not a demonstration of leadership, and it is very regrettable. The President should be faulted for not demonstrating leadership, for simply looking at the prevailing winds in order to make decisions with regard to economic proposals and a whole range of things.

Now, the President's statement on an issue on which people admired him for taking the flak—"I guess it was a mistake because I am getting hammered on it"—reveals, once again, that the President lacks leadership, lacks conviction, lacks direction, and lacks a philosophical approach to Government. And that will be evidenced, I am sure, as we debate this particular bill.

So there is a big difference. We pay for ours. He does not.

The second big difference is that we recognize the need for fairness. We talked a lot about fairness yesterday. The fact is that it is absolutely essential. Most people recognize now the essential need for us to begin to restore fairness.

The 1980's were cruel on the middle class. There is no question about that. The 1980's represented a decade where the wealthy did quite well. In fact, those in the top 1 percent of income earners saw a reduction in taxes, I am told of approximately 15 percent, while the middle class saw an increase in taxes by about 8 percent. So the richest 1 percent saw a reduction in taxes of 15 percent. The middle class actually saw an increase in taxes by more than 7 percent.

We have to begin to look at the Tax Code not only for how we can spur the economy, for how we can do things that will move this economy along, but also for how we can restore fairness and bring about some responsibility in the Tax Code based upon the ability to pay. That is what this bill does.

So recognizing the need for fairness, but also recognizing the need to pay for the things that we are doing in this bill are the two essential differences between the President's approach and the Finance Committee approach passed yesterday.

The third point that needs to be made is that this is really the initial step. Economist after economist has come before the committee, and come before the Congress, to tell us that, regardless of what tax tools we utilize to get this economy moving again, there is no way we can create the kind of incentive package through the Tax Code alone that will do the entire job. We recognize that. So it is essential that everyone understand this is only the first step.

The next step is going to be in the hands of the architect sitting in the chair. The chairman of the Appropriations Committee and all of those associated with the appropriations responsibility in this country truly will give us the second phase of this most important strategy; that is, investment, investment in our country and in a broad array of different opportunities that we have only through the appropriations process.

Economists have told us time and again that the single best thing we can do for this country to get it moving again, not in the short term but in the long term, is to reinvest in this country. They say that investment is too low, that we have to make some fundamental changes with regard to our investment strategy. We must invest not only in infrastructure and in all the traditional areas, but in our work force, in strengthening that work force, and especially in our children. That is certainly something we have to face this year.

So indeed, this is just one step, a first and important step, we must take if indeed we are going to move this economy forward.

The final point to be made has to do with deficit reduction. There is not a person in this Chamber that has not made a speech about the need for deficit reduction. I think, as we consider all of our priorities, that, too, must be an essential element in the mix. We all recognize that. The question is, How do we do it?

I think that you will find overwhelming agreement that it must have priority; that deficit reduction in the longer term must be addressed. Obviously, by moving the economy forward and generating greater economic growth, we are going to reduce the deficit simply through the additional revenues coming in, but that alone will not do it.

There are ways that we, as Democrats, and I am sure as Republicans alike, can do this within the process, through our investment strategy, through the appropriations process, and ultimately through coming to grips with the challenge that lies before us. We must find ways to meet our needs, but also recognize that we simply cannot pay the interest on the debt that we continue to pay in the budget. We can make that an integral part of this process, and realize its importance, too.

It does not have to be a middle-income tax cut or a deficit reduction package. It does not have to be utilizing financial tax tools or using the peace dividend for investment strategies. We can find a way in which to ensure that each one of these needs are addressed by careful evaluation of its impact, by recognizing the importance of putting priority where priority belongs.

So, Mr. President, I am very pleased with the action taken by the Senate Finance Committee yesterday. Again, I commend the chairman for his remarkable leadership. I would hope that this is not only the first step to economic progress but also the first step to a bipartisan approach to addressing that progress in an effective way, in a way that sends the right message to the American people, in a way that will ultimately bring about the confidence that we are going to turn this economy around.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDENT pro tempore. The majority leader's designee controls the time until 10:45 a.m. today.

Mr. DOMENICI. Mr. President, I wonder if I might ask the representative of the majority leader whether; Do I have time in morning business?

The PRESIDENT pro tempore. The Senator under the order has 15 minutes.

Mr. DOMENICI. And whether I can proceed now rather than just chalk up some time.

Mr. DASCHLE. Mr. President, I have no objection if the Senator wishes to go ahead. We will retain the remainder of our time and allow the Senator to go ahead.

The PRESIDENT pro tempore. The majority leader has 15 minutes remaining. Without objection, 15 minutes will remain under the control of the majority leader or his designee until the hour of 12 o'clock has arrived.

The Senator from New Mexico [Mr. DOMENICI] is recognized for 15 minutes.

Mr. DOMENICI. Mr. President, I thank the Chair.

Mr. President, I, today, was going to spend my 15 minutes on these two charts but frankly the bill or bills that the Finance Committee reported out yesterday have become so important to the Senator from New Mexico that I am going to use a very brief time on this, and then return quickly and give my analysis of the Senate Finance Committee bill.

Mr. President, there has been a lot said about what has the President done in the last couple of years with reference to the economy and other matters of importance. I want to remind everyone who might be interested in what I am saying that in the U.S. House of Representatives, the Democratic party has 102 more Democratic representatives than Republican, and then there is an Independent from up in the Northeast, and he votes with the Democrats, so essentially, 103 more votes than the Republicans.

In our body, it goes without saying that the Democrats are in control, both of the committees, and they are in the majority by a substantial margin.

So it seems to me that we ought to square with the American people about what that majority in the House and that majority in the Senate, in terms of legislation, has been busy about for the last couple of years.

Somebody came to the floor a while ago and said, "It has been 494 days since the recession started, and what has the President done?" I think the distinguished Senator from Iowa who sits here, was here then.

Well, today, let me suggest that I made a list of all the initiatives the President has asked Congress to enact. I am going to tick them off. He asked the Congress to help the cities by providing jobs through enterprise zones. 1,119 days ago; nothing has happened. Capital gains tax. It is as if he just asked for that in his last State of the Union; but he has requested it over and over. It is 1,119 days overdue. Not yet law. Making the research and development credit permanent for competitiveness and jobs; 1,119 days overdue; not yet the law.

Restructure of the education system. We passed an education bill in the Senate here. It was not very highly touted when one considers how much education is being talked about in America. But essentially, there were three provisions that the President of the United States asked that Congress enact. These include choice, and model schools et cetera the Education 2000 proposals. I think the American people think these proposals were thought a pretty good idea. Well, he had not received that yet—a little tiny piece of it, but no law. That is not as long overdue; only 1,067 days.

And then the next one is an interesting one. Crime, the habeas corpus, exclusionary rule, and death penalty within the Federal system, which is getting more and more important, because it is handling more and more drug crimes. He asked for the death penalty, habeas corpus reform to eliminate delays, exclusionary rule to allow our law enforcement people to get more evidence in. No law, 986 days overdue.

Family savings accounts, something people think is good; something for Americans to use for the purpose of college education, major medical expenses, and other things. That has been up for 763 days at the President's request; overdue.

The President asked in the State of the Union for a withdrawal of IRA's for first-time home buyers and other purposes. Actually, that is not new either. The President asked for that 736 days ago. Zero.

Product liability reform. It has not even been seriously debated in the Senate yet almost all of America's business suggests that too many lawsuits is an enormous impediment to competitiveness, and Americans would like to make it more fair. Nothing has been done. The energy strategy has been a long time in the making. A lot of work on the report and recommendations. Then legislation, hearings, and deadlock. The actual legislation is only 308 days overdue. The Senate has acted but more delay is expected in the House. The next one, not yet overdue, is the President's growth tax package. It is not overdue. We have 16 days until it is due.

Mr. President, that would be enough to talk about, excepting I thought I might say, since we were not able to do any of these, we must be really busy doing some important things.

Here is a little list of the wrong agenda. Look at it. If it has anything whatsoever to do with jobs, growth in the American economy, then I say to the American public I do not understand that term jobs or its meaning.

We have campaign finance reform, so we can use the taxpayers' money to finance elections. That has been a part of the wrong agenda agenda. Repeal the Hatch Act, so that our public servants have a different relationship to partisan politics, whether one likes it or does not. It really has nothing whatsoever to do with the problem that the American people say we should have been addressing.

Motor voter. That is an interesting one. That is so Americans can register to vote when they get a drivers license. That is an interesting idea. That does it have to do with economic growth or jobs?

We spent time debating a Lumbee Indian Recognition Act recently. Establish regional primaries, striker replacement prohibition, and dairy price dairy price supports, and gun control.

The question is not what has the President stood for and wanted for the country, but rather what has the democratically controlled Congress been busy doing the last couple of years? Let us see what they were busy doing.

Mr. President, I have not heard the speeches this morning from the opposite side with reference to the Finance Committee and the bill they reported out yesterday, but I heard enough to wonder if I and my staff read the same bill. I heard it said that the Finance Committee bill is almost what the President asked for.

Well, let me suggest that if it is what the President asked for, it might look like some of the President's ideas from a distance when you can't see the detail. Some have suggested that seven of the provisions for growth are very similar to what the President asked for; that is, a twin of the President's proposals. I assure you, Mr. President, if you want to use that analogy, the Finance Committee bill is the evil twin, without any question. I hope in the next few minutes to tell you and the Senators how it differs from the President's package in innumerable ways—some small, some big policy.

Let me summarize the bill—and I am going to keep saying bill or bills, because essentially it looks like two bills, and that is technical, but they had to do that in order to get their procedure right. They may merge them on the floor. I do not want to make too much about it. The package does the following in general terms: It raises the deficit. And I defy anyone, on budget practices that we have been using, to say it does not.

It creates a sequester, Mr. President. It will cause a sequester on the entitlement side of this ledger. I defy anyone to say it will not. It increases taxes, and while it is touted to increase taxes less than the House, that is an interesting one. The House's taxes are over 6 years. Finance Committee's bill is over 5.

So the 5-year taxes are less than the House's 6. But interesting enough, if you take the same timeframe, they are identical. So I am going to conclude that the tax increases are at least as much as the House, and if they are not, they are off by a very, very slight amount.

It increases spending, and, yes, the occupant of the Chair might be interested in knowing that it creates a new entitlement program to experiment with a new way of direct lending for college attendees in the United States. It was just dropped from the bill the other day because some of us did not think we needed a new entitlement. But it reincarnated. And I conclude unequivocally it does little or nothing, little or nothing, to stimulate the economy.

Now, having said, that I want to proceed and discuss what I found. I want to say I think American people believe that the $5,000 credit for first-time home buyers is a very, very important part of this recovery plan. And it is touted as being the same as the President's. It is not. The President's proposal allows the credit for first time home buyers of new or existing homes. If you find a home that fits you and you are a first-time home buyer you get the credit if it is the first home you buy. The Finance Committee bill only applies to new construction. A big difference.

The new deduction for children. The President wanted a $500 deduction. The Finance Committee bill includes a $300 credit. But, more importantly, for a bill that is touted to be for the middle class, it is capped, and if I understand it right it is capped at between $50,000 and $70,000, I believe. In any event many of these so-called middle-income Americans are left out of that.

The President says if you have a child and you are raising the child and you are a tax-paying American, you get a $500 additional deduction. You do not have to draw lines with reference to how much income you are taking in.

The investment tax allowance. Many think we should have had one of the old-time investment tax credits in this bill. But the President said let us have a 15-percent investment tax allowance. This Finance Committee bill has 10 percent instead of 15 percent. One might say that isn't much of a difference. Well, it is a big difference because, frankly, the 15-percent investment allowance, barely made it as an economic stimulus. It is approximately equal to a 5-percent investment tax credit. I assume that we are providing very little incentive when it gets down to 10-percent allowance.

Now, almost every provision that is touted as being the twin of the President is different. Capital gains, substantially different. Yes, a capital gains, but somebody else's version. In fact, a very targeted capital gains as to what you can use it for. And most people assume if you put that in, it will not be long until you change it because legislative distinctions drawn as of lines will not work.

Where is the fairness that was touted, where is the fairness in this bill? The good twin was switched for the bad one. I only find fairness attempted in the $300 deductible for children. I do not know if it is fair to cap that at less than what is commonly thought to be the middle income in America and then tout fairness. Having said that, let me proceed with some of the other interesting things.

The President would pay for his $500 deduction for children by saying let us use the peace dividend, the new peace dividend in his new reductions in defense to pay for that. I am not sure whether the occupant of the Chair supports that. In fact, I would assume he did not. But essentially what this bill says is do not use any of the peace dividend to help the taxpayers. The President says use it all to help the taxpayers. I think that means that somebody plans to spend the peace dividend. In fact I know some people do. I know some want to spend it all. Others want to spend half.

Let me repeat: The President said you give it to the taxpayers. This bill says do not touch it, leave it there so Congress can spend it.

I do not believe that the peace dividend ought to be used to increase dramatically spending on programs in this country, domestic programs, especially since we have only canceled three domestic programs in 11 years. It cannot be that all these domestic programs have eternal life. Three have been canceled. And the huge inventory in the hundreds and hundreds of programs is left intact and this would say put that money, that defense money, into that allocation process and spend it for that kind of domestic program.

Some would say no, we will not; we will spend it elsewhere. But I am saying Congress will be permitted to spend it that way.

Let me proceed with a couple of specifics that we have found beyond what I have just talked about. This is not a normal bill. This is not a normal year. The Finance Committee——

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. DOMENICI. Mr. President, I assume that the majority leader's time is going to be reclaimed. Is that correct?

Mr. DASCHLE. That is correct.

Mr. DOMENICI. OK; I have some additional remarks.

The Democrats on the Senate Finance Committee have reported a package that raises the deficit, creates a sequester, increases taxes, increases spending, creates a new entitlement program, and does little to stimulate economic growth.

Any normal bill that did all these things I have just mentioned would obviously run afoul of the Budget Act and require 60 votes to be seriously considered.

But this is not a normal bill. This is not a normal year. And the Democrats on the Finance Committee have cleverly stretched the rules to avoid the embarrassment of having the bill fail here on the floor of the U.S. Senate.

They do not want a bill. They want a political issue. They want a veto. Well, they will get it and we will have wasted 2 months when we should have been doing something for the country.

Fortunately, the economy seems to be improving now, even in spite of our inaction.

There is no way to deny these facts. I look forward to the Senate Democratic leadership's explanation.

Let me be very specific.

First, the Democratic package increases the deficit this year. Procedurally, this will become evident when you learn that they did not report one bill yesterday but two.

The deficit will increase each year, 1992 through 1995, under the package reported yesterday. The deficits increase at least $2 billion this year, and similar amounts each year after.

I am sure the chairman of the Finance Committee will say this is not so. But it is. The Senate Finance Committee has already added more than $4 billion to the deficit this year, and is prepared to add $2 billion more.

There is no question that a Budget Act point of order lies against this package for exceeding the maximum deficit amount we agreed to in last year's budget resolution. I will offer that point of order when the bill is before us.

The Democratic leadership will have to argue to waive the point of order to protect the bill from failing. As such they will be admitting that the bill does raise the deficit. Unfortunately, that point of order can be waived with a simple majority, but make no mistake about it, this package increases the deficit.

Second, the Democratic tax and spend package if it becomes law will trigger this fall an automatic sequester—cuts of $4.0 billion in Medicare, farm payments, student loans, and unemployment benefits.

There is no question this would happen. I challenge the Democratic leadership to come to the floor and tell the American public that what I have said is not true. They cannot do it. I am right.

Third, you will shortly see that in order to game the complex and confusing budget system—created in no small part from the Democrat's reserve funds put in last year's Democratic budget resolution, one which I did not support—you will see that two bills were reported yesterday, not one.

This is so that spending increases in the bill for Medicare expenditures totalling nearly half-a-billion, and the creation of entitlement spending for student loans, can be cherry picked with some of the bill's revenue increasers to appear deficit neutral.

The spending increases were needed to buy votes for the package. The two bill's approach is to allow the chairman of the Budget Committee to come down here and give the Finance Committee more spending allocation from the reserve fund and avoid a 60-vote point of order that would normally lie against the bill.

The system is being gamed royally.

Mr. President, the 1992 budget resolution clearly permits the use of reserve funds. And I do not deny the rights of the chairman of the Budget Committee from coming here to the floor and changing the spending allocation to the Finance Committee to accommodate the new spending being proposed.

Mr. President, should the chairman of the budget Committee propose spending allocation adjustments to the Senate Finance Committee as it relates to the consideration of either of the two bills reported from that committee yesterday I ask that the allocation change not take place until such time as the Republican leader or his designee have an opportunity to review the changes and comment on them.

And we are creating an entitlement in spending with a new student loan program, exceeding $2.5 billion in over the life of this bill. What audacity with deficits running at historic highs.

Interestingly, someone might ask how could you create entitlement spending that costs this much and not pay for it.

Well, the same accrual accounting rules that the majority leader has been so quick to criticize the administration's proposed changes to the Pension Benefit Corporation, are being used to show small costs for his committee's new student loan program.

Finally, the package increases taxes nearly $57 billion—over the period ending in 1996.

Very interesting, some Democrats say well this is less than the House bill. The House bill's tax increases of $78 billion ran through 1997 not 1996. We are not comparing apples and apples. If we were, I think you will find that this bill increases taxes just as much as the House bill—nearly $75 billion.

Nevertheless, we should not be talking about tax increases. That is nonstarter.

The Democrats want to raise taxes because they cannot find it in their hearts to reduce spending.

Remember the President's tax cuts for families with children were paid for with reduced spending—defense outlays were cut by nearly $30 billion, entitlement spending excluding the proposed and needed reforms to the Pension Benefit Corporation were cut $38 billion, all estimates made by the Congressional Budget Office.

And finally, let's be serious, the capital gains proposal in the Finance Committee's package is not the President's—it will not do what the President's proposal will do to stimulate investment and growth.

More importantly, the Finance Committee's package does not do that much for investment, their investment tax allowance would run only through the end of the year, the President's plan was twice as long.

The President's tax R&E extenders were permanent, the Finance Committee's R&E are long enough to get us to the next congressional election.

For all these reasons, Mr. President, the Senate Finance Committee package is wrong and should be defeated. If not I am sure it will be vetoed and the veto upheld.

The PRESIDENT pro tempore. The Senator from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. Mr. President, I yield myself such time as I may consume.

The PRESIDENT pro tempore. The Senator from South Dakota [Mr. DASCHLE] is recognized for such time as he may consume under the time under his control.

Mr. DASCHLE. I thank the President.

Mr. President, I find it interesting that the Senator would find fault with the Finance Committee plan, first, because he says it raises the deficit and, second, because he says he does not think it goes far enough. I am intrigued by that paradox, and I am amazed that the Senator would find fault with our plan by claiming that it raises the deficit. He says he defies someone to prove otherwise. I challenge him to demonstrate to us how he sees this as raising the deficit.

We clearly have an offset. The Joint Committee on Taxation has laid out in no uncertain terms that the revenue generated more than covers the expenditures provided within the bill. So there is absolutely no way that this bill could be accused of increasing the deficit one cent. We pay for every single thing that we have provided within that bill.

It is interesting to me that anyone would challenge our bill on the basis of raising the deficit when the President's own plan, yesterday, without any question, convincingly demonstrated that it falls short by at least $17 billion, in this fancy accrual approach that the President has acknowledged as his source for revenue to be used in offsetting some of the costs in his plan.

So on both counts, No. 1, because the Joint Tax Committee has so clearly pointed out the adequacy of our offsets and, No. 2, because the President himself has used a fancy method of accrual to come up with the smoke-and-mirrors offset that was discussed yesterday, I find his charge of raising the deficit absolutely in error.

Mr. DOMENICI. I wonder if the Senator will yield for a question.

Mr. DASCHLE. I yield.

Mr. DOMENICI. I raise the point and ask the question. The Senator asked if the Senator from New Mexico would demonstrate that the bill is not deficit neutral.

Mr. DASCHLE. That is right.

Mr. DOMENICI. I would suggest that I would be glad to answer right now, but will wait until the bill is on the floor. I will be glad to ask the Parliamentarian. A point of order lies against the bill as currently drawn because the cap on the deficit, the amount of the deficit has to be raised. I believe the answer is the Parliamentarian will say yes, it is subject to a point of order. So I believe that is pretty good proof, when you raise the deficit amount a point of order will lie under the Budget Act that indeed you increase the deficit.

So I just wonder if the Senator agrees that, if this is the case, indeed it does raise the deficit or else why would one need to raise the deficit cap.

Mr. DASCHLE. We will get into that in much greater detail when we debate the bill because, as the former chairman of the Budget Committee knows, there are all kinds of reasons because of the rules of the Senate which require us to take that approach.

As the Senator from New Mexico is aware, the leadership is making an extensive effort to see that this legislation is passed by the March 20 deadline proposed by the President. The only way to do that is to bring this bill to the floor under rules that will prevent members from using it as a vehicle for scores of unrelated amendments. Therefore, in drafting this measure, the committee relied upon a $3.5 billion surplus in revenues since the last budget resolution was passed. The effect of this is that members who offer amendments on the floor that would reduce revenues will find their amendments subject to a 60-vote point of order.

Let me also point out to the Senator from New Mexico that, in terms of increasing the Federal budget deficit with regard to possible sequestration, the President's Office of Management and Budget has not yet made any determination as to the impact of the entire bill on the budget deficit.

But I think that the former chairman would clearly recognize that the dollars that we raise in that bill provide the offset necessary that would not require a budget waiver for those expenditures. So we will address that point and I will be happy to discuss it at greater length whenever he wishes to do it. But he certainly, I think, has absolutely no grounds with which to make the charge that this raises the deficit.

Second, with regard to caps, the reason we are concerned about caps, the reason we do focus these funds specifically as we have is because we are concerned about the deficit. We do want to find the adequate offset, No. 1. And No. 2, we do not want to give windfalls to the wealthy. We have done that too much in the 1980's. This is our response, in an effort to provide a kind of fairness.

The Senator talks about the middle-income tax cuts and its lack of necessity. And I might emphasize again for those who may have missed the points raised yesterday and on many occasions here on the Senate floor, the fact is this represents, for someone making $35,000 a year, a 25-percent reduction in the income taxes that they are going to have to pay, a substantial reduction, and that is for an average family of four. If a middle-income family has more than two children, it represents an even greater reduction in their tax liability for the coming year.

So for those in the middle class, there is a substantial opportunity to see their taxes reduced. And there is a substantial opportunity for us to incorporate an element of fairness in the Tax Code that we have not seen in at least 6 years.

Finally, with regard to the use of the peace dividend, I think if there is one thing that Democrats feel strongly about, and I would say are unanimously for, it is that we ought to use the peace dividend for investment in our future, for strengthening this country, for finding ways with which to ensure that we can provide the economic growth and vitality we all want, not only in the short term but in the long term.

Simply to use that peace dividend for greater hand-outs to the wealthy, as the President has proposed, is the wrong way to go. Expert after expert, witness after witness, who came before the Finance Committee said: If you are going to use the peace dividend, use it for something that will do some good; use it in ways that will ensure growth and vitality in the economy in the future; use it, if you will, to reduce the deficit. But do not use it to change the Tax Code. They say that, if you are going to change the Tax Code, create the kind of economic fairness that the Democrats have presented in their bill. Find a way to pay for the tax tools that we create in this legislation.

So that is what we do. We separate the two. We create fairness in the Tax Code by asking the seven-tenths of 1 percent of the taxpayers at the very top of the roster to pay for the kind of tax tools that will create the economic incentives we provide. And then we take the peace dividend and say to the country: Look, we recognize the importance of savings. We recognize why investment is so essential. We are going to take those peace-dividend dollars and use them in the wisest way we possibly can for our future, for investment in infrastructure and our children, and for deficit reduction.

Mr. President, there is good reason why we separated the two. I believe, as we debate this issue in the coming weeks, we will have the opportunity to lay out in even greater detail the fiscal responsibility we demonstrated yesterday and will continue to demonstrate in the appropriations process; and the need for equity that this bill calls for in so clear a fashion.

I look forward to that debate.

Mr. President, I yield to the Senator from Louisiana.

The PRESIDENT pro tempore. How much time does the Senator yield?

Mr. DASCHLE. Such time as the Senator may consume.

The PRESIDENT pro tempore. The Senator has remaining 7 minutes, and 25 seconds. The Senator from Louisiana [Mr. BREAUX] is recognized.

Mr. BREAUX. I thank the Chair, and I thank the Senator from South Dakota for yielding me some time.

Mr. President and my colleagues who may be watching, the Senate Finance Committee, under the leadership of Senator BENTSEN of Texas, presented a bill to the committee yesterday which addresses the two main concerns which the American people, I think, are demanding of Congress.

I said to our committee colleagues yesterday that yesterday in New Orleans, hundreds of thousands of people lined the streets with their hands reached out, yelling at masked men riding on floats to throw them something, a tradition of Mardi Gras.

I think the American people are reaching out to the Congress, not to throw them anything, but rather to do something; to do something about the economic conditions in this country, the recession, the number of people who are unemployed. What I think the American people are demanding is not that we do something that solves all their problems without any pain, but they are asking Congress to be realistic, to be honest, to try to be a little bit unpolitical, even in a political year.

And I think the product that the committee produced addresses two of the major concerns the American people are demanding that we address: No. 1 to do something about tax fairness; and No. 2, to do something about jobs and economic growth in this country. I think the bill does both of those things.

No. 1: Something happened in the 1980's, Mr. President. All the graphs and all the charts and all the statistics and all the evidence are now in. What happened in the 1980's is very disturbing. It is very disturbing, particularly for middle-income people in this country, for middle-income people saw all the things that were good for them go down and all the things that were bad for them go up.

To give you an example: The Congressional Budget Office said that real after-tax income, which is what a family has to look at, how much income do they have after taxes, during the 1980's, for the top 1 percent of the people in this country—for the top 1 percent, the most wealthy of the wealthy in America—their after-tax income more than doubled during the 1980's, rising by $243,400 apiece for the wealthiest among us. They did extremely well.

But in contrast, for the middle-income Americans, the decade of the 1980's saw their after-tax income go down by $747; $747 less in 1991 than they got in 1980.

A second example: When it comes to cutting taxes, the top 1 percent of Americans saw their taxes reduced by $42,300 apiece, while during that same period, middle-income Americans saw their taxes go up by $436 apiece.

So, Mr. President, the American people are demanding that we do something about tax fairness. It is not fair to see those types of tremendous gains by the wealthiest among us, and yet the middle-income families, who now have both parents working and trying to put the kids through school, have their income go down. So this tax bill has a $300 credit given to children of middle-income families.

I have seen some people pull out a dollar bill from their pocket and hold it up—candidates, some of my party, going around the country, saying: This does not mean anything, a dollar a day.

Mr. President, let me tell you that for that median-income family in America, which is a family that makes $35,000 a year—and I assure you, we have a lot of those in Louisiana—the Congressional Budget Office tells us for that median-income family making $35,000, which has two children, that this is a $600 tax credit. This means that at the end of the year, when they go to file their taxes—and that average family pays $2,400 in taxes under this bill—that family will be able to deduct $600 off those taxes that he has to send to Washington.

Mr. President, it may not be a lot for a lot of people, but for that family that makes $35,000, that is a 25-percent tax cut. A 25-percent tax cut for middle-income families is a significant reduction from what they have to send to Washington. It is not just waving $1 around. It is a significant reduction in the families' taxes who need it the most.

Mr. President, I think that this bill also addresses the concern about jobs and economic growth. Is it perfect? Of course not. Is there something you can find wrong with it? Of course. I tell you, when you put seven of the seven requests of President Bush in an economic jobs bill, you are doing, I think, a lot that should make the administration think that this bill is a good growth bill.

We took the ideas the President had—not word for word; of course not. That is not the role of the Congress, and it is not the role of the Finance Committee.

But we included seven of the proposals the President thought were important in this bill. There is a capital gains tax reduction, not as much as I would have liked, but significant. It will allow for venture capital growth in new companies, creating new jobs, and that is what the President said he wanted. I happen to believe it is a step in the right direction.

There is also a progressive capital gains tax, which will allow for those families who need help the most to get the most in reduction of their capital gains taxes.

We have a youth skills training program, something that I think is incredibly important, Mr. President. I have spoken about it on the floor before. Americans can be more productive. They can be more productive, but it is high time we start paying attention to the kids who are not going to college. Right now Congress spends only one-seventh of the money we spend on educating young people in this country on those who are not going to college. Most of the money is spent on those who are going to college. What about the pipefitters and the bricklayers and the carpenters and the electricians and the mechanics, who are not going to Harvard or Stanford or Yale or LSU or the University of Texas or what have you? We are neglecting those young people in America.

This bill will have some tax incentives to encourage businesses to work with high schools to train these youngsters who, in fact, are not going to college so that they may, in fact, be more productive and America may be more competitive.

So, Mr. President, I simply say that I think it is not too much to ask the wealthiest to pay their share and that the middle income get a break and we do something about growth. This is what this bill does, and I commend it to my colleagues.

The PRESIDENT pro tempore. The Senator from Texas [Mr. GRAMM] has up to 15 minutes under the order. He is recognized.

Mr. GRAMM. Mr. President, I appreciate the recognition. I want today to begin talking about the tax debate. I want to talk about this fairness issue and about the House bill which has been adopted. I want to talk about the Senate bill, which is now in committee. And I basically want to make two points.

We are down to a hard decision as to where we go as a nation. Do we want to try to redistribute wealth? Do we want to follow the blueprint of Eastern Europe or the Soviet Union? Or do we want to create wealth?

Second, there are many issues that are going to be debated here that are fraught with political danger, but what I want to do is begin looking at the long-term future of America as we ask ourselves what we should do in this tax debate and what we want to do in terms of trying to create jobs for Americans.

For the last 4 months, the Democratic leadership of the House of Representatives has trumpeted all over America the idea that they were about to redistribute wealth, that they were going to raise taxes on rich people, that they were going to give that money to the middle class, that they were out to buy the vote of the middle class. And I guess, like most people, I believed them. I expected the House Democratic leadership to come forward with a plan that raised taxes on rich people, that cut taxes on the middle class and in the process that redistributed wealth.

In fact, what the House Democratic leadership was saying was that the economics and politics of the class struggle may have failed in Eastern Europe and in the Soviet Union, but it is still working in Havana, Cuba, and it could still work in Washington, DC.

I believed them. I should have known better.

Mr. President, when the Democrats came out with their plan, they did not try to buy the vote of the middle class. In a miraculous sleight of hand, they tried to rent the vote of the middle class in this election year. Let me explain it.

Basically, the House bill raises taxes permanently by $93 billion over a 5-year period. It defines as "rich" anybody who earns $85,000 a year or more. That is going to come as a shock to some Americans. But in the mind of the House Democratic leadership, those are the rich people whose money rightfully belong to the Congress. So they propose raising taxes over the next 5 years by $93 billion, and those taxes will last forever. That part of their promise they delivered on.

But when it came time to give that money back to the middle class, when it got right down to it, the House Democratic leadership could not serve two masters. It could not cater to the middle class and cater to Government at the same time, and when it had to choose, the Democrats chose government. They proposed, for a family of four, a 25-cents-per-person, per-day tax cut through the election. Then, when the election is over and all the votes are counted, at the end of the 2-year period they take all those tax cuts back.

Now, what do they do with the $93 billion tax increase that is forever? They spend it. What happened to this peace dividend that the President proposed, where we build down defense by $50 billion over 5 years, and which the President proposed returning to the middle class? What do the Democrats do with that $50 billion? They spend it.

So, what the House Democrat leadership has proposed and what the House has adopted is not a tax cut. It is a rent-a-vote scheme through the 1992 election that gives virtually nothing of substance to the middle class, but permanently raises taxes on people who make $85,000 a year, all to fund $143 billion worth of new Government spending.

What is significant about that? What is significant, Mr. President, is that it does redistribute wealth, but from working people to the Government. When it came right down to it, the Democratic leadership in the House does love Government, has always loved Government, and will never ever put middle-class Americans in front of Government.

Mr. President, I think it is fair to say that we are going to fight that proposal and we are going to defeat that proposal.

The Democratic leadership in the Senate has come up with their own plan to redistribute wealth. Let me say that they have come closer to living up to their party's advertising than their brothers and sisters in the House. In fact, it remains to be seen what the mating of these two bills will produce.

What does the Senate bill do? The Senate committee bill proposes to raise income tax rates by $43 billion over a 5-year period. It proposes to impose a 10% surtax on high-income people of $8.5 billion. It then proposes a little sleight of hand that raises $3.7 billion in taxes by eliminating personal exemptions and itemized deductions for high-income people. At the bottom line, it effectively raises the tax rate on upper-income Americans from 31 percent to a minimum of 36 percent, a 16 percent increase in tax rates. But by phasing out the personal exemption and itemized deductions, it raises the effective tax rate on many American families to about 40 to 46 percent.

Mr. President, I do not know what the Democratic members of the Finance Committee think will happen when they raise people's marginal tax rates from 31 percent to effectively over 40 percent. But I think I know what is going to happen. What is going to happen is that Atlas is going to shrug. I think that people are going to stop investing and stop creating jobs. And why I am so mystified by this is not that it is not good politics, but it is disastrous economics that sets into place a policy that the rest of the world is rejecting.

Mr. President, why is it that other than in Havana, Cuba, this is the only place on Earth where we are debating the redistribution of wealth? Why is it that in this great land built on entrepreneurship and individual freedom, we are not talking about creating jobs rather than destroying them?

We just had one of our colleagues talk about the rich people and about taxes.

(Mr. ROBB assumed the chair.)

Mr. GRAMM. Mr. President, I made up a chart and I tried to make it as simple as I could so that nobody could be confused. This chart asks a very simple question in a way that cannot possibly be distorted. It looks at all taxes that are paid by Americans—and nobody else pays American taxes except us—and on money made here. It asks the following question: How much of the total tax burden on taxes is paid by the top 1 percent of all income-earning families?

In other words, of the 1 percent of families who are making the most money, what percentage of the total tax burden do they pay? What percentage of the total income tax burden is paid by the top 5 percent, the top 10 percent, the top 20 percent and then the bottom 60, the bottom 40 and the bottom 20 percent?

What I thought would be instructive, Mr. President, is to look at the day before Ronald Reagan became President. We had a Democratic President; we had a Democratic majority in both Houses of Congress. If the Democrats thought taxes were unfair, they had the absolute ability to change it. Presumably they did not think so, so this represented their concept of fairness.

The top 1 percent of the people in America earning income were paying 18.2 percent of all taxes being paid, the top 5 percent were paying 36 percent, the top 10 percent were paying 48.8 percent. It gives you a little pause when you realize that 10 percent of the people in this country, as much as many of our colleagues appear to hate these people, were pulling 50 percent of the wagon, paying half of the taxes, in 1980 before Reagan came to town and changed everything. The top 20 percent were paying 66 percent of taxes. The bottom 60 percent were paying less than 14 percent. The bottom 40 percent were paying 3.6 percent, and the bottom 20 percent, by various types of incentives paid and earned income tax credits, were actually getting money back. That was the world before Ronald Reagan.

We have changed the tax system since that time so now the top 1 percent of all income-earning families, who were paying 18.2 percent of all taxes, are now paying 25.4 percent of all taxes. The top 1 percent of the people in America in terms of family income are now paying 25.4 percent of all the taxes. So in the time that Ronald Reagan and George Bush have been in the White House, the taxes paid by the top 1 percent in terms of taxes has gone up by 40 percent.

Do you know what is miraculous? They are better off. They are paying 40 percent more taxes and they are better off because we lowered marginal rates, we provided incentives for people to get out of tax dodges, to take ordinary income and to make investments. As a result, they are paying 40 percent more taxes.

What our Democratic colleagues are saying is that these people are not paying enough. That is the case of this whole debate. My point is this: From the day that the Democrats last controlled the White House until today, these people are paying 40 percent more of their share of total taxes paid. The top 5 percent has gone from paying 36 percent of the taxes to 44.1 percent, or their tax burden has gone up by 23 percent. The top 10 percent, their tax burden has gone up by 15 percent. The top 20 percent, the tax burden has gone up by 9 percent.

And let us look at the American middle class. In 1980, the bottom 60 percent of all income-earning families were paying 13.8 percent of all taxes. They are now paying 11 percent, so their tax burden has declined by 20 percent. From 1980 to 1990, the tax burden for the bottom 40 percent of all income earners has gone down by 33 percent, and for the bottom 20 percent the tax burden has gone down by 150 percent because they are now getting big earned income tax credits.

Mr. President, are we to believe that when the Democrats control both Houses of Congress and the Presidency, they called this fair? Now all of a sudden with higher income people paying more, it is unfair? Mr. President, I never try to question anybody's motives, but I do not understand that logic.

I want to say a little bit about the details of the Democratic plan, and then sum up. First of all, we hear our colleagues say, well, they cut capital gains; they are providing incentives, but look, by raising the marginal tax rate to 36 percent, even by cutting capital gains tax rates, the effective rate miraculously ends up at 28 percent for higher income people, which is exactly what it is today.

Mr. President, capital gains is important to me personally. Some day I am going to sell my house and I am going to be affected by it. It is important to me in that my wife's father left a little stock to help pay for my children to go to college and they may get a capital gain on it.

But the plain truth is that I spend my income on groceries, not assets that produce a capital gain. I am not going to put Americans back to work by changing my grocery consumption pattern. America requires a quarter of a trillion dollars of new investment in the next 3 months. Is any of that money going to come from PHIL GRAMM? No, none of it is going to come from me. It is going to come from wealthy people who have the money to invest, if we can get them to put it to work.

I submit, Mr. President, that we are not going to solve this Nation's problems my raising taxes, by redistributing wealth and crushing new investment. We need to be creating wealth and I am not going to vote to raise anybody's taxes. I thank the Chair.

The PRESIDING OFFICER. The time allocated to the Senator from Texas has expired.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho [Mr. SYMMS].

Mr. SYMMS. Mr. President, are we now in morning business?

The PRESIDING OFFICER. The Senator is correct. The period for morning business is to extend under the previous order until 12 o'clock.

Mr. SYMMS. I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for up to 10 minutes.

I LOST A FRIEND—SENATOR SAM HAYAKAWA

Mr. SYMMS. Mr. President, I lost a friend, a friend to many in the Senate, the late Senator Sam Hayakawa. He used to sit right down there where the distinguished senior Senator from Iowa is sitting now, and I sat in the next to him my first 2 years in office. We became very good friends.

Then, after he left the Senate, Sam Hayakawa used to come back and use my office as a place where he could hang his hat and coat and make some phone calls and touch base with people on issues he was still involved in and still working on. I found him to be one of the superior intellects that ever served in the U.S. Senate. Oh, I know oftentimes the perception was that he nodded off to sleep at meetings and so forth, but he had a tremendously keen intellect and tremendously keen insight into the issues that faced this Nation. I think we all lost a great American and he left an indelible mark in my memory. I extend my sympathies to his family and say that they lost a father and a husband and those of us in the Senate who had the privilege to work with and know him, know of his great achievements.

When I think back to 1942 and 1943, he was writing books about the importance of the English language and semantics in this country because he understood that the way the language is used could have such an impact on the future of public policy.

I ask unanimous consent that the obituary from Friday, February 28, from the Washington Post be printed in the RECORD.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

OUTSPOKEN U.S. SENATOR S.I. HAYAKAWA DIES AT 85

(By J.Y. Smith)

S.I. Hayakawa, 85, a noted semanticist whose willingness to confront striking student radicals at San Francisco State University in the late 1960s led to a career in politics and a seat in the U.S. Senate, died of a stroke Feb. 27 at Marin General Hospital in Greenbrae, Calif. He had been hospitalized for bronchitis.

A witty, independent and iconoclastic figure whose interests ran the gamut from jazz and African and Asian art to fencing and cooking, Dr. Hayakawa was the author of a classic work on the way people react to words and symbols. As a public servant, he was a hero to some and a villian to others, and he readily acknowledged that he hurt himself by his tendency to speak without thinking.

But it was action, not words, that first gained him prominence outside of academia. He had been interim president of San Francisco State for less than a week when he climbed onto a sound truck on the campus on Dec. 2, 1968, and ripped the wires from the loudspeaker during a student protest. The event was captured on live television, and the slender, soft-spoken scholar with a fondness for multihued tam-o'-shanters became one of the most popular figures in California. He was dubbed "Samurai Sam."

During the next several months, he broke student and faculty strikes and restored normal classes. An African studies program was added to the curriculum, a key demand of the protesters. But demands that African studies be entirely independent were refused, and the department was put under the same administrative network as other academic programs.

In 1973, Dr. Hayakawa resigned as president of San Francisco State—he had been given the job on a permanent basis by Ronald Reagan, who was governor of California at the time—and three years later he ran for U.S. Senate. A former Democrat, he joined the Republican Party and described himself as a "Republican unpredictable."

He was an instant success on the hustings. Although he later supported the treaties giving Panama ultimate control of the Panama Canal, he delighted conservatives during the campaign when he said that the United States should keep it, because "we stole it fair and square." On another occasion, when asked for his views on a referendum on a dog racing, he replied that he didn't "give a good goddam about greyhounds one way or another." In the election, he handily beat Democratic incumbent John V. Tunney.

In the Senate, his outspokenness and seeming indifference to appearances became a liability. He had long had a habit of dozing off in meetings that bored him, but when he did it during orientation sessions for new senators and later at such occasions as White House legislative meetings he drew wide criticism. He was known as "Sleeping Sam."

There were other troubles, Dr. Hayakawa had not even been sworn in when he was ridiculed for objecting to his assignment to the Senate Budget Committee on the ground that "I don't understand money at all [and] have the greatest difficulty even balancing my own checkbook."

He alienated many constituents when he said that rising oil prices were not a concern, because "the poor don't need gas, because they're not working." He angered many others when he defended the internment of 120,000 Japanese Americans during World War II as "perhaps the best thing that could have happened," because it helped integrate them with the rest of society later. He was a Canadian citizen teaching in Chicago during the war, and was not involved with the internment program.

In later years, Dr. Hayakawa sponsored a constitutional amendment to make English the official language of the United States, claiming that a command of English was "the fastest way out of the ghetto." He opposed bilingual education in public schools and bilingual ballots as "foolish and unnecessary."

Finding himself with little support by the end of his first term, Dr. Hayakawa retired.

"He was invaluable during some very difficult times—a courageous man of integrity and principle," former President Reagan said in a statement.

Gov. Pete Wilson described Dr. Hayakawa as "a great California iconoclast," and said "certain images from S.I. Hayakawa's remarkable life will be burned into our memories forever."

Samuel Ichiye Hayakawa was born July 18, 1906, in Vancouver, British Columbia, of Japanese parents. His father, Ichiro Hayakawa, has served in the U.S. Navy as a steward and then returned to Japan to marry Tora Isono. They settled in Canada, where the elder Hayakawa established an import-export business.

"Sam" Hayakawa, the eldest of four children, graduated from the University of Manitoba and received a master's degree in English from McGill University. He received a doctorate in semantics from the University of Wisconsin. He taught there until 1939, when he moved to Chicago and taught at what is now the Illinois Institute of Technology. From 1950 to 1955, he was on the faculty of the University of Chicago. He then joined the English faculty of San Francisco State, which is now part of the California state university system. He became a U.S. citizen in 1954.

Dr. Hayakawa made his scholarly reputation with "Language in Action," which appeared in 1941. It was reissued in 1947 as "Language and Thought in Action," a basic text in the field of semantics, which Dr. Hayakawa defined as the "comparative study of the kinds of responses people make to the symbols and signs around them."

The book was prompted by the rise of Hitler and the way he used words and symbols to consolidate his political power. It makes the argument that words can be used both to disguise and distort reality and to illuminate it, and that words therefore are different from reality.

Dr. Hayakawa's late brother-in-law, the late architect William Wesley Peters, was married to Joseph Stalin's daughter, Svetlana, who gave birth to the former Soviet leader's granddaughter in the Hayakawa residence in Mill Valley, Calif.

Dr. Hayakawa's survivors include his wife, the former Margedant Peters, whom he met while he was teaching at Wisconsin, of Mill Valley; two sons; and a daughter.

A TRADE DEFICIT WITH A MADE-IN-AMERICA LABEL

Mr. SYMMS. Mr. President, with international trade and our relations with the Commonwealth of Independent States [CIS] so much on all of our minds, let me recommend to my colleagues three articles from the Washington Times written by Steve Hanke, a professor of applied economics at Johns Hopkins University.

The first article is from January 2 and attempts to put in some perspective our trade deficit with Japan. The President's trip to Japan prompted many heated discussions around town about our trade relations with Japan. There is no question that Japan has many unfair trading practices. It is also true, however, that only a fraction of our trade deficit with Japan can be traced to these unfair practices. We really have a deficit that can be traced right back here to Washington.

There is a long list of problems all of which find expression in the trade deficit. There is our anti-investment and antisaving tax policy. There is the constant growth in the number of regulators and in the total burden of regulation we impose on our economy. I believe our transportation system has a great deal to do with our trade deficit by bleeding our economy of its competitiveness, and the last year's transportation bill is only a start in fixing that problem.

Another piece of the Made-in-Washington trade deficit problem, as this article points out, is that United States trade policy has succumbed to United States special interests which have closed Japan's markets to significant raw material exports.

All too often my friends from both sides of the aisle fail to recognize that our own managed trade policies may be contributing to our trade imbalance far more than Japan's barriers. Currently, U.S. regulations make it virtually impossible to export oil and natural gas produced in Alaska. Japan depends on raw material imports. Our policies have forced Japan to seek other markets. If the United States would alter these policies the Japanese would likely be more willing to make concessions in other areas.

It is interesting to me, Mr. President, that our major oil companies, with the wherewithal to drill oil wells, are now seeking foreign places to drill wells because our policies here will not allow them to drill wells in the United States in many cases, specifically in Alaska.

I urge my colleagues to read Dr. Hanke's article. Following my remarks, I ask unanimous consent that it and the other two articles be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. The second article comes from the January 15 Washington Times. This article describes the trip of a successful Toronto mining engineer, Mr. Pierre Lassonde's, to Russia to tour several of Russia's mining operations. It offers a unique insight into the business operations of Russia, void of the rose colored glasses the press usually wears.

The third article, from the January 22 Washington Times, points out that aid to the Commonwealth of Independent States [CIS] may not be necessary and may actually impede the success of their transformation into free market states. A grand Marshall plan for the CIS will not necessarily increase economic recovery. Turning back the pages of history we find that the Marshall plan did not actually come into effect until well after Western Europe's economies had begun a sustained recovery. Furthermore, the plan's impact was minor given the amount of aid involved—only a one-time, 2-percent gain in national income levels.

Foreign aid lobbyists who are seeking funds for the Commonwealth neglect to point out that Chile and China have both achieved economic success without foreign aid. In contrast, Israel and Egypt, who are the two largest recipients of aid, still are in economic shambles. Again, I urge my colleagues to read Dr. Hanke's articles.

EXHIBIT 1

[From the Washington Times, Jan. 2, 1992]

TRADE IMBALANCE LOGROLLING

(By Steve Hanke)

President Bush is scheduled to visit Prime Minister Miyazawa in Tokyo during Jan. 7–10. Joining the president's entourage will be a group of U.S. industrialists. It is no secret that the president will be trying to force the Japanese to join the "new world order." The industrialists will assist in that process by beating up on Mr. Miyazawa about Japan's trade policies. They will repeat the old refrain that the U.S. trade deficit with Japan is due to "closed" Japanese markets and "open" American markets. In short, the industrialists will claim that the United States is "right" and Japan is "wrong."

The president's trip was originally scheduled for early December 1991, but was canceled so that the president could attend to domestic economic problems. Since our economic problems are just as bad, if not worse, than they were in early December we must ask: Why has the Tokyo trip been rescheduled for January? To answer that question, we don't have to look too far.

Mr. Miyazawa's political base has weakened in recent weeks. Among other things, Japan's budget deficit has forced him to raise taxes in an election year. Also speaking of the new world order, Mr. Miyazawa was unable to obtain legislative approval for a measure that would allow Japanese troops to take part in U.N. peacekeeping forces. With the prime minister weakened, Mr. Bush decided it was time to wage gunboat diplomacy in the trade area.

If Mr. Bush were really a world-class leader, he could put the political animals in the United States back in their cages and eliminate the bilateral trade deficit that the United States runs with Japan. That could be accomplished by putting the U.S. trade policies in order. Indeed, the trade deficit is caused, in large part, because the United States is "wrong." That, of course, doesn't imply that Japan is "right."

To understand why this is so, we must present some little-known facts. The federal government holds one of the world's largest state-owned enterprises in its portfolio.

The federal government owns 32 percent of all the land in the United States, or an area that is six times larger than the total area of Spain. Most of those government lands are in the West. For example, the government owns 89 percent of Alaska, 86 percent of Nevada, 64 percent of Utah and Idaho, 52 percent of Oregon, 48 percent of Wyoming and more than 29 percent of six other Western states. That fact is important because federal laws dictate what can be done on those lands and with the resources they contain.

Now, we return to U.S.-Japanese trade relations and the role that those federal lands play in creating the U.S.-Japanese trade imbalance. The United States, not the Japanese, has closed Japan's markets to significant raw material exports from the United States. Specifically, U.S. laws prohibit the export of unprocessed logs cut up on federal lands. In addition, a complex web of federal laws and regulations makes it virtually impossible to export oil and natural gas produced in Alaska.

This odd twist in U.S. trade policy is the most important contributor to the U.S. trade deficit with Japan. And, more importantly, it is the largest single factor that fuels America's smoldering trade relations with that nation. Yet this twist remains unknown to the general public.

The fundamental question is: Why have our politicians chosen to stifle U.S.-Japanese trade? The answer is simple: The politicians have ignored U.S. national interests while accommodating special interests in the United States.

The timber and wood products industry has collaborated with environmentalists to support the ban on the export of federal logs. Those who own sawmills and depend on logs cut on federal lands for their raw material don't want federal logs exported. As they see it, the export prohibition helps to keep domestic log prices lower than they would otherwise be. Timber companies owning large acreages of private timber that aren't subject to the export ban also like it. For these log exporters, the ban means less competition in international log markets. The environmentalists, too, view the prohibition on log exports favorably. They believe that the export ban is a way to reduce the quantity of logs cut on timber-rich federal lands on the West Coast and in Alaska.

The maritime industry and the environmentalists represent the special interests that have teamed up to support restrictions on the export of Alaskan oil and gas. The Jones Act mandates that waterborne commerce between U.S. ports be carried out in U.S.-built, owned, registered and manned ships. Thus the maritime industry (seamen's unions and domestic shipbuilders) sees restrictions on oil and gas export to non-contiguous nations as a way to artificially guarantee the demand for U.S. tankers and crews. And the maritime industry is correct. Currently more than 90 percent of the U.S. flagship capacity, measured in deadweight tons, is committed to carrying oil from Alaska to U.S. ports. Again, the environmentalists embrace trade restrictions because they believe these impediments will reduce the attractiveness of using our nation's natural resources.

While assisting these special interests, the ban on federal log exports and the restrictions on Alaskan oil and gas have perverse consequences for both Japan and the United States.

The Japanese depend on raw material imports, which are then processed into finished goods for internal use or export. U.S. trade policies have forced Japan to import logs, oil and gas from other countries, which increases Japan's import costs.

The United States, too, is harmed. Because federal timber is not managed on an economic, environmentally sound basis, the value of the nation's vast timber holdings is dramatically reduced. (The U.S. Forest Service, much of whose timber stock is rotting faster that it is being harvested, is taking in about $1 billion a year less than it spends.) And the value (the "wellhead" price—the market price minus transport costs) of the nation's oil and gas assets is also reduced by these restrictive policies, since producers are required to transport these products in high-cost U.S. tankers to uneconomic destinations in the United States. With the market price of oil a given, higher transport costs mean lower receipts at the wellhead.

To break our trade stalemate with Japan, Mr. Bush should assume a leadership role and unilaterally offer to introduce legislation that would open Japan's markets to log exports from federal lands and oil and gas from Alaska.

By putting the interests of the nation ahead of narrow special interests, Mr. Bush would be able to silence neomercantilist critics who fret over bilateral trade imbalances, since exports of federal logs and Alaskan oil and gas could reduce our trade deficit with Japan as much as 75 percent. Moreover, such a bold move by the president would, no doubt, produce concessions from the Japanese.

Such a bold move would give the public some confidence that the president has ideas and leadership qualities in the economic sphere. Needless to say, Mr. Bush desperately needs something to restore the public's confidence in his vision of economic policy. Alas, the president appears bent on using strong-arm tactics to establish "the new world order," rather than command the public's respect and confidence.

[From the Washington Times, Jan. 15, 1992]

MEASURING WORDS VS. REALITY

(By Steve Hanke)

For the duration of the Soviet Union's existence, most of the Western press and pundits have had a love affair with the Soviet's socialist economy. One celebrity who has sung the Soviets' praises is John Kenneth Galbraith, the prolific Harvard professor.

Mr. Galbraith's view of the Soviet economy is perhaps best encapsulated in a piece he penned for the New Yorker magazine. That publication is, by most standards, considered to be a high brow, quality magazine. Indeed, Mr. Galbraith himself has written that the New Yorker staff is "celebrated in all literary circles for its pursuit of the truth." What better source?

In the summer of 1984, Mr. Galbraith traveled to Moscow and Leningrad. Here's what he had to say: "That the Soviet economy has made great material progress in recent years—certainly in the near decade since my last visit—is evident both from the statistics (even if they are below expectation) and, as many have reported, from the general urban scene. One sees it in the appearance of solid well-being of the people on the streets, the close to murderous traffic, the incredible exfoliation of apartment houses and the general aspect of restaurants, theaters and shops—though these are not, to be sure, the most reliable of indices."

Mr. Galbraith then explained that the Soviets' biggest problem "comes directly from this affluence or relative affluence." But, he claimed that the Soviets have little to fear because their economic system is like a bumblebee: "In principle, with its heavy body and slightwings, it cannot fly; against all expectations deriving from its design, it does. Partly the Russian system succeeds because, in contrast to the Western industrial economies, it makes full use of manpower."

Although we cannot question Mr. Galbraith's ability to write fiction, we must challenge his sense of observation and analytical skills. In the era of glasnost, that is possible because Western observers are allowed to travel and report without ideological baggage. Mr. Pierre Lassonde, a successful and widely respected mining engineer from Toronto, did just that in August 1991, when he toured a sample of Russia's mining operations and offered his counsel. We borrow a page or two from his unpublished field report.

After landing in Moscow, Mr. Lassonde was chauffeured to his htoel. During the 40-minute ride, the only thing of note were the "15 to 20 disabled autos" along the roadside. The next day, after several hours delay, he flew to Magadan, the capital of the Soviet Far East. One passenger was distinguished: a large German shepherd. It was strapped neatly in a seat, not uncommon in Russia. Service included water delivered in umwaxed plastic cups. As for the washroom, it was nothing more than a "flying outhouse." But, who could complain? The price of the air ticket was about $5, "about what the trip was worth."

From Magadan, Mr. Lassonde flew to Susuman, where he visited three surface gold mines and one underground operation. The first mine wasn't working; shut down for maintenance. At the next surface mine, Mr. Lassonde met the same fate. The third surface operation was also shut down; by then, Mr. Lassonde didn't bother to ask, why? The underground mine was also out of order awaiting a shipment of parts from Moscow. However, when they worked the miners were "chasing a small (6-inch to 3-feet thick wide) vein of ore, grading about 0.25 to 0.35 ounces of gold per ton." The only reason it could be construed as "economic" were the slave-labor wages paid, about $50 per month. The lowest-paid black South African miner receives $200 per month, plus room and board. Full-fledged geologists at Susuman were paid about $15 per month, or a bit less than bus drivers. Mr. Lassonde concluded after observing that wage structure, that education was not highly valued in the Soviet Union, except in the high reaches of the Communist Party. Indeed, with less than 2 percent of the population making its way to a university (and most of those studying in military-related fields), Mr. Lassonde noted that trained hands were hard to find.

The next visit was a gold-copper mine at Karamken. The mine was working, but the mill was shut down. The manager said the mill was taken down for an overhaul and would be working in a week. However, Mr. Lassonde thought it would take months to rehabilitate the operation. He also observed that the hoistman position, the most prized at Western mines, was always held by a woman. The gold room and bullion pour were also filled with women packing pistols on their hips. This was not the result of an affirmative action program. Rather, "all jobs connected mine safety and security were taken by women, because women don't drink as much as men and are more reliable." Even so, at the Karamken site, Mr. Lassonde went through some rough productivity calculations with the manager: "Each miner was on duty about six hours per day; subtracting travel time in the mine and a lunch break, about four hours were left; due to equipment breakdowns and various shortages of materials, those four hours were reduced to about two hours of effective work per day on average, not much by any standard."

The next stop was Norilsk, located well inside the Arctic Circle. The area around Norilsk is noted for its rich ore deposits, and as the place where Alexander Solzhenitsyn was interned. It produces 100 percent of the Russians' platinum-palladium group metals, 60 percent of their nickel and 40–50 percent of their copper. Mr. Lassonde's first stop was the flagship Octobersky mine, which, to his surprise, was actually working. The deposits were incredibly rich, perhaps $2,000 per ton. Even with the Russian's unorthodox and inefficient methods, that operation was making real money.

The only problem with Octobersky was the high sulfur content of the ores, as high as 34 percent. "The smelters are probably the largest single source of pollution in the world, releasing about 2 million tons of untreated sulfur dioxide per year into the atmosphere." Not surprisingly, breathing was difficult in Norilsk and the environment within 200 kilometers of the smelters was completely dead.

Still in the Norilsk region, Mr. Lassonde visited Talnak. Four of the 12 mills there were not working, and Mr. Lassonde dubbed the overall operation as a "junk dealer's paradise." The planners hadn't gotten things coordinated very well. Most of the piping at the mill was made of titanium steel, with a life of at least 100 years. The only problem was that technology changes every 15 to 20 years, and instead of scraping old pipes—there is no scrap market—the Russians just built new piping systems on top of the old ones. The result was a Rube Goldberg affair: four complex layers of high-quality pipe, with one actually working.

Before departing from Norilsk for Moscow, Mr. Lassonde turned his attention to souvenir shopping. That proved difficult. He attempted to exchange dollars for rubles. But, the bank manager was nowhere to be found. The last anyone had seen of him was the night before, drunk at a wedding party. In any case, there was little to buy. The only purchase made was an auto muffler that the translator purchased and carried back to Moscow, where mufflers were unavailable.

Fortunately, after two weeks of "half-rotten, positively inedible food," Mr. Lassonde had enough strength to offer concluding observations about Soviet socialism: "The capital stock is hopelessly outdated and in disrepair, incapable of producing goods acceptable in any markets; the people are uneducated, have no sense of the work ethic, and are totally incapable of recognizing or uttering the truth."

That appraisal didn't deter Mr. Lassonde's host, however. Upon his departure, Mr. Lassonde received an hourlong monologue that had a certain Galbraithian quality. In short, he was told that, "With the West's money and the Russian's brains, we'll go far."

[From the Washington Times, Jan. 22, 1992]

WHAT MANNER OF AID FOR THE NEW NATIONS? SACHS VS. BAKER

(By Steve Hanke)

Nations and institutions with a role to play in aid to the members of the Commonwealth of Independent States (C.I.S.) are gathering in Washington, D.C., today and tomorrow. The U.S. State Department has called the conference to coordinate the distribution of aid for the new nations.

Even though the State Department has indicated that the conference will be restricted to discussions about so-called humanitarian aid and self-help programs, it may be politically difficult for Secretary of State James A. Baker III to hold off demands for more aid by the foreign aid lobby. Led by Mr. Boris Yeltsin's adviser, Professor Jeffrey Sachs of Harvard University, the aid lobby is in full swing. Mr. Sachs claims that the transition from socialism to capitalism in the member states of the C.I.S. will be impossible without significant amounts of foreign aid.

In making his case to limit the scope of the conference, Mr. Baker should recall that Mr. Sachs is employing smoke and mirrors, rather than economic analysis, to make his case. Just consider the magnitude of the professor's aid request. After careful study, Mr. Sachs concludes that the C.I.S. needs $20 billion in foreign aid this year. That requirement is calculated as follows: Poland, where Mr. Sachs is also an adviser, is going through a painful transition shock therapy. To ease the pain, Poland is receiving almost $3 billion per annum from Western governments. Since the population of the C.I.S. is about 7.25 times greater than Poland's, the C.I.S. should receive 7.25 times more aid than Poland, or $20 billion per annum. Numbers of such magnitude numb the mind. As the late Sen. Everett McKinley Dirksen would say, "A billion here, a billion there, and soon it adds up to real money." Well, $20 billion is real money. Indeed, an additional $20 billion would increase the world's foreign aid disbursements by about 60 percent.

Let's go beyond the complex calculations required to arrive at the $20 billion figure, and examine Mr. Sachs' general argument. The most notable cases of successful transformations from socialism to capitalism are Chile and China's Guangzhou region, which is located directly north of Hong Kong. In 1973, Gen. Augusto Pinochet inherited a socialist economy that was collapsing and suffering from hyperinflation. Today, after a Pinochet-directed transformation, Chile's economy receives high marks. For example, according to a recent report on Third World economies issued by the secretariat of the General Agreement on Tariffs and Trade (GATT) in Geneva, "Chile emerges as a Third World superstar." As for the Guangzhou region of China, it transformed itself from communism into a vigorous market economy over the past 12 years, with a real growth rate of about 12 percent per annum.

In both cases, foreign aid was not required. During the Pinochet years most countries withdrew aid to Chile. As a result, Chile realized a net outflow, rather than a net inflow, of aid. In the 1980s, China as a whole, received less aid on a per capita basis than any Third World nation. These facts explain why Mr. Sachs and other aid lobbyists refrain from playing the Chile and China cards.

One card that Mr. Sachs and his associates play with great regularity, however, is the Marshall Plan card. The folk image painted by biographers of statesmen and historians of international relations is one in which Western Europe was little more than a corpse, incapable of economic recovery without U.S. foreign aid. Hence, the image-makers conclude that the rapid recovery of Western Europe's economies resulted from the Marshall Plan, which committed the United States to $13.2 billion in aid from 1948 to 1951, with 25 percent of that going to the United Kingdom.

Serious analysis has all but destroyed the widely held folk image of the Marshall Plan, however. By 1948, when the Marshall Plan began, the reconstruction of devastated public infrastructure was largely complete, and Western Europe's economies were already bouncing back. For example, by the last quarter of 1946 almost as much freight was loaded on the railways of Western Europe as had been transported in 1938.

The Marshall Plan was also not large enough to stimulate Western European growth by accelerating the replacement and expansion of its capital stock. Indeed, calculations show that, after four years of the Marshall Plan, Western European national income levels were, at best, only 2 percent higher than would have been the case otherwise. While this was a welcome addition, it is hardly the sort of dramatic change trumpeted by the Marshall Plan's image-makers and Mr. Sachs.

Indeed, the Marshall Plan was simply not a decisive factor in Western Europe's post-World War II boom.

Contrary to Mr. Sachs' claims, foreign aid is clearly not a necessary condition for a successful economic transformation and restructuring. But, perhaps more importantly, there is considerable evidence to suggest that aid impedes the transformation process. For example, Israel and Egypt are the two largest recipients of U.S. aid largesse, and both have been unable to transform their largely socialist economies. In "Toward Growth: A Blueprint for Economic Rebirth in Israel," Alvin Rabushka and I document that, in the case of Israel, aid has done nothing more than fuel Israel's war against capitalism.

In resisting the aid lobby, Mr. Baker is holding all the high cards. It's time for him to call Mr. Sachs' bluff.

Mr. SYMMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes, 19 seconds.

Mr. SYMMS. I thank the Chair.

WARREN T. BROOKES

Mr. SYMMS. Mr. President, last night there was a dinner to honor the late Warren T. Brookes which was sponsored by the American Enterprise Institute, the Boston Herald, the Cato Institute, the Competitive Enterprise Institute, Creators Syndicate, the Detroit News, Forbes, the Fund for American Studies, the Heritage Foundation, Human Events, National Federation of Independent Business, Reader's Digest, and the Washington Times.

Mr. President, I have a series of articles by Warren T. Brookes and a specific editorial by the Detroit News I wish to have printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. Mr. President, on December 28, 1991, this country lost a great American, Warren T. Brookes, a syndicated newspaper columnist. He was a friend of mine, and I respected him greatly. I believe I learned and benefited greatly from his writings.

He wrote intelligently and convincingly on a range of public policy issues. Unlike any other columnist Warren Brookes' articles and columns gave the public the straight facts. He would not manipulate the truth to give the public what it wanted to hear.

Brookes challenged popular notions on the economy and the environment. He had the ability to raise serious questions about issues accepted as givens by so many of his contemporaries.

Brookes was a great proponent of private property. He reported that regulators had interpreted the Clean Water Act to give them jurisdiction over at least half of all farmland, and as much as 60 percent of U.S. total land area.

In September of 1991, he showed how Federal wetland regulations were turning into Federal confiscation of private land. His focus was truly outside the beltway leading the grass-roots private property-rights rebellion.

Unless he could give some new insight into an issue then he would not write about it.

He was a fighter, a fervent believer in the free market system.

Mary Lou Forbes, opinion editor for the Washington Times, said "[Brookes] had vision that enabled him to spot emerging issues months, even years before they were being written about by others."

Warren is most highly regarded for his works in the environmental field. His extensive study of economics enabled him to analyze environmental policy issues for their impact on the Nation's economy.

Warren had the ability to read scientific literature and economic studies, understand it, then present it in a clear way. He would never just rely on press releases and summaries as many other journalists do.

He demonstrated with credible facts that the ecological benefits of regulation were often exaggerated while the excessive economic costs were being ignored.

When Science magazine ran an article explaining exactly why asbestos was nothing to be afraid of, Brookes explained it in the Times within 3 weeks. Those who were not attentive to Brookes spent thousands of dollars to remove unnecessarily asbestos simply because the overzealous EPA prodded them to do so. Later EPA went to Congress to say they made a mistake, you did not have to remove it.

Taxpayers do not realize how much more they would have had to spend had Warren Brookes not exposed the amount of resources that were being spent wastefully on projects that were unneeded.

Brookes was never afraid to expose unpleasant realities. He helped expose the Charles Keating scandal. He helped unmask fraud in federally funded science programs and he courageously disclosed the damaging excesses and errors of extreme environmentalism.

Warren made this point again and again in regard to environmental action—environmental action makes sense only if the benefits exceed the costs and that to judge the benefits government needs a reliable scientific base. Only through science can one gauge the health or ecological impacts of pollution and determine if a program of controls does any good.

My colleague, Senator LEVIN, put it well when he said, "Whether you agreed with him or disagreed with him, you read him."

Mr. President, Warren also possessed one of the broad ranging insightful minds of the day. In a stirring speech at Moscow State University in the last year of his Presidency, President Reagan quoted literally from Warren's 1982 book, "The Economy in Mind," about the true wellspring of Democratic capitalism.

Mr. President, also I ask unanimous consent to have printed in the RECORD the statement by the Vice President last night honoring Mr. Brookes.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

PREPARED REMARKS BY THE VICE PRESIDENT—WARREN BROOKES TRIBUTE DINNER, WASHINGTON, DC, MARCH 3, 1992

Thank you. Warren Brookes: Writer, businessman, loyal husband, friend. . . . We'll miss him. To the gracious Jane Brookes, Tom Bray, and friends, it is my honor to join in this tribute and celebration.

You know, it's impossible to walk very far in this city without being reminded that you're in the seat of power. But I sometimes think that we who live here are the most prone to forgetting just how powerful an effect one man can have. And we're here tonight to honor one of those rare men who came here and, well, actually accomplished something.

Warren Brookes accomplished something because he didn't seek power or acclaim, but only truth. From across the nation, the power-hungry and attention-starved trek to Washington like ants to a picnic table. They crave an official title. Or a committee chairmanship. Or a new agency or cabinet department to oversee, and a fresh set of regulations to keep them busy. They think of power as derived only from the state.

Well, in his brief stay in these parts, Warren Brookes taught us about a different kind of power: The power of the individual. The power of a truth simply spoken. The power of solid evidence, skeptically and impartially weighed. The power of integrity and honesty—even against fashionable dogmas and vast bureaucracies. And above all, the power of good will to shape great affairs.

If anyone doubts how much Warren shaped recent events, I'm here to testify from personal experience. Nothing was more devastating to our opponents in 1988 than Warren's calm and level-headed series about his home state and the truth about its financial affairs. And that, you'll recall, was when "Mr. Competence" was ahead in the polls and all those Massachusetts miracle workers were just about packed for the move to Washington.

Well, the miracle workers stayed in Massachusetts. And the Commonwealth is just now recovering from their leadership, with the help of a new governor who is applying many of the economic ideas Warren advanced years ago.

But unlike so many commentators as they acquire more influence, Warren wasn't a mocker. He was a skeptic, not a cynic. The age of science and information has ushered in the age of the half-truth, and with it a whole series of fashionable causes and hysterias.

It was Warren's calling to sift through the resulting mass of government studies and reports and policy papers. And then, to make sense of all this stuff for the rest of us. Fifteen years ago there was an even greater gap than today between information and understanding. And so God sent us this idealistic workhorse to clear things up, and inspire us to similar efforts with his example.

To the back scientist, the environmental zealot, or the overblown bureaucrat, Warren was a menace. He was the Sergeant Joe Friday of American journalism, wanting "just the fact." Eying the fraud suspiciously. Taking a second look at the account books. In short, a swell guy to know unless you were up to no good.

Back when Washington was a simpler place Andrew Jackson said that "One man with courage makes a majority." Well, our friend Warren exemplified that and a few other hopeful sayings: That one honest man makes a difference. That one truth-seeker can defeat an array of well-funded errors. And, even when he entered the most bitter controversies, Warren's simple and generous outlook reminded us of something else: that a kind spirit turneth away all wrath.

He left us all a little wiser, and our political system a little better. He deflated many cherished myths, and silenced many would-be experts, yet left behind not a single enemy. And to each of us here, he left an enduring gift. For we can say that in a city renown for so many false causes, false promises, and false friends, we were blessed to know the truest and gentlest of men.

Thank you, and may God bless our friend Warren.

Mr. SYMMS. Mr. President, I extend by sympathies to Warren's family. We will miss Warren, but he leaves a mighty legacy of wonderful journalism, provocative commentary, and true fellowship. Most of all his ideas live.

I yield the floor, and I thank the distinguished Presiding Officer.

[From the Washington Times, Apr. 11, 1991]

SWAMPING THE ECONOMY?

(By Warren Brookes)

In 1988, political pollster Robert Teeter convinced candidate George Bush that environmentalism was good politics. He failed to warn him that it usually makes lousy economics.

Last Friday, President Bush got yet another demonstration of this when the unemployment rate soared to a four-year high, up three-tenths of a point to 6.8 percent, as U.S. employers chopped another 205,000 workers from their payrolls. Since October, we have lost 1.2 million jobs.

Leading that plunge is the construction industry, which since its peak in February 1990 has lost 588,000 jobs, 70,000 in March alone. What has this to do with environmentalism? Across the country, contractors have been singing the blues over the "greens" since the March 1989 release of the "Federal Manual For Identifying and Delineating Jurisdictional Wetlands."

This manual vastly extends the reach of this regulation (Section 404 of the 1972 Clean Water Act) to encompass in its "jurisdiction" (requiring federal permits) at least half of all farmland, and as much as 60 percent of U.S. total land area.

Every contractor must now clear his property with the U.S. Army Corps of Engineers and the Environmental Protection Agency or face jail. Unfortunately, since March 1989, that "permitting" process appears to have come to a screeching halt across the country, from Savannah, Ga., to Lockport, N.Y.

So much so, in fact, the White House is carrying on damage control among Republican constituents and EPA Administrator William Reilly is beating a strategic retreat. Mr. Reilly admitted to the American Farmland Trust on March 7, "The federal government in a number of areas asserted jurisdiction under the new manual over areas it had never before considered wetlands—for instance, farm fields on Maryland's Eastern Shore, some pine forests in the Southeast, sizable tracts in suburban Houston—suddenly these lands were under the jurisdiction of Section 404 of the Clean Water Act," and he called for quick revisions.

But Mr. Reilly is the one who sold Mr. Bush on his campaign promise of "no net loss of wetlands." The manual is an expression of Mr. Reilly's long-term commitment to "national land use planning" as a way of protecting the environment against development and growth.

Mr. Bush should talk to Margaret Ann Riegle of Cambridge, Md. In 1988, Mrs. Riegle (who retired as vice president of finance for the New York Daily News) and her husband bought a 138-acre abandoned farm on the Eastern Shore of Maryland as a real estate investment.

She first heard about the new manual in November 1989 when the Corps of Engineers' Baltimore regulator held a seminar for property owners, telling them "the new manual was no problem. Just file for a permit. Might take six weeks or so, but we deny so few."

What Mrs. Riegle also found is that most of the Eastern Shore was now classified as "non-tidal wetlands," not because of actual water, but because of hydric soils. "That meant our farm was 100 percent jurisdictional non-tidal wetlands. But we weren't really ready to subdivide, so we accepted the Corps' word on permits."

But that complacency was shattered in May 1990 when her elderly neighbor came to her in tears saying the Corps was killing her plans to subdivide the 44-acre farm she and her husband had invested their life savings in. "Her husband was about to have spinal surgery, so I volunteered to look at their permit application and respond to the agencies."

She soon discovered, contrary to the Corps' blithe assertions, "As of August 1990, the Corps had not issued a single residential construction permit since March of 1989." By last November, using a constant barrage of letters, press conferences and even an appearance on Connie Chung's "CBS Weekend Network News," Mrs. Riegle and her newly organized Fairness to Landowners Committee (FLOC, membership now over 6,000) forced the Baltimore district of the Corps to release most of its 19-month backlog of permits.

But Chatham County, Ga., around Savannah is not so lucky. There the Corps has not issued a single permit since March 1989, and the EPA is actually tearing down new houses built on reclassified wetlands! Up in Providence, R.I., last September the Senate's wetlands tyrant John Chafee ducked out on a hearing jammed with furious property owners who cheered former Corps executive Bernie Goode (who helped write the manual) when he attacked "this wetlands worship" and warned as a result of the manual "the regulated sector is on the verge of anarchy."

That "anarchy" was summed up in Hampton, Va., when a request by the Thomas Nelson Community College for a Corps of Engineers check of its 40-acre site for a new sports complex led to a finding of "hydric soils" not only at the college but on the nearby 38-acre Nelson Farms subdivision, the 800-home Michael's Woods subdivision, the 300-acre Hampton Roads Center office park and the 600-home Hampton Woods subdivision. As Hampton Mayor James Eason said, "It's conceivable it could halt all development in the city of Hampton." That is what the greens have in mind for the nation.

[From the Washington Times, July 26, 1990]

THE GREAT GREEN S&L LAND GRAB

(By Warren Brookes)

High level Bush appointees at the Interior Department are quietly arranging to turn the savings-and-loan bailout into one of the largest environmental land-takings since the National Parks.

In the process, they could be adding $40 billion or more to the cost of the bailout itself, say highly placed sources at Interior, who contend that Secretary Manuel Lujan is as yet unaware of the effort being "orchestrated" by Assistant Secretary of Fish, Wildlife and Parks Constance B. Harriman.

This column has acquired a draft "Memorandum of Understanding Between The Resolution Trust Corporation and the U.S. Fish and Wildlife Services" to be signed on Aug. 3 by John F. Turner, director of the U.S. Fish and Wildlife Service and David C. Cooke, executive director of the Resolution Trust Corp.

It sets up FWS to act as "technical consultant to the RTC on matters dealing with fish and wildlife resources and environmental planning, including recommendations for the protection and restoration enhancement of wetlands, flood plain habitats, coastal barrier resources, threatened and endangered species and other fish and wildlife resources."

The memorandum calls for FWS to make an inventory of all of the present $300 billion to $400 billion in property assets held by the RTC, and then make recommendations for restrictions, sanctions and easements to be imposed on those properties before their sale to the public under the general rubric of "land use restrictions consistent with protecting and restoring Important Resources," to be designated by FWS.

Top officials at Interior estimate that as much as 40 percent of the total property inventory now held by the RTC could come under such covenants which would then have to be written into the deeds of sale and transferred to prospective buyers.

Since these covenants will massively restrict the potential use of these properties, officials suggest they could "lower the market value of those properties by at least 25–40 percent."

That would suggest that up to $160 billion in RTC properties might be covered by FWS restrictions that could knock another $40 billion to as much as $65 billion off their market value, at the added expense of the taxpayers who already face a $150 billion bill for the savings-and-loan bailout. * * *

The memorandum calls for FWS officials to screen all RTC properties for the following "Important Resources":

"1) Wetlands.

"2) Riparian zones, floodplains and coastal barriers.

"3) Federally threatened and endangered species (including proposed and candidate).

"4) Fish and wildlife habitats of local, regional, State or national importance. . . .

"5) Aquifer recharge areas of local, regional, State or national importance, or as identified by Federal or State agencies or private nonprofit organizations.

"6) Areas of high water quality or scenic value, including wild and scenic rivers, natural landmarks and wilderness areas as identified by Federal or State agencies or private nonprofit organizations.

"7) Areas of special management importance. . . ."

This sweeping catalogue of wide-open easy-to-meet conditions would allow the triangle of environmentalist organizations, government agencies and Congress to exercise the "taking" power of the government by slapping one property after another with restrictions written into the prospective deeds of transfer.

The memorandum includes "standard language" for such "Conservation Easement Reservations" which would assign "a perpetual easement on the property" and which would allow the government and/or a nonprofit environmental agency ("easement manager") a permanent "right of way" through the property "to accommodate access by vehicles and equipment deemed necessary and desirable by the easement manager for easement management."

It also lays out covenants that would prevent the owner from building any "dwellings, barns, outbuildings or other structures" in the easement area, and would order that "the vegetation, or hydrology of the described easement area will not be altered in any way. This includes preventing cutting or mowing, cultivation or grazing, or harvesting wood or in any way affecting "the natural flow of surface waters," or drainage.

In short, any property which the FWS or its allies in the environmental community designates as "important" will be effectively locked up against any future use other than as natural habitat.

What this amounts to of course is that the government is "taking" land without actually buying it. While the owner will nominally have title, the government will be his or her landlord and policeman in perpetuity. Thomas Jefferson would retch.

The sweep of this "Memorandum of Understanding" and its significance should not be underestimated. For more than two years now, the environmentalists have eyed the thrift bailout with naked greed as the perfect backdoor route to national land-use planning and the locking up of private property against private development.

Congress gave them this "hunting and fishing" license against the taxpayers and private property holders as part of the savings-and-loan bailout bill last year. Constance Harriman and John Turner and a widespread elitist "green coalition" within the Bush administration can hardly wait to exercise it. The cost of that license is at least $40 billion. House and Urban Development Secretary Jack Kemp, now struggling with "affordable housing" issues, should take note.

[From the Washington Times, July 3, 1991]

THE BANK REFORM THAT ISN'T

(By Warren Brookes)

Last Friday the House Banking Committee proved it learned nothing from the $180 billion savings-and-loan disaster, and is quite willing to repeat the lesson with the banks, also at our expense.

While the committee accepted virtually all of the administration's proposals to increase banking powers and allow non-banks to own banks, it turned down even the Treasury's timid efforts to reform the deposit insurance system. It did this even as the Resolution Trust Corp.'s estimates of the savings-and-loan bailout costs soared past $180 billion, while Federal Deposit Insurance Corp. Chairman William Seidman warned the banking fund will be insolvent by the end of this year and must borrow another $30 billion to meet current liquidity needs.

Rep. Gerald Kleczka, Wisconsin Democrat, correctly tagged this ludicrous action as "the first step down the road to a taxpayer bailout." He told The Washington Post, "We can't have it both ways. We cannot open the door to risky new activities without reducing potential exposure to the deposit insurance fund." It's even worse than that. On the same day it refused to limit deposit insurance to no more than two $100,000 accounts per customer, the committee voted to expand the FDIC coverage to all government and private pension fund money, adding up to $500 billion to the FDIC exposure! Paradoxically, the committee did vote to curb the ability of the FDIC to pay off large depositors in large banks under the "too big to fail" doctrine. But even here the effort was to push those deposit funds back in the direction of the smaller banks whose lobbyists were active in killing deposit insurance reform. What is really sickening about this whole process is that it does nothing to stop the current hemorrhage in the nation's banking system.

Two days before the House action, the nation's 10th largest bank, Wells Fargo announced it was adding $350 million to its loan loss reserves, effectively wiping out its second-quarter earnings. Not only was Wells Fargo one of the nation's most profitable banks, its portfolio is fat with what used to be the most gold-plated assets, California land, including $10.5 billion in commercial real estate. This is the first sign that the "value disease" that swept through the East and the Southwest has now reached the Golden Shores. Indeed, the FDIC said in its recent quarterly banking profile the share of troubled real estate assets in California had jumped to 4.24 percent from 2.96 percent at the end of 1990.

All this underscores a simple reality: Until the real estate market recovers, the banking system will not recover, and the losses both to the FDIC and the RTC (and us) will escalate. Happily, there is a very simple, cost-free solution to this crisis that would actually save taxpayers as much as $40 billion in the two industries, banks and thrifts. Unhappily, Congress won't even consider it. That solution is to cut the capital gains tax rate from its current top rate of about 31 percent to 18 percent, or lower. This would immediately restore half of the more than $400 billion in value to the real estate market, lost since Congress raised that tax rate from 20 percent to 28 percent in the 1986 Tax Reform. That bill also wiped out billions in real estate investment tax breaks that multiplied this loss.

Since 1987, the Real Estate Investment Trust Index fell more than 70 percent. Most of the current banking crisis, and more than half the thrift crisis can be traced directly to Tax Reform. The reason is simple: Every dollar of increased tax devalues real estate by about $10. The 1986 Reform effectively raised taxes on real estate assets by about $40 billion. That cut the value of the portfolios of lending institutions by nearly $400 billion, and killed at least $25 billion in bank capital.

Conversely, cutting capital gains rates would restore nearly half of that lost valuation, and infuse nearly $12 billion in capital to a banking industry that desperately needs it. Instead, the House Banking Committee action will exacerbate this problem by forcing regulators to close banks faster when their capital dips below the minimum, escalating taxpayer losses. A capital gains rate adjustment would make most such actions unneeded.

Ironically, such a move would also reduce the U.S. deficit by at least $30 billion, raising revenues by about $9 billion (over five years) and cutting the cost of the RTC bailout by about $21 billion (by raising the value of its real estate portfolio). It is a win-win policy. But congressional Democratic leadership is so obsessed with the possibility that such a move might also enrich some investors, they will not even consider it.

Instead, they pass a "banking reform" that massively increases the potential costs to taxpayers, to reward a banking lobby that has given House Banking Committee members alone nearly $3.5 million in the 1989–90 election cycle, and more than $25 million to Congress as a whole. That's more than any other PAC group except organized labor. A dozen members of the House Banking Committee received more than $100,000 in that cycle. In the Senate, "banking reform" is being chaired by a member of the Keating Five.

In short, on Capitol Hill, it is business as usual and the taxpayers will pick up the tab.

[From the Washington Times, Sept. 4, 1991]

FLIGHT PLAN TO RESCUE REFORM?

(By Warren Brookes)

The breakup of the Soviet Union into sovereign republics will only accentuate the biggest hurdle in getting to a market economy: achieving a credible currency. While property rights and privatization are essential, they mean nothing without a reliable and convertible money.

Unfortunately, the failure to deal with monetary reform is jeopardizing not only economic reform in the whole Warsaw Bloc, it endangers U.S. economic recovery as their citizens decide to abandon their own incredible, politicized currencies in favor of the dollar, and that is draining U.S. dollars from the U.S. economy.

Over the last 12 months, the U.S. monetary base has risen by a seemingly comfortable 10 percent, more than enough to stimulate strong domestic monetary creation. But it hasn't. The reason: More than 90 percent of the growth in the U.S. monetary base (known as "power money") has been in currency, and more than 60 percent of that expansion has gone overseas, filling the demand from Poland to Argentina, Bulgaria to Brazil for credible money.

In short, citizens in these market-evolving economies are carrying out their own "currency reform." In Argentina today, the total supply of $5 billion worth of australs is exceeded by the $7 billion held in U.S. dollars.

Ironically, this "market-based" back door reform is pointing the way to a solution to the currency convertibility problem: the replacement of politically controlled central banks with apolitical "currency boards" such as operate in Hong Kong and Singapore.

A currency board is not a bank. It has no other function than to issue currency and coinage based on the amount of "reserve currency" assets it holds, on a fixed ratio. But the reserves are determined by market forces, the willingness of others to buy your goods and invest in your country.

If a nation has $10 billion in dollar-denominated securities or gold reserves, it issues as much domestic currency as its fixed exchange rate allows. But unlike a central bank, it has no power to create more money than the nation is generating in hard reserves. Every ruble or zloty must be backed at a fixed rate with the reserve currency, say the dollar, or deutsche mark, or sterling.

The currency board's entire income comes from interest earned on the reserve currency assets (5 percent to 6 percent) less the actual costs of issuing and coining currency and money (0.5 percent). This makes the currency board self-sustaining from the "seignorage."

Once a currency board is established, the central bank must disappear with all if its other functions (bank regulations, check clearing, and lending of last resort) put under the country's finance ministry or treasury department. The Soviet central bank has no credibility and no incentive to try to achieve it. It is as obsolete as the Supreme Soviet.

The currency board is not a new idea. As Johns Hopkins economist Steven Hanke and his researcher from George Mason University, Kurt Shuler point out in several papers, it was first used successfully in the British colonies in Africa, where all local currencies were tied by currency boards to the reserves in sterling assets.

But the most interesting example they found is highly relevant to today's situation. During the heat of the Russian Revolution, North Russia, the British-sponsored anticzarist holdout against the Bolsheviks, adopted a currency board to supply credible money to keep the economy running.

The progenitor of that plan (which worked very well while North Russia survived) was none other than John Maynard Keynes, who was a high official in the British Treasury. Keynes, who was then a strong advocate of the gold standard, proposed the establishment of something called the "Emission Caisse" (French term for "note issue office") that set an official rate between the British pound and rubles at 40 to 1 and backed that with pounds on deposit at the Bank of England. Write Messrs. Hanke and Shuler.

"The Caisse worked like the Western African Currency Board which had been established for British's colonies in that region in 1912 . . . [and] became the model for many similar boards in other British colonies." It was essentially the same as the highly successful monetary system adopted for colonial India.

Mr. Hanke is now pushing several East European countries, including both Bulgaria and Yugoslavia, to adopt currency boards as a way out of their present inflationary mess and a way to generate the kind of currency credibility those countries must have if foreign investors are to send them their capital in any quantity.

Indeed, one of the beauties of the currency board approach is that it would serve as an instant stimulus to foreign capital inflows to countries that badly need them—and those inflows actually would fuel credit and monetary expansion, a reserve currency assets rise and allow more note issuance, not by manipulation or central bank inflation, but on a sound basis.

The currency board offers real value not only to newly market-organizing countries, but to developed nations that wish to get away from central bank "fine tuning" and manipulation.

Says Mr. Hanke: "The key difference between a currency board system and a central banking system is that a currency board has no power to carry out a discretionary monetary policy. It is an almost foolproof institution because it cannot act as an independent disturbing element in the economy. Market forces call the currency's tune. In contrast, a central bank has the power to destabilize the economy, and the history of central banks shows that they have often used that power, sometimes intentionally, but other times by mistake. A central bank run by saints, as long as they were not all-knowing saints, would still not work as well as a currency board system."

For the Soviet republics, it may be the only answer.

[From the Washington Times, Nov. 14, 1991]

HIGH COSTS OF GOING CALIFORNIA

(By Warren Brookes)

Instead of a tax cut, President Bush could do much more for the U.S. economy by suspending implementation of the 1990 Clean Air Act, for one or two years, saving the economy $40 billion a year for little or no loss in benefits. With the auto industry losing $5 billion so far this year, it really ought to be repealed.

That point was driven home when nine Eastern states plus the District of Columbia announced they would adopt the more stringent California clean air standards, including tighter tailpipes and forced introduction of alternative fuels and electric cars.

This decision will raise the implementation cost of the Clean Air Act from an estimated $400 per new car to as much as $1,000 and raise fuel costs in those states by 15 percent to 25 percent.

This might be worth it if there were really significant potential gains. There aren't. When you examine the actual ozone exceedance data for 1989 through 1991 (the most recent three year period), not only does "going California" look ludicrous, the entire $12 billion ozone nonattainment section of the Clean Air Act looks insane. Sadly, the Environmental Protection Agency is still scaring states by issuing obsolete 1987–89 averages that wildly overstate current reality. (See Table.)

OZONE EXCEEDANCE DAYS

[Cities adopting California regulations]

	1988	'89–'91—Current ('87–'89)		
		1989–91 Avg.	Pct. Comp.	EPA rating
New York City	21	7	98.1	Severe
Newark, N.J.	8	1	99.7	Severe
Philadelphia, Pa.	23	6	98.4	Severe
Boston, Mass.	10	1	99.7	Serious
Richmond, Va.	9	0	100.0	Moderate
Washington, D.C.	12	0	100.0	Serious
Baltimore, Md.	15	5	98.6	Severe
Delaware (Sussex)	8	0	100.0	Severe
Manchester, N.H.	2	0	100.0	Marginal
Portland, Maine	11	3	99.2	Moderate
Hartford, Conn.	13	4	98.9	Serious
Providence, R.I.	7	6	98.4	Serious
Los Angeles	148	121	66.8	Extreme
Totals for all 114 cities				
California (10)	308	211		
Other (104)	626	126		
Cities in Non-Compliance	94	29		
Non-California	85	22		

Source: Collected from Environmental Protection Agency state monitoring stations by Roy Weslin Co.

In the 1989–91 period, six of the 10 "going-California" states (counting D.C.) had one exceedance day or less per year, meaning they were in full compliance. The other four averaged five days a year and were thus in compliance 98.6 percent of the days. Even New York City had an average seven days exceedance, a 98.1 percent compliance rate. The EPA still rates it "severe."

By comparison, Los Angeles averaged 121 days a year of ozone exceedances and was in compliance less than 70 percent of the time. This means using California standards to deal with infinitesimal Northeast smog levels is like preparing a Mount Everest expedition to climb the San Francisco hills (particularly when California's own South Coast Air Quality Management District is already easing its own rules for economic reasons).

More important, in the East, the National Oceanographic and Atmospheric Administration estimates more than 60 percent of ozone precursors are natural hydrocarbons (trees etc.). And since auto volatile organic compounds only account for 30 percent of total volatile organic compounds, and new cars only 3 percent of total autos, a 10 percent to 15 percent reduction in new auto emissions cuts total smog precursors only 1 percent. With up to $1,000 higher costs per new car, that could leave more dirty, older cars on the road.

A recent Unocal study shows 1970 vintage cars emit 24.8 grams of hydrocarbons per mile, 1975 cars 8 gpm, current new cars only 0.4 gpm. That's why enhanced inspection and maintenance is the lowest-cost way of cutting emissions, $600 per ton compared with up to $50,000 per ton for "clean fuels."

Indeed, 75 percent of the added emissions reductions claimed for California controls in a study by the Northeast States For Coordinated Air Use Management come from enhanced inspection and maintenance.

But politicians don't like inspection and maintenance because it increases state government costs and makes voters mad. That's why most of the 10 states "going California" have skipped inspection and maintenance and will adopt only those things that can be passed back to the oil and auto industries (and then on to us). But this produces only a net five-hundredths of a gram per mile improvement over the Clean Air Act, a minuscule gain.

Worse, EPA is hyping this process by withholding valuable information about the actual trends in surface ozone in U.S. cities that show the 1988 data (on which the 1990 Clean Air Act was based) were so anomalous as to be fundamentally deceptive.

In 1988, there were 925 ozone exceedances in the top 114 metro areas. In 1989, that plunged to 234, and in 1990 to 286. In the non-California urban areas, the plunge was even more dramatic from 617 exceedances to an average of 122 from 1989 through 1991, from six per city in 1988 to an average of about one from 1989 through 1991, from 85 non-California cities out of compliance to only 22, from 1989 through 1991.

To put it bluntly, the 1988 data were a meteorological fluke that no amount of emissions controls could change. In city after city still listed as "severe" or "serious" ozone exceeders by the EPA, the 1989–91 data show no such dangers. For example, in 1988, Chicago had 16 exceedance days. From 1989 through 1991, it averaged only one.

Newark, with eight days in 1988, fell to one for 1989–91 and is now in compliance. Boston with 10 exceedances in 1988 averaged two for 1989–91. Richmond, VA, with nine in 1988, averaged under one in 1989–91 and is now in compliance. The same holds true for Washington, DC., St. Louis, Cleveland and Pittsburgh, as all but a handful of cities are now within three days of compliance, which is well within the statistical errors inherent in EPA ozone testing.

In short, suspending the 1990 Clean Air Act would have no measurable effect on human health or the ecology. Indeed, by speeding up new car buying, it could actually produce cleaner air.

[From the Washington Times, Nov. 18, 1991]

CLEAN AIR ACT OVERKILL

(By Warren Brookes)

On Oct. 3, the Amoco Oil Co. announced it would close its Casper, Wyo., refinery on or about Dec. 1, "because it requires substantial capital investment that cannot be justified, given the marginal economic performance of the refinery in recent years."

The company said compliance with the 1990 Clean Air Act amendments, added to other environmental requirements under the Resource Conservation and Recovery Act and the Clean Water Act, would cost an estimated $150 million for a plant whose present value is only about $25 million.

So, its 210 employees and some 50 area gasoline stations will have to look for other sources of employment and fuel, because while "Amoco is committed to protecting the environment, the enormous expenditures required make it imperative that we commit our capital to refineries that have a more favorable outlook."

Environmentalists will point out this was a small and economically marginal plant. True, but that is precisely why it is so vulnerable to any major increase in regulatory costs. Indeed, the biggest danger of these costs is not to established corporations, but to smaller, more marginal businesses.

But as one environmentalist said to us casually, "Well, then, maybe they shouldn't be in business, if they can't meet the clean air standards." That argument, as hardhearted as it sounds, would still be acceptable if the ecological and health benefits were sufficient to offset the economic costs. In the case of the Amoco Casper refinery, that's a very hard case to make.

Nationwide, the total regulable risk for all "hazardous air toxics," using the Centers for Disease Control (CDC) exposure models, is about 230 cancer risks. When you add in the regulable risks for petroleum refineries from the Resource Conservation and Recovery Act and the Clean Water Act, that number rises by another 57 to less than 290. This means that the total risk from all such hazardous releases in Wyoming (using a straight population share) comes to about 0.5 cancers every 70 years. Casper's rough share of that comes to 0.04 cancer risks. Given Casper's tiny industrial density, that undoubtedly overstates the danger by at least one order of magnitude (tenfold).

In short, shutting down the Casper refinery, which will cost the Casper economy at least $10 million a year in direct and indirect costs, or bringing it up to compliance (for about the same annualized costs) will generate a cost per cancer risk averted of $2.5 billion, or about one-third more than the entire cancer research budget of the National Institutes of Health.

This is not unusual. The Clean Air Act, contrary to some fatuous claims by Environmental Protection Agency contractors (such as the American Lung Association) has a maximum regulatory risk pool of 1,028 cancers, using the EPA's "wild and crazy" risk models, or 231, using a more realistic, but still very conservative CDC risk model. With an estimated total cost of $40 billion a year, this would produce a cost per cancer risk avoided of $173 million, even if you assumed total effectiveness, which no one claims. Realistically, that figure is probably closer to $500 million each.

Costs like that can't really be tolerated even in a booming economy, let alone one that is plunging over a cliff. Yet, an analysis done in 1989 by Dr. Michael Gough, currently the top risk assessor at the congressional Office of Technology Assessment, shows the entire "regulable" risk pool in the EPA's 1989 "Unfinished Business" inventory is about 1,232 cancers.

That includes everything from pesticides on food (300) to all waste sites, hazardous and non-hazardous, active and inactive (516) to hazardous toxic air (231). Since the nation now has about 500,000 cancer deaths a year, even if we were somehow able to a avert all of these risks, we would only cut the nation's cancer death rate—at the most—by about two-tenths of 1 percent.

No one knows the cost of such an undertaking, but if other laws are no more cost-effective than the 1990 Clean Air Act, the cost could be an additional $200 billion over and above the $115 billion we now spend, which in turn is 2.4 times as much as our competitors spend as a share of gross national product.

Now, with the risk models on dioxin, polychlorinated biphenyls (known as PCBs), polybrominated biphenyls (PBBs), and other substances listed among Clean Air toxic targets proving to be vastly over-stated, those costs are likely to be even more ludicrously out of line with any economic or ecological realism

Indeed, for the likely cost of the Clean Air Act and its 231 theoretical cancer risks, we could provide basis health insurance for all 35 million uninsured Americans or, in the short run, working capital for at least 1 million jobs, not to mention all the jobs we are losing in marginal plants like Amoco, Casper.

Since the adoption of the Draconian standards set by the South Coast Air Quality Management District, the state has hemorrhaged more than 3,000 businesses to other states, forcing South Coast Air Quality Management District to announce on Nov. 7 that it was easing its rules.

House Energy and Commerce Chairman John Dingell, Michigan Democrat, should give the U.S. economy a real "tax cut" and start the repeal or suspension of President Bush's disastrous 1990 Clean Air Act amendments.

[From the Washington Times, Dec. 11, 1991]

STATE TAXES KILLING THE ECONOMY?

(By Warren Brookes)

While Washington dithers over tax cuts, $17 billion in higher state taxes are destroying the economy and doing more fiscal harm than good.

One in 4 California companies are now planning to move some or all of their operations out of the state in the coming year—a huge jump from the 1990 result of 1 in 7, according to the California Business Round Table's annual poll.

In manufacturing, 1 in 3 now plan to take jobs out of the state that has just passed a $7 billion increase in taxes on top of an estimated $10 billion in new environmental regulations.

As one executive wrote on his questionnaire, "California has adopted an attitude of, 'If you don't like it, leave.' And that's what we are planning to do." Topping the reasons for leaving were taxes, workman's compensation settlements, environmental regulations and "anti-business policies", most of them adopted under a Bush Republican administration run by Gov. Pete Wilson.

But Mr. Wilson is not alone. Similar onslaughts have soured the economic climates of New York where Mario Cuomo has passed four successive tax increases of $1 billion or more; Pennsylvania with more than $3.3 billion; Connecticut with an increase of more than $2 billion; New Jersey still reeling from the 1990 rise of $2.7 billion; and North Carolina with nearly $1 billion in new taxes.

Altogether, according to the Tax Foundation 1990-91 tax boosts will raise fiscal '92 revenues by more than $17 billion, pushing up the effective tax burden of all states by another 5.4 percent above the normal trend, "making FY '91 the biggest revenue-raising year in history at the state level."

While President Bush takes heat for caving into Congress on a big $163 billion, five-year tax increase at the start of fiscal 1991, the actual impact of state tax boosts have been much tougher on the GNP and thus the economy's capacity to grow. (See Table.)

Since 1988, while federal taxes as a share of GNP have barely risen from 20.0 to 20.3 percent, the state and local burden has jumped 6 percent through second-quarter 1991. And when the current round of increases is over, that rise will be 8 percent over 1988, and nearly 11 percent over 1981.

Meanwhile, the federal tax burden has actually fallen about 3 percent in the last decade from 20.9 percent (in the national income accounts) in 1981 down to a current average of around 20.3 percent. That modest decrease is far too small to account for the massive 3 percentage point rise in the federal deficit. It also doesn't offset the state and local increases that raised government's total share of GNP by 2 percent in the decade.

The conventional liberal wisdom is that these tax rises were forced by the Reagan tax cuts and "cuts" in federal aid to states and localities. Yet, from 1981-92, total federal aid to the states has risen 78 percent. While its share of GNP dipped three-tenths of a percentage point, this accounts for a quarter of the 1.2 percentage point rise in state and local revenue GNP share.

The much likelier explanation is soaring state spending that has risen faster than federal spending, especially from 1985-1990, when state spending rose 38 percent, compared to 29 percent in federal outlays. Those soaring expenditures have overwhelmed the strongest revenue budget deficit of at least $1.5 billion for the coming year, as California has growth in state history.

In Connecticut for example, state spending soared 173 percent from 1980 to 1989, 70 percent faster than the all-state rise of 103 percent. But when Gov. Lowell Weicker faced a massive deficit, instead of stopping the spending trend, he tried to close the gap with a huge new income tax.

Yet as the New York Times reported on Nov. 19, "Less than three months after the largest tax increase in state history and the introduction of a wage tax [income tax] for the first time, Connecticut's budget is already out of balance and headed for another deficit, Gov. Lowell Weicker said today."

This followed by a week a Wall Street Journal report that despite California's $7.5 billion tax increase, "For the first four months of the fiscal year—July through October—revenues fell short of forecasts by $528 million, or 4.7 percent."

This translates into yet another lost 300,000 jobs in the first nine months of the year, and housing starts have fallen every month since the tax increase passed last May.

Much the same outcome destroyed Democratic Gov. James Florio, who rammed a $2.7 billion tax increase down New Jersey's throat to the plaudits of Potomac pundits during fiscal 1990, only to have the state budget soar into even bigger deficits in fiscal 1991.

No wonder the big Democratic majorities in both New Jersey legislative branches were just replaced with veto-proof Republican majorities in perhaps the most shocking reversal of political fortunes ever experienced in a major industrial, urban state.

Meanwhile, Massachusetts, where Gov. William Weld eschewed the Bush-Wilson-Weicker tax increases, and closed a $1 billion budget gap by spending cuts (after he repealed the Dukakis tax on services), now projects a $750 million surplus for the fiscal year as revenues run ahead of projections!

Mr. Bush should learn from these lessons, and come in with a hard spending freeze in his fiscal '93 budget, and stiffer lips.

Federal, State and Local Tax Burdens

[As percent of GNP in national income accounts]

	Federal	State and local	Total
1981	20.9	13.9	34.8
1985	19.6	14.5	34.1
1988	20.0	14.3	34.3
1989	20.2	14.4	34.6
1990–I	20.1	14.6	34.7
1990–II	20.3	14.6	34.9
1990–III	20.4	14.7	35.1
1990–IV	20.4	14.8	35.2
1991–I	20.4	14.9	35.3
1991–II	20.3	15.1	35.4
Percentage Change			
1981–91	2.9	8.6	1.7
1988–91	1.5	5.6	3.2

Source: U.S. Bureau of Economic Analysis.

[From Forbes, Sept. 2, 1991]

THE STRANGE CASE OF THE GLANCING GEESE

(By Warren Brookes)

In early August, amidst outcries from professional environmentalists, the Bush Administration moved to lift some of the more onerous property restrictions imposed by its own Environmental Protection Agency. Earlier, on June 12, property rights won another victory. After hours of acrimonious debate, the Senate voted 55 to 44 to tack on a very powerful amendment to a highway funding bill. Called the Private Property Rights Act, the amendment seeks to restore some of the sanctity of private property that has eroded in recent years in the U.S.

If the amendment passes in the House of Representatives as well, it will require the government to be a little less cavalier with its environmental regulations. When the authorities issue rules that damage property values, they must at least consider treating the rules as a "taking" under the Constitution. If a taking there is, the property owner would be compensated—just as he would be if the government took his land outright.

The conflict between private property rights and governmental power goes back a long way—as evidenced by the attention that the founding fathers paid to it. The writers of the Constitution declared in the Fifth Amendment that "private property [shall not] be taken for public use without just compensation."

For the first century this limitation on governmental power was the law, it wasn't the subject of much debate. If the government needed land for a garrison or a prison, it might compel an owner to sell, but the owner got paid. The only issue was how much.

Then, beginning around the turn of the century, battles over land-use controls landed in court. A landowner might be prohibited from putting up a slaughterhouse where he wanted, lest the smells and noise and blood offend neighbors and lessen their property values. Was such a restriction a taking of private property? In most cases, the courts said no. Your right to go into the fat-rendering business or erect a 20-story apartment building clashes with my right to clean air or erect a 20-story apartment building clashes with my right to clean air or sunlight. And so a zoning law that decrees where factories or tall buildings can go doesn't amount to a confiscation of private property, even though it might make some property owners poorer. If there was an erosion of property rights, few people objected. The restrictions were sensible and hardly onerous.

So it went in the courts—zoning laws were almost always upheld. But governments can go only so far with their restrictions, and California crossed the line. In a 1987 Supreme Court case, Nollan v. California Coastal Zone Commission, the Court ruled that the state's attempt to condition a building permit on a property owner's granting of access to a public beach was a taking and required compensation. It was a turning point for a court system that had for a long time been much more protective of political liberties than of property rights. The justices said, in effect: If California wants more public beaches, it should buy the land it needs, not just take it.

The ancient controversy has taken a dramatic new turn with the rise of environmentalism in recent years. With wetlands rules and endangered species protection, the federal government is in the business of land-use control. So the old question again arises: When does regulation amount to confiscation? If your waterfront parcel is ecologically precious, can the government simply declare it unbuildable? Or must it appropriate the money to buy you out? If the government wants to preserve a species of owl, can it tell an owner of timberland that he can't touch the trees he owns? Or must it buy him out?

The Senate bill requires federal agencies to assess the regulations a second time before regulating a property to the point of uselessness. There is nothing antienvironmental in the bill. It puts no limits on environmental protection measures. But it does impose a cost. It would simply require the government to compensate property owners for a significant loss they incur from environmental restrictions imposed upon their property.

Consider what happened in 1988 in Riverside County, Calif. The U.S. Fish & Wildlife Service declared the Stephen's kangaroo rat an endangered species. The result: Riverside County and local cities set aside 80,000 acres as wildlife preserves. Where the money would come from was not the Fish & Wildlife Service's problem. As then FWS Field Supervisor Nancy Kaufman told the Washington Post, "I'm not required by law to analyze the housing price aspect for the average Californian." If her enforcement helped deprive lower-income people of housing, that was no concern of hers. A local government agency financed the preserves with a fee of $1,950 imposed on every acre developed in the county. Up went the price of housing.

But under the new Private Property Rights Act, bureaucrats like Kaufman will have to consider the cost. The proposed law codifies an executive order issued in 1988 by President Reagan. This order required every federal agency to assess in advance the impact of any regulation or sanction on property values, to determine whether that impact constitutes a taking under law, and to seek to avoid such impacts. The potential for substantial monetary impact was borne out by a series of recent court decisions. In the U.S. Claims Court in 1990 and 1991, Judge Loren Smith awarded $64 million plus interest to property owners injured by such environmental sanctions.

The Senate bill has some professional environmentalists up in arms. If each of their efforts to protect "biodiversity" carries a price tag, the terms of the debate shift in ways they do not like. It will no longer be: Should we protect the spotted owl? It becomes: How much are we willing to spend to protect the spotted owl?

A setback for the environment? Not at all. If the Private Property Rights Act passes the House of Representatives, people will continue to look to the government to protect the environment. However, the bill will serve notice on the extreme environmentalists that Americans are not willing to give them a license to ignore property rights in the guise of protecting biodiversity.

When the final Senate vote was tallied, the environmental groups and their numerous representatives on the staffs of U.S. senators were lined up at the back of the Senate Chamber, visibly stunned at the suddenness and magnitude of their defeat. It was a complete reversal in just nine months of the defeat—by nine votes—of a similar provision.

It was a bitter pill for Senate Majority Leader George Mitchell (D-Me.), who wound up the debate with an impassioned cry that this bill, like Reagan's executive order, sought "to undermine regulatory protection by chilling agency action." But his motion to table the bill was shot down by 17 Democrats who teamed with 38 Republicans to hand environmental extremists the biggest legislative defeat in their history. The fact that 17 Democrats did vote for the Private Property Rights Act may demonstrate the rising political backlash against the extremes of the green lobby.

Ironically, this setback had its roots in what had looked like a major victory for the greens. In 1988 presidential candidate George Bush pledged "no net loss in wetlands." But on taking office, Bush faced the consequences of his statement. When the government enlarged the definition of "wetlands," Bush met angry protest from traditional Republican constituencies, farmers, businesses, real estate developers, landowners and local governments.

What caused the backlash was not the statement itself but an act of bureaucratic high-handedness apparently encouraged by Bush's pledge. This took the form of the 1989 Federal Manual for Identifying and Delineating Jurisdictional Wetlands, which extended federal jurisdiction over some 100 million additional acres of property, most of it privately owned. What outraged so many people was that most of the newly restricted land had only the remotest connection with water.

Why did the bureaucracy get so out of hand? When President Bush appointed William Reilly to head the Environmental Protection Agency, Bush confirmed the Washington adage that "personnel is policy." He had selected one of the most committed land-use planners in the environmental movement.

No question, there was and is a real need to arrest the long-term trend of draining and filling wetlands, marshes, bogs, swamps and lowlands for conversion to active farming and commercial and residential development. The EPA claims this has destroyed over half of all U.S. wetlands—or more than 100 million acres. But how to protect the wetlands? Reilly gave his answer long ago: As executive director of Laurance Rockefeller's Task Force on Land Use and Urban Growth, he helped write The use of land: A Citizens' Policy Guide to Urban Growth. It laid out many of the premises for using biological diversity as a rationale for limiting the two betes noires of environmentalism: single-family housing expansion and commercial agriculture. It noted that land use could be restricted at no cost to the government through jurisdictional control.

Reilly's appointment as EPA administrator coincided with the early 1989 release of the new manual, which, in attempting to define "wetlands," extended the reach of the 1972 Clean Water Act. That manual asserted "jurisdiction" (requiring federal permits) well beyond traditional marshes and bogs. It extended it to cover any land with "hydric soils" or "hydro phytic vegetation." In plain English, that is land showing evidence of periodic saturation or containing plants, such as cattails, that are characteristic of wetlands. A third criterion defined as "wetland" land where there is even a hint of water down to 18 inches below the ground for seven consecutive days of the growing season. Under the August proposal, some of those criteria were softened. Most important, the length of time a wetland must be saturated would be increased to 21 consecutive days of the growing season.

One of the areas hardest hit by the 1989 rules was Maryland's Dorchester County. Previously some 275,000 acres of privately owned land in Maryland had been classified as wetland. With the 1989 manual, the figure topped 1 million acres. This meant that the government suddenly sanctioned 740,000 additional acres against filling or other disturbance, unless specifically permitted by the Army Corps of Engineers, with the EPA and FWS exercising virtual veto power. Under the new proposal, the amount of wetlands would still increase, but by less than the 740,000 acres. The 1989 manual, however, remains the law of the land. The revisions would be unlikely to go into effect before early 1992. The permitting process itself remains a bureaucratic swamp.

This outraged Margaret Ann Reigle, who had retired from her job as vice president of finance at New York's Daily News. With her husband, C. Charles Jowaiszas, a retired Columbia Pictures vice president, Peggy Reigle moved to Cambridge, in Dorchester Country, to raise flowers and enjoy life. As a retirement investment the couple had bought a 138-acre abandoned farm that they planned to subdivide into 10-acre lots. Within months, however, Reigle was out of retirement and at war with the federal government.

Reigle's war started after she heard what the new definitions had done to an elderly neighbor. The neighbor had been informed that under the new rules, her property was classified as nontidal wetlands and therefore could not be developed. The neighbor had been counting on proceeds from land sales to build a new home.

In May 1990 Peggy Reigle wrote an angry letter to President Bush (one of thousands like it received by the White House). When local papers reprinted the letter, Reigle was besieged by calls from others like her, outraged by the new policy. She formed the Fairness to Land Owners Committee; in two weeks it signed up some 2,000 citizens and now boasts a membership of over 6,000 Marylanders and 2,500 from other states. Its credo: "We will not accept the government's taking our land without just compensation." The grass-roots backlash against federal wetlands imperialism was under way. And soon Congress was paying heed.

In January and February Representative John LaFalce (D–N.Y.), chairman of the House Small Business Committee, held hearings. Builders, realtors, national and local officials and developers shared stories about the quagmire of wetlands regulations. The town supervisor of Wheatfield, in Niagara County, N.Y., told LaFalce that if the Corps issued permits based on the 1989 manual, "areas like Niagara County will be deprived of approximately 65% of the remaining developmental property." David Brody, attorney for the Niagara Frontier Builders Association, said the manual's implementation, along with other problems, would result in "a 35% reduction in new home starts in Niagara and Erie counties in 1991." After the hearings LaFalce sent President Bush a letter "to alert [him] to the regulatory travesty currently masquerading as federal wetlands policy."

In Hampton, Va., meanwhile, Thomas Nelson Community College had made a routine request for a Corps check of a proposed 40-acre site for its new sports complex. The result was a finding of "hydric soils" and "wetlands" at the college. Similar findings could, in a cascade of regulatory mayhem, threaten the 38-acre Nelson Farms subdivision, the 800-home, 133-acre Michael's Woods subdivision, the 300-acre Hampton Roads Center office park, and a 600-home Hampton Woods subdivision. As Hampton Mayor James Eason told the local Daily Press, "It's very scary. It's conceivable it could halt all development in the city of Hampton."

This quagmire trapped even some of the most obvious candidates for permits, such as Richard Adamski. This retired state trooper from Baltimore had invested $16,500 in a building lot in the midst of a developed residential area in a hamlet in Dorchester County only to be told the 0.7-acre lot was "nontidal wetlands." Although he wanted to fill only an eighth of an acre to build a retirement home, the U.S. Fish & Wildlife Service recommended denial of his application.

Eventually the Corps did issue a permit to fill the sliver of land, but only if "the permittee shall mitigate at a 2:1 ratio for wetlands losses by constructing 0.25 acres of wooded nontidal wetlands." In other words, Adamski had to find someone willing to sell him a permanent "easement" on twice as much land. No takers yet; Adamski remains in limbo. Yet when I walked through the wettest of these mostly wooded "wetlands" last April (the wettest season), my dress shoes emerged pristinely unmuddied.

As the outrage over his high-handed policies mounted, Reilly had to beat a strategic retreat. On Mar. 7 he admitted to the prestigious American Farmland Trust: "We suddenly found ourselves in the center of a maelstrom. Everywhere I traveled I heard a local wetlands horror story—not just from farmers, but from developers and respected political leaders." He suggested that the entire process had gotten out of hand.

But tell that to William Ellen, a successful and respected Virginia marine engineer who is now appealing a prison term and a large fine for having "filled" more than 15 acres of Eastern Shore "nontidal wetlands" when he bulldozed these seemingly dry and forested acres to create large nesting ponds for ducks and geese as well as a management complex.

Ellen was working on a project for Paul Tudor Jones II, the high-flying futures trader who in August 1987 had bought 3,200 acres in Dorchester County, very close to the Blackwater Wildlife Refuge. Jones' idea was to create a combination hunting and conservation preserve as well as a showplace estate. The centerpiece of the project is a 103-acre wildlife sanctuary developed with the assistance of the Maryland Department of Natural Resources. This sanctuary includes ponds, shrub swamps, food plants and grassland plots all designed to attract geese, ducks and other migrating waterfowl.

In May 1990 Jones suddenly pleaded guilty to one misdemeanor related to negligent filling of wetlands, agreeing to pay $1 million to the National Fish & Wildlife Foundation to help the Blackwater Refuge, plus a $1 million fine. The plea allowed Jones to avoid a costly and debilitating trial, and possibly even a jail term and the loss of his trading license. However, no such deal was afforded Bill Ellen, himself a well-known conservationist who, with his wife, runs a rescue/rehab mission for injured wildlife and waterfowl.

How could Ellen be prosecuted for converting land that was so dry water-spraying had to be used as a dust suppressant during bulldozing into large nesting ponds for waterfowl? That question disturbed trial judge Frederick Smalkin at the U.S. District Court in Baltimore, and the answer he got was bizarre.

Prosecution witness Charles Rhodes, one of the EPA's top scientists on wetlands, said that even though the forested "wetlands" had been replaced by new ponds, the ecology was supposedly worse off.

Why? The problem was bird shit. "The sanctuary pond is designed to have a large concentration of waterfowl, and before the restoration plan was implemented, all that fecal material [from the ducks and geese] was geared to be discharged right into the wetlands, whereas now it is actually designed to go through like a treatment system through the wetlands. So that would have been a negative impact, a water quality impact." In other words, the bird droppings, instead of staying in one place, would be spread over a wider area.

To which Judge Smalkin responded incredulously: "Are you saying that there is pollution from ducks, from having waterfowl on a pond, that that pollutes the water?" Incredibly, a jury convicted Ellen on five counts of filling wetlands. But U.S. Attorney Breckinridge Willcox said Ellen's conviction sends "a clear message that environmental criminals will, in fact, go to jail." The prosecution asked the court for a prison term of 27 to 33 months, but Judge Smalkin sentenced Bill Ellen to six months in jail and four months of home detention.

These examples of federal wetlands policy as practiced in the early years of the Bush Administration are a case of a bureaucracy run amok. In fact, there is little law today that provides due-process federal jurisdiction over wetlands. There is only the Food Security Act of 1985, which asserts jurisdiction over those farmlands under federal subsidy programs. But farmers may remove that jurisdiction by taking their land out of the programs.

Otherwise, the wetlands program is very largely a contrivance of federal bureaucrats, sometimes working with friendly courts to expand Section 404 of the Clean Water Act. Yet this act makes no mention of "wetlands" and is designed to regulate only direct dumping into and pollution of the nation's "navigable waters," rivers, harbors, canals, etc.

In a 1975 decision (Natural Resources Defense Council v. Callaway), a Washington, D.C. district judge ruled that federal jurisdiction applied beyond navigable waters to any wetlands that might remotely feed into such rivers and harbors. But even that did not cover "isolated wetlands" with no connection to "navigable waters"—like the puddles in your backyard after a heavy rain. Nevertheless, since 1975, jurisdiction has been expanded entirely by fiat and court interpretation to cover that definition in the EPA manual—water 18 inches down.

The fig leaf for this judicial and executive imperialism is Article 1, Section 8, paragraph 3, of the Constitution, which gives Congress the right "to regulate commerce * * * among the several states." To assert this power on isolated and local wetlands, the EPA and the Army Corps of Engineers engaged in such creative flights of fancy as declaring ducks and geese "interstate waterfowl." This led to what some call the "glancing goose test," which determines that an area is a wetland if an interstate goose pauses to consider it.

In a brutal display of naked power, the EPA and the Department of the Army plunged ahead in December in their "Wetlands Enforcement Initiative," designed to bring 24 high-visibility defendants like Paul Tudor Jones to justice. The Dec. 12, 1990 memorandum asked all regional administrators to produce a "cluster" of new cases to be announced in an April "first 'wave' of publicity * * * to provide an early deterrent to potential violations which might otherwise occur during the 1991 spring and summer construction season."

But on Apr. 19 a high-visibility case blew up in the government's face. James Allen and Mary Ann Moseley, Missouri farmers, had built a perimeter levee to keep their Mississippi Basin farm from flooding. The government declared the area to be wetlands of the United States, sued the Moseleys for violations of the Clean Water Act and sought fines of $25,000 a day for as long as the violation was in effect.

But the Moseleys are members of the American Agriculture Movement, a progressive farm organization that has joined the mainstream farm groups in opposing the extension of the definition of "wetlands" and supporting the Private Property Rights Act. AAM's Fayetteville, Ark. lawyer, John Arens, has a record of beating the government in court—and he did it again.

When Arens was not allowed to bring in his own "expert witnesses," he minced up the government "experts" by demonstrating the capricious nature of the so-called wetlands law. He asked one EPA expert if it were not true that, were he to play baseball on a diamond built on hydric soils and went into the batter's box and scuffed his cleats, and then knocked the resulting dirt off them, back onto the field, he would be in technical violation of the Clean Water Act?

"When he [the so-called expert] was forced to answer yes, I looked at the jury and I knew we were on our way!" Arens said. "But what really convinced the jury the government had no case when it discovered that the government prosecutors had no law!"

"While the jury was deliberating, they kept sending out to the judge for copies of the 'wetlands law.' When the judge sent them federal regulations, they sent back and asked for the law. When the judge sent them the Clean Water Act, and said this was all the law he had to give them, they [the jury] decided the government had no case because it had no jurisdiction."

More setbacks awaited the power-grabbing bureaucrats. In January 1989 then Assistant U.S. Attorney General Stephen Markman had a memorandum prepared on a big wetlands case the Justice Department was prosecuting. The memorandum demonstrated, with dozens of citations, the flimsiness of the government's wetlands policies, concluding: "The Corps and the EPA appear to have circumvented the Constitution's requirements . . . and the federal district and circuit courts have not corrected them." The courts have apparently been paying attention.

And so the battle has been joined. On the one hand are the wildlife-at-any-price people. On the other hand, people who think that environmental policy ought not override property rights.

The environmental extremists have made their intentions clear. In 1975 poet Gary Snyder won the Pulitzer Prize for his radical call for an "ultimate democracy [in which] plants and animals are also people." He wrote that they should "be given a place an a voice in the political discussions of the humans. * * * What we must find a way to do * * * is incorporate the other people * * * into the councils of government."

A few years later, in 1980, a leading ecologist, Joseph Petulla, said, "The Marine Mammal Protection Act [and] the Endangered Species Act [embody] the legal idea that a listed nonhuman resident of the U.S. is guaranteed, in a special sense, life and liberty."

Of course, the Constitution says nothing about the rights of trees, snakes, owls and fish. Which may be why, back in 1973, Reilly's task force essentially called for the repeal of the takings clause of the Fifth Amendment: "Many [judicial] precedents are anachronistic now that land is coming to be regarded as a basic natural resource to be protected and conserved. * * * It is time that the U.S. Supreme Court re-examine its precedents that seem to require a balancing of public benefit against land value loss . . . and declare that, when the protection of natural, cultural or aesthetic resources or the assurance of orderly development are involved, a mere loss in land value is no justification for invalidating the regulation of land use [italics added]."

"A mere loss in land value. . . ." In that "mere" resides a philosophy that questions the values of private property and individual freedom. But after years of having things pretty much their own way, people who think like Reilly are getting a real fight.

Idaho Republican Steve Symms, who leads the fight in the Senate for the protection of property rights, says: "We should adopt a policy of no net loss of private property." Since the federal government already owns some 40% of U.S. land, Symms argues that it ought to be willing to swap some of its 730 million acres in order to obtain privately owned land that is environmentally sensitive. If, say, the National Park Service wants 50,000 acres to provide more protection for Shenandoah National Park, it can ask the Forest Service or Bureau of Land Management to sell to private citizens a like amount to finance the acquisition. Such a policy of no net gain in federal lands was introduced this summer in the House in legislation drafted by Representative Bill Brewster, Democrat from Oklahoma.

Do we really want the federal government owning even more of the country, whether through outright purchase or through limitations on land use? Free-market environmentalists like R.J. Smith of the Cato Institute argue that more government ownership and control would actually harm the environment. He says: "Ecological devastation . . . invariably accompanies too much government ownership of land. You don't have to look just to Eastern Europe for confirmation. You need only examine the condition of most of the Bureau of Land Management inventory of properties, or remember what the Park Service allowed to happen at Yellowstone."

But the zealots won't give up. On Oct. 1 the EPA's regional office in Chicago awarded a grant of $50,000 over three years to the Sierra Club's local "Swamp Squad," which amounts to an unofficial policing of the environment. These vigilantes spy on developers and other land and property owners to report potential wetland violations. The EPA press release quoted Dale Bryson, the regional director of its water division: "This grant will allow them to continue their valuable work in a more vigorous way."

The Senate has served notice that it thinks some of this "valuable work" has already gone too far. By all the evidence, many of the American people would agree.

WARREN T. BROOKES

Warren T. Brookes, 62, a member of The Detroit News editorial page staff and a nationally syndicated columnist, was no ordinary scribbler. He was one of a small but cheerful band of writers and thinkers who helped work a revolution in the way Americans view economics and politics.

His death came as a shock, but then Warren delighted in shocking people—shocking them out of their set ways and forcing them to look at things in a new light. From his lair in the northern Virginia countryside, he peppered the country and the Beltway with an incredible outpouring of editorials, columns and stories that challenged conventional wisdoms and pricked official pretensions.

Much of official Washington, for example, "knew" that the 1990 tax increases would help cut the deficit. Warren correctly predicted that the tax increases would damage the economy, put people out of work and send the deficit soaring.

Much of official Washington "knew" that global warming was on the way. Warren found reputable scientists who helped point out the flaws in the theory but who had been ignored by the media in its haste for a sensational story.

The political pundits "knew" that Michael Dukakis had worked a Massachusetts Miracle. Warren, who had worked in Massachusetts for the Boston Herald during the 1970s, suspected otherwise. His columns blasted large holes in the Dukakis campaign for president.

Warren was no armchair columnist. He was a born reporter, filling his columns with statistics and information that caused workaday editors to grumble but made him difficult to refute. He wrote without fear or favor, often lambasting George Bush in terms just as tough as he had used on Michael Dukakis. Yet he was a friendly bear of a man whose natural warmth, good cheer and unflagging energy were infectious. And he just spilled over with the love of his work. "Guess what I just found out!" he would report in his daily calls to the home office, just as exicted as any cub reporter over his latest scoop.

Yet Warren also possessed one of the most broad-ranging and insightful minds of the day. In a stirring speech at Moscow State University in the last year of his presidency, Ronald Reagan quoted liberally from Warren's 1982 book, "The Economy in Mind," about the true wellsprings of democratic capitalism.

We will miss Warren. But he leaves a mighty legacy of wonderful journalism, provocative commentary and true fellowship. Most of all, his ideas live.

THE DETROIT NEWS.

DECEMBER 29, 1991.

The PRESIDING OFFICER. The time of Senator from Idaho has expired. Who seeks recognition?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. I thank the Chair.

(The remarks of Mr. METZENBAUM pertaining to the introduction of S. 2311 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. PRYOR] is recognized.

Mr. PRYOR. Mr. President, what allocation of time does the Senator from Arkansas have?

The PRESIDING OFFICER. The Senator is to be recognized for up to 5 minutes, under the previous order.

DEPARTMENT OF DEFENSE AWARDS LARGE ADVERTISING CONTRACT

Mr. PRYOR. Mr. President, this morning I have a fascinating news release that I would like to share with my colleagues in the U.S. Senate. This news release, dated Friday, February 21, 1992, is from the Office of an assistant of the Secretary of Defense, public affairs. This release announces that the Department of Defense has just awarded to the firm of Young and Rubicam, a giant advertising agency in New York, a new $57 million contract, with options, if exercised, that could award Young and Rubicam with over one-third of $1 billion for the Army's recruiting advertisements.

Let me briefly summarize my past discoveries in this area. We are preparing for our new scaled-down military. We plan to close military bases all over America. We plan to cut defense programs and we are reducing the size of our military manpower. As a result, this year the military will take in 34 percent fewer individuals than were recruited 3 years ago. Did the President's budget seek a reduction of 1993 funds for recruiting? The answer is no. In fact, the President's budget calls for an increase in recruitment spending. This year the military will spend almost $2 billion on recruiting, while at the same time, we are paying hefty sums for people to drop out of the military. Furthermore, in the face of drastic military reductions, this fiscal year the armed services will spend over $6,000 per recruit, a substantial increase from the $4,000 we spent just 3 years ago. It does not make sense.

Mr. President, we are trying to whip our defense budget into shape, and to do so, we must trim away the fat. Well, this is the fat. In the case of recruiting, the big city, Madison Avenue advertising agencies are among those who continue to get fat on the military's advertising dollars at the taxpayers' expense. No question about it, advertising is a big business. Our military is a big-time player, and has been for years.

Mr. President, the advertising firm of J. Walter Thompson has held the Marine Corps advertising account for the past 45 years, possibly the longest running contract in Department of Defense history. For 45 years the British-owned J. Walter Thompson Co. has been spending our taxpayers' money to produce and purchase the elaborate, costly commercials we see and hear every year during the NFL playoffs, the World Series, and elsewhere.

Last May, Advertising Age magazine published their annual reports on top-dollar advertising spending. Mr. President, from this magazine I have a chart that contains an updated list of the top 200 so-called advertising mega-brands, advertisers from America. Well, who in our country is tucked away as the 84th largest advertising mega-brand in the United States? It happens to be the U.S. Army. The U.S. Army spends around $62 million each year for advertising. They spend more money, for example, than BMW cars. They spend more money than Wal-Mart stores; more than Campbell Soups, more than Sony Electronics, more than Red Lobster restaurants, and more than Reebok shoes.

These corporate giants spend millions of dollars each year to promote their image and their products, but the Armed Forces, however, claim that image enhancement is not a function of their elaborate advertising programs.

It is interesting to note that these commercials usually showcase the military's high-costing hardware. For example, recently we have seen the Bradley fighting vehicle storming through the sands of Iraq. We see the Apache helicopter buzzing across the sky.

I wonder if some of these advertisements are nothing more than a propaganda campaign used to uphold the Pentagon's image and to promote military spending. But the Army, and the other services, claim to use these ads for recruiting purposes. This is amazing; the U.S. Army spending $60 million a year for advertising for recruiting purposes.

Mr. President, could you imagine Sam Walton, the CEO and owner of Wal-Mart stores, spending $60 million each year to promote the hiring of Wal-Mart employees, to recruit employees to come and work for the Wal-Mart stores? Of course not.

To the credit of the Department of Defense, the Pentagon's lofty advertising funding levels have been reduced by about one-third over the past 3 years. But has the Pentagon's recruiting budget declined? Absolutely not. Rather, the recruiting budget could be going up this year, if the President's request is granted. This is the reason for the drastic increase from $4,000 to over $6,000 that we spend on each recruit who joins the military today.

Mr. President, it is also interesting that the military's multimillion-dollar advertising contracts only account for a small portion of the $2 billion annual recruiting budget. Where is the rest of this money being spent? Well, the bulk of the recruiting funds are used to supplement the Pentagon's enormous recruiting operation, with over 23,000 employees and 6,000 recruiting offices nationwide.

Over the past 3 years, the total number of incoming recruits has declined by 34 percent. However, during the same period of time, the Pentagon only closed 2 percent of its recruiting offices, and the recruiting work force only declined by 5 percent. Any town in America, if you walk across the square or down the street, you will see a Navy office, or an Army office, or a Marine Corps office. Why not combine a number of these offices? How much can we save just in personnel and rent alone? Mr. President, we do not need recruiting offices on every street corner and in every shopping mall in America.

Shortly after my statement last month, an editorial appeared in the Texarkana Gazette. I want to read a few short sentences, and I ask unanimous consent that the editorial be printed in the RECORD directly following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRYOR—

> Joining the military is attractive * * * because of these lean economic times * * * and also * * * because of the increased pride from Operation Desert Storm. No hard-sell recruitment is necessary.

Mr. President, it is apparent that the Department of Defense does not understand that hard-sell recruiting is no longer necessary, and that the Madison Avenue advertising agencies should be put on notice that we are going to go after this boondoggle.

In Operation Desert Storm, we saw the very effective use of smart bombs and pinpoint targeting. This same strategy should now be applied toward our military recruiting. But rather than practicing smart recruiting, the Pentagon continues to exercise this scatter-gun approach through the use of wide-ranging advertisements and mass mailings.

Mr. President, I hope we will consider "smart recruiting." I hope that we will end the type of recruiting that is wasting billions of taxpayers' dollars. In the months ahead I will be offering legislation targeted at reforming our military recruitment practices and I hope my colleagues will join me in this effort.

EXHIBIT 1

[From the Texarkana Gazette, Feb. 14, 1992]

CUTTING THE FAT: U.S. MILITARY RECRUITMENT BUDGET COULD STAND TRIMMING

Proposed cuts in military spending are swirling around Washington so furiously it seems like the city is engulfed in a hurricane.

U.S. Sen. David Pryor, D-Ark., has found a small area of the military that could stand some cutting, but it apparently is in the eye of the storm.

Pryor has found the armed services are asking for $2 billion for military recruitment. While volunteers are being turned away by the military every day, no effort has been made to cut this cost.

One way the U.S. Army is reducing the number of new soldiers is by increasing its educational requirements. The Army no longer is taking people with only a General Equivalency Degree.

The irony of this is that the Army developed the GED for World War II soldiers short of a formal degree.

This means people who have completed what started as an Army program are no longer considered Army material.

People with GEDs or with less education are having a tough time finding work in the current economic times. Military service is attractive to them.

Joining the military is attractive to others with more education because of these lean economic times. It is also attractive because of the increased pride from Operation Desert Storm. No hard-sell recruitment is necessary.

The recruiting budget submitted to Congress doesn't just ask for continuing the same old level. It contains an increase in recruitment funds.

One of the items in that request is money for television ads.

Pryor found recruitment ads were recently broadcast during the National Football Conference playoffs. During those games the cost of a 30-second commercial was an average of $310,000.

The message in such commercials should have been "The Marines are looking for a very few good men" or "Don't you wish you could be all that you could be in the Army?"

The Pentagon hasn't stopped there. It is asking for funds for mass mailings. T-shirts, posters and other military paraphernalia to attract young men and women to come in and be rejected.

According to Pryor's figures, the military has gone from taking 320,000 recruits in 1989 to a target of 210,000 recruits this year. The amount spent to attract each recruit has increased from $4,300 in 1969 to $6,000 this year.

Congress is looking for a way to make the military budget leaner and Pryor has found some fat that can be cut.

Mr. PRYOR. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator controls 51 seconds remaining.

TAXPAYER BILL OF RIGHTS 2

Mr. PRYOR. Mr. President, yesterday the Senate Finance Committee, chaired by Senator LLOYD BENTSEN, our great chairman, complied with a request that I had and 41 other Members of the Senate had in including in the tax package that we passed from the Senate the taxpayer bill of rights 2.

This legislation, Mr. President, we think is going to go a very long way in reinsuring the basic rights of the American taxpayer in dealing with the Internal Revenue Service.

Mr. President, I ask unanimous consent that at the appropriate place in the RECORD a summary prepared by the Joint Committee on Taxation summarizing the 28 sections of the new taxpayer bill of rights 2 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF TAXPAYER BILL OF RIGHTS 2 PROVISIONS—SCHEDULED FOR MARKUP BY THE SENATE COMMITTEE ON FINANCE ON MARCH 3, 1992

I. ADDITIONAL SAFEGUARDS TO PROTECT TAXPAYERS' RIGHTS

1. Establishment of Taxpayers' Advocate

Present Law

The IRS Ombudsman assists taxpayers in resolving administrative difficulties with the IRS.

Explanation of Provision

The provision statutorily establishes the position of Taxpayers' Advocate in the IRS as a replacement for the Ombudsman. The Advocate would be appointed by the Commissioner. The provision also requires detailed annual reports to the tax-writing committees, provides that problems resolution officers report to the Taxpayer Advocate, and provides that the Taxpayer Advocate report directly to the IRS Commissioner.

2. Expansion of Authority to Issue Taxpayer Assistance Orders (TAOs).

Present Law

The Ombudsman may issue a Taxpayer Assistance Order, which requires the IRS to cease taking an action (such as a collection action).

Explanation of Provision

The provision permits the issuance of a TAO requiring the IRS to take action (such as issue a refund faster), deletes the requirement of present law that the hardship experienced by the taxpayer be "significant" as a condition for the issuance of a TAO, provides that only the Taxpayer Advocate, the Commissioner of the IRS, or a superior of those two positions, as well as a delegate of the Taxpayer Advocate, may modify or rescind a TAO, and permits the TAO to specify a time period within which the TAO must be followed.

II. MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

3. Notification of Reasons for Termination of Installment Agreement

Present Law

The IRS must give prior notice and an explanation before it terminates an installment agreement because the taxpayer's financial condition has changed.

Explanation of Provision

The provision requires that this notice be given before any termination (except in cases of jeopardy).

4. Administrative Review of Denial of Request for Installment Agreement

Present Law

The Code does not require that the IRS provide an administrative review of denials of installment agreements.

Explanation of Provision

The provision requires the IRS to provide written notice of the reasons for denial of an installment agreement. The IRS also must establish procedures for independent administrative review of denials and terminations of installment agreements.

III. INTEREST

5. Expansion of Authority To Abate Interest

Present Law

IRS may in its discretion abate interest attributable to IRS error or delay in performing a ministerial act.

Explanation of Provision

The provision requires the IRS to abate interest in any case in which the taxpayer establishes that there was an unreasonable and excessive IRS delay and the taxpayer has fully cooperated in resolving outstanding issues. In order to allow the taxpayer to develop the facts, the IRS shall be required, upon written request, to provide the taxpayer within 30 days with all information and relevant records that the IRS has with respect to the history of the taxpayer's case for the time period involved. The IRS shall develop a form for the purpose of such requests.

6. Extension of Interest-Free Period for Payment of Tax After Notice and Demand

Present Law

The Code provides a 10-day interest-free period within which taxpayers may pay after notice and demand is made.

Explanation of Provision

The provision extends from 10 to 21 days the interest-free period within which taxpayers may pay after notice and demand is made, applicable only to amounts of less than $100,000 (amounts of $100,000 and above continue to be subject to a 10 day period).

IV. JOINT RETURNS

7. Requirement of Separate Deficiency Notices in Certain Cases

Present Law

IRS must send duplicate original deficiency notices to both spouses when the IRS has been notified that separate residences have been established.

Explanation of Provision

This rule will apply to all instances in which the spouses did not file a joint return for the most recent taxable year.

8. Disclosure of Collection Activities With Respect to a Joint Return

Present Law

It is unclear whether the IRS has authority to disclose to one spouse whether the IRS has attempted to collect a deficiency arising from a joint return from the other spouse.

Explanation of Provision

The provision requires the IRS, upon written request of the spouse, to disclose in writing to the spouse whether the IRS has attempted to collect a deficiency from the other spouse, the general nature of the collection activities, and the amount collected.

9. Joint Return May Be Made After Separate Returns Without Full Payment of Tax

Present Law

Married taxpayers who had previously filed separate returns may not file a joint return without first fully paying the tax.

Explanation of Provision

The provision permits married taxpayers who had previously filed separate returns to file joint returns without fully paying the tax.

10. Representation of Absent Divorced or Separated Spouse by Other Spouse

Present Law

A taxpayer who has filed a joint return with a spouse may represent the spouse with respect to a deficiency for any year a joint return was filed. IRS administrative procedures may allow each spouse to appeal separately from the statutory notice of deficiency.

Explanation of Provision

The provision provides that an individual who had filed a joint return with a spouse but who is no longer married to that spouse (or no longer resides in the same household) may not represent the absent spouse at an examination of that return unless the absent spouse permits it in writing.

V. COLLECTION ACTIVITIES

11. Notice of Proposed Deficiency

Present Law

Although not statutorily required to do so, the IRS often issues a notice of proposed deficiency prior to issuance of a notice of deficiency. Failure to issue a notice of proposed deficiency does not invalidate the notice of deficiency.

Explanation of Provision

The provision requires IRS to issue a notice of proposed deficiency in every instance (except jeopardy). The notice of proposed deficiency must be mailed at least 60 days before any notice of deficiency. Failure to issue a notice of proposed deficiency would invalidate the notice of deficiency. The provision is effective one year from the date of enactment.

12. Modification to Lien and Levy Provisions

Present Law

IRS may withdraw a notice of a lien only if the notice was erroneously filed or if the underlying lien has been paid, bonded, or become unenforceable. IRS may return levied property only when the taxpayer has overpaid its tax liability.

Explanation of Provision

The provision permits the IRS to withdraw notice of a lien in specified situations. Upon the taxpayer's request, the IRS shall notify credit agencies and financial institutions of the withdrawal. Further, the IRS shall return levied property in parallel specified situations. Finally, the provision increases the dollar value of certain items exempt from levy and indexes those amounts for inflation.

13. Offers-in-Compromise

Present Law

The IRS can compromise any assessed tax. An opinion of the Chief Counsel is necessary for any compromise of $500 or more. Information relating to accepted compromises is public.

Explanation of Provision

The provision clarifies that the IRS may make any compromise that would be in the best interests of the United States and raises the threshold above which an option of the Chief Counsel of the IRS is necessary from $500 to $50,000. The provision requires that opinions below the $50,000 threshold be subject to continuing quality review.

14. Notification of Examination

Present Law

IRS generally notifies a taxpayer in writing before commencing an examination (sometimes it does so by telephone).

Explanation of Provision

IRS must both notify a taxpayer in writing that the taxpayer is under examination and furnish a copy of Publication 1, Your Rights as a Taxpayer, prior to commencing any examination.

15. Recovery of Civil Damages for Unauthorized Collection Action

Present Law

A taxpayer may sue the United States for up to $100,000 of damages caused by an IRS employee who recklessly or intentionally disregards the provisions of the Code or Treasury regulations.

Explanation of Provision

The provision increases the cap to $1 million with respect to reckless or intentional acts. In addition, it permits a taxpayer to sue the United States for damages caused by an IRS employee who negligently disregards the provisions of the Code of regulations, subject to a cap of $100,000 in damages.

16. Designated Summons

Present Law

The period for assessment of additional tax with respect to most tax returns, corporate or otherwise, is three years. The IRS and the taxpayer can together agree to extend the period, either for a specified period of time or indefinitely. The taxpayer may terminate an indefinite agreement to extend the period by providing notice to the IRS on the appropriate form.

During an audit, the IRS may seek information by issuing an administrative summons. Such a summons will not be enforced by judicial process unless the Government (as a practical matter, the Department of Justice) seeks and obtains an order for enforcement in Federal court.

In certain cases the running of the assessment period is suspended during the period (if any) in which the parties are in court for the purpose of obtaining or avoiding judicial enforcement with respect to an administrative summons. Such a suspension is provided with respect to a corporate tax return if a summons is issued at least 60 days before the day on which the limitation period (as extended, if extensions have been made) is scheduled to expire. In this case, suspension is only permitted if the summons clearly states that it is a "designated summons" for this purpose. Only one summons may be treated as a designated summons for purposes of any one tax return. The limitations period is suspended during the judicial enforcement period of the designated summons and of any other summons relating to the same tax return that is issued within 30 days after the designated summons is issued.

Under current internal procedures of the IRS, no designated summons is issued unless first reviewed by the Office of Chief Counsel to the IRS, including review by an IRS Deputy Regional Counsel for the Region in which the audit occurs.

Explanation of Provision

The provision requires that issuance of any designated summons be preceded by review by the Regional Counsel, Office of Chief Counsel to the IRS, for the Region in which the audit occurs.

In addition, the provision requires that the corporation whose return is in issue be promptly notified in writing in any case where the Secretary issues a designated summons (or another summons litigation over which tolls the running of the assessment period under the designated summons procedure) to a third party. The provision applies to summonses issued after date of enactment.

VI. INFORMATION RETURNS

17. Phone Number of Person Providing Payee Statements Required to be Shown on Such Statement

Present Law

Businesses are not required to put their telephone numbers on information returns.

Explanation of Provision

The provision requires businesses to put their telephone numbers and the name of a contact person on information returns (1099 forms).

18. Civil Damages for Fraudulent Filing of Information Returns

Present Law

Present law does not provide for civil damages for fraudulent filing of information returns.

Explanation of Provision

If a person willfully files a false or fraudulent information return with respect to payments purported to be made to another person, the other person may bring a civil action for damages.

19. Requirement to Verify Accuracy of Information Returns

Present Law

Deficiencies determined by the IRS are generally afforded a presumption of correctness.

Explanation of Provision

If a taxpayer asserts a reasonable dispute with respect to any income reported on an information return and has fully cooperated, the IRS shall have the obligation in court to introduce evidence of the deficiency (beyond the Form 1099 itself) in order to prevail.

VII. MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAXES

20. Trust Fund Taxes

Present Law

A responsible officer is subject to a penalty equal to 100 percent of trust fund taxes (social security and withheld income taxes) that are not paid to the Government on a timely basis. IRS provides for administrative appeals as to whether a person is in fact a responsible officer.

Explanation of Provision

The provision requires IRS to issue a notice to an individual the IRS has determined to be a responsible officer at least 60 days before issuing a notice and demand for the penalty. After exhausting administrative remedies within the IRS, the taxpayer may seek a declaratory judgment in the Tax Court as to whether the taxpayer is in fact a responsible officer.

21. Disclosure of Certain Information Where More Than One Person Is Subject to Responsible Officer Penalty

Present Law

It is unclear whether IRS has authority to disclose to a responsible officer whether the IRS has attempted to collect from other responsible officers.

Explanation of Provision

The IRS shall, upon written request of the responsible officer, disclose in writing to the responsible officer whether the IRS has attempted to collect a deficiency from any other responsible officers, the general nature of collection activities, and the amount collected.

22. Penalties Under Section 6672

Present Law

A responsible officer is subject to a penalty equal to 100 percent of trust fund taxes that are not paid to the Government on a timely basis.

Explanation of Provision

The IRS must print appropriate warnings and issue new publications containing information regarding this penalty. This penalty does not apply to volunteer officers of taxexmpt organizations if they are unpaid and do not participate in the day-to-day or financial activities of the organization. The IRS must provide prompt notification of failures to deposit trust fund taxes.

VIII. AWARDING OF COSTS AND CERTAIN FEES

23. Attorney's Fees: Recovery for Costs During IRS Appeals Process

Present Law

Taxpayers may recover reasonable administrative costs under the same conditions that attorney's fees are recoverable, commencing with the earlier of the notice of decision by IRS Appeals or the notice of deficiency.

Explanation of Provision

The provision expands the availability of administrative costs by moving the commencement date to the earlier of the notice of proposed deficiency or the notice of deficiency. Once a taxpayer substantially prevails in litigation and files a written request, the IRS is required to provide within 30 days all information and relevant records of the IRS concerning the history of the taxpayer's case and the substantial justification for the position taken by the IRS. The IRS shall develop a form for this purpose.

24. Increase Limit on Attorney Fees

Present Law

Allowable attorney's fees may not exceed $75 per hour, unless the court determines that the cost of living or another factor justifies a higher rate.

Explanation of Provision

The provision indexes the maximum rate for inflation, effective from the date the $75 rate became effective.

25. Attorney's Fees: Failure to Agree to Extension Not Taken Into Account

Present Law

To be eligible to receive attorney's fees, a taxpayer must have exhausted administrative remedies in the IRS. Under Treasury regulations, failure to agree to extend the statute of limitations is considered to be failure to exhaust administrative remedies. The Tax Court has held this aspect of the regulations to be invalid.

Explanation of Provision

Failure by the taxpayer to agree to an extension of the statute of limitations for assessment is not to be taken into account for purposes of determining whether the taxpayer is entitled to receive attorney's fees.

IX. OTHER PROVISIONS

26. Required Content of Certain Notices

Present Law

IRS tax deficiency notices must describe the basis for and identify the amounts of tax, interest, and penalties.

Explanation of Provision

IRS notices must contain more detailed information.

27. Relief from Retroactive Application of Treasury Department Regulations

Present Law

Treasury may prescribe the extent (if any) to which regulations shall be applied without retroactive effect.

Explanation of Provision

Any proposed or temporary Treasury regulation shall apply prospectively from the date of publication of the regulation in the Federal Register (unless specifically superseded by subsequent legislation authorizing a retroactive effective date or unless Treasury permits taxpayers to elect to apply the regulations retroactively and the taxpayer so elects). Final regulations may take effect from the date the proposed or temporary regulations are published. For the period from the effective date of the statute until the publication of the proposed or temporary regulations, taxpayers will be governed by the statute and other authorities, as under present law.

28. Required Notice to Taxpayers of Certain Payments

Present Law

The IRS receives payments that it cannot associate with any outstanding tax liability.

Explanation of Provision

The IRS must make reasonable efforts to notify taxpayers who have made payments that IRS cannot associate with any outstanding tax liability.

29. Prohibition of Exchanging Confidential Client Information for Forgiveness of Taxes

Present Law

It is unlawful for any person who prepares a tax return for compensation knowingly or recklessly to disclose tax return information.

Explanation of Provision

It is unlawful for any Federal employee to forgive (or offer to forgive) any taxes due from an attorney, certified public accountant, or enrolled agent in exchange for information about that person's clients.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PRYOR. I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I rise to thank my colleague from Arkansas. His statement in connection with the $2 billion in expenditures for recruiting, pointing out to us the tremendous rate of expenditure by the Army as compared to other advertisers in the country, has performed a magnificent public service.

On behalf of all us in the Senate, as well as the people in this country, we are very grateful to the Senator. Once again, he has displayed great courage and leadership in bringing this subject to the attention of the people of this country.

Mr. PRYOR. Mr. President, I thank my distinguished friend from Ohio.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed until noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, first of all, I would like to join my colleague from Ohio in complimenting my own colleague from Arkansas, Senator PRYOR, for a magnificent presentation this morning on just a few of the things that go on in this country that really are wasteful.

We focused on the $500,000 for the Lawrence Welk home, out in North Dakota, which was regrettable, but the sort of thing people can relate to as an abuse. The Senator from Arkansas has just graphically demonstrated this morning what real waste is all about.

I have to confess that up until a few years ago, when people would say, "Why do you all not cut all that waste; why do you not cut spending?," in the recesses of my mind, I would think, 'If they only knew what I knew about the pressures and choices." They do not want Aunt Suzy kicked out of the nursing home. They want Medicare; they want all these benefits. And yet, they are telling us to cut the deficit.

I have discovered by being on the Appropriations Committee, there is plenty of room for massive cuts in funds that should never have been appropriated in the first place. There is room for massive cuts of programs that should never have been started in the first place.

The other day, when we were debating the line-item veto, I said, and I will repeat, the line-item veto is a diversion; it is a distraction, as my colleague on the floor called it; it is a fig leaf designed to cover the massive, profligate waste of money. It wouldn't begin to deal with the problem. Instead of trusting the American people with the truth of what we have to do here, we talk about procedural changes.

We take those deficits—which Ronald Reagan promised the American people faithfully that he would eliminate—we take those deficits, once they soar completely out of sight, and we start talking about "if we only had a line-item veto." But everybody knows that if the President had a line-item veto would not be able to cut enough to make much of a difference.

Do you think he is going to cut out all the farm programs and risk alienating politically all the farmers of this country? He is certainly not going to X-out anything for the Defense Department. He has demonstrated that time and time again.

Finally, you have to ask yourself, would my good Republican friends on the other side of the aisle, almost all of whom favor the line-item veto, would they favor a line-item veto if George McGovern were President; would they favor a line-item veto if my Governor, Bill Clinton, were President? I divinely hope he is our President some day. Would they favor it if Fritz Mondale were President? The answer is apparent. It does not even need to be asked.

But we do not pass laws like the line-item veto, Mr. President, based on the fact that Ronald Reagan and George Bush are conservatives and therefore would save billions of dollars in the budget. We pass laws because they make sense no matter who is President.

I used an illustration the other day, no offense intended to anybody. But if I had a $15 million startup program in the University of Arkansas that I felt very strongly about, and let us assume a good Republican Member, we will say from Texas, had a similar startup program for Texas A&M, and we have a line-item veto on the books, and the President is going through the bill and figuring out: How can I cut something out of this bill; I have to cut $2 billion out of this bill.

Somebody says: "Well, Mr. President, we have two biotech startups here; one at Texas A&M and one at the University of Arkansas." Mr. President, which one do you think the President will veto? We all know the answer to those things.

That is the reason I have opposed the line-item veto.

However, that is not what I came to talk about. What I came to say, Mr. President, is that the Senators from Arkansas, both of us, have had a great day, a great day yesterday in the Finance Committee. Senator PRYOR got his taxpayer bill of rights included, and I got my own venture capital gains provision for small business included, which I have worked studiously on for 5 years.

Now, the Presiding Officer here today is a former Governor of the great State of Virginia, as I was Governor of my State for several years. And it was so nice. Back when we were Governor, we could sign our name and make things happen. Here it takes years to make something happen.

This year, after introducing this bill again—and with 47 cosponsors, Republican and Democrat—we finally get my venture capital provision incorporated into this tax package.

There is one other capital gains provision in the Finance bill that I do not fully comprehend. It is designed to make the capital gains incentive for nonventure capital investment progressive. It would eliminate any capital gains incentive for the wealthy folks who are in the 36-percent bracket; but provide a small tax benefit for those below that.

Mr. President, all I want to do is to say to my good friend from Texas, Senator BENTSEN, the chairman of the Finance Committee, and all the members of the committee, I am indeed grateful, and the small business people of this country will be grateful if my provision becomes law.

Capital gains is designed to reward people for taking risks. It is designed to protect them against inflation. The thing that makes the President's capital gains provision fatally flawed is that it allowed people to just go down and play the stock market, with no capital formed for the businesses whose stocks are traded. The President's proposal for 10, 15 percent depreciation would do a lot more for the business community of this country than the capital gains provision he proposed would. So much of his proposal does nothing.

Mr. President, the sad thing about this is that we are going to pass the tax bill. The House has already incorporated my capital gains provision in its bill, and incidentally, it is the only capital gains tax rate cut provision in the House bill. But the tragedy is we are going to spend all next week on the floor of the Senate passing this tax bill, and the President is going to veto it because it raises the marginal rate on the top 1 percent of the wealthiest people in America from 31 to 36 percent, or in the case of the House bill, 35 percent. And the President says he is not going to sign that. Patrick Buchanan has told us he is not going to sign that so our President has no option.

So, Mr. President, I do not know what we are doing here. We are obviously wasting our time.

The President, in his State of the Union Address, as far as I know, never consulted with a single Member of the Democratic Senate. I went over to that State of the Union Address the other evening, in a conciliatory mood, recognizing there is so much hurt in this country: 9 million people pounding the streets, looking for work, people really suffering, and looking to Congress to do something. The President listed a seven-point program, and where health care was concerned, he said: I have not finalized my plans on that yet, but I want all this passed by March 20.

I want to tell you, that chart over there is so offensive to me; I cannot tell you how offended I am by that.

The President says: "Not only do I want it done by March 20; if you do not have it done by then, the fight is on." And you all know how I love to fight.

At a time when the American people wanted and had a right to expect the President, the Republicans, the Democrats, the liberals, the conservatives, and those in between to hole up in a room and say, "We have to do something about this," he challenges us to a duel.

Mr. President, I am not sure—I see the distinguished Senator from Hawaii on the floor—maybe we are prepared to take up the PBS bill, but I ask his indulgence for an additional 5 minutes.

I ask unanimous consent that I be permitted to continue for 5 more minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for an additional 5 minutes.

Mr. BUMPERS. So, strangely enough, the House and Senate tax bills take almost every single provision the President asked for that night, including a $5,000 tax credit for home buyers, which I favor; either a 10 or 15 percent additional depreciation for business on new equipment bought in the last 11 months of 1992, which I favor; using IRA's, allowing people to cash them without penalty to pay for college tuition costs and so on, excessive health care costs, and for first-time home buyers, and I favor that; and a reasonable capital gains provisions.

When it comes to the middle-class tax cut, Mr. President, I am ambivalent. And my ambivalence stems from a simple proposition that I am obsessed with this outrageous deficit, $400 billion this year, and I am concerned about whether we ought to provide a middle-class tax cut or whether we should take this additional money, put it in a trust fund, and say to the American people, "On September 30, this money is going for deficit reduction and may not be used for any other purpose." Would not every Member of this Senate like to go home this fall, and particularly those up for reelection, and say, "We cut the deficit. Not only that, we are going to cut it even more next year."

It is said by economists that two-thirds of the GNP is created by consumer spending. Therefore, consumer confidence is everything. How can you expect the consumers of this country to have confidence in a Congress that puts supercilious signs on the floor of the Senate that say, "Oh, if you just give me a line-item veto," "Oh, if PBS were not so liberal," or, "if the National Endowment were not pornographic." All those things are legitimate concerns and we ought to address them, and we will and we have, but everything is a fingerpointing, blame-placing exercise around here.

Mr. President, I hate to say this, but, in my opinion, this distraction, diversion of items that take your attention off from what the real problems of the country are right now, namely, this terrible recession we are in and, secondly—and this should have gone first—the terrible deficit. I submit to you, Mr. President, that the consumer confidence in this country would be enhanced more by reducing the deficit than by anything else we could do.

I have a whole host of amendments when the appropriations process comes, Mr. President. I may not win any one of them, but I will tell you I am going to give the U.S. Senate a chance to cut billions out of this budget this fall when we start appropriating money. And you can either say, yes, we are going to do it or, no, we are just kidding about it.

Mr. President, I ask unanimous consent that I be given 2 additional minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 2 additional minutes.

Mr. BUMPERS. And I will close my remarks. I had a few other things that I wanted to say, but I will just close with this one.

President Truman told me, in one of the most poignant moments of my life in his living room in his home in Independence, MO: "How can you expect the American people to respond sensibly when politicians are diverting their attention or outright lying to them?"

Mr. President, anybody that expects 535 Members of Congress from different geographical areas, different cultural backgrounds, different political philosophies, men and women, black and white, to suddenly come to some kind of a consensus that will salvage this country's future is daydreaming. It cannot and it will not happen.

What could happen would be for the President of the United States to put his trust in the American people. You know why we have all these diversions and distractions away from the real problems? Because the problems are acute and politicians are frightened to say to the American people, "Here is the problem, and it is colossal."

But I can tell you, as President Truman admonished me, they can handle it. The American people can handle it. What they want is somebody to level with them, not just about the problems, but here are the solutions, and there are solutions. It is not irreversible; the problems are solvable. But they are not solvable when you concentrate on signs that have "17 days left to comply with the President's request." Nonsense. You solve them when the President goes on television and says, "We are a great nation. We are a patriotic people. We love our country and we love our children and we want to ensure the future of both. And, folks, here is what it is going to take to do it. And I am not running this as a popularity contest and I know I am not going to win a popularity contest with this, but here is what we have got to do."

I swear to you, Mr. President, the American people would follow that so fast it would make your head spin. That is all this Nation needs.

I yield the floor.

A DICTATORSHIP THAT GREW UP

Mr. DOLE. Mr. President, extraordinary changes have taken place on Taiwan during the past several years. Taiwan's dynamic economy is well known. But perhaps less well known are the remarkable political changes which have been occurring quietly, but continuously, over the past several years. Martial law was lifted in 1987, political parties have been formed, and press and public debate have been liberalized. All of this has been done in a peaceful, gradual but very significant way.

Many of these changes have been discussed in a recent article in the New York Times by Nicholas D. Kristof. I ask that his article entitled "A Dictatorship That Grew Up" be printed in the RECORD, and I commend it to my colleagues' attention.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 16, 1992]

A DICTATORSHIP THAT GREW UP

(By Nicholas D. Kristof)

Glancing surreptitiously over his shoulder at the crowded bar, Bo Yang lifts up a trouser leg. He points, with a grin, to a knob that juts from the flesh on his right knee. "There it is," he says. "When the weather cools abruptly, it gets all sore and I can't walk."

Bo Yang is 71 years old, maybe 72—he doesn't know his birth date—and his thick hair is speckled with gray. He is also a social critic whose essays about Chinese culture have made him one of the most famous writers in the Chinese language. He spent a decade in a Taiwan prison for supporting a more democratic society, and his knee was broken by police trying to get him to confess to being a Communist agent. The injury is an apt symbol of Taiwan's past; an era when the regime imprisoned, tortured and even killed dissidents, when elections were meaningless and when—or so Bo Yang came to believe during his incarceration—there was no great moral difference between Nationalist Party rule on Taiwan and Communist rule in China.

Bo Yang has plenty of reason to criticize the Nationalists, who are still in power, but this is how he now describes contemporary Taiwan: "China has 4,000, maybe 5,000, years of history, but it has never had an era like Taiwan today. There has never been a time when people were so wealthy or so free. Living conditions are so great! I'm just glad that my wife and I have lived to see this period. It's a golden age."

As he sees it, this "golden age" is not so much a cultural renaissance as it is the birth of political freedom in a Chinese context. Ever since Chinese civilization began some 4,000 years ago along the Yellow River, the state has been either autocratic or impotent. Today's Taiwan, with its endless political debates and hotly contested elections, is an exhilarating departure from that tradition, leading Bo Yang and many others to believe that Taiwan represents a triumph of Chinese civilization. Other countries ranging from Albania to Paraguay have also cast off their repressive governments, but one would be hard pressed to find any place on earth that has so successfully combined an economic miracle with a political one.

Just a few years ago, Taiwan newspapers were still controlled by the Government, and people hesitated to say openly that the island should declare itself a separate country, independent of mainland China. Today, newspapers are essentially free to say what they want: one opposition paper greeted the selection of the present Prime Minister with a banner headline that contained an expletive. Television remains nominally state-controlled, but the authorities ignore a widespread though illegal cable system (including a "democracy channel") that sometimes broadcasts anti-Government programs and even mainland Chinese television news.

Like much of Eastern Europe, Taiwan has endured four decades of authoritarian rule based on a Leninist party structure. Generalissimo Chiang Kai-shek, who fled to the island of Taiwan in 1949 with two million mainlanders after his defeat by the Communists, had been an ardent student of the Soviet Union in the early 1920's and sent his eldest son, Chiang Ching-kuo, to study there. When the autocratic old man died in 1975, Chiang Ching-kuo became the leader of the Nationalist Party, the Kuomintang, and, under pressure at home and abroad, launched the democratization process shortly before he died in 1988. Since then, the pace of change has gathered momentum, the transformation—unlike that in Eastern Europe—accomplished by evolution rather than revolution.

There is another contrast with Eastern Europe: Taiwan is rolling in money. The business district in northeastern Taipei, the capital, is a forest of gleaming office towers interspersed with flamboyant nighclubs. The hotels are palatial (the Grand Hyatt has an underwater sound system in its pool) and the only vagrants are young American street musicians.

American guitar players panhandling in Taiwan are not the only sign of the way the world has turned upside down. Today, Taiwan has $82 billion in foreign exchange reserves—more than the United States, Japan or any country in the world. It has signed a tentative agreement to buy 40 percent of the commercial aircraft operations of the McDonnell Douglas Corporation for some 32 billion. Taiwan's people, many of whom were peasants a few decades ago, today have per capita incomes of about $10,000 a year, making them better off than Spaniards and Greeks and incomparably better off than Poles or Czechs or Russians. Even during the present international slowdown, Taiwan's economy is growing at the rate of 7 percent a year and unemployment is steady at 1.4 percent.

Ostracized as a political embarrassment for more than a decade, Taiwan these days is being courted by foreign governments. It is the 13th biggest trader in the world economy, slightly ahead of China, and it plans to spend $300 billion on infrastructure as part of a six-year development plan in the 1990's. That will include money for highways, railroads, subways, power plants and sewage systems (the kinds of things that the Nationalists neglected when they were focusing on recovering the mainland). This package is three times the $100 billion often projected as the cost of rebuilding Kuwait, and makes Taiwan a key market for international construction companies.

With its economic tentacles spread throughout Asia, Taiwan's impact on some countries rivals or even exceeds Japan's. In Vietnam, for example, Taiwan is the largest single foreign investor. Its greatest influence is over mainland China, which, by official reckoning, has a per capita income of about $350 a year. There, Taiwan economically and culturally exerts more influence than Japan.

Taiwan has long portrayed itself as a beacon of hope for the mainland, a view that was laughable during its repressive years. But that vision of itself is no longer a fantasy. Throughout the mainland, there is a yearning for the island's freedom and prosperity. In the last few years, the song captivating many Chinese has not been the "Internationale" but the breezy "Follow Your Feelings" by a Taiwan pop star, a leather-clad woman named Su Rui.

It may have lost the mainland, but Taiwan seems to have won the mainlanders.

On a warm December evening outside Lungshan Temple in the old section of Taipei, the streets are crowded with worshipers going to the temple to burn fake paper money so that their loved ones will have some cash in the next world, young men strolling toward the nearby lanes of brothels, elderly couples taking their grandchildren out for a bite of "stinking tofu," a popular snack.

This is also voting season, two days before Taiwan's first full election in more than 40 years. Voters will choose delegates to the National Assembly, which in the past was a rubber-stamp body that nominally chose the President but now is charged with revising the nation's Constitution. The Kuomintang forced the retirement, by the end of last year, of all of the aged legislators and National Assembly delegates who had been elected on the mainland and had served for four decades without facing re-election in Taiwan.

Soundtrucks from the Democratic Progressive Party, the main opposition, are cruising the streets, bellowing their denunciations of the Nationalist Party. The sides of the trucks are covered with slogans demanding a declaration of independence from China and the creation of a new country called the Re-

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public of Taiwan. Although this is technically seditious and illegal, the police pay no heed.

"You want to buy a video?" a hawker asks in Mandarin with a strong local accent, thrusting forward a handful of cassettes. "Good price!" He is selling from a table on the sidewalk, some 200 titles arrayed in front of him, about two-thirds of which are Japanese pornography (the occasional dialogue dubbed in Chinese). A few are American films or kung fu flicks and the remainder are political videos supporting the Democratic Progressive Party.

"A few years ago, the Kuomintang would've killed me for selling these, would've cut my head off," he says dramatically, drawing his hand across his throat. "But now it's no problem. The cops ignore us, and anyway, we vendors come out only at night."

The hawker, a squat short man, probably in his late 30's, suddenly realizes that this sounds like a tribute to the Nationalists. "It's not the Kuomintang that gave us this freedom," he lashes out furiously, spit flying wildly. "It's the Democratic Progressive Party that made all the sacrifices, that pushed the Kuomintang to give us this freedom. The Kuomintang leaders are tyrants, but finally they had to cave in and free us."

Several days later, on Dec. 21, the people of Taiwan voted and gave a 71 percent landslide victory to the Kuomintang. The election was marred by vote-buying, a Taiwan tradition, but it was nonetheless an astonishing victory for the Nationalists. It also marked a milestone in Taiwan's transition from autocracy to democracy.

The new National Assembly will meet next month to revise the national Constitution and choose a form of government for Taiwan. Despite some proposals for a parliamentary system or for establishing a Republic of Taiwan, drastic changes are unlikely. However, presidential power may be strengthened somewhat, and for selecting the president the conference is likely to adopt a variation of the American system of public elections followed by a vote in an electoral college.

In the meantime, Taiwan's people are agonizing over how they are to forge an identity for themselves without inviting an invasion from China. The omnipresent slogan used to be "Guang fu da lu" (Recover the mainland), but now most people on Taiwan wouldn't want to recover the mainland if they had the chance. A poll last fall showed for the first time that fewer than half of the island's 20 million people would like to reunify with China. Even the island's mainlanders—emigres and their children who together make up 15 percent of Taiwan's population—now seem as attached to Taiwan as to their native provinces.

"Sure, we're Chinese," says a local journalist. "But just because you feel a bond to your relatives doesn't mean you want them to move in with you. Especially if they're dirt poor."

A balding, energetic man named Hsu Hsin-liang is one reason for the political ferment in Taiwan. In 1979, Hsu was director of an independent new magazine that demanded democratic change. In December of that year, the magazine sponsored a rally calling for the protection of human rights. There were clashes with the police, and the Government cracked down. Thirty-eight people were arrested, tried and given sentences ranging from 10 months to life in prison, and torture was used in induce confessions that the rally was part of a Communist-backed insurrection.

The magazine's circulation manager, Lin Yi-hsiung, was badly beaten by interrogators, and when his mother saw his injuries she tried to contact Amnesty International. The next day, while the police kept Lin's home under 24-hour surveillance, someone entered and killed the mother as well as Lin's twin 7-year-old daughters. The killings are widely believed to have been arranged by senior officials. (Lin and the others who were arrested were released during the 1980's.)

Hsu avoided arrest because he happened to be in the United States, where he sought political asylum. In 1986, inspired by Corazon Aquino's triumph in the Philippines, he tried to return to Taiwan, but the authorities refused to admit him or arrest him, and he had to return to America. Hsu's supporters surrounded the airport and clashed repeatedly with riot police, who showed no compunction about clubbing protesters with their truncheons.

In 1989, Hsu returned successfully to Taiwan, served 8 months of a 10-year prison sentence for sedition and was released. Today, he is the 50-year-old chairman of the Democratic Progressive Party. "Our problem is the same as Ukraine's," says Hsu on a sunny morning in his office in downtown Taipei. In his gray pin-striped suit, he looks more like a business executive than a rebel. He acknowledges there is a risk of a mainland invasion if Taiwan declares its independence from China and proclaims a Republic of Taiwan, but he says this risk is greatly exaggerated. Lithuania and Ukraine, he contends, faced a similar risk when they first broached independence.

The Democratic Progressive Party made independence the major issue of the December campaign. One of its advertisements, in the Independent Evening Post, ridiculed the Nationalists' pretensions. It portrayed the Republic of China as "a babe that refuses to grow up" and presented the national flag as the infant's diapers. But the Nationalists fought back by suggesting that calls for independence amounted to inviting the mainland to invade.

The Nationalists' overwhelming victory seems a clear signal that, for now, the people favor the status quo: neither independence nor reunification. The status quo, notes Frederick F. Chien, the Foreign Minister, could probably be sustained for a long time.

Eleven hundred miles to the north, in Beijing, Tang Shubei is Taiwan's frustrated suitor. Tang, a genial man who wears well-cut suits and distributes a name card printed in the traditional Chinese characters used on Taiwan, is in day-to-day charge of China's courtship of Taiwan. In his office, across the street from the Zhongnanhai compound where China's politburo meets, he emphasizes that the mainland would like to reunite with Taiwan peacefully. But China, he says, reserves the right to use force to settle this "internal affair."

"If a stalemate continues, of neither independence nor reunification, then that is a matter of serious concern," Tang says soberly.

No one knows if China will resort to military action. According to one scenario, during the power struggles that are expected to follow the death of Deng Xiaoping, one of the factions—the Army, say—might provoke some incident in the Taiwan Strait. A blockade of Taiwan would force rival Communist leaders to unite behind the Army. In another scenario, Taiwan gradually moves toward independence, just as Lithuania and Ukraine did. If Taipei were to declare its independence, many Chinese in Beijing believe the Communists would then attack Taiwan or impose a blockade.

Few ordinary Chinese on the mainland would be enthusiastic about fighting a war with Taiwan, and military analysts contend that a conventional assault on Taiwan would be costly without necessarily being successful. But with China what is irrational and unlikely is not impossible. "The Chinese Communists sometimes do things that in the eyes of other people are not necessarily in their pragmatic interest," says Ma Ying-jeou, a Harvard-educated lawyer who is Taiwan's point man on relations with the mainland.

It is unclear how the United States or other countries would react if the mainland were to attract Taiwan. Taiwan is not a member of the United Nations, and China has a Security Council veto, so United Nations intervention would be unlikely. Moreover, nearly all countries around the world, including the United States, regard Taiwan as part of China and so might send Taipei their sympathies rather than their assistance, particularly if Taiwan were seen to have provoked the crisis by declaring independence.

The risk of conflict might be reduced if the United States and other Western nations made it clear that they would stand by Taiwan. But the United States has been afraid of offending China and has done little to improve diplomatic relations with Taiwan despite its democratization. Although European ministers freely visit Taiwan, American policy will not permit a Cabinet member to set foot on Taiwan. And Taiwan's President, Lee Teng-hui, a Cornell University graduate, has been pressured not to embarrass the Bush Administration by seeking to visit the United States.

Both the Communists and the Nationalists maintain that Taiwan is an inseparable part of China. If fact, Taiwan and the Chinese mainland, less than 100 miles apart at the nearest point, had very little to do with each other until a few hundred years ago. Chinese settlers began to move in substantial numbers to Taiwan in the 16th and 17th centuries, pushing the aboriginal population into the mountains. It wasn't until 1684 that China imposed sovereignty over Taiwan, and even then it was tenuous.

In the last century, Taiwan's history has been even more detached from that of the mainland. In 1895, after it was trounced by Japan in the Sino-Japanese war, China was forced to cede Taiwan to Japan, recovering it only in 1945 after World War II. But after the Communist victory four years later, in 1949, the Nationalists turned Taiwan into a refuge for their rival Government.

President Harry S. Truman refused to protect the fleeing Nationalists, and the Communists prepared for an invasion of Taiwan that very likely would have succeeded. What saved Taiwan was the Korean War. After the Communist invasion of South Korea, Truman reversed himself and sent the Seventh Fleet to protect Taiwan.

From 1949 until the early 1970's Taiwan—calling itself the Republic of China and benefiting from the anti-Communist climate of the cold war—occupied China's seat in the United Nations and was recognized as China by most of the world community. But it became increasingly absurd to have the island of Taiwan represent the Chinese mainland, and more and more countries switched recognition to "Red China." In 1971, the United Nations seat went to Beijing. By 1979, even the United States recognized the People's Republic of China and severed diplomatic relations with Taiwan.

Despite the lack of international recognition, Taiwan has maintained its trading network around the globe, and its economy continues to boom. Testifying to its chaotic and uncoordinated growth is Taipei. Not all of the capital is as glossy as its business district, and many parts of the city are downright ugly: sidewalks are cracked, shops signs fight for space overhead and the haze of automobile exhaust hangs in the air. Taiwan's economy depends not on a few conglomerates, as is the case with South Korea, but on hundreds of thousands of mom-and-pop shops and factories making everything from clothing and processed foods to electronics and plastics. The proprietors work day and night, cheat on their taxes, reinvest their earnings, and fight for export markets.

Political liberalization took off after the 1986 elections. The Democratic Progressive Party, while nominally illegal, was allowed to compete in the local elections and did better than expected—jolting the leadership into hastening the pace of reform. Martial law, imposed in 1949, was lifted in 1987, and the press and public debate became less and less restricted. Political parties were formed, protest marches became common, most of the political prisoners were released and many exiles were allowed to return.

During democracy's infancy in the late 80's, the opposition offended many members of the middle class by resorting to physical violence on the floor of the legislature. Frustrated by the dominance of aged Nationalists who never had to seek re-election, the opposition felt that force was the only way to block votes or have an impact.

Ju Gau-jeng, a pudgy young Taiwanese legislator who had earned a doctorate in philosophy in Germany, won the nickname Rambo for his pugilistic confrontations with ruling party legislators. Ju has now given up fistfighting, saying that such tactics are no longer appropriate under a democracy.

A former Democratic Progressive Party member who is now trying to form his own opposition party, Ju explains that the opposition was brutalized by the Nationalists for so many years that it became radicalized and does not always act rationally. The former political prisoners who dominate the Democratic Progressive Party, he says, do not have ordinary friends or values. He adds: "Whenever anyone disagrees with them, they say: 'Where were you when I was in prison? My wife and my children left me. What right do you have to oppose me?'"

Still, both sides seem to have mellowed over the last year or so. The Democratic Progressive Party has enough hope of eventually assuming power that it seems to be moving gradually into the role of a loyal opposition and waging its battles mostly with megaphones rather than fists.

In the meantime, the Government has abandoned most of its restrictions on contacts with the mainland. There are still no direct flights between Taiwan and China, but Taiwanese are free to travel to the mainland via Hong Kong, to telephone people there and to conduct business on the other side of the Taiwan Strait. While Taipei still refuses to negotiate directly with Beijing, it periodically sends private emissaries there with verbal messages for China's leaders.

Paradoxically, as Taiwan's pretensions of ruling China are withering, its influence is increasing. Mainland Chinese intellectuals search for lessons in Taiwan's democratization that can be applied in Beijing. Teenagers emulate Taiwan fashions and save their pocket money to buy tapes of Taiwan singers like Su Rui or books by Taiwan writers like the late San Mao. Along the coast of Fujian Province, ambitious workers pay smugglers hundreds of dollars to be taken to Taiwan where they can find jobs as laborers or prostitutes. Even the language is under assault: Taiwan expressions and the traditional Chinese characters used in Taiwan and Hong Kong (abandoned 40 years ago by the Communists, who thought simplified characters would promote literacy) are making a comeback throughout China.

People on the mainland have become much more aware of living standards on Taiwan since 1987, when the island first allowed its citizens to visit China. Last year, a million people from Taiwan visited the mainland, and bilateral trade (which Taiwan requires to be conducted through Hong Kong) amounted to more than $5 billion. Taiwan companies have established some 2,800 factories in China, moving entire assembly lines in industries like shoemaking offshore to low-wage areas in Fujian Province. The result is that among the 30 million people of Fujian, and to a lesser extent throughout China, it is the mainland that increasingly seems to be falling into the orbit of Taiwan, not the other way around.

"When the Taiwanese go back to Fujian, and when the people of Hong Kong go back to southern China to visit relatives, and they have their fancy shoes and fancy clothes and fancy luggage, that's the most subversive thing of all," says Andrew J. Nathan, a China scholar at Columbia University. "It contributes to the lack of confidence on the part of people within the mainland about the system that they're living under."

Taiwan still has some way to go before it is fully democratic, but the island is clearly moving in that direction. It is a rare example of a dictatorship that grew up. Other countries overthrew tyrants, but in Taiwan it was the despots who appear to have turned into democrats.

How did that happen? And is there hope that the Chinese mainland can evolve in a similar way?

Analysts in Taiwan cite several factors that together hastened the process of change. One was economic growth and increasing contact with the United States and other countries. Another was embarrassment at criticisms from abroad for its human rights violations. Perhaps even more important was education. Forty years ago, only 34 percent of Taiwan's primary schoolchildren went on to high school; now all do. Today, there are more than 10 times as many high-school students as in 1952 and more than 40 times as many university students as there were then. In the Confucian tradition, Taiwan values education like almost no society on earth, particularly higher education in the United States. Consequently, some 53 percent of Taiwan's Cabinet ministers now have doctoral degrees from the United States.

These factors are also present in mainland China, though to a much smaller degree. Therefore, some Chinese and foreigners are hopeful that China may be traversing a similar path. The Taiwan model, for all the differences with the mainland, at least is an intriguing reminder that poor and repressive Chinese states can evolve rapidly and peacefully toward democracy and prosperity.

There is one crucial difference, however. After the Generalissimo's son Chiang Ching-kuo died in 1988, power on Taiwan passed to younger technocrats who had little memory of China's civil war and were uninterested in ideology. They were the agents of change. On the mainland, power is firmly in the grip of Deng Xiaoping and other octogenarians of the civil-war generation.

Question: What country around the world expanded its borders the most during the post-World War II era?

Answer: The Republic of China.

Although the Nationalist Government lost 96 percent of its territory in 1949 when it fled to Taiwan, it never acknowledged that loss. Instead, in 1953 the Kuomintang even "reclaimed" all of Mongolia, which in the 1940's it had allowed to spin off as an independent country. Taiwan is reluctant to give up its claims to mainland territory, but no one pays much attention to what exists on paper. Taiwan businesses are accustomed to keeping at least two sets of accounts, one for themselves and one for the tax auditors, and the Government seems to be doing the same.

When I lived in Taiwan in 1987 and 1988, studying Chinese, the myths still counted for something. The post office temporarily confiscated some books on Mao Zedong that an editor had mailed to me. At that time, the newspapers were still controlled and people hesitated to say openly that Taiwan should be independent. Technically, it is still illegal to advocate independence, and a few political prisoners remain behind bars for demanding independence. But to be arrested for sedition these days one practically has to stand with a megaphone and bellow pro-independence slogans into a police station's windows.

Although it persists in hanging on to some historical fictions, the Nationalist Government has finally come to grips with one horrific past event. For decades, Taiwan has been haunted by "two-two-eight"—the code word for the day in 1947—Feb. 28—when local Nationalist officials crushed an uprising by Taiwanese resentful of Kuomintang corruption and repression Estimates of the massacre vary widely, but George H. Kerr, then United States vice consul in Taipei, put the immediate death toll at 10,000 and said that another 10,000 or so were executed in the next few months. Memories of two-two-eight fuel the resentment some Taiwanese have long felt for the manlanders who came over with Chiang Kai-shek in 1949. Now that issue seems to have been largely defused by a Government-backed investigation of two-two-eight and by promise that a monument will be built to honor the dead.

To some extent, the antagonisms between Taiwanese and mainlanders have been healed by time. The children of mainlanders often speak Taiwanese and feel far more affinity with Taiwan than with the unseen mainland province that appears on identity cards as their "native spot." It has also helped that power has been handed over from the mainlanders to Taiwanese, people like President Lee Teng-hui, who is popular and shrewd politicians. To most people, his Taiwanese-accented Mandarin is easier on the ears than Chiang Kai-shek's Mandarin, which was sometimes rendered almost unintelligible by the accent of his native Zhejiang Province.

Hsu Hsin-liang, the opposition leader, also a Taiwanese, says that if he takes power he would like to close the Chiang Kai-shek Memorial Hall—a vast imperial-style building and park in the center of Taipei—and transform it into something else, perhaps a museum. But he acknowledges that Taiwan's ghosts have largely been exorcised: "Two-two-eight is over. In the 1990's, the big issue is democracy."

For both Taiwan and China, the bogeyman used to be Amnesty International, which campaigned for prisoners like Do Yang and still seeks to help those who have been imprisoned for their involvement in the mainland's 1989 democracy movement. Amnesty International now has a chapter in Taipei, with a 71-year old man as one of its most fervent members. Or perhaps he is 72. In any cases, in the new Taiwan, people like Bo Yang are no longer Amnesty International cases but Amnesty International members.

DEATH OF BENJAMIN N. DEZINNO, JR.

Mr. LIEBERMAN. Mr. President, last Thursday, February 27, the people of Meriden and the State of Connecticut lost a great public servant. Benjamin N. DeZinno, Jr., known to me and his many, many friends, as, simply, "Bennie," died of heart disease after a life full of good works for people.

Benjamin DeZinno served the people of Meriden as a State representative from 1975 until his death. I was honored to be in the general assembly with him during the great administration of Gov. Ella Grasso, and I had many occasions to work with him while I served as attorney general during the 1980's. I always found him to be smart, sensible, dependable, warm, and absolutely devoted to his hometown and his constituents.

Benjamin DeZinno was a tremendous family man, with a resolute faith in God and devotion to his Catholic religion. He represents some of the best traditions of the Democratic Party—concern for working people, compassion for the disadvantaged, respect for the average man and woman. Yet he reached out so effectively to people of all backgrounds that he had many friends in the Republican Party as well—so much so that in 1990, he achieved what has to be a public official's dream: Endorsement by both the Democratic and Republican parties in his community.

Mr. President, we will miss Bennie DeZinno, but we will always carry a part of his enthusiasm for public service—and for people—with us as we continue in our daily tasks.

I would like at this point to insert in the RECORD the text of two articles about Benjamin DeZinno that appeared in his hometown newspapers, the Record-Journal of February 28, 1992.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Meriden (CT) Record-Journal, Feb. 28, 1992]

BENJAMIN DEZINNO DIES

(By Peter Urban)

HARTFORD.—Benjamin N. DeZinno, Jr.—pharmacist, Christian and lawmaker—died early Thursday morning of heart disease.

A Meriden state representative since 1975, DeZinno was admired for his tireless devotion to his district and loved for his corny sense of humor.

"He did an awful lot to bring a lot of dollars to Meriden. I could list dozens of examples," said Meriden City Manager Michael H. Aldi.

DeZinno played a key role in obtaining state funds for downtown revitalization, repairing Kenmere Dam, Broad Brook reservoir, downtown's still-unfinished silver museum, and asbestos cleanup at Hanover Elementary School.

"He was a wonderfully humorous man. He always had a corny joke that you couldn't help but laugh at," Aldi said.

DeZinno, 67, died at 3:07 a.m. at Hartford Hospital with his family by his bedside. He had been in the hospital since Feb. 16.

DeZinno underwent double bypass surgery last February, missing three months of the legislative session. He returned in May to oppose the state income tax.

"I don't think he missed a day of the special session even though he was sick. He wanted to fight for what he believed in. I think they even sent a state trooper to get him a couple of times," said his son, Roger DeZinno.

But complications from the surgery persisted and in the last month his health began to fail. DeZinno had undergone a similar operation in November 1980 after suffering a mild heart attack on May 3, 1979, during an Appropriations Committee meeting.

"He didn't walk. He double-timed. That was his end. You can't keep that up. I told him to slow down but he couldn't," said Rep. Eugene Migliaro, R-Wilcott. "I chewed him out for running around like a chicken with his head cut off, trying to do everything. I really, really hate to see him go."

But DeZinno never did slow down.

"I could always take a more conservative approach, but having a goal keeps me going toward the zenith. It makes me determined to do it," DeZinno once said.

The pinnacle of his legislative career came in 1990 when his re-election bid was endorsed by both Democrats and Republicans in Meriden, said former City Councilor and Mayor Joseph J. Marinan, Jr.

"He was ecstatic when he got the dual endorsement. He thought that was the stamp of approval from his constituents. That pleased him to no end," Marinan said.

Rep. John Zajac, R-Meriden, said that DeZinno never cared about Democrats versus Republicans.

"He represented his district. His constituents always came first," Zajac said. "This is an irreplaceable loss for Meriden. There is a void that cannot be filled."

Sen. Amelia P. Mustone, D-Meriden, described DeZinno as a "hometown, citizen legislator."

"He will be sorely missed," she said.

DeZinno began his political career in 1964 as a member of the Meriden Board of Health. He was first elected to the 84th House District seat in 1975 and represented that district until his death. He lost just one election—a 1971 mayoral primary to Abraham Grossman.

DeZinno last served as vice chairman of the legislature's Finance, Revenue and Bonding Committee and was a member of the Public Safety Committee.

He had also served as co-chairman of the Public Health Committee and the Planning and Development Committee, and vice chairman of the Appropriations Committee. DeZinno was an assistant majority leader and served on the Blue Ribbon Commission on State Health Insurance.

"He was always first and foremost interested in Meriden," said former Housing Commissioner John Papandrea of Meriden. "He was always looking for things that would benefit the city."

Marinan described DeZinno as tenacious.

When the Kenmere Dam collapsed in 1987, DeZinno hoodwinked the chairman of the Finance Committee, which held the state purse strings, into visiting the site.

"He got Ron Smoko to come to Meriden on the pretense of dinner and then drove him out to the dam to see the damage," said Marinan.

It was a rainy Sunday and the three men trudged through the mud to see the dam. Marinan said he felt sorry for Smoko and embarrassed that DeZinno had pulled such a stunt.

"But it paid off. We got the money," Marinan said.

Mayor Angelo R. D'Agostino said that DeZinno never shied away from helping his constituents.

"Whenever anyone needed anything, he would call or visit," D'Agostino said.

DeZinno devoted much of his attention to health issues. In the 1970s he was one of the first lawmakers to address problems plaguing nursing homes in the state, according to Rep. Lawrence Anastasia, D-Norwalk.

As a member of the Public Safety Committee, DeZinno conducted legislative hearings over the state police handling of the March 1982 Ku Klux Klan rally in Meriden. The hearings eventually led to the resignation of Public Safety Commissioner Donald Long, according to Leo Donahue, state auditor.

"He never sought the easy committees" said Gardner Wright, a former state representative and one-time chairman of the state Commission on Hospitals and Health Care.

"Ben was sitting next to me when he had his first heart attack. We were bringing out bills on the Appropriations Committee deadline . . . I was surprised he continued to run and serve. I though that kind of scare would make him slow down, but he really was dedicated," Wright said.

DeZinno was always serious about helping his community and pushing issues he believed in.

"There was never a time that we had a conversation that he did not put his constituents first, especially in the areas of health, housing and education," said Democratic former Gov. William A. O'Neill.

A Roman Catholic, DeZinno believed that life is a precious gift. His religious beliefs carried over to the legislature, where he fought for antiabortion legislation and measures to lower the state's infant mortality rate.

"He was a strong advocate of prolife legislation—a great ally in the House," said former Lt. Gov. Joseph Fauliso. "He was truly a man of great character."

State Rep. Thomas Luby, D-Meriden, said that DeZinno's personality made him an effective lawmaker.

"He managed to remain popular with his colleagues despite disagreements," Luby said.

"He had a tremendous knack for relating to others," said Anastasia.

"He was one of the nicest people to deal with. He always said hello and asked how the family was," said Mark Dupuis, a spokesman for House Republicans and former legislative reporter for United Press International.

"It's remarkable. Even though he was a Democrat, everyone on the Republican staff is saying how much they will miss him," Dupuis said.

DeZinno was known for easing tensions with his humor.

"Ben had a great sense of humor. He was always able—in the midst of very difficult debates—to inject some humor and humanity," said Luby.

"He was a scootch at times," said Rep. Ronald Smoko, D-Hamden, a longtime friend. Their families often vacationed together. "The thing about Bennie's jokes was you could never remember them. Frankly, they weren't that good but when Bennie told them they were funny."

DeZinno was born in Waterbury, attended Crosby High School there, New York University, and the University of Connecticut School of Pharmacy. He served as a pharmacist mate in the submarine service attached to the Pacific Fleet in World War II.

He began working as a pharmacist in Meriden in 1950 and moved to the city in 1958. DeZinno owned Graeber's Pharmacy and Meriden Surgical Supply, both in Meriden.

On Sunday mornings, he could often be found in the back pew of St. Joseph's Church—across the street from Graeber's—dressed in his pharmacist's smock.

DeZinno is survived by his wife, Grace; three sons, Benjamin, Roger and William, all of Meriden; a daughter, Margaret Dorman of Florida; and five grandchildren.

DeZinno will lie in state at the Curtis Memorial Cultural Center on East Main Street. Visiting hours are Saturday from 6-8 p.m. and Sunday from 2-5 p.m. and from 7-9 p.m.

The funeral will be held Monday at 11 a.m. at St. Joseph's Church in Meriden.

[From the Meriden (CT) Record-Journal, Feb. 28, 1992]

"BENNIE": HIS BUSINESS WAS HELPING PEOPLE

(By Darryl Campagna)

MERIDEN.—To his friends, he was simply "Bennie."

But the colleagues, customers and longtime friends of Benjamin N. DeZinno Jr. recalled Thursday that behind the nickname and easygoing demeanor was a deeply religious humanitarian and a quiet activist.

"He was always there when people needed him and he was always quick to help," said Stacia Ritchie of Meriden, a friend and customer at DeZinno's West Main Street business, Graeber's Pharmacy. "Really, he loved people, and he had a deep feeling for humanity. I think this is what made the man."

Sam Kalmanowitz, owner of Kaye's Pharmacy on East Main Street, got his career start in Graeber's in his senior year of pharmacy school in 1961. He also worked there for a few months after graduating in 1962.

"He was a very innovative person, and he was always attempting to do everything he could for his customers and the public at large," said Kalmanowitz. "He worked long hours. I learned a lot from him, and he was one heck of a mentor."

It was not unusual to see DeZinno, a devout Roman Catholic, "dash across the street to St. Joseph's" for a celebration of Mass or a few minutes of private reflection, said Kalmanowitz.

Kalmanowitz wasn't the only one who got his start at Graeber's.

Former city councilor Joseph J. Marinan Jr. grew up near the pharmacy and remembered hanging out at the soda fountain as a child. DeZinno told him he could have a job in the pharmacy when he was 16 years old.

"I went down there on the day I turned 16 and I was working there that night," Marinan said.

Marinan worked for DeZinno through high school and college.

"One thing about Bennie—as a boss he never asked you to do something that he wasn't prepared to do himself. I remember one time he told us he wanted to rearrange the store and that we should be there at 11 p.m."

"He was there with us lifting cases and helping until we finished at 7 a.m. Then he took us out to breakfast. We went home to sleep but he went back to work at 9 a.m."

DeZinno bought Graeber's in 1950. The business also includes a surgical-supply store and a second pharmacy in the Meriden Medical Center on Cook Avenue.

Dedicated to both his profession and his community, DeZinno received one of the Connecticut Pharmaceutical Association's most prestigious awards in 1985, said Daniel C. Leone, the association's executive vice president. The "Bowl of Hygeia" award—named for the Greek goddess of health—recognized a pharmacist who excelled in civic work.

"He was a good pharmacist, an excellent legislator," said Leone. "He always thought about the health needs of the constituents and he always supported legislation to help the public when it came to pharmaceutical services."

DeZinno was instrumental in the creation of the ConnPACE program that helped elderly residents purchase prescriptions at low cost.

Marjory Shannon of Meriden first met DeZinno some 30 years ago when her late husband, John, worked as a state pharmaceutical inspector.

"Religion, creed, race and color made no difference to Bennie," she recalled. "I never heard of him turning anyone down for anything."

DeZinno himself took a quiet pride in remembering his constituents who didn't have a strong voice in the General Assembly. In December, he was interviewed for a Record-Journal article about new state House districts approved by the state Reapportionment Commission. DeZinno's 84th district was altered to include more minority voters.

In his interview, DeZinno talked excitedly about his plans to work with his new Hispanic constituents. They had been "outside looking in" for too long, he said.

"It makes my Democratic district more democratic," said DeZinno. "If you give people an opportunity to participate, they'll do just that. This is grand for them."

TRIBUTE TO FRED ACOSTA

Mr. DECONCINI. Mr. President, I rise today to pay tribute to a remarkable man and good friend, Mr. Fred Acosta, who passed away suddenly last week in Tucson.

I knew Fred for a long time, dating back to when we were classmates at Tucson High School and later, at the University of Arizona. Over the years, the Acosta and DeConcini stayed in touch although our busy schedules kept us from seeing one another often.

As the director of the Tucson Job Corps for the last 14 years, Fred provided guidance and friendship to many young people who sought assistance in obtaining job training and placement. What made Fred so effective in this role was his ability to be tough, yet kind. As a former marine, he could be a formidable presence fighting for the funding needed to establish a credible program. He lobbied hard on behalf of the Job Corps. He would often come to me asking for assistance. I was always happy to intervene on his behalf, confident that if Fred was asking, it was because some need within the community was not being met.

As a former teacher of intermediate and advanced special education, he was patient and compassionate with those who struggle to overcome life's obstacles, particularly minority and economically disadvantaged youths. I do not think we will ever be able to gauge the impact Fred had on these young people, or ever know how many individuals he inspired to make something of themselves. What I do know is that many a life has been graced by having known Fred Acosta.

His dedicated service extended to a variety of community interests. Active in the University of Arizona Hispanic Alumni, the American Red Cross, the Boy Scouts of America and the Tucson Diocesan Board of Education, Fred spent most of his nearly 50 years in Tucson devoted to serving the community. As deputy director of the Tucson Model Cities Program, he worked to improve Tucson's diverse neighborhoods through citizen participation.

Tucsonans lost a good friend when they lost Fred Acosta. Visitors to Fred's south Tucson office were often presented with a small chili pepper pin as a sign that you were his friend. For many, that is but a small reminder of a man who devoted his life to making Tucson a better place for so many people.

Our thoughts and prayers go out to Fred's wife, Norma; his three sons, Frederick, Ronald and Randolph; his daughter, Anna-Maria, and the members of the Acosta family.

NATIONAL ENDOWMENT FOR THE ARTS

Mr. PELL. Mr. President, regrettably, one of the agencies caught in the current crossfire of Republican politics is the National Endowment for the Arts. Rumors abound in the press that the very survival of this uniquely successful agency is in question. While the Bush administration may be equivocal in its support for the arts in America, I have not yet heard that it favors the dissolution of the NEA. The right and left wings have fought so hard there is no middle ground left and the unfortunate John Frohnmayer has found himself squeezed out of office.

It is imperative at this critical juncture that the true story of the Arts Endowment be told and retold. In this regard, it was heartening, indeed, to read the New York Times op-ed piece by Donald B. Marron on March 1, 1992, entitled "Don't Jeopardize the Arts." Here is a distinguished business leader, the chairman of Paine Webber Group, who fully understands how important the Arts Endowment is to our society. He presents the case for the NEA in clear and compelling terms. I welcome this piece by Mr. Marron and hope that others like him will come forward.

It is a pleasure to commend this op-ed piece by Donald Marron to my colleagues and ask unanimous consent that it be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DON'T JEOPARDIZE THE ARTS

(By Donald B. Marron)

Caught in the cross-fire of conflicting political interests, John E. Frohnmayer is leaving as chairman of the National Endowment for the Arts. As a result, the future integrity and very existence of the agency has been called into question.

Mr. Frohnmayer was a victim of his own management style. But the high-decibel controversy over a few small grants for art that many people called obscene obscures a crucial truth: the endowment is a vital investment in the cultural and economic health of America.

Creativity and quality of life are not just abstract concepts. The arts contribute directly to the education of young people and to the economic well-being of countless communities. And at a time when U.S. competitiveness in many areas is being challenged abroad and questioned at home, we should not undermine our position of genuine global leadership in cultural creativity and innovation.

The endowment has a strong record of success and excellence that has been largely ignored in the struggles that have plagued Mr. Frohnmayer's tenure. In fiscal 1991, it disbursed $119 million directly to arts organizations and cultural events in all 50 states; an additional $55 million went to state arts agencies. This broad dissemination of funds in turn created local economic activity totaling some $1.13 billion, or nearly 10 times as much in jobs, contracts and services.

This is not just support of the arts for their own sake. The arts directly and indirectly provide millions of jobs, stimulate tourism and contribute to the revitalization of our cities and towns.

Most endowment grants must also be matched at least dollar for dollar by non-Federal funds, thereby insuring that the agency serves not only as a source of direct support for artists and arts organizations but also as a catalyst for public investment in hometown cultural and educational resources. When we project this research and development activity over the 26 years of the N.E.A.'s existence, we can begin to understand the impact it has had on our society.

To manage its programs, the agency has in place a system of peer panel review in which every grant is evaluated by professionals in the field; some 1,200 panelists participate in the process annually.

The role of the chairman should be to allow this process to proceed unhampered by extremists—in the arts or in politics—to guarantee that all sides are heard and to insure that informed judgments are ultimately made. As in all democratic processes, it is impossible to reach decisions that satisfy all of the people all of the time. I have not agreed with all N.E.A. decisions but believe its performance has been intelligent and sound.

Media coverage of the endowment suggests that most funds go to controversial artists. Actually, the vast majority go to small regional organizations throughout the country as well as to American institutions of international standing. The endowment awards more than 4,200 grants from about 18,000 applications received each year.

We should do everything we can to prevent jeopardizing the integrity of the process under which the endowment should function. Nothing should undermine the ability to fulfill its mission effectively. I am confident that President Bush will appoint a new leader who will build on the N.E.A's distinguished traditions. Meanwhile, artists and audiences have an obligation to rise above the political fray and uphold the commitment to artistic creativity and to the endowment that preserves our national cultural pride.

TROUBLING NEWS FROM NAGORNO-KARABAGH

Mr. PELL. Mr. President, I am deeply dismayed by the recent reports from Armenia and Azerbaijan. The withdrawal of the remaining Soviet troops from Nagorno-Karabagh apparently has helped to spark a new round of fighting between Armenians and Azerbaijanis, including a fierce and deadly battle in the town of Khojaly. As the troops pull out of the region, they are reportedly leaving behind stores of weapons, which many fear could be used by both sides to bring the violence to a new and terrifying level.

Sadly, Armenia's attack on the Azerbaijani populated area of Khojaly began last week on February 25. In an ironic—and perhaps tragic—twist of fate, this date coincides with the third anniversary of the massacre at Sumgait, where more than 30 Armenians were killed by Azerbaijanis in 1989. Both Armenia and Azerbaijan fear that the conflict could escalate even further after today's report that an Armenian helicopter carrying civilians was shot down by Azerbaijan.

For the last 4 years, the region has been the site of untold suffering and bloodshed. The Armenian population of Nagorno-Karabagh—as well as the people of Armenia itself—have been subjected to an inhumane blockade by Azerbaijan. In recent months, Azerbaijan has reportedly attacked Stepanakert, Nagorno-Karabagh's capital, with GRAD missiles, forcing much of the population to live underground.

In January, I visited Armenia, and I was deeply moved by the accounts that I heard about the situation in Nagorno-Karabagh. I met with victims of the conflict with Azerbaijan—Armenian refugees from Baku—who had been forcibly removed from their homes in Azerbaijan. I experienced first-hand some of the effects of Azerbaijan's blockade against Armenia, which has cut off food and fuel supplies, forcing black-outs and heat outages in Yerevan. I returned to Washington convinced that something more must be done to bring about a resolution to the conflict. I believe we must put the Nagorno-Karabagh issue on the U.S. administration's as well as the international community's agenda, and I have taken several initiatives toward that goal.

Shortly after my return to Washington, I met with Baroness Cox, a member of the British House of Lords. Baroness Cox brings a great deal of objectivity and compassion to the issue, and I was greatly moved by our discussion. Her reports of the suffering of the Armenian population in Nagorno-Karabagh are truly compelling, and I ask unanimous consent that an article on the subject by Lady Cox from the Washington Post of Sunday, March 1, be printed in the RECORD upon the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PELL. Mr. President, I must say that as an old friend of Armenia, I am deeply saddened by the reports coming from Nagorno-Karabagh in the past few days. I am particularly disturbed by the gruesome pictures of dozens of corpses—men, women and children—victims of what Azerbaijanis say was a massacre by Armenians. The Armenian Government has denied that Armenian militants killed 1000 people in the Azerbaijani-populated town of Khojaly last week, but Azerbaijani officials and eye witnesses charge otherwise.

Mr. President, the footage we have seen on the news this week raises serious questions about what exactly occurred. The Azerbaijani town of Khojaly may in fact have been the staging area for attacks on Armenians, but that does not in any way justify the indiscriminate killing of Azerbaijani civilians in retaliation. If that is indeed what happened, these actions must be strongly condemned.

Mr. President, earlier this week, both Armenia and Azerbaijan became new members of the United Nations. Last month, both countries were admitted to the Commission on Security and Cooperation in Europe. Armenia and Azerbaijan must take seriously their membership in these organizations and accept the responsibilities—including adherence to human rights standards—that go along with their membership.

Indeed, both the United Nations and the CSCE are appropriate fora in which to address the Nagorno-Karabagh issue, and I believe that we must seize every appropriate opportunity to seek an end to the escalating conflict. In this regard, the Russian Foreign Ministry is reportedly sending a representative to the region to continue negotiations begun last fall by President Yeltsin. The Russians understand well that the Transcaucasian conflict has grave implications for the entire region. I believe that the United States must do what it can to support these and other efforts aimed at ending the bloodshed.

[From the Washington Post, Mar. 1, 1992]

FIGHTING IN THE CAUCASUS: SAVING "EDEN" FROM ITSELF

(By Caroline Cox)

Nagorno-Karabakh, a land of rugged mountains and wild beauty, should be a contemporary Garden of Eden. Instead it is man-made hell, besieged and bombarded with a daily toll of casualties and death.

This beautiful enclave in the Transcaucasian region of the former Soviet Union is inhabited by about 200,000 people—about 80 percent of them Christian Armenians and 20 percent Muslim Azerbaijanis. Despite the majority Armenian population, Azerbaijan, whose territory surrounds Karabakh, was given control of the area by Stalin nearly 70 years ago. The historic cultures of the two peoples are enshrined in monasteries, churches and mosques, many of which were destroyed or desecrated during the communist era. Those which remain are now being destroyed in the bitter new conflict.

The peoples of the enclave coexisted in relative peace throughout the Soviet period, but violence erupted four years ago when Armenian leaders in Karabakh demanded reunion with Armenia, which Armenia supported and Azerbaijan opposed. There have been numerous changes in the political situation of the enclave since then, culminating last year with a referendum on independence from Azerbaijan, which easily carried and was promptly rejected by the Azerbaijanis. Repeated calls for a political settlement and pledges to negotiate have gone virtually nowhere.

Meanwhile, fighting has continued between Armenian militia and relatively well-equipped Azerbaijani forces. It is estimated that about 1,000 have died in the four years of skirmishes and battles, the most protracted ethnic violence in the former Soviet Union.

Repeated attempts by outsiders to mediate the dispute have failed. Just last week, a mediation trip by Ali Akhbar Velayati, foreign minister of neighboring Iran, apparently foundered after fighting escalated around Stepanakert, the regional capital. The military power on both sides seems to be escalating as well: Azerbaijanis have used devastating "Grad" rocket batteries that can fire 40 missiles in a volley; Armenians reportedly used attack helicopters for the first time last week. In a sign of the worsening situation, the commander of the armed forces of the Commonwealth of Independent States (CIS) has ordered military detachments in Karabakh to withdraw to avoid being drawn into open combat.

The suffering of civilians in this remote region is of world concern. Despite the difficulties of getting into Karabakh, I have been there five times since last May, most recently in January. What I saw dismayed me.

Conditions in Stepanakert were appalling. The hospital and maternity unit have been shelled. Babies are born in the basement beneath the Town Hall. Many are premature and many mothers have inadequate milk, but there are no supplies of baby formula. Electricity has been cut off by the Azerbaijanis, so there is no heat or light. Supplies of candles are running out. Running water has been cut off, causing sever sanitation problems and forcing people to queue for hours to fill buckets with potable water. As spring comes and the temperature rises, there will be the risk of epidemic. Because of constant sniping and shelling, women and children live underground in dark, unheated, unventilated cellars and basements. While I was in Stepanakert, 53 rockets fell on the city in one night.

In many villages the situation is as bad. Crops could not be harvested because of the constant gunfire; livestock have been stolen. In one village, Khramot, nine civilians were killed and 33 houses damaged or destroyed in an Azerbaijani attack. Two other residents were found later, dead of exposure in the woods where they had fled.

There is urgent need for a ceasefire and substantial humanitarian aid. An Azerbaijani blockade has prevented desperately needed food, fuel and medicine from reaching most of Karabakh's people. Although Azerbaijani President Ayaz Mutalibov agreed last September with the presidents of Russia, Kazakhstan and Armenia that the blockade would be lifted, hostages released and efforts made to achieve a ceasefire, none of this has occurred.

The Conference on Security and Cooperation in Europe (CSCE) meeting in Prague earlier this year agreed to send an urgent fact-finding mission to the region. However, the escalating warfare has stalled this effort. Meanwhile, Mutalibov has publicly declared he will be "merciless." Whatever its recent gains, there is little reason to think that the relatively small and ill-equipped Armenian self-defense force can ultimately prevail against such larger Azerbaijani forces.

Every effort must be made to forestall widening military conflict. International observers, humanitarian aid and pressure on both sides to desist from military escalation are all urgently needed.

A United Nations peacekeeping force could play an invaluable role. Unfortunately, a spokesman for Mutalibov recently told a CSCE hearing in Washington that Multalibov will not agree to this, asserting that Azerbaijan can settle the matter "internally." The United States and the world community must encourage Multalibov to moderate this declaration, especially as Azerbaijan is currently seeking membership in various international bodies.

Although Secretary of State James A. Baker III, during his recent trip to the former Soviet Union, received Azerbaijani assurances that they will seek peace in Karabakh, the United States could still use its influence in many ways:

Washington could urge the CSCE to send a new delegation as soon as possible to the two sides as a deterrent to military escalation.

Bills recently introduced in both houses of Congress could send powerful signals that military "solutions," are not acceptable and that continued use of force will prompt unsympathetic responses to requests for economic aid.

Support could be offered to Russian President Boris Yeltsin to encourage him to persuade Multalibov to honor commitments he made in the communique of last September.

With a ceasefire, humanitarian aid could be airlifted into the region. Such a Western airlift to other parts of the former Soviet Union has brought a sense of reassurance to the outlying regions that the West is eager to assuage the hardships of the new era.

Azerbaijan should be required to allow free access to all communities in Karabakh and to allow human rights groups to visit prisoners and check on the conditions of their imprisonment, especially in view of disturbing reports of brutal maltreatment of Armeanians in Azerbaijan prisons.

Karabakh is a flashpoint that could ignite into a major conflagration. Finding peaceful solutions to this ethnic strife would not only prevent incalculable suffering but also serve as valuable precedents for numerous other danger points throughout the world.

IN HONOR OF SENATOR S.I. HAYAKAWA

Mr. HATFIELD. Mr. President, last week the country lost one of its most valued thinkers of recent years. Former Senator S.I. Hayakawa was indeed a controversial figure in the political realm. Having known the Senator during his tenure here, however, I do believe that this label hardly bothered him in the least. Rather, I think he thrived on it. I rise today to ask this body to remember a man who had the strength of character to fight unabashedly for what he believed in and for what he felt in his heart was in the best interest of our Nation.

Senator Hayakawa is probably best remembered for an understanding of semantics which was, I daresay, beyond the match of most of his colleagues. He was a tremendous scholar in the realm of linguistics, publishing nine textbooks in the area. Yet despite his fascination with the nuances of the languages of the world, Senator Hayakawa insisted that English become the official language of the United States and that those who come here learn to speak it. One would not expect the son of native Japanese parents to take this position, let alone to fight so doggedly for it. But what Senator Hayakawa valued most in the world, Mr. President, was this Nation avoid at all costs the violence and, in some cases, bloodshed that plagues countries divided by their languages. He was well-aware of the often devastating consequences of attempting to operate a country in two or more languages: tongues are easily more forceful than guns, Mr. President. The United Nations can function beyond the barriers of language but I know of few other organizations that have fared so well.

While Senator Hayakawa may not have won the votes of all of his colleagues in support of the issues he advocated, he most certainly won their respect. Despite his often controversial stances, Senator Hayakawa challenged each one of us to consider deeply in our hearts what it means to be an American. For this and for the fiery spirit which those of us who knew S.I. Hayakawa remember him by, I extend my heartfelt sorrow that he is gone. We will do well to remember the issues for which he fought.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

The Senate resumed consideration of the motion to proceed.

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours remaining on the motion to proceed to the consideration of S. 1504, with 10 minutes under the control of the Senator from Hawaii [Mr. INOUYE] and 110 minutes under the control of the Republican leader or his designee. Who seeks recognition?

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. Mr. President I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator is recognized as if in morning business for up to 5 minutes.

(Mr. AKAKA assumed the chair.)

Mr. LIEBERMAN. Mr. President, I thank the Chair and I thank my distinguished colleague from Hawaii.

THE ANNIVERSARY OF THE GULF WAR CEASE-FIRE AND THE NEED TO SET A NEW DEADLINE FOR SADDAM HUSSEIN

Mr. LIEBERMAN. Mr. President, it was 1 year ago last Friday that American and allied forces ceased their fire on the army of Saddam Hussein, and the end of Operation Desert Storm was proclaimed. It was—and remains—a tremendous moment in our Nation's history, a genuine and worthy cause for pride.

Of course, there are revisionists who denigrate the war and the heroic accomplishments of those who waged it. And the deep troubles of our economy may obscure, for the moment, the war's true meaning. But had Desert Storm not been unleashed against the forces of Saddam Hussein in the gulf, there is no doubt in my mind that our recession would be much worse, and the world would be dealing with a dictator in Iraq who had at his grasp the capacity to wage nuclear war. Because Desert Storm did occur, we are a safer world, thanks to the courage of those who fought in it, especially those who fought and died.

Yet our euphoria is tempered on the occasion of this anniversary because we know that the work of Desert Storm will not actually be completed until we achieve total victory over Saddam Hussein himself. In considering the sacrifice of those who died, we are reminded of Lincoln's words at Gettysburg: "It is for us, the living, rather to be dedicated there to the unfinished work which they who fought here have thus far so nobly advanced."

The unfinished work is represented by the person of Saddam himself. His power has been tremendously cut by our bombs and rockets and tanks and gunfire, and by the embargo that continues to deprive him of many goods and much money. But if we abandon our determination to achieve total victory over Saddam, if we neglect the unfinished work of the gulf war, we will allow him to reinvigorate his capacity to wage war—a capacity which he will, no doubt, exercise at the appropriate time to fulfill his dreams of conquest.

To those who doubt that Saddam should be dealt with now, consider this:

Iraqi officials this week said the lives of U.N. inspectors may be in danger from angry Iraqis. We all know that any attacks against U.N. inspectors would only result from direct orders from Saddam Hussein himself. We must view the words of the Iraqi officials in that light—not as a friendly warning, but an ominous threat from the dictator's lips.

United National inspectors report that up to 20,000 people were involved in Saddam's nuclear weapons programs—20,000 people who are still in Iraq. At the right time—namely, the minute our grip on Iraq is loosened, Saddam will issue a back-to-work order, and they will surely resume the deadly task in which they had been so successfully engaged. Already, he has reportedly reinstated his son-in-law—Gen. Hussein Kamel al-Majid—as head of Iraq's arms and oil industries. He is the same man responsible for Iraq's secret campaign to develop a long-range nuclear and chemical weapons capability. Make no mistake: If we leave Iraq alone, it will create a nuclear bomb. And if Saddam has the bomb he will use it.

U.N. human rights official Max Van der Stoel recently charged the Iraqi regime with having the worst human rights violations since World War II. New evidence give credence to accusations that Saddam was engaged in the wholesale slaughter of Kurdish civilians in the alter 1980's. And fears are widespread and well-founded that Saddam will not hesitate to resume the slaughter—against Kurds and Shiites and others—once we look the other way. Today, in fact, Iraq's brutal defense minister, Ali Hassan al-Majeed, who masterminded attacks on the Kurds in the 1980's, is stepping up an attack on dissent within Iraq, and has told the army to be alert against what he called foreign lackeys.

Saddam has refused to allow outside agencies to relieve the suffering of the truly innocent Iraqi people—especially the children, who have paid a terrible price for Saddam's intransigence. Iraqi's propaganda machine churns out stories about the plight of Iraqis, ignoring the fact that Saddam is believed to control billions of dollars hidden around the world—funds that he uses to keep his clique well fed and in power.

Saddam has balked at complying with the U.N. resolutions that call for the destruction of his weapons of mass destruction. Iraqi officials have said they do not want to cooperate unless the United Nations relaxes its embargo, and they claim they are not obligated to destroy their ballistic missile factories. The Security Council is now awaiting the arrival of an Iraqi delegation led by Tariq Aziz on March 11 to determine whether Iraq will comply with these crucial resolutions. But it is fair to say that, thus far, Saddam has displayed the same kind of arrogant disregard for the rule of law that led Iraq to invade Kuwait 18 months ago.

Saddam has thumbed his nose at U.N. resolutions calling for the return of all prisoners of war and confiscated military equipment. More than 1,000 Kuwaiti men and women are missing—and believed to be in the hands of Iraqi captors. Needless to say, last week's 1 year anniversary brought little joy to the families of those missing Kuwaitis. Indeed, Kuwait's ambassador sent us a message last week, in which he said celebration of Kuwait's liberation was suspended out of concern for that nation's POW's. And Saddam still holds the keys to more than 200 British tanks his troops removed from Kuwait, and 150 advanced Hawk missile systems, which could be deployed against American planes.

In short, we have no sign—no sign whatsoever—that Saddam has changed, has repented, has learned any lessons in the year since the gulf war hostilities came to an end. Just look at the recent newsletter from the Iraqi defense ministry, which loudly proclaims Saddam's military genius in leading what they still call the Mother of Battles. Saddam himself had recently said of the Shiite opponents of his regime, "I want the doors to be opened and * * * machine guns to emerge from them to chop off their treasonous heads." We cannot reward the obstinacy of his evil with any lessening of effort to remove him. As Franklin Roosevelt said to Hitler, "No man can tame a tiger into a kitten by stroking it. There can be no appeasement with ruthlessness. There can be no reasoning with an incendiary bomb"

There can, in fact, be no final end to what Saddam has wrought since August 2, 1990, until Saddam himself is gone from power.

Last year, as the cease-fire took hold, and as Kurdish and Shiite revolts began, we missed opportunities to further weaken—and possibly eliminate—Saddam Hussein. We missed opportunities—but we have not lost them altogether. That is why I believe we should take action through the United Nations as follows:

First, no easing of sanctions while Saddam rules. The Security Council should firmly reject Iraq's proposal to negotiate a phase-out of sanctions in exchange for a promise to destroy weapons of mass destruction. No deals with this devil. Keep the sanctions on.

Second, to give the sanctions more bite, U.N. inspections of traffic between Jordan and Iraq should be established. It is believed that the gates of trade between these nations have been opened wide. A crackdown will hurt

Saddam where it counts. Saddam's own embargo of the Kurds within Iraq is tighter than the U.N. embargo of his regime. I urge the President to make the embargo a top priority in his upcoming talks with Jordan's King Hussein.

The sanctions can also be supplemented by seizure of up to $5 billion in frozen Iraqi assets, a move now being considered by the Security Council. We should also accelerate our search for additional, hidden assets around the globe.

Third, because we know that Saddam is capable of brutal human rights abuses against innocent Iraqi people—U.N. human rights inspectors should be stationed throughout Iraq, especially in Kurdish and Shiite territories to monitor the behavior of Saddam's regime. Their right to travel where they need to should be backed up by the military.

Fourth, American support of Iraqi opponents to Saddam—Kurdish, Shiite and Sunni—should be expanded at both the official and covert levels. We can look to the thousands of Iraqi soldiers who refuse to return to Iraq for signs of a nascent anti-Saddam force. There are also elections coming up in the Kurdish region that we should encourage and protect. We must make clear our willingness to support all serious dissident groups in their efforts to undermine Saddam's dictatorial regime.

Fifth, consideration should be given to granting recognition to a provisional government, comprised of Kurds, Shiites and Sunnis, and protecting that government's existence in areas of Iraq outside of Saddam's control. It is unclear at this date whether the various opposition groups can find common ground, but we should give them every opportunity to do so, and demonstrate that we are prepared to flood such a new regime with diplomatic, moral and material support. Saddam's outlaw regime deserves no measure of respect or recognition from the civilized world.

Sixth, we must do all we can to covertly assist any significant effort to topple Saddam Hussein from within. That might include equipping Kurds with weapons with which to protect themselves against Saddam's forces. The more we can strengthen the Saddam-free zones of Iraq, the easier we can weaken Saddam himself. And we should lend whatever high-tech support we can—satellite phones, fax machines, night vision equipment—to allow Iraqi dissidents within territory Saddam controls to survive and flourish.

Seventh, because Saddam Hussein understands nothing less than the use of force, we should give him a new deadline. He routinely forces the United Nations to give him deadlines for compliance with specific requests, such as last Friday's deadline in connection with the destruction of Scud factories—a deadline Saddam ignored. I believe the time may be right to put all our specific demands into one overall ultimatum: a date certain by which he must provide immediate, broad, and complete compliance with every U.N. resolution, or face the prospect of air attacks again. Saddam knows our mastery of Iraqi airspace is complete, and he knows many of his forces are exposed, and far away from civilian sectors.

Eighth, in setting such a date, it must be clear that we have the power and the willingness to act if Saddam does not back down. We can begin by sending more air power to the region, to back up our words with the capacity for action.

Ninth, we can then improve our inspection and destruction of Saddam's chemical, biological, nuclear, and ballistic missile capabilities. In view of the resistance they have experienced whenever they get close to new and dangerous sites, U.N. inspectors should have heavily armed escorts when necessary.

Tenth, American surveillance flights over Iraq should be supplemented by flights of combat aircraft as a vivid reminder to Saddam that we are fully capable of keeping him in check—and a reminder to Saddam's opponents within Iraq that we mean business.

Eleventh, we should make clear to Saddam, in no uncertain terms, that if any major offensive occurs against Kurdish or Shiite populations, we will strike, hitting his helicopters and his tanks from above, which he knows we can do so well. Any military offensive Saddam launches against his people should also be met with full-scale electronic warfare, inhibiting his ability to control his forces.

Twelfth, efforts to try Saddam Hussein and his henchmen for war crimes should be revived. The European Community called for such action after the gulf war, and this body went on record in support of war-crimes trials. The evidence of Saddam's crimes against humanity is enormous, and any failure to pursue him as the international criminal he is only dilutes the force of international morality, which was at the heart of the gulf war itself. Some might argue that war-crime trials are merely symbolic without Saddam in the dock, but symbols are important in matters such as this. We must not let the world forget what a monster we are dealing with.

The path I have outlined is not neat; it is not easy. It is not a path without risks. But, I would argue, it is far riskier to do nothing. As FDR said more than 50 years ago, "normal practices of diplomacy are of no possible use in dealing with international outlaws."

Mr. President, while we observe this first anniversary of the gulf war with quiet pride and honest recognition of the unfinished work before us, Saddam Hussein observes it with martial music and perverted celebration of his victory. Let us here dedicate ourselves as Lincoln said, to the "unfinished work so nobly advanced" by those who fought the gulf war, so that on the occasion of the second anniversary of Desert Storm, next year, we might join with the liberated peoples of Iraq in a shared celebration of freedom, as we embark on a common course toward peace in the Persian Gulf and throughout the world.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, we have already voted for cloture to move to this bill by an overwhelming majority.

Only seven Senators voted not to invoke cloture, so the question of whether to move forward for this bill is not really at issue.

I would like to take this opportunity to address a few issues raised by my colleagues from the Republican side of the aisle.

The attack by some Members on public broadcasting and its children's programming and producers is a mishmash of misstatements and malice.

First, almost all of the Members who have raised problems with public broadcasting have stated that they do not have concerns about their local stations.

The problems, according to these Senators, stem from the national organizations, national public radio, and the Public Broadcasting System.

These comments reflect a fundamental misunderstanding of how public broadcasting works. NPR and PBS are membership organizations, and their members are the stations.

NPR and PBS do not control the stations in any way. In fact, the stations are the ones who control PBS and NPR.

PBS receives 71.4 percent of its total funding from local stations, and only 15.7 percent from the CPB.

In addition, of the 35 members of the PBS Board, 28 are station representatives, 6 are lay members and 1 is the president of PBS.

Similarly, 63 percent of NPR's funding comes from local stations and less than 2 percent of its funding comes from the CPB.

The 17-member board consists of 10 station representatives, 6 lay representatives and the president of NPR. Thus, if members have a problem with PBS and NPR, they have a problem with their stations.

These organizations are accountable to the stations that support them; if NPR and PBS do not follow the stations' wishes, the stations would not fund them.

On the issue of children's programming, it is asserted that the Disney channel outspends public television 2 to 1—$120 to $56 million—as evidence that there is no longer a need for public television's children's programs.

This argument ignores two facts. First, the goal of public television's programming is education, not entertainment.

The programs broadcast by Disney and other commercial programmers for younger children do not have the same educational value as public broadcasting.

Put simply, "The New Mickey Mouse Club" or "Masters of the Universe" cannot be compared with "Sesame Street" or "Mister Rogers."

Second, the Disney channel is available to those individuals who are willing and able to pay for it. Pubic television is accessible to all Americans with television sets—free of charge.

Cable only serves 61 percent of Americans and Disney channel is only available in 6 percent of American homes, while public broadcasting serves 98 percent of all Americans.

It is also implied that "Sesame Street" licensing brings Children's Television Workshop [CTW] "gross revenues of over a billion dollars a year." This is simply untrue.

For-profit companies which license "Sesame Street" products do generate hundreds of millions in retail sales each year, and earn profits, and pay taxes just like any other for-profit companies.

But those companies—not CTW—earn those gross revenues.

CTW receives about $30 million in royalties on sales of "Sesame Street" products.

CTW uses all this income to pay the costs of delivering "Sesame Street" and its educational curriculum each year. "Sesame Street" has not received direct Federal funding since 1982.

Before that the U.S. Department of Education provided approximately $30 million per year for "Sesame Street." So far "Sesame Street" has graduated more than 50 million American children.

The cost, therefore, is less than 75 cents per graduate. That is a bargain even the opposition should like.

It is claimed that CTW earns profits of "approximately $100 million each year, with $40 million alone from Sesame Street magazine."

CTW's gross income comes near those figures, but net income, if any, is very small. In fiscal year 1991, Children's Television Workshop enjoyed a surplus of $5 million; it expects an operating loss of $2 million in fiscal year 1992.

Finally, it is suggested that Children's Television Workshop uses a taxpayer subsidy to produce commercial television.

Commercial television programs are produced by Children's Television Workshop's for-profit subsidiary, Distinguished Productions, Inc.

This subsidiary is set up for that purpose and receives no federal funds.

We should be proud of the fact that CTW is moving toward financial self-support, and ending the dependence of "Sesame Street" and other programs on Federal grants. I cannot believe that any Member would contend that CTW should not raise funds to offset the need for Federal support.

I could go on at great length detailing the misinformation contained in some of the statements that we have heard in the last 2 days, but I do not want to take up any more time.

It is time now to get on to the legislation itself. I urge all of my colleagues to vote to let the Senate proceed to S. 1504.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, as I understand under the agreement we have 2 hours more on the motion to proceed, and then we go to the bill at 2 p.m.?

Mr. INOUYE. The Senator is correct.

Mr. DOLE. Unless there is some objection on that side—it would be acceptable to us—is it agreeable to you—if we just had a period for morning business until 2 p.m. for any Senator to speak on anything, if that was all right with the majority leader? Then we could start on the bill at 2 p.m. We would not change the agreement.

Mr. INOUYE. I have been advised that there is no objection on our side, as long as we proceed to the bill at 2 p.m.

Mr. DOLE. Somebody could speak on the bill between now and 2 p.m., but it would not be excluding anything else. Is that satisfactory on that side?

Mr. INOUYE. It is satisfactory to me.

THE PRESIDENT'S PLAN

Mr. DOLE. Mr. President, I listened with interest to the distinguished majority leader this morning as he discussed the efforts on his side of the aisle to deal with America's economic tough times. I listened, too, with some compassion because I recognize that in his responsibilities as his party's leader in this body he is doing all he can to put the best spin on the Democrats' new tax package. No doubt about it, that is a tough sell, and despite his good efforts, the bottom line on the Democrats' new tax package is this: It is not a package of tax cuts, it is a package of tax increases. And slowly but surely, the same old liberal answer to every economic challenge is busting out of the closet: raise taxes, raise the deficit, raise spending, and then raise your criticism of the President as a way to shift the focus away from their tired old big tax and spend policy, and the big Government agenda of the Democrats.

As we witnessed in the Senate Finance Committee yesterday, our colleagues on the other side of the aisle are determined to continue waging their phony class warfare campaign. They are all for the middle class, they never stop telling the media, a slogan that rings more than a little hollow coming from the party that voted against every tax cut Ronald Reagan sent to Capitol Hill for 8 years.

Unfortunately, it is a war where nobody wins, and every taxpayer loses. It is the kind of election year offensive that has even been rejected by the Democrats' own Presidential front-runner, Paul Tsongas.

This week, I received a letter from a Kansas middle-class family in Kansas City that I cited in the Finance Committee yesterday, but I will quote from it again because I think it speaks for a lot of folks in America—not just in the Midwest but all across America. Stephen and Margaret Wolford wrote to me and said that they are tired of worthless lip service about how [their] hardships are of the utmost concern of our State and Federal Governments. And they are especially sick and tired of the asinine partisan politics that, for all intents and purposes, paralyzes elected officials from doing anything about the crises this Nation faces.

No doubt about it, this is a message of common sense from mainstream America. So, as far as I can tell, Americans are not demanding that Congress should raise their taxes; they know that when Congress taxes someone today they will be back taxing someone else tomorrow.

The good news is, President Bush has a plan. It is a pro-growth and pro-jobs package of incentives designed to stimulate investment and opportunity. It is a seven-point program that can be enacted today, or at least by March 20, the deadline President Bush challenged Congress to meet in his State of the Union Address.

So take a look at the plan. Here it is. It is right behind me.

It is here, it has been here the past several weeks, and I am confident most people recognize a healthy real estate economy will improve the condition of our financial institutions as well as the overall economy.

We have a $5,000 tax credit that the President has proposed. It has been on the table for some time. We can all agree that home ownership, a dream of all Americans, should be encouraged.

Just go down the line, down the list, and take an honest and fair look at the seven proposals. In my view long-term growth will be better served by the President's package. It may mean that his proposal needs some modifications, but his proposals will not put our Nation's security at risk, it does not bust the budget, and it does not—I underline does not—raise taxes.

We have a real opportunity to make a difference. Let us prove to the American people that Congress can act, even in an election year.

We have only 16 days remaining until the President's deadline for enacting a responsible growth package to get this done. When the deadline hits zero and zero is all we have to show for it, zero is what the American people have every right to think about us.

If we cannot come to an agreement, if we do all we can, if we really try, and try, and try to get an agreement, and cannot come to an agreement, then I think I will fall back on the Washington Post plan, in an editorial they had in their February 24 edition. It is a good editorial. They said in effect the best economic cure-all for America right now would be to kill all the tax bills. It is probably better we leave things alone, they suggest, rather than making them worse.

So if we cannot get a growth package, if we cannot do something without raising taxes, and raising taxes, and raising taxes—$57 million worth of tax increases in the Democratic bill, $57 million in tax increases. Those who vote for it are going to have to explain those tax increases. And they say only the rich, only the rich. That is today, whoever the rich may be today, but who is it going to be tomorrow? Is it going to help the middle class? Is it going to stimulate the economy?

It does not create one job that this Senator can recognize. In fact, I raised that question in the Senate Finance Committee yesterday and nobody challenged it. It does not create one job. And $57 million in tax increases.

So if everything else fails, as Alan Greenspan has suggested, as the Washington Post and other editorial writers have suggested, let us not make it worse, let us not add to the deficit, let us not raise taxes. If we see signs there might be a recovery starting, and the worst thing Congress can do is to kill it.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,838,084,806,315.62, as of the close of business on Monday, March 2, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

The Senate continued with the consideration of the motion.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, in recent weeks we have had repeated requests for prompt action by the Senate, and we have attempted to move forward as best we can within the constraints of the Senate rules. We had hoped to proceed to the bill on the Corporation for Public Broadcasting on yesterday but were required to go through a cloture vote on a motion to proceed that is, a vote to terminate debate. Eighty-seven Senators voted for cloture, to terminate the debate to permit us to proceed.

We had hoped to get to the bill yesterday after that vote but were not permitted to do so. And we were requested to set up 120 minutes for debate today on the bill—that is, 2 hours—with 10 minutes by the manager of the bill, Senator INOUYE, and 110 minutes by our Republican colleagues.

But as of now the only person who has been here prepared to and has spoken on the subject has been Senator INOUYE, and we had no Senators present on the other side to use that time.

Let me say I do not want to cut any Senator off who wishes to address the subject. But if no Senator is willing to address the subject, I think we can better comply with the request for prompt action in the Senate on the matters before us by going to the bill now, or in the absence of any Senator wishing to use the time that has been allotted for that purpose.

In addition, in public statements made yesterday, one or more Senators have stated an intention to offer the President's crime bill as an amendment to this bill and to other bills that will come forward.

We welcome a debate on crime legislation. And there is pending, as all of my colleagues know, the conference report on a crime bill passed last year, the crime bill which we think is a very strong, effective measure which most of the major police organizations in the country support. It has passed the House, and passed the Senate. Now the conference report has passed the House and is pending the action in the Senate.

A Republican filibuster prevented us from getting to that bill last year. I am prepared to proceed to that measure which, as I understand it, is privileged, may be presented at any time, and does not require unanimous consent.

I have asked the Republican leader for his suggestions on how best to proceed. I emphasize that I do not wish to—never have and never will—cut off any Senator's right to address any subject. But on the other hand, if asked to allocate 2 hours of debate and nobody shows up to debate the subject, it seems to me it would be largely a waste of time and really a delay getting to the legislation.

So the distinguished Republican leader and I have discussed this privately, and I thought I would inquire of him now as to whether or not he is in a position to permit us to proceed to the bill now or whether we will have to wait until 2 o'clock as under the previous order, and also for any comments or suggestions he would wish to make on the other subjects that I raised.

Mr. DOLE. Mr. President, if the majority leader will yield, of course I do not think there is any effort on this side of the aisle to amass a big vote on the cloture motion on the motion to proceed. I think we are prepared to go to the motion to proceed. We wanted some time on the motion to proceed to discuss some aspects of the bill and some amendments that we will offer.

There will be germane amendments offered to the Corporation for Public Broadcasting bill.

I think one problem is that some of our colleagues on this side who would be up here speaking have a weekly luncheon on Wednesday that starts at 12:30. Most of them will not be available until around 2 o'clock. So I say I would not be in a position at this time to accede to any request to go to the bill, but we will go to the bill at 2 o'clock.

I think the distinguished manager on the Democratic side has indicated there are some amendments that can be accepted, and I think he also would offer a substitute.

So we are prepared to move ahead. We have amendments.

I think it is also fair to say that there may be, as the majority leader indicated, some amendments that may not be germane to the bill that might be offered.

Insofar as the conference report, it is a privileged matter; the majority leader can move to that at any time. That would be a decision made by the majority leader. But my present understanding is that certainly we have amendments—some of us have amendments, germane to the bill. We would like to work out those amendments. There may be others who have other amendments that may not be germane.

That is about all the information I can give the majority leader at this time.

Mr. MITCHELL. Mr. President, I believe that it is not only appropriate but desirable that there be a debate and voting on the crime measure. I would prefer that be done in an orderly and planned way, with notice to all, as to the way and under what circumstances we are going to proceed, so that those Senators most directly involved can adjust their schedules.

What I suggest now, then, is since we cannot get permission to proceed to the pending bill, and since there is no one who is present to debate it, although time is requested for that purpose—I understand it is stated by the distinguished Republican leader that we get consent to go to the bill at 2 o'clock which would render unnecessary a vote on the motion to proceed, and that prior to 2 o'clock the distinguished Republican leader and I meet and discuss what the status is of our colleagues' intentions with respect to the time limitation.

My preference, and I know the preference of the distinguished Senator from Hawaii, would be to complete action on this bill, which is an important bill. I recognize there are honest differences of opinion on it. I think the Senate ought to have a chance to debate those differences and vote on them, and amendments to them.

But if there is to be an effort to attach a crime bill to this, I would appreciate knowing that, and then I think I would exercise the authority which I have; and, that is, just to proceed to the conference report and let us have a debate on the crime bill in that manner, in a way that time is set so Senators can adjust their schedules accordingly.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. So, unless the distinguished Republican leader has anything further, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1504 at 2 p.m. today, and that the motion to proceed be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. MITCHELL. Mr. President, in view of the circumstances that exist, which are that we were requested to have a period for debate on this motion to proceed today, but no one has showed up to debate it, and we still cannot get to the bill, I have no alternative but to ask unanimous consent that the Senate now stand in recess until the hour of 2 p.m.

There being no objection, the Senate, at 12:50 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, under a previous order, the Senate is now to begin consideration of the legislation on the Corporation for Public Broadcasting. We have been attempting to have that bill considered and passed for the past few days. It remained, until a short while ago, my hope that we could do that today. It is an important bill. I recognize that there was some disagreement over the subject matter of the bill, that some amendments would be offered, all of which, of course, is within the rules and appropriate. I hoped that we could debate differences on that bill and proceed to consider amendments, vote on them, and then dispose of the bill today.

It now appears that such a course of action will not be possible. According to press reports today, Republican Senators have expressed a desire for immediate consideration of legislation with respect to crime, and I understand that were we to proceed to the Corporation for Public Broadcasting bill, amendments would be offered to that bill that are unrelated to the bill itself and which deal with the subject matter of crime.

I believe in the necessity to enact legislation to combat crime. I think it is an important thing that we should consider. Indeed, as my colleagues will recall, last year the Senate passed a comprehensive anticrime bill, the House passed such a bill, and then the two were combined in a conference between the two bodies. That conference report was adopted by the House of Representatives, and it then came to the Senate and was subject to a filibuster by our Republican colleagues, who did not support its provisions.

Our effort to terminate that filibuster by gaining the 60 votes required under the Senate rules was unsuccessful. Therefore, the matter now stands on the Senate Calendar; that is, the conference report is on the Senate Calendar. I think we ought to have the debate on crime measures. I think it would be a good thing for the Senate and for the country. I regret that it is being presented in a way that will not permit us to complete action on the Corporation for Public Broadcasting bill. But I understand that and accept that reality, even though it is not my preference.

It is my intention, at an early time, to return to the Corporation for Public Broadcasting bill. But, under the circumstances, in view of the publicly expressed desire on the part of our Republican colleagues, it seems to me that the most direct and straightforward way for us to proceed is to go to the conference report on the crime bill. This is comprehensive legislation, which has been enacted by the House of Representatives, and now, if the Senate will just pass it, it will go to the President for signature. It is the fastest way to deal with the problem of crime and to debate that for such time as Senators want to debate it and, hopefully, to proceed to a vote on that measure. I think that really will be an effective test of our intentions with respect to dealing with crime.

I have discussed this matter previously with the distinguished Republican leader, and I have indicated to him my intention to proceed as I have just outlined. But before doing so, I, of course, invite any comment or suggestion from the distinguished Republican leader.

Mr. DOLE. If the majority leader will yield, certainly the majority leader is within his rights to move to a privileged conference report. I indicate that as far as the Corporation for Public Broadcasting bill is concerned, there would have been amendments offered. Some would have been germane. Some of us have germane amendments, and we think we can improve that legislation and improve the Corporation for Public Broadcasting. But I know that there would have been efforts made to amend the bill with nongermane amendments. I am not certain of the extent of all of the amendments. One would have been a crime package.

There is a feeling on this side of the aisle that since the conference last year, in the closing days, the Congress, in effect, stripped out of the bill a number of provisions that we felt strongly about, and in the conference itself, Republicans were ignored in both the House and the Senate. It is pretty much of a Democratic crime package, and that is why, when it came back to the floor in the closing days of the session, I think a vote on cloture failed by 49 to 38, as I recall. There were a number of Senators absent in the last days.

Certainly, the majority leader has stated it correctly. It is an appropriate time to have that debate. We were prepared to have it through an amendment on the corporation for Public Broadcasting, and the leader can have it any way he wishes, and this would be one way to do that. We are prepared to do whatever the majority leader suggests.

Mr. MITCHELL. Mr. President, I appreciate the distinguished Republican leader's comments. As I stated, under the circumstances, we are going to have a debate on the crime measure, in any event, and we are not going to be able to complete action on the Corporation for Public Broadcasting bill because of that. That being the case, it seems to me that the most direct and straightforward way is to proceed to the conference report, which is, as I said, the one measure that has already been enacted by both the House and the Senate. If we are interested in dealing with crime, this is the fastest and most effective way to deal with this—to pass the conference report—and it will be on the President's desk within a matter of a few hours or days.

OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 3371 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3371) to prevent and control crime, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 27, 1991.)

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am delighted that we have moved to the conference report and that my Republican colleagues are anxious to vote on a crime bill. I respectfully suggest that we can settle this in 5 minutes, if they just let us vote. We have debated this 4,000 different ways. We all know where everybody is. As my friends who wish to deal with the crime issue constantly say, "let us let the American people make a judgment on whether or not what we are suggesting makes sense."

I want to bring everyone up to date. What we now have before the U.S. Senate is the product of months and months of debate here in the U.S. Senate, weeks of debate in the House of Representatives, weeks of haggling between the House and the Senate, Democrat-Democrat, Republican-Republican, Republican and Democrat. The final product is the conference report, which was last year—this Congress, but last calendar year—voted on in the House of Representatives and passed.

It is before the Senate once again. The last time it came before the Senate, my friends on the Republican side filibustered it, requiring us to have to seek a supermajority, more than 60 votes, to allow us even to decide whether or not to be for or against this legislation, to vote on it.

I have been in constant contact, as the administration has, with the police agencies of this country. They strongly support this measure. They particularly find reprehensible the fact that the new alternative crime bill introduced by Republicans has taken out a provision that has passed both the House and the Senate; that is the Brady bill. The gun lobby is prevailing again here.

I would say to my Republican friends if they have an interest, there are areas where there is disagreement in that conference report—I see the clerk trying to lift it, weighing about 380 pounds I guess—and they relate to habeas corpus and they relate to other specific aspects of the legislation, but only on a very, very small number of items.

I do not know why they will not let us vote on what has already passed the House, in the conference report, and then if they wish to debate further about habeas corpus or the exclusionary rule or the death penalty in the District of Columbia, or any other aspect of this very large bill which is—I am not sure how many pages; I do not have a copy of it before me—484 pages long, this conference report, then we could vote on those separately.

But why do we hold up—I should not presume we are going to hold it up. I am hopeful that the ranking member of the Judiciary Committee, Senator THURMOND, is going to come and walk in the door with that smile on his face and say to the Senator from Delaware, let us vote. So I am going to be an optimist here and assume that is what our Republican colleagues are going to allow us to do and not once again kill the crime bill for the year 1992 as they killed one in the year 1991.

Let us give the President an opportunity to be for or against doing something about crime, as he likes to phrase it. I am ready for that to happen. In those areas where we have disagreement, let us come back and fight over it. Let us come back and fight over whether or not we should eliminate habeas corpus and not just limit it. Let us fight over whether or not we should impose upon the District of Columbia what we do not impose on any State. I happen to support the death penalty but we do not tell the State of Delaware you must have a death penalty. But I am prepared to vote on that. Let us vote on that.

Mr President, the Senator from Kansas, the Republican leader, is not only one of the brightest fellows in this outfit, but one of the wittiest fellows. He wanted to make sure the bases were covered. That is the reason for the interruption. He indicated one colleague was on the way over. He wanted to make sure I did not pass this in his absence, and I am certain that is because he wants to be here to support it. That is a joke. But I assure my Republican colleagues I will not attempt to take any action on this legislation in the absence of one of our Republican colleagues being on the floor.

But again, I am delighted we are back on this issue, because we have moved away from it for too long. We have let the crime problem go unattended, unattended in the sense that we have not moved forward on any new initiatives to deal with the issue which this bill is full of, new initiatives.

Let me say again, while we are waiting for my colleague, my Republican colleague and good friend from South Carolina to come, the essential elements of the conference report are as follows: It contains the Brady bill, a 5-day waiting period; it contains the death penalty for a total of 53 crimes; it contains the death penalty for murders committed with a gun; it contains the death penalty for drive-by shootings resulting in death; it contains the death penalty for rape resulting in death; it authorizes $1 billion in aid to State and local law enforcement agencies; it toughens penalties for gun use during violent crimes drawing the death penalty, which I mentioned; it provides aid to rural law enforcement and for drug treatment and prevention. This is all in the bill before us, which I hope we will get to vote on in the next 20 minutes or hour or a couple hours.

It increases the penalty for a drunk driver when a child is present in the vehicle. The reason I put that in the bill is, a young child, the way we raise our children, does not have the authority to say to mommy or daddy or Uncle Billy or Aunt Jane, or older brother or older sister, "No, I am not getting in the car because you are drunk." And children die because of that. So I think the penalty should be increased for drunk drivers who have minors in the automobile.

It also contains college grant scholarships for students who are willing to commit, after their college is completed, 4 years of service as police officers, and provides inservice education opportunities for police officers who are on the beat now, to allow them educational opportunities.

It expands aid to victims of crime. We have a victims fund that both the minority and the majority have worked on over the years because we think victims should be compensated when they are not in a position to take care of themselves, if they are hurt as a consequence of violent crime, if they have medical bills, if they have bills that result as a consequence of loss of work. We should be looking out for the victims of crime.

It also establishes background checks for day care workers, which does not exist to the extent we are proposing. It does not exist to that extent now, so we want to make sure that a person offering themselves as someone who wishes to care for our children, that they be required, if asked, to have a background check to find out whether they have a background of child molestation, a background of crime, convictions, related to things that would affect our willingness to allow them to care for our children. That is urgently needed in my view.

It also provides the death penalty for a child abuser where the consequence of abuse is that the child dies.

It establishes 10 regional prisons to hold drug criminals. Mr. President, we have heard, both the minority and the majority, countless hours and days of testimony pointing out that 6 out of 10 people in prison today may, in fact, as we speak, be drug addicts. These people are in prison. And, Mr. President, we are releasing people after having served their time, who are still drug abusers, who are still people who are in fact addicted.

So, Mr. President, with our hardcore addicts, we should do one of two things: One thing is we should get them off the street. If they have not been convicted of something, off the street into treatment. If they have been convicted, off the street into a prison where not only will they serve time and be penalized for what they have done, but in the process have access to drug treatment, so when their time is up, Mr. President, they are released back onto the street with the same habit that put them in, the same habit that caused them to rob, to brutalize, to burglarize our persons, our families.

And maybe this time when they go out on the street, even though they have served their time, if they are still addicted, they may be the ones who commit one of those 24,020 murders that were committed last year. It is only common sense, Mr. President. So I have proposed, and the Senate has adopted, and the House has adopted, and it is in the conference report before us, in that bill, establishing 10 regional prisons to give some relief to State prison systems, two-thirds of which or almost three-quarters of which are under a Federal court order as we speak, to let people out of prison before they have served their term because they cannot have and find enough room to house those persons who have been convicted and to have these regional prisons that would be for Federal prisoners. And there are over 1 million prisoners in our prison system, only about 50,000 of whom are in the Federal system, 950,000 of them, or thereabouts, are in the State prison systems and they need relief—not the prisoners, the systems—so we can keep people locked up who should be locked up and once we have them within our custody, not only keep them there and off the street but be assured that when we put them back on the street we have made some attempt to cure them of their addiction.

That is what is in that bill before us, 10 regional prisons. It costs money, $700 million, but they need to be built, in my view.

Also in the bill before us, this conference report, we establish not only 10 regional prisons but we take the existing military bases that are being closed and we use them for boot camps so that when we send particularly younger offenders into the system we not only lock them up, keep them off the street, but we do something that everyone tells us needs be done—and I am not guaranteeing the boot camps will do it, but I am telling you it is better than what we do now, and cheaper and safer for us—and that is to provide a regimen of discipline for the young men in particular, as well as women, but young men in particular who are in fact abusers, to teach them discipline.

They are boot camps. Unlike military boot camps, they have no choice about being there and joining, and once they go through the drills they go back into a cell. But it is a cheaper, effective way of dealing with a problem that up to now we have found basically insolvable.

Also in this conference report that I hope we will be allowed to vote on, Mr. President, we increase the penalty for gang-related violence and we begin to focus on what we started to do 15 years ago and stopped. We have to cut off the source, if you will, of violence in society, and that is where the germ of violence contaminates the youth of this country, very young people.

When I started in this business, Mr. President, I used to stand on the floor of this body as a person in part responsible for the criminal law issues on this side of the aisle, at least, and I used to stand on this side of the aisle and talk about how the most violent offenders in our society were people around 18 years of age. Now I used to tell the stories about violence is reduced the older we get, the older that population becomes, because it is harder to jump over those chain link fences while being chased by police officers when you are 40 than when you are 18.

Well, Mr. President, a terrible thing has happened since I began this process. I am here to tell you now that the most violent segment of our society is now not 18 years old, it is sliding down the scale. It is moving toward 14-year-olds.

I just read the paper today, Mr. President, and it could, I respectfully suggest, happen in Delaware, or in North Carolina, or in South Carolina, or in Kansas, but in today's New York Times, three children—my recollection is, this is off the top of my head, I think their average age was about 14—were found, either on their way to school or in school, with semiautomatic weapons.

In the New York school system, as well as some other places, they have metal detectors, Mr. President. I understand when my 10-year-old child gets on an airplane it is one of the costs of modern society that she has to go through a metal detector to deal with terrorism. But I do not understand why my 10-year-old child, were she to live in New York City and go to their school system, would have to walk through a metal detector to learn about George Washington; walk through a metal detector to learn how to read or write; walk through a metal detector to learn about her Government.

Mr. President, in this conference report, we say the training grounds for those young people who cause the system to require metal detectors at the schoolhouse gate, gangs, juvenile gangs, should be focused on. We should deal with them instead of what we do now.

And so, Mr. President, in this conference report, there is authorization for antigang programs that the experts in the field have hailed as positive.

I may be mistaken, but I think the Republican bill we saw yesterday has some of this in it. They may not have the gang piece in it, but they have a lot of the rest of this in it. I am delighted that we are moving toward consensus on these things.

Mr. President, also in this bill, we have identified certain cities and areas in this Nation that are battle zones, literally battle zones. When we have in this Nation in South Carolina, Hurricane Hugo, when we have a serious nor'easter that came through the Delaware shore last year, wiping out our towns taking away the boardwalk, and causing millions-of-dollars worth of damage, what do we have? We have an outfit in our Government that calls for specific relief, disaster relief, Mr. President. When you cannot walk on the boardwalk, we have people come along and say: It is a disaster. Let us go to the Federal Government, get this declared a disaster area, and get additional help to be able to rebuild the boardwalk. Let people rebuild their homes. Let South Carolina put itself back together after Hugo. Let the State of Washington after Mount St. Helens blew its top put itself back together.

But at the same time, Mr. President, we have cities that are clearly identifiable, one of which is this city, where no one would be able to debate what I am about to say, and that is I could identify, as my friend from South Carolina could, as any Member of this body could, 10, 12, 15 cities, 15 sections of cities, in America, that are literally battle zones, where the drug dealers have taken the streets, own the corners, run the businesses, affect every single solitary aspect of human behavior: when people can go in and out of their homes, what stores they can go to, whether they can get on mass transit, whether they can safely walk down the street with their 3-year-old child without having to worry about a drive-by shooting, whether they can go to the corner candy store and go in and buy their kid a slurpee without worrying whether a rain of bullets is going to come through the window.

Mr. President, that is literally the case; not figuratively, literally the case.

I not too long ago walked through a section of Philadelphia, a neighborhood, a public school on the corner, Catholic school across the street that existed there for over 100 years, corner stores, and I am walking along with the drug director and others at the time—and these are operating, viable stores on corners in cities, in this particular city of Philadelphia. And I said, "What are those marks?"

They said: "Oh, those are bullet holes. They are bullet holes in the window."

"Why are these boards up here?"

"Well they got blown out, the windows."

And then have a mother tell me, she went to pick up her child, and got trapped in the entrance—an old public school, grade school, with the old red limestone front, you see in many northeastern cities, and with an entry section about from me to the beginning of the bench on which the President sits, before you open the door to go into the halls. This woman was telling me how, when she went to pick up her children, she and her children had to hide against the wall behind the pillars inside this area as a rain of bullets was coming into a grade school. That is America, Mr. President. I can take you to those cities. You know where they are.

In this bill we target those areas, just like we target disaster areas. We allow people to reclaim their lives in South Carolina, in Delaware, in the State of Washington, in the Farm Belt after a natural disaster. This is a manmade disaster. There is $300 million the President can use in these targeted areas to deal now in an emergency fashion, allowing people to reclaim their cities. It has been sitting there because they have refused to allow us to vote on it for months.

Also in that bill is a good-faith exception to an arrest when evidence is seized by a police officer if he has a warrant, if he was mistaken but he has a warrant. Big argument: my friends want a good-faith exception with or without a warrant. That is a difference.

But in the bill is a good-faith exception when a police officer has probable cause to do something and he turns out to be wrong and he seizes evidence. We say the evidence is admissible. They want to say if it is a good-faith exception, whether or not you have a warrant, whether or not you have established probable cause before a judge to get a warrant, it should be admissible. That is a legitimate disagreement. But, nonetheless, there is a good-faith exception in the bill. It is not as much as they want, but it is in the bill.

Mr. President, habeas corpus. This is the crux of the dilemma, if we could settle that. I personally would be willing to drop habeas corpus from the bill completely, pass the conference report, send it back without habeas corpus. Nothing about habeas corpus. I am sure this will be the subject of a great deal of debate and I will not take the time now. But we drastically limit the number of times a person in jail can send out a petition from behind the bars in which he or she sits and slip them through the bars to say, "Let me out. I am here. I am held wrongly." That is what this debate about habeas corpus is about. It is not about people on the street. It is about people behind bars.

I, for one, believe the habeas corpus system as it now is being used has been abused. But, nonetheless, the public should understand habeas corpus means I am already in jail and I am asking to be let out. And I am filing a piece of paper. It is the habeas corpus petition I slide between the bars. But I am in jail. I cannot hurt you.

I am hurting the public because I am raising costs, I am clogging the courts. All of those things are arguably true. But I am in jail.

There is a big disagreement we have on that: my friend from South Carolina and I, the majority leader and the minority leader, Senator GRAHAM and Senator GRAMM—they have disagreement on it.

But, Mr. President, does our debate about what conditions upon which someone in jail can ask to get out of jail warrant holding up everything else I just stated? Is that a sufficient rationale to say I will not give the police more money, I will not build more prisons, I will not pass the Brady bill?

I respectfully suggest it is within their rights, but I do not think it is very balanced, balanced in the sense of balancing the needs of the police officers and society against the impact of habeas corpus even if they are right on the merits—which they are not.

So, Mr. President, why will they not let us pass this bill? Or forget passing the bill. I am not even asking for them to vote for it. I am not even asking that. Do not vote for it. I will take care of that end. You do not have to vote for it. Just let us vote. Let us vote. Let us vote to give the police $1 billion at home; let us vote to build those regional prisons; let us vote to put that antigang legislation in place; let us vote to reduce the number or weapons that people can walk in and buy—whether they are crazy or have a criminal record. Let us help the police, and then come back and argue about habeas corpus.

No.

So, Mr. President, the one thing I have learned never to doubt is the good intentions and sincerity of the ranking member from South Carolina. I do not doubt that now. I believe he believes habeas corpus is so important, the difference, the distinction, that it is worth not having any bill. But I do not subscribe that rationale to the rest of those who in fact oppose this bill.

I have a feeling, Mr. President. A little bit of this has to do with guns. Something in me tells me that maybe—just maybe—the NRA and the gun lobby have made a very strong case about this Brady bill, this intrusive, terrible bill that a vast majority of the American public wants, that President Ronald Reagan wants, that Jim Brady, the victim of an assassin's bullet, paralyzed now, wants; that the police officers want so badly they can taste it. That says the following. It says: Hey, look, we do not want felons to be able to go in and buy guns in gun shops. So give us 5 days, the police say, to run a check to find out whether or not the person buying the gun is a felon.

We did that in my State, Mr. President. My State legislature did that. Guess what?

Mr. President, what happened is in my State we put this in effect and some significant portion—I will not even guess the number; I think it is over 10 percent, but I will not say that—of all the people who came in, walked into a gun store and said here is my money, I want to buy that semiautomatic, or I want to buy that handgun, we are only talking about handguns now, 1 out of 10 of those people who put their money down on the counter, guess what happened when we checked the record in Delaware? They were convicted felons.

Surprise, surprise, surprise. One out of 10 of the people who walked into a gun store to buy a handgun in Delaware when this bill was put in effect last year were convicted felons. We are not saying legitimate folks, law-abiding citizens cannot buy a handgun. We are saying convicted felons cannot. And, for Lord's sake, give the police officer an opportunity to find out whether or not we are selling a gun to a convicted felon.

Begging the indulgence of the Chair, let me be more precise here. In Delaware, out of a total number of checks, after our law was put in effect, of 1,086 people who walked into the stores—our law requires them to be checked—106 of those 1,086 people had their purchases rejected under the law, and 6 of them were arrested on the spot because they were fugitives.

Obviously, if crime paid, they would not be this dumb. But, now take my little State which has about 750,000 people and that is probably giving it the benefit of the doubt. If 10 percent of the folks who had walked in to buy guns in my little State were convicted felons, and about 1 percent of them were arrested on the spot as convicted felons, what do you think that number is for California, where they have 24 million people, 18 or 20 times the number of people we have in my State? What do you think it is?

How do you think, Mr. President, these kids, walking into those New York City schools, have those semiautomatic weapons in their book bags, their lunch bag?

I have a feeling that although the Senator from South Carolina supported this bill, that provision I believe in the total bill, when he and his colleagues put this new crime bill they talk about together, guess what? It disappeared. It is gone. Why? The President said he supported it in a strong crime bill.

Let us assume the President believes our bill is not a strong crime bill. Why did they not put it in their strong crime bill? Did you ever wonder about that? It is kind of interesting, is it not? The President says "I will support the Brady bill as long as it is in a strong crime bill." They put together a whole bill. How many pages is the bill? Five hundred and twenty-three pages long. A big bill. And they do not put it in the bill.

So I have a feeling, Mr. President, there are two compelling things that are occurring here beyond the good intentions of my friend from South Carolina. One is the gun law. In my 19 years here—and I have not been characterized as a gun controller—I have not voted for gun control measures. Vote for this, I think this is just sanity. But in my 19 years here, I found that they have been quite often ready to let what otherwise may be a brilliant piece of legislation fall if in fact they disagree with the gun provision, no matter what the legislation says. And the second thing I think may prevail at the moment, Mr. President, is the Republican Presidential primaries. I think Patrick Buchanan has made a point. Pointlessly, but he has made a point.

Whether or not he is the reason 35 or 32 or 37 percent of the people, every place they have a Republican primary, vote for him or whether it is because there is an automatic 33, 35, 37 percent of Republicans who just cannot understand and are confused by the President like I am, like I guess in South Dakota—I do not follow the primary these days. I do not quite have the same interest I had in years past. But whether it is one-third of the Republicans who say none of the above, meaning George Bush, anybody but Bush, or whether they are for Patrick Buchanan, I think it has generated a kind of new political dynamic and the new political dynamic is the President has to prove that he is tough.

I guess we still have Qadhafi. I guess we still have our friend in Iraq. We have North Korea. They are all potential targets to prove that. And I do not say that maliciously. They are bad guys and he could maybe do it there. Or there is crime. I am tough on crime.

All those conservative States in which the President has to run in a conservative Republican primary—and again I am no expert in this, but it appears to me that Republican primaries are like Democratic primaries; that is, those who vote in Democratic Presidential primaries tend to be more liberal than the Democratic Party and those who vote in the Republican primaries tend to be more conservative than the Republican Party on a whole. I may be wrong.

But it seems to me it is kind of interesting that the President, who feels, I guess, threatened from the right is looking for ways to make the case that he really is the brother or son or friend of Ronald Reagan. But ironically he has picked as the centerpiece, or his people who support him pick as the centerpiece to prove the elimination of something Ronald Reagan feels strongly about: the Brady bill.

I kind of think that in addition to those who feel strongly about habeas corpus—and understandably, not everybody understands habeas corpus, Mr. President. It is called the "Great Writ," but I wonder if we took a written exam here, all Senators—nor should they know, by the way. It is not like if I had to take a written exam on how you infuse water into oil wells to produce a greater flow of oil—I do not know. But I wonder how many people even understand what is at stake in habeas corpus, what the Teague case says, what other cases say.

Again, there is no one on the floor who is not capable of understanding it, but I wonder how many of them have actually gone back and read the Teague case. I do not think they should. That is why we have a committee system. I do not say that critically. I do not read every new regulation the Commerce Department puts out. I do not know them. The folks in the Commerce Committee know them. I do not read every new nuance of the Tax Code. The folks in the Finance Committee know that. We cannot know everything.

But here we are talking about habeas corpus which, I am told, is one of the reasons why what is before us is not acceptable to my Republican friends, and we are operating on sloganeering, bumper sticker mentality. The bumper sticker mentality is a conference report on hebeas corpus; not only does it make it better, it makes it worse, effectively eliminates the death penalty. Malarkey. Malarkey. Even if they are partially right, the notion it eliminates the death penalty is bizarre. But for those who have not had a chance to read all this, that sounds good. The President says that. The President, I think says that. I am not sure what he says, but some of my colleagues say that.

Mr. President, when you strip it all away, if you look at what my Republican friends argued against 3 months ago in the conference report, they have come along and embraced 90 percent of what they argued against. I think that is good, that is great. I am for it. Redemption is good for the soul. They embraced 90 percent of it. They used to argue against the money for local police. They now embrace it. They used to argue against lifting the victims' fund cap. They are now for it. They used to argue against—and the list goes on and on and on and they now embrace it.

They have essentially taken the original Biden bill or conference report wholesale and adopted it, introduced it, except for three things, maybe more, but three big things: One, habeas corpus; two, the Brady bill; and three, the exclusionary rule. And I guess they are prepared to let us see the entire anticrime measure that they now acknowledge they embrace.

I do not imagine these 3 things make up more than 20 pages of the 523 pages—maybe 40 pages. Let us be generous and say it takes up 50 pages. They are ready to let the other 475 or 450 pages go down the drain because they do not get exactly the changes they want in those 3 areas. In each area there is change.

In each area, we move, in the parlance, further to right on those issues but not far enough, from their perspective. And so what is the answer? No crime bill.

Now, before I yield to my colleague when he comes back, let us take a look at what is really happening. We are in March of an election year, a Presidential election year. We are five or six votes away from breaking a filibuster, and we have enough votes based on last year's vote to pass the conference report if they would just let us vote on it. So we are, maximum, six votes away from everything I read out earlier becoming law unless the President vetoes it. And I emphasize again the police agencies of this country, the ones which have to live under and enforce these laws—let me tell you what they said about it. Law enforcement support of the crime bill: Fraternal Order of Police—I think they are the largest order of police in the Nation:

> We call on Congress to adopt and for the President to sign this bill. It is the toughest anticrime legislation to emerge from Congress in recent memory, and it should become law.

The National Association of Police Organizations:

> We believe the bill's positive response to a need for overall improvement of law enforcement far overshadows any possible disagreement over individual provisions. As a significant body of law enforcement officers who risk life and limb daily to protect the Amer-

> ican public, we urge you to enact this badly needed anticrime legislation immediately.

The International Association of Chiefs of Police:

> The provisions in the conference report will benefit the public at large, as well as those who are charged to protect them. We support the conference report.

The thing the Republicans will not let us vote on.

The International Brotherhood of Police Officers:

> America needs a crime bill now in this session passed by the Congress, signed by the President. As President of the IBPO, I urge the Senate to adopt the conference report and pass this important legislation.

The Police Executive Research Forum:

> The crime bill's provisions that mandate a waiting period between the purchase and receipt of a handgun, and support for State and local law enforcement agencies are a sign to law enforcement that Congress is ready to help police do their job. The crime bill would advance law enforcement's commitment to protecting our Nation's citizens. The Police Executive Research Forum supports passage of this legislation.

The International Union of Police Associations:

> We recognize the real need for the enactment of the conference committee version of the crime bill and support it fully.

The National Organization of Black Law Enforcement Executives:

> The National Organization of Black Law Enforcement Executives is grateful to you and your colleagues for recognizing the necessity to propose the crime bill. NOBLE, an organization representing 2,500 law enforcement executives, who in turn represent the populations in most urban centers in our Nation, is pleased to endorse this legislation.

Mothers Against Drunk Driving:

> Mothers Against Drunk Driving looks forward to the passage of the conference report and implementation of the Drunk Driving Child Protection Act.

Basically, the only outfit involved in law enforcement which has taken issue with this and shares the view of my Republican colleagues is the District Attorneys Association, and they say it is because of habeas corpus and maybe something else. But that is the crux. I do not doubt there are other things, but that is the crux.

So, Mr. President, my plea to the Republican leadership, including my friend from South Carolina, is if you do not like individual provisions of this bill, which even I think you would have to admit are improvements in the areas you are still concerned about, let us vote on it. Let us vote on it.

Let us then debate whether or not we should change provisions in it enhancing, from their perspective, habeas corpus or exclusionary rule. Let us have that debate on the Senate floor.

But, Mr. President, failure to allow, to use Senate parlance, the vehicle, the conference report, to be voted on means the chances of getting a crime bill this session are de minimis, if not nonexistent. It just then becomes a pure political game, because what we have to do then is debate all over the crime bill go through the entire process with what usually ends up being 200, 300, 400 amendments that are brought forward when a new crime bill is done, taking up weeks. We made record time last time, and I think it was what, 10 days or thereabouts, 10 legislative days. Sometimes it has taken as long as 3, 4, 5 weeks of taking up the Senate's time, all the Senate's time, to argue about three provisions, basically, in that conference report.

And then, assuming we pass it, as if nothing else has happened in the world, as if the economy has not gone to Hades in a handbasket, as if we are not going to have to debate the tax bill, as if we are not going to have to debate the farm bill, as if we are not going to have to debate foreign policy, as if we are not going to have to debate education—we just did that—it may come back in a conference report—as if we are not going to have to debate the drug bill, as if we are not going to have to debate, and the list goes on, we have the luxury, according to my Republican colleagues, I guess, to spend 2 weeks, 10 legislative days 3 weeks, 4 weeks, going over what we have already done and what they have already adopted 90 percent of, and then send it to the House for them to start all over again and attract 2, 5, 10, 20, 500 amendments.

And then we get the luxury of going back to conference, with every interest group in America hovering around outside the conference room like vultures, good ones, bad ones, indifferent ones, and that could take—not likely—several days, like the last one took, which was a miracle; or it could take 2 weeks, 3 weeks. Or we may go through the same process; my friend from South Carolina may not let us go to conference for 1, 2, 3, 5, or 10 days, 2, 3 weeks. That will be his prerogative. But once they let us go to conference, if we do, if we ever got through conference, now, Mr. President, we are in the middle of the conventions, at best, of the Democratic Party and the Republican Party, with a President—my wife Jill has hanging on our refrigerator door, along with the colorings of our 10-year-old daughter, like every parent in America does, a picture of a cat stressed out, hanging there by all 10 nails, with the hair on its back standing up, and it says "Stress."

Well, I promise you, there is going to be a President, during the Republican Convention, that is going to be hanging on to a convention stressed. And you think we are going to get anything out of that? I do not say that critically. Democratic candidates are going to be hanging on stressed, and we are supposed to get compromise in that environment? So what happens? The police get the short end of the stick again. The American public gets the short end of the stick again. It is politics as usual.

Now, Mr. President, we are in the midst of the debates for President. No big caucuses over in that room. They will be saying: Wait a minute, now. God forbid; you cannot let a bill go through there, no matter how good it sounds, if it is called a Democratic bill. It will be a political loss for the President.

And you will have Democrats over in that room saying: You cannot let a bill go through here that is called a Republican bill. It will be a political gain for the President, and the election is so close. Maybe if we are lucky, we will drop in the middle of it a noncontroversial thing like a Supreme Court nominee. That really brings us together here. Do you know what I mean? That really gets us all embracing one another to herald the sameness of our views.

Mr. President, I do not doubt the position of my friend from South Carolina. I do not doubt the earnestness with which he feels habeas corpus should be changed. I do not doubt how strongly he feels about it, how strongly he feels about the death penalty. It is in the bill. It is in the conference report. But, Mr. President, far be it from me to doubt the wisdom and judgment, and the tactical judgment of my friend who has served here longer than anybody in this body.

But I want to tell you, Mr. President, I am willing to bet you dollar to doughnuts that if this vehicle does not pass, as we say, we are going to end up in a cat fight here that will satisfy the political instincts of my friend on the Republican side as well as some of my friends on the Democratic side.

Let me be straight up with you, Mr. President. There are a lot of Democrats who are looking forward to this fight. They would be able to hold up the Brady bill and parade it around, up and down these stairs every day, because they know the American people are for it, and, they like the Republicans standing up voting no because they figure every time they vote no on it they lose a vote. There are going to be Republicans on the other side who are going to love to bounce the death penalty vote up and down every day. Even though I am for the death penalty, there are some Democrats who are not, and the Republicans are going to cause them to vote no.

Mr. President, I hope there are enough of us in here that are tired of this charade on both sides of the aisle. Let us vote, Mr. President. Let us vote.

I want to say for the majority, even though I do not have all the votes of everybody in the majority, we are prepared to vote. When my two friends who are on the floor, Republicans, Senator LOTT, from Mississippi, Senator

THURMOND, from South Carolina, are finished speaking, we are prepared to vote.

Mr. MOYNIHAN. I ask for the yeas and nays.

Mr. BIDEN. Mr. President, I ask my friend from New York, who, respectfully I assume, will withhold the request for the yeas and nays until my friend from South Carolina has had a chance to speak, and I hope he will be getting up to say, "Vote." I would like to hear my friend from Mississippi say, "Let us vote." But if they do not say that, I think it totally appropriate, when they finish, for the Senator from New York to request of the Senators from South Carolina and Mississippi if they are willing to let us vote and let the Senate, as we say, work its will. If it works its will on this, I believe there are over 50 votes for this conference report. The President of the United States of America could, by morning, be sitting down with the police agencies in this Nation, the district attorneys, and others, to decide whether or not he wants to veto or sign this bill. That is where I hope to get.

I thank my colleagues for their indulgence. I am delighted my Republican friend decided to introduce a "new crime bill" that is essentially all the conference report that we drafted in order to precipitate this. At least there is some movement. They would not even let us vote before. Maybe now we will get a chance to vote on the conference report.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND] is recognized.

Mr. THURMOND. Mr. President, I rise in strong opposition to this conference report on the crime bill. The Senate has already rejected, by way of a cloture vote, this measure. To state it simply, it does more to promote the interest of convicted criminals than it does to protect victims of violent crime. The Attorney General has recommended that this sham bill be vetoed and President Bush has stated his intention to veto the measure if it ever reaches his desk.

He would not veto this bill if it was a good crime bill. Why would the President want to veto it? He wants a strong crime bill, but he said he will veto this one, and he ought to if it goes to his desk.

Prior to convening the crime conference, I had expressed concerns about the ratio of Democrats to Republicans. The conference was unfairly balanced, and rigidly scripted by the majority, where the views of Republican conferees were ignored. Although this report is being called a "compromise" by some, it is no such thing. With remarkable consistency, the Democrat controlled conference committee rejected the tougher option on these major points and opted instead for provisions that handcuff law enforcement and reduce the safety of law abiding citizens. While I truly want a crime bill, I will not accept a bill which expands—and I repeat "expands"—the rights of criminals. This bill is not an anticrime bill. It is a procriminal bill.

HABEAS CORPUS

For example, the most troubling provision in this bill is the habeas corpus language. Although the Senate passed tough habeas corpus reform by a vote of 58 to 40 as part of S. 1241, this conference report adopts the liberal House language on this subject. It systematically reverses—I repeat "reverses"—over 14 Supreme Court decisions favorable to law enforcement and, according to the Department of Justice, will throw the prison doors wide open for thousands of dangerous criminals throughout the Nation. Standing alone, this provision is enough to compel the Senate to reject this conference report.

Those who support this report have stated that the habeas provision in the Senate bill is tough. Yet, they claim the conference report still limits appeals. This is not correct. Without question, this provision expands the rights of death row inmates. This death row inmates' wish list is opposed by President Bush, the Attorney General of the United States, the National District Attorneys Association which represents our city and county prosecutors, the State Attorneys General, the National Association of Attorneys General, the Conference of Chief Justices, numerous law enforcement organizations, and crime victims groups.

Thirty-one State attorneys general, 16 Republicans and 15 Democrats, recently wrote President Bush urging him to "protect the American people" and veto any bill which contains this habeas corpus proposal. That is the attorneys general of the United States. I repeat, 16 Republicans and 15 Democrats wrote President Bush and asked him to veto this bill. But why would they do it if it is a good bill?

They stated that any bill containing this weak proposal, and I quote: "cannot be described accurately as an anticrime bill but would instead be a procriminal bill and particularly a proconvicted murderer bill." We must not ignore and dismiss out of hand the concerns of these law enforcement officials who clearly understand the devastating and adverse effect of this conference report.

Mr. President, I strongly concur with their assessment. There are currently over 2,500 individuals on death row. Yet, since 1972, only 160 brutal murderers have had their sentences carried out—20 years ago. For 20 years, only 160 brutal murderers have had their sentences carried out. Two thousand five hundred on death row, 20 years has passed, and only 160 have had their sentences carried out. Of course, we need action. This is due to the continued abuse of habeas corpus law by the death row inmates and their liberal lawyers who are set on eliminating the death penalty de facto.

DEATH PENALTY

Mr. President, although this conference report sounds tough, it is not. Another example of this is the death penalty. Although the report authorizes the death penalty for over 50 Federal offenses, the trial procedures make it extremely unlikely that the death penalty would ever be imposed. Furthermore, the habeas proposal contained in this report renders the death penalty meaningless since virtually no sentences will be implemented. In addition, the report rejects a Senate passed provision which made murders committed with a firearm a Federal death penalty offense.

EXCLUSIONARY RULE

The House crime bill, as well as the President's bill, responded to some of the serious problems caused through application of the exclusionary rule. All too often in violent crime and drug cases, evidence is excluded at trial simply because the law enforcement officer innocently violated search and seizure rules. The House passed provision codifies and expands upon the "good faith" exception to the exclusionary rule as embodied in U.S. versus Leon. It provides that when an officer acts in good faith compliance with the fourth amendment, any evidence obtained therefrom will be admissible as evidence in a criminal trial.

The conference report rejects this important measure and instead rolls back court decisions to the detriment of law enforcement. It substantially narrows the good faith exception to the exclusionary rule. This provision handcuffs law enforcement in their efforts against criminals. It is yet another provision which expands the rights of criminals.

ADMISSIBILITY OF CONFESSIONS

Unbelievably, this report contains a broad provision which mandates automatic reversal of criminal convictions based on improper admission of a defendant's statements or confession at trial. This new rule applies even in cases where it is shown beyond a reasonable doubt that the error was a harmless error and could not have affected the outcome of the case. It overturns the Supreme Court case of Arizona versus Fluminante which correctly allows the harmless error rule to apply to confessions by criminals. According to the Department of Justice, the result of this procriminal provision will be the release of an untold number of murderers and other violent criminals.

Can you believe the Department of Justice? That is what they said. They said the result of this procriminal provision will be the release of an untold number of murderers and other violent criminals.

The decision of the conference to include this measure in the report reflects an arbitrary determination on the part of liberal members to free criminals on the basis of technicalities.

SEXUAL VIOLENCE AND VICTIMS' RIGHTS

This report also rejects several provisions aimed at fighting sexual violence and increasing victims' rights. For example, this report rejects a proposal which increases the penalties for repeat rapists and child molesters. In addition, the House bill contained mandatory restitution requirements for victims of rape, child molestation, sexual exploitation, and other crime victims. The Senate bill contained mandatory restitution requirements for all crime victims. The conference report rejects both of these measures. Incredibly, this report also drops language which required HIV testing for Federal sex offenders with disclosure of the test results provided to the victim. Apparently, the privacy of an accused rapist is more important to this report's advocates than the peace of mind of a rape victim.

In closing, this so-called crime bill conference report is a travesty which undermines the interests of law enforcement, prosecutors, and victims. It makes promises it cannot deliver on and virtually eliminates the death penalty. It sounds tough—but it isn't. Although this bill contains many provisions which I strongly support, these provisions cannot overcome the damage the rest of the bill does to our Nation's criminal justice system.

This bill should be seen for what it is—a travesty. It expands the rights of criminals at the expense of the law abiding, the prosecutors, law enforcement and crime victims. If this bill passes, the only people celebrating will be death row inmates and other violent criminals. It will be a great day for them. A vote in favor of this report is a vote against the death penalty. A vote in favor of this bill is a vote against the law abiding and victims of crime.

Mr. President, my distinguished colleague and friend—and he is my friend—Senator BIDEN, has said that his habeas corpus proposal and the other provisions in his bill, which I oppose, are inconsequential. He calls them minor differences. If they are so minor, why not accept my habeas corpus, and drop the other provisions which expand the rights of criminals. I would support such a bill. In fact, I introduced it yesterday.

The excessive Federal litigation surrounding death penalty cases which this conference report would perpetuate is precisely what is wrong with our criminal justice system. Currently, a criminal's guilt or innocence is seemingly irrelevant, as litigation over legal technicalities has taken precedence. The excessive litigation, not required by the Constitution, continues to face the guilty, delay the imposition of justice, and ignore the interest of victims.

Mr. President, my good friend, the Senator from Delaware, chairman of this committee, questions how I can possibly oppose a bill that is 500 pages long, because I disagree with a handful of pages. Well, these few pages are the equivalent of Congress saying that the death penalty is eliminated in every State, and the technical rights of criminals are expanded. As long as these few pages expand the rights of criminals and eliminates the death penalty, I will oppose the bill.

Long after the money for law enforcement is gone, long after all of these worthy programs that my good friend, the chairman, supports, are funded, these new rights for criminals will be on the books.

Mr. President, my good friend, the chairman of the committee, has gone through a list of provisions which are contained in the conference report, such as money for boot camps; new Federal prisons; antigang initiatives; safe school programs; drug emergency grant programs; money for law enforcement.

Mr. President, I support all of these proposals. In fact, they are all in the bill I introduced yesterday. The majority claims that Republicans are holding up these provisions. This is incorrect. We can vote on them if a tough, true conference report is given a vote. But they do not want to vote on it. Mr. President, I just want to say that the bill we introduced yesterday is a tough crime bill.

The conference report enacted here last fall took the weakest provisions of both bills, the Senate and the House. We cannot live with that and we will not live with it. We want a bill that will punish these criminals, put them behind the bars and keep them there to serve their sentences. That is my only purpose.

I have been on this Judiciary Committee for many years and I do not know anything more important to the American people than passing a tough crime bill. The President of the United States says that conference report is not a tough bill. The Attorney General of the United States says it is not a tough bill. The attorneys general of 31 States, 16 Republican and 15 Democratic attorneys general, say it is not a tough bill. The prosecutors, the district attorneys of this Nation, district attorneys in the States and the counties and the cities say it is not a tough bill. They ought to know. They have to prosecute these people.

Now, if that habeas corpus we have is so similar to the one in the conference report why not accept our habeas corpus? Maybe the staffs can get together here. Maybe they can agree to come out here with some changes and we can get a bill.

We do want a bill. We do not want an issue. The people do not want an issue. They are sick and tired of the streets being unsafe.

The Sergeant at Arms of the House of Representatives was shot in the mouth a few days ago near his home and robbed. Such as that should not occur. A staff member of Senator SHELBY from Alabama was recently murdered only blocks from the Capitol. There have been other serious crimes around this Capitol. There are other serious violent crimes all over this country.

People are afraid to walk the streets. It is disgraceful.

I was in Africa some years ago and we happened to be out about 12 o'clock one night. A lady was walking along the streets and I turned and I said, "Is it safe for people to walk these streets this time of night?" They said it is perfectly safe, and that violent crime was practically unheard of in that town. Here in the United States, our own citizens should also feel safe walking the streets of their communities.

We are supposed to be a civilized nation. We are not acting like it. We are disgusted with what is going on here in the way of crime. The people are demanding, I say they are demanding, that something be done. President Bush wants something done. We want something done. Let us get together and pass that tough crime bill that I introduced yesterday along with 28 cosponsors.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, I will take only 30 seconds, and I want to give my colleagues the same time that this side has to speak.

Since I am the only one here speaking, I want to be able to respond so we do not get too far behind the curve in some of the fiction we are likely to hear, God bless my friends, in the last few minutes.

First of all, with regard to the habeas corpus position, the Senator has stated it very clearly, that is the crux of his opposition. I respect that opposition. I point out, though, that the police agencies, the guys out on the street, the women out on the street are for this bill. And I would point out that four former Attorneys General, 2 Republican and 2 Democrats, Civaletti, Katzenbach, Levy, and Richardson, they say if the Republican bill were passed it would end habeas corpus and that our bill will streamline the process.

A couple of points: Death row inmates of cannot benefit from any new rules. That is the crux of this. I will not bore everybody with it now. This is about a Supreme Court definition of what constitutes a new rule. Our bill says no new rule.

If you want to talk about changes in the law, let us talk about the Republican bill. It resurrects the so-called full and fair rule that the Supreme Court threw out in 1917 because of a fellow named Frank in Georgia who was railroaded and they thought this was an awful way in which to run a system. But we will go into that in some detail. Their bill will overturn about 70 years of Supreme Court decisions. We talk about whose decisions get overturned, and prisoners on death row are not helped by my habeas corpus petition. They are still in jail.

If our bill had been in place in the last 5 years, and you hear about those several thousand cases, those folks would not still be on death row because under the conference report bill you get one petition and 1-year, you cannot be there 5 years, one petition and 1-year, and on second petitions they are greatly limited at well in those instances where they have to have as one of the elements to file a second petition that they were innocent and they have some evidence to indicate they were innocent. And they would have filed their petitions, over the last 25 years, the Court would have ruled, and they would either be free or dead, one of the two. They only have a year from which to file, as I said, under our conference report.

And last, and I say this with some—I just raise it. I will not assert it as a fact. Some might be able to argue that had we passed the crime bill last year, had there been a billion more dollars out there in the State and local law enforcement, had there been in place a prison system that did not require people to be thrown out, in all honesty it would have been hard to build that by this time so this probably would not have occurred, but had we had this bill in place who knows whether or not the Sergeant at Arms of the House would have been shot.

The point I am making here is while we argue over habeas corpus which involves everybody who is already in jail, cannot shoot anybody, while we argue about that, which is a legitimate argument, we are letting the rest of this legislation that now my friends on the Republican side say they support, when they did not support it 2 months ago, they did not support the bill 2 months ago, they did not support the money for the police 2 months ago, it was not in the President's bill it was not their alternative but they do now. We are in agreement. Let us pass all on which we are in agreement. Let us pass it now and move on. Debate the rest, but give the police the help they need now.

I will come back more, I suspect, to try to fill in from at least my perspective what I think the errors are in assertions made by my friends on habeas corpus and other issues as they will with me I am sure, but I just want to make it clear that I do not know why we cannot go ahead and vote and then go back to ironing out or debating our differences as to whether they want to go beyond or less than what the bill contains.

I yield the floor and I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, it was 986 days ago today, that President Bush sent his crime bill to Congress and asked us to do something to provide relief for our bleeding Nation. To this day we have not acted.

Our dear colleague has talked about a bill that has been brought up today as a conference report. Before I talk about what that bill does and does not do, I want to give people a little bit of background as to why we are here. We have been trying to deal with the crime issue and we held a press conference yesterday saying that today we were going to offer a new, tough crime bill as an amendment to pending legislation today or this week. As a result, the Democratic leadership has brought back last year's conference report and that is now before us.

I would like my colleagues to simply take note of the following facts. This conference report is going to be vetoed if it is passed here, and I have my grave doubts that it will be passed. The President is going to veto this bill because this bill strengthens the rights of criminals. This bill repeals decisions that have been made by the Supreme Court that have strengthened law enforcement and as a result unless God palsies the President's hand, which I do not expect Him to do on this issue, the President will veto this bill if it goes to the White House.

Second, despite all the talk about money in this bill not one penny is appropriated by this bill. Not one penny will be provided for law enforcement or for anything else by this bill.

This bill authorizes expenditure of money, but it does not appropriate money. Only an appropriation bill can do that, and no matter what we do on this bill today not one more penny will be provided for anything until an appropriation is passed.

Now why am I against this bill, which is called a crime bill in one of the great misuses of the English language in my 13 years in Congress?

Well, let me tell you why I am opposed to it. Without getting into these technical terms about habeas corpus and exclusionary rule, let me just speak English here for a minute.

Last year, when we considered the crime bill, on the floor of the Senate, standing at this exact desk, I sent an amendment to the desk asking for 10 years in prison without parole for selling drugs to a minor, no matter who your daddy is and no matter how society has done you wrong. I sent an amendment to the desk and asked for 10 years in prison without parole for somebody who sells drugs to a minor or who uses a minor in the distribution of drugs.

I also asked for mandatory life imprisonment without parole for somebody who is so callous of the health, happiness, and lives of our children that they would do it a second time.

Mr. President, that amendment was adopted by the Senate. What happened when the bill went to conference? The amendment was dropped.

I stood right here on the floor and sent an amendment to the desk asking for life imprisonment without parole for three-time losers. Now what does that mean? That means if a hoodlum goes out and rapes somebody, or some hoodlum goes out and sells drugs to a minor, or some hoodlum goes out and kills somebody, after the third conviction, we should have concluded that this person is preying off the health and happiness of our citizens and we ought to put them in jail for life where they belong.

The amendment went to the desk. The amendment was adopted. But when this bill came back, that amendment had been dropped.

I had drafted an amendment asking for 10 years in prison without parole for carrying a firearm during the commission of a violent crime or a drug felony, 20 years for discharging the firearm, the death penalty for killing somebody with intent, and mandatory life imprisonment for other murders committed with a firearm. Mr. President, a variation of that amendment was adopted by the Senate, but when the bill went to conference that amendment was dropped.

Now what happened is that in many cases similar provisions were adopted in the House. The House of Representatives has not been soft on crime, as the word is used. But what has happened is that when these tough provisions have left the House and left the Senate and gone to conference, the provisions that were committed to grabbing criminals by the throat, and not letting them go to get a better grip, have consistently been dropped.

Mr. President, I said when we debated this issue the last time that until those of us who are not victims of crime become as outraged as the people who are victims of crime, we are never going to deal with this problem. In fact, in many ways, we live here in an isolated environment. We come to work every day, people who come to the office buildings must go through a metal detector, the garages are guarded, and in a sense we have been in this isolated island while the rest of the country has been ravaged by crime.

But, Mr. President, since we last voted on this bill, crime has come to our very doorstep. The man in charge of the Capitol Police on the House side of this great historic building was shot in the face the other night by a criminal who was trying to rob him. Senator SHELBY's staffperson, going home just blocks from the Capitol, was shot in the head and killed. A Senator's wife was dragged down the street here with a pistol stuck in her face.

Mr. President, the tragedy is this has been happening to the Nation for years. It has only started in the last few months to happen to us.

Now what is wrong with this conference report? Not everything in it is bad. But what is wrong with it is that it contains the same half-hearted efforts that have been losing the war against crime and violence in this country for many years. It is too much dominated by the thinking that believes criminal behavior is a social problem.

Mr. President, I do not know what is going to happen to this conference report. The leadership on the majority side of the aisle feels obviously that they have gained an advantage by stopping us from offering our bill today. This conference report before us is not going to become law. Everybody knows it, it cannot be amended.

But I want my colleagues to understand, no matter what happens to this conference report, once a week, every week, except the week where we are up against a deadline to pass the tax bill, but other than that week, once a week, every week for the remaining time that this Congress is in session, I believe we should vote on the crime bill. Once a week we should do it and do it every week until a true, tough anticrime bill is the law of the land.

I know the leadership of this body understands that that is going to happen and nothing should change that until we are all there with our smiling faces and the President takes out his pen and signs a true anticrime bill.

I think it is important that this issue be dealt with.

Let me make one final point, and I will sit down.

In trying to push the process forward, what our distinguished leader on this issue, the Senator from South Carolina, has done is, rather than going back to last year's original bill with all the controversial matters in it, he has wisely put together a new bill that has provisions that have been adopted either by the House or by the Senate.

So the bill we introduced yesterday is basically made up of provisions that have already been adopted in one House of Congress or the other. In a spirit of compromise, it has authorized all of these spending programs. Now no money is provided, but it simply says someday we hope it will be and that is in this bill.

And, quite frankly, I am for most of this, though there are some items in here that have no business being in a crime bill in my opinion. But I want to try to get on with passing that bill. But what I am not willing to do is to pass bills that strengthen the rights of criminals. It is time that we started to concentrate on our obligation to protect the rights of our law-abiding citizens.

The bill we introduced yesterday contains the provision that Senator SHELBY has introduced, which is the death penalty for the District of Columbia. And I have news for the District of Columbia; we are going to adopt and impose the death penalty in the District of Columbia, and we are going to do it this year.

The Constitution is very clear that control over the District and the making of law in the District is the exclusive jurisdiction of the Congress. We are going to use that power this year to adopt the Shelby amendment, hopefully, as part of a true, tough anticrime bill.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, it has been 94 days since our friend from Texas and others have refused to let us vote on this crime bill. In 94 days, over 6,000 Americans have been killed; over 6,000 Americans have been killed in 94 days. They refused to allow us to vote on the crime bill, the conference report. In 94 days, if we want to count days, 17 percent of those 6,000 people were killed with handguns, the very handguns they do not want someone to have to wait 5 days to buy.

Mr. President, in the 94 days our Republican colleagues have refused to allow us to vote on the conference report crime bill, there has been in this country over 1,200,000 felonies in the 94 days.

And in that same period there have been over 30,000 women raped in the 94 days that they would not allow us to vote on a crime bill.

So, I can count too, Mr. President. Thank God; and it is pure luck I am not one of those statistics, or anyone in my family. Thank God. Knock on wood. Let us count days.

Habeas corpus is the crux. None of those rapes, none of those 30,000 rapes was committed by anybody filing a habeas corpus petition—none. None of those 6,000 murders were committed by anybody filing a habeas corpus petition they do not like. None of the 1.2 million felonies—it is possible some in prison may have been committed—but none outside of the prison setting of those 1.2 million felonies were committed by anybody because of the difference on habeas corpus.

Mr. President, let us count. Let us count the toll and the carnage that has accumulated while we fiddle here, while my Republican friends do not allow us to vote on a crime bill.

My friend from Texas said he proposed four amendments. I think I supported all of them on this floor. The Senate voted for them. But since when has my friend from Texas, God bless him, become such a purist? He introduced a whole lot of other amendments that were adopted, too. Some the House kept, some they did not, in conference.

So now we have a new rule. If you do not accept everything I like I am not for anything?

Let us talk about the penalties in the conference report we are not allowed to vote on, Mr. President.

Mr. HATCH. Will the Senator yield for a question?

Mr. BIDEN. I will in a moment. Let me read this off.

Mandatory penalty for drug use in a Federal prison; mandatory 10 years for smuggling drugs into a Federal prison.

Mandatory 3 years for dealing or selling drugs anywhere in a drug-free zone, not just to a minor, but anywhere near a school, to anybody.

Mandatory prison sentence of 5 years for selling drugs in a second offense in a drug-free zone.

Mandatory 10 years for firearm possession for two-time felon.

Mandatory sentence in jail for drug dealing in public housing projects.

Mandatory jail for selling drugs at a truck stop.

Mandatory—triple the mandatory, present mandatory provision—for using kids to sell drugs. Ten-year mandatory increase in the 10 years for using assault weapons in the commission of a crime. Five years additional mandatory for gun possession by a felon with one prior conviction. Two years mandatory for theft of guns or explosives in jail. No probation, no parole.

Twenty-year mandatory for using or carrying explosives, a second offense.

The present 1-year mandatory for distribution of drugs to a pregnant woman.

Let us talk about the other offenses we added in here. This is separate and apart from the death penalty, Mr. President. This is separate and apart from the 53 death penalty provisions that are sitting at that desk to become law if we pass it and the President signs it.

Let us talk about what the conference bill also has in there. New penalty for drive-by shootings that do not exist now. New penalties in section 704 for gang violence. New penalties for assault. New penalties for manslaughter. New and additional penalties for civil rights violations. New penalties and additional penalties for crimes against the elderly. New penalties for drunk driving with children in the car. New penalties for trafficking in counterfeiting goods. New penalties for drug use in a Federal prison, mandatory. Not only selling, but using; 1 year mandatory. New penalties for smuggling drugs into Federal prison, 10 years mandatory. New penalty for drug dealing in a drug-free zone, 3 year mandatory. New penalty for dealing in drug-free zone, second offense, 5 years mandatory. New penalty for possession of a firearm in the commission of a felony, 10 years mandatory. New penalty for drug dealing in public housing, mandatory. New penalty for selling drugs at a truck stop. New penalty for using kids. New penalty for drug trafficking in prison. New penalty for steroid use by minors. New penalty for brokering or trading in illegal precursors—chemicals that are used in making drugs, new penalty. New penalty for exporting or importing chemicals to evade the reporting requirements of the drug legislation. New penalty for failure to obey the order to land, which is section 1631. New penalty for receiving proceeds from extortion. New penalty for receiving proceeds from postal robbery. New penalty for parental kidnaping. New penalty for credit card fraud. New penalty for insurance fraud. New penalty for computer crime. New penalty—expanding the definition of stolen property for the entire criminal code, section 3063. New penalty for theft of major artwork. New penalty for adding "attempt" offenses to robbery, burglary, kidnaping, smuggling and malicious mischief, 3072. New penalty—clarifying "burglary" under Armed Career Criminal Act. New penalty for interstate arms trafficking. Additional penalty for using weapons in Federal crimes. Additional penalty for gun possession by a felon. Additional penalty for thefts of guns and explosives. Additional penalty for second offense for using or carrying explosives, mandatory 20 years. New penalty for felons possessing explosives. New penalty—adding possession of stolen guns to a statute barring receipt of stolen guns. New penalty—adding counterfeiting to underlying offenses carrying firearm penalty. New penalty for receipt of firearms by aliens. New penalty for firearms or explosive conspiracy. New penalty for stealing guns or explosives from a dealer. New penalty for disposing of explosive to prohibited person. New penalty for airport violence. New penalty for maritime violence. New penalty for violence against maritime platforms. New penalties for torture. New penalties for weapons of mass destruction. New penalties for supporting terrorists. New penalty for smuggling firearms. New penalties for lying on a gun application. New penalties for obstructing justice—for judges and juries, witnesses and victims and informants. New penalties under the Travel Act. New penalties for conspiracy to commit murder for hire. New penalties for terrorist crimes. New penalties, increased fines for passport violations. New penalties for recidivist sex offenders.

Mr. President, these are new penalties. I misspoke in the last three. But all the rest of them are new penalties. And my friend from Texas had three he did not get in so he says he is not going to be for the bill. "I am going to take my ball and go home." I can get my three. Biden supported the three he wanted, I believe. I do not know every one he mentioned, three or four or five. But, "I did not get them all so I am taking my ball and I am going home and I am going to see to it the American people do not get a crime bill now."

Mr. President, we voted for them, the Senate passed them, we went to conference. The conference is a negotiation. The House did not have those in. It did not have a lot of these in. It did not have half the mandatory ones, or all the mandatory ones we had in.

So, Mr. President, you served in the House. What do you do? You sit down and say OK, folks, let us get a bill. And they say, "We voted 306 to such and such, so we cannot back off this position. Our folks are not for this."

And we say, "OK, we voted twice on this," and we negotiate.

But my friend from Texas did not get his three provisions, or four or five or six.

Mr. President, all of these things, now, I think, are in the so-called Republican crime bill. They are all in there, including what the Senator from Texas has. But he did not get them all. That does not mean we are going to get anything.

If, as chairman of the conference—or the Senate conferees, I were sent over, or any chairman was, on any major bill, and said, "Now, look, if you do not get every single thing the Senate wants we do not have a bill," how many bills do you think we would pass here? How many bills do you think would become law? And then the House would say every single solitary provision in our bill, we want, or no bill. That is what conferences are for, Mr. President.

Mr. President, I would like to put in the RECORD, to clarify the RECORD, the number of provisions that I said are new penalties.

I mentioned five. That is, increase in firearms possession violations; recidivist sex offenders; sex offenders with AIDS—I did not mention that. But those three that I did mention are not in that conference report.

The other things I mentioned, including maritime violence and all those things, they are the same in both bills. Therefore, they are in the conference report.

The point is, Mr. President, 56 new offenses, not counting the 53 new death penalties. My friend did not get his four additional ones. My friend from South Carolina did not get one that arguably is a good one, and that is that a sex offender with AIDS—the victim should be told.

A noble concept, Mr. President, I would like to see him have it. He did not get it. So because he did not get, or they did not get, or anyone did not get—Democrats as well—everything that they wanted, the basic message to us is: We are taking our ball and we are going home; we are not going to play. Tell the police to wait another day. Let us go through another 6-month process and argue this. Let us do it all over again in the middle of a political year, because I did not get mine. We only got 56 new penalties; we only got 53 death penalties. We did not get the death penalty in the District of Columbia. We got it everywhere else; we did not get it in the District of Columbia. So no death penalty anywhere, federally, I mean, no Federal death penalty.

Mr. President, I know my colleagues too well. I know that is not how they operate in everything else. I know how strongly they feel about the death penalty. The Senator from South Carolina feels stronger about the death penalty than I do, and I authored this first bill and he authored one as well. He feels even stronger than I do.

But, Mr. President, the message keeps coming back, that this is about a couple of things. It is about the Brady bill; it is about habeas corpus; maybe it is about the exclusionary rule. But if those three things were settled, I cannot imagine the Senator from Texas being against this because four provisions that are arguably good provisions are not in this bill. I just cannot imagine that. So although I believe him to be totally sincere when he says how important he feels they are, I cannot imagine.

One last thing, Mr. President. My friend from Texas pointed out that if this bill passed today and was signed by the President tonight, it would not appropriate an additional penny. Surprise, surprise, surprise. That is why they are called authorization bills. But everything we have authorized in broad numbers we have appropriated on drugs and on crime. If there were a bill passed in the next 12 years, it would not appropriate a penny. That is what we called, when we used to practice law, a red herring. It is nothing about nothing.

The Senate's record and the Congress' record is, on law enforcement, whatever we have agreed upon with the President, we have funded. That is a separate piece. The separate piece is—and I might add, by the way, had we done that I suspect we would have funded a lot of this by now.

So, Mr. President, like I said, I think we should keep our eye on the ball here. The ball is habeas corpus. That is people already in jail. The ball is handguns, which these folks do not like waiting 5 days to buy. And the ball is possibly exclusionary rule, although that has never slowed up anything around here.

So I yield the floor, Mr. President.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I have to admit many of the things the distinguished Senator from Delaware says are in the conference report are in the bill filed by the distinguished ranking minority member of the Judiciary Committee yesterday. On the other hand, there are some notable—and frankly, for those who are aware, who are expert in the law, noticeable—deficiencies in the conference report that nobody who really is against crime is going to sanction.

What really happened was we passed a pretty tough crime bill—that I give the Senator from Delaware a lot of credit for—in the Senate; and certainly, the Senator from South Carolina. It had a tough habeas corpus provision in it that would have stopped an awful lot of the repetitive appeals that are going on in this country, that give these criminals the idea that they can never be really convicted, and billions of dollars lost in funds that have to go for law enforcement because we have not reformed the habeas corpus laws.

We did it in the Senate. They stripped it out in the conference report. They took a provision that is going to open up even more appeals like the one in Utah. William Andrews—everybody knows he murdered those people. He tortured his victims, rammed pencils through their eardrums, poured Drano down their throats, and then shot them. He was sentenced to death. His partner has already been executed. He is now in his 18th year of appeals and his 28th appeal.

If the conference report language goes through, it says to every criminal: Do not worry; you will never go to the chair; you will never have to suffer the penalty that society imposes on you; you have a right of appeal forever. And that is what it comes down to. We have one person in jail who is in his 54th year of appeals because of the language like they have in the conference report, which we correct in this bill here.

You wonder why we do not like the conference report. On the death penalty, what good is the death penalty if you can never effectuate it? I personally have a very tough time with death penalties. I would only allow their use in the most heinous of crimes. But let me tell you, it is a deterrent. I do not care what anybody else says. But the death penalty would never, never be carried out again if the conference report passes, because we have the most ingenious criminal defense lawyers in this country who come up for a new reason for appeal everyday, and guess who pays for those appeals? You and I do, every taxpayer in this country, and the conference report continues that mess.

You wonder why we do not want the conference report. We want a lot of things that are in the bill that Senator BIDEN has discussed. They are in this bill. But we correct the habeas corpus problem. As for the exclusionary rule, we did not do a very good job in the Senate. It is better than the conference report, but the House did a great job on the exclusionary rule. The conference report is worse than current law in this area.

We know what the exclusionary rule is. That is the rule of technicalities. If they can show certain technicalities have been violated, then the criminal goes free. There are not many who go free, but there are some criminals who have gone free. We think it ought to be corrected in any real crime bill. And it is not a real crime bill if we do not solve that problem.

The conference report is worse than current law with regard to the exclusionary rule. Reliable evidence of guilt would be thrown out in various circumstances, even if the officers conducting a search reasonably relied on a warrant issued by a magistrate. If they acted in good faith, the conference report that the distinguished Senator from Delaware is arguing for just throws out that evidence.

What does that mean? It means criminals go free.

Mr. BIDEN. Point of inquiry.

Mr. HATCH. Let me just finish.

Mr. BIDEN. Did the Senator say with a warrant or without a warrant?

Mr. HATCH. I did not talk about a warrant. I did—I said a search where they reasonably relied on a warrant issued by a magistrate.

Mr. BIDEN. I think if the Senator checks the stats, that is in the bill, Mr. President. I just stand to make that point, that it would be admissible if it is relied on a warrant. It is only when there is no warrant.

Mr. HATCH. We will get into that as we go further.

So today, I rise in support as a cosponsor of the Crime Control Act of 1992, which was introduced yesterday by the distinguished ranking minority member and former chairman of the Judiciary Committee, Senator STROM THURMOND. The Crime Control Act of 1992 stands in marked contrast to the 1991 conference committee crime bill. That was a bill rammed through conference by the other side at the end of the last session.

What they did is they took the most liberal members of the House Judiciary Committee and Senate Judiciary Committee. Nobody else had any say, and they put together the worst provisions of both bills. I have to say they are soft-on-crime provisions. Yes, they put a lot of good things in it, but what good is the death penalty if you are going to never execute it? It is nice to talk about 53 death penalties, but if you take away the effectuation of them, what good is it? It is nice to say you are tough on crime with death penalties, but they cannot be carried out. What is cynical about it is they know it. They stand here and try to pass it off as though it is tough on crime.

That bill was rammed through conference by the liberals in both the House and Senate Judiciary Committees and, as we all know, if you look at it carefully, it is hardly the good crime bill that everybody on the liberal side of the table seems to think. A close comparison of the two bills demonstrates that the conference bill is a cynical attempt ostensibly to fight crime even as it ties the hands of law enforcement authorities and opens the prison cell doors. Indeed, the conference report would let vicious, violent criminals out on the street that the Republican Crime Control Act would keep behind bars, the bill introduced yesterday by Senator THURMOND and others, including myself.

Let me just briefly compare for you some of the more salient provisions of the Crime Control Act and the conference bill. Look at the death penalty. Under this Republican Crime Control Act, the jury is directed to impose the death penalty for enumerated offenses if aggravating factors outweigh mitigating factors. In contrast, under the conference bill, the jury has standardless—meaning without standards—discretion to refrain from imposing the death penalty regardless of the aggravating factors. Moreover, the Republican Crime Control Act contains several safeguards to prevent litigation abuse and delay in the implementation of the death penalty. The conference bill contains no such safeguards.

Additionally, the bill enacts a unanimity requirement for the first time for the jury recommendation on the death penalty. Thus, when only one juror declines to impose the death sentence, regardless of the facts of the case, the sentence is prohibited. Underscoring this problem is the fact that the Supreme Court already prohibits the prosecutor from objecting to seating jurors who are opposed to the death penalty in the first place.

Finally, although the conference bill adopts new death penalties, its procedures are so convoluted that the penalty—the death penalty, that is—will seldom be returned and virtually never will be carried out.

On habeas corpus, the Crime Control Act introduced by Senator THURMOND basically does not change existing retroactivity standards previously established by the Supreme Court. That is good. In contrast, the conference bill makes almost all criminal law decisions of the Supreme Court retroactively applicable to overturn earlier convictions and sentences that had been imposed in conformity with then-existing law. No criminal conviction would ever be final under the conference report.

It has some nice provisions, but what good are they if they cannot be enforced? That is why we are so upset about it. Anybody who understands the law, unless they are more concerned about criminal rights than they are about victim's rights—and I want to be concerned about both—would have to conclude that the conference report does not solve these problems.

No criminal conviction would ever be really final under the conference bill. Convicted criminals, even those with life sentences, could invoke any subsequent change in the law that was favorable to them to have their convictions overturned if you adopt the conference report language.

Let me just give you some cases that illustrate how retroactivity would operate under the conference bill. Take the William Heirens case. A 17-year-old college student murdered three women in cold blood in Chicago, IL, in 1946. Two of his victims were adults, but the third was 6-year-old Suzanne Degnan.

William Heirens did not simply kill his victims. He also mutilated, decapitated, and abused their lifeless bodies in the most unspeakable manner. For example, different parts of Suzanne Degnan's body were found in five different sewers on the north side of Chicago.

Why am I bringing up today, in 1992, a murder case from 1946? A case that is 45 years old?

First, I note that the case is still being litigated in the Illinois State courts after all that time. Everybody knows he is guilty, but it is still being litigated. It is also still being reheard through parole proceedings—and it will, I am sure, be relitigated till the end of this century and beyond if the conference report's retroactivity provision becomes law.

William Heirens pleaded guilty to murder in 1946 and received a sentence of life imprisonment. There is no question of his guilt or innocence.

However, Heirens has continually sought release on a wide variety of legal theories. His last parole request was denied as recently as April 26, 1991. This was his 29th formal request for parole in 45 years. Guess who pays for that. Why, you and I do.

Heirens has also filed numerous postconviction suits seeking release. He has a current case pending today in the Illinois Court of Appeals. He has sought release on various theories, but no law now applying to his case has so far been found to justify his release.

Suzanne Degnan's older sister—now in her fifties—has followed each of these repeated attempts by Heirens to obtain release. Can any of us imagine the trauma of a family victim put through 46 years of appeals?

But that is not enough apparently for some Democrats—they want William Heirens appeal process to start all over again. That is what their retroactivity provision in the conference report would allow.

Since William Heirens was sentenced to life in 1946, hundreds, if not thousands of new criminal decisions have been handed down by the Supreme Court. He was imprisoned before the Supreme Court decided Brown versus Allen in 1953, extending the Federal habeas remedy beyond jurisdictional challenges. He was imprisoned before the Warren court decided that most of the Bill of Rights even applies to State prisoners. He was imprisoned before the 1966 decision in Miranda versus Arizona created unprecedented new rights, and he was imprisoned before Swain versus Alabama (1976) and Batson versus Kentucky (1982) fundamentally altered the way in which peremptory juror challenges can now be exercised in criminal trials.

Heirens could logically argue, as he has under other circumstances, that he might not have pleaded guilty to murder in 1946 if he had possessed all of these rights.

Does any of this justify an attempt to retry him now, 46 years after his murders? Of course not.

But should the conference report's retroactivity provision become law, William Heirens will, along with every other prisoner in America, have a wealth of new legal theories to pursue in court, this man who confessed to murder. What kind of a bill is this? And they are passing it off as a tough-on-crime measure? Let me tell you something. It does not take any brains to realize it is not tough on crime. It can say all these things in it, but if it takes away enforcement rights and this right to abuse of the process is granted, how can you decide otherwise?

Despite the length of his incarceration, William Heirens is still only 62 years old. With the new rights of appeal that the conference report's provision would give to him, it is entirely foreseeable that he could be in federal court well into the next century. and this is a man who is guilty.

(Mr. CONRAD assumed the chair.)

Mr. HATCH. Mr. President, the scenario I have just outlined is extreme. I admit that. Frankly, it is the most extreme case I can think of in terms of years but it is not unforeseeable or unlikely if the conference report becomes law. You wonder why we want a different bill. You wonder why we are fighting against the conference report. Think of William Heirens and the thousands of prisoners like him all over the country.

The possibility of William Heirens filing more Federal habeas appeals, 45, 50, even 60 years after his conviction will be more likely than not to occur if the conference report's retroactivity provision becomes law.

It simply is outrageous if the surviving family members of these terrible crimes should have to relive this ordeal, to have half a century of appeals. This inevitably is what will happen should the conference report retroactivity provision become law.

I just cite one other. I have all kinds of others. I could go into dozens if you want. Let me take the Charles Manson, Sirhan Sirhan cases.

They were among the hundreds of death row inmates who were relieved from their death sentences in 1972 by the Supreme Court in Furman versus Georgia.

This group includes some of the most notorious murderers in American history. In the State of California alone this group includes Charles Manson, Sirhan Sirhan, Gregory Powell, the "Onion Field" murderer. I do not believe I need to describe the crimes committed by those individuals.

Each of these individuals has been in prison for more than 20 years with no hope of release, no hope that is, until the idea of reversing the Supreme Court's holdings on retroactivity was first proposed and provisions such as the one contained in the House bill.

Let us not fulfill the hopes of Charles Manson or Sirhan Sirhan. Let us not give these justly convicted criminals one more "bite of the apple," as the chairman of our Judiciary Committee would say. They deserved to be executed 20 years ago as the jury in each of those cases concluded. Let us at least leave them in prison where they belong. We owe that much at least to the victims and to the families of these victims.

Well, under the conference bill, convicted criminals, even those with life sentences, can invoke any subsequent change in the law that was favorable to them to have their convictions overturned. That is the ACLU criminal agenda.

While the Republican Crime Control Act, the one the Senator from South Carolina filed yesterday, provides for a 1-year time limit on habeas filings by State and Federal prisoners, the conference bill provides no time limits on habeas filings except for those State prisoners in capital cases. Further, the conference bill rejects the Republican Crime Control Act provision that habeas cases could only be brought for claims that have not been "fully and fairly litigated" already by the States; overturns at least 14 Supreme Court cases that limit frivolous appeals and endless litigation in death penalty cases; and allows death row inmates who do not even dispute their guilt to file endless challenges to their sentence.

There are other things. Harmless error and appellate review view. In contrast to the Republican Crime Control Act, which maintains the harmless error standards established by the Supreme Court in these cases, the conference bill provides for automatic reversal of conviction on appeal where a trial court erroneously admits a confession elicited in violation of the 5th or 14th amendment even if independent evidence of guilt is overwhelming and it appears beyond a reasonable doubt that the erroneous admission would not have affected the outcome of the trial, overturning the Supreme Court's decisions in Milton versus Wainwright, and Arizona versus Fulminante, in 1972 and 1991, respectively.

On the exclusionary rule. In contrast to the Republican Crime Control Act, the conference bill which has been argued yesterday and today narrows the good faith exception to the exclusionary rule. It expands the criminals' rights to challenge the admissibility of incriminating evidence used against them; it reverses the Leon presumption that police officers are entitled to rely on a magistrate's authorization to search; and reverses the fifth circuit good faith exception that applies in warrantless searches that is broader than the Leon exception. The conference bill would let out on the street vicious, violent criminals who would be convicted under this Republican Crime Control Act.

On gang warfare, this is an issue that is particularly of concern to me because of the rise of gang warfare in Salt Lake City and throughout the country. This Republican Crime Control Act increases the mandatory penalties for drug distribution to minors; for using minors in drug trafficking, and for drug distribution to minors by recidivists. The conference bill contains no such provisions.

The Republican Crime Control Act establishes a new offense of inducing minors to commit crimes, creates a presumption in favor of adult prosecution for leaders of juvenile gangs and other criminal activities involved in drug trafficking or firearms, treats certain highly serious drug crimes by juveniles as predicate offenses for armed career criminal purposes, creates a new offense covering the commission of serious violent crimes and drug crimes on the part of the activities of a street gang, adds certain serious drug crimes to the list of offenses requiring fingerprinting and the retention of records for recidivist juvenile offenders, extends the range of sanctions authorized for juvenile offenders to include post-incarceration supervised release, directs the executive branch to develop a national strategy to coordinate Federal investigation of gangs, and requires inclusion of information on gang violence in uniform crime reports.

Most of these provisions of the Republican crime control bill have no counterparts in the conference bill. The few provisions in the conference bill that are similar, are weakened or watered down.

I have no doubt in my mind that the distinguished Senator from Delaware would be for every one of those provisions if he could get them in this bill. I have no doubt he is tough on crime. He wants to be tough. I respect him. We are friends. But he is stuck with this conference report, the weakest of all the things that have been brought here on the issue of crime.

What about sexual violence? This Republican Crime Control Act doubles the maximum authorized penalty for repeat sex offenders, and authorizes restitution for victims of sex offenses—sexual assault, child molestation, and child sexual exploitation—whether or not physical injury results. The liberal conference bill contains no such provisions.

It is not time to do something in this area?

Victims rights. This Republican Crime Control Act makes the award of restitution for crime victims mandatory, and adopts other reforms enhancing the scope of restitution and enforcement of restitution orders.

In addition, the Crime Control Act filed by Senator THURMOND protects the victim's right to an impartial jury by equalizing the number of peremptory challenges accorded to the defense and the prosecution in felony cases. The conference bill contains none of these victims' rights provisions.

Let us start thinking about victims. It is one thing to protect the rights of criminals. I want to do that too. I want their constitutional rights protected. But what about the rights of victims? The conference report does not do it.

In sum, the Republican Crime Control Act is a step in the direction of fighting crime and recognizing victims' rights. The conference crime bill is a step in the direction of criminal rights and thwarting law enforcement.

Mr. President, I have no quarrel with my friend from Delaware. I know that if he had a way of putting all these provisons in his bill he would. But he is dealing off-the-wall people on his side of the aisle who basically do not want to do anything that is tough on crime, and who justify their position by standing up and saying they are for the constitutional protection of criminals' rights.

Frankly, we are all for that. I do want any defendant to be abused by a violation of the Constitution. I will fight for their rights. But I think that the conference report—and I think anybody who fairly looks at it has to come to the conclusion—does not fight for their rights like it should; for victims' rights. It does a pretty good job for criminal rights, but not victim rights.

Frankly, it is time we start thinking about the crime on the streets throughout our communities, communities that never before had these kind of problems. All of us are overrun with drugs, with gangs, street gangs, sexual violence, all kinds of violent offenses to our lives, and it is time to get tough about it.

To be honest with you, I do not care if there are 53 capital punishment provisions or 1. If they cannot be enforced, they are not really capital punishment provisions. Under the conference report, they are virtually unenforcible. If you look at it carefully, I do not think you can refute that statement. Some will try.

Again, I think it is time for us to get tough on criminals. The bill filed by the distinguished Senator from South Carolina gets tough on criminals. It uses the Federal power to start stamping out crime. It will result in cleaner streets, safer homes, and more safety for people throughout our society. At the same time, it lets those know who are going to commit these crimes that they are in trouble. It is about time we did that.

I cannot tell you how disappointed I have been in the last two conferences in the last two Congresses, where we go to conference and the liberals control the conference, and they wind up getting the softest on crime things they possibly can that moot or negate the tough-on-crime provisions, such as they are, that remain in the bill, while knocking out a bunch of others that really should be there.

Mr. President, I have a lot more to say about this, but I presume this will go a little longer today and tomorrow, and perhaps days afterward. But I have to say that these things are true. I do not care how you try and gloss them over.

I know that the distinguished Senator from Delaware has to argue for his side. I feel sorry that he has to argue for that side, because it is not a good side. That is why we do not want the conference report.

We also know the conference report, if it passes, will be vetoed, and we will sustain that veto. It is an exercise in futility, because it has so many provisions that are soft on crime. It has provisions that are tough on crime, too.

I am not saying it is all bad. I support a lot of things in that bill. If you add it up in totality and look at these few provisions—and I will talk about others later—you have to say that all of the beating of the breast on how tough it is does not amount to one hill of beans, as long as they do not correct some of these basic errors and basic problems with Federal criminal law.

I yield the floor.

Mr. BIDEN. Mr. President, I thought the Senator from Utah was going to say he feels sorry for the fact that Senator BIDEN has this side because he wishes Senator BIDEN was not about to shed some light on what he just has said.

Mr. President, I love my friend from Utah. He and I have been friends for a long time. He is one first-class lawyer. He does what all good lawyers do when they do not have a case. When they do not have a case, they set up a strawman, and then they proceed to knock down that strawman. Eighty percent of what my good friend said has nothing to do with this conference report.

Mr. President, it is a little bit like my standing up here and saying, if we do not pass this bill, if this bill had been law, there would not have been but 10 rapes or 10 murders in America. This distinguished lawyer, my friend, the Senator from Utah, stands up and says that this is a procriminal bill, that if it were passed, Manson would be out of jail. This is really good. Manson would be out of jail. Sirhan Sirhan would be out of jail. I assume Jack the Ripper, if he were alive, would be out of jail. I assume that guy just convicted in Milwaukee, Dahmer, would be out of jail. That is bizarre.

Mr. HATCH. Will the Senator yield on that point?

Mr. BIDEN. Yes.

Mr. HATCH. I said they would have the opportunity of continuous appeal that will go on and on at a cost to taxpayers and society. They might get out of jail, depending upon the cases in the Supreme Court, because of the retroactivity provision.

Mr. BIDEN. I thank my friend for that clarification, because what he just said was incorrect just now but what I thought he had said is bizarre. I apologize. He just said it incorrectly.

Let me speak to what he just said. This notion that all these folks—the Utah case he understandably cites, which is really a heinous crime that was committed, and concerns a fellow who has had 17 appeals; if the conference report passed, he would have no appeals. It is over. He had his 17 appeals; finished. He could not have a new one.

By the way, sometimes we make, on this floor, substantive arguments, and sometimes we make humble arguments, and sometimes we appeal to authority. Let us assume we continue that practice around here. Is it not fascinating that my friend says—I will paraphrase him, because I do not know the exact quote. He said something to the effect that anybody who cares about crime, anybody who is for this bill, has to care more about criminal's rights than victim's rights.

Why are the police agencies for this? Since when did they turn soft on crime? Since when are the folks out there who get shot, all of a sudden, these commy-liberal-symps, who are soft on crime, procriminal? Tell that to the FOP, that they are soft on crime.

I dare you to tell that to Dewey Stokes, when you are in the Senate gym, or the police gym. He will knock you on your rear end.

I dare you to tell that to Chief Sapp of my police department in Wilmington, DE, that he is soft on crime. He will knock your block off.

I dare you to tell that to the police agency, the folks that get out of the squad car and come in as they are changing shifts and say, by the way, in the locker room, you are for criminal rights. You are soft on crime. You better be a good a boxer as I expect the Senator from Utah may be. Maybe he can say it. I am not as tough as he is. I am not going to walk in and say that. I will get knocked flat on my rear end.

Mr. HATCH. Will the Senator yield on that point? I hope he would not try and knock me on my rear.

Mr. BIDEN. I am a peaceful man.

Mr. HATCH. I am not talking about you.

Let me just say that, look, the ones who are really concerned about this, as far as criminal law, happen to be prosecutors who have to prosecute these people and keep those convictions alive. The money in this bill is quite attractive to law enforcement persons, because they understandably want the money. Given those attractive aspects of this bill, they are more willing than the prosecutors to overlook the legal deficiencies in the bill.

But the prosecutors are the ones who are telling us that they cannot live with that conference report and do their job. I can tell you that the Justice Department does not think they can live with it.

I can tell you that most prosecutors, I think, would feel like this. It is a pretty pathetic approach to criminal law in the conference report. They would be much better off, if you want to convict criminals, and keep those convictions, and stop the repetitive appeals. For instance, on the point that the distinguished Senator was making, what would there be to prevent Charles Manson, to take an egregious case, from filing a habeas petition? Why should he not get to rely on Batson versus Kentucky, a 1982 case, like every other person convicted since 1982?

Mr. BIDEN. I would be delighted to answer the question. Because it is a new rule, and he would not be able to.

By the way, the Senator says that what we are doing is turning back the law, and others have said we are turning back the law to 1989 and 1990. He has been in jail a long time. Why did he not get out in 1989 and 1990 before the law was changed, which we are saying we want to change back. Why did he not get out then? He had been there for years and years and years.

I would expect, as they say in the House and the Senate, that we have a chance to revise the record, because I hope the Senator did not mean what it sounded like he said, that the reason why the police agencies are for this is because they have been bought off in this bill. I hope he did not really mean that. I would like to give him a chance to correct that now.

Mr. HATCH. If the Senator will yield, I believe that the law-enforcement organizations understandably find the money in this bill for law enforcement attractive. I am not saying they are uninterested in the other provisions of the bill itself, but it is the prosecutors who are most concerned about this bill's legal provisions. The prosecutors will have to contend with this conference bill's legal deficiencies.

Back to that point on Manson. The Senate bill did not have retroactivity; therefore, Manson would not have had a chance in the world of invoking Batson. The House bill did, and the conference report grabbed the retroactivity provision which gives Manson a right to invoke Batson, even though it is a case that occurred long after his conviction and his sentence. And that is the problem here. The distinguished Senator from Delaware knows that there is retroactivity in his bill. He knows that it opens up new legal avenues for these criminals who are convicted.

President Bush, for instance, received a letter from the majority of the States attorneys general, and these are the officials most familiar with legal issues raised by this crime bill. Most police officers are not attorneys, and do not have to prosecute, and do not really know all of these provisions from the criminal law standpoint. That is not their major interest.

Sure, they are understandably concerned about increasing funds for law enforcement. When they hear the arguments of the distinguished Senator from Delaware, it sounds like it is a tough crime bill until they hear the argument as to why it is not from the attorneys general who have to prosecute these matters, including the Attorney General of the United States.

The State attorneys general do not need anyone to explain to them the meaning of retroactivity or why it constitutes a threat to the validity of every single State criminal conviction. It does not take extraordinary legal expertise to figure it out. That is why the State attorneys general, most of whom are Democrats, have written to President Bush hoping that we can get a bill like Senator THURMOND has found.

And what message did these State officials, both Democrats and Republicans, give that they wanted to convey to President Bush? They wrote to express their "alarm over the habeas corpus provision contained in H.R. 3371 as passed by the House and urge the President to veto any bill containing those provisions."

What did the crime conference do with the habeas corpus provision?

Mr. BIDEN. Excuse me. I think the Senator from Delaware still has the floor. Was that a question to me?

Mr. HATCH. No; I was answering the Senator's question to me. I am glad to yield back, but it is not as simple as the distinguished Senator from Delaware is making it.

Mr. BIDEN. Flat out the Senator from Utah is wrong with reference to

Charles Manson and the other cases that he speaks to.

But let me go through more specifically and then I will be happy to yield the floor. I see others are here. We have now determined from the Republican position that the police agencies either have no brains and/or have been bought off by the money in the bill, because anybody who had any brains, it was just stated, would know that this lets out the Charles Mansons of the world or gives them a chance to get out. Simply not true, No. 1.

But if it means that, I guess I have no brains and the police agencies have no brains, No. 2. It is the money in the bill that the police want and the reason why the police are supporting this bill. Wow.

No. 3, it is the attorneys general, almost all of whom are either political appointees or run for election, Democrats as well as Republican, the most dangerous thing most of them do is have to worry about paper cuts when they are filing answers on appeal and habeas corpus petitions.

Cops get shot dead.

Let me leave that alone. I will let the police settle that with everybody. The fact of the matter is that there are limited appeals.

Let me talk about habeas corpus for a minute now since it is getting so skewed.

No. 1, the number of petitions is one and the number of times that a person can file a petition is one and they have to do it within 1 year—shorter than the current law. That is what is in the conference report.

No more filing 10 petitions, no more filing 10 petitions in 10, 20 or 30 years. Those examples are not relevant.

No. 2, any second petition rule in the conference bill is tougher than the current cause-and-prejudice standard that exists in the present law. Not only must a petitioner show cause and prejudice in order to be able to file a second petition, but he or she must also show one of the following: that they are innocent and they have evidence of that.

I assume we would not deny someone that. Someone comes along and says, "Charlie is in jail for killing Cock Robin, but I killed Cock Robin." But I am assuming we will allow someone to file a habeas corpus petition to say, "See, I am innocent, someone else admitted to the crime," or to say, as has happened in cases, evidence comes forward that the police and/or the prosecution or anyone else withheld evidence that would have shown, as has occurred in the past, the innocence of a person, should not someone be able to file and say we now found out that they never let the train schedule into the RECORD that shows I was in Oshkosh, when the evidence was, the crime was committed elsewhere?

They have to show that, Mr. President, they are innocent. Or, they have to show that the sentence imposed upon them was unlawful, that is, it did not comport with the statute. They got sent to jail for 10 years and the statute says you can only go to jail for 5 years.

That is the condition upon which they can file a second petition.

And there are no new rules. The no new rule pledge of the Teague versus Lane case is honored here and expanded.

The bill says: "The court shall not apply a new rule, section 204." Moreover, it goes further and made two exceptions for decriminalizing rules and watershed rules in criminal procedure to this no new rule standard.

They made two exceptions where this no new rule principle would not apply. In the conference report we eliminated those. We do not even allow those two exceptions.

Fourth, the only place where the conference report changes current law is on the definition of a new rule reversing Butler versus McKellar. The conference report rejects Butler's definition—and that is true. Any rule about which State court judges could reasonably disagree because that definition did not include old rule cases, the case was decided before the prisoner was convicted. Instead, the conference report defines new rules as rules that make a "clear break from precedent and could not reasonably have been anticipated"; section 204.

Mr. President, let me give you an example of what I mean by that.

Suppose the Supreme Court decided tomorrow that police had to tell arrestees the extent of the possible penalty they faced in the possible sentence. And suppose the Supreme Court said not likely with this Court. But suppose it said a failure to do so violated the Constitution.

Now, no one on death row today could use that new rule enunciated by the Supreme Court to get a new trial based on the claim that when he or she was arrested they were not told about the sentence. The rule is a new rule. That rule, if it were to come down, would be a new rule, a new one, since it was announced after the person's conviction. The conference report would not—would not—benefit prisoners on death row, as Senator HATCH has charged.

It is a little bit of hyperbole, I respectfully suggest, on the part of the Senator from Utah, to take our eye off the ball here.

Mr. President, Senator THURMOND charged that the conference bill undermines law enforcement. Law enforcement groups representing more than 500,000 of the 700,000 police in America, those on the front lines, they endorse and ask for the passage of this conference report—half a million police officers.

Senator THURMOND and Senator GRAMM's bill and Senator HATCH's reference to the victims of crime, first of all, it cuts funds to victims of sexual assault and child abuse. Their bill cuts funds and it cuts funds to all crime victims and gives this to State and Federal administrative bureaucracies, to let them decide what to do with it.

Ironically, now that they want to "lift the cap," "the reason we wanted to lift the cap," the administration said "if they lift the cap, it was veto bait." The Republicans said they did not want to lift the cap before. Now they come along and say they want to lift the cap.

I am not suggesting it is disingenuous, but I am suggesting it is a timely change of spirit.

The conference bill at the desk grants victims the right to speak at sentencing, speak against the person who committed the crime against them. The conference report that they will not let us vote on removes the cap on the crime victims fund which they opposed before but now are for.

The conference bill that they will not let us vote on prohibits attempts by Medicare to use the crime victims fund to pay for expenses now paid by other Federal agencies.

The exclusionary rule. In general, let us get the facts straight, keep our eye on the ball here. The exclusionary rule—by the way, for anybody listening who is not a lawyer, what that means is evidence seized by the police, according to the court, illegally, violating someone's constitutional rights, is not admissible into court against that person. That is the exclusionary rule.

Now, in all the cases—I said there are 5.6 million felonies every year. How many times did the issue of evidence being excluded come up? Less than 1 percent. Let us assume they are right—and they are indeed wrong—less than 1 percent. In that conference report the Republicans will not let us vote on, we exempt mistakes made by police officers in good faith if they have a warrant in their hand and they make a mistake. So that reduces the 1 percent significantly lower, whatever that is, and I do not know what that number is, but less than 1 percent.

We codify the Leon case. My friend from Utah says well, the fifth circuit came along and said in a warrantless search, if a good faith mistake is made, it should be exempted. We do not say the Supreme Court cannot reach that decision. But that is not the law of the land. That is one of the circuits. That is the fifth circuit, not the Supreme Court. And all we say is we codify Leon, a Supreme Court decision.

We do not stop the Supreme Court from coming along and taking a look at the fifth circuit rule and say we agree with that rule. The conference bill does not limit current reach of the exclusionary rule. It merely codifies it. These folks want to change the reach.

I would note there is no one more articulate on the subject of the exclusionary rule than the Republican Senator, a former attorney general, from the State of New Hampshire. Have him talk to you about that rule, my conservative friends.

Your home is your castle; right. Do you want a policeman to be able to say "I have no warrant. I have not gone to a judge. I have not established probable cause. I knocked down your door, I found something in your house, and I want to use it against you. And, by the way, I made a mistake. I really thought you were the criminal." Does that lend itself to abuse for targeted people?

I thought conservatives thought that your home was your castle. I thought conservatives thought that for someone to knock down the door they better have a darn good reason and have gone to a magistrate to say, "Look, I think they are doing something bad in there and here is what I think they are doing. I want a search warrant."

This does not affect hot pursuit. You are running after somebody. They have the stolen goods in their pocket and they are running home. You can knock the door down. But these folks, my friends on the Republican side, want to say, with or without a warrant. The conference report though, does not even speak to that. All it says is it codifies the Leon case.

Senator THURMOND says 14 habeas corpus cases are overturned or rejected by us. That is simply not true. Simply not true.

I ask unanimous consent that, in the interest of time, I may put in the RECORD at this moment six pages of material which I entitle "The Big Lie" for people to be able to study over the evening, refuting—without taking the time of the Senate now, because I see my friend from Iowa is here to speak and I want to give him a chance to do that—refuting this baseless assertion that the conference report, which the Republicans will not let us vote on, that the Republicans are filibustering, that it does not overturn 14 cases. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE BIG LIE

Why the Administration is wrong when it claims that 22 Supreme Court cases are overruled by the conference bill.

The Administration has asserted, incorrectly, that up to 22 Supreme Court cases will be overruled in the conference bill. The truth is this: The conference bill makes only two procedural changes in existing law—not twenty-two substantive changes as the Administration claims.

HABEAS CORPUS CASES

The claim that fourteen habeas corpus cases are "overturned" or "rejected" by the conference bill is wrong. Only *one* of the alleged 14 cases is changed by the conference bill and the only change is a change of *definition*. Prisoners are limited to one petition in one year—no excuses, no loopholes.

1. Teague v. Lane (1989): (Holding codified)

Holds no new rules apply to habeas cases with two exceptions (for decriminalizing rules and watershed rules of criminal procedure). *Teague* defines a "new rule," in part, as a rule that "breaks new ground."

The conference bill codifies the "no new rules" holding of *Teague* (narrowing it by excluding the exceptions) and defines "new rule" as a "clear break" with precedent.

2. Butler v. McKellar (1990): (Holding changed by bill)

Holds prisoner cannot benefit from a principle that was announced *before* he was convicted because it defines "new rules" as any rule about which state court judges could disagree.

The conference bill changes the definition of a "new rule" to include only those rules that break sharply with past precedent.

3. Saffle v. Parks (1990): (Holding unchanged by bill)

Holds prisoner is not entitled to benefit from a new rule barring antisympathy instructions.

The conference bill yields the same result because the claim would amount to a "new rule" and no "new rules" are permitted under the conference bill.

4. Solem v. Stumes (1984): (Holding unchanged by bill)

Holds that the decision in *Edwards v. Arizona* (requiring prisoner to initiate questioning after he has asked for a lawyer) does not require new trials for cases decided before *Edwards* because law enforcement could not reasonably anticipate the *Edwards* rule.

The conference bill yields the same result because the claim would amount to a "new rule" that could not reasonably have been anticipated and no "new rules" are permitted under the conference bill.

5. Barefoot v. Estelle (1983): (Holding unchanged by bill)

Creates standards for a stay of execution and provides that appeals may be handled on any expedited basis.

The Conference bill does not disturb this holding, but (like the Administration's own proposal) it establishes a simpler procedure for stays of execution and *requires* (rather than simply permits) that proceedings be expedited over a single year.

6. Murray v. Giarrantano (1989): (Holding unchanged by bill)

Holds that prisoners have no *constitutional right* of access to appointed counsel at the habeas stage of proceedings in a death penalty case.

The conference bill makes no change in the result of this case or the rule that there is no *constitutional right* to counsel for habeas appeals.

7. Pennsylvania v. Finley (1987): (Holding unchanged by bill)

Holds that prisoners have no *constitutional right* to effective assistance of counsel at the habeas stage of proceedings in a non-death penalty case.

Same as *Giarrantano* above—no change.

8. Ross v. Moffitt (1974): (Holding unchanged by bill)

Holds that the right to counsel does not extend to habeas proceedings (non-death penalty case).

Same as *Giarrantano* above—no change.

9. Murray v. Carrier (1986): (Holding unchanged by bill)

Holds that a prisoner gives up his claim if he does not raise it in state court, known as the rule of "procedural default".

The conference bill makes no change in this result, *except* in a future case if the State had refused to provide a lawyer to a defendant charged with a death penalty crime.

10. Smith v. Murray (1986): (Holding unchanged by bill)

Holds that a prisoner gives up his claim if he does not raise it in state court, known as the rule of "procedural default."

Same as *Carrier* above.

11. Engle v. Isaac (1982): (Holding unchanged by bill)

Holds that a prisoner gives up his claim if he does not raise it in state court, known as the rule of "procedural default."

Same as *Carrier* above.

12. Wainwright v. Sykes (1977): (Holding unchanged by bill)

Holds that a prisoner gives up his claim if he does not raise it in state court, known as the rule of "procedural default."

Same as *Carrier* above.

13. Fay v. Noia (1963): (Holding unchanged by bill)

Holds that a prisoner gives up his claim if he does not raise it in state court, known as the rule of "procedural default."

Same as *Carrier* above. (Note: This case established standards for procedural default that have already been overruled by the Supreme Court).

14. Sumner v. Matta (1981): (Holding unchanged by bill)

Holds that, on a habeas appeal, the Court must assume the facts as the state court found them.

The conference bill makes no change in this result, *except* in a future case if the State refused to provide a lawyer to a defendant charged with the death penalty.

DEATH PENALTY CASES

The death penalty procedures in the conference bill are virtually identical to procedures passed by the Senate. *No change* is made in state death penalty laws.

15. Blystone v. Pennsylvania (1990): (Holding unchanged by bill)

Upholds state procedures that *require* a jury to impose the death penalty in certain circumstances.

The conference bill makes no change in state laws that adopt such a procedure. The conference bill *only affects* the new *federal* death penalty; it does not change in any way *State* death penalty laws.

16. Boyde v. California (1990): (Holding unchanged by bill)

Upholds state laws that *require* a jury to impose the death penalty in certain circumstances.

Same as for Blystone (above)—no change in *State* death penalty laws.

17. Lowenfield v. Phelps (1988): (Holding unchanged by bill)

Upholds state laws that permit an overlap between the elements of the crime and the special factors which justify the death penalty.

Same as Blystone (above)—no change in *State* procedures.

18. Clemons v. Mississippi (1990): (Holding unchanged by bill)

Upholds state laws that permit an appellate court to reweigh factors under which jury sentenced defendant to death.

Same as Blystone (above)—no change in *State* procedures.

EXCLUSIONARY RULE CASES

The conference bill adopts the good faith exception to the exclusionary rule—it does not overrule either of the cases the Administration claims are overruled.

19. United States v. Leon (1984): (Holding unchanged by bill)

Creates a "good faith" exception to the exclusionary rule for evidence seized as provided in a warrant.

The conference bill affirms *Leon's* holding, creating a "good faith" exception to the exclusionary rule.

20. Massachusetts v. Sheppard (1984): (Holding codified by bill)

Applies "good faith" exception to the exclusionary rule to a case in which the wrong warrant form was used.

Same as Leon above—adopting good faith exclusion.

HARMLESS ERROR CASES

The conference bill would not change the result in either of the cases the Administration cites but it would change the effect of statements made in the Fulminate case that coerced confessions—even if coerced by torture—can be used to convict. The conference bill would not allow a person to be convicted based on a tortured confession.

21. Arizona v. Fulminate (1991): (Holding changed by bill)

This decision states that, in a future case, a coerced confession—even if coerced by torture—may be used to convict, overruling long-established law to the contrary.

The conference bill would not change the result in Fulminante but would change the reasoning governing future cases by making it clear that coerced confessions should not be used to convict.

22. Milton v. Wainwright (1972): (Holding unchanged by bill)

In a case where the defendant confessed three times, Court concludes that any Sixth Amendment (counsel) violation relating to one of the 3 redundant confessions was harmless error.

The conference bill does not change the result or the reasoning of this Sixth Amendment case; it bars harmless error analysis only in cases where the confession is coerced within the meaning of the Fifth or Fourteenth amendments.

Mr. BIDEN. Further, Senator THURMOND spoke about the admissibility of coerced confessions. The conference bill adopts a traditional rule of barring the use of coerced confessions at trials, leaving the law where it has been for decades.

Mr. President, you can argue the definition of what constitutes a coerced confession and whether it should be allowed under certain circumstances—that is, whether or not the confession is coerced—but it would allow, if you adopt their language, someone to take a rubber hose, as I read it, and beat a confession out of somebody. God bless America. They did that during the Inquisition in the 15th century. They did that in England before our Founding Fathers. They did not use a rubber hose; they did not have rubber then, rubber hoses.

Mr. President, the rule they want is if a coerced confession—I will ask my staff to correct me if I am wrong in this—if a coerced confession occurred and the police would have found out the same information had they not coerced the confession, then the coerced confession is OK.

Now, I wonder how many people, if that rule is adopted, might find themselves on the other end of physical activities. They might begin to adopt that interesting dissent of our friend, newly nominated and confirmed Supreme Court Justice Clarence Thomas, who, in a case involving an eighth amendment case, Mr. President, just decided, wrote an interesting dissent, joined only by the distinguished Justice Scalia. Everyone else voting the other way.

In that case, there was a prisoner in jail, shackled, leg irons, wrist irons, leather belt, legs and wrists tied to the belt with chains. He gets knocked down by the guards, apparently controverted evidence, with guards kicking him up and about the head while he is lying on the ground unable to even raise his hands over his head. And they dislodge teeth, crack a bridge, and I think cause a concussion. Do not hold me to that last point. I think it was a concussion as well. So that prisoner says, "Hey, not in America. I deserve to be in prison. You can put me in solitary confinement, you can call my mother names, you can lock me up, but you do not have a right to put me in chains, knock me on the ground, and kick me in the head with the Supervisor saying, 'Do not have too much fun, fellas.'" And our distinguished new Justice said something fascinating. I am paraphrasing. I think this is a quote, but since I do not have the decision in front of me, I want to make sure I am paraphrasing.

He said—I think this is the exact verbiage, but it goes like this: It may be immoral. It may even be tortious. But it is not cruel and unusual punishment under the eighth amendment.

Could be tortious but not cruel and unusual. And do you know why? Because no serious injury resulted.

Again paraphrasing the majority opinion written by Sandra Day O'Connor, she says something to the effect: That means you could use cattle prods and rubber hoses. You know, "no serious injury."

If you are real good at it—not her speaking; me now—if you are real good in the use of a rubber hose, you can inflict a lot of pain without any injury. I do not think any of us are good enough at that, but there are those who are good.

In the 19th and early 20th century, in other parts of the world, Turkish prisons, allegedly, and in other prisons, they developed that technique very well. But we in America, usually say: Oh, you should not do that.

Now, coerced confessions. The Fulminate case says a coerced confession can be found to be harmless error. And the gravamen of that is that as long as there were other ways they would have been able to convict the person and they have that other evidence, they do not throw the case out merely because they may, in the first instance, have coerced a confession.

Whoa, Mr. President; whoa, whoa, whoa, whoa, whoa.

Reasonable people can disagree, but that is what we are talking about. The conference report adopts the traditional rule barring the use of coerced confessions at trial.

These are not mistakes, Mr. President. This is not where a police officer or a prison guard fails to tell them their rights, and there is a technicality and they fail to tell them their rights, and the person spills the beans and says: I did it; I killed 99 people. So it gets thrown out because they were not informed of their rights. This is not within those. This is where somebody coerces a confession. That can mean anything from a rubber hose to saying: I will lock you up in jail forever; no one knows you are here. You cannot call your lawyer, whatever. It could mean we are going to go get your mother.

Mr. President, we use the basic, old traditional rules. I do not call that a technicality. Do you know what I mean? That is not a technicality. But obviously people disagree. I just want to set the record straight. We used a traditional definition in the conference report.

This is supposed to be such a tough bill my Republican colleagues offer. Granted, they took a lot of the tough provisions in the conference report and they put them in their bill. I acknowledge that. They took what is on the desk, took pieces of it out that are tough, and put it in.

Let us talk about how tough their bill is on guns. The conference bill contains the Brady bill, law enforcement's top legislative priority. Their bill drops the Brady bill. They also drop any funding to allow States to update their State criminal history system so they could find out whether someone is a felon before they go buy a gun.

It does not contain the Brady bill, even though it passed both Houses. That is tougher than this bill? Assuming it had a remote chance to ever get through the process and become law, as if they believed that could possibly happen—but let us assume it did—there is no provision on terrorism in the Republican bill. Let me be more precise. We create new Federal crimes for willful violations of FAA security regulations. One of the causes in the bombing of flight 103, over Lockerbie, Scotland. To the best of my knowledge, the Republican bill does not contain that provision. Is that tougher?

With regard to prisons, we provide $700 million to construct 10 new regional prisons, each of which would house 800 State and 200 Federal prisoners. The Republican bill does nothing to help the States put dangerous and violent criminals in prison.

The conference report which the Republicans are filibustering and will not let us vote on authorizes $150 million to construct 10 boot camps for nonviolent first-time offenders. The Republican bill does not authorize new funding for the creation of Federal military-style boot camps on closed military bases—Federal.

The conference report the Republicans are filibustering and will not let us vote on mandates the creation of rural crime and drug task forces in every judicial district with large rural areas. The Republican bill, which has not even begun the process yet, guts the conference report rural crime provision by making the establishment of rural crime task forces optional, knowing that these task forces will never be created because the President and the Attorney General have been on record all along as opposing the conference report's rural crime initiative.

The conference bill, anticrime bill, that the police support, that the Republicans are filibustering, that is sitting at the desk, maintains the current commitment to crime victims. The Republican bill takes approximately $3 to $4 million away from local crime victims' assistance programs, particularly funds for domestic violence shelters and rape crisis centers, the most serious problem, in my view, that we have today. Tough?

The conference report at the desk, which the Republicans are filibustering and will not allow us to vote on, and have not allowed us to vote on for 94 days, ensures that direct compensation to victims is the highest priority item in the crime victims' fund. The Republican bill introduced yesterday, which is going nowhere, cuts the amount of money available for direct compensation to victims of violent crime and sex offenders and gives it to State and Federal administrative bureaucracies. Whatever happened to direct aid, local?

The conference bill, which the Republicans have been filibustering for 94 days and have not allowed us to vote on, bans the transfer of money from State and local drug aid to Federal agencies when Congress has earmarked the funds for State and local crime and drug efforts. The Republican bill allows the transfer of these funds that Congress has earmarked for State and local agencies to pay for Federal programs. Tough?

The conference bill, which the Republicans have not allowed us to vote on for 94 days, sitting there at the desk as we speak, five votes away from becoming the law of the land, assuming the President signs—or vetoes; depending on what he does—contains no new mandates on State and local criminal justice agencies.

When we hear from the attorneys general they so often speak to: Do not give us a mandate without the money. We are tired of the Federal Government imposing their views on us and telling us to do things without providing the resources when they tell us what to do.

The Republican bill contains cuts to front-line State and local law enforcement agencies by $50 million by mandating expensive new drug testing programs without providing the money to pay for the testing. Your Governors and attorneys general will be very happy with that.

The conference report, which is five votes short of being able to be voted on and becoming law—or at least being sent to the President—which the police agencies of this Nation, representing half a million police, strongly support, and which the Republicans are filibustering, mandates drug testing for arrestees and convicts in the Federal criminal justice system and mandates them all to be drug tested.

That is what we say in that bill right there. The Republican bill makes drug testing in Federal courts optional, allowing judges to decide whether to require drug testing for criminals. The conference report makes such drug testing in Federal courts mandatory. A tough Republican bill?

The conference report, which we have not been allowed to vote on for 94 days because of Republican filibusters and threat of filibuster, bans the consideration of wealth or social status in deciding where convicts will serve time. The Republican bill—if I were being cynical, I would say understandably—perpetuates the current system that allows serious Federal criminals to serve their time in minimum security, which is referred to as Club Fed as opposed to Club Med prisons based on wealth. If you are white and wealthy, maybe you will get one of those Club Feds to go to. If you are poor and white or poor and black, you go to the big house. You do not get to play tennis. That is what we said. We want all, all of them, to go to the same place without regard to whether they are wealthy or not.

Senator THURMOND said he supports the authorization for the programs he has now put in the Republican bill. I want to point out to him—and I am glad he does, he is a man of his word—the administration opposed virtually every one of the programs that is now in the Republican crime bill, taken in large part from the conference report at the desk.

Why did they oppose it last year? Why did the Republican President say he would veto it and now they say they are for it? Funny thing, when election year is due. Let me just read a few letters, a few quotes from the Attorney General. I will not bother with that. I ask unanimous consent—no, I am going to do it. You might as well hear it so we all know what we are talking about. I withdraw my unanimous-consent request. I want to read the provisions in the Republican bill—the Republican bill introduced yesterday—that the administration has opposed. I assume they have not had an election-year conversion. Maybe they have. I cannot say for sure what their view is now. I can tell you what it was.

State and local law enforcement funding. This is Attorney General Thornburgh speaking for the administration when the Biden crime bill containing these provisions that are now in the Republican crime bill were brought before the Senate and the committee:

> Title I would increase the authorization level for State and local law enforcement to $1 billion. The Department of Justice opposes these provisions.

The President of the United States controls the Department of Justice. The President of the United States opposes the very provision taken from the Biden bill now put in the Republican bill. I guess everybody opposes the President as well, not just the Democrats, but Republicans, too.

Federal law enforcement aid:

> Title IX contains several authorizations for Federal law enforcement agencies. We oppose these provisions because they are not consistent with the budgetary request of the President.

Meaning President Bush.

Once again, not only have the Republicans seen the wisdom of the Biden crime bill, but they have also seen the folly of the President's position on crime because they are now for that. The President is opposed to it.

The Police Corps. This is the administration speaking now:

> The administration strongly opposes the police corps proposal. We do not believe the police corps proposal can be justified.

It was in the Biden crime bill. It is now in the Thurmond Republican crime bill. Once again, I am delighted that they now agree. But I find it interesting that they now oppose the President as well.

I wonder where the President's friends are? He does not seem to have anybody out there. He does not seem to have enough out there in the Republican primaries. He is obviously losing them out here on the floor as well.

Law enforcement scholarships:

> We also recommend against enactment of the new scholarship program for in-service officers proposed in subtitle B of title VIII.

Referring to the Biden crime bill.

The Republicans yesterday, after months of opposing the proposal, lifted it, which I am glad they did, put it in the Republican crime bill, once again, for the fourth time, taking issue with the President, once again isolating the President. It looks like he is wrong again, according to the Republicans.

Boot camps for State prisoners: The administration is speaking:

> There is no justification for singling out this particular approach, much less requiring the Federal Government to establish and run directly boot camp facilities for State prisoners.

As I understand it, Republicans decided the wisdom of the Biden approach and the Biden bill, took it out and made it a Republican proposal, which I am delighted with, but once again joining the rest of the Nation in saying, "Mr. President, you are wrong on crime." At least we are gaining a consensus here, that the President is wrong.

Increased funding for Federal prisons. The administration:

> Section 201 would authorize $600 million to construct 10 regional prisons and $100 million to operate such prisons for the year. The Department of Justice opposes this proposal.

I am, frankly, not quite sure what the Republicans have in their bill. Do they have this in their bill? They have $500 million instead of $700 million. So maybe the administration supports their provision. The administration opposes $700 million. They made it clear to us they opposed the State piece. So in fairness to our Republican friends, maybe they support this provision. I doubt it, but maybe.

Youth violent antigang proposal. The administration speaking:

> This provision would establish a new juvenile antigang grant program. We oppose this provision.

Justice Department, President Bush.

I am so stunned by this, I keep asking my staff whether the Republicans really put this in their proposal. Apparently they put this in their proposal. Now that is in the Republican bill. Congratulations. Take it out of the Biden bill, put it in the Republican bill. I am for it. But once again, one, two, three, four, five, six, probably seven—guaranteed six places the Republican bill now takes issue with the President on funding, probably seven. So far we are in agreement, Republicans and Democrats; the President is wrong on crime, on these issues anyway.

Rural crime:

> Section 1501 would authorize $15 million for drug enforcement. The Department of Justice opposes this authorization.

That is the Justice Department speaking.

"Section 1504 of the Biden bill"—this is a quote—"directs the director of Glynco training facility", that is in Georgia, "to develop specialized training programs for rural drug enforcement. We oppose this provision." The Justice Department.

Let me ask again, did they actually put all this in the bill? Apparently this is in the Republican bill introduced yesterday out of the Biden bill. God bless them. Once again—let me count here, I do not want to lose count—1, 2, 3, 4, 5, 6, 7, 8, 9, 10—10 major authorizations the President said he was opposed to, the Justice Department said he was opposed to, we said we were for, the Republicans now say they are for. So once again we are gaining unanimity here, the Republicans and Democrats oppose the President who is tough on crime I should say.

Drug emergency areas: "The Department of Justice opposes this proposal." Having these drug emergency areas and $300 million in the Biden bill and it is in the conference report. Did they actually put that in, $300 million? My Republican colleagues, after opposing that, are now, for it. Again, congratulations. They are for it. Is that 11 times now they are opposed to the President on the funding issues? This is interesting.

Drunk Driving Protection Act: "We have reservations about the appropriateness of this measure." That is the measure that says, if a drunk person who is not a minor gets in an automobile and has a minor in that car and is arrested, the penalty is higher because he has a minor in the car, because minors cannot look at their fathers and say—no 10-year-old kid is going to say daddy, you are not getting in the car. You are drunk. It takes a lot of courage for a child to do that. Parents should know they are going to get penalized if they do that to their children.

My friends opposed that, I think, when we had it originally. The administration appears to oppose it. Now they have adopted it in the 94 days they filibustered this bill containing that provision and all the provisions I have just read.

Fascinating. Mandatory victim restitution. Justice Department:

> We are concerned that the requirements of this section will merely create false hopes in the victims that money will be available.

The Republicans took that language, and put it in the Republican bill. The administration opposed it. They now support it, after having opposed it the previous 6, 8, 10 months. I do not know how long that has been bouncing around. Once again, further proof of Republicans showing us the President does not know how to approach the crime problem.

Again, it is amazing what unifies us. It seems one of the things that is unifying us around here is we all agree the President is wrong on crime, or at least wrong on big chunks of it—wrong on the funding of it, wrong on the authorization process. Again, it is amazing what unifies us. We have very different views on everything, except we seem to all agree the President does not have a clue on the funding side.

Mandatory penalties for ice. That is a drug which is highly addictive. It is a methamphetamine. It is a serious problem. You have seen on "60 Minutes," I guess, and these other programs—I am not sure, those kinds of programs—how it was coming out of Hawaii and so on.

We put a provision in the Biden bill.

Let me read what our friends at the Justice Department said:

> Section 1512 would apply minimum penalties to trafficking in ice. We question whether this particular drug warrants special treatment under the Federal drug laws.

My Republican friends questioned whether it warranted treatment. I assume they have observed over the days they have held up the Biden bill that it does warrant special treatment because it is so insidious.

Once again, it is a unifying element; Democrats and Republicans in the Senate think the President does not know what he is talking about with regard to the drug, the methamphetamine ice.

I am even reluctant to be reading this because I am afraid I cannot be right about this. It is hard to believe, because I have not read their entire 523-page bill, they could disagree so much with the President. It is hard to believe they could have had such a conversion in 94 days. It is hard to believe, having been converted and having concluded that the President is wrong, they would stop us from voting on a bill that contains all these provisions, that sits right there at that desk as I speak, that they have been filibustering for 94 days.

Let me make the record clear. If I am wrong—and my staff tells me I am not—then I apologize. We will correct the record, because even to me it is astounding that this could be true.

Community antidrug coalitions—it was in the Biden criminal bill—passed by the Senate over the opposition of our Republican friends and sent down the hall. We went to conference. And it is in the conference report. In that piece of legislation I point to right now only waiting for five people to change their vote to allow us to vote on it, here is what the Department of Justice says about it. It says:

> The Department of Justice opposes this provision which would establish a new assistance program in the department for community antidrug coalitions.

Once again it is a very unifying element. We all agree the President is wrong. Republicans think he is wrong. Democrats think he is wrong. That is not the whole bill, obviously, but it is about a couple billion dollars' worth of things, and as Everett Dirksen, the famous Republican leader, once said, a million here and a million there eventually adds up to real money. Well, this is a billion here and a billion there.

And so I will ask my staff to add these numbers up for me, add them up in terms of the 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 proposals that were in the Biden crime bill which made it through the Senate, made it through the House and conference, now sitting in the conference report.

So they have changed their minds in 94 days to the tune of several billion dollars, which I will submit for the record, all those dollars of which are sitting in that bill right there in authorization form that they are filibustering and will not allow us to vote on to free up.

I am truly pleased that the Republican bill introduced yesterday 3, 5, 9 months after the fact, includes all of this. I want to inform my friends, though, it is right there, right there, those papers with rubberbands on them. That is the conference report that has all those things. We can start in 10 minutes to authorize those.

So you can understand why I am a little bit confused and why I wonder whether this is about crime or about politics.

It seems to me it is about only one thing. It is either about politics or it is about guns, and all the rest of this is blue smoke and mirrors.

As we saw, Mr. President, last time when we were going to vote—not on the conference report but just on the anticrime bill last year, before it got to conference—how our friends who feel very strongly, and I respect their views, I truly do, I disagree but I respect them—how our friends from Idaho, both Senators from Idaho, as a matter of fact, Senator SYMMS and his colleague, they kept us from voting on a crime bill at all. The Senator seems to remember that they held up long enough to think we could never pass it and get it to the House and get to conference before Congress recessed.

Guess what? A majority of the Members of the House and Senate feel so strongly about doing something about crime, notwithstanding the fact that we were held up to the 11th hour before we got out last year, we nonetheless passed the crime bill, and passed the conference report.

So this is either about politics, about guns, or about habeas corpus. There may be some bells and whistles on the fringes of this, but that is the essence of what this is about. If it is about guns, let us say so. Let us say we are not going to allow a tough anticrime bill that the police want because we do not want the Brady bill. Let them stand up and say that because they introduced their bill as an alternative, although it picked up all the money they said they did not want to spend in the Biden crime bill, or most of it anyway—it just conveniently dropped out the Brady bill. Let us just say that. Let them stand up and say that.

Or say this is just about politics now. I understand that by the way. I have been here a long time. I have been here 19 years. I understand that. I am 49 years old. I have spent most of my adult life a U.S. Senator, since age 30. I understand politics. I have seen some of the best in both parties.

Let us just say it. I understand it. Let us just say straight up front.

It is an election year. The President is in deep trouble. The last Democratic President, if I can remember back that far, was in trouble at this same time. The Democrats tried to play politics back then to try to save a sinking ship. It did not work.

So I respect the effort to play politics to try to save this sinking ship downtown. But let us just say it instead of saying it is about letting Charles Manson out of jail.

There is a third possibility. It is about habeas corpus. That is real. That is a real, genuine, honest-to-goodness fight. That is legitimate.

I am prepared, and I have said to my friends, if what they say—think what their argument is against the habeas corpus provision which toughens habeas corpus in that bill. Three say no, it does not toughen habeas corpus. What it really does is by changing the law in habeas corpus those Democrats have negated the death penalty. They just negated that penalty.

They have said they want 53 new death penalty crimes, BIDEN wrote that into the law, but they really do not mean it because what they have given in 1 hand, 53 death penalties, they have taken away in this change in habeas corpus. It is malarkey.

But let us assume it is true. I have a solution to that one if that is the problem. Let us just drop the habeas corpus. If the thing they worry about is I changed the law, or that conference report changed the law, to put us in a position where the effect is we let Charles Manson out of jail, the logical point is if this were not any change in the law, nothing would be wrong. It would be right where it was. Right?

I mean everybody can figure that one out. The people in the galley are nodding their heads. They know that one. Everybody else knows that. So we can solve it. Let us drop habeas corpus. Do not mention the word habeas corpus in that conference report or crime bill.

So see there are three solutions. We just straight up tell the American people this is politics. They will understand it because that is what they think we do anyway. That is all they think we do. They will get the message.

Stand up and say this is about guns and let the American people make a decision who is right on guns, and let us each pay the penalty. Those of us who are for the Brady bill, let those who think it is a gun control measure that violates the second amendment, vote against me, and us; and, let those who are for the Brady bill vote against the people who say they want to drop it.

Let us be big people, walk out there, and face the constituents. You tell them. Tell them that it is. If it is about habeas corpus, then let us drop it; fight it another day. Because if we drop it, Mr. President, the entire argumentation of my good friend from Utah, my fine lawyer friend on the Judiciary Committee, falls through the floor. It is of no consequence.

If his entire argument is premised on the argument, which is false but it is premised on the point that that conference bill somehow is going to give Charles Manson a better chance to get out of jail, let us assume he is right. Fine. I give up. Take it out. And let us pass the bill.

But it sure is not about money because they have gone along. That is what they used to say. The conference report is too expensive. It is not about money anymore. They introduced a Republican bill that adds $2.8 billion. That is the number, $2.8 billion. So that is not the problem. It is a problem for the President. He is opposed to that.

The total that they add, I just point out here, is $3,555,000,000 to join the club of the big spenders. Welcome on board, guys and women.

Remember the argument against the bill, Mr. President? The Biden bill is too expensive, the administration cannot afford that. We are not for that. The conference report is too expensive.

My friend from Utah says the reason the police are for this, a half-million police are for this, is because they are being—he did not say paid off. He changed that. He said they are for it because of the money. That is what he said.

They gave him a chance to change the RECORD even. But that is what he said.

If they are for it for the money, why did the Republicans add that money into the bill; their bill? I mean, what is the answer to that?

I guess he must really believe they will only support the bill whichever has the most money. If he does that, he should up the ante if he really believes that. Put more money in to get the police to support your position.

I think that is ludicrous as to why the police are for this. I think that is in fact not only incorrect, but I think it is insulting.

By the way. Where is the President in all of this? Where is the President? One thing we all know is the crime bill the President sent up to the U.S. Senate has been soundly rejected by the Republicans, and soundly rejected by the Democrats. So when he goes bouncing around the country talking about being tough on crime, when having the worst crime record of any President of the United States of America, or maybe more precise, more crimes having been committed during his term, more murders, more rapes, more violent offenses—if that is the measure of the success of an administration, if that is the tougher-on-crime President, obviously the Republicans do not think a Republican proposal by a Republican President makes sense because they have rejected it; rejected it.

So again like I said we all agree on one thing. But, gee, I hope this does not sound like I think there is politics involved here. Let us look at the President's budget that he sent us for fiscal year 1993, speaking of politics.

The President's budget—reading from the title of the page that says "Budget of the United States Government Fiscal Year 1993. Administration Request for State and Local Law Enforcement, 1993."

Remember, the election is in 1992, in November. So let us look at what their total budget for State and local law enforcement was for 1991, the actual number, $692 million. To be precise, $692,194,000. That is what we appropriated.

In 1992, $704,467,000 was appropriated for local law enforcement, much of which was opposed by the President. But then he comes along, to put down his 1993 budget. Guess what the number is for 1993? 710, 750, 800? 704,000,000 was the 1992 appropriation.

For 1993, the appropriation request is $588,507,000. Let me get my math straight here, about $116 million less than this year. I want to make that clear.

I ask unanimous consent that this page of the President's budget request be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADMINISTRATION REQUEST FOR STATE AND LOCAL LAW ENFORCEMENT—1993

	1991 actual	1992 est.	1993 est.
Research, evaluation, and demonstration programs	23,929	23,739	23,929
Criminal justice statistical programs	22,095	22,095	24,155
Emergency assistance	....	....	....
Juvenile justice programs	72,051	68,575	7,500
Missing children	7,971	8,471	7,971
Mariel Cubans	4,963	4,963	....
Regional information sharing system	14,000	14,500	....
Anti-drug abuse program	489,993	497,500	496,000
Child abuse investigation and prosecution	....	1,500	....
Judicial child abuse training	....	500	....
High intensity drug trafficking areas	32,024	36,000	....
Management and administration	25,168	26,624	28,952
Total	692.194	704,467	588,507

Mr. BIDEN. President Bush's budget for 1993 cuts aid to State and local law enforcement. That is the simple bottom line.

So, Mr. President, while he is cutting aid for local law enforcement, his Republican friends are joining the Democrats in increasing aid for local law enforcement, requesting authorization for increasing aid for local law enforcement.

And once again, the poor President and Justice Department appear to be totally isolated, in terms of what anyone thinks is right for the country, to deal with the crime problem.

Mr. President, by the way, I want to correct the record. My staff pointed out that I misspoke. My pronunciation is not what it should be.

Mr. President, the point is that we have an interesting phenomenon going on here, Mr. President.

I will yield the floor now to my friend from Iowa as long as he wants it, because I expect we are not going to be allowed to vote on this anyway without getting a cloture motion. We are going to file a cloture petition at some point, if it is not already filed, and we are going to force a vote on this. But, again, they require us to have a supermajority to break the filibuster.

So I have no reluctance to yield the floor to my friend from Iowa, though I will say, and maybe he will be insulted, but he always kids and says he is not a lawyer. The problem with my friend from Iowa is that he knows the law better than an awful lot of lawyers. So he is taking an unfair advantage. He knows the law and he argues the law as if he were a lawyer, and he does know the law, and he brags about not being a lawyer. I think it is kind of unfair that he should know as much as he does and not be a lawyer. He should pick one or the another. I imagine he will be awarded an honorary law degree from someplace before this is over. But I admire his grasp of the law as a nonlawyer and respect his point of view. I suspect I will disagree with most everything he is about to say.

I yield the floor.

(Mr. ROCKEFELLER assumed the chair.)

Mr. GRASSLEY. Mr. President, I thank the Senator from Delaware, the distinguished chairman of our committee, for his what I think were intended to be kind remarks.

Mr. BIDEN. They were.

Mr. GRASSLEY. I thank him very much.

Mr. President, I would like to remind everybody that I am not a lawyer. I do have some strong thoughts, anyway, on what ought to be in a crime package, what sort of criminal code reform we ought to have.

Right now, I think that is the bill that has been introduced by our distinguished Senator from South Carolina—the Republican package. That is the best bill for this country, and it is the one that eventually is going to become law, if we are going to have any criminal code reform.

Before I comment specifically on why I think the conference report is not a good, major response to the President, reference was made by the chairman of the committee that part of the reason that there is long discussion of the conference report and Senator THURMOND's alternative piece of legislation is because the President's popularity is at a lower level than previously.

Well, in any polls that match the incumbent of the White House against any of the Democrats who are running for the Presidency, you will still find, even though the President's popularity is lower now than previously, that the incumbent in the White House, President Bush, still beats any of those challengers. Consequently, it is not right to say that the reason this is being brought up is because the President's popularity is low and, as the term was used, the crime package is here to save a sinking ship.

I say, not true. That is not why we are having an indepth discussion of the legislation before us.

Also, I suggest that if there were, in fact, a sinking ship downtown, and an occupant in the White House was in danger of losing the Presidency, there would be a lot of other Members of this body running for the Presidency than are running for the Presidency.

I also want to point out, just on a quantifiable basis, the weakness of the conference report before us, weakness when compared to the bill that had previously passed the Senate, and weakness compared to the bill that had previously passed the House of Representatives. The change in the format of the criminal code reform legislation impacted upon the vote in the other body. When the other body first passed criminal code reform legislation, it passed that body by a vote of 305 to 118. I think it is fair to say that it had a very wide margin at that time, because it was a very tough-on-crime reform bill.

But what happens when the product is back before the other body, the product of the conference committee, the product that we are now debating? There was a lot of twisting of arms at the last minute on the vote of final passage of that conference report and, even at that point, it only passed by a two-vote margin, 205 to 203.

If this were a tough on crime conference committee report it would have passed the other body by as wide a margin as the first time the legislation went through the other body.

So I think that is ample evidence that our side has a right to be chagrined over the product that we are now working on and that we have a right to bring this to our Nation's attention and to emphasize that the President, who has favored a tough crime control package, is going to veto this conference report if it does pass this body. And that veto I believe will be sustained.

I would suggest to my colleagues that we ought not waste time on a discussion of this conference report, go back to conference, if that is possible under the rules, and bring something out that can be signed by the President of the United States.

I would also like to suggest to the distinguished chairman of the committee, in response to some remarks he made about the political aspects of this and the President's rating in the polls at this particular time, that it be remembered that the President first challenged Congress to quickly pass his tough on crime criminal code reform package—just less than a year ago, because it was the middle of March. The President spoke to a joint session and challenged the Congress to get down to work on the domestic issues of the day and to pass important measures, and among those important measures, as I recall, was a transportation bill and his Criminal Code reform. And the President challenged the Congress to pass these measures within 100 days. In other words, the same length of time it took to fight the war for the liberation of Kuwait.

Here we are at least 355 days from the time the President gave that speech and we still do not have the legislation passed, and even if this conference report is passed it is for naught because it is not truly tough on Criminal Code reform.

I think there is one other thing I need to emphasize concerning what the distinguished chairman said and that is his effort to persuade this body that the Republican bill that was introduced by the distinguished Senator from South Carolina diverges too far from the President's bill. Let me say that the answer to that is it is just not so. If there are things in our bill that are the same as what is contained in the conference report—and there are lots of those instances—we are nonetheless very definitely with the President on the key points of the President's bill and those are the death penalty, those are the exclusionary rule, and those are habeas corpus. And we are with the President because the President's provisions are the toughest, those are what the public is demanding, and those are what we should pass. Those are what we should give the President to sign. We should not be doing it 355 days after the challenge from the President to accomplish that.

Mr. President, as I turn now to some more specific comments that I have on the package before us from the conference committee, and why I do not like it, let me say that despite my high personal regard for my Senate colleagues on both sides of the aisle who worked on this conference report, I strongly oppose this conference report and I want to go into that in some detail.

My strong feelings against this product are, however, in no way a commentary against the hard work and the efforts expended to get us where we are. Indeed, I regret that I was not permitted to join the conference. But the fact is that this conference report was no good last November when it passed the other body. And it is still no good this very day. There is simply no reason why Congress should pass this conference report.

This is not a crime bill, although it is a crime. The majority of the conferees simply adopted whichever body's provision on a particular area was the weaker of the House or the Senate bill.

So just as the Holy Roman Empire was neither holy nor Roman, nor an empire, this Crime Control Act has little to do with crime, provides precious little control, and even less action.

The conference report does skillfully exploit a situation: the election year needs for the majority party to pass something for public relations purposes to blunt a Presidential attack on a Congress that is not interested in fighting crime. It would for sure be a cruel hoax to pass this ineffectual conference report.

This report fails to protect the first civil right that every American is entitled to, the civil right to be free in persons, in home, and in neighborhood, from the threat of violent crime.

So I want to tell my colleagues how this bill fails to do that. And let me count the ways that it does it.

First, there is no reform of Federal habeas corpus procedures. This means that through lengthy, spurious, and repetitious claims, inmates will continue to thwart the imposition of valid State death penalties.

That fact is, Mr. President, the death penalty supposedly created by one hand of this bill is taken away with the other. Year after year overzealous lawyers will essentially defeat the death penalty by delaying its imposition, turning a death sentence into a life sentence combined with endless petition filings.

The conferees could have remedied this situation by adopting the Senate language that would have provided one chance for habeas corpus with a few limited exceptions.

The Senate language also would have confined habeas petitions to claims that were not fully and fairly considered by the State courts. In addition, the Senate bill would have eliminated the exhaustion of State remedy requirements, permitting Federal courts to dismiss frivolous claims as they arose rather than seeing the same petition many times until exhaustion was completed.

But the conferees were interested only in the weaker provisions of the House of Representatives bill. That bill contained none of these reforms. In fact, the House bill adopted by conferees is worse than current law. It would permit prisoners to apply new decisions retroactively to their case; no matter how irrelevant or how trivial, those cases will produce a flood of new petitions.

While the distinguished chairman tried to refute the charge that the conference report will make new decisions produce new habeas petitions, the bill says otherwise.

Section 204 limits the definition of prospective "new rules" to rules that are "a clear break from precedent." Under this standard, almost all new cases are retroactive. Few Supreme Court cases overrule clear precedent. We know that. Instead, they clarify unsettled law. Make no mistake, the conference bill will let habeas petitions based on new decisions flourish. This is not only unfair from a legal perspective, but it will also lead to prisoners filing new petitions, and doing it forever.

Now, Yogi Berra, I think, touched on this a little bit. He may have said, "It's never over until it's over," but then he never filed a habeas petition. Under this bill, habeas corpus will never be over. The convicted criminal will never be stopped from filing petitions, and the criminals' victims and their families will never have their wounds healed.

Endless habeas filings reduce the effectiveness of punishment, and reduced effectiveness of punishment means weaker deterrence of those who will commit crime.

Now, there is a second exception that I take to this conference report, and that is that the bill creates no good-faith exception to the judge-made exclusionary rule. An objective good faith exception to the exclusionary rule would allow reliable evidence, including narcotics seized from a drug trafficker, to be admitted into evidence in a criminal trial.

As is well known, the exclusionary rule is not a constitutional guarantee. It is a judge-made rule to deter abusive police practices. The overtechnical use of the exclusionary rule has resulted in criminals being set free, not because they are innocent, but because the evidence necessary to convict has been seized by an honest mistake.

There should be room to distinguish between a wholly unreasonable search of one's person or home and the simple and honest mistake—made in good faith—of a law enforcement officer conducting a search under sometimes life-threatening circumstances. That is just common sense.

Once again, the conferees rejected the good House language on this point, and adopted the weaker Senate language. And once again, the conference report is worse than existing law. So why move forward to make things worse when the public expects us to give them real reform, and real reform is being tough on crime.

Under current law, a facially valid warrant is sufficient to trigger the good-faith exception unless the basic provisions are absent.

A reviewing court can easily determine if this test, as well as the test of a neutral and detached magistrate, are met.

The conference report is worse because it creates loopholes if the magistrate was intentionally or recklessly misled. Every defendant will claim that the warrant was issued in those circumstances.

That claim will require hearings and delay and expense to resolve—to the detriment of our criminal justice system.

Can we really expect—as this report seems to demand—that an officer should cross-examine the issuing judicial officer as to possible deficiencies in the warrant?

The conference report's exclusionary rule excludes the possibility of reform.

The conference report will exclude evidence of confessions.

The conference report will exclude so-called coerced confessions even if the error is harmless beyond a reasonable doubt to the issue of guilt. Once again, the conference report overrules a Supreme Court decision that is tough on crime.

I am not advocating that police beat confessions out of arrestees. That is not the issue here. The concern relates only to police informers in prison cells whose status is not disclosed to the defendant.

The conference report is nonsensical as it relates to guns. The bill makes innocent, law-abiding citizens wait to purchase a gun.

At the same time, it is weak on provisions that affect the role and use of guns in the commission of crimes. For instance, the report dropped the Senate provision that would have permitted a penalty increase for possessing a firearm in a crime of violence or drug trafficking. It also dropped the Senate bill's provision that would revoke probation for anyone found in possession of a firearm.

Similarly, it rejected the Senate proposal to criminalize the possession of a stolen firearm and it dropped a provision to try juveniles as adults on firearms and drug offenses.

The conference report is also very weak on the issue of child abuse. It fails to adopt doubled penalties for repeat sex offenders, as well as restitution for victims of sex offenders.

It drops a proposed enhanced penalty for offenders who know they are HIV positive and engage in criminal conduct creating a risk of transmission of the virus to the victim.

This conference report does not do enough to protect the victims of crime. This has been an interest of mine for a long, long time, and this body has passed good legislation in this area.

While it permits victims the right of allocution to the courts at the time of sentencing, the conference report struck a House provision that would have allowed the court, after a hearing, to suspend the defendant's Federal benefits if the defendant was delinquent in making restitution to his victim.

Finally, the conference report contains an objectionable sports lottery provision. This really should not be in this bill at all, but it is there. It will prohibit all but a few States to have sports lotteries. Why this is in a crime bill I do not know. But it happens to be a terrible piece of legislation.

It grandfathers States that already engage in millions of dollars of legal sports gambling. It violates States' rights to enact whatever lotteries they choose. And it comes at a terrible time. States are faced with massive federally mandated spending. They face recession and severe fiscal problems. This bill would interfere with a State's choice as to how it chooses to raise its income.

The one regret I have, Mr. President, is that this conference report includes the Anti-Terrorism Act, which would create civil remedies for American victims of terrorism. I do not say I am sorry it is in the report; I am just sorry that this good provision is in the report, with so much other that is bad, that it is going to get lost. I have been working on this type of legislation for 3 years now and the Senate has passed it twice already. The House included the Anti-Terrorism Act in their version of the crime bill, and it is included in this conference report. I urge the House to pass the Anti-Terrorism Act as a separate bill, so that the President can sign it into law, because it is not going to become law as part of this so-called crime bill.

In conclusion, this conference report does not offer us a real opportunity to enact a truly tough and effective anticrime bill. If anything, this conference report is an anti-anticrime package.

This report is a hollow bill. I do not think I have to urge the President to veto it if we pass it, but he will. He should force the Congress to work with him to see to it that real anticrime legislation is enacted and signed into law. Senator THURMOND'S crime control bill is such legislation.

I suggest to you, for a third time during my remarks, that we are now about 355 days from that time last year when the President, to a joint session, urged the Congress to pass crime reform legislation among some other pieces of legislation he asked us to pass within 100 days of that date in 1991. One hundred days was a magic period of time, in a sense, because that is how long it took for the successful liberation of Kuwait. Implicit in our President's comment was that if we could accomplish that objective with the Congress and the Presidency cooperating, then surely, if we got down to work, we could pass tough crime legislation within the same length of time.

Now, 250 days later we are still debating this legislation. It is a travesty that it takes so long to get something done, particularly a travesty from the standpoint of what the people in grassroots America want us to do.

I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes Senator PELL.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I want to respond to a few statements made by my good friend, Senator BIDEN, chairman of the Judiciary Committee. He listed a number of provisions which the administration had expressed budget concerns about. We included these provisions in our new bill, and I do not understand why it is so troubling to him or anybody who said we did that.

The administration supports our good faith efforts to get a bill, and it seems that some of us are being ridiculed for trying to get a tough bill. We have gone as far as we can to get a consensus, but the situation is such that it appears it is going to be impossible. The President wants a tough bill and that is exactly what we are trying to get.

Also, he said that the Republicans were converted. I do not know what he means by that unless because we have advanced some toward their statements that we are being converted. We are not being converted, we are trying to get a consensus, if possible. We will lean over backwards, but we cannot go with this conference report because it weakens provisions of the Senate and the House. And we will not get a crime bill if we pass this bill.

Now, also the distinguished chairman of the Judiciary Committee stated that this bill does not overturn the Teague decision. If that is so, the Attorney General of the United States, and the State attorneys general, and the prosecutors are all wrong. In my opinion, the conference report does overturn the Teague decision, and I wish my good friend Senator BIDEN would look at this matter again.

The conference bill provisions on habeas limit the definition of nonretroactive new rules to rules that involve a clear break from precedent. This would make almost all decisions automatically retroactive to overturn earlier judgments imposed in conformity with existing law. This is so because the Supreme Court's decisions usually resolve issues that had previously been unsettled and very few clearly break from the Court's earlier precedents. A vast majority of cases do not overrule precedents but reextend reasoning of previous cases.

Mr. President, I have in my hand a list of 70, I repeat, 70 anticrime measures in the Crime Control Act of 1992 which I introduced yesterday which are not in the conference bill. These are all important matters. Now, some of them refer to similar matters in the conference report, but these 70 matters are extremely important and they consider the effective Federal death penalty, habeas corpus reform, exclusionary rule reform, preservation of harmless error doctrine, firearms, and so forth. I am not going to take time to present them at this time, but I ask unanimous consent that these be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANTI-CRIME MEASURES IN THE CRIME CONTROL ACT OF 1992 WHICH ARE NOT IN THE CONFERENCE (BROOKS-BIDEN) BILL:

(1) Effective Federal death penalty. The CCA (title I) provides effective standards, procedures, and authorizations for using the death penalty against the most heinous federal crimes. The conference bill (title I) substitutes fundamentally flawed provisions which, for example, give the jury a standardless discretion to refrain from imposing the death penalty even in the most aggravated cases, and which provide no safeguards against the type of litigation abuse and delay that has thwarted the use of state death penalty laws.

(2) Habeas corpus reform. The CCA (title II) includes effective reforms to curb the abuse of habeas corpus that obstructs the use of the death penalty and undermines the criminal justice process in every type of criminal case. The conference bill (title II) substitutes specious habeas corpus provisions which are regressive in comparison with existing law.

(3) Exclusionary rule reform. The CCA (title III) would create a general "good faith" exception to the exclusionary rule, which admits evidence where the court determines that the conduct of officers in carrying out a search and seizure was objectively reasonable. The conference bill (title III) substitutes a regressive measure that narrows the existing "good faith" exception for searches under warrants by authorizing the exclusion of evidence in several circumstances despite the officers' reasonable reliance on a warrant.

(4) Preservation of harmless error doctrine. The CCA (title II et al.) does not weaken in any manner the existing doctrine that trial error is not grounds for reversing a criminal conviction if the court of appeals determines that it was harmless beyond a reasonable doubt. The conference bill (Title IV) automatically requires the reversal of a criminal conviction based on erroneous admission of incriminating statements by the defendant, even if the independent evidence of guilt is overwhelming and it appears beyond a reasonable doubt that the error could not have affected the outcome of the trial.

FIREARMS

(5) Increased penalties for using firearms in Federal violent and drug trafficking crimes. The CCA (§401) increases mandatory penalties for using firearms in federal crimes of violence and drug trafficking crimes. The conference bill (§511) only increases such penalties for cases where the firearm is a semiautomatic firearm.

(6) Strengthening predicate offenses for armed career criminal provisions. The CCA (§419) extends prior convictions which count toward treating an offender as an armed career criminal to include state drug offenses which would be punishable by ten or more years of imprisonment if federally prosecuted—an important provision for "Project Triggerlock." The conference bill has no provision.

(7) Prohibition of possession of explosives during commission of felony. The CCA (§417) extends the mandatory penalty of 18 U.S.C. 884(h) to include any possession or use of an explosive during the commission of a felony. The conference bill has no provision.

JUVENILES AND GANGS

(8) Increased mandatory penalties for drug distribution to minors. The CCA §1086(a)) increases the mandatory penalties for drug distribution to minors. The conference bill has no provision.

(9) Increased mandatory penalties for using minors in drug trafficking. The CCA (§1086(b)) increased the mandatory penalties for using minors in drug trafficking. The conference bill has no provision.

(10) Increased mandatory penalty for drug distribution to youths by recidivist. The CCA (§1084) increases the mandatory penalty for a second conviction for distributing drugs to a person under 21. The conference bill has no provision.

(11) Increased penalties for inducing minors to commit crimes. The CCA (§771) establishes a new offense of inducing minors to commit crimes, including mandatory penalties. The conference bill has no provision.

(12) Broadened adult prosecution for juvenile gang leaders. The CCA (§521) creates a presumption in favor of adult prosecution for leaders of juvenile gangs and other criminal activities involving drug trafficking or firearms. The conference bill has no provision.

(13) Serious juvenile drug crimes as armed career criminal predicates. The CCA (§522) treats certain highly serious drug crimes by juveniles as predicate offenses for armed career criminal purposes. The conference bill has no provision.

(14) Street gangs offense. The CCA (§513) creates a new offense covering the commission of serious violent crimes and drug crimes as part of the activities of a street gang. The conference bill (§704) substitutes a more limited provision that is deliberately weakened in comparison with the House bill provision on which it is based.

(15) Records for recidivist juveniles. The CCA (§1080) adds certain serious drug crimes to the list of offenses requiring fingerprinting and retention of records for recidivist juvenile offenders. The conference bill has no provision.

(16) Supervised release for juvenile offenders. The CCA (§1248) extends the range of sanctions authorized for juvenile offenders to include post-incarceration supervised release. The conference bill has no provision.

(17) National anti-gang coordination and strategy. The CCA (§532) directs the Attorney General and the Secretary of the Treasury to develop a national strategy to coordinate federal investigations of gangs, and requires inclusion of information on gang violence in the uniform crime reports. The conference bill has no provision.

TERRORISM AND INTERNATIONAL MATTERS

(18) Implementing legislation for airport terrorism convention. The CCA (§127) enacts implementing legislation for the international convention to suppress terrorist acts at airports. The conference bill (§827) substitutes weakened provisions which do not fulfill the United States' obligations under the convention.

(19) Implementing legislation for maritime terrorism conventions. The CCA (§129) enacts implementing legislation for the international conventions to suppress terrorist acts against ships and maritime platforms. The conference bill (§803) substitutes weakened provisions that do not fulfill the United States' obligations under the conventions.

(20) Offense of providing material support to terrorists. The CCA (§602) creates a new offense of providing material support to terrorists. The conference bill (§834) substitutes a weakened "material support" offense.

(21) Admission of cooperating aliens. The CCA (§604) authorizes admission to the U.S. of up to 200 aliens annually who provide assistance in antiterrorism or other investigations. The conference bill (§833) substitutes a weakened provision that limits the number of aliens who may be admitted to 100 and imposes other severe restrictions.

(22) Crimes against U.S. nationals on foreign ships. The CCA (§607) provides consistent jurisdiction over crimes by or against U.S. nationals on foreign ships having a scheduled departure from or arrival in the United States. The conference bill (§823) substitutes a more restrictive provision that is no improvement over current law.

(23) Increased penalties for crimes of manslaugher by terrorists. The CCA (§608(1)) provides increased penalties for crimes of manslaughter committed abroad by terrorists against U.S. nationals. The conference bill has no provision.

(24) Increased penalties for crimes of aggravated assault by terrorists. The CCA (§608(2)) provides increased penalties for crimes of aggravated assault committed abroad by terrorists against U.S. nationals. The conference bill has no provision.

(25) Increased funding for antiterrorism enforcement. The CCA (§609) authorizes increased funding for antiterrorist activities by law enforcement agencies. The conference bill has no provision.

(26) Murder of U.S. nationals in foreign country. The CCA (§615) creates jurisdiction to prosecute murders of U.S. nationals in foreign countries where the country in which the murder occurred cannot lawfully secure the offender's return. The conference bill (§110) substitutes a weaker provision whose scope is limited to cases where the offender, as well as the victim, is a U.S. national.

(27) Extradition of offenders committing violent crimes against U.S. nationals. The CCA (§616) creates consistent authority to extradite for prosecution persons who commit crimes of violence against U.S. nationals in foreign countries. The conference bill has no provision.

SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

(28) Increased penalties for recidivist sex offenders. The CCA (§702) doubles the maximum penalties authorized for recidivist sex offenders. The conference bill has no provision.

(29) Restitution for victims of sex crimes. The CCA (§703) authorizes restitution for victims of sex offenses—sexual assault, child molestation, and child sexual exploitation—whether or not physical injury results. The conference bill has no provision.

(30) HIV testing and penalty enhancement in sex offense cases. The CCA (§704) requires testing of sex offenders for the human immunodeficiency virus (HIV) with disclosure of the test results to the victim, and enhanced penalties for HIV-infected sex offenders who risk infection of their victims. The conference bill has no provision.

(31) Government payment of the cost of HIV testing for rape victims. The CCA (§705) requires the government to pay the cost of HIV testing for rape victims. The conference bill has no provision.

(32) Mandatory restitution. The CCA (§§711, 714) makes the award of restitution for crime

victims mandatory, and adopts other reforms enhancing the scope of restitution and enforcement of restitution orders. The conference bill has no provision.

(33) Victim's right to an impartial jury. The CCA (§713) protects the victim's right to an impartial jury by equalizing the number of peremptory challenges accorded to the defense and the prosecution in felony cases. The conference bill has no provision.

(34) Domestic violence grant program. The CCA (§761) establishes a new program for federal grants to support state efforts to combat domestic violence. The conference bill has no provision.

EQUAL JUSTICE

(35) Prohibition of racial discrimination in criminal penalties. The CCA (§802) requires that the death penalty and other penalties be administered without regard to the race of the defendant or victim, and prohibits racial quotas for imposing the death penalty and other penalties. The conference bill has no provision.

(36) Safeguards against racial bias. The CCA (§803) provides safeguards against racial bias against the victim or defendant through questioning on voir dire, change of venue, and prohibition of appeals to racial prejudice by the defense attorney or prosecutor. The conference bill has no provision.

(37) Death penalty for racially motivated murders. The CCA (§804) makes racial motivation of a murder an aggravating factor that permits consideration of the death penalty in connection with all federal capital crimes. The conference bill has no provision.

FUNDING AND GRANT PROGRAMS

(38) Preservation of authority for cooperative arrangements in administering Federal justice assistance program. The CCA (title IX et al.) does not limit in any manner the existing authority for cooperative arrangements between the Bureau of Justice Assistance (BJA) and other federal agencies in administering the federal justice assistance program. In contrast, the conference bill (§1107) would severely impair the federal justice assistance program by prohibiting BJA from utilizing the expertise and resources of other federal agencies—such as the Bureau of Justice Statistics and the Office of Juvenile Justice and Delinquency Prevention—in administering funding programs within their areas of competence.

(39) Retired public safety officer death benefits. The CCA (§911) extends the death and permanent disability benefits program for public safety officers to include such officers in a retirement status who are killed or permanently injured while responding to an emergency. The conference bill has no provision.

ILLEGAL DRUGS

(40) Drug testing of Federal offenders on post-conviction release. The CCA (§1001) generally requires drug-testing of federal offenders on post-conviction release. The conference bill (§1403) substitutes seriously flawed drug testing provisions which implicitly repeal the existing rules that mandate revocation of release for offenders who unlawfully possess drugs.

(41) Drug testing in State criminal justice systems. The CCA (§1002) generally requires the establishment of drug testing programs for targeted classes of offenders in state criminal justice systems as a condition of eligibility for federal justice assistance funding (subject to limitation that state may not be required to spend more than 10% of its federal justice assistance funding for such testing). The conference bill has no provision.

(42) Preservation of determinate sentencing system in relation to drug-abusing offenders. The CCA (title X et al.) does not weaken in any manner the existing, fundamental principle of federal sentencing law that convicted criminals serve out the term of imprisonment imposed by the court. In contrast, the conference bill (§1404) authorizes the release of offenders from prison up to a year early, where the offender is a drug abuser and has gone through drug treatment in prison. This undermines the determinate sentencing system and abolition of parole enacted by the Sentencing Reform Act of 1984, reduces incapacitation and deterrence, and unfairly give drug abusing offenders a change at early release which is denied to other prisoners who have not engaged in drug abuse.

(43) Preservation of guideline sentencing for drug abusing offenders. The CCA (title X et al.) does not weaken in any manner the existing system of penalties established by the federal sentencing guidelines. In contrast, the conference bill (§1406(c)) mandates the immediate release of drug abusing federal offenders who are placed in boot camps on completion of a 90 to 120 day program, where the offender would otherwise be subject to incarceration for up to two years or more under the federal sentencing guidelines.

(44) Precursor chemicals control. The CCA (§§1011–23) strengthens controls over precursor chemicals. The conference bill (§§1611–21) weakens the precursor chemicals proposal in comparison with the Senate bill provisions on which it is based, including elimination of access to the national health care practitioner data bank for drug enforcement and other law enforcement purposes.

(45) Interdiction—failure to obey order to land aircraft or bring-to a vessel. The CCA (§1031) creates a new offense of failing to obey an order by an authorized federal law enforcement officer to land a plane or bring-to a vessel, enforced by criminal penalties and forfeiture. The conference bill (§1631) substitutes a more limited offense which provides no coverage of vessels (only aircraft).

(46) Interdiction—FAA revocation authority. The CCA (§1032) creates authority for the Federal Aviation Administration to revoke aircraft registrations and airman certificates based on a failure to obey an order of an authorized federal law enforcement officer to land an aircraft. The conference bill has no provision.

(47) Interdiction—Coast Guard air interdiction authority. The CCA (§1033) gives the Coast Guard investigative and arrest authority in relation to offenses on aircraft above waters subject to U.S. jurisdiction. The conference bill has no provision.

(48) Interdiction—Coast Guard civil penalties authority. The CCA (§1034) gives the Coast Guard authority to assess civil penalties for failure to obey an order to land an aircraft or bring-to a vessel. The conference bill has no provision.

(49) Interdiction—Customs civil penalties authority. The CCA (§1036) gives the Customs Service authority to assess civil penalties for failure to obey an order to land an aircraft. The conference bill has no provision.

(50) Interdiction—Customs investigative authority. The CCA (§1035) provides that the investigative authority of the Customs Service extends to locations in foreign countries where inspections, examinations, or searches by U.S. customs officers are permitted. The conference bill has no provision.

(51) Interdiction—Coast Guard assistance to other countries on request of State Department. The CCA (§1037) authorizes the Coast Guard, on request of the Secretary of State, to use its personnel and facilities to assist foreign governments and international organizations. The conference bill has no provision.

(52) Interdiction—Coast Guard assistance to other countries at direction of President. The CCA (§1038) authorizes the President to use officers and enlisted members of the Coast Guard to assist foreign governments and international organizations, on request of such governments or organizations. The conference bill has no provision.

(53) Increased penalties for trafficking in ice. The CCA (§1071) increases penalties for trafficking in crystalline methamphetamine. The conference bill has no provision.

(54) Forfeiture of vehicles used in smuggling. The CCA (§1075) strengthens provisions for forfeiture of vehicles used in smuggling. The conference bill has no provision.

(55) Civil remedies relating to drug paraphernalia. The CCA (§1078) authorizes civil penalties and injunctions against drug paraphernalia violations. The conference bill has no provision.

(56) Large scale marijuana trafficking. The CCA (§1079) strengthens provisions affecting penalties for large scale marijuana trafficking. The conference bill has no provision.

(57) Life imprisonment for incorrigible violent and drug offenders. The CCA (§1085) mandates life imprisonment for offenders convicted a third time of highly serious violent crimes or drug crimes. The conference bill has no provision.

(58) Broadened definition of prohibited drug paraphernalia. The CCA (§1087) broadens the definition of prohibited drug paraphernalia. The conference bill has no provision.

(59) Enhanced penalties for drug distribution to pregnant women. The CCA (§1089) provides enhanced penalties for drug distribution to pregnant women. The conference bill has no provision.

(60) Measures against drugged or drunk driving that endangers children. The CCA (§1090) provides enhanced penalties for drugged or drunk driving that endangers, injures, or kills minors, including coverage of drivers in federal territorial jurisdiction and drivers of common carriers. The conference bill (§1702) deletes the coverage of drivers of common carriers.

(61) Crackhouse eviction and civil penalties. The CCA (§1092) authorizes the Attorney General to bring civil actions seeking injunctions, evictions, and civil penalties in relation to premises used in drug activities. The conference bill has no provision.

PUBLIC CORRUPTION

(62) Public corruption. The CCA (§§1101–04) strengthens federal laws against public corruption, including increased penalties, more adequate bases of federal jurisdiction, prohibition of retaliation against whistleblowers who expose public corruption, and specific provisions relating to election fraud and drug-related corruption. The conference bill has no provision.

GENERAL PROVISIONS

(63) Violent crimes against the elderly. The CCA (§1204) prescribes tough mandatory penalties for serious violent crimes against elderly victims. The conference bill (§2102) merely directs the Sentencing Commission to ensure that the guideline ranges for some specified violent offenses against elderly victims are adequate to achieve the objectives of sentencing.

(64) Criminal software copyright violations. The CCA (§1228) provides criminal

sanctions for software copyright violations. The conference bill has no provision.

(65) Trafficking in military awards. The CCA (§1232) increases fine levels and strengthens the prohibition of trafficking in military medals and decorations. The conference bill has no provision.

(66) Motor vehicle theft prevention program. The CCA (§1233), without any weakening of existing law, directs the Attorney General to establish a voluntary program to prevent motor vehicle theft through application of a decal signifying the owner's consent to stop the vehicle under specified circumstances. The corresponding provisions in the conference bill (§§2001-03) eviscerate the existing law against tampering with identification numbers for motor vehicles and motor vehicle parts by limiting liability to cases where intent to further the theft of a motor vehicle can be proven. E.g., alteration in a chop shop of the identification numbers for motor vehicles or their parts in order to facilitate fencing of the vehicles or parts would not be an offense, because the intent would not be to further the theft of a vehicle; the theft has already taken place in such a case.

(67) Increased penalties for trafficking in counterfeit goods and services. The CCA (§1238) increases authorized prison terms and fines for trafficking in counterfeit goods and services. The conference bill (§3031) deletes the increased fine authorizations.

(68) Civil penalties for aggravated felonies involving aliens. The CCA (§1251) authorizes civil penalties for incidents involving inducement of aliens to commit aggravated felonies. The conference bill has no provision.

(69) Criminal alien identification and removal fund. The CCA (§1252) establishes a special fund to support apprehension and deportation of aliens committing aggravated felonies. The conference bill has no provision.

(70) Deportability of aliens based on serious drugged or drunk driving. The CCA (§1253) adds to the list of offenses justifying deportation of aliens drugged or drunk driving that results in a fatal accident or serious injury to an innocent party. The conference bill has no provision.

PRISON CONSTRUCTION

(71) Federal prison construction. The CCA (§1501) authorizes $500 million for the construction of new federal prisons. As the federal government continues to enhance its efforts against violent crime, increasing numbers of offenders are passing through the federal criminal justice system. It is imperative that there be sufficient space available in the federal prison system to house violent offenders for the full term of their sentences. The conference bill has no provision.

Mr. THURMOND. I would like for the Members of the Senate to read these 70 points that we think ought to be included in a crime bill and which we have included in our crime bill.

Mr. President, I will not take time to discuss other matters at this time. We will go into other matters at a later date.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, if I had not seen and heard this with my own eyes and ears, I would not have believed it. Who would have thought, after all of the political talk by Republicans about crime, after all of the speeches Republicans have given about crime sweeping our country, that Republicans would be filibustering to prevent a vote on a crime bill, a bill endorsed by police organizations all over the country, a comprehensive bill to deal with the problem of crime. Here are Republicans doing all they can to prevent the Senate from voting on the bill.

We do not ask that our Republican colleagues vote for the bill if they do not want to do so, but they will not even let the Senate vote on the bill—a filibuster, delay, preventing action on what they say is an important measure. I can hardly believe it.

For 20 years Republicans have made speeches about the need to fight crime, about the importance of combating those criminals who so adversely affect our society, and here they are delaying, filibustering, talking in an effort to prevent the Senate from voting on a crime bill. It is hard to believe, but it is happening.

We Democrats ask to just vote on the bill. What are you worried about? What are you afraid of? Just let us vote on the bill. There has been enough talk. There has been 20 years of talk.

How many political speeches have been made in this country about the need to combat crime? How often has this Chamber been filled with the hot air of rhetoric about the need to combat crime?

And here we are now asking only that we have a chance to vote on this bill—just to let Senators vote on the bill. If you do not want to vote for it, do not vote for it. If you want to vote against it, vote against it. But why prevent the Senate from taking up this bill and voting on it if, as you say, you want to combat crime, if as you say, you are serious about dealing with crime?

I think this exposes for all to see the hollowness of the political rhetoric on this subject. I think this makes clear to all Americans what we have been hearing is political talk.

We have a chance to act. We want to act. We should act. We should not have these filibusters. We should not take up the Senate's time with endless debate and discussion.

We are told that our Republican colleagues wanted action on crime. Well, we could vote this bill out right now if they would let us have the vote. We could vote the bill out tomorrow. We could vote the bill out Friday. But we cannot because Republicans are filibustering to prevent the Senate from even voting on a major anticrime bill.

I end as I began. If I had not seen it with my own eyes, if I had not heard it with my own ears, I would not have believed it.

Mr. President, I am prepared to conclude the proceedings for this evening because I gather that our distinguished colleague is going to persist in his filibuster and will not let us proceed to a vote. If so, then I think that further wasting of the Senate's time this evening will serve no useful purpose.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Mr. President, in a brief response to the able majority leader—and he is an able leader—he was once a Federal judge, and I think he ought to know better if he studies this bill just why we oppose it.

We are not willing to accept a bill which expands the rights of criminals, and that is what this conference report does. If the distinguished majority leader will read this bill, I think he will see what I am talking about.

This bill is not a tough crime bill. It is not an anticrime bill. It is a procriminal bill. It expands the rights of criminals. Of course, we do not want this bill.

The President wants a crime bill, and I might say that the President has advocated a strong crime bill. The attorneys general of the Nation have advocated a strong bill. The National Association of Attorneys General, the Conference of Chief Justices, and the prosecutors have all advocated a strong bill. But they say this is not the bill to pass.

Let me tell you what they said. I want to take just a minute. Thirty-one State attorneys general, 16 Republicans and 15 Democrats, recently wrote President Bush urging him to protect the American people and veto any bill which contains this habeas corpus proposal that is in this bill, in this conference report. They stated that any bill containing this weak proposal should be vetoed. They went on to say it cannot be described accurately as an anticrime bill but instead a procriminal bill.

That is what 31 attorneys general said, that this is a procriminal bill, and not an anticrime bill. We are in favor of an anticrime bill, a tough crime bill. This is not the bill.

Mr. President, I am not going to take more time, but that is the reason we oppose this bill. We introduced yesterday a tough crime bill. If the majority in the Senate want to pass a tough crime bill, that is the bill to pass.

I talked to the chairman of the Judiciary Committee today. I said we can introduce your bill with the tough provisions if you want to do that. I will join him on it. But we cannot approve of this bill here. The President is against it. The attorneys general of the United States are against it. The attorneys general of the Nation are against it. The prosecutors are against it. The Federal prosecutors, the State prosecutors, and the city and county prosecutors are against this bill. Therefore, we do not feel it ought to pass.

Mr. President, I will not say anymore at this time.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I was not only a Federal judge, I was a U.S. attorney, the chief Federal prosecutor in my State. I was a county attorney and prosecuted crimes at the State level.

I have tried personally many, many criminal cases. I am personally responsible for sending a lot of people to prison. And I say, based on my personal experience, this conference report is a very strong, tough, anticrime bill.

Does anybody in America, anybody, believe that the policemen of this country, and the policewomen of this country, the people whose lives are on the line in facing criminals, the people who daily confront the threat of death, injury, would be overwhelmingly in favor of a bill if it was a procrime bill?

How many of those 31 attorneys general go out and face the threat of death? They are all in their offices. That is like the Senator from South Carolina and I, surrounded by secretaries and assistants. They are not out there on the streets. They are not out there in the dark of night facing the threat of death around every corner. They do not run the risk of leaving widows and children behind if something unexpected happens on some dark night on some city street.

I was a prosecutor. I happen to know what prosecutors do. And the provision to which they object, the habeas corpus provision, only applies to people who are already in prison. A person who is not already in prison cannot avail himself or herself of the provisions of habeas corpus.

So the notion that somehow changing the habeas corpus laws affect people out on the street is, on its face, absurd.

This bill helps the men and women fight crime, who are undervalued, and in our society, whom Americans do not give enough credit to. They are underpaid. They are not recognized for what they do. We take them for granted. We confront them each day with life or death decisions. And if they make a wrong choice through fear, concern, pressure, they face disciplinary action; people whose word we ought to listen to on this or those whose lives are on the line so that our lives are more secure.

That is the police men and women of this country, police men and women of South Carolina, the police men and women in Maine, Washington, DC, and every other State in the country. That is who we should be listening to.

They say this is a good bill. And I do not think there is an American—I do not think there is a single American who believes that the police men and women of this country want a procriminal bill to be passed. Are the police men and women of this country for criminals? Are the police men and women in this country trying to help criminals? I submit that argument does not make any sense.

So, Mr. President, I am sorry about the fact that we cannot get this bill passed. I am sorry that we are here confronting another filibuster by Republicans on a crime bill. That is what we face. That is what we have to deal with.

So we will resume this tomorrow and hope that our colleagues will see their way clear in at least letting us vote on this bill, at least letting us get to this bill, and give Senators a chance to express their views. If they do not like the bill, vote against it. That is all anybody has to do. Let us have a vote. Let us proceed.

So we will take that up tomorrow, Mr. President.

Now I would like to yield to the Senator. I will if he wants to say anything more, and then I would like to conclude the business.

Mr. THURMOND. Mr. President, I want to respond very briefly.

The police in this country are wonderful people. They do a great job. If they had a chance to compare this bill I introduced yesterday with this conference, there is no question what they would do. There is no question what they would choose. They have not had a chance because they are so anxious to get a crime bill. And when they heard the conference committee brought one out, I am sure that they were not informed as to the effect of the conference report because if they were, they would not stand for a report of that kind, in my judgment.

I want to ask the Senator—I do not want to make it personal—is he against the bill that I introduced yesterday?

Mr. MITCHELL. I have not read the bill that the Senator introduced yesterday.

Mr. THURMOND. It carries a death penalty, good habeas corpus, and a lot of other good things. Does he favor the death penalty.

Mr. MITCHELL. No; I do not.

Mr. THURMOND. I understand he is not favoring this bill. The majority leader admits he is against the death penalty. Our bill carries the death penalty. This conference report carries the death penalty. But under the habeas corpus that it has in it, it practically would be a nonentity.

So I can understand his position. I thank him very much.

Mr. MITCHELL. Mr. President, let me say that the conference report includes the death penalty. I voted for it although I opposed the death penalty because it included a lot of other provisions, and on balance, I felt it was a good bill to enact.

I think it is rather clear that the red flag—that the bloody shirt of the death penalty will continue to be waved here as it has so often in the past as though it were somehow the answer to all of our problems even though, of course, the reality is that the Federal death penalty affects about 1 percent of all violent crimes that occur in our society, and that the overwhelming majority of Americans live in States which already have the death penalty for crimes within their jurisdiction.

But I am sure we are going to hear it often as we have now as though that were the answer to all of our problems.

MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:54 p.m., a message from the House of Representatives delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, each without amendments:

S. 996. An act to authorize and direct the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River; and for other purposes; and

S. 2184. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

The message also announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 1467. An act to designate the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the 'Frank M. Johnson, Jr. United States Courthouse; and

S. 1889. An act to designate the United States Courthouse located at 111 South Wolcott in Casper, Wyoming as the "Ewing T. Kerr United States Courthouse."

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 939. An act to amend title 38, United States Code, with respect to housing loans for veterans, and for other purposes;

H.R. 2475. An act to designate the United States courthouse being constructed at 400 Cooper Street in Camden New Jersey, as the "Mitchell H. Cohen United States Courthouse";

H.R. 2539. An act to designate the Federal Building and United States Courthouse located at 402 East State Street in Trenton, New Jersey, as the "Clarkson S. Fisher Federal Building and United States Courthouse";

H.R. 2818. An act to designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building", and for other purposes;

H.R. 3041. An act to designate the Federal building located at 1520 Market Street, St. Louis, Missouri, as the "L. Douglas Abram Federal Building";

H.R. 3118. An act to designate Federal Office Building Number 9 located at 1900 E. Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building"; and

H.R. 3818. An act to designate the building located at 80 North Hughey Avenue in Orlando, Florida, as the "George C. Young United States Courthouse and Federal Building."

The message also announced that pursuant to the provisions of 22 U.S.C. 276d, the Speaker appoints as members of the United States delegation to attend the meeting of the Canada-United States Interparliamentary Group the following Members on the part of the House: Mr. GEJDENSON, Chairman, Mr. FASCELL, Vice Chairman, Mr. HAMILTON, Mr. DE LA GARZA, Mr. GIBBONS, Mr. OBERSTAR, Mr. LAFALCE, Mr. BROOMFIELD, Mr. HORTON, Mr. MILLER of Washington, Mr. WALSH, and Mr. HENRY.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 3:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 2092. An act to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing;

H.R. 4113. An act to permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier U.S.S. Lexington to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorials;

H.J. Res. 343. A joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of American 80th Anniversary Day";

H.J. Res. 350. A joint resolution designating March 1992 as "Irish-American Heritage Month"; and

H.J. Res. 395. A joint resolution designating February 6, 1992, as "National Women and Girls in Sports Day."

The enrolled bills and joint resolutions were subsequently signed by the President Pro Tempore [Mr. BYRD].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 939. An act to amend title 38, United States Code, with respect to housing loans for veterans, and for other purposes; to the Committee on Veterans Affairs.

H.R. 2475. An act to designate the United States courthouse being constructed at 400 Cooper Street in Camden New Jersey, as the "Mitchell H. Cohen United States Courthouse"; to the Committee on Environment and Public Works.

H.R. 2539. An act to designate the Federal Building and United States Courthouse located at 402 East State Street in Trenton, New Jersey, as the "Clarkson S. Fisher Federal Building and United States Courthouse"; to the Committee on Environment and Public Works.

H.R. 2818. An act to designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building", and for other purposes; to the Committee on Environment and Public Works.

H.R. 3041. An act to designate the Federal building located at 1520 Market Street, St. Louis, Missouri, as the "L. Douglas Abram Federal Building"; to the Committee on Environment and Public Works.

H.R. 3118. An act to designate Federal Office Building Number 9 located at 1900 E. Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building"; to the Committee on Environment and Public Works.

H.R. 3818. An act to designate the building located at 80 North Hughey Avenue in Orlando, Florida, as the "George C. Young United States Courthouse and Federal Building"; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S.J. Res. 234. A joint resolution expressing the sense of the Congress regarding the Government of Kenya's November 14 through 16, 1991, suppression of the democratic opposition and suspending economic and military assistance for Kenya.

By Mr. PELL, from the Committee on Foreign Relations; without amendment, and with a preamble:

S. Con. Res. 70. A concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

By Mr. PELL, from the Committee on Foreign Relations; with amendments, and with a preamble:

S. Con. Res. 80. A concurrent resolution concerning democratic changes in Zaire.

By Mr. PELL, from the Committee on Foreign Relations; with amendments, and amendments to the preamble:

S. Con. Res. 89. A concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Scott M. Spangler, of Arizona, to be Associate Administrator of the Agency for International Development (Operations);

Herman J. Cohen, of New York, a Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period;

Herman Jay Cohen, of New York, an Assistant Secretary of State, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1997;

Salvador Lew, of Florida, to be a Member of the Advisory Board for Cuba Broadcasting for a term of two years;

Eugene C. Johnson, of Maryland, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6, 1992; and

Tahlman Krumm, Jr., of Ohio, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6, 1993.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably four nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORDS of January 22, February 5 (minus one name), and February 18, 1992, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM (for himself, Mr. WOFFORD, and Mr. RIEGLE):

S. 2311. A bill to discourage American employers from eliminating American jobs by relocating United States-based operations to a foreign country, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. DANFORTH, Mr. DECONCINI, Mr. REID, Mr. KASTEN, and Mr. KOHL):

S. 2312. A bill to amend the Federal Aviation Act of 1958 to enhance competition at, and the provision of essential air service with respect to high-density airports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JEFFORDS:

S. 2313. A bill to amend the Internal Revenue Code of 1986 to provide the American taxpayer with an annual report on the financial status of the Federal Government; to the Committee on Finance.

By Mr. JOHNSTON (by request):

S. 2314. A bill to correct an error in Public Law 100-425 relating to the reservation for the Confederated Tribes of the Grand Ronde Community of Oregon; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON (for himself and Mr. WALLOP) (by request):

S. 2315. A bill to enhance the law enforcement authority of the Secretary of the Interior on public lands, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2316. A bill to clarify authority of the Secretary of the Interior to cooperate with non-Federal entities in the conduct of research concerning the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LOTT (for himself, Mr. BROWN, Mr. SEYMOUR, Mr. MCCAIN, Mr. SMITH, Mr. BOND, Mr. SYMMS, Mr. WALLOP, Mrs. KASSEBAUM, Mr. BURNS, Mr. CRAIG, Mr. NICKLES, Mr. COATS, Mr. GARN, Mr. HATCH, Mr. HELMS, and Mr. MACK):

S. 2317. A bill to amend the Congressional Budget and Impoundment Control of 1974 to reform the budget process, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SEYMOUR:

S.J. Res. 264. A joint resolution designating May 1992 as "National Community Residential Care Month"; to the Committee on the Judiciary.

S.J. Res. 265. A joint resolution to designate October 9, 1992, as "National School Celebration of the Centennial of the Pledge of Allegiance and the Quincentennial of the Discovery of America by Columbus Day"; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 266. A joint resolution designating the week of April 26–May 2, 1992, as "National Crime Victims' Rights Week"; to the Committee on the Judiciary.

By Mr. D'AMATO:

S.J. Res. 267. A joint resolution to designate March 17, 1992, as "Irish Brigade Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL (for himself, Mr. PRYOR, Mr. ROTH, Mr. BIDEN, Mr. WARNER, Mr. LUGAR, and Mr. BUMPERS):

S. Con. Res. 98. A concurrent resolution expressing the sense of the Congress that the current Canadian quota regime on chicken imports should be removed as part of the Uruguay Round and North American Free Trade Agreement negotiations and that Canada's imposition of quotas on United States processed chicken violates Article XI of the General Agreement on Tariffs and Trade; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. WOFFORD, and Mr. RIEGLE):

S. 2311. A bill to discourage American employers from eliminating American jobs by relocating U.S.-based operations to a foreign country, and for other purposes; to the Committee on Labor and Human Resources.

SAVE AMERICAN JOBS ACT

Mr. METZENBAUM. Mr. President, I rise to introduce S. 2311, the Save American Jobs Act. This legislation is designed to address the growing trend of American businesses exporting jobs and operations overseas to exploit cheap labor. It's time we made these profit-hungry companies recognize the human costs of their relocations. And it is time we closed Uncle Sam's wallet to companies that turn their backs on American workers.

Let me describe the scope of the problem. The numbers of jobs lost as a consequence of these relocations is startling. For example, a recent study conducted for the economic policy institute estimated that Ohio has lost over 60,000 manufacturing jobs to Mexican "maquiladora" plants, virtually all in the last 10 years. Because one manufacturing job will support at least one additional job in service-related industries or the government sector, the study estimates Ohio's total loss to be over 120,000 jobs just from relocations to maquiladoras.

But it is not just maquiladoras. An even higher number of Ohio jobs have been lost to non-maquiladora plants in Mexico and other low-wage countries such as Korea, Singapore, and Taiwan.

I find no fault with those countries. I am not opposed to those countries attempting to develop their own economies. I am not opposed to those countries being concerned about their people being fully employed. But I am concerned about American jobs, and the problems to which I speak is not related to Ohio. And, of course, it is not just Ohio. It is Shreveport, LA, which lost over 3,000 AT&T jobs to Singapore in the 1980's. It is Radford, VA, where AT&T opened a plant in 1980 only to shift 2,400 jobs to Mexico by the end of 1990. It is Bettendorf, IA, which lost 1,500 Tenneco jobs to Korea in 1988. According to the National Alliance of Business, as much as 40 percent of the American work force faces the possibility that their jobs will be exported.

The automobile industry has been hardest hit by runaway jobs. Just last week, General Motors announced plans to close 12 U.S. plants and eliminate 16,300 American jobs. But who is the largest private employer in Mexico today? General Motors is with 35 plants in Mexico.

Currently, the big three and their suppliers account for 75,000 jobs in Mexican maquiladoras, and that number is growing each week. Another 549 jobs are going south of the border when GM relocates work from its Moraine, OH facility, as it announced several days ago.

The list of American companies moving jobs overseas reads like a "who's who" for corporate America: Rockwell International, General Electric, Lockheed, Westinghouse, and another 300 of the Fortune 500.

As a result of these American businesses relocating overseas, America's working men and women face an economic triple whammy.

First, hundreds of thousands have lost their jobs. Many have been unable to find comparable employment, or any employment. Many have lost their cars, their possessions, and their homes as well.

In some communities, the closing of a major facility can mean economic devastation, as tax revenues shrink due to declining population and property values, while demand for welfare and other social benefits increases. Funds for schools and public services disappear, driving more businesses and residents away from the community.

Second, many of these companies add insult to injury by importing the goods made abroad into this country and selling them to American consumers, including the very workers who used to produce them here. In 1986, for example, foreign subsidiaries of U.S. corporations imported and sold $80 billion worth of goods to American consumers. These goods contributed heavily to the national trade deficit. And let me assure you, in far too many cases the savings these companies reap by paying pennies to foreign workers are not passed on to the American consumer.

And third, the Federal Government pours billions of dollars of Federal tax revenues every year into American businesses, in the form of Federal grants, loans, and contracts. How much of this money goes to companies that have relocated operations overseas to exploit cheap labor? I will tell you how much. Plenty. For example, the five companies I just named—GM, Rockwell, Lockheed, GE, and Westinghouse—represents 5 of the top 10 Federal contractors. In 1990 alone, they received over 25 billion dollars' worth of Federal contracts, the American taxpayer dollars.

In the past 6 years, the Hoover Co. has moved several hundred jobs from its North Canton, OH, plant to Mexico. How has the Federal Government responded? In 1991, it rewarded Hoover with an $8 million contract for cleaning equipment. The American taxpayer is basically subsidizing the export of American jobs to foreign countries, and it is time we put a halt to it.

These American companies are not concerned about the devastating effects of relocations on workers and the communities in which they live. Nor are they concerned about the long-term damage done to the Nation's industrial base. They are looking to make quick buck.

The message these companies are sending to their employees is: "We don't care if you have been a loyal employee for 30 years. We do not care if you've worked hard, if you've acquired great skills or good judgment based on years of experience. In many cases, we do not even care if the plant has been profitable. What we care about is moving these jobs to a country that has no laws to protect the wages or working conditions of its citizens." That is no way to treat hardworking, loyal American employees.

Today, I am introducing the Save American Jobs Act to address the growing problem of American companies relocating operations overseas to exploit cheap labor. The bill's reach is limited to those countries that have an average wage rate less than 50 percent of the U.S. rate. This limitation covers low-wage countries such as Mexico, Taiwan, and Korea to which the vast majority of American jobs are being exported.

Under this legislation, employers that export jobs would be forced to bear responsibility for a share of the social costs imposed on workers and their communities. The bill would require employers who relocate U.S.-based operations overseas to provide 120-day advance notice to employees, and to provide dislocated workers with limited severance pay—1 week for each year of employment—a year's worth of continued health benefits, and reimbursement for retraining and relocation expenses (up to $10,000).

In addition, American companies that desert this country should not be rewarded with Federal tax dollars. We do not have to give these companies billions of dollars in lucrative defense contracts, low-cost export-import bank loans, and research and development grants while they ship jobs overseas. This legislation would send an emphatic message to American companies that if they abandon American workers, Uncle Sam is going to shut off the flow of Federal dollars.

Thus, employers who relocate operations overseas would be prohibited from receiving Federal grants and loans for a period of 5 years. In terms of Federal contracts, employers who have not relocated operations overseas would receive a preference in the awarding of such contracts over those who have relocated operations within the past 5 years.

The bill's enforcement mechanism would allow employees to file complaints either with the Department of Labor or in district court. The Department of Labor also could file suit. Available relief would include back pay, consequential damages, liquidated damages, injunctive relief, attorney's fees and costs.

In closing, let me say that I believe in the free enterprise system. Our country was built on that system, and before I was elected to this body I had a long career as a businessman. But believing in free enterprise does not mean we have to accept the exploitation of cheap foreign labor at the expense of American workers. I urge my colleagues to cosponsor the Save American Jobs Act.

I ask unanimous consent that the full text of the bill and a summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Save American Jobs Act".

SEC. 2. DEFINITIONS.

(a) APPLICATION OF WARN ACT DEFINITIONS.—The terms used in this Act shall have the meanings prescribed for such terms by section 2 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101), except that—

(1) the term "employer" means any business enterprise that employs—

(A) 25 or more employees, excluding part-time employees, or

(B) 25 or more employees who in the aggregate work at least 1,000 hours per week (exclusive of hours of overtime),

(2) the term "plant closing" is the same as the definition in such section 2, except that it shall be considered to have occurred if the shutdown results in an employment loss for 12 or more employees, and

(3) the term "mass layoff" means a reduction in force which—

(A) is not the result of a plant closing, and

(B) results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) at least 25 percent of the employees (excluding any part-time employees), and

(II) at least 12 employees (excluding any part-time employees), or

(ii) at least 50 employees (excluding any part-time employees).

(b) ADDITIONAL DEFINITIONS.—As used in this Act—

(1) the term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and a military department (as defined in section 102 of title 5, United States Code); and

(2) the term "Secretary" means the Secretary of Labor.

SEC. 3. EMPLOYERS COVERED.

(a) IN GENERAL.—An employer shall be deemed a covered employer for purposes of sections 4 and 5 if—

(1) the employer orders a plant closing or mass layoff at a work site; and

(2) within a year before or after the plant closing or mass layoff is carried out at the work site the employer transfers work from such site to a foreign country in which the average wage is less than 50 percent of the average wage in the United States, as determined under section 7(d).

(b) WORK TRANSFER DEFINED.—

(1) IN GENERAL.—Except as provided in paragraph (2), work shall be considered to be transferred to a foreign country for purposes of subsection (a) if the employer involved—

(A) increases the amount of work performed in another country and such work is substantially similar to the work performed at the work site at which the plant closing or mass layoff occurs; or

(B) increases the amount of products which are imported from another country and such products are substantially similar to the products produced at such work site.

(2) EXCEPTION.—If an employer who orders a plant closing or mass layoff at a work site described in subsection (a) proves that the increase in—

(A) work described in paragraph (1)(A) which is performed in another country; or

(B) products described in paragraph (1)(B) which are imported from another country,

is not related to the plant closing or mass layoff at such work site, the employer shall not be deemed a covered employer for purposes of sections 4 and 5.

(3) CONSTRUCTION.—For purposes of paragraph (1), if an increase described in subparagraph (A) or (B) of paragraph (1) is carried out by any person which owns at least 10 percent of an employer described in subsection (a) or by any person at least 10 percent of which is owned by such employer, such employer shall be considered to have carried out such increase.

SEC. 4. NOTICE OF RELOCATION.

(a) NOTICE.—A covered employer shall not commence a plant closing or mass layoff as described in section 3 until the end of a 120-day period after such employer serves written notice—

(1) of the kind required by section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.); and

(2) on the Secretary.

(b) PENALTY.—An employer that violates subsection (a) shall be subject to a civil penalty not to exceed an amount of $10,000 for each day of such violation, except that the Secretary may reduce such amount for just cause shown.

(c) DOL LIST.—The Secretary shall compile and maintain a list of all covered employers, and shall distribute an updated list to all Federal agencies at least once every six months. A covered employer shall be included on such list for a period of 5 years from the date the Secretary receives notice pursuant to subsection (a).

SEC. 5. BENEFITS.

A covered employer shall not commence a plant closing or mass layoff as described in section 3 unless such employer provides to each affected employee—

(1) severance pay equal to one week of the average wage at which such employee was employed during the preceding year, multiplied by the number of years the employee was employed by such employer;

(2) for the continuation of health care benefits previously provided for 12 months after the plant closing or mass layoff; and

(3) reimbursement (not to exceed $10,000) for retraining as authorized by section 204 of the Job Training Partnership Act (29 U.S.C. 1604) and for relocation.

SEC. 6. RESTRICTED ACCESS TO FEDERAL FUNDS.

(a) FEDERAL CONTRACTS.—A Federal agency, when awarding a civilian or defense-related contract, shall give preference to a United States employer that does not appear on the list described in section 4(c) over an employer that does appear on such list.

(b) FEDERAL GRANTS AND LOANS.—

(1) ELIGIBILITY.—Except as provided in paragraph (2), an employer that appears on the list described in section 4(c) shall be ineligible for any direct or indirect Federal grant or Federal guaranteed loan.

(2) WAIVERS.—The Secretary, in consultation with the appropriate Federal agency providing a loan or grant, may waive the ineligibility requirements under paragraph (1) if the employer applying for such loan or grant demonstrates that a lack of such loan or grant would—

(A) threaten national security;

(B) result in a substantial job loss in the United States; or

(C) substantially harm the environment.

(c) FEDERAL BENEFITS FOR WORKERS.—No provision of this section shall be construed to permit withholding or denial of payments, compensation, or benefits under any other Federal law (including Federal unemployment compensation, disability payments, or worker retraining or readjustment funds) to employees of a covered employer.

(d) ENFORCEMENT.—The Secretary or any individual may bring an action to restrain a violation of this section. In any action brought under this subsection, the district courts of the United States shall have jurisdiction, for cause shown, to issue declaratory and injunctive relief, as well as attorneys' fees, experts' fees, and costs, and such other legal and equitable relief as may be appropriate.

SEC. 7. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with this Act, or any regulation issued under this Act, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—Any employer shall keep and preserve records in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) SUBPOENA POWERS.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(d) LIST OF AFFECTED COUNTRIES.—The Secretary shall publish annually in the Federal Register the names of countries described in section 3(a) as determined under regulations promulgated by the Secretary. Prior to the publication of the first such list, the applicability of section 3(a) to foreign countries shall be determined according to the average hourly compensation costs for production workers, as reported by the Bureau of Labor Statistics.

SEC. 8. ENFORCEMENT OF NOTICE AND BENEFITS REQUIREMENTS.

(a) CIVIL ACTION BY EMPLOYEES.—

(1) LIABILITY.—Any employer who violates section 4 or 5 shall be liable to any affected employee—

(A) for damages equal to—

(i) the amount of any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation,

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate, and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 4 or 5 proves to the satisfaction of the court that the act or omission which violated such section was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of such section, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively,

(B) for damages equal to any actual monetary loss sustained by the employee as a direct result of the violation, such as the cost of providing health care, and

(C) for such equitable relief as may be appropriate, including, without limitation, employment, reinstatement, and promotion.

(2) STANDING.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more affected employees for and in behalf of—

(A) the affected employees, or

(B) the affected employees and other employees similarly situated.

(3) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(b) ACTION BY THE SECRETARY.—

(1) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of sections 4 or 5 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(2) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover on behalf of an eligible employee the damages described in subsection (a)(1)(A).

(3) SUMS RECOVERED.—Any sums recovered by the Secretary on behalf of an employee pursuant to paragraph (2) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) LIMITATION.—

(1) IN GENERAL.—An action may be brought under subsection (a) or (b) not later than 3 years after the date of the last event constituting the alleged violation for which the action is brought.

(2) COMMENCEMENT.—In determining when an action is commenced by the Secretary under subsection (b) for the purposes of this subsection, it shall be considered to be commenced on the date when the complaint is filed.

(3) EXHAUSTION OF ADMINISTRATIVE ACTION.—If a complaint is filed with the Secretary under subsection (b)(1), an action under subsection (a)(2) may not be commenced until the expiration of 90 days following the filing of such complaint.

(4) INTERVENTION.—The Secretary or an affected employee shall have the right to intervene in any action brought under subsection (a) or (b).

(d) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, over an action brought by the Secretary to restrain violations of sections 4 or 5, including actions to restrain the withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees.

SEC. 9. EFFECTIVE DATE.

This Act shall become effective 60 days after the date of enactment of this Act.

SUMMARY OF THE SAVE AMERICAN JOBS ACT

The Save American Jobs Act addresses the growing problem of American companies relocating operations overseas to exploit cheap labor.

Foreign Countries Affected: The bill's reach is limited to those countries which have an average wage rate which is less than 50% of the U.S. rate. This limitation covers low-wage countries such as Mexico, Singapore, Brazil, Taiwan and Korea to which the vast majority of these jobs are being exported.

Relocations Covered: The bill applies to certain plant closings and mass layoffs if, within a year before or after the closing or layoff, the employer transfers work to a low-wage foreign country. A plant closing is covered if it affects 12 or more employees; a mass layoff is covered if it affects either (1) 12 or more employees, where those affected represent at least 25% of employees at a work site, or (2) 50 or more employees.

Employee Notice and Benefits: The bill would require employers who relocate U.S.-based operations overseas to provide 120-day advance notice to employees, and to provide dislocated workers with limited severance pay (one week for each year of employment), a year's worth of continued health benefits, and reimbursement for retraining and relocation expenses (up to $10,000).

Access to Federal Funds: Employers who relocate operations overseas would be prohibited from receiving federal grants and loans for a period of 5 years. In addition, employers who have not relocated operations overseas would receive a preference in the awarding of federal contracts over those who have relocated operations within the past 5 years.

Enforcement: The bills enforcement mechanism would allow employees to file complaints either with the Department of Labor or in a United States district court. The Department of Labor could also file suit. Available relief would include back pay, consequential damages, liquidated damages, injunctive relief, attorneys' fees and costs.

Effective Date: The bill would be effective 60 days after enactment.

By Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. DANFORTH, Mr. DECONCINI, Mr. REID, Mr. KASTEN, and Mr. KOHL):

S. 2312. A bill to amend the Federal Aviation Act of 1958 to enhance competition at, and the provision of essential air service with respect to high-density airports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AIRLINE COMPETITION ENHANCEMENT ACT

• Mr. MCCAIN. Mr. President, today I am introducing, along with Senators LIEBERMAN, DANFORTH, DECONCINI, REID, KASTEN, and KOHL, new legislation to address the ongoing problems in maintaining a level playing field for airline competition. I am pleased that this legislation represents a bipartisan effort to restore the competitive benefits promised by airline deregulation.

Last year I introduced S. 1628, the Airline Competition Equity Act of 1991, which was an omnibus bill designed to address the major impediments to full airline competition. Since the introduction of S. 1628, the problems with competition in the airline industry have grown even more serious.

Consider the recent history of the industry. Braniff, Eastern, Pan Am, and Midway have all folded their wings and exited as competitors. Continental, TWA, and America West are reorganizing under court protection. As of today, five airlines control nearly 80 percent of the U.S. market. As recently as 1985, just 7 years ago, it took the 10 largest airlines to control the same 80 percent of the market.

This consolidation and cutting off of competition is not what Congress had in mind when it approved the Airline Deregulation Act in 1978. As the Deregulation Act in 1978. As the Deregulation Act itself sets out in its "Declaration of Policy," the public interest requires:

> The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

The 1978 act further states that the public interest requires:

> The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of unreasonable industry concentration.

The actual course of airline deregulation makes a mockery of these intentions. Study after study, by the General Accounting Office, the Department of Transportation, and others have identified significant barriers to competition. These barriers to competition not only discourage the increased new entry contemplated by Congress in 1978, but they have also been a major cause of the increasing industry concentration.

The legislation I am introducing today, the Airline Competition Enhancement Act of 1992, addresses two of the key barriers to competition, airline ownership of Computer Reservation Systems [CRS] and limited access for new entry at slot-controlled airports.

This legislation was introduced last fall in the House of Representatives by JIM OBERSTAR, chairman of the Aviation Subcommittee of the House Committee on Public Works and Transportation. On the issues of CRS's and slots, it represents a compromise from the provisions in S. 1628. However, in the interest of moving quickly on the most important barriers to competition, I am endorsing and introducing this legislation.

I believe that the Airline Competition Enhancement Act of 1992 presents thoughtful, reasonable, and effective measures to improve the prospects for the success of deregulation. With the introduction today of this legislation, both the House and Senate will have a common basis from which to proceed for the remainder of the year in our efforts to enact procompetitive legislation.

To ameliorate the anticompetitive effects of CRS's, the Airline Competition Enhancement Act of 1992 includes a number of provisions. Within 1 year, CRS systems must provide equal functionality to all airline participants. Within 3 years, CRS systems must be converted to "no host" systems, in effect precluding the use of a CRS system as an internal reservation system. In addition, this legislation allows an airline to submit to an arbitrator an increase in the level of booking fees charged. The arbitrator would then rule on whether the fees charged are fair and reasonable. Finally, the legislation limits contracts between CRS systems and travel agents to 2 years, limits liquidated damages for terminating a CRS contract, and specifically prohibits minimum use requirements.

Taken together, these CRS proposals will level the playing field for airline competition. With the ending of the effects of monopoly power by the CRS owners, airlines will be able to compete for airline passengers purely on the basis of price and service. It will then be possible for new and smaller airlines to successfully market their products.

On the issue of slot controls at the Nation's four high-density airports—Chicago O'Hare, Washington National and New York Kennedy and LaGuardia—this legislation allows carriers holding less than 12 slots at a high-density airport to buy slots designated for commuter aircraft use and utilize those slots for large jet service. This minor change in the slot regulations will not increase the number of flights into any airport. I will, however, provide an opportunity to inject new competition and provide more carriers access to these critical markets. This legislation also incorporates a provision to ensure that slots are available for routes that serve communities which lost air service due to essential air service cutbacks in 1990.

During a hearing before the Senate Commerce Committee last September, the General Accounting Office testified:

> That, for the most part, the airlines with access to these [slot-controlled] airports now are the same airlines that the Civil Aeronautics Board awarded access to before deregulation in 1978.

The fact is that the Department of Transportation's theory that the buying and selling of slots would provide opportunity for new entry does not work. Either the slots are not made available or are sold in packages that preclude new entrants and limited incumbents from cracking the Government-sanctioned oligopolies at these airports.

Mr. President, passage of this legislation would be a meaningful step towards addressing the barriers to entry and competition faced by any carrier that is not one of the three, four, or five airlines that have been anointed to survive. I believe passage of this legislation is critical if we are to enjoy in the future the fruits of airline deregulation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Airline Competition Enhancement Act of 1992".

SEC. 2. USE OF COMMUTER AND AIR CARRIER SLOTS BY NEW ENTRANTS AT HIGH DENSITY AIRPORTS.

(a) IN GENERAL.—Title IV of the Federal Aviation Act of 1958 (49 U.S.C. App. 1371–1389) is amended by adding at the end the following new section:

"SEC. 420. USE OF COMMUTER AND AIR CARRIER SLOTS BY NEW ENTRANTS AT HIGH DENSITY AIRPORTS.

"(a) GENERAL RULE.—Subject to subsection (b), an air carrier having less than 12 air carrier slots to carry out air carrier operations at a high density airport may also use commuter slots as air carrier slots to carry out such operations.

"(b) LIMITATION.—An air carrier using commuter slots as air carrier slots at a high density airport pursuant to subsection (a) may not use in the aggregate more than 12—

"(1) air carrier slots, and

"(2) commuter slots as air carrier slots,

at such airport in any 24-hour period.

"(c) DEFINITIONS.—As used in this section, the following definitions apply:

"(1) HIGH DENSITY AIRPORT.—The term 'high density airport' means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

"(2) SLOT.—The term 'slot' means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.

"(3) COMMUTER SLOT.—The term 'commuter slot' means a slot which may be used to carry out an instrument flight rule takeoff or landing by an aircraft described in section 93.123(c)(2) of title 14 of the Code of Federal Regulations.

"(4) AIR CARRIER SLOT.—The term 'air carrier slot' means a slot may be used to carry out an instrument flight rule takeoff or landing by an aircraft described in section 93.123(c)(1) of title 14 of the Code of Federal Regulations.".

(b) CONFORMING AMENDMENT.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by adding at the end of the matter relating to title IV of such Act the following:

"Sec. 420. Use of commuter and air carrier slots by new entrants at high density airports.
"(a) General rule.
"(b) Limitation.
"(c) Definitions.".

SEC. 3. COMPUTER RESERVATION SYSTEMS.

(a) IN GENERAL.—Title IV of the Federal Aviation Act of 1958 (49 U.S.C. App. 1371–1389) is further amended by adding at the end the following new section:

"SEC. 421. COMPUTER RESERVATIONS SYSTEMS.

"(a) PROHIBITIONS AGAINST VENDOR DISCRIMINATION.—

"(1) SPECIFIC.—No vendor, in the operation of its computer reservation system, may—

"(A)(i) make available to subscribers an integrated display in which information is ordered or emphasized based upon factors relating to air carrier identity; or

"(ii) supply information from its computer reservations system to any person creating or attempting to create such an integrated display if the vendor knows or has reason to know that such person intends to create or attempt to create such an integrated display;

"(B) make available, after the 365th day following the date of the enactment of this section, to a subscriber any subscriber transaction capability which is more functional, timely, complete, accurate, or efficient with respect to one participant than with respect to any other participant, except to the extent that the vendor offers the other participant the opportunity to participate in such capability at the same price and equivalent terms as other participants and the participant does not accept such offer;

"(C) make available, after such 365th day, to a participant any participant transaction capability which is—

"(i) more functional, timely, complete, accurate, or efficient with respect to one participant than with respect to any other participant; or

"(ii) provided through the use of telecommunications facilities, protocols, or procedure (I) which discriminate against a participant, or (II) which are not comparable to those used for providing such capability to any other participant;

except to the extent that the vendor offers the other participant the opportunity to participate in such capability at the same price and equivalent terms as other participants and the participant does not accept such offer;

"(D) charge a participant fee which is above the fee or range of fees found fair and reasonable in a decision of an arbitrator under subsection (c) with respect to such vendor unless a period of one year or more has elapsed since such decision; or

"(E) directly or indirectly prohibit a subscriber from obtaining or using any other computer reservation system.

"(2) GENERAL.—

"(A) EFFECTIVE IMMEDIATELY.—No vendor or air carrier shall require, or provide any incentives to induce, any subscriber to use information from a computer reservation system to create an integrated display in which information is ordered or emphasized based upon factors relating to air carrier identity.

"(B) EFFECTIVE AFTER 3 YEARS.—After the last day of the 3-year period beginning on the date of the enactment of this section—

"(i) no air carrier or its affiliate shall use a computer reservation system as an internal reservation system; and

"(ii) each computer reservation system shall be managed separately and autonomously from the internal reservation system of an air carrier or an affiliate of an air carrier.

"(b) SUBSCRIBER CONTRACT RESTRAINTS.—No subscriber contract—

"(1) after the 180th day following the date of the enactment of this section, shall be for a term of more than 2 years;

"(2) shall form a basis for a claim of actual or liquidated damages by the vendor in the event the subscriber cancels the contract, except as follows:

"(A) damages related to the vendor's actual cost of removing its equipment from the subscriber's premises;

"(B) the unamortized share of the vendor's actual cost of installing such equipment in the subscriber's premises exclusive of any element of capital investment in such equipment; and

"(C) other amounts owed to the vendor by the subscriber during the unexpired term of the contract, but in no event including amounts which are in the nature of a penalty for cancellation or which otherwise become due upon cancellation;

"(3) shall contain an expiration date later than the earliest expiration date of any other contract for computer reservations services or equipment between the same subscriber and vendor;

"(4) shall directly or indirectly require that the subscriber use the vendor's computer reservations system for a minimum volume of transactions, whether measured as an absolute number, a percentage of total transactions of any kind, or otherwise; or

"(5) shall be enforceable in law or equity after the 30th day following the date of the enactment of this section as to any provision to the extent that such provision is inconsistent with the requirements of this subsection.

"(c) ARBITRATION OF PARTICIPANT FEES.—

"(1) DEMAND FOR ARBITRATION.—Any participant who objects to an increased participant fee which is scheduled to take effect on or after April 15, 1991, may demand that such a fee be reviewed by an arbitrator as provided in this subsection. Review shall be instituted by such participant by submitting a demand for arbitration in writing to the Secretary of Transportation and mailing a copy thereof to the vendor imposing such fee. The Secretary shall within 30 days of receiving such demand determine whether the matter disputed is subject to arbitration under this section. The Secretary shall give timely notice of any such determination to other participants, and representatives of subscribers, who may be affected by the disputed fee and shall take such action as may be necessary to permit their participation as parties to the arbitration. The submission of a demand for arbitration under this subsection shall not act as a stay of any fee.

"(2) SELECTION OF ARBITRATOR.—If the Secretary determines that a matter is subject to arbitration under paragraph (1), the Secretary shall promptly advise the Federal Mediation and Conciliation Service and provide to the Service the names of persons eligible to participate as parties. The Service shall provide a procedure by which the parties shall agree on the selection of an arbitrator. If the parties fail to agree on an arbitrator within 30 days of the Secretary's determination that the matter disputed is subject to arbitration, the Service shall select an arbitrator.

"(3) ARBITRATION FEES.—The Secretary and the Service are authorized to make such orders and incur such expenditures as are necessary to give effect to this subsection. Arbitration fees and other common costs of the arbitration shall be borne by the parties. To assist it in the performance of its duties under this subsection, the Service may employ consultants on a contract basis.

"(4) DISPUTE RESOLUTION.—The arbitrator shall issue such orders as are necessary to the prompt and efficient resolution of the dispute and to assure the parties a fair and reasonable opportunity to be heard. After considering the submissions of the parties, the arbitrator shall render a decision as to whether the disputed participant fee exceeds that which would be fair and reasonable in light of the revenues and costs attributable to the computer reservations system. In so doing, the arbitrator shall give due regard to all revenues of the vendor, including any air transportation revenues attributable to the computer reservations system or any air carrier holding an ownership interest in the computer reservations system, and all applicable costs, including an allowance for a reasonable return on investment.

"(5) DETERMINATION OF PARTICIPANT FEE.—If the arbitrator determines the fee or charge is not fair and reasonable, the arbitrator shall specify a fee or charge, or range of fees or charges, which would be fair and reasonable. The arbitrator shall also specify an effective date for the decision. Such date shall be no earlier than the effective date of the challenged fee. The arbitrator shall issue a written statement setting forth the basis for the decision.

"(6) APPEALS.—The decision of the arbitrator shall be final and binding except that such award may be vacated by a United States court in and for the district where the award was made for any of the reasons set forth in subsections (a) through (d) of section 10 of title 9, United States Code. Unless the court otherwise orders in the interests of justice, any matter as to which an order is vacated under this paragraph shall be heard by an arbitrator as a new matter arising under this subsection.

"(7) LIMITATION OF PARTICIPANT FEES.—No participant fee shall be charged by a vendor which is above the fee or range of fees previously found fair and reasonable in an arbitration under this section with respect to such vendor unless a period of one year or more has elapsed since such decision.

"(8) PAYMENT OF ARBITRATOR FEES.—Unless the arbitrator holds otherwise, each party to an arbitration shall bear its own costs and each side shall pay one-half of the reasonable fees and costs of the arbitrator.

"(d) TREATMENT OF CERTAIN REDUCED CRS SERVICES.—If any computer reservation system service being provided to a participant in such system for a participant fee is reduced without a corresponding reduction in the participant fee, the participant fee shall be treated, for purposes of this section, as being increased by the vendor.

"(e) DEFINITIONS.—For purposes of this section, the following definitions apply.

"(1) ARBITRATOR.—The term 'arbitrator' means either an individual not associated with any party or a panel of 3 such individuals.

"(2) COMPUTER RESERVATION SYSTEM.—The term 'computer reservations system' means—

"(A) a computer system which is offered to subscribers for use in the United States and contains information on the schedules, fares, rules, or seat availability of 2 or more separately identified air carriers and provides subscribers with the ability to make reservations and to issue tickets; and

"(B) a computer system which was subject to the provisions of part 255 of title 14 of the Code of Federal Regulations (relating to computer reservation systems) on June 1, 1991.

"(3) COMPUTER SYSTEM.—The term 'computer system' means a unit of one or more computers, and associated software, peripherals, terminals, and means of information transfer, capable of performing information processing and transfer functions.

"(4) INTERNAL RESERVATION SYSTEM.—The term 'internal reservation system' means a computer system which contains information on airline schedules, fares, rules, or seat availability and is used by an air carrier to respond to inquiries made directly to the carrier by members of the public concerning such information and to make reservations arising from such inquiries.

"(5) INTEGRATED DISPLAY.—The term 'integrated display' means a computerized display of information which relates to air carrier schedules, fares, rules, or availability and is designed to include information pertaining to more than 1 separately identified air carrier. Such terms excludes the display of data from the internal reservations system of an individual air carrier when provided in response to a request by a ticket agent relating to a specific transaction.

"(6) PARTICIPANT.—The term 'participant,' as used with respect to a computer reservations system, means an air carrier which has its flight schedules, fares, or seat availability displayed through such system.

"(7) PARTICIPANT FEE.—The term 'participant fee' means any fee, charge, penalty, or thing of value contractually required to be furnished to a vendor by a participant for display of the flight schedules, fares, or seat availability of the participant through the computer reservation system of the vendor or for other computer reservation system services provided to the participant.

"(8) PARTICIPANT TRANSACTION CAPABILITY.—The term 'participant transaction capability' means any service, product, function, or facility which is provided by a computer reservation system to any participant and which is capable of benefiting the air transportation business of such participant, including the loading into the system of information on schedules, fares, rules, or seat availability, the booking or assignment of seats, the issuance of tickets or boarding passes, the retrieval of data from the system, or a means of determining the timeliness with which a participant will receive payment for air transportation sold through the system.

"(9) PROTOCOL.—The term 'protocol' means a set of rules or formats which govern the information transfer between and among computer reservation systems, participants, and subscribers.

"(10) SUBSCRIBER.—The term 'subscriber' means a ticket agent which holds itself out to the public as an independent source of information about, or of tickets for, air transportation and uses a computer reservation system to carry out such functions.

"(11) SUBSCRIBER CONTRACT.—The term 'subscriber contract' means an agreement, and any amendment thereto, between a ticket agent and a vendor for the furnishing of computer reservations services to such subscriber.

"(12) SUBSCRIBER TRANSACTION CAPABILITY.—The term 'subscriber transaction capability' means the capability of a ticket agent through a computer reservations system to view information on airline schedules, fares, rules, and seat availability or to book space, assign seats, or issue tickets or boarding passes for air transportation to be provided by air carriers.

"(13) VENDOR.—The term 'vendor' means any person who owns, controls, or operates a computer reservations system.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by adding at the end of the matter relating to title IV of such Act the following:

"Sec. 421. Computer reservations systems.
  "(a) Prohibitions against vendor discrimination.
  "(b) Subscriber contract restraints.
  "(c) Arbitration of participant fees.
  "(d) Treatment of certain reduced CRS services.
  "(e) Definitions.".

SEC. 4. PROTECTION OF SMALL COMMUNITY AIRLINE PASSENGERS.

(a) ACCESS TO HIGH DENSITY AIRPORTS.—Section 419(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389(b)) is amended by adding at the end the following new paragraph:

"(10) ACCESS TO HIGH DENSITY AIRPORTS.—

"(A) NONCONSIDERATION OF SLOT AVAILABILITY.—In determining what is basic essential air service and in selecting an air carrier to provide such service, the Secretary shall not give consideration to whether slots at a high density airport are available for providing such service.

"(B) MAKING SLOTS AVAILABLE.—If basic essential air service is to be provided to and from a high density airport, the Secretary shall ensure that a sufficient number of slots at such airport are available to the air carrier providing or selected to provide such service. If necessary to carry out the objectives of this subsection, the Secretary shall take such action as may be necessary to have such slots transferred or otherwise made available to the air carrier; except that the Secretary shall not be required to make slots available at O'Hare International Airport in Chicago, Illinois, if the number of slots available for basic essential air service to and from such airport is at least 132 slots.".

(b) TRANSFERS OF SLOTS AT HIGH DENSITY AIRPORTS.—Section 419(b)(7) of such Act (49 U.S.C. App. 1489(b)(7)) is amended—

(1) by striking "Transfer of operational authority at certain" and inserting "Transfers of slots at";

(2) by striking "an airport at which the Administrator limits the number of instrument flight rule takeoffs and landing of aircraft" and inserting "a high density airport";

(3) by striking "operational authority" and inserting "slots";

(4) by striking "has to conduct a landing or takeoff" and inserting "have"; and

(5) by striking "such authority" the first place it appears and inserting "such slots";

(6) by striking "such authority is" and inserting "such slots are"; and

(7) by inserting "basic essential" after "used to provide".

(c) DEFINITIONS.—Section 419(k) of such Act (49 U.S.C. App. 1389(k)) is amended by adding at the end the following new paragraphs:

"(6) HIGH DENSITY AIRPORT.—The term 'high density airport' means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

"(7) SLOT.—The term 'slot' means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.".•

• Mr. LIEBERMAN. Mr. President, today I am pleased to introduce, with my colleagues Senators DANFORTH, MCCAIN, KOHL, KASTEN, DECONCINI, and REID the Airline Competition Enhancement Act of 1992. Two weeks ago, I chaired a hearing of the Subcommittee on Consumer and Environmental Affairs to examine whether the recent closings and mergings in the airline industry meant that competition was decreasing or would soon decline to such an extent that consumers would be faced with higher prices and fewer choices. I became convinced after listening to the witnesses, that competition in the industry, while vibrant in some markets, was at a risk in others.

This legislation is intended to address the two factors identified at the hearing as having particularly strong anticompetitive effects in the industry: the computer reservation systems used by travel agents to book flights for their customers which are owned by the two dominant airlines, and limits on takeoff and landing slots at high density airports. In my view, in order to promote competition and protect the benefits of deregulation that consumers have enjoyed since 1978, legislation action is warranted. In order to speed congressional action, the legislation we are introducing today is identical to that already introduced by Congressman OBERSTAR in the House of Representatives.

The case for removing high-technology bias and certain discriminatory practices in airline computer reservation systems is particularly persuasive. As one of the witnesses at our hearing stated, the airline industry is rapidly coming to resemble the CRS industry. That spells bad news for consumers. The two largest CRS systems in the United States are owned or co-owned, respectively, by the two largest airlines and these systems together account for 71 percent of all airline ticket sales.

The General Accounting Office has identified the issue of CRS dominance by the two major airline owners and discrimination against other carriers who must rely on those systems as one of the major anticompetitive factors in the industry. The Department of Transportation itself has been working on a rulemaking for the past 2 years to address some of the problems caused by the reliance of travel agents and smaller airlines on the CRS systems owned and operated by the two largest carriers. At our hearing, however, the Department admitted that it was unlikely to meet its May 1992 completion date for the regulation.

As a Senator who prefers to let a free, competitive market govern itself where it exists, I remain hopeful that once we make these changes, we will have a vigorously competitive airline action to ensure that competition is fair, I am concerned that we will see more and more airline failures and consumers will be paying higher and higher fares.•

By Mr. JEFFORDS:

S. 2313. A bill to amend the Internal Revenue Code of 1986 to provide the American taxpayer with an annual report on the financial status of the Federal Government; to the Committee on Finance.

ANNUAL REPORT TO THE AMERICAN TAXPAYER ACT

• Mr. JEFFORDS. Mr. President, soon, the Senate will begin consideration of an economic recovery package. We'll spend considerable time on the floor of the Senate debating the merits of each party's proposals. There will probably be some partisan bickering, but we will pass an economic growth bill. Meanwhile, the deficit will continue to grow.

We'll help achieve short-term growth, while our long-term financial strength continues to erode. Many economists and the press have for years derided American corporations for their short-term planning horizons. Financial planning consists of trying to make the next quarterly report look good. Thousands of American jobs have been lost because of our shortsightedness. How many more jobs will be lost because of the shortsightedness of the Federal Government?

Publicly owned corporations are required to give their shareholders an annual report outlining the financial situation of the company. This report allows shareholders to make some educated decisions about the management of the company. Is the American taxpayer entitled to any less. I don't think so.

Thus today, Mr. President, I am introducing a bill to require the Federal Government to provide an annual report to the Government's shareholders, the American taxpayer. The title of this legislation is somewhat long, the Annual Report to the American Taxpayer Act, but I think of it as taxpayer right to know. We have worker right to know, community right to know, why not recognize the taxpayer's right to know.

This bill is very simple. Every year, the Internal Revenue Service sends out tax forms and booklets to millions of taxpayers. This bill requires the IRS to include some information about the financial status of the Federal Government. The information to be provided in this report builds upon information required under the budget agreement. The budget agreement requires the IRS to present pie charts showing how tax dollars are spent. I believe this requirement is excellent. Taxpayers should know how tax dollars are spent. Taxpayers should also be told every year how we are managing their money. I believe the more they know, the more pressure the taxpayers will put on their elected officials to put America back on a solid financial footing. I urge my colleagues to support this legislation.•

By Mr. JOHNSTON (by request):

S. 2314. A bill to correct an error in Public Law 100-425 relating to the reservation for the Confederated Tribes of the Grand Ronde Community of Oregon; to the Committee on Energy and Natural Resources.

RESERVATION OF THE CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON

• Mr. JOHNSTON. Mr. President, at the request of the Department of the Interior, I send to the desk a bill "To correct an error in Public Law 100-425 relating to the reservation for the Confederated Tribes of the Grand Ronde Community of Oregon."

I ask unanimous consent that the bill and the communications which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(b) of the Act of September 9, 1988 (102 Stat. 1594, Public Law 100-425), is amended by deleting from the 47th item listed thereunder the legal description and inserting in lieu thereof under the respective headings South, West, Section, Subdivision, Acres:

"3 8 7 Lots 1-4 SE¼NE¼, E½SW¼ 185.80".

DEPARTMENT OF THE INTERIOR,
Washington, DC, January 28, 1992.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To correct an error in Public Law 100-425 relating to the establishment of a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes.

We recommend that the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

The Act of September 9, 1988, (102 Stat. 1594, Public Law 100-425) provided for the establishment of a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon. As described and redesignated by section 1(c) of that Act, the reservation lands are a single tract in Yamhill County, Oregon, held in trust by the United States for the use and benefit of such tribes and tribal members. The tract consists of 9,811.32 acres previously managed by the Bureau of Land Management. The lands were revested Oregon and California Railroad (O&C) and reconveyed Coos Bay Wagon Road (CBW) grant lands, managed under the Act of August 23, 1937 (43 U.S.C. 1181(a), *et seq.*).

To offset the revenue lost by Yamhill County production from the redesignated O&C and CBW lands lost by Yamhill County, section 4(b) of P.L. 100-425 described and redesignated 12,035.32 acres of public domain land in Yamhill and Tillamook Counties in Oregon considered to be comparable in production of timber and annual revenues. This land would be managed in the future as O&C lands. All moneys received from or on account of those lands are to be deposited in the Treasury of the United States in the special fund designated "Oregon and California Land Grant Fund" and distributed as provided in the Act of August 28, 1937.

A known error exists in the land description in the 47th item under Section 4(b) of Public Law 100-425. The language of the draft bill is intended to correct this error. The acreage shown on this line is correct as are the total acreages in each section of Public Law 100-425. The draft bill will change only the written description, not the acreage.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

RICHARD ROLDAN,
Assistant Secretary.•

By Mr. JOHNSTON (for himself and Mr. WALLOP) (by request):

S. 2315. A bill to enhance the law enforcement authority of the Secretary of the Interior on public lands, and for other purposes; to the Committee on Energy and Natural Resources.

LAW ENFORCEMENT AUTHORITY OF THE SECRETARY OF THE INTERIOR ON PUBLIC LANDS

• Mr. JOHNSTON. Mr. President, Senator WALLOP and I are today introducing at the request of the Department of the Interior a bill "To enhance the law enforcement authority of the Secretary of the Interior on public lands, and for other purposes".

I ask unanimous consent that the bill and the communication which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

"SECTION 1. With respect to the public lands, as defined in subsection 103(e) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2746, 43 U.S.C. 1702(e)), the Secretary of the Interior is authorized to conduct investigations of violations of, and to enforce the provisions of, subsection 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) with regard to violations thereof on the public lands.

"SEC. 2. Nothing in this Act shall diminish in any way the authority of the Secretary of the Interior under any other statute.".

DEPARTMENT OF THE INTERIOR,
Washington, DC, January 28, 1992.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a proposed bill "To enhance the law enforcement authority of the Secretary of the Interior on public lands, and for other purposes."

We recommend that the proposal be introduced, referred to the appropriate committee, and enacted.

The draft bill would augment and improve the Bureau of Land Management's (BLM) law enforcement program by providing more effective authority to counter illegal drug activities on the public lands through enforcement of provisions of section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)). The authority sought is limited to enforcement in those situations in which a violation of subsection 401(a) has taken place on public lands. Subsection 401(a) contains comprehensive prohibitions against manufacture, distribution, dispensing, or possession with intent to manufacture, distribute, or dispense a controlled substance. Similar prohibitions pertain to "counterfeit substances".

The BLM has been experiencing and continues to experience an alarming proliferation of illegal drug activity on the public lands. Due to the vastness of the lands and their isolated nature, the limited law enforcement presence on them, and the specific language of the laws prohibiting these illegal activities, public lands are increasingly attractive to persons seeking to engage in all types of illegal drug operations.

Law enforcement officers of the BLM have law enforcement authority pursuant to section 303 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1733). That section authorizes the Secretary of the Interior (Secretary) to enforce Federal laws and regulations relating to the public lands and their resources. The BLM's law enforcement authority includes authority to utilize fully trained Federal law enforcement officers who may carry firearms, make arrests, conduct search and seizure operations, execute and serve warrants, and carry out law enforcement functions.

In view of the authority and responsibility in FLPMA, it is clear that the BLM's law enforcement officers can enforce several provisions of the Controlled Substances Act. The proscriptions in that law, including those in subsections 401(b) (5) and (6) and subsection 401(c) (21 U.S.C. 841 (b) and (c)) provide specific penalties for certain narrowly defined violations which take place on Federal land or property. For example, subsection 401(b)(5) provides that any person who violates subsection 401(a) by "cultivating" a controlled substance on Federal property shall be imprisoned as provided in that subsection, and fined amounts specified therein.

Since the provision in subsection 401(b)(5) pertaining to cultivating a controlled substance on Federal property is specific to Federal lands, the Office of the Solicitor has concluded that this provision constitutes a Federal law pertaining to the public lands and their resources within the meaning of section 303 of FLPMA, and thus is a Federal law that may be enforced by the BLM's law enforcement officers. This same reasoning applies to other provisions specifically relating to Federal property or Federal land.

However, since subsection 401(a) itself does not pertain solely and specifically to Federal property, it has been the view of the Department that the BLM's law enforcement authority is not so clearly applicable to these 401(a) violations. Therefore, the same BLM officers who are authorized to enforce subsection 401(b)(5) and the other provisions specifically applicable to Federal land or property, currently do not enforce the comprehensive prohibitions in subsection 401(a) against manufacture, dispensing, and distribution of illegal drugs even when these activities occur on the public lands.

Moreover, due to differing points of view in the larger Federal law enforcement community concerning the scope of the BLM's authority to enforce section 401, the BLM officers are often met with conflicting expectations from various officials as they deal with drug violations on the public lands. This has resulted in confusion during the processing of cases through the system.

Not only has cultivation of controlled substances increased, but illegal drug activity on public lands has now expanded to include the manufacturing and trafficking in substances such as cocaine and methamphetamines. According to news reports, methamphetamines will post an even more threatening situation in the coming years as they are easy and inexpensive to produce. In addition, Federal asset seizure and forfeiture laws may be driving violators onto the public lands to avoid the full impact of these laws. If convicted of Federal drug violations, illegal growers who operate on private lands may be subjected to seizure of their personal and real property. If convicted of the same violations on Federal lands, their personal risks and losses are lessened.

The enclosed draft bill would respond to this situation by clearly authorizing the Secretary to enforce subsection 401(a) of the Controlled Substances Act when violations take place on public lands. We note that similar authority was included in the National Forest System Drug Control Act of 1986 (16 U.S.C. 559c) to authorize law enforcement officers of the Forest Service to enforce section 401.

Use of the Federal lands for any illegal drug activities, whether or not they involve cultivation of a controlled substance, cannot be tolerated. Failure to address this breach in the BLM's enforcement authority inevitably will result in compromising the Secretary's ability to cooperate fully in the President's "War on Drugs." In addition, it is clear that use of the public lands for these illegal purposes negatively affects the Secretary's stewardship of the lands, displaces lawful endeavors, and poses a threat to the safety of lawful users of the public lands.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

RICHARD ROLDAN,
Assistant Secretary.●

By Mr. JOHNSTON (for himself and Mr. WALLOP) (by request):

S. 2316. A bill to clarify authority of the Secretary of the Interior to cooperate with non-Federal entities in the conduct of research concerning the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

COOPERATION WITH NON-FEDERAL ENTITIES IN CONDUCTING RESEARCH CONCERNING THE NATIONAL PARK SYSTEM

● Mr. JOHNSTON. Mr. President, Senator WALLOP and I are today introducing at the request of the Department of the Interior a bill "To clarify authority of the Secretary of the Interior to cooperate with non-Federal entities in the conduct of research concerning the National Park System, and for other purposes."

I ask unanimous consent that the bill and the communication which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was order to be printed in the RECORD, as follows:

S. 2316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes," approved August 18, 1970 (84 Stat. 826), as amended (16 U.S.C. 1a–2–7), is further amended by changing the period after paragraph (i) in section 3 to a semicolon and adding the following paragraph to section 3:

"(j) enter into cooperative agreements with public or private educational institutions, States and their political subdivisions, or any other public or private person or other entity for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate.".

DEPARTMENT OF THE INTERIOR,
Washington, DC, February 11, 1992.

HON. J. DANFORTH QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To clarify authority of the Secretary of the Interior to cooperate with non-Federal entities in the conduct of research concerning the National Park System, and for other purposes."

We recommend that the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The National Park Service (NPS) of this Department, as part of its management responsibilities, regularly conducts scientific research with respect to natural, cultural, and archaeological resources, and their use and enjoyment by the public, within the National Park System. In addition to the research conducted directly by the Service, considerable, coordinated research is done with non-Federal personnel through cooperative agreements establishing cooperative park study units (CPSUs) with colleges and universities for research that is of mutual benefit and interest to the NPS and the cooperating institution. Existing authorities (16 U.S.C. 17j–2(e) and 460L–1(f)) relied on by the NPS, however, are general in nature referring to educational work and research that relate to outdoor recreation, and have resulted in disparate interpretation and implementation for cooperative research and training programs.

The enclosed draft bill would clarify the Park Service's authority to establish CPSUs and accept and contribute staff services, financial assistance, supplies and equipment, facilities and administrative services pursuant to cooperative agreements.

NPS cooperative research efforts have been established at 18 institutions. In 1989, approximately $2.5 million in appropriated funds were expended by the NPS at these 18 institutions for research. The benefits of CPSUs to the Service include use of the cooperating institution's library, availability of computer and laboratory facilities, and the services of graduate students who perform extensive research on park resources. There is also an additional benefit of professional enhancement, when NPS staff have the opportunity to participate in giving lectures and assisting in teaching duties at the cooperating colleges and universities. Each of these cooperative efforts usually serves several parks and provides a level of research support that a single park could not afford.

The effect of the enclosed draft bill, if enacted, would be to enhance the management authorities of the NPS by clarifying the authority of the Service to conduct cooperative research on park resources. Similar authority exists at 16 U.S.C. 753a for cooperative research and training programs conducted by the U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and the National Marine Fisheries Service.

No increases in the expenditure of Federal funds will be occasioned by the enactment of the enclosed draft bill; it is solely clarifying in nature.

The Office of Management and Budget advises that there is no objection to the submission of this legislative proposal to Congress from the standpoint of the Administration's program.

Sincerely,

MIKE HAYDEN,
Assistant Secretary.•

By Mr. SEYMOUR:

S.J. Res. 264. A joint resolution designating May 1992 as "National Community Residential Care Month"; to the Committee on the Judiciary.

NATIONAL COMMUNITY RESIDENTIAL CARE MONTH

• Mr. SEYMOUR. Mr. President, I rise today to introduce a Senate joint resolution recognizing the month of May 1992 as "National Community Residential Care Month."

Community residential care is one of our Nation's most important health care services that reaches the elderly, disabled and mentally ill in cities across the country. These health care facilities provide services in an environment not unlike the home, to ensure the comfort and support these members of our community desperately need.

The ability to provide quality care begins with the hiring of a professional staff. Those seeking a career in the health care field must first complete education courses and advanced training before receiving a license, to ensure a professional environment for the residents. In addition, potential staff members undergo criminal background checks by both the State department of social services as well as the State law enforcement agencies prior to employment eligibility. Individuals who work in this field are compassionate, educated, and dedicated to those whom they serve and will continue to do so with our support and recognition.

The ability of community care facilities to provide safe, quality health care to those who cannot care for themselves has reached a critical level. During these times of recession and budget restrictions, we should not be seeking ways to reduce the availability of health care, but ways to improve it for every citizen, young and old.

Therefore, I come before you to seek support for recognizing "National Community Residential Care Month" to help our communities acknowledge the importance and the growing need for quality health care, and to commend those dedicated individuals who care for the elderly, disabled and mentally ill of our Nation.•

By Mr. SEYMOUR:

S.J. Res. 265. Joint resolution to designate October 9, 1992, as "National School Celebration of the Centennial of the Pledge of Allegiance and the Quincentennial of the Discovery of America by Columbus Day"; to the Committee on the Judiciary.

NATIONAL SCHOOL CELEBRATION OF THE CENTENNIAL OF THE PLEDGE OF ALLEGIANCE AND THE QUINCENTENNIAL OF THE DISCOVERY OF AMERICA BY COLUMBUS DAY

• Mr. SEYMOUR. Mr. President, I rise today to introduce a joint resolution in recognition of the Grand National School Celebration of the Pledge of Allegiance and the Columbus Quincentenary.

Each morning, in classrooms across the country, children begin the day with the Pledge of Allegiance to the Flag, the symbol of our Nation's heritage. It is a time-honored tradition that echoes our country's stand for freedom, democracy, equality and opportunity.

The Pledge of Allegiance ceremony began in October 1892, the year President Benjamin Harrison issued a proclamation commemorating the 400th anniversary of Columbus' discovery of America. In light of this celebration, Mr. Francis Bellamy wrote the "Pledge of Allegiance to the Flag" to be recited by citizens nationwide.

Today, as we seek new methods in teaching and face the challenges of educational reform, let us take this opportunity to educate our youth in the history of our Nation. Through active participation in the classroom, students will learn the fundamental principle of democracy, and the ideologies of allegiance, republic, indivisible, and justice.

To assist the teachers and schools participating in this celebration, teaching materials will be provided and distributed to schools with consideration to the number of students, the classroom size, and the school's capability to accompany the various program activities. To provide the students with a unique historical perspective, materials will be based on the original celebration activities of 1892 which included a flag-raising ceremony defining flag etiquette, the Presidential proclamation, and "Ode to Columbus" essay activity, and a pledge pageant based on the history of Columbus and native Americans, and the Pledge of Allegiance song with original text.

Through the hard work of volunteers Paula Burton and Jolane Jolley, this national school celebration is an educational opportunity focusing on the objectives of increasing patriotism in citizenship, while teaching the fundamental principle of democracy to our youth in grades K–12.

Traditions continue only if they are passed from generation to generation. Therefore, we must continue educating our children of the heritage of our country, and the principles of democracy, freedom, and opportunity for which we stand as a Nation. Mr. President, distinguished colleagues, I ask for your support in recognizing the "Grand National School Celebration of the Pledge of Allegiance and Columbus Quincentenary Day" resolution.•

By Mr. THURMOND:

S.J. Res. 266. Joint resolution designating the week of April 26–May 2, 1992 as "National Crime Victims' Rights Week"; to the Committee on the Judiciary.

NATIONAL CRIME VICTIMS' RIGHTS WEEK

Mr. THURMOND. Mr. President, I am pleased to introduce today a joint resolution which designates the week of April 26–May 2, 1992, as "National Crime Victims' Rights Week."

It is a sad legacy that over the past few years, nearly 35 million Americans have been victimized annually by criminal acts; 6 million individuals per year are raped, robbed, beaten or murdered. The impact of crime is devastating to innocent victims and their families. In addition to the physical injury and the financial losses, the victim is further scarred with the emotional loss of one's sense of dignity, security, and trust in other human beings. It is disturbing that the likelihood of becoming a victim of violent crime is now greater than that of being injured in an automobile accident.

Further compounding the pain and anguish victims endure has been a historical insensitivity to their plight. For too long, our criminal justice system focused on the rights of offenders and paid little or no attention to the rights and needs of those victims who suffered physically, emotionally, and financially. The criminal justice system has often times ignored the rights of victims before making crucial decisions regarding their cases or failed to notify them when a defendant had been released on bail. While the system offered legal representation and other forms of aid to the accused, it offered minimal assistance to the victim in recovering from the tremendous burden resulting from victimization.

However, since 1982, when the President's Task Force on Victims of Crime helped focus greater public attention on the rights and needs of these individuals, great progress has been made in efforts to assist crime victims and their families. The Federal Government has been working diligently with the States to encourage the development and expansion of programs for crime victims. Nearly every State, as well as the Federal Government, has passed legislation to ensure the fair treatment of crime victims. The Crime Control Act of 1990 set forth, for the first time, a Federal Crime Victims' Bill of Rights. Forty-five States also have a Crime Victims' Bill of Rights to ensure that victims' needs are considered during criminal proceedings. Hopefully, through the continued efforts of all levels of government, private organizations, and concerned citizens, the trauma suffered by the innocent victims of crime will be eased.

Mr. President, I urge my colleagues to join with me and support this joint resolution. I ask unanimous consent to have the text of this joint resolution printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 266

Whereas, almost 35,000,000 individuals in the United States are victimized by crime each year, with 6,000,000 falling prey to violence;

Whereas, survivors of violent crime need and deserve quality programs and services to help them recover from the devastating psychological, physical and emotional hardships resulting from their victimization;

Whereas, 1992 marks the twenty-year anniversary of combined efforts from crime victims, victim service providers, criminal justice officials, and concerned citizens to make victims' rights and services a reality in the Nation, and the ten-year anniversary of the historic passage of the Federal Victim and Witness Protection Act of 1992 by the United States Congress;

Whereas, the road to victim justice has been paved over the past two decades with the commitment, perseverance and spirit of million of survivors who proudly carry the banner of justice in our Nation;

Whereas, to fight the continuing threat of crime and victimization, all Americans must join together, committing their individual and collective resources to crime prevention and victim services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 26–May 2, 1992, is designated as "National Crime Victims' Rights Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

By Mr. D'AMATO:

S.J. Res. 267. Joint resolution to designate March 17, 1992, as "Irish Brigade Day"; to the Committee on the Judiciary.

IRISH BRIGADE DAY

• Mr. D'AMATO. Mr. President, I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 267

Whereas the United States of America is a nation of immigrants and the contributions of Irish immigrants and their descendants to the defense of the public liberty has been a hallmark of Irish Americans;

Whereas the officers and men of the Irish Brigade in the service of France volunteered to fight for American liberty in 1775, three years before the entry of France in our War for Independence;

Whereas the officers and men of the regiment of Walsh of the Irish Brigade volunteered to serve as American continental Marines with John Paul Jones on the "Bonhomme Richard";

Whereas the Irish Brigade fought for American liberty in our war for Independence at Savannah, Georgia and Irish troops at Glouster Point, Virginia under Count Arthur Dillon of the Legion of Lauzin in the Army of Rochambeau closed the ring around Cornwallis at Yorktown, thus assuring victory for Washington and independence for the United States;

Whereas throughout history, the Irish military and naval contribution to the United States has included many noted heroes;

Whereas the predominately Irish Thompson Battalion of Pennsylvania became the keystone of Washington's Continental Army and under Anthony Wayne, the Infantry Line of Pennsylvania was known as the "Line of Ireland";

Whereas the United States Army Command and General Staff School at Fort Leavenworth, Kansas in its hallway of Combat Leaders, has chosen Colonel William "Wild Bill" Donovan of the 69th Regiment of New York (165th U.S. Infantry) as "the epitome of combat leadership" in World War I; and,

Whereas the Irish Americans continue the tradition of honorable military service in the defense of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 17, 1992 is designated as "Irish Brigade Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.•

ADDITIONAL COSPONSORS

S. 466

At the request of Mr. GRASSLEY, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 466, a bill to amend the Internal Revenue Code of 1986 to provide for a renewable energy production credit, and for other purposes.

S. 588

At the request of Mr. MITCHELL, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 588, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of certain cooperative service organizations of private and community foundations.

S. 765

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 792

At the request of Mr. LAUTENBERG, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 792, a bill to reauthorize the Indoor Radon Abatement Act of 1988 and for other purposes.

S. 873

At the request of Mr. BOREN, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Florida [Mr. GRAHAM], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 873, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of interest income and rental expense in connection with safe harbor leases involving rural electric cooperatives.

S. 1288

At the request of Mr. SMITH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1288, a bill to rescind unauthorized appropriations for fiscal year 1991.

S. 1725

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1725, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the first voyage to the New World by Christopher Columbus and to establish the Christopher Columbus Quincentenary Scholarship Foundation and an Endowment Fund, and for related purposes.

S. 1862

At the request of Mr. GRAHAM, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1862, a bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

S. 1931

At the request of Mr. STEVENS, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 2167

At the request of Mr. SEYMOUR, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2167, a bill to restrict trade and other relations with the Republic of Azerbaijan.

S. 2169

At the request of Mr. LAUTENBERG, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2169, a bill making supplemental appropriations for programs in the fiscal year that ends September 30, 1992, that will provide near-term improvements in the Nation's transportation infrastructure and long-term benefits to those systems and to the productivity of the U.S. economy.

S. 2201

At the request of Mr. BROWN, the names of the Senator from New York [Mr. D'AMATO] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2201, a bill to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States as employment-based immigrants under the Immigration and Nationality Act, and for other purposes.

S. 2204

At the request of Mr. DURENBERGER, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 2204, a bill to amend title 23, United States Code, to repeal the provisions relating to penalties with respect to grants to States for safety belt and motorcycle helmet traffic safety programs.

S. 2236

At the request of Mr. SIMON, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oregon [Mr. PACKWOOD], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2236, a bill to amend the Voting Rights Act of 1965 to modify and extend the bilingual voting provisions of the act.

S. 2244

At the request of Mr. THURMOND, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from New Hampshire [Mr. SMITH], the Senator from New York [Mr. MOYNIHAN], the Senator from Alaska [Mr. STEVENS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Virginia [Mr. WARNER], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 2244, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 2250

At the request of Mr. SASSER, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2250, a bill to allow rational choice between defense and domestic discretionary spending.

S. 2278

At the request of Mr. SHELBY, the names of the Senator from Idaho [Mr. SYMMS], the Senator from Alaska [Mr. STEVENS], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 2278, a bill to amend section 801 of the act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901, to require life imprisonment without parole, or death penalty, for first degree murder.

S. 2305

At the request of Mr. THURMOND, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2305, a bill to control and prevent crime.

SENATE JOINT RESOLUTION 139

At the request of Mr. THURMOND, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 139, a joint resolution to designate October 1991, as "National Lock-In-Safety Month".

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Nevada [Mr. REID], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week".

SENATE JOINT RESOLUTION 231

At the request of Mr. THURMOND, the names of the Senator from Virginia [Mr. WARNER], the Senator from Missouri [Mr. BOND], the Senator from Idaho [Mr. CRAIG], the Senator from Rhode Island [Mr. PELL], the Senator from Hawaii [Mr. AKAKA], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 231, a joint resolution to designate the month of May 1992, as "National Foster Care Month".

SENATE JOINT RESOLUTION 234

At the request of Mrs. KASSEBAUM, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Massachusetts [Mr. KERRY], the Senator from North Carolina [Mr. SANFORD], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 234, a joint resolution expressing the sense of the Congress regarding the Government of Kenya's November 14 through 16, 1991, suppression of the democratic opposition and suspending economic and military assistance for Kenya.

SENATE JOINT RESOLUTION 236

At the request of Mr. D'AMATO, the names of the Senator from California [Mr. SEYMOUR] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 236, a joint resolution designating the third week in September 1992 as "National Fragrance Week".

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the names of the Senator from Georgia [Mr. NUNN] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day".

SENATE JOINT RESOLUTION 257

At the request of Mr. LAUTENBERG, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Joint Resolution 257, a joint resolution to designate the month of June 1992, as "National Scleroderma Awareness."

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. KERRY, the names of the Senator from Connecticut [Mr. DODD] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Concurrent Resolution 89, a concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

SENATE CONCURRENT RESOLUTION 98—RELATING TO CANADIAN QUOTA REGIME ON CHICKEN IMPORTS

Mr. MCCONNELL (for himself, Mr. PRYOR, Mr. ROTH, Mr. BIDEN, Mr. WARNER, Mr. LUGAR, and Mr. BUMPERS) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 98

Expressing the sense of the Congress that the current Canadian quota regime on chicken imports should be removed as part of the Uruguay Round and North American Free Trade Agreement negotiations and that Canada's imposition of quotas on United States processed chicken violates Article XI of the General Agreement on Tariffs and Trade.

Whereas the United States chicken industry is the most efficient in the world and produced approximately $13.8 billion worth of chickens in 1991;

Whereas Canada's chicken supply management system severely restricts the importation of United States chickens, resulting in $350 million to $700 million in lost sales;

Whereas Canada's chicken supply management system severely restricts United States chicken processors and retailers from expanding into the Canadian market;

Whereas Canada's chicken supply management system protects the Canadian chicken growers while severely hurting both United States and Canadian processors and food service retailers;

Whereas Canada's chicken supply management system causes exceedingly high chicken prices and supply shortages in Canada; and

Whereas Canada's chicken supply management system and the imposition of quotas on processed chicken contravenes Canada's obligations under Article XI of the General Agreement on Tariffs and Trade: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States, as part of the Uruguay Round and North American Free Trade Agreement negotiations, should negotiate tariffication of Canada's chicken supply management system and the elimination of processed chicken from Canada's Import Control List;

(2) the United States should seek the elimination of the new duties imposed by Canada on chicken imports in accordance with the terms of the United States-Canada Free Trade Agreement; and

(3) the United States should oppose any activity on the part of Canada which results in lost sales for United States chicken exporters and restricts the United States access to Canadian markets.

• Mr. MCCONNELL. Mr. President, I rise today to introduce a resolution which seeks the removal of Canada's import quotas on chicken. These market-distorting barriers have no place in today's global economy and must be eliminated. The Uruguay round and North American Free-Trade Agreement negotiations provides an excellent opportunity to do so.

Canada's supply management system for chicken controls the Canadian chicken market through production and import quotas. These controls severely limit market access for United States exporters and restrict expansion in Canada by United States companies in the chicken industry. The Canadian system protects 2,400 Canadian chicken growers at the expense of thousands of United States chicken exporters, processors and retailers and millions of Canadian consumers.

For example, Kentucky Fried Chicken, recently renamed KFC, is based in my hometown of Louisville, KY. KFC is a real American export success story. The company has operated overseas for 25 years, and has 3,300 restaurants in 62 countries. Doing business in markets as diverse as Germany, Swaziland, Bahrain, and Peru, KFC had encountered—and overcome—just about every trade barrier imaginable.

Until they ran into Canada's chicken supply management system.

Canada's system needlessly limits the supply of chicken to KFC's Canadian restaurants. This frequently forces them to purchase a product which does not meet the company's specifications, and on occasion, forces KFC restaurants to close early.

The quotas also restrict KFC's ability to expand its Canadian operations. KFC's current sales of $600 million could be increased to $1 billion over the next 4 years if a larger, more secure supply of chicken were available. It would be if Canada dropped its quota system.

That secure supply would come from U.S. chicken producers. The U.S. poultry industry is the largest and most competitive in the world. In 1990, the United States exported $615 million worth of chicken worldwide, but only $135 million worth to Canada. If the Canadian market were fully opened, United States exports would increase by $350 to $700 million.

The Uruguay round negotiations offer a unique opportunity for United States Government negotiators to seek the elimination of Canada's chicken import quotas. The round is particularly important given that the United States-Canada Free-Trade Agreement failed to offer meaningful liberalization of chicken imports. Under the FTA, the import quota was increased by only 1.2 to 7.5 percent of total Canadian consumption.

United States negotiators should be reminded that Canada's import quotas are inconsistent with GATT article XI. The GATT has ruled in several recent panels that highly processed products, like chicken sandwich patties, clearly are not a like product to live or fresh whole chickens, making their inclusion in Canada's supply management system a blatant violation.

In order to achieve open access to the Canadian chicken market, Canada's trade barriers must be eliminated. The Dunkel text proposal to convert import quotas into tariff equivalents is on the right course. However, the depth of these reductions—36 percent over a 6-year period—is wholly inadequate. Canada's GATT-illegal quotas on processed chicken must be entirely removed and not simply converted into an unacceptably high tariff. The new tariffied duty rates applicable to fresh chicken imports should be phased out entirely by 1998 in accordance with the terms of the United States-Canada Free-Trade Agreement.

Mr. President, as the world moves toward more liberalized trade, and as Canada, Mexico, and the United States move toward a North American Free-Trade Agreement, trade barriers like Canada's chicken supply management system look increasingly out of place. I urge my colleagues to join me in pushing for an elimination of this outdated, market-distorting system.•

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on "Department of Defense Inventory: Why Does the Pentagon Buy So Much?" on Wednesday, March 11, 1992, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON JUVENILE JUSTICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Juvenile Justice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, March 4, 1992, at 10:30 a.m., to hold a hearing on juveniles in the court system.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, March 4, 1992, at 2 p.m. to hold a hearing on the nomination of Robert L. Echols, to be U.S. district judge for the middle district of Tennessee, Ira Dement, to be U.S. district judge for the middle district of Alabama, John R. Padova, to be U.S. district judge for the eastern district of Pennsylvania and Jimm Larry Hendren, to be U.S. district judge for the eastern district of Arkansas.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, March 4, 1992, at 10 a.m. for a hearing on "Comprehensive Health Reform: Health America and the Administration Proposal."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, March 4, 1992, at 2 p.m., in open session, to receive testimony from the unified commands on their military strategy and operational requirements, and the amended defense authorization request for fiscal year 1993 and the future year defense plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 4, 1992, at 2 p.m. to hold an open hearing on S. 2198.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet jointly with the Joint Economic Committee during the session of the Senate, Wednesday, March 4, 1992, at 9:30 a.m. to conduct a hearing on the first annual report of the Competitiveness Policy Council.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, March 4, beginning at 10 a.m., to conduct a hearing on water resources infrastructure needs and impacts.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO DONALD INGWERSON

• Mr. FORD. Mr. President, I rise today to take a moment to acknowledge and pay tribute to a fellow Kentuckian and leader of education in my State, Donald Ingwerson.

Mr. Ingwerson, superintendent of Jefferson County's public schools, was recently named "National Superintendent of the Year" at the annual convention of the American Association of School Administrators in San Diego.

Superintendent Ingwerson has a philosophy that obviously holds true and can be a guide for all of us as we consider various education matters. As he stated in a recent Courier-Journal news article about his award:

> My personal philosophy of education has been a simple one: Every child can learn . . . I guess what I'm really trying to do with my philosophy is to eliminate the excuses. I'm trying to help everyone understand that failure to learn is unacceptable, that Louisville is a community of learners, and that each of us has a responsibility to expect the best of others and then help them achieve it.

Superintendent Ingwerson has implemented many changes in the Jefferson County School System to ensure that our children receive the best education possible. Implementing a nongraded primary program, requiring tougher academic standards for student athletes, making accessible to students take-home computers, magnet schools, extended school services and a regional drug abuse center are just a few innovative examples of his work.

Kentucky's educational system has gone through many changes and reforms over the past couple of years. Superintendent Ingwerson's acceptance of this award not only reassures Kentucky's educational community, but shows the rest of the country that our State is at the forefront of educational reform. It sends a message that we have and will keep continuing to improve one of the most important elements in everyone's life—education.

I applaud Superintendent Ingwerson in his efforts and many accomplishments on behalf of Jefferson County's schoolchildren. He has shown us all that whenever he reaches a peak in his incredibly successful career, he continues to reach for a new one, especially when it comes to improving Kentucky's educational system.•

SENATE COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

• Mr. McCAIN. Mr. President, yesterday I called on the Senate to act to ensure that it was in full compliance with the Americans With Disabilities Act, Public Law 101-336. I called on the Senate Rules Committee to quickly act to rectify the current situation.

I am confident that the Rules Committee will act as quickly as possible do what is right.

However, I was dismayed to read in the Washington Post this morning that the Sergeant at Arms' office is defending the status quo.

Mr. President, the Senate should lead the Nation in areas of equality of opportunity and equal access. There once were those in our Nation who defended the concept of separate but equal. I would hope that the comments I read in the Post do not signify a return to that wrong, unjustifiable position.

Mr. President, I ask that the article to which I have referred and the letter I have written to the Sergeant at Arms in response appears in the RECORD at this point.

The material follows:

[From the Washington Post, March 3-4, 1992]

WASHINGTON AT WORK

(By Helen Dewar)

Congress is so lax in complying with the Americans With Disabilities Act (ADA) that the office created to help disabled visitors is not fully accessible to people in wheelchairs.

But disabled people may not be able to get even that far into the Capitol because Congress has reserved only four of its thousands of parking places for the disabled, far short of the number that would be required if it were a private business.

Yesterday, Sen. John McCain (R-Ariz) a cosponsor of the legislation, urged a review of "Congress's leadership on disabilities issues."

"The current situation is an egregious example of the Senate once again setting separate, much more lenient standards for itself than we have imposed on the remainder of society," McCain said in a speech on the Senate floor.

"The public trust in this institution is at an all-time low. Yet the Senate still acts as though no law applied to it," he added.

McCain said he became aware of the Senate's lax compliance with the law when his office hired a person who uses a wheelchair. He said he made changes in his office to make it wheelchair-accessible, but discovered that much of the rest of the Capitol remained off-limits to the disabled.

The Congressional Special Services Offices, located near the main visitors' entrance at the center of the Capitol, was expanded last year to accommodate an increased workload in tending to the needs of disabled visitors. But several steps separate the small reception area and the new rooms, making the inside offices inaccessible to people in wheelchairs.

Senate Deputy Sergeant-at-Arms Robert Bean said that only the outer office is intended for use by visitors.

The four parking spaces, which are for visitors, are located near the Capitol and the three Senate office buildings, but they are often occupied by senators' cars, McCain said in an interview after his speech.

Bean said the Senate has assigned 49 permanent parking spaces to disabled employees, along with 30 spaces allocated on a temporary basis, in addition to the four visitors' spaces. Other spaces are designated for the disabled at the foot of Capitol Hill near the U.S. Botanical Garden.

Citing these and other problems, McCain called on the Senate Committee on Rules and Administration to draw up new guidelines to ensure full compliance by the Senate with the ADA law, which was approved in 1990 and took effect earlier this year.

U.S. SENATE,
March 4, 1992.

Hon. MARTHA POPE,
Sergeant at Arms, U.S. Senate, The Capitol, Washington, DC.

DEAR MS. POPE: On March 3, 1992, I called on the Senate to "review its leadership on disability issues." The Senate has an obligation to the American people to do exactly that.

I was dismayed today, however, to read in the *Washington Post* that the Sergeant at Arms' office is defending the status quo and opposing what every American knows is right: that the Senate must live by the laws it imposes on others.

The Deputy Sergeant at Arms stated that only the outer office of the Congressional Special Services Office (CSSO) is intended for use by visitors. This statement defies logic and shows a blatant, even heartless, disregard for the spirit behind decades of equal access law.

First, the physical layout of the CSSO denies many disabled Americans the dignity they deserve and that the Americans With Disabilities Act—which I will remind you the Senate passed overwhelmingly—called for. Further, the current configuration of the office would prohibit the office from effectively hiring and utilizing an individual who uses a wheelchair.

Clearly, this kind of disparate impact on mobility impaired individual cannot be justified.

Second, by only being allowed access to the outer office of CSSO, a mobility impaired visitor would be denied access to most of the office resources. A person with a mobility impairment would not be able to attend a meeting in the office of the director of the CSSO. A mobility impaired visitor would also not, for example, be able to meet at the office's conference table, or show the office a video presentation.

Additionally, your office stated that the Senate has assigned 49 permanent parking spaces to disabled employees. This "accommodation" is noble. However, as I stated on the floor of the Senate, federal regulations do not allow other government agencies or private entities to simply accommodate individuals.

Further, many disabled Senate employees have been assigned spaces in Senate parking lots where their cars are parked in stacks. Due to the nature of parking cars in this manner, the cars are often moved throughout the day. At the end of a long day, and especially in inclement weather, the accommodation your office spoke of becomes nugatory.

The Senate should not be above the law. Defense of its elitist status is contrary to the concepts embodied in the Constitution itself.

I would hope that in the future, the Sergeant at Arms office will continue to do all it can to make progress in this area.

Sincerely,

JOHN MCCAIN,
U.S. Senator.•

OUR LAW ENFORCEMENT OFFICERS

• Mr. SIMON. Mr. President, I rise today to recognize a group of people who serve as out country's backbone for law and order, yet rarely received the recognition that they most certainly deserve. Mr. President, I am speaking about the law enforcement officers of our Nation.

Late last year, the National Law Enforcement Officers Memorial was dedicated at a ceremony attended by 20,000 law enforcement officers, survivors of fallen officers, and many supporters. The dedication ceremony capped a 7-year effort to honor the more than 12,500 officers who have died in the line of duty throughout our Nation's history.

In 1984, legislation to establish the monument was unanimously passed by Congress and signed into law by President Reagan. Notably, the memorial, which is located at Judiciary Square in Washington, D.C., was built with $10.5 million, all of which was raised by private contributions. More than 1 million Americans, including some 250 corporations and most of our Nation's 500,000 law officers, donated money to ensure that we remember and honor these heroes and heroines who made the ultimate sacrifice in protecting our law and order. The donation by so many attests to the special place that law enforcement professionals hold in our daily lives.

Too often, we forget that while we enjoy our freedom and our safety, law enforcement officers are risking their lives daily to ensure those comforts. Most Americans really do not take time out to thank them until they have needed their assistance. The site of the memorial was chosen realizing that Judiciary Square has been the seat of our country's criminal justice system for nearly 200 years. This monument will remind us all that our system did not come without sacrifice.

Sadly, 150 law enforcement officers die each year in the line of duty. If this rate remains constant, the walls of the memorial will be filled to capacity with more than 29,000 names by the year 2100.

My home State of Illinois has suffered fatalities of officers as they protected our communities. Bryan Keeney, who was 31 years old and had served in the Fairmont Police Department for 3 years, was shot in head and killed in a domestic disturbance on November 4, 1984. Officer Keeney left a wife and three children. More recently, Jimmie Lamar Haynes, a housing authority police officer, was shot by a sniper on August 17, 1991, in a Chicago housing project as he was leaving duty. Officer Haynes left a wife and two children.

Mr. President, I urge my colleagues today to continue our efforts to ensure that those walls are never filled.•

TRIBUTE TO SUSAN SUH

• Mr. LAUTENBERG. I rise today in order to recognize the accomplishments of Susan Suh, a young New Jerseyean who has brought pride to her community. On March 25, Susan will be honored in an awards ceremony at her high school with an AAU/Mars Milky Way High School All-American Award.

Every year, the Amateur Athletic Union in conjunction with M & M Mars, a New Jersey-based corporation, recognizes four young men and four young women for their outstanding contributions in the fields of academics, athletics and service to their community. Susan was one of eight regional recipients selected from a pool of 13,000 high school seniors who were nominated nationwide. She will now be eligible to receive one of two national AAU/Mars Milky Way Awards to be named in April.

A senior at Lawrenceville High School, Susan has a fine academic record and has distinguished herself by serving as president of her class and as vice president for the National Honor Society. Recently, Susan was named Garden State Distinguished Scholar for academic excellence and she is a national merit commended scholar.

Susan has also been active in sports. As a member of the track team, Susan has been named to the Trenton Times all-county first team and the Packet-Ledger all-area first team for the high hurdles event. Susan is captain of her soccer team and has been selected to the Trenton Times All-Colonial Valley Conference team, the central Jersey coaches' team and the New Jersey all-State squad.

Susan's dedication to her community is evidenced by her commitment reducing drunken driving in our State. She is peer leader for KIKS. [Kids Intervention with Kids in School], and is active in Students Against Drunk Driving and is a founder of HIGH on Life, a group whose purpose is to promote alcohol-free activities for students. Susan has also been a volunteer for Special Olympics.

Mr. President, at a time when many are losing faith in our young people, Susan does us all proud. If Susan is an indication of what the youth of this Nation are capable of, we have every reason to be optimistic about what the future holds.

And so, I congratulate Susan and encourage her to hold to her ideals. I hope she continues to strive toward personal achievement and, at the same time, remembers her obligations to her family, her community and her nation.•

CONFERMENT OF HARRY CHAPIN AWARD

• Mr. D'AMATO. Mr. President, I rise today in recognition of the outstanding service delivered by Mr. Bruce Blower and Mr. Don Dreyer. On May 15, 1992, these gentlemen will be conferred with the Harry Chapin Humanitarian Award for Community Service. This award is given annually to a person or persons who reflect great spirit of compassion, enthusiasm, tenacity, and belief in the Long Island community.

Mr. Dreyer of Hempstead and Mr. Blower of Huntington Station have shown unending commitment to enhancing the lives of the physically challenged on Long Island and serving as their advocate in Government.

Don Dreyer holds a B.A. in English and an M.S. in counselor education; each from Hofstra University. Since 1977 he has held the post as director of Nassau County's Executive's Office for the Physically Challenged. His service has been exemplary. He has coordinated services, crafted new laws, and developed policies for the disabled constituency. He has also developed a framework for policy to develop accessible education, career development, housing, and transportation resources for the physically disabled population. Furthermore, he has been responsible for Nassau County's comprehensive compliance plan relating to Federal, State, and local civil rights legislation affecting physically challenged people.

Bruce Blower is a profile in courage and good will. He has overcome a personal misfortune, paralyzed by an impure hypodermic needle while an officer in the Army. Instead of allowing this personal adversity to sour him for life, he has become a leader. He maintains a busy schedule lecturing for the New York State Public Health Association in Syracuse. He is active in many personal and professional organizations such as the Nassau-Suffolk Regional Emergency Medical Services Council, the Independent Living Project Advisory Board for Veterans Administration Medical Center, Advisory Council of New York State Senate Committee on the Disabled, and Commissioner's Advisory Council for Vocational Rehabilitation. He was also a member of the Hofstra Alumni Senate, in his spare time.

The efforts and devotion of these gentlemen have obviously helped make Long Island a great place to live, work, and do business. Please join me in applauding the outstanding character of Bruce and Don as they accept this fine award.•

TRIBUTE TO JAMES W. RUSSELL

• Mr. JEFFORDS. Mr. President, there is an area of my State of Vermont known as the Northeast Kingdom, a great forested land of lakes and mountains where moose roam free and the largest community, St. Johnsbury, would be considered a small town in most States. It's apart, way up just south of Canada and west of northern New Hampshire. You almost don't get there from here and the race of people that's developed there is proud, self-sufficient, and most independent.

There is an extraordinary man who has lived in St. Johnsbury since 1958. James W. Russell is a physician, a family doctor who has for nearly three and one-half decades been seeing to the physical and the overall well-being of the people of the Northeast Kingdom. Along the way he has gained a tremendous amount of respect and love. Back in the remote Kingdom people need to help each other and he has been a bulwark of that ethic.

Now he is retiring and it is a time for thank-yous and well-wishes. I wish today to join in tributes. The State of Vermont, the Northeast Kingdom, in particular St. Johnsbury, are better places for his having come our way, and stayed. We owe him much and his recent nomination as St. Johnsbury's Citizen of the Year is full well deserved.

For instance, Dr. Russell is responsible for the founding of St. Johnsbury's Founders Hall, a treatment center for persons recovering from addictions.

Dr. Russell founded the first coronary care unit in St. Johnsbury.

Dr. Russell long served on the board of one of rural America's great small museums, the Fairbanks Museum, and helped see that august little institution through some of its hardest times.

Dr. Russell has long been a member of the renowned North Country Chorus and has taken his tenor voice to many parts of the world with his fellow singers.

Dr. Russell has been a faithful and valued member of the North Congregational Church in St. Johnsbury.

And I might add that Dr. Russell, like myself, has been a long and faithful supporter of the Boston Red Sox. Having just turned 65, he recently traveled to Florida for a week to play with some of the Sox' veterans.

From his Main Street home and from his office up by the hospital he has been a family doctor. More than a doctor, he has been a friend and counselor. And he has gone forth in the night to visit homes, when needed. And he is often seen in nursing homes and along the halls of the local hospital, the Northeastern Vermont Regional Hospital, visiting patients.

He is a familiar figure on the streets of St. Johnsbury walking his dog, greeted by all.

He is a man respected, as much for his sense of independence and self-worth as for the quality of his medical care and caring. His philosophy is as Yankee as the high hills of the Kingdom. Jim Russell believes in the basic dignity of people, in leaving them alone to realize the fullest of their potential but in helping when help is truly needed, and honestly asked for.

But let me not paint a picture of a person all seriousness. It is well known that for many who seek his attention, particularly purveyors of various goods, a good fresh joke is the necessary entree to his office.

He also is the possessor of one of Vermont's largest, and most astonishing, collections of neckties, some seemingly older and more colorful than the gnarled backhill maples that take flame in October.

Such people, though not born in our State, become the best of Vermont. I know I join my Senate colleagues in giving him thanks for his years of service and in wishing him a long retirement.•

SOUTH CAROLINA SOIL CONSERVATION SERVICE

• Mr. HOLLINGS. Mr. President, I would like to pay tribute to the men and women of the South Carolina Soil Conservation Service. As farmers face increasing environmental regulations, they must be able to rely on USDA offices for guidance. The soil conservation service in South Carolina has provided top-notch assistance to the agricultural community, helping to develop conservation compliance plans for almost 400,000 acres of highly erodible farmland.

The benefits of the soil conservation service go way beyond the farm fence, though. At no time has this been more evident than in the months following Hurricane Hugo, which struck South Carolina in September 1989. The SCS cleared debris from over 2,300 miles of streams and watercourses, and from 349 miles of navigable rivers, providing protection to over 61,000 homes and businesses. The SCS also helped to rebuild the coastal dunes that were devastated by the storm.

Currently, the SCS in South Carolina is engaged in activities ranging from water quality control projects, which will reduce pollutants in water bodies surrounded by agricultural lands, to flood control projects to protect schools and roads. Under the superb leadership of Mr. Billy Abercrombie, the State conservationist, the professionals at SCS have risen to the challenge of modern conservation problems in every corner of the State. We all owe them a tremendous debt of gratitude.•

THE COMMONWEALTH SCIENTISTS IMMIGRATION AND EXCHANGE ACT OF 1992

• Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 2201, the Commonwealth Scientists Immigration and Exchange Act of 1992. I am pleased to join Senators BROWN and DOLE in this important legislation, aimed at preventing the former Soviet nuclear, chemical, and biological warfare scientists from being lured to Iran, Iraq, Libya, or North Korea and other radical States. If the position of these scientists are not secured, they may well sell themselves to the highest bidder and go on to enhance the arsenals of these brutal and irresponsible dictatorships.

These nations have long been a threat to the civilized world. With a history of aggressiveness, the acquisition of nuclear weapons by these outlaw States would pose an even greater threat to American interests as well as our allies. The mere thought of Mu'ammar Qadhafi armed with nuclear weapons is surely frightening.

Moreover, each of these nations have waged aggressive war against their neighbors. Iran and Iraq fought an 8-year bloodbath killing nearly 1 million people. Iraq brutally invaded and sacked Kuwait and fought the United States in Operation Desert Storm. Libya, long a sponsor of vile international terrorist acts, invaded Chad and has repeatedly challenged the United States. North Korea has continued to pose a grave threat to South Korea through terrorist intimidation. All these nations share an intense and sustained mutual hatred toward the United States as well as our ally, Israel.

It is vital that we take all necessary steps to ensure that those former Soviet nuclear scientists, faced with unemployment and food shortages, are not forced to succumb to the rich offers of terrorist regimes bent on using their expertise to spread death and destruction.

This legislation takes the important steps necessary to keep these scientists either within the Commonwealth or to bring them to the United States. Preventing the emigration of former Soviet nuclear scientists to the radical anti-American States of Iran, Iraq, Libya, and North Korea should be a vital concern of the United States. I urge that my colleagues join me in supporting this important measure.•

TRIBUTE TO THE COLORADO INSTITUTE OF ART

• Mr. WIRTH. Mr. President, I rise to pay tribute to the Colorado Institute of Art [CIA] in Denver, CO, for its educational excellence and its remarkable dedication and service to the community which surrounds it. The combination of holding a firm belief in the value of hands-on experience and a devotion to helping those around them has earned the Colorado Institute of Art national community service awards from the National Association of Trade and Technical Schools in both 1990 and 1991. CIA is the only school to win this prestigious award for 2 consecutive years, and I would like to take this opportunity to offer my congratulations for this noteworthy achievement.

Established in 1952, the Colorado Institute of Art offers degree programs in such diverse fields as visual communications, music video, and business.

CIA also boasts a talented faculty—many of whom continue to work in the fields they teach—who rigorously prepare a student body of 1,300 students for careers in art.

The Colorado Institute of Art is not only remarkable for its academic and artistic excellence, but for its dedication to performing worthwhile community service as well. Hundreds of CIA's students, faculty, and staff have donated their time and talents to no less than 56 charitable projects in the past year alone. Recent projects at the Colorado Institute of Art include designing and setting up a jungle safari set for the Denver Public Library childrens' section, building 100 Christmas toys for local homeless children, designing the poster for First Night Colorado, the Denver downtown's a alcohol-free New Year's Eve party, and producing thousands of antigraffiti posters for elementary, middle, and high schools throughout the city.

The level of dedication and creativity exhibited by all who attend and work at the Colorado Institute of Art is truly uplifting. By producing artistically talented and conscientious graduates who have learned the benefit of community service, the Colorado Institute of Art has benefited no only its graduates, but the communities around the country where these graduates choose to live.

Mr. President, I would like to close by thanking the students and faculty at the Colorado Institute of Art for providing an invaluable service to the people of the Denver area. I believe CIA sets an excellent example for educational institutions throughout the State of Colorado and our country, and I commend them for their commitment to the well-being of Colorado's citizens and future.•

RETIREMENT OF MRS. KATHERINE HODGES

• Mr. D'AMATO. Mr. President, I rise today to mark the retirement of Katherine Hodges. Mrs. Hodges has dedicated herself to an outstanding career as tax collector for the town of Marilla in Marilla, NY. Her service has spanned 29 years and 3 months with stints as tax collector from September 23, 1957 to December 31, 1961; January 1, 1966 to December 31, 1981; and January 1, 1982 to December 31, 1991.

Away from her job Mrs. Hodges enjoys gardening, sewing, and reading. She is also active in St. Nicodemus Lutheran Church, the Marilla Historical Society, the Marilla Republican Club, and the Marilla Republican Committee. Her daughter Lisa and son-in-law Jim Somerville, U.S. Navy, currently reside in Norfolk, VA.

Mr. President, I ask that my colleagues join me in commending Katherine Hodges for a successful career and wish her a joyful retirement.•

IN ACKNOWLEDGEMENT OF USA OWNED/USA MADE

• Mr. SEYMOUR. Mr. President, I rise to extend commendations to Mr. Rick Muth, president, Orco Block Co., Inc., in Stanton, CA, and Mr. Wally Smith, president, Block-Lite, in Flagstaff, AZ, cochairmen of USA Owned/USA Made, Inc., a national organization whose main objective is to form a coalition of manufacturers and businesses that are 100 percent USA owned and have 51 percent or more of their raw materials produced in the USA.

Today, approximately 60 percent of the U.S. concrete industry is in foreign hands. Along with this decline in American ownership of American business comes corresponding declines in the number of jobs in this country—and in the amount of money reinvested into our economy. The foundation upon which this country was built is eroding right before our eyes. Therefore, it is crucial that we recognize and wholeheartedly support American-owned businesses for their substantial contributions to the U.S. economy.

America has always been a country of opportunity that opens its doors to hard working, entrepreneurial adventurers from around the world. The founders of USA Owned/USA Made, a nonprofit organization, do not want to challenge this tradition. However, they do suggest that the U.S. Government insists upon a level playing field. The founders of this organization are particularly concerned with predatory pricing practices by foreign-owned companies and by the impact of U.S. inheritance tax law on small, family-owned companies.

These are indeed important concerns here in Congress, and we will be hearing much more from this organization in the months ahead. In order for the American economy to improve, Congress must focus our attention on trade and tax policies not only as they affect the Fortune 500, but also on our small, privately held American businesses. For it is by small, family owned and run companies that the foundation of America was built, has grown, and will continue to depend in the future.

I ask the Senate to join me in recognition of the founders and members of USA Owned/USA Made, Inc., for their commitment and dedication to the promotion of the concerns of American-owned businesses throughout the United States.•

TRIBUTE TO JOSEPH FOWLER OF HENDERSON, KY

• Mr. MCCONNELL. Mr. President, I rise today to honor Joseph Fowler, a Kentuckian who is the epitome of hard work and success. Joseph, who lives in Henderson in the western part of my State, is a 24-year-old runner who works for the law firm of Sheffer, Hoffman, Thomason, Morton & Lee.

Joseph performs many important tasks for this firm. He delivers court documents to various law offices, operates the copy machine, and other vital tasks.

But Joseph Fowler's story does not end here, Mr. President. He is more than just a hard-working employee. What makes his story all the more impressive is that Joseph Fowler has Downs syndrome.

Thanks to the wonderful people at the Hugh Edward Sanderfur Training Center, Joseph has become a significant member of the Henderson law firm. His father and stepmother are quick to point out that Joseph is a hard worker at home as well, regularly doing his laundry and cooking. I am sure we wish that all of our children could learn from his example.

Perhaps the most praiseworthy aspect about this gentleman is his positive attitude. As one of his fellow workers says of Joseph, "He's the kind of person you want to hug all the time." I know my colleagues join me in congratulating this outstanding Kentuckian for his perseverance in the face of potential obstacles. He is truly a living example of the great American spirit.

Mr. President, I would also ask that the following article from the Henderson Gleaner be included in the RECORD.

The article follows:

[From the Henderson Gleaner, Feb. 1, 1992]

SELF-ESTEEM—NEWEST "MEMBER" OF LAW FIRM BUILDING HIS PRACTICE ON IT

(By Donna B. Stinnett)

A television commercial is designed to sell something, and Ron Sheffer was buying after he saw a very special advertisement not long ago for the people with the golden arches.

But it wasn't a quarter pounder with cheese that sold the senior partner in Sheffer, Hoffman, Thomason, Morton & Lee law firm.

It was a commercial about hiring the handicapped featuring a very personable young man with Down Syndrome talking about how much he liked working at McDonald's.

Each weekday morning, Joseph Fowler puts on his spotlessly shined shoes, knots a tie he's likely purchased for himself with earnings from his new job and leaves his North Elm Street home to catch a HART bus heading downtown.

Like clockwork, he arrives at work to begin a morning of "running" paperwork to the courts and other law offices, operating the copy machine and doing other chores that are necessary in a busy law firm.

Fowler, 24, has been a part-time runner for Sheffer, Hoffman, Thomason, Morton & Lee for about seven months, which included a brief training period to help him learn the job.

He isn't like the other high school and college-age runners the firm employs. Like the McDonald's employee, Fowler has Down Syndrome, a form of retardation that is caused when its victim is born with an extra chromosome.

The bashful Fowler don't talk a lot, though he answers very politely with brief answers, but he goes about his job systematically and independently.

A few weeks into Fowler's training period, Sheffer arrived at work one morning to find job placement trainer Kay Beth Riney of the Hugh Edward Sandefur Training Center crouching below window level of the firm's front foyer.

Like a private investigator, she was "Stalking" Fowler as he moved about his morning travels downtown, making sure he didn't get lost as he learned the places in a 12-block area he would need to visit with his job.

They started with a color-coded map, then moved to learning the names of all his co-workers and people in other offices.

Before he had learned all he needed to know, Fowler got lost a few times, but Ms. Riney helped him learn how to regroup if he got disoriented, how to inventory kitchen and restroom supplies, to post and sort mail, complete a time sheet and operate the office equipment.

It was the first time the Center had placed someone in a law firm.

"He needed to learn all the needs of an office," said Ms. Riney, who added that one-on-one training is common for the Center's clients. "The goal is to help them learn to do a job independently, then we begin to fade."

She faded after about a month, though she checks in on him from time to time.

"And the law firm knows if there are any concerns, they can call me," she said.

Nobody had to convince Fowler's father, Ron, and stepmother, Frances, that the job at the law firm was something their son could do.

At home he makes his own bed, does his laundry and irons his clothes and cooks a little spaghetti every now and then.

He goes to a rustic camp for six-week stretches in the summer, plays Special Olympics basketball and swims and works weekly with a speech therapist and reading tutor.

He loves University of Kentucky basketball and playing Nintendo games. He also loves to dress up and has amassed a large collection of ties since he started his new job.

Mrs. Fowler is truly amazed by the young man whose natural mother died a few years ago and who became her son two years ago. "He can do just about anything," she said.

"We brought Joe up trying to not be different from any other kid," added Fowler, a retired career military man who is originally from Morganfield but lived in California for a number of years. "He'd give you anything. Small kid, big heart."

In a lot of ways, though, Mrs. Fowler thinks he is different.

"He's very polite and will stand in the rain to open a car door for me," she said, "and he always holds my coat."

She never has to tell him to take out the trash or ask him to set the table; he just does it automatically.

Understandly, she recalls being apprehensive when she faced the possibility of marrying a man with a handicapped son.

"I didn't think I'd do well with him. I was so nervous the day Ron took me to meet him, but he just kept saying, 'Joe will just love you,'" she said. "Now I can't imagine him not being in our lives."

She recalls the first time she was solely responsible for him when his dad was out of town. And how she reacted when Joe didn't show up as scheduled at her downtown frame shop after he was supposed to have walked there from the Sandfur Center on South Main Street.

After what seemed like hours—and after the police were summoned—a friend located the young man playing with a dog near the entrance of St. Louis Cemetery.

"He wasn't crying or upset," said Mrs. Fowler, who had dreaded to tell her husband what had happened. But he was quite calm and convinced that his son had "gotten lost" on purpose to gain her sympathy.

So Fowler sternly instructed his son to show up on time at the frame shop the next day.

He was never late again.

"Ron is the one who's firm with him," said Mrs. Fowler, an admitted soft touch. "And he worships his daddy."

Sheffer said there was also some apprehension within his office when he mentioned his idea of giving a person with Fowler's kind of handicap an opportunity for employment.

"Nobody had worked with anyone who had Down Syndrome before, and we just weren't sure he could do it," the attorney said, adding that he feels sure his idea would have been rejected if a vote had been taken.

For the first few weeks after Ms. Rinery left Fowler on his own, nobody gave him much to do, partially because of their own anxieties.

But all that has changed.

"Joe does a really beautiful job," said Sheffer's secretary, Jane Johnson. "In the 30 years I've been a legal secretary, it's one of the best things this law firm has done."

The hardest thing, she said, is being firm with him.

"You can't baby him," Ms. Johnson said, "I'm afraid that's what we've been doing. He's the kind of person you want to hug all the time."

Despite these small problems, Sheffer is happy with the way things have worked out.

"I'll tell you why. It's good for people. It's good for our morale," he said. "Joe's mood never changes. He likes his work."

Sheffer thinks everyone should be able to say as much.

"It isn't a matter of hoping it would work," he said. "It has worked."

Not long ago, Ron Fowler was downtown running errands when he spied his son on the job walking down the street, suit jacket on and paperwork in hand.

"Joe has a huge smile on his face and he was, well, he was almost strutting,'" Fowler said proudly.

He recognizes that as a sure sign that the job is helping bring his son out of himself and that the young man is growing with his newfound prestige and responsibility.

"We can tell a difference in him," Fowler said, "He's more assertive now. This has really built his self-esteem."•

ADDRESSING THE PROBLEMS OF THE CREDIT CRUNCH AND WEAK REAL ESTATE MARKETS

• Mr. D'AMATO. Mr. President, I would like to commend my colleague from New Mexico, Senator DOMENICI, for introducing two fine bills that I am pleased to cosponsor. These bills are the Credit Availability Act of 1992 and the Secondary Mortgage Market for Commercial Real Estate Mortgages Act of 1992. These bills represent important steps that Congress can take to address directly the problems of the credit crunch and weak real estate markets.

Certainly, the real estate market and the availability of credit for real estate activities is vital to the economic health of our country and to our efforts to end the recession and promote economic growth. Historically, the real estate industry has led our economy out of prior recessions. A strong real estate market will generate jobs, improve the financial position of banks and other financial institutions, and lubricate the system of selling and buying homes that is so necessary to facilitate home ownership.

The Credit Availability Act gives the Office of Thrift Supervision [OTS] the authority to allow thrift institutions to continue to hold real estate development subsidiaries instead of forcing them to liquidate these companies, which has generated substantial economic losses. Allowing thrifts to retain the real estate subsidiaries rather than divest them at a loss will improve the thrifts' financial position and make sure that almost $1 billion of capital remains available for economic activity.

The Secondary Mortgage Market for Commercial Real Estate Mortgages Act directs the major secondary mortgage market institutions to use their expertise to develop recommendations and an action plan for developing a secondary mortgage market for commercial real estate mortgages. Such a market could significantly increase the availability of capital for a variety of important real estate activities and promote a stronger, healthier economy.

Mr. President, I again salute my colleague from New Mexico for introducing this legislation. We must take immediate and decisive action to stimulate the economy. These bills seek to accomplish the important goal of improving local and national real estate markets. Of course we will have to do more; but these bills are a good beginning in our efforts to do everything possible to turn the economy around and launch a vibrant recovery.•

POLICIES FOR THE NEW ERA

• Mr. GARN. Mr. President, over the past year, developments in the former Soviet Union have created new opportunities and challenges for the United States. I believe our national interest will be served if we encourage further reforms in the Commonwealth of Independent States [CIS] and help stabilize the fledgling democracies yearning for knowledge about our Government and economic system.

We can use each of the elements of public diplomacy to educate the republics about democratic institutions and free market economies including: professional and educational exchanges, training programs, and television and radio broadcasts.

Yesterday, I read with interest an article written by Tom Korologos, Chairman of the U.S. Advisory Commission on Public Diplomacy and a native of my home State of Utah. Mr. Korologos provides some thoughtful ideas about the role public diplomacy should play in our new policies toward the former Soviet Union. I request the article be included in the RECORD.

The article follows:

[From the Washington Times, Mar. 3, 1992]

POLICIES FOR THE NEW ERA

(By Tom Korologos)

Americans must not fall into the trap of viewing the collapse of the Soviet empire as "the end." It's "the beginning."

To capitalize on unprecedented opportunities, the United States needs inspired leadership, gutsy policy moves, and creative shifts in priorities.

I'm afraid policy-makers debating how best to encourage peaceful change and democratic reform in the new Commonwealth of Independent States (nee the Soviet Union) are in danger of overlooking the best small investment, high-yield approach available: public diplomacy. Its core elements—educational and professional exchanges, information and training programs, international television and radio broadcasts—are sensible, cost-effective, proven techniques in this communications age.

Leaders in the former Soviet republics are keenly interested in what makes market economies and democratic institutions work. If their efforts fail, the long-term cost to the United States and the cause of freedom will be enormous. If they succeed, Americans can look forward to increased security, a reduced defense burden, and expanded trade and investment opportunities.

There are limits to what outsiders can do to affect change. In the end, market economies, the rule of law, independent media, free trade unions, and other foundations of democracy can only be achieved by the reformers themselves. But bold U.S. initiatives now can make a difference.

The United States should immediately implement a public diplomacy strategy in three ways.

First, expand the American presence. During the Cold War, the U.S. broadcast in shortwave to the Soviet Union because most other means of communication were limited or denied. Today, a broad range of information and educational exchange programs is possible, and we must adjust our priorities.

Language-qualified U.S. Information Agency officers with the personal contacts and communications skills essential to these initiatives are needed on the ground now. They should precede or be part of the first U.S. diplomatic teams wherever new embassies and consulates are established.

They should emphasize international visitor programs that bring reformers here to see for themselves what the American experience is all about; academic and professional exchanges in fields such as law, agriculture, journalism and business, English language instruction; libraries with computer links to U.S. data bases; translation of books and magazines in local languages; student advising; media training; and workshops and teleconferences with U.S. experts.

Second, change the mix in international broadcasting. In Russia and other republics, audiences are turning from shortwave radio to credible, attractive local TV and AM/FM radio programs, satellite-delivered television, videocassettes and a variety of other information options. An enormous appetite exists for educational programs on economic and public affairs subjects and English language instruction.

The United States must be competitive in this changing media environment. We should allocate a larger share of our international broadcasting budget to television, offer syndicated television and radio programs in vernacular languages to republic stations, donate TVRO dish antennas, conduct media training workshops, and bring republic television crews to the United States to produce their own documentaries.

Shortwave radio remains necessary in crisis situations to reach a politically unstable area that covers 11 time zones. But its importance will diminish as satellite-delivered television, local radio placement, and other forms of public diplomacy provide improved access to larger audiences.

Third, redirect funds and consolidate assets. Enhanced information and educational exchange efforts in the Commonwealth of Independent States would be a small investment in national budget terms. Funds could be redirected from existing accounts in the foreign affairs budget and derived from consolidation of U.S. broadcasting assets.

Two U.S. government-funded broadcasters, the Voice of America and Radio Free Europe-Radio Liberty, now compete for listeners, stretch U.S. requirements for frequencies, and duplicate newsgathering, programming, and transmitters.

While the time has not come to terminate surrogate broadcasting to the republics, events since Aug. 19 have changed America's international broadcasting priorities dramatically. In the future, the United States will no longer need two international radio stations, and we need to plan wisely for the most cost-effective use of these public diplomacy resources.

Vital American interests are at stake with opportunities comparable to those in Germany and Japan after World War II. The potential for chaos, renewed repression, and the discrediting of democracy in the republics is real.

America's response must go beyond short-term humanitarian aid and technical assistance. Public diplomacy offers a low-cost investment in a revolution of ideas that can benefit the United States for generations to come.

The opportunity is there for those who can see "the beginning."●

AUTHORITY TO FILE TAX LEGISLATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that on Friday, March 6, the Senate Finance Committee be permitted to file tax legislation until 7 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—S. 2310

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 2310 be star printed to reflect the changes which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m. on Thursday, March 5; that following the prayer, the Journal of proceedings be approved to date; that following the time for the two leaders there be a period for morning business not to extend beyond 11:30 a.m. with Senators permitted to speak therein for up to 5 minutes each; with Senators GRASSLEY and LOTT recognized for up to 20 minutes each; Senator LEVIN up to 10 minutes; and that Senator SIMPSON or his designee for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10:30 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 6:40 p.m., recessed until Thursday, March 5, 1992, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 4, 1992:

NAVAJO AND HOPI RELOCATION

CARL J. KUNASEK, OF ARIZONA, TO BE COMMISSIONER ON NAVAJO AND HOPI RELOCATION, OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION, FOR A TERM OF 2 YEARS. (REAPPOINTMENT)

U.S. SENTENCING COMMISSION

ROGER L. WOLLMAN, OF SOUTH DAKOTA, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1997, VICE GEORGE E. MACKINNON, TERM EXPIRED.

HOUSE OF REPRESENTATIVES—*Wednesday, March 4, 1992*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

While we attempt to know what we should know and to learn what we should learn, we recognize, O God, that we are often limited by our predispositions and our biases and we do not see our tasks as we ought. In spite of all the noise and furor that crowds in on every side, and the seeming lack of time for reflection, may we hear Your still small voice within our hearts and souls, a voice that calls us to honorable service and to a faithful witness. May Your word that touches us in the very depths of our hearts encourage us to speak for the truth and do the works of justice in our communities and throughout the world. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. HALL] please come forward and lead the House in the Pledge of Allegiance.

Mr. HALL of Ohio led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 2092. An act to carry out obligations of the United States under the U.N. Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing; and

H. Con. Res. 239. Concurrent resolution congratulating the people of Lithuania for their successful peaceful revolution and their continuing commitment to the ideals of democracy.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1150. An act to reauthorize the Higher Education Act of 1965, and for other purposes.

DAYTON AVIATION HERITAGE PRESERVATION ACT OF 1992

The SPEAKER. The unfinished business is the question de novo of suspending the rules and passing the bill, H.R. 2321, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2321, as amended.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 278, nays 133, not voting 23, as follows:

[Roll No. 35]

YEAS—278

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barnard
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Boehner
Bonior
Borski
Boucher
Brooks
Broomfield
Browder
Brown
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Clay
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Evans
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gaydos
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hoagland
Hobson
Hochbrueckner
Horton
Hoyer
Huckaby
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Neal (MA)
Nowak
Oakar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parker
Pastor
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Reed
Regula
Rhodes
Richardson
Riggs
Roe
Rogers
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sawyer
Scheuer
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)

NAYS—133

Allard
Allen
Andrews (ME)
Archer
Armey
Baker
Barrett
Barton
Bentley
Bliley
Brewster
Bruce
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Chandler
Chapman
Clement
Coble
Coleman (MO)
Combest
Condit
Cox (CA)
Cramer
Crane
Cunningham
Dorgan (ND)
Dreier
Duncan
Edwards (OK)
English
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Goodling
Goss
Grandy
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Horn
Houghton
Hubbard
Hughes
Hunter
Hutto
Inhofe
Jacobs
James
Johnson (SD)
Johnson (TX)
Klug
Kyl
Lagomarsino
Laughlin
Lewis (FL)
Lloyd
Lowery (CA)
Machtley
McCandless
McCollum
McCrery
McCurdy
McMillan (NC)
Meyers
Miller (WA)
Morrison
Natcher
Nichols
Nussle
Olin
Orton
Pallone
Patterson
Paxon
Payne (VA)
Penny
Petri
Porter
Poshard
Ramstad
Ravenel
Ray
Ridge
Rinaldo

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Ritter
Roberts
Roemer
Rohrabacher
Roth
Roukema
Santorum
Sarpalius
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Skaggs
Slattery
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Tanner
Taylor (MS)
Thomas (WY)
Valentine
Vucanovich
Walker
Weldon
Young (FL)
Zimmer

NOT VOTING—23

Bilirakis
Boxer
Dannemeyer
Fascell
Frost
Gibbons
Hammerschmidt
Hertel
Hyde
Levine (CA)
Livingston
McDade
Neal (NC)
Oberstar
Ros-Lehtinen
Savage
Schiff
Thornton
Weber
Weiss
Whitten
Yates
Zeliff

Messrs. DREIER of California, JOHNSON of South Dakota, POSHARD, and BRUCE, Mrs. ROUKEMA, Mrs. VUCANOVICH, and Messrs. EDWARDS of Oklahoma, PAYNE of Virginia, HUGHES, McCRERY, McMILLAN of North Carolina, and SARPALIUS changed their vote from "yea" to "nay."

Messrs. FEIGHAN, BOEHLERT, and YOUNG of Alaska, Ms. WATERS, and Messrs. TAUZIN, TALLON, BALLENGER, GLICKMAN, and GILCREST changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1425

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 210

Mr. CRANE. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of House Concurrent Resolution 210.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from Illinois?

There was no objection.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation from the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 21, 1992.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Capitol Building, Washington, DC.

DEAR MR. SPEAKER: This letter should serve as the official notice of my resignation from the United States Congress effective March 4, 1992.

It has been an honor working with you and the other members of Congress since 1985.

My warmest personal regards,
Sincerely yours,
JAIME B. FUSTER,
Member of Congress.

COMMUNICATION FROM THE GOVERNOR OF THE COMMONWEALTH OF PUERTO RICO

The SPEAKER laid before the House the following communication from the Governor of the Commonwealth of Puerto Rico:

COMMONWEALTH OF PUERTO RICO,
OFFICE OF THE GOVERNOR,
San Juan, PR, February 21, 1992.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, the Capitol, Washington, DC.

DEAR MR. SPEAKER: I have officially appointed Mr. Antonio J. Colorado to fill the vacancy that will ensue on March 4, 1992, from the resignation of Jaime B. Fuster as Resident Commissioner of the Commonwealth of Puerto Rico in the United States House of Representatives. The Senate of the Commonwealth of Puerto Rico has confirmed Mr. Colorado's appointment, as required by Section 36 of the 1950 Puerto Rican Federal Relations Act, 48 U.S.C. §745.

With my best personal regards, I am
Sincerely yours,
Rafael Hernández Colón.

SWEARING IN OF THE HONORABLE ANTONIO J. COLORADO OF PUERTO RICO AS A MEMBER OF THE HOUSE

The SPEAKER. Will the gentleman from New York [Mr. RANGEL] and the gentleman from New York [Mr. SERRANO] come forward to escort the Resident Commissioner of Puerto Rico elect, the Honorable ANTONIO J. COLORADO, to the well to receive the oath of office?

Mr. COLORADO appeared at the bar of the House and took the oath of office administered by the Speaker as follows:

Do you solemnly swear to support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are a Member of the House of Representatives.

WELCOME TO THE HONORABLE ANTONIO J. COLORADO

Mr. RANGEL. Mr. Speaker, I have the great honor to join with the gentleman from New York [Mr. SERRANO] in introducing to this House the new Member who will join us from the Commonwealth of Puerto Rico.

All of us will miss the friendship and the great contribution that has been made by Congressman FUSTER to this great august body, but I assure you that the people in Puerto Rico and our colleagues here in the Congress will know that a valuable public servant has volunteered to serve his people in Puerto Rico here in the U.S. Congress, bringing his wife Delia with him at great personal sacrifice. Born in the city of New York, trained at Harvard Law School, a candidate for the Committee on Ways and Means, and a person who has taken legislation that we have created on that committee called 936 in the tax code and be able to operate the sole economic development program in Puerto Rico to provide and develop the jobs for a large segment of that population. A community that sometimes never truly feels we respond to them as citizens of the United States except in time of war, but certainly I would know that even without a vote that someday soon that will be corrected, but until that happens, it is my great pleasure to know that working within this Congress and on the committees dealing with the programs that concern us as a Nation will be one outstanding public servant, and that is ANTONIO COLORADO.

Mr. Speaker, I yield to my friend and colleague, the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Speaker, I would like to join the gentleman from New York [Mr. RANGEL], and my colleagues, in welcoming Mr. COLORADO here as the Resident Commissioner.

It is interesting—and kind of amusing—to note that the Representative from the Commonwealth was born in New York, and the Representative from New York was born in the Commonwealth. But that is the beauty of our democracy.

As the gentleman from New York [Mr. RANGEL] has said, the gentleman brings with him a lot of experience, a lot of understanding, and most importantly, a lot of commitment.

I welcome you as a Puerto Rican brother and ask you to continue your ways of supporting not only the Commonwealth but those of us throughout the Nation who were born on the island and have parents from the island.

So bienvenido, mi Hermano, welcome to the House; it is your House, it is our House. It is a great country, and we welcome you.

Mr. RANGEL. My colleagues, Congressman COLORADO.

EXPRESSION OF PLEASURE AT APPOINTMENT AS MEMBER OF THE HOUSE

Mr. COLORADO. Mr. Speaker, Members, friends, friends from Puerto Rico, today I come to this Congress as a Representative of over 3.6 million American citizens who reside in a small island in the Caribbean called Puerto Rico, discovered by Christopher Columbus 499 years ago.

Today I become the 15th Representative of Puerto Rico in this body. Exactly 91 years ago on March 4, 1901, the first Resident Commissioner from Puerto Rico was sworn in in the House of Representatives of the United States of America.

□ 1435

I would like to thank all of my good friends in this Chamber for your interest in and your help to Puerto Rico throughout the years. You have really helped our Representatives in doing justice to the American citizens in Puerto Rico, and to somehow compensate the ratio of the burden of every Representative of 7 to 1, as we have seven times the constituency that each one of you has; but much more has to be done.

The island and the United States established 40 years ago a new and very special relationship. We became the Commonwealth of Puerto Rico. In great part because of our economic growth, the partnership established at such time becomes more beneficial for both parties every day, as I will clearly show you during the next few months.

I look to the next months as the most important days of my life and I am sure I will work with you intensively to better the quality of life in Puerto Rico, in mainland United States of America, in the Caribbean and Central America, and everywhere else in the world where we may be needed.

Thank you very much, and God bless you.

NOTICE OF EXTENSION OF DEADLINE FOR FILING AMENDMENTS ON H.R. 3732, BUDGET PROCESS REFORM ACT OF 1991

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, this is to notify Members of the status, in the Rules Committee, of H.R. 3732, the Budget Process Reform Act of 1991. The committee has postponed until a later date consideration of this bill. Therefore the Monday, March 2 deadline will be extended to Monday, March 9 at 12 noon for any Members who still wish to submit amendments on this bill.

Any Member who wishes to offer an amendment to H.R. 3732 should submit, to the Rules Committee in H-312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment, no later than 12 noon on Monday, March 9.

We appreciate the cooperation of all Members in this effort to be fair and orderly in granting a rule for H.R. 3732.

REPUBLICAN TASK FORCE ON COMPETITIVENESS TO EXPAND ATTACK ON EXCESSIVE REGULATION

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, one of the greatest obstacles to the competitiveness of our Nation and the recovery from the current recession is the tremendous regulatory burden with which we have saddled our economy.

President Bush's 90-day moratorium on Federal regulations is like a gasp of clean, fresh air for American business as they struggle not to drown in regulatory muck.

For the more than 50 days remaining of the moratorium, the Republican Task Force on Competitiveness will run a regulatory relay. Every day another Member will take the baton and bring to America's attention another regulation which poses unfair and unnecessary burdens on American business and on the American taxpayer.

We will run the opening lap of this regulatory relay at the close of business today with a special order devoted to the costs of excessive regulation and how we can prevent economic rigor mortis from setting in.

THE SP100 AND THE FREEDOM OF INFORMATION ACT

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, in preparation for an upcoming hearing on the SP100 Space Reactor Program, the staff of the Investigations Subcommittee of the Science Committee uncovered one of the most outrageous Federal documents that I have ever seen.

The SP100 program was, until recently, a joint Department of Energy-Department of Defense-NASA program to develop nuclear reactors for use in space. This is obviously a very controversial issue. So controversial, in fact, that some people apparently went to great lengths to shield the program from public scrutiny by undermining the Freedom of Information Act.

The document in question was prepared for a joint Department of Energy-Department of Defense-NASA working group. It provides detailed guidance on destroying documents, reducing the ability of the public and the Congress to interpret the documents, and stretching the exemptions in the Freedom of Information Act to include documents that should be readily available to the public.

Last week I sent letters to Secretary Watkins, Secretary Cheney, and Admiral Truly expressing my deep concern and asking that they publicly repudiate the actions proposed in the document.

I am pleased to say that Admiral Truly responded almost immediately. He condemned the policies espoused in the document. He sent a memo throughout NASA emphasizing adherence to the Freedom of Information Act. And he set up a special committee to investigate the matter. He is to be commended. Unfortunately, I have yet to hear a word from Secretary Watkins or Secretary Cheney.

Mr. Speaker, an informed citizenry is essential to democracy. The American people have the right to know what their Government is doing with their tax dollars.

ONE FAMILY'S EMOTIONAL ROLLER COASTER

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, there is a family in my southwest Florida district that has been on an emotional roller coaster for more than 20 years—and has, unfortunately, just taken a steep fall—the kind that makes your stomach turn inside out. I am referring to the family of Capt. Donald Carr, one of the more than 2,000 Americans missing in Southeast Asia since the Vietnam war. Although Captain Carr's family has recently been given reason for renewed hope that their loved one is still alive, those hopes have now been dashed once again in a most cruel way.

Mr. Speaker, we owe it to this family and to the others in similar circumstances to find out whether the photographs that surfaced through a self-proclaimed POW-MIA hunter were an honest mistake or whether they were actually intended to mislead. Today I have called upon the Attorney General to review this incident. Any intentional efforts to cash in on human grief and suffering must be punished and stopped once and for all. These families have a right to some peace of mind.

PEOPLE ARE CONCERNED ABOUT PRESIDENTIAL LEADERSHIP

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, the President said recently that he will do whatever he has to do to get reelected. He obviously was not kidding. He has now apologized for most of the key domestic and economic decisions that he has made as President.

His latest apology was for the budget deal that he helped negotiate, that he has defended, that he himself described as landmark legislation.

The reason that the budget agreement was wrong is not because it is wrong in substance, but because it has caused him political grief.

I am afraid the President just does not get it. People are concerned about Presidential leadership. They do not want a President who says he is sorry every 2 days. They want a President who stands for something, who will set a clear direction, and who will defend what he thinks is right.

DEPARTMENT OF EDUCATION REFORM

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, the Federal deficit and the Federal bureaucracy is too fat and too comfortable in Washington. What we must do is make rational decisions and priorities about spending the taxpayers' money, rather than loading future generations with perpetual debt.

Mr. Speaker, I will soon introduce legislation to provide a prioritization of spending for education. With the deteriorating state of our schools across the country, it is clear to me that many Federal Government employees in Washington are not in the business of educating, but are mostly concerned with increasing paperwork and perpetuating the bureaucracy. My bill will cut personnel costs for the Federal Department of Education by 10 percent over 2 years. Ninety percent of the savings will be sent directly to local school districts; 10 percent will be used to reduce the deficit. The personnel budget for the Department this year is nearly $284 million, which supports a staff of more than 4,600. My bill will redirect over $56 million away from the Federal bureaucracy and send it to local school districts as well as for deficit reduction.

The people in local school districts can best determine the most effective use of this revenue to actually deliver better education to our elementary and secondary school students. I believe that Virginians and Americans will agree that this reasonable 10 percent reduction in the Federal education bureaucracy will improve the effectiveness of their tax dollars.

ROBOTS DO NOT PAY TAXES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, AT&T is laying off 6,000 long-distance operators in 21 States. For 120 years, Americans have worked the switchboards.

□ 1445

Not anymore. It is bad enough that American workers have been losing their jobs to low-wage, unregulated foreign workers; but now, Members, they are losing their jobs to robots. That is right, robots.

So, I guess when America has a problem with a long-distance call, from now on they will talk to some tin can, not to an American worker.

I would like for the Congress to remember this: Robots do not pay any taxes and maybe Congress will wise up when these robots go on food stamps.

LEGISLATION TO AUTHORIZE DEPARTMENT OF DEFENSE TO DONATE SURPLUS TO AMERICA'S NEEDIEST CITIZENS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, from food to bathrobes, the Pentagon has accumulated an estimated $100 billion in excess supplies now taking up space in warehouses throughout the country.

Taxpayers shell out $3.5 billion every year for the storage alone. It is ridiculous that we are paying billions of dollars to store items such as clothing and medical supplies that have not been used by the military for as long as 40 years. We must have common sense, not senseless waste, when it comes to dealing with Government surplus.

Mr. Speaker, today I am introducing a bill to give the Department of Defense the authority to donate their surpluses to help the homeless and the needy. This will allow the Government's surplus goods to be used in a meaningful way and also save taxpayer dollars.

CUSTOMS AUDIT OF HONDA

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, on October 16, 1991, the Subcommittee on Oversight of the Committee on Ways and Means examined the U.S. Customs Service audit of Honda. Honda had imported thousands of Honda Civics from Canada—during a 15-month period in 1989 and early 1990—without paying one dollar in duty. Honda claimed that the Civics imported from Canada were duty-free under the United States-Canada Free-Trade Agreement because more than 50 percent of the Civics' components originated in either Canada or the United States. Customs did not agree with this position and challenged Honda. The Honda audit is very important because it is the first Customs audit under the FTA.

The Custom audit went along fine until the press reported the leak of a confidential internal Customs memorandum indicating that the audit was complete and Honda owed the U.S. Treasury $17 million in duties. At the subcommittee's hearing, Customs and Treasury stated that the audit was not complete, that the media reports were inaccurate, and, in fact, the internal document signed by the Customs Commissioner was wrong.

What is going on here? The public and Congress wonder.

Monday, Customs announced that they had completed their audit and that the Honda Civics did not qualify for duty-free treatment. As a result, Honda has gone on the attack claiming that the whole process was politically motivated. I think that Honda should stop squawking and pay what they owe.

How can we expect to compete with foreign producers if we let them import and sell their products in the United States without paying their fair share of duties?

The subcommittee has also investigated foreign-owned U.S. subsidiaries not paying their fair share of taxes by manipulating transfer pricing.

Our committee will do everything within our power to ensure that our trade and tax laws are enforced to their fullest and that foreign-owned U.S. corporations do pay their fair share. The United States doesn't need to be a patsy any longer.

LESSONS OF HISTORY WARN AGAINST EXCESSIVE DEFENSE SPENDING CUTS

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, today when the House considers the budget resolutions for fiscal 1993, a key issue will be the size of the cuts we should make in defense spending.

We all welcome the sweeping changes in Eastern Europe and the former Soviet Union. The cold war is over, and we can now make meaningful reductions in defense spending. But history suggests that these reductions should not be excessive.

The last upheaval in Russian history also opened with a democratic revolution in 1917. Nine months later, that government was overthrown by the Communists.

Despite the failure of the August coup attempt, the 5-month-old Yeltsin government could still be toppled by promilitary hardliners. There is also the risk of civil war there. And we could see the emergency of a radical, proterrorist Islamic confederation in what were the southern republics of the U.S.S.R.

It is simply too early to conclude that peace and democracy have taken root in the former evil empire. So we must remain militarily prepared for whatever comes.

History holds another lesson. After both world wars, America drastically reduced its Armed Forces, believing that victory meant lasting peace. As a result, we were not prepared for the Japanese attack on Pearl Harbor or the North Korean invasion of South Korea. These are the dangers of reducing our military capability too far too fast.

The President has proposed cutting defense outlays by roughly $5 billion in 1993, and by some $27 billion over the next 5 years. These are substantial reductions, but the Democrats want to cut nearly twice as much for fiscal

1993. If they get their way and stick to it, that would mean greater cuts in military manpower, in the Air Force, the National Guard and Reserve, and the Navy.

Such cuts would profoundly limit our ability to respond to threats from a hard line Russian Government, a nuclear North Korea, renegade states like Iraq, or terrorists. The Democrats' defense cuts would leave us unprepared to mount a response like Operation Desert Storm. And they would encourage those, like Saddam Hussein, who burn with the desire to impose their will on the United States or others.

These are uncertain times, and our security and the safety of the global community remain at risk. I urge my colleagues to reject any budget cuts that would diminish our ability to defend ourselves or our allies in this imperfect world.

UNITED STATES-JAPANESE GRIEVANCES MUST BE SETTLED WITH TOLERANCE, DECORUM, AND CIVILITY

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, today I rise to speak about intolerance, a very unhappy topic.

Mr. Speaker, today's New York Times carries a newspaper story about a young Los Angeles girl, 13 years old, Megan Hagoshi, who as a Girl Scout selling cookies in front of a store in Los Angeles, was rebuffed by a man who said, "I will only buy cookies from an American." Young Megan turned to her mother and said, "Well, Mommy, I am an American."

We have heard entirely too much Japan-bashing in this country and even on Capitol Hill. The other day a respected Member of this Congress made a very feeble joke about the bombs that landed on Japan during the Second World War.

We need to very vigorously try to correct trade imbalances with Japan, very vigorously fight against trade bias and grievances with Japan, but we must do so, Mr. Speaker, with tolerance, with decorum, and with civility.

THE REAL THING: PRESIDENT BUSH'S ECONOMIC GROWTH PACKAGE

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, if Coca-Cola is the real thing, we can be certain that the Democrats' huge tax bill, their huge tax increase bill that they passed last week, is not the real thing.

Mr. Speaker, we heard a lot of high-sounding rhetoric about concern for the middle class, but raising taxes is hardly a way to evidence that concern. It is hard for working Americans to take seriously a plan that gives them a temporary tax credit amounting to 55 cents a day, barely enough to buy a can of Coke in most places across this great country of ours.

What can the average taxpayer really expect out of this Democrat tax increase bill? Well, the answer is, of course, higher taxes. The bill increases the top tax rate permanently from 31 to 35 percent; it increases the top rate of tax for the alternative minimum tax from 24 to 25 percent; it adds a further 10 percent surtax on high incomes; and it continues the elimination of the personal exemption and itemized deductions, including deductions for health care.

Mr. Speaker, the American people do not need a flashy marketing strategy designed to hide the truth; they need the real thing, they need President Bush's economic growth package.

The Democrats have 16 days to get it passed; let us get to work.

MISTREATMENT OF WOMEN IN KUWAIT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I think the real question is what is going on in Kuwait?

Every day we find there are more and more women who have been lured into the country to be maids or to do all sorts of domestic chores, seeking refuge in their countries' Embassies because of their being mistreated, raped, or whatever, by their employer.

In talking to the Ambassadors of some of these countries, they tell me that they have arranged for transportation for these women out of Kuwait, but they have not been allowed to leave until they reimburse their employers that abused them.

That is really astounding. It sounds like involuntary servitude in the nicest form that is very close to slavery, and the worst. It is against U.N. principles, and it is very shocking.

Mr. Speaker, I certainly hope this gets cleaned up and gets cleaned up immediately. And I would like to see our State Department and Defense Department, who saved the nation of Kuwait, to be a lot more aggressive in explaining to them that that is not what Americans put their lives on the line for. We expect much more from them than this kind of action toward women.

TRIBUTE TO FUAULI ATISANOE

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, I want to share my thoughts with my colleagues in the House and our friends visiting the Chamber this afternoon.

Mr. Speaker, I want to pay a special tribute to a great young American who was born in the state of Hawaii 28 years ago, but his parents were born and raised in American Samoa. This young man is Saleváa Fuauli Atisanoe, and commonly known throughout Japan by his sumo wrestling name, "Konishiki"—which in the Japanese language means a delicate embroidery or flower.

On the contrary, Mr. Speaker, this delicate flower weighs only 560 pounds—and is the first foreigner in Japan's most cultural sport to achieve the second highest level of promotion in the sport of sumo.

Mr. Speaker, I want to let Konishiki know many of us here in the Congress wish him all the success in this month's sumo tournament in Osaka. And should Konishiki win the tournament, he is likely to be promoted to Yokozuna or grand champion.

Mr. Speaker, as the Hawaiians say: Imua Konishiki.

□ 1455

PROVIDING FOR CONSIDERATION OF H. CON. RES. 287, CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1993

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 386 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 386

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b), rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 287) setting forth the congressional budget for the United States Government for the fiscal years 1993, 1994, 1995, 1996, and 1997, and the first reading shall be dispensed with. All points of order against the consideration of the concurrent resolution, except for section 606(b) of the Congressional Budget Act of 1974, are hereby waived. After general debate, which shall be confined to the concurrent resolution and the amendments made in order by this resolution and which shall continue not to exceed three hours, including a period of one hour on the subject of economic goals and policies, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, the concurrent resolution shall be considered as having been read for amendment under the five-minute rule. No amendment to the concurrent resolution shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report. Said amendments shall be considered as having been read and shall be debatable for the time specified in the report. Said amendments shall not be subject to amendment. If more than one amendment in the nature of a substitute is adopted, only the last amendment which is adopted in the Committee of the Whole shall be considered as finally adopted and reported back to the House. All points of order against the amendments printed in the report of the Committee on Rules are hereby waived. Notwithstanding any provision of this resolution, it shall be in order to consider the amendment or amendments provided in section 305(a)(5) of the Congressional Budget Act, if offered by the chairman of the Committee on the Budget, necessary to achieve mathematical consistency. At the conclusion of the consideration of the concurrent resolution for amendment, there shall be an additional period of general debate, which shall be confined to the concurrent resolution, as amended, and which shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. Following such general debate, the Committee shall rise and report the concurrent resolution with such amendments as may have been adopted, and the previous question shall be considered as ordered on the concurrent resolution to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 386 is a modified rule providing for the consideration of House Concurrent Resolution 287, setting forth the congressional budget for fiscal year 1993.

The rule provides for up to 3 hours of general debate, including a period of 1 hour on the subject of economic goals and policies, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

The rule waives all points of order against consideration of the concurrent resolution except for section 606(b) of the Congressional Budget Act, which prohibits the consideration of a budget resolution which exceeds the maximum deficit amount as revised.

The rule makes in order three amendments in the nature of substitutes which are printed in the report accompanying the resolution. The rule provides that the three substitutes shall be considered under a king-of-the-hill procedure. Under king-of-the-hill, if more than one substitute is adopted only the last substitute adopted shall be considered as finally adopted and reported back to the House.

The rule waives all points of order against the amendments and provides that they will not be subject to further amendment. In addition, each amendment will be considered for the time period specified in the report, in the following order: First, the substitute to be offered by Representative DANNEMEYER, debatable for 30 minutes; second, the substitute to be offered by Representative GRADISON, debatable for 1 hour; and third, the substitute by Representatives TOWNS and DELLUMS, debatable for 8 hours.

Under the rule if Representative GRADISON does not offer his substitute, it will be considered the pending question after disposition of the Dannemeyer substitute.

The rule also makes in order mathematical consistency amendments if offered by the Budget Committee chairman, as provided in section 305(a)(5) of the Budget Act.

Finally, after the disposition of the last substitute, there shall be 1 additional hour of debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

Mr. Speaker, in his State of the Union Address on January 28 the President declared that America won the cold war. In stirring words he invoked the memory of the "rollcall of honor," the GI Joes and Janes who fought faithfully for freedom in places like Korea and Vietnam. He reminded us that some of our valiant defenders did not come home, and pointed out that back then they were considered heroes, but this year they have become victors. And he was right.

The President also spoke of another group of heroes who deserved recognition on the occasion of our great victory over imperial communism: The American taxpayer.

As the President noted correctly, for half a century the American taxpayer has shouldered a tremendous burden, paying taxes that were higher than they would have been to support a defense that was bigger than it would have been had the threat of communism never existed. Then the President pointed out that communism did exist but, after a pause, said "It doesn't any more."

Mr. Speaker, House Concurrent Resolution 287, the budget resolution for fiscal year 1993, is the first budget the House will consider in the aftermath of our hard-fought victory over imperial communism. The people who invested in this great triumph now expect it to pay a peace dividend. They have every right to that dividend.

Mr. Speaker, there will be a peace dividend. Both the President's budget and the Budget Committee plan contemplate defense cuts in 1993 and future years. The only questions are how deep those cuts should be and what to do with the savings.

Mr. Speaker, many of our citizens probably don't realize it, but under the rules agreed to in the 1990 budget summit and enshrined in the Budget Enforcement Act, they cannot share in the fruits of their victory directly. That is because there is but one purpose to which Congress can devote defense savings in 1993: Deficit reduction.

That is right, Mr. Speaker, under the Budget Enforcement Act Congress cannot redirect defense savings to other programs, no matter how desperately our people might need services like veterans' housing and health care, student aid, energy assistance, or child nutrition. We can spend billions for guns but not butter, even though the cold war is over and we won.

Mr. Speaker, I do not believe that makes any sense, and many of our colleagues don't either. The gentleman from Michigan [Mr. CONYERS] and others have sponsored legislation, H.R. 3732, to tear down the walls separating the three categories of discretionary appropriations this year, 1 year ahead of schedule.

The enactment of this legislation, which may reach the floor as soon as next week, will permit Congress to make reasoned judgments in this budget cycle about where and how to reinvest the first installment on the peace dividend.

But the Conyers bill has not passed the House and has not been signed into law. So in drafting its spending plan the Budget Committee had to prepare for the worst—that the firewalls would remain in effect and prevent this Congress from using any part of the peace dividend to meet the needs of the victors. However, nothing prevents the Budget Committee from also suggesting what we could do if the walls come tumbling down, and the committee has done just that.

Mr. Speaker, House Concurrent Resolution 287 actually contains two different spending plans, one assuming the walls come down and one assuming they stay up. Both plans assume the same level of defense spending, which is $14 billion in budget authority below the cap and $6.6 billion below the President's request. Both plans include $1 billion for job training and assistance to military personnel and defense workers displaced by the conversion to a peacetime economy.

The difference between the two plans is how the savings in defense are used: Under plan A, which assumes the walls come down, about 70 percent of the savings are reinvested in various priority domestic programs with the remainder devoted to deficit reduction. Under plan B, all of the defense savings would go to deficit reduction.

Plan A sets overall domestic discretionary spending at a level $12.3 billion in budget authority above the current cap by assuming a transfer of some defense savings to that category. Plan B, on the other hand, would hold domestic spending to precisely the cap level.

It is one thing to talk about numbers; it is another to talk about how the numbers would affect the victors in the cold war.

Both plans would increase spending for education, Head Start, job training, child immunizations, AIDS-related programs and others important to our people, with plan A providing more resources for many of the investments we have so long foregone. For example, plan A would enable Head Start to serve an additional 135,000 children, plan B and the President's budget an additional 98,000 children.

Comparisons between plan A and the President's budget are even more stark. Plan A would immunize 4 million more children than the President's budget; building 12,000 more housing units in rural areas; care for 110,000 more veterans in VA hospitals; provide nutritional assistance for 600,000 more women, infants, and children; help 1.3 million more households pay their energy bills; and provide 45,000 more dislocated workers with training and employment assistance.

Both Democratic budgets would also reduce spending in key areas and would terminate various Federal agencies which have served their purposes. Both would cut funding for Congress and the White House below last year's level. Both assume Federal agencies will fill only fractions of the vacancies which occur in their ranks, and require Government in the future to do more with less. And both reject the entitlement cuts proposed by the President, including cuts in Medicare and veterans' programs.

Mr. Speaker, this budget resolution will allow the House to debate fully and freely the first Federal budget in the post cold war era. As the President noted, the world has in the past 12 months seen change of almost biblical proportions.

I believe in view of America's victory in the cold war it is appropriate to modify the budget agreement and consider devoting a portion of the peace dividend to creating jobs, helping workers convert to a peacetime economy, and preparing future generations for the challenges which lie ahead. But one thing is clear: With or without the walls the Budget Committee has vastly improved upon the budget submitted by the President on January 29.

Mr. Speaker, in his State of the Union Message the President said:

> We're going to set the economy free, for if this age of miracles and wonders has taught us anything, it is that if we can change the world, we can change America.

Mr. Speaker, we can change America, and we can start today. Now that the battle against Communist expansionism is over, we can realize the peace dividend and begin investing the taxpayer's hard-earned money for his benefit here at home, not to defend Europe and Japan.

The budget resolution will reinvest the peace dividend in deficit reduction and the education, infrastructure, health care, research and other programs our Nation needs to remain strong and win the economic struggles lying ahead. I urge all Members to support the rule, the budget resolution, and the legislation tearing down the firewalls.

Mr. Speaker, I reserve the balance of my time.

□ 1505

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to this rule for one major reason: the emperor has no clothes. This rule only serves to mask the naked truth that the budget process is in total disarray. It allows us to escape accountability for massive budget deficits, and it provides cover to those who want to be everything to everyone.

As the exceptional ranking Republican of the Budget Committee, BILL GRADISON, eloquently stated to the Rules Committee yesterday, "a budget is about making choices. This budget is about avoiding choices." Do you want increased spending and higher deficits? It is in the Democrat budget. Do you want crippling defense cuts and higher spending? It is in the Democrat budget. Do you want crippling defense cuts and deficit reduction? It is in the Democrat budget, too.

Mr. Speaker, it would be more appropriate to call the Budget Committee resolution the Schizo Budget and Deficit Enhancement Act. In an unprecedented feat, the resolution is actually two budgets.

Budget A—the Dr. Jeckyl budget—assumes that Congress will break its promise to the President to abide by spending caps in return for the largest tax increase in American history. Budget B—the Mr. Hyde budget—no relation to the gentleman from Illinois—keeps the promise to abide by the budget agreement.

Ironically, the leadership pulled from the floor schedule this week H.R. 3732, a bill that would expose this fraud. It would give Members an opportunity to vote on whether to trash a 5-year budget agreement in only its 16th month so that Congress can continue its irresponsible trek toward higher spending, higher taxes, and higher deficits. It would eliminate the so-called firewalls separating domestic, defense, and international spending.

Those firewalls were erected to prevent $400-billion-a-year deficits that will severely hamper economic recovery. Even under the budget agreement, which will bring about a cumulative reduction in defense outlays of $512 billion through 1997, overall domestic spending will increase $1.3 trillion.

In the Rules Committee yesterday, the very able chairman of the Budget Committee, Mr. PANETTA acknowledged that, despite it being proclaimed "A Budget To Restore America's Future," this budget has no future because of tremendously increasing deficits.

It is no wonder, Mr. Speaker, that the votes are not there to pass H.R. 3732. Even if they were, the President has stated that he will veto the bill. Therefore, we could resolve this matter now by voting on the Solomon amendment to strike budget A. This would have the same effect as voting on H.R. 3732, and the budget process could move forward with a little more certainty.

Regrettably, the Rules Committee, on a party-line vote, denied Mr. SOLOMON the opportunity to offer that amendment. Therefore, I urge my colleagues to defeat the previous question on this rule so that Mr. SOLOMON's motion to strike the Dr. Jeckyl budget can be made in order, and we can restore some accountability to the budget process.

Mr. Speaker, I reserve the balance of my time.

□ 1515

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. DREIER of California. Mr. Speaker, I would like to congratulate my friend, the gentleman from Missouri [Mr. SKELTON] for his excellent statement. I thank him for his diligence in putting together this amendment. I apologize to him for the fact that the Committee on Rules did not grant it, and Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. SKELTON].

The SPEAKER. The gentleman from Missouri [Mr. SKELTON] is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, I am compelled to oppose and vote against this rule. I do so to prevent this Congress from falling into the same pattern that we have done historically through the years of drastically beginning a defense cut for which we will be sorry in years ahead.

Mr. Speaker, yesterday I appeared before the Committee on Rules. I offered an amendment based upon a great deal of work that I personally did with help from many people from the various services, people in uniform, people who are retired, civilian experts, in putting together thoughts on a defense budget.

I came within $83 million of the proposal put forth by the Secretary of Defense, Mr. Cheney.

As a result of the nearness thereof, I offered my amendment to the Committee on Rules to be made in order today for full discussion to allow that budget to be placed before us. It was a close call, I am told, but it was not approved.

I think that it is important that we should have the opportunity to debate this amendment. I urge my colleagues to vote against this rule and to send it back to the Committee on rules to make the Skelton amendment appropriately debatable.

Why is it important? Throughout our history, Mr. Speaker, particularly in this century, our Nation has had a habit, unwittingly, I am sure, of building up our defenses, having a conflict, and thereafter cutting them and denuding ourselves insofar as our national security is concerned.

In 1918, we won a great war, known as the war to end all wars. In 1919, thereafter, our defenses were cut drastically. In 1923, we had all of 130,000 people, not very many, in the U.S. Army; 1929 found us totally unprepared for what was about to be a holocaust on both sides of the world. No one foresaw Pearl Harbor and us going back to Europe not long thereafter.

We won a great victory. History will treat us well for what we did in World War II, the leadership we afforded, and the skill of the American fighting man and of the brave women who were involved in that conflict.

But as history tells us, 5 short years later we found ourselves again unprepared to fight and defend our interests in Korea. Pusan is a name we hope to forget because that showed our unpreparedness, that particular battle.

And then, of course, after Vietnam, 1978–79, many of us were here in Congress. We found ourselves with a hollow military; a ship's captain down in Norfolk, VA, refused to take his ship out because he did not have sufficiently trained men on that ship to sail it.

In all, Mr. Speaker, we must, No. 1, have this amendment made in order. Thus, I oppose the rule.

No. 2, we should not, as a Congress, step in that same historical hole again. We are, as my colleagues know, according to the budget agreement, plus $50 billion announced by the President, cutting our military over a period of 5 years. That does not mean a 25-percent cut in the Army. It means 32 percent less soldiers at the end of 5 years.

Mr. Speaker, I leave my colleagues with this: The young men and young women who did well in Desert Storm deserve better treatment if they are interested in making a career of the military. Let us not give that outstanding brave sergeant, as his reward for what he did on the battlefields in Iraq and Kuwait, a pink slip and send him home.

Further than that, we need to protect our interests as a nation and not denude ourselves once again. This is the first step. Unless my amendment is adopted, we will have that first step.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to our Marine from Glen Falls, the gentleman from New York [Mr. SOLOMON], a courageous veteran of the Korean war and the ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the Democrat front-running Presidential candidate, Mr. Paul Tsongas, who ran so well in yesterday's primaries by running on Republican principles, has said that House Democrats are pandering to the voters with their middle class tax cut. Well, he ought to see the House Democrat plan A budget lollipops on this floor right now. Talk about pandering.

The Democrats should consider changing their mascot from the donkey to the pander bear.

Mr. Speaker, with this two-plan, double-talk budget resolution made in order by the rule here today, the liberal Democrats are trying to fool the American people once again. When will they ever stop?

In presenting plan A, which assumes that the budget firewalls are blown away, Democrats promise large amounts of new domestic spending, which they know will never be delivered.

But it does speak to the Democrat agenda of business as usual around here: spend, spend, spend, spend, spend, spend, spend, spend, spend, spend.

Mr. Speaker, my colleagues and I know that even Democrats are rebelling against breaking the budget agreement that requires any peace dividend savings to go toward lowering the unconscionable deficit that is ruining this economy and driving up unemployment.

Mr. Speaker, here is a list of more than 40 Democrats. And if we look at this list of liberals we see the gentleman from Ohio [Mr. ECKART], and the gentleman from New Jersey [Mr. PALLONE], and the gentleman from New Jersey [Mr. PAYNE], and the gentleman from New Hampshire [Mr. SWETT], and on and on.

Then we look at conservatives like the gentleman from Virginia [Mr. SISISKY], and the gentleman from Tennessee [Mr. TANNER], and the gentleman from Louisiana [Mr. TAUZIN], all from the Democrat side of the aisle, liberal Democrats and conservative Democrats alike call this firewall removal thing a sham. They say it breaks their promise to the American people that they will cap spending and that they will use any kind of defense spending cuts to reduce the deficit.

They say so, Mr. Speaker, because they know that tearing down the budget firewalls would be totally irresponsible, because it would allow any defense savings to be spent in a flash, overnight, rather than requiring savings to be used for deficit reduction.

The result would be to pile more debt on top of the American people and future generations in order to finance this irresponsible spending spree right up to election day.

In fact, the budget plan that is really likely to result from this two-plan strategy is plan B, which is likely to be discussed in much much less detail.

I will bet any Member $10 that when the debate comes up on the budget, we will not hear the Democrats talking about plan B at all. We will hear them talking about plan A.

The promoters of the liberal Democrat budget plan contend that certain domestic needs are so important that Congress should spend more time and more money on those projects than the President recommended. But as the ranking minority member on the Committee on the Budget report points out, this works only if we assume a mystical windfall from defense cuts.

☐ 1525

We are not going to get them. For example, under plan A, the one without the firewalls, the liberal Democrats would increase Head Start spending, a program they like and I like and the President likes by $800 million. That is $200 million more than the President requested. Here we go, one upsmanship again. What a way to run a ship.

They would raise higher education funding by $3.7 billion compared to $1.7 billion requested by the President. More one upsmanship. What a way to run a ship, friends.

Under plan B, however, which would retain the firewalls and require the trimming of other domestic spending in order to pay for more new benefits, suddenly these priority investments become much less important, and we will not hear a word said about it during the debate. In plan B, the only one which has a chance to make it through the legislative process, these priority investments suddenly lose all of their priority.

Who are we trying to kid around here? In fact, in the only real version of the budget, plan B, the liberal Democrats have provided exactly the same amount of spending increases in these areas as recommended by the President. So in plan A, the promise is made to spending all the money. But on plan B, which Democrats are not going to talk about because they know that is the only one that will really have a chance, they will not say a word.

Mr. Speaker, we will see this charade again and again and again for 13½ hours over the next 2 days. By focusing on plan A, liberals will be making promises they know they cannot deliver. That is why this two-track budget resolution is nothing but a sham, and we just continue to waste more and more of our time around here.

The voters are smart enough to see through this political game, you know it and I know it. We should vote down the previous question here in a few minutes so that we can make in order an amendment by me and the gentleman from Ohio [Mr. GRADISON], to strike plan A, which has the no-firewall budget in it, and thereby have the opportunity to vote on a single budget resolution.

Let me say direct that to the good Democrats on that side of the aisle, and there are a lot of them over there, because a lot of them vote with us from time to time, defeating the previous question would also give the Committee on Rules an opportunity to consider two important amendments affecting the defense budget. They were offered by two very distinguished Members, two very distinguished Democrats, highly respected in this House, members of the Committee on Armed Services. They were summarily denied by the Democrat Party on the Committee on Rules by a party line vote. They were gagged, and yet our good friends over there, the gentleman from California [Mr. DELLUMS] and his allies, are given 8 hours to get up and say whatever they want. That is unfair to all Members who are not given the same right.

I would say to the gentleman from California [Mr. DELLUMS], if I were you I would rise up in revolution against your colleagues being targeted this way. If it was happening on my side of the aisle, you can bet I would raise the devil over here.

That is why I hope all of the Members will support defeating the previous question. We are going to give the gentleman from Florida [Mr. BENNETT] and the gentleman from Missouri [Mr. SKELTON], those distinguished Members, a chance to be heard. It is only fair.

Let us be fair around here and defeat that previous question.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the distinguished gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I rise in opposition to the rule because the rule does not allow me to introduce the amendment that I have introduced, and similar amendments which have been introduced by others. The amendment that I have introduced puts the figure for defense at the level at which the President, our Commander in Chief, put it.

After months, in fact almost years of study, they came forth with a basic structure which seems to me to be sound. Just today I presided over the House Committee on Armed Services, and heard the Secretary of the Navy say:

> We cannot live with that budget or other than the President's lowest requirements. Assignments will be given to the Navy which we cannot fulfill.

We have a responsibility in Congress to defend the United States. It is our responsibility in the Constitution to see to it that we have an adequate national defense. The Secretary of the Navy testified that he cannot fulfill through this budget the Navy obligations, the things that are put upon its shoulders to do for the national defense of our country.

Mr. Speaker, every war, as has been pointed out by the gentleman from Missouri [Mr. SKELTON], comes to an end and there has been this feeling of euphoria. I was caught up in this euphoria myself in the 1920's and the 1930's. I was a college editor, against compulsory ROTC. It also seemed idiotic to me to have a very large standing army.

I realize now that strong defense assets are a preservation against having wars. I am interested in having a strong national defense to try to see to it we do not have unnecessary wars and people do not have to give their lives for things which could be protected against.

□ 1530

So, Mr. Speaker, I urge all Members here today to vote down the rule on this concurrent resolution so that we can at least address what our Commander in Chief says is an absolute minimum, and which the Secretary of the Navy said today he cannot live with because it does not allow a possibility of him fulfilling the responsibilities given to him by our military structure of authority.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would simply like to congratulate the gentleman from Florida [Mr. BENNETT], who yesterday before the Rules Committee provided a very eloquent statement, a historical account about his personal involvement from the First World War until today, talking about the fact that that one was described as the war to end all wars, and tragically we have come to the realization, as President Bush said in his State of the Union Message here, that only the dead have seen the end of conflict. And it is important that we remain prepared.

The United States of America clearly is the world's only complete superpower, economically, geopolitically, and yes, militarily. The President in his statement said he wanted a cut of $50 billion, but no more. He recognizes that cuts need to be made. We all recognize that there have been dramatic and unprecedented changes over the past several years. But it is clear to me that the effort that was launched by the gentleman from Florida [Mr. BENNETT] and the gentleman from Missouri [Mr. SKELTON] is one which should have been incorporated in this rule.

It is for that reason that I am going to urge a vote against the previous question.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4½ minutes to the distinguished gentleman from California [Mr. DELLUMS].

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to the gentleman from California.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

Mr. DELLUMS. Mr. Speaker, I thank my colleagues for yielding time to me.

Mr. Speaker, first let me say that I rise in support of the rule. Second, I want to thank my colleagues for providing us with 8 hours and giving us the opportunity to debate one of the four alternatives that are on the floor.

Just to state the factual situation, there is not just one budget here, there are four budgets. This gentleman, along with staff and a few other people worked for the last 3½ months to put together a budget alternative. I am pleased that we have 8 hours to debate it.

But let me say to my colleague on the other side of the aisle, we asked for those 8 hours. As a matter of fact, before the gentleman's committee on yesterday when we were asked how much time we said, since there are four budgets there should be at least 4 days devoted to this debate, give every budget one full light of day. Let us debate it all day. Let the President's budget stand out here on the floor for 8, 10, or 12 hours, and let us have a discussion and a debate on it. If it can stand the light of day, then it will pass. If not, we will vote it down and get beyond it. The Republicans have another alternative. Let it have a full light of day. But as I understand it, the Congressional Black Caucus budget that we offered is the only budget that went before the Rules Committee proud enough to say we are prepared to discuss it for an entire day.

So what is happening? Members are saying, "Are you going to actually use a whole hour?" My colleagues, we are talking about a budget in excess of a trillion dollars. Frankly, every budget ought to be out there being debated 8 or 10 hours. That is why we are here.

Mr. Speaker, this is not a political moment; this is not a partisan moment. This is an extraordinary, historical moment. But I am not naive; I know that politics and partisanship will rear their ugly heads over the next couple of days as we debate this budget.

But my colleagues, let me challenge Members to a higher order of responsibility. Most of us come here and spend our lives tinkering at the margins of policies that predate us. But my colleagues, the cold war is over. The Soviet Union is on the decline. It does not exist as it did before. We have to take off the shackles of old thinking and begin to think anew and afresh. The American people are suffering in this country. Unemployment is rampant in America. People who did not support welfare in the past are now welfare recipients themselves. Those are the realities, and we must be challenged.

We are proud to bring our budget to the floor for 8 hours, I would say to my colleagues, because we think we have a bold, a courageous and a visionary approach to addressing these problems.

The Soviet Union is off the radar screen; the Warsaw Pact is off the radar screen. We have been spending $300 billion a year building a monument to military madness. Those two threats are gone. I would say to my colleagues, as expressed in budgetary terms, we have been spending between $150 billion and $210 billion per year on those two threats alone. One does not have to be a brilliant rocket scientist to recognize if those two threats have either gone or vanished that we certainly can find billions of dollars to begin to rebuild the economic infrastructure of this country, educate our children, bring about national health care as the American people want, and begin to capture the future for our children, as we should. But we cannot blindly continue walking down a path spending megabillions of dollars building monuments to war and terror when the world is speaking out for peace and the American people are speaking out for jobs.

I would say to my colleagues that it is rather fundamentally disingenuous to suggest that this gentleman should oppose the rule because they gave us what we went and asked for. I would simply ask my colleague: Did you ask for 8 hours for the President's budget? Did you ask for 8 hours for the other Republican budget? Did you ask for each budget to be exposed to the full light of day, not to engage in a circus and sophistry around a rule, but to engage America and to engage our colleagues to substantive debate on the budget? We did that.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, the gentleman from California posed the question: Did we ask for additional time for all of these budgets. The answer is yes. We even asked for time for two Democrat colleagues, the gentleman from Florida [Mr. BENNETT] and the gentleman from Missouri [Mr. SKELTON]. I accept your challenge, my good friend. Let us vote no and vote down the previous question. Let us give these other Members time to air this whole issue. And we will spend 2, or 3, or 4 days doing exactly what the gentleman wants to do. I want to do that. I want to help the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me respond to the gentleman, if I may. I would like to explain to my dear friend from California that I have absolutely no problem with the gentleman's ability to offer and have 8 hours for debate on his proposal. What we are calling for, Mr. Speaker, is the defeat of the previous question. We are doing that for one simple reason, and that is so that we can add rather than take away time from debate.

So I would think that my friend from California would want to defeat the previous question so that we can enhance the right of others in this House who want the exact same right as he is thanking us for granting him.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend, the gentleman from California.

Mr. DELLUMS. Mr. Speaker, let me just say that there is one problem, one flaw in his argument, and frankly a flaw in those Members who have offered the amendments. We all know that a budget hangs together delicately and fragilely. Our budget hangs together fragilely. We found certain amounts of money in the peace dividend. If we did not have that money, the rest of the budget does not hang together. So we did not come out here to offer one amendment. We went to work and we put together an entire budget, because the budget hangs together. We cannot just offer an amendment to take one part of the budget out because it falls like a deck of cards.

Mr. DREIER of California. If I can reclaim my time, Mr. Speaker, I would say that we do not want to deprive these Members or this House of the opportunity to at least offer that, and I know that my friend from California would want to fight to ensure that they have the right to at least try to do that as the only step they have offered.

□ 1540

They may not have the cadre of hardworking people that the gentleman has in the Black Caucus working on his, they may have put this together on their own, and I do not want to deprive them of the right to offer it.

Mr. DELLUMS. This budget was written by two staff people and myself and a couple of people helping, no cadre, my brothers. We put it together with two staff people and two computers and 3½ months of hard work, and if we could do it, any Member of this Congress can do it.

Mr. DREIER of California. I congratulate my friend from California for doing that, and I anxiously look forward to that 8 hours of debate when we finally do get to listen to it on the floor.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The Chair advises the Members that the gentleman from California [Mr. DREIER] has 14½ minutes remaining, and the gentleman from South Carolina [Mr. DERRICK] has 4½ minutes remaining.

The gentleman from South Carolina [Mr. DERRICK] has the right to close.

Mr. DREIER of California. Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I am pleased to rise today to strongly support the rule allowing for the consideration of House Concurrent Resolution 287, the budget resolution for fiscal year 1993.

As a member of the Budget Committee, I am aware of the hours of hard work and diligence that went into crafting this year's budget resolution. It is true that this resolution differs from those of past years by presenting two different options. I personally commend Chairman PANETTA for submitting to the Committee a proposal which holds open the options which will be possible, based on how the House of Representatives expresses its will on maintaining the "firewalls" of the budget agreement.

Personally, I have made it clear that I strongly support maintaining those walls, and therefore following "Plan B" of the Budget Resolution. However, for us on the Budget Committee to make an assumption about the House's will on that vote would have been premature and presumptuous. The chairman was creative and accommodating in developing this two-track approach which responsibly prepares for either contingency of that "firewall" vote.

I feel strongly that if the Congress is sincere to any degree about mastering our bloated deficit, it is imperative that we maintain the budget walls, stay within the individual categorical caps, and apply any defense savings to reducing the deficit. Along with 259 of my colleagues, I believe that we should enact a balanced budget constitutional amendment. The only way we can ever hope to achieve that balanced budget by the turn of the century is to begin down the deficit reduction path this year. Postponing the hard choices and refusing to develop the priorities in which we will invest only makes those decision more difficult.

"High Noon" will come for us all when we cast that vote on the firewalls next week. I know what I will be doing on that vote. I would have been content with a Part B only budget. But CHARLIE STENHOLM's will may not necessarily be the will of the entire House of Representatives. Pending that determination, which will come through the vote on the CONYERS vote, the Budget Committee acted responsibly by presenting the two-track budget.

I would have been happy to see some of the additional amendments presented to the Rules Committee accepted as part of this rule. However, even in their absence, I believe that the current rule allows sufficient debate on all of the critical issues before us as we consider the fiscal year 1993 and I encourage my colleagues to vote "aye."

Mr. DERRICK. Mr. Speaker, I reserve the right to close, and I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, just so we can clear the air, we are going to try to defeat the previous question. After that, we would, if we are successful, have a 1-hour debate on a new rule which will make in order my amendment to strike plan A in the budget resolution and to make in order the amendments by the gentleman from Florida [Mr. BENNETT] and the gentleman from Missouri [Mr. SKELTON] which have been discussed here on the floor by both of those two gentlemen this afternoon. That is our intent in trying to defeat the previous question.

If we are successful, then we will proceed with the 1-hour debate and to make in order those two amendments and to make my amendment in order as well. I think everybody knows the issue.

Both the Skelton and Bennett amendments bring the level of funding for defense up to the President's request and the level that is contained in the Gradison-Bush substitute.

Mr. DREIER of California. Mr. Speaker, I yield back the balance of my time and urge a no vote on the previous question.

Mr. DERRICK. Mr. Speaker, I yield myself 3½ minutes, the balance of my time.

Mr. Speaker, the distinguished gentleman from Texas pointed out that next week or maybe when we get into the general debate is the time to devote to the budget, but I would like to take just a moment or so and say, you know, if you listen to the rhetoric on this debate, you would think that someone was getting ready to cut the entire defense budget out.

Mr. Speaker, last year we spent almost $300 billion on national defense. Approximately half of that was directed toward keeping troops in Europe and so forth that were directed at the threat of the Soviet Union. Now, all the world knows that that threat no longer exists, at least to the extent that it once did, a fraction of it once did.

We spent half of our budget last year on that, and now we are talking about reducing the budget either 3 or 5 percent. We are not talking about reducing it 25 percent. We are not talking about reducing it 50 percent. We are talking about reducing it 3 or 5 percent.

You know, I want to make that clear, these people, the men and women, valiant as they are who fought for our country and whatnot, they did not fight for some military society. They fought for a free society, a free economic society where most of our goods and most of our economy was devoted to providing a high standard of living for its citizens.

We are competing with countries that spend approximately 1 percent of their gross national product on defense. We spend 7 or 8 percent of ours, and we cannot compete and continue to compete as long as we are going to take this path.

We did win the war. The President is right. We did win the war. Now, it is time to win the other war, and the other war is the economic war where we need to devote these resources.

Mr. Speaker, you know, this rule is very fair. It gives the Republicans an opportunity. It gives the gentleman from California [Mr. DANNEMEYER], who is a Republican, an opportunity. It gives the Black Caucus an opportunity. It gives the Democratic substitute an opportunity. I do not know how we can be more fair than that.

Mr. Speaker, I suggest to you that we support the previous question and support the rule.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from New York.

Mr. SOLOMON. Let me just say that the gentleman from South Carolina [Mr. DERRICK] seems to be inferring that the cuts are very insignificant in the Democrat budget.

Secretary Cheney, appearing before the Republican conference this morning, said that if the defense budget goes through as the Democrats want in this budget, it means laying off in this next fiscal year alone, 500,000 men and women. That is why the gentleman from Florida [Mr. BENNETT] and the gentleman from Missouri [Mr. SKELTON] are so concerned, among other reasons.

I thank the gentleman for the time.

Mr. DERRICK. Reclaiming my time, I will say that I remind the gentleman that we are cutting the defense budget not 25 percent, not 50 percent. We are talking about either 3 or 5 percent.

The Soviet threat is down, and we are talking about 3 or 5 percent. Anyone who thinks we cannot live with that, I do not know what to say.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DERRICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 248, nays 172, not voting 14, as follows:

[Roll No. 36]

YEAS—248

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yatron

NAYS—172

Allard
Allen
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Byron
Callahan

Camp
Campbell (CA)
Campbell (CO)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Dicks
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Bilirakis
Hertel
Hyde
Jones (NC)
Levine (CA)
McDade
Neal (NC)
Nowak
Ros-Lehtinen
Savage
Sharp
Weber
Whitten
Yates

□ 1608

Messrs. HEFLEY, THOMAS of California, MILLER of Ohio, DANNEMEYER, and TAYLOR of Mississippi changed their vote from "yea" to "nay."

Mr. KOPETSKI and Mr. YATRON changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 239, nays 182, not voting 13, as follows:

[Roll No. 37]

YEAS—239

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yatron

NAYS—182

Allard
Allen
Archer
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Dicks
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
English
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Myers
Neal (MA)
Nichols
Nussle
Orton
Oxley
Packard
Paxon
Petri
Pickett
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Armey
Edwards (TX)
Hyde
Levine (CA)
McDade
Neal (NC)
Nowak
Ros-Lehtinen
Savage
Sharp
Weber
Whitten
Yates

□ 1626

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WITHDRAWAL FROM PARTICIPATION AS MEMBER OF REVIEW PANEL OF FAIR EMPLOYMENT PRACTICES RESOLUTION AND APPOINTMENT OF TEMPORARY MEMBER THERETO

The SPEAKER pro tempore (Mr. MCNULTY) laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 3, 1992.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to inform you that, pursuant to Section 7 of the House's Fair Employment Practices Resolution, H. Res. 558 of the One Hundredth Congress and readopted as Rule LI of the One Hundred and Second Congress, I withdraw from participation as a member of the Review Panel for a particular matter which is to be before the Panel.

With great respect, I am

Sincerely yours,

DONNALD K. ANDERSON,

Clerk, House of Representatives.

Mr. FROST. Mr. Speaker, I ask unanimous consent that in appointing a temporary member of the Review Panel under section 7(a)(1) of the Fair Employment Practices Resolution, House Resolution 558 of the 100th Congress, the Speaker may appoint any employee of the House of Representatives.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. THOMAS of California. Mr. Speaker, reserving the right to object, my concern—and I would ask this as a response from the gentleman from Texas—is that in the resolution as read it indicates that the member requests unanimous consent to appoint any employee of the House of Representatives, and under rule LI the Speaker's appointees to this review panel are normally Members of the House. So the majority is asking an exception to the rule. Is this a one-time exception for this panel only? Is that the understanding?

Mr. FROST. Mr. Speaker, if the gentleman will yield, that is correct. The gentleman is correct.

Mr. THOMAS of California. And this is not an attempt to amend the rules to provide this power to the Speaker permanently, but it is for purposes of filling this vacancy on the panel only?

Mr. FROST. The gentleman is correct.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, my concern is that even though this is a temporary situation, we are setting a precedent here which goes beyond the nature of the rules. As I understand the rules, the Speaker has the power to appoint to the Fair Employment Practices Panel officers of the House under the present rule. There are in fact sufficient officers of the House to empower a panel at the present time, and yet we are under this particular provision changing that rule for this purpose and are proceeding under another kind of practice.

□ 1640

First of all, I would like an assurance that this not only is temporary, but will not be used as a precedent; and, No. 2, I would like an explanation of why the present rule cannot be followed.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, I will be happy to respond to the gentleman. Clearly this will not be used as a precedent. This is a one-time situation. I will be glad to explain to the gentleman from Pennsylvania [Mr. WALKER] why it is necessary in this particular case.

There are four officers of the House that the Speaker can choose from. The Speaker has selected two of those officers. One of those officers is the subject of this particular inquiry; the particular complaint that is being reviewed is lodged against that officer. So he must, of course, recuse himself from consideration of the particular complaint.

That leaves two other officers that we could appoint. One of those is the Sergeant at Arms, Mr. Russ, who is incapacitated. The other is the Postmaster, who is otherwise occupied currently with a number of things and does not have the time to devote to this particular inquiry.

I would point out to the gentleman from Pennsylvania [Mr. WALKER] that what is being asked here, and it is not a precedent, is that the Speaker have the same authority to choose from all employees of the House that the minority leader currently has in making his two appointments. Under the rule as written the minority leader could appoint any of the thousands of the employees of the House. The Speaker was restricted to the four officers.

This would put the Speaker, at least for this one instance, on temporary footing, the same footing with the minority leader.

I would also point out that there has been some concern raised in this House that there were not enough women serving on the panel, and this will permit the appointment of an additional woman to serve on the panel, but again, only for this one case.

Mr. WALKER. Mr. Speaker, reclaiming my time, I thank the gentleman from Texas [Mr. FROST] for his explanation. Of course, the reason why the minority leader has the ability to choose from all employees is because there are no officers of the House that the minority is permitted to have. If in fact you want to share some of that authority with us, I am sure we would be very happy to have the minority leader choose from amongst officers of the House on our side.

I do understand the circumstances for this. The principal assurance that I wanted to have was that we are not setting a precedent here and that this will not be used in the future as a way of further evading the rules on fair employment practices.

There are a number of us on our side who believed from the outset that this was something that should be done pursuant to the laws followed by all the rest of the Government, that we ought not have a separate operation, and that fair employment practices ought to be carried out as a part of the regular law of the nation. This probably confirms this, that this particular pattern does not work very well, it is subject to change when we run into patterns that we cannot accommodate, and might be an indication that we ought to take a look again at just following what everybody else does.

But given these present circumstances and with the explanation of the gentleman from Texas [Mr. FROST], I would withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Pursuant to the order of the House of today, and the provisions of rule LI, the Chair, without objection, appoints as a temporary member to the Review Panel of the Office of Fair Employment Practices Ms. Diane Powell, staff director, Committee on Agriculture.

There was no objection.

APPOINTMENT AS MEMBER OF SELECT COMMITTEE ON AGING

The SPEAKER pro tempore. Pursuant to the provisions of clauses 6 (f) and (i) of rule X, and without objection, the Chair appoints the gentleman from Arizona [Mr. PASTOR] to the Select Committee on Aging.

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 650

Mr. JONTZ. Mr. Speaker, I ask unanimous consent to have myself removed as a cosponsor of H.R. 650, the Mediplan Health Care Act of 1991. I had no intention of cosponsoring this legislation, and my name was added to this measure in error.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1993

The SPEAKER pro tempore. Pursuant to House Resolution 386 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 287).

□ 1634

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 287) setting forth the congressional budget for the U.S. Government for the fiscal years 1993, 1994, 1995, 1996, and 1997, with Mr. SERRANO in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN. Pursuant to the rule, the concurrent resolution is considered as read the first time.

The gentleman from California, [Mr. PANETTA], will be recognized for 1 hour and 30 minutes and the gentleman from Ohio [Mr. GRADISON], will be recognized for 1 hour and 30 minutes. Said time will include a period of 1 hour on the subject of economic goals and policies.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I rise today in support of the budget resolution reported by the Budget Committee. Much of the committee's work is consistent with the invest in America now initiative I presented to the Budget Committee several weeks ago. My real hope is that we have the courage to ratify this resolution by approving Chairman CONYERS' bill to take down the walls which restrict our access to any peace dividend.

I support this budget resolution because it redirects Pentagon savings to the Nation's real needs. Only if we follow through on this resolution will my constituents at the Willow Run plant receive the assistance they need to get retrained and find new jobs. Only if we follow through on this resolution will the hard-working families in my district get some help in sending their kids to college.

I particularly support the Budget Committee's decision to direct more than $650 million from the peace dividend to Job Training Partnership Act [JTPA] programs, including assistance to Michigan's dislocated workers fully satisfying my request to the Budget Committee. For thousands of Michigan workers and their families, the financial commitment we make to dislocated workers' assistance means hope for the future in the face of a seemingly endless recession.

The budget resolution assumes a 17-percent increase over existing funding and will go far toward helping displaced workers learn the skills they need for new and productive employment. Moreover, this decision reverses the President's fiscal year 1993 budget proposal to cut funding for these critical programs which answer the needs of average Americans.

Along with the additional funding for JTPA, the Budget Committee also heeded my call to increase funding for school readiness, elementary and secondary education, and college assistance for the children of middle-income families.

The Budget Committee's decision to invest in America now by investing in this Nation's children offers a vision for the future sadly missing from the Bush budget. An increase of $3.7 billion over last year for educational opportunity offers promise to hard-working American parents trying to build a better future for their children. And $800 million in increased funding for Head Start will mean tens of thousands of youngsters will have a better chance to succeed by being ready to learn when they get to school.

Overall, this budget resolution endorses fiscal year 1993 funding more than $5.7 billion over fiscal year 1992 levels for school readiness, elementary and secondary education, higher education, training and employment, child care, and the women, infants, and children [WIC] programs. These levels are close to double the level of support proposed in the President's fiscal year 1993 budget.

For the past 11 years, this Congress has been party to a costly reordering of priorities. This Nation's domestic agenda—education, job training, housing, health, middle-income American families—has taken a back seat to a deficit fueled by 11 years of borrowing to promote military spending and tax cuts which coddled the rich. We now spend more to service the debt than we do on all domestic discretionary spending.

Mr. Chairman, we have paid the piper dearly. No doubt, the outbreak of democracy around the world has reduced the global threat of war. The time has come to reap the reward of the new peace.

We must prepare our workers for the jobs of tomorrow. We must prepare our children and grandchildren for the challenges of a new day. The time to invest in America is now.

This Nation's economic and social future depends on having the best educated work force in the world. Our competitors must be met by graduates of American schools who are educated on the lessons of the America's great past and the technology of the future.

Through our budget process we have locked ourselves into a fiscal straitjacket and let OMB swallow the key. Experts and nonexperts both warned us that we would regret the day when we agreed to fiscal inflexibility in the guise of fiscal discipline. The world is not inflexible—witness the past 2 years. Our country is not inflexible. It is resilient and over the years this Nation's people have risen to meet every challenge.

Mr. Chairman, as Members of Congress, we were elected first to represent our constituents. That is our duty. That is our responsibility. But our more demanding responsibility is that we lead. Our courage to lead will determine whether America moves forward to reclaim our role in the world or whether we allow our world competitors to consign us to second class status.

In the next few weeks, I will bring legislation to the floor which will give middle-income families access to Federal financial assistance to send their kids to college. The Higher Education Act Amendments of 1992 holds real promise if we are bold enough to follow through and let our children profit from the peace dividend.

I urge my colleagues to join me in supporting this budget resolution as well as Chairman CONYERS' budget reform bill. Taken together, this invest in America now strategy will permit our future to profit from today's peace dividend.

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of House Concurrent Resolution 287, the concurrent resolution on the budget for fiscal year 1993. I would remind Members that this is the earliest resolution on the budget that we have brought to the House out of the Committee on the Budget in the history of the Budget Act. So since 1975 and the creation of the Budget Act, we have never brought a budget resolution to the floor earlier. This is the earliest.

Mr. Chairman, I want to express my thanks to the members of my committee and to the staff and other Members on both sides of the aisle who cooperated in moving this resolution along, expediting it to the floor, because we did want to respond to the request of the President to be prompt in moving economic packages this year so that we could try to address the problems within our society and within our economy.

Mr. Chairman, we faced a number of challenges in this effort as we tried to do this. The first was obviously the whole process of expediting a resolution, getting through the numbers, getting through the priorities, and trying to decide how we would adjust those priorities. That takes time and it is tough. We basically worked through the evenings with staff and worked with a number of caucuses to try to arrive at the package that we present before you.

The second challenge we faced is the uncertainty over the issue of what happens with regard to what are called the walls. For those that are not familiar with what we are talking about, these are the requirements under the budget agreement that you cannot take Defense savings and use them in other domestic areas, even if you stay within the overall spending limit provided under the budget agreement.

There is legislation in both the House and the other body to basically allow for the use of Defense savings for investments in these other areas. We do not know how that legislation will be disposed of. Obviously it comes to the floor next week and Members can express themselves on that legislation at that time.

Some would say that it has no chance. But, on the other hand, the President yesterday has basically indicated that he disputes and admits that the greatest mistake he ever made was the budget agreement. I do not know what he will apologize for tomorrow, but he has already apologized for almost every decision he has made with regard to domestic policy and economic policy in his administration.

Second, the budget proposal submitted by the administration indicates that perhaps one possibility is to use Defense savings for the purpose of paying for tax cuts. Although I do not support that, that was clearly an indication made by the Director of the Office of Management and Budget, within the budget, and also before the Committee on the Budget.

So we do not know. It is uncertain as to what happens with regard to that legislation. And that created a problem for the committee in terms of what we pieced together as a budget resolution.

We felt the only responsible approach for the Committee on the Budget in an effort to expedite the resolution was to develop two paths: one, assuming that the walls would come down and that we would be able to use defense savings for domestic investment; and the second, if the wall stayed up and we have to operate within the caps established under the budget resolution.

We felt this is the only responsible approach, because clearly if we took one path, only to find that the legislation did not pass, we would then be left with a situation where the Committee on Appropriations had absolutely no guidance to follow in trying to expedite the appropriations process.

So for that reason, the resolution presents these two paths. It provides that if the bill, 3732, or similar legislation is not enacted by the time that we have to appoint conferees, that we will go to conference and conference on plan B, which is to operate within the caps. Therefore, both approaches really frame the kind of debate that needs to take place in the House of Representatives as we confront what is truly a changing world and changing needs within our own society.

□ 1640

Let me make clear that both approaches that we have presented here are very different from the President's approach in his budget. We reject the gimmickry that is part of the President's budget, particularly with regards to accrual accounting.

We reject the unfair approaches with regards to cuts, and we reject the nature of the investments that the President makes. So under both approaches we have basically tried to establish a very different direction in terms of where the budget ought to head.

Both approaches stress three points, and let me summarize each of the three points.

The first is that we maintain budget discipline. Under both approaches, we stay within the overall spending limits established by the budget agreement. Obviously plan A would do it under the discretionary spending limit; plan B within the specific limits established under discretionary spending, domestic discretionary spending. Under both we would use defense savings in part for deficit reduction, and so both of the proposals we present here involve a lower deficit number than the President.

Under plan A we would be at roughly $331 billion in deficit; under plan B, $324 billion. The difference obviously is that in plan B we would take all defense savings and use it for deficit reduction.

We eliminate the use of gimmicks, and I have got to stress again that for all of the discussion about the importance of budget discipline and the need to stick by the budget agreement, what the President's budget essentially did was to flimflam the Congress and the country by the use of the gimmick called accrual accounting.

What accrual accounting means is that we simply reach into the future to grab assets, phantom assets, and then bring them to the present and spend them, and spend them. We could argue perhaps about the rationality of using accrual accounting as an approach. I think that is legitimate to do. But to then take that accrual accounting, grab those assets, bring them to the present and then spend them either on tax cuts or other areas is wrong. It is gimmickry of the worst kind, and we rejected that.

We have basically thrown accrual accounting out because we do not want to send that kind of message either to the House or to the American people.

Last, we have to make tough decisions with regard to how we freeze domestic discretionary spending, and we do. In most areas we freeze domestic discretionary spending, except for those areas that we think ought to be targeted for increases. And in addition to that, we recommend a 5-percent reduction on the operations of the Congress and of the executive branch and of the White House because we feel strongly that we have to send a signal to this country that we are willing to tighten our belt at a time when most families are tightening their belt as well.

So budget discipline is very much a part of both approaches that are recommended here.

Second, fairness, and again I would stress both approaches that we recommend reject proposals by the President that we think go after the most vulnerable in our society.

We reject a Medicare cut of almost $14 billion over 5 years recommended by the President. We reject a veterans cut, cuts in veterans benefits of almost $3.5 billion over 5 years. We reject that.

We reject cuts on Civil Service areas, Civil Service employees of $5.5 billion in the President's budget. We do not accept the delay in pay of 3 months. We think that is arbitrary and discretionary in terms of the way the President has approached the budget.

We reject the increase in retirement contributions that is required under the President's budget, and we also reject the elimination, the total elimination of the lump sum requirement which is also part of the proposal by the President.

In addition to that, look at some of the domestic cuts that are part of the President's budget. Mass transit is almost cut by close to $1 billion in the President's budget, mass transit, something we think is an integral part of the transportation system of this country. We reject that.

We reject cuts in higher education, in low-income housing. The Community Development Bloc Grants Program, for those of my colleagues concerned about conversion, let me tell them, as someone who is going through the process of dealing with Defense cuts, that program, the Economic Development Program, is one of the most important programs to try to assess as we make that conversion.

We have rejected the President's cuts. He almost emasculates both of those programs in his budget proposal. Juvenile justice cuts of $64 million; cuts in low-income energy assistance, those are all rejected in both approaches that we have presented to the House.

Last, we have tried to redirect some investments into areas that we think are important for this country. Let me begin perhaps by discussing the Defense budget because obviously that is an area of dispute that legitimately ought to be debated on both sides as to where we go.

Some would say that the world has not changed. Some would say that there is no need to address this issue. Some would pretend that somehow we do not have to confront the issue of how we gradually reduce defense and try to reorder priorities in our society.

I am afraid that that is a fundamental decision that this country needs to make. Every industrialized country is now focusing on its economic base, improving its society, improving its economy. Do we not have to do the same thing? Are we going to hide from that?

There are people that are now talking about the Defense budget as if it is a public works job program. The Defense budget is designed to protect our national security, no more, no less. And that is how we decide our Defense budget.

I understand the jobs issue. As I said, I understand it probably better than anybody here. But we cannot just use that as an excuse for not dealing with the transition that absolutely has to take place in our society today.

Defense is an area that has to be addressed. We have to be careful. It has to relate to the threat. It has to relate to a strategy. It has to be done under a transition basis, and I pay tribute to the chairman of the Committee on Armed Services that basically designed an approach that said, let us look at several strategies and try to design something that meets the potential threat that may be out there in 3 to 4 years. That is the way we approach the Defense budget.

The President's budget developed a number at a time when the Soviet Union still existed. Are we going to accept that number? Is that rational? The world has changed. We need to carefully approach that transition. That is our responsibility to our people and to our Nation. So the numbers recommended by the chairman of the Committee on Armed Services are exactly the numbers that we adopted, not just in one approach but in both approaches, because we think it meant good policy.

And so what we do is we essentially take $10 billion in outlay savings, $15 billion in budget authority savings under both approaches. Under plan A we take about $6.4 of that and target it into key investments. We take about $2.6 billion of that and put it to deficit reduction. And we take $1 billion and say that is important for conversion. So essentially the defense area, the Committee on Armed Services get $1 billion back to basically try to deal with the problem of conversion.

Under plan B, where we retain the cap, $9 billion goes to deficit reduction and $1 billion to conversion.

Let me tell my colleagues that when we look at what has happened with regard to Defense and domestic spending, there is no reason why we cannot do this, no reason. It is right. If we look at the graph that defines what has happened to Defense spending and domestic spending, as a percent of GDP, in the 1980's Defense spending went up almost 6.5 percent of GDP. At the same time, the domestic spending was going down to 3.3 percent of GDP.

What we did in the 1980's was we made a transfer. We basically took a lot of domestic savings and put them in the Defense budget. That is what happened. The Defense budget almost tripled.

The domestic budget went down, and people were hurt in that process, were paying the price for that policy.

Now, my goodness, when we have got a changed world, do my colleagues mean to tell me that we absolutely cannot restore some of the balance, that we are absolutely tied to having this kind of budget take place?

Now is the time to use some creativity, some imagination and, hopefully, some compassion so that we focus on the needs within our own society.

☐ 1550

That is what we tried to do in the budget. Let me just mention the areas that we target investment at, because we have had heads of corporations come to the Committee on the Budget and say, "For goodness sake, if you want us to improve our productivity, if you want us to improve our competitiveness, then you absolutely have to invest in key programs that affect our society. You have to invest in education. You have to invest in health care. You have to invest in jobs and job training if you are going to help us do a better job competitively in the world.

Eight CEO's came to the Committee on the Budget and said, "We want you to increase funding for Head Start, because we need it. Please do that." So what we have done in this budget is targeted three areas. The first is education. What we did in education is essentially increased the funding for Head Start so we could take in another 37,000 kids beyond what the President proposed, and in elementary and secondary education and higher education we basically doubled the President's number, as this graph shows, doubled the President's number, so that instead of cutting 400,000 who otherwise would be eligible for Pell grants, we allow 500,000 students the opportunity to be able to get some help so they can go on and educate themselves.

We know what is happening right now. The American dream is vanishing. The hope that our kids can have a better life is vanishing. If they are going to have a chance at getting a better life, they have to do it through education. That is a legitimate area to put resources into.

Second, on health care, we know what the problems are in health care. Everyone is focused on that. There is not a program here that is not supported on both sides of the aisle. Even the President has recognized the importance of some of these programs.

The WIC Program, Women, Infants and Children's Feeding Program, is one of the best programs out there to help women who are pregnant so that they can have healthy babies. Every dollar we put into that program saves us $4 in health care costs. We put $400 million into the WIC Program so that we could serve almost an additional 600,000 women, infants and children.

Health research, another area that needs to be expanded. We put $800 million, doubling the President's number, so we could focus on the kind of health research that our people need for the future.

Low-income health care and immunization. Let me just mention that one area because I really think that is important. We put $150 million into immunization, $150 million. That compares to the President's $51 million. Why did we do that? Because it is a disgrace in our society not to have children who are fully immunized.

Why have we waited so long to try to immunize all of the kids in this country so they do not face the kind of dreaded diseases that they face in Third World countries? There is no reason why this country cannot do that. There is no reason why the United States of America cannot fully immunize every child under 6 years old. We do it in this budget.

AIDS research. We know what AIDS is doing to our society. We have put $425 million into that area because we think it is important to fully fund the Ryan White program and to fully fund the research we need to try to find the answer to that dreaded disease.

Veterans programs, we added $100 million so we can serve an additional 100,000 veterans, so they can get health care that they deserve in our society.

The last area I would mention is the area of jobs, growth, and conversion. Under any scenario, whether we follow the President's budget, his cuts, in defense, or whether we follow the Aspin numbers we have incorporated here, whatever scenario we follow we have to put money in conversion. We absolutely have to do that. We cannot ignore that.

We put about $5.4 billion into conversion programs. One is infrastructure. Everybody supported the highway bill last year. What we did in highways is to put the full number, $2.6 billion, into the budget, which represents, incidentally, 150,000 jobs for this country.

Mass transit, which the President virtually emasculated, as I mentioned, we add about $500 million into that program.

Job training, dislocated workers. Talk to the GM workers, talk to the workers who are being displaced every day in our society. One of the most important programs we can help them with is the dislocated worker program. We add about almost $300 million to that program, a total of about $689 million so we can try to help about 180,000 workers in this country.

Housing, again the President basically went after low-income housing, rural housing, and we tried to restore those funds so we could continue to develop those units for our people.

As I said, CDBG, the community development block grant, EDA, we added money there because we felt those programs are particularly important to conversion.

Last, on energy, if this country does not get smart and develop energy independence, we are going to lose out in the competition for tomorrow's world. We will lose out. If all we do is wind up continuing to be dependent on Middle Eastern oil, we are being irresponsible in how we handle our economy.

The President said, "Do not worry about conservation. Do not worry about research and development and alternative fuels." He is wrong. We do need to put money into that area, and we added about $430 million for that purpose.

So those are the priorities. Those are the targets. I would wager to say there is not a Member here who disagrees with those priorities. They may disagree about where we try to find the funds to do it, but there is not a Member here who does not believe that those priorities are important for this country.

There is a fundamental choice that faces all of us. The choice is what alternative do we adopt in these next few days. Is it the President's budget, which I think moves us backwards? Is it the progressive budget that will be debated tomorrow that cuts Defense even more than what any of the plans would do that are being presented? Or is it the proposals of the Committee on the Budget that offer, I think, a responsible approach?

When we talk about budgets, there is a tendency to get wrapped up in numbers. These are not just numbers that we are talking about here today. We are talking about people. We are talking about whether or not we can establish 400,000 jobs, as we do in this budget. We are talking about students looking for Pell grants. We are talking about women looking for services out of WIC. We are talking about whether we can immunize 4 million kids in this country. We are talking about 37,000 kids who could get into the Head Start Program, and 110,000 veterans who can get health care.

□ 1656

Those are the issues. That is what this debate is all about. It is not about numbers; it is about people. That is the way we framed the debate.

The choice for the Members is really the choice about what kind of future are we going to have as a Nation. The choice is yours, ladies and gentlemen of the House of Representatives. I hope you will support the House committee version.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I want to commend the gentleman from California on an outstanding statement. I have observed him over many years in the House. He is a thoughtful, deliberative and I think today very clearly a sensitive and compassionate Member of this body. The things the gentleman from California has talked about, everything from the CDBG to the additional money for mass transit are very important to communities which I am proud to represent, so the gentleman from Kentucky stands with the gentleman from California in support of the committee product, and I do hope that after this long process is ended that will be the version we send on.

Mr. PANETTA. Mr. Chairman, I thank the gentleman from Kentucky.

Mr. Chairman, I reserve the balance of my time.

Mr. GRADISON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the House is being asked today to debate and vote on one of the oldest pieces of legislation many of us can remember. The problems with this bill start from the very beginning: It's called a budget resolution—but it is not a budget, and it resolves nothing.

Frankly, what happened is that the Budget Committee Democrats were in a jam. Some of them wanted to produce a budget that conformed to the budget disciplines, with its spending caps and firewalls, adopted in the Congress less than 1½ years ago. This is plan B of the legislation before us. Plan B has a number of significant flaws, but also has a basic virtue: It would target all its spending reductions—most of which are in defense—to deficit reduction—just what the Budget Enforcement Act intended.

But another group of Democrats have found they just can't live with the budget discipline even though 19 of the 23 Democrats now serving on the Budget Committee voted for the Budget Enforcement Act of 1990. Even though the Democrats on the Budget Committee keep looking for ways to spend the so-called peace dividend on their favorite domestic programs. That is all well and good. But, this would require breaching the firewalls that are an essential part of the discipline imposed upon the Congress by the budget agreement such a short time ago.

So how did Democratic committee members resolve the differences between these two sides? Very simply: They didn't. They took their two budgets and submitted them together, as if they were one. So we have plan A, which requires breaking the budget agreement to pay for a wish list of domestic spending, and plan B, which is largely the same as the President's budget except that—like plan A—it cuts deeper into fiscal year 1993 defense spending and achieves none of the specific entitlement savings that the President recommends.

Now, we should note why the Budget Committee Democrats say they have done this. The ostensible reason is that pending legislation—the Conyers bill—would tear down the firewalls separating discretionary spending categories. That legislation has not yet been to the floor, and even if it gets here, it's uncertain whether it would pass. It is all but certain not to be enacted. But the Budget Committee Democrats insisted they had to give the House a choice anyway, so that the House would have one kind of budget if the firewalls stay intact, and another if they don't. Why wouldn't they let the Budget Committee make a choice? And why wouldn't the Rules Committee let the House make a choice? The answer is obvious—they need to pass something to retain the facade of relevancy for the Budget Committee. And God forbid that they should ever need Republican votes to pass any measure on the floor of the House of Representatives.

The Democrats have given the House multiple choice instead of leadership—a cafeteria plan instead of a budget. This would be enough reason to simply ignore this whole procedure as irrelevant. But for the sake of argument, let's still look at some of the specifics in this so-called resolution, starting first with national defense.

Both of the Democrats' proposals would cut defense in fiscal year 1993 more deeply than the President, who already has recommended steeper reductions than those in the 1990 Budget Enforcement Act. But the Democrats' numbers are based on four highly tentative defense paths outlined by the Armed Services Committee chairman in a 30-minute presentation 2 days before markup. The Budget Committee Democrats were unable or unwilling to choose which of the four spending paths they preferred, so they have simply inserted plug numbers for defense in the outyears, and left the real decisions to the Armed Services Committee. The Budget Committee majority does not clearly define the outyear dollar figures for defense. Curiously, they've inserted OMB's baseline numbers for the outyears, but it is very clear from the resolution itself that these numbers are unreal. Amazingly, under the Democrats' plan, they project spending $35 billion more than the President over the 6 years 1992–97. But the Budget Committee chairman has just gone on about all the glorious cuts they intend to make in defense. Once again, will the real Democratic plan please step forward.

They also refused to accept the President's rescission of more than $7 billion in defense spending in fiscal year 1992. The implication is that they would force all these defense savings and cuts into fiscal year 1993, rather than accepting the more gradual and rational approach outlined by the President.

When Republicans on the Budget Committee moved to provide rescissions of $7 billion in defense spending for fiscal 1992, the current year, the Democrats who are telling us how much they want to cut defense voted us down.

Let us move now to domestic discretionary spending.

The Budget Committee Democrats contend that certain domestic needs are so important that taxpayers should spend more on them than the President recommends. But that turns out to be true only if Congress can capture a highly uncertain defense windfall to pay for it. Under plan A, as our chairman has just pointed out, the Democrats would increase Head Start funding by $800 million, compared with the President's $600 million; they would raise higher education funding by $3.7 billion, compared with the President's $1.7 billion boost.

□ 1705

They would increase veterans' health services $1.1 billion, rather than the President's $986 million. You will hear a lot about these and other election-year spending increases throughout this debate. Just remember that they are not real. Under current law, which is most unlikely to be changed, these spending levels will lead only to veto, sequester, or both.

Plan B is the real budget. And here, these priority investments were apparently not that important to the Democrats. In this version of their budget, the Democrats maintained precisely the amount of spending increases in these three areas: Head Start, higher education, and veterans' health, as recommended by the President. So much for their initiatives.

This is obviously because the budget agreement's discipline forces any increased spending to be financed by spending cuts elsewhere. This they simply could not bring themselves to do.

Many Democrats complain that domestic discretionary programs are being strangled by the tight domestic cap. They are wrong. They are dead wrong. The 1993 budget authority cap will allow 34-percent real growth, after inflation, in domestic discretionary budget authority compared over the 1986 level. The outlay cap represents a 19-percent real increase after inflation during the same period. How much is enough? When will the Democrats' appetite for higher spending ever be satisfied?

It is ironic that each budget summit agreement has countenanced higher limits on domestic discretionary spending. Despite all the rhetoric to the contrary, this category was under better control between 1982 and 1986 than it was after it was controlled by the budget agreements of 1987, 1989, and 1990. Each new higher limit offered relief from the alleged starvation diet of the earlier regime. Solemn promises were sworn that henceforth firm discipline would reign—until the next time. No wonder the President has had second thoughts about the Budget Enforcement Act. So should the House of Representatives.

When will committee Democrats really start controlling this spending. I do not know about you, my colleagues, but my constituents do not really want more Government spending. They want a smaller deficit, and that is the issue before us today.

ENTITLEMENTS

The Democrats talk a good game about the importance of entitlement restraint, but when it came to doing something about it, they said no. The President proposed specific entitlement savings of $38 billion over 5 years. These the Democrats have rejected outright. Instead, and this I do not understand, but I will tell you what the problem is, some time between the end of markup and the time when the budget resolution was filed, $2 billion a year in unspecified entitlement savings were added to the budget by the majority. These savings are undefined, unreconciled, and so far as I can tell, unclaimed. But perhaps before the debate is over we will find out just what these are. When we suggested cuts in entitlements, we were virtually laughed out of the committee and voted down on a party line basis.

Now, the Democrats would be the first ones to move how sensitive entitlement programs are, because they directly affect individuals. But if that is true, why did they, in the dark of night plug in this $2 billion of entitlement cuts without giving an indication in the committee report about where the money should come from?

REVENUES

Neither of the two Democratic plans in this resolution reflects the tax bill passed by the House on February 27, just about a week ago, the same day as the Budget Committee's markup. If the Democrats' tax bill defines the differences between the two as they keep telling us it does, why does their budget resolution ignore it? Probably for this reason: Including it would have yielded a deficit higher than the maximum deficit amount allowed by the BEA—which, in turn, would cause a sequester. Talk, in other words, their tax cut was just pie in the sky; they do not have any idea how to pay for it in 1992 and 1993, which is the here and now of budgeting.

Finally, with regard to deficit reduction, I can only conclude that my friends on the other side of the aisle really are not interested in deficit reduction. During the markup, our side offered amendments that would have resulted in more than $15 billion in deficit reduction in fiscal year 1993, and every one of those proposals was rejected.

The committee's majority insists that there are certain domestic investments, as they call them, that are crucial to preparing the Nation for the 21st century. Now, many of us agree about the value of programs such as Head Start and WIC and immunizations for children.

But what the Democrats just cannot seem to acknowledge, and I do not think they understand it, is that reducing the deficit is investment, too.

Deficit reduction shrinks Government borrowing so that more money remains in the private sector for savings, capital formation, home ownership, plant construction, job creation, and the like, and that is true on a dollar-for-dollar basis. A dollar less borrowed by the Federal Government is a dollar more available for the private sector. Thus, deficit reduction in this Member's view is the best investment for long-term economic growth.

In this regard, the Democrats' plan B, by concentrating all its defense savings on deficit reduction, is far better than its counterpart. Unfortunately, one cannot tell from this twin resolution which plan for the Nation's future the Democrats really favor, and when all of the smoke clears and their budget resolution is approved, as it probably will be, we still will not know what they stand for.

Mr. Chairman, in this debate, we have already heard a lot about the investments the Democrats want to make, about their bolder plan for setting a course toward the next century. But what we have before us is really no plan at all. The question that truly is before this House is: Will the real Democratic budget resolution please stand up?

Mr. Chairman, I reserve the balance of my time.

Mr. PANETTA. Mr. Chairman, I yield 4 minutes to the gentleman from Mississippi [Mr. ESPY], a member of the Committee on the Budget and one member who has been very helpful in putting together this budget resolution.

Mr. ESPY. Mr. Chairman, I thank the gentleman for yielding me this time. I congratulate him on his excellent work.

Mr. Chairman, a budget resolution is a blueprint. It is a road map. It is a statement of priorities, and more than anything else, it is a statement about how this institution will respond to the pain and suffering presently existing within our Nation.

Now, while the President's budget remains stuck in addressing the threats to our past, this committee has produced a forward-looking budget that addresses threats to our present and threats to our future.

Most important of all, Mr. Chairman, when 10 million Americans are unemployed, when 10 million more are underemployed, and when untold millions are worried about losing their jobs, this budget creates jobs.

Our economy now, Mr. Chairman, is in the longest recession since the 1930's. This budget that promotes economic growth, not by repeating the failed policies of trickle down, but by building from the ground up.

Assuming that this Congress does the right thing next week and removes the firewall so that some of the defense savings can be used for domestic needs, plan A of the Committee on the Budget will create 150,000 new jobs through increased funding for highways. It creates 28,000 jobs through funding for mass transit, and it creates 10,000 new jobs for every billion dollars that is transferred from defense procurement to domestic investments.

The committee budget helps train our work force, Mr. Chairman, by increasing job-training programs by $689 million if the walls come down, and by $429 million even if they do not. It provides $160 million for Job Corps, capital improvement, and $5 million for a new program, microenterprise program, which helps welfare recipients get jobs, helps at-risk youth enter the economic mainstream.

This budget promotes economic growth and job creation by increasing funds for the Rural Development Administration, the rural development programs, the EDA and the Small Business Administration which provides 80 percent of all the new jobs in America. It promotes economic growth, Mr. Chairman. It creates jobs.

Mr. Chairman, lastly, this budget ensures that communities hurt by the necessary reductions in defense are assisted by providing funds for economic conversion, and it enhances our future by transferring funds to convert our research technology from military applications to much needed civilian applications.

□ 1715

Mr. Speaker, for the past 40 years we have devoted our Nation's resources to preparing for war. Now we need to prepare for peace, restore our domestic economy and to create jobs.

This budget, Mr. Chairman, is a good one. It begins to take us down the path that we must go.

Mr. GRADISON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from North Carolina [Mr. MCMILLAN], a member of the Committee on the Budget.

Mr. MCMILLAN of North Carolina. Mr. Chairman, I believe most of us were elected to be part of a solution, not part of the problem, but these budget proposals perpetuate the problem rather than address the solutions.

Almost every outside expert, and we had many, testified that the best thing we could do for the economy was hold to the spending caps, not increase taxes, and use any so-called peace dividend to reduce the budget deficit.

This committee budget is neither a plan nor a solution. It is simply a statement of the status quo with a few minor adjustments.

You will hear a lot of rhetoric about the differences, but you will not hear much about the fact that it is a perpetuation of massive budget deficits which will continue to sap our capital investment, raise real long-term interest rates and reduce economic growth, competitiveness and productivity.

The underlying economic problem of this country is a result of misguided fiscal and tax policies and these budget proposals do not correct that.

What we have got is essentially a continuation of the same stuff that will produce a $400 billion deficit in 1993 and deficits in excess of $200 billion a year as far as the eye can see.

And so we have plan A and plan B from the Democratic side, and the President's budget, as a substitute to be proposed by Mr. GRADISON as well as other substitutes to be offered.

The public should understand what the differences are—and they are not much.

Basically, the two-headed Democratic plan cuts defense outlays by $5 billion more than the President's budget for fiscal year 1993. Plan A would break the Budget Enforcement Act and apply those additional defense reductions along with some of the President's other reductions to more domestic spending programs. Plan B would stick to the Budget Enforcement Act and apply the additional defense reductions to deficit reduction, and those who support that should be commended.

While the differences between plans A and B are not great for fiscal year 1993, the differences in principles are: Plan A breaks the budget agreement. That act, which caps discretionary spending, is the only thing in the law today that is partially restraining runaway spending.

Both plans A and B are uncertain as to what defense outlays would be beyond 1993.

Defense requires long-range planning and these cuts set in motion actions with long-range consequences that both plans A and B leave up in the air.

The President's plan to be offered by Mr. GRADISON is essentially the same as plan B on domestic spending but is quite clear in its proposal to reduce defense spending by $50 billion over 5 years. It also holds to domestic discretionary spending caps.

Where all of these proposals fall short is their failure to address the dramatic increase in mandatory programs, due primarily to the rampant increases in the cost of medical care across this country. Entitlements make up over 50 percent of this budget and the 13-percent annual increases in medical care, roughly four times the rate of inflation in the economy, are driving up budget projections for Medicare and Medicaid right through the roof to $344 billion in 1997 or over 20 percent of the budget.

While most entitlement programs are growing at or below the rate of inflation, Medicaid is expected to leap 18 percent in 1993 and roughly 13 percent per year thereafter. Medicare is increasing at an annual compound rate of over 11 percent per year.

Chairman PANETTA, to his credit, included in his December 1991 report the following statement:

> The concept of an entitlement cap is strongly endorsed by the committee and it deserves to be examined, carefully defined, and ultimately enacted.

I sought in the Budget committee to put teeth into this rhetoric by offering a plan to cap the rate of growth in Medicare and Medicaid at a factor determined by the caseload growth rate projected plus the Consumer Price Index, plus 2.5 percent, primarily as a way to force this Congress into dealing with the cost-drivers that are forcing up medical care costs for everybody in this country. That works out to roughly 8 percent per year or twice the rate of inflation. The object of such a move is not to cut anyone's benefits. In fact, it is designed to save them, but rather to force the authorizing committees to honestly address the factors that are driving up everyone's health care costs both in the public and the private sector; but the committee chose not to lead in that respect.

And so, Mr. Chairman, what we are voting on today is more of the same old stuff; a continuation of the status quo. All of these proposals fall short, but plans A and B fall the shortest. The President's is superior to the committee's proposal.

But anyone who thinks we are solving the fundamental economic problems of this country by agreeing to this budget resolution is either selling you the Brooklyn Bridge or has just bought it.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of House Concurrent Resolution 287, the fiscal year 1993 budget resolution. The Budget Committee faced an unusual set of challenges in drafting this resolution: compelling domestic needs, a shifting international balance of power, and the overriding need for deficit reduction. I believe that the committee has made sensible choices in confronting these issues and, as a consequence, brings us a resolution that provides both flexibility and needed resources.

I am especially pleased that this resolution provides much-needed funds to address a looming crisis at the Government agency that serves as a life line for so many elderly and disabled Americans, the Social Security Administration. As a result of the 1991 comprehensive oversight initiative of the Committee on Ways and Means, we discovered that the Social Security Administration today faces serious problems on three fronts due to a 20-percent staff reduction during the Reagan administration:

First, the Social Security Administration cannot keep pace with the current level of applications for disability benefits. More than 800,000 Americans are now struggling to make ends meet while their applications sit awaiting action at SSA. Under the President's budget, this backlog of applications will rise by 70 percent next year—to an estimated 1.35 million applications—increasing the average time a disabled worker must wait for a decision from 3 to 7 months.

Second, SSA cannot answer its telephones. During early January, busy rates on the agency's 800 number averaged 80 percent on peak days and 73 percent on average days. Regrettably, the President's budget proposal assumes that this situation will continue.

Third, local Social Security offices across the country are failing to perform certain protective services mandated by law. They have fallen far behind in conducting continuing disability reviews of disabled beneficiaries, and they are failing to investigate individuals appointed to manage the funds of beneficiaries who are too ill or elderly to handle their own affairs.

Mr. Chairman, Social Security is too critical to the lives of millions of Americans to take a wait-and-see approach to these problems. They require action now. I am delighted that, in response to my request and that of Social Security Subcommittee Chairman, ANDY JACOBS, the Budget Committee has seen fit to initiate such action: Included in this resolution is an additional $500 million for SSA administrative funding under plan A and, under plan B, an additional $207 million. Added to the President's request of $4.8 billion, these funds will help avert a service crisis at SSA that threatens to disrupt the lives of millions of Americans.

Mr. Chairman, I commend Chairman PANETTA and the members of the Budget Committee for their work on this resolution, in particular their attention to the needs of the elderly and disabled. I urge my colleagues to give the resolution swift approval.

Mr. GRADISON. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. HOUGHTON], a member of the Committee on the Budget.

Mr. HOUGHTON. Mr. Chairman, I would like to commend both the gentleman from California [Mr. PANETTA] and the gentleman from Ohio [Mr. GRADISON], two intelligent, thoughtful, understanding people who really tried to work on this budget and have done a job that I have not seen in all my time on the Budget Committee.

The problem I see is that we do not know where we are going. We have got one clear budget, which is the President's budget, and we do not know what the Democratic budget is. Is it one, is it two, or maybe would it be more?

Everyone knows that we have got economic problems. That is no secret.

□ 1725

Everyone knows that we spend too much here; that is no secret. Everyone knows we are living on borrowed time and on borrowed money.

Now, suppose I say to you, "I have got a budget and I will hold to the agreement and this is what the number is," and then I say, "Well, now, wait a minute, there is something else. I really don't want to do that, because I got something else I want to spend some money on. So, if I can pass this amendment, that first budget will go out the window and this will be the one that we have." What are we voting on? It does not make any sense.

The thing that scares me is that the whole concept about the budget agreement which the chairman and the ranking member agreed to about a year and a half ago was that any additional money coming down from the military would go for deficit reduction.

Mr. Chairman, we had a trial vote on that in the Committee on the Budget, and it was voted down. That is what bothers me.

The key to any budget is really, "Did you keep the faith? Did you do what you said you would do? Did you break a promise?"

Well, we broke a promise on Gramm-Rudman I, we broke a promise on Gramm/Rudman II, and we broke a promise on Gramm/Rudman III, and now we are saying, "Well, you know, we need some things, we may break a promise again."

There are good things about the Democratic plan. I think the community development block grant is great, what we are doing in housing makes a lot of sense.

There are things about the Republican budget I do not think are particularly good, particularly taxing the credit unions, which I hope will be stricken in any sort of a conference.

But the thing that makes me appeal, and appreciative more of the President's budget is that it does not absolutely decimate the military.

Mr. Chairman, I got out of the service after World War II, in August 1946. Four years later we were attacked. The South Koreans were attacked by the North Koreans, and we had nothing.

Are we going to do this again? It does not make any sense.

This is a budget, a budget is a guideline; spending starts here. On one hand you have a clear, like-it-or-not, budget from the administration; on the other hand, what is it? Will the real Democratic budget really stand up and be seen?

Mr. Chairman, I am a Republican. I am going to talk against the Democratic bill.

I do not like to do this because I think anything I have been able to accomplish here has been done on a bipartisan basis. I say this not because what comes before us is the Democratic proposal. My problem is with two features to which Members ought to take exception.

The first feature is a tax increase on the so-called high earners. The problem is not with higher individual earners. The problem is with owners of small businesses who will have greater taxes at the very time they're struggling. Many of their businesses are not incorporated. They pay individual taxes. They are the people that are going to be hurt.

That is not a good idea. Two-thirds of all new jobs are generated by the very group being attacked. That may make sense from somebody's economic standpoint. It does not make sense from mine, particularly if we are trying to help this economy move again.

The second reason that I oppose this plan focuses on the $30 billion this package will cost the people of this country over the next 2 years, over and above the budget agreement. $30 billion.

Now, I am on the Budget Committee. I do not think it does the greatest job in the world, but the one thing it does try to do is to set up an element of discipline. If we break that discipline, we have nothing else to go on.

So, if we hit the small business people who are trying to create jobs which will bring us out of the recession—also if we break the small amount of discipline that we do have in the budget cycle—I think we are making a mistake.

One other point, Mr. Chairman. The economy right now is very sensitive to interference. It is driven by people, private individuals who are creating jobs out there, not by Members of Congress. Please, let us not do something for political purposes which is going to hurt the very fueling process that makes this country great.

Mr. PANETTA. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois [Mr. DURBIN], a member of the Committee on the Budget.

Mr. DURBIN. I thank my colleague, the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget, who has done an extraordinary job on a very, very difficult document. I also want to salute my colleague, the gentleman from Ohio [Mr. GRADISON] for his contribution and the contributions of all the members of the committee.

Mr. Chairman, it has been my pleasure to serve on the Committee on the Budget for 6 years. The job has not gotten any easier. But I do believe we have handled that responsibility in a manner that not only meets the needs of this Nation as best we can under trying circumstances, but also makes a sincere effort to reduce the budget deficit.

During the 6 years, I have tried to focus on many programs of importance to my district and my home State of Illinois, but I have tried to look to a national issue which I think is critically important. That is the issue of health.

I would like to take exception to some of the comments made earlier by my colleagues on the other side of the aisle who suggested there is no difference, that there are only minor adjustments between the Democratic approach to spending in this budget resolution and the approach by the President in his budget proposal.

I would tell you that in the area of health we are talking about significant differences.

Now, for those who have not followed this debate as closely, there are two budgets included in our resolution: plan A, which assumes that the walls will come down and defense savings can be spent for domestic programs; and plan B, which keeps the walls up and says that any savings on defense will go to deficit reduction, cannot be spent on domestic programs.

I would like to say to you that, even assuming plan B, which has the least amount of money to spend on domestic programs, the Democratic budget proposal is significantly better in the area of health than President Bush's suggestion.

Now, let me give you some specifics: The supplemental program for women, infants and children, a program that provides high nutrition for the most disadvantaged, family-at-risk generation in America today, receives significantly more funds under the Democratic-proposed budget; in fact, 25 percent more funds than proposed by the President.

We propose that some 415,000 more women, infants and children will receive this nutritional assistance than President Bush does. These are not minor adjustments; these are adjustments to give people an opportunity to help live a healthy life.

Mr. GRADISON. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. I thank the gentleman for yielding.

Mr. Chairman, is the gentleman talking about plan A or plan B?

Mr. DURBIN. I am talking about plan B; 415,000 more women will be served, 38 percent more than President Bush.

Under plan A, 600,000 more will be served. So, under either plan there will be a significant benefit to the WIC Program.

Mr. GRADISON. I thank the gentleman.

I think it would help in all of the debate on our side as well as the gentleman's side to say which plan we are referring to.

Mr. DURBIN. I think that is a worthy point.

I would like to say at the outset that I am going to address myself exclusively to plan B, which is the low-cost approach, the approach with the walls. And I think, even under that plan, we have made significant progress in the area of health.

Let me use a couple of other examples to show you what I believe we have accomplished.

In the area of immunizing children, you know, we take it for granted that if you live in middle America, your kids will get their shots, show up for school and have their check marks and physician's signature, and life goes on pleasantly. But for a lot of kids in America the immunizations never take place. They turn out coming to school needing immunizations or in fact are exposed to diseases, come down with measles, mumps, whatever and, frankly, have to be hospitalized at great cost.

Under our plan B we have recommended $150 million in budget authority to provide immunizations for more than 6 million pre-school-age children in America, 4 million more children than President Bush in his budget.

Now, in the area of community health centers, if you live in an underserved part of America, rural America, which I represent, or inner-city America, where you cannot find a doctor, you need a community health center so that a doctor is available. Under our recommendation, we increase funding by $100 million for community health centers, a 19-percent increase to provide primary and prenatal care to over 850,000 low-income Americans. This is a 15-percent increase over President Bush's request. This is not a minor adjustment. This is in fact a defining decision as to where we are going in this country.

In the area of the National Institutes of Health, I cannot tell you how important I think this is. Most Americans believe that the Federal Government is leading the way in medical research, and we are. But most Americans do not know that of all the applications for medical research to find cures for AIDS, for cancer, for heart disease, we fund one-fourth of those that have been approved. Three out of four are not funded. They wait another year or they are never funded.

There are cures waiting for funding. Each year, I push for more money for the National Institutes of Health, and I want to tell you that I am proud to report to you that we increased funding for NIH by $500 million under our proposal.

Within that we have increases for areas that I think are particularly important. Several weeks ago I had the pleasure of meeting in my office a woman named Elizabeth Glazer, a name that may not be familiar to you. She is from California. She has made it her life mission to find funding for pediatric AIDS research.

I am happy to report to Mrs. Glazer and to the many children whose lives are at stake that we have put an additional $5 million in to find ways to avoid transmitting AIDS from the pregnant mother to the fetus in the womb or the child who is born.

These are significant expenditures. Some of my colleagues are excited by the prospect of a space station and traveling to the Moon or Mars. That does not hold out the same kind of excitement to me as finding a cure for pediatric AIDS, a cure for the AIDS disease. And we are putting the money in the Democratic budget resolution to move us closer to that day.

I am very proud of that fact.

I might also tell you that we have added funding for the Alcohol/Drug Abuse and Mental Health Administration. If you want to fight a drug war, you fight it in drug clinics, in addition to police stations. You have got to take the people who are addicted and take them through rehabilitation. And we put more money in for that purpose than the President.

That is money well spent for all of America.

Let me say there is an area of disappointment here too. We have not increased the funding for the Food and Drug Administration, an agency I follow closely. We continue to heap responsibilities on this agency and we refuse to give them the resources to do their job expeditiously and professionally.

The day of reckoning is coming. If we want to have drugs and medical devices approved in a professional manner, we have got to put the resources to work to do it. I am sorry to report that neither the President's budget—in fact, the President cuts spending for the FDA—and I am sorry to report that our budget only holds them at last year's level. We do have to take that responsibility seriously.

Let me close by saying I think there are significant differences, defining differences between Democrats and Republicans. The Democratic budget proposal is committed to health research and health delivery, people who need it in America, and I think it does a better job than the President's plan.

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Mr. GRADISON. Mr. Chairman, I yield 6 minutes to the gentleman from Pennsylvania [Mr. SANTORUM], a member of the Committee on the Budget.

Mr. SANTORUM. Mr. Chairman, I thank the gentleman from Ohio [Mr. GRADISON] for yielding this time to me. I, too, want to congratulate the chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA], for the fine work he has done, for the exhaustive amount of hearings he had on this and other ideas with regard to the Federal budget we have worked on over the past year, and also the fine work of my ranking member, the gentleman from Ohio [Mr. GRADISON], for his work on facilitating a lot of the work we have been doing on the Republican side of the aisle to come up with some alternatives to the budget problem.

Mr. Chairman, I am a new Member of Congress, and I came here with some very clear goals in mind. One of them and one of the reasons I wanted to serve on the Committee on the Budget was because I thought we had a real problem in this country with the budget deficit. It is $300-some-odd billion. I know that number sort of flips off the tongue pretty easily around here, but that is a big number. It is 351 billion, with a b, dollars. That is a concern to me.

Under either budget, any of the budgets, really, we are going to be voting for, we do really nothing in the area of deficit reduction. We do virtually nothing to get this deficit, this runaway deficit, under control, and that to me, if there is anything that I come here a little dissatisfied about or disheartened about, it is we have not really taken a serious look at the No. 1 problem, in my mind, facing us, the economic recovery.

In fact, Mr. Chairman, if my colleagues look at the Economic Journal, the February 22 edition, it says, "Digging out from under—America's mountain of debt is stalling an economic recovery," and inside it is the cover article. It says, "Why won't the recession go away," and the answer is, "The answer: a debt-soaked national balance sheet," and what the gentleman from Illinois [Mr. ROSTENKOWSKI] and others have said is right. There are a lot of needs out there in this country, and there are a lot of people who have problems that we have to solve, but taking money out of their pockets so they cannot solve that problem, by soaking up all the resources for investment of industry, by soaking up all the capital out there for our use here in Washington, is not going to solve those problems, is not going to help solve those problems.

I believe that the people out in America know how better to spend their money than we do. I mean it is a fundamental belief that by using more and more, and putting us deeper and deeper in debt, all we are doing is bogging down this economy, and the other thing we are doing that really bothers me is I have an 11-month-old daughter, and I look at Elizabeth every day, and I say, "Elizabeth, are you going to have the kind of country to grow up in that I had? Are you going to have the opportunities that I had? Every day we're spending a billion dollars more than we take in, and, Elizabeth, you're going to pay that the rest of your life."

More and more the national debt keeps going up. It is $4 trillion now, $4 trillion. I mean I wish I had Ronald Reagan's gift for being able to put that in some sort of terms that could be understood like linking paper clips from here to the moon. I do not know what it would be, but it is an amazing amount of money that my colleagues and their children are going to be saddled with the rest of their lives. And we are doing this.

Mr. Chairman, let us talk about the politics of greed here in Washington. We just soak all this money in and let the future generations pay for it. That is the politics of real greed.

I know these are tough decisions. I know it is very difficult to cut programs. I know it is very difficult to rein in entitlements, but we owe it to the future. We owe it to the kids. We owe it to the future, that they have at least as good an America as we have, and these budgets do nothing to solve that problem.

About 8 months ago the gentleman from Ohio [Mr. KASICH], the gentleman from Washington [Mr. MILLER], the gentleman from Texas [Mr. DELAY], and I started to work on an alternative budget that was going to try to approach this problem and do something about deficit reduction, try to cut the deficit. It would not take big globs and chunks out of it, but do something in the way of reducing the debt, and we came up with a budget that cut $32 billion. That is not an enormous amount, about less than 10 percent of what the deficit would be. We tried to push some of those programs into the Committee on the Budget, and we were defeated, as was stated by the gentleman from Ohio [Mr. GRADISON] earlier. We also have tried to talk with the President and tried to get him to put it into some of his budgets, and unfortunately we were not successful in that.

However, Mr. Chairman, I can tell my colleagues that there are a group of people here who really do care about what the deficit is doing to our country, and I know everybody stands here and says, "Wow, we really do care about the deficit, and, yeah, we know it's a national problem," but, my colleagues, we have got to start doing something about it instead of paying lip service to this problem. This is a serious problem, and I know that everybody out there believes it, that this is a serious problem, and I know that this is a difficult thing.

But there are plans, and we are happy to share them with our colleagues. We have ideas about how to reform the Government, how to reform proposals that are going to make Government work more efficiently, that will do things to really start to get at some of the systematic budget deficits we have here, that is going to reform entitlements, not to take away benefits from people, not to rob people of what they need in society, but to better and more efficiently manage these programs and make them work so that we do not have, as my colleagues know, generation after generation of Americans dependent on the Government. But we empower people to do and take care of themselves, and we do it with less money.

We have to start looking at these problems. We have to start trying to deal with these solutions, no matter how tough, how politically sensitive and how unpopular they are. That is our job, that is why we are here, and I hope we will have the will at some point to do it.

Mr. PANETTA. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New York [Mr. RANGEL], a member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Chairman, I had not come to the floor to speak, but I was so moved by the eloquence of the preceding speaker in an attempt to describe to the Americans just what $300 billion can mean in terms of our deficit, and I think that I can do a little better than linking paper clips. Ronald Reagan may have suggested in saying that $300 billion is the figure that has been given to me as what we are losing every year in lost revenue, in paying for the drug addiction, and crime problems that face our Nation today. If we took all that we are throwing at treatment, all that we are throwing in jails, all that we are losing in revenues, all that we are losing in productivity, it would come to $300 billion a year, and I understand from Dick Darman of the Office of Management and Budget, from the President's Economic Adviser, as well as from the Secretary of Treasury who testified in front of the Committee on Ways and Means, that $300 billion is a low and conservative figure, and that is the reason why, when we talk about spending that, how could we not talk about cutting back, including the military?

Mr. Chairman, that is the reason why I believe that the Dellums-Towns Congressional Black Caucus approach, which cuts an additional $50 billion of military spending, makes a lot more sense because, instead of investing in bombs and arms, we are investing in domestic spending to make it possible for Americans to be more productive, raise the revenues to reduce the deficit.

Mr. Chairman, let me thank the gentleman from California [Mr. PANETTA] and the Republicans that worked with him in fashioning a budget that not only reduces Federal spending, but tries to do something with the deficit, not by cutting out domestic spending, but trying to tackle the drug problem in a way that I think is the most dramatic and the most meaningful.

Some of my colleagues have heard Jack Kemp and Bobby Garcia, a former Member, and I talk about the enterprise zones. For years it just languished in the Committee on Ways and Means because, while everybody talked about it, no one was excited enough to spend the money that was necessary in the budget to do something about it. Well, this year the Committee on Ways and Means has put this in the tax bill that passed the House, but it is not just an enterprise zone bill. It is a bill that says that it takes more than tax incentives to go into communities that are ravaged with crime, drugs, joblessness, and hopelessness. That we really have to think of human beings the same way we think about plants and equipment—and so—going to the Attorney General's office, as well as working with HUD, we took a program called Weed and Seed, and the gentleman from California [Mr. PANETTA] has put together $500 million, $65 million more than the administration asked for, $280 million in new money so that we do not have to transfer the moneys from other programs into these zones which provide economic incentives for entrepreneurs, but also funds for the supplemental Head Start Program to allow employers to increase the training and to eliminate——

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The CHAIRMAN. The time of the gentleman from New York [Mr. RANGEL] has expired.

Mr. RANGEL. Mr. Chairman, I would ask the gentleman from Ohio [Mr. GRADISON] if he would yield 1 minute of his time to me.

Mr. GRADISON. I am sorry, Mr. Chairman, but all my time has been asked for. I wish I could accommodate my friend, but I cannot.

Mr. PANETTA. Mr. Chairman, I yield 30 additional seconds to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, what I am saying is that all the things about fighting against crime are in there, but at the same time, all the things that are necessary to prevent crime are also there. We save a lot of money by keeping people out of jails and out of hospitals and reducing the deficit by making these people productive.

Mr. Chairman, I thank the gentleman for the additional time.

Mr. GRADISON. Mr. Chairman, I yield 6 minutes to the gentleman from Louisiana [Mr. MCCRERY], a member of the Committee on the Budget.

Mr. MCCRERY. Mr. Chairman, I rise today in support of the President's budget for fiscal year 1993. Historian John Buchan said "The hasty reformer who does not remember the past will find himself condemned to repeat it." My colleagues, heed this: Two times in the last 50 years Americans were thrust into wars that, I submit, may have been prevented had we used keener discretion in national security affairs. I believe adopting the Defense spending plan in the majority's budget resolution cuts into the muscle of our national security system, terminating needed forces and weapons. To explain why I believe this, let me begin by saying we have learned two lessons in modern history.

The first lesson is that the United States has always engaged in rapid and deep reductions in national defense after major conflicts, only to be challenged by tyrants who perceive America as too weak in will and readiness to defend her national interests. I cite as a case in point the post-World War II comments of Secretary of State Dean Acheson—who announced on January 9, 1950, that the American defense perimeter in the Pacific included Japan, Okinawa, Formosa, and the Philippines. South Korea was left off this list and expected to defend itself. By July 1950, American forces were engaged in combat on the Korean Peninsula.

The point is, after 5 years of rapid and deep cuts after World War II, America was in a poor state of readiness. Lack of readiness, combined with no signal of national will, led to a major invasion of that small country by its enemy to the north. The U.S. Army suffered 1,884 killed in action in the first 6 weeks of fighting.

This was not an abberation. After Vietnam, deep and rapid cuts were made in defense spending, and in 1975, a small country in Southeast Asia took control of our *Mayaguez* and her crew. In 1979, Iran took American hostages. Our lack of readiness became evident to all the world when we couldn't even fly a few helicopters across a desert, much less rescue Americans held against their will. And just when we thought we were coming to a new era of peace after winning the cold war—a new tyrant named Saddam arose to threaten our national interest and question our resolve and readiness. Even recent history teaches us not to make deep and rapid reductions in Defense spending.

The second lesson is that we cannot predict where future unknown threats to American interests will arise. I emphasize future threats because the Defense plan in the budget resolutions recommended by the House Budget Committee is based on past threats. We cannot predict the nature of the next challenge to our national interest. As sure as Iraq surprised the world by invading Kuwait, that challenge will come.

The fiscal year 1993 budget resolution adopted by the Budget Committee assumes the world is a far safer place, requiring less military capability than that recommended by Chairman of the Joint Chiefs of Staff—Colin Powell—and Secretary of Defense—Dick Cheney. These are two of America's most brilliant leaders in any sector of our Government. These leaders who brought us swift and sure victory in Operation Desert Storm make a defense spending recommendation that provides readiness, adequate force projection, and demonstrates a will to protect American interests. I challenge anyone to give a single reason why these two intelligent American leaders would not present a well reasoned, threat-based plan for our national security forces. Remember, readiness requires being ready for likely threats to our national interests, but should include being ready for the unexpected.

The President's defense budget provides sufficient resources to meet readiness goals and unexpected threats. The fiscal year 1993 Budget Committee resolution now before the House does not.

The President's defense budget hinges on the concept of the base force, a flexible strategy that abandons the old cold war assumptions and focuses on the kinds of regional conflicts that could emerge in the future—including the unexpected. The base force, which will result in a 25-percent reduction in military manpower, assumes a substantial reduction in the threat of a Soviet invasion of Western Europe, and a deescalating nuclear superpower conflict.

The majority party has a great deal to say about the changes the world has undergone in the past 3 to 30 months, and they are correct. However, it is no secret in Washington that the President's defense budget has already taken these changes into consideration. Yet, the majority's budget resolution argues the President's defense plan does not take these changes into consideration. The truth is, it is the majority's defense plan which fails to acknowledge emerging threats to American national security.

Such emerging threats include:

First, improved ballistic missile capabilities: The Central Intelligence Agency and others have cautioned that by the year 2000 an additional 15 nations will possess ballistic missiles capable of reaching the United States.

Second, fire sales of military hardware: The Republics of the former Soviet Union are showing signs of financing their way out of domestic troubles by selling off military hardware. United States intelligence officials indicate the Russians plan to sell two *Kilo* class attack submarines, five miniature submarines, and Mig-29 supersonic jet fighters to Iran. The Russians also are negotiating the sale of angle-deck aircraft carriers, ships as capable as any owned by the United States, to China and India.

Third, nuclear proliferation: North Korea continues to vigorously pursue the acquisition of nuclear weapons. In addition, Iraq is balking at permitting the destruction of its nuclear weapons and ballistic missile production facilities.

The defense spending plan in the fiscal year 1993 budget resolution submitted by the Budget Committee cuts the Department of Defense deeper than the President's budget by $7.4 billion in spending authority and $5.2 billion in outlays in fiscal year 1993. The majority's defense budget is based on one of four options offered to the Budget Committee by the Armed Services chairman who concedes that the defense options have yet to be thoroughly reviewed and analyzed.

Even more troubling is that the majority defense budget adopts deep cuts in defense for fiscal year 1993, yet the outyears have higher defense spending authority in fiscal years 1994–97 than the President's defense plan, $35 billion over 4 years. This inconsistency between deep cuts in fiscal year 1993 and much higher increases in fiscal years 1994–97 highlights the lack of analysis by the majority on how the defense budget is linked to national security.

Finally, we have heard much during this political season of creating and maintaining jobs. I ask you, how well thought out is the majority plan that, if followed to its logical conclusion in future years, would cut 217,000 Active Forces over 5 years in addition to the 530,000-person reduction sought by the President in his plan. I would argue that achieving the President's reduction in force will be difficult to achieve without involuntary separation of military forces. Even deeper cuts will threaten morale, weaken training efforts, and impair readiness. The majority defense cuts would result in an additional 90,000 unemployed Active Forces by the end of fiscal year 1993, and 110,000 more at the end of fiscal year 1995.

Another concern is that the majority defense plan assumes only 16,000 reserve personnel will be cut while two active divisions will be eliminated. However, roughly 60,000 reserve personnel are needed to support two active divisions. It is unclear from the information provided in the majority plan whether they are hiding the number of reserves they plan to cut, or if they intend to retain 44,000 without a mission.

Mr. Chairman, the House of Representatives has the responsibility for enacting a defense budget that provides a reasoned and analytical approach to national security. This responsibility should be taken with grave seriousness when dealing with the lives of brave men and women in uniform. We have a responsibility to lead, and to make decisions based on reason and analysis. The majority defense plan is not based on reason and analysis. We should support the president's defense plan because it was designed by the best and the brightest America has to offer her citizens. Let us heed the call to reason and analysis while abandoning irrational political posturing.

I urge the rejection of the Democratic budget which would lead the United States to make the same mistake we have made too many times in the past—after a great victory, we assume the world is safe, and we tear down our defense structure, only to pay for it later with American lives and crisis spending.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from South Carolina [Mr. SPRATT], who is a member of the Committee on the Budget and who has been so very helpful in helping us in defining the defense numbers.

Mr. SPRATT. Mr. Chairman, I rise in support of the budget resolution reported by the Budget Committee. And I would like to focus on function 050, the budget allocation for defense.

The budget resolution allocates to national defense $247.4 billion in budget authority. It allows for $287.2 billion in outlays, or actual spending, in fiscal year 1993.

To connect these numbers to the present, it helps to start from a baseline we all understand: The ceiling on defense spending agreed to in the budget summit and enacted in the Budget Enforcement Act.

This year, according to the Budget Enforcement Act, the ceiling for defense spending is $288.4 billion in budget authority, and $296.2 billion in outlays. The President has already decided to bring his budget below that ceiling. His budget cuts budget authority for Defense to $281 billion in fiscal year 1993, which is $7.4 billion below ceiling; and it cuts outlays to $291.4 billion, which is $4.8 billion below ceiling.

This budget resolution merely builds on those cuts. It increases the President's cut in BA from $7.4 to $14 billion, and it increases the President's cut in outlays from $4.8 to $9 billion.

Insofar as defense is concerned, that's what this debate is all about. It's about a cut of $6.6 billion off the President's mark for BA, and a cut of $4.2 billion off the President's mark for outlays, hardly enormous cuts. In percentage terms, what the Budget Committee is saying is that Defense budget authority/050 can be cut by 2.3 percent more than the President has already cut it. And that outlays should be cut even less—by 1.4 percent below the President's request.

The Budget Committee did not pull these numbers from thin air. We held hearings; we heard from all sides; and in the end, we took the advice of Mr. ASPIN, the chairman of the Armed Services Committee. He advised the Budget Committee that Defense BA could be cut by another $5–$7 billion beyond the President's cuts, and the committee opted for the upper end of his range: $6.6 billion.

Mr. ASPIN, for his part, did not take his recommendations off the back of an envelope. Since late last fall, the Armed Services Committee staff have been engaged in what the chairman calls a bottom-up study of our Armed Forces, in light of the fact that the cold war is over.

The first phase of that study is finished. It outlines four force options, partly for analysis, partly for framing the debate for hearings. Three of the four options point the way to defense cuts over the next 5 years that are deeper than the President proposes. Option C, which the chairman prefers, holds the potential of $91 billion in cumulative cuts over the next 5–7 years.

We have only begun to explore these options; no one has settled for sure on any of them; and this budget resolution does not lock us into any of them. It puts defense spending on a down-sloping curve that is a little steeper than the President's. And it positions defense spending for further cuts next year, when the walls come down and the cap gets tighter. The discretionary spending cap next year is $7 billion below the cap for this year.

In addition to its macrostudy of the force, the staff did a quick study of next year's budget to see if $6.6 billion more could be cut without damaging personnel or readiness, two things we clearly want to protect.

We have the finest forces our country has ever fielded; and we do not want to lose quality or morale or break faith with our All-Volunteer Force as we downsize all four services. And we want to stay ready. Even after the cuts being proposed are implemented, we will be spending billions on defense; and we do not want to spend billions, only to have a hollow force. It we want forces that are ready, then we have to pay the price; we have to fund flying time, steaming time, live-fire training, and op-tempo overall.

Yesterday, we met with Secretary Cheney, who warned us that the outlay cuts in this budget resolution will drive us to deeper cuts in the personnel accounts and in O&M. He warned specifically he might have to cut 300,000 more in personnel if we adopted the Budget Committee's recommendations. Cutting $6.6 in budget authority and $4.2 billion in outlays from the President's budget will not be easy, but I believe it can be accomplished without further cuts in personnel. And I can tell you from serving 10 years on the Armed Services Committee that we will avoid such cuts if there is any way possible. Indeed, Secretary Cheney acknowledged that the budget reductions before us today could be accomplished by cutting O&M by $4.5 billion and R&D by $3.1 billion—though he warned that such cuts would hurt long-term modernization and readiness too.

I firmly believe there are ways to cut this $287 billion budget, without cutting personnel or cutting readiness. Let me suggest just a few examples. The defense budget is divided into six major accounts. The largest of these is O&M. The request for O&M next year is $84.5 billion. Some of this goes to ammunition and fuel, repairs and maintenance—basic readiness. But out of it also, the services buy spares, replacement parts, inventory for everyday operations, which is stored in depots and warehouses. In January, the GAO reported that DOD accumulated over the last decade an enormous inventory of all sorts, stored in depots and warehouses around the country. According to the GAO, the total value of this inventory, based on its cost, is $250 billion. That's inventory on hand; it has increased by $150 billion in value over the last decade. Small item inventory grew from $43.4 to $101.9 billion. Based on its study, GAO recommends that the budget provision for secondary or small items can be cut by at least $5 billion below amount purchased in fiscal year 1992.

Here is one proposal alone that would cover most of our BA reduction and much of our outlay reduction. In addition to trimming excess inventory, the O&M budget might be trimmed by as much as a billion dollars, because the defense operating fund, which has an annual throughput of $77 billion, is alleged to be overfunded by this much at least. Already this year, $1.2 billion in excess funds has been taken from this account for helping the Russians and the Kurds. Or O&M can be reduced by terminating foreign nationals employed at our bases overseas. Our remaining troops, who are at a lower alert level because of the collapse of the Warsaw pact, might take up some of the tasks assigned to foreign nationals.

The procurement accounts are down, and down sharply from 1990. The total request for fiscal year 1993 procurement is $54.4 billion; it was $81.4 billion as recently as fiscal year 1990. There are few big ticket items left; but surely savings can be found in a $54.4 billion procurement budget.

The R&D budget is lower than procurement, but it actually goes up in fiscal year 1993, from $36.9 to $38.8 billion, most of the increase for SDI. SDI is allocated $5.4 billion in the President's budget, $1.3 billion more than this year. If SDI is allowed an inflation increase only, $1 billion can be saved out of R&D.

In a budget of over $280 billion, surely saving 2.3 percent is not an impossible goal.

□ 1755

Mr. Chairman, in closing let me say what we have here is not an impossible challenge; it is a request to cut the defense budget by $2.3 billion and apply it on the deficit. If you want to vote for deficit reduction, vote for plan B and vote for the Democratic resolution.

Mr. GRADISON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the Democratic budget resolution.

Once again the Democratic majority has turned its back on the hard choices that need to be made in the budget. In fact, this time, they couldn't even decide on which of their own ideas they liked best.

President Bush made the hard decisions to reduce U.S. Armed Forces by 25 percent and terminate major defense programs such as the B-2 Stealth bomber, the Seawolf submarine, and the Minuteman III ICBM.

A domestic discretionary spending freeze, a cap on increases in mandatory entitlement spending, and the elimination of hundreds of Federal programs are also hard choices made in the President's budget.

Strictly allocating limited resources will always be done by making hard choices. Increasing Federal spending while our Nations has a debt of over $4 trillion will have to be done by gimmicks.

President Bush announced, as part of his base force plan, a 25-percent reduction in the U.S. Armed Forces. This deep, but prudent cut in military spending responds to the changing global climate without compromising the security of the United States and many of our allies who depend on our strength and support.

Despite the remarkable and encouraging political and economic changes taking place around the world, there still remain both identified and unanticipated threats to our national security. The Democratic budget would gut our defenses and throw an additional 300,000 service men and women out of a job. The goal of our military reduction is not demobilization, instead, responsible restructuring.

Deeper and less responsible cuts appear to be based more on political scheming in an election year rather than on security planning in the post-cold-war era.

By 1997, under the President's plan, defense spending, in real terms, will have decreased by almost 37 percent since the mid-1980's. In that same period of time, mandatory entitlement spending is projected to increase by 33 percent.

Unfortunately, while defense spending is declining in real terms, the Federal budget deficit hovers around $400 billion and this budget resolution raises the Federal debt ceiling to $4.5 trillion. In the light of this debt, the peace dividend is an illusion.

Today's budget charade has once again proven that the Democratic majority in Congress does not have to obey the law when it comes to budget discipline, they just have to change it. The only way to force the Congress to pass a balanced budget is to amend the Constitution to require that Congress pass a balanced budget.

I urge my colleagues to join me in opposing the Democratic budget resolution and in supporting a balanced budget amendment.

Mr. PANETTA. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. BROWN], the distinguished chairman of the Committee on Science, Space, and Technology.

Mr. BROWN. Mr. Chairman, I rise to commend the chairman of the Budget Committee, Mr. PANETTA, for his work, to support the concurrent resolution, and to indicate the importance of the resolution to the overall situation in this country with respect to research and development.

Mr. Chairman, the continuing economic recession in the United States has fostered at least one healthy development—a willingness to recognize and confront those factors which are impeding long-term economic growth, and with it the production of good, stable jobs. Some economists marvel at the pessimism of the American people in the face of economic statistics that do not seem to be all that bad. As usual, it is the people, not the economists, who are right. Their concern comes from the fact that many long-term trends—in productivity, in education, in investment, and in quality of life—are not positive in relation to our principal economic competitors.

These trends can be reversed. Sacrifice will be required to shift the Nation from an ingrained cultural pattern of overconsumption, toward a pattern of productive investment. And this investment must be carefully targeted, in infrastructure, in education and training, and in technology to rebuild the economy and the country. These are well-accepted, almost tired truths. But achieving political consensus on them, particularly in the climate of economic jump-starts and short-term giveaways which characterize most election-year politics, will be difficult.

Today, I would like to summarize the positions taken by the Science Committee in its "Views and Estimates" presentation to the Budget Committee 3 weeks ago. Specifically, we focused on how our Nation should target its investments to deal with three of the principal problems facing our economy. These problems are: First, the decline in U.S. economic competitiveness; second, the need to carefully manage the shift of our military infrastructure into productive civilian investments; and third, the need for increased energy security.

I am pleased that the Budget Committee, in its wisdom, has reported a bill which embodies many of our suggestions. Plan A highlights a number of programs in function 250—in NASA and in basic science conducted by the National Science Foundation and the Department of Energy—which are critical to this Nation's research base. Plan A also provides for substantial increases in applied technology programs in the Department of Commerce and for conservation and renewable energy programs at the Department of Energy. These are all commendable initiatives—initiatives that we highlight in our "Views and Estimates"—and they form the basis for my strong support of the resolution before us today.

Let me briefly elaborate on the three challenges facing our economy.

First, we have a serious problem with global competitiveness.

The 1985 report of the President's Commission on Industrial Competitiveness presents the bet commonsense definition of competitiveness:

> Competitiveness is the degree to which a nation can, under free and fair market conditions, produce goods and services that meet the test of international markets while simultaneously maintaining or expanding the real income of its citizens.

A recent report of the Office of Technology Assessment, Competing Economies, points out that we are failing the Commission's definition on both counts. First, we are not meeting the test of international markets. Our share of the world's merchandise imports has risen steadily over the past 20 years—from 12 to 18 percent—while our share of exports has fallen—from 14 to 10 percent. At the same time, imports have captured an increasing share of the U.S. domestic market, rising from 3 percent to over 9 percent of GNP in the past 30 years, and our trade balance has suffered accordingly.

A good part of the bad news in trade statistics is due to the fact that productivity gains in the United States have been far slower over the past 30 years than in virtually all of our trading competitors. These trends in productivity have improved somewhat in recent years, but we still lag behind Japan and several other nations.

As OTA points out, some of these trends were inevitable as war-ravaged economies of Europe and Asia rebuilt their industries. Shrinking market share alone would not be cause for concern if the standard of living for Americans, both in absolute terms and compared with that of our major competitors, remained strong.

Unfortunately, on this second test, the trends are even more disturbing. Real hourly wages of manufacturing production workers peaked in 1978 at $9.50/hr. By 1990, they had sunk to almost $8, a decline of about 16 percent in only 12 years and the worst record in nearly 30 years. The problem is not limited to manufacturing workers. Real hourly and real weekly wages of all full-time workers—over 73 percent of the employed civilian work force—have been sinking too. Real hourly wages today are 12 percent below their peak in 1972, and are comparable to the levels of the mid-1960's.

Perhaps the most disturbing aspect of these trends is that there is no sign that they are abating. OTA concludes in "Competing Economies":

> If there are no major changes in government policies of developed nations, we expect U.S. manufacturing competitiveness to continue to sink compared to Japan. There will be more emerging technologies in which the dominant power is Japan and established industries will remain behind the Japanese world leaders.

Thus, while the current economic recession dominates the news, below the recession lurks a more disturbing economic trend—nearly 20 years of stagnant or declining living standards in the United States, with no improvements in sight.

The second major problem facing our economy is the need for civilian reinvestment, particularly in manufacturing.

While we have seriously neglected the civilian manufacturing sector in the United States, in the past decade we have paid for and supported a huge defense manufacturing base. We have also provided most of the Federal support for critical technologies and critical manufacturing processes through the Department of Defense. These policies and these technologies helped us win the cold war and the Persian Gulf war. Unfortunately, because of the differences between civilian and military manufacturing processes and applications, they will not generally be helpful in the continuing global economic competition.

Barring unforeseen international changes, the defense budget will continue to decline for the next several years, both in real terms and as a percentage of Federal spending. These declines present several challenges to our economy. We will need programs to deal with severe regional economic disruption in areas with high defense-related employment. In addition, much as in the former Soviet Union, there will be a continuing need to assist manufacturers and workers in making the transition to profitable civilian production.

It will be critical, as defense budgets are reduced, to ensure that critical high-technology elements of the defense industrial base are preserved and, to the extent possible, transferred to civilian production. In short, we should substitute civilian programs for defense programs in promoting the development of critical technologies.

The third critical problem facing our economy is energy security.

The largest component of the U.S. trade deficit is not cars or car parts. Nor is it consumer electronics. The single largest factor in our negative trade balance is the $50 billion that we spend every year to import oil. Worse, our use of imported oil continues to increase, from only 27 percent in 1985 to about 45 percent today.

Reducing both our reliance on imported oil and our total consumption of oil will have a number of beneficial effects on the U.S. economy, not the least of which will be economic insulation from oil price shocks and supply cutoffs. Further, we will realize additional benefits, in competitiveness and in environmental protection, if we undertake these reductions primarily through increased energy conservation and use of renewable energy sources. Our current wasteful use of energy not only drives our trade deficit, it also threatens our ability to compete in world markets. As our competitors continue to outpace us both in the efficient use of energy and in the development of alternative energy technologies, we will find ourselves further disadvantaged in markets that increasingly demand products that use energy efficiently.

There is a common element in the solution to the three economic challenges facing us—namely, the development of a coordinated technology policy.

Civilian manufacturing, especially in high-technology industry, is the cornerstone of the economic security of the Nation. Yet, the United States remains unique among industrialized countries in its lack of a coherent national strategy for civilian technological advancement. Although the legislative record reflects a grudging recognition of the need for a technology policy over the past 15 years, targeting of civilian high-technology industries has largely been viewed as outside the realm of Federal policy.

Unfortunately, the system which successfully led a global coalition against communism is not working effectively to expand the real income of U.S. citizens. After decades of focusing its resources and attention on international issues, the United States has emerged from the cold war to find itself struggling economically with competitors who did not neglect their civilian technology base, who invested far less in their defense infrastructure, and who have had far more focused technology policies. Japan, Germany, Korea, and other nations have targeted funding for industrial R&D in critical technologies. They have supported high-technology industries by steering low-cost capital in their direction, by protecting domestic markets, by promoting the transfer of technology from laboratories to factories, and by aggressively training a skilled and motivated work force for high-technology manufacturing jobs. At the same time, the United States rejected similar proposals to aid specific industries in the United States on the grounds that such support constituted industrial policy. As a result, we give up world leadership in many of our most important industries, such as steel, automobiles, and consumer electronics.

Regaining our global competitive position will not be an easy task. While private industry bears the major responsibility for producing high-value goods and services that are competitive worldwide, I believe that the U.S. Government must assume a more aggressive role in developing a supportive infrastructure for our industries. This includes: Creating a favorable investment climate for both industry and the private citizen; focusing the Federal laboratory system on supporting the development and application of critical technologies; investing in education to upgrade the skills of our work forces; developing a national network of technology extension centers to enhance industry's manufacturing capabilities, especially those of small to medium-sized companies; refocusing Government policies in the areas of trade, standards, and regulations; and developing the physical structures for transportation and communications. In its "Views and Estimates," the Science Committee discussed specific proposals in each of these areas, and we will be introducing comprehensive competitiveness legislation encompassing all of these proposals within the next month.

As we consider these proposals—many of which involve additional focused Federal spending—we must recognize that the relative decline in civilian research and development [R&D] funding is clearly not the sole explanation for the deterioration of our position in high-technology industries, nor is increased spending in this area the only answer to our national challenges in competitiveness, economic growth, civilian reinvestment, and diversification of our defense infrastructure, and energy security. Vigorous R&D funding will be of limited value if it is not accompanied by coherent R&D policies, including a coordinated technology policy and effective systems for technology transfer and utilization. Similarly, enlightened R&D policies will be of limited value unless accompanied by effective programs in education and training and by tax policies designed to promote long-term productive investments.

Nevertheless, examination of R&D funding trends suggest that there is a strong rationale for additional targeted investments in civilian high-technology programs. The resolution before us today includes funding for many of these targeted investments.

For most of the past 10 years, defense R&D soared while Federal civilian R&D failed to keep pace with inflation. During the same period, with no coherent Federal technology policy in place, private R&D investment fell behind levels set by our competitors. Today, as a result, these competitors far outstrip the United States in percentage of GNP devoted to civilian R&D investments. As a percentage of GNP, the United States is only investing about two-thirds as much as Japan or Germany on civilian R&D. Even with defense R&D included, the United States is still slightly behind Japan in total R&D expenditures. In many high-technology industries, it is not unusual for Japanese companies to spend up to 15 percent of their profits on cutting-edge R&D—often two to three times as much their United States counterparts.

Actually, according to two stories which appeared recently in the New York Times, I may even be underestimating the extent of our comparative decline in research and development. These stories, written by Bill Broad, highlight several disturbing trends. First, in the past 2 years, the amount of total R&D conducted in the United States has declined for the first time in over 20 years. In 1990, as a result of restructuring and recession, industrial R&D in the United States showed its biggest drop in three decades. Second, it is becoming clear that the Federal Government has been using inappropriate currency conversion rates and systematically underestimating the strength of Japan's support of industrial R&D. Using actual exchange rates between the dollar and yen, Japan—with half the population of the United States and an economy only two-thirds as large as that of the United States—is spending over $80 billion annually on industrial R&D, a figure considerably larger than that of the United States. In short, at a time when Japan is outspending the United States on capital investment—$586 billion versus $524 billion in 1990—it has also become the world's leading patron of industrial R&D.

It is compelling to note that this period of growing civilian R&D commitment by our competitors, which was unmatched by the United States, correlates with the decline in our industrial competitiveness. Furthermore, in those areas where U.S. R&D expenditures have remained strong, such as biotechnology, pharmaceuticals, and aeronautics, our competitive position has remained strong.

In light of the critical importance of R&D to economic growth, we would recommend as a fundamental national goal that the total Federal R&D commitment maintain pace with inflation over the next 10 years. As discussed below, this commitment will necessitate an acceleration of the ongoing shift of resources and personnel from defense R&D programs to civilian R&D programs. In addition, tax policies should be structured so that within a decade, private R&D investment will grow sufficiently to enable our overall civilian R&D investment level to approach that of our economic competitors.

While our civilian R&D expenditures stagnated over the past 10 years, defense R&D experienced 76-percent real growth. In 1979, the ratio of Federal defense to civilian R&D was 48:52. The ratio steadily rose to a peak of 69:31 in 1986 and has been slowly decreasing since. In fiscal year 1992, the ratio stands at 60:40, and in the President's 1993 budget submission, despite the greatly diminished Soviet threat, the ratio drops only one additional point to 59:41.

Given that the total annual Federal R&D investment is well over $70 billion, small percentage shifts from defense to civilian R&D have the potential to yield large returns in technological investment. Reversing the current 60:40 defense:civilian ratio to a 40:60 ratio would reallocate a total of $14 billion from defense R&D to civilian R&D programs. In light of the declining military but growing economic challenges facing the United States, I would recommend that a shift of this magnitude, phased in over a period of 5 years, should be a fundamental goal of U.S. R&D policy. The shift could be accomplished by a $2 billion transfer in fiscal year 1993, and $3 billion transfers in each of the succeeding 4 fiscal years.

The 1990 amendments to the Budget Act established caps through fiscal year 1993 for discretionary spending in three categories: domestic programs, defense programs, and international programs. In fiscal year 1994 and fiscal year 1995, the individual caps will be replaced by a total discretionary cap. The benefit of these provisions lies in the fiscal discipline that they impose; their weakness lies in their inflexibility. Momentous changes since 1990 have made it clear that threats to our national security are increasingly economic rather than military. Yet, the provisions of the Budget Act preclude transfers of funding from military to civilian accounts until 1994.

An unfortunate side-effect of the Budget Act, and of the way that the Appropriations Committees are organized, is that funding for civilian science programs is pitted, year after year, against funding for civilian social programs. With the defense funding capped and walled off by the Budget Act, recent congressional debates over increased civilian R&D funding have in effect become a surrogate for debates over military spending. Thus, in each of the past 3 years, the Congress has held extensive debates over whether the country should fund the space station and the superconducting super collider, or whether funding should instead be allocated to veterans, housing, water projects, and environmental programs.

The focus of these debates is fundamentally misguided.

The correct way to conduct the debate is to determine the appropriate level of civilian R&D funding and the rate and extent to which civilian R&D should replace military R&D in the Federal budget. Once these factors are determined, it is entirely appropriate to consider the merits of the space station or the SSC in the context of other R&D priorities. The only way to conduct this debate the right way will be to bring down the Budget Act wall between civilian and defense discretionary spending in fiscal year 1993, and then to shift funds from defense R&D to civilian R&D in an orderly and phased matter.

Mr. Chairman, the Science, Space, and Technology Committee has recommended a transfer of $14 billion from defense to civilian R&D over the next 5 years. Where should these additional civilian R&D funds be directed over that time? We tried to address this question in our "Views and Estimates," and we will include our proposals in comprehensive competitiveness legislation, which will be introduced within the next month. Briefly, let me summarize the elements of our proposal:

Technology policy coordination. We recommend the establishment of a Critical Technologies Office within the Office of Science and Technology Policy to promote critical technology development.

Industry-Government partnerships. We need to expand the Advanced Technology Program at the Department of Commerce, establish a low-cost commercialization loan program to bridge the gap between R&D and commercialization, expand industry-government R&D consortia, establish a network of regional manufacturing technology centers, and do a better job of promoting U.S. standards internationally.

Infrastructure. The National Science Foundation's Academic Facilities Program needs to be expanded, and the High-Performance Computing Program should be expanded and directed toward more general applications beyond research and education.

Targeting R&D funding. Federal laboratory partnerships should be expanded and improved, as should NSF's engineering research centers. In addition, we need to do a better job of internationalizing "big science" projects.

Education and training. We need to enhance support for the K-12 math and science curriculum and increase worker training programs.

Tax policy. Tax policy needs to be restructured to favor long-term capital investments in technology, education, and infrastructure. The declining investment in industrial R&D must be turned around.

Energy policy. Funding should be increased for conservation and renewable energy R&D.

Mr. Chairman, in summary, we need to address the key economic challenges facing us with strategies in a number of areas: technology development, education and training, R&D investment, energy policy, tax provisions, and trade policy. We need to develop a coordinated technology policy which maximizes investment to create high-quality jobs for the 21st century. Additional investments associated with these strategies may be financed by a two-step process: first, by bringing down the fire wall between defense and civilian discretionary spending in fiscal year 1993, and secondly, by the orderly, phased, and planned transfer of funding from defense research and development [R&D] accounts to civilian R&D.

I believe that the resolution before us today goes a long way toward addressing the concerns and the strategy that I have outlined. It does reinvest defense funding appropriately in a variety of productive civilian programs, many of which I have highlighted today.

Before I close, however, I would like to clarify a point regarding funding for function 250 that has caused some confusion. Under plan A, the committee has provided for substantial investments above a freeze level of $17.335 billion. Specifically, the committee has recommended that an additional $377 million be provided for the NSF, an additional $118 million for the Department of Energy, and an additional $501 million for NASA. The Committee assumes that $161 million in funding be transferred from the Department of Defense for NASA programs, and that an across-the-board 1 percent cut—$184 million—be applied to the function. In addition, the resolution reflects the fact that the administration has shown in its budget submission $230 million in offsetting receipts for this function. These offsetting receipts have no effect on the appropriations process. Thus, for all intents and purposes, the committee is recommending that appropriations for function 250 should total $18.147 billion, with $161 million of the total being transferred to NASA from the DOD budget.

Mr. Chairman, for this strong support for function 250 and for other areas critical to this country's science and technology base, I commend the Budget Committee for its work and urge the adoption of the resolution.

□ 1805

Mr. GRADISON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. DANNEMEYER], a member of the Committee on the Budget.

Mr. DANNEMEYER. Mr. Chairman, I thank my chairman for yielding time to me.

I want to talk just for a few moments about a publication I received from the populist caucus, signed by a member named Lane Evans. It says, "It may take years for this country to recover from cuts made to domestic programs to accommodate the unprecedented peacetime military spending of the Reagan-Bush administration."

Members, I have a chart here that lists the spending increases ranked by major programs from 1981 to 1991, and the biggest increase is in Medicaid, 212 percent. The next is net interest, 183 percent; Medicare, 167 percent.

Defense is No. 9. It is 73.5 percent. In other words, social programs spending is far outstripping any increase in defense spending during the decade of 1981 to 1991. And then if we want to take the period 1974 to 1991, we find the social programs spending is far and away outstripping defense spending, which in that period of time was No. 12. I am going to put this in the RECORD, just in case any Member claims that defense spending is the culprit whereby we are in this big deficit mess.

Spending increases—Ranking major programs

1981–91:	*Percent*
	Percent
1. Medicaid	+212.5
2. Net interest	+183.1
3. Medicare	+167.3
4. Housing assistance	+120.5
5. Social Security	+92.7
6. Civil service retirement	+90.9
7. Public assistance (AFDC, SSI)	+90.7
8. Nutrition assistance (food stamps)	+75.9
9. Defense	+73.5
10. Military retirement	+68.6
11. Other programs	+63.1
12. Unemployment compensation	+37.6
13. Veterans compensation and benefits	+25.6
1974–91:	
	Percent
2. Housing assistance	+855.6
3. Net interest	+808.9
4. Medicaid	+805.2
5. Nutrition assistance	+547.7
6. Civil service retirement	+489.5
7. Social Security	+381.2
8. Public assistance	+368.4
9. Military retirement	+352.9
10. Unemployment compensation	+344.3
11. Other programs	+281.2
12. Defense	+244.6
13. Veterans compensation and pensions	+138.2

Another analysis I have here is also an interesting one because from time to time we find Members of Congress take the floor and claim that Congress is appropriating less money than what the President asked for. This analysis takes the years 1982 through 1990 and shows that in every single one of those years Congress appropriated more money than the President asked to be spent. The period between 1982 and 1988, for example, during that interval of 6 years Congress appropriated $70 billion less than what the President asked for in defense. It appropriated $17 billion more for Medicare, $16 billion less for Social Security, and $47 billion more for net interest. And the biggest increase was $246 billion more in other programs, mostly domestic programs.

We are in this deficit problem not because we spent too much on defense but we have spent too much on social programs spending.

FEDERAL BUDGETS: THE PRESIDENT VERSUS CONGRESS

[Outlays in billions of dollars]

Function	President's requests			Actual outlays		
	WED[1]	CBO[2]	OMB[3]	WED	CBO	OMB
Fiscal year 1982:						
National defense	188.9	188.8	186.3	185.3	185.3	185.3
Medicare	46.6	47.1	43.2	46.6	46.6	46.6
Social Security	159.6	154.7	156.7	156.0	156.0	156.0
Net interest	82.6	82.5	68.4	85.0	85.0	85.0
Other	217.8	221.1	253.6	272.8	255.5	272.9
Total	695.5	695.3	708.1	745.7	728.4	745.7
Fiscal year 1983:						
National defense	221.1	221.1	220.0	209.9	209.9	209.9
Medicare	55.4	55.4	51.0	52.6	52.6	52.6
Social Security	173.5	173.5	175.3	170.7	170.7	170.7
Net interest	112.5	112.5	97.1	89.8	89.8	89.8
Other	195.1	195.1	230.1	285.3	273.0	285.3
Total	757.6	757.6	773.3	808.3	796.0	808.3
Fiscal year 1984:						
National defense	245.3	245.3	245.0	227.4	227.4	227.4
Medicare	59.8	59.8	59.8	57.5	57.5	57.5
Social Security	178.2	178.2	178.9	178.2	178.2	178.2
Net interest	103.2	103.2	106.3	111.1	111.1	111.1
Other	262.0	262.0	273.4	277.6	267.6	277.5
Total	848.5	848.5	863.3	851.8	841.8	851.8
Fiscal year 1985:						
National defense	272.0	272.0	272.0	252.7	251.5	252.7
Medicare	69.7	69.7	69.8	65.8	64.3	65.8
Social Security	190.6	190.6	190.6	188.6	190.2	188.6
Net interest	116.1	116.1	116.1	129.4	129.4	129.4
Other	277.1	277.1	291.7	309.8	301.4	309.7
Total	925.5	925.5	940.3	946.3	936.8	946.3
Fiscal year 1986:						
National defense	285.7	285.7	285.7	273.4	273.4	273.4
Medicare	67.2	67.2	67.2	70.2	70.2	70.2
Social Security	202.2	202.2	202.4	198.8	198.8	198.8
Net interest	142.6	142.6	142.6	136.0	136.0	136.0
Other	276.0	276.0	276.1	311.9	311.6	311.6
Total	973.7	973.7	973.9	990.3	989.8	989.8
	COM[4]			COM		

FEDERAL BUDGETS: THE PRESIDENT VERSUS CONGRESS—Continued

[Outlays in billions of dollars]

Function	President's requests			Actual outlays		
	WED[1]	CBO[2]	OMB[3]	WED	CBO	OMB
Fiscal year 1987:						
National defense	282.2			282.0		
Medicare	70.2			75.1		
Social Security	212.2			207.4		
Net interest	148.0			138.6		
Other	281.4			300.7		
Total	994.0			1,003.8		
Fiscal year 1988:						
National defense	297.6			290.4		
Medicare	73.0			78.9		
Social Security	219.4			219.3		
Net interest	139.0			151.7		
Other	295.3			323.7		
Total	1,024.3			1,064.0		
Fiscal year 1989:						
National defense	294.0			303.6		
Medicare	84.0			85.0		
Social Security	233.8			232.5		
Net interest	151.8			169.1		
Other	330.6			352.5		
Total	1,094.2			1,142.6		
Fiscal year 1990:[5]						
National defense	303.0			297		
Medicare	94.9			97		
Social Security	246.7			249		
Net interest	170.1			179		
Other	337.1			380		
Total	1,515.8			1,202		
	Cumulative					
	WED	CBO	OMB	WED	CBO	OMB
National defense	2,389.8	2,389.7	2,385.8	2,316	2,315	2,316
Medicare	620.8	621.3	613.1	630	629	630
Social Security	1,816.2	1,811.3	1,815.9	1,800	1,802	1,800
Net interest	1,165.9	1,165.8	1,139.3	1,186	1,186	1,186
Other	2,472.4	2,476.7	2,569.2	2,816	2,768	2,815
Total	8,465.1	8,464.8	8,523.3	8,749	8.700	8.749
	Deviations FY 1982–1988[6]					
	WED	CBO	OMB			
National defense	−74	−75	−70			
Medicare	+9	+8	+17			
Social Security	−16	−9	−16			
Net interest	+20	+20	+47			
Other	+344	+291	+246			
Total	+284	+235	+226			

[1] Representative W.E. Dannemeyer: President's budgets as submitted (fiscal year 1982 Reagan budget submitted in March 1981); actual outlays as reported.

[2] Congressional Budget Office: President's budgets as submitted, excluding off-budget programs (FFB); actual outlays (updated), excluding off-budget programs.

[3] Office of Management and Budget: original budget requests adjusted for comparable accounting (defense includes imputed accruals for military retirement, Medicare includes premiums as offsetting receipts, totals include off-budget outlays).

[4] Composite: estimates have been identical beginning in fiscal year 1987.

[5] Estimated.

[6] Actual outlays less President's requests.

Then another analysis that I want to also put into the RECORD deals with Federal spending by major categories. It has the vantage point of 1974 to 1991 and 1982 to 1992. And we find that social program spending has been exploding in all these years, and it was shown quite clearly that we are again in this deficit problem not because we are spending too much on defense but too much on social programs.

I have noted with interest some of my colleagues speaking today, and we should reflect on the fact that each minute that we talk we add $879,000 to the national debt. Each second adds $15,000 to the national debt. Each hour is $52.7 million to the national debt.

I will remind my colleagues that in this fiscal year 1992, we are adding $480 billion to the national debt. The national debt at the end of this fiscal year, September 30, is scheduled to be $4.037 trillion, and that is a moving target.

I mention this because I heard the gentleman from Illinois [Mr. DURBIN], my colleague. I do not see him on the floor now, he was talking about all the needed money that should be appropriated for these programs to which he makes reference. I wanted to ask the gentleman a question: Where does he think this money comes from?

It comes from the working men and women of this country who go to work every day, raise their families, support their charities and churches, and pay their taxes. And it comes out of the hides of those people.

I say that there needs to be some voice around this place that recognizes that we are just spending this Nation into bankruptcy. The data shows that in 1980, it took 20 percent of all revenue collected by the Federal Government to pay the interest on the debt. And by 1992, it takes 42 percent of all revenue.

If we just look at the income from the personal income tax in 1980, it took 30 percent to pay the interest on the debt. And in 1992, it takes almost 60 percent of the income on the personal income tax to pay the interest on the debt.

If we do not change our big spending habits around this place, there is a good chance that by the end of this century, maybe even before, it is going to take all of the income from the personal income tax to pay the interest on the debt. And we could even get to the point that it would take all of the income to the Federal Government itself to pay the interest on the debt.

I mention that because the Committee on Rules has permitted this Member from California to offer an alternative budget that will establish the lowest spending totals for any of the alternatives being suggested by the House at this time. I will have an opportunity during the presentation of that alternative budget to explain to the Members the details of it.

FEDERAL SPENDING BY MAJOR CATEGORIES

[Budget Outlays in billions of dollars]

Program	1974	1975	1976	1TQ	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1998	1990	1991	Increase	
																				74–91	82–92
Social Security	55.9	64.7	73.9	19.8	85.1	93.9	104.1	118.5	139.6	156.0	170.7	178.2	188.6	198.8	207.4	219.3	232.5	248.6	269.0	+381.2	+92.7
Civil service retirement	5.7	7.0	8.3	2.3	9.5	10.9	12.4	14.7	17.6	19.4	20.7	21.8	23.0	23.9	25.7	28.0	29.1	31.0	33.6	+489.5	+90.9
Military retirement	5.1	6.2	7.3	1.9	8.2	9.2	10.3	11.9	13.7	14.9	15.9	16.5	15.8	17.6	18.1	19.0	20.2	21.5	23.1	+352.9	+68.6
Other retirement (railroad and disabled coal miners	2.8	4.7	3.2	1.2	3.6	3.4	4.4	5.1	5.4	5.6	5.6	5.4	5.6	5.3	5.6	5.3	5.7	5.1	5.7	+103.6	5.6
Veterans compensation and pensions	6.8	7.9	8.4	2.1	9.2	9.7	10.8	11.7	12.9	13.7	14.3	14.4	14.7	15.0	15.0	16.0	16.5	15.2	16.2	+138.2	+25.6
Income security	76.2	90.5	101.1	27.3	115.6	127.0	141.9	161.9	189.3	209.6	227.2	236.3	247.8	260.7	271.7	287.7	304.1	321.6	347.6	+356.2	+83.6
Unemployment compensation	6.1	13.5	19.5	4.0	15.3	11.8	10.8	18.1	19.7	23.7	31.5	18.4	17.5	17.8	17.1	15.3	15.6	18.9	27.1	+344.3	+37.6
Medicare	9.6	12.9	15.8	4.3	19.3	22.8	26.5	32.1	39.1	45.6	52.6	57.5	65.8	70.2	75.1	78.9	85.0	98.1	104.5	+988.5	+167.3
Medicaid	5.8	6.8	8.6	2.2	9.9	10.7	12.4	14.0	16.8	17.4	19.0	20.1	22.7	25.0	27.4	30.5	34.5	41.1	52.5	+805.2	+212.5
Health programs	15.5	19.7	24.4	6.5	29.2	33.4	38.9	46.0	56.0	63.0	71.6	77.6	88.5	95.2	102.6	109.3	119.6	139.2	157.0	+912.9	+180.4
Housing assistance	1.8	2.1	2.5	.7	3.0	3.7	4.4	5.6	7.8	8.7	10.0	11.3	25.3	12.4	12.7	13.9	14.7	15.9	17.2	+855.6	+120.5
Food and nutrition assistance	4.4	6.6	8.0	1.8	8.5	8.9	10.8	14.0	16.2	15.6	18.0	18.1	18.5	18.6	18.9	20.1	21.2	24.0	28.5	+547.7	+75/9
Public assistance (SSI, AFDC)	7.9	10.1	12.2	3.1	13.0	13.8	13.4	17.2	19.4	19.8	21.1	21.4	22.7	24.4	25.3	27.9	29.7	31.4	37.0	+368.4	+90.7

FEDERAL SPENDING BY MAJOR CATEGORIES—Continued

[Budget Outlays in billions of dollars]

Program	1974	1975	1976	1TQ	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1998	1990	1991	Increase	
																				74–91	82–92
Social and welfare programs	14.1	18.8	22.6	5.6	24.5	26.4	28.5	36.8	43.4	44.1	49.0	50.8	66.5	55.3	56.9	61.9	65.6	71.3	82.7	+486.5	+90.6
Select paymens for individuals	111.8	142.5	167.5	43.4	184.6	198.7	220.1	262.8	308.2	340.4	379.3	383.1	420.2	428.9	448.2	474.2	504.9	550.9	614.4	+449.6	+99.4
National defense ...	79.8	86.5	89.6	22.3	97.2	104.5	116.3	134.0	157.5	185.3	209.9	227.4	252.7	273.4	282.0	290.4	303.6	299.3	273.3	+244.6	+73.5
Net interest on debt	21.4	23.2	26.7	6.9	29.9	35.4	42.6	52.5	68.7	85.0	89.8	111.1	129.4	136.0	138.6	151.7	169.2	184.2	194.5	+808.9	+183.1
Other spending	73.5	93.7	102.3	27.6	112.4	135.8	141.9	161.5	171.8	161.1	163.3	162.1	176.6	185.0	171.5	184.8	203.7	253.8	280.2	+281.2	+63.1
Undistributed offsetting receipts	−16.7	−13.6	−14.4	−4.2	−14.9	−15.7	−17.5	−19.9	−28.0	−26.1	−34.0	−32.0	−32.7	−33.0	−36.5	−37.0	−37.2	−36.6	−39.4	(+135.9)	(+40.7)
Total outlays	269.4	332.3	371.8	96.0	409.2	458.7	503.5	590.9	678.2	745.7	808.3	851.8	946.3	990.3	1,003.8	1,064.1	1,144.1	1,251.7	1,323.0	+391.1	+95.1
Percent annual increase (Percent)	9.6	23.4	11.9	n/a	10.1	12.1	9.8	17.4	14.8	10.0	8.4	5.4	11.1	4.6	1.4	6.0	7.5	9.4	5.7	....	....
CPI annual increase (Percent)	11.0	9.1	5.8	n/a	6.5	7.6	11.3	13.5	10.3	6.2	3.2	4.3	3.6	1.9	3.6	4.1	4.8	5.4	4.2	+176.3	+49.8
Real outlay growth (Percent)	(−1.4)	+14.3	+6.1	n/a	+3.6	+4.5	(−1.5)	+3.9	+4.5	+3.8	5.2	1.1	7.5	2.7	(−2.2)	1.9	2.7	4.0	1.5	+214.8	+45.3
Receipts	263.2	279.1	298.1	81.2	355.6	399.6	463.3	517.1	599.3	617.8	600.6	666.5	734.1	769.1	854.1	909.0	990.7	1,031.3	1,054.0	+300.6	+75.9
Nominal deficit	−6.1	−53.2	−73.7	−14.7	−53.6	−59.2	−40.2	−73.8	−78.9	−127.9	−207.8	−185.3	−212,3	−221.2	−149.7	−155.1	−153.4	−220.4	−268.7	+4,304.9	+240.6
Gross Federal debt	483.9	541.9	629.0	(643.6)	706.4	776.6	828.9	908.5	994.3	1,136.8	1,371.2	1,564.1	1,817.0	2,120.1	2,345.6	2,600.0	2,867.5	3,206.3	3,599.0	+643.7	+262.0
Real deficit	−17.6	−58.0	−87.1	n/a	−77.4	−70.2	−52.3	−79.6	−85.8	−142.5	−234.4	−192.9	−252.9	−303.1	−225.5	−255.2	−266.7	−338.8	−392.7	+2,131.3	+357.7

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Virginia [Mr. PAYNE], who is a member of the Committee on the Budget.

Mr. PAYNE of Virginia. Mr. Chairman, I rise in strong support of House Concurrent Resolution 287, the Budget Resolution for fiscal year 1993.

I would like to commend the chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA], our ranking member, the gentleman from Ohio [Mr. GRADISON], and the members of the Committee on the Budget for completing the work on this Budget Resolution so quickly.

This resolution, either alternative A or B, produces a budget deficit for 1993 that is less than that proposed by the President, and the budget deficit proposed for 1993 is about 20 percent less than the budget deficit for this fiscal year.

Plan B adheres to the spending caps set by the 1990 budget summit agreement and keeps intact the firewalls between defense, international affairs, and domestic discretionary spending.

Under these caps, domestic outlays will actually decrease below the 1992 level. The budget resolution before us recognizes that if we are going to compete successfully in the global economy, we must carefully target and invest our scarce Federal resources in our people, especially our young people, and our infrastructure. Significant increases are proposed in both plans for the Head Start Program for at-risk pre-school children and the WIC Program. The success of head Start and WIC at improving school performance and reducing health care and other costs are well documented.

The bottom line is simple: Children who cannot learn cannot become productive members of either our society or our economy.

There is a strong relationship between public investment in roads, rails, and airports and growth in the private sector. Spending on infrastructure makes private investment in plants more profitable. I believe the additional funding for highways, mass transit, and aviation included in this budget resolution will enhance America's competitiveness.

This budget resolution recognizes the need to protect and enhance rural America and provides for continued funding for community development block grants, community health centers, and the Economic Development Administration.

Mr. Chairman, during my tenure on the Veterans Affairs Committee—from which I am now on leave—I learned about the strains on the VA's medical care budget. During the 1980's, growth in the VA medical care budget did not keep pace with the 10 to 15 percent growth in medical inflation. For example, the prices the VA pays for prescription drugs has risen 21 percent in the last year and a half. Vietnam veterans suffering from post-traumatic stress disorder must wait up to 1 year to begin treatment.

The portion of the medical care budget set aside to help homeless veterans has been continually underfunded. As a result, the VA has been able to help less than 10 percent of those veterans who are homeless.

The VA system now handles more AIDS patients than any other Federal health care system, as our veterans grow older, there will be increased demands for long-term care. The budget resolution [plan B] will help address these and other urgent needs by allocating about $700 million in additional budget authority to the VA medical care budget.

The President's budget proposed $3.5 billion in cuts to VA benefits over 5 years. These cuts would have hurt veterans by increasing medical and drug co-payments, raising home loan fees and down payments, reducing pensions, and increasing contributions under the Montgomery GI bill. The budget resolution rejects all of these cuts imposed on veterans.

As the military is downsized, it is important to help ease the transition to civilian life for our service men and women. About $100 million, either plan A or B, has been allocated to provide transitional assistance for military personnel returning to civilian life and to address the unemployment needs of our Nation's veterans.

This 1993 budget resolution is responsible, and it puts us on the right path toward responsible budgets for 1994 and 1995 which meet the targets of the Budget Enforcement Act. I urge my colleagues to support this resolution.

Mr. CONYERS. Mr. Chairman, I rise and commend the good work of the Budget Committee chairman in expeditiously bringing the fiscal year 1993 budget resolution before this body. It is a product that is significantly better than the President's proposal in so very many ways.

Once again this President, like the President before him, has proposed a budget that favors the rich and leaves crumbs for the rest of America. His budget and its tax program would once again put a strong wind at the backs of wealthy investors, and a headwind of hurricane force against hard-working Americans. Frankly, I'm fed up with misguided leadership from the White House that continues to run the Government as if it were a playground for millionaires, rather than at the service of all Americans.

The Bush budget shaves only $44 billion off a proposed $1.5 trillion military budget over the next 5 years. That's a cut of 3 percent, less than $10 billion per year. The excuses for these levels of spending have vanished. The Warsaw Pact has collapsed; we don't need to protect West Germany from East Germany.

The Soviet Union has disintegrated; the hammer and sickle flag no longer flies over the Kremlin. The last time I looked the Russian leader was a capitalist, not a Communist.

Mr. Chairman, we have just come through a decade of disinvestment. Reaganomics I and II have bushwacked the economy and starved critical areas of investment that would promote economic growth, make us more competitive in the world, aid people in need, and reduce the deficit. We would need to spend $77 billion more for investment programs in 1993 than the President has proposed just to get us back to the 1980 level of Federal spending on investment. We are not talking poor people's programs here, Mr. Chairman. We're talking about infrastructure, education, job training, science and technology, economic development, and selected health and housing programs, programs that are the foundation of national security in the new world order.

So that is why I urge my colleagues to support the proposal of the Budget Committee. The budget resolution presents us with two plans, A and B. Both are superior to the President's proposal. This resolution reduces his ridiculously high levels of military spending. It cushions the hardship to families and communities caused by defense cutbacks. It makes a downpayment on investments needed to bring this economy out of recession and promote growth for the long term. It stops the President's budget cuts to Medicare, veterans programs, and a host of other critical activities. It gets rid of the charade of accounting gimmicks that is dishonest and a disservice to sound budgeting, and both plans reduce the deficit.

Plan A is clearly the superior of the two. It begins the process of rebuilding America by making some much-needed investments in education, health care, long-term economic growth and economic conversion, while making a downpayment on the deficit. Adopting this budget resolution will give America's veterans $586 million more than the President proposes, $2.2 billion more for education programs, nearly $600 million more for job training, and create thousands of more jobs in congressional districts across this country.

The Members from the other side of the aisle have criticized this side of the aisle for offering two plans. Mr. Chairman, two plans only make sense. Plan A can only work if this body passes H.R. 3732, a bill I have the pleasure of being the lead sponsor of, which would break down the walls between defense, domestic, and international spending. But the President has said he will veto such legislation, so we need a fallback position if we cannot override his threatened veto.

Mr. Chairman, I had hoped we could have done more and better with this budget. Proposed military spending is much too high. Domestic investments are way too little. Without those investments, our educational system will continue to slip, our infrastructure will crumble, and new technologies will go undiscovered. These investments are the future engine of growth that will get this economy working again and lead us out of our budget debt and our social deficits.

But I understand the realities of competing interests and counting votes. Again, I congratulate the Budget Committee chairman for a job well done under these trying circumstances and I urge my colleagues to support this resolution.

Mr. Chairman, it is also important that the Members consider two issues included in this budget resolution that go to the heart of our ability to efficiently manage the Federal Government. They are the imposition of a partial hiring freeze and a 1 percent across-the-board cut for certain administrative expenses.

The Committee on Government Operations has spent the last several months surveying the General Accounting Office, the inspectors general, and other experts on Government management to identify the most significant management problems in the Federal Government.

A recurring theme that shows up in many agencies and programs is the hollowing-out of Government, that is the scaling back of personnel, investments, and other resources to the point that the agencies are unable to perform their missions or provide the services for which they were created.

Hollow government was a creation of the Reagan-Bush administrations. It used personnel cuts and resource reductions in the misguided pursuit of downsizing Government. Record Reagan-Bush deficits show that hollowing out Government does not balance the budget, it simply leads to mismanagement, the inability to provide needed programs and services, and ultimately the expenditure of more tax dollars to fix the ensuing problems.

Let me provide just a few examples of the hollowing out of Government that has taken place over the last 12 years:

Twenty-five cents out of every dollar spent by American consumers are for products regulated for safety by the Food and Drug Administration. We are all now familiar with FDA's efforts toward safe breast implants. It also regulates such items as aspirin, AIDS drugs, heating pads, heart valves, and every type of food.

Despite these enormous responsibilities, Reagan-Bush cuts have decimated the FDA. After drastic cuts in the 1980's, its number of field inspectors has just now returned to its 1979 levels. As a result, the FDA is able to monitor a smaller share of the production, distribution, and sale of regulated products than a decade ago. Inspections have dropped by at least 40 percent over the past decade.

The NASA inspector general is able to audit only 4 percent of the agency's programs and contracts per year. Even by limiting audits to high priority areas, the inspector general staff can look at those areas only once every 9 years. This leaves the entire space program vulnerable to fraud, waste, and abuse of taxpayer dollars.

While the number of visitors has leapt from 172 million in 1970 to an estimated 267.2 million last year, the National Park Service's ranger force has remained static. This means less protection for visitors and resources in the system's 359 units.

At Pictured Rock National Lakeshore in Michigan, a ranger force of 80 has been cut to 14. Alaska's 12.6 million-acre Wrangell-St. Elias National Park—the biggest in the system—has only three rangers on full-time patrol. Vagrants constantly break into the Martin Luther King Jr. birthplace in Atlanta, seeking shelter and sometimes vandalizing the national historic site.

The President's budget, meanwhile, calls for a hiring freeze for civilian personnel by robbing Peter to pay Paul. For example, the Justice Department would receive an additional 3,672 employees, despite the fact that we have already doubled the size of the Department over the last 10 years. To fund those new bodies, the President would cut between 500 and 1,000 employees each from the Department of the Treasury including the Internal Revenue Service, the Department of Housing and Urban Development, and the Department of Interior, among others.

The budget resolution also includes a partial hiring freeze. But it provides much more flexibility to the Appropriations Subcommittees and the agencies to rehire those positions most needed for the efficient management of the agencies. I would urge the subcommittees to use that flexibility to ensure that managers, auditors, and other essential personnel are not lost.

Another persistent problem identified by the Government Operations Committee survey is the inability of the Federal Government to competitively attract the quality managers and specialists needed to run the Government. How does the President react to this challenge in his budget? By delaying the annual pay raise and making it that much harder to attract and retrain qualified employees.

The Budget resolution also includes an across-the-board cut of 1 or 2 percent for travel and overhead or other administrative costs. However, the resolution provides some flexibility to postpone cuts to capital investments, software purchases, and related expenses. Again, I urge the Appropriations Subcommittees to make these decisions very carefully so that essential programs are not hollowed out any further.

□ 1815

Mr. PANETTA. Mr. Chairman, I yield 30 minutes to the distinguished gentleman from Indiana [Mr. HAMILTON] for the purpose of debate on economic goals and policies. I ask unanimous consent that he be entitled to yield that time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GRADISON. Mr. Chairman, I yield 30 minutes to the gentleman from Texas [Mr. ARMEY] for the purposes of debate on economic goals and policies. I also ask unanimous consent that he may be entitled to yield time. Such time as he does not use, as I understand it, will be reserved and available to this Member for yielding to others later.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAMILTON. Mr. Chairman, I yield myself 15½ minutes.

Mr. Chairman, the Full Employment and Balanced Growth Act of 1978, sponsored by Senator Humphrey and Congressman Hawkins, wisely provided time in the consideration of the budget resolution for a debate on economic goals and policies. I think it is very important that we have such a debate. And I would urge my colleagues to rethink the focus of that debate. We can't keep focusing on the short run and the quick political fix. We need to address fundamental long-term problems in the American economy.

Apparently, economists are trying to decide whether we are technically still in a recession. If we are, it is the longest recession since the end of World War II. If we are not, we are in the weakest recovery since the end of World War II. In any case, it is hard to find grounds for optimism that a strong recovery is imminent.

And that is what I find really troubling. This recession is not just a temporary blip in an otherwise vigorous economy. Our economic performance has been disappointing for a long time now, and it looks like it will continue to be disappointing for a long time to come if we don't change the focus of the policy debate to pay more attention to the long term.

Many are asking an important question, "What should we do about the recession?" I think we also need to be asking the more fundamental question, "How can we restore healthy long-term growth and raise the standard of living of the average American family?" Some policies that look appealing for getting us out of the recession look less appealing when we consider their impact on the budget deficit and long-term growth.

I think we missed this point in our recent debate on the tax bill. Important as restoring some equity to the Tax Code and trying to stimulate the economy during this recession are, they are not the main problems facing the Nation. Our major effort really should be boosting productivity and long-term growth. And that means our priorities should be on reducing the budget deficit, increasing national saving, and making important long-term investments: in infrastructure, research, education, training, children.

Our problems did not begin with the recession and they will not end when the economy comes out of the recession. We didn't get into trouble in a few months, and we will not get out of trouble in a few months. And we will never get out of trouble if we continue to focus only on the short run.

I. THE SHORT-TERM OUTLOOK

Admittedly, this short-run outlook is disappointing. Most forecasts for this year, including the administration's, suggest that we will have modest growth of about 2.2 percent. This is well below the 4-6 percent rates of growth that have been typical of economic recoveries and it will not be enough to lower the unemployment rate much. The one piece of good news is that inflation should remain relatively low.

II. SHORT-TERM SOLUTIONS

A. DO NO HARM

It is understandable that we want to do something about the recession. But early in their training medical students learn that their first responsibility in treating a patient is to do no harm. I think there is wisdom for economic policymakers in that advice. We do not have a weak economy, but we should be careful that any cure we come up with for the recession is not worse than the disease. I am impressed that most economists remain skeptical that massive fiscal stimulus is the right medicine for this economy. I am convinced that working to achieve healthy long-term growth is the best way to prevent future recessions from lingering as long as this one has.

B. PRIMARY RESPONSIBILITY LIES WITH THE FED

My basic view is that the primary responsibility for getting us out of the recession continues to lie with the Federal Reserve. It made a dramatic move to lower interest rates in December, cutting the discount rate a full point to 3.5 percent. I wish the Fed had taken this kind of aggressive action sooner, and I do not expect the economic indicators suddenly to blossom. But lower interest rates will have an important positive impact on the economy. And I believe the Fed still has room to cut.

C. ANY FISCAL STIMULUS SHOULD BE CAREFULLY TARGETED AND SHOULD NOT MAKE THE LONG-TERM DEFICIT OUTLOOK WORSE

In principle, fiscal stimulus through increased Government spending or tax cuts could be a useful complement to lower interest rates in promoting a healthy recovery. But such a stimulus package would have to be carefully targeted and clearly temporary. Reducing tax receipts or increasing spending on a permanent basis would be disastrous for the budget. The Federal Government is already spending nearly $3 for every $2 that it takes in. In my judgment, another rate cut by the Fed would be a far more useful tonic to this economy than an ill-conceived fiscal stimulus package.

III. LONG-TERM OUTLOOK

A. RECOVERY FROM THE RECESSION WILL NOT CURE OUR LONG-TERM PROBLEMS

Unfortunately, recovery from the recession, however welcome, will not cure the more fundamental problems worrying the American people: poor productivity growth, declining competitiveness, stagnant wage growth, and growing income inequality.

National income was growing slowly for some time before we actually fell into recession. During 1989 and the first half of 1990, growth in the Nation's output of goods and services—real GDP—averaged only 1.2 percent per year, compared to 2.6 percent per year from 1979 to 1989. Moreover, average growth in the 1980's was slower than in any previous decade since the end of World War II; growth averaged 2.8 percent in the 1970's, 4.1 percent in the 1960's, and 3.9 percent in the 1950's. Most economists expect growth in the 1990's to be slower still.

Slower growth in national income is not just due to slower growth in the labor force. Hourly pay of the average American worker is only 3 percent higher now, after adjusting for inflation, than it was at the depth of the previous recession in 1982. This stands in marked contrast to the years from 1948 to 1973 when wages grew 3 percent per year. Families had to work harder and longer to get ahead in the 1980's. More than in any previous period since the end of World War II, upper-income families and workers achieved disproportionate gains in their standard of living. These problems of growth and fairness were evident before the recession and they will persist after the recovery if we do not adopt more sensible policies.

B. POOR PRODUCTIVITY PERFORMANCE AND INADEQUATE SAVINGS ARE THE ROOT CAUSE OF OUR LONG-TERM PROBLEMS

The reason for these problems of growth and fairness is not hard to find. Productivity is not growing as fast as it must to provide satisfactory growth in wages and incomes. American businesses have achieved increases in output per hour of about 1 percent per year over the last decade, while the Japanese have raised their productivity four times faster. When the productivity of American workers doubled between 1948 and 1973, so did their wages and incomes. Productivity growth since 1973 has been only one-third as great; wage and income growth has slowed accordingly.

And the United States is a low-saving country relative to other industrial countries, especially the most successful, Germany and Japan. The consequences of our low saving have not shown up in disastrous declines in investment only because we have greatly increased our international indebtedness. We are better off having foreign-financed investment than not having it. But strong, sustainable, long-term growth in our standard of living requires that we increase investment beyond what we achieved in the past and that we finance that investment with our own national saving.

Frankly, I am appalled that the fiscal policy debate seems to have turned into a debate about who can cut taxes the most and who can provide the most tax incentives. It should be about how to get productivity and savings up. Poorly-designed tax cuts can seriously hurt national saving while doing little or nothing to increase national investment and productivity. It's time to recognize that such tax cuts may be good politics, but they are not good economics.

IV. LONG-TERM SOLUTIONS

A. GOVERNMENT POLICY MUST COMPLEMENT PRIVATE SECTOR INITIATIVES TO INCREASE INVESTMENT

Much of the responsibility for improving productivity rests with the private sector. They have to take the longer view, build new plants and equipment, and invest in the research and development that produces new products and better methods of production. But Government has a role to play as well. Both have to stop encouraging consumption at the expense of investment.

B. SIX PRINCIPLES FOR A LONG-TERM PROGRAM TO BOOST GROWTH

A long-term program to boost growth would have several components.

First, Congress and the President should stick to the spirit of the budget agreement and make a renewed commitment to lowering the long-term budget deficit. Why? Because the economy is not going to strengthen fundamentally until we boost saving and investment. And that won't happen until we bring down the budget deficit. Government borrowing crowds out money for private investment and drives up interest rates. It is a drain on our already meager pool of savings.

Second, the Federal Reserve must cooperate by providing sufficient stimulus to allow the economy to expand with lower interest rates, more private investment, and a better trade balance.

Third, in considering tax incentives, Congress should remember the lesson of the 1980's that generous tax cuts and savings incentives do not boost economic growth when they result in massive budget deficits. Only carefully targeted incentives that generate new savings or additional, productive, long-term investment are useful components of an overall strategy to boost growth.

Fourth, we must stop neglecting public investment in infrastructure and technology. Congress should provide adequate funds for the infrastructure that the private sector needs but cannot be expected to provide for itself. This includes not only physical infrastructure like roads, bridges, and airports, but also infrastructure of the future—smart highways, state-of-the-art telecommunications networks, and modern air traffic control systems, for example. We also need investments in the production and dissemination of technological knowledge through research and development. And we should look for ways of doing this that do not add to a budget deficit that is already too big a burden on the future.

Fifth, we need greater public achievement in human capital—investments in people to make the future work force healthier, better educated, and more productive. Policymakers need to reverse the trend of the last decade in which the share of total Federal spending going to nondefense investment dropped from 16 percent in 1980 to 8 percent today.

Sixth, we need a limited technology policy. I don't believe that the Federal Government should micromanage the economy and I don't think the Federal Government should be in the business of picking winners and losers. But I see merit in trying a limited program that makes funds available on a competitive basis to support the development of new technologies that businesses themselves think are important.

V. THE BUDGET

A. THE PRESIDENT TALKS A GOOD GAME, BUT HIS BUDGET PROPOSALS DON'T ADDRESS OUR MOST IMPORTANT PROBLEMS

Looking at the Bush budget proposals in light of my concerns for long-term growth and fairness, I am pleased when he talks about important priorities like shifting money toward spending on children, education, preventative health care, science, and research. But his actual proposals do not sufficiently address the long-term structural problems in the economy that must be solved if we are to achieve stronger productivity growth, better jobs, and more solid increases in our standard of living. And there is very little in his budget for the poor and working poor who have been hard hit by the recession.

We in the Congress have to do better. We can't ignore the recession, but we have to ask how any recovery program we propose affects our long-term growth prospects. I see some merit, for example, in proposals to increase grants to State and local governments as part of an antirecession package. They have seen their revenue sources dry up in the current recession. Without some relief they will be forced to cut back on their investments in infrastructure and education. In general, however, the test for Federal spending should be whether it contributes to economic growth or other important national goals. If it does, policymakers should find a way to pay for it. If it does not, it should be eliminated.

I support the moves in Congress today to cut defense spending and use the savings from Pentagon cutbacks to pay for deficit reduction and some more investment. I think this is what the Budget Committee has in mind in its plan A. Reorienting our spending priorities is critical, but I continue to believe that we must stick to our commitment to bring the deficit down.

B. TAX CUTS ARE NOT THE ANSWER

On the tax side, the President offered proposals that disproportionately benefited the most well-off Americans. And claims that a capital gains tax cut would have a substantial impact on economic growth appears to be based almost exclusively on hope and faith rather than experience or scientific evidence. Still, there is some common ground between the President's tax proposals and proposals coming from Congress. A middle-class tax cut, investment incentives, and incentives for individual savings have some merit and are broadly supported. What concerns me is that the individual impact of any of the proposed tax law changes will be small and could even be beneficial, but they represent a retreat from the tax reforms of 1986 and cumulatively could balloon the deficit.

I am convinced that we have to resist the temptation to make politically popular tax cuts the centerpiece of any recovery program. Any tax cut large enough to matter for the recovery will be too large in terms of the budget deficit. And there is a real danger that we could have a tax-cut bidding war between Congress and the President that would get out of hand, widening the deficit and driving up interest rates.

I do not think it is wise to make a major tax cut in the face of a $400 billion deficit, when the Government spends almost $3 for every $2 it has, when the public investment needs of the country are so urgent, when unmet social needs are so enormous, and when we are adding to the national debt at a rate of $1 trillion every 3 or 4 years.

The President's tax plan comes up short on grounds of fairness and long-term growth. But I have serious concerns about the House-passed tax plan as well. I have grave doubts that it will pay for itself over the long run. And I cannot believe that a tax program that adds to the long-run deficit is in the public good, especially when, for all its ingenuity, it will likely have only a marginal short-term effects on the economy.

It does have the advantage over the President's plan of putting more money into the hands of people at lower income levels and in greater need. But even its message of tax fairness is blunted by many tax breaks that benefit the wealthy, such as capital gains and the passive loss provision. I think we may be underestimating the revenue losses from these provisions. More important, I think there is a hugely optimistic assumption at the heart of this package, namely that in the midst of the next election year, 1994, we in the Congress will let the middle-income tax cut lapse. I think we are more likely to extend it.

For these reasons, I conclude that the tax proposal is more a political statement on fairness than it is a growth package. It tries to bring equity to the Tax Code and tries not to harm the economy too much, but I wonder if it is really what this economy needs at this time. I doubt if this bill would be on the agenda if this were not an election year.

C. THE BUDGET DEFICIT IS STILL TOO HIGH

The President is clearly sending a strong message in his budget not to worry about the deficit. He proposes large deficits for the next 5 years. His projected 1993 budget deficit of $352 billion is lower than this year's $399 billion deficit, but still far above the previous record of $269 billion recorded last year. His budget fails to meet the pay-as-you-go test, uses creative accounting to keep the deficit down, and relies on unspecified savings. He proposes no comprehensive plan to reduce future deficits.

Obviously, we in the Congress are subject to many of the same pressures to ignore the deficit as the President. Too often, policymakers face the dilemma that what appears attractive for making the next 6 to 12 months better is often not what is needed to make the next 6 to 12 years better.

Realistically, I understand that major deficit reduction is not likely to happen this year, given the President's budget proposal, the state of the economy, and the political pressures of the election year. The deficit is very hard to cut because the harm that comes from increasing it in any one year is so gradual that nobody notices it, but over a decade or more it makes a substantial difference in the standard of living of Americans.

We've ignored this long-term harm for too long. I just think there's an imperative for a fundamental change in fiscal policy and for self-discipline in Government. I have the very strong feeling that Washington politicians ought to worry much more about the State of the Union in January 2000 rather than November 1992. I think it is time to govern, not to pander.

VI. SUMMARY

In summary, the economy's underlying problems have been some 20 or more years in the making, and they are not easily solved. I am convinced that more than anything, the United States needs to think of its long-term needs. It is very tempting to think that the answer to our economic problems is to cut taxes and not worry about the deficit. But the real challenge is to increase national saving and redirect our public and private spending toward more productive long-term investments.

□ 1830

Mr. Chairman, I reserve the balance of my time.

Mr. ARMEY. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, we come to this point in the budget debate where we are mandated by the Humphrey-Hawkins Act to examine the budget with respect to its potential impact on employment and price stability, and economic growth.

This act, of course, is an extension of the concept of the Employment Act of 1946 by then Senator Hubert Humphrey and Congressman Gus Hawkins, who has recently retired from the House of Representatives. Neither of these two gentlemen, I might add, Mr. Chairman, were exactly what you would consider arch-conservative Members of either body. As a matter of fact, I think you would find that they were both clearly comfortable with being identified as somewhere on the left end of the political spectrum in the more liberal wing of the Democrat Party, and they quite rightly were concerned, as we have been since 1946, with the impact of our budgetary practices on the performance of the economy as it affects the employment of Americans and their ability to purchase within the context of stable prices.

There was another aspect of the Humphrey-Hawkins Act that we should emphasize. I think one of the most important aspects of the Humphrey-Hawkins Act was that it emphasized that the correct, the appropriate, the balanced relationship between the public and the private sector of the economy would be best reflected by maintaining public spending at about 19 percent of gross national product. This was set in the law as a target for us to strive to achieve in our budgetary practice. We began the 1980's with the Federal Government's budget at around 22 percent of gross national product, and throughout the 1980's we tried to keep it from expanding. Now it has slipped out of control to the point where today it is over 25 percent, that is to say, the Federal Government now commands over 25 percent of the gross national product of the American people. This is clearly not in compliance with the intentions of the Humphrey-Hawkins Act.

I would like to spend a moment and talk about how that could happen. First of all, Mr. Chairman, I have served 4 years on the Committee on the Budget. I have served 7 years in this House where I have watched this process closely, and I have to tell you, in my estimation, the Budget Act of 1974 was a perfect formula for no discipline, no responsibility.

What the Budget Act of 1974 did was to require the President to make a budget recommendation to Congress in early February, and then to require the Congress to set a budget by April 15. It did not allow for the President to sign that budget. It has only the most lax rules by which the budget can be held binding over the subsequent behavior of Congress in the fiscal year when we get down to the real business of spending the taxpayers' money through the 13 separate appropriation bills.

Then in addition to that, the Budget Act of 1974 repealed or revoked the President's power to engage in what are called impoundments and rescissions. The upshot of that was it largely cut the President out of the budgetary process except in the most ceremonial sense, that he submits a budget recommendation and then lives with the consequences of Congress.

It was a division of authority over spending and taxing decisions on the side of the legislative branch, and accountability in the public's perception remaining with the executive branch. Now, I am convinced that anytime we put a division between accountability and authority, we have a perfect formula for irresponsibility and lax methodologies and bad outcomes, because the people with the real authority to do the job do not have to answer on behalf of the job that was done, and in this case, the executive branch, the President, who frankly has very little input and very little authority in this process, gets left, in the vernacular of my home State of Texas, left holding the bag of public accountability.

I would like to focus on one particular way in which this happens. As we put together a budget, we deal with all kinds of esoteric terms, things like tax bases, and forecasts and projections, and revenue forecasts and so forth. Incidentally, we in the Congress go about this all wrong. We try to forecast what revenues will be available, and then we go about the business of spending these forecast revenues.

□ 1840

It seems to me that fundamentally budgeting must begin with a basic examination of what are we doing with the public's money. Is it necessary? Is it critical? Is it important? Is it desirable, and is it productive to the public's interest, and then cast out those programs that have not been productive, revise those that maybe could be productive, take away those that are not necessary and get that budget in line. We do not do that.

We begin with the proposition that we ought to begin spending the money as we have been spending it in the past.

Now, the psychologists define crazy as continuing to do more of the same thing and expecting different results.

Fundamentally, I would argue this is a crazy process, because we begin with the proposition that we ought to have current services budget spending and continue doing the same thing next year and the year after and so forth that we are doing now, rather than reexamining piece by piece, part by part, what we are doing and seeing what it is we can cast out of the process.

Now, after we have made that decision that we will continue doing what we are doing now and then determine the extent to which we will do more of it, quite rarely do we decide that we might consider where we could do less of it.

We have found ourselves with chronic deficits ranging from $100 billion to now $400 billion. When a family finds itself with chronic deficits, it does a fundamental review of the budget. When business finds itself with a chronic deficit, they do a fundamental review of their budget. We do not do that.

One of the reasons we have these budgets is that we are so bad at estimating revenue.

I want to focus for just the last few minutes on a very clear example of this unfortunate revenue estimate device.

We cannot today use countercyclical policy as envisioned by the Employment Act of 1946 or the Humphrey-Hawkins Act by way of increasing or decreasing spending. When you are talking about a recession, for example, you would under the old theory increase spending or cut taxes, raising the deficit. We have 400 billion dollars' worth of deficit, 400 billion dollars' worth of fiscal stimulus, and we cannot get any growth result from that.

Furthermore, the budget is in itself such an overwhelming problem, the deficit is such an overwhelming problem, that we would not dare increase spending in a recession and worsen the deficit because it is too bad already.

So the fiscal policy spending part of the old fiscal policy equation of Humphrey-Hawkins and the Employment Act is no longer a tool at our disposal.

We then look to tax policy. The question is, what happens if you change the Tax Code?

We have, of course, a great reliance on a partisan organization called the Congressional Budget Office, which does analysis and then gives that analysis to the staff of the Joint Tax Committee and others to score these alternative tax policies. The Congressional Budget Office also projects the revenues that go into building the baseline from which we depart in this budgetary process.

Now, in the Congressional Budget Office they have a model that presumes that there will be little or no response by real people in the real world to changes we have in the Tax Code, that irrespective of what we do with taxes, people will continue doing as they have been doing because they observe, I suppose, that irrespective of what is going on in the economy or in the budget, Congress continues doing what they have been doing.

It does not occur to them that people in their private lives are more rational and responsive to changing circumstances than people are in their public lives. They are not aware of the fact that nobody spends somebody else's money as rationally as they spend their own.

The CHAIRMAN pro tempore (Mr. BENNETT). The time of the gentleman from Texas has expired.

Mr. ARMEY. Mr. Speaker, I yield myself an additional 7 minutes.

So, Mr. Chairman, they presume no change.

Now, here looking at this very important and very critical and very controversial question of capital gains taxation and the response to changes in the capital gains tax rate, we can see that as we have lowered the capital gains tax rate with the Steiger amendment of 1978 there was a tendency for people to get more involved in investment activities; more put their savings and resources into productive investment activities, generated more output and production, increased employment and income, and realized more capital gains income. That pattern continued at a fairly steady gradual rate until 1982 when we had the Reagan tax cuts and then people accelerated their rate of response.

In 1986, in anticipation of a raising of the rates, people accelerated their capital gains realizations before the new higher rate took place. We peaked out in 1986, with people reacting rationally to what they see happening or what they expect to happen, and then, of course, with the increase in the capital gains tax rate in the 1986 tax bill, we saw the predictable response. After 1986, people retrenched on investments. They quit making as many investments and, of course, capital gains income dropped sharply.

Now, what did the Congressional Budget Office do in making projections? They assumed that people would continue throughout this whole process doing what they had been doing. They could have taken a 4-year-old and given him a color crayon and said, "Look at what is happening in 1978 and 1979, and 1985, and tell me what you expect to happen." They would have drawn a straight line and said: "more of the same."

Now, what does this mean to us? It means that in 1989 in this great debate about the budget and capital gains taxation, the Congressional Budget Office, in projecting base line receipts, mis-estimated by $75 billion what would be realized as capital gains. They overestimated by $75 billion. Despite the fact that capital gains were going down, they said it was going to go up. They could not even get the sign right.

Now they said since capital gains are going to go up by $75 billion, we can apply the tax rate to that and we will get an additional $20 billion of revenue and of course, Congress immediately went out and spent it and built that into the spending pattern of their baseline.

Now, they never acknowledged having made that mistake until I discovered it and brought it to their attention. They have acknowledged it to me privately, but they have never told Congress as a whole. They have never made a public disclosure of error. That error made a great impact on the debate in 1989 over the Archer-Jenkins tax proposal, where it was argued that if we would lower the capital gains tax rate, people would respond as they did before, increase capital gains investment and increase capital gains realization, and get some growth in the economy.

The huge CBO error made a big impact by grossly distorting the analysis of the alleged distributional impact of the capital gains cut. The CBO error helped make the case that the capital gains tax cut was unfair.

Now in 1990, they made a similar overestimation of capital gains income of $134 billion, or 112 percent. Rather than correct their static model they continued with the same model and made a more egregious error. In this case it amounted to a $30 billion overestimation of the moneys that would come in.

Now we see the upshot of this in the budgetary process. You build the overestimation of revenues into your baseline and then in anticipation of having that money, you put in place programs that will spend that money. Then as you spend the money and the revenues do not come in, you end up with a deficit that is larger than you thought it would be. Then you amend your work and say, well, the deficit is $20 billion worse than we projected it would be. Uh-oh, time for a technical reestimate.

Then the next year you have got that $20 billion worth of revenue that is built into the tax and spending baselines and then you have the additional 30 billion dollar's worth of error, so you get all this sea of red ink that grows and grows and seems to be out of control and out of people's grasp.

□ 1850

And how can we correct that? Well, Mr. Chairman, it seems to me if we are going to be serious, then we are going to have to make some fundamental methodological changes in how we make budget decisions, how we make projections, how we correct for errors when they are discovered.

Should CBO disclose to Congress the existence of the errors when they are discovered? And will we in fact deal with baselines that are predicated on the proposition of what really does happen before we make plans to go on beyond?

We should also make reforms that deal more people into the process and have a way to get a balance and a counter balance and a reality check in the process. Our problem is this is not economic analysis, this is not political analysis we undertake here; this is psychoanalysis. There is no scientific rigor, there is no application of good, sound business principles; it is just this crazy little business of pulling estimates out of the air, taking a model known to be flawed, sticking with it and continuing year in and year out to make the same mistakes over and over and over.

This budget today, Mr. Chairman, is completely meaningless. Nothing we say or do or pass in these next 2 days will have any meaningful relationship to what will be the outcome when we look back on it at the end of the fiscal year.

I ask that the attached articles on the CBO "capital gains-gate" be included in the RECORD following my remarks.

A MATTER OF TIMING

This shows just how much discretion people (especially the better-off) have over the timing of realizing their capital gains. The long running average for realizations has been around 2 percent or so of GNP. But when taxes on capital gains were reduced—in 1964, 1978 and 1982—realizations doubled, to around 4 percent of GNP. Note, too, that the spurt to over 8 percent GNP in 1986 was in anticipation of the well-advertised increase in 1987 in capital gains taxes from 20 percent to 28 percent (and no preference over ordinary taxes), as part of tax reform.

What's been totally missed in the current debate over cutting capital gains taxes is just how sharply realizations—and hence tax revenues—have dropped since then.

Richard Armey (R-Tex.), the ranking Republican on the Joint Economic Committee, has pointed out that the Congressional Budget Office estimated that in 1990, the latest year for which tax figures are available, capital gains realizations would total $254 billion, or over 4.5 percent of GNP. The CBO's estimate was way off. Just $120 billion in gains were realized. The "missing" $134 billion meant that the Treasury was short nearly $38 billion in tax revenues it has been expecting. The CBO has yet to acknowledge its error.

The chart also makes clear just how cost-effective cutting capital gains taxes is. Assume that history is repeated and that a lower rate on capital gains increases realizations by at least 2 percent of GNP, equal to around $117 billion this year. The CBO and the Democrats say that a 15 percent rate would "cost" nearly $18 billion a year in taxes forgone. But based on past performance, such a cut would generate at least that much in extra revenue. They also grossly underestimate the extra tax that would result from the increased economic activity that a cut would cause.

[From the Investor's Business Daily, Mar. 2, 1992]

WILL TAX ON RICH BOOMERANG?

(By John Merline)

Making the rich pay their fair share in taxes has become the clarion call for Democrats seeking to win over middle-class voters this political season.

Increasing the progressivity of the tax code may be good politics, but many analysts say it is bad policy.

The House Democratic tax package, which passed last week in a highly partisan vote, includes a small tax credit for the middle class, coupled with substantial tax increases on the wealthy.

Sen. Lloyd Bentsen, D-Texas, has proposed a tax plan similar to the House bill. Both the House and Senate bills propose raising the top tax bracket on income to 35% from the current 31%, and both would impose a 10% surtax on millionaires.

In addition, each of the leading Democratic presidential candidates proposes some form of tax increase on the wealthy, either to fund tax relief for the middle class or to pay for new programs.

Behind these proposals is the issue of fairness. But, as with most issues in Washington, the definition of fairness depends heavily on whom you ask.

For Robert McIntyre, director of Citizens for Tax Justice, fairness is when "the rich pay more taxes and the rest of us pay less." According to McIntyre and other supporters of higher taxes on the wealthy, tax cuts during the 1980s primarily benefited the rich.

According to a House Ways and Means Committee report, the richest "one-fifth of the population will pay a smaller percentage of their income in taxes in 1992 than in 1977 while the bottom 80% will pay more."

Therefore, the argument goes, raising tax rates on the wealthy would improve the fairness of the tax code by making the rich pay a greater share of taxes than they do currently.

But historically, high tax levies on the rich have failed to achieve their stated goal—to force the rich to pay a greater share of the total tax burden.

Highly progressive tax codes have tended to push the tax burden downward, making the middle and lower classes pick up a greater share of the total income tax burden.

A study by economists James Gwartney and Richard Stroup found that a peacetime tax increase in the early 1930s to reduce the budget deficit resulted in "a rapid decline in the reported net income in upper brackets as the marginal rates increased sharply."

In upper-income brackets, tax rates were doubled, but tax revenues expanded by only 15.7%, according to the study.

And the share paid by the wealthiest earners dropped precipitously, from 23.5% of the total tax burden before the increase to 18.4% after the increase.

Data from the IRS clearly show that tax shares of the top 0.2% of wage earners fell each time their tax rate increased. In the early 1940s, for example, marginal rates on the rich shot up, but the share of taxes paid by these earners dropped from some 90% of total taxes to 50%.

Conversely, lower tax rates on the rich typically have shifted the income-tax burden upward. In 1926, the top marginal rate was reduced to 25% from 73% in 1921. The amount of taxes paid by millionaires increased 155% in those years, while the share of taxes paid by this group increased 75%, according to IRS data.

Again in the 1960s, the top marginal income-tax rate was cut, with the same basic effect. Tax revenues from the top 5% of wage earners increased 7.7%, while the share of taxes paid by this group increased by 8%.

Tax cuts in the 1980s produced similar results. Despite cuts in the top rate of some 23%, income taxes paid by those earning $1 million or more increased 244% between 1979 and 1986, from $8.5 billion in 1979 to $29.2 billion in 1986.

MILLIONAIRES' SHARE

Between 1986 and 1989, taxes paid by millionaires increased another 35%, despite a cut in the top rate from 50% to 28%. The share of taxes paid by millionaires went from around 2% of total taxes in 1979 to almost 9% 10 years later, despite a cut in the top tax rate of 60%.

According to the House Ways and Means Committee report, this is due to the fact that the incomes of the high wage earners "rose faster than average family income."

To supporters of increased taxes, this means fairness declined. But to opponents fairness declined. But to opponents of new taxes, this growth at the top means something different.

OMB PROJECTION

"What's happening here is that the entire economy is enjoying a larger degree of opportunity, and more people are taking advantage of it," said Gary Robbins, president of Alexandria, Va.-based Fiscal Associates and a former Treasury economist.

For example, IRS data show that while the average income of millionaires did not change much between 1979 and 1986, the number of people declaring earnings of $1 million or more climbed dramatically.

In 1979, just under 8,000 reported earnings of more than $1 million. By 1986, that number had jumped to more than 31,000, even after inflation is subtracted. It doubled again by 1989.

Moreover, high rates on the rich have in the past served less as a way to raise money than as political camouflage for tax increases on the middle class.

In part, this is due to the fact that little money can be raised from the nation's richest citizens. According to the Tax Foundation, if you doubled the taxes paid by millionaires, you could run the government for an additional 13 days in a given year.

To raise significant revenues, according to tax specialists, middle-class wages have to be tapped.

For example, according to the Office of Management and Budget, if the $400 tax credit in the House bill were made permanent, and if the government paid for it by raising income taxes, the top 35% tax rate would have to begin at income levels of around $36,000 for single filers.

"If true, that suggests that there's not a lot of money to be had by just raising rates at the top," said Fed Governor Lawrence Lindsey.

"Politicians, when they set very high millionaire rates, are able to say to the middle class, "Well, look, it's not so bad for you," said Michael Schuyler, senior economist at the Institute for Research on the Economics of Taxation.

The 1990 budget agreement raised the top tax rate to 31% while also imposing higher excise taxes on gasoline, tobacco and alcohol—taxes that hit the middle class harder than the rich.

While observers doubt whether income tax rates will be raised on the middle class, the new tax rate proposed by the House bill applies to income that some might classify as middle-class. Single taxpayers earning $85,000 and up would face a 35% tax rate. Single taxpayers earning $51,900 already face the 31% bracket.

Although all brackets would be indexed for inflation, real wage growth would push more and more people into these higher brackets. "Today's rich are tomorrow's middle class," said Robbins.

High rates can have other economic effects that primarily harm the middle class. Foremost is the incentive high tax rates give the rich to seek tax shelters.

"The wealthy have enormous discretion over how, when and whether to realize income. At high tax rates, they can convert taxable income into fringe benefits or other business expenses," said economist Gerald Scully, a senior fellow at the National Center for Policy Analysis.

Even supporters of tax increases recognize this effect. "High tax rates cause pressure to bring back loopholes," said McIntyre of Citizens for Tax Justice. Still, McIntyre would like to see top rates at 40%.

DAMPER ON GROWTH

Because the rich derive three-quarters of their income from investments, high marginal taxes on this income can dampen economic growth, according to economists.

If the rich shift money into less productive investments to avoid taxes, less money is available for capital formation.

"Because capital formation is one of the primary means by which we increase productivity over time, raising top marginal rates would basically sacrifice future prosperity to soak the rich today," said Schuyler.

"There is certainly some productivity cost that comes with most ways of redistributing income," said Isabel Sawhill, senior fellow at the Urban Institute. "There is a lot of debate about how large those costs are."

"You could certainly argue that when you get up into the 70% to 90% range of top marginal rates, you really are putting a wet blanket on incentives to work, save and invest," she said. "But I think when you are arguing about 35% or something in that range, the argument is mostly ideological and not really economic."

Still if changes in investment decisions at these new tax levels have even a small effect on productivity growth, the middle class will be hurt badly.

According to Sawhill, a rise in productivity growth of 0.5% a year would mean an increase in income of some $2,000 each year for a family of four by the year 2000.

"The rich are going to get their money in one way or another. Better they get it in a way that helps the rest of us," said Robbins of Fiscal Associates.

DIFFICULT PROPOSITION

Targeting taxes that hit only the rich and don't inadvertently hit the middle class in some way has also seemed difficult in the past.

The House bill, for example, repeals the so-called luxury tax on jewelry, furs, boats and other high-priced consumer goods.

According to the technical explanation accompanying the bill, the luxury tax of 10 percent on these items may have contributed to job losses in the affected industries.

"In the context of current general economic hardship," the report states, "it is appropriate to remove even this small burden in the interests of fostering economic recovery."

The capital gains tax, according to supporters of a cut in the tax, may be less of a tax on the rich than a tax on those who want to be rich.

"A capital gains tax does not necessarily mean a tax on the rich, it's a tax on anyone accumulating capital, and most of the capital in this country is added by the middle class, not by the rich." said David Goldman, senior fellow at Polyconomics in New Jersey.

"Most of the growth in employment in the early 1980s, for example, came from small businesses," Goldman said, "and small businesses are overwhelmingly a middle-class activity."

DECLINE IN NEW BUSINESSES

The 1986 increase in capital gains taxes may have in this sense, hit the middle class. Goldman says that between 1986 and the present, fewer businesses have been incorporated each year.

"That's never happened before," he said.

"Capital gains tax cuts help people to become rich," said Goldman. "It's a tax on capital formation, not on capital."

Capital gains taxes also reflect how difficult it is to get money from those who have discretion about how and when they declare such gains on their taxes.

According to Gerald Scully, following the 1981 cut in the maximum capital gains tax, revenues from that tax almost doubled in four years.

On the other hand, the tax increase on capital gains generated 50 percent less revenue than was predicted by the Congressional Budget Office in 1989 and 1990. In fact, for three years following the tax increase, capital gains income was lower than it was in 1985, before the tax increase.

[From the Washington Times, Mar. 4, 1992]

A FREE PASS FOR CBO?

(By L. Brent Bozell III)

Why are the media covering the debate over the capital gains tax by relying on estimates that have been proven to be more than 100 percent wrong? I've narrowed it down to three possibilities: (1) The media are too lazy/dumb to figure it out; (2) they think the American people are too dumb/lazy to figure it out; or (3) the media would rather witness a class war fought over fake statistics than referee an honest debate.

Back in April 1991, Rep. Dick Armey, the ranking Republican on the Joint Economic Committee, and Chris Frenze, one of Mr. Armey's staff economists, revealed that the Democrat-appointed Congressional Budget Office had erred in its prediction of 1989 capital gains income by $75 billion, a margin or error of roughly 50 percent. The study also maintained that this error would be built into the CBO's annual baseline figures, amounting to $375 billion in error over five years, a possible deficit disaster.

Two weeks ago, Mr. Armey and Mr. Frenze revealed that the CBO admitted its forecast for capital gains income of $254 billion for 1990 missed the mark by $134 billion, an error of more than 105 percent. The media's response: nothing.

Why the silence? Because the major media covering the capital gains debate routinely rely on estimates of the Joint Committee on Taxation, which relies on the faulty CBO numbers for its calculations. When, for example, Time cites that "families that earn more than $200,000 a year would save an average of $18,000 as a result of lower capital gains rates," it's citing the completely bogus calculations of the Joint Committee on Taxation. Everybody's using these estimates without any concern for their accuracy.

Maybe the media believe that statistical reality is too technical for the American people to understand. When Mr. Armey and Mr. Frenze released their first CBO critique, the media reaction was a resounding silence, with one exception. New York Times reported Jason DeParle, who came to the Times from the neoliberal Washington Monthly, snottily dismissed the critique on May 26, 1991: "Among the congressman's complaints is that table 19 on page 1,306 should at the very least have included an asterisk."

Mr. DeParle failed to explain the CBO's errors, simply declaring them too difficult for the average American to understand. "Sorting through Mr. Armey's technical critique requires an understanding of the computer models used by the CBO and a grip on such terms as 'nominal realized capital gains.'" You would think turning complex arguments into simple language is the media's job, but even the reporters who understand these issues have refused to explain it.

The media have also ignored Mr. Armey's attempts to make the CBO accountable to Republicans as well as Democrats. Currently, the CBO's personnel are appointed by the Democratic leadership with no Republican consultation or confirmation process. This is especially galling since the media regularly tag the CBO as "non-partisan."

There's nothing non-partisan in the way CBO Director Robert Reischauer has treated his shop's accounting fraud: He covered it up. The CBO never disclosed its mistakes to members of Congress or the media, even though its tainted capital-gains and family income data had been widely used by both and even though the CBO's numbers were used as a club by the Democrats and their class-war supporters like "conservative" Kevin Phillips.

Ever since Republicans (and some Democrats) introduced capital gains tax cuts in 1989, the media have trumpeted the cause of "tax fairness," labeling tax cuts a sop to the rich while ignoring the rotten statistics underlying the hate-the-rich Democrats' case.

The media's know-nothingness has not only given a free pass to the CBO, but also to Richard Darman's oafs at the Office of Management and Budget. When Mr. Darman appeared before Congress last July 15 to announce that the OMB's old deficit estimates were horrendously off-target, the network newcasts did nothing. It took the late great Warren Brookes to point out that in January 1990, Mr. Darman forecast that the total deficit from fiscal 1991 to 1995 would be $62.3 billion.

Eighteen months later, that estimate soared to $1,081.9 billion. Thanks to the media's silence, most Americans have heard nothing about Mr. Darman's errors. After listening to a decade of media preaching about Republican neglect of the budget, it's time to ask about the media's neglect of the budget debate. Oh, the political wrangling gets top billing, but the debate's most important points are almost always ignored. The Washington press corps can't preen about its role as watchdog of the government while both budget-boosting sides—OMB and CBO—get away with statistical murder. Call the media co-conspirators.

Mr. HAMILTON. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of House Concurrent Resolution 287, the budget resolution for fiscal year 1993. As we talk about how this budget sets new priorities and how it targets domestic spending for investments that will create jobs, increase productivity, and improve our future standard of living, I ask my distinguished colleagues to consider one aspect of this budget, the part that deals with substance abuse.

Drug abuse and drug-related violence are costing our economy nearly $300 billion a year; $300 billion is more than we spend on our national defense, and far more than we invest in education, job training, child nutrition, and all other domestic discretionary programs combined.

We do not have to look very far from the Capitol building to see the devastating effects of drug use. The resulting crime, the violence and the destruction of potentially productive lives, is tearing our families, our neighborhoods and our communities apart.

Since 1981, Federal funding for antidrug efforts has increased from $1.5 billion to nearly $12 billion. This year, we will increase this funding by 9 percent. Yet, despite massive drug interdiction programs, drug use continues to rise.

The costs associated with substance abuse, increased health care costs, violent crime, destruction of property and reduced worker productivity—continue to escalate without any hope in sight.

In its war against drugs, the administration has emphasized reducing the supply of drugs—while doing very little to reduce demand. The President's fiscal year 1993 budget is no different than before. It perpetuates this lopsided approach in which 70 percent of all the resources go to reduce supply.

While this may not be the bill to establish a new drug policy, through it, we still send a strong signal to the President and the American people that our antidrug strategies must change. In addition to interdiction efforts, we must dramatically increase the funding to reduce the demand for drugs. If we do not act now, drug abuse will continue to drain the vitality from our economy, and keep our citizens living in fear—afraid to go out in their own neighborhoods.

I want to highlight two areas of this budget—programs that will save the taxpayers millions of dollars in the near future and that will dramatically improve the quality of life in regions devastated by drugs and violence.

The first, the weed and seed initiative, targets some of the increases we recommend for education, drug treatment, law enforcement, and community development for a coordinated antidrug effort. Weed and seed uses a two-pronged strategy. First you weed drug dealers and violent criminals out of neighborhoods through stringent law enforcement; then you seed these communities with development programs, expanded social services, and the tax incentives of enterprise zones. Weed and seed has a proven track record and will help us reclaim our streets and our neighborhoods from the drug dealers and criminals.

We also include an initiative to establish a comprehensive prison drug treatment program. Right now, 75 percent of our prison inmates are serving time for a drug-related offense. Yet, there is hardly any treatment and rehabilitation for these inmates. The result is that we are a nation of wall-to-wall prisons, spending hundreds of millions of dollars each year to lock up prisoners that, upon release, go out and commit more crimes and injure more innocent people.

Prison drug treatment is the most effective way we have to break this endless cycle of drugs and crime. It is also extremely cost-effective. Every $1 we invest in treatment, saves $12 in future incarceration costs.

In short, Mr. Chairman, the scourge of drugs undermines the worthwhile investments that this budget correctly makes. And as we set new priorities in our budget with increased investments in our children, in education, job creation, and long-term growth, we must also target our resources to reduce the demand for drugs.

I urge my distinguished colleagues to support this budget.

Mr. HAMILTON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Democratic budget before us tonight and tomorrow.

My colleagues, at best this document is a standstill budget. It fails to address, it does not address, the silent issue of our day, the silent issue of our time, this ticking time bomb, this Federal deficit, this massive Federal deficit.

Mr. Chairman, for the first time ever, we bring a budget to the floor that does not project reaching balance 5 years into the future. This budget projects deficits of $200 billion as far into the future as one can see. This must be addressed and must be changed in future years.

The budget before us does address, does properly address, I feel, the issue of defense, the so-called peace dividend. Proposals on the table suggest that defense spending should be reduced somewhere between $50 and $100 billion over the next 5 years. No one knows what the right number is. There is no right answer, and certainly we cannot project with accuracy world events, what will be occurring within the next 5 years.

So, the choice was made to reduce outlays by $9 billion in the coming year, recognizing this would give us the option in the future years to go to a total reduction of $50 or $100 billion or somewhere in between.

I think this is a wise course, I think this is a prudent course to take. But this deficit, more than $300 billion, of this $1.5 trillion budget is going to cause our interest bill to continue rising. Your Budget Committee spent many days, many hours arguing and debating and horse-trading over the so-called domestic discretionary spending categories. That total category is only $250 billion. We are almost paying as much for interest as we do on all domestic discretionary programs of our Federal Government.

The time bomb is ticking; 2 years from now, if we do not change policies, we will be actually paying more on interest than what we have available to spend on our domestic discretionary programs.

Mr. HAMILTON. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. PEASE], a member of the Committee on Ways and Means.

Mr. PEASE. Mr. Chairman, I thank the chairman for yielding this time to me.

Mr. Chairman, I rise to speak today in support of the budget resolution which the distinguished chairman of the Budget Committee has brought before us. I commend Chairman PANETTA for his hard work and evenhandedness in putting together this resolution.

Mr. Chairman, I supported the budget agreement negotiated between Congress and the President in 1990. I supported that agreement because it addressed the fiscal crisis facing this country. The enactment of the pay-as-you-go rules for entitlement and tax proposals has forced proponents of new programs to find a way to pay for them. I believe that provision has been very effective in making Congress fiscally responsible for the programs it wants enacted.

The agreement also imposed spending caps on discretionary spending. Like the PAYGO rules, the caps forced Congress to impose upon itself a discipline that has been needed for a long time.

But the 1990 budget agreement, although enacted only 16 months ago, was crafted under much different circumstances than we face today. The Soviet Union still existed and represented a legitimate threat. The level of defense spending contemplated by the budget agreement was credible, given the risks we faced at that time.

However, the Soviet Union no longer poses a threat to us. We have won the cold war, and it is time to reap the rewards of that victory. This does not mean that we should gut our defensive capabilities. However, I think that we can adjust our defensive structure to take into consideration our changing security needs. A necessary result of these changes must be the recognition that the military can be safely reduced.

The economy was also different in 1990 than it is today. In 1990 the economic recovery was winding down, but it certainly was not mired in a recession as it is today. The budget agreement did not contemplate the recession lasting as long as it has. Had this been contemplated, I believe greater flexibility would have been provided for.

Flexibility is what this budget resolution is all about. The resolution offers two separate plans, which are contingent upon the result of the vote on the Budget Process Reform Act. I think this is an appropriate way to proceed with the consideration of this issue. It is imperative that Members know how the defense savings would be spent before they are asked to decide on breaking down the walls. Proceeding in any other manner would be irresponsible.

Mr. Chairman, if the economy were healthier, I probably would not support breaking down the walls this year. But the recession dramatically points out the need for greater focus on our domestic problems. We need to make investments in the people of this country. We need to educate them when they're young; train them when they're jobless; and heal them when they're sick. The budget before us today reflects these priorities.

Under plan A, the committee recommends an increase in budget authority of $3.7 billion for elementary, secondary and vocational education programs. That is more than double what the President would add to these programs. Head Start would be increased by an additional $800 million, continuing Congress' commitment to provide the resources necessary to make this program available to all eligible children by the year 2000.

The committee requests a 1993 increase of $689 million over 1992 in budget authority for job training programs. These are the programs that we need to focus on if we want to help the unemployed find employment. As proposed by the committee, expansion of the Job Corps Program would continue as recommended by the 50-50 plan. This program has proven to be very successful, returning far more back to the Government than what it costs.

The committee also recommends greater funding for health programs. This reflects the committee's belief that defense savings should be used to focus on preventing, treating and curing serious illnesses threatening our society. Of particular importance are increases in funding for immunization programs and the continuing commitment for fighting the AIDS epidemic.

Chairman PANETTA has done a fine job sorting through all of the diverse interests vying for valuable, and diminishing, resources. In nearly every case, I agree with the priorities he has set in this budget resolution. They represent fundamental Democratic values and I urge my colleagues to join me in supporting the resolution.

□ 1900

Mr. HAMILTON. Mr. Chairman, I yield back the balance of the time to the distinguished chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA].

The CHAIRMAN pro tempore (Mr. BENNETT). The gentleman from California [Mr. PANETTA] has 11 minutes remaining and the gentleman from Ohio [Mr. GRADISON] has 32 minutes remaining.

Mr. GRADISON. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Chairman, I want to keep defense spending at the level in the administration request.

But I also want to ensure that defense reductions do not hurt our national or domestic security.

I am not sure that removing the firewalls will help to achieve that goal.

Just last year, we thought of defense reductions in terms of the budget summit agreement.

The agreement took note of the world situation, Federal deficits and national security requirements.

It provided for a thoughtful, steady, and measured decline in defense spending.

But I worried about these cuts from the beginning.

I thought $50 billion in 5 years was too much. It cut too much muscle, and put too many people in the job market.

But I supported the agreement because it kept defense strong and invested savings in deficit reduction.

I believe Federal deficits are the greatest threat to economic security.

So it made sense to support an agreement that mirrored my double priorities of protecting national and domestic security.

Secretary Cheney says his first budget request assumed 1 percent growth.

His second assumed 2 percent cuts.

His third assumed 3 percent cuts.

His current request assumes a 4-percent average annual reduction.

The decline in what he wants this year—compared to what we enacted last year—is 7 percent.

Between the peak year in 1985 and 1997, the decline in budget authority will total 37 percent.

Adjusted for inflation, budget authority in 1997 will have about as much purchasing power as the defense budget in 1960.

As a share of GNP defense outlays will fall to 3.4 percent. That is well below anything since Pearl Harbor.

And look at what happens between 1985 and 1997 in budget categories other than defense:

Mandatory spending will increase 33 percent.

Discretionary spending will increase 8 percent.

When defense spending was the only category in a state of freefall, the budget agreement put on the brakes.

But now some are calling for even deeper cuts and I think that's wrong. We are not very good at predicting when and where another crisis will erupt.

At the end of World War II, I was a seaman first class assigned to sign people up for reserves.

I remember the lines I used: we just fought a "war to end all wars" and "make the world safe for democracy."

In any case, I told the guys they could join the Reserves and get all the benefits.

But a strange thing happened. War broke out in a tiny country no one ever heard of called Korea.

We will never know how many of the guys I signed up were called to serve in Korea—or how many never came home. We were a hollow military power.

The point is that as peaceful as the world looks today, no one can say what will happen tomorrow.

If Gen. Colin Powell had told us in mid-1990 that there would be half a million American troops in Saudi Arabia by the end of the year who would have believed him?

When he appeared before our committee, General Powell said:

> When I first became Chairman, if someone had asked me to bet on whether we would be involved with deployments to Panama and the Persian gulf within the space of 18 months, I would've given high odds against it.

Powell said that we fought in World War II, Korea, and Vietnam using forces that had not been prepared for those conflicts.

He concludes:

> I cannot tell you where the next Noriega or Saddam Hussein will arise to threaten stability in the world, but you can be certain that it will happen.

All I am asking is that defense reductions continue to be steady, measured and stable.

Think back 50 years ago to 1942 when the outcome of World War II was not yet certain.

Let us not put this country or our soldiers, sailors, and airmen and women at risk.

Support defense spending at a level that will give us military forces that are flexible enough to react to the unknown.

The purposes for which money is spent in plans A and B are laudatory and I have mixed emotions about not funding programs I am fond of.

However, I believe our first responsibility is the security of this Nation.

We may disagree on how much is enough, but this Member would rather err on the side of national security.

This is why I will vote against this resolution.

Mr. GRADISON. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman from Ohio [Mr. GRADISON] for yielding this time to me, and let me just compliment my friend, the gentleman from Virginia [Mr. SISISKY], a conservative, strong prodefense Democrat, who just spoke and who has been a voice of reason on the House Committee on Armed Services, and let me repeat a few of the points that he made because I think they are important.

Mr. Chairman, when that war that he spoke of was over, World War II, and another war broke out in Korea, a war about which James Michener wrote a book called, "The Bridges at Toko-Ri," a war for which we were unprepared, if my colleagues read the book, in the last of the book when the hero who I think was portrayed by William Holden was ultimately shot down, and the rescue helicopter was shot down, and he was killed, the captain of the carrier from which he flew stood on the deck a short time later and said:

> Where does America get such men to fly off these tiny carriers, and fly into harm's way, seek a target that's heavily defended, and finally try to go back out to sea, and find that small carrier that they came from?

□ 1910

And the answer was given to us once again in Desert Storm that "when we got men and women who put themselves in harm's way, we had all those volunteers coming from our cities and our villages and our farms, and this time they were well equipped, and this time they were supported by a unified America and by a Congress which, if it did not support the President at first, at least supported its troops in the end."

And they were well equipped because in the 1980's we rebuilt America's defenses and we did not try to cut the margins. We tried to build a military force which in a conflict would bring overwhelming odds and overwhelming striking power against an adversary, and it was that overwhelming striking power that we delivered at the Iraqi army in Desert Storm that allowed us to get through that conflict with a minimum of casualties. We did not want to have a close conflict. We did not want to have a conflict in which we measured their tens of thousands of dead and balanced them against our tens of thousands of dead. We wanted overwhelming force.

To my friends on the Democrat side of the aisle who just spoke of the disassembly of the Soviet empire, let me say that no Soviets were involved in Desert Storm, and yet if we ask our Commandant of the Marine Corps or the CNO of the Navy, if we ask our military leaders, and especially one of the finest analytical thinkers who has ever come out of this House of Representatives, for whom Democrats and Republicans are both proud, that is, Dick Cheney, we could not do with the Democrat budget, the proposed budget, again what we did in Desert Storm. The Commandant of the Marine Corps said, "Sure, we can survive and we can fight, but we can't do what we did in Desert Storm as decisively as we did."

The CNO of the Navy will say that we could not do in Desert Storm again with this reduced budget that the Democrats are giving us what we did. And indeed the Secretary of Defense has said a number of times that we cannot repeat a Desert Storm performance with what is left.

So once again we are being asked to forget that lesson of history that we should have learned after World War II, that we should have learned after World War I, and that we should have learned after Vietnam when we went into a national security decline.

Mr. Chairman, we should be responsible. We should reject this budget, and if we do, the American people will thank us for it.

Mr. GRADISON. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, some years ago when I was first learning to drive race cars, the instructor told me that you cannot drive fast unless you focus well down the road. One of the things that this budget that the Democrats have brought to us fails to do is focus well down the road. This is a budget that looks to the past, not to the future, and all we have to do is look at what we have done in general terms and we understand this is not a budget about the future. This is a budget driving down the road, looking in the rear-view mirror, because this budget suggests, for example, that you can add $41 billion over the President's proposal to the national debt and it will do no harm to the future.

Yet we know that debt impedes the future. Debt means we do not have money to invest in those things the Nation needs for its future. Yet this budget piles more and more debt upon the American people. While they are doing the spending, however, the spending is not going to things that address the future either. It is the R&D accounts that have gotten cut badly by what the Democrats have done.

They have managed to underfund the science, space, and technology programs that are vital to both economic recovery and our economic future. They have drawn down the space program, the math and science programs, and the education and advanced technology programs. All of those programs are underfunded relative to the budget that the President brought to us.

I heard my colleague, the gentleman from Illinois, suggesting out here a little while ago to us that somehow underfunding these accounts would be helpful because it means that money would go to other agencies that he regarded as more meritorious. One of the things he mentioned in particular fascinated me. He said we ought to be putting the money toward doing something real about the HIV virus. I agree with him that we ought to be doing something about the HIV virus, and one of the things we ought to be doing is the advanced space program. I will give the Members an example why. Aboard the space shuttle on the last flight we grew protein upon that space shuttle that may well help us learn more than we have known before about the HIV virus and that may point us toward a cure. We cannot grow that protein in gravity; we can only grow it in weightlessness, and we can only grow it in a way that really helps the researchers by having it aboard the space shuttle. If you are going to cut out those kinds of programs, you are going to keep us from being able to have those kinds of advances in our Nation's future. Spending money on programs of the past does not get us there.

Mr. Chairman, the gentleman from Illinois, is also one of those people who says we should cancel the space station and use that money here on Earth, without understanding that the space station is one of those things that is going to give us the opportunity to address problems here on Earth. For example, we are going to put a machine aboard the space station that allows us to grow new human tissue. One of the things we will be able to do first is grow new skin tissue for skin grafts. It will be a perfect match because it will be grown from the cellular matter of the person involved. Essentially we think that machine will allow us to grow new organs. It would be a perfect transplant because they would be genetically similar or the same as the person to which the organ would be transplanted.

We may be able to grow new nerve tissue and replace spinal cords. We may be able to grow new optic nerves and cure blindness.

Those things can be done only in zero gravity because if we tried to grow this tissue in gravity, it distorts it, but when you grow it in weightlessness, it does not distort the tissue and you get perfect tissue which then can be used back on Earth. We cannot do those things if we do not have the programs to do them, and the Democrats would have us believe that somehow we can cancel the future or cancel the programs of the future and not suffer as a Nation.

Their program and their budget is a budget that denies the future to this country. Instead of looking ahead, it looks back. I do not think we can afford to be a nation that looks back. I am proud of the fact that when President Bush sent his budget to the Congress, he had a budget that looked ahead, looked out toward the future. That is what we should be doing here in the House, but we are not. The Democrats have given us a budget that I believe will prevent us from being forward-looking, and I hope it is rejected.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from West Virginia [Mr. WISE], a member of the Committee on the Budget.

Mr. WISE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I want to continue on the discussion of competitiveness because the issue was brought up about research, and I am not quite sure how one concludes that the Democratic budget is less on research. Let me give some examples.

On DARPA, technology preparedness, that is, within the Defense Department, technology preparedness, the President sought to cut $88 billion in budget authority, or just to keep it in outlays, $48 million below the baseline of last year's. And plan B, that is, the one where you keep the walls up, the Democratic alternative would put in $270 million.

In NSF, the Democratic alternative, in the plan A, it equals what the President had. On the National Institute of Technology, the Democratic plan, plan A, meets with the President's.

I think, though, what did not get pointed out a minute ago was NIH, the National Institutes of Health, which I think most of us consider very, very important. I note with interest that in plan B—that is the slimmer one where the walls stay up—the Democratic alternative beats the President's by roughly $50 million. That is in outlays. That is how much you spend in 1 year. In plan A, that is, if the walls come down, it more than doubles the President's.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. WISE. Yes, I yield, but I can only yield briefly.

Mr. WALKER. Could the gentleman tell me this: I mentioned the space program, math and science, and the education and technology programs. In all those cases you are under the President's figures; is that not correct?

Mr. WISE. Actually in the space program, in both plan A and plan B, the space program is continued. In fact, I was the one that urged, and I believe I was successful in getting some of the money allocated in the defense budget so that the space budget could continue.

Mr. WALKER. Mr. Chairman, if the gentleman will yield further?

Mr. WISE. Mr. Chairman, I need to reclaim my time from the gentleman because I do not have that much time.

□ 1920

Incidentally, there is more research in space. Some of us are a little concerned about the space program because while we think that is important, we think NIH is very important. We think NIMH, the National Institute of Mental Health, in which the President cut $30 million out of basic research, which is so crucial, particularly in this decade of the brain. Happily, in plan B, the slimmed down one, that money is restored, and in plan A, that money is greatly increased. It may mean we can fund more than 27 percent of the grants that are approved.

So whether you are talking about DARPA, whether you are talking about the National Institute of Mental Health, whether you are talking about the National Institutes of Health, research is very important.

I want to move quickly to some other areas in which it has been suggested that the Democratic budget somehow is just tinkering around the edges with the President's budget.

Women, Infants, and Children, a very important program. The Democratic budget, plan B, that is the slimmed down version, offers $60 million more than the President's budget.

Try telling a lot of women and children that $60 million that feeds hundreds of thousands or more is some kind of minor tinkering around the edges.

Unfortunately, there is a lot of unemployment this year. The JTPA, the Job Training Partnership Act, $329 million.

Community development block grants, having just been involved in a meeting with mayors and contractors and others concerned about building infrastructure, the Democratic alternative puts $500 million more in plan B than the President's budget does, so crucial to building that infrastructure.

Of course highways, the Democratic alternative tries to fund at full authority the important highway program. And veterans, housing, community health, rural housing loans, childhood immunizations. Ninety-nine million dollars, you say, how much is that for childhood immunizations? It immunizes a lot of children, much more than the President's.

I am very interested in investment. I am very interested in making sure that we get a good return on that. And if we do not invest in this country, we are not going to get any revenue back. That is why I get concerned about the bean counters who want to cut back on infrastructure, who want to cut back on some types of research, who want to cut back on building, who want to cut back, for instance, on those programs that move this country forward.

So I am delighted that the Democratic budget does not just tinker around the edges, but it recognizes and concentrates those resources and tries to get a greater return for the dollar, and actually gives taxpayers something that is going to be paying them returns for a lot longer time than what the President's budget does.

Mr. GRADISON. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we just got an interesting explanation of why the Democrats' proposal is such an absurdity. When we try to explain the Democrats' proposal, we start talking about plan A would provide this, and plan B would provide this, but if you want to know where we are on this, then you have to go to plan B, and if you do not want to talk about those figures, we will take you over here to plan A, and then it is back to plan B again, and any time you begin to ask questions about where does the plan stand on particular issues, well, you have to know whether it is under plan A or B.

I would suggest that maybe what you should have had is a plan D. The plan D does not stand for Democrat, it should stand for defeat. Because, No. 1, it is absolutely a defeatist budget that you have brought to the floor. I would submit that the President's budget does keep on track the National Science Foundation, it moves the NASA program forward, it does do the job of funding the National Institutes of Standards and Technology, and it provides and implements a national energy strategy.

Those are things on which it is very hard to figure out where your program stands, on any of those things, because we cannot figure out whether it is on plan A, B, C, or Z.

Mr. WISE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from West Virginia.

Mr. WISE. Mr. Chairman, I appreciate the gentleman from Pennsylvania [Mr. WALKER] mentioning the energy strategy. Actually we have to build that back up from the President, particularly putting in money for alternative fuels and other types of energy research, because the President had cut that back so significantly.

Mr. WALKER. Mr. Chairman, reclaiming my time, if the gentleman will allow me, the problem is that most of what you want to do is not in the area of R&D; that most of the things that the President thinks can be done for an energy strategy do not demand a lot of R&D dollars, but they demand some investment in the economy.

What you people are doing by raising taxes and doing all the rest of these things is that you are preventing us from having the investment dollars we need for a responsible energy strategy.

So the President has in fact implemented a positive program in this regard, and your programs in fact cut back on the very areas that are the most important for the Nation's science future.

As ranking Republican on the Committee on Science, Space and Technology, I have had a chance to review what you have done. I cannot figure out whether it is plan B or A that I was dealing with, but all I know is it does not look very good.

Mr. GRADISON. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I offered my general assessment of this resolution in my opening remarks. I listened carefully to the debate, which does not give me any reason to think we have a clear proposal before us from the Democratic majority.

The Committee on the Budget regretfully began its march toward irrelevancy last spring when it could find no real alternative to the President's 1992 spending plan, but pretended to conjure one up anyway. This journey toward irrelevancy continued last Thursday when committee Democrats could not even decide on a coherent budget resolution.

Mr. Chairman, by failing to make a recommendation for a budget, and I stress not two budgets, but a budget, the committee majority has abdicated its responsibility. Regrettably, what is being presented to the House is not a budget resolution, but a nonbudget nonresolution.

Mr. Chairman, I yield back the balance of my time.

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise and ask Members again to support the committee's budget resolution. I hope that Members, regardless of how they feel about the various proposals, will at least have the courage to vote for one of these alternatives that is presented.

I think the good thing here is that Members will have a selection of alternatives. They will have the President's budget to decide on, with the taxes that are part of it, with the cuts in Medicare and other human programs that are part of it.

I hope that those who attack the proposal of the Committee on the Budget will at least have the courage to vote for the President's proposal.

I am sure there are some that will vote against the Dannemeyer alternative. There will be those who will vote against the alternative offered by the progressive caucus. There are those that will vote against the Committee on the Budget resolution. There are those who would not vote for a budget resolution no matter what you brought here, because it is always easier to go back to your constituents and say, "Oh, I wasn't for that. I am for doing this, but I wasn't for that."

Mr. Chairman, the time has come when I think the American people are frankly very tired of people who promise everything, but when it comes to doing it, do not deliver. We have a responsibility now to deliver on a budget resolution so that we can continue the work of this House, so we can move on to the appropriations process, and so we can move on to deal with the economic issues that confront this country.

Mr. Chairman, I think the resolution that we have presented responds to those challenges. It certainly presents some alternatives to what the President tried to do.

Mr. Chairman, we retain budget discipline under both approaches suggested under the budget resolution. We do not play with gimmickry. If you like accrual accounting and gimmickry, please vote for the President's budget. We rejected that. We also rejected the unfairness that is part of the President's budget.

If you want the Medicare cuts, if you want the cuts on mass transit, if you want the cuts on veterans, if you want the cuts that deal with civil servants, please, vote for the President's budget. But if you do not, then support the committee's resolution.

Ultimately, if you do believe that the time has come to reorder some priorities and to target some investments, in education, in health care, in jobs, in growth and conversion within the communities of this country, then vote for the committee resolution. Because the President does not reorder any of those priorities.

Budgets, as I said, are not about numbers, they are about people. If you care about the person who can get a job because we have provided highway funding and mass transit funding, if you care about the student who needs a Pell grant, if you care about the mother who needs help from the WIC Program, if you care about the child who needs immunizations, if you care about people that are struggling every day, who need the help and support to try to make it in our society, then vote for the committee resolution.

Mr. Chairman, the time has come to make a choice. We are presenting those choices to the Members. Make the choice that helps people in this country.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for debate has expired.

Pursuant to the rule, the concurrent resolution is considered as read for amendment under the 5-minute rule.

H. CON. RES. 287

Resolved by the House of Representatives (the Senate concurring), That the budget for fiscal year 1993 is established, and the appropriate budgetary levels for fiscal years 1994, 1995, 1996, and 1997 are hereby set forth.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 2. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1992, October 1, 1993, October 1, 1994, October 1, 1995, and October 1, 1996:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1993: $845,300,000,000.
Fiscal year 1994: $911,300,000,000.
Fiscal year 1995: $968,100,000,000.
Fiscal year 1996: $1,017,800,000,000.
Fiscal year 1997: $1,070,400,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1993: $0.
Fiscal year 1994: $0.
Fiscal year 1995: $0.
Fiscal year 1996: $0.
Fiscal year 1997: $0.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1993: $85,300,000,000.
Fiscal year 1994: $91,200,000,000.
Fiscal year 1995: $96,800,000,000.
Fiscal year 1996: $102,900,000,000.
Fiscal year 1997: $109,200,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1993: $1,255,900,000,000.
Fiscal year 1994: $1,269,500,000,000.
Fiscal year 1995: $1,310,000,000,000.
Fiscal year 1996: $1,375,800,000,000.
Fiscal year 1997: $1,469,300,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1993: $1,243,500,000,000.
Fiscal year 1994: $1,255,500,000,000.
Fiscal year 1995: $1,258,600,000,000.
Fiscal year 1996: $1,305,200,000,000.
Fiscal year 1997: $1,416,600,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1993: $398,200,000,000.
Fiscal year 1994: $344,200,000,000.
Fiscal year 1995: $290,500,000,000.
Fiscal year 1996: $287,400,000,000.
Fiscal year 1997: $346,200,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1993: $4,477,300,000,000.
Fiscal year 1994: $4,879,000,000,000.
Fiscal year 1995: $5,228,900,000,000.
Fiscal year 1996: $5,571,500,000,000.
Fiscal year 1997: $5,969,500,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1992, October 1, 1993, October 1, 1994, October 1, 1995, and October 1, 1996, are as follows:

Fiscal year 1993:
(A) New direct loan obligations, $19,600,000,000.
(B) New primary loan guarantee commitments, $116,200,000,000.

Fiscal year 1994:
(A) New direct loan obligations, $19,800,000,000.
(B) New primary loan guarantee commitments, $117,300,000,000.

Fiscal year 1995:
(A) New direct loan obligations, $19,800,000,000.
(B) New primary loan guarantee commitments, $120,300,000,000.

Fiscal year 1996:
(A) New direct loan obligations, $20,000,000,000.
(B) New primary loan guarantee commitments, $123,400,000,000.

Fiscal year 1997:
(A) New direct loan obligations, $20,400,000,000.
(B) New primary loan guarantee commitments, $126,400,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1993 through 1997 for each major functional category are:

(1) National Defense (050):

Fiscal year 1993:
(A) New budget authority, $274,400,000,000.
(B) Outlays, $287,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:
(A) New budget authority, $289,300,000,000.
(B) Outlays, $287,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:
(A) New budget authority, $292,800,000,000.
(B) Outlays, $287,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:
(A) New budget authority, $295,100,000,000.
(B) Outlays, $291,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:
(A) New budget authority, $300,600,000,000.
(B) Outlays, $297,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1993:
(A) New budget authority, $19,700,000,000.
(B) Outlays, $17,400,000,000.
(C) New direct loan obligations, $2,900,000,000.
(D) New primary loan guarantee commitments, $11,000,000,000.

Fiscal year 1994:
(A) New budget authority, $19,600,000,000.
(B) Outlays, $18,200,000,000.
(C) New direct loan obligations, $3,000,000,000.

(D) New primary loan guarantee commitments, $11,400,000,000.

Fiscal year 1995:

(A) New budget authority, $19,300,000,000.

(B) Outlays, $18,100,000,000.

(C) New direct loan obligations, $3,100,000,000.

(D) New primary loan guarantee commitments, $11,800,000,000.

Fiscal year 1996:

(A) New budget authority, $18,900,000,000.

(B) Outlays, $18,100,000,000.

(C) New direct loan obligations, $3,200,000,000.

(D) New primary loan guarantee commitments, $12,200,000,000.

Fiscal year 1997:

(A) New budget authority, $18,600,000,000.

(B) Outlays, $18,000,000,000.

(C) New direct loan obligations, $3,300,000,000.

(D) New primary loan guarantee commitments, $12,600,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1993:

(A) New budget authority, $17,800,000,000.

(B) Outlays, $16,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $18,400,000,000.

(B) Outlays, $17,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $19,000,000,000.

(B) Outlays, $18,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $19,600,000,000.

(B) Outlays, $19,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $20,600,000,000.

(B) Outlays, $20,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1993:

(A) New budget authority, $6,300,000,000.

(B) Outlays, $5,500,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $200,000,000.

Fiscal year 1994:

(A) New budget authority, $6,500,000,000.

(B) Outlays, $5,900,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1995:

(A) New budget authority, $6,600,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $2,200,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1996:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $5,600,000,000.

(C) New direct loan obligations, $2,300,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1997:

(A) New budget authority, $6,700,000,000.

(B) Outlays, $5,200,000,000.

(C) New direct loan obligations, $2,400,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1993:

(A) New budget authority, $21,600,000,000.

(B) Outlays, $21,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $22,700,000,000.

(B) Outlays, $22,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $23,600,000,000.

(B) Outlays, $22,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $24,200,000,000.

(B) Outlays, $23,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $25,100,000,000.

(B) Outlays, $24,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1993:

(A) New budget authority, $16,400,000,000.

(B) Outlays, $16,100,000,000.

(C) New direct loan obligations, $8,800,000,000.

(D) New primary loan guarantee commitments, $6,600,000,000.

Fiscal year 1994:

(A) New budget authority, $17,000,000,000.

(B) Outlays, $14,800,000,000.

(C) New direct loan obligations, $8,700,000,000.

(D) New primary loan guarantee commitments, $6,700,000,000.

Fiscal year 1995:

(A) New budget authority, $14,900,000,000.

(B) Outlays, $12,800,000,000.

(C) New direct loan obligations, $8,300,000,000.

(D) New primary loan guarantee commitments, $6,700,000,000.

Fiscal year 1996:

(A) New budget authority, $15,000,000,000.

(B) Outlays, $13,000,000,000.

(C) New direct loan obligations, $8,100,000,000.

(D) New primary loan guarantee commitments, $6,800,000,000.

Fiscal year 1997:

(A) New budget authority, $15,100,000,000.

(B) Outlays, $13,300,000,000.

(C) New direct loan obligations, $8,100,000,000.

(D) New primary loan guarantee commitments, $6,900,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1993:

(A) New budget authority, $78,700,000,000.

(B) Outlays, $74,300,000,000.

(C) New direct loan obligations, $3,600,000,000.

(D) New primary loan guarantee commitments, $60,400,000,000.

Fiscal year 1994:

(A) New budget authority, $42,900,000,000.

(B) Outlays, $37,000,000,000.

(C) New direct loan obligations, $3,700,000,000.

(D) New primary loan guarantee commitments, $62,500,000,000.

Fiscal year 1995:

(A) New budget authority, $23,200,000,000.

(B) Outlays, −$12,900,000,000.

(C) New direct loan obligations, $3,800,000,000.

(D) New primary loan guarantee commitments, $64,600,000,000.

Fiscal year 1996:

(A) New budget authority, $8,000,000,000.

(B) Outlays, −$41,300,000,000.

(C) New direct loan obligations, $4,000,000,000.

(D) New primary loan guarantee commitments, $66,800,000,000.

Fiscal year 1997:

(A) New budget authority, $8,900,000,000.

(B) Outlays, −$26,100,000,000.

(C) New direct loan obligations, $4,100,000,000.

(D) New primary loan guarantee commitments, $69,000,000,000.

(8) Transportation (400):

Fiscal year 1993:

(A) New budget authority, $41,800,000,000.

(B) Outlays, $36,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $42,600,000,000.

(B) Outlays, $39,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $43,200,000,000.

(B) Outlays, $40,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $44,100,000,000.

(B) Outlays, $40,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $47,000,000,000.

(B) Outlays, $40,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1993:

(A) New budget authority, $7,700,000,000.

(B) Outlays, $7,200,000,000.

(C) New direct loan obligations, $1,300,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1994:

(A) New budget authority, $7,700,000,000.

(B) Outlays, $7,100,000,000.

(C) New direct loan obligations, $1,300,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1995:

(A) New budget authority, $7,800,000,000.

(B) Outlays, $7,200,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1996:

(A) New budget authority, $8,000,000,000.

(B) Outlays, $7,100,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1997:

(A) New budget authority, $8,300,000,000.

(B) Outlays, $7,500,000,000.

(C) New direct loan obligations, $1,500,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1993:

(A) New budget authority, $55,300,000,000.

(B) Outlays, $50,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $15,200,000,000.

Fiscal year 1994:

(A) New budget authority, $56,600,000,000.

(B) Outlays, $54,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $15,700,000,000.

Fiscal year 1995:

(A) New budget authority, $58,600,000,000.

(B) Outlays, $56,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $16,100,000,000.

Fiscal year 1996:

(A) New budget authority, $61,000,000,000.

(B) Outlays, $54,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $16,400,000,000.

Fiscal year 1997:

(A) New budget authority, $64,100,000,000.

(B) Outlays, $61,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $16,600,000,000.

(11) Health (550):

Fiscal year 1993:

(A) New budget authority, $106,300,000,000.

(B) Outlays, $105,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1994:

(A) New budget authority, $117,400,000,000.

(B) Outlays, $116,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1995:

(A) New budget authority, $130,200,000,000.

(B) Outlays, $129,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1996:

(A) New budget authority, $144,700,000,000.

(B) Outlays, $143,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1997:

(A) New budget authority, $160,500,000,000.

(B) Outlays, $158,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(12) Medicare (570):

Fiscal year 1993:

(A) New budget authority, $132,400,000,000.

(B) Outlays, $130,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $146,500,000,000.

(B) Outlays, $144,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $163,300,000,000.

(B) Outlays, $161,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $183,500,000,000.

(B) Outlays, $180,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $204,300,000,000.

(B) Outlays, $201,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1993:

(A) New budget authority, $201,700,000,000.

(B) Outlays, $197,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $210,500,000,000.

(B) Outlays, $207,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $219,500,000,000.

(B) Outlays, $218,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $234,300,000,000.

(B) Outlays, $229,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $251,000,000,000.

(B) Outlays, $242,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1993:

(A) New budget authority, $5,900,000,000.

(B) Outlays, $8,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $9,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $10,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $7,900,000,000.

(B) Outlays, $11,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $8,700,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1993:

(A) New budget authority, $35,800,000,000.

(B) Outlays, $35,600,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $22,100,000,000.

Fiscal year 1994:

(A) New budget authority, $37,000,000,000.

(B) Outlays, $38,400,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $20,000,000,000.

Fiscal year 1995:

(A) New budget authority, $38,300,000,000.

(B) Outlays, $39,100,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $20,100,000,000.

Fiscal year 1996:

(A) New budget authority, $39,400,000,000.

(B) Outlays, $38,800,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $20,200,000,000.

Fiscal year 1997:

(A) New budget authority, $40,700,000,000.

(B) Outlays, $41,600,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $20,300,000,000.

(16) Administration of Justice (750):

Fiscal year 1993:

(A) New budget authority, $15,600,000,000.

(B) Outlays, $15,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $16,300,000,000.

(B) Outlays, $16,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $17,000,000,000.

(B) Outlays, $17,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $18,500,000,000.

(B) Outlays, $18,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $19,300,000,000.

(B) Outlays, $19,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1993:

(A) New budget authority, $12,800,000,000.

(B) Outlays, $13,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $12,800,000,000.

(B) Outlays, $13,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $13,400,000,000.

(B) Outlays, $13,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $14,200,000,000.

(B) Outlays, $14,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $14,900,000,000.

(B) Outlays, $14,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1993:

(A) New budget authority, $242,200,000,000.

(B) Outlays, $242,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $264,000,000,000.

(B) Outlays, $264,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $283,600,000,000.

(B) Outlays, $283,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $305,000,000,000.

(B) Outlays, $305,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $329,900,000,000.

(B) Outlays, $329,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1993:

(A) New budget authority, −$2,500,000,000.

(B) Outlays, −$2,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, −$2,900,000,000.

(B) Outlays, −$2,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, −$2,900,000,000.

(B) Outlays, −$2,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, −$2,900,000,000.

(B) Outlays, −$3,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, −$3,000,000,000.

(B) Outlays, −$3,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1993:

(A) New budget authority, −$34,000,000,000.

(B) Outlays, −$34,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, −$61,800,000,000.

(B) Outlays, −$56,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, −$68,500,000,000.

(B) Outlays, −$67,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, −$69,100,000,000.

(B) Outlays, −$63,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, −$72,000,000,000.

(B) Outlays, −$61,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

SENSE OF THE HOUSE

SEC. 3. (a) If H.R. 3732 or similar legislation is not enacted into law before conferees on this resolution are appointed by the Speaker, it is the sense of the House that the following levels are appropriate for fiscal years 1993 through 1997:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1993: $845,300,000,000.
Fiscal year 1994: $911,300,000,000.
Fiscal year 1995: $968,100,000,000.
Fiscal year 1996: $1,017,800,000,000.
Fiscal year 1997: $1,070,400,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1993: $0.
Fiscal year 1994: $0.
Fiscal year 1995: $0.
Fiscal year 1996: $0.
Fiscal year 1997: $0.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1993: $85,300,000,000.
Fiscal year 1994: $91,200,000,000.
Fiscal year 1995: $96,800,000,000.
Fiscal year 1996: $102,900,000,000.
Fiscal year 1997: $109,200,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1993: $1,243,500,000,000.
Fiscal year 1994: $1,269,200,000,000.
Fiscal year 1995: $1,309,600,000,000.
Fiscal year 1996: $1,375,100,000,000.
Fiscal year 1997: $1,468,700,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1993: $1,236,600,000,000.
Fiscal year 1994: $1,254,900,000,000.
Fiscal year 1995: $1,257,700,000,000.
Fiscal year 1996: $1,305,100,000,000.
Fiscal year 1997: $1,416,000,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1993: $391,300,000,000.
Fiscal year 1994: $343,600,000,000.
Fiscal year 1995: $289,600,000,000.
Fiscal year 1996: $287,300,000,000.
Fiscal year 1997: $345,600,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1993: $4,470,500,000,000.
Fiscal year 1994: $4,871,600,000,000.
Fiscal year 1995: $5,220,600,000,000.
Fiscal year 1996: $5,563,100,000,000.
Fiscal year 1997: $5,960,500,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1992, October 1, 1993, October 1, 1994, October 1, 1995, and October 1, 1996, are as follows:

Fiscal year 1993:

(A) New direct loan obligations, $19,300,000,000.

(B) New primary loan guarantee commitments, $116,200,000,000.

Fiscal year 1994:

(A) New direct loan obligations, $19,500,000,000.

(B) New primary loan guarantee commitments, $117,300,000,000.

Fiscal year 1995:

(A) New direct loan obligations, $19,500,000,000.

(B) New primary loan guarantee commitments, $120,300,000,000.

Fiscal year 1996:

(A) New direct loan obligations, $19,700,000,000.

(B) New primary loan guarantee commitments, $123,400,000,000.

Fiscal year 1997:

(A) New direct loan obligations, $20,100,000,000.

(B) New primary loan guarantee commitments, $126,400,000,000.

(b) If H.R. 3732 or similar legislation is not enacted into law before conferees on this resolution are appointed by the Speaker, it is the sense of the House that the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1993 through 1997 for each major functional category are:

(1) National Defense (050):

Fiscal year 1993:

(A) New budget authority, $274,400,000,000.

(B) Outlays, $287,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $289,300,000,000.

(B) Outlays, $287,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $292,800,000,000.

(B) Outlays, $287,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $295,100,000,000.

(B) Outlays, $291,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $300,600,000,000.

(B) Outlays, $297,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1993:

(A) New budget authority, $19,700,000,000.

(B) Outlays, $17,400,000,000.

(C) New direct loan obligations, $2,900,000,000.

(D) New primary loan guarantee commitments, $11,000,000,000.

Fiscal year 1994:

(A) New budget authority, $19,600,000,000.

(B) Outlays, $18,200,000,000.

(C) New direct loan obligations, $3,000,000,000.

(D) New primary loan guarantee commitments, $11,400,000,000.

Fiscal year 1995:

(A) New budget authority, $19,300,000,000.

(B) Outlays, $18,100,000,000.

(C) New direct loan obligations, $3,100,000,000.

(D) New primary loan guarantee commitments, $11,800,000,000.

Fiscal year 1996:

(A) New budget authority, $18,900,000,000.

(B) Outlays, $18,100,000,000.

(C) New direct loan obligations, $3,200,000,000.

(D) New primary loan guarantee commitments, $12,200,000,000.

Fiscal year 1997:

(A) New budget authority, $18,600,000,000.

(B) Outlays, $18,000,000,000.

(C) New direct loan obligations, $3,300,000,000.

(D) New primary loan guarantee commitments, $12,600,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1993:

(A) New budget authority, $17,100,000,000.

(B) Outlays, $16,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $17,500,000,000.

(B) Outlays, $17,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $18,100,000,000.

(B) Outlays, $17,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $18,600,000,000.

(B) Outlays, $18,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $19,600,000,000.

(B) Outlays, $19,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1993:

(A) New budget authority, $5,900,000,000.

(B) Outlays, $5,400,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $200,000,000.

Fiscal year 1994:

(A) New budget authority, $6,100,000,000.

(B) Outlays, $5,600,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1995:

(A) New budget authority, $6,200,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $2,200,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1996:

(A) New budget authority, $6,000,000,000.

(B) Outlays, $5,100,000,000.

(C) New direct loan obligations, $2,300,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1997:

(A) New budget authority, $6,200,000,000.

(B) Outlays, $4,700,000,000.

(C) New direct loan obligations, $2,400,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1993:

(A) New budget authority, $20,900,000,000.

(B) Outlays, $20,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $22,000,000,000.

(B) Outlays, $21,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $22,900,000,000.

(B) Outlays, $22,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $23,400,000,000.

(B) Outlays, $22,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $24,300,000,000.

(B) Outlays, $23,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1993:

(A) New budget authority, $16,200,000,000.

(B) Outlays, $16,000,000,000.

(C) New direct loan obligations, $8,700,000,000.

(D) New primary loan guarantee commitments, $6,600,000,000.

Fiscal year 1994:

(A) New budget authority, $16,800,000,000.

(B) Outlays, $14,600,000,000.

(C) New direct loan obligations, $8,600,000,000.

(D) New primary loan guarantee commitments, $6,700,000,000.

Fiscal year 1995:

(A) New budget authority, $14,700,000,000.

(B) Outlays, $12,600,000,000.

(C) New direct loan obligations, $8,200,000,000.

(D) New primary loan guarantee commitments, $6,700,000,000.

Fiscal year 1996:

(A) New budget authority, $14,700,000,000.

(B) Outlays, $12,800,000,000.

(C) New direct loan obligations, $8,000,000,000.

(D) New primary loan guarantee commitments, $6,800,000,000.

Fiscal year 1997:

(A) New budget authority, $14,900,000,000.

(B) Outlays, $13,-100,000,000.

(C) New direct loan obligations, $8,000,000,000.

(D) New primary loan guarantee commitments, $6,900,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1993:

(A) New budget authority, $78,500,000,000.

(B) Outlays, $74,100,000,000.

(C) New direct loan obligations, $3,400,000,000.

(D) New primary loan guarantee commitments, $60,400,000,000.

Fiscal year 1994:

(A) New budget authority, $42,600,000,000.

(B) Outlays, $36,800,000,000.

(C) New direct loan obligations, $3,500,000,000.

(D) New primary loan guarantee commitments, $62,500,000,000.

Fiscal year 1995:

(A) New budget authority, $22,900,000,000.

(B) Outlays, −$13,100,000,000.

(C) New direct loan obligations, $3,600,000,000.

(D) New primary loan guarantee commitments, $64,600,000,000.

Fiscal year 1996:

(A) New budget authority, $7,700,000,000.

(B) Outlays, −$41,600,000,000.

(C) New direct loan obligations, $3,800,000,000.

(D) New primary loan guarantee commitments, $66,800,000,000.

Fiscal year 1997:

(A) New budget authority, $8,600,000,000.

(B) Outlays, −$26,400,000,000.

(C) New direct loan obligations, $3,900,000,000.

(D) New primary loan guarantee commitments, $69,000,000,000.

(8) Transportation (400):

Fiscal year 1993:

(A) New budget authority, $41,000,000,000.

(B) Outlays, $35,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $41,700,000,000.

(B) Outlays, $37,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $42,300,000,000.

(B) Outlays, $38,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $43,100,000,000.

(B) Outlays, $39,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $46,000,000,000.

(B) Outlays, $40,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1993:

(A) New budget authority, $6,900,000,000.

(B) Outlays, $7,100,000,000.

(C) New direct loan obligations, $1,300,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1994:

(A) New budget authority, $6,900,000,000.

(B) Outlays, $6,700,000,000.

(C) New direct loan obligations, $1,300,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1995:

(A) New budget authority, $7,000,000,000.

(B) Outlays, $6,400,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1996:

(A) New budget authority, $7,200,000,000.

(B) Outlays, $6,400,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1997:
(A) New budget authority, $7,500,000,000.
(B) Outlays, $6,700,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1993:
(A) New budget authority, $51,700,000,000.
(B) Outlays, $49,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $15,200,000,000.
Fiscal year 1994:
(A) New budget authority, $53,400,000,000.
(B) Outlays, $51,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $15,700,000,000.
Fiscal year 1995:
(A) New budget authority, $54,900,000,000.
(B) Outlays, $52,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $16,100,000,000.
Fiscal year 1996:
(A) New budget authority, $57,200,000,000.
(B) Outlays, $50,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $16,400,000,000.
Fiscal year 1997:
(A) New budget authority, $60,100,000,000.
(B) Outlays, $57,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $16,600,000,000.

(11) Health (550):
Fiscal year 1993:
(A) New budget authority, $105,200,000,000.
(B) Outlays, $104,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1994:
(A) New budget authority, $116,200,000,000.
(B) Outlays, $115,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1995:
(A) New budget authority, $128,800,000,000.
(B) Outlays, $127,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1996:
(A) New budget authority, $143,200,000,000.
(B) Outlays, $141,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1997:
(A) New budget authority, $159,000,000,000.
(B) Outlays, $157,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.

(12) Medicare (570):
Fiscal year 1993:
(A) New budget authority, $132,200,000,000.
(B) Outlays, $130,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $146,400,000,000.
(B) Outlays, $144,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $163,100,000,000.
(B) Outlays, $160,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $183,300,000,000.
(B) Outlays, $180,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $204,000,000,000.
(B) Outlays, $201,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):
Fiscal year 1993:
(A) New budget authority, $199,500,000,000.
(B) Outlays, $196,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $208,200,000,000.
(B) Outlays, $206,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $217,100,000,000.
(B) Outlays, $217,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $231,800,000,000.
(B) Outlays, $227,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $248,600,000,000.
(B) Outlays, $240,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(14) Social Security (650):
Fiscal year 1993:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $8,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $6,400,000,000.
(B) Outlays, $9,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $7,100,000,000.
(B) Outlays, $10,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $7,900,000,000.
(B) Outlays, $10,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $8,700,000,000.
(B) Outlays, $11,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):
Fiscal year 1993:
(A) New budget authority, $35,300,000,000.
(B) Outlays, $35,000,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $22,100,000,000.
Fiscal year 1994:
(A) New budget authority, $36,500,000,000.
(B) Outlays, $38,200,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $20,000,000,000.
Fiscal year 1995:
(A) New budget authority, $37,700,000,000.
(B) Outlays, $37,700,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $20,100,000,000.
Fiscal year 1996:
(A) New budget authority, $38,900,000,000.
(B) Outlays, $37,400,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $20,200,000,000.
Fiscal year 1997:
(A) New budget authority, $40,100,000,000.
(B) Outlays, $40,100,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $20,300,000,000.

(16) Administration of Justice (750):
Fiscal year 1993:
(A) New budget authority, $15,200,000,000.
(B) Outlays, $15,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $15,800,000,000.
(B) Outlays, $16,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $16,600,000,000.
(B) Outlays, $16,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $18,000,000,000.
(B) Outlays, $17,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $18,800,000,000.
(B) Outlays, $18,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(17) General Government (800):
Fiscal year 1993:
(A) New budget authority, $12,300,000,000.
(B) Outlays, $12,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $12,200,000,000.
(B) Outlays, $13,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $12,800,000,000.
(B) Outlays, $13,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $13,600,000,000.
(B) Outlays, $13,400,000,000.
(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $14,300,000,000.

(B) Outlays, $13,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1993:

(A) New budget authority, $242,000,000,000.

(B) Outlays, $241,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $263,600,000,000.

(B) Outlays, $263,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $283,100,000,000.

(B) Outlays, $283,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $304,500,000,000.

(B) Outlays, $304,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $329,400,000,000.

(B) Outlays, $329,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1993:

(A) New budget authority, −$2,300,000,000.

(B) Outlays, $3,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, −$4,200,000,000.

(B) Outlays, $4,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, −$4,300,000,000.

(B) Outlays, $4,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, −$4,300,000,000.

(B) Outlays, −$4,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, −$4,400,000,000.

(B) Outlays, $4,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1993:

(A) New budget authority, −$34,100,000,000.

(B) Outlays, −$34,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, −$47,800,000,000.

(B) Outlays, −$44,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, −$53,500,000,000.

(B) Outlays, −$52,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, −$53,700,000,000.

(B) Outlays, −$48,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, −$56,200,000,000.

(B) Outlays, −$45,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

SEC. 4. The Committee strongly urges that measures to control the growth of health care costs be included by the committees of jurisdiction in any comprehensive health care package that they report.

The CHAIRMAN. No amendments are in order except the amendments printed in House Report 102–451, which shall be considered in the order and manner specified in the report, shall be considered as having been read and shall not be subject to amendment. If more than one amendment in the nature of a substitute is adopted, only the last amendment adopted shall be considered as having been finally adopted in the Committee of the Whole and reported back to the House.

It shall be in order to consider the amendment or amendments provided for in section 305(a)(5) of the Congressional Budget Act of 1974 necessary to achieve mathematical consistency.

At the conclusion of the consideration of the concurrent resolution for amendment, there shall be an additional period of general debate, which shall be confined to the concurrent resolution as amended, and which shall not exceed 1 hour, equally divided and controlled by the Chairman and ranking minority member on the Committee on the Budget.

□ 1930

It is now in order to consider amendment No. 1 printed in House Report 102–451.

AMMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. DANNEMEYER:

1. AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BE OFFERED BY REPRESENTATIVE DANNEMEYER OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 30 MINUTES, EQUALLY DIVIDED AND CONTROLLED BY THE PROPONENT OF THE AMENDMENT AND A MEMBER OPPOSED THERETO

Strike all after the resolving clause and insert the following:

RECOMMENDED LEVELS AND AMOUNTS

SEC. 2. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1992, October 1, 1993, October 1, 1994, October 1, 1995, and October 1, 1996:

(1) The recommended levels for Federal revenues are as follows:

Fiscal year 1993: $845,300,000,000.

Fiscal year 1994: $911,300,000,000.

Fiscal year 1995: $968,100,000,000.

Fiscal year 1996: $1,017,800,000,000.

Fiscal year 1997: $1,070,400,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1993: $0.

Fiscal year 1994: $0.

Fiscal year 1995: $0.

Fiscal year 1996: $0.

Fiscal year 1997: $0.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1993: $85,300,000,000.

Fiscal year 1994: $91,200,000,000.

Fiscal year 1995: $96,800,000,000.

Fiscal year 1996: $102,900,000,000.

Fiscal year 1997: $109,200,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1993: $1,221,341,000,000.

Fiscal year 1994: $1,202,954,000,000.

Fiscal year 1995: $1,214,440,000,000.

Fiscal year 1996: $1,233,795,000,000.

Fiscal year 1997: $1,272,681,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1993: $1,182,910,000,000.

Fiscal year 1994: $1,147,899,000,000.

Fiscal year 1995: $1,109,823,000,000.

Fiscal year 1996: $1,100,914,000,000.

Fiscal year 1997: $1,153,859,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1993: −$337,610,000,000.

Fiscal year 1994: −$236,599,000,000.

Fiscal year 1995: −$141,723,000,000.

Fiscal year 1996: −$83,114,000,000.

Fiscal year 1997: −$83,459,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1993: $4,473,200,000,000.

Fiscal year 1994: $4,877,200,000,000.

Fiscal year 1995: $5,229,200,000,000.

Fiscal year 1996: $5,574,600,000,000.

Fiscal year 1997: $5,975,500,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1992, October 1, 1993, October 1, 1994, October 1, 1995, and October 1, 1996, are as follows:

Fiscal year 1993:

(A) New direct loan obligations, $14,166,000,000.

(B) New primary loan guarantee commitments, $107,895,000,000.

Fiscal year 1994:

(A) New direct loan obligations, $10,780,000,000.

(B) New primary loan guarantee commitments, $43,030,000,000.

Fiscal year 1995:

(A) New direct loan obligations, $10,445,000,000.

(B) New primary loan guarantee commitments, $44,111,000,000.

Fiscal year 1996:

(A) New direct loan obligations, $10,263,000,000.

(B) New primary loan guarantee commitments, $42,850,000,000.

Fiscal year 1997:

(A) New direct loan obligations, $10,128,000,000.

(B) New primary loan guarantee commitments, $43,624,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1993 through 1997 for each major functional category are:

(1) National Defense (050):

Fiscal year 1993:

(A) New budget authority, $280,800,000,000.

(B) Outlays, $289,213,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $275,278,000,000.

(B) Outlays, $275,875,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $269,411,000,000.

(B) Outlays, $263,176,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $262,733,000,000.

(B) Outlays, $251,021,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $257,278,000,000.

(B) Outlays, $239,650,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1993:

(A) New budget authority, $17,464,000,000.

(B) Outlays, $13,016,000,000.

(C) New direct loan obligations, $1,860,000,000.

(D) New primary loan guarantee commitments, $10,320,000,000.

Fiscal year 1994:

(A) New budget authority, $17,464,000,000.

(B) Outlays, $13,016,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $17,464,000,000.

(B) Outlays, $13,016,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $17,464,000,000.

(B) Outlays, $13,016,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $17,464,000,000.

(B) Outlays, $13,016,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(3) General Science, Space, and Technology (250):

Fiscal year 1993:

(A) New budget authority, $17,404,000,000.

(B) Outlays, $16,584,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $17,752,000,000.

(B) Outlays, $16,916,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $18,107,000,000.

(B) Outlays, $17,254,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $18,469,000,000.

(B) Outlays, $12,599,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $,18,839,000,000.

(B) Outlays, $17,951,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1993:

(A) New budget authority, $6,218,000,000.

(B) Outlays, $4,754,000,000.

(C) New direct loan obligations, $1,641,000,000.

(D) New primary loan guarantee commitments, $394,000,000.

Fiscal year 1994:

(A) New budget authority, $5,938,000,000.

(B) Outlays, $5,096,000,000.

(C) New direct loan obligations, $1,804,000,000.

(D) New primary loan guarantee commitments, $256,000,000.

Fiscal year 1995:

(A) New budget authority, $4,533,000,000.

(B) Outlays, $4,187,000,000.

(C) New direct loan obligations, $1,952,000,000.

(D) New primary loan guarantee commitments, $267,000,000.

Fiscal year 1996:

(A) New budget authority, $4,640,000,000.

(B) Outlays, $3,850,000,000.

(C) New direct loan obligations, $2,258,000,000.

(D) New primary loan guarantee commitments, $276,000,000.

Fiscal year 1997:

(A) New budget authority, $5,312,000,000.

(B) Outlays, $3,769,000,000.

(C) New direct loan obligations, $2,209,000,000.

(D) New primary loan guarantee commitments, $285,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1993:

(A) New budget authority, $21,966,000,000.

(B) Outlays, $20,522,000,000.

(C) New direct loan obligations, $36,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $21,623,000,000.

(B) Outlays, $20,907,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $22,150,000,000.

(B) Outlays, $21,321,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $22,162,000,000.

(B) Outlays, $21,622,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $22,880,000,000.

(B) Outlays, $21,937,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1993:

(A) New budget authority, $21,931,000,000.

(B) Outlays, $18,303,000,000.

(C) New direct loan obligations, $8,192,000,000.

(D) New primary loan guarantee commitments, $7,201,000,000.

Fiscal year 1994:

(A) New budget authority, $18,942,000,000.

(B) Outlays, $15,845,000,000.

(C) New direct loan obligations, $7,979,000,000.

(D) New primary loan guarantee commitments, $7,312,000,000.

Fiscal year 1995:

(A) New budget authority, $18,776,000,000.

(B) Outlays, $13,816,000,000.

(C) New direct loan obligations, $7,518,000,000.

(D) New primary loan guarantee commitments, $7,372,000,000.

Fiscal year 1996:

(A) New budget authority, $15,723,000,000.

(B) Outlays, $14,045,000,000.

(C) New direct loan obligations, $7,059,000,000.

(D) New primary loan guarantee commitments, $5,135,000,000.

Fiscal year 1997:

(A) New budget authority, $14,985,000,000.

(B) Outlays, $13,513,000,000.

(C) New direct loan obligations, $6,994,000,000.

(D) New primary loan guarantee commitments, $5,135,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1993:

(A) New budget authority, $59,742,000,000.

(B) Outlays, $74,361,000,000.

(C) New direct loan obligations, $164,000,000.

(D) New primary loan guarantee commitments, $55,070,000,000.

Fiscal year 1994:

(A) New budget authority, $37,245,000,000.

(B) Outlays, $38,744,000,000.

(C) New direct loan obligations, $30,000,000.

(D) New primary loan guarantee commitments, $1,000,000.

Fiscal year 1995:

(A) New budget authority, $22,540,000,000.

(B) Outlays, −$11,182,000,000.

(C) New direct loan obligations, $30,000,000.

(D) New primary loan guarantee commitments, $1,000,000.

Fiscal year 1996:

(A) New budget authority, $9,431,000,000.

(B) Outlays, −$39,673,000,000.

(C) New direct loan obligations, $30,000,000.

(D) New primary loan guarantee commitments, $1,000,000.

Fiscal year 1997:

(A) New budget authority, $11,934,000,000.

(B) Outlays, −$24,260,000,000.

(C) New direct loan obligations, $30,000,000.

(D) New primary loan guarantee commitments, $1,000,000.

(8) Transportation (400):

Fiscal year 1993:

(A) New budget authority, $40,855,000,000.

(B) Outlays, $33,296,000,000.

(C) New direct loan obligations, $4,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $41,384,000,000.

(B) Outlays, $33,986,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $41,984,000,000.

(B) Outlays, $34,692,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $42,825,000,000.

(B) Outlays, $35,412,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $45,664,000,000.

(B) Outlays, $36,146,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1993:

(A) New budget authority, $7,378,000,000.

(B) Outlays, $7,018,000,000.

(C) New direct loan obligations, $1,258,000,000.

(D) New primary loan guarantee commitments, $363,000,000.

Fiscal year 1994:

(A) New budget authority, $7,227,000,000.

(B) Outlays, $6,870,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $7,342,000,000.

(B) Outlays, $6,927,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $7,506,000,000.

(B) Outlays, $6,844,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $7,598,000,000.

(B) Outlays, $7,023,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1993:

(A) New budget authority, $48,486,000,000.

(B) Outlays, $46,789,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $14,794,000,000.

Fiscal year 1994:

(A) New budget authority, $47,562,000,000.

(B) Outlays, $46,517,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $15,201,000,000.

Fiscal year 1995:

(A) New budget authority, $48,425,000,000.

(B) Outlays, $46,934,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $15,575,000,000.

Fiscal year 1996:

(A) New budget authority, $49,335,000,000.

(B) Outlays, $43,429,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $15,902,000,000.

Fiscal year 1997:

(A) New budget authority, $50,492,000,000.

(B) Outlays, $48,473,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $15,997,000,000.

(11) Health (550):

Fiscal year 1993:

(A) New budget authority, $99,015,000,000.

(B) Outlays, $99,593,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $299,000,000.

Fiscal year 1994:

(A) New budget authority, $107,794,000,000.

(B) Outlays, $106,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $309,000,000.

Fiscal year 1995:

(A) New budget authority, $116,234,000,000.

(B) Outlays, $115,035,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $320,000,000.

Fiscal year 1996:

(A) New budget authority, $125,843,000,000.

(B) Outlays, $124,506,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $331,000,000.

Fiscal year 1997:

(A) New budget authority, $135,999,000,000.

(B) Outlays, $135,089,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $342,000,000.

(12) Medicare (570):

Fiscal year 1993:

(A) New budget authority, $127,575,000,000.

(B) Outlays, $125,987,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $136,207,000,000.

(B) Outlays, $134,524,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $145,941,000,000.

(B) Outlays, $143,566,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $156,847,000,000.

(B) Outlays, $154,273,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $169,211,000,000.

(B) Outlays, $166,009,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1993:

(A) New budget authority, $231,005,000,000.

(B) Outlays, $191,448,000,000.

(C) New direct loan obligations, $3,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $237,785,000,000.

(B) Outlays, $199,803,000,000.

(C) New direct loan obligations, $3,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $249,228,000,000.

(B) Outlays, $209,272,000,000.

(C) New direct loan obligations, $3,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $261,635,000,000.

(B) Outlays, $217,634,000,000.

(C) New direct loan obligations, $3,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $268,212,000,000.

(B) Outlays, $229,584,000,000.

(C) New direct loan obligations, $3,000,000.

(D) New primary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1993:

(A) New budget authority, $5,894,000,000.

(B) Outlays, $5,894,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $6,482,000,000.

(B) Outlays, $6,482,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $7,168,000,000.

(B) Outlays, $7,168,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $7,872,000,000.

(B) Outlays, $7,872,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $8,675,000,000.

(B) Outlays, $8,675,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1993:

(A) New budget authority, $35,621,000,000.

(B) Outlays, $35,543,000,000.

(C) New direct loan obligations, $1,008,000,000.

(D) New primary loan guarantee commitments, $19,454,000,000.

Fiscal year 1994:

(A) New budget authority, $36,772,000,000.

(B) Outlays, $38,213,000,000.

(C) New direct loan obligations, $964,000,000.

(D) New primary loan guarantee commitments, $19,951,000,000.

Fiscal year 1995:

(A) New budget authority, $37,987,000,000.

(B) Outlays, $37,948,000,000.

(C) New direct loan obligations, $942,000,000.

(D) New primary loan guarantee commitments, $20,576,000,000.

Fiscal year 1996:

(A) New budget authority, $39,195,000,000.

(B) Outlays, $37,699,000,000.

(C) New direct loan obligations, $913,000,000.

(D) New primary loan guarantee commitments, $21,205,000,000.

Fiscal year 1997:

(A) New budget authority, $40,494,000,000.

(B) Outlays, $40,429,000,000.

(C) New direct loan obligations, $892,000,000.

(D) New primary loan guarantee commitments, $21,864,000,000.

(16) Administration of Justice (750):

Fiscal year 1993:

(A) New budget authority, $14,028,000,000.

(B) Outlays, $14,256,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $14,402,000,000.

(B) Outlays, $14,604,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $15,019,000,000.

(B) Outlays, $14,955,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $15,382,000,000.

(B) Outlays, $15,290,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $15,762,000,000.

(B) Outlays, $15,619,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1993:

(A) New budget authority, $12,609,000,000.

(B) Outlays, $12,983,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $12,454,000,000.

(B) Outlays, $12,958,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $12,793,000,000.

(B) Outlays, $12,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $13,020,000,000.

(B) Outlays, $12,762,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $13,352,000,000.

(B) Outlays, $12,706,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $217,140,000,000.

(B) Outlays, $217,140,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $205,118,000,000.

(B) Outlays, $205,118,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $204,427,000,000.

(B) Outlays, $204,427,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $209,343,000,000.

(B) Outlays, $209,343,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $215,201,000,000.

(B) Outlays, $215,201,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1993:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1993:

(A) New budget authority, −$43,497,000,000.

(B) Outlays, −$43,497,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, −$44,064,000,000.

(B) Outlays, −$44,064,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, −$44,569,000,000.

(B) Outlays, −$44,569,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, −$44,891,000,000

(B) Outlays, −$44,891,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, −$45,716,000,000

(B) Outlays, −$45,716,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

SEC. 3. (a) It is the sense of Congress that the Department of the Treasury shall initiate a program to issue Treasury obligations that have an annual investment yield not exceeding 2 per centum.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. DANNEMEYER] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this year, I made some comments earlier, but I think it is important for us to focus on just our stewardship of the Nation's fiscal affairs. We have never seen a year like this before.

I came here in 1979, and we are now adding an extraordinary increase to the national debt this year of some $480 billion. That is almost half a trillion.

In fiscal year 1993, the year we are talking about, we are going to add, this is a moving target but the figure I have most recently is $409 billion.

I am familiar with the proclivities of the 102d Congress, the current one. This institution, as it is organized today and was elected in November 1990, as a body, has little, if any, interest in reducing any spending at all except for defense. Take a scalpel or a knife or a hatchet, beat up on defense and transfer the money to the social programs is the battle cry of the 102d Congress. I understand that.

The reason I make that observation is that this Member, along with some of my colleagues, last year offered opportunities to the House to just to restrain the growth in the 13 appropriation bills that fund the Government for the year, and we got anywhere from 75 to 125 votes to restrain the growth.

This budget alternative that I offer to the House this evening has the lowest total of any of the alternatives that will be offered. It has $58.3 billion lower than the CBO baseline. It is $54 billion, approximately, lower than the President's budget, and it is $59 billion lower than the Democrat alternative, plan B. And it achieves these reductions by the following changes in policy that otherwise exist.

Defense is reduced by 5 percent each year through 1997. Foreign aid is cut by 25 percent in 1993. That is likely to give some Members heartburn, not the taxpayers of the country. There is no constituency in America to continue foreign aid. The only constituency that exists is in this institution. And also the bureaucrats that are expending the spending in the State Department, in the State Department and the other agencies that handle the money that is being expended in foreign aid.

My alternative would cut foreign aid by 25 percent in 1993 from 1992 levels and would be frozen in the outyears. Domestic discretionary programs are frozen at 1992 levels for 1993 and allowed 2 percent annual growth thereafter.

Caps are placed on Medicare and Medicaid to curb escalating costs. This formula allows for projected beneficiary increase, plus inflation, plus an additional 2.5 percent.

If we do not do something about capping medical expenditures in Medicare and Medicaid, for example, in 1993, Medicaid spending is programmed to grow by 17 percent, 1993 over 1992. Under the cap that I am talking about here, the increase is limited to 11 percent.

Medicaid, if we do not do something, is scheduled to grow by 11 percent, 1993 over 1992. With these caps it would grow by 8 percent.

My colleagues may ask, how can we restrain these increases to Medicare and Medicaid? Well, one of the alternatives that needs to take place by the Policy Committee would be malpractice reform. We know that some estimates run as high as the total cost of medical spending in America includes about 20 percent for malpractice insurance. Certainly we cannot cut that total out, but there is a need across this land to recognize that there needs to be a cap on compensatory and punitive damages.

Our system today in the area of tort law is over-compensating any of us who are injured as a result of medical malpractice, and the world knows this and Congress up until now has been unwilling to even address this issue.

Another alternative that is in this plan is reducing the interests costs of maintaining our national debt. Bear in mind that the way we keep our books here in Congress, if people in the private sector did the same thing, the misrepresentation is so profound that if people in the private would use the same method of advising the stockholders and the public of what the status in the area of interest on the debt is concerned, they probably would be prosecuted and, if found guilty, and go to jail.

For example, we publish that the gross interest expense in this year that we are talking about in 1993 will be $241 billion, when in fact the interest that we are paying on the outstanding debt is about $100 billion higher than that. And what is the rationale?

Well, by some gimmick we say that the interest paid by the Treasury to the trust funds or the bonds held by the trust funds is reduced by the gross interest expense so as to establish what can be called the net interest expense. But at least when we increase the national debt, that is when we pick up that interest that the general fund pays on the bonds held by the trust funds. That is why the increase in the national debt, which to me is the true measure of the deficit, is always higher than what we claim the budget deficit to be.

For instance, there will be talk this evening that the budget deficit totals some, for 1993, under the President's program, 329 billion. Under the CBO baseline the same figure, and the Democrat alternative plan B, 327. When in fact, when we include the interest that is paid by the general fund to the bonds held by the trust funds, that figure grows by another $100 billion, approximately.

So it is very, very important that we find ways of reforming how we finance our debt.

Included in this plan that I am talking about will be given an alternative option to the Treasury to issue zero coupon bonds or gold-backed bonds that I have been urging the House to adopt for a number of years. Right now the average cost of selling our national debt is about 7.5 percent. I think that a gold-backed bond could be sold at 2-percent interest rate. And if sold at that interest rate, we can see that we would significantly reduce the interest cost expense.

In pursuing this alternative in fiscal year 1993, we estimate that we would save about $24 billion in interest expense and the savings in interest cost through 1997 would total $114 billion.

□ 1940

This issuing of gold-backed bonds or zero coupon bonds is just one of the alternatives that I believe the House and the Congress should consider if we are able to achieve a reduction in spending for fiscal year 1993. Anyone who has served here for any number of years realizes how important reducing spending for this year is, or for 1993, because the out years are markedly reduced when we are able to reduce spending in the current year.

Also, another item, this talks about revenue from Outer Continental Shelf royalties to the Federal Government has declined significantly from the early 1980's, and as a premise of this budget resolution we expect an increase in those royalties.

Let me also say what is not in this budget alternative. There is no increase in taxes in this alternative, no increase in fees.

I come to this issue with a firm conviction that we Americans are not undertaxed. Congress is spending too much money. We were taxing ourselves today at the rate of about 19.3 percent of GNP. That is an historic high in peacetime. The problem is we are spending at the rate of about 25.3 percent of GNP. That is also an historic high in peacetime.

So these are the alternatives that I have included within this budget process. I want to say also that it does not touch Social Security. No increase that has been contemplated for the recipients of Social Security would be adversely affected by this. It does not affect veterans' programs. They will go on as they are programmed to go on in the CBO base line. Nor does it alter anything to do with the retirement benefits, nor does it alter the entitlement programs that exist in our current spending stream.

I wish someday Congress would have the courage to attack the excesses that exist in some of these areas, but up until now I have not seen any sense of achieving that.

The Heritage Foundation recently produced a very astute analysis of total spending, and they have a list of recommendations of reductions in spending that could be achieved this year out of domestic discretionary totaling between $50 and $60 billion if Congress has the guts to do it. I have not included those alternatives in there, although I would like to have done so. One day perhaps Congress will be organized in such a way that such recommendations will see the light of day and be implemented.

I suggest to my colleagues in the House that, to quote a metaphor that is being used on the campaign trail today, "Someday we ought to wake up and smell the coffee." There is a lot of unrest around this Nation because of disgust by the American public of the stewardship of how we are handling the fiscal affairs of this Nation. It took us from 1789 to 1980 to get to the trillion dollar debt level, and between 1980 and today we have now breached the $3 trillion level, and by the end of this year we will pass the $4 trillion level. One wonders at what point will Members of Congress achieve a measure of discipline to rein in this spending.

Earlier in general debate I pointed out, which will be placed in the CONGRESSIONAL RECORD, we are in this fiscal mess not because we are spending too much on defense. Indeed, between 1981 and 1991, growth in defense spending in that 10-year period is up, is ninth in total programs by 73½ percent, and domestic spending is the engine that is driving this runaway spending here in the Congress of the United States, not defense spending.

I also compared the analysis of the President's budget request to the Congress for the years 1982 through 1990. In every year Congress appropriated more money than the President asked be spent. So Congress has a tendency, at least by some who argue around this place that the White House is at fault, we can change Presidents every year between now and the end of this century and we are not going to change spending habits until the Congress itself has the courage to restrain what today in my judgment is runaway spending.

So the buck stops here with my colleagues, and I ask for their support of this modest alternative and reduction of spending by some $58.3 billion.

Mr. Chairman, I reserve the balance of my time.

Mr. PANETTA. Mr. Chairman, I rise in opposition to the gentleman's amendment, and I ask that I be granted the time in opposition.

The CHAIRMAN. Is the gentleman from California opposed to the amendment?

Mr. PANETTA. Mr. Chairman, this gentleman is.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California [Mr. PANETTA] for 15 minutes.

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

Each year when we do the budget debate I look forward to the debate on the Dannemeyer substitute, and we are at that point. I also appreciate the simple approach of the gentleman from California [Mr. DANNEMEYER]. I only wish that the world were that simple.

There are several areas of concern that I would just bring to the Members' attention. First is that the outlay freeze that is used by the gentleman is across the board, without any reference to whether programs work or do not work, whether they are needed or not needed, and the result, therefore, is an outlay freeze that strikes not just at programs like the WIC Program or low income housing, but at the FBI and at law enforcement and at drug enforcement and at all education programs, and in all programs that are important in terms of the health and welfare of citizens in our society.

I just think if the freeze is to be applied it ought to be applied to those programs that, frankly, do not produce. We have done that. Generally in the budget resolution of the committee we have frozen discretionary spending, except for those programs that we think are worthwhile and need to have an investment.

□ 1946

Unfortunately, the Dannemeyer approach does not take that approach. It freezes everything in outlays, including the most important law enforcement requirements that we have within our own society, as well as education, and job training and highways, et cetera.

Second, the gentleman mentioned that it does not cut Social Security. He is very kind to Social Security recipients, but I would also remind the elderly that what he does do on Medicare is to cut it three times as much as the President's budget. He would recommend for 1993 a cut in Medicare of $4.3 billion, and in Medicaid a cut of about $3.7 billion in 1993. I guess we could argue about the need to control costs in those areas, and I agree frankly with that effort. But I think it has to relate at least to doing something with regards to health care reform in this country as opposed to just slashing away at those programs and leaving the elderly and leaving the disabled without any kind of health care because of what is very much an arbitrary approach to those kinds of reductions.

An additional point is that it assumes large amounts of royalties that would result from the sale of new leases in the Outer Continental Shelf area. I know that the gentleman and I have some dispute over this issue over the years. But the problem I have with his proposal is that he would assume 30 times, for 1993, 30 times the President's number with regard to receipts from the Outer Continental Shelf. That is a lot of drilling that has to take place within a very short period of time to be able to get 30 times the royalties that the President has proposed in that area.

The last point I would make is he assumes about $24 billion in 1993 from the issuance of gold-backed or zero coupon bonds. The gentleman has always been associated with the principle that we ought to go back to the gold standard. The problem, obviously, with that approach is not only the fact that that is not likely to happen under any administration, but it is also the problem that when we do that it creates a tremendous amount of inflexibility. Far from stability, it produces tremendous fluctuations with our economy. And in addition to that, it makes us dependent on two countries for gold supply. One is South Africa and the other is the old Soviet Union, and those are two nations I would not call the most stable in the world at the present time.

So, in summary, while I appreciate the imagination that has gone into this proposal, unfortunately it is not the way the real world operates. I think for that reason I would recommend Members vote against it.

Mr. Chairman, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would point out to my colleague, the gentleman from California [Mr. PANETTA], chairman of the Budget Committee, that between 1982 and 1992 spending for Medicare went up 167 percent, for Medicaid about 212 percent. That is percentages. In dollar amount, in 1983 we spent $52.6 billion for Medicare, in 1991 $104 billion. In Medicaid we spent $19 billion in 1983 and $52 billion in 1991.

I just ask a simple question: How long is it going to take before Congress recognizes that runaway cost increases of this magnitude, if we do not control them at some time, are going to threaten the very stability of the Medicare trust fund? That is all I am saying.

We presented the growth caps in the Budget Committee. That went, unfortunately down, I guess on a straight party-line vote. The wisdom on the Democrat side was lacking for some reason to restrain growth. Maybe some day.

The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, things change in the world. The gentleman may be surprised to know that the United States is the second largest producer of gold beyond the Soviet Union today. I do not know whether the gentleman has gone to the State of Nevada, but they are developing a mine there that will give to the United States this status. Things are changing around the world in respect to that issue.

On the revenue from offshore leasing, back in 1983 we got $12 billion a year from that, in the current year about $3 billion. That is an increase of four times.

To be honest, I would rather expand domestic production within this country and off our shores than face a situation as we did a year ago when we had to send our men and women halfway around the world to fight on the sands of the Middle East to develop a resource that some of us are unwilling to develop right here in our own back yard.

So I think these are the reasons why this budget alternative makes sense, and I ask for an aye vote.

Mr. YOUNG of Florida. Mr. Chairman, the procedure under which we consider the 1993 budget resolution is a real reflection on the state of disorder in which we find our fiscal house.

Tonight we will consider a budget resolution which purports to frame the more than $1.5 trillion in spending decisions we will make over the next 8 months. It is a document that we have had available for review less than 24 hours and it is one on which the Budget Committee, which has the responsibility for bringing it before this House, couldn't even reach agreement. Instead, the document we consider today is really two 1993 budgets, each with different outlay estimates, different deficit figures, different estimates for spending on national defense, and different spending on domestic programs. If you vote yes on this bill, are you supporting the so called plan A or plan B?

Furthermore, Mr. Chairman, we are only being allowed to consider three amendments to this august budget document. One, the Dannemeyer substitute which I rise to support, will only be allowed to be debated tonight for 30 minutes. The second, the Gradison substitute which I will also support and is based upon the budget submitted by President Bush, will only be allowed to be debated tonight for 60 minutes. The third, the Congressional Black Caucus substitute which I will oppose, is given 8 hours of debate, more time than was given to the entire economic growth debate in the House last week.

The ground rules alone under which we consider this legislation tonight is a continuing reflection of the unfairness and inconsistencies under which this House operates and which has contributed to the fiscal chaos before us.

It is no wonder that later this year, the national debt will soon pass the $4 trillion mark. The American people should be concerned to know that in the 1993 budget we debate, $315 billion will be spent just to pay the interest on our national debt. This is the largest single item in the budget, exceeding the total amount paid to Social Security recipients and $34 billion more than the total amount we will spend on our national defense.

With these funds, the American people receive no health-care coverage, our schools receive no funds to hire new teachers, we are unable to build or improve our roads or bridges. These funds go only to pay the interest on a national debt that is the legacy of Congress' inability to balance Federal outlays and receipts.

Of the 12 budgets submitted to the Congress by Presidents Reagan and Bush, they had no choice but to request $2.6 trillion just to pay the interest on the national debt. This accounts for three-quarters of the increase in our national debt over that same period.

These are staggering statistics because the interest we pay on the national debt is really the only item in this budget which is beyond the control of the President and Congress. It is completely driven by market conditions, especially current interest rates.

Consider that during 1991, the interest rate paid on Treasury securities ranged from 4.1 to 6.3 percent. This is 3½ times less than the going rate for Treasury securities in 1981, the year President Reagan entered the White House. A return to these interest rates would drive our annual interest payment to more than $1 trillion per year.

Mr. Chairman, I rise in support of the alternative budget offered by my colleague from California, Mr. DANNEMEYER, because it is the only one of the four alternatives which offers a constructive solution to bringing under control this fastest growing sector of the Federal budget.

By authorizing the U.S. Treasury to refinance the national debt by issuing gold-backed or zero coupon bonds, we would save $23 billion in our 1993 interest payment and $114 billion over the next 5 years.

The Dannemeyer substitute saves an additional $3 billion in 1993 by reducing foreign aid payments by 25 percent and then freezing them at this reduced level over the following 4-year period. At a time when our Nation is having to make difficult budget choices and when American businesses are finding credit tight, we must reduce our support for foreign nations and multilateral development banks who make no interest or very low interest rate loans to foreign businesses that end up competing against American firms. These funds often go to nations which rarely if ever support the best interests of our Nation.

Although I do not agree with the minor reduction in Medicare outlays recommended in this budget and will oppose any legislation to implement such a Medicare reduction, I believe that overall, the Dannemeyer substitute is a far better product than the bill reported by the committee. It provides an innovative and responsible approach to reducing the Federal deficit and in fact would result in a budget surplus by fiscal year 1996.

Mr. Chairman, it is too bad that the rule under which we consider this budget resolution tonight did not give us more than 30 minutes in which to debate this alternative budget. It is one which I believe would set our Nation on the course to achieve fiscal responsibility and one day soon a balanced Federal budget.

Mr. PANETTA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 60, noes 344, not voting 30, as follows:

[Roll No. 38]

AYES—60

Archer
Armey
Baker
Ballenger
Barton
Bennett
Bliley
Burton
Callahan
Combest
Condit
Cox (CA)
Crane
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fields
Gingrich
Grandy
Hammerschmidt
Hancock
Hansen
Henry
Holloway
Hunter
Inhofe
Johnson (TX)
Lewis (FL)
Livingston
McCollum
McEwen
Miller (OH)
Moorhead
Packard
Penny
Porter
Pursell
Quillen
Ravenel
Rohrabacher
Schulze
Sensenbrenner
Shays
Shuster
Smith (TX)
Solomon
Spence
Stump
Sundquist
Thomas (WY)
Vucanovich
Walker
Young (FL)
Zeliff
Zimmer

NOES—344

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barrett
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Chapman
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Cunningham
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Goss
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Rahall
Ramstad
Rangel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rose
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)

NOT VOTING—30

Brown
Carr
Clinger
Coughlin
Davis
Dymally
Flake
Gaydos
Gephardt
Gordon
Hopkins
Hyde
Ireland
Lehman (CA)
Levine (CA)
Marlenee
McDade
Mrazek
Neal (NC)
Nowak
Owens (UT)
Ros-Lehtinen
Rostenkowski
Russo
Savage
Smith (FL)
Torres
Weber
Whitten
Yates

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Messrs. FEIGHAN, FAZIO, RHODES, and COYNE, and Ms. WATERS changed their vote from "aye" to "no".

Mr. SMITH of Texas and Mr. SHAYS changed their vote from "no" to "aye".

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 2, printed in House Report No. 102–451.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GRADISON

Mr. GRADISON. Mr. Chairman, I offer an amendment in the nature of a substitute made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a Substitute offered by Mr. GRADISON: Strike out all after the resolving clause and insert in lieu thereof the following:

That the budget for fiscal year 1993 is established, and the appropriate budgetary levels for fiscal years 1994, 1995, 1996, and 1997 are hereby set forth.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 2. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1992, October 1, 1993, October 1, 1994, October 1, 1995, and October 1, 1996:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1993: $839,600,000,000.

Fiscal year 1994: $914,400,000,000.

Fiscal year 1995: $972,500,000,000.

Fiscal year 1996: $1,032,500,000,000.

Fiscal year 1997: $1,078,300,000,000.

and the amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1993: −$3,655,000,000.

Fiscal year 1994: −$1,851,000,000.

Fiscal year 1995: −$4,326,000,000.

Fiscal year 1996: −$4,710,000,000.

Fiscal year 1997: −$7,112,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1993: $86,498,000,000.

Fiscal year 1994: $92,592,000,000.

Fiscal year 1995: $98,070,000,000.

Fiscal year 1996: $104,374,000,000.

Fiscal year 1997: $110,598,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1993: $1,232,500,000,000.

Fiscal year 1994: $1,253,900,000,000.

Fiscal year 1995: $1,315,200,000,000.

Fiscal year 1996: $1,359,500,000,000.

Fiscal year 1997: $1,436,200,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1993: $1,232,200,000,000.

Fiscal year 1994: $1,232,500,000,000.

Fiscal year 1995: $1,277,500,000,000.

Fiscal year 1996: $1,329,400,000,000.

Fiscal year 1997: $1,403,400,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1993: $392,600,000,000.

Fiscal year 1994: $318,100,000,000.

Fiscal year 1995: $305,000,000,000.

Fiscal year 1996: $296,900,000,000.

Fiscal year 1997: $325,100,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1993: $4,513,200,000,000.

Fiscal year 1994: $4,856,900,000,000.

Fiscal year 1995: $5,201,500,000,000.

Fiscal year 1996: $5,549,900,000,000.

Fiscal year 1997: $5,917,700,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1992, October 1, 1993, October 1, 1994, October 1, 1995, and October 1, 1996, are as follows:

Fiscal year 1993:

(A) New direct loan obligations, $17,700,000,000.

(B) New primary loan guarantee commitments, $129,700,000,000.

Fiscal year 1994:

(A) New direct loan obligations, $17,400,000,000.

(B) New primary loan guarantee commitments, $131,100,000,000.

Fiscal year 1995:

(A) New direct loan obligations, $17,300,000,000.

(B) New primary loan guarantee commitments, $134,500,000,000.

Fiscal year 1996:

(A) New direct loan obligations, $17,300,000,000.

(B) New primary loan guarantee commitments, $136,700,000,000.

Fiscal year 1997:

(A) New direct loan obligations, $17,200,000,000.

(B) New primary loan guarantee commitments, $139,700,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1993 through 1997 for each major functional category are:

(1) National Defense (050):

Fiscal year 1993:

(A) New budget authority, $281,000,000,000.

(B) Outlays, $291,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $281,600,000,000.

(B) Outlays, $283,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $284,300,000,000.

(B) Outlays, $283,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $285,700,000,000.

(B) Outlays, $286,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $290,600,000,000.

(B) Outlays, $289,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1993:

(A) New budget authority, $20,600,000,000.

(B) Outlays, $18,000,000,000.

(C) New direct loan obligations, $3,000,000,000.

(D) New primary loan guarantee commitments, $10,000,000,000.

Fiscal year 1994:

(A) New budget authority, $19,900,000,000.

(B) Outlays, $18,600,000,000.

(C) New direct loan obligations, $3,000,000,000.

(D) New primary loan guarantee commitments, $9,900,000,000.

Fiscal year 1995:

(A) New budget authority, $22,000,000,000.

(B) Outlays, $18,900,000,000.

(C) New direct loan obligations, $3,000,000,000.

(D) New primary loan guarantee commitments, $9,900,000,000.

Fiscal year 1996:

(A) New budget authority, $21,500,000,000.

(B) Outlays, $18,800,000,000.

(C) New direct loan obligations, $3,000,000,000.

(D) New primary loan guarantee commitments, $9,900,000,000.

Fiscal year 1997:

(A) New budget authority, $21,100,000,000.

(B) Outlays, $18,700,000,000.

(C) New direct loan obligations, $3,000,000,000.

(D) New primary loan guarantee commitments, $9,900,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1993:

(A) New budget authority, $18,400,000,000.

(B) Outlays, $17,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $18,400,000,000.

(B) Outlays, $18,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $18,400,000,000.

(B) Outlays, $18,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $18,400,000,000.

(B) Outlays, $18,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $18,400,000,000.

(B) Outlays, $18,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1993:

(A) New budget authority, $5,000,000,000.

(B) Outlays, $4,600,000,000.

(C) New direct loan obligations, $1,900,000,000.

(D) New primary loan guarantee commitments, $200,000,000.

Fiscal year 1994:

(A) New budget authority, $6,200,000,000.

(B) Outlays, $5,500,000,000.

(C) New direct loan obligations, $1,600,000,000.

(D) New primary loan guarantee commitments, $200,000,000.

Fiscal year 1995:

(A) New budget authority, $5,700,000,000.

(B) Outlays, $4,800,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New primary loan guarantee commitments, $200,000,000.

Fiscal year 1996:

(A) New budget authority, $6,100,000,000.

(B) Outlays, $4,000,000,000.

(C) New direct loan obligations, $1,700,000,000.

(D) New primary loan guarantee commitments, $200,000,000.

Fiscal year 1997:

(A) New budget authority, $6,000,000,000.

(B) Outlays, $3,700,000,000.

(C) New direct loan obligations, $1,700,000,000.

(D) New primary loan guarantee commitments, $200,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1993:

(A) New budget authority, $2,000,000,000.

(B) Outlays, $20,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $19,500,000,000.

(B) Outlays $19,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $20,000,000,000.

(B) Outlays, $21,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $18,500,000,000.

(B) Outlays, $19,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $18,700,000,000.

(B) Outlays, $20,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1993:

(A) New budget authority, $15,700,000,000.

(B) Outlays, $15,900,000,000.

(C) New direct loan obligations, $8,700,000,000.

(D) New primary loan guarantee commitments, $8,000,000,000.

Fiscal year 1994:

(A) New budget authority, $15,100,000,000.

(B) Outlays, $14,700,000,000.

(C) New direct loan obligations, $8,800,000,000.

(D) New primary loan guarantee commitments, $8,400,000,000.

Fiscal year 1995:

(A) New budget authority, $14,000,000,000.

(B) Outlays, $12,300,000,000.

(C) New direct loan obligations, $8,500,000,000.

(D) New primary loan guarantee commitments, $8,500,000,000.

Fiscal year 1996:

(A) New budget authority, $13,700,000,000.

(B) Outlays, $12,200,000,000.

(C) New direct loan obligations, $8,500,000,000.

(D) New primary loan guarantee commitments, $8,100,000,000.

Fiscal year 1997:

(A) New budget authority, $13,100,000,000.

(B) Outlays, $11,800,000,000.

(C) New direct loan obligations, $8,400,000,000

(D) New primary loan guarantee commitments, $8,200,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1993:

(A) New budget authority, $56,000,000,000.

(B) Outlays, $62,000,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $71,700,000,000.

Fiscal year 1994:

(A) New budget authority, $15,400,000,000.

(B) Outlays, $9,700,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $73,400,000,000.

Fiscal year 1995:

(A) New budget authority, $12,100,000,000.

(B) Outlays, $400,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $75,100,000,000.

Fiscal year 1996:

(A) New budget authority, −$5,700,000,000.

(B) Outlays, −$6,300,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $76,300,000,000.

Fiscal year 1997:

(A) New budget authority, −$4,100,000,000.

(B) Outlays, −$9,000,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $77,700,000,000.

(8) Transportation (400):

Fiscal year 1993:

(A) New budget authority, $39,700,000,000.

(B) Outlays, $35,100,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $39,800,000,000.

(B) Outlays, $36,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $39,600,000,000.

(B) Outlays, $37,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $39,600,000,000.

(B) Outlays, $37,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $41,600,000,000.

(B) Outlays, $37,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1993:

(A) New budget authority, $6,600,000,000.

(B) Outlays, $7,600,000,000.

(C) New direct loan obligations, $1,500,000.

(D) New primary loan guarantee commitments, $300,000.000.

Fiscal year 1994:

(A) New budget authority, $6,500,000,000.

(B) Outlays, $7,100,000,000.

(C) New direct loan obligations, $1,600,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1995:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $6,400,000,000.

(C) New direct loan obligations, $1,600,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1996:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $6,000,000,000.

(C) New direct loan obligations, $1,600,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1997:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $5,800,000,000.

(C) New direct loan obligations, $1,600,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1993:

(A) New budget authority, $51,600,000,000.

(B) Outlays, $49,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $17,900,000,000.

Fiscal year 1994:

(A) New budget authority, $51,700,000,000.

(B) Outlays, $51,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $19,200,000,000.

Fiscal year 1995:

(A) New budget authority, $50,600,000,000.

(B) Outlays, $50,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $20,700,000,000.

Fiscal year 1996:

(A) New budget authority, $50,500,000,000.

(B) Outlays, $45,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $22,100,000,000.

Fiscal year 1997:

(A) New budget authority, $50,900,000,000.

(B) Outlays, $50,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $23,600,000,000.

(11) Health (550):

Fiscal year 1993:

(A) New budget authority, $109,500,000,000.

(B) Outlays, $108,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $200,000,000.

Fiscal year 1994:

(A) New budget authority, $123,400,000,000.

(B) Outlays, $122,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $200,000,000.

Fiscal year 1995:

(A) New budget authority, $139,200,000,000.

(B) Outlays, $138,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

Fiscal year 1996:

(A) New budget authority, $157,900,000,000.

(B) Outlays, $156,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $178,500,000,000.

(B) Outlays, $177,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(12) Medicare (570):

Fiscal year 1993:

(A) New budget authority, $129,000,000,000.

(B) Outlays, $129,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $143,100,000,000.

(B) Outlays, $142,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $162,500,000,000.

(B) Outlays, $158,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $184,300,000,000.

(B) Outlays, $178,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $206,000,000,000.

(B) Outlays, $200,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1993:

(A) New budget authority, $202,700,000,000.

(B) Outlays, $197,600,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $214,100,000,000.

(B) Outlays, $206,400,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $225,600,000,000.

(B) Outlays, $216,700,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $231,700,000,000.

(B) Outlays, $221,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $241,100,000,000.

(B) Outlays, $231,000,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1993:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $6,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $6,800,000,000.

(B) Outlays, $6,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $7,200,000,000.

(B) Outlays, $7,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $7,600,000,000.

(B) Outlays, $7,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $7,900,000,000.

(B) Outlays, $7,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1993:

(A) New budget authority, $34,400,000,000.

(B) Outlays, $34,400,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $21,400,000,000.

Fiscal year 1994:

(A) New budget authority, $35,600,000,000.

(B) Outlays, $36,300,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $19,500,000,000.

Fiscal year 1995:

(A) New budget authority, $35,800,000,000.

(B) Outlays, $35,900,000,000.

(C) New direct loan obligations, $900,000,000.

(D) New primary loan guarantee commitments, $19,700,000,000.

Fiscal year 1996:

(A) New budget authority, $36,300,000,000.

(B) Outlays, $35,000,000,000.

(C) New direct loan obligations, $900,000,000.

(D) New primary loan guarantee commitments, $19,800,000,000.

Fiscal year 1997:

(A) New budget authority, $36,800,000,000.

(B) Outlays, $36,800,000,000.

(C) New direct loan obligations, $900,000,000.

(D) New primary loan guarantee commitments, $19,900,000,000.

(16) Administration of Justice (750):

Fiscal year 1993:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $15,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $16,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $15,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $15,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $15,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1993:

(A) New budget authority, $13,900,000,000.

(B) Outlays, $14,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $13,800,000,000.

(B) Outlays, $15,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $12,600,000,000.

(B) Outlays, $13,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $13,400,000,000.

(B) Outlays, $13,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $12,700,000,000.

(B) Outlays, $12,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1993:

(A) New budget authority, $240,800,000,000.

(B) Outlays, $240,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $261,900,000,000.

(B) Outlays, $262,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $277,900,000,000.

(B) Outlays, $277,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $294,100,000,000.

(B) Outlays, $294,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $310,900,000,000.

(B) Outlays, $310,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1993:

(A) New budget authority, −$500,000,000.

(B) Outlays, −$400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, −$1,300,000,000.

(B) Outlays, −$7,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $0.

(B) Outlays, −$4,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1993:

(A) New budget Authority, −$35,100,000,000.

(B) Outlays, −$35,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget Authority, −$33,400,000,000.

(B) Outlays, −$33,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget Authority, −$34,500,000,000.

(B) Outlays, −$34,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:

(A) New budget Authority, −$36,300,000,000.

(B) Outlays, −$36,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget Authority, −$36,200,000,000.

(B) Outlays, −$36,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr.

GRADISON] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Chairman, I rise again this evening to once again register my concern about the procedures under which we consider the 1993 budget resolution.

We were allowed to only debate the first of three amendments to this bill for 30 minutes and now, we have been given just 60 minutes to debate the substitute amendment offered by my colleague from Ohio, Mr. GRADISON. His amendment reflects the budget submitted to Congress by the President, a budget which was developed over a period of months and which we are given just 1 hour to debate.

Mr. Chairman, I would be the first to agree that there is probably no $1.5 trillion budget on which we can agree on every item, but the budget submitted to the Congress in January by President Bush is one which responsibly reflects the current needs of our Nation and the current changing world scene.

In the limited time we have tonight we should take a look at some of the very positive things that are included in this budget. It includes a 15-percent increase in Federal support for our Nation's elementary, secondary, and vocational education programs and it increases by 22 percent the amount available for Pell grants for college students from low- and middle-income families.

The amendment before us provides an additional $2.8 billion for the Head Start Program, a 22-percent increase over the current year level, to help ensure that our Nation's children are ready to learn when they begin school.

The President's budget also addresses the health needs of our Nation's children by increasing Federal funding for immunization programs by 18 percent, by increasing support for infant mortality reduction programs by 17 percent, by increasing funds available for the woman, infants, and children nutritional assistance programs by 9 percent, by increasing community health care programs by 21 percent, and by increasing breast and cervical cancer screening programs for women by 24 percent.

In addition to providing for the needs of our children and families, the President's budget also looks forward to the future needs of our Nation by increasing the ability of the United States to remain the leader in the development of new technologies. The proposed record $76 billion increase in Federal basic research, applied research, energy research, biomedical research, defense research and development, technology transfer, and space exploration will expand our Nation's technological base and will enable us to remain the world's leader in industrial development.

Finally, the President's budget continues to fund our Nation's infrastructure needs, providing a $10.2 billion, or 13-percent increase, for highway construction and rehabilitation, and a $2.7 billion, or 13 percent, increase for modernizing our Nation's air traffic control system.

The President would pay for these investments in our future by answering the demands by the American people for reduced spending on our national defense. In 1993 alone, the President would reduce defense outlays by $16 billion. By continuing the standing down of our Nation's military that was begun in 1987, we will, under this plan, eliminate 780,000 active duty and Reserve positions and another 230,000 civilian positions by 1997.

The two budgets recommended to us by the House Budget Committee would eliminate another 235,000 active duty and reserve personnel by 1997 and an untold number of civilian and private sector contractor positions. These are jobs, Mr. Speaker, that I do not believe our Nation can afford to lose right now, especially as we continue to closely monitor evolving events in the states of the former Soviet Union and the Middle East. As a member of the House Appropriations Subcommittee on National Defense, I am one Member that believes we may be proceeding a bit too fast in downsizing our Nation's defense. Those are the decisions that we have made however, and as a result of the decisions we made in our committee last year which are being implemented right now, the Department of Defense is losing 4,200 active duty, Reserve, and civilian personnel per week. The 1993 level of defense spending by the President will increase this to 4,800 per week next year.

To put this into perspective, my colleagues should consider the national concern that was raised last month when General Motors announced the closing of a number of its auto manufacturing plants and the resulting layoff of 16,000 employees this year. These reductions pale in comparison to the 16,000 jobs per month that will be lost each and every month this year throughout the Department of Defense.

The General Motors announcement last month included a 4-year plan that would eliminate some 75,000 jobs. Yesterday in a hearing before our Appropriations Subcommittee on Defense, the Secretary of the Army informed our colleagues that the Army will lose 75,000 personnel in this fiscal year alone.

Mr. Chairman, it is the constitutional responsibility of every Member of this House to provide for the defense of our Nation and that requires maintaining a ready, well trained, and well equipped national defense that is able to respond to any threat to peace that may develop throughout the world. Witness after witness that has come before our committee already this year, from the Secretary of Defense and Chairman of the Joint Chiefs of Staff down to the Secretary of every service and the head of every major command, have already testified that it will be increasingly difficult for our Nation to retain a well-trained national defense ready to respond to another mission to magnitude of Operation Desert Storm. Remember that the President's budget request assumes a decline in the outlay of real Federal dollars for national defense in each of the next 5 years.

For those who say that the savings from further reductions in defense spending will create more jobs, I say what about 600 jobs that will be lost every day in the Department of Defense. What about the untold thousands of jobs that will be lost every day in the private sector as we close down our nation's industrial base piece by piece. In every case, these are skilled workers who will have to be retrained and reeducated if they are to find employment. These thousands and thousands of Americans will be forced to reenter the job market we all readily acknowledge has far too many job seekers and far too few job openings.

Finally, Mr. Chairman, I want to reiterate that I do not agree with every item included in President Bush's 1993 budget request. Most notably, I do not agree with the emphasis that has been placed upon reductions in the Medicare Program and I would oppose any legislation that would implement any reduction in Medicare benefits for older Americans. I especially am concerned about the proposal to make Medicare a means tested program for the first time by establishing a monthly premium schedule based upon a family or individual's income.

My concerns about Medicare aside, the budget submitted to us by President Bush is a more responsible Federal budget than that recommended to us by the House Budget Committee. It is a budget that provides for the minimum acceptable requirements for our national security. Any further reductions threaten our ability to defend ourselves and preserve the peace.

Mr. Chairman, if President Bush had stood before this Congress and the American people on January 28 and presented in his State of the Union Address, and in his budget released the following day, a plan A and a plan B, he would have been ridiculed by the majority leadership and Members of this House. However, that is just what the majority party has presented us with this evening.

Given more time to debate the budget this week, and more importantly, given the opportunity to freely and openly offer amendments to the budgets under consideration, we might have had an ability to develop a single budget which could be confidently approved by a large majority of our colleagues from both sides of the aisle.

Unfortunately, as is increasingly the case in this the people's House, we are given an either/or choice tonight without having the benefit to modify either budget proposal. Under these ground rules, the budget submitted to the Congress by President Bush is clearly the best of the limited choices available to us this evening. It is in our best national interest and should be approved by our colleagues this evening.

Mr. GRADISON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

(Mrs. VUCANOVICH asked and was given permission to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Chairman, today I rise in support of the President's budget for a number of reasons. Chief among these is its reliance on the 1990 Budget Enforcement Act that was passed in this House 1½ years ago. Additionally, the President proposes prudent cuts in the Department of Defense, thereby realizing a sound peace dividend, and wise choices in increasing funding for important programs for the welfare of our families.

Under the budget agreement caps, the President proposes to aid our families by increasing funding for housing programs under

HOPE grants; enterprise zones; education, including a 27-percent increase in Head Start and a 22-percent increase in Pell grants; WIC—women, infants, and children—HIV/AIDS research; breast and cervical cancer screening; investment in research and development; and transportation and infrastructure funding.

Mr. Chairman, though for these reasons I intend to vote for the President's budget as a whole, I wish to raise my objection to the proposal to establish a $100 holding fee for each mining claim of record with the Bureau of Land Management. As was the case last year, the authorizing subcommittee of jurisdiction, upon which I also serve, firmly opposes this new fee. The report of the Interior and Insular Affairs Committee to the Committee on the Budget recommends that this fee not be adopted.

The mining law of 1872, as amended, is working well in my State and throughout the West. The reports in the media that the law is the source of abuses of the land and the give-away of the public's resources are grossly misleading. But, whatever your views may be at this stage of the debate over the fate of the mining law itself, I urge my colleagues to resist the administration's siren song of $97 million in Federal revenues to be generated by this proposal. While the magnitude of this new revenue source is indeed tempting, the reality is that there is absolutely no evidence that anything like that amount of revenue would be forthcoming.

Neither BLM Director Jamison, nor Budget Director Darman has been able to provide me with an analysis of the elastic response that imposition of this tax would have upon miners. A State of Nevada official estimates that fully half of all mining claims in my State would be relinquished if the money that would have been spent upon developing the mineral deposit within a claim had to be sent to Washington instead. How will this further our need to develop the Nation's mineral resources in an environmentally sound manner?

Furthermore, the administration fails to recognize the argument that equity demands that if a new fee is to be collected from hardrock miners on the public lands that the States within which their claims are located should receive half the revenue, as is the case with other mineral commodities. In sum, the amount of moneys that could reasonably be expected to accrue to the General Fund of the Treasury under this proposal are likely to be only one-fourth that estimated, or perhaps $20 million.

Mr. Chairman, I trust my colleagues will agree that this amount of revenue is not worth upsetting the existing balance between individual prospectors, small mining companies, and multinational mining corporations in the business of finding and producing strategic and critical minerals. The effect of a $100 per claim holding fee would be felt inordinately by the small miners least able to afford the cash flow drain that a regressive tax such as this represents. Our country still needs its individual prospectors and miners. Big business, like big government, is often too bureaucratic to take the risks that individuals do to discover our Nation's mineral endowment. As such, I strongly oppose the administration's mining claim holding fee proposal.

Mr. GRADISON. Mr. Chairman, I yield 5 minutes to the Republican leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today in support of the President's budget. It has one overriding virtue that sets it apart from the let's pretend budget that our friends on the Democratic side of the aisle are offering.

As a matter of fact, the President's budget is a real budget. It is a budget supported by a 2-inch thick document setting forth in line item detail what the President proposes for each Federal program. Mr. Chairman, it is substantial, it is detailed, it is specific, it is rooted in economic reality and geared toward economic possibilities.

Of course, the detailed budget opens up the President to criticism. You know, it is not all sweetness and light out there when you are trying to put together the difficult figures and have them add up and still attempt to make everybody happy. It is an impossibility. Everyone can find one thing or another in that document that he or she would like to change.

I found things in there that, quite frankly, I cannot, as an individual item, be very, very enthused about or supportive of. I would have a few suggestions of my own to make if it were up to me. But we are talking about putting together something that has to cover a wide range of subjects that touches each and every one of us, some on the plus side, some on the minus side.

But what we are debating and voting on today is a budget resolution that sets some binding limits on the Congress. It does not change any laws per se. We are simply deciding on the direction we would like to take as an administration and as a country.

The detailed President's budget is translated into overall limits, and that is what we are voting on today.

The Democrats, of course, are not required to offer all that many details. So they offer us a document that looks as if it were created by a collaboration among Goody Two Shoes, the Tooth Fairy, and Pollyanna. It is a virtual garden of budgetary delights. There are no hard choices being made. There is increased domestic spending for many.

This is yet another sign of a once-great party sliding inexorably into economic fantasyland. The President's budget on the other hand is rooted in realities.

Mr. Chairman, let us look at what it does offer, very briefly.

First, it maintains the budget discipline which we imposed upon ourselves just 1½ years ago and which I understand a number of the Members on the Democratic side, particularly, would just as soon abandon altogether this time around or within a few days when we get to discussing whether or not to break down the fire walls.

No. 2, it assumes the short-term economic stimulus package we voted on last week. We do not disavow our tax bill of last week as the Democrats do in their measure.

No. 3, it assumes additional defense reductions equal to $50 billion over the next 5 years, recognizing that we have won the cold war.

But any deeper cuts will jeopardize our national security interests and will require more drastic personnel cuts, conceivably 300,000 further reductions in active personnel if you go as low as the Democratic budget would.

Fourth, it assumes a domestic discretionary spending freeze at last year's level. Within this overall freeze there are 246 programs that would be terminated. Now, I suspect if you looked at all 246 and asked each one of the individual Members on my side or your side over there, someone would be against terminating anyone of those programs. But the President has to make some tough choices around here.

There have been those of us who have said we do not want to raise taxes. So, why do we not eliminate obsolete programs as an offset? That is what the President is proposing, 246 of them to accomplish that.

Surely everyone will agree there are those programs that have outlived their usefulness.

Furthermore, 84 programs are reduced and, yes, there are even some programs, such as certain education programs and Head Start, which merit an increase under this budget.

And finally, it assumes spending reforms and controls for certain entitlement programs which continue to grow uncontrolled on automatic pilot. These reforms do not, I would emphasize, touch the Social Security program.

The President's budget proposes that upper income individuals not receive the generous Federal subsidies in certain programs which they now receive.

I think all of us sometime or other, as we consider health care proposals and other proposals, we are going to have to give serious consideration to that proposition. Yes, with our pay raise we find ourselves personally as Members of the Congress in that particular category.

I have said in my own case, for example, here I am of age and eligible for Medicare, so why is it necessary for the Federal Government to be subsidizing my Medicare premium in my income level to the tune of 75 percent?

□ 2025

No wonder we are going broke. There ought to be some changes.

Mr. Chairman, it also proposes to cap certain entitlement programs at a level equal to inflation, case load growth, plus 2½ percent. Controls on the spiraling costs of many Government programs must be dealt with.

Now I ask my colleagues, Mr. Chairman, to not be seduced by the siren call of the Democrats' budget fantasy. I think it is time to vote for real choices in the real world of choice and responsibility. I am going to certainly support the President's budget and would ask my colleagues to join me in voting for the responsible budget that has been submitted by the President.

Mr. PANETTA. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio [Mr. GRADISON].

The CHAIRMAN. The gentleman from California [Mr. PANETTA] is recognized for 30 minutes.

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have not checked the wires lately, but I assume that the President still supports the budget that he offered the House of Representatives and has not apologized for it. The problem that we have had over the last few weeks is that the President, during the course of this campaign, has virtually apologized for every decision, economic decision, that he has made in the course of his administration. He has apologized for not being aware of the recession. He has apologized for the people that have been hurt by the recession. And yesterday he apologized for the very budget agreement that he has defended, and he apologized for it, not because it is wrong, but because it caused him political grief, political grief. So, I am not sure where the President stands anymore, whether this represents his budget or whether it does not, but the problem I have is that the budget he has presented represents a budget that reflects the kind of indirection that we have received from the President over the course of the last few months in particular.

Mr. Chairman, this budget walks backward instead of forward. If there is anything that we are reaping today, we are reaping high deficits, we are reaping people who are incurring pain within our own society. Why? Because we are reaping the whirlwind of the 1980's.

What this budget says is: "Let's go back and repeat those same policies," and so what does it do? First thing it does is it says we abide by the budget. Baloney. It is full of gimmicks, and, by the way, that is not my term. That is the term of the distinguished Secretary of the Department of Housing and Urban Development who said the budget is full of gimmicks, and it is.

Mr. Chairman, the worst gimmick of all is this idea of accrual accounting where he says what we are going to do is reach into the future, grab assets in the future, bring them to the present and then spend them. He reaches for $38 billion in phony assets, brings them to the present, and then spends them. Is that budget discipline? Is that adhering to the budget agreement? That is the kind of phony gimmickry that we saw in the 1980's, and it is repeated in this budget, and, if my colleagues vote for that, they are voting for that kind of gimmickry.

Second, Mr. Chairman, it is filled with the basic unfairness that has been repeated in budget after budget, unfairness that affects people who are the most vulnerable in our society, the elderly. There is a $14 billion Medicare cut that is part of this budget, and so I say to my colleagues, "If you're for that, vote for the President's budget."

Veterans: cut $3.5 billion over 5 years, and I say to my colleagues, "If you're for veterans cuts, if you're for cutting those who are returning from the Persian Gulf so they can get fewer benefits, vote for the President's budget."

Civil service: cut $5.5 billion. Increased contributions to retirement, a 3-month delay in pay. I say to my colleagues, "If you're for that kind of arbitrary punishment aimed at one group, those who try to serve the government and try to assist people with their benefits, then vote for the President's budget."

It cuts mass transit, it cuts higher education, it cuts programs that affect people, and so I say to my colleagues, "If you're for those cuts, vote for the President's budget."

Incidentally, my colleagues, do not forget that the President's budget assumes increased revenues. The only way he was able to balance the tax cuts is by putting in tax increases. So, if my colleagues vote for the President's budget, they are voting to tax credit unions, they are voting to tax security inventories, they are voting to tax public employees on Medicare, and they are voting to tax annuities.

This is not a read-my-lips budget, and I say to my colleagues, "If you're voting for the budget, you're voting for those tax increases."

Third, I think the President missed a fundamental opportunity to look at the changes in the world and to say that now is the time to try to reorder our priorities and focus on our economy, focus on growth, focus on jobs within our own society. That is what the debate that is going on in the campaign is all about. It is people saying that it is time to focus on the needs within our own society. The President missed that opportunity, and the budget reflects that.

We all know that the American dream is in danger today, the dream that says our children can have a better life. Ask any family whether they think their kids are going to be able to have a better life, and my colleagues know what the answer is. If we are going to restore that dream, we have got to walk to the future, not to the past.

Mr. Chairman, I say to my colleagues, "If you vote for the President's budget, you are walking to the past and to the failed policies of the past. If you're voting for the future, you will vote for the resolution that has been proposed by the committee."

Vote against the President's resolution.

Mr. GRADISON. Mr. Chairman, I yield 5 minutes to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Chairman, I rise in strong opposition to House Concurrent Resolution 287—the Budget Committee's calculated effort not to provide any useful guidance to the House. I'm reminded as I read through this budget resolution, of the old saying that, "if you don't know where you're going, any road will take you there." It appears that the Budget Committee does not know where it is going, so they've taken every road on the map.

I find it interesting that the defense cut is one of the few consistencies that does exist in both plan A and plan B of this schizophrenic resolution. Under both plans, the Budget Committee proposes a budget authority cut in fiscal year 1993 of $7.6 billion and an outlay cut of $5.2 billion from the President's fiscal year 1993 budget.

The first point I'd make is that once you sift through all the smoke and mirrors, the real fiscal year 1993 defense outlay cut will be on the order of at least $8 to $10 billion off the President's budget. For example, the Budget Committee calls for a $1 billion economic conversion package to be funded out of defense—but they haven't counted it against the totals. Likewise, the President's budget assumed $2 billion in outlay savings in fiscal year 1993 as a result of a forthcoming package of rescissions. If Congress rejects the rescissions, you can add another $2 billion to the Budget Committee's recommended outlay cut. There are many such hidden cuts to defense that the Budget Committee has failed to advertise.

The second point I'd like to make is that while this budget resolution pretends to be a 5-year plan, the Budget Committee has included baseline out year defense numbers that are meaningless—numbers that fail to take even the President's proposed $50 billion in defense cuts into account. What we all know, although the Budget Committee has tried unsuccessfully to cover it up, is that the fiscal year 1993 defense cuts being proposed represent a downpayment on a package of cuts that go from $48 to $165 billion deeper in the next 5 years than the President's reductions. Once again, smoke and mirrors have been substituted for hard choices.

The third point I'd make is a technical one—but one that has overwhelming human implications. All of my colleagues need to understand that the relationship between the proposed budget authority and outlay cuts determine where and how the defense committees can actually cut. The outlay cut being proposed by the Budget committee is so high relative to the proposed budget authority cut, there are only two places we can look—readiness and personnel.

I wonder how many of my colleagues realize that today, as we debate, the Department of Defense is laying off approximately 4,200 people a week. Or how many know that under the President's fiscal year 1993 Defense budget, before considering any additional congressional cuts, this number approaches almost 5,000 a week? How many know that the Army will lay-off 75,000 people in just 11 months this year—more than General Motors will lose in 4 years? These numbers don't include the tens of thousands of jobs being lost in the private sector as a result of the currently programmed defense cuts.

Despite the rapid down-sizing the Department of Defense is undertaking, and despite the massive upheaval already impacting the defense industry, the Budget Committee wants to more than double the President's fiscal year 1993 defense cuts—and by the technical nature of their numbers, they are directing the defense committees to lay off more people. It looks more like a cold slap in the face than a "peace dividend" to me.

Many of my colleagues on the other side of the aisle will assure us that the funding for so-called economic conversion will ease the dislocation caused by the massive defense cuts being proposed. It's ironic to note that the Budget Committee is proposing to double the President's defense cuts and lay off tens of thousands of additional people in order to pay for an economic conversion program that their cuts caused in the first place. Oh and don't forget—its all being done in the name of helping the economy.

The list of indicators of just how much pain the on-going build-down is causing is as long as my arm. The level of cuts to defense proposed by the Budget Committee, on top of the President's already ambitious cuts, threaten to unravel the finest military force this country has ever fielded. A force that has taken a generation to build could be destroyed almost overnight.

Like the overall resolution it has presented to the House, the Budget Committee's 5-year defense plan is no plan at all. Like the tax bill, it is nothing more than election year partisan politics. I have to ask myself: How are we supposed to legislate based on a road map that is this confused? How are we supposed to develop a consensus on a budget when the membership is given political posturing when it asks for clear direction?

I urge all my colleagues to vote "yes" on the Gradison substitute and "no" on final passage of House Concurrent Resolution 287.

□ 2035

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I just want to call my colleagues' attention to one basic fact in the President's budget that I find absolutely unbelievable. I say to my friends they might be interested to know that the President of the United States, our Nation's chief executive officer, a man who holds himself out as being a fiscally conservative Republican manager of our Government, is asking this Congress to run up $751 billion in new debt in the next 2 years. That is more new debt, Mr. Chairman, than this country accumulated between George Washington and the last year of the Carter administration.

Let me say that again. We are going to accumulate more new debt if we follow the President's recommendations, in the next 2 years than this Government accumulated in the first 200 years of this Republic, that is, if we follow the President's recommendations.

As far as I am concerned, this is an absolutely ridiculous budget. It is an immoral budget. It is fiscally irresponsible, and I cannot believe that a Republican President of the United States, one who would like to consider himself to be fiscally conservative, would ask the Congress to approve a budget like this. It is unbelievable. We would be adding $751 billion in new debt in the next 2 years; that is more debt than this Nation accumulated in its first 200 years. It is unbelievable.

Mr. Chairman, I vote "no."

Mr. GRADISON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not think it comes in very good grace after the action of the House last week and the action contemplated this week for these sanctimonious and partisan statements about who is incurring debt.

Last week this House, I think unadvisedly, approved a tax bill which would require incurring an additional $30 billion of debt during the current year and the fiscal year alone to pay for a temporary tax cut, and this week under plan A we are talking about going out and borrowing another $7 billion, or $8 or $9 billion on top of that.

Mr. Chairman, I am happy to yield 2 minutes to my colleague, the gentleman from Arizona [Mr. KOLBE], a member of the Committee on the Budget.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, tomorrow I will have some more general things to say about the topic of the budget we are considering, but this evening I rise in support of the Gradison substitute, and I want to focus just for a moment on the defense figures.

My colleague, the gentleman from Alabama [Mr. DICKINSON], talked about the problems that are in the budget resolution that has been offered by the Committee on the Budget. The problem we have here ironically is that under the Budget Act that we are required to follow, the Republican alternative, the President's alternative, will take more out of defense over the next 5 years. The reason for that is that the Budget Committee majority has come up with a $14 billion cut this year but then completely abdicates its responsibility in the 4 outlying years after that. That is in violation of the Budget Act, which requires that you submit a budget for 5 years, but they cannot decide whether we are going to Option A, B, C, and D. Remember, we cannot even decide whether we are going to take down the caps or not. So we have two permutations, and we have four permutations on top of that. So far we have a total of eight possible budget permutations we are talking about.

But under the plan of 5 years, under the budget we would be voting on, offered by the Budget Committee majority, a total of $14 billion would be reduced in defense spending, whereas the President's budget would reduce defense spending by $43.4 billion over 5 years, because it carefully assumes what we are going to reduce this year in a prudent fashion and then follows it through in the next 4 outlying years.

Furthermore, what are we going to get for that $14 billion cut that is being proposed by the majority in this first year? We do not know. Are we going to get option A, which takes down six divisions in the Army and heaven knows how many ships in the Navy and how many air wings? Are we going to get option B, option C, or are we going to get option D? We do not know because they cannot decide. They really do not know, so we are going to punt on this. They have a responsibility to tell us what will be scrapped, what kind of units we will have left, and what units they are going to take out. But we do not know that.

For every $2 billion we cut out of defense spending, we are going to lose about 60,000 personnel, and that is on top of what is already being cut now.

Mr. Chairman, I urge the Members to reject the budget resolution submitted by the majority.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, my friend, the gentleman from Ohio, referred to my friend, the gentleman from Kansas, as sanctimonious when he described the deficits. I know he did not mean that in an unkind way, but let me, without appearing to be sanctimonious or intending to be, describe these deficits in some detail.

This is the 9- or 10-pound booklet sent to us by the President. It is the

President's fiscal plan for this country's future. It is not submitted by Millard Fillmore or by Jimmy Carter. It is submitted by this President, who is saying, "This is my plan."

I would like the Members to turn to page 25 when they want to look at fiscal policy and the results of spending and taxing. On page 25, for this year and the coming 5 years, if you do not include social security surpluses and improperly use them to reduce the budget deficit—and you should not—here is what you have: You have $473 billion in projected deficits this year, and then in the coming 5 years, deficits that total $2.21 trillion, an average of $366 billion a year in deficits, this year and each year for the coming 5 years.

This fiscal policy says, "Let's spend $1 billion a day, 7 days a week, 52 weeks a year, for 6 straight years, $1 billion a day that we don't have."

Now, that is a reckless, dangerous, and irresponsible fiscal policy, in my judgment, submitted by someone who says he is a conservative. This is not a budget from a conservative. These are the largest budget deficits in the history of this country. This will, in my judgment, impose a crushing burden on the shoulders of the people of this country. What this says is we should spend money we do not have and charge it to our kids and our grandkids, and that is something this country cannot afford.

☐ 2045

Somehow, some way, someone must stand up to start putting a stop to it. Now is the time.

Mr. SANTORUM. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. Mr. Chairman, I am happy to yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Chairman, has the gentleman looked at the deficits that the gentleman is proposing?

Mr. DORGAN of North Dakota. Mr. Chairman, of course I have.

Mr. SANTORUM. Mr. Chairman, are they any different than the numbers of the President?

Mr. DORGAN of North Dakota. Mr. Chairman, as a matter of fact, they are lower. But I do not like that as well.

Mr. GRADISON. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia [Mr. GINGRICH], the distinguished Republican whip.

Mr. GINGRICH. Mr. Chairman, I listened with great interest to my distinguished colleague from North Dakota [Mr. DORGAN], who talked about a reckless, dangerous, and irresponsible policy.

Now, I think it is fascinating if you notice what the Democratic leadership budget is like, to talk about reckless, dangerous, and irresponsible.

We have as I understand it in the very same document an opportunity to vote for both plan A and plan B. so that later on, if we cannot pass plan A when it finally comes to the floor next week, we will automatically go to plan B. But all the Members will be able to go home, and those who want to can claim they voted for plan A and they are sorry it did not get implemented, and those who want to can claim they voted for plan B, apparently because the Democrats could not figure out how to get a majority for either plan A or B.

So let us start with how one gets to a reckless, dangerous, and irresponsible environment.

I would say, by the way, that I believe the current situation is a mess. I think the deficit is a mass, I think the welfare state we are trying to pay for is a mass, I think Pentagon procurement is a mess. I think there is more than enough blame to go around.

But it was sort of fascinating. I understand some of our friends, including the distinguished chairman of the Committee on the Budget, were concerned about the evolution in the President's thinking.

Now, quoting from today's Washington Post, the President said, "I thought that one compromise would result in no more tax increases. I thought it would result in total control of domestic spending. And now we see Congress talking about raising taxes again. Given that," he said, "the agreement was a mistake."

Now, let me say that I voted against the 1990 budget agreement. I sat through the budget sessions. I thought at the time it would be destructive. I was confident and said publicly I was confident the Democratic leadership could not possibly keep their word for more than a year, and they have not.

What have we got? Last week, having been asked by the President to cut taxes, the Democrats pass a tax increase.

This week, having been asked by the President as part of a solemn deal, break your word to the American people and we will keep firewalls for years to come, Mr. President. Give us this money for our welfare state and our pork barrel and our discretionary spending, and we will protect defense and we will keep our word to you. You can trust us, Mr. President.

And what does the Democratic leadership bring to the floor? It cannot even break its word in dignity. It is bringing to the floor a dual budget. Budget A will break our word if we can find the votes on the floor. Budget B will keep our word if we do not have the votes on the floor.

Notice, not a decision, but an abdication to see what the vote will be. Notice also, the Democratic leadership could have scheduled the bill of the gentleman from Michigan [Mr. CONYERS] first. We could have found an up or down vote on the floor. We could have found out whether or not you can in fact deliver on plan A.

But instead, we have this neat little minuet. First we pass the multiple choice Democratic budget, a profile in courage. Then later we will see whether or not one of the two multiple choices will work. All this, of course, in the name of a bigger welfare state, more spending by Government, a larger bureaucracy, and higher taxes.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to my good friend from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I would just ask, I assume the gentleman from Georgia [Mr. GINGRICH] has read the budget?

Mr. GINGRICH. Mr. Chairman, I have looked at it. The gentleman from North Dakota [Mr. DORGAN] has not read the budget and I have not read the budget. There is not a Member here who has read every word of that book, and the gentleman knows it.

Mr. DORGAN of North Dakota. Mr. Chairman, but the important page that describes what the budget deficits are, the important page that describes what kind of deficits we are projecting, does the gentleman from Georgia [Mr. GINGRICH] dispute that we are talking about $2.21 trillion in additional debt projected between now and 1997?

Mr. GINGRICH. Mr. Chairman, reclaiming my time, the deficit projections have been so consistently wrong on both sides by CBO and OMB, I will be glad to stipulate that.

Mr. DORGAN of North Dakota. If the gentleman will yield further, that was the only point I was trying to make to this Chamber. This is a book which says we propose to add $2.21 trillion to the Federal deficit. In my judgment that is an outrageous fiscal policy.

Mr. GINGRICH. Mr. Chairman, reclaiming my time, I agree with the gentleman. I think it is outrageous. I think this budget is not at all what I would like to see us get to.

Mr. DORGAN of North Dakota. Mr. Chairman, I would ask the gentleman from Georgia [Mr. GINGRICH], we are both going to vote against this, is that correct?

Mr. GINGRICH. Mr. Chairman, no. I think it is better than the multiple choice game you are going to play tomorrow.

Mr. DORGAN of North Dakota. So the gentleman from Georgia [Mr. GINGRICH] is going to vote for something outrageous?

Mr. GINGRICH. Mr. Chairman, reclaiming my time, it is the least bad offer we have right now. I say that in all honesty. Again, in the tradition of Massachusetts, I think it is useful to have people who are willing to be candid.

This is not what I would like to do, but I think it is the least bad realistic single budget, not multiple choice, not lollipops and Santa Claus. You take your choice, which do you want? Plan

A I guess is lollipop, and plan B is Santa Claus.

It is the only single budget realistic that is on the floor in the next 2 days.

Mr. DORGAN of North Dakota. Mr. Chairman, if the gentleman will yield further, let me say I will ask the same questions on the Democratic budget as well, because the deficits are too high, but they are lower than this. These deficits in my judgment are crippling this country's future.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I had simply wanted to point out that the previous speaker had gotten most of the way through his speech in behalf of the President's budget without saying one good word about the President's budget. I thought they would note that, until the subject came up.

The gentleman then proceeded to say many bad words about the President's budget.

I suppose that kind of defense, when you are in the shape that the President is now in, is as good as you can get. It may have been that the gentleman from Georgia [Mr. GINGRICH], having refused to have any conversations with the Secretary of the Treasury, did not have any information on which he could defend the President's budget.

Apparently there is a new Tenure of Office Act which prevents the President from picking his own Secretary of Treasury, so when people do not like what is going on, they can beat up the Secretary of the Treasury without noting that he is, of course, serving every minute under the pleasure of the President.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. Mr. Chairman, I yield briefly to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, all I want to ask the gentleman from Massachusetts [Mr. FRANK] before he is done is whether he secretly prefers the plan A half of your budget or the plan B half?

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, it will be no secret. The gentleman's grasp of parliamentary procedures seems to be a little weak this week, because every Member of this House will tell you if this budget passes whether he or she is for plan A or B when the bill to take the walls down comes up.

The gentleman has discovered a secret which is about to be a matter of public record, with his usual perspicacity. The fact is that no one is going to be able to dissemble as to where he or she stands.

What the Committee on the Budget has done quite sensibly is to say to the American people, "Here is what happens if you keep the wall up, and here is what happens if you keep it down." And when the bill sponsored by the chairman of the Committee on Government Operations comes to the floor, every Member will be able to decide publicly do you want to really do something about education, or do you not? Do you want to adequately fund National Institutes of Health research, or do you not?

People should in fact compare plan A to plan B, because that will tell people where the differences are.

Let us look at the subject that my friend, the gentleman from Georgia [Mr. GINGRICH], wanted to avoid, the President's budget.

The President's budget cuts Medicare. It cuts out, for those of us who live in the Northeast corridor, money to provide high-speed rail service between Boston and New York. I am sure all my colleagues from the Northeast corridor, from New York and Connecticut, are delighted to do that.

It cuts the postal subsidy for nonprofit mail. It cuts all of higher education except for Pell grants. It cuts low income energy assistance.

The fact is this: The President's budget cuts a number of programs that many Members on both sides of the aisle have pledged to support. In fact, that is the importance of the bill to take down the wall.

There are people on both sides who have been telling the voters for years, "Gee, I am with you, but I can't do it because I don't have the money."

Now, within the overall limits of the budget agreement, we are going to bring forward a bill that would provide the money. And people are going to have to work very hard between now and next week for a new excuse.

I have talked before about the reverse Houdini, Mr. Chairman. Houdini became really famous because he would have other people tie him in knots and his act was to get out of the knots.

We have here the reverse Houdini about to be revealed, in which you tie yourself in knots and then you go to people and say, "Gee, I would love to help you, but I am all tied up in knots." Because when people vote to keep that wall up, they will be voting not to allow themselves to spend the money for education that they promised they would have spent if they could.

□ 2055

And they will be tying their own hands so that they cannot reach out to help people with health research, with public transportation, with more money for law enforcement.

The vote to keep up the wall is a vote to physically prevent ourselves from keeping our own promises. It is an extraordinarily useful device, but it is essentially fraudulent.

What we have today, budgets A and B, are the essential elements that will reveal that. And that is why it is a cause of such distress to so many of my friends on the other side of the aisle. It is truth in budgeting. It says, here is what it looks like with the wall up. Here is what it looks like with the wall down. And now we get to vote on the wall.

And when we vote on the wall, we are voting if we prefer budget A or B. We will leave out the President's budget, because none of them support it. They only brought it up because they would have been embarrassed if we had brought it up if they did not. It has had fewer good words said about it than the poor Secretary of the Treasury or other unpopular people in that administration.

So what we have here is the best effort responsibly to meet the needs of this country. There is a great deal of talk about the needs of the future: The economy, health care, education. Plan A does not meet all of those needs. But it does begin to in a very responsible way. I hope that the President's budget is rejected as soundly in the vote as it has been in the debate and that the budget we have put forward is accepted.

Mr. GRADISON. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SANTORUM], a member of the Committee on the Budget.

Mr. SANTORUM. Mr. Chairman, I thank the gentleman for yielding time to me.

I would like to address a couple of the issues brought up on the other side. First to the gentleman from North Dakota, I would be happy to share with him the numbers, and maybe he just has not reviewed the Democratic plans A and B budget for the first 2 years, but the combined deficit for plan A is $742 billion on the Democratic plan. For plan B, it is $734 billion. And for the President's budget, it is $710 billion. So of the 3 budgets, over the next 2 years, the President's deficit is lower than the deficits that the gentleman is proposing on that side. Those are the facts.

Now, the gentleman from Massachusetts, I know, is not being insincere when he talks about all the cuts that are going to be made in the President's budget.

As the gentleman from Massachusetts well knows, serving on the Committee on the Budget, the President's budget, and the substitute is this document right here, which is a series of numbers that includes none of the cuts that the gentleman from Massachusetts even said.

What we are voting on is this budget resolution, which sets numbers and targets for the budget resolution.

The President's budget, as far as this large document, is very different from what we are voting on today. What we are voting on today is the budget resolution which once passed the Committee on Appropriations and the authorization committees. The authorization committees can deal with this in a manner that we in the Congress see fit as to what to cut to meet these expenditure targets. I know the gentleman from Massachusetts knows that.

Getting back to the point of what I really got up to talk about, the gentleman from Washington, Congressman JOHN MILLER, and the gentleman from Ohio, JOHN KASICH, and I and the gentleman from Texas, TOM DELAY, worked very diligently for the past 9 months to try to influence the President's budget on a lot of areas. We think we have sort of sat back and taken a very happy approach to what the President has been able to do and come in our direction. He has adopted a lot of the reforms that we have put forward.

In particular, in the area of defense and a lot of the structural changes in defense that we are very happy to see, we proposed back in September in meetings with Secretary Darman a $54 billion cut in defense. And the President came forward with a $50 billion cut in defense. We proposed performance-based budgeting pilot projects be implemented to really reform the way Government operates, and we are really trying to get at the heart and soul of the bureaucracy and the problems that Government bureaucracies deal with in handling Federal programs. And the President has adopted that.

We have allowed for more flexibility with States and welfare and being able to implement workfare, and the President has gone along with that and supported us on those sorts of things. He has adopted a lot of the reforms and the entitlement programs, and I know, as the gentleman who talked previously know, that the biggest area of concern right now and the fastest growing area of the budget is in the area of entitlements. And the President has done something substantive in trying to control entitlement growth. And a lot of the things that we did in controlling entitlement growth were suggested by the alternative budget crew and we are very pleased. And I am enthusiastically supporting the President for his willingness to listen to our group—that took a lot of time and reached out to a lot of communities all across this country to come up with proposals we think are going to fundamentally reform government.

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me correct the gentleman's statement with regard to the deficit. The numbers he was using were an OMB estimate. It was not the CBO's estimate as to where the deficit is over the next 2 years.

The reason OMB's number is less is why? Because of accrual accounting, a beautiful gimmick that was developed by OMB. If the gentleman supports that gimmick, please vote for the President's budget.

Mr. Chairman, I yield 6 minutes and 30 seconds to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in opposition to the President's budget. It is a budget that proposes to cut Medicare benefits for senior citizens; slash veterans' pensions and home loan programs; and once again target the people who day in and day out make our Government work, our Federal workers, for over $5 billion in cuts to their pay and benefits.

Let me be clear. I strongly support the spending caps put in place by the budget agreement of 1990. We ought not back away from that plan to reduce our deficit. The deficit is stealing from our grandchildren their ability to pay for the services that they will require in future years by saddling them with the debt we are piling up today. It must stop.

But the Democratic budget does not exceed the budget target set by the 1990 agreement—or the President's budget—by one dollar. What it does do is set our spending to accomplish what Americans want from their Government: a strong defense, increased investment in our infrastructure and our people, and the security of knowing that the Government will stand by its promises. And it does it without tax increases or the so-called "revenue enhancers" of the President's budget. And either Democratic plan A or B results in greater deficit reduction than the President's budget. In short, it does what the country wants and it does it for less.

This budget preserves a strong America. It rejects the President's approach to our changed world defense environment, which is to merely subtract from our existing forces and spend the savings. Rather than be caught in this free-fall approach, which could leave us with a hollowed out defense force, the Democratic alternative seeks to develop a plan that sculpts a defense force to meet the threats of today's world.

I was concerned that the cut proposed by the Budget Committee on defense may have been too much too fast. We continue to live in a very dangerous world, and we must not let down our guard. Further, deeper cuts could wreak havoc on communities that must already absorb displaced defense workers. I have discussed this matter with Chairman ASPIN and have been assured by the chairman of the Armed Services Committee that the amount requested, first, will not result in any additional personnel cuts beyond what the President has proposed and, second, will not result in any reduction in the readiness of our forces.

I agree with the chairman that significant savings can be achieved by bringing our troops home from Europe, reducing our supply stockpiles, and making foreign governments pay a fairer share of their defense that we provide—savings that will not weaken our defense or hurt communities.

The bottom line is that the cold war was fought by shaping our defense forces to meet the Soviet threat. We did a good job, and we won that war. Now we need to retool our defense to meet the threats of today's world: another Iraq-like situation, terrorism, drug warfare, to name a few. We need to strengthen our reliance on the National Guard and Reserve—rather than weaken the Guard as the President and the Pentagon have proposed.

And we need to strengthen our ability to project force without relying on foreign bases—which means greater investments in naval air than the President has been willing to make.

On the domestic front, the President's budget falls far short of where Americans want this country to be. Americans want children to be immunized against diseases—the President's budget fails this test while the Democratic budget provides immunizations for all preschool children here at home.

The Democratic budget seeks to create jobs with higher investment in our infrastructure—spending nearly $2 billion more on highways and creating 50,000 more jobs. The Democratic budget provides more money for job training—putting people to work rather than adding them to the unemployment roles.

The President, who calls himself the "environmental President" and who ran on the sad state of Boston Harbor, seeks to cut funding for the environment, sewage treatment, and conservation programs. The Democratic budget doesn't run from our country's commitment to its environment and fully funds these programs.

Finally, Americans believe that Government, just like its citizens, should keep its word and honor its commitments. The President proposes to cut veteran entitlements by nearly $1 billion next year. The Democratic budget rejects this cut and fully honors the Government's end of the deal for those veterans who so valiantly honored theirs when they were called on to serve this country.

Similarly, the President would change the rules on Government workers, who were hired and have continued to work for the Government—fighting crime, researching new drugs, protecting our environment—under the assumption that their retirement plan would be secure and their benefits would not be reduced. The President would renege on the Pay Reform Act he just signed 2 years ago, restructure a retirement plan that people have planned on for their golden years, and eliminate the right of retirees to choose their own doctor. The Democratic plan rejects all of these ill-conceived proposals and continues the commitment already made to these dedicated workers and retirees.

Mr. Chairman, I could go on and on. But I believe that the decision is already clear. The President's budget falls far short of where we need to be today—even though it spends more money than that proposed by the Democratic alternative.

I urge my colleagues to reject the President's budget and adopt the Democratic alternative.

□ 2105

Either A or B, depending upon our subsequent decision, is a preferable alternative for America, for its children, for its workers, and for its families.

Mr. GRADISON. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. MILLER], a member of the Committee on the Budget.

Mr. MILLER of Washington. Mr. Chairman, I thank the gentleman from Ohio, my distinguished colleague, for yielding time to me.

This House faces a choice, and really, the choice is between the committee's budget, the Democratic majority's budget, and the Gradison-President's Republican budget, but it is not really a choice because the committee, the Democratic proposal, is not a proposal. It is plan A or B. In the out years it has infinite possibilities on defense spending. It does not set out what the defense spending is going to be.

Actually, the committee, which should have the courage to make the choice, the majority should have the courage, but they punted, so there is only one choice. It is the President's budget.

I want to contrast the President's budget with the work of many House Republicans who have been working on a budget alternative. The President's budget does not go as far as we would like when it comes to spending reduction, but it does adopt many of the proposals that House Republicans wanted. I speak to my colleagues.

We asked for $54 billion in defense reductions and the President came in with $50 billion. We asked for reductions and reforms in the foreign aid program and AID and in the food program and in the World Bank program. The President did not give us those, but he went along with our recommendations for reductions in military sales.

We asked for a freeze on outlays. The President came in with a freeze, and I am talking about a freeze on domestic spending outlays. The President came in with a freeze on domestic spending authority.

We asked to set up performance-based budgeting. The President came in with recommendations for pilot projects throughout the Government on performance-based budgeting. We asked for means-testing in Medicare so that individuals with incomes over $100,000 would pay part of the subsidy now. The President adopted that proposal. We asked for waivers for States that wanted to pursue welfare reform to put able-bodied people to work, and the President adopted that suggestion.

So no, it does not go as far as we would like, but let me tell the Members, given the choice, there is only one choice, and that is to support the President and Mr. GRADISON's budget proposal.

Mr. PANETTA. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman.

The gentleman from Pennsylvania who discussed me and refused to yield to me said that I was misstating the facts by saying this was the President's budget and talking about cuts in the President's budget. He said this was not the President's budget, the President's budget was just some numbers.

Now the gentleman from Washington [Mr. MILLER], was just defending what I thought he said was the President's budget, so I am confused, because the gentleman from Pennsylvania specifically denied that this was the President's budget.

I just would yield to my friend, the gentleman from Washington [Mr. MILLER], is this the President's budget or is it not, that is in the resolution of the gentleman from Ohio [Mr. GRADISON]?

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Washington.

Mr. MILLER of Washington. I think it is the President's proposal, but I do not know what is involved in your debate with the gentleman from Pennsylvania.

Mr. GRADISON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

□ 2106

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of the President's budget as the most rational and constructive choice we have. I am proud to represent a State that has provided thousands of men and women to our Armed Forces and provided military equipment of unparalleled quality to this Nation for decades. Submarines, fighters, helicopters, guidance systems, bearings, and numerous other military supplies that have made this Nation so strong that we have won the cold war and seen the U.S.S.R. collapse. It is on behalf of those men and women that I rise to speak now, for as a great Nation we have a responsibility to reduce defense spending in a way that enables the men and women who have made us strong, both in the armed services and in manufacturing, to have a period to adjust.

Of course we cannot keep buying military equipment at the rate of the cold war years. But we have an obligation to slow down that purchasing in a way that enables us to have a strong defense and surge capability, and for people to be able to salvage their lives and reposition themselves for their future.

Already in the last 18 months 300,000 jobs have been lost. Twenty-five percent of the private sector jobs that have been lost in the recent recession were due to defense cuts, even though defense is only 5 percent of the work force. Under the Democrat budget alternative, 233,000 additional active duty and reserve jobs will be lost. That is people and their lives, and an untold number of manufacturing jobs. It will mean fewer contracts and planes for Pratt & Whitney. It will be steeper cutbacks at Electric Boat.

I say to Members, people have a right to a Government policy that not only addresses our defense needs more responsibly than the Democrat budget does, but recognizes the contribution that workers throughout America have made to make us strong and able and to bring peace to the world. We owe them something better than doubling the President's defense cuts when his cuts go well below the summit agreement.

Mr. GRADISON. Mr. Chairman, I yield myself my remaining 4½ minutes.

Mr. Chairman, the President's budget has one feature which certainly sets it apart from that of the majority: He has a plan, one plan, not two conflicting plans brought before us tonight by the majority. He does not have two plans for education, two plans for Head Start, two plans for veterans, two plans for each of the other major areas. His priorities reflect tough choices, choices which we have been sent here to make, choices which in his case stay within the strict guidelines of the spending caps. And the President's plan shows that it is possible to meet the needs of America without removing the firewalls for the fiscal year 1993.

Each time we have a budget summit we find that domestic spending is increased, not restrained. I am getting tired of hearing about how restrained our budgets are around here. The fact of the matter is that domestic discretionary spending since 1986 has advanced by 34 percent, after adjusting for inflation. Maybe it should go up more; maybe it should go up less. But that is hardly what I would call a starvation diet.

The President's plan would cut a number of programs, and we have been hearing about those all day. We have not been hearing from the other side about all of the increases that the President's budget would include, and at the proper time I will include in the

RECORD a detailed listing of what those increases are. But let me share a few of them with my colleagues.

This is the President's budget: education up $2.3 billion. Head Start up $6 billion; housing vouchers up $1 billion; highways up $2.2 billion; veterans' medical care up almost $1 billion; Environmental Protection Agency up $529 million, and so forth. That is the President's budget, and it is done within these guidelines.

We have been hearing a lot about the peace dividend, and we have been told that the world has changed. It has changed, but it has not just changed in Eastern Europe. The budget deficit has exploded. That is also a change.

When the 1990 budget agreement was reached we were told that we would reduce the Federal deficit to $229 billion in fiscal year 1993 and put us on the course to a surplus in 1994. Now we see a deficit approaching $400 billion for 1993. By golly, that is a change which we should address ourselves to, not just talking about the changes which have taken place around the world. Let us talk about some of the changes which have happened right here at home.

The notion that every time we find a nickel on the floor we ought to spend a dime is one that ought to be rejected. We can do more to help this economy by leaving money in the pockets of taxpayers and reducing the amount we have to borrow than going out and spending it here.

Let me say a word about accounting. We have been told that accrual accounting is a gimmick. Let me tell Members, I wish we had accrual accounting around here during the years that the savings and loan crisis was developing. If we had, we would have had an early warning system in place which would have permitted us to take timely action to prevent this enormous cost which has been visited upon the American taxpayers because we used cash rather than accrual accounting. The irony of the present situation is that if we take remedial actions and have reforms, for example, with the Pension Benefit Guaranty Corporation, under cash accounting it shows there is an increase in the deficit, whereas under accrual accounting, which is the proper method, it would be just the reverse.

One final point. We talked a lot about tax cuts around here last week. This Democratic budget does not include the tax cut which they said last week was so important for the country. It is not in here. But the President's budget does include the wherewithal to finance an increase in the personal exemption for families with children. So if Members vote "no", they are voting against increasing the personal exemption. An "aye" vote is a vote to increase the personal exemption. When this vote is taken we are going to find out who is really in favor of tax relief for American families.

Mr. Chairman, I urge my colleagues to vote for the President's budget. It has a means of financing an increased personal exemption. It is sensible and is at a prudent defense level. It controls the growth of mandatory programs. It lives within the budget of the Nation. And while this may not be very important to some of my friends on the other side of the aisle, it is also consistent with the Budget Enforcement Act of 1990.

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

In summary, Mr. Chairman, as always when we vote on budgets we vote for the priorities that are laid out in those budgets. We cannot separate the budget we are voting for from the priorities that are defined in that budget. So when Members vote, if they choose to vote for the President's budget, they vote for the priorities established in the President's budget.

We think those priorities are wrong, and that is why we have basically said we need to reorder those priorities and to invest in areas that affect our society. That is what is presented in the budget presented by the committee.

If Members vote for the President's budget, make no mistake about it, they are not voting for budget discipline.

□ 2120

I hear a lot about the budget agreement from those who voted against the budget agreement. It is a little disconcerting, very frankly, and now I hear the President himself saying it is the worst mistake he ever made, and now suddenly we are being lectured about budget discipline from those who have basically thrown it away, and if it was not for the President's words, look at the budget.

Is it budget discipline when you basically use a gimmick, and it is a gimmick. I mean, accrual accounting is fine in the academic world, but when you spend money, then you reach into the future and grab those assets and then spend it, that is wrong.

If Democrats had done that, if we had reached into the future, grabbed assets and then spent them today, you would be the first to criticize. So it is wrong, and it is gimmickry, and it cannot be defended.

But if you vote for the President's budget, you are defending that kind of gimmickry.

Second, make no mistake about it, if you vote for the President's budget, you are voting for clearly defined cuts that are part of it. We have cuts in our budget. I am asking Members to support those cuts in exchange for the priorities that we have defined.

But you are doing the same thing. If you want to vote for the President's budget, you are voting for those Medicare cuts, you are voting for those cuts on veterans, you are voting for those cuts on civil servants, you are voting for those cuts in education, you are voting to eliminate 400,000 students from the chance to get a Pell grant. That is what you are voting for.

Make no mistake about it, you are voting for tax increases. Do not think that simply voting for this budget you are going to run and hide from the tax increases that are part of the President's budget, tax increases on annuities, tax increases on credit unions, tax increases on public employees. There are tax increases in here. If you support it, please vote for the President's budget.

And, finally, finally, if you think that the President's budget is the right set of priorities at this time in history, then again vote for it. I do not think it is. I think what the President's budget does is it repeats some of the same mistakes we saw in the 1980's, and the result is going to be increased deficits in the future.

It is for that reason that I ask the Members to vote against the President's budget.

Mr. MILLER of Ohio. Mr. Chairman, last week the Democrats in the House delivered the first punch to the American public—a tax increase in the guise of an economic growth package. Today they follow through with a low blow—a budget resolution that contains two budget plans, one which would do away with budget discipline and neither of which does anything to address the budget deficit.

The "plan A" budget proposed by the Democrats is based on eliminating the firewalls established by the 1990 Budget Enforcement Act. By capping discretionary spending for defense, international affairs, and domestic programs, the firewalls ensure that savings in any of these categories would be used to reduce the budget deficit. I believe it is dishonest to the American people to break the agreement contained in the Budget Enforcement Act which promised to reduce the deficit and allowed domestic programs to increase at rates greater than inflation.

I also feel it is unwise to accept the cuts in defense spending assumed by the two Democrat budget plans. President Bush and our military leadership have proposed a defense spending plan that steadily decreases military expenditures. By 1997, under this plan, we will have a military that is 25 percent smaller than the forces that existed just 2 years ago. This is a dramatic change and one which is justified by the change in the threat we face today.

Both Democrat plans are based on making deeper reductions than those being implemented under the Pentagon's based force. The Army would be required to eliminate 3 more divisions, leaving a force of 9 active divisions instead of 12. Almost certainly, much of those reductions would have to be made by reducing forces stationed in Europe. Yet today, Gen. John Galvin, commander in chief of U.S. Forces in Europe, testified to the House Defense Appropriations Subcommittee that it is physically impractical to accelerate the pace of troop withdrawals. It is also apparent that further troop reductions could not be made without forcing the Army to make involuntary separations.

The President's budget is a realistic and prudent response to the end of the cold war. It preserves the budget discipline of the Budget Enforcement Act and addresses the problem of growth in entitlement spending. For these programs, I support the President's budget.

Mr. MAZZOLI. Mr. Chairman, I rise in strong support of House Concurrent Resolution 287, the congressional budget resolution for fiscal year 1993.

As a Member of Congress whose district is both urban and suburban, I am pleased that this budget resolution proposes increased funding for many of the programs that will aid America's larger cities and smaller towns.

I had the pleasure of testifying before the distinguished gentleman from California's [Mr. PANETTA] Budget Committee a few weeks ago, and I am happy to see that many of the programs I cited of importance to the Third District of Kentucky have been included in this resolution. Whether or not the so-called firewalls established in the 1990 budget agreement come down, programs important to Louisville and Jefferson County will receive added funding from the budget my friend, LEON PANETTA, has shepherded to the floor today.

In particular, I note that House Concurrent Resolution 287 proposes to increase funding for general housing assistance and aid to the homeless under the McKinney Act, and does not reduce levels of funding for Community Development Block Grants [CDBG's]. In contrast, the administration's budget proposal, which I voted against, reduces funding for affordable housing programs. Providing for affordable housing needs in my community is a priority for me and for local officials in Louisville and Jefferson County, and House Concurrent Resolution 287 will greatly help my community attain our goals.

House Concurrent Resolution 287 proposes to increase funding for two important human service programs which I mentioned in my testimony before the Budget Committee: Head Start and the Women, Infants, and Children Program [WIC]. The funding increases proposed for Head Start will allow 98,000 to 135,000 more children to participate in preschool programs which we know are crucial to their educational development. The increases targeted for WIC will provide 415,000 to 600,000 more women, infants, and children with nutritional assistance.

House Concurrent Resolution 287 also proposes to increase funding for child immunization programs. The Budget Committee estimates this funding will enable all preschool children in the United States to be immunized. As I have said before, the choices we make about the health, welfare, and education of our children are summed up nicely in the television ad: "Pay me now or pay me later"—paying now for protecting our children's health rather than paying a lot more—later—to make them well.

Mr. Chairman, House Concurrent Resolution 287 also proposes to increase funding for mass transmit and surface transportation where the late, not lamented, administration budget proposal would have reduced funds for mass transit. More efficient highway and mass transit systems serve the dual purpose of providing citizens with affordable and reliable transportation—vitally important to my hometown and home county—and of creating jobs. The Budget Committee estimates that between 150,000 to 200,000 jobs can be created by improving the Nation's transportation system. Furthermore, it is an investment in our national competitiveness which will pay dividends in years to come.

Mr. Chairman, I am proud to support House Concurrent Resolution 287 for all of these reasons, and I urge its passage by the House.

Mr. ARMEY. Mr. Chairman, I submit for the CONGRESSIONAL RECORD as part of the debate on House Concurrent Resolution 287, the concurrent budget resolution for fiscal year 1993, various articles from the Washington Times and Investor's Business Daily:

[From the Washington Times, Mar. 4, 1992]

A FREE PASS FOR CBO?

(By L. Brent Bozell III)

Why are the media covering the debate over the capital gains tax by relying on estimates that have been proven to be more than 100 percent wrong? I've narrowed it down to three possibilities: (1) The media are too lazy/dumb to figure it out; (2) they think the American people are too dumb/lazy to figure it out; or (3) the media would rather witness a class war fought over fake statistics than referee an honest debate.

Back in April 1991, Rep. Dick Armey, the ranking Republican on the Joint Economic Committee, and Chris Frenze, one of Mr. Armey's staff economists, revealed that the Democrat-appointed Congressional Budget Office had erred in its prediction of 1989 capital gains income by $75 billion, a margin of error of roughly 50 percent. The study also maintained that this error would be built into the CBO's annual baseline figures, amounting to $375 billion in error over five years, a possible deficit disaster.

Two weeks ago, Mr. Armey and Mr. Frenze revealed that the CBO admitted its forecast for capital gains income of $254 billion for 1990 missed the mark by $134 billion, an error of more than 105 percent. The media's response: nothing.

Why the silence? because the major media covering the capital gains debate routinely rely on estimates of the Joint Committee on Taxation, which relies on the faulty CBO numbers for its calculations. When, for example, Time cites that "families that earn more than $200,000 a year would save an average of $18,000 as a result of lower capital gains rates," it's citing the completely bogus calculations of the Joint Committee on Taxation. Everybody's using these estimates without any concern for their accuracy.

Maybe the media believe that statistical reality is too technical for the American people to understand. When Mr. Armey and Mr. Frenze released their first CBO critique, the media reaction was a resounding silence, with one exception, New York Times reporter Jason DeParle, who came to the Times from the neoliberal Washington Monthly, snottily dismissed the critique on May 26, 1991: "Among the congressman's complaints is that Table 19 on Page 1,306 should at the very least have included an asterisk."

Mr. DeParle failed to explain the CBO's errors, simply declaring them too difficult for the average American to understand. "Sorting through Mr. Armey's technical critique requires an understanding of the computer models used by the CBO and a grip on such terms as 'nominal realized capital gains.'" You would think turning complex arguments into simple language is the media's job, but even the reporters who understand these issues have refused to explain it.

The media have also ignored Mr. Armey's attempts to make the CBO accountable to Republicans as well as Democrats. Currently, the CBO's personnel are appointed by the Democratic leadership with no Republican consultation or confirmation process. This is especially galling since the media regularly tag the CBO as "non-partisan."

There's nothing non-partisan in the way CBO Director Robert Reischauer has treated his shop's accounting fraud. He covered it up. The CBO never disclosed its mistakes to members of Congress or the media, even though its tainted capital-gains and family income data had been widely used by both and even though the CBO's numbers were used as a club by the Democrats and their class-war supporters like "conservative" Kevin Phillips.

Even since Republicans (and some Democrats) introduced capital gains tax cuts in 1989, the media have trumpeted the cause of "tax fairness," labeling tax cuts a sop to the rich while ignoring the rotten statistics underlying the hate-the-rich Democrats' case.

The media's know-nothingness has not only given a free pass to the CBO, but also to Richard Darman's oafs at the Office of Management and Budget. When Mr. Darman appeared before Congress last July 15 to announce that the OMB's old deficit estimates were horrendously off-target, the network newscasts did nothing. It took the late great Warren Brookes to point out that in January 1990, Mr. Darman forecast that the total deficit from fiscal 1991 to 1995 would be $62.3 billion.

Eighteen months later, that estimate soared to $1,081.9 billion. Thanks to the media's silence, most Americans have heard nothing about Mr. Darman's errors. After listening to a decade of media preaching about Republican neglect of the budget, it's time to ask about the media's neglect of the budget debate. Oh, the political wrangling gets top billing, but the debate's most important points are almost always ignored. The Washington press corps can't preen about its role as watchdog of the government while both budget boosting sides—OMB and CBO—get away with statistical murder. Call the media co-conspirators.

[From the Investor's Business Daily, Mar. 2, 1992.]

WILL TAX ON RICH BOOMERANG?—IT ALWAYS HAS, BUT THEN THIS IS AN ELECTION YEAR

(By John Merline)

Making the rich pay their fair share in taxes has become the clarion call for Democrats seeking to win over middle-class voters this political season.

Increasing the progressively of the tax code may be good politics, but many analysts say it is bad policy.

The House Democratic tax package, which passed last week in a highly partisan vote, includes a small tax credit for the middle class, coupled with substantial tax increases on the wealthy.

Sen. Lloyd Bentsen, D-Texas, has proposed a tax plan similar to the House bill. Both the House and Senate bills propose raising the top tax bracket on income to 35% from the current 31%, and both would impose a 10% surtax on millionaires.

In addition, each of the leading Democratic presidential candidates purposes some form of tax increase on the wealthy, either to fund tax relief for the middle class or to pay for new programs.

Behind these proposals is the issue of fairness. But, as with most issues in Washington, the definition of fairness depends heavily on whom you ask.

For Robert McIntyre, director of Citizens for Tax Justice, fairness is when "the rich pay more taxes and the rest of us pay less." According to McIntyre and other supporters of higher taxes on the wealthy, tax cuts during the 1980s primarily benefited the rich.

According to a House Ways and Means Committee report, the richest "one-fifth of the population will pay a smaller percentage of their income in taxes in 1992 than in 1977 while the bottom 80% will pay more."

Therefore, the argument goes, raising tax rates on the wealthy would improve the fairness of the tax code by making the rich pay a greater share of taxes than they do currently.

But historically, high tax levies on the rich have failed to achieve their stated goal—to force the rich to pay a greater share of the total tax burden.

Highly progressive tax codes have tended to push the tax burden downward, making the middle and lower classes pick up a greater share of the total income tax burden.

A study by economists James Gwartney and Richard Stroup found that a peacetime tax increase in the early 1930s to reduce the budget deficit resulted in "a rapid decline in the reported net income in upper brackets as the marginal rates increased sharply."

In upper-income brackets, tax rates were doubled, but tax revenues expanded by only 15.7%, according to the study.

And the share paid by the wealthiest earners dropped precipitously, from 23.5% of the total tax burden before the increase to 18.4% after the increase.

Data from the IRS clearly show that tax shares of the top 0.2% of wage earners fell each time their tax rate increased. In the early 1940s, for example, marginal rates on the rich shot up, but the share of taxes paid by these earners dropped from some 90% of total taxes to 50%.

Conversely, lower tax rates on the rich typically have shifted the income-tax burden upward. In 1926, the top marginal rate was reduced to 25% from 73% in 1921. The amount of taxes paid by millionaires increased 155% in those years, while the share of taxes paid by this group increased 75%, according to IRS data.

Again in the 1960s, the top marginal income-tax rate was cut, with the same basic effect. Tax revenues from the top 5% of wage earners increased 7.7%, while the share of taxes paid by this group increased by 8%.

Tax cuts in the 1980s produced similar results. Despite cuts in the top rate of some 23%, income taxes paid by those earning $1 million or more increased 244% between 1979 and 1986, from $8.5 billion in 1979 to $29.2 billion in 1986.

MILLIONAIRES' SHARE

Between 1986 and 1989, taxes paid by millionaires increased another 35%, despite a cut in the rate from 50% to 28%. The share of taxes paid by millionaires went from around 2% of total taxes in 1979 to almost 9% 10 years later, despite a cut in the top tax rate of 60%.

According to the House Ways and Means Committee report, this is due to the fact that the incomes of the high wage earners "rose faster than average family income."

To supporters of increased taxes, this means fairness declined. But to opponents of new taxes, this growth at the top mean something different.

OMB PROJECTION

"What's happening here is that the entire economy is enjoying a larger degree of opportunity, and more people are taking advantage of it," says Gary Robbins, president of Alexandria Va.-based Fiscal Associates and a former Treasury economist.

For example, IRS data show that while the average income of millionaires did not change much between 1979 and 1986, the number of people declaring earnings of $1 million or more climbed drastically.

In 1979, just under 8,000 reported earnings of more than $1 million. By 1986, that number had jumped to more than 31,000, even after inflation is subtracted, doubled again by 1989.

Moreover, high rates on the rich have in the past served less as a way to raise money than as political camouflage for tax increases on the middle class.

In part, this is due to the fact that little money can be raised from the nation's richest citizens. According to the Tax Foundation, if you doubled the taxes paid by millionaires, you could run the government for an additional 13 days in a given year.

To raise significant revenues, according to tax specialists, middle-class wages have to be tapped.

For example, according to the Office of Management and Budget, if the $400 tax credit in the House tax bill were made permanent, and if the government paid for it by raising income taxes, the top 35% tax rate would have to begin at income levels of around $36,000 for single filers.

"If true, that suggests that there's not a lot of money to be had by just raising rates at the top," said Fed Governor Lawrence Lindsey.

"Politicians, when they set very high millionaire rates, are able to say to the middle class, 'Well, look, it's not so bad for you,'" said Michael Schuyler, senior economist at the Institute for Research on the Economics of Taxation.

The 1990 budget agreement raised the top tax rate to 31% while also imposing higher excise taxes on gasoline, tobacco and alcohol—taxes that hit the middle class harder than the rich.

While observers doubt whether income tax rates will be raised on the middle class, the new tax rate proposed by the House bill applies to income that some might classify as middle-class. Single taxpayers earning $85,000 and up would face a 35% tax rate. Single taxpayers earning $51,9000 already face the 31% bracket.

Although all brackets would be indexed for inflation, real wage growth would push more and more people into these higher brackets. "Today's rich are tomorrow's middle class," said Robbins.

High rates can have other economic effects that primarily harm the middle class. Foremost is the incentive high tax rates give the rich to seek tax shelters.

"The wealthy have enormous discretion over how, when and whether to realize income. At high tax rates, they can convert taxable income into fringe benefits or other business expenses," said economist Gerald Scully, a senior fellow at the National Center for Policy Analysis.

Even supporters of tax increases recognize this effect. "High tax rates cause pressure to bring back loopholes," said McIntyre of Citizens for Tax Justice. Still, McIntyre would like to see top rates at 40%.

DAMPER ON GROWTH

Because the rich derive three-quarters of their income from investments, high marginal taxes on this income can dampen economic growth, according to economists.

If the rich shift money into less productive investments to avoid taxes, less money is available for capital formation.

"Because capital formation is one of the primary means by which we increase productivity over time, raising top marginal rates would basically sacrifice future prosperity to soak the rich today," said Schuyler.

"There is certainly some productivity cost that comes with most ways of redistributing income," said Isabel Sawhill, senior fellow at the Urban Institute. "There is a lot of debate about how large those costs are.

"You could certainly argue that when you get up into the 70% to 90% range of top marginal rates, you really are putting a wet blanket on incentives to work, save and invest," she said. "But I think when you are arguing about vs. 35% or something in that range, the argument is mostly ideological and not really economic."

Still, if changes in investment decisions at these new tax levels have even a small effect on productivity growth, the middle class will be hurt badly.

According to Sawhill, a rise in productivity growth of 0.5% a year would mean an increase in income of some $2,000 each year for a family of four by the year 2000.

"The rich are going to get their money in one way or another. Better they get it in a way that helps the rest of us," said Robbins of Fiscal Associates.

DIFFICULT PROPOSITION

Targeting taxes that hit only the rich and don't inadvertently hit the middle class in some way has also been found to be difficult in the past.

The House bill, for example, repeals the so-called luxury tax on jewelry, furs, boats and other high-priced consumer goods.

According to the technical explanation accompanying the bill, the luxury tax of 10% on these items may have contributed to job losses in the affected industries.

"In the context of the current general economic hardship," the report states, "it is appropriate to remove even this small burden in the interests of fostering economic recovery."

The capital gains tax, according to supporters of a cut in the tax, may be less of a tax on the rich than a tax on those who want to be rich.

"A capital gains tax does not necessarily mean a tax on the rich, it's a tax on anyone accumulating capital, and most of the capital in this country is added by the middle class, not by the rich," said David Goldman, senior fellow at Polyconomics in New Jersey.

"Most of the growth in employment in the early 1980s, for example, came from small businesses," Goldman said, "and small businesses are overwhelmingly middle-class activity."

DECLINE IN NEW BUSINESSES

The 1986 increase in capital gains taxes may have, in this sense, hit the middle class. Goldman says that between 1986 and the present, fewer businesses have been incorporated each year.

"That's never happened before," he said.

"Capital gains tax cuts help people to become rich," said Goldman. "It's a tax on capital formation, not on capital."

Capital gains taxes also reflect how difficult it is to get money from those who have discretion about how and when they declare such gains on their taxes.

According to Gerald Scully, following the 1981 cut in the maximum capital gains tax, revenues from that tax almost doubled in four years.

On the other hand, the tax increase on capital gains generated 50% less revenue than was predicted by the Congressional Budget

Office in 1989 and 1990. In fact, for three years following the tax increase, capital gains income was lower than it was in 1985, before the tax increase.

Mr. GRADISON. Mr. Chairman, I submit for the CONGRESSIONAL RECORD as part of the debate on House Concurrent Resolution 287, the concurrent budget resolution for fiscal year 1993, President Bush's fiscal year 1993 budget priorities:

PRESIDENT BUSH'S FISCAL YEAR 1993 BUDGET PRIORITIES, INVESTING IN THE FUTURE: SELECTED HIGHLIGHTS WITHIN AN OVERALL FREEZE

[Budget authority and obligations: dollar amounts in millions]

Summary of major initiative	Fiscal year—			Dollar change: Fiscal year 1992 to fiscal year 1993	Percent change	
	1989 actual	1992 enacted	1993 proposed		Fiscal year 1992 to fiscal year 1993	Fiscal year 1989 to fiscal year 1993
Overall domestic discretionary freeze (billions)		$203	$203	+0	Freeze	NA
Education:						
Department of Education (discretionary)	$17,059	22,628	24,257	+$1,629	+7	+42
Head Start	1,235	2,202	2,802	+600	+27	+127
Mathematics and science education [1]	1,236	1,955	2,092	+137	+7	+69
Pell grants	4,484	5,463	6,641	+1,178	+22	+48
Children:						
WIC	1,929	2,600	2,840	+240	+9	+47
Child nutrition (outlays)	4,556	6,068	6,480	+412	+7	+42
Child care and development block grants		825	850	+25	+3	NA
CDC childhood immunization [2]	141	297	349	+52	+18	+148
Prevention:						
Infant mortality reduction (Healthy start)	5,681	7,950	9,365	+1,415	+18	+65
		64	143	+79	+123	NA
Access to primary health care servies	4,184	6,334	7,643	+1,309	+21	+83
(Community/migrant health centers)	482	594	684	+90	+15	+42
(National Health Service Corps)	48	100	120	+20	+19	+150
Nutrition education	138	152	178	+26	+17	+23
Breast and cervical cancer mortality prevention		416	515	+99	+24	NA
Injury prevention	1,482	1,862	2,026	+164	+9	+37
Family planning	333	461	498	+37	+8	+50
Total HIV/AIDS funding	2,265	4,371	4,936	+565	+13	+118
Research and development:						
Applied research:						
High performance computing and communications	N/A	655	803	+148	+23	NA
Advanced materials and processing	N/A	1,659	1,821	+162	+10	NA
Energy R&D	397	774	914	+140	+18	+130
National Institute of Standards and Technology	159	247	311	+64	+26	+96
Basic research:						
Doubling the NSF budget by 1994	1,923	2,572	3,026	+454	+18	+57
Support for individual investigators (HHS, NSF, DOE)	5,884	7,273	7,939	+666	+9	+35
U.S. Global Change Research Program	N/A	1,110	1,372	+262	+24	NA
Expanding the human frontier:						
Improving access to space	4,411	5,312	5,412	+100	+2	+23
Space exploration	1,433	2,646	2,836	+190	+7	+98
Transportation						
Federal-aid highways (obligations)	13,507	16,986	19,198	+2,212	+13	+42
Aviation modernization program	1,384	2,394	2,700	+306	+13	+95
Maglev/high-speed rail		20	28	+8	+40	NA
Housing:						
HOPE/homeownership grants		351	1,000	+649	+185	NA
Homeless funding in HUD	172	450	537	+87	+19	+212
Vouchers in HUD and FmHA	1,840	1,693	2,821	+1,128	+67	+53
Ending the scourge of drugs and crime:						
War on drugs total funding [3]	6,592	11,953	12,729	+776	+7	+93
Justice funding to fight crime and drug [4]	6,732	9,809	10,795	+986	+10	+60
Environment:						
Acquisition of parks, forests, and refuges	190	294	306	+12	+4	+61
Border pollution: Pollution control along the United States-Mexico border in support of NAFTA	34	103	201	+98	+95	+491
Total EPA operating budget	1,752	2,578	2,698	+120	+5	+54
Protecting America's wetlands	295	600	812	+212	+35	+175
Implementing Clean Air Act changes		187	229	+42	+22	NA
Superfund	1,410	1,616	1,750	+134	+8	+24
Cleanup of DOE Federal facilities	1,762	4,407	5,534	+1,127	+26	+214

[1] Government-wide crosscutting initiative; 1989 data is an estimate.

[2] Obligations are in missions of dollars.

[3] Excludes transfer of appropriations from other agencies for drug trafficking.

[4] Excludes $49 million in receipts from proposed fee.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. GRADISON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GRADISON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 42, noes 370, not voting 22, as follows:

[Roll No. 39]

AYES—42

Baker
Ballenger
Barton
Callahan
Chandler
Clinger
Coble
Coughlin
Dickinson
Gilchrest
Gingrich
Goodling
Gradison
Hansen
Hopkins
Houghton
Hunter
Inhofe
Johnson (CT)
Kasich
Kolbe
Kyl
Lewis (CA)
McCrery
McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Oxley
Porter
Quillen
Rhodes
Santorum
Schulze
Smith (TX)
Solomon
Sundquist
Thomas (CA)
Vucanovich
Wylie
Young (FL)

NOES—370

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goss
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland

Hobson
Hochbrueckner
Holloway
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nussle
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Rose
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Williams
Wise
Wolf
Wolpe
Wyden
Yatron
Young (AK)
Zeliff
Zimmer

NOT VOTING—22

Dymally
Flake
Gaydos
Gordon
Hyde
Ireland
Levine (CA)
McCloskey
McDade
Mrazek
Neal (NC)
Nowak
Oakar
Owens (UT)
Ros-Lehtinen
Rostenkowski
Savage
Torres
Weber
Whitten
Wilson
Yates

□ 2147

Mr. McCOLLUM changed his vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. PANETTA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Ms. HORN) having assumed the chair, Mr. SERRANO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 287) setting forth the congressional budget for the U.S. Government for the fiscal years 1993, 1994, 1995, 1996, and 1997, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. NOWAK. Mr. Speaker, because of a death in my family I missed four rollcall votes. Had I been present and voting, I would have voted as follows: rollcall No. 36, "yea"; rollcall No. 37, "yea"; rollcall No. 38, "no"; rollcall No. 39, "no."

HOUR OF MEETING ON TOMORROW

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. on tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. GINGRICH. Madam Speaker, reserving the right to object, I do not intend to object, but I would inquire of the distinguished majority whip, the gentleman from Michigan [Mr. BONIOR].

Madam Speaker, there are a number of Members on both sides, particularly those from the west coast and the mountain States, who would like to leave by a reasonable hour tomorrow, and, if they could not, they would have to stay over, and it was our thought on our side that we would be very willing to come in at 8 o'clock, if that would allow the debate to begin, and I think we can work with the membership on both sides to avoid a vote on the Journal, and go ahead and begin the debate at 8 o'clock, and go straight into a dialog, which, it would seem to me, would be to the benefit of all Members and would allow us to have as extended a debate as necessary without requiring the Members from the West to lose their opportunity to catch an airplane to go home.

So, Madam Speaker, I would ask if the distinguished majority whip might consider withdrawing this unanimous consent request and instead ask us to come in at 8 o'clock on behalf of our western Members.

Mr. BONIOR. Madam Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Madam Speaker, that is a very attractive offer, and my general inclination would be to accept it. The problem I have with it is that an 8 o'clock hour of meeting of the session, as the minority whip knows, is a highly unusual hour for this body, and, although we meet for other meetings at that hour, we do not usually meet on the floor at 8 o'clock, and I have seen it happen before that, when we do not announce an earlier schedule prior to the leaving of Members, that Members could in fact miss votes. Now I take the point that the gentleman from Georgia [Mr. GINGRICH] raised about that side would assure that there would be no journal votes called, but we have had that situation before, and we have actually had votes, and it has proven embarrassing to Members who were not here.

So, Madam Speaker, I would hope that 10 o'clock would be a time that we could meet at and that we could get our business done at a reasonable hour so that Members could make their planes, wherever they were going.

Mr. GINGRICH. Madam Speaker, further reserving the right to object, I would say to the gentleman from Michigan [Mr. BONIOR], my good friend, first that he would have my word that we would, that the gentleman from Pennsylvania [Mr. WALKER] and I would, actively insure on our side that no one would ask for a vote on the Journal, and, should that fail, we would support the Speaker's right to roll that vote until the end of business or until such time as it would be appropriate during the day.

My only point, Madam Speaker, to be very direct about it for a second, is that on our side there are a number of Members who might be willing, frankly, to simply not have our side debate. That is they would rather accommodate the westerners and leave, thereby reducing the debate on a very important topic, the budget which is being offered by the Black Caucus, to only 4 hours. I would much rather come in at 8, have the debate begin and be sure there would be full debate on both sides without the pressure of Members who are eager to get out of here.

So, I would repeat. Since we would be very willing to insure that there be no vote, and we would certainly use our whip system this evening to announce in the morning. There are more than enough Members here who can call the first 2 hours worth of the debaters. I think we could easily accommodate the first 2 hours of debate, and I just wonder if it might be possible to accommodate that.

Mr. BONIOR. Madam Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Michigan.

Mr. BONIOR. Madam Speaker, it would have been nice to accommodate those 2 hours today when we offered to meet at noon rather than 2 o'clock. It is unfortunate that the gentlemen on that side of the aisle did not accept our offer of meeting earlier today. We could have accommodated those 2 hours.

I am also concerned about the fact that Members may in fact miss this. They do not know; they have left. The debate would start at 8 o'clock. We would have a number of people who would be unfairly treated with respect to the debate itself because they would not have known that we had started.

Mr. GINGRICH. Might I ask the majority whip? It is my understanding quite explicitly that, when we asked about the possibility of having at least 2 to 3 hours of that debate today, we were told unequivocally that his side did not want to start that debate until tomorrow morning, that coming in earlier today would not help us get into that particular debate?

Is that not correct?

Mr. BONIOR. Madam Speaker, we asked to go in earlier today and early tomorrow, and we were told there would be no accommodation to that fact because of the 8 hours that was given to the progressive caucus' proposal.

Mr. GINGRICH. But we were told, as I understand it, that they would not be prepared to begin that debate today, even if we went in earlier today; is that not true?

Mr. BONIOR. No; we were prepared to start the debate at an earlier time.

Mr. GINGRICH. We were still going to start the 8 hours tomorrow no matter what time we went in today. We would not have started the 8 hours.

Mr. BONIOR. The gentleman from Georgia [Mr. GINGRICH] is correct. We could have begun the process at an earlier time.

□ 2155

Mr. GINGRICH. The other option would be to come in at 9 o'clock.

Mr. BONIOR. Well, we have organizational meetings in the morning. In addition to that, I think it is still unfair to Members who are expecting to be here at 11 o'clock actually but who will be here at 10 for other business to start the process earlier. It would be unfair to ask them to come in and begin the process of debate at 8 or 9 o'clock.

Mr. GINGRICH. Madam Speaker, I say to the Chair that I will withdraw my reservation of objection, but it does seem, on behalf of the western Members and the mountain State Members and the Members from small towns, that it is unfortunate that the leadership on the other side would not accommodate them.

Madam Speaker, I certainly do withdraw my reservation of objection.

The SPEAKER pro tempore (Ms. HORN). Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERSONAL EXPLANATION

Ms. OAKAR. Madam Speaker, unfortunately, I missed the last veto because I was detained in my office with an emergency phone call. Had I been present, I would have voted against the President's budget.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

CONGRATULATIONS TO THE WEBERS AS THEY AWAIT ARRIVAL OF THEIR SECOND CHILD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. RAMSTAD] is recognized for 5 minutes.

Mr. RAMSTAD. Madam Speaker, I want to take this opportunity to inform the Members of the House that my colleague from Minnesota, VIN WEBER, is currently awaiting the arrival of his second child. His wife Cheryl was admitted to the Alexandria Hospital today and is reportedly doing well. As a result, the gentleman from Minnesota has missed a few rollcall votes this afternoon. He felt that it was important for him to be at his wife's side during the birth of their child. I hope that the Members will join with me in congratulating Congressman WEBER and his wife, Cheryl.

THE RE-REGULATION OF AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 60 minutes.

Mr. DELAY. Madam Speaker, I know the hour is late. It is 10 o'clock on the east coast, and I know this staff that works for the House has worked long and hard all day. I apologize to them for bringing this special order, but today is an important day of a project we are working on, and I do need to take a little time to start the project off.

□ 2205

Today began the first leg of a race against the clock. The Republican regulatory relay team is out of the blocks and bringing this urgent message. American business, and therefore, the American economy will continue gasping for breath until they are either finally released from the grip of our dangerous undertow or until they finally succumb, cease to struggle and economic rigor mortis sets in.

We are near the mid-point of the President's 90-day moratorium on Federal regulations, today is the 37th day. For the remainder of the moratorium, every day that this House is in regular legislative session, a different member of our regulatory relay team will lead his colleagues in discussion, debate, and the generation of information about a specific regulation or set of regulations which is doing more harm than good to our country.

You know, it's easy for me to stand here and criticize the Democrat side of the aisle for foisting these burdensome, costly, and counterproductive regulations on American businesses, workers, and consumers. And believe me, I blame them but it's important to acknowledge that many of the regulations which shovel blizzards of paperwork across the desks of American employers were never voted on here in the House. No, not even by the most big brotherly Democrats in this Chamber. Those regulations are the products of an unaccountable, unelected bureaucracy. Pencil pushers and paper shufflers who thrive on monitoring, assessing, comparing, and collating the numbers and reports they require from American business where they couldn't get a job to save their life; they're not qualified to do real work.

Since today is the first day of this project, I'd like to take a moment to highlight certain regulations which serve as particularly egregious examples of what happens when you give the overzealous pencil pushers too much freedom.

The EPA will soon require the recycling of CFC refrigerants to prevent them from being vented into the atmosphere where they may ultimately damage the ozone. Your average refrigerator repairman, while not enthusiastic about the requirement is certainly capable of doing this. But wait, by the act of reclaiming these refrigerants, our repairman has transformed them into solid wastes under RCRA. The bad part of this is that our refrigerator repairman has thus transformed himself into a waste generator for purposes of RCRA, with all of the duties and privileges that accompany that auspicious title.

And we're not done yet. Because the trace levels of certain chemicals in these CFC refrigerants exceed the EPA's "toxicity characteristic rule thresholds," these reclaimed CFC's are further reclassified as hazardous waste to the unending despair of our repairman. I could stop here but I have to add one more note to the regulatory symphony which our repairman has been drafted to conduct. These same CFCs which are used as refrigerants have been approved by the FDA as pharmaceutical propellants because they are safe and effective. In other words, millions of asthmatic Americans including refrigerator repairmen, breathe through their bronchodialators everyday the exact same chemicals over which the EPA is driving refrigerator repairmen crazy.

Here's another example: The U.S. Department of Agriculture has made itself as adept as anyone at scribbling nonsensical rules. Any product containing meat or poultry must have a label which meets certain standards. OK, I'll buy that; it even makes sense. The problem is, unlike any other labeling program, USDA doesn't trust its producers to meet those standards so they require prior approval.

Boy, that's tough but I guess if I were a producer, I could deal with it. The problem becomes aggravated because while USDA doesn't trust its producers to label their packages correctly, the producers can't trust USDA to process their labels at all.

The eight highly paid, nonelected, unaccountable label reviewers who's job it is to process 180,000 labels a year, work in a system which is so inefficient that a private industry of label expediters is booming in Washington. The label expediters are hired by the producers to help usher label applications through the USDA process. As though this chaos were not bad enough, whenever the department changes its rules, all existing labels must be resubmitted and re-approved.

Now I ask you, should we expect your average poultry farmer to go through the hassles and the expenses and the delays involved with putting a label on its product for no reason except that inefficient bureaucrats don't trust them to follow the rules?

Earlier, I mentioned bureaucrats who could never get a job working in the businesses they regulate. Let me give you an example. In drafting regulations for the Fair Housing Act, a bureaucrat at the Department of Housing and Urban Development developed a brainstorm. He proposed requiring all multi-unit housing with balconies to build these balconies flush with the inside door level so that wheelchairs could go in and out.

Well, his superiors at HUD loved the idea and incorporated such a rule in their initial regulations. The problem, of course, as any architect or homebuilder could tell you, is that the reason you have a step from any door going in or out of your house is so that your home doesn't flood every time it rains.

I know, it's too much to expect paper pushing regulators to know about such things as basic construction even if they are drafting the requirements to which every American commercial builder must adhere. In any case, the builders were lucky. It seems that this was the sort of mistake the regulators could comprehend once it was pointed out to them and they modified the requirement.

Which brings me to another point and the only positive thing about the pencil pushers who dream up nightmares like this; their regulations are not written in stone. Their pencil scratching can be changed or erased. That's what happened to OSHA's clean hard hat rule. A brilliant piece of pencil pushing which required that all hard hats be disinfected before changing hands. The only measurable effect of this rule was its cost, some $60 million a year. Some persuasive arm twisting combined with OSHA's failure to document a single case of someone catching something from an "infected" hard hat led the agency to erase this requirement from its regulations.

Laugh if you will, I find tremendous hope and encouragement from victories like this. Hopefully, the President's moratorium will embolden us to do what our economy needs and our taxpayers want: Grab some of these out-of-control, overzealous, bureaucratic regulators and break their pencils.

Madam Speaker, this country has grown in regulations beyond one's imagination.

In the early Reagan years the movement to curtail industry regulation was successful in various areas of economic regulation. Toward the mid-1980's, however, there was a definite return to business as usual evident in the rapid growth in Federal regulatory agency spending and staffing. Regulatory expenditures rose by 21 percent between the 1981 and 1990 budgets.

What we have now is a Congress intent on passing more and more regulations. Only recently has the administration reinvigorated the institutional structure of restraint that was at the forefront of the early 1980's. The Federal Government uses regulations as a way of advancing various policy agendas without spending Federal money. Compliance costs show up in the budgets of companies in the private sector and not in Government's budget. Regulations pay off twice for Members of Congress. They can tell their constituents that they voted for clean air and for the civil rights of the disabled. At the same time they can attack the private sector for raising prices to pass the cost of complying with regulations onto the consumer.

The new Clean Air Act and the Americans With Disabilities Act are just two examples of the reregulation trend of the 1990's. They are also two examples of Congress ignoring any sort of cost-benefit analysis and mandating the use of the most expensive methods to achieve the goals of legislation.

The argument for regulation is flawed. It quite often does not accomplish its intended goals, it causes a wasteful reallocation of resources and most often results in costly side effects. If something is not done to control and turn back this dangerous trend, the consumer will continue to pay the cost of these regulations every time they buy a product whose price includes the rising expense of complying with more and more regulations. New estimates show that the combined effect of all regulations amounts to $400 to $500 billion per year or a staggering $4,000 to $5,000 per family each year. Meanwhile, the U.S. is suffering tremendously in productivity growth and losses in competitiveness.

Without including the new wave of regulations from the Clean Air Act and ADA, Government agencies are churning out 17 percent more rules than in the 1980's;

Federal governmental spending on regulation is at its highest level in history and rising rapidly. It will cost an estimated $13 billion for the regulatory machine to run in 1992—an increase of almost 6%; and

In constant 1982 dollars, this translates to about a 2 percent rise to more than $9 billion—a record high to administer the myriad of Federal regulations affecting the U.S. economy.

SOME AREAS OF REGULATION GROWTH AND DIRECT COSTS

Environment:

Environmental regulation has grown at an astounding rate in the last few years, now comprising 38 percent of the entire regulatory budget;

Spending by EPA has been rising steadily since 1983, up a total of 177 percent to $3.7 billion in the 1990 budget;

EPA estimates that in 1990, direct regulatory compliance expenditures amounted to some $99 billion, sharp increases lie ahead with the Clean Air Act;

The Clean Air Act will cost an added $25–$35 billion a year over and above the more than $100 million spent annually on all pollution controls;

Environmental regulations cost consumers more than $1,000 per family each year; and

Pollution abatement and control expenditures in 1986 amounted to $300 per person in the United States; pre-1990 pollution-control costs amounted to about $16.8 billion annually, new 1990 legislative standards will add an estimated $3.5 billion to annual pollution control costs—costs are imposed on all car producers and consumers but its benefits are limited to a few high-density, high-pollution areas like Los Angeles and New York.

Judicial—the courts have become an added layer of regulatory review and the most costly form of indirect regulation:

Liability law, a surrogate social insurance mechanism for injury victims, has increased public control of business and expanded the vulnerability of firms, government, and nonprofit agencies;

The tort tax directly costs the American consumer, business, and the Government at least $80 billion a year;

Many of the taxes are indirect, ex. doctors spend $3.50 on average in efforts to avoid this tax for every $1 of direct tort tax they pay, tort tax amounts to an estimated $300 billion annually on the U.S. economy;

Tort tax gives a direct cost advantage to foreign firms over U.S. firms—foreign firms often escape the full force of American liability laws because of antiquated jurisdictional rules while foreign consumers often resort to American courts to sue U.S. based firms under more generous rules; and

These laws make the United States far less innovative than it would be as new products and designs are far more likely to be viewed as risky.

INDIRECT COSTS: PRODUCTIVITY COSTS AND EFFECTS ON INNOVATION

A broad assessment of the cost of regulations, however, is much greater in indirect costs. Regulation has imposed huge costs in the form of reduced rates of productivity growth and technological innovation. While it is difficult to measure, there is now strong evidence that the reductions in productivity growth which started in the early 1970's are due in part to Federal regulations. Regulations reduce the rate at which new technologies are developed and new products are introduced. This directly reduces the ability of U.S. firms to compete in the domestic and international marketplace.

As society shifts more and more resources to regulatory compliance, less capital and labor are available for the production of goods and services. At the same time distortions in the production process that may cause delays or more expensive ways of doing things tend to diminish productivity;

Some estimate that about 30 percent of the decline in productivity growth in manufacturing in the 1970's could be attributed to OSHA and EPA regulation alone. Given the size of the U.S. economy, a reduction in productivity growth of this magnitude translates into about $10 billion per year of lost output;

Regulation has caused a tremendous reduction in the rate of the introduction of new drugs in the United States between 1950-62 an average of 46 new drugs were approved by the FDA each year—from 1963-75, an average of 16 were approved annually, a 43 percent drop—with this there is a significant reduction in welfare as the costs of developing new drugs is increased, the U.S. drug industry is less competitive which leads to higher consumer prices and reduced choice;

The increasing number, size and unpredictability of product liability damage awards cause a rise in the cost of liability insurance and the withdrawal of products from the marketplace; and

Regulation greatly affects the rate and timing of technological innovation and the regulatory lag results in delays in the introduction of new products—this is especially important in the pharmaceutical industry and threatens the United States lead in biotechnology.

EFFECTIVENESS OF REGULATIONS AND UNINTENDED SIDE EFFECTS

Even well-intentioned regulations can have unintended side effects that may be more damaging than the problems regulators were trying to solve. Many regulations entail losers with no winners and create great losses in consumer welfare.

Fuel economy standards such as CAFE have led to lighter cars that are inherently less safe than the cars would have been developed without these standards—the cost of additional losses of life and injury will more than offset the benefit of conserving gas—downsizing has led to thousands of additional highway fatalities per year;

The Consumer Product Safety Commission promulgated regulations requiring that children's sleepwear be fire retardant—this led to an increase in cancer risk when it was discovered that the leading fire retardant chemical for fabrics possessed carcinogenic properties;

The requirement that some drug products be sold in containers with intentionally inconvenient safety caps has induced so many consumers to leave caps off containers or put medication in other containers that one study concluded that accidental poisonings are higher than they would have been had the safety regulation not been imposed;

Unnecessary delays by the FDA in the approval of life-saving drugs have led to the deaths of thousands of patients denied access to the drugs;

United States-Japanese negotiated voluntary export restraints created a deadweight efficiency loss of $5 billion dollars reflecting $14 billion in costs to the American consumer only partially offset by $9 billion in higher U.S. automaker profits;

Milk regulation in the form of artificially higher prices redistributes about $500 million annually from consumers to producers; and

Davis-Bacon Act and minimum wage laws transfer income to targeted workers from the rest of society.

Not all regulations are well-intended. Much regulation has been implemented in the name of social costs but the proponents of the regulations often have other motives.

In general small business must bear a greater burden relative to larger business in complying with regulations, this is evident with environmental regulations, consumer safety has not been significantly improved but standards have raised prices by as much as 4 percent which puts small producers at a disadvantage;

Regulations are often promoted by certain regions of the country or industries to reduce the competitiveness of other regions or industries; and

Some industries promote the implementation of certain standards in order to keep out foreign imports rather than enhance the safety of a product.

PROCESS VERSUS OBJECTIVES

Congress often specifies more expensive and less effective technology to meet goals.

It is uncertain that the Clean Air Act will be effective in improving air quality, however, the costs are much greater than necessary for the improvement that would be achieved—more efficient and effective pollution control policies could produce savings of 40-90 percent of current compliance costs;

In the case of sulphur dioxide emissions from powerplants, utilities were required to install costly and unreliable scrubbers. For many powerplants an equally effective but less costly approach would have been to shift to low sulfur coal. The use of scrubbers added at least 20 percent to the real construction costs;

Powerplants are required to construct smoke stacks 1,000 feet or more in height in order to disperse pollutants. Current research suggests that these high smoke stacks may be a contributor to acid rain, and

OSHA in efforts to control factory noise often require costly changes in machinery and workplace organization when ear plugs would be just as effective. Studies have estimated that allowing for greater flexibility in the method of compliance could reduce the cost of meeting the health and safety objectives by an estimated 20 to 80 percent.

TRENDS IN REGULATORY STAFFING

[Millions in constant 1982 dollars]

	Regulatory personnel	Regulatory administration costs
1970	71,233	$3,335
1980	121,670	7,355
1990	114,591	8,542
1991	122,406	9,125
Percent change per year:		
1970–80	5.5	8.3
1980–90	−0.6	1.5
1990–92	3.3	3.4

There will be a record number of people required to run the regulatory activities of the Federal Government. In 1992, regulatory staffing is projected to total 122,400. This tops the previous 1980 high of 121,700 people. After a dramatic reduction in force in the early Reagan years, followed by a gradual, but relentless staffing buildup, staffing figures are now higher than they were at the end of the Carter administration;

The EPA budget has increased by 31 percent in the last 3 years and staffing at this agency has expanded by 23 percent. Staffing in the environmental area, which accounted for only 6 percent of staffing in 1970 will reach an 18 percent share in 1992; and

EPA accounts for more than 33 percent of the entire regulatory budget. Staffing at the EPA is 15% of the total regulatory headcounts.

Madam Speaker, there are so many issues when one starts talking about regulations and the cost to the economy, and more particularly the cost to the consumer. But I cannot stop this special order without mentioning an article which appeared in the February 4 edition of the Wall Street Journal which was sent around as a "Dear Colleague" by the distinguished gentleman from Illinois [Mr. EWING]. He included this article written by Richard Rosenow entitled, "So You Want To Get Your Roof Fixed." I will just read this and conclude with a few summary remarks.

Suppose you own a roofing business, and one morning you get a call from your neighbor, whose garage roof is leaking. He tells you that the roof is asphalt-based, and you agree to send a repair crew to try to fix it. In order to fully comply with federal regulations that are in effect today, you would have to:

First examine the roof to determine whether asbestos is present. There is a good chance that an asphalt roof will at least include asbestos-containing base flashings and cements; if they do. Environmental Protection Agency regulations will apply, and Occupational Safety and Health Agency regulations may apply.

It is very likely that you won't know from a visual examination whether asbestos is present. In that case, you will have to cut a sample from the roof, and patch it to avoid leaks at the point of the sample cut. You will then send the sample, after you have bagged it properly, to an accredited laboratory, and delay your repair work until the sample is analyzed. (In some states, only a certified abatement contractor is allowed to make this test cut.)

If you discover that asbestos is contained in the roof, you must:

Notify the owner (your neighbor) in writing:

Notify the EPA Regional Office (10 days prior to beginning work, which will mean your neighbor's roof will continue to leak):

Be sure that at least one person on your repair crew is trained to satisfy EPA requirements:

Conduct air monitoring on the job, once you are able to start work, to determine whether emissions of asbestos will exceed OSHA's action level. You can't do this, of course, until the 10-day EPA notification period has passed.

Once you begin any repair work, you will have to "adequately wet" the materials. EPA defines this as "thoroughly penetrating" the asbestos-containing material, which is an interesting concept for a waterproof material like asphalt. EPA also stipulates that there be no "visible emissions" on the job, even if you can demonstrate that the emissions contain no asbestos fibers.

You will then have to vacuum the dust generated by any "cutting" that you do, put it in double bags, and take it to an approved landfill.

You will also be responsible for prohibiting smoking on the job site, and are subject to fine if one of your employees lights up.

You will probably wonder why your neighbor will be asked to absorb all of the costs associated with these steps, since hundreds of test samples have shown no asbestos exposures above acceptable limits in roofing operations.

You must ensure that your crew is trained about any hazardous materials that they may encounter. (These will include the gasoline you use to power the pump on your roofing kettle.) You will also have to be sure that copies of the appropriate Material Safety Data Sheets are present at the work site, and that all containers are properly labeled.

Your crew must also be thoroughly trained in handling these materials. This will be determined not by what steps you have taken to train them, but by what your employees tell the OSHA inspector who asks them what they have been taught.

Because you are transporting asphalt at a temperature above 212 degrees, so that your crew won't have to wait two or three hours at your neighbor's home for the asphalt to heat, you must:

Mark the side of your roofing kettle with a sticker that says "HOT" in capital letters:

Complete shipping papers before the truck leaves your yard:

Have emergency response procedures developed in the event the kettle should turn over en route to your neighbor's home:

Be sure that your driver has been drug-tested, and has a commercial driver's license:

Be sure that the driver completes his log sheets for the day, and stops 25 miles after he leaves your yard to see if the load has shifted:

Be sure that your kettle has a hazardous material placard, in addition to the "HOT" sticker mentioned above.

Because your vehicle is being driven for work-related matters, you must be sure that the driver wears his seat belt, and has received driver training. If he does not wear his seat belt, you, of course, will be fined.

Assuming you have met other OSHA safety standards, and are satisfied you will be in compliance with local and state regulations. It is now safe for you to begin. Your most dangerous act, however, is yet to come: presenting your neighbor with his bill, and explaining why your costs have increased so dramatically in the three years since these regulations have been promulgated.

□ 2215

This is one story of a thousand of them out there. This is what is happening to America. This is why families are having a hard time making it.

If we take the taxes that all governments levy on the American family and we add the cost of regulation to the American family and we add some other incidental government costs, over 50 percent of the American family's income goes to some sort of cost either directly or indirectly.

No wonder the American people are fed up with the size of their Government. No wonder the American people are being shown in poll after poll done recently that they are totally discouraged with their Government and the lack of the ability for their Government to understand what is happening to the American family.

Madam Speaker, we could go on and on all night long, and we will go on every day from now until the end of the 90-day moratorium on regulations. And we hope that we raise the visibility to the American people of what is happening to them in increased consumer costs, in the lack of competitiveness, the loss of jobs that is due to overregulation of our economy.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WEBER (at the request of Mr. MICHEL), for today, on account of the birth of his new baby girl, Jacqueline Victoria.

Mr. YATES (at the request of Mr. GEPHARDT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HASTERT) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS, for 5 minutes each day, on March 4 and 5.

Mr. MILLER of Washington, for 60 minutes each day, on March 4, 5, and 11.

Mr. RAMSTAD, for 5 minutes, today.

Mr. THOMAS of Wyoming, for 5 minutes, on March 5.

Mr. HASTERT, for 60 minutes each day, on March 9, 10, and 11.

(The following Members (at the request of Mr. DURBIN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. RICHARDSON, for 5 minutes each day, on March 10 and 12.

Mr. RICHARDSON, for 60 minutes each day, on March 9, 11, and 13.

Mr. HOYER, for 5 minutes, on March 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. YOUNG of Florida in committee today prior to the vote on the Dannemeyer amendment in the nature of a substitute, on House Concurrent Resolution 287.

(The following Members (at the request of Mr. HASTERT) and to include extraneous matter:)

Ms. ROS-LEHTINEN in four instances.

Mr. BROOMFIELD.

Mr. WELDON.

Mr. MCGRATH.

Mr. SCHULZE.

Mr. STEARNS in two instances.

Mr. BURTON of Indiana.

Mr. SHUSTER.

Mr. VUCANOVICH.

Mr. RITTER.

Mr. MICHEL.

Mr. BALLENGER.

(The following Members (at the request of Mr. DURBIN) and to include extraneous matter:)

Mr. ORTON.

Mr. EDWARDS of California.

Mr. ANTHONY.

Mr. TALLON.

Mr. HAMILTON in two instances.

Ms. OAKAR.

Mr. ACKERMAN.

Mr. STALLINGS.

Mr. LEVINE of California.

Mr. MATSUI.

Mr. JACOBS.

Mr. RANGEL.

Mr. SCHUMER.

Mr. BERMAN.

Mr. TRAFICANT.

Mr. LIPINSKI in two instances.

Mr. MONTGOMERY.

Mr. MARKEY in three instances.

Mr. WEISS.

Mr. HUBBARD.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2092. An act to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing;

H.R. 4113. An act to permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier U.S.S. *Lexington* to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorials;

H.J. Res. 343. Joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day";

H.J. Res. 350. Joint resolution designating March 1992 as "Irish-American Heritage Month"; and

H.J. Res. 395. Joint resolution designating February 6, 1992, as "National Women and Girls in Sports Day."

ADJOURNMENT

Mr. DELAY. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 21 minutes p.m.) under its previous order, the House adjourned until Thursday, March 5, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3001. A letter from the Comptroller of the Department of Defense, transmitting one report of violation that occurred in the Department of the Navy, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3002. A letter from the Secretary of the Navy, transmitting notification that a major defense acquisition program has breached the unit cost by more than 15 percent, pursuant to 10 U.S.C. 2433; to the Committee on Armed Services.

3003. A letter from the Secretary of Energy, transmitting the annual report of actions under the Powerplant and Industrial Fuel Use Act of 1978 during calendar year 1991, pursuant to 42 U.S.C. 8482; to the Committee on Energy and Commerce.

3004. A letter from the Secretary of Energy, transmitting the 1991 report to the Congress on energy targets, pursuant to 42 U.S.C. 7361(c); to the Committee on Energy and Commerce.

3005. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting the fiscal year 1993 arms control impact statement, pursuant to 22 U.S.C. 2576; to the Committee on Foreign Affairs.

3006. A letter from the Deputy Secretary of Defense, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

3007. A letter from the Office of Administration, Executive Office of the President, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3008. A letter from the Secretary, Federal Trade Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

3009. A letter from the Chairman, National Endowment for the Arts, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3010. A letter from the Railroad Retirement Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1991, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3011. A letter from the Executive Director, U.S. Holocaust Memorial Council, transmitting the Council's annual report in compliance with the Inspector General Act Amendments of 1988; to the Committee on Government Operations.

3012. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3013. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3014. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3015. A letter from the Administrator of National Banks, Comptroller of the Currency, transmitting the annual report of consumer complaints filed against national banks and the disposition of those complaints; jointly, to the Committees on Energy and Commerce and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. H.R. 3732. A bill to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into three categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes; with an amendment (Rept. 102–446, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of New Jersey:

H.R. 4376. A bill to terminate the authorities of the Overseas Private Investment Corporation, to require the Secretary of Labor to propose a plan for the organization of domestic employment and training investment corporation, and for other purposes; jointly, to the Committee on Foreign Affairs, Banking, Finance and Urban Affairs, and Education and Labor.

By Mr. BAKER:

H.R. 4377. A bill to require the Administrator of the Environmental Protection Agency to establish standards for the inclusion of radioactive materials in toxic and hazardous waste sites subject to regulation by the Administrator; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

By Mr. LEVINE of California (for himself, Mr. ZIMMER, Mr. BERMAN, Mr. GEJDENSON, Mr. KYL, Mr. WAXMAN, and Mr. KASICH):

H.R. 4378. A bill to prohibit exports of dual use items to terrorist countries, and for other purposes; to the Committee on Foreign Affairs.

By Mr. OWENS of Utah:

H.R. 4379. A bill to amend the Internal Revenue Code of 1986 to permit the rapid amortization of property which is part of new domestic manufacturing facilities; to the Committee on Ways and Means.

By Mr. SCHULZE:

H.R. 4380. A bill to authorize the establishment of United States-Taiwan and United States-Republic of Korea free-trade areas; to the Committee on Ways and Means.

By Mr. RAHALL:

H.R. 4381. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to facilitate the reclamation and restoration of abandoned coal mine lands; to the Committee on Interior and Insular Affairs.

H.R. 4382. A bill to modify the boundaries of the New River Gorge National River, the Gauley River National Recreation Area, and the Bluestone National Scenic River in West Virginia; to the Committee on Interior and Insular Affairs.

By Mr. SERRANO:

H.R. 4383. A bill to amend the Internal Revenue Code of 1986 to permit the issuance of mortgage revenue bonds to finance the sale of certain newly constructed two family residences; to the Committee on Ways and Means.

By Mr. SIKORSKI:

H.R. 4384. A bill to amend title 5, United States Code, to provide that employees of the Veterans Health Administration excluded from subchapter II of chapter 75 of such title as a result of the enactment of Public Law 101–376 be restored to coverage under such subchapter, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 4385. A bill to amend the Railroad Retirement Act of 1974, the Internal Revenue Code of 1986, and the Railroad Unemployment Insurance Act to resolve questions of coverage under those acts, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. SMITH of Texas:

H.R. 4386. A bill to amend title 10, United States Code, to authorize the donation of excess military clothing, medical supplies, and sundry articles to State and local governments to assist homeless individuals; to the Committee on Armed Services.

By Mr. SUNDQUIST:

H.R. 4387. A bill to ensure that single family properties leased from the Department of Housing and Urban Development for use by the homeless have been marketed for sale for at least 60 days; to the Committee on Banking, Finance and Urban Affairs.

By Mr. TRAFICANT:

H.R. 4388. A bill to reauthorize the emergency homeownership counseling program under section 106(c) of the Housing and Urban Development Act of 1968 for fiscal years 1993 and 1994; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WILSON:

H.R. 4389. A bill to remove restrictions on Export-Import Bank financing of exports to the former Soviet republics, including restrictions on exports of goods or services involving research, exploration, or production of fossil fuel energy resources; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. ENGEL:

H.R. 4390. A bill to amend the Internal Revenue Code of 1986 to provide that the treatment of tenant-stockholders in cooperative housing corporations also shall apply to stockholders of corporations that only own the land on which the residences are located; to the Committee on Ways and Means.

By Mr. HERTEL:

H.J. Res. 432. Joint resolution designating April 26, 1992, through May 2, 1992, as "National Adult and Continuing Education Week"; to the Committee on Post Office and Civil Service.

By Mr. McGRATH:

H. Res. 388. Resolution expressing the sense of the House of Representatives that the United States should seek a final conclusive account of the whereabouts and definitive fate of Raoul Wallenberg; to the Committee on Foreign Affairs.

By Mr. RUSSO (for himself, Mr. Manton, and Mr. Rostenkowski):

H. Res. 389. Resolution concerning peace with justice in Ireland; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

336. By the SPEAKER: Memorial of the House of Representatives of the State of Florida, relative to military retirement; to the Committee on Armed Services.

337. Also, Memorial of the House of Representatives of the State of Illinois, relative to revenue sharing programs of the U.S. Government; to the Committee on Government Operations.

338. Also, Memorial of the General Assembly of the State of Indiana, relative to the assassination of President John F. Kennedy; to the Committee on House Administration.

339. Also, Memorial of the House of Representatives of the State of Florida, relative to buy American; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GINGRICH introduced a bill (H.R. 4391) for the relief of Larry Errol Pieterse; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 78: Mr. Gillmor and Mr. Rohrabacher.

H.R. 301: Mr. Packard.

H.R. 327: Mr. Packard.

H.R. 467: Mr. Brown and Mr. Mineta.

H.R. 640: Mr. Geren of Texas.

H.R. 643: Mr. Ray and Mr. Schaefer.

H.R. 747: Mr. Blackwell, Mr. Zeliff, Mr. Geren of Texas, Mr. Allen, and Mr. Smith of Texas.

H.R. 856: Mr. Hayes of Illinois and Mr. McNulty.

H.R. 860: Mr. Anthony, Mr. de la Garza, Mr. Hayes of Illinois, Mr. Kleczka, Mr. Stark, Mr. Oberstar, Mr. Harris, Mr. Oxley, Mr. Jones of North Carolina, Mr. Shays, Mr. McGrath, Mr. Kopetski, and Mr. Schumer.

H.R. 886: Mr. Bacchus.

H.R. 888: Mr. Bryant and Mr. DeFazio.

H.R. 917: Mr. Lehman of California, Mr. Obey, and Mr. Lowery of California.

H.R. 951: Mr. Allen.

H.R. 1077: Mr. McGrath, Mr. Riggs, Mr. English, Mr. Goss, Mrs. Lloyd, Mr. AuCoin, Mr. Ramstad, Mr. Lightfoot, and Mr. Pallone.

H.R. 1188: Mr. Bilbray, Ms. Norton, and Mr. Evans.

H.R. 1330: Mr. Hopkins and Mr. Natcher.

H.R. 1335: Mr. Jefferson, Mr. Rinaldo, and Mr. Livingston.

H.R. 1406: Mr. Flake and Mr. Pastor.

H.R. 1414: Mr. Broomfield.

H.R. 1456: Mr. Walsh and Mr. Allen.

H.R. 1536: Mr. Livingston, Mr. Goss, Ms. Horn, and Mr. Solomon.

H.R. 1543: Mr. Livingston.

H.R. 1681: Mr. Towns and Mr. Stark.

H.R. 1882: Mr. Peterson of Minnesota, Mr. Sanders, Mr. Klug, Mr. Wise, Mr. Davis, Mr. Machtley, and Mr. Fields.

H.R. 2075: Mr. Frank of Massachusetts, Mr. Staggers, Mr. Jefferson, Mrs. Mink, Mr. Hughes, Mr. Yates, and Mr. Levine of California.

H.R. 2149: Mr. McGrath, Mr. Clinger, and Mr. Allen.

H.R. 2299: Mr. Hayes of Illinois.

H.R. 2415: Mr. Gordon.

H.R. 2437: Mr. Rose, Mr. Traxler, Mr. Mazzoli, and Mr. McMillen of Maryland.

H.R. 2540: Mr. Saxton and Mr. Hayes of Illinois.

H.R. 2569: Mr. Lagomarsino.

H.R. 2650: Ms. Pelosi, Mr. Towns, Mr. Kolter, Mr. AuCoin, Mr. Blaz, Mr. Taylor of Mississippi, Mr. Jefferson, Mr. Rangel, Mr. Pastor, Mr. Porter, Mr. Frost, and Mr. Walsh.

H.R. 2726: Mr. Frost.

H.R. 2743: Mr. Engel.

H.R. 2744: Mr. Engel.

H.R. 2782: Mr. Luken, Mr. Moody, Mrs. Lowey of New York, Mr. McCloskey, Mr. Wilson, Mr. Towns, Mr. Abercrombie, Mr. Alexander, Mr. Sabo, and Mr. Bustamante.

H.R. 2797: Mr. de Lugo, Mr. Franks of Connecticut, Mr. Gordon, Mr. Green of New York, Mr. Guarini, Mrs. Johnson of Connecticut, Mr. Kennedy, Mrs. Kennelly, Mr. McDermott, Mr. McEwen, Mr. Morrison, Mr. Pastor, Mr. Panetta, Mr. Penny, Mr. Ramstad, Mr. Sikorski, and Mr. Sisisky.

H.R. 2798: Mr. Skelton and Mr. McEwen.

H.R. 2808: Mr. Huckaby.

H.R. 2880: Ms. Oakar.

H.R. 3035: Mr. Petri.

H.R. 3051: Mr. Kostmayer and Mr. Hochbrueckner.

H.R. 3063: Mr. DeFazio.

H.R. 3101: Mr. Traxler.

H.R. 3222: Mrs. Boxer and Mr. Grandy.

H.R. 3385: Mr. Dorgan of North Dakota.

H.R. 3386: Mr. Ravenel.

H.R. 3393: Mr. Lewis of Georgia, Mr. Savage, and Mr. Dwyer of New Jersey.

H.R. 3439: Mr. Allen.

H.R. 3599: Mr. Jefferson and Mr. Davis.

H.R. 3605: Mr. Young of Alaska.

H.R. 3613: Mr. Condit, Mr. Miller of Washington, Mr. McMillen of Maryland, Mr. Waxman, Mr. Kopetski, Mr. Campbell of Colorado, Mr. DeFazio, Mr. Schumer, Mr. Atkins, Mr. Bonior, and Mr. Johnson of South Dakota.

H.R. 3627: Mr. Fazio, Mr. Skaggs, Mr. Fawell, Mr. Skeen, Mr. Jones of North Carolina, Mr. Bereuter, Mr. Bacchus, Mr. Lewis of Florida, Mr. Burton of Indiana, Mr. Bilirakis, Mr. Hoagland, and Mr. Inhofe.

H.R. 3763: Mr. Towns, Mr. Jefferson, Mr. Evans, Mr. Lehman of California, Mr. Cox of California, and Mr. Edwards of California.

H.R. 3780: Mr. Packard.

H.R. 3782: Mr. Olver.

H.R. 3803: Mr. Frost and Mr. Foglietta.

H.R. 3887: Mr. Lightfoot.

H.R. 3908: Mr. Owens of New York and Mr. Frost.

H.R. 3939: Mr. Roybal, Mr. Lehman of Florida, Mr. Jones of North Carolina, Mr. Evans, Mr. Downey, Mr. Moran, Mr. Dixon, Mr. Jefferson, Mr. Johnson of South Dakota, and Mr. Kostmayer.

H.R. 3967: Mr. Neal of Massachusetts and Mr. Packard.

H.R. 3975: Mr. Swift, Mr. Weiss, Mr. Bennett, Ms. Slaughter, and Mr. Sikorski.

H.R. 3978: Mr. Gaydos.

H.R. 3994: Mr. Livingston and Mr. Rinaldo.

H.R. 3998: Mr. LaFalce, Mr. Neal of North Carolina, Mr. Frost, Mrs. Lloyd, and Mr. Hughes.

H.R. 4045: Mr. Conyers, Mr. Faleomavaega, Ms. Horn, Mr. Scheuer, Mr. Bryant, Mr. Fascell, Mr. Abercrombie, Mr. Waxman, Mr. Yates, Mr. Kolter, Mr. Evans, Mr. Rose, Mr. Traxler, and Mr. Skaggs.

H.R. 4051: Mr. Traxler and Mr. Dwyer of New Jersey.

H.R. 4073: Mr. Faleomavaega and Mr. Stokes.

H.R. 4083: Mr. Davis, Mr. Pickett, Mr. Evans, Mr. Penny, Mr. Goodling, Mr. Weldon, Mr. Ravenel, Mr. Jefferson, and Mr. Geren of Texas.

H.R. 4092: Mr. Applegate, Mr. Ford of Tennessee, and Mr. Bustamante.

H.R. 4093: Mr. Hopkins.

H.R. 4104: Mr. Miller of California, Mr. Owens of Utah, Mr. Coble, Mr. Hastert, and Mr. Oxley.

H.R. 4161: Mr. Porter, Mr. Costello, Mr. Towns, Mr. Scheuer, Mr. Bliley, Mr. Lehman of Florida, Mr. Moran, Mr. Dymally, Mr. Durbin, and Mr. Feighan.

H.R. 4175: Mr. Smith of Florida, Mr. Evans, Mrs. Kennelly, Mr. Dixon, Mr. Abercrombie, Ms. DeLauro, Mr. Atkins, Mr. Vento, Mr. Frost, Mr. Martinez, Mr. Ford of Tennessee, Ms. Oakar, Mr. Lehman of California, Mrs. Lloyd, Mr. Miller of California, and Mr. Moakley.

H.R. 4204: Mr. Walsh, Mr. Towns, and Mr. Frost.

H.R. 4206: Mr. Johnson of South Dakota, Mr. Hochbrueckner, and Mr. Camp.

H.R. 4212: Mr. Walsh and Mr. Spratt.

H.R. 4234: Mr. Fish, Mr. Bacchus and Mr. Schiff.

H.R. 4272: Mr. Santorum, Mr. Paxon, Mr. Zeliff, Mr. Skaggs, Ms. Snowe, Mr. Goss, Mr. Zimmer, Mrs. Roukema, and Mr. Sharp.

H.R. 4275: Mr. Campbell of California, Mr. Santorum, Mr. Hertel, Mr. Hyde, Mr. Martin, and Mr. Gallegly.

H.R. 4282: Mr. Wilson, Mr. McNulty, Mr. Roe, Mr. Bonior, and Mr. Bryant.

H.R. 4319: Mr. Frost and Mr. Fields.

H.R. 4351: Mr. Waxman, Mr. McCandless, Ms. Pelosi, and Mr. Roe.

H.R. 4353: Mr. DeFazio.

H.J. Res. 357: Mr. Young of Alaska.

H.J. Res. 371: Mr. Lent, Mr. Parker, Mr. Price, Mr. Rhodes, Mr. Riggs, Mr. Roe, Mr. Roybal, and Mr. Thomas of Georgia.

H.J. Res. 380: Ms. Norton, Mr. Kasich, Mr. Vento, and Mr. Grandy.

H.J. Res. 385: Mr. Guarini, Mr. Gallo, Mr. Berman, Mr. Dwyer of New Jersey, Mr. Smith of New Jersey, Mr. Fascell, Mr. Dixon, Mr. Shays, Mr. Kostmayer, and Mr. Jenkins.

H.J. Res. 388: Mr. Swett, Mr. LaFalce, Mr. Shiff, Mr. Panetta, Mr. Ortiz, Mrs. Morella, Mr. Grandy, and Mr. Carper.

H.J. Res. 390: Mrs. Kennelly, Mr. Crane, Mr. Miller of California, Mr. Grandy, Mr. Young of Florida, Mr. Dellums, Mr. Durbin, Mr. Gingrich, Mr. Abercrombie, Mr. Luken, Mr. Tauzin, Mr. Gejdenson, Mr. Ortiz, Mr. Dwyer of New Jersey, Mr. Nagle, Mr. Owens of New York, Mr. McDade, Mr. Bustamante, Mr. Fish, Mr. Hobson, Mr. Savage, Mr. Moakley, Mr. Poshard, Ms. Kaptur, and Mr. Roemer.

H.J. Res. 406: Mr. McMillen of Maryland, Mr. Hughes, Mr. Walsh, Mr. Jacobs, Mr. Green of New York, Mr. Lagomarsino, Mr. Moorhead, Mr. Browder, Mr. Coughlin, Mr. Stark, Mr. Smith of New Jersey, Mr. Johnson of South Dakota, Mr. Grandy, Mr. Slattery, Mr. Berman, Mr. Herger, Mr. Barnard, Mr. Dwyer of New Jersey, Mr. Miller of Washington, Mr. Murphy, Mr. Jenkins, Mr. Rowland, Mr. Harris, Mr. Smith of Texas, Mr. Emerson, and Ms. Oakar.

H.J. Res. 407: Mr. McMillen of Maryland, Mr. Frost, and Mr. Poshard.

H.J. Res. 412: Mr. Horton, Mrs. Bentley, Mr. Traficant, Mr. Jontz, Mr. Quillen, Mr. Orton, Mr. Guarini, Mr. Emerson, Mr. Gingrich, Mr. Coble, Mr. Roe, Mr. McNulty, Mr. Doolittle, Mr. Harris, Mr. Lagomarsino, Mr. Poshard, Mr. Martinez, Mr. Wolf, Mr. Rangel, Mr. Hammerschmidt, Mr. Frost, Mrs. Lloyd, Mr. Cramer, Mr. McMillen of Maryland, Mr. Taylor of North Carolina, Mr. Faleomavaega, Mr. Clement, Mr. Downey, Mr. Stump, Mr. Lent, Mr. Towns, Mr. Scheuer, Mr. Erdreich, Mr. Hastert, Ms. Pelosi, Mr. Oberstar, Mr. McDade, Mr. Paxon, and Mr. Murphy.

H. Con. Res. 156: Mr. Solomon, Mr. Upton, and Mr. Dwyer of New Jersey.

H. Con. Res. 224: Mr. Klug and Mr. Lagomarsino.

H. Con. Res. 250: Mr. Weiss, Mr. Harris, Mr. Walsh, Mr. Evans, Mr. Frost, Mr. Nagle, Mr. Lipinski, and Mr. Wilson.

H. Res. 311: Mr. Ireland and Mr. Guarini.

H. Res. 359: Mr. Rangel.

H. Res. 377: Mr. Leach.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 650: Mr. Jontz.

H. Con. Res. 210: Mr. Crane.

H. Res. 153: Mr. Ballinger.

EXTENSIONS OF REMARKS

ECONOMIC SITUATION IN EGYPT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a report on the economic situation in Egypt submitted to the Congress by the Agency for International Development Cooperation Act of 1985, as amended.

Egypt is the second largest recipient of United States bilateral assistance and the transformation of its economy, its privatization, and its reform are important interests we share with Egypt.

The report was submitted to the Congress February 20, 1992. The first part of the report follows here and attachments A and B to the report, providing tables and background, are retained in the files of the Committee on Foreign Affairs:

ANNUAL REPORT ON ECONOMIC CONDITIONS IN EGYPT, FEBRUARY 1992

I. SUMMARY AND CONCLUSIONS

A. Conclusions

Egypt should be able to meet its external debt service obligations in 1992 because of the relief provided by external transfers and debt forgiveness provided in conjunction with the Gulf Crisis, the country's foreign exchange reserve situation, and the debt service relief following the Paris Club debt rescheduling.

Egypt should also be able to continue to service its debt in the medium-to-long term if it stays the course on the ambitious economic reform program on which it has embarked (and on which it is making notable progress) and if external factors such as industrial country growth, oil prices, tourism and remittance earnings remain favorable.

B. Background and Summary

For nearly two decades, Egypt's centrally planned economy stimulated consumption and domestic investment through subsidized foreign exchange, domestic consumer goods and resources including energy (see Attachment B for a more complete survey). The principal external sources of funds were oil exports, Suez Canal tolls, remittances from workers abroad and bilateral foreign assistance in the form of loans, credits, credit guarantees and grants. Egypt borrowed heavily during the 1970's and 1980's to finance consumption, infrastructure and military spending. By 1980, external debt stood at nearly $21 billion (98% of GNP and 227% of exports). By 1985, It had doubled to $42 billion before peaking at $55 billion (including arrears) in 1990. This placed the debt/GNP ratio at roughly 163% and the debt/export ratio at about 678%. By 1990, according to World Bank data, debt service absorbed 45% of goods and services export earnings, with 21.8% accounted for by interest payments alone. The bulk of this debt resulted from long term official borrowing from bilateral sources (see Table 5).

Debt service problems appeared in 1980 when Egypt's external debt surpassed GNP and the government began to accumulate arrears to official and commercial creditors to cover growing current account deficits. By 1984, interest payments arrearages had become serious because oil export earnings had declined from their 1981 high and the government was unable to identify new, alternative sources of foreign exchange. From 1984 to 1988, debt service arrears increased from about $1 billion to $4 billion. Scheduled Debt service rose from $4 billion in 1983/84 to $7.6 billion in 1990. In late 1984 and through 1985, the government of Egypt began deliberations on the underlying causes of the debt service problem and initiated a number of minor austerity measures, including subsidy reductions. In 1986, following a further decline in the price of oil, with severe macroeconomic imbalances and a dramatic increase in debt service arrearages, the government opened discussions with the IMF for a stand-by arrangement and with the Paris Club for a debt rescheduling.

To stablize its macroeconomic situation, Egypt negotiated an 18-month stand-by with the IMF, which covered the period April 1987 to October 1988. In early 1987, Egypt rescheduled $7 billion in arrears and maturities coming due to Paris Club creditors in 1987–88. The stand-by called for a number of economic reforms including initial actions to devalue the currency, minor increases in interest rates and budget deficit reduction, primarily through partial price corrections to reduce subsidies. In addition, the IMF and Paris Club understood that stronger measures would be taken before the end of 1987 in order to increase the speed of economic stabilization.

By November 1987, the inadequacy of the Egyptian reform effort became clearly manifest in missed IMF performance targets and the continued deterioration in key macroeconomic indicators. The 1987 stand-by became inoperative and negotiations began in early 1988 for a new stand-by arrangement. By the early summer of 1990, Egypt's lack of foreign exchange threatened its ability to meet Brooke-sensitive debt service payments to the U.S. and the country was estimated to have accumulated $10 billion in arrears. Without help, the economy appeared to be on the verge of a major crisis. The situation changed markedly during the Gulf Crisis and its aftermath, with debt forgiveness, large inflows of donor assistance, a new IMF stand-by and agreement on a World Bank Structural Adjustment Loan. After the first review in December 1991, the IMF Board approved continuation of the stand-by and modified targets for the remainder of the program.

The significant easing of its debt service burden, donor transfers and the economic policy changes implemented during 1991 have greatly strengthened Egypt's capacity to service its debt. However, some difficult times lie ahead if Egypt is to capitalize on its newly found gains. Retaining a better balance in external accounts and growth in the economy will require continued, and sometimes unpopular, comprehensive reform. The donor and creditor response to Egypt's situation since August 1990 has given Egypt what could be its best opportunity to proceed with the needed reforms. Undue hesitation in restructuring the economy could draw the economy back toward the economic morass from which it has just emerged.

II. DEVELOPMENTS SINCE LATE 1990

The Gulf Crisis of late 1990 was an economic watershed for Egypt. Assistance to Egypt as a coalition partner dramatically changed the conditions which confronted the Egyptian economy. While there were foreign exchange gains from the sudden spike in the price of oil, there were large losses in tourism, worker remittances and some nontraditional exports. Domestic economic pressures for food, housing and jobs increased as Kuwaiti refugees and Egyptian workers fled the Gulf. The business climate was depressed. Without help, the economy appeared to be on the verge of a major crisis. The IMF noted in retrospect that, "In such a crisis environment massive economic disruption was a possibility."

However, Egypt's early and staunch support of the multinational effort to restore Kuwait led to important short-term relief from the country's economic problems. As one of several "front line" states in that conflict, Egypt received substantial levels of new external assistance via the Gulf Crisis Financing Working Group (GCFCG) countries. In addition, the President made a determination that reduction of Egypt's outstanding Foreign Military Sales debt to zero, pursuant to the authority in Section 592 of the Foreign Operations, Export Financing, and Related Programs Act of 1991, was essential to the national security interests of the United States and to enhance the chances for peace and stability in the Middle East. As a prerequisite to forgiving Egypt's $6.7 billion military debt, the statute required the President to seek comparable debt relief from Egypt's other official bilateral creditors. The Administration was successful in this regard. Gulf States and other creditor countries cancelled some $6.2 billion in Egyptian debt. Together, the debt reduction of about $12.9 billion reduced Egypt's debt service burden in the first year alone by $1.3 billion. Other creditor countries chose to take action in the Paris Club framework, which would depend on Egypt obtaining an IMF program.

With the breathing room provided by external assistance and debt relief, movement toward a reform program accelerated. In early 1991, Egypt implemented a number of prior actions required by the IMF, including floating foreign exchange rates, freeing interest rates and raising energy prices. On April 19, 1991 Egyptian authorities formally submitted a request to the IMF for a new stand-by arrangement. On May 17, the IMF Board approved a stand-by covering the period ending November 20, 1992. Paris Club members agreed to May 1991 to reduce Egypt's bilateral debt by 50% of the present value over three years, conditioned on adherence with IMF program criteria.[1] On July 8–

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[1] Because this figure reflects the *present value* of the debt forgiven, data for changes is the debt *stock* do not necessarily add to these amounts. Rather, the reduction appears more starkly in outyear debt

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

9, 1991, for the first time in a decade, a World Bank-led Consultative Group of bilateral and multilateral donors meeting in Paris reviewed and broadly endorsed Egypt's proposed economic structural adjustment program. In June 1991, the World Bank Executive Board approved a $300 million policy-conditioned Structural Adjustment Loan (SAL) for Egypt. The loan was signed on November 22, 1991. In addition, in June the Bank Board approved an SDR 105 million IDA credit for a "social fund" project and $84 million for gas investment project.

A. Main Features of the Government of Egypt's Economic Reform Program

The government of Egypt's economic reform program contains three general components: (a) a stabilization effort supported by the IMF to restore macroeconomic balance; (b) structural adjustment measures, assisted by the IBRD and other donors to improve overall economic efficiency; and (c) "safety net" provisions supported by a Social Fund for Development project, financed by IDA and other donors, and intended to cushion the adverse impact of economic reforms on the poor.

These, in turn, are broken down into seven specific target areas:

1. Macroeconomic reforms to contain inflation, reduce the balance of payments current account deficit and the government budget deficit and restore international creditworthiness. Toward this end, the IMF targeted fiscal deficit reduction from 20% of GDP in 1990/91 to 10% of GDP in 1991/92 and 6.5% of GDP in 1992/93. Subsidy payments are to be reduced. The elasticity of the revenue system is to be improved. A sales tax is already implemented in one move toward that end. Introduction of a Global Income Tax (GIT) in 1992/93 will be the second major step in a comprehensive tax reform program for which technical assistance is being provided under an AID project.

2. Financial Sector Reforms to improve supervision and regulation, strengthen bank solvency and remove impediments to efficient mobilization and allocation of investment resources. Market-determined interest rates have been effected and overall credit expansion is to be restrained to rates consistent with inflation targets.

3. Public enterprise reforms including restructuring and privatizing of public enterprises and severing the "umbilical cord" between public enterprises, the government treasury and the banking system. Public enterprises are to be subject to the same rules as private firms and access to credit is to be based on creditworthiness. Public enterprise managers are to be given full management autonomy, including employment decisions. Liquidation of nonviable enterprises will be permitted and privatization is encouraged. A new Public Investments Law has already been enacted.

4. Private sector reforms are intended to foster private sector development through dismantling of government monopolies, elimination of numerous investment and production controls, and creating a "more level playing field" for private firms vis a vis public enterprises in the purchase of inputs.

5. Price liberalization aimed at having most prices in the economy determined by market forces within three years. Transport, energy and power prices are to rise gradually to international levels or, in other cases, to equal their long-run marginal costs of production. In January, 1991 rail passenger tariffs were increased by 15 to 40 percent. Cotton prices are to reach 60% of world prices by 1991/92 and 66% in 1992/93, eventually to approach international prices.

6. Foreign trade liberalization includes phasing out most nontariff trade barriers, lowering high tariffs, reducing the dispersion of tariff rates, and generally eliminating the anti-export bias in the trade regime. By mid-1991, import bans were reduced from 37% import coverage to 23%. This figure is to fall to 11% of agricultural and manufacturing output. Protection still remains high on certain public enterprises and will need to be a focus of the second phase of liberalization. The multiple exchange rate system is replaced by a single exchange rate that reflects underlying market forces.

7. A social fund for Development, in addition to softening the impact on the poor, includes the development of institutional arrangements to facilitate labor mobility.

B. Main Features of the IMF Agreement

The IMF stand-by is couched in the context of the complete reform package, of which ". . . the priority objective as stated in the Memorandum of Economic Policy of the Egyptian Government is to create, over the medium term, a decentralized market-based, outward-oriented economy that will restore noninflationary growth and Egypt's creditworthiness." a number of prior actions and performance criteria for the stand-by are spelled out in the Memorandum of Understanding. The agreement calls for two program reviews. The first completed in December 1991, focused on progress on economic and financial policies and on exchange rate and monetary reforms. During that review, understandings were reached on performance targets for end-March 1992, end-June 1992 and end-September 1992. The second review is scheduled for June 1992 and will focus on progress on economic and financial policies.

1. *Actions required and completed before signing the Fund Agreement*

Before a Fund agreement could be signed, the government had to certify, among other things, that: it had implemented a sales tax; it had increased customs duty rates by 30%; it had increased domestic petroleum and energy prices to specified levels; it had secured $70 million in additional grant donor funding for 1990/91; it had identified $300 million in additional grant funding for 1991/92.

2. Performance Criteria

Program performance criteria to be monitored during the stand-by include:

a. credit ceilings not to exceed specified quarterly targets;

b. net international reserves at the Central Bank not to fall short of specified quarterly benchmarks through 1991;

c. specified limits on public sector borrowing short term and external debt it limited to specified quarterly amounts;

d. exchange rate and trade regime covenants that call for:

1. unification of the exchange rate (completed December 1991),

2. no additional or intensified restrictions on international payments,

3. no reversion to multiple currency practices,

4. no new or intensified import restrictions for balance of payments improvement.

e. specified adjusters to (a) and (b), above

B. Main Features of the IBRD SAL

The SAL draws upon the main elements of the broad program outlined in section A, above. The macroeconomic framework dovetails with that worked out with the IMF. SAL conditionality and performance monitoring tend to emphasize the structural dimension of the overall reform effort. The conditions comprise two categories: (a) loan-signing conditions, and (b) conditions for second tranche release.

1. In outline, the loan-signing conditions, which were met in November 1991, involved:

a. promulgation of a new Public Investment law as a keystone of public enterprise reform, and establishment of various institutional, regulatory, and staffing procedures necessary to implement that law and elimination of centralized foreign exchange budgeting for public sector companies;

b. establishing a formula and time frame for cotton price adjustments to reach international levels;

c. extension of the liberalized investment law previously enjoyed by only selected firms.

2. Conditions for the second tranche release are detailed in Attachment B. In essence, nine categories of reform are specified: (1) satisfactory progress in macroeconomic reforms; (2) privatization of public enterprises; (3) legal and institutional changes supportive of public enterprise reform; (4) industrial price liberalization; (5) energy price liberalization; (6) agricultural price liberalization; (7) increased privatization of fertilizer and cement distribution; (9) other reforms as set out in the Letter of Development Policy.

III. CHANGES TO DATE AND WHAT REMAINS TO BE DONE

A. General Progress

By any standard, the Government of Egypt has accomplished great deal since the Spring of 1990 in setting the stage for a comprehensive reform of its economy. In mid-1991, the Government of Egypt presented an list of accomplishments to that point. These included, *inter alia*, President Mubarak's May 1, 1990 announcement of a path-breaking privatization program; approval of the People's Assembly of a new "Public Investment Law;" virtual elimination of investment licensing requirements for private firms, except for a limited "negative list;" streamlining of investment approval processes; beginning the phase-out of public trading monopolies; a 300 percent increase in wheat byproduct prices; a 500 percent increase in the price of petroleum products over the previous five years; a 400 percent increase in electricity prices over the same period; the declared intention of the government to move petroleum prices to their international equivalents, and electricity prices to their long run marginal production costs, by mid-1995; elimination of subsidies on "free" sugar and nonrationed edible oils; reducing the value of industrial production covered by administered prices from 53 percent to 26 percent; removal of all interest rate ceilings; institution of domestic credit ceilings; introduction of a new sales tax; progress toward a revision of the income tax, with target date for a law by mid-1992 and hope for implementation by early 1993; sales of locally-owned public enterprises; breaking the direct credit line between the Central Bank and the Central Government; creating a market for Treasury bills; opening the market to private foreign exchange dealers; and unifying the foreign exchange rate. The agenda is an ambitious one. In all, more than 30 separate reform measures were slated just for the period April-June, 1991.

B. Progress on World Bank and IMF Targets

The loan-signing conditions for the SAL were met by November, 1991. It is too early

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service payment streams, after non-Paris Club arrears are cleared in 1992.

to measure progress on second tranche IBRD performance measures, but the schedule assumes that these are to be met in mid-1992.

The IMF held its first performance review, as scheduled, in December 1991. The evaluation covered two quarters of 1991; April-June and July-September. The staff concluded that, overall, "Developments under the program have been mixed," citing both positive and less positive developments. While overall macroeconomic reforms remained generally on track, several numerical performance targets for June and September were not achieved. The Board approved continuation of the stand-by and modified targets for the remainder of the program.

Progress under the program:

Directly specified policy measures called for in the program were generally met on time.

Introduction of a treasury bill market and market-based interest rates;

Inauguration of a sales tax;

Subsidy reductions;

Energy price increases;

Initial banking reforms;

Exchange rate reform.

Better-than-expected growth performance, control of inflation and balance of payments performance.

External arrearages were much less than programmed, thanks to debt forgiveness and Paris Club rescheduling.

The treasury bill market appeared to be working smoothly, and in order to compete, banks have had to increase their deposit rates (though still not positive in real terms).

The pound was more stable and stronger than expected.

Areas requiring continued effort:

Growth rates of net domestic assets of the banking system exceeded the target;

Growth in credit to the public sector exceeded the target;

Government bank borrowing was above the target;

Revenue and expenditure deviations from respective targets deviated by about 3% of GDP;

The pace of monetary expansion, if not brought under control, could add inflationary pressures.

The pace of public enterprise reform was slower than hoped (thereby accounting in part for the better than average growth and balance of payments performances and the excessive credit to the public sector).

According to the conditions of the original agreement, performance targets for the balance of the program were agreed to in December. These, again, include quarterly quantitative performance targets for: net domestic assets, public sector credit, external debt ceilings, clearing of arrearages, and international reserve ceilings. Corrective measures were needed to counter the effects of previous slippages. These include several revenue increasing and expenditure reducing measures, and increased control over credit expansion. June 30, 1992 was set as the new date for eliminating all arrears, rather then December 31, 1991. As in the first phase, performance "adjusters" are included to allow for changes in circumstances such as debt forgiveness or a shortfall in actual debt service payments. The second program review is set for mid-June 1992.

Because of the need to modify the timing for meeting quantitative targets, the phasing of purchases has been likewise amended for the remaining period of the program. Egypt reportedly made a purchase after the December review.

C. What Remains to be Done?

In the simplest terms, what Egypt needs to do is to stay the course on the reform program that has been inaugurated. In the short term, continued fiscal discipline, restraint in external borrowing, tax reform, control of excessive credit creation, continued trade liberalization, and price liberalization are all key to ensuring that the stabilization effort endures.

However, the key to the long-term viability of the reform effort will lie in measures that decontrol investment, maximize the use of markets as a resource allocation mechanism and privatize public enterprises early and at the most rapid feasible rate. Failure to correct the atrophy that impairs economic productivity and international competitiveness could ultimately undercut the very real, substantial, and hard-won gains that have already been achieved.

The recent history of economic reform attempts in Egypt is not particularly encouraging. Yet, the Government of Egypt seems to be committed as never before to real economic reform, and has never previously taken as many bold steps as it has thus far. The most generally expressed feeling among outside observers is "cautious optimism." While some quantitative targets have been missed, the general thrust is still forward, and to date the government seems ready to counter shortfalls with additional corrective measures. Yet the remaining required changes are substantial. Despite the best intentions, progress will not always be rapid. The administrative burden of these reforms falls on a small number of government officials and staff, who must simultaneously manage: an IMF stand-by; and World Bank SAL; a Paris Club Restructuring; numerous bilateral aid programs; internal policy reform; and the day-to-day operations of the government. Decisions will be unpopular with one group or another. How far reforms can go before "adjustment fatigue" settles on the population cannot be known at this time, but will be a decisive factor in determining whether this ambitious program will reach fruition.

THE 50TH WEDDING ANNIVERSARY OF HENRY AND MARY GRZELAK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an exemplary couple from my congressional district, Mr. and Mrs. Henry Grzelak. This past June 7, Henry and Mary celebrated their 50th wedding anniversary with their family and friends.

On June 7, 1941, Henry and Mary Grzelak were married at the Saint Pancratius Catholic Church, at the corner of 40th and Kedzie in Chicago. Mr. and Mrs. Grezelak have been pillars of their community the past 45 years, living in the same home at 7524 West 58th Street in Summit, IL.

Mr. Grzelak served in the U.S. Navy from 1942 to 1945, and he was employed for 25 years at B. Schwartz Meat Packers in Chicago. During this time, Mary Grzelak concentrated on raising her two sons.

Henry and Mary have two sons, Vincent and Dennis, and four wonderful grandchildren. Vincent and his wife Karen are the proud parents of Gary and Diana, and Dennis and Kathy have two children, Paula and Donald. The entire Grzelak family joins me in saluting Henry and Mary on this special occasion.

Their commitment to each other and their family is impressive and deserving of special recognition and honor. I am sure that my colleagues join me in congratulating Mr. Henry Grzelak and Mary, his bride of 50 years, on their many years of love and commitment. May their life together continue to be an adventure and offer them many more pleasant memories.

LIBYA: STILL A TERRORIST STATE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. BROOMFIELD. Mr. Speaker, despite his efforts to project a respectable image, Col. Muammar Qadhafi is still actively supporting international terrorism. I therefore encourage the administration to continue to put international pressure on this outlaw state until Qadhafi ends his support for terrorism and terrorist groups.

An exhaustive international investigation of the downing of Pan Am 103 in 1988 has concluded that Libyan intelligence agents were responsible for bombing that aircraft which resulted in the deaths of 270 innocent passengers, including 189 Americans, and Scottish citizens on the ground. Libyan agents are also likely suspects in the similar bombing of a French UTA flight in 1989 that claimed the lives of 171 passengers, among them a number of United States citizens.

In pursuing its firm policy against terrorism, last year our Government and Britain indicted two Libyan intelligence officers who are prime suspects in the Pan Am bombing. The French Government also supported the enforcement of arrest orders for four other Libyans involved in the attack on the UTA aircraft. In January, the three allies succeeded in persuading the United Nations Security Council to pass a resolution calling upon Libya to end its support for terrorism and bring to justice those responsible for the attacks on the two aircraft.

Despite hollow promises that he would cooperate on the Pan Am incident, Qadhafi has engaged in obvious stalling tactics designed to win him time while he attempts to undermine United States-backed efforts to make his regime accountable for these shameless terrorist activities.

Meanwhile, Qadhafi continues to provide training camps for international terrorists. After closing a number of those sites in response to United States pressure, Qadhafi shifted his terrorist training efforts to other camps in Libya where Abu Nidal Organization terrorists are trained along with dissidents from Africa, Asia and Latin America. Once again, Qadhafi has failed to live up to his commitment to renounce terrorism.

I encourage the administration to continue working with our allies at the United Nations to pass a further resolution imposing mandatory sanctions designed to sever international air links with Tripoli, declare an arms embargo on Libya and reduce Libyan diplomatic missions and business offices overseas—facilities which are often used to support terrorist operations.

The Libyan strongman must be brought to account for taking the lives of over 441 innocent civilians. The families of the 14 victims of the Pan Am disaster who are from Michigan would surely agree.

I would like to bring to the attention of my colleagues the following Washington Post article concerning Libya:

LIBYA'S TERRORIST TRAINING CAMPS: GADHAFI STILL RUNS FIVE DESPITE COSMETIC CHANGES, UNITED STATES CLAIMS

(By George Lardner Jr. and John M. Goshko)

Libyan leader Moammar Gadhafi is still operating at least five terrorist training camps and has made only "cosmetic" concessions to Western demands that he get out of the terrorism business, according to senior U.S. officials.

Consequently, the Bush administration has begun lobbying the United Nations to impose economic sanctions againt Libya that U.S. officials hope would stay in force even if Gadhafi surrenders the Libyan agents suspected in midair bombings of two Western jetliners several years ago.

The officials said the administration is not seeking Gadhafi's ouster and has no immediate plans to attack Libya militarily if Gadhafi fails to comply with U.N. demands.

In interviews, the officials said the administration believes it can build on the diplomatic momentum of charges tying Libya to the bombings of a Pan American flight in 1988 and a French UTA flight in 1989 to invigorate a decade-long campaign to force an end to Gadhafi's 22-year history of instigating, bankrolling and giving haven to terrorists.

One government official said Gadhafi "has been making a strong effort to hide his hand" in terrorism since November when two Libyan intelligence officers were indicted in the United States and Britain for the Pan Am bombing. For instance, Gadhafi closed five large terrorist training camps publicly identified by the State Department in a report on Libya last November that was based on intelligence information. But a senior State Department official said Libya is keeping at least five other camps in operation.

"The terrorists in the camps that were closed were moved to other training facilities, ones that were not listed," said another administration official.

According to the State Department, the closed camps—Al Qalah, the Seven April Training Camp, the Sidi Bilal Port Facility, Bin Gashir and Ras al Hilal—had been used to train members of the Abu Nidal Organization as well as dissidents from Africa, Asia and Latin America and Palestinian terrorist groups. Abu Nidal's group, which the State Department considers "the most dangerous terrorist organization in existence," still has headquarters in Tripoli and continues to train terrorists at other camps in the desert country, officials here said.

While Libya has not been tied directly to any recent terrorist attacks, and while international terrorism generally has appeared to wane in recent months, U.S. officials said Gadhafi continues to provide training and funds to terrorist groups around the world, from radicals in the Philippines to the Provisional Irish Republican Army.

One official said Gadhafi has temporarily scaled back relations with some terrorist groups—in some cases asking them to leave Libya—in hopes of reducing Western pressure. But, he said, such steps "could easily be reversed."

U.S. officials said another cosmetic gesture by Gadhafi was the appointment in November of a new intelligence chief, Col. Youssef Abdel Kader al-Dobri. He was named to replace Ibrahim Bishari, alleged overseer of Libyan terrorism in the 1980s, but officials say Bishari is still an active, behind-the-scenes player in the Libyan intelligence structure.

Last November, the United States and Britain indicted two Libyan intelligence officers—Abdel Basset Ali Al-Megrahi, 39, and Lamen Khalifa Fhimah, 35—on charges of planting a bomb on Pan Am Flight 103, which exploded over Lockerbie, Scotland, in December 1988. The French government joined in calls for enforcement of arrest orders in the UTA case against four higher-ranking Libyan intelligence officers, including Gadhafi's brother-in-law, Abdullah Senoussi.

Last month, the three allies were unable to persuade a majority of the U.N. Security Council to vote for sanctions and had to settle for a resolution calling on Libya to cooperate in ending international terrorism and bringing to justice those responsible for the deaths of 441 people in the two airplane bombings.

But some diplomatic sources at the United Nations believe that Third World countries on the council, who argued earlier that Gadhafi should be given a chance to comply voluntarily, now feel he is stalling and are more receptive to the idea of sanctions.

U.N. Secretary General Boutros Boutros-Ghali sent a deputy, Vasiliy Safronchuk, to Tripoli last weekend to try to work out a mechanism for Libya to comply. Safronchuk was expected this week to fly to Geneva to confer with Boutros-Ghali, then return to Tripoli.

If Safronchuk's mission fails, the United States, Britain and France hope to get the 15-nation Security Council to impose mandatory penalties that could include cutting off international air links with Libya, an arms embargo and a drastic reduction of Libyan diplomatic missions and business firms that Gadhafi uses in other countries as a front for terrorism.

Countries regarded as possibly retaining doubts about a tough sanctions resolution are China, which as a permanent Security Council member can veto any resolution, and Morocco, India, Zimbabwe, Cape Verde and Ecuador.

U.S. officials acknowledge that many countries, among them such key U.S. allies in the Middle East as Egypt, are concerned about the political vacuum that could result if sanctions and other pressures led to Gadhafi's ouster. But U.S. policymakers regard Gadhafi's survival as far less important than ending Libya's role in terrorism. As one put it: "If he can do the things we are insisting on and still survive, good luck to him."

In that respect, U.S. policy differs from the administration's attitude toward another radical Mideast adversary, Iraqi President Saddam Hussein. Since the Persian Gulf War last year, President Bush has said repeatedly that he wants Saddam out and that the United States will not relax pressure on Iraq as long as Saddam remains in power.

U.S. officials said Libya, unlike such other terrorism-supporting Muslim states as Iraq, Syria and Iran, is not powerful enough to become a dominant force in the region. The United States, they said, does not fear an extension of Gadhafi's political influence but is determined to halt the terrorism that Libya is said to have helped instigate on at least three continents.

According to recent intelligence reports, Gadhafi has been trying since last fall to hide Scud missiles and fortifying anti-aircraft installations, apparently a precaution against air strikes such as those that President Ronald Reagan launched against him in 1986.

Although U.S. officials said they would not rule out military action in the future, they stressed that U.S. policy, at this stage, is committed to working in concert with other countries.

Many diplomats have warned that Western moves against Gadhafi could ignite Arabs to rise in his support throughout North Africa. However, U.S. officials noted that the same arguments were made about using force against Saddam before the Persian Gulf War, and widespread populist uprisings on Iraq's behalf never materialized.

A more serious concern, U.S. officials acknowledged, is the impact that an upheaval in Libya could have on the economics of Egypt, Algeria, Tunisia and Morocco, all of which depend heavily on the earnings sent home by their nationals working in Libya. The potential economic effects are especially important for Egypt, which has about 1 million citizens in Libya and engages in extensive cross-border commerce with Libya.

CONGRESS SHOULD ENCOURAGE, NOT SUPPRESS, JOB CREATORS LIKE FLORIDA'S DENNIS WILFONG

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. STEARNS. Mr. Speaker, I would like to bring my colleagues' attention to an article that recently appeared in the March issue of Florida Trend magazine. It is about one of my constituents in central Florida, Dr. Dennis Wilfong, of Brooksville.

The story of Dennis Wilfong and the hurdles he overcame to become a successful small businessman is an inspiration to all, particularly in this time of recession.

I would like my colleagues to read this article because it is the Dennis Wilfongs of America that create jobs and make our economy grow. As Congress works toward economic expansion we should have the goal of encouraging, not suppressing, job creators like Dennis Wilfong:

THE SUPPRESSOR WHO COULDN'T BE SUPPRESSED

(By Mike Bernos)

For Dennis Wilfong, there is life after being slammed on "60 Minutes."

Twelve years ago, Wilfong was partowner of a company that generated more than $2 million a year manufacturing electrical surge suppressors. Wilfong was a pioneer in this budding industry, and as is customary for many innovators, he didn't have everyone in the scientific community behind him. Skeptics were unconvinced that surge-suppression devices—used to protect electrical equipment from destructive power surges—were needed or could even be developed.

One such critic was an MIT professor who caught the attention of "60 Minutes." On a fateful Sunday evening in 1978, the late Harry Reasoner anchored a segment that questioned the validity of Wilfong's product.

The backlash was swift and costly.

Sales of the company's surge suppressors all but dried up. Discredited and nearly broke, Wilfong left the company. He and his wife, Pam, left West Virginia and moved to Brooksville to start over. "It was the lowest point of my life," Wilfong says today.

Since that time, he has risen like a phoenix. Wilfong has built a new company, Innovative Technology Inc., that is a growing competitor in the $550 million-a-year market for surge suppressors.

If there were skeptics in 1978, there is a world of believers now. Out of a 30,000-square-foot plant with 75 employees in Brooksville, Innovative Technology manufactures 700 different types of surge suppressors—metal boxes with sophisticated electrically and chemically based circuitry, ranging in size from that of a Walkman to three times the size of a shoe box and capable of protecting personal computers, televisions or high-tech robotic equipment in factories. Among Innovative Technology's customers: NASA, Ford Motor Co., AT&T, General Dynamics, Martin Marietta and Disney World. The Department of Defense also is using the devices in high-tech aviation contracts and in the Star Wars project at Los Alamos, New Mexico.

Short and paunchy, with graying hair, the 43-year-old Wilfong has worked hard on his comeback. Armed with an unflinching belief in his product, Wilfong in 1983 decided that the best way to prove its worth was to take his message—once considered a controversial theory in electrochemistry—directly to engineers. Like a politician on the stump, he crossed the country explaining how the theory and his product worked.

"Everybody was attempting to solve the surge-suppression problem purely through electronics," Wilfong recalls of his early days. but using his self-taught knowledge of electronics and his formal training in chemistry—learned at the University of West Virginia—Wilfong began experimenting with the effects of certain chemical "poddings" (hot plastic poured over electronic circuitry) on heat-transfer loss.

Technically, it works like this: The chemical "poddings" interact with the surge suppressor's electronics to allow transient energy to be dissipated harmlessly rather than destroy electrical components. Wilfong thinks of it as an electronic Star Wars system in which a chemical shield protects electric circuitry by neutralizing invading spikes.

Convinced of its effectiveness, Wilfong in 1985 managed an important breakthrough. Ford Motor Co. agreed to let him try to solve a problem with its robotics, one that BusinessWeek magazine said was costing the auto industry millions of dollars in lost productivity.

According to Ford, its robots were burning out computer boards at the rate of four per robot per eight hours. The problem became so bad that carpenters built shelves to store extra computer boards next to the robots so that when they blew they could be pitched and replaced with new ones.

With Innovative Technology's surge suppressors, "board replacement and downtime due to surges or spikes have virtually disappeared," according to Carlis Stamper, Ford's manager of plant engineering. Matthew Murray, an electronics supervisor and a 16-year veteran at the Los Alamos National Laboratory, says the Meson Physics Facility has had a similar experience. Wilfong's device "virtually eliminated any electrical problems," Murray says.

Wilfong now spreads the word about his transient-voltage surge suppressors (known as The Protector) through independent distributors. In 1991, they sold $10 million worth of Innovative Technology's products. That's only a sliver of the worldwide market, but the industry is highly fragmented, with at least 50 other companies competing, including electronic giants General Electric and Panasonic.

Despite the competition, Wilfong expects Innovative Technology's sales to increase by at least 15% annually for the next two to three years. Part of that growth may result from the natural expansion of the industry. World Information Technology Inc., a research firm that tracks the industry, projects worldwide sales will hit $722 million in five years.

Wilfong also is aggressively pursuing foreign markets. The Protector is sold in more than 35 countries already, and Wilfong sees particularly strong growth coming from the Pacific Rim, with Korea, Australia, Indonesia and Hong Kong providing nearly 30% of Innovative Technology's sales. Last October, for instance, Innovative Technology landed a $6 million contract with a South Korean group led by that country's most powerful businessman, C.A. Kim, chairman of the Bora Co.

"The foreign market is ripe partly due to non-uniform electrical currents," Wilfong says. "The electrical power is not clean and can be very damaging to their developing high-tech electronics."

But with the world market so large and so many competitors, what gives Innovative Technology a competitive edge? Wilfong believes the difference lies in the Protector's electrochemical makeup. Though the chemical compound has not been patented, it remains a secret. "There have been attempts to duplicate it, but all have failed," Wilfong says.

Wilfong's hopes now are to take Innovative Technology to the next step, which means increasing the company's marketing efforts. Up to now, he has sold the Protector largely by word of mouth, but this year he's going to expand the company's advertising to increase the product's visibility among consumers. Wilfong won't reveal the company's profits, but says he has the capital necessary to expand.

"We want to become the IBM of this business," Wilfong says.

After re-establishing himself and building a second profitable company, is Wilfong bitter about his run-in with "60 Minutes" and Harry Reasoner?

"There is no shame in going to your knees," he says. "There is only if you don't get up again." His biggest regret is the lost opportunity—the "billions" in equipment and electronics lost because there was no Protector.

CYRUS R. VANCE: A TENACIOUS PEACE MAKER

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. EDWARDS of California. Mr. Speaker, the political career of Cyrus R. Vance has once again shown its steadfast pursuit of peace in recent United Nations peacekeeping efforts in Yugoslavia. As the special envoy of the United Nations Security Council, he recommended the deployment of some 14,000 troops to maintain peace between conflicting Serbian and Croatian nationalists. I respectfully submit an article by Leslie H. Gelb from the New York Times that heralds the quiet accomplishments of a seasoned peace maker and presents his record for Nobel Peace Prize consideration.

From a legal career specializing in civil litigation, Vance has espoused the simple doctrine that negotiated solutions are preferable to military ones. Vance has been described as a "deeply tenacious—and—deeply moral man" who tirelessly seeks to reach a common ground with political adversaries. His career has seen the successful implementation of United Nation peacekeeping forces between Greek and Turkish Cypriots and is also credited with keeping Israel and Egypt engaged in dialog at the 1978 Camp David accords. In 1980, Cyrus Vance resigned his position as Secretary of State on the principle that armed U.S. intervention to rescue U.S. hostages in Tehran was morally wrong and politically ineffective. With similar moral tenacity, Vance has advocated United States divestiture in South Africa, negotiated for a cease-fire at the 1968 Paris peace talks on Vietnam, called for bold new initiatives to strengthen the United Nations' ability to prevent aggression as well as stop it, tackle Third World debt and contain global environmental damage. By balancing moral principle and political pragmatism, Cyrus Vance embodies the essence of a Nobel Peace Prize candidate.

Cyrus R. Vance has led an unheralded life as a negotiator in which the peaceful resolution of conflict has been his greatest reward. I urge my colleagues to read this article and examine the important role Cyrus R. Vance has played in securing world peace.

VANCE: A NOBLE LIFE

Cyrus Vance guards himself with smiles, manners and friendliness. So the warlords of Serbia and Croatia were surely disarmed into believing they could stare down his efforts to arrange a cease-fire between them—as they had done many times before with other mediators.

But like so many committed to conflict and killing, the warlords had misjudged and underestimated this deeply tenacious, deeply moral man.

Earlier this month, the haters and leaders of haters of the former Yugoslav nation formally agreed to stop killing each other. And the United Nations Security Council, which had dispatched Cyrus Vance to the scene months ago, voted to deploy some 14,000 troops to keep the peace.

The New York establishment lawyer used no magic or guile, no outlandish promises or prevarications, no table-pounding or theatrics, to do his job. He knew these tricks well, as practiced by other recent American Secretaries of State. But he did not believe that tricks produced lasting results. And as a man of the old school, they were not his way.

Rather, Mr. Vance wore the haters down as he had often done before in places like Cyprus in 1967, where he kept Greece and Turkey from each other's throats, and in the Camp David accords of 1978, when he played such a critical role in keeping Israel and Egypt at the bargaining table.

Each time, as in Yugoslavia, he bore down on them relentlessly with the simple credo: Killing is wrong—and most decidedly not in your interest.

"I explained to the leaders of the Serbs and Croats," he said in a recent interview in his midtown New York office, "that they had to choose between settling for less and continuing to kill each other. I explained that more killing would not lead to a durable solution. I explained that they were only damaging themselves and their people, and that they were only putting off the day when they would do what they knew they would have to do—live and work together."

Mr. Vance's words of reason and humanity were not new to me. His life and mine have intertwined many times in politics and friendship. He gave me great honor when he asked me to run the State Department's Bureau of Politico-Military Affairs during the Carter Administration.

Perhaps the words were not novel to the Serbs and Croats either. But they had to note something special about the man who was saying them: He was an absolute mule in the pursuit of agreement. His oratory would never be overwhelming, but he would never tire of pressing for common ground.

Cy Vance's stubbornness would prove a match for their fiery nationalism. And his morality, coming as it did more from bone marrow than the mind, would prove as strong as their mutual historical hatreds.

Also, he was not above tossing in reminders that failure to stop the killing would lead to a cutting off of all outside aid and commerce. And he would wait and wait until pressures for settlement grew inside and outside Yugoslavia, and help these pressures along.

"In almost every conflict, the natural tendency is to look at the other side as evil," he said. "That's human nature. On the other hand, you need to find solutions to political problems that lead to killing."

But Mr. Vance, a Navy officer in World War II and a former Deputy Secretary of Defense, was quick to point out that not all disputes can be resolved by reason and compromise because some adversaries are simply too evil. "There are extreme cases like Hitler and probably Saddam Hussein with whom you cannot negotiate. But even with Saddam we probably should have given talks more time."

The Vance guideline in Yugoslavia and almost everywhere else has been that adversaries should be treated as adversaries, not devils. And even with the worst of adversaries, "you have to listen to them" and "keep looking for that point beyond which it's against their interests to keep on disagreeing and fighting."

Cyrus Vance always proceeds as a lawyer, not a philosopher. He would be the last, to pretend otherwise. His persuasive power rests in his rectitude, in stubbornly knowing that killing is almost always wrong.

This is what sets him apart from so many leaders who fear to fail even in pursuit of peace and so abandon the quest. Is this not a Noble quality?

BERLIN TOWNSHIP RECYCLING PROGRAM

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. ANDREWS of New Jersey. Mr. Speaker, Berlin Township is a small township in New Jersey with a big message concerning recycling. Officials there want the whole country to know that recycling is the key to a cleaner environment. Berlin Township has the authority to speak on this topic, the National Recycling Coalition has cited Berlin Township as having the best curbside collection of recyclables in the United States.

For the past 10 years Berlin Township has led Camden County in the recovery of glass, cans and plastics. Once a week the township's five-man recycling crew picks up everything from newspapers to used motor oil. The crew also picks up wood, grass and other materials every other Monday of the month. In fact they also collect mixed paper products and send them to the Marcal Co. for recycling.

Much of the credit for the township's successful recycling program should go to the residents. Mike McGee, Berlin Township director of public works, says 95 percent of the residents participated in the program last year. And, he added, the participation rate has increased by almost 40 percent since 1989. McGee is confident that participation will continue to grow. So am I.

Berlin Township's exemplary recycling program has not gone without notice in my district. The following is one of several newspaper articles that has been written about the program. The article appeared in the Philadelphia Inquirer.

BERLIN PICKING UP AWARDS FOR RECYCLING

(By Patricia Quigley)

At the rate that Berlin Township has been collecting accolades lately for its recycling work, its pile of awards may someday surpass its piles of trash.

The township of 5,400 residents was notified last week that it has been cited by the National Recycling Coalition as having the best curbside collection of recyclables in the United States.

The notification came on the heels of a county award to the township in June for recycling the most residential pounds of material—1,328 per person—in Camden County in 1988, according to Michael McGee, Berlin's director of Public Works and recycling coordinator. At the same time, the county freeholders and the Solid Waste Administration named McGee recycler of the year.

Later that month, McGee also was presented the recycler of the year award from the state Office of Recycling and the Recycling Forum at an East Brunswick ceremony.

The state then nominated Berlin and McGee for awards at the national level. While McGee was not named national recycler of the year, he plans to be present in Charlotte, N.C., on Nov. 2 when the township is presented its award. McGee said the award was based on the amount and types of material collected, the participation rate and the overall success of the recycling program.

Berlin Township earned the national award with some impressive credentials. In 1988 the township had a 95 percent residential participation rate and recycled 48 percent of its trash—the state requires a 25 percent reduction in trash—which saved the township $154,474 in dumping fees and earned it $15,418 in the sale of the recycled materials Berlin recyles newspaper, cardboard, glass, plastic, aluminum and metal cans, metal, oil, batteries, tires and wood.

The payroll for the township's 1988 recycling effort was $62,418, McGee said.

The latest awards join about a dozen that the township has received from the county and the state since 1980, when McGee instituted a voluntary program in an effort to raise money to buy the township a truck.

In the beginning, McGee said, Public Works employees worked off the back of trash trucks, picking out glass to recycle and loading it in burlap bags for McGee to later pick up when he went through town. The recycling program became mandatory in 1981, and today the 16-member Public Works staff picks up material curbside on regular trash days, Tuesday through Thursday.

Of the award, McGee said: "It's really a credit to the guys in the department because they do most of the work. It's really a credit to the residents because they put the material out for collection. Without the cooperation of both, our program couldn't do anything."

The recycling coordinator said he feels "tremendous. It's nice to get some recognition for the town."

A TRIBUTE TO JEAN CACERES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to acknowledge Ms. Jean Caceres for her dedication and perseverance in fulfilling her dream of caring for abused and neglected children. In a Miami Herald article entitled "Open House," reporter Bea Hines writes about Caceres' dream to make "His House" a home for children who desperately need one:

Jean Caceres was single, had a good job and was "happy and content with the Lord" until an unrealized dream kept creeping into her thoughts.

The dream—to open a home for abused, neglected and drug-exposed children—had been with her since she was a girl. And the dream would never go completely out of her mind.

About a year ago, Caceres, 30, a graduate of Oral Roberts University, realized her dream when she opened His House, at 7000 NW 53rd Ter.

His House, with its fenced yard and freshly painted building, is an oasis nestled between warehouses and auto repair shops. When the renovation is completed, His House will be a safe place for 12 children from infants up to age 6.

ALWAYS LOVED KIDS

Caceres was born in Terrytown, N.Y. and has lived in Miami since 1983. Until she resigned to start her ministry, she had worked as advertising manager for Life Publications, a foreign-language Christian publishing house.

Caceres always loved children. As a college student, she worked as a volunteer in a Mexican orphanage during her breaks. After graduation, she went to Brazil for a summer and worked with the children in a small Amazon town.

When she returned to New York after the summer, Caceres said she prayed for a job.

"It seemed that every door was closed to me. I couldn't find work. Then my mother, who lived here in Miami, called and asked me to come to Miami. My mother never called during the daytime. But that day she did. I felt it was the Lord, answering my prayer. So I went out and bought a ticket and left that very night."

LOOKING FOR HER CALLING

She worked at Life Publications for six and a half years until she felt "God was telling me it was time to develop my calling," she said.

With her family and close friends, Caceres said she started praying for God to open up a way for her to help children.

"It's funny," she said. "I never thought my ministry would be in the United States. In Mexico, I'd worked with a women who had 82 children and only three helpers. I thought God would send me to someplace like that.

"Instead, the Lord let me know the mission field was in my back yard."

HOME AT LAST

Caceres left her job in June of 1989, and lived off her savings as she went about creating a board of directors and taking crash courses on caring for substance-exposed infants. "I spent a year just going to conferences and learning about the work and establishing a non-profit organization," she said.

The building that houses the ministry had stood empty for eight years before Caceres moved in. The owner has given her a three-year lease for $1.

Most of the renovation on the house has been done by volunteers. Although the work is still going on, Caceres has already had four infants at His House. "We are not set up yet for larger children," she said.

TREMENDOUSLY NEEDED

Caceres is helped by volunteers like Dr. Emilio Lopez, who sees the children without charge, and Lauren Perez, a volunteer and one of six board members.

"What she is doing is tremendously needed in this area," said Perez, who lives in West Kendall and is an elementary school teacher's aide. "Unfortunately there is so much red tape involved in getting going. It seems like instead of helping, the agencies stand in her way.

"Jean has taken on so much. I've seen people that she has helped so far," Perez said. "She could do so much more if she had the means to do it. She supports the ministry solely on a volunteer basis."

Mr. Speaker, I commend Ms. Caceres for her dedication and her commitment to our community. Her perseverance has certainly earned her a seriously needed role in our community.

ECONOMIC SITUATION IN TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a report on the economic situation in Turkey provided by the Agency for International Development pursuant to section 1205(b) of the International Security and Development Cooperation Act of 1985, as amended.

Turkey is the third largest recipient of United States bilateral assistance, and the United States has significant ties with Turkey. Turkey's economic growth and performance are important for stability and progress in a key region of the world.

The report which was submitted to the Congress February 20, 1992, follows:

ECONOMIC REPORT ON TURKEY BY THE AGENCY FOR INTERNATIONAL DEVELOPMENT

I. EXECUTIVE SUMMARY

Turkey has remarkably liberalized and reoriented its economic policies since the late 1970s. Abandoning an inward-looking economic strategy with heavy reliance on government intervention, Turkey has been implementing vigorously outward-oriented liberalizing policies. These policies have featured flexible exchange rate and interest rate regimes, extensive liberalization of restrictions on trade and capital movements, major price liberalization, and some fiscal restraint. These policies led to a tripling in exports between 1980 and 1985, another 50% rise through 1990 and an average growth rate in annual gross domestic product of 5% through the 1980s. Disappointments include lax fiscal policies, a stubbornly high inflation rate and very slow progress on privatization.

Turkey's economy turned sluggish during 1989 and its balance of payments weakened both during 1989 and 1990. While 1990 was a rapid growth year, Turkey's economy became sluggish again during the first half of 1991. An export recovery has been taking place, starting in 1991, and most service receipts have remained strong without a break. Strong economic growth also resumed in mid-1991.

Turkey's debt ratios have been dropping steadily, with the debt to gross national product ratio down to 45% in 1990, and the ratio of debt service to current account receipts down to 28%. Turkey still has a moderately heavy debt service burden. The country's main unresolved economic policy problem is its need to tighten its fiscal restraint and to pursue a vigorous privatization program in order to bring about greater efficiency in production and services. These further improvements in Turkey's economic policies would be expected to bring down inflation, strengthen the country's exports and attract more private sector remittances, facilitating debt service payments and gradually easing the overall debt burden.

II. EARLY ECONOMIC BACKGROUND AND POLICY SETTING

For half a century through the end of the 1970s, Turkey generally followed an inward-looking economic strategy with heavy reliance on government intervention. Besides erecting barriers to trade and financial flows, the Government created numerous public enterprises and continued to give them extensive subsidies and import protection.

During much of the 1960s and 1970s, this autarkic policy achieved rapid economic growth and subdued inflation. However, declining investment efficiency, sharply rising energy costs and internal price rigidities caused growing imbalances by the mid and late 1970s. Foreign exchange shortages became increasingly acute, disruption in many industries became common, unemployment grew and inflation rose to over 100% annually. The growing current account deficits were financed largely though short-term borrowing and the accumulation of payments arrears, with the external debt tripling between 1974 and 1977. Turkey's immediate crisis was abated through a series of debt reschedulings between 1978 and 1980, but a long-term solution required a drastic re-orientation of its economic policies.

III. STABILIZATION AND STRUCTURAL REFORM

Turkey embarked on an extended stabilization and structural reform program, starting in 1980. This program was buttressed by International Monetary Fund standby arrangements and World Bank structural adjustment lending through 1985. Its early features embraced: 1) A sharp reduction in the subsidies granted to the State Economic Enterprises (SEEs) through regular, large increases in the prices of most of their commodities. The January 1980 price increase was the major one, which included 100%–120% rises for electricity, transport, textiles and most fuels; 2) The removal of most price controls on the private sector; 3) The complete liberalization of interest rates; and 4) Frequent devaluations and later daily determination of the exchange rate in order to maintain export-competitiveness. The 1980-May 1981 devaluations amounted to more than 30% in real terms, and between May 1981 and May 1986, the real exchange rate depreciated by about 3.6% annually. During the 30-month period of July 1986-December 1988, this rate depreciated by about 5.5% annually. The openness of Turkey's economy also occurred on the import side: according to Professor Krueger of Duke University, the combined impact of the reductions in tariffs and quantitative restrictions yielded a fall in the special costs of importing, on average, from 129% of the c.i.f. price in 1980 to 99% in 1984 and to 55% in 1987.

The later reforms included banking deregulation, the introduction of a value-added tax, significant reductions in tariffs and administrative controls on imports, the liberalization of restrictions on capital movements and the slow initiation of the privatization process.

IV. ACCOMPLISHMENTS AND WEAKNESSES

Turkey's most significant accomplishment has been in the area of exports. Exports rose by an impressive 19% annually from 1980 through 1988 so that exports as a percentage of GNP trebled to 21% during that period. Export performance has been particularly striking in industry: annual industrial exports jumped from $1.05 to $8.94 billion during 1980–88.

The international openness of Turkey's economic policies also is reflected in the increased importance of imports: Imports increased from about 16% of GNP in the late 1970's to over 22% after 1984. However, the exceptionally strong growth rate in exports led to a reduction in the trade deficit from $4.6 billion in 1980 to the annual range of $2.7 to $3.2 billion during 1982–87. Combined with favorable developments in tourism and other service receipts, the current account deficit declined from $4.5 billion in 1980 to $1.9 billion in 1983 and to $1.0 billion in 1987, before turning into a $1.6 billion surplus in 1988.

Turkey's other major accomplishment has been in the area of stimulating rapid economic growth. Real GDP growth has exceeded 5% on average, though the 1980's.

Turkey's most significant economic weakness has been the failure to bring down the inflation rate. The average annual rate had been nearly 36% from 1973–80. There had been initial success in braking the high inflation of 109% in 1980 to 39% in 1981 and to 27% in 1982. The rate then ranged between 35% and 48% during 1983–87 before shooting up to around 75% in 1988. Relaxation of expenditure restraint has been the primary cause of the poor fiscal performance. A sharp cut in subsidies to SEE's and austerity in other expenditures in the early 1980's had caused the fiscal deficit to decline to a low of about 3% of GNP in 1983; thereafter the deficit ratio to GNP stopped declining and rose in some years in response to rigidity in many administered prices, large wage increases and burgeoning growth in many other expenditures, particularly in the run-up periods before major elections, such as in 1987 and 1991. The inflation problem has been aggravated by an accommodating monetary policy and success in achieving flexibility in depreciating the Turkish lira.

The other major policy weakness has been in the area of privatization. A limited program establishing privatization procedures and responsibilities was launched by parliamentary decree in 1986. A master plan for long-term privatization was then developed with assistance from Morgan Guaranty. It took many months of auditing and legal preparations to make the first public offering (Teletas) in February 1988. This offering was highly successful and, in November 1988, Coca Cola purchased Ansan bottling company for $13 million. However, legal and political disagreements have hamstrung further significant progress.

V. RECENT ECONOMIC PERFORMANCE AND OUTLOOK

The new coalition government, elected in October 1991, has promised early action to rectify these weaknesses in order to bring the inflation rate under control. While rapid growth took place during 1990, the economy was sluggish during 1989 and most of 1991. The balance of payments weakened during 1989 and 1990, but recovered significantly during 1991.

A. Fiscal Policies And Progress Towards Privatization

The central budget deficit has been rising steeply each year, with a particularly sharp increase occurring during 1991, owing to electioneering pressures that year. About half of the public sector deficit is not recorded in Table One, being run up by the SEEs. When account is taken of the 34 trillion lira debt assumed by the SEEs during 1991, public sector borrowing amounted to some 10% of GNP, over three percentage points higher than during 1990.

The weak budget performance has been the result of large wage settlements, the failure of state enterprises to implement adequate domestic price increases and the large burdens inherent in maintaining a bloated public sector with negligible progress made in privatization. In response to pressures from organized labor, private and public-sector wages were increased in 1989 and 1990 by 120% to 140% each year. Wages were increased by 40% again in July 1991, on top of similar increases at the beginning of the year. In August 1991, the government increased its costs in supporting farmers by raising the price levels on many crops by 60% to 70% and by sharp increases in the fertilizer subsidy. The price levels on most Turkish crops had already been priced above world market levels. Similar electioneering pressure had resulted in minimal price increases at the SEEs through mid-December 1991. But, the increases announced then were still modest: for example, only 20% for sugar, 22% for electricity and 9% to 27% for liquid fuels.

The government has failed to privatize fully more than a couple of SEEs. Its principal success has been in selling to the public small portions of some 20 SEEs. Its sale of five cement companies to a French firm for $105 million was blocked by the Constitutional Court during 1989 because the government did not follow its own rules and offer shares to the employees first. The new coalition's privatization program appears to focus on selling the government's shares in private sector companies, rather than tackling the 120 companies where the government is the sole partner. Already, at the end of January 1992, the state's 51% share in a local gas company was sold to the French gas company, which already had a 49% share of the company, for TL 350 billion. Public holdings in four other companies are to be sold off in the first stage of this new program; these companies are in insurance, tea and canned fruit. Any genuine Turkish government effort to privatize SEEs broadly continues to be stymied by accounting, legal and political difficulties plus the large size of most SEEs compared to the limited resources of private purchasers. The three dozen SEEs and the 100 or so subsidiaries they wholly or mainly control account for 50% or more of the budget deficit. Privatization of these enterprises represents a major opportunity for reducing the deficit.

B. Inflation, Economic Growth And The Balance Of Payments

The inflation rate had jumped from 39% in 1987 to 75% in 1988. There had been small movements downwards during 1989 and 1990 to 60% during the latter year partly in response to policies encouraging the appreciation of the Turkish lira, but performance again deteriorated during 1991 to about 67%.

Average overall economic performance was just a little below par during the 1989 to 1991 period. The average annual increase in real GNP was 4.7%, or about half a percentage point below the average for the decade of the 1980s. Performance during 1989 and 1991 was sluggish: one and two per cent, respectively, while real growth in GNP surged by nearly 10% during 1990. The main determinants of slow growth during 1989 had been the drought-induced fall of 11.5% in agricultural production and declines in mining and public investment and in non-residential private investment. Important stimulants to the 1990 growth surge were the recovery of agriculture and a 12.4% rise in real private consumption, as a result of large real wage increases. The increase in government consumption was also exceptionally high, partly reflecting extra expenditures related to the Persian Gulf crisis. Private residential investment declined by 9%, while non-residential investment accelerated sharply to an average rate of 24%. Sluggishness in private investment was apparently the main cause of the slow growth during 1991.

Turkey's trade balance had reached its most favorable position during 1988 at negative $1.8 billion, as a result of an unusually large increase in exports. The trade deficit then declined sharply during 1989 and 1990 to an unsustainable high of $9.6 billion, during the latter year. A slowdown in exports during the two years was matched by an explosive growth in imports during 1990. Part of the explanation for the import surge during 1990 had been explosive consumer demand. The major reason for the deterioration in the trade balance had been a swing in exchange rate movements: the lira appreciated strongly by nine percent (in real effective terms) during 1989 and by 17% during 1990.

The current account balance would have deteriorated more sharply, were it not for a sharp rise of $1.3 billion in worker remittances during 1989 and for continuing improvements in net services income and for the official grants received in connection with the Gulf crisis during 1990. With the Turkish lira depreciating again during 1991 and with subdued economic growth, imports were stagnant and exports grew fairly strongly. The reduction of expenditures on imports was largely due to lower world petroleum prices and a 20% rise in domestic oil production. Combined with a further sharp rise in official grants and tourism performing better than initially feared, the current account may have returned to a surplus of nearly $1 billion during 1991.

VI. DEBT SERVICE PROSPECTS

Turkey had reached an unsustainable debt position by the late 1970s. Debt reschedulings during 1978–80 gave it breathing space, while its structural reform program was prepared and then implemented during the early 1980s. Turkey's external debt doubled to $40.2 billion during the 1984–87 period, but then grew much more modestly as the current account deficits narrowed. Rapid economic growth, favorable balance-of-payments developments, and generally prudent debt policies during the last decade have permitted Turkey to manage its large debt burden reasonably well. The total debt to nominal GNP ratio had peaked at 59% in 1987 and has then dropped steadily to 51% in 1989 and to 45% in 1990 (see table 3). A rise in debt service payments from $5.4 billion in 1987 to $7.2 billion in 1988 had increased the debt service ratio to 36%, but a levelling off in these payments, combined with some continuing improvements in exports and service income, caused the debt service ratio to decline steadily during 1989 and 1990 to 32% and 28%, respectively.

Turkey has pursued prudent debt policies in recent years, as reduced current account deficits required only a slow rise in the total debt since 1987 to about $43.8 billion on June 30, 1991. Though the government deliberately cut short-term debt during 1988 and 1989, this latter trend was reversed during 1990, with a 65% rise in the accumulation of short-term debt as several SEEs boosted their borrowing from external short-term sources to cover their deficits. Early data for 1991 indicate that Turkey has begun to rein in this less secure form of borrowing. Turkey's gross foreign exchange reserves are presently about $13 billion, having grown from $8.9 billion at the end of 1989 and $11.8 billion at the end of 1990.

Turkey still has a moderately heavy debt service burden. Continued progress in promoting exports and private sector transfers will assist Turkey in making the necessary debt payments without difficulty. An important ingredient in these promotional policies will be determined fiscal restraint and a vigorous privatization program. These policies will contribute to lowering inflation and achieving greater efficiency and make Turkish production and services more competitive on the international market.

TABLE 1.—GOVERNMENT FINANCE [1]

[In billions of Turkish liras]

	1987	1988	1989	1990	1991 [2]
Revenues	10,100	17,587	31,369	56,685	90,000
Tax revenues	9,051	14,250	25,572	45,508	60,000
Other revenues	1,049	3,337	5,797	11,177	10,000
Expenditures	12,698	21,447	38,871	58,169	122,000
Deficit	2,598	3,860	7,502	12,474	32,000
Deficit/GNP [3]	3.4	2.9	3.2	3.2	4.9

[1] Central government only; local municipalities, SEE's, and special fund budget figures are not included.

[2] Estimate.

[3] The Turkish Government has revised upwards by more than 30 percent its reported data on GNP in recent years through replacing the 1968 weightings with 1987 weightings.

Source: Ministry of Finance and Customs.

TABLE II.—BALANCE OF PAYMENTS

[In millions of U.S. dollars]

	1987	1988	1989	1990	1991
Current account	(960)	1,595	961	(2,611)	1,000
Merchandise: Exports (fob)	10,322	11,929	11,780	13,026	14,300
Merchandise:					
Imports (fob)	13,551	13,706	15,999	22,580	22,300
Trade balance	(3,229)	(1,777)	(4,219)	(9,554)	(8,000)
Service credits	4,111	6,026	7,098	8,933	10,100
Service debits	4,282	4,812	5,476	6,496	7,300
Private transfers, net	2,088	1,826	3,135	3,349	3,200
Official transfers, net	352	332	423	1,157	2,000
Current account deficit as percent of GNP	1.7	−1.8	−.7	3.5	−1.5
Source: Central Bank of Turkey:					
Other data:					
Real GNP growth, (percent)	7.4	3.4	.9	9.9	2
Inflation-consumer prices	39	75	70	60	67

Sources: State Planning Organization and State Institute of Statistics.

TABLE III.—EXTERNAL DEBT

[In millions of U.S. dollars]

	1987	1988	1989	1990	June 30, 1991
I. Disbursed external debt total	40,228	40,722	41,021	49,035	43,752
Medium and long term	32,605	34,305	35,276	39,535	34,930
Multilateral	9,802	9,192	8,740	9,564	....
Bilateral	11,680	11,382	11,431	12,984	....
Private	11,123	13,731	15,105	16,987	....
Short term	7,623	6,417	5,745	9,500	8,822
II. Debt service:					
Medium and long term principal payments	3,031	4,394	4,276	4,033	....
Interest payments	2,387	2,799	2,907	3,264	....
III. Ratios (percent):					
Medium and long term debt service/exports of goods and services and transfers	32.0	35.7	32.0	27.6	....
Interest payments/GNP	3.6	4.5	3.9	3.1	....
Total debt/Nominal GNP	59	57	51	45	....

Source: Central Bank of Turkey.

SLASHING THE MILITARY AND TRASHING THE ECONOMY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. BROOMFIELD. Mr. Speaker, this morning we heard some compelling testimony about proposed cuts in the defense budget from Secretary of Defense Dick Cheney and Gen. Colin Powell, Chairman of the Joint Chiefs of Staff.

While both stressed the strategic implications of the various proposals to cut back our military, they also brought out the human dimension of throwing so many dedicated people, both uniformed military and civilians, out into the cold.

Their testimony reminded me of many of the impassioned speeches I've heard on this floor about how hard it is to find a job.

Yet I suspect that not a few of those speakers may be preparing to make things even worse.

I've just seen the results of two recent studies—one by the Congressional Budget Office, the other by the Office of Technology Assessment.

Both of these studies show that if you slash the military you're going to trash the economy.

The OTA study shows that some of the big defense cuts being proposed could throw as many as 2.5 million people out of work.

That would boost the national unemployment figure a full two percentage points, to more than nine percent.

Before Congress wields the knife, we ought to give a whole lot more thought to whether we might win a budget battle only to lose an economic war.

THE WESTERN RANCHER

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. ORTON. Mr. Speaker, recently, I had the opportunity to read the pamphlet, "The Western Rancher: A Tradition of Economic and Environmental Success." It is an excellent summary of the facts and realities which unfortunately have been too often ignored by too many in the debate over grazing fees and management of the public lands of the West. This pamphlet stresses the economic importance of ranching to rural communities and to Western States such as Utah as well as to the Nation. It also highlights the responsible and constructive role of livestock producers in improving the public range for all users.

"The Western Rancher: A Tradition of Economic and Environmental Success" was produced by the Public Lands Council, the American Farm Bureau Federation, the Association of National Grasslands, the American Sheep Industry Association, and the National Cattlemen's Association. All of these groups are doing an excellent job in forcing the debate about grazing and multiple use of the public lands to focus on the facts rather than emotion as has been the case too often in the past. I strongly recommend this pamphlet as "must reading" to all of my colleagues:

THE WESTERN RANCHER: AN ENDANGERED SPECIES?

Randall Brewer, from Three Creek, Idaho, is a typical western livestock producer who, like other Americans, is accustomed to abundant consumer choices. However, when it comes to affordable public grazing lands for his cattle, a rancher like Randall effectively has no choice.

Because public and private lands are deeply intermingled in the West, Randall needs both to feed and water his herds. He uses his private 5,000 acres, which his forefathers homesteaded at the turn of the century, plus the adjacent 42,900 acres that he rents from the U.S. Forest Service and the Bureau of Land Management.

Since Randall requires 68.5 acres per animal, he must constantly rotate his herd to follow the seasonal availability of forage and water. But that is the way it is. Due to the ownership patterns of the West, Randall has no alternative but to use the two together. If the fees for public lands are priced out of sight, Randall and many others like him will be out of business.

Like other western ranchers, Randall works from sun-up to sundown seven days a week, hoping to make $20,000 this year, a typical salary for livestock producers in his part of the country. Most ranchers run small, family owned operations. Despite their size, they make a very big difference in their local economies. If the ranchers are forced out because of increased public lands fees, many rural areas will crumble.

Take Buhl, Idaho, population 3,600. Buhl critically depends on Randall and several dozen other nearby ranchers like him who buy feed, equipment, gasoline and supplies. Idaho also greatly depends on the rancher and his beef. Last year, the state realized 13 percent of its gross state revenues and 34 percent of its gross agriculture revenues from livestock production. To put these numbers in perspective, consider that Florida realizes only 0.4 percent of its gross state product from oranges.

The economic impact of overpriced public lands on western ranchers is only one of the issues to consider. Another element is the environmental management of the lands. The public grazing system practiced by Randall and other ranchers has broad environmental goals. For instance, the carefully controlled grazing plan that Randall follows is designed to enhance the vigor and diversity of the plants and grasses on his lands. Then there are the animals—elk, deer, antelope and other wildlife—that would not be in such abundance if ranchers like Randall had not brought in the water and salt that now sustains them.

As further testament to Randall's and other ranchers' vital contribution to western rangelands is their role as caretakers. Sports enthusiasts and other recreationalists are able to use and enjoy these same public lands because Randall is on hand to stop vandalism, poaching and fires, or even to aid someone in distress.

As can be seen, grazing fees weigh heavily in the complex equation of western ranching life. Many environmental, economic and social benefits are the results of Randall and thousands like him who vitally depend on fairly and predictably priced public rangelands. If the public lands are overpriced, many ranchers and other vital elements of western life will suffer.

THE WESTERN RANCHER

Western rangelands with their vast, unbroken horizons, rolling hills, and tall prairie grasses have been home to self-reliant men and women ranchers for more than a century. From the earliest pioneers, these livestock producers have existed in unique harmony with the rugged West.

But, who are they? What are their contributions to the environment, their industry, their states and this country? This brochure will clarify some points obscured or typically misunderstood about these western ranchers.

A PATCHWORK QUILT

Choice rangeland was abundant and widely available when the first settlers arrived in the West. Early settlers homesteaded the arable land for private farms and ranches. The states took the best that were left, leaving the land that no one wanted to the federal government. Today, the western range lands are a deeply intermingled patchwork quilt of public and private lands, a mix resulting from the pioneer homesteaders of a century ago.

A SUCCESSFUL PARTNERSHIP

For nearly 100 years, western livestock producers have worked in a successful partnership with the U.S. Government to manage the public lands. At the turn of the century, President Teddy Roosevelt was just beginning the conservation movement, and western ranchers were among the first to join. These livestock producers initiated their partnership with the federal government to stem the tide of indiscriminate, uncontrolled grazing that was destroying the western public lands.

Today, four to five generations later, American ranchers are still concerned conservationists. In fact, ranchers have a vital stake in sound environmental management; after all, it's in their economic self-interest.

ACCOMPLISHED CONSERVATIONISTS

Ranchers have spent years—generations really—learning valuable environmental lessons to leave the rangelands in as good, or even better, condition as when they found them. By aerating soil and scattering seeds, cattle grazing is beneficial to the environment. Livestock production is also crucial to many wildlife species that now depend on water, salt and other feed that ranchers provide for their herds. Just since 1960, big game populations have increased dramatically—782 percent for elk and 482 percent for moose, to name just two species.

In fact, the Bureau of Land Management (BLM) reports in its "State of the Public Rangelands 1990" that "public rangelands are in a better condition than at any time in this century:" testament to the thousands of ranch families who tend the range.

FAMILY RANCHERS

Public lands ranchers are the family farmers of the West. By far the majority of ranchers who use public lands run small family operations, and most live on the edge, making less than $28,000 a year. Fixed costs are high, as are debt burdens. But most feel the quality of life is worth the effort.

More critically, the patchwork ownership patterns of the West ensure that ranchers have no real choice between using public or private lands. The average homestead doesn't contain enough private land to sustain a herd of cattle year round. Therefore, the rancher depends on a balanced mix of adjacent public and private lands to successfully raise his livestock.

ECONOMIC BACKBONE

Ranching is the backbone of the rural western economy. A $9.2 billion industry, public lands ranching offers a critical tax base for rural western schools, hospitals, roads, and other services. It is also crucial to sustaining local economies—especially small rural towns—where ranchers buy fuel, feed, supplies and heavy equipment.

Ranchers are also important to the local and state economies in that they contribute heavily to domestic beef, lamb and wool production. Fifty percent of U.S. marketable lambs and 20 percent of calves going to feedlots come from western public lands. Eighty-eight percent of the cattle produced in Idaho, 64 percent in Wyoming and 63 percent in Arizona depend in part on public grazing lands.

THE COSTS

It's true that private grazing land rents are typically higher than public rangeland grazing fees. However, private leases are self-sufficient units where the owner provides the rancher fencing, water improvement and roads.

On public lands, by contrast, little is provided the rancher. Instead, the livestock producer must bear most of these costs, including larger management costs, higher death loss and poorer animal performance due to the inherently wilder open range environment. In addition, ranchers leasing public lands also must bear the increased costs of complying with federal red tape.

A FAIR FORMULA

Public land fees, an integral part of western ranching, grew out of turn-of-the-century government regulation on public lands. Following an earlier U.S. Forest Service range fee formula, the government enacted the Taylor Grazing Act in 1934. This landmark act gave The Grazing Service (a precursor to the BLM) the right to charge fees for all public lands, including the millions of acres of "no man's land" left over from the homesteading days.

Answering a need to update the fee system, the government initiated the Public Rangelands Improvement Act (PRIA) in 1978. This range fee formula is indexed to rise and fall with market livestock prices, production costs and forage values. When these variables change, the fees change with them. In fact, in the last four years, fees have risen nearly 50 percent.

A LEGACY OF SUCCESS

Western ranchers, during the past century, have contributed not only to the rural western economies, but also to the local environment and to the upkeep of the public lands. These ranchers depend on fairly and predictably priced public lands to ensure the continuation of their livelihood. And, Americans depend on the cattlemen's stewardship of the land.

In short, our public range fee system is fair to all concerned, but particularly the American taxpayer and the western rancher. This partnership is working and is stimulating private investment in public rangelands to the benefit of ranchers, the ranching industry, the consumer, wildlife and our national environment.

Who is the western rancher? An American success story.

A TRIBUTE TO LOUISE WOODSON BROWN—51 YEARS OF BEAUTIFUL MUSICAL MINISTRY

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today to pay tribute to Mrs. Louise W. Brown, the choir director and organist at the Allen African Methodist Episcopal Church. For more than 50 years, Louise Brown has bestowed her most special musical gift upon numerous congregations in the city of Philadelphia. I would like to take a moment to reflect on some of the accomplishments of this truly remarkable woman.

Louise Woodson Brown developed a solid love for music early in her life. Mrs. Brown's mother constantly encouraged Louise to develop her musical talents, and sacrificed in a great many ways to support her daughter's musical endeavors. Louise Brown began her piano instruction with a private tutor at the early age of 7, and was playing the organ by the time she was 13 years old. Mrs. Brown once remarked on her complete dedication to her musical studies by stating, "I would practice for 3 hours every day to play perfectly." At the Wayland Temple Baptist Church, the choir director recognized the quality of her work, and taught her how to accompany the choir on the organ. At this point, Louise Brown knew she was "graced by God with a gift for music."

Mrs. Brown's first assignment was in 1941 at the National Temple Baptist Church on 17th and Master Streets in Philadelphia. Throughout the years, Louise took her talent to numerous congregations including the White Rock Baptist Church, the Zion Baptist Church, and the Tenth Memorial Baptist Church.

In 1980, Louise Brown came to the Allen African Methodist Episcopal Church, where the Reverend William H. Smallwood was and remains this pastor to this day. As the choir director and organist, Mrs. Brown is in charge of both the Allen Church Choir, and the Allen Gospel Choir. Both choirs are well known in the city of Philadelphia, and it is to the credit of Louise Brown that they have been able to reach their highest levels.

Throughout her career, Louise Brown has received numerous awards and certificates for excellence. As Louise Brown receives yet another much deserved honor this week, I would like to ask my colleagues to rise and join me in paying our greatest tributes to this fine woman. In addition, I would like to offer our greatest congratulations to her husband Dewitt, her 3 children, her 10 grandchildren, and her 4 great grandchildren. In closing, I simply want to wish Louise Woodson Brown continued health, happiness, and of course, musical success. "God Bless Louise Brown."

THE FRIENDS OF THE COLLEGE OF EDUCATION AT FLORIDA INTERNATIONAL UNIVERSITY HONOR COMMISSIONER OF EDUCATION, BETTY CASTOR

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to acknowledge the Commissioner of Education of the State of Florida, Ms. Betty Castor, for her contribution to Florida's educational system. Commissioner Castor was honored by the members of Florida International University's Friends of the College of Education and presented with the Distinguished Education Service Award during a ceremony in February.

The Friends of the College of Education, of which I am a member is a volunteer group committed to advancing education in the community. The Friend's goal is to enable the FIU College of Education to recruit and retain the best local students in the field of education by raising funds for scholarships.

During the ceremony, Paul H. O'Neill, chairman of the board and chief executive officer of Alcoa and chairman of President Bush's Education Policy Advisory Committee was the keynote speaker.

Among the many people who honored Commissioner Castor's work are the following members of the honorary committee: Michelle and Wayman Adkins, Betty and Alvah H. Chapman, Margarita and Armando Codina, Remedios and Fausto Diaz Oliver, Earlene and Albert Dotson, Patricia and Philip Frost, Janet and Thomas McAliley, Martha and Leslie Pantin, Delia and Sam Verdeja, Grace and Octavio Visiedo. In addition are the following members of Friends of the College of Education: Trudy Cejas, Barbara Bader, Ellen Barocas, Karen Dien Bekkers, Toni Bilbao, Mary Ann Buffone, Bobi Dimond, Marlin Arky Feldman, Nora Garcia, Sara Halberg, Cynthia Leesfield, Ana Margarita Maidique, Maria Millheiser, Berta Savariego, Judith Stopek, Marti Wakshlag, and Joanne Waldorf.

It is my pleasure to have the opportunity to acknowledge the work of those involved in the advancement of the School of Education at Florida International University, as well as the promotion of further education. In addition, I wish to acknowledge FIU President Mitch Maidique for his commitment and dedication to excellence in education.

THE CHANGING HEALTH CARE MARKET

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. ANDREWS of New Jersey. Mr. Speaker, recently I had the good fortune of meeting with Mr. Jeffrey Moll, the president of Beth Israel Hospital in Pastiche, NJ. Mr. Moll has great insight as to our Nation's health care problems, and the role of hospitals in an efficient health care system. For the RECORD, I would like to submit an editorial by Mr. Moll which recently appeared in the Bergen County Record:

THE CHANGING HEALTH-CARE MARKET—HOSPITALS MUST LOOK BEYOND THEIR FOUR WALLS

(By Jeffrey Moll)

Traditionally, the strength of New Jersey hospitals has been measured in terms of the number of inpatients compared with the number of beds.

This view has been a standard for many hospital administrators, managers, and board members, as well as market analysts. It is on this perception that the usual course of market growth has been based—typically, the expansion of the hospital campus itself.

Interestingly enough, many analysts and state officials continue to define a hospital's primary assets in terms of its physical plant and bed capacity. However, most managers have begun to realize that this standard no longer applies—that "the bed is dead" within the health-care market.

Lately, the primary growth in hospital activity nationwide has been in outpatient services.

Although 90 percent of a hospital's business may have been inpatients 15 years ago, that figure is declining. According to statistics released by the New Jersey Hospital Association, the length of inpatient stays has decreased 16.5 percent since 1980, while outpatient visits have increased 63 percent.

In fact, gross outpatient revenue at New Jersey hospitals has increased approximately 232 percent in 10 years, compared with a 99 percent increase in inpatient revenues.

This change within the market has forced administrators to revise their health-care concepts and explore the potential for expanding beyond their traditional four walls.

Although health care is a necessary community service, it is also a business, and basic business practice dictates that services be tailored to meet market demand.

The market is now requiring medical facilities to reach out to the community. No longer does strategic planning simply translate into physical expansion, with the intent of accommodating larger inpatient populations. Those who wish to survive in the struggling New Jersey economy must reevaluate their strategies and adopt new policies that meet the growing realities of the health-care market.

Many hospitals have already begun to respond to these demands. In fact, the surge in programs conducted off hospital grounds illustrates industry efforts to adjust to the market. For instance, although house calls are a thing of the past for lots of doctors, many New Jersey hospitals have resuscitated similar services to accommodate changing needs.

Home health care in this state has undergone overwhelming growth, with nurses, dieticians, and other practitioners visiting patients.

Beth Israel alone had a 30 percent increase in such visits in 1990 compared with 1989, which was already up 20 percent from the year before. In the first eight months of this year, the hospital has been responsible for 80,000 visits to patients' homes—a 35 percent increase over last year.

Many hospitals are also starting to develop other forms of community programs. For example, some send medical vans directly to high-density neighborhoods that are often low-income as well. Immunization, screenings, physical exams, and health education will soon be conducted on location, often at a work site.

In addition to conducting extensive education programs at the workplace, many hospitals conduct screenings for cancer, substance abuse, high cholesterol, and other disorders.

Many hospitals have begun to establish satellite offices. Off-site medical centers are becoming the norm rather than the exception, gaining significant popularity and credibility with patients.

The rise in "urgent care" facilities showed the industry that such programs were not only possible but necessary. Convenience is an important priority in today's society so alternative medical care is welcome.

The perception of quality care no longer centers on a hospital bed. Patients who once used emergency rooms (sometimes inappropriately) are now using off-site facilities. People have even grown accustomed to seeking treatment at facilities within shopping centers.

Experiences within our own cancer unit are an example of the trend for off-site care.

Although cancer treatment may have once been considered an inpatient procedure, Beth Israel has witnessed a major move to outpatient services. Outpatient chemotherapy has skyrocketed about 300 percent over the last decade, and about 90 percent of radiation therapy is done on an outpatient basis.

Indeed, Beth Israel's recent plans for physical expansion have emphasized outpatient cancer treatment and same-day surgery.

To remain competitive, administrators must reconfigure their four walls to allow for new technology; they must redesign them to accommodate growing outpatient services.

In the future, patients may not even realize they are going to the hospital.

A SPECIAL SALUTE TO MS. HENRIETTA DIXON

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. STOKES. Mr. Speaker, I rise today to pay tribute to an outstanding individual who is very special to our community, Ms. Henrietta Dixon. On Saturday, March 7, 1992, friends, family, and students will gather in Cleveland Heights, OH, to salute Ms. Dixon for her contributions to our community over the years. I am pleased to participate in this tribute to someone who is very special and has been a positive role model in my life.

Henrietta Dixon came to Cleveland with her father at an early age. Her father, W.C. Dixon, was a well-known music instructor in Cleveland. Ms. Dixon followed in her father's musical footsteps when she organized a group of young men from the Cleveland community to play rhythm instruments. The group became known as the Mozart Band. The band was quite popular, appearing in concert at various churches and community events. The Mozart Band also enjoyed an exciting radio career during its existence.

I am proud to report that during our youth, both my brother, Judge Carl B. Stokes, and I were members of the Mozart Band. When we were young men growing up in Cleveland, Ms. Dixon was our music teacher. I played the trumpet, while my brother, Carl, was a student of the piano. I recall Ms. Dixon as a music teacher who had high expectations for her students. She was a disciplinarian who demanded excellence, but she gave freely of her time, energy, and talent to help us reach our goals.

Mr. Speaker, Ms. Dixon taught her students to appreciate all forms of musical expression. More importantly, she encouraged us to set our sights high and overcome obstacles. Because of her efforts, she can boast among her students many who have gone on to achieve as teachers, doctors, lawyers, judges, and in various other professions over the years.

Henrietta Dixon has always been willing to share her talents with the community, while asking little in return. Not only did she teach music free of charge, but she taught black history at various schools in the Cleveland area. She has a special gift for using music to reach out to our youth.

Mr. Speaker, I am proud to salute Henrietta Dixon. She is a shape note historian, practitioner, and teacher. She is also an outstanding individual and remarkable woman whom I will always admire and respect. I ask my colleagues to join me in a very special salute to my greatest teacher, Ms. Henrietta Dixon.

IN HONOR OF LITHUANIAN PEOPLE ON SECOND ANNIVERSARY OF INDEPENDENCE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. LIPINSKI. Mr. Speaker, I rise to pay tribute to the people of Lithuania as they celebrate the second anniversary of their regained independence.

As many of us are aware, the Lithuanian community around the world just finished celebrating Lithuania's 74th anniversary. On February 16, I joined the many Lithuanians in my district in observing this auspicious occasion.

However, I think it is fitting and proper to add March 11, 1990, as a new independence day to be recognized. It was on that day that the Supreme Council of Lithuania fulfilled the democratic mandate of the Lithuanian people and restored Lithuania as a sovereign state.

March 11, 1990, represents the final victory over 51 years of Soviet Communist domination. During that time the Lithuanian people struggled against a systematic attempt to crush their spirit and halt the independence movement. It is a testament to the will of the Lithuanian people that they did not falter in the face of a larger and more powerful enemy.

I ask my colleagues to join me in honoring the individuals who fought and died for the freedom of Lithuania, and to commemorate March 11, 1992, as the second anniversary of the newly formed Democratic Government. I urge all citizens to recognize this day of independence for the Lithuanian community.

TRIBUTE TO KARL ULLMAN

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. BERMAN. Mr. Speaker, we rise today to pay tribute to a good friend and outstanding leader, Mr. Karl Ullman, who is celebrating his retirement after 40 years of service to local 495 of the Joint Council of Teamsters.

Karl has served local 495 in a variety of capacities during his distinguished career, including as president from 1965 to 1970 and as secretary-treasurer for the last 12 years. He has also been a member of the Joint Council of Teamsters Executive Board since 1978. His leadership and commitment to the welfare of the Teamsters have earned him the respect and affection of all his membership.

During Karl's tenure as secretary-treasurer, he was appointed trustee to both the Western Conference of Teamsters Pension Plan and the Teamsters Miscellaneous Security Trust Fund. His untiring efforts in promoting the causes of the Teamsters led to his appointment as the assistant automotive division director for the Western Conference and he was eventually selected as full director of the Automotive Trades Division.

Karl is also recognized as an involved, persistent and effective negotiator in protecting the rights of working people. Always ready to go the extra mile, Karl is well-known for his successful negotiating of contracts for decades.

There are few people so dedicated as Karl. It gives us great pleasure to ask our colleagues to join us in wishing Karl Ullman a happy, healthy, and productive retirement.

HUGH D. PICKETT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. WEISS. Mr. Speaker, it was my privilege today to participate at the memorial service at the Judson Memorial Church for my friend, Hugh D. Pickett, who died on Saturday.

I am pleased to share with my colleagues the obituary which appeared in the New York Times as well as my remembrances of this wonderful human being.

HUGH D. PICKETT—BAPTIST MINISTER, 60

The Rev. Hugh D. Pickett who oversaw pension plans and other employee benefits for 10,000 Baptist ministers, missionaries and lay workers around the world, died on Saturday in Tampa, Fla., where he was attending a church meeting. He was 60 years old and lived in Manhattan.

He died of a heart attack, church officials said.

Mr. Pickett, who was associate executive director for benefit plans for the Ministers and Missionaries Board of the American Baptist Churches, graduated with honors from Denison University in 1953 and from the Yale Divinity School in 1956, the year he was ordained and the year he became the director of campus ministry at Ball State University in Muncie, Ind. He joined the ministers and missionaries staff in 1963.

He received a master's degree in higher education from the University of Michigan in 1961. He was a Carnegie Fellow in 1962.

He is survived by his wife, Anna Lou, and a sister, Rachel Anne Anderson, of Arlington, Tex.

To say that Hugh Pickett touched all of our lives very deeply is to state the obvious—but it is also to vastly understate the matter. You didn't just become a friend of Hugh's—you became part of his family. Indeed he had the largest extended family of anyone I know. And he was extremely protective, loyal, and proud of each and every one of us—from his peers to the youngest of the group.

He was proudest, of course, of Anna Lou. Together they forged a magnificent marriage; two strong, independent, self-sufficient people who did not need the other to make themselves whole. Maintaining their full individualities, they became a dynamic loving team in the many areas in which their interests and activities coincided.

Hugh had a special capacity to relate to young people, and whether it was Alex, Pekoe, and Steven who spent their summers or the Weiss-Hoover boys who traditionally visited for years on the weekend before Labor Day, Shelter Island became the place where children could also be treated as adults—at least by Hugh. As Katrina and Tatiana were officially inducted into the family in wedding ceremonies conducted by Hugh, and then Paula and our grandchildren each came along, they too shared in the magic.

The discussions Hugh engaged in with the kids, or with the adults for that matter, were quite often calculated to make you climb the walls. Is it any secret to any of us that Hugh had some strongly held opinions. To set off a discussion, or an argument, he was capable of adopting the most outlandish point of view; and because he was so mischievous you could never be certain whether he was putting you on the whole time.

He loved people and the company of people. He loved to entertain and he was a great cook. He performed everything—be it a wedding ceremony for our children or a Christmas supper for friends—with the elegance and style he brought to everything.

Hugh loved the little conspiracies that politics offer up sporadically.

I was pleased and grateful that he served as the treasurer of my campaign committee for the past 20 years. A truly thankless job even if my treasury was never of overly burdensome dimensions. Still there were records to be kept and reports to be filed according to a predetermined schedule promulgated by the Federal Election Commission. For the most part Hugh met the deadlines; but there were occasional lapses.

Here is how Crains Business Weekly reported one such lapse last year: "Earlier this year, the treasurer of Representative TED WEISS' 1990 election campaign wrote the Federal Election Commission to explain why his staff had failed to meet a deadline for filing a report on campaign contributors. The treasurer said he had been in eastern Turkey at the time, the person in charge of checking the mail had just had a baby and well, 'we did not have a campaign organization or operate in a normal campaign fashion'." I hasten to add that the FEC found that a perfectly acceptable explanation; especially since it was the off season, no elections were pending and there was little to report in any event. Hugh knew how to keep the important things in life in perspective.

Hugh was a wonderful human being devoted to truth, justice, and peace. We loved him when he was with us and we love him still even as we know that we will miss him terribly.

COURT GETS MORE CRUEL AND UNUSUAL

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. EDWARDS of California. Mr. Speaker, our judicial system is based on the premise that those accused of a crime are innocent until proven guilty. The Supreme Court, by ruling that judges can deny bail to "putative offenders" on grounds of "dangerousness," appears to give those judges the power to override that premise. In addition, we see the Court eroding the standard of cruel and unusual punishment. These constitutional rights, guaranteed by the eighth amendment, are slowly being eviscerated, as indicated by the sixth editorial in the Atlanta Constitution series honoring the 200th anniversary of the Bill of Rights.

Article VIII: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

COURT GETS MORE CRUEL AND UNUSUAL

The following is the sixth in a series of editorials leading to the 200th anniversary Dec. 15 of the ratification of the Bill of Rights.

Basic fairness in punishment is guaranteed by the Eighth Amendment, which prohibits the government from imposing excessive bail and fines and inflicting "cruel and unusual punishments."

Bail ensures that people accused of a crime will show up for trial. It is grounded in the ancient English principle that such people must not be routinely incarcerated.

Four years ago, the U.S. Supreme Court kicked the pins out from under that principle by upholding the constitutionality of a federal law permitting preventive detention. Under the court's ruling, judges can deny bail to "putative offenders" on grounds of "dangerousness."

In effect, the judges are asked to predict the likelihood of future criminal conduct. So much for blind justice and the presumption of innocence.

A century-long series of Supreme Court rulings declares that punishments are to be judged unconstitutionally cruel and unusual according to an evolving standard of public opinion. The current court appears to be falling significantly behind a more enlightened American citizenry.

In 1989, for example, the court ruled that it is all right to execute a mentally retarded person—two years after this was forbidden by the state of Georgia, as pro-death penalty a jurisdiction as exists in the country. In other dubious cases, the court has allowed the death penalty to be imposed on people as young as 16; whether it permits 15-year-olds to be executed remains to be seen.

This year, in a 5-4 decision, the court decided there can be no cruel and unusual punishment in a prison unless a prisoner can prove that prison officials in some sense intended it. Absent "deliberate indifference" on the officials' part, the prisoner has no recourse.

The Bush administration itself warned against insulating "seriously inhumane" prison conditions from constitutional challenge merely because those in charge have tried (unsuccessfully) to make things better. That's not our problem, said the court.

A TRIBUTE TO THE ELLIS FAMILY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, it is my pleasure to have the opportunity to acknowledge the members of the Ellis family for having taken part in the Greater Miami Opera's "Cristoforo Colombo." Bobby and Judy Ellis and their daughter Jennifer took part as extras in the production. In a Miami Herald article entitled "A Shared Spotlight," Bea Moss reports:

The Ellis family is used to doing things on the spur of the moment.

After all, Bobby Ellis and his son Geoffrey hopped on a plane to Germany in the fall of 1989 to see the dismantling of the Berlin Wall and to chip off a few pieces.

When Judy Ellis saw a notice in Neighbors a few weeks ago about the Greater Miami Opera looking for extras for an upcoming opera, she said what the heck.

"We figured we had nothing to lose by going," she said. "If we didn't get the parts, we'd just go out to lunch."

Actually, Judy and her husband, Bobby, went to the audition just to give support to their daughter Jennifer, an aspiring actress.

Geoffrey, 20, a student of graphic design at the North Campus of Miami-Dade Community College, passed on the experience.

'THEY NEEDED MORE EXTRAS'

"It turned out they needed more extras," said Jennifer, a senior at Palmetto High School where she is president of Palmetto Players and vice president of the Thespian Honor Society.

That is why there will be three Ellises on stage in the opera's production of Cristoforo Columbo, opening Monday at Dade County Auditorium.

More than 100 people of all ages were chosen to be supernumeraries—extras with nonspeaking roles—in the opera, written by Alberto Franchetti and Luigi Illica and first performed in Genoa, Italy, in 1892. This will be the first time the revised opera has been performed in the United States in 80 years.

Bobby Ellis, manager of reservation sales for Delta Air Lines, was chosen to be a dignitary in the court of inquisition for the production.

"I was fortunate to get the part because I appear three different times," said the tall, slim super, who will wear a flowing black velvet rope and a jacket with a fur collar.

Judy was chosen to be a nun. Dressed in an elaborate habit, she will stand and kneel a lot, she said.

FOUR SCENES

Jennifer, almost five feet nine inches tall, was lucky. She will appear in four scenes. She will be a monk, "because they needed tall people," a nun and an Indian servant in the New World.

"That's something," she said. "From a nun to an Indian maid with feathers."

Her final role is in the opera's epilogue, in which she is a vision of the departed Queen Isabella, wearing an elegant gown.

"I welcome the chance for this experience," said Jennifer, who plans to major in theater in college. "It helps me to see if this is what I really want."

Bobby, who appeared in high school productions many years ago, says he has been something of a ham over the years.

"Maybe this will rub off on Jennifer in a positive fashion," he said.

The family, which moved to the Pinecrest area 4½ years ago, had thought about auditioning for an opera when they lived in Pasadena, Calif., but never did.

Judy has some stage experience, having produced and narrated fashion shows in Pasadena.

All three are happy to be in the production. Even the three weeks of almost nightly rehearsals hasn't dimmed their enthusiasm.

"Everybody had been really friendly," Judy said. "It's like a big family."

In fact, this is the largest number of supernumeraries in the history of Greater Miami Opera productions, said the extra's captain, Chris Warren of Perrine.

Supers are paid a nominal fee for expenses.

Warren, also a super and a backup, is playing the silent role of King Ferdinand.

"As a super, you feel part of the total opera," Warren said. "If the opera is successful and if you were only on the stage for 30 seconds, you feel like you contributed to its success."

When the idea of that success and curtain calls were mentioned, Bobby Ellis didn't hesitate.

"When the cheers start at the end of the opera," he said, "we'll pretend they're yelling for us."

Mr. Speaker I am pleased to acknowledge the work of the Ellis family in the Greater Miami Opera. In addition, I wish to recognize the work of Jennifer Ellis, who was also cast in the opera's next production. Through this opportunity, Jennifer has decided to pursue her interest in the arts and a career in acting.

THE FEDS AND THE ARTS: WHERE IT WENT WRONG

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. STEARNS. Mr. Speaker, I would like to refer to my colleagues the following article that appeared in the February 25, 1992 edition of the Washington Post. This article is by Leonard Garment who was a White House counselor to President Richard Nixon, and gives the interesting history of the National Endowment for the Arts.

Mr. Garment is a supporter of Federal funding for the arts, however, in his article he seriously questions the need of Federal funding given the disdain and contempt the artistic community has shown the taxpayers.

Garment says: "If the Endowment is to survive, we will have to start making legislative distinctions between the preservation and dissemination of time-tested art treasures—from Michelangelo and Mozart to Bechet and Ellington—which can and should be given public support, and contemporary art still in the aesthetic laboratory, which will have to be supported by private foundations and patrons. If private aesthetic tastes runs to fecal symbolism, public urination and the politics of contempt, so be it, but not with public funds. And if some arts leaders continue too show disdain for the hard, disciplined, compromise-filled work of sustaining a political consensus for the arts, and continue to act as if shouting "First Amendment!" at every opponent were a persuasive or powerful argument, the Federal arts experiment will face and fall."

Mr. Speaker, with our Federal budget deficit expected to reach approximately $348 billion this year, we can only afford what is absolutely necessary, not just desirable.

Given our deficit and the many critical Federal programs being underfunded, I ask my colleagues to read Mr. Garment's article and ask themselves if the $178 million we appropriate to the NEA is absolutely necessary, or just desirable?

[From the Washington Post, Feb. 25, 1992]

THE FEDS AND THE ARTS: WHERE IT WENT WRONG

(By Leonard Garment)

The President's fear of Pat Buchanan's sharp tongue may have been the final straw, but it was inevitable that John Frohnmayer would sooner or later have to resign as chairman of the National Endowment for the Arts. He has been forced out not because he is an egregiously inept man—but because he served during years when this country finally had to face up to the immense difficulty of funding private art with public money in a populist culture. Those of us involved in federal arts policy over the years worked hard to keep this tension submerged. It is something of a miracle that we succeeded as long as we did.

The federal government started funding federal arts programs as early as the 1930s, but it was the Kennedy administration that pushed the idea of a broader federal arts policy and established a Federal Advisory Council on the Arts to pursue such a policy. In 1965 President Lyndon Johnson finished what his predecessor had started by creating the national arts endowment that we know today. Its funding, at the beginning, was insignificant.

When the Nixon administration took office in 1969, I became the White House aide in charge of arts. I was visited by visions of a vastly expanded Endowment, and President Nixon was agreeable to the idea. Under attack from liberals over Vietnam, he saw benefits in making some conciliatory gestures toward them. As a student of history, he knew something of the connnection between great cultures and powerful political regimes. And he was, hard as it may be for his enemies to imagine, a closet aethete who worshiped great artistic performers.

In the spring of 1969 I turned for help in this project to Michael Straight, Nancy Hanks and Charles MacWhorter. The administration got things started by proposing a doubling of the arts budget. Nancy became chairman of the endowment and spearheaded the effort with Congress, explaining how more money would fund more arts institutions and artists across the country—i.e., in every congressman's district. She soon reached critical mass and took off on her own. She was a huge success, and the Endowment's annual budget grew exponentially, from $8 million to $140 million, until she finished her second term in 1976. Meanwhile, Straight, a novelist and serious art collector, became deputy chairman of the Endowment. He served as quality control officer and worried about the damage this idea of art-as-politics might ultimately do to the artistic quality the Endowment was supposed to promote.

Sometimes we had to deal with controversies created by the burgeoning federal arts establishment—though by contrast with today's blowups, ours were chaste and tame. There was, if you can now imagine it, a three-week congressional dust-up over the use of the word "bullshit" in a federally funded Living Stage improvisation for school-children in Baltimore. Then the American Film Institute, a federally funded organization housed in the Kennedy Center, scheduled a feature called "Milhous," a foul and second-rate trashing of the incumbent president. At Michael Straight's urging, I let the thing pass without comment, praying Nixon would not notice it.

But on another occasion the Institute proposed to run "State of Siege," a Costa Gavras film about the killing of a hostage by leftist terrorists. It seemed to me crazy or worse, in those days of active terrorism, to run a film extolling terrorist murder in a federally funded facility. I calmly told my friend George Stevens, the Institute's director, that I intended to withdraw—noisily—the president's name as sponsor of the benefit premier at which the film was to be shown. Stevens just as calmly canceled the film. He had decided, he announced, that running a film at the Kennedy Center passing assassins was not appropriate. The artistic heavens did not fall.

We had scores of small conflagrations that were contained or smothered by Nancy and Michael's eternal vigilance. The political right was kept at bay, and arts community leaders stayed silent at minor intrusions. They expressed an unarticulated consensus: Spare the words and save the child.

I left Washington after Watergate. Under President Carter, I saw the Endowment become politicized, absorbing lock, stock and cyanide the contaminating idea of a "populist" art culture. Historically validated artistic excellence increasingly had to elbow its way through crowds of mediocrity. And what had once been arts sideshows—experimental and provocative forms, political arts, new and exotic grants categories to cater to an alienated part of the arts world—gradually edged into the main arena, pushed there by the changing political culture and attracting foreseeable trouble from critics on the right.

I now think, though, that the seeds of destruction were sown at the beginning, as Nancy Hanks, in her passion for growth, enlarged the arts constituency by doing what politicians do best: doling out money with less and less discrimination in order to get more and more money. But Nancy had a genius for creating coalitions and rolling with contradictions. The Carterites could not duplicate her, and they lacked a Michael Straight to restrain them. They simply shifted the process into high gear.

In 1980 President Reagan came to town and promptly, though unsuccessfully, tried to zero-fund the Endowment. It survived subsequent assaults partly because of the chairmanship of Frank Hodsoll, a graduate of White House aide Jim Baker's staff and a man of great political skill. But the endowment was by now beset on the left by militant feminism, homosexuality, AIDS advocacy, political rage, and undifferentiated provocation for the sheer hell of it. The visual arts, in particular, had gone off the rails, with post-modern Dada-style absurdity setting up one easy target after another. On the right, the same Endowment was under attack from conservative-movement politics, fundamentalist fury and Sen. Jesse Helms. Looming over the resulting clashes was a media machine avid for the sort of titillating material that usually lay at the heart of these disputes.

Consensual arrangements and quiet fictions that had once enabled political and artistic adversaries to maintain a troubled truce started to collapse, revealing the paradox at the heart of federal support for the arts: the idea that the whole country should pay for highly particular and private tastes.

In 1989, early in President Bush's administration, John Frohnmayer invited me to lunch to talk about his new job. The controversy over the Endowment's support of the Mapplethorpe photographs, a headache Frohnmayer had inherited, was already in the news. I found myself suggesting to Frohnmayer some survival rules that would never have occurred to me in the old days: 1) The Endowment's enemies would try strenuously to have Frohnmayer's performance judged by the nature of his mistakes. 2) In his battle against these enemies, the artists would not be loyal allies. In fact, they too would be his adversaries and had to be treated as such. 3) His real constituency was not the artists but the president, Congress and the public. He could benefit the arts only by succeeding, and success would be impossible if he thought of himself as an advocate for artists.

He was politely appreciative, but went his own way, from one head-banging to another at the hands of artists and moralists. A few controversial grants—a virulently political pro-AIDS work featuring public figures like Cardinal O'Connor, Andres Serrano's "Piss Christ" with its crucifix in urine, theater involving symbolic excrement spread over the performer's body, and the like—came to symbolize the descent into artistic and moral disorder of the once-disciplined federal effort to support aesthetic "excellence." The arts community's heated defense of these grants infuriate not only the Endowment's conservative opponents but a large number of previously neutral bystanders. The controversy paralyzed congressional proceedings to reauthorize the Endowment in 1990, and Sen. Helms introduced a proposal to codify standards of decency for Endowment grants. Artists replied that their First Amendment rights were being trampled.

Out of the noise came—what else?—a congressionally created bipartisan commission. Along with John Brademas, president of New York University and, in his past life as a congressman, an original drafter of the 1965 Endowment legislation, I was named co-chairman. The 10 other commissioners were a politically heterogeneous and fiercely opinionated group of arts aficionados. But we agreed, amazingly, on a unanimous report. It recommended that the Endowment be reauthorized and that there be no specific content restriction—but that the Endowment's grant procedures be drastically revised to curb conflicts of interest among panels of artists and to restrain the funding of self-destructive artistic craziness.

Yet after the funding crisis passed, behavior at the top of the Endowment did not change enough to make a difference. This fall Frohnmayer received a recommendation from the Endowment's advisory council that some of the same avant-garde performance artists who had conspicuously angered Endowment critics be given funds for more projects. He would not overrule it; the chairman's job—he gave me his principled explanation—was to overrule his council only if a recommendation met a quasi-judicial standard of clear and convincing error. The next day an Endowment staffer privately read me a string of phone messages received from staffers who were calling on behalf of the Endowment's most durable supporters in Congress. They all said more or less the same thing: "Has he lost his mind?"

Can the president, Congress and the arts community finally cut through all this baloney and febrile foolishness and redeem the original idea of the arts endowment? I am coming to doubt it. This country, it is now clear, simply does not have the traditions of deference to artistic elites and central government authority to make the job easy or natural. If the Endowment is to survive, we will have to start making legislative distinctions between the preservation and dissemination of time-tested art treasures—from Michelangelo and Mozart to Bechet and Ellington—which can and should be given public support, and contemporary art still in the aesthetic laboratory, which will have to be supported by private foundations and patrons. If private aesthetic tastes run to fecal symbolism, public urination and the politics of contempt, so be it, but not with public funds. And if some arts leaders continue to show disdain for the hard, disciplined, compromise-filled work of sustaining a political consensus for the arts, and continue to act as if shouting "First Amendment!" at every opponent were a persuasive or powerful argument, the federal arts experiment will fade and fall. It will be sad ending after a happy start, and a loss to the country, but this prospect is as certain as the implacable anger that follows sustained insult.

A final word: Supporters of the Endowment idea, like me, should note that on Sunday television's "David Brinkley Show," four mainstays of the Washington establishment—Brinkley, Sam Donaldson, Cokie Roberts and George Will—agreed, more in weariness than indignation, that it was time for the Endowment to go.

CREDIT UNIONS BUILD CONFIDENCE

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. HUBBARD. Mr. Speaker, in the late 1800's, about the only way our Nation's working people could obtain a source of credit was through loan sharks. However, they learned that by banding together and pooling their monetary resources they could break the grip of loan sharks and in fact begin to build savings and credit for the first time. These are the roots of America's credit unions, which were first established in the United States in the year 1909. It is remarkable, through all the changes and upheavals experienced by our economy and our financial institutions during this century, credit unions are poised to enter the 21st century in the same fashion as they began the 20th century: as builders of confidence for credit union members, now 62 million strong.

Credit unions—regardless of size or sophistication of services—remain steadfastly wedded to the principle of providing low-cost financial services to their members. This is the very best way credit unions know how to build confidence.

Each year in the American Banker survey, credit unions have distinguished themselves by receiving the highest percentage of very satisfied ratings from their members. In 1991, consumers gave credit unions a 78 percent very satisfied rating as opposed to 65 percent for commercial banks and 62 percent for thrifts. While 43 percent of those surveyed belonged to credit unions, only 21 percent designated a credit union as their "principal institution." Banks were tapped by consumers 57 percent and thrifts 23 percent of the time as their principal institutions.

Credit unions' dedication to service, rather than profits, is even better illustrated by the fact that 29 percent of customers surveyed said the quality of service improved over the past year at their credit union. Only 17 percent of bank depositors and 19 percent of thrift customers responded similarly.

When the results of the American Banker survey are augmented with the countless examples of how credit unions interact with their members, a clear picture of these financial cooperatives comes clearly into focus. Credit unions provide financial services to their members who in a great many instances may not find these services elsewhere. For example, a survey by the National Association of Federal Credit Unions [NAFCU] of their members conducted last year found that the average annual interest rate charged on credit cards was 14.9 percent as opposed to the 18 to 19 percent charged by commercial banks. It is interesting to note that amidst the considerable opposition to Federal regulation of credit card interest rates last year, there was little notice of the fact that Federal credit unions are the only financial institutions chartered by the Federal Government which must submit to a usury ceiling, currently set at 18 percent under the terms of the Federal Credit Union Act. By providing low-cost financial services, credit unions provide their members with the confidence they require to enter the marketplace and finance the types of purchases that are necessary to get the American economy going again—be they major purchases such as automobiles or homes, or more routine acquisitions.

Yet, in terms of total assets among all financial institutions, credit unions comprise a very small piece of the pie—less than 5 percent overall. The aggregate assets of the top 25 American banks is over six times the combined size of all credit unions. But to those 62 million American consumers who belong to credit unions, the availability of low-cost financial services represents a vital niche in our financial marketplace. The niche that credit unions have cultivated—and that continues to blossom—is based on the fertile seeds planted almost a century ago, and is one that the Nation's credit union community strongly wants to maintain and will fight to preserve.

I urge my colleagues in Congress to continue to defeat measures which would injure our Nation's credit unions—such as the administration's recent proposal to tax credit unions—and allow these nonprofit, democratically controlled and volunteer-driven financial cooperatives to enter the 21st century as they began the 20th century: as confidence builders.

TRIBUTE TO DAVID AND SUE CORNELL

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize two truly outstanding individuals in northern Michigan. David and Sue Cornell have been named as the Greater Kalkaska Area Chamber of Commerce 1992 Citizens of the Year.

Their activity in the community is strong and varied. Both are members of the Spencer Church of Christ. David is an Elder, and Sue teaches Sunday school. They also are involved in diabetes clinics and hospital work.

Sue has served as the treasurer for the National Trout Festival, an event held annually for over 50 years that promotes the fishing and other summer sports that prevail in the Kalkaska area. With over four major trout streams in Kalkaska the festival attracts thousands of visitors to Northern Michigan. She is also involved in many other activities including Cub Scouts.

David is the vice-president of the Kalkaska Area Chamber of Commerce and chairman of the Downtown Development Authority. He has been instrumental in the organization of such events as the National Trout Festival and Winterfest, an annual winter carnival held to celebrate the wonderful winters in Northern Michigan. Included in the festival is a major sled dog race that is the last major race before the famed Iditarod. It regularly draws dog sled teams from as far away as the east coast, Minnesota, and Canada.

Their drug store in Downtown Kalkaska is a gem of the community. The service provided by the Cornells is outstanding. They make sure that the customers they serve are always satisfied. If David has to take extra time to explain the do's and don'ts of medication a customer is receiving, or if Sue has to order something special for a customer, they make sure it is done. Their commitment to the community is equalled by their commitment to their store.

Mr. Speaker, I know that you will join with me in honoring this fine couple on being named the Greater Kalkaska Area Chamber of Commerce 1992 Citizens of the Year. Their time and commitment to the community is exemplary. Let us congratulate them on a job well done.

REPRESENTATIVE GERALD SOLOMON HONORED BY VETERANS OF FOREIGN WARS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. MONTGOMERY. Mr. Speaker, there is no more loyal advocate for the Nation's veterans than our distinguished colleague from New York, JERRY SOLOMON. Time and again, as a member and ultimately the ranking minority member of the Veterans' Affairs Committee, he eloquently and fiercely defended every veteran's right to a decent opportunity for readjustment to civilian society and made an indelible contribution to quality veterans' health care and meaningful benefits programs. There is a combination of concern, passion, and perseverance—at least some of which stems from a Marine Corps background, I'm sure—that has enabled JERRY to make significant things happen in the development of veterans' programs.

It was JERRY SOLOMON's initiative that resulted in the Veterans' Administration being upgraded to a Cabinet-level department. As a result, veterans can now enter through the front door of the White House instead of the back door. It gave them access to the President and a role in the deliberation of this country's policies. For that alone, JERRY deserves the veteran community's praise.

As a member of the Rules Committee, his advocacy has not wavered in the least. The veterans of New York already know it, I'm sure, and the other 25 million American veterans and their families should be made aware that JERRY SOLOMON is one of the best friends they have in the U.S. Congress.

In recognition of his outstanding service and advocacy, the 2.2-million-member Veterans of Foreign Wars, in an impressive ceremony here in Washington last evening, presented JERRY with its VFW Congressional Award.

I would like to share with my colleagues his acceptance remarks:

REMARKS BY GERALD B.H. SOLOMON

Commander-in-Chief, Bob Wallace, your lovely wife Dianne, distinguished officers and members of the Veterans of Foreign Wars, National President Mary Sears and your auxiliary, distinguished Members of the House and Senate, outstanding Voice of Democracy participants, ladies and gentlemen.

Four years ago, at your VFW Convention in Chicago, I was deeply honored to have been the recipient of your VFW Commander-in-Chief's Gold Medal Award.

But this evening, I am even more proud and privileged to receive the VFW's highest citation, the "Congressional Award."

Proud, because it allows me to join with those other select Members of the House and Senate, many of them here with us this evening, who have received this covetous award for what they have done for their country and for the veterans of this great Nation.

But, Commander Wallace, I am even more proud because this award comes from an organization of over 2 million brave men and women, over two thousand of them here this evening, all of whom, during times of great peril of war, risked their own lives in defense of their country, and in defense of freedom and democracy for all mankind.

Commander Wallace, the men and women of your organization are the true heroes, who not only served their country in uniform, but continue to do so as members of the Veterans of Foreign Wars, a group that is always in the forefront of efforts to develop and maintain adequate veterans benefit programs.

Mr. Commander, the community work carried out by your local VFW posts in hometowns all across America is legendary.

And your promotion of pride, patriotism, and good citizenship, as exemplified by your nationwide "Voice of Democracy Program" and these wonderful young people here tonight, is an inspiring and proud example to all Americans.

And Mr. Commander, the American people are grateful for what you and your organization have done, and continue to do for America.

This Nation has a great memory, and will never forget those who labored mightily in its cause, who suffered hardship in its defense, or became disabled in its preservation.

No, America will not forget, nor will veterans ever forget because those who wear the proud label of "veteran" have great memories.

They are memories of pain, glory, and honor.

They are memories of the horror of war and the preservation of freedom.

They are memories we must never forget * * * because those memories are the very reason we are the greatest, freest nation on earth.

And it is those memories that brought about the VFW's greatest accomplishment during the 1980's.

And that was your never ending support of the peace through strength philosophy of a strong national defense second to none.

That peace through strength concept stopped international communism dead in its tracks, it brought the Soviet Union to its knees; and it is the very reason that democracy is breaking out all over Europe and around the world.

And it is the very reason that our military, in magnificent fashion, and led by General Norman Schwartzkopf, was so successful in Operation Desert Storm.

But, my fellow veterans, even though we have been successful, the war is not over.

The threat to American freedom is still there. Yes, the Berlin Wall has fallen and the former Soviet Union is no more, but the cold fact is that tens of thousands of armed nuclear warheads are still aimed at American cities.

Four million Soviet troops still remain in uniform and the new Russian Confederacy is highly volatile and unstable * * * and no one knows the future, or who will control it.

There is also the very serious threat that no less than ten hostile anti-American terrorist countries either have (or are on the verge of having) nuclear missile capability * * * and any one of them would not hesitate a moment to launch a sneak terrorist attack on Americans, both here and overseas.

And of course we all know that deadly atheistic communism still enslaves almost half of the world population in places like Cuba, North Korea, Vietnam and mainland China.

And my fellow veterans, that means the job is not done * * * the war is not over.

And that is why we must never let down our guard. We must never again leave America undefended, as we did on December 7, 1941.

That is why we must absolutely continue to maintain a peace-through-strength strong national defense, that can guarantee the protection of American interests both at home and abroad.

Yes, while still protecting America's interest, we can reduce our defense budget within reason, as Secretary Cheney and General Colin Powell have recommended. And, yes, most of those savings should be used to reduce the unconscionable deficit that is running our Nation's economy.

But, any of that savings that is not applied to the deficit ought to go directly towards restoring the Department of Veterans Affairs Hospital and Health Care Programs to a funding level that will guarantee our Nation's obligation to provide the highest quality medical care to any, I repeat any, sick or disabled veteran, and do it in veterans hospitals * * * where only veterans are served.

And so my fellow veterans, the fight is on!

We must fight with all our might to see that our military budget is not decimated.

We must fight to make sure that the future veterans of America, the young men and women serving in our all voluntary military today, continue to be the brightest, the best educated, the best trained, the best equipped, and some of the most highly motivated soldiers ever to serve.

We must make sure that these volunteers, coming from the inner cities of America, from the suburbs, from the farms, from all across America, have an opportunity to pursue an honorable and proud military career.

Where they can accumulate up to $25,000.00 of educational benefits thru the Montgomery GI bill.

And where they can learn something desperately needed in America today * * * how to be good citizens.

In today's military, our young people learn things all to often neglected in our homes and schools.

They learn discipline and respect.

They learn teamwork and responsibility.

They learn the importance of being polite and courteous.

They learn to live by the rule of law.

They learn not to use illegal drugs.

They learn the meaning of the words pride and patriotism.

And more often than not they even get a little religion.

Yes, every year, hundreds of thousands of these kids, many from the inner cities, from broken homes, from middle-class America, join the military, become good citizens * * * and they learn these terribly important principles they, somehow, missed at home or in school.

And when their enlistment is over, when their service is done, they turn in their uniforms and return home, bringing these ingrained principles along with them, to be spread about their community, and taught to the younger generations to come.

Yes, these men and women are no longer soldiers, sailors, marines, or airmen, they now have a new responsibility.

They have now joined one of the most important groups of people in America, a group that is, without doubt, the most responsible for making America the greatest and freest nation on earth.

It is the group represented by all of you gathered here tonight, those who have earned the right to produce call themselves veterans of the armed forces of the United States of America.

Thanks to them, America is number one!

Commander Wallace, on behalf of all veterans, I gratefully accept this cherished Congressional Award.

God bless you * * * and God bless America.

Thank you.

HEIDI PACK IS CHOSEN AS IDAHO'S 1992 VOICE OF DEMOCRACY WINNER

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. STALLINGS. Mr. Speaker, I am pleased to announce that Miss Heidi Pack, from my hometown of Rexburg, ID, has been chosen as the Idaho State winner of the 1992 Voice of Democracy Contest.

Miss Pack is a student at Madison High School and the daughter of Mr. and Mrs. David R. Pack. Miss Pack was chosen as Madison's Young Woman of the Year and she is an exceptional member of the school's debate team. She also is a member of the National Honor Society.

Miss Pack's speech, "Meeting America's Challenges," is outstanding, and she offers tremendous insights into our Nation's heritage and its future. I am proud to submit the text of her speech:

MEETING AMERICA'S CHALLENGES

In the national archives of Washington, D.C. there lies an old and yellowed parchment signed by fifty men who mutually pledged their lives, fortunes and sacred honors.

On Liberty Island, a 450 ton copper statue holds aloft a lighted torch. And in Independence Hall, Pennsylvania there hangs a cracked bell.

Thousands flock to these sights daily. What makes these memorials so important? What makes people stand as the flag is carried by? They are a symbol. A symbol of a glorious country in which a brilliant idea of equality was formed and constructed into a document called The Constitution. In such a time as now it is good to hear again great forces of the past and to read the historic proclamations that through the centuries have established the frontier of America and reflect the meaning of our freedom as a nation.

What is this Constitution that I speak of?

*It is a government document allowing rule by the people, and for the people.

*It is an idea that was worth enough to our forefathers that they gave all they had, even their very lives to establish, and,

It is a brilliant document, meeting America's challenges.

The United States of America guarantees us freedom. Protecting individual affairs with the promise of life, liberty and the pursuits of happiness our government stands strong. With clenched fists and open minds our Constitution stands as the foundation and support for our liberties.

How does The Constitution meet America's challenges . . .

It is through this tool that the people rule the government. It is we who know the challenges we face and through this glorious standard, we are allowed to use that knowledge to guide America to meet them. We are masters of our own situations. Only in America can I choose my own religious sect, am allowed freedom of speech, and am guaranteed an education and support in my pursuits. Whether it be as representative or as a direct, we hold the power within our grasp to decide our freedoms, our limitations, and our rights to meet our challenges.

This concept is called democracy. The worth of democracy to us is immeasurable. It is more than just a word or a form of government. It is the invisible hand, the magnetic force which draws from each of us our very best source to others.

"Give me liberty or give me death." Is it that important? Yes, and more. With it we grow, without it we are enslaved. The very idea of democracy asserts the existence of certain freedoms as part of fundamental laws on which the power of the people rest. Yes, we do assert our own freedoms and solutions. We are meeting our challenges with the help of this Constitution's democracy. The power rests upon us, a united whole, an individual nation under God.

Let us take a trip now high above the earth. As we point our headlights down towards a foreign country, we see that in one city, in one building, in one room and in one chair only sit a destiny of a people. (hmm) A light and hope for a country under one person? Putting our headlights on "bright" now and turning the wheel a little, we now can catch a glimpse of a nation with a light on every common doorstep, from the rich to the poor. From gravel road to endless highways we all whisper it, "freedom". Hand in hand we take a part in meeting America's challenges.

Are we meeting America's challenges? Yes, but only through our government by the people, with the people, and for the people are we doing it. Yes, America is * * * Meeting America's Challenges.

SAM JERKINS, HONORED PRINCIPAL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Sam Jerkins, who has been honored by the Dade County, Public School System as being one of its best administrators. He was one of seven candidates chosen to compete for an award.

Mr. Jerkins, described as a friendly, but sharp and capable administrator, has been principal of the Oliver Hoover Elementary School since it opened 10 years ago. In January, students and parents honored him with a surprise celebration they dubbed "Sam Jerkins Day." He was recently featured in the Miami Herald for his extraordinary dedication and commitment to education. The article "Hoover Principal Is Man on Move" by Roxana Soto reveals why he is so admired and loved by students and colleagues. The article follows:

Sam Jerkins rarely sits behind the desk in his office. The Oliver Hoover Elementary School principal is constantly in motion, walking around the school, visiting classrooms and listening to students and teachers.

"He is very nice and friendly," said Joshua Fiedler, 11, a fifth-grader. "He is not like some other principals who stay in their office all day."

At Hoover, Jerkins is the only principal the 10-year-old school has ever had. He's a popular figure, which is just one reason he is the Region VI nominee for the 1991-92 Principal of the Year award.

"Sam Jerkins is a very sharp and capable administrator," said Eddie Pearson, Region VI superintendent.

Jerkins, 58, always wanted to be a teacher. He enjoyed being a student and decided to find out what the system was like from the other side.

"It is my responsibility to make school an enjoyable experience—while maintaining high standards—for both students and teachers," said Jerkins. "If you enjoy doing something, you are bound to do it right."

A native Miamian, Jerkins graduated from Edison High, got his bachelor's degree in education from the University of Miami in 1963 and later returned to get a master's degree.

Jerkins initially wanted to teach high school but soon realized he did not have "a feeling" for older teenagers. He took his first job with the Dade school system at Perrine Elementary, where he taught sixth grade for 11 years. He also worked at Coral Reef and Devon Aire elementaries before becoming principal at Hoover, 9050 Hammocks Blvd., when the school opened in 1982.

In the early days of Hoover, the school consisted of 13 portables and Jerkins recalled he spent most of his time trying to soothe angry parents who wanted a "real" school. Now, almost 10 years later, he says people are moving to the area so their kids can attend Hoover.

"That shows are that we are putting out a good product," said Jerkins. "I'm very proud of the school."

In turn, students and teachers say they are proud to have Jerkins as their principal. Wednesday, students and many parents turned out for a surprise celebration they dubbed "Sam Jerkins Day."

BIOGRAPHY OF BLACK HAWK

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102-188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my on-going series this year, I am providing for the consideration of my colleagues a short biography of Black Hawk, a Sauk chief who is known for his efforts in defending the rights to the traditional tribal lands of the Sauk and Fox Indian tribes. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

BLACK HAWK (SAUK)

In 1804, members of the closely related Sauk and Fox Indian tribes were persuaded to surrender to the U.S. Government all their homelands east of the Mississippi River. A provision of the treaty specified that the two tribes would remain undisturbed until white settlement extended to their lands.

For centuries, Sauks and Foxes had hunted and fished in the rich prairie valleys of what are now Illinois and Wisconsin. Most tribesmen knew nothing about the 1804 treaty until, in the 1820's, streams of white settlers pushed into their territory. The immigrants appropriated the Indians' cornfields, plowed among their graves, and began to press for their complete removal.

Indian ranks split into two factions. One was headed by the Sauks' head man, Keokuk, who had bowed to the inevitable, cultivated American friendship, and led his followers to new lands in Iowa.

His rival, Black Hawk, a Sauk of the Thunder clan, bitterly opposed the Americans. From boyhood, when his hero had been the legendary Pontiac, Black Hawk had hated white men. His fame as a warrior began at 15, when he killed and scalped his first man. Black Hawk went on to fight, first, enemy Indian tribes, then Americans, throughout the War of 1812.

Above all else, Black Hawk furiously resented the 1804 treaty which had taken away Sauk and Fox lands. He repeatedly denounced it, maintaining that it was invalid since Indian signers had been made drunk and were deceived into agreeing to its terms.

"My reason teaches me that land cannot be sold," Black Hawk was to write in his autobiography many years later. "The Great Spirit gave it to his children to live upon. So long as they occupy and cultivate it they have a right to the soil. Nothing can be sold but such things as can be carried away."

Despite Keokuk's efforts to persuade them, Black Hawk and his followers refused to leave their Illinois villages. By 1831, as the Indians found themselves unable to farm their own lands, Black Hawk ordered whites to get out or be killed. Soldiers and Illinois militia moved in and evicted the Indians.

As Pontiac and Tecumseh had done before him, Black Hawk visualized an Indian confederacy strong enough to withstand the whites. He set out to enlist the support of the Winnebagos, Potawatomies, foxes and other tribes, while, at the same time, seeking to undermine Keokuk, his rival.

In April 1832, Black Hawk with several hundred warriors returned to Illinois prepared to drive out the whites and retake tribal lands, and the fighting known as "Black Hawk's War" began. Only the Foxes had joined Sauks in Black Hawk's confederacy, but it was a dangerous enough threat to force the American Government to put troops into the field. For 3 months the Indians managed to elude the Army, winning several skirmishes and terrorizing the Illinois frontier.

The tide turned as more soldiers poured in, pursuing the Indians across Illinois to the Mississippi. There, trapped between the steamship "Warrior" on one side and the Army on the other, Black Hawk's band was nearly destroyed. The Sauk leader himself escaped to a Winnebago village, surrendered, and was taken in chains to a prison camp. Several months later he was released and sent on a trip to the East which included a visit to President Jackson.

"We did not expect to conquer the whites," the Sauk warrior told the President. "I took up the hatchet to revenge injuries which my people could no longer endure. Had I borne them without striking, my people would have said—'Black Hawk is a woman; he is too old to be a chief; he is no Sauk.'"

Black Hawk was received as a hero in several eastern cities, and returned with gifts from American officials. Again in 1837 he traveled to the East, this time with Keokuk. But, soon thereafter, the old warrior was crushed when President Jackson ordered that Keokuk be made principal chief of the Sauk Nation, which would from then on have only one band instead of two. In 1838, at the age of 71, Black Hawk died in his lodge on the Des Moines River, on the reservation ruled by Keokuk.

In accordance with his request, Black Hawk's body was seated on the ground under a wooden shelter, in old Sauk tradition. He was dressed in the military uniform given him by Jackson and decorated with medals from John Quincy Adams, the President, and the city of Boston. Between his knees was a cane, the gift of statesman Henry Clay.

CONGRATULATIONS TO THE RESURRECTION BAPTIST CHURCH—75 YEARS OF SERVING THE COMMUNITY

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today to congratulate the dedicated congregation of the Resurrection Baptist Church. After three quarters of a century of relocation, reorganization, and constant growth, the Resurrection Baptist Church is now celebrating its 75th anniversary, and remains stronger than ever.

Organized in 1917 by the late Reverend George Cable at 1000 West Poplar Street in Philadelphia, the Resurrection Baptist Church has undergone numerous changes in both personnel and location. Despite the fact that the church was forced to move at times due to city redevelopment, the church grew both spiritually and financially over the years at a rapid rate, and in 1959, the Resurrection Baptist Church became an officially chartered church at its present location of 5401 Lansdowne Avenue.

Instrumental in the continued growth of the church was the Reverend John J. Jenkins, a man of great vision and leadership. From 1934 until his passing in 1966, Reverend Jenkins oversaw the great accomplishments of Resurrection Baptist. Continuing in his footsteps was the Reverend Claudius L. Amaker, who assumed the spiritual leadership of the church in 1967, until last year. I am certain that the Resurrection Baptist Church will find itself a true and dedicated leader to carry on the good works of this fine sanctuary.

The members of the Resurrection Baptist Church are truly a special group of people, who have worked hard to make both their church and their community a better place.

It is my sincere hope that the Resurrection Baptist Church enjoys continued endurance and success throughout the years. I ask my colleagues to rise and join me in offering our heartiest congratulations to the Resurrection Baptist Church on their 75th anniversary.

JOHN P. PEARL: A TRUE ENTREPRENEUR

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of our colleagues the 1992 Observer Enterprise award recipient, John P. Pearl, for his superior business skills and community involvement.

Forty years ago John P. Pearl & Associates started with two employees. Now the company has over 300 employees, making it the largest employer in Peoria Heights, IL.

John P. Pearl and his many accomplishments have highly benefited Peoria and therefore have made Peorians proud.

At this time I wish to insert into the RECORD an article by Debbie Hanson further detailing Mr. Pearl's accomplishments:

JOHN P. PEARL RECEIVES OBSERVER HONOR

(By Debbie Hanson)

About 40 years ago, John P. Pearl started Pearl & Associates in an office in the Jefferson Bank building with two employees.

The organization now employs more than 300 Peorians, which makes Pearl the largest employer in Peoria Heights.

For his superior business skills and community involvement, the Observer announces Pearl as the 1992 Enterprise winner.

In discussing the candidates for the award, the judges took into consideration entrepreneurial spirit, community activities and community development.

This year's judges were Mary Alice Erickson, president of Elections & Campaigns; Roger Luman, director, Bradley University business technology incubator, international trade center and small business development center; and Eric Turner, supervisor, Caterpillar marketing, North American Commercial Division.

The criteria also included visionary risk-taking and superior business abilities. Pearl was selected because he has worked to enhance the business climate in Central Illinois through providing jobs in Peoria and has set a positive and lasting example of prosperity in Peoria.

"When I think of community involvement, I think there is more to it than sitting on a board of directors. I think of doing something that will permanently benefit the community," Turner said.

Perhaps his biggest admirers are his children, but many of his employees and community admirers joined in nominating him. Pearl, 65, was cited for his "many years of hard work, determination and not taking no for an answer." He was also cited for building his business into a national insurance underwriting association that put Peoria on the map within the national insurance community.

His company has expanded to include seven branch offices throughout the country and boasts an office in London, England.

"I think that's probably my biggest accomplishment—creating a two-person business and bringing it to what it is today. I've watched it grow over 40 years and that makes me proud," Pearl said.

Born in Philadelphia and reared in Riverside, a suburb of Chicago, Pearl said he didn't expect to stay in Peoria when he came in the early 1940's to attend Bradley University. But after graduating with a bachelor's degree in business administration, a job offer kept him in the area.

Shortly after a career move into insurance, Pearl saw room for improvement and growth in the Peoria business area.

"A true entrepreneur sees what a community needs and does it. They take a risk in getting there, but I don't think money comes too much into the consideration. They see the need and they provide it," Luman said.

In the 1970's, Pearl purchased what was then a struggling motorcycle shop in Pioneer Park and turned it into what is now the biggest Honda car dealership in Central Illinois. Today Honda World employs 32 people.

The same case scenario is true for Heritage Buick-Mazda, located in Pioneer Park. Purchased in October, 1980, it employs 35 people, and Peoria Toyota-Volvo, purchased in February, 1981, employs 35 people. Also on his list of properties are Pearl Lincoln-Mercury in Peoria and Pearl Dodge in Pekin both bought in November, 1990.

"I have sort of brought together my favorite hobby and business with the car dealerships. I have always enjoyed cars," he said.

Pearl was selected recently from hundreds of Central Illinois car dealers to house the area's only Lexus dealership.

His insurance building was awarded the Peoria City Beautiful Award in 1979. In 1989, he acquired a mail house from Fleming & Potter, changing its name to Mail Tech, which employs 30 people. In 1987, he bought The Strawberry Patch, a women's clothing boutique in Peoria Heights employing 10 people.

On a national level, Pearl is half-owner of Health Payment Review, a Boston-based computer health claims company.

Pearl's entrepreneurial spirit was shown again when he initiated the Heights Bank, at the corner of Samuel Avenue and Prospect Road. Realizing the people of Peoria Heights had no financial institution, he created a bank used by many in Peoria Heights that employs 20 people. "John Pearl has done a lot for this community as far as creating businesses and employing people. If you look at all of the jobs he created, he could have created those anywhere. He didn't have to do it in Peoria, but he did," Erickson noted.

Pearl credits his success and ability to branch into other endeavors to a favorable economic environment in Peoria.

"The environment has been very good and very steady throughout the years, compared to the overall economy prior to now. We're in an unfortunate situation now with troubled economic times in Peoria coupled with the Caterpillar labor dispute," Pearl said.

He also credits his staff for his success and is looking forward to spending more time in Florida where he enjoys boating and playing golf. Though his idea of relaxing is daily correspondence with the office while he's gone. Pearl said he is getting better at breaking away from work.

"I try not to worry so much about the office. I'm not burning the candle at both ends anymore. That means not working so hard at getting in here by 8 o'clock. The problem with that is everyone here knows they can trap me at home by the phone, so I guess it's not that much of a break.

Though he may come in a little later than the average business hours, Pearl is often at the office when others have gone home.

"I go home whenever the phone stops ringing and people stop coming in with questions. There are certain things you need to do when it's quiet, so I do that whenever everyone else has gone home."

In the 40 years, Pearl's been in business, he's seen a lot of changes in the business world.

"The world is most definitely changing," he said pointing to a model of an airplane. "That was what our corporate plane that we used to fly on all of the time looked like. But today a fax machine and a Watts line do tremendous things for business. What used to be a plane ride away is literally only a phone call away."

Aside from his business endeavors, Pearl is an active fund-raiser and donor to community projects.

In December, 1989, he was the major underwriter of Fantasia, a fund-raising dinner/dance sponsored by The Strawberry Patch, which raised $17,000 for the Susan G. Koman Foundation Breast Center to pay of mammograms for underprivileged women in the Peoria area.

Pearl also served on the Peoria Chamber of Commerce, the Bradley associate board of directors, and the Channel 47 board.

He sponsored a Bradley scholarship and is a long-time fund-raiser for the Boy Scouts of America and the St. Jude Midwest Affiliate telethon.

In 1991, Pearl was chosen to receive the Distinguished Alumnus Award from Bradley.

He also has in tow a large family including his wife, Colleen Cassidy Pearl, six children and 15 grandchildren, two of whom are named John Pearl.

THE NEW YORKER COMPLETES BIOGRAPHICAL SERIES ON JESSE JACKSON

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. JACOBS. Mr. Speaker, the New Yorker has recently completed publication of a three part biographical series on Jesse Jackson. The biographer is Marshall Frady. His work is excellent. The following is a brief excerpt from the second article.

* * * No criticism offends Jackson more than that ascribing his aspirations simply to the subjective, to the compulsions of ego: "That stuff comes from people got the sort of mind that can't conceive of anything beyond personal self interest. It's all they know, all that makes them run, so they keep trying to make you that little, too."

One is reminded of an unusual thing written by Somerset Maugham to the effect that Jesus Christ was one of the most selfish people who ever lived. Shock, until Maugham went on to explain that the human side of Christ discovered that the greatest pleasure possible for a human being is the inexplicably overwhelming shower of well-being one feels after sacrificing for another. In the sense that Maugham used the word, "selfish," it came out to be noble.

In the third article of the biographical series, Frady describes the trip on which he accompanied Jesse Jackson to Iraq after the invasion of Kuwait.

By sheer force of personality, Jesse Jackson engineered an ever burgeoning release of Western hostages from Iraq and Kuwait. Yet, like the scriptural, unappreciative lepers, one of the freed hostages actually took Jackson to task because, after Jackson had arranged for her exit, there was a 6-hour delay because Jackson crawled farther out on a tedious limb to obtain the release of another American woman whom Iraqi secret police at first were determined to detain.

The ingratitude seems to have continued when the airlift put down at Heathrow in London and the British officials treated Jackson shabbily. Our own State Department did not treat Jackson or his accomplishment much more respectfully.

The final section of the third part of the series tends to show the biographer's own conclusion about whether Reverend Jackson's public service is self-serving or altruistic. The writer gives considerable evidence that it is the latter, to wit:

[From the New Yorker, Feb. 17, 1992]

(By Marshall Frady

Over the following days, Jackson's mission to Baghdad and his role in setting in motion what turned out to be a continuing, wholesale exodus of hostages from Iraq were accorded only incidental and cursory notice from Washington and the news media. The State Department dispensed one glancing acknowledgement of his services: "We understand that the departure of several individuals was facilitated by Rev. Jesse Jackson." That was it. The suggestion that had been directed at him on his return from Syria with Goodman was revived: that he had been manipulated by his vanity, to serve, in this case, Saddam's own purposes. Later, Jackson's rejoinder was "Well, anytime anybody wants to use me in a way that gets hundreds of people out of bondage, I'll be used for that anytime." Saddam, at least, after the bombing storm fell around him, reportedly grumbled that he had permitted himself to be cozened by "hypocrites from the West" into releasing the hostages and thereby clearing the field for the air assault. But what may have amounted to the most remarkable enterprise Jackson had pulled off in his entire career had registered in the general mind only flickeringly, and rather tackily at that, and then had disappeared with virtually no trace.

Part of the press's dismissal of Jackson's mission was due, no doubt, to his many years of eagerly skirmishing for their recognition of what he felt was his special public import. One journalist remarked afterward, "It was just Jackson showboating and grandstanding again." But the general unappreciative disregard seemed, in the following weeks, to knock the wind out of Jackson's spirit. He remained curiously silent about the whole business, as if even he had begun to wonder whether what had happened in Baghdad and Kuwait City had been wholly real.

It was only some days after we returned to the United States that I recalled a moment back at the Embassy in Kuwait City that hot night after the hostages had come shuffling out into the blaze of the television lights. Among them was a thin blond girl of about twelve, huddling against her mother. The two of them were ushered through the gate and presented to Jackson by the girl's father, who had to stay behind, with the words "Take care of them for me, Reverend Jackson." The girl was stooped over, knees bent, and was shuddering convulsively, and Jackson, taking her hand, and then her mother's hand, into his, began to weep—no doubt from a final immense exhaustion after the exertions and emotions of the past few days but also, one could not avoid noting with a cold little nip of suspicion, in the brightly lit televised theatre of the event. It was the same uncertainty I had felt when, in Armenia, he was photographed with eyes watering in the hospital for children injured in the earthquake. But that evening in Kuwait City, as the released hostages proceeded amid a crowd of journalists and the brilliance of camera lights to the vans waiting to take them to the airport, I realized that Jackson was nowhere among them.

I looked around and saw that he had hung back, and was following at a considerable, solitary distance behind them. And then I saw that—out of the witness of any camera, all by himself in the dark—he was still weeping. Sobbing soundlessly but so deeply and unstoppably that when I went back to congratulate him and asked what might be the significance of how things had turned out—the sort of question he usually could not resist expatiating on—he could not reply. Could not speak. He simply went on weeping.

SIKH ELECTION BOYCOTT

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. BURTON of Indiana. Mr. Speaker, on February 19, India attempted to hold elections in the Punjab. The Sikhs in the Punjab have suffered under police state brutality since India dissolved Punjab's State government in 1987 and established President's rule. In total, the Indian Government has dissolved 10 popularly elected governments in the Punjab since 1947. As was expected, the vast majority of Sikhs boycotted the elections. Over 90 percent of the Sikh population responded to the boycott call, a percentage which almost doubles that of the noncooperation campaign called by Mahatma Gandhi to work toward Indian independence from British colonial rule in the 1940's.

Although the Indian press originally reported a voter turnout of 21.8 percent, the pervasiveness of accusations of ballot rigging leveled against the Congress Party by the Bharatiya Janata Party and the Sikhs throughout Punjab indicates an actual turnout of around 15 percent. It is important to note that the Indian Government declared a complete censorship of all media messages supporting the boycott movement in early January. In fact, police were actually dispatched to monitor printing presses and to make sure nothing opposing the elections or the Indian Government was printed. During the elections, some independent international news agencies reported that Indian police dragged Sikhs from their homes and forced them to vote under threat of retaliation.

The desperation of the Indian Government for a strong voter turnout was clearly evident. One week before the polls were to open, the Indian Government had arrested virtually all the top Sikh political and religious leaders who supported the boycott movement, charging them under the Terrorist and Disruptive Activities—Prevention—Act. This law has been denounced by the U.N. Human Rights Commission as disturbing and completely unacceptable. Those arrested include S.S. Mann, Akali Dal—Mann; Prakash Singh Badal, Akali Dal—Badal; Bhai Manjit Singh, president of the Sikh Student Federation; Gurcharan Singh Tohra, president of the Shiromani Gurdwara Prabandhak Committee; Sukhjinder Singh, Akali Dal—Sukhjinder; and many others. According to the Hindustan Times, February 23, 1992, over 1,200 Sikh leaders from the Akali Dal Party and the Bharti Kisan farmer's union were arrested under the TADA laws for daring to boycott elections. These leaders remain in detention.

It is clear that Sikhs stayed away from the polls almost completely. Most votes were cast by Hindus and other non-Punjabi Sikhs. In the villages, where most of the 15 million Sikhs in Punjab reside, the turnout in the villages did not exceed 10 percent. Indeed, in at least 2,000 villages, not a single vote was cast. Indian newspapers are calling the Congress victory hollow at best. Mr. Speaker, I would like to submit for the RECORD several articles provided to me by Dr. Gurmit Singh Aulakh, president of the Council of Khalistan. I commend these articles to all of my colleagues.

[From the Washington Post, Feb. 24, 1992]

A SEPARATE STATE FOR SIKHS

Harbans K. Bains' assertion that the struggle for Sikh freedom is nothing more than the reign of Pakistani-sponsored terrorism in the Punjab completely overlooks the obvious [letter, Feb. 7].

The writer flatly states, "Most Sikhs in India don't want a separate state." Why is it then that almost all factions of the Sikh political party, the Akali Dal along with the Sikh Student Federation, have joined together in a boycott of elections under the Indian constitution in favor of continuing the struggle for independence?

If Sikhs' don't want an independent state (to be named Khalistan), why does the Indian government refuse to honor the demands of the Sikh nation to hold a U.N.-sponsored plebiscite in Punjab to settle the issue once and for all? This would seem to be the easy way out for India, but instead it chooses brutal oppression.

If, according to Harbans Bains, the carnage in the Sikh homeland is all the doing of so-called "Sikh terrorists," why then has India refused to allow Amnesty International within its borders for more than 13 years? What is it trying to hide?

Perhaps it's trying to cover up what the Asia Watch human rights organization discovered when it sneaked into Punjab last year. According to its report, "Virtually everyone detained in Punjab is tortured." It continues, "police have actually trained extrajudicial forces to carry out [extrajudicial] killings."

Since 1984, more than 100,000 Sikhs have been killed by Indian police, paramilitary forces and death squads. More than 15,000 Sikhs languish in prison without charge or trial. Between 20 and 30 Sikhs are killed every day. Why has Harbans Bains, who calls herself "a believer in the Sikh religious tradition of compassion, brotherhood and protection of the weak and needy," overlooked these facts.

The Sikh nation declared independence Oct. 7, 1987, forming the separate state of Khalistan. And it is in order to suppress this demand for independence that the Indian government is killing Sikhs. Harbans Bains attempts to sidestep the real issue of freedom. She, like the Indian government, wants Americans to focus instead on the volatile and false issue of terrorism and forget that Sikhs are dying simply because they have dared to demand their right of freedom.

GURMIT SINGH AULAKH,
President, Council of Khalistan,
Washington.

SUCCESSFUL SIKH ELECTION BOYCOTT BECOMES MANDATE FOR INDEPENDENCE OF KHALISTAN

WASHINGTON, DC, February 24.—With a dismal turnout at the Punjab polls, the Sikh nation's successful election boycott movement has transformed itself into a popular mandate for the independence of Khalistan. A 21.8% voter turnout has been reported by the Indian press, but widespread accusations of ballot rigging leveled against the Congress party by the Bharatiya Janata Party and Sikhs throughout Punjab indicate an actual final turnout of 15%. Such a result comes as a major blow to India's Congress party and the Indian government which hoped elections in the Sikh homeland would somehow quell the ever growing demand for independence. The Sikhs declared independence from India on October 7, 1987 forming the separate country of Khalistan.

The pervasive accusations of ballot rigging indicate a clear effort on the part of the Congress party to weaken the impact of the boycott movement by creating the appearance of a strong voter turnout. Though largely unsuccessful, wrongdoing by the Indian government and the Congress party have been a staple of this election process from the beginning. Early on, a complete censorship of all media messages supporting the boycott movement was imposed. Police were actually dispatched to monitor printing presses making sure nothing opposing the elections or the Indian government were printed. The Indian government also arrested top Sikh politicians like S.S. Mann (Akali Dal—Mann), Prakash Singh Badal (Akali Dal—Badal), Bhai Manjit Singh (President of the Sikh Student Federation), and many others. Yet despite the detention of these leaders, the boycott movement has proven a success.

The Indian government's desperation for a large vote turnout was clearly evident. Numerous independent international news agencies have reported Indian police dragging Sikhs from their homes and forcing them to vote under threat of retaliation. The overall turnout in the villages, however, did not exceed 5%. Indeed, in at least 2000 villages not a single vote was cast. Whereas Sikhs—who make up two thirds of the population in Punjab—won 10 out of the 13 Parliament seats contested in 1989, the Congress party has won 12 seats in these elections, no Sikh party winning a seat due to the boycott. A political cartoon from an Indian newspaper summed up the elections. It shows a candidate jumping in victory; the caption reads: "Hurray! I have won with my only vote, no other voter showed up."

"The results of the elections show the complete dichotomy of the Sikhs and the Hindus," said Dr. Gurmit Singh Aulakh, President of the Council. "Hindus—mostly in the cities—voted for the Congress party politicians. Sikhs, on the other hand, stayed away completely, just as they said they would."

[From the Christian Science Monitor, Feb. 24, 1992]

PUNJAB SENDS MIXED MESSAGE TO INDIA'S RULING PARTY

(By Cameron Barr)

NEW DELHI.—India's ruling Congress (I) Party won the vast majority of the legislative seats in elections held last week in troubled Punjab state. But the results are also being interpreted here as a defeat for the central government.

Punjab has seen years of violence between militant Sikh groups, some of whom want their own nation, and the government, which has fought to maintain order. The election of a legislative assembly and state government is intended to end New Delhi's almost five-year administration of Punjabi affairs.

Two factors suggest that the Congress government has imposed "an election which now appears to be * * * aimed at foisting a puppet government" on the people of Punjab, says Subramaniam Swamy, a leading opposition member of Parliament.

First, voter turnout was low—official estimates range from 22 to 28 percent—because of a boycott called by most of the Sikh political parties and because of the threat of violence that hung over the election. In many districts not a single voter cast a ballot, in spite of nearly 300,000 troops and police officers mobilized to guarantee public safety.

"The militants won," the Economic Times newspaper editorialized on Saturday. "Their call for a boycott was a full-blooded poll."

And proportionately more of the state's minority Hindus voted than the majority Sikh population, suggesting that the election is even less reflective of Sikh political inclinations than the turnout indicates.

Congress candidates won 12 of Punjab's 13 seats in India's Parliament, and 87 of the 117 state legislative seats. Although there was talk before the election of a coalition between Congress politicians and members of the Akali Dal (Kabul) party, the sole Sikh political group to contest the election, the Congress contingent is now forming a government on its own.

Concern is mounting that the election will further split Punjab's Sikhs and Hindus and boost the legitimacy of the militants, who argue that Sikhs will never get fair treatment from a Congress administration. The party is indelibly connected with the June 1984 storming of the Sikh Golden Temple in Amritsar.

The Congress (I) Party, which now holds a minority position in India's Parliament, held the elections in order to gain control of Punjab's parliamentary seats, a former Sikh political leader, said yesterday in New Delhi on condition of anonymity. This view has also been voiced by other critics here, but the Congress government says it wants only to return Punjab to normalcy.

Bharat Wariavwalla, of Delhi's Centre for the Study of Developing Societies, says the central government must shift more power to the states and continue to hold elections in Punjab.

Some political groups then would realize that "extremism is not going to work; the Indian state is too powerful and is going to crush it," Mr. Wariavwalla says.

[From the Washington Times, Feb. 12, 1992]

TOP SIKHS ARRESTED FOR URGING VOTE BOYCOTT

CHANDIGARH, India.—Leaders of a powerful Sikh religious body were arrested yesterday for urging a boycott of elections in Punjab and militants trying to disrupt the vote killed five political workers, police said.

The Shiromani Gurudwara Prabandhak Committee, which controls Sikh temples, adopted a resolution to boycott next week's elections, said committee president Gurcharan Singh Tohra. Mr. Tohra and 16 other committee members were arrested on leaving the meeting at a temple in Anandpur Sahib, 60 miles north of Chandigarh.

Punjab Home Secretary A.S. Chatha said they were detained under India's anti-terrorist laws. Earlier, police blocked roads to Anandpur Sahib and barred reporters.

[From the New York Times, Feb. 14, 1992]

FOR SIKH INDEPENDENCE

To the EDITOR: I take exception to the sentiment of the Indian historian Khushwant Singh, quoted in "Violence, Like Punjab's Wheat, Finds Fertile Soil" (news article, Feb. 1), that an independent Sikh homeland, Khalistan, "is not viable."

The Punjab, known as the wheat-basket of India, produces 73 percent of India's wheat reserve and 48 percent of its rice reserve. Sikhs make up 2 percent of India's population but account for 26 percent of its gross national product.

Khalistan is viable not only economically, but also militarily. In 1947, Sikhs made up 50 percent of Indian Army officers, 38 percent of the air force and 33 percent of combat soldiers. Today, India has stopped recruiting Sikhs, fearing an armed revolt. Nevertheless, the martial tradition in Punjab is alive; Khalistan will be fully capable of defending itself.

Sikhs, 68 percent of the Punjab population, overwhelmingly view India's election plan as counterproductive. Most Sikh organizations say they will boycott elections to pursue independence.

GURMIT SINGH AULAKH,
President, Council of Khalistan,
Washington, Feb. 5, 1992.

INTRODUCTION OF LEGISLATION TO EXPAND HOME OWNERSHIP OPPORTUNITIES

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. SERRANO. Mr. Speaker, today I introduced a bill that will expand home ownership opportunities for low-income buyers in areas across the country that most need new affordable housing, through a proven, successful program, tax-exempt mortgage revenue bonds. My bill would permit the issuance of mortgage revenue bonds to finance the sale of newly constructed two-family homes in targeted areas of chronic economic distress.

Under current law, mortgage revenue bond proceeds may be used to finance new single-family homes, but not new two-family homes. In many densely populated urban areas, including New York City, the costs of land and construction make two-family projects much more economically feasible for developers than single-family homes. Two-family homes simply cost less to build. In addition, each home build can provide an affordable rental unit, a scarce commodity in the south Bronx and many other areas of the country.

In my congressional district, there are several projects underway to build two-family homes. I believe that low-income people who wish to buy these homes should be able to get financing through the mortgage revenue bond program.

My bill would simply amend the Internal Revenue Code of 1986 by lifting the requirement that a two-family residence be occupied at least 5 years before a mortgage is executed subject to the mortgage revenue bond program, when the two-family residence is in a targeted area as currently defined in the Code, in a State economic development zone, or in any area designated as a Federal enterprise zone.

We need desperately to expand home ownership opportunities for low-income working people in economically distressed areas of this country. Home ownership opportunities are an indispensable link in the housing ladder. New home buyers free up affordable rental units for those who are ready to leave public housing, who in turn make public housing units available for the thousands upon thousands of families and individuals living doubled up in public housing projects, or without shelter at all. Expanded home ownership opportunity will keep and attract working people who contribute to the economic development of distressed communities. Making it easier for people to own their homes will help to stabilize distressed areas.

The mortgage revenue bond program has proven to be an extremely effective mechanism for the promotion of low- and moderate-income home ownership in New York and throughout the country. Expanding the program in this way would make it even more effective in the areas of greatest housing need, without costing the Federal Treasury a penny in tax revenues.

KATHERINE DUNHAM: A DANCER'S CELEBRATION OF AMERICA'S GORGEOUS MOSAIC

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. RANGEL. Mr. Speaker, I rise to commemorate Black History Month by paying special tribute to Katherine Dunham, one of America's preeminent performing artists. As a dancer and choreographer, she revolutionized modern dance in the 20th century by blending rhythms of America with those of Africa and the Caribbean.

First, I wish to commend my friend and colleague, the Honorable Louis Stokes, who once again has summoned the Congressional Black Caucus to raise our voices as one in recognition of America's black heroes and heroines. Not that we should single out one day, or week, or month to celebrate those who came before us and those who are toiling with us today in various fields to advance our common cause and that of our Nation.

So we, as black Americans, during this month we focus on extraordinary people and events as a way of educating black boys and girls, and all Americans, so that someday we may celebrate them at all times, with one voice. But as long as black history is ignored, we must use occasions such as this to spread the word to all Americans, especially black Americans, about our contributions, and reflect on the patchwork of cultures that make up America's gorgeous mosaic.

Most importantly, this is a time to celebrate who we are, and like other Americans, to remember the various backgrounds from which we sprang. As Americans, we are indeed a glorious mosaic, of nationalities, of colors, and of religions who have come together to live in harmony.

So, I call on my colleagues to join me in saluting Katherine Dunham. Today, she lies in satisfactory condition at St. Mary's Hospital in East St. Louis, IL, in the 27th day of a fast, which she entered in protest of the treatment of the Haitian boat people. She has pledged to take nothing more than cranberry juice and water until our Government ceases the deportations of those unfortunate refugees.

At the age of 82, Ms. Dunham is demonstrating not only her love of the Haitian culture that inspired much of her work, but her commitment to fair treatment of all mankind. It would be saying less than enough to call her an American heroine.

Ms. Dunham's love affair with Haiti began in the 1930's when, as a student of anthropology, she spent a year of field study in the West Indies.

Her training in anthropology was the foundation for the new dance forms that she later introduced. Through her work, African and Caribbean rhythms and movements were seen for the first time on American stages.

"Cabin in the Sky," a Broadway musical choreographed by Dunham, in which she also acted and danced, was the first of several stage productions and films with which she was connected. Others included such films as "Stormy Weather"—which featured Lena Horne and Bill "Bojangles" Robinson—"Pardon My Sarong," which she choreographed, and the musical "Windy City."

Ms. Dunham's dance interests have ranged from Haiti to Harlem. She blended the dances of America's urban blacks with their hidden roots in Africa and the Caribbean. Today, at a time when African and Caribbean dancing for young people is taken for granted, we should remember that Ms. Dunham was the first to express the connection.

Born in Joliet, IL, Ms. Dunham holds M.A. and Ph.D. degrees from the University of Chicago. Over the years, she has established schools of dance and done humanitarian work in places as diverse as East St. Louis, New York, Haiti, and Senegal. In 1990, she was presented the National Medal of the Arts by President Bush.

Ms. Dunham's courageous decision to risk her life to benefit the Haitian boat people is a moving testament to the depth of the tragedy being inflicted on the suffering people of Haiti. What more needs to be said to call attention to their plight?

What more needs to be said to open our hearts to the desperation of the people who would risk their lives to cross shark-infested open seas to escape the brutality of trigger-happy soldiers.

Why must it be left up to an 82-year-old woman, an American cultural treasure, to risk her own life to gain a little sympathy for a people left abandoned by the same Americans who urged them to trust in democracy.

Katherine Dunham need not fear the question which will be asked, after all is said and done, about Haiti: What did you know and what did you do about it? She, like us, knows; but she has chosen to do something about it.

TRIBUTE TO ALICE AND HENRY ACKERMAN

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize two outstanding individuals from northern Michigan. On March 7, 1992, Alice and Henry Ackerman will be receiving the Greater Kalkaska Area Chamber of Commerce Golden Achievement Award for their 15 years of service to the community of Kalkaska.

Both Henry and Alice are active members of the community. Their commitment to the National Trout Festival, an event held annually for over 50 years that promotes the fishing and other summer sports that prevail in the Kalkaska area, was recognized 2 years ago when they were elected lifetime honorary members. The festival regularly brings thousands of visitors to the Kalkaska area to fish and enjoy the summer.

Alice has been involved in the community in many ways. She worked as a secretary for the police department and has been very involved in the hospital auxiliary. She can often be seen reading poetry to comfort those patients who are in the long-term area of the hospital.

Henry, a retired personnel manager from the Novi Equipment Co., has also been involved in the community in many ways. Henry has served on the Kalkaska County Commission on Aging Board. The board is responsible for overseeing the many recreational and meal programs that the Council on Aging produces for the senior citizens of the Kalkaska area. The many programs support the recreational needs of the area's seniors. Alice and Henry have also been very active in the Kalkaska Historical Society as well as lifetime members of the Calvary Baptist Church.

Mr. Speaker, I know that you will join with me in commending and congratulating the Ackermans. Their service to the community is certainly a shining example of good citizenship. Let us thank the Ackermans for their service to northern Michigan.

SUPPORT LOAN GUARANTEES FOR ISRAEL

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. McGRATH. Mr. Speaker, I am very disturbed by the recent comments made by the Secretary of State concerning Israel's request for a $10 billion loan guarantee from the United States.

I not only find the remarks by the Secretary before the House Subcommittee on Foreign Operations repulsive but what is especially offensive is the timing of his comments. Middle East representatives are again gathered here in Washington and have assembled at an even-keeled table. However, the Bush administration's unyielding policy toward the loan-guarantee issue is insensitive and has tilted the bargaining table sharply toward the Arab delegates.

What the administration does not understand is that the mere threat of withholding the guarantee has an adverse effect on the peace process by linking a pure humanitarian effort with a strategy for reconciliation between several adversaries. I take exception to the statement by the Secretary of State and the President that the settlements in the West Bank and the Gaza Strip are an impediment to peace in the Middle East. For one, the number of refugees that have settled in these areas is very small. Labeling these settlements as a hindrance to the peace process is a feeble attempt to lay blame on an ally who is dedicated to tranquility in a region that has known war for centuries.

In addition, by delaying the guarantee, the administration continues to ignore the responsibilities this country has to the Jewish emigrees from the former Soviet Union. For decades, the United States, together with Israel, has been at the forefront of efforts to secure emigration for Jews who were unable to practice their religion in the Soviet Union. Now, after this struggle has borne fruit, should this Nation just turn our back on the thousands of Jewish emigrees? We must ensure that the Soviet Jews that have been granted freedom of passage to Israel be provided living conditions free from the instability and fear that had plagued their lives in the Soviet Union. The loan guarantee is merely another step in a process that this country has long committed itself. To bail out on the guarantee would be nothing less than an act of desertion by the United States.

Also, what the administration fails to accept is that stalling the guarantee also has an adverse affect on business in this country. The Israelis have agreed to purchase prefabricated structures, built by American manufacturers, to house the Jewish emigrees. With America's financial situation—especially our building trades at a standstill—this purchase plan would have injected a much-needed boost to our economy.

Mr. Speaker, yet another fact the administration fails to realize is that the loan guarantee is just that, a guarantee; the United States is simply a cosigner on behalf of Israel. It is nothing more than a good will effort on behalf of the United States so that Israel may borrow using the most beneficial market rate. Yet, the White House has used this nominal request by Israel as a means to set policy and implement radical reorganization of our Middle East policy.

Finally, Mr. Speaker, I believe that putting conditions on loan guarantees is another attempt to punish Israel. Those in Washington who advocate conditions for the guarantee continue to make no mention of the Arab boycott of Israel; the continued state of belligerency that the Arab nations have maintained against Israel since its inception; and the refusal of all Arab nations—with the exception of Egypt—to recognize Israel. Until these issues are resolved, I will continue to oppose any policy structured to condemn only Israel.

THE AMERICAN MANUFACTURING REVITALIZATION ACT OF 1992

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. OWENS of Utah. Mr. Speaker, today I introduced the American Manufacturing Revitalization Act of 1992.

This legislation provides companies with the incentive and the means to construct and start up new manufacturing facilities. Specifically, it allows a company a 5-year writeoff of the costs of that years' investment in a new manufacturing plant and equipment over the average of the previous 3 year's investment. It is thus targeted toward new plant and equipment, and does not cost the Treasury any revenue.

Only the costs of those manufacturing facilities constructed within the United States can be amortized under this bill. Thus, a company does not have incentive to relocate to countries with lower labor costs.

Much will be discussed in the coming weeks on how best to prime our economic pumps. This debate must focus on policies that encourage both capital formation and productive capital investment. However, I fear that not enough attention has focused on the high costs of construction involved in the startup or expansion of a company's manufacturing operations. To often, our industry has based its investment decisions on the costs of labor, then relocated to cheaper labor markets. Granted, you can't prevent a company from moving its operations to a location where profits can be maximized. But many times the adverse impact of relocation on our domestic economy could be avoided if companies are given incentives to relocate or expand domestically.

We must keep in mind that industry is by no means entirely to blame for seemingly shortsighted decisionmaking. After all, a company's search for profits is understandable, and its behavior is inextricably linked to incentives in the tax code. Many companies must relocate in order to remain productive. Relocation often requires construction of a new plant and investment in new or different equipment. We must enable those companies to relocate, but give them incentive to keep operations within our country.

My bill will remedy this condition by helping to lower the costs involved in start up of a new manufacturing facility in the United States. The initial, fixed costs of construction and equipment are often an entrepreneur's greatest obstacle to success, as well as an existing company's greatest obstacle to expansion.

For new companies created with venture capital, this accelerated writeoff can help to ease high startup costs and act as a just reward for their entrepreneurship. For existing companies, it provides incentive to expand. We must restructure the Tax Code, where appropriate, to assure that entrepreneurship and long-term vision is rewarded, and this bill can help to bring those rewards to fruition.

Last week, we considered important tax legislation which, I hope, can be modified or improved considerably in the Senate and by conferees. In introducing this bill, I intend to lay before the Congress an additional proposal which should be given serious consideration. This proposal is intended to supplement, rather than replace, important items currently under review, such as other rapid amortization measures, a cut in the capital gains tax and investment tax credit.

Encouraging the growth of new manufacturing capability is good, sound policy. It is fiscally responsible, pro-growth, and pro-entrepreneurship. Regardless of whether the current tax bill passes the President's desk, a bipartisan consensus has obviously emerged that there exists a real lack of investment incentives in the Tax Code. Should our current efforts not reach fruition, we should continue efforts to remedy these shortcomings through legislation such as this. I encourage my colleagues to give this proposal the highest consideration.

THE RETIREMENT OF DICK KERR: ONE OF OUR NATION'S BEST AND BRIGHTEST

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. SHUSTER. Mr. Speaker, I rise today to praise the accomplishments of Richard J. Kerr, who retired last week as the Deputy Director of the Central Intelligence Agency. Dick Kerr was a superb intelligence officer who personified the best traditions of the CIA. He was truly a Central Intelligence officer: The breadth of his experience made him the best example I know, of an all-around officer. His expertise showed best in the last few years, when he was the Deputy Director, and then Acting Director for a long period pending the confirmation of Mr. Gates.

As Director of Central Intelligence [DCI] Gates noted in Kerr's retirement ceremony at CIA headquarters last week. "The issues in which Dick has played a role over these years read like a history of our time and span the globe." Dick spent 32 years with the CIA. Rising through the directorate of intelligence to be senior analyst, then representative to the Commander in Chief, U.S. Pacific Command, then head of a task force planning the use of new collection sytems, and then executive officer of the intelligence community staff.

In 1982, the DCI appointed Dick Kerr the Associate Deputy Director for Intelligence. In 1986 he was briefly the Deputy Director for Administration, before being named Deputy Director for Intelligence. This critical job manages the CIA offices that produce analysis and finished intelligence for U.S. policymakers. Dick Kerr was appointed Deputy Director for Central Intelligence in March 1989, where he served until March 2. For some months in the second half of 1991, Dick was the Acting Director of Central Intelligence after Judge Webster's resignation.

In a ceremony last week at CIA headquarters, Dick was presented with CIA's highest medal, The Distinguished Intelligence Medal. DCI Gates noted during the ceremony that Dick Kerr throughout his career "displayed not only a brilliance for analysis, but a unique grace under pressure and an unusual candor that has won over even the sharpest critic." In July 1991, President Bush presented Dick Kerr with the Presidential Citizens Medal for Kerr's unique contributions during the Persian Gulf crisis.

In my personal and professional contact with Dick Kerr, I was always impressed not only by his good judgment and skill, but also by his personable style. He was open and honest, with a terrific sense of humor.

Mr. Gates noted the "enormous affection" CIA employees have for Dick Kerr, and commented that Dick "had the ability to inspire loyalty on the part of the troops."

We wish Dick and his family the best. We also extend to him our Intelligence Committee's, and the Congress' profound thanks for a job extremely well done. Dick Kerr is one of the genuine unsung heroes, whose long career as a professional intelligence officer reflects the best tradition of Federal service.

TRIBUTE TO MR. JEFFREY REZNIK

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. SCHUMER. Mr. Speaker, I would like to bring the attention of my colleagues to the good work of Mr. Jeffrey Reznik, a constituent of mine in New York.

Mr. Reznik is a businessman, as well as an activist on behalf of numerous Jewish causes. As executive director of Response in Kind, Jeff Reznik has coordinated write-in and call-in campaigns to urge American support for Israel. As a regular columnist in the Jewish Press, he has drawn lessons for modern-day readers from the history of the Jewish people. His most recent column presented a well-researched chronology of expulsion orders against Jews, an important contribution to the understanding of a history that led to the Zionist dream of a state for the Jewish people. Mr. Reznik has also been a leading advocate in the campaign to release Ron Arad and the other Israeli prisoners-of-war captured in Lebanon. I was pleased to work closely with Response in Kind in drafting House Resolution 372, calling on the Syrian Government to release those prisoners.

Mr. Speaker, on behalf of my constituents in New York, I would like to ask all of my fellow Members of Congress to join me in thanking Jeffrey Reznik for his tireless efforts on behalf of our community and our Nation.

TRIBUTE TO "NEW LEASE ON LIFE" ON THEIR 31ST ANNIVERSARY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. TRAFICANT. Today, Mr. Speaker, I rise to pay tribute to the members of a very special organization, "New Lease on Life," who are celebrating their 31st anniversary.

On February 17, 1992, I had the great pleasure to address this commendable group at the DiVieste Banquet Hall in my 17th District of Ohio. I was extremely proud to address this social club founded by Jean Hardy Copeland in 1961. As a result of her marvelous insight, "New Lease on Life" has become a very appreciated group to many individuals in my district.

"New Lease on Life" is an organization for handicapped people from the Trumbull County area which gives its members the opportunity to meet with each other on a regular basis and offer support, understanding, and companionship to each other.

Again, Mr. Speaker, I want to pay tribute to this fine organization and wish them a very happy anniversary.

JACK AND RITA SINDER RECEIVE 1992 AWARD OF MERIT FROM UNIVERSITY OF JUDAISM

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. LEVINE of California. Mr. Speaker, I rise today to recognize Jack and Rita Sinder, 1992 recipients of the University of Judaism Award of Merit. This award is only the latest in a long line of honors the Sinders have received for their many years of dedication to the Jewish community.

In 1967, upon the outbreak of the Six Day War, the Sinders were forced to cut short their visit to Israel. On their return they helped mobilize their community on behalf of Israel, particularly through Israel bonds. This was the beginning of a deep and lasting visible commitment to helping Israel, culminating with Rita being honored by the Golda Meir Club in 1988 for her dedication. Rita currently serves on the Los Angeles Board of Israel Bonds.

Jack and Rita have been active members of Valley Beth Shalom for 31 years. As a mechanical engineer, Jack was able to save the synagogue from a costly move by devising a plan to expand on the existing grounds. Jack also served as construction chairman, playing a large part in the creation of Valley Beth Shalom's new classrooms, sanctuary, synagogue center, and the Sinder parking center, which he and Rita dedicated.

The Sinders are devoted as well to the University of Judaism. They are founders of the University of Judaism Wagner Program, are university patrons, and serve on its board. This year, Rita and her sister are the sponsors of one of the university's public lectures featuring Rabbi Arthur Hertzberg.

Jack and Rita's philanthropic activities help to further enrich their happy and successful careers and personal lives. Jack is a real estate developer, and Rita is a real estate broker and professional property manager. They share their joy with their children, Alan and Sheri, Sheri's husband Jim, and especially their granddaughter, Cara Leigh.

It is my pleasure to bring Jack and Rita Sinder's accomplishments to the attention of my colleagues in the House of Representatives, and I ask that they join me in extending my heartiest congratulations to Jack and Rita on this wonderful occasion.

CLAIMS TO THE JAPANESE GOVERNMENT FOR HUMAN RIGHTS ABUSES DURING WORLD WAR II

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mrs. VUCANOVICH. Mr. Speaker, I am here today to speak on behalf of the American Defenders of Bataan and Corregidor, Inc., who have made a claim to the Government of Japan for human rights abuses which occurred during World War II.

During World War II many American POW's were subjected to months of deprivation and mistreatment in prison camps. After the war, many of those ex-prisoners still suffered from the effects of the war. For many, life only provided physical and mental anguish.

In 1951, the treaty of peace was signed by the United States and Japan, providing the United States with some reparations to settle war claims. While the War Claims Commission was authorized to pay ex-prisoners compensation for former military prisoners of war captured in any territories invaded by the Japanese, this compensation was limited due to the economic environment of Japan. The American Defenders of Bataan and Corregidor, Inc., believe that this payment was not enough to compensate for the degradation which was caused by these human rights abuses.

Times have changed, however, and Japan is now financially secure. As such, the American Defenders of Bataan and Corregidor, Inc., have filed a claim with the United Nations Commission on Human Rights, requesting that proper reparation be made.

Mr. Speaker, it is my hope that the United Nations Commission on Human Rights will give this request careful consideration. We cannot stand for human rights abuses in the past, the present, or the future.

THE "ROAD TO INFAMY" EMBODIES EDUCATIONAL TELEVISION PRODUCTION

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. RITTER. Mr. Speaker, we are all familiar with the old adage "from little acorns mighty oak trees grow."

This saying certainly holds true for a small television/video production company, Lou Reda Productions, Inc., located in my congressional district, in the city of Easton, PA.

Lou Reda Productions has taken on the responsibility of producing informative and entertaining documentaries, and general programming that is televised on the Arts and Entertainment Cable Network, the Discovery Channel and elsewhere. They are currently working on a 13-part series entitled "Secret Weapons," and will soon be completing "Crossed Sabers: The History of the U.S. Calvary" which will include a forward by President Reagan.

Lou Reda Productions has produced numerous works that are familiar to many people nationwide including "Constitution Minutes," "The Blue and the Gray," an 8-hour CBS miniseries about the Civil War, and "Korea: The Forgotten War."

Most recently Lou Reda Productions has been involved in helping to commemorate the 50th anniversary of America's participation in World War II with their production of "Road to Infamy: The Countdown Years." as well as their work with Grammy Award winning instrumentalist and singer Phil Driscol and the upcoming "Spirit of America" concert at the National Symphony Orchestra here in Washington.

Mr. Speaker, last year, I screened Lou Reda Productions' 1-hour television special "Road to Infamy: The Countdown Years." It is an outstanding work and it stands out from the crowd in both its quality and content. I would highly recommend it for my colleagues, and others who have not viewed it.

Of all of the television program specials scheduled as part of the 50th anniversary of the Japanese attack, "The Road to Infamy" has been the only one that clearly crystallizes Japanese philosophy and foreign policy from the time Admiral Perry landed in Japan in the 1850's until the outbreak of the World War II.

The program traces Japan's economic and military philosophy, its involvement in World War I and the territories Japan was awarded, its conflict with Russia and the Russo-Japanese War, the Japanese invasion of Manchuria and their devastating war with China, their military buildup, Admiral Yamamoto's planning and training for the attack on Pearl Harbor, and finally the last minute diplomatic efforts undertaken by two Nations headed for war.

Daniel Marinez, the historian at the U.S.S. *Arizona* Memorial in Pearl Harbor, incorporated the film into the December 7 program schedule of the 50th Anniversary Ceremony at Pearl Harbor. It is my understanding that all park rangers and guides at the U.S.S. *Arizona* Memorial will be required to screen "Road to Infamy" as part of their training and continuous study program.

Mr. Speaker, "Road To Infamy" is the definitive television program that covers the important events related to Japan and United States-Japanese relations during the countdown years leading up to Pearl Harbor. This view is also shared by many retired U.S. military personnel including—to name a few—Admiral I. Campbell Kidd, Jr., whose father received the Medal of Honor while serving on the U.S.S. *Arizona*, Gen. John P. Condon, USMC-Ret. as well as many teachers and educators. It has also been acclaimed by Dorothy Rabinowitz in the Wall Street Journal, and in other newspapers and publications nationwide.

Indeed, besides its regular prime time scheduling, the Arts and Entertainment cable network recognized the importance of this program and made it available to teachers and schools as part of their educational programming.

Mr. Speaker, this little acorn of a production company—Lou Reda Productions—has, and is, producing quality programming that is challenging and motivating people to learn more about their world, history, and the American heritage.

It is my feeling that the creative group that produced "Road to Infamy" should be recognized for their efforts and the outstanding social responsibility evident in their work. That group is: Lou Reda, the executive producer; Mort Zimmerman of Queens, NY, the producer; Norman Stahl of Bayshore, NY who wrote a detailed and extremely informative script; and Don Horan of Boonton, NJ, the director/editor. This group embodies creativity and educational programming for commercial television.

Mr. Speaker, with the ongoing commemoration of the 50th anniversary of America's involvement in World War II and the current status of United States-Japanese bilateral relations, I would strongly urge that the Library of Congress and the Congressional Research Service permanently make this important visual document—"Road To Infamy"—available on VHS cassettes for screening and reference work.

TRIBUTE TO RABBI LOUIS KAPLAN

HON. CURT WELDON

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. WELDON. Mr. Speaker, I rise today to commend and pay tribute to Rabbi Louis Kaplan, a constituent of mine, who after 30 years of service will retire this April from Ohev Shalom Synagogue in Wallingford, PA.

Rabbi Kaplan has been a pillar of the local community since joining Ohev Shalom in 1961. A true altruist, Rabbi Kaplan helped form the interfaith program, "QUEST: An Experiment in Interfaith Understanding." Also, he currently is the chaplain and a teacher at Widner University. In addition to all his contributions to education and youth in Delaware County, Rabbi Kaplan aids the elderly by conducting monthly prayers at a local nursing home and performing his duties as committee member at Crozer Chester Medical Center. As a result of all his philanthropies, teachings, and studies, Rabbi Kaplan has enriched the lives of thousands of Delaware County citizens.

He has a Ph.D from Dropsie College and an honorary doctor of divinity degree from the Jewish Theological Seminary. He is currently listed as an honorary pastor of the Swarthmore Presbyterian Church and is a vice president of the Philadelphia region Rabbinical Society. Rabbi Kaplan is one of the finest citizens of Delaware County. I am proud to have him as my constituent.

TRIBUTE TO CHARLES R. PINZONE

HON. MARY ROSE OAKAR

OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Ms. OAKAR. Mr. Speaker, I rise today to pay tribute to Charles R. Pinzone, executive secretary of Cleveland Building Trades. For over 40 years he has consistently channeled his energies toward the Cleveland community, civic activities, and the well-being of those around him. This month Charles is retiring.

His service and vast experience will indeed be missed by the many people he has worked with as a pacesetter in building trade construction. His absence will undoubtedly leave a void in the many organizations which have relied on his natural leadership ability. These organizations include the Cleveland Building and Construction Trade Council, the Cleveland AFL–CIO Federation of Labor, Ohio State Building and Construction Trade Council, the Greater Cleveland Growth Board.

But Mr. Pinzone's hard work was not limited to his profession. In fact, Charles's aspirations and efforts have rarely been limited. At the Charles Pinzone Boxing Club, he has been teaching children both how to box and reach goals in life. Charles has been a champion of the elderly at the Pinzone Tower, Senior Citizens Apartments. Again Charles undertook the leadership positions in civic activities, such as Northern Ohio Chapter Leukemia Society, Cleveland Golden Gloves Association, American Legion Post No. 569, labor division of the United Way, and the list continues.

During his career, Charles was recognized by many organizations for his achievements. He was presented with many honors which include the Cosmopolitan Democratic League Achievement Award, Leukemia Society Award of Appreciation, and the Council for Economic Opportunities Leadership Award. However, as all those close to Charles will attest, his most satisfaction comes not from the awards he has been given, but from the achievements that have been gained.

It is fitting that we acknowledge individuals, like Charles R. Pinzone, who have given of themselves for the betterment of their community and neighbors. By doing so we remind ourselves and promote the fact that one person can make a difference. Thank you Charles and good luck.

TRIBUTE TO MR. EUGENE H. AHNER

HON. ROBERT T. MATSUI

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. MATSUI. Mr. Speaker, I rise today to honor the achievements of Mr. Eugene H. Ahner upon his retirement on February 28, 1992. Mr. Ahner is retiring after serving our community as district administrator for the California Park and Recreation Society for the last 26 years.

Mr. Ahner began his employment as a recreation supervisor for special projects in 1965. He was then hired as the district's first program coordinator. Under Mr. Ahner's supervision, the district department has grown tremendously. Part time staff consisted of 3 officials when Mr. Ahner began and now the department employs over 300. The district has also increased from just 6 parks to 32, covering a total of 368 acres.

Mr. Ahner has been a very respected leader in the department and has received many awards during his career. He was given the Outstanding Senior Award from California State University Sacramento in 1966, and a Professional Award in 1979. Mr. Ahner has been president of the California Park and Recreation Society and an active member of the National Park and Recreation Society.

It is truly an honor to speak on behalf of Mr. Ahner. I know that the Sacramento community has benefited greatly from his leadership as district director for the Parks and Recreation Society. I ask my colleagues to join me in congratulating him and in wishing him happiness in his retirement.

RESOLUTION TO BRING PEACE WITH JUSTICE IN NORTHERN IRELAND

HON. MARTY RUSSO

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. RUSSO. Mr. Speaker, today I am introducing legislation to help bring an end to the strife in Northern Ireland. I am calling on the Government of the United States to encourage discussions among all parties involved to promote peace and justice in this troubled area of the world.

Given the extended history of conflict here, and the bitterness that exists as a result, many may consider it only a dream to even consider the possibility of peace. I do not. Consider this: Opportunities arise in even the stormiest of times and places for change, and I believe such a time exists now. We need only look at the brand new world maps being drawn to know that we are undergoing tremendous change. Now is the time we can shift the course that keeps Northern Ireland mired in conflict.

No one is happy with the current situation in Ireland, that is clear. But that is not enough unless the parties involved work together to devise a solution to end the situation, and that doesn't happen. No formula to date has worked, and meantime the situation grows worse, with every aspect of life affected. Northern Ireland, in addition to the tragic deaths and relentless fear, has the highest poverty rate in the European Community and the unemployment is the highest in all of Western Europe.

My resolution is concerned with the positive: peace with justice in Ireland. Since the Government of our great country has successfully promoted peace through compromise in other troubled areas throughout the world, let's bring our skill and focus to this conflict.

We know the people of Ireland do share the common objectives of peace, justice, and prosperity for all Irish people, and we can play a role here. I urge the President to seek to establish talks with all parties concerned. When people talk, strife can end, new relationships can form. When people talk, peace and justice can be won. We can see the same new day that is dawning throughout the world come to all the citizens of Northern Ireland, Ireland, and Great Britain.

A TRIBUTE TO THE SUNDAY SCHOOL OF THE CHURCH ON THE HILL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the Sunday School of the Church on the Hill in Flushing, Queens. The Sunday school will celebrate its 65th anniversary with a special service of worship in the sanctuary on Sunday, March 8.

The Sunday School of the Church on the Hill has been a stable force in the life of the church and its community since its creation in 1927. This vehicle of the church continues to offer the community's children the same educational, moral, and religious training that was envisioned in 1927. Although many things in the neighborhood and community surrounding the church have changed over the years, the Sunday school has retained its strong commitment to educating its children.

This achievement is a tribute to the leadership of dedicated teachers and administration over the years. The Sunday school's superintendents, secretary, treasurer, and full staff of teachers have given of themselves and their time in a manner which cannot go unnoticed. I also commend the Reverend Robert A. Perless, whose leadership over the past 22 years has been a source of great stability for the Church on the Hill.

Finally, I commend the students of the Sunday school. Their hard work and determination has made the Sunday School of the Church on the Hill a source of great pride for the surrounding neighborhood and community.

Mr. Speaker, I call on all my colleagues in the House of Representatives to join me in congratulating the Sunday School of the Church on the Hill on the occasion of its 65th anniversary.

FRUITS AND VEGETABLES LEAD THE WAY IN U.S. EXPORTS

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. TALLON. Mr. Speaker, after all the bad news we are used to hearing on the floor of this House regarding our trade deficit, I take great pleasure in passing on some good news. According to the Foreign Agriculture Service of the USDA, for fiscal year 1991, the value of U.S. exports in fruits, vegetables, and horticultural items broke a record: Over $6 billion for that period. That figure is up 17 percent over the figure for fiscal year 1990, and it means that these products rank as the No. 1 U.S. food export.

The message is taking hold around the world: Good health begins and ends with good nutrition, and this means consuming more fruits and vegetables. I believe this is only the beginning; the USDA tells us that the export figures are still climbing.

Fruits and vegetables are not program crops in the parlance of USDA. This means they do not get subsidies or the benefit of quota programs from the USDA. The fruit and vegetable business is really composed of a multitude of different businesses, each one unique and each one fiercely competitive. For these reasons, fruit and vegetable producers really don't get as much attention or support from the Department of Agriculture as I think they deserve, especially considering the economic punch they pack.

By supporting fruits and vegetables, we support good health, reduced health care costs, a smaller trade deficit and more job opportunities for rural Americans, especially for smaller farmers. Please join me in supporting this continuing success story. I also invite you to join me in seeing that the Federal Government acts on many fronts as a partner in promoting this very important sector of agriculture.

INTRODUCTION OF LEGISLATION RELATED TO FREE TRADE AGREEMENTS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 4, 1992

Mr. SCHULZE. Mr. Speaker, today I am introducing legislation calling on the President of the United States to initiate negotiations with the Republic of China on Taiwan—Taiwan—and the Republic of Korea—Korea—geared toward achieving a free trade agreement with each country.

As we all know, in a relatively short period of time, these countries have step by step advanced into the ranks of the world's developed nations. The leadership in these nations recognized early on that international trade was their only hope for long-term prosperity. As a result, Taiwan and Korea now rank as two of the largest trading nations in the world.

While these countries still have barriers to trade which need to be dismantled, we should not lose sight of the significant steps they have already taken in terms of opening their markets to goods, services, and investment from the rest of the world. Negotiating free trade agreements with these countries would clearly continue to help open their markets to United States firms, and provide these businesses with sturdier footholds in the vital and fast-growing East Asian and Pacific rim regions.

United States-Taiwan and United States-Korea FTA's would also send a useful message to Japan that no longer is it the only major economic player in the Asian region. More importantly, aside from being positive trade-liberalizing initiatives, such trade accords would boldly state that the United States is going to try a new approach to combating Japan's protectionist policies. Given Taiwan's and Korea's increasing economic might, and the corresponding competitive threat such might poses to Japan, United States-Taiwan and United States-Korea FTA's would prove invaluable leverage in future United States commercial dealings with Japan.

Over a decade ago, when I first spoke publicly in support of a North American free trade agreement and a Western Hemispheric trade accord beyond that, I remember being told by many that the multilateral General Agreement on Tariffs and Trade [GATT] was the only avenue required to achieve true global trade liberalization. Indeed, some policymakers and other trade specialists argued that pursuing bilateral and regional trade initiatives would actually upset and damage the delicate multilateral balance existing in the GATT.

Now, more than 10 years later, we are finally pursuing a North American free trade agreement and talking openly and confidently about the importance to America's global trading interests of a Western Hemispheric free trade area. While I laud the executive branch for recognizing the benefits of pursuing bilateral, regional, and multilateral trade agreements simultaneously, I am disappointed that it has taken so long to embark on such initiatives. Also, I continue to be discouraged that executive branch trade officials have yet to realize the enormous benefits to be reaped by free trade pacts with Asian-Pacific rim trading partners, beginning with Taiwan and Korea.

While the United States has been placing what I view to be an inordinate number of eggs in the GATT basket, the European Community has hedged against the possible collapse of the Uruguay round of GATT by pushing ahead with the European Community 1992 initiative. Accordingly, the European Community now stands in a strong position to yield a Uruguay round package more palatable to its wishes, or to kill a bad package and force those who want to play on the European ballfield to play by European Community 1991-generated rules.

More generally, for those who decry prospects of a world trading system breaking down into nothing more than regional trading blocs, it would be difficult to define United States-Taiwan and United States-Korea FTA's as the cornerstones of any regional bloc. In fact, such bilateral FTA's, combined with North American and Western Hemispheric free trade areas, would help prod a slovenly GATT into getting off the dime and providing some real leadership in achieving true global trade liberalization, provided such a thing is even meant to be.

Last, for those nearsighted individuals who criticize bilateral and regional FTA's as the underpinnings of an inward-looking and protectionist trade policy, they should consider that the Heritage Foundation and Citizens for a Sound Economy—two of the world of academia's staunchest advocates for free trade—are fervent believers in the potential benefits of further FTA's, including with Asian partners. They believe in the merits of such accords because they expand opportunities for U.S. firms, light a much needed fire under the GATT, help precipitate the type of trade liberalization that successive rounds of GATT talks have thus far failed to produce, and can enhance U.S. global competitiveness.

I urge my colleagues to support my legislation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 5, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 6

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold hearings on the alternative uses of agricultural commodities, focusing on impediments to commercialization.

SR–332

Joint Economic

To hold hearings on the employment-unemployment situation for February.

SD–628

10:00 a.m.

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To hold hearings to examine the state of affordable housing in the United States.

SD–538

Finance

International Trade Subcommittee

To hold hearings on intellectual property rights protection and the "Special 301" provisions of the 1988 Trade Act.

SD–215

2:00 p.m.

Foreign Relations

To resume hearings to examine United States policy toward Indonesia, focusing on human rights violations in East Timor as a result of Indonesia's occupation.

SD–419

MARCH 10

9:30 a.m.

Labor and Human Resources

Children, Family, Drugs, and Alcoholism Subcommittee

To resume hearings to examine the economic and demographic changes that will affect the workforce of the 21st century, focusing on partnerships that stimulate cooperation between business and government and make an investment in children and youth to create a better prepared and educated workforce.

SD–430

10:00 a.m.

Foreign Relations

To resume hearings on strategic nuclear reduction in a post-cold war world, focusing on succession issues.

SD–419

2:30 p.m.

Select on Intelligence

To hold hearings on the nomination of Vice Adm. William O. Studeman, USN, to be Deputy Director of Central Intelligence.

SH–216

MARCH 11

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 1101, to require the Federal Communications Commission (FCC) to prescribe standards for AM stereo radio broadcasting, an FCC rulemaking proposal relating to radio ownership rules, and other related issues.

SR–253

2:00 p.m.

Foreign Relations

To hold hearings to examine the situation in the former Soviet Union.

SD–419

MARCH 12

9:30 a.m.

Rules and Administration

To hold hearings on S. 523, to establish the National African-American Memorial Museum within the Smithsonian Institution.

SR–301

Small Business

To hold hearings on the President's proposed budget request for fiscal year 1993 for the Small Business Administration, and on proposed legislation authorizing funds for the fiscal year 1992 supplemental budget request.

SR–428A

10:30 a.m.

Rules and Administration

To hold hearings on S.J. Res. 259, providing for the appointment of Barber B. Conable, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution.

SR–301

11:00 a.m.

Rules and Administration

To hold hearings on proposed legislation authorizing funds for fiscal years 1993 through 1997 for the American Folklife Center of the Library of Congress.

SR–301

2:00 p.m.

Select on Intelligence

To resume hearings on S. 2198, to reorganize the United States intelligence community to provide for the improved management and execution of United States intelligence activities.

SD–G50

MARCH 17

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine an overview of NASA's budget for fiscal year 1993.

SR–253

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD–138

MARCH 18

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine NASA's space station and launch issues.

SR–253

Select on Indian Affairs

To resume oversight hearings on the implementation of the Indian Gaming Regulatory Act (IGRA).

SH–216

10:00 a.m.

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of the Treasury, and the Executive Office of the President.

SD–116

MARCH 19

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Science Foundation, and the Office of Science Technology Policy.

SD–124

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 684, to strengthen the preservation of the Nation's historic heritage and resources.

SD–366

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Justice.

S–146, Capitol

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Highway Administration, Department of Transportation.

SD–138

MARCH 20

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Farmers Home Administration, the Federal Crop Insurance Corporation, the Rural Electrification Administration, and the Rural Development Administration.

SD–138

MARCH 25

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Neighborhood Reinvestment Corporation, and the National Credit Union Administration.

SD–116

Select on Indian Affairs
To hold hearings on S. 1752, to provide for the development, enhancement, and recognition of Indian tribal courts.
SR-485

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Communications Commission, and the Securities and Exchange Commission.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration, and the Research and Special Programs Administration, both of the Department of Transportation.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Internal Revenue Service, Department of the Treasury, and the U.S. Postal Service.
SD-116

MARCH 26

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Environmental Protection Agency, and the Council on Environmental Quality.
SD-G50

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 664, to require that health warnings be included in alcoholic beverage advertisements.
SR-253

MARCH 27

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Animal and Plant Inspection Service, the Food Safety and Inspection Service, and the Agricultural Marketing Service.
SD-138

APRIL 1

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation to authorize funds for programs of the Indian Health Care Improvement Act.
SR-485

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Commerce.
S-146, Capitol

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Office of National Drug Control Policy, and the U.S. Secret Service, Department of the Treasury.
SD-116

APRIL 2

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation.
SD-116

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Transportation Safety Board.
SD-138

APRIL 3

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Agricultural Stabilization and Conservation Service, the Foreign Agricultural Service, the General Sales Manager, and the Soil Conservation Service.
SD-138

APRIL 7

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.
SD-138

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.
S-146, Capitol

APRIL 8

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETs, American Ex-POWs, Jewish War Veterans, Non- Commissioned Officers Association, National Association for Uniformed Services, and Society of Military Widows.
SD-106

10:00 a.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Office of Management and Budget, the Office of Personnel Management, and the Executive Residence.
SD-116

APRIL 9

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Aeronautics and Space Administration.
SD-G50

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Oceanic and Atmospheric Administration, and the Small Business Administration.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for Amtrak, and the Federal Railroad Administration, Department of Transportation.
SD-138

APRIL 29

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Information Agency, and the Board for International Broadcasting.
S-146, Capitol

APRIL 30

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development.
SD-G50

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Transit Agency, and the Washington Metropolitan Area Transit Authority.
SD-138

MAY 7

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Veterans Affairs, and the Court of Veterans Affairs.
SD-124

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Coast Guard, Department of Transportation.
SD–138

MAY 14

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Emergency Management Agency.
SD–124

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Aviation Administration, Department of Transportation.
SD–138

MAY 21

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Community Service, and the Points of Light Foundation.
SD–116

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the General Accounting Office.
SD–138

MAY 22

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development and certain related agencies.
SD–138

CANCELLATIONS

MARCH 5

2:00 p.m.
Select on Intelligence
To hold hearings on the nomination of Vice Adm. William O. Studeman, U.S. Navy, to be Deputy Director of Central Intelligence, and to have the rank of Admiral while so serving.
SH–216